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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Thursday, March 23, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty and Eternal God, as the Passover event is recalled and the institution of the wondrous sacrament of the body and blood of the Redeemer is celebrated, and we walk again the way of the Cross, grant to all of us an understanding of Thy mighty acts for our salvation. When Easter Day dawns enable us to arise in newness of life to serve Thee more faithfully and to obey Thy spirit more perfectly. Strengthen us in our work this day. Watch over us in our travels, in our going out and our coming in, in our lying down and our rising up until we gather again to serve the Nation in this place. Keep us sound in faith, steadfast in hope, and persevering in love.

And to Thee shall be all the praise and glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 23, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized, as in legislative session, for not to exceed 15 minutes.

Without prejudice, the Chair at this time, under a previous order, recognizes the Senator from Missouri (Mr. DANFORTH), as in legislative session, for not to exceed 15 minutes.

(Mr. PROXMIRE assumed the chair.)

TAX CUT PLAN

S. 2811, S. 2812, S. 2813, S. 2814, AND S. 2815

Mr. DANFORTH. Mr. President, I join my colleague, Senator JAVITS, in introducing on our own behalf, and on the behalf of Senators PERCY, CHAFEE, LUGAR, and STEVENS, a proposal for reducing Federal taxes on individuals and businesses. We are presenting our proposal as an alternative to President Carter's plan—a plan which in our view overpromises what it will do for individuals, and does not do nearly enough for business.

In many ways, this proposal evolved from a tax cut plan advanced early last year by Senate Republicans as an alternative to President Carter's ill-fated scheme to give $50 to every American. At that time, we proposed a permanent tax cut, and we continue to propose permanent tax cuts today.

The President now has joined our call for permanent tax cuts. Unfortunately, his proposal fails to live up to the inflated claims made for it.

We have worked for several months to construct a plan which is responsible, and, we believe, superior to the President's plan in every way. We have consulted extensively with a group of business leaders and economists whose knowledge and ability are widely recognized.

The plan we have developed is a good one. It strikes a careful balance between the conflicting needs to maintain and encourage economic growth, to avoid unacceptable inflationary pressures, and to improve business confidence by creating a stable and predictable economic climate.

To understand our proposal, it may be useful to remind you of what has been said about President Carter's plan. In describing his tax proposal, President Carter stated at a press conference on January 12, 1978:

> We intend to do all three things—to compensate for increases in social security taxes, to keep the economy moving strongly, and also to compensate for the effects of inflation.

In his state of the Union address, the President declared that "96 percent of American taxpayers will see their taxes go down," and his tax package itself emphatically proclaimed "it is now time for another tax reduction to offset the effects of inflation." I heartily support each of these objectives. The Federal tax burden on individuals will increase during the period 1977 through 1980 by nearly $35 billion as a direct result of inflation pushing individuals into higher marginal tax brackets and the scheduled social security tax increases.

Nevertheless the tax program the administration proposes does not achieve the objectives the President proclaimed. I am submitting a chart to be included in the RECORD which illustrates the degree to which the President's tax cut fails to offset inflation and social security by 1980.

As can be seen from this chart, the only individuals who actually receive a real tax cut are those with incomes between $7,600 and $12,500, a group which hardly constitutes 96 percent of the American taxpayers. In fact this group of beneficiaries of the President's tax package consists of less than 20 percent of those individuals who pay income taxes. Nearly 80 percent of the American taxpayers come out of the Carter tax package as losers by 1980.

The administration has indicated that while this might be true for 1980, the administration fully intends to reevaluate the situation in 1980 and propose another tax cut at that time. But is this a realistic possibility? The President entered office on January 20, 1977, talking about a tax cut. He suggested a temporary $50 rebate in the spring of 1977 pending a comprehensive tax plan to be introduced later. On January 19, 1978, a full year after entering office, the President unveiled his tax plan and it will take this Congress at least another 8 months to pass a tax cut which will become effective October 1, 1978, at the earliest, and possibly not until January 1979. This means that the gestation

period for a tax bill would be about 2 years and, if the administration proposal prevails, by their own admission it is likely to be outdated a year later.

The tax package we are introducing today shares some of the same goals expressed by the President, but unlike the President's plan, our plan accomplishes those goals for all income levels and is not outdated a year later.

We propose tax cuts for individuals that are intended to offset for 3 years the impact of inflation and to limit the impact of higher social security taxes. Further, we propose tax cuts for business that are intended to improve business confidence by doing the following: providing predictable and lower corporate tax rates; improving investment incentives; and permitting better means to achieve full capital cost recovery.

Let me describe our proposal to offset the impact of inflation. Inflation is the cruelest tax of all, because it is deceptive and it is hidden. Inflation causes wages to rise. However, because our tax system is progressive, as wages rise, so also does the rate of taxation we must pay on those increased earnings. Therefore, an inflation-triggered pay increase may push a person into a higher tax bracket, and he or she may actually be worse off than before.

This inflation effect increases Government revenues over what they otherwise would have been. Then, the Congress in its wisdom and benevolence can do one of two things with this dividend: It can increase Federal spending or it can generously announce a tax cut. The folly of all this is that there is no tax cut at all. Instead, in the name of a tax cut, taxpayers are permitted to keep what is rightfully theirs in the first place.

The President claims to correct this problem—for 1 year at least—in his tax plan. He fails. His package of rate cuts, conversion of the personal exemption to a credit, and so-called tax reforms simply do not do the job.

The only proper way to offset the effects of inflation is to widen the marginal tax brackets and increase the personal exemption, the standard deduction, the general tax credit, and the earned income credit. Our proposal will do exactly that for 3 years; that is, through 1980—at a fixed rate of 6 percent.

Some might call this proposal indexing, but it is distinguishable from indexing in two ways. First, we adjust the tax code by a straight 6 percent, not by the amount of inflation actually experienced. Second, indexing involves a permanent change in the tax structure to offset inflation forever. Although such a permanent change ultimately may be advisable, and I supported such a move last year, we did not feel that such a dramatic change was possible this year. Our proposal would permit a 3-year trial run of the concept, and would provide important relief and protection during that period.

The second part of our tax cuts for individuals is a tax credit equal to 10 percent of social security taxes paid. Once again, the President claimed that his plan would offset the effect of social security tax increases. Once again, his proposal fails to achieve the stated objective.

We do not attempt to offset the impact of social security by reducing Federal income tax rates—as President Carter does—for several reasons. First of all, a general tax reduction would affect all taxpayers, including the millions of Federal, State, and local government employees who do not pay social security taxes.

Second, a reduction in tax rates would provide insufficient help to those hardest hit by social security increases—two-earner families. Our proposed tax credit would provide "double" relief for such persons.

Finally, we do not believe the social security tax credit is the best long-range solution to the social security financing problem. Assuming a better means can be found to restructure the social security system, and I intend to speak to that question in the very near future, the proposed tax credit can be fairly easily eliminated if that should become a desirable course of action.

One thing should be pointed out about the social security tax credit—it will not offset fully the social security tax increase for individuals earning more than $18,000. This is in recognition of the fact that individuals with incomes above that level will be entitled to additional social security benefits as a result of the changes voted into law last year. Therefore, it is not unreasonable to have such persons bear a somewhat higher social security tax burden.

However, under our proposal, no taxpayer's Federal tax burden—social security and income tax combined—will increase by more than $220. This is a dramatic change from the administration's proposal.

I ask unanimous consent that a table I am submitting be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE TAX CUT PROPOSALS

Individual Income	Tax increase due to inflation and social security (1980)	The Presidents plan		Danforth-Javits	
		Tax cut	Net change	Tax cut	Net change
$5,000	$142	0	+$142	−$164	−$22
$6,000	145	0	+145	−171	−26
$8,000	210	−$267	−57	−256	−46
$10,000	258	−269	−11	−305	−47
$12,000	237	−239	−2	−292	−55
$12,500	220	−220	0	−275	−55
$15,000	228	−200	+28	−287	−59
$18,000	372	−237	+135	−356	+16
$20,000	528	−253	+275	−403	+125
$25,000	727	−266	+461	−508	+219
$30,000	892	−222	+670	−673	+219
$40,000	1,234	−93	+1,141	−1,016	+218
$50,000	1,610	+41	+1,651	−1,392	+218
$100,000	2,732	+834	+3,557	−2,506	+217

Mr. DANFORTH. Now I would like to outline our proposals for business tax reductions. Let me preface this section with a statement about one of the most serious problems facing our economy today—the critical erosion of business confidence.

Business confidence is an intangible concept measured in very tangible ways—the stock market, the level of capital investment, the level of employment, the willingness to take risks, and so on. The private sector of our economy is an easy target for criticism by every conceivable interest group, yet it is the business sector which provides us with the jobs, the technical innovation, and the vitality to maintain the highest standard of living in the world today. When business confidence suffers, America suffers.

The Federal Government plays a very large role in determining how business perceives the future. Government spending policies affect the size of the Federal deficit and the rate of inflation; Federal tax policies directly affect the rate of return a business can receive on its investment; Federal credit policies cause abrupt changes in the relative attractiveness of different kinds of investment; Federal trade policies directly affect the balance of payments and the strength of the dollar; U.S. foreign policy influences investment decisions abroad; and Federal regulatory policies place a tremendous financial burden on all kinds of business. Perhaps the greatest problem generated by the Federal Government, though, is the constant change in all of these policies.

I am convinced that this Nation's private sector has the resilience and inventiveness to adapt to just about anything the Government can do to it—except when Government changes the rules in the middle of the game. And that is what we do all the time.

We change the tax laws year after year. We encourage businesses to convert from coal to oil and back to coal again. We encourage utilities to build nuclear powerplants and then make it impossible for them to do so. We increase the minimum wage that business must pay to labor, we tell them what kind of pension plans they must provide, what kind of health insurance they must purchase, and at what age they may ask an employee to retire. We in Government do all these things with very good intentions and then we change the rules—again, and again, and again.

Needless to say, our tax bill will not change all this. But it does make an important, if modest, beginning.

Our bill is a signal to business that we intend to let up on it—at least a little bit. Not only that, but we intend to phase in our tax proposals over a 5-year period with the specific goal of creating a tax environment that is more predictable than any tax proposal in recent legislative history.

The business portion of our plan has five components.

First, we offer a reduction in the maximum corporate tax rate from 48 to 42 percent. This cost is phased in over a 5-

year period between 1978 and 1983. These rate cuts will assist all employers, whether they are capital intensive or labor intensive, and will provide maximum flexibility to the individual business in deciding how best to use its increased aftertax profits.

Second, we offer a graduated corporate tax on the first $200,000 of corporate income to assist small businesses. These businessmen were largely ignored in the administration's proposal. Yet, small businesses account for 55 percent of U.S. employment and nearly half of the total U.S. output. Furthermore, small businesses have historically been the source of many of this country's most innovative business developments. We feel it is imperative that the business tax plan allocate a larger share of the tax cut to this important segment of the business community.

Third, our proposal would reduce the period over which assets are depreciated under the ADR system of depreciation. This provision is intended to offset the debilitating effect of inflation on capital cost recovery. Our tax system provides that the cost of a business asset shall be recovered over the productive life of that asset. Thus, where a machine costs the business $100 in 1978 and will be productive until 1988, the business is entitled to recover the $100 investment over this 10-year life. Unfortunately, the recoupment of the 100 nominal dollars during a 10-year inflationary period is far less in real dollars than the $100 original cost. Present law recognizes this discrepancy and allows businesses to depreciate their machines and equipment over a period up to 20 percent less than the productive life of the asset so as to reduce the effect of inflation on cost recovery. However, a 20-percent shorter life is simply not a sufficient inflation offset in our current inflationary environment. Therefore, we propose to allow businesses to recover their capital cost investment over a period up to 40 percent less than the productive life of the asset. It should be noted that this proposal does not allow depreciation deductions in excess of the original cost of the asset, but only accelerates the time period in which the cost can be recovered so as to minimize the devastating effects of inflation.

Fourth, we expand the effectiveness of the investment tax credit by permanently increasing the rate from 10 to 12 percent and providing that 25 percent of the credit remaining after offsetting current year tax liability will be refunded. This latter provision will aid small and growth-oriented businesses, and is based upon the conviction that the investment tax credit subsidy should be based upon the level of investment and not upon the profitability or taxability of the enterprise. The provision should increase the level of competition between businesses in the same industry rather than encourage dominance by the largest company in the industry as present law often does. It will also provide for the first time an investment credit to nonprofit institutions in recognition of the fact that many of their capital investments provide the identical economic stimulus as private investment decisions.

Finally, our proposal would extend the coverage of property eligible for the investment tax credit to commercial and industrial structures in geographic areas of high unemployment. We are convinced that the President's proposal would encourage businesses to leave already depressed inner city areas.

The overall cost of our plan will be $25 billion in fiscal 1979 (approximately the same as President Carter's plan) and $36 billion for calendar year 1979 (as compared to $24.5 billion under the President's plan). The 1980 calendar year revenue loss will be $51 billion. Although the President's revenue loss for 1980 is estimated to be only $27.68, it must be noted that the administration already admits that an additional tax cut will almost certainly be needed in that year.

All in all, we believe our proposal directly meets the most pressing needs of this Nation's citizens, its businesses, and its economy. We sincerely hope that our colleagues in the Congress will study its provisions and become convinced, as we have, of its wisdom.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. DANFORTH. I yield that 5 minutes to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I am very pleased to join my distinguished colleagues in introducing this comprehensive tax reduction proposal.

This proposal has three basic purposes: First, to offset the increases inflation will create in individual income tax payments; second, to significantly limit the impact of recently enacted social security tax increases; and third, to assist our businesses in meeting their investment capital needs. This legislation will protect the average taxpayer's purchasing power and standard of living, create renewed confidence by consumers and business leaders, and lay the basis for new jobs and stable growth in the private sector.

Typically, tax reduction and tax reform proposals ignore the problems and interests of those who bear the most significant burden of Government taxation: The middle-income worker. Taxpayers who earn between $10,000 and $29,000 pay over 50 percent of all Federal income taxes. Taxpayers who earn between $10,000 and $24,000 pay over 44 percent of all Federal income taxes. These taxpayers are considered too "rich" to be eligible for Government benefits. But it is these middle-income families who are faced with an average price of $6,200 for a new car, with an average price of $50,300 for a home, and with an average price of $12,000 to $19,600 to provide a college education for one child.

The most significant factor in the growing burden borne by middle-income taxpayers is inflation. It has only been recently that this impact has been generally recognized, although it has been a major one for several years. Even workers who have been fortunate enough to receive wages which have kept pace with inflation have been negatively affected, because our progressive tax rates take a larger bite of income without the worker having attained increased purchasing power.

Assuming a 6-percent annual rate of inflation over the next 3 years, the average taxpayer making $10,000 today will pay $230 more in taxes in 1980 if his wages rise by only enough to keep up with inflation. Taxpayers earning $20,000 today will pay $268 more and those earning $30,000 will pay $524 more. Just to stay even, a family's income must rise faster than the inflation rate.

Inflation has had as insidious an effect on the tax bite taken from capital gains. Upon the sale of an asset such as a home, the seller must pay taxes on the increase in value due to inflation, regardless of whether there has been a real gain. Any incentive for investment is greatly reduced when one must pay a real tax on a paper gain.

Uncle Sam has not been so unfortunate: A 10-percent increase in inflation reaps a 16.5-percent increase in Government revenues.

It is these middle-income families who are usually forgotten and often hurt by tax reduction and tax reform proposals.

The great irony of the administration's tax proposals is that rather than assisting 96 percent of taxpayers as promised, they assist less than 20 percent and actually leave those with incomes under $7,600 and over $23,500 less well off.

By 1980, under the administration bill, taxpayers who now earn between $5,000 and $8,000 will pay approximately $128 per year more in inflation taxes plus several more dollars in new social security taxes. The bill will not cover inflation taxes for those earning $20,000 or more and those workers will be faced with social security tax increases of up to $368.

Even those for whom the bill provides total inflation relief are not secure once new social security taxes are considered: In 1980, only taxpayers earning between $7,600 and $12,500 will actually receive a tax cut from the administration's tax cut bill.

Furthermore, the administration proposal will actually raise the taxes of middle-income taxpayers in the name of closing loopholes of the rich. I have never seen a definition of "loophole" that everyone could agree on, but it is a statistical fact that the higher an individual's income, the less it is sheltered by exemptions and deductions. Deductions amount to 48.9 percent of the income of those earning under $10,000; they

amount to only 22.8 percent of the income of those earning over $25,000. In addition, fringe benefits are considerably more important to the standard of living of a middle-income family than they are to the wealthy. To reduce or eliminate deductions for fringe benefits, medical and casualty expenses, and State sales taxes will hurt most those who are alleged to benefit from the revenues these changes will raise.

The proposal we are introducing today avoids these shortcomings. It provides a permanent tax cut which will give total protection to all taxpayers against inflation for the next 3 years, and it gives nearly total protection to most taxpayers against new social security taxes. Only workers earning over $18,000 would pay additional taxes in 1980 and those would in part be made up through their eligibility for higher social security benefits upon retirement.

Finally, our proposal lays the basis for private sector jobs and growth by reducing corporate tax rates and increasing the return on investment.

At a recent hearing, Federal Reserve Board Chairman G. William Miller stated the need that the business section of our proposal is designed to address:

> The encouragement of greater capital spending must be an integral part of any comprehensive national policy to achieve full employment, price stability, and a sound dollar internationally. Our efforts in this regard should be directed at both increasing the flow of savings available to private businesses and increasing the willingness of firms to undertake productive investment.

Our tax cuts are drafted as a 5-year program so that business planners will know what their obligations to the Federal Government will be and what assets they will have for modernization and growth. There is probably no single action we could take that would have a more positive impact on business confidence.

In conclusion, Mr. President, the program we are introducing today is a sound one. The additional increase in the Federal deficit that it necessitates will be a temporary one, because the new jobs and investment it creates will reduce Federal expenditure and generate new revenues. It is a program that will have a lasting impact. We cannot legislate consumer confidence on an annual basis. Taxpayers, whether families or businesses, must be able to count on continued income and not have today's tax cut taken back by next year's tax increase.

I merely want to add this, as an updated report to our distinguished colleague from New York and our distinguished colleague from Missouri, whose electorate is not, after all, very different from that in Illinois. Senator DANFORTH'S constituency is right across the river. We share many of the same problems. Some people live in Illinois and work in St. Louis, and vice versa.

Today, in Illinois, we are facing a phenomenon of a taxpayers' revolt that is hurting the very people our social programs are designed to help. I was in a school district just 3 days ago that had had five bond issues for education turned down in a row. People are starting to turn down programs, and we are going to do irreparable damage to lower income people if some relief is not found for middle-income people.

It pays to be poor, they say. Then you get a green card and all your hospital expenses are paid. Then you get scholarships for your children. But if you are in that middle-income area, with the crushing tax burden of property taxes and other regressive taxes, plus the progressive income taxation, without a wage increase going beyond inflation, you do not feel that way. They are paying more and more, and they are saying, "We are not going to do it any longer; we are going to find a way to lower our costs," and they are going to revolt against local taxes.

Mr. President, may I have 30 seconds additional?

Mr. JAVITS. Mr. President, I believe I have the next 15 minutes, is that correct?

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague very much indeed.

I simply wish again to commend the creativity shown by my two colleagues. We are not just saying "no" to the President's package; we are saying, "Let us start with what you have given us." We agree in principle there ought to be tax action, but it ought to be the right kind. It ought to be the kind that will really stimulate not only consumer spending but investment; that will create jobs not in the public sector but in the private sector; that will put people on private payrolls that will pay taxes and lessen this burden for everyone else, and not just in public sector jobs that will cost taxpayers additional money.

We are looking for the right way to do it. We now reach out and say, "Let's work together on this, and here is a creative proposal, not a negative one." We are not saying "No, we don't want to do it," we are saying, "Let's do it the right way and let's find the way."

I strongly believe the leadership that has been provided by our distinguished colleagues is in the right direction, and I shall fight on this floor to help them in every way I possibly can to see that we implement this proposal into law.

Mr. President, I ask unanimous consent to have printed in the RECORD an outline summarizing our tax proposal.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

TAX PROPOSAL

I. INDIVIDUAL TAX REDUCTIONS

Purpose: To offset the expected impact of inflation for three years, and to limit the impact of social security tax increases.

Proposals:

(1) Increase tax brackets, the standard deduction, individual exemptions, and the special credit by 6 percent per year for the next three years. (October 1, 1978, effective date, with subsequent changes occurring January 1 of 1979 and 1980); and

(2) Provide a tax credit equal to 10 percent of social security contributions effective January 1, 1979.

II. BUSINESS TAX REDUCTIONS

Purpose: To improve business confidence by providing predictable and lower corporate tax rates, improving investment incentives, and permitting better means to achieve full capital cost recovery.

Proposals:

(1) Reduce the maximum corporate tax rate to 42 percent by 1983;

(2) Reduce the tax on the first $200,000 of profits to aid small businesses;

(3) Increase the investment tax credit (ITC) from 10 percent to 12 percent and make it permanent;

(4) Make the ITC 25 percent refundable (after offsetting 100 percent of tax liability);

(5) Extend the ITC to industrial and commercial structures in high unemployment areas; and

(6) Expand the accelerated depreciation range (ADR) from 20 to 40 percent.

III. ESTIMATED GROSS COSTS (BILLIONS OF DOLLARS)

	FY 1979	CY 1979	CY 1980
1. Individual tax reductions:			
A. Inflation offset	12.0	17.1	27.9
B. 10 percent social security credit	5.0	6.6	7.2
Total individual	17.0	23.7	35.1
2. Business tax reductions:			
A. Corporate rate cuts	4.0	5.9	8.2
B. Investment tax credit changes	3.9	5.5	5.3
C. Expanded ADR	0.4	0.9	2.5
Total corporate	8.3	12.3	16.0
Combined total	25.3	36.0	51.1

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I thank the Senator from Illinois (Mr. PERCY) for his eloquence and for his statement of appreciation to Senator DANFORTH and myself.

Mr. President, today Senator DANFORTH and I, together with Senators CHAFEE, LUGAR, PERCY, and STEVENS, are introducing a legislative package that includes bills that propose tax reductions and targeted economic stimulation as an alternative to the President's proposed tax reduction package.

In a period when our country is trying to sustain healthy economic growth, individuals must be protected from possibly onerous tax burdens stemming from inflation and higher social security taxes. Consumer spending has provided the impetus for the present recovery and we cannot let the purchasing power of the American people be eroded by inflation and cuts in take-home pay as a result of the precarious position of the social security system. The administration's tax plan does not provide this protection.

Continued economic growth basically depends upon the ability of American

business to invest and expand, which in the final analysis means more jobs. The only way in which American strength and American prosperity—and the strength and prosperity of the free world can be secure is if the private sector is full of initiative, full of technological advance, and operating in the public and national interest.

Stimulation of capital formation is vital to our recovery and economy. Improved equipment resulting from increased capital formation increases productivity and will help to ease the inflationary pressures plaguing us today and to make us more competitive in world markets. To this end, our business require tax reductions and targeted tax incentives. The administration's plan does not provide the needed stimulus for American business to achieve national goals of employment, capital investment and productivity.

Our package provides $7 billion more in essential relief to the individual than does the administration's, and twice the administration's figure for business.

As an indication of our feelings about the importance of business recovery to the health of the economy, our package would provide business with one-third of the total tax relief, whereas the President's gives business only one-fourth.

We offer two approaches to provide individual tax relief: The first would widen the spread of income in the different tax brackets and increase the standard deduction, individual exemptions, and the special credit by 6 percent each year for the next 3 years. The second would limit the impact of higher social security taxes by giving a tax credit equal to 10 percent of social security contributions. The combined effect on the individual taxpayer of these two elements would be essentially to offset the effects through 1980 of anticipated inflation and the increased social security taxes levied by Congress last December.

Under current law, a typical family of four earning $10,000 would see its tax burden rise by $258 in 1980 because of these factors. The same family earning $15,000 would see its taxes increase $228; at $20,000 taxes would be up $528 and at $25,000 the increase would be $727.

Under our proposal, by 1980, instead of inflation-social security increases, a family earning $10,000 would have taxes reduced by $47. The reduction would be $59 at $15,000. An increase of $125 would occur at $20,000 but from $25,000 up increases would be held to about $219 in all tax brackets. This increase is a small price to pay for the increased social security benefits which the taxpayer would receive at retirement due to the increased earning levels on which taxes are paid.

President Carter promised in his state of the Union address to provide tax cuts to 96 percent of the taxpayers. In fact, by 1980, his proposal would reduce the Federal tax burden only for families earning between $7,600 and $12,500, less than 20 percent of taxpayers. A family earning $30,000 would, in fact, have an increase tax burden of $670—no trifle.

The first element of our proposal, to wit: individual tax relief through an expansion of tax brackets by 6 percent per year, recognizes the impact of inflation on American taxpayers in shifting them into higher and higher tax brackets—the so-called bracket creep, to offset the possible fiscal drag effect on the economy of this phenomenon. I have long been opposed to blanket indexing of the income tax system, but there is a need prudently and judiciously to relieve somewhat this increasing burden. I believe our proposal to compensate prospectively for estimated inflation for this year and the next 2 calendar years appropriately accomplishes this objective.

The other element of the individual tax cut is a credit equal to 10 percent of social security contributions. While I agree that there should be a reexamination of the social security tax increases enacted last December, I do feel this issue needs to be given extensive consideration. Options to balance the social security budget, including funding disability insurance and medicare from general revenues and mandating universal social security coverage, need careful consideration. But because of the time that this will take, we are proposing a tax credit to relieve some of the fiscal drag. This credit has the important side benefit of targeting the relief better than incorporating such relief in a tax rate reduction. The twenty million taxpayers not covered by social security who are not being subjected to higher contributions and to the cut in take-home pay, will get none of this benefit; taxpayers with two earners covered by social security will get relief commensurate with their additional burden; and the credit can be easily eliminated if future changes are made in social security financing. In my judgment, our proposal is an eminently sensible interim measure while we consider the other options.

The cost to the U.S. Treasury in terms of foregone revenue in Fiscal Year 1979 of these individual tax reductions amounts to $17 billion and, for calendar year 1979, $23.7 billion.

Although tax relief for the individual American taxpayer is an important component of our tax reduction package, it is equally vital that American business be provided with the tax relief and investment incentives needed to expand its productivity. It is hard to imagine a strong U.S. economy, which will reassure the foreign exchange markets, without a vibrant business sector prepared to invest heavily in America's future.

To reduce the tax burden on corporations and consequently to increase the funds available for investment purposes, our proposal reduces the maximum corporate tax rate from 48 to 46 percent in 1979 and one additional percentage point annually for a maximum corporate tax rate of 42 percent when fully effective in 1983. This reduction will offset the increased social security burdens on the employers as well as provide additional tax relief for needed capital investment.

We have chosen a 5-year program of incremental corporate tax cuts to facilitate the long-term planning of American business. Business confidence is lacking in part because business is not sure of long-term Government tax policy; this 5-year reduction would permit such certainty in the area of the maximum tax rate that corporations will be expected to pay.

To assist small businesses—the historical source of many of this country's most innovative business developments—we propose larger corporate rate cuts on the first $200,000 of earnings. Under our proposal corporations would pay at a rate of 18 percent on the first $25,000 of income, and 20 percent on the next $25,000 of income. This is a reduction of 2 percent at each of the two income brackets. Whereas under present law corporations pay the maximum tax rate of 48 percent on income above $50,000, under our proposal corporations would pay 30 percent on income between $50,000 and $100,000 and 40 percent on income between $100,000 and $200,000. For income above $200,000 the maximum corporate rate would apply. This will provide essential relief for small businesses, which, even today in the so-called big business, era, remain the heart of the free enterprise system. We must provide relief to those who have devoted long hours to maintaining their independent concerns and whose positions have become increasingly difficult with each new round of the inflation spiral.

While one-half of the estimated $12 billion benefits to corporations is in the form of the corporate rate reductions I have just outlined, the other half takes the form of tax incentives specifically aimed at stimulating capital formation, without which an expanding American economy is but a dream.

The need for increased capital formation is manifest. The ratio of business fixed investment to GNP was down last year to 9.1 percent—a 10-percent decrease from the 10.1-percent average that prevailed from 1965 to 1974. We rank behind all major industrialized nations in investment as a percent of real national output.

A key factor to improving the rate of capital formation is an improvement in our system of capital recovery. Inflation has severely limited the ability of corporations to obtain the intended benefits of our depreciation laws. Corporations pay taxes on current income but receive depreciation allowances based upon historical investment costs. It has been estimated that $12.6 billion of tax revenues last year are attributable to this underdepreciation.

Our capital recovery system is less favorable than that of our major trading partners. With the exception of Japan, where special factors apply, we require considerably longer cost recovery periods for our nonstructural capital investment.

To improve our capital recovery system, we propose to expand the asset de-

preciation range and modify the investment tax credit. The proposal for ADR is simple—to expand the existing 20-percent range to 40 percent. This would mean that a piece of equipment with a guideline life of 10 years could be depreciated over a period of 6 to 14 years rather than the present 8 to 12 years. This would permit individual businesses to have greater flexibility in tailoring capital recovery to their own particular needs.

Our investment tax credit proposal has four parts. First, we propose increasing the existing tax credit from 10 to 12 percent and making it permanent. This alone together with an expanded ADR would make the cost of investment in equipment almost 5 percent less and would produce, in a rough estimate, approximately 1.5 million jobs.

In addition to the 12-percent credit, we propose to permit corporations to offset up to 100 percent of their tax liability with their ITC. We would also allow corporations, State and local governments, and nonprofit institutions a refundable credit equal to 25 percent of their unused ITC. Finally, we would extend the ITC to industrial and commercial structures in impacted areas of high unemployment for a 5-year period.

I ask unanimous consent that a comparison of our business tax cut package with the President's be inserted in the RECORD at this point in my statement.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DANFORTH-JAVITS BUSINESS TAX CUT

		1979		1980		Danforth-Javits proposal		
	Existing law	Carter	Danforth-Javits proposal	Carter	Danforth-Javits proposal	1981	1982	1983
Corporate Tax Rate Reduction:								
0 to $25,000	20 percent	18 percent	18 percent	18 percent	18 percent			
$25,000 to $50,000	22 percent	20 percent	20 percent	20 percent	20 percent			
$50,000 to $100,000	48 percent	45 percent	30 percent	44 percent	30 percent			
$100,000 to $200,000	48 percent	45 percent	40 percent	44 percent	40 percent			
$200,000	48 percent	45 percent	46 percent	44 percent	45 percent	44 percent	43 percent	42 percent.
Asset Depreciation Range:								
Depreciable life shorten by	20 percent	20 percent	40 percent	20 percent	40 percent			
Investment tax credit:								
Rate of credit	10 percent	10 percent	12 percent	10 percent	12 percent			
Current year tax liability percentage offset	50 percent	90 percent	100 percent	90 percent	100 percent			
Treatment of excess credit	Limited carryover	Limited carryover	Refund, 25 percent; limited carryover, 75 percent.	Limited carryover	Refund, 25 percent; limited carryover, 75 percent.			
Extend credit to structures	None	Industrial only	Industrial and commercial only in high unemployment areas.	Industrial only	Industrial and commercial only in high unemployment areas.			

Mr. JAVITS. Mr. President, our proposal to allow utilization of the investment tax credit against 100 percent of tax liability and to refund 25 percent of the excess credit would greatly improve the stimulative nature and fairness of the investment credit.

Present law permits credits to be offset against only 50 percent of the amount of income tax liability in excess of $25,000. The portion of the credit which is unused because of insufficient tax liability can be carried back for 3 years or forward for 7 years. Our proposal recognizes the key fact that a dollar invested by an unprofitable company or a nonprofit institution is just as valuable to the economy as a dollar invested by a profitable company. Certainly, loss companies and break-even companies need the benefit of the credit at least as much as the profitable companies.

The limitations in present law result in a basic inequity because those companies with little or no profits or which incur losses, and this includes, in particular, new and growing business enterprises, are unable to realize fully the immediate benefits of the credit enjoyed by their competitors.

One serious defect in President Carter's proposals for business is the extension of the investment tax credit to structures. At a time when our cities are in great need, the President is dealing another blow to their viability by providing another incentive to corporations contemplating a move from the cities. With the higher construction costs generally prevalent in the cities, their choice for relocation will more likely be the suburbs or the sunbelt. By extending the ITC to industrial structures and excluding commercial structures the President is also eliminating the segment of the economy most likely to come into the cities. Increasingly the cities are becoming not the centers of manufacturing they once were but the centers of the service and other types of commercial establishments.

To eliminate the adverse effects of the President's policy and to provide additional incentives to remain in or move to the cities, we propose expanding the ITC to include structures, both industrial and commerical, and limiting the eligibility to structures in impacted areas of high unemployment. And in further recognition of the need of the cities, the credit will be available for renovation as well as new construction.

Taken together the individual and corporate elements of the package provide a balanced approach to meeting the problems facing the American economy. Individual taxpayers will be protected from the burdens of inflation and increased social security while American business will be provided with stimulation to invest—to make the productivity pie larger than it is today—without which we cannot have expanded employment in the United States.

We will have in the next fiscal year a $2 trillion gross national product. If in the last 28 years we had just pushed up the improvement in the gross national product annually by 1½ percent, we would now have approximately a $3 trillion gross national product. There is nothing written in the heavens which says that it has to be 2 instead of 3. It could just as well have been 3 with only that marginal increase in improvement in the GNP.

The productivity pie is just too small to do the job we need done without imposing a crushing burden, especially in view of the continuance of the arms race, upon the middle class of America, which is the great majority of the country, and upon all other Americans. Senator DANFORTH and I are trying, together with our colleagues, to present to the people an alternative which will limit the tax burden on individuals and provide incentives for expansion to business. For we have learned the hard way that our dependence for a healthy economy must be upon the private sector and its productivity and success.

Mr. President, I yield to the Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from New York and the distinguished Senator from Missouri for the serious thought that they have given to this subject.

I subscribe in particular to the last point made by the Senator from New York. The profound impact that this problem is having on all American classes and on the whole social profile of the country is very serious. I think their response to the problem has been in proportion to the magnitude of the problem, and I think the Senate should be grateful to them for the fact that they have taken the time and devoted the attention to address the problem.

THE TAX REDUCTION ACT OF 1978

Mr. HELMS. Mr. President, today I am joining in sponsoring a bill to provide for a 30 percent tax cut for all Americans by 1980. The time is short, I believe, before we reach the point when unemployment, inflation, and stagnation will grow to crisis proportions. We must move soon against this possibility.

We must move to set clearly Government's tax policy for the coming years.

The bill I am cosponsoring is the "Tax Reduction Act of 1978," authored by Representative KEMP of New York and Senator ROTH of Delaware. It is a bill aimed at getting the economy back on the trail of real growth. In my mind, it would allow the economy to grow "out from under" big government.

The bill is aimed at restoring incentives to people who work. By reducing taxes, it means people will receive more for their effort. By reducing the rates on higher income people hope to earn in the future, it provides greater incentives for them to strive to reach those higher income goals. In other words, it means that people will work harder when they can keep more of what they will earn for working harder.

This bill is not another warmed-over package of Keynesian stimulus. It is permanent so people and businesses can plan with some degree of certainty. It stimulates production of goods and services, not just the demand for goods and services. It will be big enough to compensate for the dramatic increases in social security and energy taxes, and the inflation-imposed tax increase caused by pushing people into higher brackets without higher real income.

This bill is needed because taxes are just too high. The facts are that Americans now spend more on taxes than on the necessities of life—last year, total taxes came to $486.4 billion, while total spending for food, clothing and shelter amounted to $469.7 billion.

Specifically, the Tax Reduction Act would reduce the present tax rates of between 14 and 70 percent to a range of 8 to 50 percent. This means that the low and middle income taxpayers would greatly benefit. For example, today the family of four with an income of $8,000 pays approximately $120 in taxes. This bill would cut taxes to $12 or by 90 percent. The family of four earning $12,500 now pays $917. Under this bill, a tax cut of 40.3 percent would result in a tax bill of $370.

Upper income brackets would also benefit, though by lower percentages; and the reductions would be phased in over a 3-year period.

One major economic projection of the effects of this bill revealed an expected increase in the gross national product (GNP) of $43.4 billion the first year, and the creation of an added 1,200,000 new jobs.

Norman Ture, an economist who worked at great length on the tax-cut bill enacted in 1963 under President Kennedy, stated last week in testimony before the House Ways and Means Committee:

> The fundamental challenge for tax policy today is to reduce the present heavy tax bias against work and savings. In other words, we must remove some of the reasons people don't work harder and save more. Ture says: "This tax penalty on work and productivity gains is accentuated in the payroll taxes."

The penalties are most dramatic when we discuss what economists call "marginal income." It is that added amount of income a worker gets by taking a promotion, by saving and thus getting some investment income, by working overtime, by taking a second job, or in other ways increasing the number of dollars coming in.

Dr. Ture points out that:

> The recently enacted increases in social security taxes raise the overall marginal rate of tax on labor income; 10 years from now, the increase will be equivalent to 3 percentage points—the same as if the overall marginal income tax rate on wages and salaries had been increased by 6.8 percent. In itself, this tax hike will cost about 650,000 jobs in 1980, about 1 million in 1982, and close to 1.4 million jobs in 1987.

Dr. Ture does not, of course, discuss the present marginal tax rates, which are already high; and unfortunately, the President proposes changes that would make marginal rates even higher. The President's so-called tax-cut program will barely make up for social security and energy tax hikes in terms of total dollars; but it will result in increasing the progressivity of the tax system. In other words, for almost everyone, the amount of income he will be able to keep out of the next few dollars he might earn will be lowered by the President's proposals. That is going to reduce the incentives to work. That is going to reduce the output of our economy. That is not going to help anyone.

Mr. President, if the Government taxes something, we would naturally expect that we would get less of it. In fact, our Government has done just that to certain commodities in order to put a disincentive on production or consumption or both. Well, if we tax extra effort, we can expect to get less of it.

Without rewards for effort, effort fades away and so, eventually, does the supply of rewards which motivated effort in the first place.

If a person in our society decided that he wanted to begin a savings account—and found he had to go to work nights to accumulate added income—he might do so. If, however, he found that the amount of added income he actually could take home and save was far less than he thought it would be, there would be less reason for him to work at the extra job. If he decided not to take the job, there would be less savings. That means there would be less investment; and less investment means our economy would experience less growth.

How many times is that story repeated? But instead of a savings account, it is a new refrigerator, or a second car, or a new home. I contend that it is repeated enough to result in a higher rate of unemployment than we should have. It has resulted in a lower rate of growth than we should have. It has resulted in lower standards of living for Americans; and it has resulted in fewer opportunities for the neediest Americans.

I consider myself a fiscal conservative. I believe that Government should live within its means. In fact, I believe that Government must live within its means. For this reason, I have had some difficulty bringing myself to support a tax-cut bill which would reduce Federal taxes by an estimated $21 billion this year; $48 billion in 1979; and $80 billion in 1980. The estimates that I have indicate that the increased revenues, flowing to the Government as a result of this bill and resulting in higher levels of economic activity, would mean an actual reduction of tax revenues over the present tax system of $10 billion this year; $22 billion in 1979; and $36 billion in 1980.

But, I have done some studying and found that these figures do not tell the rest of the story. In fact, Federal revenues will grow by massive amounts in coming years. I mentioned earlier in my remarks a tax increase that is caused by inflation. Every time inflation pushes prices 1 percent higher, tax revenues go up 1.5 percent. For example, a family of four now earning $17,000 has a disposable income less than that of a family earning $12,000 in 1970. By just earning enough money to maintain a constant standard of living, many individuals would have to be obtaining raises at a rate up to 50 percent higher than the rate of inflation.

This means that tax rates left unmodified will rocket the tax burden in coming years. One Congressional Budget Office study calculated that personal income taxes will increase from last year's total of $130.9 billion to $339 billion by the end of fiscal 1982.

That is an increase of $209 billion and it does not make this tax-cut proposal look like much in comparison.

What must be done is to stabilize Federal outlays. Regardless of the present outrageous sums the Federal Government spends, it looks sometimes as if we are stuck with them. We may be stuck with them. But, if, in fact, we can stick with them, and let our economy grow, then things would not look so bad for the future.

The Tax Reduction Act of 1978 will allow the economy to grow out from under big government.

In 1963, the so-called Kennedy tax cut was estimated to result in a reduction of Federal revenues of $89 billion over 5 years. In fact, it resulted in revenue gains to the Federal Government of $54 billion. It is more impressive, I believe, to note that the Kennedy tax cut resulted in far greater increases in the economy and great increases in disposable income and in real investment.

I believe that there is that potential in our economy today. I have remarked that given what Government has done, and is doing to the American economy, it is a miracle that we have any growth at all. But there are great resources we can tap. That great potential in the American economy which lies in the American people can be tapped. I believe it will be tapped. That American people want this tax cut. I hope we do not waste any more precious time.

Mr. President, I yield the floor and I thank the Senator from Maryland.

Mr. JAVITS. I thank my colleague very much.

I yield 1 minute to the Senator from Maryland, to speak on another subject.

THE NATIONAL CATHEDRAL

Mr. MATHIAS. Mr. President, in this morning's Washington Post, col-

umnist George F. Will turns his attention to the glories of the National Cathedral and to its problems. As is often the case, Mr. Will deals eloquently and constructively with a problem others have overlooked.

Mr. Will reminds us that the cathedral went deeply in debt to complete the nave in time for our Bicentennial and, as a result, since last year construction has been virtually at a standstill. It will take $15 million to complete the cathedral. Mr. Will Writes:

So in a town where billions evaporate, a shortage of a few million is halting a collective work of genius that has been rising for 71 years.

He proposes that—

If more people would visit the Cathedral, and if they and others would give more generously, they would be important participants in what may be the last pure Gothic work the world will see built.

I would only add that they would also contribute to the completion of a magnificant edifice which has served the Nation's Capital not only as a monument to the glory of God, but as a meeting place for all His creatures—for believers of all faiths and for nonbelievers as well. It is and has been a showcase for the achievements and aspirations—artistic, intellectual, and social—of all humanity.

To me it is significant and important that there is in our Nation's Capital a pulpit open to people of widely different points of view. Cesar Chavez and Sahabzada Yaqub-Khan, the Pakistan Ambassador, who acted as one of the go-betweens with the Hanafi Moslems, both have spoken there. And, of course, it was from this pulpit that Martin Luther King, Jr., gave his last sermon.

The National Cathedral, like the great cathedrals of the middle ages, serves our community as a spiritual and cultural center. Here Gian Carlo Menotti's operas have been heard and here the late Jose Limon danced his Moor's Pavane for the last time. Here, too, Dr. Faustus has been staged magnificently and Noe's Fludde given perhaps its most brilliant performance.

When Fulbert, bishop of Chartres, was rebuilding that cathedral after it had been destroyed by fire, we are told that—

Many kings, princes, barons, and gentlemen, vied with each other in their contributions to this Cathedral . . .

I believe the citizens of this Nation should do no less. George Will's article on the cathedral entitled, "Amidst Our Defective Times, an Enduring Value," will give impetus to this effort. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMIDST OUR DEFECTIVE TIMES, AN ENDURING VALUE

(By George F. Will)

Among the 20th century's many defects is this: It offers few opportunities for joining a noble profession, that of cathedral builder. But Easter is a time to note how people can join, and why they should.

Like a runoff of melting snow, the flow of tourists through Washington becomes a torrent in spring. Unfortunately, only a small fraction visit the Cathedral Church of Saint Peter and Saint Paul, commonly called the National Cathedral. The architecture is 14th century Gothic, but one need not be inclined, as I am, to think civilization peaked a bit early (about the 14th century) to delight in it.

Washington is rich in visual pleasures, but none matches the cathedral's newest rose window in late afternoon, when slanting sunlight dapples the nave with color. The cathedral is faithful to the Gothic principle: Every stone adds strength as well as weight. The flying buttresses are functional. Four 100-foot columns, 27 feet in diameter at the base, support the main tower and its 100 tons of bells.

Virtually every nook and cranny has decorative details, and there are lots of nooks and crannies on a building one-tenth of a mile long. A cathedral is a place for a bishop's cathedra, or chair, and near the main altar is a chair made of stones from Glastonbury Abbey, founded by Saint Joseph of Arimathea about the year 43. The stone for the altar comes from the quarry near Jerusalem that supplied the stone for King Solomon's temple.

Ten small stones from the Chapel of Moses on Mt. Sinai are set in the floor in front of the altar. One pulpit was carved from limestone quarried 900 years ago for Canterbury Cathedral. The only president buried in Washington, Woodrow Wilson, is buried in the National Cathedral.

In the great cities of the civilization from which this republic is descended, the noblest works were built to serve religion—the Parthenon in Athens, St. Peter's in Rome, Notre Dame in Paris, Westminster Abbey in London. They are stone memories of a pre-modern age when cities were supposed to be something other than mere arenas for acquisition, when civil society was supposed to serve ends other than the pursuit of self-interest, when civil law was supposed to be patterned after a higher law.

Washington has no pre-modern past, and the monuments people flock to see are, like the Capitol Building, places where power is exercised or, like the Lincoln Memorial, temples for democracy's civil religion, the worship of those who epitomize popular government. The inscription above Lincoln's statue begins: "In this temple . . ."

The National Cathedral is different. Beneath it lies the world of strain and uproar. More than any other city, Washington represents a civilization founded on self-interestedness. But because the cathedral is mounted on such a splendid pedestal—Mount Saint Alban, the city's highest hill—it seems, from a distance, to be the institution beneath which the city has reverently arrayed itself. Obviously, Washington presents a misleading profile.

Last year, construction on the last phase of the cathedral virtually stopped. The cathedral went deeply into debt to complete the nave in time for the Bicentennial. The energy crisis is an apalling burden when you are heating a "room" with a 100-foot ceiling.

It would take $15 million today to complete the facade and twin towers on the West front. So in a town where billions evaporate, a shortage of a few million is halting a collective work of genius that has been rising for 71 years. If more people would visit the cathedral, and if they and others would give a bit more generously, they would be important participants in what may be the last pure Gothic work the world will see built.

One of the first and finest expressions of Gothic architecture is Chartres Cathedral. Its completion in 1164 was a sign of spiritual springtime as European culture bloomed after the long winter of the Dark Ages.

It is, perhaps, unlikely that, a thousand years hence, the National Cathedral will be seen as a sign of 20th-century America's real values. But a thousand years hence, whatever else remains along the Potomac, this cathedral will remain, like a sailing ship on the swell of a rolling sea.

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, as in legislative session I submit a report of the committee of conference on H.R. 5383 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PROXMIRE). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5383) to amend the age group of employees who are protected by the provisions of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 14, 1978.)

The PRESIDING OFFICER. Time for debate on this conference report is limited to 30 minutes, to be equally divided between and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS).

Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself such time as I may need to present to the Senate the report of the committee of conference.

I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of this matter: Michael Forscey, Steven Paradise, Don Zimmerman, and Peter Turza.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I am pleased to bring to the Senate the conference report on H.R. 5383, the Age Discrimination in Employment Act Amendments of 1978.

As chairman of the conference committee, I wish to commend my fellow conferees from the Senate, including, of course, the ranking minority member of the Human Resources Committee, Senator JAVITS, and the distinguished Senators from Rhode Island, Senator PELL and Senator CHAFEE, for their invaluable assistance in developing this legislation in its final form. The work of the House conferees, including their committee chairman, Mr. PERKINS; the chairman of the House Employment Opportunities Subcommittee, Mr. HAWKINS; and the chief sponsor of the legislation in the House, Mr. PEPPER, was also invaluable. The conference committee engaged in extensive deliberations on this legislation and produced a report which I am confident will gain the support and approval of this body.

In 1967, Congress enacted the Age Discrimination in Employment Act to provide fundamental protections to the employment rights of older workers.

In the 10 years since the enactment of that landmark legislation, much has been learned about the desires and abilities of older persons.

New social and scientific research studies have demonstrated the high level of skills and abilities possessed by older workers. We now know, as well, that an increasing number of the aged work either for economic reasons or for the sense of satisfaction that they derive from their jobs.

The 1978 amendments to the ADEA are designed to reflect this more comprehensive understanding and will insure that the act provides a full measure of meaningful protections to older workers.

Under the conference agreement, the protections which the law affords to the employment rights of older workers have been substantially strengthened and broadened. The agreement provides for raising the protected age limit of the ADEA from 65 to 70 years of age, effective January 1, 1979. Mandatory retirement for most Federal employees is abolished entirely, effective September 30 of this year.

The conference agreement also clarifies existing law to insure that pension plans or seniority systems which require mandatory retirement may no longer be applied to employees covered by the act.

This is perhaps the most important and, indeed, critical change in present practice which the bill requires. The Supreme Court's recent ruling in *McMann v. United Air Lines,* 98 S.Ct. 244 (1977) has been interpreted by employers to permit them to retire individuals at virtually any age specified in their pension plans. Raising the act's upper age limit would therefore be meaningless if the Court's interpretation of section 4(f)(2) was allowed to stand. The conference agreement assures that this loophole in the present law will be closed.

I am also pleased to report that the conferees agreed to an equitable resolution of our differences pertaining to college and university faculty and top-level business executives.

The conference agreement provides that colleges and universities will remain free to require retirement of tenured faculty at age 65 until July 1, 1982.

The House agreed to accept a modified version of the provision of the Senate bill which exempted high-ranking business executives from the increase in the act's upper age limit from 65 to 70.

The conference agreement provides that the exemption shall apply to those top-level employees who for the 2 years prior to retirement are employed in a "bona fide executive or high policymaking position." Only those employees entitled to an immediate annual nonforfeitable retirement benefit which is the equivalent of a straight-life annuity of $27,000 will fall within the exemption. Under the conference agreement, the $27,000 annual retirement income figure will not be annually adjusted to reflect increases or decreases in the cost of living.

In addition to meeting the retirement income test, an employee who is to be retired under the exemption must also be employed in a bona fide executive or high policymaking capacity for the 2 years prior to retirement. The conferees agreed that the exemption is not intended to apply to blue-collar workers or middle- or low-level employees who happen to meet the retirement income test. Rather it will apply to top-level employees who exercise substantial executive authority or to employees who, because of their position and responsibility, play a significant role in the development of corporate policy.

The conference agreement delays the effective date of the increase in the act's upper age limit with respect to employee benefit plans or seniority systems contained in collective bargaining agreements. Mandatory retirement between age 65 to 70 may be required until January 1, 1980, or the expiration of the contract whichever occurs first, so long as the contract was in effect on September 1, 1977.

I am pleased that the House conferees agreed to recede, with certain modifications, to three Senate amendments to the ADEA which are designed to insure that claims of discrimination will be more efficiently processed and that plaintiffs in ADEA lawsuits will obtain the full relief to which they are entitled.

The conference agreement provides that a party will be entitled to a jury trial on any issue of fact in an action by an individual for recovery of amounts owing as a result of a violation of the act. The conferees defined amounts owing to include items of pecuniary loss, such as wages and fringe benefits and other employee benefits as well as readily ascertainable consequential losses, such as moving expenses, which directly result from the violation. In addition, juries are authorized to award liquidated damages to compensate victims of discrimination for those losses which are too difficult of proof for estimate.

Because of the act's complex procedural scheme, many age discrimination claims have been dismissed without adjudication on the merits.

To remedy this situation, the conferees agreed to modify the ADEA's 180-day notice of intent to sue requirement. Notification to the Labor Department must still be given within 180 days, but such notice need not manifest an intent to sue. Moreover, the conferees agreed that the notice requirement is not a jurisdictional prerequisite to bringing a cause of action.

The conferees also provided for tolling of the statute of limitations for a period of 1 year during conciliation conducted by the Department pursuant to section 7(b) of the act. That conciliation requirement is not to be construed as a jurisdictional prerequisite to maintaining a cause of action.

The conferees agreed to include provisions requiring the Government to conduct studies on mandatory retirement and the effects of this legislation. The Civil Service Commission study relating to Federal employees must be completed by January 1, 1980.

The Labor Department is directed to study the effects of these amendments on the private sector. Under the conference agreement, this study will include a report on the effects of the exemptions for top-level business executives and college and university faculty.

The Department's final report is to be completed and transmitted to the Congress and the President no later than January 1, 1982; an interim report would be due January 1, 1981.

These 1978 amendments to the ADEA represent an important step forward toward the goal of insuring that no capable worker will wrongfully be deprived of a job solely on account of age. They represent a further recognition of the basic right of an individual to remain active in the work force as long as he or she is capable.

In my opinion, these amendments represent a significant step forward in our effort to establish full and meaningful protections for the employment rights of our older citizens, and I urge the Senate to approve and adopt the conference report.

Mr. President, I know the ranking minority member from the committee, my esteemed colleague from New York (Mr. JAVITS), who has been with this effort to raise the age discrimination from 65 to 70, throughout the deliberations, wishes to speak to the Senate on this subject. I yield to the Senator from New York.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from New York is recognized.

Mr. JAVITS. I thank my colleague. I yield myself such time as I may require.

Mr. President, Senator WILLIAMS is very generous in giving me credit for my work on this bill, but I must emphasize the fine leadership which he gave to us in respect to the bill and the conference which has brought about the result now before us.

It was a difficult conference. It took a number of months, but we finally achieved a reconciliation of the views of both Houses. That is very heavily attributable to the gifted and patient handling of the matter by Senator WILLIAMS of New Jersey, and I wish to pay every credit to him in that regard.

Mr. President, the fact that we have reached an agreement is itself a wonderful thing, almost a miracle. For a long time it did not appear that we would.

If signed into law, this measure will be a significant milestone for older Americans.

By raising the 1967 act's upper age limit from 65 to 70 years of age for private sector employees and by eliminating the upper age cap for most civilian Federal employees, this bill will give our older workers greater freedom in deciding whether to retire or continue working. No longer will a private employer be able arbitrarily to retire a worker between the ages of 65 and 70 who is qualified to do the job and wants to continue his or her gainful employment.

Mr. President, if I had my way, I would have gradually eliminated the mandatory retirement age for all covered employees. My bill, S. 1773, would have phased out the upper age limit of the act by 1985 and I believe that should be the ultimate policy objective of our country.

I am pleased, though, on balance with the compromise which has been worked out. Effective September 30, 1978, most civilian Federal employees will be freed of any mandatory retirement rule based on age, the Federal Government will serve as a laboratory for testing the feasibility of having no mandatory retirement age ceiling at all. The experience of the Federal Government as well as the results of Labor Department reports required by these amendments on the feasibility of eliminating the upper age cap will provide a proper basis for future legislative action eliminating the upper age limit for private employees. Until this occurs, the upper age limit for the private sector will be 70 years of age. This new age cap for most private employees will take effect on January 1, 1979.

I am also pleased that the conference report adopts the language which I proposed in my bill to amend the act's section 4(f)(2) bona fide employee benefit plan exception. This amendment has become all the more necessary in light of the Supreme Court's recent decision in *United Air Lines Inc.* v. *McMann*, 93 S.Ct. 244 (1977). In McMann, the Supreme Court held that under the ADEA, the involuntary retirement of an employee at age 60 was permissible under the provisions of the retirement plan there at issue, which was established by the employer prior to the act's passage.

I most respectfully disagree with the court's opinion. My statements on section 4(f)(2) were, I feel, not correctly interpreted. This exception was not intended to permit the wholesale evasion of the act's protections by means of involuntary retirement provisions contained in employee pension benefit plans. The meaning of the exception, as I stated in a colloquy with Senator Yarborough on the Senate floor, was that an "employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits as he affords to younger workers." The dissent by Justices Marshall and Brennan correctly interpreted the meaning of section 4(f)(2).

The amendment to the section 4(f)(2) exception is intended to overrule the McMann decision. As stated in the conference report, the "conferees specifically disagree with the Supreme Court's holding and reasoning in that case."

The section 4(f)(2) amendment is effective immediately upon the date of enactment except that the prohibition of involuntary retirement provisions for ages 65 through 69 is deferred for employee benefit plans and seniority systems contained in collectively bargained agreements in effect on September 1, 1977. The effective date for the prohibition of such provisions is the termination of the contract or January 1, 1980, whichever occurs first.

In addition to the collective bargaining exemption, the conference report contains two other exemptions applicable to particular groups of employees.

The first of these is the bona fide executive exemption. This exemption permits the compulsory retirement of any employee who has attained age 65 and who, for the 2-year period immediately before retirement, is employed in a "bona fide executive or a high policymaking position" and who is entitled to an immediate nonforfeitable annual retirement benefit from the employer equal to at least $27,000. The $27,000 amount is not adjusted for cost of living increases and does not include amounts attributable to social security, employee contributions, and contributions of prior employers. The class of employees covered by the exemption is described in detail in the conference report and is not intended to include low-level managers, supervisors or blue collar workers. The exemption, which is permanent, does not apply to Federal employees covered by section 15 of the act.

The second of these exemptions is the college and university faculty exemption. This provision permits the compulsory retirement of any employee who has attained age 65 and who is serving under a contract of unlimited tenure or similar arrangement at an institution of higher education. The exemption, which will end on July 1, 1982, also does not apply to Federal employees covered by section 15 of the act.

I have had, and continue to have, serious doubts about the justification for the executive and faculty exemptions. I am pleased that the conference report requires the Secretary of Labor to examine the effect of both exemptions and to make recommendations thereon.

The conference report also contains three procedural changes. First, it requires that a "charge" rather than a "notice of intent to sue" be filed with the Secretary of Labor within the stated time periods before an individual can bring a civil action. The conferees agreed that the filing of a "charge" is not a jurisdictional prerequisite to maintaniing an action and that equitable relief for failing to file within the appropriate time period will be available.

Second, the conference report provides that the applicable statute of limitations shall be tolled for a period not exceeding 1 year during which the Secretary of Labor is attempting to effect voluntary compliance pursuant to section 7(b) of the act. The conferees agreed that conciliation is not a jurisdictional prerequisite to the Secretary's bringing of an action.

Third, the conference report provides for a trial by jury of any issue of fact in an action by an individual for recovery of "amounts owing" as a result of a violation of the act. "Amounts owing" refer to items of pecuniary or economic loss as well as liquidated damages. Items of pecuniary or economic loss refer to such items as wages, fringe, and other job-related benefits.

Mr. President, the 1978 amendments to the Age Discrimination in Employment Act of 1967 are a vital step toward the eventual elimination of mandatory retirement on the basis of an arbitrarily established age. These amendments signal a fundamental change in the way older workers perceive themselves and the way they are perceived by society. Our older citizens are a valuable human resource whose well-developed abilities and mature judgment can greatly contribute to the welfare of our country. Passage of the conference report will facilitate the productive efforts of our older workers, and I urge my colleagues to vote for it accordingly.

Mr. President, if I may have the attention of the chairman of our committee and manager of the conference report on the floor, I wish to clarify a number of issues involving employee benefit plans and the Age Discrimination in Employment Act of 1967, as modified by the 1978 amendments. I want to ask our distinguished committee chairman whether he agrees that an employer will be permitted under the act, as amended, to maintain a defined contribution plan—other than a plan which is merely supplemental to a defined benefit or defined contribution plan maintained by the employer—which precludes employer and, if applicable, employee contributions to such a plan subsequent to an employee's attainment of the plan's normal retirement age.

Mr. WILLIAMS. The answer is "yes." I completely agree with the statement of the distinguished Senator from New York. Your statements are consistent with the position taken by the Department of Labor regarding these matters. As assistant Secretary Elisburg's letter, which appears in the Senate committee report, makes clear, employers will not be required to continue contributions to either defined benefit or defined contribution plans for employees who continue working beyond a plan's normal retirement age.

Mr. JAVITS. Mr. President, there are a number of other questions in this respect that I wish to go into now.

Some employers are concerned that the 1978 amendments may increase costs for employee welfare benefit plans, such as life, health, and disability programs. The Senate report notes that some plans currently reduce coverage for older workers or increase the required employee contribution as workers advance in age.

I want to emphasize that these amendments do not change present law regarding these practices. As the Senate report states:

> Existing principles of law, including the section 4(f)(2) bona fide employee benefit plan exception, as modified by these amendments, would be the standard by which these practices will be evaluated.

The purpose of section 4(f)(2) is to take account of the increased cost of providing certain benefits to older workers as compared to younger workers.

Welfare benefit levels for older workers may be reduced only to the extent necessary to achieve approximate equivalency in contributions for older and younger workers. Thus a retirement, pension or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of pension or retirement benefits, or insurance coverage. This is consistent

with the following statement I made during the November 6, 1967 floor consideration of the original act:

> The amendment relating to . . . employee benefit plans is particularly significant: because of it an employer will not be compelled to afford older workers exactly the same pension, retirement, or insurance benefits as younger workers and thus employers will not, because of the often extremely high cost of providing certain types of benefits to older workers, actually be discouraged from hiring older workers. At the same time, it should be clear that this amendment only relates to the observance of bona fide plans. No such plan will help an employer if it is adopted merely as a subterfuge for discriminating against older workers.

The Department of Labor intends to promulgate comprehensive regulations in order to provide guidance in this regard for sponsors of employee benefit plans, and the Secretary is urged to act as soon as possible.

Mr. WILLIAMS. The Senator's statement, accurately reflects congressional intent in this regard. As the Senator is aware, Congress is presently considering the President's reorganzation program which would transfer enforcement of the ADEA from the Department of Labor to the Equal Employment Opportunity Commission. Should this transfer be approved, we fully expect that the principles you have just stated will continue to govern policy development and enforcement of the ADEA.

Mr. JAVITS. It may be that certain employee benefit plans will have to be amended in order to comply with the new law. In light of the extensive amendments which most plans were required to make in order to comply with the Employee Retirement Income Security Act of 1974 is it not our view that the Department of Labor and the Internal Revenue Service should work closely together to assist these plans to the fullest extent possible in the making of necessary changes?

Mr. WILLIAMS. Absolutely; it is essential that these two agencies seek to reduce any administrative burden created for plans as a result of these amendments.

Mr. JAVITS. Finally, Mr. President, it is understood that just as these age discrimination amendments do not interfere with ERISA, State age discrimination in employment laws also are not to interfere with ERISA. The ADEA itself, as pointed out in the Senate report, does not preempt such State age discrimination laws. However, there should be no question that the preemption rules of section 514(a) of ERISA shall be determinative regarding the preemption of State age discrimination laws which directly or indirectly establish requirements relating to employee benefit plans. ERISA's preemption of State age discrimination laws shall be determined without regard to section 514(d) of ERISA or the fact that the ADEA does not itself preempt State law.

Mr. WILLIAMS. I concur in my friend's observations as they accurately state the controlling principles of law in this regard. Federal law will preempt State age discrimination statutes only to the extent that those laws relate to an employee benefit plan described in section 4(a) of ERISA and are not exempt under section 4(b) of ERISA.

● Mr. DOMENICI. Mr. President, I am pleased to join the distinguished managers of this bill in urging my colleagues to approve the conference report on H.R. 5383, a bill to amend the Age Discrimination in Employment Act of 1967. As the ranking minority member on the Senate Special Committee on Aging I have long advocated major reforms in mandatory retirement. It has become increasingly clear to me that, for those individuals who did not wish to retire at a fixed chronological age, mandatory retirement is a cruel and arbitrary form of age discrimination. In January of 1977 I introduced S. 481 which was the first Senate bill in the 95th Congress aimed at abolishing age discrimination in employment. While the conference report we are about to vote on differs greatly from S. 481, it constitutes a significant step forward and it has my full support.

Mr. President, I think it is important for us to stress that our goal is not to require any American to work 1 day longer than he or she voluntarily chooses to do so. My goal, in sponsoring and supporting this legislation has always been to expand the individual's basic right of freedom of choice. If an older worker is able and willing to work beyond the age of 65 or if he or she feels they must work beyond that age they should have every opportunity to do so.

In many instances we find the Congress enacting legislation in response to emergency situations. I believe, Mr. President, that major demographic changes are occurring in the American society. The longer life expectancy which has resulted from medical and nutritional research and the general improvement in our quality of life coupled with the continuing low birth rate has produced a steady graying of American society. This process will produce, in the not too distant future, a dramatic shift in the American work force. I believe that we will see, within our lifetime, a growing demand for the skills, talents, and services of middle-age and older workers. Economic considerations may well produce a reversal of the postwar trend of earlier and earlier retirement. If these predictions are accurate, then the legislation we are enacting today will lay the ground work for meeting our labor market needs in the decades that lie ahead. By anticipating these changes now, we can lay the ground work for a new set of economic and social attitudes among both employers and employees. I would, therefore, like to urge my colleagues to give this measure their full support.●

● Mr. STEVENSON. Mr. President, the Senate will overwhelmingly approve the conference report on H.R. 5383, which, but for a few excepted categories, would prohibit mandatory retirement in the private sphere before age 70 and eliminate mandatory retirement for most civilian Federal employees. I join my colleagues in personally disapproving of mandatory retirement. It can deprive our society of the valuable and tested skills of a growing segment of our population. It avoids merit and competence in favor of arbitrary limits. It limits individual freedom of choice, one of the fundamental tenets of our social contract.

Yet, I oppose this legislation.

First, the report exemplifies a growing schizophrenia in the Congress approach to unemployment, especially among the young and disadvantaged. We are all against unemployment; yet, when we are asked to vote on minimum wage increases, increased social security taxes or amendments to the Age Discrimination Act that could eliminate an estimated 200,000 job opportunities a year, if not more, we are asked to subjugate our unemployment goals to other social aims. The cumulative effects of such actions will be devastating for the young and the disadvantaged and their opportunity to participate in our economic system. The truth is getting harder to avoid on this issue. Last month while overall unemployment declined from 6.3 to 6.1 percent, unemployment among teenagers increased from 16 to 17.4 percent. Approval of H.R. 5383 will not help this figure go down. As David S. Broder recently stated in his column, if H.R. 5383 becomes law—

> It means that those of us who have jobs already can hold on to them longer, if we wish, while younger people, scrambling for a foothold on the employment ladder, wait still longer in the cold.

Many of those standing in the cold will be young, will be black, and will have families to support. Many of those who will benefit will be comfortable, will be eligible for pensions and will no longer have families to support. They also have higher wage jobs that could be filled by others at lower wages. So this is inflationary legislation, too.

I raise these points, as few others have, to remind my colleagues that this bill is not all mom and apple pie. It presents hard choices. In order to make an expedient choice easier, we have given too little attention to the unemployment and inflation this bill will cause. The Congress likes to deal with unemployment in the abstract, as in Humphrey-Hawkins, with high-sounding promises it cannot keep. When it comes to acting, it approves legislation supported by powerful lobbies with no heed to the hardship it causes for all. This bill alone will not have great impact on unemployment; but the sum of this and other of our recent actions is weighing heavily against the young and all the unemployed. This bill, like others, including the social security tax increases, will not by itself, but in combination with others, also cause inflation.

There are other reasons to oppose this report. Why are top-level business executives exempted entirely? Why exempt college and university faculty until 1982? Why exempt mandatory retirement required by collective-bargaining agreements in effect before September 1, 1977? And why impose no age limit on most of the Federal bureaucracy where fresh blood is most urgently needed? These classifications are arbitrary and reflect no merit—only the lobbying of certain groups. Being arbitrary, they invite litigation and perhaps a ruling that such indefensible classifications are unconsti-

tutional. If, as the proponents contend, this bill is intended to protect basic civil rights, why should professors have fewer civil rights than alumnae, and why should the former be forced to retire before the latter? Why is it assumed that professors and business executives are made expendable by age but not laborers? The tortured explanation in the conference report demonstrates no reason for the distinction. No rational basis exists for forcing retirement upon those likely to be strengthened in the mind by life while retaining in the work force those weakened physically by it. This was a muscular contest in which the lobbies, as usual, won out.

The bill itself is an invitation to litigation. Such arbitrary distinctions will be challenged. Employees will contest their discharge on the grounds of age and employers will conceive of imaginative ways around the law. At a time when President Carter is seeking to improve the civil service system, I sense we in Congress are moving toward placing the whole Nation under a kind of quasi-civil service set of rules that will only further erode the efficiency of our economic system which is already suffering from intense worldwide competition from the Japanese, Germans, and others.

Legislation is not always the answer to everything we disapprove of, and, in this case, I feel employers and employees are better able to make retirement decisions than is the Federal Government. Our tendency to increasingly intrude upon and regulate voluntary transactions between consenting adults has resulted not only in increased direct governmental costs—$7 billion to fund regulatory agencies last year—but also in a hidden tax on our economy.

We should do far more to take advantage of the skills and experience of the elderly—but not at the expense of the economic system as a whole and those who are young. I am not so worried about big business; it usually copes, usually by charging us all a little bit more for its wares. I am concerned, however, about those unemployed, who to borrow from David Broder, are "not all right, Jack." ●

AN END TO MANDATORY RETIREMENT

● Mrs. HUMPHREY. Mr. President, today the Senate is considering the conference report on Age Discrimination in Employment Act amendments—mandatory retirement. I would like to take this opportunity to urge my colleagues to vote to end arbitrary discrimination against a viable, productive segment of our Nation's work force—the elderly.

For too long, our society has perpetuated ill-founded myths which have stereotyped and distorted society's vision of the aged. The denial of equal employment opportunities to the elderly stems from this stereotyping. I believe we must continually strive to dispel the myths which hinder individual accomplishment and waste human resources.

Mandatory retirement results in an enormous waste of skills, experience, and talents by forcing well-trained people to leave employment and take their knowledge with them. Each day, more than 4,000 Americans reach the age of 65. Each year, hundreds of thousands of older workers are turned out of their present jobs or denied opportunities for new employment simply because of their age. Compulsory retirement of citizens based on chronological age alone is grossly unfair because longevity is a poor indicator of ability to perform a job.

I am particularly attuned to the unique problems and concerns faced by the older woman, who may be thrust unprepared into new life roles through the death of her husband or divorce. Mandatory retirement is especially disadvantageous to the displaced homemaker. Forced retirement limits the work life of these women and reduces their ability to build up significant pension benefits.

I would like to point out that in supporting this measure it is not my intention to imply opposition to those citizens who wish to retire. Instead, I want to reaffirm the legislation's intent to protect the employment opportunities of older Americans and afford them the opportunity to make their own choice between employment and retirement. I believe it is time we give the American workers greater freedom in determining whether to retire or continue working. Now is the time to improve our Nation's retirement policies by insuring that the competence of a worker and his or her desire to work, not age, is the determining factor in whether a person retains a job past age 65.

H.R. 5383 is both a practical and far-reaching piece of legislation. It will not only aid a large and deserving segment of our population, but will benefit the Nation in terms of the special contributions that older workers can make to our society because of their wealth of knowledge and experience. In short, these 1978 amendments mark an important step in affirming and protecting the rights of older Americans and ending age discrimination in employment. I urge my colleagues to support this conference report.●

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of the time on this side.

The PRESIDING OFFICER (Mr. ZORINSKY). The question is on agreeing to the conference report.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaiii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Massachusetts (Mr. KENNEDY) are absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. LONG), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 62, nays 10, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—62

Allen	Hatch	Nelson
Anderson	Hatfield,	Nunn
Bartlett	Mark O.	Pell
Bayh	Hatfield,	Percy
Biden	Paul G.	Proxmire
Bumpers	Hathaway	Riegle
Burdick	Heinz	Roth
Byrd, Robert C.	Hodges	Sarbanes
Cannon	Hollings	Schmitt
Chafee	Huddleston	Schweiker
Clark	Jackson	Stennis
Cranston	Javits	Stevens
Culver	Johnston	Stone
DeConcini	Laxalt	Talmadge
Dole	Leahy	Thurmond
Domenici	Lugar	Tower
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Young
Garn	Morgan	Zorinsky
Glenn	Moynihan	
Hart	Muskie	

NAYS—10

Baker	Griffin	Metzenbaum
Byrd,	Hansen	Stevenson
Harry F., Jr.	Hayakawa	Wallop
Danforth	McClure	

NOT VOTING—28

Abourezk	Gravel	Packwood
Bellmon	Haskell	Pearson
Bentsen	Helms	Randolph
Brooke	Humphrey	Ribicoff
Case	Inouye	Sasser
Chiles	Kennedy	Scott
Church	Long	Sparkman
Curtis	Magnuson	Stafford
Eastland	Mathias	
Goldwater	Matsunaga	

So the conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be granted 1 minute, as in legislative session, before the Senate resumes consideration of the Panama Canal Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will Senators please clear the well? Will Senators carry their private conversations to the cloakrooms?

The Senator from Alaska.

S. 2793—HIGH COURT OF AMERICAN SAMOA APPEALS ACT

Mr. STEVENS. Mr. President, during the hearings on the Department of Interior appropriations in our Senate Interior Appropriations Subcommittee, I questioned witnesses at length on the problem concerning the appellate review of decisions from the High Court of American Samoa. I now send to the desk for appropriate reference as in legislative session a bill to provide for appellate review of decisions of the High Court of American Samoa.

The bill I introduce today, Mr. President, is designed to correct a glaring inconsistency in our judicial system. More specifically, I refer to the absence of any outside review by an article III, Federal court of judicial decisions rendered by the High Court of American Samoa. This absence of any right of appeal into our Federal courts is not only incompatible with American concepts of justice, it is unique to American Samoa. All other U.S. possessions—the Canal Zone, Guam, Northern Marianas, and the Virgin Islands—and also the Commonwealth of Puerto Rico have appeals into our Federal judicial system.

My bill, entitled the "High Court of American Samoa Appeals Act," would rectify this situation by permitting appeal to the Ninth Circuit Court of Appeals by writ of certiorari, thereby bringing cases in Samoan courts into line with the rest of our judicial system. Recommended by the Judicial Conference of the United States, this is a long overlooked but necessary and noncontroversial reform which should be enacted into law without delay.

At this point, Mr. President, I would like to explain in a bit more detail why this legislation is necessary and how the situation developed which has led to my bill's introduction.

The Secretary of the Interior under Presidential Executive Order No. 10264, June 29, 1951, 16 F.R. 6419, is charged with exclusive authority to provide for the executive, legislative, and judicial administration of American Samoa, subject only to the superior power of the Congress to administer and dispose of possesssions under article IV, section 3 of the U.S. Constitution.

Under the authority granted by the Secretary of the Interior, an American Samoan Constitution and three branches of government have been established. The executive is headed by an elected governor. A bicameral legislature (the Fono) is elected by the people of American Samoa. The Secretary of the Interior appoints both the Chief Justice and the Associate Justice of American Samoa.

The High Court of American Samoa is divided into a trial division and an appellate division. If the Chief Justice sits for a case in the Trial Division, the associate justice will preside in the appellate division and vice versa.

The problems of this system are self-evident. The relationships between the justices at times—although not at present—have been of such nature that an attorney's best efforts on behalf of his client required that he lose a case at the trial stage to insure ultimate victory for his client on appeal. More generally, the essential problem with the system was captured by Chief Justice O'Connor in his statement that no one can have confidence in the appellate decisions of the judicial system of American Samoa when the only two justices of the closed system who sit in review of each other share the same privy.

The bill I introduce today was approved by the Judicial Conference of the United States in its report to the Supreme Court. It was recommended to the Judicial Conference by its Committee on Pacific Territories chaired by the Honorable Richard H. Chambers, circuit judge of the U.S. Court of Appeals for the Ninth Circuit.

Hearings conducted by the Committee on Pacific Territories support the conclusion that there exists among the Samoans a majority in favor of an off-island appellate procedure.

My bill provides for appeal to the U.S. Court of Appeals for the Ninth Circuit by writ of certiorari. Exceptions from appellate review include cases involving exclusively matai titles and cases involving exclusively title to communally-owned real property. Both of these topics are unique to Samoan culture and law.

Mr. President, this bill's provisions would take effect only for appeals filed after its enactment, to avoid confusion and possible injustice. I urge prompt passage of this measure.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2793

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "High Court of American Samoa Appeals Act."

SEC. 2. (a) Chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"1295. Cases in the High Court of American Samoa

"(a) Final judgments, decrees, or decisions rendered by the High Court of American Samoa which are not reviewable by another division of that court may be reviewed by the United States Court of Appeals for the Ninth Circuit by writ of certiorari granted upon petition of any part: *Provided,* That the jurisdiction granted by this subsection shall not extend to cases or controversies which involve exclusively:

"(1) matai titles,

"(2) communally owned real property, or

"(3) both (1) and (2).

"(b) The United States Court of Appeals for the Ninth Circuit shall have the same jurisdiction of appeals from interlocutory orders of the High Court of American Samoa in accordance with section 1292 of this title as if the High Court of American Samoa were a district court of the United States: *Provided,* That the jurisdiction granted by this subsection shall not extend to cases or controversies which involve exclusively:

"(1) matai titles,

"(2) communally owned real property, or

"(3) both (1) and (2).

"(c) The United States Court of Appeals for the Ninth Circuit shall promulgate necessary rules to carry out this section, and shall have the power to affirm, modify, vacate, set aside, or reverse the judgment appealed from, and may remand the cause and direct the entry of such appropriate judgment or order, or require such further proceedings to be had as may be just in the circumstances."

(b) The analysis of chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following:

"1295. Cases in the High Court of American Samoa."

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATION FOR DISASTER RELIEF—HOUSE JOINT RESOLUTION 796

Mr. MAGNUSON. Mr. President, there is being held at the desk, pursuant to unanimous consent as of yesterday, House Joint Resolution 796, a fiscal 1978 supplemental budget request for $300 million for the Federal Disaster Assistance Administration. I ask unanimous consent as in legislative session that the Chair lay before the Senate a message from the House on House Joint Resolution 796.

The PRESIDING OFFICER (Mr. ANDERSON) laid before the Senate House Joint Resolution 796, an act making urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

Mr. MAGNUSON. The Senator from North Dakota and I will discuss the bill.

Mr. President, yesterday we asked that this joint resolution be held at the desk because the Appropriations Committee of the Senate is, and should be, very sensitive to any bill which contains this amount of money. It is $300 million, and most of it already has been

obligated because of the severe winter and other natural disasters we have had.

The House committee went into great detail on this matter and held a lengthy hearing. They came to the conclusion that unless we did this now, there would be no money to pay some of these people who are entitled to payments, whether it be for flood or severe winter storms or tornadoes—whatever the disaster was; and there could be many.

Senator YOUNG and I have checked with other members of the committee—we checked with Senator PROXMIRE just now—and we are proceeding with this matter because of the emergency nature of the appropriation. This agency will run out of money by the end of next week. This is a matter for which we would then have to appropriate later, anyway, so we thought we should move ahead today. It is urgently required to adequately fund those relief activities in numerous States affected by severe weather emergencies and natural disasters.

The report lists the number of States involved and the total amount available this year. There was an unobligated balance from prior periods of $4.2 million and in fiscal 1978, we appropriated $150 million, which makes the amount available $154.2 million.

The funds required for prior year disaster declarations, such as Appalachia, Johnstown, Pa., and Kansas City amount to $188.60 million; for disasters in 1978, other than severe winter weather declarations, $34.3 million was required.

For the severe winter weather declarations, thus far in 1978, the costs have totaled $160.6 million.

That includes the States of Michigan, Indiana, Ohio, Massachusetts, Rhode Island, Connecticut, California, Maine, and New Hampshire. There is a list of other States here as well. I know my own State was involved in 1977. And I do not know but looking at the weather conditions all during the past few months you could cover pretty near every State in the Union. And all these needs have to be taken care of.

For potential declarations during the remainder—may I have order, please?

The PRESIDING OFFICER (Mr. ANDERSON). May we have order?

Mr. MAGNUSON. For potential declarations by the local authorities, Governors, and otherwise, during the remainder of 1978 a contingency of $70.7 million is provided. This is conservative. So the total amount is actually $454.2 million, and we may be required later on to add even more.

But the urgency is now. The relief is provided in many forms.

I wish to state this for the record: Temporary housing, unemployment assistance, individual and family grants, debris removal, repair and restoration of damaged facilities, and similar reimbursements had to be delayed due to the extreme shortage of funds. You can see how important they are. They not only deal with property damage but with the welfare of human beings.

So this supplemental of $300 million is required, again, to insure that States, counties, and cities will be reimbursed for the costs they have already incurred and to provide a modest reserve for potential emergency and disaster declarations during the remainder of this year, fiscal 1978.

Today, the disaster relief fund is exhausted. Firm commitments to States and localities far exceed the balance on hand.

If any unforeseen disasters were to occur in the next week or 10 days, it is impossible that no relief could be provided such areas and our fellow citizens.

A fiscal emergency now exists at HUD and I urge the Senate to approve this $300 million supplemental appropriation for the Federal Disaster Assistance Administration.

If any unforeseen disasters were to occur in the next week or 10 days, and I know there was one in Nebraska last week or day before yesterday—snow melting is going to cause a lot of this—but if any of these did occur, no matter how small, there would be absolutely no funds down there at HUD.

So the Senator from North Dakota and I are urging, in view of all this and in view of having cleared it with a great majority of the Appropriations Committee members on this side, and with the House of Representatives being almost unanimous on the matter, that we should go ahead today because we are going into a recess, and they need this money.

The Senator from North Dakota has been very cooperative. Normally I think he and I have a pretty strict rule down there that when we get to these amounts of money we better have it down in front of the committee and have a thorough review. But this turned out to be an emergency in itself to be able to take care of such emergencies, and this is no precedent whatsoever in the Appropriations Committee about taking up bills at this time or this way.

Mr. YOUNG. Mr. President, I agree with the destinguished chairman of the Appropriations Committee (Mr. MAGNUSON) that this is a very urgent matter.

The bill came over from the House of Representatives last night too late to get a committee quorum.

Mr. MAGNUSON. The House of Representatives waited too long. We should have had this bill a week ago or 10 days ago, yes.

Mr. YOUNG. There was no chance of the Appropriations Committee acting before we recessed for Easter. The recess schedule was set sometime ago.

I agree with the chairman, Senator MAGNUSON, that this is unusual procedure, one which we would not want to follow very often, but this is such an emergency that we feel that we must handle the bill in this way in order to help those States that have experienced devastating floods and other disasters.

Mr. President, I shall read a paragraph from the House report which explains very well the need for this appropriation and ask that the remainder of that report be printed in the RECORD as a part of my remarks:

The Committee recommends $300 million to meet the urgent requirement for disaster relief activities resulting from the severe weather conditions recently experienced in many areas of the Nation. This level of funding represents the $150 million supplemental request transmitted with the President's budget in January and an additional $150 million supplemental request pending within the administration but not yet formally transmitted to the Congress.

Mr. President, I ask unanimous consent that the report of the House Committee on Appropriations entitled "Disaster Relief Supplemental Appropriation" be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DISASTER RELIEF

The Committee recommends $300 million to meet the urgent requirement for disaster relief activities resulting from the severe weather conditions recently experienced in many areas of the Nation. This level of funding represents the $150 million supplemental request transmitted with the President's budget in January and an additional $150 million supplemental request pending within the administration but not yet formally transmitted to the Congress.

Because of the heavy disaster activity in fiscal year 1977, the budget for fiscal year 1979 (H. Doc. 95-280) proposed a supplemental appropriation of $150 million for disaster relief activities in fiscal year 1978. However, the recent severe weather conditions, especially in the northeast and midwest regions of the country have resulted in several major disaster and emergency declarations. Funds required for these recent declarations are the subject of an additional supplemental request which the administration is now considering. Although this request has not been formally transmitted, because of the urgent need for the funds, the Committee is recommending that the full supplemental appropriation of $300 million be provided at this time.

The disaster relief program is designed to supplement the efforts and available resources of State and local governments and voluntary relief organizations. The President's declaration of a major disaster or an emergency authorizes Federal assistance under the Disaster Relief Act of 1974 and triggers other Federal disaster relief programs. By Executive Order 11795, the President delegated the primary responsibility for administering the act to the Secretary of Housing and Urban Development. The Secretary assigned program management responsibility to the Administrator of the Federal Disaster Assistance Administration. The Federal response to a major disaster or emergency declaration is coordinated by the Federal Disaster Assistance Administration.

A Presidential declaration of a major disaster or an emergency makes a wide range of assistance available to individuals and to State and local governments. Some of the available assistance is targeted at temporary housing, temporary mortgage or rental payment assistance, legal services, clearance of debris, repair or replacement of roads, public utilities, and emergency protective measures for preserving life and property. The assistance can be provided by various Federal agencies which are subsequently reimbursed by the Federal Disaster Assistance Administration.

The Congress, in the 1978 HUD-Independent Agencies Appropriation Act, provided $150 million for disaster relief activities in fiscal year 1978. That amount was believed

sufficient to meet average yearly relief requirements. However, it was recognized that additional funds could be needed because of the unpredictable nature of this activity.

Funds required in fiscal year 1978 for fiscal year 1977 disaster declarations such as the floods in Johnstown, Pa., and in Kansas City total over $180 million, or more than $30 million in excess of the regular disaster relief appropriation. In addition, recent emergency and disaster declarations due to severe weather conditions in Michigan, Indiana, Ohio, Massachusetts, Rhode Island, Connecticut, California and elsewhere have resulted in estimated requirements of $180 million.

The Federal Disaster Assistance Administration has already delayed reimbursement of more than $150 million to other Federal agencies for expenses they have incurred due to disaster and emergency declarations. Supplemental funding is required to insure that States and localities will be reimbursed for costs they have already incurred, and to enable the Federal Disaster Assistance Administration to advance funds for individual and family grants for clothing, medical and other eligible emergency expenses.

Finally, the Committee is concerned about problems associated with disaster relief procedures. In the past few months the FDAA has authorized reimbursement of local governments for snow removal in at least six States. This reimbursement authority applies only to work performed under contract or purchase order. This may have the effect of penalizing a locality that maintains an adequate snow removal capability and rewarding a locality that under-budgets for snow removal or maintains little or no in-house capability. This policy appears to be inherently inequitable and the Committee requests that FDAA review the criteria by which localities may receive reimbursements for future emergency snow removal declarations.

The Committee also notes that because of a variety of circumstances—including actual determination of the severity of an emergency—declarations may not be made immediately after a storm strikes a State or States. The Committee urges both the States and the FDAA to shorten as much as is prudently and reasonably possible the length of time from when a storm strikes a specific area to when the actual emergency declaration is issued. This will insure that assistance is forthcoming in a timely manner.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), rule XI of the House of Representatives, the Committee estimates that the enactment of the joint resolution would have no inflationary impact.

COMPARISONS WITH BUDGET RESOLUTION

In accordance with section 308(a)(1)(A) of the Congressional Budget Act of 1974 (Public Law 93-34), the following table provides comparisons between new budget authority set forth in the Second Concurrent Resolution on the Budget, as allocated by the Committee on Appropriations under section 302 of the act, and the fiscal year 1978 new budget authority contained in the accompanying joint resolution:

Subcommittee: HUD Independent Agencies	*Thousands*
Sec. 302 allocation	$77,900,423
Amount in prior appropriations	74,008,601
Amount remaining	3,891,822
Committee bill	300,000
Amount (+) over allocation (−) under allocation	−3,591,822

FIVE-YEAR PROJECTION OF OUTLAYS

In accordance with section 308(a)(1)(B) of the Congressional Budget Act of 1974 (Public Law 93-344), the following table contains five-year projections of the outlays associated with the fiscal year 1978 new budget authority provided in the accompanying joint resolution:

Budget authority, fiscal year	
Outlays:	
1978	$300,000,000
Fiscal year:	
1978	174,000,000
1979	45,000,000
1980	81,000,000
1981	
1982	

FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

In accordance with section 308(a)(1)(C) of the Congressional Budget Act of 1974 (Public Law 93-344), the financial assistance to State and local governments provided in the joint resolution totals $205 million in new budget (obligational) authority and $205 million in budget outlays.

Mr. MAGNUSON. Mr. President, I also wish to mention, in the presence of the the Senator from North Dakota, myself, and the Senator from Wisconsin, that yesterday this matter was discussed at some length with the leadership on both sides and several Senators, and they all urged us to go ahead this morning and do as we are doing.

Mr. YOUNG. That is correct.

Mr. PROXMIRE subsequently said. Mr. President, the disaster relief measure we passed earlier today is a completely noncontroversial appropriation resolution to provide disaster relief to States and localities that have suffered substantial losses because of severe weather conditions. The legislation was passed by the House on Wednesday and appropriates $300 million in fiscal 1978 funds for two purposes: about $170 million is to reimburse Federal agencies for obligations made in fiscal year 1977 to counteract the effects of disaster declarations affecting Appalachia, Johnstown, Pa., Kansas City and other parts of the country; and the remainder is to provide support directly to States and localities that have suffered from winter weather conditions over the last few months with a cushion of $47.8 million for future declarations in fiscal year 1978.

Speed is of the essence here. Otherwise towns in the States of Michigan, Indiana, Ohio, Massachusetts, Rhode Island, Connecticut, California, New Hampshire, and Maine may find that, despite a disaster declaration, funds are not available to meet their requests for assistance.

For that reason, I think it was wise for the chairmen of the Appropriations Committees in the House and Senate both to agree to take up this legislation, although all of us would have preferred to have had it discussed at greater length in the Appropriations Committee. As I say, it is noncontroversial. It is necessary. Without it it means these cities would have been in very serious difficulty.

The situation as I understand it is that $50 million in disaster funds remains unobligated but $35 million of this total is currently committed to applications for assistance that have been received by the Federal Government. That leaves a total of $15 million in uncommitted funding. This kitty could easily be depleted by April 1.

Normally I would oppose taking up legislation of this magnitude without referring it first to the Appropriations Committee. But experience tells me that we will not deny these funds in any event. Experience also tells me that the citizen who does not receive disaster relief support to which he is entitled because the Senate took an Easter recess without passing this legislation is going to lose a great deal of faith in his Government. Thus I completely approve of the Senate's decision to move now to send the proposal to the White House.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 796) was ordered to a third reading, was read the third time, and passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I know this will happen, but I urge that this measure be returned to the House of Representatives as promptly as possible, because they will only be in session, I understand, until 1 o'clock to sign some of these bills. All we have been doing will come to naught unless we get it over there fast.

THE PANAMA CANAL TREATY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, 1st session, Calendar No. 2, the Panama Canal Treaty, which the clerk will state.

The assistant legislative clerk read as follows:

EXECUTIVE N, 95TH CONGRESS, 1ST SESSION, THE PANAMA CANAL TREATY

The Senate resumed the consideration of the treaty.

Mr. SARBANES. Mr. President, I inquire of the Chair: What is pending before the Senate?

The PRESIDING OFFICER. Article I is pending.

Mr. SARBANES. Article I of the Panama Canal Treaty.

Mr. President, am I correct there are 14 articles to this treaty?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Is there an amendment pending to article I?

The PRESIDING OFFICER. There is none.

Mr. SARBANES. I ask the Chair: How many amendments are there pending at the desk? I realize, of course, Senators can offer unprinted amendments from the floor or submit further printed amendments to the Chair as we proceed with our consideration of the Panama

Canal Treaty. But I ask the Chair, if there is a count as to how many amendments there are to the text of the treaty, to the 14 articles. We are now on article I of the 14; how many amendments to the 14 articles are pending at the desk?

The PRESIDING OFFICER. Forty-four.

Mr. SARBANES. Forty-four amendments to the 14 articles?

The PRESIDING OFFICER. Yes.

Mr. SARBANES. Does the Chair have it by category as to how many amendments are pending to article I, article II, article III, and so forth?

The PRESIDING OFFICER. There are nine amendments to article I.

Mr. SARBANES. Nine amendments to article I pending?

The PRESIDING OFFICER. Yes. Three to article II; six amendments to article III.

Mr. SARBANES. Excuse me, six to article III? May I recapitulate? Nine amendments to article I, six amendments to article II, six amendments to article III.

The PRESIDING OFFICER. Two to article IV.

Mr. SARBANES. Two to article IV.

The PRESIDING OFFICER. One to article V; one to article X.

Mr. SARBANES. One to article X?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I take it there are none pending to articles VI, VII, VIII, and IX?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. There are nine amendments pending to article I, three to article II, six to article III, two to article IV, one to article V, none to articles VI, VII, VIII, and IX; one to article X.

The PRESIDING OFFICER. These are the printed amendments.

Mr. SARBANES. Printed amendments.

The PRESIDING OFFICER. None are unprinted.

Five to article XII; 11 to article XIII; one to article XIV.

Mr. SARBANES. How many to article XI? I do not think I heard the Chair say?

The PRESIDING OFFICER. Article XI?

Mr. SARBANES. To article XI.

The PRESIDING OFFICER. Eleven to article XIII.

Mr. SARBANES. The question was how many amendments are there pending to article XI.

The PRESIDING OFFICER. There are four that are printed that deal with article XI.

Mr. SARBANES. All right. Four to article XI; five to article XII, 11 to article XIII, and one to article XIV?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Then, I take it, there are understandings, reservations, declarations, and amendments pending to the resolution of ratification?

The PRESIDING OFFICER. A total of 12.

Mr. SARBANES. I want to make sure of where we are. I think it is probably useful, doing it at this point. If I may inquire further, as I understand it, there are 44 amendments pending at the desk to the 14 articles of the treaty; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. There are then 12 amendments, understandings, reservations, or declarations pending to the resolution of ratification; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. So there is a total of 56 changes of one sort or another pending on the articles of the treaty or on the Resolution of Ratification?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Utah or the Senator from Alabama? The Senator from Utah.

Mr. HATCH. Mr. President, after the legislative recess I intend to present an amendment at the desk which will call up, I think, one of the most important issues in our country's history, and it happens to involve the Panama Canal and this particular treaty.

I have had the privilege of being the ranking minority member of the Separation of Powers Subcommittee, which is chaired by the distinguished Senator from Alabama (Mr. ALLEN), and I have had the privilege of sitting in on countless hours of testimony concerning the constitutional issues involved in these treaties.

I have listened to the comments on both sides and, of course, the questions propounded and the answers received by the distinguished Senator from Alabama and others; and I think we are about to enter into, as soon as we return from the recess, the consideration of one of the most important constitutional issues to involve the country in many, many years. That happens to consist of the arguments surrounding article IV, section 3, clause 2 of the Constitution, which basically makes it clear that whenever the President seeks by treaty or otherwise to transfer American property he has to have the consent of both Houses of Congress and not just the two-thirds ratification or consent to ratification of the Senate.

Article IV, section 3, clause 2, in my opinion, is probably the most important consideration involved in the whole matter concerning the Panama Canal treaties.

Mr. President, it is my understanding that Senator Proxmire is here and would like to speak on the treaty, and because of his schedule I would be delighted to yield to him to speak at this time and continue my remarks after he is through. I will be delighted to listen to what he has to say.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Utah. I am very grateful to him. I happen to have heard the Senator from Utah speak on the treaty many times. He is not only very articulate and persuasive but he is, unfortunately, one of those most handsome and attractive Republicans who defeat our good Democrats. I do not like that, but there is nothing I can do about it.

I must say I greatly admire him.

Mr. President, the Senator from Utah was talking about how important this treaty is, and I think it is important. But we ought to put it in perspective. I would like to put it in perspective in a couple of ways. First, let us consider that in the more than 200 years of existence of this Republic and existence of the Senate, we have never taken, to the best of my knowledge, as long on a treaty as we are likely to take on this one. There will be 3 or 4 months of debate, and I think it is a good thing to discuss any issue as much as we can; but I think we should recognize that there are many other issues of great importance.

We have discussed this far longer than we discussed the Declaration of War in World War I or World War II; the Louisiana Purchase, which, of course, represented about a third of our country; and many other issues of great importance were not discussed at any length at all.

I have been in the Senate now for more than 20 years, and it is interesting that a very parallel international waterway, the St. Lawrence Seaway, has been discussed, in the 20 years I have been here, maybe a total of 2 hours. I doubt if it has been discussed that much on the floor of the Senate. It has been considered in committee for a day or two, but not very long.

It is a waterway that, in my view, has a greater potential than the Panama Canal, and has been neglected by far more than the Panama Canal, and I would like to discuss that in the Senate this morning.

THE PANAMA CANAL AND THE ST. LAWRENCE SEAWAY SYSTEM: ATTENTION AND NEGLECT

On March 16 the Senate approved the first of two treaties that will affect the future of the Panama Canal. Since debate on the treaties began in early February, the Senate has devoted more than 160 hours and nearly 1,000 pages of the CONGRESSIONAL RECORD to exploring the prospective ramifications of the proposed treaties on the national security and economic well-being of the United States.

The time has been well spent. The Panama Canal treaties have opened up a highly charged, emotional controversy requiring many days and weeks of meticulous presentation on both sides of the issue in order to lay the facts before the American people. Even now, final passage of the second Panama Canal Treaty remains in doubt as opponents redouble their efforts to preserve the status quo in our relations with the Republic of Panama.

Mr. President, I have been struck by the discrepancy between our having poured so much thought, hard work, money and effort into the Panama Canal over the years and so comparatively little into promoting the interests of another international waterway along our own borders: the Great Lakes-St. Lawrence Seaway System.

The Federal Government's failure to promote the interests of the seaway is a national disgrace, particularly in view

of the phenomenal attention we have lavished on the distant Panama Canal for the last 6 weeks.

Just as fish pay little attention to water despite its constant life-giving nourishment, we as a nation too often ignore the value of national resources close at hand because they make relatively fewer demands on us. We take them for granted.

All of us are aware of the strategic importance of the Panama Canal to the United States. The canal's primary function of shortening distances for military and commercial vessels moving between the Atlantic and Pacific Oceans is readily discerned from a quick glance at the map. Its national security and economic significance for the United States has been highlighted by a colorful and exciting history, a saga of legendary proportions which thrilled many of us in our childhood years.

It is regrettable that we do not have as firm a grasp of the importance of the St. Lawrence Seaway to millions of American citizens who live in the Great Lakes region. The Presiding Officer, Senator ANDERSON lives in the Great Lakes region. The Midwest is home to more than one-third of our Nation's people and over 40 percent of our industry. The St. Lawrence is a vital transportation artery connecting the heartland of America to the rest of the world. It serves as an essential conduit for thousands of tons of goods from the largest exporting area of the United States to other nations via the port cities of the Great Lakes.

The story of the seaway lacks the medical drama of the Panama Canal with its 20,000 deaths from yellow fever and malaria and a dashing Dr. Walter Reed to the rescue. But it makes for compelling reading nonetheless. Few Americans realize the staggering effort required to open one of the largest rivers in North America to commercial navigation. Construction of the 360-mile seaway was one of the great engineering feats of human history, exceeding in scope both the 52-mile Panama Canal and the 100-mile Suez. I contrast that 360 miles for the seaway, only 52 miles for the Panama Canal and a 100 miles for the Suez. And while the history of the seaway offers no charismatic young doctor, it does provide us with a beautiful young Queen Elizabeth who arrives on the scene to join with President Eisenhower in dedicating the beginning of the waterway's operations.

Mr. President, it has occurred to me during the debate on the Panama Canal that we should also pause long enough to reflect on the problems, potentials and needs of this other vital link in the world's transportation system, one which is much closer to home and which has given us low-cost and nearly trouble-free service in its two decades of operation.

After all, the Panama Canal and the St. Lawrence Seaway enjoy a number of similarities:

Both greatly facilitate commercial navigation between parts of the United States otherwise separated from each other and from foreign ports by land and longer distances.

Both systems were conceived in the latter years of the 19th century. In 1879 Frenchman Ferdinand De Lesseps declared that he would build a canal across what is now Panama, which was then a part of Colombia. In 1897 a joint United States-Canadian commission first recommended construction of a deep-draft seaway to open the Great Lakes region to international trade.

Second. The canal and the seaway join America's four seacoasts. The canal links the Pacific to the Atlantic and the Gulf of Mexico; the seaway provides access from the gulf and Atlantic coasts to the shores of our fourth seacoast, along the Great Lakes.

Also these two waterways were even constructed at a similar cost to the United States: $387 million for the canal and $383 million for the St. Lawrence and connecting channels in the lakes.

But here the similarities end.

Construction of the Panama Canal was completed by 1914, just slightly more than a decade after ratification of the Hay-Bunau-Varilla Treaty which ceded control of the Canal Zone to the United States. But it was more than 60 years after the United States-Canada Deep Waterway Commission urged construction of the seaway before plans to open the 2,342 miles of water between Duluth, Minn., and the Atlantic Ocean were brought to fruition. Intense lobbying by east coast and gulf port interests against the seaway filled the intervening years.

The Panama Canal has been operated under increasingly hostile conditions since the 1964 riots indicated that the people of the Republic of Panama no longer took a benign view of American occupation of the zone dividing their country. Because of the canal's distance from the United States and the need to provide effective military protection, the Federal Government has spent almost $7 billion in the last three-quarters of a century to insure the security of the Panama Canal's operations. Nearly 34,000 Americans live in the Canal Zone to serve its military and operational needs.

Now, the St. Lawrence Seaway, on the other hand, has enjoyed nearly 20 years of cooperative joint operation by the friendly governments of the United States and Canada. During this time the American portion of the Seaway has required fewer than 200 people for operation and administration. The costs of the seaway do not include any expenditures for defense. Furthermore, the St. Lawrence Seaway Development Corporation, the agency charged with responsibility for administering the American locks, is authorized to collect toll revenues sufficient to recover the original cost of the seaway's construction in addition to annual operation and maintenance costs.

In 19 years the Seaway Corporation has repaid 14 percent of its original investment for construction of the seaway, with payment of the balance due by 2009. This compares favorably with the Panama Canal, which in its nearly 75 years of operation has returned only $1.25 billion to the Nation's taxpayers who have footed the bill for nearly $9 billion in total costs over the lifetime of the canal.

Mr. President, it is paradoxical that the Federal Government demands by law that the St. Lawrence Seaway pay for itself while at the same time promoting policies that militate against the efficient use of Great Lakes ports. One major difference in our Government's attitudes toward the Panama Canal and the seaway is found in our double standard approach to discrimination.

Ever since the 1900 Hay-Pauncefote Treaty with Great Britain, the United States has pledged to keep the Panama Canal "free and open to the vessels of commerce and of war of all nations" on terms of equality and without discrimination as to "conditions and charges of traffic." But we have not shown the same consideration to our own citizens in the Midwest for whom the seaway should be the most efficient route for shipping goods abroad and to other locations within the United States. Despite the fact that the 1970 Merchant Marine Act recognized the Great Lakes as America's fourth seacoast, the Intertate Commerce Commission has endorsed rail freight rates that are prejudicial to the Midwest's Great Lakes ports—prejudicial to Duluth, prejudicial to Milwaukee, prejudicial to Green Bay, Superior, Kenosha, and other ports on the Great Lakes—and give preferential treatment to gulf and Atlantic ports.

Ever since completion of the seaway in 1959 the lakes have tried to get a fair rate formula for their ports. In 1971 the ICC finally investigated the rate charges to and from the Great Lakes. These rates were then compared with the charges to and from other ports. In 1976, after 5 years and overwhelming evidence of discrimination, ICC ruled that the rates were neither unjust, unreasonable, nor prejudicial. Even granting the ICC's reputation as a protector of monopoly enterprise, this conclusion represents an incredible blindness to the facts.

Take just one example typical of the discriminatory rates currently in effect: In 1977 the rate to freight fiberglass shipments from Charleston, W. Va., to Baltimore was $0.68 cheaper per hundredweight than the rate to ship the same commodity to Cleveland, even though Cleveland is 143 miles closer.

This charge-the-Great-Lakes-more policy is thoroughly discriminatory and flies in the face of ICC's responsibility to regulate commerce in the public's interest. Can you imagine the international outrage that would result if we demonstrated the same flagrant disregard for fairness toward other nations that use the Panama Canal? The present controversy over the pending treaties would pale in comparison to the uproar that would result from such action.

The lakes have tried and failed to get administrative relief from freight rate discrimination. Clearly the ICC is not about to disturb life-as-usual by treating the Nation's fourth seacoast on a par with the ports along our other coasts.

The only available remedy left is legislative action to prohibit rate discrimination on the basis of geographical location.

Legislation along these lines is now pending before appropriate committees of the Senate and House of Representatives. Devotion of just a fraction of the time we have spent on the canal treaties to hearings on rates discrimination bills would provide a needed step in the direction of solving this particular problem.

I just wish that a recitation of the facts on rail freight rates would exhaust the list of discriminatory policies that inhibit commerce via the St. Lawrence Seaway. No such luck.

Under the Cargo Preference Act of 1954, at least 50 percent of federally financed freight must be carried on American-flag vessels when they are available at fair and reasonable rates. The purpose of that act was to provide support for the American shipbuilding industry without unduly restricting the exercise of discretion by a particular Government agency as to costs or quality control. For 15 years the Agency for International Development maintained a firm policy of requiring that Public Law 480 food-for-peace grains be shipped on American-flag vessels to the maximum extent possible, at levels substantially higher than the 50-percent provision of the Cargo Preference Act. Because relatively few American ships plied the lakes, Midwestern ports lost a large number of jobs, and American taxpayers paid the bill for shipping Midwest grains to distant ports served by American ships.

Although this thoughtless policy was changed by AID in 1976, there are still pressures on the Agency to reinstate its former discriminatory approach to implementing the law. Congress should consider amending the law itself to reflect the realities of the levels of American shipping companies that patronize the Great Lakes-St. Lawrence Seaway system.

Another way in which government policy has historically put the seaway at a disadvantage is found in the repayment requirements that apply to the seaway alone. Of all the waterways in the United States, only the St. Lawrence system is required to pay back its entire cost of construction as well as the costs of operation and maintenance. There is substantial merit in the argument that users of a transportation system should be required to help defray the costs of building and operating that system. But it is patently unfair to impose such a demand on the St. Lawrence alone. Congress has waited long enough to impose user charges on the Nation's other inland waterways. I cannot think of any more appropriate followup to disposition of the Panama Canal treaties than prompt enactment of the Domenici amendment to the Navigation Development Act which has been pending on the Senate Calendar since October of last year. Passage of this amendment will put other domestic waterways on the same pay-as-you-go basis that has been required of the seaway from the beginning.

Mr. President, I am particularly concerned about the most recent example of discrimination against the Great Lakes that has come to my attention: The Treasury Department's trigger pricing formula to protect the domestic steel industry against the dumping of foreign steel in the United States.

I am sure that most of the Great Lakes commercial interests recognize the need to provide safeguards against such dumping practices. This is true even though import steel accounts for 85 percent of the total general cargo moving through Great Lakes ports. At the same time, the Great Lakes should not be called upon to bear any greater share of the burden of such protection than any other section of the country.

A week ago Tuesday I shared a taxi cab with Frank Miller, seaport director of the Toledo-Lucas County Port Authority. On a day when the Senate had spent more than 10 hours debating the Panama Canal it was ironic to learn of the short shrift which the St. Lawrence Seaway is getting from the Federal Government. The problem which Frank Miller described to me is this:

Under the Treasury Department's trigger pricing formula which sets price floors for imported steel, the Great Lakes are put at a competitive disadvantage vis-a-vis gulf and east coast importers in the calculation of transportation assessments included in the total trigger price. The trigger price formula is designed in a way that seriously alters the normal ocean freight differentials among the various coastal regions of the country. The result will be disastrous for the Great Lakes which stand to lose a disproportionately large share of remaining import steel shipments and grain backhauls.

The Great Lakes task force has recently issued a fact sheet that spells out the extent of discrimination against the lakes. For example, the task force report notes, Japanese steel by way of the seaway can now be laid down in the port of Cleveland for $5 per metric ton cheaper than via New Orleans and the Mississippi River to Cincinnati. Under the trigger price formula, this cost advantage of the seaway is lost and it becomes $1 per metric ton less expensive to use the New Orleans route.

An even more telling example: European steel, which has a $15-per-ton advantage to cities such as Dayton, Ohio, via the seaway, could be delivered cheaper under the trigger formula via New Orleans, even though the latter route is nearly 2,000 miles longer.

It is essential that the Carter administration act immediately to redress this situation by restoring the pretrigger formula ocean differentials so as to maintain a competitive transportation relationship among the Nation's seacoasts. The Great Lakes ports are willing to share equally in the effort to preserve the jobs of domestic steel workers and the U.S. steel industry. But they should be allowed to compete on a competitive basis for remaining supplies of import steel.

Mr. President, as chairman of the Senate Appropriations Subcommittee which funds the Environmental Protection Agency I have had yet another occasion during this time of debate on the canal treaties to compare the extent of our efforts on the canal with our treatment of the lakes. Earlier this month, in the course of hearings on EPA's budget request for fiscal year 1979, I learned that the agency proposed to reduce its funding for Great Lakes pollution and R. & D. programs by half. This lack of interest in the Great Lakes is appalling given Congress expressed intent to protect and upgrade the water quality of this unique national treasure. The Great Lakes constitute nearly 20 percent of the world's fresh water supply, almost 97 per cent of our own domestic supply of fresh water. Because of the high level of commercial activity on and around the lakes, we must make an extended effort to solve the environmental problems which invariably accompany such activity. I intend to make every effort to insure that these unwarranted budget cuts are restored.

Finally, Mr. President, I would like to conclude my remarks on a more positive note. One of the major differences between the Panama Canal and the St. Lawrence Seaway System is that the former is open to navigation throughout the year while the latter is closed as a result of weather conditions during the winter months. I am glad to say that great strides are being made in our efforts to open the lakes to navigation on a year-round basis.

In 1970 Congress authorized a program to demonstrate the feasibility of prolonging the navigation season, which traditionally has been limited to the period between March 15 and December 15. Under the 1974 Water Resources Development Act, the winter navigation demonstration program was continued to the end of 1976.

The Water Development Act of that year included an amendment which I introduced to extend the program for 3 additional years, until September 30, 1979. That amendment also increased the authorization for the program from $9.5 million to $15.6 million.

Knowledgeable sources in the Army Corps of Engineers believe that extending the navigation season to January 31 is achievable in the next 3 to 5 years on the upper four Great Lakes and within 5 to 7 years for the lower St. Lawrence system. The Administrator of the Seaway Development Corporation concurs with this timetable and believes that navigation for 11 months of the year may be feasible within a decade.

Mr. President, I might point out that the Soviet Union operates in waterways that are much farther north and much colder, because they use their technology and use it fully to open up those waterways. The benefits not only to Wisconsin, Minnesota, Illinois, Michigan, and other Great Lakes States but to the whole country from opening up the Great Lakes for 12 months, which can be done with our present technology, are enormous. The economic benefits would be very great. Imagine what it does to someone who operates on the Great Lakes who can only operate 8 months a year. It has a very, very difficult and paralyzing kind of effect.

We need to do all that we can to encourage the winter navigation program while concurrently insuring that en-

vironmental problems associated with an extended navigation season are resolved. One of the most effective actions we can take is to upgrade the icebreaking capability of the U.S. Coast Guard fleet on the lakes. Year around navigation on the St. Lawrence Seaway system will save the Nation millions of dollars in transportation costs and provide substantial economic benefits for the third of the Nation's people who live in the Midwest. But better, more efficient icebreakers are needed if winter navigation is to become a reality.

Mr. President, the Senate will continue to debate the merits of the Panama Canal treaties in the weeks ahead. We will undoubtedly hear repeated many times the ways in which the Panama Canal is important to the United States. I hope that in the midst of all of this attention to that distant waterway in the south, we will stop to remember the enormous contribution which the other waterway to the north has made to our Nation's economic well-being. It is difficult to predict what the future holds for the Panama Canal. But we can do much to determine the future of the St. Lawrence Seaway system along our own borders. I hope that we will take full advantage of that opportunity and act wisely to promote and not destroy the many benefits offered by the gateway to America's fourth seacoast.

Mr. President, I suggest the absence of a quorum.

Mr. ALLEN. Will the Senator withhold that?

Mr. PROXMIRE. I withhold that, Mr. President. I yield to the Senator from Alabama.

UP AMENDMENTS NO. 15

(Subsequently numbered amendment No. 91.)

Mr. ALLEN. Mr. President, I send to the desk an amendment offered on behalf of the distinguished Senator from Utah (Mr. HATCH), the distinguished Senator from North Carolina (Mr. HELMS), and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama, for himself, Mr. HATCH, and Mr. HELMS, proposes an unprinted amendment numbered 15.

At the end of article I, section 3, strike period, insert semicolon and add the following: "*Provided, however*, that all citizens of the United States who are now employees of the Panama Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause."

Mr. ALLEN. Mr. President, on the last vote we had in the Senate there were 71 Senators who answered to their names. I do not know how many would be present to answer to a rollcall vote on this amendment. I am not insisting on a rollcall vote at this time. I do not know what the position of the managers of the treaty will be or what the position of the leadership will be with respect to a vote. Of course, I am ready to have a vote after the amendment has been explained, or I am ready for it to be carried over until Monday a week, after the recess. It seems it would be more appropriate to wait until a larger number of Senators are present. That, of course, would be on Monday a week.

This is an important amendment, as are all of the amendments the Senator from Alabama will offer.

I do not feel that any dilatory amendments will be offered by any of the Senators who wish to strengthen this treaty and who wish to strengthen the Neutrality Treaty, or the defense treaty—that might be a more appropriate term to apply to it. The amendments that have been offered have sought to strengthen the position of the United States with respect to the defense of the canal. The amendments to the Neutrality Treaty would have provided a stronger defense role for the United States in defending the canal because, under the Neutrality Treaty as agreed to here in the Senate, we are given certain rights to defend the canal, starting in the year 2000, but we are deprived of much of the means of defending the canal, because all of our troops have to be out of Panama by the year 2000.

It would take an invasion of Panama by the United States, after the year 1999, in order for us to defend the canal. That, of course, would cause international repercussions. But the Neutrality Treaty has been approved in the Senate. It is not as strong as the so-called opponents of the Panama Canal treaties would have liked that treaty to be. It does not protect our ability to defend the canal as the opponents of the treaties would have liked to see provided. Those of us who oppose the treaties take the position that if we are unable to defeat the treaties, we want to see approved in the Senate the best possible versions of the treaties to protect the interests of the American taxpayer, versions that will allow our country the best opportunity to defend the canal.

(Mr. HUDDLESTON assumed the chair.)

Mr. ALLEN. I suggest that the amendments that are going to be offered will not be as numerous as was pointed out a few moments ago as the number of amendments at the desk, in the neighborhood of 40 or 50. I feel that that number will not be offered, but I do not feel that the amendments at the desk necessarily would be the ones that are called up.

I would say that it is in the best interests of our country, in the best interests of the taxpayers of our country, first, to defeat this treaty, the Panama Canal Treaty. After all, the main question is still before the Senate. All we have done thus far is provide for a defense of the canal starting in the year 2000. There remain the basic and fundamental questions to be decided: Shall we give the canal away? And shall we pay hundreds of millions of dollars for the privilege of giving it away? Those questions are still before the Senate.

I might say that all of the work that has gone into approving the first treaty will be held for naught unless this treaty is approved. Defeat of the Panama Canal Treaty will, in effect, defeat the Neutrality Treaty. Because that treaty was put ahead of the Panama Canal Treaty, we were called on to decide about the manner of defense of the canal starting in the year 2000 before we even decided whether or not we are going to give the canal away. So, to those who feel that the battle against these treaties has been partially defeated, that would not present an accurate assessment of the situation, because defeat of this treaty will defeat both treaties. The basic and fundamental question, whether we should give the canal away and whether we should pay hundreds of millions of dollars in the process, is the paramount question before the Senate today.

We never know what will be the result of a rollcall on the resolution of ratification. We do not vote on the treaty itself. After it has gone through the amendment process, then a resolution of ratification is prepared and that is what we vote on. But until we have a final vote, we shall not know what the outcome will be.

It has been stated on the floor a number of times that the vote on the Neutrality Treaty was 68 in favor and 32 against, suggesting, of course, that the vote was top-heavy in favor of the treaty. At first blush, that would seem to be correct. A vote of 68 to 32 would certainly be a top-heavy vote. But, under our Constitution, of course, it takes a two-thirds vote to give the Senate's advice and consent to a treaty. The very minimum required to approve the treaty was 67 votes. So, in getting 68 votes to 32, there was only one vote to spare.

I am pleased that the recess that has been agreed upon in the Senate will enable Senators to go back to their home States, talk to their people, and see if the people approve of the actions that they have taken. I welcome the opportunity to go back to Alabama and talk to my constituents, because I believe that I have acted in their best interests. I believe I have acted in line with their wishes and their thinking. I am delighted that Senators will get this opportunity to go back and talk to their people and see if they approve of the action that has been taken.

At least two Senators who voted for the Neutrality Treaty have stated that their vote for the Neutrality Treaty does not necessarily mean that they are going to vote for the Panama Canal Treaty; that it is one thing to vote for the defense of the canal, but it is another thing to vote to give the Panama Canal away. So we are hopeful that Senators, after talking with their constituents, if they find that their constituents do not approve of the actions that they have taken here, will be statesmanlike enough to reverse their positions. Actually, it would not be a reversal of position, because approval of defense does not necessarily imply approval of a giveway. I feel that Senators who voted for the Neutrality Treaty could, while still being consistent, vote now against giving the canal away.

It is up to the American people. It is up to the American people whether this treaty before us can be defeated and will be defeated.

A group of dedicated Senators has sought, as they see it, to protect the best

interests of the people of the United States by defeating these treaties. They feel that is in line with the wishes of the people. Certainly we hope that the people, if that be the case, will communicate their wishes to their Senators.

I have no doubt in my mind that if the view of the people of the United States was being expressed here on the Senate floor, the treaties would be overwhelmingly defeated.

The distinguished Senator from Utah (Mr. HATCH) has an amendment in which several of us are joining, the distinguished Senator from North Carolina (Mr. HELMS) being one of the sponsors, and the Senator from Alabama now speaking being one of the sponsors, that would provide that this treaty shall not enter into force until article IV, section 3, paragraph 2 of the U.S. Constitution has been complied with. That section provides that the Congress shall have the power to dispose of the territory and other property of the United States.

Legal authorities, scholars, have pointed out that where a power is given to one branch of the Government under the Constitution and no conflicting power is given to another branch, that power would be an exclusive power.

We own the property in the Panama Canal Zone, own it in fee simple, which means the entire title. It has been stated on this floor by Senators that we lease that property. Well, I feel whoever made that statement—and one eminent Senator did—is not advised as to the facts, because a joint Panamanian-U.S. commission bought the property in the Panama Canal Zone in the name of the United States of America. To remove all doubt of that, we had brought into one of the hearing rooms in the Senate the actual deed records showing the acquisition of this property in fee simple by the United States.

So let us not hear any more talk of this property being leased. The United States owns the property in the Panama Canal Zone, which would include the actual artery as well as the Panama Canal Zone.

Mr. HELMS. Will the Senator yield?

Mr. ALLEN. Yes; I yield to the distinguished Senator from North Carolina.

Mr. HELMS. The Senator from North Carolina was present in that hearing room to which the distinguished Senator from Alabama just alluded.

I think it is interesting that it required three enormous crates to bring into the hearing room all the documents relating to the acquisition of the property.

Mr. ALLEN. That is correct.

Mr. HELMS. These were sealed and they were in good condition.

As this Senator recalls, a distinguished citizen from my State, J. C. Luitweiler, was in charge of an important aspect of the acquisition of the property, and he testified in a very interesting, enlightened fashion about the question.

The Senator from Alabama mentioned that a Senator on this floor had stated that the United States does not own the property. Well, as as a matter of fact, the President of the United States said the same thing on television.

Mr. ALLEN. Yes.

Mr. HELMS. And the President of the United States was just as wrong as the Senator who stated during these debates that the United States does not own the property in the Canal Zone.

Mr. ALLEN. Another thing he said was that this treaty, giving the canal to Panama, would not cost the American taxpayer anything. Maybe he should check up on that a little bit.

Mr. HELMS. I think the President needs to get his arithmetic straightened out a little.

Mr. ALLEN. Yes.

Mr. HELMS. I thank the Senator for yielding.

Mr. ALLEN. I have just been advised by the distinguished Senator from Utah (Mr. HATCH) that an agreement has been reached with the managers of the treaty, that somewhat later today the amendment of the Senator from Alabama will be laid aside temporarily in order that the distinguished Senator from Utah may offer his amendment, to which I alluded a moment ago, requiring an act of Congress, in effect, for the disposition of the property of the United States in the Canal Zone before this treaty shall enter into force, and of course, that is agreeable to the Senator from Alabama.

But I do, inasmuch as I have the floor, wish to continue discussing this amendment that is the pending business.

So the major amendments that I might refer to—as I say, I am not interested in introducing an amendment unless it is a major amendment—the amendment that will be offered by the distinguished Senator from Utah (Mr. HATCH) requiring congressional—which includes House and Senate—congressional approval of the disposition of the property of the United States in the Canal Zone, that will be, as I understand it, the first amendment to be voted on, which will not be voted on until the Wednesday after we come back from the recess.

We come back on Monday a week, and, as I understand it—though this might be changed—the amendment of the distinguished Senator from Utah will be the first voted on amendment, and that will come on Wednesday, almost 2 weeks hence.

But in discussing some of the major amendments that must be agreed to, I would set the amendment of the distinguished Senator from Utah as first and foremost—that is, the requirement that the House of Representatives, where sentiment does not seem to be so strong for these treaties as sentiment in the Senate seems to be, must be considered in this matter. The Constitution must be followed. Before this treaty can become effective, there must be a statute passed by the House and the Senate, approved by the President, giving permission for the disposition of this property or actually making the disposition. I would think it would be approval of the disposition, and more than half the Members of the House have joined in a resolution requesting that they be allowed to act on this question.

The managers here would have nothing to do with reaching that decision. But if we can get the amendment approved, then the House of Representatives will have to join in a statute with the Senate, authorizing its disposition. That, as I say, will be the first amendment voted on after the recess.

Another major amendment that we will offer will be an amendment to protect the taxpayers of the United States from having to pay hundreds of millions of dollars to Panama for taking the canal off our hands. An amendment will be offered providing that there shall be no expense to the American taxpayer, no payments from the Treasury, in connection with this disposition of the canal, with giving it away. It should be sufficient to give the canal away without actually paying them to take it.

I think that is an important amendment, an amendment that must be agreed to if the taxpayers of the United States are to be properly protected under this treaty. No matter how much we strengthen the treaty, it is faulted by the fact that we should not give the canal away.

We are in the best position to operate the canal, to maintain the canal, to defend the canal. Why should we give the canal to Panama and allow them to receive approximately $100 million from the operation of the canal, when the United States has operated the canal on a nonprofit basis all these years?

In addition, Mr. President, to show how the taxpayer of the United States is being treated, there is still $319 million unpaid on the original cost of the canal. We have not even received back our original investment. There is still $319 million, which is going to be canceled in this transaction. That should not be allowed. This unpaid purchase price, you might say—the unpaid cost of construction—should be frozen in as a debt of the Panama Canal Commission and should be repaid, if we are going to give away the canal.

Let us assume you have a house with a mortgage on it and you want to give it to somebody. Ordinarily, you would give it to them subject to the mortgage, if you were that big-hearted. You would not pay off the mortgage and then give it to them. The situation here is similar. There is still $319 million due on the original cost of the canal. So that needs to be straightened out by amendment.

Another amendment that will be offered in the course of the debate has to do with the Panama Canal Commission. That will be the body that takes over the operation and management of the canal from the Panama Canal Company, which is an agency of the U.S. Government. They changed the name from "Company" to "Commission." It would be transferred without debt, without liens, at the end of the 22-year period of this treaty. The Panama Canal Commission goes into effect at once.

Who makes up the commission? It is a U.S. agency, a U.S. commission. It is made up of five Americans—five citizens of the United States—and four Panamanians. No provision is made for the approval of these members of the Panama Canal Commission by the U.S. Senate.

The Senate has to approve many appointments. It has to confirm appointments that the President makes to high office. The Senate has to confirm every promotion in the Armed Forces, for that matter. If somebody becomes an ensign in the Navy or a second lieutenant in the Army, he has to be approved by the U.S. Senate.

However, there is no provision for confirmation of the appointment of these commissioners, even though four of them are Panamanians. There is no requirement that they be men or women of good character. There is no requirement that they not have a police record. There is no requirement that they may not have been engaged in criminal activity.

The treaty provides that Panama sends the names of four Panamanians to the United States and they have to be named to the commission. There is no discretion on our part. If there is any, I would like somebody to show it to me. Where is there any discretion on the part of the United States as to naming these four Panamanian commissioners?

The five U.S. commissioners do not have to be approved by the U.S. Senate. It is said that the four are Panamanians and their appointments should not be confirmed by the U.S. Senate. This is a U.S. commission, and appointment of all commissioners should be approved by the Senate. They are working for an agency of the U.S. Government; so why should they not be confirmed by the Senate? That is going to be a major amendment.

Another amendment that is going to be presented again—it was presented on the floor by the distingiushed Senator from Kansas (Mr. DOLE) but was rejected, and it is so important that it must be considered again—is a requirement that during the 22-year life of the Panama Canal Treaty, Panama—inasmuch as Panama and the United States are defending the canal—cannot bring in or allow to come into Panama any troops from a foreign nation.

They say we should not require that in the treaty. It is required in the Neutrality Treaty, because it says that Panama only shall have soldiers and bases in Panama starting with the year 2000. They are going to go it alone. The United States will be gone, and the Neutrality Treaty says that nobody but Panama can have troops there. Why should not the same rule apply during the 22-year existence of the Panama Canal Treaty, especially since the United States is there to defend the canal? Why allow Panama to bring in Cuban soldiers, Russian soldiers, and perhaps have a confrontation with soldiers of the United States? That is what the Dole amendment did, but it was rejected.

As we move forward in the debate on this treaty, it is interesting to see that, while some of the proponents of the treaty say they have an open mind on amendments, I notice their open minds did not open wide enough for them to support a single amendment to the Neutrality Treaty, and there were dozens offered. Not a single amendment was agreed to other than the two so-called leadership amendments. So I am going to be interested to see if that same open mind on the part of the leadership and the managers of the treaty is going to prevail here in this debate, as we consider legitimate and necessary amendments to the Panama Canal Treaty.

As I said yesterday in discussing this matter, I believe I like best the attitude of the distinguished Senator from Idaho (Mr. CHURCH). He says, very frankly, "No, I am not going to support any amendment. We cannot add"—to use his words—"8 words, 6 words, 2 words, or 1 word without killing the treaty."

Why would that kill the treaty? While there is one-man government in Panama, if dictator Torrijos wants to approve the treaties he can approve them. It does not matter if we amend the treaty 100 times. He would say, "Well, this is in the spirit of the treaty and we are going to approve it; the Panamanian Government is going to approve it."

As has been brought out here, no collateral attack on their approval could be made. So to say that amendments are going to kill the treaty is something that I do not see how Senators can state categorically. No one knows what dictator Torrijos' attitude is going to be. He is putting on quite an act down there in Panama now, making out like he is straining at the DeConcini reservation, which does by reservation provide that if it is necessary to send troops into Panama to keep the canal open, if it is closed by reason of labor strife, or military action, or whatever, then we can go in. But a reservation does not have the force and effect of an amendment to the treaty. As a matter of fact, the DeConcini reservation was first offered as an amendment, but it was turned down at the urging of the managers of the bill, supported by the leadership and supported by the administration.

We come now to the pending amendment, which I hope will be agreed to. I checked with the Panama Canal Company, which has an office here in Washington, just this morning to find out how many U.S. citizens work for the Panama Canal Company. I was told that the number is 2,065 U.S. citizens who work for the Panama Canal Company, which operates and maintains the canal.

It has been brought out here on the floor, and the distinguished Senator from Maryland (Mr. SARBANES) quoted a figure that I thought possibly was a little high, that 80 percent of the employees of the Panama Canal Company or the operators of the canal—I do not know if they use that expression, "Panama Canal Company"—but 80 percent are Panamanians. That is all right. I am not kicking about that. And Panama is going to take over the entire canal starting in the year 2000.

We will be out. Our soldiers will be out. Any control on the canal that had been exerted by us will be a thing of the past. So if they have 80 percent of the employees, why should they seek to hurry the departure of those 2,065 U.S. citizens? The treaty provides that in the next 5 years, since we are supposed to be operating the canal, we have to dispense with the services of 20 percent of those 2,065 employees. We have to show the gate to over 400 U.S. citizens who now work for the canal.

Why could they not have a little heart? People work there, have their homes, and make their livelihood there. Why can they not wait? They have 80 percent already. Why should they worry about this 2,065 to hasten their exit? I do not feel that that is quite fair.

They say the United States is going to continue to operate the canal under this treaty for 22 years, until the year 2000. What kind of operation is that, if we are to say that we have to hasten the departure of 400 of those employees? Who was looking after the U.S. citizens when this treaty was negotiated? Who was looking after them? Obviously not our negotiators. Why would they agree to such a thing?

That is not all. During this time that we are supposed to be operating the canal, this 22-year period, it is provided in the treaty that if they employ an American—I guess I should say "citizen of the United States," because I guess in a sense we are all Americans, since the name of Amerigo Vespucci was used to arrive at the term "American," but we are all too prone to say "Americans" to identify citizens of the United States.

But in this 22-year period, Mr. President, when we are supposed to have control of the canal, what does it say? That they cannot employ a noncitizen of Panama, any citizen of the United States, unless it is found that nobody there in Panama, no available employee, has this particular skill. So, during the 22 years we are supposed to operate the canal we have got to get rid of 400 employees, and we cannot bring any new employees from the United States into the employ of the Panama Canal Commission unless the person has a skill that is not available there in Panama. That does not seem to give us control of the canal during this 22-year period.

What this amendment does, Mr. President—and I state my understanding that the distinguished Senator from Utah (Mr. HATCH) who worked out an agreement with the managers of the bill that his very important amendment will be brought up, and this amendment will be laid aside, so that this great constitutional issue may be determined here in the Senate—this amendment that is pending, of course, is more important to the 2,065 U.S. citizens who work for the Canal Company than is the great constitutional issue of whether the House has got to act in this area.

But overall, if the requirement that the House must act before the treaty goes into force is met, if that amendment is adopted, and then if the House kills this effort to give the canal away, that would prevent this treaty from going into effect, and that would allow these employees of the Canal Company who are citizens of the United States to be secure in their jobs.

These people have been doing good work down there. They have been operating the canal. Nobody says they are giving dictator Torrijos any trouble. Why then should they be penalized by turning them out to graze? It is just not right.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. ALLEN. Yes; I will yield to the distinguished Senator from North Carolina.

Mr. HELMS. I want the Senator to know that I commend him on his amendment. I am delighted to join him in the cosponsorship of it, because he is putting his finger on what could be a very serious problem very quickly——

Mr. ALLEN. Yes.

Mr. HELMS (continuing). Respecting the Panama Canal.

Governor Parfitt appeared before the Armed Services Committee, of which I am a member, and I addressed a number of questions to Governor Parfitt about the personnel situation in the Canal Zone in the unhappy event that these treaties are approved by the Senate. Governor Parfitt, in his responses, made it very clear that the operation of the canal may well be in jeopardy, because of the fear of the American employees there that they will not have their rights protected.

I asked Governor Parfitt, for example, what impact the approval of these treaties would have on the efficiency and operation of the canal. He stated that it was estimated that because of the uncertainty of tenure of the canal employees, the American employees of the canal, as many as 69 percent would depart within 3 years. The Governor said very candidly that this would have a disastrous effect upon the operation of the canal.

Let me quote him precisely. He said—and this is Governor Parfitt speaking—

> The efficiency of the operation of the canal would be significantly affected if two-thirds of our skilled U.S. citizen employees were to leave within the first three years.

Earlier he had said that was a probability:

> There is no question that it would have an adverse impact on our training capability as well as the efficient operation of the canal. We would need to seek replacement from the United States. It would probably take a period of years to rebuild that reservoir of specialized knowledge. This is why I feel it is important to provide sufficient incentives to retain an adequate and skilled U.S. work force.

That is precisely what the Senator from Alabama is addressing himself to with his amendment.

Mr. ALLEN. Yes.

Mr. HELMS. At another point in his testimony Governor Parfitt was discussing the pilots who direct the transit of ships through the canal.

Senator GOLDWATER inquired if it was not true that the canal has 200 pilots and only 2 of them are Panamanians. Governor Parfitt said:

> Yes, sir.
>
> Senator GOLDWATER. I know this is not through any desire of the Company but just a general disinclination on the part of Panamanians, who are not basically seafaring people, to get into that field.
>
> Now, do you think you can train a sufficient number of Panamanians to replace the American pilots who will be leaving?
>
> Governor PARFITT. We have a potential serious problem there. In the short term we cannot train Panamanians to take over the piloting function. A pilot does not become fully skilled to handle the highest or largest ships until he has been there 8½ years and, prior to his coming he has to have considerable seafaring experience. So it takes a long period of time to train a pilot.

So the Senator's amendment is a sensible amendment, a necessary amendment, and he is addressing himself to a very real danger that the proponents of these treaties will be well-advised to consider, and consider carefully.

Again I commend the Senator from Alabama for his amendment.

Mr. ALLEN. I thank the distinguished Senator, and I appreciate his sponsorship of the amendment.

The fact that we are supposed to have control of the canal for 22 years certainly is changed radically by this provision in the treaty that we have got to get rid of 20 percent of our employees there who are U.S. citizens, and that no citizen of the United States can get a job down there in this 22-year interval, not a one, unless he has got a particular skill that is not available in Panama.

That would mean, then, the chances are that that would close the door to possibly hundreds of Americans who might want to work down there. Possibly a man and his wife might have a son or sons who might want to start working there where his father had worked. Unless he has got some special skill, this door for employment is closed to him during these 22 years that the United States is supposed to have control of the canal.

Another thing, Mr. President: Even though it is said that the canal is not being turned over to Panama for 22 years, the Panama Canal Zone, as such, is eliminated in a relatively short time—I think a matter of months. It comes to an end. Remove the northern and southern boundaries of the Panama Canal Zone—it might be a different direction, because the isthmus there does twist around, as a matter of fact, and the canal runs northwest to southeast, and you have to go west to go east on account of the canal, so you cannot necessarily say they are northern and southern boundaries of the Canal Zone. But the Canal Zone, as such, ceases to exist, and our employees there, our U.S. citizens are left subject to Dictator Torrijos' tender mercies.

If we are going to give the canal away 22 years from now, why should we give the zone away at once, and not provide against U.S. citizens becoming unemployed during this 22 years? That is not much control by the United States.

We start operating it immediately not on a nonprofit basis, but on a basis that will net Panama $100 million a year. Now, is that a figure I have pulled out of the air? The answer is "No." Economic Minister Baretta of Panama has stated that under the treaty arrangement Panama will receive $2,262 million during the life of this treaty. Well, divide 22 into $2,262 million and you end up with a figure of $100 million a year. That will be enough money to perpetuate Dictator Torrijos in office. So that is what we are doing: Allowing them to siphon off, according to Minister Baretta, $100 million a year.

So, Mr. President, it would seem to me at some later time an amendment would be appropriate that the Panama Canal Zone will cease to exist at the time the canal itself is given to Panama. If we are disposed to continue operating the canal for the benefit of Panama for the next 22 years, that is one thing, but why should we turn the entire area over to the jurisdiction of Panama? There is a transition period there where they have dual jurisdiction, but they are moving toward the takeover of the entire 500 square miles by Panama.

So, Mr. President, this amendment is an amendment to protect the U.S. citizens who are employed by the Panama Canal Company. It recognizes that 80 percent of the employees are already Panamanians, but it would allow these employees to work until—you have got three conditions: They can work until retirement age, or until their voluntary retirement, or until they are discharged for cause.

Now what could be so wrong about that? Why should we not protect these employees? Why write a vicious provision into the treaty that we got to get rid of 25 percent of our employees in the next 5 years?

Well, they have been talking about "Oh, we can't do this, that or the other; it would heap indignity on Panama." Now what about a provision like that, that we have got to run off 20 percent of the American employees there in 5 years' time? I do not know; attrition might be 20 percent or more, but if it is not they have got to get rid of the number necessary to bring it up to 20 percent whose employment has ended.

At a later time, possibly, if the Senate looks with favor on this amendment, as I am hopeful that they will, I would seek to change this provision saying no U.S. citizen can be employed unless he has got some special skill. That hardly seems fair. That is discriminating. Talking about discriminating; that discriminates against American citizens.

And how, Mr. President, can we claim we have the operation and control, management and defense of the canal for the next 22 years, when we cannot even employ an American citizen unless he has some special skill that is not available in Panama? Talk about discrimination. Why, we ought to get EEOC over there.

Would not the Senator from North Carolina agree with me there is some discrimination here? I think it might be well to turn that over to the EEOC and let it perform a useful function for a change.

Mr. HELMS. Will the Senator yield?

Mr. ALLEN. Yes; I will be happy to yield.

Mr. HELMS. Let us send Joe Califano down there and let him work on that.

Mr. ALLEN. He might be a good man to send for that purpose. [Laughter.]

But these provisions are discriminatory against U.S. citizens. I do not feel like the Senate wants to do that, in our performance of our duty of advising the President on the provisions of this treaty, and telling him whether to ratify it or not. We certainly ought to present to him

the treaty in the best possible shape. We are leaning over backwards, Mr. President, to take care of Panama, and we are forgetting the American taxpayer and the American citizen. I feel that it is our duty here in the Senate to have a little thought of Americans.

Senator DOLE the other day said, and he said it on this floor a couple of times:

The attitude of the managers of the bill and the leadership is you cannot add a single word to this treaty. As exemplified by Mr. Church, if they have their way, you cannot add a single word.

Mr. DOLE says you cannot even add the word "America," and have the leadership or the managers of the treaty approve such an amendment.

What have we come to here in the Senate? If we are going to require that the Senate rubberstamp every word in this treaty, if we are going to stonewall against every amendment, no matter how meritorious, whose interests are we looking after?

"Oh," they said, "It will kill the treaties." Well, who thinks that we will kill the treaties? You know, Mr. Torrijos wants this $100 million a year to start coming in. That is almost $10 million a month. That will help this regime there in Panama. You know, they have to expend 39 percent of their income—that is, the Government of Panama—39 percent of their receipts to service their national debt, which is owed in the main to major banks in this country.

I will not charge that the major banks are behind this treaty, but this $2.3 million that Panama now gets out of the canal receipts goes through the hands of one of the New York banks. They then dole it out; and I would think that the same procedure would be followed on this $100 million that Mr. Baretta says Panama is going to get.

Whose interest are we looking after? Are we going to protect those 2,065 U.S. citizens who have been working in Panama? Are we going to throw them out of work? Are we going to say that no American citizen can hope to get a job with the Panama Canal Commission unless he has some special skill not available in Panama? What would that be?

I do not know what they are talking about. I assume Panamanians can be trained to perform the work required to operate the canal.

I would say it would very nearly close the door. In the next 22 years, when we are supposed to have control of the canal and the operation of the canal, we cannot hire a single American citizen unless he has some special skill not available in Panama. That does not look after the best interests of the citizens of the United States.

I hope when this amendment does come up for a vote it will be approved by the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Who yields time?

Mr. HATCH. Will the distinguished Senator yield, Mr. President?

Mr. SARBANES. Mr. President, I think the distinguished Senator from Utah wishes to submit the amendment to which he referred earlier, and to which the distinguished Senator from Alabama also referred during the course of his comments, so that it might become the pending business before the Senate.

The PRESIDING OFFICER. The Senator from Alabama has an amendment which is pending.

Mr. ALLEN. Mr. President, if the distinguished Senator from Utah would like to offer his amendment at this time, I ask unanimous consent that my amendment, the pending amendment, be temporarily laid aside in order that the distinguished Senator from Utah may offer his amendment, of which I am a cosponsor. My amendment would then be called up for a vote after disposition of the amendment of the distinguished Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Reserving the right to object, Mr. President, the Senator was not suggesting that it be called up for a vote back-to-back, but simply that it would follow on for consideration?

Mr. ALLEN. That is correct.

Mr. SARBANES. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment of the Senator from Alabama will be temporarily set aside. The Chair recognizes the Senator from Utah.

Mr. HATCH. I thank the Chair.

Mr. President, I will offer my amendment on one of the constitutional issues at this time so that it can become the pending business. We will chat about it for a few minutes today and then, as I understand it, we will have a vote on this amendment no later than Wednesday, April 5, 1978, at no later than 11 o'clock a.m., and this will be the pending business until that time.

The PRESIDING OFFICER. Is the Senator asking unanimous consent to that effect?

Mr. HATCH. Yes, I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Is the amendment pending?

The PRESIDING OFFICER. The amendment has not been offered yet.

Mr. SARBANES. I was going to ask unanimous consent that a vote with respect to the disposition of the Hatch amendment, which will be offered by the Senator, occur no later than the hour of 11 a.m., Wednesday, April 5.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Also, I ask unanimous consent that we add to the unanimous-consent request that the vote not occur until 11 o'clock, April 5.

Mr. SARBANES. Does the Senator wish to set a fixed time?

Mr. HATCH. Yes, a fixed time at 11 o'clock on April 5, to have a vote on the amendment which I am about to call up.

Mr. SARBANES. Mr. President, I ask unanimous consent that a vote with respect to the disposition of the Hatch amendment, to be offered by the Senator from Utah, occur at the hour of 11 a.m. on April 5, 1978.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 16

(Subsequently numbered amendment No. 92.)

Mr. HATCH. Mr. President, I send my amendment to the desk and ask for its immediate consideration. This amendment is cosponsored by Senators ALLEN, LAXALT, CURTIS, GARN, HELMS, MCCLURE, THURMOND, EASTLAND, and GOLDWATER.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself, Mr. ALLEN, Mr. CURTIS, Mr. GARN, Mr. HELMS, Mr. LAXALT, Mr. MCCLURE, Mr. THURMOND, Mr. EASTLAND, and Mr. GOLDWATER, proposes an unprinted amendment numbered 16:

At the end of Article I add the following new section:

"5. It is expressly provided that this treaty shall, in no event, enter into force until the Congress of the United States, in accordance with the provisions of Article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.".

Mr. HATCH. Mr. President, this amendment, I believe, is one of the most important amendments to be brought forth on these treaties, and deserves the careful consideration of every Senator.

Mr. President, I believe there have been a lot of issues brought up with regard to the Panama Canal Treaties, trying to clarify ambiguities and problems of language, trying to solve and resolve various other conflicts where we believe the United States needs to be protected, and a number of other concerns which have been expressed and will be expressed in the future.

However, this particular amendment is an amendment which goes right to the heart of the Constitution of the United States of America. Under article IV, section 3, clause 2 of the Constitution the Congress has the right to dispose of American property, not just the Senate but the Congress of the United States.

There are a number of us in the Senate, the cosponsors of this amendment and others, who believe that only the Congress can dispose of the $10 billion worth of American property we are talking about here. There are many constitutional authorities all over the Nation today who feel exactly the same way, that it is the exclusive right of the Con-

gress to pass upon the transfer of American property.

I call this one of the most important constitutional issues in the recent history of our country, and certainly, I think, the most important constitutional issue with regard to the Panama Canal Treaty.

I believe that during the course of this debate concerning the constitutional issues we can all discuss this particular issue and hopefully the public, our fellow citizens throughout the country, will understand what really is involved.

Preliminarily, today, we will just chat for a few minutes about generally what is involved, and then as we come back from our legislative recess period we will go into the specifics of the details concerning article IV, section 3, clause 2, and the importance not only of having the Senate give its two-thirds consent to the Resolution of Ratification, but of having the House of Representatives also vote on the implementing legislation and on the actual transfer of American property.

Our contention is that when the President, through the State Department and the Ambassadors, negotiates these treaties and brings them back to the Senate, especially and specifically this Panama Canal Treaty, he cannot, in light of the separation of powers doctrine, which says that we have three coequal branches of government under the Constitution—the executive branch, evidenced by the President; the legislative branch of government, evidenced by the Congress; and the judicial branch, the principal part of which is the Supreme Court of the United States of America, all coequal under the Constitution under the separation of powers doctrine—our contention is that the President, in negotiating and submitting these treaties only for the consideration of the Senate and the Senate's consent by 67 votes or more to the Resolution of Ratification thereof, without presenting it to the Congress as well with regard to those matters involving property transfers of American property, is violating the Constitution and extending his power in violation of the separation of powers doctrine, to the detriment of the other two coequal branches of government.

I cannot imagine a much more important issue with which to be confronted. This issue is highlighted by the fact that 232 Members of the House of Representatives—more than half—have cosponsored a resolution in the House demanding that they have the right to vote on this $10 billion property transfer. I, for one, stand for the principle that they should have that right, and that the Senate should protect that right.

There are many authorities in this area, and we shall get into them as we debate this matter and as we talk about it well into the future. Perhaps it is very good that this amendment will be the pending business up to 11 a.m. on the Wednesday after we return, so that everybody in America can stop and think about this particular issue.

The Constitution states in article 4, section 3, clause 2:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory of other property belonging to the United States.

Not the Senate, the Congress. The President acknowledges that that is the language of the Constitution. The executive branch of the government acknowledges that. The State Department acknowledges that; the ambassadors acknowledge that. But their contention is, based upon State Department and Justice Department briefs—which we feel are filled with error, unpersuasive, and constitutionally unsound—that the President or the executive branch of the government has concurrent jurisdiction with the Senate involving the transfer of American property.

In other words, what the President basically is saying is that although the Constitution provides that only Congress shall have that right, or that Congress shall have the right to transfer American property and to set needful rules and regulations respecting the territory of other properties of the United States, he also can ignore that provision under a theory of concurrent jurisdiction and come only to the Senate; and if he can get 67 votes in the Senate, then bypasses the full Congress and the House of Representatives.

What that means is that the President henceforth, if we establish this precedent, may be able—and I do not say will be able, but may be able, because I think there will also always be a fight on this issue, to transfer any American property merely by treaty and merely by having 67 Senators who agree with him.

The reason, in my opinion, that the founding fathers wanted the whole Congress to pass on whether or not we transfer American property is that they wanted every one of the people's representatives—in this case all 535, the 435 Members of the House and the 100 Senators—the people's representatives in this representative Republic, to have to stand up and cast a vote, within view and under the eyes of the public and the citizens that they represent, concerning the issue whether that property should be transferred. It is our contention that the Founding Fathers did not want any President of the United States, with only one body of the Congress, to pass or transfer American property to another nation without the consent of all of the people's representatives.

Perhaps that is one of the reasons why the Founding Fathers wanted them to be able to vote, so that those who are representatives and who are elected on a 2-year interval basis should have to stand up and let the people know where they stand on an issue as important as this one is, one which involves not only the transfer of $10 billion of American property, but also appropriations which the Constitution goes on to say must originate in the House of Representatives—in spite of the fact that the President seemed to say in his fireside chat that the American taxpayers will not have to pay anything under these treaties, that the tolls will take care of them; again, without any vote by the House of Representatives until after the fact or after the "fait" is "accompli," when nothing else can really, in effect, be done.

I might mention, to clarify the matter, that the House itself does not vote on the treaties. Some people, I think, get mixed up on this point. Occasionally, in our conversation, it may sound as if we are mixed up on the point. The House votes on the transfer of American property under article 4, section 3, clause 2. In other words, the House should be asked to give its consent or approval to the transfer of the property involved in this particular treaty, which, as I have mentioned before, involves somewhere near $10 billion.

The distinguished Senator from Alabama, my friend and colleague on the other side of the floor who is chairman of the Separation of Powers Subcommittee of the Judiciary Committee, one of the important subcommittees on the Judiciary Committee, and I, as the ranking minority member of the Separation of Powers Subcommittee, have held extensive hearings into this question.

We believe there is much that can be said and great legal precedent to back up our position.

In spite of the fact that we think the law is overwhlemingly on our side, if not totally on our side, we have been told by the majority leadership in the Senate that they are not going to allow the House of Representatives to vote on the transfer of this $10 billion of American property.

We think that the American people ought to know about this issue. I think there is another important aspect that should be brought out here. That is, that we brought up this issue early last year. We made many comments about it in the Separation of Powers Subcommittee. There were reporters there and, really, as important as this issue is, as well as some other constitutional issues which we will raise in subsequent amendments, hardly any of the media carried anything about it.

I am not blaming the media, inasmuch as this is a difficult question. They may not have understood it. They may not have understood how to put it in writing at that point, because it has been clarified much since that time.

I might also add that the media have mentioned the problem off and on in isolated articles, but I have not read very much anywhere in the media where this has been covered in any kind of depth, so the American people could realize what an important problem it is.

One of the most interesting phenomena to occur in this matter was that Prof. Raoul Berger, formerly of the Harvard University, came in and testified that our position is solid and right in this matter.

That may not mean very much to us at this particular point, but I might mention that Professor Berger was the constitutional authority who assisted greatly during the Watergate proceedings, and was world renowned for having done so, on the question of executive privilege and the question of the impeachment of Richard Nixon. His book on executive privilege is considered to be the classic in the field. He is renowed in the field of constitutional law.

I consider it a great honor that he

would come in and agree with us on this particular issue, even though I think it is fair to say that Professor Berger would himself, if this issue could be resolved, vote for the treaties.

In other words, here is a pro-treaty man who, basically, said, "No reasonable Senate should vote for the Panama Canal Treaty"—this transfer of American property—"unless the transfer of property is made subject to the approval of a majority in the House of Representatives."

If we do not do that and honor the Constitution, then he would not vote for the treaties, either.

His point was that the Constitution and this particular problem are more important than the Panama Canal itself or any of the issues involved in the Panama Canal, because it goes to the very fabric and basis of our whole country, and that is, are we going to subvert the Constitution of the United States to the driving desire of the President of the United States to have these treaties, for whatever purpose?

The answer must be "no." The Constitution is more important. This issue is more important than the Panama Canal itself. I agree with him, although I believe the Panama Canal to be of immense importance, and I believe that our running of the canal is of inviolable importance.

The fact of the matter is that when Professor Berger came out and substantiated our belief that the Constitution is being ignored in this matter and that we have a President extending wrongfully his power to the detriment of the other two coequal branches of Government, hardly anybody read a word about it. Yet when he was attacking President Nixon, or at least bringing out that President Nixon could and perhaps should have been impeached, he was acknowledged as a world-renown expert.

As I mentioned before, his book on executive privilege was the bible used by the Congress in challenging the claims of Nixon on withholding information from the Congress. He was front page material during that time.

I might add, hardly anything has been said about his viewpoint or his opinion in this matter, which I happen to believe actually involves a bigger issue.

I, for one, am very anxious to protect the power of the Congress, because if we give any of our delegated power under the Constitution away to the President of the United States, and extend and increase his power to the detriment of ours, the whole country is going to suffer.

This is an important issue. That is why we have set aside a number of days in which to consider it. It will be considered for not only the few minutes we spend today, but for at least 2 full days and the morning of the third day before it is voted upon.

Another leading constitutional scholar named Charles E. Rice, a professor of law at the University of Notre Dame Law School, before the Committee on Merchant Marine and Fisheries of the U.S. House of Representatives, on January 18, 1978, with reference to the proposed Panama Canal Treaty, basically had this to say on the same subject:

It is clear that the property ceded by the United States in the Panama Canal Treaty is "Territory or other Property belonging to the United States", within the meaning of Art. IV, Sec. 3, cl. 2, of the Constitution.

Article 2 of the 1903 treaty between the United States and the Republic of Panama "grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal." Article 3 of that treaty "grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement, . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters were located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

It is interesting to compare the language of the 1903 treaty with the earlier treaty of 1846 between the United States and the Republic of New Granada, the predecessor in ownership of the Isthmus of Panama to Colombia and the Republic of Panama. In Article 35 of that treaty the United States undertook to guarantee "the rights of sovereignty and property" of the Republic of New Granada over the Isthmus. [9 Stat. 881; see Moore, a Digest of International Law (1906). Vol. III, 5–6] The 1903 treaty, by contrast, is strong in the affirmation of sovereign authority in the United States.

In *Wilson* v. *Shaw*, 204 U.S. 24, 27 S. Ct. 233, 235 (1907), the Supreme Court declared, "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate." As the Fifth Circuit Court of Appeals held in *United States* v. *Husband R. (Roach)* (453 F.2d 1054, 1057, 1059 (5th Cir., 1971), cert. den. 406 U.S. 935 (1972)], "The Canal Zone is an unincorporated territory of the United States" to which applies the power of Congress to "make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

That is a direct quotation from article IV, section 3, clause 2, of the Constitution.

Congress, said the court, has "plenary power over the Canal Zone."

The controlling question, however, is whether the grant of power to Congress to dispose of the territory and property of the United States is exclusive or concurrent.

If the grant is concurrent, that is, if it may be exercised by the Executive as well as Congress, then it would be proper for the Executive to make a self-executing treaty disposing of such property without the necessity of implementing legislation by Congress. If, however, the grant of such power is exclusively to Congress—

That is our contention here—

the treaty would not be self-executing and such implementing legislation would be necessary.

I might add that I believe it is absolutely necessary.

The power of disposition provided in Article IV, Sec. 3. clause 2, does not explicitly exclude concurrent power of disposition in the Executive. Also, Article IV generally deals with the relations between the states and the government of the United States. In this respect, the Supreme Court has consistently ruled that the Congressional power is controlling over state legislation. [See Annotation, 49 L. Ed.. 1239, 1248] In sustaining the Wild Free-Roaming Horses and Burros Act, the Supreme Court stated in 1976 that "we have repeatedly observed that "[t]he power over the public lands thus entrusted to Congress is without limitations." *United States* v. *San Francisco*, 310 U.S. at 29. [*Kleppe* v. *New Mexico*, 426 U.S. 529, 539 (1976)]

In Wisconsin Railroad Co. in Price County. [133 U.S. 496, 504 (1890)], the Supreme Court said, "The Constitution vests in Congress the power to 'dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.' And this implies an exclusion of all other authority over the property which could interfere with this right or obstruct its exercise." And in *Utah Power and Light Co.*, v. *United States* [243 U.S. 389, 404 (1916)], theCourt said:

"Not only does the Constitution (Art. IV, Sec. 3, cl. 2) commit to Congress the power "to dispose of and make all needful rules and regulations respecting" the lands of the United States, but the settled course of legislation, congressional and state, and repeated decisions of this court have gone upon the theory that the power of Congress (to dispose of United States property) is exclusive and that only through its exercise in some form can rights in lands belonging to the United States be acquired."

There is no Supreme Court decision clearly deciding whether a treaty disposing of property must be submitted to the entire Congress for approval. Nor is there any definitive Supreme Court ruling as to whether the power to dispose of territory and property, in Art. IV, Sec. 3, cl. 2, is exclusive in Congress or concurrent with the Executive.

Nor do the debates in the Constitutional Convention and the actions of the state ratifying conventions provide any clear guidance on these points. There was some incidental discussion but nothing conclusive. George Mason, in arguing that the House of Representatives alone should have the right of originating revenue bills, argued rhetorically that the Senate "could already sell the whole country by means of Treaties" and that "the Senate by means of treaty might alienate territory, etc., without legislative sanction." [Farrand, Records of the Federal Convention, II, 297] However, it is interesting that such an enormous power in one house of Congress excited little agitation among the delegates. There is no clear indication as to the Convention's mind on the relation between the treaty power and Congress' power to dispose of property.

Attorney General Griffin B. Bell, in his statement before the Senate Foreign Relations Committee on September 29, 1977, emphasized that the Ratifying Convention of Virginia proposed the following amendent to the Constitution:

"7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, on their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively." Elliot, *Debates on the Federal Constitution* Vol. 3, p. 660.

The same amendment was proposed by the North Carolina Convention (United States: Formation of the Union (Govt. Printing Office, 1927), 1048) Attorney General Bell argues from this that the Founding Fathers were aware "that the Constitution

authorizes self-executing treaties disposing of the territory and property of the United States." But this conclusion is unwarranted. The proposals are fully consistent with the interpretation that the assent of Congress is required to a treaty alienating United States territory. The first clause of the proposed amendment asks merely that commercial treaties be ratified by two-thirds of all the Senators rather than by two-thirds of the Senators present. The following restriction, that treaties ceding United States territory shall require ratification by three-fourths of all their members of both Houses is fully consistent with an interpretation that any treaty alienating United States territory. The first clause of the proposed amendment asks merely that commercial treaties be ratified by two-thirds of all the Senators rather than by two-thirds of the Senators present. The following restriction, that treaties ceding United States territory shall require ratification by three-fourths of all their members of both Houses is fully consistent with an interpretation that any treaty alienating United States territory already required consent of both Houses. What the Virginia and North Carolina conventions sought to do was to fasten on those treaties a requirement for a virtually prohibitive majority, three-fourths of all the members of both Houses. One cannot draw from this the conclusion that, because those proposed amendments were not adopted, therefore the House of Representatives is entirely excluded from the process of alienating United States territory by treaty.

The treaty power is very broad but it is not unlimited. "There is nothing in 'the treaty power' which intimates that treaties and laws enacted pursuant to them do not have to comply with the provisions of the Constitution." (*Reid* v. *Covert*, 354 U.S. 1, 16 (1957)).

In *Holden* v. *Joy*, the Supreme Court noted "there are many authorities where it is held that a treaty may convey to a grantee a good title to (lands belonging to the United States) without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political." (*Holden* v. *Joy*, 17 Wall. (84 U.S.) 211, 247 (1872)). The authorities cited by the Court for this proposition are distinguishable. More importantly, this statement of the Court was only a dictum as the Court said, "it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and the provisions have been repeatedly recognized by Congress as valid." (*Ibid.*)

I might add here that the spokesmen of both the Justice Department and the State Department readily admitted that that comment was purely dictum and nonbinding, and not to be relied upon.

In *Asakura* v. *Seattle*, 256 U.S. 332, 341 (1924), the Supreme Court said, "The treaty-making power of the United States is not limited by any express provision of the Constitution, and, though it does not extend 'so far as to authorize what the Constitution forbids,' it does extend to all proper subjects of negotiation between our government and other nations." The Court also noted that the treaty in that case "operates of itself without the aid of any legislation, state or national; and it will be applied and given authoritative effect by the courts." But the treaty involved in Asakura was one recognizing the right of Japanese subjects to "carry on trade" in the United States. It did not involve in any way the power to dispose of United States property granted to Congress in Art. IV, Sec. 3, cl. 2, of the Constitution.

In *Geofroy* v. *Riggs*, 133 U.S. 258 (1890), a convention with France guaranteed the right of French citizens to inherit property in the United States. The Court held that the convention prevailed over the contrary law of Maryland so as to authorize the inheritance by a French citizen of property in the District of Columbia.

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or its departments, and those arising from the nature of the government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent. *Fort Leavenworth Railroad Co.*, v. *Lowe*, 114 U.S. 525, 541. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country. *Ware* v. *Hylton*, 3 Dall. 199; *Chirac* v. *Chirac*, 2 Wheat. 259; *Havenstein* v. *Lynham*, 100 U.S. 483; 8 Opinions Attys. Gen. 417; *The People* v. *Gerke*, 5 California, 381."

However, while the convention was in effect, Congress adopted the Maryland law as the law of District of Columbia, but suspended that law insofar as it conflicted with the convention. This amounted to a clear adoption by Congress of the terms of the convention. More significantly, the Geofroy case did not involve the transfer of any property owned by the United States. The dictum—

Again, not the rule of law——

The dictum in the Geofroy case is very broad but its generalizations should be limited to the facts of that case.

While judicial decisions do not comprehensively define Congress' property disposal power in relation to the treaty power, there are several instances where the accepted practice among the Congress, the Executive and the Judiciary has supported the conclusion that Congress' power is exclusive.

Many treaties and executive agreements with Indian tribes have involved the transfer of real property. But even where the treaty or executive agreement conveyed to the Indians the land in fee simple, which is the maximum interest which has been conveyed to Indian tribes, it appears that such land was held by the Indians subject to the power of the United States to exercise eminent domain.

Incidentally, I might interpolate here that eminent domain is considerably different from the right to nationalize and expropriate, which was what my amendment yesterday involved:

In *Cherokee Nation* v. *Southern Kansas R. Co.*, [135 U.S. 641 (1890)], the Supreme Court noted:

"The fact that the Cherokee Nation holds these lands in fee simple under patents from the United States, is of no consequence in the present discussion; for the United States may exercise the right of eminent domain, even within the limits of the several states, for purposes necessary to the execution of the powers granted to the general government by the Constitution.

"The lands in the Cherokee territory, like the lands held by private owners everywhere within the geographical limits of the United States, are held subject to the authority of the general government to take them for such objects as are germane to the execution of the powers granted to it; provided only, that they are not taken without just compensation being made to the owner." [135 U.S. at 656–57]

In *Sioux Tribe of Indians* v. *United States* [316 U.S. 317 (1942)], the Supreme Court ruled that the Sioux did not obtain a compensable interest in lands granted to them by executive order so as to entitle them to payment where the lands were restored to the public domain by a later executive order. The Court was of the opinion that "executive order reservations" did not grant a compensable interest to the Indians. Such an interest was granted only in reservations made by "treaty or statute." In the latter cases, the power of the Executive depended on congressional approval: "Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in these lands must be traced to Congressional delegation of its authority." [316 U.S. at 326]

The Indian treaties cannot be regarded as authority for the conveyance of United States property to a foreign power by treaty without Congressional authorization. Even where those treaties or agreements conveyed a fee simple interest, that interest remained subject to the United States power of eminent domain. And even the conveyance of that interest, according to the Sioux case, required a Congressional delegation of authority to the Executive. It follows that the complete and total surrender of sovereignty involved in the Panama Canal Treaty should require Congressional action even more strongly than the Indian treaties.

Another illuminating type of case from past experience is the sort of treaty involving settlement of boundary claims. For example, the Webster-Ashburton Treaty of 1842, ceded land to Great Britain which had been under dispute. [8 Stat. 572] But Congress implemented the treaty by appropriating money to carry out the terms. [See ch. 89, 5 Stat 623]

In other words, Congress played a role in it, and article IV, section 3, clause 2 of the Constitution was complied with.

The 1846 Oregon Treaty also involved the cession to Great Britain of United States claims to land then in dispute. [9 Stat. 869] Here again, Congress implemented the treaty by passing an act to organize the government of the Oregon Territory. [9 Stat. 323]

The Alaska Treaty of 1903 [32 Stat. 1961] established a tribunal to settle boundary disputes with Great Britain. The tribunal awarded some of the disputed territory to the United States and some to Great Britain. [See Bemis, A Diplomatic History of the United States (1965), 427] Congress implemented the treaty by appropriating funds to carry it out in 1903. [32 Stat. 1083]

The Chamizal Convention with Mexico in 1963 provided for the transfer of certain lands to Mexico. The convention provided:

"After this convention has entered into force and the necessary legislation has been enacted for carrying it out, the two Governments shall . . . determine the period of time appropriate for the Government of the United States to complete the following: (a) The acquisition, in conformity with its laws, of the lands to be transferred to Mexico." [15 U.S. T. 2]

Congress thereafter enacted legislation to authorize the Secretary of State "to acquire by donation, purchase, or condemnation, all lands required for transfer to Mexico as provided in said convention" and " to convey or exchange to Mexico properties acquired." [78 Stat. 184]

None of the boundary dispute treaties or agreements is authority for the proposition that the Executive has power by treaty to convey United States property without Congressional approval.

Another major point to be made about boundary dispute treaties is that they are different from the Panama Canal Treaty which does not involve disputed land. Where there is a colorable claim to full ownership

and sovereignty presented by both parties to a settlement treaty, it cannot be said to involve an unambiguous transfer of "Territory or other Property belonging to the United States", within the meaning of Art. IV, Sec. 3, cl. 2. Those boundary settlement treaties, even were they found to be lacking in Congressional approval, are not controlling on the Panama Canal Treaty issue.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. HATCH. I am delighted to yield.

Mr. CURTIS. First, let me commend the distinguished Senator from Utah for a very scholarly presentation and an excellent dissertation of the legal principles involved in the treaty that is before us.

My first question is this: In reference to the conveyance of property not connected with treaties, is it not true that regardless of how small the property is, or of how little value, an act of Congress is necessary to convey the title to real estate?

Mr. HATCH. I do not think there is any question about that.

Mr. CURTIS. As a matter of fact, in an examination of the calendar, a copy of which I hold here, we will find quite a number of so-called special and private bills that we are called upon in a session of Congress to act upon, that have to do with conveying maybe a few sections of land, maybe a section, maybe just an acre or a lot that adjusts a boundary or meets the convenience of a private owner or a State institution or a State agency.

Mr. HATCH. That is right.

Mr. CURTIS. And we go through the operation of passing an act to convey that land; is that not correct?

Mr. HATCH. That is correct.

Mr. CURTIS. This land that was purchased in the Canal Zone was a regular purchase of land, was it not, and conveyances were obtained and appropriately recorded?

Mr. HATCH. We can cite five different types of property interests that the United States owns. Suffice it to say, the Supreme Court acknowledged, Congress acknowledged, and everyone acknowledged that this is territory of the United States.

Mr. CURTIS. Yes. But it is supported in many instances where there was a private owner that they obtained a conveyance from him, duly executed and recorded.

Mr. HATCH. That is correct. Approximately $5.5 million, which would be in the neighborhood of $60.5 million in today's dollars, was used for exactly that purpose.

Mr. CURTIS. Yes.

Is it not well-established that in the absence of a treaty the power to convey real estate is absolute with the Congress; is that not right?

Mr. HATCH. Yes.

Mr. CURTIS. We have never given the Postmaster General or the Secretary of Interior or anybody else——

Mr. HATCH. Or the President.

Mr. CURTIS. Or the President authority to convey real estate?

Mr. HATCH. That is right.

Mr. CURTIS. We never have.

Mr. HATCH. Not without congressional authority.

Mr. CURTIS. That is right. In other words, the only entity which can convey is the Congress; is that not right?

Mr. HATCH. That is right.

Mr. CURTIS. We pass an act that authorizes someone to sign for the United States.

Mr. HATCH. That is correct. I think the Senator is pointing this out very persuasively.

Mr. CURTIS. In reference to the treaty power, in the Senator's study of the history of the treaty power in the Constitutional Convention, in the consideration of amendments, and in the interpretation by the courts, is there any finding or credible body of opinion that says that the treaty power took away any of the power of Congress that is needed to convey land?

Mr. HATCH. Not any. The State Department and the Justice Department have had to overreach—and that is putting it mildly—to try to find any precedents.

Mr. CURTIS. Well, the State Department and the Department of Justice have a pretty long reach. When they want to overreach they reach quite a way, I notice.

Mr. HATCH. And they do it quite often.

Mr. CURTIS. They do it quite often.

Mr. HATCH. That is one of the reasons why we have the Congress to keep them in check.

Mr. CURTIS. One day the Secretary of State advised us that any amendment to the treaty means a new agreement, and it has to go back to the other country to meet its constitutional processes and requirements.

Then at a later time he came up with an opinion, if the leadership offered an amendment, why that did not apply. So I think we have to be aware of this overreaching, because they have reached so many times, and they can stretch quite a way.

Mr. HATCH. That is correct.

Mr. CURTIS. In so doing there is danger of stretching the truth.

Mr. HATCH. I think the distinguished Senator from Nebraska (Mr. CURTIS) has very aptly pointed out, I think in a very logical and clear-cut way, precisely what we are talking about here.

Mr. CURTIS. A bit ago the Senator referred to a discussion of the Attorney General concerning the treaty powers and the conveyance of land with respect to this particular treaty before us. In that statement of the Attorney General did he question at all the fact that we own the land?

Mr. HATCH. No, I do not believe he did. He did not. I do not think anybody can seriously question that this is territory of the United States which we are conveying, and transferring by virtue of the Panama Canal Treaty all jurisdiction, both civil and criminal, all plenary power that we presently have, back to Panama; I do not think that is questioned by anybody in the State Department or the Justice Department. At least, I have not heard them do it. They have questioned sovereignty, but that is not the issue here.

Mr. CURTIS. I again commend the distinguished Senator on his able presentation here. I am sorry that the Chamber is not filled with individuals not only to hear him but to challenge him and ask him questions about this.

In that connection, if the Senator will permit me and just yield a bit further, a few days ago a spokesman for the proponents of these treaties brazenly said that the reason there was not an attendance over there—over here—on the part of the proponents of the treaty was that they had all been here and heard the speeches, and it was the same speeches over and over again.

Well, that is untrue in two particulars.

Mr. HATCH. It certainly is.

Mr. CURTIS. The Senator from Nebraska has been here from the first day of discussion and it has always been vacant over there for the greater part; is that not true?

Mr. HATCH. That is correct.

Mr. CURTIS. All right.

Is it not also true that there has been no repetition of arguments and amendments, offered, and the presentation of the distinguished Senator today is a good example of it.

What the Senator is saying today he has not nor has anyone else said before in reference to either one of those treaties; is that not correct?

Mr. HATCH. It is correct. This is the first time this material has been brought up here in this degree on the floor.

Mr. CURTIS. I think the general public, the listening public, the viewing public, and everybody else, should realize that it was an error for a spokesman for the proponents to say that the reason why great numbers of Senators were justified in coming in and voting to table or otherwise dispose of an amendment that they had not even heard about was that they had already been here and heard some amendments and some arguments, and it was the same thing over and over again.

It is wrong in two particulars. In the first place, they were not here in the beginning; they have not been here. They have abandoned it.

In the second place, there has been no repetition of arguments. All of the discussion I have heard here has been direct, it has been relevant, and it has pertained to an amendment before the Senate at that particular time.

I thank the Senator for yielding.

Mr. HATCH. I thank the distinguished Senator from Nebraska, for whom I have a great deal of admiration and who has had one of the longest tenures in Congress, both in the House and in the Senate, of anyone sitting in the Senate today. I might add that I think he has stressed in a very significant way the importance of Senators being here to listen to the debate, especially on this issue.

I have to admit this is preliminary today. When we come back after the recess, after our recess, I intend to take the Senate Foreign Relations Committee's five-page insignificant consideration of this issue and tear it to shreds; and I personally ask the other side to try to show us where we are wrong. I do not believe they will be able to do it.

As far as today is concerned, I am

making this general statement so that people in this society understand what an important issue this is.

I thank the distinguished Senator from Nebraska, because I think in his interesting questions he has pointed out perhaps better than I have how important this is, and because of his long term and experience in the Senate.

I would just like to finish the last few remarks that I have, and then yield to the distinguished Senator from North Carolina, who is also tremendously concerned about this particular issue.

We are talking about some of the distinguishable things which some might try to glom upon to justify the State Department and Justice Department position in this matter, for which there is no precedent.

I have talked about a number of the boundary disputes, Indian disputes. Let us talk about the lend-lease program that was instituted in 1940. It involves the transfer of U.S. property to Great Britain:

However, Attorney General Robert Jackson, in his opinion to the President, found that there was "ample statutory authority" for the disposal. It was, therefore, unnecessary to rely on presidential authority alone.

In 1972, a treaty went into effect for the transfer from the United States to Japan of all rights and interests it had received to the Ryukyu and Daito Islands by the 1951 Treaty of Peace with Japan.

However, as Secretary of State Rogers pointed out in testimony before the Senate Foreign Relations Committee, the Japanese retained under the 1951 treaty of peace "residual sovereignty."

Moreover, the transfer pursuant to that treaty seems to have been authorized by the Japan-United States Friendship Act of 1975, an Act of Congress.

In 1897, Attorney General John W. Griggs issued an opinion on the alienation by the President or Secretary of War of United States property in Puerto Rico to a private person. The Attorney General said, "there is no legislation by Congress made for or properly applicable to the public domain in Puerto Rico. The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of a statute conferring such power, cannot be exercised by the Executive department of the government."

With respect to the Panama Canal Zone itself, the 1942 Congressional proceedings involving an executive agreement transferring land and property in the Canal Zone to Panama are instructive. The transfer was effected by executive agreement which was then submitted to both houses of Congress for approval. It was objected by some Senators that it should have been done by treaty. Sen. Connally, Chairman of the Senate Foreign Relations Committee, responded to these objections:

"Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.

"Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies. The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise."

I wish we had men in the Foreign Relations Committee of the Senate like that today, and I think we may have one or two. I am hoping we have more than that, when it comes up for vote, who will be solicitious of protecting American property rights by having the whole Congress vote on this.

In the House of Representatives, the Committee on Foreign Affairs stated in its report:

"Congressional approval of the Executive commitments to Panama is sought in the form of legislation because there is involved (a) a disposition of property of the United States and (b) an appropriation of funds, both requiring an exercise of the legislative power, independently of the treaty-making power."

There is abundant authority that Congress' power under Art. IV, Sec. 3, cl. 2, is "without limitations" in contexts other than the present sort of treaty controversy. [Annotation, 496, Ed. 2d 1239, 1246] Nor is there any sufficient reason for treating that Congressional power as less extensive in the treaty context. Art. IV, Sec. cl. 2, represents a decision by the Constitutional Convention and the States to protect the property of the United States by ensuring that the disposition would be the prerogative of the United States government and not of the individual states. Moreover, the specific grant of that power only to Congress was not accidental. As the most broadly representative branch of government, it is appropriate that the Congress as a whole is the only body with power to alienate from the American people that which is theirs. The treaty power does not confer on the President and two-thirds of the Senate a power to change the constitutional distribution of powers in any respect. Such power is not necessary to the orderly conduct of foreign relations. And its recognition would undermine public confidence in the representative character of the United States Government. It must be remembered in this connection that Senate ratification of a treaty requires approval merely of "two-thirds of the Senators present." Executive agreements, which are very similar in power to treaties, do not require any Congressional consent at all.

I hope that the consideration of the Panama Canal treaties, including particularly the treaty providing for transfer of United States property, will provide an occasion for the reaffirmation of the Congressional power with respect to the disposition of the territory or other property of the United States. Congress' power in this area ought to be regarded as exclusive. The American people ought to be deprived of their territory and property only by action of that governmental body most responsive to public opinion. That body is the entire Congress and most especially the House of Representatives, 232 of whom have demanded the right to vote.

I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. The distinguished Senator from Utah is making, in my judgment, a very significant contribution to the debate on the Panama Canal treaties. The points being brought out today by the able Senator from Utah, so far as I can recollect, have not been presented to the Senate before. I am much impressed with the scholarly presentation and the additional facts which the Senator from Utah is making available to the Senate today.

I was impressed with the statements which the Senator from Utah quoted from a former chairman of the Foreign Relations Committee some 25 years ago, I guess it was.

I happened to know the then chairman of the Foreign Relations Committee, Senator Connally of Texas, and I had not been aware, frankly, of the statements made by him in regard to that early disposition of American property, but the statement quoted by the Senator from Utah seems to me to have been typical of that former Senator from the State of Texas.

So I think the Senator from Utah is rendering a tremendous service to the Senate and to the American people in presenting to the Senate what undoubtedly has been an exhaustive research job on the part of the Senator from Utah (Mr. HATCH) and his staff.

As the debate continues on this amendment, I believe it will continue for several days, because it is an extremely important amendment, I think the people of the Nation, as well as our colleagues in the Senate and the House of Representatives, will have a deeper understanding of the full implications, not only of the treaties, but of the implementing of those treaties, particularly as it concerns the giving away of American property.

Frequently we have heard, in the last few weeks or so, and the last several days, particularly—the Panama Canal treaties have now been debated for, as of today, 28 days, and the Senator is correct; this is the longest debate on any particular subject I can recall since being in the Senate.

I might say, too, that I have great admiration for the way that the majority leader handled this very difficult matter of how long and in what degree these treaties shall be debated. I think the distinguished majority leader, the Senator from West Virginia, has handled this matter with great skill, great ability, and also with great fairness and great reasonableness.

I do not agree with him, however, that this matter should be brought to a vote at an early date. I think that the amendment offered today by the Senator from Utah is a proposal that needs to be very, very carefully explored. After all, what is involved here in this treaty process is a proposal to give to a foreign country—to give to another country—property now owned by the American people with a replacement value, according to the figures submitted to the Senate by the Panama Canal Company, of almost $10 billion.

Mr. HATCH. The Senator is correct.

Mr. HARRY F. BYRD, JR. Now, that property is owned collectively by the American people. Does the Senate alone have the right to give away that property?

The Senator from Utah, an able lawyer, contends that the Senate alone does not have that right; that under the Con-

stitution the House of Representatives, the legislative body of Congress which is closer to the people, must also concur in this judgment of the Senate, if property is to be given away.

The Senator from Virginia is not a lawyer. The Senator from Virginia is a newspaper editor by profession. The Senator from Virginia does not pretend to be an expert on constitutional law, but I must say that I am very much impressed with the arguments being made by the able Senator from Utah.

In any case, we are dealing with huge sums of money. Panama would benefit tremendously by what the Senate is proposing to do, if it ratifies these treaties. A few more days or even a few more weeks will not stop the wheels of government. I believe the American people want this subject thoroughly debated. After all, these treaties do not go into effect for 22 years, or parts of them do not. What is another 22 days, or another 42 days, for that matter?

Speaking of these Senate debates, if anyone will search the record I can almost guarantee that there has been no other subject which has been discussed to the time extent this subject has been discussed, where virtually every single speaker, every Member of the Senate, has stayed directly on the subject. There has been no filibuster on this. I have not been in the Chamber every minute, of course, that these treaties have been debated, but I have been here a great deal of the time. I do not recall when any extraneous matters have been brought into this debate; I do not recall when any effort has been made to filibuster these treaties.

The effort has been made, however, to bring out the facts; to let the American people know just what these treaties will do, and to let the American people know just how costly these treaties will be.

Doing that, I think, is rendering a service to the American people.

The amendments which have been offered have all been pertinent and germane, whether one favors them or whether one opposes them. I have voted against some of the amendments and I have voted for many of the amendments. In any case, I do not think anyone could realistically and properly say that the amendments which have been offered have not been germane or have not been appropriate. It could be argued that some of them were not wise, from a certain Senator's point of view, but I do not think it can be said that they were not in order or appropriate to be considered by the Senate.

I am very happy to have been in the Chamber at this particular time when the Senator from Utah made his presentation. I gather that debate on the Senator's amendment will continue for several days after we return from the recess. I believe that is all to the public good. I commend the Senator from Utah.

Mr. HATCH. I appreciate the comments of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

I believe the Senator has highlighted some of the important considerations here. We have agreed to vote at a time certain, Wednesday, at 11 a.m., after our return. That will give us a little more than 2 days of debate, which we feel will probably be ample.

The Senator from Utah is working as hard as he can with staff members to be able to present on that Monday when we return significant legal, constitutional, and philosophical arguments which I believe will show those on the other side are not correct in this matter and are not being solicitous about the prerogatives of the Congress, about protecting our brothers in the House, whom I believe the distinguished Senator from Virginia so well characterized as being closer to the people because they are elected every 2 years, and more responsible to the people, at least from the standpoint of having to face the polls every 2 years.

I cannot help but believe that the Founding Fathers had that in mind when they wrote article IV, section 3, clause 2 into the Constitution, to make sure that an elite group of American Senators do not just transfer property merely by two-thirds vote on a resolution of ratification.

This is an important issue. My comments today have been basically short and preliminary. We intend to go into many other issues involving this one major problem: Is the separation of powers doctrine being unconstitutionally ignored by the executive branch of the Government in their zeal to have these amendments and in their fear that the House of Representatives would vote them down? Is that fear and their zeal—even if they are right that we will have difficulties in Panama if these treaties are not ratified—sufficient justification to abrogate any section of the Constitution, especially as important as this one and especially as important as the separation of powers doctrine, which has been so well elucidated in our age?

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. HATCH. I am delighted to again yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. One of the treaty proposals is that additional foreign aid be given to Panama to the extent of $345 million.

Mr. HATCH. That is correct.

Mr. HARRY F. BYRD, JR. Before that can be done, both the Senate and the House of Representatives must agree that $345 million can be taken away from the American taxpayer and given to Panama. Is that correct?

Mr. HATCH. That is partially correct. They are bypassing the Congress even there in disbursing those funds. This is another way to ignore the Congress and to give money to people. The World Bank does this quite often. They spend American money indiscriminately, any way they want to, without the consent of the Congress, which year after year consistently funds it. The Senator is correct.

Mr. HARRY F. BYRD, JR. The Senator from Utah mentioned the World Bank, which is an international banking institution. I think that is an area to which the Congress should give greater consideration than it has in the past with regard to the appropriation of these huge sums of American tax dollars to these international banking institutions with the idea that those institutions, in turn, will turn the American tax funds over to foreign governments. That money comes out of the pockets of the American taxpayers.

Mr. HATCH. And they do not know where that money will go when it gets to the Bank. We have had the president of the Bank saying he does not want the Congress dictating to him as to how the money will be used. I do not like that.

Mr. HARRY F. BYRD, JR. Congress has no way of determining where that money will be spent, or which countries will receive how many dollars. As the Senator just pointed out, the president of the Bank complained that they do not even want Congress to know where the money goes, which I think is a very bad thing.

The point I am suggesting is that in order to appropriate money owned by the American people in the form of taxes, it takes a vote of both Houses of Congress. If it takes a vote of both Houses of Congress to appropriate money, it seems to me it would be logical that it would take both Houses of Congress to dispose of real property owned by the American taxpayers.

Mr. HATCH. I think the Senator has spoken very well on this subject. That is precisely what we are talking about. The Senator, in his characteristically intelligent way, has, I think, elucidated it enough for all of us to understand. If it is so important for us to have congressional approval with regard to appropriations, how much more important must it be before a President transfers American property?

Mr. HARRY F. BYRD, JR. The U.S. taxpayers, in the past 30 years, have had $200 billion taken out of their pockets and transferred to foreign countries in the form of foreign aid. Of course, that money was appropriated by Congress, so that Congress is responsible for that vast amount of tax funds which have been utilized as foreign aid to other countries. In this case, here is another type of foreign aid, except that instead of being in the form of dollars, it is in the form of American property.

Mr. HATCH. That is right.

Mr. HARRY F. BYRD, JR. It does, as the Senator from Utah has so ably stated, seem logical that the House of Representatives should have a voice in that disposal. As I understand it, more than a majority of the House of Representatives has, at this point, signed a statement asking that they be permitted to express a view on this matter.

Mr. HATCH. I am delighted to yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. HELMS. I thank my friend from Utah.

Mr. President, the Senator from Virginia introduced the general subject of foreign aid into this debate. I compliment him for doing so. He used the figure, I believe, of about $200 billion since the inception of the program. I read an analysis the other day which said that if we

factor in the interest involved in the money that has been given away, it runs almost to $300 billion that it has cost the taxpayers, because, for all except two of those years, the Federal Government had to borrow the money to give it away in terms of foreign aid.

Mr. HARRY F. BYRD, JR. And pay a very high interest rate in many cases, in many of those years.

Mr. HELMS. That is right. So, almost half of the Federal debt today can be chargeable to the foreign aid program.

I might say further, if the distinguished Senator from Utah will yield—

Mr. HATCH. Yes, I yield.

Mr. HELMS. I had a conversation one afternoon this week with our former distinguished colleague from North Carolina, Sam Ervin. We discussed the constitutional question of whether the House of Representatives has the responsibility of participating in this matter. He said there is no question about it.

I daresay that there is no Member of the Senate who would seriously question the constitutional wisdom of Sam Ervin. Therefore, I am proud to cosponsor the pending amendment by the Senator from Utah. I compliment the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina.

The Senator from North Carolina mentioned his former colleague, Senator Ervin. I agree with Senator HELMS that Senator Ervin is perhaps the foremost expert on constitutional law who has served in this legislative body within the last 20 years. At least, I so regard him.

Mr. HELMS. So do I.

Mr. HARRY F. BYRD, JR. I would be tremendously influenced by his view on this important matter. I am glad to know from the Senator from North Carolina (Mr. HELM) of Sam Ervin's views, because I found him to be very, very sound on virtually every subject, but especially in the field of constitutional law did I regard him as our foremost expert.

Mr. HELMS. I thank the Senator for yielding.

Mr. HATCH. I would like to respond to the distinguished Senator from North Carolina by saying this: I appreciate his comments, especially his comments about Senator Ervin, of whose opinion I am aware and in whom I repose the same confidence that the distinguished Senator from North Carolina (Mr. HELMS) does.

I think it is pretty rare for a State to have two Senators of such caliber. I compliment North Carolina. I like both sitting Senators from North Carolina right now, but I will add that, on this particular issue, Senator HELMS has added, in my opinion, a great deal of enlightenment. Not just on constitutional issues, but on almost every facet of this issue, he has been on this floor debating. He has fought hard. He has brought forth good amendments. They have all been voted down, as have other amendments except the two that are leadership amendments.

I compliment the distinguished Senator from North Carolina, and want to let him know how deeply I feel about him and his care for this country, and his expertise on the issues concerning the Panama Treaty and the Neutrality Treaty, which, of course, has already been presented to the Senate.

I yield the floor at this time to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator for his comments. I know the distinguished Senator from Virginia will agree with me that the Senate is blessed by the arrival of the young and able Senator from Utah (Mr. HATCH).

Mr. HATCH. I thank the Senator very much for that.

Mr. HELMS. Senator Ervin also commented in his telephone conversation on the great work of the Senator from Alabama (Mr. ALLEN), who is sometimes overlooked in the giving of credit that is due here. The Senator from Utah knows that Senator ALLEN is here when the Senate opens and Senator ALLEN is here when it closes. He is a man of great intellect, wisdom, patience, and energy. America is blessed by having a man of JIM ALLEN's caliber in the U.S. Senate.

The Senator mentioned the plebiscite that was conducted in Panama. In a way, I would say to the Senator, the people of the United States will have an opportunity, in the coming 10 days, to participate in a sort of plebiscite of their own, because Senators will be going home for the Easter holidays or the non-legislative days, or whatever title we give the recess that begins this evening. The people of this country will have an opportunity to express personally and, in many cases, face to face, to their Senators how they feel, pro or con, about these treaties and how their Senators have voted. I hope the American people will do that, and I hope the people of North Carolina who disagree with my opposition to these treaties will speak to me about it. To the extent that time permits, I hope that I may have an opportunity to explain why I feel that it is a tragedy for these treaties to be approved by the Senate.

It is interesting, I think, that, as the Senate goes into recess this evening, there will be two amendments pending: One by the distinguished Senator from Alabama (Mr. ALLEN) relating to the rights of the Americans in the Canal Zone, and then the amendment of the distinguished Senator from Utah (Mr. HATCH), relating to the disposition of property belonging to the American people.

The issue of the Panama Canal, Mr. President, is one of great complexity. We have discovered that in these 28 days of debate. Factors involved include international relations, trade and commerce, and both international and national strategic goals. But the important one is the one to which the Senator from Utah has addressed himself. That is the issue of whether the dismemberment of the integrity of U.S. territory can be initiated by the executive branch without the consent of Congress.

Mr. SARBANES. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I am delighted to yield.

Mr. SARBANES. As the Senator points out, the amendment of the Senator from Utah will be before us when we return from the recess. I want to make a further unanimous-consent request to follow on the setting of the voting time on that amendment for 11 a.m. on Wednesday, April 5.

Mr. President, I ask unanimous consent that on Monday, April 3, Tuesday, April 4, and Wednesday, April 5 the time for debate on the amendment of the Senator from Utah (Mr. HATCH) be equally divided between the mover of the amendment (Mr. HATCH) and the managers of the treaty.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. I inquire of the Chair if a similar unanimous-consent agreement has been reached concerning the amendment of the Senator from Alabama.

Mr. SARBANES. The only agreement, I think, was that that amendment would then follow on behind the amendment of the Senator from Utah, but we have not had any discussion as to allocation.

The PRESIDING OFFICER. Upon disposition of the Hatch amendment, the question would recur on the Allen amendment, without further debate thereon in order at that time.

Mr. HELMS. The statement of the Chair was the recollection of the Senator from North Carolina.

Mr. SARBANES. I thank the Chair.

Mr. HELMS. I yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, I just want to take a few moments to straighten out the record.

We are operating under an unusual situation because our debate is being broadcast. It so happens that when I voted "No" on the Hatch amendment the other day, which was an up or down vote on the merits, there was an editorial comment on the public radio indicating that maybe I did not know how I was voting—not exactly those words, but suggesting that this was a surprise because Senator GRIFFIN is opposed to the treaty.

I want to praise national public radio for carrying these debates. They have done an outstanding service for the Senate and for the country.

Just so the record will be straight, I want to state again, as I have stated over and over again—perhaps the easiest way to do it is to read a bit from my minority views which were printed in the committee report.

I call attention to page 177 of that report where the views begin, where I said:

> Furthermore, I believe the defects are so basic and so serious that they cannot be remedied by trying to rewrite the treaties on the Senate floor.

At another point I said:

> Along with David McCullough, I believe that how we say "no" in this situation is very important in terms of our future relations with the people of Panama.
>
> To adopt amendments which make substantive changes in the text of the treaties is one way of saying "no." As the late Professor L. Oppenheim has pointed out: " • • •

the proposal of an amendment to a proposal of a new treaty * * *"

If the Senate tries to make substantive changes in the text of the treaties—and particularly if General Torrijos should decide later to "accept" them without holding another plebiscite—the foundation would be laid for future Panamanian claims that the treaties are invalid because in their final form they were not properly ratified in accordance with Panama's constitution.

I concluded:

In my judgment, the appropriate course for the Senate is to withhold its "consent"—and instead to "advise" the President to persist in negotiations until acceptable treaties can be fashioned.

It will be recalled that prior to the vote on the first treaty, I offered amendment to the resolution of ratification which would have advised the President to resume the negotiations. It has been my pattern of voting throughout to vote against substantive amendments when they have come to a vote on the merits.

I think perhaps that the commentator on the radio is confused, like many others are, in that when there has been a procedural motion to table, I have voted against the motion to table.

Like the Senator from Massachusetts (Mr. BROOKE) and a number of others, I have expressed the view that in the absence of any filibuster, in the absence of any reason to move to table, it seems to me that we ought to allow the mover of an amendment in good faith to have the opportunity to have his amendment voted upon on the merits.

So I have voted against the motions to table, indicating that I think that it ought to be the procedure of the Senate to allow the amendment to come to a vote on the merits.

Therefore, Mr. President, I once again want to indicate, as I did when the first vote occurred on a motion to table the first amendment, by the Senator from Alabama, that I was against the amendment and if it were allowed to come to a vote on its merits I would vote against it, but that I would oppose a motion to table, which is a procedural device for cutting off debate and preventing the Senate from voting on the merits.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, under the unanimous-consent agreement, I think the Senator from North Carolina was to retain the floor, was he not?

The PRESIDING OFFICER. Does the Senator from Michigan have a parliamentary inquiry?

Mr. GRIFFIN. The Senator from Michigan does make that parliamentary inquiry.

The PRESIDING OFFICER. There is no such understanding in the province of the Presiding Officer. The Senator from Maryland has the floor, but that can be corrected if that is a problem.

Mr. SARBANES. I say to the Senator from Michigan that if the Senator from North Carolina should return and seek the floor, I do not think we would have any difficulty in his being able to obtain it and make further remarks.

Mr. President, it is not my intention to address at great length the initial arguments raised by the Senator from Utah (Mr. HATCH) and others with respect to his amendment that is now pending before the Senate. That matter will be addressed at some great length on Monday, Tuesday, or Wednesday of the week after next. But I do want to make a couple of observations.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Maryland yield?

Mr. SARBANES. I yield to the majority leader.

EXPORT-IMPORT BANK OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Maryland has no objection, I would like at this time to turn to the nomination of Mr. H. K. Allen, of Texas, to be First Vice President of the Export-Import Bank of the United States. Mr. TOWER and Mr. PROXMIRE want to speak briefly on this nomination, and it would accommodate them if we could do so at this time.

I was asked earlier today if we could take this matter up during the afternoon, and I indicated that probably around 2:30 or 3 o'clock we could do so; that if that became the case, we would put in telephone calls to both of them and have them come to the floor. Apparently, there was some misunderstanding of what I had said. Both Senators are on the floor. They came here anticipating that the nomination would be called up at this time.

So, if the Senator will permit, I ask unanimous consent to proceed to the nomination of Mr. H. K. Allen, of Texas, with the understanding that upon the disposition of the nomination, Mr. SARBANES again will be given the floor.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I only wish to state to the majority leader that Calendar No. 101, the nomination of Mr. Allen, has been cleared for consideration on this side of the aisle, and I have no objection.

The PRESIDING OFFICER. There being no objection, the Senate will proceed to the consideration of the nomination, which will be stated.

The second assistant legislative clerk read the nomination of H. K. Allen, of Texas, to be First Vice President of the Export-Import Bank of the United States.

Mr. ROBERT C. BYRD. Mr. President, I do this with the understanding that the nomination will be taken care of during the afternoon.

Mr. TOWER. Mr. President, I express my support of the nomination of H. K. Allen to be Vice Chairman and First Vice President of the Export-Import Bank.

Mr. Allen is a native of Texas who has spent the last 25 years of his professional career as a highly successful Texas banker.

He started out as a bookkeeper at the Temple National Bank in Temple, Tex., in 1953, and rose within the bank to become chairman of the bank's board in 1961. He has served as chairman or member of the board of several other Texas banks, reflecting the recognition he has earned as a capable and dedicated member of his profession.

Mr. Allen has served on a long list of professional and civic organizations. He has served on some of the finest and highly respected organizations in Texas, indicating a keen interest in his community and his State.

He also belongs to several organizations that are national or international in scope, indicating a genuine desire to improve conditions elsewhere.

Mr. Allen will serve on the Board of the Export-Import Bank as the Board's only professional banker with practical experience in evaluating credits. His background and experience as a professional banker will add a new dimension to the Board, which does not have as a member anyone who has practical experience in evaluating credits. The other members of the Board have excellent experience in business or international transactions, but they do not have the background and experience that Mr. Allen will bring to the Board in evaluating credit, which is a vitally important part of Ex-Im's activities.

I think Mr. Allen put it well during his appearance before the Committee on Banking, Housing and Urban Affairs when he said:

I think in the area of making loans and studying credit, of understanding the language of banking, of working with the small business person in this country, of being highly concerned about employment, about industry, coming from a banking environment and knowing what it means to start a business, to build a business, to be competitive, I think this will be a very natural thing for me to do. . . . I feel that it is extremely important at Eximbank to have people who have had credit experience.

That is a statement by Mr. Allen with which I strongly concur.

I urge my colleagues in the Senate to confirm Mr. Allen's nomination with dispatch.

Mr. BENTSEN. Mr. President, I rise to give my unqualified support for Mr. H. K. Allen, who has been nominated by President Carter to be First Vice President of the Export-Import Bank of the United States.

I am very pleased that a person with Mr. Allen's education, training, and experience and the success of his career is willing to make the sacrifice that is required in order to make his services available to our Government.

I have known Mr. Allen, as a friend and a leader of the Texas banking community, for many years. There has never been an occasion when I have had reason to question his judgment, his integrity, or his ability.

If confirmed by the Senate, Mr. Allen will bring a generation of practical banking experience and achievement to his

new duties at the Export-Import Bank. H. K. Allen has been chairman of the Temple National Bank in Texas for 25 years. He is also chairman of the Farmers and Merchants State Bank in Ballinger and the First State Bank of Rogers, Tex. He has also served as treasurer and councilman of the Texas Bankers Association

Mr. President, H. K. Allen knows the banking business inside and out. There is a wealth of international banking experience already represented on the Eximboard. I believe that Mr. Allen's nomination is particularly significant in that he will bring a generation of practical banking background to the Bank. He knows how to lend money; to guarantee and insure loans; how to judge the value of collateral. He knows how to get the maximum utility out of the limited resources of the Eximbank.

Educated at the University of Texas where he received degrees in business administration and law, H. K. Allen served this country in World War II and in Korea. He has long been an active participant in Texas civic and community activities where his efforts resulted in the building of a new hospital and cultural center. In recognition of his achievements, he was chosen Outstanding Citizen of Temple, Tex., in 1968 and received the Rex Braun Award from the Texas Women's Political Caucus in 1975.

Mr. President, I have no hesitation whatsoever in recommending H. K. Allen to my distinguished colleagues as an exceptionally well-qualified and competent candidate for First Vice President and Vice Chairman of the Board of the Export-Import Bank.

● Mr. STEVENSON. Mr. President, the Senate acts today on the nomination of Mr. H. K. Allen of Texas to be the Vice Chairman of the Export-Import Bank. I regret that I cannot support this nomination.

Mr. Allen is a successful country banker and a pleasant, agreeable man. He is a fine person, but he is not qualified to fill the position to which he has been nominated.

Mr. Allen would be the Chief Executive Officer of the Export-Import Bank, a U.S. Government agency, which, if the administration has its way, will have authority to commit up to $40 billion in support of U.S. exports.

The Eximbank is not a typical bank. Exim is a specialized institution engaged continuously since 1934 in providing credit, guarantees, and insurance for U.S. exports. Exim acts on projects running into the hundreds of millions of dollars, involving complex economic factors and delicate political negotiations.

Mr. Allen has no experience with exports, trade financing or international credit. He is totally unfamiliar with the work of the Eximbank, the risks that must be assessed, and the international issues which he would face as Vice Chairman of the Bank.

Recent Vice Chairmen of Exim have been career employees with intimate knowledge of the Bank, international finance and foreign economic, and political situations. They chaired the Board frequently, met with foreign delegations on a daily basis, and used their knowledge and experience in judging proposals to lend funds to Mexico, Brazil, Malaysia, Korea, and dozens of other nations.

Exim credits involve different risks and require different evaluation than do small business loans and home mortgages. Exim must evaluate political risks and consider the political significance of its credits, as well as analyzing the financial accounts of foreign governments.

The chief operating officer of the Eximbank—the Vice Chairman—ought to have the international experience which enables him to weigh financial, economic, and political factors. Until now that has been the case. This is the first time in my memory this position has been used for political patronage.

Mr. Allen has none of the requisite experience, notwithstanding his personal qualities. Exim is running ever larger risks around the world, as international debt multiplies and economic instability and political uncertainty spreads. Exim can ill afford the additional risk of having a novice in charge of the daily operations of the Bank. I urge my colleagues to vote against the nomination.●

Mr. PROXMIRE. Mr. President, I oppose this nomination. I want to make it very clear at the beginning that I oppose the nomination, not out of any disrespect whatsoever to Mr. Allen. I consider him to be a good, decent, and honorable man, and one who I think is being treated very unfairly in being nominated to this position.

Mr. Allen does have some qualifications, I will concede. He was an early Carter supporter in Texas, worked hard for the President's campaign, and had a lot to do with it. He supported Senator TOWER for the Senate. I think that indicates a degree of good judgment in the view of many people.

He supported Senator BENTSEN. when Senator BENTSEN ran for the Senate, and he ran four small commercial banks.

Those are his qualifications, and I submit that that means this man is not qualified at all. His qualifications are zero.

Consider, to begin with, that this nominee was opposed by the chairman of the subcommittee in charge of international finance on our committee, Senator STEVENSON. Senator STEVENSON is very reluctant to oppose nominees of President Carter—he has made that clear—but he felt that, in good conscience, he had to oppose this nominee because of his total lack of qualifications.

The nomination of Mr. Allen was opposed by the ranking Republican member of the committee, Senator HEINZ, who was extremely reluctant to oppose a man supported by Senator TOWER, but he did oppose him.

Mr. President, why this opposition to Mr. Allen, and why do I say he is not qualified?

Mr. Allen would be the First Vice President, the Vice Chairman; he would be the man who would run the Bank. That has been the traditional position of the man who runs the Bank. This is a $25 to $40 billion Bank. It is a bank charged with the enormous responsibility to assist this country to finance exports, at a time when we have an adverse balance of trade of $27 billion. One of the most difficult, complicated, exacting, perplexing economic problems we face is what to do about our balance of payments and particularly our balance of trade.

What experience has this man had? Let me read from the transcript of the record. I asked him:

As Vice Chairman of the Ex-IM Bank, you would be much more than the internal administrator of the Bank. You would sit on the Loan Committee, you would be one of the five ruling members of the Board, you would chair the Board in Mr. Moore's absence on his frequent trips around the country and around the world, you would be directly and deeply involved in decisons to extend export credits and guarantees.

The previous Vice Chairman of the Bank, Mr. Walter Sauer, was a career employee of the Bank, with great knowledge of the Bank and in international finance. Mr. Sauer was Vice Chairman for 30 years, and the Bank was considered well-managed because of his long and able service.

Prior to being nominated to be Vice Chairman, have you ever done any business with the Ex-IM Bank or assisted any company in doing business with the Ex-IM Bank?

Mr. ALLEN. No, sir.

The CHAIRMAN. Had you ever visited the Bank before being nominated to a position which in effect involves running the Bank?

Mr. ALLEN. No, sir.

I then asked Mr. Allen how much export financing his bank in Texas or his banks in Texas did with the Export-Import Bank. He responded in the negative, that they did not do any. I then said:

The Ex-Im Bank's credits are extended mainly in support of big ticket capital goods exports. I have a list of the principal items for which the Bank provides export support. Will you indicate whether you have direct knowledge of such transactions based on your own banking experience?

First, nuclear power plants?

Mr. ALLEN. I doubt that there are many bankers in America that have, Mr. Chairman. I have not.

The CHAIRMAN. Large commercial jet aircraft?

Mr. ALLEN. No.

The CHAIRMAN. Liquid natural gas plants?

Mr. ALLEN. No.

The CHAIRMAN. Diesel locomotives?

Mr. ALLEN. (Shaking head)

The CHAIRMAN. Steel plants?

Mr. ALLEN. (Shaking head)

The CHAIRMAN. Extrusion presses?

Mr. ALLEN. (Shaking head)

The CHAIRMAN. Hydroelectric generators?

Mr. ALLEN. (Shaking head)

The CHAIRMAN. By shaking your head, I take it you mean no?

Mr. ALLEN. I beg your pardon. If there is a change, I will say yes.

The CHAIRMAN. Textile machinery?

Mr. ALLEN. (Shaking head)

The CHAIRMAN. Chemical plants?

Mr. ALLEN. (Shaking head)

Mr. President, that is 95 percent of what the bank finances. That is the business of the bank, to know something about products of that particular kind.

Mr. Allen did say that he thought he would be able, because of his experience as the head of four small banks in Texas, to influence small business to get into the export area. That is a proper and desirable attitude.

Let us see what he has done.

I said:

Now you have said you hoped to increase small business' participation in the Bank.

As a Texas banker, how many small businesses did you assist in doing business with the Ex-Im Bank? I take it from your previous answer you did not assist small businesses in that way, or did you?

He said: "That is correct."

He did not assist any small businesses to do any business with the bank.

Mr. President, we asked him a whole series of questions on bank policy and, although he has been at the bank for 3 months since his nomination, he could not answer any of them. Again, again, and again he said he was not briefed. He said he did not know. He said he would have to pass, or he gave answers that obviously indicated no knowledge whatsoever.

Mr. President, here is the man who will have to deal with the Japanese. He will have to deal with the Germans. He will have to deal with the sharpest, most experienced, most competent, most effective negotiators other countries can put into the act. It is a job that would demand the best of career people at the bank and indeed, that is exactly where appointees for this position have come from in the past.

Senator STEVENSON pointed out that in past administrations, whether it was the Nixon administration, the Ford administration, the Johnson administration, the Kennedy administration, or the Eisenhower administration, no matter how far back you go, this had never been done. Consistently, the person in this position has been a person with long experience with the Bank, a person who knew exactly how the Bank operated, a person who could step in and operate the Bank efficiently and competently, a person who understood international finance, and a person who dealt with these products which are so vital and so important.

Mr. Allen also indicated that he had no knowledge whatsoever of the economic policy of any of the foreign countries he would deal with.

So, on the one hand, he knows nothing about the products we are exporting or selling, with no experience whatsoever; on the other hand, he has no experience and knows nothing of the countries which would be buying the products.

So here is a man who, as I say, is a fine man, a decent man, a good man, but he is a man who is unfairly put in a position where he cannot possibly do the kind of job that he should be expected to do.

Mr. President, I think that Senator STEVENSON was right when he said that the Carter administration deserves blame on this. I think it does. I speak as a Democrat who has not criticized the President of the United States before. I do so today because I think President Carter was wrong in making this kind of nomination, very wrong, and I hope he will not make this kind of nomination again.

Unfortunately, we have a long tradition in the Senate—as I say it is unfortunate, though most of my colleagues apparently do not think so, but it was expressed by one member of the committee who favored the nominee—that if we do not have anything of a criminal nature against a nominee, if he has not done something wrong, if he has not gotten into some kind of very serious difficulty, we approve him; we go along with the President.

It seems to me that advise and consent should mean more. In no way would this man be hired by a very large corporation that dealt in financing exports. No way. They would not consider it. They would laugh at it.

After all, if this man is going to be representing the taxpayers of this country, if he is going to be representing this country in this very, very important area, we should insist on some kind of qualifications.

I have learned in 26 or 27 years in politics and 20 years in the Senate that it is a mistake to criticize the press. There is no way you can win if you criticize the press. You are just asking for trouble. On this I criticize the press. I do so because I think they went to sleep. They were snoring when this nomination went through. Their eyes were closed. There should have been editorials in the New York Times and in the Washington Post. There should have been a cry of outrage throughout the country, not against Mr. Allen, but against this kind of nomination. It is wrong. We are putting a man who is not competent to do this particular job in the job, and it is just as clear as it can be. If the press were not sound asleep they would have recognized that, and they would have spoken out on it and spoken out vigorously.

Mr. President, I must also say I am very disappointed with the export industry, which is a great articulate and important industry in this country and has a lot at stake here. They should have been more alert.

Senator STEVENSON pointed out that he has very grave misgivings about what the Export-Import Bank is asking Congress to do. They are asking us to increase their authorizations from $25 billion to $40 billion. Senator STEVENSON said he had great reluctance about that in view of the caliber and competence of the leadership of the Export-Import Bank that the Carter administration has now nominated. I certainly do, too, as chairman of the committee. It may well be the Senate will not care and will go ahead and authorize another $15 billion. After all, what is $15 billion? But $15 billion here and $15 billion there adds up to a little money eventually.

I think the Senate should be on notice now that the man who will be running this bank has had no experience in foreign trade, has no knowledge of other countries, and he has had no background in this area. Although he is a dear friend and good friend of my esteemed colleague Senator TOWER and supported Senator TOWER, although he is a good friend of Senator BENTSEN and supported Senator BENTSEN, although he was an early supporter of President Carter, and although he has run four banks in Texas, he just is not qualified in any way for this particular job.

For this reason, Mr. President, I must reluctantly vote against Mr. Allen's nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, I do not really think it is relevant who a man supported for political office when we are considering his fitness to serve as the vice chairman and first vice president of the Eximbank. Much has been made of the experience of Mr. Sauer, his predecessor. The four men who preceded Mr. Sauer in that position not only were not brought up through the ranks through Eximbank, not only were not widely experienced in international trade affairs, but none of them were even bankers.

In fact, Mr. Allen brings to the Eximbank the kind of experience it needs, and that is experience with credit. I feel that he can function in that connection very well. I think he has the background and experience that will give him the grasp to be able to move into this position comfortably and to exercise his responsibilities with good judgment.

I might note that my colleague from Wisconsin has made much of small banks. I do not really thing that we should confine our appointments to high positions in Government financial institutions in this country to only those who have had experience in the big banks. Shall our attitude be "Sorry, we don't want any people from small towns. We don't want anybody that has to be close to the small businessmen. Bring them in from Chase Manhattan or City Bank. Don't ever give the guys who have been down there with Middle America an opportunity to serve their Government and to reflect some of the views, sensitivities, and aspirations of Middle America"?

Mr. Allen is not without experience in terms of dealing with large banking institutions. Indeed, he is a director of First International Bankshares of Dallas, Tex., which is an $8 billion bank. So while he has gained much practical experience in small financial institutions dealing with the small businessman, the farmer, and the professional people, he has also been associated in a policy-making position as a director of one of the major bank holding company organizations of the United States, one of which does considerable business abroad, and I think the questions of qualification that are raised by the Senator from Wisconsin are really a little empty.

I ask unanimous consent to insert in the RECORD at this point a job description for the position that Mr. Allen would occupy at the Export-Import Bank. There is nothing in that job description that suggests to me that he is anything but qualified to move into that position.

There being no objection, the job description was ordered to be printed in the RECORD, as follows:

JOB DESCRIPTION FOR THE POSITION OF VICE CHAIRMAN AND FIRST VICE PRESIDENT, EXPORT-IMPORT BANK OF THE UNITED STATES

The Vice Chairman serves as a member of the Board of Directors, and thus participates in its collective credit judgments.

The Vice Chairman is also First Vice President and is thus a line officer of the Bank. In this capacity he tends to complement the Chairman's broader policy orientation by coordinating the Bank's internal management on a daily basis. Under the Chairman's direction, he gives administrative guidance to the Bank's officers and moderates their activities concerning the management of the Bank's programs and personnel. The First Vice President chairs the personnel committee, and attends meetings of the loan, ethics and senior management committees. He meets with Bank clients when the Chairman's schedule or the nature of the visit do not permit the Chairman's personal attention. Along with other officers of the Bank, his role includes liaison with domestic banking and insurance companies.

The Vice Chairman replaces the Chairman on an acting basis during his absence. The nature of the Vice Chairman's duties requires that he be compatible with the Chairman philosophically. He must have the maturity of judgment to advise the Chairman in matters of administration, personnel and Bank programs.

Mr. TOWER. I ask unanimous consent to have printed in the RECORD at this point the opening statement of Mr. Allen which he presented when he appeared before the Committee on Banking, Housing, and Urban Affairs. Mr. Allen pointed out in those remarks the type of credit decisions that are made by the Export-Import Bank involve the same type of procedures, information, and judgment Mr. Allen has been involved in during his entire professional career.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. ALLEN. Mr. Chairman and members of the Committee: I am honored to be before you today as President Carter's nominee for the position of First Vice President and Vice Chairman of the Board of the Export-Import Bank of the United States.

The Administration, through Chairman Moore of the Export–Import Bank, has recommended a Board of Directors comprised of persons with different professional experience, so that the Board will have a broad understanding of the matters which it considers. To review the members of the Board for you, it contains a person from small business, an attorney from the international and academic scene, an engineer, and now my nomination, a banker. I will be the only person on the Board with a professional banking background.

While being briefed at the Export–Import Bank, thinking of my own experience and qualifications for this position, it became clear to me that certain parts of the language of the legislation speak directly to the banking profession.

To point out a few instances of that language, the Act says: "This agency shall be an Export–Import Bank. The objects and purposes of the Bank shall be to aid in financing and facilitate exports, to provide guarantees, insurance and extension of credit at rates and on terms and under conditions which are competitive. Loans made by the Bank shall bear interest at rates determined by the Bank's Board of Directors, taking into consideration the average cost of money to the Bank, as well as the bank's mandate to support U.S. exports at rates and on terms and conditions which are competitive. The Bank should supplement and encourage, and not compete with private capital. The bank should aid, counsel, assist and protect insofar as possible the interests of small business concerns in order to preserve free competitive enterprise. Loans shall be for specific purposes and offer reasonable assurance of repayment. The Bank shall take into account any serious adverse effects of such loan or guarantee on the competitive position of the United States industry, and availability of materials which are in short supply in the United States and employment in the United States."

The Export-Import Banks make loans in U.S. dollars and these loans should be repaid in U.S. dollars. To further define the phrase "to make loans," it means direct credits, insuring credits, and guaranteeing credits.

With the exception of government-to-government credits, the credits require those standard credit procedures, information, and judgments which I have been involved in for over 20 years.

Going along with the decision on credit is a matter of determination of interest rates and other charges on each individual loan, and on the investment portfolio as a whole, and then balancing this against the cost of funds to fund the credits, to insure an acceptable spread.

This exercise of interest rate and fees charged versus interest rate costs is an essential part of modern bank management, and one with which I am very familiar.

In the area of supplementing and encouraging but not competing with private capital, I think my years of experience in lending to private capital will be particularly helpful in defining that point beyond which private capital will not go, because of a policy consideration.

The two areas of apparent concern here are maturities and interest rates. During my banking career I have financed the starting, the growth, and the success of businesses and believe that my experience in this area will be valuable in the Export-Import bank in fulfilling the legislative requirement to aid, counsel, assist and protect, insofar as possible, the interests of small business concerns, in order to preserve free competitive enterprise.

An important factor in every credit decision is the assurance of repayment. The enacting legislation of the Export-Import Bank requires there be reasonable assurance of repayment on loans. My years of experience in working with credits and having to determine assurance of repayment will be a material aid in the loan decision process at the Export-Import Bank.

Overseeing the administration of the Export-Import Bank is a possible function that the Chairman of the Bank will ask me to perform. The bank is organized into the lending function, with the normal support areas of accounting, files, et cetera. Because of my management experience in banking, I do not anticipate any difficulty in working with the other offices of the Bank in administrative matters.

Another possible function the Chairman of the Bank may ask me to perform is liaison with banks who are participating or are considering participating with the Export-Import Bank in facilitating exports.

My understanding of banking will make me an effective spokesman for the Export-Import Bank.

Another area where my experience should be valuable for the Export-Import Bank will be in the specific program known as Cooperative Financing Facility. As I understand the program, Export-Import Bank arranges with a foreign bank or branch to make loans for the Ex-Im Bank and Ex-Im Bank looks to the bank or branch for assurance of repayment.

This means the financial condition of the bank is of paramount importance. Because of my position in banking for a number of years, I feel my examination of these bank statements will be especially helpful to the Board.

My opinion today is that the Export Import Bank of the United States can continue to play an important role in sustaining and creating jobs in this country and at the same time be a factor in helping to lessen the deficit in our balance of payments problem.

In closing, I must say that I believe strongly in the American system, the American people. We are burdened with problems, but that is not unique to this generation. Problems are an ongoing condition of humankind. The solution to our problems is within our ability. We can continue to succeed with reasonable thinking, hard work, and a good attitude.

My commitment to you is to do my best continuously. With the help and cooperation of the staff at the Ex-Im Bank, the leadership of the Administration, the counsel of Congress, the advice and consent of the Senate, and God willing, I shall not fail.

Mr. TOWER. I hope, Mr. President, we will move to speedy confirmation of this fine American.

The PRESIDING OFFICER. The Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. While I can agree with the last statement of the Senator from Texas, I do not hope we do, but we are going to, there is no question about it, we are going to move in a couple of minutes to the speedy confirmation of this man. I think it is a tragedy that we are.

I would like to respond very briefly to my good friend from Texas. My friend from Texas stated that who a man supports for political office is irrelevant to this. In the case of Mr. Allen, it is only relevant, because this is the only reason this man was nominated. I cannot see any other reason why he is qualified. Anyone who says the fact that Allen supported President Carter early, and supported Senator TOWER and Senator BENTSEN, and that this has nothing to do with his nomination has got to be kidding. We know that gives him an appeal and a basis for a nomination that otherwise would be very, very hard to explain and to understand.

I pointed out that the job this man is being appointed to was occupied for 30 years by Mr. Sauer, a great expert, who did a superb job, ran the bank very well, and was an experienced man from the beginning.

Senator TOWER went back before that.

Now, Mr. President, the reason why Mr. Sauer was picked for this job is exactly the reason why I am standing up now and protesting why Mr. Allen should not be appointed to it, and that is on the basis of prior experience it was discovered that they needed a career man. You needed somebody who understood the organization. You needed somebody who was thoroughly experienced in international finance and international trade in that office.

I do not mean to demean in any way appointing small bankers, people who have been in small banks and have had a position of honor and importance, to the Federal Government. Of course, they should be in Government. The Small Business Administration, the Commerce Department, any number of important jobs are jobs they could handle, and handle well. Mr. Allen could do that.

But this job? No. Not this particular

job, not with this particular bank; not a man who admits when he comes before the committee that in spite of the fact he has had several months at the Export-Import Bank he cannot answer a single question about its operation; that now tells us that as a banker he had never worked with the Export-Import Bank. He had never worked to finance trade; he had never engaged in trade in any way, shape, or form. That is the thing I mean when I say he never has had any practical experience.

Mr. President, I recognize, as I say, that unfortunately the Senate is going to approve this nomination. I do hope there will come a time at some time when the Senate will recognize that we have a responsibility to do more than just approve nominations simply because somebody does not have a record that is shameful, and that we apply the same tough standards we would if we were hiring somebody to run a corporation of which we were directors, for which we had a responsibility.

I think if we adopted those standards we might want Mr. Allen as a friend, we might value him as an associate, we might honor him as head of the kind of bank he was the head of. But we would never ever, ever hire him for this particular job. Mr. President, I yield the floor.

Mr. TOWER. I think we can bring this matter to a conclusion now, if the Senator from Wisconsin is willing. I yield to my distinguished friend from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Texas.

I sat as a member of the Banking Committee listening to the testimony by the nominee, Mr. Allen, and I simply want to make these points: I appreciate the sensitivity that our chairman, Senator PROXMIRE, has brought to this discussion, although I disagree with his viewpoint. I think, in a word, the confirmation of this nominee would not be a tragedy. That overstates it by quite a bit. But I appreciate his disappointment over the situation.

I think it is important to say that the Banking Committee has taken seriously the whole prospect of these nominations and background of people involved, the cross-currents in this country that are often reflected here, and very clearly the evidence that came before the committee, the thought that Mr. Allen was an early supporter of the President, and that this may have been a prominent reason for his nomination. This was made not by a Republican but by Senator STEVENSON, who opposed the nomination and called for very high standards for the Export-Import Bank.

Senator PROXMIRE himself brought forward any number of standards that an ideal appointee might have had.

Now, having said this, I voted for the confirmation of Mr. Allen in committee, because it appeared to me he was a man of good character, and this was admitted by all of the members of the committee unanimously, and that he has had a very constructive banking career; that he has handled a great number of banking decisions; that probably they will be very useful as he tries to make certain that the Export-Import Bank is relevant to small business in this country, and that the advocacy role that the Export-Import Bank could play in terms of exports is given a higher priority. I was impressed by that situation.

Likewise, I was impressed by the personal characteristics of Mr. Allen; that he is a man of great capacity for work, of great ambition in terms of his personal career in Texas, and very eager to succeed in Government. He comes with the right attitude toward public service, even if his qualifications for the specific responsibility might be bent.

For these reasons, on balance, I support him. But, at the same time, I would underline what our distinguished chairman of the Banking Committee, Senator PROXMIRE, said, and that is Congress, and especially in our case the Senate, is going to be especially sensitive to these nominations as they flow over. They will not be taken for granted, and we are going to take a look at the qualifications and, hopefully, the President and his associates will be more sensitive to that point. So what could be a time of joy in confirmation and the sending on of somebody to do his duty will not be the time we are expressing today, in which there is a divided sentiment on our committee, and certainly I suspect in this body as a whole.

I thank the Senator from Texas.

Mr. TOWER. Vote.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is, Will the Senate advise and consent to the confirmation of the nomination?

The nomination was confirmed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. SARBANES. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate is presently debating the amendment which has been offered by Mr. HATCH and cosponsored by Messrs. ALLEN, CURTIS, GARN, HELMS, LAXALT, MCCLURE, THURMOND, EASTLAND, and GOLDWATER.

This amendment has as its thesis the argument that under the Constitution, article 4, section 3, clause 2, only the Congress may transfer property.

Mr. President, this is a proposition that has been supported by a very eminent constitutional scholar of our own time, Mr. Raoul Berger, as was pointed out earlier by Mr. HATCH, who is a principal author of the amendment.

I recognize the expertise and profound knowledge of Raoul Berger. He was one of the preeminent constitutional scholars who spoke and wrote at great length during the period when the impeachment proceedings against former President Nixon were under way. I read at least one of his books on the subject of impeachment. So it is with great deference to Mr. Berger that I take a position today in opposition to the thesis we now discuss.

It is a theory that is as old as the Senate itself. It was argued on the Senate floor during the debate on the Jay Treaty, in 1795. One of the exponents of the theory was Thomas Jefferson, a man whom I revere. Yet, one of Jefferson's most formidable opponents in this regard was no less a constitutional authority than John Marshall, who served as a Member of Congress, Secretary of State, and Chief Justice of the Supreme Court of the United States.

Another very prominent constitutional scholar of an earlier day was Justice Story—who, along with John Marshall, took the position that the concept that U.S. property outside the States could only be transferred by statute was an inaccurate one.

John C. Calhoun, who served as a Member of Congress, U.S. Senator, Vice President, and Secretary of State, took the same position that John Marshall and Justice Story had taken, to wit: That U.S. property outside the States can be transferred other than by an act of Congress, and, indeed, may be transferred by treaty.

Perhaps it was John C. Calhoun who most accurately, most precisely, and cogently made the argument against what had already, in his day, become a constitutional anachronism, to wit: The argument that U.S. property outside the States can only be transferred by statute.

It is an old argument that has been pretty much laid to rest by men such as John Marshall, Justice Story, and John C. Calhoun, but also by holdings of our modern U.S. Supreme Court. These holdings indicate that the power of the United States to transfer and convey property via the treatymaking power under article II of the Constitution is concurrent—concurrent with the powers of Congress under article IV, section 3, clause 2 of the Constitution to convey and transfer property.

It is correct that property of the United States outside the States can be conveyed by statutes by the Congress pursuant to article IV, section 3, clause 2, but the Constitution does not repose in "the Congress" alone that power. The Constitution, in article II, also reposes that some power in the President, by and with the advice and consent and approval of the Senate. This is a concurrent power: A power in the Congress, which includes both Houses, and a power through the treatymaking process, which includes only the advice and consent of the Senate and the President.

Now, those who argue that U.S. properties outside the territory of the United States can only be conveyed by both Houses are arguing against the Constitution. They ignore the role of the U.S.

Senate, which has the power to approve the conveyance of U.S. property by its approval of the ratification of a treaty, as shown by a two-thirds vote of the Members thereof.

Now, Mr. President, I stand foursquare against this amendment which would denigrate the Senate's power and authority, both of which are derived from the Constitution of the United States, to act as the sole legislative organ involved in the treatymaking process.

These powers of Congress under article IV and of the Senate under the treaty clause of article II are concurrent powers.

Mr. SARBANES. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. I believe it is important, since reference has been made to Prof. Raul Berger and the position he has taken, to bring to the attention of the Senate a letter we have received from 15 very distinguished law professors, leading constitutional scholars. I simply want to read their letter:

To the Congress of the United States:

We have been informed that the constitutional validity of the new Panama Canal Treaty has been questioned by several lawyers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiation with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

Respectfully,

The foregoing letter was signed by the following:

Carl A. Auerbach, Dean, University of Minnesota Law School;

Paul Brest, Visiting Professor of Law University Law School;

Paul A. Freund, Professor of Law, Harvard University Law School;

Walter Gellhorn, Professor of Law, Columbia University Law School;

Louis Henkin, Professor of Law, Columbia University Law School;

Gerald Gunther, Professor of Law, Stanford University Law School;

Burke Marshall, Professor of Law, Yale University Law School;

Myres S. McDougal, Professor of Law (emeritus), Yale University Law School;

Paul Mishkin, Professor of Law, University of California (Berkeley) Law School;

Louis H. Pollak, Dean, University of Pennsylvania Law School;

Eugene V. Rostow, Professor of Law, Yale University Law School;

Joseph M. Sweeney, Dean, Tulane University Law School;

Lawrence H. Tribe, Professor of Law, Harvard University Law School;

William Van Alstyne, Professor of Law, Duke University Law School; and

Harry H. Wellington, Dean, Yale University Law School.

That is a distinguished assemblage of legal scholars to support the proposition that there are concurrent powers, either of which may be used to transfer property. The treaty power involves the President of the United States and the Senate, and requires a two-thirds vote of the Senate of the United States. Alternatively, the Congress, including both the Senate and the House, acts through legislation, which, of course, requires only a majority in each body. Legislation requires only a majority of the Senate and a majority of the House.

The treatymaking power requires two-thirds of the Senate.

In either event I think it is very important to underscore at the outset of this debate, because the argument has already been made by the supporters of this amendment, that somehow the Executive is moving to dispose of property without the involvement of the legislative branch of the Government.

That is not the case. The Executive signed a treaty but the Executive does not contend that the treaty could take effect without the involvement of the Senate and without two-thirds of the Senators advising and consenting to the treaty.

The alternative way of disposing of property, the concurrent way, is through action by the Congress; but in either event the legislative branch of our Government is involved in the process. There has been no argument made by anyone, and no effort to maintain that the Executive alone is seeking to dispose of property.

Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Maryland.

Suffice it to say that the 15 distinguished legal scholars who wrote this letter to Members of the Senate, and who have set forth their views in the letter, have supported my argument, and the arguments of those truly preeminent constitutional scholars, John Marshall, Justice Story, and John C. Calhoun. These are, indeed, preeminent men of law, constitutional scholars, who have addressed this letter to the Congress. As the distinguished Senator from Maryland pointed out, Dean Pollock, of the University of Pennsylvania Law School, along with the other signatories, are outstanding men of our own day, who have, I think, presented a fine statement in support of the position which the Senator from Maryland and I, as well as others, have taken in this regard.

I hope that their lettter will be read with more than passing interest by our colleagues.

I thank my friend from Maryland.

Mr. MATSUNAGA. Will the Senator from Maryland yield?

Mr. SARBANES. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator for yielding.

Mr. President, I rise in opposition to the Hatch amendment. The Hatch amendment, I remind my colleagues, reads as follows:

It is expressly provided that this treaty shall, in no event, enter into force until the Congress of the United States, in accordance with the provisions of Article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.

It is noteworthy to observe that the Senate Committee on Foreign Relations, after 16 days of hearings and 3 days of markup, came forth with the following conclusion. I quote from the committee report on page 69:

The Committee finds that the constitutional text, the intent of the Framers, opinions of the Supreme Court, and historical precedent all suggest that the Panama Canal Treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation. This conclusion is in full accord with the opinion of the Attorney General that "[t]erritory or property belonging to the United States may be disposed of by action of the President and the Senate under the treaty clause."—Op. Atty. Gen.—

Mr. President, there are a great many precedents to support this proposition. Treaties with the Indian tribes, for example, definitely support the conclusion of the Foreign Relations Committee. As an example, a treaty with an Indian tribe providing for the transfer to the tribe of title to lands belonging to the United States without prior congressional authorization is the treaty with the Cherokee Nation on December 29, 1835. An example of a treaty with an Indian tribe conveying land to an individual without an act of Congress is the treaty with the Chippewa Indians of October 2, 1863.

There are many examples of decisions of the Supreme Court wherein it held that the language of article IV, section 3, clause 2 did not—did not in any way—exclude the right of the United States to convey property through a treaty. I cite the following cases of treaties with foreign nations:

A Treaty between the United States and Spain, February 22, 1819 (12 Bevans 528);

A Treaty between the United States and Great Britain, August 9, 1842 (Webster-Ashburton Treaty) (12 Bevans 82);

A Treaty between the United States and Great Britain June 15, 1846 (Oregon Boundaries) (11 Bevans 95);

A Treaty between the United States and the United Mexican States, February 1, 1933 (Rectification of the Rio Grande in El Paso-Juarez Valley) (9 Bevans 976);

A Treaty between the United States and the United Mexican States, August 29, 1963 (Solution of the Chamizal Problem) (15 U.S.T. 21);

A Treaty between the United States and the United Mexican States, November 23, 1970 (Maintenance of the Rio Grande and Colorado River as International Boundary) (23 U.S.T. 371);

A Treaty between the United States and Honduras, November 22, 1971 (Swan Islands) (23 U.S.T. 2631);

A Treaty between the United States and Japan, June 17, 1971 (Reversion of Ryukyu and Daito Islands) (23 U.S.T. 447); and

A Treaty between the United States and Panama, January 25, 1955 (Treaty of Mutual Understanding and Cooperation), Article VI and VII (6 U.S.T. 2283).

So, Mr. President, it is clear that there is truly no constitutional question in-

volved in the treaties as now pending before the Senate. The question of its constitutionality has long been settled by history, by the intent of our forefathers—who wrote the Constitution—and by Supreme Court decisions. Why this question should now be raised is something which, perhaps, the opponents of the treaty have not given too much study to, since the weight of the argument is so much in favor and in support of the proposition that article IV, section 3, clause 2 of the Constitution in no way restricts the power of the United States by treaty to dispose of any of its property.

With that reminder to my colleagues, Mr. President, I yield back the floor to the Senator from Maryland.

Mr. SARBANES. Mr. President, I am going to yield to the Senator from North Carolina, because earlier, he had started to make a statement, was called from the floor, and did not have a chance to complete it. I should like to speak after he finishes. If that is agreeable to him, I yield to him whatever time now he needs to complete his statement.

Mr. HELMS. Mr. President, I seek the floor in my own right.

Mr. SARBANES. Then I shall seek recognition later. I yield the floor to the Senator.

Mr. HELMS. Mr. President, as the distinguished Senator from Maryland, my friend (Mr. SARBANES), indicated, I did begin my comments earlier but I was called to the floor to greet a North Carolina friend who is handicapped and could not come to this level. So I went up to the galleries to see him. Properly, under the Senate rules, when I left the Chamber, I did lose my right to the floor, even though I had obtained unanimous consent that my right to the floor would not be inhibited by my yielding to the distinguished Senator from Michigan. That is a matter of small moment.

I listened with great interest to the comments of the distinguished majority leader in which he referred to various preeminent constitutional scholars, as he described them, and I am sure they are.

My comment to the distinguished majority leader is that in North Carolina we have a preeminent constitutional scholar who sat for 20 years in this body. His name is Sam J. Ervin, Jr.

Many times during these debates I have wished that my friend, Senator Ervin, were here. I wish he were here today, because I will put my preeminent constitutional scholar against the array of preeminent constitutional scholars cited by the other side on any occasion they wish.

As a matter of fact, I wish that Senator Ervin had been asked to come to testify on this question when the treaties were being considered in committee. But that is water over the dam. He was not invited and he did not come.

But earlier this week in a telephone conversation with Senator Ervin, he expressed himself emphatically on the precise issue now before the Senate in the form of the amendment of the distinguished Senator from Utah (Mr. HATCH).

Mr. President, the issue of the Panama Canal is one of great complexity. Factors involved include intenrational relations, defense, commerce, and both international and national strategic goals. But the fundamental issue is the one to which the amendment of the Senator from Utah is addressed: The issue of whether the dismemberment of the integrity of U.S. territory can be initiated by the executive branch without the consent of Congress.

The framers of the Constitution wisely gave to "the Congress" the "power to dispose of and make all needful rules and regulations respecting the territory or other property belongings to the United States," in article IV, section 3. I say "wisely" advisedly because there is no issue more sacred and important to the people of a nation than the territory of the Nation itself. We all know that the idea of a nation is not necessarily defined by geography; yet the concept of the freedom and independence of nations is virtually identified with specific boundaries that can be defended against attacks of violence and other derogations of integrity.

Such is the doctrine of national sovereignty, that is, the possession of supreme and political authority. An attack upon a nation's sovereignty, whether it is a military attack or merely an erosion of authority, is an attack upon the very existence of the nation to whatever degree. Therefore, whenever proposals arise to alter national boundaries, the people themselves must be involved to the maximum degree provided by the constitutional processes.

If a nation is conquered in battle, then boundary changes can and have been imposed without the consent of the people; but a nation that is free and independent cannot permit such an imposition either by force or threat of force. The people rightly view such attempts with suspicion and hostility. I think that it is highly significant that, in the case of the Canal Zone, the overwhelming proportion of the American people are steadfastly opposed to giving up ownership and control of the Panama Canal.

Moreover, the opposition is steadily rising. The respected polling organization, Opinion Research Corp., of Princeton, N.J., took a nationwide poll a few weeks ago for the Institute of American Relations. This poll showed 72 percent of the scientific sample opposed to the giveaway. Seventy-two percent said that the United States should retain ownership and control of the canal.

This is not to say that national territory is immutable. Conceivably, there are times when the territory can be extended or diminished in the national interest. Yet the issue is so important that one man, the President of the United States, should not take upon himself the responsibility of initiating it. It is particularly important that the disposition of U.S. territory originate in Congress, not in the executive, because the interests of all the States are affected. The checks and balances which are built into the congressional system—the compromise between representation of States, and representation of population, the varying terms of office and political accountability, the interplay of political parties and philosophical coalitions—all serve to insure that a national concensus is achieved and that proper compromises are effected where necessary.

This is why article IV, section 3 says so plainly that "the Congress"—not just the Senate—shall have power to dispose of territory belonging to the United States.

That is the issue before us now in the consideration of the treaty to give away the Panama Canal. "The Congress," needless to say, includes both Houses, the House of Representatives and the Senate of the United States.

This is not a matter for a President of the United States to initiate or to decide, or even for the President with the consent of the Senate alone.

For the disposition of territory and property belonging to the United States is fundamentally a domestic matter, not primarily a matter of foreign relations. In a secondary sense, it is obvious that the territory, when disposed of, will devolve upon a foreign nation. But until it is disposed of, it remains domestic territory, and Congress retains not only the power to dispose of it, but also the power to make all needful rules and regulations respecting it. Indeed, Congress functions both in theory and practice as the legislature for unincorporated territories. In this case, clearly, Congress has continually acted as the legislature for the Canal Zone.

This fact is very important when viewed in the light of article IV, section 3, the first paragraph, which immediately precedes the language we have been discussing. This states that—

> No new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned.

In that sentence, the Constitution is protecting the integrity of State boundaries by forbidding changes without the consent of the legislatures involved. In the next sentence, which is the basis of this amendment now pending before the Senate, the framers applied the same principle, by analogy, to unincorporated territories. The boundaries of such territories cannot be altered or diminished, or, in the ultimate, disposed of, without the consent of the legislature involved, that is to say, Congress, and that is to say the Congress of the United States, or, specifically, both the House of Representatives and the Senate of the United States. There is an obvious parallelism between the treatment of States and of territories, adapted to the specific conditions of each.

In short, article IV, section 3 is a limitation on the treatymaking power of the President. It is, of course, true that article II, section 2, says that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." But that sentence cannot be read in a vacuum. No one imagines, for example, that the President has the power to enter into a treaty, even with the consent of the Senate, which would

abridge freedom of speech, freedom of religion, or any other aspect of the Bill of Rights. It is not enough to say that the Senate would never consent; the President has a sworn duty to uphold the Constitution in all of its parts. He does not have the authority to negotiate away part of it in the hope he can induce the Senate to go along.

In the same manner, the President may not enter into negotiations that abridge the powers of the Congress. It is not just the outcome that abridges the powers of Congress; it is the very fact of entering into negotiations on matters within the powers of Congress that is an infringement on congressional authority. Any attempt to initiate the disposition of U.S. territory and property by the executive branch, without prior authorization, is an usurpation of power.

Why is it an usurpation? It is an usurpation because the executive branch is acting on a domestic matter without congressional authorization. It is an usurpation because the territory itself and the sovereignty over it would necessarily devolve upon the ratification of the treaty itself without the concurrence of the House. The House may be called upon to pass enabling legislation after the treaty is ratified; but the House would be constrained to act within the terms of the treaty. A fundamental principle which has been assumed in the negotiations is the abrogation of the 1903 treaty with its grant of sovereign powers. But sovereignty itself is a property right, and falls within the power of Congress in article IV, section 3. If a treaty were ratified by the Senate before the House acted, the House would have no opportunity to act on this transcendent question. It would be faced with an accomplished fact.

And even if the question were put to the House before the treaty were ratified by the Senate, the House would still be constrained by the overhanging treaty question. And indeed, the House could very well turn down the enabling legislation, or portions of it, only to find their action overridden by the passage of the treaty in the Senate.

Treaties ordinarily contain portions which are self-executing and portions which are not self-executing. The House would not be able to act on any item that is self-executing; and some of the fundamental issues might be considered self-executing. The House clearly would have its article IV, section 3 powers abridged; and of course if one House suffers, the whole Congress suffers in its prestige and authority. The Senate cannot smugly stand on its ratification power and imagine that its overall authority will not be derogated.

Moreover, even the Senate itself will have the fullness of its article IV, section 3 powers abridged, if it chooses to rely solely on its article II, section ratification power. For the ratification power is fundamentally different from the legislative power in article IV. It should be obvious that ratification is after the fact; the terms have been established; no fundamental changes are possible in a practical sense. Slight modifications, such as reservations or understandings, may be attached, but the effect of these in international law is dubious. The only real alternative is complete rejection, which could have severe international repercussions. The Senate could very well find itself debating to determine the lesser of two evils, neither of which represent the best interests of the United States.

But if the disposition of U.S. territory and property is treated as a legislative matter under article IV, then Congress itself sets the basic principles of negotiation. It gives the executive guidelines as to what is acceptable. It strengthens the hands of the negotiators, since the opposite parties would know the limits of the negotiable items. And if the negotiators are not able to get a detailed agreement within the terms laid down, then they can return to Congress to seek appropriate legislation to enlarge their mandate.

Moreover, the full play of the committee system can be brought into effect. If only a treaty is to be considered, only the Committee on Foreign Relations has jurisdiction. While the distinguished members of that committee are experts in foreign affairs by virtue of their experience, the disposition of property, as I have already pointed out, is fundamentally a domestic matter, not a matter for foreign relations.

It is clear, therefore, that the ratification process is no substitute for the legislative process, even so far as the powers of the Senate itself are concerned. The ratification process is a rubberstamp which can be given or withheld; the legislative process is the fullness of congressional power, allowing both Senate and House to work their separate and collective wills on shaping and developing the terms of any disposition of U.S. territory and property.

Mr. President, there is no doubt but that the Canal Zone is unincorporated territory of the United States. Our instruments under international law have given us the rights of a sovereign; and of course our domestic law has always treated the Canal Zone as U.S. territory, a fact established by the U.S. Supreme Court as early as 1907, and reaffirmed many times, including as recently as 1971 when the Court let stand a lower court decision based on the 1907 case.

Some have pointed to discrepancies between the way laws affect the 50 States and the way they affect the Canal Zone as though to imply that the zone is something less than U.S. territory. But the fact is that Congress itself is the author of those discrepancies, using its authority to make all needful rules and regulations for the territory under article IV, section 3. Moreover, the fact that the zone is and always has been a U.S. Government reservation means that special circumstances apply. The fact that certain discrepancies exist enhances the power of Congress because it shows that Congress is exercising the fullness of its article IV power. Indeed, such minor discrepancies strengthen, rather than diminish, the status of the Canal Zone as article IV territory.

It is clear, therefore, that the President and the Secretary of State are bound by oath under article VI, section 3 of the Constitution and the laws of the land, as interpreted by the U.S. Supreme Court. It should be unnecessary to make such a statement, but for 12 years the executive branch has been acting as though the power to conduct international relations superceded its obligations under domestic law.

On September 24, 1965, President Johnson announced that the Treaty of 1903 would be abrogated and that negotiations would begin on new treaties. That in itself was an unauthorized usurpation of power. Congress had in no way provided authority by legislation or by resolution which would allow President Johnson to assume article IV powers. In fact, just the opposite was the case. Numerous actions, particularly in the House of Representatives, had indicated that the sentiment was against the abrogation of the sovereignty and perpetuity clauses of the 1903 treaty.

Indeed, by the time that the treaties had been negotiated persuant to the President's announcement and initialed in 1967, the sentiment in both Houses was strongly opposed to them. In fact, the executive branch felt that the sentiment was so strong that the treaties were not even sent up to the Senate.

Nevertheless, on February 4, 1974, then Secretary of State Henry Kissinger signed a so-called agreement on basic principles with Panamanian Foreign Minister Juan Tack.

Now these basic principles were even more insidious than the straightforward announcement by President Johnson that he would seek to abrogate the 1903 treaty. For the basic principles implied without ever saying so specifically that the United States did not possess either territory or sovereign powers. Principle 4, for example, begins:

> The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, etc.

The Kissinger-Tack agreement put the prestige of the executive branch behind a statement that is historically untrue, profoundly unconstitutional, and an illegal usurpation of power. Whereas the Johnson announcement implied per se that the United States did have sovereign powers, and that they should be abrogated, the Kissinger statement implicitly denied that the United States had sovereign powers, and hence there was no need to speak of abrogation. This was an attempt to end-run the Constitution and the laws of the United States, and to create an accomplished fact. It amounted to a concession of the major point before the negotiations began.

The reaction in the Senate was very intense, as well as in the House. In the Senate, under the able leadership of the distinguished senior Senator from Arkansas, Mr. McClellan, and the distinguished senior Senator from South Carolina, Mr. THURMOND, 39 Senators cosponsored a resolution demanding that our sovereignty remain undiluted in the

Canal Zone. As a very freshman Senator at that time, I was proud to be among that distinguished group of cosponsors.

Usurpation is a process which seem to blind the usurpers to the consequences of their actions. Now the very set of basic principles, odious as they were, were exactly the sort of thing which should have been brought to Congress for approval before they were signed. If Congress had chosen to adopt those principles as guidelines under article IV, then the negotiators could have safely assumed that they would get a treaty acceptable to the Senate and the House.

But the Secretary of State and the President were not willing to take the risk of submitting such basic principles to the Congress for fear that they would precipitate an intense debate resulting in rejection or amendment. They chose, therefore, to ignore article IV, and continue negotiations, despite the fact that a group of Senators large enough to block the treaty had declared themselves opposed to their work. They had set themselves upon a course that may well end in tragedy and disaster.

The direction of the negotiations soon became evident. In December 1975 another document emerged—so-called conceptual agreements amplifying the Kissinger-Tack principles. These went into more detail, but confirmed the worst fears of those opposed to the surrender of sovereignty. For although the American people had been promised "practical control" in lieu of sovereignty, it was plain that even practical control would vanish almost immediately upon ratification, leaving only a mixed control for approximately 3 years. More recent news accounts confirm the extent to which the conceptual agreement has been carried out in the present negotiations.

Mr. President, on December 4, 1975, in a statement on the Senate floor, I made an extensive analysis of the hitherto "secret" conceptual agreements, and I ask unanimous consent that it be made part of my testimony today. It will make very interesting reading, I believe, when final drafts of the new treaty become available.

Nothing, however, seemed to deter the Department of State, not even the change of administrations in the beginning of this year. The appointment of Ambassador Sol Linowitz as conegotiator is a case in point. Ambassador Linowitz was not an impartial and professional negotiator. He has long been an advocate of surrendering the canal to Panama, and his business interests coincide with that advocacy. Unfortunately, the administration once again chose to avoid debate in the Senate by appointing him only to a 6-month term—a legal subterfuge which enabled him to bypass the confirmation process.

If the State Department had really been interested in consulting with the Senate, they would have used the opportunity to put their positions on the line. But instead they chose the bypass route. And as a result of avoiding the advice-and-consent procedures of article II, a great embarrassment was created to the U.S. Government and to the State Department itself.

For after a Senate speech in which I pointed out that Ambassador Linowitz was on the board of directors of Pan American Airways, and on the board of directors of the Marine Midland Bank, and on its executive committee—both of which had extensive interests in Panama and needed to curry favor with the regime to maintain those interests—the Ambassador was forced to resign from at least one of them.

What all this shows, Mr. President, is that encroachment follows upon encroachment. The failure of the Executive to abide by article IV, section 3 leads to the failure of the Executive to abide by the spirit of article II, section 2. What kind of a ratification process is it, when the Executive bypasses an essential part of it, namely, the advice and consent to Ambassadors about to undertake a major negotiation? This is the only opportunity the Senate gets before a negotiation to officially instruct a negotiator on its views before a treaty is locked in; yet the State Department bypassed even that by nominating a candidate who proved to be unsuitable for that particular post.

As I indicated before, usurpation and irresponsibility lead to seizure of power and tragedy. For 14 years the State Department has been unconstitutionally raising the aspirations of the Panamanians, acting wantonly and without authority. If this treaty fails—and there are good reasons why it should—the blame will lie entirely with the executive branch, which has constantly refused to abide by its constitutional authority, and has failed to take the Congress into its confidence about actions which are solely in the field of congressional prerogative anyway. Unfortunately, it will be the Nation, and the American people, who have to suffer the consequences.

I would like to close, therefore, with the very blunt warning of George Washington in the Farewell Address:

> It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government a real despotism. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly over-balance in permanent evil any partial or transient benefit which the use at any time yield.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I think debate for today is drawing toward a close with respect to the amendment which has been laid down by the distinguished Senator from Utah and which will be before us for a vote when the Senate returns into session a week from this coming Monday, with the vote now scheduled for Wednesday, the 15th, at 11 a.m.

The amendment of the Senator from Utah would require, for the disposition of property, action by Congress—meaning both the House and the Senate—and of course the issue before us is whether that is constitutionally compelled. It is our position that it is not constitutionally compelled—that is, that there are two ways in which the United States can transfer or dispose of property. One is by legislative action by Congress, majority votes in both Houses, and the other is through the treatymaking power, which of course requires two-thirds approval by the Senate of the United States.

The Attorney General was asked to render an opinion on this question, first by the Secretary of State—in other words, an internal communication within the executive branch of the Government—and then when he appeared before the Senate Foreign Relations Committee, during the course of the hearings concerning the Panama Canal treaties.

In the course of his prepared statement before the Senate Foreign Relations Committee, the Attorney General stated as follows:

> Mr. Chairman, I am pleased to appear before your committee to testify on and discuss with you a problem arising in connection with the Panama Canal Treaty. This question is whether the treatymaking power of the United States vested by the Constitution in the President, by and with the advice and consent of two-thirds of the Senate can dispose of the proprietary interests of the United States in the Panama Canal Zone by treaty alone, or whether such action requires in addition legislation authorizing, approving, or actually effectuating such transfer.

So at the outset of his prepared statement, the Attorney General set out the question. He then went on to discuss in great detail the treatymaking power. He discussed, first, the particular provisions of the Constitution which, upon analysis, support the view that there is a concurrent authority to transfer property—on the one hand by treaty, and on the other hand by legislation. Both of those methods require the participation of the legislative branch of the Government—in one instance, the Senate alone but requiring the extraordinary margin of two-thirds approval. That is the treatymaking route. The other method, by legislation, requires a majority in each House of Congress.

After analyzing the text and a very careful analysis of the history, the Attorney General concluded:

> The text of the Constitution and its history thus support the proposition that a treaty disposing of the territory and property belonging to the United States can be self-executing.

In other words, a treaty itself can dispose of territory and property belonging to the United States.

The Attorney General then went on to say the following:

I am aware of a number of decisions of the Supreme Court holding that Article IV, section 3, clause 2 of the Constitution is of an exclusive nature, and that some have argued from those decisons that treaties disposing of property of the United States must be implemented by legislation enacted under that clause of the Constitution. It should be noted, however, that the decisions declaring Article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial branches to dispose of the territory or property of the United States.

Let me repeat that:

It should be noted, however, that the decisions declaring Article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial branches to dispose of the territory or property of the United States.

None of them dealt with the question here involved, the power of the treatymaking authority to make such disposition. To the contrary, as shown in my opinion, there is a substantial body of Supreme Court decisions dealing with Indian treaties which holds that a treaty may dispose of territory belonging to the United States without implementing congressional legislation under Article IV, section 3, clause 2.

The Attorney General concludes his statement by stating:

In conclusion, the text and history of the Constitution, as well as the decisions of the Supreme Court and historical treaty practice all support the opinion I recently rendered that property of the United States may be transferred by treaty absent statutory authorization.

Mr. President, I ask unanimous consent that the entire text of the Attorney General's statement on this matter be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman, I am pleased to appear before your committee to testify on and discuss with you a problem arising in connection with the Panama Canal Treaty. The question is whether the treatymaking power of the United States vested by the Constitution in the President, by and with the advice and consent of two-thirds of the Senate, can dispose of the proprietary interests of the United States in the Panama Canal Zone by treaty alone, or whether such action requires in addition legislation authorizing, approving, or actually effectuating such transfer.

The principal provisions governing the rights of the United States in the Panama Canal Zone are to be found in articles II and III of the Hay-Bunau Varilla Treaty of 1903. Pursuant to those articles, the Republic of Panama granted to the United States—

"* * * in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed." Art. II.

And—

"* * * all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." Art. III.

Additional provisions relating to the interests of the United States in the Canal Zone are to be found in Articles VI, VIII and XXII of the 1903 Treaty which concerns the rights of private landholders in the area granted to the United States by the Republic of Panama, and the property of the Panama Railroad Company and the New Panama Canal Company.

It is recognized that under these provisions the Republic of Panama retained titular sovereignty over the Canal Zone. The United States is not the sovereign, but it has jurisdiction over the Canal Zone, that is to say that the United States has all the rights, power, and authority which it would possess and exercise if it were the sovereign of the Canal Zone. In addition, the United States has title to substantial lands, buildings, and facilities in the Zone.

According to Article II, section 2, clause 2 of the Constitution, the President has the power to make treaties by and with the advice and consent of the Senate provided two-thirds of the Senators present concur, and Article VI, clause 2 provides that such treaties shall be the supreme law of the land. It has been established since *Foster* v. *Nielson*, 2 Pet. 253, 314 (1829), that whenever a treaty operates of itself and does not merely constitute an undertaking to enact legislation it is the equivalent of an act of the legislature.

Geofroy v. *Riggs*. 133 U.S. 258, 266–267 (1890), and *Asakura* v. *Seattle*, 265 U.S. 332, 341 (1924), have taught that the treaty-making power of the United States extends "to all proper subjects of negotiation between our government and other nations * * *," although it does not extend "so far as to authorize what the Constitution forbids." To the same effect are *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 320 (1936); *Reid* v. *Covert*, 354 U.S. 1, 5–10, 16–19 (1957). Foremost, among those consitutional provisions are those designed to protect rights of citizens from encroachment by the Government (*Reid* v. *Covert*, supra).

The question raised in the present context is whether a treaty would do something "prohibited by the Constitution" if it seeks to be self-executing in an area in which Congress has legislative jurisdiction. Here the problem posed is whether a treaty can dispose of the territory and property of the United States in the face of Article IV, section 3, clause 2 of the Constitution which gives the Congress power to do so.

Even brief reflection shows that the application of the supreme law of the land clause in Article VI to treaties would be extremely limited, if it were restricted to those areas in which Congress did not have power to legislate. The courts have concluded that this is not so and that the mere existence of a Congressional power to legislate in the field does not preclude a treaty from being self-executing. *Foster* v. *Nielson*, supra, recognized this by equating a treaty to an act of the legislature. The courts have given self-executing effect to a number of treaties which dealt with matters over which Congress has legislative jurisdiction under Article I, section 8, such as claims against the United States, customs inspection, and trademarks.

On the other hand, it is generally assumed that the specific powers granted to the House of Representatives and the Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriation power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditures of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings.

It is our conclusion that this consideration does not apply to Article IV, section 3, clause 2 of the Constitution. In other words the power of Congress to dispose of the territory and property of the United States does not have the same unique and prominent status as the fiscal powers of Congress.

To begin with, Article IV, section 3, clause 2 uses the same phraseology "Congress shall have power" as does Article I, section 8, and we have shown above that the legislative powers vested in Congress under that section do not preclude the making of self-executing treaties. The conclusion that this clause is not designed to foreclose the conclusion of self-executing treaties disposing of the territory and property of the United States gains strong support from the records of the proceedings of the Constitutional Convention. The pertinent debates indicate that the members of the convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States. Much of the opposition to the treaty power of the United States and the requirement of a two-thirds majority in the Senate were based on fears that the Senate might give away territorial rights of the United States.

I wish to mention a few of the pertinent remarks. Thus, Col. Mason observed "that the Senate by means of a treaty might alienate territory, etc., without legislative sanction." Farrand, Records of the Federal Convention, Vol. 2, p. 297. Later, Messrs. Williamson and Speight moved "that no Treaty of Peace affecting Territorial rights should be made without the concurrence of two-thirds of the [members of the Senate present]." *Id.* at p. 543. Mr. Gerry felt that—

"* * * in treaties of peace, a greater rather than less proportion of votes was necessary than in other treaties. In treaties of peace, the dearest interests will be at stake, as the fisheries, territories, etc. and there is more danger to the extremities of the Continent of being sacrificed than in any other occasions." Warren, The Making of the Constitution 656.

Sherman and Morris proposed but did not formally move the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the U.S. may be contracted, or by which the common rights of navigation or fishery recognized to the United States by the late treaty of peace, or accruing to them by virtue of the laws of nations may be abridged," Warren, op. cit. p. 657, Farrand, op. cit. Vol. 4, p. 58.

The awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States also appears from the following amendment to the Constitution proposed by the Ratifying Convention of Virginia:

"7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, on their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively." Elliott, Debates on the Federal Constitution Vol. 3, p. 660.

A letter from Hugh Williamson, a delegate to the Convention from North Carolina dated June 2, 1788, reminded James Madison of the background of the treaty clause and the requirement of a two-thirds majority in the Senate:

"* * * It is said that some antifed in Maryland on the last Winter fastened on the Ear of Genl. Wilkinson who was accidentally there and persuaded him that in case of a new government the Navigation of the Mississippi would infallibly be given up. Your

Recollection must certainly enable you to say that there is a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate or of the States which is considered as the same thing from giving up the Mississippi. It is provided that two thirds of the Members present in the Senate shall be required to concur in making Treaties and if the southern states attend to their Duty, this will imply ⅔ of the States in the Union together with the President, a security rather better than the present 9 States especially as Vermont & the Province of Main may be added to the Eastern Interest and you may recollect that when a Member, Mr. Willson objected to this Proviso, saying that in all Govts. the Majority should govern it was replyed that the Navigation of the Mississippi after what had already happened in Congress was not to be risqued in the Hands of a meer Majority and the Objection was withdrawn." Farrand. op. cit., vol. 3, p. 306–307.

The text of the Constitution and its history thus support the proposition that a treaty disposing of the territory and property belonging to the United States can be self-executing.

I am aware of a number of decisions of the Supreme Court holding that Article IV, section 3, clause 2 of the Constitution is of an exclusive nature, and that some have argued from those decisions that treaties disposing of property of the United States must be implemented by legislation enacted under that clause of the Constitution. It should be noted, however, that the decisions declaring Article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial branches to dispose of the territory or property of the United States. None of them dealt with the question here involved, the power of the treaty-making authority to make such disposition. To the contrary, as shown in my opinion, there is a substantial body of Supreme Court decisions dealing with Indian treaties which holds that a treaty may dispose of territory belonging to the United States without implementing congressional legislation under Article IV, section 3, clause 2.

Of those cases, *Holden* v. *Joy*, 17 Wall. 211 (1872), appears the only one in which the question was raised whether Article IV, section 3, clause 2 of the Constitution precludes such a treaty from being self-executing. The Court conceded that the question was immaterial in the case at bar because Congress had actually implemented and ratified that particular treaty. Nevertheless, it rendered the following strong dictum:

"* * * [S]till it is insisted that the President and Senate, in concluding such at treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. Much reason exists in view of those authorities and others which might be referred to, for holding that the objection of the appellant is not well founded, but it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid." At 247.

In addition to the Indian treaty cases, in *United States* v. *Percheman*, 7 Pet. 51, 88–89 (1833), the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory. Those provisions of the treaty thus came within that part of Article IV, section 3, clause 2 which gives Congress power to make all needful rules and regulations respecting the Territory of the United States. If a treaty which deals with that part of Article IV, section 3, clause 2 can be self-executing, the same reasoning applies to a treaty coming with another part of that clause.

The final point which I wish to make is that throughout our history Presidents acting with the advice and consent of the Senate have made numerous self-executing treaties transferring territory or property belonging to or claimed by the United States. One example, cited in the Opinion, is the 1819 Florida Treaty with Spain. Under that treaty the United States ceded all its territory beyond the Sabine River in Texas to Spain in return for the cession of the Spanish territories of East and West Florida. While there had been some dispute over some of the relevant boundaries, the congressional debates, as well as President Monroe's annual message to Congress, make it clear that many considered the action to be an outright cession of American territory in exchange for Spanish territory. 36 Annals of Congress 1719–38, 1743–81; 2 J. Richards, Messages and Papers of the Presidents 55 (1896). There was no statute authorizing this cession of American territory. There have been numerous other treaties which have transferred U.S. territory or compromised U.S. claims. See, e.g., United States-Great Britain Treaty of 1842 (Webster-Ashburton), 8 Stat. 572, T.S. No. 119; United States-Great Britain Treaty in regard to limits westward of the Rocky Mountains of 1846 (Oregon Treaty), 9 Stat. 869, T.S. No. 120.

In conclusion, the text and history of the Constitution, as well as the decisions of the Supreme Court and historical treaty practice all support the opinion I recently rendered that property of the United States may be transferred by treaty absent statutory authorization.

Thank you, Mr. Chairman. If you or the members of this Committee have any questions, I shall be pleased to answer them.

Mr. SARBANES. Mr. President, I want to note that this conclusion is in harmony or in agreement with the substance of the letter from the group of distinguished legal scholars to which reference has heretofore been made, which states:

We have been informed that the constitutional validity of the new Panama Canal Treaty has been questioned by several lawyers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiation with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

Mr. President, I know that when the debate resumes after the nonlegislative work period, this amendment will be addressed again in further detail. But I think it is important at least today to sketch out this constitutional view, which I submit is the one we have operated under since the early days of the Republic, with respect to the powers encompassed in the treaty-making power and the ability, through the treaty power, which of course involves the legislative branch of the Government—it involves the Senate and requires a two-thirds vote in the Senate—to dispose of property.

Mr. President, I suggest the absence of a quorum.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator withhold his request?

Mr. SARBANES. I withhold my request, and I yield to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Maryland for yielding.

Mr. President, the Senator from North Carolina is absent from the floor at the moment. He seemed to indicate that the framers of the Constitution intended that only Congress, meaning the Senate and the House, was possessed of the power of disposal of U.S. property.

The history of the Constitution fully confirms the construction that article IV, section 3 of the Constitution does not in any way restrict the power of the United States to dispose of any territory or properties by treaty. The debate is the Constitutional Convention of 1787 and of the Virginia Convention of 1788, on the ratification of the Constitution, show beyond doubt that the framers paid particular attention to treaties ceding territory and did not require congressional—when I say "congressional," I mean both the House and the Senate—congressional authorization for such treaties.

The debates in the Constitutional Convention are reported in the Journal of the Convention and in Madison's Notes, which were published by Dr. Farrand as Records of the Federal Convention. The debates of the Virginia Convention are published in Elliot's Debates in the Several State Conventions, volume 3.

The final debates on the treaty power followed the adoption of article IV which had occurred only a week before. Certainly, the framers of the Constitution must have had that action in mind. Yet, there was no reference to that article IV, at that time numbered as article number XVII, even when treaties of cession were debated. It was moved at the beginning of the debate on treaties that advice and consent of the Senate and the House of Representatives should be required but the motion was defeated and advice and consent of the Senate alone was approved.

This shows that the power to cede territory and property of the United States was intended by the framers of the Constitution to be vested in the Senate and the Executive concurrently, and there was no intended requirement that the House of Representatives must concur with the Senate.

I thank the Senator from Maryland for yielding.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. SARBANES. I yield to the Senator from Michigan.

Mr. GRIFFIN. I thank the Senator from Maryland.

Mr. President, the debate today has focused on whether or not there is a constitutional requirement that the House of Representatives must join in any disposition of property by the United States, and I think it is a very interesting debate and argument that has been argued, as the distinguished majority leader indicated, throughout the history of Congress. It has a long history, and goes back to the Jay Treaty.

The fact is, as much as I respect the arguments of the Senator from Hawaii, I cannot agree with him that all of the authority is on his side. There clearly are eminent authorities on both sides of this constitutional question.

Of course, Prof. Raul Berger has been mentioned and he stated before one of the committees of the Senate:

In my view, any attempt of disposition without getting the concurrence of the Congress including the House would be void.

Senator HATCH said that is a strong statement and Professor Berger said:

If I am right, if there is no concurrent jurisdiction to dispose of property in the executive branch; if that power is exclusively in the Congress and the President oversteps his bounds, that is unconstitutional and if it is unconstitutional it is void.

There has been reference also made to the view of the distinguished former Senator from North Carolina, Senator Ervin, whose opinion certainly is not to be taken lightly, and some reference was made to Justice Story, the distinguished author of commentaries on the Constitution of the United States, and who is quoted as saying:

The power of Congress over the public territory is clearly exclusive.

I do not rise, really, to pursue that line of argument. I am willing to concede that there are eminent scholars and eminent authorities on both sides, but I rise to ask the question: Should this be decided on the basis of whether or not it is constitutionally required that the House of Representatives join in? What about just good commonsense and good policy? Perhaps it is the better part of wisdom, particularly when there is this serious and deep question and particularly when this treaty, of such great significance to the country, will require the enactment of implementing legislation that certainly must include the participation of the House of Representatives. Would it not make sense, particularly if there is concurrent authority, if we concede that for the purposes of argument, and would it not be good policy at this point, through a resolution or by withholding the resolution of ratification until there were an opportunity for the House of Representatives by resolution to give its consent and its concurrence with respect to the disposition of property, and also to indicate that it will follow on through with the implementing legislation that will be required?

I have spoken about the implementing legislation before. One of the very first things, of course, that will have to be done once the treaty is ratified will be to establish the new Panama Canal corporation that will be required, with a board of directors with five members appointed by the United States and four members appointed by the Republic of Panama. This is an entirely new entity. It could only be established by statute. It would have to be approved and passed by the House of Representatives.

If the House of Representatives does not do that, of course, the treaty would be of very little force and effect.

So, I have made this suggestion in the Committee on Foreign Relations and I make it again to the Senate: that it makes a great deal of good sense to me to provide in some way for the concurrence of the House of Representatives. Whether or not it is constitutionally required, it certainly is permitted. It certainly is allowed. There would be nothing wrong with it. And it would certainly strengthen the hand of the President, following the ratification of the treaties, if that should be the judgment of the Senate.

I thank the distinguished Senator from Maryland for yielding.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Alabama.

Mr. ALLEN. Mr. President, I had not intended to go into this matter at this time, as we are prepared to recess until April 3. But I was interested in the fact that the distinguished Senator from Maryland (Mr. SARBANES) was reading from an opinion of the Attorney General, Judge Griffin Bell, certainly an eminent jurist and the present Attorney General of the United States, and he had printed in the RECORD Judge Bell's testimony before one of the committees.

I am reminded that Mr. Justice Jackson of the United States Supreme Court, who had previously served as Attorney General, in deciding a case before the Supreme Court, had cited to him an opinion on the very same point that he had rendered while serving as Attorney General, and Mr. Justice Jackson stated that he would assign no importance to an opinion by the Attorney General of the United States, even though it were his own, that he would assign no importance to it because it was an opinion rendered by an employee of the Government and that for that reason it could not be an unbiased opinion.

The Attorney General, working for the Government, might issue one opinion, but the former Attorney General, Mr. Justice Jackson, would attach no importance to it even though it were his own because he was just, in effect, an employee of the Government and his opinion on a particular case that the Government was interested in might not have the same importance or the same standing as if it had been issued by someone who did not have an interest as an employee.

The Subcommittee on the Separation of Powers had before it many eminent legal authorities, one of whom was a nationally recognized authority on the Constitution, Dr. Raoul Berger, well-known throughout the country as being a great constitutional authority, who at one time was a professor of constitutional law at Harvard.

I would like to read from the testimony that Dr. Berger gave before the Subcommittee on Separation of Powers. He is quoting what he calls a settled rule of law:

In other words, "a broad statutory provision will not apply to a matter specifically dealt with in another part of the same act."[4] Restated in terms of the present issue—

That is, whether the Senate and the President can circumvent the Congress by treaty power; and if you would believe the distinguished Senator from Maryland, the Senate and the President could give away all of the property of the United States by the treaty process, and the House would not have anything to do with it.

I want to be cited the section of the Constitution that says that property of the United States can be transferred by treaty. That is the very point. The right is given, the power is given, to Congress to dispose of the property of the United States, and there is no concurrent power placed in the executive branch or the executive branch plus the Senate. It is the Congress, which is the House and the Senate, with, of course, approval by the President to be a congressional act, that has the power to dispose of the territory or other property of the United States, and nothing short of an act of Congress will authorize the disposition of property of the United States.

So where the power is given expressly to one branch of the Government, and no alternate power is given to another branch of the Government, that power becomes exclusive in the Congress to dispose of property.

I recall one disposition of property there in the Canal Zone itself. Panama wanted some property, I believe, in the canal zone for an embassy, and it took an act of Congress to dispose of this property there in the canal zone itself.

To continue reading from the testimony of Dr. Berger—

the specific power of disposition, in which the House of Representatives must concur, governs the general provision authorizing the President and the Senate to make treaties.

Well, making treaties does not necessarily imply giving property away or disposing of property.

Continuing, Dr. Berger said:

Second, there is the canon that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."[5] The grant of the disposition power to Congress, in other words, excludes its exercise by Senate and President. The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, in which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behavior, because the Constitution has declared [only] one office to be held by this tenure."[6] Under these rules it is of no moment that Article IV contains no express exclusion of "concurrent jurisdiction" under the treaty power. Having given Congress the

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power to dispose of public property, it follows that the President and Senate were impliedly excluded therefrom. Although this particular exclusion was not before the Court, it tacitly ratified the application of the foregoing rules of construction when it stated that Article IV "*implies an exclusion of all other authority* over the property which could interfere with this right . . ." [7]

So the power to dispose of property is given to Congress, and that power negates or excludes any other conferring of that power. This expression will be argued in full when we come back from the recess, and it ought to offset the opinion rendered by the distinguished Attorney General, which is of another view. I ask unanimous consent that the statement of Dr. Raoul Berger given before the Subcommittee on Separation of Powers of the Judiciary Committee, appearing and starting at page 77 of the staff draft of the subcommittee report, of the congressional power to dispose of U.S. property be printed in the RECORD in full:

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY RAOUL BERGER BEFORE THE SUBCOMMITTEE OF MERCHANT MARINE AND THE COMMITTEE ON MERCHANT MARINE AND FISHERIES OF THE HOUSE OF REPRESENTATIVES

HEARINGS ON THE PANAMA CANAL TREATIES, WASHINGTON, D.C., JANUARY 18,1978

You have invited me to comment on the relation between the Article IV, § 3(2) power of Congress to dispose of property of the United States and the treaty power. Although I am in favor of the Panama Canal Treaty, I share your solitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, Members of Congress, or the President, must respect those boundaries. No agent of the people may overleap the bounds of delegated power, or encroach on power granted to another. That is the essence of constitutional government and of our democratic system.

The effect of these hearings ranges beyond the Panama Treaty, for the Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. For it needs constantly to be remembered that a succession of Presidents have circumvented Senate participation in treaties of gravest import by resort to Executive Agreements. Acquiesence in such claims spells progressive attrition of Congressional powers. Your insistence on respect for constitutional boundaries will warn the Executive against encroachments on the powers of Congress; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the House as well as the Senate.

The President, "by and with the advice and consent of the Senate", may make treaties. But Article IV, § 3(2) provides that "the Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." How are the two provisions to be accommodated? For present purposes the question whether the United States has "sovereignty" over the Panama Canal need not detain us because, in my judgment, the grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President, by Executive Agreement, promised to return certain installations to Panama subject, however, to Congressional approval.[1] A similar provision is to be found in the Treaty of 1955.[2] These executive constructions are confirmed by established canons of interpretation.

"First, there is the settled rule that where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, *standing alone*, would be broad enough to include the subject to which the more particular provision relates." [3]

In other words, "a broad statutory provision will not apply to a matter specifically dealt with in another part of the same act." [4] Restated in terms of the present issue, the specific power of disposition, in which the House of Representatives must concur, governs the general provision authorizing the President and the Senate to make treaties.

Second, there is the canon that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." [5] The grant of the disposition power to Congress, in other words, excludes its exercise by Senate and President. The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, in which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behavior, because the Constitution has declared [only] one office to be held by this tenure." [6] Under these rules it is of no moment that Article IV contains no express exclusion of "concurrent jurisdiction" under the treaty power. Having given Congress the power to dispose of public property, it follows that the President and Senate were impliedly excluded therefrom. Although this particular exclusion was not before the Court, it tacitly ratified the application of the foregoing rules of construction when it stated that Article IV "*implies an exclusion of all other authority* over the property which could interfere with this right . . ." [7]

Attorney-General Griffin B. Bell conceded in his statement before the Senate Foreign Relations Committee, September 25, 1977 (hereafter cited as A.G.), that "the specific powers granted to the House of Representatives and Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriations power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the purse strings." A.G. 4–5.

Now sections 9 and 7 are couched in quite dissimilar terms. Section 9(7) is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law. . . ." Section 7(1), however, merely provides that "All bills for raising revenue shall originate in the House." Yet the Attorney General reads § 7 to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the purse strings." What is there that distinquishes "All bills . . . shall originate in the House" from "The Congress shall have power to dispose . . ."? The impalpability of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." [8] Nothing in the Article I, § 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the property of the United States.

In their testimony before the Congress, Herbert J. Hansell, Legal Advisor, Department of State,[9] and Ralph E. Erickson, Deputy Assistant Attorney General,[10] cited a string of cases in support of "The power to dispose of public land . . . by treaty." [11] For the most part they fall under boundary treaties or treaties with Indian tribes which, as will appear, turn on circumstances peculiar to themselves. Preliminarily consider Hansell's citation of *Missouri* v. *Holland*, 252 U.S. 416 (1920). It arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and Canada. Justice Holmes, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

"Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the States' rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away." [12]

Consequently, the State could assert no "title" in migratory birds. By the same token, the United States also could not lay claim to "ownership" of the birds, the *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

The Indian treaty cases constitute one of the pillars of the argument for "concurrent power"; and Attorney General Griffin B. Bell referred to them as "a substantial body of Supreme Court decisions dealing with Indian tribes which holds that a treaty may dispose of property belonging to the United States without implementing legislation under Article IV, section 3, clause 2." [13]

To begin with *Jones* v. *Meehan*, 175 U.S. 1 (1889), both Hansell and Erickson quote, "It is well settled that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." [14] This was because the treaty merely *reserved* certain individual tracts from the cession to the United States. It "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres" for an individual Indian, and the issue was what kind of title did he take. The Court quoted from an opinion of Attorney General Taney, destined before long to succeed Chief Justice Marshall: "these reservations are *expected* out of the grant made by the treaty, and *did not therefore pass with it;* consequently the *title remains as it was* before the treaty; that is to say, the lands reserved are still held under the original Indian Title." [15]

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of complete title in fee simple." [16] That explanation presumably responded to the fact that tribal lands were generally held in common; individual titles were all but unknown, so that such title had to be secured to an individual through the machinery of the treaty. But that is far from a disposition of government land because, as Taney ex-

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plained, the "reserved" title remained in the Indians. Many, if not most, of the Indian treaty cases involve just such "reserve" provisions.

We might dismiss *Holden* v. *Joy*, 84 U.S. 211 (1872) because, as Attorney General Bell noted, "The Court conceded that the question was immaterial in the case at bar because Congress had actually implemented and ratified that particular treaty." A.G. 9. Nevertheless, the Court, in what it terms a "strong dictum", stated that "there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an Act of Congress conferring it. . . ." [17] I was at pains to study each of the cases cited by the Court for this assertion, and abstracted them in an appendix attached to my statement before the Senate Subcommittee on Separation of Powers. There you may see for yourself that half of the cases thus cited are entirely irrelevant, and that the rest concern "reserves" under which, as Taney observed, no title had passed to the United States but remained in the given Indian. In considering such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's "opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should thereafter depend althogether on the force of the reasoning by which it is supported." [18]

As to other treaties, Hansell tells us, "the precedents supporting the power to dispose of property by treaty alone can be found in the boundary treaties with neighboring powers, especially in the treaties between the United States and Great Britain in 1842 and 1846 for the location of our northeast and northwest boundaries. . . ." [19] Settlements of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an extravagant claim: "Fifty-Four Forty or Fight"; the British, on the other hand, claimed land down to the forty-second parallel. Only when the dispute was settled by negotiation at 49 degrees could either party confidently assert that it had title. As a respected commentator, Samuel Crandall, observed, "a treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [20]

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.[21] By Article III of the 1951 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands . . ." While Japan renounced in Article II "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.[22] Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan," a District Court stated that sovereignty over a territory may be transferred by an agreement of cession," but it concluded that there had been no cession.[23] The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and it held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of the Federal Tort Claims Act.[24]

In sum, Messrs. Hansel and Erickson have failed to make out a case for the President's "concurrent jurisdiction" with Congress in the disposition of United States property.

It remains to consider the arguments advanced by Attorney General Bell before the Senate Foreign Relations Committee. He cited *United States* v. *Percheman*, 32 U.S. (7 Pet.) 51, 88–89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory." A.G. 10. At the cited page it appears that Article 8 of the treaty provided, "all the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in said territory ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands. . . ."

This article, Chief Justice Marshall held, "must be intended to stipulate for that security of private property which the laws and usages of nations would, without express stipulation, have conferred."

In other words, the treaty provided that prior Spanish grants to *private* persons should be ratified and confirmed, a provision far removed from presidential "regulation" of *public* territory. Such regulation is confined to Congress, as *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253, 314–315 (1829) held with respect to the self-same provision: "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e., Congress.

REMARKS IN THE LEGISLATIVE HISTORY OF THE TREATY POWER

Before discussing the legislative history adduced by the Attorney General, permit me a few words of explanation and apology. When his statement before the Senate Committee reached me late of a Saturday afternoon, as appears on my own Senate statement, I had only about two days to prepare my comments before having them typed and forwarded to the Senate Committee. Pressure of time conduces to oversights, and I was mistaken respecting a time sequence, and in following the Attorney General's erroneous identification of a motion made by Williamson and Spaight with one he attributed to Sherman and Morris. Leisure for reflection and further research has since enabled me to correct such inaccuracies and to sharpen my analysis. And it has strengthened my conviction that the treaty power was not designed to diminish the Article IV power of Congress.

For the most part the Attorney General's citations have reference to settlement of boundary disputes by treaties of peace which, as we have seen, do not involve cessions. He begins with a remark of George Mason in the Constitutional Convention, an *in terrorem* statement *during a debate on whether the Senate could share in originating revenue-raising bills*. Speaking for exclusion of the Senate, Mason stated that the Senate "could already sell the whole country by means of treaties," and then toned down this extravagant overstatement to that quoted by the Attorney General: "The Senate by means of a treaty might alienate territory, etc., without legislative sanction." A.G. 6, 2 Farrand 297. Mason spoke *before* the Article IV progenitor was even proposed and referred to the Committee on Detail (2 Farrand 321, 324, and of course before the resultant "disposition" provision was debated, id. 466. *Manifestly his earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."*

The Attorney General's other citations will be considered seriatim.

(1) The remarks of Gerry, and of Williamson and Spaight, cited A.G.6., were made after Madison's motion to "except treaties of peace" from the two-thirds vote requirement had been agreed to by unanimous consent. 2 Farrand 540. Gerry protested "that in treaties of peace a greater rather than a lesser proportion of votes was necessary than in other treaties. In treaties of peace the dearest interests will be at stake, as the fisheries, territory, etc. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions." Id. 541.

The "extremities" patently refer to boundary disputes. Notwithstanding, Madison's "exception" was again approved by a vote of 8 to 3. Now Williamson and Spaight took up the opposition and "moved that no Treaty of Peace affecting territorial rights should be made without the concurrence of two thirds of the [members of the Senate present.]" id. 543.[25] In short, they sought to exclude treaties of peace "affecting territorial rights" from the Madison "exception." A note added to Madison's records recites that "The subject was then debated, but the motion does not appear to have been made." 4 Farrand 58. On the following day, Sherman and Morris spoke "agst leaving the rights, *established* by the Treaty of Peace, to the Senate, & moved to annex a 'proviso that no such rights shd be *ceded* without the sanction of the Legislature,' ", id. 548,[26] a clear reference to boundary disputes. The matter was resolved by striking Madison's exception. 2 Farrand 548–549. Throughout all that was under discussion was the performance of the Senate's own "advice and consent" function, without a hint of desire to curtail the House function under Article IV. The Convention's overnight reversal of its approval of Madison's motion testifies how fluid were its views in this area, arguing against giving the remarks of Gerry et al preponderant weight.

(2) Of the same order is a letter by Hugh Williamson, a delegate to the Convention, written to Madison some nine months after its close, to recall to him "a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties." A.G.7–8; 3 Farrand 306–307.

As the Attorney General's fuller quotation shows, Williamson feared that General Wilkinson might be led to give up "the Navigation of the Mississippi," and recalled that "the Navigation of the Mississippi . . . was not to be risqued in the Hands of a meer Majority." A *cession* of territory was not therefore involved, but rather claims to rights of navigation. At best, the Mississippi issue was a boundary claim finally settled by the Louisiana Purchase. Nor was that issue the sole motivation for insistence on a two-thirds requirement. George Mason explained in the Virginia Ratification Convention that because of their concern about the Newfoundland fisheries, "The eastern states therefore agreed at length that treaties should require the consent of two-thirds of the members present in the Senate." 3 Farrand 335. Such diverse motives counsel against reading the several "two-thirds" remarks as evidencing an intent to diminish the role of the House under Article IV. It was one thing to insist that the Senate, in the performance of its own function, must act by a two-thirds vote, and something else again to court the wrath of the democratically minded, who placed their faith in the House and were already disgruntled by the exclusion of the House from the negotiation and making of treaties, by further reducing the role of the House under Article IV.

(3) The Attorney General also cites an amendment proposed by the Virginia Convention as exhibiting the awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States: "no commercial treaty shall be ratified without the concurrence of the members of the Senate (not merely of those present); and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall *any* treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively." (Empha-

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sis added.) A.G. 7; 3 Elliot, Debates on the Federal Constitution 600.

From this attempt to bring the House into treaty ratification the Attorney General would infer that it could be excluded from the Article IV "disposition" of territory. It is simpler to read it as a renewal of the struggle for House participation in treaty-making. In any event, he proves too much. The Virginia Convention likewise recommended "That the legislative, executive and judicial powers should be separate and distinct," that the right to challenge jurors should not be restrained. 3 Elliott 657–658.[27] Do these proposals prove that the separation of powers therefore is not a fundamental principle of the Constitution, or that it does not guarantee the rights to challenge jurors? When *implicit* rights are not thus negatived, how much stronger is the case for giving effect to the *express* Article IV grant to Congress despite such proposals. Like the earlier remarks, the Virginia amendment testifies to the importance the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and suggests, as in the proposal to spell out the right of challenge, that the Virginians were merely seeking to make assurance doubly sure.

Our guide is furnished by *Pierson* v. *Ray*, 386 U.S. 547, 554–555 (1967). There the Court declared with respect to the common law immunity of judges from suit for acts performed in their official capacity.

"We do not believe that this settled principle was abolished by § 1983, which makes liable "every person" who under color of law deprives another of his civil rights . . . we presume that Congress would have specifically so provided had it wished to abolish the doctrine."

Thus the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory and property, a clearly expressed intention to do so should be required. That requirement is not satisfied by the random remarks collected by the Attorney General.

In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

FOOTNOTES

[1] Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289: "When the authority of Congress . . . shall have been obtained therefore. . . ."

[2] Agreement of January 26, 1955, 6 U.S.T. 2273, 2278.

[3] *Swiss Nat. Ins. Co.* v. *Miller*, 289 Fed.. 570, 574 (App. D.C. 1923) emphasis added; *Ginsberg & Son.* v. *Popkin*, 285 U.S. 204, 208 (1932). We should "prefer a construction which leaves to each element of the statute a function in some way different from the others" to one which causes one section to overlap with another. *United States* v. *Dinerstein*, 362 R. 2d 852, 855–856 (2d Cir. 1966).

[4] *Le Page* v. *United States*, 146 F. 2d 536, 538 (8th Cir. 1945).

[5] *Botany Worsted Mills* v. *United States*, 278 U.S. 282, 289 (1929); *T.I.M.E.* v. *United States*, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carrier Act when the very sections which established that right in Part I [for railroads] were wholly omitted in the Motor Carrier Act."

[6] 1 Annals of Cong. 505 (2d ed. 1836; print bearing running head "History of Congress"); see also Alexander White, id. 517. So too, John Dickinson stated in the Constitutional Convention that "the terms 'ex post facto' related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases. . . ." 2 Farrand 448–449.

[7] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890) emphasis added; *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 326 (1942); see also *Swiss Nat. Ins. Co.* v. *Miles*, 289 Fed. 571, 574 (App. D.C. 1923).

[8] Hearings on the Panama Canal Treaty before the Senate Committee on Separation of Powers (95th Cong., 1st Sess.), Part II, p. 25 (July 29, 1977), hereafter cited as Hansell.

[9] Supra, note 8.

[10] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operations of the Panama Canal," (92nd Cong., 2d Sess.) p. 95 (December 2, 1971) hereafter cited as Erickson.

[11] Hansell 5; Erickson 97.

[12] 252 U.S. at 434.

[13] A.G. 9.

[14] Hansell 6; Erickson 97.

[15] 175 U.S. at 12, emphasis added.

[16] Id. 21.

[17] Quoted A.G. 9; 84 U.S. at 247.

[18] The Passenger Cases, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[19] Hansell 6.

[20] S. Crandall, "Treaties, Their Making and Enforcement" at p. 226 (2d ed. 1916).

[21] Hansell 6.

[22] 3 U.S.T. 3169, 3172, 3173.

[23] *United States* v. *Ushi Shiroma*, 123 F. Supp. 145, 149, 148 (D. Hawaii, 1954).

[24] *Burna* v. *United States*, 240 F. 2d 720, 721 (4th Cir. 1957).

[25] The Attorney General mistakenly attributes a more complete version of this motion to Sherman and Morris. A.G. 6–7, citing 4 Farrand 58. That page merely sets forth an insertion to be made in 2 Farrand 543, which contains only the "motion" of Williamson and Spaight.

[26] Emphasis added.

[27] "That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury." 3 Elliot 657–658. The Virginia Convention had been assured by John Marshall, Edmund Pendleton and Governor Randolph that the words "trial by jury" embraced all its attributes, such as the right to challenge jurors. 3 Elliot 559, 546, 547, 436, 573.

Mr. ALLEN. The full argument of this issue will be made when we come back from our recess.

● Mr. LAXALT. Mr. President, we have just this past Friday begun our consideration of the Panama Canal Treaty. Accordingly, I feel it helpful that we pause for a moment to consider what we have accomplished. As I see them, the major issues of the past week have concerned the Carter-Torrijos letters, the Dole and Wallop amendments, and stonewalling.

CARTER-TORRIJOS LETTER

Apparently on March 15, the day prior to the final vote on the Neutrality Treaty, there occurred an exchange of letters between President Carter and General Torrijos concerning certain reservations which the Senate was about to add to the Neutrality Treaty, principally that proposed by my friend from Arizona. Mr. DECONCINI. Because these letters followed a telephone conversation, we really do not know all that transpired between the two leaders on this subject.

But this much is clear: In his letter, President Carter attempted to minimize the significance of the DeConcini and other reservations. General Torrijos understood the President to say that these reservations accomplished no significant change over and above the so-called leadership amendments.

To quote from the General's letter directly:

In your letter and conversation you informed me that the Senate will introduce some reservations, but that they will not alter nor detract from the content of what was agreed upon in the Neutrality Treaty and in our declaration of October 14, 1977.

Mr. President, I repeat the words of the General: "not alter nor detract from." Clearly, in the General's view, President Carter assured him that the action soon to be taken by the Senate in approving the DeConcini resolution did not materially affect the Neutrality Treaty as amended by the statement of mutual understanding of October 14. The chairman of the Foreign Relations Committee, the distinguished Senator from Alabama, concurred in this assessment when he said in referring to the DeConcini resolution, "It made no major changes. It was a clarification."

Personally, I voted against this resolution. I, too, believe it to be essentially devoid of substance. But, I am concerned that our President, would, on the one hand, use its purported importance to persuade undecided Senators to vote for the Neutrality Treaty while, on the other, assure the Panamanian dictator of its inconsequential nature. Perhaps this is the kind of ambiguity which is the essence of international diplomacy. I am certainly not a foreign affairs expert. But I am an attorney of some experience in contract work and I have long believed that a viable agreement depends on a clear understanding by both sides as to just what is expected of them under the agreement.

The only clear aspect of the Carter-Torrijos exchange of letters is its ambiguity. One must assume that those 75 Senators who voted to add the DeConcini reservation to the Neutrality Treaty did so because they believed it to be a substantial improvement. And, yet, it is clear from the text of General Torrijos' letter that he was assured by President Carter that the DeConcini amendment was of no substantive consequence.

Presumably, as a legal matter, the DeConcini reservation is either meaningful or it is not. As a practical proposition, however, assurances from the President of the United States that a reservation of a possibly unpleasant nature to Panama is of no substantive importance can only serve to muddy what is already by all accounts a highly ambiguous document.

A second issue surrounding the exchange of letters concerns the timing. The letters were exchanged March 15. The Neutrality Treaty was finally approved, as was the DeConcini reservation, on March 16. Consequently, it appears as though certain Senators, a number of whom were previously undecided, agreed to support the Neutrality Treaty on the basis of a reservation which President Carter, unbeknownst to them had already assured General Torrijos to be essentially meaningless.

DOLE AND WALLOP

The first two amendments to the canal treaty were offered and defeated on Monday, March 20. The first to be voted on was a Wallop unprinted amendment (unprinted amendment number 13). That amendment would have restored the Panama treaties of 1903, 1936, and 1955 in the event Panama abrogated any provision of the current Panama Treaty or treaty on neutrality.

In my view, the Wallop amendment was highly meritorious. The United States has never spelled out what it considers its rights or obligations if Panama abrogates the 1977 treaties. It is unclear what action the United States could legally take should that event occur. In the words of Senator WALLOP, ". . . in my trip to Panama, not only Panamanians but Zonians and American businessmen in Panama and other places, consistently told me that they expected this to be but the first of perhaps three treaties between now and the year 2000 * * *." This amendment would have assured that this would not be the case. It would have provided another incentive to the Panamanians to follow the 1977 treaty terms and not to merely use it as a stepping stone for further requests or gains. It would not have added a crippling amendment to the treaty—on the contrary, if Panama intends to follow the terms of the 1977 treaty, this amendment would never go into effect.

If the United States was ever to abrogate the treaty, the rights of Panama would be protected since it has been given sovereign right over the zone. This amendment would have the United States a legal and moral foothold in the case of a unilateral abrogation by Panama. It would have spelled out the standard to which we would return in case of an abrogation and would have given fair notice to both. Nevertheless, the Wallop amendment was tabled by a vote of 50 to 37.

The second amendment offered Monday was the Dole amendment (No. 69), which stated that for the duration of the main treaty only the military forces, defense sites, or military installations of the Republic of Panama or the United States of America may be maintained in the national territory of the Republic of Panama. This amendment would have guaranteed that Panama could not invite or allow foreign troops into Panama during the period of the Panama Canal Treaty. In particular, the amendment was designed to prevent the stationing of Soviet or Cuban forces or the forces of any other nation within Panamanian territory. In view of recent Soviet and Cuban expansionism, it seems to me that the need for such an amendment should have been obvious on its face.

It is both practical and reasonable to ask this assurance from Panama. The Panamanian Government has already given a similar assurance under Article V of the Neutrality Treaty. Such a guarantee could not seriously have challenged Panama's sovereignty or it never would have agreed to it in the Neutrality Treaty. In fact, a clear statement that Panama had no intention cf allowing foreign nations to base troops on its territory would actually have strengthened Panamanian sovereignty.

But more importantly, the Dole amendment would have given needed assurances for the protection of U.S. interests in safeguarding the canal. As the treaty now stands, we will give substantial portions of land over to Panama upon ratification. Without this amendment, 1 week later the Panamanians could invite Cuban or Russian troops into Panama and, in some places, literally right up to the canal's edge. Although Panama is free to invite foreign troops in today, those troops would be kept away from the canal by the 5-mile-wide buffer zone we now control. In short, without the Dole amendment, American security interests would be seriously impaired by the 1977 treaties. To justify the surrender of the 5-mile buffer zone, Panama should have been asked to assure us that no hostile troops will ever be stationed in Panama.

My friend from Kansas put it best when he said, "I defy anybody who opposes this amendment to tell us what they are going to do if Cuban troops are invited into Panama * * *." The amendment had one purpose—to insure that no foreign military presence other than that of the United States will be established within Panama between now and the year 2000. Yet, it was still defeated by a vote of 45 to 39.

THE STONEWALLING ISSUE

Consideration of the Dole and Wallop amendments witnessed a display of unpleasantness which can only reflect unfavorably upon the Senate's standing in the eyes of the American people and which I sincerely hope will not reoccur. As one who has been active among the leaders of the opposition, I find such displays unfortunate.

But, the issue which so raised Senatorial tempers is fundamental. Does this Senate, as an institution, have an active role in considering treaties? Or, must we stand aside and passively accept or reject en bloc whatever is presented to us by the executive branch?

To me, the advice and consent function clearly requires that the Senate play an active role. Our duty goes beyond that of a rubber stamp marked "yes" or "no." We have the right and, indeed, the obligation to insist upon constructive changes whether or not they are convenient for the executive, our negotiating partners, or even our own leadership.

In No. 64 of the Federalist, John Jay discusses the treatymaking process of the new Federal Constitution. He touches on the need for secrecy and dispatch in the conduct of negotiations by the President, but devotes most of the paper to the virtues of mature reflection and improvement of the negotiated product afforded by providing the advice and consent function to the Senate. In the very last lines, he underscores his conception of the importance of the role to be played by the Senate in the treatymaking process by saying:

With respect to their responsibility, it is difficult to conceive of how it could be increased. Every consideration that can influence the human mind, such as honor, oaths, reputations, conscience, the love of country and family affections and attachments, afford for their fidelity. In short, as the Constitution has taken the utmost care that they be men of talents and integrity, we have reason to be persuaded that the treaties they make will be as advantageous as all circumstances could be.

Thus, the Founding Fathers also conceived of the Senate as an active participant in treatymaking. Allowed more than a mere approval or disapproval function, the Senate to them was to have the same active role in the fashioning of the end product, which I believe it now should have. In fact, in our deliberations on the Panama Canal treaties, I believe we owe it to ourselves and our constituents not to settle for anything less.

Mr. President, for the information of my colleagues, I ask that the full text of Federalist No. 64 be inserted in the RECORD at this point.

The material follows:

No. 64: JAY

It is a just and not a new observation that enemies to particular persons, and opponents to particular measures, seldom confine their censures to such things only, in either, as are worthy of blame. Unless, on this principle, it is difficult to explain the motives of their conduct, who condemn the proposed Constitution in the aggregate and treat with severity some of the most unexceptionable articles in it.

The second section gives power to the President, "by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

The power of making treaties is an important one, especially as it relates to war, peace, and commerce; and it should not be delegated but in such a mode, and with such precautions, as will afford the highest security that it will be exercised by men the best qualified for the purpose, and in the manner most conducive to the public good. The convention appears to have been attentive to both these points; they have directed the President to be chosen by select bodies of electors to be deputed by the people for that express purpose; and they have committed the appointment of senators to the State legislatures. This mode has, in such cases, vastly the advantage of elections by the people in their collective capacity where the activity of party zeal, taking advantage of the supineness, the ignorance, and the hopes and fears of the unwary and interested, often places men in office by the votes of a small proportion of the electors.

As the select assemblies for choosing the President, as well as the State legislatures who appoint the senators, will in general be composed of the most enlightened and respectable citizens, there is reason to presume that their attention and their votes will be directed to those men only who have become the most distinguished by their abilities and virtue, and in whom the people perceive just grounds for confidence. The Constitution manifests very particular attention to this object. By excluding men under thirty-five from the first office, and those under thirty from the second, it confines the electors to men of whom the people have had time to form a judgment, and with respect to whom they will not be liable to be deceived by those brilliant appearances of genius and patriotism which, like transient meteors, sometimes mislead as well as dazzle. If the observation be well founded that wise kings will always be served by able ministers it is

fair to argue that as an assembly of select electors possess, in a greater degree than kings, the means of extensive and accurate information relative to men and characters, so will their appointments bear at least equal marks of discretion and discernment. The inference which naturally results from these considerations is this, that the President and senators so chosen will always be of the number of those who best understand our national interests, whether considered in relation to the several States or to foreign nations, who are best able to promote those interests, and whose reputation for integrity inspires and merits confidence. With such men the power of making treaties may be safely lodged.

Although the absolute necessity of system, in the conduct of any business, is universally known and acknowledged, yet the high importance of it in national affairs has not yet become sufficiently impressed on the public mind. They who wish to commit the power under consideration to a popular assembly composed of members constantly coming and going in quick succession seem not to recollect that such a body must necessarily be inadequate to the attainment of those great objects which require to be steadily contemplated in all their relations and circumstances, and which can only be approached and achieved by measures which not only talents, but also exact information, and often much time, are necessary to concert and to execute. It was wise, therefore, in the convention, to provide not only that the power of making treaties should be committed to able and honest men, but also that they should continue in place a sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system for the management of them. The duration prescribed is such as will give them an opportunity of greatly extending their political informations, and of rendering their accumulating experience more and more beneficial to their country. Nor has the convention discovered less prudence in providing for the frequent elections of senators in such a way as to obviate the inconvenience of periodically transferring those great affairs entirely to new men; for by leaving a considerable residue of the old ones in place, uniformity and order, as well as a constant succession of official information, will be preserved.

There are few who will not admit that the affairs of trade and navigation should be regulated by a system cautiously formed and steadily pursued; and that both our treaties and our laws should correspond with and be made to promote it. It is of much consequence that this correspondence and conformity be carefully maintained; and they who assent to the truth of this position will see and confess that it is well provided for by making the concurrence of the Senate necessary both to treaties and to laws.

It seldom happens in the negotiation of treaties, of whatever nature, but that perfect secrecy and immediate dispatch are sometimes requisite. There are cases where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehensions of discovery. Those apprehensions will operate on those persons whether they are actuated by mercenary or friendly motives; and there doubtless are many of both descriptions who would rely on the secrecy of the President, but who would not confide in that of the Senate, and still less in that of a large popular assembly. The convention have done well, therefore, in so disposing of the power of making treaties that although the President must, in forming them, act by the advice and consent of the Senate, yet he will be able to manage the business of intelligence in such manner as prudence may suggest.

They who have turned their attention to the affairs of men must have perceived that there are tides in them; tides very irregular in their duration, strength, and direction, and seldom found to run twice exactly in the same manner or measure. To discern and to profit by these tides in national affairs is the business of those who preside over them; and they who have had much experience on this head inform us that there frequently are occasions when days, nay, even when hours, are precious. The loss of a battle, the death of a prince, the removal of a minister, or other circumstances intervening to change the present posture and aspect of affairs may turn the most favorable tide into a course opposite to our wishes. As in the field, so in the cabinet, there are moments to be seized as they pass, and they who preside in either should be left in capacity to improve them so often and so essentially have we heretofore suffered from the want of secrecy and dispatch that the Constitution would have been inexcusably defective if no attention had been paid to those objects. Those matters which in negotiations usually require the most secrecy and the most dispatch are those preparatory and auxiliary measures which are not otherwise important in a national view, than as they tend to facilitate the attainment of the objects of the negotiation. For these the President will find no difficulty to provide; and should any circumstance occur which requires the advice and consent of the Senate, he may at any time convene them. Thus we see that the Constitution provides that our negotiations for treaties shall have every advantage which can be derived from talents, information, integrity, and deliberate investigations, on the one hand, and from secrecy and dispatch on the other.

But to this plan, as to most others that have ever appeared, objections are contrived and urged.

Some are displeased with it, not on account of any errors or defects in it, but because, as the treaties, when made, are to have the force of laws, they should be made only by men invested with legislative authority. These gentlemen seem not to consider that the judgments of our courts, and the commissions constitutionally given by our governor, are as valid and as binding on all persons whom they concern as the laws passed by our legislature. All constitutional acts of power, whether in the executive or in the judicial department, have as much legal validity and obligation as if they proceeded from the legislature; and therefore, whatever name be given to the power of making treaties, or however obligatory they may be when made, certain it is that the people may, with much propriety, commit the power to a distinct body from the legislature, the executive, or the judicial. It surely does not follow that because they have given the power of making laws to the legislature, that therefore they should likewise give them power, to do every other act of sovereignty by which the citizens are to be bound and affected.

Others, though content that treaties should be made in the mode proposed, are averse to their being the *supreme* laws of the land. They insist, and profess to believe, that treaties, like acts of assembly, should be repealable at pleasure. This idea seems to be new and peculiar to this country, but new errors, as well as new truths, often appear. These gentlemen would do well to reflect that a treaty is only another name for a bargain, and that it would be impossible to find a nation who would make any bargain with us, which should be binding on them *absolutely*, but on us only so long and so far as we may think proper to be bound by it. They who make laws may, without doubt, amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them; but still let us not forget that treaties are made, not by only one of the contracting parties, but by both, and consequently, that as the consent of both was essential to their formation at first, so must it ever afterwards be to alter or cancel them. The proposed Constitution, therefore, has not in the least extended the obligation of treaties. They are just as binding and just as far beyond the lawful reach of legislative acts now as they will be at any future period, or under any form of government.

However useful jealousy may be in republics, yet when like bile in the natural it abounds too much in the body politic, the eyes of both become very liable to be deceived by the delusive appearances which that malady casts on surrounding objects. From this cause, probably, proceed the fears and apprehensions of some, that the President and Senate may make treaties without an equal eye to the interests of all the States. Others suspect that the two thirds will oppress the remaining third, and ask whether those gentlemen are made sufficiently responsible for their conduct; whether, if they act corruptly, they can be punished; and if they make disadvantageous treaties, how are we to get rid of those treaties?

As all the States are equally represented in the Senate, and by men the most able and the most willing to promote the interests of their constituents, they will all have an equal degree of influence in that body, especially while they continue to be careful in appointing proper persons, and to insist on their punctual attendance. In proportion as the United States assumes a national form and a national character, so will the good of the whole be more and more an object of attention, and the government must be a weak one indeed if it should forget that the good of the whole can only be promoted by advancing the good of each of the parts or members which compose the whole. It will not be in the power of the President and Senate to make any treaties by which they and their families and estates will not be equally bound and affected with the rest of the community; and, having no private interests distinct from that of the nation, they will be under no temptations to neglect the latter.

As to corruption, the case is not supposable. He must either have been very unfortunate in his intercourse with the world, or possess a heart very susceptible of such impressions, who can think it probable that the President and two thirds of the Senate will ever be capable of such unworthy conduct. The idea is too gross and too invidious to be entertained. But in such a case, if it should ever happen, the treaty so obtained from us would, like all other fraudulent contracts, be null and void by the laws of nations.

With respect to their responsibility, it is difficult to conceive how it could be increased. Every consideration that can influence the human mind, such as honor, oaths, reputations, conscience, the love of country, and family affections and attachments, afford security for their fidelity. In short, as the Constitution has taken the utmost care that they shall be men of talents, and integrity, we have reason to be persuaded that the treaties they make will be as advantageous as, all circumstances considered, could be made; and so far as the fear of punishment and disgrace can operate, that motive to good behavior is amply afforded by the article on the subject of impeachments.●

● Mr. BAYH. Mr. President, on March 16 the Senate gave its consent to the ratification of the Treaty Concerning the Permanent Neutrality and Operation of

the Panama Canal. After more than 20 days of debate and discussion of the many aspects of both the Neutrality Treaty and the Panama Canal Treaty, the Senate adopted important amendments and reservations which I supported and cosponsored designed to safeguard future U.S. security interests and assure the continued availability of the Panama Canal to the shipping of all nations.

On this latter point, I think it is important to pause a moment and consider just what the position is of those who must depend upon the continued efficient operation of the canal on a day-to-day basis. It would seem reasonable to any rational person that those who use the canal most frequently probably have the greatest stake in seeing that the canal is operated most efficiently and on a nondiscriminatory basis. For this reason, Mr. President, I think it is important to note that the principal user of the canal, United Brands Inc., enthusiastically endorses the treaty before us today.

It has been pointed out to me that United Brands made nearly 400 transits of the Panama Canal during 1977 averaging 33 trips per month. Approximately $3 million in tolls were paid. The company also acted as agents for vessels that made an additional 513 transits last year. In addition, United Brands maintains operations and offices in the Canal Zone itself. One division of United Brands, the United Fruit Company, is engaged in the production and distribution of tropical agricultural products. Surely such produce could ill-afford delay in transiting the canal. Yet United Brands supports the treaties and refuses to accept the arguments that the treaties will result in irregular operations, uncertain access, or closure, or that the canal could become a major theater of military operations.

Nor is United Brands alone in this opinion. On March 15 I received a letter from the chairman of the board of Corning Glass Works, Mr. Amory Houghton, Jr. Corning is a major employer in the State of Indiana. Mr. Houghton pointed out to me that 24 percent of Corning's exports pass through the canal. Mr. President. Mr. Houghton supports the treaties and points out that—

> Our interest is to assure the open and neutral operation of the Canal. Personally, I believe the best way is through new treaties that provide for an orderly assumption of control by Panama.

As my colleagues know, the Council of the Americas is composed of 230 major U.S. corporations and accounts for more than 90 percent of U.S. private investment in Latin America. This organization has gone on record in strong support of the Panama Canal treaties. Even those concerned about the prospect of increased tolls on traffic through the canal such as Mr. James J. Reynolds, president of the American Institute of Merchant Shipping, stated in response to a question about treaty rejection during his appearance before the Foreign Relations Committee that—

> . . . any thoughtful American has to come to the conclusion that to reject this treaty would be a devastatingly improper thing to do.

I could go on to develop this point further, but I believe we have had enough repetition of argument in this Chamber about these treaties already.

Mr. President, I hope that the Senate can move with all deliberate speed to approve the Panama Canal Treaty. Once approval of these agreements is completed, we can then turn to the pressing domestic issues which we can ill afford to defer much longer.

The alternative before us, Mr. President is not the status quo as some of my colleagues and constituents sincerely believe. It is the certainty of uncertainty and a decline of U.S. credibility in all of Latin America. It would be ironic and tragic if the treaties were rejected, and American troops someday fight and die defending a canal which we may still "own" but are no longer able to operate and which is not used by merchant shipping. Mr. President we simply can not permit this to happen.●

EMPLOYEE PROTECTION—THE LABOR RIGHTS AMENDMENT

● Mr. HATCH. Mr. President, one amendment I will offer can be truly classified as a labor rights amendment—American human rights for a change. I believe when I explain this amendment and the need for it, I doubt whether any member of this body will vote to reject it. Such amendment has already been filed as printed amendment No. 82.

In the event that the treaties are ratified, which I hope they will not be, they contain absolutely no guarantees for the workers in the Canal Zone other than a vague statement by the U.S. Government assuring that things will be OK for them. What has been said is that, "they will be provided for." Union and civic leaders have repeatedly asked Government officials, Members of Congress, and the treaty negotiators themselves to elaborate on and clarify this statement. Their requests have been either ignored or answered with similar ambiguous statements and half truths.

They are tired of being brushed aside and they are fed up with this kind of treatment. It is shabby treatment for this Government to pull the rug out from under them and to make no firm commitment to them. My amendent seeks nothing more than fair and equitable treatment for them by guaranteeing them a job opportunity in the United States for any eligible employee who elects to leave the Canal Zone.

The employees have been told that they will be given job placement priority in the civil service system if their jobs are abolished. It has been reported by several employees to me that the Civil Service Commission in Miami and New York have been instructed not to hire Panama Canal employees even though jobs were available in those cities. It is obvious that the Carter administration is trying to prevent them from leaving unless they want them to, unless the employees are willing to terminate their civil service careers. If these tactics are being used now, before the treaties are ratified, it is obvious that the U.S. employee will have no priority placement after the treaties are implemented, and when living and working conditions in the Canal Zone are bound to worsen.

As for those U.S. employees who do not lose their jobs, they will become virtual prisoners with no avenue of escape other than termination of their civil service careers.

If ever there were a group of Federal employees in need of such a guarantee, it is these. Supposedly hired with the protections of title V civil service provisions, the number of American employees in the Canal Zone will undergo a forced 20-percent drop within 5 years of the effectiveness of the treaty. The remainder will gradually be phased out by a discriminatory system of preferential hiring. American nationals will be subject to forced rotation into less preferable jobs, and are given no guarantee of nondiscriminatory assignment or promotion. As a shrinking minority of American employees become a vestige in the eyes of the Panamanians of what they perceive to be U.S. imperialism, pressures to force these civil servants out of their jobs will become greater and greater.

The supposed quid pro quo is a promise by the United States to act as a placement service "to the maximum extent feasible." Reports that the Civil Service Commission officers in Miami and New York have been instructed not to hire Canal Zone employees should suggest that this commitment is meaningless.

Hollow assurance is not justice and fairness to those Americans who are victimized by ratification of these treaties.

My amendment would add teeth to our commitment to the Zonians. It would have the benefit of providing undecided Members with crucial assurances while there is still time to reconsider the treaty package. However, because it would be unilaterally binding on the United States, it would not require another plebiscite.

My amendment tracks similar guarantees for super-level civil servants contained in the Ribicoff-Percy-Sasser-Javits civil service reform bill. If we can make job guarantees to GS–18's situated comfortably in Washington, surely we can make the same commitment to Americans abroad who find their jobs hostage to the exigencies of American foreign policy.

Equity and fair treatment demand no less. I recommend the adoption of my amendment.

Mr. President, I ask that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

After paragraph 10 of Article X, insert the following new paragraph:

11. In order to fulfill the prior assurances by the Government of the United States respecting the economic well-being and job security of any United States national employee of the Panama Canal Company, United States nationals who are employees of the Panama Canal Company or of another instrumentality of the Government of the United States in the Canal Zone prior to the entry into force of this Treaty and who subsequently after ratification of this Treaty elect

to leave the Zone or are removed from such employment for reasons other than misconduct, neglect of duty, or malfeasance shall have the right to job placement with no reduction in grade or step in a Federal position with the Government of the United States within the continental United States subject to the provisions of subchapter II of chapter 57, of title 5 of the United States Code.●

Mr. MELCHER. Mr. President, I ask unanimous consent that I might proceed for 3 minutes as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOAN TO ZAMBIA BY THE INTERNATIONAL MONETARY FUND

Mr. MELCHER. Mr. President, on March 17, the AP wire carried a report with a Lusaka, Zambia dateline. It said that Zambia's two major copper mining companies N'Changa Consolidated Copper Mines and Roan Copper Mines "have been saved from shut down by a $322.6 million loan from the International Monetary Fund." The announcement was made by the Zambian Minister of Finance.

The IMF loan was made necessary by the lowest world copper prices in 25 years. These prices were brought on in large part by the failure of the government-owned mines in Zambia, Zaire, and Chile to respond to world overproduction of copper. The Government of Zambia led in totally undermining the copper market. Now Zambia's access to foreign currency has led to a crisis with its balance-of-payments deficit. Zambia is reported to be very close to defaulting on its international debts and in effect declaring international bankruptcy.

Well, we have a big problem in my own State of Montana where these same depressed copper prices have also led to a crisis resulting in mine closings and thousands of people unemployed. The only difference is that the International Monetary Fund will not pick up the tab in Montana. We just pay our taxes so the IMF can give a transfusion to Zambia after they have cut our throats while, incidentally, also cutting their own throat.

When the IMF was set up in 1962, the United States underwrote it to the tune of $2 billion, and currently supplies about one-third of the Fund's capital. Last year the United States provided $670 million and will be asked for more this year. Are we in the ridiculous situation where the U.S. taxpayer is subsidizing foreign government-owned copper mines so that they can continue producing copper that will further depress world copper prices, thus possibly putting more thousands of American copper miners out of work?

In the past when the mines in Zambia, Zaire, Chile, Peru, and so on were privately owned, production was reduced in times of recession along with the cutbacks in our domestic U.S. mines. Now, the U.S. mines are forced to absorb all of the cutbacks and layoffs because the foreign government-owned mines do not respond to the copper market.

If the nation of Zambia had done what American Copper producers—Anaconda, Phelps-Dodge, Inspiration, Ranchers, ASARCO, Cyprus, Duval—have had to do in cutting back production, the case might be made for some limited assistance. In the case of my own State of Montana, the underground mine at Butte has been closed; the Arbiter smelter at Anaconda has been shut down and work at Great Falls curtailed. Employment at Butte, Anaconda, and Great Falls has been reduced by the loss of over 2,000 jobs. Nationally, over 5,000 copper employees have been certified by the Labor Department as available for Federal relief under the Trade Act because of being hurt by the copper imports from Zambia and other nations.

Why should Zambia be immunized from the world markets by being propped up with the help of the U.S. taxpayers when American mines must shut down their operations?

If we here in America do not get back to tending our own domestic flock, there will not be anyone left to pay the U.S. taxes.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 5 minutes, as in legislative session.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

S. 2808—TAX RELIEF FROM THE SOCIAL SECURITY TAX BITE

Mr. DOLE. Mr. President, I am introducing legislation today to provide tax relief from the social security tax bite.

Last December the Democratic leadership of both Houses of Congress proclaimed a victory upon the passage of the social security financing amendments. However, it seems that those who supported the tax increase are now the biggest advocates of tax relief.

The Senator from Kansas expressed serious doubts about the social security legislation that would raise $227 billion in new social security taxes in the next 10 years. I felt, as I do now, that the action taken was hasty and ill conceived.

SOCIAL SECURITY TAX CREDITS

The social security tax is intolerable. I believe that Americans need and deserve a tax cut.

My proposal will, if enacted, grant a 20-percent refundable tax credit on the social security employee and self-employed contribution paid. The legislation will grant tax relief to Americans inflicted with the burdensome social security tax without endangering the integrity of the social security trust fund. It avoids the perils of general revenue financing by retaining the requirement that Congress cannot indiscriminately raise social security benefits without increasing social security taxes to pay for the benefits. My proposal, unlike general revenue finance or social security tax rollback will keep the social security trust fund actuarially sound.

Mr. President, social security taxes are scheduled to dramatically increase over the next few years. However, the administration tax proposal fails to adequately address this problem. Under the administration's tax plan, millions of Americans would experience tax increases as early as 1979, largely due to inflation and the increased social security taxes.

TAX RELIEF

Mr. President, there is no question that Americans need tax relief. In fact, the average American must now work until May 15 every year just to pay his taxes. Recent figures compiled by the Treasury Department show that those American households with incomes of $17,000 a year or higher pay 70 percent of all personal income tax. Even more startling is the fact that about half of the American households pay 94 percent of all personal taxes.

The 20 percent refundable tax credit on social security taxes would cost $11 billion in calendar year 1979. My proposal extended to railroad retirement payments would increase the cost by $800 million. More than 58 percent of the relief would go to American families earning less than $20,000 per year and more than 87 percent would go to families earning less than $30,000 per year.

MEASURING STICK

The President is calling for a net tax cut in the neighborhood of $25 billion. The cost of my proposal allows sufficient flexibility to enact tax relief to those Americans not in the social security system and flexibility to design a package of business incentives.

The Senator from Kansas supports tax reduction and relief from social security taxes. However, the Congress must be careful in designing the tax package. The tax credit—using social security contributions as a measuring stick—is both sensible and equitable.

I ask unanimous consent that the accompanying charts and the text of my bill be printed in the RECORD.

There being no objection, the tables and bill were ordered to be printed in the RECORD, as follows:

TOTAL SOCIAL SECURITY TAXES AFTER SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

*Income**	*Social security taxes paid*
1978:	
$5,000	$302.5
$10,000	605
$15,000	907.5
$20,000	1,071
$25,000	1,071
$30,000	1,071
1979:	
$5,300	325
$10,600	650
$15,900	975
$20,120	1,300
$25,650	1,404
$31,180	1,404
1980:	
$5,618	344
$11,236	689
$16,854	1,033
$22,472	1,378
$28,090	1,588
$33,708	1,588
1981:	
$5,955	396
$11,910	792
$17,865	1,188
$23,820	1,584
$29,775	1,975
$35,730	1,975

Footnote at end of table.

TOTAL SOCIAL SECURITY TAXES AFTER SOCIAL SECURITY FINANCING AMENDMENTS OF 1977—Continued

Income*	Social security taxes paid
1982:	
$6,312	423
$12,625	846
$18,937	1,269
$25,249	1,692
$31,562	2,114
$37,873	2,131
1983:	
$6,691	448
$13,383	897
$20,073	1,345
$26,764	1,793
$33,456	2,242
$40,145	2,271

*Income computed reflect 6 percent per year increase in inflation.

TAX ADVANTAGES RESULTING FROM 20 PERCENT SOCIAL SECURITY TAX CREDIT

Income*	20% social security tax credit
1978:	
$5,000	$61
$10,000	121
$15,000	182
$20,000	214
$25,000	214
$30,000	214
1979:	
$5,300	65
$10,600	130
$15,900	195
$21,120	260
$25,650	281
$31,180	281
1980:	
$5,618	69
$11,236	138
$16,854	207
$22,472	276
$28,090	317
$33,708	317
1981:	
$5,955	79
$11,910	158
$17,865	238
$23,820	317
$29,775	395
$35,730	395
1982:	
$6,312	85
$12,625	169
$18,937	254
$23,249	338
$31,562	423
$37,873	426
$6,691	90
$13,383	179
$20,073	269
$26,764	359
$33,456	448
$40,145	454

*Project rate of inflation 6 percent per year.

A 20-PERCENT REFUNDABLE CREDIT OF SOCIAL SECURITY TAXES FOR CALENDAR YEAR 1979 (1977 INCOME LEVEL)

Adjusted gross income	Returns (thousands)	Tax reduction (billions)	Percentage distribution
Less than $5,000	21.5	$0.6	6
$5,000 to $10,000	16.9	1.5	13
$10,000 to $15,000	13.9	2.0	18
$15,000 to $20,000	11.3	2.3	21
$20,000 to $30,000	11.3	3.0	27
$30,000 to $50,000	3.9	1.2	11
$50,000 to $100,000	.9	.3	2
$100,000 and over	.2	.1	1
Total	80.1	11.0	100

Note: Details may not add to totals because of rounding.
Source: Joint Committee on Taxation, Mar. 21, 1978.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by adding at the end thereof the following new section:

"SEC. 44C. SOCIAL SECURITY TAX CREDIT.

"(a) IN GENERAL.—In the case of an individual there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of any social security tax paid by that individual during the taxable year.

"(b) SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—For purposes of this section, the term 'social security tax' means any tax imposed by section 1401, 3101, 3201, or 3211 (but only to the extent attributable to taxes imposed by section 3101).

"(2) STATE AND LOCAL GOVERNMENT EMPLOYEES.—For purposes of paragraph (1), any tax imposed on an employee of any State or political subdivision thereof—

"(A) which is paid by the State to the Federal government under an agreement under section 218 of the Social Security Act; and

"(B) which, under such agreement, is equivalent to the tax imposed by section 3101 shall be treated as a tax imposed by section 3101.

"(c) REGULATIONS.—the Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this sections.".

(b)(1) Section 6410(b) of such Code (relating to amounts treated as overpayments) is amended—

(A) by striking out "oil) and 43" and inserting in lieu thereof "oil), 43",

(B) by inserting ", and 44C (relating to social security tax credit)" after "credit)", and

(C) by striking out "and 43," and inserting in lieu thereof "43, and 44C,".

(2) Section 6210(a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44C",

(B) by striking out "oil) or section 43" and inserting in lieu thereof "oil), section 43", and

(C) by inserting "or section 44C (relating to social security tax credit)," after "income).".

(c) The table of sections for such subpart is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Social security tax credit.".

SEC. 2. (a) The amendments made by this Act shall apply to taxable years beginning after December 31, 1977.

S. 2809—CHILD CARE FOOD PROGRAM

Mr. DOLE. Mr. President, today I take pleasure in introducing legislation to extend and strengthen the child care food program (CCFP), a nationwide effort which helps child care centers as well as family and group day care homes serve high quality and well-balanced meals. The goal of this program is to improve the diets of children by providing the nutrients they need for optimal growth and development.

Eligible institutions include settlement houses, neighborhood centers, Head Start centers, afterschool recreational centers, and institutions providing day care services for handicapped children. The CCFP aids in several ways: first, technical assistance and guidance on food service operations, program management, and recordkeeping; second, a variety of food commodities or cash in lieu; and three, reimbursement for breakfast, lunch, supper, and snacks served which meet meal pattern requirements set by the Department of Agriculture.

The bill I am introducing extends the program for 4 years, simplifies the administration, and at the same time retains accountability. In introducing this bill, let me point out that there are provisions to which I am not totally wedded; and I am continuing to seek the advice and counsel of persons with more expertise in this field. Early next month we are holding hearings, where many provisions of the bill will be aired further. In addition, I am asking a number of people from around the country who work with the CCFP every day to react to this document before final markup.

One such provision is the question of eligibility to participate in the program. I believe strongly that all centers and homes providing care to children should meet standards which ensure that the child will be cared for in a safe, healthy, and wholesome environment. At the same time I am also aware that licensing and other approval mechanisms do sometimes hinder participation.

It is clear from available statistics that most child care is not provided in licensed facilities, however the supply of licensed care has been increasing rapidly in recent years. There has been considerable activity on the part of States to increase thir child care licensing and monitoring activities and to review and revise their requirements. I find this encouraging—along with the move to provide comprehensive or total care for the child along with the food program.

There are many administrative pluses in this bill with which I am proud to be associated.

USE OF COMMODITIES

One is the use of more domestic commodities in the meals. Current law allows each State agency to request, on behalf of all child care sponsors in its State, receipt of commodities or cash in lieu of these foods. My bill provides more flexibility in the use of domestic commodities by allowing the centers themselves to choose between the commodities or cash.

STREAMLINED RECORDKEEPING

Probably one of the most significant improvements in this bill is streamlining the recordkeeping, along with a substantial reduction in paperwork. Last August I heard much testimony in my home State of Kansas which pointed out that one of the largest stumbling blocks to fuller participation and ultimate program benefit is the burden of paperwork. Well, we are seeking to streamline the recordkeeping in this bill, and this is a move in the right direction.

MEAL REIMBURSEMENT

Third, this bill provides subsidy for all children in the program, whether they fall into the free, reduced prices, or paid meal categories. The President's budget

request anticipated the passage of legislation to be submitted later this year which would eliminate all reimbursement for meals served to paying children in this program. This is not the case with this piece of legislation—subsidies are provided for all children.

Earlier this month the Senate Agriculture Committee endorsed a budget authority of $18 million above the administration's current services estimate of $146 million for the CCFP, or $164 million, to allow for the passage of this bill.

WORKING PARENTS

Finally, I feel a word about the relief this bill provides working parents is in order. Knowing that a child is enrolled in a child care facility and receiving well-prepared, well-served, and well-balanced meals is an enormous relief for any employed mother and father.

Of late the care of children while their parents are working has been a subject of increasing concern to many of us; one reason being the growth in the number of children whose mothers are in the labor force. Recent statistics of the Department of Labor show that 48 percent of the children under 18 years of age had mothers in the labor force in March 1977, up from 39 percent in 1970. Among pre-school-age children, the proportion whose mothers worked or looked for work rose from 29 percent to 38 percent between 1970 and 1977.

I am proud to sponsor this bill which contains provisions directly responsive to the needs of child care programs, and was shaped by comments and suggestions from child care sponsors. One such sponsor—a constituent of mine—Ms. Sharon Hixson, director of Thomas County Day Care in Colby, Kans., states:

> The benefit of the child care food program is immeasurable. The food program does much good in respect to improving nutrition and developing good food habits for children in our care. Children are "guaranteed" nutritious breakfasts, snacks and lunches, and in return for our commitment to meet the program's regulations, the center is assured some financial support for the effort. Everyone benefits.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. Effective October 1, 1978, section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending September 30, 1979, and for each succeeding fiscal year through the fiscal year ending September 30, 1982, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain and expand non-profit food service programs for children in day care provided by any eligible sponsor that applies to initiate, maintain, or expand such a food service program.

"(b)(1) 'Sponsor' means any public or private non-profit organization which is administratively responsible for the food service of children in care in one or more non-residential sites.

"(2) 'Site' includes, but is not limited to, public or private non-profit day care centers, settlement houses, recreation centers, family day care homes, Headstart centers and sites providing day care services for handicapped children: *Provided*, that family day care homes shall be deemed to meet the requirements of this subsection through compliance with subsection (c)(2).

"(3) 'Adjusted semi-annually' means adjustments to payments for costs associated with meal service and commodities to the nearest one-fourth cent, effective every January 1 and July 1 of each fiscal year, to reflect cost changes in the series of food away from home of the Consumer Price Index for the most recent 6-month period ending in November and May, respectively, of each fiscal year.

"(c)(1) No site shall be eligible to participate in this program unless: (a) it has local, State or Federal licensing or approval or is reasonably complying with appropriate renewal procedures; or (b) its sponsor accepts referrals for placement from State or local agencies or (c) its sponsor accepts Federal, State or local governmental funds for program activities, including but not limited to funds under title XX, Headstart, Child Abuse Acts, or the Juvenile Protection Act, or (d) where State or local licensing or approval is unavailable, its sponsor can satisfy the Secretary that it has approved sites in accordance with the standards of its State. Where State standards are not available, those requirements established by the Secretary shall be met.

"(2) Family and group day care homes, at their option, may be administered by a sponsor which may be approved for funding under this section only if, under conditions established by the Secretary, such sponsor is in, or is moving toward, compliance with the requirements for tax exempt status under the Internal Revenue Code of 1954, or is currently operating, or is part of, a federally funded program requiring nonprofit status. Any eligible sponsor shall receive the child care food program upon its request.

"(3) A sponsor shall be notified in writing of approval or disapproval within 30 days after the date a completed application is filed with the designated State agency. If a sponsor submits an incomplete application, the State agency shall provide technical assistance to the institution for the purpose of assisting the sponsor in completing its application. The State agency shall provide, in accordance with regulations issued by the Secretary, a standard form of agreement for use between each sponsor, and its sites, specifying the rights and responsibilities of each party, and including cause for termination of agreement

"(4) The State agency shall provide, in accordance with regulations issued by the Secretary, for the granting of a fair hearing and a prompt determination to any sponsor or site aggrieved by the action of the State agency as it affects the participation of such sponsor or site in the program authorized by this section.

"(d)(1) For each fiscal year beginning with the fiscal year ending September 30, 1979, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State agency in an amount no less than the sum of the products obtained by multiplying the number of breakfasts, lunches, suppers, and snacks served to children in care by the payment rates for each meal type established by this Act to which the site or sponsor is determined to be eligible, which rates shall be adjusted semi-annually.

"(2) The rate of reimbursement each sponsor or site shall be entitled to receive shall be determined by the number of its participating children from families whose incomes meet the eligibility requirements for free and reduced-price meals, pursuant to section 9 of this Act. Where two-thirds or more of the participating children of a sponsor are eligible for free or reduced-price meals, the sponsor shall be reimbursed for each meal type served at the national average payment rates established for free meals; where one-third or more of the participating children are eligible for free or reduced-price meals, the sponsor shall be reimbursed for each meal type served at the national average payment rates established for reduced-price meals; where less than one-third of the participating children are eligible for free or reduced-price meals, the sponsor shall be reimbursed for each meal type served at the basic national average payment rate, *Provided*, That such sponsor may elect to claim reimbursement in accordance with the eligibility for free and reduced-price meals of each participating child. Reimbursement for meals provided under this section shall not be dependent upon the collection of moneys from participating children.

"(3) In lieu of maintaining records on the actual cost of the meal service, sponsors may elect, for all family and group day care homes under their jurisdiction, to utilize the flat cost of food service rates established by the Secretary, as adjusted semi-annually, or the appropriate national average payment rate, whichever is the lesser.

"(4) Sponsors which administer family and group day care homes shall receive, in addition, an amount for the cost of administering the program which amount shall be determined by the Secretary, taking into account the number of sites.

"(e) Meals served by sponsors participating in the program under this section shall consist of a combination of foods and shall meet requirements prescribed by the Secretary in accordance with section 9 of this Act. No sponsor shall be prohibited from serving a breakfast, lunch, dinner and/or snacks to each eligible child at appropriate times each full day.

"(f)(1) Funds paid to any State under this section shall be disbursed by the State agency to sponsors approved for participation on a non-discriminating basis to reimburse such institution for these costs in connection with food service operations, including labor and administrative claims.

"(2) Not later than the 1st day of each month the State agency shall forward advance program payments to each approved sponsor, who so requests, in the amount of 80% of the amount established by the State to be needed by such institution for meals to be served that month. The State agency shall forward any remaining payment due within 30 days following receipt of a valid claim. If the State agency has reason to believe that the claim is invalid, it shall so notify the sponsor within 10 working days after receipt. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance payment has been made, the subsequent month's advance project payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to sponsors that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State.

"(3) To improve program planning and expand participation, the State agency shall make available funds to sponsors in an amount prescribed by the Secretary in consideration of the size and type of program. Such funds shall not exceed three months', nor be less than one month's, anticipated administrative costs for the purpose of pre-implementation administrative activities. To receive such funds a potential sponsor must submit a preliminary application whose ap-

proval establishes sponsor's non-profit status, the anticipated number of children to be served, and the anticipated date of program implementation.

"(g) Irrespective of the amount of funds allocated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1493) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary to sponsors participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a participating sponsor, cash in lieu of commodities, in such amounts as may be provided in appropriations Acts) donated to each State for each fiscal year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served by participating sponsors during the fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 6 (e) of this Act: *Provided*, That where a sponsor receives a flat cost of food service rate, the provisions of this subsection shall apply.

"(h) If in a State the State agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any sponsor in the State, or does not operate the program in accordance with the requirements of this section, the Secretary shall disburse the funds so withheld directly to sponsors in the State for the same purpose and subject to the same conditions as are required of a State agency disbursing funds made available under this section.

"(i)(1) Of the sums allocated for any fiscal year pursuant to the authorization contained in this section, $6,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, non-food assistance to enable sponsors to purchase or repair equipment, other than land and buildings, for the storage, preparation, transportation and serving of food to enable such sponsors to establish, maintain, and expand the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $6,000,000. *Provided*, that such an apportionment shall be made according to the relative population among the States of the number of children below age 6, from households under 195% of the Secretary's poverty guidelines. The Secretary shall promulgate regulations authorizing the payment of monies pursuant to this subsection directly to the supplier in those instances where a sponsor has met all requirements for approval or licensing except for the food service equipment required by such licensing provision.

"(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such conditions shall not apply with respect to funds used under this section to assist sponsors determined by the State to be especially needy.

"(3) Each State agency shall establish eligibility criteria determining these sponsors which are especially needy for purposes of this section and shall make available those criteria to all sponsors within the State. Such eligibility criteria shall be submitted to the Secretary for approval and included in the State plan of child nutrition operation required by section 11 of this Act.

"(4) Within 30 days of notification by the Secretary to the State agency of the amount of funds available under this subsection, the State agency shall notify sponsors of the availability of such funds. The State agency shall act upon requests for funds under this subsection within 30 days of receipt of a completed request, and shall forward such funds within 30 days of approval.

"(j) State agencies participating in the program under this section shall provide sufficient training, technical assistance and monitoring to facilitate expansion and effective operation of programs under this section, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include notification to each non-participating licensed or approved sponsor annually within the State of the availability of the program, the requirements for participation and for receipt of food service equipment funds, and the procedures to be followed for application. The Secretary shall assist the States in the development of information and the provision of technical assistance necessary to fulfill the purposes of this section.

"(k) State agencies participating in the child care food program shall include in the State Plan of Child Nutrition Operations required by section 11 of this Act, (A) a listing of (i) the number of licensed, approved or registered day care centers, group homes or family day care homes within the State and the number of those receiving benefits under this section, or (if the State has no licensing or approval standards for day care centers or group and family day care homes), (ii) the number of such centers or homes meeting the Federal Interagency Day Care Requirements and the number of those receiving benefits under this section;

"(B) the number of day care centers or homes within the State receiving funds under Title XX of the Social Security Act and the number of those receiving benefits under this section ;(C) a narrative concerning the schedule of direct outreach, technical assistance and informational work that will be undertaken by State personnel to aid family and group day care homes to obtain sponsors and a narrative concerning the schedule of direct outreach, technical assistance and informational work that will be undertaken by State personnel to encourage day care centers and sponsors to obtain assistance pursuant to this section. Such direct outreach, technical assistance and informational work to be undertaken so that, to the maximum extent practicable, the child care food program reaches needy children in impoverished communities. The State agency shall certify that the names and addresses of day care centers, family day care homes, and sponsors are available for review in the office of the State agency.

"(l) An amount equal to one-half of one percent of program funds, in addition to program funds authorized under this section, shall be available to the Secretary for the purpose of conducting, on a trial basis in six States, pilot or experimental projects designed to: (1) identify the nature of licensing problems within States: (2) test alternative implementation mechanisms for licensure of eligible sponsors and sites; and (3) study the need for additional funds for State licensing purposes.

"(m) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act.

"(n) The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after the date of enactment of this Act."

ROUTINE MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business at this time, with statements therein limited to 10 minutes, the period for routine morning business not to exceed beyond 5 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON PROGRESS TOWARD A NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT—PM158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by Public Law 94-104, this report describes the progress that has been made during the past sixty days toward a negotiated settlement on Cyprus.

In my last such report to the Congress, submitted on January 20, I outlined the continuing efforts that we and other nations have been making, in both bilateral and international meetings, to promote an early resumption of productive negotiations between the two Cypriot communities. I stressed that resolute action was still required, but still expressed the belief that we were moving in the right direction.

Since that time there have been developments of potential significance for Cyprus. Very shortly after his assumption of office on January 5, Turkish Prime Minister Ecevit publicly announced his intention to deal promptly and decisively with the outstanding foreign policy issues confronting his nation, prime among them being Cyprus. Ecevit acknowledged that a Cyprus settlement would be in Turkey's own best interests. "We want to see a rapid solution in Cyprus," he declared in a January 9 interview, "not because the U.S. or other friendly countries want it, but because it will be for the benefit of all Cyprus and for the benefit of peace in the region." Subsequently, in both public state-

ments and private conversations, Prime Minister Ecevit said that he hoped negotiations between the communities would soon resume, and he declared that the Turkish side would submit concrete proposals on both the constitutional and territorial aspects of the issue.

United Nations Secretary General Waldheim visited Ankara, Athens, and Nicosia between January 8 and 18. The Secretary General was apparently encouraged by his conversations with President Kyprianou, Prime Ministers Ecevit and Caramanlis, and Turkish Cypriot leader Denktash, and afterwards said that it might be possible to reconvene the stalled Cyprus intercommunal talks sometime early in the spring.

My Administration has welcomed Prime Minister Ecevit's declared intention to move forward on the Cyprus issue, and we have expressed our readiness to give full support to the initiatives of the Secretary General. Secretary Vance stopped in Ankara and Athens on January 20–22, following a visit to the Middle East, and held very useful discussions on a number of subjects, including Cyprus. The Secretary returned from these discussions convinced that both the governments of Turkey and Greece earnestly desired to work toward a Cyprus settlement.

The Turkish Cypriots, assisted by the Government of Turkey, are now preparing detailed constitutional and territorial proposals that could serve as a basis for resumed intercommunal negotiations. Our understanding is that these proposals may be completed sometime in March, and that negotiations between the two communities could be resumed by the Secretary General sometime thereafter. Toward that end, the Administration has recently urged the Turkish Cypriot leadership and the government of Turkey to develop proposals that are sufficiently substantive and forthcoming to form a basis for genuine negotiation. We have at the same time encouraged the Government of Cyprus to regard the new Turkish proposals, together with the proposals tabled by President Makarios last year, as a basis for initiating a round of intensive, good-faith negotiations which can lead to a narrowing of differences.

I strongly hope that productive Cyprus negotiations will be reconvened very soon. I am sure that all who wish to see peace, justice, and stability in Cyprus and in the eastern Mediterranean share this hope.

JIMMY CARTER.

THE WHITE HOUSE, *March 23, 1978.*

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on March 21, 1978, he had approved and signed the following act:

S. 773. An act authorizing the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation, and for other purposes.

MESSAGE FROM THE HOUSE

At 10:46 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 9518. An act to amend the Shipping Act, 1916 to strengthen the provisions prohibiting rebating practices in the United States foreign trades.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 1:08 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes;

H.R. 9169. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 10982. An act to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974;

H.R. 11055. An act relating to the year for including in income certain payments under the Agriculture Act of 1949 received in 1978, but attributable to 1977, and to extend for one year the existing treatment of State legislators' travel expenses away from home;

H.R. 11518. An act to extend the existing temporary debt limit; and

H.J. Res. 796. A joint resolution making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 9518. An act to amend the Shipping Act, 1916 to strengthen the provisions prohibiting rebating practices in the United States foreign trades; to the Committee on Commerce, Science, and Transportation.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3145. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, revised budget estimates, March 1978; to the Committee on the Budget and the Committee on Appropriations, jointly, pursuant to order of January 30, 1975.

EC–3146. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to amend title 10, United States Code, to eliminate the annual reports on Reserve Forces; to the Committee on Armed Services.

EC–3147. A communication from the Chairman, Securities Investor Protection Corporation, transmitting its annual report for 1977; to the Committee on Banking, Housing, and Urban Affairs.

EC–3148. A communication from the Director, Congressional Budget Office, transmitting, for the information of the Senate, a statement made before the Subcommittee on Legislative Appropriations, Committee on Appropriations; to the Committee on the Budget.

EC–3149. A communication from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission has granted extensions of the two-year statutory time period within which the railroads are required to transfer general rate increases from separate master tariffs into their basic rate tariffs; to the Committee on Commerce, Science, and Transportation.

EC–3150. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the activities of the Department of Commerce during fiscal year 1977; to the Committee on Commerce, Science, and Transportation.

EC–3151. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the authorization for appropriations to carry out the Endangered Species Act of 1973; to the Committee on Environment and Public Works.

EC–3152. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on the Voluntary Agreement and Plan of Action to Implement the International Energy Program; to the Committee on Energy and Natural Resources.

EC–3153. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Act of June 27, 1960 (74 Stat. 220) as amended by Act of May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) relating to the preservation of historical and archeological data; to authorize appropriations under section 3(b) and 4(a) for fiscal years 1979 and 1980, and for other purposes; to the Committee on Energy and Natural Resources.

EC–3154. A communication from the Acting Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Progress in the Prevention and Control of Air Pollution in 1977"; to the Committee on Environment and Public Works.

EC–3155. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

EC–3156. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes; to the Committee on Environment and Public Works.

EC–3157. A communication from the Assistant Secretary, Legislative Affairs, Department of the Treasury, transmitting, pursuant to law, evaluation reports prepared by the International Bank for Reconstruction and Development; to the Committee on Foreign Relations.

EC–3158. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, justification of an increase in the fund-

ing level of a proposed FY 1978 program in Educador; to the Committee on Foreign Relations.

EC–3159. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, an increase in the funding level of a proposed FY 1978 program in Cape Verde; to the Committee on Foreign Relations.

EC–3160. A communication from the Mayor, the District of Columbia, transmitting, pursuant to law, the annual report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1977; to the Committee on Governmental Affairs.

EC–3161. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Condominium Homeownership Opportunities Could Be Increased," March 21, 1978; to the Committee on Governmental Affairs.

EC–3162. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Navigation Planning—Need For A New Direction," March 21, 1978; to the Committee on Governmental Affairs.

EC–3163. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Informing the Public About Nutrition: Federal Agencies Could Do Better," March 22, 1978; to the Committee on Governmental Affairs.

EC–3164. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the Navy's Ocean Mine Countermeasures Program; to the Committee on Governmental Affairs.

EC–3165. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the Army's Hellfire Air-to-Surface Missile Program; to the Committee on Governmental Affairs.

EC–3166. A communication from the Chairman, Tennessee Valley Authority, transmitting, pursuant to law, an annual report of the TVA for calendar year 1977; to the Committee on Governmental Affairs.

EC–3167. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on whether the Army should proceed with full-scale production of three electronic warfare sub-systems before performing a comprehensive analysis of their cost and operational effectiveness; to the Committee on Governmental Affairs.

EC–3168. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report on the recommendations of the Presidential Advisory Committee, on "Equity of Access: Continuing Education and the Part-time Student," and "Program Evaluation, Title I of the Higher Education Act"; to the Committee on Governmental Affairs.

EC–3169. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Direction Needed for Educating Handicapped Children in State Schools," Department of Health, Education, and Welfare, March 16, 1978; to the Committee on Governmental Affairs.

EC–3170. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Making Future Transportation Decisions: Intermodal Planning Needed," March 16, 1978; to the Committee on Governmental Affairs.

EC–3171. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Stronger Federal Aviation Administration Requirements Needed to Identify and Reduce Alcohol Use Among Civilian Pilots," March 20, 1978; to the Committee on Governmental Affairs.

EC–3172. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on February 21, 1978, which would amend the Air Quality Control Regulations of the District of Columbia relating to particulate emissions from fuel-burning equipment (Act 2–158); to the Committee on Governmental Affairs.

EC–3173. A communication from the Director, Agency for Volunteer Service, transmitting a draft of proposed legislation to amend the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Human Resources.

EC–3174. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period March 1 through March 15, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification; to the Committee on the Judiciary.

EC–3175. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order in the case of an alien who has been found admissible to the United States; to the Committee on the Judiciary.

EC–3176. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the implementation of the Freedom of Information Act; to the Committee on the Judiciary.

EC–3177. A communication from the Chairman, Tennessee Valley Authority, transmitting, pursuant to law, a report relative to the implementation of the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC–3178. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to the implementation of the Freedom of Information Act; to the Committee on the Judiciary.

EC–3179. A communication from the Director, Office of Procurement Management, Procurement and Contracts Management Directorate, Department of Energy, reporting, pursuant to law, actions taken during calendar year 1977; to the Committee on the Judiciary.

EC–3180. A communication from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation entitled "Veteran's Disability Compensation and Survivor Benefits Act of 1978"; to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM–542. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT MEMORIAL NO. 115

"Whereas, gasohol is a fuel mixture of 10 percent anhydros ethanol and 90 percent unleaded gasoline, and is currently in developmental stages; and

"Whereas, tests have shown that this mixture is capable of increasing the octane rating of the original gasoline, increasing the volume, increasing the mileage compared to the original unleaded fuel, and emitting fewer pollutants when in use; and

"Whereas, gasohol is produced through the use of wheat, barely, potatoes, sugar beets, wood and wood by-products, and tests have shown that the process works equally well even when such products are wet, mouldy, distressed or of low grade; and

"Whereas, valuable by-products of the gasohol process include extracts of food protein which may be developed for human consumption; and

"Whereas, gasohol represents a unique opportunity for an agricultural economy such as the State of Idaho to develop a viable alternative to increasing dependence upon foreign oil; and

"Whereas, a federal test program is now under consideration by the Congress of the United States, and it is in the best interests of the citizens of the State of Idaho that the State should be considered for participation in such a program.

"Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that, acting on behalf of the people of the State of Idaho, we endorse the concept of further development of gasohol, and submit that the State of Idaho should be actively considered in the placement of future pilot gasohol projects. Such a program is ideally designed for a state such as Idaho, and this is an opportunity for the State to assist in development of a product for the benefit of all citizens of this nation.

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to Robert S. Bergland, Secretary of the Department of Agriculture, the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

POM–543. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Agriculture, Nutrition, and Forestry:

"ENROLLED JOINT RESOLUTION NO. 4

"Whereas, American family farmers and ranchers have historically been and are today the most efficient food and fiber producers in the world; and

"Whereas, American farmers have lost equity and enormous sums of money in the last four (4) years due to depressed prices for agricultural products; and

"Whereas, more than twenty-five percent (25%) of American farmers will be forced to either liquidate or to refinance in the year 1978; and

"Whereas, as American farmers are forced to liquidate, ownership of agricultural land thereby jeopardizing the future of the American family farm system; and

"Whereas, parity pricing does not mean a guaranteed income but rather a fair price against which all of the risks and costs of food production will still apply; and

"Whereas, the American family farm system faces an economic crisis unprecedented in American history; and

"Whereas, the agricultural community represents less than four percent (4%) of the nation's population and Wyoming is a rural state in whose best interest it is to have a strong, stable agricultural economy; and

"Whereas, the Governor of Wyoming recognizes the economic disaster engulfing agricultural free enterprise.

"Now therefore, be it resolved by the legislature of the State of Wyoming, that this Legislature supports agriculture;

"It is further resolved that all agricultural products produced for national and international use or food reserves be contracted at a level of commodity pricing that will provide American agricultural producers a rea-

sonable opportunity to maintain a viable, economic enterprise;

"It is further resolved that an Agricultural Policy Advisory Committee be created representing a cross-section of American agricultural producers which will participate in the formulation of policies that affect agriculture;

"It is further resolved that a national policy be developed that will discourage the use of imported agricultural products until the price of agricultural products in the United States reaches a level of commodity pricing that will provide American agricultural producers a reasonable opportunity to maintain a viable, economic enterprise and that subsequent imports be limited only to the amount that American producers cannot supply;

"It is further resolved that copies of this resolution be transmitted by the Secretary of State to the President of the United States, to the United States Secretary of Agriculture and to the presiding officers of each House of the Congress of the United States and to each Senator and Representative of the state of Wyoming."

POM–544. A resolution adopted by the City Council of the City of Stow, Ohio, urging Senate approval of a $250,000,000 appropriation from the Federal Highway Trust Fund; to the Committee on Appropriations.

POM–545. A concurrent resolution adopted by the Legislature of the State of Kentucky; to the Committee on Armed Services:

"CONCURRENT RESOLUTION

"Whereas, according to the present military code, medical and dental benefits for retired military personnel and their families are not required but instead permitted, upon request and subject to the availability of space and facilities and the capabilities of the medical and dental staff; and

"Whereas, military personnel are under a false conception concerning medical and dental benefits, after the time of retirement; and

"Whereas, present monetary compensation and promotion are not sufficient incentive to attract adequate medical personnel toward military service;

"Now, therefore, be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

"SECTION 1. That the Congress of the United States is hereby respectfully requested to enact legislation which will require and regulate medical and dental benefits for retired military personnel and their families.

"SEC. 2. That champus benefits be raised to cover one hundred percent (100%) of medical and dental expenditures of both active and retired members of military service.

"SEC. 3. That the Congress of the United States deregulate promotions of medical oriented personnel in order to induce voluntary service.

"SEC. 4. That the Clerk of the House of Representatives be and hereby is directed to send a copy of this resolution to each member of the Kentucky Congressional delegation and to the appropriate authorities in the U.S. House of Representatives and Senate."

POM–546. A concurrent memorial adopted by the Legislature of the State of Arizona; to the Committee an Armed Services:

"HOUSE CONCURRENT MEMORIAL 2002

"Whereas, the depressed copper market situation in Arizona has resulted in widespread layoffs in this State, reaching a peak of approximately eight thousand workers in September 1977; and

"Whereas, it is estimated that two thousand to three thousand of these workers will not be recalled at all; and

"Whereas, some three thousand five hundred additional jobs linked to the copper layoffs and delayed mine openings could also be lost; and

"Whereas, the projected loss of personal income in this State resulting from the copper crisis could reach over one hundred million dollars; and

"Whereas, the loss of personal income adversely affects retail trade and tax revenues in this State; and

"Whereas, the closure of mining activities and the layoff of thousands of copper industry employees constitute a serious threat to the local economies of several Arizona communities; and

"Whereas, the degree to which the towns will be able to weather the crisis depends on how quickly the mines recover; and

"Whereas, the mining industry has often been called the workhorse of the Arizona economy; and

"Whereas, Arizona alone supplies over half of the newly mined copper in the United States annually; and

"Whereas, the United States copper industry is facing increasing competition from foreign producers who often operate on government subsidies; and

"Whereas, the demand for copper on the world market has fallen sharply; and

"Whereas, environmental regulations in the United States add significantly to the costs of operating the mines in Arizona. Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the President and the Congress of the United States authorize and implement the purchase and stockpiling of sufficient quantities of copper to remedy the current situation.

"2. That the President and the Congress of the United States consider the imposition of an environmental tariff on foreign producers who are not required to meet high pollution control standards and attendant costs.

"3. That the President and the Congress of the United States take all other appropriate and necessary steps to restore economic health to the ailing copper industry.

"4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM–547. A resolution adopted by the City Council of the City of Philadelphia, Pennsylvania, urging funds to the Philadelphia Housing Authority sufficient to bring the Housing Authority projects in Philadelphia up to acceptable housing and living standards; to the Committee on Banking, Housing, and Urban Affairs.

POM–548. A resolution adopted by the Legislature of the State of Connecticut; to the Committee on Commerce, Science, and Transportation:

"SENATE RESOLUTION NO. 12

"Whereas, the National Weather Service has proposed closing down the Stratford Weather Station at Sikorsky Airport; and

"Whereas, when the New Haven weather bureau was shut down, despite strong objections from the public, the Service assured community leaders that the Long Island Sound region would be more than adequately served by the Stratford Station; and

"Whereas, it is crucial for navigators on Long Island Sound to be able to rely on accurate weather information, considering that the many sudden changes in New England weather can mean destruction for small boats, and that neither the Bradley Station in Windsor Locks nor the Kennedy Station in New York City can adequately do the job; and

"Whereas, New England weather, including Connecticut's, in a phenomenon unmatched in most regions in the United States, changes drastically within short distances, making it necessary for fuel dealers in making their deliveries to be able to measure degree days in small areas; and

"Whereas, abandoning those who depend upon accurate weather information in the Long Island Sound region is not justified by an annual savings of $173,170.00;

"Now, therefore, be it resolved, that the members of this Senate unite in requesting the Congress of the United States to continue to fund and maintain the Stratford Weather Station at Sikorsky Airport in Stratford, Connecticut.

"Be it further resolved, that the Clerk of the Senate shall cause a copy of this resolution to be sent to the Speaker of the United States House of Representatives, the President of the United States Senate and to the President of the United States of America."

POM–549. A petition from the Village of Riverside, Illinois, regarding the joint House-Senate negotiations involving the preparation of federal legislation regarding the elimination of gas lights throughout the country; to the Committee on Energy and Natural Resources.

POM–550. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Environment and Public Works:

"HOUSE CONCURRENT RESOLUTION NO. 16

"Whereas, the State of Indiana and the Federal Highway Administration entered into three agreements during the early 1960's that public funds would be used to build three toll road interchanges built in connection with the construction of the Interstate Highway System and that the toll road would become a free road when the last toll road bond, in existence of that time, is redeemed; and

"Whereas, The toll road bonds may be redeemed as early as 1984 which would require the toll road to become a part of the Interstate Highway System and a part of the state highway system free of all tolls; and

"Whereas, The cost of bringing the toll road up to federal standards for the Interstate Highway System and the cost of maintaining the 157 miles of toll road will reduce the amount of money available to the Highway Commission to maintain and operate the existing 12,000 miles of state highways; and

"Whereas, Current trust agreements entered into between the Toll Road Commission and the Trustees for the Bondholders make it impossible to construct a significant number of new interchanges needed to provide Indiana highway users with access to the toll road prior to the abandonment of the toll road facility to the state; and

"Whereas, Congress must take action before steps can be taken by the State of Indiana to retain tolls as a means of financing improvements to and maintenance of this 157-mile superhighway which provides the nation with a vital link between Chicago and the eastern seaboard states: Therefore, Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

"SECTION 1. That the United States Congress is memorialized to enact legislation which will permit the Indiana Toll Road to continue to collect a level of tolls adequate to bring the toll road up to current Interstate Highway System standards, to construct additional interchanges to make the highway more useful to the citizens of Indiana, and to maintain the toll road facility in a condition that will properly serve the transportation needs of the nation in moving persons and goods through America's east and west corridors.

SEC. 2. That the Principal Clerk of the House of Representatives is directed to transmit immediately, copies of this resolution to the presiding officers of the Congress of the United States and to the members of Congress elected to serve the citizens of the State of Indiana."

POM-551. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION—SENATE No. 95

"Whereas, The New York State Legislature by Chapter 701 of the Laws of 1974 directed the St. Lawrence-Eastern Ontario Commission to analyze the problem of controlling the water levels of Lake Ontario and the St. Lawrence River; and

"Whereas, The St. Lawrence-Eastern Ontario Commission has forwarded to the Legislature a report which contains the following major findings:

"That criteria established by the International Joint Commission in their Orders of Approval dated October twenty-ninth, nineteen hundred fifty-two, as amended, should be reexamined in the light of the passage of time and changes in Great Lakes Basin precipitation rates experienced over the past twenty-five years.

"That lack of implementation of flood plan management techniques has allowed development in areas considered hazardous with or without lake level regulation, and in consequence substantial and widespread losses of developed properties have been experienced.

"That many reparian developments and productive natural resource areas of the New York portion of the Lake Ontario shoreline do not lend themselves to protection by structural measures alone; and

"Whereas, Serious questions have been raised relative to the equity of the current method of implementing the control plan for the Great Lakes Basin System; the representation on the board setting control policy; and the technical soundness of the control plan itself; and

"Whereas, Flood plan management has not been effectively implemented in the past as evidenced by the twenty-five million dollars damage reported on the United States portion of Lake Ontario during the storm of March eighteenth and nineteenth, nineteen hundred seventy-three; and

"Whereas, Of the twenty-five million dollars in damages, approximately nineteen million dollars was reimbursed to riparian interests by the Small Business Administration in the form of nonrepayable loans (public funds); and

"Whereas, Official projections indicate that the water level of Lake Ontario will exceed the highest planned level under plan 1958-d by June of nineteen hundred seventy-eight; and

"Whereas, In the past this level, in concert with storm surges, has produced major damage to the shorelines of Lake Ontario and the St. Lawrence River; now, therefore, be it

"Resolved, That the Congress of the United States be and hereby is respectfully memorialized to enact legislation and do all of the things necessary to (a) initiate joint efforts between the United States and Canada to determine more satisfactory ways to manage the combined flow of the St. Lawrence and Ottawa Rivers to afford protection to the Lake Ontario-St. Lawrence shoreline; (b) place representation of riparian owners on the International St. Lawrence River Board of Control; (c) provide funds to the International Joint Commission to promote a program of data collection and analysis and to reevaluate plan 1958-d and the criteria underlying it in terms of providing additional flexibilities of the plan's operation in order that damages sustained may be reduced; and (d) initiate studies to evaluate the social costs and benefits of alternatives to structural protection to include but not be limited to:

"(1) purchase of hazardous areas and/or development easements on such areas by governmental agencies; and (2) relocation of existing development to complement the objectives of the existing flood insurance program; and be it further

"Resolved, That suitably engrossed copies of this resolution be transmitted to the President of the Senate of the United States, to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to each Member of the Congress of the United States from the State of New York."

POM-552. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 78

"Whereas, for over six decades through two world wars and an intense civil war to hold back communism, Greece has been a fighting ally and friend of the United States, and is now an indispensable ally and the symbol of democratic government in Eastern Europe; and

"Whereas, Greece is essential to the security of the United States and the Free World in the Mediterranean area and is essential for the safeguarding of the American Sixth Fleet in the Mediterranean; and

"Whereas, Turkey has attacked, seized and continues to occupy the independent island nation of Cyprus, by illegal use of United States supplied military weapons in violation of the United States Foreign Military Assistance and Sales Acts, and in violation of the Charter of the North Atlantic Treaty Organization and in repeated and flagrant violation of four United Nation Resolutions; and

"Whereas, the humanitarian crisis on Cyprus, involving two hundred thousand Cypriot refugees, grows increasingly more desperate, as the prospects for a negotiated settlement dim; and

"Whereas, President Carter has declared that United States foreign policy shall be committed to the protection of human rights; and

"Whereas, the President has proceeded to withdraw United States aid from nations, such as Turkey, which have persisted in violations of human rights; now, therefore, be it

"Resolved by the Senate of Virginia, the House of Delegates concurring, That the General Assembly of Virginia urges the President and the Congress of the United States to exert their best efforts towards a just resolution of the Cyprus conflict, to effectuate a removal of all foreign troops from Cyprus, to restore the two hundred thousand suffering Cypriot refugees to their homes, and to restore to the people of Cyprus the right of self-determination; and, be it

"Resolved further, That the General Assembly of Virginia urges the President and the Congress of the United States to give generous support to the Cypriot refugees, and to continue to support Greece by annual aid authorizations and to continue the embargo on arms to Turkey until such time as Turkey acts to resolve the Cyprus conflict; and, be it.

"Resolved finally, That the Clerk of the Senate is hereby instructed to send copies of this resolution to the President of the United States, to the presiding officer of each House of Congress of the United States and to each Senator and Representative from Virginia in the Congress of the United States that they may be apprised of the sense of this body."

POM-553. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Foreign Relations:

"SENATE JOINT MEMORIAL No. 116

We, your Memorialists, the Senate and House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-fourth Idaho Legislature, do hereby respectfully represent that:

"Whereas, the Republic of China was a founding member of the United Nations and has always been a law abiding member of the community of nations; and

"Whereas, the people of the Republic of China have built a successful, prosperous, free economy out of the ashes of a half century of revolution, invasion and civil war and now serve as an important trading partner of the American people: and

"Whereas, the Republic of China is of great strategic importance in the defense of east Asia and the Pacific and had always utilized its military power in the interests of the free world; and

"Whereas, the people of the Republic of China have been among the most trusted friends and allies of the people of the United States since the founding of the Chinese Republic in 1912; and

"Whereas, President Jimmy Carter has repeatedly stated that he will pursue an open and just foreign policy, based on morality; and

"Whereas, President Jimmy Carter has also repeatedly stated that he will not compromise the freedom and security of the people of the Republic of China and will stand by the United States commitments to that country.

"Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that this body strongly endorses the positions of President Jimmy Carter as stated above.

"Be it further resolved that the Government of the United States and the Congress are strongly urged to maintain diplomatic relations and the mutual defense treaty with the Republic of China.

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, Jimmy Carter, Secretary of State, Cyrus R. Vance, the Ambassador of the Republic of China to the United States, and to the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

POM-554. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION—SENATE No. 95

"Whereas, The New York State Legislature by Chapter 701 of the Laws of 1974 directed the St. Lawrence-Eastern Ontario Commission to analyze the problem of controlling the water levels of Lake Ontario and the St. Lawrence River; and

"Whereas, The St. Lawrence-Eastern Ontario Commission has forwarded to the Legislature a report which contains the following major findings:

"That criteria established by the International Joint Commission in their Orders of Approval dated October twenty-ninth, nineteen hundred fifty-two, as amended, should be reexamined in the light of the passage of time and changes in Great Lakes Basin precipitation rates experienced over the past twenty-five years.

"That lack of implementation of flood plan management techniques has allowed development in areas considered hazardous with or without lake level regulation, and in consequence substantial and widespread losses of developed properties have been experienced.

"That many riparian developments and productive natural resource areas of the New York portion of the Lake Ontario shoreline do not lend themselves to protection by structural measures alone; and

"Whereas, Serious questions have been raised relative to the equity of the current method of implementing the control plan for the Great Lakes Basin System; the representation on the board setting control policy; and the technical soundness of the control plan itself; and

"Whereas, Flood plan management has not been effectively implemented in the past as evidenced by the twenty-five million dollars damage reported on the United States portion of Lake Ontario during the storm of March eighteenth and nineteenth, nineteen hundred seventy-three; and

"Whereas, Of the twenty-five million dollars in damages, approximately nineteen million dollars was reimbursed to riparian interests by the Small Business Administration in the form of nonrepayable loans (public funds); and

"Whereas, Official projections indicate that the water level of Lake Ontario will exceed the highest planned level under plan 1958–d by June of nineteen hundred seventy-eight; and

"Whereas, In the past this level, in concert with storm surges, has produced major damage to the shorelines of Lake Ontario and the St. Lawrence River; now, therefore, be it

"Resolved, That the Congress of the United States be and hereby is respectfully memorialized to enact legislation and do all of the things necessary to (a) initiate joint efforts between the United States and Canada to determine more satisfactory ways to manage the combined flow of the St. Lawrence and Ottawa Rivers to afford protection to the Lake Ontario-St. Lawrence shoreline; (b) place representation of riparian owners on the International St. Lawrence River Board of Control; (c) provide funds to the International Joint Commission to promote a program of data collection and analysis and to reevaluate plan 1958–d and the criteria underlying it in terms of providing additional flexibilities of the plan's operation in order that damages sustained may be reduced; and (d) initiate studies to evaluate the social costs and benefits of alternatives to structural protection to include but not be limited to:

"(1) purchase of hazardous areas and/or development easements on such areas by governmental agencies; and (2) relocation of existing development to complement the objectives of the existing flood insurance program; and be it further

"Resolved, That suitably engrossed copies of this resolution be transmitted to the President of the Senate of the United States, to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to each Member of the Congress of the United States from the State of New York."

POM–555. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION—SENATE No. 83, ASSEMBLY No. 73

"Whereas, it is the avowed foreign policy of the United States of America to encourage worldwide respect for the human rights of all citizens of the world; and

"Whereas, the Government of the United Kingdom has been found guilty of repeated violations of the human rights of Irish political prisoners in its occupation of northeastern Ireland by the European Commission on Human Rights at Strasbourg; and

"Whereas, the continuing tragic conflict in those six of divide Ulster's nine counties known as "Northern Ireland" poses an undeniable threat to the peace, stability, and security of the North Atlantic community of nations as well as being a continuous source of complaints regarding the violation of basic human rights; and

"Whereas, The Congress and Government of the United States of America, in keeping with the expressed goals of American foreign policy, have a lawful need to be apprised of all facts attendant upon alleged instances of human rights violations; now, therefore, be it

"Resolved, That this Legislative Body does hereby memorialize the Congress of the United States to hold forthwith formal legislative and investigative hearings on the subject of alleged human rights violations in British-occupied northeastern Ireland; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, the Chairman of the Senate Foreign Relations Committee, the Chairman of the House Committee on International Relations, and to the Members of the United States Senate and the House of Representatives from the State of New York."

POM–556. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION—SENATE No. 116

"Whereas, President Jimmy Carter during his 1976 campaign for the Presidency uttered scathing attacks against then-President Ford's alleged lack of full support for Israel and vowed that, if elected, he would exert the influence of his office and his personal and full support and effort to the survival and perpetuation of the democratic Government of Israel; and

"Whereas, President Carter, at this point in time, apparently marches to a different drummer as manifested by his recent decision to sell fifty short-range fighters to Egypt and sixty F–15 fighters to Saudi Arabia which decision is an affront, indeed, to the principle that Israel's integrity as a free democratic nation must not be imperiled; and

"Whereas, This paradoxical decision of the President, a chilling one, indeed, bodes no good for the nations of the Middle East, particularly Israel and is an embarrassment which will outrage a large proportion of the people of this State of every political persuasion; and

"Whereas, It is the sense of this Legislative Body that it ought to express its outrage at this decision of President Carter which this Body feels is an expression of the mind of the great majority of the people of this State and urge the President to overrule his judgment in making such an improvident and dangerous decision to arm the avowed and ancient enemies of a friendly nation; now, therefore, be it

"Resolved, That this Legislative Body memorializes the Congress of the United States to veto the decision of President Carter to sell fifty short-range fighter planes to Egypt and sixty F–15 fighters to Saudi Arabia thereby eliminating the clear and present danger that this decision creates to the sovereign State of Israel; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President Pro Tempore of the Senate of the United States; to the Speaker of the House of Representatives of the United States; and to each member of the Congress of the United States from the State of New York."

POM–557. A resolution adopted by the Legislature of the State of New York; to the Select Committee on Indian Affairs:

"LEGISLATIVE RESOLUTION—SENATE No. 78, ASSEMBLY No. 72

"Whereas, The claims of aboriginal title of the Cayuga, Oneida, and St. Regis Mohawk Indians in New York State encompass 300,000 acres of privately owned and public lands in the counties of Seneca, Cayuga, Madison, Oneida, Franklin and Clinton; and

"Whereas, These claims are based on the federal Non-Intercourse Act of 1790, which legislation should not be considered as reasonable or just criteria for the dispossession of land settled and held in title by thousands of New York State residents for almost two centuries; and

"Whereas, the State of New York made agreements and treaties with the Indian nations of New York State after 1790 in good faith, acting according to sovereignty granted under their colonial charters and later according to well-established federal policy of moving the Indians westward; and

"Whereas, During the period 1781–1794, the State of New York issued parcels of what is now disputed land to Revolutionary War soldiers in the form of Land Bounty Rights as payment for service in the Revolutionary War, this land being subsequently settled and in some cases sold by these men and their families in good faith as to their title; and

"Whereas, Throughout the history of New York State the welfare of the Indian nations of New York has been actively and willingly supported through State funds for education, social services, health and other benefits; and

"Whereas, New York State settled the land claims of the Cayuga nation in 1930 by an agreement made by then Governor Franklin D. Roosevelt with the Cayuga nation, whereby the Indians would receive an annual payment of five percent interest on a principal amount of $145,121.66 for the relinquishment of their claims to lands; and

"Whereas, If Indian land claims are left unsettled, serious economic ramifications could result in the counties affected; and

"Whereas, If Indian land claims are left to long-term litigation, there may be a negative impact on residents in the affected areas because of their inability to sell, mortgage, devise and lease real property and the expenses of litigation; and

"Whereas, The relinquishment of title to the Indians of New York State's public land within the claims area would deny New York residents the collective enjoyment of these lands and also may call into question areas designated as forever wild by the State Constitution; now, therefore, be it

"Resolved, That this Legislative Body hereby memorializes the President and the Congress, of the United States, to provide relief to the private landowners and the people of the State who enjoy the use of public lands of the State; and be it further

"Resolved, That this Legislative Body urges the President and the Congress, of the United States, to act in a speedy manner to develop, draft and effect a legislative settlement of the Indian land claims agreeable to all parties as an alternative to litigation; and be it further

Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the House of Representatives and to each member of Congress of the United States from the State of New York."

POM–558. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on the Judiciary:

"ENROLLED JOINT RESOLUTION No. 3

"Whereas, on September 25, 1789 the Congress of the United States offered to the

states for ratification a proposed amendment to the Constitution of the United States to require an intervening election of Representatives before any increase in compensation accrues to Senators or Representatives; and

"Whereas, the Congress of the United States, upon proposing that amendment, did not place any time limitation on its final adoption; and

"Whereas, in view of recent pay increases for Congressmen, which were effected without a vote of the Congress and provided immediate benefits; and

"Whereas, in view of recent increases in pension benefits for members of the United States Home of Representatives retiring this year, which was authorized with no debate and no record vote; and

"Whereas, the percentage increase in direct compensation and benefits was at such a high level, as to set a bad example to the general population at a time when there is a prospect of a renewal of double-digit inflation; and

"Whereas, increases in compensation and benefits to most citizens of the United States are far behind these increases to their elected Representatives; and

"Whereas, the states of Delaware, Maryland, North Carolina, South Carolina, Vermont and Virginia have already voted for ratification of this amendment.

"'Joint resolution resolved by the Senate and House of Representatives of the United States in Congress assembled, (Two-thirds of both Houses deeming it necessary), that the following articles be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, when ratified by three-fourths of said Legislatures, to be valid to all intents and purposes as part of the said Constitution.

"'ARTICLE

"'SECTION 1. No law varying the compensation for the services of Senators and Representatives shall take effect until an election of Representatives shall have intervened.'

"Be it resolved by the Legislature of the State of Wyoming, a majority of all members of the two houses, voting separately, concurring therein:

"SECTION 1. That the above proposed amendment to the Constitution of the United States of America is ratified by the Legislature of the State of Wyoming.

"SEC. 2. That certified copies of this Resolution be forwarded by the Governor of Wyoming to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

POM–559. A concurrent resolution adopted by the Legislature of the State of Kentucky; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION

"Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

"SECTION 1. That the Congress of the United States be, and hereby is, requested to call a convention for the sole purpose of proposing the following article as an amendment to the Constitution of the United States:

"ARTICLE

"Section 1. With respect to the right to life, the word person as used in this article and in the Fifth and Fourteenth Articles of Amendment to this Constitution applies to all human beings irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

"Section 2. No unborn person shall be deprived of life by any person, provided, however, that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"Section 3. The Congress and the several states shall have the power to enforce this article by appropriate legislation.

"SECTION 2. That this application by the General Assembly of the Commonwealth of Kentucky constitutes a continuing application, in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications.

"SECTION 3. That a duly attested copy of this resolution be immediately transmitted by the Clerk of the House of Representatives to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, to each member of Congress from this Commonwealth, and to each house of each state legislature in the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2802. An original bill to amend the Truth in Lending Act to facilitate compliance by simplifying the requirements imposed under that Act, to facilitate administrative enforcement of that Act, and for other purposes (together with additional views) (Rept. 95–720).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 1568. A bill to name the lake located behind Lower Memorial Lock and Dam, Washington, "Lake Herbert G. West, Senior" (Rept. No. 95–721).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, with amendments:

H.R. 7744. An act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise and for other purposes (together with additional views) (Rept. No. 95–722).

By Mr. SASSER, from the Committee on Governmental Affairs, with amendments:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes (Rept. No. 95–723).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

The following-named persons to be Members of the National Council on the Arts:

Theodore Bikel, of Connecticut;
Maureen Dees, of Alabama; and
Jacob Lawrence, of Washington.

(The nominations from the Committee on Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duty constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STEVENS (for himself and Mr. WALLOP):

S. 2793. A bill to provide for appellate review of decisions of the High Court of American Samoa; to the Committee on the Judiciary.

By Mr. GARN:

S. 2794. A bill for the relief of Fred W. Sloat of Salt Lake City, Utah; to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 2795. A bill to establish a set-aside program for potatoes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FORD (for himself and Mr. MAGNUSON):

S. 2796. A bill to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CURTIS:

S. 2797. A bill to authorize the establishment of the Trails West National Historical Park in the States of Nebraska and Wyoming, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROOKE:

S. 2798. A bill to amend section 8 of the United States Housing Act of 1937 to provide annual contributions to finance the rehabilitation of housing occupied by lower income homeowners in order to assist and encourage the rehabilitation of such housing in connection with neighborhood rehabilitation programs; to the Committee on Banking, Housing, and Urban Affairs.

S. 2799. A bill to authorize the Secretary of Housing and Urban Development to implement a demonstration program to provide increased security for public housing projects, and otherwise ensure the safety and well-being of public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROOKE (for himself and Mr. CRANSTON):

S. 2800. A bill to amend Federal laws pertaining to certain federally subsidized and non-subsidized multifamily housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS:

S. 2801. A bill to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building"; to the Committee on Environment and Public Works.

By Mr. RIEGLE (from the Committee on Banking, Housing, and Urban Affairs):

S. 2802. A bill to amend the Truth in Lending Act to facilitate compliance by simplifying the requirements imposed under that Act, to facilitate administrative enforcement of that Act, and for other purposes. Original bill reported and placed on the calendar.

By Mr. PERCY:

S. 2803. A bill for the relief of the State of Illinois; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2804. A bill to expand the licensing and related regulatory authority of the Nuclear Regulatory Commission for certain specified

activities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. CHILES):

S. 2805. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes; to the Committee on Human Resources.

S. 2806. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against an employer's liability for withholding income tax on wages paid to his employees based upon the employment of individuals certified for hourly employment benefits under the Comprehensive Employment and Training Act of 1973; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. HART):

S. 2807. A bill to amend the Bilingual Education Act, and for other purposes; to the Committee on Human Resources.

By Mr. DOLE:

S. 2808. A bill to amend the Internal Revenue Code of 1954 to allow an individual a credit against tax equal to 20 percent of the social security taxes paid by that individual during the taxable year, and for other purposes; to the Committee on Finance.

S. 2809. A bill to amend the National School Lunch Act in order to revise the Child Food Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (by request):

S. 2810. A bill to amend section 23A of the Federal Reserve Act to revise the restrictions on transactions between banks and their affiliates; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Mr. JAVITS, Mr. PERCY, Mr. CHAFEE, Mr. LUGAR, and Mr. STEVENS):

S. 2811. A bill to amend the Internal Revenue Code of 1954 to provide permanent reductions in individual taxes; to the Committee on Finance.

S. 2812. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for social security taxes paid by an individual; to the Committee on Finance.

S. 2813. A bill to amend the Internal Revenue Code of 1954 to provide a permanent reduction in corporate taxes; to the Committee on Finance.

S. 2814. A bill to amend the Internal Revenue Code of 1954 to stimulate long-term investment in depreciable equipment; to the Committee on Finance.

S. 2815. A bill to amend the Internal Revenue Code of 1954 to increase the class life variance for depreciation purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. WALLOP):

S. 27.93. A bill to provide for appellate rewiew of decisions of the High Court of American Samoa; to the Committee on the Judiciary.

(The remarks of Mr. STEVENS when he introduced the bill appear earlier in today's proceedings.)

By Mr. HATHAWAY:

S. 2795. A bill to establish a set-aside program for potatoes; to the Committee on Agriculture, Nutrition, and Forestry.

POTATO PRODUCTION REFORM ACT OF 1978

● Mr. HATHAWAY. Mr. President, on March 13, the Department of Agriculture released its Potato Stocks report of levels of potatoes as of March 1.

The Department estimates that the fall producing States have 121.3 million hundredweight of potatoes on hand at this time. That is 6 percent higher than last year at this time; and it is 17 percent higher than in 1976.

Regionally, the eight Eastern States are up 19 percent over a year ago. Maine alone shows up as being about 25 percent over 1977. In the eight Central States, stocks are 44 percent above last year. Only the eight Western States, where stocks are down 3 percent from last year, come in at anywhere near last year's levels at this time.

Assuming these figures are accurate, it is time to consider the establishment of a set-aside program tailored to the needs of potato producers.

It makes good business sense to do this. We provide a system of credit which enables many farmers to buy real estate and obtain production loans. But it also enables farmers, in times of abundance, to find themselves face to face with large debts to service and repay, potato houses full of potatoes, and low prices. In order to break out of this destructive situation, we ought to consider a set-aside for potatoes.

Accordingly, I am introducing today the Potato Production Reform Act of 1978. It is an approach to the problem of too many potatoes and distress prices. And, it is an option which the farmers who raise potatoes ought to have available, just like wheat, soybean, feed grain and cotton producers.

This legislation gives the Secretary the authority for the Department of Agriculture to create a potato set-aside. The Secretary would have the discretion to make payments to farmers contracting with the Secretary to set aside acreage. The bill gives the Secretary broad discretion to determine how much acreage to set aside and how to pay farmers to do so.

The bill requires the Secretary to limit the acreage set aside in a given locality so as to avoid damage to local economies.

Mr. President, we have not had any program of this sort for the potato industry since the early 1950's. I very much hope that the Senate Committee on Agriculture will be able to hold hearings on this measure in the near future.●

By Mr. FORD (for himself and Mr. MAGNUSON):

S. 2796. A bill to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CONSUMER PRODUCT SAFETY AUTHORIZATION ACT OF 1978

Mr. FORD. Mr. President, I am introducing today a bill amending the Consumer Product Safety Act to authorize appropriations for fiscal years 1979, 1980 and 1981. I ask unanimous consent that the text of the bill be printed in the RECORD at this point:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Product Safety Act Authorization Act of 1978".

SEC. 2. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081) is amended by (1) striking out "and" at the end of phrase (3); (2) striking out "1978." and inserting in lieu thereof "1978;"; and (3) inserting the following at the end thereof:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

Mr. FORD. Mr. President, as chairman of the Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation, I held hearings on several occasions during the past year in an attempt to improve the lackluster performance of the CPSC. During its first 5 years, the Commission has been frequently criticized for a lack of leadership, the slow pace of standard development, an inability to set and follow realistic priorities, and a failure to properly utilize limited resources to meet its primary congressional mandate: To reduce the incidents of product related deaths and injuries in the marketplace. Although the Commission has a long way to go, I am confident that recent events justify my belief that the CPSC is on the verge of making real progress toward fulfilling the high expectations of Congress, consumers and manufacturers that led to the creation of this agency.

Several months ago, President Carter submitted the names of three highly qualified individuals, R. David Pittle, Susan Bennett King, and Edith Barksdale Sloan, to serve as members of the Commission. The Consumer Subcommittee carefully scrutinized the qualifications of these individuals before recommending that each be confirmed. In addition, with the announced resignation of S. John Byington on June 30, 1978, the President will have an opportunity to designate a new chairman.

The Consumer Subcommittee will hold reauthorization hearings on the Consumer Product Safety Act on April 4, 5, and 6 of this year. In the course of those hearings, I hope that consumer groups, voluntary standard organizations, trade associations, and individual manufacturers will provide us with a wide range of suggestions on how we might further improve the Commission's future performance. Two specific areas that I hope to discuss in the course of those hearings are the following:

First. Standard development: The Commission has been frequently criticized for developing only three mandatory product safety standards utilizing its section 7 "offeror" process. The most recent example of how this provision

has unduly burdened the Commission's ability to develop standards expeditiously is in the area of cellulose insulation. I believe the Commission must have greater flexibility to develop its own mandatory standards when the public interest would be served. At the same time, due care must be given to providing a high level of public participation in the development of those standards. Additionally, I believe that section 7(c) of the Consumer Product Safety Act may have served as an impediment to the Commission's promulgation of existing voluntary standards. I will welcome suggestions from our witnesses on how we might provide the Commission greater flexibility in this area as well.

Second. Chronic hazards: Because the Federal Government's involvement in the area of chronic hazards cuts across the jurisdictions of numerous Federal agencies, I believe a clear understanding is needed concerning the part CPSC is to play in protecting the American public from those long range health and safety hazards that exist in the marketplace. Because the CPSC is a relatively small regulatory body, I believe it is appropriate for us to discuss at this time what the Commission's future role should be in the area of chronic hazards.

Mr. President, as my colleagues are well aware, congressional oversight of Federal regulatory agencies can be a time consuming and often frustrating experience. As chairman of the Consumer Subcommittee, I have frequently criticized the Commission's performance during the past year. Because the CPSC is the only Federal agency charged with the responsibility of helping American consumers protect themselves from those product hazards encountered in the home environment, I believe it is essential that vigorous oversight continue. The Consumer Product Safety Commission is no longer a new agency. The next several years will be crucial to the direction and future of the Federal Government's involvement in monitoring the safety of consumer products, and in providing a forum where manufacturers and consumers can work together toward a common objective. In the upcoming months I will continue to carefully monitor the performance of the Commission in meeting its congressional mandate. I look forward to advising my colleagues on the results of our upcoming reauthorization hearings.

By Mr. BROOKE:

S. 2798. A bill to amend section 8 of the U.S. Housing Act of 1937 to provide annual contributions to finance the rehabilitation of housing occupied by lower income homeowners in order to assist and encourage the rehabilitation of such housing in connection with neighborhood rehabilitation programs; to the Committee on Banking, Housing, and Urban Affairs.

S. 2799. A bill to authorize the Secretary of Housing and Urban Development to implement a demonstration program to provide increased security for public housing projects, and otherwise insure the safety and well-being of public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROOKE (for himself and Mr. CRANSTON):

S. 2800. A bill to amend Federal laws pertaining to certain federally subsidized and nonsubsidized multifamily housing; to the Committee on Banking, Housing, and Urban Affairs.

URBAN AGENDA FOR 1978

● Mr. BROOKE. Mr. President, for the past year, the Carter administration has been promising to develop an urban policy—a comprehensive framework for dealing with the complex problems of our financially distressed cities and people in need. I welcome the administration's effort because I believe that it will focus the Nation's attention on our most urgent urban needs. But we must recall that March 15 was the date originally scheduled for a major Presidential announcement on urban policy. And highlights of this plan were supposed to be included in the President's State of the Union message to Congress on January 19, 1978.

Sadly, both of these deadlines were not met by the Carter administration. And I do not believe that the President's urban and regional policy group realized the magnitude of their task or the diversity of views within the administration when the six Cabinet departments began to meet to develop an urban policy last March.

The administration has not yet indicated whether it intends to propose additional funding—for programs in housing, community development, or mass transit—as part of its urban policy. And frankly, I think, that posed a serious problem for our authorizing committees as they met last week to make recommendations to the Budget Committee on the first concurrent budget resolution. It was unfortunate that we made those recommendations without the benefits of the administration's views.

But we could not afford to wait for the President to develop and articulate his urban strategy. We must deal with the immediate and urgent needs of our distressed cities and poor people in this year's budget. And as I said at housing authorization and urban mass transit hearings before the Banking Committee earlier this year, the administration's fiscal year 1979 budget in these areas is woefuly inadequate to meet those national needs.

For that reason, on March 15 at a Banking Committee meeting to discuss recommendations to the Budget Committee I proposed an "Urban Agenda for 1978"—a series of achieveable legislative proposals which should be passed before this Congress adjourns in the fall. And I succeeded in including authorization levels sufficient to fund these programs in the Banking Committee's letter to the Budget Committee.

At that time, I briefly outlined those proposals which I intend to offer in the Banking Committee this year to provide remedies to the problems which affect our cities and people in need.

Mr. President, these recommendations are not intended as a substitute for an urban policy. They are a series of actions which will use largely tested mechanisms and programs to deal with our urban problems.

There are seven elements of my urban agenda:

First. Sufficient contract authority and budget authority for 500,000 units of HUD-assisted housing for low and moderate income families and elderly—100,000 more new and substantially rehabilitated units than proposed by the administration.

Second. A $5 billion standby authorization of GNMA tandem or so-called "Brooke-Cranston" authority which provides for 7½ percent interest rate mortgages to encourage housing construction.

Third. A twenty percent tax credit for contributions to an Individual Housing Account—a new savings account for first-time homebuyers to accumulate equity for the downpayment on a home. The Individual Housing Account portion of my Young Families Housing Act. (S. 2050) is currently before the Finance Committee. And I regard the individual housing account as an integral part of a strategy to assist our young families in purchasing a home.

Fourth. Adequate funding for management and maintenance of existing public housing stock, including an authorization of $800 million for public housing operating subsidies, $50 million for public housing modernization, and $10 million for security programs in public housing projects.

Fifth. A comprehensive program to assist financially trouble FHA-insured multifamily housing projects, including operating subsidies, rent supplement assistance for very low income tenants, criteria for selection of managers and owners of projects. and specific options for disposition of HUD-owned properties such as sales at reduced price to nonprofit cooperatives.

Sixth. A homeownership rehabilitation program to assist existing homeowners to make repairs and modest rehabilitation of their homes. Lower income homeowners would be given section 8 assistance payments to cover the cost of rehabilitation loans if their total housing costs exceed 25 percent of income.

Seventh. An expense-based operating assistance program for urban mass transit which would assist our older, mass transit dependent cities and our newer cities which are developing new mass transit systems. This proposal was introduced as S. 2574 on February 23, 1978. A $1.3 billion authorization is proposed for operating assistance and a $2.5 billion authorization is proposed for new capital commitments to mass transit.

I am introducing today three bills and amendments to S. 2637 which will implement the first, second, fourth, fifth and sixth elements of the urban agenda.

I am proposing amendments to S. 2637 to provide increased authorizations for basic housing programs:

First, sufficient funding is provided for 500,000 units of HUD-assisted housing for low- and moderate-income families and the elderly.

This represents an additional 100,000 new and substantially rehabilitated housing units over the 400,000 level in the HUD budget. The HUD budget would do little more than to maintain the assisted housing program at present levels. I believe that this is not adequate to meet the critical housing needs of our low-income people. As the AFL–CIO recognized in its executive council meeting last month, "low-income households, which cannot afford decent housing under current market conditions, are suffering the most." I need not repeat the statistics from HUD's latest annual housing survey or the recent study by the Harvard-MIT Joint Center on the Nation's Housing. We should all be well aware of the substantial unmet need and demand for housing, the low vacancy rate nationwide in rental units, and the number of units lacking in plumbing facilities or overcrowded. There is an urgent need to support the construction of more than the 180,000 new and substantially rehabilitated rental units provided for in the fiscal year 1979 HUD budget. And I believe that HUD has the capability of producing these units because HUD itself recommended a 600,000 unit level in its budget request to OMB earlier this year.

Second, a $5 billion standby authorization of GNMA tandem or so-called "Brooke-Cranston" authority is provided to encourage new housing construction. This would provide for 7½ percent mortgages for FHA-insured mortgages as authorized by the Emergency Home Purchase Assistance Act.

This year, HUD began to realize the importance of GNMA tandem funds to the development of privately constructed section 8 housing. And HUD has proposed the use of additional $1.5 billion in GNMA authority for section 8 projects in fiscal year 1979. As a countercyclical tool, I believe that additional funds should be authorized for unsubsidized and middle income multifamily construction if needed. Some observers of our mortgage credit markets believe that the indicators of a tightening credit market are already apparent and that there is a need for additional mortgage financing at interest rates which make projects feasible.

The vacancy rate in rental housing has continued to drop to about 5 percent in 1977, while interest rates for new multifamily construction have continued to rise. New inflow of funds into thrift institutions has been about one-half the levels of 1 year ago. And if these trends continue, there is likely to be less money available for mortgage financing and increased upward pressure on interst rates. The Brooke-Cranston program has been a highly effective countercyclical mechanism in the past few years. I believe that we should assure that these funds are available as they are needed in order to maintain a reasonable level of housing construction activity.

Third, an $800 million authorization is provided for operating subsidies for public housing projects. This level of funding should provide asequate allocations under the performance funding system—PFS—and would allow for a special fund to meet needs not provided for in the PFS. These include security, liability insurance, tenant services and deferred maintenance.

As in past years, HUD has not requested sufficient funding for operating subsidies for local housing authorities in fiscal year 1979. This provision would increase those subsidies to an adequate level so that our financially pressed housing authorities and tenants may be assured of funds for essential housing services. This funding represents a prudent investment in management and maintenance of our existing public housing stock and will protect the $19 billion Federal Capital investment in public housing units which provide shelter to almost 2 million people.

Fourth, a $50 million authorization is provided for modernization of public housing projects. The public housing modernization program must also be be viewed as an essential component of our national effort to maintain and upgrade existing public housing. Modernization is a sensible investment of funds which seeks to finance capital improvements in order to improve living conditions and achieve operating efficiency in public housing projects. These funds will also be used in fiscal year 1979 for energy conservation and to provide accessibility for the handicapped in public housing. Incredibly, with a substantial backlog of unfunded modernization needs and two new major functions of the program, HUD requested a decrease in funding in its fiscal year 1979 budget. My bill would provide a $7.5 million increase over funding for modernization in fiscal year 1978. It would continue our effort to meet the substantial backlog in unfunded modernization needs and meet newer needs in energy conservation and accessibility for the handicapped in public housing.

The second element of the urban agenda is a bill to provide a comprehensive program to assist tenants and owners of FHA-insured multifamily housing projects. The principle of preservation of existing housing must extend to the stock of multifamily subsidized housing built under the section 221(d)(3) and section 236 programs. On a national basis, there are some 1,400 multifamily subsidized projects which are now in financial difficulty. At least 150,000 families live in these troubled projects, which are located in nearly every State but are concentrated in the central city neighborhoods of Boston, Chicago, Newark, New York, Washington, D.C., Detroit, San Francisco, Cincinnati, and Los Angeles.

These projects are in various stages of financial distress, but over 200 projects are currently owned by HUD and 950 projects are in the process of foreclosure. A HUD study has concluded that if present trends continue, the HUD inventory of troubled projects could reach more than 3,000 projects by 1982. And HUD could be the owner of about 1,300 of these projects, with about 150,000 units.

It has become clear that some action must be taken this year to protect the interests of the low- and moderate-income families living in troubled multifamily housing and to insure that these housing developments become financially viable as decent housing at rents which the tenants can afford. Part of the problem has been that tenant incomes have not kept pace with increasing costs of operating these projects. But an equally important problem has been the shockingly inadequate management of HUD-owned properties and poor on-site management in many other projects.

In addition, HUD has proposed no legislation which will deal with the serious management and maintenance problems in HUD-owned properties. Surprisingly, no new proposals have been offered by HUD regarding disposition of HUD-owned properties and section 8 appears to be HUD's primary tool for disposition.

This bill provides for additional relief to owners and tenants in these financially troubled projects, including an operating subsidy based upon increases in taxes, utilities, and fuel as well as rent supplement assistance for very low income tenant. It provides a mechanism to insure fiscal responsibility in the management of these projects and to protect the interests of tenants living in these projects. It also provides criteria for selection of managers and owners of these projects and requirements for management and maintenance of HUD-owned projects.

A variety of options are proposed for disposition of HUD-owned projects including sale at reduced prices to nonprofit cooperatives and other nonprofit organizations, and continued HUD ownership with the possibility of eventual ownership by a nonprofit cooperative. I believe that our national investment in subsidized housing is too substantial and the need for decent housing for lower-income families is too great for HUD and the Congress to allow this urgent problem to continue unchecked.

The third proposal I am introducing today is "The Public Housing Security Demonstration Act of 1978," a bill to authorize the Secretary of HUD to implement a national public housing security demonstration program using innovative security methods, concepts and techniques to mitigate the crime and vandalism in public housing projects. In selecting proposals for funding, the Secretary would be required to give priority to proposals submitted by public housing authorities which provide for the restoration of abondoned dwelling units, for coordination between public housing management and local government entities in providing increased security and social services to the projects and tenants, and for maximum involvement of tenants in the program.

While these proposals would be tailored to the particular needs of the projects, it is anticipated that they would include protective hardware security devices and structural modifications related to security, as well as "software" items such as security patrols, tenant awareness programs, management improvements, and social services.

The demonstration program would be the first step toward the development of a comprehensive plan for reducing crime and vandalism in federally assisted

housing. My bill would direct the Secretary to conduct a survey of crime in public housing and require a report by HUD on the results of the survey within 18 months. The report would evaluate the levels of crime and vandalism in public housing and make preliminary findings of various methods of reducing the level of crime based upon the demonstration program to be conducted during fiscal year 1979.

The Secretary would also make recommendations, if appropriate, for a comprehensive program to upgrade physical security and reduce the level of crime in all public housing projects and the estimated costs of such a nationwide program.

Mr. President, I fear that unless residential security is provided as an essential component of public housing operation, the trend of abandonment and fear on the part of residents will eventually lead to a reduction in the available public housing stock at a time when the demand for public housing is increasing. We can ill afford to let this enormous resource be lost because we just cannot build enough comparable decent, safe, and sanitary dwellings to replace units which are abandoned. What is needed is a strategy to salvage existing housing and insure a secure environment for elderly and low income families. And a responsible security program may well lead to the preservation of an entire neighborhood. I believe that this bill will allow our local housing authorities and tenants to initiate the vigorous action needed to attack the problem of crime in public housing.

The final bill I am introducing today is the "Homeowners Rehabilitation Assistance Act of 1978" which will help lower-income homeowners afford and finance the rehabilitation of their homes in locally designated rehabilitation neighborhoods.

A major resource of our Nation's cities that has generally been neglected in Federal aid efforts is the stock of homes owned by millions of low and moderate income city residents. Key elements in any strategy to preserve neighborhoods must be maintaining and upgrading the private homes that are the principal capital resource of city neighborhoods.

Homeowners are the majority of residents in most cities and yet current housing subsidy programs are directed almost exclusively toward helping renters. Renters are generally more in need of Federal housing assistance, but we must recognize that nearly half of the low and moderate income households were homeowners in 1976. Close to 9 million lower-income homeowners live in metropolitan areas and nearly half have excessive housing costs that exceed 25 percent of their incomes. They need resources and access to loan funds to help them maintain their homes and thus exercise their pride of ownership and direct personal interest in upgrading their living environment. In 1976, 4.5 million poorer city homeowners were elderly and living on relatively fixed incomes. They cannot afford to prevent the inevitable decline in the quality of their homes. I think it is entirely appropriate to provide an incentive for poorer homeowners to maintain private investment in city homes.

My proposal will help city homeowners upgrade and improve their homes if their housing costs are too high or their incomes too low to afford the additional investment in their own homes. The homeowners rehabilitation assistance program will directly stimulate improvements in housing quality, encourage private lenders to assist in inner city revitalization, and build on administrative procedures and standards in the current section 8 housing programs while avoiding the displacement or relocation of residents that has usually accompanied Federal urban housing construction programs and has been so destructive of many city neighborhoods.

This new program will assist lower-income homeowners to fix up their homes through private rehabilitation loans, but will not require extensive new procedures or administrative personnel that have proven to substantially hinder implementation of new housing programs in the past. The funding procedures, eligibility and assistance criteria, and administrative practices under the section 8 housing programs would be adapted to incorporate homeowner rehabilitation assistance.

In section 2 of the bill, I propose that HUD allocate $30 million contract authority for fiscal year 1979 to help approximately 30,000 homeowners rehabilitate their homes. Section 3 incorporates this program in housing assistance plan requirements so that localities would assess the need for homeowner rehabilitation assistance, establish priorities between assisting homeowners and renters, and designate rehabilitation neighborhoods. In future fiscal years, HUD would then allocate funds for this program according to these local priorities from the appropriations for the section 8 existing housing programs.

This program is established and incorporated with the section 8 housing programs by sections 4 and 5 of the bill. With the allocated contract authority, local housing authorities would make payments to private lenders to cover the costs of rehabilitation loans to lower-income homeowners, to the extent their housing costs exceed 25 percent of income. Local housing authorities would screen applicants from designated rehabilitation neighborhoods under section 8 income and asset eligibility criteria, determine the extent of home improvements needed to meet section 8 housing quality standards, and assist the homeowner in getting a rehabilitation loan from local lenders. Savings and loan associations and other private lenders would be encouraged to make these loans because local housing authorities would handle the initial screening of applicants and would directly make repayments for groups of loans out of the cities' annual Federal housing assistance commitment. FHA home improvement loan standards on loan size, interest rates, and repayment period would apply to these loans. The homeowner could provide some of the labor required with the loan paying for materials. The lender and city code inspections would insure that the work is done properly. During the loan repayment period the local housing authority would review assistance eligibility and payment requirements under the existing criteria of the section 8 program. Rather than making payments to landlords as in the renter assistance program, the housing authority would pay the rehabilitation lender the allowable housing assistance grant.

Mr. President, I believe that the legislation which I am introducing today along with S. 2050 and S. 2574 which I introduced previously provides realistic and achievable goals. And this program can be acted upon before the Congress adjourns. I urge my colleagues to join with me in working for enactment of these proposals. Clearly the burden is on the Congress to provide leadership in the development of urban initiatives this year. That is our responsibility and I believe that we shall be equal to the challenge.●

By Mr. BUMPERS:

S. 2801. A bill to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building"; to the Committee on Environment and Public Works.

HENRY R. KOEN FOREST SERVICE BUILDING

● Mr. BUMPERS. Mr. President, today I introduce a bill to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building."

The mayor of Russellville, the Honorable M. J. Hickey, and a number of citizens of that city have endorsed the resolution of the board of directors of the Russellville Chamber of Commerce to name the building after the late Mr. Koen. His whole life was dedicated to conservation and development of our renewable resources in the area of forestry.

Henry R. Koen is known as the father of forestry in the Arkansas Ozarks. Through his broad experience, sound judgment, and wide contacts, Mr. Koen was able to play a leading and constructive part in the development of a forest consciousness in his native State of Arkansas at a time when it was most needed.

Born at Bellefonte, Ark., in the heart of the Ozarks, the son of Thomas S. Koen and Tennessee Breece Koen, his active career in conservation spanned four critical decades, from 1913 to 1943. Subsequent to his retirement from the Forest Service in 1943, he still maintained an active interest in conservation. He served as Boone County representative for the 1952–53 session of the Arkansas State Legislature.

He began his Forest Service career in 1913 as forest ranger of the Sylamore district, Ozark National Forest, Stone County, Ark. Except for brief periods during which time he worked on national forests, in North Carolina, Virginia, and Georgia, Mr. Koen's entire service was in Arkansas.

He became supervisor of the Ozark

National Forest in 1922 and remained in that position until 1939 when he transferred to the regional office of the Forest Service in Atlanta, Ga.

The challenges facing him as supervisor of the Ozark National Forest in 1922 were many and difficult to imagine from today's viewpoint. After repeated failures to protect the area from fire prior to 1922, he launched a successful program in 1925, including a system of towers, telephones and personnel. During his tenure, hundreds of thousands of acres were added to the forest under the Weeks Law purchase program. He directed the planting of millions of trees on abandoned farmlands in Government ownership.

The popular and productive CCC program during his administration resulted in hundreds of miles of badly needed roads and the beautiful campgrounds—such as Spring Lake, Gunner Pool, and Shores Lake—which are still heavily used today. The Ozark National Forest supervisor's office in Russellville was also completed during this period. This beautiful and functional building is recognized widely as one of Russellville's outstanding landmarks.

He was so well respected and admired, that in 1950, the Henry R. Koen Experimental Forest was named in his honor. The decision to name the experimental forest after a living man was made in view of the outstanding service to the cause of forestry which Mr. Koen had rendered in the public interest over a period of nearly 40 years.

Mr. Koen was on the board of directors of Keep Arkansas Green since it was organized. He was instrumental in the establishment of the Arkansas Forestry Commission. He was a member of the Arkansas Resources and Development Commission and served as chairman of the Ozark section of the society of American Foresters.

Conservation was no easy task during the early part of the century. Much of the land which is now Ozark National Forest had been cut over for timber or cleared for homesteading. Forest fires were common, burning thousands of acres each year. As in the rest of the Nation, most people were not concerned about conservation of what they believed to be an inexhaustible supply of wood. Forests were an obstacle in the way of settlement. Federal forestry officials and their ideas of conservation were not readily accepted. Henry R. Koen indeed faced a difficult task and handled it extremely well.

To honor Mr. Koen, as proposed by the mayor of Russellville, the citizens of Russellville and the Russellville Chamber of Commerce, will do much to encourage others to continue innovative and sound principles of conservation and development of our forests.

Mr. Koen contributed more than any other dedicated forestry official to the successful establishment of the Ozark National Forest as it is known today. He spent many hours in acquiring the property and designing and obtaining the approval for the construction of the headquarters building, and I join with the citizens of Russellville in stating that there can be no more deserving recognition than to give this building his name.

Mr. President, I ask unanimous consent that the text of the bill I am now introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Russellville, Arkansas, commonly known as the Ozark National Forest Headquarters Building, shall hereafter be known and designated as the "Henry R. Koen Forest Service Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Henry R. Koen Forest Service Building".●

By Mr. DOMENICI:

S. 2804. A bill to expand the licensing and related regulatory authority of the Nuclear Regulatory Commission for certain specified activities, and for other purposes; to the Committee on Environment and Public Works.

RADIOACTIVE WASTE MANAGEMENT REGULATORY REFORM ACT OF 1978

● Mr. DOMENICI. Mr. President, as a member of both the Energy and Natural Resources Committee and the Nuclear Regulation Subcommittee of the Environment and Public Works Committee, I am keenly aware of the pressing need for this Nation to get on with finding and implementing a satisfactory permanent solution to our nuclear waste problem. The steadily increasing accumulation of these radioactive byproduct materials is a necessary consequence of the benefits of additional electrical power and enhanced national security accompanying the widespread domestic ultilization of atomic energy. However, the quantities of these materials amassed over the years, coupled with an inadequate system of regulatory oversight, is severely straining our existing temporary, and often make shift, methods of containment.

Yesterday the Nuclear Regulation Subcommittee began a series of hearings on the national program for storage of nuclear waste materials and spent fuel from nuclear power reactors. Testimony presented to the subcommittee by representatives of the Department of Energy, the Nuclear Regulatory Commission, and the Environmental Protection Agency confirmed the existence of substantial gaps and uncertainties in regulatory oversight authority regarding storage of these materials. These gaps and uncertainties exist for both present and proposed storage procedures.

As an example, there is considerable disagreement as to whether the NRC has clear licensing authority over facilities for either away-from-reactor or permanent storage of spent reactor fuel. In view of current national policy banning commercial reprocessing, it is essential that the NRC be given licensing authority in this area.

The bill I am introducing today will significantly improve the existing regulatory framework for long- and short-term storage of radioactive materials by considerably expanding the licensing authority of the NRC. Specifically, this bill makes the following changes to the existing statutory basis for NRC authority in this area.

The bill would give the Nuclear Regulatory Commission broad new authority and would eliminate uncertainties in its existing authority for licensing and regulating the growing nuclear waste management activities of the Department of Energy. At the same time, the bill is carefully drawn to avoid undue disruption of certain essential activities at existing Federal installations which are part of the Nation's research and development and defense programs.

Subject only to this limitation, the bill would insure that the Nuclear Regulatory Commission has the authority it needs to fully regulate both the short-term storage and the ultimate disposal of high level radioactive wastes, which must be carefully isolated from the environment for centuries, and of the potentially hazardous transuranic and low level wastes. In addition, the bill would remove any uncertainty regarding the Commission's authority to license any facility for either the short-term storage or the permanent disposal of spent fuel from our nuclear powerplants or from foreign reactors. In all cases, the activities covered by the bill would be subject to the full range of applicable Commission regulation, including licensing proceedings, public hearings with the opportunity for State and public participation, and continued NRC supervision and inspection.

The bill also provides for the first time a statutory standard for identifying those nuclear waste disposal activities of the Department of Energy which are of a permanent rather than a short-term nature.

Finally, the bill would require that the Nuclear Regulatory Commission exercise its licensing responsibility for commercial low level waste burial grounds. At present, this responsibility is delegated to 25 agreement States, 5 of which have licensed waste burial grounds. Mandatory NRC licensing of these and any new waste burial grounds would insure that all such facilities will meet a set of uniform national standards, and that they will be subject to full NRC inspection and enforcement and other regulatory activities.

Mr. President, this legislation is closely related to a bill, S. 2761, which I introduced last Friday. Indeed I would hope that these two companion bills, which taken together establish a comprehensive basis for nuclear waste management including full participation by the affected States, might receive simultaneous consideration by my Senate colleagues.

As submitted, S. 2761 would require State concurrence before any nuclear waste or spent fuel storage facility licensable by the NRC could be located within that State's boundaries. It is readily apparent that the significance of the State veto provision contained in S. 2761 would be considerably enhanced

by an expansion of the authority of the NRC to license such facilities. This will be accomplished by the legislation I am introducing today.

Let me cite but one example where these two bills work together to provide necessary, expanded protection for the health and safety of our citizens. Under present DOE policy, the primary purpose of the waste isolation pilot plant (WIPP), proposed for construction in the early 1980's in southeastern New Mexico, will be storage of transuranic nuclear wastes from the national defense program. Under current law the DOE is required neither to seek a license from the NRC for WIPP, nor heed the wishes of New Mexicans regarding the desirability of locating that facility within the boundaries of my State. Taken together these two bills will insure that the the proposed WIPP facility will not be constructed without the concurrence of New Mexicans, and, if constructed, will meet the exacting standards now under development by the NRC.

Mr. President, I would also like to make special note of the effect of these two bills on licensing procedures for shallow land burial of low-level commercial waste. Together they make it clear that any State faced with a proposal for construction of such a facility within its boundaries would be able to exercise a determining role in the granting of an NRC license. Under current law, only the agreement States, such as my own, would be able to deny such a license application, and then only under very constrained conditions.

I would hope that my Senate colleagues will give their careful consideration and support to passage of these two important pieces of legislation.

Mr. President, I ask unanimous consent that the text of the bill I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Radioactive Waste Management Regulatory Reform Act of 1978."

SEC. 2. The purposes of this Act are:

(a) to expand the Nuclear Regulatory Commission's licensing and related regulatory authority for long- and short-term storage and disposal operations, including research, development, and demonstration operations, for high-level radiocative wastes, irradiated nuclear reactor fuel, nonhigh-level transuranium contaminated wastes, or low-level radioactive wastes; and

(b) notwithstanding the provisions of section 274 of the Atomic Energy Act of 1954, as amended, to require that the Nuclear Regulatory Commission retain its authority and responsibility with respect to the regulation of long-term storage and disposal of low-level radioactive wastes.

SEC. 3. Section 202 of the Energy Reorganization Act of 1974, as amended, is amended by striking subsections (3) and (4) and adding the following new subsections:

"(3) Long and short term storage and disposal operations, including research, development and demonstration operations, for high level radioactive wastes from any source, except for short term storage operations at existing Federal installations for high level radioactive wastes generated by activities under the national research and development and defense programs.

"(4) Long and short term storage and disposal operations, including research, development and demonstration operations, for non-high level transuranium contaminated wastes from any source, except for short term storage operations and existing long term storage and disposal operations at existing Federal installations for non-high level transuranium contaminated wastes generated by activities under the national research and development and defense programs.

"(5) Long and short term storage and disposal operations, including research, development and demonstration operations, for low level radioactive wastes from any source, except for long and short term storage and disposal operations at existing Federal installations for low level radioactive wastes generated by activities under the national research and development and defense programs.

"(6) Long and short term storage and disposal operations, including research, development and demonstration operations, for irradiated nuclear reactor fuel from any source, except for short term storage operations at existing Federal installations for irradiated nuclear reactor fuel generated by activities under the national research and development and defense programs.".

SEC. 4. Section 304 of the Energy Reorganization Act of 1974, as amended, is amended by adding the following new subsection:

"(3) Short term storage operations are all radioactive waste storage operations for which retrieval is intended not later than 20 years after the date of emplacement of the radioactive wastes in the storage facility. Long term storage and disposal operations are all other radioactive waste storage and disposal operations.".

SEC. 5. Section 274.c of the Atomic Energy Act of 1954, as amended, is amended by striking subparagraph (4) and adding the following new subparagraph:

"(4) disposal operations for other byproduct, source, or special nuclear material for which retrieval of the material is not intended within 20 years of the initial disposal; *Provided, however,* That any license issued by a State for such disposal operations in accordance with this section on or before the date of enactment of this subparagraph shall remain in effect for a period of three years from that date.".●

By Mr. DOMENICI (for himself and Mr. CHILES):

S. 2805. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes; to the Committee on Human Resources.

COMPREHENSIVE EMPLOYMENT AND TRAINING AMENDMENTS OF 1978

● Mr. DOMENICI. Mr. President, I am pleased to join with our distinguished colleague, the senior Senator from Florida (Mr. CHILES), in introducing legislation which will completely overhaul the Comprehensive Employment and Training Act of 1973. Our proposal actually constitutes a package of two separate bills which together will attack the most difficult forms of structural unemployment which have, to date, resisted lesser remedies. The first measure is the Comprehensive Employment and Training Amendments of 1978. The second proposal, which is being introduced simultaneously, will establish a voucher wage subsidy designed to open employment opportunities in the private sector for economically disadvantaged youth. I will discuss this latter proposal in greater detail in remarks accompanying its introduction.

One of the most significant innovations in S. 2805 is the emphasis it places on the indispensable role of the private sector in combating structural unemployment. We will require each local prime sponsor to establish a private business advisory committee which will provide a valuable bridge between governmental programs and the private business community. This increased emphasis on the private sector's participation extends across the board to all of the services and programs authorized under this act.

We have also redesigned the bill so that the CETA programs will, in the future, be mission-oriented. This has been achieved, however, without in any way reducing the local priority-setting authority which has been such a valuable part of the CETA program since its inception.

In the past, the CETA program has been used, to a large degree, as a counter-cyclical device capable of offsetting adverse trends in our national economy. We will retain that concept and create a title specifically oriented to moderating fluctations in the business cycle.

I believe, Mr. President, that the most important new element in the Chiles-Domenici proposal is the major new emphosis we are placing in efforts to combat structural unemployment. In too many instances, the existing CETA program has focused its primary efforts on the most employable of the unemployed. While this is a worthy objective, it has left largely intact the pool of truly hardcore unemployed Americans who have yet to be effectively reached by Federal training and employment programs. To maximize the impact of our efforts, we are proposing a broad-based comprehensive thrust which will combat structural unemployment in all age groups.

Part A of title II draws together a number of programs previously authorized in various CETA titles in an effort to mount a truly effective campaign against youth unemployment. Part B will focus attention on the adult displaced worker ranging in age from 22 to 54. This program would be especially helpful to workers with outdated skills and those who live in economically declining areas. The emphasis of this program will be second career development and training designed to enable these workers to reenter the labor force with new and updated skills. Part C provides a new CETA initiative aimed at older workers, 55 years of age or older. Unlike the current title IX programs, authorized under the Older Americans Act, this proposal will seek to place the older workers in meaningful jobs within the private sector of our Nation's economy. Emphasis will be placed on innovative techniques to achieve this objective such as flextime, job sharing, part-time employment, and so forth.

Mr. President, I believe the best way

to summarize S. 2805 is to focus attention on several of the key issues addressed in my bill.

STRUCTURAL VERSUS COUNTER-CYCLICAL UNEMPLOYMENT

It is generally agreed by economists that a substantial proportion of this Nation's unemployment is structural in nature. CETA is an appropriate mechanism for a targeted focus on the structurally unemployed. However, we must clearly differentiate between remedies in CETA that are appropriate for the cyclically unemployed and those that are suitable for the structurally unemployed. A public service employment job with no training or other services is suitable for the skilled individual who is out of work due only to temporary economic conditions. This same remedy is totally inappropriate for a structurally unemployed individual who lacks labor force skills and behavior and is thus unsuited for available employment opportunities in the labor market.

For this reason, Senator CHILES and I have brought together various structural remedies into title II of our bill. The administration's bill puts 725,000 job slots in a cyclical title with no training or service. Our bill recognizes that much of today's unemployment is structural in nature by transferring a substantial amount of funds from the temporary employment program into our structural title, where a range of coordinated services are available.

LOCAL FLEXIBILITY

In a nation that is as large and diverse as the United States, one quickly becomes aware that different strategies for combating unemployment must be used in different areas of the country. The unemployment situation in New York is much different from the one in New Mexico. We are therefore proposing the State and local prime sponsors retain a high degree of flexibility in shaping programs designed to meet varying local conditions. Those provisions of our bill, which are directed toward structural unemployment, like title I of the current law, allow a broad range of training, placement, supportive, and employment activities.

To further broaden and strengthen the program we are asking the prime sponsors to coordinate their activities with those of the Economic Development Administration, the Small Business Administration, and various State and local agencies designed to stimulate economic growth.

SUBSTITUTION OF EXISTING JOBS

One of the perennial problems in any CETA type program is the danger that State and local governments, nonprofit organizations, and private employers will substitute public service employees for existing personnel. Obviously, this process denies us the full impact of the employment program and thwarts our efforts to significantly expand the employment market. S. 2805 seeks to reduce the substitution of CETA jobs for existing positions in three ways.

First. Employers under our bill will pay the minimum wage instead of the prevailing wage. In addition to reducing substitution, this reform should make additional job slots available by stretching existing resources.

Second. Under S. 2805 CETA wages could not be supplemented by local funds. By prohibiting this practice, we can further reduce the instances of substitution.

Third. Our bill limits the maximum duration of a public service job to 12 months. Under current law there is no limit and the administration bill recommends an 18-month limitation. It is our opinion that a 1-year limitation will allow individuals to receive the necessary training while giving him or her an opportunity to gain valuable job experience. It will not, however, be long enough to encourage job substitution.

JOB OPPORTUNITIES FOR OLDER WORKERS

One of the most persistent criticisms of the CETA program has been its failure to provide additional job opportunities for older workers. As the number of older Americans steadily increases, the Congress will have to make a special effort to see that Federal programs are responsive to their needs. Statistics would indicate that, to date, only about 2 percent of all of CETA participants are older workers. As a partial remedy to this problem, Congress enacted title IX of the Older Americans Act. The title IX public service employment program currently provides approximately 40,000 part-time jobs for low-income older persons. When I drafted S. 2609, the 1978 Amendments to the Older Americans Act, I expanded title IX to include the private sector. The Chiles-Domenici CETA amendments create a new program for older workers which will be in addition to the Older Americans Act program which is administered jointly by the States and national contractors.

The new program will be for structurally unemployed older workers, and will include training, retraining, placement, supportive services and part-time employment. This program will be administered by prime sponsors who have, at their disposal, resources far beyond those presently available under title IX.

By providing an older workers program which is geared to the needs of this large and growing segment of the population, we seek to address what is becoming a major economic problem in this country. It is critical that we provide suitable work modes for an aging work force. Experiments in work sharing and flextime are necessary. The creation of more part-time employment in both the public and private sectors is consistent with the needs of the labor force and an older population of workers.

I would note, Mr. President, that S. 2805 provides a separate authorization for the older workers employment programs because we recognize that there are intense local pressures on the CETA program to focus their resources on the problems of youth unemployment. By providing earmarked funds for this program, we can insure older Americans that they will receive an appropriate level of services under the Comprehensive Employment and Training Act.

COORDINATION WITH OTHER PROGRAMS

The Chiles-Domenici bill recognizes that there are in existence other local, State, and Federal programs which have some services which are similar to CETA. For that reason our bill provides that:

> Available facilities and program delivery systems such as vocational education agencies and institutions, community colleges, local education agencies, vocational rehabilitation, and social and supportive services under other Federal and state and local programs should be utilized and coordinated to the greatest extent feasible in support of programs under this Act.

In addition, a strong role for vocational education is built into the planning process. It is extremely important that we do not duplicate the exitsing vocational education delivery system.

In closing, Mr. President, let me say that over the past 5 years the CETA program has evolved into one of our most successful Federal programs. It has become a viable partnership between all levels of government—Federal, State, and local. We have learned a great deal from the experiences of the last 5 years. Senator CHILES and I have sought to build upon this foundation and we believe our proposals will significantly expand the effectiveness of this vital program.●

● Mr. CHILES. Mr. President, today Senator DOMENICI and I are introducing our bill to reauthorize and restructure the Comprehensive Employment and Training Act. The Chiles-Domenici bill attempts to restore many of the original purposes of CETA, particularly a comprehensive approach to the structural barriers to employment. I believe that over the last few years Congress has lost sight of this central purpose while loading CETA down with a variety of objectives and programs. Our other main thrusts are to increase local flexibility in program design and operation, to clarify the objectives of employment and training programs for different population groups, and to consolidate the fragmented array of program authorities and eligibility criteria. Finally, we build private sector involvement into all phases of the program and create a new tax voucher system to give private employers an economic incentive to participate, while avoiding new grants or paperwork.

I will first summarize the major features of our approach, then go on to discuss the reasons for our recommendations.

First. We have developed a mission structure for the bill, which sets out clear objectives and groups multiple programs serving similar goals. By focusing on missions rather than activities we will increase local flexibility in implementing the programs, while also achieving greater public accountability for the outcome. We believe that local prime sponsors should determine the appropriate mix of services for their own populations and labor market conditions.

Second. We emphasize structural un-

employment goals, rather than countercyclical, and we divide our structural unemployment title by age groups:

Part A. For youth (age 16–21) we combine initiatives from many titles of CETA;

Part B. For adult displaced workers (age 22–54), we reestablish the emphasis on declining areas and industries, and tie training and employment to economic development plans; programs are also authorized to develop the skills necessary for labor force entry or reentry for workers displaced from private labor force participation by military service, imprisonment, child-rearing, or welfare dependency.

Part C. We create a new initiative for older workers (age 55 plus), with a special emphasis on local programs to maintain private employment and encourage innovative work arrangements. We maintain the community service program for older Americans and the role of national contractors.

Third. The Chiles-Domenici bill builds private sector participation into the basic structure of the whole CETA program, instead of just tacking it on to a separate public program. We propose an innovative tax voucher mechanism to encourage private employment of youths without adding to paperwork and redtape for the employer.

Fourth. Temporary employment assistance—we propose a limited program triggering on and off at 5.5 percent unemployment, which is 0.6 percent above full employment and thus not inflationary. We propose a fixed authorization level, rather than a quasi-entitlement mechanism, so that Congress can assess the changing economic conditions and make the appropriate responses.

No issue is more important than this country's overall policy to assure meaningful employment opportunities for the entire population. As a member of the Budget and Appropriations Committees, I have spent a large amount of time considering CETA both from the viewpoint of its economic objectives and of its operating effectiveness. My overall feeling is one of frustration. The goals and potentials of the program are enormous. But as Congress has responded to one or another situation, we have created a confused arrangement of programs of overlapping objectives.

By creating a massive public employment program in response to the recession, we have overwhelmed the original purpose of overcoming structural barriers to employment faced by certain individuals. Due to a quirk in the politics of avoiding a veto of appropriations, the program to deal with the economic problems of distressed areas (the original title II) was completely subsumed into temporary public employment. It seems that every new idea has been added on as a district program or an experimental authority. When I ask which programs are effective, I am told that they have so many overlapping objectives that they cannot be adequately evaluated. There has, in fact, been no systematic effort to sort out the major objectives and evaluate how each objective is being met by each of the programs. Setting annual appropriations levels has become more a matter of faith than of analysis and judgment.

PUBLIC ACCOUNTABILITY

The Chiles-Domenici bill proposes to improve public accountability and credibility in the following ways:

First, the temporary employment program is clearly separated from the title addressed at overcoming structrual barriers to employment;

Second, the structural title is divided into three parts, based on the differing needs of youth, of displaced adult workers, and of older workers;

Third, for each of these parts, we specify a set of missions for which the program can be held accountable. Program activities are listed for illustration and guidance, but if local sponsors can meet the objectives in a different way, they are authorized to do so;

Fourth, current experiments are either converted to permanent authorities or separated into a designated part of the research, statistics, evaluation, experiments and demonstrations title (III). Experiments are limited to a duration of 3 years. The Secretary is required to submit to Congress an annual evaluation plan telling us what research and evaluation he is conducting to address what policy issues, and when he expects to achieve results.

YOUTH UNEMPLOYMENT

A key difference between our bill and either the existing law or the administration approach is our proposal to divide the structural title by age group. It is based primarily on the recognition that youth, adults, and older workers face different needs, have different backgrounds of work experience, are treated differently by employers, and respond to different kinds of program efforts. Local and national pressures make it diffcult for prime sponsors to serve all of these groups, unless we give them clear guidance and a separate funding allocation for each.

Structurally unemployed youths may lack the basic skills and attitudes necessary for obtaining and keeping a job. They may not even know how to go about looking for a job and getting an interview. They may be caught in the "Catch 22" of not being hired because they lack experience.

We currently serve youth in numerous parts of CETA: 57 percent of title I; 22 percent of title II; 50 to 100 percent in various parts of title III; 100 percent of title IV; 22 percent title VI; and 17 percent of the work incentive (WIN) program.

No one can tell you what this all adds up to in terms of dollars, in terms of services received, or in terms of a coordinated strategy to solve their problems. We, therefore, propose to maintain the current youth programs which were expanded last year, but combine them into a single youth title, with an authorization of $3.2 billion.

DISPLACED ADULT WORKER

When adult workers are structurally unemployed, it is mostly due to displacements in the economy. The area where they live may be suffering economic decline, or the particular industry for which they possess skills may be declining. Their skills may be obsolete due to technological change. They may have been separated from the work force for a substantial period due to military service, child rearing or welfare dependency. Adults need special programs geared to their reentry or delayed entry to the work force. Those programs should be related to local or regional strategies for economic development. It is useless to retrain a worker unless you are also locating or developing an industry that needs his new skills. We, therefore, propose requirements that structural programs for adult workers be related to regional and local economic development plans developed under the Economic Development Act.

The Chiles-Domenici bill also specifically authorizes an experimental program to develop a comprehensive economic development strategy which combines retraining and placement services with employment vouchers for unemployed workers and industrial location loans. I believe that if we experiment with the various fragmented authorities spread around different departments, we ought to be able to develop a workable regional economic development program to aid declining urban and rural areas.

The total authorization for the displaced adult workers title is $3 billion, including a large component of public service employment shifted from the temporary employment assistance title.

OLDER WORKERS INITIATIVE

Older workers are not currently served by CETA—only 2 percent of CETA enrollees are over age 55. I believe that the declining labor force participation rate by workers age 55 to 64 is a major social and economic problem. Our major need is not for full-time public jobs for this group. Rather, we need programs to help older workers remain in private employment in the face of institutional pressures and economic incentives to retire. We need innovative programs to develop part-time employment, work sharing, flexible hours, and other alternative work modes to allow those older persons who can and want to work to continue to do so. Work provides the kind of critical social support which we are trying to re-create in senior citizens centers and other such activities after letting older people be pushed out of the work place. We can utilize volunteer efforts to achieve many of our social objectives for the elderly, but we need a Federal program to develop and foster those efforts. We also need people to work with private employers and train workers in new work arrangements for the older worker. We therefore recommend an authorization of $400 million for this new initiative.

While we would have the same local prime sponsor conduct each of these three structural programs, we believe it is necessary to have a separate authorization and appropriation of funds for each. We are concerned that under pressure to meet priorities for one age

group, the others could be neglected. Most important, we think Congress should be able to consider the changing economic conditions and demographic trends in order to assess the needs for funds in each part. If we are to hold the programs accountable for meeting the different problems of these groups, then we must be able to consider the annual achievement in each of the specified missions and show that we are basing appropriations on achievement as well as need.

I do want to emphasize, however, that while we mandate separate allocations, we would not fragment the operations of local programs. The prime sponsors would be required to show in their plans how they were meeting the needs of each group as specified in the mission objectives. They would determine the appropriate mix of services, and the Secretary could not reject their plan simply because he did not approve of the mix. Where the sponsor showed that the same service—for example, classroom training to achieve basic work skills—was appropriate to more than one age group, he would be encouraged to conduct that activity in a single operation. While maintaining local flexibility, we could thus be assured that all groups were being served and all program objectives were being achieved.

We recommend authorization levels equalling the current total, but sorted out into the appropriate new titles. We propose a shift of $2 billion from countercyclical employment to the structural programs. While some of this money would still be used for public service jobs, it would be in the context of a comprehensive program of training, placement, counseling and supportive services. We will also recommend modified allocation formulas which take account of the purposes of each title and the different structural parts.

PRIVATE SECTOR PARTICIPATION

An increased role for private employers is a major thrust of the Chiles-Domenici bill. It has come to be generally recognized that it does not make sense to rely on public sector employers for a program that is supposed to prepare workers for entry into the private labor market. Unemployed youth have a cluster of attributes which keep them out of jobs: lack of skills, no experience, poor work attitudes and expectations, too low productivity to justify the Federal minimum wage or minimum union scale. An effective program should seek to modify all of these factors, including the excessive cost to employers. We therefore propose the following measures to increase private sector participation.

First. We require each local prime sponsor to create a private business advisory committee to facilitate and develop private employer participation;

Second. Evidence of private participation is required in each program authority;

Third. We create a tax voucher system to partially subsidize the employment of unemployed youth with requisite skills. The CETA prime sponsor would determine eligibility and issue the youth a voucher, which would entitle a private employer to a credit against his employee withholding tax, with no grant applications or paperwork. Each prime sponsor will have a set amount of voucher authorization based on the prime sponsor's allocation. Each local prime sponsor would issue to eligible youth a voucher good for a credit of 50 cents to $1 an hour. The youth would then seek employment in the private market. The voucher would entitle the employer to a reduction of his employees withholding tax equal to that 50 cents to $1 for each hour worked. The youth would be paid minimum wage, or union scale, or whatever raise the employer considered appropriate.

The voucher would be portable and valid for 24 months, so that the youth and employer would not have to worry about being locked into an unsatisfactory arrangement. The employer would not have to go through the paperwork of waiting for a grant or contract. He would get the immediate cash benefit at each payroll period. All he would have to do is add a column to his withholding statement and attach the voucher along with his W–2 forms at the end of his tax year. The youth would have the benefit of a regular private sector job, paid at the same rate as his fellow workers. If he did not perform well he could be fired; if he performed well, he could get raises and promotions.

TEMPORARY EMPLOYMENT ASSISTANCE

Our final recommendation is for a temporary employment title. You will note that we do not call it countercyclical. We have been looking at economic policy carefully at Budget Committee for 3 years now, and we are convinced that public employment does not work well on a countercyclical basis. That is, you cannot phase it up or down rapidly as the economy changes. It takes time to plan and hire. Once workers are on public rolls, you cannot easily drop them off.

We have seen proposals to vary the level of public employment with the unemployment rate of the past two or three or four quarters. Unfortunately, as you came around the bend to recovery, you would still be increasing public employment even as private unemployment declined. That would aggravate the cycle, not counter it. I am afraid we are being asked to design the response to the last economic cycle, not the next one.

We do think it is useful to have a backup of public employment when you are clearly in a recession. The President's Council of Economic Advisers now calculates the high employment rate at 4.9 percent overall unemployment. In other words, at 4.9 percent you have to begin worrying about stimulating inflation in the job market. We, therefore, recommend a fixed sum at 5.5 percent or more unemployment. If we appropriate at 5.5 percent when the economy is recovering, then the phase down would last until you got down to 4.9 percent.

If we allowed expenditures authorized when you got down to 4.9 percent, people would still be employed when the economy accelerated past that. In terms of the present recovery, the trigger would be the same as the administration bill, since they discount the previous three quarters of allocation. Thus, they would have zero countercyclical authorization for the period when you are going down from 5.5 to 4.9 percent unemployment. In general, we think Congress ought to look at the economic conditions and forecasts each year and decide what mix of spending is appropriate, rather than mechanically tie an annual level of spending to the unemployment rate.

In order to minimize fiscal substitution and maximize the net job creation in the temporary employment title, we include several important provisions:

First. Employment is limited to 12 months duration;

Second. The minimum payment is set at the higher of Federal or State minimum wage (not prevailing wage), with a maximum of $10,000 per employee;

Third. Supplementation of CETA wages from other sources is forbidden; and

Fourth. All jobs are targeted to the economically disadvantaged, who face the greatest loss of employment during a recession. All age groups would be eligible.

Mr. President, I ask unanimous consent to insert in the RECORD at this point comparative outlines of the administration bill and the Chiles-Domenici bill. These outlines will demonstrate the greater clarity of our approach.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILES-DOMENICI BILL—DRAFT OUTLINE

I. Administrative provisions.
II. Structural unemployment—
A. Youth:
1. Youth employment and training programs (includes summer youth program).
2. Entitlement pilot projects.
(1 and 2—local prime sponsors.)
3. Job Corps.
4. Young Adult Conservation Corps.
(3 and 4—nationally administered.)
B. Adult: Displaced workers employment and training programs (local).
C. Older workers (local)—additional to title IX of Older Americans Act.
III. Research, statistics, evaluation, experiments and demonstrations.
IV. Special Federal responsibilities—
A. National programs:
Indians and other native Americans,
Migrant and seasonal farmworkers,
Persons with limited English-speaking ability.
B. National Commission for Employment and Training Policy.
C. Federal agency programs.
V. Temporary employment.
Tax Code amendment.

CARTER BILL OUTLINE

I. Administrative provisions.
II. Comprehensive employment and training (local prime sponsors):
A. Financial assistance to local prime sponsor vocational education—supplemental job search assistance.
B. Services for the economically disadvantaged.
C. Upgrading and retraining.
III. Special Federal responsibilities:
A. National program,
Native Americans,
Migrant and seasonal farmworkers,
Persons of limited English-speaking ability,

Job search and relocation assistance,
Veteran's information and outreach.
B. Research, training, evaluation.
IV. Youth:
A. Youth demonstrations—
I. Incentive entitlement (national),
II. Community conservation and improvement (local),
III. Youth employment and training (local prime sponsors) Secretary's discretionary projects.
B. Job Corps (national).
C. Summer youth (local).
V. National Commission for Employment and Training Policy.
VI. Public service employment (local) (countercyclical and permanent).
VII. Private sector opportunities (local).
VIII. Young Adult Conservation Corps (national)

Mr. CHILES. Mr. President, employment and training programs have been a major subject of debate for the last 3 years as we have grappled with the problems of economic recovery. We are now two-thirds of the way to full employment and it is time to shift our focus to providing opportunities for those persons denied employment due to features of our economic and social structure. I believe that the emphasis on temporary employment programs has blurred the public understanding of the comprehensive set of services necessary to deal with structural unemployment. The Chiles-Domenici bill being offered today attempts to reestablish a public acceptability by clearly sorting out program objectives, by making the transition to private sector employment a workable goal and by improving local flexibility in program design and operation.●

By Mr. DOMENICI (for himself and Mr. CHILES):

S. 2806. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against an employer's liability for withholding income tax on wages paid to his employees based upon the employment of individuals certified for hourly employment benefits under the Comprehensive Employment and Training Act of 1973; to the Committee on Finance.

YOUTH EMPLOYMENT TAX CREDIT VOUCHER PROGRAM

● Mr. DOMENICI. Mr. President, I am sending to the desk legislation that will establish a tax voucher, within the CETA program, designed to combat hardcore youth unemployment. This Domenici-Chiles bill amends the Internal Revenue Code to provide for a tax credit to employers who participate in this new CETA youth employment voucher program. CETA administrative provisions for this program are contained in the Chiles-Domenici amendments to the Comprehensive Employment and Training Act which were introduced just a few minutes ago.

I would like to outline briefly how this total program will operate if enacted. Each prime sponsor would have a set voucher authorization based on the prime sponsor's allocation. The prime sponsor would issue, to eligible youth, a voucher good for a credit of from 50 cents to $1 an hour. The youthful job seeker would then look for employment in the private market. The voucher would entitle the employer to a reduction of his employees withholding tax equal to that 50 cents to $1 for each hour worked. The youth would be paid at least the minimum wage, or a higher wage rate if the employer considered that appropriate. The voucher would be portable and valid for 24 months, so that the youth and employer would not have to worry about being locked into a long-term commitment. The employer would not have to go through extensive paperwork or long delays waiting for a grant or contract. He would get the immediate cash benefit at each payroll tax period. All he would have to do is add a column to his withholding statement and attach the voucher along with his W–2 forms at the end of his tax year. The youth would have the benefit of a regular private sector job. If he did not perform well he could be fired; if he performed well, he could get raises and promotions. After up to 2 years of private sector experience, the youth would, in all likelihood, be able to continue to be employed or employable without further need for service or subsidized employment.

Mr. President, in recent years there has been a growing appreciation among employment specialists of the role of the private sector in combatting structural unemployment. Huge budget deficits and our inability to further reduce the inflation rate below 6 percent has caused a dimunition of support for massive new Federal programs. This Domenici-Chiles tax voucher seeks to encourage the private sector to take a greater hand in efforts to train and employ hardcore unemployed youth.●

By Mr. DOMENICI (for himself and Mr. HART):

S. 2807. A bill to amend the Bilingual Education Act, and for other purposes; to the Committee on Human Resources.

BILINGUAL EDUCATION ACT AMENDMENTS OF 1978

● Mr. DOMENICI. Mr. President, today I am introducing with my friend and colleague from Colorado, Senator GARY HART, a bill which rewrites the Bilingual Education Act. Our proposal, which is similar to a bill introduced in the House by Representative CORRADA, represents a major effort to provide bilingual education programs to children with limited English language proficiency.

The Domenici-Hart Bilingual Education Act Amendments of 1978 amends title VII of the Elementary and Secondary Education Act of 1964 to:

Provide for a continuation of the current demonstration project approach for fiscal years 1979 through 1981.

Require that by September 30, 1980, the Commissioner of Education shall submit a report to the Congress indicating the total number of children in the United States with limited English proficiency and identifying those children by language and by State and local education agencies.

Phase in a formula grant program to be administered by the State to serve all children with limited English language proficiency:

First. Funds would be granted by the Office of Education to State education agencies and would be passed through to local education agencies on the basis of the number of children in need of bilingual education programs.

Second. States would be required to provide matching funds equal to 25 percent of the allotment in fiscal year 1981 and 40 percent of the allotment in fiscal year 1982.

Third. Require State education agencies to develop and submit to the Commissioner of Education a 2-year comprehensive program plan.

Fourth. Require local education agencies to submit a program plan to the State education agency.

Provide increased focus and funding to training programs for bilingual education teachers and other personnel.

Strengthen research development and data collection programs administered by the Office of Education and the National Institute of Education.

Reauthorize and incorporate that section of the Emergency School Aid Act relating to bilingual education into title VII.

Authorize appropriations which provide for the transition from a demonstration program to a formula grant service by increasing the authorization to $750 million in fiscal year 1982.

Mr. President, children in the United States are entitled to a free public education. For those children who do not speak English or who have limited English proficiencies, the public education program needs to include the teaching of English. Bilingual instruction in other subjects should be provided in order to allow the children to progress through the educational system while they are learning English.

The Federal role in education is primarily focused around providing assistance to State and local education agencies in meeting the needs of "high-cost" children, that is children, like the handicapped and the disadvantaged, whose education costs more than the average per pupil expenditure. Children who have limited English language proficiency fall into this "high cost" category. I believe the Federal Government should provide bilingual funding on a per-pupil basis, as it does for handicapped children, in order to provide the educational programs necessary for such children.

Children with limited English proficiency have a right to a public education. I believe it is incumbent upon the Federal Government to aid State and local education agencies as they provide for such children a free and appropriate education.

My own State of New Mexico, which has an extensive bilingual program funded by the State, has been a leader in recognizing the right of children from language minorities to an education.

The bill which Senator HART and I are proposing will build on the successful programs in our States and on the experience gained from the title VII demonstration program. The Human Resources Committee will reauthorize title VII this spring. It is my hope that the committee will recognize the need for such a program and will come to the

floor with a bill that provides a program such as Senator HART and I have proposed.

Mr. President, I ask unanimous consent that the text of S. 2807 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Bilingual Education Act Amendments of 1978".

SEC. 2. The Bilingual Education Act is amended to read as follows:

"TITLE VII—BILINGUAL EDUCATION ACT

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

"SEC. 702. (a) The Congress finds that—

"(1) there are more than three million children of limited English proficiency in the United States;

"(2) many such children have a cultural heritage which differs from that of English-speaking persons;

"(3) a primary means by which a child learns is through the use of such child's language and cultural heritage;

"(4) large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual education methods and techniques;

"(5) children of limited English proficiency benefit through the fullest utilization of multiple language and cultural resources;

"(6) children of limited English proficiency have a high dropout rate and low median years of education;

"(7) research and evaluation capabilities in the field of bilingual education need to be strengthened;

"(8) the Supreme Court in Lau v. Nichols (414 U.S. 563, 566 (1974)) affirmed that State and local educational agencies have an affirmative duty to provide children of limited English proficiency a meaningful opportunity to participate in their school's instructional program; and

"(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children of limited English proficiency in order to assure equal protection of the law.

The Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to foster the development of a bilingual-citizenry (1) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques and methods, and (2) for that purpose to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate and develop effective ways of providing for children of limited English proficiency, instruction utilizing the child's language and cultural background, designed to enable them to achieve proficiency in the English language.

"(b)(1) Except as otherwise provided in this title, for the purpose of carrying out provisions of this title, there are authorized to be appropriated $225,000,000 for the fiscal year 1979, $250,000,000 for the fiscal year 1980, $275,000,000 for the fiscal year 1981, and sums as may be necessary $750,000,000 for each of the two succeeding fiscal years.

"(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(3) $12,000,000 for the fiscal year 1979, $14,000,000 for the fiscal year 1980, and $16,000,000 for the fiscal year 1981.

"(3) From the sums appropriated under paragraph (1) for each of the fiscal years 1979, 1980, and 1981—

"(A) the Commissioner shall reserve $45,000,000 of that part thereof which does not exceed $150,000,000 for training activities carried out under clause (3) of subsection (a) of section 721 and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $150,000,000, and less than $300,000,000.

"(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.

"(4) From the sums appropriated under paragraph (1) for the fiscal year 1982, and the fiscal year 1983, the Commissioner shall reserve such an amount not less than that appropriated during the preceding fiscal year, based on findings of national training needs for bilingual education, including data derived from the study mandated under section 731.

"DEFINITIONS; REGULATIONS

"SEC. 703. (a) The following definitions shall apply to the terms used in this title:

"(1) The term 'limited English proficiency', when used with reference to an individual, means—

"(A) individuals whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations;

"(C) individuals who come from environments where a language other than English has had a significant impact on their level of English proficiency, as further defined by the Commissioner by regulations;

and have difficulty speaking, reading, writing, or understanding the English language within their appropriate age and grade levels. Children shall be considered to be proficient in English when they can speak, read, write, and understand English at a level comparable to other children within their age and grade levels.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or the language normally used by the parents of the child or in the home.

"(3)(A) The term 'program of bilingual education' means a program of instruction designed for children of limited English proficiency in elementary or secondary schools, in which with respect to the years of study to which such program is applicable—

"(i) there is instruction given in, and study of English and the native language of the children of limited English proficiency, and the curriculum and such instruction shall include an appreciation for the cultural heritage of such children and such instruction shall, to the extent necessary, be in courses or subjects of study which will allow a child to progress effectively through the educational system; and in which the program and curriculum materials shall be comparable in quality to that offered to the regular English dominant class; and

"(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

"(B) In order to provide peer models for language learning, in order to broaden the understanding of children about cultural heritages other than their own, and to prevent the segregation of children on the basis of national origin in programs assisted under this title, a program of bilingual instruction may include the participation of children whose language is English. In providing that such children shall be eligible to participate in such programs, a program shall not diminish the effectiveness of the program for children who have limited English language skills. In no event shall the principal purpose of the program be to teach a foreign language to English-speaking children, nor shall the percentage of children whose language is English exceed 30% of a class. In any other provision of this title, include education would, as a consequence of State or local practice, foster segregation of children of limited English-speaking proficiency, such program may provide for centralization of teacher training and curriculum development, but shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking proficiency in regular classes.

"(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed to the extent practicable in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

"(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English proficiency, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by parents (not less than 51 per centum of whom shall be parents of children of limited English proficiency), and in the case of secondary schools, representatives of secondary school students to be served.

"(5) The term 'Bureau' means the Bureau of Bilingual Education.

"(6) The term 'Deputy Commissioner' means the Deputy Commissioner of the Bureau of Bilingual Education.

"(7) The term 'Council' means the National Advisory Council on Bilingual Education.

"(8) The term 'other programs for persons of limited English proficiency' when used in sections 731 and 732 means any program within the Office of Education directly involved in bilingual education activities serving persons of limited English proficiency.

"(b) The Commissioner, after receiving recommendations from State and local educational agencies, the National Institute of Education, instrumentalities engaged in the field of research in bilingual education, and groups and organizations involved in bilingual education, shall establish, publish and distribute suggested curriculum and language and cultural teaching strategies for programs of bilingual education including techniques for parental and community involvement.

"(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English proficiency, and appropriate groups and organizations

representing teachers and educators involved in bilingual education.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"SEC. 721. (a) For the fiscal years 1979, 1980, and 1981, funds available for grants under this part shall be used for—

"(1) the establishment, operation, and improvement of programs of bilingual education;

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

"(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

"(b)(1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual-bicultural education available to the children having need thereof in the area served by the applicant.

"(2) An application for a grant under this part may be approved only if—

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English proficiency, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), and (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities;

"(B) in the case of applications from local educational agencies to carry out programs of bilingual-bicultural education under clause (1) of subsection (a) of section 721, the Commissioner determines that not more than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of clause (3)(B) of such subsection and section 723;

"(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English proficiency in the area to be served by the applicant, (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs include the same native language or languages and grade levels which the program is intended to serve, provision has been made for participation of such children, (iii) that the applicant demonstrates that to the extent possible personnel recruited and employed to carry out projects and activities under this title are bilingual, and (iv) that the program includes a plan for evaluation consistent with guidelines developed by the Deputy Commissioner;

"(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner; and

"(E) Nothing in this paragraph shall prohibit the use of funds made available under this title to enable the applicant, (i) to comply with an order of a court of the United States or of any State respecting services to be provided for those children, or (ii) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act with respect to services to be provided for those children, as long as with respect to clauses (i) and (ii) of this subparagraph the programs approved meet the guidelines for bilingual education as established in this title and by regulations under this title.

"(3)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall be equal to 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies, but in no event shall such amount be less than $50,000, or greater than $500,000.

"(C) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

"(D) In determining the distribution of funds under this title, the Commissioner shall, with respect to the Commonwealth of Puerto Rico, take into account the number of children in elementary and secondary schools who are not proficient in the English language, and, programs of bilingual education under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development and evaluation and testing, designed to improve the English proficiency of those children. The Commissioner shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the Congress, within one year after the date of enactment of this subsection.

INDIAN CHILDREN IN SCHOOLS

SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"TRAINING

"SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

"(A) training, carried out in coordination with any other programs training auxiliary

educational personnel, with particular emphasis on programs leading to certificates or degrees in bilingual education, designed (i) to prepared personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (ii) to train teachers, administrators, counselors, paraprofessionals, and teacher aides, and (iii) to train persons to teach and counsel such persons;

"(B) special training programs designed (i) to meet individual needs, and (ii) to provide programs which will reform or bring about innovation and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education;

"(C) Special programs for the training of education personnel in (i) the use of bilingual educational practices, techniques, and methods; (ii) the use of instructional materials for bilingual education programs; (iii) the use and selection of appropriate instruments for measuring the educational performance of children participating in bilingual programs; (iv) the means of involving parents and community organizations in bilingual education programs; (v) the development and implementation of procedures to evaluate the impact of bilingual education; and

"(D) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

"(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year 1979, and subsequent years, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English proficiency. For each fiscal year beginning after September 30, 1979, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

"(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

"(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

"(6) Any person receiving assistance under this subsection shall work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers and related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

"(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 721(b)(2)(B).

"(8) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i) and clause (B)(ii) of paragraph (1) and in subparagraph (B) of paragraph (1) shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

"(b) For the purposes of this section, the term 'eligible applicants' means—

"(1) institutions of higher education (including junior colleges and community colleges) and private and nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

"(2) local educational agencies; and

"(3) State educational agencies.

"PART B—ADMINISTRATION

"BUREAU OF BILINGUAL EDUCATION

"SEC. 731. (a) There shall be, in the Office of Education, a Bureau of Bilingual Education (hereafter in this section referred to as the "Bureau") through which the Commissioner shall carry out his functions relating to bilingual education.

"(b)(1) The Bureau shall be headed by a Deputy Commissioner of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education, and who shall be placed in, and compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) The Bureau shall be organized as the Deputy Commissioner determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

"(3) There shall be two additional positions in the Bureau which shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code, one of whom shall be designated by the Deputy Commissioner of the Bureau to act for the Deputy Commissioner in the Deputy Commissioner's absence or disability.

"(c) The Commissioner, in consultation with the Council, shall prepare and shall submit to the Congress and the President an annual report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

"(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

"(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

"(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual education programs within that region.

"(d) The Commissioner, in consultation with the Council, shall prepare and, not later than September 30, 1980, shall submit to the Congress and the President a report identifying the number of children with limited English proficiency in the Nation, by language, by State, and by local educational agency, and identifying a mechanism for annually updating these statistics. Such report shall also include cost estimates for extending programs of bilingual education to all children of limited English proficiency in the Nation, as well as the necessary teachers and related personnel to serve these children, including a breakdown by language, by State and local educational agency, and by grade levels; as well as comparisons with current availability. Such cost estimates shall be based on an implementation date of September 30, 1982.

"(e) Not later than September 30, 1980, the Commissioner shall develop methods for identifying children with limited English proficiency who are in need of bilingual education programs.

"(f) Not later than September 30, 1980, the Commissioner shall develop mechanisms to measure the progress of children of limited English proficiency enrolled in programs assisted under this title, taking into account the acquisition of requisite English proficiency which will enable the child to competently and effectively participate in a classroom where the vehicle of instruction is English, and take into account other factors contributing to the children's cognitive and affective development.

"(g) Not later than September 30, 1980, the Commissioner shall develop evaluation and data-gathering models, which take into account linguistic and cultural differences of the child, and shall include allowances for variables such as pupil/teacher ratios, teacher qualification, length of the program, hours of instruction, percentage of children, whether English dominant, and limited English proficiency, which are applicable to programs funded under this title.

"(h) In order to maximize Federal efforts aimed at serving the educational needs of children with limited English proficiency, the Deputy Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

"NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

"SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational

problems of children and other persons who are of limited English proficiency, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual-bicultural education. At least two members shall be experienced in the training of teachers in programs of bilingual-bicultural education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The Council shall also include at least two parents of students whose language proficiencies are other than English. At least one State educational agency representative and one member at large shall also be included. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until October 1, 1983.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications and plans under this title, and the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English proficiency.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Bureau of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act; in accordance with regulations.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs, carried out under this title and other programs for persons of limited English proficiency.

"(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director of the National Institute of Education and the Commissioner are authorized to make grants to and contracts with individuals and with public and private educational agencies, institutions, and organizations for such purpose.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall, through grants and contracts with appropriate individuals and with public and private nonprofit agencies, institutions, and organizations—

"(1) undertake studies to determine the basic educational needs and language acquisition characteristics of and the most effective conditions for, educating children of limited English proficiency;

"(2) develop, and disseminate instructional materials and equipment suitable for use in bilingual education programs;

"(3) establish and operate a national clearinghouse of information for bilingual education, which shall be the central coordinating mechanism for collecting, analyzing, and disseminating information about bilingual education and related programs.

"(4) conduct research, development, and evaluation activities designed to improve the means by which teachers are trained for programs of bilingual education and disseminate the results of those activities;

"(5) conduct research, development, and evaluation activities into the use of the cultural heritage of children to improve programs of bilingual education, and disseminate the results of those activities;

"(6) conduct research, development, operation, and evaluation activities to determine effective instructional strategies for bilingual programs; and

"(7) develop and disseminate instructional materials and equipment suitable for use in bilingual education programs, and report annually to Congress on the efforts made to disseminate such materials and equipment. Materials developed shall be of comparable quality to those provided in classrooms for English dominant children. Consideration shall be given to the availability of materials already in existence in private and public sources and give special attention to those language groups for whom private organizations are unlikely to develop such materials.

"(d) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

"(e) There are authorized to be appropriated to carry out in this section $20,000,000 for each of the fiscal years ending prior to October 1, 1981, and such sums as may be necessary for each of the two succeeding fiscal years.

"PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

"PROGRAMS OF STATE ASSISTANCE FOR BILINGUAL EDUCATION

"SEC. 752. (a)(1) For the fiscal years 1982 and 1983, from the amount appropriated under section 702(b)(1) for each year, the Commissioner shall grant to each State which applies for such assistance (and to the local educational agencies within any State which does not so apply) an amount determined on the basis of the number of children, as determined by the Commissioner, aged five to seventeen, inclusive, in schools in such State (or in the area served by such educational agency) who have need, as determined under criteria established by the Commissioner based upon the results of the studies under section 731, for programs of bilingual education as compared with the total number of such children in all the States.

"(2) Whenever the Commissioner determines that a State will not apply for funds under this section the Commissioner shall grant to each local educational agency within that State making application for a grant under this section an amount to which each agency would be entitled had the State applied, if such local educational agency submits a program plan in accordance with subsection (g) of this section.

"(3) The amount of any State's allotment under paragraph (1) of subsection (a) for any fiscal year to carry out the provisions of this section which the Commissioner determines will not be required for such fiscal year (but such determination may not be made prior to the ninth month in any fiscal year) to carry out such section shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under paragraph (1) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this paragraph during a year from funds appropriated pursuant to section 702(b) shall be deemed a part of its allotment under paragraph (a) for such year.

"(b) In order to be eligible for such funds, the State education agency (or local education agency, where applicable) shall provide matching funds from State or local funds, or about equal to 25 per centum of the allotment in fiscal year 1981 and equal to 40 per centum of the allotment in fiscal year 1982.

"(c) Grants under this section may be used only for programs of bilingual education and related programs and activities consistent with sections 721(a), 721(b)(2)(B), (C), and (E), and 721(b)(3)(D), except that, in any State in which the language of instruction is other than English, such programs and activities shall be designed to help children attain English proficiency, in keeping with their level of need for such proficiency.

"(d) Training programs pursuant to this section as described in section 721(a)(3) shall be consistent with section 733(a)(1). No more than 15 per centum of a State educational agency (or local education agency where applicable) allotment shall be used for such purposes.

"(e) For the purpose of receiving assistance under this section for programs for Indian children, the Bureau of Indian Affairs shall be considered a State.

"(f) Not to exceed 5 per centum of the total amount of any grant to a State under this section for any fiscal year may be used by that State for costs of administering programs authorized to be assisted by such grant, except that not less than $75,000 of such funds shall be used for such purposes, and not more than $500,000 may be so used.

"(g) Any State which desires to receive a grant under this section shall develop a two year comprehensive program plan with annual modifications which shall be submitted to the Commissioner, at such time and in such manner as the Commissioner may by regulation require. Each such plan shall contain—

"(1)(A) a plain for allocating funds received under such grant among local educational agencies for programs authorized by this section which is based upon (i) the number of children in elementary and secondary schools in that State who are in need of such programs, and (ii) a priority for successful programs which have received assistance under this title for preceding fiscal years, and which takes into account the size

of the program necessary to be successful, in keeping with the purposes of this Act;

"(B) the criteria used for distribution among local educational agencies, including the need for the program, the number of children to be served, the cost of the program, and program content and methodology".

"(2) procedures for receiving applications from local educational agencies in the State for funds from grants under this section;

"(3) priorities of needs and policies set for the establishment of programs under this section which meet applicable requirements;

"(4) bilingual program standards for programs of instruction and training under this section which takes into account successful projects;

"(5) assurances that programs assisted from the State grant under this section will meet all applicable requirements for such programs under this section;

"(6) provision for coordination with available State and local resources;

"(7) assurances that different language groups in need of programs under this section will be taken into account;

"(8) assurances that funds from grants under this section will be used so as to supplement and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds;

"(9) assurances that State and local fiscal effort for such purposes will be maintained, on a per pupil or aggregate expenditure basis, as compared with the second preceding fiscal year, except that the Commissioner may waive this requirement under extraordinary circumstances;

"(10) provide a system for fiscal control and fund accounting procedures to be adopted;

"(11) provide for evaluations of programs at least on an annual basis, following criteria established by the Commissioner under section 731;

"(12) take into account the State and local educational agency's ability to assume long-term program costs;

"(13) take into account the availability and use of bilingual teachers and bilingual-related personnel; and

"(14) assurances that the plan was prepared in consultation with local educational agencies, parents, and teachers of children with limited English proficiency.

"ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES ELIGIBLE UNDER THE EMERGENCY SCHOOL AID ACT

"SEC. 752. (a)(1) The Commissioner, from funds appropriated under subsection (c), shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From such funds the Commissioner is authorized to make grants to, and contracts with—

"(A) private nonprofit agencies, institutions, and organizations to develop curricula materials and training techniques at the request of one or more educational agencies which are eligible for assistance under section 706 of the Emergency School Aid Act designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

"(B) local educational agencies eligible for assistance under such section 706 for the purpose of engaging in such activities; or

"(C) local educational agencies which are eligible to receive assistance under such section 706, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

"(2)(A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency shall establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization shall (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706 of the Emergency School Aid Act. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

"(b) All programs or projects assisted under subsection (a) shall be part of a program of bilingual-bicultural education.

"(c) There are authorized to be appropriated to carry out subsection (a) $10,000,000 for the fiscal year 1979, $15,000,000 for the fiscal year 1980, and $20,000,000 for the fiscal year 1981; $25,000,000 for the fiscal year 1982 and $30,000,000 for the fiscal year 1983."

SEC. 3. (a) Section 704(b) of the Emergency School Aid Act is amended to read as follows:

"(b) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Assistant Secretary shall reserve an amount equal to 9 per centum thereof for the purposes of sections 708(a), 711, and 713, of which not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711."

(b)(1) Section 708 of the Emergency School Aid Act is amended by striking out subsection (c).

(2) Section 708(a)(1) of such Act is amended by striking out "designated for purposes of clause (A) or (B) thereof," and inserting in lieu thereof "reserved for purposes of section 711".

(c) Section 710 of the Emergency School Aid Act is amended—

(1) by striking out "except in the case of applications under section 708(c)," in subsection (a)(1);

(2) by striking out "or section 708(c)" in subsection (a)(9);

(3) by striking out "or, in the case of an application under section 708(c), would assist in meeting the needs described in that subsection," in subsection (a)(12);

(4) by striking out "and (c)" in the matter preceding paragraph (1) of subsection (c); and

(5) by striking out "or (c)" in subsection (f).

(d) Section 711 of the Emergency School Aid Act is amended by striking out "section 704(b)(2)(A)" and inserting in lieu thereof "section 704(b)".

(e) Section 712(c)(1) of the Emergency School Aid Act is amended—

(1) by striking out "or in the case of an application under section 708(c) would assist in meeting the needs described in that subsection";

(2) by striking out "or, in the case of an application under section 708(c), from funds reserved under section 704(b)(2)(A),"; and

(3) by striking out "section 704(b)(2) for" and inserting in lieu thereof "section 704(b) for".

(f) Section 713 of the Emergency School Aid Act is amended by striking out "section 704(b)(2)" and inserting in lieu thereof "section 704(b)".

● Mr. HART. Mr. President, I am honored to join with my distinguished colleague from New Mexico (Mr. DOMENICI) in introducing the Bilingual Education Act Amendments of 1978.

Almost 10 years have passed since Federal funding was first made available for bilingual education projects under title VII of the Elementary and Secondary Education Act. During this decade, funding has increased steadily as more and more communities have sought help in establishing worthwhile programs of instruction for language-minority children. Funds have also been made available for teacher training and for the development of bilingual texts and other education materials.

We recognize these achievements and applaud them, but title VII programs still fall far short of what is needed. Further, the continued focus of that program on loosely defined demonstration projects invites inadequate, part-time approaches that contribute little either to the children enrolled or to the public perception of what bilingual education ought to be.

The bill which Senator DOMENICI and I have introduced provides for an orderly transition during the 5 years of the reauthorization period to a more comprehensive and rigorous program that will be vastly more responsive to the real needs of language-minority children.

Mr. President, I would like to outline the dimension of the challenge facing bilingual education programs in the years ahead. While there is still some disagreement as to the total numbers of school-age children in this country whose native language is other than English—some estimates range as high as 3.6 million—there is substantial agreement that between 1.2 and 1.5 million of these children are unable to function adequately in school, because of their incomplete command of English.

For most of these children, school is a "sink or swim" proposition. They must

struggle to do course work without being able to fully understand, read, or write the language of instruction. Not too surprisingly, the results are often low achievement scores and high dropout rates. Another frequent result, noted in a 1970 report of the Civil Rights Commission, is massive and inaccurate assignment of language-minority children to special education classes for the mentally retarded.

During the 1970's, educators developed two approaches to breaking the barriers to learning faced by language-minority children. One method, called English as a second language (ESL), emphasizes teaching the student to communicate in English as quickly as possible. But instruction is generally limited to 30 to 40 minutes in each school day; for the rest of the day, ESL children are back in the 'sink or swim" syndrome of trying to keep up in science, mathematics, social studies, and other courses taught in a language they only partially understand.

An alternative approach was offered by bilingual education. This approach is based on the idea that learning should continue in the native language while the new language—English—is being mastered. Bilingual education starts from the premise that learning English does not require the child to reject the native language—in fact, the child is encouraged to maintain and perfect mastery of the native language while he or she is achieving command of English. Bilingual education is not a single technology, or a unique method. It is better described as a total educational strategy for teaching language-minority children.

Mr. President, I am proud that my home State of Colorado has been a leader in developing programs of bilingual education. The Bilingual-Bicultural Act passed by the Colorado State Legislature in 1975 has been heralded as one of the most comprehensive of its type. Some of the provisions of that law are reflected in the bill that Senator DOMENICI and I are proposing.

Let me share with you some of the factors that encouraged Coloradans to enact this law, and some of the insights we have gained during the early years of our comprehensive participation in full bilingual programs. The largest language minority in Colorado is the Spanish-speaking population. Nearly 25 percent of our school-age children are from this group. When we began the bilingual education program, only about 60 percent of Chicano children completed high school. The dropout rate was a whopping 34.9 percent, nearly double that of Anglo children. Three times as many Chicano children were placed in classes for the mentally retarded; eight times as many were held back at least 1 year. It was clear to our educators and lawmakers that the problem was a deep-seated institutional one that required a totally different educational strategy.

The Colorado program calls for full-time bilingual instruction, and seeks to enrich the student's understanding of his native language and culture as well as to teach him English. The enrollment of Anglo children is also encouraged; and, perhaps most important, strong parental involvement in program development and implementation is mandated.

The program has been in place only long enough for us to make preliminary evaluations. It will be a decade before we can speak with confidence about its impact on dropout and completion rates, or on total academic achievement. But the initial evaluations are showing a pattern of markedly improved achievement by children enrolled in bilingual programs. Standardized tests of enrollees show improved scores in all basic subjects, including language skills. These students are not only performing better than Chicano children in those grade levels in earlier years, but their performance also compares favorably with the scores of Anglo children in other schools in the community. Educators in our State are deeply pleased by these early indicators.

Mr. President, I point to the Colorado experience not only out of pride in my State's leadership in this area, but also because I believe it underscores the need for a commitment to a more comprehensive educational approach in the Federal title VII programs. Bilingual education is still a relatively new concept. In some respects, it is not an easy program to implement—it requires fully bilingual teachers, for example, and bilingual textbooks and materials in all basic subjects. School systems that have tried short cuts have sometimes fallen back to programs that were little more than English as a second language. The Federal title VII program has, to be frank, not always been as selective and vigorous as it should have been.

Critics of bilingual education point to some of these difficulties and shortcomings, and argue that they preclude moving the Federal title VII program toward more comprehensive coverage. They call for another 5 years of "demonstration projects" to further test and evaluate the techniques and methods of bilingual instruction. We believe, on the contrary, that we must not delay any longer. While we engage in continued experimentation and limit support to a relatively small number of demonstration projects, millions of language-minority children will continue to struggle through a curriculum that does not meet their educational needs. It is clear that well conceived, full-time bilingual programs, properly staffed by bilingual teachers and supported by parents and educators, can greatly enrich the entire educational process. If anything, title VII programs must be faulted for not reaching high enough.

The bill which Senator DOMENICI and I have introduced would build on the experience achieved to date in both title VII programs and successful State and local programs such as those in Colorado and New Mexico. The approach we propose would allow for an orderly transition of the program, providing for immediate tightening up of title VII programs and more rigorous selection of projects, then moving rapidly to a more comprehensive program in partnership with State and local education agencies.●

By Mr. DOLE:

S. 2808. A bill to amend the Internal Revenue Code of 1954 to allow an individual a credit against tax equal to 20 percent of the social security taxes paid by that individual during the taxable year, and for other purposes; to the Committee on Finance.

(The remarks of Mr. DOLE when he introduced the bill appear later in today's proceedings.)

By Mr. DOLE:

S. 2809. A bill to amend the National School Lunch Act in order to revise the child food program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. DOLE when he introduced the bill appear later in today's proceedings.)

By Mr. PROXMIRE (by request):

S. 2810. A bill to amend section 23A of the Federal Reserve Act to revise the restrictions on transactions between banks and their affiliates; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. PROXMIRE when he introduced the bill appear later in today's proceedings.)

ADDITIONAL COSPONSORS

S. 294

At the request of Mr. MELCHER, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 294, a bill to amend the Meat Import Quota Act of 1964 to define fresh, chilled, and frozen meat, and for other purposes.

S. 1860

At the request of Mr. ROTH, the Senator from North Carolina (Mr. HELMS), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 1860, the Tax Reduction Act.

S. 2343

At the request of Mr. MELCHER, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 2343, a bill to insure the quality of imported meat.

S. 2394

At the request of Mr. KENNEDY, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2394, an act to amend the Older Americans Act of 1965 to provide assistance for legal services projects for the elderly.

S. 2487

At the request of Mr. CLARK, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 2487, a bill to amend the Public Health Service Act to provide for greater emphasis on rural health care needs in health planning.

S. 2503

At the request of Mr. NELSON, the Senator from Illinois (Mr. STEVENSON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senator from Montana (Mr. PAUL G. HATFIELD) were added as cosponsors of S. 2503, the Social Security Refinancing Act.

S. 2711

At the request of Mr. WILLIAMS, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 2711, the Community Schools and Comprehensive Community Education Act of 1978.

S. 2731

At the request of Mr. PERCY, the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 2731, the Solar Global Market Survey Act.

S. 2732

At the request of Mr. PERCY, the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 2732, the Small Scale Energy Technology Programs Reorganization Act.

SENATE RESOLUTION 405

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. ABOUREZK, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 405, to make the Select Committee on Indian Affairs a permanent committee.

SENATE RESOLUTION 414

At the request of Mr. PERCY, the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 414, a resolution to study the feasibility of installing a solar energy system in the Dirksen Office Building extension.

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. MCGOVERN, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Concurrent Resolution 71, a resolution requesting the United Nations to convene a World Alternate Energy Conference and establish an International Alternate Energy Commission.

AMENDMENTS SUBMITTED FOR PRINTING

ELECTRONIC FUND TRANSFER CONSUMER PROTECTION AMENDMENTS—S. 2546

AMENDMENTS NOS. 1747 THROUGH 1751

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. BROOKE submitted five amendments intended to be proposed to the bill (S. 2546) to amend the Consumer Credit Protection Act to provide consumer rights and remedies in electronic fund transfer systems.

● Mr. BROOKE. Mr. President, I am introducing amendments to the bills beginning markup by the Banking Committee which establish consumer protections and responsibilities in electronic fund transfer systems. These amendments address some of the objections to EFT consumer legislation raised by financial institutions and others while insuring that basic consumer protections are provided in new electronic banking services.

Many representatives of the financial industry urge the Banking Committee to delay action on any EFT consumer protections because restrictions will stifle innovative competition for customers of new banking services and hinder further development of electronic banking. They further argue that EFT systems can increase payment convenience and security for consumers and reduce the cost and time of fund transfers for financial institutions and merchants and, thus, should be allowed to develop in an unrestricted fashion. I agree with this assessment of potential benefits from EFT, but also recognize that increasing numbers of fund transfers are made electronically and that consumers must be assured they will not lose the protections now provided in the check and credit card payment systems.

I believe the Banking Committee should proceed to mark up S. 2470 and S. 2546 in order to preserve basic consumer protections as payments shift from check and credit card systems to electronic fund transfers. In several areas where these bills differ, I am proposing compromise amendments to insure that consumer protections are maintained but without imposing unnecessary hindrances on EFT services. Compromises may be appropriate in other areas which the committee agenda identifies as outstanding issues. My amendments are offered, though, to begin the process of maintaining consumer protections while recognizing legitimate concerns of financial institutions and others involved in providing electronic fund transfer systems.

ANALYSIS OF THE AMENDMENTS

Amendment No. 1747 will require the Federal Reserve Board to issue model clauses for disclosure of EFT terms and conditions. By using appropriate model disclosure clauses financial institutions will be assured of meeting the disclosure requirements and consumers will be informed in readily understandable language of their rights and responsibilities and other account terms relating to electronic banking services.

Flexibility in disclosure requirements will be provided by amendment No. 1748. First, the Federal Reserve Board is authorized to determine when disclosures are made. Generally full disclosure of EFT rights and responsibilities would be made when a consumer signs up for a new electronic banking service. However, when a consumer authorizes his employer to deposit his salary electronically, disclosures by the bank may be practical only after the first electronic fund deposit is made. Second, this amendment will not require disclosure of limitations on EFT account usage that would compromise EFT system security. Consumers should be informed of most limitations on account usage so they would not, for example, discover late at night or in an emergency situation that only a limited amount of cash can be withdrawn from an automated teller machine. The Board however is given flexibility to waive disclosure of the details of limitations if their confidentiality is necessary for system security. This could include the particular usage patterns that would trigger a security system to suspect fraudulent use and freeze further use of the EFT card. Finally, this amendment permits changes in an EFT system without prior disclosure to consumers if those changes must be implemented quickly to maintain or restore the system's security.

Amendment No. 1749 recognizes the legitimate point that many savings associations are not equipped to prepare regular account statements and are now receiving electronic deposits of salary and social security benefits with passbooks providing the documentation of account transfers. This amendment will allow continued use of passbooks for accounts which only receive deposits electronically. Where electronic payments are made from an account, periodic statements are required so consumers will have clear and frequent records of funds withdrawn from their account.

A highly controversial issue in electronic fund transfers is whether consumers should be able to withhold payment from a merchant if there is a dispute about the goods or services. Consumers can now stop payment on a check or withhold payment on certain credit card purchases for over $50 and they seek similar protection against faulty merchandise if purchases are made through EFT. Financial institutions and retailers argue that electronic fund transfers will be instantaneous and should be treated like final payments in cash. Furthermore, the proposed reversal provision of S. 2546 is seen as inviting abuse of the system by allowing consumers to reverse a transfer over $50 within 3 days even if there is no dispute with the merchant and then leaving the merchant without recourse to settle the dispute and get paid or to have the purchase returned.

Finally it is argued that EFT systems will not be accepted by merchants if even a limited reversal procedure is required. The evidence speaks against this. Credit cards are widely accepted even with provision for consumers to withhold payment on disputed purchases for over $50. No evidence has been presented that consumers abuse the protection afforded by withholding credit card payments or stopping payment on checks, and only an infinitesimal percentage of purchases are the subject of disputes which require use of these features.

Amendment No. 1750 provides that consumers can reverse a transfer over $50 within 3 days of the purchase if the reversal is based on a dispute about the amount of the transfer or the goods or services. Written confirmation of the dispute from the consumer can be required by the financial institution and provided to the merchant. The reversal would not affect the underlying purchase agreement between the merchant and the consumer. This amendment is very similar to the current Federal law about withholding payment on certain credit card purchases. Finally, the Federal Reserve Board is authorized to provide for value dating or other mechanisms which provide the same consumer protection

as reversal. Hence the legislation would not constrain EFT systems to any particular technological mechanism for conditional payments.

Finally, amendment No. 1751 recognizes that other consumer protection laws, such as the Truth-in-Lending Act, have inadvertently resulted in lawsuits over highly technical interpretations of requirements even where financial institutions have tried to meet their obligations. This amendment will encourage EFT providers to resolve any errors or consumer inquiries outside of court by providing that there is no civil liability for any consumer inquiry or other error resolved under the error resolution procedure or for any compliance failure corrected before a consumer lawsuit is filed. In correcting a compliance failure the consumer would be compensated for any actual damages unless there was a technical malfunction beyond the financial institution's control.●

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978—S. 2637

AMENDMENT NO. 1752

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (S. 2637) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

OLDER AMERICANS ACT AMENDMENTS OF 1978—S. 2609

AMENDMENT NO. 1753

(Ordered to be printed and referred to the Committee on Human Resources.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 2609) to amend the Older Americans Act of 1965 to provide for an extension of programs under that act, and for other purposes.

● Mr. DOMENICI. Mr. President, I am sending to the desk for printing an amendment to S. 2609, the Older Americans Act Amendments of 1978. The text of the bill which I introduced on February 28 inadvertently omitted an important provision which I mentioned in my introductory remarks. The amendment I am sending to the desk corrects this error by restoring the omitted language to the bill.

The substantive provisions affected by this amendment relate to the title VII nutrition program for senior citizens as outlined in my original introductory statement. I would like to summarize briefly the changes contained in this amendment. First, the title VII program would be authorized to subcontract its home delivered meals activities to existing "Meals-on-Wheels" organizations. Second, this amendment would prohibit the Commissioner from setting arbitrary limits on the home-delivered meal program by regulation, rule, guideline, and so forth. Third, this amendment provides that homebound elderly and handicapped individuals may receive home-delivered meals under the title VII program. By structuring this provision so that participation is based upon an assessment of need and not an arbitrary quota, we feel we have tailored the program to fit the needs of people rather than the other way around.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1753

On page 6, line 12, strike out "(1)".

On page 6, line 14, insert "clause (1) of" after "in".

On page 34, between lines 10 and 11, insert the following:

(d)(1) Section 706(a)(7) is amended by inserting after "provide" a comma and the following: "except as set forth in subsection (b) of this section,".

(2) Section 706 is amended by redesignating subsection (b), and all references thereto, as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b)(1) In allotting funds for nutrition projects under subsection (a) of this section, consideration shall be given, where feasible, to the use of organizations, such as meals-on-wheels groups, which have demonstrated an ability to provide home delivered meals efficiently and reasonably.

"(2) No quotas on the number of home delivered meals may be set by the Commissioner under the provisions of this title.

"(3) Elderly individuals may receive home delivered meals in a nutrition project based upon a determination of need made by the recipient of a grant or contract entered into under the provisions of this title.

"(4) Individuals who are handicapped but not elderly may receive home delivered meals in a nutrition project based upon a determination of need made by the recipient of a grant or contract entered into under the provisions of this section; and such services are financed to the extent feasible from sources other than funds made available under section 708 of this Act."

On page 34, line 11, strike out "(d)" and insert in lieu thereof "(e)".

On page 34, line 16, strike out "(e)" and insert in lieu thereof "(f)".

PANAMA CANAL TREATY—EX. N, 95–1

AMENDMENT NO. 90

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the Panama Canal Treaty, Ex. N, 95–1.

AMENDMENT NO. 91

(Ordered to be printed.)

Mr. ALLEN (for himself, Mr. HATCH and Mr. HELMS) proposed an amendment to the Panama Canal Treaty, Ex. N, 95–1.

AMENDMENT NO. 92

(Ordered to be printed.)

Mr. HATCH (for himself, Mr. ALLEN, Mr. CURTIS, Mr. GARN, Mr. HELMS, Mr. LAXALT, Mr. MCCLURE, Mr. THURMOND, Mr. EASTLAND, and Mr. GOLDWATER) proposed an amendment to the Panama Canal Treaty, Ex. N, 95–1.

NOTICES OF HEARINGS

SUBCOMMITTEE ON SEPARATION OF POWERS

● Mr. ALLEN. Mr. President, I wish to announce that on Monday, April 3, 1978, at 11:30 a.m., in room 1418, Russell Senate Office Building, the Subcommittee on Separation of Powers of the Committee on the Judiciary will hold a meeting for consideration of and action on the staff draft of the subcommittee report on the congressional power to dispose of public property in the Isthmus of Panama.●

SUBCOMMITTEE ON NUTRITION

● Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Nutrition of the Senate Committee on Agriculture, Nutrition, and Forestry will conduct hearings on April 4, 6, and 12 on two important nutrition programs. Both the WIC—women and infant children feeding program—and the child care food program will expire at the end of this fiscal year, unless the Congress moves to extend these programs. The purpose of these hearings will be to determine how well the programs have worked and what can be done to improve them. The subcommittee will meet on April 4 at 10 a.m., on April 6 at 9 a.m., and on April 12 at 8:30 a.m. in room 324, Russell.

Oral statements will be limited to 10 minutes, but written statements may be of any length and will be inserted in the record in their entirety. Anyone wishing to testify should contact Denise Love, hearing clerk, at 202–224–2035.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the following schedule of meetings before the Senate Committee on Energy and Natural Resources beginning April 4, 1978:

April 4—Energy Research and Development Subcommittee: 9 a.m., room 3110, hearing. S. 2692, Department of Energy authorization bill.

April 5—Full committee: 9 a.m., room 3110, hearing. S. 499, S, 1500, S. 1546, S. 1787, S. 2465, lands of national interests legislation.

April 6—Parks and Recreation Subcommittee: 10 a.m., room 3110, hearing. S. 1655, Lowell National Cultural Park, S. 2699, relating to the preservation of historical and archeological data in the parks; S. 2566, to amend the Pennsylvania Avenue Development Corporation Act of 1972.

April 6—Energy Production and Supply Subcommittee: 10 a.m., room 6226, hearing. S. 419, to test the commercial, environmental, and social viability of oil shale technologies.

April 7—Public Lands and Resources Subcommittee: 10 a.m., room 3110, hearing. S. 74, to amend the Act of October 20, 1976, re payment in lieu of taxes.

April 7—Energy Research and Development Subcommittee: 9 a.m., room 3110, hearing. S. 2692, Department of Energy authorization bill.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of public hearings before the Senate Committee on Energy and Natural Resources.

The hearings are scheduled for April 8 and April 15, 1978. The first hearing

will begin at 8 a.m., in the north auditorium of the New Federal Building at Second and Madison Streets in Seattle, Wash. The second day of hearings will begin at 8 a.m., in the auditorium of the Bonneville Power Administration Building at 1002 NE., Holladay Street in Portland, Oreg. Testimony is invited regarding S. 2080, the proposed Pacific Northwest Electric Power Supply and Conservation Act, related amendments, and issues associated with electric power planning and production in the Pacific Northwest.

For further information about the hearings you may wish to contact Joel Merkel at extension 43441. Because of widespread interest in the subject area of these hearings, it is necessary to limit the number of witnesses appearing at each hearing. Those wishing to testify or submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.●

CHANGES IN HEARING DATE AND ROOM

ARBITRATION OF CIVIL CASES IN UNITED STATES COURTS

● Mr. DECONCINI. Mr. President, on February 1, 1978, I announced that public hearings would be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2253, a bill to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes.

I wish to notice that the hearings will be held on April 14, 1978, in room 4232, Dirksen Senate Office Building, rather than on April 11, in room 2228, Dirksen Senate Office Building, commencing at 9 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 2228 Dirksen Senate Office Building, telephone 202–224–3618, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

UNFAIR DISCRIMINATION BY PROPERTY AND CASUALTY INSURANCE COMPANIES

● Mr. METZENBAUM. Mr. President, on January 17 and 18, 1978, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Judiciary Committee, which I chair, held hearings on discrimination by property and casualty insurance companies. Specifically, the subcommittee explored whether the use of such categories as age, sex, race, neighborhood, occupation, and marital status for underwriting and rating purposes unfairly discriminates against broad classes of consumers. At issue is the acceptability of classifications based on personal characteristics that consumers cannot control and that have no causal relationship to losses or risks. I want to report to the Senate the results of these hearings and of subcommittee investigations of some insurance industry practices. Response to the hearings from individual consumers has been enormous. Their letters have attacked a great variety of practices by the insurance industry in relation not only to property and casualty insurance, but also to life, health, accident, and mutual insurance issues.

Insurance has become a necessity of our daily living. Unless it is available at fair rates, many consumers will not be able to drive cars or own homes. Thus, the issues examined in the subcommittee hearings now have, and will continue to have, a deep and long-term impact on the average American.

The testimony at the hearings revealed that serious problems exist in the availability and affordability of essential insurance. A persuasive case has been made that in order to maximize profits, property and casualty companies are rejecting "clean" risks in an apparent attempt to eliminate all but the ideal policyholder, that is, one with no losses.

Company underwriting guidelines received by the subcommittee list as bad risks military personnel, waiters and waitresses, unskilled manual laborers, musicians, porters and janitors, any consumer who "can be seen sitting on his front porch without his shirt," and even the "just plain ornery." Many Members of this body would not survive application of that standard. One auto insurance company listed 83 occupations in order of preference for underwriting purposes, with church workers at the bottom of the list. These underwriting categories are used even though an insurance company executive testified that they have not been—and in some cases cannot be—statistically verified.

Most companies view the so-called "model risk" as married and require special scrutiny of divorced and widowed consumers. The auto insurance rates of one consumer witness increased 86 percent when she became widowed even though she had had no accident or violation in 24 years.

Other consumer witnesses complained about the "redlining" of whole sections of cities by property insurance companies. A witness from St. Louis complained that she and her neighbors are unable to obtain homeowners insurance. She lives in a middle-class, 90-percent black neighborhood with homes in excellent condition.

All seven of the subcommittee's consumer witnesses had the same complaint: They cannot get insurance at fair and affordable rates even though they have clean loss records.

Consumers who are denied auto insurance in the so-called standard and preferred markets are consigned to nonstandard rates or to "assigned risk" pools. Many consumers are insured at nonstandard rates 35 to 100 percent higher than standard levels without even knowing it. Homeowners living in redlined neighborhoods are unable to obtain comprehensive property insurance on their homes and are forced into the high priced market of less desirable coverage, nonstandard companies, or State fair plans. In that market, homeowners must pay higher premiums per dollar of coverage than suburban homeowners pay while receiving less comprehensive coverage. As a result, insurance redlining is contributing to the exodus of property owners from the central city.

That "clean" risks land in State fair plans and "assigned risk" pools is undeniable. The chief actuary for a State insurance department has concluded that approximately 60 to 70 percent of insurance consumers in automobile "assigned risk" plans are "clean" risks. In fact, an executive for a large insurance company has stated:

> Many drivers who are put in assigned risk pools often don't really belong there, but they're there . . . because of agency terminations, capacity problems and arbitrary, subjective underwriting judgments.

Further, according to the Federal Insurance Administration, of the 3 million policies written in the State fair plans between 1968 and 1974, only 4.8 percent, less than 1 out of 20, sustained a loss annually; approximately 95 percent of all the fair policies were found to be loss free.

The property and casualty insurance industry suggests that there is statistical justification for the rating criteria they use. In fact, such categories have been challenged by industry critics as superficial, with no direct causal relationship to possible losses. More significantly, the industry's approach to classifying risks forces whole segments of the population to pay higher premiums as a result of the conduct of a relatively few persons in each class.

Insurance commissioner James M. Stone of Massachusetts stated at the hearings:

> I think it is time we stopped the practice of assuming that a young, male or urban policyholder is guilty until proven innocent. Chromosome count and the year of your birth should not determine what you pay for essential property insurance. People should be charged for what they do, not what they are.

To illustrate his statement Commissioner Stone gave a particularly startling example of current rate inequities. In 1977 a resident of the wealthy, suburban town of Concord, Mass., with frequent traffic accidents, could have purchased a full package of auto insurance coverage for $200. In sharp contrast, a 24-year-old workingman in the urban and predominantly black North Dorchester section of Boston, who had driven 7 years without an accident or violation, would have paid more than $2,500 for the same coverage on the same car with the same company.

In addition, the New Jersey Department of Insurance reports that an adult who lives in Flemington, N.J., and commutes 50 miles each way to a job in Newark pays $321 a year for liability, comprehensive, and collision insurance; while, a 19-year-old unmarried male driver with a clean record living in Newark and driving only 10 blocks to work pays $1,888 for the same auto insurance coverage.

The inequities associated with prop-

erty and casualty insurance industry practices suggest that personal characteristics such as age, sex, occupation, race, territory, and marital status—which an individual cannot control—should not be the basis for denying consumers insurance, or for making it available only at very high rates.

The consumer response to our hearings has been extraordinary and the numerous unsolicited accounts of unfair treatment I have received substantiate the evidence produced at the hearings.

In a letter to me, a 74-year-old woman explained that she had insured her home for 45 years and never made a claim when her company notified her that they would not renew her property insurance policy. Her despair in such treatment was clear when she wrote:

> I spent several uneasy weeks, thinking property was too old, that I was too old or neighborhood was deteriorating. Do not know yet what happened.

In fact she was given no explanation whatsoever for the company's nonrenewal decision.

Another consumer wrote that despite a perfect driving record, her auto insurance rates increased after her divorce. The auto insurance rates of her former husband were not increased.

Still another consumer wrote:

> After driving for about 40 years, I bumped a car (parked unlawfully) at a laundromat. . . . It was a tiny dent. I sent the claim of $135 to [my insurance company].
>
> My new premium showed that the rate was doubled. [The company] tells me they will reduce it during the next several years. I will have paid the claim at least three times.

Such letters as these lead me to ask whether insurance companies operate to insure policyholders against losses or to protect themselves from all claims. Practices such as indiscriminate cancellations and nonrenewals of policies and large premium increases suggest that for some companies the interests of consumers have the lowest priority.

I am attaching hereto the texts of additional consumer letters as samples of the many I have received on this issue.

Independent insurance agents who have written to me confirm that the types of discrimination suggested by these consumer letters are not isolated but a part of a pattern of practice of much of the property and casualty insurance industry. In addition, some insurance company attempts to analyze the personal characteristics of prospective policyholders involve serious invasions of privacy.

One independent agent from Milwaukee, Wis., Mr. Terry L. Thomas, sent me a copy of a questionnaire that one of the auto insurance companies he represents requires all prospective policyholders to complete. The questionnaire, which I am attaching, asks such questions as:

> Are (or did) your parents disapprove of some of your close friends?; and do you believe it is better to express feelings openly than to bottle them up?

Mr. Thomas characterized the questionnaire as "reprehensible, irresponsible and an invasion of our clients' personal lives." I agree wholeheartedly with him that we "should not allow these violations to perpetuate themselves".

With the exception of a few outspoken—even courageous—State insurance commissioners, some of whom testified at our hearings, the States appear unable to deal with unfair insurance practices or with discrimination in the cost and availability of essential insurance. Individual consumers, city and county officials, a few State insurance commissioners, and the Deputy Federal Insurance Administrator who testified at our hearings all emphasized the inadequacy of State regulation.

A number of witnesses, including Commissioner John Randolph Ingram of North Carolina and Supervisor Kenneth Hahn of Los Angeles County, called for repeal of the McCarran-Ferguson Act. The statute not only exempts the insurance industry from Federal antitrust regulation—the only major industry to be so exempted, but over the years the executive branch has treated the act as largely preemptive of all Federal regulation. A case now before the U.S. Supreme Court, St. Paul Fire & Marine Insurance Co. against Barry (No. 77–240), may signal a change in that trend. In an amicus curiae brief the U.S. Department of Justice argues that the McCarran-Ferguson Act does not exempt such acts as boycott, coercion, or intimidation by insurance companies against their policyholders from the application of the Sherman Act. If the Court agrees with this interpretation, insurance redlining practices could be subject to Federal antitrust challenge. This would solve some, but not all, of the problems I have been discussing. I have asked the staff of the subcommittee to examine alternative legislative solutions to the availability and affordability crises in property and casualty insurance. Once I have anlyzed the proposed solutions I will introduce remedial legislation.

Problems in the availablity and affordability of essential insurance are not new, but they are more serious today than ever before. These problems underscore the failure of our society to protect the rights of the individual and to insure that he or she is equally treated by large and powerful organizations—whether these be governments, huge corporations, or entire industries. It is time we acted to redress this imbalance in the insurance field, as in others, by guaranteeing American citizens a right to fair treatment.

The text of the consumer letters and forms submitted for printing in the RECORD follows:

LETTERS

GENTLEMEN: I'm delighted that you're taking a long-overdue look at automobile insurance companies' present rating practices.

An outrageous example of their manic methods was the recent cancellation of my daughter's insurance by Civil Service Employee's Insurance Co., via their Flagstaff, Arizona office.

My daughter, 24 years old, is a graduate student at the University of Arizona at Tucson. Last school year she attended graduate school at the University of North Carolina at Chapel Hill, where her insurance was with Nationwide. For her '76 Fiat, she paid $75 every six months. When she reinsured in Arizona with CSE, the premium became $120 every six months. Then within 30 days, she received an enigmatic letter telling her that the insurance was cancelled by CSE.

She phoned the Flagstaff office and was told by "Barbara" that the company had cancelled because Bridget was a transient. Bewildered, my daughter pressed for clarification. The final, and I do mean final, "explanation" was that Bridget was a "waitress and waitresses are considered transients."

On the CSE application, Bridget had noted that in addition to being a full time student she also had part time employment at a restaurant as a waitress. (She worked approximately two evenings a week, for about 3–4 hours).

When Bridget applied to other companies, she was quoted exorbitant rates or outright refusal to insure because she had been "cancelled."

She phoned every conceivable agency in Tucson, federal, state, county and city, for help. The unanimous answer was that there was nothing to be done: "That's the way insurance companies operate."

Bridget's driving record is, thank God, unblemished. No accident, no tickets. Her one insurance claim was several years ago, for $100 when her windshield was broken by a passing truck's churning up of a rock. She was a high school honor student, on the dean's list with honors for junior college, is a registered nurse with her BS in nursing (also graduating with honors), and is now completing her studies this year for her master's degree. The part time waitress job was to help with school expenses.

And if, indeed, she were a full time waitress, what then? Does this mean Arizona waitresses are, per se, transients who are unworthy of automobile insurance?

I certainly hope you will recommend legislation which will end such idiotic and cruel practices on the part of insurance companies who wield such unmonitored power over the lives of all of us.

Sincerely,

HELEN B. TETLEY,
Long Beach, Calif.

SIR: I whole-heartedly support you in your efforts to repeal the McCarran-Ferguson Act. That the State of Michigan has not protected all of its citizens from the powers of the monolithic insurance industry is one reason why this repeal should take place. As an example of this power, the insurance industry, both automobile and homeowner, has virtually written the city of Detroit off as too great an insurance risk—really redlined. Even though Michigan has a no-fault automobile insurance law which was to reduce premium costs, my insurance rates have increased $111.00 in a period of one year.

I believe these costs are based on pure and outright discrimination because I live in a central city where costs are supposedly based on the greater risk factors. Incidentally, I have never had a traffic violation nor an automobile accident in over twenty years.

The above conditions exist as to homeowners insurance. In particular, after 17 years and with not one claim filed with my insurance company, my comprehensive homeowners policy was terminated. I was placed in a high risk state insurance pool where I could only obtain the basic fire-insurance. This coverage would have cost $50.00 more than my previous policy. After searching for a new insurance company, I was only able to receive a fire, limited extended, and personal liabilities coverages. Some insurance companies stated that they were not writing insurance in Detroit, others that their coverages would be limited. It does not seem to me that the State of Michigan is protecting all of its citizens.

Public safety is one of the basic tenets upon which government grants licenses to monopolies which serve the general public. All citizens should be equally protected with

all the insurance coverages available and with just and uniform rates.

For the above reasons, I support your endeavor to repeal the McCarran-Ferguson Act. I hope that you and your colleagues will pass Federal insurance legislation which will be fair and beneficial to all Americans.

Yours truly,

ISAIAH GASTON.

DETROIT, MICH.

DEAR SENATOR METZENBAUM: I was very interested in the article in the Washington Post this morning about the insurance companies. I feel it is about time someone looked into the way they set their rates.

Last year I purchased a new car and was told by my agent (Allstate) that my premium would not go up too much at the time of renewal. I was paying about $380.00 annually at that time. I had expected the premium to go as high as $500.00 when I renewed. When I received the new premium the rate was raised to $986.00 a year. I felt there had to be a mistake as I was eligible for their good driver's rates and had never had an accident. When I discussed the matter with my agent, he told me that the rate was in fact correct and further explained that Allstate was trying to discourage customers who were males, single, and under twenty-five. They did not take into consideration that in my eight years of driving I had had no accidents or moving violations. The agent pointed out that had I not been eligible for their good driving policy they would not have given me the option to renew my policy. After six years of faithfully paying my premiums and never having a claim filed against me, I felt they were treating me poorly. However the agent did tell me that if my parents carried a policy with Allstate my rates would be reduced substantially.

In shopping around for a new insurance company I found the same problem; no one wanted to insure me because of my age, sex, and marital status. One Hartford agent offered to carry me if I doubled the amount of coverage in my then existing policy. Again the premium would have cost me close to a thousand dollars a year. I certainly didn't need that much coverage. I finally settled on Liberty Mutual, whose agent offered me a fair price. After "saving" me all that money he wanted me to take out a life insurance policy for the amount I "saved". I somehow felt that I was given a fair rate in hopes that I would buy a life insurance policy. I shudder to think what they might raise my rates to this year.

I must say that after my ordeal with insurance companies my one time dim view of them has turned to utter contempt. I hope that you and your committee are successful in finding a solution to insurance problems. I agree with you that rates should be set by your driving record not age, sex, and marital status. Thank you for the opportunity to sound off a bit.

Sincerely,

CHARLES A. ZUVER.

MCLEAN, VA.

DEAR SENATOR METZENBAUM: I read where you are working on the insurance companies rate program, charging our young people and our elder people high rates.

One example is our grandson, who will be 20 years old, served in the Marines and has driven cars, jeeps, trucks since he was 16 years old.

We checked with several insurance companies and every one wanted to rate him up from $600.00 to $800.00 per year for the same coverage that other people get for about $135.00 per year.

In fact after checking with many of the younger kids we found that they are driving older cars and with no insurance at all just because of this discrimination.

Also some of the older people have informed us that after having insurance for as many as 35 or 30 years and then they have several moving violations they are put in the high risk premium rate. Many of whom had to quit driving and get rid of the cars as they could not afford the expense.

It seems after looking over some of the financial statements of these companies, they have huge surpluses, huge new buildings and holdings of nearly every description. Also the officers and executives are some of the highest paid and wealthy in our Nation.

I, for one, think you are on something that should be investigated and some form of legislation, to take care of this discrimination.

Very truly yours,

FRED CHAMBERLAIN.

BOWLING GREEN, OHIO.

SENATOR METZENBAUM: I'm reading the local paper of your recent investigation of discriminatory practices by insurance companies. I thought you would be interested in this letter from American Family Insurance Co. Attached is a copy of the letter. My driving record was clean (no violations) at that time and is now. According to their reasons I was cancelled because of my parents'—Thomas A., and Mary R., driving record. I feel I've been discriminated against because at that time I was not under the same policy as my parents. When talking to the underwriter of the policy, he said the reason I was dropped was due to the possibility that my parents might use my car. Another question is "Why can American Family cancel me and take me under their companion company at a higher rate?" I feel that I have been unjustly handled by this company; is there any action I can take? Your reply would be appreciated. My maiden name appears on the American Family letterhead. My married name is Lori Roadt.

Thank you.

LORI ROADT.

GREENFIELD, WIS.

MY DEAR SENATOR: There is another aspect to the fire insurance renewal approach that is disturbing.

I have lived in my current house since 1950 and have, for all these years, had my homeowners policy with the Travelers of Hartford (#0820308096331). I have never had a fire although several years ago I had a pipe burst and had a ceiling replaced.

My policy expires 2-26-78 and I have just received from Travelers a notice of termination. No reason—no explanation. For 1973-74 I paid $244; for 1977-78 I paid $400. It's hard to see the cancellation as reasonable—either because of too many claims or because the company is stuck with low rates. I retired Jan. 1, 1978 which makes this even more disturbing!

Sincerely,

HARRY C. ISAACS.

RYE, N.Y.

DEAR SENATOR: On behalf of those suffering from unwarranted insurance rate discrimination, I thank you for your efforts to change this system.

At the time of my divorce, I had been driving for 19 years, with one minor traffic violation and one non-chargeable accident, was a responsible member of my community, was employed, and drove an economy car. I had never caused a dent in any car.

When I tried to get insurance in my own name, Allstate wanted to put me in an assigned risk pool, because I was unmarried. My agent, who'd been my neighbor for eight years, managed to get me a regular policy, which then came through with a safe driver discount.

Ironically, my ex-husband. who put in a number of claims for fender-benders in the past years, had no problem continuing his insurance.

I hope you can help in forcing the insurance industry to stop using excuses like age and marital status for what amounts to price-gouging.

Sincerely,

NORMA J. JOHNSON.

MONROE, CT.

IOWA NATIONAL MUTUAL INSURANCE COMPANY

Policy No.:

Print Name of Driver:

Sex:

Please return by:

These instructions are very important! Please read and follow them completely!

The questions on this form refer to you! Complete the questionnaire yourself. Do not have anyone else or let anyone else answer the questions for you. Each driver in the household should complete his own questionnaire.

Please answer all questions. Do not leave any blank. Answer the questions as accurately as possible even if you are not absolutely sure of the answer. If an answer is "zero" or "none", write that in.

There is some overlap with items on the application. However, please answer the questionnaire completely.

Please Note! Only one applicant in the household need complete Parts B & C. List the names and birthdates of all persons between the ages of 14 and 25 who live in the household or who would if they were not away at school in the military, etc. List all, whether they drive or not. Include yourself if your age falls within the given range. Check "Yes" or "No" where indicated.

Names:

Birthdates:

Does he/she drive? ( ) Yes; ( ) No.

Does he/she have own car ( ) Yes; ( ) No.

Does he/she have own Ins. ( ) Yes; ( ) No.

List the names, and relationship to you, of all persons who are not members of the household who will drive any of the vehicles you have insured with Iowa National Mutual Insurance:

Write the year, make (Ford, Chevrolet, etc.) and model (Pinto, Vega, etc.) of each vehicle insured with Iowa National Mutual Insurance which YOU will drive in the next 12 months.

Vehicle 1: Year, make, and model

Vehicle 2: Year, make, and model

Vehicle 3: Year, make, and model

How many miles will each vehicle be driven in the next 12 months by drivers combined? Vehicle 1, Vehicle 2, Vehicle 3.

How many miles will you drive each of these vehicles in the next months? Vehicle 1, Vehicle 2, Vehicle 3.

You drive this vehicle to work, school or depot regularly? Vehicle 1, Vehicle 2, Vehicle 3.

If yes, how many days per week do you drive? Vehicle 1, Vehicle 2, Vehicle 3.

How many miles one way each day? Vehicle 1, Vehicle 2, Vehicle 3.

Do you deduct a percentage of the expenses of operating the vehicle from your income tax as a business expense or will a portion of the expenses of your rating it be paid by employer? If "yes," indicate percent.

Vehicle 1: ( ) Yes; ( ) No.

Vehicle 2: ( ) Yes; ( ) No.

Vehicle 3: ( ) Yes; ( ) No.

Where is each vehicle usually left overnight (drive, street, garage, etc.)?

Vehicle 1, Vehicle 2, Vehicle 3.

Has the motor been replaced or the motor or car altered? If Yes, indicate on a separate sheet the year, make, cubic inches and horsepower of the replacement motor or how the car has been altered, each to the self report.

Vehicle 1: ( ) Yes; ( ) No.

Vehicle 2: ( ) Yes; ( ) No.
Vehicle 3: ( ) Yes; ( ) No.

If you will drive more than three vehicles insured with Iowa National Mutual Insurance please put the information for the additional vehicles on a separate sheet and attach to this questionnaire.

This information must be complete and accurate. Cross check dates and details with spouse and against any available records.

If you have not been in an accident or have not received a traffic citation (ticket, etc.) in the past 36 months be sure to write None as your answer. Do not leave any questions blank!

2a. List all traffic infractions (except fined for overtime parking) in the past 36 months which resulted in your being fined, jailed, in the loss of driving privileges, the assessment of penalty points, or attendance at a driver improvement program. List all regardless of the vehicle you were driving or where they occurred. Include violations associated with accidents listed below. If none, write none.

Violation 1. month, 2. year, and 3. nature of violation.

2b. Answer the following questions concerning any and all accidents in which you have been involved while driving in the past 36 months, including one car crashes. Report all accidents which resulted in any damage to any vehicle or to any property or in death or injury to any person. Include all accidents regardless of seriousness, who was at fault, the vehicle you were driving, where it occurred, whether a report was filed with the state or a claim submitted to an insurance company. Report the amount of damage (before deductible) to all the vehicles involved and to all property. Answer every section of the question. If none, write none.

1. Date of occurrence, detailed description, and who was legally at fault?

Results of crash—

Death or injury to anyone requiring medical treatment? ( ) yes; ( ) no.

Total $ damage (all vehicles—all property).

Whose insurer paid damages?

Were you ticketed in connection with crash? ( ) yes; ( ) no.

2c. Indicate the date and reason for any suspension or revocation of driving privileges in the past 36 months. If none, write none.

No. 1, month, year, and reason.

2d. If you have been picked up or detained or charged or fined for any non-traffic legal violation in the past 36 months, indicate the date, the nature of the accusation, and the outcome or action taken. If none, write none.

No. 1, month, year, and nature of accusation; and outcome.

Did you (the applicant) personally answer the questions? (signature).

If not who did?

Name of state issuing driver's license.

Driver's license number.

Today's date.

Questions: Answer the following questions by putting the appropriate numbers in the answer boxes, by putting an X in the appropriate squares to indicate a Yes or No answer or writing out the answer in the space provided. If you wish to explain, qualify or amplify upon an answer, use a separate sheet and staple to the self-report.

1. How old are you?

2. How many years have you been driving by yourself?

3. What percent of your driving of vehicles insured with Iowa National Mutual insurance is between 5 a.m. and 7 p.m. (daytime)?

4. What percent of your driving of vehicles insured with Iowa National Mutual Insurance is done alone (without passengers)?

5. What percent of your driving of vehicles insured with Iowa National Mutual Insurance is in heavy density traffic?

6. What percent of your driving of vehicles insured with Iowa National Mutual Insurance between 7 p.m. and 5 a.m. (evening and night)?

7. What percent of your driving of vehicles insured with Iowa National Mutual Insurance is between 5 p.m. Friday and 5 a.m. Monday (weekends)?

8. How many non-auto injuries have you suffered in the past 3 years which have required medical attention?

9. What is the highest year in school you have completed? (High school is 12 years, college graduate is 16 years, etc. (If completed, high school by G.E.D., so indicate.

10. How many full time jobs have you held in the past 3 years including self employment? If student, homemaker, unemployed, retired or only part time employed answer X.

11. If employed full time, how many years have you been with your present employer or self employed? Student, homemaker, unemployed, retired or only part time employed answer X.

12. Check which is true. In the past 3 years you have been—separated, divorced, widowed, none of these.

13. How many residences have you lived in in the past 3 years? (Count present residence as 1).

14. In the past 3 years how many full time jobs have you quit or been discharged from (except temporary layoffs)?

15. For how many traffic infractions have you been fined or assessed penalty points in the past 3 years? (Do not count fines for overtime parking.) If none, write 0.

16. Do you (and/or spouse) own (or are buying) your current place of residence? Yes, no. Do you live with a parent or guardian? Yes, no.

17. Have you blacked out or fainted in the past 3 years? If Yes, explain. Yes, no.

18. Are you married and living with your husband or wife? Yes, no.

If married, how many years have you been married? (If not married answer X.)

19. How many years have you lived in your present residence? (house, apartment, whatever.)

How many years have you lived in this community?

20. Do you spend much time gardening or doing handy work around the house? Yes, no.

21. Check the one in which you live. Apartment, condominium, house, duplex, rented room, mobile home, other—please specify.

22. What is your principal occupation? (If student, homemaker, unemployed, retired or only part time employed so state.)

23. List physical impairments, conditions limiting your activity or major health problems. If none, write None.

24. Describe any continuing medications you take including tranquilizers or sedatives and explain why you take them. If none, write None.

25. Do any of the cars listed on the first page have major dents, body damage, cracked or broken glass or parts missing? Yes, no. If Yes, indicate which vehicles and nature of damage.

26. Have you been a full time student or in the military in the past 3 years. Yes, no.

27. Have you submitted a claim to an automobile insurer in the past 3 years other than what you described in Part G? Yes, no. If Yes, explain.

28. Have you in the past 3 years attended Alcoholics Anonymous or similar organization, received counseling, been hospitalized, been given medication or in any way received help or been treated for use of alcohol or drugs? If yes, explain. Yes, no.

29. Answer in regards to hard drugs (heroin, cocaine, opium, etc.) or hallucinogens (LSD, mescaline, etc.)

I never tried. I tried or used but no longer do. I continue to try or use.

30. Have relations with members of your immediate family (spouse, parents, children) ever been unpleasant, strained or difficult because of your drinking or because they complain(ed) about your drinking? Yes, no, don't drink.

31. Have you ever found that, after drinking, you cannot remember things you did? (There are blanks in your memory or people tell you of things you did which you don't remember) Yes, no, don't drink.

32. Has drinking ever affected your work, (loss of job, missed time at work, complaints by your superiors, etc.) Yes, no, don't drink.

NOTE: I personally answered these questions and the answers are, to the best of my knowledge, complete and accurate. (Please Initial).

Most of these questions may not seem to apply to married persons living away from their parents or to persons in the military or away at college. We would appreciate it if you would answer all of them, however.

33. If you are 25 or older STOP! You have completed the self-report. These questions are for younger drivers only.

34. Were you ever suspended or expelled from high school? Yes, no.

35. Do you drive any vehicle insured (or to be insured) with Iowa National Mutual Insurance 50% or more of miles it is driven? Yes, no.

36. Do (or did) your parents place restrictions on your driving? Yes. no.

37. Did you drop out of high school and do not expect to complete it? Yes, no.

38. Were you on the Honor Roll, Dean List or equivalent half or more of semesters you were in high school? Yes, no.

39. Do you believe it is better to express feelings openly than to bottle them up? Yes, no.

40. Do (or would) you like to drive around town nights and weekends not going anywhere in particular? Yes, no.

41. Do (or did) your parents disapprove of some of your close friends? Yes, no.

42. Do you have a well worked out set of vocational plans? Yes, no.

43. Do you tend to carefully budget your time? Yes, no.

44. Does driving make you feel better when you are depressed, angry or upset? Yes, no.

45. Are (were) your relations with your parents generally pleasant and congenial? Yes, no.

46. Would you rather go to friends' homes or out than to have friends at your home? Yes, no.

47. Do you tend to plan activities carefully before starting them? Yes, no.

48. Do (did) you hold a part time job while attending high school? (If you did not attend high school, answer X.) Yes, no.

49. Are you apt to do unexpected things to keep others guessing? Yes, no.

50. Do you believe courts and law officers should be tougher in treatment of delinquents? Yes, no.

51. As regards the vehicle insured with Iowa National Mutual Insurance which you drive most, what percent of the miles it is driven do you drive it?

57. Which is closest to your high school grade average? A, B+, B, C+, C, C—, D. Didn't go to high school.

53. How many living brothers and living sisters do you have?

54. List academic honors or recognitions you received in high school.

55. Do you smoke 20 or more cigarettes a day on average? Yes, no.

56. List major class or organizational offices you held or positions of responsibility to which you were elected or appointed in high school.

57–58. Indicate whether you participated in the following activities in high school.

Athletics, Yes, no.
Vocal music, Yes, no.
Instrumental music, Yes, no.
Publications, Yes, no.
Plays or forensics, Yes, no.
Student government, Yes, no.
Clubs, Yes, no.

59–60. Do any of the vehicles listed on the front of the self-report have any of the following?

Modified suspension system, Yes, no.
Racing slicks, Yes, no.
Customized body or paint job, Yes, no.
Modified carburetion system, Yes, no.
Horsepower system higher than original stock motor, Yes, no.
Mag or chrome alloy wheels, Yes, no.

NOTE: I personally answered these questions and the answers are, to the best of my knowledge, complete and accurate. (Please Initial).●

FEDERAL REGULATION AND SMALL BUSINESS

● Mr. DOMENICI. Mr. President, the proliferation of Federal regulation, a situation we are all concerned with, has different impacts on different segments of our society. The American small businessman is particularly adversely affected by these regulations and the following article by Kenneth W. Chilton, from the Center for the Study of American Business, Washington University, St. Louis, Mo., explains how and why I ask that said article be published in its entirety.

The article follows:

THE IMPACT OF FEDERAL REGULATION ON AMERICAN SMALL BUSINESS

(By Kenneth W. Chilton)

Government regulation tends to have a disproportionate adverse impact on small business. The limited ability of the smaller firm to pass along regulation-induced costs or to generate investment capital to finance those costs is having a debilitating effect on this segment of the economy. The special problems of the small firm in dealing with government regulation are managerial as well as financial. Government paperwork requirements command large segments of the entrepreneur's time and energy. Thus, appropriate consideration of the problems of small business should be a part of the analysis of any proposed governmental regulation of the private sector.

INTRODUCTION

There is ample reason for concern over the health of American small business. The cumulative contribution of these small enterprises to the economy is not small. There are over 13 million small businesses (excluding family farms). They comprise more than 95 percent of all private enterprises in the United States. They employ over 40 million persons and produce 43 percent of the gross national product. While small retail outlets (the so-called mom and pop stores) represent a large segment of these businesses, small enterprises are a vital element of nearly every segment of the American economy.

Another reason for concern about small business is the vital role that the individual entrepreneur plays in the area of innovation and in competition. Air conditioning, Bakelite, automatic transmissions, stereophonic sound systems, air brakes, plain-paper copiers, and instant photography were all breakthroughs initially made by small entrepreneurs. Economic effectiveness is well served when barriers to entry into markets are at a minimum. The cornerstone of private enterprise or capitalism rests on efficient markets and vigorous competition.

Yet another reason for consideration of the future of small business is simply that the future does not look bright for many of these firms. For example, a relative shift in technological innovation from small business to large firms appears to have occurred in the late 1960's. According to one research report published by the American Association for the Advancement of Science, small firms (those with fewer than 1,000 employees) produced the greatest number of major innovations from 1953 to 1966, but large manufacturing companies (those with 10,000 or more employees) led in innovation in the 1967–73 period. To be sure, many factors are at work here, including the effects of inflation, changing economies of scale, international competition, union wage rates, and all manner of government factors ranging from taxation and credit policy to regulation. Of this host of factors, it is the latter that is the subject of this report.

The impact of the recent expansion of federal government regulation of business has been particularly severe on the smaller companies. Large capital expenditure requirements to meet environmental or job safety standards above those that would be followed voluntarily may represent merely an uneconomical application of resources for a large firm; but it may literally be a matter of the enterprise's life or death for the small firm. While surely there has been no deliberate intent on the part of the regulation writers to bring about the demise of small business firms, it is accurate to say that often there has been little if any consideration given to the economic impact of regulation on the small firm.

THE THREAT TO CORPORATE EXISTENCE

A few examples of the effect of government regulation on the small firm serve to punctuate the point that government regulation affects small business disproportionately hard. The foundry industry is composed of approximately 4,200 foundaries; 82 percent of these firms employ fewer than 100 people and 75 percent employ fewer than 50 persons. The total industry employs approximately 375,000 workers. In the late sixties this industry began to lose small plants, those that specialized in small orders of less than 500 pieces a year, due to a combination of economic recession and EPA regulation. The castings produced by these foundries are critical for production of limited quantity capital equipment. The size of the mandated EPA emission control expenditures for many of the foundries that closed exceeded the net worth of the entire operation. In the period 1968 through 1975 there were 350 verified foundry closings. Table 1 summarizes the results of a follow up study conducted to determine the causes of these foundry closings.

TABLE 1.—CAUSES OF FOUNDRY CLOSINGS 1968–75

Year	EPA in part or total	Labor or skills	Bankrupt or economics	Consolidations	Death of principal	Unknown	Total
1968–69	1	1	7	1	4	22	36
1970	6	3	8	4	2	52	75
1971	14	1	22	5	1	74	117
1972	14	9	13	3	2	28	69
1973	7	1	5	2	-------	4	19
1974	11	1	5	2	-------	9	28
1975	1	-------	1	1	-------	3	6
Total	54	16	61	19	9	192	350
Percent [1]	34	10	39	12	6	-------	

[1] Percent of total excluding unknown.

Source: "Modern Castings Market Insight." 1975.

The impact of proposed standards for airlead exposure levels promulgated by the Occupational Safety and Health Administration has been examined in a recent study by Charles River Associates. The consulting firm estimates that the total compliance cost would be approximately $416 million (in 1976 dollars) with annual costs of $112 million. The predicted result in the battery industry, which is made up of 143 firms, is as follows:

". . . OSHA lead regulations would result in much larger per unit production costs for smaller plants than for larger plants. Because of large differential costs and the fact that battery prices would only rise to cover the unit costs of the larger firms . . . smaller plant operators would be forced to absorb the differential in costs. In many cases the amount absorbed would . . . eliminate entirely the plant's profitability and about 113 single plant battery firms would be forced to close . . . [this] would eliminate half of the productive capacity not operated by the five major battery companies."

The information in this report is insufficient to assess the merits of alternative OSHA standards for measuring the hazard posed by working in these firms; however, the predicted impact on small business in this industry of the proposed standard indicates the need for further study prior to its final issuance.

Albeit unintentionally, at times regulatory agencies can hurl devastating blows at a small business by simply releasing incorrect information. Such was the case of Marlin Toy Products. Marlin sales totaled $1.5 million in 1972; the company employed about 85 people in a commnuity of 1,100 people. In November, 1972 the Food and Drug Administration notified Marlin that its two main products, the toy balls known as Flutter Ball and Birdie Ball, were going to be banned because the balls contained small noise-making pellets that could be swallowed by a child if the balls cracked. Later Marlin and the FDA agreed that if Marlin would recall the balls on the market and remove the pellets from future balls it would be removed from future banned lists. Marlin gave rebates totaling $96,000.

In October 1973 the Consumer Product Safety Commission (which had assumed the authority for toy safety) picked up the old ban list from the FDA and reprinted it, but inadvertently omitted the fact that Birdie Balls and Flutter Balls were banned only if they were the old version that contained pellets. The company's toy sales plummeted during the vital Christmas season. Marlin was forced to lay off 75 percent of its work force and was forced out of the toy business. CYSC admitted that, "the toys were supposed to be deleted from the banned list but weren't and we weren't about to recall 250,000 lists just to take one or two toys off."

A key to the continued existence of any private enterprise is, of course, its ability to generate a stream of profits sufficient to finance future capital expenditures for replacement and growth. This fundamental economic requirement must be satisfied by small firms as well as large. A basic difference between large firms and small firms faced with "unproductive" capital expenditures required to meet governmental regulatory standards is the greater ability of the large firm to pass along the added cost and a reasonable return on that investment to the consumer.

In 1974, the National Association of Manufacturers surveyed its members and obtained estimates of the costs of meeting the OSHA standards existing at that time. The average estimate for firms with fewer than 100 employees was $35,000, a significant demand on the resources of a small firm. It is interesting to note that the only reference to small business in the whole legislative history of the Occupational Safety and

Health Act is for the provision for Small Business Administration financial aid to improve work place safety.

Other regulatory agencies have created increased capital demands on small business. The Employee Retirement Income Security Act was designed to protect employee pensions. However, the Commissioner of Internal Revenue, Jerome Kurtz, estimates that, due to a propensity to specify uniform standards for all pension plans, large or small, as much as 30 percent of the nation's 500,000 private pension plans may have gone out of business. An important contributor to this phenomenon is the estimated 5–10 percent increase in the costs to small business to meet pension law requirements. This increase is due to higher minimum funding and increased administrative costs including accounting and actuarial services and insurance for fiduciary liability.

AVAILABILITY OF CAPITAL

Some government regulations adversely affect the ability of small enterprises to attract investment. The "prudent man" rules included in ERISA coupled with their accent on personal liability for the "imprudent" pension fund manager have accentuated the trend to concentrate equity investments in the larger, well-established companies. Changes to these rules to allow up to two percent of a pension fund's portfolio in smaller, more risky firms while meant to provide some relief for small business may, unfortunately, merely place a ceiling on these types of investments by the pension funds.

Some of the Securities and Exchange Commission's rules also tend to work against the small firms. The SEC definition of a "private offering" is the solicitation of no more than 25 potential investors and sale of stock to no more than 10 investors. SEC registration for "public offerings" costs between $100,000 and $150,000 to prepare and takes four to six months. Table 2, from the report of the SBA Task Force on Venture and Equity Capital for Small Business, demonstrates the decline in the new issue market for small business (defined as those with net worth less than $5 million).

TABLE 2.—NEW STOCK ISSUES BY SMALL BUSINESS

Year	Offerings	Total amount (millions)
1969	548	$1,457.7
1970	209	383.7
1971	224	551.5
1972	418	918.2
1973	69	137.5
1974	8	13.1
1975	4	16.2

Source: U.S. Small Business Administration.

Table 3 shows the estimated cost (in 1969 dollars) of flotation of public and private debt issues by size of the issue. The difference in the two types of issue indicates, in part, the added cost of meeting requirements imposed by the Securities and Exchange Commission and ancillary accounting and legal costs associated with public offerings. It is clear that small firms (small issues) bear disproportionate costs whether private or public and that SEC requirements greatly compound the costs for small issues.

TABLE 3.—COMPARISON OF COSTS OF FLOTATION AS PERCENT OF PROCEEDS PUBLICLY OFFERED AND PRIVATELY PLACED DEBT ISSUES, 1951, 1953, AND 1955

Size of issue	Publicly offered	Privately placed	Difference
$500,000 to $900,000	10.24	2.14	8.10
$1,000,000 to $1,900,000	8.00	1.52	6.48
$2,000,000 to $4,900,000	3.33	1.12	2.21
$5,000,000 to $9,900,000	1.53	.83	.70
$10,000,000 to $19,900,000	1.44	.63	.81
Over $20,000,000	1.22	.44	.78

Source: American Enterprise Institute.

THE PAPERWORK BURDEN

It is much more difficult to assess the impact of regulations that are merely burdensome to small business, such as meeting the paperwork requirements. The Commission on Federal Paperwork reports that—

"5,000,000 small businesses spend $15–20 billion or an average of over $3,000 each on federal paperwork; and small businesses are relatively harder hit by federal information requirements than larger firms and often lack the necessary expertise to comply."

The latest addition to the power of the Environmental Protection Agency comes from the 1976 Toxic Substances Control Act (Tosca). The impact on small firms in the chemical industry has been given little consideration as regulations are being drafted. The Act gives the EPA virtually unlimited authority to require extensive testing—at the firm's own expense—of any new chemical product before it goes on the market. In addition, EPA can take action against as many as 50 existing substances annually and can require almost unlimited data.

Although Congress intended to shield small businesses from many of Tosca's paperwork burdens, the latest proposed regulations define "small manufacturer or processor" as a single-plant manufacturer with annual sales less than $100,000 or with production less than 2,000 pounds annually. Under that ruling, a firm such as the Harwicke Chemical Company in Elgin, South Carolina is classified as big business. Harwicke has less than 75 employees and produces $9–11 million in annual sales out of a single-plant facility. Harwicke's sales manager has become the regulatory expert since he is the only employee besides the president who even holds an advanced degree in chemistry.

Not all examples of the heavier burden of regulation on small business have to do with the newer regulatory agencies. A National Labor Relations Board election is a good example. Table 4 shows the total estimated cost per employee of an NLRB election by size of the company work force. Clearly the unit cost of meeting this regulatory requirement is smaller for the large firm ($101.60 for companies with over 1,000 employees) and larger for the small firm ($134.60 for firms with fewer than 100 workers).

TABLE 4.—NLRB ELECTION COSTS PER EMPLOYEE

Cost category	Employees eligible to vote					
	50 to 99	100 to 149	150 to 299	300 to 599	600 to 1,000	1,000 plus
Legal	$26.00	$19.00	$15.50	$12.00	$8.00	$8.00
Employee time	27.00	27.00	27.00	27.00	27.00	27.00
Loss in productivity	57.60	57.60	57.60	57.60	57.60	57.60
Executive time	24.00	20.00	18.00	12.00	9.60	9.00
Total cost per employee	134.60	123.60	118.10	108.60	102.20	101.60

Source: Michigan State University Business Topics.

POSSIBILITIES FOR IMPROVEMENT

Often small firms have little if any opportunity to influence regulation in the formative stages. Even if individual firms become aware of proposed laws or regulations, by virtue of their smallness they can ill afford to devote precious management time to attempting to alter an only potentially difficult situation. That this problem often has gone unrecognized in the past was aptly expressed by James D. Hutchinson, who headed the Labor Department's pension benefits unit when ERISA was passed. He stated that "no one asked" for input from small business during hearings on the legislation.

There are hopeful signs that the regulatory agencies do eventually obtain a better understanding of the special problems of small business. For instance, seven years after its establishment, OSHA has begun a combined effort with the Small Business Administration known as the Small Business Program (SBAP). This is a pilot program with five federal safety and health officers in OSHA's Region V who will be "contact points" between OSHA and small business. These officers will provide a referral service, directing the businessmen to the appropriate agencies and organizations.

In addition, OSHA has proposed to pay 90 percent of a state's cost to send consultants to visit a workplace and identify unsafe conditions. Sixteen states do not currently provide such service. The consultants cannot issue complaints if an employer is violating safety and health laws, but the consultant must request "immediate elimination" of any hazard posing "imminent danger." If a violation is considered serious, the consultant will give the employer "a reasonable time" to correct the problem and if correction is not made, the consultant notifies OSHA. The consultant does not levy fines and thus the small firm can request his assistance without fear of punitive results.

Minor changes have also been instituted in ERISA regulations, such as, reduced reporting requirements and a small business participation in its Advisory Council. The Internal Revenue Service and the Labor Department are working together to eliminate duplication of forms associated with ERISA.

These changes have been brought about as a reaction to public criticism that resulted from initial regulatory action. The key to preventing regulations from creating disastrous consequences for small business is careful consideration of this segment of the economy as part of a pre-regulation economic impact statement. The inclusion of the impact of regulation on small business as a part of an overall economic impact statement might very well result in an improved regulatory climate for the entire business community.●

OIL SHALE—SPECIAL QUALITIES COULD HELP OUR DOMESTIC ENERGY SUPPLY

● Mr. RANDOLPH. Mr. President, the first congressional initiative to develop nonnuclear energy technologies was in the mid-1940's when Senator Joseph O'Mahoney of Wyoming and I introduced in the Senate and House of Representatives, the Synthetic Liquid Fuels Act, which was signed by President Franklin Roosevelt on April 5, 1944. That law authorized the first Federal programs for gasification of coal, liquifaction of coal, and production of synthetic crude oil from oil shale.

I have stated many, many times during the debate on energy legislation last year that much of the extensive knowledge and skill acquired on conversion of coal and oil shale into alternative fuels was lost in the intervening years. We are again realizing the importance of synthetic fuels. There will continue to be interfuel competition, but it is certain that soon America will be striving for fuels of several descriptions.

Oil shale has the potential of becoming an important energy resource. It is possible that 2 to 3 trillion barrels of oil are available from U.S. shale deposits. Under current economic and policy conditions production could reach 20,000 to 57,000 barrels per day by 1985.

Associated with the development of this resource are many unresolved issues. They include the role of the Federal Government in its development, environ-

mental consequences of a large scale oil shale processing industry and social and economic planning related to this industry. Future leasing policies of the Department of the Interior, price supports, loan guarantees, tax policies related to oil shale development, and the establishment of a comprehensive national oil shale policy (possibly as part of a national energy policy) are vital factors which should be addressed.

Dr. Armand Hammer, a creative industry leader, pointed out recently in a challenging article in a March 17 issue of the Value Line investment survey, that oil shale should not be overlooked as a possible solution to our insatiable domestic need for liquid fuels. His knowledgable discussion centers on Occidental Petroleum Co.'s efforts on a 4,000-acre oil tract of land known as Logan Wash, located near DeBeque, Colo.

Mr. President, I commend this article to my colleagues, particularly those involved in efforts to adequately fund research and development in the energy field, and ask that it be printed in the RECORD.

The article follows:

OIL FROM SHALE—A SOLUTION TO AMERICA'S ENERGY CRUNCH

(By Dr. Armand Hammer)

An abundant energy resource existing right in our own back yard can play a key role in our nation's near term energy future. That resource is shale oil, the most important and least understood of the imported oil alternatives now being developed to supply our need for domestic liquid fuels.

A vast treasure of oil is locked up in shale located in the Rocky Mountains of northwestern Colorado, southeastern Utah and southwestern Wyoming. If only one-fourth of this oil is recovered there would be enough oil available to supply the total U.S. needs for the next 70 years. Those mountains located in our western United States contain close to 2 trillion barrels of recoverable oil. They can provide more oil than the total known reserves of the free world.

Occidental Petroleum Corporation believes it has achieved a major scientific technology breakthrough that will make a commercial oil shale industry a reality in the mid 80's. The impact of oil in huge quantities in the American market in this time frame would be tremendous because it would make our nation independent of foreign sources.

The energy problem is real . . . confusing, but real. Everything our nation uses is dependent on energy.

This problem is clearly stated in the President's National Energy Plan:

"The diagnosis of the U.S. energy crisis is really quite simple: demand for energy is increasing, while supplies of oil and natural gas are diminishing. Unless the U.S. makes a timely adjustment before world oil becomes very scarce and very expensive in the mid 1980's, the nation's economic security and the American way of life will be gravely endangered. The steps the U.S. must take now are small compared to the drastic measures that will be needed if the U.S. does nothing until it is too late."

In the United States, we consume more than 17 million barrels of oil per day—and the rate continues to climb. Our domestic production now meets only a little more than half of our daily needs. Approximately 8 million barrels per day must be imported. We have virtually no control over foreign imports, since production and prices are determined by an Arab-dominated cartel—the 13 member countries of the Organization of Petroleum Exporting Countries (OPEC).

The new oil finds in Alaska's North Slope and the North Sea will provide some temporary relief, but these new sources will not be able to reverse the trend.

The energy debate continues, but two facts dramatically demand our attention—our balance of payments is deeply in the red and our national defense posture is threatened.

Our dependence on oil imports cost us an estimated $45 billion in 1977 (that is about $83,000 a minute!). For every man, woman and child in the United States, $210 flowed into the hands of foreign petroleum producers—substantially affecting the U.S. economy. The consequences of spending such a large sum overseas are enormous—our trade deficit is more than $27 billion and steadily mounting. Such a predicament weakens the value of the U.S. dollar in international trade and challenges the basis of our economy.

Of major concern is the availability of domestic jet aircraft fuel for military operations in the decade of the 80's. The Defense Department indicates that the depletion of our domestic natural petroleum supplies is only a matter of time. Unless alternatives are developed domestically, another Middle East oil embargo could have grave military consequences.

President Carter has said that the lack of an assured energy supply is the single greatest threat to our security and that of our allies.

The President has made energy a top priority of his administration. Government, congress and industry are striving to come up with some answers in the form of substitute energy sources for imported petroleum.

Research and development has been accelerated in a number of promising technologies—solar energy, geothermal power, nuclear and synthetic fuels from coal—but none of these is capable of making major contributions to our energy supplies in the short term when we will need them the most.

The demand for energy output in the 80's and beyond will continue to be directed towards liquid fuels. Our aim is that liquid fuel will come from oil shale, right from our own back yard. The beauty of shale is that deposits are well mapped out, so the risk of exploration is eliminated. There is no chance of drilling any dry holes—we know where the oil is.

THE INSIDE STORY

Shale oil—how it can be extracted from the rock economically and with minimum impact on the environment, and what the potential is for a commercial oil shale industry are just some of the questions the OXY team has probed. They have taken an aggressive, dynamic course to develop an underground process for recovering the oil from the mountains in commercial quantities at reasonable costs in today's energy market and under environmentally acceptable conditions.

WHAT IS OIL SHALE?

Oil shale is found throughout the world, and its potential has been known for centuries. Oil from shale has been produced in Europe on a small scale for more than 100 years, and industries exist in such diverse areas as the Soviet Union, China and Brazil.

There are oil shale deposits in at least 27 of our states, but none compared with the quality of the shales found in the Green River formation of the Rockies. Within the Green River formation, the richest oil bearing shales are imbedded in a comparatively small area of the Piceance (pronounced "pea-ants") Basin in Rio Blanco County, Colorado. Some of these rich deposits are as much as 1,500 feet thick.

Once extracted from the rock, oil from shale has similar properties to crude oil. Tests show it can be refined into a variety of petroleum products, including gasoline, fuel oils, jet fuel and petrochemicals.

The source of the oil in shale is an organic material called "kerogen," which was deposited in large quantities at the bottom of some vast, prehistoric lakes. This was about 50 million years ago during the Eocene Age. There were no Rocky Mountains then. Over the millennia, thousands upon thousands of tons of this material were built up, and as they became compacted under the layers above, they hardened into rock or shale. The lakes, which probably existed for some 10 million years, finally disappeared altogether as erosion and upheavals radically changed the landscape into plateaus edged by steep cliffs.

The layers of kerogen are easily detected in a piece of shale rock as black or dark brown streaks. The darker and wider the streaks of kerogen, the richer is the oil shale. When you travel through shale country, you often see the rich shale formed in the face of the cliffs.

OIL SHALE—PAST AND PRESENT

When pioneers first crossed through the shale country of western Colorado more than a century ago, the Ute Indians told them tales about "the rock that burns." The pioneers soon learned that they could use the shale rock to help light their campfires. The residue from the rocks proved to be useful for harness oil and grease for their wagons.

Developing a shale oil industry in the Rocky Mountains has been an elusive goal for more than 50 years. Early attempts in the 1920's were stymied when the then bountiful crude oil fields of east Texas were discovered. An oil shale industry remained dormant for decades, first because of the relative ease of recovery and cheaper cost of ordinary crude and later because of the initial low cost of imports from Venezuela and the Middle East.

The oil embargo of 1973 and the ensuing energy problems changed the picture drastically. Since that time the price of oil has increased more than four times.

Under these circumstances, OXY is convinced that a commercial shale industry can become a near term reality. There are still some technical problems but we are confident they can be overcome, and the potential rewards justify that a substantial effort be made to develop an oil shale industry.

HOW DO WE GET THE OIL?

To put it simply, when the rock is heated to about 900 degrees Fahrenheit, the kerogen breaks down from its natural solid state to form oil. This technique is known as "retorting."

A number of different processes for producing oil from shale have been conceived and tested. Repeated attempts have been made using an above ground process to first mine the shale and then bring it to the surface to be crushed and retorted. In almost every case, high costs and environmental constraints have slowed or halted the progress of the development of shale oil recovery under this process. Once the oil has been extracted above ground, the millions of tons of spent shale must be disposed of somehow. This is a major environmental hurdle that still must be overcome.

We believe the most efficient way to produce oil from shale is to do the work underground, inside the mountain. Our engineers call this process "in situ" (the Latin words meaning "in place"). The benefits are obvious. The disturbances to the surrounding environment are minimal and capital costs are reduced. Although the concept may sound simple, it is quite a challenge to make it work on a commercial scale, developing an industry which could eventually produce millions of barrels of oil per day.

THE OXY PROCESS—HOW IT WORKS

The OXY process is unique, but what is more important, it works.

It is called "modified in situ" because a relatively small amount of oil shale (about 20%) is removed to gain entrance to the mountain containing the shale rock, before the retorts are formed and the retorting process begins inside the mountain. The process was conceived as a lower cost alternative to above ground operations which would be environmentally acceptable.

Occidental has invested more than $50 million in developing its process during some 7 years of pioneering research, five of them in the fiield. The result has been the development of a strong proprietary position with a total of 22 patents having been issued, 3 more will be issued shortly, and 55 have been applied for while 35 more applications are presently being prepared and 26 more are scheduled for processing, for a total of 141. OXY is the acknowledged leader in modified in situ technology.

In the OXY process, the mining is conducted inside the mountain to carve out several chambers or "rooms" within and below the rich oil shale formation. Pillars of shale are left inside the rooms to support the overlying formation before blasting takes place. Using conventional explosives with a patented process, the oil shale within the retort boundary, some 30 stories high and 200 × 200 feet in width, is fractured into small chunks of rock 6 to 12 inches in diameter which expand into the rooms, forming a natural retort, or "heating receptacle," inside the mountain. (The specific techniques used in the fragmentation process form a key part of OXY's proprietary information.)

Now the retorting or "cooking" process begins. An external source of fuel is introduced and ignited at the top of the rubble pile. The hot gas heats the top layer of oil shale to the required temperature of 900 degrees F. At this point, the kerogen breaks down to produce oil, gas and a residual carbon that remains on the rocks. The carbon now becomes the fuel for the heating process and the external fuel source is turned off. Air is injected to maintain the process. The self-sustaining combustion advances down the retort, controlled by the rate of air injected. Gravity allows the oil and gas freed by the high heat to flow downward through the retort in advance of the burn. The oil is collected in a sump at the base of the retort and pumped to the surface.

An additional bonus is the low Btu gas which can be used to generate electricity at the site, and in a commercial operation even provide auxiliary power to surrounding communities.

LOGAN WASH—THE PROVING GROUND

In 1972 OXY proceeded to prove out its technology in a series of development tests inside a mountain containing oil-bearing shale.

Since Occidental was unable to acquire any high-grade oil shale acreage at the time, it settled for a 4,000 acre marginal oil shale tract of land known as Logan Wash, located near De Beque, Colorado, some 50 miles northeast of Grand Junction. The focal point of the Logan Wash effort is an 8,500 foot mountain.

In the intervening period since 1972, a series of underground retort tests were conducted, starting on a small scale and building up to commercial size operations. More than 50,000 barrels of shale oil have been produced during the commercial development program, which we believe confirms the validity of OXY's modified in situ process. An active research and development program also has been conducted at OXY's research center in Irvine, California.

The development of OXY's technology during the years at Logan Wash has produced important refinements in mining and retort designs, environmental control and monitoring procedures, and methods of handling oil, water and gas production. All of these will be applied to OXY's future commercial operations.

The operations at Logan Wash will continue, with the development of a third commercial scale retort scheduled for 1978. It is anticipated that additional patents will be developed in the future as field tests are conducted to advance the state of the art of the technology and to improve further the economic, environmental and safety aspects of the modified in situ process.

Some of the Logan Wash oil production was introduced on a test basis into potential markets. Some 5,000 barrels were sold to the Consumers Power utility in Detroit, Michigan, which burned the oil in its boilers without further upgrading as part of its normal operations.

Consumers Power reported: "The shale oil received from Occidental performed satisfactorily. . . . We recommended that Consumers Power continue its interest in shale oil production."

Occidental retained one of the foremost engineering firms, Ralph M. Parson Company, to perform engineering studies of its modified in situ process. Parsons supports OXY's confidence in its shale operations with the following summary statement.

"We believe OXY's in situ approach is fundamentally sound and unique in concept. We are gratified to see it is now being applied to an even richer deposit than before (the OXY-Ashland commercial Colorado-b site), and we feel that the final outcome of the detailed engineering and optimization will prove to be worthy of full commercialization. Parsons believes, based on our previous experience, that future design refinements and optimizations will impart significant savings to the cost of the project."

COMMERCIAL OPERATIONS

Occidental, in partnership with Ashland Colorado, a subsidiary of Ashland Oil, is proceeding with the initial work on commercial operations at the 5,120 acre Colorado-b (C-b) tract leased from the government in Rio Blanco County some 25 miles north of Logan Wash.

The two corporations plan to develop the C-b tract in a progressive fashion which will allow early evaluation of the modified in situ technology on the new site prior to construction of a full scale commercial plant.

How the OXY-Ashland partnership evolved is an interesting story in itself. The federal government, which owns the great majority of the richer oil shale lands, put up four choice tracts for bid in a prototype leasing program in 1974. A number of energy companies responded, and the C-b site was acquired by a joint venture of Ashland, Atlantic Richfield, Shell and TOSCO with a bid of $118 million.

The four companies planned to extract the oil using an above ground process. Atlantic Richfield, Shell and TOSCO eventually withdrew, citing the uncertain environmental obstacles surrounding above ground oil shale development. Ashland then approached Occidental, offering a 50 percent interest in the C-b tract in exchange for the use of OXY's proprietary modified in situ technology. An agreement was entered into on December 1, 1976, and OXY became operator of the tract.

Work on the C-b tract began in September 1977, after a comprehensive Detailed Development Plan was approved by the Department of the Interior. When the commercial facility reaches full production, estimated for 1983, approximately 40 retorts will be in operation, producing a total of some 57,000 barrels of oil daily. The total yield from C-b is estimated to reach about 1.2 billion barrels of oil.

NATIONAL OIL SHALE PROGRAM

This could be just the bare beginning, however. The potential for shale oil is even much greater. As Occidental board chairman and chief executive officer, I have called for a national oil shale program supported by the government that could result in production rates of some 2 million barrels of shale oil per day by the middle 80's.

Under this bold plan, the government would fund the construction of a 200,000 barrel per day plant in Colorado at a cost of about $1 billion (in 1977 dollars). The plant would use the OXY modified in situ process and would come on-stream in about five years. At the same time the proposal calls for the government to announce plans to lease to private industry, on a competitive basis, nine additional oil shale tracts each capable of plants producing 200,000 barrels per day for 30 years. The result: 2 million barrels per day production of oil when it will be needed the most. No one company could dominate the field because federal law limits any company from leasing more than 5,120 acres of government-owned oil shale land.

Such an ambitious program requires a large investment, but the payoff makes it worth the price.

In suggesting the national plan, I have proposed that the government rally to our present national crisis just as President Roosevelt did during World War II when he created a synthetic rubber industry, or as he did with the Manhattan Project.

We have offered our technology to the government for national defense purposes at no profit to ourselves. We will license private companies at a reasonable fee, which we believe we would be entitled to in view of the large investment we have in research and development.

In the national plan we have maintained that the government must be paid back totally for its investment. Only after the government has been reimbursed would the plant be put up for bid. Once the government has adopted this plan we believe private industry would take over and develop a shale oil industry capable of providing for the total needs of our country and the free world. The Federal Government owns six hundred 5,000-acres tracts, each capable of producing 200,000 barrels a day for 30 years. These lands could be eventually leased on a competitive basis, making us totally independent of imported oil.

THE FEDERAL ROLE

The future for an intensive oil shale commercialization program will depend to a great degree on what actions the Federal Government takes in the next few years. The government has a key role to play, not only in supporting the new industry but also in eliminating some of the barriers to private development.

The Department of Energy (DOE) signed a cooperative agreement with Occidental in October, 1977, for a jointly funded project for further development of OXY's techniques to produce oil from shale. Total cost of the two phases, 53 month project is estimated at $60.5 million, with DOE providing 71% of the funds and Occidential 29%.

The first phase of the contract is for the processing of two commercial size retorts at Logan Wash to test and evaluate two different rock fragmentation designs. The first retort test was conducted in 1977 and the second is scheduled to be rubblized in early 1978. If the parties agree to go ahead from there, the second phase will be to burn a cluster of retorts, using the selected design, in the richer shale land at the OXY-Ashland Colorado-b site. The plant would have

an output of 2,500 barrels a day and the demonstration would include a determination of environmental effects. An ancillary facility has been set aside at C-b for this additional work.

For a large scale private oil shale industry to go forward, however, the government must take additional action to ease or eliminate some of the existing barriers to commercialization.

The issues threatening a commercialization program are based on inconsistencies in U.S. policy as far as oil shale is concerned. They include:

Lack of a national plan which would define the priorities for oil shale, establish goals and set schedules for meeting goals.

Lack of a coherent plan for developing the rich oil share reserves owned by the Federal Government.

Uncertainties regarding regulations, particularly related to environmental standards.

Additional uncertainties concerning shale oil pricing, oil taxation and entitlement policies.

Unreasonable time delays in the processing of various work permits.

Positive action by the government in these areas could provide the incentive for more companies to invest in oil shale development.

Under consideration by the Congress as part of two proposed Energy bills is a provision introduced by Senator Long of Louisiana and Senator Talmadge of Georgia to grant shale oil producers a tax credit of $3.00 for every barrel produced. This will not cost the U.S. Treasury a penny unless the shale is produced. It would be a powerful incentive for private industry to participate in the development of a shale oil industry.

ENVIRONMENTAL QUESTIONS—AND ANSWERS

Environmental considerations have always been a major factor in Occidental's planning for the development of a shale oil industry. For the government leased commercial C–b tract, the lessees completed what is perhaps the most comprehensive environmental baseline data collection and exploration program that has been associated with any mineral development. These assessment activities included evaluation of surface and subsurface hydrology, air quality and meteorology, plants and animal life, soil productivity and archeology.

Other than nuclear, no industry has been more closely analyzed from an environmental point of view than oil shale.

By working primarily underground, the OXY modified in situ process minimizes the environmental risks. All the spent shale remains inside the mountain. The comparatively small amount of raw shale removed to gain entrance to the mine can be contoured and revegetated. Experiments have shown that the raw shale readily supports new plant life.

Calculations also show that emissions * * * into the atmosphere will meet all standards set by the Federal Government and the state of Colorado.

How about water? The availability of water and its use are a major concern in the Piceance Basin as well as much of the rest of the western United States. Two of the major demands for water in an oil shale plan are the process cooling and to provide water for revegetating the mined shale. The OXY process water needs are about ⅓ to ¼ of the amount needed for the above ground process. Safeguards also are being developed to ensure that the natural water resources within the mountain are not contaminated by the mining and retort operations.

The advantages of the OXY process are even more impressive when the water use is compared to that of a typical coal fired 1,000 megawatt electric generating plant. Data show that the OXY-Ashland 57,000 barrel per day plant will use only 7 to 13 percent as much water as the 1,000 megawatt electric plant. (The two plants produce roughly the same amount of energy in barrels of oil equivalent.) Thus, 10 comparable sized oil shale plants still would use less water than a single coal-fired power plant.

As far as the socio-economic issues are concerned, OXY is working closely with local, county and state groups to assure that orderly growth will be carefully planned in the nearby small towns that will be affected by commercial oil shale operations.

OIL SHALE INDUSTRY IMPACT IN THE 1980's

If a viable oil shale industry becomes a reality, and if such a program were accelerated by government support, what would the impact be in the late 80's?

It would be substantial, since each barrel of oil from shale produced domestically would save a barrel that otherwise would be imported. Thus, as far as our balance of payments is concerned, a 2 million barrel per day oil shale industry would mean a savings of $10 billion per year in foreign payments, at today's oil prices. Eventually enough shale oil could be produced by private industry to eliminate the present trade deficit, amounting to $27 billion in 1977.

Perhaps even more importantly, oil from shale could assure a secure domestic supply of jet fuel for our national defense purposes in the 80's. This is a matter of vital concern within the Department of Defense (DOD).

Contrary to what some people may think, DOD uses only a small portion of the petroleum consumed in the United States on an annual basis—it's less than three percent. However, our military operations are among the most important users of energy, and in wartime they could become the most demanding.

Some 65 percent of the Defense Department's requirements for petroleum are used for jet aircraft fuel. That amounts to about 300,000 barrels per day under peace time conditions. With our demand for imported oil increasing in the 80's, oil from shale could make the critical difference in our defense posture if foreign oil supplies were cut off again as they were during the 1973–74 embargo.

Some tests using refined shale oil as fuel for jet aircraft have been conducted with promising results and a follow-on project is currently underway. The tests thus far have demonstrated the feasibility of using oil from shale as a source for jet fuel.

Air Force Secretary John C. Stetson, after a visit to our shale oil operation at Logan, Wash., emphasized the military's concern, and its support of an oil shale program as an alternative source for aviation fuel, when he stated:

"Depletion of our domestic natural petroleum supply is only a matter of time; then synthetic oil will become our only secure source of petroleum. For synthetic jet fuel, oil produced from shale seems to be the most promising. And oil shale is plentiful. Recognizing that environmental considerations could limit the amount of oil recoverable, our domestic reserves are still estimated to be many times larger than domestic crude oil reserves."

Several oil companies are beginning to show an interest in OXY's in situ process. Rio Blanco (Standard of Indiana and Gulf Oil Company) have retained Fluor Corporation to evaluate the OXY in situ process. They have already filed a detailed Development Plan based on a modified in situ process on their C–a 5,000 acre tract in Colorado for which they bid $210 million

THE ECONOMICS OF OXY'S PROCESS AND THE FUTURE PROSPECTS FOR ENERGY SELF-SUFFICIENCY

We are confident that with our modified in situ process we will be able to produce oil in commercial quantities estimated to be competitive with imported oil The Parsons engineers and ourselves estimate that we can earn a 15% return on our investment based on the current U.S. price for imported oil of about $13.50 a barrel. When this calculation was made, our investment to build a 57,000 barrel a day facility was expected to be about $400 million. Since then there has been considerable escalation in cost so that today's estimate would be near $600 million. It is therefore important that Congress grant the $3.00 per barrel tax credit for every barrel of shale oil produced. If, in addition, the Department of Energy would extend its entitlement program to oil shale, offering to pay any difference between the price of imported oil and the cost of producing shale oil, it would be a tremendous stimulus for the rapid development of a shale oil industry. The world would see that ultimately we do have an alternative to OPEC oil and that the Arab nations will not continue to have us over a barrel for decades.

For immediate action, I propose that we get behind President Carter to see that Congress promptly passes an acceptable Energy Bill. This should provide substantial tax incentives for those who switch from oil to the use of coal and penalties for those utilities who drag their feet in converting their facilities for this purpose. The substitution of coal for oil could save up to 50% of the use of imported oil. We should declare a moratorium on some of the more stringent environmental restrictions which prevent the increased production of coal. We should encourage offshore drilling in the U.S. by shortening the time for putting up Federal leases for bidding, again by removing some of the more burdensome environmental restrictions. Finally, we should deregulate the price of new oil and gas. If these immediate steps are taken, together with Government action to build a shale oil industry as outlined above, I am convinced that confidence in the dollar would be restored, the trade deficit would be reduced and eventually eliminated entirely, the stock market would boom, capital investment in industry would increase, jobs would be created and the problem of unemployment would disappear.

Under the Rocky Mountains, there is a vast reservoir of shale oil. If it can be effectively tapped, then our dependence on foreign oil will be eliminated. It can be done . . . we think we know how to do it. All it needs is the cooperation of the government and this nation could be quickly on the way to energy self-sufficiency. I am confident that we will get there, and I find it very exciting that Occidental is leading the way.●

DANGEROUS CHEMICAL SAFETY

● Mr. SASSER. Mr. President, I know all of my colleagues share my concern for the safety of the millions of citizens in this country who live by the railroad tracks over which dangerous chemicals and fuels are transported. The disasters last month in Waverly, Tenn. and Youngstown, Fla., could have happened in any State.

Under the leadership of the distinguished Senator from Florida (Mr. CHILES) the Subcommittee on Federal Spending Practices and Open Government and the Subcommittee on Civil Service and General Services held a joint hearing on March 20 to investigate and to bring to light the failures in the Government regulatory process which allow disasters such as these to continue to occur.

Our subcommittees heard testimony from the mayor of Waverly, Tenn. This testimony told the true story of what a tank car derailment and explosion really means to the people of a town who live in fear by the tracks. In Waverly, 15 people in a town of 5,500 were killed and 80 more were injured. Many of the injured will have permanent scars. The police chief and the fire chief were killed trying to protect the town. One-half of the police force was killed.

Mr. President, I ask that the prepared testimony of Dr. Jimmy Powers, Waverly's mayor, be printed into the RECORD immediately following my remarks.

The material follows:

STATEMENT OF HON. JIMMY POWERS

(Chronology of the Events Surrounding the Explosion of a Railroad Tanker Car Full of Propane at Waverly, Tennessee on February 24, 1978:)

WEDNESDAY, FEBRUARY 22

10:30 pm—Twenty-four cars derailed at the edge of downtown Waverly. A home for retarded adults is ordered evacuated of its residents. The state office of Civil Defense receives notification of the derailed propane cars.

THURSDAY, FEBRUARY 23

6:00 am—Civil Defense dispatches a hazardous materials team to Waverly from Nashville to supervise salvage and clean up operations.

10:49 am—Evacuation complete. A check of the tankers shows no leaks. Clean up begins.

FRIDAY, FEBRUARY 24

2:00 pm—Evacuation is again ordered as salvage workers prepare to transfer 4,000 gallons from one tanker to bulk trucks for shipment to Jackson.

2:59 pm—Tanker explodes. Fifteen persons die (as of 3–18–78) and 80 are injured. Homes and Businesses are destroyed.

3:05 pm—A plea is issued for available ambulances, police, fire trucks, and rescue workers.

6:00 pm—Fearing the second car may catch fire and explode, authorities order evacuation within a one mile radius.

The events continue until Sunday at 8:00 am when the evacuees are allowed to return to their homes.

Even though the drama is over and the lives of many residents have returned to normal, those who have been injured and the families of those who have died are forced to readjust to their new life. The City of Waverly has lost many members of its police and fire departments. In addition to the damage of the area where the tanker exploded, the loss of lives is even more traumatic.

The L & N Railroad travels through Waverly in a heavily populated area. The lines are near the center of town causing a derailment, such as the one on February 22, to be an acute danger to the lives of the population, as well as the economic stability and life of Waverly itself. Steps must be taken to prevent these derailments from occurring and particularly when hazardous material is involved.

SHORT-TERM EFFECTS TO THE COMMUNITY

The City of Waverly lost half of its Police Force and many of the Volunteer Firefighters were injured.

6 Businesses are destroyed and 5 are damaged.

5 Homes are destroyed and 10 are damaged.

Temporary Housing must be found for the Adults who lived in the Center which was burned. These women are retarded and need the security of being with House Parents who understand them, and the other girls who they can relate to.

The City loses thousands of dollars in equipment and supplies.

People are hospitalized for long periods of time causing hardships on their families. Most of the victims are in Nashville hospitals and even in other states causing greater difficulty for those families involved.

Individuals who have lost their homes must seek shelter with family and friends until permanent housing can be found.

LONG TERM EFFECTS TO THE COMMUNITY

One of the primary concerns is the locating of a permanent home for the retarded adults who no longer have a place to live together. These women need the security of being together and also require other special facilities which are not easily found in an average house. Therefore, plans must be made to rebuild a home for these girls where they may function as normally as possible.

The Police Force must begin a rebuilding process to fill the positions left by those who were killed, injured never to return to the force, and those who will be recuperating in hospitals for many months.

The police force must also train a new Police Chief and the Criminal Investigator must be replaced. This requires training and time to learn the residents of the area.

The officers must work 69 hours a week and the supervisors work daily. It is necessary that all officers remain on call even though they are not on duty.

The residents make demands that the Police Force becomes trained in handling hazardous materials.

The residents are also demanding that communications be devloped with Bruceton L & N train station. They are insisting that L & N slows down the speed of the trains as they travel through town, that safety measures are enforced on all trains traveling through Waverly, and that the tracks are improved to make for safer passage through town.

The Fire Chief must also be replaced. New men must be trained and new equipment purchased to replace that which was burned and destroyed.

The suffering of the victims that were burned will continue for many months and possibly even their entire lives.

Located at the area which was devastated were businesses that contributed greatly to Waverly's economy. The economy thus will suffer because of the evacuation, the destruction of businesses, and by the hundreds of families who found themselves financially burdened due to individuals death and hospitalization.

The long and even the short term effects of the derailment and subsequent explosion will be felt by the community for many, many years to come. The residents of the city have never felt such shock and despair, as when they witnessed a part of their town being destroyed by fire, and friends and family being killed and disabled.

I feel stronger restrictions should be developed for the safety and well-being of all populations. New legislation *must* be passed and laws enacted to enforce railroad safety and specifically the transportation of hazardous materials.

REPORT OF EXPLOSION, FEBRUARY 24, 1978

Number Dead—15 (as of 3–16–78): 2 firemen, 1 policeman, and 1 Civil Defense worker.

Number Injured—80: 3 firemen, 3 policemen, 1 rescue squad member, 1 game warden on duty with the Civil Defense, and 1 Civil Defense Worker.

Houses—1 public building destroyed (Activity Center for Retarded Adults), 5 homes destroyed, and 10 homes damaged.

Businesses—6 destroyed and 5 damaged.

City damage	
General damage to streets, factory building* and bridge	$300,000.00
Police department	120,384.00
Fire department	175,000.00
Water and sewer department	110,000.00
Subtotal	705,384.00
Residential	
Adult activity center for retarded women destroyed (housed 8 adults)	67,760.00
5 homes destroyed	104,080.00
10 homes damaged	7,010.00
Subtotal	178,850.00
Business	
6 businesses destroyed	316,658.00
5 businesses damaged	213,242.00
Subtotal	529,900.00
Total	1,414,134.00
Summary	
City damage and destruction	705,384.00
Residential and business damage and destruction*	707,750.00
Total	1,414,134.00

* It should be noted that the roof damage to the factory building is not included. This is estimated at $60,000.00. All other estimates have not yet been completed to cover the cost of damages for the factory building.●

SENATOR HASKELL ON PEACE IN THE MIDDLE EAST

● Mr. METZENBAUM. Mr. President, in his remarks at the conclusion of his recent meetings with President Carter, Israeli Prime Minister Begin observed that—

Israel is still the only country in the world against which there is a written document to the effect that it must disappear.

That document, the 1968 charter of the Palestine Liberation Organization, is one of the great obstacles in the path of a peaceful settlement in the Middle East. As long as the Palestinian Arabs continue to permit practitioners of wanton terror to speak in their name and to proclaim as their goal the annihilation of Israel, no reasonable person can expect Israel to welcome the prospect of a state controlled by these same terrorists on its border.

Mr. President, in the wake of the latest episode in the murderous history of random PLO attacks upon unarmed Israeli civilians, our distinguished colleague from Colorado, Senator HASKELL, issued an eloquent plea to the Palestinian Arab people to turn from war and hatred to peace and reconciliation. In his statement, Senator HASKELL urged the Palestinians to repudiate the doctrines and the tactics made infamous by the PLO, to seek new and constructive Palestinian leadership and to recognize the fact that Israelis and Arabs have a common interest in finding ways to live peacefully together.

Mr. President, I ask that Senator HASKELL's statement, "An Open Letter to the Palestinian People," be printed in the RECORD.

The letter follows:

AN OPEN LETTER TO THE PALESTINIAN PEOPLE

Once again the civilized world has been shocked and enraged by the senseless and savage slaughter of innocent Israeli civilians. The perpetrators of this latest crime have, as usual, invoked Palestinian nationalism as the reason for their acts. The Palestine Liberation Organization, which remains the unchallenged representative of the Palestinian people, was quick, as it always is when Israel citizens are involved, to claim responsibility for this hideous incident. The immediate objective of this latest atrocity is abundantly clear—to sabotage the prospects for a negotiated settlement. In the long term, such actions endanger the likelihood of peace for all the peoples of this troubled area, Arab and Israeli alike. These goals are contemptible and compel even the most impartial observer to question the wisdom of ever considering the PLO as a participant in the Middle East negotiations.

Recent PLO actions and the apparent acquiescence of the Palestinian community to them raise harsh questions about the Palestine Liberation Organization and its role in the Middle East. What perverse sense of values makes an organization publically avow such barbarity? Forty years ago, the Fascists were ashamed to admit to Guernica; now the PLO boasts of actions which history's monsters have sought to hide. How can a people of acknowledged intellectual and artistic achievements permit themselves to be represented by butchers? Why should humanity care about your fate when those designated as your sole legitimate representative have so little regard for humanity? Why should Israel make the slightest concession to you when the Palestinian cause is so freqeuntly associated with cowardly attacks on children and unarmed civilians?

My support for and dedication to the survival of a strong and independent Israel are a matter of record, yet I have not been insensitive to the plight of Palestinian refugees. But I see no connection between the barbarism constantly committed by the PLO and disposition of homeless Palestinians scattered throughout the Arab world.

If the tone of this letter appears intemperate, I freely acknowledge it. The time for refined discourse and diplomatic restraint is long past.

Nearly a year ago, following the Cairo conference, I stated in the *Congressional Record*:

"It is with severe disappointment, then, that I note the results of the recent PLO meeting in Cairo. There was no renunciation of terrorism or repudiation of the destruction of Israel. There were no constructive or conciliatory gestures. There was, instead, only renewed verbal invective and threats of escalating hostilities. As a consequence of the PLO actions at Cairo, it is clear that the PLO cannot be accepted as a bargaining entity at a reconvened Geneva conference.

"I am not unaware of the hardships which Palestinians displaced by war have endured. But the politics of terror have no place in promoting a secure and prosperous future for Arab and Israeli alike. The futile irrendentism and savage violence of the PLO have not and cannot solve the Palestinian problem. The existence and security of Israel are not and will not be negotiable."

I concluded by expressing the hope that "a Palestinian ladership will emerge which is committed to playing an active and constructive role in the search for peace." Regrettably, no movement in that direction has occurred, and I must reiterate that hope and those concerns expressed almost twelve months ago.

Let me be unequivocal.

The PLO has no basis on which to claim a role in any peace negotiations.

The PLO has no right to expect sympathy or understanding from the American government. We in the United States Senate are committed to repudiate and eliminate terrorism and to provide the targets of terrorism with every means to defend themselves from craven assaults.

A new Palestinian leadership must emerge, one dedicated to negotiation and accommodation in the Middle East. Failure to repudiate the destructive negativism which has thus far characterized Palestinian aspirations will result in the justifiable exclusion of Palestinian representatives from diplomatic participation in Middle Eastern affairs.

I would like to close by submitting a challenge to all members of the Palestinian community. The name of the Palestine Liberation Organization is repulsive to much of the world. It is associated with acts of savagery and gratuitous violence. Many nations, including Arab states, as well as Israel, are personally familiar with the chaotic destruction associated with your cause. Yet when I visited the Middle East, I spoke with some PLO members who stated their willingness to seek peace and live with Israel. Periodically, such assurances are anonymously repeated. Those who press for public, attributable declarations from PLO members are told that, 1) such concessions must be withheld until negotiations begin, 2) the Palestinian community is not yet willing to endorse such proposals, 3) it is dangerous for individual PLO members to publically repudiate militant opposition to Isreal.

If opposition to Israel is indeed to be a bargaining chip, then let it be played now. Negotiations—the most promising undertaken in thirty years of conflict—are now underway. Palestinians must demonstrate, through word and deed, an intention to participate constructively in negotiations. Otherwise you must be correctly considered implacable enemies of peace and endure the fate of those who will not renounce violence.

Similarly, the sentiments of the majority of Palestinians must be determined. Will Palestinian nationalism continue to be identified as a perpetual cause of chaos and destruction in the Middle East or will the PLO be challenged by moderate, responsible leaders committed to reconciliation?

Finally, if there are Palestinians who are willing to die in order to slaughter innocents and disrupt negotiations, are there not among you others who will risk your lives for peace? Are you not sickened by the inevitable toll of dead and maimed and the twisted, smoking wreckage of villages? Do you not grieve with the parents and the children of the victims? Are you not ashamed that the organization which purports to represent all Palestinians proclaims these atrocities and that the trait most often associated with your people is terrorism?

I am persuaded that the Palestine Liberation Organization has no rightful role in the world community. I trust that within the diverse Palestinian community there are those of you with the immunity and foresight to heroically declare a Palestinian alternative based on justice and tolerance for all.

Neither the world community nor the Palestinian people can any longer abide the PLO. Peace and decency demand a new approach. People of goodwill everywhere look forward to your response.

Sincerely,

FLOYD K. HASKELL,
U.S. Senate.

REGULATORY REFORM: A CALL FOR ACTION

● Mr. PERCY. Mr. President, Neil H. Jacoby, founding dean and professor in business economics and policy at UCLA's Graduate School of Management, recently spoke on "Reducing Governmental Intervention in the Economy" in an address to the Fifth Annual Securities Regulation Institute of the University of California. Dr. Jacoby addressed the matter of how excessive regulation now inundates business and our society. He presented examples of how regulation often has had the opposite effect on the marketplace than was intended, costing consumers and taxpayers increasingly more and effectively stifling natural market solutions.

In his compelling argument, Professor Jacoby does not stop at merely diagnosing the problem; he proposes five concrete actions to help reduce regulation, or at least keep it manageable, for the future. Many times, citizens turn to government intervention due to a lack of understanding or a mistrust of the open market. Professor Jacoby suggests in market economics in the high schools and an updating of current economic courses in colleges. Better informed citizens can better utilize their rights and would be less prone to lean on the Government to impose often-burdensome requirements.

Dr. Jacoby notes that, just as new construction projects must now provide environmental impact statements to assess side effects on the physical environment, there should be some means for assessing the effects of governmental intervention on the social environment. He proposes that all new government regulatory incursions be accompanied by a cost-benefit analysis. And, to remedy the problems implicit in existing regulation, he calls for the passage of the Regulatory Reform Act of 1977, which Majority Leader ROBERT BYRD, Senator ABE RIBICOFF, and I have introduced, and which 42 of our colleagues have cosponsored. This bill would transform and revitalize regulatory mandates, structures, and performance so that agencies better serve the public interest, achieve their purposes more efficiently, and foster greater reliance upon free market competition.

Finally, Dr. Jacoby cites a tendency within Congress to try to mix "equity" with economic efficiency. Future legislation and regulation should, he urges, treat resource allocation and income distribution separately. Attempts to combine the two are generally unsatisfactory.

Professor Jacoby delineates the haphazard way that Government has tampered with the economy. He exhorts us to be more trusting in the ability of competitive markets to allocate resources efficiently and inexpensively. The Government should seek to change the behavior of businesses through incentives whenever possible, and leave governmental coercion to those situations and circumstances where no other choice is available.

Mr. President, because Professor Jacoby's remarks add substantial insight into the problems of excessive regulation and offer some highly practical solutions, I request that the complete text of his address be printed in the RECORD.

The material follows:

REDUCING GOVERNMENTAL INTERVENTION IN THE ECONOMY

(An address to the Fifth Annual University of California Securities Regulation Institute by Neil H. Jacoby, Graduate School of Management, UCLA, San Diego, Calif., January 19, 1978)

The past decade has witnessed a tidal wave of governmental intervention in the U.S. economy. Most significant has been a vast expansion in federal, state and municipal regulation of business. Government has intruded into the private sector in other ways. It has established new enterprises, added to its loans and loan guarantees, and expanded its subsidies to people and to enterprises. Its taxes and spending programs have also risen relentlessly, placing powerful constraints upon the incomes, expenditures, savings and investments of business firms and households. However, it is the flood tide of excessive governmental involvement in the internal decision-making of business that concerns us here. Let us seek the basic causes of this development, and consider what actions would reduce and prevent excessive intervention in the future.

THREE WAVES OF REGULATION

Since 1965 at least thirty-three major new federal regulatory laws have been enacted. They impose detailed controls of the design, testing, packaging and labeling of business products, the occupational health and safety of employees, employment practices and working conditions, environmental protection and improvement, energy prices and conservation, consumer credit, and employee retirement plans.[1] No one has yet counted, let alone described, the avalanche of new state and local regulations of business.

Viewed in historical perspective, we are passing through the third great wave of business regulation to have arisen during the past century. The initial wave crested during the 1880s as a result of populist outcries against industrial and railroad monopoly. It led to the Interstate Commerce Act of 1887 and the Sherman Act of 1890, and to a host of state regulations of transportation and warehousing of farm products.

The second wave emerged from the economic scars of the Great Depression of the 1930s. It brought the family of new federal agencies created by Franklin Roosevelt's New Deal. Some of these agencies were of the joint public-private industrial management type, patterned after the ICC, such as the FPC and FCC. They extended general public controls over firms in the electric power, natural gas and electronic communications industries. Others introduced a new type of regulation over particular business functions of firms in all industries, such as the issuance of and trading in corporate securities (SEC) and labor-management relationships (NLRB).

The third wave was generated by the "quality of life" movement of the 1960s, with its emphasis on broader civil rights, a cleaner environment, more "social responsibility" by business, and, somewhat later, the energy price revolution of the early 1970s. Its hallmark is comprehensiveness—for it affects particular functions of all enterprises and not merely the firms in selected industries. EEOC, EPA, OSHA, ERISA and FEA are the most prominent new federal bureaucracies to emerge during this era. Historical analogy tempts one to hope that this wave may now be receding, but we cannot be sure.

The network of business regulation has thickened greatly over the years. Each new regulatory wave has been superimposed on preceding waves. And older agencies have moved into additional areas of regulation. Thus, the ICC has extended its sovereignty from railroads over trucking, pipelines and inland water transportation. The power of the SEC has been increased over open-end investment companies, brokerage firms and the financial and corporate communities.

It has extended its requirements of public disclosure by registered companies beyond basic financial, business and legal data to include foreign political payments by companies; and it has been considering a requirement that corporations disclose environmental and other "socially significant" actions as well. As former SEC Commissioner A. A. Sommer, Jr., Chairman of the Advisory Committee on Corporate Disclosure, has pointed out, the statutory requirement to disclose "material" facts can be stretched beyond all reason.[2] If companies should disclose their environmental and personal actions on the dubious ground that they reflect "quality of management," why not require them to disclose the personal behavior of their executives—their voting records, church attendance, drinking habits, gambling losses and sexual mores? Thus the SEC could expand its statutory role of financial monitor into that of general corporate censor.

THE CONCENSUS ON EXCESSIVE REGULATION

Today, there is a national concensus that governmental regulation of business has become excessive and should be reduced. Deregulation is not a partisan issue. Both Democratic and Republican leaders give it a high priority on the national agenda. A prominent Republican, Senator Percy of Illinois, introduced the Regulatory Reform Act of 1976. No less prominent a Democrat than President Carter made the simplification of regulation a cardinal plank in his platform during the election campaign of 1976, and he has endeavored to implement his pledge last year.

Objective studies of regulatory programs by the Brookings Institution, the American Enterprise Institute and university economists show beyond doubt that the costs of many programs far outweigh their benefits. Excessive regulation is costing Americans tens of billions of dollars a year in lost production. Superfluous paperwork, delays in decisions, a pile-up of litigation over government rules and mis-allocation of resources have contributed to an alarming decline in the productivity of our economy. Most ominous is a sapping of the innovative drive of business managers, and a loss of flexibility in adapting to new conditions. "Management-statsis"—inability of managers to act—is becoming an epidemic disease. The fastest growing part of the American Corporation is its Legal Department.

COMPETITIVE MARKETS VERSUS BUREAUCRATIC COERCION

In his Godkin Lectures at Harvard University last year, Charles Schultze, the distinguished economist who served as Budget Director for President Johnson and who is now Chairman of President Carter's Council of Economic Advisers, asserted his belief that much governmental intervention is ineffective. He cited the failures of railroad regulation, of federal job training programs, of Medicare, and of many anti-poverty programs as examples. He asked why public intervention so often fails. What forces in our society account for the apparently inexorable tendency of governments to over-regulate?[3]

Schultze's response to these questions was that governmental intervention would be more effective if three conditions were met: First, if we had rules to distinguish the frivolous from the important occasions for intervention. Second, if we substituted market incentives for governmental coercion, whenever possible. Third, if we stopped modifying intervention undertaken primarily to control the allocation of resources in order to achieve "equity" and a redistribution of incomes. Matters of efficiency should be dealt with separately from matters of equity. We can concur wholeheartedly in these perceptive observations.

Schultze did not examine explicitly what I suggest is the basic cause of over-regulation—the widespread ignorance and mistrust of competitive markets as efficient allocators of resources.

When government seeks to change the behavior of business firms, it usually has two options open: One is to provide incentives which will induce firms competing in open markets voluntarily to behave in the desired way. The alternative is to coerce firms to change their behavior by command-and-control type regulation. Wherever this choice exists, it is clearly more consistent with the ideals of a democratic society and a free economy to choose market incentives over coercion. Markets involve voluntary relationships and mutual consent, rely on self-interest, obviate need for cost-benefit analysis, do not impede change, and direct innovation into socially desired channels. Yet the U.S. economy presents many examples of coercive regulation in situations where market competition would clearly produce a superior solution.

Consider the ceilings on rents imposed by the city of New York. The laudable objective of the city fathers was to make rental housing available at reasonable prices. They might have achieved this result by offering tax or other incentives to firms in the building industry to induce them to build and offer more housing in the competitive rental market. Instead, they employed the police power of the state to coerce apartment owners to rent at less than competitive market rates. What happened was predictable. Whenever government holds price below the market level, it creates a shortage. Rental housing became scarce for many reasons. Small families in large apartments kept them because their rentals were artificially low. Owners stopped maintaining existing buildings because their revenues were too small, and these buildings were progressively abandoned. Apartments were converted into condominiums to avoid controls. And builders were reluctant to construct new rental housing because of uncertainty over future controls. The supply of housing shrank, and available housing was badly allocated.

Consider the serious problem of youth unemployment. The straight-foward market solution would be to expand business investment and employment by a cut in federal taxes on business income, and to offer tax inducements to employ youths. But what did the Administration and Congress do in response to the pressure of organized labor? They raised the minimum wage from $2.30 per hour to $3.35 per hour over a three-year period, thereby expanding youth unemployment! Just as a below-market price produced a shortage, so an above-market price generates a surplus. The surplus here is of untrained, inexperienced and often uneducated youths whose labor is worth less than the minimum wage. The evidence is indisputable that raising the minimum wage adds hundreds of thousands of the ranks of the unemployed. Even Secretary of Labor Marshall agrees. Then, to offset the adverse effects of its higher minimum wage, the Administration proposes to spend billions to create and administer "public service" jobs!

Finally, consider our critical problem of energy supply. The Administration proposes to regulate prices of oil and gas. It chooses

[1] See Murray Weidenbaum, *Business, Government and the Public* (Englewood Cliffs, N.J.: Prentice Hall, 1977) pp. 6Z8.

[2] Report of the Advisory Committee Disclosure, SEC, Washington. November 1977.

[3] Charles L. Schultze, *The Public Use of Private Interest* (Washington: Brookings Institute, 1977).

coercion instead of a market solution. It advances two reasons for holding domestic energy prices below the world market level: First, that domestic supplies of oil and gas are inelastic would not expand under the stimulus of higher prices. Second, that to permit U.S. prices to rise to world levels would give "windfall' gains to companies owning oil and gas reserve at "the expense of consumers" and would be inequitable. Neither argument withstands close examination.

By mandating below-market prices for domestic oil and gas, government is generating shortages in two ways. Consumption is higher than it would be in unregulated markets, because prices are artificially low. Supply is less than it would be in an unregulated market because producers lack adequate incentives to invest in finding new reserves. Experience shows that, given several years of time, oil and gas reserves are highly responsive to the level of investment, and such investment, in turn, is highly responsive to the prospectve rate of return which is largely determined by the price of the product.

Oil reserves are not like underground lakes containing a fixed number of barrels of oil which are pumped up through wells until the lake is empty. Oil reserves are like giant underground sponges holding oil in their fissures. The harder this sponge is squeezed—by tapping lower zones or injecting gas, water, steam or chemicals—the more oil it will yield. But cost of recovery per barrel increases. Only about 30 percent of the oil in place underground has been produced from developed American oil fields. Double that amount of oil possibly could be produced from old fields by known technologies, involving higher investment per barrel. And immense reserves could be developed from new fields, onshore and offshore, given price incentives. If American oil and gas companies were offered world market prices for all production, the expansion of domestic output would be astonishing over a five-year period. We could cut our imports of OPEC oil and foreign gas, which are producing a mountainous deficit in the U.S. international balance of payments and a hemorrhage in the value of the dollar.

ENERGY OR "EQUITY"—THAT IS THE QUESTION

Would a market solution to the energy problem be inequitable? To be sure, companies owning oil and gas reserves would realize higher profits. American stockholders would have higher incomes instead of the Arabians, Iranians, Indonesians and Venezuelans who are now getting the money we pay for imported oil. But the U.S. government would reap most of the gain. Between the corporate income tax and the personal income tax on dividends, about 70 cents out of each $1 of additional profits would be returned to the federal and state treasuries. And most of the remaining 30 cents would be spent on exploration and development of new reserves that the nation needs.

But the basic flaw in the Administration's argument lies deeper. In principle, should the government of a democratic nation with a market economy appropriate all unexpected (i.e., windfall) profits? If so, it follows logically that government should also subsidize all unexpected losses.

It also follows that all of the tens of billions of dollars of unexpected gains in the values of American farms, homes, coal and uranium mines and other real property should be appropriated by government. To penalize owners of oil and gas reserves while allowing owners of other kinds of property to go free would be manifestly unfair. The truth is that uncertainty and windfall gains and losses inescapably pervade a free economy, and they do not call for government intervention. The argument that energy taxes are needed to produce "equity" is invalid.

The Administration's energy proposals illustrate that serious flaw in governmental intervention noted by Charles Schultze—a confusion in the same legislative program of resource allocation and income distribution measures which so often frustrates the attainment of both goals. If we need more energy, let us allow the competitive market to do its work. If higher energy prices burden the poor, let us adjust welfare payments as needed.

IS COMPETITION EFFECTIVE?

The Administration's energy program also reflects ignorance or mistrust of the presence of competition in the energy industries and of the power of competitive markets to reallocate resources to satisfy social demands. It is widely believed that competition is not effective in those parts of the U.S. economy in which large corporations are dominant, that monopoly and oligopoly prevail, and that they result in high prices and restricted output. Government must intervene and employ bureaucratic coercion, it is said, to protect the interests of consumers.

The facts refute these views of the U.S. economy. They show that competition today is generally effective and that it is growing keener every day, as technology opens up new options to consumers and as markets become international in scope.[4] Without citing the evidence here, we may merely note the emergence of fierce foreign competition in our auto, steel, electronic, apparel, textile and shoe markets. Not only is competition effective in allocating resources. It performs that function at far less cost and without the undesirable side effects that accompany bureaucratic regulation.

Why is ignorance of the nature of competition and mistrust of competitive markets so widespread? One reason is that most Americans never completed a course in market economics in high school or college. Those who took elementary economics in college usually received a distorted impression that the U.S. economy is shot through with monopolistic imperfections, allocates resources inefficiently, and requires governmental intervention to remedy its alleged "market failures."

Economics textbooks commonly present a theoretical model of "perfect competition" as the goal of public policy. This calls for "atomistic" competition among a very large number of firms, all selling identical products—a situation in which economies of scale, new products and improvements in products would be impossible. The truth is that economic progress *requires* oligopoly. As Professor R. A. Gordon told the American Economic Association in his presidential address of December 1975, "the outstanding example of the failure of economic theory to adapt its analytical tools to the changing institutional environment must be the stubborn adherence to the assumption of perfect competition."[5] Small wonder that bureaucratic instead of market solutions to problems of resource allocation command wide support.

BUREAUCRATIC IMPERIALISM

Another basic cause of excessive governmental regulation is simply bureaucratic imperialism. This is the inherent tendency of bureaucracies—long noted by political theorists—to expand their size and their power. Politicians and bureaucrats understandably prefer governmental coercion to market competition as an instrument of resource allocation. Regulation concentrates political and economic power in the bureaucracy, whereas markets disperse power in private hands. The expansion of regulation means more civil servants to appoint, bigger budgets to command, and more power over the private sector. Every person strives to expand his influence over his environment, and government officials—elected and appointed—are not lacking in entrepreneurial drive. Federal agencies compete in activism.

Bureaucratic power at all levels of government has attained new peaks in recent years, and it has become difficult to contain. That power derives from a sharp rise in numbers of public employees, in their educational qualifications and in their compensation. The United States today has the largest, best educated and highest paid governmental bureaucracy in its history. It has acquired a forward momentum of its own that has defied the power of Congress to restrain and of presidents to reorganize. Too often our civil servants assume that they alone are the morally superior custodians of the "public interest;" all others being suspect as "special interests" to be opposed and disciplined.

MEASURES TO REDUCE AND INHIBIT EXCESSIVE INTERVENTION

Our brief inquiry into some fundamental causes of excessive governmental intervention into business suggests practical measures that would help to reduce existing overregulation and to inhibit its emergence in the future. I propose the following five actions: First, require instruction in market economics in our high schools. Second, modernize the treatment of competition in economics courses. Third, require prior cost-benefit analysis of all proposed new governmental intervention into business. Fourth, pass Senator Percy's Regulatory Reform Act, calling for proof of net social benefit from existing intervention. Fifth, treat resource allocation and income redistribution problems separately in future legislation and regulation. May I comment briefly on each of these actions:

1. Required instruction in economics in high schools

Jefferson rightly observed that the central role of public education in a democracy is to prepare youth for citizenship. Understanding the basic principles of our market economy and of our political democracy surely are an indispensable part of that preparation. The deplorable neglect of basic market economics in the American high school curriculum should be remedied. In 1976 the State of Tennessee led the way when its Board of Education mandated a course in "Classical economics" to be completed by every student in a Tennessee high school before graduation. Other states should emulate this action. We should now begin to generate knowledge of the way in which our market economy operates, and of the ability of competitive markets to allocate resources efficiently and inexpensively.

2. Modernization of the theory of competition and monopoly

Economists should modernize accepted theories of competition and monopoly. They should revise textbooks to present a truer and more relevant description of contemporary competition, its social and economic consequences, and the penalties suffered as a result of political interferences with market forces. Unless our economic textbooks utilize valid concepts that lead to constructive public attitudes, efforts to expand the teaching of economics will avail little, and could even worsen the situation.

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[4] Some of the evidence is contained in *The Impact of Large Firms on the U.S. Economy*, eds., J. Fred Weston and Stanley I. Ornstein (Lexington: D. C. Heath, 1974; *Large Corporations in a Changing Society*, ed., J. Fred Weston (New York: New York University Press, 1974; and Neil H. Jacoby, *Corporate Power and Social Responsibility* (New York: Macmillan, 1973, chap. 6).

[5] R. A. Gordon, "Rigor and Relevance in a Changing Institutional Setting," *American Economic Review*, Vol. 66, No. 1 (March 1976).

3. Prior cost-benefit analysis of proposed intervention

One of the valuable social innovations of our age—though sometimes abused—has been the environmental impact report. It requires those proposing major new construction projects to assess the long-term direct, indirect and side effects of their proposal upon the physical environment, and to demonstrate a surplus of social benefits over costs before a permit to proceed is issued. It is a way of institutionalizing the maxim "look before you leap." We need an analogous institution for the assessment of the effects of proposed new governmental interventions upon the social environment. Congress should require the President to withhold approval of any new law or regulation affecting business unless thorough analysis demonstrates that, in the long run, its social benefits exceed its social costs. Had this requirement been in effect in the past, such disastrous regulatory errors as price ceilings on natural gas might have been avoided.

4. Enactment of the Regulatory Reform Act of 1976

It is as necessary to subject existing regulatory programs to rigorous cost-benefit analysis as proposed programs. In essence, this would be required by a bill introduced into the U.S. Senate during December 1975 by Senator Percy of Illinois entitled the Regulatory Reform Act of 1976.[6] It proposed to establish a time table for review by Congress over a five-year period of every federal regulatory agency, and to bring forth for each agency plans to eliminate unnecessary or harmful regulation, including possible termination of an agency. This legislation should be passed by the Congress. It would be desirable as well for state legislatures to establish similar programs of regulatory review.

5. Separation of resource allocation and income redistribution measures

There has been a tendency during recent years to use every new law, whatever its subject and purpose, as a device for redistributing income from the richer to the poorer members of society. While concern for the poor is commendable, experience shows that attempts to mix "equity" with economic efficiency in the same legislation are usually unsatisfactory. We have noted this result in the current energy proposals of the federal administration. Another example was the effort in the California legislature during 1977 to combine reduction of property taxes on homes with refunds scaled to homeowners' incomes, which was finally rejected as a result of popular disapproval. Measures intended to improve the allocation of resources should be designed to attain that objective. Measures to redistribute incomes should be separately formulated to carry out that aim.

Taken together, the proposed measures should help our country attain a more productive relationship between the public and the private sectors—between business and government. By enabling us to avoid excessive and wasteful intervention by government into the internal decision-making processes of business, they should help to restore vitality and productivity to our business system. There is a strong presumption that the network of voluntary relationships known as markets are the preferable way for a free people to carry on their activities.●

[6] S. 2812, 94th Congress, 1st Session.

PROPOSED ARMS SALES

● Mr. ROBERT C. BYRD. Mr. President, on behalf of the Chairman of the Committee on Foreign Relations, Mr. SPARKMAN, I ask to have printed in the RECORD the following statement and the attachments referred to therein.

The material follows:

STATEMENT BY MR. SPARKMAN

Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, Room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Mar. 20, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-24, concerning the Department of the Army's proposed co-production Memorandum of Understanding (MOU) with the Federal Republic of Germany which will provide, over a period of time, for sales under FMS procedures, defense equipment estimated to cost in excess of $25 million and for commercial defense equipment estimated to cost $105.0 million. The MOU will also provide that the equipment may be co-produced only for the Armed Forces of the Federal Republic of Germany and for other members of the North Atlantic Treaty Organization.

Sincerely,

Lt. Gen. ERNEST GRAVES,
Director.

TRANSMITTAL NO. 78-24

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act.)

(i) Prospective Purchaser: Federal Republic of Germany.

(ii) Total Estimated Value: Major Defense Equipment* [Deleted].

Other [Deleted].
Total [Deleted].

(iii) Description of Articles or Service Offered: [Deleted] Forward Looking Infrared (FLIR) systems. Each FLIR system will be a combination of common modules depending on the intended use.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congres: March 20, 1978.●

* As included in the U.S. Munitions list, a part of the International Traffic in Arms Regulations (ITAR).

STAFF OF WPHC/WVRY RADIO IN WAVERLY, TENN., CONGRATULATED

● Mr. SASSER. Mr. President, people across the country have heard by now about the tragedy which struck at Waverly, Tenn., when a railroad car carrying liquid propane gas exploded, killing at least 15 people.

The courage shown by the people of Waverly and neighboring areas has left a lasting impression on me. During this crisis, hundreds of volunteers offered whatever assistance they could to reduce suffering experienced at Waverly.

I would like to take this opportunity to congratulate the staff of WPHC/WVRY radio in Waverly. Their untiring effort to keep the people of Waverly informed was a great service to that community. The work done by WPHC/WVRY provides all the media with an example of the good public service which can be performed in times of adverse circumstances.

Mr. Dean Bush, general manager of WPHC/WVRY, has written an article for the monthly publication of the Tennessee Association of Broadcasters which details the role of the radio station in the crisis. I submit the article for the RECORD for the consideration of my colleagues.

The article follows:

WAVERLY SAYS, "THANK YOU WPHC/WVRY"

Friday, February 24, 1978 started like most Fridays at WPHC/WVRY Radio in Waverly, Tennessee. The usual hustle and bustle of a week ending and the entering of the last few days of the month was apparent. Our lead news story was a massive train derailment in the south end of town. Twenty-three cars of an L & N freight had derailed in a populated and business section of town on Wednesday night. There were no injuries and no property damage other than railroad property. One house, the James Center for training retarded young adults, had been evacuated due to its proximity to the accident. The only real concern was that 2 tankers containing 22,000 gallons each of liquid propane gas were involved in the accident. Complete inspection of the tank had been made and it was determined that there were no leaks and no apparent danger. The train derailment headlined our news on Thursday and Friday through noon. Several side stories had emerged regarding the clean-up operations.

Then it came time to unload the propane gas which had to be transferred to its final destination over a 2-day period. Our radio station was asked by police officers and firemen to announce that transfer operations were ready to begin and requested the station to announce that persons living in the quarter mile area south of the tracks to please leave the area. Officials were concerned that a leak could occur during the transfer operations. Firemen and police were on hand to control any leaks, but at 2:55 p.m., Friday, the 24th, for a still unknown reason, a tank containing 22,000 gallons of propane gas exploded.

The station's police monitor chattered, their phone rang—we knew the damage and destruction was massive. The next 39 hours were ones that the staff of WPHC/WVRY will never forget. For the next 36 consecutive hours, Daryl Lynn, our station's program director, remained at the station to direct the Emergency Broadcast. "We were the only link to the general public," Lynn said. "We handled upwards to 1800 phone calls. Our primary concern was to get the city evacuated as soon as possible because there was another tanker in the wreckage. It could blow at any time."

Joey Parker, an account executive of the station, was downtown when the tank ex-

ploded. He was the first person to make the initial "on the scene report" by phone. Dean Bush, station manager, and his son, Douglas, a broadcasting student at Freed-Hardeman College and home for the weekend set up remote broadcasting facilities from the Civil Defense headquarters at City Hall. Waverly's mayor Jimmy Powers, requested the AM station remain on the air on emergency operations until the area could be cleared. The station operated until 9:00 p.m. and then continued round the clock on the full time FM station. Five people were killed, 45 badly injured and 15 buildings destroyed by the initial blast. Since then, 8 more have died. The station called in extra help; others volunteered. Our staff remained on duty during the entire operation—Some sleeping at the studios. Neighbors and friends supplied them with food and coffee. "It was one of the most cooperative efforts I've ever seen," said the station manager; "I can't commend our staff enough. It was a situation we had never dreamed of facing. It was a completely new experience, but our staff handled it like troupers." Two of the employees lived in the blast area, but after their families were secured, they reported back and worked continuously until the emergency was over.

We are still carrying stories about railroad claims, the conditions of the injured and the investigation of the cause of the derailment and explosion. We are also carrying stories regarding the conditions of the fire department and police department and equipment that was lost in the blast.

The station covered the memorial services for Waverly's Police Chief, Guy Barnett, who lost his life serving his city in the tragedy.

Our sincere appreciation and thanks to our terrific staff at WPHC/WVRY: Joey Parker, Renee Stevens, Cecilia Collins, Vicki Fowlkes, Jim McArthur Barry Bronson, Randall Thompson, Walt Hestend and Daryl Lynn.

Also, many thanks to the volunteers who gave of their time to help in this emergency: Douglas Bush, George Despins, Diana Hotchkiss, Perry Lewis and Alan Bush.

There were many others outside the station who also deserve a special "thank you" for suppling our news department with many, many details that needed to be known by the Waverly citizens.●

HISTORY OF FARM POLICY MAY AID PERSPECTIVE

● Mr. TALMADGE. Mr. President, there recently came to my attention an excellent article from the March 3 edition of the Delta Farm Press newspaper, which I bring to the attention of the Senate.

This article points out the importance of U.S. agriculture and agribusiness to our Nation's economy and security, and traces the history of U.S. farm policy from 1921 to the present.

This is an excellent documentation. It is very timely and I request that it be printed in the RECORD at the conclusion of my remarks.

HISTORY OF FARM POLICY MAY AID PERSPECTIVE

(By Wm. S. McNamee, publisher)

With the most serious farm problem the nation has had since the Great Depression upon us, and with a constant debate raging over the land as to what to do about it, Delta Farm Press thought a complete history of farm programs; how and why they came into being, and how each worked, would be helpful background information for all those individuals and organizations who are interested seriously in trying to help farmers and others affected by a sick farm economy.

Associate Editor Ed Phillips spent the better part of three months compiling and documenting this history, ranging from 1921 to the present, and it appears complete in this issue of Delta Farm Press beginning on page 46 and ending on page 49.

We repeated in a recent editorial a very wise saying: "He who refuses to learn by his mistakes is doomed to repeat them."

Perhaps the ominous parallels with our current situation, evident in this history, will help our leaders remember the circumstances preceding and during the Great Depression, that began for the entire nation in 1929, but began on American farms in 1921. It is our opinion the lesson was so strong that it burned itself into our minds and protected us from serious farm policy mistakes from 1933 until 1973, a period of 40 years.

We believe most sincerely that the radical change in philosophy embodied in the Farm Law of 1973 and continued in the Farm Law of 1977 is the root cause of our present problems.

We all desire expanded export and domestic markets, but we cannot afford to "buy" these markets with the financial losses of individual farmers. And if we're going to have to "buy" expanded export markets with government funds and force reduction of domestic production with mandatory set-asides, what, we would like to know, is so "free" and-or "market-oriented" about these procedures?

If we're going to have to force the "free-market" to work, then why not go ahead and provide a stable, high loan program that will give individual farmers some stability, the tools for orderly marketing, and let the federal government sell any surpluses on the export market?

If the "free market" is such a wonderful idea why doesn't it work naturally and without all this help and force? Looks to us as though a number of very important people, from the President on down, are sticking by a bad idea no matter how much it costs you. . . . Neither labor nor industry operates in a true "free market." Why us?

We believe these same problems will continue for U.S. agriculture and agribusiness until the law is changed. Things may improve occasionally, but we will have no real farm stability or consistent farm prosperity until we have relearned our lesson.

How long will it take? We hope a careful reading of the farm policy history in this week's issue will reduce the time.

HISTORY OF U.S. FARM POLICY FROM 1921 TO PRESENT DOCUMENTED

(By Ed Phillips, associate editor)

In the midst of a surging national economy, gross U.S. farm income reached $16 billion in 1920. In 1932, little more than a decade later, it had crashed to a low of $4.7 billion.

During its economic collapse in the 1920s, agriculture stood haplessly alone against the approaching depression. Other segments of the economy did not feel the depression until the stock market crash in late 1929.

As one observer put it, "All the red flags of distress were flying throughout the farm states during all the years of the industrial and financial boom."

Under government urging, American agriculture had expanded production enormously during World War I. In the brief depression after the war, domestic markets shrank and export markets all but disappeared.

OVERPRODUCTION

Yet farmers continued to plant as much as they had during the war, resulting in damaging overproduction—warehouses loaded with unsalable cotton, mountains of wheat and corn rotting on the ground alongside railroad sidings, and disastrous price declines for most farm commodities.

Wheat, which had sold for $2.94 a bushel in 1920, dropped to $1 in 1929 and 30 cents in 1932; choice cattle on the hoof dropped from $14.95 per hundredweight in 1920 to $11 in 1929 and $5.78 in 1932; and cotton prices fell from 37 cents a pound in 1920 to 12 cents in 1929 and 6½ cents in 1932.

CRUEL ILLUSION

When, in 1929, the entire economy was dashed upon the rocks, the prosperity of the past decade was revealed as no more than a cruel illusion. In its wake were left the harsh realities of financial ruin, unemployment, poverty, and hunger.

The Great Depression is seen by some as the quelling of the industrial revolution which transformed the world during the first part of the 20th century. In that new world, concern over capacity to produce was replaced by concern over capacity to consume—a turnabout which shook the foundation of the theory of supply and demand balance.

Also, while productivity was rising at a rate 2½ times greater than the nation's population, wages rose only 20 percent.

"The profits of a hugely productive industry went not into higher wages or lower prices but into dividends, into more machines and factories—and into speculation," said a highly respected economist. "The money didn't go where the people could use it to buy the things they had produced."

MONOPOLIES

The growth of monopolies during that time was also a reality which hampered the distribution of income. According to one report, there were more than 1,000 mergers of local utility companies in 1926 alone. By 1930, half the total electrical output in the nation was controlled by just three holding companies.

Another study revealed that in 1930 nearly half of the nonbanking corporate wealth in the country was held by the 200 largest corporations, which in turn, were controlled by about 2,000 individuals.

While corporate and speculative profits were setting record growth rates, farm income fell. The value of farm land decreased from $80 billion to about $55 billion annually, and the rate of farm bankruptcies multiplied six times.

A few attempts were made during the 1920s to pass legislation which would boost the farm economy. One of the earliest was introduced in 1920 by Rep. Charles Christopherson (D–S.D.)

His plan proposed the creation of a government commission to fix minimum prices for staple crops on the basis of costs of production plus fair profits. The government would buy unsold surpluses at the end of the year and sell them abroad. Congress rejected the plan.

Harry N. Owen, editor of a farm publication, was one of the first to advocate production controls. In a 1923 editorial he said, "Controlled production does not mean growing nothing at all, yet an appalling number of people seem to have that idea."

REDUCED ACREAGE

"Controlled production does not mean deliberately bring about a famine, as President Harding and others seem to think. It simply means trying to match supply to demand by having every farmer reduce his acreage. . . ."

The most widely-known proposal of the 1920s was the McNary-Haugin bill, developed by George Peek and Hugh Johnson, both executives of the Moline Plow Company and later directors of federal agencies.

Their plan had four fundamental points: (1) establish each year the fair exchange value on the domestic market for each principal crop; (2) protect that price through fluctuating tariffs; (3) organize a federal corporation to buy carryover stock and sell them for export at world prices; and (4) finance losses on those sales through a tax

on the commodities sold by farmers domestically.

Peek and Johnson said so long as industry prices were protected through tariffs, so must agricultural prices be protected if the relationship between the two was to be maintained.

FAIR VALUE

"When supply equals demand, price of an article is its fair value in terms of things for which it is exchanged. Industry obtains fair exchange value because it can regulate production to domestic demand," they said.

"Agriculture cannot regulate production to domestic demand because the elements are a factor and because there is no coordination among six million producing units."

As the depression tightened its grip on the farming segment, farm bloc members of Congress were able to pass the McNary-Haugin bill in both 1927 and 1928. Each time, Republican President Calvin Coolidge vetoed it.

Ignoring the exigency of the situation, President Coolidge clung to inaccurate theories of agricultural economic laws. In his veto message, he said farmers would not benefit from the plan in the long run, due to the law of supply and demand, and that higher prices would decrease consumption.

CAPPER-VOLSTEAD

One of the few major pieces of farm legislation passed in the 1920s was the Capper-Volstead Act (1923). It provided that individual producers, acting together through a cooperative association, would not constitute a violation of anti-trust laws.

The Agricultural Marketing Act of 1929 was President Herbert Hoover's answer to continued pleas for relief to agriculture. During the 1928 campaign, Hoover had committed himself to the support of a federal farm board which would sponsor national cooperative marketing associations and stabilization corporations for carrying the surpluses of large crops from year to year.

REVOLVING FUNDS

The cooperatives were to be financed in the temporary withholding of supplies from the market in the interest of stabilizing prices. Since the seasonal or other price depressing surpluses were not expected to all occur at the same time, the fund was considered a revolving fund to be loaned over and over again to the different cooperatives.

Sponsors of the plan believed national cooperatives, with access to funds for price stabilization purposes, would be able to promote the orderly marketing of farm products in such a way as to return the most to the producer.

During its first year, the Federal Farm Board organized a grain stabilization corporation and a cotton stabilization corporation and made loans to them and to cooperatives of $265 million from its $500 million revolving fund.

The $500 million proved to be far from enough to halt the declines in farm prices. Furthermore, the board had no authority to control production. The board ultimately had to discontinue buying and let prices drift even lower.

BLACK THURSDAY

While the depression had been building for more than a decade, the climax came during one catastrophic week in October 1929. On "Black Thursday" (Oct. 24) an unprecedented 12.8 million shares of stock changed hands. As prices fell, tens of thousands of investors were wiped out. The financial ruin soon became universal.

From the market's peak in September, 1929 to its precipitious decline just one month later, more than $32 billion worth of equities disappeared in the United States. The great stock market boom was over.

The illusion of easy riches, the product of President Coolidge's "New Economic Era," had vanished, leaving behind the grim spectre of poverty.

Industrial production fell; losses replaced profits; dividends were cut; wages were reduced and employees laid off; capital improvements ceased; and inventories were cut.

ECONOMIC STAGNATION

On observer said, "Like a snake eating its tail, the process of economic stagnation fed upon itself."

In the three years between 1929 and 1932, an already troubled farm income dropped 50 percent. In 1932, one out of every five persons in the labor market was unemployed and millions more were underemployed.

It was a time of want in the midst of plenty. While the jobless wore threadbare clothing, farmers could not market 13 million bales of cotton; while people went hungry, crops rotted in fields. Ranchers were forced to destroy livestock they could not sell, nor afford to keep; breadlines marched under grain elevators filled with wheat.

PANIC AND FEAR

Above the nation hovered the dark clouds of panic, utter hopelessness about the future, and a mood of apprehension. Many said the end of this nation had arrived.

Although President Hoover was not blind to the suffering, he was hindered from providing relief by personal philosophical shackles. He and Secretary of the Treasury Andrew Mellon—one of the world's richest men—were convinced that periodic depressions were inevitable in a capitalist system and must be endured until corrected by natural economic laws.

They further believed any relief coming from the government should be applied at the top of the economic ladder, from where it would eventually trickle down to employees and consumers.

Implementing that belief, President Hoover created the Reconstruction Finance Corporation and persuaded Congress to allocate it $2 billion, to be lent to private businesses. The sum is staggering since the entire proposed budget for that year (1932) was less than $5 billion.

AGAINST DOLE

The President stood firm against anything he viewed as a "dole" for the unemployed and hungry. To him, it would be both economically and morally unsound.

Direct relief, he said, would sap the initiative and independence of the working class. He was prepared to fight to preserve his conception of the "rugged individualism of the American character."

At a 1932 press conference, President Hoover said, "We cannot squander ourselves into prosperity. The people will, of course, provide against distress, but the purpose of the national government must be to restore employment by economic recovery. The reduction of government expenditures and the stability of government finance is the most fundamental step toward this end."

His words fell as empty platitudes on a nation crying out in pain. As the ailment seemed to dictate major surgery, the physician offered no more than a salve.

INVALID THEORIES

"President Hoover and his men had been trapped by the failure of an outdated philosophy. The capitalist system as they had known it was incapable of adjusting automatically to the mountainous stresses that had piled on it since 1921," wrote one observer.

A despairing nation turned to the presidential election of 1932 and placed its dying hopes in the selection of a new leader.

BREAK TRADITIONS

The nominee of the Democratic Party, Franklin D. Roosevelt, had begun his campaign by saying, "Let it be from now on the task of our party to break foolish traditions . . . Our Republican leaders tell us (that) economic laws, sacred, unvariable, unchangeable, cause panics which no one can prevent. But while they prate of economic laws, men and women are starving."

President Hoover was soundly rejected by the electorate. Roosevelt received seven million more popular votes than did his Republican opponent and won the electoral college 472 to 59.

As an anxious nation awaited Roosevelt's inauguration, the economy declined even further. A lame duck Republican Congress opened in December 1932 amid public demonstrations.

Six weeks into 1933, the nation's banks began to fold. Foreign investors withdrew gold from the country. As inaugural day—March 4—neared, the nation stood paralyzed at the depths of the depression.

RESTORES FAITH

In his first address as President, Roosevelt undertook the task of restoring confidence in the country. "This is preeminently the time to speak the truth, the whole truth, frankly and boldly; nor need we shrink from honestly facing the conditions in our country today. This great nation will endure, as it has endured; will revive and prosper."

"So first of all, let me assert my firm belief that the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror, which paralyzes needed effort to convert retreat into advance . . ."

The new President immediately launched his attack on the depression, stocking his "New Deal" arsenal with fresh ideas and innovative programs. His tacticians were a relatively small group of scholars and technicians he had gathered during his campaign. Collectively, they became known as the "Brain Trust."

BASIC PRINCIPLES

Three concepts guided their thinking: (1) The root cause of the depression was domestic in origin, not international, and the remedies would also have to be domestic; (2) the regulatory powers of the government should not be used just to correct abuses to the economy, but to stimulate and stabilize the economic system for the benefit of all; and (3) an industrial economy with huge aggregates of productive capacity was established, and the obligation of the government was to invest that mighty force with a new measure of social responsibility.

As they shaped an attack on the problem. President Roosevelt's advisors argued the free market had ceased to function and no longer balanced carefully on the fulcrum of supply and demand, as theory dictated it should.

CONTROLLED ECONOMY

They further asserted that monopoly and oligopoly had become the rule rather than the exception, with the result that 2,000 men controlled the American economy through manipulated prices and production.

"We are stricken by no plagues of locusts . . . Plenty is at our doorsteps, but a generous use of it languishes in the very sight of supply. Primarily, this is because rulers of the exchange of mankind's goods have failed through their own stubbornness and their own incompetence; have admitted their own failure and abdicated," said President Roosevelt.

The advisors sought balance in the nation's economy. The best society, they said, was one in which no important element had excessive power. The depression was precipitated by a series of such imbalances.

Above all, they were disturbed by the disproportionate power business held compared

to agriculture. They gave priority to raising farm prices in order to restore the balance.

MOVE TO ACTION

The President and his team wasted no time in implementing their plans. In the first three months of his administration, President Roosevelt presented 15 major pieces of legislation—and all were passed by Congress.

In May, 1933, Congress passed the Agricultural Adjustment Act. One month later, the Farm Credit Act was passed, providing for relief against foreclosures (within 18 months the Farm Credit Administration refinanced 20 percent of all farm mortgages in the United States).

Under the AAA of 1933, farmers could enter into contracts with the government to adjust production in specified commodities in return for benefit payments. The payments were financed primarily through taxes levied against processors of the commodities.

PRICE SUPPORTS

The farm law also authorized price support loans by the Commodity Credit Corporation (CCC) on the designated "basic" commodities—corn and cotton. Permissive supports were authorized for other commodities upon recommendation by the Secretary of Agriculture and approval by the President.

In response to calls for compulsory production controls, Congress passed the Bankhead Cotton Control Act in 1934. It placed strict lids on production of cotton over a certain level, taxing all overproduction by as much as 50 percent of the market price.

The Supreme Court ruled in early 1936 that the original AAA legislation, providing for the collection of processing taxes and individual grower adjustment contracts, was unconstitutional.

CONSERVATION

Congress then reoriented the adjustment program toward shifting land into soil-conserving practices through the Soil Conservation and Domestic Allotment Act of 1936. Farmers were not offered contracts, but if they grew acreages of the various crops which fitted the diversion requirements of the program, they were eligible for the substantial benefit payments.

During President Roosevelt's first term in office (1933–36), gross farm income rose 50 percent, crop prices climbed, and rural debts were reduced. Against the small base to which it had to be compared, no great triumph had been achieved, but progress was definitely indicated.

The Agricultural Marketing Agreement, passed in 1937, was designed to boost the income of producers of milk, fruits, and vegetables without the use of price supports.

MINIMUM PRICE

It gave the Secretary of Agriculture authority to establish a minimum price that processors in any local marketing area could pay for milk. For fruits and vegtables it gave the Secretary of Agriculture authority to limit the amount of produce which might be sent to market.

The problems of surplus production and low prices following large wheat and cotton crops in 1937 led to the passage of the Agricultural Adjustment Act of 1938.

The AAA of 1938 provided for: (1) mandatory price support loans on certain basic commodities so they could be stored in times of plenty and returned to the market when supplies became scarce (this was Secretary of Agriculture Henry Wallace's idea of an "ever-normal granary"); and (2) marketing quotas on certain basic commodities, keyed to acreage allotments intended to keep supplies in line with market demand.

MANDATORY SUPPORTS

The act made supports (through nonrecourse loans) mandatory at 52 to 75 percent of parity for corn, wheat, and cotton. It also authorized the CCC to make loans on virtually any agricultural commodity.

Permissive commodities supported during the 1938–40 period included butter, dates, figs, hops, turpentine, resin, pecans, prunes, raisins, barley, rye, grain sorghums, wool, winter cover crop seeds, mohair, peanuts, and tobacco. There were no specific limits on supports of those commodities set in the law.

NATIONAL ALLOTMENT

In the case of allotments and quotas, the law provided that the Secretary of Agriculture would determine the number of acres nationally required to produce enough for normal consumption. Allotments were divided among individual farmers on the basis of their production history.

The penalty for overplanting under the allotment system was the loss of the right to receive price supports. Overplanting under the quota system meant the loss of price supports and the imposition of monetary fines. Under both systems, the goal was to limit acres, not pounds, bales, or bushels.

The parity concept for determining price supports was used for the first time in the AAA of 1938. According to the idea, at some time in the past, American farmers' labors had brought them a "fair" return in terms of their purchasing power and standards of life.

The aim was to determine what prices farmers would have to receive to enjoy the same relative purchasing power as during the time when things were fair. At 100 percent of parity, the relationship was considered equal. The 1938 act established 1910–14 as the base period for most crops.

IMPROVEMENTS MADE

As the 1930s were ending, agriculture was again approaching the levels of prosperity it had enjoyed some twenty years earlier. The New Deal programs had rescued the nation from the economic chaos of depression and laid the foundation for a more stable future.

Though critics later denied it, the facts were there.

The improvement, which had been gradual during the 1930s, accelerated during World War II. The demands of armed forces, allied nations, and a domestic population back at work changed surpluses into shortages. To shift production in the direction desired by the government, prices were set at levels which would induce the volumes sought.

For the basic nonperishable products (cotton, wheat, corn, rice, tobacco, and peanuts) the method used was that of loans to farmers at the support price.

STEAGALL COMMODITIES

In 1941, Congress passed the Steagall Amendment, which directed that support prices be applied to all products urgently needed during the war, such as livestock products and meats, soybeans, peas, beans, and flax.

Support prices of the basics were made mandatory through two years after the war's end at 90 percent of parity. That was intended to give farmers assurance prices would not collapse immediately after the war, as had happened following World War I.

Steagall commodities were also protected for two years after the war at no less than 90 percent of parity. In addition, the Secretary of Agriculture still had the power to support any other crop at any price and to impose production limits on them.

FLEXIBLE SUPPORTS

The first major postwar price support debate came in 1948. Democratic President Harry Truman asked for a permanent, long-range system of flexible price supports (a sliding scale based on fluctuations in supply and demand). He found backing from most Republicans and a few Democrats.

A solid bloc of southern and western Democrats fought to maintain price supports at mandatory high levels. They said a transition to flexible supports would mean sharp drops in income and, ultimately, the ruin of many farmers. Such a drop, they said, would lead to a farm depression and drag the entire economy to collapse—as it had done in the 1920s.

Momentarily, the high supports advocates had their way. Farm legislation in 1948 continued price supports for the basics at 90 percent of parity through 1949. At the same time, the parity formula was changed to reflect shifts in the price relationships among the different crops since the base period.

FINALLY PASSED

A flexible price support system was finally passed in the Agricultural Act of 1949. Its implementation was forestalled, however, by Congress, which froze supports for the basic commodities at 90 percent of parity for 1950 crops.

Basic commodities—cotton, corn, wheat, peanuts, and rice—were to be supported in 1951 at a level somewhere between 80 and 90 percent of parity.

The specific level was to be determined by the Secretary of Agriculture, based on the supply percentage at the beginning of the marketing year. In 1952, and after, the range of price supports for the basics was to be from 75 to 90 percent of parity.

The 1949 law also discontinued mandatory price supports for Steagall commodities, but set up new categories for milk products, tung nuts, honey, and potatoes.

COMPLIANCE REQUIRED

Eligibility for any price supports under the 1949 legislation was dependent upon compliance with any production or marketing controls that might be in effect. The Secretary of Agriculture still retained the power to impose allotments on almost any crop.

The implementation of the flexible price support system was again delayed in 1951—by the Korean War. As part of the United Nations defense effort, the Agriculture Department maintained supports on all basic crops at the 90 percent of parity level to stimulate production in 1951.

PRICE CEILINGS

Price ceilings had been authorized on a standby basis in 1950. Legislation in 1952 provided for price supports to be maintained at 90 percent of parity on basics as long as the act authorizing price controls was in effect (it expired in April, 1953).

An amendment to the AA of 1949 froze price supports yet again at 90 percent of parity for the 1953 and 1954 crops years.

In the 1952 election, Dwight David Eisenhower became the first Republican President since the depression days of President Hoover. In the same election, the Republican Party also gained control of both congressional chambers.

With the Korean War ended, the nation again faced the problem of formulating a basic farm policy in 1954. The long-postponed sliding scale for price supports on basics was scheduled to go into effect with the 1955 crops.

The Agricultural Act of 1954 set the support price range at 82.5 to 90 percent of parity for cotton, corn, wheat, peanuts, and rice in 1955 and between 75 and 90 percent thereafter. The sixth basic, tobacco, was to be supported at 90 percent of parity.

OTHER SUPPORTS

Supports were also set up for dairy products, honey, tung nuts, and wool. The Secretary of Agriculture retained the power to support all other farm goods at up to 90 percent of parity.

In the 1950s, surpluses were beginning to mount in the hands of an Administration

which opposed what it viewed as "dumping" in foreign markets.

Farmers found themselves caught in a cost-price squeeze as farm prices fell and production costs rose.

The parity ratio for national farm income dropped to 91 in 1953, the first time below 100 since 1941. By 1955, it had dropped to 84 percent.

SECRETARY BENSON

During his eight years as Secretary of Agriculture in the Eisenhower Administration, Ezra Taft Benson continuously loosened production controls and lowered price supports.

His policies proved costly to both farmers and taxpayers. When President Eisenhower took office in 1953, federal ownership of surplus commodity stocks amounted to less than $1 billion.

The Benson policy, by 1960, had increased CCC stocks to $8.6 billion and loans were held on nearly $4 billion of additional stocks. The "Food for Peace" program (PL 480) enacted in 1954, prevented the surpluses from being even greater.

Democratic members of Congress criticized the Republican Administration for failure to move the growing CCC stocks: "Congress authorized sales in world trade at such prices as it might take to move these commodities."

"Certainly Congress never intended for the CCC to restrict United States production to the domestic market by keeping its commodities off world markets at competitive prices," said Rep. Jamie Whitten (D-Miss.), in a 1955 House committee meeting with Secretary Benson.

The Soil Bank, an Eisenhower Administration proposal, was authorized in the Agricultural Act of 1956. Under one part of the program—the acreage reserve—farmers could retire land previously planted to basic commodities and receive compensatory payments from the government.

The other part of the Soil Bank—the conservation reserve—provided for contracts for the retirement of any type of productive land and its conversion to specified conservation practices for periods of 3 to 15 years. Participating farmers were paid for retiring the land and for up to 80 percent of the costs of the conservation practices.

SOIL BANK EXPIRES

When the basic authority for the Soil Bank expired, it was not extended. Southern Democrats particularly opposed it on the grounds that it had been ineffective in reducing production, because only the less productive land was retired; that it had resulted in the retirement of entire farms in some areas, leading to economic decay of those areas; that it created widespread resentment among non-farmers; and that it was used as a Republican device to ward off proper measures to raise farm income.

The AA of 1956 required corn producers to comply with farm base acreages and to divert certain acreage in order to receive price supports at the full rate. Price supports were made mandatory for feed grains (grain sorghums, barley, rye, and oats) on the 1956 and 1957 crops.

REDUCED SURPLUSES

The new law also had a provision aimed at reducing cotton surpluses the government had been building over the past years.

It directed the CCC to sell its stock of cotton for export at the world market price and absorb the difference between that and the higher domestic market price. The Agriculture Department, under Secretary Benson, already had the authority to do that, but had refused to do so.

Other provisions of the Agricultural Act of 1956 blocked scheduled acreage cutbacks of the national allotments for price and cotton, and created a two-price plan for rice, which maintained high domestic prices and permitted rice to move into overseas markets at a lower price.

LOWER SUPPORTS

In early 1958, President Eisenhower pushed to have price support levels lowered even more than they had been in the past three years. He proposed that supports for the basics and dairy products be lowered to a scale of 60 to 90 percent of parity, instead of the existing 70 to 90 percent.

From the opposite philosophical viewpoint, Democrats pushed for a freeze on price supports and acreage restrictions. The resulting legislation represented something of a compromise.

The Agricultural Act of 1958 established a permanent minium national cotton acreage allotment and required that cotton be supported at 80 percent of parity, or more, in 1959. The minimum support would drop to 70 percent of parity in 1961 and 65 percent in subsequent years.

For rice, beginning with the 1959 crop, the minimum level of support was not based on the supply percentage. For the 1961 crop, the support price range was to be from 70 to 90 percent of parity and for the 1962 and subsequent crops, the range was to be from 60 to 90 percent.

REFERENDUM

The Agricultural Act of 1958 provided for a referendum for corn producers to determine if they favored continuing the then-current price support program, based on the parity concept, or shifting to a new program which discontinued acreage allotments and related support levels to average market prices.

In a referendum held in November, 1958, a majority of the growers voting favored the new program and it became effective with the 1959 crop. The AA of 1958 took oats, barley, rye, and grain sorghums out of the permissive price support category and, in effect, made them designated non-basics. They were to be supported at levels in a fair relationship to corn.

FULL PARITY

The platform of the Democratic Party in the 1960 presidential election pledged to guarantee farmers full parity of income. Candidate John F. Kennedy said that would be achieved through the most stringent production or sales limitations ever used.

In his first year in office, President Kennedy attacked the problem of the surplus stocks which had grown under the two prior Eisenhower Administrations. Immediately the new President sought passage of an emergency grain program.

Under the law which eventually passed, the Secretary of Agriculture was permitted to sell a portion of the government's stocks at current market prices.

ACREAGE DIVERSION

An acreage diversion program for corn and grain sorghums was created, under which payments could be made to producers who diverted acreage to conserving uses. That particular legislation was the forerunner of the feed grain programs which were to be in effect for most of the 1960s.

The emergency measure had a significant impact on national production. Acreage in 1961 was reduced about 20 million acres from the 1960 level; production was about 420 million bushels less; and 781 million bushels of feed grains were taken out of CCC inventories.

The Agricultural Act of 1961 continued the feed grain provisions basically unchanged from the emergency measure.

The act also continued the level of support for 1962-crop wheat within 75 to 90 percent of parity range, but tightened eligibility requirements for price supports. Acreage diversion payments were extended to wheat, also.

TWO PROGRAMS

The Food and Agricultural Act of 1962 authorized two feed grain programs—one for 1963 and another for 1964 and after.

For 1963-crop feed grains, price support eligibility provisions for acreage diversion of corn, grain sorghums, and barley were continued. The minimum support for corn was set at 65 percent of parity.

For 1964 and subsequent crops of corn, the act provided for price supports to be set between 50 and 90 percent of parity, at a level which the Secretary of Agriculture determined would not result in increased CCC stocks.

Two different programs were also set up for wheat. For 1963 wheat, the legislation provided for an emergency program which included voluntary diversion of wheat acreage. Participants were eligible for a price support payment higher than the loan level.

SUBSEQUENT CROPS

For 1964 and subsequent crops of wheat, the act provided for a marketing certificate program, with price supports between 65 and 90 percent of parity on wheat used for food domestically, and on a share of the exports as determined by the Secretary of Agriculture.

Remaining wheat was to be supported at a level related to its feed grain value and the world wheat price. The program was dependent upon marketing quotas being in effect (however, wheat producers in a 1963 referendum did not approve marketing quotas).

One feature of the 1962 act eliminated the minimum national wheat acreage allotment plan and substituted authorization for the Secretary of Agriculture to estimate a year's requirement for wheat and set an acreage allotment to meet that need.

PROGRAM CONTINUED

The Feed Grain Act of 1963 permitted the continuation in 1964 and 1965 of the feed grains program then in effect. It postponed the implementation of provisions of earlier legislation, which would have allowed price supports to drop as low as 50 percent of parity for corn.

On October 9, 1963, President Kennedy announced the U.S. government planned to authorize large sales of wheat to the Soviet Union. He said as much as $250 million worth of wheat would be involved and American merchants involved would be eligible for export credit guarantees through the Export-Import Bank.

Immediately, Republican members of Congress criticized the President's decision and for months delayed the sale.

As a result of a very strong stand taken by the new President, Lyndon B. Johnson, legislation was passed which permitted Export-Import Bank guarantees of credit to communist nations, if the President notified Congress within 30 days of such action.

PAID CASH

In the end, the Soviet Union paid cash for the wheat and 65.6 million bushels of surplus stocks were shipped by U.S. exporters in 1964.

The major agricultural issues facing Congress in early 1964 were the cotton and wheat programs. Domestic price supports for cotton were about eight cents per pound higher than the world market price.

U.S. exporters were being paid a subsidy so they could buy cotton and sell it abroad without a loss. Domestic textile manufacturers said because they had to buy at the

domestic price, they were at a disadvantage in competing with foreign manufacturers.

Because wheat farmers had rejected in a national referendum the proposed new strict marketing quotas and two-price certificate plan, wheat support prices were scheduled—under much earlier legislation—to drop drastically in 1964.

DOMESTIC SUBSIDY

President Johnson asked Congress for legislation providing subsidies to domestic cotton mills and for emergency legislation whcih would block a sharp drop in wheat price supports. Despite nearly unanimous Republican opposition, Congress passed the President's programs in April 1964.

In his first major speech on agriculture, President Johnson set the tone for his future programs. Basically he asked for a shift away from price support and production control programs alone to use of American agriculture to combat world poverty and hunger.

THREE GOALS

He outlined three broad goals: ". . . to maintain and improve farm income . . . to use U.S. food abundance to raise the standards of living both at home and around the world . . . (and) to accelerate the development and conservation of material and human resources in rural America."

In addition to subsidy payments to domestic buyers of cotton, the Agricultural Act of 1964 established a "farm domestic allotment" for each cotton farm, which would be about two-thirds as large as the farm's regular allotment.

Price support levels were set in the act for the 1964 crop for farmers complying with their regular acreage allotments.

The Secretary of Agriculture was allowed to set the support price between 65 and 90 percent of parity for the 1965 crop. Up to 15 percent higher price supports were provided for farmers who harvested only their domestic cotton allotment in 1964 and 1965.

EXPORT ONLY

In each of the years, if farmers wished to plant extra cotton for sale into export channels at the world price only, they were allowed to do so at the discretion of the Secretary of Agriculture.

The 1964 law also set up a voluntary wheat marketing certificate program for 1964 and 1965, under which farmers who complied with their acreage allotments and agreed to participate in a land-diversion program would receive both price support and diversion payments. Non-compliers would receive neither.

The Secretary of Agriculture would allocate (by issuing marketing certificates) a share of the export market and a share of the domestic food market to each complying farmer. Food exporters and processors were required to buy certificates to cover all the bushels of wheat they exported or processed.

REVISED SYSTEM

President Johnson asked for—and received—in 1965 a revision of the system of production limitations and price support devices. It was designed, as well, to reduce surplus government stocks of cotton, corn, and wheat.

Farmers were asked to reitre a certain portion of their farms from production of the surplus crops and put that portion to soil-conserving purposes. Those who complied were eligible for price supports on their crops plus special, direct cash payments.

The price support was to be set at a level which would keep U.S. commodities competitive in world markets, while additional direct payments would be used to maintain farm income at desirable levels.

SOPHISTICATED SYSTEM

President Johnson's new system was a more sophisticated variation of the basic price support system that had been in effect since the New Deal days of the early 1930s.

By 1968, the program had achieved much of what it was designed to do. Corn, cotton, and wheat surpluses had all dropped sharply. At the same time, farm income was at a high level and the cost of the program was not excessive, in the opinion of many.

Even at $2 billion to $4 billion a year, supporters of the program said, it was a small price to pay to guarantee an abundant supply of food and fiber and avoid the economic calamities which would result if too many farmers were forced out of business.

The Food and Agricultural Act of 1965 also authorized the long-term diversion of cropland under a Cropland Adjustment Program. Its goal was to retire 40 million acres of land from production through five to ten year contracts. Payments on the contracts would be up to 40 percent of the annual market value of the crop that would have been produced on the land.

ACT EXTENDED

Legislation in 1968 extended the Food and Agricultural Act of 1965 through the end of 1970.

There developed in 1968 a powerful upsurge of sentiment for some kind of payment limitations on government aid to individual farmers. Supporters of the limitations—primarily Republican members of Congress (particularly Reps. Paul Findley (R-Ill.) and Silvio Conte (R-Mass.) and the American Farm Bureau Federation—believed that to impose a tight upper limit on government payments would cause the larger producers to turn against the existing farm program and kill it.

Johnson Administration officials responded that the purpose of existing farm programs was to restrict production and thus avoid price-breaking surpluses.

If the biggest farms were forced to drop out of the programs by payment limitations, their production would soar and the surplus would probably crack the entire market, with disastrous consequences for the entire economy.

PAYMENT LIMITATIONS

The payment limitations advocates managed to get through the House of Representatives in 1968 a $20,000 annual limit on payments, but the provision was dropped by House-Senate conferees.

With the election of Republican Richard M. Nixon to the presidency in 1968, national farm policy became embroiled in the overall struggles between a Republican Administration and a Democratic-controlled Congress. During his first term in office, President Nixon was able to produce a halfway move toward the Republican ideology of a market-oriented farm policy.

END TO PARITY

The Nixon Administration sought to end parity guarantees for price supports and replace them with flexible supports related to world market prices. Most farm groups fought for higher parity guarantees and argued that farm income would be lowered drastically by the Administration's proposals.

The Agricultural Act of 1970, enacted after 16 months of controversy, was a compromise between Democratic advocates of continued crop and price controls and the Administration and its allies, who wanted to loosen government restrictions and let prices rise and fall with the world market.

Congress was able to retain the general supply management approach of the Kennedy and Johnson Administrations. The Nixon Administration, however, won a major concession in what is known as the "set-aside" feature. Under it, participating farmers could be required to set aside acreage in order to become eligible for loans and payments.

WORLD PRICES

Price support levels were related to world market prices as the President had desired. Existing marketing quotas and acreage allotments were suspended for the 1971–73 crop years on wheat and cotton.

Republicans also succeeded in their efforts to impose payment limitations. The President agreed on a compromise ceiling of $55,000 per crop.

The 1970 law also allowed additional voluntary set-aside and public recreational access payments under the wheat, feed grains, and cotton programs. Cropland and conversion and other long-term land retirement programs were continued for three years.

In 1972, crop failures around the world set off global food shortages and sky-rocketing prices. World grain production was down 42 million tons in 1972. Amid a torrent of controversies, the Soviet Union purchased more than 700 million bushels of grain from the United States—including a fourth of the total wheat crop.

EXPORT CONTROLS

In 1973, the Nixon Administration—heavily influenced by the Departments of State, Treasury, and Commerce—imposed export controls in an attempt to keep farm products at home. Import quotas were lifted or eased. Price controls were implemented.

American farmers were hard pressed in 1973 to produce enough to supply domestic and foreign needs. President Nixon gambled that the shortages were long-term and relaxed production controls. Farmers were exhorted to produce as much as they could

FREE MARKET

Against the backdrop of impending world starvation, the Agriculture and Consumer Protection Act of 1973 was passed, amending the 1970 law. Through it, the Republican Administration succeeded in moving American agriculture into the "free market."

"Target prices," closely tied to world market prices, replaced direct price supports for wheat, feed grains, and cotton. No target payments were allowed if the average market price received by producers during the first five months of the marketing year (calendar year for cotton) remained at or above the target price level.

Specific target prices for 1974 and 1975 were set in the law. Target prices for 1976 and 1977 crops were to be determined by the Secretary of Agriculture to reflect changes in production costs and productivity.

The 1973 law strengthened the Secretary's authority to impose cropland set-asides and additional acreage diversions. Secretary of Agriculture Earl Butz suspended for the life of the act (through 1977) the conserving base requirement for program participants.

PAYMENTS CEILING

Payment limitation forces, led by Reps. Findley and Conte, scored a victory in the act by lowering the ceiling of total payments a person could receive under one or more of the wheat, feed grains, or cotton programs to $20,000.

Disaster payments for prevented planting and reduced yields were also authorized by the 1973 law.

Supplies continued to be tight for most farm products through the harvest of 1976 and prices remained relatively favorable.

The free market appeared to be working, but its success was predicated on the failure of agriculture somewhere in the world (domestically, in the case of cotton).

Most farmers, at that time, were pleased with the free market and made it clear during the 1976 presidential campaign they wanted it continued.

SYSTEM CONTINUED

The Food and Agriculture Act of 1977, passed under President Jimmy Carter, generally continued the system farmers said

they wanted. It did, however, raise some loan levels, target prices, and payment limitation ceilings. The wheat loan price remained the same at $2.25 per bushel and the cotton loan price, figured under a complicated formula, recommended by the National Cotton Council, actually fell.

Yet, just as the free market concept had benefited from a series of crop failures from 1972 to 1975, it suffered under bumper crops in 1976 and 1977. Stocks were replenished and prices plummeted.

FALLACY EXPOSED

The fallacy of the free market concept was exposed. American farmers found prices would not cover their costs of production. Barring serious crop failures in 1978, or major policy changes, surpluses will continue and prices will remain low.

The alternatives under the present system are distressing: healthy production and low prices, or higher prices through crop failures.

It is alarming that the predicament American farmers find themselves in today so closely resembles their position during the 1920s. It should sound an alarm for the general public as well.

Solutions are being proffered from all corners. And, once again, the diverse philosophies of national farm policies are being debated in the American forum.●

ORIGIN OF THE SOLAR SYSTEM

● Mr. SCHMITT. Mr. President, as we strive to find solutions to the problems of man's interaction with man on Earth, there is a continuing search for knowledge about the universe and our place within that universe. The value of this search cannot be measured, nor can it be questioned. Its value is measured by history, by the inevitable though sometimes tortuous and delayed sequence from scientific discovery to the betterment of the human condition.

One of those rare discoveries of clear revolutionary importance to science has recently been made, and I wish to draw the attention of my colleagues to it.

Until very recently it has been generally assumed that the solar system was formed by the condensation of a homogenous collection of elements in space. Recent work, however, by Dr. Gerald J. Wasserburg and his colleagues at the California Institute of Technology indicates that a nearby stellar explosion (supernova) may have driven considerable alien debris into our youthful solar system. This finding, if finally confirmed, is one of the primer scientific discoveries of the space age.

Mr. President, I submit for the RECORD, two abstracts of papers to be published in the February issues of Astrophysical Journal letters.

The material follows.

CALCIUM ISOTOPIC ANAMOLIES IN THE ALLENDE METEORITE

(By Typhoon Lee, D.A. Papanastassiou, and G. J. Wasserburg)

We report isotopic anomalies in Ca which were found in two Ca-Al-rich inclusions of the Allende meteorite. These inclusions previously had been shown to contain special anomalies for Mg and O which were attributed to fractionation and unknown nuclear effects. The Ca data, when corrected for mass fractionation using $^{40}Ca/^{44}Ca$ as a standard, show non-linear isotopic effects in ^{48}Ca of +13.5 per mil and in ^{42}Ca of +1.7 per mil for one sample. The second sample shows a ^{48}Ca depletion of —2.9 per mil, but with all other isotopes being normal. Samples with large excesses in ^{26}Mg show no Ca anomalies. The effects demonstrate that isotopic anomalies exist for higher atomic number refractory elements in solar system materials and do not appear readily explainable by a simple model. The correlation of O, Mg and Ca results on the same inclusions requires the addition and preservation in the solar system of components from diverse nucleosynthetic sources. Observed anomalous Mg and Ca compositions for coexisting mineral phases are uniform within each inclusion and require initial isotopic homogeneity within an inclusion, but the preservation of wide variations between inclusions. Assuming formation of these inclusions by condensation from a gaseous part of the solar nebula, this implies isotopic heterogeneity on a scale of $10–10^2$ km within the nebula.

BARIUM AND NEODYMIUM ISOTOPIC ANOMALIES IN THE ALLENDE METEORITE

(By M. T. McCulloch and G. J. Wasserburg)

Isotopic anomalies have been found for Ba and Nd in two inclusions from the Allende meteorite. These inclusions are typical Ca-Al rich objects associated with early condensates from the solar nebula but have distinctive O and Mg isotopic anomalies of the FUN type. Sample C1 shows a depletion only in ^{135}Ba of 2 parts in 10^4 and normal Nd. Sample EK1–4–1 shows large positive excesses in the unshielded isotopes ^{135}Ba and ^{137}Ba of 13.4 and 12.3 parts in 10^4, respectively. The Nd isotopic composition in EK1–4–1 is highly aberrant in at least five isotopes. Both the Ba and Nd anomalies can be explained by a model of r-process addition. These anomalies are found to be uniform between coexisting mineral phases. These observations show the existence of substantial isotopic anomalies in refractory elements in the neighborhood of Xe and extend the range of elements showing isotopic effects to O, Ne, Mg, Ca, Kr, Xe, Ba and Nd. The observations, in conjunction with the presence of ^{26}Al ($\tau_{1/2}=7\times10^5$ years), are interpreted as the result of a nearby supernova explosion which produced elements over a wide mass range and injected them into the early solar nebula shortly before condensation.●

THE SPECIAL PROBLEMS OF WOMEN ALCOHOLICS

● Mr. HATHAWAY. Mr. President, I commend to my colleagues' attention an article written by James H. Winchester entitled "The Special Problems of Women Alcoholics," which appeared in the March 1978 issue of Reader's Digest. It presents an excellent and concise summary of the nature, extent, and impact of alcoholism among women and offers sound suggestions to address this growing problem.

The disease of alcoholism is found among more and more women. As Mr. Winchester points out, a 1974 survey showed that women accounted for 1 out of 3 new members of Alcoholics Anonymous, while in 1971 the ratio was only 1 out of 4. At present, an estimated 1 out of every 30 American women, between 2 and 3 million total, is an active alcoholic.

The Subcommittee on Alcoholism and Drug Abuse has been concerned with this problem for some time. In July 1976, we held hearings to explore the issue and concluded that attention must be focused on this underserved population. In that same year, the subcommittee revised the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act to provide a statutory priority on alcoholism programs for women at both the Federal and State levels. Whether this legislative mandate has made a difference so far in the prevention, identification, and treatment of the problem among women will be one of the foci at field hearings to be held tomorrow.

The impact of alcoholism is not simply limited to the woman alcoholic herself. Alcoholism has been found to be a significant factor in our high divorce rate, the incidence of battered children and spouses, and the number of runaway children. And most recently, we have become aware of the serious detrimental effect alcohol consumption by a pregnant woman can have on her unborn child. Testimony by scientific experts at subcommittee hearings last month revealed that maternal drinking can produce the so-called fetal alcohol syndrome, causing mental retardation and physical deformity, and may even be a significant cause of minimal brain dysfunction.

While the problem is growing, efforts to address and alleviate it are increasing as well. Some of these are outlined in Mr. Winchester's article.

Mr. President, I ask that the text of this article be printed in the RECORD.

The article follows:

THE SPECIAL PROBLEMS OF WOMEN ALCOHOLICS

(By James H. Winchester)

A housewife and mother in Mississippi comes out of a mental blackout to realize with horror that she is driving the family car around the countryside with her three small children in the back seat. A middle-aged Kansas City woman sits every day at the shadowy end of the neighborhood bar. A ten-year-old Texas boy arrives home from school to find his mother passed out on the kitchen floor.

These joyless and lamentable women live in the world of the alcoholic, a world increasingly shared with other females. Consider:

In the last 20 years, the number of women in the United States who drink alcoholic beverages has increased greatly. A 1958 Gallup survey reported that 55 percent of American females drank; a 1976 study indicated that the percentage had risen to 71.

According to a 1974 survey, women were accounting for one out of every three new members of Alcoholics Anonymous. In 1971, the ratio was only one out of four.

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) now estimates that one out of every 30 women in the United States—at between two and three million in all, more than the total populations of Idaho, Nevada and Montana—is an active alcoholic.

Why are so many women drinking? Experts cite a number of factors:

Women, more than men, pinpoint a specific, distressing situation as the source of their alcoholism—the death of a loved one, divorce, grown children leaving home, obstetrical and gynecological problems, mastectomy, even the menstrual cycle.

As husbands move forward in life, many women feel left out, and their drinking shifts from social to compulsive. Marianne Brickley, who was once married to the lieutenant governor of Michigan and is the mother of six, told a meeting of the National Council on Alcoholism: "A man calls his wife 'the little woman,' and too often that is exactly the way she feels. While my

husband was climbing his political ladder to success, the only changing I did was of diapers. Trying to ease my frustrations, I graduated from beer to martinis. I became an alcoholic."

Other women take up heavy drinking out of a need to make themselves feel more feminine. Says Sharon Wilsnack, adjunct assistant professor of psychology at the University of Indiana: "Many alcoholic women have a fragile sense of their adequacy as women. They drink to gain heightened feelings of womanliness. The tragedy, of course, is that the typical consequences of heavy drinking—neglect of appearance, reduced ability to meet the demands of home or work, disapproval of friends and family—eventually make her feel less of a woman, causing her to drink even more heavily."

Many other kinds of frustration cause women to turn to alcohol as an outlet: A young wife grieving over her inability to have children; a doctor with her nerves tensed by the life-and-death decisions she has to make; a schoolteacher needing a morning pickup before facing her charges. Nearly 4.8 million families in the United States today are headed by single women who have children to raise, homes to run and, for many, full-time jobs. Says one of these caught-in-a-trap solo parents: "Try being a 27-year-old with no husband, three kids, and a job that doesn't even begin to pay the bills. Maybe you would drink, too!"

As more and more women turn to drink, there is a growing (and long-overdue) recognition that women alcoholics are special people with special needs. Says Sharon Wilsnack: "Women alcoholics differ so significantly from men that their drinking problems might almost be considered a separate illness." For example, studies have indicated that women alcoholics may have a greater vulnerability than men to liver diseases resulting from prolonged alcohol abuse and that they may run a higher risk of pneumonia. Their alcohol consumption compounds the problems of miscarriages and difficulties in conception, and increases the incidence of hysterectomies.

Forty-four percent of the offspring of chronically alcoholic women have serious problems in development, according to well-documented scientific findings reported last year. These include mental retardation, physical deformities, stunted growth, and eye defects. Warns Dr. Joseph R. Cruse, an obstetrician-gynecologist at the University of Southern California: "The only 100-percent-safe course for a pregnant woman is to abstain."

Alcohol affects women more during the days immediately prior to menstruation than during the remainder of the monthly cycle, and women taking oral contraceptives metabolize alcohol more slowly than those not on the pill. This means that women taking oral contraceptives will probably become intoxicated faster and remain drunk longer.

All these problems are made still worse by the fact that many doctors misdiagnose a woman's alcoholism as "nerves" or depression. Thus treatment may be only a tranquilizer, which complicates an already serious situation. Consider the case of a 36-year-old recovered alcoholic.

"I was having husband problems," she told me. "My nerves were at a breaking point. On a doctor's advice I started having a drink before bedtime every night to help me relax, and it wasn't long before I was also drinking in the daytime. Liquor was my friend. It didn't talk back.

"I was still tense, though, and another doctor prescribed tranquilizers. I started taking two or three at a time and washing them down with beer or whiskey. One night I went into a coma, was taken to a hospital, and didn't regain consciousness for two days. It was a close thing."

The problem of alcoholism for the working woman is compounded to a large degree by employer attitudes. Although most experts agree that the percentage of women alcoholics in the work force is rising, only a few of the larger companies and major unions recognize this trend. Indeed, surveys of occupational alcoholism programs in New York State show that less than ten percent of all employe referrals to company or union-run rehabilitation programs are women.

"It's the old double standard," says Karen Zuckerman, labor liaison for New York State's Division of Alcoholism. "Alcoholism as a problem at work first has to be recognized by a supervisor, most likely a man. He can spot job performance in a woman which is adversely affected by drinking easily enough, but he may feel uneasy about confronting her. Too often, he sweeps it under the rug as 'women's problems.' "

There is today, however, a growing awareness in business and industry that early detection and help are needed as much for women alcoholics as they are for men. Treatment programs designated just for women are opening, and results from previous programs indicate that at least 70 percent of all women getting such help will eventually return to productive work.

Still, on a nationwide basis the lack of understanding of the problems of women alcoholics remains scandalous. For example, the Department of Health, Education and Welfare funds 540 alcoholic rehabilitation programs in the United States, but only 17 of them are specifically for women. And since the great majority of studies on alcoholism are still all-male, most women alcoholics, despite their special problems, are treated the same as men.

As the scope of this problem becomes more apparent, attempts to help are increasing. Task forces in 49 states are now working to develop special research, education and treatment programs on alcoholism geared exclusively to women. Private groups are also being formed. One of them is the non-profit Women for Sobriety, with headquarters in Quakertown, Pa., and 100 chapters in 40 states. At Family House, a residential facility in Norristown, Pa., mothers can keep their children with them while they get treatment for their alcoholism.

Many more such treatment centers are needed to meet the unique needs of women alcoholics. Better training of physicians and social workers in recognizing women alcoholics and their unique problems is another priority. Says the NIAAA:

"A woman alcoholic is today most likely to seek help for such difficulties as marital instability, depression, physical ailments or financial troubles. She will make the rounds of marriage counselors, child-guidance clinics, clergymen and doctors, none of whom is likely to identify her real problem, which is the abuse of alcohol. Instead, she is referred from agency to agency, from professional to professional, never getting the kind of help she really needs. It's time this sad situation was changed." ●

SUPPORT FOR THE HART BUILDING SOLAR FEASIBILITY STUDY

● Mr. PERCY. Mr. President, on March 13, Senator HART and I introduced Senate Resolution 414 requesting the Architect of the Capitol to study the feasibility of installing a solar energy system in the new Hart Office Building. The resolution was referred to the Rules and Administration Committee, which will have final approval over the commissioning of this study. However, the Senate Office Building Commission, under the chairmanship of my distinguished colleague Senator SPARKMAN, is most closely associated with this matter. And so, on March 17, a letter was sent to Senator SPARKMAN stating reasons for studying the feasibility of a solar system.

Mr. President, 25 U.S. Senators signed that letter. Since then, two more of my colleagues—Senator ZORINSKY and Senator INOUYE—have indicated their support by becoming cosponsors of Senate Resolution 414. Such broad, bipartisan support argues strongly for spending a few thousand dollars now to determine whether a solar-assisted hot water heating system can save hundreds of thousands of dollars over the lifetime of the building.

Mr. President, I submit the letter to Senator SPARKMAN for the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., March 17, 1978.

HON. JOHN SPARKMAN,
Chairman, Senate Office Building Commission, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR SPARKMAN: The Senate's commitment to solar energy is well established in existing legislation. The Senate now has the opportunity to express its commitment by installing solar collectors on the new Phillip Hart Senate Office Building. Solar panels can be used to assist the building's hot water heating system. We urge the Senate Office Building Commission to request a detailed study to determine whether the installation of a solar system would save money as well as energy. The study would be a very inexpensive way to find out whether, over the long run, the hot water heating costs of this building can be decreased.

Along with the economic and technical factors that would be addressed in a feasibility study, we urge the Senate Office Building Commission to consider the demonstration value of this project and its assistance to the fledgling solar energy industry. There are few better places in the country to demonstrate a solar energy system than on the roof of a Senate Office Building. Hundreds of thousands of visitors each year would see this practical application of solar energy. Press coverage would expose it to millions more. Such a demonstration would underscore the Senate's commitment to the conservation of scarce energy resources and the utilization of renewable ones. It would testify convincingly that the Senate keeps its own house in the order it legislates for the rest of the country.

The Architect of the Capitol is already in the process of studying the feasibility of installing solar collectors on the House Office Building Annex No. 2. The need for the Senate to demonstrate the same technology is, therefore, somewhat lessened. However, thousands more visitors are likely to see the Hart Office Building each year than House Office Building Annex No. 2, which is a shuttle-bus ride from the Capitol and has no offices of Members. Senators could much more easily demonstrate a working solar energy system by sending their visiting constituents upstairs than by trying to direct them to House Office Building Annex 2.

The strongest argument for installing a solar system on the Hart Office Building, however, may be economic. Clearly, the addition of solar collectors to the Hart Office Building would be appropriate if this alternative is more economical than traditional energy sources. Thus our request that the Senate Office Building Commission direct the Architect to conduct a detailed feasibility study.

The Senate, House of Representatives, and

now the conferees on the conservation provisions of the National Energy Act have adopted a measure sponsored by Senators Hart and Matsunaga requiring all federal buildings to achieve maximum energy and cost efficiency by 1990. With the passage of this legislation, all federal agencies will be required to make design, construction, equipment, building modification, and operating procedure decisions on the basis of life-cycle costs. Life-cycle costs take into account all the factors that make up the capital and maintenance cost of a building over its economic lifetime.

In accord with these principles, we would recommend a study to compare the costs of a solar assisted hot water system to a purely conventional system over the lifetime of the Hart Office Building. Among the factors that need to be considered are escalating fuel rates. Federal and private designers now calculate a fuel rate escalation of between 10% and 20% per year. Whether a solar system is economical over the life-cycle of a building depends to a large extent on the length of time assumed for that cycle. George White, the Architect of the Capitol, makes the point that Capitol Hill buildings are designed and constructed to last considerably longer than commercial office buildings. Therefore we suggest that lifecycles of 30, 50 and 70 years, at least, be studied.

Fuel prices and life cycles are two variables among many. In order to give the Senate a clear choice, we would expect ths study to present several scenarios, each based on different sets of assumptions. From these scenarios, the Senate can see the conditions under which solar hot water heating makes economic sense.

It is important that this study be done by qualified analysts. Consultants with little hands-on experience in solar collector installation may not know the most efficient methods, and so may plan a needlessly costly system. The decision to install solar collectors will, in many ways, be an investment decision. Proper assessment of life-cycle data requires expertise in economic, as well as engineering, analysis. Should your commission authorize a feasibility study, we hope you take care to see that it is done by qualified consultants.

The Architect has already received a very preliminary estimate of the cost of installing solar collectors on the Hart Office Building. The estimated cost was $75 per square foot of solar panels installed and operating. Other solar hot water projects in the D.C. area have already been bid and constructed at one-half to one-third that price. In developing figures for actual construction budgeting, we hope that a feasibility study can either explain or discredit these discrepancies.

No study can answer aesthetic questions. The preliminary estimate assumed that only 10,000 sq. ft. of solar collectors can be installed on the roof of the Hart Office Building. The report to the Architect states: "In calculating the 10,000 sq. ft., we have assumed setting the panels back from the roof parapet to allow a clear line of sight of 30°, to maintain a reasonable amount of screening of the collector panels from pedestrian view." Whether collector panels should be screened from view is a matter of taste. If collectors are designed carefully and proportionately, they can be visible and attractive elements consistent with the rest of the building. The amount of solar panels shoud not automatically be limited by an aesthetic judgment to shield them from sight. In any case, a final judgment should be made by the Senate Office Building Commission and the Committee on Rules and Administration. We feel that, if a solar system can be made much more economical by adding more square footage and exposing the system to pedestrian view, that possibility should at least be considered.

Attached to this letter is a Senate resolution requesting the feasibility study. We very much hope that the resolution will have your full cooperation and support. If there is a way to authorize the study without a resolution, we hope you will proceed immediately.

The Senate has an opportunity to display its commitment to the use of renewable resources. A comprehensive feasibility study will give the Senate Office Building Commission the information it needs to determine whether to take that opportunity. We urge you and your commission to authorize the Architect to prepare that study.

Sincerely,

Charles H. Percy, George McGovern, Harrison A. Williams, James Abourezk, Wendell R. Anderson, Gary Hart, H. John Heinz III, Wendell H. Ford, Donald W. Riegle, Mike Gravel.

Mark O. Hatfield, Daniel Patrick Moynihan, Richard G. Lugar, Pete V. Domenici, John A. Durkin, Dennis DeConcini, Harrison H. Schmitt, John Glenn, Dick Clark, Paul S. Sarbanes, Edward W. Brooke, Muriel Humphrey, Spark M. Matsunaga, William D. Hathaway, Patrick J. Leahy.●

MR. LOUIS SPILMAN

● Mr. HOLLINGS. Mr. President, several years ago the Waynesboro News-Virginian of Waynesboro, Va. was acquired by the publishers of the News and Post as well as the the Evening Post of Charleston, S.C. Mr. Louis Spilman, the distinguished former publisher of the Waynesboro paper, continues to write his beloved daily column, "The Old Armchair," in the News-Virginian.

Recently Mr. and Mrs. Spilman spent several days in Charleston. His reports back to Waynesboro reveal the warmth that have long made "The Old Armchair" a favorite part of the day for his countless readers. While his stay in Charleston was brief, his reports reflect his great reportorial skills in portraying the "virile, active city" of Charleston.

On behalf of the city of Charleston, I want to express our appreciation to Mr. and Mrs. Spilman for visiting our great city and urge them to return as quickly as possible.

Mr. President, I insert "The Old Armchair" articles dated March 18, 20, and 21, 1978 in the RECORD so that my colleagues can enjoy this impartial viewpoint of my hometown:

[The News-Virginian, Mar. 18, 1978]

THE OLD ARMCHAIR: WE PAY A LONG DELAYED VISIT TO THE HEADQUARTERS OF NEWS-VIRGINIAN OWNERS

(By Louis Spilman)

CHARLESTON, S.C.—At long last we are in this charming southern city that emanates such a peaceful, friendly atmosphere of early America. We've truly sought to visit here for over 3½ years. Thanks to the snow and ice covering Waynesboro and the frigid air invading our lungs, we rushesd south shortly after returning from summer in South America. We feel so much closer to Charleston than we did in earlier years. It was from Charleston that the new owners of The News-Virginian came. They have been insisting since The News-Virginian officially changed hands (Sept. 1, 1974) that Emily and I come to this historic city for a visit.

We arrived Sunday (Mar. 12) and found ourselves housed in the famed Mills Hyatt House where "antebellum ambiance and contemporary comforts" are united to provide a friendly, delightful environment. The hotel is located in the very center of historic Charleston with its wealth of 18th and 19th Century homes, churches and public buildings, walled gardens, parks and its beautiful high Battery overlooking the placid, calm harbor. There, across the water, is unforgettable Fort Moultrie where in 1776, Col. William Moultrie with just 400 South Carolina patriots, beat off a squadron of nine British warships to record the first decisive victory of the American Revolution. Yonder is Fort Sumter, where the first shots of the Civil War were fired; and there on the end of Sullivan's Island is historic Sullivan's Island Lighthouse, maintained by the U.S. Coast Guard. This lighthouse is on the National Register of Historic Places.

Our schedule had been carefully arranged by Hall McGee, one of the major executives of the News and Courier, Charleston's morning newspaper that began its existence in 1802, and The Evening Post, owned by the same group who now also own The Waynesboro News-Virginian. On the evening of our arrival we were dinner guests of Mr. and Mrs. Frank Gilbreth, also a major executive of the Charleston newspaper corporation. Mr. Gilbreth is also one of the 12 children made famous by the book, "Cheaper By the Dozen" which he, himself, coauthored. Monday was full of excitement and activity.

The day started with a personally conducted tour of Charleston by one of the most capable registered guides in the city . . . Mrs. Joseph Rutledge Young. Her husband is one of Charleston's outstanding attorneys and Mrs. Young continues her contribution to acquainting visitors with the city primarily because she loves its history and enjoys its present-day atmosphere as a place to live. At noon, Peter Manigault, whose grandfather started the Manigault family in the newspaper business, entertained Emily and me at lunch in a delightful little Greek Restaurant tourists never seem to find, but where we were served a delicious Greek salad, some fresh shrimp right out of the ocean, and some matchless Greek pastry.

Following lunch we were transported by Mr. Manigault to the huge and impressive plant and offices of the newspapers. Here Mr. McGee took us on tour. We were breathless as we proceeded from department to department and saw the modern machinery already installed and being installed. Chief attention-compeller was the new 10-unit offset press. It will be ready for use May 1 and will help place the Charleston newspapers in an even more dominant position in South Carolina. Our Monday was complete with dinner at the charming Old Colony House as guests of Mr. and Mrs. McGee. We have known Hall for nearly four years but this was our first opportunity to meet and become acquainted with Mrs. McGee. What a lovely, beautiful lady she is; a native, incidentally, of Rhodesia in Africa. She exudes deep interest in just about everything and her blonde attractiveness, sparkling eyes and flashing smile exude a friendliness that captivated us.

THE OLD ARMCHAIR: CHARLESTON, S.C., BREATH OF EARLY DAYS, IS NOW LINKED CLOSELY WITH WAYNESBORO

CHARLESTON, S.C.—How fortunate for Waynesboro and vicinity it is that the present owners and operators of The News-Virginian consist of these magnificent "directors of action" and "maintenance of tradition" in Charleston. But let us continue a brief recitation, at least, of the glimpse these exciting few days have provided us in this "dream city" of the past and this virile, active city of the present. If it were possible to share with you the complete story of Charleston's greatness as told us with such enthusiasm by Mrs. Elisabeth Young, our captivating guide, it would require an entire edition of The News-Virginian.

Among other things that remains firmly imbedded in my mind is the fact that the front doors of the scores of charming antebellum homes that still arouse unallayed fascination, are lovely beyond compare. Of supreme interest to me is that every door is different; there are no two alike. Those who doubt this are privileged to spend the many, many days that would be required to make an exhaustive door-to-door check. But we believe it! We were told that all new buildings, all restorations, all remodelling, all painting etc., must be approved in Charleston by the City's Restoration Commission.

Every effort is made to oppose construction of "skyscrapers" in Charleston. Before control of building activities was begun, however, a tall hotel was constructed along the waterfront. The Mills Hyatt House in which we so comfortably reside is 79-feet high. However, no further buildings more than 50 feet high are permitted. Gardens are lavish and well-kept. If is truly a paradise for expert gardeners and landscape artists. Most of the early settlers in Charleston were English but many followed from the Barbados Islands; French Huguenots, German, Dutch, Irish, Scottish, and Jewish followed all seeking a new way of life. Later came an influx of refugees from the French cosmopolitan community and religious tolerance was evidenced by the fact that one of its early Governors, John Archdale, was a Quaker.

There are approximately 300 churches in Charleston. The original, St. Phillips (Protestant Episcopal) was established in 1690. The Southern Baptist Church probably had its origin in Charleston where the First Baptist Church was organized by the first Baptist congregation in South Carolina. The Lutherans, Unitarians, Congregational, Roman Catholic, Christian and Presbyterian were all begun early as was the Methodist Episcopal (now United Methodist). Of extreme personal interest to Emily and me was our visit to the Manigault Mansion, which was begun in 1802 and is an outstanding example of Adam architecture.

Charleston was the home and birthplace of innumerable patriots before and during the Revolutionary War. We cannot name them all but four were signers of the Declaration of Independence . . . Thomas Heyward Jr., Thomas Lynch, Jr., (who signed the Declaration in his father's stead, his father becoming seriously ill at the time), Arthur Middleton and Edward Rutledge. In 1788, South Carolina became the 8th of the original 13 colonies to ratify the Federal Constitution of "infant U.S.A." On December 20, 1860, South Carolina became the first state to secede from the Union.

THE OLD ARMCHAIR: FAREWELL CHARLESTON! WE FEEL AS IF WE HAVE BEEN LIVING IN COLONIAL DAYS

CHARLESTON, S.C.—Within a few hours we'll be taking reluctant leave of this colorful, dramatic and historic city of the "Old South." We've enjoyed every minute except, perhaps, the 15 minutes we had to stand in line, here at the hotel, to be seated for breakfast this morning. Tourism is the source of Charleston's biggest income. It likewise insures regular employment for hundreds of Charlestonians. It seems the tourist season is beginning to operate in a big way now, as the matchlessly beautiful Charleston gardens begin to blossom . . . blossoming late, we are told, because of the past two rather severe winters.

South Carolina, as a State, probably symbolizes the New South more than any other State. South Carolina refused to recognize the end of the Civil War (it's still called the War of Northern Aggression by many here in Charleston). The result was that U.S. troops took over the State at the conclusion of the War and remained here until 1877. South Carolina, as a result, required years for recovery. But today the State is bristling with industry (remember when Du Pont established a plant at Camden, S.C., and transferred many from the Waynesboro plant to get it underway?

But Charleston apparently is undisturbed about change. The goal here is apparently continued revival of the early days. This area was one of the wealthiest and most aggressive of any city in the entire 13 Colonies. Efforts to establish a permanent settlement at Charleston (it was first called Charles Town) were made unsuccessfully in 1526 and 1562 and it was 1670 before a permanent settlement was actually started. Even this first settlement had to be moved from Albemarle Point, where it was susceptible to attack by marauding Spaniards, to the present location on the peninsula between the Ashley and the Cooper rivers . . . the magnificent Charleston Bay resulting when the two rivers merge.

Gardens are everywhere in Charleston. Three gardens . . . Middleton, Magnolia and Cypress . . . have attained national fame. They are visited annually by hundreds of thousands who are eager to absorb the beauty that radiates therefrom. The southern end of Charleston with its narrow, crooked streets and lovely 18th and 19th century houses that have been so skillfully maintained or restored, remains the favorite residential district of the City. Indicative of the early vision of greatness emanating from its citizenry, the first Chamber of Commerce in the United States was founded here in 1773.

Charleston is likewise the birthplace of Scottish Rite Masonry . . . a plaque on the side of a building at Church and Broad streets proclaims this fact. By 1775 Charleston had become one of the most important Atlantic Coast seaports in North America. The city was also the capital of South Carolina until 1790 when the capital was moved to Columbia, which is much more centrally located. In 1736 the Dock Street Theatre was opened . . . the first building in America constructed solely for theatrical purposes. The city's oldest building, the Old Powder Magazine, built in 1713, is still extant and houses, as so many preserved Charleston buildings do, a museum. It's a real treat to visit Charleston . . . try it sometime!●

TAXPAYER ASSISTANCE FAIRNESS ACT

● Mr. SASSER. Mr. President, last year I introduced S. 1379, the Taxpayer Assistance Fairness Act. This bill seeks to address a fundamental wrong in our tax system: People who turn to the Internal Revenue Service for tax advice often cannot depend on that advice to be correct.

My legislation attempts to provide protection for taxpayers who need the IRS assistance. It prohibits the IRS from assessing interest and penalties on back taxes owed if those taxes were owed as a result of incorrect IRS advice. It also mandates that the IRS upgrade the standards for its taxpayer assistance program.

A statement released yesterday by the General Accounting Office shows that the IRS has made some improvement in its taxpayer assistance programs. But the GAO statement also underscores the need for taxpayer protection against IRS errors.

I ask that an article in yesterday's Washington Star on this subject be printed in the RECORD following my remarks.

The article follows:

CALLING IRS FOR TAX RETURN HELP?

(By John Holusha)

If you call the Internal Revenue Service for help on certain areas of your tax return, the odds are only about 60–40 you will get the right answer.

And if you accept the wrong answer, it's your fault. The IRS does not stand behind its own answers.

Although IRS taxpayer assistance is generally 87 percent correct, a test conducted by the General Accounting Office early this month showed that accuracy varies sharply with the question asked and the IRS center giving the answer.

The results of the GAO survey were presented today to the House Commerce consumer protection subcommittee headed by Rep. Benjamin Rosenthal, D-N.Y.

IRS Commissioner Jerome Kurtz said "in light of the referral error rates identified . . . we will establish a mandatory quality review system to identify error rates for referral assistors on a separate basis."

IRS has established a system of 70 offices reachable through toll-free telephone lines to assist the millions of Americans struggling to meet the April 15 filing deadline for their tax returns. Last year IRS was contacted 29 million times for help by taxpayers.

Kurtz claimed that the answers given over the phone have been 91 percent accurate this year, but conceded that the average was padded by simple questions such as taxpayers asking which form to use.

GAO tested the workings of the taxpayer advice system by calling 20 of the 70 centers on a random basis and asking one of 14 pre-selected questions dealing with issues changed by the 1976 tax reform act. Since this was the section of law most recently changed, it would logically be the one most confusing to taxpayers.

Overall. the survey found that 87 percent of the responses were correct, but that the accuracy rate fell off to 79 percent when the question involved was at all complex.

These represent averages. The actual accuracy varied widely, depending on the question and the office.

A puzzled taxpayer calling IRS' Jackson, Miss., office had only a 74.4 percent chance of getting a right answer, while one calling Richmond was running 88.9 percent odds. The Dallas office took the honors with a 94.3 percent accuracy rate.

Somecne who wanted to know how to deduct alimony payments was fortunate. IRS scored 100 percent on that one.

But an unfortunate taxpayer with this problem was in for trouble:

Question: I was transferred from New York last March. I spent $650 looking for a house and $985 on meals and a motel while waiting for my house to be ready. I was not reimbursed for any of this. Can I take this as a deduction?

Only 59 percent of the responses were correct. (The answer is yes, subject to a maximum deduction of $1,500 and a 30-day time limit on meals and lodging.)

GAO commented that "the accuracy rates of the tax assistors . . . were sufficiently low to warrant IRS attention." The watchdog agency added that the low rates were "particularly noteworthy since IRS considers telephone referrals to be a critical factor in providing quality service to taxpayers."

The GAO survey did note that it will be easier to get through to the inquiry centers, with an average wait of about a minute, and it found that the tax assistors were courteous 89 percent of the time.

However, Kurtz noted that the limitations of the IRS budget mean that "between 7 and

8 million taxpayers calling in for answers to questions . . . may not be answered this year."

Kurtz also said that the simplification of some areas of tax law have increased the use of the short form return and that the error rate on the short form was down to 4.3 percent so far this year from 11.3 percent last year.

Kurtz also said early returns this year indicate that more taxpayers are filling out their own forms. Only 32 percent showed the signature of a commercial tax preparer compared to 42 percent last year.

However, a representative of some retired peoples associations said that IRS assumed that Congress would pass the Technical Corrections Act last year when it made up this year's forms.

The act was not passed, James Hacking said, and as a result couples living in community property states stand to lose tax credits as a result of the erroneous instructions.●

A TRIBUTE TO HUBERT HUMPHREY

● Mr. MUSKIE. Mr. President, on February 2, 1978, a service of thanksgiving for the life and work of Hubert Humphrey was held at the American Church in London, England. The service was attended by the Prime Minister, members of the Cabinet, Ambassador Brewster, and Mrs. Thatcher, leader of the opposition, among others.

Hubert Humphrey touched the hearts not only of Americans but people throughout the world. The service in London is eloquent testimony to that fact.

Mr. Anthony Hyde, chairman of the Democratic Party Committee Abroad, delivered a moving eulogy at the service "Reflections on Hubert H. Humphrey."

I ask that Mr. Hyde's remarks be printed in the RECORD.

The material follows:

REFLECTIONS ON HUBERT H. HUMPHREY

There is a dream—an old fashioned American Dream—that every American boy can grow up to be President.

Part of that dream—and it is not yet dead in America—is that courage and loyalty; decency and kindness; and the willingness to work and to work hard will be rewarded by success.

Hubert Horatio Humphrey had that dream; and although the ultimate prize three times escaped him, who is to say that his life was not a success?

Success is, after all, not a destination. It is a journey. And Hubert's journey, as the record shows, ran true and straight. Even in moments of failure and frustration—including the ultimate frustration of death—the spirit of this remarkable and remarkably successful man shone through with a strong and steady light.

I never asked him how he got the name of "Horatio." My own opinion is: it was an echo of the turn-of-the-century optimism of America as the "can-do" country. America has a sense of the possible and Humphrey was the embodiment of this. His bounce, his buoyancy, his "can-do" spirit came to him as a priceless personal legacy from his mother and father and before that from his Yankee and immigrant forebears.

Over the years I have had some experience with that "priceless personal legacy"! It dates from the time our close friend, Bill Benton, asked me to help in Humphrey's first Senate re-election campaign in 1954 and includes the time when some of us gave a dinner in his honour, and afterwards went on to Annabels. At three in the morning, I remember his son Skip saying to him: "Dad, we better go home and let these good people get some sleep." Hubert knew how to play hard as well as work hard.

His career is pure Americana. For some it may seem corny. If it does, so be it.

He was born in 1911 in Wallace, South Dakota, in a room over a drug store, the fourth child of Hubert and Christine Humphrey. Much of his early life he spent on a farm and all of his life he had a feeling for the land and for the people who work on the land.

At 10 years of age we see him working in his father's drug store, washing dishes and serving sodas. This is almost the classic American pattern of its day.

What was not so usual, was his father's deep interest in politics and in the issues of the day, which he discussed with his customers. They used to say about him: with every pill, he sold or tried to sell an idea—an idea about the "good society." The young Hubert grew up in this cracker-barrel atmosphere.

In 1926 he went through an early Mid-West Bank closing and lost his life's savings. At 15 he got off lightly: his life's savings were $140!

The next year the Depression struck the Mid-West in earnest and his father had to sell his house to pay his bills.

But his father had that irrepressible spirit and energy which all of us recognize in his famous son. He made a new start.

At high school Hubert's record was outstanding: athlete, star debater, top student and class valedictorian. This was a taste of early success. But Hubert was no stranger to failure—even if it was not his own.

Oh yes, he knew failure: failure of the American Dream to stand up to the harsh realities of the 20's: failure of the land to produce: failure of businesses: of financial institutions: the failure of Government to act in response to the needs of the American People.

Hubert was very much a child of the Great Depression and of the New Deal.

He knew what it was like to hitchhike because there was no money for fares;

To have to leave university twice: once because, even with his own earnings, there was no money to pay for tuition: a second time, after he had been able to return on a scholarship, because his father was ill and both he and his brother had to leave to run the family business.

He knew about duty and loyalty, too . . . a characteristic for which he was to be criticised in later political life.

All this left its mark on the boy and the young man who was to become one of the most useful, compassionate, effective and successful men in public life, in our time.

It left its mark but it never touched the core of the man: his optimism, his bounce, his warmth, his belief in himself and in other people.

He had a dream of going to Washington, of doing things . . . big things; and of being "someone" in the world, as he would put it. It bubbled to the surface in a letter he wrote from Washington to Muriel Buck, the girl he was to marry. He wrote:

"I can see how someday, if you and I just apply ourselves and make up our minds to work for bigger things, how we can someday live here in Washington and probably be here in Government politics or service. I intend to set my aim for Congress. Together we can do things, I am sure. Never let me get lazy or discouraged. You be my inspirational force, Muriel."

Lazy or discouraged, he never was.

They say that behind every great man, there stands a woman. Hubert was luckier than that. His Muriel walked beside him . . . grew with him . . . shared his triumphs and endured his defeats. She is the kind of a wife that if a man reached out in the dark, her hand would be there.

I have "sketched-in" Hubert Humphrey as a boy and as a young man because it helps to explain the mature man.

He was a man of international stature and outlook, yet he was intensely American. He stood for the old fashioned virtues which have helped to make America great.

For the can-do spirit.
For hard work.
For loyalty.
For courage.
For determination.
For compassion for the weak and needy.
For the equality—yes, and for the brotherhood of man.

He loved his family. He cared. He cared passionately . . . but not just for his family and friends . . . for America . . . for mankind.

He knew how to accept defeat and yet remain undefeated.

He had the ability to live and to fight without rancor. He was forgiving. There was no malice in the man. No envy; no bitterness; no self-pity. What a man!

Of the thousands of letters he received during his stays in hospital, one that he particularly treasured was from Sugar Ray Robinson, which ended with the line: "Keep on punching, old buddy." Hubert kept on punching; not just for himself but for all of us. My friend Archie MacLeish has called this "a special kind of gallantry."

There will always be a warm place in the hearts of those who knew him either in person, as I did, or by his services to the Nation. And when those hearts no longer beat, he will move softly into the pages of history. Though he could not quite make the American Dream come true for himself, he did for millions of others. His eloquence and energy made the dream become the law: for Equal Opportunity: for Equal Rights: for Human Rights. And this was true for much of the major legislation in America of the past quarter century.

He will be known as the man who loved his fellow man . . . who gave all he had to give: to America . . . and to the world. Gave it with joy and without restraint. Oh, yes. The bounce and the joy will be remembered. The Happy Warrior has left the scene. The World is not a poorer place. It is a richer place because he passed here and the American Dream still lives.●

INDIANAPOLIS RUBBER COMPANY

○ Mr. LUGAR. Mr. President, as the Congress prepares to embark on an extensive national debate about ways in which existing jobs might be saved and new jobs created in our large cities, a quite remarkable success story has unfolded in my home city of Indianapolis. The Uniroyal Rubber Plant, employing 600 people within a few blocks of the center of the city, was given final notice of closing by Uniroyal headquarters located, ironically, in New York City.

Behind the visionary leadership of Beurt SerVaas, who serves Indianapolis as both businessman and city-county council president, the workers and management of the plant combined forces with the city's three largest banks to effect a purchase of the factory. Under a new title, the Indianapolis Rubber Co., and a unique arrangement in which profits and management decisions will be shared with the employees, the business and the 600 jobs will be preserved.

Extensive plant modernization has been pledged by management, a plan to increase productivity is being formulated by the plant's union workers, and even the possibility of future expansion and new job creation seems plausible.

Like many developments in the dramatic revival of downtown Indianapolis over the last decade, the saving of Indianapolis Rubber Co. was a self-help project, accomplished without a "bail-out" from any other level of government. Let us hope that this same spirit can be fostered in many other large American cities by future Federal policies.

An excellent article by Jonathan Kwitny, describing the efforts to save the Indianapolis Rubber Co., appeared in the Wall Street Journal on March 22. I submit this article to be printed in the RECORD.

The article follows:

TUBE PLANT, 600 JOBS SAVED IN INDIANAPOLIS—IN THE NICK OF TIME

(By Jonathan Kwitny)

INDIANAPOLIS.—A few blocks from the towering new municipal building that symbolizes this city's growth, a homely 87-year-old rubber factor hums away, a symbol of the city's spirit.

The factory has long been the country's leading producer of inner tubes. It operates profitably. Its $7 million to $8 million annual payroll sustains the families of nearly 600 employes. Perhaps more important, the factory, if it lasts, may show other communities a way to save jobs and avoid human displacement.

Three months ago, the factory almost closed down. Its owner, Uniroyal Inc., the multinational tire and chemical concern based in the New York area, had been threatening to close its Indianapolis plant for many years. Then, last Dec. 16, the firm gave one week's final notice.

Like Western towns that have lost mines, and Ohio towns that have lost mills, Indianapolis was faced with an economic blow because the faraway executives of a giant corporation had decided to rid themselves of what to them was just another plant in the hinterland.

CAPITALISM AND SOCIALISM

But now the plant has been saved, by a bold experiment, with an unusual assortment of characters applying a combination of economic philosophies. Now known as the Indianapolis Rubber Co., the plant relies partly on capitalism: It is headed by a free-wheeling entrepreneur who has made millions from his knack of reviving failing businesses. It also relies partly on socialism: The workers will participate in management and share the profits 50–50.

And there is an additional factor that some people regard as more important than economic systems—a spirit of goodwill in the form of concerned city officials and the cooperation of several local bankers who seem startled and pleased by their own apparent show of civic spirit.

To many persons here, Uniroyal's decision to close the plant seemed heartless: The plant was making a profit; many of its workers were in sight of retirement and needed the factory to fill out their careers and qualify them for pensions; and the city needed the payroll.

Uniroyal declined numerous requests for an interview with an executive who knows about the Indianapolis situation. The company said it would agree only to issue formal statements in reply to questions submitted in advance. This reporter declined to operate under such strictures, but first he did ask why Uniroyal closed the plant. The company, in a formal statement, cited "high labor costs" and "steadily declining demand."

"TOO BIG TO LOOK"

Union and management officials who worked at the plant tell another story. They say that Uniroyal could have kept the plant operating profitably if it wanted to but that, under pressure from the securities markets, management decided to concentrate its energy on higher-growth chemical lines. Interviews with securities analysts support this theory. Richard Haydon, an analyst at Goldman, Sachs & Co., says:

"You have one very large entity looking at a very small entity, but the small entity being very large to those people that work there. I think it's a truism that many companies have grown too big to look at the small market. In order to protect the health of the company, they have to look at markets with major growth potential."

Whatever the motive for a shutdown, those who are hurt by one aren't apt to take a charitable view of it. Today, though, Indianapolis may have the last laugh on the financial moguls who gave up on inner-tube production.

"It's developed into a community-type thing," says Ralph Frey, 61, the industrial-relations manager at the plant who was dumped from the Uniroyal payroll after 37 years but has taken the same job at Indianoplis Rubber. "The employes are behind it and the managers are going to be behind it," Mr. Frey says. "Everything I have heard is basically favorable."

OPENED IN 1892

Ironically, Indianapolis Rubber Co. is the name the plant bore when it opened in 1892. Uniroyal (then called U.S. Rubber Co.) bought the plant in 1905. It now consists of 17 to 19 brick buildings interconnected so confusingly that even the managers aren't sure how many there are. Most were built around 1910 and 1920.

Longtime employes say they have heard threats of a shutdown since the 1940s. But the threat that came true was first issued on Jan. 12, 1977; Uniroyal announced it had tentatively decided to phase out production at Indianapolis. It didn't say when.

A local Chamber of Commerce official wrote Uniroyal, complaining. He mailed copies to Mayor William H. Hudnut III, a former Presbyterian minister, and to City Council President Beurt SerVass, the free-wheeling entrepreneur. Mr. SerVaas's best-known acquisition was Curtis Publishing Co., which owns The Saturday Evening Post, but far more profitable are several big forging plants and a chemical company. Mr. SerVass's own father had been a salesman at the Uniroyal plant for 10 years and was laid off in the Depression.

At the request of Mayor Hudnut and Mr. SerVaas, W. H. Schmalz, president of Uniroyal's tire division, flew to Indianapolis on Feb. 7, 1977, to discuss the plant. But he shunned their suggestions of aid (such as a city bond issue) and let them know he thought that costs, particularly for labor, were impossibly high; that tubeless tires and the energy shortage had made tubes almost obsolete; and that, anyway, tubes could be made cheaper elsewhere. "It was a rather gloomy forecast," the mayor recalls.

Undaunted, he and Mr. SerVaas hoped to find a buyer for the plant. They met there with a delegation from the union to see if the workers would negotiate with a new management. "The employees were skeptical and unwilling to trust them, but said they would talk it over," a note-taker for the mayor recorded. Uniroyal talked of selling the plant to a Canadian firm and to a group of tire dealers, but the negotiations collapsed. Last July, Uniroyal announced that it would "phase out all production . . . gradually over the coming year."

Meanwhile, Mr. SerVaas had kept talking with the company and the union. He soon decided that productivity at the plant had suffered because of workers' hostility toward Uniroyal, hostility engendered largely by the repeated threats of a shutdown and by what the workers saw as corporate incompetence and red tape.

Even the president of the United Rubber Workers' local, James Carmichael, 33, concedes that workers seemed to delight in finding new ways to goof off on the job, such as by drawing out grievance procedures. Mr. Carmichael says the workers weren't convinced that Uniroyal meant to get out. "They kept the threat hanging over the people's heads till they were immune to it," he says.

Mr. Carmichael and other workers say profits were modest because Uniroyal withheld needed upkeep and equipment from the plant, having decided years ago to switch resources to chemicals; the workers felt that the company didn't care, so they didn't either. "There's still plenty of market out there," Mr. Carmichael says.

AGREEMENT EXPRESSED

In recent interviews, several men who had been executives at the plant for Uniroyal agreed with these statements by Mr. Carmichael. Most of the executives were let go by Uniroyal when the firm abandoned the plant, but one of them, Herbert Kohls, is still with the company. Mr. Kohls, who was the plant manager, now is a Uniroyal division executive in Detroit.

As for Uniroyal's statement that high labor costs made the plant unviable, Mr. Carmichael says the union approached a Uniroyal tire-division official last year with an offer to renegotiate the costly contract to improve productivity if Uniroyal would keep the plant open. "I asked Uniroyal if they would give us a commitment in writing if we made concessions," Mr. Carmichael says. "I asked them point blank how much money it would take to keep the plant open. They wouldn't give me a figure. They wouldn't give me any guarantee." Mr. Kohls confirmed this.

Mr. SerVaas was so impressed with Mr. Carmichael that he went to Akron with him to see union president Peter Bommarito. Mr. Bommarito convinced Mr. SerVaas that the rubber workers would negotiate a reasonable contract to save the jobs.

Unable to interest Uniroyal in keeping the plant, Mr. SerVaas asked the firm for a purchase price and got a ballpark figure of $5 million. He tried to form a syndicate of Indianapolis businessmen, but they wouldn't invest. If Uniroyal couldn't make it, how could we? they asked. Then Mr. SerVaas decided he might put up $1 million himself and borrow the rest. American Fletcher National Bank, where he is a director, was interested, but it said the remaining $4 million was too big a bite.

A HUDDLE WITH THREE BANKS

So in June, Mr. SerVaas brought together top officers of the city's three major banks—American Fletcher, Indiana National and Merchants National—appealing to their civic spirit to save 600 jobs. The banks, fierce competitors, say they had never participated jointly in a commercial venture. But they agreed to consider a deal if one came.

Then Mr. SerVaas persuaded Uniroyal to finance the purchase of the real estate—$650,000, over 10 years, so the banks would have to put up only about $1 million each. And he asked Uniroyal to contract to buy inner tubes from him (it would have to buy them somewhere) if he could match the prices of competitors in the South and in Taiwan. He thought he was making headway in August when the plant shut down for its annual vacation. Then Uniroyal suddenly announced that it had sold much of

the machinery and was about to ship it off. The plant might not reopen.

"This came as a terrible blow to the workers," Mr. SerVaas says, "They called me over to the union hall and I told them I'd try to get management to hook it all up again." Management did.

In September, Mr. SerVaas and the union agreed on a contingency contract. It was ratified early in October. Wages weren't cut ("I don't believe you can cut a man's wages," Mr. SerVaas says), and some incomes could even rise due to piecework bonuses. But the workday was lengthened in effect by ending pay for lunch, cleanup and union business periods. Also, there is no pension plan or supplemental unemployment pay for layoffs.

After taxes and debt retirement, however, 50% of the profits must be passed out among the workers, prorated according to pay. The union will have two seats on the 12-man board of directors. "They're entitled to decide, along with the rest of management how we're going to run this factory," Mr. SerVaas says. Mr. SerVaas pledged to plow his 50% of the profit back into plant improvements for the three years of the contract.

On Oct. 12 he showed the contingency contract to the bankers, who were impressed, though some grumbled about having workers in the board room. ("As a Goldwaterite, I would have to say 'no comment'," says one.)

A DEMAND FOR DATA

Next, the banks demanded intricate financial data, including appraisals of the machinery and inventory that would collateralize the loans. To compile this, Mr. SerVaas hired a former local banker they all respected.

Meanwhile, in off the street walked Donald Alsop, a young former executive at Firestone, now a consultant. He had heard that Mr. SerVaas might be buying a rubber company and wanted to know if he could help. Mr. Alsop went on the SerVaas payroll to line up customers and think of other products the plant could make with its big rubber-mixing capacity. Mr. SerVaas took off to tour successful inner-tube plants in Taiwan.

The bankers' last demand was for a contract from Uniroyal to buy 50% of the inner-tube production. (Mr. SerVaas could sell the rest to independent tire-makers or service-station suppliers who had been buying from the plant all along.) Negotiations were slow.

On Dec. 15, while the talks dragged on, Mr. SerVaas, back from Taiwan, heard about the shutdown announcement coming the next day. He assembled the bankers again, gave them a detailed package and asked for a quick okay, contingent on the tube-sales deal. The bankers said they would think about it.

The next day, news of the closing, scheduled for Dec. 23, broke like a bombshell at the plant. Uniroyal said it would keep only one employe—Mr. Kohls, the manager.

About a third of the union workers were 55, or had worked there 30 years, so were entitled to at least partial retirement pay. A third had been at the plant less than 10 years. As for the rest—"The ones I feel sorry for are the ones who have been here 15 or 20 years and aren't eligible for retirement," says John Misch, the plant's former labor-relations supervisor, who lost his own job after four years. The union estimates that 45 or 50 workers fell just a few years short of qualifying for pensions. Now they still won't get them, but at least they have jobs.

OTHERS ALSO HURT

Management employes, too, were hard hit. One, who wasn't far from retirement, pulls out a table and tells a reporter he now qualifies to receive $493 a month from Uniroyal after he turns 65, whereas if he had been able to work until then, he would have received $867 a month.

Some managers had a clear early sense that the plant would fold, but they still couldn't find work. Uniroyal, they say, told them that if they took a job with another rubber company—the kind of job they'd be most experienced at—they would lose all pension rights. Age was another problem.

"Nobody, regardless of the age discrimination laws, is willing to hire you when you're seven years from retirement," says Bertram Baker, 56, a foreman at the plant 26 years, as he flips through a file of form letter rejections.

"You've raised your kids, you're reaching a point where you can just sit around and enjoy life a little bit and look forward to retirement," Mr. Baker says, "and suddenly somebody pulls the rug out from under you."

That well describes the morale at the plant the last week before Christmas. There were only the scantiest rumors of the discussions that were going on behind the scenes. If a deal hadn't been sealed by Dec. 23, the scheduled closing day, Mr. SerVaas says, he would have gone elsewhere.

On Wednesday, Dec. 21, two of the banks said they'd put up their $1 million. But the third bank, Indiana National, held out for what it says were "technical requirements" about "who would police it."

On Friday morning, the last day, Thomas Miller, president of Indiana National, "was out making a Christmas call on one of our branches. George Clark, the executive vice president, called and asked if I would agree to drop the requirement. I said okay."

GETS THE GOOD WORD

At 11 a.m. the good news was phoned to Mr. SerVaas, who was still negotiating with Uniroyal for a commitment to buy inner tubes. At 11:10, Uniroyal—now the only apparent obstacle to the plant's survival—agreed; obviously the price was right. At noon Mr. SerVaas told a press conference at his city council office that if everyone lived up to his word, the workers could come back to their jobs after a three-week break for reorganization and inventory. Some 97% applied to return. Everyone lived up to his word, and the plant was saved. Mr. SerVaas was the proud owner and president of the Indianapolis Rubber Co.

Over the three-week break, union president Carmichael and consultant Alsop, who by that time had been named Mr. SerVaas's plant manager, chatted optimistically with each other and with a reporter about new machinery, new customers, new products and improved efficiency. They seemed to be talking not as adversaries but as partners—which, in light of the 50–50 profit split, they are.

Mr. Carmichael says the profit sharing has caused a turnaround in employee resentfulness. "We got some people here, you're not going to change them," he says, "but those people are going to find themselves out in the cold. The guy that's just a troublemaker, I don't see the people going along with him once the profit-sharing is established."

Mr. SerVaas has forecast that after one year, about $500,000 in profits will be distributed among the workers and a matching $500,000 will be invested in new machinery. That pleases Mr. Carmichael who talks disparagingly of production foul-ups and lost business in the past caused, he says, by Uniroyal's refusal to spend for needed parts or repairs. Local management, Mr. Carmichael says, had neither the budget nor the authority to run the plant.

"LAST ON THE TOTEM POLE"

Mr. Kohls, the outgoing manager who now is a divisional executive for Uniroyal, seems to agree. "This plant was last on the totem pole and always has been as far as capital expenditures are concerned," he says. "We needed a Banbury body (an expensive piece of rubber-mixing equipment whose absence was cited by Mr. Carmichael as a cause of lost sales). We needed it badly for three or four years. Uniroyal just had a better place to put the money."

Mr. Kohls joins Messrs. Carmichael and Alsop and a reporter on a tour of the plant. Mr. Carmichael complains that Uniroyal caused its own problems with bad management. Mr. Alsop points out unused space and equipment and says he is researching new products, including two that Uniroyal once made and dropped—valves for tubeless tires and camelback (or tread) rubber. He says Uniroyal just never looked at the right markets for these products and others.

Stopping by a machine that turns out rubber fittings for truck wheels, Mr. Alsop says the plant can increase sales of these items by 50 percent.

"You should be able to," Mr. Kohls agrees.

Then why didn't Uniroyal do it? the reporter asks.

"I always wanted to," Mr. Kohls shrugs. "The in-house needs were all I was told to worry about."●

THE FARMERS

● Mr. STEVENSON. Mr. President, in recent weeks we have discussed the financial difficulties of farmers and steps that might be taken by the Federal Government to help them. I recognize their need, but I fear we are unable to agree on the answers. Our conversations with farmers have been honest. They deserve and most want an open exchange of views, not misleading evasions. I have told them that while I shared their goal of fair prices and a decent income, I did not believe that this could be achieved by legislation that would guarantee prices set at 100 percent of parity, regardless of the realities of the marketplace, nor could I support legislation that would encourage drastic cuts in production, risking famine in a hungry, turbulent world. On the contrary, I believe we should be rewarding the American farmer for his productivity. We should be penetrating foreign markets with his crops, not pricing ourselves out of them.

For these reasons I regret the action taken by the Senate this week in passing the conglomerate Talmadge set-aside bill with the Dole "flexible parity" amendment. The Talmadge bill as reported by the Agriculture Committee was a defensible emergency 1-year measure, and I would have supported it on that basis. It would have brought immediate help to hard-pressed farmers, and it had been fairly assessed both by the Department of Agriculture and the Congressional Budget Office. The McGovern amendment raising target prices and loan levels for wheat, feed grains, and upland cotton to more realistic levels also would have helped, and I supported it.

I would not have supported the Dole bill if we had been given an opportunity to vote on it as a separate and alternative measure. I voted against it as an amendment. It would have caused prices to rise to heights that would cause distress for livestock, dairy, and poultry farmers. American wheat and feed grains would have been squeezed out of world markets. In the end the farmer would suffer, and along with him, the taxpayers and consumers. The cost of the program would be borne not only at the supermarket but in taxes paid to cover

the public expense. Citizens are willing to pay so that farmers will earn a fair return, but not for unworkable programs that do not help farmers in the long run.

Combining the Talmadge and Dole bills by adding the Dole bill as an amendment to the Talmadge bill created a monster. I agree with the distinguished Senator from Iowa (Mr. CLARK) who called it "a kind of cruel hoax." Even though the two proposals are mutually contradictory, the Senate has deluded some farmers into believing that the combination gives them the best of both worlds. In fact, even with the wisdom of experience and the help of the most advanced computer it would be almost impossible for a farmer to choose among the variety of paths the bill would set before him. Equally difficult would be any assessment of the bill's effects on prices, supplies, or the national treasury.

Mr. President, H.R. 6782 is now in the lap of the House. It is not likely that the package we have sent will be welcome. Possibly it could be stripped back to the basic Talmadge proposal and signed by the President, but this will take time. In the meanwhile, farmers must make planting decisions, uncertain whether or when help will come. The Senate has played a game at their expense by voting for everything and hence for nothing.

In offering additional rewards to the farmer for not producing, we are neglecting a major key to solving his problem—the role of agricultural exports. About 100 million acres, almost one in three of our harvested cropland, are devoted to production for export. In dollar value farm exports amount to between $20 and $25 billion. In a good export year like 1974 each dollar of agricultural exports stimulated an additional 96 cents of output in the national economy. But export growth has been sluggish since 1974, and American farmers have encountered growing competition.

Mr. President, it would be foolish and shortsighted to rely only on drought and crop failure in other parts of the world to create prosperous export markets for American farmers. With some help from their Government in promoting export sales and removing artificial barriers, they can lead in developing new markets.

I had hoped to offer an amendment to provide such practical help, but the unanimous consent agreement barring nongermane amendments during consideration of the Talmadge bill made it impossible to do so. The distinguished chairman of the Agriculture Committee (Mr. TALMADGE) has assured me, however, that the committee will soon consider my proposals. Briefly, Mr. President, I believe we must remove the 3-year credit limitation in the statute under which the Commodity Credit Corporation's export sales program operates, and, instead, offer intermediate terms up to 10 years, similar to the terms offered by several competing countries. We should end the 50-percent cargo preference requirement for commercial shipments financed under the export credit sales program, and we should eliminate barriers that make nonmarket economy countries ineligible to participate in CCC credit programs.

The Subcommittee on International Finance, which I chair, has been holding hearings on U.S. export policy. We have heard testimony on the importance of agricultural exports, and at my request the Department of Agriculture has prepared a report entitled, "Competitiveness of U.S. Exports and Means to Close the Trade Gap." I look forward to working with the Agriculture Committee and the Department in developing serious legislative proposals to promote agricultural exports and insure a fair return to the American farmer.●

INFLATION AND TAXES

● Mr. SCHMITT. Mr. President, the burden of taxation grows ever more heavy upon the average American. Each year, with inexorable force, inflation drives the wages of our people into higher tax brackets, automatically increasing tax revenues and reducing the amounts available for spending. In a sense, Americans are held hostage to the willingness of Congress to enact tax relief legislation—for as Congress fails to act over the long term—tax levels are rising to impossible levels through inflation.

A general attitude seems to have developed in Congress, that those in the middle and upper income brackets have escaped their fair share of taxation through the use of loopholes and complicated tax shelters. As a result, changes in tax policy have tended to increase the burden upon middle and upper income earners.

Mr. President, this is a trend that has continued too long. It is high time for Congress to recognize that the American who traditionally pays for government is overtaxed. Changes in tax policy must be made that will result in a reduction in the tax burden of all people. It is high time for us to restore some fairness to the Nation's system of taxation and with that fairness greatly increased economic vitality.

A recent article in the Washington Post offers a valuable insight into the lack of balance and proportion in the distribution of taxes. The article reports on Treasury Department statistics, which show that those in the upper half of the Nation's income brackets are paying 94 percent of the personal income taxes.

Clearly, Mr. President, if Congress is to extend tax relief so desired by the American people, it should be directed to those who bear the great burden of taxation—the middle American—and it should be permanent relief.

Mr. President, I submit for the RECORD the Washington Post article.

The article follows:

RICHER HALF OF U.S. PAYS 94 PERCENT OF INCOME TAXES

(By Art Pine)

The richest one-fourth of American households—those with incomes of $17,000 a year or higher—took home half the income in this country in 1976 and paid more than 70 percent of all personal income taxes.

By contrast, those in the poorest one-fourth—wage earners making less than $5,000 a year—received less than 5 percent of the nation's income that year and paid a minuscule 0.1 percent or less of the income tax tab.

Those in the richest 5 percent of the country—taxpayers with incomes of $30,000 or more—earned 22 percent of the income in 1976 and paid 39.2 percent of all income taxes.

By contrast, the poorer half of all persons filing tax returns earned 19 percent of all income and paid 6 per cent of the personal income taxes in 1976, while the richer half paid 94 percent.

Those figures, compiled by the Treasury Department from estimates based on 1976 income levels, show a stark fact about the way the tax burden is distributed in this country:

While it's true, as some studies show, that wealthier persons enjoy the biggest tax breaks and deductions, they also shoulder a disproportionate share of the tax burden—far beyond what is perceived generally.

Moreover, the distortion has been heightened by the tendency of Congress in recent years to skew most of the tax breaks it has enacted to those at the lower end of the income scale.

To make up for inflation and higher Social Security payroll taxes, the lawmakers have cut income taxes. But most of the cuts have benefited lower- and lower-middle-income taxpayers—not the middle or the top.

The result of all this has been a significant tax squeeze on the so-called "middle" and "upper-middle" income brackets—the 10.7 million taxpayers whose income fall between $20,000 and $35,000 a year.

While the proportion of Americans' personal income eaten up by the income tax has remained relatively constant over the past few years, at about 13 percent, the burden of that tax load has shifted to higher-income brackets.

For example, figures compiled by the Tax Foundation show that the richest 25 percent of the nation's taxpayers paid 68.3 percent of all taxes in 1970. By 1975, that figure had risen to 72 percent.

Those in the richer 50 percent paid 89.7 percent of the total tax in 1970. By 1975, that had increased to 92.9 percent. All taxpayers in the richer 50 percent bracket saw their share of the total tax tab rise.

At the same time, those in the poorer half enjoyed a shrinking tax burden during the period. The taxes paid by the lower half fell from 10.3 percent in 1970 to 7.1 percent in 1975.

For the poorest 25 percent of all taxpayers, the proportion of the total tax bill fell to 0.4 percent in 1975, from 0.9 percent in 1970. In any case, the trend is clear.

President Carter's new tax-cut package would only heighten the disparity. Carter has proposed replacing the present $750-a-dependent personal exemption with a new $240 credit that would shift the burden further toward the middle- and upper-middle-income brackets.

The battle in Congress now is precisely over how far that shift should be allowed to go. Members of the House Ways and Means Committee have indicated that they are concerned about the tax burden borne by upper-income brackets and most likely will revamp the Carter proposals.

Moreover, the heavier tax burden continually is reaching downward to include people who used to be in lower-middle-income brackets. As inflation pushes incomes higher, taxpayers are thrust into higher brackets.

With the combination of inflation and higher tax rates in the upper brackets, the wealthiest of the nation's taxpayers pay disproportionately high shares of the total tax burden—even including their shelters and deductions.

For example, the richest 1.4 per cent of the nation's citizens—some 985,000 whose in-

comes total $50,000 or more a year—take home 10.7 percent of the income, but pay 23 percent of the taxes.

The wealthiest 0.3 percent—those in the $100,000-and-up category—receive 4.5 percent of the total income, but pay 10.5 percent of the tax burden. (The poorest 0.3 percent escape taxes altogether.)

The breakdown portrayed by these figures pertains only to personal income taxes. With Social Security payroll taxes included, the pattern is different but the point remains the same.

The figures used in the computations include income from capital gains—profits from the sale of stocks or other assets—only half of which are subject to tax. The totals for tax liability include writeoffs and deductions.

But the fact remains that, for all the complaining about wealthy taxpayers, those in the richer half of the nation's income brackets are paying 94 percent of the personal income taxes. The other half is paying the rest.●

PROJECT "FOLLOWTHROUGH" SUCCESS IN MINNESOTA

● Mrs. HUMPHREY. Mr. President, fortunately for our society, we have awakened in our thinking about education to the fact that even very young children have a great capacity to learn about the world around them.

The Head Start program has provided for many children the beginnings of an intellectual curiosity that otherwise may not have been. This special boost may be in jeopardy when these children enter into the regular elementary classroom experience. A continued enrichment program often may be the only means of preserving this "headstart."

At one of our schools in Minnesota, in the city of Montevideo, a wonderful program has demonstrated that with only a modest measure of special care the enrichment program provided by Head Start may be sustained. The program at Montevideo Elementary School is funded by the U.S. Office of Education as part of Project Followthrough. Children in the primary grades who have participated in Head Start or a similar program are given individualized instruction and other special attention. The results have been special achievement by these children in the important basic skills of reading and mathematics.

This program has been so successful that the Office of Education has described it as an exemplary education program worthy of being copied in other schools around the country.

I submit the March 1978 news release of "Education in Action" from the U.S. Office of Education to be printed in the RECORD.

The news release follows:

"The prettiest thing in school is our circle mobile," says Peter. And the other children agree. After all, they cut out the geometric designs and that makes it extra special for them.

"That's my red circle," says Jimmy. "And that's my blue half circle," says Tina, who is fascinated by pieces and how they fit together to make a whole. For her, fractions pose no problem.

These children participate in the Montevideo, Minnesota, Elementary School's program for individualized math and reading. This Follow Through program, funded by the U.S. Office of Education, focuses on children in grades K through 3 who have had Head Start or similar preschool experience. It gives them all sorts of extra educational, social and psychological, medical and dental services. The idea is to help these children in every way possible so they get a good start in school.

The program enables children to think as they learn basic skills. They become particularly adept at seeing and hearing and at exploring their environment. At home they often play games with their parents, naming all the round objects in a room. Sometimes they play the game at dinner when the table is set with round plates, cups, saucers, and glasses. Sometimes the food on the plate is round too—hamburgers, rolls, and slices of tomato, onion, and pickle.

In the primary reading program, most of the children learn oral reading skills through story books. Cassette lessons, tapebooks, and pencil-paper tasks assist the teacher in teaching the daily lessons which are developed for each child. And always the child is allowed to progress at his or her own rate.

A clock, a pair of scales, bingo cards, blocks, flash cards, and play money all have their places in the self-directed and independent learning of math. And with these—and other devices—the children learn to add, subtract, multiply, and divide. They also learn geometric applications, the systems of measurement, and the value of money.

"Math helps you have more fun," says Eric. "I can measure with a ruler and build things, and I can use a measuring cup and bake cookies." The Individually Prescribed Instruction Math curriculum is built on seven levels of increasing difficulty. Each do-it-yourself skills booklet is designed to teach one instructional objective. No student receives instruction for an objective which he has already mastered or for an objective for which he is not yet prepared.

The parents of nearly 80 percent of the children have visited a classroom, and 50 percent of the parents serve as classroom volunteers each year.

Involvement in the program has resulted in several parents completing their high school education and one resuming a college education program. A number of parents who completed the parent training program have become employed in the school system or elsewhere. Such involvement has resulted in better communications between the school and parents as well as between the school and community. Many outside community agencies have provided health services, and medical and dental clinics are contacted frequently by the school nurse.

The program has gained nationwide attention in recent months. A panel of education experts in HEW has cited it as one of some 200 exemplary education programs across the country which are worthy of adoption by other school districts.

Teachers and administrators from 22 school systems have visited the Montevideo program. The staff has conducted an Awareness Day Workshop attended by eight area schools. It has prepared brochures, presented its program before classes at two State universities, spoken before the local Kiwanis Club, and sponsored exhibits at five national education conferences.●

A PASSIVE SOLAR ENERGY SYSTEM

● Mr. PERCY. Mr. President, one exciting aspect of solar energy is its appeal to the do-it-yourself spirit so much a part of so many Americans. Take the example of Wade Green's passive solar system as he describes it in the New York Times of March 9. A passive solar system is generally one with no moving parts. Mr. Green's system has a few—the most important of which is Mr. Green himself.

Attached to the thick black concrete south wall of Mr. Green's house is a greenhouse. There are four vents between the greenhouse and the house on the top and bottom of the south wall. When the sun is shining, Mr. Green opens them. Cold air from the house flows into the greenhouse through the floor-level vents, and warm air from the greenhouse flows into the house through the ceiling-level ducts. Once constructed, the system costs nothing to operate. A squeaky vent hinge is about the worst thing that could ever go wrong with it. Mr. Green is an integral part of the system, but his tasks are neither difficult nor time consuming. And on sunny winter days no matter how cold, the greenhouse heats his entire house.

Passive solar systems are one of many ways to capture and use the Sun's energy. Like other solar technologies, most people are not aware of passive systems. Mr. Green reports that most visitors to his house were surprised to find no flat-plate collectors, mirrors, pipes, or tubes.

Sun Day, the day that will focus the Nation's attention on solar energy, should place terms like "passive solar systems" in the national vocabulary. Among other things, it should awaken many do-it-yourselfers to the ease, economics, and fun of solar energy. Sun Day is Wednesday, May 3.

The Congress has declared its support of Sun Day by overwhelmingly passing a resolution officially proclaiming the day. The Sun Day resolution now awaits the President's signature.

Mr. President, I ask that Wade Green's article, "Solar Heating the Passive Way," be printed in the RECORD.

SOLAR HEATING THE PASSIVE WAY

(By Wade Green)

Word got around, largely through an article in the Nantucket Inquirer and Mirror, that we were building a solar-heated house, the first on the island as far as anybody knew. For weeks thereafter, my wife and I repeatedly put down levels, hammers, crowbars and try squares to guide an intermittent parade of curious visitors. After the first handful, however, I sensed unfulfillment, as though something valuable had been lost, but the visitor wasn't quite sure what or even if he were searching for it in the right county. "Where are the collector plates?" an M.I.T. graduate student asked at one point, and it finally dawned on us that our inspectors, and perhaps most other people as well, harbored Sunday-supplemented expectations that solar heating required a wondrous, Rube Goldberg array of shiny surfaces, pipes, motors and God knows what else to extract heat out of the mere stuff that suntans come from.

We apologized. We had none of the above—no motors, no flat-plate collectors, no heat-transfer devices, or photo-voltaic cells or parabolic mirrors. Yet soon after we finished building the house, in the midst of last year's bitter cold winter, when the Coast

Guard icebreakers were bulling open the island's solidified harbor and a friend had to pay the Nantucket Electric Company $200 a month to keep her modest house heated, our solar-heating system, on sunny days, kept us in the mid-60's. It comforted us as well with the profound warmth of accomplished parsimony.

Our system, which like most solar do-it-yourselves we improvised from a smattering of vague book and magazine guidances, not only works well, but its approach appears today to be the hottest thing among solar-heating enthusiasts. It's what's known as a "passive" system, as opposed to an "active" system. Instead of using a lot of equipment to collect, store and circulate the sun's heat, it does the job just by sitting there. And what it may be lacking by some of the criteria of advanced solar-heating effectiveness—maximum B.T.U.'s absorbed per collector square-footage, that sort of thing—it makes up for in simplicity, carefree functioning and low cost.

The price tag on active solar space-heating systems can easily run into five figures, and years of use have to be assumed to rank them competitively with conventional heating systems. But our system cost us $1,000. We can recover that much in savings on heating bills over three or four winters.

Our system's main ingredients are a lean-to greenhouse and two-thirds of the south wall of our house, against which the greenhouse leans. The greenhouse is a double-walled acrylic Vegetable Factory model, 20 feet long, 5 feet deep and 8 feet high. Its cost was the basic expense in our system. The south wall section it sits against is made of ordinary cement blocks with their faces painted black; it's "free" as a solar-energy element, because it's a structural wall of the house. We needed it, or something like it.

At the top of the wall, where the greenhouse roof connects to the house, we left out four blocks at evenly spaced intervals and replaced them with small hinged doors so that these gaps can be opened or closed at will. We also left four gaps, without doors, at the base of the wall. That's basically it, and this is how it works.

(Wade Green is an Alicia Patterson fellow this year, doing research on the alternative energy movement.)

As any greenhouse gardener would expect, a considerable amount of heat builds up in a greenhouse when the sun is shining, even dimly. Usually, greenhouse heat is simply vented to the outdoors. Instead, it flows into the house through the gaps at the top of the cement wall. The warm air moves into the house naturally by what are called convection currents and is replaced in the greenhouse by cooler air pulled from the house through the gaps at the wall's base. When the sun is out, the flow amply heats the whole house. In fact, we sometimes have to close the wood doors to keep the house from getting too hot.

But what, everybody asks, about nighttime and cloudy days? Here the cement-block wall gets further into the act. In addition to functioning as an adjustable barrier to the flow of the sun's heat, it can store this heat for many hours. At the end of a sunny day, the wall is nearly as hot as a steam radiator, and, like a sauna's rocks, it will slowly give off its warmth throughout the night.

Eventually, we plan to be able to store more solar heat by pulling hot greenhouse air down into a rock-filled insulated chamber in the basement; this should keep us warm for two or three days without sun. For longer periods, ours, like all solar systems, requires a backup nonsolar heat source. We use a wood-burning parlor stove.

Experts estimate, and our experience attests to their reckonings, that even without extra heat-storage capacity, a passive system can reduce heating-fuel or electricity needs by 40 to 50 percent, even in climates considerably colder than Nantucket's (which is generally quite moderate because of nature's own solar-heat storage in the water that surrounds the island). A larger, more refined passive system designed as an integral part of his new house in Princeton, N.J., saved Douglas Kelbaugh, an architect, no less than 85 percent of his fuel bills last winter.

Few passive systems are 100 percent passive, and neither is ours. In addition to the wooden vent traps, which we open and close by hand, we have one other moving, active part. It's an aluminized mylar curtain that can be drawn across the face of the black cement-block wall. It's designed to deal with what is perhaps the major experimental frontier in passive solar technology—revolving around the fact that transparent or translucent surfaces of glass or plastic, needed to let the sun's rays in, are also notoriously poor insulators: They can let a lot of heat escape when the sun isn't shining and the outside is colder than the inside. In order to cut down on this heat loss—one gets exquisitely stingy about heat when the heavens are controlling the main supply of it—we draw the curtain at night and try to remember to do so during other sunless hours.

The curtain serves an opposite function, too, in warm weather; when pulled, it keeps the sun from hitting the wall and adding unwanted heat to the house. To help keep the sun from getting into the greenhouse in summer, we've planted deciduous silverlace vines along its outside base. In summer, the vines should shade out much of the sun; when they've lost their leaves, they let the sunshine in. Getting double duty out of several ingredients in our system is, not incidentally, basic to the philosophy of passive solar heating, one of whose enticements is, after all, getting something for nothing.●

S. 2600—REHABILITATION AMENDMENTS OF 1978

● Mr. HATHAWAY. Mr. President, I am pleased to join with my colleagues in sponsoring S. 2600, the Rehabilitation Amendments of 1978, to express my support for continued Federal attention to the needs of handicapped and disabled individuals.

Title I of this bill extends the Rehabilitation Act of 1973 for 5 years and increases appropriations for vocational rehabilitation services, research, and training.

Title II, called the Severely Handicapped Comprehensive Services Act of 1978, authorizes a wide range of programs and services for severely handicapped individuals. While revising and replacing the Developmental Disabilities Services and Facilities Construction Act, it retains some of the more significant sections of that law. These include provisions establishing a bill of rights, and requiring individualized plans for each person served, protection and advocacy programs, and affirmative action to employ and advance qualified handicapped individuals. It provides for special financial and technical assistance for rural and urban poverty areas and mandates State programs to eliminate inappropriate institutionalization and improve the quality of care and environment in institutions.

The Severely Handicapped Comprehensive Services Act also establishes some new services and innovative programs worthy of mention. For example, the bill authorizes model projects for independent living. This demonstration will explore the alternative living arrangements possible for severely handicapped individuals.

This legislation also provides assistance for the creation and operation of area centers for the employment of severely handicapped. While some handicapped persons have little employment potential, many have the ability to contribute much if given the necessary support and training. This bill extends the Rehabilitation Act to include training not only in sheltered workshops, but also for competitive employment.

In addition, a demonstration program of models for services for preschool severely handicapped children is authorized. This program will develop and provide examples of services such as early intervention, parent counseling, infant stimulation, and early identification, diagnosis, and evaluation.

Finally, the legislation establishes a Federal Council on Handicapped Individuals. This Council will provide advice and assistance to the President concerning the problems and needs of handicapped and severely disabled individuals. The Council will be responsible for reviewing Federal policy; function as ombudsman; educate the public; and will provide a public forum for discussing and publicizing the problems and needs of the handicapped.

The Severely Handicapped Comprehensive Services Act has many excellent provisions and reflects a firm congressional commitment to addressing the needs of handicapped persons. At the same time, however, there are several provisions of great concern to me. Particularly troublesome is the omission of the requirement that States establish State planning councils as required in the Developmental Disabilities Act. These councils have played a valuable role in the State planning process and have served as advocates for developmentally disabled persons. I seriously question the deletion of the planning council requirement in the new legislation. We must also review carefully the decision to replace the concept of "developmentally disabled" with "severely handicapped." Further, we must consider whether the definition of "severely handicapped" is appropriate and desirable. We must insure that attention to the problems and needs of developmentally disabled persons are not diluted as a result of this revision.

While there are other provisions in this legislation which I feel require careful scrutiny, I support its intent to extend services and expand our effort to serve handicapped individuals, create prevention programs, and provide for research and education activities. I look forward to developing further and revising as necessary this important legislation when

it comes before the Committee on Human Resources, on which I serve.●

SENATE JOINT RESOLUTION 118—EMERGENCY MEDICAL SERVICES WEEK

● Mr. HATHAWAY. Mr. President, I am pleased to join my colleagues in sponsoring the resolution to proclaim the week of November 6–12, 1978 as "Emergency Medical Services Week."

The resolution recognizes the accomplishments and contributions of the emergency medical service personnel. Since the enactment of the EMS program in 1973, these dedicated individuals have meant the difference between life and death for people all over America. As an original cosponsor of the legislation authorizing the EMS program, I am gratified to know that the service has greatly improved immediate access to health care to those traumatically injured in accidents, suddenly taken ill, or living in rural areas some distance from medical facilities.

The emergency medical service trained personnel perform their life saving tasks at the time and place of need. Frequently, it is this quick response to a call for help which saves the victim's life or prevents permanent injury. For some rural residents, these services have represented the first reasonable access to health care. The emergency medical service not only provides immediate response, but also expands the availability of medical care outside the hospital, clinic, and doctor's office into the community and the home when and where it is needed. Furthermore, EMS paraprofessionals perform the important function of insuring linkages among different parts of the health care system, from initial contact through followup care. They also perform the vital task of educating the public in first aid and health care, a function I hope to see expand in scope and content.

The life sustaining contributions of the EMS personnel are a vital and necessary part of our health care system. I am pleased and honored to cosponsor this resolution in recognition of these health care providers and their important place in our health care system.●

REMARKS BY SENATOR HEINZ ON GOVERNMENT SPENDING

● Mr. SCHWEIKER. Mr. President, last Friday, my distinguished colleague from Pennsylvania, JOHN HEINZ, undertook the first of several hearings to examine an area of wasteful and illogical Government spending. The hearings are designed to ask why the U.S. Government spends vast sums abroad, not in aid to underdeveloped countries, but for purchases and contracts for materials to be used in the United States, while at the same time, American industry continues to suffer serious economic problems arising in large part from foreign competition. The message is clear: Buy American. Last November, I cosponsored the Buy American Act Amendments of 1977 along with Senator HEINZ, and I heartily endorse the effort he is now undertaking in these hearings under the Governmental Affairs Subcommittee on Federal Spending Practices. I commend to my colleagues his opening statement at the first of these hearings on March 17 in Pittsburgh and ask that its text be printed in the RECORD.

The text follows:

ADDRESS BY SENATOR HEINZ

In 1933, the Congress passed and President Hoover signed the Buy American Act. This law was an attempt to alleviate the tremendous economic dislocations of the Great Depression by ensuring that federal expenditures would be used to provide badly needed jobs to American workers.

In passing the law, Congress recognized that the purchase of government expenditures is more than to purchase goods and services which the government needs. The Congress recognized that federal expenditures are a means to another end. In conducting fiscal policy, the federal government has the power to affect the whole of economic life. Federal expenditures properly made can mean the difference between a depression and economic prosperity.

The Buy American Act that Congress passed in 1933 is a very broad mandate which directs the executive branch to buy from American sources those goods it purchases, consistent with the public interest. The words that Congress chose to use are also broad. They are not restrictive. They leave considerable room for broad interpretation by the executive branch.

But their intent is clear: Buy American.

Since 1933, times have changed. Our economy is no longer mired in a deep depression. Economists have called into question the real effects of fiscal policy. The federal government purchases the things it needs differently. Executive interpretations of the law has changed.

But we still have a buy American Act. That mandate still exists. We still have recessions. We still have economic dislocations in certain industries. We still use fiscal policies to affect economic life.

Today we begin three days of hearings on a bill to amend the Buy American Act. Last November, when I co-sponsored the Buy American Act Amendments of 1977, I was concerned that the Executive Branch was ignoring this law. I was concerned because I found that:

Steel—In the past few months, four federally-funded bridges around the country were built with Japanese steel. American jobs lost: 3,800+.

Rail transit cars—French and Canadian firms now control 67 percent of the American market. The Atlanta mass transit system recently spent $56 million (80 percent federal funds) to buy French rail transit cars rather than cars made by General Electric or Boeing-Vertol in Delware County. Other Pennsylvania rail transit car manufacturers are Budd in Philadelphia and Pullman in Butler.

Turbine generators—A $5.5 million dollar contract for hydro-turbine generators for the Grand Coulee Dam went to a Japanese firm instead of the Pennsylvania based Westinghouse Corporation.

These are only a few examples of federal dollars being used to purchase foreign made goods.

What I hope to find out today and on the two more days of hearings in Washington is:

How extensive are these foreign purchases with federal funds?

What effect these purchases have on unemployment?

What effect these purchases have on the economy?

Why are these purchases made from foreign sources?

How does the Carter Administration interpret the Buy American Act?

How can we amend the Buy American Act to ensure that the principles embodied in that law will be best carried out?

That last question is crucial. That is the reason for the amendments and for these hearings. The law is broad and it has been broadly interpreted. But federal funds are still going to foreign suppliers. Jobs are still being lost because of these purchases. Why?●

RHODESIA—A COMPARISON OF THE INTERNAL SETTLEMENT AND THE ANGLO-AMERICAN PROPOSAL

● Mrs. HUMPHREY. Mr. President, the recent internal agreement between three African leaders and Ian Smith on the future of Rhodesia has generated considerable interest in the U.S. Senate.

In light of this interest, I believe it would be prudent for us to examine the differences between the Anglo-American proposals for a Rhodesian settlement, published last September, and the recently negotiated internal settlement.

The United States is naturally concerned over the possibility of large-scale Soviet and Cuban intervention in the Rhodesian conflict. However, to view the Patriotic Front and its leaders, Mr. Joshua Nkomo and Mr. Robert Mugabe, as the instrument of Communist penetration is to misread the last two decades of Zimbabwe nationalism.

As is the case with many liberation movements in Africa, the Patriotic Front has had little choice but to turn to the Communist countries for support, especially during those years when the United States was propping up the Rhodesian Government of Ian Smith by importing chrome and other strategic materials in violation of United Nations sanctions. It is not, however, the Patriotic Front which has rejected the Anglo-American settlement proposals—it is the parties to the internal agreement who have done so. Mr. Colin Legum, a British correspondent with long African experience, argues convincingly in an article in the London Observer that Western recognition of the internal settlement could become a self-fulfilling prophesy by opening the door for Soviet and Cuban intervention.

Mr. President, a number of articles have been written on the Rhodesian proposals, including a comparison of the Anglo-American proposals and the internal settlement. First, I would like to point out some of the most significant differences between the two initiatives.

First. Power during the transition period—until December 31, 1978—will be exercised jointly by Smith and three African leaders under the internal settlement. With decisions taken by consensus, Smith will retain the power over anything with which he may disagree. The present white Parliament will remain in power, and retain such prerogatives as acting on legislation for the registration of voters.

Under the Anglo-American proposals, Smith would have stepped down, and the British would have resumed their legal role through a British Resident Commissioner.

Second. The internal settlement provides 72 seats for Africans in the new Parliament, 28 seats for the whites—who represent 4 percent of the population. It will require 78 votes to change entrenched provisions relating to the judiciary, police, civil service, defense, prisons, and private property. This blocking percentage does not give a new government much room to alter the structure of a society permeated by racism. For example, schools, hospitals, and housing are segregated, and the white population owns 50 percent of the land.

Third. The Rhodesian Armed Forces, as presently constituted, are to be preserved. The Anglo-American proposals called for a restructuring of the Rhodesian Army comprised of the liberation forces and acceptable elements of the present armed forces. A U.N. force would monitor police activities during the transition.

Fourth. There is no international presence during transition under the internal settlement. However, the existing state of emergency will apparently remain in force.

Fifth. Minority economic rights are to be preserved through the guarantee against expropriation without prompt compensation under the internal settlement. Majority rights, severely circumscribed in the past, are touched on in passing as "the further removal of discrimination." The Anglo-American proposals spelled out a specific bill of rights applicable to all citizens, black and white.

Sixth. Constitutional proposals were carefully elaborated under the Anglo-American plan. The internal settlement assigns the drafting of the constitution to the transitional government with no opportunity for ratification by the black majority.

It is not surprising that the New York Times characterized the internal settlement as "little more than a device for keeping real power in the hands of Rhodesia's small white minority and is rightly suspect in black African eyes." The editorial stated that—

"Majority rule" so hobbled by minority rights means no real transfer of power, no matter how many blacks acquire ministerial trappings.

I am as devoted to the cause of peace in Rhodesia as any of my colleagues. However, a lasting solution in Rhodesia must be based upon a meaningful transfer of power to African hands.

Mr. President. I submit the text of the internal settlement and an article appearing in the New York Times; a comparison of the Anglo-American proposals and the internal settlement; an analysis of the two proposals prepared by the Washington Office on Africa; an article from the London Observer; and an editorial from the New York Times on Rhodesia be printed in the RECORD:

[From the New York Times, Mar. 4, 1978]

TEXT OF RHODESIAN AGREEMENT PREPARING THE WAY FOR MAJORITY RULE

SALISBURY, RHODESIA, March 3.—Following is the text of an agreement signed today by Prime Minister Ian D. Smith of Rhodesia, the Rev. Ndabaningi Sithole, Bishop Abel Muzorewa and Senator Jerimiah Chirau.)

Whereas the present constitutional situation in Rhodesia has led to the imposition of economic and other sanctions by the international community against Rhodesia and to armed conflict within Rhodesia and from neighboring territories;

And Whereas it is necessary in the interests of our country that an agreement should be reached that would lead to the termination of such sanctions and the cessation of the armed conflict;

And Whereas, in an endeavor to reach such an agreement, delegates from the Rhodesian Government, African National Council (Sithole), United African National Council and Zimbabwe United People's Organization have met during the last two months in Salisbury and, having discussed fully the proposals put forward by the various delegations have reached agreement on certain fundamental principles to be embodied in a new constitution that will lead to the termination of the aforementioned sanctions and the cessation of the armed conflict.

A

It is hereby agreed that a constitution will be drafted and enacted which will provide for majority rule on the basis of universal adult suffrage on the following terms:

[1]

There will be a legislative assembly consisting of 100 members and the following provisions will apply thereto:

(a) There will be a common voters' roll, with all citizens of 18 years and over being eligible for registration as voters, subject to certain recognized disqualifications.

(b) 72 of the seats in the legislative assembly will be reserved for blacks who will be elected by voters who are enrolled on the common roll.

(c) 28 of the seats in the legislative assembly will be reserved for whites (i.e., Europeans as defined in the 1969 Constitution) who will be elected as follows:

(i.) 20 will be elected on a preferential voting system by white voters who are enrolled on the common roll.

(ii.) Eight will be elected by voters who are enrolled on the common roll from 16 candidates who will be nominated, in the case of the first parliament, by an electoral college composed of the white members of the present House of Assembly and, in the case of any subsequent parliament, by an electoral college composed of the 28 whites who are members of the parliament dissolved immediately prior to the general election.

(d) The, reserved seats referred to in (c) above shall be retained for a period of at least 10 years or of two parliaments, whichever is the longer, and shall be reviewed at the expiration of that period, at which time a commission shall be appointed, the chairman of which shall be a judge of the High Court, to undertake this review. If that commission recommends that the arrangements regarding the said reserved seats should be changed:

(i.) An amendment to the constitution to effect such change may be made by a bill which receives the affirmative votes of not less than 51 members.

(ii.) The said bill shall also provide that the 72 seats referred to in (b) above shall not be reserved for blacks.

(e) The members filling the seats referred to in (c) above will be prohibited from forming a coalition with any single minority party for the purpose of forming a government.

[2]

There will be a just declaration of rights which will protect the rights and freedoms of individuals and, inter alia, will provide for protection from deprivation of property unless adequate compensation is paid prompty, and for protection of pension rights of persons who are members of pension funds.

[3]

The independence and qualifications of the judiciary will be entrenched and judges will have security of tenure.

[4]

There will be an independent public services board, the members of which will have security of tenure. The board will be responsible for appointments to, promotions in and discharges from the public service.

[5]

The public service, police force, defense forces and prison service will be maintained in a high state of efficiency and free from political interference.

[6]

Pensions which are payable from the consolidated revenue fund will be guaranteed and charged on the consolidated revenue fund and will be remittable outside the country.

[7]

Citizens who at present are entitled to dual citizenship will not be deprived of their present entitlement.

[8]

The above-mentioned provisions will be set out or provided for in the constitution and will be regarded as specially entrenched provisions which may only be amended by a bill which receives the affirmative votes of not less than 78 members.

B

It is hereby also agreed that, following the agreement set out above, the next step will be the setting up of a transitional government. The prime function of the transitional government will be:

(a) To bring about a ceasefire, and

(b) To deal with related matters such as:

(i) The composition of the future military forces, including those members of the nationalist forces who wish to take up a military career, and the rehabilitation of others;

(ii) The rehabilitation of those affected by the war.

C

It is also hereby agreed that it will be the duty of the transitional government to determine and deal with the following matters:

(a) The release of detainees;

(b) The review of sentences for offenses of a political character;

(c) The further removal of discrimination;

(d) The creation of a climate conductive to the holding of free and democratic elections;

(e) The drafting of the new constitution in terms of this agreement;

(f) Procedures for registration of voters with a view to the holding of a general election at the earliest possible date.

D

It is also hereby agreed that the transitional government will comprise an executive council and a ministerial council, and the following provisions will apply thereto:

[1]

Executive council

(a) Composition:

The executive council will be composed of the prime minister and three black ministers, being the heads of those delegations engaged in the negotiations. The members will take turns in presiding as chairman of the executive council in such sequence and for such period as that council may determine. Decision of the executive council will be by consensus.

(b) Functions:

(i) The executive council will be responsible for insuring that the functions given to and the duties imposed on the transitional government by the constitutional agreement are dealt with as expeditiously as possible. It will take policy decisions in connection with the preparation and drafting of the new constitution and the other matters set out in sections B and C of this agreement and with any other matters which may arise.

(ii) The executive council may refer the matters set out in sections B and C of this agreement, or any other matter, to the ministerial council for examination and recommendation.

(iii) The executive council will review decisions or recommendations of the ministerial council and may confirm such decisions or recommendations or refer them back to the ministerial council for further consideration.

[2]

Ministerial Council

(a) Composition:

The ministerial council will be composed of equal numbers of black and white ministers. The black ministers will be nominated in equal proportions by the heads of those delegations engaged in the negotiations. The white ministers will be nominated by the prime minister. The chairmanship of the ministerial council will alternate between black and white ministers. The prime minister will nominate which white minister shall take the chair, and the heads of those delegations engaged in the negotiations will nominate which of the black ministers shall take the chair in the sequence and for the period determined by the ministerial council.

(b) Functions:

(i.) The ministerial council will operate on the cabinet system. For each portfolio, or group of portfolios, there will be a black and a white minister who will share responsibility.

(ii.) The ministerial council will be responsible for initiating legislation and for supervising the preparation of such legislation as may be directed by the executive council.

(iii.) The ministerial council will make recommendations to the executive council on all matters referred to it by the executive council and on any other matter it thinks fit.

(iv.) Decisions of the ministerial council will be by majority vote and subject to review by the executive council.

[3]

Parliament

(a) Parliament will continue to function during the life of the transitional government and will meet for the following purposes as and when the executive council considers it should be summoned:

(i.) To pass a constitution amendment act enabling ministers who have not been elected to parliament to serve for periods in excess of four months;

(ii.) To pass legislation for the registration of voters;

(iii.) To pass the 1978–79 budget;

(iv.) To enact any legislation or deal with any other matter brought forward by the transitional government (e.g. for the further removal of discrimination);

(v.) To enact the new constitution;

(vi.) To nominate 16 whites for election by voters on the common roll to eight of the seats reserved for whites.

(b) The work of the various select committees and of the Senate Legal Committee will proceed as normal.

E

It is also hereby agreed that independence day shall be Dec. 31, 1978.

Signed at Salisbury, this third day of March 1978.

[From the New York Times, Mar. 23, 1978]

RHODESIAN PACK: HOW EFFECTIVE?

(By John F. Burns)

SALISBURY, RHODESIA, March 22.—The Rhodesia Herald, normally a cautious newspaper, proclaimed in a banner headline today, "End to white rule." But on the day after three black leaders joined Prime Minister Ian D. Smith in a transitional government, it was being asked here whether the nationalists would have real authority or have been coopted into an administration that will perpetuate the preferment of white interests to black.

The early portents were mixed. Mr. Smith, sounding at times satisfied and at times reigned, told reporters after the swearing-in ceremony that he alone could not answer their questions on such crucial issues as the conduct of the war and the transition to majority rule. "Those are questions for the Executive Council," he said, referring to the new body composed of himself and the black leaders that has taken nominal control of the government.

After meeting for its first session, however, the Executive Council adjourned for eight days. Since Mr. Smith will retain the post of Prime Minister and its statutory powers throughout the transitional period, the implication was that, at the outset at least, no real power has been transferred. Only later will it become apparent whether the 58-year-old white leader, who spent a decade devising stratagems against black rule, will honor his pledge to treat his new partners as equals.

CABINET APPOINTMENTS AWAITED

Next week, the Executive Council will appoint the second tier of the transitional administration, an 18-member ministerial council, or cabinet, in which white and blacks will be equally represented, with each of the nine posts being held jointly by a black and white minister.

This will require the appointment of blacks to such key agencies as the Ministry of Combined Operations, which supervises the war against black guerrillas, and to the Ministry of Law and Order, which oversees a judicial system that has been one of a bulwark of white domination.

Under the agreement signed by Mr. Smith and the black leaders three weeks ago, overall authority in the provisional government will rest with the Executive Council. But the agreement also provided that the ruling body will operate by consensus, meaning that each of the four leaders retain a veto. On some issues, such as desegragation in education, in health care and in housing, there will be powerful pressure on Mr. Smith to block moves toward black emanciaption.

Another divisive issue could be the war. Black suspicions have been aroused by the disclosure that Mr. Smith recently scrapped the 11-member war council that has been setting policy and approving major operations passing day-to-day control of the military and the police to a smaller body composed of the commanding officers and senior civil servants. Since Mr. Smith and other white ministers sat on the war council, the decision appeared to remove politicians from immediate involvement in military matters.

CRUCIAL ISSUE FOR BLACKS

The concern among blacks was that the change could block them from effective influence on military policy, a crucial matter for them since they hope to persuade the 5,000 guerrillas now ranging the country to lay down their arms. To make the appeal credible, the government forces almost certainly will have to abandon some of their harsher tactics. Such as the rough treatment of guerrillas who have surrendered or been captured and raids that have killed thousands of guerrilla recruits at camps in Zambia and Mozambique.

Another problem facing the three blacks on the Executive Council, Bishop Abel Muzorewa, the Rev. Ndabaningi Sithole and Senator Jeremiah Chirau, is that the bureaucracy, military and civil, is entirely in white hands. The agreement makes no provision for blacks to be appointed to senior posts and effectively blocks any rapid advancement by requiring the maintenance of a white-controlled civil service board that will make all appointments, promotions and discharges. Until now, the bureaucracy has been a bastion of white conservation.

Blacks also are asking whether Mr. Smith gave his partners access to all pertinent government information. Already, officials have been pointing anxiously to the black leaders' habit of passing minutes of confidential negotiations with Mr. Smith to the press, implying that the practice will have to be kept in mind now that they are in positions of nominal authority. Without full briefings, the nationalists could find themselves like officers on the bridge of a storm-tossed ship who have no line to the engine room.

In addition, the black leaders are divided among themselves, each looking forward to the one-man, one-vote election provided for in the constitutional accord. No date for the vote has been set, but the government that emerges from it is due to take office on Dec. 31.

Against the pressures to stick together in face of the challenge by the Patriotic Front, the guerrilla alliance, there will be strong temptations for each of the black leaders to make political capital by taking an independent line on sensitive issues.

Finally, Mr. Smith has to present the accord for approval to the existing, white dominated electorate, a requirement that he may cite as a reason for not moving swiftly to dismantle racial discrimination and release black political prisoners, another matter entrusted to the Executive Council. already, a right-wing white faction, the Rhodesia Action Party, has begun campaigning against the agreement, calling it a capitulaton.

Among blacks in urban centers such as Salisbury, widespread approval of the accord has been balanced by anxieties over its shortcomings. Bishop Muzorewa, addressing the largest political gathering ever held in the country, acknowledged at the weekend that the agreement was "far from perfect."

How it is carried out in the transitional period—whether Mr. Smith exploits the loopholes or cooperates in a manner that satisfies black aspirations—may determine whether the months ahead come to be seen as a historical curiosity, like the Kerensky period in the Soviet Union, or as the period in which whites finally came to terms with the inevitability of black rule.

COMPARISON OF THE ANGLO-AMERICAN PROPOSALS AND THE INTERNAL SETTLEMENT (SALISBURY ARRANGEMENTS)

I. Transition

Organization of Transition

ANGLO-AMERICAN PLAN	SALISBURY ARRANGEMENTS
Transfer of power to British Resident Commissioner, assisted by a UN presence and advised by a governing council.	Transitional Government comprised of an Executive Council and a Ministerial Council. Executive Council composed of Smith, Muzorewa, Sithole and Chirau; rotating chairmanship. Ministerial Council composed of equal number of black and white ministers; white ministers nonminated by Smith, black nominated proportionally by nationalists. Chairmanship to alternate between black and white. Each ministerial post is to be shared responsibility of one black and one white. During transition, present Parliament will continue to funciton; can be called for purposes enumerated in agreement, including to enact legislation proposed by the transitional government and to enact the new constitution.

Ceasefire

A ceasefire, negotiated in advance by the parties, would go into effect at the outset of the transition period, and would be monitored by the Resident Commissioner supported by the UN peacekeeping force.	No definite plan of action indicated but first duty of transitional government is listed as "to bring about a ceasefire."

Elections

Electoral process to be free and impartial, administered by the Resident Commissioner, supported by the police and the UN presence.	Agreed that the transitional government will have the responsibility for "the creation of a climate conducive to the holding of free and democratic elections" and to develop procedures for registration of voters "with a view to the holding of a general election at the earliest possible date." December 31, 1978, agreed as "independence day."

Police and Armed Forces

At the beginning of transition, the Resident Commissioner will appoint a new police commissioner, and UN police observers will monitor police activities. The armed forces, under command of the Resident Commissioner and monitored by the UN force, will be restructured into the new Zimbabwe National Army, based on the liberation forces with acceptable elements of the current Rhodesian Defense Forces.	Agreed that the "public service, police force, defense forces, and prison service will be maintained in a high state of efficiency." A prime concern to the transitional government is to be the issue of the composition of "future military forces," to include the question of members of nationalist forces "who wish to take up a military career, and the rehabilitation of others." No further details provided.

International Presence

The Anglo-American plan calls for a Special Representative of the UN Secretary General, who would assist the Resident Commissioner, a UN peacekeeping force, UN civilian police observers, and additional UN presence to observe the election.	No mention of international presence during transition or regarding elections. Preamble expresses that among major purposes of reaching agreement is to bring about a termination of sanctions imposed by the international community.

II. Constitutional principles

Form of Government

Mixed Presidential-Parliamentary system. President is chief executive, elected by an absolute majority of the newly elected members of Parliament, who must have declared their Presidential preferences in advance.	Parliamentary system based on unicameral legislature.

Representation

100-person National Assembly to be chosen in 1-man, 1-vote elections; 20 specially elected members to represent interests of minorities. Specially elected seats can be eliminated after 8 years.	100-person National Assembly, divided between 72 seats chosen on common roll, 20 seats chosen by whites-only roll, 8 seats nominated by present white members of Parliament and subsequently by 28 white members of Assembly (this ensures all 28 seats will be controlled by present government.) Continuation of white seats to be reviewed after 10 years or two parliaments, whichever longer.

Constitutional Amendment

Some constitutional provisions (Bill of Rights, Specially Elected Members, Amendment of Constitution) are "entrenched" and cannot be amended for 4–8 years, and then only after general election, and must gain two-thirds vote in Parliament.	"Entrenched" provisions in constitution require 78 or more votes to amend.

Bill of Rights

Provides for right to life, liberty; protection from slavery and deprivation of property without compensation; privacy of home and property; fair trials; freedom of conscience and expression; private schools; freedom of association, freedom of movement, and freedom from discrimination.	Agreement has been reached that the constitution should have a Bill of Rights, but no details on what rights should be protected have emerged, other than protection from deprivation of property without compensation and pension rights.

Independent Judiciary

Judges to be appointed by President; subject to discipline of Judicial Review Commission.	Agreed that independent judiciary necessary; qualifications for service to be entrenched.

Public Service Commission

Appointed by President for fixed term, will have power to appoint persons to all civil service positions except for certain specified, politically sensitive posts to be filled by the President, or under purview of the courts or the Parliament (staff positions).	Independent, tenured Public Service Commission agreed. No details on membership.

Pensions

Pensions of officers compulsorily retired to facilitate reconstruction of civil service can be freely remitted abroad. Other pensions to be discussed. (Indirect facilitation of payment of pensions would be made through Zimbabwe Development Fund.)	Pensions guaranteed, and may be freely remitted abroad.

Dual Citizenship

Whether to allow dual citizenship subject for further discussion. If not allowed, five-year grace period for dual nationals to make decision of which to choose.	Dual citizenship guaranteed for those who presently have it.

[From the Washington Office on Africa]

THE RHODESIAN SETTLEMENT

INTRODUCTION

The Smith regime which seized power illegally in Rhodesia 13 years ago has apparently had a change of heart. On March 3rd the regime concluded an agreement with three African leaders which they claim paves the way for black majority rule. Hardly was the ink dry on the paper when the African signatories were off to Western capitals to try to win international recognition for the proposed constitutional settlement and to counter opposition from the Patriotic Front and the five frontline states which have denounced it as a sell-out.

Which claims are true? Does the agreement benefit the African majority or the white minority? Is it a formula for genuine majority rule and a transfer of power, or is it mere tokenism? Does it abolish the unjust colonial structures and institutions or preserve them? With these questions in mind, the following analysis examines the terms of the agreement to discover its merits and flaws and to understand why it is a subject of international debate.

ANALYSIS OF AGREEMENT

Conception of the Problem: The three introductory paragraphs of the Salisbury accord never refer to the root causes of the problems in Rhodesia nor to the aspirations of the African majority for self-determination. Instead the introduction talks vaguely of "the present constitutional situation" as if the central issue were a question of the constitutional legality rather than a need for genuine independence and vast structural changes. U.N. sanctions and the armed conflict are presented as the source of the problem and not a response to the injustices and inequality on which Rhodesian society is based. No mention is made of the rights of the African people nor of the changes needed to regain those rights. The agreement appears to assume that the introduction of a few constitutional reforms will satisfy everyone.

Political reform, though necessary, has never been the sole object of the liberation struggle. As the Patriotic Front pointed out in September, 1977 in response to the Anglo-American proposals: "The problem in Zimbabwe is not the election of a 'President' but: 1. The destruction of colonialism and its institutions; 2. The attainment of genuine independence; and 3. The democratisation not only of the vote but of all institutions and the way of life in Zimbabwe."

The churches too have continually pointed out that political rights must be accompanied by social and economic rights if justice is to prevail. Recently, for instance, Bishop Donal Lamont who was deported from Rhodesia last March stated, "The social and economic structures which the new government will inherit are founded on entrenched exploitation. Inequality permeates every aspect of Rhodesian society—inequality in land distribution, job differentials, housing policies, educational facilities, health and social services." The agreement fails to deal with these crucial issues and does not even acknowledge them as a problem.

Elections and a New Constitution: The granting of the vote to the African majority has been a major stumbling block in previous negotiations, and therefore the provision for elections based on universal adult suffrage has been hailed by some observers as a significant concession. However, though all adults of 18 years or older will be eligible to vote for 72 African seats in the new assembly, their candidates will be almost powerless to make any changes over areas protected by the entrenched provisions. Whites (including Asians and Coloureds) will control more than 25 percent of the seats though they are only 4 percent of the population. They will have a blocking vote over such critical areas as private property, defense forces, courts, prisons, public service, and police. Thus universal adult suffrage provides the appearance of majority rule but the power will be kept in the hands of the minority. In addition, the new constitution will not establish a non-racial society, but will enshrine race as the basis for the electoral process and for the guarantee of special privileges.

Specially Entrenched Provisions: The eight entrenched provisions, which can only be amended by 78 votes, guarantee that the present institutions of power remain intact—the military, legal and economic systems. They literally tie the hands of the new government in these matters, and ensure the continuation of key elements of the white minority structure. They also preserve those institutions that have performed the most objectionable roles in the regime's counter-insurgency operations against the liberation struggle.

Declaration of Rights: The declaration of rights amounts to a declaration of the preservation of white privilege. The document makes it appear that the whites are the victims requiring protection while the numerous rights denied the African people for decades are not even mentioned. The protection of white property rights in particular will make it extremely difficult for a new government to carry out a system of land reform, badly needed in a country where less than 4 percent of the people control 50 percent of the land.

Judiciary: According to the agreement, the entire judicial system will remain intact. The judges in Rhodesia, many of whom have been appointed since UDI was declared in 1965, have been complicit not only in sustaining the illegal regime but also in applying a legal system that is devoid of justice. They have sentenced numerous guerrillas to death by secret hanging and have carried out the repressive security legislation and emergency regulations including the Emergency Powers Act, the Law and Order (Maintenance) Act, and the Indemnity and Compensation Act.

Security system: Historically, the government of Rhodesia has relied on force and violence to maintain its oppressive rule, and the new government will have at its disposal this same machinery. The security apparatus which has played a dominant role in suppresing African opposition and resistance since UDI is not to be dismantled or reorganized but "maintained efficiently". It is well documented that units of the police and army committed atrocities against the civilian population and are regarded as the real terrorists. Yet these same tormentors and torturers are now to become the peoples' protectors.

Public service: The public service, which is predominantly white-run, has been responsible for implementing the country's discriminatory racist policies. It has also established and operated the government's unpopular program of protected villages. These same civil servants are practically guaranteed their jobs as well as their pensions. Payments are remittable abroad, which could create a significant strain on the balance of payments in a country with an annual pension bill of approximately $37 million. Dual citizenship could also affect the country's balance of payments if whites can transfer their money out of the country and leave Zimbabwe whenever they wish.

The Transition Period: The transitional arrangements will play a crucial role in determining the character of a future Zimbabwe. During the transition, elections are to take place, a new constitution drafted, and other crucial decisions taken such as the composition of the military forces. The Smith government will continue to play a dominant role at this time—a most striking departure from the Anglo-American proposals which called for the Smith regime to step down as a prerequisite to a return to legality and a transfer of power. Under the Salisbury accord, Smith himself will have a dual function as both Prime Minister under the existing constitution as well as member of the Executive Council in the transitional government. His Parliament will continue to function and will retain power to enact—or block—any new legislation and constitutional amendments required for the attainment of independence. Its continued role during the transition period legitimizes the white minority government and ironically makes its members the founding fathers of a new government whose formation they have previously opposed. It also means that the whites have a chance to express their views on the new arrangements through their Parliament, while the Africans are given no such forum to either accept or reject the settlement.

During this period as well, the free expression of opinion or political debate will be severely hampered by the fact that the existing police-state laws and State of Emergency will apparently remain in force. These laws will be interpreted and applied by the existing judges, and the existing police, armed forces and civil servants will be the effective power in the country.

The Smith regime will have a strong say in the interim Ministerial Council, half of whose members will be Smith appointees. The other half will be split three ways between the three African delegations, giving the Rhodesian Front a three-to-one advantages over any of the African parties. Since Council decisions will be made by majority vote, it also gives them the advantage of having to gain only one African vote to control any decision. The Ministerial Council will operate on the existing cabinet system which puts the African newcomers at a distinct disadvantage. African appointees will simply be added to the structure and will share portfolios with white politicians who will presumably have tenure and experience under the Front regime.

The document is very vague about "the rehabilitation of those affected by the war," particularly in contrast to the specific guarantees and entrenched clauses that it offers the white minority. It leaves unanswered whether thousands of people now living in the regime's protected villages will be resettled, whether any compensation will be paid those who have lost their homes, cattle and crops in the war; whether the regime's practice of torture, secret hangings and security legislation will be abolished. The fate of detainees and political prisoners is left to the discretion of the transitional government. Political prisoners are not to be pardoned but to have their sentences reviewed by the same courts and judges that originally imposed them.

There is a vague reference to "the further removal of discrimination" but nothing is spelled out to ascertain if the agreement refers merely to the practice of segregation or whether it intends to eradicate the economic discrimination on which white privilege has been built.

[From the London Observer, Feb. 22, 1978]

RHODESIA: BRITAIN'S BIGGEST DECISION SINCE THE WAR

There can be no possible grounds for rejecting an 'internal settlement' in Rhodesia simply because of objections to the Smith regime or to the African leaders involved in the negotiations.

What matters, after 12 years of worsening conflict, is that the fighting should end and that there should be a genuine basis for majority rule. The right way to approach the reported agreement reached in Salisbury is,

therefore, to ask whether it can achieve these two objectives, or whether it might not, in fact, produce the exact opposite result—even worse fighting and greater foreign involvement.

The 'agreement' will not necessarily end the conflict. It could, indeed, mark the point from which, not just Rhodesia, but the whole of Southern Africa, is plunged into the kind of disaster that recently overtook Angola and is now occurring in the Horn of Africa.

The comparisons with Angola and the Horn are not fanciful, since all the elements that produced those disasters are also present in Rhodesia—an intra-black civil war with massive foreign intervention.

The Russians and Cubans show every sign of being poised to repeat the role in Rhodesia that they played in Angola and are currently playing in the Horn. If things go seriously wrong in Rhodesia, the South Africans, too, seem unlikely to remain south of their Limpopo border.

The risk of South African intervention, as in Angola, would increase if the talks on independence for Namibia (South West Africa), which ran into serious difficulties last week, were to fail—and if, as seems likely, the Vorster regime then emulated Smith by going for an 'internal settlement' in Namibia. This would almost certainly bring the Angolans, Russians and Cubans fully behind SWAPO's guerrillas.

Such a development would unleash two major conflicts simultaneously in Southern Africa—in Rhodesia and Namibia—with heavy Communist involvement in both, and with the Western nations largely paralysed because, as in the Horn, they would be reluctant to identify themselves fully with any particular side.

This is why any wrong step at this time—especially by Britain, which carriers international responsibility for Rhodesia—could push the whole of Southern Africa into violent chaos.

The pressures on Britain to support the tentative agreement reached in Salisbury are bound to increase in the coming weeks; they could even provide Mrs. Margaret Thatcher with a new election issue.

However, there is no doubt, as Dr. David Owen said last week, that the proposed settlement represents a significant move toward majority rule. This is one of the five principles established by Britain as a prerequisite for Rhodesia's independence.

But can the proposed settlement meet another crucial principle: that it should be acceptable to the majority of all Rhodesians? This can only be tested through a referendum or an election, either of which requires some degree of tranquility in the country. And that requires a cease-fire.

That is why the Anglo-American initiative has set such a high priority on achieving a cease-fire, which is what the negotiations with the Patriotic Front have been mainly about. Unless the guerrilla forces of Joshua Nkomo's ZAPU and Robert Mugabe's ZANU are willing to accept the terms for a cease-fire, the war will continue and no convincing test of Rhodesian opinion will be possible.

It has been clear all along that unless conditions could be created to involve the Patriotic Front in negotiations for a settlement, there could be no hope of getting a cease-fire. It is open to argument whether the Patriotic Front in fact enjoys majority black Rhodesian support, but it can hardly be argued that the joint electoral backing of Nkomo and Mugabe is so negligible that it can simply be ignored.

Besides, what matters most in the kind of violent situation now prevailing in Rhodesia is the number of guns held by the opposing forces. The Patriotic Front obviously commands more guns than the three black nationalist groups which have been negotiating with Mr. Smith and although their fighting capacity is not yet equal to that of the white Rhodesians, they have increasingly become a more serious challenge.

What will happen once an interim Rhodesian Government is established—one which, as is now proposed, will have three times more black than white Ministers?

The new regime would still be engaged in fighting the guerrillas, but with this important difference: it would no longer be fought between the Smith regime and black Rhodesians, but would rapidly assume the character of an open civil war among blacks—with one side backed by white Rhodesians.

Apart from its brutalities, such a civil war would inevitably introduce much greater international involvement. And this is the greatest immediate danger.

President Nyerere and the other Front Line African Presidents, who have given their full support to the Anglo-American initiative in Rhodesia, have lost no time in rejecting the internal settlement completely. They can therefore be counted upon to do everything they can to help the Patriotic Front defeat the new regime in Salisbury as rapidly as possible.

They are likely to encourage greater external military support for the Patriotic Front, both from African armies and through the Communist nations (China as well as the Russians and Cubans), who have already indicated their readiness to respond. This is what happened in Angola, and also in the Horn.

Consider, now, what would happen if Britain were to do what Mr. Reginald Maudling and other Conservative MPs urged the Government to do in Parliament last week—to accept the "internal settlement" and to legalise it through an Act of Parliament.

The Front-Line President, strongly backed by Nigeria as well as the other African States, would at once denounce Britain. This would open up a raw confrontation between this country and black Africa. Besides putting British national interests in jeopardy, it would create precisely the kind of opening in Southern Africa that the Russians are seeking. The whole political balance of power in Africa would be seriously, perhaps irretrievably, affected.

It is ironic that the Conservatives, who are rightly concerned about the spread of Soviet influence in Africa, should advocate a policy that would play straight into the Russians' hands.

There is yet another major problem: the American Administration is not about to recognise the agreement reached in Salisbury. If Britain were to think of doing so, it could start a serious quarrel over this vital issue with Washington and, probably, with other Western allies. The harm of such a quarrel would be incalculable; it would certainly please Moscow.

The real problem to which the British and the Americans should now be addressing themselves is how to build a bridge between the Salisbury negotiators and the Patriotic Front. This can only be done, if at all, by *not* making an irrevocable choice between the two sides; both must be kept in play. Skillful diplomacy will be required, but with all the skill in the world this exercise in bridgebuilding will also require the continued active co-operation of the Front-Line Presidents.

This is the clinching argument why Britain should do nothing to alienate the Patriotic Front and their African supporters. What is needed is precisely the opposite of the reckless course advocated by the Conservatives. If their advice were followed, it would bring Britain into open collision with black Africa and with Washington, and would produce almost certain disaster to Southern Africa.

That is why the policy decisions to be made in the next week or so will probably come to be counted among the most critical taken by Britain since World War Two.

[From the New York Times, Mar. 5, 1978]

THE RHODESIAN CONTRIVANCE

The American and British Governments have thus far refrained from endorsing the Rhodesian "internal settlement" between Prime Minister Ian Smith and three black leaders. They are right to withhold support, and they should not give way in this week's debate of the issue in the United Nations Security Council. The deal is little more than a device for keeping real power in the hands of Rhodesia's small white minority and is rightly suspect in black African eyes.

The agreement would let the white settler community block any measures that threaten its economic privileges for at least 10 years and probably longer. The 4 percent minority would retain effective control of the army and civil service. "Majority rule" so hobbled by minority rights means no real transfer of power, no matter how many blacks acquire ministerial trappings. That is why the settlement is anathema to Joshua Nkomo and Robert Mugable, the black nationalists who lead the guerrilla campaign which, along with sanctions, has forced Mr. Smith to go even so far.

Ian Smith has played his cards with consummate skill. By offering them a semblance of power, he has now made the three black leaders—bishop Muzorewa, Mr. Sithole and Senator Chirau—accomplices in a system to preserve his own control.

The agreement would not only fail to bring genuine majority rule to Zimbabwe (as Rhodesia is to be called next year), but also jeopardize the most important American interests in Africa. Those interests ride on a peaceful transition to black political power throughout southern Africa and the avoidance of conflicts that risk the involvement of outside powers.

The surest way to promote a peaceful transition in Rhodesia is to insist on arrangements that would bring the guerrilla forces and their Patriotic Front into the politics of the country. The way to frustrate a peaceful transition is to persist in a "settlement" that will cause the Patriotic Front to escalate the fighting, possibly with Cuban and Soviet help. That, in turn, could lead the Rhodesian Government to seek aid from South Africa, confronting the Western powers with an impossible choice of either letting Moscow and Pretoria fight it out or intervening directly. (And, if it were to be intervention, on which side?) It is better to maintain the United Nations sanctions against Rhodesia while bargaining for a better deal.

It is not enough, however, to say that no deal would be acceptable until the Patriotic Front's Mr. Nkomo and Mr. Mugabe are satisfied. Not even Mr. Nkomo, who enjoys a considerable political following among both blacks and whites, deserves such a veto. He has erred seriously in the past six months, letting distrust of Britain lead him to reject the Anglo-American plan for elections run by a caretaker government under British control.

The sanctions were imposed because Mr. Smith was blocking the way to majority rule. They should be lifted when a framework for its achievement is in sight. That may well mean bringing the guerrilla leaders into new negotiations. It certainly requires modifying the proposed settlement. Its elaborately contrived machinery for preserving white control ought to be dismantled. And the arrangements for elections ought to let all candidates take part without fear of harassment by the Rhodesian or guerrilla armies.

When the principles of the "internal settlement" were first announced last month, Andrew Young, the American representative

at the United Nations, characterized them as a recipe for civil war. Now that the details are known, his fears appear justified. It would be no favor to Rhodesians, black or white, for Washington and London to embrace this deal.●

BYELORUSSIAN INDEPENDENCE DAY

● Mr. CASE. Mr. President, I would like to congratulate all Americans of Byelorussian descent on the 60th anniversary of the Declaration of Independence of Byelorussia which took place in Minsk on March 25, 1918. Unfortunately, however, true independence was short-lived—Byelorussia was annexed by the new Soviet Socialist Republic on January 1, 1919—forming the so-called Byelorussian Soviet Socialist Republic.

Throughout its long history, Byelorussia has been subject to periods of domination by foreign states—since 1386 by Poland, and since the Treaty of Vilna in 1656, mostly by Russia and, later by the Soviet Union. In both world wars, Byelorussia suffered tragically heavy losses since it was one of the chief battlegrounds between the Russians and the Germans. Thus, Byelorussia has a strong interest in a lasting peace in Europe and is the only Soviet "republic" other than the Ukraine to have individual representation at the United Nations.

At the European Conference on Security and Cooperation in Europe, Byelorussia was not given individual representation. Nevertheless, the difficult history of Byelorussia gives it a particular interest in the humanitarian issues raised at the Belgrade Conference. As a member of the Commission on Security and Cooperation in Europe, I am especially concerned with Soviet obligations in areas such as family reunification, ethnic minority rights—such as the problem of Russification in the U.S.S.R.—and freedom on information and religion. The activities of the CSCE Commission—for which I was one of the legislative sponsors—are continuing to inform me of developments in the ongoing struggle for human rights in the U.S.S.R.—including, of course, Byelorussia.

I wish to extend my best wishes today to all Byelorussian-Americans—of whom there are some 1 million—many residing in New Jersey. Let us all work together so that Byelorussians wherever they are, will be free to practice their religious, political, and cultural rights as they wish.●

BANKRUPTCY AND THE CITY OF NEW YORK AND THE BANKING SYSTEM

● Mr. LUGAR. Mr. President, last week I spoke against the administration's loan guarantee proposal for New York City in a speech entitled "100 Days of Urban Policy Debate: The New York Case." Some commentators have expressed the opinion that New York City will default on its obligations without the loan guarantees.

We do not know at this time whether New York City will default on its current debt obligations. But it is prudent to discuss the possible impacts of a default as we consider Federal loan guarantees to New York City.

Recently, the Comptroller of the Currency released statistics showing that the number of banks holding New York obligations totaling over 20 percent of their capital had dropped from 718 in 1975 to 306 in 1978. The New York obligations referred to in the Comptroller's statistics include those issued by the city of New York, the State of New York, New York State agencies, and Municipal Assistance Corporation obligations. He stated further:

> Only a handful of (relatively small) commercial banks might suffer potentially severe capital or liquidity failures.

This is a far cry from 1975 when the extent of bank holdings of New York obligations were much more substantial and spread throughout the United States. Moreover, the situation in 1975 was such that a New York City default might have started a series of State and municipal defaults around the country which in turn would have severely damaged the banking system.

But even in 1975, the testimony of the bank regulatory agencies did not predict a wave of bank failures across the country. We are even less likely to see significant problems in the banking system today.

I do not wish to belabor the differences between the situation in 1975 and the current situation, but I will list a few differences that I feel must be kept in mind as we discuss a potential New York default.

In 1975, New York State had a deficit of $600 million and faced probable default if New York City defaulted. This is no longer the case. New York State enjoys a substantial surplus and Governor Carey has recommended substantial tax cuts. New York State does not need to fear that its access to the credit market will be cut off if New York City defaults.

In 1975, the municipal bond market was in disarray as the fear of a New York City default grew. Interest rates were already at record highs, and the prospect of a New York City default was causing further increases and the possibility of a credit suspension for a number of cities.

Currently the municipal bond market is healthy. Interest rates have dropped substantially during these past few years. Record amounts of bonds have been issued and sold. Cities which were having difficulty financing bonds in 1975 are experiencing no difficulties in the current market. We see no indication that investors will withdraw from the market. We need not fear a countrywide municipal bond panic.

In 1975 there were grave concerns about the impact of a New York City default on the national economy. The country was in a deep recession and some, though not all, economists felt that a New York City default would have disastrous effects on the country's economy. The economy is now strong and showing signs of continued vigor. Unemployment is at the lowest rate in some time. I see no indication that a default by New York City would have an impact large enough to affect the health of the national economy.

The debate on the issue of continuing or expanding Federal assistance to New York City is important. Our decisions should be based on facts and sound analysis. To this end, I submit the two letters from the Comptroller of the Currency to Congressman MOORHEAD, chairman of the House Subcommittee on Economic Stability, to be printed in the RECORD following these remarks. These are important documents which contains information that can lead to different conclusions. I leave it to each Senator to analyze the data for his own decision.

The two letters and additional data follows:

WASHINGTON, D.C., *March 8, 1978.*

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: As indicated in our letter of March 2, 1978, please find two tables enclosed showing the distribution by size and location of national banks holding New York securities in excess of 50% of their capital. These tables should be read in conjunction with those enclosed with our March 2, letter.

If we may be of any further service, please feel free to contact us.

Very truly yours,

JOHN G. HEIMANN,
Comptroller of the Currency.

DISTRIBUTION BY BANK LOCATION

Number of national banks that hold New York City, New York State, New York State Agencies, and Municipal Assistance Corporation obligations in excess of 50% of their capital.

State:	*Number*
District of Columbia	1
Florida	6
Massachusetts	1
New York	32
Pennsylvania	1
West Virginia	1
Total	42

DISTRIBUTION BY BANK SIZE

Number of national banks that hold New York City, New York State, New York State Agencies, and Municipal Assistance Corporation obligations in excess of 50% of their capital.

Asset size as of December 31, 1977:	*Number*
Under $25 million	10
$25–$100 million	17
$100–$500 million	11
$500 million to $1 billion	2
Over $1 billion	2
Total	42

WASHINGTON, D.C., *March 2, 1978.*

Re Bankruptcy of the city of New York and the banking system.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: You have asked me to provide an assessment of the consequences for the nation's banking system of a bankruptcy or default by New York City. Specifically, a geographic summary report was requested on the impact on bank holders of New York City securities.

The Comptroller of the Currency, in conjunction with the Federal Reserve System, recently completed a survey of commercial bank ownership of certain New York securities. The obligations covered were those issued by New York City, New York State, New York State agencies, and the Municipal Assistance Corporation (MAC). The institutions surveyed were 954 banks that had reported holdings of New York securities amounting to at least 20 percent of capital in our November, 1975 survey.

At that time, 718 banks held New York obligations totaling from 20 to 50 percent of their capital. Of those banks, 236 had holdings in excess of 50 percent of capital. The recently completed survey reflects that 236 banks now hold New York obligations amounting from 20 to 50 percent of capital and only 70 over 50 percent of capital.

Among the 306 banks which presently hold New York securities (state as well as city) amounting to more than 20 percent of capital, the holdings of New York City obligations total to only 3.6 percent of the total capital of those banks. We note that 80 percent of the outstanding city securities in the survey are held by institutions in New York State, with almost 60 percent held by the New York Clearing House Association (NYCHA) banks alone. However, this concentration of city paper held by the NYCHA banks totals only 2.5 percent of their capital. Based on this data, only a handful of (relatively small) commercial banks might suffer potentially severe capital or liquidity problems.[1]

Certainly a default by New York City would have some impact on the capital, liquidity and earnings on a larger number of banks. The extent of that impact would depend upon presently unknown circumstances including, for example, the city's financial position at that time; the degree of confidence in the city's future; the existence of any MAC exchange offer at that time; other conditions in the economy and the banking system; and the nature and extent of State and Federal actions taken to restore New York City's financial strength. In any event, from the perspectives of both the banking system and individual banks, the impact of a New York default would be manageable.

Before proceeding further, I should acknowledge a potential bias. I am a New Yorker, and proud to be one. It has been my home, where I have voted and paid taxes. Despite these ties, I have attempted to be objective and speak as a bank regulator who has spent virtually all his working life associated with financial markets.

From that vantage point, it seems that the most important question is a systemic one. In my judgment, we must address the impact of the city's failure on the capital markets of the nation and the world. Certainly, the securities of other municipalities and states would be questioned. And notwithstanding facts, confidence in some major financial institutions might also be questioned. This country is one of the centers of world capital markets, and New York City is its financial heart. As such, our handling of the city's financial problems will significantly influence all those who trade with or invest in our nation.

Certainly, a default by New York City would be poorly received in the international capital markets. This is not because they are awash with New York City paper. Rather, the impact would be attitudinal, engendering the belief that our strong and diversified nation is unable to come to grips with its own problems. Foreign capital would demand increasingly greater levels of protection as the price for entering segments of our economy. From the foreigner's point of view, that would be an apparently responsible course of action.

In short, it is my view that a New York City default or bankruptcy would result in an unfortunate loss of confidence in our system. Our economy and capital markets could ill afford that loss.

The problems of New York City are of concern to this Office and to me personally. Please be assured that we will continue to monitor closely the impacts of these problems, especially on our commercial banking system, and we stand ready to provide further analysis and assistance as necessary. I trust that this will prove useful to you and the Subcommittee, and remain

Very truly yours.

JOHN G. HEIMANN,
Comptroller of the Currency.

[1] Information concerning the asset size and location of national banks holding New York securities in excess of 50 percent of capital is presently being compiled. We will provide it to you within the next day or two under separate cover.

Holdings of New York obligations by the New York clearing house banks, Feb. 28, 1978

[Dollars in millions]

New York City clearing house banks:	
Gross capital (as of Dec. 31, 1977)[1]	$13,319
Total deposits[1]	112,601
New York City obligations	328
Municipal assistance corporation	1,662
New York State obligations	1,316
New York State agencies obligations	912
Total, New York obligations	4,218

Source of data: The data were obtained from a survey of all member banks located in New York State conducted as of December 31, 1977, by the Federal Reserve Bank of New York.

[1] Includes reserve for possible loan losses for member banks.

DISTRIBUTION BY STATE OF SIGNIFICANT HOLDINGS (PAR VALUE) BY COMMERCIAL DEPARTMENTS OF BANKS OF NEW YORK OBLIGATIONS, FEB. 28, 1978

[Dollar amounts in thousands]

State	Number of banks	Total deposits[1]	New York City obligations	New York State obligations	New York State agencies obligations	Municipal assistance corporation obligations	Total New York obligations	Total capital[1]	Number of banks with total New York obligations equal to— 20 to 50 percent of their capital	Number of banks with total New York obligations equal to— Over 50 percent of their capital
Alabama	10	$356,096	$4,425	$1,529	$3,925	$1,215	$11,094	$26,125	8	2
Arkansas	16	422,195	7,865	1,105	1,350	100	10,420	31,157	15	1
Florida	45	2,989,476	36,980	6,390	29,013	6,350	78,733	225,318	38	7
Illinois	15	667,153	8,419	1,989	3,725	0	14,133	54,427	14	1
Indiana	4	128,810	1,280	1,050	1,000	0	3,330	11,123	4	0
Louisiana	6	249,514	4,670	450	3,335	0	8,455	23,505	6	0
Massachusetts	5	413,409	6,060	150	5,610	200	12,020	27,276	4	1
Missouri	13	177,547	4,258	550	1,110	0	5,918	17,202	12	1
New Jersey	4	165,449	705	1,250	3,845	200	6,000	16,757	4	0
New York	98	218,351,864	443,172	1,880,481	1,191,019	1,695,305	5,209,977	14,642,939	51	47
North Dakota	5	62,370	1,335	445	145	0	1,925	6,301	3	2
Ohio	10	356,948	0	7,235	1,380	0	8,615	29,952	10	0
Pennsylvania	15	733,219	7,200	3,925	6,305	450	17,880	62,009	14	1
Tennessee	9	215,088	3,555	180	1,655	550	5,940	19,499	8	1
Texas	8	131,701	3,415	250	200	225	4,090	11,142	6	2
West Virginia	11	301,574	8,701	670	1,285	40	10,696	26,668	10	1
Wisconsin	5	315,753	1,815	3,500	270	0	5,585	19,912	5	0
All other[2]	27	1,830,741	10,145	10,780	21,270	2,675	44,870	135,709	24	3
Total	306	227,868,907	554,000	1,921,929	1,276,442	1,707,310	5,459,681	15,387,021	236	70

[1] As of Dec. 31, 1977.

[2] All other represents an aggregate of States with 3 or less banks with holdings in excess of 20 percent of their capital structure.

WASHINGTON, D.C., *February 22, 1978.*

Hon. JOHN G. HEIMANN,
Comptroller of the Currency,
Washington, D.C.

DEAR MR. HEIMANN: As you know, the Subcommittee on Economic Stabilization is currently contemplating further Federal assistance to New York City upon termination of the Seasonal Loan Financing Act on June 30. As a prelude to our legislative work, we have been examining this week the possibility of a New York City default or bankruptcy in the absence of extended Federal assistance, and the consequences of such a bankruptcy or default.

It will be of great value in our work if we can obtain from you an assessment of the consequences for the nation's banking system of a bankruptcy or default by New York City. We are aware that, unlike 1975, there are no longer any short-term City obligations outstanding. However, according to our information, there are outstanding $7.3 billion of City bonds of varying maturities (not including issues of the Municipal Assistance Corporation), and that some $4.6 billion of these bonds are held outside the City's own pension and sinking funds.

Sizable amounts of these outstanding bonds are no doubt held by banks, probably listed on their books at par value rather than market value. We would greatly appreciate a prompt summary report from you on the impact of a default or bankruptcy on bank holders of these bonds. We do not, of course, ask that any individual bank be identified, but we would appreciate some measure of the number of banks that you regulate, hopefully by asset size, whose holdings of New York obligations are of sufficient magnitude to be a cause of concern. A geographical breakdown would also be useful.

Although a City default or bankruptcy would not directly place in jeopardy the bonds issued by the Municipal Assistance

Corporation, their market value would very probably suffer and some cloud might be cast over them. Therefore, holdings of M.A.C. bonds should also be covered in your report, though under a separate classification.

Secretary Blumenthal will be testifying before the Subcommittee on March 2. If at all possible, we would like to receive at least a preliminary report from you before that date.

With best regards,

Sincerely,

WILLIAM S. MOORHEAD,
Chairman.●

FOREIGN AID REFORM

Mrs. HUMPHREY. Mr. President, I want to bring to the attention of my colleagues an editorial and article from the Des Moines Register on the reform of foreign aid. One of Hubert's last major initiatives was a bill to rethink and reorganize U.S. foreign assistance efforts. He felt that social and economic injustice—poverty, ignorance, and disease—present a growing threat to our security in an interdependent world. He cared deeply about these issues and spent the last few weeks of his life working on this bill.

Senator CLARK has been a strong supporter of the legislation. As the article points out, Senator CLARK "has made a name for himself in both foreign affairs and agricultural policy." The increasing importance of U.S. agricultural exports and the growing gap in food production in the developing countries emphasize the close links between foreign policy and agriculture. Iowa is fortunate to have a Senator whose expertise bridges these crucially important areas.

Senator CLARK and Hubert shared a common concern and dedication to improving the U.S. capacity to respond to the needs of people in the developing countries. They discussed this legislation and collaborated on its drafting prior to Hubert's death. I am pleased that Senator CLARK is working to enact Hubert's last challenge.

Mr. President, I submit these articles be printed in the RECORD.

[From the Des Moines Register, Mar. 11, 1978]

HUMPHREY'S LEGACY ON AID

The United States was one of the first and for a time the most generous of nations in giving help to the underdeveloped world, but in recent years the U.S. has slipped to one of the least generous of advanced nations. Scandalous, and a clear future danger to the country.

President Carter wants a 7.5 percent boost in funds for foreign aid in fiscal 1979, and continued boosts for five years. He's right.

Frequent tinkering with foreign aid by each new president and each new Congress left its administration in a mess. President Carter's administrator, John Gilligan, has been trying to hammer into shape the major foreign aid outfit, the Agency for International Development for nearly a year.

The Senate Foreign Relations Committee wants expansion of aid, but also a shakeup of the whole organization. A subcommittee long chaired by Senator Hubert Humphrey spent months working on the project, and a colleague from both houses and both parties introduced a bill embodying Humphrey's ideas on Jan. 25. An article elsewhere on this page describes the proposal. Senator Dick Clark (Dem., Ia.) is a supporter—and we hope he becomes a leader in the fight for the bill.

The administration should get behind the bill, and Congress should pass it—plus the increase in funds the president seeks.

[From the Des Moines Register, Mar. 11, 1978]

REFORM OF FOREIGN AID: WILL WE RISE TO HHH'S LAST CHALLENGE?

(By Lauren Soth)

Every once in a while during his long career in the U.S. Senate, Hubert Humphrey forced his fellow Americans to sit back from the daily grind, look beyond their immediate problems and think. He was provocative that way. It's hard work to think, and Hubert is still making us do it.

In his last few months, he was deeply concerned with America's future in a world he thought was entering an era of upheaval. He felt that conditions of social and economic injustice in the world—poverty, illiteracy, disease—were a growing threat to our security.

Demand for change, he said, taking an expression from Churchill, is like a gathering storm. He was talking, of course, about the demands of the poor countries in the United Nations and in other international forums for a "new international economic order."

Humphrey was working on legislation to reorganize the foreign aid agencies of the U.S. government almost up to the day he died. His bill, the International Development Cooperation Act of 1978, was introduced by Senators John Sparkman (Dem., Ala.) and Clifford P. Case (Rep., N.J.) of the Foreign Relations Committee, but always will be known as the Humphrey bill.

Americans have been so worried about energy, pollution of the environment, water, inflation, high food prices and low farm prices (at the same time!), unemployment and other domestic matters that they have ignored foreign aid.

The sad military experience in Vietnam, plus evidence that economic aid (including Food for Peace) was handled corruptly, soured many Americans on the whole idea of foreign programs.

Leave it to the Happy Warrior, Hubert Humphrey, to bring us out of our dream world and remind us about the real one.

"World hunger," he said in a statement accompanying his bill, "cannot be solved merely by American charity. It requires the application of technology . . . disease can be conquered or at least its ravages minimized. The modern world knows how to do this if we have the will and provide the means."

The Humphrey bill proposes to combine all the many economic-development and fund-transfer agencies of the U.S. government into one International Development Cooperation Administration. The bill makes clear that the purpose is to assist the poorest countries, to overcome the worst aspects of poverty. It would remove the various limiting clauses and restrictions that now hamper a full-scale effort to help the poor.

Such a reshuffling would meet fierce resistance in the bureaucracy, of course. There have been many reorganizations and renamings of foreign aid agencies in the last quarter century—but always the fragmentation persisted. The Departments of State, Treasury, Agriculture, the Peace Corps, etc., retained their own domains.

Humprey's bill would create an independent agency, reporting directly to the president. The administrator would be the single spokesman on foreign aid, other than the president.

The proposed legislation does not call for new or added spending. Humphrey and other senators sponsoring the bill believed efficiency could be so increased as to get a lot more mileage out of present aid.

Two-thirds of the Senate Foreign Relations Committee are sponsors. The new head of the Agency for International Development, John Gilligan, and Sam Brown, head of Peace Corps, favor the reform. The White House and the chief Cabinet officers have not committed themselves.

The Humphrey bill would carry on and enhance the 1973 reform in foreign aid. This "new direction" reform was essentially a reaction to the blending of economic aid and military aid in Vietnam and elsewhere. It set a new standard for bilateral assistance—"people's" programs instead of big capital projects, agricultural development in place of fancy hotels and airports.

Humphrey wanted to make foreign aid genuine development aid, not a Cold War tool, not a supplement to military grants and not just softheaded humanitarianism—but an essential investment in world political stability.

Who will carry the ball now that Humphrey is gone? Some politician of vision, guts and ability could make a name for himself as a statesman by conducting this reform measure through to enactment. The times call for a new move in world economic affairs comparable to the Marshall Plan after World War II.

Someone needs to jar President Carter on this. It is directly in line with his promises of government reorganization and efficiency. It is a "natural" component of his human rights theme in international relations.

To drift along with the old setup—with AID under the State Department dishing out grants, USDA handling food aid, Treasury dealing with world financial institutions—is not enough.

It is true that the United States lags far behind other rich countries in the amount of aid given in relation to capacity—we are 12th in a list of 17 industrialized countries in aid, giving only a quarter of 1 per cent of our gross national product. But Humphrey was right, I believe, in calling for reorganization and more efficiency in aiding development before asking for more money.

Iowa Senator Dick Clark, a member of the Agriculture Committee as well as the Foreign Relations Committee, is a strong backer of the Humphrey bill. As a first-term senator, he already has made a name for himself in both foreign affairs and agricultural policy. He has shown impressive leadership on policies toward Africa. In his statement supporting the Humphrey bill, he said: "The Humphrey bill provides the administrative framework for a global attack on poverty. Senator Humphrey knew that this could only be undertaken in concert with other nations. . . . [This] is almost impossible . . . where policymaking on international development is fragmented among a number of competing agencies."

Foreign aid does not stir much popular enthusiasm right now. Let us hope that the senators sponsoring this last Humphrey initiative can rise above current political tendencies.

The best instincts of the American people and their wisdom in looking to the future can be challenged by courageous statesmanship. Sometimes the people recognize this sooner than the politicians expect.●

THE FARM ECONOMY

● Mr. HAYAKAWA. Mr. President, we are all aware that thousands of our Nation's farmers have been in Washington for several weeks to ask our help in solving the terrible burden they are shouldering. Our national farm economy is in a recession which could bring many farmers to actual financial ruin and others to years of extremely low productivity.

I have been privileged to be a member of an ad hoc Senate Republican Agri-

culture Policy Subcommittee, headed by my distinguished colleague, Senator ROBERT DOLE of Kansas, which has drafted specific recommendations to resolve this crisis. In addition to Senator DOLE, ranking Republican on the Senate Committee on Agriculture, Nutrition, and Forestry, other members of the Subcommittee are Senator CARL CURTIS of Nebraska, chairman of the Senate Republican conference; Senate Republican leader HOWARD BAKER of Tennessee, and Senator JOHN TOWER of Texas, chairman of the Senate Republican Policy Committee, besides myself.

We have offered specific recommendations regarding flexible parity, more aggressive export programs, farm credits, meat imports, land diversion, and incentives for farmers to participate in grain storage. We would like to share our thoughts with all our colleagues, and I ask that the report of this ad hoc committee be printed in the RECORD.

The report follows:

COMMITTEE REPORT

INTRODUCTION

When a farmer goes to market to sell his crops, he asks, "How much will you give me?" But when that same farmer buys supplies for his farm and family, he must ask, "How much will it cost me?"

Every American should understand why discontented farmers have been demonstrating throughout our country. To put the matter factually and bluntly, the farm economy is in a recession. Farmers are caught in a vicious cost-price squeeze that means financial ruin for many of them and lean years of low expectations for even more.

In 1974, a one-pound loaf of white bread cost 33 cents and the farm value of the wheat in that loaf was 6.4 cents. In August 1977, the same loaf cost 35.6 cents, and the farm value in it was 2.4 cents. In those 3 years, the cost to the consumer went up about 8 percent, but the return to the farmer—without whom there would be no bread—went down more than 60 percent!

Hard times have hit the American farmer. The indifference and unresponsiveness of the Carter-Mondale Administration to his plight is likely to make hard times even harder in the future.

Bumber crops world-wide, resulting from favorable weather conditions, combined with the present administration's lack of aggressive export policies, have created a situation in which U.S. surpluses of such major crops as corn, wheat, soybeans, and cotton remain unsold. As a consequence, prices have plummeted to levels well below the farmer's cost of production. Corn and wheat are selling for only about half the price these crops demanded in 1973 and 1974.

In terms of current dollars, farm income has declined from $33 billion in 1973 to only about $20 billion in 1977—down 40 percent. No wonder farmers are angry. Adjusted for inflation, net income for farmers today is equal to farm earnings in 1940. But since the 1940's—even though there are 50 percent fewer persons farming in the United States today—the farm economy has taken on critical importance in the overall national and international economy. Thus, whatever affects our farmers will eventually affect each and every one of us.

Low prices and lowering farm incomes impact on more than the Nation's farmers. A shockwave effect is beginning to be felt throughout the economy. Farm equipment makers, fertilizer companies, and other retailers and service industries which directly supply the farmer and his family are beginning to feel the cost-price squeeze, too. For example, direct farm use of steel accounts for 40,000 jobs in the steel industry. Thus, when hard times hit U.S. farmers, steel workers also suffer. And so do we all. Consider these facts:

Production, processing, and distribution of food account for 20 percent of our gross national product.

Our Nation's 2.8 million farms provide 4.2 million jobs—more jobs, in fact, than the steel (780,000), auto (774,000), and aircraft (518,000) industries combined.

About one out of four jobs in the United States is farm related. In addition to the 4 million Americans directly involved in farm production, another 14 million are employed in agricultural support services and related manufacturing.

Farmers purchased $85 billion in industrial items, and paid nearly $10 billion in Federal, State, and local taxes in 1976.

Agricultural exports are the one consistently positive factor in the U.S. balance of payments.

Every $1 increase in exports generates another 90 cents of income rippling through the rest of the economy.

The American farmer is the most productive person in the world. Forty years ago, one farm worker produced enough food for himself and nine other people. Today, one farm worker produces enough for himself and fifty others. On some of our most efficient farms, one worker produces enough to feed 100 persons.

Because of its miraculous productive capacity, the U.S. in 1976 fed its own population for less than 17 percent of their take-home pay. That is a remarkable tribute to the energy and ingenuity of our farmers. Even after meeting our domestic needs, we exported 55 percent of our wheat, 30 percent of our rice, 45 percent of our soybeans, 32 percent of our grain sorghum, and 26 percent of our corn. In time of scarcity, the bounty of our rich soil and the know-how and hard work of our farmers are the best hope of a hungry world.

Republican Administrations built the most prosperous agricultural economy in 40 years:

Production and utilization reached an all-time high.

Farm prices reached 85 percent of parity in 1973—the highest and closest to 100 percent parity since World War II.

Farm exports tripled between 1972 and 1976.

Net farm income rose to the highest levels in history.

Per capita income in rural areas approached the income level of city dwellers.

The average farmer was dependent on the Federal Government for only 2 percent of his income.

During the 1976 presidential campaign, candidate Carter criticized Republican Administration farm policies and told farmers:

"We need a guarantee of a decent price for the farmer and a reasonable price for the consumer . . . If I'm elected you'll have our support (for) prices at least to equal production costs and you can depend on that, too . . . (F)or a determined farm family that's willing to work, I'm going to give you a chance to stay in business. Our new . . . farm policy will also help us develop a stable and healthy export market."

It was an empty promise, a promise broken by policy blunders and a pervasive misunderstanding of the role American agriculture plays in our national and international economy. During the first year of the Carter Administration:

U.S. farm prices sank to new lows, compared with retail price increases of 6.5 percent.

For the first time in four years, exports of wheat and flour fell below one billion bushels.

The U.S. share of world exports, which had been averaging 18 percent or more during the previous Republican Administration, declined.

The U.S. absorbed 66⅔ of a general decline in world trade in wheat and flour, while Canada, Australia, and Argentina, actually increased their exports of wheat. While much American grain sits in silos, 9 million tons of Canadian wheat has just been shipped to the People's Republic of China.

The misunderstanding of the vital importance of farm exports to the U.S. economy has been carried over to domestic policy decisions summarized in the phrase "The War on the West." These misguided and ill-conceived policies have sent tremors of fear for the future among ranchers and farmers in the western United States.

One of President Carter's first decisions after taking office was to discontinue funding of 19 major water projects, with no concern over the effects that this decision would have on the most arid regions of our country.

The Carter-Mondale Administration proposed draconian regulations to enforce a long-ignored and obsolete 1902 law limiting to 160 acres the amount of federally irrigated land which a farmer may own. Rather than propose remedial amendments to the law, or some other solution, the administration is now waffling on this crucial issue.

The Carter-Mondale Administration is designing a comprehensive Federal water resources policy which threatens to usurp traditional State control over water rights.

The Carter-Mondale Administration decided to increase grazing fees on public lands, adding another blow to the livestock industry.

Despite the farm recession, the Carter-Mondale Administration has recommended a reduction of $3.7 billion in the farm support function of the USDA budget.

The damage these decisions have wrought upon agriculture and upon the total economy of our western States is impossible to compute. In light of farm conditions all over America, the Carter-Mondale agriculture policies spell economic disaster for all 50 States and ultimately for our foreign allies and trading partners.

It is sobering to recall that the Great Depression of the 1930's was preceded by a deep farm depression in the 1920's which eventually engulfed the world.

RECOMMENDATIONS

Senate Republicans believe much can be done to turn things around for the American farmer. We offer these recommendations as a basis for a coherent agriculture policy which, if adopted, would raise farm income, create jobs, strengthen the economy, and bolster that part of America which works to feed and clothe us.

Sell America abroad: The need for exports

U.S. agriculture exports have increased for seven successive years, reaching $24 billion last year. In 1978, exports are expected to decline to about $21 billion.

To revise the momentum of food and fiber exports, we recommended:

Capitalizing on our advantages as the world's foremost producer by emphasizing to importing countries that we can guarantee them a dependable supply of farm commodities.

Aggressively developing foreign markets for U.S. farm commodities.

Building a policy framework for the pursuit of export markets in the developing world.

Expanding the Food for Peace Program (P.L. 480), thereby stimulating U.S. exports while helping meet the food requirements of developing nations. Current levels of Public Law 480's Title I programming are too low in view of both the need to stimulate exports and to help meet the food

requirements of developing nations. We believe that the Title I funding level of $800 million should be increased to at least $1 billion.

Restoring the Office of Food for Peace to its previous position of prominence. Only last year the Congress amended the law to place even greater emphasis on the use of food aid for promoting international development. The administration's recent reorganization of AID has undermined this congressional intent, buried the Food for Peace Program under bureaucratic layers and redtape, and delayed the shipment of vital exports to hungry countries overseas.

Providing short and intermediate term Government credit (through the Commodity Credit Corporation) to other countries for the purchase of U.S. farm products.

Directing the Secretary of Agriculture to establish an "intermediate CCC credit program" to take advantage of export market opportunities that demand credit for a term of five to ten years.

Directing the Secretary of Agriculture to establish a program for expanding exports of farm commodities by making available Commodity Credit Corporation financing to exporters who extend deferred payment terms to foreign buyers.

Expanding Export-Import Bank financing of loans for farm commodity exports commensurate with agricultures share of total U.S. exports.

Expressing the sense of the Congress that the Export-Import Bank not discriminate between the financing of agricultural and industrial exports. If this Sense of Congress Resolution does not produce this fair and equitable treatment for farmers by the administration, additional Republican legislation, which will mandate such treatment when the Export-Import Bank Act comes up for extension later in this session of Congress, will be introduced.

Taking advantage of the current multilateral trade negotiations in Geneva to gain concessions for U.S. farm exports and improved market access, especially to markets in Japan and Western Europe.

Adjusting our tariff policy to provide most-favored nation tariff status to certain countries in those instances in which it is necessary to protect the interests of American agriculture and to advance the commerce upon which our economy, especially our farm economy, depends.

Implementing existing legislation that permits foreign nations to purchase our grain and store it in the U.S. for subsequent export.

Recognizing that the most important human right is the right to food. The subordinations of foreign sales of grain to State Department notions of what constitutes benign social policies will destroy our humanitarian goal of eliminating hunger in the world. Farmers should not be made pawns of the Carter-Mondale Administration's inconsistent foreign policy.

Changing the Meat Import Act of 1964 to provide for "counter-cyclical" beef import quotas so that expanded imports will not occur when prices are low. Currently, imports increase as U.S. production increases, and imports reached record high levels last year. If this trend is not halted, many ranchers will have to cut back production or be driven out of business. The end result, therefore, would be higher meat prices for consumers. Imports of meat should be phased to U.S. production.

Requiring that all imported meat, poultry, and dairy products be subject to the same labeling and health and sanitation inspection standards as domestic farm products.

Pricing of farm products

The prices the farmer receives for what he sells have fallen more than seven percent below the levels of a year ago. Yet, the prices he pays for goods and services, wages, taxes, and interest all have risen four percent over those of a year ago. The latest parity ratio—the difference between the farmer's purchasing power today and what it was in 1910–1914—is about 65, the lowest point in 44 years. This means the American farmer is trapped in an economic crisis which has reduced his buying power to the rough equivalent of what it was for his parents during the Depression.

Not since World War II have parity levels been at 100 percent. The best that the farmers have been able to do since then was in 1973, when Republican agricultural policies brought prosperity to rural areas and parity peaked at around 85 percent. Increasing costs of production and market conditions have caused a steadily declining trend in parity levels. Year-end 1976 prices received as a percentage of parity were 68 percent for corn, 79 percent for cotton, and 90 percent for soybeans. After the Carter-Mondale Administration's first year in office, corn fell to 57 percent, cotton 58 percent, and soybeans 74 percent.

Further declines or even a continuation of these low parity levels will mean serious problems for the American farmer. Recent low commodity prices, such as wheat at 49 percent of parity, are not acceptable to the farmer caught in the cost-price squeeze. They should not be acceptable to the rest of us, either, if we are to maintain a viable farm industry in this country.

To halt the downward trend in farm income and to ease the financial burden of high costs and low return on invested dollars, we recommend that the Congress consider two legislative solutions:

Both of these legislative initiatives are basically an effort to bring farm production more in line with demand.

Land Diversion: Under the paid additional set-aside proposal, farmers who set-aside cropland in addition to that required under mandatory program would be paid for such adjustments. This bill provides for set-asides of 15 million acres of wheat, 10 million acres of feed grains, 3 million acres of soybeans and 3 million acres of cotton.

Flexibility Parity: New legislation resetting target prices to a more acceptable level through the flexible parity concept. This concept would permit farmers to achieve up to full parity target prices. S. 2481, a Republican initiative, allows wheat, feed grains and cotton farmers to set aside up to 50 percent of their planted acreage to these crops in return for a guarantee of parity prices through a combination of the market and deficiency payments. This bill provides for graduated choices for each step of set-aside or deficiency payment eligibility level. Such new legislation would not interfere with market forces, would not damage exports and would improve farm income without increasing costs to consumers as would be the case if crop loan rates were raised.

Aggressively pursuing exports of food and fiber products.

Increasing price supports for this year's crops where such action will not jeopardize exports.

Increasing payment to farmers for grain storage to incentive levels but not less than 25 cents per bushel per year; and lowering interest charges to farmers on commodity loans to not more than the cost of money to the Commodity Credit Corporation from the U.S. Treasury.

Expediting passage of an agricultural refinancing bill which would permit farmers and ranchers, who cannot obtain credit elsewhere, to consolidate their indebtedness under Farmers Home Administration financing. First payment of interest and principal under the program would be deferred according to the type of original indebtedness refinanced. For example, real estate loans would be deferred for five years, equipment loans for three years, and operating loans for two years.

We believe that farmers deserve a fair rate of return on their investment in the marketplace.

The farmer's soaring costs: The middleman's take

It now costs more to process, transport, and distribute food each year ($58 billion) than to produce food ($56 billion). Food processors, marketing firms, and distributors—the middlemen in the agribusiness world—receive a bigger share of the food dollar than the farmer. While the farmer loses money each year on his crops, profits earned by middlemen continue their upward trend.

It could be argued that the middleman takes too much of the consumer's food dollar. It is true that packagers, wholesalers, and retailers have pushed their prices steadily higher. Like the farmer, the middleman faces higher costs for labor, energy, materials, construction, and Government regulation. But unlike the farmer, the middleman is able to pass along his higher costs to the consumer.

The latest USDA statistics concerning food prices dramatically demonstrate that point. In 1977, the average family paid $41 more for its domestically produced food than it did in 1976. But $39 of that increase—almost all of it!—went to processors and other middlemen, not to the farmers.

The reasons for that disproportionate distribution of food costs can be found in our intricate and necessarily complicated system of getting food from the fields of America to millions of American homes. The more a commodity is changed, and the more it changes hands, from the time it leaves the farm until it reaches the consumer, the higher the costs of processing and the smaller the farmer's share of the take. For example, processing costs make up about one half of the retail price of catsup and canned tomatoes, but while food processors receive half of the proceeds, the farmer gets less than 14 percent. The price of cornflakes was 11.8 percent higher in October than a year earlier, although the price of corn had declined 10 percent over that period.

The real villain in the farm economy is inflation, aggravated by the excessive spending policies and programs of the Carter-Mondale Administration. Increases in the minimum wage, skyrocketing social security taxes, and proposed huge energy taxes will create even larger costs for farmers and middlemen alike. These, in turn, are reflected in the higher food prices that consumers must pay at the supermarket.

Soaring costs: The consumer's woe

And what of the consumer? Do our own expectations in the way of quality, packaging, and easy preparation of food add to the costs of those products served at the dinner table? Of course. The reason a penny's worth of beans from the farm costs fifty cents when they reach our table is that we like them cleaned, sorted, frozen, wrapped, encased in a plastic cooking pouch, sauced in butter and spices, perhaps graced with mushrooms or onions. All that takes a tremendous amount of labor, costly machinery, and time. But it appears to be what the public wants in terms of variety, convenience, and effort saved.

Soaring costs: Labor's contribution

Last year, for the first time ever, labor's take of the food dollar exceeded the farmer's portion. Out of every dollar spent by the American consumer on groceries in 1977, those who actually produce our food received only 33 cents, while the wages of those who handle food in the marketplace

consumed 34 cents—and even more than that, if the labor component of transportation is counted.

In terms of the food marketing dollar—what the consumer pays for food exclusive of the farmer's income—labor's share is substantially greater: a full 51 percent of all food costs.

In the supermarket, on the farm, and at every point in between, labor costs have pushed food prices upward, without any greater return to the farmer. Between 1965 and 1977, the number of workers employed on our farms declined from 5.8 million to 4.2 million, but labor costs in farming during that period rose more than 150 percent. This year, the wages of employees in processing, marketing, and distribution sectors of the farm industry are expected to rise by 7 to 8 percent. Higher minimum wages have made it costlier to produce crops, and the recently enacted increases in both the minimum wage and Social Security taxes will increase costs still further. When the consumers are hit with the resulting higher prices at the check-out counter, the farmer will surely be blamed.

But the farmer is the least to blame. Both he and the consumer are being victimized by the disproportionate power wielded by relatively small numbers of organized employees, who extract the largest (and growing) share of our food dollar. The starting hourly wage for a grocery clerk in Washington, D.C. is $5.62, with $8.43 for overtime. But when a farm family works from sunup to sundown, no one pays them overtime.

At numerous points in the food chain, self-serving labor rules and regulations jack up prices without returning an extra penny to the farmer or an extra benefit to the consumer. In many localities, union work rules prevent supermarkets from using meat cut up and boxed at its point of origin, even though that would result in a savings to the buyer. Instead, "swinging" meat—whole carcasses or sides—must be shipped long distances to be cut up at the point of supermarket sale, with consequent higher prices for the public.

Farm workers have to be ready to switch from one task to another, depending upon what needs to be done. But farther along the food chain, work rules frequently require an expensive specialization of labor, so that the person who drives a truck may not be permitted to unload it, while the person who cleans fish cannot clean up the produce section. On the farm, surplus labor and idle hands are an intolerable luxury. But when food is transported to market, work rules and Federal regulations sometimes impose idleness on men and machines. For instance, because of the Interstate Commerce Commission, huge trucks hauling food shipments must often make return trips empty, rather than taking on another load and thereby holding down expenses. Railroads too must charge higher rates for shipping food because of the persistent featherbedding that plagues the rail industry. Meanwhile, rain or shine, well organized truckers and railroad workers can count on the wages written into their union contracts. Not so for the farmer, whose products fill the trucks and box cars.

When teamsters strike, or stevedores, grocery clerks or butchers, food costs rise, but not farm profits. When a shipping strike ties up international commerce and American grain cannot reach foreign markets, the farmers pay the price for somebody else's labor dispute. It is no wonder some farmers have been threatening to shut down their operations. They are tired of being the fall-guys for other people's higher wages.

To help the farmer get his fair share of the food dollar, and to alleviate escalating labor costs in the agriculture industry, we urge:

Consumer militancy against the labor abuses which impose higher prices upon the public without improvement of goods or services.

The replacement of Federal officials who are cavalier about adding still more costs to the food budget of the American family, whether through additional regulation or through favoritism toward special interests.

Prompt implementation of the Taft-Hartley Act to prevent deliberate disruptions of food exports.

A program of public information by the Department of Labor to let consumers know how labor costs impact upon their grocery bills and how future labor contracts within the food industry will affect food prices.

And to relieve the farmer's economic plight arising from the shortage of agricultural labor, we recommend:

Reinstatement of a Government-supervised program of imported foreign labor, which will strengthen Federal efforts to control the influx of illegal aliens.

Revision of Federal labor laws which contribute substantially to the farmer's costs and impeded farm production.

Soaring costs: Overregulation

No one denies that there is a need in rural America, as in our towns and cities, for a cleaner, safer, and healthier environment. In fact, farmers and agriculturalists were the original conservationists, for they knew that if you take care of the land, it will take care of you. The problem today is that well-intentioned regulation has grown into a huge, tangled web of complicated, unnecessary, and costly rules and laws that strangle farmers in redtape and paperwork and threaten their basic rights as productive landowners.

GAO has estimated that the cost in tax money of Government regulation of the food industry is fast approaching $1 billion. No fewer than 75 Federal agencies have the power to control the lives of rural Americans. To take just one agency, if the Occupational Safety and Health Administration's rules and regulations were piled up in a single heap, they would reach 17 feet high!

We call for a comprehensive and thorough review and reform of such agencies as OSHA, the Environmental Protection Agency, and the Interstate Commerce Commission, with a view to rewriting or eliminating those Federal laws and regulations which hamper food production and create excessive farming costs.

Under the Carter-Mondale Administration, the Department of Interior is proposing to raise by 25 percent the grazing fees for livestock on public lands. There are currently 11 million head of cattle and sheep being grazed on 283 million acres in the public domain. Cattle prices are only now beginning to recover from devastating market conditions and the escalating costs of production. Higher fees for ranchers fail to take into account their inability to pay and would only hinder livestock prices and further fuel the fires of inflation in agriculture.

We oppose any increases in grazing fees on public lands at this time.

The Department of Interior, also by regulation, is withdrawing from multiple-use land management millions of acres of Federal lands. Given the fact that there are 760 million acres of federally owned lands in the West—about 45 percent of the land in California, 86 percent of Nevada, 66 percent of Utah, 65 percent of Idaho, 44 percent of Arizona, 34 percent of New Mexico, 48 percent of Wyoming, and 96 percent of Alaska—such action will have significant impact on operations and livestock production of western farmers and ranchers.

We urge a halt to excessive withdrawals of public lands from multiple-use land management. We must ensure that public lands are being managed properly for their forest and mineral wealth as well as for their recreational opportunities and scenic beauty.

Soaring costs: Unfair competition

Although the free market system in U.S. agriculture has worked well, it has become clearer in recent years, from a close examination of the market system, that the farmer's plight is also the consumer's plight—both can be victimized by the anti-competitive practices of others.

In order to strengthen competition in the market place and hold down costs to farmers of essential supplies, we urge the Carter-Mondale Administration to continue the policies of the previous Republican Administrations and vigorously enforce laws against unfair trade practices.

Energy and the farmer

Approximately half of the energy consumed in the food, fiber, and forestry system is petroleum based—primarily diesel and gasoline—and another 30 percent is natural gas. Because agriculture accounts for 22 percent of the Nation's energy use, that industry is highly dependent upon prompt and uninterrupted supplies of hydrocarbon energy resources.

In order to establish sound agricultural energy policies, we recommend:

Retaining high priority for agriculture's use of energy, and ensuring that the farm industry has adequate supplies of basic production needs.

Encouraging the domestic production of oil, gas, coal, and uranium through incentives and more favorable pricing and regulatory policies.

Relying to a greater extent upon coal and nuclear power and promoting coal gasification technologies.

Fostering alternative energy sources like solar, wind, and biomass.

Promoting gasohol. Determining the feasibility of using alcohol derived from agricultural products as a motor fuel extender and substitute by stepping up research and pilot plant operations.

Increasing research and extension services in energy conservation.

In addition, we oppose policies that would:

Lessen the efficiency of energy producers or endanger the supply of vitally needed energy sources to the agriculture industry by forcing divestiture of energy companies.

Discourage exploration for new natural gas supplies by regulating the price of intrastate gas.

Water: A weapon in the war against the West

In October of last year in Colorado, President Carter stated:

"But one thing that happens—and I have already noticed in the brief time I have been in the White House—is that when people see the threat of a future shortage, they tend to increase their wastefulness to be sure they get their share of water that might be even scarcer in the future that's not scarce today. And I know that this is the case not only in water but in many other areas."

We do not agree with the President. Farmers do not waste water.

The Administration's water policies are clearly out of touch with the needs of our western states. We do not believe the Administration is proceeding properly in its proposals for establishing a national water policy or in its policies regarding Federal reclamation projects and lands. After direct human consumption, the priority for water use should go to agricultural production for food.

In order to restore common sense and credibility to western water policies, we support:

Senate Resolution 284 adopted unanimously on October 5, 1977. That resolution states that there will be a moratorium of six months during which Congress is in session on implementation of any new national water resources policy by the Administration. This

time period will allow more adequate review by the States and Congress.

A careful, systematic approach to reorganizing the natural resources and environmental functions of the executive branch. Additional time should be given Members of Congress and affected State bodies for critical review of the reorganization propoals of the Administration.

Amending the 1902 Federal Reclamation Act to meet today's needs. This law currently restricts ownership of federally irrigated lands to 160 acres. That limit is unrealistic because of technological advances and economies of scale in farming and the larger acreages required to support full agricultural production.

A close look at all water projects cancelled or proposed for cancellation. Such projects must be viewed from more than the narrow budgetary viewpoint which the Administration has taken. The President's cranky negativism toward the Army Corps of Engineers is deplorable. In evaluating proposed water projects, consideration must be given to: the availability of water for domestic and industrial purposes, the cleanliness of hydroelectric power, the advantages of flood control, and the bonus of recreational opportunities. The value of water supplies for all of these purposes in the future should not be subject to arbitrary cost-benefit analyses. Human needs for survival should be paramount—without regard to economic justifications arrived at today which have little or no relationship to future requirements.

The administration's anti-agribusiness bias

During the Republican Administrations, the Department of Agriculture was indeed the department of farming. Under the Carter-Mondale Administration, it has become an insensitive bureaucracy isolated from, and often opposed to, the concerns and the needs of the farmer. Staffed with militant consumerists and eco-centric lobbyists, the department is now concerned more with controlling farm production than with marketing farm products; more with the divestiture of large, efficient companies than with their valuable contributions to agriculture; and more with the heartthrob of environmental preservation than with sound land management policies.

In order to restore credibility to the USDA and the farmer's faith in Federal farm programs, we recommend:

Restoring the Department of Agriculture to its traditional and vital role as the advocate of farmers. Any reorganization of the Department must have as its primary goals enhancing the farm economy and protecting the interests of American agriculture.

Avoiding the current Administration's obsession with the philosophy of "big is bad" in the agricultural industry. Firms of all sizes are required in the farm economy.

Implementation of the farm bill—Let's move it!

Although the Agriculture Act of 1977 was passed in July of last year, the Carter-Mondale Administration has been dragging its feet in implementing some provisions of the new law, which was designed to help farmers during their current crisis.

Specifically, the Administration has yet to issue regulations pursuant to the act which would enable foreign nations to purchase U.S. grain and to store it in this country for subsequent export. In addition, although the Administration has undertaken the set-aside program mandated by Congress, no payments have been made to farmers who participate in the program. Payments could be made for acreage diversion under existing authority. The Emergency Agricultural Act of 1978, or paid additional set-aside bill, which was reported out of the Senate Agriculture Committee on March 13, mandates payments for acreage set-asides.

The Flexible Parity Act of 1978, which was reported out of the Senate Agriculture Committee March 15, mandates higher target prices as the individual farmer participant elects to set-aside additional acres. This bill approaches the set-aside or acreage diversion matter with higher target prices as the incentive while the other acreage diversion measure would accomplish its objective through direct payments to participating farmers.

The Administration was extremely slow in implementing the de la Garza provision for sugar. It was only after considerable Congressional pressure that a tariff and duty adjustment was proclaimed by the Carter Administration. During this period of "foot dragging" foreign sugar was dumped into our markets at the detriment of U.S. producers. The Administration still does not have a national sweetener policy. We recommend an extension of the de la Garza provision with appropriate adjustment in the support levels.

The Administration is not aggressively seeking outlets for the ever-increasing stocks of milk (650 million pounds) that the Commodity Credit Corporation is acquiring. These nonfat dry milk stocks could be used as a part of a national policy to feed the hungry and malnourished people in developed countries as was done during the previous Administration through the World Food Program, P.L. 480 and sales programs to foreign governments.

We recommend that the Administration use existing authorities in these important areas.

CONCLUSION

These recommendations, supported by the Senate Republican Policy Committee, are designed to assist the Nation's farmers and, thus, the entire American economy.

If our farm economy continues to decline, it could lead to another depression worldwide.

Senate Republicans believe that our farmers can no longer be treated as economic second-class citizens.

We urgently call upon the Administration and the Democratic-controlled Congress to join our efforts to revive the farm economy by taking the actions we have recommended regarding:

(1) Flexible Parity.
(2) More aggressive export programs, including increased use of export credits and P.L. 480.
(3) Farm Credits.
(4) Meat Imports.
(5) Land Diversion.
(6) Incentives for farmers to participate in grain storage.●

WATERWAY USER CHARGES: THE VIEW OF THE ARIZONA REPUBLIC

● Mr. DOMENICI. Mr. President, many leading newspapers across the Nation have recently published editorials favoring my proposal to phase in a reasonable system of waterway user charges, linked to waterway costs.

The Arizona Republic has now added its voice to that growing list of papers which recognize the need for transportation equity and waterway user charges.

Mr. President, I ask that this editorial be printed in the RECORD.

The editorial follows:

TO END A SUBSIDY

If there is any reason why the federal government should spend about $400 million a year to give the barge companies a free ride on the nation's 15,000 miles of inland waterways, we have yet to hear it.

The $400 million is what it costs the government merely to maintain the waterways. Over the years, the government also has spent billions to make them navigable, and the companies haven't been made to put up a penny of that, either.

The whole thing has made no sense to every president since Franklin D. Roosevelt, but every time someone introduces a bill to end the free ride, congressmen, whose constituents profit from the low barge rates the subsidies make possible, manage to kill it.

President Carter may now have figured out a way to force Congress to act. The President is backing a bill, introduced by Sen. Pete Domenici, D-N.M., that would require the barge companies to pay 100 percent of the operating costs and 50 percent of the cost of construction of the segments of the inland waterway system they use.

He says that, if Congress fails to pass the bill, he will veto any new waterway construction.

There are two construction projects the barge companies have been pressing for. One is the $1.6-billion Tenn-Tom waterway linking the Tennessee River and Mobile, Ala. The other is a $432 million reconstruction of the locks and dams on the Mississippi near Alton, Ill.

The first the barge companies can do without. The second, they desperately need. Barges loaded with grain sometimes have to wait three or four days to use the Alton locks because they are so inadequate.

Faced with Carter's threat of a veto of the Alton project, it's possible that Congress will approve the Domenici bill.

Not only would the Treasury profit from this, so would the railroads, which cannot now match the subsidized barge rates.

And, faced with the necessity of paying for them, the barge companies might stop pressing for such uneconomic projects as Tenn-Tom.●

TUITION TAX CREDITS VERSUS GRANTS AND LOANS: AN UNNECESSARY CHOICE

● Mr. GRIFFIN. Mr. President, earlier I spoke on the Senate floor to commend our colleagues on the Finance Committee for their approval of a tuition tax credit bill (S. 3946)—despite the rigid, formidable opposition of the Carter administration.

As a longstanding supporter of tuition tax credits—and as a cosponsor of the two major tuition tax credit bills introduced this session—I know that the Finance Committee's favorable report is good news for many Americans who are struggling desperately to find a way to meet the increasingly heavy burden of financing educational expenses.

For example, the Finance Committee's bill, in the first year of its enactment, would allow a tax credit of 50 percent of tuition costs up to $250—per student—for full-time vocational and college undergraduate tuition payments.

Unfortunately, the Carter administration—following closely on the heels of the Finance Committee's action—is now redoubling its efforts to scuttle this sorely needed measure of tax relief from the skyrocketing costs of education.

As an alternative to the tuition tax credit bill, the administration is now pressing for its own legislation which would expand existing college grant and loan programs. Indeed, such an administration bill has been hurriedly reported

out of the Committee on Human Resources after only 2 weeks of consideration.

As one of the original architects of a major college student program—the national defense student loan program (NDSL)—I would be the last person to quarrel with the need to make student loans available to more people. But I find it rather curious that President Carter is now—suddenly—pushing grants and loans, to the exclusion of tuition tax credits, as the one and only panacea to alleviate the college financing burden.

President Carter's new-found enthusiasm for student grants and loans is particularly puzzling when we recall that, only a year ago, the administration proposed to eliminate the direct student loan program altogether. Some of us, in fact, had to fight very hard to have funds for direct student loans reinstated in the budget. Now, the administration seeks to have us believe that student grants and loans are the only way to go. The strong impression is left that President Carter would veto the tuition tax credit bill.

It is interesting to note that, in a private memorandum dated February 8, HEW Secretary Joseph Califano advised the President that in order to "counter congressional proposals for tuition tax credits," the administration "must move quickly * * * to seize the initiative on this very hot issue."

In my judgment, however, the issue in this debate is not whether either grants and loans or tuition tax credits are the one-and-only best solution for helping families provide quality education for their children.

The issue in this debate is simply this: Under existing programs, if you are poor, you can qualify for grants and loans and get help with education costs; and, if you are rich, your kids can have a quality education if they want it, because you can afford it. But, if you are part of the vast middle class—particularly if you have several children—you are stuck between a rock and a hard place. You are left entirely to your own resources—and your own resources in all likelihood will not be enough.

It may well be that Congress should consider expanding current grant and loan programs. But this should not preclude Congress from also moving now to provide relief for middle income Americans through tuition tax credits. Both approaches have their place, and both are needed.

The tuition tax credit legislation now pending before the Senate has much to commend it:

The bill is designed to provide tuition tax credit relief from education costs at all levels. If we are going to ease the financial crunch for the middle class, the education options ought not be limited to undergraduate college studies.

Tuition tax credits are the most simple, efficient and direct means of providing prompt relief. Eligibility can be declared on one or two lines of the income tax form. Students and parents would not have to fill out reams of HEW applications.

Tuition tax credits would not create collection and default problems. As recent reports indicate, default rates under the student loan programs have risen alarmingly in the past decade, and Government collection procedures to date have proven to be both ineffective and expensive.

Finally—and perhaps most praiseworthy of all—tuition tax credits offer ease of administration without expanding an already swollen and intrusive bureaucracy.

Tuition tax credits is an idea that has a tremendous amount of popular support. People representing groups from all parts of the country came to Washington to testify in support of tuition tax credits when the Finance Committee held hearings in January. But, perhaps the one group to whom this legislation is most vital is the students themselves. Enactment of this legislation would open the door of opportunity for many who otherwise find it closed.

To illustrate student support for the tuition tax credit concept, I ask that testimony before the Finance Committee by Kent L. Barry, president of the Associated Students of Michigan State University—one of the largest student government organizations in the country—be printed in the RECORD at the conclusion of my remarks.

I strongly support—and will vote for—the tuition tax credit bill. I believe the President's loan and grant program should be examined independently and on its own merits. But it should not stand in the way of the tuition tax credit bill.

The testimony follows:

STATEMENT OF MR. KENT L. BARRY

Mr. Chairman, honorable committee members, I am pleased to appear before you this morning in support of the Tuition Tax Credit Bill. Accompanying me today are Mr. Corey Binger and Mr. Michael McCandless; both members of my staff. Our testimony is representative of the major universities and colleges (public and private) in the state of Michigan, comprising a student population of over 350,000.

As President of the student body, at Michigan State University, I am well aware of the problems in attaining a place in the world of higher education. This awareness has been manifest throughout our student community and, as a result, has prompted the formation of a fact-finding task force whose job it has been to prepare a detailed analysis of the problems as we see them.

The value of our testimony, however, does not lie in the statistical and graphic analyses that our research has led us through; but rather, in the expression of the effects felt by the "average" Michigan college student in his or her attempts to deal with rising tuition costs.

The cost of tuition at Michigan State University, recently cited as one of the ten most expensive public institutions of higher learning, has risen by some 28 percent in the last two years.

Even with our own limited knowledge of the variegated factors which make up the entire economic picture, it is readily apparent that the increases are not in line with the growth of the economy as a whole; and this trend is certainly not unique to Michigan State University. We believe a tuition tax credit would provide a reasonable financial assistance to those families and/or individuals who would not otherwise be eligible for grants or scholarships. We have determined, through our research, that institutions throughout the country are suffering from a characteristically similar fate; to wit, they have seen a reduction in the numbers of students enrolled from economic backgrounds traditionally regarded as the middle class.

We strongly support financial assistance programs for lower income families, and we do not regard the support of Congress for a tuition tax credit as being in any way indicative of a diminution of support for the needy. Rather, we feel that such legislation will serve to guarantee that no person be denied a college education on economic grounds alone. This is a crucial point, and one which we cannot stress too strongly. There have been some who would urge that we turn our efforts in the direction of direct aid from the federal government for students in financial need. We believe that the tax credit for tuition would more properly address the problem by allowing taxpayers to keep more of their earnings, instead of waiting in line for federal "aid".

Enrollments are down at most of the colleges and universities in the state of Michigan and this is indicative of a national phenomenon. Part of this problem can be attributed directly to the fact that the "baby boom" years have reached their zenith. Another part of the problem can be traced directly to the rising costs of obtaining a college education. We believe that this second factor is one which should concern all Americans.

A tax credit for tuition would certainly go a long way toward giving further incentives for individuals to pursue their educational aspirations, without undue regard for the limitations imposed by economic barriers. Such incentives are especially significant in instances where an individual would be unable to attend college without the credit. Typically, these persons are to be found in the middle class, where they are regarded as too affluent for federal or state scholarship aid.

One of the most far-reaching and significant aspects of the proposed legislation is that this policy would encourage a freedom of choice. Senator Moynihan has correctly reminded us that "as the 'tuition gap' between public and private colleges has widened, the proportion of college students choosing private compuses has shrunk: from 50 percent in the 1950's to less than 25 percent today." The ever-expanding space between the cost of a private college and a school subsidized by the government, has meant that the freedom of choice and opportunity has been denied to many persons as to where they will pursue their educational ambitions.

As rising costs and decreasing enrollments force more and more private institutions to close their doors, the diversity of choice, and indeed freedom of choice is similarly reduced. Again, I would agree with Senator Moynihan's assessment that "diversity and pluralism are values too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their beliefs and attitudes are formed, their minds awakened and their friendships formed . . . I do not believe it excessive to ask that they be embodied in our national policies for the betterment of American education." A society that wishes to remain forever free must concern itself with the proper development of its succeeding generation and allow them their own freedom of choice and will for the determination of their own future.

We believe that the tuition tax credit will help promote the kind of diversity and pluralism which have marked the United States for greatness. We sincerely think that it is essential for the individual to have such choices available in decisions of educational pursuits so that he is not relegated, by economic necessity to one alternative.

Mr. Chairman and honorable members of this committee we are convinced that a situ-

ation approaches rapidly where only the very affluent and the very poor will be able to attend college, and we are convinced that action must be taken to ease the financial plight of the middle-income families.

In the words of the late distinguished Senator Humphrey, "a college education has become almost a necessity for children to have opportunities." As a representative of the student community in the state of Michigan, I see the tuition tax credit as an outstanding example of progressive legislation aimed at attaining a high level of excellence in education for many who would not otherwise be participants. The opportunities spoken of by Senator Humphrey can, in fact be realized; but not without your help. I respectfully urge your support for the Tuition Tax Credit Act.

Thank you for your time and patience.●

COMMEMORATING THE 60TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE

● Mr. STONE. Mr. President, on March 25, 1918, the people of Byelorussia proclaimed the founding of the Byelorussian Democratic Republic. Today, 60 years later, despite the short lifespan of the republic, this day is celebrated as Independence Day by the Byelorussian-Americans. They are to be congratulated for their continuing belief in that democratic ideal and supported in their struggle to regain the loss of human rights suffered by the Byelorussian people. As a member of the CSCE, I commend them for their efforts and associate myself with their goals.●

COMMUNITY SCHOOLS AND COMPREHENSIVE COMMUNITY EDUCATION ACT OF 1978

● Mr. WILLIAMS. Mr. President, I have requested that my distinguished colleague, Senator FRANK CHURCH, be added as a cosponsor to S. 2711, the Community Schools and Comprehensive Community Education Act of 1978.

Senator CHURCH was the first cosponsor of the Community Schools Act of 1974. He has been a devoted supporter of the use of schools for multiple community purposes. His own home State, the great State of Idaho, has been a leader in making its schools accepted leaders in the delivery of community services.

Senator CHURCH's support of this bill is testimony as well to the strong bridge capable of being built between schools and services to our older Americans. As the dedicated chairman of the Senate's Select Committee on Aging, Senator CHURCH has improved the quality of life for all our older citizens. In linking programs for older Americans through the schools, we can look forward to even greater satisfactions for the elderly as well as productivity spanning the generations for our educational agencies.●

F. NORDY HOFFMANN INDUCTED INTO COLLEGE FOOTBALL HALL OF FAME

Mr. HOLLINGS. Mr. President, I should call to the attention of the Senate today the fact that one of its most important employees has recently been notified of a most distinguished honor.

I speak, of course, of Mr. Nordy Hoffmann, our Sergeant at Arms, and the fact that he was informed earlier this month of his impending induction into the National Football Foundation's College Football Hall of Fame. Every Member of the Senate takes great personal pride in Nordy's recognition, I am sure, because every Member of this body wrote letters in Nordy's behalf several weeks ago when the selection committee was considering its nominations. We were joned by President Carter, Vice President MONDALE and former President Gerald Ford.

On December 5, 1978, at the Waldorf-Astoria Hotel in New York, Nordy will join Bobby Davis of Georgia Tech, Dr. Daniel Fortmann of Colgate, Gen. Jabo Jablonski of West Point, Ron Kramer of Michigan, Buster Ramsey of William and Mary, Frank Sundstrom of Cornell, and Bill Wallace of Rice as the newest inductees into the hall of fame.

That is certainly the cream of the college football crop, and each of the inductees represents a remarkable story, but in many ways Nordy represents the most remarkable story of all.

The story is told that shortly after entering the University of Notre Dame in 1927, Nordy was walking across the campus one day with his roommate, Tom Yarr, who was a football player. They encountered the legendary Knute Rockne, the Notre Dame football coach, who took one look at the 6-foot-2, 230-pound Hoffmann and inquired why he was not out for freshman football.

Nordy had gone to prep school in Seattle, a school which did not have a football team. He had never played organized football, and so he told Rockne this. Rockne told Nordy to report to the practice field at 2 o'clock that day and they would teach him the game. Nordy, probably not unmindful of who he was dealing with, reported as ordered.

It is remarkable in itself that Nordy learned football well enough to play guard on Rockne's great championship teams of 1930 and 1931. But it is astonishing that he learned the game well enough to be an All-American in the process.

This is akin, for the tennis players in our midst, to Jimmy Conners picking up a tennis racket at the age of 18 and winning Wimbledon at the age of 20. And for the golfers, if you will, it is like Jack Nicklaus getting his first set of clubs one year and winning the Masters the next.

Nordy went on to a distinguished academic record as well, finishing Notre Dame Law School in 1933, and went on to coach at his alma mater after graduation.

I do not know to what extent Nordy's coaching or his example as a player has influenced the "Fighting Irish" on the football player in more recent years, but I can attest to the fact that Notre Dame has come to my home State on two occasions to play football—once against the University of South Carolina, once against Clemson. Both times, my teams were on the verge of winning when an Irish player pulled off a spectacular play to snatch victory from defeat. I am sure several of my colleagues can commiserate.

In any event, I am extremely happy for Nordy Hoffmann today. He has been a good friend, a valuable ally, an outstanding and tireless worker for the U.S. Senate. He is deserving of this high honor, and I know the Members of this body join with me in congratulating him for his spendid accomplishments both on the football field and in a very noteworthy career in the service of his country.

Mr. President, I also ask unanimous consent that the letter confirming Nordy's induction into the Hall of Fame, which he received only today, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL FOOTBALL FOUNDATION AND HALL OF FAME, INC.,
New York, N.Y., March 13, 1978.

Mr. FRANK HOFFMANN,
Sergeant-at-Arms,
U.S. Senate, Washington, D.C.

DEAR NORDY: As Chairman of the Honors Court of the National Football Foundation, I have the honor of notifying you that you have been elected to the National Football Foundation's Hall of Fame.

This is the greatest honor that can come to a former player or cocah. The story will be released to the newspapers in a short time, and I ask that you withhold the information until it is released later this month.

The 21st annual dinner will be held on December 5, 1978 in New York at the Waldorf-Astoria. The Foundation's Executive Director, Jimmie McDowell, will contact you soon regarding the program.

Traditionally, the Hall of Fame electees arrive in New York on Sunday afternoon and depart on Wednesday morning.

Sincerely,

FRED RUSSELL,
Chairman, Honors Court.

BAYH SALUTES NORDY HOFFMAN UPON HIS SELECTION TO COLLEGE FOOTBALL HALL OF FAME

Mr. BAYH. Mr. President, I was pleased to note that Mr. Francis Nordhoff Hoffman, the Senate's respected and efficient Sergeant at Arms, was elected to the National Football Foundation's College Football Hall of Fame. Those of us who serve in the Senate and work with Nordy have long recognized his capabilities in fulfilling his duties here and are heartened that the Football Foundation has seen fit to bestow on him this honor which recognizes his distinguished football career.

Nordy's membership in the Hall of Fame is particularly pleasing to me because he played his college football at Notre Dame, one of my State's great institutions of higher learning. Not only did he play football at Notre Dame, but he also has the distinction of having been an All American guard on Knute Rockne's 1930–31 championship team. As anyone who has spent some time at Notre Dame would know, such credentials cannot be improved upon.

Mr. President, Nordy's illustrious college football career marked the beginning of an active and successful life. He was a leader in the United Steelworkers Union, a Navy lieutenant in World War II and a Sergeant at Arms at both the 1960 and 1964 Democratic National Conventions. He also served as director of the Senate Democratic Campaign Committee, and today of course he fulfills the demanding duties of the Senate Sergeant at Arms with a staff of well over a thousand people. As we all know one of Nordy's duties is to arrest absentee Senators if we find it necessary to raise a quorum. At 6 feet 2 inches and 280 pounds it is not surprising that our ex Notre Dame guard has not had to resort to such extremes during his term of office.

Mr. President, I ask that the Senate join in congratulating Nordy Hoffmann on his most recent honor. It is fitting indeed that it comes at a time when Notre Dame has again captured the national football championship. I am sure that his old coach would be proud of Nordy and of this year's team, as we all are.

Mr. GRIFFIN. Mr. President, I wish to join in the words of the distinguished Senator from Indiana. I want to say that the fame of Nordy Hoffmann is bipartisan. He was not only an outstanding football player but he has demonstrated to the Senate, as one of its principal officers, that he is able and fair, that he is a very competent Sergeant at Arms. I think this is a fine tribute that he is being recognized. It brings honor and glory not only to the University of Notre Dame and the State of Indiana but to the U.S. Senate.

INFLATION AND G. WILLIAM MILLER

Mr. HARRY F. BYRD, JR. Mr. President, I rise to commend the new Chairman of the Federal Reserve Board.

In an interview with a small group of reporters, the Chairman of the Federal Reserve Board, G. William Miller, has issued a timely warning about the dangers of inflation.

The interview was reported in a story by Richard J. Levine published in today's edition of the Wall Street Journal.

Mr. Miller warned that a continuation of high inflation would be most dangerous for the economy and stated that "tighter monetary restraints" will be needed if the inflation rate does not moderate.

The Fed Chairman also said that "Inflation in my view does result in higher interest rates."

He added that the President has under consideration a series of anti-inflation steps.

Among possible remedies, Mr. Miller specifically ruled out wage and price controls but specifically included cutting Federal spending.

All of this is most welcome.

Chairman Miller's perception of the need to combat inflation, as I see it, is right on target.

I especially commend Mr. Miller for the incusion of a reduction of Federal spending as a step against inflation. In my opinion, there will be no progress against inflation unless and until the Federal Government reduces its spending.

It is useless for the Government to expect discipline in pricing and restraint in wage demands in the private sector so long as the Government itself is spending as though there were no tomorrow.

And that is what the Government is doing.

According to the administration's latest figures, the Government will spend $454 billion this fiscal year and $500 billion in fiscal 1979. Thus Federal spending will go up by 10 percent from this year to next.

The deficit for the current year is estimated at $53 billion, and this figure will go up to $60 billion next year.

Unless this kind of deficit spending is brought under control, there will be no real progress in the fight against inflation.

I commend Chairman Miller for his forthright statement, and I urge that the President and the Congress start now to curb spending and thereby combat inflation.

The fact is that we will not get the cost of living under control until we get the cost of Government under control.

I ask unanimous consent that the text of Mr. Levine's article in the Wall Street Journal, together with a table I have prepared showing unified budget receipts, outlays and deficits from 1958 through 1959, be printed at this point in the RECORD.

There being no objection, the article and table were ordered to be printed in the RECORD, as follows:

MILLER WARNS CONTINUING HIGH INFLATION WILL MAKE FED TIGHTEN MONETARY POLICY

(By Richard J. Levine)

WASHINGTON.—Chairman William Miller of the Federal Reserve Board warned that a continuation of high inflation will force the central bank to tighten monetary policy.

In an interview with a small group of reporters, the new Fed boss said that "if inflation moves ahead," there will be pressures on the Fed "that will result in tighter monetary restraints."

He added that "failing to take restraint will make the problem worse" and the nation would then be headed "for a serious recession."

"Inflation in my view does result in higher interest rates," Mr. Miller said, adding that long-term interest rates "are likely to drift upward" this year.

Although he stressed once again his deep concern about the recent acceleration in inflation, Mr. Miller said he has been relieved to find within the top reaches of the Carter administration "rather uniform awareness of this danger of inflation and a willingness to give it a higher priority."

CARTER CONSIDERS POSSIBILITIES

President Carter, the Fed chairman said, "is considering a whole series of possibilities" to bolster his anti-inflation program, announced in January.

In the absence of widespread cooperation from the private sector to curb inflation, Mr. Miller said, "some harsher things" might be required. But the chairman said, "I think the private sector will cooperate" with the President's program.

Under questioning, Mr. Miller nevertheless listed some possible "harsher" measures. After ruling out wage-price controls, which both he and President Carter repeatedly have said they oppose, the Fed chairman noted that the government could move to cut federal spending sharply in areas that might prove unpopular and that it could lift or ease import restrictions that currently protect U.S. industry. "If industries won't cooperate, maybe we have to give them some competition," he said without elaboration.

In discussing monetary policy, Mr. Miller noted that the Fed has slowed the money-supply growth in recent months. "I hope it won't be necessary to go much further," he said, because additional tightening could limit the availability of money for home mortgages and for business capital investment. His "preference," he stressed, is to fight inflation with tools other than monetary policy.

Mr. Miller, who replaced Arthur Burns as Federal Reserve Board chairman on March 8, said that his "communication links so far" with the Carter administration "have been very good ones." Administration officials say that he and Treasury Secretary Michael Blumenthal have developed a close relationship and see each other frequently.

PROGRESS ON EMPLOYMENT SEEN

Asked whether he has changed his focus from fighting unemployment to fighting inflation since being selected last December, Mr. Miller responded by saying: "We're making excellent progress on the employment front. . . . Inflation, however, is off-plan. So I've been saying let's give priority to the one off-plan." That, he said, was simply good management.

During the hour-long interview yesterday afternoon, Mr. Miller placed heavy emphasis on the need to establish an energy policy—by legislation, presidential action or a combination of both. As he did last week in testimony before the Senate Budget Committee, Mr. Miller said an energy program was required to halt the decline in the value of the dollar, which is itself adding to domestic inflation.

Whatever energy measures emerge, Mr. Miller said, they should be viewed as "a step on a long journey to a whole new energy system in the U.S., which will take a decade" to put in place.

Unified budget receipts, outlays and surplus or deficit for fiscal years 1958–79, inclusive

[Billions of dollars]

	Receipts	Outlays	(1)
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+0.3
1961	94.4	97.8	−3.4
1962	99.7	106.8	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−25.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
1975	281.0	326.1	−45.1
1976	299.2	365.6	−66.4
Trans. qtr.	81.8	94.8	−13.0
1977	356.9	401.9	−45.0
1978 [2]	400.5	453.5	−53.0
1979 [2]	439.8	499.5	−59.6

[1] Surplus (+) or deficit (−).

[2] Estimated figures March 1978.

Source: Office of Management and Budget.

(Prepared by Senator HARRY F. BYRD, JR., of Virginia.)

EMERGENCY AGRICULTURAL ACT OF 1978

Mr. PERCY. Mr. President, on Tuesday of this week the Senate passed the Emergency Agricultural Act of 1978 to help farmers through the financial squeeze they are presently facing. The day after the Senate passed this farm bill, I met with leading members of the Land of Lincoln Soybean Growers Association of which I, too, am a member. They simply cannot understand the rationale for including a set-aside program for soybeans in the bill when neither they nor the American Soybean Association want such a program.

As a U.S. Senator from Illinois, the Nation's leading soybean producing State, and owning with Ms. Percy several bean and corn farms in Illinois and Iowa, I also must question the rationale for including a soybean set-aside program in the bill.

Soybean producers are concerned that if we set aside soybean acreage next year we might not produce enough soybeans to meet the increasing world demand. Furthermore, in the last few weeks soybeans have jumped from $5.50 per bushel to almost $7 per bushel. I think the Secretary of Agriculture will agree that with a $7 market price for soybeans, coupled with the prospect of increased exports due to the poor soybean crop in Brazil, we do not need a soybean acreage set-aside program this year.

The American soybean farmer is a competitive, efficient producer. He has achieved this enviable position through competing fairly in the free market system and with a minimal amount of Government assistance. Why should we interfere with the success of the soybean producer by forcing him to set aside soybean acreage? We would only be punishing the producer who has demonstrated to us that he can survive under the worst possible conditions.

Mr. President, I strongly urge the Senate and House conferees to strike the soybean set-aside provisions from the emergency farm bill when it comes before the conference committee.

I would like to express to my colleagues in the Senate another issue that has deeply concerned me recently—increased Government intervention in farm programs.

Farm legislation in the 1960's was designed to inhibit surplus production and provide price support for specific commodities through Government regulation. Fortunately, in the 1970's, agricultural policy turned to expansion of both domestic and foreign markets, and to decreasing Government intervention while protecting farm income. As a result of the farm program in the 1970's, U.S. food exports quickly surged from $7.7 billion in 1971 to $18 billion in 1974, to $22 billion in 1975, and finally to $24 billion in 1977. That is over a 300-percent increase in 6 years.

The United States now accounts for nearly 50 percent of all food in international trade and out of 150 U.N. member nations is one of only 6 countries having a net export food balance. Clearly, the United States is the dominant power in the world food market and is now highly dependent upon a continued level of high export activity to support domestic prosperity in both farm and nonfarm sectors.

Our increased agricultural exports have helped offset the rapidly rising costs of our oil imports. If we are to continue importing oil to run our cars, heat our homes, and operate our factories, we must continue to increase our agricultural exports.

Mr. President, it is my philosophy that the best way to improve producer income is by creating and expanding foreign demand. We have the ability to do just that. If we can increase our farm exports 300 percent in 6 short years, I do not see why we cannot double our farm exports—from $24 billion to $50 billion—in the next 5 years. In fact, I urge the U.S. Department of Agriculture and others to set as their farm export goal $50 billion in the next 5 years.

If we actively begin working toward that goal right now, the Government would not need to set aside any crop acreage in the future. Farmers can make decisions on the farm and not have them made for them in Washington. We could decrease Government intervention in farm programs, and once again let the American producer be a competitive, efficient farmer in a free market system.

SENATOR MAGNUSON

Mr. HOLLINGS. Mr. President, as a student of the "Warren G. Magnuson Academy of Public Administration," I was interested to hear the remarks of a graduate, Michael Pertschuk, the Chairman of the FTC. These remarks are most appropriate, well deserved, and I commend them to the attention of my colleagues. Needless to say, this is one academy from which I hope I never graduate. I continue to learn each day some worthy lesson from the senior Senator of Washington.

I ask unanimous consent that these remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE WARREN G. MAGNUSON ACADEMY OF PUBLIC ADMINISTRATION

(Remarks of Michael Pertschuk, Chairman, Federal Trade Commission before National Association of Retail Druggists, March 22, 1978)

You have done me a triple honor.

First to invite me as your luncheon guest. Second, to let me follow in the deep footsteps of Hubert Humphrey, who told us that "small is beautiful" long before the rediscovery of our roots brought that realization into our popular culture.

And finally, you've allowed me to fill in for Warren Magnuson, whose characteristic modesty made him insist that I had more to tell you than he does.

Well today I do, because today I'm going to talk to you about the Warren G. Magnuson Academy of Public Administration.

This is the first time in 15 years I've had a chance to talk back to the Chairman in public without interruption and I don't intend to miss this opportunity.

It was just about a year ago that Senator Magnuson kicked me out of the nest, and if the FTC hasn't yet sunk beneath the waves, it's in large part because some of the lessons learned in 13 years of apprenticeship in the Magnuson school have finally begun to sink in.

There's no curriculum and there's no text. It isn't political science, although the political scientists can learn a lot from it, and it isn't law although it embodies a profound respect for the law and the constitution.

It isn't psychology or sociology or anthropology, although the behavioral scientists could learn a lot about the well springs of human behavior by watching Senator Magnuson gently pick the pockets of a whole room full of case-hardened Congressmen in a conference in pursuit of a project dear to the hearts of the State of Washington.

It's not a course in English literature; sometimes the language is rough and ready (although the Magnuson consumer book, *Dark Side of the Marketplace*, is the only book I know of written by a serving Senator which has become a standard text in college courses).

No, its lessons are about intangibles: wisdom and fairness, openness and patience; the acceptance of change; calm in the midst of frenzy; human warmth and humor.

The first principles are fairness and openness. There never has been a Magnuson enemies' list, and the Magnuson "friends' list" if it were ever reduced to print would dwarf the New York telephone book. But Democrat or Republican, liberal or conservative, each gets a fair hearing.

"All anybody ever wants is a fair advantage". What each one gets is a fair hearing—and no more.

Staff will tell him; "don't see those guys, they'll just take advantage of you. They'll ask for a hearing, then they'll come up with the same story line they've been peddling for years. They just want to delay."

"Never mind", says Magnuson. "Give them a hearing. First, they have a right to be heard. Second, if you don't give them a hearing you've given them another issue. Third, you don't know everything, you just might learn something."

Listening, incidentally, does not mean suffering ignorance and prejudice in silence. The Chairman is not above calling nonsense nonsense even to a constituent puffed up with his own self-importance.

The FTC is a collegial body, like the Commerce Committee. All basic policy directives flow from collective determinations. And we've all seen Chairman trip over an inhospitable committee or commission majority on their way to glory—but not Magnuson. For all the time he served as Chairman of the Commerce Committee—26 years—he held the respect and affection of his members, including the most junior. With their support, he got the job done.

Again he followed the basics: "don't push your weight around; treat your colleagues with respect and patience; recognize that they are not impediments to what you want to do but they are there to be heard and to participate, and when you're right, they'll be with you."

Then, of course, there's staff; the bureaucracy: both the blessing and the curse of government. I think I disclose no secrets when I tell you that there was one product of the Nixon White House that Warren Magnuson appropriated shamelessly for himself. A fellow named Haldeman, who worked there once upon a time, gave a speech at the height of his powers denouncing congressional staff as "bumblebees" who hovered around the honey of power, unelected, unaccountable; flitting from wilting flower to wilting flower, as the mantle of elective office passed from hand to hand.

The Chairman (who once looked me in the eye and said with a smile: "you've got more games going than a three-armed slot machine player in Las Vegas") established the "Bum-

blebee of the Week" award to be given to that staff member who went off on a frolic and detour of his own, announcing policy or otherwise assuming authority for making decisions which were not his to make. In fact, Mrs. Magnuson even embroidered a pillow with a bumblebee on it.

Perhaps this tells you something about the good humored but sure hand with which the Chairman reined in his troops.

He understands that a policy-maker in today's complex and difficult world cannot settle for second best in his own staff. So he reaches out for qualified professionals—people with spirit. He encourages them to take the initiative and to develop innovative solutions. But every bright idea is subjected to the same testing as high-tempered steel (the same test I've tried to apply to every new proposal that the Commission staff brings before us).

First, Magnuson knows that the temptation of a legislator or legislative aide is to pass new laws (just as the temptation of a regulator is to regulate). So he asks some hard questions. First, what's the problem? If there's no problem, we don't need a law to solve it.

He also told us that when it comes to regulation, there's no such thing as a free lunch. Somebody pays. So if you're trying to cure a monopolistic practice or a consumer fraud, make sure that your solution is paid for out of monopoly profits or fraudulent gains, not indirectly out of the consumer's pocket.

Before he would put his name to a bill, we had to convince him that the world would be better off when all the effects were totalled than it would have been if we did nothing.

Next he'd say, "if there's a less burdensome way to get the job done, let's find it. But if you have to regulate, make it simple and clear.

For example, the original version of a proposed FTC rule on Hearings Aids contained the following definition:

"Hearing Aid: Any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing."

With the help of our readability consultants, we came up with a definition of Magnusonian directness:

"Hearing Aids are instruments worn to improve one's hearing".

"Zero in on the problem," he'd say. "Do what has to be done to cure that problem and no more. Don't overkill".

We're trying to apply that learning at the FTC. The Commission is just putting the finishing touches on a rule designed to curb abuses by vocational schools. The problem is a familiar and serious one—poorly educated and job hungry students are pressured into signing long term contracts obligating them to pay as much as $1,000 to $1,500. A few days later they discover either that the courses are not what they have been led to expect, or that they lack the qualifications to handle the courses or that there are no jobs, no real jobs waiting at the end of the line. So they quit. For many of the schools that's just fine because they can continue to collect on the contract.

The Commission staff proposed an intricate set of rules to govern the signing up of vocational school students, including a series of prescribed disclosures and restrictions on discussions between the school and the student. This would have placed substantial burdens on all of the schools—including those who have been careful and conscientious in their sales methods. It would also have been difficult for the Commission to enforce.

Instead the Commission zeroed in on a single self-enforcing remedy which would cure 90% of the problem: to require schools to give a pro-rata refund to any student who quits for whatever reason. Not only will this prevent unwary consumers frrom losing substantial amounts of money which they can ill-afford but it provides an incentive to the schools to make the courses worthwhile and to keep the students coming.

Magnuson always felt the best solution to a consumer problem was one in which the industry cleaned up it's own act. He recognizes, of course, that "voluntary" self-regulation is most often hard headed reaction to the threat of government intervention. If voluntary efforts fail to do the job, then the regulatory agencies such as the FTC should be "'a pike in a carp pond"; aggressive enough to keep those sluggish fish moving—but not to devour them." That's competition.

Finally, Senator Magnuson taught us to distrust excessive bigness, excessive concentrations of economic or political power, whether in business or in government. Like Hubert Humphrey, he understands in his bones the virtues of human scale and independent enterprise, the community values of local ownership. That's why the voter's of Washington know him as the man who "keeps the big boys honest."

Magnuson is not particularly fond of big shots, corporate executives or cabinet secretaries who travel magisterially in a swarm of staff. In fact, the big shot paying a visit is likely to cool his heels for awhile, though he'll get his hearing eventually, while the Chairman hears out a George Benson from Seattle, and maybe a few minutes more to catch up on the salmon runs in Puget Sound. After all, the company President and his lobbyists can afford to come to Washington when they need to. But for the small businessmen or the citizen with a problem, it's now or never.

The hardest questions he would ask us are: "What are the burdens going to be on small business? I don't care about General Motors or Exxon, how much is this going to cost George Becker, John Early or any small businessmen struggling to earn a decent living for himself or his family?"

The Chairman has got a couple of favorite stories and one of them is my favorite. It's about the coach of a bush league baseball team, whose right fielder—with two left feet and astigmatism—missed three easy fly balls in a row. In disgust the manager yanks the player and without a substitute on the bench decides in desperation to play right field himself.

He takes the field the next inning. Lo and behold, the first ball hit is a soft fly ball right to where he's standing. He looks up, is blinded by the sun, and drops the ball. The other players are chuckling to themselves on the bench, when the manager stomps in off the field at the end of the inning. He flings his glove in the dugout, turns to the ousted player and growls: "You've got right field so fouled up, nobody can play it."

Warren Magnuson understands that the role of government in the marketplace is to see that business serves the consumer. This means strong enforcement of the antitrust laws and appropriate action to ferret out fraud and deception and overreaching.

Linda Blumkin talked to you yesterday about some of the programs we have that affect your own operations. I need not repeat them here. A number of the programs and projects at the Commission will impact directly or indirectly on your work, but I want you to know that we are following the wisdom of Senator Magnuson.

We intend to approach each and every issue effecting your business as well as any other from the same perspective. That means we are going to be absolutely certain we don't get right field so fouled up that nobody can play it.

INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. ABOUREZK, I ask unanimous consent that the text of the bill, S. 2712, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2712

A bill relating to the evaluation and assessment of Indian programs and needs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Program Evaluation and Needs Assessment Act".

FINDINGS

SEC. 2. (a) The Congress, after careful review of the data and information available to the Congress and the Federal agencies, finds that—

(1) there is inadequate information available to the Congress to enable appropriate committees to conduct effective oversight of the programs and Federal agencies dealing with Indian affairs;

(2) The Federal agencies have not developed the reporting mechanisms and data necessary to determine the needs of Indians and Alaska Natives; and

(3) The lack of information relative to the programs and the Federal agencies dealing with Indian affairs has severely hampered the Congress in its evaluation of the effectiveness of the programs, the effectiveness and efficiency of the Federal agencies administering the programs, the adequacy of interagency coordination of programs, and the determination of whether the actual needs of Indians are being met and whether the Federal Government is meeting its trust responsibility to Indians.

(b) The Congress further finds that—

(1) Indian people, on the average have ranked and continue to rank among the highest in infant mortality rate, the lowest in longevity rate, the lowest in level of educational attaintment, the lowest in per capita income, and the poorest in housing and transportation in the United States.

(2) The continuance of these conditions is due in part to the Federal Government's inability to identify and evaluate the needs of Indian people and to coordinate and effectively administer programs for the benefit of Indians.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(a) "Indian" shall be defined pursuant to the Act or Acts, and/or regulations or practices by which the respective Federal agencies determine service eligibility of Indians for the programs and services which they administer.

(b) "Indian tribe" means—

(1) Any Indian tribe, band, nation, pueblo or other organized group or community, including Alaska Native villages as defined in the Alaska Native Claims Settlement Act, which is recognized as being eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

(2) Any Indian tribe, band, nation or pueblo which does not qualify as an Indian tribe under subsection (b)(1) above, but which is defined as an Indian tribe pursuant to the Act or Acts, and/or regulations or practices by which Federal agencies, other than the Bureau of Indian Affairs, determine eligibility of Indian tribes for the programs and services which they administer.

(c) "Tribal organization" means the recognized governing body of any Indian tribe and any legally established organization of

Indians performing governmental functions which is controlled, sanctioned, or chartered by such tribal governing body, or which is democratically elected by the adult members of the tribal community to be served by such organization and which includes participation of Indians in all phases of its activities.

(d) "Non-tribal Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians or a majority of those members are Indian, whose function is other than economic enterprise for profit and which does not constitute a tribe or tribal organization.

(e) "Indian economic enterprise" means any Indian owned commercial, industrial, or business activity established or organized for the purpose of profit as defined as section 3(e) of the Act of April 12, 1974 (88 Stat. 77, 25 U.S.C. § 1452(e)).

(f) "Non-Indian organization" means any public or private group, association, partnership, corporation, or other legal entity which is not owned or controlled by Indians or a majority of whose members are not Indian, which has received a Federal grant or contract to perform services or engage in other activity specifically to or for the benefit of Indians.

(g) "Federal agency" means any agency as defined by section 551(1) of title 5, United States Code;

(h) "Direct services" means any program or service provided to Indians other than contracts, grants, loans or other transfer of money or property which is directly administered by or performed by the personnel of a Federal agency, without involvement of any State government, political subdivision thereof or any non-Indian organization.

(i) "Indirect services" means any program or service provided to Indians other than contracts, grants, loans, or other transfer of money or property which is directly administered by or performed by the personnel of a Federal agency, which does involve utilization of personnel or administrative structures of State governments, political subdivisions or agencies thereof, or non-Indian organizations.

(j) "Direct funding" means any contract, grant, revenue sharing, loan or other transfer of money or property from the administering Federal agency to the tribe, tribal organization, non-tribal Indian organization or Indian economic enterprise without involvement of a State government, political subdivision thereof, or non-Indian organization.

(k) "Indirect funding" means any contract, grant, revenue sharing, loan, or other transfer of money or property from the administering Federal agency which does involve State governments, political subdivisions or agencies thereof, or non-Indian organizations in the transfer or in the approval of the transfer of such funds to a tribe, tribal organization, non-tribal Indian organization or Indian economic enterprise.

(l) "Federal domestic assistance program" means any Federal program listed in the Catalog of Federal Domestic Assistance compiled by the Executive Office of the President, Office of Management and Budget, or any other function of a Federal agency which is determined to be such a program by the Federal Interagency Council on Indian Affairs established in Title II of this Act.

TITLE I—PROGRAM EXPENDITURE DATA

SEC. 101. (a) The head of each Federal agency shall develop procedures for compiling, maintaining, keeping current, and reporting to the Congress data and information concerning:

(1) The agency's annual expenditures for programs and services for which Indian tribes, tribal organizations, Indian economic enterprises, or non-tribal Indian organizations are eligible;

(2) Any service or program provided specifically to or for the benefit of Indians whether provided to Indian tribes, tribal organizations, Indian economic enterprises, non-tribal Indian organizations, or individual Indians or funded through non-Indian organizations; and

(3) The agency's method of delivery of services and funding.

(b) The data and information shall identify and include the total annual expenditure of the Federal agency by program provided through:

(1) Direct services;
(2) Indirect services;
(3) Direct funding; and
(4) Indirect funding.

(c) The report of expenditures required in subsection (b) above shall further categorize and separate totals reported for direct and indirect services and for direct and indirect funding respectively provided to—

(1) Each individual tribe and tribal organization and the aggregate amount by State;

(2) Each individual Indian economic enterprise and the aggregate amount by State;

(3) Each individual non-tribal Indian organization and the aggregate amount by State; and

(4) Each individual non-Indian organization and the aggregate amount by State.

AGENCY FISCAL ACCOUNTABILITY

SEC. 102. (a) Each Federal agency or division or program office thereof which administers any program specifically to or for the benefit of Indians or which administers any program for which there is a specific amount allocated or set aside at the beginning of the fiscal year specifically for Indians shall compile and maintain and report to the Congress detailed information on:

(1) The aggregate total dollar amount and percentage of the agency's total appropriations charged to Indian affairs or Indian services which comprise administrative and overhead costs.

(2) For each program appropriation, allocation, or set aside specifically to or for the benefit of Indians, the percentage and dollar amount of each program appropriation allocation or set aside charged to administrative and overhead costs and the percentage and dollar amounts expended for actual services and funding to Indians.

(b) The above data and information shall be stated separately for the agency's central office and each area or regional office, and each local or agency office.

(c) The General Accounting Office shall be responsible for defining, for purposes of this Act, what are administrative and overhead costs and each agency shall be required to apply such definitions in maintaining the above data.

PROGRAM ALLOCATIONS

SEC. 103. (a) With regard to appropriations for programs and services which are not specifically directed to or for the benefit of Indians but for which Indians are eligible for benefits as members of the general populace, the head of each Federal agency shall compile, maintain, and report to the Congress data and information concerning:

(1) the percentage and dollar amount of any program appropriation for which said Federal agency has had a specific percentage or dollar amount designated or set aside specifically for Indians at the beginning of the fiscal year; and

(2) the aggregate amounts and percentage of such set aside(s) specifically allocated at the beginning of the fiscal year to specific Indian tribes, tribal organizations, non-tribal Indian organizations, and Indian reservations and the percentage and dollar amount reserved by the agency for administrative costs and/or discretionary use at a later time; and

(3) the separate dollar amounts so allocated for each individual tribe, tribal organization, non-tribal Indian organization and Indian reservation.

(b) With regard to appropriations for programs and services specifically directed to or for the benefit of Indians, the head of each Federal agency shall provide:

(1) the total dollar amount appropriated for each program;

(2) the percentage and aggregate dollar amount of each program appropriation which was allocated at the beginning of the fiscal year to specific Indian tribes, tribal organizations, non-tribal Indian organizations, and Indian reservations;

(3) the separate dollar amounts of each such program so allocated for each individual Indian tribe, tribal organization, non-tribal Indian organiaztion, and Indian reservation; and

(4) the percentage and dollar amount of any program appropriation based on formulas governing the distribution of funds to Indians.

PROGRAM ELIGIBILITY

SEC. 104. (a) The head of each Federal agency shall, on a five (5) year basis, provide a list of all Federal domestic assistance programs administered by the agency for which any State or any political subdivision thereof is eligible for direct funding or direct services, but for which Indian tribal governments are not eligible for direct funding or direct services. For each program so identified, the agency shall provide citations to the specific statutory or regulatory provisions which prohibit tribal governments' eligibility for direct funding or direct services, or attach copies of those administrative opinions which determined the non-eligibility of Indian tribes.

INDIAN LAND STATUS

SEC. 105. (a) With respect to each Indian reservation, former reservation, dependent Indian community, or other geographic area identified with a particular tribe or tribes being served by the Bureau of Indian Affairs in which Indian trust or restricted land or other trust property is located, the Bureau of Indian Affairs shall provide to the Congress a comprehensive record of the land holdings and use patterns of such trust lands or other trust resources. The record of land holdings and use patterns shall include:

(1) the total acreage within the boundaries of the reservation;

(2) the total acreage of land in trust status, with a breakdown of acreage that is tribally owned, the acreage in trust allotted or restricted fee status, the acreage held by the Federal Government, the acreage held in fee status by Indians who are members of the tribe, the acreage held by non-member Indians or non-Indian individuals and organizations and the acreage held by the State or a subdivision thereof;

(3) the number and total acreage of trust allotments on each reservation which are held in multiple ownership of ten (10) people or more.

(4) the number and total acreage of trust allotments on each reservation which are under lease to other than the tribe or members of the tribe;

(5) the total acreage of tribal trust land and the total acreage of tribal fee land on each reservation which is under lease;

(6) an assessment as to whether the tribal and allotted lands are held in economically viable units taking into consideration both the actual or potential economic utilization by the tribe and the economic and efficient administration by the Government as trustee;

(7) the total acreage of tribal, allotted trust, and restricted fee land which passed out of tribal or Indian ownership during the past fiscal year, and the manner and reason for the conveyances; and

(8) the total acreage of land purchased, being purchased, or otherwise conveyed to

members of the Indian tribe or the tribe during the past fiscal year with monetary assistance from the Federal Government, including—

(A) the acreage of such land placed in trust or restricted fee status; and

(B) the Federal program which provided such assistance and the nature of the assistance;

(9) a listing of each Federal program, whether or not it is currently funded, and each authorizing statute which permits the various Federal agencies to assist tribes or tribal members in acquiring land or in purchasing land, and state the dollar amounts which were requested by the respective agencies to be appropriated for each of the programs, if any, and the appropriation actually received.

NEEDS ASSESSMENT

SEC. 106. (a) The head of each Federal agency shall, in coordination with the Interagency Board established in Title II of this Act, develop a needs assessment which will be conducted every five (5) years to determine the actual needs and problems of the respective Indian tribes, tribal organizations, non-tribal organizations, and individual Indian constituency eligible for the programs and services administered or authorized by law to be administered by the agency.

(b) The needs assessment for services and programs which are provided to or for the benefit of Indian tribes and their members, or Indian reservations or Indian organizations as an entity shall be stated for each Indian tribe or each reservation. The needs assessment for services and programs which are provided to non-tribal Indian organizations or for the benefit of individual Indians shall be stated for each State to the extent practical and feasible with identification of the needs of the respective non-tribal Indian organizations. Needs assessments which are not feasible to be stated on a tribal, reservation, or State basis shall be stated for the total service population on a nationwide basis. The needs assessment shall further identify which needs are recurring needs each year and which needs, if met, would not be recurring needs on an annual basis.

(c) A preliminary needs assessment shall be completed by July 30 of each year required and each agency shall immediately advise the respective tribes or other Indian service constituency of the agency's preliminary needs estimates so that they have an adequate opportunity for review and comment. Each Indian tribe or other Indian service constituency may draw up its own needs assessment on all or any of the subject areas encompassed in the agency needs assessment as it relates to its reservation or service population and such needs assessment shall be attached to the agency needs assessment at the request of the Indian tribe or other Indian service constituency and shall be made a part of the report required by this Act.

(d) Each agency head shall submit with the needs assessment the agency's projected funding levels for the coming fiscal years for each tribe or Indian reservation and each State for funding or services provided to non-tribal Indian organizations or individual Indian constituencies for each program administered by the department which could be utilized by the eligible Indian constituency to meet the needs identified. This information shall also state what percentage of the unmet need such projected funding would meet during the coming fiscal year.

TITLE II—FEDERAL INTER-AGENCY COUNCIL ON INDIAN AFFAIRS

SEC. 201. (a) A Federal Inter-Agency Council on Indian Affairs (hereinafter referred to as the "Council") comprised of the head of each agency or his designee is hereby established. The Secretary of the Interior shall serve as Chairman of the Council. Notwithstanding any other provision of law, the Secretary of the Interior may not delegate this authority to other than an Under Secretary or an Assistant Secretary.

(b) The Council shall exercise the following responsibilities:

(1) Coordination in development and conduct of the needs assessment provided for in section 106 of title I, including:

(A) Development of a uniform needs assessment format, including standards to be used in conducting such assessments.

(B) A brief profile of each tribe or other Indian service constituency unit, including but not limited to—

(i) tribal enrollment and service population within each reservation, and outside of each reservation;

(ii) median income;

(iii) percentage of unemployment per year;

(iv) principal occupations;

(v) average life expectancy;

(vi) infant mortality rate;

(vii) leading causes of death;

(viii) educational attainment;

(ix) adequacy of housing; and

(x) adequacy of transportation.

(2) Development of a uniform format for submission of the data and information required from each Federal agency by this Act.

(3) Coordination of Federal policies between agencies concerning the eligibility of Indian tribes for Federal domestic assistance programs, development of adequate and current information dissemination procedures to tribes relative to such programs, recommendations to Congress concerning the need for remedial legislation to facilitate tribal participation in programs which could be of benefit to Indians.

(c) The Council shall assist in the development of interagency agreements, where appropriate, and facilitate funding of Indian projects pursuant to the Joint Funding Simplification Act of 1974 to the greatest extent feasible. The Council shall include in its annual report an identification of all such inter-agency agreements and all joint funding projects which were submitted and those consummated within the past fiscal year.

(d) The data and information to be compiled pursuant to this Act shall be submitted by the head of each Federal agency to the Chairman of the Council on or before October 31 of each year.

(e) The standards to be used in conducting the needs assessment, the needs assessment format, the tribal profile format, and the uniform format for submission of the other data and information required by this Act shall be developed in consultation with, and subject to the approval of, the committees and subcommittees of the Congress which have jurisdiction over Indian affairs.

SEC. 202. This title shall take effect upon the expiration of the sixty-day period following the date of the enactment of this Act.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the following Senators to attend the Seventh Session of the Third United Nations Conference on the Law of the Sea, to be held in Geneva, Switzerland, March 28 to May 12, 1978: The Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alaska (Mr. GRAVEL), the Senator from New Jersey (Mr. CASE), the Senator from New York (Mr. JAVITS), the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. STEVENS).

OUTSTANDING EXECUTIVES OF 1978

Mr. PROXMIRE. Mr. President, we are all familiar with the fact that Members of Congress and prominent people in the business community are often criticized nowadays, and we do not hear enough about the favorable aspects of what people accomplish and what they have achieved for the country and for their community.

For that reason, I would like to call to the attention of the Senate what I think is a very fine determination by Financial World, a publication that deals with business. Financial World has selected a list of outstanding executives of 1978, and indicated the reason why they think that these people are highly qualified.

These executives were chosen by Financial World's distinguished panel of judges, and I am proud and happy to say that Milwaukee almost made a clean sweep in the machinery area. Of the three people cited, two of them are from Milwaukee. One is Mr. David Scott, who is chairman of Allis-Chalmers, an outstanding company in Milwaukee, and indeed in the country, a company that has had great difficulties in recent years but has now been doing far better under the management of David C. Scott, their chairman. Mr. Scott has not been in Milwaukee for very long, only for a couple of years, but he has won the respect and admiration of the community as well as the business community throughout the country for the marvelous job he has done at Allis-Chalmers.

The second person they cite is William Messinger. He happens to be not only the chairman of Rexnord, Inc., but also my roommate, both at prep school and in college, and except for that unfortunate event in Mr. Messinger's life he has had a great career.

Mr. Messinger has been a Milwaukee native all of his life. He is head of one of the largest corporations in the city and one of the great corporations in the country. Rexnord has been expanding very rapidly. It is an international corporation now. It is growing every year profitably as well as in sales, and Mr. Messinger has given it remarkably fine leadership.

I say this with kind of a heavy heart because Mr. Messinger, among other things, has been the finance chairman of the Republican Party of Wisconsin and did his best to defeat me in the last election. I am glad that in that endeavor he was not successful. He has had an outstanding career.

S. 2810—BANKING AFFILIATES ACT

Mr. PROXMIRE. Mr. President, I am today introducing legislation at the re-

quest of the Federal Reserve Board which is designed to bring the law governing intracorporate dealings between banks and their affiliates up to date.

The legislation, titled the Bank Affiliates Act, tightens current law in some respects, principally by restricting transactions between banks and affiliated REIT's, and lessens restrictions in some other respects, principally transactions between banks affiliated by 80 percent common ownership.

Mr. President, this legislation addresses an area of banking that needs careful analysis. The Fed's proposal will provide the Senate Banking Committee with a good vehicle upon which to hold hearings and take a close look at financial dealings between banks and their affiliates, an area in which there have been some serious abuses in the recent past—particularly concerning REIT's.

I ask unanimous consent that Chairman Burns' letter dated March 7, 1978, recommending the legislation, together with the Federal Reserve's explanation of the proposed legislation be printed in the RECORD, with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This Act may be cited as the "Banking Affiliates Act."

SEC. 2. Section 23A of the Federal Reserve Act (12 U.S.C. § 371c) is amended to read as follows:

(1) Restrictions on transactions with affiliates.

A member bank and its subsidiaries may engage in any covered transaction (other than the purchase of a low quality asset which is hereby prohibited) with, or for the benefit of, any affiliate only if the transaction is made at fair market value and only if, in the case of any such affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 percent of the capital stock and surplus of the member bank, and only if, in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 percent of the capital stock and surplus of the member bank. For the purposes of this section, except in the case of a company that controls the member bank, any transaction with a subsidiary of an affiliate or with a subsidiary of that subsidiary shall be deemed to be a transaction with such affiliate.

(2) Definitions.

The following definitions apply for the purposes of this section:

(a) The term "affiliate" with respect to a member bank means:

(i) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

(ii) a bank subsidiary of the member bank;

(iii) any company (A) that is controlled directly or indirectly, by trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or (B) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

(iv) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; and

(v) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that judgments by the member bank or its subsidiary, with respect to transactions with such company, may be affected by the relationship to the detriment of the member bank or its subsidiary.

(b) (i) A company or shareholder(s) shall be deemed to have control over another company if:

(A) such company or shareholder(s), directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) such company or shareholder(s) controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Board determines, after notice and opportunity for hearing, that such company or shareholder(s), directly or indirectly, exercises a controlling influence over the management or policies of the other company;

(ii) notwithstanding any other provision of this subsection, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in subparagraph (2)(a)(iii) above, but shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring company has sole discretionary authority to exercise voting rights with respect thereto, or if the acquiring company is a business trust;

(c) the term "subsidiary" with respect to a specified company means a company that is controlled by such specified company;

(d) the term "bank" means any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans. Such term does not include any company operating under section 25 or section 25(a) of the Federal Reserve Act, or any company which does not do business within the United States except as an incident to its activities outside the United States;

(e) the term "company" means a corporation, partnership, business trust, association or similar organization. Unless specifically excluded, the term "company" includes a "member bank" and a "bank";

(f) the term "covered transaction" means with respect to an affiliate of a member bank:

(i) a loan or extension of credit to the affiliate;

(ii) a purchase of or investment in securities of the affiliate;

(iii) a purchase of assets, including assets subject to an agreement to repurchase, from the affiliate;

(iv) the acceptance of securities of the affiliate as collateral security for a loan or extension of credit to any person or company; or

(v) the issuance of an acceptance, guarantee, or letter of credit, including an endorsement or standby letter of credit, to, on behalf of, or for the benefit of an affiliate;

(g) the term "aggregate amount of covered transactions" means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

(h) the term "securities" means stocks, bonds, debentures, notes, or other similar obligations;

(i) the term "low quality asset" means an asset that falls in any one or more of the following categories:

(i) an asset classified as "substandard", "doubtful", or "loss" or treated as "other loans especially mentioned" in the most recent report of examination prepared by either a Federal or State supervisory agency, or

(ii) an asset carried by the bank in a non-accrual status, or

(iii) an asset on which principal or interest payments are more than 30 days past due, or

(iv) an asset whose terms have been renegotiated or compromised due to the financial condition of the obligor.

(3) *Exemptions.*

The provisions of this section shall not be applicable to:

(a) any company, other than a bank, that is a subsidiary of the member bank;

(b) any company engaged solely in holding the premises of the member bank with which it is affiliated;

(c) any company engaged solely in conducting a safe deposit business;

(d) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest;

(e) any affiliate relationship that has arisen out of a bona fide debt contracted prior to the creation of such relationship, but only for the period of time specifically authorized under applicable State or Federal law or regulation or in the absence of such law or regulation for a period of two years from the date of the creation of the affiliate relationship or the effective date of this Act, whichever date is later, subject, upon application for good cause shown, to authorization by the Board for extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

(f) except for the purchase of a low quality asset, any transaction with a bank

(i) that controls 80 percent or more of the voting shares of the member bank;

(ii) in which the member bank controls 80 percent or more of the voting shares; or

(iii) in which 80 percent or more of the voting shares are controlled by the company that controls 80 percent or more of the voting shares of the member bank;

(g) making non-interest bearing deposits in an affiliated bank;

(h) giving immediate credit to an affiliated bank for uncollected items received in the ordinary course of business;

(i) making any loan or extension of credit to any affiliate that is fully secured by obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest;

(j) purchasing securities of any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended; and

(k) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation.

(4) Security for certain transactions with affiliates.

(a) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued to, on behalf of, or for the benefit of, an affiliate shall be secured at the time of the transaction by collateral having a market value equal to (i) 100 percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest, or notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by the Federal Reserve banks; (ii) 110

percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State, (iii) 120 percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables, or (iv) 130 percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases or other real or personal property.

(b) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guaranteed, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction;

(c) A low quality asset shall not be acceptable as collateral.

(d) The securities of an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued to, on behalf of, or for the benefit of, that affiliate or any other affiliate of the member bank.

(e) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

(5) *Rulemaking and additional exemptions.*

(a) The Board may prescribe by regulation or order, limitations or other requirements as to any transactions with any company in which the member bank or a bank affiliate of the member bank owns, directly or indirectly, a minority equity interest other than in a fiduciary capacity, and may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

(b) The board may, in its discretion, by regulation or order exempt transaction or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.

SEC. 3. The provisions of this Act are applicable to transactions entered into after its effective date, except for transactions that are the subject of a binding written contract or commitment entered into on or before (*date of introduction of the bill*).

SEC. 4. Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. § 1828(j)) is amended by striking out the words ", within the meaning of section 2 of the Banking Act of 1933, as amended, and".

SEC. 5. The effective date of this Act shall be the date of enactment.

WASHINGTON, D.C.
March 7, 1978.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of June 2, 1976, you asked the Board to study the need for legislative changes to Section 23A of the Federal Reserve Act. This statute places quantitative limitations on bank transactions with affiliates and requires that bank loans and extensions of credit to affiliates be fully secured. Subsequent to the receipt of your letter, the Board undertook an in-depth study of this complex statute. We are now forwarding a draft bill incorporating the Board's proposed amendments to this statute, as well as a discussion paper explaining the rationale for the amendments.

Sincerely yours,

ARTHUR F. BURNS.

A DISCUSSION OF AMENDMENTS TO SECTION 23A OF THE FEDERAL RESERVE ACT PROPOSED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

INTRODUCTION

Section 23A of the Federal Reserve Act was enacted as part of the Banking Act of 1933 (the Glass Steagall Act).[1] The objective of the statute is to prevent misuse of a bank's resources stemming from large-scale "non-arm's-length" transactions with its affiliates. The statute limits a bank's transactions with a single affiliate to no more than 10 per cent of the bank's capital and surplus and limits transactions with all affiliates combined to no more than 20 per cent of the bank's capital and surplus.

In the last several years Section 23A has come under close review, particularly by the banking committees of the Congress and the Federal bank supervisory authorities. This scrutiny was prompted by the discovery that several relatively large banks were adversely affected by transactions with their affiliates. The best known case involved the sale of a large amount of low quality mortgages by the mortgage banking subsidiary of Hamilton Bancshares, Inc. to Hamilton National Bank of Chattanooga, which subsequently failed. To some observers, these adverse developments indicated that Section 23A was deficient in protecting banks and needed to be tightened. In this connection, the House Committee on Banking, Currency and Housing incorporated provisions pertaining to Section 23A into its Discussion Principles for Financial Institutions and the Nation's Economy in 1975, and in 1976 Congressman St Germain introduced amendments to Section 23A as part of the Financial Reform Act of 1976. Finally, in mid 1976 Senator Proxmire asked the Board to provide the Senate Committee on Banking, Housing and Urban Affairs with draft legislation to amend Section 23A.

During the past year and a half, the Board has devoted substantial time and resources to analyzing and assessing the effectiveness of Section 23A. One of the Board's major conclusions is that bank transactions with affiliates within the legal limits set by the statute have *not* produced substantial instability in the banking system. Nevertheless, in the last several years transactions in excess of these legal limits have contributed to several sizable bank failures. These results indicate that there have been difficulties with gaining compliance with the statute. In recent years, the Board has proposed legislation that would impose civil penalties for violation of Section 23A as well as other banking statutes. If enacted, this legislation should certainly improve compliance with Section 23A in the future.

However, the Board believes that problems with Section 23A go considerably beyond compliance. First, Section 23A is a very difficult statute to interpret. In part, this is due to the inherent complexity of the statute. But in addition, the statute is poorly drafted. Problems in interpreting Section 23A have made compliance with, and enforcement of, the statute more difficult. Second, Section 23A is clearly in need of being tightened, as the present statute contains numerous potentially dangerous "loopholes." Third, there are several areas in which the present statute appears to be unduly restrictive and could be liberalized in a manner consistent with maintaining a sound banking system. Thus, the Board believes that Section 23A is definitely in need of amendment.

Footnotes at end of article.

As previously noted, Section 23A is a poorly drafted statute. The statute cannot be analyzed effectively without first substantially reorganizing it into a more logical structure. Ideally, Section 23A should be organized in four parts. The first part should specify the types of companies defined as affiliates for purposes of the statute. The second part should designate those types of transactions between a bank and its affiliates that are covered by the statute. The third part should contain the quantitative limitations on a bank's covered transactions with any single affiliate, and with all affiliates combined. The fourth part should set forth collateral requirements for bank loans or extensions of credit to affiliates.

This discussion of the Board's proposed amendments to Section 23A adheres to the four-part organizational structure. Within each part, the following appear: (A) a summary of the relevant section of the present statute; (B) the principle(s) by which the Board was guided; (C) the Board's proposed amendments to Section 23A; and (D) a discussion of these proposed amendments.

I. DEFINITION OF THE TERM "AFFILIATE" FOR PURPOSES OF SECTION 23A

A. Present law

The term "affiliate" is defined in Section 2(b) of the Banking Act of 1933 and Section 23A, paragraph 5, of the Federal Reserve Act to include:

(1) Any parent holding company of a bank and any subsidiary of that parent company;

(2) Any company[2] of which a bank owns or controls a majority of the voting shares, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;

(3) Any company (a) that is controlled by the majority shareholders of a bank or by trustees for the benefit of the shareholders of any such bank, or (b) for the benefit of whose shareholders all or substantially all of the capital stock of a bank is held by trustees;

(4) Any company of which a majority of its directors are also directors of any one bank.

However, certain specific types of companies, while technically defined as affiliates, are exempt from the restrictions of Section 23A. These exemptions are enumerated in Section 23A, paragraph 3, and include any company:

(1) Engaged solely in holding the premises of the bank with which it is affiliated;

(2) Engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company;

(3) In the capital stock of which a national banking association is authorized to invest pursuant to Section 25 of the Federal Reserve Act, as amended, or a wholly-owned subsidiary of such affiliate (Section 25 pertains to Agreement Corporations);[3,4]

(4) Organized under Section 25(a) of the Federal Reserve Act, as amended, or a wholly-owned subsidiary of such affiliate (Section 25(a) pertains to Edge Act Corporations);

(5) Engaged solely in holding U.S. Government securities or securities fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, and the Federal Home Loan Banks;

(6) Where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship;

(7) Where the affiliate relationship exists through bank ownership or control of any voting shares in a fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such bank.

B. Principles underlying proposed changes in the definition of affiliate

For purposes of Section 23A, the Board believes that the term "affiliate" should apply to organizational [5] relationships involving a bank (1) where the relationship is not one of "arm's-length" and (2) where, because of this relationship, the bank may engage in transactions that may adversely affect its condition. Such transactions may be designed either to rescue a financially troubled affiliate or to "drain" a bank for the benefit of an affiliate. It should be noted that the emphasis of Section 23A is on organizational relationships and the transactions arising out of such relationships, in contrast to strictly "insider" dealings involving bank officers, directors, or shareholders.[6] In addition, it is recognized that not all "non-arm's-length" organizational relationships involve risks to the bank; consequently, some may be appropriately exempted from the restrictions of the statute.

C. Proposed amendments to section 23A: Definition of affiliate

For purposes of Section 23A, the Board believes that the definition of the term "affiliate" needs to be broadened in several respects and narrowed in others. Specifically, the Board recommends the following statutory changes:

(1) Alter the treatment of sister bank subsidiaries in a holding company system by exempting from the restrictions of Section 23A all transactions (other than the purchase of low quality assets) [7 8] between 80 per cent or more owned sister banks;

(2) Exclude majority-owned subsidiaries For purposes of Section 23A, the Board of a bank as affiliates. In addition, continue to exclude minority-owned subsidiaries of a bank as affiliates, but authorize the Board to restrict bank transactions with such minority-owned subsidiaries where it deems necessary;

(3) With respect to interlock relationships through which a company may be defined as an affiliate, broaden the definiiton to include companies interlocked not only with a bank but also with the bank's parent holding company through controlling shareholders or directors. Define "control" consistently as the power to vote 25 per cent or more of the voting shares of a company; or, in the case of a director-interlock relationship, any director group comprising a majority of the directors of a company;

(4) Add to the list of affiliates (a) any Real Estate Investment Trust or other organization that is sponsored and advised on a contractual basis by a bank or any subsidiary or affiliate of the bank, and (b) any other organization that is determined by the Board to have a "non-arm's-length" relationship with a bank or any subsidiary or affiliate of the bank.

In addition to the several changes proposed above, the Board recommends that one exemption in the present statute be amended, one be eliminated as inappropriate, and several be eliminated as redundant in light of other proposed recommendations:

(5) Limit to two years the exemption for those companies where the affiliate relationship arose out of a bona fide debt contracted prior to the date of the establishment of the relationship;

(6) Eliminate the inappropriate exemptions for companies engaged in the business of an agricultural credit corporation or livestock loan company;

(7) Eliminate the redundant exemptions for companies organized under Sections 25 and 25(a) of the Federal Reserve Act;

(8) Eliminate the redundant exemption for companies where the affiliate relationship exists through bank ownership or control of any voting shares in a fiduciary capacity.

D. Discussion of proposed amendments: Definition of affiliate

Each of the Boards recommended changes in the definition of affiliate for purposes of Section 23A is more fully discussed below, with the rationale given for each recommendation. The numbered sections in the discussion correspond to the brief list of proposed amendments given in Part I.C. (pages 7–9).

1. Sister Bank Subsidies in a Holding Company

Section 23A currently defines the parent holding company and all bank and nonbank subsidiaries of the parent as affiliates of a bank. The rationale underlying this rather broad definition is that since the parent company controls the subsidiary bank, the parent could require the bank to engage in a variety of transactions with the parent or subsidiaries of the parent that could adversely affect the bank.

The Board believes that transactions between a bank and its parent holding company or nonbank subsidiaries of the parent should continue to be limited by Section 23A in order to protect the bank from potential abuse.[9] It is much less clear, however, how Section 23A should be applied to transactions between sister bank subsidiaries of the same holding company parent. At present, Section 23A defines all sister bank subsidiaries within a holding company as affiliates of one another. Consequently, all transactions between these banks that are covered by Section 23A are subject to the quantitative limitations imposed by the statute.[10] At the same time, Section 23A, paragraph 4, expressly exempts from coverage two general types of transactions between affiliated banks: (1) certain non-interest-bearing deposit transactions,[11] and (2) the purchase of loans on a non-recourse basis.[12]

At the policy level, there are two basic ways to treat the banks in a holding company system. One considers the group of sister banks the equivalent of a branching system and, therefore, a single banking entity. Those holding this view are likely to be sympathetic to allowing unlimited transactions between sister bank subsidiaries, since there are no restrictions placed on transactions between branches of a bank. The second approach, which is more legalistic in nature, views sister bank subsidiaries as separate corporate entities. Those favoring this approach are more inclined to place limits on transactions between such banks. In recent statements to Congress, the Board has indicated considerable support for the "single entity" approach, but it has not endorsed the complete removal of all restrictions on transactions between sister bank subsidiaries.

There are two major advantages which stem from allowing unlimited transactions between sister banks. First, and most important, such a regulatory posture would tend to improve allocative efficiency by giving these banks maximum freedom to transfer funds to take advantage of intermarket yield differentials. Second, by allowing unlimited transactions, one or more banks in a holding company system could go to the rescue of a financially troubled sister bank. Such aid (through loans, asset purchases, etc.) might save the troubled bank from failure without seriously damaging the other bank(s).

The advantages associated with allowing unlimited transactions between sister banks, however, are countered by several disadvantages. First, a large scale rescue operation, as described above, might backfire and spread one bank's financial troubles throughout the holding company system and eventually result in multiple bank failures. Second, allowing unlimited transactions would open the door to a large scale transfer of low quality assets from one bank to another in an effort to avoid criticism during a bank examination. The potential for such transfers could impair the effectiveness of the bank examination process in uncovering problem bank situations. Finally, a problem could arise in those situations where a holding company does not own all of the shares of one of the banks that it controls. In such cases, a holding company could benefit from encouraging transactions between a wholly-owned bank subsidiary and a less-than-wholly-owned bank subsidiary on terms that are adverse to the latter.

The Board believes that the best regulatory approach to transactions between a bank and its sister banks under Section 23A is (1) to define each sister bank as an affiliate, and (2) to exempt all transactions with a sister bank (other than the purchase of low quality assets,[13] a transaction which the Board believes should be prohibited),[14] if the same holding company owns or controls, directly or indirectly, 80 per cent or more of the voting shares of both banks.[15 16] This proposed treatment offers the principal advantages associated with unlimited transactions among sister bank subsidiaries and, at the same time, minimizes any associated disadvantages. Allocative efficiency would be promoted by this approach as a holding company would be allowed significant freedom to transfer funds among its subsidiary banks. At the same time, a holding company would be prevented from forcing one of its banks to buy low quality assets from another bank subsidiary, thereby possibly causing the failure of a previously sound bank. In addition, the passing of low quality assets between sister banks in an attempt to stay one step ahead of the bank examiners would not be permitted. Finally, this proposal would offer minority shareholders protection from abuse in those cases where the holding company owns or controls less than 80 per cent of the shares of either bank in the transaction.[17]

2. Subsidiaries of a Bank

Present law defines as an affiliate of a bank any company of which a bank owns or controls more than 50 per cent of the voting shares [18] or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions. However, Edge Act Corporations and Agreement Corporations, and their wholly-owned subsidiaries, are specifically exempt from the limitations of Section 23A. In addition, foreign bank subsidiaries are exempt from any limitations with respect to "loans and extensions of credit" from the parent bank, pursuant to statute and Board Regulation.[19] Finally, the Board has exempted from Section 23A's restrictions transactions between a State member bank and its operations subsidiary.[20]

In the Board's judgment, those companies of which a bank exercises control through *majority* ownership should be considered part of the bank, much like departments within the bank. It follows that transactions between a bank and its majority-owned subsidiaries should be viewed as essentially internal bank operations and, therefore, need not be restricted in the same manner as "non-arm's-length" transactions between a bank and an outside company. In fact, the restrictions imposed on transactions between a bank and a majority-owned subsidiary may force a bank to conduct certain operations through departments when they could be conducted more efficiently through corporate subsidiaries. Consequently, the Board recommends that majority-owned subsidiaries of a bank no longer be defined as affiliates for purposes of Section 23A.[21]

It should be noted that this liberalization is much more limited than it might at first

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appear. As noted earlier, member banks are generally prohibited from purchasing stock, and of the few types of companies whose stock is exempt from this prohibition, several are already exempt from the restrictions of Section 23A.

In the case of minority-owned subsidiaries of banks, nearly all of which represent foreign joint ventures and foreign investments,[22] present law excludes them as affiliates and, therefore, from the transactions restrictions of Section 23A. Yet the nature of these (foreign) minority-owned companies is such that there is often a "non-arm's-length" relationship with the U.S. parent bank, particularly in the case of foreign joint ventures. Therefore, the possibility exists that the U.S. parent bank will extend credit to the foreign joint venture company without an "arm's-length" assessment of the credit risk involved and without control of the disbursement of funds.[23] Thus, it could be argued that such companies should be defined as affiliates and made subject to Section 23A's transactions restrictions.

On the other hand, imposition of such restrictions would involve several practical difficulties. First, and perhaps most important, such restrictions could serve to nullify present informal commitments by U.S. banks to their foreign joint ventures. Of course, "grandfather" provisions could be drafted to handle present contractual commitments between banks and their foreign joint ventures. However, the Board questions whether such provisions could be suitably written to deal with all other types of informal bank commitments to existing joint ventures. The concern is that such provisions would not take into consideration cases in which no formal agreement exists but in which foreign government authorities and foreign suppliers of funds have relied on the informal implicit guarantee of the joint venture partners. It appears that foreign government authorities have often relied heavily on such implicit support in approving the formation of these ventures. If Section 23A's restrictions were now applied to these ventures, this support would be significantly limited, thus effecting a major change in the "rules of the game" under which these ventures were originally authorized.

Second, the application of Section 23A's restrictions to transactions between a U.S. bank and its foreign joint venture would likely make it more difficult for U.S. banks to find joint venture partners abroad, since U.S. banks would no longer be able to make the informal (or formal) commitments referred to above.[24] Of course, the restrictions of Section 23A could be avoided if a U.S. bank acquired a majority interest in the foreign venture; however, at the present time several countries prohibit foreign (U.S.) banks from engaging in a joint venture activity in a majority role.

Third, to define all minority-owned companies as affiliates would violate the principle of restricting only transactions between banks and companies with which the bank has a "non-arm's-length" relationship. Since there is some small critical ownership percentage below which the relationship may be deemed to be at "arm's-length," transactions with companies of which the bank owns less than the critical percentage of shares need not be restricted. However, if companies of which a bank owns less than the critical share were to be excluded from the definition of affiliate, the result would be a confusing three-tier structure of regulation where majority-owned companies and those companies of which the bank owned less than the critical ownership share would be excluded from the definition of affiliate, and those companies of which the bank owned from 50 per cent down to the critical ownership share would be included as affiliates.

Finally, if some or all minority-owned companies were included as affiliates, it might be advisable to permit the transactions limitations to be relaxed with regulatory approval in certain distress situations. In recent years, some banks have felt compelled for business reasons to lend support to foreign joint venture companies in order to deal with liquidity crises or temporary asset problems.[25] This argues in favor of a rescue provision. However, any such provision incorporated into the statute would require bank regulators to make a number of extremely difficult, highly judgmental, *ad hoc* decisions. It would also add an additional uncertainty into a bank's decision-making process involving joint venture operations since the bank would have to estimate the probability that the regulators would permit it to go to the aid of the joint venture in a distress situation.

In sum, while there may be a logical basis for imposing some type of restriction on transaction between a bank and certain of its minority-owned subsidiaries, particularly its foreign joint ventures, present institutional arrangements associated with on-going joint ventures, coupled with the necessity for maintaining flexibility for banks in matters pertaining to foreign markets, argue strongly against any rigid statutory restrictions such as those embodied in Section 23A. Accordingly, the Board believes that minority-owned subsidiaries should continue not to be defined as affiliates for purposes of Section 23A. At the same time, the Board recommended that Section 23A be amended to authorize the Board to restrict where it deems necessary bank transactions with minority-owned subsidiaries (whether owned directly or indirectly).[26] [27] This recognizes that some type of restriction of a bank's transactions with certain of its (foreign) minority-owned subsidiaries may be desirable from time to time, yet acknowledges the flexibility needed by a bank in its (foreign) minority-owned activities.

3. Companies interlocked with a bank

Present law covers certain types of interlock and trust relationships between a company and a bank, presumably to minimize abuses to the bank stemming from "non-arms'-length" transactions arising out of such relationships. The Board believes that the extent of the coverage is incomplete and recommends broadening the definition of Affiliate in several ways to remedy this situation.

At present, the law omits any reference to an interlock between a bank holding company and another company and refers only to an interlock between a bank and another company. However, an interlock involving a bank holding company would seem to offer the potential for abuse of the subsidiary bank(s) similar to that associated with an interlock directly involving a bank. Consequently, the Board recommends that the statute be amended to define as an affiliate for purposes of Section 23A any company that is interlocked either with a bank or with its parent holding company.[28]

The Board believes the coverage of types of interlock relationships under the current statute is adequate. Present law speaks only of shareholder and director interlocks. While there are perhaps other types of interlock relationships (e.g., interlocks among senior officers of a bank and a nonbank company) through which a bank might be induced to engage in adverse transactions, it seems unlikely that there would exist many such interlocks without a concomitant shareholder or director interlock. Consequently, the Board believes that companies that are interlocked with a bank, or its parent holding company, through either common shareholder control or common directors should continue to be defined as affiliates.

The Board has also considered whether an interlocking group of shareholders or directors must have control of both the bank and the company, or control of the bank only, or control of just the company? Present law requires control of both the bank and the company in the case of shareholder interlocks, but only of the company in the case of director interlocks. Control of the bank seems most important in view of the objective of the statute—to prevent abuses of a bank's resources. However, the possibility of such abuses may, in fact, be likely only in situations where the interlocking relationship results in one group of persons having control of both the bank and the company. Moreover, unless control is required of both the bank and the company, the definition of affiliate for purposes of Section 23A might be so broad as to be overly restrictive. The Board therefore, would require the interlocking group to control *both* the bank and the company.

To remedy a shortcoming of existing law, the Board further recommends amending the statute to include a definition of the term "control." Majority control seems generally to be intended as it is used at several places in the law; [29] however, in one instance total or near-total control is suggested.[30] The Board believes that, for purposes of Section 23A, "control" should be defined as the power to vote *25 per cent* or more of the voting shares of a company, excluding situations where the stock is controlled in a fiduciary capacity (except as noted in the next paragraph below); or, in the case of a director-interlock relationship, any director group comprising a majority of the total number of directors of a company. This definition recognizes that effective control can be exercised only by a majority of the directors but can often be exercised by shareholders holding less than a majority of the voting shares. Moreover, it is generally consistent with the definition of "control" contained both in the Bank Holding Company Act,[31] and in the Board's proposed amendments to Section 22 of the Federal Reserve Act, as recommended to Congress in early 1977.

In the particular situation of a company controlled by trustees for the benefit of a bank's shareholders or, alternatively, a bank controlled by trustees for the benefit of a company's shareholders, both types of trust relationships are covered in the definition of affiliate under existing law; however, in neither case is the beneficiary shareholder group defined in terms of its shareholder interest. Presumably, the statute refers to situations where all shareholders have a *pro rata* beneficial interest in the stock of the trustee-controlled organization. However, the wording of the statute is not clear on this point, and the wording of one of the affiliate exemptions [Section 23A, paragraph 3(7)] suggests that trustee-controlled companies are defined as affiliates when shares are held for the benefit of at least a majority of the bank's stockholders. The Board recommends that this ambiguity be eliminated by defining an affiliate relationship in cases where trustees control 25 per cent or more of the voting shares of a bank (company) for the benefit of shareholders who control 25 per cent or more of the voting share of the company (bank).[32]

4. Bank-Advised REITs and Similar Organizations

At present, Real Estate Investment Trusts (REITs) and other organizations that are sponsored and advised by a bank or its affiliate are not considered affiliates for purposes of Section 23A. However, in view of the difficulties which many bank- and bank holding company-advised REITs have encountered in recent years, the Board believes that REITs and other organizations that are sponsored and advised on a con-

Footnotes at end of article.

tractual basis by a bank, a 25 per cent or more owned subsidiary of the bank, or an affiliate of the bank, should be included as affiliates for purposes of Section 23A.

Such an extension of the statute recognizes that a bank may try to rescue a financially troubled organization that is sponsored and advised by the bank or its subsidiary or its affiliate in order to (1) prevent any damage to the reputation of the bank or its affiliate, or (2) forestall any lawsuits alleging that the sponsored organization received "bad advice" from the bank or its affiliate. To the extent that advisory service revenues are related to the size of the organization that is sponsored and advised, a bank may also lend to the organization at preferential terms in order to increase the size of the organization, thus boosting the advisory service revenues received by the bank or its affiliate. In such situations, the Board believes the transactions would not be at "arm's-length"[33] and, therefore, should be subject to the limitations of Section 23A.

It is recognized that a distinction can be made between organizations that are sponsored and advised by a bank or its subsidiary and those that are sponsored and advised by a bank's affiliate (e.g., its parent holding company or a sister nonbank subsidiary). In the former case, the bank would engage in only those transactions with the organization that are presumably in the bank's own interest. In the latter case, however, the bank might be directed to engage in such transactions by a controlling party having interests other than those of the bank alone. In view of this distinction, it could be argued that those companies that are sponsored and advised by a bank should not be included as affiliates of the bank for purposes of Section 23A. Such an exclusion, however, might encourage banking organizations to place their advisory activities directly in their banks instead of with nonbank affiliates in order to avoid the limitations of Section 23A. This, in turn, might ensure greater bank control over such activities, but the bank would become directly liable for the activity and could be more exposed to lawsuits and damage to its reputation in the event a sponsored and advised company suffers financial difficulty. Accordingly, the Board would make no such distinction for purposes of Section 23A, and recommends that organizations that are sponsored and advised by either a bank or an affiliate of a bank should be designated affiliates of the bank.

The Board has considered the extent to which the statute should be further generalized to capture other organizations that may have a "non-arm's-length" relationship with a banking organization. Again, in view of the problems associated with bank-advised REITs, it would seem prudent to define as affiliates other organizations that may later come to be regarded as having a "non-arm's-length" relationship with a banking organization. However, it is difficult, if not impossible, at this juncture to amend the statute to include all the possible organizations that might fall into this category. Accordingly, the Board recommends that no such listing be attempted, but that the Board be authorized to add to the definition of affiliate from time to time such organizations that it determines to have a "non-arm's-length" relationship with a bank or a subsidiary or affiliate of the bank.

5. Affiliate Relationship Resulting from Foreclosed Loan

Present law exempts from the limitations of Section 23A transactions between a bank and its affiliate when the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship. Such a relationship can arise, for example, in the case where a parent holding company acquires controlling shares of another company as a result of a defaulted loan.[34] While the Board believes that an exemption is appropriate for a short time period sufficient to sever such an affiliate relationship, it does not feel that the exemption should continue indefinitely. Accordingly, the Board recommends that the present statute be amended to permit this exemption only for a period of two years, commencing with the date of the creation of the affiliate relationship,[35] [36] with a possible extension of up to three additional years with the approval of the Board.

6. Agricultural Credit Corporation and Livestock Loan Company

Currently, the provisions of Section 23A do not apply to affiliates engaged in the business of an agricultural credit corporation or livestock loan company. The Board sees no reason for continuation of this exemption and recommends that it be eliminated.

7. Companies Organized Under Sections 25 and 25(a)

Under existing law, the provisions of Section 23A do not apply to affiliates organized under Sections 25 and 25(a) of the Federal Reserve Act. (These include Agreement Corporations and Edge Act Corporations.) If the Board's recommendation not to define subsidiaries of banks as affiliates for purposes of Section 23A is adopted, these exemptions would be redundant for those Sections 25 or 25(a) corporations that are subsidiaries of banks. In the case of Section 25 or 25(a) corporations that are subsidiaries of a bank holding company, the exemptions represent a "loophole" in present law that could be used to "cross-stream" funds to a sister nonbank subsidiary. For these reasons the Board recommends that the exemptions for Edge and Agreement Corporations be eliminated.

8. Companies Controlled in a Fiduciary Capacity

Under present law, the limitations of Section 23A do not apply to any affiliate where the affiliate relationship exists through bank ownership or control of any voting shares in a fiduciary capacity. In view of the Board's recommendation not to define subsidiaries of banks as affiliates, this exemption would no longer appear to be necessary. Accordingly, the Board recommends that this exemption be eliminated.

II. TRANSACTIONS COVERED BY SECTION 23A

Before analyzing the types of transactions with an affiliate that are covered by Section 23A, it is useful to remember that banking law places restrictions on certain types of bank transactions with any party, whether affiliated or not.[37] As a general rule, however, Section 23A places greater restrictions on bank transactions with affiliates because such transactions are not made at "arm's-length" and, therefore, represent a higher degree of risk to the bank.

A. Present law

Transactions with affiliates that are now covered by Section 23A are spread rather haphazardly over several paragraphs of the statute. For purposes of analysis, all redundancies have been eliminated and covered transactions have been rearranged and listed below in a more orderly manner:

(1) Loans or extensions of credit to an affiliate [Paragraph 1(1)], which include:

(a) Any purchase of securities, other assets or obligations under repurchase agreement [Paragraph 4(1)(A)];

(b) The discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse [Paragraph 4(1)(B)];

(c) A loan or extension of credit to a director, officer, clerk, or other employee or any representative of any such affiliate to the extent that the proceeds of such loan are used for the benefit of, or transferred to, the affiliate [Paragraph 2];

(2) Investing in the capital stock, bonds, debentures, or other such obligations of any affiliate [Paragraph 1(2)];

(3) Accepting the capital stock, bonds, debentures, or other such obligations of any affiliate as collateral security for advances made to any person, partnership, association, or corporation [Paragraph 1(3)].

Transactions Exempt from Coverage

Section 23A now contains nine exemptions to the above three broad types of transactions covered by the statute. These exemptions are scattered over various parts of the statute, but are collected and presented here as the list of transactions to which the restrictions of Section 23A do not apply:

(1) Indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank, or loans by a bank to any affiliate secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest [Paragraph 3];

(2) The purchase, without recourse, of promissory notes, bills of exchange, conditional sales contracts or similar paper from an affiliated bank [Paragraph 4(1)];

(3) Making non-interest-bearing deposits in an affiliated bank [Paragraph 4(2)];

(4) The giving of immediate credit to an affiliated bank for uncollected items received in the ordinary course of business [Paragraph 4(2)];

(5) Acquiring stock, bonds, debentures, or other obligations of any company of the kinds described in Section 4(c)(1) of the Bank Holding Company Act of 1956, as amended[38] [Paragraph 6(1)];

(6) Acquiring stock, bonds, debentures, or other obligations of an affiliate accepted as security for debts previously contracted provided that such collateral shall not be held for a period of over two years [Paragraph 6(2)];

(7) Acquiring shares which are of the kinds and amounts eligible for investment by national banks under the provisions of Section 5136 of the Revised Statutes [Paragraph 6(3)];

(8) Extensions of credit by a bank to a bank holding company of which such bank is a subsidiary or to another subsidiary of such bank holding company, if made within one year after the effective date of the amendment to Section 23A (the date was July 1, 1966) and pursuant to a contract lawfully entered into prior to January 1, 1966 [Paragraph 6(4)];

(9) Transactions by a bank with another bank the deposits of which are insured by the Federal Deposit Insurance Corporation if more than 50 percent of the voting stock of such other bank is owned by the first bank, or held by trustees for the benefit of the stockholders of the first bank [Paragraph 6(5)].

B. Principal underlying proposed changes in the types of transactions covered

Transactions between a bank and an affiliate are "non-arm's-length" transactions and have potential for abuse of the bank. Consequently, the Board believes that all financial transactions between a bank and an affiliate (as defined in Part I of this discussion memorandum) should be covered by Section 23A, unless the transaction has unique characteristics that qualify it for exemption.

C. Proposed amendments to types of transactions covered

The Board believes that the coverage of the types of transactions to which the restrictions of Section 23A now apply should be extended in order to provide banks greater protection against potential abuses. Specifi-

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cally, the Board recommends expanding the coverage of transactions in two areas, and further recommends the elimination of the current exemption from coverage for five types of transactions:

(1) Extend the restrictions of Section 23A to all asset purchases and prohibit the purchase of low quality assets,[39] but exempt the purchase of any non-low quality asset as long as that asset has a readily identifiable and publicly available market value or quotation and is purchased by the bank at that market value;

(2) Expand the coverage of Section 23A to include all types of guarantees (including standby letters of credit) and all acceptances;

(3) Eliminate the exemption now granted for the indebtedness of any affiliate for unpaid balances due a bank on assets purchased from that bank;

(4) Eliminate the exemption now granted for stock, bonds, debentures or other obligations of an affiliate acquired by a bank in foreclosure;

(5) Eliminate the exemption now granted for purchases, without recourse, of promissory notes, bills of exchange, conditional sales contracts or similar paper from an affiliated bank;

(6) Eliminate the exemption now granted for purchases of shares which are of the kinds and amounts eligible for investment by national banks under the provisions of Section 5136 of the Revised Statutes;

(7) Eliminate the exemption now granted for transactions by a bank with a second bank that is insured by the Federal Deposit Insurance Corporation, if more than 50 percent of the voting stock of the second bank is owned by the first bank or held by trustees for the benefit of the stockholders of the first bank.

D. Discussion of proposed amendments to types of transactions covered

1. Asset Purchases

The Board recommends expanding the types of asset purchases now covered by Section 23A. At present, the coverage is limited to: (1) the purchase of securities, other assets or obligations under a repurchase agreement; and (2) the discount of promissory notes, bills of exchange, conditional sales contracts or similar paper.[40] It is by no means clear why the statute covers only these specific asset purchases.[41] Indeed, as long as the statute leaves some asset purchases uncovered (such as the purchase of securities not under a repurchase agreement), a bank might be forced to buy a large amount of uncovered assets that are of dubious quality. Such purchases, in sufficient volume, could result in the failure of the bank.

In the Board's judgment, the best way to handle this potential problem is to amend the statute to cover the purchase of all types of assets. In addition, the Board recommends that a bank be prohibited from purchasing low quality assets from an affiliate, thereby providing further protection for the bank. At the same time, the Board believes that the statute should allow a bank to purchase, without limitation, any non-low quality asset from an affiliate as long as that asset has a readily identifiable and publicly available market value or quotation and is purchased by the bank at that market value. While this latter provision would not exempt the purchase of many types of assets, it would "free up" some asset purchases. Moreover, as long as these assets are purchased at market value (which can be readily verified by examiners), the provision should not expose banks to undue risk.

2. Guarantees and Acceptances

While Section 23A now covers bank loans to affiliates, it does not cover bank guarantees and acceptances issued for these affiliates. However, in 1974, the Board adopted an amendment to Regulation H (which pertains to State bank membership in the Federal Reserve System) that had the effect of bringing standby letters of credit (and similar instruments) and ineligible acceptances[42] within the scope of Section 23A for State member banks. Similar regulations were adopted by the Comptroller of the Currency and the FDIC for banks under their jurisdiction.

Bringing standby letters of credit and ineligible acceptances indirectly under the scope of Section 23A in 1974 was a desirable action, because the issuance of these instruments for affiliates involves some risk for banks. However, in the process of overhauling Section 23A, the Board believes that it would be desirable to include coverage of these instruments directly in the statute rather than indirectly through supervisory regulations. Moreover, it would seem advisable to broaden the coverage to include (1) all types of guarantees issued for affiliates, rather than just standby letters of credit (the major form at present); and (2) all acceptances issued for affiliates, rather than just ineligible acceptances.[43]

3. Unpaid Balances Due a Bank

Section 23A now exempts from coverage the indebtedness of any affiliate for unpaid balances due a bank on assets purchased from that bank. In the Board's judgment, this exemption is potentially dangerous and should be eliminated from the statute. As a result of this exemption, a financially troubled affiliate that was experiencing a liquidity crisis could buy an unlimited amount of assets from the bank without making payment, sell the assets, and use the proceeds to meet its debt service requirements. Meanwhile, the bank would be left with a doubtful receivable that could be large relative to the bank's capital. It should be noted that this receivable would not have to be secured, as would a bank loan to the same affiliate.

4. Securities on Affiliate Acquired in Foreclosure

The statute now includes as a covered transaction a bank's acceptance of an affiliate's securities as collateral on a loan to an unaffiliated party.[44] However, the statute then curiously exempts as a covered transaction a bank's taking possession of these securities in foreclosing on the loan, provided that such collateral shall not be held for a period of more than two years. The Board sees no rationale for this exemption and would eliminate it.

5. Acquisition of Certain Areas From an Affiliated Bank

At present, Section 23A exempts from coverage the acquisition, without recourse, of promissory notes, bills of exchange, conditional sales contracts or similar paper from an affiliated bank. The Board recommends that this exemption, which now applies irrespective of the percentage ownership of the banks involved, be deleted and replaced by a narrower exemption applicable only to the purchase of non-low quality assets from a sister bank subsidiary in a holding company system. Moreover, as discussed earlier, in order to protect minority shareholders from potential abuse where the holding company does not own or control 80 per cent or more of the voting shares of both banks, the Board would not exempt asset purchases from the quantitative limitations of the statute if at least one sister bank in any such transaction is less than 80 per cent owned by the parent holding company. Finally, for reasons enumerated earlier (page 13, note 1), the Board also would not exempt asset purchases involving banks affiliated through a chain organization.

6. Purchases of Shares Eligible for Investment by National Banks

At present, Section 23A defines majority-owned subsidiaries of a bank as affiliates of actions with these majority-owned subsidiaries are subject to the quantitative limitations specified in the statute. However, the statute then exempts from coverage the purchase of shares (of majority-owned companies) that are of the kinds and amounts eligible for investment by national banks under the provisions of Section 5136 of the Revised Statutes.

As discussed earlier, the Board recommends that majority-owned (as well as minority-owned) subsidiaries of a bank *not* be defined as affiliates for purposes of Section 23A.[45] Consequently, bank transactions with subsidiaries (including the purchase of shares) would not be limited. If this recommendation is adopted, therefore, the present exemption for the purchase of shares eligible for investment by national banks would be unnecessary and should be eliminated from the statute.

7. Transactions With a Subsidiary That Is a Bank

Section 23A now exempts any transactions by a bank with a second bank that is insured by the Federal Deposit Insurance Corporation, if more than 50 per cent of the voting stock of the second bank is either owned by the first bank or held by trustees for the benefit of the shareholders of the first bank. The Board recommends that this exemption be deleted from the statute. With regard to a bank subsidiary of another bank, the Board recommends that the bank subsidiary be defined as an affiliate, but that in the case of an 80 per cent or more owned bank subsidiary all transactions between the parent bank and the subsidiary bank (other than the purchase of low quality assets, which would be prohibited) be exempt from the restrictions of Section 23A. In those cases where the stock ownership of the subsidiary bank is less than 80 per cent, the restrictions of Section 23A would apply, thereby protecting minority shareholders of the subsidiary bank from potential abuse.

As for a bank whose stock is held by trustees for the benefit of shareholders of another bank, the Board sees no rationale for exempting transactions between such banks and so recommends that this exemption be eliminated.

III. QUANTITATIVE LIMITATIONS ON COVERED TRANSACTIONS

A. Present law

Section 23A, paragraph 1, places two quantitative limitations on covered transactions between a bank and its affiliates. The first limits the aggregate amount of a bank's covered transactions with a single affiliate to no more than 10 per cent of the bank's capital stock and surplus.[47] The second limits the aggregate amount of a bank's covered transactions with *all affiliates combined* to no more than 20 per cent of the bank's capital stock and surplus.

B. Principles underlying proposed changes in quantitative limitations

The Board believes that there are three principles that should be followed in the determination of quantitative limitations on bank transactions with affiliates. First, limits on a bank's "non-arm's-length" transactions with a single affiliate should be more stringent than the limits that general banking law places on "arm's-length" transactions with a non-affiliate. Second, the limits should be liberal enough to allow a bank to have a meaningful amount of transactions with affiliates. Otherwise, it would probably be more practical simply to prohibit all such transactions. Third, the limits should be strict enough to protect a bank from being crippled by a large volume of adverse transactions. One way to achieve this latter objective is to set a limit on transactions with all affiliates combined that is lower than the sum of the maximum amount of transactions

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that a bank could have with each of its affiliates.

C. Proposed amendment to quantitative limitations

The Board recommends that, where there are subsidiaries of a bank, the quantitative limitations apply not just to the bank's covered transactions with affiliates, but rather to transactions of the bank *plus* transactions of subsidiaries of the bank with affiliates of the bank.

D. Discussion of proposed amendment to quantitative limitations

The Board believes that the present quantitative limitations on bank transactions with a single affiliate (10 per cent of the bank's capital and surplus) and on transactions with all affiliates combined (20 per cent of the bank's capital and surplus) are reasonable and should be maintained. The present limits do not appear to be too liberal because bank transactions with affiliates within the legal limits have not been a major source of banking instability. On the other hand, the present limits allow banks of significant size to have a meaningful volume of transactions with affiliates. For example, a typical bank with total assets of $1 billion can have transactions with a single affiliate of about $7 million and transactions with all affiliates combined of about $14 million.

However, the Board believes that one modification should be made in the quantitative limitations on transactions that are subject to the statute. At present, the statute places no limitations on transactions with affiliates of the bank by *subsidiaries* of the bank. Moreover, Section 23A exempts from coverage bank transactions with certain subsidiaries, including minority-owned subsidiaries, Edge Act Corporations and Agreement Corporations. As a result, a bank might use these subsidiaries as a conduit for transferring unlimited funds to its other affiliates, in circumvention of the basic purpose of Section 23A. Consequently, the Board recommends that the statute be amended so that the quantitative limitations apply not just to the covered transactions of the bank, but encompass as well the covered transactions of any company in which the bank owns or controls, directly or indirectly, 25 per cent or more of the voting shares (except in a fiduciary capacity), or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions. Thus, the amended statute would provide that the covered transactions of a bank *and* its 25 per cent or more owned subsidiaries with a single affiliate of the bank could not exceed 10 per cent of the bank's capital and surplus, and that covered transactions by a bank and these subsidiaries with all affiliates combined could not exceed 20 per cent of the bank's capital and surplus.

IV. COLLATERAL REQUIREMENTS

A. Present law

Section 23A now requires that bank loans or extensions of credit to an affiliate be secured by collateral in the form of stocks, bonds, debentures or other such obligations, or by paper that is eligible for rediscount or purchase by the Federal Reserve Banks.[48] Moreover, at the time the loan or extension of credit is made, the market value of the eligible collateral must be at least 100 per cent of the amount of the loan if the collateral is composed of obligations of the U.S. Government and certain agencies or by eligible paper; at least 110 per cent of the loan amount if composed of obligations of any State or political subdivision; or at least 120 per cent of the loan amount if composed of any other type of eligible collateral.

Footnotes at end of article.

B. Principles underlying proposed changes in collateral requirements

The Board believes that two principles should guide the formulation of collateral requirements on bank loans to affiliates. First, since banks often require collateral on "arm's-length" loans to non-affiliated borrowers in order to reduce risk, it seems reasonable to require that "non-arm's-length" loans to affiliates be secured. Second, there should be a direct relationship between the amount of collateral required on loans to affiliates and the probability of a future decline in the value of that collateral.

C. Proposed amendments to collateral requirements

The Board recommends the following four amendments involving the collateral requirements of Section 23A:

(1) Revise the types of transactions requiring collateral to include: (a) all loans and extensions of credit to affiliates; (b) all types of guarantees issued for affiliates; and (c) all types of acceptances issued for affiliates, except for those already fully secured either by attached documents or by other collateral connected with the same transaction as the acceptance;

(2) Expand the list of assets that can serve as collateral, but prohibit the use of any low quality assets.[49] Also, expand and revise the collateral value to loan amount percentage for various types of eligible collateral;

(3) Prohibit a bank from accepting the stock or debt obligations of an affiliate as collateral on a loan to that affiliate or any other affiliate;

(4) Amend the statute to require that any collateral that is retired or amortized must be replaced by additional eligible collateral where needed to keep the collateral value to outstanding loan amount percentage equal to the minimum percentage required at the inception of the loan.

D. Discussion of proposed amendments to collateral requirements

1. Transactions Requiring Collateral

Section 23A now requires that all bank loans or extensions of credit to affiliates must be secured. This requirement is deficient in two respects. First, because the term "extension of credit" (as defined in the existing statute)[50] includes the purchase of certain assets, Section 23A now appears to require that such asset purchases from an affiliate be secured. Such coverage is probably inadvertently broader than necessary. Second, it is not clear whether standby letters of credit and ineligible acceptance, which by regulation have been added to those transactions covered by the statute, need to be secured.

In amending the collateral provisions of Section 23A, the Board believes that the following three types of transactions should be secured: (1) all loans and extension of credit to affiliates; (2) all types of guarantees (including, but not limited to, standby letters of credit) issued for affiliates; and (3) all types of acceptance (not just ineligible acceptances) issued for affiliates, except for those already fully secured either by attached documents or by other collateral connected with the same transaction as the acceptance. (Where the term "loan" is used throughout the remainder of Part IV, it is meant to include all three types of transactions.)

2. Types of Collateral Permitted and Amount Required

Section 23A now limits eligible collateral to stocks, bonds, debentures and other such obligations, as well as paper that is eligible for rediscount or purchase by the Federal Reserve Banks. The Board believes that this list of assets is unduly restrictive. Indeed, it is so restrictive that it often effectively prohibits bank lending to affiliates simply because these affiliates do not posses the required collateral.

The Board recommends that the present list of eligible collateral be significantly expanded, but would also require that loans secured by these other assets have a relatively high collateral value to loan amount percentage. Accordingly, the Board proposes the following four-tier collateral requirement, which basically adheres to the principle that there should be a direct relationship between the amount of the collateral required and the probability of a future decline in its value:

Type of collateral:	*Percent
Obligations of the U.S. Government and agencies, and eligible paper	100
Obligations of any State or political subdivision	110
All other debt instruments, including receivables	120
Stock[51] or other personal property, real property, and leases	130

*Minimum collateral value to loan amount.

This liberalization of the eligibility list, with concomitant changes in collateral value to loan amount percentages, would normally allow a bank to lend to all of the major nonbank affiliates of a holding company that require funding (mortgage companies, finance companies, leasing and factoring companies) since these companies typically hold assets included on the above list.

The Board also recommends that the proposed eligible collateral list should be tightened by specifying that no low quality assets be allowed to serve as collateral. The definition of "low quality asset" in this context is the same as that used earlier in connection with the discussion of the purchase of assets by a bank from a sister bank subsidiary.[52]

3. Accepting the Securities of an Affiliate as Collateral

At present, Section 23A does not prohibit a bank from accepting the securities of an affiliate as collateral on a loan to that affiliate or to another affiliate. The Board believes that this omission is potentially dangerous. If the borrowing affiliate should default on the loan, it is likely that the collateral securing the loan will have little value. Consequently, the Board recommends that a bank be prohibited from accepting the securities of an affiliate as collateral on a loan to that affiliate or another affiliate.

4. Replacement of Collateral Retired or Amortized

There is one additional amendment to the collateral requirement of the statute that the Board believes would be beneficial. At present, the statute specifies that the market value of the collateral *at the time that the loan is made* must be a certain per cent of the amount of the loan. This wording leaves open the possibility that if some of the collateral were retired or amortized after the loan was made, that collateral would not have to be replaced. To avoid this situation, the Board recommends amending the statute to require that any collateral that is retired or amortized must be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the outstanding amount of the loan equal to the minimum percentage required at the inception of the loan.

V. OTHER PROVISIONS

There are two other provisions that the Board believes should be added to Section 23A. One provision would prohibit bank transactions with affiliates on non-market terms that are disadvantageous to the bank. The second would incorporate grandfather provisions into the amended statute.

Prohibition on nonmarket transactions

At present, Section 23A does not prohibit a bank from entering into transactions on non-market terms that are disadvantageous to the bank. Such transactions obviously would have an adverse effect on a bank's earnings and capital. In many cases, these adverse transactions would subsequently be discovered and criticized by bank examiners. Even so, the Board believes that it would be prudent to amend Section 23A to expressly prohibit such transactions.

Grandfather provisions

As previously noted, Section 23A now limits a bank's covered transactions with a single affiliate, and with all affiliates combined, to no more than 10 per cent and 20 per cent, respectively, of the bank's capital and surplus. The numerous changes in the statute that the Board has recommended may result in some banks' outstanding transactions exceeding these statutory limits. In these cases, the Board does not believe that a bank should be forced to reduce its transactions to the legal limit simply because the "rules of the game" have been changed. Instead, the Board recommends that the bank (with one exception) be prohibited from engaging in additional covered transactions until such additional transactions can be carried out within the statutory ceiling of 10 per cent or 20 per cent of the bank's capital. The one exception recommended would allow the bank to engage in additional transactions in order to honor any written commitments made prior to the date that the Section 23A amendments are introduced in the Congress.

It is also possible that proposed changes in the collateral requirements could result in some technical violations of the statute for transactions (such as loans) already on the bank's books at the time of the passage of the amendments. To handle this problem, the Board recommends that all transactions entered into prior to enactment of the amendments continue to be subject to the pre-amendment collateral requirements. Of course, all transactions entered into after the passage of the amendments would be subject to the new collateral requirements.

FOOTNOTES

[1] As originally enacted, the Banking Act of 1933 covered only member banks. However, in 1966 Congress extended the coverage of Section 23A (via Section 18(j) of the Federal Deposit Insurance Act) to include insured nonmember banks. As a result, Section 23A now applies to all Federally insured banks.

[2] The term "company" includes any corporation, business trust, association, or similar organization.

[3] Agreement Corporations are state-chartered corporations that are principally engaged in foreign banking.

[4] Section 25 also pertains to foreign bank subsidiaries of U.S. banks. However, since the provisions of Section 25 which relate to foreign bank subsidiaries were added subsequent to the exemption in Section 23A for Agreement Corporations, and since Section 25, paragraph 4, specifically authorizes the Board to prescribe limits for "loans and extensions of credit" made by a U.S. bank to its foreign bank subsidiaries, the Agreement Corporation exemption in Section 23A, paragraph 3(3), does not appear to be applicable to foreign bank subsidiaries, except in the case of a wholly-owned foreign bank subsidiary of an Agreement Corporation.

[5] The terms "organization" and "company" are used here interchangeably and include any corporation, business trust, association, partnership, or similar organization.

[6] In early 1977 the Board sent to Congress proposed amendments to Section 22 of the Federal Reserve Act pertaining to bank loans and extensions of credit to "insiders."

[7] The Board recommends that the purchase of low quality assets by a bank from any affiliate be prohibited (see p. 32). Under present law (Section 23A, paragraph 4) a bank can purchase an unlimited amount of loans on a non-recourse basis from an affiliated bank.

[8] For purposes of this statute, a "low quality asset" is defined as any asset: (1) classified as "substandard," "doubtful," or "loss" or treated as "other loans especially mentioned" in the most recent report of examination prepared by either a Federal or State regulatory agency; (2) carried by the bank in a non-accrual status; (3) on which principal or interest payments are more than 30 days past due; or (4) whose terms have been renegotiated and/or compromised due to the financial condition of the obligor.

[9] It should be noted that the parent holding company and any nonbank subsidiaries of the parent are treated as *separate* affiliates. However, in order to preclude an affiliate other than the parent holding company from organizing its own subsidiaries to take advantage of the more liberal quantitative limitations applicable to multiple affiliates, the term "affiliate" is defined, except in the case of a parent holding company, to include any 25 per cent or more owned subsidiaries of that affiliate.

[10] Present quantitative limitations restrict a bank's transactions with a single affiliate to no more than 10 per cent of the bank's capital and surplus and transactions with all affiliates combined to no more than 20 per cent of the bank's capital and surplus.

[11] For example, present law (Section 23A, paragraph 4) exempts non-interest-bearing correspondent balances from the limitations of Section 23A. This exemption is not limited to sister banks within a holding company but applies to banks within a chain banking organization as well. However, interest-bearing balances enjoy no such exemption, even among sister banks within a holding company organization. Nor do sister subsidiary banks presently enjoy any exemption under Section 23A with regard to other interbank transactions, including transactions in Federal funds. (1963 Board Interpretation No. 4016.)

[12] Some historical background may be useful at this point. When the Bank Holding Company Act of 1956 was originally enacted, it *prohibited* a bank from extending credit to, or buying the stock or obligations of, its parent holding company and any other subsidiary of the parent. The only exemption to this prohibition pertained to certain non-interest-bearing deposit transactions between sister banks.

The 1966 Amendments to the Bank Holding Company Act repealed this prohibition and substituted for it a provision whereby a bank became subject to Section 23A's limitations on transactions with its parent holding company and other (bank and nonbank) subsidiaries of the parent. In addition, the purchase of loans on a non-recourse basis from an affiliated bank (along with certain non-interest-bearing deposit transactions) was exempted from the restrictions of Section 23A. This exemption was recommended by the Board on the grounds that both banks in any transaction would be under the supervision and examination of the bank supervisory authorities and that such transactions would allow bank portfolio adjustments in response to changes in deposits and loan demand.

[13] The term "low quality asset" is defined on p. 7, note 2.

[14] Refer to p. 32.

[15] It should be noted that this privilege would not be extended to chain banking organizations. In fact, this proposal would no longer allow the exemption for the purchase of loans on a non-recourse basis between banks in a chain system. It is recognized that chain banking systems may be operationally similar to bank holding companies and branching systems. However, unlike banks in a chain organization, banks within a bank holding company are subject to a layer of Federal regulation above the individual bank level. Accordingly, the Board believes that the potential for bank abuse as a result of this liberalization of Section 23A is less if the bank is a member of a holding company group than if it is a member of a chain group.

[16] The choice of 80 per cent as the dividing line was necessarily arbitrary. However, it should be noted that holding companies have a tax incentive to own 80 per cent or more of a bank and in most cases do own more than an 80 per cent interest.

[17] In those cases where the holding company owns or controls 80 per cent or more of the shares of both banks, minority shareholders would not receive any special protection from Section 23A, but would still have access to the courts in cases of actual abuse.

[18] Member banks are generally prohibited from purchasing stocks for their own account. However, there are certain exceptions to this prohibition, and it is these (majority-owned) exceptions, along with any permitted subsidiaries of insured nonmember banks, that are generally included as affiliates under this provision of present law.

[19] Section 25, paragraph 4, of the Federal Reserve Act and Regulation M, Section 213.5.

[20] In 1968, the Board recognized a State member bank to have wholly-owned operations subsidiaries, i.e., "organizations designed to serve, in effect, as separately incorporated departments of the bank, performing at locations at which the bank is authorized to engage in business, functions that the bank is empowered to perform directly." (Board Interpretation No. 4215.) Then in 1970, the Board exempted from Section 23A's restrictions transactions between a State member bank and its operations subsidiary. (Board Interpretation No. 4105).

[21] One exception to this recommendation pertains to the case of a (domestic) bank subsidiary of another (domestic) bank. In this rare situation the Board would view the subsidiary bank and its parent bank as equivalent to sister bank subsidiaries within a holding company system. On that basis, the parent bank and its subsidiary bank should be defined as affiliates of one another, but that in the case of an 80 per cent or more owned subsidiary bank all transactions between the parent and its subsidiary bank (other than the purchase of low quality assets, which would be prohibited) would be exempt from the restrictions of Section 23A. The reason for prescribing this treatment for situations in which both the parent and its subsidiary banks are domestic banks is to ensure equal treatment among multibank holding company systems regardless of their organizational structure.

[22] As a policy matter, the Board generally distinguishes between a foreign joint venture and a foreign investment on the basis of a bank's ownership interest. Where a U.S. bank owns less than 25 per cent of a foreign company, the interest is deemed to be an "investment"; where a bank owns 25–50 per cent, the interest is defined as a "joint venture." (1976 Board Interpretation #5650, note 1; and Federal Reserve Bulletin, July, 1974, p. 518, note 2.)

[23] By interpretive ruling #5650 in 1976, the Board expressed its recognition of the possibility that a U.S. banking organization may at times feel compelled for business reasons to provide financial support to a foreign joint venture substantially in excess of the U.S. banking organization's original equity investment and, in some situations, well in excess of its pro rata share. As a consequence, the Board indicated that in considering applications by U.S. banking organizations to

invest in foreign joint ventures, it would henceforth give consideration to the potential risks associated with such support, primarily in the case of proposed new joint venture investments.

[24] This problem is mitigated, however, by the fact that joint ventures are generally small relative to the size of their U.S. parent bank. Consequently, the quantitative limitations of Section 23A would not necessarily be a significant restriction.

[25] With the possible exception of one instance, these rescue operations were well within the means of the U.S. parent bank's financial resources and posed no danger to the banks. The ability to rescue their foreign joint ventures enabled the banks involved to protect their existing investments, reputations, and long-term access to a country.

[26] As a precedent for this proposal, Section 25, paragraph 4, of the Federal Reserve Act gives the Board authority to restrict bank "loans and extensions of credit" to foreign bank subsidiaries where it deems necessary. In fact, in the case of minority-owned foreign bank subsidiaries, this proposal would represent only an extension of this present authority.

[27] In addition, the Board recommends that it be given authority to restrict bank transactions with minority-owned subsidiaries (whether owned directly or indirectly) of a sister bank within a holding company system. Since a non-parent holding company "affiliate" was earlier defined to include its 25 per cent or more owned subsidiaries, this proposal would ensure that the liberal treatment proposed for 80 per cent or more owned sister banks within a holding company system would not also be guaranteed to a minority-owned subsidiary of a sister bank, in contravention of any restrictions that the Board might impose on transactions between that minority-owned subsidiary and its own parent bank.

[28] An important effect of this change would be to define a chain of one-bank holding companies as affiliates of one another's subsidiary banks.

[29] Section 2(b)(2, 3) of the Banking Act of 1933.

[30] Section 2(b)(4) of the Banking Act of 1933.

[31] The Bank Holding Company Act of 1956, as amended, defines "control" as the power (a) to vote 25 per cent or more of any class of voting securities or (b) to control in any manner the election of a majority of the directors or trustees of a bank or nonbank company.

[32] Where trustees control 25 per cent or more of the shares of a *bank* for the benefit of shareholders who control 25 per cent or more of the shares of *another bank*, each bank would be defined as an affiliate of the other.

[33] Generally, REITs that are sponsored and advised by a banking organization are tied to the sponsoring organization in three ways. First, there is usually a contract between some entity in the banking organization and the REIT whereby the entity advises the REIT with respect to investments and investment policy and administers the day-to-day operations of the REIT, subject to the supervision of the trustees. Second, the banking organization generally selects the trustees, of which one or several, but less than a majority, are usually associated with the banking organization. Third, the REIT generally has a name similar to that of its sponsoring banking organization. The result of these ties is generally a "non-arm's-length" relationship between the bank and the advised REIT. In fact, banking organizations generally concede this "non-arm's-length" relationship, as evidenced by statements in the prospectuses for bank-sponsored REITs. To quote from one such prospectus, "The transactions [of the REIT] with the Adviser or its affiliates may be considered not to be at arm's-length, although the Declaration of Trust requires that transactions must be approved or ratified by a majority of the Trustees or of the Investment Committee who are not affiliated with the Adviser. Because of the relationship of the Adviser to the Trust the Adviser will be in a position to exercise considerable influence in the affairs of the Trust."

[34] It should be noted that this would not generally apply to shares acquired by a *bank* as a result of a defaulted loan since a subsidiary of a bank would not be defined as an affiliate for purposes of Section 23A, unless that subsidiary is itself a bank.

[35] This recommendation is consistent with Section 4(c)(2) of the Bank Holding Company Act, as amended, which exempts from the prohibitions of Section 4(a) of the Act ". . . shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years from the date on which they were acquired, . . ."

[36] In the case of such affiliate relationships established prior to the enactment of these amendments to Section 23A, the Board would permit the exemption to continue for a period of two years, commencing with the date of enactment of the amending legislation.

[37] For example, bank loans to any single borrower are limited to a certain percent (normally 10 per cent) of the bank's capital and surplus.

[38] Companies described in Section 4(c)(1) are those engaged solely in: (a) holding or operating properties used wholly or substantially by any banking subsidiary or acquired for such future use; (b) conducting a safe deposit business; (c) furnishing services to or performing services for such bank holding company or its banking subsidiaries; and (d) liquidating assets acquired from such bank holding company or its banking subsidiaries or acquired from any other source prior to May 9, 1956, or the date on which such company became a bank holding company, whichever is later.

[39] The term "low quality asset" is defined on p. 7, note 2.

[40] In 1974, the Board issued an interpretation of Section 23A stating that the term "discount" meant "purchase," and that a bank's purchase *at face value* of a mortgage note from an affiliate was covered by Section 23A even though such purchase was not technically at a discount. (Board Interpretation #4110.)

[41] Presumably, asset "purchases" would also include asset "swaps."

[42] Ineligible acceptances are time drafts accepted by a bank that do not meet the requirements for discount with a Federal Reserve Bank.

[43] While there may be some difference in the credit risk associated with an eligible as opposed to an ineligible acceptance, all acceptances involve at least some credit risk.

[44] A reason for including this particular type of secured loan as a covered transaction is that the unaffiliated party might be serving as a conduit for channeling bank funds to an affiliate. The bank makes a loan to the unaffiliated party, who uses the proceeds to buy securities issued by the affiliate and then pledges these securities as collateral for its bank loan.

[45] The one exception is a *bank* subsidiary of another bank.

[46] Refer to p. 23, note 1.

[47] In a 1971 Interpretation, the Board stated that it would include undivided profits (defined to include certain reserves) as part of "capital stock and surplus." (Board Interpretation #2309.)

[48] Paper that is eligible for rediscount or purchase by the Federal Reserve Banks is generally limited to notes, drafts, bills of exchange, and banker's acceptances issued or drawn for agricultural, industrial or commercial purposes, and generally having a maturity of not more than 90 days.

[49] The term "low quality asset" is defined on p. 7, note 2.

[50] Section 23A, paragraph 4, of the Federal Reserve Act.

[51] The Board recommends that the collateral value to loan amount percentage for stocks be raised to 130 per cent (the highest percentage in the proposed list) from 120 per cent (which is the highest percentage in the present statute).

[52] See p. 7, note 2, for the definition.

THE AMERICAN BAR ASSOCIATION AND THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, 2 years ago the American Bar Association passed a resolution which should have paved the way for the speedy ratification of the Genocide Treaty.

On February 17, 1976, the ABA recommended "the accession of the United States to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide." I am proud to point out that the statement accompanying this resolution was made by Bruno Bitker, a native of Milwaukee. Bitker, who was the chairman of the Committee on International Rights of the ABA, explained the bar's reasons for supporting a treaty it had formerly refused to endorse. He said,

". . . in 1949, the A.B.A. had decided not to support ratification because the treaty 'involves important constitutional questions . . .' not satisfactorily resolved . . . However upon further study and consideration, in February, 1976, the A.B.A. reversed its position and by an overwhelming vote recommended the ratification of the Convention."

The implications of this reversal are significant. The ABA's reluctance to endorse the treaty was based on the need to study the complex legal questions of a treaty making genocide a crime under international law.

But these constitutional questions have now been resolved. If one examines the arguments made against the Genocide Treaty, it becomes clear that they rely heavily on constitutional grounds. Therefore, it is now possible to ratify the treaty with full confidence.

This is a rare opportunity to further the cause of human rights. I therefore urge the immediate ratification of the Genocide Treaty.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. PROXMIRE. I withhold that, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish recognition?

I believe the distinguished Senator from South Carolina wishes to make a statement.

DEATH OF J. O. WILLIS OF AIKEN, S.C.

Mr. THURMOND. Mr. President, a distinguished South Carolina educator, Mr.

J. O. Willis of Aiken, S.C., passed away February 4, 1978.

It had been my pleasure to know Mr. Willis personally for a number of years. My association with him grew out of his position as principal of Aiken High School for 29 years.

During that period I had many opportunities to work with him on matters of importance to the school and to the students. In all instances he executed his duties in the most exemplary manner.

Besides his considerable administrative abilities, Mr. Willis established a beneficial rapport with his students. He took a deep interest in every problem brought to him, whether it was academic or personal. Because of this attitude, he was loved and respected by the students and their support enabled him to accomplish much for the school.

Upon his retirement in 1974, Mr. Willis was honored for his long service and achievements over the years. This expression of appreciation took special note of his "constant interest and concern for those under his supervision."

My wife, Nancy Moore Thurmond, was a student at Aiken High during his principalship. She remembers him as a kind, dedicated person whose life touched and improved the lives of all with whom he came in contact.

The untimely death of Mr. Willis was a shock to his wide circle of friends and former students. He will be greatly missed by all, and I hasten to extend to his family my heartfelt sympathy. Mrs. Thurmond joins me in this expression.

Mr. President, an article published in the Aiken Standard newspaper on February 6, 1978, titled "J. O. Willis, Former Principal Dies," and an editorial of the same date titled "J. O. Willis" recognize the many professional achievements of Mr. Willis. I ask unanimous consent that these two articles be printed at this point, along with a letter to the editor by my wife, in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Aiken Standard, Feb. 6, 1978]

J. O. WILLIS, FORMER PRINCIPAL, DIES

James Otis Willis, 65, principal of Aiken High School for 29 years, died Saturday at Aiken Community Hospital after a short illness.

The funeral was to be held at 3:30 p.m. today at St. Johns United Methodist Church. The Rev. Robert E. James, the Rev. Fulton S. James, and the Rev. Buddy S. Miller were to officiate. Burial was to follow at Aiken Memorial Park. George Funeral Home was in charge.

The family has suggested contributions may be made to the J. O. Willis Scholarship Fund. They can be sent care of Aiken High School.

All Area One schools closed at 2 p.m. today to allow teachers and students to attend funeral services.

Born in McCormack, Mr. Willis was a son of the late Charlie W. and Fannie Luella Singleton Willis. He graduated from McCormick High School, and then earned his bachelor's and master's degrees from the University of South Carolina. He later did additional graduate work at Duke University.

His 40-year career as an educator began at Pinewood High School in Sumter. Later he served as principal at Bishopville High School, and in July 1947 he came to Aiken to serve as principal of Aiken High.

His retirement from that past at the end of the 1975–1976 school year was marked by a special dinner in his honor, attended by over 200 former students and fellow educators, as well as others in the community.

Even before his retirement, though, he was honored by his students. In April 1974 the Aiken High School Key Club organized a tribute to their principal, expressing their appreciation for "his constant interest and concern for those under his supervision."

The ceremony was a surprise to Mr. Willis, who had thought he was going to participate in an Educator Appreciation Night honoring other teachers.

At the annual Awards Day ceremony in 1975, the Eight-Fifteen Club of Aiken High gave Mr. Willis a service award for his devotion to the school.

His local community has also honored him by naming the new vocational wing at Aiken High School after him. His national honors as an educator include his being listed in the 1969 edition of Who's Who in American Education and the 1971 yearbook, Leaders of American Secondary Education.

He served as head of the Aiken County Education Association, the State Executive Commission of Secondary Schools and the High School Standards Committee.

He was a member of St. Johns United Methodist Church, and served as a Sunday School teacher and as a member of the Official Board. He was also a charter member of the Bishopville Kiwanis Club.

County School Board Chairman Emilie Towler expressed her sorrow at Mr. Willis' death and described Mr. Willis as "a dedicated, gentle school administrator." He had an understanding nature and was "especially interested in the welfare of his students," she said.

She recalled that Mr. Willis' calm leadership had been "a great help" in the implementation of school desegregation in the early 1960s and early '70s.

"When he was principle, his total interest was the students," related Margaret Cato, who has taught at Aiken High for years. "He was concerned with people, with helping people. I know I have heard numerous former students comment how he helped them—even some of the ones you might have called troublemakers."

Pat (Mrs. Arthur B.) Emrich, a former student body president at Aiken High, said, "I remember him as being very available, a quiet, unhurried kind of man, and a very good friend."

Another former student body president, Robert M. Cook, who was at Aiken High the year Mr. Willis came, commented that he was the one who started a contest to come up with the school symbol, the Hornet; Mr. Willis was also the one who started the yearbook, he added.

"I would repeat again what I said at his retirement dinner on behalf of all the hornets who've flown from the hive, thanks for a job well done."

Aiken County School Superintendent T. B. Willis said: "The high esteem in which he was held by his colleagues and young people whose lives he touched attests to the fact that J. O. Willis was a man dedicated to encouraging his students to achieve excellence in their lives. He continually promoted the highest principles of education. More important, his life and career were undergirded by a deep Christian faith."

Percy E. Basley, recently retired Area One superintendent, remembered Mr. Willis' keen sense of humor and his way of telling stories.

"He had a special knack for obtaining scholarships for students," he added. "He was one of the best principals the state of South Carolina has ever known."

His heart was as big as his body. He had the pupils' interest always at heart," commented John B. Eubanks, retired Aiken High teacher who worked with Mr. Willis for years.

Miss Cato recalled that Mr. Willis was always able to carry on a conversation on any subject. He played both the piano and the organ, she remembered. On days when the faculty heard organ music coming from the gym, they knew Mr. Willis was upset about something and had gone to play the organ in the gym for a while to calm himself.

"He did a great deal to build Aiken High School to where it was noted academically across the state," she added.

Mr. Willis leaves his widow, the former Jeannie Lee Stacy Willis of 1010 Kerr Dr. SW; a daughter, Carolyn (Mrs. Fred Williams of North Augusta; and a son, James O. Willis Jr., of Arlington, Mass. One of 17 children, Mr. Willis is also survived by four sisters and seven brothers; Mrs. Robert Lewis, of Aiken; Mrs. Paul James of Martinez, Ga.; Mrs. L. P. Richardson and Mrs. J. P. Pinson, both of Anderson; Carl Willis, Paul Willis, Dewey Willis, Archie Willis, and Manley Willis, all of McCormack; Lee Willis, of Greenville; and Frank Willis of Calhoun Falls.

Mr. Willis also leaves three grandchildren. Active pallbearers will be W. R. Willis, William Gannon, P. E. Beasley, James Taylor, L. C. Jones, and Gene Jennings.

Honorary pallbearers will be the James Cannon Bible Class and the Katie Williams Bible Class, A. J. Rutland, L. L. Willis, Paul Knox, Dr. Beecher Morton, Jr., and James Dawsey.

[From the Aiken Standard, Feb. 6, 1978]

"J. O. WILLIS"

The 29 years during which J. O. Willis served as principal of Aiken High School could easily be termed the most tumultuous in the school's history. The ordeals that characterized those years were felt most keenly among the youth who were his responsibility.

Beginning in 1954 when the Supreme Court held segregation on the basis of color to be unconstitutonal, the schools were under increasing pressure to achieve compliance. Early in the 1970s all traces of a dual system were finally removed, and it was apparent that the nation had placed on the schools the greatest part of the desegregation burden.

Almost simultaneously came the Viet Nam war and the youth revolt that accompanied it. The period was characterized by violence, disrespect for authority and an alarming increase in the use of drugs and alcohol.

Mr. Willis throughout those years presided over the local high school with calmness and good humor, his gentle nature often serving as oil on troubled waters. He took a deep and sincere interest in his students, and he followed their careers long after they reached adulthood.

He lived to see many alumni return to express appreciation for the guidance and inspiration he provided them.

Upon his retirement in 1976, the school board chose to name the vocational wing of the high school in his honor. He was often recognized for his leadership in the field of education.

A graduate of the University of South Carolina and Duke University, Mr. Willis became a charter member of the Kiwanis Club in Bishopville, where he taught school as a young man. In Aiken, he was a teacher of an adult Sunday school class and a member of the official board of St. John's United Methodist Church.

Aiken and particularly several generations of its young people owed a great debt to J. O. Willis, who died Feb. 4 after a relatively short illness.

He will be missed from our community.

The Aiken Standard extends its deepest sympathies to his family.

[From the Aiken Standard, Feb. 15, 1978]

"J. O. WILLIS, FRIEND, ADIVSER"

To the Editor:

It was with deep regret that I learned of the passing of Mr. James Otis Willis.

Mr. Willis was a friend as well as an advisor to all those under his guidance. During his years as principal of Aiken High School (1947–1975) he had a tremendous influence on the young people there. He possessed a wonderful sense of humor and always took time to listen to questions from the students and to assist in solving their problems—big or small.

He will be missed not only by those in educational circles but also by those in our entire community. Mr. Willis was an outstanding gentleman and a dedicated American who lived his life to the fullest by giving of himself freely to others. He will long be remembered by myself and by all the other graduates of Aiken High School.

NANCY THURMOND.

COLUMBIA, S.C.

DEATH OF THOMAS ALBERT WOFFORD

Mr. THURMOND. Mr. President, it is my sad responsibility to inform the Senate of the death of one of its former members, Thomas A. Wofford of Greenville, S.C. Tom Wofford passed away on Saturday, February 26, at the age of 69, after a lifetime of able and dedicated public service.

Tom Wofford had an intellect of the first caliber. He was a graduate of the University of South Carolina and of Harvard Law School. His sharp, logical mind took to the law instinctively; it was almost second nature to him. He was admitted to the South Carolina Bar Association in 1931 and practiced continuously until the time of his death.

His prowess as an attorney is amply demonstrated by some of the legal assignments he was chosen to undertake. Tom Wofford served, at various times, as an assistant solicitor, an assistant U.S. district attorney, a special circuit judge, and president of the Greenville Bar Association. He was held in the highest esteem by the legal profession throughout the State of South Carolina.

Interestingly, I can claim Tom Wofford as both my predecessor and my successor in the U.S. Senate—though in reverse order. When I ran for the Senate in 1954, in a write-in campaign, I promised that, if elected, I would resign from my seat early in the 1956 election so as to enable the people of South Carolina to select their candidate in the primary election. I did resign pursuant to my promise, and the then-Governor of South Carolina, George Bell Timmerman, had to make an interim appointment. His choice fell upon Tom Wofford, and an excellent choice it was.

Tom Wofford performed his senatorial duties conscientiously and effectively. Freed from the demands of politics, he was able to devote himself to lawmaking and to furthering the interests of his State. He was a caretaker, but only in the sense of the noble steward in the Bible who went out and put to good use what had been entrusted to him.

When his interim tenure in the Senate ended with my reelection, he left behind many friends and admirers here in Washington. Some members of my staff had stayed on to work on his staff, and I particularly remember how fond of him they had become. No doubt those Senators who go back to those days all have their own pleasant memories of Tom Wofford.

Tom Wofford was a devoted family man, and one of the advantages of his return to Greenville in 1956 was that it gave him more time to spend with his charming wife and his five children. He did not abandon political life altogether, however, for he himself waged a successful write-in campaign in 1966 for the State Senate. In 1968, he was a delegate with me to the Republican National Convention. He served with distinction until 1972 in the South Carolina State Senate, which was honored by the membership of a former member of the U.S. Senate. Tom Wofford, as is obvious, was not a man to put on airs. He eagerly grasped every opportunity to render public service.

I know that the Senate will join me in extending sincere condolences to the family of Tom Wofford. His survivors include his wife Caro Wyche, of Greenville; his son Charles W. Wofford, of Greenville; his four daughters, Mrs. Oscar W. Bannister, Mrs. Charles W. Barker, and Mrs. Samuel B. Rouse, of Greenville, and Mrs. William O. Carpenter, of St. Petersburg, Fla.; his sisters, Mrs. Charles B. Siviter, of Pittsburgh, Pa., and Mrs. Vernon A. Crawford, of Black Mountain, N.C.; and his six grandchildren.

I know from personal experience what a privilege it was to have Tom Wofford as a friend, and what a tremendous sense of loss his passing occasions. For his fine family the sense of loss is even worse, but of course they had the greater privilege in being so close to this outstanding man. In character, achievement, and service to country, he ranks among the most eminent South Carolinians of his generation.

Mr. President, at the time of Tom Wofford's death, a number of articles appeared in South Carolina and regional newspapers. I know that my colleagues will be interested in them. In order that they may read these articles at their leisure, and in the hope that the exemplary life which these articles describe may influence others for the good, I ask unanimous consent that they be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Greenville News and Piedmont, Feb. 26, 1978]

THOMAS WOFFORD, FORMER SENATOR, DIES

Former U.S. Senator Thomas Albert Wofford, 69, of Riverbend Apartments, died Saturday after a long illness.

Born in Laurens, he was the son of the late John Albert and Cleo Cunningham Wofford. He was the husband of Caro Wyche Wofford.

Wofford was appointed to the Senate in 1956 by then-Gov. George Bell Timmerman to fill the unexpired term of Strom Thurmond, who resigned. Wofford served as a senator for about eight months.

He was a graduate of University of South Carolina and Harvard University Law School.

He was admitted to the South Carolina Bar Association in 1931 and was a practicing attorney in Greenville.

He was a Trustee of Winthrop College from 1944–1956, Assistant Solicitor of the 13th Judical Circuit from 1935 through 1936, Assistant U.S. District Attorney-Greenville from 1937–43, Special Circuit judge 1945, 1953 and 1961.

He had also served as President of the Greenville Bar Association in 1965. He was chairman of the Greenville County Legislative Delegation 1966–68, during which time funds for the Greenville County Library where appropriated by the State Legislature.

He served as State Senator from 1966 through 1972 and was a Delegate to the U.S. Republican Convention in 1968.

He was a member of Pendleton Street Baptist Church.

Surviving also are daughters, Mrs. Oscar W. Bannister, Mrs. Charles W. Barker and Mrs. Samuel B. Rouse of Greenville and Mrs. William O. Carpenter of St. Petersburg, Fla.; a son, Charles W. Wofford of Greenville; sisters, Mrs. Charles C. Elmers and Mrs. Chalmers Siviter of Pittsburgh, Pa., and Mrs. Vernon A. Crawford of Black Mountain, N.C.; a brother, Bruce W. Wofford of Gastonia, N.C.; and nine grandchildren.

Services wil be at 2 p.m. Monday in Woodlawn Memorial Park.

The family is at the home of a daughter, Mrs. Charles W. Barker, 65 Winfield Road.

The family requests that flowers be omitted and memorials be made to the American Cancer Society.—The Mackey Mortuary.

[From the State, Feb. 26, 1978]

THOMAS ALBERT WOFFORD, EX-STATE SENATOR, DIES

GREENVILLE.—Thomas Albert Wofford, 69, a former state senator and Greenville attorney, died Saturday at a Greenville hospital.

Born in Laurens, he was a son of the late John Albert and Cleo Cunningham Wofford.

A 1923 graduate of the University of South Carolina, he received a law degree from Harvard University in 1931.

He was a trustee of Winthrop College from 1944–56, assistant solicitor for the 13th Judicial Circuit from 1935–36 and assistant U.S. District Attorney for Greenville from 1937–43.

He was a special circuit judge and president of the Greenville Bar Association and chairman of the Greenville County Legislative Delegation.

He served in the South Carolina Senate from 1966–72 and was a delegate to the U.S. Republican Convention in 1968.

Surviving are four daughters, Mrs. Oscar W. Bannister, Mrs. Charles W. Barker and Mrs. Samuel B. Rouse of Greenville and Mrs. William O. Carpenter of St. Petersburg, Fla.; a son, Charles W. Wofford of Greenville; three sisters, Mrs. Charles C. Elmers, Mrs. Chalmers Siviter of Pittsburgh, Pa., and Mrs. Vernon A. Crawford of Black Mountain, N.C.; a brother, Bruce W. Wofford of Gastonia, N.C.; and nine grandchildren.

Services will be 2 p.m. Monday in Woodlawn Memorial Park.

Mackey Mortuary is in charge.

[From the Greenville Piedmont, Feb. 28, 1978]

THOMAS WOFFORD: RARE INDIVIDUAL

Greenville attorney Thomas A. Wofford figured in historymaking events in South Carolina in the last couple of decades and coined a phrase which says much about the exciting era in which he played an important role.

Wofford was appointed by Gov. George Bell Timmerman, Jr., as interim United States senator to "fill in" for Sen. Strom Thurmond after the latter resigned to carry out a "write-in" general election campaign promise to run again in the next primary.

He later was elected to the State Senate from Greenville, running as a Republican against the incumbent Democrat, Bradley Morrah Jr., who was running for re-election and also for the U.S. Senate against Thurmond.

Earlier as a South Carolina Democrat, Wofford had been an assistant U.S. district attorney and an assistant state circuit solicitor. He also served as a trustee for Winthrop College.

Wofford was well known in both legal and political circles as a brilliant, tough advocate. He was a powerful and colorful figure. He was a strong person who practiced as well as professed rugged individualism.

Wofford was credited with the description of Strom Thurmond as a "political institution" above political parties.

In recent years ill health kept Wofford out of the public eye. But he is remembered still by numerous Greenvillians and by people throughout this state. His recent death brings sorrow to many friends, here and elsewhere.

SOLAR POWER AS A VIABLE ENERGY SOURCE

Mr. THURMOND. Mr. President, I rise today to announce my strong support of solar prower as a viable and worthwhile energy source. It is appropriate, in my opinion, that the American people devote their energies to the development of all types of energy technology. I realize that controversy exists among scholars in the energy community as to whether "hard" technology, petroleum, coal, and nuclear, or "soft," such as solar and geothermal, is better. It is not my intention to enter that fray. My stand on the development of hard technology is well known. For instance, I have repeatedly voted for the removal of price controls on natural gas.

In addition, in my own State, we have a number of nuclear facilities, including the Barnwell Nuclear Fuel Plant and a number of nuclear electricity generating plants. More such plants are planned, as it is the conviction of South Carolinians that nuclear power is clean and efficient, that the safety record of American nuclear plants is impeccable, and that when the coal strike endangered electric power generation in many parts of the country, nuclear plants continued to operate reliably.

Mr. President, it is incumbent upon us to look to the future in our search for a solution to the energy problems which we face. Right now, I think it is safe to say that our economy is petroleum-daily. The effect of this on the American people for oil and oil products is voracious. Oil imports from the OPEC countries represent a form of blackmail, with gasoline prices rising higher almost daily. The effect of this on the American dollar and our economy is devastating.

Experts in the energy field foresee nuclear and coal resources as fulfilling our energy needs between the time that we shift from oil products to these sources, and the middle of the 21st century. What, then should our long-term goals be for energy research and development? Solarpower, to me, ought to receive first priority.

Solar power is abundant, it is dependable, and it is free. Unlike the fossil fuels, such as oil and gas, sunlight "flows" and is not a finite "stock" as we know it. Unlike finite fuel technology, improvements of which lead to exhaustion of the source, solar technology improvements lead to the better utilization of the source, followed by lower prices.

SOLAR HEATING AND COOLING

The process of using the Sun to heat water, which is subsequently used for heating and cooling, is simple. Unfortunately, the United States is far behind other nations in the development of related technology. For example, as I understand it, Israel has 200,000 homes with solar water heaters, Japan—over 2 million.

Systems which have been developed to heat and cool residential and commercial buildings are of two types, active and passive. Many feel that the use of passive systems—those which store energy right where the sunlight strikes the buildings walls and floors—is the most efficient and cost-effective way to heat and cool new buildings. Active systems, while more expensive due to the need for circulating equipment, can—when used in combination with passive systems—supply solar self-sufficiency to almost any region in this country.

SOLAR CELLS

The photovoltaic cell— the principal power source in our space satellites—is the most exciting solar electric prospect in the energy inventory. These cells generate electricity directly when sunlight falls on them. The advantages are numerous: they have no moving parts, consume no fuel, produce no pollution, operate at environmental temperatures, last a long time, and require little maintenance. Also, these cells can be fashioned from silicon, the second most abundant element in the Earth's crust.

STORING SUNLIGHT

Critics of solar energy point to the fact that is is an interruptible source, that it is too diffuse, intermittent and seasonally variable to serve human needs. However, it should be noted that every energy source is interruptible: power lines break, trucks back into oil pipelines, reservoirs which supply water for electricity from hydroelectric dams run dry, and nuclear plants need to be refueled. As a matter of logic, the intermittent nature of solar power can be advantageous. Virtually all areas in America have peak electrical demands during daylight hours, those during which solar facilities operate at an optimum.

SOLAR COSTS

I suppose, Mr. President, that the most frequently voiced criticism of solar energy is that its cost is prohibitive, thus making widespread application impossible. Responses to this criticism are obvious. Since 1973 the cost of solar equipment has steadily dropped while costs of other sources have rocketed. One estimate states that today's $25 a square foot collector will cost but $10 a square foot in 1981, this reduction due in large part to that American phenomenon known as mass production. As an aside, I would like to add that experts in industry and Government, including Dr. George Walters, president of Solar Systems of Hayward, Calif., and Secretary of Energy James Schlesinger, have voiced the message that home solar heating is now economical, and should not be viewed as an exotic novelty. Mr. President, I believe that it is up to the solar industry, solar industry enthusiasts and the Government to make a joint commitment to change public attitudes.

HELPING THE THIRD WORLD

In the realm of foreign policy, Mr. President, I see no reason why the Federal Government could not use solar technology for its foreign assistance programs. Think of it. To me, solar energy could possibly be argued to be even more important in the Third World than domestically. Developing countries in Africa, South Asia, and Latin America almost always have abundant sunlight. In addition, population patterns in these areas are decentralized, with the majority in each being in rural regions. The extremely high costs of present energy sources in these villages make the solar option economically competitive, at the very least.

AGRICULTURE AND SOLAR POWER

America is now well aware of the plight of its farmers. One solution to a small part of this important problem may lie in Federal assistance to the development of solar power for agriculture. Just recently, I sent a letter to Senator THOMAS EAGLETON, chairman of the Subcommittee on Agriculture of the Senate Appropriations Committee, seeking his support in obtaining a $67 million appropriation for an agricultural solar energy program in fiscal year 1979.

President Roosevelt brought the rural electrification program to our country areas. This program provided subsidized loans at 2 percent interest to get the Nation's electrical lines to the farms. It seems to me that one possible Federal response could be a like program for rural solarization.

THE SOLAR SOCIETY

Mr. President, as we look to the future energy needs of the Nation, and as we seek solutions to our immediate and longrange energy problems, we would be foolhardy to disregard the social changes which come with these transitions. History tells us that changes will come. The 18th century shift to coal brought the Industrial Revolution. The subsequent shift to petroleum led to the advent of the automobile, the supersonic transport, reshaped cities, and a smaller world.

Some energy sources, by their nature, demand centralization; solar sources are dispersable. Some sources engender profiteering cartels, solar sources narrow the gap between rich and poor, both here and abroad. Some sources are incredibly complex, involving technologies baffling to all but a few scientists; solar sources are universally understandable and useable.

Mr. President, I call on my colleagues to join me in rejecting political timidity and meeting the challenge of the future. One of the best futures we can choose is a solar-powered one. No one says that this will be an easy choice. Powerful in-

terests now compete for Federal energy money and legislation, and are bound to continue to do so. Bureaucracy will be plagued, as always, by inertia. Ideas and designs will conflict, and people, being human, will be naturally reluctant to face up to the future.

Mr. President, I am optimistic. This great country, one blessed with inventors and entrepreneurs beyond count, one which claims Thomas Edison, George Washington Carver, and Henry Ford as its own, can and will meet the challenge. It is up to those of us in Washington to provide the leadership.

A QUESTIONABLE SUBSIDY

Mr. THURMOND. Mr. President, Mr. Charles Bartlett recently wrote an article for the Washington Star entitled "A Questionable Subsidy." This article addressed legislation, S. 270, that I have been concerned about in the past. I want to say now that current rumors concerning the resurrection of this bill are causing me more concern. I have said it before and I will say it now: The concept of consumer protection is a good one. No one can dispute that. But to subsidize lawyers in an atmosphere of "institutionalized confrontation" is a bad idea. Enough Senators on the Judiciary Committee realized this last summer to vote against reporting S. 270, and I hope that enough on the committee and in the full Senate still feel that way to defeat this measure should it be brought up.

Mr. President, I ask unanimous consent that the article by Mr. Bartlett be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The mass of lawyers for whom the federal government has become a mother lode will find richer diggings than ever if Congress agrees to a plan to subsidize the activities of public-interest attorneys.

The premise of the Kennedy-Mathias proposal, as endorsed by President Carter, is that citizens who participate in regulatory deliberations in which they have no financial stake should be reimbursed for the costs of their efforts to affect the decisions. The aim is to insure that public interest spokesmen are as clearly heard in these forums as those who represent the government and private companies.

Complaining that cost is the chief obstacle to their efforts to block dams, nuclear plants, and other threats to the health and happiness of the people, the public interest lawyers are asking to be paid up to $50 an hour, plus costs for intervening in knowledgeable, relevant ways. To illustrate the costliness of this kind of participation, they report that the 1976 legal costs of CAB proceedings for the 10 major airlines was $2,851,000.

Their plan is being tried at the Federal Trade Commission, which has already paid over $1 million to 51 intervenors, mostly for testimony representing what one commissioner describes as "an extreme consumer view." These public interest lawyers participate in the deadly serious spirit that is characteristic of them and often furnish useful material which the commissioners would otherwise have to seek from the FTC staff.

There is plenty of competition for the ears of the regulators. The Washington Yellow Pages lists 71 columns of lawyers and 25 columns of trade associations. The latter are gathering into Washington at the rate of one per week and by the best available count, some 1,652 of them are already on the ground, doing battle for their members.

This accumulation of special interest talent gives the public interest lawyers reason to claim they can furnish some balance. The problem is that they pursue their own notions of the public interest and they tend, like other interest groups, to become part of the problem. If they are subsidized at the projected $10 million a year, they will, in the view of Joseph Swidler, a liberal regulator of long experience, institutionalize confrontation within the government.

In a pure democracy, all citizens would regularly participate in public deliberations. Jean Rousseau noted that the Greeks were constantly assembled in the public square because they had a mild climate, slaves to do their work and no greed for wealth. Their concern was with liberty.

However such pure democracies soon deteriorated because the factional nature of man transformed them, in James Madison's words, into "spectacles of turbulence and contention."

In a representative democracy, the use of public funds to pay self-appointed spokesmen to press their viewpoints in the name of the public can distort the system. If it were desirable to pay them to go before the regulatory interests, the same rewards should be available to all who expound what they claim to be the public interest before committees of Congress.

If the aim is deeper involvement of the public, logic would suggest that large sums be spent to bring representative masses here to press their views all over town.

The Carter White House is drafting an executive order directing all agencies to find creative, meaningful ways to bring the public into the decision-making process. This means taking surveys to discover how the people feel about the alternative solutions to regulatory problems. The President is pressing an effort to shape regulation to the popular taste.

This approach makes more sense than paying the costs of lawyers who claim to represent the public interest because they are hostile to government and business. They are more extreme than the average citizen on most of the issues in which they deal.

Mr. THURMOND. I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

A RARE GENTLEMAN IS LEAVING OUR MIDST

Mr. ROBERT C. BYRD. Mr. President, it was with regret that we received the official word yesterday of the impending retirement from the Senate at the end of this session of our distinguished colleague from Mississippi, Senator JAMES O. EASTLAND. Senator EASTLAND first entered the Senate in 1941. For more than 36 years, he has ably represented the people of Mississippi in this Chamber, and he holds the record for longevity of tenure among the current Senate membership.

When applied to JAMES EASTLAND, the term "distinguished" assumes a renewed meaning. From the Latin, it signifies someone whose character and accomplishments are so superior that they stand out among their fellow men. This is an appropriate characterization of Senator EASTLAND.

JAMES EASTLAND is a native of Mississippi and the Deep South. After completing his formal education at the University of Mississippi and Vanderbilt, and receiving his law degree from the University of Alabama, he entered legal practice in his home State, and was elected to the State legislature, serving from 1928 until 1932. He again practiced law until 1941, when he was appointed to the U.S. Senate to complete the unexpired term of the late Senator Pat Harrison. In 1942, Senator EASTLAND was elected to his seat and has received the overwhelming endorsement of the people of Mississippi in five elections since then.

Senator EASTLAND has served his constituents with distinction for more than 3½ decades, and he must be considered a genuine philosophical descendant of the great John C. Calhoun. Throughout his career, JAMES EASTLAND has upheld the classic interpretation of a balance of responsibilities between the State and Federal governments, and he has won the admiration and respect of his colleagues thereby over the years. Through 22 years as chairman of the Senate Judiciary Committee, his insistence on the integrity of the law in our society has contributed significantly to the lives of all Americans.

Mr. President, when JAMES EASTLAND departs our midst and ends his tenure as President pro tempore, we shall bid farewell to a rare gentleman and a beloved friend. He will enter his retirement with the good wishes and deep appreciation of all his colleagues in the Senate, and we shall indeed miss him.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I wish to be associated with him in the expression of good wishes to our distinguished President pro tempore (Mr. EASTLAND), who has announced his retirement from the Senate. Those of us who live in Tennessee know at first hand of the valuable service that the distinguished Senator from Mississippi has rendered to the public. I sometimes accuse him in jest of trying to annex the major city in my State, Memphis. Many Memphians do indeed regard Senator JIM EASTLAND as the third Senator from Tennessee.

We hold him in high respect and esteem. We will be sorry, indeed, to see him leave.

I am sure I express the sentiment of the people of my State in extending him our best wishes.

I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

I yield to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I want to associate myself with the remarks of the distinguished majority leader and the distinguished minority leader with respect to the announcement of the retirement of Senator JAMES O. EASTLAND as the Senator from Mississippi.

Certainly, Senator EASTLAND's departure will leave a great void here in the Senate. I regard him as an outstanding statesman and one of the great Senators from a State that has produced many great Senators.

I have leaned on Senator EASTLAND for advice and for guidance since I have been in the U.S. Senate.

I must say that he is highly regarded in the State of Alabama, which I have the honor of representing. He is regarded there as one of the greatest Senators that the Nation has produced.

Things will never be the same in the U.S. Senate without Senator EASTLAND's presence here. Certainly, it will be the passing of an era when he leaves, because he has definitely left his mark on the U.S. Senate. I know of no Member of the Senate in recent times who has had the influence and the high regard of Members of the Senate that Senator EASTLAND has had through the years.

Certainly we will miss him. Much of the luster and greatness of the U.S. Senate will come to an end when Senator EASTLAND leaves these hallowed halls.

We recognize that he could have stayed in the Senate as long as he had a desire to do so.

We certainly wish for him many long and happy years in retirement and that he and Libby will enjoy their retirement.

We know he will never cease to have an interest in Government, an interest in the affairs of the Senate, the affairs of the Congress, and that his heart and his thoughts will forever be a part of the U.S. Senate.

I thank the distinguished majority leader for yielding to me.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama (Mr. ALLEN).

Mr. THURMOND. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I deeply regretted to learn that the distinguished Senator from Mississippi (Mr. EASTLAND) announced that he would not run again for the U.S. Senate.

I believe Senator EASTLAND first came to the Senate in 1941 by appointment and then later returned to the Senate after being elected in 1943 and has served here since that time.

This is one of the longest tenures of service of any Senator in the history of this country.

I have known Senator EASTLAND for many years. I have found him to be a man of character and integrity, a man who is dedicated to his country, a man who favors balanced budgets, a man who stands for a strong defense, and a man who is interested not in just legislating for the present generation, but also for the next generation.

Mr. President, I have had the pleasure of serving on the Judiciary Committee with Senator EASTLAND for a number of years. In the last few years, I have served as ranking minority member on that committee. In my opinion, he is one of the most capable, dependable, and finest chairmen of any Senate committee.

I have always found him courteous, helpful, and dependable. The Senate is going to suffer a great loss when he leaves.

I will have more to say later before his departure. But at this moment I just want to express my deep regrets that the able and distinguished Senator from Mississippi does not plan to run again.

It will be a loss to the Nation as well as to the State of Mississippi.

I want to take this opportunity to wish him and his family good health and happiness in future years.

THE CONVENTIONAL WISDOM

Mr. ROBERT C. BYRD. Mr. President, it has been the conventional wisdom in Washington for some time now that the Panama Canal treaties would be a political liability for any Senator who supported them. It has been contended that public opposition is so overwhelming that a Senator who supports the treaties runs a risk of having his constituents turn against him.

I, too, perhaps was reacting to that conventional wisdom when I said on the Senate floor, just before the historic vote on the Neutrality Treaty on Thursday, that—

> There is no political mileage in voting for these treaties, and there is no doubt in my mind but that every Senator who votes for these treaties will to some extent suffer a loss of support among his people.

Well, conventional wisdom is often proved wrong. That certainly seems to have been so in the case of our majority whip, the senior Senator from California, who came out strongly in support of the treaties more than a year ago.

Acting out of early conviction that the treaties are in the best interests of the United States—economically, militarily, and diplomatically—ALAN CRANSTON came out strongly in their support more than a year ago.

I think we are all pretty much aware of how hard ALAN has worked for the treaties among his fellow Senators. But he has also worked hard for the treaties among the people of California.

For more than a year, ALAN has spoken out for the treaty before all groups—businessmen, farmers, labor—up and down the length of California. And his views have been carried repeatedly by the mass media—newspapers, radio, and television—throughout his diverse and volatile State.

His activities have not gone unnoticed by opponents of the treaties in California who, most of us assume, are legion.

All of us in the Senate have been deluged with Panama Canal Treaty mail. But I do not know many of us who can match ALAN's figures. He tells me he has received 2,742 letters, postcards, and telegrams in favor of the treaties and 78,475 against.

Conventional wisdom would tell us that the treaties are a big issue in California and that ALAN must have lost support because of his stand on the treaties.

But, a poll made public Friday by Mervin Field, whose public opinion sampling in California have proved unusually reliable through the years, shows just the opposite.

An impressive 77 percent of the Californians who were polled just last month gave ALAN CRANSTON a highly favorable job rating. That was 4 points higher than his 73 percent good-job rating a year ago, in March 1977, shortly after he began talking out for the treaties.

Significantly, the survey reveals that there is a bipartisan aspect to the public's high regard for ALAN.

According to Mr. Field, twice as many Republicans say that CRANSTON is doing a good job as say that he is doing a poor job, and the ratio of good-job to poor-job ratings given CRANSTON by his fellow Democrats is better than 4 to 1.

Over the years that ALAN CRANSTON has been in the U.S. Senate, the Field poll has made six measurements of public opinion about him. There has been, according to Mr. Field, a steady increase in Senator CRANSTON's approval ratings. Obviously this is public recognition of the quality of ALAN CRANSTON as a U.S. Senator. Also one may fairly conclude that the supposed political liability of supporting the treaties has been highly exaggerated.

I bring this matter to my colleagues' attention because in other States this might also be true.

EXTENSION OF TIME TO INTRODUCE BILL

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished junior Senator from Missouri (Mr. DANFORTH) have until 6 p.m. this evening to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 425—ADDITIONAL EXPENDITURES, COMMITTEE ON GOVERNMENT OPERATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, Mr. RIBICOFF, Mr. NUNN, and Mr. PERCY, I introduce a Senate resolution to amend Senate Resolution 370 agreed to by the Senate on March 6, 1978. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 425) to amend Senate Resolution 370, 95th Congress, authorizing additional expenditures by the Committee on Governmental Affairs for inquiries and investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

S. RES. 425

Resolved, That section 3 of Senate Resolution 370, 95th Congress, agreed to March 6 (legislative day, February 6), 1978, is amended as follows:

(1) In the matter preceding paragraph (1) after "committee" insert ", or any duly authorized subcommittee thereof,".

(2) In the proviso to paragraph (1) after "committee" insert "or any subcommittee thereof".

(3) In the proviso following paragraph (7), after "committee" insert "or any subcommittee thereof".

(4) In subsection (c) after "committee" where it appears the first time insert ", or any duly authorized subcommittee thereof,".

(5) In subsection (c) after "committee" the second time it appears insert "or subcommittee".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 423—AUTHORITY FOR A STAFF INVESTIGATOR TO PRESENT TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 654.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 423) to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and give executive session testimony before the Select Committee on Assassinations of the United States House of Representatives.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, by letter dated March 16, 1978, the Chairman of the Select Committee on Assassinations of the United States House of Representatives has requested that Philip R. Manuel, a staff investigator of the Senate Permanent Subcommittee on Investigations, appear and give executive session testimony before that body on matters pertinent to the inquiry currently being conducted by that body;

Whereas, the subject matter of that executive session testimony pertains to information obtained by Mr. Manuel in the course of his employment as a staff investigator for the Senate Permanent Subcommittee on Investigations; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That Philip R. Manuel is authorized to present himself and give executive session testimony before the Select Committee on Assassinations of the United States House of Representatives pursuant to the written request of the Chairman of said Select Committee.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Honorable Louis Stokes, Chairman, Select Committee on Assassinations, United States House of Representatives, Washington, D.C. 20515.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. RES. 426—EXPRESSING APPRECIATION OF THE SENATE TO JAMES R. CALLOWAY

Mr. ROBERT C. BYRD. Mr. President, it is with considerable regret and sadness that I have learned of the retirement of James R. Calloway, the outstandingly able and dedicated chief counsel and staff director of the Senate Committee on Appropriations.

Since November 1972, when he was appointed to this important post by the late chairman, Senator John L. McClellan, Jim Calloway has effectively and efficiently served the Senate and the people of the United States during a significant period in our Nation's history.

Good staff work is an indispensable essential to the wise and sound deliberations of the Senate, and, speaking as a member of the Appropriations Committee, I can affirm that no committee has been better served in this respect than the Appropriations Committee during Jim Calloway's tenure.

Throughout his service, he has shown unusual qualities of tact, ability, and skill in fulfilling his committee duties. I am certain that virtually every Member of this body has, at one time or another, availed himself of Jim Calloway's experience, abilities, and advice. And I am equally certain that they have been completely satisfied with the results of these consultations.

Jim Calloway has loyally served the Senate for nearly three decades—and in that time he has become, as Senator McClellan described him, "a most skillful legislative technician" and "a professional in the finest sense and tradition of the term."

A native of Hot Springs, N.C., but a long-time resident of Delaware, Jim Calloway first came to the Senate in 1949 as a special assistant to Senator J. Allen Frear. He served in this post until 1960, except for 2 years in the U.S. Army in Korea.

In 1960, he was appointed a professional staff member of the Senate Committee on Government Operations and in 1966 was promoted to chief counsel and staff director. Among the significant legislation upon which the committee worked during that period were numerous proposals to reconstitute, restructure, and reorganize the Federal Government—including the establishment of the Department of Transportation.

As a close associate of Senator McClellan, Jim Calloway worked with him in establishing the Subcommittee on Criminal Laws of the Senate Committee on the Judiciary, and in securing passage of several pieces of landmark anticrime legislation.

Few Senate committees have a wider realm of jurisdiction than the Appropriations Committee, and Jim Calloway proved to be an exceptionally skilled counsel and staff director. It was during his tenure that the new Budget Act was adopted, and he implemented the new procedures mandated by the act with thoroughness and expediency.

Thus, Jim Calloway's long years of service to the Senate have been filled with extraordinary achievement—testimony to his unparalleled professional abilities and his equally unusual personal qualities.

I know that I speak for all Members of the Senate when I say that we shall miss his loyal presence, his keen advice, and his administrative skill.

But we also take pride in his accomplishments because they reflect credit upon the Senate. We wish him continued success and every good fortune in whatever endeavors he may undertake.

Mr. President, on behalf of Mr. EAGLETON, I send to the desk a resolution in this respect and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

Mr. EAGLETON (for himself, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. MAGNUSON, Mr. STENNIS, Mr. BAYH, Mr. CHILES, Mr. HUDDLESTON, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. CASE, Mr. BROOKE, Mr. MARK O. HATFIELD, Mr. LEAHY, Mr. PROXMIRE, and Mr. SCHWEIKER) proposes a resolution (S. Res. 426) to express the appreciation of the Senate to James R. Calloway.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The Senate proceeded to consider the resolution.

Mr. PROXMIRE. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, as a member of the Appropriations Committee for a number of years, I want to pay tribute to Jim Calloway.

He is an outstanding staff member. He impressed me from the very beginning with his understanding of very complicated issues on the Appropriations Committee, his willingness to work with all Members on both sides of the aisle, the great amount of time he spent helping members of the committee to develop an understanding of the biggest responsibility the Congress has, which is the responsibility for the purse. He was really a great contribution to the committee and to its work for many years.

I always have been impressed by the ability of the staff of the Appropriations Committee. It is a small staff, much smaller than I think most people realize. The work they have done is a great thing for the Senate and for the country.

I am very honored to have an opportunity to cosponsor this resolution.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. Without objection, the resolution is agreed to; and, without objection, the preamble is agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Senate wishes to express its appreciation to James R. Calloway, who has served the United States Senate since 1959;

Whereas James R. Calloway has been Chief Counsel and Staff Director of the Senate Committee on Appropriations since 1972.

Whereas James R. Calloway served as Chief Counsel and Staff Director of the Senate Committee on Government Operations from 1965 through 1972;

Whereas James R. Calloway has discharged the difficult duties and responsibilities of his positions with high efficiency and abiding devotion which have earned for him our affection, respect, and esteem: Now, therefore, be it

Resolved, That James R. Calloway is hereby commended for his long, faithful, and exemplary service.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to James R. Calloway.

● Mr. EAGLETON. During the past 5 years the Committee on Appropriations has had the distinct good fortune of being guided by a chief counsel and staff director of great ability, wisdom and skill. Of course, I am speaking of James R. Calloway, who is retiring on March 31 after nearly three decades of dedicated and highly professional service to the U.S. Senate and to the people of this country.

In early January of 1973, when I became a member of the Committee on Appropriations, one of the first staff members with whom I dealt was Jim Calloway. During the past 5 years of my tenure on the committee, I do not think anyone could have asked for more dedicated staff leadership and more dependable advice and counsel, not only about appropriations matters, but about many other facets of legislative business as well as tactics and strategies. Jim's wealth of experience—which included 11 years as special assistant for legislative matters on the staff of Senator Allen Frear of Delaware, 5 years as a professional staff member of the Senate Committee on Government Operations, and 6 years as chief counsel and staff director of the Senate Committee on Government Operations prior to his being appointed chief counsel and staff director of Appropriations in November, 1972—served all of the members of this committee well during a very important period of dynamic growth and change in the budgetary process of the Congress.

During his tenure, the total Federal budget rose from about a quarter of a trillion dollars to well over a half trillion dollars. During this same period, the Congress fashioned a new budget process and made it work. I need not tell my colleagues how important the dedicated work of staff members like Jim Calloway was and will continue to be in achieving continuing effective implementation of these new procedures.

While serving as chief counsel and staff director of the Committee on Government Operations, Jim helped the committee in its consideration of a variety of legislation, including scores of proposals to reconstitute, restructure and reorganize Federal departments and agencies, and in a variety of investigations into organized crime that led to enactment of landmark anticrime legislation in 1968—the Safe Streets and Crime Control Act.

I can only say that I fully endorse this resolution of commendation and appreciation for Jim Calloway.

Finally, I want to add a small personal note, in wishing both Jim and his wife Marcella the best of luck in their future endeavors. If the past is any guide to the future, his endeavors will, undoubtedly, be a success, just as they have been in the past for Jim throughout a long career of public service of which I am certain he is justifiably proud.●

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate today to consider S. 2236, the Omnibus Anti-Terrorism Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION BY COMMITTEES ON THURSDAY, MARCH 30, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to report bills and resolutions between 9 a.m. and 3 p.m. on Thursday, March 30, 1978, during the nonlegislative period.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time the Committee on Governmental Affairs has for filing the report pursuant to section 310 of Senate Resolution 110, of the 95th Congress, be extended 1 week, to April 8, 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION WITH RESPECT TO PRESIDENTIAL MESSAGES DURING NONLEGISLATIVE PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to receive messages from the President of the United States during the nonlegislative period and that those messages may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE NOMINATION—DEPARTMENT OF THE INTERIOR

Mr. ROBERT C. BYRD. Mr. President, the nomination of H. William Menard, of California, to be Director of the Geological Survey, has been cleared with the minority. I am authorized to proceed now to ask unanimous consent that the Senate may take up that nomination at this time, as in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The assistant legislative clerk read the nomination of H. William Menard, of California, to be Director of the Geological Survey.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION WITH RESPECT TO APPOINTMENTS DURING RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the forthcoming recess of the Senate until 12 o'clock noon on Monday, April 3, 1978, the President of the Senate and the President pro tempore be authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

METRIC BOARD OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate confirmed the nominations of members of the Metric Board of the United States. I did not, at the time of their confirmation, ask for reconsideration, nor did I ask that the President be notified of Senate confirmation of these nominations. I did not ask that this be done because the nominations did not appear on the Executive Calendar, and I wanted to give all members the opportunity to ask for reconsideration in the event that they felt this was necessary.

Having heard no objection, therefore, I now move, as in executive session, to reconsider the vote by which those nominations were confirmed.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations to the U.S. Metric Board.

EXTENSION OF TIME FOR FILING ANNUAL REPORT

Mr. ROERT C. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging be given until April 21 to file its annual report.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL MONDAY, APRIL 3, 1978

Mr. ROBERT C. BYRD. Mr. President,

The year's at the spring,
And day's at the morn;
Morning's at seven;
The hill-side's dew-pearled;
The lark's on the wing;
The snail's on the thorn;
God's in His Heaven—
All's right with the world!

If there be no further business to come before the Senate, I move, in accordance with the order previously entered and in accordance with the provisions of House Concurrent Resolution 544, that the Senate, as in executive session, stand in recess until 12 o'clock meridian on Monday, April 3, 1978.

The motion was agreed to; and at 5:05 p.m. the Senate, in executive session, recessed until Monday, April 3, 1978, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 23, 1978:

DEPARTMENT OF COMMERCE

Henry Geller, of Virginia, to be Assistant Secretary for Communications and Information. (New position.)

IN THE NAVY

The following temporary rear admirals of the U.S. Navy for permanent promotion to the grade of rear admiral, pursuant to Title 10, United States Code, Sections 5780 and 5781.

LINE

Robert W. Watkins
Kenneth L. Shugart, Jr.
Henry A. Hoffman
James D. Murray, Jr.
George E. Jessen
James H. Morris
Robert C. Conolly II
Edward J. Otth, Jr.
Robert J. Eustace
Eugene S. Ince, Jr.
Robert C. Mandeville, Jr.
Sumner Shapiro
John J. Ekelund
Karl J. Bernstein
Gordon H. Smith
George B. Shick, Jr.
Cecil J. Kempf
Bryan W. Compton, Jr.
Guy H. B. Shaffer
Douglas F. Mow
Edward A. Burkhalter, Jr.
Paul D. Tomb
Leland S. Kollmorgen
Joseph Metcalf III
James R. Lewis
Robert F. Dunn
David M. Cooney
Carol C. Smith, Jr.
Sayre A. Swarztrauber
Robert E. Kirksey
Peter K. Cullins
Ralph R. Hedges
Lawrence C. Chambers
David M. Altwegg
Nils R. Thunman

MEDICAL CORPS

Henry A. Sparks
Dudley E. Brown, Jr.
Walter M. Lonergan
Joseph T. Horgan

SUPPLY CORPS

Charles W. Rixey
Van T. Edsall

CIVIL ENGINEER CORPS

Neal W. Clements

DENTAL CORPS

Julian J. Thomas, Jr.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, Sections 3303 and 3305:

ARMY PROMOTION LIST

To be colonel

Linn, William E., [redacted]
McMurrer, James E., Jr., [redacted]

MEDICAL SERVICE CORPS

To be colonel

Trahan, Robert G., [redacted]

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, Sections 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Meredith, James M., [redacted]
Neal, Beverly L., [redacted]

CHAPLAIN CORPS

To be colonel

Blom, John O., [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

Nixon, Paul E., [redacted]

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, Section 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Bland, Andrew R., Jr., [redacted]
DeShields, Charles E., [redacted]
Dinkins, Robert L., [redacted]
Graham, Joseph E., [redacted]
Smith, John W., [redacted]
Wright, Edward S., [redacted]

ARMY PROMOTION LIST

To be major

Anderson, Aggrey V., [redacted]
Baird, John C., [redacted]
Bell, Richard A., [redacted]
Bettner, Steven M., [redacted]
Burns, Danny A., [redacted]
Burns, Thomas P., [redacted]
Conn, Samuel H., [redacted]
Conter, Edward N., [redacted]
Cox, Troy D., [redacted]
Curry, James T., [redacted]
Davidson, Joe W., [redacted]
Gallagher, Stephan M., [redacted]
Gibbs, Terrance H., [redacted]
Haack, Duane G., [redacted]
Henderson, Donnie W., [redacted]
Inman, David P., [redacted]
Kapke, John H., [redacted]
Kappel, Darrell N., [redacted]
Leffler, Edwin R., [redacted]
Lovelace, Frederick W., [redacted]
Macchiaroli, Charles R., [redacted]
Massaro, Glenn R., [redacted]
Maxwell, Paul F., [redacted]
McInnis, William L., [redacted]
Mize, William F., [redacted]
Naylor, Robert H., [redacted]
Nichols, Robert A., [redacted]
O'Neal, Douglas P., [redacted]
Pearson, Richard I., [redacted]
Pelfrey, Kenneth R., [redacted]
Peters, Donald G., [redacted]
Ruhmann, Richard A., [redacted]
Russell, John G., [redacted]
Smith, David D., [redacted]
Wandke, Richard D., [redacted]
Weber, John P., [redacted]

MEDICAL CORPS

To be major

Maybee, David A., [redacted]
McCarty, Garland E., [redacted]

MEDICAL SERVICE CORPS

To be major

Coats, Roger L., [redacted]
Cole, Ronald M., [redacted]
Harrell, Henry C., [redacted]
Kearns, James R., [redacted]
Pollard, David E., [redacted]
Sowder, Norman G., [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be major

Miller, Sharon L., [redacted]

VETERINARY CORPS

To be major

Thomas, Patrick V., [redacted]

ARMY NURSE CORPS

To be major

Vanlith, Rita W., [redacted]

ARMY PROMOTION LIST

To be captain

Bolton, Michael L., [redacted]
Bowe, Thomas G., [redacted]
Boykin, William G., [redacted]
Breier, John A., [redacted]
Broster, Michael R., [redacted]
Bryson, Ralph J., [redacted]
Butler, James L., [redacted]
Collins, James M., Jr., [redacted]
Cornwell, Lewis W., [redacted]
Daniel, Virgildee, [redacted]
Davidson, Van M., Jr., [redacted]
Durden, Richard L., [redacted]
Edgel, John F., [redacted]
Evans, Richard E., [redacted]
Flowers, Walter E., [redacted]
Gallivan, Richard A., [redacted]
Gonzalez, Juan R., [redacted]
Hayden, Lewell P., [redacted]
Holcomb, Henry G., [redacted]
Holder, Danny G., [redacted]
Jackson, Robert T., [redacted]
James, Anthony V., [redacted]
Johnson, James G., [redacted]
Jones, Roger C., [redacted]
Keirsey, Jim D., [redacted]
Knight, John R., [redacted]
Legrow, Ralph W., [redacted]
Lester, John W., Jr., [redacted]
Liebner, Frank A., [redacted]
Long, James D., Jr., [redacted]
Mackland, Larry B., [redacted]
Marsh, Robert D., Jr., [redacted]
Marshall, John L., Jr., [redacted]
McAdoo, Arvil W., [redacted]
Morgan, William D., [redacted]
Moye, Danny R., [redacted]
Nelson, Palmar M., [redacted]
Owen, Ewell M., [redacted]
Raffle, John R., Jr., [redacted]
Rice, Ronald L., [redacted]
Runte, August, [redacted]
Seiter, Eugene D., [redacted]
Serfass, Peter K., [redacted]
Solomonson, Daryl K., [redacted]
Stewart, Ronald L., [redacted]
Trees, Paul M., [redacted]
Varnado, Talmadge R., II, [redacted]
Wallace, Michael C., [redacted]
Wingate, Thomas P., [redacted]

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, Sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Ayala, Arturo A., [redacted]
Bonfiglio, Jon M., [redacted]
Brankin, Philip A., [redacted]
Carlisle, Ellis L., [redacted]
Cerruti, Lawrence J., [redacted]
Crear, Robert, [redacted]
Dechau, Gregory, [redacted]
Dope, Kevie C., [redacted]
Ford, Ricky W., [redacted]
Gallagher, Keith V., [redacted]
Hiler, Roy G., [redacted]
McNamara, Thomas J., [redacted]
Minor, Robert L., [redacted]
Honchul, Delbert D., [redacted]
Sutherland, David J., [redacted]
Tyler, Benjamin, [redacted]
Witzberger, Eric M., [redacted]

WOMEN'S ARMY CORPS

To be first lieutenant

Taylor, Joyce L. P., [redacted]

MEDICAL SERVICE CORPS

To be first lieutenant

Robinson, Robert C., [redacted]

ARMY NURSE CORPS

To be first lieutenant

Kirby, Judith A., [redacted]

IN THE NAVY

The following-named Midshipmen (Naval Academy) to be permanent Ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

*Douglas Cook, Jr. *Reeves R. Taylor, Jr.
*Harry L. Guthmuller *Reginald Thompson

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

*Dale K. Atkinson
*Elizabeth V. Bres
*Richard Chelune

The following-named (Naval Reserve officer) to be appointed a permanent captain in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Capt. Harold R. Schumacher, MC, USNR

The following-named (Naval Reserve officers) to be appointed permanent commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Cmdr. Frank R. Arko, MC, USNR
*Cmdr. Godofredo L. Navarro, MC, USNR
*Cmdr. Richard H. Rahe, MC, USNR

The following-named (Naval Reserve officers) to be appointed permanent lieutenant commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Lt. Cmdr. John A. Bigbee, MC, USNR
*Lt. Cmdr. Djalma A. Braga, MC, USNR
*Lt. Cmdr. David S. Frost, MC, USNR
*Lt. Cmdr. George W. Gregory III, MC, USNR
*Lt. Cmdr. Kenneth G. Gross, MC, USNR
*Lt. Cmdr. Justiniano C. Leyva, MC, USNR
*Lt. Cmdr. Robert L. Magnuson, MC, USNR
*Lt. Cmdr. Gerald W. Ross, MC, USNR
*Lt. Cmdr. Judy E. Schwartz, MC, USNR
*Lt. Cmdr. Charles S. Settle, MC, USNR
*Lt. Cmdr. James C. Syverud, MC, USNR
*Lt. Cmdr. Felix R. Tormes, MC, USNR

*Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 15 December 1977–19 January 1978.

The following-named (Naval Reserve officer) to be appointed a permanent lieutenant commander in the Dental Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Lt. Cmdr. Ronald B. Schatz, DC, USNR

The following-named (Naval Reserve officers) to be appointed temporary captains in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Capt. Frank R. Arko, MC, USNR
*Capt. Richard H. Rahe, MC, USNR

The following-named (Naval Reserve officers) to be appointed temporary commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Cmdr. George W. Gregory III, MC, USNR
*Cmdr. Kenneth G. Gross, MC, USNR

IN THE NAVY

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line officers) and 5773 (staff corps officers), subject to qualification therefor as provided by law:

LINE

Coome, Barry** Jones, Stephen D.**

SUPPLY CORPS

Bradshaw, Richard N.**

CIVIL ENGINEER CORPS

Nelson, Curtis A.**

The following-named lieutenants of the line, of the U.S. Navy for appointment in the various staff corps, as indicated, as permanent lieutenants (junior grade) and temporary lieutenants, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

SUPPLY CORPS

Conover, Richard P. Gormly, Richard B.
Griffin, Dorsey W., II Hughes, David J.
Keating, Charles L. Lechleitner, Matthew
Schmidt, Colman A. L.

CIVIL ENGINEER CORPS

Salmond, Charles N.

The following-named lieutenants (junior grade) of the line, of the U.S. Navy for appointment in the various staff corps, as indicated, as permanent ensigns and temporary lieutenants (junior grade), pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

SUPPLY CORPS

Budd, William V. Cowley, Robert E., III
Lauro, Frank J. Neff, Christopher K.
Nostrant, Keith R.

CIVIL ENGINEER CORPS

Brubaker, Thomas E. Wurst, James P.

Lt. Comdr. Dwight H. Short**, II, Medical Corps, of the Reserve of the United States Navy for temporary promotion to the grade of Commander in the Medical Corps of the United States Navy as a Reserve officer, pursuant to title 10, United States Code, section 5505, subject to qualification therefor as provided by law.

Lt. Comdr. Francis S. Taylor, III*, Chaplain Corps, U.S. Navy, for appointment in the line as a permanent lieutenant commander, pursuant to title 10, United States Code, section 5582(a), subject to qualification therefor as provided by law.

Lt. Comdr. Richard R. Ratzlaff**, U.S. Navy, an officer of the line, for appointment in the Judge Advocate General's Corps as a permanent lieutenant commander, pursuant to title 10, United States Code, 5578(a), subject to qualification therefor as provided by law.

The following named Lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5780 (line officers) and 5782 (staff corps officers), subject to qualification therefor as provided by law:

LINE

Hurley, Allen L.

NURSE CORPS

Smith, Kate I.

The following named lieutenants (junior grade) of the line, of the U.S. Navy for appointment in the various staff corps, as indicated, as permanent lieutenants (junior grade), pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

SUPPLY CORPS

Hahndorf, Fred R. Pearsall, Gregory H.
Kidder, Donald D.** Reid, Bradley L.**
Ledford, Kevin J. Tomlinson, Donald H.
Lyon, Michael N.**

CIVIL ENGINEER CORPS

Lisse, Stephen D.

The following named ensigns of the line, of the U.S. Navy for appointment in the various staff corps, as indicated, as permanent ensigns, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

SUPPLY CORPS

Curry, Michael S. Huwe, Lawrence J.**
Dowling, Richard D.** Kayes, Dean H.**
Hazell, Jeffrey P.** McGrath,
Heuay, Terrence A.** Christopher M.**
Hogan, Brian N.**

CIVIL ENGINEER CORPS

Watson, Marc A.**

Lt. Ronald D. Huddleston**, U.S. Navy, an officer of the line, for appointment in the Supply Corps as a permanent lieutenant, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law.

* Ad interim.

Recess 7 August through 8 September 1977.

**Ad interim.

Recess 16 December 1977 through 19 January 1978.

IN THE NAVY

The following named captains of the Reserve of the U.S. Navy for permanent promotion in the grade of captain in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5911, subject to qualification therefor as provided by law:

LINE

Abert, James G.
Abraham, George
Abramson, Harvey
Adams, Donald T.
Adema, Henry T.
Adoff, Charles S.
Albert, Charles E., Jr.
Albin, Harold C., Jr.
Alecxih, Peter C.
Alexander, Thomas W.
Allan, Gaylord T.
Althouse, John H.
Anders, Isaac W.
Andersen, Charles W.
Anderson, Albert C., Jr.
Anderson, Don R.
Anderson, Samuel A.
Angell, Abe L., Jr.
Anson, Harry C.
Anthuis, John W., Jr.
Armstrong, Richard E.
Arrington, Robert A.
Aschan, Harry R.
Aster, George H.
Auerbach, Richard C.
Austin, Russell A., Jr.
Bader, William B.
Baecht, Warren E.
Bailey, Gary B.
Baker, David E.
Baker, Joseph W.
Baldridge, Paul E., Jr.
Baldry, George K.
Ballow, Robert E.
Bannister, William W.
Bareikis, Robert P.
Barker, Thomas C.
Barnes, John B.
Barron, John S.
Barry, David C.
Barthelenghi, George H., Jr.
Bartholomew, Ronald L.
Bartz, William A.
Bassett, James S.
Batthauer, Byron E.
Bausback, Richard F.
Beal, Norman T.
Beard, Joseph J.
Becker, John C., Jr.
Bedenbaugh, William H.
Beemer, William F.
Bell, Charles E., Jr.
Bellone, Elmer A.
Bendel, John E.
Benshoof, Kenneth W.
Benson, William T.
Berchielli, Gian L.
Betsworth, Brian C.
Beytagh, Francis X., Jr
Biache, Andrew, Jr.
Bianchi, John R.
Bigler, Glade "S"
Billingsley, William M.
Bitowft, Robert J.
Black, Ralph P.
Blake, Van H.
Boatman, John G.
Boggs, Harry W.
Bolton, William L.
Borgard, Glenn E.
Bowman, Donald E.
Boyajian, Ara M.
Boyd, John A., Jr.
Bradshaw, Robert D.
Brady, Francis T.
Brady, Paul S.
Brainerd, Donald L.
Brame, Frank A., III
Brasher, Samuel R.
Bratcher, Collen D.
Brazzatti, Joseph, Jr.
Bresnahan, Joseph E.
Brooks, Gerald R.
Brown, Douglas "W"
Brown, Gordon G., Jr.
Brown, Richard R.
Brown, Stuart J.
Bruce, Warren
Brundage, Thomas R., Jr.
Brune, David H.
Bryant, Charles F.
Buckley, James A.
Burford, Robert D.
Burks, John E., III
Burleson, Wallace R.
Burnette, Ollen L., Jr
Burnham, Paul
Burns, Robert L.
Bush, Phillip B., II
Byerley, John D.
Cade, John W.
Cagle, Eugene M.
Campbell, Phillip R.
Cammett, Haven P.
Cannestra, Kenneth W.
Canon, Robert W.
Carlsen, Charles R.
Case, Neil A.
Castner, William H., II
Caswell, John H.
Cave, David B.
Cave, John R.
Caves, Roy D.
Caviness, Claude P.
Chastain, J. D.
Chelf, Harris W.
Chinn, Ralph M.

Chomeau, John B.
Chrisman, Dan M.
Christofferson, John R.
Christopher, Allison L.
Christopher, James W.
Cicero, Joseph S.
Clark, Lee H.
Cleary, William A., Jr.
Clegg, Ambrose A., Jr.
Click, Bobby W.
Clyde, Payson J.
Cobb, Glenn G.
Cole, Bruce "L"
Collins, Alan W.
Collins, Leroy, Jr.
Colwell, Lawrence S.
Comer, Morton B.
Comerford, Gregory A.
Connell, Laurence M.
Consiglio, Charles J.
Cook, Charles W., Jr.
Cook, William J.
Cooper, Joseph H.
Cooper, Robert L.
Copeland, Curtis B.
Cosgrove, Joseph P.
Coughlin, Joseph E., Jr.
Cox, Gordon L.
Craig, John E.
Crawford, Francis, Jr.
Croll, Richard L.
Crull, William L., III
Curtis, Harold B.
Cutter, Alan "B"
Czesak, Paul J.
Daggett, Steven B.
Dahlin, Douglas G.
Daly, Theodore M., Jr.
Damore, Patrick R.
Danneels, William W.
Darby, Ronald
Davenport, Joseph D.
Davis, Benton V., Jr.
Davis, Bruel A.
Davis, Donald A.
Davis, Donald L.
Davis, Richard D.
Dean, Robert M., III
Debona, Donald J.
Debona, Gerald J.
Decordova, Donald W.
Degrafft, William E., Jr.
Demars, Sylvester A.
Denton, Robert, Jr.
Denton, Terry J.
Desamper, Ernesto J., Jr.
Desjardins, Charles F.
Devito, Vincent N.
Dicker, Ralph "W"
Dickinson, Calhoun
Dimond, Michael F.
Dirks, Richard A.
Dobbins, Robert N., Jr.
Doherty, Francis J.
Dolan, Richard M.
Dolan, Robert F.
Dolen, George W.
Donovan, Edward M., Jr.
Dorney, William J.
Dougherty, John E., Jr.
Douglas, Burnie W.
Dow, Charles N. D.
Dowd, William G., Jr.
Downing, Roland G.
Dubuc, Carroll E.
Dudley, Malcolm H.
Duerr, Edwin C.
Duke, David W.
Dunbar, William M.
Dunne, James M.
Dvorsack, Bernard J.
Dwyer, James F.
Earnhardt, Wiley J. P., Jr.
Ebe, Hubert J.
Eberdt, Jesse S., Jr.
Eberly, William G.
Edgar, Richard B.
Edinger, John S.
Edmunds, Basil L.
Edwards, Gerald C.
Eichelberg, Alvin W.
Emmerling, Henry C., Jr.
English, Glenn A.
Epstein, Charles S.
Erhardt, Richard O.
Ernest, Francis L.
Etheridge, Tammy H.
Evans, Albert C.
Evans, John W.
Evans, Thomas W.
Everson, Donald B.
Fanale, Joseph A.
Farmer, Fred F.
Farney, James E.
Faulwetter, William C
Favero, Valentino R.
Fedarko, William
Fee, James W.
Fenderson, George D.
Ferguson, Robert L.
Ferraro, Carlo, Jr.
Ferrell, Edward S.
Findlay, Charles N.
Fishel, Charles E.
Fisher, Albert L.
Fitzgerald, James E.
Fitzmorris, Neil T.
Fitzpatrick, Roger J.
Flaker, James R.
Flanagan, William J.
Flanigan, Mark
Flannery, Gerald R.
Fletcher, William L., III
Flittner, Glenn
Flowers, Jimmy R.
Flynn, Francis P.
Foley, Maurice E.
Folger, David W.
Forbes, Malcolm H.
Forehand, Ronald
Fox, Edward I.
Fox, Francis H.
Fox, Jack H.
Franke, Arnold G.
Franz, Donald R.
Fraser, George B.
Frederickson, Ronald H.
Freedson, Ralph
Freiberger, Howard
Frey, Louis, Jr.
Friend, Thomas P.
Frohlich, Andrew S.
Fujimoto, Akira F.
Fuller, Gary M.
Fuller, John G. C.
Furdak, Edward J.
Fusco, Anthony T.
Ganey, John R.
Gardner, Geoffrey L.
Gardner, Walter G.
Gastley, Richard D.
Gehrig, Neil E.
Gensel, Richard L.
Giblett, David R.
Gilbert, Robert N., Jr.
Gile, Robert H.
Gill, Richard A.
Gillen, Joseph F.
Gillespie, Edward A.
Gillette, Nelson M.
Gilmore, James L.
Giuffrida, Sebastian J.
Glahn, Gerald L.
Glass, Juandell D.
Goertz, Donald D.
Gorman, James G.
Gorman, Robert C.
Graham, James T.
Granger, Allan E.
Green, Paul A.
Green, Philip F.
Greene, Charles R., Jr.
Greenlaw, William C.
Greer, John G.
Gregory, James W. P., Jr.
Gudmunds, Steinthor J.
Guhl, Max J.
Gurney, Walter J.
Gwynn, John L.
Haevell, Paul M., Jr.
Hain, William H.
Haller, Albert J.
Halsema, Lester J.
Hamilton, William J., Jr.
Hammer, Leon
Hammes, Peter L.
Hampton, Clyde R.
Hannagan, James F., Jr.
Hansen, Donald H.
Hargrove, John Q., III
Harkins, Richard E.
Harmon, Harold W.
Harper, Norman W.
Harris, Robert L.
Harrison, Horace
Harrison, Ralph H., Jr.
Harrison, Thomas K.
Hart, Richard S.
Hartman, James L.
Haynes, John B.
Haynie, Fred H., Jr.
Head, William I.
Healey, James V.
Hebb, Ralph K.
Hein, Richard A.
Heintzman, John S.
Hembree, Sam M.
Hempel, Robert E., III
Hendel, Richard W.
Henderson, James R.
Hess, Robert L.
Hide, Donald L.
Higgins, Robert L.
Hill, Cal D., Jr.
Hill, Richard T.
Hills, John L.
Hinsvark, Don G.
Hocker, Walter B.
Hockett, William A., Jr.
Hodge, George L.
Hoff, Jack A.
Holden, William H., Jr.
Holfelder, John L.
Holman, William C.
Holmquist, Eric A.
Holton, William A., Jr.
Holyfield, George W.
Hong, Leslie K. Y.
Hoover, Harwood
Hope, John C., Jr.
Horne, Charles E., III
House, Karl T.
Huff, Alton B.
Huffine, Donald H.
Hunter, Charles T., Jr.
Hurt, Marc A.
Iacona, Michael A.
Ingram, Frank L.
Innes, Bobby G.
Jacob, Charles
James, Frederic, Jr.
James, George A., Jr.
Jarrett, Elmo D.
Jennings, John J.
Jepson, William B.
Jobson, George S.
Johnson, Lowell E.
Johnson, Robert A.
Johnston, Bruce T.
Johnston, Charles F.
Johnston, Ervin F.
Johnston, James R.
Johnston, Richard E.
Johnston, Richard H.
Johnston, Gregory R.
Jones, Charlie C.
Jones, Everett J., Jr.
Jones, Roger F.
Jones, Samuel R.
Jones, Thomas E.
Jones, T. Embury, Jr.
Jones, William P.
Jones, Wilbur D., Jr.
Jordan, Stephen W.
Jordan, Thomas M.
Joynt, Thomas R.
Kaine, Leonard P.
Kaiser, Dale E.
Kaltenbach, John L.
Kandel, Philip J.
Kane, Robert E.
Karabell, Irving M.
Karig, Richard D.
Kastner, William J.
Kavanaugh, Michael W.
Keeler, Roger N.
Keigler, George A.
Kelley, William C., Jr.
Kelly, Peter B., Jr.
Kenkel, James E.
Kenniff, Robert L.
Keppel, Robert E.
Kerley, Ralph C., III
Kern, Charles R.
Kerr, Norman J.
Kerrigan, John F.
Kerrigan, Paul R.
Kimbrough, Warren O.
Kiner, Richard A.
Kintzinger, Paul R.
Kittelberger, Howard E.
Kloves, Thomas R.
Knapp, Blair A.
Knier, Leonard F.
Knuth, Donald F.
Kochert, Milton R.
Korn, Donald L.
Kosiba, Raymond J.
Kozischek, Albert J.
Krause, Richard J.
Kraynak, Michael, Jr.
Kreiner, Leon W.
Krochalis, Edward J.
Kropf, Charlie W.
Kruger, Richard
Kuhn, Frank S.
Kuzesza, Eugene A.
Kurek, Raymond H.
Kuthy, Eugene W.
Lacey, Trammell C., Jr.
Lagrone, Tonquin G.
Lain, Horton W.
Laing, Bruce C.
Laitala, Leilan M.
Lalicker, Robert G.
Landon, John R.
Larkin, Will M.
Laroux, Harold E.
Lasher, David L., III
Laughon, James H.
Laverty, Howard K.
Lawrence, Frank E., Jr.
Lawrence, Paul B.
Laynor, William G., Jr.
League, Joseph J.
Lee, Benjamin H. K.
Lee, James C.
Leeson, Joseph F.
Leetch, James F., II
Legg, William L.
Lekovish, Robert E.
Lenfest, Harold F.
Lerohl, Howard C.
Letkemann, Herkus W., VII
Levan, Walter N.
Levendoski, Richard J.
Lewandowski, Melvin A.
Lewis, Kenneth A.
Lier, Douglas W.
Lierman, Roy J.
Lindley, James G.
Lindstrom, John D.
Lines, Jack H.
Linscott, Roger H.
Linton, George H.
Little, Jerry W., Jr.
Livas, Basil L.
Livingstone, John A.
Lockett, Benjamin B.
Lohmann, William H.
Looney, Robert F., Jr.
Lopez, Victor C.
Lord, Frank E.
Loucks, Daniel P.
Louis, Ronald A.
Love, Don K.
Love, John E.
Lubach, Donald W.
Lufkin, Ritz O., Jr.
Lund, David D.
Lundin, Carl D.
Lux, Donald G.
Lyall, Ronald N.
Lycan, Deane R.
Lynne, Donald M.
Mach, George R.
Macintyre, Daniel G.
Macpherson, John
Madison, William E.
Maher, John H.
Male, Edwin K., Jr.
Maloney, John F.
Manning, James H.
Mansfield, James D.
Maple, William R.
Marangiello, Daniel A.
Margolin Robert S.
Markel, Harry L., Jr.
Marsh, Barry B.
Martin, Manuel R., Jr.
Masters, Miles H.
Matchett, Don W.
Mathews, Robert S.
Matthes, Walter L., Jr
Matthews, Keith B.
Mauhs, John S.
Mays, Jacklon G.
McBride, Richard W.
McCain, George S.
McCann, Richard
McCurdy, William E., Jr.
McDonough, Thomas W.
McEachern, Edward M., Jr.
McGill, Julian E.
McGlinchey, Alexander H.
McGowan, John P.
McGuire, Richard J.
McHugh, Donald E.
McIntyre, Donald F.
McKee, Donald L.
McKee, Roger C.
McKenzie, Robert A.
McLean, David S.
McMillan, Louis K., Jr.
McNallen, James B.
McNichols, Lynn P.
McNulty, James A.
McRae, Donald A.
Meek, William J., Jr.
Mehrhoff, William R.
Meister, Robert A.
Meriwether, Gordon K., Jr.
Merrill, James W.
Merrill, Nicholas C.
Metz, David J.
Meyer, Carl S.
Mickelberry, William C.
Midboe, Albert M.
Middleton, Blake
Milam, George W.
Miles, Richard N.
Miles, William
Miller, Frank L.
Miller, George L.
Miller, Gordon J.
Miner, George D., Jr.
Mixon, William R., Jr.
Moorman, William L., Jr.
Moreland, James E.
Morgan, Arthur I., Jr.
Morgan, David C.
Moriarity, Edwin S.
Morris, John P.
Morris, Julius E.
Morris, William L., Jr.
Morrison, Dexter C.
Morrogh, William P.
Morsilli, Frank P.
Moss, Stanley D.
Mouritsen, Thorvald E.
Muise, Robert F.
Murphy, James F.
Murphy, James R., Jr.
Murray, Thomas H., Jr.
Myers, Richard A.
Myhre, John "S", Jr.
Neaton, Ronald A.
Needham, William R.
Nelson, Dean C.
Nelson, Gene S.
Nelson, William E., Jr.
Nelson, Sanford H.
Neunzig, Frederick
Neupert, John A.
Newlan, Bruce M.
Newpher, James A., Jr.
Nixon, Edward C.
Nixon, Walter B.
Nolan, James C.
Nolan, James M.
Norton, Julian H., Jr.
Nusison, Louis
Oberle, Louis A.
Odell, Jean M.
Odden, Conrad R.
Oden, Richard W.
O'Donnell, Richard C
Oehrle, William C.
Oefelein, John J.
Oette, Paul H.
O'Gara, William R.
Oglesbee, Jack L.
Oglo, Michael F.
Olds, Hugh W , Jr.
O'Leary, Richard D.
Olson, Charles E., Jr.
O'Neill, Samuel J., Jr.
O'Rourke, John G.
Ort, Eddie P., III
O'Toole, Charles S., Jr.
O'Toole, James B.
Ott, Norman K., Jr.
Owen, David A.
Oxenford, Robin A.
Pacala, Theodore
Pacilio, Jerry A.
Paget, James S., Jr
Pankratz, Walter L.
Pardue, Oscar W.
Parker, Joseph W., Jr.
Parker, Lutrelle F.
Parker, Ralph L.
Parnell, Thomas A.
Partnoy, Ronald A
Paterson, Dale R.
Patterson, David C.
Patterson, Peter V.
Patterson, Thomas J., Jr.
Pausa, Clements E.
Payne, James R.
Peake, Douglas A
Pearson, Conrad F.
Pearson, Herbert C.

Pellettieri, James E., Jr.
Pence, Dallas T.
Pender, Robert M.
Penney, William M., Jr.
Penniman, Russell "S", III
Perfetto, Chester
Peterson, Charles K.
Peterson, Dana C.
Peyrek, Theodore R., Jr.
Phillips, Ronald W.
Philipson, Willard D.
Pickel, Theodore C., Jr.
Pierce, Harold P.
Pino, Joseph A.
Pintar, James R.
Piotter, Glen W.
Pitmon, Wayne M.
Plante, Normand E.
Platt, Alvin W.
Plihal, Richard G.
Pollack, Lawrence P.
Ponder, Edward A.
Popham, Neal R.
Popovich, Daniel E.
Potter, Ramon G.
Power, Edward J., Jr.
Powers, Thomas F.
Price, Alan H.
Price, James O.
Pruitt, Willie B.
Pryce, Edward A.
Ragsdale, William L.
Raley, John W., Jr.
Rattan, James E.
Ratz, Kenneth, Jr.
Reem, Glen M., II
Register, William M., Jr.
Regts, Gerald J.
Reich, Richard J.
Reich, Richard L.
Reichle, Neal W.
Reierson, Paul D.
Reilly, Joseph F., Jr.
Reilly, Michael J.
Renick, Charles M.
Renter, Herbert F.
Rhodes, Willard C.
Rice, David P.
Rice, Emory C.
Richards, John R.
Ricker, Huntley N.
Riggins, Tracy, Jr.
Ringis, Romaine H.
Ringstad, Robert C.
Ritchie, Charles M.
Robbins, William R.
Roberts, William R.
Robertson, Richard A.
Robertson, Reece A.
Robertson, Stanley M.
Robinson, Irwin F.
Robson, Harry E.
Rogers, Richard
Rogner, Eric E.
Roon, Eugene R.
Rossi, Louis A.
Rubenstein, Richard B.
Russell, Harold J., Jr.
Ryan, Raymond E., Jr.
Saft, Irwin C.
Salter, Ernest H., Jr.
Sampson, Harvey R.
Samuels, Ivan R.
Sanders, William A.
Sarber, John D., Jr.
Satterfield, Grey W., Jr.
Sauer, Gerald L.
Sava, Samuel G.
Sawicki, Michael J.
Scarbrough, William R., Jr.
Schaefer, James A.
Schafer, Robert W.
Scharff, Aaron R., Jr.
Scharges, Horace F.
Schick, Herbert A.
Schickler, Edward R.
Schippmann, Edward D.
Schmidt, Peter R.
Schnurer, George T.
Schoen, Robert M., Jr.
Schoenberger, Edward S.
Schroats, Richard P.
Schweiger, Melvin B.
Scott, Ronald C.
Seaton, James H.
Secord, William J.
Selna, Leland R., Jr.
Selph, Wade, E.
Shaffer, Robert F.
Sharts, Clay M.
Sheehan, William H., Jr.
Shipman, D[illegible] J.
Short, Laurence A.
Shuck, Thomas L.
Sich, Eugene J.
Siemen, Harry A., Sr.
Simons, Robert I.
Simpson, Robert M., Jr.
Skidmore, Sidney A., Jr.
Sloan, Ben L.
Sloan, Charles E.
Small, Douglas E.
Smart, Addison D.
Smiley, Robert R., III
Smith, David L.
Smith, Hugh M.
Smith, James W.
Smith, Jimmy C.
Smith, Joseph C.
Smith, Lowell C.
Smith, Phillip J.
Smith, Ralph E.
Smith, Ronald L.
Smith Walter S.
Smith, William O., Jr.
Snelgrove, Edward R.
Sniffin, Willard F.
Snyder, Bruce E.
Snyder, John E.
Sobke, Gene E.
Soldatos, George E.
Soldwedel, Fred W.
Soutar, Alister M.
Spann, Roderick H.
Spender, Billie H.
Speth, Harry F., Jr.
Spotts, James L.
Stahlman, William K.
Standley, Arthur W., Jr.
Stanly, Bernard J.
Stegner, Donald L.
Stephenson, Edward V.
Stewart, Edward W.
Stewart, John H.
Stewart, Robert E.
Stiff, William L.
Stoddard, Theodore L.
Strain, William E.
Strasburg, Louis G.
Stubblefield, Roderick W.
Suchoza, Bernard P.
Sudler, Louis C., Jr.
Sullivan, Peter E.
Summit, Paul C.
Sumpf, Edward C., Jr.
Sutphen, Bobbie L.
Swan, Benjamin D.
Swingle, Robert L.
Takenaka, Harold H.
Talbot, Edward B.
Taschner, Bruce
Taylor, Victor G.
Terrell, Errol J.
Thode, Thomas A.
Thomas, Dean C.
Thompson, Donald H.
Thompson, Emory C.
Thompson, John H.
Thorne, Douglass E.
Tinely, John H.
Titus, Robert W.
Todd, Harold C.
Trautwein, Robert T.
Tripp, Robert G.
Tschudy, James J.
Turley, Gerald K.
Turner, James J.
Turner, James R.
Uddenberg, Bertram, Jr.
Ulrich, Thomas R.
Urbana, Robert D.
Utzinger, Roland J.
Valenzuela, Ernesto
Vance, Walter N., III
Vandenbiesen, James L. C.
Vandergriff, John H.
Vanhuyck, John A.
Varettoni, Robert J.
Venning, Denis S.
Venters, Robert T.
Voegel, George H.
Vowell, Joe L.
Wachtler, William R.
Wade, Warren L.
Wadsworth, Roger K.
Wagenbach, Ronald J.
Wahlers, Gene L.
Walker, William B.
Wall, Richard V.
Wallenius, Kenneth T.
Walsh, Leo A.
Wanbaugh, Peter M.
Ward, Arthur D.
Warren, Frank B.
Watson, John
Weatherbee, Lyle E.
Weathers, Terry M.
Weaver, Gordon F.
Weeks, Robert D., Jr.
Wegher, Arnold C.
Weigand, Robert E.
Weiner, Ronald A.
Wells, Alfred "D."
West, Joe E.
Westendorff, Clarence G., Jr.
Whalen, William F.
Wheeler, Carson M., Jr.
Wheeler, John P., Jr.
Whiddon, Elmer C., Jr.
Whisler, William C.
Whitcomb, Lee E.
White, Donald D.
White, Harold O.
Wibby, John H., Jr.
Wiese, Richard A.
Will, Robert L.
Wille, David G.
Williams, Edward N.
Williams, John C.
Williams, Roy E.
Willis, Edmund P.
Wills, Allen D.
Wilson, John S.
Wilson, Richard W.
Wilson, William R., Jr.
Wise, Carlton H.
Wollensak, Richard J.
Wood, Hal D.
Wood, Leon G., Jr.
Woodruff, David H.
Woodworth, Ellery B.
Worrall, Luther F.
Wright, James N.
Wright, Russell A.
Yim, Herbert C.
Young, George L., Jr.
Young, Richard E.
Zaitzeff, Lawrence P.
Zerwas, Richard L.
Zirps, George
Zuniga, Guillermo
Zurnieden, Ludwig A., Jr.

MEDICAL CORPS

Adeeb, Allan J.
Allen, William C.
Anastasi, Gaspar W.
Anderson, Charles C.
Bailey, Robert J.
Baird, Robert M.
Baker, James P.
Bates, Thomas R.
Benoit, Frederick L., II
Benoit, Richard P.
Bernard, Richard M.
Berry, Juanedd
Birdwell, Thomas R.
Blum, John A.
Bouterie, Ronald L.
Brock, Charles L.
Canete, Danelo "R."
Cannon, John P.
Cashion, Ernest L.
Childers, David O.
Clarke, Francis M., Jr.
Cone, Theodore S.
Cowan, David E.
Crawford, Edward P.
Cunningham, John S., Jr.
Dadmun, Stewart E.
David, Benjamin, II
Davis, Gerald L.
Deen, James H.
Dodson, Albertus F.
Donohugh, Donald L.
Dougherty, Norris R.
Drewyer, Richard G.
Ducommun, Dale J.
Edmonds, Leland C., II
Ertl, William
Finney, Louis Arthur
Fletcher, Donald F., Jr.
Flynn, James M.
Furuya, Clinton M.
Gainer, James V., Jr.
Gibbs, Benjamin F., Jr
Gilson, Benjamin J.
Gonzalez, Francisco M.
Grozier, Michael L.
Gullatt, Victor R.
Hamilton, Robert C.
Hardeman, Frank, Jr.
Hattori, Takashi
Hill, George J.
Hopwood, Herbert G., Jr.
Hunsaker, Darrell H.
Hunt, Harold R.
Huseby, Helmer, W. S.
Jackson, James K.
Jaeger, Edward A.
Jones, Cyril, D.
Jones, Jimmy E.
Jorgensen, Morton C., Jr.
Joyce, Thomas H., III
Katz, Robert I.
Kellett, Cyril F., Jr.
Knox, Henry D.
Kopp, Clarence J.
Lapp, Milton C.
Lesko, Clarence
Macvaugh, Horace, III
Mapp, Esmond M.
Marinelli, Lawrence, Jr.
McGuire, Lockhart B.
Medrek, John J.
Meyer, Melvin E.
Moore, William E.
Nelson, James N.
Novak, Edward A., Jr.
Ogburn, Benjam R.
Paxton, George S.
Payne, Charles A.
Pyeatte, Jesse E.
Radelat, Paul B.
Ragsdale, Julian L.
Raisbeck, Clifford C., Jr.
Ramlo, John H.
Ramsay, Reginald C., Jr.
Roy, Donald E.
Scott, Augustus B.
Silver, Lawrence
Simms, Norman L.
Smith, James W.
Smith, Martin J.
Smith, Raphael F.
Smith, Ronald W.
Snyder, Harry D.
Somerndike, John M.
Steuer, Rudolph R., Jr.
Tipton, Harry B.
Tolchin, Sidney
Tolmie, John D.
Trapp, Donald C.
Ungersma, John A.
Usselman, James A.
Vescovo, Paul C., Jr.
Vuksta, Michael J.
Wargovich, Raymond M.
Weston, James T.
Wilson, Jack H.
Wood, Joseph H., Jr.
Woodruff, James J.

SUPPLY CORPS

Amos, Henry C., Jr.
Backus, John L.
Beumer, Delbert H.
Bisbano, Anthony, Jr.
Blumberg, Herbert K.
Bolliger, Ralph W.
Carroll, Raymond L.
Churchill, John A.
Clark, Alan F.
Cole, Benjamin I., Jr.
Coughlin, Richard J.
Coyle, Anthony L.
Cuomo, Ralph J.
Cutright, Carl R.
Davis, Gerald B.
Davis, Herbert E., Jr.
Donovan, James L.
Faundey, Fayze
Farrell, Thomas J.
Felker, John J.
Fink, Donald A.
Fitzpatrick, Julius W.
Fox, Daniel W.
Gill, Leo S.
Grimes, Fred M.
Heil, Louis L.
Hensley, Frank M.
Hock, Winfield F., Jr.
Hollberg, Charles F., III
Hudson, Clyde E.
Huebschman, Robert B.
Johnson, James B., Jr.
Joseph, Mark R.
Keyes, Warren R.
Kurtz, Robert J.
Liggett, Hiram S., Jr.
Lilly, Thomas G.
Macdonald, John F.
Macmullen, Clark
Malamut, Lewis
May, Walter J.
McHugh, William J.
McPherson, Burtis E.
Mjelde, Carroll V.
Moore, Ned D., Jr.
Morrison, Roderick A.
Paul, Peter C.
Pogue, Joe H.
Ponzeline, Dante C.
Prather, Charles M.
Purcell, Alfred S.
Reeder, Paul A.
Schneider, Andrew G., Jr.
Shahadi, Frederick F.
Silk, Arthur T.
Stack, Daniel
Stangelo, Donald G.
Tormey, Edward N., Jr.
Turner, George S.
Vanantwerp, Malin
Vaughn, Francis
Vawter, Wallace R., Jr
West, Jon W.
Whitacre, Philip A.
Wickman, Robert E.

CHAPLAIN CORPS

Bidne, Arvid E.
Cheatham, Jeff P., Jr.
Conover, Eugene "J"
Doyle, Lawrence H.
Edwards, Hubbard S., Jr.
Engdahl, Carl M.
Filmyer, Bernard G.
Goss, Hubert S., Jr.
Hall, Marvin E.
Harwell, Lacy R.
Hever, John J.
Kelly, Patrick J.
Landes, Aaron
Lind, Harold E.
Martin, James B.
Moris, Walter J.
Rogers, Edwin W.
Shulman, Nisson E.
Simon, Matthew H.
Steinberg, Vernon E.
Sternberger, Richard S.
Sullivan, Edward H.
Thomson, Bruce R.
Vonalmen, Adelberta M.

CIVIL ENGINEER CORPS

Allen, William B.
Anibal, Fred R.
Ashton, William D., III
Beattie, Robert T.
Block, Norman G.
Bloom, Elias
Cantey, John M.
Coates, Edward E.
Connett, Dean M.
Copple, Fred
Cruikshank, Alan
Curran, Robert A.
Duarte, George M.
Fair, Harlan W.
Farrell, William G.
Fisher, Jack G.
Franck, Ernest P.
Frega, John V.
Gravallese, Albert J.
Jones, Jonah P., Jr.
Koski, David R.
Loigman, Harold
Malone, Richard D.
Melcher, Albert G.
Morekas, Sam
Muir, Roger W.
Peterson, Ralph M.
Richardson, Frank A.
Silk, Robert A.
Smart, David O., IV
Smith, Charles R.
Smith, William M., Jr.
Stevens, Stiles F.
Stoutamore, James B.
Walker, Jack W.
Warnick, Robert L.
Watkins, Jack, Jr.
Westervelt, Sheldon
Witte, David A.

JUDGE ADVOCATE GENERAL'S CORPS

Abel, George G., III
Allen, Richard F.
Barnett, Robert G.
Bohannon, Marshall T., Jr.
Brewster, Rudi M.
Busse, Norman W.
Copeland, Ralph C.
Corcoran, John E., Jr.
Dunbar, William L.
Eagleton, Richard E.
Fanseen, James F.
Hayes, David J. A., Jr.
Hodges, John N.
Howard, Jackson B.
Kellogg, John S.
Klawitter, George A.
Maxwell, Stephen L.
McMahon, Thomas J.
Moore, Stephen A.
Morgan, Howard W., Jr.
Morrison, William M., Jr.
Nichols, Roger J.
Oddo, Salvatore E.
Ogozalek, John F., Jr.
Olson, Ronald W.
Parr, Jack R.
Phillips, Kenneth J.
Preston, Edwin S., Jr.
Richmond, Lyle L., Jr.
Shiver, Edwin C.
Sweeney, Joseph C.
Wood, Hugh L.
Zinman, Robert M.

DENTAL CORPS

Atkins, George
Bahn, Saul L.
Barden, Ralph B.
Barley, Martin A.
Barnett, Charles "B"
Bednar, Edward G.
Berschig, Ronald E.
Bethune, Walter F., Jr.
Bidgood, Omer K.
Boyle, Orville T., Jr.
Brooks, Paul C., Jr.
Brown, John B.
Bryant, Robert E.
Buckley, Ambrose W., Jr.
Calderone, James J.
Campbell, Homer R., Jr.
Carlson, Harry W., Jr.
Clary, Irl C.
Cornell, Thomas B.
Diodati, Ronald R.
Dyer, Ted E.
Fischbach, Reynolds, J., II
Gentry, Jesse T.
Graham, James E., Jr.
Greenlee, William H.
Grimm, Oliver G.
Hall, Hugh D.
Hatzeson, Thomas A.
Hickman, Warren J.
Hubbard, John R.
Hudson, Frank J.
Klein, Robert N.
Large, Nelson D.
Mahler, Harold E. J.
McKay, James R.
Meyer, Gene P.
Molle, William H.
Mosier, Russell B., Jr.
O'Connell, Christopher, J., Jr.
O'Shea, Edward J., Jr.
Porter, Myron R.
Porter, William J.
Reed, Darwin M.
Reynolds, John A. S.
Shupala, Robert J.
Stewart, Billy A.
Streeter, Elwood J.
Stucker, William E.
Studdard, Jerry M.
Sullivan, Thomas M.
Tanner, Thomas P.
Thomas, Robert J.
Toyias, James P.
Vanzandt, William R.
Wallace, Donald C.
Watson, Cyral G.

MEDICAL SERVICE CORPS

Becker, Bruce C.
Besch, Emerson L.
Hargrave, Charles W.
Harvey, Tommy L.
Laubach, Robert E.
Pred, Gordon D.
Ross, Sherman
Shimberg, Edmund

NURSE CORPS

Brice, Karolla
Casey, Donnabelle A.
Crouch, Madge L.
Foltz, Frances C.
Georgi, Stella R.
Hall, May B.
Hoyem, Mary K.
May, Dorothy M.
O'Brien, Ann B.
Steffens, Gloria M.
Young, Jacqueline T. E.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Darwin B. Bingham
Hector M. Cantua
Guenther Friste
Gregory L. Lawrence
Robert H. Niemeyer III

The following-named (U.S. Navy officer) to be appointed a permanent Lieutenant in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Keith M. Zwingelberg

The following-named (Naval Reserve officer) to be appointed a permanent Lieutenant in the Dental Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*LCDR John W. Shoaff, DC, USNR

*Appointment sent out Ad Interim (During the recess of the Senate) Senate recessed on 15 December 1977—19 January 1978.

The following-named temporary Chief Warrant officers to be appointed permanent Chief Warrant officers, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Harry F. Carter
Paul Donado
William L. Gore
John H. Mueller

The following-named (Naval Reserve officer) to be appointed a temporary lieutenant Commander in the Dental Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*LCDR John W. Shoaff, DC, USNR

The following-named temporary Chief Warrant officers to be appointed Lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Engineering/repair (submarine)

Harry F. Carter

Cryptology

Clarence W. Creighton

Civil Engineer Corps

Paul Donado

Supply Corps

William L. Gore

Nuclear power (submarine)

John H. Mueller

Electronics—Surface

Kerry D. Steele

The following-named Navy enlisted candidates to be appointed temporary Ensigns in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Deck—Surface

Randall W. Bangert
Lockwood J. Lyons
Edward L. Guptill
Anthony Jansky
Brian E. Lester

Operations—Surface

Gary R. Wheat
Wilmont J. Prange
William T. Crooks
Richard G. Green
Joseph R. Ogonowski
Charles L. Phillips
Jeffrey P. Newton
Larry D. Wilcher
Jimmie K. Herman
Harold D. Chestnutt
Hugh F. Flanagan, Jr.

Engineering/repair—Surface

Val E. Lippa
Anthony Murtagh
John R. Cook
Michael A. Turner
Paul Reuter
Don L. Jones
Joseph M. Lepak
Barry T. O'Brien
Willie C. Wilson
Charles M. Bender
Terence L. Daggett
James F. Vick
Rolfe N. Huebner
Robert E. Trumpower
John G. Henderson
Donald D. Kiniston
Donald D. Sonderman
Rodney M. Zook

Ordnance—Surface

Glen D. McLain
Ted A. Painter

Electronics—Surface

George N. Crouch
Lawrence D. Crockett
Raymond H. Smith
Daniel F. Rustchak
James B. Parron
Bruce J. Acton
Gary L. Hildebrand
Michael S. Swaim
Leland K. Troutt
Wayne A. Lydick
James M. Belec
Leroy D. Ingraham
Charles R. Jefferson
Lew F. Schmitt
Richard Faust

Deck (submarine)

Bernard Downs
Gilberto L. Arguello

Operations (submarines)

Louis A. Davis
Stanton E. Pollard

Engineering/repair (submarine)

Michael F. Bakara
Ralph E. Rohrssen
Jeffrey Livingston

Nuclear power (submarine)

Frankie D. Choyeski
Jimmy R. Hays
Thomas J. Minor III
David L. Parkhurst
Richard E. Graybill
David L. Kugler

Electronics (submarine)

Gary A. John

Aviation deck

Alfred F. McDonnell
Richard R. Sylvester
Robert W. Sprague
Lloyd G. Bajune

Aviation operations

William L. Cox
Kenneth W. Sharpe
Frank P. Olic
Hugh R. McAteer
Fredrick E. Gage
Fredrick Vanleeuwen

Aviation maintenance

Jessie L. Wilson
Carroll L. Lakey
Bert D. Erwin
William V. Rosenow
Harold C. Odell
John F. Lundgren
Leroy A. Jennings
William J. Hartley
Robert L. Fickes
John E. Rockwell
Richard H. Benscoter
Robert W. Blakley
Dennis W. Johnson
Danny D. Sharp
Quinnie N. D. Elliott
Edwin P. Hamilton
Robert D. Bell
Gerald L. Figueroa
Ralph B. Stephenson
James W. Brown
Michael W. Crosley
John T. Litzinger
James H. Hough
Lanny E. Wilke
Leonard King
William S. Devey
William D. Eskridge
Winford H. Starnes, Jr.
Robert C. Malson
Jonathan K. Craig

Aviation ordnance

Thomas L. Raeder
Lawrence W. Jackson
Daniel C. Estvanik
Donald E. Howard

Avionics

Ray A. Garza
Dennis L. McClain
Robert L. Westphal
Lacey Jennings
Michael B. Elliott
William R. Campbell
Raymond J. Tapani
Daniel R. Anderson
Rober D. Dunn
Bobby E. Crawford
Harvey S. Hamby
Cecil J. Edgington
James S. Anderson
Larry L. Crosby
Douglas D. Hill
Milton O. Norman
Ronnie B. Davidson

Data processing

Marshall D. Hawkes
Victor R. Freeman

Bandmaster

William D. Myers

Cryptology

John H. Stevens, Jr.
Marvin F. Dodd
Sidney G. Hochstein
Don G. Odell
Richard H. Gumtow
William L. Silas, Jr.

Photography

George A. Watkins
Neil F. Ackley
Gerald D. Womeldorff

Supply Corps

Robert K. Space
Roger E. Pigeon
Mariano O. Moreno, Jr.
Glen A. Travis
John J. Christopher
Paul L. Klump
Joe R. Deshurley
Douglas W. Iverson

Mess management (Supply Corps)

Carmelito D. Denosta
Michael B. Ward

The following-named Navy enlisted candidates to be appointed temporary chief warrant officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

James D. Lyons
Gerald E. Condon
Mack Dickson, Jr.
James E. Herzog
Timothy L. Kriebel
Richard B. Ulp
Bobbie D. Graves
Timothy D. Miller
Charles E. Carroll
Charles P. Wilkinson
Jerry L. Rice
Victor E. Miller
Bert H. Wells
Donald E. Grout
Dennis C. Galer
Antonie R. Lewin
Stephen M. Mora
James R. Defrees
Francis G. Keller
James C. Sanders
Lee B. Phillips
Leonard R. Haberman
Philip G. Newbold
Daniel J. Gavin
Ivan L. Shaffer
James F. Downs
Douglas L. Drewry
Edward J. Cirucci
Robert C. James
Gerald F. Gossling
Walter W. Chapman
Chester E. Saunders
Nazario D. Perlas, Jr.
Clifford P. Allen
Cecil C. Taylor
Charles E. Potter
Lawrence J. Bachman
Jerald A. Kleintank
Monty E. Montgomery
Gary W. Williams
Ronald G. Gripon
Richard G. Herrick
Allan F. White
Leroy A. Osterfeld
John R. Whitley
John A. Doiron

Kenneth W. Hart
James D. Ogletree
Neil I. Peters
Arnold T. Harris
Billie S. Hunley
Ernest W. Brown
Preston J. Armstrong
Tommy Thompson
Harold J. Thompson
Gary W. Wasson
Garry D. Lutz
Robert L. Hadding
Larry E. Deck
Clyde W. Keller
Thomas F. Darrigo
James E. Trapp
John P. McCarthy, Jr.
David L. Helwick
Thomas J. Armao, Jr.
Luther G. Barr
Roy L. Botts
Thermon R. Kemp
William P. Yeager
William A. Lascelle
Arnold R. Wariner
David W. Desmond
Danny K. Shepherd
Ronald L. Tesnow
Daniel G. Morris
Lawrence J. Book
Dennis M. Gustafson
James E. King
Lyle E. Wentela
Gary W. Raby
George A. Hanson
Ronald C. Spencer, Jr.
Thomas S. Kornegay
Dennis E. Fraher
Vernon L. Hart
Samuel T. Miller
Lester J. Siiba
James R. Everly
Ralph Byrd, Jr.
Francis P. Nocella
Sidney E. Smith
Donald L. Reece
Thomas E. Carsten
Melvin E. Copeland
David L. Kline
Kenneth L. Hughes
Donald F. Nelson
Thomas D. Stultz
Roger J. Cooper
Charles G. Vanderbrink
Maryus O. Saunders, Jr.
Dennis F. Kelly
Dennis R. Richter
George M. Laue
George M. Kellogg
Peter A. Nishnick
Charles R. Narlock
Maurice G. Majszak
Richard A. Untied
Gary W. Huggins
James C. Williams
William R. Klein, Jr.
Mark E. Russman, Jr.
Robert D. Shepherd
Carl G. Thatcher
Leonardo G. Fernandez
Philip A. Kopp

DEPARTMENT OF STATE

The following-named person for reappointment in the Foreign Service as a Foreign Service officer of class 4, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Kathleen Bruguière Anderson, of Virginia.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Damon Victor LaBrie, of Virginia.
Hanson R. Malpass, of Virginia.
Laurance Stanley, of New York.

For appointment as Foreign Service information officers of class 5, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Rosemary F. Crockett, of the District of Columbia.
Norbert J. Yasharoff, of Maryland.

For appointment as Foreign Service officers of class 6, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Gwen C. Clare, of Maryland.
Earl A. Ferguson, of Virginia.
Edmund P. Glowen, Jr., of Washington.
Sally M. Gober, of Ohio.
Elizabeth McKune, of Maryland.
Nancy Leslie Pelletreau, of New York.
Evelyn A. Wythe, of California.

For appointment as a Foreign Service information officer of class 6, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Don Quintin Washington, of California.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Charles Russell Allegrone, of North Carolina.
Michael James Benefiel, of Maryland.
William James Bolling, of Connecticut.
William Noel Campbell, of Arizona.
Steven James Coffey, of Maryland.
Thomas E. Cusack, of New York.
Joseph Michael DeThomas, of Pennsylvania.
Michele L. Domres-Hon, of New York.
Charles Lewis English, of New York.
Norman Slote Hastings, of Kansas.
Christopher Robert Hill, of Rhode Island.
David Timothy Johnson, of Georgia.
James Joseph Kessinger, Jr., of Colorado.
Stephen Charles Kish, of Virginia.
Karen E. Krueger, of Illinois.
Kevin-John H. McIntyre, of Virginia.
William Gregory Perett, of California.
Baldwin Paul Scogna, of New York.
Virginia Sher, of California.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Richard Aker, of Virginia.
Alexander Almasov, of Connecticut.
Susan E. Brandt, of New York.
Mary Ellen Connell, of Florida.
Brian H. Guss, of Pennsylvania.
Stephen James La Rocque, of Massachusetts.
Lois Winner Mervyn, of Arizona.
Rich A. Ruth, of Maryland.
Bernard Francis Shinkman III, of the District of Columbia.
Charles N. Silver, of Maryland.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Charles L. Glatz, Jr., of Virginia.
James Douglas Seay, of Virginia.

For appointment as a Foreign Service information officer of class 8, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Warren Morningstar, of Utah.

Foreign Service reserve officers to be consular officers of the United States of America:

Alfredo Gonzales, Jr., of Arizona.
Michael J. Hinton, of California.
Thomas M. Murphy, of Maryland.
Ruth C. Zlotowitz, of Maryland.

Foreign Service reserve officers to be consular officers and secretaries in the Diplomatic Service of the United States of America:

Nicholas Allende, of Maryland.
Larry Y. Baldwin, of Virginia.
Marietta N. Barbier, of Maryland.
Philip A. Bauso, of Virginia.
Jean D. Bradford, of Texas.
Julee A. Brand, of Arizona.
Warrington E. Brown, of New Jersey.
Thomas A. Brunton, of California.
Roland W. Bullen, of California.
William Van D. Caldwell, of Tennessee.
Lee M. Carter, of Florida.
Roland G. Estrada, of New Jersey.
Jean Gildea, of Pennsylvania.
R. Martin Graves, of California.
Suneta L. Halliburton, of New York.
Henry Yale Harris, of Louisiana.
Barbara S. Harvey, of New Jersey.
William H. Hurst, of Maryland.
Marilyn F. Jackson, of Texas.
Eric K. James, of California.
Bruce D. Johnson, of Virginia.
Leon E. Kahn, of California.
James William Kesler, of Virginia.
George P. Kilka, of the District of Columbia.
Barbara C. Koks, of Virginia.
Patricia Ann Lasbury, of California.
Rafael Mariani, of Florida.
Penny S. Mc Murtry, of Washington.
Steven G. Napoliello, of Florida.
James M. Olson, of Virginia.
William T. Ortman III, of Virginia.
Jo Carole Potter, of Virginia.
Richard Eric Pound, of Virginia.
Dianna Ritter, of New York.
Gary G. Roberts, of Maryland.
Peter F. Romero, of Florida.
Duane E. Sams, of Massachusetts.
Daniel Santos, Jr., of Florida.
Gail P. Scott, of Virignia.
Charles S. Smith, of Virginia.
Michael R. Strachan, of Florida.
Walter J. Thomas, of Massachusetts.
Nancy G. Vancon, of Virginia
Aubrey V. Verdun, of Michigan.
Hugh Floyd Williams, of Pennsylvania.
Leon F. Williamson III, of Noth Carolina.
David M. Wiedeman, of Virginia.

Foreign Service reserve officers who are candidates for appointment as junior Foreign Service officers to be consular officers and secretaries in the Diplomatic Service of the United States of America:

Donald J. Amis, of California.
Youngeun Hyun Anderson, of Maryland.
Nancy Boshoven, of Michigan.
Cynthia Regina Bunton, of Illinois.
Bruce Edward Carter, of Pennsylvania.
Roberta L. Chew, of California.
Tushinde C. Cooper, of Pennsylvania.
Robert L. Fretz, of Florida.
Marlys S. Gengler, of Virginia.
Amy Y. Hamaishi, of Hawaii.
Brendan A. Hanniffy, of Florida.
Stephen W. Kennedy, of California.
Kristine Maish, of California.
Gerard E. Marandino, of Maryland.
Kevin T. McConnell, of Virginia.
William T. Monroe, of Connecticut.
Ronald W. Mortensen, of Wyoming.
Albert G. Nahas, of Pennsylvania.
Suzanne E. P. Payne, of Ohio.
Rogert Dwayne Pierce, of the District of Columbia.
Suella Pipal, of the District of Columbia.
Marcie Berman Ries, of the District of Columbia.
Janet A. Sanderson, of Virginia.
Susan Carol Schwab, of the District of Columbia.
Gregory Brian Sprow, of Virginia.
Vondelia Odessa Truell, of the District of Columbia.
Nereida M. Vazquez, of Virginia.
Edward J. Wehrli, of Illinois.

Foreign Service reserve officers to be secretaries in the Diplomatic Service of the United States of America:

Marianne U. Gustafson, of the District of Columbia.
Lloyd Jonnes, of Ohio.

Foreign Service staff officer to be a consular officer of the United States of America:

Marvin A. McCallister, of New Jersey.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 23, 1978:

EXPORT-IMPORT BANK OF THE UNITED STATES

H. K. Allen, of Texas, to be First Vice President of the Export-Import Bank of the United States.

DEPARTMENT OF THE INTERIOR

H. William Menard, of California, to be Director of the Geological Survey.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

SOUTH AFRICA SHOULD MOVE INDEPENDENTLY FOR A SETTLEMENT IN NAMIBIA

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. SIKES. Mr. Speaker, there may be a solution in sight on the problem of establishing a workable government for the new nation of Namibia in Southwest Africa. The apparent success with which a new black-controlled government has been developed and installed in Rhodesia points the way to a similar situation for Namibia. For more than 2 years, South Africa has been attempting to establish a coalition government in Namibia which could be representative of all the black tribes and would insure against an early takeover by Marxists.

The difficulty has been a militant black nationalist organization, SWAPO, which means Southwest African People's Organization. SWAPO is based in Angola and is conducting terrorist-type raids into Southwest Africa, killing and burning indiscriminately, and abducting young people who are forced to join their ranks. SWAPO has for years enjoyed the financial backing and open support of the United Nations, an organization which seldom makes the right decisions and which is dominated by Third World extremists and Communist nations.

A number of western powers, including the United States, Britain, West Germany, and France, have been holding periodic talks on the settlement of the dispute over the formation of a government for an independent Namibia. SWAPO has shown much the same attitude toward Namibia and South Africa that other foreign-based factions in Zambia and Mozambique show against participating in a coalition government in Rhodesia. They refuse to participate in elections and insist on virtual control of the new nation.

Thus far, Cubans in Angola have not participated in terrorist raids in Namibia. If this were done, it is certain that South Africa would retaliate. However, Cuban forces which supported the black Marxist regime in Angola were soundly trounced by South African forces during the period that South Africa was attempting to assist the United States in bringing into being an independent government in Angola. After Congress took steps to force an end to all U.S. aid, South Africa withdrew her forces and the Marxist takeover of Angola followed.

The South African Government has been negotiating for a new government in Namibia. Constant pressure has been exerted by the western powers.

It must be said that South Africa has leaned over backward to reach a solution acceptable to all factions. The foot dragging has been on the part of outside powers which insist on SWAPO's participation even at the cost of establishing a new Marxist-controlled nation.

The stumbling U.S. policy, which seems unable to think beyond the end of the U.N.'s nose, has helped hold back independence which could have been established for Namibia as early as 2 years ago. A reasonable summation of the situation in Africa was published in the Washington Post Sunday, February 26, 1978. It is entitled "Rhodesia-Style Settlement in Namibia?" and I submit it for reprinting in the CONGRESSIONAL RECORD:

[From the Washington Post, Feb. 26, 1978]

RHODESIA-STYLE SETTLEMENT IN NAMIBIA?

SOUTH AFRICA WEIGHS ATTEMPT TO RESOLVE INDEPENDENCE ISSUE INTERNALLY

(By Caryle Murphy and David Ottaway)

JOHANNESBURG.—There are increasing signs that South Africa is nearing a decision to attempt its own internal settlement in Namibia following the new sympathy being shown in Washington and London toward a similar solution to the Rhodesian conflict and a sharp upsurge of fighting in the South African-administered territory.

Western sources here said fears that South Africa was about to announce a date for its own elections in Namibia spurred vigorous diplomatic efforts last week to persuade Pretoria to wait, pending another Western effort in the next few days to break the deadlock in negotiations for an internationally acceptable accord leading to Namibian independence.

South Africa appears to be encouraged to take such a step by reports of growing disenchantment with the guerrilla activities, and increasingly pro-Marxist slant, of the militant black nationalist Southwest African People's Organization (SWAPO) among its supporters in the powerful Protestant and Catholic churches.

In addition, the South African government is under mounting pressure from both black and white leaders inside Namibia to proceed with its own settlement.

South Africa has administered Namibia, otherwise known as Southwest Africa, since the grant of a mandate over the former German colony by the old League of Nations at the end of World War I. Last year, it held a constitutional conference of representatives from the 11 different ethnic groups living in the territory to prepare for independence by the end of this year.

However, SWAPO, which is recognized by the United Nations as the only genuine representative of all the Namibian people, refused to attend because the conference was held on basis of ethnic representation. Instead, it stepped up training of guerrillas with Soviet and Cuban backing at camps in southern Angola.

The clearest indication yet of this country's growing inclination to go it alone even at the risk of economic sanctions came Friday when Foreign Minister Roelof Botha told Parliament that "It is not at all certain—indeed it looks to be unlikely—that an internationally acceptable solution will be reached."

"I want to say here today that we may get possible sanctions, that pressure on us will increase and that an escalation of violence may come in southern Africa," he added.

Botha said South Africa would continue to "lean over backwards" to reach an internationally acceptable solution through its ongoing talks with the five Western powers. But the thrust of his statement seemed primarily aimed at preparing South African and world opinion for a possible decision by Pretoria to go ahead with its own plan for holding elections and unilaterally granting Namibia independence by the end of this year.

Earlier in the week, Botha traveled to the Namibian capital of Windhoek to discuss "other alternatives" to the Western proposals with local white and black leaders.

A delegation of these internal leaders had just returned from a secret mission to Western Europe, where they held talks on the possible foreign recognition of a Namibian government headed by the South African-backed Democratic Turnalle Alliance. The delegation's leader, Dirk Mudge, described himself as "satisfied" with the results of the mission but refused to disclose with whom it had met.

A South African decision to opt for its own settlement would almost certainly escalate the guerrilla war being waged by SWAPO, which rejects this approach.

South Africa appears to be increasingly willing to run this risk rather than allow SWAPO to take over the mineral-rich territory populated by only about one million people. "We cannot allow the territory to fall into the hands of Marxist tyranny," Botha told parliament.

Western diplomatic sources ascribe the changing South African attitude partly to statements in London and Washington over the past two weeks suggesting that the two Western powers are now more favorably disposed towards Rhodesian Prime Minister Ian Smith's effort to work out his own internal settlement with three moderate black leaders based inside Rhodesia.

"The South Africans are looking carefully at the Rhodesian situation to see what the West is going to do," said one Western diplomat.

Britain and the United States have been holding separate negotiations with the militant Patriotic Front, the externally based guerrilla alliance that has rejected Smith's negotiations.

The South Africans seem to reason that if the two Western powers now swing away from the Patriotic Front and back an internal settlement in Rhodesia, there is a good chance they will take a similar attitude toward a South African-sponsored solution to the Namibian constitutional dispute.

The other factor in South African thinking about Namibia is said to be the sharp upsurge in SWAPO's guerrilla war. In the past week, several South African soldiers have been killed and one captured by SWAPO guerrillas in clashes in northern Namibia.

On Tuesday, 80 SWAPO guerrillas took more than 200 youths from an Anglican mission school across the border into Angola. South African authorities say they had been "abducted" but SWAPO and church sources in Namibia said they had gone willingly.

The size of the SWAPO guerrilla groups operating inside Namibia and the death of so many South Africans in just one week appeared to indicate that the war there is taking a sharp turn.

This development is likely to harden the South African position toward the Western proposal for a Namibian settlement based on elections in which SWAPO would participate. The United Nations would monitor the activities of both South African and SWAPO military forces.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The United States, Britain, West Germany, France and Canada have been holding periodic talks over the past year with South Africa in the search for a settlement of the constitutional dispute.

The deadlock between South Africa and SWAPO led the five Western powers to intervene as mediators. These negotiations have narrowed differences to three main issues: the number and location of South African troops remaining in the territory during elections; the role and size of a proposed U.N. peacekeeping force, and the powers of the South African-appointed administrator general and the U.N.-appointed special representative in Namibia.

DISSIDENT SOUTH KOREANS URGE POLITICAL REFORM

TOKYO.—Dissdent South Koreans living in Japan yesterday urged the South Korean government to release all political prisoners and to undertake reforms to restore democracy. They issued a manifesto similar to one issued in Seoul by 61 prominent dissidents, including former President Yun Po-sun.●

SCHENLEY HIGH SCHOOL WINS PENNSYLVANIA STATE BASKETBALL CHAMPIONSHIP

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise to note an uncommon event which seems to happen to Pittsburgh's Schenley High School quite commonly—winning the Pennsylvania State Class AAA basketball championships. Hundreds of schools compete to be State champions. Most never make it. However, over the past 12 years, Schenley High School, which I am proud to report is in my congressional district, has won the coveted title no less than four times, the latest coming last Saturday, March 18. A winning tradition such as this builds pride in self and institution and exemplifies the type of successful personal and team commitment which breeds character and maturity. I congratulate the Schenley High team, its coach, Fred Yee, and the students and faculty on this championship victory, and I commend the spirit and consistency of effort it represents.

I ask leave to insert into the RECORD the following newspaper articles from the Pittsburgh Press and the Pittsburgh Post-Gazette which report on the Schenley championship:

SCHENLEY ESTABLISHES TRADITION: SPARTANS THINK FIFTH

(By Bob Black)

The significance of capturing the school's fourth state basketball title in 12 years has barely had time to sink in, yet some of Schenley's players and fans have already started talking about next year.

Like the theme from "Fiddler On The Roof," Schenley's basketball program has something significant going for it—tradition.

"I don't think winning the state title this year will take anything away from going after it again next year," said 6-5 junior Larry Anderson, who teamed with 6-7 seniors Dave Thornton and James Smith to give the Spartans the most powerful inside game in the state.

"Next year the state finals will be held at the Civic Arena, which means people won't have to travel a couple hundred miles to see us win it."

When Schenley people talk about winning next year's title in such a matter-of-fact way, it is not arrogance. It comes from experience.

Two of those state titles won by Schenley came at the Civic Arena. The 1966 team, led by Ken Durrett and Petie Gibson, beat Chester, 74–64, and the 1971 team, with Maurice Lucas, Ricky Coleman and Jeep Kelley, topped Norristown, 77–60.

The other two have been won more than 200 miles away from home.

Three years ago, in just the second year of playing the state tournament at the Hershey Arena, Schenley used Kelvin Smith, Wayne Williams and Sonny Lewis to produce a 65–64 win over Abington, the team which had won the title the previous season.

Saturday night's 51–50 victory over Lebanon and its 6-11 junior Sam Bowie, who will be recruited by every college team in the country next season, gives Schenley the same kind of power identity formerly associated with Farrell under Coach Ed McClusky.

The difference between Schenley and Farrell is that the Spartans' four titles have been accomplished through three different coaching regimes.

In 1966, Willard Fisher led them to the titles, Spencer Watkins was the head man for the '71 and '75 title teams, while Fred Yee was this year's leader.

"Schenley's winning basketball tradition is built right into the school," said Yee, who's in his second year with the Spartans after producing a City League championship team several seasons ago at Westinghouse.

"There's a difference in attitude about basketball at Schenley than there was at Westinghouse," Yee said. "Westinghouse has always been a football school, so any basketball title was never given quite the same significance. At Schenley, it's just the opposite."

Schenley's victory gave the West just two winners in six classes for this year's state tournament, the other one being boys Class A champion Connellsville Father Geibel, which beat Darby Twp., 66–53.

Two Western losers—Mt. Lebanon in girls AAA and Northgate in boys AA—only lost by one point each.

Schenley's victory also means that a City League team has reached the state finals as the western representative in all but three seasons since the 1971 Spartan championship team.

Peabody lost to Abington in 1974 and Fifth Avenue beat Norristown in 1976. In between, Farrell won the state title in '72. General Braddock won it in '73 and Fox Chapel one year ago.

Next year, along with an expected strong Schenley team, the City League will also boast Allderdice and South Hills, a pair of state playoff teams this season who have impressive personnel returning.

And with the tournament returning to the Civic Arena next year for the first time since 1968, Schenley—tradition and all—is expected to be a factor.

SCHENLEY, GEIBEL MAKE WEST BEST

(By Tim Panaccio)

HERSHEY.—It was Schenley's greatest moment. No one dominated the scoring, but everyone played an important role in dominating the action.

Denying Lebanon's 6–11 junior Sam Bowie the ball on the inside, the Spartans (26–3) grabbed their fourth state basketball title in 12 years with a narrow, 51–50 victory over Lebanon of District 3 Saturday.

As it was, Bowie scored 24 points, but almost all came from outside. Schenley owned the boards, which, in the end, meant the game.

"Bowie could turn a franchise around," conceded Schenley Coach Fred Yee, who was not the Spartans' coach when they won their three previous state championships.

"If I had a choice," said Bowie, who led the Cedars to a gaudy 29–3 record, "I'd like to go against someone 6–11 or taller. I do better against better competition."

Schenley won in the final two minutes as Calvin Kane (10 points) drove left, accepted Bowie's challenge and passed back to teammate James Smith, who swished a seven-footer for a 49–46 Schenley lead.

"I knew Bowie would do that," Kane said. "I was going to set it for Snuffy. We try that play all the time."

"Calvin didn't have the shot," Smith said. "I knew it was mine as soon as Bowie moved."

Schenley also won because 6–4 junior James Walsh, who finished with eight points, came off the bench as he has been doing all year, to restore law and order to the Spartans offense.

"My job is to slow it up, work the ball for the shot said Walsh, the Spartans' sixth man," Walsh said. "It's an easy role. I think I'll get more recognition next year."

Dave Thornton led Schenley with 14 and played hard against Bowie; so hard the two got into a fight near the end of the third quarter.

"He (Bowie) wasn't playing defense," Thornton said. "I wanted him to play me aggressive. I wanted to get him in foul trouble and scare him. I threw an elbow, he retaliated. It was cheap of me, but I wanted to see if I could intimidate him."

Bowie was the intimidator for a while, filling the lane and blocking five of Thornton's shots. But when he moved outside to escape Schenley's triple-teaming under the boards, it left the lane open for the Spartans.●

THE SEVENTH SESSION OF THE LAW OF THE SEA CONFERENCE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. FRASER. Mr. Speaker, Ambassador Elliot Richardson, Special Representative of the President to the U.N. Law of the Sea Conference, held a press conference last week on the eve of his departure for Geneva and the opening of the seventh session of the Conference. At this news briefing he stated very clearly that success of the Conference for the United States depends on "unravelling the tangle of conflicts surrounding the deep seabed mining issue." He set forth the nature of the U.S. position on the interrelated issues involved in deep seabed mining. He went on to outline other major U.S. interests in the session—navigation and security interests, fisheries, the continental shelf, marine scientific research, marine environmental protection, and the promotion of global order; and noted the need to begin to consider viable alternatives to the comprehensive treaty, if an acceptable treaty proves unattainable. This is an important statement. I commend it to the at-

tention of the House and request that it be inserted in the RECORD.

The statement follows:

STATEMENT BY ELLIOT L. RICHARDSON FOR THE LAW OF THE SEA CONFERENCE

MARCH 16, 1978.

In less than two weeks, representatives of 156 countries will assemble in Geneva at the Seventh Session of the Third United Nations Conference on the Law of the Sea to try once again to hammer out a comprehensive treaty.

The last attempt to reach agreement, at the Sixth Session held in New York last summer, ended in disarray—and from the U.S. point of view—setback and disillusionment.

Through the exercise of procedural sleight-of-hand, compromises on the exploration and exploitation of the deep seabed—an issue of paramount import to the U.S. and a host of other nations—were summarily discarded.

These compromises—struck after weeks of painstaking effort and open discussion—were replaced in the negotiating text by provisions developed in secret that are clearly inimical to essential U.S. interests.

Disturbed by this abridgment of due process, and unsure of the advantages of continued participation, I felt constrained to recommend to the President that the U.S. undertake a searching review of both Conference procedures and the substantive matters before it.

This review is still in process. It is so advanced, however, that I can now appropriately share with you its principal conclusions which guide our preparations for the forthcoming session.

The first issue to come under scrutiny was the continued desirability of working toward a treaty. In light of discouraging reverses, did the U.S. still believe that a treaty was in its national interest?

The response to that question remains affirmative. We are still convinced that a new magnitude of global order can emanate from successful negotiations on the Law of the Sea. A treaty deemed just and equitable by the world community can dramatically enhance the prospects for the rule of law.

But commitment alone carries no guarantee of success. Agreement at the Seventh Session can come only through an exertion of political will and a determination by all nations to forge an accommodation that leaves no nation with its essential interests impaired.

DEEP SEABED MINING

For the U.S. success of the Conference will depend on unravelling the tangle of conflicts surrounding the deep seabed mining issue. More than our essential interests are at stake in this area. There is opportunity here to establish a precedent which can serve as a blueprint for the development of future international institutions concerned with common resources.

The deep seabed beyond areas of national jurisdiction contains vast quantities of nodules that can become a major source of the manganese, nickel, copper, and cobalt needed by an increasingly industrialized world.

We support the concept of an international Authority that would supervise the conduct of deep seabed mining. We believe that revenues stemming from these mining operations should be shared among the nations of the world. Yet the current negotiating text would discourage entry into the deep seabed by those nations which are both able to extract its minerals and have a growing need for them. The text imposes onerous financial conditions, dictates mandatory transfer of technology as a condition of access, and contains several other features which would combine to deter entrepreneurs from investing the $700–$900 million required to bring a single mining site into production.

Our position on mining the deep seabed is clear:

1. We accept a dual system of development which will give States and companies, as well as the international Enterprise reasonable assurance of access to seabed resources. We reject the concept of rigid state centralism projected on a global scale.

2. We accept some limitation on production of seabed minerals in deference to the essential interests of land-based producers—but not to the extent that it excessively restricts the availability of resources needed by an expanding world economy.

3. We believe that the Authority should be controlled in ways that adequately take into account such factors as production, investment, and consumption—and not be based on the simplistic, ideological platform of one nation, one vote.

There is room for compromise in these positions, but the fundamental concerns they express cannot be ignored. If the final text fails to recognize these concerns, the U.S. could not become a party to it.

Unfortunately we cannot be confident that we shall be able to achieve our goals.

It follows that the U.S. must stand ready to protect its interests should an unbridgeable split appear in the course of the negotiations.

There is little doubt that mining will begin during the next decade regardless of the outcome of the Law of the Sea Conference. The forces already in motion have an irresistible momentum. The deep seabeds are a new and inviting frontier, ready for exploitation. Technology is becoming increasingly advanced. Should the Conference fail to reach agreement on a seabed mining regime, it would be a distortion of the concept of the seabeds as the common heritage of mankind to allow this concept to prevent the development of this important new resource.

On the domestic front, legislation to facilitate the initiation of deep sea mining operations by American corporations is moving through Congress. The Administration favors this legislation—not for use as a club to beat down opposition in Geneva—but in the belief that we must be prepared to provide the necessary encouragement and support to our industry in its development of this new resource whether or not a comprehensive treaty on the law of the sea can be negotiated. I do not, however, anticipate Congressional passage of a seabed mining bill until some time after the Seventh Session closes on May 19th.

THE OTHER MAJOR U.S. INTERESTS

Our review has reached certain conclusions regarding other major law of the sea interests:

Navigation and Security Interests. As a global power with extensive interests in the maintenance of high seas freedoms, the U.S. has placed much emphasis in the negotiations on maintaining those freedoms in the face of unilateral actions that purport to assert national jurisdiction of various kinds over the high seas.

The negotiating text before the Conference provides for freedom of navigation through, over and under international straits by military and commercial vessels and aircraft. It also meets the environmental and safety of navigation concerns of the straits States.

The text makes clear that beyond a 12-mile territorial sea, the high seas freedoms of navigation and overflight and the laying of submarine pipelines and cables and other traditional uses of the sea related to those freedoms shall be fully maintained.

Although our maritime interests and responsibilities would in any case compel us to insist on the exercise of traditional navigational freedoms, it is clear that failure to achieve a comprehensive treaty would entail less stability and higher costs. It is thus our conclusion that a law of the sea treaty which adequately safeguards these freedoms would be clearly preferable.

Fisheries. The U.S. seeks to secure wide acceptance of international standards for conservation and optimum utilization of marine living resources.

In addition, we have specific and important commercial interests in our own coastal fisheries as well as in salmon, tuna, and species off the coasts of other countries. We are also deeply concerned about the protection of marine mammals. U.S. interests in coastal species within 200 miles are already protected by the Fisheries Management and Conservation Act of 1976. The negotiating text does, however, serve our interests in regard to salmon, tuna and fisheries off the coasts of other states.

It should be noted, however, that a comprehensive treaty will not of itself fully protect these U.S. interests but rather will foster regional and bilateral agreements. Finally, the negotiating text does promote international recognition of the need to protect marine mammals.

We believe that the understandable and legitimate interests in fisheries of the landlocked and geographically disadvantaged states should be fairly accommodated as part of an overall package.

Continental Shelf. It is estimated that there are significant amounts of exploitable petroleum beneath the continental margin off our coasts. We support the coupling of coastal state jurisdiction over continental margin resources beyond 200 miles with revenue sharing for the benefit of the developing countries. Although the Conference has not yet agreed upon a precise definition of the outer limits of that jurisdiction, we have every reason to believe that such a definition can be negotiated. The open-ended formula now contained in the negotiating text is undesirably vague and might be so interpreted as to lead to excessive claims of jurisdiction.

Without a treaty, the U.S. interest in the resources of the continental margin would nevertheless be protected. A comprehensive treaty, however, would enable us to protect this interest with greater predictability.

Marine Scientific Research. The U.S. places a high value on the conduct of research on a free and broad basis, accompanied by a maximum flow of information with respect to both the conduct of the research and its results.

Unfortunately, the U.S. has been unable to find more than minimal support in the negotiations for the creation of a free and open marine scientific regime in the economic zone and on the continental shelf. The consequence is that the negotiating text contains undesirably broad provisions requiring coastal state consent for research to be conducted within 200 miles. While the negotiating text introduces a degree of predictability that would make the administration and planning of research easier, it also creates rather complicated conditions for the granting of consent. In weighing the prospective benefits of a comprehensive treaty, therefore, science must be seen as a neutral factor. At a minimum the freedom of research must be maintained beyond the economic zone and on the deep seabed.

Marine Environmental Protection. The U.S. has a major interest in protecting its coastal areas from all forms of pollution. Regarding vessel source pollution, the negotiating text establishes a mixed system of port state, coastal state and flag state jurisdiction that, given shipping patterns off our coasts, would afford substantial protection against hazards to the marine environment within 200 miles. It must be noted that the negotiating text

gives flag states the right to preempt jurisdiction, albeit with important exceptions. Protection of the marine environment will thus be, in part, a function of the responsible exercise of flag state jurisdiction. At the same time the negotiating text makes binding on all participating states those standards adopted by the Intergovernmental Maritime Consultative Organization. The treaty also provides protection against pollution from continental shelf resource activities, deep seabed mining and ocean dumping. While a treaty cannot accomplish all of our marine environmental objectives, it would create a useful framework for safeguarding the marine environment.

Global Order. Our review has recognized that agreement on the large number of issues dealt with by the Conference will introduce into the international system a greater measure of stability and predictability and a commitment to peaceful settlement of disputes. The U.S. shares with the world community as a whole the aim of avoiding chaos and conflict in the utilization of the world's oceans.

If the Conference succeeds in negotiating a treaty that serves the specific interests under discussion, it will have further advanced the goal of the elimination of conflict in international affairs. Moreover, it will have done so largely by the process of consensus, an important precedent in itself.

ALTERNATIVES

It follows that the U.S. must be prepared to protect its interests by other means than a comprehensive treaty if an acceptable treaty proves unattainable. Indeed, it would be irresponsible not to begin consideration of viable alternatives. In the case of deep seabed mining, reciprocal legislation is one such alternative, but not necessarily the most desirable. Another possibility—one which might be regarded as more consonant with the concept of the common heritage—would be a multilateral arrangement in which all countries could join and which provided for revenue sharing with developing countries. In the case of other subjects such as military and commercial navigation, satisfactory alternatives are less obvious, and we have begun an examination of the measures that would become necessary for the protection of these interests should the Conference fail to achieve agreement.

PROCEDURAL ISSUES

The Law of the Sea interests of the United States which I have described can only be served if the Conference operates on the basis of open discussion with broad, representative participation. Since the summer of 1977 this objective has been a major concern of a series of intersessional meetings. Although a substantial measure of agreement on these procedural matters has been developed, difficult questions remain to be resolved. For this reason, I and a number of colleagues intend to go to Geneva next week. We will discuss these questions with representatives of the Group of 77, which will be meeting there during the same week, in an effort to find accommodations which will prevent any protracted delay in the Conference.

CONCLUSION

In sum, our review of U.S. positions reinforces our conviction that a comprehensive treaty is the clearly preferable means to promote orderly use of the oceans and to ensure responsible and fruitful development of their resources.

The world community has before it a singular opportunity to consummate a breakthrough. We are resolved to do everything in our power to make this come to pass.●

THE DILAPIDATED STATE OF BRITAIN'S HOSPITALS UNDER ITS SOCIALIZED MEDICAL SYSTEM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. KEMP. Mr. Speaker, Joseph D. Godfrey, M.D., of Orchard Park, N.Y., and one of the most respected orthopedic surgeons in the United States, has brought to my attention a recent article in Impact magazine on the dilapidated state of many of Britain's general hospitals under its socialized medical system. That same issue contains a commentary on this country's consideration of a similar health system and some appropriate relative cost comparisons as to medical care.

This matter is of substantial importance to this body, and although any immediate consideration of a mandatory national health insurance system as the key step toward socialized medicine seems unlikely, it will be around until the record is set clear on why that is not the way to go.

I particularly commend these items to the attention of the members of the Committee on Ways and Means which has legislative jurisdiction in this subject area. They follow:

"RUNNING ON A RUDDY SHOESTRING"

(By Arturo F. Gonzalez, Jr.)

LONDON.—"It began as a joke, really," sighs Dr. Geoff Watts, deputy editor of World Medicine magazine. "Offhandedly, we mentioned in a column last fall that there ought to be some kind of a prize for the British patient who has waited longest in line to receive medical care from a specialist. Suddenly, we were inundated with names of candidates from doctors. Apparently, we had touched a very raw nerve.

"Some of the horror stories told us were appalling. In Accrington, the eye, ear, nose, and throat specialists were taking appointments for June *1978*—in all the fall of *1975*. And some poor lady in Clitheroe, Lancashire, has been waiting since September, *1957*, for an orthopedic operation!"

Dr. Norman Simmons, a consultant pathologist at London's Guy's Hospital, says flatly, "This is no bloody way to practice medicine. This hospital hasn't admitted 'cold' nonemergency cases for six weeks. National Health Service (NHS) is on the verge of collapse. If you are on a three-year waiting list of an orthopedic operation, then that's collapse."

Every doctor has his own favorite horror story of this British bureaucracy gone mad. At the Hull Royal Infirmary, supplies of 1½" screws used for fastening broken bones ran out because a nine-month-old order had not been filled. Investigators found there were 11 different and competing channels for ordering the equipment.

Documentation has become a mountain. One thousand major circulars have been issued in the past three-and-one-half years. Mr. George Watts,* a consultant surgeon, reports, "We did a survey at one Birmingham hospital and found the cost of paper work to admit a patient was greater than the average cost of drugs for patients.

*In England physicians tend to be called "doctor" and surgeons "mister."

THE ROOF FELL IN

One area authority issues 250 copies of every document sent to it for consultation and then circulates every comment on the report to the other 249 recipients. As Mr. Watts complains, "In one month I receive about 1,000 pages of all sorts of administrative data telling us how things should be done."

Equipment shortages in NHS hospitals are frequent and never-ending. Mr. Dick daCosta, the senior orthopedic surgeon at the 650-bed Shotley Bridge Hospital, complains bitterly about the lack of money to improve equipment. "Mine is largely a modern hospital, so I am not as badly off as some. Still, I only got a new operating table after quite a struggle. The leg fell off the one I was using, in the middle of an operation. We had to get a piece of rope and tie the table to the window.

"I want radio communication with our ambulances. You can save a life some time if you can tell the ambulance fellow what to do. I have been pressing for that expenditure for four years. We are running the service on a ruddy shoestring."

At the aging Northampton General Hospital, Dr. Alan Jennings complains, "The hospital roof fell in recently while the registar worked on his reports. Electric wiring collapsed all around him. He had to proceed with his work by candlelight." A Welsh surgeon reports a porous roof in an anesthetic room, where water leaked into the theatre and plaster came off the walls, falling on patients being prepared for operations.

A Newcastle surgeon seethes, "The present dilapidated state of the majority of the regional hospitals is deplorable. The complete lack of interest in maintenance is evidenced from flaking paint, leaking roofs, unmended loose tiles on staircases, clocks six hours slow or not working at all, and unhygienic toilets . . . It is indeed remarkable how doctors and patients both survive in such squalor."

Complains Mr. Dennis Wilkins, a surgeon at Hackney Hospital, "Our hospital is so impoverished that we don't have even a defibrillator. The old operating theatre fills with fumes and dust from the streets outside, vibrates with the traffic, and is used as a public throughway when the lift breaks down. The maternity block has just been shuttered because there's fungus growing on the walls, not enough water for the bedpans, and the sewer overflows. It's also very badly located—right next to the mortuary."

Even when the NHS painstakingly builds spanking new hospitals, things seem to go awry. The new Liverpool Teaching Hospital, budgeted at approximately $25 million and started in 1965, may wind up costing $110 million before it's finished in 1978. The problem is that the almost fully constructed skyscraper has recently been declared unsafe by fire safety authorities, who discovered that many inside walls did not go up to the ceiling, thus creating deadly voids which could suck flames and smoke quickly through the building. Construction delays drag on; meanwhile patients wait.

"ONCE YOU TRY IT, THERE'S NO TURNING BACK"

(By George Willis)

England is a great place to be hit by a taxi but a lousy place to have hemorrhoids. That about sums up what is good and what is bad about national health care in England under the National Health Service (NHS).

For instance, if you have a massive heart attack or need emergency medical service, the care you will get will be immediate, rendered by some of the finest physicians in the world, and you will be treated very politely. Furthermore, it will not cost you anything out of your pocket at the moment.

On the other hand, if you need nonemergency surgery, such as a tonsillectomy, hernia repair, a hysterectomy, or hip replacement, the wait could be anywhere from seven weeks to two years or even longer.

An orthopedic surgeon told me that an elderly person needing a hip replacement would probably die before getting to the top of the waiting list. Waiting time for an orthopedic appointment is usually nine months.

I questioned Mr. Laurie Pavett, MP, chairman of the health service committee of the Parliamentary Labour Party about the length of time people must wait for elective surgery, which he admitted is a problem. Here's his chilling answer:

"If a woman needs a hysterectomy, well, she might have to wait six to nine months. She'll be uncomfortable, she might be incontinent, but she'll live, she'll survive, she can manage."

Later Dr. S. J. Carne, honorary treasurer of the Royal College of Practitioners, told us that to be effective the National Health Service requires the British patient. He pointed out that the American patient and the British patient are not the least bit alike. It's my own observation after three visits to England that in spite of the similarity of language, British and Americans are in no way alike.

Because of a depression, a war, and 30 years of socialist government, the British are completely domesticated.

They will readily accept, without challenge, the problem of queuing even over simple things like waiting in a theater lobby to get an expensive seat. Since queuing in Britain seems to be a natural habit, the British see nothing wrong with having to wait in line patiently for medical service. Americans forced to wait for seats they had paid premium prices for would be demanding to see the manager, if not actually throwing the furniture around.

The minister of state for health, Dr. David Owen, said: "The NHS is a rationed service. There will never be a government or a country that has enough resources to meet all the demands any nation will make on a national health service."

However, the politicians love NHS because they can claim to be heroes. The labor unions love it, mostly because they have so much to say about it. The bureaucrats love it, and why not? There are 130 bureaucrats for every 100 people in NHS.

One of my own personal fears is that this country will listen to the voices amongst our politicians and bureaucrats who suggest that we try some form of NHS, "just to see how it goes." Once you try it, there's no turning back. Getting the health care system out of the hands of the bureaucrats would be like trying to get your ball back from the Harlem Globetrotters.

HEALTH FACILITIES

[Per 10,000 population]

	June 1961	June 1971	June 1976
Active doctors	11.7	13.5	15.4
Dentists	3.5	3.1	[1] 3.4
Pharmacies	4.6	4.6	4.0
Hospital beds:			
Public	52.5	49.3	50.0
Private	10.9	10.5	12.5
Total	63.4	59.8	62.5
Nursing home beds	[2] 24.1	36.2	39.9
Medical graduations during year	.46	.70	.81

[1] December 1973.
[2] June 1963.

CURRENT EXPENDITURES,[1] BY TYPE OF SERVICE

[In millions of dollars]

	1963–64	1969–70	1972–73
General hospitals	280	544	885
Other institutions	107	214	340
	387	758	1,225
Doctors' services	127	240	388
Dentists' services	50	74	107
Medicaments	191	290	398
Other medical care	55	92	134
Public health	35	68	89
Total	858	1,522	2,341
Dollars per head of population,[2] at constant 1966–67 prices	92.2	98.3	107.2

[1] These figures are unofficial and subject to varying errors of estimates.
[2] Deflated by index of average weekly earnings for want of a specific deflator.●

LEGISLATION TO DEAL WITH PROBLEMS IN CURRENT TAX SYSTEM

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

Mr. BAUCUS. Mr. Speaker, today I am introducing legislation to deal with a number of problems in the current tax system. My tax proposals are designed to reduce unfair tax burdens currently shouldered by Montana's workers, farmers, and independent businessmen.

SUMMARY OF FIVE-PART TAX PROPOSAL

My tax package consists of five major proposals:

First. A bill to eliminate "taxflation" by adjusting tax brackets upward each year according to the Consumer Price Index;

Second. A bill to reduce regressive social security payroll taxes and to improve the efficiency of the social security system by funding medicare and disability programs from general revenues;

Third. A bill to eliminate tax-loss farming, whereby investors use loopholes to reduce their taxes on nonfarm income by unfairly competing with legitimate farmers;

Fourth. A bill to eliminate the "carryover basis" to make it easier for Americans to pass family-owned farms and other assets from generation to generation; and

Fifth. A bill to establish a graduated income tax for small corporations, thereby eliminating the inequitable situation where small businesses, which earn small sums (for example, $50,000 per year), are required to pay the tax rate that General Motors and Standard Oil pay.

TAXFLATION

Inflation reduces the dollar's purchasing power. Today, it takes a lot more dollars than it did a few years ago to purchase the same amount of goods and services.

We in Congress must do all we can to stop inflation. And we have to stop the increased tax burden inflation is causing.

Our graduated tax system sets higher tax rates as incomes increase. Thus, workers who get cost-of-living increases often find themselves in higher tax brackets—even though their purchasing power stays the same.

Businessmen and farmers are also affected. Even if they sell the same volume of products, they have higher incomes and thus pay a higher percentage of their income in taxes.

This "taxflation" means tax increases take place every year as a result of inflation. One report I recently read says that a 10-percent increase in inflation produces a 16-percent increase in Federal tax revenues. That is not sound policy.

Also, taxflation permits Government programs to increase even though Congress has voted for tax cuts. That is unwise policy, too.

This loophole, which lets taxes increase automatically with constant or even decreasing levels of purchasing power, must be closed. The bill I am introducing today will do that by adjusting tax brackets upward each year according to the Consumer Price Index—the best available measure of inflation.

Currently, married couples pay a 22% tax on incomes from $11,200 to $15,200, and 25% from $15,200 to $19,200. Under my proposal, if the inflation rate was 10 percent in a given year, the brackets would be adjusted so the 22% tax would be on income from $12,320 ($11,200+10% ×$11,200=$12,320) to $16,720. The 25% rate would apply for income from $16,720 to $21,120.

My proposal would end creeping increases in taxes and Government expenditures. It would make the Government more accountable because revenues would no longer increase as a result of inflation. Passage of this legislation would be an important step toward restoring the confidence of taxpayers in our government system.

REDUCING PAYROLL TAXES

Last fall when the Social Security Trust Fund faced bankruptcy, Congress voted for payroll tax increases to insure that the 33 million people who receive monthly social security checks wouldn't lose what is often their only source of livelihood.

But it's clear that Congress must find a better long-term solution to avoid unacceptably high payroll taxes. The social security tax for self-employed farmers and businessmen under existing law would reach 10 percent by 1986, and for workers, the employer and employee would each pay 7.15 percent.

These high payroll taxes place unfair burdens on workers and contribute to unemployment by raising the cost of labor.

My proposed solution is to change funding for medicare and disability programs from payroll taxes to general revenues. In addition to reducing payroll taxes and insuring the financial integrity of the social security system, this proposal would lead to greater efficiency.

Currently, the medicare and disability programs are outside the scrutiny of the congressional appropriations committees.

The cost of these programs has ballooned. For example, from 1975 to 1977 medicare payments increased 28.5 percent. If Congress had to vote to appropriate money for medicare and disability programs each year, the programs would be more closely examined. This congressional oversight should lead to reductions in waste and inefficiency.

Below is a chart showing social security payroll taxes under the current system (CS) and under my proposal (BP):

	1979		1982		1985	
	BP	CS	BP	CS	BP	CS
Employer/ Employee	4.33	6.13	4.40	6.70	4.40	7.05
Self Employed	6.50	8.10	6.60	9.35	6.60	9.90

In addition to reducing payroll taxes and promoting efficiency, my proposal would encourage employment in the private sector.

We in Congress are distressed by current high rates of unemployment and have considered numerous proposals to combat the problem.

High payroll taxes discourage employment by raising the cost of hiring workers. Adoption of my social security proposal would be a significant step in the battle to combat unemployment.

TAX LOSS FARMING

Legitimate farmers have faced unfair competition in recent years from outside investors who "farm the tax system." These investors shelter outside income by investing in agricultural enterprises. Because the tax advantages they gain are not available to bona fide farmers, they can operate their agricultural enterprises at profit margins that would be unacceptable to full-time farmers.

This competition is unfair, resulting solely from loopholes in the tax system, and should be eliminated.

The outside investors generally invest in enterprises involving development of capital assets, such as cattle herds or fruit orchards. In the years when the assets are developing, they offset cash losses incurred in the development with their outside income. Finally, when the assets mature, they are sold generally at profits which are reported as a capital gain. Thus these investors not only delay taxation, but they convert cash income from outside agriculture to a capital gain.

My proposal would eliminate tax loss farming by putting a limit of $15,000 on the amount of farm losses that could be deducted from nonfarm income in a year.

The $15,000 figure is designed to protect beginning farmers. Like outside investors, beginning farmers generally must develop capital assets. Often they depend on outside incomes as they struggle to get established in agriculture. The $15,000 exemption would let them continue to offset agricultural losses with their nonfarm salaries.

The limit on how much farm loss could be deducted from nonfarm income would not apply to any taxpayer using accrual accounting. Thus, a taxpayer who had an actual loss in agriculture could deduct the loss, no matter how large, from nonfarm income.

My proposal is intended to eliminate the cases where investors use the cash method of accounting to gain tax advantages, even though they eventually realize some profit from the agricultural enterprise.

REPEAL OF THE CARRY-OVER BASIS

The Tax Reform Act of 1976 was designed to reduce estate tax burdens to make it easier for families to transfer farms and businesses from generation to generation. It accomplished this goal by significantly increasing the marital deduction.

But another part of the 1976 act establishes the "carry-over basis" which may significantly increase taxes for some future transfers. Under prior law, the cost or other basis of property acquired from a descendant was "stepped up" to its fair market value at the date of death.

The act provides that the basis of property acquired from a descendant who dies after December 31, 1976 is to be the same as the descendant's basis immediately before his death. As a transitional rule, the adjusted basis of property held on December 31, 1976, is its fair market value on December 31, 1976.

Because of this transitional rule, families will not feel the major impact of this sweeping change until some time in the future. But I believe we should act now to repeal the carry-over basis and return to the earlier system.

An example will show the effect of the carry-over basis. Suppose a rancher purchased his ranch for $150,000 in 1966. Because of inflation, the value of land continually increases so by 1976 the ranch is worth $250,000. Even at a reduced rate of inflation, the ranch will likely be worth $350,000 by 1986 and perhaps $450,000 by 1996.

Suppose that the rancher dies in 1986 and that his son who inherits the property decides to sell it in 1996 in order to buy some other property.

Under the previous system, the son would have to pay capital gains tax on the $100,000 the ranch's value had increased since he acquired it at his father's death ($450,000—$350,000=$100,000).

But under the new carry-over basis he would have to pay capital gains tax on the amount the ranch's value had increased since the new law took effect in 1976. Thus, the taxable gain would be $200,000 ($450,000—$250,000=$200,000), and the son's tax bill on the inherited property would be doubled.

To prevent these future tax burdens, we should act now to eliminate the carry-over basis provisions of the 1976 Tax Reform Act.

GRADUATED INCOME TAX FOR SMALL CORPORATIONS

Today, many small businesses badly need equity capital to modernize and expand. The largest source of equity capital for small businesses is retaining earnings, or profits left over after taxes.

The present tax system simply takes too large a bite at the lower end, when a small firm is almost totally dependent upon retained earnings to generate growth. Small corporations reach the highest tax bracket, 48 percent, the same rate at which giants like General Motors and IBM are taxed, when they pass $50,000 in taxable income. This tax policy penalizes and discriminates against small business which cannot take advantage of many tax preferences available to larger corporations.

Present corporate tax rates are 20 percent on the first $25,000 of income, 22 percent for income from $25,000 to $50,000 and 48 percent for income in excess of $50,000.

The tax rates my bill proposes are:

	Percent
Less than $25,000	18
$25 to $50,000	20
$50 to $75,000	25
$75 to $100,000	30
$100 to $125,000	35
$125 to $150,000	40
Over $150,000	45

The independent business sector has contributed a great deal to the strength and vitality of the American economy. It has been the wellspring of innovation and inventiveness, the creator of jobs, and the guardian of competition.

I believe my proposal for a graduated corporate income tax will contribute to the continued vitality of his important sector of our economy.

AGRICULTURAL UPDATE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. HANSEN. Mr. Speaker, I submit for the RECORD the following update on the agricultural situation particularly as it relates to Idaho farmers:

FARMERS NEED IMPROVED CONDITIONS

Overdue corrective measures to repair the situation causing farmers scandalously low returns for their crops in the face of skyrocketing inflation and costs of operation have resulted in serious unrest in rural areas which must be dealt with as a matter of high priority. Farmers are having to fight for their lives, but it is really the welfare of the consumers of the Nation and the world which is at stake.

The farmers need more than sympathy and lip service: they need action. This segment of our Nation's economy has become a whipping boy. When food prices go up the farmers are blamed but when farm prices fall off while food prices continue to go up the farmers still seem to get most of the credit.

In seeking a solution to this problem I will certainly continue to support any constructive measure and work with all means at my disposal to find answers to these critical problems and achieve the goal of a fair return for our farmers. This will require active pursuit of the grievances of the farmers in Congress, in the agencies of Government,

and in the agricultural communities and marketplaces themselves until real answers are found and the rural communities of the Nation can return to the traditional calmness and stability which provides the breadbasket of the American way of life. To this end I have met with the various farming groups here in Washington and in Idaho in an attempt to arrive at a workable consensus for an effective approach for Idaho farmers.

The worst problem facing farmers as with all citizens is the overwhelming burden of big government. Taxes accumulated at State, Federal, and local levels amount to a major portion of the retail cost of farm products. There are Federal and State income taxes, employee taxes, social security taxes, sales taxes, personal property taxes, inventory taxes, licenses, regulations, and controls. These are all imposed on the producers, the processors (including food, plant, and equipment) the transporters at all levels and then a sales tax is again added at the end.

Most people blame the difference between farmer receipts and food prices on middleman profit without realizing that the big middleman is the Government as it taxes at every level and increases the cost of the end product by over 50 percent. Both consumer and producer are victims of the oppressive burden of big government.

Our domestic agricultural producers are the most efficient in the world and, therefore, produce much more than we consume domestically. It is, therefore, essential that we have an active export program for our farm commodities. This allows a hungry world to benefit from our agricultural efficiency and creates opportunity for reasonable profit to producers of farm products.

I have included a survey in this report which you are invited to fill out and return to my Washington office as soon as possible. This will give me a firsthand report of what you think should be done to improve the present situation.

There is disagreement on some of the presently proposed solutions and the best way for prompt constructive congressional action is for as many farmers as possible to agree on the approach. I will keep the appropriate individuals making the decisions aware of the results of my survey which will insure direct farmer impact in the formulation of new farm programs.

In the meantime I am working closely with Idaho and other farmers in Washington from across the Nation to utilize their efforts toward framing constructive legislative proposals to be aired by congresssional hearings and forums at State and community levels. Hopefully this will speeed the day of hoped for relief.

At the time of this publication a new farm legistlative package has passed the Senate and is in conference with the House. Its final fate or form is yet to be decided.

THE GRAZING PICTURE

As stated in my December report, I joined with other western Congressmen in sponsoring H.R. 9757, a grazing fee moratorium bill, to keep the current rates in force 1 more year. This measure was approved by the House on February 24, 1978, and is awaiting Senate action.

The Bureau of Land Management (BLM) and Forest Service (USFS) have announced that they will issue permits this year under the old rates while reserving the right to send out amended rate increase notices when necessary. The Senate must act quickly if we are to alleviate the dilemma and immediate danger facing our ranchers.

Under the current Department criteria, the 1978 fees for both the BLM and the USFS land were proposed to be raised to $1.89 for each animal unit month (AUM), a monthly charge for the amount of land needed for grazing each cow or steer. The fees would then be raised each year until they reach the so-called fair market value. Present fees are $1.51 per AUM on BLM land and $1.60 on USFS land.

A moratorium would freeze the prices at last year's rates for 1 year and thus allow Congress adequate time to thoroughly consider pending measures such as H.R. 10587, with which I have associated myself as a comprehensive proposal addressing several critical land use problems such as funding for range improvements, disposal of wild horses, 10-year grazing permits, and a comprehensive grazing fee formula based on production costs and market conditions. The final hearings are currently being held (March 30 in Salt Lake City) on this measure and action should be taken in the House during the month of April.

In February, I held an ad hoc field hearing in Twin Falls regarding the questions facing Idaho ranchers and users of federally controlled lands. Some 100 persons attended the meeting and much valuable insight was received. I am making this testimony available to the House Interior Committee as they deliberate on measures to correct these inequities. Hopefully within the next few weeks we will be able to arrive at a long-term effective solution to this situation.

THE 160-ACRE PROBLEM ON THE BACK BURNER

This situation has been neutralized somewhat for the time being. A California Federal court declared that the Department of the Interior could not put regulations into effect regarding this issue until an environmental impact statement had been prepared. The Interior Department agreed to prepare the statement and not appeal the court decision. The estimate is that it will take approximately 1 year to prepare the EIS.

WATER POLICY REVIEW

The National Water Policy Review Commission had a deadline of March for submission of its recommendations to the President regarding the various proposals placed in the Federal Register last year. A Federal court in North Dakota recently ruled that these recommendations could not be made until an environmental impact statement was prepared. The Government attorneys are currently preparing to appeal this decision, however. In the meantime Idahoans, use the water, it is still yours.

ORAL BIDDING

The Congress took action to amend the Forest Management Act regarding bidding procedures and the President signed Public Law 95–233, February 20, 1978. I supported this bill although it was not all we had hoped for. It was the best we could achieve at this time and does give some relief from the oppressive requirements of the previous procedures.●

PREDICTABLE FAILURE OF AMERICA'S FOREIGN POLICY

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. SIKES. Mr. Speaker, the failure of America's foreign policy in Rhodesia was predictable from the start. A new coalition government transferring authority to the blacks in that country has been signed and the leaders sworn in. The transition occurred quitely and there is general optimism for success. The holdouts who continue to oppose the new coalition are the United States, with Mr. Andrew Young as policymaker; the extremists among the Third World nations who dance to Russia's tune; and, to a lesser extent, Great Britain, a nation which now would much prefer to let well enough alone. Mr. Young, and so forth, have insisted that the terrorist black factions which were based in Zambia and Mozambique be brought into the coalition. However, they continue to say they will come into the coalition only upon their own terms—meaning domination—and they threaten civil war if their demands are not met.

The United States may have gotten itself into a serious dilemma because the Russians are supplying the weapons and the training for terrorist factions. There is considerable apprehension now that the Cubans may be brought into the fighting on the side of the Russian-dominated terrorists. It is doubtful that the U.S. policymakers will ever be able to explain this series of miscues on our part.

We should at least make a show of good sense by supporting the coalition until it has had an opportunity to prove it can govern properly. Openmindedness is in order at long last. We have badly handled affairs in Africa for years, giving Russia almost a free hand to use Cuban mercenaries to subjugate local peoples without restraint and with complete indifference to world opinion.

The Washington Star said in an editorial on Sunday, February 19, 1978:

> Mr. Young must be weaned from his infatuation with the guerrillas. The weaning is already overdue.

I submit the Star's editorial on the entire Rhodesian controversy and Mr. Young's involvement for reprinting in the CONGRESSIONAL RECORD.

A pertinent discussion of the entire subject by James J. Kilpatrick entitled "Blunder Over Rhodesia" appeared in the Washington Star on Tuesday, March

21, 1978. This also deserves serious study and I submit it for reprinting in the CONGRESSIONAL RECORD:

[From the Washington Star, Feb. 19, 1978]

RHODESIA AND MR. YOUNG

Our United Nations ambassador, Mr Andrew Young, says that the so-called "internal" solution for majority rule in Rhodesia could spark a "black on black civil war." That is a possibility, especially if Mr. Young continues to sound his pessimistic note and his gloomy prophecies become self-fulfilling.

Mr. Young, for reasons he alone knows, believes that the guerrilla forces operating from Rhodesia's neighboring states must be included in any durable regime. Their cooperation would help, of course, and Ian Smith seeks it on reasonable terms. But their ambition is essentially rule or ruin, their co-operation unlikely.

Mr. Young has had an unusually free hand to speak for the United States on the delicate issues of Southern Africa. In keeping—perhaps—with his feckless view that Cubans are a "stabilizing force" in Angola, he has aligned U.S. policy with the Soviet- and Chinese-supported guerillas of the Patriotic Front and their hard-line attitudes.

He and Dr. David Owen, the British foreign secretary, have tried to talk the Patriotic Front leadership into a more conciliatory attitude; but so far without results. They have produced no born-again revolutionaries.

While the terms for majority rule in Rhodesia were under negotiation, as they have been since November, Mr. Young's personal—some would say eccentric—diplomacy may have been defensible in a way. Keeping one foot in the guerrilla camp may have added some pressure on the white Rhodesian regime to come to terms.

But now that there is agreement between Prime Minister Smith and three prominent blacks—an agreement looking to a reasonable and workable transition to majority rule—it is time to call Mr. Young from left field. His one-man policymaking will no longer do.

The reason is simple. In the coming weeks, if all goes well inside Rhodesia, the U.S. must make a crucial choice. We must choose between supporting and welcoming the new Rhodesian government, lifting economic sanctions against it, maybe even giving it military assistance to resist the assault of Soviet- and Chinese-supplied guerrillas, and Mr. Young's obstructive and unreasonable alternative.

Since the Patriotic Front flatly refuses to cooperate in a Rhodesian settlement which it cannot dominate, the Young policy could put us in league with the outside spoilers against the internal peacemakers—even after elections, even after a government is formed, and even, conceivably, after the new regime has been endorsed by the British government. Not even Dr. Owen clings, as does Mr. Young, to the stubborn view that an internal settlement is necessarily unworkable.

The obvious question, then: Is Ambassador Young alone to run a one-man show on American policy in Southern Africa? Or will his superiors at the White House and the State Department insist, as they should, that American policy is too important to be tied to the whim of one official?

The new arrangement between Prime Minister Smith and the black moderates of Rhodesia demands at least open-mindedness on our part. If that arrangement proves fair and workable, if it is sustained by fair elections, the U.S will have no choice consistent with our own political values but to endorse, welcome and assist it. If the Russians and Chinese and Cubans conspire to try to overthrow the new regime, we should see that the Rhodesian army has the means to defend the country.

That means Mr. Young must be weaned from his infatuation with the guerrillas. The weaning is already overdue.

BLUNDER OVER RHODESIA

(By James J. Kilpatrick)

LONDON.—In both London and Washington, we are witnessing these days the making of a monumental blunder. By their refusal to embrace the Rhodesian settlement, Britain and the United States are demonstrating to the whole world how the West will be lost.

There are terrible failures afoot—failures of understanding, failures of purpose, failures of will. Britain and the United States have been handed a golden opportunity to advance every conceivable interest they might have in southern Africa—and the two Western nations seem aimlessly inclined to muff it.

How can these interests be defined? Unless reason has fled our temples altogether, we are interested in halting the spread of Soviet-Cuban adventuring in Africa; we are interested in having an anti-Communist, as distinguished from a pro-Communist regime in this part of the world. We are interested in seeing in Rhodesia a peaceful, multiracial, more or less democratic society, in which the black majority rules without obliterating the rights and the property of the white.

The settlement reached between Prime Minister Ian Smith and the three moderate black leaders provides all these things. Without bloodshed, and without provoking incurable animosities, this agreement would transform white Rhodesia into black Zimbabwe by the end of this year. All that is required is for Britain and the United States publicly to welcome the compact, and to throw their influence, their money and their arms behind its acceptance.

In Washington, President Carter and Secretary of State Cyrus Vance are vacillating U.N. Ambassador Andrew Young, foot in mouth, is saying the fatuous things for which he is justly acclaimed. Here in London, Foreign Secretary David Owen is under heavy pressure from Conservative forces, but he seems to have no clear idea of what to do. He is stalling.

This is their explanation: The settlement does not include the terrorist factions headed by Joshua Nkomo and Robert Mugabe. The objection is quite simply fantastic. Nkomo and Mugabe, by the most generous description, are a pair of Marxist freebooters whose main interest lies in gaining power for themselves. Neither cares a fig for democracy, for human rights, for the ideal of one man, one vote.

Nkomo and Mugabe profess to lead the "Patriotic Front." Theirs is the patriotism of murder, mutilation and rape. Over the past two years, their ragtag guerrilla forces, amounting to no more than 5,500 persons, have committed unspeakable atrocities upon blacks unwilling to fall in line.

The fear voiced by the Carter administration is that guerrilla warfare will continue if Nkomo and Mugabe are not given power in a new government. But this is pusillanimous counsel. There is no way of knowing what support the two brigands might command in a free and fair election. Nothing in the pending settlement would prevent Nkomo and Mugabe from political participation in the future. If they can win power through the democratic process, well and good; but it is madness to insist that they be handed power on a platter.

There are times when great powers must act as great powers. Ordinarily nothing much may be lost, save only self-respect, in bootlicking the United Nations and fawning upon the Organization of African States. It is nice to be loved. But now and then great powers must flex their muscles and impose their will.

Such a time is at hand in Rhodesia. Britain and the United States need only to act decisively, promptly and fearlessly. So far as we are concerned, they might say that the U.N. sanctions no longer will be honored; we will support the new government with credits, loans, diplomatic recognition, and with whatever military aid may be required to smash the guerrillas and their Communist Cuban allies.

There would be howls from the Third World. The congressional black caucus would object. Ambassador Young might even resign. Hallelujah! Do Britain and the United States have the wisdom and the guts to stand up in Rhodesia for what is right? The maddening answer, so far, is: No.●

STATEMENT OF THE HONORABLE DAVE STOCKMAN, MEMBER OF CONGRESS, BEFORE THE INTERNATIONAL TRADE COMMISSION

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. STOCKMAN. Mr. Speaker, I am presenting testimony today before the U.S. International Trade Commission concerning a petition for significant restrictions on free trade in zinc. In that testimony, I call to the attention of the Commission that the petition before them represents issues not confined solely to the limited issue of slab zinc imports, but is representative of a key issue in American economic policy.

Mr. Speaker, I believe that the Congress must maintain its commitment toward full and free trade. For this reason, I would like to share my remarks before the ITC with my colleagues:

STATEMENT OF THE HONORABLE DAVE STOCKMAN, MEMBER OF CONGRESS BEFORE THE INTERNATIONAL TRADE COMMISSION

Mr. Chairman, I welcome the opportunity to appear before this distinguished panel today as you consider the questions raised by slab zinc imports. I know that in keeping with its outstanding tradition of fairness and impartiality, the Commission will give complete consideration to all the viewpoints represented in this proceeding.

The issue before the Commission is at once a very narrow question and a question with great ramifications for U.S. trade policy. I believe very strongly that within the limits of its statutory authority, the Commission should examine the petition of the zinc producers in the context of its potential to affect the domestic zinc industry as a whole. But the Commission must also look beyond the narrow confines of the petition to consider the effects on the nation's economy as a whole of establishing the severe import restrictions sought by the domestic zinc producers. The international trade policies of the United States are in a very real sense domestic economic policies as well.

The rising share of U.S. Gross National Product generated by international trade is the surest indication of the importance of a healthy export sector to our domestic economy. Merchandise exports and income from foreign investments constituted 7 percent of GNP in the fourth quarter of 1977, a substantial increase from a share of less

than 4.5 percent just ten years ago. Nearly one out of every 14 jobs in this country—employment for some 13 million Americans—depends upon continued U.S. participation in world trade.

Any action by this Commission that inhibits foreign trade has the potential of injuring our prospects for contiued economic growth. The January 1978 Economic Report of the President contains a stern warning to U.S. policy-makers of the consequence of limiting foreign imports. The President's report states that the principal effect of such restrictions is to shift employment from the dynamic export sector firms that have generated much of our economic growth in recent years to low-productivity import-competing industries that offer little hope of job stability or employment growth.

Mr. Chairman, the petition of the zinc producers is a classic demonstration of the dangers inherent in unduly restrictive trade policies. I urge the Commission to reject this petition because of the effects it will have on the domestic zinc industry as a whole, as well as because of its effects on the national economy.

ADVERSE EFFECTS ON DOMESTIC ZINC INDUSTRY

The tariff-rate quota scheme proposed by the zinc producers constitutes an effective 25 percent ad valorem tariff at current prices. When compared to the existing ad valorem rate of 19 percent on zinc alloy, a value-added product, the magnitude of the tariff becomes clear. While the producers offer zinc importers the opportunity to maintain 350,000 short tons of volume without penalty—less than one half of the current sales levels—and permit allocation of this quota, it becomes clear that this tariff will have a profound effect on the price of slab zinc consumed in the United States over the next five years.

The proposed tariff of 7¢ per pound will not result in a direct 7¢ per pound increase in slab zinc prices. Nevertheless, its effect will be substantial. Based on historic price elasticities of demand for slab zinc, the price will rise to an effective "blended price" of about 34.3¢ per pound, in comparison to the current quote of around 29¢. This 18 percent price increase will have the further effect of reducing total demand for zinc from the current level by as much as 1.7–2.2 percent, depending on the extent to which foreign producers raise their within-quota sales price to the protected domestic price.

Because domestic producers will be relieved from competitive presures below this level, these price increases will have a significant impact on the costs of zinc to consumers. Toward the end of the proposed five-year period, the total cost to the economy in higher prices for slab zinc could reach $100 million annually.

Materials prices, however, are not the only measure of the internal cost of the proposed barriers. Domestic alloyers, who are major customers of zinc importers, will be pressed to the wall by this tariff-rate scheme. Unlike the producers, whose vertical integration allows them to purchase duty-free ores and concentrates which can be processed into alloy, the alloyers are dependent on a supply of slab zinc. As their competitors in the alloys market, domestic integrated producers rarely sell slab zinc to alloyers, who are thus completely dependent on imports for raw material. Price considerations aside, the problem of availability will assume major proportions should this petition be allowed. It is ironic that while this Commission has the power to do alloyers grave damage under the Trade Act of 1974, it has no statutory authority to repair that damage. On this basis alone, I would urge you to reject any tariff-quota system for controlling zinc exports. In short, this petition proposes that the Federal government devastate one industry in order to aid another. Other internal ill effects are also implicit in this proposal, however.

As with any tariff or quota, the Federal government is being asked to grant economic rents to zinc producers to the extent that their legally-protected price exceeds a free market price. As I noted above, these economic rents could reach $100 million dollars annually. The great bulk of these rents will be received by the producers in the form of windfall profits. To see this, we can view how conveniently the proposed tariffs fit into the producer industry's expansion plans.

As the petitioners' submission indicates, current domestic production capacity is roughly 640,000 short tons annually. With the addition of a 90,000 ton facility in Tennessee in 1978–79, capacity will reach 730 thousand tons. In their petition, the producers state that this amount of capacity will be sufficient to meet domestic demand when augmented by 350 thousand tons of additional-duty-free tariff-rate quota slab zinc.

Indeed it will. The price increase outlined earlier will depress domestic demand, based on historical elasticities, to a level equivalent to 1.08 million tons. As you can see, Mr. Chairman, when the allowable exports are subtracted from the projected demand, the remaining demand is for 730 thousand tons, which is precisely the projected capacity of domestic plants.

In order to achieve this degree of market penetration, the producers need an increase in the price of zinc equal to the tariff barriers they are seeking. In this sense, the Commission is being presented with a self-fulfilling prophecy. The cost of implementation is high, however. Other than allowing producers to complete their otherwise ill-advised expansion plans on schedule, few new jobs will be created in the zinc-producing industry. The zinc producers will report record profits. And the American consumer of zinc products—including anyone who drives a car or owns appliances—will be left with the bill.

ADVERSE EFFECTS ON U.S. ECONOMY

Even this presentation of the costs of the proposed tariff-rate quotas considerably understates the cost of the proposal to the U.S. economy. As I noted earlier, Americans should be concerned with the volume of U.S. exports as well as with the price of imports when formulating trade policy. If taken as a signal of things to come in American trade policy, granting this petition could not fail to have an adverse impact on United States exports.

Although the role of the European Community in zinc production is rising, the dominant share of the U.S. import market still belongs to Canada, which produces roughly half of all slab zinc imported in this country. Since 1971, we have achieved rough trade balance with Canada, with exports to Canada bringing in $29.6 billion to the U.S. in 1977. At present, despite the slide of the dollar against other major world currencies, we have made gains against the Canadian dollar, which has fallen from a value of $1.0256 in June of 1976 to $0.888 this week. This devaluation of the Canadian dollar may have a negative impact on our exports to Canada during 1978 as American goods become relatively more expensive. Yet, the inhibiting effect of currency differentials is mild compared to the potential damage of unilateral trade barriers. Canada could be allocated a substantial share of the 350,000 ton tariff-rate quota proposed by the zinc producers. But granting this petition would still reduce their imports volume by more than 10 percent even if they were allocated all of the quota. Even at today's low relative prices, this would represent at least a $26 million loss of foreign trade—and foreign exchange in stronger dollars—to Canada. I suspect that they will not be pleased. In particular jeopardy would be our agricultural exports to Canada, which have been growing at a rate of four times our overall export growth rate to Canada since 1972. A large share of Canada's food imports from the U.S. are of the supplementary type, which are particularly susceptible to retaliatory barriers. I, for one, do not believe that the domestic agricultural economy is sufficiently strong to overcome any amount of new restrictive trade practices, which are the inevitable result of a policy which will be construed as highly discriminatory against Canada regardless of the quota allotment offered.

I could continue, if time would permit, to catalogue the unique sets of circumstances which bind us to zinc exporting nations through the channels of international trade, and the highly negative reaction these countries would have to such massive additional barriers to free trade in slab zinc. In all, the potential losses in international markets of U.S. export potential far outweigh any illusory employment effects at home.

Mr. Chairman, I have never endorsed the concept of public jobs as a policy alternative to deal with high unemployment. Yet I would far prefer to offer such a job to those workers whose jobs are alleged to be in jeopardy from imported slab zinc than to allow this petition. Combining the producers' own employment estimates with reasonable estimates of the total economic cost of this proposal, it is plain that the price of restoring employment in the zinc industry to 1971 levels would be over $75,000 per job. If we only wish to save those existing jobs allegedly jeopardized by imports, the cost per job would be even higher. In short, trade barriers are the highest cost solution to domestic employment problems.

Mr. Chairman, the ITC is under increasing pressure from those who find political fictions easier to swallow than hard economic fact. The Commission is asked with increasing frequency to restrict the flow of imports into the United States. According to Administration data, the Commission's actions last year resulted in tariffs and non-tariff barriers affecting roughly $3 billion dollars of imports, or three-fifths of the total dollar volume of exports you were petitioned to restrict. The 1974 Trade Act directs the Commission to consider the overall public interest in deciding questions of import relief. I urge that after a careful evaluation of the facts in this case, you deny this petition. The overall economic health of the nation is inextricably tied to full and free trade.●

SENATE—*Monday, April 3, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 12 noon, on the expiration of the recess, in executive session, and was called to order by Hon. JIM SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Ever-living God, we come into this place fresh from moments of spiritual exaltation with hearts full of praise and thanksgiving for Thy wondrous acts in the long pilgrimage of man. Help us

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

now to apply to our work the vision of the mountaintop. However bright or dark the moment help us to live as citizens of Thy higher kingdom, aware of Thy resurrection power and Thy final triumph. Beyond this prayer may a private petition arise from every heart seeking to know and to do Thy will, through Him who is the Lord of all life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 3, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that the legislative Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be, as in legislative session, a period under the control of the two leaders for not to exceed 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations beginning with New Reports.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I advise the distinguished majority leader that the nominations under National Council on the Arts, U.S. Marine Corps, and nominations placed on the Secretary's desk, have been cleared on our calendar, and we have no objection to proceeding to their consideration at this time and to their confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

NATIONAL COUNCIL ON THE ARTS

The legislative clerk read the nomination of Theodore Bikel of Connecticut, to be a member of the National Council on the Arts.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Maureen Dees, of Alabama, to be a member of the National Council on the Arts.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Jacob Lawrence, of Washington, to be a member of the National Council on the Arts.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. MARINE CORPS

The legislative clerk read the nomination of Lt. Gen. Robert H. Barrow to be general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force and in the Army placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order to move to reconsider en bloc the votes by which the nominations were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three bills which I believe have been cleared on the calendar for action. They are Calendar Orders Nos. 650, 651, and 652.

I ask unanimous consent that the Senate proceed to the consideration of those measures, as in legislative session.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the majority leader is correct. These items are cleared, and we have no objection to proceeding to their consideration and passage at this time.

AMERICAN INDIAN RELIGIOUS FREEDOM

The Senate proceeded to consider the joint resolution (S.J. Res. 102) entitled "American Indian Religious Freedom," which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, line 4, strike "American Indians" and insert "Native Americans";

On page 3, line 4, strike "rites; and be it further" and insert "rites.";

On page 3, line 5, strike "*Resolved,* That" and insert "SEC. 2. The President shall direct";

On page 3, line 6, strike "executive" and insert "departments,";

On page 3, line 6, after "agencies" insert a comma and "and other instrumentalities";

On page 3, line 7, strike "responsible for administering such laws are directed" and insert "whose duties impact on Native American religious practices";

On page 3, line 9, after "procedures" insert "in consultation with Native religious leaders";

On page 3, line 10, after "determine" insert "and implement";

On page 3, line 11, strike "appropriate";

On page 3, line 12, strike "Indian";

On page 3, line 13, after the period insert the following:

"Twelve months after approval of this resolution, the President shall report back to Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.".

So as to make the joint resolution read:

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the first amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition, and heritage such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgment of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for Native Americans their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiian, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities whose duties impact on Native American religious practices to evaluate their policies and procedures in consultation with Native religious leaders in order to determine and implement changes which may be necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–709), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The intent of Senate Joint Resolution 102 is to insure that the policies and procedures of a variety of Federal agencies are brought into compliance with the constitutional injunction that Congress shall make no laws abridging the free exercise of religion.

BACKGROUND

Native Americans have an inherent right to the free exercise of their religion. That right is reaffirmed by the U.S. Constitution in the Bill of Rights, as well as by many State and tribal constitutions. The practice of traditional native Indian religions, outside the Judeo-Christian mainstream or in combination with it, is further upheld in the 1968 Indian Civil Rights Act.

Despite these laws, a lack of U.S. governmental policy has allowed infringement in the practice of native traditional religions. These infringements came about through the enforcement of policies and regulation based on laws which are basically sound and which the large majority of Indians strongly support. These laws often embody principles such as the preservation of wilderness areas and the preservation of endangered species for which Indians have actively fought, literally generations before the non-Indian became convinced of their importance.

But, because such laws were not intended to relate to religion and because there was a lack of awareness of their effect on religion, Congress neglected to fully consider the impact of such laws on the Indians' religious practices.

It is only within the last decade that it has become apparent that such laws, when combined with more restrictive regulations, insensitive enforcement procedures and administrative policy directives, in fact, have interfered severely with the culture and religion of American Indians. Interference with the free exercise of native religions has taken place in three general areas.

The first restrictions are denials of access to Indians to certain physical locations. Often, these locations include certain sites—a hill, a lake, or a forest glade—which are sacred to Indian religions. Ceremonies are often required to be performed in these spots. To deny access to them is analogous to preventing a non-Indian from entering his church or temple. Many of these sites not in Indian possession are owned by the Federal Government and a few are on State lands. Federal agencies such as the Forest Service, Park Service, Bureau of Land Management, and others have prevented Indians in certain cases from entering onto these lands. The issue is not ownership or protection of the lands involved. Rather, it is a straightforward question of access in order to worship and perform the necessary rites.

Further, there is the question of cemeteries which were in use at the time of Federal subjugation. In some instances, these lands were put under Federal supervision because they were Indian cemeteries. Yet, today the same tribes cannot bury their religious and political leaders there. There is no overriding reason to deny Indians the right to inter their dead in sanctified ground. Revised regulations and enforcement procedures could allow access for religious purposes and still follow the intent of these laws.

The second major area of Federal violations is the restrictions on use of substances. To the Indians, these natural objects have religious significance because they are sacred, they have power, they heal, they are necessary to the exercise of rites of the religion, they are necessary to the culture integrity of the tribe and, therefore, religious survival or a combination of these reasons. To the Federal Government, these substances are restricted because the non-Indian has made them scarce, as in endangered species, or because they pose a health threat to those who misuse them, as in peyote.

The Federal court system has shown that this apparent conflict can be overcome with the institution of well thought out exceptions. Although acts of Congress prohibit the use of peyote as a hallucinogen, it is established Federal law that peyote is constitutionally protected when used by a bona fide religion as a sacrament. Yet, a lack of awareness or understanding of the law has led some Federal officials to confiscate sacramental substances. Things which have never been prescribed by law, such as pine leaves or sweet grass, have been confiscated by Federal officials who were suspicious that they were some form of drugs. Even worse, medicine bundles once sealed by religious leaders are never to be opened or handled by others. They are worn or carried by Indians for health, protection, and purity. Although containing only legal substances, these medicine bags or bundles have been opened by custom officials searching for drugs, thus making them unclean and valueless.

Another example of overzealous officials is the confiscation of turkey feathers and the feathers of other common birds which are legal for all Americans to possess, but which are taken with the fear that they might be from some endangered bird.

Even the most ardent conservationist cannot match the need of traditional Indians for preserving eagles and hawks. For some plains tribes, much of their religion depends on the existence of these species. Yet, prohibiting the possession and exchange by Indians of feathers in one's family for generations, or the use of feathers acquired legally does not help preserve endangered species. It does prevent the exercise of American Indian religions. Although the enforcement problems create more difficult administrative issues and requires more careful consideration of regulation changes in this area, it is possible to both uphold the intent of the laws and allow for religious freedom.

Where necessary, tribal representatives will be able to institute self-enforcement procedures designed to insure that any exception to general regulatory laws surrounding access to sites, use of sacred objects, et cetera, will be confined to tribal members actually participating in the religious exercise or event.

The third area of concern is actual interference in religious events. In some instances, those who interfere have good motives or are merely curious. These instances include being present at ceremonies which require strict isolation, even to the extent of circling the ceremony in small aircraft. Unlike the other areas, some of these incidents happen because of Federal omissions, rather than actions. In areas where the Federal Government has a duty to act or is the only law enforcement at the site. Federal officials have failed to protect Indian religions from intrusions.

In other instances, it is the Government official who directly interferes. This direct Federal interference in the religious ceremonies imposes upon one religion, by Government action, the values of another. Such action is a direct threat to the foundation of religious freedom in America. It comes far too close to an informal state religion.

America does not need to violate the religions of her native peoples. There is room for and great value in cultural and religious diversity. We would all be poorer if these American Indian religions disappeared from the face of the Earth.

Much can be done to prevent the destruction of Indian religions. For instance, several States have already taken supportive action. During the eagle feather crisis of 1974, many Oklahoma State officials issued statements of support. Montana went beyond rhetoric to pass a State resolution setting forth the policy of free exercise and protection for Indian religions. The State of California has enacted the Native American Historical, Cultural, and Sacred Sites Act of 1976 which takes giant strides in overcoming the problems of access. Unfortunately, to date, with the exception of sporadic efforts by a few individuals, the Federal Government's lack of policy has allowed infringements of religious rights to continue.

ACCEPTANCE AND USE OF RECORDS TRANSFERRED TO THE CUSTODY OF THE ADMINISTRATOR OF GENERAL SERVICES

The Senate proceeded to consider the bill (S. 1265) to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the administrator of General Services, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That chapter 21 of title 44, United States Code, is amended as follows:

(a) In section 2103 delete the words "fifty years" in subsection (2) and substitute in lieu thereof the words "thirty years".

(b) Section 2104 of title 44, United States Code, is amended—

(1) by inserting "(a)" immediately before "The Administrator";

(2) by striking out the third and fourth sentences therein and inserting in lieu thereof the following "Except as provided in subsection (b) of this section, when the head of a Federal agency states, in writing, restriction that appear to him to be necessary or desirable in the public interest with respect to the use or examination of records being considered for transfer from his custody to the Administrator of General Services, the Administrator shall, if he concurs, and in consultation with the Archivist of the United States, impose such restrictions on the records so transferred, and may not relax or remove such restrictions without the written concurrence of the head of the agency from which the material was transferred, or of his successor in function, if any. In the event that a Federal agency is terminated and there is no successor in function, the Admininstrator is authorized to relax, remove, or impose restrictions on such agency's records when he determines that such action is in the public interest. Statutory and other restriction referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Administrator of General Services by order, having consulted with the Archivist and the head of the transferring Federal agency or his successor in function, determines, with respect specific bodies of records, that for reasons consistent with standards established in relevant statutory law, such restrictions shall remain in force for a longer period."; and

(3) by adding at the end thereof the following new subsection:

"(b) With regard to the census and survey records of the Bureau of the Census containing data identifying individuals enumerated in population censuses, any release pursurant to this section of such identifying information contained in such records shall be made by the Administrator of General Services pursuant to the specifications and agreements set forth in the exchange of correspondence on or about the date of October 10, 1952, between the Director of the Bureau of the Census and the Archivist of the United States, together with all amendments thereto, now or hereafter entered into between the Director of the Bureau of the Census and the Archivist of the United States. Such amendments, if any, shall be published in the Register.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–710), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to require the concurrence of the Administrator of General Services in restrictions placed by agency heads on records that are being transferred to the National Archives. The bill also reduces from fifty (50) to thirty (30) years the period during which such restrictions can remain in force. Additionally, it permits the Administrator to relax, remove, or impose restrictions in the public interest of records of agencies which have been terminated. Finally, the bill requires that the release of any information from Census Bureau records shall be governed by the agreement set out in correspondence between the Archivist of the United States and the Director of the Bureau of the Census (see appendix A); the bill further requires that any such agreements, now or hereafter entered into, shall be published in the Federal Register.

BACKGROUND

Chapter 21 of title 44, United States Code, places the responsibility for archival administration of records being transferred to the National Archives in the Administrator of General Services. However, under present law, the Administrator has virtually no authority with respect to restrictions placed by the transferring agency on the use or examination of its records, when transferred other than to refuse to accept records with improper restrictions. In addition, Federal law requires that statutory and other restrictions on access to historical documents remain in force until such documents are fifty (50) years old. The result of these extended restriction periods has been that access to areas of intense historical significance, as far back as 1927, is severely limited.

MANDATORY APPLICATION OF GENERAL RECORDS SCHEDULES

The Senate proceeded to consider the bill (S. 1267) to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 2, line 17, strike "33" and insert "15";

On page 2, line 24, strike "promulgated" and insert "submitted";

On page 2, line 25, strike "pursuant to regulations issued under this chapter" and insert "and authorized by the Administrator pursuant to regulations issued under chapter 33 of this title";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3303a of chapter 33, title 44, United States Code, is amended:

(a) by deleting subsection (b) of section 3303a in its entirety, and substituting in lieu thereof:

"(b) Authorizations granted under lists and schedules submitted to the Administrator under section 3303 of this title, and schedules promulgated by the Administrator under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Administrator under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.";

(b) by striking out the word "may" and substituting in lieu thereof the word "shall" in the first sentence of subsection (d); and

(c) by inserting immediately after the last sentence of subsection (d) the following new sentence: "A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.".

Section 1503 of chapter 15, title 44, United States Code, is amended by deleting the fifth sentence and substituting in lieu thereof the following sentence: "The original shall be retained by the General Services Administration and shall be available for inspection under regulations prescribed by the Administrator, unless such original is disposed of in accordance with disposal schedules submitted by the Administrative Committee of the Federal Register and authorized by the Administrator pursuant to regulations issued under chapter 33 of this title; however, originals of proclamations of the President and Executive orders shall be permanently retained by the Administration as part of the National Archives of the United States.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–711), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to require mandatory application of the general records schedules to records of Federal agencies to assist in the orderly disposition of such records. The amendment to 44 U.S.C., section 3303a, would clarify the retention period for records in cases in which an authorization of a general disposal schedule conflicts with a specific disposal schedule for the records of a particular agency.

BACKGROUND

The general records schedules promulgated by the Administrator describe records common to several or all agencies. At present there are 20 general records schedules covering disposal of routine agency records in such areas as personnel, payroll, procurement and supply, and travel. About 35 percent, or 10.5 million cubic feet, of all Federal records are subject to the general records schedules. Under present law these schedules are permissive, that is, agencies are authorized, but not required, to dispose of records when they become eligible for disposal.

Mandatory application of the schedules would require disposal of records now commonly retained by agencies long after the usefulness of the records has ended. Retention of these records is very costly; mandatory application of the schedules could result in an (estimated) annual savings of $2.5 million per year. If the records are unique to an agency, rather than simply of a general nature, they would not be affected by this bill.

Under existing law, section 1503, title 44 U.S.C. provides for the retention in the National Archives of the originals of certain documents published in the Federal Register. The statute also provides for inspection of these documents pursuant to regulations issued by the Administrator of GSA.

With the exception of Presidential proclamations and Executive orders, which will be retained, these documents have sufficient historical or intrinsic value to justify their permanent retention, particularly since they have been published in the Federal Register.

Approximately 1,200 cubic feet of records will be eligible immediately for disposal under this provision, thereby saving storage costs and freeing needed space for more valuable records.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the three measures were passed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time. So I yield to the distinguished minority leader.

Mr. BAKER. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield my time under the unanimous-consent agreement and the standing order to the distinguished senior Senator from Oregon (Mr. MARK O. HATFIELD).

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. MARK O. HATFIELD. Mr. President, I thank the leadership for allocating a part of their time to me this morning.

Mr. President, I ask unanimous consent that members of my staff, Rick Rolf and Tom Getman, be accorded the privilege of the floor during the reading of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UGANDA

Mr. MARK O. HATFIELD. Mr. President, it is my desire today to insert both into the RECORD and into our consciousness a brief overview of some of the economic considerations which are critical to an understanding of relations between Uganda and the United States. The reasons for our silence on this issue are complex and range from racism to being overwhelmed with other apparently more important issues. But whatever the reasons, it is time that the silence ends.

In the 7 years that Idi Amin has ruled Uganda, what was once a prosperous and promising economy has become an experiment in regressive economics. In the not-so-distant past Uganda's gross national product was growing at a healthy rate of 5 to 6 percent a year. Recently, the rate of productivity has been consistently negative in virtually every sector of the economy. We are all familiar with the horror story of life in Uganda, but what we have not chosen to familiarize ourselves with is the essential (however indirect or unintentional) role that the United States plays in this national monument to the dark side of human behavior. Richard H. Ullman, a member of the editorial board of the New York Times, and formerly a professor of International affairs at Princeton University, aptly summarizes the uniquely nightmarish situation which exists in Uganda:

> In any contemporary lexicon of horror, Uganda is synonymous with state-become-slaughterhouse. The most conservative estimates by informed observers hold that President Idi Amin Dada and the terror squads operating under his loose direction have killed 100,000 Ugandans in the seven years he has held power. Some estimates run as high as 300,000. Many victims have been guilty of nothing more than catching the eye of the killer—a shopkeeper with coveted goods, a Christian in a Muslim village, a civil servant who questions a command, a judge with foreign friends.
>
> Other governments, in Africa and elsewhere, rule by terror and reward opposition by death: Equatorial Guinea and Cambodia would belong on any list, and there are more. But the scale of official murder in Uganda, its ferocious brutality, and its terrible capriciousness all place Idi Amin's Uganda in a category of its own in which the nearest analogues may be Hitler's Germany or Stalin's Russia. Just as South Africa is unique—an entire system of political and social repression resting on racial distinctions—so Uganda is also. Each, for different reasons, deserves international condemnation.[1]

Prior to the time Amin assumed power, Uganda's principal exports had been coffee, tea, cotton and copper. As a result of his mismanagement of the economy, neglect for the educational system, purging of professionals, and the need to fund mercenaries—the essential underpinning of his regime—Uganda's dependency on revenues derived from coffee exports has increased significantly. Amin's hold on power is critically vulnerable to the dictates of American foreign policy. Last year, coffee exports to the United States constituted roughly a third of Uganda's total export earnings—over $220 million in the first 9 months of this year alone; and more than any other nation in the world.

At the same time, however, this amounts to slightly less than 5 percent of the total amount of coffee imported into the United States; a sum which would cause little if any change in the price of coffee produced at the consumer level. All indications seem to confirm the ability of American companies to seek alternative sources of coffee with relative ease. In fact, the board of directors of the National Coffee Association of the United States, an organization comprised of coffee roasters and coffee importers, has issued a statement of unanimous support for whatever determination the Government of the United States shall reach in this matter. In other words, while our domestic economy would emerge relativley unfazed from a discontinuation of Ugandan coffee purchases, the impact in Uganda would, in all probability, be quite severe.

A critical point to be kept in mind is that a regime which is grounded on demagoguery and fear is incapable of sustaining the loyalty of its inhabitants. The New York Times reports that as much as "95 percent of Amin's armed forces are mercenaries who are loyal only so long as Amin pays them in hard currency." In 1976 estimates place at between 25 and 60 percent the amount of Uganda's GNP used to finance this army. The United States can no longer remain indifferent to the reality of its role as the No. 1 source of financial backing for a man who can only maintain power by systematic genocide.

We can no longer hide in the shadow of indifference and inaction that has characterized the attitude of the Organization of African Unity and the United Nations. To those who would stereotype a boycott of Ugandan coffee as nothing more than a token display of moral outrage, I say that if there were ever a situation where economic sanctions are likely to be effective, it is this one. More importantly, though, successful or not, we will no longer be giving our stamp of approval to the oppression and slaughter of innocent people.

In assessing the possible advantages and disadvantages of a boycott, one issue has been at the forefront of my thinking; that is, what is the possibility that such an action would backfire and thereby cause undue hardship or danger to the lives of innocent Ugandans, specifically the farmers engaged in coffee production? Under normal marketing procedure it would be plausible to assume that a drastic reduction in coffee purchases would severely undercut or eliminate altogether the income of the coffee farmers. The evidence, however, paints a different picture. Indeed, the unique manner in which Uganda's economy functions is precisely the reason why the usual arguments in opposition to economic sanctions, arguments which I generally accept, do not apply here. The population is predominately rural and essentially dependent on subsistence farming—the average farmer lives on a small plot of land averaging 10 to 15 acres.

Staggering inflation and devaluation of the currency rate has led to the elimination of a money-based economy in the rural areas. If it were not for Uganda's favorable climate and fertile soil, rampant starvation would be occurring right now—

> Uganda's coffee is grown almost entirely by peasant smallholders, not on plantations. Growers are required to sell their beans to the state marketing board, and are paid, at a price set by the board, in vouchers redeemable only in nearly worthless Ugandan shillings. Sometimes they are not even paid at all. Their crop is simply seized.[2]

The vouchers are nothing more than empty promises because the revenue generated from these sales is used to finance Amin's regime of terror. Because of this economic and political pressure, many farmers are forced to smuggle their coffee crop into nearby Kenya. The legally exported coffee crop was worth more than a half billion dollars on world markets. The maximum share of this deserved income actually received by Ugandan farmers totaled less than 10 percent of that. According to a number of sources, if a farmer complains, he is immediately slaughtered and silenced forever.

[1] Ullman, Richard: "The United States versus Idi Amin", *Foreign Affairs*, pp. 529–530, April, 1978.

[2] *Ibid.*, p. 532.

Richard Ullman underscores the fact that the arguments against economic sanctions, while valid in many cases, are not always applicable:

. . . There is a direct relationship between foreign purchases of Uganda's coffee and Amin's murderous regime. Whether he would fall from power if those purchases ceased is a question impossible to answer Many knowledgeable persons think that he would. There is no doubt, however, that he and his closest collaborators would feel the impact of a boycott of Uganda's coffee, and feel it hard. . . Economic sanctions, so the accepted wisdom runs, are blunt instruments. They cannot be 'fine tuned' to impinge only upon those persons whose actions deserve censure. . . . But Uganda's situation is very different. The vast majority of Ugandans, more than 90 percent and including most of the peasant coffee-growers, depend in large measure upon subsistence agriculture for the necessities of life and participate only marginally in the cash economy. An effective boycott of Uganda's coffee would thus seriously curtail the livelihood only of the country's small urban sector, including Amin's army and police.[3]

The State Department's position with regard to this matter is that, and I quote:

It would be extremely difficult to convince all or even most of the countries of Western Europe, Japan or Canada to join any such boycott. And that, historically, boycotts have been relatively unsuccessful and have failed to achieve the objectives desired.

I challenge this argument on several grounds. First, to speak in terms of the necessity to convince all or most of the developed capitalist world in order to bring about significant economic pressure on Amin is not an accurate assumption on which to rest. Payments for coffee from Great Britain and the United States alone account for over 54 percent of Uganda's total export earnings. When France, West Germany, and Japan are added the figure is over 69 percent—

If an American lead were followed by the United Kingdom, where there is perhaps even a greater awareness and abhorrence of Amin, and by only one or two other Western countries, the impact would likely be large. . . . A strong American lead might well stimulate consumer boycotts elsewhere. In any case, denial only of the American market would crimp Uganda's foreign exchange supply. Even that might be enough to precipitate defections from the ranks of Amin's lieutenants.[4]

Thus, while the participation of these countries would be welcome, being in the shambles that it is, the Ugandan economy would be unlikely to withstand the loss of revenue that American companies now provide. The result would be a serious impairment of Amin's ability to buy weapons from the Soviet Union in cash, to meet the payroll of his estimated 20,000 to 30,000 mercenaries and to purchase luxury items.

The concept of unrestrained free trade, which on the whole, and under most circumstances is a wise and logical policy, does not deserve unquestioned allegiance; our commitment to human dignity, freedom, and our abhorrence of Hitler-like barbarism does deserve such allegiance. A failure to act in the face of systematic brutality on a scale rivaled only by Hitler's Third Reich not only undermines the credibility and consistency of U.S. foreign policy, but serves as a symbol of rejection to the hopes and dreams of oppressed peoples around the world who look to us as a source of humane leadership.

Mr. HATCH. My President, I rise to compliment the distinguished Senator from Oregon, my dear friend, for his excellent statement made this morning, and I certainly would like to associate myself with his remarks.

Not only is Senator HATFIELD a tremendous human being——

Mr. MARK O. HATFIELD. I thank the Senator.

Mr. HATCH (continuing). But I know how well he thinks these things through and how deeply he feels about moral issues, and I compliment him and support him in his statement.

PUBLIC SCHOOLS: CLASSROOMS OR CLINICS?

Mr. HATCH. Mr. President, I wish to compliment one of my distinguished colleagues, Senator EDWARD ZORINSKY, who has written a most enlightening piece on the Federal role in developing educational curriculums. He has done the Congress a great service in citing several examples of experimental programs and the alarming effects they have on the physical, mental, and moral development of children.

Questions regarding the funding of these federally initiated projects ought to be raised. I share the opinion of my friend and distinguished colleague, Senator ZORINSKY, that Congress cannot ignore the damaging effects of this curricula any longer. We cannot hide if someone erroneously accuses us of "censorship." We must accept our responsibility to impose restrictions where necessary on those agencies which have substantial budgets and authority to produce educational material.

Mr. President, I urge every Senator to read Senator ZORINSKY's cogent article prior to full Senate consideration of S. 1753, to reauthorize the Elementary and Secondary Education Act. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR PUBLIC SCHOOLS—CLASSROOMS OR CLINICS?

(By Senator EDWARD ZORINSKY)

My constituents as well as parents all over the country have become increasingly alarmed by certain changes taking place in our schools. They see dangers in the schools becoming more concerned with children's attitudes, beliefs and emotions than providing them with a basic education. The techniques being widely used today to change children's attitudes and values are an invasion of privacy, a threat to the family unit, and the emotional stability of the child.

Vance Packard, whose books have alerted the public conscience to changes in society which alter our lives, writes in "the People Shapers": "In less than a decade the behavioral technologists have moved in a major way into our compulsory government-operated schools."

The curriculum writers theorists and behavorial scientists who have managed to change the thrust of American education in recent years have been able to accomplish their goals through the use of federal grants from various agencies, particularly the Department of Health, Education, and Welfare.

A large portion of these grants come under the Elementary and Secondary Education Act (mainly titles I and IV) and are generally described as "innovative" programs. Many of the techniques used in these projects are objectionable to parents and do not improve academic performance. Some examples are: Pre- and post-testing of students for attitudinal change towards sociological problems such as the aged, population, death, etc.; Role playing to diagnose attitude and simulation games to change attitudes; Keeping of diaries; and, Behavior modification, not just for the handicapped or special education students, but the normal child. As stated by one of my constituents, "A great majority of these materials deal with some sort of desperate need to treat ALL students as if they lived in a mental health center." Some of the objectionable programs funded under the Elementary and Secondary Education Act which have been brought to my attention include the following:

1. Project Reflect. Pre-testing and post-testing to achieve "desirable concepts."

2. Hilda Taba Social Studies. Altering attitudes through emotional, psychological and psycho-therapeutic techniques. This course was investigated by the California Legislature, hearings were held, and the program was dropped. It was later introduced into other states and additional funds were granted.

3. APEX English curriculum. Subjecting students to radical, sensational materials most of which are contrary to basic family concepts.

4. Contact Language Arts Series. Self-disclosure techniques leading to invasion of privacy of students and parents.

5. Human Development in the Family—Home Economics. Students being asked to read Sexology Magazine, discuss homosexual marriage, keep diaries about conflicts in the home. They are asked how much money the family spends on them, how many charge accounts parents have, etc. Students are sacrificing class time in nutrition, diet, cooking and sewing for this human development unit.

6. Project Developmental Continuity. Materials and techniques for students with handicapping conditions are being used in regular classes with students not identified as having handicapping conditons. Children placed in this project can be harmed emotionally and socially, and participation should be voluntary.

7. Understanding Child Maltreatment. For all grades—kindergarten through 12th. Teaches children how to tell if they are being abused by their parents who are referred to as "caretakers." Some typical acts of "abuse" are "unrealistic demands, unequal sibling treatment, consistently negative responses . . ." of which almost all parents would be found "guilty" in the children's minds at one time or another.

8. Humanities Education Materials. Includes How to Live With Your Parents and Survive, a "humorous" presentation on why parents of today are such poor excuses for parents. Another course, Living with Dying, insinuates that it is unrealistic to search for immorality. Other death education courses in this project have led to fixations to the point where children have nightmares and physicial symptoms such as stomach pains. Doctors have stated this is unhealthy and unnecessary. (Note: This program was evaluated. The third quarterly evaluation report stated that lack of full teacher involvement remains an area of concern, yet the evalu-

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[3] *Ibid.*, pp. 532–533.
[4] *Ibid.*, p. 534.

ators recommended that the program be continued and the following year the entire school profile should be coordinated into a Humanities Learning Center—a total Humanistic School).

These are a few examples of behavior modification programs which HEW should be required to justify before Congress approves continued funding for such projects. Usually HEW describes the entire program in glowing and general terms, rather than on the basis of the number of programs funded as compared to those found to be successful. However, my requests for evaluation and justification of these types of programs have gone unanswered. It may well be they are unable to justify these expenditures for the following reasons:

1. There is not even a listing of total innovative projects funded, despite the requirement for such a listing in Section 424 of the General Education Provisions Act, 1974. Even though HEW is now attempting to identify currently funded projects, where there was a measure of effectiveness, they claim a complete listing is impossible.

2. A very small percentage of the innovative projects have been evaluated. The few examples listed in "Educational Programs that Work" are those which local school districts voluntarily evaluated and submitted to the Joint Dissemination Review Panel. This would indicate that the vast majority of these programs do not work.

3. A recent study at the U.S. Office of Education and the National Institute of Education entitled "A Research Perspective on Educational Improvement" questions the effectiveness of many of these federally-funded projects. This work was based on reviews of nearly all the major studies on educational innovation since 1970. The report states that "Most projects funded by these programs were designed primarily to take advantage of the availability of federal money."

4. An earlier study by the National Institute of Education indicates that the Office of Education provides little clear guidance or supervision in administering federal aid to education. Auditors have become so discouraged with the infighting and failure to enforce federal laws that they are now reluctant to audit school aid programs.

5. The GAO report on Office of Education Programs (9/77) stated unequivocally that the Congress should recognize that HEW is not incompliance and does not intend to comply with the General Education Provisions Act requirement regarding evaluation of Office of Education programs.

6. The GAO report on Federal Support of Curriculum Materials and Behavior Modification Techniques Used in Local Schools (4/77) indicated that federal funding for curriculum development and dissemination and for other education techniques, such as behavior modification, is significant. Yet it noted that data needed to accurately assess the impact of federal funding on behavior modification techniques used in local schools does not exist.

An article in the *New York Times Magazine* in 1977 and recently reprinted in Readers Digest entitled, "The More We Spend, the Less Children Learn," claimed that "in 1976, $75 billion bought schools filled with new technology, 'innovative programs'—and poorly educated pupils." It stated, "The factor that does appear to affect academic performance is the degree to which the schools sacrifice traditional disciplines and subjects for the sake of 'innovative' teaching activities." Similar articles have appeared in such magazines as the New Republic, The American School Board Journal, Psychology Today, Learning Magazine and Newsweek.

Many teachers are becoming disturbed by these programs. *Instructor* magazine, a monthly publication for elementary teachers, recenty conducted a survey of its readers, asking "Is Teaching Hazardous to Your Health?" Most of the 10,000 teachers who responded cited "stress" as their biggest health problem and complained of headaches, hypertension and nervous stomachs. When asked what the one factor contributing most to this stress was, a significant number responded that it was the growing pressure of monitoring students' social and moral development. This finding was reported in the feature article of the February 26, 1978, issue of Parade magazine.

A serious question is raised when Congress permits programs such as those I have described to continue with federal help. When concerns are voiced, the advocates of behavior modification cry "censorship" and demend even more federal funds with less controls. They ignore warnings from authorities such as Dr. David Elkind of the University of Rochester, speaking at the annual meeting of the American Psychological Association in 1977. He stated that "a segment of mental health specialists is putting its own interests ahead of children's welfare . . . that for children under 12, affective education can be confusing and possibly disturbing." He stated that "one-fourth to one-half of young children categorized as 'learning disabled' are really curriculum disabled, victims of the floods of untested, poorly written learning materials that inundate the schools."

Those who defend these grants, in the agencies as well as in the Congress, argue against Federal interference, citing the law prohibiting Federal control of education. However, an analysis of the intent of this provision prepared by the American Law Division of the Library of Congress, Congressional Research Service, states, "The prohibition would not, however, appear to limit the applicability of conditions which Congress attaches to its grant-in-aid programs." This is only sensible. The picture of Congress sitting by helplessly while the bureaucrats indiscriminately hand out money for all kinds of social experiments is absurd.

My findings indicate that even those persons who favor innovation admit that it fails to bring about significant educational improvement. Walter Borg of the Far West Laboratory for Educational Research and Development, at a 1970 conference of persons actively involved in attempts to change the schools, stated that:

"Local innovations are almost never subjected to any sort of rigorous evaluation. Thus, for most innovations we do not really know whether the new approach is better than the old. Innovations are usually adopted not because they are better, but because they are different." He further stated, "Perhaps the best reason for abandoning local innovation as national strategy for improving education is that it is incredibly inefficient and expensive. We need look no further than Title I of the Elementary and Secondary Education Act of 1965 to illustrate this point. The proponents of Title I assumed that if you gave local schools enough money they would build new programs and bring about improvement in education.To date Title I has provided us with a shocking six-billion-dollar test of this assumption. Although it is not easy to get quantitative data on Title I projects (since most of them have collected little or no valid research evidence), what information we do have indicates that these projects have brought about virtually no real improvement in the schools. Of course, no program that involves thousands of projects and spends billions of dollars can be completely barren, but it is sadly apparent that Title I has produced tons of chaff for every ounce of wheat. He further stated, ". . . large scale attempts to legislate educational improvement through local innovation, such as Title I, without doubt constitute the most wasteful and unproductive strategy that has ever been devised."

It should be noted that these comments were directed only to Title I, while most innovative programs are funded under Title IV.

How many more years we will continue to perpetuate this waste—not only of tax dollars but of children's precious school years? Children can be properly educated without infusion of new federal funds. The President has requested higher expenditures to support emphasis on the teaching of basic skills. If additional funds are needed, Congress can fund these efforts by yielding to the overwhelming evidence and ending the funding of unproven, unnecessary and unwanted projects.

THE PANAMA CANAL TREATY DEBATE

Mr. HATCH. Mr. President, the proposed Panama Canal treaties will soon be reaching the Senate floor for a vote. It is not fashionable to oppose these treaties, a situation reflected most clearly in the news coverage of the ongoing debate. Opponents have been consistently characterized as indulging in grade-school chauvinism, and the overwhelming disapproval expressed by the American public has been repeatedly represented as "backward" and "blind to present-day realities."

This attitude of condescension is dangerous for several reasons. It calls into question the integrity of a system that was originally designed to reflect the will of its citizens. It divests treaty proponents of their responsibility to answer the very many serious questions that remain unresolved by the present version of the treaties. And it deprives the issue at hand of the larger context within which a matter of such grave implications should necessarily be considered.

An extremely perceptive article, appearing in the December issue of the American Security Council's Washington Report, does a great deal toward restoring the perspective vital to the consideration of these important treaties. I commend it to the careful attention of my colleagues, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY WE MUST KEEP THE CANAL

The abysmal level of the public debate over the Panama Canal was epitomized in a national interview with a prominent undecided Senator. Asked what considerations he was weighing in making up his mind, the first thing he mentioned was the veto power the new treaties give Panama over a second canal. The public pondering of such details has spread the impression that only trivia is at stake in this debate. Nothing could be further from the truth.

The public advocates of keeping the canal, however, have missed the point almost as badly as that Senator. The primary issue is not the military importance of the canal. It is not the economic importance of the canal. And it is certainly not the details of the new treaties. The primary issue is the right of the United States to exist.

The moral principle at stake is the right of the United States to keep her values, her achievements, her wealth, in the face of

overwhelming global opposition. And since a country, like a man, cannot survive without values, at issue is the right of the United States to survive.

That is why the American people oppose the new treaties. That is the principle behind their desperate feeling that giving away the canal would be wrong in some way much more important than they know how to say. When they tell reporters "we have given away too much already," and "we have to stop letting them push us around," that is what they are trying to say. Though they lack the words, they see surrender of the canal for what it would be: a step in the direction of renunciating the United States' right to her values and her life.

Unfortunately, a national debate cannot be won without the words. It is not enough for people to be right. They must know *why* they are right. They must have the words and principles to defend their position. What happens when they do not has been most evident in the United States Senate.

Because they did not know how to oppose surrender of the canal in principle, a number of Senators have tried to prevent its surrender by becoming enmeshed in debate over the details of the new treaties. In doing so, they have made several significant contributions to the other side.

They have accepted a context for debate where it is treated as already established that we should give up the canal and the dispute therefore, is only over the side conditions. They have trapped themselves in a position where, if the conditions to which they object are changed, they cannot vote against the treaties. And they have been diverted from giving any effective leadership or voice to their enormous support in the general population.

What position should they have taken? How should the new treaties be opposed? The most damning evidence against the treaties is the arguments that are given in their favor. Those arguments fall into two general categories: the practical arguments and the moral arguments; or the arguments from fear and the arguments from guilt.

THE PRACTICAL ARGUMENTS

The most extreme, and therefore the clearest, of the practical arguments holds that if the Senate rejects the new treaties, Panama will become "another Vietnam." In other words, we should give up the canal out of fear of a war with Panama or, even more disgraceful, out of fear of independent guerrillas.

This argument marks a new low in the level of political discourse in this country and not many have had the effrontery to make it openly. That it has been left largely to implication and innuendo is the only sign that our leaders retain any respect for the American people.

For example, it was argued explicitly before the Senate Foreign Relations Committee that the best way to retain access to the canal is to give it to Panama so they will be on our side if we should have to defend it. It is very revealing (and somewhat frightening) that this argument was taken at face value by all the news media, and its implications went completely unnoticed.

Militarily, observe the helplessness of the United States implied by so desperate a need for support, and from Panama of all places, as to justify giving away the canal.

Strategically, observe the absurdity of assuring access to the canal by placing all the complex, delicate machinery and equipment and controls for its operation in the hands of a potential enemy.

And, finally, since attacks by Panama are the only current danger to the canal's security, observe the threat implied by raising the issue of, and hence doubts about, our access to the canal. The real meaning of that argument was that if we try to keep the canal, Panama will deprive us of its use, and therefore we had better give it to them.

To spread this kind of thinking an unforgiveable campaign has been carried on through the media for the last several months, specifically directed at undermining the self-confidence of the American people and frightening us into giving up the canal. Its most disgraceful element has been the effort by our own military leaders to leave the impression, again by hint, insinuation, an innuendo, that the United States is militarily impotent to assure the security of the Panama Canal.

The argument about access to the canal, for example, was repeated several times before the State Foreign Relations Committee by military leaders. When the Panamanian dictator was making thinly veiled threats of guerrilla war, the chairman of the Joint Chiefs of Staff did not dismiss him as absurd. Rather he implied that the threat was serious by saying he could not defend the canal with 100,000 men.

In the face of this atmosphere of national self-abasement, when President Carter clearly stated that we can and will defend the canal, his declaration came like a breath of fresh air. Then, he threatened that it would be a major, difficult, dangerous undertaking, thus contributing to that atmosphere himself.

It is shameful that this kind of fear was a major factor in the negotiations for the new treaties. Fear is a disastrous motive on which to base policy in any case. But whatever consequences might have been expected from such a policy, ceding the canal out of fear of Panama would have been beyond anyone's ability to predict.

There is no way that Panama could become another Vietnam. Militarily, the two situations have nothing significant in common. Guerrillas could be even a minor problem only if we insisted on following the same insane policy we pursued in Vietnam of fighting effects rather than causes.

In this case, however, fighting of any kind can be avoided altogether. All that is necessary is a statement by the President that an attack on any part of the Canal Zone would be considered an attack on the United States, and that any country supporting such an attack would be considered an enemy of the United States and treated accordingly.

The practical argument also holds that surrender of the canal is essential for good diplomatic relations with the Latin American countries. But even if *they* were the great powers of this hemisphere, it would be obviously self-defeating to curry their favor by giving away our possessions.

Yet, blinded by a frantic, suicidal anxiety over the good opinion of the world in general and our southern neighbors in particular, that is the course insisted on by most of our political and intellectual leaders. The tragic failure of their leadership to be worthy of the American people was never more evident.

It would undoubtedly be pointless to remind those leaders that it is *we* who are the great power here, and if anyone should worry about good opinions, it is our southern neighbors who should worry about *ours*.

THE MORAL ARGUMENTS

But if the practical arguments are insulting, the moral arguments are worse, much worse.

It is said we stole the canal and our presence in the area represents a colonialist affront to the sensitive feelings of the Latin American people. We should give up the canal, it is implied, out of guilt for these offenses.

The charge of colonialism, thought repeated mindlessly by everyone, is a transparent fraud. A colony was a settlement of *people*, not an industrial engineering enterprise. A colony, by definition, was administered for the economic benefit of the mother country. The Panama Canal is not a colony, nor has the United States *ever* had a colony anywhere in the world.

But the vilest distortion in the whole debate is the charge we stole the canal. It is the exact opposite of the truth.

The opposite of theft is production. We did not steal the canal; we built it. The moral right of the United States to the canal is the right of any creator to what he has created. That right, however, is a property right, the root of all property rights, and it is not surprising that modern intellectuals and politicians are unwilling to defend anything based on that source.

It is their view that control of the canal by the Panamanians is a legitimate aspiration of the Latin American people. But there is no such thing as a "legitimate aspiration" by some to an achievement created by others.

Not only did the United States pay the costs of constructing the canal, it was her citizens who figured out how to conquer the previously unconquerable obstacles and then directed the construction in an enormously heroic effort. The Panama Canal was the greatest engineering feat in the history of many up to that time and we did it.

Nothing is more depraved than ridiculing the American people for their pride in their canal, a tactic adopted by some, not all, of the advocates of the new treaties. No people ever had a better right to pride in any national accomplishment. The Panama Canal is a reflection and embodiment of all that is best in the American character.

Whatever shenanigans were involved in getting sovereignty over the Canal Zone, and no one's account makes them very serious, they are nothing next to the incredible achievement of the canal itself. Without us, the Canal Zone would be just so much empty, deadly, malaria infested lakes and jungle—as would the rest of Panama.

If one considers what Panama would be like today without the canal, it is clear who has received a disproportionate share of the benefits, and if moral debts were to be collected, who would owe what to whom. Then consider that an agreement reached in conjunction with the new treaties calls for us to pay them some 345 million dollars. This is over and above the negotiated increase in payments for use of the Canal Zone from 2.3 million to about 60 million dollars a year.

WHY THEY WANT THE CANAL

There is no moral justification whatever for the demand that the United States give up the canal. What then is the cause of that demand? The same cause that is the leitmotiv in the treatment of the United States by most of the undeveloped world.

It is the motive behind the burning of American consulates, the attacks on American diplomats, the seizure of American fishing boats, the expropriation of American property, the constant attempts to humiliate us in the U.N., all of it accompanied by demands for more money, and lately, by claims of a right to a share of our wealth.

Stripped of the meaningless vicious jargon about colonialism, imperialism, and exploitation, the moral argument holds that we must give up the canal to satisfy the malice, hatred, and envy of the worst elements in the Latin American countries, and indeed, in the whole undeveloped world. Those are the "sensitive feelings" we are accused of affronting.

What is the cause of this global hostility toward the United States? It comes from two related sources.

First, whether communist, fascist socialist, or non-ideological, the undeveloped countries of the world are almost all dictatorships. As such, their hatred and fear of the United States has a purely practical element.

We are the last, best, shining example of the kind of life that is possible to man on earth when he is left free. We are the unavoidable proof that the brutality, torture, terror, and death they have imposed on their people are unnecessary.

But the more fundamental cause of their opposition is also the cause of tyranny as such. It is "envy" in its most vicious, virulent, destructive sense. It is what Ayn Rand has identified as "hatred of the good for being the good."

Today that motive is widely regarded as normal and natural. It is sympathetically explained, "Of course they hate us and would like to see us destroyed. After all, we are rich, and they are poor; we are great and they are small; we have created achievements they cannot approach; we built a canal they could not conceive."

What that view sanctions and expresses is the ultimate evil in human psychology, the lowest and worst motive that is possible to man. It represents a hatred of every living human value, the same motive that sets up concentration camps, torture chambers, and dictatorships as ends in themselves.

The canal is a hatred symbol all right, but not of a nonexistent American colonialism. What the canal really symbolizes, and what the value-haters want symbolically to wipe out by making us give it up, is the overflowing abundance of energy, efficacy, and pride of a free people.

To surrender the canal in the face of such a motive is unthinkable. It would mean accepting their view of our virtues as vices and our achievements as stains on our national character. It would mean sanctioning hatred of the United States as natural and right and deserving a positive response. To what portion of our wealth and achievements could we claim a right after that and on what grounds?

That is the most important reason for keeping the Panama Canal. If there were no other reason whatever, that would be sufficient to hold on to it for dear life.

CONCLUSION

Those who think the Vietnam War demonstrated the unwillingness of the American people to fight for their values should think again. The only thing that war demonstrated was that the American people will not fight indefinitely for nothing.

The difference between Vietnam and the Panama Canal is the difference between fighting to save the house of a remote neighbor you have never met and fighting to save your own home.

The American people want to keep the Panama Canal. They are right to want it. And they will support the policies necessary to do so.

There is no practical reason for surrendering the canal. There is no moral reason. There is nothing but the pressure of a viciously irrational global opposition. The Senate should confound that opposition and assert the United States' rights to keep her values and life by rejecting the new treaties.

HALF OF HOUSE MEMBERS WOULD VOTE AGAINST CANAL TRANSFER

Mr. HATCH. Mr. President, on March 10, 1978, Scripps League newspapers, including the Daily Herald of Provo, Utah, published an article entitled "Half of House Members Would Vote Against Canal Transfer," by Lee Roderick and Mike Richins.

Based on an off-the-record survey of all 435 Members of the House of Representatives, the article indicates that if a vote on the transfer of the Panama Canal were held today in the House, a majority of the voting Members would vote against the treaties. Roderick and Richins suggest that Members of the House, who all face the voters every 2 years, reflect the sentiments of their constituents more accurately than their counterparts in the Senate.

As the Senate votes today on the future of the Panama Canal treaties, I would like to request that this article appear following my remarks to act as a timely reminder of the responsibility my colleagues and I must accept as we cast our votes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HALF OF HOUSE MEMBERS WOULD VOTE AGANIST CANAL TRANSFER

(By Lee Roderick and Mike Richins)

WASHINGTON.—If the House of Representatives voted today on whether to transfer the Panama Canal to Panama, nearly half of its 435 members say they would definitely or likely vote no. Less than one-third say they would definitely or likely vote yes.

This is the key finding of an off-the-record survey of all 435 offices by Scripps League Newspapers. The telephone survey was conducted between March 3–9. It suggests the treaties are in even more trouble on Capitol Hill than generally believed.

The House's role in the canal negotiations is a hot issue, with the Carter administration holding that the Senate alone, through its treaty power, can transfer Canal Zone property to Panama. Others cite Article IV, Section 3 of the Constitution to argue that the full Congress must vote on property aspects of the canal treaties as part of the ratification process—rather than after the fact. The House at least will be voting on implementation of the treaties.

Members of the House or their key aides were asked this question in the Scripps League survey: "If the House were allowed to vote today on transferring the Panama Canal and related property to Panama, how would you vote?" Offices not giving a firm "yes" or "no" were then asked: "Are you leaning for or against the property transfer?"

One hundred seventy congressional offices said they would vote no on transferring the property to Panama. An additional 38 said they are leaning against the transfer. The two groups total 208 representatives—48 per cent of the House membership.

Congressmen who say they would vote for transferring the canal to Panama number 102. Another 30 report they are leaning in that direction, for a total of 132 who favor the property transfer. The figure represents 30 per cent of House membership.

Seventy members are uncommitted on the issue and another 25 declined comment.

Almost an equal number of House Democrats and Republicans—106 and 102 respectively—are against, or leaning against, giving the canal to Panama. Only 22 Republicans say they would definitely or likely vote for the transfer along with 110 Democrats.

On a regional breakdown, only 13 members from southern and border states are for, or leaning for, transferring the canal to Panama, with 76 southerners going the other way. In the Northeast, 47 members favor the transfer, with 44 members opposed. In the Midwest, 41 members are in favor, with 53 opposed. In the Far West, 31 members and in favor, with 31 opposed.

The Scripps League findings reveal a sharp contrast between the House and the Senate, which is debating the two canal treaties. Senate Majority Whip Alan Cranston (D-Calif.) said Thursday that 62 Senators—which also means 62 percent—are "almost surely" prepared to vote for treaty ratification, as opposed to only 30 per cent who feel that way in the House.

It is generally believed that representatives, a great majority of whom must face voters in November, reflect the sentiments of their constituents more accurately than their Senate counterparts. Only one-third of the Senators are up for reelection this year.

More than 230 Members of the House have signed a resolution introduced by Rep. George V. Hansen (R-Idaho), which calls for a House vote on property aspects of the treaties as part of treaty ratification.

Constitutional scholars are divided on whether the House has a right to participate in the property aspects of the treaties. The Senate alone clearly has the power, on a two-thirds vote, to ratify or reject a presidential treaty. However, Article IV, Section 3 of the Constitution says "The Congress shall have Power to dispose of . . . the Territory or other Property belonging to the United States; . . ."

Most scholars are in agreement that, if the House did have a say in the canal transfer, it would take a majority of its voting members to approve the transfer. The Scripps League survey indicates that if such a vote were taken today, the House would deny President Carter the right to sign away the canal and adjacent property to Panama.

THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of Executive N, 95th Congress, 1st session, Calendar No. 2, which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar No. 2, Executive N, 95th Congress, 1st session, the Panama Canal Treaty.

AMENDMENT NO. 92

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment (No. 92 by the Senator from Utah (Mr. HATCH), with the time thereon to be equally divided and under control.

Mr. HATCH. Mr. President, I have prepared a very lengthy statement in support of my amendment (No. 92) to the Panama Canal Treaty, which has been cosponsored by Senators ALLEN, CURTIS, GARN, HELMS, LAXALT, MCCLURE, THURMOND, EASTLAND, and GOLDWATER. I would like to compliment all of those Senators for the work they have put forth, but in particular the Senator from Alabama (Mr. ALLEN), the chairman of the Separation of Powers Subcommittee of the Committee on the Judiciary, for his excellent work and leadership in this regard. He has permitted me to speak first on this matter, and he will have some very cogent and important words to say as the debate continues.

I would just like to mention that my distinguished friend and colleague, Senator ALLEN, has led the fight in the Senate as chairman of the Separation of Powers Subcommittee of the Judiciary Committee pertaining to raising the constitutional issue regarding article IV, section 3, clause 2.

My amendment states:

It is expressly provided that this Treaty shall, in no event, enter into force until the Congress of the United States, in accordance with the provisions of Article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United

States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.

Mr. President, as I have stated, I have prepared a very lengthy statement in support of my amendment to the Panama Canal Treaty, consisting of 89 pages. There will be a number of highly technical constitutional issues involved. I estimate that it will take me between 2 and 4 hours to deliver it.

For those reasons, I would appreciate the courtesy of my colleagues not to interrupt me, because it is technical, analytical, and difficult to deliver, and will be difficult to follow unless I deliver it in toto before questions are asked.

Therefore, I would like to say at the outset that I do not intend to yield the floor for questions until I have completed the statement. As everyone knows, I have always yielded the floor at any time in the past in this debate, but in the delivery of this particular message I will not be able to do that and have the message be as meaningful as we believe it should be. At the conclusion of the delivery of my statement, I shall be happy to respond to any questions Senators may have, and I am prepared to spend the entire day, tomorrow, and right up until Wednesday at 11 o'clock when we are supposed to vote on this amendment, on the floor, to answer questions if that is necessary. I have a few copies of the speech with me, and if any Senator wishes to have a copy of the speech to make notes, I shall be happy to provide him with a copy; but, in accordance with the statement I have just made, Mr. President, I do ask unanimous consent that the statement I am about to deliver be printed in the RECORD in its entirety, without interruption.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. I also ask unanimous consent that Kenneth Merin of the Congressional Research Service of the Library of Congress be accorded the privilege of the floor during the consideration and vote on my amendment No. 92.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

MAY THE PRESIDENT DISPOSE OF PUBLIC LANDS BY A SELF-EXECUTING TREATY?

Mr. HATCH. Mr. President, the Panama Canal Treaty raises the serious constitutional issue of whether the President of the United States has the constitutional authority to transfer U.S. territory in the Canal Zone to the Republic of Panama by treaty alone, without the approval of both Houses of Congress.

The Foreign Relations Committee, as well as representatives of the State Department and the Justice Department, argue that the President possesses authority to dispose of American territory and property by a self-executing treaty. Senate approval of the treaty, they insist, is all that is necessary in order to meet the requirements of the Constitution.

As a member of the Separation of Powers Subcommittee of the Senate Judiciary Committee, which has held extensive hearings on this constitutional question, I was somewhat surprised to learn that none of the State Department's legal advisers who testified before the subcommittee was able to cite a clear and unequivocal judicial precedent in support of this novel interpretation of the President's treatymaking power. The testimony of Attorney General Bell, who appeared before the Senate Foreign Relations Committee, was, in my judgment, equally deficient of valid judicial precedents that would justify this extraordinary exercise of Executive power. What is more, there appears to be no prior instance in American history when a President laid claim to the existence of such authority.

In effect, then, the President is now claiming for himself a new power, a power to enter a legislative field which Congress has definitively and exclusively controlled since the creation of the Constitution. The Canal Zone was acquired in accordance with the terms of a 1902 statute passed by Congress known as the Spooner Act. By law, Congress authorized the President to acquire from Colombia perpetual control of the necessary lands for the construction of an interoceanic canal across the Isthmus of Panama. Acting in pursuance of this congressional authorization, the President negotiated the Hay-Buneau-Varilla Convention on November 18, 1903, between the United States and that portion of Colombia which became the Republic of Panama. In this manner did the United States acquire in perpetuity the rights to the territory now known as the Canal Zone, with sovereign and exclusive powers to administer it.

Since that time, the Canal Zone has remained an unincorporated territory of the United States. It is administered by the President of the United States, but only in accordance with enabling legislation enacted by Congress. This includes appropriation authority for its administration during the current fiscal year. Laws enacted by Congress have directed the form and substance of the administration and jurisprudence of the Canal Zone from the moment of acquisition to the present. In short, it is Congress which authorized treaty negotiations for the permanent acquisition of the land; and it is Congress which subsequently enacted legislation setting forth the legal status of the Canal Zone, establishing courts of justice, enacting civil and criminal codes, providing for defense, and appropriating money for the maintenance and operation of both the zone and the canal.

Comes now the President, standing on an unprecedented and previously unexercised claim of "concurrent authority," asserting that he has the right to abrogate the power of Congress and repeal the entire statutory structure which Congress has developed since the beginning of the 20th century, without the consent of both Houses of Congress. If the Senate stands aside and allows the President to usurp the powers of the Congress—as it has often done before—it will be preparing the way for further encroachments in the future.

In the first place, "the Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for concurrent jurisdiction of the President in the disposition of U.S. property. Acquiescence in such claims spells progressive attrition of congressional powers; it emboldens the Executive to make even more extravagant claims." Second, "it needs constantly to be remembered that a succession of Presidents have circumvented Senate participation in treaties of gravest import by resort to executive agreements."

These are the words, Mr. President, of Raoul Berger, the eminent constitutional authority whose scholarly writings on executive privilege were so vitally instructive to the Congress when we confronted the Presidential claim of self-serving "precedents" relied upon by the executive branch for the purpose of withholding information from Congress or sending American troops into battle without congressional authorization. Today, the President seeks to circumvent the House of Representatives and gain approval for the disposal of billions of dollars worth of American territory merely by a two-thirds vote of the Senate. And what of tomorrow? How long will it be before another President seeks to dispose of other territories by an executive agreement—which is very similar in power to a treaty and does not require any congressional consent at all?

Article IV, section 3, clause 2 of the Constitution states that—

> The Congress shall have the power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.

The courts have repeatedly ruled that this is an exclusive power of the full Congress. Any authority of the Chief Executive to dispose of U.S. territory, therefore, must first be derived from authority given by an act of Congress.

In light of these considerations, Mr. President, I am offering an amendment to the treaty which would require that it shall enter into force only after both Houses of Congress have authorized the transfer of Canal Zone territory and property to the Republic of Panama.

Mr. President, this is an amendment which all Senators should eagerly support, whether they favor the treaty or oppose it, because it calls upon the Senate to debate the merits of the treaty in its proper constitutional context. It speaks not to our economic, political, or strategic interests, or to the advantages or disadvantages of transferring the canal to the Panamanians, but to the higher law which must govern our proceedings.

What is more important than whether the treaties are approved or rejected is whether they are approved or rejected in the proper constitutional manner. I appeal not to the supporters of the treaties or to the opponents, but to all Senators who believe, as I do, that our constitutional procedures must be obeyed.

Even if I favored this treaty in every respect, even if changes were to be made to make it acceptable, I would continue to insist that article IV of the Constitution be followed. For there is more at

stake here than the Panama Canal. There is our Constitution to consider, our separation of powers, and our commitment to limiting the growth of executive power. I would hope that past experience has made it clear to every Member of this body that any President, be he Republican or Democrat, will be tempted to reach beyond the constitutional limits of his office if we neglect our responsibilities to check his advances.

Already we observe that a succession of Presidents have skirted the Constitution in order to get the treaties before the Senate. The Kissinger-Tack agreement of 1974, setting forth the general principles of agreement, was never submitted to the Senate for discussion and debate. Congress has never indicated that it favors any new agreements or treaties with Panama or asked the President to make a new treaty. Presidents have simply labored at their self-appointed task in total disregard of the wishes of Congress and the American people. At no stage of the proceedings, in fact, has the Senate participated in these negotiations, or been given an opportunity to give its advice and consent until after the treaty was signed. To be sure, the Executive has bypassed the Senate, just as it is now seeking to bypass the House.

Mr. President, even the Senate's confirmation process has been avoided by the acquiescence of the Senate in the interim appointment of Sol Linowitz, one of the chief negotiators of the treaties. Where does this abuse of Presidential power stop? At what point does the Senate tell the Executive: "You shall go no farther." I submit, Mr. President, that our last opportunity to confine the office of the President to its proper constitutional limits is embodied in the amendment to the treaty that I have already proposed and am speaking to today.

We have a constitutional duty to perform, and if we do not perform it this treaty will come back to haunt us for years to come. Not only will the legality of the treaty always remain in doubt, but other Presidents will use the treaty as a convenient precedent to bypass the legislative process in future international agreements involving property transfers and territorial cessions.

IS THE PANAMA CANAL ZONE A TERRITORY OF THE UNITED STATES?

Let us turn our attention, then, to the constitutional problem before us, and examine it in detail. The first issue is whether the property ceded by the United States in the Panama Canal Treaty is "territory or other property belonging to the United States" within the meaning of article IV, section 3, clause 2 of the Constitution. The answer, of course, is "yes." The State Department, the Attorney General, the Foreign Relations Committee, and the Federal courts all agree that it is United States territory. In the recent case of *United States* v. *Husband R (Roach)* 453 F. 2d 1054 (5 Cir. 1971); cert. den. 406 U.S. 935 (1972), the Fifth Circuit Court of Appeals asserted that, "The Canal Zone is an unincorporated territory of the United States."

Earlier, in the case of *Wilson* v. *Shaw*, 204 U.S. 24 (1907), the Supreme Court also observed that the United States owns the Canal Zone. "It is hypercritical," declared the Court in that case, "to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omissions of some of the technical terms used in ordinary conveyances of real estate."

These decisions of the Federal courts are, of course, entirely consistent with the terms of the 1903 treaty between the United States and Panama. Article 2 of that treaty "grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said Canal." Article 3 "grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement * * * which the United States would possess and exercise by the Republic of Panama of any such sovereign rights, power, or authority."

In sum, the Canal Zone is an unincorporated territory of the United States, to which the United States has full and complete title. The terms "use, occupation, and control," "in perpetuity," mean, of course, ownership. Our Federal courts have confirmed this, past Congresses have confirmed this, past Presidents have confirmed this, and even the Panamanians have confirmed it. As a matter of law, then, the Canal Zone is a U.S. territory. The fact that it has not been incorporated by Congress is a matter of no consequence, since the question is whether the territory belongs to the United States. Article IV of the Constitution does not state that Congress shall have the power to dispose of only that territory which has been incorporated, but any and all territory that belongs to the United States.

Likewise, the question of whether the United States has sovereignty over the Canal Zone is beside the point. It is an interesting academic question, but it has no bearing on the constitutional issue at hand, for the obvious reason that Congress territorial powers are in no way contingent upon, or determined by, the theoretical question of sovereignty, Congress power over territories extends to any and all territories which, in the language of article IV, belong to the United States. The Constitution speaks only in terms of ownership, and makes no mention of sovereignty.

This understanding of article IV is reaffirmed by the Foreign Relations Committee, which concludes in its report that—

> The Committee does not . . . believe that the issue of sovereignty—as a strictly legal matter—is relevant to the Canal debate." (p. 69).

IS THE POWER OF CONGRESS TO DISPOSE OF U.S. TERRITORY AND PROPERTY AN EXCLUSIVE POWER?

It is a well-established principle of our constitutional system that Congress has exclusive power over the disposition of territory and property belonging to the United States. By exclusive we mean that only Congress, that is the House of Representatives and the Senate, may exercise this power. There can be no cession of a U.S. territory, in other words, unless Congress has authorized it.

This view was expressed as early as 1833 by Justice Story of the Supreme Court, one of the most distinguished jurists in the history of our country, who stated in his authoritative Commentaries on the Constitution, that—

> The power of Congress over the public territory is clearly exclusive and universal. (Vol. II, section 1328).

In 1899, the Attorney General of the United States, John Griggs, reaffirmed this principle in a formal opinion. "The power to dispose permanently of the public lands and public property in Puerto Rico," he asserted, "rests in Congress, and in the absence of any statute conferring such power, cannot be exercised by the executive department for the Government." (22 Op. Atty. Gen. 544, 545.) Attorney General Harlan Fiske Stone, who later became Chief Justice of the Supreme Court, declared in 1924, that—

> Property once acquired by the government may not be sold, or title otherwise disposed of, except under the authority of Congress . . . This authority may be generally expressed or may be specifically granted to permit the disposition in whole or in part of particular property rights. But until that power is given by Congress expressly or impliedly, the Executive is without power to act. (34 Op. Atty. Gen. 322–323).

Likewise, the Supreme Court of the United States and the lower Federal courts have repeatedly and consistently affirmed the exclusivity of Congress power to dispose of U.S. territory. Reference to just a few of the decisions that have been handed down by the Supreme Court over the years will amply demonstrate this constitutional principle. Thus in *Wisconsin Central RR Co.* v. *Price*, 133 U.S. 496, 504 (1890), the court declared that article IV, section 3, clause 2 "implies an exclusion of all other authority over the [public] property which could interfere with this right [of Congress] or obstruct its exercise."

In the case of *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 326 (1942). the Supreme Court flatly asserted that—

> Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to congressional delegation of its authority.

Referring to the territorial clause of article IV, Justice Hugo Black stated for the Court in *United States* v. *California*, 332 U.S. 19, 27 (1947), that—

> The constitutional power of Congress in this respect is without limitation. Thus neither the courts nor the executive agencies could proceed contrary to an act of Congress in this congressional area of national power.

See also *Gibson* v. *Chouteau*, 80 U.S. (13 Wall.) 92, 99 (1872), where the Supreme Court stated that this "power is subject to no limitations."

And, in *Utah Power & Light Co.* v. *United States*, 243 U.S. 389, 404 (1916), a unanimous Supreme Court attested that—

> The settled course of legislation, congressional and state, and repeated decisions of this court, have gone upon the theory that the power of Congress to dispose of United

States territory is exclusive, and that only through its exercise—in other words, Congress' exercise—in some form can rights in lands belonging to the United States be acquired.

Mr. President, the legal and constitutional precedents to which I refer have been firmly rooted in our political system since the earliest days of the Republic. Significantly, no representative of the State Department or the Department of Justice has cited a single case, or read from the text of a single constitutional treatise, any statement by any member of the Supreme Court or any other court that even remotely suggests that Congress power to dispose of U.S. territory is not an exclusive power. The reason is quite simple: There is no basis in American law for the assumption that Congress power is anything less than exclusive in this regard.

As I shall proceed to demonstrate, the State Department and the Foreign Relations Committee now apparently concede this point. This concession, as I shall also show, is a fatal defect in the administration's case for the proposition that the President may lawfully dispose of the Canal Zone by treaty alone.

Let me first direct the attention of the Senate to the testimony of Mr. Herbert Hansell, legal adviser to the State Department. When Mr. Hansell appeared before the Separation of Powers Subcommittee of the Judiciary Committee on August 29, 1977, he cited the treaty and territorial clauses of the Constitution, and argued that—

Nothing in the language of the two clauses limits the treaty power with respect to disposition of property or makes the power of Congress with respect to disposition of property exclusive.

But when Hansell testified before the House Merchant Marine and Fisheries Committee on January 17, 1978, a number of months later, he offered an entirely different construction. On this occasion he argued that—

Nothing in the language of these clauses limits the treaty power with respect to disposition of property, or makes the legislative power the exclusive method to effect such disposition.

Thus in the first instance, Hansell insisted that Congress power to dispose of property was not exclusive, and, in the second, that the legislative power to dispose of property is not the exclusive method.

From this it must be inferred that the State Department has substantially—and quite cleverly, I might add—changed its position in order to comply with established precedents and the objections raised by witnesses appearing before the Separation of Powers Subcommittee on November 3, 1977, just a couple of months before the later statement of Mr. Hansell.

Mr. Hansell's statement before the House Committee in January is the most recent view expressed by the State Department on the question of Congress power to dispose of property, and nowhere in that statement does he deny the fact that this is an exclusive power. He merely asserts that there is nothing in the language of article IV to indicate that Congress disposal power is the exclusive method for disposing of property. This, of course, merely states the obvious, since it is clear that the Executive may also dispose of property, providing he has statutory authority. In any event, the point is that the State Department seems to have abandoned its original theory and no longer denies the exclusivity of Congress territorial powers.

The report of the Foreign Relations Committee reflects the revisions and corrections made by the State Department. On page 65 of the report, the committee quotes approvingly the 1899 opinion of Attorney General Griggs, and says that the committee "fully concurs" with the views expressed therein. It is curious to note, however, that the committee quotes only the second clause of the relevant passage in that opinion, and, by omitting the first half of the clause, creates the erroneous impression that the Attorney General did not address the issue of whether both Houses of Congress must approve a transfer of territory by the President.

A complete disclosure of the Attorney General's statement indicates that the committee report, like the testimony of the State Department, misrepresents the actual precedents. In that 1899 statement, the Attorney General said:

The Power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of any statute conferring such power, cannot be exercised by the executive department for the government.

I ask my colleagues to compare this statement with the language of the report, wherein it is simply observed that—

An 1899 opinion of the Attorney General concluded that the power to dispose of certain governmental lands "cannot be exercised by the executive department of the government."

The report goes on to say that the Foreign Relations Committee "fully concurs" with the Attorney General's 1899 statement, but insists that there is still the question of "whether the concurrence of the House of Representatives, in addition to that of the Senate, is constitutionally required. How, Mr. President, can the question then be "whether the concurrence of the House of Representatives, as well as the Senate, is constitutionally required, when the Attorney General has already said that it is required, in the very same sentence which the Foreign Relations Committee quotes, part of which was left out?

It is not necessary to dwell on these omissions and misrepresentations of the precedents at length. Suffice it to say that neither the State Department nor the Foreign Relations Committee disavows the constitutionally binding principle that the disposal power of Congress is exclusive.

Nor, it should be added, does the Department of Justice. "I am aware of a number of decisions of the Supreme Court," said Attorney General Griffin Bell, when he testified before the Foreign Relations Committee on September 29, 1977, "holding that article IV, section 3, clause 2 of the Constitution is of an exclusive nature." But this was not an issue of any consequence, Bell then suggested, because:

The decisions declaring article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial branches to dispose of the territory or property of the United States. None of them dealt with the question here involved, the power of the treaty making authority to make such a disposition.

All of the parties are agreed, then, that the power of Congress to dispose of American territory and property is exclusive. Neither the State Department, the Justice Department, nor the Foreign Relations Committee flatly denies this. Rather, they suggest that the treaty power creates an exception to the general rule, and renders concurrent what is already exclusive.

As we shall see, this claim is utterly without foundation. The President may, of course, dispose of property by treaty. The exclusivity of Congress power to dispose of such property is maintained, however, only if Congress consents to the disposition. Otherwise it is fatuous to say that the power is exclusive. Exclusive means exclusive jurisdiction, possessed to the exclusion of all the other branches, not just some. By conferring exclusive jurisdiction on Congress respecting the disposal of property, the Constitution necessarily deprives the executive of such jurisdiction. In effect, the Foreign Relations Committee is not simply arguing that the treaty power as such creates an exception, but that the President's power to make self-executing treaties creates an exception to Congress exclusive power. The question to be resolved, then, is whether the President of the United States may negate an exclusive power of Congress respecting the disposition of property by a self-executing treaty. To this issue we now turn, and we may ask that question.

MAY THE PRESIDENT DISPOSE OF PUBLIC LANDS OVER WHICH CONGRESS HAS EXCLUSIVE POWER BY A SELF-EXECUTIVE TREATY?

The Constitution is silent regarding limitations on the President's treaty-making powers. Article II, section 2, clause 2 states only that—

The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

The grant of power to the President is thus expressed in unlimited terms. The only express restriction on the exercise of this power in the language of the Constitution is the requirement that "two-thirds of the Senators present concur."

It would thus appear that the Constitution confers an unlimited power on the President to make any treaty he pleases, under any circumstances, and that such treaties automatically become the law of the land once the Senate agrees to ratification. Such an interpretation, however flies in the face of the Constitution, and is wholly inconsistent with the basic principles of limited government and separation of powers that rest at the foundation of our fundamental law. For this reason, it is universally acknowledged that there is an implied limitation on the President's treatymaking power, which emanates

from the Constitution itself and restricts the scope and method of the treaty process.

As the Supreme Court stated in the well-known case of *Reid* v. *Covert*, 354 U.S. 1, 16–17, decided in 1957:

> No agreement with a foreign nation can confer power on the Congress, or on any other branch of government, which is free from the restraints of the Constitution . . . the prohibitions of the Constitution were designed to apply to all branches of the national government, and they cannot be nullified by the Executive or by the Executive and the Senate combined.

The President and the Senate, in other words, cannot use the treaty power to override a prohibition of the Constitution. I would assume that this also means that the President and Senate cannot use the treaty power to invade a sphere of power that is exclusively reserved to the Congress, since the Constitution prohibits either the President or the Senate or the two in concert from exercising a power that is under the exclusive jurisdiction of Congress.

Judicial declarations similar to those expressed in *Reid* against *Covert* can be traced back to the formative period of our Republic, indicating that our Federal courts have always adhered to the principle that the treaty power is limited by the Constitution. Thus in *Doe.* v. *Braden*, 16 How. (57 U.S.) 635, 656 (1853), the Supreme Court asserted that—

> The treaty is . . . a law made by the proper authority, and the courts of justice have no right to annul or disregard any of its provisions, unless they violate the Constitution of the United States.

"It need hardly be said that a treaty cannot change the Constitution," said the Supreme Court in 1871, in the Cherokee Tobacco case, 11 Wall. (78 U.S.) 616, 620, "or be held valid if it be in violation of that instrument."

One of the best known statements on implied limitations on the treaty power is that of Mr. Justice Field, in *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890), where the Court declared:

> The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of government itself and of that of the states. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government, or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent.

Although the Constitution does not expressly impose prohibitions or prescribe limits on the President's treatymaking powers, it is nevertheless well established, then, that treaties are subject to the same constitutional limitations that apply to all exercises of Federal power.

One of the most fundamental limitations is the requirement of implementing legislation. Early in our history, the Supreme Court distinguished between those treaties which are self-executing and those which are non-self-executing. The former take effect without implementing legislation; the latter require implementing legislation of the Congress before they become the law of the land. In other words, certain obligations which the United States accepts under a treaty cannot be executed by the treaty itself.

In the case of *Foster* v. *Neilson*, 2 Pet. (27 U.S.) 253, 314, decided in 1829, Chief Justice John Marshall explained that it is the nature of the obligation undertaken by a treaty which determines whether implementing legislation is needed to make the treaty effective. "Our Constitution," said Marshall, "declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself, without the aid of any legislative provision."

But under what circumstances does a treaty not operate of itself, and require the aid of legislation? Here is Marshall's answer:

> When the terms of the stipulation import a *contract—when either of the parties engages to perform a particular act*, the treaty addresses itself to the political, not the judicial department; and the *legislature* must execute the contract, before it can become a rule for the Court. (Emphasis supplied.)

To put it another way, a treaty requiring the United States to perform a particular act would not become the law of the land unless Congress executed the contract—that is, enacted legislation implementing the treaty.

Based on their analysis of the judicial precedents, legal scholars have supplied another guideline for determining whether a treaty is self-executing. One authority is Quincy Wright, whose study entitled "The Control of American Foreign Relations," is quoted at length by the Library of Congress in "The Constitution of the United States of America: Analysis and Interpretation." This is the authoritative, encyclopedic study of our Constitution which all Members of Congress rely upon extensively and have in their offices. In his work, Wright observes that the question of whether a treaty provision can be executed without legislative action "depends upon whether the obligation is imposed on private individuals or on public authorities. (Page 207.)

He further explains:

> Treaty provisions which define the rights and obligations of *private* individuals and lay down general principles for the guidance of military, naval or administrative officials in relation thereto are usually considered *self-executing*. Thus treaty provisions assuring aliens equal civil rights with citizens, defining the limits of national jurisdiction, and prescribing rules of prize, war, and neutrality, have been so considered. . . .
>
> On the other hand certain treaty obligations are addressed solely to *public* authorities, of which may be mentioned those requiring the payment of money, *the cession of territory*, the guarantee of territory, etc. (Emphasis supplied.)

According to these authorities, then, a treaty addressed solely to public authorities, requiring a cession of territory, would be regarded as a nonself-executing treaty that would not be effective in the absence of congressional authorization.

Then we also have a third guideline, offered by the State Department itself. In a 1907 memorandum approved by the Secretary of State—and it is cited in our own authoritative analysis of the Constitution published by the Library of Congress—it is said that—

> The limitation on the treaty power which necessitates legislative implementation may be found in the provisions of the Constitution which expressly confide in Congress or other branches of the Federal Government the exercise of certain delegated powers. (Quoted at page 489.)

The same thought was expressed in Congress in 1815, at the conclusion of debate on a convention with Great Britain involving a reciprocal reduction of duties. President Madison recommended to Congress such legislation as the convention might require for effectuation, and legislation was thereafter enacted. House conferees observed that they thought, and that in their opinion the Senate conferees agreed, that legislative implementation was necessary to carry into effect all treaties which contained "stipulations requiring appropriations, or which might bind the nation to lay taxes, to raise armies, to support navies, to grant subsidies, to create States, or to cede territory" (29 Annals of Congress 1019 (1816), as quoted page 489). As early as 1816, therefore, Congress adopted the view that a treaty ceding territory is not self-executing and requires legislative implementation to be effective. The State Department memorandum of 1907, also regarded as authoritative by the Library of Congress, asserts that implementing legislation is necessary when a treaty employs a power expressly confided in Congress.

Thus we see, Mr. President, that at least three general principles of construction have evolved in our constitutional history for determining whether a treaty requires implementing legislation to be effective. If the terms of the treaty import a contract, and either party agrees to perform a particular act; if the obligation is imposed on public authorities; and if the agreement embraces a power expressly confided in Congress, then the treaty is not self-executing and cannot become effective as the law of the land until Congress enacts implementing legislation.

Judged by these established principles of law, Mr. President, it is clear that a treaty ceding our territory and public property in the Panama Canal Zone to the Government of Panama is not self-executing.

Does the Panama Canal Treaty contain provisions requiring either party to perform a particular act? To be sure, the treaty contains not one but numerous provisions whereby the United States agrees to perform a particular act, that involving the transfer of the zone being most significant.

Does the treaty impose obligations on public authorities? Again, the answer is in the affirmative, for this is a treaty which is addressed directly to public authorities.

Does the treaty concern a power expressly confided in Congress? Article IV, section 3, clause 2 supplies the answer. It stipulates that—

Congress shall have power to dispose of . . . the territory or other property belonging to the United States.

What is more, Congress power to dispose of territory is not only express but also exclusive.

Have prior agreements with Panama involving the transfer of property conformed to these principles? The Treaty of Mutual Understanding between the United States and Panama in 1955 bears directly on the issue. Article V of that treaty states in clear and precise language that the cession of certain property in the zone is dependent upon action by Congress. In fact, the phrase "subject to the enactment of authorizing legislation" appears three times in article V of the 1955 treaty with Panama. Article V states that:

The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States . . . to certain lands and improvements . . . The lands and improvements referred to in the preceding sentence and the determinations by the United States of America respecting the same, subject to the enactment of legislation by Congress, are designated and set forth in Item 2 of the Memorandum of Understanding . . . The United States also agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all its right, title and interest to the land and improvements in the areas known as PAITILLA POINT . . .

In 1942, when the President made an Executive agreement promising to return certain property and installations to Panama, the transfer was based upon, and subject to, congressional approval (agreement of May 18, 1942, 59 Stat. 1289, Part 2: "When the authority of Congress—shall have been obtained"). During the course of Senate debate, Senator Tom Connally, chairman of the Senate Foreign Relations Committee, asserted that—

Under the Constitution of the United States, Congress alone can vest title to property whch belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States . . . The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty. (88 Con. Record 9267).

In its report on the transfer, the House Committee on Foreign Affairs reaffirmed the principle that a cession of public land belonging to the United States requires congressional approval. "As disposition of property of the United States," said the committee, requires "an exercise of the legislative power, independently of the treatymaking power."

(H. Rept. No. 78–271, page 6.)

Congressional approval was also sought and obtained in 1932, when the United States decided to erect a new legation building on land within the Canal Zone. Because it is improper to build a legation on territory under American jurisdiction, a bill was drafted by the State Department to authorize the Secretary of State to modify the boundary line between Panama and the Canal Zone so as to cede the land back to Panama and allow for the construction of the legation on "Panamanian territory" instead of American. This legislation was subsequently introduced and passed by Congress (72 CONGRESSIONAL RECORD 4657).

Prior practice in Panama, it may thus be seen, reaffirms and strengthens the principle that a treaty ceding public lands to a foreign government is not self-executing. In all previous agreements with Panama, it would seem that all cessions of property belonging to the United States have been based on Congressional approval. It seems reasonable to me, I might add, that if all previous transfers of real estate to Panama have occurred under the authority of Congress, the transfer of the entire zone should proceed on the same basis; otherwise, we are left with the dubious proposition that prior enactments of Congress authorizing the property cessions were gratuitous exercises of legislative fantasy which the President was free to ignore; or we are left with the peculiar proposition that as the amount of property increases, the power of Congress decreases. I am not aware that any Congress or previous President has ever entertained either proposition as a valid interpretation of the Constitution.

The legal precedents and established practices all point to the conclusion that the treaty now under consideration cannot by any stretch of the imagination be regarded as self-executing. Against the tremendous weight of the precedents that I have cited, what evidence does the Foreign Relations Committee offer to show that this new treaty is self-executing and does not require implementing legislation to effect the transfer of the land and improvements in the Canal Zone to the Republic of Panama? What evidence does the Foreign Relations Committee offer to exempt this treaty disposing of property from the established rule of law?

The answer, Mr. President, is nothing. Nothing. The Foreign Relations Committee report completely ignores the precedents concerning the differences between self-executing treaties and non-self-executing treaties.

The committee's report makes no mention of the rules that have traditionally been followed by Congress, by our courts, and by past Presidents—rules that must be consulted in order to determine the character of this treaty. The report simply assumes, without discussion, without even acknowledging the existence of these precedents, that this is a self-executing treaty.

I ask my colleagues: How much trust should the Senate place in a committee report which seeks to expand the powers of the President beyond the limits to which they have been confined since this country was founded, and says not a word, not one word, about any of these binding precedents indicating that this treaty cannot possibly be construed as a self-executing treaty? If the Senate is to embark upon a bold new course, conferring more power on the Chief Executive, then the Members are entitled to know, I believe, the reasons for this sudden departure from the established norm. What are these reasons? Where are the precedents to support this radical transformation of the treaty process? I suggest, Mr. President, that the Senate can place no trust in a committee report which so conveniently ignores these precedents and misrepresents others.

On these grounds alone, for lack of any evidence that the transfer of property contemplated in these agreements can be effected by a self-executing treaty, the committee's argument against the need for implementing legislation should be rejected out of hand. For the basic question is whether this treaty is self-executing. If it is not, there is no point in belaboring the issue of whether legislative approval is necessary.

Such considerations have not, however, deterred the Foreign Relations Committee. Fearlessly disregarding the precedents used to define the nature of this treaty, the committee leaps to secondary matters and comes up with the conclusion that—

The Constitutional text, the intent of the Framers, opinions of the Supreme Court, and historical precedent all suggest that the Panama Canal treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation. (Page 69).

As we shall see, this conclusion is doubly wrong. In the first place, it is based upon a fatally defective and wholly false assumption that this treaty is self-executing. In the second place, it is based on precedents which, when examined, fail to support the committees' position.

(Mr. CANNON assumed the chair.)

Mr. HATCH. Mr. President, let us talk about the constitutional text.

CONSTITUTIONAL TEXT

We first encounter in the committee's argument that the constitutional text and the location of the disposal-of-property—or territorial—clause of the Constitution support the conclusion of the committee. But every sentence of the opening paragraph of the report, it would seem, is either false, misleading, or irrelevant. Let me enumerate.

The first sentence states that—

the constitutional text gives no reason to assume that the power to dispose of property may be exercised only by statute, and not by treaty (P. 65.)

This assertion is obviously irrelevant, inasmuch as it is freely admitted that the President has the power to dispose of property by treaty. The question is not an "either-or" proposition, but whether he may dispose of it by a self-executing treaty.

The second and third sentences state that—

The disposal-of-property clause is drafted in the same way as the provision conferring enumerated powers upon Congress (article I, section 8): both say that Congress "shall have power . . ." where two substantively similar provisions of the Constitution are in their jurisdictional terms worded identically, and where one of those provisions has been construed as conferring concurrent power, it is not unreasonable to construe the other provision also as conferring concurrent power. (P. 65.)

This statement is false and misleading. According to the committee's reasoning, the President is free to exercise any power of Congress through a self-executing treaty where it is declared in the Constitution that "Congress shall have power," and "where two substantively similar provisions of the Constitution are in their jurisdictional terms worded identically." Article I of the Constitution states that Congress shall have power to perform a number of functions—to lay and collect taxes, to borrow money, to establish a uniform rule of naturalization, to declare war, and to provide and maintain a Navy, to mention only a few. Article III states that "Congress shall have power to declare the punishment of treason," and we may presume that the President may also by treaty circumvent the House of Representatives regarding this power of Congress as well. All of the "Congress shall have power" powers, suggests the committee, may be eclipsed by the President of the United States through a self-executing treaty. Carried to its logical conclusion, this theory offered by the committee would whittle down the powers of Congress to the point of extinction; for it elevates the power of the President to make self-executing treaties to a higher station than the legislative power itself, which is contrary to the Constitution.

Moreover, by its own admission in the following paragraph, page 66, the Foreign Relations Committee concedes that this theory admits to numerous exceptions. Thus, a treaty cannot appropriate money, says the committee, impose taxes, or declare war. Why can a treaty not appropriate funds? Because, opines the committee:

> The language of the appropriations clause . . . unlike that of the disposal-of-property clause, does appear to be exclusive. (Page 66.)

Since the Supreme Court has repeatedly asserted that Congress power to dispose of public lands is also an exclusive power, irrespective of the specific language of the clause, the theory presented by the committee collapses under the weight of judicial precedent. What appears to be true to the committee is false under the established law. To be sure, the committee concedes the whole argument by inferring that the President cannot exercise an exclusive power of Congress under a self-executing treaty.

With respect to the matter of Congress power to declare war, the committee arbitrarily abandons the argument based on language, and asserts that this is an exclusive power "because the unique legislative history of the declaration-of-war clause clearly indicates that the power was intended to reside jointly in the House of Representatives and the Senate." Thus we now learn that the language by which the powers of Congress are expressed in the Constitution are not determinative after all regarding the question of exclusiveness, and that other factors such as "legislative history" must be considered. But if the legislative history must be taken into account, surely the decisions of the Supreme Court and constitutional history must also be given weight. The committee cannot have it both ways, invoking legislative history only when it is convenient to do so. In any case, the legislative history of the territorial clause of the Constitution, as we have already observed, clearly indicates that Congress has traditionally rejected the view that the President may dispose of public lands by a self-executing treaty.

These matters aside, it should be borne in mind that the committee cites no decisions of the Supreme Court to support its curious interpretation of the Constitution, the reason being there is no basis for it in American law.

Returning to the committee's report, we next greet the assertion that—

> It has long been established that Article 1, section 8 of the Constitution confers concurrent power—that the enumerated powers conferred upon the Congress therein may be exercised by both statute and treaty.

Once again, the committee misses the point. The question is whether he may exercise all of these powers by a self-executing treaty.

How many self-executing treaties has the President made, bypassing the House of Representatives, regarding such article 1, section 8 powers as the power of Congress to establish an uniform rule of naturalization? To provide and maintain a Navy? To coin money? To raise such questions is to reveal the absurdity of the committee's theory.

One of the so-called "long established" examples specifically mentioned by the committee are the "hundreds of self-executing treaties dealing with—postal services" (page 66). But what is the basis for this claim? Volume I of the U.S. Government publication entitled "Treaties and Other International Acts of the United States," edited by Hunter Miller, states that—

> Arrangements with foreign post offices were authorized by statute as early as 1792 (1 Statutes-at-Large 239) and are made under statutory authority now (act of June 8, 1872, 17 Statutes-at-Large 304).

Indeed, observes Miller:

> Postal conventions are not, and, with a very few exceptions, never have been submitted to the Senate as treaties. The character of postal conventions makes them inappropriate for inclusion in a general collection of treaties and international acts. To a large extent they are business arrangements between offices of transport rather than agreements between governments in the ordinary sense. (Page 7.)

So much, then, for the "hundreds" of self-executing postal service "treaties" relied upon by the committee. In any event, we are not dealing with the postal or any other article I power of Congress in the first place, but with the power of Congress to dispose of public lands under article IV of the Constitution.

This brings us finally to the issue that the committee has raised in connection with the location of Congress territorial powers. "It seems relevant," concludes the committee, "that the disposal-of-property clause appears in article IV of the Constitution, the article dealing with Federal-State and interstate relations. While by no means conclusive, this placement does suggest an intent to set out a power of the Federal Government as against the power of the States, rather than a power of the Congress as against the joint power of the Senate and the President." (Page 66.)

What significance should we attach to the location of Congress power to dispose of U.S. territory, in light of the fact the Supreme Court has never deemed its location as bearing on the issue of exclusiveness, and has, in fact, consistently ruled that this is an exclusive power of Congress? The answer, of course, is none. The Supreme Court has never even suggested that the power is exclusive in relation to the States and is not exclusive in relation to the President. It is simply exclusive, and the Court has never qualified that position.

What is clear is that the location of the territorial power is unrelated to the scope of the power itself. The powers of Congress are not confined to article I, but are scattered throughout the Constitution. Article II, which deals principally with the Executive power, also confers numerous powers on Congress—to determine the time of choosing the electors to the electoral college, to provide by law of the case of removal, death, resignation, or inability of the President. Article II also gives one branch of the legislature, the Senate, the power to advise and consent on treaties and the appointment of Ambassadors, judges, and other officers of the United States. Article III, which deals principally with the powers of the Judiciary, also specifies that Congress shall establish inferior courts, regulate the appellate jurisdiction of the Supreme Court, direct the place where criminal trials shall be held when the crime has not been committed within any State, and declare the punishment for treason. In addition to the enumerated powers of Congress under article IV, the Constitution also provides under article V that Congress shall have the power to propose amendments or call a constitutional convention.

None of these powers is located in article I, where we find most of the delegated powers of Congress. May we therefore assume that the President is free to make self-executing treaties and bypass the House of Representatives in the exercise of these powers? May the President make a self-executing treaty with a foreign power providing for his successor in the case of his removal from office? Exactly where in the Constitution are the exclusive powers of Congress located? Where do we look to find those that are allegedly "concurrent"? What the committee seems to overlook, Mr. President, is the plain and simple fact that the purpose of distributing the legislative powers throughout the Constitution is not to block out those which are exclusive and those "concurrent," but primarily to provide for a system of checks and balances under the separation of powers.

In sum, neither the text of the Constitution nor the location of the legislative power to dispose of property supports the committee's newfangled theory that the Chief Executive may transfer the Canal Zone by a self-executing treaty. Indeed, the committee has not even been able to cite a single decision

of any Federal court which would lend respectability to the notion that the text of the Constitution and the location of the disposal-of-property clause authorize the President and the Senate to override this express power of Congress. For these reasons, the committee's theory must be rejected as hopelessly absurd.

WHAT WAS THE INTENT OF THE FRAMERS?

The second pillar of the Foreign Relations Committee report on Congress territorial powers concerns the original intent of the framers of our Constitution. This pillar, like the first, collapses under the weight of close scrutiny; and once again we are dismayed to learn that every sentence of the report on this aspect of the issue is either false, misleading or irrelevant.

The opening sentence of the report reads as follows:

From all available records it appears that the Framers evidenced no intent to preclude the United States from disposing of governmental property by treaty.

This statement is, of course, irrelevant, as we have seen twice before in this report, since the question is not whether the United States may dispose of public lands by treaty, but whether the President may do so by a self-executing treaty.

In the second sentence, the committee asserts that the Framers "rejected all proposals to limit the treaty power." This statement is false on its face, for the obvious reason that it creates the erroneous impression that the President's power to make treaties is by design absolute and unlimited. In addition, the treaty power is obviously limited by the requirement that the Senate must give its advice and consent to the ratification of a treaty, any treaty. Thus, although the treaty power itself is not limited by express terms, there is nevertheless an implied limitation on the exercise of the power stemming from the check of the Senate as well as the principle of limited government that is inherent in our Constitution.

The third sentence of the report states that,

A review of the discussion of the disposal-of-property clause indicates that the Framers' concern was that the Federal government have primacy over the states in resolving disputes among the states over certain Western lands—suggesting, again, an intent to delineate Federal power versus that of the States.

This statement is misleading and false because it erroneously suggests that the Framers were not also concerned that Congress have a voice in the disposal of American territory and property by treaty.

Significantly, the committee report makes no mention of the argument based on the Framers' intent that was propounded by the Attorney General when he testified before the Foreign Relations Committee. In his prepared statement to the committee on September 29, 1977, Attorney General Bell made reference to four separate events that occurred during the course of debate on the framing and adoption of the Constitution. He thought it significant, for example, that George Mason of Virginia had observed "that the Senate by means of a treaty might alienate territory, etc. without legislative sanction." Mason's actual words, as reported in Farrand, were that:

He was extremely earnest to take this [appropriation] power from the Senate, who he said could already sell the whole Country by means of Treaties. (Farrand, II, 297).

From this, Bell deduced that Mason's remark indicated that the Framers were supportive of the idea that the President should have the power to dispose of property by a self-executing treaty.

In his testimony before the House Committee on Merchant Marine and Fisheries on January 18 of this year, Raoul Berger correctly observed that Attorney General Bell's reliance on Mason's remark was based on an erroneous understanding of time sequence. Mason made his remark on August 15, 1787. The property clause was not even debated for 15 days, until August 30, 1787. As Berger notes,

Mason spoke before the Article IV progenitor was even proposed and referred to the Committee on Detail, (2 Farrand 321, 324), and of course before the resultant 'disposition' provision was debated, (id. 466). Manifestly his earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."

Bell also relied on remarks made at the Convention by delegates Gerry, Williamson, and Spaight, an amendment proposed by the Virginia ratifying convention, and on a letter written by Williamson to James Madison a year after the framers had completed their work, as further proof that the history of the Convention supports "the proposition that a treaty disposing of the territory and property belonging to the United States can be self-executing." But it is not necessary to analyze these statements and events here. In the first place, Raoul Berger has already shown that they do not provide evidence to support the Attorney General's assertion. In the second place, the Foreign Relations Committee makes no reference to them—and wisely so, I might add. Unlike the Attorney General, the Foreign Relations Committee has enjoyed the benefit of Berger's careful dissection of the debates and prudently avoids challenging them.

This brings us back, then, to the position which the Foreign Relations Committee has now retreated—to the argument of the third sentence where it is claimed simply that:

A review of the discussion of the disposal-of-property clause indicates that the Framers' concern was that the Federal Government have primacy over the States in resolving disputes among the States over certain Western lands—suggesting again, an intent to delineate Federal power versus that of the States.

Since the Foreign Relations Committee offers no evidence even for this revised and emasculated version of the administration's original argument based on intent, I leave it to the Senators themselves to judge the merits of this unsupported claim. In my judgment, the Records of the Convention fail to show that the framers were anxious to allow the cession of American territory by the President, acting alone or with the concurrence of the Senate, without the approval of Congress. The Foreign Relations Committee fails to offer any evidence indicating that the Framers thought otherwise.

Finally, in the fourth and last sentence of the report, the committee concludes that:

A number of statements, indicating that territory and other property could be transferred by treaty, were made by the Framers during the debate on the treaty power after article IV was adopted.

Aside from the fact this statement is unsupported, it is wholly irrelevant since the question, once again, is not whether the President has the power to dispose of public lands by treaty, but whether he may do so by a self-executing treaty.

In sum, the Senate Foreign Relations Committee Report fails to show that the framers of the Constitution favored the idea that the President should have the power to dispose of territory and property by a self-executing treaty. The committee offers no evidence to support this assertion and it fails to challenge any of the evidence to the contrary that has been offered. What is more, the committee report twice misrepresents the constitutional issue that is under consideration in the brief paragraph on this subject of the framers' intent. For these reasons, the Senate should reject the committee's argument that constitutional history lends any strength to the President's position.

JUDICIAL AUTHORITIES

We come now to the third pillar of the committee's report suggesting, in the words of the committee, that—

The Supreme Court appears to have favored a construction of the Constitution which would permit the disposal of property by a self-executing treaty. (p. 66).

The cases as we shall see, fail to lend any credibility to this interpretation of the judicial precedents.

The committee cites seven Supreme Court decisions evidencing the right of the President to transfer territory without the consent of Congress. Let us examine them in detail.

Says the committee:

It is well settled as the Attorney General noted during the Committee's hearings, that the treaty power "extends to all proper subjects of negotiation between our government and the government of other nations," although it does not "extend so far as to authorize what the Constitution forbids." (p. 66–67).

It therefore follows, avers the committee, that:

The transfer of property from one nation to another clearly constitutes a proper subject of negotiation; the question is whether the Constitution forbids such transfer by treaty.

The cases cited are *Geofroy* v. *Riggs*, 133 U.S. 258, 266–267 (1890) and *Asakura* v. *Seattle*, 265 U.S. 332, 341 (1924).

In other words the committee fully agrees, contrary to its earlier statement that the framers "rejected all proposals to limit the treaty power" (p. 66), that the scope of the treaty power is indeed limited by the Constitution. The committee also agrees with the undisputed

fact that the President has the authority to make treaties with foreign nations ceding public lands.

But once again the committee misstates the constitutional issue that we are considering. The question is not "whether the Constitution forbids such transfer by treaty," but whether it forbids such transfer by a self-executing treaty that circumvents the Congress.

So much, then, for the first paragraph of the committee's report on the judicial precedents. All that the committee has demonstrated is that it apparently does not understand the constitutional issue before us, and is able to belabor obvious points of law that prove what everybody knows in the first place. In short, the first paragraph is false, misleading, and irrelevant.

In the second paragraph, the committee report opens with another irrelevant statement, and asserts that "A number of cases suggest" that the Constitution "does not" forbid the transfer of property by treaty. Significantly, the committee scrupulously avoids all mention of those cases which indicate that the Constitution forbids cessions of territory by a self-executing treaty.

Conspicuously missing from the report, for example, is the frequently mentioned case of *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 326 (1942), where the Supreme Court flatly stated that—

> Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive's power to convey any interest in the lands must be traced to Congressional delegation of its authority.

Undaunted by such cases as Sioux Tribe, which clearly demonstrate the very opposite point of law favored by the committee, the report plods forward, noting that—

> The Court had no problem with several treaties transferring United States property to various Indian tribes.

Citing the case of *U.S.* v. *43 Gallons of Whiskey*, 93 U.S. 188 (1876), the committee observes that prior to the year 1871, when Congress passed the Indian Appropriation Act, "Indian tribes were recognized as independent nations with whom the United States could contract by treaty"; and, it is further noted, "the Court has held that 'the power to make treaties with the Indian tribes is * * * co-extensive with that to make treaties with foreign nations.' "

One wonders whether the committee has even read the case of *U.S.* v. *43 Gallons of Whiskey*. In the first place, the statement quoted in the report does not appear on page 188 of the decision, but on page 197. In the second place, the case actually involves an 1863 treaty between the United States and the Chippewa Indians whereby the Indians—not the United States—ceded territory to the United States.

As the court correctly observes in that case—

> The acquisition [not the cession] of territory has been the moving cause of all Indian treaties . . . and will continue to be so until Indian reservations are confined to very narrow interests. (93 US 188, 196–197).

Added to this is the fact that the treaty in question, which actually involved a cession of territory by the Indians to the United States in Minnesota, and is thus a treaty for acquiring territory rather than a territorial cession, incorporated an act of Congress concerning the introduction and sale of liquor in Indian territory. The act was passed by Congress on June 30, 1834, (amended March 15, 1864), and applied to all Indian territory. As the Court noted—

> The act defines what shall be deemed Indian country, directs the manner in which trade and intercourse with the Indians shall be carried on, and forbids anyone, under certain penalties, to give or sell liquor to an Indian in charge of an agent, or to introduce it into the Indian country. (93 U.S. 194).

Obviously, treaties with Indian tribes differ from treaties with foreign nations in a number of respects. As seen in the 43 Gallons of Whiskey case, for example, Congress continued to regulate commerce with the Indian tribes and within Indian territory after the treaty went into effect. The peculiar status of Indian tribes was defined by Chief Justice Marshall in 1831 in the case of *Cherokee Nation* v. *Georgia*, 5 Peters 17, as that of "domestic dependent nations." The recognized authority, Samuel Crandall, notes in his study on "Treaties, Their Making and Enforcement," that:

> From the first, our negotiations with Indian tribes have been quite separate from those with foreign states. (p. 93).

There is some doubt, therefore, whether treaties with Indian tribes are even applicable to the constitutional issue at hand, which involves a treaty with a foreign government. The Indian Appropriations Act of 1871, cited by the committee, fully shows, in fact, that the power of the President to negotiate treaties with the Indian tribes was based on the consent of Congress; for in that act , Congress declared that after March 3, 1871:

> No Indian nation or tribe within the territory of the United States should be acknowledged or recognized as an independent nation, tribe or power with whom the United States might contract by treaty. (Crandall, p. 94).

In effect, Congress nullified the power of the President to make treaties with Indian tribes. It would seem to follow, therefore, if Congress has the power to prohibit the President from making treaties with Indian tribes, that the President never enjoyed the power of making a self-executing treaty with Indian tribes in the first place, as such power would be inconsistent with the act of 1871.

In any event, these considerations need not detain us here, for the crucial point, as I earlier noted in the 43 Gallons case, is that "the acquisition of territory has been the moving cause of all Indian treaties" (93 US 188, 196–197). The underlying purpose of these treaties was the acquisition and purchase of Indian lands, so they could be resold to white settlers and converted to individual titles. The State Department, the Attorney-General, and now the Foreign Relations Committee, all rely heavily on these Indian treaties to support the theory that the President may dispose of property by a self-executing treaty. But if these Indian treaties involve the acquisition of territory rather than the cession of public lands, I fail to see how they even apply to the question we are considering.

In *Holden* v. *Joy*, 17 Wall. (84 U.S.) 211 (1872), for example, the Court heard a challenge to a treaty with the Cherokee nation which transferred to it land belonging to the United States. The Court said:

> . . . it is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should be issued to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. *Id.* at 247.

Moving along to the next sentence of the report, we learn, according to the committee, that in the case of *Holden* v. *Joy*, 17 Wallace (84 U.S.) 211 (1872),

> The Court heard a challenge to a treaty with the Cherokee nation which transferred to it land belonging to the United States.

The committee then cites the following passage from that decision:

> It is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should be issued to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political."

Do these remarks support the proposition that the President may make a self-executing treaty ceding territory and property to a foreign government? First, it is agreed by all parties who testified before Congress, including the Attorney General of the United States, that the passage in question is mere dictum—that is, an opinion of a judge which does not embody the determination of the court, and was made without argument or full consideration of the point (Bouvier's Law Dictionary, I. 863). As the Supreme Court stated in *Carroll* v. *Carroll*, 16 Howard 287 (1853), the Court "has never held itself bound by any part of an opinion which was not needful to the ascertainment of the question between the parties."

Second, the case of Holden against Joy actually conflicts with the theory offered by the Foreign Relations Committee. The facts of the case are as follows: Prior to the year 1817, the Cherokee Indians resided east of the Mississippi, largely in Georgia. By treaties of 1817 and 1819, the tribe was divided into two bodies, one of which remained in Georgia, the other on the Arkansas and White Rivers. Anxious to move the entire tribe west of the Mississippi, the United States made treaties with the western Cherokees in 1828 and 1833, by which the United States agreed to "possess" them,

as well as the eastern Cherokees, of 7 million acres of land west of the Arkansas River. In 1830, in the period between the two treaties, Congress passed a law entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or territories, and for their removal west of the Mississippi River."

The first and second sections of the act authorized the President to exchange certain lands west of the Mississippi with any tribe residing in Georgia, or any other State or territory. The third section of the act stated that:

Such lands shall revert to the United States if the Indians become extinct or abandon them.

The purpose of the treaties and the act of Congress, obviously, was not to cede territory but to bring about an exchange by inducing the Indians, as the Court put it:

To surrender their lands and possessions to the United States, and emigrate and settle in the territory provided for them. (17 Wallace 237).

But the treaties, though formally accepted, were not successful, and in 1835, while the act of 1830 was still in force, the United States entered into a third treaty with the Cherokees, for the purpose, once again, of reuniting the eastern and western tribes.

The third treaty confirmed the two earlier agreements. The treaty stipulated that, in exchange for $5 million, the Cherokees would cede all of their lands east of the Mississippi to the United States. But the Cherokees were dissatisfied with the terms of the two earlier treaties, because they did not contain a sufficient quantity of land, so the new treaty of 1835 provided that the sum of $5 million would be reduced by $500,000 in exchange for 800,000 acres of more land known as the Cherokee neutral lands. Congress subsequently appropriated these funds.

In 1866, the United States and the Cherokee Nation entered into a fourth treaty. Under article 17 of that treaty, the Cherokees ceded back to the United States the neutral lands, which the Cherokees had purchased under the treaty of 1835, for an agreed sum of money. A supplemental treaty, modifying conflicting contracts made by the Secretary of Interior and the American Emigrant Company for the sale of the neutral lands, was concluded in 1868. Acts of Congress were subsequently passed recognizing the treaty ceding back the lands to the United States, and the supplemental treaty as valid, and making appropriations to carry these agreements into effect. The Supreme Court was subsequently called upon to resolve conflicts in land titles resulting from these treaties and statutes.

From this brief review of the facts in the case of Holden against Joy, it is abundantly clear that these treaties did not involve a cession of U.S. territory, but an exchange and purchase of Indian lands. It is equally certain that all of these exchanges and agreements were based on the consent of Congress, and that none of the treaties were self-executing. Moreover, Holden against Joy involves treaties with Indian tribes and is inapplicable to the constitutional question of treaties ceding public lands to a foreign state. Accordingly, Holden against Joy is not a precedent supporting the position of the Foreign Relations Commitee, but a precedent which is directly contrary to the committee's position.

In the third paragraph of the report, the Foreign Relations Committee turns to the case of *Jones* v. *Meehan*, 175 U.S. 1 (1899) for help. In that case, observes the Committee, the court said that:

"[t]he title to the strip of land in controversy" had been "granted by the United States to the elder Chief Moose Dung by the treaty itself."

Continuing, the committee also deems relevant the court's statement that—

It is well-settled that a good title to parts of the lands of an Indian tribe my be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the executive authority of the United States.

It is certainly appropriate that the Foreign Relations Committee relies upon a case in which Chief Moose Dung is a central figure, and I would even agree that Chief Moose Dung is probably a lingering omnipresence in the full Report. But it is no less true that the case of Jones against Meehan is quite irrelevant. In fact, this case does not even involve a cession of public lands to a foreign government, but an acquisition of Indian lands resulting from a treaty between the United States and the Chippewa Indians in 1863.

Under the terms of the treaty, the Chippewas ceded a large tract of land in Minnesota to the United States for an agreed sum of money. Part of the land ceded was reserved for use by chiefs of the tribe, including Chief Moose Dung. Article 9 of the treaty stipulated that:

There shall be set apart from the tract hereby ceded [by the Chippewas] a reservation of 640 acres near the mouth of the Thief River for the chief Moose Dung.

The chief's eldest son claimed title to all 640 acres, and the court was called upon to determine whether the chief's property descended to all of his children or to his eldest son only.

(Mr. NUNN assumed the chair.)

Mr. HATCH. The court's ruling in the case was based essentially on an opinion of Attorney General Roger Taney regarding a similar treaty in 1832 between the United States and the Pottawatomie Indians. Taney had explained:

These reservations are excepted out of the grant made by the tribe (to the United States) and did not therefore pass with it; consequently, the title remains as it was before the treaty, that is to say lands reserved are still under the original Indian title. (*Jones* v. *Meehan*, 175 U.S. 1, 12 (1899)).

In other words, the land in question, meaning the 640 acres set aside for the chief, was never ceded by the Chippewas.

Thus it can be seen that the portion of the opinion quoted out of context by the Foreign Relations Committee, refers not to a treaty involving a cession of American territory, but to a treaty whereby the property interests of an individual were protected under an acquisition and purchase of Indian lands by the United States. The task of assuring the chief that he would have good title to those 640 acres that were never ceded to the United States in the first place would obviously require no act of Congress because these 640 acres were neither acquired by the United States nor ceded to the United States. They simply remained in the hands of the chief under the original Indian title to the lands.

Citing a number of earlier cases on this point, the court concluded that:

The clear result of this series of decisions is that when the United States, in a treaty with an Indian tribe, and as part of the consideration for the cession by the tribe of a tract of country to the United States, makes a reservation to a chief or other member of the tribe of a specified number of sections of land, whether already identified, or to be surveyed and located in the future, the treaty itself converts the reserved sections into individual property. 175 U.S. 21.

Moreover, the purchase of the Chippewa lands under this treaty was carried out in accordance with statutes of Congress governing the acquisition of Indian lands. The passage from the opinion quoted by the Foreign Relations Committee follows immediately after the court's reference to one of those statutes.

This brings us to the next paragraph of the Foreign Relations Committee report, which not surprisingly, is both misleading and irrelevant. Here is what the report states:

It may be worth pointing out that in a number of cases, occasionally cited for the purpose of showing that the disposal power is unlimited, the Court discussed the scope of the disposal power in the context of federal power versus states rights; no treaties were involved. (p. 67).

In response to this acute observation by the committee, it may also be worth pointing out that none of the so-called judicial precedents cited by the committee even involves the disposal of public lands or property, let alone such a disposal under a treaty. Geofroy against Riggs presented the question whether a citizen of France could take land in the District of Columbia from a citizen of the United States, in contravention of a local law but in accordance with a treaty for reciprocal rights of inheritance. Asakura against Seattle deals with a city ordinance restricting licenses to U.S. citizens in the operation of pawnshops. U.S. against 43 Gallons of Whiskey and Jones against Meehan, aside from the fact they concern Indian treaties rather than treaties with foreign states, both deal with the acquisition and purchase of Indian lands and not with a cession of American territory and property.

The remaining precedent cited by the committee, Holden against Joy, did not involve a cession of public lands to a foreign government, but, as we have already seen, an exchange and purchase of Indian lands with the consent of Congress. The entire structure of the Foreign Relations Committee's argument from the standpoint of judicial precedent therefore hangs on the lonely dictum of Holden against Joy, a dictum which has no legal force and, when read in the context of the decision, is contrary to the court's holding. In this regard, it may

even be doubted whether the statement rises to the dignity of a dictum.

In the last paragraph of the report on the judicial precedents, we come to the committee's final conclusion: "While additional cases are cited on each side of the question," says the report:

> The Committee sees little merit in attempting to weigh dicta against dicta. The short of it is that the Court has never struck down a treaty for disposing of governmental property. (p. 67).

Thus in the final analysis the committee admits that its entire case concerning judicial precedents rests on dicta. More precisely, it rests on a single dictum, and even that is questionable. What we are actually weighing, therefore, is not dicta against dicta, but a spurious dictum against 200 years of legislative and judicial history which demonstrates, time and time again, that the President does not have the power to dispose of American territory and property by a self-executing treaty.

The reply to the committee's smug assertion that its reading of these precedents is sound because "the court has never struck down a treaty for disposing of governmental property" is fairly obvious: the court has never had occasion to do so because the President has never made a self-executing treaty ceding American territory and property to a foreign state. The committee might just as well argue that the President can make any treaty that he pleases because the Supreme Court has never declared a treaty unconstitutional. The audacity of the committee, it would seem, is exceeded only by its lack of understanding. The entire section of the committee's report on judicial precedents, like the previous sections on the constitutional text and the Framers intent, is clearly based on false, misleading, and irrelevant assertions that throw considerable doubt on the committee's bizarre interpretation of the Constitution.

The fourth and final pillar of the Foreign Relations Committee report concerns the issue of prior treaty practices. The committee contends that there are a number of earlier treaties with Indian tribes and foreign nations which "are couched in self-executing terms and transfer territory or property belonging to the United States to other nations or (in the case of Indian treaties) to specific individuals without prior congressional act authorizing such transfer." (p. 68). This statement by the committee is, however, patently false. As a Congressional Research Service study shows, not one of the 11 treaties generously supplied by the State Department and cited authoritatively by the committee clearly stands as a precedent for a self-executing treaty disposing of property.

1. An example of a treaty with an Indian tribe providing for the transfer to the tribe of title to lands belonging to the United States without prior Congressional authorization is the treaty with the Cherokee Nation of December 29, 1835.

2. An example of a treaty with an Indian tribe conveying land to an Indian individual without act of Congress is the treaty with the Chippewa Indians of October 2, 1863.

INDIAN TREATIES

The first two treaties are treaties with Indian tribes which have already been discussed in connection with Holden against Joy and Jones against Meehan. It is not necessary, therefore, to consider them in detail again, or elaborate upon the many unique features of Indian treaties which distinguish them from treaties with foreign states.

The first of these is the Cherokee Treaty of December 29, 1835. It is, as we have seen, a treaty for the purchase and exchange of land rather than disposal. What is more, it was not a self-executing treaty. Article III of the treaty provided that lands were exchanged "according to the provisions of the act of May 28, 1830." That act authorized the President to exchange public lands west of the Mississippi for certain Indian lands lying to the east.

In Holden against Joy, 37 years after the treaty was signed, the Supreme Court ruled that the treaty could not have been negotiated under the act of 1830. "Doubtless the intent and purpose were the same," said the court, "but the treaty, though concluded to promote the same object as the act of Congress, adopts very different instrumentalities," 17 Wallace 211, 240 (1872). The court's ruling, notes the Congressional Research Service, "does not detract from the clear reliance placed by Andrew Jackson on the act for authority to conclude this particular treaty. The executive branch inserted reference to the act of 1830 in the treaty. Since President Jackson attempted to effect the treaty pursuant to congressional authorization, it does not appear that the ruling of Holden against Joy demonstrates any executive practice disposing of territory or property without act of Congress. Holden against Joy shows that Presidential reliance on legislative authorization was later ruled unfounded."

The second Indian treaty cited by the committee is the Chippewa Treaty of 1863, which we discussed earlier in connection with the case of Jones against Meehan and 640 acres of land belonging to an Indian Chief named Moose Dung. As previously noted, this was not a treaty involving a cession of American territory, but a treaty whereby the property interests of an individual were protected under an acquisition and purchase of Indian lands by the United States. In addition, the treaty was made in accordance with statutes of Congress governing the acquisition of Indian lands. In its analysis of this treaty, the American Law Division of the Congressional Research Service concludes that the reservation in the treaty of 640 acres for Chief Moose Dung, giving him title to part of the Indian lands, "was at most a clearing of title and . . . no disposition of territory or property was effected."

In sum, neither one of the Indian treaties relied upon by the Foreign Relations Committee involved a cession of American territory. Both involved purchases of Indian lands that were approved by Congress.

TREATIES WITH FOREIGN NATIONS

I. THE SPANISH TREATY OF 1819

The first treaty with a foreign nation cited by the committee is the Spanish Treaty of 1819. But it is clear from an examination of the transaction that it fails to support the theory that the President may dispose of public lands by a self-executing treaty.

In the first place, the treaty with Spain was made with the consent of Congress. On March 3, 1819, Congress enacted legislation to execute the treaty (3 statutes-at-large 523). Similar legislation was later reenacted in 1821 (3 statutes-at-large 637).

In the second place, the Spanish treaty did not even involve a cession of American territory but at best the settlement of a boundary dispute.

In boundary dispute treaties, there is always the question whether the territory involved in the adjustment is actually American territory. According to leading scholars, the settlement of a disputed boundary is not a cession of territory. Samuel Crandall states that:

> A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition. (Treaties, Their Making and Enforcement, p. 48.)

Another noted authority, W. Willoughby, explains that treaties settling boundary disputes "can scarcely be considered as instances of the alienation of portions of its own territory, for the fact that the treaties were assented to by the United States is in itself evidence that it was conceded that the claim that the areas in question belonged to the United States was unfounded." (The Constitutional Law of the United States, I, pp. 507–508).

In a letter to the Governor of Massachusetts in 1838, Mr. Justice Story of the Supreme Court observed, in connection with the northeastern boundary dispute between the British and the United States, that:

> In a case of contested boundary, there is no pretense to say that an ascertainment of the true boundary involves the question of cession. (Story, Life and Letters, II, 289).

Thus, the Spanish Treaty of 1819 can hardly be cited as a precedent for the exercise of executive power that is now claimed under this Panama Canal Treaty. It was made under the auspices of congressional approval and was not a cession of American territory.

II AND III. THE TREATIES WITH GREAT BRITAIN OF 1842 AND 1846

The second and third treaties offered by the committee concerned conflicting land claims between the United States and Great Britain on the boundary between Maine and Canada and in the Oregon territory. No cession of territory or property occurred under either treaty.

In the Webster-Ashburton Treaty of 1842, both Britain and the United States made concessions on claims to some 12,000 square miles of land on the boundary between Maine and New Brunswick. In the treaty of 1846, where the United States claimed all the land extending to 54°40′ and the British laid claim to land down to the 42d parallel, a compromise was reached on a 49 degree boundary.

Both of these treaties obviously involve boundary disputes rather than cessions of U.S. territory, and thus fail to support the committee's assumption that

the President may dispose of public lands by a self-executing treaty.

IV, V, AND VI. THE MEXICAN BOUNDARY TREATIES

Continuing to rely on the State Department, the Foreign Relations Committee also suggests that the Mexican treaties of 1933, 1963, and 1970, involving boundary adjustments necessitated by changes in the course of the Rio Grande River, are examples of self-executing treaties for the transfer of American property.

Upon closer examination, however, we find that not only did Congress appropriate the funds to acquire title to the lands conveyed, but that the land transferred under these treaties was not even Federal property. Article VII of the 1933 treaty stated that the lands which would pass from one nation to the other "shall be acquired in full ownership by the Government in whose territory said lands are at the present time." Likewise, the 1963 Chamizal Treaty dealt with non-Federal lands, and Congress provided statutory authorization for the acquisition of lands to be transferred to Mexico under the American-Mexican Boundary Convention Act of 1964 (Public Law 88–300). With regard to the 1970 treaty, the first article of that treaty provided that:

> Once this treaty has come into force and the necessary legislation has been enacted for carrying it out.

Both Governments would determine the necessity for "the acquisition, in conformity with its laws, of the lands to be transferred to the other * * *" in 1972, Congress enacted the American-Mexican Boundary Treaty Act (Public Law 92–549), which authorized the acquisition of "all lands or interests in lands required for transfer to Mexico as provided in the treaty."

In short, these Mexican boundary treaties, as the Congressional Research Service of the Library of Congress correctly concludes, "did not dispose of Federal property, and/or the disposal came about only pursuant to the aforementioned pieces of legislation."

Accordingly, "they do not appear to support the concurrent nature of the disposal power," as advocated by the administration.

VII. THE HONDURAS TREATY OF 1971

In 1971, the United States and Honduras entered into a treaty for the purpose of resolving conflicting claims over the Swan Islands in the Caribbean. The Foreign Relations Committee described these islands as "rock keys," with "no intrinsic value to the United States." The largest of the two islands, noted the committee, "is only 2 miles long and one-half mile wide. The only U.S. interest in these islands is the operation and maintenance of a meteorological observation and telecommunications facility and an air navigation beacon. The islands are populated by approximately six Americans who operate the facility and a dozen Honduran nationals and British subjects who work for the U.S. facilities or raise cattle."

The American claim to the islands was based on the Guano Act of 1856; the Honduran claim antedated the American claim by several centuries. The treaty recognized the sovereignty of Honduras over the islands, and the Honduran Government in turn recognized that the United States would continue to use the land and retain title to the property and improvements on the land necessary for the operation of the facility. All property not retained for the operation of the facility was transferred.

Whether this treaty constitutes a valid precedent for the transfer of the Panama Canal Zone and property by a self-executing treaty is open to doubt. First, it involves two minute islands of no significance to the United States. Even so, the United States retained title to much, if not most, of the property. Second, the treaty has all the characteristics of a boundary dispute in that both parties to the treaty laid claim to the islands. It may therefore be doubted whether this treaty constituted a cession of public lands clearly belonging to the United States. Third, Congress expressed little interest in the disposition of the Swan Islands. As Senator Mansfield remarked when the agreements were submitted to the Senate for consideration:

> It is my understanding that these treaties were reported on unanimously by the Committee on Foreign Relations. I know of no opposition to any of them. [Cong. Record, 20041 (June 7, 1972)].

Congress silence, in other words, may have indicated tacit consent to the transfers of disputed parcels of insignificant property.

That is not the case here. We are not silent here. We are raising the issue because it involves billions of dollars in American property.

VIII. THE JAPANESE TREATY OF 1972

In 1972, the United States and Japan entered into an agreement concerning the Ryukyu Islands and the Daito Islands.

Under article 1 of the agreement, the United States relinquished in favor of Japan all rights and interests it enjoyed under article III of the 1951 Treaty of Peace with Japan. By that article, the United States had received the right to exercise "all and any powers of administration, legislation, and jurisdiction over the territory and inhabitants of these islands, including their territorial waters." Did the transfer of these interests back to Japan under the 1972 treaty involve a cession of American territory within the meaning of article IV, section 3, clause 2 of the Constitution?

The answer is no. A House Armed Services Committee report on a bill dealing with economic development in the Ryukyus recognized that the Ryukyus were not U.S. territory and that American statutory law was generally inapplicable in the Ryukyus Islands. The committee stated that the United States possessed only de facto sovereignty, and that after the Peace Treaty of 1951, Japan possessed a residual sovereignty—meaning, said the committee:

> That the only right which Japan retained was the right to expect that the United States will not transfer the Ryukyus, including Okinawa, to any third party. (Report, p. 6).

In other words, there is reason to believe that the United States did not have territory to cede. In article 2 of the 1951 treaty, Japan renounced all right, title and claim to various pieces of territory. But there was no similar renunciation as regards Ryukyu and Daito Islands discussed in article 3 of the peace treaty. By implication, therefore, the Japanese retained their "right, title and claim" to the Ryukyus.

Three Federal courts also reached the conclusion that the United States never received sovereignty over this territory. In *U.S.* v. *Ushi Shiroma*, 123 F. Supp. 145, 149 (1954), a Federal District Court quoted approvingly a letter written by the Legal Adviser of the State Department which stated that "sovereignty over the Ryukyu Islands remains in Japan * * *" See also *Burna* v. *U.S.*, 142 F. Supp. 623 (1956); affirmad 240 F. 2d 720 (4th Cir., 1957). As in boundary disputes, then, there is some question whether the territory transferred actually belonged to the United States.

It should be noted, however, that the 1972 agreement did involve the transfer of Federal property to the Japanese. But whether this conveyance was accomplished without the consent of Congress is open to doubt. As the American Law Division of the Library of Congress has observed, "It can be argued that Congress assumed that the Executive acted pursuant to powers contained in the Foreign Assistance Act of 1961 or the Federal Surplus Property Act of 1949," or the Japan-United States Friendship Act of 1975, which "contains language * * * that may be argued to be congressional ratification of the executive action."

IX. PANAMA TREATY OF 1955

This brings us finally to the last treaty cited by the State Department and the Foreign Relations Committee, the 1955 treaty with Panama. This treaty provided for the transfer of real property to the Republic of Panama. By the terms of the treaty, the transfer of some property was to be based on the treaty alone, while the transfer of other property was dependent on congressional authorization. A representative of the State Department informed members of the Senate Foreign Relations Committee, however, that legislation would be needed to implement the transfer of all the territory mentioned in the treaty. (Hearings Before the Senate Foreign Relations Committee on the Panama Treaty, 84th Cong., 1st Sess., pp. 60–61).

Articles VI and VII of the treaty, alleged by the committee not to require implementing legislation, simply amended the boundary convention of 1914 between the United States and Panama. The transfers under these articles, in other words, were not cessions of the entire Canal Zone, but boundary adjustments.

Astutely ignored by the committee is any reference to article V of the treaty which, as we have previously noted, repeatedly uses the phrase "subject to the enactment of authorizing legislation by the Congress" in connection with a major property transfer from the United States to Panama.

In sum, the 1955 treaty with Panama strongly supports the established principle that the President may not dispose of U.S. territory and property without the consent of Congress.

Of the 11 treaties cited by the Foreign Relations Committee to show that prior treaty practice supports the President's right to dispose of public lands without the consent of Congress, two are Indian treaties involving the purchase and exchange of territory rather than a cession. Neither treaty was self-executing. Six are treaties to resolve boundary disputes rather than the disposal of U.S. territory, and most of these were unquestionably authorized by Congress. The Honduran treaty concerned disputed property of little or no consequence, and the Japanese treaty dealt with the transfer of captured territory which the United States admitted it did not own. This leaves the treaty with Panama in 1955, which specifically called for implementing legislation under article V, and recognized, according to the Assistant Secretary of State for Inter-American Affairs when he testified before the Senate Foreign Relations Committee, that implementing legislation would be required for the article VI and article VII boundary adjustments.

In light of these facts, the committee's insistence that these 11 treaties "are couched in self-executing terms and transfer territory or property belonging to the United States to other nations or * * * to specific individuals without prior congressional act authorizing such transfer" must be regarded as another excursion by the committee into the world of fantasy.

CONCLUSION

Mr. President, this completes my analysis of the so-called precedents afforded by the Foreign Relations Committee. It is abundantly clear from this review of the committee's report that there is no foundation for the claim that the President has the right to transfer an American territory by a self-executing treaty. To be sure, the whole case for the committee's grotesque interpretation of the Constitution rests on a lonely dictum, extracted out of context from Holden against Joy—a decision which actually conflicts with the committee's peculiar theory—and on two treaties, one involving disputed islands in the Caribbean of no significance, the other captured islands in the Pacific. That, and nothing more, is all the committee has to offer.

The Committee finds that the constitutional text, the intent of the Framers, opinions of the Supreme Court, and historical precedent all suggest that the Panama Canal Treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation. This conclusion is in full accord with the opinion of the Attorney General that "[t]erritory or property belonging to the United States may be disposed of by action of the President and the Senate under the treaty clause."—Op. Atty. Gen.—(1977); *see* hearings, part 1, pp. 199–203.

And, there is considerable doubt whether these two treaties clearly stand for the proposition mantained by the committee. Both treaties did involve transfers of property, but whether these transfers were made without the approval of Congress is uncertain. The property transfers contained in the Honduran and Japanese treaties, if they demonstrate anything, show that transfers without the express consent of Congress are a rare exception in both law and diplomacy. If powers, said the Supreme Court, are "granted, they are not lost by being allowed to lie dormant any more than nonexistent powers can be prescripted by an unchallenged exercise." (*U.S.* v. *Morton Salt Co.*, 338 US 632, 647 (1950).) The failure of the House of Representatives to insist upon implementing legislation regarding the transfer of a small, trivial piece of real estate on two rock islands—tiny islands over which we did not have undisputed ownership—and the transfer of property captured from the Japanese, over which we did not have sovereign ownership, can hardly support the committee's bold assertion "that the constitutional text, the intent of the Framers opinions of the Supreme Court, and historical precedent all suggest that the Panama Canal Treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation." (P. 69).

As we have already observed, nearly all of the precedents cited by the committee to support this preposterous claim are actually in direct conflict with the very theory that the committee is attempting to read into the Constitution. Not one of the judicial precedents cited by the committee even involves a cession of American territory, let alone a cession under a self-executing treaty. The committee fails to cite a single decision of any Federal court which would even lend respectability to the notion that the text of the Constitution and the location of the disposal-of-property clause authorize the President and Senate to override the express power of Congress. The committee offers no evidence to support its assertion that the Framers of the Constitution favored the idea that the President should be free to ignore the House of Representatives in disposing of American territory and property. Bearing in mind that treaty practices do not even enjoy the same stature in law as judicial precedents, most of the treaties cited by the committee are either clearly inapplicable or supportive of the principle that Congress must approve cessions of territory and property belonging to the United States. This is not to mention the countless precedents ignored by the committee which indicate that a treaty ceding territory is not even self-executing in the first place.

Mr. President, we can understand and excuse an honest mistake or, for that matter, a major error in a committee report. In the rush of business, it is too much to expect each committee report on legislation under consideration to be accurate in every detail. But when I see a pattern of grievous errors permeating an entire report in such a way that every sentence and paragraph is either false, misleading, or irrelevant, my suspicions are aroused.

Mr. CHURCH. Mr. President, I suggest to the Senator that he would be better advised not to accuse the committee or its staff of dishonesty, as the next couple of paragraphs seem to suggest.

The Senator is entitled to his own opinion with respect to the constitutionality of this treaty. I, and other Senators supporting the treaty, believe the treaty constitutional and will present arguments to that effect. The Senate can then make its decision. But I think it goes beyond the propriety and the custom of the Senate for the Senator to make such a charge against the basic integrity of the committee or of its staff. I would ask him to show the judgment to withhold that charge.

Mr. HATCH. Mr. President, I appreciate the kind of remarks of the distinguished Senator from Idaho.

All I am saying is my suspicions are very much aroused. I am delighted to follow the Senator's advice with regard to that. But I think many suspicions are going to be aroused as a result of what I consider to be serious problems with the five-page cursory analysis by the Committee on Foreign Relations of what happens to be one of the most important constitutional issues in our country's history.

I would not suggest that any Senator would participate in anything which would contribute to a false, misleading, erroneous, or irrelevant series of statements. I do not personally believe that. I do not think that any Senator should be blamed for that. But we Senators many times rely upon the work of the staffs, and in this case there are so many things that are wrong with that report that I cannot help but raise them and raise them forcefully here.

I might say that throughout the debate on these treaties, the proponents have repeatedly echoed the wild and extravagant claims of the State Department, and have hid behind the assurances of the State Department without questioning their accuracy. Against their better judgment and military sense, certain members of the Joint Chiefs of Staff have been persuaded to support these treaties. And why? Because the State Department assured them that this was the proper course to take. Time and again members of the Foreign Relations Committee—with the notable exception of my colleague from Michigan (Senator GRIFFIN) have stood on this floor and assured us that this fact or that fact is true because the State Department says its true. The committee report is, indeed, little more than a carbon copy of the phoney theories paraded by the State Department to support a dangerous and unprecedented exercise of Executive power.

Past experience would seem to suggest, Mr. President, that Senators ought to be on their guard when State Department representatives come to the Senate seeking more power for their chief. The two greatest tragedies in recent American history are the war in Vietnam and Watergate. And it is no secret that the State Department and the Justice Department, which are misrepresenting the Constitution in connection with the Panama Canal Treaty, played a key role in bringing them about.

Are memories so short that the Senate Foreign Relations Committee has already

forgotten the so-called 125 incidents that were cited not so long ago by the State Department to support the President's encroachment on Congress war powers? in 1966, when American troops were being sent into Vietnam by the thousands, the Legal Adviser to the State Department proclaimed—and these are his exact words, Mr. President, that—

> Since the Constitution was adopted there have been 125 instances in which the President has ordered the armed forces to take action or maintain positions abroad without obtaining prior congressional authorization, starting with the "undeclared war" with France (1799–1800). (Office of the Legal Advisor, U.S. Department of State, "The Legality of the United States Participation in the Defense of Vietnam," reprinted in 75 Yale Law Journal, 1085, 1101).

Under careful examination by constitutional scholars, however, these 125 incidents or precedents offered by the State Department, proved to be feeble, indeed. The "vast majority" of such cases, said the distinguished constitutional authority, Edward S. Corwin—

> involved fights with pirates, landings of small naval contingents on barbarous or semi-barbarous coasts (to protect American citizens), the dispatch of small bodies of troops to chase bandits or cattle rustlers across the Mexican border." ("The President's Power," in D. Haight and L. Johnston, eds., *The President's Role and Power*, p. 361).

And almost all these minor episodes, added Henry Steele Commager, represented the "use of Presidential force against small, backward and distraught peoples." (Quoted in Raoul Berger, "Executive Privilege," p. 77). "The incidents," concluded Raoul Berger, in his classic study on executive privilege, were—

> far from "precedents" for sending our troops into battle, engaging upward of 500,000 men. At best, the "125 incidents" constitute bootstraps precedents which add up to a claim that the President may alter the constitutional distribution of powers by his own practices and reallocate to himself powers exclusively confided in Congress, (p. 88).

The Foreign Relations Committee ultimately came to the view that the Nation had been misled. "Congress," acknowledged the committee in 1972—just 6 years ago—"bears a heavy responsibility for its passive acquiescence in the unwarranted expansion of Presidential power." (S. Rept. No. 606, 92d Cong. 2d sess., p. 18 (1972).)

In like measure did the Justice Department labor to expand the powers of the President through the misrepresentation of so-called precedents. In 1957, as Senators will recall, Deputy Attorney General William P. Rogers assembled a mountain of precedents in a memorandum to the Senate justifying the right of the President "to withhold requested information from Congress." (Memorandums of the Attorney General, Senate Judiciary Committee, 85th Cong. 2d sess. (1958) p. vii). The Rogers memo subsequently became a bible for the executive branch, and its so-called precedents were repeated to Congress in 1971 by Mr. Rogers, who was then Secretary of State. By 1973, President, Nixon had "invoked executive privilege some eight or more times, including his much-criticized refusal to reveal the taped White House conversations with his aides." (Berger, p. 253). All of this was done in the name of "established precedent" which, under the scrutiny of Raoul Berger and the Federal courts, came crashing down with the fall and resignation of the President.

Mr. President, the precedents cited by the Foreign Relations Committee in connection with the Panama Canal Treaty have no greater merit than the precedents that were cited earlier by the State Department and the Attorney General to justify the President's encroachment on Congress war powers or the false claims of executive privilege. The Government of the United States is now contemplating the transfer of one of the world's most important, vital waterways to a tiny country in Central America that is controlled by an unfriendly dictatorship, the outcome of which is very uncertain in terms of our security and national interests. Such a momentous decision cannot and should not be made without the consent of Congress and the American people. Our Constitution provides for congressional participation, as Henry Steele Commager once declared, "in the great decisions that spell life and death to the Nation." (Berger, p. 344).

The American people know this and the Members of the House of Representatives know it. At this very moment, there is pending in the House of Representatives a resolution, House Concurrent Resolution No. 345, supported by 235 Democrat and Republican Congressmen—more than a majority—which declares that the House must be given a voice in the decision to surrender this marvel of American genius and engineering to this petty tyrant named Torrijos.

If Senators ignore this resolution, and continue to insist that they have the sole right and prerogative to make this momentous decision, on their own, and to do what 100 men think is in our best interest, without seeking a national consensus, then I fear that the U.S. Senate is courting another disaster. "If there is one lesson we have learned from this involvement in Vietnam," Secretary of State Rogers told the Senate in 1971, "it is that we need congressional support and we need public support." (Fulbright hearings, p. 511, as quoted in Berger, p. 345). And I say to the Members of the Senate we need congressional support and public support for the transfer of this great canal. We have already had enough Vietnams and enough Watergates.

Mr. President, I urge the adoption of this amendment.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a recent editorial in the Winston-Salem Journal is right on target concerning the Torrijos drug connection.

In response to statements that the U.S. Senate, in its consideration of the Panama Canal treaties, is not dealing—

> With General Torrijos . . . we are dealing with the Republic of Panama, and I know of no charge against it—sentiments expressed in this Chamber after the closed session of the Senate—the Journal editorialist wisely points out that the Republic of Panama is Torrijos, and has been since the general took power in 1969 and instituted a semi-dictatorial regime.

Mr. President, the editorial of the Winston-Salem Journal is right on target.

There can be no doubt in the mind of any reasonable person that the conduct of the dictator of Panama is a legitimate subject of consideration in the Senate's deliberations on the Panama Canal treaties.

Unfortunately, the public was unable to share in the Senate's deliberations on the drug charges. I opposed the closed session of the Senate. The public's business should be conducted in public as much as reasonably possible. The serious allegations against General Torrijos and members of his family and government deserved a full public airing. The people have a right to know, and were denied that right. Little wonder that the Congress continues to be held in low esteem by the public is all major opinion surveys.

But, be that as it may, again, the Winston-Salem Journal was right on target with its editorial. The Journal editorialist wrote:

> By sticking to secret sessions, the Senate also managed to keep the American people from making an informed judgment on Torrijos' alleged narcotics dealings. That would be understandable if the Senators were shown nothing but trash. The public record, however, tends to undercut that possibility.

The Journal then proceeds to list a wealth of information in the existing public record corroborating allegations of drug dealings at the highest levels of the Panamanian Government..

This is the same Government, Mr. President, that we are asked to trust with the security and welfare of one of the most important waterways in the world. Should not the American people have the full facts about that Government and its top officials?

The Journal dealt only with the public record:

> One can only speculate what the private record contains. But this much is clear: Given the public record alone, the American people deserve more than the curt dismissals of the significance of the two days of closed-door Senate sessions.

The Journal continues, right on target once more.

Mr. President, this is a valuable and instructive editorial. I wonder how many other newspapers, whose duty it is to get at the truth, share the same concerns expressed by the Journal. My guess would be that the number is large. Unfortunately, that number does not seem to include either the Washington Post or the New York Times, whose editorial policy seems to have unduly influenced the judgment of its news writers.

More important than the newspaper's right to know is the people's right to

know. This the Journal fully understands. The Journal says:

Perhaps nothing not already known appeared during the sessions. Perhaps the accusations against Torrijos, even if they could be proved, should not affect the passage of the Panama Canal treaties. But the American public has the right to know as much as possible about those accusations. . . . And the American public has the right to decide what weight to put on those accusations in determining whether to approve or disapprove the canal treaties.

Mr. President, I commend this editorial to my colleagues. Soundly reasoned and properly qualified, it raises serious questions about the propriety of keeping the public uninformed about the serious allegations raised against General Torrijos, members of his family, and his government.

I recall that when allegations of impropriety and possible illegal conduct were raised against high officials of our own Government, including, eventually, our own President, the Senate spent thousands of hours and who knows how much money to get to the bottom of the allegations. Do we not deserve to do at least the same—on a proper scale—for the Torrijos government to whom it is proposed that we give away one of our great national assets?

Mr. President, so that my colleagues may have the benefit of this excellent editorial, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Winston-Salem Journal, Feb. 24, 1978]

THE PUBLIC RECORD

The Senate has completed two days of closed-door sessions dealing with the possible involvement of Panamanian strongman Omar Torrijos in the international drug trade. Whatever was discussed in secret did not seem to impress many senators or change any votes in the battle to ratify the Panama Canal treaties. "There is no evidence," said Majority Leader Robert Byrd, "that would stand up in any United States court of law linking Gen. Torrijos to any illegal narcotics operation of any kind." Said Minority Leader Howard Baker, "We are not dealing with Gen. Torrijos. . . . We are dealing with the Republic of Panama, and I know of no charges against it."

But the Republic of Panama is Torrijos, and has been since the general took power in 1969 and instituted a semi-dictatorial regime. And the Panama Canal treaties are opposed by many Americans partly because of Torrijos and his form of government. The Senate met behind closed doors to prevent the compromising of classified documents. But by sticking to secret sessions, the Senate also managed to keep the American people from making an informed judgment on Torrijos' alleged narcotics involvement. That would be understandable, if the senators were shown nothing but trash. The public record, however, tends to undercut that possibility. Consider what is known outside the Senate's chambers:

According to a 1973 draft report of a House subcommittee, "Panama has become the conduit through which passes enormous quantities of dope—an estimated one-year period—used by U.S. addicts. This means that at one point in time, roughly 20,000 American drug addicts were getting their daily supply by this route."

According to the same House report, the international transit chief at Tocumen Airport in Panama, Joaquin Him Gonzales, was arrested in the Canal Zone by U.S. narcotics agents on Feb. 6, 1971. Gonzales was brought to the United States and tried on charges of conspiring to ship heroin worth more than $1 million to Dallas. Said the House report: "Gonzales was allegedly a Torrijos protege and this relationship was made clear when the Panamanian government mobilized all its resources . . . for the offender to be returned to Panama."

The House report also mentioned "the arrest of Manuel Rojas Sucre, the nephew of Panama's Vice President Arturo Sucre, at Kennedy International Airport on Dec. 3, 1972, with cocaine, liquid hashish, and a diplomatic passport (his mother is Panama's counsel general in Montreal). . . ."

A 1972 Senate subcommittee report noted "the seizure of 180 pounds of heroin on July 8, 1971, when Rafael A. Richard, Jr., son of the Panamanian ambassador to Taiwan, was arrested at JFK Airport in New York." Richard subsequently drew a prison sentence of three and a half years.

According to a CBS News report aired last year, Drug Enforcement Agency files describe Col. Manuel Noriega, head of the Panamanian national guard, as being a bag man for Torrijos and "allegedly in charge of setting up bank accounts and laundering narcotics money."

In 1971, Torrijos' brother, Moises, then Panamanian ambassador to Argentina, was secretly indicted by a federal grand jury for his alleged involvement in the attempted smuggling of 154 pounds of heroin into the United States through Kennedy Airport.

A Senate Intelligence Committee report, issued just the other day, said that "some sources have provided intelligence which we view as reliable and which we believe suggests that Gen. Torrijos knew about narcotics trafficking by government officials and did not take sufficient action to stop his brother's activities."

That is the public record. One can only speculate what the private record shown to the Senate contains. But this much is clear: Given the public record alone, the American people deserve more than curt dismissals of the significance of two days of closed-door Senate sessions. Perhaps nothing not already known appeared during the sessions. Perhaps the accusations against Torrijos (even if they could be proved, should not affect the passage of the Panama Canal treaties. But the American public has the right to know as much as possible about those accusations, consonant with the requirements of confidentiality. And what weight to put on those accusations in determining whether to approve or disapprove the canal treaties.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HELMS. Yes, gladly.

Mr. SCHMITT. Will the Senator yield just for a question? I know the Senator spent a good deal of time in his home State during this last recess, as did, I presume, the Senator from Utah and other Senators.

I noticed in the last day or two another Harris poll that suggests that the country is evenly split now on the question of the Panama Canal Treaties.

Did the Senator notice any diminution in the opinions of his constituents during this last recess?

Mr. HELMS. Quite to the contrary, I would say to the distinguished Senator from New Mexico. The intensity of the opposition to the treaties was more pronounced than ever, and I was sad to note that the degree of public confidence in the Senate has been further diminished as a result of the approval of the Neutrality Treaty. Great concern was expressed everywhere I went.

I went into 10 or 12 counties in my State, and it seemed unanimous that the people simply do not want the remaining treaty to be approved. My message to them was I hope that the people of other States were communicating to their Senators their sentiments about the treaties during the Easter recess.

But to answer the Senator's question, I have seen no reduction in the opposition to the treaties. Quite to the contrary, I think it is more intense. Only 3 weeks ago the prestigious Opinion Research Corp. of Princeton, N.J., took a nationwide poll and found 72 percent opposed to giving up ownership and control of the canal.

Mr. SCHMITT. Well, of course, I can only state over the last 10 days for the State of New Mexico. I think I can in fact state, because my travels were quite extensive, particularly throughout the northwestern and northeastern portions of the State and Albuquerque, which is a major population center of the State, that I frankly could see absolutely no change in the very strong personally expressed opposition to the transfer of the Panama Canal under the conditions of the treaties.

Everyone has a different idea about how we might get out of the mess that we now have gotten ourselves into, but nevertheless there is a great deal of discomfort and disenchantment with this particular mode of change.

That, of course, corresponds with our mail. I think it wise for Senators to realize that a great deal of our mail on any issue is negative. The people who write letters to us tend to write letters because they are opposed to something; and unfortunately there are a lot of things to be opposed to these days. I think most Americans basically are positive in their outlook on things, but when they are positive and feeling good about something, they tend not to let us know about it.

In the case of the Panama treaties, however, I think that at least in New Mexico it is clear that the personally expressed opposition to the treaties roughly coincides with the written expressed opposition to the treaties. Now, I am talking about personal letters, not necessarily the form letters and form cards that come in, but the personal letters that people send.

I think that before the Senate accepts at face value the indications of another Harris poll which suggests an equalization of opposition and those in favor of the treaties, Senators at least should assess their own constituencies and see if that is in fact what they see at home.

I certainly did not see that in New Mexico. I see very little change, other than a great deal of disappointment that the Senate did ratify the Neutrality Treaty and a great deal of hope that either in the process of debate on the Panama Canal Treaty or in the process of debate on implementing legislation, this decision, will, one way or another, be reversed.

I commend the Senator for his activities, and thank him for answering my question.

Mr. HELMS. I thank the Senator from New Mexico. I might state that many people in North Carolina expressed surprise at the way these debates have been covered by the major news media. Sometimes we sit in the Senate, and there may be an assumption by some Senators that all wisdom resides here, when as a matter of plain fact it does not. But the instinctive reaction of the people of my State, notwithstanding the one-sided news coverage, has been very interesting.

North Carolinians are concerned about a number of things, not merely the giveaway of the canal nor the defense aspect, but the economic aspects of it. North Carolinians are aware that a great deal of the agricultural products which North Carolina exports go through the canal. Then there are the shipments of oil, the Alaskan oil; they understood about that. So I was struck by the obvious fact that the people of my State have been able to gain correct impressions, despite the fact that the major media of my State, indeed of the Nation, are almost unanimously in favor of the treaties.

I have talked with the people of North Carolina, and I suspect that, like the people of New Mexico, they are hard to fool. And that speaks well for them.

Mr. SCHMITT. They certainly seem to be hard to fool, at least in this Senator's judgment.

One issue that has been more and more talked about in New Mexico, and I am not exactly sure why, because it has not been talked about much on the floor of the Senate, is whether the transportation mechanism of the Panama Canal across the isthmus is going to be obsolete at some time in the future.

It is hard for anyone who has grown up in our school systems, at least school systems with a course or two in geography, to understand how a passageway between oceans now separated by a continent or two can become obsolete. World commerce would seem to require an economical passageway across the backbone of those continents. I frankly have trouble explaining that to them, because I, for one, cannot see how anyone could claim that world commerce would prefer to go around the tip of South America or try to find a northwest passage, rather than have an economically viable, assured, nondiscriminatory route across Central America.

I think we are going to find, no matter what happens to these treaties, that in the very near future the issue will be joined again, because it is a fact of major importance to world commerce that there be access across the canal area, the Central American area, and that is not going to decrease, it is going to increase, because world commerce is on the increase. I believe in the future we are going to find much more inventive, much larger, much more economically viable techniques by which to cross that isthmus. I think it is only a matter of time, as I have said, before we discover that, not only here in the Senate but maybe in the hemisphere as a whole.

Mr. HELMS. I think the able Senator is unquestionably correct. This is another point that I am sure his citizens in New Mexico, as well as certainly mine in North Carolina, realize.

I might say to the Senator that last year, I think the date was June 30, if I remember correctly, I visited with President Carter. We spent about 40 minutes talking about the proposals to give away the Panama Canal. Of course, that is the way I characterized it; he characterized it somewhat differently.

But I went to the White House to offer to the President an alternative proposed by a number of us in the Senate who oppose the treaty. I delivered to the President a letter signed by four former Chiefs of Naval Operations, one of whom is a former Chairman of the Joint Chiefs of Staff, in which the relinquishing of the ownership and control of the Panama Canal was described by those four distinguished Navy leaders as being perilous to the survival of the United States.

I was designated by my colleagues to inform the President that if he would abandon the idea of the giving away of the Panama Canal, a number of us in the Senate would support him wholeheartedly in a major program to modernize the locks of the Panama Canal, take a new look at compensation and other aspects of the present relationship that may or may not be inequitable.

The President evidenced a great deal of interest in the proposal. But later he talked with Mr. Bunker and Mr. Linowitz, and that was the end of that.

But I yet believe, I would say to the distinguished Senator from New Mexico, that if the President had followed that advice, we would not only have avoided this confrontation in the Senate which has been an embarrassment to some of the Senators who were pressured into voting for the Neutrality Treaty. We would now be well on our way to a very acceptable relationship with the people of Panama. I emphasize the words "people of Panama," because these treaties do not propose to turn over this canal to the people of Panama.

The proponents of these treaties propose to turn it over to the Torrijos regime.

I thank the Senator for his comments. We will just proceed with our discussions and hope that, as Senator Ervin often said, the light of wisdom will flow down from the heavens. Perhaps two or three Senators will change their votes and we can put an end to this debate—and then go back to the drawing board and see what is fair and equitable to the people of the United States and to the people of Panama.

Mr. SCHMITT. If the light of that wisdom is the wisdom of the people, then I think the light is already before us.

Even if one would assume that half the people of the country now favored passage of these treaties, one would have to look at the way the question was phrased in a survey such as the Harris survey. But even if they do, that is still a very large number of people who feel we are doing the wrong thing. Any time we get into a situation where a larger number of people in this country, even a large majority, feel that we are making the wrong move, then I think it is time for the Congress to take cognizance of that. We did not do that, to our detriment, in recent history. To again not do that is something that I think represents a very serious oversight on the part of the Congress. I hope, and, as a matter of fact, I will always be optimistic, that the Congress will rectify any mistakes it makes in that regard.

Mr. HELMS. I thank the able Senator. Let me say that I greatly admire his leadership in this matter. The people of New Mexico have every reason to be proud of him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I commend the distinguished Senater from Utah for the fine presentation he has made today. He has developed a quality of leadership in this discussion which has been quite impressive to the people in my State. I heard many compliments about the Senator from Utah last week when I was traveling around North Carolina.

Mr. HATCH. I thank the distinguished Senator from North Carolina for his kind comments. Likewise, I have heard fine comments from across the country concerning the fight the Senator from North Carolina has been making. I personally have a high professional regard for the Senator from North Carolina as a Senator, and one who has made a fine contribution to this country.

Mr. HELMS. I appreciate the comments of the Senator from Utah.

Also, I might say that the junior Senator from Alabama (Mr. ALLEN) is very highly regarded by the people of North Carolina, and would be easily elected to the Senate from my State if he chose to run there. I hope he does not choose to run there this year, of course.

I again commend the distinguished Senator from New Mexico, with whom I have just had a most useful and most interesting discussion.

Mr. President, I think that it would be useful at this point to discuss in detail the nature of U.S. property rights in the Canal Zone. It seems to be fashionable in certain circles to deny that our rights in the Canal Zone constitute ownership. Some distinguished Members of this body, for example, have openly denied—even ridiculed—the notion that the property in the Canal Zone is held by the United States as a possession. The State Department has gone so far as to assert that the Republic of Panama retains "residual ownership" of the Canal Zone, a proposition that goes directly counter to Panama's renunciation of certain claims in the 1903 treaty.

In fact, there is such a general confusion about the nature of our rights in the zone that terms such as "title," "property," "possession," "territory," and "sovereignty" have been used as though they were virtually interchangeable. Of course, they all have specific meanings, and it is important to distinguish among them. It is especially important during consideration of the

powers of Congress under article IV, section 3 of the U.S. Constitution, that we have a clear idea of the distinctions. The Constitution says that—

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

If we are going to know what power Congress has in this regard, obviously we must know precisely what "territory or other property belonging to the United States" constitutes.

Let us look at some of these terms:

First. Property belonging to the United States obviously includes all forms of U.S. Government property, both movable property and real property. Movable property speaks for itself; there are examples of such movable U.S. Government property all around us. The Panama Canal Treaty, in article XIII, speaks only of the transfer of "real property, including nonremovable improvements thereon." By implication, therefore, movable property is not transferred by the treaty, except for certain tools and equipment relating to the ports of Balboa and Cristobal and which are specified in an inventory in annex B to the Agreement in Implementation of Article III of the Panama Canal Treaty. It appears, therefore, that the transfer of the movable property listed in annex B, as well as any other movable property, falls under the provisions of article IV, section 3 of the Constitution, and must be specifically authorized by the Congress. The President is not authorized to dispose of this property by an executive agreement which does not come either before the Senate or the House.

Real property, on the other hand, is property to which the United States bears title. As I intended to go into more detail about the U.S. titles in the Canal Zone, I shall pass over that point now, except to indicate that the question of title is the one thing upon which the U.S. Supreme Court has pronounced definitively. There are those who maintain that the U.S. Supreme Court decisions can be ignored because they have no bearing in international law. Some have even referred to such decisions as unilateral decisions not accepted by Panama. But Panama, by the Treaty of 1903, is prohibited from the exercise of any sovereign rights, power, or authority in the zone, and that prohibition remains until the treaty is abrogated. The exercise of supreme judicial power is a power that only the United States can exercise in the zone.

Moreover, the issue at hand is not whether Panama has accepted the decisions of the U.S. Supreme Court, but whether the President, the Secretary of State, the treaty negotiators, and the Members of the U.S. Senate and House of Representatives have accepted those decisions. All such officers of the United States are sworn to uphold the U.S. Constitution—and that means the Constitution as interpreted by the Supreme Court. We are discussing an internal question, Mr. President, the question of the application of article IV, section 3 to the decisions of this body and of the House. Whether Panama accepts the interpretations of the U.S. Supreme Court is totally irrelevant; what is relevant is the responsibility of this body.

Second. A possession of the United States is property which the United States holds outside of the 50 States and the District of Columbia. The United States need not hold sovereignty over a "possession" for U.S. law to have effect within its boundaries. In the much-quoted Vermilya-Brown case, the U.S. Supreme Court ruled that the Fair Labor Standards Act applied to the construction of a U.S. military base in Bermuda, even though the United States did not have sovereignty. The Court ruled that the base was a U.S. "possession," drawing its analogy from the Canal Zone, which the Court also deemed a "possession." Although the Court's statements about the Canal Zone were mere dicta, and not a ruling, the dissent by Justice Jackson did not take issue with the 5 to 4 majority's description of the Canal Zone as a "possession." Instead, he argued that our authority in the Canal Zone went far beyond that in Bermuda. He said:

> The Isthmian Canal Convention ceded the Canal Zone to the United States . . . To such an extent, indeed are we sovereign in the Canal Zone that Panama has been granted special commercial rights only by express and formal concession, and this Court has reviewed the history of the acquisition and concluded that the title of the United States is complete and perfect.

Third. Territory of the United States is of two kinds: incorporated and unincorporated. The distinction does not help us very much because the Canal Zone appears to be the last unincorporated territory of the United States. The distinction is said to have been based upon the notion of whether or not Congress had decided to make the territory a permanent part of the United States. The lack of such a decision on the part of Congress does not imply that such territory could not become a permanent part of the United States; it merely indicates that the decision to incorporate was never made. The Philippines, for example, was unincorporated territory of the United States. It was always our intention to give the Philippines independence.

The Canal Zone is unincorporated territory of the United States. This was the holding in the 1971 Fifth Circuit Court of Appeals case of United States against Husband R., a decision which was allowed to stand by the Supreme Court. The Court said:

> The Canal Zone is an unincorporated territory of the United States. Laws applicable in the Canal Zone are enacted by Congress—there is no local legislature.

The last sentence just quoted in the Court's opinion is a statement of the obvious. The U.S. Congress is the legislature for the Canal Zone. Its relationship to the Canal Zone is not the same as its relationship with the 50 States; whereas Federal law applies only to the Federal interest in the Nation as a whole, in a territory without a legislature there is no other interest except a Federal interest.

The Court's opinion said further:

> Congress has complete and plenary authority to legislate for an unincorporated territory such as the Canal Zone, pursuant to Article IV, Paragraph 3, Clause 2 of the Constitution, empowering it "to dispose of and make all needful Rules and Regulations respecting the territory or other Property belonging to the United States."

In short, Congress has continuously legislated for the Canal Zone under article IV, section 3 under its authority to "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Just as a State legislature takes into consideration the local problems and conditions in making State laws, so too, Congress takes into consideration the special conditions relating to the Canal Zone.

Congress established the Canal Zone Code, for example, and set up the U.S. District Court at Balboa under article IV. Whereas most Federal courts are set up under article III, the Balboa court is an article IV court—sometimes called a territorial court. Federal laws apply to the Canal Zone, although often special exception is made to suit local conditions. For some purposes of law, the Canal Zone is treated as an integral part of the United States; for other purposes of law, it is not. The point is that it is up to Congress to make this decision. Congress has the authority and power to treat it either way, depending upon the purpose Congress has in mind.

It is highly erroneous to draw the conclusion that the Canal Zone is not territory of the United States just because Congress has placed it in a special category for certain purposes. The fact that Congress has the option of treating it one way or the other is proof that the Canal Zone is territory of the United States, for Congress can make any rules and regulations it chooses under article IV, section 3.

Thus, some have argued from the Supreme Court's decision in the case of Luckenbach Steamship Co. against United States that the Canal Zone is foreign territory. But what the Court decided in Luckenbach was that Congress had, for certain purposes, namely, the importation and control of merchandise, determined that the ports of the Canal Zone be treated as foreign ports. At issue was whether the Luckenbach Steamship Co. should receive compensation for the transportation of mails at a domestic rate, or at the higher foreign rate. The dispute was an internal dispute between the Post Office, which contracted with Luckenbach at the higher rate, and the General Accounting Office, which would only allow payment at the lower rate. The issue was which agency was interpreting the laws of Congress correctly.

The Supreme Court pointed out that Congress treated the Canal Zone differently for different purposes, and that for the purposes of importation, Canal Zone ports should be treated as foreign ports. The Court did not question the right of Congress to treat it one way or the other; it only sought to answer the question of how the determination of Congress was to be applied. Of course, when one looks at the circumstances of the Canal Zone, it is clear that the decision of Congress was based upon com-

monsense. The ports of the Canal Zone are 3,000 miles from the United States, and it would be difficult to control importation and immigration without treating it as a foreign port. Moreover, from the point of view of the Post Office, mails to the Canal Zone were a unique case, and it would have been difficult to get proper service from private steamship lines unless the compensation was at the higher foreign rate.

The Luckenbach case, therefore, does not prove that the Canal Zone is not territory of the United States, but shows instead that Congress did treat the Canal Zone as a territory of the United States, acting under article IV, section 3.

A similar set of circumstances surrounds the issue of citizenship. Some of my distinguished colleagues have attempted to argue on this floor that the Canal Zone was not U.S. territory because those born there are not automatically U.S. citizens. This argument involved the false presumption that ciitzenship is an accident of geography at the time of birth. The plain fact is that citizenship is conferred through a complicated set of laws laid down by Congress, laws that frequently undergo change and revision. Even the terms citizen and national are not synonymous. In certain circumstances a person can be a national of the United States, owing allegiance to the United States, but not a ciitzen of the United States. Even our treatment of the citizenship of those born in the Canal Zone has varied from time to time depending upon our laws.

In 1907, the U.S. Attorney General ruled that citizens of Panama who were residents of the Canal Zone at the time of the treaty owed allegiance to the United States and were entitled to passports. The Attorney General said:

> In my opinion the sovereignty over the Canal Zone is not an open or doubtful question . . . The treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars "all the rights, power, and authority" in the former sovereign.
>
> The rights so transferred are to be enjoyed . . . "in perpetuity" and no exception is made of any persons or things in the Zone.
>
> I am unable to perceive that this language is obscure or ambiguous or that we are warranted in resorting to any construction of it except by the first rule of construction—that plain and sensible words should be taken to mean what they say . . .
>
> According to international law, with which American practice in framing treaties and dealing with inhabitants of such territory has been consistent, it is well settled that in cases of acquisition of inhabited territory of the inhabitants, unless there is something in the treaty or act of cession providing otherwise.

At the present time, Mr. President, the Canal Zone is clearly not foreign territory for the purposes of determining citizenship. Congress has placed the Canal Zone in a special category, different from the category for those born in foreign countries. Today, inhabitants of the Canal Zone claim U.S. citizenship under a special statute dealing with the Canal Zone, 8 U.S.C. 1403, and receive certificates of citizenship under 8 U.S.C. 1452. Under the definitions of our law (8 U.S.C. 1101), "the term 'United States' as used in section 1452 of this title includes the Canal Zone."

The reason that Congress can treat citizenship in this way is that Congress has the power to make all needful rules and regulations for U.S. territory. In other words, we are talking about U.S. territory, article IV territory. And Congress not only makes needful rules and regulations for such territory; it also has the power to dispose of it. By Congress, Mr. President, is meant both the Senate and the House of Representatives.

Thus we see that the Canal Zone is property of the United States, a possession of the United States, and territory of the United States. Under all three categories, the Canal Zone falls within congressional authority of article IV, section 3. That is the only issue we have here at stake today. If the House of Representatives is to act, it must act under article IV, section 3. If the Canal Zone is either a property, a possession, or a territory of the United States, then the House of Representatives is obliged to act. But the Canal Zone is all of those—so the House of Representatives must act if our constitutional processes are to be preserved. Now let me turn to the issue of sovereignty.

Fourth. Sovereignty is an issue totally separate and apart from the issue of whether the House of Representatives must act on the disposal of the Canal Zone. The Senator from North Carolina believes that sovereignty is a very important issue, essential to our ability to operate and defend the canal. Indeed, it is my judgment that the principal defect in the present treaties presented for ratification is that they give up the rights of the United States to exercise sovereign powers in the Canal Zone. It is, in fact, an irremediable defect in these treaties.

The problem is that there is no settled definition of sovereignty. Theorists have composed definitions that are satisfactory to theorists; but they are definitions that have never been tested. For, in the long run, sovereignty is an attribute of power. It is the supreme power or dominion over a defined territory. In other words, whoever has the power to prevent someone else from seizing power has sovereignty.

There have been attempts to divide the notion of sovereignty into de jure and de facto sovereignty. There is no question that we have de facto sovereignty over the Canal Zone. De facto means a situation where, as a practical matter, certain circumstances obtain. But as a practical matter, we do exercise all the rights, power, and authority of a sovereign power in the Canal Zone. The Treaty of 1903 gives us that authority. At the same time, it forbids Panama from exercising any attributes of sovereignty whatsoever. So if Panama does not and cannot exercise any sovereignty over the Canal Zone, whereas the United States can and does exercise all the rights of sovereignty, then the question is plain. Only the United States, as a practical matter, exercises sovereignty in the zone.

But is there such a thing as de jure sovereignty? Once again, it is plain that the sovereignty which the United States exercises in the zone is de jure. The United States exercises sovereignty pursuant to the concessions of the 1903 treaty. The 1903 treaty is a legal document, recognized by all nations under international law. So the sovereignty which we exercise in the Canal Zone is also de jure.

It is difficult to escape the fact that sovereignty is not an abstract right that exists apart from any practical situation. It is absolute power exercised over a specific territory. By that definition, we do have sovereignty in the Canal Zone. No one, not even Panama, has the right to challenge anything that we choose to do in the zone. Sovereignty is legitimate power in operation. It does not exist apart from the power to enforce it. A small nation has sovereignty as well as a large nation, but only so long as a strong nation is willing to back up the claims of the smaller in the face of aggression.

Sovereignty is an abstraction developed in the 18th and 19th centuries to help rationalize the claims of power. It is a useful concept, but one that has never really been put to test in international legal forums. For, in the long run, the only enforcer of sovereignty is power. Sovereignty is supreme power; and, in the history of man, war has been the ultimate arbiter of sovereignty.

But did Panama retain any elements of sovereignty in the treaty of 1903? Does Panama have any residuum, any shade of title to claim supreme power? That is a question that has never been resolved. Some of my distinguished colleagues have said that we do not have sovereignty because Panama retains titular sovereignty; or that we are obliged to give the Canal Zone to Panama if we decide to give it up. Of course, that position depends on fallacious reasoning. It is a circular argument. The question to be decided is precisely the question of whether Panama retains any interest in the zone. If Panama does retain an interest, then we would be obliged to turn it over if we decide to give it up. Unfortunately, the treaty is silent on the matter.

As a matter of fact, the treaty of 1903 consistently treats the Canal Zone as a cession. The original draft spoke of a lease; but all references to the word "lease" were removed, and the word "grant" substituted in some form over 20 times. In Spanish, the equivalent word used is conceder, which has the same meaning as concede in English. What was involved were concessions of both land and sovereign rights, the latter described by Philippe Bunau-Varilla as "a grant of sovereignty en bloc."

It is that grant of sovereignty which enables the United States to defend the canal as we please, without interfering with Panama's sovereignty. The concept of a grant of sovereignty was a brilliant solution to the problem of conflicting jurisdictions. There is no way that two nations can exercise sovereignty in the same territory without one infringing on the other—either by a practical incursion of power, or by political and economic interference. At the beginning the 1903 treaty also imposed upon the United States the responsibility for the maintenance of Panama's independence from third-nation attacks, and for the maintenance of internal order and sanitation.

This responsibility, of course, was an infringement on Panama's sovereignty and was bound to create frictions, even though it was a practical necessity in the beginning. So at Panama's request, the United States continuously withdrew from operating in Panama's territory, even though we had the obligation to do so by treaty. By 1955, the United States had withdrawn completely from Panama's affairs and from Panama's territory.

Thus, the Canal Zone is not an interference with Panama's sovereignty; it is a device whereby we can avoid interfering in Panama's territorial integrity or internal affairs. It is precisely the loss of this device in the treaties before the Senate today that creates a situation balanced upon a logical impossibility, a contradiction of predicates. That is why the sovereignty issue is important.

But it is not directly relevant to the issue of participation of the House of Representatives in article IV, section 3 authority. That depends upon the disposition of property—property which would still be property of the United States even if we should give up our right to exercise sovereign powers in the zone. The only relation of sovereignty to ownership is that sovereignty ultimately protects the owner from expropriations. Therefore, when the sovereign and the owner are identical, expropriation is impossible.

Nevertheless, sovereignty and ownership are two different things, and the Senate must not get them confused. Indeed, property, possession, and territory are three different concepts also, but they all come under the purview of article IV, section 3. All three of them can exist without the owner also having sovereignty. It is the question of ownership that is at stake in article IV, section 3, not sovereignty.

Let us turn, therefore, from the general concepts to the specific. Let us examine the rights of ownership which the United States enjoys in the Canal Zone. Since these rights spring from different sources, each must be examined in turn to understand the nature of those rights.

II. THE STATUS OF U.S. LANDS GRANTED BY PANAMA

It is commonly believed that most of the land in the Canal Zone was conveyed to the United States by the treaty of 1903. But, as I hope to point out to the distinguished Members of this body, the preponderance of the land—at least two-thirds—was not conveyed by treaty; it was purchased from private owners. The importance of this fact bears directly upon our discussion of the constitutional obligations of article IV, section 3, of the U.S. Constitution.

No matter what conclusion one comes to with regard to the lands obtained directly from the Republic of Panama by the United States, those lands are the smallest portion of the Canal Zone. Thus, it can be amply demonstrated that the vast proportion of the property consists of lands held by the United States in fee simple. In short, the vast proportion is indisputably property of the United States; only a small portion suffers from varying interpretations of title.

Mr. President, this Senator from North Carolina does not pretend to be a legal expert, but he has consulted legal experts who assure him that this remaining one-third of the area, consisting of areas that were formerly public lands of the Republic of Panama, was conveyed to the United States as a cession of land, a "grant" in the words of the 1903 treaty. According to these experts, the use of the word "grant," the exclusive rights of "occupation, use, and control," and the term of the grant "in perpetuity" all combine to create a total cession of property. And although the Senator from North Carolina has argued that property ownership and sovereignty are two distinct issues, the grant of property in this case is made even more secure by the prohibition on the exercise of sovereignty by Panama in perpetuity, which effectively guarantees our titles in perpetuity. Whatever the nature of cession, Panama does not have the power to contest that cession or to reverse it.

In any case, the extent of the holdings purchased in fee simple from private owners thoroughly demolishes the notion that the Canal Zone is "rented" or "leased." The $10 million in gold paid under article XIV of the 1903 treaty "as the price or compensation" can only be attributed to the cession of a minor portion of the lands involved. The "annual payment" of $250,000 in gold coin (now $519,000) is not characterized in the treaty. But we know from the history of the aborted Hay-Herran Treaty with Colombia, that the figure of $250,000 originated in the annual payment to Colombia for the railroad concession, and was not related to payments for land. However, in article XXII, Panama gave up any reversionary claims to the railroad concession or lands. Most likely the retention of the $250,000 annuity was intended as a gesture of good will. Even today, the remainder of the present $2.3 million annuity is paid from State Department appropriations as part of the cost of conducting international relations, and is not paid by the Panama Canal Company.

Plainly, the Canal Zone cannot be considered as rented or leased from the Republic of Panama because only a portion of the land came from Panama in the first place. For our present purposes, we need not debate further the status of the portion of the land acquired directly from the Republic of Panama. We can set aside those tracts as not being vital to the article IV, section 3 issue. For if we can show that if even some of the property is indisputably property of the United States, then the House of Representatives must be involved in what we do here. And I intend to show that most of the land was obtained from private owners in fee simple. Thus, even those who do not agree that the lands obtained from Panama are held by perfect title must perforce agree that the great majority of the lands are property of the United States, held in fee simple.

Mr. President, I must ask the Senate to bear with me while I discuss this matter in some detail. It is a matter of such overwhelming importance that the record must be clear.

III. THE SOURCES OF U.S. LAND RIGHTS

Mr. President, what are the general sources of U.S. rights in land in the Canal Zone?

Article II of the 1903 treaty "grants the United States in perpetuity the use, occupation and control of a zone of land and land under water" 10 miles wide across the Isthmus of Panama for canal purposes, and further grants to the United States any other lands in Panama "which my be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the canal."

Article III grants to the United States "all the rights, power and authority within the zone * * * which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Article VI safeguards "the titles or rights of private land holders or owners of private property in the said zone" or other lands or waters granted to the United States under the treaty; it further provides that if there is conflict between private rights and those granted to the United States by the treaty, "the rights of the United States shall be superior" and provides for payment by the United States of all damages to owners of private lands or private property, as determined by a joint commission appointed by the Governments of the two countries.

In article VIII, the Republic of Panama grants to the United States all its rights in the New Panama Canal Company and the Panama Railroad Company, and authorizes the New Panama Canal Company to sell all its "rights, privileges, properties and concessions as well as the Panama Railroad" to the United States; but certain public lands included in the said concessions, but not located within the zone were, however, to revert to Panama.

Two other articles add to the breadth and finality of the grants to the United States. In article XXII Panama expressly renounces "all right, claim, and title to participation in the earnings of the canal and railroad." In that 1906 treaty Panama further renounces, confirms, and grants to the United States, now and hereafter, "all of the rights and property formerly conceded to or made over to the new Panama Canal Company, together with all rights, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company."

The same article contains a very important paragraph:

> The aforesaid rights and property shall be and are free and released from any present or reversionary interest or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically assured under this treaty.

Article XXIV binds Panama even more firmly into the perpetuity of the cession:

No change either in the Government of the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

Mr. President, these provisions of the 1903 treaty became effective on February 26, 1904, and by its terms the United States immediately acquired perpetual "use, occupation and control" of all vacant public lands in the Canal Zone. The remainder of the zone remained for the time being in private hands, although it was subject to expropriation by the United States if needed for canal purposes.

Part of the private holdings were lands the New Panama Canal Company and its subsidiary, the Panama Railroad Company, acquired by purchase from private interests or, in the case of the Railroad Company, cession from Colombia. The United States paid the New Panama Canal Company $40 million for all its rights and properties in Panama, including its controlling stock interest in the Panama Railroad Company, and took possession of the properties of both enterprises located in Panama on May 4, 1904. (In 1905 the United States bought up all the remaining shares of the Railroad Company's stock.) By this purchase, of course, the United States acquired some of the private lands within the zone.

The first annual report of the Governor of the Canal Zone, dated November 1, 1904, gave the area of the Canal Zone at "about 448 square miles," broken down by ownership as follows:

New Canal Company 52.11 sq. miles, Panama Railroad Company 68.12 sq. miles, private owners 139.23 sq. miles, United States (by treaty) 188.91 sq. miles, for a total of 448.37 sq. miles.

It was noted that the Panama Railroad Company also owned 12.87 square miles of land outside the Canal Zone. The Governor's report, interestingly enough, also reveals that from the earliest days lands of the French canal company, the railroad company, and public lands ceded by Panama were all considered "available for the location of the canal," and that some of the boundary lines of canal and lands were indefinite and the subject of controversy where such lands abutted in private property.

Between 1904 and the end of 1912, the United States acquired approximately 2,364 hectares of private land in the zone for construction and other canal purposes. During this period the excavation of the canal was virtually completed, massive fills were laid down to form Gatun Dam, and the waters of the Chagres River began to accumulate in Gatun Lake, and, in the process, to flood lands outside the zone which then, of necessity, had to be included within the zone. In May 1912, the United States requested and Panama agreed to give up about 70 square miles of land in the bed of Lake Gatun and up to the 100-foot line above sea level on its shores.

Also during this period, a provisional agreement was made with Panama as to the boundaries of the zone, which also defined the limits of Colon and Panama, put Cristobal and Balboa and their harbors in the zone. The center line of the canal was fixed, and, based thereon, surveys were made and the exact boundaries of the zone marked by monuments. Due to these accomplishments, and early efforts of the Isthmian Canal Commission at land management, more accurate information as to the extent of U.S. land holdings in the zone was accumulated.

In October 1911, during hearings of a Senate committee on the bill which became the Panama Canal Act, the General Counsel of the Isthmian Canal Commission, Frank Feuille, gave a summary of U.S. land holdings in the Canal Zone. These figures differed somewhat from the earlier accounting.

	Square miles
Acquired from New Canal Company	101.0
Panama railroad property	103.7
Recognized private holdings	82.7
United States by treaty	148.3
Total	435.7

It should be noted, of course, that the final boundaries had not yet been set, that construction was in progress, and that the very concept of the canal had changed from a sea-level canal to a lock canal, requiring more land than had originally been anticipated. Although the treaty granted "land and land under water," no distinction was made in the above accounting.

In 1912, the Panama Canal Act was passed, section 3 of which authorized the President "to declare by Executive order that all the land and land under water within the limits of the Canal Zone is necessary for the construction, maintenance, operation, sanitation, or protection of the Panama Canal, and to extinguish, by agreement when advisable, all claims and titles of adverse claimants and occupants." Such an order was duly issued: Executive Order 1225, December 5, 1912 and carried out by a joint commission, with two members appointed by the United States and two by Panama, appointed on March 1, 1913, under authority of articles VI and XV of the 1903 treaty to settle all claims arising out of "depopulation" of the zone. The effect of this order and its implementation by the joint commission was to take all the remaining private holdings in the zone for the United States.

In later years, other tracts were obtained by eminent domain enlarging the zone, as additional lands were needed for canal purposes. These included land for Madden Dam and Madden Lake.

However, all expropriations ceased after the United States in article II of the general treaty of friendship and cooperation of 1936 renounced its expropriation authority. The same article provided for agreement between the two countires on any necessary land acquisitions. There have been minor adjustments, but no significant changes since that time.

In addition, it should be noted that some usable land was created by filling marshy areas and extending shore lines with materials excavated from the canal bed, a continuous process over the years. However, such operations make no difference as to land rights, as the sites were also acquired in the same manner as other tracts in the zone.

The 1976 annual report of the Panama Canal Company gives an analysis of the land and water areas of the Canal Zone, broken down according to use. The present use bears no relationship to the original acquisition rights. The disproportionately high use by the Army is misleading; probably less than a third of the land reserved for the Army is actually used, except for occasional training exercises. The Army's role is mainly custodial, to prevent uses which would have a damaging environmental impact. The protection of the jungle canopy and vegetation on the mountains is essential to the operations of the canal, since adequate rainfall and the prevention of erosion are among the highest priorities. The jungle cover, for example, is believed to be responsible for the fact that the zone receives 20 percent more rainfall for lockage purposes in the dry season. In the 1964 annual report, the Army and Air Force usage figures were 107.62 square miles and 10.75 square miles, respectively; another category of remaining usable land—largely mountain or jungle—contained 187.56 square miles. The 1976 figures are as follows:

Area of the Canal Zone

	Square miles
Land area of the Canal Zone	372.32
Water area of the Canal Zone	*274.97
Total area	647.29
LAND AREAS	
Air Force reservations and licenses	49.19
Army reservations and licenses	264.17
Federal Aviation Administration	0.66
Naval reservations and licenses	10.15
Total	324.17
Canal Zone townsites and areas outside of townsites in active use	16.59
Miscellaneous assigned land areas:	
Barro Colorado Island	5.71
Madden Forest Preserve	5.38
Agricultural leases and garden plots	0.83
Total	11.92
Swamps	15.14
Remaining usable land	4.50
Total land area of the Canal Zone	372.32

*Includes tidewaters within the 3 mile limits.

IV. THE NATURE OF TITLES CONVEYED FROM PRIVATE OWNERS

Mr. President, when we consider the acquisition of U.S. title to the lands in the Canal Zone, we must go back to 1850, when U.S. interests began construction of the Panama Railroad. At that time the great bulk of the land was vacant public land, with title resting in the sovereign, New Grenada, as the country was then called. Homestead-

ing and other forms of land settlement, such as colonization of large tracts, were encouraged; over the years an appreciable amount of land was occupied and some form of title was acquired by the occupants. Those who complied fully with the land settlement laws were granted "dominion" of fee simple title in a comparatively short time.

Others who did not comply with such laws were nevertheless able to build up "custom-made" titles, or titles by prescription. Colombian law provided that title by prescription could be acquired in either 10 or 30 years, the shorter term apparently being sufficient when adverse possession was accompanied by color of title and good faith. In still other cases, the occupants of land could claim no more than squatters' rights.

When the Isthmian Canal Commission surveyed the land title situation in 1910, the same relative conditions prevailed. In testimony before the House Committee on Interstate and Foreign Commerce, the General Counsel for the Commission declared:

The private titles in the Canal Zone, with a few exceptions—not over half a dozen exceptions—I am not including the French Canal Company, or the United States or the Panama Railroad Company, when I say private titles—the private titles, with about a half dozen exceptions, are custom-made titles. They are based upon long occupancy and transfer from one man to another by descent. Practically there are no grants from the Government to these private holders that we have seen. If any grants were issued in any case, it has been so long ago that there is no record of them, but these holdings have been acquiesced in by everybody. The authorities have been paid taxes on these lands and in other ways they have recognized the titles by implication. The French Canal Company made large purchases from these people years ago, and so had the Panama Railroad Company, and so has the United States. The joint commissions we have had in here have recognized these titles in one way or another. The treaty protects landowners and landholders, and the joint commissions have held that if the people were not landowners they were at least landholders, because there had been a tacit recognition of their holdings by the community in general, and therefore, we should not disturb that status.

When one considers the remoteness and the primitiveness of the jungle and mountain terrain, it is not surprising that perfect records and exact standards of legal practice are not to be found. Yet it is clear—very clear—that the private titles were regarded as sound both by the Colombian and Panamanian Governments at the time of the 1903 treaty.

Mr. President, let us turn now to the rights in land acquired by the United States from the Panama Railroad Company.

The Railroad Company's 1850 concession provided in effect that the Company should have the use or "usufruct" of all lands on the continental part of the Isthmus of Panama required for railroad purposes. The usufruct of those lands then owned by the Republic of New Grenada passed to the Company by terms of the concession; but any privately owned lands needed by the railroad and which could not be obtained by purchase had to be expropriated for the Company by the government in accordance with law. The usufructuary grants were valid for the term of the concession, which was to run for 99 years from August 16, 1867.

The Company was, in addition, granted full title to 150,000 acres of vacant public land by the Colombian Government in 1866. Also, the Company purchased from private owners the fee title to substantial areas of land in the Isthmus of Panama which later became part of the Canal Zone.

Thus, clearly, the Panama Railroad Company obtained two kinds of significant rights in land: The usufruct of public lands terminable on the expiration of the concession on August 16, 1966, and fee titles, some by grant from Colombia, and some by purchase from private owners. With the Panamanian revolution, the treaty of 1903, and the purchase of the Panama Railroad Company by the United States, these two kinds of land rights merged into fee holdings. That process must now be traced.

As pointed out before, the only lands conveyed by the action of the treaty itself were the public lands of Panama. In article II, the property rights of private landowners and landholders were expressly reserved. This latter category embraced all the real property rights, including the usufructuary rights, under their respective concessions, of the Panama Railroad Company and the New Panama Canal Company, both of which, of course, were private entities.

At the time when the 1903 treaty came into force—the date being February 26, 1904—the United States had not yet acquired the concessions and other assets of the New Panama Canal Company. However, the treaty anticipated this event; in article VIII, Panama granted to the United States "all rights which it now has or may hereafter acquire to the property of the New Panama Canal Company and the Panama Railroad Company" and authorized the New Panama Canal Company, to "sell and transfer to the United States its rights, privileges, properties, and concessions," including the Panama Railroad Company.

It is important to understand that the Republic of Panama expressly renounced any claim it might have on these concessions; as originally consummated with Colombia, the rights were for a limited time and reversionary; under the 1903 treaty, they were perpetual, with no reversionary interest whatsoever. Thus the idea that Panama has some residual ownership, as claimed by the Department of State recently is totally fallacious; in fact it is absurd.

The exact text of article XXII is important:

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions granted to or held by the above mentioned party and companies, and all right, title, and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

Then it goes on, and this is important:

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute. . . .

So where do the proponents get off making a claim that we do not own this property?

The impact of a close reading of this article of the 1903 Treaty is startling when in the light of the negotiations and the treaties which are now before us. It shows clearly that Panama renounced any claim to future earnings of the canal, the very issue which is supposed to be one of the key issues leading to negotiation. But second, it shows that our title to the lands and concessions held by the French Canal Company and the Panama Railroad is "absolute".

Thus, if our title is absolute, which obviously it is, there can be no doubt in anyone's mind that such holdings are "property of the United States," and must be disposed of only in accordance with article IV, section 3 of the U.S. Constitution.

These provisions vested in the United States all the reversionary rights of the Republic of Panama in and to lands held by the Panama Railroad Company under its concession in the Canal Zone. Another way of looking at it is that the United States was substituted for Panama as the reversioner under the concessionary contracts held by the Railroad Company, and thus in effect became the proprietor of the lands concerned, effective February 26, 1904.

The United States purchased the assets of the New Panama Canal Company for $40 million on May 4, 1904. This included 68,888 of the 70,000 shares of the Panama Railroad Company stock; the remaining 1,112 shares were acquired by the United States in 1905. At this point, as far as the interests of the United States and Panama were concerned, there was a merger of the usufructuary and reversionary interests in the railroad concession land. Technically, however, the usufructuary rights of the Railroad Company remained unchanged, for they were the property of the Company. The Company remained a New York corporation, and thus a legal entity capable of owning

property, even though its stock was wholly owned by the United States and for many purposes it was to be considered an agency of the United States. In 1945, however, the Government Corporation Control Act was passed, which prohibited the continued existence, after June 30, 1948, of any wholly owned Government corporation created by by or under the laws of any State.

Accordingly, the New York corporation was dissolved. In June 1948, title 2 of the Canal Zone Code was amended, setting up a Federal corporation known as the Panama Railroad Company, and directing it to take over the assets of the New York company. Section 251 of the Canal Zone Code provided that—

Effective upon the transfer of such assets and the assumption of such liabilities, there are hereby released and transferred to the corporation all the right, title, and interest, in and to such assets, which the United States now has or may hereafter acquire by virtue of the Convention of November 18, 1903, between the United States and the Republic of Panama; and specifically, there are hereby released to the corporation any and all reversionary rights of the United States in the lands of the corporation located in the cities of Panama and Colon, Republic of Panama.

As a result, after some 44 years there was a true merger of the usufructuary rights of the Railroad Company under its concession and the reversionary rights of the United States acquired by treaty from Panama. Although lands in the cities of Panama and Colon were mentioned specifically, the general language of transfer worked the same result as to the concessionary lands in the Canal Zone. Accordingly, as of July 1, 1948, the Panama Railroad Company became the proprietor of all lands in the zone, lands which it had formerly held as a usufructuary grant from the United States. In 1950, the Panama Canal Reorganization Act merged the Panama Canal Company and the Panama Railroad into one government corporation, combining their assets.

In 1943 and 1956, most of the railroad lands held in the cities of Panama and Colon were transferred to Panama, each passed under article IV, section 3. Within the zone, however, the Panama Railroad Company did not alienate any of the right of way land to which it acquired fee title in 1948, as I have already described. However, as a result of the 1906 act directing the construction of a lock canal, instead of a sea-level canal, it was necessary to relocate the right of way around the proposed Gatun Lake. About 80 percent of the line was relocated, with work completed in May 1912.

Most of the original right of way was abandoned and covered by the waters of Gatun Lake. Some of the abandoned right of way was owned in fee by the railroad, some was held only with usufructuary rights. The extent and description of the tracts abandoned is not known, as there was no practical need to distinguish between the rights of the Railroad and the reversionary rights of the United States. By the same token, no precise account can be given of the land upon which the new sections of the railroad were relocated.

The relocation of the line took place entirely within the zone. In 1912, the proprietors of land within the zone were the United States, the Panama Railroad Company, and various private persons and entities. The new right of way ran generally to the east of the old, on higher ground, and in the northern half of the zone clearly crossed land granted to the Railroad Company in fee under terms of the 1850 concession, as well as vacant land which had already been granted to the United States by the 1903 treaty. It is possible that the new tracks crossed land which the United States had already acquired in fee by purchase from the New Panama Canal Company or from local private owners. It is almost certain that the new tracks crossed lands in the zone which were still privately owned, making it necessary for the United States to acquire title to such lands by negotiated purchase under terms of articles VI and XV of the 1903 treaty. After 1912, when the zone was "depopulated," all private ownership of land terminated.

It is also important to point out that when the United States took possession of the Railroad Company, it acquired substantial areas of the zone held in fee, areas not necessarily used strictly for right of way. Some of these fee areas had been purchased from private owners through the medium of expropriation by the Colombian Government in accordance with the terms of the 1850 concession; for such tracts, the Company was obliged to pay "just indemnification" to the owners. But in 1866, Colombia also made a grant in fee of 150,000 acres, surveyed and plotted on what became known as the Harrison-Arosemena map. Six lots, comprising some 35,000 acres, were laid out along the railroad right of way, with the Company and the Colombian Government taking alternate lots, three apiece. The remainder of the grant to the Company, a single piece of land of about 115,000 acres lay to the east of and contiguous to the six lots.

The Canal Zone boundary lines were to be laid out with reference to the center line of the proposed canal, not with regard to the location of the railroad right of way or the land plotted on the Harrison-Arosemena map. As it happened, it appeared that about 100,000 acres of the Railroad Company's fee land would fall outside the Canal Zone—an important point because the 1903 Treaty provided that lands outside the Canal Zone would revert to Panama.

However, with the determination in 1906 that a lock canal would be constructed, the provisional boundaries of the Zone had to be enlarged by some 70 square miles to encompass the flooding of Lake Gatun. Most of this additional area was included in the 100,000 acres of fee land that originally appeared to be slated for reversion to Panama. Thus much of the land under Lake Gatun was held in fee.

The final boundaries of the Canal Zone were not fixed until the signing of the 1914 Boundary Convention on September 2, about 2 weeks after the canal opened for operations. The exchange of ratifications took place on February 11, 1915, a date which is probably the best date for the fixing of the U.S. titles.

Thus, the 15,000-acre portion of the large tract which fell within the provisional zone, as well as that portion of the 100,000 acres that was incorporated in the Zone when it was enlarged to include Gatun Lake remained a fee holding of the Railroad Company, and thus of the United States, along with three—lots 1, 4, and 6—of the six lots plotted on the Harrison-Arosemena map, also held in fee. The remaining three lots—about 17,000 acres—were public lands of Panama granted in accordance with article II.

In summary, therefore, the land rights which came to the United States through the Panama Railroad Company may be described as follows:

(a) None of the usufructuary rights granted by Colombia for railroad purposes remain as usufructuary grants; the usufructuary rights passed to the United States in 1903 and were converted into fee holdings in 1948.

(b) In addition to these fee holdings, the Panama Canal Company is the owner in fee of thousands of acres of land and land under water in the Zone, acquired by the Panama Railroad Company through grant from Colombia, and by direct purchase, or possibly expropriation by Colombia on behalf of the Railroad Company.

Finally, Mr. President, the last group of land rights that must be examined are the rights acquired directly from the so-called New Panama Canal Company—so-called because it was the successor to the first French company, which had gone bankrupt. These rights were acquired by purchase included in the $40 million price both for the assets of the canal company and its subsidiary, the Railroad Company.

The rights of the canal company, of course, did not extend as far back as the rights of the railroad company. The primary source of the rights in land of the New Panama Canal Company was the so-called Wyse concession of 1878.

Lucien Napoleon-Bonaparte Wyse was a lieutenant in the French Navy associated with a company of French private citizens which, in 1876, began active exploration of the American isthmus to determine the best route for a canal. In the course of two visits to the isthmus, Wyse became convinced that the Panama route was the best.

He therefore went to Bogota and on behalf of his company negotiated a contract with the Colombian Government for construction of a canal across the isthmus and "between the Atlantic and Pacific Oceans." This agreement was signed by General Salgar, the Foreign Minister of Colombia, and Wyse, and therefore is sometimes called the Salgar-Wyse contract.

As indicated earlier, the concession granted the exclusive privilege of constructing the proposed canal and of operating it for a period of 99 years from the day on which the canal "shall be—opened to the use of the public." Three years were allowed for surveys, 2 for organization of the company, and 12 for construction, with the possibility of an extension of 6 years. All public lands required were to be "ceded gratis," such

lands to revert to Colombia at the termination of the concession. There was "also granted for the use of the canal a belt of land 200 meters wide on each side of its banks," subject to the right of owners of land "on its banks" to have free access to the canal, its parts, and any roads constructed for canal purposes. Provision was made for expropriation of private property required for the canal, with suitable indemnities.

In 1881, as French interest in an Isthmian Canal mounted, the concession was purchased for 10 million francs by a new company called the Universal Interoceanic Canal Co., headed by Ferdinand de Lesseps. It was this concern, later called the "Old Panama Canal Company," which undertook the French effort to construct a canal across the Isthmus of Panama.

The canal route selected by the Old Company crossed the right-of-way of the Panama Railroad Company. This posed serious problems, because the railroad's concession gave it the right to bar use of its right-of-way for canal purposes. The canal company solved the dilemma by purchasing over 90 percent of the outstanding stock of the Railroad Company. In this way, the Old Company acquired effective ownership of the Railroad Company's rights in land.

As I have already pointed out, the usufruct granted to the Old Company for canal purposes covered all public lands required for the canal and necessary facilities—ports, wharves, warehouses, and so forth—and "a belt of land 200 meters wide on each side of its banks." The New Panama Canal Company succeeded to these rights. By the terms of articles VIII and XXII, as I have already discussed, the United States was substituted for Panama as the reversioner under the Salgar-Wyse concession. Incident to its purchase of the assets of the New Panama Canal Company on May 4, 1904, the United States acquired the usufructuary rights granted by the canal concession. Thus at this point, May 4, 1904, there was a merger of usufructuary and reversionary interests, and the United States acquired full ownership in fee of the "usufructuary" lands of the New Panama Canal Company; that is, the lands granted for canal purposes and the "belt of land 200 meters wide on each side of its banks."

These lands were never specifically located by the United States, since the need to do so was superseded by the terms of the 1903 treaty. Presumably much of it is covered by Gatun Lake. However, it again amounts to thousands of acres that the United States holds in fee simple, and the metes and bounds could be located by reference to old title records and surveys.

A provision similar to that in the railroad concession was included in the Salgar-Wyse contract for expropriation of privately owned lands by the Government on behalf of the canal company. According to Senate hearings held in 1911, the Old Company acquired a fee title to and a proprietary interest in the privately owned lands expropriated under this authority.

The records are not clear as to the extent to which the Old Company exercised this right, but it is clear that it was exercised. These titles in fee, of course, also devolved upon the United States.

In summary, the United States acquired from the New Panama Canal Company—excluding its subsidiary, the Panama Railroad Company—by terms of the 1903 treaty and purchase in accordance with the treaty, a substantial amount of land in fee in the Canal Zone. As I already pointed out, the first annual report of the Governor of the Canal Zone gave a figure of 52.11 square miles of "New Canal Company" land, whereas the figure in 1911 was given as 101.00 square miles of land from the French company. Both figures are exclusive of Railroad Company land. The discrepancy may result from a failure to include land under water. In any case, the Governor's figures were admittedly provisional, and were "computed by scale on the map"; they were not the results of a survey.

Nevertheless, the issue is not the exact amount of land held in fee, but the positively established fact that a large proportion, the majority proportion, indeed, of the Canal Zone was not included in the grant of public lands from Panama. Even those who may have doubts about the status of the lands conveyed from Panama should have no problem recognizing that most of the land in the Canal Zone is land held in fee simple, and is property of the United States.

V. OPINION OF THE U.S. SUPREME COURT ON U.S. TITLE IN THE ZONE

Mr. President, I have gone on at some length to explain in the Record the sources and nature of United States land titles in the Canal Zone; but I have not yet referred to the central, indeed, the only case wherein the U.S. Supreme Court deals specifically with the question of U.S. title in the zone. Even though this case is frequently cited, I think that it bears reexamination in the light of the exhaustive history that I have reviewed today. I refer of course to Wilson against Shaw.

Although this decision was handed down in 1907, it shows an astonishing grasp of the realities in the zone, and is amply sustained by the detailed facts I have already cited. Nor has it in any way been modified or reversed.

The question of title was central to the action in the case. The appellant, a citizen of Illinois, claiming that he was a taxpayer to the U.S. Government, sought to restrain the Secretary of the Treasury from using public money to pay for the purchase of land, borrowing money, or otherwise issuing bonds or making payments under the Spooner Act of 1902, the act that authorized the acquisition of the Canal Zone. He complained that the zone was not acquired from Colombia, as the act required, and that its boundaries were inexact; he further asserted that Congress has no authority under the commerce clause to operate commercial canals and railroads.

The Supreme Court, in an opinion by Justice Brewer, brushed all of these arguments aside. Among the points raised were:

(1) Panama has seceded from the Republic of Colombia and established a new republic which has been recognized by other nations. This new republic has by treaty granted to the United States rights territorial and otherwise.

(2) The title to what may be called the Isthmian or Canal Zone, which at the date of the act was in the Republic of Colombia, passed by an act of secession to the newly formed Republic of Panama. The latter was recognized as a nation by the President. A treaty with it, ceding the Canal Zone, was duly ratified.

Clearly, Mr. President, we see that the dicta of the Court recognized that the Canal Zone was "ceded" to the United States.

(3) Another contention, in support of which plaintiff has presented a voluminous argument, is that the United States has no power to engage in the work of digging this canal. His first proposition is that the Canal Zone is no part of the territory of the United States, and that, therefore, the Government is powerless to do anything of the kind therein.

Mr. President, in response to this argument, Justice Brewer quotes the well-known articles II and III of the 1903 treaty,

(4) It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate.

Mr. President, it is central to Mr. Justice Brewer's argument that our title, the U.S. title, is perfect; in short, that the "territory described" does indeed "belong to this Nation."

(5) Further, it is said that the boundaries of the zone are not described in the treaty; but the description is sufficient for identification, and it has been practically identified by the concurrent action of the two nations alone interested in the matter. The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial. Such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions east was not settled until within the last two or three years. Yet no one ever doubted the title of this republic to Alaska.

Mr. President, in this quotation, Justice Brewer once more makes it clear that the zone involved "conveyances of real estate or cessions of territory." That is exactly what I have been talking about, Mr. President. I have attempted to demonstrate that the Canal Zone does indeed consist of "conveyances of real estate" in fee simple, and "cessions of territory."

Furthermore, Mr. President, it is striking that the Supreme Court compares our acquisition of the zone to our acquisition of Alaska. Many proponents of the treaty have ridiculed the idea that the acquisition of the Canal Zone can be compared to our acquisition of Alaska; yet it is not the opponents of the treaty who first made that comparison. It was none other than the U.S. Supreme Court itself that made the comparison of the Canal Zone to Alaska.

(6) Again, plaintiff contends that the Government has no power to engage anywhere in the work of constructing a railroad or canal. The decisions of this court are adverse to this contention. In California v. Pacific Railroad Company, it was said: "... But since in consequence of the expansion of the country, the multiplication of its products and the invention of railroads and locomotion by steam, land transportation has so vastly increased, a sounder consideration of the subject has prevailed and led to the conclusion that Congress has plenary power over the whole subject. Of course, the authority of Congress over the Territories of the United States and its power to grant franchises exercisable therein, are, and ever have been, undoubted. But the wider power was very freely exercised, and much to the general satisfaction, in the creation of the vast system of railroads connecting the East with the Pacific, traversing States as well as Territories, and employing the agency of state as well as Federal corporations."

Mr. President, this quotation shows that Mr. Justice Brewer, in invoking the powers of the commerce clause, caused the Canal Zone to be considered within the power of Congress to act within territories of the United States. Indeed, Mr. President, the Justice draws that specific conclusion himself:

(7) These authorities recognize the power of Congress to construct interstate highways. A fortiori, Congress would have like power within the territories and outside of state lines, for there the legislative power of Congress is limited only by the provisions of the Constitution, and cannot conflict with the reserved power of the States.

Mr. President, that is the point; that is the very heart of the argument that the Senate confronts today. The Congress has always acted under article IV, section 3 of the Constitution with regard to the Canal Zone. The Congress has always considered the Canal Zone as U.S. property and territory. And the Supreme Court of the United States has clearly agreed. The evidence of history, the evidence of legal authority, and the evidence of constitutional theory all combined to argue that only Congress—Congress, Mr. President, both Houses—must ask in the disposition of U.S. territory and property.

The Senate cannot escape its duty, Mr. President; whatever each of us may think about the merits of the treaty, there can be no dissent about our responsibility to allow the House of Representatives to act on the disposal of property. Our duty is clear, and we cannot escape it.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH PARLIAMENT

Mr. McGOVERN. Mr. President, will the Senator yield to me?

Mr. HELMS. I am glad to yield to the able Senator from South Dakota.

Mr. McGOVERN. Mr. President, today, we have been honored by the presence in the Senate and the Capitol of a group of visiting members of the British Parliament, who are participating with some of the Members of the Senate in an all-day discussion of issues of mutual interest to our two countries. Members of the British delegation will be meeting with Members of the House of Representatives on tomorrow. This is an association that we have maintained over the years. We had an excellent discussion today, participated in by a good many Members of the Senate, including Senator Javits, who, I see, is on his feet.

I ask unanimous consent that the Senate recess briefly, subject to call by the Chair, to give us an opportunity to meet with the members of the delegation. Before we do that, I yield briefly to Senator JAVITS.

Mr. JAVITS. Mr. President, I have only had a brief opportunity to meet with our British colleagues, but I welcome them on behalf of the minority, as I know that the leader and other Senators on the Republican side would wish me to do.

I have attended one of these meetings in Bermuda. I consider them very enlightening and very important. While it would be improper to speak about our relations with Britain, as compared with other nations in the world, in terms of any special relationship or any such patronizing idea, it is fair to say that we share a heritage, in culture and literature and history in the institutions of freedom, which is so illustrious and so noble that it is a special pleasure to welcome our colleagues from the British Isles.

The PRESIDING OFFICER (Mr. LEAHY). The Chair, in his capacity as Senator from Vermont, had the pleasure of being with the British parliamentarians this morning and this afternoon.

[Applause.]

RECESS

There being no objection, the Senate, at 4:20 p.m. recessed until 4:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEAHY).

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 3 minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 73—SUBMISSION OF A CONCURRENT RESOLUTION REGARDING IMPOSITION OF IMPORT FEES ON CRUDE OIL

Mr. DOLE (for himself, Mr. HATHAWAY, Mr. BROOKE, Mr. DURKIN, Mr. MOYNIHAN, Mr. ROTH, Mr. McCLURE, and Mr. CHAFEE) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 73

Whereas, the President of the United States has the power to impose a fee on imported oil,

Whereas, the fee, if imposed, would not significantly reduce our imports of crude oil,

Whereas, then import fees would raise $12 billion a year in revenue for the Federal Government.

Whereas, without reducing imports, an import fee on crude oil will result in new inflationary pressure on the economy of the United States,

Whereas, such a fee on oil would create severe regional impacts in areas where no substitute fuel is available,

Whereas, such a fee would present a clear signal to the OPEC cartel that the United States is prepared to pay an even higher price than the price for imported crude oil: Now, therefore, be it

Resolved, by the Senate (House of Representatives, concurring) that it is the sense of the Congress of the United States that an import fee on imported oil should not be imposed by the President of the United States as a way to reduce imports of crude oil.

THE PROPOSED TARIFF ON IMPORTED OIL

Mr. DOLE. Mr. President, I am submitting today a concurrent resolution that it is the sense of the Congress that the President should not impose oil import fees as a method to reduce oil imports.

I am joined by my distinguished colleagues, Senators BROOKE, HATHAWAY, DURKIN, MOYNIHAN, ROTH, McCLURE, and CHAFEE.

I understand there is a similar initiative taking place on the House side, being led there by the distinguished Member of the House, W. R. ARCHER.

Mr. President, there are a lot of rumors and a lot of reports about what the administration may do, and one is that the administration was considering imposing a $5 per barrel fee on imported oil. It appears that over the past week the administration has discussed the idea with several groups. It now seems likely that the President might actually impose such an import fee in order to pressure Congress on the crude oil equalization tax.

It seems to me, as one who has had an interest in this matter for many months that it is the wrong way to go. I thought at the time last October, when the idea was first floated by Secretary Schlesinger, it was a mistake. It was somewhat akin to efforts to, in effect, blackmail us on the Senate Finance Committee to accept the equalization tax.

IMPACTS UNKNOWN LAST OCTOBER

Mr. President, I have been interested in this concept since last October when the idea was first mentioned by Secretary Schlesinger. At that time it was thought to be just a get-tough tactic. It was, nevertheless, somewhat akin to blackmail and I acted to prevent such a hasty move by the administration. Back in October, it was obvious that there had been no credible analysis of the effects of an oil import fee. The administration did not know whether a $5 fee on import oil would result in decreased imports. Furthermore, the Department of Energy had no idea what the impact would be on the economy. The proposal was a knee-jerk reaction. It was an idea born of frustration, because the Finance Committee was in the process of dismantling the administration's energy tax program.

So an amendment was offered by the Senator from Kansas and others. We proposed an amendment to the energy tax bill which would prevent the President from imposing the import fees. The amendment was adopted by the Senate Finance Committee and was retained in the bill passed by the Senate. The amendment is now pending before the energy tax conference and I have every reason to believe, should there be an energy tax bill, that it will be enacted into law.

IMPACTS UNKNOWN LAST WEEK

When the idea for an import fee resurfaced last week, I contacted the Department of Energy to get the most recent analysis of the proposal. However, I was told the Department of Energy has not done any analysis. Upon further investigation, I learned that the management of the Department of Energy has never requested any such analysis from the economists and information specialists in their own agency on what it might do. My inquiry—that they look into the effects of the fee—was the first request that they had ever received. This means that during the entire 6-month period, while the Dole amendment was pending, the administration never bothered to prepare the factual basis to support the imposition of an oil import fee.

As of last week, the positive effect of an oil import fee was still unsubstantiated. The only new wrinkle was that the administration was preparing to cut a deal, to trade off a half-baked idea for a terrible idea. They now wanted to bargain away this import fee to get the crude oil equalization tax.

Mr. President, I will vote for any measure that will help solve this Nation's energy problem. On the other hand, I still refuse to be blackmailed. The crude oil equalization tax is one of the worst ideas that has ever been presented to the Congress.

I remind my colleagues that the Senate has already expressed its feelings about this tax. The full Senate rejected the tax package passed by the House by a vote of 74 to 14.

It seems to me that I can understand the pressures on the administration. But it seems to me we ought to realize what we are doing when we talk about that fee. We will subsidize imports, we will raise the price of oil, and we will also heat up inflation.

EFFECTS OF THE IMPORT FEE

Because the Department of Energy had not even looked into the effects of the import fee, I had my staff calculate the effects of the proposed fee, using some of the same information that is available in the Department of Energy.

Today, I am finally in a position to give my colleagues information that they cannot get from the Department of Energy. I now know the effects of the oil fees.

First of all, my colleagues should realize that even with the proposed fee, we will continue to subsidize imports. Let me remind you that all crude oil prices are now averaged together, so there is no way that an import fee can selectively make foreign oil less attractive. If foreign oil were subjected to a $5 fee, then the price of all crude purchased by refiners would go up about $2 per barrel. As long as we continue to subsidize imports, we can only expect that the fraction of imported oil will continue to rise.

Next we must ask how effective the higher price would be in decreasing our total imports of petroleum. The analysis shows two things. First, the decrease in imports will be insignificant. Second, the cost of that decrease will be astronomical.

Using numbers that are found in the Department of Energy's own models, we have calculated that the proposed fee will decrease imports by only 0.2 to 0.3 million barrels out of a total of 6.5 million barrels that we import each day.

To achieve that reduction in imports, the American people will pay $33 million each day. That comes out to $12 billion a year in extra revenues. At this point, it is fair to ask what the real effect of the fee would be. Is it meant to decrease imports or is it to create a significant new source of revenue?

We were able to determine that it will cost between $100 and $150 a barrel to save a barrel of oil. That is hardly, as we look at it, the way to proceed when we talk about the energy problem we have.

IMPORT FEE IS NOT COST-EFFECTIVE

The President has said that conservation is the cornerstone of his energy policy because it costs less to save a barrel of oil than to buy one.

Mr. President, using the numbers we have derived over the last week, we can now determine what it would cost to decrease imports using the proposed import fee. It turns out that this scheme costs between $100 and $150 per barrel to decrease imports. The import fee is very simply a bad idea.

How bad an idea is it? Well, compared to the crude oil equalization tax it is about two to three times as bad. Using figures derived by the joint tax committee, and substantiated by the administration, the COET would have cost us about $47 to save a barrel of oil.

Let me remind you again that we are talking about paying this much to save oil that only costs about $14 a barrel. Clearly, if we pursue either of these schemes, it costs a lot more to save a barrel of oil than to buy one.

THE IDEA WILL BACKFIRE

In addition, Mr. President, the proposed import fee on crude oil will have an effect that has not been widely considered. It will provide a situation where we will lose if it works and we will lose if it does not work.

The administration has spent the last year negotiating with the Shah of Iran and with the Saudis to convince them that it would be disastrous if the international price of oil were raised. At the last meeting of OPEC, these two countries worked hard to hold the line on prices. They succeeded, and the administration deserves credit for averting, or delaying, an increase in the OPEC price.

But now this same administration is proposing to do exactly what it begged OPEC not to do—raise the price of imported oil.

Try to put yourself in the position of an oil minister who sees the United States paying $5 a barrel more than he is getting for his own oil. The oil minister could logically ask why the U.S. Treasury is getting an extra $12 billion a year when he could just raise his price by $5, and transfer that money to his own treasury.

Do we really want to show OPEC that the American system is capable of getting along with a price hike of $5 a barrel?

A TAX BILL, NOT AN ENERGY BILL

Mr. President, the idea of an import fee is worse than the crude oil equalization tax. It is worse than the industrial users tax. It is the worst idea the administration has yet come up with under the banner of conservation.

If we are interested in finding out why the credibility of Government is slipping in this country we only have to realize how easy it is to see double purposes in nearly everything being proposed in the energy area. It is easy for the American people to ask: Are they really interested in solving the energy problem, or are they using the energy crisis as a means to impose more taxes and put more revenues into the Federal coffer?

If we look at the House-passed tax bill, we have a crude oil equalization tax that would collect $39 billion over its life. The users tax would collect another $25 billion. And now the American people are faced with a proposal that could collect $12 billion a year for as long as the President chooses to keep it in effect.

And in every case, the effect on our imports is negligible. It is needed fair to say that these are tax measures, not energy measures.

Moreover, if the major effect of these proposals is to increase prices, then they are almost purely inflationary measures. Chase econometrics predicts that the fee would raise the inflation rate by 1.5 percentage points. A new source of inflation and a new source of Government revenue are not what we need to solve our energy crisis.

ONLY HALF A SOLUTION

The problem with using taxes and fees to affect demand is that these mechanisms address only half the solution. Any economics book will tell you that demand goes down as prices go up. But the economics book will also tell you that higher prices serve to increase supplies. Yet, all these proposals by the administration are designed to provide absolutely no incentive to increase supplies while the prices go up. They accomplish this feat by holding the price down for the producers while raising the price for the consumers. I have yet to understand why the administration has consistently avoided any incentives for increasing production in this country.

It is true that at the present time this country has no comprehensive energy policy. The Carter administration has half an energy policy. They want to decrease demand in order to cut down imports, and that is where their policy stops. However, this leaves it up to the Congress to provide the other half of a comprehensive energy policy. Increased supplies are also a way to cut imports.

SOLUTIONS MUST BE ECONOMICALLY SOUND

Both conservation and increased supplies are important for a comprehensive energy policy. But we must take care to accomplish both conservation and increased supplies in a way that is economically sound. An import fee is ridiculous if it costs $150 to save a barrel of oil. It is entirely possible to save energy and save money at the same time. Reducing waste should result in lower costs for everybody. This is the kind of con-

servation that is based on sound economic principles.

The same is true of increasing supplies. It is counterproductive to offer the world price for newly discovered oil if it means we have to reduce the price of already discovered oil. It is ridiculous to subsidize syncrude that might cost $30 a barrel when we will not give a producer $15 a barrel of regular crude. It is even worse to subsidize the creation of a syncrude industry when we will not lease land on which a producer might find billions of barrels of regular crude.

There must be some underlying logic to how we go about increasing supplies. When the administration finally realizes the need for increased supplies, I sincerely hope that their methods for obtaining those supplies will be based on sound economic principles.

FACTS LEAD TO ONE CONCLUSION

Mr. President, I hope my colleagues will look at the facts that I have provided for them. If they do, I think they cannot help but come to the same conclusion as I have reached. The facts show that the proposed import fee has no place in a rational and economically sound energy policy.

Finally, I am still greatly disturbed that the administration did not even bother to find out whether or not the idea of an import fee made any sense. It leads one to wonder just what has been going on over at the Department of Energy for the last 6 months.

Mr. DOLE. Mr. President, I yield back my time.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I ask unanimous consent that I be permitted to proceed for 3 minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2819—SURFACE TRANSPORTATION ACT OF 1978

Mr. McGOVERN. Mr. President, I introduce for appropriate reference, the Surface Transportation Act of 1978. Beginning in the early 1800's our Nation pioneered and constructed several complex transportation networks. We have developed major air and water thoroughfares and have put men on the Moon. The successful completion of these systems have cost billions of dollars, while repairs and improvements have cost billions more. Some of these expenditures have been necessary investments to insure an efficient system. However, while spending heavily we have planned too little with regard to our surface transportation networks. Many times, expenditures have been made in a crisis atmosphere without careful planning to resolve basic issues. The result is a vast system in varying stages of decline and disrepair, instead of an energy efficient surface transportation system for passengers and freight.

We can no longer afford a policy of extravagance in the new age of high-cost energy. We cannot allow the continued decline of our potentially most energy efficient modes of transportation. Unfortunately, our vast network of railroads and intercity buses, both highly efficient transportation modes are in serious trouble. Several major railroads have filed bankruptcy and poor track conditions and rolling stock shortages are prevalent throughout the system. The bus industry is facing economic conditions not unlike those experienced by the bankrupt railroads in the Northeast.

A comprehensive surface transportation program has become essential to address the disastrous condition of our railroads and the declining nature of our intercity buses while providing numerous employment opportunities to the millions of our Nation's unemployed. The traditional approach for providing assistance to troubled transportation systems has been through Federal subsidies developed in reaction to a specific crisis. However, mere subsidies cannot resolve our domestic transportation problems and the related energy and unemployment issues. In and of themselves, subsidies may actually encourage inefficiency as they provide no incentives for internal improvements. While this bill proposes increased Federal assistance, a sizeable portion of the aid will take the form of long-term loans coordinated with extensive planning and management efforts in order to tailor assistance to the specific needs of individual carriers.

RAILROADS

Commercial domestic transportation modes have received a variety of Federal assistance since the inception of our Nation. Without such assistance, some of these modes would not have survived. Recently, as Federal capital and operating assistance for urban mass transportation has increased the appropriate direction of future assistance has become the subject of considerable debate. Past investments must be reviewed as our national transportation requirements and objectives change over time. The need to consume energy through energy efficient transportation is a challenge to revitalize rail transportation, potentially our most efficient means of freight transport.

Federal aid programs for railroads have long generated substantial controversies. Opponents of new Government participation in the rail industry must be reminded of the heavy Federal investments which allowed initial rail development. Under the 19th century policy of stimulating internal growth by virtually giving away portions of the public domain, railroads received sizable amounts of land. While land grants were made to other transportation modes, the railroads amassed the major accumulations of land under this policy.

Essentially, in the early 1800's, railroads were perceived as an important economic stimulus to the advancing settlement and development of the Nation. Several States initiated programs to develop State railroads by publicly financing the construction of lines. Eventually, the Federal Government was persuaded to assume the major role in rail financing and construction when several State and private attempts resulted in bankruptcy and abandonment. At that time, the Federal Government owned approximately three-fourths of the total land area in the continental United States.

Although the concept of granting land directly to the railroad companies was a subject of controversy during the mid–1800's, Congress began granting large parcels of land to States to be used for internal developments at the States' discretion. While some States used the proceeds from the sale of lands for bridge development, canals, and swamp drainage programs, the majority used all or a sizable portion of their 500,000-acre allotments to aid railroad development in their States. Through this process, States received a total of 7,806,555 acres. During the mid 1800's, Congress began moving toward granting land specifically to and railroad development. The Illinois Central Grant, approved in 1805, was the first such grant approved; it established a pattern for grants awarded during the next two decades. Such grants provided that for every 6 miles of railroad constructed, the Government granted 6 square miles of additional land on either side of the road bed. The program contained three major objectives: (a) to provide a free right of way for the construction of railroads; (b) to provide construction money through the proceeds of the sale of additional lands; and (c) to provide railroads with needed credit for the financing of future developments.

By the late 1860's railroad development in the East and Middle Atlantic States had advanced considerably. The Federal Government was receiving substantial pressure to develop a transcontinental railroad. As no Western States existed through which grants could be made and the territories were too unorganized to facilitate such a process, the Government initiated the procedure of awarding grants directly to the railroad companies to foster development of the western railroads. During the following two decades, until 1880, the railroads amassed more than 130 million acres of land. The Chicago Northwestern and the Burlington Northern which operate track in my State of South Dakota collectively received over 47 million acres of this land. However, by 1880, public sentiments had risen against the railroad monopoly and vast land acquisitions and the direct grant process was halted. Land awarded to railways by States and the Federal Government is now valued at nearly half a billion dollars. By 1940, there were about 17,500 miles of Federal land grant railroad in this country. Concurrent with the land grant programs, Congress also granted land separately for rail right of ways. Eminent domain claims were authorized in legislation passed in 1852 and 1875.

At the end of the 19th century, railroads had become the chief method of long distance travel for both freight and passengers. In 1887, the Interstate Commerce Commission was established to set rail rates and monitor the practices of the industry. During the 20th century, Federal aid to railroads shifted from land

grants and rights of way to lending programs, loan guarantees, and subsidy programs. The impact of Federal takeover of the railroads during World War I has been a subject of much dispute. Critics believe that Government operation of railways prevented rate increases which would have alleviated the financial dilemma of the rail industry at that time. However, many assert that the financial problems of the industry were prevalent before the takeover occurred and that financial programs were eased at this time through a series of loan programs.

During the 1920's and the 1930's, the industry suffered from the depression and growing competition of trucks and barges. Congress reacted to the severe financial plight of the railroads by developing the Reconstruction Finance Corporation which made sizable loans to 98 railroads. Defaults on principal and interest by a number of rail companies cost the Government $23 million before this effort ended in 1952. Trying to resolve further ongoing financial problems of the industry, the Transportation Act of 1958 was developed authorizing over $500 million in federally guaranteed loans before the end of this program in 1963.

During the 1960's, our nation experienced a changing economy; one that did not bode well for the railroads. Overall rail operating ratio fluctuated markedly throughout the decade. With both interest and rentals rising steeply in the latter half of the 1960's railroad earnings declined. Cash flow declined as dividends exceeded net income and consumed more than 40 percent of the cash flow by 1970. The consolidated impact of these and other factors was to reduce the net working capital of the class I railroads by more than $500 million between 1965 and 1970. Concurrently, in 1970, the Penn Central, the largest railroad in the Northeast went bankrupt partly due to irresponsible management. Despite attempted reorganization, operating deficits during receivership were so large that the Federal district court threatened liquidation if Government support was not forthcoming. Consequently, in 1973, the Regional Rail Reorganization Act established a Government agency, the Consolidated Rail Corporation (ConRail), to consolidate and operate the bankrupt Northeast railroads. Although the legislation intended that ConRail be operated for profit, it has not been profitable and will most likely require additional federal transfusions to maintain current operations.

Reacting to the continued deterioration of the national rail system, Congress, in 1976, passed the Railroad Revitalization and Regulatory Reform Act (4–R Act. This legislation was designed to lend money to railroads to provide for the rebuilding of track and acquire new rolling stock. As the financial problems of the Eastern railroads spread to the Midwest, several weakened members of the industry looked to the 4–R Act for major assistance. Curiously, railroads in the most difficulty have received little or nothing while healthier lines have received substantial sums. Consequently, those lines in the worst financial condition have either declared bankruptcy, as the Milwaukee has recently done, or have remained on a financal precipice in anticipation of possible mergers. While a new wave of mergers of parallel railroads was once expected in the Midwest as a possible solution, this is no longer the case. The existing mergers are not bringing about the savings they theoretically should and several lines are in such financial disaster, that they are no longer considered likely merger candidates.

It seems clear that recent Federal rail legislation, although well intentioned was developed in haste to avert crippling emergency situations. As a result, we have developed patchwork fragmented programs benefiting a few rail carriers while exacerbating the financial plight of others.

Nationally, we have continued to experience further deterioration of track beds resulting in dramatically increased derailments. In 1977, the Nation experienced 7,934 derailments. The railroads are receiving less and less of a rate of return while freight rates have increased 14 percent over the past 18 months. We are continuing to see increasing numbers of line abandonments as well as the worst rolling stock shortage in the history of the industry. In South Dakota, 30 percent of all railroad mileage ever constructed has already been approved for abandonment. In addition, approximately 50 percent of all existing rail miles are potentially subject to abandonment within just a few years. South Dakota and several other grain States have experienced the brunt of rail cars shortage as substantial grain shipments have been delayed by more than 2 months. The practice of deferred maintenance has dealt an extreme blow to South Dakota and other States.

This extensive practice has resulted in mile after mile of light rail with rotted ties and wooden structures weakened by age, resulting in increased derailments, greatly reduced speeds and irregular service. In fact, South Dakota has experienced derailments when the cars were standing still. It has become more than obvious that the present framework of rail legislation and assistance will not resolve the rail dilemma. However, action must be taken now to halt the increasing line abandonments. In many rural States including South Dakota, a considerable portion of the rail traffic has shifted to the highways. This increasing shift causes great concern in these areas where highways were not designed to accommodate heavy truck traffic. The shift of traffic in South Dakota is projected to increase costly highway maintenance programs and eventually necessitate the reconstruction of many routes. Projections in South Dakota indicate that the cost of rebuilding a mile of rail bed is substantially less than rebuilding a mile of highway.

The search for appropriate Federal responses to the rail dilemma must encompass such elements as a changing economy and public needs and the concerns of rail labor and management. Such responses must be flexible and long term avoiding the hasty patchwork pattern of the past that has served only to postpone the collapse of our rail system in a series of emergency actions. My bill addresses several specific problems facing the rail industry and users today with a built-in flexibility to tailor assistance to individual needs.

As mentioned earlier, rolling stock shortages present a critical problem to the industry and its users. The industry's past history and unreliability to produce cars when needed and to make scheduled shipments prevents many potential users from taking advantage of this transportation mode. This bill establishes a regional reserve system of rolling stock. Based on regions' need for seasonal, specialized or high volume loads, reserves of rolling stock shall be established to be leased to operating rail carriers. However, increased supplies of rolling stock alone will not resolve the traditional problems of obtaining cars for many kinds of shipments. Efficient utilization of the stock is a closely related problem; an adequate number of cars will not increase reliability if the carrier cannot effect timely turnarounds on shipments. Therefore, in conjunction with the regional reserve system, a computerized car identification plan is proposed to monitor the location, use and respective load factors of the rolling stock in the regional reserve system. Additionally, an incentive program will be developed to benefit those carriers which utilize the system in an efficient manner.

In addition to the regional reserve program, regional repair yards shall be established to conduct normal maintenance and repair work on the reserve rolling stock and, time and labor permitting, to do contract work on private carrier stock.

These programs should provide considerable assistance to the railroads in achieving the credibility and reliability necessary to increase existing markets and expand into new markets, while providing an energy efficient means of transportation. For example, rail carriers have encountered considerable difficulty competing with other transportation for the shipment of manufactured goods. While rail transportation of such goods would be considerably more efficient than other transportation modes, a large portion of the industry's problem in entering the market has been their lack of the expensive trailer on flat cars used for such shipments, while increasing delays in existing shipments due to car availability and repair problems have reduced the carriers' reliability. Consequently, while rail shipments of manufactured goods is potentially the most energy efficient means of transportation, the manufacturers continue to give the bulk of their business to more reliable modes.

A more critical dilemma addressed by this bill is the deterioration of railway beds and the subsequent abandonment of rail operations. While the creation of rolling stock reserves and regional repair yards would theoretically improve car utilization, efficiency and service, such improvements would be impossible without sound trackbeds. The present condition of thousands of miles of track warrant greatly reduced speeds and cause thousands of derailments annually.

Rebuilding and upgrading of our existing railroads must be the centerpiece of any attempt to revitalize the rail system.

Presently, existing legislation authorizes various public and private entities to take over certain lines that have been approved for abandonment. This proposal essentially establishes a pre-abandonment mechanism, whereby States having lines which carriers may seek to abandon may elect to take over such lines. The argument here is that by waiting for actual abandonment before rescuing a given line, trackbed and service has deteriorated to such an extent that rail users will have taken their business elsewhere, disrupting local and regional economies. This mechanism will allow States to conduct feasibility studies to determine the critical nature of certain lines. Based on the feasibility study, the State may apply for a long term 2-percent loan to cover 90 percent of the cost of upgrading the line. The State shall then assume ownership of the line, upgrade it and lease the line back to the operating rail carriers on a per ton mile traveled basis. Revenues generated by the leasing program shall be used to pay for all normal line maintenace, subsidize a portion of the States' leasing program with all excess revenues to pay back the loan.

INTERCITY BUSES

The intercity bus industry has experienced a serious decline in recent years similar to that experienced by the railroads. The causes of this decline exist in several underlying social, economic, and politcal trends in our economy over which the bus industry has little or no control. His unemployment and increasing rates of inflation have had a particularly adverse impact on individuals who make up the great bulk of the bus travel market. Over 60 percent of all bus passengers have annual family incomes of less than $10,000. With the deterioration of the inner city in large urban areas, existing bus stations are becoming obsolete. The industry's efforts to move these facilities to more favorable locations or to renovate them have been hampered in recent years because of inadequate profits and cash flow. During 1976, regular intercity route service provided transportation to 230 million persons compared with 330 million in 1966, representing a decline of 30 percent.

With the economic trends of the past several years, and its contribution to the decline of the bus industry, it has become apparent that the industry can no longer provide many essential services in rural areas without some comprehensive assistance. Disruption of this essential service could result in a major economic dislocation in thousands of small communities as well as for the bus industry. Currently, these buses are the only form of intercity transportation available in over 14,000 communities in this country. Reduced service has already occurred in many of these communities as the industry attempts to consolidate some services in order to reduce deficits. The profitable charter and package freight businesses are simply not large enough to offset the adverse effects of a declining volume on regular route service. Concurrently, profits are dropping on longer haul, higher density routes, typically subject to competition from subsidized modes, and they are no longer sufficient to offset or subsidize losses on the less dense rural routes.

Over the past several years, national surface transportation policy has become tilted in favor of rail passenger service. It is especially unfair that the Federal Government should extensively subsidize this service and expect privately owned bus carriers to compete on routes where parallel service is provided. Decreasing profits on bus routes where competing modes are subsidized is an important factor in the decline of industry earnings. In 1966, the industry had an operating ratio of 86.1 and earned $103 million before taxes. In 1976, the industry earned only $52 million before taxes with an operation ratio of 95.8.

The declining trend, which has gained speed within the last years, is leading to disaster. If it continues, as many project it will, the industry could sustain widespread losses. Many of the smaller carriers providing a major portion of the essential rural and small communities service could become bankrupt similar in nature to the bankruptcies experienced by some of the smaller railroads several years ago. When this occurs, many communities and rural areas will face serious service reductions if not total elimination of service. Several regional and intrastate carriers have already declared bankruptcy, leaving communities with no intercity transportation services. Intercity bus service in South Dakota has recently faced some degree of service reduction. Over the last few years, South Dakota has experienced decreasing frequency of service on some major routes; and in the last 3 years, two intrastate carriers have gone out of business leaving several portions of the State with no intercity transportation.

The millions of people to be affected by widespread service disruptions are those who in most cases must rely solely on the common carrier for intercity travel. Those people are typically those least able to utilize any alternative service.

This bill directly addresses the serious and immediate nature of this dilemma in an attempt to offset an impending disaster. Equally important, this bill will provide for a highly energy efficient transportation mode and by improving service, generate additional passengers who historically have traveled by other means. Of all modes of surface transportation, intercity buses have the highest passenger miles per gallon ratio, currently averaging 116 miles per gallon compared with 55.5 passenger miles per gallon for AMTRAK and 20 passenger miles for air travel.

In order that programs necessary to the continuance of small communities and rural bus service be developed and carried out in an effective manner, I am proposing the establishment of a Federal bus administration. While a variety of offices have been created to resolve issues related to railroads, highways, and other transportation modes, this mode has been sorely neglected in this respect. Currently, there exists no single office established whose overall responsibility is to deal with the issues surrounding intercity bus transportation. Considering the efficiency of this mode and vast numbers of passengers carried annually, I believe this office will be a necessary vehicle to develop bus policy and oversee changes and improvements throughout the industry. The responsibilities of the bus administration shall be funded by a new motor carrier bus trust fund. Direct appropriations of $125 million annually shall be transferred into the bus trust fund from the general revenues. Fifty million dollars shall be directed toward an assistance program for Federal aid for the construction and renovation of bus terminals. Local and State governments, upon indicating a need for such terminals may make application for Federal grants for 80 percent of the total cost with local, State, or private entities participating in the remaining cost of the program.

Federal assistance has become especially crucial in the area of rural bus transportation service. This bill shall authorize States, subject to the approval of the Secretary of Transportation, to enter into contracts to provide common carrier feeder route service. A total of $70 million from the bus trust fund shall be allocated for the development of State bus plans. State plans shall be developed in consultation with local governments and the motor bus carriers serving the State and shall include proposals for streamlining primary carrier service and developing feeder bus routes to serve the primary system. Upon approval of the plan, States may enter negotiations to designate operators for feeder routes, giving carriers holding service authority on existing routes the initial option to provide service. Upon negotiation of the feeder routes, operators and rates, the Secretary shall authorize a contract allowing operators a long-term 2-percent loan to cover the cost of equipment and initial operations or the option of entering into a lease agreement for necessary equipment. All equipment and operations of feeder routes shall be subject to minimum standard requirements established by the Bus Administration.

Additionally, feeder route operators shall provide substantially reduced fares for those passengers who are handicapped and over the age of 65. Feeder route operators may, in addition to their scheduled service, undertake charter operations within the limits of their route authority. The development of feeder route authority and service shall protect the needs of small communities and rural areas from anticipated service disruptions and eliminations by the bus industry while allowing full size carriers to streamline their routes thereby reducing travel time and increasing efficiency.

A total of $5 million annually shall be allocated for the administration of the Federal Bus Administration. One of the primary initial responsibilities of the Administration shall be to develop a national motor bus carrier policy and route plan in conjunction with the streamlining of class 1 carrier service as developed in the State plans. The Administration shall oversee the development of the feeder routes and the integration of the

streamlined class 1 carrier service among the States.

EMPLOYMENT

In 1933, the Civilian Conservation Corps was established as a novel Government approach to deal with massive youth unemployment. Essentially, this program, part of Roosevelt's New Deal, trained and provided jobs for more than 2.5 million youths. The New Deal, indeed, embraced a wide range of public works and public service programs that created jobs for millions of the Nation's unemployed. Since that time, the Federal Government has developed several national programs and policies in response to the recurring unemployment dilemma. In 1973, Congress passed the Comprehensive Employment and Training Act (CETA) in response to the severe economic strain caused by climbing rates of inflation and unemployment. Portions of this act have been amended several times as our changing economy dictates employment fluctuations and altered forms of assistance; new amendments to the act are now pending in Congress. Additionally, Congress is consiering a revised Humphrey-Hawkins bill, a major legislative effort to affirm the right of all Americans able, willing, and seeking, to full opportunities for useful, paid employment with primary emphasis upon expansion of private employment.

In keeping with the intent of previous employment legislation and the objectives of the Humphrey-Hawkins bill, the legislation I propose today calls for railroad revitalization, terminal construction and other job creating efforts incorporating the goals of full employment. The jobs generated by this National Surface Transportation Act could be eligible for financial assistance to promote employment in areas that qualify under the current or amended regulations. Under CETA's public service employment programs, eligible unemployed individuals would be provided with entry level jobs, related training and services designed to enable those persons to move into the private sector.

The Secretary would make financial assistance available through the public service employment program, with prime sponsors to carry out all or a substantial portion of an employment or training program for eligible unemployed persons within areas served by this act. Additionally, the opportunity shall be provided for the private and public sectors to work together to provide jobs and training for the unemployed and economically disadvantaged. Prime sponsors shall carry out private sector initiatives which will include on-the-job training, vocation and skills training and related activities.

Including the jobs to be filled with the passage of this surface transportation program, the established employment program would be strengthened and supplemented with an infusion of important and necessary work.

CONCLUSIONS

With rising fuel costs and potential shortages of petroleum we must realize we can no longer afford the extravagance of some of our transportation policies. Current policies reflect the needs and expectations of the past generations, while recent legislation addresses only a few emergency situations and has not served the needs of our surface transportation networks. Traditional Federal efforts to deal with transportation issues through regulation, financial assistance or otherwise, have placed little emphasis on the industry as a transporter. Considerable assistance has been given to railroads in particular without any meaningful examination of the likely impact on service and efficiency. While this bill does not attempt to resolve all transportation issues, it does provide for a comprehensive program, providing a series of specific yet flexible measures impacting directly on service and efficiency.

Perhaps most importantly, is the overall effect of this bill will have on our domestic economy. By improving our transportation network, we are opening up new markets and expanding our economy. In improving this network, we have taken a major step toward energy efficiency, reduced our reliance on imported petroleum products, and thereby reducing the trade deficit. While we revive our rail and bus system to provide efficient and reliable service, we have also created a large number of diverse job opportunities for the unemployed. We have the resources and technology to create the world's finest transportation system—a system commensurate with the needs of a prosperous economy and a strong nation.

Mr. President, I ask unanimous consent that the Surface Transportation Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Act of 1978".

TITLE I—RAIL TRANSPORTATION

RAIL ROLLING STOCK IMPROVEMENT PROGRAM

SEC. 101 (a) Within 180 days of the date of enactment of this Act the Secretary of Transportation (hereinafter in this Act referred to as the "Secretary") shall prepare a national survey of the existing rolling stock of all common carriers by railroad providing transportation for property in the United States (hereinafter in this section referred to as "carriers by railroad"). The survey shall include the amounts, kinds and condition of the rolling stock used and needed by such carriers. The Secretary shall also prepare an analysis of the kinds and amounts of rolling stock necessary to increase and expand shipments by such carriers. The Secretary shall consult with rail carriers and rail users in the analysis of additional rolling stock needs and make the preliminary results of such survey and analysis available to such carriers, major rail shippers and appropriate state agencies for review and comment before preparing the final study.

(b) Based upon the results of such survey, the Secretary shall create regional reserves of railroad rolling stock necessary to such carriers for seasonal, specialized or high volume operations which in and of themselves do not justify the purchase of equipment. The Secretary shall also take into consideration and make provisions for the kinds and amounts of rolling stock needed to expand or increase existing rail operations.

(c) The Secretary shall also establish, in conjunction with the reserve of rolling stock, regional rolling stock repair yards to provide timely repairs to all equipment in such reserve and time and labor permitting, provide necessary repairs for private carriers on a contract basis. In determining the location of regional repair yards, the Secretary shall take into consideration the renovation of existing abandoned marshaling and repair yards.

(d) The Secretary shall lease rolling stock from such regional reserves to participating carriers at amounts determined by the Secretary in accordance with this section to reimburse the United States for the cost of such stock. Any such carrier wishing to participate in such leasing program shall file with the Secretary records of its previous year's administration showing for each line efficiency in equipment utilization, handling and turnaround times, reliability of delivery times and other pertinent information requested by the Secretary. The Secretary shall develop efficiency ratings in each such areas in order to determine the carrier's average efficiency on each of its lines.

(e) Rolling stock from such reserve which becomes damaged while under lease shall be repaired at either the operator's own repair facilities or at a facility determined by the Secretary. The responsible carrier shall pay for all repair costs. The Secretary shall bear all normal maintenance costs.

(f) After a carrier becomes a participant in the leasing program under this section, the Secretary shall, each six months thereafter, update the average efficiency ratings of such carrier for each of its lines utilizing rolling stock from the program. If such ratings have increased for any line, the carrier shall be eligible for a reduction, based upon the amount of such increase, in leasing rates for rolling stock to be utilized on such line. If such ratings have decreased, the carrier shall be assessed penalty charges on future leases of rolling stock for that line. If such ratings remain the same there shall be no change in such rates for such line.

(g) In conjunction with such regional rolling stock reserves, the Secretary shall establish a computerized car identification plan to monitor the location, use and respective load factors of the rolling stock in the regional reserve rolling stock program. Such computer system shall be designed in such a manner as to benefit the participating rail carriers and the Secretary in their scheduling efforts and thus, maximize equipment utilization.

(h) The regional reserves of rolling stock and the computerized car identification program shall become operational no later than April 1, 1980.

REHABILITATION OF RAIL LINES PREABANDONMENT MECHANISM

SEC. 102. (a) The Secretary shall, upon application, make a grant to any State which has in such State one or more rail lines which has been abandoned, or proposed for abandonment, or classified as category 1 lines by the Interstate Commerce Commission which may be subject to abandonment within three years pursuant to Section 1a of the Interstate Commerce Act for the purpose of assisting such State in making a study in the case of each such line—

(1) whether it is crucial to intra or interstate shipments within such State;

(2) the cost of operating, including upgrading and proper maintenance, such line; and

(3) whether the State should, under the program pursuant to this section, provide for the continued operation of such line.

The amount of such grant shall be determined by the Secretary on the basis of—

(A) the total number of miles of track used by common carriers by rail in such State;

(B) the number of tons of property per mile moved over such track;

(C) the total number of miles of track to be studied; and

(D) the number of tons per mile moved over such track to be studied.

No such grant shall exceed 80 per centum of the cost of the study.

(b) Any study pursuant to this section shall be completed within ninety days of the receipt of the grant therefor and the results thereof shall be submitted to the Secretary within such period, including the estimated cost of upgrading each line and projections for line maintenance.

(c) The Secretary shall either approve the results of such study within thirty days of receipt or shall request additional or revised information and estimates until he approves the results.

(d) Upon approval of any such study with respect to a railroad line and application from such State the Secretary is authorized to make a loan to such State in the amount of ninety per centum of the cost of upgrading such railroad line, including necessary real and other property and equipment to operate such line. Any such loan shall bear interest at a rate of two per centum per annum and shall be repaid in a period not exceeding 40 years.

(e) Upon approval of such loan the Secretary shall provide such assistance to such State as may be necessary to acquire such railroad line in accordance with law, including condemnation.

(f) Any such loan shall be subject to the following conditions:

(1) such State shall be responsible for upgrading, operating and maintaining such railroad, which may be carried out directly by such State or by contract with a carrier by railroad;

(2) upgrading of the line must begin within 120 days of receipt of the loan or any part thereof;

(3) any contract to lease the line to a carrier by railroad shall provide for payment on a per-ton-mile traveled basis, and lease revenue estimates shall be filed with the Secretary on a quarterly basis, and the carrier shall file quarterly estimates of tons-per-mile traveled with the appropriate State agency and make lease payments to the appropriate State agency annually, by January fifteenth, of each year;

(4) any increase in leasing rates must be approved by the Secretary;

(5) any and all net revenue generated from the operation of such line shall be used to pay for normal line maintenance and to pay for eighty percent of the State's administrative costs, with any and all excess of such revenues to be used to pay back such loan;

(6) if the use of such lines warrants further line improvements, expansion or construction, such State may apply to the Secretary for an additional loan for such purpose and such loan may be granted under the same procedure as for the initial loan;

(7) payments on the loan shall be made annually not later than April 1; and

(8) revenues remaining after such payments must be used for improving rail services in such State.

(g) (1) In the event of one State certifying a railroad line as crucial for the purposes of this section, but the economics of operating the line depending on an adjoining State certifying the section of that line within its boundaries as crucial, the Secretary shall act as a mediator and work with both States for concurrence for the purposes of this section.

(2) In the event that one State indicates that it is necessary to upgrade a higher priority line first, the Secretary may request the operating carrier by railroad to continue its operations on that line for not to exceed eighteen months, but such request shall not be binding upon such carrier in any way.

(h) The Interstate Commerce Commission shall for the purposes of this section furnish to each State transportation system diagrams and amendments thereto filed with the Commission for any line of railroad in such State pursuant to section 1a(5) of the Interstate Commerce Act.

FEDERAL RAILROAD ADMINISTRATION

SEC. 103. The Secretary shall carry out his funtions pursuant to this title through the Federal Railroad Administration.

REGULATIONS

SEC. 104. The Secretary is authorized to establish such regulations as are necessary to carry out the provisions of this title.

APPROPRIATIONS FROM THE RAILROAD REHABILITATION AND IMPROVEMENT FUND

SEC. 105. (a) Amounts necessary to carry out the provisions of this title shall be appropriated from the Railroad Rehabilitation and Improvement Fund established pursuant to section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976.

(b) Amounts paid to the Secretary pursuant to the provisions of this Act shall be deposited in such Fund.

(c) The purposes of such Fund as stated in such section 502 are expanded to include the purposes of this title.

TITLE II—BUS TRANSPORTATION

FEDERAL BUS ADMINISTRATION

SEC. 201. (a) There is established in the Department of Transportation a Federal Bus Administration. Such Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate and shall be compensated at the amount provided for the Administrator of the Federal Highway Administration.

(b) The Secretary shall exercise his functions under this title, and any other functions he may have relating to common carriers of passengers by motor vehicle, through the Federal Bus Administration.

STATE BUS PLANS

SEC. 202. (a) The Secretary, upon application from a State, shall make a grant to such State, to cover 90 per centum of the cost of developing a State Bus Plan. The amount of any such grant shall not exceed $100,000. The amount of such grant shall be determined by the Secretary on the basis of a ratio of the following:

(1) number of certificated carriers authorized to provide service within the state;

(2) number of currently operated route miles; and

(3) the total population of the state.

(b) Such plan shall—

(1) determine primary efficient service routes throughout the State for common carriers of passengers by motor vehicle utilizing highways on the National System of Interstate and Defense Highways and the Federal-aid primary system:

(2) determine, to serve such primary routes, efficient feeder routes which are designed to provide pickup and delivery service for passengers to and from smaller communities and to provide central pickup and delivery points along the primary routes and which are not more than 75 miles long;

(3) determine minimum service requirements for such feeder routes;

(4) determine additional terminals and shelters, or renovation of existing terminals and shelters, necessary to serve such routes;

(5) be prepared in consultation with active common carriers, local governments and agencies thereof; and

(6) be submitted to the Secretary not later than 180 days after receiving the initial grant under this section.

IMPROVEMENT OF STATE BUS SYSTEM

SEC. 203. (a) Not later than 60 days after approving a State plan meeting the requirements of section 202 the State shall begin negotiations to enter into contracts to provide common carrier motor vehicle passenger service on the feeder routes in such plan. Any such contract shall—

(1) be offered first to private carriers holding active and dormant service authority on such feeder routes and where no such authority exists;

(2) be awarded to the lowest bidder determined by the State as being fit, willing and able of providing satisfactory service;

(3) be for automatically renewable terms and the State to have the authority to terminate service if contract conditions are not fulfilled;

(4) include the provision of a long term low interest loan with the interest at the rate of 2 per centum per annum to cover the cost of necessary vehicles, other equipment and initial operations or the option to participate in an equipment leasing program developed by the Secretary;

(5) provide that the State establish all fares and other charges and such fares shall include a 40 per centum discount to individuals who are 65 years of age or older or who are handicapped;

(6) provide for initiating service not later than 6 months after receiving the initial payment under such loan;

(7) provide for repayment of such loan to begin one year after the initiation of service under a schedule determined by the Secretary to be reasonable for the purposes of this section;

(8) provide for the use of fuel efficient vehicles meeting the requirements of the Secretary;

(9) authorize the carrier to provide local charter service within the area of its feeder routes;

(10) in the establishment of feeder route rates, assure such operators a reasonable rate of return;

(11) authorize, under separate application to the state, the extension or other route revision when such extensions or revisions do not impinge on another active route authority, subject to the separate final approval of the Secretary.

(b) The Secretary shall provide to the Interstate Commerce Commission a copy of each state plan approved under Section 202 and the Commission shall take such action as may be possible under law to change service patterns over primary routes in such state in accordance with such plan.

(c) The Secretary must provide final approval to all state contracts for feeder route service. Authorization for federal loans and assistance for the development of such systems shall be made only after approval by the Secretary.

ESTABLISHMENT OF MOTOR BUS TRUST FUND

SEC. 204 (a) There is hereby established in the Treasury of the United States a trust fund to be known as the Motor Bus Trust Fund (hereinafter in this title called the "trust fund"). The trust fund shall consist of such amounts as may be appropriated or credited to the trust fund as provided by this title.

(b) Effective after September 30, 1978, there shall be directly transferred from general revenues $125,000,000 annually.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury to the trust fund such additional sums as may be required to make the expenditures authorized in this title. Such sums shall be repayable advances unless otherwise provided.

(d) It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consultation with the Secretary) to

report to the Congress not later than the 1st day of March of each year, beginning with the calendar year 1979, on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(e) It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at market price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the trust fund. Such special obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield during the month preceding the date of such issue, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the trust fund pursuant to subsection (c) shall not be invested.

(f) Any obligation acquired by the trust fund (except special obligations issued exclusively to the trust fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(g) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

(h) Advances made pursuant to subsection (c) shall be repaid with interest to the general fund of the Treasury when the Secretary of the Treasury determines that monies are available in the trust fund for such purposes. Interest shall be at rates computed in the same manner as provided for advances to the Highway Trust Fund.

(i) Amounts in the trust fund shall be available as provided in appropriation Acts, for making expenditures to carry out the provisions of this title. Amounts received by the Secretary pursuant to this title shall be credited to the trust fund.

BUS TERMINAL CONSTRUCTION AND RENOVATION PROGRAM

SEC. 205. (a) The Secretary, upon application from a State or local government, or other public body, shall provide grants for not to exceed 80 per centum of the cost of planning and renovating or constructing terminals to include waiting stations for common carriers of passengers by motor vehicle.

(b) In order to receive any such grant the applicant must show to the satisfaction of the Secretary that—

(1) the applicant has consulted extensively with the common carriers to serve such terminal for the purposes of such terminal conforming to the carriers' needs;

(2) the terminal location is within close proximity or easy access to other local or regional transportation modes to facilitate intermodal connections, but this requirement shall not apply to applications concerning terminals along feeder routes;

(3) the terminal will be constructed or renovated to meet energy efficiency standards established by the Secretary; and

(4) the terminal will be constructed or renovated to meet all other applicable requirements for terminal construction including regulations concerning considerations for the elderly and the handicapped.

POLICY AND NATIONAL PLAN

SEC. 206. (a) Within 180 days of the date of enactment of this Act, the Secretary shall establish a program to develop a national policy plan for intercity motor bus carriers and establish a program to develop a national route plan in conjunction with state bus plans and the streamlining of primary class 1 carrier routes. Such plan shall be developed in consultation with States and affected motor bus carriers.

REGULATIONS

SEC. 207. The Secretary is authorized to establish such regulations as are necessary to carry out the provisions of this title.

TITLE III—TRANSPORTATION PUBLIC SERVICE EMPLOYMENT

SEC. 301. It is the purpose of this title to provide, through surface transportation employment, supplemental job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons. This training and these employment opportunities should be carried out by agreement of the Secretary of Transportation with the Secretary of Labor as a coordinated addition to the existing public service jobs programs. It is a further purpose to encourage the inclusion, in all Federal programs such as the national Surface Transportation Act of 1978, of providing job opportunities, provisions for both public service and also for private for-profit assistance in promoting and operating employment and employment training programs.

SEC. 302. In order to foster and promote employment opportunities in areas of significant unemployment, the Secretary of Transportation is authorized to consult and enter into agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") to develop policies, procedures and programs to carry out provisions of this Act in order to provide employment opportunities for Americans aged sixteen years and older in the civilian labor force able, willing and seeking to work but who despite serious efforts to obtain employment remain unemployed.

SEC. 303. In order to carry out the provisions of this Act, the Secretary under subsections 204d, 205–211, of the Comprehensive Employment and Training Act of 1973 and Title VI of the Comprehensive employment and Training Act of 1973, is authorized to enter into agreements with public service employment agencies. Such agreements shall include a plan for the inclusion of employment opportunities resulting from this Act within all other public service employment programs, or those private for-profit initiatives designated under subsection 304(d).

SEC. 304.(a) The Secretary shall provide public service jobs for construction and renovation of bus terminals, upgrading and rehabilitation rail-lines, maintaining and repairing Federal rolling stock held in regional reserves, construction of new repair yards, rehabilitation of existing repair yards, and maintaining and repairing upgraded rail beds.

(b) In order to carry out the provisions of this Act subsections 204d, 205–211, of the Comprehensive Employment and Training Act of 1973, to the extent not inconsistent with this title, shall apply to those policies, procedures and programs.

(c) Manpower Services provided under this Act shall include but not be limited to those listed in Title I, sec. 101.(1)–(12), of the Comprehensive Employment and Training Act of 1973.

(d) In order to involve private sector participation in the employment projects generated by this Act, the Secretary is authorized to enter into agreements with business and industry for job training and employment. Such agreements should be made only after cooperative councils of labor, large and small business, and industry representatives have developed programs that will place economically disadvantaged unemployed citizens into jobs with private for-profit employers.

SEC. 305. Agreements under section 303 shall include provisions for the payment of costs after determination by the Secretary that such project in the agreement—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(C) (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(D) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(E) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. Notwithstanding any other provision of law, sums appropriated to carry out this title of the Surface Transportation Act of 1978 for the fiscal year ending September 30, 1979, must be used for employment service assistance projects provided for in Section 304(a).

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I do not propose to speak at any length on this subject, which has occupied the Senate for most of the afternoon. Tomorrow will be time enough to specifically rebut the various arguments made by the proponents of the pending amendment.

The purpose of that amendment, of course, is to require that the House of Representatives pass on any transfer of property by the United States to the Government of Panama, as contemplated by the present treaty. However, to set the general guidelines for tomorrow's debate, I want to make it clear at the outset that no one favoring the

treaties, to my knowledge, denies that the United States has title to property in the Panama Canal Zone.

I listened with some curiosity to the extended brief presented by the distinguished Senator from North Carolina concerning the origins of the United States legal title to property in the Canal Zone. He took an hour and a half pressing an open door. Of course, the United States acquired legal title to property lying within the boundaries of the Canal Zone.

Originally, the effort to develop a pathway between the seas was undertaken by private enterprise. An American company first constructed a railroad across the isthmus; later, as Senators know, a French company attempted to construct the first canal across the isthmus. When the Government of the United States decided to take up that enterprise in 1902 and 1903, we had to acquire the legal titles and rights of the various private enterprises that had endeavored to build the canal. This was done partly through acquiring such rights as the French companies still possessed. Although the original company had gone bankrupt, its holdings were in the hands of a trustee in bankruptcy. As I recall, the U.S. Government paid $40 million to the French trustee to acquire its holdings, including the machinery, the construction works, the sheds, the wharves, and all the other facilities associated with the French work.

It also was necessary for the United States to acquire the rights of the company then operating the Panama railroad along with other private holdings, and the use of unoccupied land which was owned by the Panamanian Government.

So, from all these sources, the United States obtained legal title to lands within the Canal Zone. In fact, we actually initiated there an experiment in socialism. We acquired and extinguished the rights of the various private enterprises in the zone and established governmental ownership in their place. Since that time, life within the zone, including the businesses that have been permitted to operate there, has been under the ownership, direction, and control of the Government of the United States.

So it has been an experiment in pure socialism, if you will, and I would be the last to deny that the U.S. Government possesses legal title to land within the Canal Zone and the improvements thereon. It need not consume an hour and a half of the Senate's time to establish a point that I did not believe to be contested in this debate.

With respect to the matter of sovereignty, other questions are involved, but I never have laid great stress upon them. It is true that under the 1903 treaty, the United States acquired all the attributes of sovereignty in the Canal Zone. Sovereignty, of course, is distinct from ownership, and defined as jurisdictional powers exercised by a government over land, however owned. In the Canal Zone, we had a case of land owned by the Government of the United States, acquired from various private companies. While under the terms of the 1903 treaty we did not expressly obtain from Panama sovereign power over the zone, and we never have formally claimed sovereign power over the zone, still, we did obtain all the normal attributes of sovereignty. The 1903 treaty contains the phrase "as if sovereign."

So, Mr. President, for all intents and purposes, the United States, in addition to possessing the title to land and improvements within the Canal Zone, has exercised there, as a practical matter, all the powers normally reserved to a sovereign government.

These are all the facts of life with which we are dealing. Far from denying them, we affirm them. It is the exercise of this de facto sovereign authority within the Canal Zone that created the friction between the United States and Panama lying at the base of the resentment Panamanians have felt toward us. The zone bisects their country and any Panamanian who enters the zone is subject to American law, to American police, to American arrest, to trial by American courts, and to imprisonment in our own penitentiaries, including those located in the United States itself.

This is the principal reason why the people of Panama have grown increasingly upset at what they regard as an unfair transgression upon their national rights and national dignity.

It was this heated, passionate, nationalistic feeling of the Panamanians that led to the tragic riots in 1964 in which both Panamanians and Americans lost their lives. These were the riots that led the President of the United States, Lyndon Johnson, to conclude that a new arrangement between the United States and Panama respecting both the Canal Zone and the operation of the canal itself was needed. Three succeeding American Presidents, agreeing with President Johnson, pursued the negotiations leading to these treaties.

So let the debate tomorrow at least proceed from the premise that the U.S. Government acquired ownership of land and improvements within the Canal Zone and that, although it may never have formally acquired or claimed sovereignty over the zone, it possessed powers which in fact are normally exercised only by a sovereign government.

Those are the underlying facts which led to a recognition that a new arrangement between the United States and Panama was necessary if good relations between the two countries were to be preserved and the canal operated as a peaceful, neutral passageway between the seas.

The whole objective of these treaties is to bring about a fair arrangement, acceptable to both governments, that will permit the canal to function peacefully in a climate of friendship and cooperation, with the full understanding and support of both the government and the people of Panama.

As I listened today to the speeches read by the Senators from Utah and North Carolina I thought to myself that this argument can never be settled by lawyers briefs citing the legal pedigrees on which we claim our right to govern the Panama Canal Zone. Legal briefs look backwards. They are based upon the arrangements made in 1903 or later, and the acts of Congress that implemented those arrangements. They are based upon the prior claims of the private companies, both French and American, and the treaties that those companies held with previous governments, both Panamanian and Colombian; they relate to an entirely different era, to a world that existed 75 years ago when it was possible for a great power like the United States to simply acquire what it wanted from a small country and enforce its will because it had the physical power to do so.

The circumstances surrounding the 1903 treaty have been brought out in detail in the course of this debate and are a chapter in themselves of how different the world was in 1903. Then we could negotiate a treaty with a Frenchman in Washington and sign it even before the Panamanian delegation arrived here, and we could do it under circumstances that presented them with a choice of either confirming the treaty upon their arrival or returning to their own country to face a firing squad, unless they were given American military protection. It is a story out of a different world, the world of the past. It is a story of a time in which a half-dozen metropolitan powers in Western Europe and North America controlled most of the globe. It was a world, it was a time, when the people of Africa and Asia and much of Latin America were subjected to foreign colonial rule.

But that world of 1903 is not the world of 1978. No, Mr. President, we live in a better world now, a world in which the empires have all disappeared, and in their place there are 100 or more new independent governments.

The colonies that still remained in the world when the 1903 treaty was consummated are now independent governments. Africa has been retaken by the Africans; Asia has been recovered by the Asians. The Panama Canal Zone is virtually the only piece of foreign territory that the United States of America still holds against the wishes of the people of the country the territory is in.

I know there are those who look back nostalgically upon the days of the great white fleet and Teddy Roosevelt's big stick policy. I suppose there are many who wish that the world was still subject to the colonial control of half a dozen imperial powers carrying the white man's burden to Africa and to Asia, ruling by gunboats and the thin red line of troops glorified by the poems of Rudyard Kipling.

But that day is gone. It can never be recovered. The world has passed beyond that stage, and it is useless for us to discuss the validity of our legal pedigrees.

That is not the issue. The issue is whether the United States of America, the first government to be established by a colonial people rebelling against the assertion of authority by a foreign throne, is now going to adhere to its own principles as it undertakes to deal with a tiny Latin American republic.

The treaties before us are an affirmation of our own principles which, to my mind, Mr. President, is of much greater consequence than the color of title by which we lay claim to land and improvements within the Panama Canal Zone.

Now, earlier this afternoon the distinguished Senator from Utah (Mr. HATCH) read an 89-page address in which he questioned whether it is lawful to transfer title of American-owned property without the participation of the House of Representatives.

Tomorrow we shall respond to his arguments and show that the United States can dispose of property through the exercise of the treaty power. And we will cite the precedents and constitutional authorities which overwhelmingly support that position.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CHURCH. I would be happy to yield to the very distinguished and able Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. President, with reference to the remarks that were made earlier in the day, I want to underscore the importance of the comments the able and distinguished Senator from Idaho has just made in terms of again turning the attention of this body, as we come back from the recess to consider now the Panama Canal Treaty, on what is really at stake for the United States with respect to these two treaties and how important it is, so far as our national interest is concerned, especially in view of a changing world.

Mr. President, just a few days ago on March 24 an article appeared in the Philadelphia Inquirer by our esteemed former colleague Hugh Scott. Former Senator Scott wrote an article analyzing in detail the costs of the Panama Canal treaties and, more importantly, discussing the potentially far greater cost of not ratifying these treaties.

As we all know, Senator Scott served with distinction as a member of the Committee on Foreign Relations and as the minority leader of the Senate of the United States, as the leader of the Republican Party in this body.

In this article he writes with the valuable experience of a Member of the Senate and one who has had long involvement in the foreign policy of the United States. I urge my colleagues to examine his remarks. I ask unanimous consent, Mr. President, that Senator Scott's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COST OF REJECTING THE TREATY

I can well understand why many Americans wonder why the U.S. should have to pay money to give back the Panama Canal. Their concerns reflect some honest misunderstandings about the costs of treaty ratification. These are some candid, factual answers to the questions most often asked.

(Q) Why are we paying the Panamanians to take the canal off our hands?

(A) Actually, American taxpayers will not pay the Panamanians anything. The treaties provide for an annual payment to Panama until the year 2000, initially amounting to about $65–$75 million. But all of it is to be paid by the new Panama Canal Commission out of operating income. Not a cent is to come from American tax revenues.

Moreover, the purpose of the annuity is not to pay Panama for taking the canal back. It is payment for the right to operate a canal which intersects the nation of Panama—a right which will include the privilege of maintaining American military bases on Panamanian territory during the life of the first of the two treaties, the Panama Canal Treaty. Similar base rights elsewhere cost between two and four times as much.

(Q) What about the indirect costs of the treaties?

(A) There will be indirect costs principally related to the relocation and early retirement expenses of American personnel in the Canal Zone. In the aggregate they will require total appropriations of about $350 million and will be quickly offset by the elimination of defense costs in Panama after the year 2000.

(Q) Won't Americans have to pay more for goods which transit the canal because of higher tolls?

(A) All users will have to pay more in the future under any circumstances just to keep abreast of inflation. The best estimates are that under the new treaties tolls will have to be increased initially by no more than 30 percent. But the portion of this increase which will be paid by American consumers and exporters will be comparatively small, in part because less than 8 percent of U.S. foreign waterborne commerce uses the canal. A 30 percent toll hike would add just $3 to the price of a $3500 automobile from Japan, a fraction of a penny to the export price of a bushel of U.S. corn; just 0.15 cent per gallon of gas refined from North Slope crude oil.

(Q) Won't toll increases price the canal out of the market?

(A) Numerous studies suggest that tolls would be raised initially by as much as 75–100 percent before reaching the point of diminishing returns. The much lower increases initially required, will not dramatically affect canal use. There's no reason to expect that toll increases will jeopardize the canal's competitive position.

(Q) What about estimates that the U.S. is "giving away" property and assets worth $10 billion?

(A) Estimates of $10 billion are made on the basis of replacement value, not book value. That's like assessing at the 1978 price an ordinary automobile which was purchased in 1974 and which, since, has depreciated 50 percent. The book value of canal assets and property which will be transferred to Panama between treaty day and the year 2000 will be much less than $1 billion.

From the beginning Congress has demonstrated little interest in amortizing our investment in the canal. The canal has always been run as a service to U.S. and world shipping. Its benefits to the U.S. in war and peace have been many times greater than our investment, and these benefits will continue through the special considerations given U.S. shipping in war or emergency under the new treaties. Consequently, we are not seeking compensation for our investment through repayment from Panama.

These then, are the costs of ratification. But it is only against the consequences of non-ratification that they can be fairly measured. The Defense Department has hinted at the possible extent of those consequences.

By its estimates, the cost of securing the canal in an atmosphere clouded by growing opposition to the present treaty arrangement could be tens of thousands of additional troops in the Canal Zone.

What such a commitment would represent not only in tax dollars, but in terms of strained relations and cost of investment opportunities in Latin America, and in terms of risking a protracted entanglement in the isthmus is sobering to consider. Moreover, instability in the canal area could be a major deterrent to world traffic. What all this suggests is that the far *greater* cost could lie in rejecting the proposed treaties.

Mr. SARBANES. Mr. President, I want to quote the concluding remarks of Senator Scott in which he discusses the cost involved in turning over the canal to Panama pursuant to the terms of the Panama Canal Treaty, and points out how those costs are far less than the figures which have been thrown around this Chamber on the subject. But he then goes on to discuss the alternatives, to underscore the very point which the distinguished Senator from Idaho made so ably earlier this afternoon on the floor of the Senate.

He states the following:

These, then, are the costs of ratification. But it is only against the consequences of non-ratification that they can be fairly measured. The Defense Department has hinted at the possible extent of those consequences.

By its estimates, the cost of securing the canal in an atmosphere clouded by growing opposition to the present treaty arrangement could be tens of thousands of additional troops in the Canal Zone.

What such a commitment would represent not only in tax dollars, but in terms of strained relations and cost of investment opportunities in Latin America, and in terms of risking a protracted entanglement in the isthmus is sobering to consider. Moreover, instability in the canal area could be a major deterrent to world traffic. What all this suggests is that the far *greater* cost could lie in rejecting the proposed treaties.

It is time, as we resume debate with respect to these treaties, not to lose sight of what is at stake with respect to approving these treaties; in terms of our relationship with Panama, our relationship with all of Latin America, and, indeed, our relationship with countries throughout the world.

Mr. President, a number of this Nation's most distinguished business leaders and labor leaders have endorsed these treaties as the best means of insuring our use of the canal for commercial purposes and improving our relations with our vital trading partners in this hemisphere. These leaders and organizations know from practical experience that a disruption in our trade with the nations to the south could do severe damage to our economy. Not only is Latin America a principle market for the goods exported by the United States, but it is a primary source of a great many raw materials on which our economy is dependent.

Labor also recognizes the negative impact a rejection of the treaties could have on our economy and, thus, the employment picture. Labor's view is witnessed by the endorsement of the treaties by the AFL–CIO executive council and the United Auto Workers.

Mr. President, I ask unanimous consent that the following communications expressing support for the treaties be printed in the RECORD at this point:

A letter to Chairman Sparkman from the Honorable Alexander B. Trowbridge, Vice Chairman, Allied Chemical Corporation and former Secretary of Commerce.

A letter from Mr. Harold W. McGraw, Jr., Chairman and President of McGraw-Hill, Inc.;

The statement of Mr. George Meany, President of the AFL–CIO submitted to the Foreign Relations Committee;

A letter from Mr. Jose Aceves, Executive Director of the Latin American Manufacturers Association of Washington, D.C.;

A letter from Mr. Timothy W. Stanley, President of the International Economic Policy Association;

A letter from Mr. James P. Grant, President of the Overseas Development Council;

A letter from Mr. Ricardo Zazueta; National Director of SER-Jobs for Progress, Inc.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ALLIED CHEMICAL CORP.,
Morristown, N.J., October 19, 1977.

Senator JOHN J. SPARKMAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPARKMAN: With the important clarifications announced by President Carter and General Torrijos on October 14th, there is really no valid basis remaining for objection to the ratification of the new treaties governing the future of the Panama Canal.

I urge you to support ratification when it comes to a vote. I do so with three perspectives in mind.

The first is personal. I lived in Panama from 1959 to 1961, and went through the 1959 riots which first exposed the raw nerve endings that brought forth greater animosity, destruction and death in 1964. The Panamanians understandably demand greater control over such a dominant physical and economic factor which divides their country geographically and psychologically. They will continue to seek such control, and if denied for too long only frustration and hatred will result—with creation of a totally vulnerable security position for the Canal and our interests there. No amount of military power, as we learned in Vietnam, can provide security if the surrounding political climate is hostile. The already great disparity of economic conditions for those living in the Zone, contrasted to most Panamanians, has led to substantial hostility already. We cannot afford to stimulate that ill will, and to reject changes provided by the new Treaties would be to lock the animosity into permanent and violent forms.

The second perspective is from my prior service as Assistant Secretary and Secretary of Commerce from 1965 to 1968. You can see now, as I did when in Washington, the delicate and vital nature of our relations with other American states in this hemisphere. Clearly, ratification of the Treaties will be a singularly prominent test of our good faith in those relations, and rejection will burden us for decades to come with resulting distrust and prejudice of damaging proportions. We have all the security protection regarding defense of the Canal we need—the Joint Chiefs are deeply convinced of that—but we must fortify it with political security. The new Treaties deal with today's realities, and to view them from the perspective of what pertained in 1903 or 1941 or 1959 is simply to overlook the facts of today and tomorrow in which U.S.-Latin American relations must be structured.

My third perspective is from my daily responsibilities as Vice Chairman of Allied Chemical Corporation. Anyone engaged in economic activity must recognize the great importance of Latin America as a supplier of resources and as a market of growing importance. The Canal must remain viable operationally to expedite the movement of goods, both intra-Hemisphere and worldwide, and it can be permanently secure only if our respective governments and people have a mutually advantageous stake in its continued successful operation. Panama must get fair value for use of its territory, and be participants in the Canal's leadership, if it is to feel some responsibility for that success. To continue under old rules, and to reject this important new framework for cooperation, will bring vulnerability and steady interruption to Canal operations.

In case none of my arguments are adequately persuasive, I am attaching a copy of an article by Vermont Royster, editor emeritus of the Wall Street Journal, which I hope you will find full of balanced common sense.

The actual vote probably won't be taken for several months, but when it comes, I hope very much that these points will persuade you to support ratification.

Sincerely yours,

ALEXANDER B. TROWBRIDGE,
Vice Chairman of the Board, Allied Chemical Corp.

MCGRAW-HILL, INC.,
New York, N.Y., November 15, 1977.

Hon. JOHN J. SPARKMAN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR SPARKMAN: I am writing in connection with the ratification of the Panama Canal Treaty.

For many years McGraw-Hill has carried on extensive operations in Latin America. We have subsidiaries of our Book Company in Mexico, Panama, and Brazil, and the Mexican company has a substantial branch operation in Colombia. The Mexican and Brazilian companies do extensive publishing in Spanish and Portuguese as well as marketing books from the United States. Products of all these companies and of our U.S. Book Company are marketed in all countries of Latin America. In addition, Business Week and our more than 30 other professional and technical magazines have large circulation, advertising, and newsgathering operations in Latin America.

Our years of experience in publishing and communications in Latin America have impressed us with what a vitally important and emotional issue the Panama Canal presents not only to Panamanians but to all Latin Americans, who view it as the most meaningful test of U.S. attitudes toward their countries and toward the region as a whole. We believe it would be hard to overestimate the wave of bitterness and disillusion that would sweep over even our friends in Latin America if the Senate should fail to ratify the current treaty with Panama. Certainly it would make our operations in Latin America very difficult and might make some of them impossible. Other American businesses operating in the region would undoubtedly be similarly affected.

We hope these considerations, affecting all U.S. business relations with Latin America, will weigh heavily with you when you decide your vote on ratification of the Panama Treaty.

If there is any further information we can provide, we shall of course be pleased to do so.

Very truly yours,

HAROLD W. MCGRAW, Jr.

PREPARED STATEMENT OF GEORGE MEANY, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, OCTOBER 11, 1977

Mr. Chairman, I appreciate this opportunity to appear before you to urge approval by the Senate of the Panama Canal treaties.

We of the AFL–CIO have a vital interest in these treaties both as citizens, concerned with the security and welfare of our country, and as trade unionists, representing thousands of workers employed in the Canal Zone.

At its last meeting on August 29 and 30, the AFL–CIO Executive Council discussed the Panama Canal treaties at some length. Following this discussion and analysis of the summary terms of the treaties, the Council unanimously adopted the following statement:

"After thirteen years of on-again, off-again negotiations between the governments of the United States and Panama, two treaties have been agreed to which radically alter the Panama Canal Treaty of 1903.

"According to the Joint Chiefs of Staff, the treaties of 1977 provide for continuing freedom of action of the United States to maintain neutrality of the Canal and further guarantee U.S. access and rights to use all land and water areas and installations necessary for the defense of the Canal through the year 2000.

"Job security and rights of workers in the Canal Zone, both U.S. and Panamanian, will be assured. Since 1949, the AFL has called for justice in the Canal Zone in arguing for equal pay for equal work, so that Panamanian citizens would not be exploited through a double standard of remuneration. Through the years, particularly during the long and arduous periods of negotiations groping toward a new treaty, the AFL–CIO has maintained a vigilant stance concerning workers' rights in the Canal Zone and the safekeeping of the elements of U.S. defense inherent in the Panama Canal Agreement.

"We are satisfied that the new treaties cover both considerations adequately. U.S. citizens now employed in the Canal Zone will be protected and remunerated as U.S. government employees and will be offered new benefits tailored to fit the new treaty characteristics, such as early retirement.

"After reviewing the summary of the new treaties, and based on the assumption that it is an accurate reflection of the final treaty language, which is not yet available, the AFL–CIO Executive Council views the two Panama Canal Treaties guaranteeing the permanent neutrality of the Canal and the operation and defense of the Canal through the year 2000, as instruments worthy of support by U.S. citizens and their elected representatives. These new instruments constitute a just and enduring basis for harmony in the Western Hemisphere, and we support their ratification by the Senate."

Mr. Chairman, our position is based on practical grounds, in the light of the circumstances of the modern world, and the conviction that we have more to gain today, in terms of the broad interests and ideals of the United States, than we have to lose, by approval of these treaties.

In the public debate of recent weeks over the wisdom of these treaties, some arguments have drawn attention to the dubious circumstances surrounding the original treaty of 1903. I do not propose to rehash that question, for it has no bearing on our position.

While hostorically interesting, revisionist aspersions on the role of this country in a by-gone era are scarcely relevant to the issues actually before you. Adverse judgments by this generation on the actions of another generation in another world, three-quarters of a century ago, may excite the moralism of some but they have little persuasive appeal to our members today. Nor are latter-day efforts to portray Theodore Roosevelt as some sort of an international brigand likely to rally broad public support behind these treaties.

In fact, the Panama Canal treaty was renegotiated twice, in 1936 and in 1955, with duly constituted Panamanian governments, with significant modifications in its terms and increases in annual compensation to Panama.

In no way should the treaties now before you be painted or regarded as acts of atonement for American "guilt", for we are guilty of nothing. On the contrary, the construction and operation of the Panama Canal by the United States was and is an extraordi-

nary service to humanity and to all the maritime nations of the world. The American people have every right and reason to continue to regard this as a proud chapter in our history, as has been taught to school children for generations. And I, for one, deeply deplore and resent the campaign by Latin American demagogues, and by our own guilt-mongers, to condemn it as a locus of American "imperialism" or "racism", as was put forward at the ILO last June.

But the time has now come to bring to the fore another aspect of American pride: our pride in the fact that we are not and do not want to become an old-time colonial power, clutching a sort of cloudy, semi-sovereignty over this strip of territory, for its own sake, like some faded banner of past glory.

Our real interest in this canal is simple and concrete and derives from its only real purpose and function. The function of the Panama Canal is to offer transit to the vessels of all nations (which can fit into its locks) from the Atlantic Ocean to the Pacific Ocean. That is all.

Mr. Chairman, I accept as valid the assurances by the President of the United States, supported by the Secretaries of Defense and State and by the Joint Chiefs of Staff, that the terms of the treaties afford adequate guarantees that this function will continue to be performed without let or hindrance and that there is no serious risk, as a consequence of these treaties, that American vessels, commercial or military, will ever be deprived of full access to this vital passageway between the oceans. I have no reason, in the face of those solemn and expert assurances, to interpose any less-informed judgment to the contrary.

Beyond that, I believe that the continued assertion of sovereignty, for no definable further reason, over a narrow strip of land, inside and dividing the territory of another country, would not, in the modern world, be an asset, but could on the other hand, be a liability.

Mr. Chairman, speaking for the AFL–CIO, we therefore support and strongly urge the approval of the Panama Canal treaties.

LAMA,
Washington, D.C., November 28, 1977.

Hon. JOHN SPARKMAN,
U.S. Senate, Washington, D.C.

DEAR SENATOR SPARKMAN: LAMA is a trade association of predominantly Hispanic-American membership which is concerned with improving opportunities for minority owned business in both domestic and international markets. Our board of directors has asked me to write to you to elicit your support for the Panama Canal Treaty.

We at LAMA were extremely encouraged by the negotiation of this treaty. While adequately protecting U.S. security interests the treaty provides a measure of national pride and autonomy to Panamanians which they have been denied for many years. This treaty should encourage an attitude of cooperation and trust between the U.S. and Latin America which is unparalleled in recent years. We expect to see the treaty bear fruit both in a long term increase in international trade and stabilization of Latin American political affairs. We urge you to cast your vote in favor of ratification.

Very truly yours,

JOSE ACEVES,
Executive Director.

INTERNATIONAL ECONOMIC POLICY ASSOCIATION,
Washington, D.C., February 23, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR SPARKMAN: As you know, this Association is a nonprofit research group concerned with international economic issues of importance to this country. For over two decades we have made our analyses available to the legislative and executive branches. We do not, as a matter of practice, take formal policy positions on major issues.

I have however, been persuaded to offer my views on the Panama Canal Treaties because many of our Board Members are concerned that the public controversy and apprehensions in various quarters might lead to a failure to ratify them in the Senate. These business leaders and their staff experts on Latin America generally feel that such a failure could have serious repercussions. Recognizing that there are controversial aspects, I believe that the long run interests of the United States in the open access to and security of the Panama Canal would be best served through the treaty process. I would therefore favor ratification with only those amendments (such as that by Senator Baker to provide security safeguards) which can be mutually agreed by the Panamanian and U.S. Governments.

Rejection, on the other hand, could frustrate these important U.S. interests; for the status quo will not be viable indefinitely and the security of the Canal, especially against irregular military operations, requires the cooperation of the government and people of Panama, a cooperation which could be jeopardized by a failure to ratify the treaties at this point.

Finally, there is the broader question of U.S. relations with the rest of the Hemisphere. Given the Canal's symbolic role in the region and the modern world's growing interdependence, final rejection of treaties which have been negotiated for years under several U.S. administrations could harm America's international credibility and the fabric of our political and economic relations throughout Latin America. I would therefore respectfully urge that the Senate ratify the treaties.

Sincerely,

TIMOTHY W. STANLEY,
President.

OVERSEAS DEVELOPMENT COUNCIL,
September 21, 1977.

Hon. JOHN SPARKMAN,
U.S. Senate, Washington, D.C.

DEAR SENATOR SPARKMAN: In 1976 the Overseas Development Council undertook an analysis of the situation with respect to the Panama Canal and of the pros and cons of the various issues under negotiation. The results of the analysis were published in the enclosed ODC Communique. A principal conclusion was that the 1903 Treaty is an anachronism that needs to be replaced. The original treaty not only can no longer accomplish the purpose it was intended to serve but, on the contrary, threatens to jeopardize both the continual usefulness of the Canal and the intrinsic interest of the United States in its evolving relationship with the developing countries at a time when the continued well-being of the United States is increasingly dependent on their cooperation.

Concluding that the existing treaty is no longer adequate, of course, is not to say that any new treaty would be preferable.

With the signing on September 7 of the two new Panama Canal treaties, the public now has the details of the outcome of the negotiations. The results of the multi-year negotiations conducted under four Presidents are noted in the enclosed update of the earlier Communique. Considering together the earlier analysis of the issues under negotiation and the recent outcome, the current ODC analysis indicates that the new treaties are far more to the interest of the United States than continuation of the existing treaty.

I hope you will find this enclosed summary analysis useful both to yourself and in communications you may have with your constituents.

Sincerely yours,

JAMES P. GRANT,
President.

SER-JOBS FOR PROGRESS, INC.,
Los Angeles, Calif., December 1, 1977.

Hon. JOHN SPARKMAN,
U.S. Senate, Washington, D.C.

ESTIMADO SENATOR SPARKMAN: National SER-Jobs for Progress, Inc., the largest employment and traininng organization serving Hispanic Americans, totally endorses the new Panama Canal Treaties.

Once again, we urge you to affirm and ratify our President's leadership, and the United States' respect for all Latin Americans.

Sinceramente,

RICARDO ZAZUETA,
National Director.

Mr. SARBANES. Mr. President, I emphasize again to the Members of the Senate that we now have set a definite date of the 26th of April by which a final vote will be taken on the Panama Canal Treaty, the permanent Neutrality Treaty having already been approved by a vote of 68 to 32. I understand it is possible that the vote may come earlier than the 26th of April, but in any event that is the definitive outside date; and as we resume this debate, I wish to thank the Senator from Idaho for again placing what is at stake here in the proper perspective.

What is at stake is whether the United States, in the latter part of the 20th century, is going to adjust in such a way to the realities of the world that we can protect our strategic and economic interests and at the same time foster and develop the harmonious relations which are so important to us in this hemisphere of the world, and indeed throughout the world; and I join with the Senator from Idaho in stressing the importance of that consideration in our deliberations on this measure.

I thank the Senator for yielding.

Mr. CHURCH. I thank the Senator from Maryland very much.

Mr. ALLEN. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I wonder if the Senator from Alabama will accommodate me——

Mr. ALLEN. I certainly will.

Mr. CHURCH. So that I may first complete my argument, and then I will be happy to yield. I have been waiting quite patiently through the afternoon.

Mr. ALLEN. Yes. I remind the Senator from Idaho that he said earlier he was not going to make a lengthy argument.

Mr. CHURCH. I am not going to make a lengthy argument. I hope the quality will not be determined by its length, but as soon as I have completed my remarks, I will be happy to yield.

Mr. ALLEN. I thank the distinguished Senator for his courtesy.

(Mr. HARRY F. BYRD, JR. assumed the chair.)

Mr. CHURCH. Mr. President, tomorrow we will show that it is well established under American law and constitutional practice that property belonging to the United States may be transferred by the treaty power of article II of the Constitution. This conclusion is supported by the language of the Con-

stitution itself, by the interpretations placed upon it by the Founding Fathers, by judicial precedents, and by the long-time treaty practice of the United States. Modern authorities on the Constitution support this view overwhelmingly.

However, I previously mentioned two points made by the Senator from Utah (Mr. HATCH), that are really tangential to the principal thrust of the Senators who support the pending amendment, but which I think need to be rebutted at this time.

Page 6 of Senator HATCH's remarks, and I am quoting from the text, reads as follows:

> Already we observe that a succession of Presidents have skirted the Constitution in order to get the treaties before the Senate. The Kissinger-Tack agreement of 1974, setting forth the general principles of agreement, was never submitted to the Senate for discussion and debate. Congress has never indicated that it favors any new agreements or treaties with Panama or asked the President to make a new treaty. Presidents have simply labored at their self-appointed task in total disregard of the wishes of Congress and the American people. At no stage of the proceedings, in fact, has the Senate participated in these negotiations, or been given an opportunity to give its advice and consent until after the treaty was signed. To be sure, the Executive has bypassed the Senate, just as it is now seeking to bypass the House.

Mr. President, in all fairness I suggest that this paragraph totally misconceives the role of the Senate with respect to treaties. Under the Constitution, a treaty cannot become effective unless it is consented to by the Senate.

It is true that the Senate also has the power to advise the President, but that power is normally exercised informally. In the case of the Panamanian treaties, the Senate Foreign Relations Committee was advised of the progress made in those negotiations, and we had an opportunity to comment and to give advice to the State Department on them.

So it is simply not accurate to say we had no word of these treaties or the negotiations until they were formally laid before the Senate.

Second, the notion that the Senate has been denied its prerogative because it did not participate in the negotiations makes one think that the Senator may not be familiar with the way our Government works. The Senate has no authority to negotiate for the United States. The Constitution does not confer upon the Senate the right to participate in negotiations with foreign powers.

It is the sole and exclusive prerogative of the President to conduct negotiations with foreign nations. We simply cannot blot out 200 years of our history for purposes of scoring a debating point in connection with these treaties.

The process which has been followed in this case conforms with the practices of the past.

Certainly, the Senate did not participate in negotiations. It never does. The Constitution does not confer that authority upon the Senate. If it is necessary to quote from decisions of the Supreme Court on this question, I am happy to do so.

In the 1936 case of the *United States* v. *Curtis-Wright Corporation,* 29 U.S. 304, at page 319, the Court said:

> "[H]e [the President] alone negotiates," the Supreme Court has said. "Into the field of negotiation, the Senate cannot intrude; and Congress itself is powerless to invade it."

I am really surprised that it is necessary to recite Supreme Court decisions to underscore the fact that neither the Senate nor the House of Representatives, nor the two Houses combined, can negotiate for the United States with any foreign government. Under the separation of powers, which is the genius of our system, that particular authority is reserved to the President of the United States, and wisely so if this debate on these treaties is any example of what chaos there would be if the Constitution provided otherwise.

There is one other point made by the Senator from Utah which needs to be rebutted. On page 2 of his address, he charges:

> In effect, then, the President is now claiming for himself a new power.

The Senator argues that since the President negotiated this treaty, he is not submitting the question of the conveyance of American-owned property to the House of Representatives as well as to the Senate. Therefore he is arrogating to his office a new power not previously asserted.

As we will show tomorrow in a series of precedents dealing with previous treaties, such a charge is unsustainable. The President of the United States is not arrogating to himself a new power. He is criticized so often for so much let us at least spare him this criticism.

If he had undertaken to reach an agreement with Panama whereby American property would be transferred to the Panamanian Government, and had done so under an executive agreement, negotiated by the executive branch of the Government without reference to the Congress, then such a charge could be fairly laid upon him.

As Senators know, there are many hundreds of agreements—thousands, I should think—between the United States and foreign governments which do not take on the formality of a treaty. These executive agreements are never submitted to the Congress for its approval. This practice has grown up over the past couple of centuries for many reasons. It began with merely routine agreements of such a commonplace nature that it was thought unnecessary to consume the time of the Congress with their ratification. The Congress acquiesced in that practice. For many years it occasioned no problem, because the transactions were of a nature that would have only clogged the calendars here on the Hill for no useful purpose.

However, I have been a critic of executive agreements because in later years they came to embrace matters of such consequence, including military bases abroad, that I believed they should have taken on the formality of a treaty and should have been submitted to the Senate for its approval. For many years prior to the time the distinguished Senator from Utah (Mr. HATCH) was elected to this body, I have sought to confine these executive agreements within their appropriate sphere, and often have insisted that matters of importance be brought to the Senate in treaty form so that the Constitution would not be circumvented by Presidents who wished to overreach their authority.

So I am well acquainted with this subject.

All I can say to the Senator from Utah is that this criticism is misapplied in this case. President Carter did not seek to transfer any property belonging to the United States to the Government of Panama through an executive agreement.

He chose properly to negotiate two treaties, and he brought them to the Senate for its consent. Far from attempting to arrogate to himself some new power, he was extremely conscious of his responsibility under the Constitution to present these new agreements in treaty form for the consent of the Senate. I think that much is due him, and I respect him for the scrupulous way he has respected the prerogatives of this body.

I conclude, Mr. President, by saying that we will not show a similar respect for the prerogatives of this body if we adopt the pending amendment, because we can only derogate the authority of the Senate to pass upon the treaties submitted to it by the President if we insist that this authority must now be shared with the House of Representatives. Tomorrow, we shall present to the Senate those many precedents that establish beyond any reasonable doubt that the property transfers contemplated in the treaty before us can be effectuated by action not of the President alone, but of the President in concert with the Senate, as the Constitution provides.

Now, Mr. President, I have concluded my statement and I am happy to yield to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Idaho (Mr. CHURCH) for yielding to me at this time.

I was very much interested and pleased, as a matter of fact, to hear him make the categorical statement here, on the floor of the Senate, that the United States does own the property in the Panama Canal Zone, and for him to state that no one of the proponents of the treaties, so far as he knows, takes a different view; that that is something that is conceded and that the opponents of the treaties have used up a lot of unnecessary time in proving that fact.

The fact is that the statement has been made here, on the floor, by proponents of the treaty that we do not own the property in the Panama Canal Zone. On one occasion, the distinguished Senator from Massachusetts (Mr. KENNEDY) made that statement, that we do not own the property, we rented it. I took him to task for having made that statement and pointed out that we bought the property, paid something over $4 million for it. The statement has been made by other Senators on the floor of the Senate.

I wonder if the distinguished Senator from Idaho listened to the fireside chat of President Carter, in which he was seeking to build and mold public opinion in favor of the treaties. I have before

me a copy of his speech, in which he says this:

Another question is, why should we give away the Panama Canal Zone? As many people say, we bought it, we paid for it, it is ours.

This is the President speaking.

I must repeat a very important point. We do not own the Panama Canal Zone.

Said the President of the United States.

So, it is an interesting fact now that the distinguished Senator from Idaho makes the unequivocal statement that the United States does own the property in the Panama Canal Zone. Personally, I accept the view of the distinguished Senator from Idaho, and I commend him for his view. I am delighted to find an area where I do agree with the distinguished Senator in this regard.

Was the President of the United States incorrect when he made that statement? That is my question of the distinguished Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. I was waiting for the Senator's question; had, in fact, anticipated it.

Mr. ALLEN. Yes, and now you have it.

Mr. CHURCH. First, I want to say I take considerable consolation in the fact that the Senator from Alabama and I have found an area of agreement.

Mr. ALLEN. We agree on many things. I was merely teasing the distinguished Senator.

Mr. CHURCH. Of course we do.

I think the confusion on this matter arises from the fact that ownership does not equal sovereignty. Oftentimes in this debate, "ownership" has been used as a substitute word for "sovereignty."

Mr. ALLEN. Yes.

Mr. CHURCH. And, I might say, vice versa.

Mr. ALLEN. So the President was confused, then, is that it?

Mr. CHURCH. No, I think that the President's meaning was that the United States, as I previously mentioned, never formally claimed sovereignty over the Panama Canal Zone.

Mr. ALLEN. I am not talking about sovereignty. I did not use that word. I just asked about the ownership.

Mr. CHURCH. The Senator asked me whether the President was incorrect and I am trying to interpret the President's meaning.

As I said, we do not always use words precisely. This may not be a fault of the Senator from Alabama, but it is a common fault. Ownership and sovereignty have often been confused in the course of this debate.

I could have responded to the arguments made this afternoon by giving the Senate my own analysis of the state of the title held by the United States to differing parts of the Canal Zone. I think it would be useful for me to do so at this time, since so much has been made of the legal pedigree upon which our titles rest.

The United States owns property in the Canal Zone. The facilities used in connection with the operation and defense of the canal, as well as facilities used by other agencies of the United States in the zone, are property belonging to the United States. However, the exact status of the title to much of the land in the zone is cloudy. We believe we have good title to the land originally held by the Panama Railroad, comprising roughly one-third of the zone. About another one-third of the zone is land for which we paid damages to private owners in accordance with a procedure established in the 1903 treaty. We consider the remaining lands to be public lands of Panama over which we have use rights in perpetuity under the treaty.

It would, however, be practically impossible to determine from the available records the precise state of the title to any particular parcel of land in the zone.

In addition, Panama has disputed the assertion that we have title to any of these lands.

So I think that is the exact position of the U.S. Government with respect to the question of legal title to lands within the zone.

Mr. ALLEN. The Senator is saying now that we own some and we have a right in perpetuity to others and that the title is cloudy, which is at great variance with what he said just a moment ago, it would seem to the Senator from Alabama.

Mr. SARBANES. Will the Senator yield?

Mr. CHURCH. I will yield in just a moment.

I think that for purposes of the debate, the point I sought to stress earlier was that the question of title and the way that we derived it is not central to the issue.

Mr. ALLEN. I understand what the Senator is saying. I agree.

Mr. CHURCH. The issue before us, even if we assume that all of the land in the zone was indisputably owned by the United States——

Mr. ALLEN. That is what the Senator said a moment ago, that we did——

Mr. CHURCH. Even then, it seems to me to be irrelevant, because what we are seeking to do in this treaty is to recognize that the Panamanians have legitimate grievances. We are seeking to work out a new arrangement with them that will serve the interests of the United States between now and the end of the century, and then, in perpetuity, in retaining the use of this canal. This includes the direct management of the canal between now and the end of the century, and its assured peaceful and neutral use in the years beyond.

Mr. ALLEN. I thank the Senator.

Mr. CHURCH. I think that is the issue.

Mr. ALLEN. Yes.

Mr. CHURCH. Not whether we have claims to title to particular parcels of land and what the derivation of those claims might be.

Mr. ALLEN. The Senator now is shedding a lot of doubt on the ownership, having had the President's speech quoted to him, when just a moment ago he was of the very firm belief that we had title to all of the property in the Canal Zone.

Mr. President, I would not care to question the distinguished Senator any further and, if he is ready to yield the floor, I would like recognition.

Mr. CHURCH. Mr. President, I will yield the floor in just a moment.

Let me say that I was aware of the President's speech before the distinguished Senator from Alabama questioned me. I answered him in a way I thought to be accurate, namely, that the President referred in his speech to the fact that the United States never formally claimed sovereignty over the Canal Zone.

Of course, as the Senator knows, even though we may have exercised all the rights of a colonial power, we never have formally claimed the sovereignty over the zone.

I think that is what the President referred to because, if we take that sentence within the context of the rest of his remarks, we cannot interpret it any other way.

Mr. SARBANES. Will the Senator yield?

Mr. CHURCH. Yes, I am happy to.

Mr. SARBANES. I think the last point the Senator from Idaho made is absolutely on point. In fairness to the President we ought to quote exactly what he said in the fireside chat on this point.

The President was addressing himself to this assertion made by some opponents of the canal treaties that we bought it, we paid for it, it is ours. In other words, he was addressing this assertion that a lot of people are making which mixes up the whole question of title in terms of ownership and sovereignty and jurisdiction, and all of the bundle of rights that go together to define the control that we exercise over property.

I am going to quote the President from beginning to end on this point and then I want to comment. The President said the following in his fireside address on February 1 of this year:

Another question is: Why should we give away the Panama Canal Zone? As many people say, "We bought it; we paid for it; it is ours."

I must repeat a very important point. We do not own the Panama Canal Zone. We have never had sovereignty over it. We have only had the right to use it.

The Canal Zone cannot be compared with United States territory. We bought Alaska from the Russians and no one has ever doubted that we own it. We bought the Louisiana Purchase Territories from France, and that is an integral part of the United States

From the beginning we have made an annual payment to Panama to use their land. You do not pay rent on your own land.

Mr. ALLEN. What is that? Would the Senator read that sentence over? I did not quite get it.

Mr. SARBANES. I will be happy to read the whole of it, if the Senator wants.

Mr. ALLEN. No, just the sentence.

Mr. SARBANES. I was trying to read it word for word. Does the Senator suggest I did not do so?

Mr. ALLEN. No. I just wondered if he would repeat that sentence.

Mr. SARBANES (reading from the address):

From the beginning we have made an annual payment to Panama to use their land. You do not pay rent on your own land.

The Panama Canal has always been Panamanian territory. The U.S. Supreme Court

and previous American Presidents have repeatedly acknowledged the sovereignty of Panama over the Canal Zone.

We have never needed to own the Panama Canal Zone, any more than we need to own a ten-mile-wide strip of land all the way through Canada to Alaska when we build an international gas pipeline.

The new treaties give us what we do need—not ownership of the Canal but the right to use it and to protect it. As the Chairman of the Joint Chiefs of Staff has said, "The strategic value of the Canal lies in its use."

Now, that is the end of the quotation from the President's address.

I think it is clear that the President is addressing the assertion that the Canal Zone is in some way on all fours with the purchase of Alaska or the Louisiana Purchase.

Now, that is clearly not the case. We did not assume in the Canal Zone all of the bundle of property rights that we assumed with the Louisiana Purchase or with the purchase of Alaska.

There is the important matter of reserved sovereignty to the Republic of Panama. There is the matter of continuing annual payments by the United States to the Republic of Panama, for the right to continue to use this land that divides the Republic of Panama and through which the canal passes, for the right to make use of the Canal Zone.

So I think what the President was addressing is that entire problem and in that light, I think the statement he has made is accurate.

The distinguished Senator from Idaho has discussed the legal question of ownership and pointed out that, while it is true that we made certain payments to private people who owned land in what became the Canal Zone, such land involved only a minority portion of the Canal Zone area. This land was in private hands, to whom we made private payments, and the 1903 treaty has an extensive provision for how we make those damage payments.

Much of the other land was public lands of the Republic of Panama and we have been making use of them ever since for the purpose of operating the canal.

We have, of course, been paying to Panama every year under the 1903 treaty a yearly payment which has been adjusted a couple of times over the course of the history of our relationship with the Republic of Panama.

On the very narrow question of ownership it must be recognized that the payments to private parties did not begin even to approximate the total land area over which the United States assumed control in the Canal Zone for the purpose of operating the canal.

I think that the President's comments, which I fully quoted in order to get them in the RECORD so that one can have the benefit of a full perspective, ran to this broader question, whereby some people have asserted that the United States holds a position with respect to our rights in the Canal Zone which is equivalent to the rights we acquired in the Louisiana Purchase or when we bought Alaska from the Russians. I believe that is clearly not the case. We do not have that kind of property rights in the Canal Zone. We never have asserted it. The other areas were brought into the United States as an integral part of the country.

If foreigners have children in the area that formerly constituted the Louisiana Purchase or in Alaska, those children are American citizens. That is not the case in the Canal Zone. If Panamanians or other foreigners have children in the Canal Zone, those children do not become American citizens by virtue of their birth in the zone.

Mr. ALLEN. The Senator is talking sovereignty now, rather than ownership.

Mr. CHURCH. The President was talking sovereignty, too. I agree fully with what the Senator from Maryland said. If the President's remarks are read within the context of the speech, it is clear he was making the point that whatever rights the United States has in the Canal Zone, they are not the equivalent of the rights we acquired in the Louisiana Purchase or the purchase of Alaska. They are not to be confused with rights we exercise over the Virgin Islands or Guam, which are territories of the States.

He was attempting to say, in his own words—and if one reads the paragraphs, it is clear what his meaning was—that the Panama Canal Zone is not an American territory. He is supported in every particular in that assertion.

Even the 1903 treaty, which we drafted ourselves and imposed upon Panama, does not make that claim for the United States. The practices to which the Senator from Maryland referred simply confirm the fact that the Panama Canal Zone is not American territory and never has been. Ownership of lands within the zone is quite a different matter.

I am the owner of a suburban house in the State of Maryland. Actually, I have finished paying the mortgage, so I do not even share that ownership any more with the savings and loan association. I tell my wife every night, "This year we own this property, after 20 years of mortgage payments." She thinks that means we should sell. I think it means we should keep the property. We have this continuing argument.

Mr. ALLEN. I agree with the Senator.

Mr. CHURCH. But I do not think either of us is operating under any illusion that our ownership of that property renders us immune from the sovereign authority of the State of Maryland or the sovereign authority of the United States.

If the State of Maryland decides to build a highway 16 lanes wide right through my residential district, my ownership of that property is going to be eradicated by the sovereign assertion of the authority of the State of Maryland, under its right of eminent domain.

Mr. SARBANES. As a Senator from Maryland, I assure the Senator that should the State seek to do that, I am prepared to lend my good offices to the Senator to aid in protecting his homestead.

Mr. CHURCH. I may need those services. But I am certain that if the Highway Department of the State of Maryland makes that decision, nothing can save my property from the bulldozer.

Furthermore, although I am the owner of that property, I do not suffer under the illusion that I do not have to pay real property taxes both to the State of Maryland and to Montgomery County; and if I failed to do that, I would find that my ownership soon would be subject to considerable peril, since it would not take long for the State to step in and seize the title.

So everybody knows the difference between the ownership of property and the exercise of sovereign power. Sovereign power is exercised by governments. Never, not from 1903 to the present day, has the United States ever formally claimed sovereignty over the Panama Canal Zone. Never have we said it was a territory of the United States, even though the treaty of 1903 gave us the prerogatives of managing the land as though we were sovereign.

This, of course, has been the nub of all the difficulty. It has caused the resentment that one would expect as times changed and as small countries everywhere in the world began to assert jurisdiction over their own territories.

So the time of reckoning has come to us, Mr. President. It comes to us in the form of these treaties. We have known since 1964 that the time of reckoning would come, that the United States could not preserve a colony in a world where colonies have disappeared, that in the end we would have to acknowledge to Panama what we claimed for ourselves from the days of Lexington and Concord—the right to our own independence and sovereign control over our own lands. We cannot live by the double standard indefinitely.

This treaty will set right what for so long has been wrong in the relationship between the most powerful nation of the world and one of the smallest and weakest nations. It will lay the basis for a cooperative management and operation of the canal which will greatly serve the interests of the United States and contribute immensely to the improvement of our relations not only with Panama but also with all the other countries of the Western Hemisphere.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CHURCH. I yield to the Senator from Maryland.

Mr. SARBANES. I want to come back to the point of ownership, because I think it is important.

Under the 1903 treaty, the United States paid a little more than $4 million—which I think was the figure the Senator from Alabama alluded to at an earlier point—to owners of private land in the area that became the Canal Zone. By paying that money to private owners, we did not then own that land in the same way that a nation owns lands when it buys it from another nation. If the Republic of France or if Great Britain were to come to the United States and pay private owners of land and buy the land, they would acquire the private rights of those owners, but they would not acquire rights over that land equivalent to what the United States holds as the country under whose jurisdiction and whose sovereignty that land is to be found.

So the fact that we paid more than $4 million to private holders for their interests does not give us a claim to the land

that those private people had, with respect to the Republic of Panama, which establishes us as the nation that holds that land instead of the Republic of Panama.

With respect to the remainder of that land, much of it is public land of the Republic of Panama, for which we make payment and have made payment year in and year out. We never have contended that we hold the Canal Zone in a way equivalent to that in which we hold the Louisiana Purchase or Alaska. That is not the bundle of rights we acquired in the Canal Zone; and the President, in his speech, was speaking of the view that we own it in the same way. He talked about both ownership and sovereignty and went on to develop his argument from that point.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SARBANES. No. The Senator, earlier today—and I must say to the Senator that it was much to my disappointment—at the outset of his extended text, which he read for some 2½ hours, made it very clear that he wanted no interruptions and no questions.

Mr. HATCH. If the Senator does it that way I am happy not to interrupt, but the Senator wishes to argue.

Mr. SARBANES. I simply wish to say to the Senator that then puts us in the position of having one assertion after another made with no opportunity at the time to comment.

Mr. ALLEN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Regular order is called for.

Mr. CHURCH. I assume by that that the Senator from Alabama——

The PRESIDING OFFICER. The Senator yielded for a question.

Mr. ALLEN. The Senator from Idaho has the floor.

Mr. CHURCH. The Senator from Alabama wishes to make the point that I have the floor.

Mr. ALLEN. And yielded only for a question, not a harangue.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. SARBANES. Mr. President, will the Senator not agree that as to the President's statement, upon a full reading with respect to this issue, the President was clearly addressing questions of ownership and sovereignty taken together; he was really addressing the assertion that people have made which seeks to see in the Panama Canal Zone the equivalent of the Louisiana Purchase or the Alaska Purchase?

Mr. CHURCH. I agree fully, and I do not see how anyone could read the President's remarks and interpret them differently.

Mr. SARBANES. If the Senator will yield further, the President has been much put upon in this debate today. The Senator earlier pointed out in discussing the amendment that is pending that the President is in no way seeking to extend executive authority. It has been implied that that is the case.

But has not the President come to the Senate to seek the approval of the Senate; in fact he comes with a treaty requiring the extraordinary majority of a two-thirds vote in the Senate of the United States?

Mr. CHURCH. Yes. Earlier I described the trend toward the use of executive agreements in place of treaties where the subject matter was not purely routine in character but related to matters of great importance. I have been one of the most vocal critics in the Senate of this practice. I regard it as an abuse of the executive agreement and, at times, a means of circumventing the Senate, and I have said so on this floor on many occasions in the past.

But in this case the President has done none of that. He neither attempted to enter into an executive agreement, which he might or might not have submitted to Congress, nor did he use the device of an executive agreeement in combination with a request for the consent of both Houses. That requires only a majority vote and has frequently been used to avoid the hurdle of the two-thirds vote required for the Senate to ratify a treaty. He did not take any of those courses of action which previous Presidents have taken to avoid the difficulty of a two-thirds vote in the Senate.

He did it the hard way. He did it the honest way. He did it the way that totally complies not only with the express provisions of the Constitution but with a proper observance of its spirit. And I just do not think there is any basis on which he can be properly criticized on that score.

Mr. SARBANES. Mr. President, will the Senator yield further?

Mr. CHURCH. I yield.

Mr. SARBANES. We have received a letter signed by 15 leading constitutional authorities, distinguished deans of law schools and professors of constitutional law, a letter addressed to the Congress of the United States, which says the following:

We have been informed that the constitutional validity of the new Panama Canal Treaty has been questioned by several lawyers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiation with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

Mr. President, I ask unanimous consent that this letter and the signatories to it, who encompass the deans and the professors of constitutional law of some of the Nation's outstanding law schools, be printed in the RECORD so the Senate may have the full benefit of the statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TO THE CONGRESS OF THE UNITED STATES:

We have been informed that the constitutional validity of the new Panama Canal Treaty has been questioned by several lawyers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiation with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

Respectfully,

The foregoing letter is signed by the following:

Carl A. Auerbach, Dean, University of Minnesota Law School.

Paul Brest, Visiting Professor of Law, Yale University Law School.

Paul A. Freund, Professor of Law, Harvard Law School.

Walter Gellhorn, Professor of Law, Columbia University of Law School.

Louis Henkin, Professor of Law, Columbia University Law School.

Gerald Gunther, Professor of Law, Stanford University Law School.

Burke Marshall, Professor of Law, Yale University Law School.

Myres S. McDougal, Professor of Law (emeritus), Yale University Law School.

Paul Mishkin, Professor of Law, University of California (Berkeley) Law School.

Louis H. Pollack, Dean, University of Pennsylvania Law School.

Eugene V. Rostow, Professor of Law, Yale University Law School.

Joseph M. Sweeney, Dean, Tulane University Law School.

Lawrence H. Tribe, Professor of Law, Harvard University Law School.

William Van Alstyne, Professor of Law, Duke University Law School.

Harry H. Wellington, Dean, Yale University Law School.

(Institutional affiliation shown for purpose of identification only.)

Mr. CHURCH. Mr. President, to conclude my remarks, I quote from article II, section 2, clause 2 of the Constitution which reads:

The President shall have power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur.

From the outset this provision has been construed as conferring upon the Senate the exclusive authority to approve treaties.

The Committee on Foreign Relations outlined the contours of the treaty power thusly in a 1902 report:

The power of the President and the Senate is derived from the Constitution. There is under our system no other source of treaty-making power. The Congress is without power to grant to the President or to the Senate any authority in respect of treaties, nor does the Congress possess any power to fetter or limit in any way the President or the Senate in the exercise of its constitutional function. It cannot enlarge or in anywise limit or attach conditions to the exercise of the treaty-making power.

Whether the treaty is one which is self-executing or one which requires legislation by the Congress to give it effect, it must first, in any event, be negotiated by the President and ratified by the Senate. Whether he will negotiate a treaty and when and what its terms shall be are matters committed by the Constitution entirely to the discretion of the President; and whether the Senate will advise and consent to it, with or without amendment, is a matter committed entirely to the discretion of the Senate.

It is that constitutional system that we seek to preserve. It has served this country well for 200 years, and I hope we do not undermine it by adopting the amendment proposed by the Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. I thank the Chair.

A moment ago I sought recognition or I sought to get the distinguished Senator from Idaho to yield to me, and I was going to make a comment in a somewhat jocular vein, I suppose, when he said that each night be told his lovely wife Bethine that they had their house paid for there in Maryland. While I am sure Bethine would have been glad to have heard that the first time, I rather imagine on the second, third, fourth, and fifth times that the distinguished Senator from Idaho told her, that she would have become a little bit bored by that information. I would merely wish to call the distinguished Senator's attention to his statement when I sought to get him to yield a moment ago.

But I was somewhat surprised after the distinguished Senator from Idaho stated he was ready to yield the floor, and he yielded for a question, when I propounded that question about what the President said with respect to the United States not owning the property in the Panama Canal Zone, that the distinguished Senator from Idaho and the distinguished Senator from Maryland (Mr. SARBANES) each climbed on their respective horses and galloped off in all four directions.

They were somewhat taken aback by having stated here on the floor, the distinguished Senator from Idaho having stated on the floor, that the matter of ownership of the property in the Canal Zone was conceded, that we do own the property in the Canal Zone, and that no person, the distinguished Senator from Idaho said, proposing the agreement on these treaties takes any different view, that that is the view of everybody on the side of the proponents of the treaties, when I called attention to the statement of the distinguished Senator from Massachusetts (Mr. KENNEDY) that we just rented the property, and I notice the President states that you do not pay rent on your own land. So then they started talking about sovereignty, the President was talking about sovereignty.

Well, I accept as correct that we do own the property in the Canal Zone. That would then only leave the question of whether we are going to follow the provisions of article IV, section 3, clause 2 of the Constitution that gives Congress the power to dispose of property of the United States. So that is the only question remaining. The distinguished Senator from Idaho (Mr. CHURCH) has stated and conceded that we do own the property.

Then when I called attention to the fact that the President was saying we did not own the property, they then said, "Well, we own some of it and have some of it in perpetuity, and we do not have any sovereignty over any of it," they say.

Well, who says anything about sovereignty? Only they do by making reference to something in the President's speech. The question of sovereignty does not have a thing in the world to do with it. It is a question of ownership of property. That is the question.

No one I know of feels it is necessary that you have sovereignty over land, sovereignty on the part of the United States, to trigger the application of article IV, section 3, clause 2. It is ownership by the United States of property.

Now, the distinguished Senator from Idaho said quite some time ago he was not going to make his speech tonight, and I am not going to make my speech tonight, I will fake my speech tomorrow, but I do wish to comment on another statement the distinguished Senator made, and I believe he has the matter of negotiation of a treaty and the Senate's right or lack of right to negotiate a treaty confused with the Senate's undoubted right to advise and consent with respect to a treaty.

No one that I know of contends that Senators should sit down at a negotiating table with Mr. Linowitz and Mr. Bunker and negotiate the treaty or negotiate the amendments, if any, that the Senate adds to a treaty.

I will say this: I believe any two Senators here would have negotiated a better treaty for the United States than Ambassador Bunker and pseudo-Ambassador Linowitz, 6-month Ambassador Linowitz, came up with. I believe they would have protected the interests of the American taxpayer better than Ambassador Bunker and interim Ambassador Linowitz, I will say charitably.

But that is not the point. The Senate does not negotiate the treaty; the Executive does that. That is conceded. But then the treaty is submitted to the U.S. Senate for its advice and consent or its nonassent, if it wishes to do that. It is not bound to consent. Advise, yes, but the advice might be to turn it down; that might be the advice. The advice might be nonassent or the advice might be to modify the treaty and offer amendments.

I will say that the distinguished Senator from Idaho has been absolutely consistent, absolutely consistent on the matter of the necessity to rubberstamp these treaties.

He has not left any doubt whatsoever of his position: "Don't change it at all."

Shall we say, "Well, what about the leadership amendments?" Well, I would not brag about the leadership amendments, I do not believe. All they did was to put into the treaties the language of the memorandum of agreement that had been reached between the President and the dictator, and they were just full of faults and loopholes, and yet no amendments were allowed to the leadership amendments. Except for those amendments, the leadership stonewalled against any other amendments, and would not agree to a single amendment. The distinguished Senator from Kansas (Mr. DOLE) said they would not even agree to put the word "American" in there. And they would not. They said, "Oh, that would cause the defeat of the treaties."

Who knows what it would cause? I have stated here on the floor that in my judgment—and I guess I have as much right to have a judgment as the leadership has—in my judgment, Torrijos would accept any amendment that does not cut down on the $100 million a year that would be paid to his regime under these treaties. He has a one-man government, and who would we be to say that he did not comply with the Panamanian constitutional processes? If he said he did, how could we question it? Moreover, as the distinguished Senator from New York (Mr. JAVITS) has pointed out, a treaty cannot be attacked collaterally.

But getting back to the matter of the Senate not having the right to negotiate, there is not any right to negotiate, but the Senate has a right that is just as important, and that is the right of advice and consent, or advice and nonassent.

If you take the position of the distinguished Senator from Idaho, that if you offer amendments you are negotiating, and we cannot negotiate, that would seem to indicate that an amendment would be out of order, because that would be negotiating.

Well, the Senate has a very elaborate procedure regarding treaties. I assume that we would not have a rule unless it had some purpose. Read rule XXXVII, telling that the treaty goes to the Committee of the Whole, when it shall be proceeded with by articles, and the amendments reported by the committee shall be first acted upon.

The Foreign Relations Committee did not come up with a single amendment, not one. There was not a single committee amendment. These treaties, both of them, are letter perfect as far as committee amendments are concerned. Yes, they recommended the leadership amendments, but aside from that they were letter perfect.

But the rules of the Senate do contemplate possible amendments:

The amendments reported by the committee shall be first acted upon, after which other amendments may be proposed; and when through with, the proceedings had as in Committee of the Whole shall be reported to the Senate, when the question shall be, if the treaty be amended, "Will the Senate concur in the amendments made in Committee of the Whole?"

That is not negotiating; that is following the rules of the Senate with respect to amendments to perfect the treaty, to make it a better treaty, to protect the interests of the taxpayers, to protect our right to defend the canal. Those are the types of amendments that have been before the Senate, and have been turned down.

And the amendments may be taken separately, or in gross, if no Senator shall object;

after which new amendments may be proposed.

We short circuited this by unanimous-consent agreement, saying we should stay in Committee of the Whole after we came out to the floor. That was perfectly all right, and it did save time.

The decisions thus made shall be reduced to the form of a resolution of ratification, with or without amendments.

I merely call attention to these portions of rule XXXVII to show that the rules contemplate that amendments may be offered; and if amendments may be offered amendments may be accepted. That is still not negotiating; but the distinguished Senator from Idaho seems to think that if we pass an amendment here, we are doing something we should not do, and that is negotiating. I believe he has the two processes confused, giving our advice and consent, or our advice and nonassent, to the President with respect to a treaty. This would be embodied in shaping and molding that treaty. That is not negotiating. We would not have any contact whatsoever with the Panamanian Government. If the treaty goes back to the negotiating table, no Member of the Senate would be there. The Senate would not be negotiating. It would unilaterally be giving its advice to the President. He is the man we advise; we do not advise Torrijos, we advise the President. Then the process would be that the Panamanian Government, by their constitutional processes, be it an additional plebiscite or be it acceptance by the dictator, would accept or reject these amendments.

If the amendments were rejected by the dictator, or rejected by the Panamanian people in a plebiscite, the treaty would be dead, and we would have to start over at the negotiating table. But the Senate will not negotiate; all the Senate does is give its advice and consent or nonassent to the President.

So I hope that Senators will not feel that the statement that the Senate shall not negotiate means that it cannot agree to amendments and send the treaty thus amended on to Panama. But apparently if we have an amendment under consideration, the argument is made that we cannot agree to such amendment, because the Senate cannot negotiate.

No one says that the Senate can negotiate. But it can certainly carry out its duty and responsibility to advise the President of the United States, and that advice will not be just in the form of saying, "Why, Mr. President, we believe the negotiators could have done a better job." That is not the way it is done.

It is done by perfecting the treaty by amendments. So the point I am making, Mr. President, is that I do not feel that the managers of the treaty, the leadership, should stonewall against amendments. My only concern is the amendment that we have before us.

It is my contention, and the contention of those of us who are trying to perfect this treaty, that action by the House, along with the Senate, in a legislative enactment by statute is necessary before property of the United States can be disposed of.

Inasmuch as we do have the amendment before us, it might be well to read this amendment. It is short. It is only eight lines long, but it is an important amendment. I believe, Mr. President, that it will receive the highest vote yet that those of us who sought to strengthen these treaties have obtained on any of our amendments.

At the end of article I it adds the following new section:

5. It is expressly provided that this Treaty shall, in no event, enter into force until the Congress of the United States, in accordance with the provisions of Article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.

That date was chosen because it is the date the treaties were signed by the President and the dictator.

This is a matter where the argument cannot be made that this amendment would kill the treaties. It cannot be made, properly and successfully. Even the distinguished Senator from Idaho could not make that argument. I will tell you why, Mr. President. If this amendment is agreed to, this step provided here would have to take place before the treaty would be sent to Panama. It is nothing that Panama is required to do. It places no burden upon Panama. This burden is placed on the managers of the treaty from our side of the negotiating table. This does not require any action whatsoever by Panama, not one single step is required.

There is really nothing in which they could find fault in the United States being required to take some action, not Panama. This does not require Panama to take any action at all. So the argument cannot properly be made, it seems to the Senator from Alabama, that this would require action which would be offensive to the Panamanian national dignity and, for that reason, dangerous to agree to. This merely says that the Congress must first authorize the disposition of this property before the treaty can go into force and effect. The Panamanian Government would be called upon to take no action whatsoever.

Mr. President, the Members of the House of Representatives, some 235, according to my understanding, have introduced and sponsored House Concurrent Resolution No. 347, saying:

It is the sense of the Congress of the United States that any right to, title to, or interest in a property of United States Government agencies in the Panama Canal Zone, or any real property and improvements thereon located in the zone, should not be conveyed, relinquished, or otherwise disposed of, to any foreign government without specific authorization for such conveyance, relinquishment, or other disposition by an act of Congress.

The House of Representatives takes the position, at least 235 Members of the House because it has that many sponsors, well over half of the Members of the House, that there must be an act of Congress to authorize the disposition of the property of the United States in the Panama Canal Zone.

Why would the leadership and the managers of the treaty here on the floor slap the House of Representatives? "No, we are not going to send it over to you."

Let me read something from the 1955 treaty to show how treaties with Panama have been handled before. Read article V of the 1955 treaty with Panama. I might say, in the 1955 treaty with Panama they did not have that Colombian firing squad that Mr. CHURCH talks about so much, that these Panamanian Government people faced a Colombian firing squad if they did not go ahead and agree to the 1903 treaty. All the firing squad members had passed onto their reward. This is 52 years later. If there were not sovereign states dealing at arm's length before in 1903, we certainly had them in 1955.

Let us see what article V says about the 1955 treaty providing for the disposition of certain property in Panama. The very first line:

The United States of America agrees that, subject to the enactment of legislation by Congress, there shall be conveyed . . . the right, title and interest—

This is what they did in 1955. Why not do the same this time? All right.

On down in the middle of the article—

and the determination by the United States of America respecting the same, subject to the enactment of legislation by the Congress—

Going down farther:

The United States of America also agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all its right, title and interest to the land and improvements in the area known as Paitilla Point . . . Subject to legislation enacted by the Congress.

What about the course of dealings? That is what was done in 1955 with Panama. The agreements they made to convey property to Panama were made conditioned on the approval of those conveyances by the Congress. No one contends that the Congress is anything other than the House of Representatives and the U.S. Senate. So if we are going to follow precedent, we certainly see that a statute is enacted, agreed to, of course, by both Houses of Congress and signed by the President, authorizing this transfer.

Mr. President, I should hate to be party to action by the U.S. Senate, slapping the composite face of the House of Representatives, the Members of the House of Representatives, 235 House Members, saying, "Have an act of Congress before this property is disposed of and given to Panama."

There should be comity between the Houses. We all recognize that. We respect their rights. They respect ours. We are not even allowed, under the custom prevailing here, to even refer to action by the other body. We cannot properly make reference to anything that takes place over in the House. So why should we say to the House of Representatives that this is a Senate show entirely, the House has no place in it? That is not conducive to comity between the two Houses.

Nor is it conducive to the free flow of legislation between the Houses. Many Senators who are going to vote against this amendment—vote to table it, I daresay—may, from time to time, have bills in which they are interested, that they would like the House to give a favorable vote to. But will they, after we stonewall again on this issue and say to the House that, even though Congress has the power to dispose of property of the United States, we feel that there is an alternate power over here that the Senate has that the House does not have—that we can dispose of this property by treaty, no matter how much it is, no matter how much of a giveaway it is, no matter how much the rights of the people are involved?

Here is a piece of property that has a replacement value—not counting the 500 square miles of land, the canal itself has a replacement value of some $10 billion. Well, if the Senate and the President can, by treaty, give away property of the United States, where can that power end? Suppose, as a good neighbor policy, it is decided that we took advantage of Mexico and took that property away from them after the Mexican War and we entered into a treaty with Mexico giving back a large portion of Texas. Would that take House action? Where does it end? There is no end in sight. If we can give this property away by the executive and the Senate, then there is no end to that power.

Now, Mr. President, I am encouraged by the fact that, in 1975, a resolution was offered in the Senate, with 37 cosponsors, in which it was stated that the Panama Canal should not be given to Panama, and in which it was stated that article IV, section 3, clause 2 of the Constitution controlled in this area. Let me read the recital of the resolution. It says there would be no recession—receding, that is—of the property in the Panama Canal Zone to Panama unless authorized by an act of Congress. That is what the resolution provided.

Mr. President, I found on that resolution the names of eight Senators who voted for the Neutrality Treaty. I hope they will not vote for the Panama Canal Treaty. Eight Senators who, in 1975, said we should not give the canal away and, if we did, it required House action as well, eight Senators who took that position then, then voted for the Neutrality Treaty.

Mr. President, I mentioned that matter to the distinguished majority leader on the floor. I called his attention to the fact that, at one time, he was against these treaties. He said,

> Well, yes, but I had not seen the treaties then and, as soon as I read them and studied them, I thought they were in the best interests of the country and I agreed to support them.

What about the constitutional question, Mr. President? Your view on the advisability of giving the canal away is one thing, but what about the expressed view on the constitutional question as contained in that resolution? How could that change? If the Constitution required it at the time that resolution was offered by 37 Senators, eight of them treaty supporters—Neutrality Treaty supporters, that is—if the Constitution required action by the House, action by the entire Congress, in 1975, the Constitution has not changed. Why would it not require it in the year 1978?

It would require it, Mr. President. If, to comply with the Constitution, it took an act of Congress in 1975, as stated by these 37 Senators, 8 of whom supported the Neutrality Treaty, I would hope that they would support the view that they had in 1975 and support this amendment.

How could a Senator say, "I thought in 1975 that it required House action," and how could they say then in 1978 that it does not require House action?

I do not believe those eight Senators are going to be that inconsistent, Mr. President, and, if they are not, there is a good chance then that this amendment will be approved.

Now what does the administration fear? It would just take a majority vote there in the House, two-thirds over here. Why would they not be willing to submit it?

Mr. President, efforts have been made to bring lawsuits on this question. The Supreme Court said they are premature, or they involve action between Houses. But once the treaty has been approved by the Senate, the Resolution of Ratification agreed to by the Senate, notes exchanged between the heads of the two governments and the treaty becomes law, I do not feel that the Supreme Court then could say that the Court has no jurisdiction of that matter, or that it is premature, or that it is action between the Houses, and we are going to have this treaty or the transfer of the property tied up, in all possibility, for months and years to come.

Mr. President, it would seem to me to be the better part of wisdom to start with a statute, start with legislation looking to the enactment of a statute to follow article IV, section 3, clause 2, of the Constitution, which gives to the Congress the power to dispose of the property of the United States.

I was somewhat amused when the statement was made here on the floor by the distinguished Senator from Idaho (Mr. CHURCH) that, "Oh, yes, we own the property there, nobody disputes that." Then when I pointed out that the President had said that we do not own the Canal Zone, they started talking about sovereignty this, that and the other, that he was talking sovereignty, that he was talking about comparing it with the Louisiana Purchase. That went on for quite a few minutes, seeking to harmonize their statement with the President's statement.

I must say that I am unconvinced, I am willing to accept, however, the statement of the distinguished Senator from Idaho (Mr. CHURCH) that the United States does own this property, which we have been contending all along. I do not know just why they come forward with that admission or concession, but it is interesting.

I am glad that point can be laid aside, though we began to wonder just what the position was after the President's statement on TV had been cranked into the equation. At the same time, we will accept the original statement.

As the distinguished Senator from Idaho (Mr. CHURCH) and I have both said, we will make our speeches on tomorrow. But we have had the opportunity to discuss portions of this point. The hour being late, I yield the floor, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PROXMIRE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

(The following request occurred during Mr. ALLEN's remarks and is printed here by unanimous consent.)

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when Senator ALLEN yields the floor today, there be a period for the transaction of routine morning business, as in legislative session, with statements therein to be limited to 10 minutes and the period to be limited to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with speeches therein limited to 10 minutes each.

MESSSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under authority of the order of March 23, 1978, the Secretary of the Senate, on March 27 and March 28, 1978, received messages from the President of the United States.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations received on March 27 and March 28, 1978, which were referred to the appropriate committees.

(For nominations received on March 27 and March 28, 1978, see the end of Senate proceedings today.)

BUDGET OF THE DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT—PM 159

Under authority of the order of March 23, 1978, the Secretary of the

Senate, on March 27, 1978, received the following message from the President of the United States which, with the accompanying document, was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting for your consideration the budget of the District of Columbia for fiscal year 1979.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

REPORT ON THE STATUS OF ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT—PM 160

Under authority of the order of March 23, 1978, the Secretary of the Senate, on March 27, 1978, received the following message from the President of the United States which, with the accompanying report, was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the provisions of Section 6(c) of the Federal Advisory Committee Act, I am transmitting the sixth annual report on the status of Advisory Committees.

This report reflects the results of the 1977 governmentwide, zero-base review that I directed be conducted of all advisory committees:

—The total number of committees was reduced to 875 from 1,159 at the end of 1976.

—While some new committees were established during the year, some 333 committees were terminated, and the number was reduced further by 81 as the result of the consolidation of existing committees.

While we recognize the contributions that advisory committees can make we will continue our efforts to assure, through careful management and review, that such committees are terminated when they no longer are necessary, and that new committees are established only when they are essential to meet the responsibilities of the Government.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

REPORT OF HEALTH ACTIVITIES UNDER THE FEDERAL COAL MINE HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 161

Under authority of the order of March 23, 1978, the Secretary of the Senate, on March 27, 1978, received the following message from the President of the United States which, with the accompanying report, was referred to the Committee on Human Resources:

To the Congress of the United States:

I transmit herewith the 1975 Annual Report of Health Activities under the Federal Coal Mine Health and Safety Act of 1969.

I recommend that the statutory reporting requirement for this report be changed from once every year to once every three years. Department of Health, Education, and Welfare staff resources and time could be better spent on more research rather than on the preparation of annual reports of largely repetitious material. Basic information in this field has been known for some time, and new findings develop only slowly and infrequently. All of the information contained in this report is available to Congress during annual appropriations and oversight hearings, and the Department of Health, Education, and Welfare will inform Congress immediately of any scientific breakthroughs in the field.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

PROPOSED COMPREHENSIVE NATIONAL URBAN POLICY—MESSAGE FROM THE PRESIDENT—PM 162

Under authority of the order of March 23, 1978, the Secretary of the Senate, on March 27, 1978, received the following message from the President of the United States, which was referred to the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, the Committee on Finance, the Committee on Environment and Public Works, and the Committee on Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

I submit today my proposals for a comprehensive national urban policy. These proposals set a policy framework for actions my Administration has already taken, for proposed new initiatives, and for our efforts to assist America's communities and their residents in the years to come. The policy represents a comprehensive, long-term commitment to the Nation's urban areas.

The urban policy I am announcing today will build a *New Partnership* involving all levels of government, the private sector, and neighborhood and voluntary organizations in a major effort to make America's cities better places in which to live and work. It is a comprehensive policy aimed both at making cities more healthy and improving the lives of the people who live in them.

The major proposals will:

Improve the effectiveness of existing Federal programs by coordinating these programs, simplifying planning requirements, reorienting resources, and reducing paperwork. And the proposals will make Federal actions more supportive of the urban policy effort and develop a process for analyzing the urban and community impact of all major Federal initiatives.

Provide employment opportunities, primarily in the private sector, to the long-term unemployed and the disadvantaged in cities. This will be done through a labor intensive public works program and tax and other incentives for business to hire the long-term unemployed.

Provide fiscal relief to the most hard-pressed communities.

Provide strong incentives to attract private investment to distressed communities, including the creation of a National Development Bank, expanded grant programs and targeted tax incentives.

Encourage States to become partners in assisting urban areas through a new incentive grant program.

Stimulate greater involvement by neighborhood organizations and voluntary associations through funding neighborhood development projects and by creating an Urban Volunteer Corps. These efforts will be undertaken with the approval of local elected officials.

Increase access to opportunity for those disadvantaged by economic circumstance or a history of discrimination.

Provide additional social and health services to disadvantaged people in cities and communities.

Improve the urban physical environment and the cultural and aesthetic aspects of urban life by providing additional assistance for housing rehabilitation, mass transit, the arts, culture, parks and recreation facilities.

America's communities are an invaluable national asset. They are the centers of our culture, the incubators of new ideas and inventions, the centers of commerce and finance, and the homes of our great museums, libraries and theaters. Cities contain trillions of dollars of public and private investments—investments which we must conserve, rehabilitate and fully use.

The New Partnership I am proposing today will focus the full energies of my administration on a comprehensive, long-term effort. It will encourage States to redirect their own resources to support their urban areas more effectively. It will encourage local governments to streamline and coordinate their own activities. It will offer incentives to the private sector to make new investments in economically depressed communities. And it will involve citizens and neighborhood and voluntary organizations in meeting the economic and social needs of their communities.

The New Partnership will be guided by these principles:

Simplifying and improving programs and policy at all levels of government.

Combining the resources of Federal, State and local government, and using them as a lever to involve the even greater strength of our private economy to conserve and strengthen our cities and communities.

Being flexible enough to give help where it is most needed and to respond to the particular needs of each community.

Increasing access to opportunity for those disadvantaged by economic circumstances or history of discrimination.

And above all, drawing on the sense of community and voluntary effort that I believe is alive in America, and on the loyalty that Americans feel for their neighborhoods.

The need for a New Partnership is clear from the record of the last fifteen years. During the 1960's, the Federal government took a strong leadership role in responding to the problems of the

cities. The Federal government attempted to identify the problems, develop the solutions and implement the programs. State and local governments and the private sector were not sufficiently involved. While many of these programs were successful, we learned an important lesson: that the Federal government alone has neither the resources nor the knowledge to solve all urban problems.

An equally important lesson emerged from the experience of the early 1970's. During this period, the Federal government retreated from its responsibilities, leaving States and localities with insufficient resources, interest or leadership to accomplish all that needed to be done. We learned that States and localities cannot solve the problems by themselves.

These experiences taught us that a successful urban policy must build a partnership that involves the leadership of the Federal government and the participation of all levels of government, the private sector, neighborhood and voluntary organizations and individual citizens.

PRIOR ACTIONS

The problems of our Nation's cities are complex and deep-seated. They have developed gradually over a generation as a result of private market and demographic forces and inadvertent government action; and the problems worsened markedly during the early 1970's.

These problems will not be solved immediately. They can be solved only by the long-term commitment which I offer today, and by the efforts of all levels of government, the private sector and neighborhood and voluntary organizations.

For my Administration, this commitment began on the day I took office and it will continue throughout my Presidency. With the cooperation of Congress, my Administration has already provided substantial increases in funding in many of the major urban assistance programs. Total assistance to State and local governments has increased by 25 percent, from $68 billion in FY 1977 to $85 billion in FY 1979. These increases are the direct result of actions we have taken during the past 14 months. They are as much a part of my Administration's urban policy as the initiatives which I am announcing today. Some of the most important programs have already been enacted into law or proposed to the Congress. These include:

A $2.7 billion increase over three years in the Community Development Block Grant Program, accompanied by a change in the formula to provide more assistance to the older and declining cities.

A $400 million a year Urban Development Action Grant Program providing assistance primarily to distressed cities.

An expansion of youth and training programs and an increase in the number of public service employment jobs, from 325,000 to 725,000. Expenditures for employment and training doubled from FY '77 to FY '79 to over $12 billion.

A $400 million private sector jobs proposal has been included in my proposal to reauthorize the CETA legislation. This initiative will encourage private businesses to hire the long-term unemployed and the disadvantaged.

A sixty-five percent increase in grants provided by the Economic Development Administration to urban areas.

A thirty-percent increase in overall Federal assistance to education, including a $400 million increase in the Elementary and Secondary Education Act, targeted in substantial part to large city school systems with a concentration of children from low-income families.

An economic stimulus package enacted last year (Anti-Recession Fiscal Assistance, Local Public Works and CETA) which provided almost $9 billion in additional aid to States and cities.

A welfare reform proposal which, upon passage, will provide immediate fiscal relief to State and local governments.

A doubling of outlays for the Section 312 housing rehabilitation loan program.

Creation of a consumer cooperative bank which would provide financing assistance to consumer cooperatives which have difficulty obtaining conventional financing.

IMPROVEMENTS IN EXISTING PROGRAMS

The Administration's Urban and Regional Policy Group (URPG) has examined all of the major urban assistance programs and proposed improvements. It also has worked with agencies traditionally not involved in urban policy, such as the Defense Department, the General Services Administration, and the Environmental Protection Agency, and has developed proposals to make their actions more supportive of urban areas. As a result of this massive effort, the Federal Government has become more sensitive to urban problems and more committed to their solutions.

The review of existing Federal programs has resulted in more than 150 improvements in existing programs. Most of these improvements can be undertaken immediately through administrative action. Some will require legislation. None will increase the Federal budget.

A few examples of the improvements are:

All agencies will develop goals and timetables for minority participation in their grants and contracts—five major agencies have already begun.

The Defense Department will set up a new program to increase procurement in urban areas.

EPA will modify its water and sewer program to discourage wasteful sprawl.

HUD has retargeted the Tandem Mortgage Assistance Program to provide greater support for urban housing.

The existing countercyclical fiscal assistance program will be retargeted to help governments with unemployment rates above the national average.

HUD and EDA are developing common planning and application requirements.

The General Services Administration will attempt to locate Federal facilities in cities whenever such a location is not inconsistent with the agency's mission.

The Department of Transportation has proposed legislation to consolidate many categories of urban highway and transit grants, and to standardize the local matching share. These steps will provide local governments with greater flexibility to develop transportation systems suited to their needs.

The Environmental Protection Agency will amend its regulations to accommodate new economic development in high pollution areas. Localities will be permitted to "bank" reductions in pollution which results from firms going out of business. These reductions then can be transferred to new firms locating in the community.

The effect of all these changes may be greater than even the substantial new initiatives which I have proposed in this message.

NEW INITIATIVES

The new initiatives which I am announcing today address five major urban needs:

1) Improving the operation of Federal, State and local governments.

2) Employment and Economic Development.

3) Fiscal Assistance.

4) Community and Human Development.

5) Neighborhoods and Voluntary Associations.

These initiatives require $4.4 billion in budget authority, $1.7 billion in new tax incentives, and $2.2 billion in guaranteed loan authority in FY 1979. For FY 1980 the budget authority will be $6.1 billion, the tax incentives $1.7 billion and the guaranteed loan authority $3.8 billion.

I. IMPROVING THE OPERATION OF FEDERAL STATE AND LOCAL GOVERNMENTS

FEDERAL PROGRAMS

Over the long run, reorganization of the economic and community development programs may be necessary. Last June, I directed my reorganization project staff in the Office of Management and Budget to begin exploring the reorganization options. They have completed the first stages of this work. During the next several months, they will consult with the Congress, State and local officials and the public to develop the best solution.

There are several actions I will take immediately.

URBAN AND COMMUNITY IMPACT ANALYSIS

I am implementing a process through my Domestic Policy Staff (DPS) and Office of Management and Budget (OMB) to ensure that we do not inadvertently take actions which contradict the goals of the urban policy. Each agency submitting a major domestic initiative must include its own urban and community impact analysis. DPS and OMB will review these submissions and will ensure that any anti-urban impacts of proposed Federal policies will be brought to my attention.

INTERAGENCY COORDINATING COUNCIL

To improve program coordination, I will form an Interagency Coordinating Council, composed of the Assistant Secretaries with major program responsibilities in the key urban departments. The Council will have two functions:

It will serve as a catalyst for opera-

tional improvements which cut across Departments (for example, instituting uniform grant applications); and it will encourage interagency cooperation on projects which are too large or too complex to be funded by one agency. This Council will, for the first time, provide a coordinated Federal response to communities which develop comprehensive and multi-year projects. It will have direction from the Executive Office of the President.

CONSOLIDATING PLANNING REQUIREMENTS AND OTHER MANAGEMENT IMPROVEMENTS

We soon will announce the consolidation of intra-agency planning requirements. I have asked the Director of the Office of Management and Budget to direct an interagency task force to improve the management of Federal grant-in-aid programs and consolidate the numerous planning requirements in the community and economic development grant programs.

IMPROVED DATA AND INFORMATION

I have asked the Secretary of Commerce, in her capacity as Chair of the Statistical Policy Coordination Committee, to design an improved urban data and information system. At the present time much of this data is inadequate or out of date.

THE ROLE OF STATE GOVERNMENTS

State government policies, even more than Federal policies, are important to the fiscal and economic health of cities. States affect their cities in a number of ways, including setting taxation and annexation powers, determining the placement of major development investments and apportioning the financial responsibility for welfare and education expenditures.

The Federal government has little or no control over these developments, all of which clearly affect the economic and fiscal health of cities and communities.

These State responsibilities underscore the need for an urban policy which includes the States as full and equal partners. The effectiveness of our urban policy will be enhanced if the States can be encouraged to complement the Federal effort.

To encourage States to support their urban areas, I will offer a new program of State incentive grants. These grants will be provided, on a discretionary basis, to States which adopt approved plans to help their cities and communities. The plans must be developed with the participation and approval of communities within the State. The grants will be provided to the States to finance a portion of the plan. The State Incentive Grant Program will be administered by HUD and will provide $400 million over two years.

LOCAL GOVERNMENT ROLE

Many communities and cities can improve management and planning improvements by reforming fiscal management practices, streamlining local regulatory procedures, and coordinating local community and economic development activities.

The Federal government provides planning and technical assistance to communities through HUD and Commerce to help cities improve their management and planning practices. These funds will be used increasingly to build the local government's capacity to undertake the necessary fiscal and management reforms.

The Federal Government will offer special consideration in discretionary programs to cities which achieve coordinated action at the local level.

II. EMPLOYMENT AND ECONOMIC DEVELOPMENT

There is a serious shortage of jobs for many residents of our urban areas and a lack of investment to build the tax base of our cities.

The urban policy will address this issue in two ways.

In the short run, it will provide additional employment opportunities through a labor-intensive public works program, a targeted employment tax credit, and a private sector training and jobs initiative to encourage businesses to hire the hardcore unemployed, together with the extension I have already proposed in employment and training opportunities under the CETA Act.

In the long run, the policy attempts to rebuild the private sector economic base of these communities through a National Development Bank, a special tax incentive, an increase in economic development grants and other incentives.

LABOR-INTENSIVE PUBLIC WORKS

I ask Congress for $1 billion a year for a program of labor-intensive public works, targeted on communities with high unemployment. Half of the estimated 60,000 full-time equivalent jobs created annually by this program will be reserved for the disadvantaged and the long-term unemployed. These workers will be paid at Davis-Bacon trainee wage levels.

This program will enable cities to make needed repairs on buildings, streets, parks, and other public facilities.

In contrast to the Local Public Works program—which involves projects requiring large equipment, material expenditures and a prolonged planning period—more of the funds under this labor-intensive program will go to job creation.

TARGETED EMPLOYMENT TAX CREDIT

I also propose a Targeted Employment Tax Credit to encourage business to hire disadvantaged young workers between the ages of 18 and 24 who suffer the highest unemployment rates in the Nation.

Under my proposal, private employees of young and disadvantaged, or handicapped, workers would be entitled to claim a $2,000 tax credit for each eligible worker during the first year of employment and a $1,500 credit for each eligible worker during the second year.

I am proposing this Targeted Employment Tax Credit as a substitute for the expiring Employment Tax Credit. The current program costs $2.5 billion a year and has had little influence on hiring decisions. The Administration's targeted program will cost approximately $1.5 billion a year, with far greater impact.

LOCATION OF FEDERAL FACILITIES

I will sign a new Executive Order directing the General Services Administration to give first priority to cities in locating new Federal facilities or consolidating or relocating existing facilities. Under my Administration, Federal facilities will be located in cities, unless such a location is inconsistent with the agency's mission.

Federal buildings and facilities can be an important source of jobs and of rental payments and, in many cities, a principal stabilizing force preventing decline.

The Federal government should set an example for the private sector to invest in urban areas.

FEDERAL GOVERNMENT PROCUREMENT

To assure that Federal procurement is used to strengthen the economic base of our Nation's cities and communities, I will:

strengthen the implementation of the existing procurement set-aside program for labor surplus areas, by directing the General Services Administration to work with each agency to develop specific procurement targets and to monitor their implementation. GSA will report to me every six months on the progress of each Agency;

direct the Defense Department to implement an experimental program to target more of its procurement to high unemployment areas.

NATIONAL DEVELOPMENT BANK

I propose the creation of a National Development Bank, which would encourage businesses to locate or expand in economically distressed urban and rural areas. The Bank would be authorized to guarantee investments totaling $11 billion through 1981.

To lower operating costs in urban areas, the Bank would provide long-term, low-cost financing which, in conjunction with expanded grant programs administered by HUD and EDA, will reduce a firm's financing costs by up to 60 percent.

The Bank uses four major financing tools:

Grants of up to 15 percent of a firm's total capital cost, to a maximum $3 million, for fixed assets of a project. The grants, which would be made under expanded EDA and HUD authorities, would cover expenditures for land assembly, site preparation, rehabilitation, and equipment.

Loan guarantees, provided by the Bank to cover three-quarters of the remaining capital costs up to a maximum of $15 million for project. The Bank could, at its discretion, reduce the interest rate down to 2½ percent for particularly desirable projects. Bank financing would be conditioned on obtaining 21 percent of the project's total costs from private lenders.

The ceiling for industrial reserve bonds in economically distressed areas would be increased from $5 to $20 million with the approval of the Bank. A business which used this financing for a project could also receive a grant.

The Bank also will provide a secondary loan market for private loans in eligible areas to finance capital expendi-

tures. This will be particularly beneficial to small businesses.

Bank projects will require the approval of State or local government economic development entities, which would be responsible to the elected local leadership. Distressed urban and rural areas would be eligible. Additional employment would be a key test of project eligibility.

The Bank will be an interagency corporation, governed by a Board composed of the Secretaries of HUD, Commerce and the Treasury. This will insure coordination between the major economic, community development and urban finance agencies of the government.

The Office of Management and Budget is currently assessing the organization of the Federal economic and community development activities. The Bank will function on an interagency basis pending recommendations in this area.

ECONOMIC DEVELOPMENT GRANTS

I propose substantial increases of $275 million each in the UDAG grant program and the EDA title IX program, These increases will be used in conjunction with the financing incentives available from the National Development Bank.

Taken together these major increases will help leverage substantial new private sector investment in urban areas and address the long-term economic deterioration experienced by certain urban and rural areas.

DIFFERENTIAL INVESTMENT TAX CREDIT

I propose that firms that locate or expand in economically distressed areas be eligible for a differential 5-percent investment tax credit, to a total of 15 percent for both structures and equipment. The credit would be available only to firms awarded "Certificates of Necessity" by the Commerce Department based on financing need and employment potential.

Commerce will be authorized to issue up to $200 million in certificates for each of the next 2 years.

AIR QUALITY PLANNING GRANTS

I propose a $25 million planning grant program to help cities and communities comply with the Clean Air Act without limiting severely new, private sector investment within their areas.

I have also asked EPA, HUD and EDA to provide technical assistance to help local governments reconcile potential conflicts between air pollution and economic development goals.

MINORITY BUSINESS

Minority businesses are a critical part of the private sector economic base of many cities, communities and neighborhoods, and provide important employment opportunities to city residents.

I propose today two important initiatives which will increase the role of minority businesses in our economy. First, in comparison with fiscal year 1977 levels, we will triple Federal procurement from minority businesses by the end of fiscal year 1979—an increase over our earlier commitment to double minority procurement.

In addition, I intend to ask all Federal agencies to include goals for minority business participation in their contract and grant-in-aid programs. Five agencies—HUD, Commerce, EPA, Interior and DOT—already have proposed improvements in minority business programs. These programs all build on our successful experience with the Local Public Works Program.

Finally, I intend to facilitate greater interaction between the minority business community and the leaders of our Nation's largest corporations.

COMMUNITY DEVELOPMENT CORPORATIONS

I propose that an additional $20 million be appropriated to the Community Services Administration as venture capital for the most effective Community Development Corporations. This assistance will help them have a substantial impact on their designated areas.

The funding will be made available for projects that receive support from local elected officials, involve leveraging private sector funds and are coordinated with HUD, EDA or the Small Business Administration.

ROLE OF PRIVATE FINANCIAL INSTITUTIONS

An effective urban strategy must involve private financial institutions. I am asking the independent financial regulatory agencies to develop appropriate actions, consistent with safe, sound and prudent lending practices, to encourage financial institutions to play a greater role in meeting the credit needs of their communities.

First, I am requesting that financial regulatory agencies determine what further actions are necessary to halt the practice of redlining—the refusal to extend credit without a sound economic justification. I will encourage those agencies to develop strong, consistent and effective regulations to implement the Community Reinvestment Act.

Second, I propose the creation of an Institute for Community Investment, under the Federal Home Loan Bank Board. The Institute will bring together appraisers, realtors, lenders, building and insurance companies to develop a consistent approach toward urban lending and to train urban lending specialists.

Third, I propose a pilot program to create Neighborhood Commercial Reinvestment Centers under the Comptroller of the Currency. This proposal is an adaptation of the highly successful Urban Reinvestment Task Force housing credit concept to the commercial credit area. Neighborhood Commercial Reinvestment Centers will be local organizations, comprised of merchants and neighborhood residents, local government officials, and commercial banks which will provide business credit in urban neighborhoods. SBA, EDA, and HUD will work with the financial regulatory agencies to revitalize specific commercial areas.

Finally, I have asked the Secretary of Housing and Urban Development to chair an interagency task force to evaluate the availability of credit in urban areas and recommend appropriate further action. I have asked the task force to examine and make recommendations with respect to the following areas:

The availability of mortgage and commercial credit in urban areas, and the impacts of the activities of Federal agencies on such credit;

Existing mortgage insurance, casualty insurance and business credit insurance programs;

The full range of urban credit and insurance risk reduction techniques.

III. FISCAL ASSISTANCE

While the fiscal condition of many State and local governments has improved dramatically over the last three years, many cities and communities still are experiencing severe problems. These cities and communities require fiscal assistance from the Federal government, if they are to avoid severe service cutbacks or tax increases.

SUPPLEMENTAL FISCAL ASSISTANCE

Cities and communities currently receive fiscal assistance through the Anti-Recession Fiscal Assistance Act (ARFA), which expires on September 30, 1978. This program has been an effective tool for helping States and local governments withstand the fiscal impact of high unemployment.

Current unemployment projections, however, suggest that even if the ARFA program were extended in its current form, it would phase out by mid-FY 1979, when unemployment is expected to drop below six percent. If the program is permitted to phase out, many cities and communities will experience severe fiscal strain.

I propose today that ARFA be replaced with a Supplemental Fiscal Assistance Program, which will provide $1 billion of fiscal assistance annually for the next two fiscal years to local governments experiencing significant fiscal strain. Further extension of this program will be considered together with General Revenue Sharing.

FISCAL RELIEF IN WELFARE PROPOSAL

In addition, I propose to phase in the fiscal relief component of the Better Jobs and Income Act as soon as Congress passes this legislation, rather than in 1981 as originally planned.

IV. COMMUNITY AND HUMAN DEVELOPMENT

A comprehensive program to revitalize America's cities must provide for community and human needs. This involves both physical facilities, such as parks, recreation facilities, housing and transportation systems, and the provision of health and social services.

HOUSING REHABILITATION

The conservation and upgrading of our housing stock is important to maintaining the strength of urban areas. Housing rehabilitation improves the quality of community life and provides construction jobs in areas of high unemployment.

I propose an additional $150 million in FY 1979 for the Section 312 rehabilitation loan program, which will more than double the existing program. This expanded effort will permit the rehabilitation of small multi-family housing projects in distressed neighborhoods.

URBAN TRANSPORTATION

In many cities, public transportation is inadequately financed. The Federal government has begun to make substan-

tial investments to rehabilitate, revitalize and construct urban transportation systems.

I have already submitted to Congress my proposals to extend and strengthen the highway and mass transit programs.

To supplement these efforts I today propose an additional $200 million for capital investments in intermodal urban transportation projects. These funds will be used to link existing transportation facilities in selected cities.

RESOURCE RECOVERY PLANNING

Solid waste disposal is a growing problem in the many urban areas which face a shortage of landfill sites. At the same time, techniques to recover valuable resources and energy from solid waste have emerged.

I will request $15 million for the EPA to provide grants of $300,000 to $400,000 to cities for feasibility studies of solid waste recovery systems.

ARTS AND CULTURE

Cities are centers of culture and art, which thrive on the vitality of the urban environment.

To help renew and develop this artistic and cultural spirit, I propose a new Livable Cities program administered by the Department of Housing and Urban Development, with the participation of the National Endowment for the Arts. This program will provide up to $20 million in grants to States and communities for neighborhood- and community-based arts programs, urban design and planning, and the creation and display of art in public spaces. Historic preservation of buildings should also be encouraged.

URBAN PARKS AND RECREATION

The quality of life in urban areas is critically affected by the availability of open spaces and recreation facilities. Yet hard pressed communities often lack the resources to maintain and invest adequately in these amenities.

To address this problem, I propose a major new Federal grant program. Urban communities will compete for funds to revive and rebuild parks and recreation facilities. Challenge grants totalling $150 million will be provided for construction and major rehabilitation of urban recreation systems, such as parks, tennis and basketball courts, swimming pools, bicycle paths, and other facilities. Cities will be awarded grants based on the quality of their planning, the degree of need and their ability to match the Federal funds with private and local contributions.

SOCIAL SERVICES

Urban revitalization efforts must be accompanied by efforts to help those in need to improve their own lives. A variety of income support and social service programs are designed to do this. Since 1974, however, the support given to State social service programs by the Federal government has declined in real terms.

I propose an additional $150 million of new budget authority for the Title XX program. These funds will be used to improve the delivery of social services in urban areas—ranging from Meals on Wheels for the elderly to day care for children of working mothers—and to develop greater coordination between local, public and private agencies.

HEALTH SERVICES

Nearly 50 million Americans live in areas without adequate health services. These areas, many of which are in inner cities, suffer from higher infant mortality rates, greater poverty and shortages of health care personnel.

In underserved areas, emergency room and outpatient departments of city hospitals are used as the routine source of medical care by the poor, primarily due to the lack of private physicians. As these departments were not designed to provide comprehensive medical care, the hospital resources are strained and the poor often go without adequate care.

To help meet the primary health care needs of the urban poor and reduce the strain on city hospitals, I propose to expand federally-supported Community Health Centers and to fund city-sponsored programs which provide comprehensive, but less costly, primary care services. The city-sponsored programs will enroll the medically indigent in existing health systems, such as HMOs. They also will help expand locally-supported centers, reform hospital outpatient departments and provide comprehensive health services.

EDUCATION

Schools are the focus of community activities in many places. Yet they are seldom fully used or linked to other community and social services.

I intend to provide $1.5 million to expand the experimental Cities in Schools program which seeks to bridge the gap by uniting a number of social services within schools to better serve both students and their families. We intend to expand this promising new program to 10 pilot schools.

In addition, I urge the Congress to enact the $600 million increase in the Title I program of the Elementary and Secondary Education Act, which I recently proposed, including my recommendation that $400 million of these funds be targeted to cities and other areas with high concentrations of low-income families.

V. NEIGHBORHOODS AND VOLUNTEER ORGANIZATIONS

No resource of our urban communities is more valuable than the commitment of our citizens.

Volunteer groups, which gain strength from the selfless efforts of many individuals, make an indispensable contribution to their cities.

URBAN VOLUNTEER CORPS

I propose a $40 million program in ACTION to increase the effectiveness of voluntary activities at the local level. With the agreement of local government, the program will create a corps of volunteers at the local level and match their skills with the needs of local governments and community and neighborhood organizations.

It also will provide small grants averaging $5,000 for voluntary improvement and beautification projects.

ACTION would select, with the concurrence of local government, a lead agency in each city to administer the Urban Volunteer Corps.

SELF-HELP DEVELOPMENT PROGRAM

Neighborhood associations are playing a key role in housing and neighborhood revitalization. We must strengthen that role.

I will request $15 million in FY 1979 for a self-help development program to be administered by the Office for Neighborhoods in HUD.

This new program will provide funds for specific housing and revitalization projects in poor and low-income areas. Each project would involve the participation of local residents, the private sector and local government and would require the concurrence of the mayor.

CRIME PREVENTION

Street crime is a serious problem in America's cities and communities. Over the last few years a number of promising initiatives have been undertaken by community groups and local law enforcement agencies to combat street crime. Escort services for the elderly, centers to help the victims of crime, and neighborhood watchers are examples of promising developments.

I propose a program which will add $10 million in new resources to existing efforts in the Law Enforcement Assistance Administration for a program operated jointly by ACTION and LEAA. Under this program, mayors and local neighborhood groups will develop community crime prevention programs based on successful pilot models. My reorganization proposals for LEAA and the legislation I will submit to extend the Law Enforcement Assistance Act will strengthen our efforts at crime prevention.

COMMUNITY DEVELOPMENT CREDIT UNIONS

Some urban communities are not served by any financial institutions. Community Development Credit Unions address this problem by investing their assets in the communities in which they are established. This type of credit union was first established under the poverty programs in the 1960's. About 225 exist today, and many are the only financial institutions in their communities.

I am proposing a $12 million program to provide $200,000 seed capital for new Community Development Credit Unions, to provide them with an operating subsidy for staff, training and technical assistance.

The job of revitalizing the urban communities of our country will not be done overnight. Problems which have accumulated gradually over generations cannot be solved in a year or even in the term of a President.

But I believe that a New Partnership—bringing together in a common effort all who have a stake in the future of our communities—can bring us closer to our long-term goals. We can make America's cities more attractive places in which to live and work; we can help the people of urban America lead happier and more useful lives. But we can only do it together.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, relative to national urban policy, be jointly referred to the Committees on Banking, Housing, and Urban Affairs; Governmental Affairs; Finance; Environment and Public Works; and Human Resources.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 163

Under authority of the order of March 23, 1978, the Secretary of the Senate, on March 28, 1978, received the following message from the President of the United States which, with the accompanying report, was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Enclosed is the "Annual Report of the Corporation for Public Broadcasting for FY 1977," prepared in accordance with the requirement of Section 396(i) of the Public Broadcasting Act of 1967 (Public Law 90–129) as amended.

The Corporation has again prepared a thoughtful report which highlights its efforts for the past fiscal year. The accomplishments of public broadcasting are well articulated with emphasis on television and radio programming, technological innovation, and human development services.

It should be noted that the projections of long range Federal financial contributions from the Federal Government exceed levels contained in the Administration's legislative proposal to reauthorize the Corporation for the period FY 1981–85.

The Annual Report is being forwarded so that it is available to the Congress for its deliberations.

JIMMY CARTER.

THE WHITE HOUSE, *March 28, 1978.*

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under authority of the order of March 23, 1978, Mr. STENNIS, on March 30, 1978, from the Committee on Armed Services, reported favorably the nomination of Lt. Gen. Robert H. Barrow, U.S. Marine Corps, to the grade of general, and the nomination was placed on the Executive Calendar.

In addition, there were 138 in the Air Force and Air National Guard and Reserve for promotion to the grade of colonel and below (list beginning with James D. Simms); and, in the Reserve of the Army there were 920 for promotion to the grade of colonel and below (list beginning with Salomon Abeyta). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, they were ordered to lie on the Secretary's Desk for the information of the Senate.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 6, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WEICKER:

S. 2816. A bill to establish a program to improve the commercial fisheries of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. BROOKE (for himself and Mr. KENNEDY):

S. 2817. A bill to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHURCH (for himself and Mr. HANSEN) (by request):

S. 2818. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McGOVERN:

S. 2819. A bill to improve rail freight transportation and the transportation of passengers by common carriers by motor vehicle; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2816. A bill to establish a program to improve the commercial fisheries of the United States; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL FISHERIES DEVELOPMENT ACT

● Mr. WEICKER. Mr. President, over the past year, the Senate Small Business Committee continued its review of the economic conditions of the domestic fishing industry. Last December the committee held a regional hearing on this matter in Groton, Conn. It was the first congressional assessment of the industry since the enactment of the 200-mile limit law.

Despite the fact we are blessed with the world's fourth largest coastline, and the third largest continental shelf, the commercial fishing industry has failed to grow over the past 25 years. During this period, U.S. fish catch remained static, while this Nation's consumption for fish products doubled, resulting in a trade deficit of $1.5 billion.

Now, with the enactment of the 200-mile limit law, the domestic industry has a tremendous opportunity to reach its full economic potential. Over the past year, foreign catches have been dramatically reduced. The 1977 foreign catch, 1.7 million tons, was about 1 million tons less than the 1976 foreign catch and approximattely half that of the peak year, 1974.

Enjoying new legal protections, the committee noticed a resurgence of activity and interest in the industry. In New England, alone, 35 vessels were constructed last year. Recent studies project that, with the enforcement of the 200-mile limit, domestic fishing industry catches will double in 5 to 7 years.

Despite this favorable outlook, private lending institutions are still reluctant to invest. The risks and uncertainties associated with the industry will continue to dampen investments by the private sector. As Clinton Wynn, vice president of Rhode Island Hospital Trust National Bank, stated at the December hearing:

> Although we envision increased investments in the fishing industry from the private sector, we think that these funds may not be adequate enough for the immediate and future needs of the industry.

Mr. President, it is clear that the Government has an important role to play in insuring the orderly development of commercial fisheries in the United States. Today several Federal agencies, including the National Marine Fisheries Service, Department of Agriculture, and the Small Business Administration provide some form of financial assistance to the fishing industry. However, the committee found that these programs were not being fully utilized. There were two principal reasons. First, many of the agencies involved lacked the expertise to effectively deal with the unique economic problems confronting the industry. Second, the programs were tangled in excessive redtape and regulations.

By passing the landmark Fisheries Conservation and Management Act, Congress dramatically improved the economic climate of the domestic fishing industry. Now, it is time to fundamentally restructure our assistance programs in order to take advantage of this new situation.

Today, I am introducing the Commercial Fisheries Development Act of 1978. This proposal is designed to make the industry a strong, prosperous internationally viable enterprise.

In order to improve the productive capacity of our Nation's commercial fisheries, it is essential that we develop the industry in a manner that will increase operational efficiency, boost the rate of return on investment, encourage the harvesting of underutilized species, and insure the perpetuality of the species. A strong fishing industry will mean jobs at home and a more favorable balance of payments situation.

To achieve these objectives, this legislation would authorize the creation of a new office—the Office of Commercial Fisheries within the National Oceanic and Atmospheric Administration—to administer a wide-ranging commercial fisheries development package. For the first time, the Federal Government would establish a coordinated and comprehensive approach to commercial fisheries development.

One part of this development package would consist of a fisheries loan guarantee program and a low interest loan program to ecnourage development of underutilized species. Coupled with this, a research and development grant program would be established for new fisheries.

Mr. President, under the existing Merchant Marine Act, loan guarantees are presently available only for fishing vessel construction. For this fiscal year, a loan guarantee authority of $50 million would be available for this limited purpose. In creating a comprehensive fisheries loan guarantee program, the legislation I have introduced would remove

vessel construction from the merchant marine loan guarantee program.

Under this bill, the new Federal fisheries loan guarantees could be used for the construction or rehabilitation and purchase of fishing vessels or shoreside facilities. In addition, a maximum of $750 million of Federal loan guarantees would be available for fisheries assistance with the Government authorized to guarantee up to 87½ percent of the principal on the loan.

The Merchant Marine Act would also be amended to include in its tax deferred capital construction fund, shoreside facilities. Thus, owners of processing plants would enjoy the same tax advantages as vessel owners. It would allow these owners to defer a portion of their income from taxation provided that the proceeds from such funds are used for construction or rehabilitation of shoreside facilities or fishing vessels.

A second major assistance program created by this legislation is designed to help the industry in harvesting and processing a wider variety of fish. With the prospect of domestic quotas being placed on overfished species, such as haddock or cod, it has become evident that domestic fishermen will have to turn to species not previously eaten by Americans.

New species of fish, previously harvested by foreign fleets are now available to the domestic industry, provided they are caught and utilized as food fish. Howard Nickerson, executive director of the New England Fisheries Steering Committee, summarized the vessel requirements caused by these conditions:

> We do need rehabilitation of older vessels, the installation of refrigerated fish holds, chilled seawater systems, electronics and hydraulic controls and hauling gear, different type nets will have to be used and rig changes made, because we have a problem.

A similar adaptation must be made in the onshore facilities. With the prospects of domestic quotas being placed on cod and haddock for 1978, witnesses indicated that domestic fishermen will have to turn to species not presently eaten by Americans. However, processing plants are not geared to handle these type of fish, such as squid, mackerel and whiting.

Many of these underutilized species are considered delicacies in Europe. There is a great potential for domestic involvement in the international export market. This would involve the development of facilities to freeze blocs of fish for foreign consumption.

Witnesses at the hearings noted that, unless some incentives are provided, funds probably would not be available for financing vessels which would fish for underutilized species or for facilities to process these species. Since there would be no immediate demand for these products, the ventures would be too risky.

In recognition of these economic facts of life, this proposal would establish a low interest Federal loan program for harvesting or processing of underutilized species.

The interest rate on the loan would be no greater than the current borrowing rate and no less than 3 percent with a maturity of up to 25 years in the case of fishing vessels, and 30 years for loans pertaining to fisheries facilities.

Mr. President, as in any new venture, the development of new fisheries will require unique marketing and promotion techniques. New fish products will have to overcome consumer skepticism. Vessels and fisheries facilities will have to adapt in order to effectively handle underutilized species. To assist the industry in this adjustment period, this legislation would create a fisheries research and development grant program.

Projects, approved for funding by the Secretary, would be designed to:

First. Increase yields of fish products, and create better ways to preserve and process fish;

Second. Promote underutilized species by making them more appealing to the consumer;

Third. Increase markets for fish and fish products, both nationally and internationally.

A Fisheries Development Board, consisting of commercial fishermen, producers, and processors of fish products, would be established within 90 days after the enactment of this legislation. This Board would review and submit recommendations to the Secretary of Commerce on research, development and promotion projects. The Board would also assist the Secretary in the contracting of approved projects.

This legislation envisions the industry playing the major role in this applied research and development program. They have the knowledge and experience to take the lead in such experimental activities. Yet, under this bill, the industry would bear 25 percent of the work of the project. Thus, they have a significant financial stake in its successful completion.

As well as meeting the immediate needs of new fisheries, S. 2816 directs the Secretary of Commerce, within 1 year, to enact a long range research and development program through basic scientific research, the Secretary will seek to determine; the sustainable yield, life histories, behavorial patterns; and stock distribution of underutilized species.

Mr. President, a reliable market for fish stocks are essential for the long term growth of the industry. To bolster consumer confidence in fish products, title III of the legislation establishes a Federal fish inspection program, which would promulgate minimum health and safety standards. The legislation authorizes $20 million for the Secretary of Commerce to create regional fish inspection programs.

This legislation also would establation authorizes $20 million for the lish a 4-year pilot program to improve fishermen's cooperatives. By their very nature, fishermen are a diverse and independent group. However, by joining together for a common economic purpose, they would become a more effective force in the marketplace. Title IV of S. 2816 would provide management and technical assistance necessary for creating and maintaining cooperatives.

Mr. President. I believe this comprehensive legislation will provide the Congress with a vehicle to effectively assist this essential industry. This legislation integrates the insights and comments of many experts in this field and reflects major improvements over previous legislation that I have introduced. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commercial Fisheries Development Act".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The commercial fisheries of the United States are an important industry providing a significant number of jobs and revenue to the national economy. By more effectively utilizing resources in the Fishery Conservation Zone, the economic potential of this industry will be realized.

(2) The existing United States commercial fishing fleet and facilities are inadequate to meet the current and future national need and demand for fisheries products or to provide for full domestic utilization of resources in the Fishery Conservation Zone.

(3) Federal development programs for commercial fisheries are inadequate to meet present and future national needs and to stimulate full domestic utilization of resources in the Fishery Conservation Zone.

(4) Many species in the Fishery Conservation Zone are commercially underutilized by the domestic fishing industry.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to increase the capability and efficiency of the commercial fisheries industry of the United States;

(2) to strengthen the competitive position of the United States commercial fisheries industry with respect to foreign harvesters and processors, thereby resulting in increased economic stability in the domestic industry and full domestic utilization of fish available in the Fishery Conservation Zone.

(3) to conserve and manage fish under United States jurisdiction in the national interest;

(4) to provide for increased financial assistance, including access to developmental capital, for the United States commercial fisheries industry;

(5) to encourage increased development of domestically underutilized species through research, development, and promotion.

(6) to establish a mandatory Federal fish products inspection program;

(7) to provide for the institutional framework that will assist the commercial fisheries industries in solving its problems;

(8) to provide technical and financial assistance to the United States fishing industry to establish fisheries cooperatives and to assist the industry in complying with the mandatory Federal fish and fish products inspection program;

(9) to provide for effective coordination of Federal manpower training programs in commercial fisheries; and

(10) to provide a central office to effectively administer Federal commercial fisheries development programs.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Board" means the Fisheries Development Board established pursuant to this Act;

(2) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 percent of the interest of therein owned by citzens of the United States. Seventy-five percent of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 percent of its stock is not vested in such citizens free from any trust of fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 percent of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 percent of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 percent is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(3) "commercial fisheries industry" means all commercial aspects of taking, processing, handling, distributing, and marketing of fish and fish products;

(4) "fish" means any species of living aquatic resources excluding aquatic mammals and birds;

(5) "fish products" means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary;

(6) "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish;

(7) "fisheries facilities" means new or used landing, receiving, processing, storage, and distribution facilities, together with all necessary equipment, including land where appropriate;

(8) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, of any fish for commercial purposes;

(9) "fishing vessel" means any new or used vessel, boat, ship, or other type of craft, together with all necessary gear and equipment, which is commercially used for, or of a type which is normally commercially used for—

(A) fishing, or

(B) aiding or assisting in the performance of any activity relating to fishing, including but not limited to preparation, supply, storage, refrigeration, transportation, or processing of fish;

(10) "forced economic distress" means action caused by Federal regulation, as promulgated by the Secretary of Commerce pursuant to the Fisheries Conservation and Management Act, that forces a fishery to cease or curtail operations on a long or short term basis;

(11) "Government's cost of money" means, as determined by the Secretary of the Treasury, the average market yield on outstanding U.S. Treasury obligations of comparable maturity;

(12) "person" includes an individual, a public or private corporation, a partnership or other association, or a Government agency.

(13) "process", "processed", and "processing", with respect to fish or fish products, means to harvest, handle, store, prepare, produce, manufacture, pack, transport, or hold such products.

(14) "Secretary" means the Secretary of Commerce;

(15) "State" means any State of the United States, the District of Columbia, or any Commonwealth, Territory, or possession of the United States.

(16) "underutilized species" means a fish species or group of fish species that are identified as available but either not domestically harvested or domestically harvested at insignificant levels pursuant to criteria set forth by the Secretary; and

(17) "wholesale purchaser" means any person who purchases fish or fish products for the purpose of resale or other commerce.

TITLE I—COMMERCIAL FISHERIES DEVELOPMENT FUND

SEC. 101. GUARANTEES OF OBLIGATIONS FOR COMMERCIAL FISHERIES.

(a)(1) The Secretary may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) The financing and refinancing (including reimbursement of amounts previously expanded) of the cost of constructing, reconstructing, or reconditioning commercial fishing vessels and fisheries facilities except that no reimbursement may be guaranteed under this section later than 5 years after the date of construction, reconstruction, or reconditioning.

(B) The financing of the acquisition of used vessels or fisheries facilities in connection with their reconstruction or reconditioning.

(C) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A) whether or not guaranteed under this section, including, but not limited to, any obligation incurred for the purpose of obtaining temporary funds.

(D) Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)). (2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest which may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee. (3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $750,000,000.

(b)(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the commercial fishing vessels or fisheries facilities;

(B) shall be in an aggregate principal amount which does not exceed 87½ percent of the actual cost, or the depreciated actual cost, as determined by the Secretary, of construction, reconstruction, or reconditioning,

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable. The Secretary may allow a rate of interest higher than otherwise allowable when the obligee conducts the basic economic feasibility and credit investigation for the Secretary's review and agrees to finance, on an unguaranteed basis, not less than 20% of the cost of construction, reconstruction, or reconditioning.

(2) No obligation shall be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may require to reasonably protect the interests of the United States.

(c)(1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation but which may not exceed 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning; except that such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the Fund established pursuant to section 103.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d)(1) In the event of a default, which has continued for 30 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related arrangements, but not later than 90 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period he finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) In the event the obligee does not make a demand on a defaulted installment before 90 days from the date of such default, that portion of the guarantee which represents the defaulted installment shall be lost but

the remainder of the guarantee shall continue in full force and effect.

(3) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund established pursuant to section 103.

(4) In the event of any payment by the Secretary under paragraph (1), the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recognition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to a security agreement with the obligor.

(5) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, he shall pay such excess to the obligor.

(6) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $25,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section—

(1) The term "actual cost" of commercial fishing vessels or fishing facilities, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of, the obligor with respect to such facility on or before that date; and

(B) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such vessel or facility.

(2) The term "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary.

(3) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(4) The term "obligee" means the holder of any obligation.

(5) The term "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

(g) Section 1104 of the Merchant Marine Act, 1936 is amended—

(1) in subsection (a)(1) by striking out "(D) in the fishing trade or industry; or (E)" and inserting in lieu thereof "or (D)"; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) No commitment to guarantee an obligation shall be made by the Secretary of Commerce unless he finds, at or prior to the time such commitment is made, that the property or project with respect to which the obligation will be executed will be, in his opinion, economically sound, and no obligation, unless made pursuant to a prior commitment, shall be guaranteed uness the Secretary of Commerce finds, at or prior to the time the guarantee becomes effective, that the property or project with respect to which the obligation is executed will be, in his opinion, economically sound.".

SEC. 102. LOANS FOR COMMERCIAL FISHERIES.

(a) The Secretary is authorized to make long-term, low-interest loans—

(1) to provide capital for the construction, rehabilitation, purchase, or operation of fisheries facilities that enhance opportunities to harvest and process underutilized species;

(2) to provide capital to enable fisheries facilities to comply with the provisions of the mandatory fish and fish products inspection program; and

(3) to provide capital for the construction, rehabilitation, purchase, or operation of fishing vessels for harvesting underutilized species, including vessels under 5 net tons.

(4) to provide capital for the cost of vessel modifications and fishing equipment to be used for experimental fishing purposes.

(b) Loans pursuant to this Act shall be made only to citizens of the United States.

(c) Any loan made pursuant to subsection (a) shall be provided at an interest rate, to be determined by the Secretary in accordance with the purposes of this section, no greater than the Government's cost of money and no less than 3 per centum depending upon the degree of risk inherent in the loan project. Minimum interest rates shall be employed as an incentive when the risk is highest. Loan maturities shall not exceed 25 years for loans pertaining to fishing vessels and 30 years for loans pertaining to fisheries facilities.

(d) Loans shall be approved only upon furnishing of such security or other reasonable assurance of repayment as the Secretary may require considering the objectives of this Act. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicants past and prospective earnings, repayment of the loan will be reasonably assured. The Secretary shall recognize that the risk assumed for loans made pursuant to this section will often be higher than ordinary

(e) Before approving any loan pursuant to this title relating to a fishing vessel or a fisheries facility, the Secretary shall determine that the applicant does, or will, possess the ability, experience, resources, and other qualifications necessary to operate and maintain such vessel or facility.

(f) The Secretary, subject to the specific limitations in this Act, may consent to the modification, with respect to the rate of interest or time of payment of any installment of principal, or the security, of any loan made pursuant to this title.

(g) The Secretary is authorized to make non-interest-bearing loans to provide financial assistance to commercial fishermen to alleviate forced economic distress. Such loans shall be made on the basis of regulations promulgated by the Secretary which will assure rapid and timely assistance where and when needed in the commercial fisheries industry.

(1) Such loans shall be made in accordance with criteria established by the Secretary for transferring vessel operations, temporarily or permanently, into alternative fisheries operations.

(2) The amount of such loans will be determined by the Secretary based on the extent of the economic distress and the needs of the Nation.

(3) The amount of interest, if any, on such loans shall be determined by the Secretary, but shall not be greater than the Government's cost of money.

SEC. 103. EXTENSION OF CAPITAL CONSTRUCTION FUND, MERCHANT MARINE ACT 1936, TO FISHERIES FACILITIES.

(a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"(a) Agreement Rules. Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or

"(2) replacement, additional, or reconstructed fisheries facilities in the United States, and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in subsection (k) (11) and (12)).".

(b) Subsection (b) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Subsection (f) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or a fisheries facility," after "vessel", and

(2) in subparagraph (c) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Subsection (g) of section 607 of such Act is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facilities' means new or used landing, receiving, processing, storage, and distribution facilities, together with all necessary equipment, including land where appropriate.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

SEC. 104. COMMERCIAL FISHERIES DEVELOPMENT FUND.

(a) There is established in the Treasury of the United States a Commercial Fisheries Development Fund (hereinafter referred to as the "Fund"). The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out, and administering this title. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary in connection with any guarantee made under section 101;

(3) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under sections 101 and 102; and

(4) moneys deposited pursuant to the last sentence of subsection (b) of section 101.

All payments made by the Secretary to carry out the provisions of this title (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this title shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(b) If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under subsection (d) (1) of section 101, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceeding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States. Moneys borrowed under this subsection shall be repaid by the Secretary from the Fund.

SEC. 105. AUTHORIZATION FOR APPROPRIATIONS

(a) There is appropriated to the Fund, without fiscal year limitation, $10,000,000 to provide initial capital to carry out the provisions of section 101 of this title, including its administrative costs.

(b) There is hereby appropriated to the Fund, without fiscal year limitation, $50,000,000 as initial capital to carry out the provisions and administrative costs of section 102 of this title and there are authorized to be, without fiscal year limitation, further sums for such purpose not to exceed $200,000,000.

SEC. 106. ADMINISTRATION.

There shal be in the National Oceanic and Atmospheric Administration a Director for an Office of Commercial Fisheries Development. Such Director shall be a qualified individual who is, by reason of background and experience, especially qualified to carry out the implementation and administration of this Act and such other provisions of law relating to commercial fisheries as the Secretary determines appropriate. There shall be in such office a fisheries financing unit which shall administer Title I of this Act.

SEC. 107. REPEAL AND TRANSFER OF EXISTING PROGRAMS.

(a) Section 4 of the Fish and Wildlife Act of 1956 (16-U.S.C. 743c) is repealed. All outstanding loans shall be administered under the jurisdiction of the office created by Sec. 106.

(b) The Secretary shall transfer the existing Fishing Vessel Capitol Construction Fund program from the National Marine Fisheries Service to the jurisdiction of the office created by section 106.

(c) All assets and liabilities of the programs terminated pursuant to subsection (a) shall be transferred to and become a part of the Fund.

TITLE II—FISHERIES RESEARCH AND DEVELOPMENT PROGRAM

SEC. 201. PROGRAM.

The Secretary shall establish within one year after the date of enactment of this Act a Fisheries Research and Development Program for the purpose of research, development and promotion of commercial fisheries which shall include but not be limited to:

(1) increase markets for fish and fish products both nationally and internationally, particularly for underutilized species;

(2) increase yields of fish products, to make underutilized species more appealing to the consumer, and to create better ways to preserve and process fish and other similar purposes;

(3) upgrading existing fish markets;

(4) encourage changes in markets from overutilized species to less utilized species;

(5) carry out demonstration fishing and demonstration processing and marketing of underutilized species;

(6) develop new catching, handling and processing techniques for underutilized species; and

(7) carry out all such other economic, scientific, and commercial research, development and promotion as is necessary to encourage full and optimum domestic use of fisheries resources.

SEC. 202. GRANTS AND CONTRACTS.

(a) The Secretary is authorized to make grants and enter into contracts with any citizen of the United States in accordance with rules and regulations promulgated by the Secretary in order to conduct the provisions of this title.

(b) Such rules and regulations shall include provisions for—

(1) solicitation of proposals for the purpose of carrying out this title;

(2) selection of proposals consistent with the purposes of this Act;

(3) review of the proposals by the Board with recommendations to the Secretary; and

(4) Federal grants up to 75 percent of the total cost of conducting such research, development, and promotion.

(c) The Secretary shall approve or disapprove, funds contracts, and administer applicable research, development and promotion projects with a potential near-term commercial benefit which have been submitted by the Board.

(d) Nothing in this title shall conflict with any other Federal, State or local government programs established for the purposes of conservation, protection or management of living or non-living marine resources.

SEC. 203. FISHERIES DEVELOPMENT BOARD.

(a) The Secretary shall establish within 90 days after the date of enactment of this Act a Fisheries Development Board composed of commercial fishermen and producers, handlers, and processors of fisheries products each of whom shall have an alternate, selected by the Secretary, in such a way that all regional interests are fairly represented.

(b) The regions and member States for purposes of this title shall be identified by the Secretary.

(c) Any person selected to be a member of the Board by the Secretary shall qualify by submitting a written acceptance to the Secretary.

(d) If a member of the Board is absent from a meeting of the Board, the alternate shall act in his place. In the event of death, removal, resignation, or disqualification of a member his alternate shall act for him until a successor for a member is selected and qualified.

(e) The members of the Board and alternates when acting as members shall be reimbursed for necessary expenses as approved by the Board and shall receive compensation at the daily rate for GS–18 of the General Schedule.

(f) The members of the Board shall be appointed for three-year terms on a staggered schedule with one-third of the members replaced each year, except that such replacement shall begin 3 years after the establishment of the Board.

(g) The Secretary may appoint, and assign duties to, an executive director and such other full and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(1) Upon the request of the Board, and after consultation with the Secretary, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency, to assist in the performance of the functions under this Act.

(2) The Secretary shall provide such administrative and technical support services as are necessary for the effective functioning of the Board.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

SEC. 204. POWERS.

The Board shall have the following powers:

(a) to administer the duties of the Board pursuant to this title;

(b) to make by-laws and operating procedures, with the Secretary's concurrence to effectuate the terms and provisions of this title that pertain to the administration and operation of the Board.

SEC. 205. DUTIES.

The Board shall have the following duties:

(a) to select from among its members a Chairman and such other officers as may be necessary;

(b) to carry out the provisions of section 201 by organizing, evaluating, and submitting research development and promotion projects to the Secretary;

(c) to review and submit recommendations to the Secretary on any research, development, and promotion plans or projects pursuant to the provisions of this title;

(d) to assist with the contracting of projects approved by the Secretary.

(e) to keep and maintain such books and records as are necessary to administer its duties;

(f) to cause its books and records to be audited by a public accountant at least once each fiscal year; and

(g) to submit an annual report to the Secretary and the Congress of its activities pursuant to this Act during the previous fiscal year; including recommendations and suggestions concerning the provisions of this title.

SEC. 206. LONG-RANGE DEVELOPMENT PLAN.

(a) The Secretary shall establish within one year after the date of enactment of this Act, a long-range plan for the domestic development of underutilized fisheries resources, including research, development and promotion carried out by the Secretary.

(b) Carryout with the advice of the Board, a long-range program of basic reesarch, development, and promotion with emphasis on underutilized species.

SEC. 207. TRAINING PROGRAMS STUDY AND REPORT.

The Secretary is authorized and directed to conduct a comprehensive study regarding the adequacy of existing Federal and State training programs designed specifically to train individuals regarding the commercial fisheries industry. The Secretary shall submit to the President and the Congress, within one year of enactment of this Act, a final report on the findings, conclusions, and recommendations of the study. Such report shall include:

(1) a recommended national commercial fisheries industry education program;

(2) future manpower needs of the Nation in the various sectors of the commercial fisheries industry;

(3) recommendations for changes in the organization and involvement of Federal departments and agencies needed to effectively implement the national commercial fisheries industry education program; and

(4) recommendations concerning additional legislation required to effectively implement the national commercial fisheries industry education program.

SEC. 208. MARKET STUDY AND REPORT.

The Secretary is authorized and directed to conduct a comprehensive study concerning the marketing, processing, distribution, and sale of fish and fish products. Within one year of enactment of this Act, the Secretary shall submit to the President and the Congress a report on the findings, conclusions and recommendations of the study. Such report shall contain recommendations regarding means to improve the operations of such marketing, processing, distribution, and selling mechanisms.

SEC. 209. AMENDMENT OF THE SALTONSTALL-KENNEDY ACT.

(a) (1) The Saltonstall-Kennedy Act (15 U.S.C. 713–3) is amended to read as follows:

"SEC. 2. (a) There shall be appropriated for each fiscal year, beginning with the fiscal year commencing October 1, 1979, an amount equal to 75 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals and any products thereof, including processed and manufactured products) during the calendar year which includes the first day of the fiscal year involved. Such amounts shall be maintained in a separate fund of the Treasury of the United States which shall be available for the purposes of carrying out the provisions of title II of the Commercial Fisheries Development Act.

"(b) There shall be further appropriated to such fund for each fiscal year, beginning with the fiscal year commencing October 1, 1979, an amount equal to the fees, penalties, fines, and forfeitures assessed pursuant to sections 308, 309, and 310 of the Fishery Conservation and Management Act of 1976 collected during the calendar year which includes the first day of the fiscal year involved. Such amounts shall also be used for the purposes of carrying out the provisions of title II of the Commercial Fisheries Development Act.".

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1979.

(b) Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that, beginning with the fiscal year commencing October 1, 1979, the provisions of this section shall not apply to duties collected under such laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals and any products thereof, including processed and manufactured products)."

(c) The amendments made by this section shall not be construed to indicate any intent on the part of the Congress to reduce the amounts of funds appropriated annually for the use of the National Marine Fisheries Service.

TITLE III—MANDATORY FEDERAL FISH AND PRODUCTS INSPECTION PROGRAM

SEC. 301. FISH AND FISH PRODUCTION PROGRAM.

The Secretary is authorized and directed to establish a mandatory fish and fish products inspection program. The program shall be designed to protect human health and shall insure that all fish and fish products distributed in interstate commerce or imported into the United States are of high quality, wholesome, not adulterated, and adequately marked, labeled, and packaged. The mandatory fish and fish products inspection program shall include the following elements:

(1) certification and comprehensive inspection by the Secretary of all segments of the commercial fisheries industry,

(2) establishment, by the Secretary, of mandatory and uniform grading standards to differentiate among different qualities of fish and fish products,

(3) development, by the Secretary, of mandatory and uniform standards for all fish and fish products in interstate commerce or imported into the United States.

(4) development by the Secretary of a label that shall be affixed to all fish and fish products in interstate commerce or imported into the United States that contains the grade and species of the fish or fish product; the date after which the fish or fish product shall not be offered for sale to consumers; the period of time after such date during which the fish or fish product may be safely consumed; the types of fish of which a fish product is composed, and the percentage of each fish that the product contains; instructions concerning the proper method of storing the fish or fish product after sale; and conspicuous identification of fish and fishery products which have been thawed, and

(5) any other requirements which the Secretary determines are necessary to develop an effective mandatory fish and fish products inspection program.

SEC. 320. PROHIBITED ACTS.

It is unlawful for any person—

(1) to violate any provision of this title or any regulation issued pursuant to this title;

(2) to knowingly process, distribute, import, market, or sell any fish or fish product that violates any provision of this title or of any regulation issued by the Secretary pursuant to administering and implementing such program.

SEC. 303. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 302 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OF OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 304. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if he commits any act prohibited by section 302(2).

(b) PUNISHMENT.—Any such offense is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both.

TITLE IV—FISHERIES COOPERATIVE SERVICE ASSISTANCE

SEC. 401. Fisheries Cooperative Service Programs.

(a) The Secretary in consultation with the Secretary of Agriculture, shall establish within 60 days after the date of enactment of this Act a pilot program of comprehensive service for the purpose of assisting fishing interests in the planning, administrating, and formulating of fisheries cooperative organizations.

(b) The Secretary shall authorize the Office of Commercial Fisheries Development to develop plans and conduct actual field operations to implement fisheries cooperative services for a period of 4 years.

SEC. 402. SERVICES BY THE SECRETARY.

For the purposes of this title, the Secretary is authorized and directed to—

(1) provide research, management, marketing, and education assistance to cooperatives and related occupations;

(2) direct consultation with fisheries cooperative leaders and Federal and State agencies to improve organization, leadership, and operations and to give guidance to further development;

(3) assist fishermen to obtain supplies and services at lower cost and to get better prices for the products they sell;

(4) advise fisheries cooperatives on improving services and operating efficiency in order to benefit their members and communities;

(5) encourage international fisheries cooperative programs; and

(6) provide research planning and advice on the establishment of new fisheries cooperatives.

SEC. 403. REPORT.

The Secretary, in collaboration with the Secretary of Agriculture shall submit an annual report on the activities conducted pursuant to this title to the President and to the Congress. A final report shall also be submitted to the President and to the Congress at the end of the 4-year program with specific recommendations for the establishment of a permanent Fisheries Cooperative Service to be administered by the Secretary.

SEC. 404. FISHERIES DEVELOPMENT PROGRAM REPORT.

The Secretary shall submit to the President and Congress within 180 days after the enactment of this Act a report on the status of all existing federally funded programs relating to the objectives and purposes of this Act. The report shall include, but not be limited to—

(1) recommendations for increasing the effectiveness of such programs, and

(2) recommendations for additional means and measures necessary to implement and effectuate a comprehensive, coordinated, and effective United States fisheries development program.

SEC. 405. AUTHORIZATION FOR APPROPRIATIONS.

(a) There is authorized to be appropriated to the Secretary to carry out the provisions of title III of this Act sums not to exceed $20,000,000 for each of the fiscal years ending September 30, 1979; September 30, 1980; September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984.

(b) There are authorized to be appropriated to the Secretary without fiscal year limitation the sum of $1,000,000 to provide funds to carry out a 4-year pilot fisheries cooperative service program pursuant to this title.

(c) There are authorized to be appropriated to the Secretary without fiscal year limitation the sum of $300,000 to provide funds to carry out the provisions of section 404.●

By Mr. CHURCH (for himself and Mr. HANSEN) (by request):

S. 2818. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

FARM WATER ACT OF 1978

● Mr. CHURCH. Mr. President, I am joined today by Mr. HANSEN in introducing, by request, the Farm Water Act of 1978. This bill has been drafted by the Farm/Water National Alliance to Modernize the 1902 Water Law, an alliance of organizations interested in amending Federal reclamation law.

I have already introduced legislation on this subject cosponsored by seven of our colleagues. My bill, S. 2606, the Reclamation Reform Act of 1978, is substantially different from the farm/water bill.

However, this group has spent a great deal of time and effort in an endeavor to provide Congress with a comprehensive legislative proposal on the very complex subject of reclamation law. Their proposal deals with most of the key issues that must be addressed in any meaningful reform of the 1902 act and, as a result, will be of assistance to the Energy and Natural Resources Committee in its upcoming review of the 160-acre limitation controversy. Hearings are scheduled before the committee on this matter for April 12 and 13.

Mr. President, I ask unanimous consent that a list of those organizations that are associated with Farm/Water, a summary of the Farm Water Act of 1978, and the text of the Farm Water Act of 1978 be printed in the RECORD.

There being no objection, the material and bill were ordered to be printed in the RECORD, as follows:

ORGANIZATIONS

Organizations that have participated in the formation of the Farm/Water National Alliance To Modernize The 1902 Water Law and/or the drafting of this bill include, among others:

National Water Resources Association.
Water Resources Congress.
Individual water districts in California, Arizona, Oregon, Washington, Idaho, Colorado, Oklahoma.
U.S. Chamber of Commerce.
American Bankers Association.
National Cotton Council.
National Council of Farmer Cooperatives.
Mortgage Bankers Association of America.
California Westside Farmers.
Several state and local farm organizations.
Imperial Resources Association.
United Fresh Fruit and Vegetable Association.

SUMMARY OF FARM WATER ACT OF 1978

PURPOSE

The purpose of this bill is to liberalize the landholdings of the reclamation law by increasing the basic ownership from 160 acres per person to one-half section in return for a restriction on windfall profits for a period of 10 years. The Act also, for the first time, would recognize that the reclamation law must either provide the social benefit of breaking up individual landholdings or be paid for without subsidy by the users of the project. It in effect gives the users a choice. They can pay for the project and escape the limitations of reclamation law or receive the subsidized benefits and reduce their land ownership to three hundred and twenty (320) acres.

EXPLANATION

Section 3—Definitions.—"Written Representations", can be either a contract or opinion, or other administrative interpretations or rulings implementing Federal reclamation law.

A "Contracting Entity" includes individual landowners who may have entered into recordable contracts, as well as irrigation districts.

The "Landowner" definition includes a requirement that an owner of reclamation land must be a citizen of the United States.

"Project" and "Project Water" are defined in such a way as to include only those projects and under reclamation law in which new water, that would not have been available for those facilities, is introduced under a contract with a contracting entity to the project area.

Section 4—This section would validate all of the written representations made on behalf of the United States under the Federal Reclamation Law including not only specific contractual rights but also such writings as solicitors' opinions on which contracting entities and individual landowners have relied in the past.

Section 5—This section would establish an ownership limitation of three hundred and twenty (320) acres of the Class I land in place of the present one hundred and sixty (160) acres. There is also provided an equivalency provision which would allow larger acreages where the land does not have the same productivity, because of topography, soil characteristics, adequacy of water supply, crop adaptability, cost of crop production, or length of growing season equivalent to the Class I land. The additional acreage would be established by the Secretary of Interior after hearings and he cannot limit project water until such hearings have been held.

This section also preserves present law by allowing a lender that acquires the property by foreclosure, to sell the land without price approval within a five year period. Corporate or individual trustees and landowners which are other than a natural person may hold land eligible to receive water provided that the underlying beneficial owners are qualified as individual owners.

Section 6—This section provides for certain defined exemptions from reclamation law. It introduces the payout concept which permits a district to either pay the full amount of the obligation or make periodic payments with interest and thereby relieve the property within that district from the application of excess land laws.

The interest rate is to be either contractual or the average rate paid by the United States on its marketable securities during the construction period.

In addition other lands are exempt depending on certain sources of water. These include temporary project water, water which is merely diverted or regulated such as in Corps of Engineers Projects, water which reaches property through unavoidable seepage, deep percolation, or ground water recharge. Land would also be exempt if it receives 15% or less of its irrigation needs from project water.

Section 7—A certification provision is provided for clearing title to lands of the acreage limitations when the project has been paid for.

Section 8—This section would provide that the three hundred and twenty (320) acreage limitation would be increased to reflect the

decreasing amount of project water supplied to a project above the 50% threshold amount.

Section 9—This section deals with the requirements of a recordable contract and its provisions in order to qualify land in excess of three hundred and twenty (320) acres to receive project water. It provides that a landowner may designate his non-excess lands, a contract is not required until the water is delivered, the owner is entitled to sell his excess land to the buyer of his choice at its fair market value without reference to the project water, land can be sold at any time prior to the exercise of the power of attorney under recordable contract and that non-agricultural uses of the property can be retained by an excess owner.

Section 10—This section provides, for the first time, an anti-speculation provision in reclamation law. A landowner or his family or beneficiaries under his will or gifts would have to retain the property for ten years before it could be sold for anything more than his costs plus an allowance for cost of living increase.

Section 11—This section repeals the residency requirement of the 1902 Act.

Section 12—This section provides that the Act will apply only to existing projects or by contract to future projects, no previous exemptions are repealed, individual contracts may be amended to conform to the more liberal provisions of this Act, and only provisions of Federal reclamation laws which are inconsistent with this Act are amended. It allows the Secretary to request a court to terminate the right to receive water when there are fraudulent misrepresentations of the sale price or ownership.

Section 13—This section grants contracting entities the right to bring the United States into court for purposes of resolving conflicts in reclamation law.

Section 14—This section restates the language of section 46 of the Omnibus Adjustment Act of 1926 which is not changed by other provisions of this Act and eliminate language which is no longer needed.

S. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be a supplement to the Act of June 17, 1902 and acts supplementary thereof and amendatory thereto (47 U.S.C. 371) hereinafter referred to as the Federal reclamation laws, and this Act may be cited as the "Farm Water Act of 1978."

PREAMBLE

SEC. 2. The purpose of this Act is to:

(1) Encourage and preserve the pattern of viable family farm operations within Federal reclamation projects;

(2) Permit a wide distribution and enjoyment of the benefits of farm lands within said projects and recognize that all taxpayers of the nation contribute to project costs and that none of those who so contribute should be disqualified from sharing the benefits thereof;

(3) Provide for recognition of variations in climate and soil classification in Federal reclamation project service areas; and

(4) Aid in the maintenance and enhancement of the fiscal integrity of Federal water projects which provide irrigation benefits and encourage payment of water charges and construction costs, where feasible, without subsidy.

DEFINITIONS

SEC. 3. As used throughout this Act, the following terms are defined as, and shall mean:

(a) "All Written Representations" shall mean all written representations, opinions, and administrative interpretations and rulings which relate to a "contract" as hereafter defined or other implementation of Federal reclamation laws.

(b) "Contract" shall mean a contract with the United States of America concerning a project constructed or operated pursuant to Federal reclamation laws, as amended and supplemented or executed pursuant thereto, whether or not repayment is involved including, without limitation, construction, irrigation, drainage or storage contracts.

(c) "Contracting Entity" shall mean any irrigation district, water user, or water user entity, individual or other entity that contracts with the United States of America concerning a project constructed or operated pursuant to Federal reclamation laws, as amended and supplemented, whether or not repayment is involved.

(d) "Landowner" shall mean any person or entity, public or private, or combination of one or more such persons or entities that is a citizen of the United States.

(e) "Project" shall mean a project constructed or operated for the production, storage, impoundment, release or delivery of irrigation water under the authority of or pursuant to the Federal reclamation laws, as amended and supplemented.

(f) "Project Water" shall mean water which, but for the construction of the project facilities, would not have been available for irrigation of land within a project service area, which exceeds the amount of water available for irrigating land within said service area prior to construction of the project's facilities and is the subject of a contract with a contracting entity. All other water shall be deemed to be non-project water.

VALIDATION

SEC. 4. Except to the extent that they are inconsistent with the provisions of this Act all provisions of contracts relating to the acreage limitation provisions of Federal reclamation law and all written representations relating thereto which were in effect or made prior to the effective date of the Act by the Secretary of Interior Commissioner or contracting officer of the Bureau of Reclamation (formerly Reclamation Service) or their authorized agents on behalf of the United States with or for the benefit of a contracting entity, or a landowner, are hereby verified, ratified and confirmed as of the date of execution of the contract or the making of said representation.

ACREAGE LIMITATIONS AND EQUIVALENCY

SEC. 5. (a) Notwithstanding any other provisions of the law to the contrary, the amount of non-excess land held in private ownership by any one landowner which is eligible to receive project water in each project, shall be three hundred and twenty (320) acres of Class I land or the equivalent thereof in other lands of less productive potential, as determined by the Secretary of Interior, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, adequacy of water supply, crop adaptability, costs of crop production, and length of growing season. The Secretary shall establish an acreage equivalency formula for each project service area, including those cases where pre-project land classification surveys already exist. The Secretary shall hold public hearings in the area affected before establishing an equivalency formula and making an equivalency determination. There shall be no enforcement of the acreage limitation in a particuar project or unit thereof, by way of withholding water deliveries or otherwise, until an equivalency classification shall have been made for the affected service area.

(b) If excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, or become excess by reason thereof, project water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing unless, or until, the transfer thereof is completed to a landowner duly qualified to secure project water therefor. The sale price thereof shall be without regard to the provisions of Sections 9 or 10 of this Act.

(c) A landowner which is a corporate or other trustee may collectively hold land eligible to receive project water notwithstanding the acreage limitation of this Section 3, in a fiduciary capacity, provided that with respect to such holding, the beneficiary or beneficiaries thereof are in compliance with the acreage limitation provisions of the Federal reclamation laws.

(d) A landowner which is other than a natural person may hold up to 320 acres of land eligible to receive project water provided that the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation law in the same manner and with substantially the same rights as a landowner.

APPLICATION OF ACREAGE LIMITATIONS

SEC. 6. In the case of any project or unit or division thereof which was authorized before the effective date of this Act:

(a) The acreage limitation provisions of the Federal reclamation law shall not apply to:

(1) Land within a contracting entity which makes the lump-sum payment, or has otherwise paid, the balance remaining due on a contractual construction obligation incurred for project water;

(2) Land within a contracting entity which agrees to pay interest periodically in accordance with subparagraph (b) of this section, on the balance remaining due on a contractual construction obligation incurred for project water;

(3) Land within a contracting entity receiving project water on a temporary basis and pursuant to a contract which provides for recapture of such water for municipal or industrial purposes at a later time;

(4) Land receiving water made available by project facilities which does not exceed the amount of water that was diverted and used for irrigating land within a contracting entity service area prior to construction of the project facilities, or water which is merely regulated by the project facilities;

(5) Land utilizing water which occurs as a result of unavoidable seepage or deep percolation from the irrigation or from the drainage of lands within a service area of a contracting entity;

(6) Land utilizing water which, after having been used for some other project purpose, is used for groundwater recharge;

(7) Land receiving water that has been commingled with project water, or receiving project water for which non-project water has been exchanged or substituted or receiving project water as a substitute supply for water otherwise available to the project area;

(8) Land receiving project water which is used to supply less than fifteen percent of the irrigation water necessary for that land as computed in a year of average precipitation or other supply of non-project water; or

(9) Land within the service area of a contracting agency served by a project constructed and operated by the United States Army Corps of Engineers primarily as a flood control project, but having attendant irrigation benefits for which the contracting agency has been required to contract through the Bureau of Reclamation.

(b) The interest rate applicable for purposes of this section shall be computed on a project-by-project basis in accordance with the specified project interest rate or, is none exists, such rate shall be equal to the average rate paid by the United States on its marketable long-term securities issued during the construction period of each project.

CERTIFICATION

SEC. 7. Within 90 days of the effective date of this Act if repayment has previously occurred, or within 90 days following payment, the Secretary of Interior shall issue a certificate in recordable form to the contracting entity or landowner acknowledging that the land is free of the limitations of Section 5 of the Reclamation Act of 1902, as amended or supplemented and the acreage limitations of the Federal reclamation laws.

WATER EQUIVALENCY

SEC. 8. For the purpose of determining whether a landowner holds exces land, the number of irrigable acres of each tract supplied with project water shall be multiplied by a percentage which equals the percentage that project water would constitute of the total irrigation water supply to the tract in a year of average precipitation or other supply of non-project water: provided, that, if less than fifty percent of the total irrigation supply of water is supplemental project water, as computed in a year of average precipitation, such acres shall not be counted at all.

EXCESS LAND CONTRACTS

SEC. 9. (a) No irrigable land held in private ownership by any one landowner in excess of three hundred and twenty (320) irrigable acres shall receive project water if the landowner thereof shall refuse to execute a valid recordable contract for the sale of such land.

(b) An excess landowner may designate which land shall receive project water as nonexcess land.

(c) No recordable contracts need be signed until project water is delivered to the landowner.

(d) If excess is sold by a landowner or pursuant to a recordable contract, the landowner shall be entitled to transfer the land to a landowner of his choice duly qualified to receive project water therefor and receive the fair market value of the land sold without project water at the time of sale as though no project water had ever been delivered.

(e) Excess land subject to a recordable contract, which is not sold within the 10-year period, shall continue to be eligible to receive project water until said land is sold by the landowner or otherwise disposed of under the terms of the excess land contract.

(f) Upon sale or other disposition of excess land under recordable contract or otherwise pursuant to the Federal reclamation laws, in addition to such sale or other disposition being subject to then existing easements and rights-of-way, the seller shall not retain any interest in the land other than (1) the right to explore for and produce minerals therefrom, including geothermal water, coal, oil, gas, associated hydrocarbons, and other fossil fuels, (2) the right to use the surface for purposes other than agricultural crop production, and (3) a purchase money mortgage or other purchase money security interest.

ANTISPECULATION

SEC. 10. (a) Excess land sold after the effective date of this Act, shall be eligible to receive project water only if title to the land is made subject to a condition that the land shall not be sold at a price greater than the landowner's cost for the land, plus the value of any improvements, increased only by the rate of increase of the consumer price index for the period between the date of that landowner's purchase and his sale of the land: *Provided*, That if a land owner, or any subsequent landowner taking title by gift or devise from such landowner, has continuously owned the land as nonexcess land for a period of ten or more years prior to sale, the sale price of the land may thereafter be, at the fair market value thereof without reference to this section.

(b) The Secretary of the Interior is authorized to effect compliance with this section by approving or disapproving the price of land sold subject to this section.

RESIDENCY NOT REQUIRED

SEC. 11. Section 5 of the Act of June 17, 1902, 32 Stat. 389, is hereby amended by deleting from the second sentence the words: "and no such sale shall be made to any landowner unless he shall be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land."

APPLICATION

SEC. 12. (a) This Act shall apply both to existing Federal reclamation projects and to projects or units thereof constructed in the future, except where the contrary is expressly indicated by this Act or by contract.

(b) Nothing in this Act shall repeal or amend other statutory exemptions from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from or modified application of acreage limitation provisions heretofore in effect may elect to continue to be governed by such provisions; provided, however, that no such election shall preclude the options available to a landowner by Section 6 of this Act.

(c) The Secretary of Interior shall, upon the request of a contracting entity or of a landowner as to any land of such landowner within a contracting entity, amend any contract to conform to the provisions of this Act.

(d) Upon proof of fraudulent representation as to the true consideration or ownership involved in sales subject to the price limitations of Federal reclamation laws, a court of competent jurisdiction, upon application by the Secretary of the Interior, is authorized to cancel the right to receive project water or any water right attaching to the land involved in such fraudulent sales.

(d) Except to the extent that they are inconsistent with the provisions of this Act, the other Federal reclamation laws, including those provisions relating to the implementation of the acreage limitations, shall remain in full force and effect.

CONSENT TO SUE

SEC. 13. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation laws. The United States, when a party to any such suit, shall be deemed to have waived any right to plead that the state laws are inapplicable or that the United States is now amenable thereto by reason of its sovereignty, and shall be subject to the judgments, orders and decree of the court having jurisdiction, any may obtain review thereof, in the same manner to the same extent as a private individual under like circumstances.

CONSTRUCTION CONTRACT

SEC. 14. Section 46 of the Act of May 25, 1926, 44 Stat. 636, is hereby amended to read as follows:

"No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than fifty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction which shall be binding upon the parties thereto including the United States: *Provided*, That the operation and maintenance changes on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment." ●

By Mr. McGOVERN:

S. 2819. A bill to improve rail freight transportation and the transportation of passengers by common carriers by motor vehicle; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. McGOVERN when he introduced the bill appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 1571

At the request of Mr. McINTYRE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 1571, a bill to grant a Federal corporate charter to the National Ski Patrol System.

S. 1884

At the request of Mr. RIEGLE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1884, a bill to amend the National Labor Relations Act to clarify its coverage of health professionals.

S. 2481

At the request of Mr. DOLE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 2481, a bill to provide wheat, feed grain, and cotton producers the opportunity to receive parity prices for the 1978 crops.

S. 2539

At the request of Mr. PELL, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 2539, the College Opportunity Act of 1978.

S. 2583

At the request of Mr. DOLE, the Senator from New Jersey (Mr. CASE), was added as a cosponsor of S. 2583, a bill to provide for the temporary transfer of the U.S.S. Sanctuary to Life International, a nonprofit corporation.

S. 2733

At the request of Mr. McINTYRE, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. STEVENS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2773, the Small Business Energy Loan Act.

S. 2734

At the request of Mr. McINTYRE, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. STEVENS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2734, the Solar Energy Bank Act.

S. 2738

At the request of Mr. DOLE, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 2738, a bill to amend the Internal Revenue Code of 1954 to provide for the indexation of certain provisions of the tax laws.

S. 2739

At the request of Mr. CHAFEE, the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. DANFORTH), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2739, the Federal Buildings Artistic Enhancement Act.

SENATE JOINT RESOLUTION 103

At the request of Mr. McINTYRE, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S.J. Res. 103, to declare 1978 as Franco-American Friendship Year.

SENATE JOINT RESOLUTION 104

At the request of Mr. McINTYRE, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S.J. Res. 104, to declare July 11, 1978 as Franco-American Friendship Day.

AMENDMENT NO. 1729

At the request of Mr. McINTYRE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Amendment No. 1729 intended to be proposed to S. 2640, the Civil Service Reform Act of 1978.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—S. 2467

AMENDMENTS NOS. 1754 AND 1755

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, April 11, 1978, at 10 a.m., in room S. 126 of the Capitol, on the following nominations:

Ellen B. Burns, of Connecticut, to be U.S. district judge for the district of Connecticut, vice M. Joseph Blumenfeld, retired.

Gustave Diamond, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Edward Dunbauld, retired.

Robert W. Sweet, of New York, to be U.S. district judge for the southern district of New York, vice Inzer B. Wyatt, retired.

Donald E. Ziegler, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Rabe F. Marsh, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

● Mr. CHURCH. Mr. President, for the information of the Senate and the general public, the Senate Energy and Natural Resources Subcommittee on Energy Research and Development has scheduled two hearings to examine the fiscal year 1979 Department of Energy authorization request. Outside witnesses have been chosen to present testimony on the following dates:

April 4, 1978, 9 a.m., room 3110, Dirksen Senate Office Building, and

April 7, 1978, 9 a.m., room 1202, Dirksen Senate Office Building.

Anyone wishing additional information with regard to the hearings should contact the subcommittee staff director, Dr. Willis Smith, at (202) 224-4431.●

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

● Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will begin hearings on S. 2096, the Right to Financial Privacy Act of 1977, and S. 2293, the Electronic Funds Transfer Act of 1977.

The hearings will be held on April 18, 19, 20, 1978. They will begin at 10 a.m., and be held in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, telephone: 202-224-7391.●

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a 3-day hearing, on April 10, 11, and 12, on the extension and revision of the 1968 Housing Goals legislation.

The hearing will be held in room 5302, Dirksen Senate Office Building, and will begin at 10 each morning.

The committee would welcome statements for inclusion in the hearing record.

CHANGE IN HEARING SCHEDULE

● Mr. McGOVERN. Mr. President, I wish to announce a change in the hearing schedule for the upcoming nutrition hearings before the Senate Committee on Agriculture, Nutrition and Forestry. The Subcommittee on Nutrition will meet on April 6 at 9 a.m. to hear testimony on the WIC (Women & Infant Children Feeding) program; on April 10 at 8 a.m. to hear school lunch and school breakfast witnesses; and, on April 11 at 8:30 a.m. to hear public witnesses on the child care feeding program. Assistant Secretary of Agriculture Carol Foreman will appear before the subcommittee on April 12 at 8:30 a.m. to present the administration's views. All hearings will be held in room 324 Russell. Anyone wishing further information should contact the committee staff at 202-224-2035.●

NOTICE OF SUBCOMMITTEE ADJOURNMENT

● Mr. ALLEN. Mr. President, the Subcommittee on Separation of Powers met pursuant to notice at 11:30 a.m. on April 3, 1978, in room 1418 Dirksen Senate Office Building, and a quorum not being present, adjourned until immediately after the recess of the Senate at 7 p.m. At 7 p.m., the subcommittee reconvened in the President's room adjacent to the floor of the Senate, and a quorum again not being present, adjourned until immediately following the recess of the Senate on April 4, 1978, at which time the subcommittee will reconvene in the President's Room.●

ADDITIONAL STATEMENTS

THE DEPRESSED COPPER MARKET SITUATION IN ARIZONA

● Mr. GOLDWATER. Mr. President, the depressed copper market situation in Arizona has become so drastic that widespread layoffs in my State reached a peak of approximately 8,000 workers in September 1977. The projected loss of personal income in the State could reach over $100 million if this crisis is not relieved. Recently, the House of Representatives of the State of Arizona passed a concurrent memorial which urges the President and the Congress to take whatever action may be necessary to restore the economic health of the copper mining industry. I ask that this concurrent memorial be printed in the RECORD.

The concurrent memorial follows:

HOUSE CONCURRENT MEMORIAL 2002

Whereas, the depressed copper market situation in Arizona has resulted in widespread layoffs in this State, reaching a peak of approximately eight thousand workers in September of 1977; and

Whereas, it is estimated that two thousand to three thousand of those workers will not be recalled at all; and

Whereas, some three thousand five hundred additional jobs linked to the copper layoffs and delayed mine openings could also be lost; and

Whereas, the projected loss of personal income in this State resulting from the copper crisis could reach over one hundred million dollars; and

Whereas, the loss of personal income adversely affects retail trade and tax revenues in this State; and

Whereas, the closure of mining activities and the layoff of thousands of copper industry employees constitute a serious threat to the local economies of several Arizona communities; and

Whereas, the degree to which the towns will be able to weather the crisis depends on how quickly the mines recover; and

Whereas, the mining industry has often been called the workhorse of the Arizona economy; and

Whereas, Arizona alone supplies over half of the newly mined copper in the United States annually; and

Whereas, the United States copper industry is facing increasing competition from foreign producers who often operate on government subsidies; and

Whereas, the demand for copper on the world market has fallen sharply; and

Whereas, environmental regulations in the United States add significantly to the costs of operating the mines in Arizona. Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the President and the Congress of the United States authorize and implement the purchase and stockpiling of sufficient quantities of copper to remedy the current situation.

2. That the President and the Congress of the United States consider the imposition of an environmental tariff on foreign producers who are not required to meet high pollution control standards and attendant costs.

3. That the President and the Congress of the United States take all other appropriate and necessary steps to restore economic health to the ailing copper industry.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

PRESERVATION AND CONSERVATION OF ALASKA WILDERNESS LANDS

● Mr. RIEGLE. Mr. President, an article recently appeared in the Detroit Free Press which I believe will be of interest to my colleagues. The editorial which I am submitting for the RECORD concerns the pending legislation in the House relating to the preservation and conservation of Alaska wilderness lands.

I ask that the newspaper editorial which I now send to the desk be printed in the RECORD.

The editorial follows:

A CHANCE TO SAVE ALASKA'S BEST

Alaska is the site of America's last rendezvous with the wilderness. Its sentinel mountains and mirror-bright lakes, its rushing rivers and fragile, mossy tundra are the last unspoiled outposts of creation—and they belong to us, to all of us. But we are in danger of seeing them despoiled.

If we have learned anything since the first settler's shadow fell across the lower 48 states, it is how vulnerable the wild places are, how quickly and irreparably they are destroyed by exploitation and development. And the pressure of the developers on the Alaskan wilderness is increasing steadily.

That is why it is imperative to set aside as much of the wilderness as possible, before it is too late. The vehicle for doing so is the Alaskan lands bill now before Congress, which would preserve nearly 100 million acres in national parks, forests, wildlife refuges and wild and scenic river systems.

The bill, which will be taken up by the House Interior Committee in mid-February, is under attack from timber, mineral and oil companies, and others who seek to defeat it by delaying or weakening it. They have falsely labeled it a "lock-up" bill, claiming it will prevent the development of vitally needed resources.

The truth is that the bill was drawn to exclude the areas richest in proven mineral wealth, and that even some of the lands in it will be open for managed resource development. It leaves 75 percent of the land in Alaska still open to mineral development, 80 percent of its commercial timber available for logging and at least 60 percent of the land open for sport hunting. Only shortsighted greed would demand more.

What will be set aside are areas of unparalleled beauty and special fragility: tumbling rivers, steep-walled fjords, forest watersheds, remnants of the Pleistocene glaciers, Arctic sand dunes, volcanic craters, majestic mountain ranges. And all of these wonders are more accessible to Americans today than were the cliffs of Yellowstone in 1872, when conservationists successfully fought developers in a battle virtually identical to the one now being waged over Alaska.

We have often rued the decisions of part generations that have despoiled the land; we have never criticized them for preserving it. Beauty and grandeur and long miles of unbroken wilderness are forms of national wealth, too. Long after we have mined and looted the rest of the planet, the Alaskan frontier can be a source of spiritual riches, our link backward to creation and forward to the future. But only if we act now to preserve it.●

A QUOTE FROM WILL ROGERS

● Mr. GOLDWATER. Mr. President, all too often these days, we hear the argument that the Soviet Union is building its vast military potential for defense reasons only. I personally dispute that contention for the kind of military buildup going on inside Russia today far exceeds that required to defend her territory in the event of invasion. In this connection, I recently ran across a quote from Will Rogers which was published on March 12, 1932, and which I believe is very appropriate to the situation today.

I submit these two paragraphs from the great American sage for the RECORD.

The material follows:

WILL ROGERS

"We just got to be better prepared than we are. I want to tell you, war is a business with some other nations. When a war shows up, they don't have to stop and put in a draft and sing songs and appoint dollar-a-year men. Their soldiers are trained between wars—not after one starts. You see, we have been lucky that way, all of our wars have waited on us till we could get ready. But one day we may have one where the enemy won't wait.

"You think that's just kidding? Well, you are just another Senator, if you do!"—March 12, 1932.●

TECHNOLOGY TRANSFER FROM FEDERAL LABORATORIES

● Mr. MARK O. HATFIELD. Mr. President, I wish to call the attention of the Senate to the importance of bringing new technologies to prospective users in a swift and orderly manner. This does not happen automatically; too often we have attended hearings and found that overlapping programs in diverse Federal agencies have led to unnecessary duplication of efforts, simply because the principals of such programs were not aware of what had already been done elsewhere in the Government. The problem is even more acute among governments of different States, where there is no statutory commitment to exchange information.

The art of applying a scientific innovation from one specialized area to another is known as technology transfer. In years past all Americans have benefitted by spinoffs from large programs at NASA or the Department of Defense; the fact that most commercial airplanes originated as military transport planes is well known. Yet, in addition to these highly visible spinoffs, there have been thousands of quieter, less noticeable transfers of technology taking place at the same time. These occur most often because individual scientists and engineers take an interest in a field which at first seems to bear no relation to their specialty, but in fact contains very similar challenges to those they have already faced.

One way in which Congress has aided technology transfer in the past is through the Intergovernmental Personnel Act (IPA), by which Federal agencies exchange workers with State and local governments or universities. Further evidence for the value of this program recently came to me in a letter from Gov. Robert W. Straub of Oregon, in which the Governor clearly illustrates the need to continue and expand such programs in technology transfer.

Mr. President, I ask that Governor Straub's letter to me be printed in the RECORD.

The letter follows:

OFFICE OF THE GOVERNOR,
Salem, Oreg., March 2, 1978.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: On 1 November, 1976, I established, within the Executive Branch, the Office of Technology Transfer (OTT) for a two-year trial basis. Its purpose was to provide a single contact point within the state where my staff, the legislators, or any local government employee could go to find technical or scientific assistance to solve a particular problem. The objective was to make better use of existing technology, ideas and innovations available in Federal agencies, private industries and local and state government organizations so we in Oregon would not have to re-invent the proverbial wheel.

To head this office, we acquired, through an IPA agreement, the services of a scientist from the U.S. Naval Ocean Systems Center in San Diego, California. Upon his arrival, we were well into a drought year, and shortly thereafter legislation was introduced in the House to launch an immediate cloud-seeding program. Through the efforts of the OTT, two Navy scientists who were international weather modification experts, came to Oregon to offer technical advice to my office and the Legislature, and to conduct actual cloud-seeding demonstration flights. This was done at no cost to the State. This assistance was available because the Navy installation belonged to an organization called the Federal Laboratory Consortium for Technology Transfer.

This consortium is an informal voluntary group of 100 plus federal research laboratories, representing such major federal agencies as Energy, Defense, Transportation, Agriculture, Interior, NASA, Commerce and Jus-

tice. Its purpose is to actively seek secondary uses of federally funded and created technology by applying that knowledge to the solution of problems faced by private industry and public agencies.

Since the cloud-seeding experience, we have received additional assistance from various consortium members in such diverse areas as bridge inspection and maintenance, fire retardant material suitable for use in prison mattresses, soft body armor for local police departments, and spray-on material for reducing street road bed erosion caused by heavy rain. Thus, we at the state and local level in Oregon have repeatedly and significantly benefitted from the knowledge and cooperation of the Federal Laboratary Consortium members.

Recently, I found that the Consortium is facing difficult times. Because it is a voluntary, information organization, most of the agencies involved neither fund nor actively support their member laboratories. Each laboratory participates on its own volition and at its own level of effort. As a result, some of the stronger agencies, such as Defense, are reducing or even eliminating their technology transfer program, as budget and manpower ceilings are reduced. To lose this proven resource would be unfortunate. It appears to me that now is the time for Congress and the federal agencies to formally organize, fund and support the Federal Technology Transfer Consortium.

Based on the success of our own OTT, I have decided to permanently establish an Office of Science and Technology in the Executive Branch, and to seek legislative approval and funding to make sure this service is available to the citizens of Oregon in the years to come. The Federal Laboratory Consortium can and should be one of the principal technical resources for this office. It can only be so if it is an effective and viable organization. I am, therefore, requesting your assistance in formally establishing and supporting the Federal Laboratory Consortium so we in Oregon can continue to use their technological knowledge to improve the quality of life for all Oregonians.

Sincerely,

BOB,
Governor.

Mr. MARK O. HATFIELD. Mr. President, it would be sad indeed if the initial effort made by the State of Oregon in this instance were lost due to failure of the Federal Government to pursue the goals of technology transfer. Other States would suffer as well, for we all could draw upon the wealth of technology extant within the federally funded laboratories.

In this respect, it is heartening to learn that the Department of Commerce, through its National Bureau of Standards, is starting an effort in cooperative technology intended to improve means of transferring technology among industries, universities, and agencies of government. This is the kind of commitment by an agency that leads in the long run to both a healthier science community and a healthier economy.

Unfortunately, we know only too well that the longrun view is not the only view. As Governor Straub reports, it is easy to reduce technology transfer programs in order to meet budget and manpower constraints. As Senators, we have it in our power to ask witnesses at hearings what they intend to do about technology transfer, to inquire as to the depth of their commitment to it, and to insure that technology transfer is not given second-class treatment by the Federal agencies. I believe the interests of our taxpayers can be well served by doing so, especially when we circumvent need for several different States to pursue the same research programs. I intend to ask Federal managers to account for their technology transfer programs, and I encourage other Senators to do the same.●

A PANAMANIAN SUMMARY OF THE AGREEMENT OF PRINCIPLES CONCLUDED BETWEEN PANAMA AND THE UNITED STATES

● Mr. GOLDWATER. Mr. President, throughout the treaties debate there seems to have risen some confusion regarding the benefits that might accrue to Gen. Omar Torrijos under documents presented to us for ratification. I wish to point out that there apparently is no such confusion in the Panamanian Government on this issue. And to illustrate my comment, I recently had translated a Panamanian Government document entitled "This Is the Beginning of the End of the Colonial Enclave." The document is a Panamanian summary of the agreement of principles concluded between Panama and the United States.

Because I feel this is important to all Members of the Senate during the debate, I ask that the translation of the Panamanian document be printed in the RECORD.

The translation follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C.

Translation (Spanish)

(Sen. Barry Goldwater)
This is the Beginning
of the End of the Colonial Enclave

OMAR

A summary of the agreement of principles concluded
between Panama and the United States

. . . to jointly study the feasibility of the canal in question and, possibly, negotiate for the purpose of arriving at an agreement on its construction under the conditions stipulated by the Republic of Panama and the U.S. at that time.

ECONOMIC ASPECTS

Panama shall receive the following amounts:

I. From the Operation of the Panama Canal:

(A) An average of $80 yearly for the period of 23 years (a total of $1.840 billion). The larger amount of these revenues shall be subject to an inflationary increase correctional clause to the extent that the yearly amount retain its purchase power as based on the year 1977.

The following is a breakdown of the above amount:

(i) Thirty (30) cents for each ton of cargo passed through the Panama Canal. Yearly average: $55 million.

(ii) The yearly amount of $20 million of which $10 shall be guaranteed yearly. The yearly payment of the other $10 million shall depend on the Canal's net revenues. Any differences that may occur in one year shall be paid in the following years.

(iii) Approximately $5 million of yearly revenues for various businesses and functions with the national government such as harbor, railway, sales of fuel and ship repair.

(B) Buildings and infrastructures amounting to $82 million to be returned to Panama.

II. From the economic cooperation for development:

Various economic and financial programs to the amount of $345 million and broken down as follows:

(i) Credits from the U.S. Eximbank for Panamanian projects to the amount of $200 million for the next 5 years.

(ii) Credits for the construction of guaranteed housing by AID amount to $75 million for the next 5 years.

(iii) Credits guaranteed by OPIC for COFINA amounting to $20 million.

(iv) Other credits and equipment to the amount of $50 million for the next 10 years.

The total of economic benefits deriving from structures payments and concessionary credits: $2.262 billion in 23 years.

The remainder of the structures (the Canal and all other installations) would be reverted to Panama free of charge on December 31, 1999.

III. Coverage of costs:

Payment for public services carried out by the National Government in connection with the Panama Canal operations: $10 million per year.

(Translated by Paul Vidal.)●

NLRB MISAPPLICATION OF FACTS

Mr. HANSEN. Mr. President, with the events of the recent coal strike so fresh in our minds, and with the understanding that labor reform is an issue which will be debated here in the Senate later this spring, I would like to call Senators' attention to an editorial which appeared in the Wall Street Journal, March 31, 1978. This editorial sets out what I view as a shocking and unconscionable turn of events. A judge at the National Labor Relations Board has misapplied the facts in a dispute between J. P. Stevens and the Textile Workers Union, with the result that the law was interpreted to accommodate the judge's, not the workers', intentions. The editorial speaks for itself, outlining three clear instances of misapplication of the law.

If a judge is free to make such decisions as this one, then I would suggest that any legislation we might consider, no matter what our personal or political views, is superfluous. I deplore the actions this judge has taken, and encourage Senators to take heed of this episode in making their decisions to grant even greater powers to unions and the National Labor Relations Board, with no concomitant power in management.

I ask that the text of the editorial be printed at the coclusion of my remarks.

The editorial follows:

COMING ATTRACTIONS, 1984

As we now are following with renewed interest the 15-year campaign of the textile union to organize J. P. Stevens Co., the latest development is especially absorbing. A National Labor Relations administrative law judge—Joel Harmatz—has declared the union to be the bargaining agent for 1,000 employes at Stevens' plants and warehouses in Wallace, N.C., even though a majority of the employes there voted against the union in a 1975 election.

We have examined Mr. Harmatz's decision and can report what has been going on. It will make particularly interesting reading since the House just passed the AFL–CIO's

Labor Reform Bill, which gives union organizers new rights and further restricts what employers can do to fight back.

In the fall of 1974, the Amalgamated Clothing and Textile Workers Union successfully collected authorization cards from about half of the employes at the Wallace complex, the cards authorizing an NLRB election to determine whether or not a majority desired representation by the ACTWU.

On Feb. 19, 1975, 404 workers cast ballots for the union and 540 cast ballots against the union.

The ACTWU thereupon charged Stevens with unfair conduct leading up to the election, asked that the vote be disregarded and that it be declared the bargaining agent. After reviewing the charges, Mr. Harmatz deemed the authorization cards "a more reliable measure of employee choice than the results of the Feb. 19, 1975 election." He ordered Stevens to pay all the costs of litigation including the expenses of the union.

What did Stevens do that was so grossly unfair as to invalidate a secret-ballot election and elevate in its place a mere petition?

First, Stevens interfered with union distribution of campaign literature the day before the election. In the weeks preceding the election, the union distributed its literature outside the plant gate and via mail and in person at the homes of the workers. On Feb. 18, the union abruptly switched tactics and began handing out literature inside the plant. Supervisors ordered the workers to cease. In the hearings, Stevens conceded that the workers should not have been stopped as long as they were in nonwork areas, but that the supervisors were not aware of this fine-point in labor law and were reacting to the abrupt change in the union's practice (which almost seemed designed to elicit a technical violation).

Second, Stevens has a profit-sharing plan for its employes. In 1974 when the stock market hit bottom, the value of the invested funds sank with it and employes were alarmed. One of Stevens' competitors, Burlington Industries, had the same problem. On September 19, 1974, Burlington announced a revision of its profit-sharing plan to give employes some protection against market fluctuations. On January 17, 1975, Stevens followed suit. The union charged dirty pool, saying Stevens, unlike Burlington, did not have the interests of the workers at heart, only removing a grievance that would help the union win the election.

Third, on Sept. 30, 1974, 134 workers at the Wallace plant were laid off because of slack, drawing unemployment compensation of $68 per week. If they had been laid off the next day, Oct. 1, they would have drawn $90 per week because of a change then taking place in North Carolina law. Stevens, having checked with the state bureaucracy, thought the workers would get the new, higher rate. It tried to clear up the misunderstanding, but the state refused to budge. On February 11, 1975, Stevens said it would pay them the difference itself. Again, dirty pool, said the ACTWU and administrative law Judge Harmatz.

In these violations Mr. Harmatz finds a "pattern of unlawful conduct." He was horrified, "No end appears to this unrelenting effort to exhaust the resources of this union in the hope that eventually it will be left with no alternative other than complete withdrawal." And because of the inability of the union to distribute literature inside the plant, because of a change in profit sharing and because of extra payments to the unemployed, it seems, 540 workers were so confused their ballots can't be counted.

For Mr. Harmatz's remedy is not to order a new election, but simply to declare the losers the winners. The union did get about half of the workers to sign authorization cards, and he declares this the "more reliable measure of employe choice." No matter that the cards are often sold as simply election petitions. No matter that they are gathered face to face, maybe or maybe not by smiling union organizers in dark alleys. If you signed a card for an election to get the organizer off your back, it counts as a vote for the union. But it does not count if you vote against the union by secret ballot.

George Orwell couldn't have dreamed up a better example of Doublethink. 1984, here we come.

EAST-WEST TRADE IS GOOD FOR AMERICA—AN ADDRESS BY ALAN A. REICH, DEPUTY ASSISTANT SECRETARY FOR EAST-WEST TRADE

● Mr. MARK O. HATFIELD. Mr. President, on March 8, 1978, Deputy Assistant Secretary for East-West Trade, Alan A. Reich of the Commerce Department, delivered the following speech at the Metrolina World Trade Club in Charlotte, N.C.

Given the importance of increased international trade to the renewed vitality of our domestic economy, the value of the dollar on foreign money markets, and a reduction of the massive trade deficit which this country has experienced during the past several months, Mr. Reich's speech is particularly timely and appropriate. It explains the benefits that East-West trade has brought to the United States and makes a strong case for its future expansion.

Mr. President, I commend this speech to my colleagues as a comprehensive and extremely interesting analysis of East-West trade today. I trust that they will take the time to review it at their earliest opportunity.

The speech follows:

EAST-WEST TRADE IS GOOD FOR AMERICA

It is a pleasure to meet with you here this evening in Charlotte, in the great state of North Carolina, home of Secretary of Commerce Kreps and temporary home of my undergraduate son. Charlotte's famous growth record and its position as a distribution center have earned it the title "second Atlanta." In Washington we know Charlotte as a center for major financial and legal institutions, for retailing and service industries, for the numerous Fortune 500 firms which have offices here, and as the recipient of important foreign investment from West Europe and elsewhere.

I have heard a great deal about your involvement with the world through international commerce. In particular, I am familiar with the contribution you have made to our national economy through exporting of such products as textile machinery, textile mill products, tobacco, lumber and wood, furniture, and chemicals.

Of special interest to me is the active commercial contact you have had with the communist nations, since my theme tonight will be "East-West Trade is Good for America." I shall describe why I feel East-West trade is good for America—its benefits to our economy, its contribution to mutual understanding, and its advantages for U.S. business. First, however, let me comment briefly on the world economic setting within which this process takes place.

ECONOMIC INTERDEPENDENCE IS A REALITY

In today's world, it is no longer possible to separate domestic and international issues. "Interdependence" has become a reality; the observation that economic fortunes move in tandem is one of the reigning platitudes of the day. Notwithstanding its repetition, the new level of interdependence remains insufficiently realized.

In the past, Americans had little cause to be concerned about economic problems beyond our borders. Our economy was relatively insular. We depended little on others for resources. We produced most of what we consumed and consumed most of what we produced Not any more. A foreign recession that reduces consumer demand doesn't cost foreign jobs alone; it can also cost American jobs. When the Soviet Union suffers a wheat crop failure, it is no cause for gloating. Their problem quickly becomes our problem too. The same applies to Caribbean sugar and Brazilian coffee. In fact, we have very nearly reached the day when the phrase "foreign recession" will have no meaning, for there will be no such thing as a recession that does not have universal consequences.

Americans have a real stake in expanding world trade. Last year our two-way trade amounted to $267 billion—$120 billion in exports and $147 billion in imports; the total was the highest in our history. And, consider these facts:

One out of every six manufacturing workers in the country produces for the export market.

One out of every three acres of American farmland produces for the export market.

Almost one out of every three dollars of U.S. corporate profits now derives from international activities—either from overseas investments or from export sales.

We depend on imports for more than one-fourth of our consumption of twelve of the fifteen key industrial raw materials we use.

The share of exports in our Gross National Product has doubled over the last decade to about 7 percent.

The Carter Administration is committed to the orderly expansion of world trade. The President has stated, "Because our total trade is greater than that of any other nation, we can, by increasing our trade activities, make an enormous contribution to the health of the international economy, to the job market at home and abroad, to progressive relationships between rich and poor nations, and finally, to the cause of peace on our globe."

The President is well aware that our policies must reflect these realities of economic interdependence and has made clear his commitment to the freer international movement of goods and services. You don't have to go far to find persuasive arguments for freer and fairer trade. You only need read history. Where trade is open, competition is vigorous and productivity is high in accordance with the rule that he who produces best and cheapest sells the most. Where trade is restricted, the opposite is true.

Today, the major challenge in the trade field is to resist further protectionism in this country and abroad. Periods of reduced economic performance always produce pressures to protect domestic markets against imports. Rather than perpetuate self-defeating and destructive restrictions, we must deal with and offset these pressures through expansion of trade. To pay for our rising imports, especially oil, the United States must pursue a more vigorous policy of increasing exports.

EXPORT EXPANSION IS IMPERATIVE

In 1977, United States had its worst trade deficit in history. It reached $27 billion, a four-fold increase from 1976. This jump reflected not only the unprecedented petroleum imports of $45 billion, but also the slowest rate of increase of U.S. exports since 1971.

This performance has shaken confidence in the dollar, which recently has continued its severe decline and created uncertainty in the international business community.

Depreciation of the dollar aggravates inflation, leads to misallocation of resources, and undermines economic growth. Adjustment of exchange rates by itself is not the answer. It helps. But we also must expand exports. Expanding exports in 1978 is not only desirable; it is imperative.

President Carter recently cabled all American Ambassadors, I quote: "Assistance to American business engaged in legitimate trade and investment activities is a vital element of our foreign economic policy. As such, it deserves your continuing personal attention. Trade expansion is particularly important at the present time. Sales abroad are needed to reduce unemployment and restrain protectionism at home, and to improve the nation's balance of payments. I ask you, as my representative, ensure that a high priority is placed on the trade expansion and other commercial programs in operation at your embassy." End quote.

We recognize that the United States has been less export-conscious than other nations. As I have said, exports account for less than 7 percent of our Gross National Product. That is the lowest percentage GNP of any industrial nation. For Japan the comparable figure is 12 percent, and for Great Britain it is over 20 percent. Of some 300,000 manufacturing firms in the United States, only about 25,000 export at all. Our estimates indicate that another 25,000 or so competitive in world markets.

The United States must develop an export mentality. Last year's huge $27 billion trade deficit could have a healthy effect—if it jars the U.S. business community into action to expand exports. In this effort we must exploit our opportunities. East-West trade is such an opportunity, for with a third of the world's population, the communist nations represent an enormous potential market for U.S. products.

EAST-WEST TRADE BENEFITS OUR ECONOMY

This bring me to the *first* of the three benefits East-West trade brings to America—namely its benefit to our economy. The United States engages in trade with other countries—not as a favor to them—but because trade benefits us. In the last three years the United States exported almost $10 billion worth of goods to the communist countries, achieving a $6.3 billion surplus in the process.

Last year two-way turnover in U.S. East-West trade totalled $3.8 billion, and we achieved a $1.4 billion surplus with the Soviet Union alone. Furthermore, Bureau of East-West Trade economists predict that 1978 will bring record volume and a $2 billion surplus year in U.S. trade with communist nations. Considering the large overall trade deficit I have mentioned, such surpluses provide much-needed relief.

The United States also benefits from the return flow of needed raw materials, including scarce metals and energy products. Seventy percent of our imports from the Soviet Union, for example, are petroleum products and non-ferrous metals and ores, such as platinum and chrome. The Soviets have large reserves of precious metals and energy resources which can be tapped to help sustain our industrial growth.

Our economists estimate that trade with the communist countries provides employment for well over 100,000 U.S. workers. Our exports of manufactured goods generate jobs in American industry. Follow-on sales of spare parts and supplies help ensure continuity of this employment. It does not follow, incidentally, that the imports I have mentioned mean the reduction of jobs, because in many cases the imports of raw materials from communist countries have the effect of increasing employment here. Thus, not only are our exports to communist countries creating jobs, our imports from them are maintaining jobs as well.

ACTIVE EAST-WEST TRADE FURTHERS MUTUAL UNDERSTANDING AND OVERALL RELATIONS

The second benefit of East-West trade is its contribution to the overall relations between the United States and the communist nations. The American people may well be ahead of their government in appreciation of this contribution. A public opinion poll last year, for example, showed that 66 percent of the American people favor expanded trade with the Soviet Union. Moreover, by a three-to-one majority, Americans indicated that they do not want to discriminate against the Soviet Union through tariff barriers and other trade restrictions. In addition to the recognition of the economic benefits, there is an underlying feeling among the American people that active commerce contributes to more peaceful relations.

Person-to-person contacts in trade relations advance mutual understanding and respect between Americans and communist nation counterparts. Such commercial interactions provide the important ingredients of international communication which best further understanding. Business negotiations engage influential citizens on both sides; they are substantive and serious; they are sustained over time; they are carried out on a face-to-face, eyeball-to-eyeball basis. Unlike so many forms of communications, they are two-way. Thousands (unfortunately, it is not millions) of person-to-person relationships developed by Americans in the course of doing business with the communist countries enhance the likelihood of identifying and working out more rational solutions to common problems.

Exposure to each other's beliefs, values, perceptions, and even misconceptions, helps overcome suspicion and break down false stereotypes. The more of us who know more of them and vice versa, the better. We may not agree, but we will understand better where and why we disagree. As Woodrow Wilson said, "When we truly know one another, we can have differences without hating one another." Thus commerce contributes to an overall climate in which there is less chance of miscalculation or resorting to extreme solutions resulting from ignorance, misunderstanding, or mindless hostility.

As the communist societies open up to Americans and other Westerners through business contacts, their peoples will understand better what we really are like. They will come to know that Americans are pragmatic, determined, hard working, and peace loving. To the extent peoples in these nations know us, their regimes may moderate somewhat the distortions in their propaganda about us.

The business ties already developed in the period of detente have exposed many communist officials in the Soviet Union, the People's Republic of China, and the nations of Eastern Europe to American businessmen eager to do business with them. Many mid-level officials who have risked their careers by advocating contact with the West will assume top leadership positions in the future. They have more accurate perceptions of Americans and presumably are more friendly toward us. We should continue to encourage those with Western orientation so that their hard-line adversaries are not proven right about the unreliability of Americans as partners in the pursuit of detente.

In the course of their negotiations with Americans, the communist technocrats and industrial leaders experience at first hand the advantages of Western-style management approaches such as rational decision-making, incentive management, team effort and open communications. This exposure to the free enterprise system can help lead, over time, to reduced rigidity and to decentralization of authority.

The more deeply and intricately involved in world economic matters the communist nations become, the greater will be their stake in developing a stable international economic system. This is in our national interest because attitudes of tension and confrontation only mean trouble for this system, which is very delicate.

Because commercial relations lead to tangible and visible results, they can serve as a constructive model in other areas of U.S. relations with the communist nations. They demonstrate that persistence and patience can lead to beneficial results. Above all, it is essential for both sides to realize trade is mutually beneficial and both sides gain from fostering it.

Commonsense dictates that these elements in our relationship be developed and strengthened. We could lose much by not trying. As President Carter stated in a message last year to the U.S.–U.S.S.R. Trade and Economic Council: "Bringing together businessmen from both countries for discussions on ways to expand economic, commercial and technical cooperation is important not only for its positive impact on the American and Soviet economies, but also because the expansion on bilateral trade helps maintain and strengthen the fabric of world peace." In addition, in his July speech in Charleston, South Carolina, President Carter urged identification and development of overlapping interests which are mutually beneficial, such as trade. The President spoke out specifically in favor of expanding U.S.-Soviet trade.

The third benefit of East-West trade is the profits it can bring to American companies who are interested in East-West trade. With one-third of the world's population and one-fourth of its land area, the communist countries represent a substantial market. Thousands of companies have found this trade profitable. An infrastructure has been developed. Twenty-five companies now maintain offices in Moscow; there are another fifteen in Warsaw. While the United States has about 20 percent of the world's total market of manufactured goods exports, we have less than 5 percent of the exports of these goods to the communist countries. If we succeed in removing the non-commercial barriers there is ample room for growth. Moreover, in recent years, the growth rate of trade between the market and the non-market economies has been greater than the growth within either of these two major world economic groupings.

SOME PROBLEMS IN EAST-WEST TRADE

I do not mean to imply there are not problems in East-West trade. In fact, they are considerable. I would mention three problems briefly. The first is the difficulty of meshing the centrally planned non-market economies with our own market economy. Foreign trade in communist countries is conducted by central government ministries through specialized foreign trade organizations. Sales potential depends generally on priorities set by the government—and not on market forces. Because of the different practices and structures, Western businessmen encounter many frustrations in the communist countries. Secondly, because the United States has been the late entrant in East-West trade, Western Europeans and Japanese businessmen have become established long before Americans. We continue to lag behind. Businessmen of those nations have personal relationships with their counterparts in communist countries, thereby increasing their competitive advantage.

Many American businessmen have said to me they only want to be allowed to compete on an equal basis. The third problem I would mention here is our inability to offer official export credits and non-discriminatory tariff treatment in all dealings with the communist countries. This again puts us at a disadvantage in many situations compared with competitors of other Western nations.

SOME EAST-WEST TRADE OPPORTUNITIES

There are problems, yes; but there are opportunities as well. The communist markets represent the following general kinds of opportunities for American firms.

Because of its vast land area and abundant reserves of a wide variety of natural resources, the Soviet Union undoubtedly offers the greatest potential for trade development. This is especially true if the United States and the Soviet Union cooperate in the exploration and development of Siberia. The U.S.S.R., for example, has more forest cover than any other country in the world. It has tremendous coal reserves and massive deposits of copper, nickel, manganese, platinum metals and chrome ore. Soviet gas reserves are estimated to be the largest in the world. Soviet oil production is now the world's highest. To exploit this potential, the Soviets have a need for imported technology. Oil production in fields west of the Urals has moderated and the rapid growth of West Siberian production may soon begin to level off.

Additional oil and gas will have to be developed off-shore and in the more inhospitable areas of Siberia. For those projects U.S. technology may be indispensable. Non-strategic technological products and capital equipment for basic industries may offer the largest growth opportunities for U.S. trade with the U.S.S.R. If these possibilities materialize, U.S. exports to the Soviet Union could rise from their present value of roughly $2 billion a year to the multi-billion-dollar-a-year range.

The Soviet Union often seeks to pay for capital goods imports through financial arrangements which are relatively unfamiliar to U.S. businessmen. One such form is "compensation arrangements," whereby the Western exporter accepts partial payment for his machinery and equipment in the form of future delivery of products produced with the equipment he has sold. Anxious to preserve scarce hard currency, the Soviets increasingly are emphasizing their large-scale projects. Such compensation arrangements in development of Siberian resources could greatly enhance future U.S. imports of energy products without an offsetting drain in our balance of payments.

Similar prospects are opening up for American business in the People's Republic of China. China at present limits its imports to what it can pay for, without entering into compensation deals for future payment. The PRC's import needs are potentially very large. Chinese officials have expressed priority interest in imports of Western machinery and equipment to modernize their iron and steel industry and their transport sector. The undeveloped transportation network constitutes an enormous bottleneck to economic progress in China. Both for domestic use and for increasing exports, rapid expansion of petroleum, petrochemical and coal production is also on the highest priority list. The PRC will also require massive imports of Western machinery (including textile manufacturing machinery) as well as know-how, including imports of entire plants.

I should also mention the continuing Chinese emphasis on developing their agricultural sector. They have begun to import tractors and modern, large-scale irrigation systems on a trial basis. The potential for sales of all types of agricultural chemicals and equipment to China is enormous. The Chinese population is still 80 percent rural, and both the Chinese egalitarian philosophy and their economic sense lead them to stress agrarian development, rather than merely concentrate on the industrial sectors.

At present, the United States sells less than $200 million worth of goods a year to the PRC. Our exports could rise soon to above a billion dollars a year if we take advantage of the opportunities that can open up.

Finally, a word about the longer-term prospects in the Eastern European countries. These are the most industrially advanced nations of the communist world. The German Democratic Republic, after all, was highly industrialized when it was a part of a united Germany. Czechoslovakia is also highly industrialized, and Poland and Hungary are not far behind. Romania and Bulgaria, on the other hand, may still be classified as less developed countries.

The most promising Eastern European markets from the point of view of U.S. trade are Poland, Romania, and Hungary. They are the most Western-oriented of the Eastern European countries with which the Bureau of East-West Trade deals. Poland has had Most Favored Nation tariff treatment from the United States—which is to say, normal, nondiscriminatory tariff treatment—since 1960. Romania, since 1975, and we hope Hungary will soon receive MFN. It is very significant that in contrast to the other Eastern European countries, both Poland and Romania are relatively independent of the U.S.S.R. for energy supplies. Poland has enormous coal reserves and Romania has the oldest petroleum industry in the world—predating even the first commercial discovery in the United States. Both these countries, however, are having development problems with their energy industries and are inviting targets for long-term U.S. sales of energy equipment and know-how.

Hungary, by contrast, is poor in energy and other natural resources, except for bauxite. Its attachment to the West is simply evidence of continuing, centuries-old cosmopolitanism. Hungary looks to the West, and to the U.S., for cooperative endeavors—including joint equity ownership—in several light industry sectors. Hungary, then, is a most attractive country from the Western point of view, and U.S.-Hungarian developments in recent months—the return of the Crown of St. Stephen, the paying off of all of Hungary's financial debts to the United States (dating back as far as World War I), the initialing a few days ago of a Long Term Trade Agreement, and we hope soon, the granting of mutual tariff reductions—all augur extremely well for a steady increase in future U.S.-Hungarian trade.

American businessmen should keep in mind that the Eastern European countries are particularly interested in countertrade, that is, in arranging for two-way trade deals like barter, co-production, or joint ventures. If these can be worked out, U.S. exports to East Europe could double or triple their present billion-dollar-a-year level.

THE BUREAU OF EAST-WEST TRADE

The Bureau of East-West Trade was founded in 1972 at the beginning of détente to promote normalization, consistent with national security considerations, of commercial relations between the United States and the communist countries. The Bureau seeks to maximize all the benefits to the United States I have described. We cooperate with many private sector organizations working to expand this trade. They include the East-West Trade Council, the United States Chamber of Commerce (and its business councils with the communist nations of Eastern Europe), the U.S.-U.S.S.R. Trade and Economic Council, the National Council for U.S.-China Trade, the U.S.-G.D.R. Trade and Economic Council, the Committee for East-West Accord, and numerous trade associations.

The programs of the Bureau support the entry of U.S. firms into the communist country markets. We help them deal more easily in these unfamiliar markets. We sponsor American business participation in exhibitions and trade missions in the communist nations. We work directly with communist country officials to enable our businessmen to exploit their opportunities as effectively as possible. Our trade development officers provide business counseling and technical assistance in publications and seminars to answer questions on how to do business with the communist countries. Our economists prepare statistical data and economic information of interest to the business community. The commercial counselors in our embassies in the communist nations; our Moscow, Warsaw, and Vienna offices, and the Department of Commerce Trade Specialists in 43 field offices throughout the United States furnish direct assistance to U.S. firms.

If we are unable to overcome the obstacles to trade with the communist nations, our share of this trade could be even smaller than it is today. We could be deprived of significant economic and other benefits that our Western competitors will gladly absorb. Conversely, if we succeed in smoothing out these trading relationships, American manufactured goods exports to the U.S.S.R., the P.R.C., and Eastern Europe could become four or five times greater in ten years than they are at present.

I have pointed out the imperative I see of pursuing our export markets more vigorously in East-West trade—and the benefits to our economy, to the improvement in our overall relations, and to American business. President Carter wants increased trade, the American people want it, and the American business community wants it.

What can be done?

I offer the following five-point program:

1. Increase U.S. public understanding through expanded dialogue on the important issues of East-West trade.

2. Identify carefully the business opportunities that exist for American firms.

3. Pursue these business opportunities vigorously with the help of the Department of Commerce's Bureau of East-West Trade.

4. Improve the bilateral and multilateral structures so necessary to a sound infrastructure for trade between the United States and these nations.

5. Adopt a national policy of commitment to strengthen this important common interest we share with the communist nations.

Thank you.●

COMMENDATION TO THE UNIVERSITY OF KENTUCKY BASKETBALL TEAM

Mr. FORD. Mr. President, as in legislative session, I send to the desk a resolution commending the University of Kentucky for winning the NCAA basketball championship and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A RESOLUTION (S. RES. 427) TO COMMEND THE UNIVERSITY OF KENTUCKY BASKETBALL TEAM

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, 1 week ago today the University of Kentucky's basketball team culminated a brilliant season by defeating Duke University 94–88 in St. Louis for the National Collegiate Athletic Association basketball championship. The victory enabled the Wildcats to finish the season with a 30–2 record—a feat made even more remarkable by the fact that they were ranked at the top of all the polls for the season's duration.

The championship is particularly rewarding to the four seniors on the squad:

Jack Givens, Rick Robey, Mike Phillips, and James Lee. These young men have given 4 years of basketball that will long be remembered as one of the truly great eras of Kentucky basketball history.

As freshmen, they were on a team that finished second to UCLA in the 1975 NCAA final. As sophomores, they led UK to the National Invitational Tournament championship at Madison Square Garden. Last year, they were a finalist in the eastern region.

That is why it was so satisfying to see this group of seniors complete their careers with this crowning achievement. It should also be noted that during the past four seasons, Kentucky won the Southeastern Conference championship three times.

Without a doubt, the man most responsible for this impressive record is Coach Joe B. Hall, who took over as the school's head basketball coach 4 years ago. Not only has he brought the NCAA championship back to Lexington for the first time since 1958, but he remains strongly committed to teaching and motivating young men to succeed in the classroom as well as the basketball floor. He has not—let me repeat not—lost sight of the fact that education is the number one priority for our institutions of higher learning.

Kentucky is fortunate to have an individual of Joe Hall's ability and integrity in this position, and the future for UK's basketball program is indeed bright and promising.

Recognition and messages of congratulation to Coach Hall and his team have come from all over the world. My colleague, Senator HUDDLESTON and I think the Senate, too, should be on record in saluting this impressive accomplishment and we ask unanimous consent that this resolution commending the University of Kentucky basketball team be adopted.

I thank the Chair.

Mr. SARBANES. Mr. President, will the Senator yield for a question of the Senator from Kentucky?

Mr. CHURCH. I yield for that purpose.

Mr. SARBANES. Mr. President, will the Senator from Kentucky enlighten us? I think this will be helpful to those from other States. What is the secret in Kentucky for producing championship basketball teams? We wish to take that secret home with us.

Mr. FORD. I wish to help Senators as best I can, but I do not think I want to divulge that secret.

It is similar to the situation when the distinguished senior Senator from Arkansas was talking about the game we played. He said he would see me but he would be on the other side of the field. They happen to play this game on a court, and if some of the teams would recognize that maybe it would work out all right.

Let me make one point, if I may, Mr. President, and I do not wish to get everyone off the trend of thought here, but the four seniors on this team and the coach of this team the first year were in the finals of NCAA, the next year they won the NIT, the next year they were in the quarter finals, and this year they won the NCAA championship.

I think that is a pretty good record for a school like the University of Kentucky. As we know, last year they only lost one football game. So maybe we are coming of age. Being an academic institution, the University of Kentucky is one of the top 33 research universities in the country. We are also coming of age in all sports.

I thank the Senator from Idaho and I owe him one.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 427) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, the University of Kentucky's basketball team defeated Duke University on March 27 in St. Louis to win its fifth National Collegiate Athletic Association basketball championship;

Whereas, the senior members of this team, during their four-year varsity career, were also NCAA runners-up, National Invitation Tournament champions and three-time champions of the Southeastern Conference;

Whereas, Coach Joe Hall, his staff and his players displayed outstanding dedication, teamwork and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor;

Whereas, Coach Hall and the Wildcats have brought pride and honor to the Commonwealth which is rightly known as the basketball capital of the world;

Therefore, be it resolved that the Senate of the United States commend and congratulate the University on this outstanding accomplishment.

SEC. 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to the University of Kentucky.

WEAKNESS OF ADMINISTRATION'S DEFENSE BUDGET

Mr. THURMOND. Mr. President, examination of the 1979 defense budget, now the subject of hearings in Congress, reveals a dangerous shift in U.S. defense policy.

We are being asked to approved a sharply reduced defense budget which erodes strategic weapons development and sea power and unmasks an administration policy of reductions and risk.

The $126 billion requested for defense in fiscal year 1979 is $8.4 billion below that projected by the previous administration. Combined with the cut in defense last year the 2-year Carter defense funding program is now $15 billion below that projected by President Ford.

EVEN MODEST HIKE FALLS SHORT

Further, the current administration has failed to even request its modestly projected 3-percent growth in the fiscal year 1979 defense budget. The actual growth being sought by the administration is only 1.8 percent, and represents a relatively insignificant money increase of $2.3 billion in constant dollars.

This reduced level of funding is taking place in a period when practically every expert is alarmed about the huge buildup of Soviet strategic and conventional forces. Even administration spokesmen admit this accelerated military effort goes far beyond that necessary to insure the security of the Soviet Union.

SHIFT IN PRIORITIES

Mr. President, this buildup includes significant shifts in priorities. For instance, while Defense gets a 1.8-percent increase, the budget of the Department of Health, Education, and Welfare is increased by $22.7 billion, a hike of over 14 percent from fiscal year 1978.

Two other Federal departments also will receive sharp boosts. The Department of Labor budget is to receive a 44-percent increase to $29.9 billion and the Department of Transportation a 38-percent boost to $17.4 billion.

While money can be found for the above cited Departments, the President has vigorously attacked the weapons procurement portion of the defense budget almost from the beginning of his administration.

In just 1 year over $12 billion has been removed from the procurement appropriations scheduled during the fiscal years 1977–79 period.

And, this is just the beginning. Current projections by the administration project a 5-year Defense Department program over the fiscal years 1978–82 period of $33 billion below that planned by President Ford.

These cutbacks are most identifiable and damaging in three significant areas: Strategic programs, Navy programs, and Army training.

STRATEGIC PROGRAMS

In the past few years, the United States was well on its way to total renovation of its strategic triad of weapon systems in response to the rapidly accelerating Soviet threat. We were moving from the B–52 to the B–1, from Minuteman missiles to MX missiles, from Polaris-Poseidon to Trident.

The more than a decade of efforts and $5 billion in expenditures had resulted in a B–1 aircraft designed to replace our aging B–52 bomber fleet.

Suddenly last year the President decided against the B–1 on the grounds we could rely on the 20-year-old B–52 with a yet to be tested standoff cruise missile.

The second leg of the triad, the Minuteman missiles, were to be updated with the new MX. This was necessary because the fixed sites of the Minuteman would become vulnerable to Soviet attack in the early or mid-1980's.

MX PROGRAM SHARPLY CUT

Budget planning called for MX development expenditures of $294 million in fiscal year 1978 and $1.5 billion in fiscal year 1979. But the new administration sharply cut this program to $134 million in fiscal year 1978 and to $158 million in fiscal year 1979. This $1.5 billion cut in MX spending entails serious risks for the United States.

This reduction of the mobile missile effort not only delays by 2 to 3 years U.S. deployment of the MX—from 1985 to 1987—it lengthens the period when our Minuteman will be vulnerable to Soviet attack.

TRIDENT PROGRAM

The third leg of the triad, the missile submarine has so far survived attack by

the new administration. Support for the Trident submarines were not cut and construction continues on the first of these new boats. However, delays in construction will mean the Trident will be deployed later than expected. Depending upon the retirement time of our current missile subs, this could mean a smaller sea-based deterrent during the mid-1980's just when Minuteman III is most vulnerable.

Mr. President, it is obvious the United States is reducing too much in the strategic areas and assuming too many risks with the security of this Nation and her people.

NAVY PROGRAMS

Moving now to the huge Navy cuts in the defense budget we find that the shipbuilding program has been cut from 29 to 15 vessels. This reduction amounts to 14 less ships than were planned just 1 year ago for fiscal year 1979 by the Ford administration.

The Carter administration has also severely reduced the planned 158 ship and $48 billion 5-year plan for fiscal years 1978 through 1982. Instead of 158 ships only 101 ships are now scheduled, a drastic blow to our Navy which is already at unacceptably low levels.

These actions are being taken despite the huge buildup of the Soviet Navy and warnings from independent defense analysts that the U.S. Navy is already in many respects falling behind the Soviet fleet.

ARMY MANPOWER

Another cutback in the defense budget is the sharp reduction in Army training forces recommended by the administration.

Army training strength is being trimmed by about 12,000 between the 1978 and 1979 fiscal year without congressional approval. This action follows a recommendation by the liberal Brookings Institution which President Carter incorporated into his 1976 campaign. In fact, many of the Brookings personnel have now moved into the Defense Department to carry out their proposals.

Although the Congress set Army manpower at 787,000 last year, it is being arbitrarily reduced by the Defense Department without congressional concurrence in an effort to get down toward the lower figure of 772,000 recommended in the budget for fiscal year 1979. Congress has not approved this lower manning level but DOD is moving toward it nevertheless.

Severely reduced training personnel funds will surely have an adverse effect on combat readiness of our ground forces, thus weakening our defense credibility even further.

Mr. President, while these policies weaken our defense forces, the Soviets are deploying a new family of intercontinental missiles and a killer satellite. These developments are leading to a dangerous shift in the balance of power which cannot be corrected overnight.

In summary, here is what is taking place:

First. Shifting of priorities from defense to other agencies.

Second. Sharp reductions in overall defense spending.

Third. Termination of the B–1 program.

Fourth. Slowdown of the MX mobile missile program.

Fifth. Reductions of 50 percent in Navy ship requests for 1979.

Sixth. Arbitrary cuts in Army training manpower levels.

Mr. President, this is a policy of risk and reductions. Fortunately the congressional defense committees are recommending an addition to the defense budgets of $2 billion this year.

However, the "massive Soviet buildup" which the President finally acknowledged in his North Carolina defense speech cannot be met with the level of spending in his current defense budget nor in his 5-year defense plan.

Rather than meeting this threat the administration had planned to accept an unfavorable agreement in the strategic arms limitation talks until Congress sent a clear message to the White House.

It appears the new administration is turning its cheek to the insults from the Soviets all over the world. This policy of idealism must be abandoned if we are to prevent wars in the future. Strength in our defense posture will prevent wars, weakness invites wars. I trust the new administration will learn this lesson before the damage to our national defense posture becomes more severe.

U.S. POSITION AT SALT II

Mr. THURMOND. Mr. President, a thorough and perceptive article on SALT II appeared in the January 1978 issue of Air Force magazine.

Written by senior editor Edgar Ulsamer, this article examines all elements of the current U.S. strategic posture and the ramifications of SALT II.

I ask unanimous consent that this article, entitled "The Equal Sign in the SALT II Equation" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE EQUAL SIGN IN THE SALT II EQUATION

(By Edgar Ulsamer, senior editor)

When Secretary of State Cyrus Vance last fall briefed a select group of US senators on the status of SALT II, Sen. Henry (Scoop) Jackson (D-Wash.) reportedly reacted with undisguised irritation and frustration. Senator Jackson, a forceful, apperceptive critic of negotiating errors that in earlier rounds of the Strategic Arms Limitation Talks led to loopholes and asymmetries, putatively bristled at the apparent absence of coherent US policy approaches and at the concessions—not briefed to the appropriate Senate subcommittee—that occurred after the Carter Administration first went to the mat with Moscow's SALT II negotiators early in 1977.

At this writing, the bottom line on SALT II is still hazy, but most of the pivotal features of this pending accord that will vitally influence the strategic posture of the two superpowers in the next decade and beyond, are becoming discernible. Capitol Hill SALT watchers guardedly predict that the agreement will be concluded before May 1978.

The proposed SALT terms are being aired publicly—to the obvious chagrin of the Administration—through volleys of news leaks and counterleaks. Gag orders, concerning direct discussion of SALT-related matters with Congress, issued to the Defense Department and other government agencies, have slowed but not shut off the leaks.

Rep. Robin Beard (R-Tenn.), a member of the House Armed Services Committee and Chairman of the House Republican Task Force on National Defense, charged the Carter Administration with attempting to suppress independent and critical assessments of the Administration's SALT II proposals. Beard released the text of an Administration memorandum, signed by David Aaron, Deputy Assistant to the President for National Security Affairs, to the Departments of State and Defense as well as the Arms Control and Disarmament Agency, the Central Intelligence Agency, and the Chairman of the Joint Chiefs of Staff. This White House order requested that any information to be provided to Congress on the strategic forces and programs of the US and the USSR "should be cleared through the SALT Working Group" to assure that such analyses are "consistent with and represent the best judgment of the Executive Branch." The underlying objective, according to Beard, is "to stifle independent and objective assessments of the . . . SALT II proposal and prevent Congress from gaining access to any dissenting viewpoints."

At the same time, five Senators considered proponents of the Carter Administration's SALT approach launched a counteroffensive to change the makeup of the Senate's Arms Control Subcommittee Sen. Gary Hart (D-Colo.) even called a special news conference to denounce unnamed malefactors "who oppose a SALT II treaty agreement—and possibly any realistic arms limitation treaty [and who] have rushed to judgment, to reveal and condemn a treaty still being fashioned."

Meanwhile, congressional sources report increasing Administration pressure via the "pork barrel sector" on members suspected of fostering opposition to the present terms of SALT II. White House concern is understandable; at least the core element of SALT II—the basic treaty that is to be in effect for eight years—requires Senate approval by a two-thirds majority. At this writing, opponents of the SALT II terms claim their informal polling suggests that "at least between thirty-five and forty nay votes" can be expected. It would take only thirty-four nays to reject such an accord.

Press coverage of SALT's terms, in spite of extensive public relations campaigns by the White House and other government departments concerned with SALT, has often been critical. Typical of the reaction among newspapers of generally conservative persuasion was this lead of a Chicago *Tribune* commentary: "The best thing that can be said about the proposed SALT agreement slowly emerging in Geneva is that it tilts so outrageously in favor of the Soviet Union as virtually to defy the Senate to ratify it." The fact that congressional action on the Panama Canal treaties, another cliff hanger, could well overlap with Senate action on SALT II, provides little comfort to the supporters of the latter. Two other Carter Administration initiatives in the disarmament field also might affect the congresional climate at the time: the so-called Comprehensive Test Ban Treaty (CTB) eliminating *all* nuclear testing—considered by most technical experts as essentially unverifiable—and a ban equally difficult to monitor and enforce on the test, development, and deployment of chemical warfare weapons.

Whether these basically adverse political factors—coupled with reportedly increasing Soviet recalcitrance concerning certain unresolved or "gray" issues—will cause the Administration to toughen its stance is problematical. What seems certain is that SALT II will undergo further, drawn-out modification. The case for revision—despite obvious

U.S. eagerness to fill the vacuum brought about when the SALT I five-year interim accord expired last October—becomes formidable through such public statements as Rep. Jack Kemp's (R-N.Y.) comment that "I am appalled at the extent of the collapse of our SALT negotiating posture. We are headed for an agreement which will increase the risk of nuclear war and codify Soviet strategic nuclear superiority with the unmeasurable consequences for our diplomacy such a condition implies. . . . The Congress willl not ratify such a one-sided agreement, and I will make every effort to see that SALT II is not ratified until its terms are modified to provide for equality for the United States."

Perhaps even more significant was a recent letter to President Carter by three Democratic senators—all members of the Armed Services Committee and considered staunch supporters of strategic arms limitations. Sens. Thomas J. McIntyre (D-N.H.), John C. Culver (D-Iowa), and Dale Bumpers (D-Ark.), importuned the White House to take a stiffer stance and insist on more precise SALT II language to protect vital U.S. interests. The letter listed six specific treaty areas in need of shoring up "to strengthen the agreement and to broaden support for ratification."

THE SALT II OUTLINE

Possibly the most telling blow was struck by Paul Nitze, a former SALT negotiator and a Deputy Secretary of Defense in the Johnson Administration. The picture of SALT II's consequences drawn by Mr. Nitze for the news media—subsequently confirmed in terms of broad facts but not in implication by a senior defense official—is that "in *prompt* countermilitary potential residing in ICBMs the present approximate state of parity will degrade to a better than ten-to-one advantage for the Soviet Union by 1985; that by that year the Soviets will have achieved numerical parity with the US in warheads; that by 1985 the Soviet lead in total megatonnage over the US will be slightly more than six to one"; and that recent U.S. program decisions plus the terms of the probable SALT agreement make it virtually impossible "to maintain crisis stability, rough equivalence, or to reverse the presently unfavorable trends during the period of the agreements. . . . We are," said Mr. Nitze, "locked into inferiority, and I don't know how to get out of it."

SALT II, as presently structured, is to consist of a treaty, a Protocol, and a Statement of Principles that spells out the major issues to be dealt with in SALT III.

The actual treaty, Mr. Nitze and several congressmen, including Representatives Beard and Kemp, told the press, is likely to become retroactive to the expiration of the SALT I Interim Agreement last fall and, initially, is to limit both sides to an aggregate of 2,400 strategic nuclear launch vehicles (SNLVs), consisting of ICBM and SLBM launchers and heavy bombers. This limit was arrived at in the 1974 Vladivostok understanding. The initially authorized total is to be reduced to an extent and over a period of time that are still not firmly decided. The US proposed a reduction to about 2,160 by 1980 while the Soviets are holding out for an aggregate of 2,250 by 1982.

A sublimit of 1,320 MIRVed weapons—also carried forward from Vladivostok—is to become effective at once but now it includes heavy bombers carrying *armed* air-launched cruise *missiles* of *intermediate* range. ICBMs were defined in Geneva as systems with a range of 5,500 kilometers or more but no definition was reached on SLBMs. A further subcategory—within the MIRVed weapons—was created but specific numbers apepar to be still under negotiation: The US proposed a maximum combined total of MIRVed ICBM and SLBM launchers of 1,200, whereas the Soviet ceiling was 1,250. Of this total no more than 820 may be MIRVed ICBMs. The Soviets will be permitted to have 326 (or 308, if operational launchers at test ranges are not counted) modern large ballistic missiles (MLBMs) of the SS–18 type. That missile's throw-weight exceeds that of the older SS–9—which US negotiators in 1972 erroneously assumed to represent the maximum permitted throw-weight—by about 4,000 pounds. The remaining MIRVed Soviet ICBMs can be SS–17s and SS–19s, whose throw-weights are 7,000 pounds and 8,000 pounds, respectively. The US is not permitted any MLBMs *at all*.

The fate of USAF's proposed MX missile—with a throw-weight of 7,500 pounds, or slightly less than that of the SS–19—could be adversely affected by SALT II. The reason is that the provisions governing "new" ICBMs, including mobile or unconventionally based systems, are not yet firm. According to Mr. Nitze, the US proposed that during the initial three years of the treaty—the so-called Protocol period—there be no testing of ICBM types not previously tested, and no deployment of types not already deployed at the time the agreement is signed.

Yte another sticking point, congressional sources told AIR FORCE Magazine, is precise definition of what is a "new" and what is a "modified" ICBM. With the Soviets known to have at least five ICBMs, including the mobile SS–16, ready either to join the operational inventory or to enter or continue operational testing, this question becomes crucial. Complicating the definition problem is the tendency of ICBM designers—especially in the Soviet Union—to incorporate proven components in new weapons. Hence the ambiguity inherent in the question of when is a "new" ICBM new in the sense of the treaty.

The Soviet position to date appears to be that the ban should be confined to new NIRVed ICBMs, thus permitting the testing and deployment of any new system, fixed-site or mobile, as long as it carries only a single RV. The implied potential for "breakout," i.e., rapid conversion to MIRVed configuration in case of termination or abrogation of SALT, is conspicuous. So is the problem of verifying whether such weapons indeed remain un-MIRVed.

After the expiration of the Protocol, the treaty language would seem to permit the development, testing, and deployment of mobile or unconventionally based systems. They would, of course, be counted within applicable numerical limits.

Both sides apparently agree that mobile systems and mobile launchers can be tested—but not deployed—during the three-year life of the Protocol, as long as the missile is not actually test-fired from such a launcher. This provision would not seem to shackle the MX program because that system could not be ready for full testing until after the expiration of the Protocol.

OTHER ICBM RESTRICTIONS

Ballistic missiles with a throw-weight greater than that of the SS–18 will be prohibited and all those exceeding the throw-weight of the SS–19—presumably as stipulated by the US since the Soviets refuse to divulge such information—will be counted as MLBMs. The ambiguities that arise from such unilateral defintions would seem to portend rough sledding in the Senate for these provisions. Even under the best of circumstances—and assuming punctilious Soviet adherence to such basically unverifiable commitments as to forego MIRVing of single RV systems and not to seek a silo reload capability—the throw-weight chasm can be expected to widen significantly under SALT II. Mr. Nitze estimated that by 1985 the Soviet throw-weight aggregate residing in their ICBMs will approach 8,000,000 pounds, which would translate into about 5,000 RVs, each with a yield several times that of the US warheads. US throw-weight, he predicted, will be 1,250,000 pounds, assuming that the number of Minuteman III remains at 550 and is not reduced—as is likely—to accommodate additional heavy bombers and SLBMs.

The consequences of this throw-weight imbalance, when coupled with normal, evolutionary improvements in Soviet warhead accuracy, could be decisive. Congressman Kemp calculates that under the terms of the tentatively approved SALT II Joint Draft Text, the Soviets could develop a capability to destroy up to 4,331 US targets with a blast resistance of 1,000 pounds per square inch, the approximate hardness of some Minuteman silos. "This figure is four times the number of such targets in the United States [hence the US] has agreed to terms that not only eliminate the Minuteman ICBM system as a viable element of our deterrent in the 1980's, but also undermine [the Administration's] plan to use 747-type aircraft to carry cruise missiles, because these aircraft can only use 150 bases, or less, in the entire US because of the great weight of the aircraft."

Mr. Nitze suggested that once Soviet accuracy approaches 0.15 miles, about ninety percent of the US ICBM silos could be destroyed if the Soviets target two RVs on each silo. Such an attack would draw down the Soviet ICBM force by "less than half of the MIRVed ICBM RVs they are expected to have available by 1985. If and when their accuracy approximates a tenth of a mile, around ninety percent of our silos would be vulnerable to an attack by a single RV against each silo, provided that additional RVs are programmed to substitute for missiles that fail during their launch phase." If, on the other hand, the US were to launch all 550 Minuteman IIIs against Soviet silos and "assuming improved accuracy and the substitution of MK-12A for MK-12 RVs, . . . it is unlikely that we could destroy more than sixty percent of them," Mr. Nitze estimated.

A senior Defense official did not deny the basic accuracy of Mr. Nitze's contentions. He did challenge, however, the importance that SALT II opponents ascribe to narrow comparisons of Soviet vs. US MIRVed ICBMs, without regard to the capabilities inherent in the other components of the strategic Triad. Saving ICBMs per se should not be a *sine qua non* of SALT II. in the Administration's view. Rather, he said, the US objective is to reach terms that permit the US—if necessary—as much payload, as much hard-target kill capability, and as effective a deterrent capability as that of the Soviets. The means for retaining relative balance are to be the air-launched cruise missiles (ALCM) and SLBMs, according to the Defense Department. ALCM's accuracy and range allegedly will be sufficient to destroy Soviet ICBM silos if they are being reloaded with spare missiles in violation of the agreement, the senior Defense official said. Congressional experts on strategic warfare are skeptical about the practicality of such an approach.

CURBS ON SLBMS AND BOMBERS

It is likely that the SLBM balance will continue to slightly favor the U.S. There is also evidence that the U.S. leads in the ability to detect submerged submarines although eventual advances in Soviet countermeasure technology might negate this U.S. advantage. Whether or not SLBMs can redress the pronounced asymmetry in ICBMs expected in the 1980s is debatable. Neither the Defense Department nor the SALT II opposition expects SLBMs to achieve significant hard-target kill capabilities within the lifespan of SALT II. The prospect of solving the command and control problem of the Fleet Ballistic Missile force remains dim, in the view of most technical experts. Some defense analysts believe, therefore, that the role assigned

to strategic submarines may have to be modified by curtailing their patrol area or using them as a highly survivable strategic reserve, instead of as part of the cutting edge of strategic deterrence.

At this writing, it appears that the Soviets will be authorized about 400 MIRVed SLBMs, assuming that they deploy their quota of 820 MIRVed ICBMs. Neither SALT II nor the three-year Protocol appears to place specific restrictions on deployment of the new Trident submarine or its Soviet counterpart, the twenty to twenty-four launch-type TYPHOON.

The U.S. appears to be handicapped somewhat, however, because the new Soviet SSNX-18 SLBM, thought to have a range close to 6,000 miles, came in under the wire, whereas the U.S. Navy's proposed Trident II SLBM of equal range did not. Trident I can be tested and deployed, but its range of about 4,000 miles does not permit launch from home ports against Soviet targets.

Some terms affecting heavy bombers and cruise missiles are still fluid at this writing. It seems certain, however, that the Soviet Backfire strategic bomber, contrary—according to Representative Beard—to the Joint Chiefs of Staff recommendation, will not be covered by SALT II. Neither apparently will the ninety to 100 heavy Soviet bombers—with bomb bays intact—that have been modified for reconnaissance and antisubmarine warfare missions. SALT II critics report that the Backfire's exemption came about through Soviet willingness to declare, informally and outside the treaty language, that the weapon would not be used in a fashion threatening the United States and that the present production rate would not be increased. There appears to be a colossal catch, however: The Soviets, for reasons known only to themselves, refuse to say what that rate is.

As yet unresolved is the question of whether or not US B–52s in protective storage will count against the SALT limit, unless, of course, they are destroyed voluntarily. At this writing, Administration witnesses are briefing Congress on what is billed as a major, last-minute Soviet concession concerning cruise missiles. A SALT II sticking point, heretofore, had been definition of cruise missile range. These low-flying, subsonic weapons obviously are affected by wind and other environmental factors as well as being vulnerable to Soviet air defenses and, therefore, must be programmed to fly around SAM concentrations. Thus, in typical scenarios they will cover about twenty-five percent more distance than the straight-line from launch points to targets. Reportedly, the Soviets have agreed now to define range in light of practical conditions. During the life of the three-year Protocol, test and deployment of cruise missiles with a range of more than 2,500 kilometers is forbidden. By implication, the door is left open to increase that range once the Protocol expires in case changes in Soviet air defenses make it necessary. SALT II critics view this approach with apprehension if not alarm for a number of reasons.

The Joint Chiefs reportedly opposed from the outset initial range restrictions of ALCM to below 3,000 kilometers, and to below 3,500 kilometers following the expiration of the three-year Protocol. Grounds, presumably, were the need to reach the Soviet target complex along the Transsiberian railroad from standoff position in the face of steady outward expansion of Soviet air defense capabilities. Recent intelligence analyses suggest convincingly that Soviet technology will soon permit moving the air defense perimeter much farther out to sea, possibly up to 1,900 kilometers. Such a development, obviously, would relegate first-generation cruise missiles launched from nonpenetrating platforms to a state of uselessness, especially if linked to massive Soviet deployment of the seven- to fifteen-mile-range, low-altitude Soviet SA-X-10 surface-to-air missile system.

Historical experience supports the argument that ground yielded in agreements with the Soviets is next to impossible to regain. The Administration's plan to extend ALCM's range after expiration of the Protocol—if so required—can be seen as doubly weak since the Soviet Union will not be required to reduce the aggregate of its nuclear delivery vehicles until that very time. As Mr. Nitze asked rhetorically: "Is it inconceivable that in the event we do not wish to renew certain provisions of the Protocol when it expires the Soviets might see some necessity to review the treaty terms?"

Critics of pertinent SALT II formulations see another catch in connection with air-launched cruise missiles. These intermediate-range weapons, contrary to some portrayals, are not independent from their launching platform. The viability of the bomber/cruise missile system depends on a number of factors: The prelaunch survivability of the bombers; sufficient hardness of the bombers to survive enemy barrage bombing of their escape routes; the ability of the bombers to penetrate close enough to the target without getting shot down; the ability to launch enough ALCMs to overload the defenses; and, lastly, the capacity of the cruise missile to penetrate area and terminal defenses and to strike the target with enough accuracy to destroy it. With the B–1 canceled, the proposed FB–111H program scuttled by Congress before it got off the ground, and the Backfire getting a free ride from Salt II, the cruise missile equation takes on a totally new meaning. On the strength of the Administration's SALT proposals for sublimits within the 1,320 MIRVed weapons ceiling, it is being assumed that the U.S. plans to equip about 120 B–52s with ALCMs.

As Mr. Nitze argued convincingly, it would be unlikely that more than about fifty percent of the B–52s would be on continuous alert or that more than about seventy percent could be maintained at full readiness during crisis periods requiring fully-generated strategic forces. From the Soviet perspective, the picture looks considerably brighter. There are no U.S. air defenses to speak of, and the Backfire arsenal can be proliferated with impunity. (Even conservative CIA estimates foresee a force of 400 of these advanced strategic bombers.) If this assumption is correct, two conditions would obtain that threaten to negate U.S. plans for maintaining strategic stability: The Soviet Union, within the next few years, would be able to deliver substantially more megatonnage on the U.S. with its bomber force than this country could bring to bear on the USSR, and the component of the U.S. strategic forces counted on to offset the Soviet lead in ICBMs—the bomber/cruise missile system—turns out to be in a deficit position itself. Hence this dire warning by Mr. Nitze: "Under the now most likely provisions of a SALT II agreement we run a high risk of having no B–1, cruise missiles adequate in numbers and range to penetrate Soviet defenses, no follow-on to the aging Minuteman III, and an SLBM force at sea of [fewer] than twenty-five boats, each constituting four percent of our only reliable deterrent power and thus worth enormous Soviet effort to negate."

SINGLING OUT THEATER WEAPONS

Another late Soviet concession, seen as major by SALT II supporters, is the agreement to permit testing ground-launched (GLCM) and sea-launched (SLCM) cruise missles over a distance of up to 2,500 kilometers from ground-based launchers. This "concession" does not seem to affect in any way, however, the prohibition of *deploying* such weapons with a range greater than 600 kilometers. The fact that these theater weapons are an element of SALT II is curious of itself. The Soviet SS–20, a new MIRVed mobile, intermediate ballistic missle with a range of well over 4,000 kilometers, is not counted under SALT II rules, even though its erectors/launchers can accommodate the clearly intercontinental SS–16 from which it differs only by deletion of one of the latter's three stages. Ditto for the Backfire, portrayed by the Soviets as a theater weapon, despite its dual capability due to its intercontinental range. There is little doubt among congressional experts on NATO, and US and European NATO commanders and analysts, that a 600-kilometer ground-launched cruise missile is not cost-effective and will not be built. Pershing II's present range exceeds the proposed GLCM limit and could be extended to about 2,500 kilometers without degrading the weapon's high accuracy, and without being hamstrung by SALT II, congressional analysts point out.

GLCM/SLCM weapons are embroiled in another SALT II dispute, the so-called noncircumvention and nontransfer clauses covering technologies of potentially strategic utility. The Soviet contention is that US transfer of such technologies to its allies—in the main satellite-derived terrain data used to keep cruise missiles on course, and high-energy fuel technology—could lead to a circumvention of SALT because one or more NATO powers could build GLCMs with a range greater than 600 kilometers. U.S. willingness to entertain Soviet requests to shut out US allies has caused a rift between this nation and its European allies. As a prominent congressional source told Air Force Magazine, "The notion that we tell our allies. 'No, we can't give you the information needed to help offset the widening Warsaw Pact lead because we have made common cause with our mutual adversary,' boggles the mind."

THE VERIFICATION PROBLEM

SALT II critics uniformly view the lack of verification—beginning with the Soviet refusal to disclose essential information about their strategic capabilities, including numbers and performance characteristics—as a potentially fatal flaw of SALT II as it stands today. Even under the best of circumstances, compliance with SALT terms is difficult to verify. Vertification becomes impossible if what is to be limited and the nature of the limitation have not been clearly defined. "How do you determine," Mr. Nitze and other critics have asked, "that a new missile having the throw-weight of an SS–19 and carrying the SS–19 bus, but with a single RV, is not capable of being deployed as a MIRVed missile? How do you determine that retired missiles, or missiles taken out of retired launchers or extra produced missiles are not stock-piled and available for relatively prompt deployment on soft pads or reloaded in launchers using the cold-launch technique."

This late in the SALT game it is not likely that the fundamental tone of the pending agreement can be changed. The near-mystic belief that any arms accord is better than none linked to the notion that nuclear war is unthinkable and strategic asymmetries therefore inconsequential, have provided SALT with an unstoppable momentum. Even the most vocal critics of SALT are resigned to its inevitability. Most of them are resolved—if the accord is ratified by the Senate—to concentrate efforts on assuring that all the steps permitted the US in maintaining perceived essential equivalence in the future will indeed be taken. There is consensus that the first and most crucial step here must be MX, the system that Representative Beard predicts would demonstrate to the Soviets "the folly of an arms race [thus causing them] to accept an equitable SALT agreement which would contribute to long-term strategic stability and world peace."

NATIONALIZING RAILROAD RIGHTS-OF-WAY

Mr. McGOVERN. Mr. President, the two recent railroad disasters in Florida and Tennessee which took at least 20 lives have starkly brought to the public's attention the deplorable conditions of our Nation's railbeds. The condition of the rails and railbeds are a threat to both lives and freight.

There has been considerable discussion in recent years about what to do about the condition of the railbeds. Some of the possible public policy alternatives were clearly explained in a recent article in Business Week in the March 27, 1978, issue.

Mr. President, I ask unanimous consent that the article "Talk of Nationalizing Railroad Rights-of-Way" in the March 27, 1978, issue of Business Week be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TALKS OF NATIONALIZING RAILROAD RIGHTS-OF-WAY

Two railroad disasters in recent weeks took at least 20 lives in Florida and Tennessee and are raising an issue that the railroad industry had hoped never to face—the nationalization of the rights-of-way U.S. railroads. Governor Ray Blanton of Tennessee, where 12 persons were killed following the derailment of a Louisville & Nashville RR freight train at Waverly, has publicly called for such nationalization so that railroad roadbeds could be rehabilitated.

Ironically, neither the Tennessee accident nor the second one in Youngstown, Fla., in which lethal chlorine gas was discharged from a ruptured tank car, were found to have been caused by poor track conditions. Still, the percentage of train accidents caused by badly maintained track has been rising steadily for several years. In 1973, some 48 percent of 7,389 derailments were caused by track problems. In 1976, fully 55 percent of 7,700 derailments were caused by bad tracks.

MAINTENANCE

The railroad industry, with an average return on invested capital of less than 2 percent, has been hard pressed to maintain its plant and equipment. Nevertheless, during a period when their earnings have been the lowest since before World War II, railroads have put as much money as they could scrape up into roadbed maintenance. Last year they spent $3.3 billion for such maintenance, up 50 percent since 1975. In each of the past two years, they laid 27 million new ties and more than 800,000 tons of new rail—each a 20-year record.

Despite these efforts, about 12 percent of the nearly 320,000 mi. of track in the country is still not in proper condition. This large amount of potentially unsafe track leads some public officials—and, for the first time, some in the railroad industry—to consider the merits of public takeover of the rights-of-way. At present, the only rail officials who publicly support such a move are those from the weakest railroads. "Solvency tends to insulate you from this problem," says Alan G. Dustin, president of Boston & Maine Corp., already in Section 77 bankruptcy reorganization.

Even Dustin does not come to his views happily. "If I thought we could survive in a completely free-enterprise environment, I would prefer it," he says. "But I don't, and given the choice of nationalizing the whole thing or just from the wheels down, I'd prefer the latter."

Worthington L. Smith, president of the bankrupt Milwaukee Road, echoes Dustin. "There is no conceivable way for an industry that returns less than 2 percent to generate internally enough money to rehabilitate, maintain, and also invest in needed new facilities," he states. Railroads, he says, are being treated as public utilities—denied the right of exit from parts of the business, yet also denied the opportunity to replenish their capital.

INDIRECT SUBSIDIES

The railroad industry argues that if its competitors—trucks and barges—had to pay their fair share for the rights-of-way provided for them by the federal government, then railroads would have pricing flexibility and would attract additional traffic, generating enough new revenues to maintain their plant. The Association of American Railroads claims that these indirect subsidies to truckers and barge lines deprive the railroads of more than $2 billion a year in revenues.

Truckers and barge lines, of course, vigorously deny that they receive any unfair subsidies. The real question here is whether Congress will be inclined to increase highway and waterway user charges—and, as a result, freight bills. Pending legislation would impose a charge on inland waterway users for the first time, but even that would not come close to full recovery of public expenditures on the waterways. And no one in Congress at the present time is thinking of increasing highway-user charges.

Faced with the likelihood that they will not gain competitive equity by having their competitors taxed, railroads will need to find another way to come up with the money to repair and rebuild their tracks. Congress may be willing to provide an offsetting subsidy to the railroads, and even though it may not be good economics—offsetting subsidies lead only to duplication of facilities—it could be good politics. A railroad subsidy would not raise anyone's freight bill.

One subsidy approach, proposed in the past and revived this year by Senator H. John Heinz III (R-Pa.), would provide federal funds to hire unemployed workers to perform track work. But such a proposal does not deal with the problem identified by Dustin, Smith, and others—the railroads' investment in their fixed plant. Their variable costs—the controllable portion of costs—now are only about 25% of total costs. "If we could be relieved of the investment in the fixed plant," says Smith, "we would be freed to invest for market opportunities and growth opportunities."

SHIFTING THE BURDEN

Those who favor public ownership of the track see benefits in such a move. By shifting the maintenance burden from fixed charges to variable costs and including some public subsidy, they reason, railroads would be able to concentrate on being service-oriented carriers. "Economics would dictate that you could lower rates," Dustin points out, citing the current 26% of revenues that railroads spend on rights-of-way compared with the mere 5% of revenues that truckers pay in highway-user charges. "I marvel at the profitability of some trucking companies," Smith says. "They invest only in service."

The most likely method of public takeover of the roadbeds would be for the government to buy the tracks, with the railroads paying a user charge based on the gross tonnage they run over the lines. As long as the charge does not cover the full cost of maintaining those lines, the railroads get a subsidy. But the subsidy would be rather neatly hidden, because the public expenditure would go into public property. And Congress would then not have to deal with the thorny issue of writing subsidy checks to some still-wealthy railroads such as the Union Pacific RR or Southern Ry. Co. In this way, railroads would achieve parity at the public trough with their competitors, which have long had the use of publicly provided rights-of-way.

Those who favor such a step would deal with underlying mortgages and bondholders in a variety of ways. A government corporation that owns the fixed plant could assume existing liabilities and continue to pay them off, reducing the amount of up-front money needed for a buy-out. Dustin suggests that if a railroad sells its plant for half its value in cash, the government would be justified in giving the road a perpetual license to operate over the track. The railroad would then have enough cash or earning power to continue to pay its bondholders.

DANGERS

Most of the railroad industry still opposes the public-takeover concept. William J. McDonald, senior vice-president for law at Union Pacific Corp., says, "It is too early to reach a conclusion on the grim scenario" that the industry will be unable to generate the funds to maintain and rehabilitate its plant. He also cites a number of dangers:

Retaining all existing track whether it is needed or not.

Loss of tax revenues to state and local governments.

Political pressures to upgrade light-density track rather than to abandon it.

The creation of a new federal bureaucracy to handle maintenance.

A big concern in the industry is the possibility that once the rights-of-way are nationalized, they might be used the way public highways are. Big shippers could decide to run their own trains, and special-purpose carriers could enter the market in order to move high-volume commodities such as coal, ore, and grain. "This would be cream-skimming," McDonald claims, "and you would be leaving the common carriage obligation where it is today—on the shoulders of the railroad industry."

While the idea of public takeover draws support only from a minority of hard-pressed railroad officials and such public bodies as the New England Regional Commission, there can be little doubt that sentiment for such a step will grow if derailments caused by bad track are not reduced. And unless the railroads can find the cash to rebuild their tracks, they may ultimately turn to the federal government themselves.

PROPOSED ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. SPARKMAN, the chairman of the Committee on Foreign Relations, to have printed in the RECORD statements and the attachments referred to therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material follows:

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the 3 notifications I have just received. A portion of one of the notifications, which is classified information, has been deleted for publication, but is

available to Senators in the office of the Foreign Relations Committee, Room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 27, 1978.

Hon JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-21, concerning the Department of the Air Force's proposed Letter of Offer for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

TRANSMITTAL NO. 78-21

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* [Deleted]

(ii) *Total Estimated Value*

Major Defense Equipment*	[Deleted]
Other	[Deleted]
Total	[Deleted]

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) *Description of Articles or Services Offered:* [Deleted]

(iv) *Military Department:* Air Force.

(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.

(vi) *Date Report Delivered to Congress:* March 27, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 28, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-25, concerning the Department of the Army's proposed Letter of Offer to Switzerland for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $50.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

TRANSMITTAL NO. 78-25

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Switzerland.

(ii) *Total Estimated Value*

	Million
Major Defense Equipment*	$50.0
Other	0.0
Total	50.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) *Description of Articles or Services Offered:* Eight thousand five hundred eighty (8,580) DRAGON missiles (M222) and three thousand two hundred ten (3,210) DRAGON practice missiles (M223).

(iv) *Military Department:* Army.

(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.

(vi) *Date Report Delivered to Congress:* March 28, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 30, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-29, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $6.8 million and support costs of $2.2 million for a total estimated cost of $9.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

TRANSMITTAL NO. 78-29

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Israel.

(ii) *Total Estimated Value*

Major Defense Equipment*	$6.8
Other	2.2
Total	9.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) *Description of Articles or Services Offered:* Sixty (60) Improved Hawk missiles and two (2) high frequency radar test sets.

(iv) *Military Department:* Army.

(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.

(vi) *Date Report Delivered to Congress:* March 30, 1978.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, Section 36 (b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the Committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on March 24, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, Room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 24, 1978.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: By letter dated 1 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.,
Director.

SO-CALLED "LABOR REFORM" BILL UNMASKED BY NORTH CAROLINA EDITORS

Mr. HELMS. Mr. President, in recent weeks there have been assertions by the proponents of the so-called labor reform bill (S. 2467) that the only opposition to the bill is coming from big business and professional right wing groups. Nothing, of course, could be further from the truth. In my own State, for instance, dozens of newspapers of all sizes and political philosophies have come out in opposition to this bill.

The common theme running through the various editorials appearing in North Carolina papers is that the legislation is not "reform" at all. "Reform" is a carefully selected euphemism to cover the bill's true purposes. Fortunately, the cover is too thin to fool anyone. As one North Carolina editor put it in the Greensboro Record:

> The only known beneficiaries of the proposed revision in the National Labor Relations Act will be the big labor bosses and the machine politicians they carry about in their pockets. The working stiff stands to lose yet another measure of his individual liberty, and the Sunbelt region—especially in the Carolinas, with their labor-intensive but unorganized industrial shops—stands to suffer a massive assault on its economy.

What is really going on is not difficult to perceive. As another North Carolina editor stated in the Morganton (N.C.) News-Herald:

> The fact that the bill has gotten as far as it has is an illustration of the power that George Meany and his colleagues have amassed in Washington through lobbying and generous campaign support. Because if our elected servants in the capital were reflecting the wishes of their constituents, the proposal wouldn't have a chance.

Mr. President, I ask unanimous consent that a sampling of North Carolina editorial opinion on the so-called labor reform bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Durham Morning Herald, Feb. 4, 1978]

REFORM IT ISN'T

Americans who are concerned about the fundamental rights of employees and employers should want to express opposition to the so-called labor law "reform" bill that labor leaders hope will come to a Senate vote before Feb. 13.

When the rhetoric is cleared away and when the arguments on both sides are weighed, the primary purpose of the proposed "reforms" is to assist labor in organizing workers and in promoting compulsory union membership at a time when labor

finds itself representing an ever-declining proportion of the nation's work force.

Just how badly union organizers need Senate Bill 1883 is made evident by the facts of sharply declining union membership. Private sector unions suffered a net loss of 866,000 due-paying members between 1974 and 1976. Union members now make up only 20.1 percent of the total labor force in this nation—down from about 25 percent in 1955.

The labor reform bill is interpreted as a device through which workers' individual rights would be surrendered to enhance the slipping power of unions. Because of the threat of severe penalties which the bill would introduce, the typical employer would knuckle under and sign a union agreement, almost regardless of what union negotiators demanded. And practically each time a union agreement is reached, labor spokesmen insist that all employees be required to pay union dues or fees as a condition of continued employment.

We defend the right of employees who wish to join and be represented by unions. But we also must defend the right of those employees who do not wish to join unions or be represented by them.

The country does not need another weapon which organized labor leaders can use to force American men and women into joining a union or paying dues to keep their jobs.

The economy and the workers would suffer if Senate Bill 1883 becomes law and union organizers are handed a new weapon with which to blackmail employers, into delivering employees into unwanted unions.

[From the Morganton (N.C.) News-Herald, Jan. 19, 1978]

SUCH "REFORMS" WE COULD LIVE WITHOUT

Big Labor looks at the South the way a famished Sylvester looks at Tweetie. And the federal government is doing all it can to help open the cage door.

What else are we to conclude from the progress of a piece of legislation euphemistically referred to as the Labor Reform Bill? The proposal, which appears to be a needless and one-sided extension of the principle of compulsory unionism, was approved by the House of Representatives last fall. Senate action is expected soon after Congress convenes this week.

The fact that the bill has gotten as far as it has is an illustration of the power that George Meany and his colleagues have amassed in Washington through lobbying and generous campaign support. Because if our elected servants in the capital were reflecting the wishes of their constituents, the proposal wouldn't have a chance.

This is demonstrated by the results of a recent survey done by Opinion Research Corporation of Princeton, N.J., for the Chamber of Commerce.

In the poll, a sampling of Americans was asked to describe how they feel about labor unions. A total of 18 percent said unions are "not strong enough," while 51 percent said unions have "grown too powerful and should have their power reduced." Of the remainder, 26 percent said that the labor movement's power is "about right."

In other words, fewer than two out of every 10 citizens of the United States favor giving the unions more power. And yet the House of Representatives, at the urging of President Carter, approved H.R. 8410 last October by a vote of 257 to 163.

What exactly does H.R. 8410 do? In effect, it substantially rewrites the National Labor Relations Act to put even more obstacles in the way of employers trying to resist organizing drives by unions.

For one thing, the National Labor Relations Board would be increased from five to seven members. Considering the political debt that Carter owes to labor unions, it is assumed that he would name two labor sympathizers to the board.

Coupled with this is a provision that three members would be allowed to rule on cases brought before them by NLRB hearing officers. These two sections have been characterized by opponents of the bill (and rightly so, it would seem) as reminiscent of Franklin Roosevelt's attempts to pack the Supreme Court as a way of obtaining favorable rulings.

The original bill also required that union certification elections be held within 15 days after the receipt of an election request. The limit was later extended to 25 days, but the intent is still apprently the same: To allow "quickie" elections that would not give an employer adequate time to respond to a union blitz.

Many other sections of the "reform" measure provide for strong punitive actions aimed at employers found guilty of not bargaining in "good faith." In such cases, the NLRB could force a business to increase wage retroactively by an amount equal to other major union settlements throughout the nation. This requirement, opponents have argued, could bankrupt many smaller, independent businesses.

The bill would require the paying of double back wages to workers deemed to have been fired illegally for organizing activity. It also would authorize the NLRB to outlaw the awarding of any government contracts to companies that violate NLRB orders. It would require employers to subsidize the cost of union election campaigns. And so on and so on.

This rather blatant power grab is motivated by concern over the decline in union clout. Union membership has declined in the last three decades from 35 percent of the nonfarm work force to 25 percent. And last year, for the first time, unions were defeated in more than half of the certification elections held in this country.

This, combined with the survey we mentioned before, shows that unions are losing support. The only way they can reverse the trend is to ram themselves down the throats of the millions of nonunions workers in the Sunbelt states such as North Carolina. That is what the Labor Reform Act is designed to do.

Let's hope the Senate understands that and acts accordingly.

[From the Greensboro Record, Jan. 17, 1978]

BIG LABOR'S BILL

As the 95th Congress's second session prepares to convene, Vice President Mondale has declared the Carter administration to have "no higher priority" in its legislative program than enactment of H.R. 8410, the AFL–CIO's "labor reform" package. The bill cleared the House last session and appears to have strong support in the Senate.

The only known beneficiaries of the proposed revision in the National Labor Relations Act will be the big labor bosses and the machine politicians they carry about in their pockets. The working stiff stands to lose yet another measure of his individual liberty, and the Sunbelt region—especially the Carolinas, with their labor-intensive but unorganized industrial shops—stands to suffer a massive assault on its economy.

As Sen. Orrin Hatch, Republican of Utah and leader of opposition to the labor bill, correctly described it, "this is the first of a series of measures to repeal right-to-work and to force unionization upon the South. It comes as close to repealing the [Taft-Hartley law's] right-to-work provision as is possible without actually doing so."

Rep. Frank Thompson, the New Jersey pol who last autumn attracted a covey of New York media sob sisters to his melodramatic "hearings" at Roanoke Rapids, clucks contentedly about the approaching end of the open shop. "I hope this bill will protect workers," he remarked recently, "by doing away with open shop havens which entice industry with the siren song of cheap and docile labor."

The bill's most portentous provision for the unorganized shops of North Carolina is a requirement for "quickie" elections. Representation elections would have to be held within 15 days after a majority of employees indicated they sought such an election. This would leave employers at an overwhelming disadvantage in presenting their case to employees; unions, on the other hand, usually spend weeks or even months organizing and campaigning before filing formal petitions for representation elections.

The bill would grant the National Labor Relations Board unprecedented punitive powers for use against "unfair" employers. When an employer refused to bargain in good faith, the NLRB would be authorized to award the employees pay raises calculated on the difference between wages actually received and the average percentage of wage increases nationally, as determined by the Bureau of Labor statistics.

The labor bill contains many other obnoxious provisions. What they add up to is big labor's shifting sense of definition: what is "fair" to Meany & Co. is what is to their advantage. The Wagner Act of 1935 was hailed as a touchstone of "fairness" by the labor leaders of the day. Now that union membership is declining—as a result of workers exercising their free choice—big labor is clamoring to have "unfair" voluntarism declared illegal.

A week ago, before the deaths of two of the Senate's leading liberals, Hubert Humphrey and Lee Metcalf, the labor bill was reckoned stoppable only by filibuster. The opposition's chances now are bolstered by the temporary vacancies. Every effort should be made to encourage Senator Hatch and his fellows to stop a "reform" bill unworthy of the name.

[From the Durham Sun, Jan. 18, 1978]

NONREFORM ACT SHOULD BE OPPOSED

Senators will face soon after their return to Washington a major piece of legislation that if passed will have a major effect on the union-management relationship in the United States.

Labeled the "Labor Reform Act of 1977," the legislation would overhaul the National Labor Relations Act. The major provisions would make it easier for unions to organize new members. Other provisions could force employers to lose government contracts or to have the government decide what wages are paid.

The National Labor Relations Act, originally known as the Wagner Act, was designed to provide guidelines that both would protect employers from unreasonable demands and to allow unions to organize within companies. The National Labor Relations Board, which administers the act, and courts, which review NLRB decisions, have worked for 42 years to balance the rights of employers, employees and unions. The so-called "reform" changes would undo much of what has been accomplished.

The National Labor Relations Act has not been changed significantly in about 20 years and some alterations may be needed. We believe, however, that changes should not be so one-sided that they provide neither fairness or reform. We urge Robert Morgan and Jesse Helms, North Carolina's senators, to vote against the proposal as it now reads.

[From the High Point Enterprise, Dec. 29, 1977]

LABOR LAW REFORM

When the U.S. Congress resumes its work after the first of the year, a large banner

with the designation H.R. 8410 will be figuratively draped across the chamber of the Senate. It speaks for one of the most explosive issues facing the lawmakers in 1978.

Well before adjournment for the holidays, the House of Representatives passed what has come to be known as the Labor Reform Act. Should it be passed in the Senate, there is little reason to doubt that President Carter will sign it into law.

The battle shaping in the Senate will array administration loyalists and senators in great debt to organized labor against most Republican members, a substantial number of southerners and a few other selected moderates.

In all the whereases of the bill, the essence of it is that it would sharply curtail the permitted period between the calling of a union election and the holding of that election; it would sharply increase the potential penalties that could be assessed against management when it is adjudged guilty of unfair labor practices; and it would increase the number of members of the National Labor Relations Board, essentially to speed up the decision-making process.

These items may be—and will be—assessed according to one's particular opinions and prejudices. The New Haven (Conn.) Register sees them this way: "When the rhetoric is stripped away, when the arguments on both sides are weighed, the primary purpose of the proposed 'reforms' is to assist Big Labor in organizing workers and in promoting compulsory union membership at a time when Big Labor finds itself representing an ever-declining proportion of the nation's work force."

And the Washington Post, which almost always comes down on the side of George Meany, said after the House vote. "It became quite clear as the arguments over this legislation went forward that the people the labor laws were originally written to protect are being increasingly forgotten . . . No one seems to talk in the workers' behalf. The union leaders, of course, claim that they do—and no doubt their predecessors once did. But the rhetoric of this debate underlines the degree to which much of organized labor now acts as an independent force, deeply concerned about its own internal and external needs, which sometimes are—but sometimes are not—the same as the needs of the people it is supposed to be representing."

Big Labor has tried its best to make the reform bill look as benign as possible. It suffered a major defeat earlier when the common site picketing bill was rejected. And it got much less than it wanted in the new minimum wage bill. In that atmosphere, there has been an apparent decision to put on the back burner any attempt to repeal Taft-Hartley's Section 14(b) which permits the states to pass laws outlawing union shop requirements (compulsory unionism) for anyone working in a plant in which a union has been certified as bargaining agent.

We believe the reform bill is simply another device to enable Big Labor to get all these things back through a side entrance rather than through frontal assault which has been repelled.

What remains is a final determination of how many United States senators find themselves sufficiently in debt to Big Labor to bring about a pay-back in 1978, with less than adequate concern for what is good for the nation, not to mention the healthy majority of industrial workers who have chosen to remain outside that same labor embrace.

[From the Public Ledger, Oxford, Dec. 19, 1977]

FREEDOM OF CHOICE

One of the major decisions facing the U.S. Senate in 1978 involves a monumental misnomer—the proposed Labor Reform Act.

This House-passed bill was designed to make it easier for unions, whose membership has not kept up with the expanding work force, to organize a shop or a plant. In other words, what the unions have not been able to achieve on their own would be accomplished by force of law. Big labor is pushing the bill hard. Employer groups are fighting it. Caught somewhere in the middle are the majority of workers who don't belong to unions.

In any organizing campaign, unions already have a big edge. They can propagandize employees from the start—at meetings, even in their own homes. One of the few options open to employers to present the other side is to hold group meetings on company time and premises. The so-called Labor Reform Act, however, would abuse even this by requiring "equal time" for the unions. This is like asking management to help subsidize the union drive.

The proposed law would also provide quickie elections, so unions could take advantage of the one-sided campaign and worker confusion to get a favorable vote.

The real issue involved here is freedom of choice—namely, the right of employees to make up their own minds in a free, unhurried manner. Congress, rather than worrying about the unions' hurt feelings at their increasing lack of popularity, should be worrying about protecting the American worker from further coercion—whether it comes from big labor, big business, or, for that matter, big government.

[From the Wadesboro Messenger & Intelligencer, Dec. 8, 1977]

"JOB-KILLER" ACT BEFORE CONGRESS

"Job-Killer," "anti-employee" and "anti-small business" are some of the labels America's 700,000 small businessmen have given the "Labor Reform Act of 1977" now under consideration by the Senate Human Resources Committee.

And they appear to be justified when one reviews the nearly 100 pages of carefully documented testimony presented before the Senate Committee by the spokesman for the Small Business Legislative Council, which represents more than 400 national, regional, state and local associations throughout the United States led by the National Small Business Association.

He is Peter Nash, and one must assume he is thoroughly competent to speak on the subject in view of his experience as a former solicitor of the U.S. Department of Labor and also as a former general counsel for the National Labor Relations Board—which the Act purportedly seeks to make more efficient, but which Nash claims would put the Board in a statutory straight jacket.

Labor is attempting, says Nash, through bills advertised as "labor reform," to stack the odds by curtailing legitimate employee information sources and legitimate employer opposition. He said this is because organized labor has been losing more NLRB elections than it has been winning and because labor represents an ever decreasing portion of the American work force.

The proposed law will hit small businesses and their employees hardest, Nash claims, because 98 percent of all NLRB elections are held in companies with fewer than 400 employees, and 75 per cent occur in companies with fewer than 50 employees.

Nash emphasizes that small opposition to the Labor Reform Act of 1977 is not based on anti-labor sentiment but in careful, professional analysis of the potential consequences to employee and employer. He says, instead, that small business has a very selfish interest in genuine labor law reform, because it can least afford the uncertainty of Labor Board delays in resolving unfair labor practice cases. He points out that it is small business that is hardest hit by back-pay awards to ex-employees who have not worked for months, or through retroactive compensation to working employees.

Mr. Nash believes much of the sting can be eliminated if the Act is amended to exclude small businesses with less than 50 employees from NLRB jurisdiction. This would shield 87 per cent of small businesses from the Act.

While the logic of Mr. Nash's testimony seem irrefutable, it is no secret that Congress is not always motivated by logic—it has been known to bend to the pressures of vote-rich lobbies like organized labor.

To counteract that powerful pressure would require a tremendous outpouring of opinion to members of the Senate against the proposed Act by both employees and owners of small businesses everywhere. America certainly does not need legislation to force bankruptcies and job losses at this or any other time!

[From the Kannapolis Independent, Nov. 2, 1977]

DON'T STACK DECK

Contrary to what organized labor would have us believe, North Carolina is not sinking into a bottomless pit of unemployment and poor wages. Statistics prove the state—which happens to be the least unionized in the nation—is, in fact, second only to California in economic growth.

Not only does North Carolina have the second fastest growing economy in the United States, but industrial development experts say the state may set a new record for growth.

State Commerce Secretary D. M. Faircloth told the Board of Economic Development the state's industries spent $460.5 million through September on expansion and new industries brought in another $302.1 million. He said that total of $762.6 million compared to $718.8 million for the same period last year. The board was told, too, that a recent trade delegation to Japan made valuable contacts and drew at least one serious inquiry from a Japanese firm interested in building a plant in North Carolina.

Unemployment in the state continues well below the national average and with industrial expansion running at a record-setting pace, this obviously adds up to more jobs, refuting organized labor's negative criticism of the right-to-work law.

Add all this to the fact that North Carolina's manufacturing workers earned an average of $4.14 per hour after midyear—another all-time high—and it become a good example why organized labor is going all out to push congressional approval of so-called "reform" of the National Labor Relations Act.

The changes sought with the blessing of President Carter are, despite rhetoric to the contrary, intended to expand union membership and, thus, union influence among working people of the country.

With union membership declining, organized labor is counting heavily on changing the laws in its favor. As one Connecticut newspaper points out, "It certainly must be difficult for anyone to believe that abuses by business and industry have been the major reason for the decline in union membership as a percentage of the working force. Through a system of compulsory dues, unions certainly have no shortage of funds for organizing efforts. One need only look to the excess funds unions always seem to have available to assist in financing the election campaigns of candidates whose views they share.

"It must be, therefore, that fewer and fewer workers care to be represented by unions, to be members of collective bargaining units, to pay compulsory union dues to finance other organizing efforts and the campaigns of candidates for elective office when they, personally, might be actively supporting the Big Labor's candidate's opponent."

The present law, passed in 1935, favors neither side and has—overall—served the nation well. What Big Labor wants is to stack the deck in its favor and President Carter, owing a big campaign debt to unions, is ready to pay off at the expense of the nation's labor-management balance.

The President and Congress, should keep in mind that the great majority of working Americans do not belong to unions and apparently do not want union representation. Ignoring their responsibilities to the millions in this labor—not union—force would be a blatant sell-out of a basic right shared by all Americans: individual freedom of association.

[From the Greensboro Daily News, Feb. 12, 1978]

A Bill That Tilts Things in Labor's Favor

(By William D. Snider)

Before the U.S. Senate moves decisively on the so-called Labor Reform Act of 1978, its members need to take a closer look at the fine print.

Because of a bland facade and an assortment of amendments that appeared rather harmless, it passed the House last fall without much ado (257–163). Now it's calendared to follow debate on the Panama Canal treaties.

AFL–CIO President George Meany has been touting the bill as top priority—and perhaps it is, since Big Labor's popularity today approaches an all-time low. Some 20 years ago one-third of American workers in non-farm jobs belonged to unions; now that's dropped below one-fourth. The AFL–CIO itself has lost some 500,000 members in the last two years, and its total membership is down to about 13.5 million.

No wonder, then, Meany concentrates on pushing these "reforms" which are really no "reforms" at all. They simply tilt things in labor's favor—making it easier to organize workers, whether they want to be organized or not, and harder for employers to resist.

Now some relief might be in order if the deck had been stacked initially in the employer's favor. But that's not the case. What the bill does mainly is speed up union-representation elections requested by workers and prescribe severe penalties for labor-law violations by employers.

Elections would have to be conducted within 14 days after petitions are filed by a majority of workers (instead of the present 45). That would greatly curtail responses by employers and employees not interested in union representation. It goes without saying that union representatives spend far longer than 14 days organizing their election campaigns. While employers shouldn't be allowed to stall, they do deserve equal time.

The bill's penalty provisions are severe. One would require double backpay, rather than straight back-pay provided under existing law, for workers charged with having been fired illegally for organizing activities.

Another penalty would deny federal contracts to employers who resist unions illegally. And still another amounts to price fixing: If an employer's bargaining didn't suit the National Labor Relations Board, it could compel him to raise wages and benefits by whatever percentage the board equated with "major collective bargaining settlements in the nation."

What is alarming about this bureaucratic tilting is that nothing in the bill requires comparable penalties if unions engage in the same kind of activities.

Alternative legislation to deal with any coercive maneuvering on labor's part was pushed aside by the House. Presently U.S. Senators are under heavy pressure from lobbyists on both sides—but principally from the Carter Administration concerned with paying off political debts to Big Labor.

The Washington Post, hardly anti-labor, made an important point here: "It became quite clear as the arguments over this legislation went forward (in the House) that the people the labor laws were originally written to protect are being increasingly forgotten . . . The union leaders, of course, claim that they do—and no doubt their predecessors once did. But the rhetoric of this debate underlines the degree to which much of organized labor now acts as an independent force, deeply concerned about its own internal and external needs, which sometimes are—but sometimes are not—the same as the needs of the people it is supposed to be representing."

An even worst indictment came from an individual who knows first hand what he's talking about: Edward Miller, former chairman of the National Labor Relations Board. Passage of S. 1883, he said, would increase delay instead of improve NLRB performance. It would result in another "litigation explosion"—the kind that cause so many nightmares in negotiations involving HEW and OSHA. Miller says the NLRB presently has an "extraordinarily high settlement rate." This has kept the size of the agency within bounds and the cost to the taxpayer at least tolerable.

Under Meany's latest broadside, voluntary settlements would be reduced. The NLRB would be faced with an inundation "paralleling that which has rendered the EEOC an almost totally ineffective agency."

Has the U.S. Senate called on the NLRB itself to help weigh the impact of these dangerous changes in the labor law? Apparently not. But senators, including North Carolina's Robert Morgan, had better get more testimony from the real world before they blandly follow the House's lead.

[From the Kinston Free Press, Feb. 5, 1978]

Labor Reform

If the U.S. Senate adopts the proposed Labor Reform Bill (S. 1883), a good many of the freedoms of both labor and management will be abridged.

The House has already approved a labor law revision bill which, if ultimately put into effect, would subject employers who resist compulsory union shop demands to harsh and expensive government-imposed financial penalties. It would also result in forcing workers to pay union dues in order to obtain or retain a job.

The proposed labor reform legislation is both repressive and coercive. It impinges on the freedom of individuals to make a choice. It severely curtails the rights of employers to "say their piece" when efforts are under way to unionize their firms.

We do not question the right of anyone to join a labor union if he wants to. That is an individual right. It's a part of American freedom.

We are opposed, however, to any effort, direct or indirect, that would result in forcing someone to pay union dues in order to obtain or retain a job.

The right to work laws have been upheld in this part of the country for sometime now. Under these laws, workers may choose to work where they may—there are no "open shops" or "closed shops". The individual employee's success on the job is measured, not by union pressured demands, but by his ability to do the job the way his employer wants it done.

The right to work is one of the bastions of American freedom. It is part and parcel of the three predominant rights granted every man—the right to life, liberty and property. If an individual is deprived of his right to live his life the way he wants to—and this includes the right to work wherever he wants to and can find a job—his liberties are abridged.

The labor reform legislation adopted by the House and due for Senate action in the near future, is in direct contradiction of freedom. It should be opposed vigorously by our constitutionally elected representatives in the Congress. The right to work should form the bedrock of our system of government. Union-sponsored legislation that would weaken this right should be soundly defeated. In so doing, a telling blow will be struck against the union bosses who would rule the country if they could.

[From the Shelby Daily Star, Feb. 3, 1978]

Change Without Reform

The latest reason why labor unions are so dead-set on having the Congress pass a law with the laughably inaccurate title of "Labor Reform Act" comes from the knowledge that another labor union has just gotten a comeupance.

The American Federation of Television and Radio Artists (AFTRA) is composed of persons who appear on radio and television more than once. Indeed, until last month, the union commanded that television and radio stations and networks, with whom there was a union contract, not allow persons to appear on camera or microphone unless they belonged to a union. AFTRA didn't consider it funny when columnists William F. Buckley and M. Stanton Evans refused to join up and even entered suit against AFTRA to prevent their controlling the cameras and microphones. That is the job, the two columnists said, of the station and network management.

The courts agreed, and Mr. Buckley and Mr. Evans even pressed the point so that AFTRA must advise radio and television outlets that union membership is no longer required. AFTRA had finally admitted it couldn't command union membership, but it didn't want to tell radio and television stations and networks about its admission. The courts had to force AFTRA to do so.

Score one for freedom of employment.

Then comes a former Washington Post editorial writer who was pressed into service in a television debate. Being a free lancer, he needed the money the appearance would bring. Two weeks, then a month after his television appearance, his check still hadn't arrived; he discovered AFTRA had commanded that the station send the check to the union so that it could coerce the former editorial writer into joining the union. It was not until the writer went all the way to union headquarters to argue his case that he got his paycheck, albeit ever so reluctantly given by the union. But why for goodness' sake should the union have ever touched his check?

Now, of course, the unions—including AFTRA—want more power. We can't imagine why they would need it when they have the power to hold a person's paycheck or the power to keep people off of television and radio. Indeed, if anything, the Labor Reform Act ought to remove some power were it really "reform." Certainly we can't think of anyone who would willingly join a union so the union bosses can keep their paychecks in a drawer.

[From the Mooresville Tribune, Feb. 2, 1978]

From Where I Sit

(By Johnny Morrow)

Big Labor is inconspicuously trying to subjugate America's working people to compulsory unionism. Forces are lobbying in our Senate, attempting to ram down the public's throat the Labor Reform Act. If passed, small retailers would be severely penalized.

They would be forced to pay wages based on negotiations for units of 5,000 employees. This hardly seems fair because in 1976, about 75 percent of all National Labor Relations Board elections involved 49 or fewer employees. Many small retailers with a narrow profit margin would, quite naturally, be forced to capitulate to union demands. In sum, it would tilt the laws in favor of labor, and against business and industry. If Big Labor is successful in its bid for excessive power, the consequences would be staggering.

The Labor Reform Act has certain provisions to protect the interest of workers, which is good. But the main objective is to protect the interests of unions as unions, and not as representatives of workers. The emboldened labor movement would set out to repeal the right-to-work provision that allows states to outlaw compulsory unionism. It would repeal the Hatch Act, so that government employees could become politically active. Time and space doesn't permit listing of the many incongruities between Big Labor and small business that would ultimately arise should our Senate pass the aforementioned labor proposal.

Such a law would have more far-reaching effects on the man in the street than big union bosses are willing to admit. Labor claims workers should receive a fair chance to decide whether they want union representation. But the fine print of the bill, which labor bosses are soft-peddling and underplaying, is that it's a legal move for a further and more extensive labor takeover of American industry. The bill would make it easier for unions to organize new members by providing quick elections for union certification. It would require double back pay without mitigation to workers fired for alleged union activities during organizing campaigns, but at no other time. It blacklists employers from federal contracts to the detriment of employees. The federal government would be plunged directly into the collective bargaining process with the National Labor Relations Board ordering pay boosts under certain conditions. This could mean an end to small businesses (the little man).

The Carter administration supports the Labor Reform Act, possibly to the point of upsetting the delicate balance of power between unions and management. Some feel that Carter support results from strong criticism by AFL-CIO President George Meany. Critics may very well see this support as an effort to heal the rift with the unions whose support helped make Jimmy Carter our President. With laws already on the books to deal with unfair labor practices and others to let workers democratically choose whether to organize, there is no reason to tinker with the law making it favorable to labor in order to help Jimmy Carter make atonements with George Meany.

We could learn a valuable lesson from our "Mother Country," Britain. Firemen are demanding a 32 percent pay increase while the government strives to hold inflation in check with a minimum hike of 10 percent. The firemen's demands obviously will set the pattern for other unions and other future strikes and labor disruptions. Britain's plight is well known and documented. George Santayana said "those who refuse to learn from history are doomed to repeat it." Should the Labor Reform Act pass, every group and facet of our nation would suffer. Especially we here in the South, mostly because we have the reputation of being anti-union. New industry would avoid this particular area. Strikes and slowdowns would become common-place, unemployment would remain dangerously high, inflation would run rampant, and the markets and services would be taken over.

George Meany and Labor Secretary Marshall plan to use a sledgehammer approach to bolster their declining union membership roles, enrich union coffers and bring about forced unionization. Big Labor's prime target is the small business community. Write your Senators today! Let it be known that you are against the Labor Reform Act (S. 1883). After all, this is your country the unions are trying to overtake. Don't fall victim to push-button and unionism!

[From the Asheboro Courier-Tribune, Feb. 1, 1978]

A Most Important Fight

The battle is joined over S. 1883, the Senate version of the so-called "labor reform" bill that has already passed the House. Business and labor are trotting out their finest arguments and their biggest guns. A fight to the finish appears to be brewing.

One ought to be. S. 1883 has been called everything from restrictive to coercive. More could be said. It is labor's big payoff for helping elect Jimmy Carter. We hope it will be the final payoff.

After a decade of losses, organized labor looks upon this bill as its salvation, as a way to change the climate, to get the government more firmly on its side. Quite simply, the bill would change the rules to put the federal establishment at the negotiating table on the side of the unions. Government has no place there. It intrudes too much already.

We have discussed this bill before. We have outlined many of its features and opposed most all of them. It would allow what opponents are calling "quickie" elections. It would permit an election to go ahead without a clear definition of the bargaining unit, an invitation to a business-management version of the black satchel ballot. It would establish harsh new penalties against business despite the fact that businesses who refuse to follow the law are already subject to severe penalties. It would enable unions to campaign on company property during working hours. It would impose no new restrictions on unions.

The issue is considered so important that business organizations across the nation are cracking up for a last-ditch battle during the next two weeks. The Asheboro-Randolph Chamber of Commerce is among those groups, devoting its entire January newsletter to the subject.

Labeling this legislation "reform" is the kind of mockery which too often makes law in this image-conscious world of ours. This is special interest legislation, pure and simple, and it ought to be recognized for what it is.

The United States Senate is the last place the bill can be stopped. Labor has won in the House and Jimmy Carter will sign it in a jiffy. The battle in the Senate will shape the future of management-labor relations for years. This may be the most important issue that body will face this year.

[From the Goldsboro News-Argus, Jan. 29, 1978]

Labor Reform Measure Would Promote Unions

The fact that labor leaders and congressmen from heavily unionized states are so enthusiastically for it is a clear signal that the "Labor Reform" bill is slanted heavily in favor of organized labor.

The reasons are obvious.

Future targets are clear.

And the prospects, for non-unionized areas, and especially for the South, are ominous, should the measure—already passed by the House—be approved by the Senate.

A key provision of the reform bill would require elections to be held within 15 days after being petitioned for by the organizers.

On this subject, William Winpisinger, president of the International Association of Machinists and Aerospace Workers, says:

"As a statistical matter of fact, if we get prompt elections, we win. Every time it takes more than two weeks, we know we lose. . . ."

The timing of an election is significant for obvious reasons. Organizers may work for weeks with employees before the employers realize what is happening.

Under the reform bill, the employer would be highly limited in time to respond in an effort to counteract gains already made by organizers.

The bill would limit the business owner even farther.

It would require that he provide, at his expense and during working hours, equal time for organizers to respond to any arguments he might make to dissuade workers from joining a union.

Should a firm, however innocently violate labor regulations it could be barred for three years from being awarded federal contracts. Should the National Labor Relations Board order such a debarment, there is not apparent provision for appeal.

Should an employer, in the opinion of the NLRB, dismiss an employee for union-related activities, double backpay could be awarded the worker.

Those concerned about union expansionism see the reform bill as a particular threat to smaller businesses which lack the experience and expertise to deal with labor union organizers.

Many, opponents of the bill feel, would capitulate to organizational efforts rather than risk making a costly error that could result in loss of government contractors or excessive reimbursement to workers who might be dismissed wrongly in the eyes of the NLRB.

Organized labor is understandably pleased with the prospects of the legislation.

It has suffered serious setbacks in the past two years—membership falling by more than 760,000 during that period.

Congressmen from heavily unionized states are understandably supportive of the measure.

Not only are the unions influential—financially and at the ballot box—in their states, but they have seen a steady movement of industries to non-union states.

If unions can be encouraged in those areas, notably the South, then the migration of industry might be stemmed.

If the labor reform bill represented a fair shake for all concerned, big labor would not be so exuberant in its support of it—and the business people would not be so gravely concerned over its potential results.

The measure clearly would grease the wheels of organized labor and give organizers strong advantages over businesses least able to protect their own interests.

[From the Asheboro Courier Tribune, Jan. 28, 1978]

Labor and the Law

It will be next year before the Senate is able to consider the so-called *"labor reform"* legislation put forth by the AFL–CIO and happily endorsed by the Carter administration. The House has already passed its version of this bill designed more to protect the flagging interests of the unions than to "reform" the body of labor law.

Its net effect, if passed, will be to greatly increase the power of the National Labor Relations Board, traditionally a firm friend of Big Labor and a questionable proponent of the rights of the individual worker. There is a natural tendency for the NLRB's pro-

labor bias to increase under Democratic administrations and, even under existing law, the number rulings friendly to organized labor may be expected to increase under existing law as the years of Jimmy Carter drag along.

With this legislation, the discretionary powers of the NLRB will be greatly increased and that, in turn, will increase the probability that some businesses will be coerced into dealing with unwanted and unneeded labor unions in order to avoid substantial losses at the hands of the NLRB. The board will have within its grasp the power to inflict real financial damage to businesses. Some examples:

—Employers found guilty of unfair activities would be forced to double the back pay of employees fired for certain reasons during a bargaining period.

—Under the same circumstances, employers would be forced to retroactively increase employee wages and benefits by the percentage of increase in "major collective bargaining settlements" throughout the nation.

—An employer would be prohibited from bidding on government contracts for three years whenever the NLRB is "of the opinion" that the employer is in violation of any order issued by the board during the past three years.

While the first two requirements could be prohibitively expensive to many businesses, the third, quite simply, could put a number of firms straight into bankruptcy. Like it or not, the federal government is a major source of contracts in this day and age and any outright ban on federal business could prove devastating to any number of companies.

Why does Big Labor want this legislation so badly? Are the existing laws, under which it prospered for years, not enough?

Evidently not. Its halycon days have faded and the failure of labor to attract and sustain new membership has become one of the significant developments of the latter half of the century. Labor is going to the well more and losing more and that trend threatens the political base from which it has operated since the days of the Depression.

The figures tell the story. In 1970, only 24.5 percent of all non-agricultural employees in the nation were union members, the lowest percentage since 1937. Union members now comprise only 20.1 percent of the national work force, a 20 percent decline in little more than two decades. Unions sustained a net loss of 767,000 dues-paying members between 1974 and 1976, its first actual numerical decline in 14 years. And, most galling to organizers, Big Labor lost more union elections in 1976 than it won—despite the fact that existing law places the timing of these elections almost solely in the hands of the labor unions.

Supporters of the bill pulled out all the stops in the House—and won. You may expect a similar effort in the Senate.

Organized labor has won a distinct notch in the American society. Its accomplishments in many instances are noteworthy. But a union ought to be able to sell itself on the benefits it can produce for its members, not on its ability to punish employers who logically resist its efforts. The Senate should defeat this legislation.

[From the Rocky Mount Telegram, Jan. 27, 1978]

IS THIS LABOR REFORM?

The so-called Labor Reform Bill, now being considered by Congress, seems to be, in reality, little more than a push by labor to gain new members. Union membership has been decreasing steadily over the past several years, so it isn't surprising that union leaders would want to do something about this.

But the Labor Reform Bill (S. 1883-H.R. 8410) tries to solve labor's membership problems by mandating several new policies which are blatantly unfair to employers.

For example, the Senate version of the bill would allow unions to call elections within 15 days if a majority of employes seek the election. This hardly seems enough time for an employer to do an adequate job of presenting his side of the story.

The bill would also allow union organizers to talk to employes about the union on company property and on company time. Unions are already allowed to contact employes at their homes, but employers are forbidden to do this.

The bill also has disturbing punitive provisions. The most disturbing is one which states that employers who willfully violate a National Labor Relations Board order would be prohibited from obtaining federal contracts for up to three years. This is an extremely tough penalty. It would put many firms out of business, which doesn't even make sense from the union's point of view.

Another provision says that if NLRB finds that an employer has refused to bargain in good faith for a particular period, it can impose mandatory wage rates on the employer for that period.

This provision would work a real hardship on small businesses, since their wages, on which the enforced wage rates would be based—are average wages paid to bargaining units of 5,000 or more workers.

Another provision requires the NLRB to seek a court-ordered reinstatement of any worker believed to be illegally discharged during a union organizing campaign. This means an employer may be forced to re-hire workers who have been fired for good cause.

If the bill passes, it could easily have the effect of making employers throw up their hands and allow unionization of their firms, whether their employes want it or not, just to avoid these unreasonable penalties.

This, of course, would increase union membership. And this is what big labor wants.

[From the Lincolnton Times News, Jan. 17, 1978]

SENATE BILL 1883

An alleged "Labor Reform" bill is scheduled to be voted on in the Senate on Feb. 1, 1978. This bill is aimed not at the corporate giants but at small business. It would slow a declining union membership by making organizing efforts easier.

The most objectionable part of this bill is that it is an unbalanced piece of legislation. Obviously, not all union activities are bad, but in this case the government will become an agent of the unions rather than a neutral third party.

Punitive measures will be directed at the small employer who resists union demands to organize a small business. One has only to think of the options open to a small business at resisting the encroachment of the IRS or OSHA to imagine the almost nonexistent possibility of resisting union organization with government policies backing the unions.

Consider whether you want to have a say in the manner of membership when and if your company is petitioned. The Labor Reform Act assumes everyone wants to belong to a union.

Once a petition is filed an election to vote on unionization must be held in 15 days. If a Union needs more time, it can have 45 and even up to 75 additional days to prepare. The employer 15 days from the time he is petitioned.

The employer would virtually be forced to underwrite unionization efforts. If the employer communicated his side of the picture to employees, he would be required to give the unions organizers company time to communicate in an equivalent manner.

Senate bill 1883 changes the National Labor Relations Act from a remedial statute to a punitive one. Its purpose will be to punish employers while looking aside at union abuses.

The net result of this bill would most likely be to discourage employers from presenting their side of the issues, and thereby allowing an unopposed solicitation of employees who will hear only the union arguments.

The Labor Reform Act should be held up to a strong light for intensive study of its ultimate effect on the economy and the nation.

If you are concerned about this forthcoming legislation, now is the time to communicate your feelings to your elected representatives.

[From the Asheville Times, Jan. 26, 1978]

LABOR BILL INVITES MORE UNION ABUSES

Congress finds itself arguing over labor issues every year. Most of these hold only passing interest for the average news reader. The chief labor bill this year—proposed revisions to the National Labor Relations Act—is much different.

If enacted, it will drastically alter the balance of power between organized labor and businesses. This is one piece of legislation that should concern everyone.

The National Labor Relations Act is the country's basic labor law. Passed in 1935, it established workers' rights to organize and strike, and it barred employers from engaging in certain unfair labor practices. Later amendments placed curbs on unfair union activities.

Labor maintains that over the years businesses have found ways to evade the intent of the law and that some businesses actually do evade it, which is true. Business groups charge that unions take advantage of the law in the same way and that restrictions on improper union practices were lax to begin with, which also is true.

Most labor-management disputes proceed in an orderly and lawful way, but those few that don't usually see abuses committed by both sides. The legislation before Congress would "correct" this problem by placing even tighter restrictions on management and by imposing severe penalties on employers for violations. Unions, meanwhile, would be free to go about their activities as usual.

Consider a few of the bill's major provisions. Present law requires that when a business fires a worker for union organizing efforts, the worker must be rehired with compensation for lost wages. Under the revision, the employer must award double back pay to the worker. What about unions that use threats or reprisals to coerce employees? The bill does not address this question.

Any business deemed by the National Labor Relations Board (NLRB) to be a flagrant labor law violator could be denied government contracts for three years. But what about unions that consistently engage in unfair practices? Again, the legislation does not provide for comparable penalties.

When the NLRB determined that an employer had illegally refused to negotiate a first contract with the union, it could order the employer to compensate workers for wages lost during the interim. The award would reflect the difference between workers' actual wages and what they would have received under an average collective bargaining contract. If a union contributed to the delay in an effort to gain higher benefits, however, it would not be subject to similar damages.

These are just a few examples, but they show how the legislation was written. It was written by and for labor, and it is aimed entirely at business.

By attempting to prevent only those abuses committed by management, the bill would encourage even more abuses by labor. A one-sided remedy is worse than no remedy at all.

Yet the legislation was passed by the House last year, with the Carter administration's endorsement, and it stands a good chance of passage by the Senate this year. If people are concerned, now is the time to show it.

[From the Wallace Enterprise, Jan. 26, 1978]

LABOR GRABS FOR MORE POWER

Big labor's push to rewrite the National Labor Relations Act to give labor bosses more monopoly power over all of us will reach a critical stage in the U.S. Senate in 1978.

Labor has already won the battle in the House of Representatives, so the only hope to moderate or kill this legislation lies with the U.S. Senate, which will be considering S. 1883.

Farm Bureau members and others interested in bringing some control over the growing monopoly power of labor unions should contact their Senators to express opposition to this so-called "labor refrom" act.

The bill, which could be on the Senate floor by the end of January, (1) will make it easier and quicker for the unions to force an election, (2) Violates property rights and stifles the freedom of speech of employers, (3) Places more decision-making power in the hands of the lower administrative ranks of the National Labor Relations Board, (4) Would load the National Labor Relations Board in favor of the unions, (5) Will make it more difficult and much slower to get a vote by workers who are already unionized on the question of "throwing out the union," (6) For the first time, would involve the Board in punitive actions, which in the past have been left to the courts.

All of this adds up to more power for the unions. We believe that most Americans think the unions already have too much power and that what Congress should be doing is passing legislation to better protect the rights of individual workers.

For the first time. USDA has reported that labor employed in the distribution system now gets more out of every dollar consumers spend for food than the farmers who produce it. This drives home to us the need to stop any further actions by the United States Congress to grant more power to the unions.

It is true that agriculture has an exemption from the National Labor Relations Act and that S. 1883 does not propose to remove that exemption. However, farmers and everyone else are affected by the excessive demands and power of the unions, and if this bill should become law, their appetite will be whetted for further amendments, including removal of the agricultural exemption and repeal of Section 14 (B) which permits states to pass right-to-work laws that outlaw compulsory unionism.

[From the Clarkton Southeastern Times, Jan. 25, 1978]

LABOR REFORM?

The so called Labor Reform Bill, now being considered in Congress, seems to be, in reality, a push by Big Labor to gain new members.

Union membership has been decreasing steadily over the past several years, so it's not surprising that Union Leaders would want to do something about this. But the Labor Reform Bill (S. 1883–H.R. 8410) tries to solve Labor's membership problems by mandating several new policies which are blatantly unfair to employers.

For instance, the Senate version of the bill would allow unions to call elections within 15 days if a majority of employees seek the election. This hardly seems like enough time for an employer to do an adequate job of presenting his side of the story. The bill would also allow union organizers to talk to employees about the union on company property during company time, if the employer has done so. Unions are already allowed to contract employees at their homes, but employers are forbidden to do this. This prohibition would remain.

The bill also has disturbing punitive provisions. The most disturbing is one which states that employers who willfully violate a National Labor Relations Board order would be prohibited from obtaining federal contracts for up to three years. That is an extremely stiff penalty. It would put many firms out of business, which doesn't even make sense from the union's point of view.

Another provision says that if NLRB finds that an employer has refused to bargain in good faith for a particular period, it can impose mandatory wage rates on the employer for that period. The wage rates will be based on the average wages paid to bargaining units of 5,000 or more employees—in other words, large firms. The National Federation of Independent Business (NFIB), with a membership of more than 525,000 small businesses around the country, has noted that this provision would work a real hardship on small businesses, since their wages are normally much lower than big business wages. It would also directly involve the federal government in setting wage rates in the private sector, something that has been carefully avoided in the 42-year history of labor law.

A third provision requires the NLRB to seek an immediate court-ordered reinstatement of any employee believed to be illegally discharged during a union organizing campaign, until the NLRB has time to make a final decision on the merits of the case. This means an employer may be forced to temporarily re-hire employees who have been fired for good cause. The senate version of the bill adds that illegally fired employees must be reinstated with double back pay.

If the Labor Reform Bill passes, it could easily have the effect of making employers throw up their hands and allow unionization of their firms, whether their employees want it or not, just to avoid these unreasonable penalties. This, of course, would increase union membership. And this is what Big Labor wants.

INFLATION—AND WHAT GOVERNMENT WILL NOT DO ABOUT IT

Mr. PROXMIRE. Mr. President, in the last few days there have been a spate of editorials calling for action—primarily congressional action to meet this country's No. 1 economic problem: Inflation.

These editorials could hardly be more timely. While the economy has been growing with more jobs, better profits, improving retail sales especially in the basic housing and auto sectors, reports on prices have been progressively worse.

Any consideration of such fundamental elements of future prices such as farm prices, raw material prices, recent wage settlements indicates how much more serious inflation is likely to become as the year goes on.

In the second place, President Carter is expected to unveil an anti-inflationary program in the next few days, so editorial comment provides a useful basis for appraising the strength or weakness of the Carter answer to inflation.

Mr. President, consideration of what kind of medicine we need to slow inflation makes it evident that whatever we do, it will be politically painful, and the more effective it is the more painful it will be.

A recent essay in Time magazine by Marshall Loeb entitled "Ten Ways to Cut Inflation" illustrated this point very well.

The recommendations are all anti-inflationary. Some of them, frankly, I could not support. But President Carter could make a strong appeal for each one, and enough should be acted on to slow inflation. And yet, Mr. President, it is a sad commentary on the political vigor of our economic policy that only a single one of the 10 recommendations has a better than 1 chance in 10 of being acted on favorably by the President and the Congress. And that one recommendation, that has a chance to limit Federal pay increases to 5 percent instead of 6 percent would have only a slight, marginal effect on prices.

Consider the others:

First. Reduce the budget. Yes indeed. We should. Some of us will fight hard to do that, but there is every likely prospect that the Congress will increase probably by $10 billion or more the Carter budget, not reduce it by $20 billion as Mr. Loeb and Time recommend.

Second. Curb regulations especially so business will not be required to invest huge sums in nonproductive machinery and then raise prices as a result. It is just possible that there is enough business clout behind such action if called for by the President that it could work, but the main consequences would be on prices 2 or 3 years ahead.

Third. Restrain social security benefits. This is probably the most unrealistic of all Time's proposals. But there is no question it would ease inflationary pressures.

Fourth. Hold down State wages. Time proposes the President ask States to hold down State and local wages to a 5-percent increase. With even New York in its desperate shape going to 6 percent on transit workers wages, it would be a miracle if others States and cities most of whom have their best surpluses in years could be persuaded to cut increases below the likely increases in the cost of living.

Fifth. Cut local taxes. This might occur in some States and cities, but it would be likely to be sporadic and in view of inflation's effect on local and State costs, and the fact that local and State revenues are not only less progressive but less responsive to inflation, this kind of reduction does not seem hopeful.

Sixth. Chop farm subsidies and controls. Again a very powerful case can be made for this as a prime requirement for easing inflation. But the last Senate response and the likely House and administration response to farm pressure makes action of this kind about as unlikely as the proposed reduction in social security benefits.

Seventh. Repeal inflationary special interest laws. The Time essay cites the Jones Act and the Davis Bacon Act. The prospect of repealing either is close to nil.

Eighth. Hold back the minimum wage. In view of the fact that this legislation

only recently passed the Congress, the prospect of a delay or moratorium are infinitesimal.

Ninth. Freeze executive pay. The proposal is to increase the salary of no one who earns more than $100,000 per year. Last year this kind of compensation from corporations increased by a record amount. The increase will depend far more on what happens to corporate profits—which are likely to rise—than to any kind of moral plea. So relief here is also very unlikely.

Mr. President, what all this adds up to is that the likelihood of any kind of effective anti-inflationary policy is very, very slim. Maybe that very fact will help this body resist some of the consistent, every day inflationary pressure we are sure to face in coming months. It is time we took far more notice of inflation and vote and work to meet this No. 1 domestic problem.

Mr. President, I ask unanimous consent that the Time magazine essay by Marshall Loeb be printed in the RECORD at this point.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

TEN WAYS TO CUT INFLATION

The most distressing thing about last week's news that consumer prices swelled at a 7.4 percent annual rate in February was that Washington's policymakers were relieved. They had expected the rise to be worse. Indeed, many of them take high inflation for granted, which is the first step toward giving up the fight. They forget too easily that not too long ago 3 percent inflation was considered to be steep, 4 percent dangerous, 5 percent intolerable. Now experts, chorus that the U.S. has an "underlying" inflation rate of at least 6 percent—intractable, indomitable, unassailable.

In fact, the inflation rate can—and must—be brought down. There is no mystery about what causes inflation: too many demands by too many people upon a limited amount of national wealth. The cure is more difficult to prescribe, but surely it involves discipline, limits, sacrifice. The means to retard inflation are economically feasible, but they are thought to be politically impractical. We know many of the ways; all we lack is the will.

The will is notably absent during election year, since any attack on inflation would hit at the privileges of specific interest groups, who threaten their fearsome counterattacks at the polls. But perhaps some politicians would be brave enough, and wise enough, to advocate steps that would earn the outrage of specific interests in the short run but gain the support of the inflation-strained majority over the longer haul. Among the steps that, taken together, could cut inflation:

REDUCE THE BUDGET

President Carter emptily claims that his budget for the next fiscal year is "tight," although it has soared since 1974 from less than $270 billion to more than $500 billion, and the planned deficit will run an inflationary $60 billion-plus for the second straight year. With the economy rising and unemployment falling, even Treasury Secretary W. Michael Blumenthal and the rest of Carter's closest economic advisers believe that the deficit should be contained. Wisconsin Democrat William Proxmire, one of the Senate's best economic thinkers, argues that the budget should be shrunk to $465 billion. At the very least, it could be reduced to $480 billion by selective paring. If spending is brought down, the Government will be able to further cut personal and corporate taxes, which would offer the double benefit of strapping inflation and stimulating the economy. For invigorating the economy, lower taxes are more effective than higher Government spending.

CURB REGULATION

The spreading powers of the Environmental Protection Agency, the Occupational Safety and Health Administration, the Equal Employment Opportunity Commission and hundreds of other regulatory agencies aggravate inflation by adding to the budget and, more important, swelling the costs of doing business. One significant step would be to hold down the EPA's "enforcement" spending, which is budgeted to jump from $73 million to almost $95 million. Every dollar devoted to EPA "enforcement" obliges U.S. business to invest many more dollars on nonproductive machinery, which then raises prices, reduce productive capital spending and retards hiring.

RESTRAIN SOCIAL SECURITY BENEFITS

They are scheduled to rise fast in the years ahead. By trimming the benefits, the nation can also pare the scheduled increases in Social Security payroll taxes.

LIMIT FEDERAL PAY

The Government's workers commonly collect more salary and fringes than private workers in comparable jobs, and federal pay is budgeted to increase 6 percent in the next fiscal year. If Carter succeeded in cutting that back to 5 percent or less, he would both reduce inflation in the federal payroll and gain moral authority to advocate similar restraint in private wages.

HOLD DOWN STATE WAGES

Having urged a reduction in federal pay increases, the President then could ask states and localities to hold raises for their employees to 5 percent or less.

CUT LOCAL TAXES

If their projected wage increases were reduced, the states and cities could trim their sales, income or property taxes. Another reason for reduction: many states and localities are enjoying budget surpluses.

CHOP FARM SUBSIDIES AND CONTROLS

Federal farm aid has grown fourfold in the past two years, to an estimated $7.9 billion, and the Senate passed a farm bill last month that will add $120 to $170 to the food bill of a family of four in the next fiscal year. As a counter to that expensive bill, President Carter last week recommended higher wheat subsidies and for the first time since the early 1970s offered corn and cotton subsidies to farmers who reduce plantings, which will surely raise food prices. There is no excuse for subsidies, despite some farmers' noisy threats of "strike." Farm prices have risen 13.9 percent since last September, and some food prices will shoot through the roof this spring because foul weather has badly hurt harvests of Soviet wheat and Brazilian soybeans.

REPEAL INFLATIONARY SPECIAL-INTEREST LAWS

The Jones Act, which requires all goods moving between U.S. ports to travel aboard high-cost U.S. ships, has many inflationary consequences, including raising the price of Alaskan oil shipped to the West and Gulf Coasts. The Davis-Bacon Act, a relic of the Depression, swells construction costs by requiring, in effect, that union wages must be paid on all federally aided projects.

HOLD BACK THE MINIMUM WAGE

It jumped from $2.30 to $2.65 last January and is scheduled to rise to $2.90 next January and $3.35 in 1981. Besides being inflationary, the increases discourage hiring of the unskilled and the young.

FREEZE EXECUTIVE PAY

Federal Reserve Chief G. William Miller, who took a cut from $400,000 to $57,500 when he left the chairmanship of Textron, recommends that "top business executives demonstrate their leadership in the fight by holding down their own compensation." A one-year moratorium on raises by people earning, say, $100,000 or more would not make much economic difference, but it might be worth something symbolically.

The weak and perilous course would be to surrender to inflation on the presumption that interest groups are just too strong and the nation's will is too weak to fight it. In fact, President Carter has given in to many of the constituencies, firing up inflation by calling for large jumps in welfare and urban spending, in farm subsidies and tariffs on imports as varied as sugar, TV sets and, just last week, CB radios. So long as the Administration appears to have round heels, self-seeking groups—from coal miners to steelmakers—will continue to press their inflationary desires.

The President has said that when he returns from his overseas trip this week, he will produce a comprehensive anti-inflation plan. His economic advisers urge him to take a tough stand by calling for a reduction of subsidies, regulations and the growth of spending. Clearly, the immediate risks would be outweighed by the ultimate rewards. If the U.S. reduces domestic inflation, the dollar will rise, import prices will decline, purchasing power will expand, interest rates will fall, housing will climb, profits will increase, the stock market will turn up, capital spending will swell, more jobs will be created and business will flourish. In sum, the small sacrifices made by special groups will lead to big benefits for all.

THIRTY YEARS LATER: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention is a treaty which would make the destruction, in whole or in part, of a racial, national, ethnic, or religious group a crime under international law. President Truman signed the treaty in 1948, and sent it to the Senate for ratification.

Today, some 30 years later, the treaty has yet to be acted upon by the Senate. It is a tragic irony that the one country famous throughout the world for its respect for human rights has yet to become a signatory of a treaty which seeks to guarantee the most basic of all human rights, the right to live. I feel that the Senate's inaction in this matter is a very serious oversight.

The United States has come a long way in 30 years. Thirty years ago, there were 147 million people in this country. Today there are more than 215 million people. The national budget has expanded greatly to meet the needs of a larger and more modern country. In 1948, our outlays were only $29 billion, and back then we even enjoyed a surplus of $12 billion. How things have changed. Today, the estimated outlays for next year are half a trillion dollars, more than 20 times as high as they were in 1948, and that $12 billion surplus has more than dwindled to a $60 billion deficit. The defense budget has shot from a little under $8 billion in 1948 to an estimated $117 billion for next year.

Why, Reggie Jackson, the prodigious Yankee slugger, was smaller than a baseball bat back then.

Presidents have changed, too. But every President since Truman has urged ratification of the Genocide Convention. Eisenhower, Kennedy, Johnson, Nixon, Ford, and most recently President Carter, have all given their support to the treaty.

And while the times have changed greatly, the need for the Genocide Convention is as real today as it was 30 years ago. Then, the memories of Nazi Germany were still fresh, and the horrible genocide which was carried out against the Jews stood as vivid proof of the need for such a treaty among nations. Today, the barbaric practices of Idi Amin and the Khmer Rouge illustrate that genocide still exists. I urge the Senate to ratify the Genocide Convention as soon as possible.

ORDER FOR RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF PANAMA CANAL TREATY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer tomorrow, the Senate resume consideration of the Panama Canal Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time tomorrow, running from the beginning of the debate on the treaty—to wit, the close of the prayer—until 6 p.m. be equally divided between and under the control of Mr. HATCH and Mr. CHURCH or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 9:15 A.M. ON WEDNESDAY, APRIL 5, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in recess until 9:15 a.m. on Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF PANAMA CANAL TREATY ON WEDNESDAY NEXT; TIME FOR VOTE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than 9:30 a.m. on Wednesday, the time begin running and be under the control of Mr. HATCH and Mr. CHURCH, and that it be equally divided; that the vote in relation to the amendment, as previously ordered, occur at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean, Mr. President, that there would be at least 45 minutes to Mr. HATCH and 45 minutes to Mr. CHURCH or to their designees on Wednesday morning.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate, as in executive session, stand in recess until 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:56 p.m. the Senate, in executive session, recessed until tomorrow, Tuesday, April 4, 1978, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate March 27, 1978, pursuant to the order of the Senate of March 23, 1978:

DEPARTMENT OF STATE

Robert L. Yost, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

DEPARTMENT OF THE TREASURY

Donald Cyril Lubick, of Maryland, to be an Assistant Secretary of the Treasury, vice Laurence N. Woodworth, deceased.

Saul Silverman, of Pennsylavnia, to be Assayer of the U.S. Assay Office at New York, N.Y., vice Allan Stephen Ryan, deceased.

DEPARTMENT OF COMMERCE

George S. Benton, of Maryland, to be Associate Administrator of the National Oceanic and Atmospheric Administration, vice John W. Townsend, Jr., resigned.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Gordon Sumner, Jr., [redacted], (Age 53), Army of the United States (major general, U.S. Army).

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. John E. Rogers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James N. Ellis, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William H. Schneider, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Elmer D. Pendleton, Jr., [redacted], U.S. Army.

Col. Thurman E. Anderson, [redacted], U.S. Army.

Col. Joseph O. Lax, Jr., [redacted], U.S. Army.

Col. Aaron L. Lilley, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph J. Leszczynski, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James A. Teal, Jr., [redacted], U.S. Army.

Col. James R. Henslick, [redacted], U.S. Army.

Col. Charles D. Franklin, [redacted], U.S. Army.

Col. Leo A. Brooks, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Kenneth A. Jolemore, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John R. Galvin, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. David L. Buckner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Hugh G. Robinson, [redacted], Army of the United States (lieutenant colonel, U.S.

Col. Cary B. Hutchinson, Jr., [redacted], United States Army.

Col. Carl H. McNair, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Eugene S. Korpal, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard A. Scholtes, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. H. Norman Schwarzkopf, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert C. Forman, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John P. Prillaman, [redacted], U.S. Army).

Col. John A. Hemphill, [redacted], U.S. Army).

Col. Vincent M. Russo, [redacted], U.S. Army).

Col. Robert C. Hawlk, [redacted], U.S. Army).

Col. LeRoy N. Suddath, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert M. Joyce, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Lawrence F. Skibbie, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Edward L. Trobaugh, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Dale A. Vesser, [redacted], Army of the United States (lieutenant colonel, U.S. Army.

Col. Frank H. Baker, [redacted], Army of the United States (lieutenant colonel, U.S. Army.

Col. Andrew P. Chambers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Benjamin F. Register, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Paul P. Burns, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Dallas C. Brown, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

IN THE NAVY

Adm. Frederick H. Michaelis, U.S. Navy, (age 61) for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Philip D. Shutler, xxx-xx-xxxx, U.S. Marine Corps.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, Title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Aamodt, Clark E., xxx-xx-xxxx.
Abrahamson, James A., xxx-xx-xxxx.
Alewine, Martin A., Jr., xxx-xx-xxxx.
Alexander, James W., xxx-xx-xxxx.
Allen, Bennie R., xxx-xx-xxxx.
Allen, Benny J., xxx-xx-xxxx.
Allison, John C., xxx-xx-xxxx.
Ammon, Glendon L., xxx-xx-xxxx.
Anderson, Allen L., Jr., xxx-xx-xxxx.
Anderson, Charles T., xxx-xx-xxxx.
Anderson, Don L., xxx-xx-xxxx.
Anderson, Edwin M., Jr., xxx-xx-xxxx.
Anderson, Robert D., xxx-xx-xxxx.
Anderson, William L., xxx-xx-xxxx.
Anonsen, Charles E., xxx-xx-xxxx.
Arata, Harold J., xxx-xx-xxxx.
Arcari, Paul W., xxx-xx-xxxx.
Arias, Roger, F. A., xxx-xx-xxxx.
Asbury, Francis L., xxx-xx-xxxx.
Babcock, Leon W., Jr., xxx-xx-xxxx.
Babin, Shirly A., xxx-xx-xxxx.
Backues, Billy G., xxx-xx-xxxx.
Baetz, Gary D., xxx-xx-xxxx.
Baisden, James K., xxx-xx-xxxx.
Baker, Charles L., xxx-xx-xxxx.
Bargery, Basil L., xxx-xx-xxxx.
Barlow, William J., xxx-xx-xxxx.
Barras, Gregory I., xxx-xx-xxxx.
Barrett, William R., xxx-xx-xxxx.
Bartholomew, David B., xxx-xx-xxxx.
Bartholomew, Richard A., xxx-xx-xxxx.
Bates, Albert R., xxx-xx-xxxx.
Battle, Ed L., xxx-xx-xxxx.
Bayly, Philip A., xxx-xx-xxxx.
Beale, Robert S., xxx-xx-xxxx.
Beckman, Rodney B., xxx-xx-xxxx.
Bedke, Ernest A., xxx-xx-xxxx.
Beoddy, John J., xxx-xx-xxxx.
Bernasconi, Louis H., xxx-xx-xxxx.
Berryhill, James V., xxx-xx-xxxx.
Beuke, Theodore R., xxx-xx-xxxx.
Bianckino, Richard A., xxx-xx-xxxx.
Bills, Walter B., xxx-xx-xxxx.
Birmingham, Daniel J., Jr., xxx-xx-xxxx.
Blackwell, Eldred E., xxx-xx-xxxx.
Blake, Daniel, Jr., xxx-xx-xxxx.
Boddie, James T., Jr., xxx-xx-xxxx.
Bodenhamer, Kenneth D., xxx-xx-xxxx.
Boone, George T., xxx-xx-xxxx.
Bouchard, Philippe O., xxx-xx-xxxx.
Brackett, Donald F., xxx-xx-xxxx.
Brakebill, Dale L., xxx-xx-xxxx.
Brandon, Francis E., Jr., xxx-xx-xxxx.
Breckner, William J., Jr., xxx-xx-xxxx.
Brittain, Douglas B., xxx-xx-xxxx.
Brock, Eugene B., xxx-xx-xxxx.
Brooks, Elmer T., xxx-xx-xxxx.
Brotherston, Joseph H., xxx-xx-xxxx.
Brown, Billy J., xxx-xx-xxxx.
Brown, Charles D., xxx-xx-xxxx.
Brown, Donald D., xxx-xx-xxxx.
Brown, Floyd W., Jr., xxx-xx-xxxx.
Brownfield, Bird R., xxx-xx-xxxx.
Brunson, Clarence E., III, xxx-xx-xxxx.
Bryan, Delano R., xxx-xx-xxxx.
Bryant, Warren A., xxx-xx-xxxx.
Buck, John T., xxx-xx-xxxx.
Buikema, Kenneth E., xxx-xx-xxxx.
Burke, David J., xxx-xx-xxxx.
Burns, Lindo L., xxx-xx-xxxx.
Burpee, Richard A., xxx-xx-xxxx.
Butt, Lucious C., xxx-xx-xxxx.
Butts, Duncan R., xxx-xx-xxxx.
Cain, Keith M., xxx-xx-xxxx.
Campbell, Gerald E., xxx-xx-xxxx.
Carey, Kenneth V., xxx-xx-xxxx.
Carnes, James R., xxx-xx-xxxx.
Carruthers, William M., xxx-xx-xxxx.
Cassell, Robert T., xxx-xx-xxxx.
Cathey, Carl H., Jr., xxx-xx-xxxx.
Chambers, Everett A., xxx-xx-xxxx.
Chatfield, George A., Jr., xxx-xx-xxxx.
Cherrington, John R., Jr., xxx-xx-xxxx.
Chestnut, Joseph L., xxx-xx-xxxx.
Christiansen, Von R., xxx-xx-xxxx.
Christopoulos, Arthur G., xxx-xx-xxxx.
Chubb, Melvin F., Jr., xxx-xx-xxxx.
Cirillo, Eugene E., xxx-xx-xxxx.
Claiborn, Edward L., xxx-xx-xxxx.
Clark, Richard E., xxx-xx-xxxx.
Clarke, Robert N., xxx-xx-xxxx.
Clarkson, Joseph E., xxx-xx-xxxx.
Clements, Gerald H., xxx-xx-xxxx.
Cohen, Edward D., xxx-xx-xxxx.
Cole, Earle R., xxx-xx-xxxx.
Combs, Charles D., xxx-xx-xxxx.
Conger, Douglas J., xxx-xx-xxxx.
Connolly, Joseph H., xxx-xx-xxxx.
Cooney, Wilson C., xxx-xx-xxxx.
Cork, Clifford D., xxx-xx-xxxx.
Cormier, Roy L., xxx-xx-xxxx.
Cornelius, John T., xxx-xx-xxxx.
Cox, Gene A., xxx-xx-xxxx.
Cox, Glenn T., xxx-xx-xxxx.
Craig, Wilbert F., III, xxx-xx-xxxx.
Craven, William E., xxx-xx-xxxx.
Crumbaker, David M., xxx-xx-xxxx.
Cunningham, Charles J., Jr., xxx-xx-xxxx.
Cunningham, John T., III, xxx-xx-xxxx.
Curtis, Lewis G., xxx-xx-xxxx.
Dahmen, Gerald K., xxx-xx-xxxx.
Daugherty, Tim T., xxx-xx-xxxx.
Davis, Dempsie A., Jr., xxx-xx-xxxx.
Davis, Milford E., xxx-xx-xxxx.
Davis, Reginald R., xxx-xx-xxxx.
Davis, Walter R., xxx-xx-xxxx.
Dempster, David P., xxx-xx-xxxx.
Dennis, Lawrence V., xxx-xx-xxxx.
Depriest, Van A., xxx-xx-xxxx.
Detar, Dean E., xxx-xx-xxxx.
DeWilde, David A., xxx-xx-xxxx.
Dickinson, James H., xxx-xx-xxxx.
Dickman, Henry J., Jr., xxx-xx-xxxx.
Dickson, Thomas P., xxx-xx-xxxx.
Dimski, Jack C., xxx-xx-xxxx.
Dockery, George E., xxx-xx-xxxx.
Doggette, James C., Jr., xxx-xx-xxxx.
Doole, William H. E., xxx-xx-xxxx.
Doren, Anthony J., xxx-xx-xxxx.
Doyle, William L., Jr., xxx-xx-xxxx.
Drobot, John J., xxx-xx-xxxx.
Duart, David H., xxx-xx-xxxx.
Dube, Francis P., xxx-xx-xxxx.
DuBois, James W., xxx-xx-xxxx.
Duckworth, Richard D., xxx-xx-xxxx.
Dudgeon, Cecil E., xxx-xx-xxxx.
Dugard, George A., xxx-xx-xxxx.
Dunbar, James R., xxx-xx-xxxx.
Durazo, Charles G., xxx-xx-xxxx.
Durdin, Thomas N., xxx-xx-xxxx.
Durham, Kenneth W., xxx-xx-xxxx.
Duval, Ronald C., xxx-xx-xxxx.
Dyer, Pintard M., III, xxx-xx-xxxx.
Dyer, Richard E., xxx-xx-xxxx.
Egbert, James F., xxx-xx-xxxx.
Eglinton, William S., xxx-xx-xxxx.
Elliff, John J., xxx-xx-xxxx.
Elliott, Charles J., xxx-xx-xxxx.
Ellis, Donald E., xxx-xx-xxxx.
Ely, Richard K., xxx-xx-xxxx.
Emerson, Delbert A., Jr., xxx-xx-xxxx.
Eppinger, Dale L., xxx-xx-xxxx.
Erickson, Paul E., xxx-xx-xxxx.
Ermel, Fred W., Jr., xxx-xx-xxxx.
Evans, Richard P., xxx-xx-xxxx.
Evans, Wilfred E., xxx-xx-xxxx.
Everett, James D., xxx-xx-xxxx.
Everson, David, xxx-xx-xxxx.
Fassett, Chester A., xxx-xx-xxxx.
Faurer, Judson C., xxx-xx-xxxx.
Felmley, Jerry J., xxx-xx-xxxx.
Fields, Samuel H., xxx-xx-xxxx.
Fincher, Thomas H., xxx-xx-xxxx.
Fink, Richard B., xxx-xx-xxxx.
Fish, Stephen B., III, xxx-xx-xxxx.
Fisher, William E., xxx-xx-xxxx.
Flynn, Charles L., xxx-xx-xxxx.
Forby, Willis E., xxx-xx-xxxx.
Foster, Gerrit D., Jr., xxx-xx-xxxx.
Francis, George F., xxx-xx-xxxx.
French, Lawrence R., xxx-xx-xxxx.
Frizzell, Donaldson D., xxx-xx-xxxx.
Fulgham, George S., xxx-xx-xxxx.
Funderburk, Elmer, Jr., xxx-xx-xxxx.
Gabby, Harold H., xxx-xx-xxxx.
Gabriel, Arnald D., xxx-xx-xxxx.
Galloway, Floyd E., Jr., xxx-xx-xxxx.
Gannaway, Jay T., xxx-xx-xxxx.
Gardecki, Anthony, xxx-xx-xxxx.
Garner, William D., xxx-xx-xxxx.
Gassman, James O., xxx-xx-xxxx.
Gatt, John M., xxx-xx-xxxx.
Gaty, Charles L., xxx-xx-xxxx.
Gawler, William C., xxx-xx-xxxx.
Gee, John P., xxx-xx-xxxx.
Geran, Daniel B., xxx-xx-xxxx.
Gerblick, Paul, xxx-xx-xxxx.
Gergen, Thomas F., xxx-xx-xxxx.
Germscheid, Thomas C., xxx-xx-xxxx.
Giannangeli, Anthony R., xxx-xx-xxxx.
Gibson, William L., xxx-xx-xxxx.
Gioia, John, xxx-xx-xxxx.
Giordano, Richard, xxx-xx-xxxx.
Girling, Wallace D., xxx-xx-xxxx.
Giuliano, Anthony L., Jr., xxx-xx-xxxx.
Givani, Ernest E., xxx-xx-xxxx.
Glenn, James M., xxx-xx-xxxx.
Goldfarb, Levi, xxx-xx-xxxx.
Good, Paul R., xxx-xx-xxxx.
Goodfellow, James F., xxx-xx-xxxx.
Goodman, Donald W., xxx-xx-xxxx.
Goodrich, Jerome C., xxx-xx-xxxx.
Goodwin, Philip A., xxx-xx-xxxx.
Gorton, William A., xxx-xx-xxxx.
Gould, Frank A., xxx-xx-xxxx.
Graham, Robert J., xxx-xx-xxxx.
Grainger, Wayne F., xxx-xx-xxxx.
Gravette, James A., xxx-xx-xxxx.
Green, Wade L., xxx-xx-xxxx.
Greenberg, Lester, xxx-xx-xxxx.
Greenblatt, Owen L., xxx-xx-xxxx.
Greer, James M., xxx-xx-xxxx.
Grigsby, Bert E., xxx-xx-xxxx.
Groves, Harold L., xxx-xx-xxxx.
Gruver, Neill R., xxx-xx-xxxx.
Gugin, William J., Jr., xxx-xx-xxxx.
Gunderson, Lindy C., xxx-xx-xxxx.
Hagenbrock, Harry H., xxx-xx-xxxx.
Hall, Bud T., xxx-xx-xxxx.
Hall, Donald J., xxx-xx-xxxx.
Ham, Ronald L., xxx-xx-xxxx.
Hamblin, Robert A., xxx-xx-xxxx.
Hand, John W., xxx-xx-xxxx.
Hansell, Haywood S., III, xxx-xx-xxxx.
Hansen, Alfred G., xxx-xx-xxxx.
Hardin, Marion S., xxx-xx-xxxx.
Harlan, Maurice R., xxx-xx-xxxx.
Harrington, Lewis B., Jr., xxx-xx-xxxx.
Harris, Peter W., xxx-xx-xxxx.
Harvill, Preston S., Jr., xxx-xx-xxxx.
Hatch, Monroe W., Jr., xxx-xx-xxxx.
Haynie, John M., xxx-xx-xxxx.
Heckel, Gayle D., xxx-xx-xxxx.
Helmich, Gerald R., xxx-xx-xxxx.
Henry, Richard L. W., xxx-xx-xxxx.
Herbert, John D., xxx-xx-xxxx.
Herrmann, Armin F., Jr., xxx-xx-xxxx.
Hess, Robert C., xxx-xx-xxxx.
Higgins, Harry E., xxx-xx-xxxx.
Hilland, Richard W., xxx-xx-xxxx.
Hinterthan, Winfried W., xxx-xx-xxxx.
Hirsh, Leon S., Jr., xxx-xx-xxxx.
Hogg, Donald T., xxx-xx-xxxx.
Holden, Kenneth L., xxx-xx-xxxx.
Holt, William B., Jr., xxx-xx-xxxx.
Horton, Joseph R., xxx-xx-xxxx.
Hubbell, William M., xxx-xx-xxxx.
Huggins, Norman P., xxx-xx-xxxx.
Hughes, Vincent C., Jr., xxx-xx-xxxx.
Hunn, Van T., xxx-xx-xxxx.

Hunsuck, John D., [redacted].
Hunt, David A., [redacted].
Igelman, David D., [redacted].
Iverson, Alan R., [redacted].
Jacobs, Delbert H., [redacted].
Jacobs, Joseph H., [redacted].
James, Charles L., Jr., [redacted].
Jatras, George, [redacted].
Jaytroe, Julius S., [redacted].
Jenkins, Frank W., [redacted].
Jennings, James M., [redacted].
Johnson, Chandois H., [redacted].
Johnson, Donald S., [redacted].
Johnson, Edward H., [redacted].
Johnson, Edwin W., [redacted].
Johnston, Robert L., [redacted].
Jordan, Ralph M., Jr., [redacted].
Jorgensen, Royce U., [redacted].
Karalus, Peter H., [redacted].
Kay, Wayne G., [redacted].
Keck, Charles H., [redacted].
Keddington, Neil H., [redacted].
Kehoe, Peter P., [redacted].
Keith, Alton P., [redacted].
Kelly, James A., [redacted].
Kemler, Emory N., Jr., [redacted].
Kemmerling, Paul T., Jr., [redacted].
Kennebeck, George R., Jr., [redacted].
Kenney, Charles E., [redacted].
Kent, Richard B., [redacted].
Kibler, Ronald F., [redacted].
Kiefer, Richard J., [redacted].
King, George W., [redacted].
Kinney, James S., [redacted].
Kirby, Bobby A., [redacted].
Kirkpatrick, Kenneth A., [redacted].
Kirste, Milton R., [redacted].
Kishline, Samuel J., [redacted].
Kissinger, Forrest E., [redacted].
Kline, Gerald D., [redacted].
Klingensmith, Robert L., [redacted].
Korzep, David A., [redacted].
Kramer, Marvin L., [redacted].
Lang, Henry S., Jr., [redacted].
Lapos, Thomas J., [redacted].
Larimer, Walker A., [redacted].
Larsen, Larry J., [redacted].
Larson, Gerald D., [redacted].
Lawson, William E., III, [redacted].
Lawter, Owen R., [redacted].
Leal, Richard E., [redacted].
Ledbetter, Melvin N., [redacted].
Lee, James L., Jr., [redacted].
Lein, Larry L., [redacted].
Leroy, Ronald S., [redacted].
Leventen, George N., [redacted].
Littman, Mayer, [redacted].
Livers, Francis D., Jr., [redacted].
Lockley, Stanton G., [redacted].
Lodge, William G. S., [redacted].
Long, Joseph T., Jr , [redacted].
Loukota, Robert D., [redacted].
Love, Warren G., [redacted].
Lukens, Leland K., [redacted].
Lunnen, Ray J., Jr., [redacted].
Lurie, Alan P., [redacted].
Madison, Thomas M., [redacted].
Mahrt, Martin H., [redacted].
Makowski, Louis F., [redacted].
Mannion, Thomas J., Jr., [redacted].
Mansperger, Carl A., Jr., [redacted].
Maratos, Stanley G., [redacted].
Marcotte, Wayne W., [redacted].
Markey, John P., [redacted].
Marshall, Jerry E., [redacted].
Martin, Paul L., Jr., [redacted].
Martin, William C., [redacted].
Martini, Ralph J., [redacted].
Martino, Salvatore F., [redacted].
Masson, Richard W., [redacted].
Mathis, Paul C., [redacted].
Matters, Duane H., [redacted].
Matthew, Robert E., [redacted].
Maxwell, Samuel C., [redacted].
May, Donald M., [redacted].
McAdoo, William T., [redacted].
McCarthy, Francis J., Jr., [redacted].
McCartney, Robert R., [redacted].
McClelland, Lester C., [redacted].
McConnell, Anderson G., [redacted].
McCormick, William W., Jr., [redacted].
McFarlane, Raymond E., [redacted].
McGee, Edward V., [redacted].
McGroarty, Robert P., [redacted].
McIntosh, Daniel G., [redacted].
McKelvey, Robert D., [redacted].
McKenna, James L., [redacted].
McKone, John R., [redacted].
McLamb, Estel W., [redacted].
McLawhon, William A., [redacted].
McPherson, James K , [redacted].
McWilliams, William D., III, [redacted].
Meder, Paul C., [redacted].
Meisenheimer, Robert A., [redacted].
Mellerski, Robert A., [redacted].
Mellott, Lester R., Jr., [redacted].
Mendonca, Robert R., [redacted].
Merrell, Alfred L., [redacted].
Meyer, Albert D., [redacted].
Meyer, Richard L., [redacted].
Meyers, Thomas R., [redacted].
Mieth, Ivan G., [redacted].
Milanovich, Nicholas G., [redacted].
Milburn, Richard A., [redacted].
Miles, Percy W., Jr., [redacted].
Miller, Gene A., [redacted].
Miller, John B., Jr., [redacted].
Miller, Ralf M., [redacted].
Miller, Robert J., [redacted].
Millhaem, Robert N., [redacted].
Milton, Hugh M., III, [redacted].
Mobley, Billy M., [redacted].
Monahan, George L., Jr., [redacted].
Monk, James G., [redacted].
Montgomery, Robert L., [redacted].
Moore, Thomas L., [redacted].
Morgan, Herschel S., [redacted].
Morris, Jack, [redacted].
Moser, John T., [redacted].
Moses, Kenneth H., [redacted].
Mrak, Steve V., [redacted].
Muskat, Michael S., [redacted].
Nanning, Ronald L., [redacted].
Nash, John G., [redacted].
Nelson, James W., [redacted].
Nelson, Richard L., [redacted].
Neubeck, Francis G., [redacted].
Newton, Tyree H., [redacted].
Nichols, David L., [redacted].
Nichols, Ray E., [redacted].
Nickerson, Ronald E., [redacted].
Nicolos, Peter K., [redacted].
Noble, Richard J., [redacted].
Norman, Bobby L., [redacted].
Norton, Fred I., Jr., [redacted].
Nowakowski, Anthony J., [redacted].
Nowland, Benoni, IV, [redacted].
Nunenkamp, Max T., [redacted].
Nunley, Billy F., [redacted].
O'Brien, Harry T., [redacted].
Odgers, Peter W., [redacted].
O'Halloran, Leo D., Jr., [redacted].
Oldroyd, David A., [redacted].
Oliver, Robert L., [redacted].
Olson, Donald C., [redacted].
Oppel, Albert F., [redacted].
Ostrominski, John, [redacted].
Overacker, William E., [redacted].
Overall, Douglas, [redacted].
Owen, James M., [redacted].
Paquette, Eugene E., [redacted].
Parker, John D., [redacted].
Parker, Robert E., [redacted].
Parrish, John A., Jr., [redacted].
Partridge, James D., [redacted].
Passi, Henry R., [redacted].
Peek, Kenneth L., Jr., [redacted].
Pennington, David J., [redacted].
Perroots, Leonard H., [redacted].
Peschel, Franklin D., [redacted].
Peter, Robert A., [redacted].
Peterson, Donald H., [redacted].
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Petrak, Herbert G., [redacted].
Petrich, Paul J., [redacted].
Petrie, Russell G., [redacted].
Petty, John Jimmy C., [redacted].
Phillips, Robert S., [redacted].
Pickett, Thomas J., Jr., [redacted].
Pickitt, John L., [redacted].
Piotrowski, John L., [redacted].
Pirkey, Frederick E., [redacted].
Polk, Adrian V., [redacted].
Pollard, Ben M., [redacted].
Poncar, Jerry V., [redacted].
Poole, George W., [redacted].
Poore, Walter H., [redacted].
Poppe, Robert T., [redacted].
Porter, William C., [redacted].
Potter, Norwood W., [redacted].
Powell, Lee R., [redacted].
Price, Clark T., [redacted].
Prince, Philip S., [redacted].
Pritchett, Larry W., [redacted].
Prophett, Abner, [redacted].
Pruden, Albert L., Jr., [redacted].
Pugh, Charles E., [redacted].
Purcell, Robert B., [redacted].
Putney, Robert F., [redacted].
Pyatt, Robert C., [redacted].
Raley, David E., [redacted].
Randolph, Bernard P., [redacted].
Rawie, Carl W., [redacted].
Ray, Don R., [redacted].
Rea, Chalmers F., [redacted].
Reed, Norman E., [redacted].
Reese, Clyde H., [redacted].
Reid, James E., [redacted].
Reilly, James J., [redacted].
Rice, Tommy E., [redacted].
Richards, Frank D., [redacted].
Riede, Philip J., [redacted].
Riley, William H., [redacted].
Ripley, Roy L., [redacted].
Roades, Charles W., [redacted].
Robb, Wesley E., [redacted].
Roberts, Lionel W., [redacted].
Robinett, Eugene D., [redacted].
Robinson, Lynn F., [redacted].
Roehm, Earl B., [redacted].
Roesner, Arlie K., [redacted].
Rogers, Albert G., [redacted].
Rogers, James K., [redacted].
Rohrlick, Myes A., [redacted].
Roth, Charles A., [redacted].
Roth, William E., [redacted].
Rubeor, Russel G., [redacted].
Rule, Ronald E., [redacted].
Rumsey, Edwin F., [redacted].
Russ, Robert D., [redacted].
Russell, Howland S., [redacted].
Sanders, James D., [redacted].
Sandstrom, Jack H., [redacted].
Sawyer, Thomas W., [redacted].
Shick, Donald E., Jr., [redacted].
Schildknecht, Richard L., [redacted].
Schmidt, John B., [redacted].
Schwankl, Gerald C., [redacted].
Schweitz, Thomas E., [redacted].
Scott, Martin R., [redacted].
Sears, Thomas B., [redacted].
Seborg, Earnest H., [redacted].
Secord, Richard V., [redacted].
Selph, Clayton L., [redacted].
Seminare, Louis E., Jr., [redacted].
Senn, Charles H., [redacted].
Sensabaugh, Gerald R., Jr., [redacted].
Sessa, Patrick C., [redacted].
Setlow, Andrew D., [redacted].
Shaleski, Reginald W., [redacted].
Sharkey, Byron L. [redacted].
Sheffield, Richard E., [redacted].
Shelton, Franklin D., [redacted].
Sheppard, Jack W. [redacted].
Simm Robert K., [redacted].
Simmons, Thomas N., [redacted].
Simmons, Walter B., Jr., [redacted].
Skinner, Owen G., [redacted].
Skipton, Charles P., [redacted].
Skorepa, Ronald J., [redacted].
Small, John W., [redacted].
Small, Leland F., [redacted].
Smith, Bealus A., Jr., [redacted].
Smith, Carl R., [redacted].
Smith, Donald F., [redacted].
Smith, Melvin R., [redacted].
Smith, Merlin C., Jr., [redacted].

Smyth, Robert T., xxx-xx-xxxx.
Snavely, Richard C., xxx-xx-xxxx.
Sniegowski, John W., xxx-xx-....
Snowden, Richard M., xxx-xx-xxxx.
Solomon, Howard N., xxx-xx-xxxx.
Springston, Theodore, Jr., xxx-xx-xxxx.
Stanton, Joseph S., Jr., xxx-xx-xxxx.
Stefanelli, Mario J., xxx-xx-xxxx.
Stihl, John T., xxx-xx-xxxx.
Stinson, James E., xxx-xx-xxxx.
Stischer, Walter M., xxx-xx-xxxx.
Strain, Robert B., xxx-xx-xxxx.
Strait, Ernest D., xxx-xx-xxxx.
Straub, Edward C., xxx-xx-xxxx.
Strotman, Bruce D., xxx-xx-xxxx.
Stuart, Robert H., xxx-xx-xxxx.
Stuart, Theodore W. A., Jr., xxx-xx-xxxx.
Stull, Rondall H., xxx-xx-xxxx.
Sugg, Lem D., Jr., xxx-xx-xxxx.
Sullivan, Dwight E., xxx-xx-xxxx.
Sullivan, Robert M., Jr., xxx-xx-xxxx.
Summers, Clarence S., Jr., xxx-xx-xxxx.
Suther, John A., xxx-xx-xxxx.
Sutton, Stephen L., xxx-xx-xxxx.
Swalm, Thomas S., xxx-xx-xxxx.
Swett, Ben H., xxx-xx-xxxx.
Taft, Gene E., xxx-xx-xxxx.
Talley, Dorsey J., xxx-xx-xxxx.
Talley, William H., xxx-xx-xxxx.
Tanner, James L., xxx-xx-xxxx.
Taylor, Billie J., xxx-xx-xxxx.
Taylor, Donald M., xxx-xx-xxxx.
Terry, Andrew G., Jr., xxx-xx-xxxx.
Thomas, Floyd L., xxx-xx-xxxx.
Thomas, Leland C., xxx-xx-xxxx.
Thompson, Thomas C., xxx-xx-xxxx.
Thornton, John D., Jr., xxx-xx-xxxx.
Thornton, William L., xxx-xx-xxxx.
Tidwell, Marion F., xxx-xx-xxxx.
Tolbert, William T., xxx-xx-xxxx.
Tomes, Jack H., xxx-xx-xxxx.
Toyen, Robert L., xxx-xx-xxxx.
Troop, Richard W., xxx-xx-xxxx.
Tuttle, George G., xxx-xx-xxxx.
Uher, Edward L., xxx-xx-xxxx.
Underwood, David B., xxx-xx-xxxx.
Usher, William R., xxx-xx-xxxx.
Utley, Russel K., xxx-xx-xxxx.
Valentine, Robert T., xxx-xx-xxxx.
Vandenberg, Duane E., xxx-xx-xxxx.
Vernon, Roland M., xxx-xx-xxxx.
Vickery, John D., xxx-xx-xxxx.
Vitori, Theodore E., xxx-xx-xxxx.
Voelker, Robert G., xxx-xx-xxxx.
Waddill, Roger G., xxx-xx-xxxx.
Waddle, Bobby G., xxx-xx-xxxx.
Wagoner, Paul D., xxx-xx-xxxx.
Walker, Norman B., xxx-xx-xxxx.
Wallace, Richard S., xxx-xx-xxxx.
Waltman, Donald G., xxx-xx-xxxx.
Ward, Brien D., xxx-xx-xxxx.
Ward, Ronald J., xxx-xx-xxxx.
Wargowsky, Richard G., xxx-xx-xxxx.
Warloe, Roger O., xxx-xx-xxxx.
Warner, Morris T., Jr., xxx-xx-xxxx.
Watson, John T., xxx-xx-xxxx.
Webster, Donald N., xxx-xx-xxxx.
Weiner, Arthur C., xxx-xx-xxxx.
Welch, Larry D., xxx-xx-xxxx.
West, David A., xxx-xx-xxxx.
West, Jerry G., xxx-xx-xxxx.
Westcott, Russel G., Jr., xxx-xx-xxxx.
Wetmore, Bruce B., xxx-xx-xxxx.
Wetzel, Richard W., xxx-xx-xxxx.
Wharton, Browning C., Jr., xxx-xx-xxxx.
White, Dawson N., xxx-xx-xxxx.
Whitten, William E., xxx-xx-xxxx.
Whitwell, Franklin C., xxx-xx-xxxx.
Wilkinson, Thomas C., xxx-xx-xxxx.
Will, Jimmy D., xxx-xx-xxxx.
Williams, Jimmy R., xxx-xx-xxxx.
Williamson, John W., xxx-xx-xxxx.
Winkler, John L., Sr., xxx-xx-xxxx.
Winner, Donn C., xxx-xx-xxxx.
Winston, Donald K., xxx-xx-xxxx.
Witzig, Herman R., xxx-xx-xxxx.
Wolf, Richard H., xxx-xx-xxxx.
Wolfkeil, Wayne B., xxx-xx-xxxx.
Wolford, Leland, xxx-xx-xxxx.
Wood, Barry O., xxx-xx-xxxx.
Wood, Don C., xxx-xx-x....
Wood, Floyd D., xxx-xx-xxxx.
Wootton, Wayne F., xxx-xx-....
Wright, Chris D., xxx-xx-....
Wright, Clifton D., Jr., xxx-xx-xxxx.
Yancey, Kenneth E., Jr., xxx-xx-xxxx.
Yates, Donald R., xxx-xx-xxxx.
Yeager, Jerry L., xxx-xx-xxxx.
Yoder, Robert D., xxx-xx-xxxx.
Zienert, Clarence E., xxx-xx-xxxx.

DENTAL CORPS

Butz, Donald J., xxx-xx-xxxx.
Charron, Thomas W., xxx-xx-xxxx.
Fowler, James A., Jr., xxx-xx-xxxx.
Greer, George T. xxx-xx-xxxx.
Mary, George G., xxx-xx-xxxx.
Morse, Donald P. xxx-xx-xxxx.
Nadeau, James E., xxx-xx-xxxx.
Ohara, James W., Jr., xxx-xx-xxxx.
Rinaldi, Phillip G., xxx-xx-xxxx.
Rogers, James H., xxx-xx-xxxx.
Sarka, Robert J., xxx-xx-xxxx.
Scott, Robert H., xxx-xx-xxxx.
Seamons, Dick C., xxx-xx-xxxx.
Stephens, Osc W., III, xxx-xx-xxxx.

JUDGE ADVOCATE

Early, William N., xxx-xx-xxxx.
Keenan, Thomas P., Jr., xxx-xx-xxxx.
Murphy, John T., xxx-xx-xxxx.
Peyser, Daniel B., xxx-xx-xxxx.
Reimer, Gary B., xxx-xx-xxxx.
Teagarden, C. C., xxx-xx-xxxx.
Trout, Richard G., xxx-xx-xxxx.

MEDICAL CORPS

Allman, Robert M., xxx-xx-xxxx.
Barnes, Walter C., Jr., xxx-xx-xxxx.
Curtis, Kenneth W., Jr., xxx-xx-xxxx.
Downs, Spencer R., xxx-xx-xxxx.
Ferguson, Emmett B., Jr., xxx-xx-....
Flint, John S., xxx-xx-xxxx.
Gambrell, Richard D., Jr., xxx-xx-xxxx.
Hayes, Frank W., xxx-xx-xxxx.
Hermann, Elmer R., Jr., xxx-xx-xxxx.
Jennings, James F., xxx-xx-xxxx.
Johnson, Willard L., Jr., xxx-xx-xxxx.
Jones, Otis W. xxx-xx-....
Kitching, Gilbert E., xxx-xx-xxxx.
Laporte, Donald J., xxx-xx-xxxx.
Martinezoferrall, Jose A., xxx-xx-xxxx.
Neal, Joseph A., xxx-xx-xxxx.
Nonas, Constantine J., xxx-xx-xxxx.
Perry, Carlos J. G., xxx-xx-xxxx.
Poel, Robert W., xxx-xx-xxxx.
Richardson, Jesse F., xxx-xx-xxxx.
Sloan, Alexander M., xxx-xx-xxxx.
Smith, Oren R., Jr., xxx-xx-xxxx.
Wachs, Theodore J., xxx-xx-xxxx.
Warren, Bruce H., xxx-xx-xxxx.
Zimmerman, Frank W., Jr., xxx-xx-xxxx.

NURSE CORPS

Beard, Sarah E., xxx-xx-xxxx.
Greene, Mary B., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

Gildner, John L., xxx-xx-xxxx.
Mansfield, William P., Jr., xxx-xx-xxxx.
Martino, Charles W., xxx-xx-xxxx.
Mugford, Frank M., xxx-xx-xxxx.
Rosenthal, Harry xxx-xx-xxxx.

VETERINARY CORPS

Carter, Vernon L., Jr., xxx-xx-xxxx.

BIOMEDICAL SCIENCES CORPS

Buchwald, Frank C., xxx-xx-xxxx.
Choisser, Donald C., xxx-xx-xxxx.
Manor, Filomena R., xxx-xx-xxxx.
Pilmer, Richard B., xxx-xx-xxxx.

CHAPLAINS

Hunt, Mansfield E., xxx-xx-xxxx.
Mattimore, William F., Jr., xxx-xx-xxxx.
Rasberry, John E., xxx-xx-xxxx.

The following officer for reappointment to the active list of the Regular Air Force in the grade indicated, under the provisions of sections 1210 and 1211, title 10, United States Code.

LINE OF THE AIR FORCE

To be major

Taylor, Lawrence H., xxx-xx-xxxx.

IN THE AIR FORCE

The following cadets, U.S. Air Force Academy, for appointment in the Regular Air Force in the grade of second lieutenant, effective upon their graduation, under the provisions of section 8284 and 9353, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force:

Ackley, Michael R., xxx-xx-xxxx.
Acton, Steven D., xxx-xx-xxxx.
Adams, Michael D., xxx-xx-xxxx.
Adler, Robert C., xxx-xx-xxxx.
Albert, John L., xxx-xx-xxxx.
Allen, Martin W., xxx-xx-....
Almand, Todd L., xxx-xx-xxxx.
Alston, C. D., xxx-xx-xxxx.
Anderlitch, Robert H., xxx-xx-xxxx.
Anderson, Andy L., xxx-xx-xxxx.
Anderson, Scott G., xxx-xx-xxxx.
Anderson, Steven C., xxx-xx-xxxx.
Ankenbauer, Theodore R., xxx-xx-xxxx.
Anthony, John F., Jr. xxx-xx-xxxx.
Antoniazzi, Robert V., xxx-xx-xxxx.
Antozzi, Timothy B., xxx-xx-xxxx.
Apfel, Mark E., xxx-xx-xxxx.
Ardo, Gary M., xxx-xx-xxxx.
Armstrong, Curtis A., xxx-xx-xxxx.
Arnold, James E., xxx-xx-xxxx.
Aronson, Daniel O., xxx-xx-xxxx.
Asbell, Stephen R., xxx-xx-xxxx.
Atzhorn, David, xxx-xx-xxxx.
Aulicino, Emerick O., xxx-xx-xxxx.
Ausserer, Michael F., xxx-xx-xxxx.
Avery, Donald R., xxx-xx-xxxx.
Avery, Thomas G., xxx-xx-xxxx.
Babcock, Steven L., xxx-xx-xxxx.
Baier, Ken B., xxx-xx-xxxx.
Bailey, Thomas G., xxx-xx-xxxx.
Baird, Jason, xxx-xx-xxxx.
Baker, Glenn A., xxx-xx-xxxx.
Baker, Scott M., xxx-xx-xxxx.
Ball, Thomas A., xxx-xx-xxxx.
Baltmiskis, Gregory G., xxx-xx-xxxx.
Bame, Gerald L., Jr., xxx-xx-xxxx.
Barker, Richard W., xxx-xx-xxxx.
Barlow, Douglas N., xxx-xx-xxxx.
Barr, Samuel J., xxx-xx-xxxx.
Barrett, Stephen C., xxx-xx-xxxx.
Barrett, Terence E., xxx-xx-xxxx.
Barry, John C., xxx-xx-xxxx.
Bartels, Kyle M., xxx-xx-xxxx.
Barton, Robert B., Jr., xxx-xx-xxxx.
Batinich, Gary M., xxx-xx-xxxx.
Baumann, James M., xxx-xx-xxxx.
Beck, Paul C., xxx-xx-xxxx.
Beck, Paul L., xxx-xx-xxxx.
Beery, Richard D., xxx-xx-xxxx.
Bell, Thomas D., xxx-xx-xxxx.
Bendorf, Craig V., xxx-xx-xxxx.
Benik, Francis E., xxx-xx-xxxx.
Benjamin, Douglas A., xxx-xx-xxxx.
Bennett, Douglas J., xxx-xx-xxxx.
Berg, Scott R., xxx-xx-xxxx.
Berger, Robert C., xxx-xx-xxxx.
Betz, John F., xxx-xx-xxxx.
Billman, Eddy R., xxx-xx-xxxx.
Bingham, Barry L., xxx-xx-xxxx.
Bisher, James F., Jr., xxx-xx-xxxx.
Black, Daniel N., xxx-xx-xxxx.
Blackwelder, Donald I., xxx-xx-xxxx.
Blazer, William H., xxx-xx-xxxx.
Bleikamp, Thomas K., xxx-xx-xxxx.
Blisk, David L., xxx-xx-xxxx.
Bloomfield Roy R., Jr., xxx-xx-xxxx.
Bogatschow, Roman, xxx-xx-xxxx.
Bolling, Kirk S., xxx-xx-xxxx.
Bonasso, Vincent G., xxx-xx-xxxx.
Bonin, Joseph J., xxx-xx-xxxx.
Boone, Frederick S., Jr. xxx-xx-xxxx.
Borish, Michael B., xxx-xx-xxxx.
Borter, Douglas F., xxx-xx-xxxx.
Bos, David L., xxx-xx-xxxx.
Boudreau Kent M., xxx-xx-xxxx.
Bourland, Walker B., xxx-xx-xxxx.
Bowman, Olen E., xxx-xx-xxxx.
Boyer, Keith D., Jr., xxx-xx-xxxx.

Brake, Jeffrey D., xxx-xx-xxxx.
Brantley, Mikel S., xxx-xx-xxxx.
Bravo, Jose R., xxx-xx-xxxx.
Bray, Timothy S., xxx-xx-xxxx.
Breland, Gregory D., xxx-xx-xxxx.
Bresley, William M., xxx-xx-xxxx.
Breunling, Randy B., xxx-xx-xxxx.
Briand, Daniel, xxx-xx-xxxx.
Briggs, Dana L., xxx-xx-xxxx.
Brininstool, Charles M., xxx-xx-xxxx.
Bristow, Brent L., xxx-xx-xxxx.
Broberg, Robert C., xxx-xx-xxxx.
Bronder, Thomas J., xxx-xx-xxxx.
Brown, Curtis L., Jr., xxx-xx-xxxx.
Brown, David A., xxx-xx-xxxx.
Brown, Eric M., xxx-xx-xxxx.
Brown, Kevin D., xxx-xx-xxxx.
Brown, Mark P., xxx-xx-xxxx.
Brown, Mitchel E., xxx-xx-xxxx.
Brown, Russel B., xxx-xx-xxxx.
Bruce, Edward R., xxx-xx-xxxx.
Bruggemeyer, Mark E., xxx-xx-xxxx.
Brumgard, Merle E., Jr., xxx-xx-xxxx.
Buehler, Howard P., xxx-xx-xxxx.
Bullard, Thomas G., xxx-xx-xxxx.
Bunecke, Joseph, xxx-xx-xxxx.
Buona, Ralph M., xxx-xx-xxxx.
Burg, Roger W., xxx-xx-xxxx.
Burton, Ronnie A., xxx-xx-xxxx.
Bush, Gregory J., xxx-xx-xxxx.
Bushell, Mark W., xxx-xx-xxxx.
Busheme, David M., xxx-xx-xxxx.
Butler, Barry L., xxx-xx-xxxx.
Byerley, Aaron R., xxx-xx-xxxx.
Cabriales, Gary M., xxx-xx-xxxx.
Callegari, Brian A., xxx-xx-xxxx.
Campbell, William M., xxx-xx-xxxx.
Cannon, Alan W., xxx-xx-xxxx.
Cantrell, Frank P., Jr., xxx-xx-xxxx.
Capasso, Paul F., xxx-xx-xxxx.
Caplinger, Raymond H., xxx-xx-xxxx.
Carbaugh, David C., xxx-xx-xxxx.
Carel, James B., xxx-xx-xxxx.
Carlisle, Herbert J., xxx-xx-xxxx.
Carlson, Brad L., xxx-xx-xxxx.
Carpenter, Charles H., Jr., xxx-xx-xxxx.
Carpenter, Joe V., Jr., xxx-xx-xxxx.
Carrier, Delos D., xxx-xx-xxxx.
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Peterson, Gregory J., xxx-xx-xxxx.
Peterson, John C., Jr. xxx-xx-xxxx.
Peth, David K., xxx-xx-xxxx.
Petrella, Edward F., xxx-xx-xxxx.
Pfeifer, David A., xxx-xx-xxxx.
Phelps, Michael J., xxx-xx-xxxx.
Phillips, David W., xxx-xx-xxxx.
Phillips, Horace D., xxx-xx-xxxx.
Phipps, Joseph W., Jr., xxx-xx-xxxx.
Pierson, Wayne J., xxx-xx-xxxx.
Pitou, Michael C., xxx-xx-xxxx.
Plavney, Daniel, xxx-xx-xxxx.
Polski, James R., xxx-xx-xxxx.
Poorman, Douglas A., xxx-xx-xxxx.
Popovich, Philip T., xxx-xx-xxxx.
Porter, Kirk R., xxx-xx-xxxx.
Postulka, Gregory M., xxx-xx-xxxx.
Pozycki, Mark B., xxx-xx-xxxx.
Preusser, Terry L., xxx-xx-xxxx.
Prodanovich, Tomislav M., xxx-xx-xxxx.
Proffit, Dean A., III, xxx-xx-xxxx.
Prusak, Kenneth A., xxx-xx-xxxx.
Puffenbarger, John E., xxx-xx-xxxx.
Puhek, James, xxx-xx-xxxx.
Puls, Steven J., xxx-xx-xxxx.
Purcell, Carlton E., Jr., xxx-xx-xxxx.
Pyzdrowski, John E., xxx-xx-xxxx.
Quigley, Patrick C., xxx-xx-xxxx.
Quimby, Curtis R., xxx-xx-xxxx.
Quinn, Michael J., xxx-xx-xxxx.
Raaberg, Douglas L., xxx-xx-xxxx.
Rachocki, Kenneth D., xxx-xx-xxxx.
Rader, David J., xxx-xx-xxxx.
Ramos, James J., xxx-xx-xxxx.
Randall, Allan E., xxx-xx-xxxx.
Rank, Kevin A., xxx-xx-xxxx.
Raspberry, James D., xxx-xx-xxxx.
Read, Rande S., xxx-xx-xxxx.
Reaser, Richard L., Jr. xxx-xx-xxxx.
Reed, Randall C., xxx-xx-xxxx.
Reeves, Richard R., Jr., xxx-xx-xxxx.
Reheiser, Joseph M., xxx-xx-xxxx.
Rehwaldt, Robert J., II, xxx-xx-xxxx.
Renelt, Mark W., xxx-xx-xxxx.
Reusche, Barry S., xxx-xx-xxxx.
Reyes, Alan C. xxx-xx-xxxx.
Reynes, Joseph, Jr., xxx-xx-xxxx.
Rice, Dawrence W., xxx-xx-xxxx.
Rice, Edward A., Jr., xxx-xx-xxxx.
Richards, Mark A., xxx-xx-xxxx.
Richardson, Anthony, xxx-xx-xxxx.
Richardson, Mark H., III, xxx-xx-xxxx.
Richardson, William S., xxx-xx-xxxx.
Riggins, Archie S., III, xxx-xx-xxxx.
Ritchey, Leonard M., xxx-xx-xxxx.
Robichaux, Leonard M., xxx-xx-xxxx.
Rodgers, Douglas C., xxx-xx-xxxx.
Rodriguez, Mark A., xxx-xx-xxxx.
Roetzel, David M., xxx-xx-xxxx.
Rogers, Shelley S., xxx-xx-xxxx.
Rogge, Gregory D., xxx-xx-xxxx.
Romo, Lawrence G., xxx-xx-xxxx.
Roper, Kevin M., xxx-xx-xxxx.
Rosenberry, Donald L., xxx-xx-xxxx.
Rosepink, Ronald K., xxx-xx-xxxx.
Ross, Charles E., xxx-xx-xxxx.
Roush, Ted A., xxx-xx-xxxx.
Rowland, James E., xxx-xx-xxxx.
Roy, Donald L., xxx-xx-xxxx.
Rubalcaba, Jimmey W., xxx-xx-xxxx.
Rubeor, Thomas J., xxx-xx-xxxx.
Rubin, Thomas W., xxx-xx-xxxx.
Russell, Andrew P., xxx-xx-xxxx.
Sabol, Marshall K., xxx-xx-xxxx.
Sager, Frederick S., xxx-xx-xxxx.
Salmon, Douglas B., xxx-xx-xxxx.
Salter, Douglas A., xxx-xx-xxxx.
Sandlin, David W., Jr., xxx-xx-xxxx.
Sargeant, Stephen T., xxx-xx-xxxx.
Sarnacki, Barry J., xxx-xx-xxxx.
Sartor, Gregory P., xxx-xx-xxxx.
Savage, Paul W., xxx-xx-xxxx.
Schaeuble, Jan R., xxx-xx-xxxx.
Schafer, John A., xxx-xx-xxxx.
Scharrenberg, Mark W., xxx-xx-xxxx.
Schauffert, William F., xxx-xx-xxxx.
Scheller, Wayne A., xxx-xx-xxxx.
Schick, Daniel B., xxx-xx-xxxx.
Schlichting, James A., xxx-xx-xxxx.
Schlotterbeck, Glen R., xxx-xx-xxxx.
Schneeberger, Thomas R., xxx-xx-xxxx.
Schopper, Kenneth H. xxx-xx-xxxx.
Schow, Kenneth C., Jr., xxx-xx-xxxx.
Schrag, Douglas L., xxx-xx-xxxx.
Schuenemeyer, Kenneth R., xxx-xx-xxxx.
Schuler, Mark A., xxx-xx-xxxx.
Schulze, Gregory A., xxx-xx-xxxx.
Schumacher, Steven J., xxx-xx-xxxx.
Schwartz, Philip H., xxx-xx-xxxx.
Schwartz, Ronald C., xxx-xx-xxxx.
Schwarzenbach, Daniel L., xxx-xx-xxxx.
Scott, Brian W., xxx-xx-xxxx.
Scott, Charles E., III, xxx-xx-xxxx.
Scott, David ., xxx-xx-xxxx.
Searfoss, Richard A., xxx-xx-xxxx.
Seifert, Craig A., xxx-xx-xxxx.
Self, Kip, L., xxx-xx-xxxx.
Selinka, Thomas, xxx-xx-xxxx.
Senn, William T., III, xxx-xx-xxxx.
Sewell, Donald P., xxx-xx-xxxx.
Shagena, David B., xxx-xx-xxxx.
Shaw, Charles S., xxx-xx-xxxx.
Shaw, Scott A., xxx-xx-xxxx.
Shaw, Williams J., xxx-xx-xxxx.
Shaw, William M., III, xxx-xx-xxxx.
Sheahan, Thomas W., xxx-xx-xxxx.
Sheedy, James F., xxx-xx-xxxx.
Shinn, Thomas B., xxx-xx-xxxx.
Shirley, Gary M., xxx-xx-xxxx.
Shockey, Peter A., xxx-xx-xxxx.
Shook, Richard A., Jr. xxx-xx-xxxx.
Shores, Thomas M., xxx-xx-xxxx.
Silenzi, Silvio N., xxx-xx-xxxx.
Silvestri, Willim D., xxx-xx-xxxx.
Simmons, Daniel R., xxx-xx-xxxx.
Simons, James T., Jr., xxx-xx-xxxx.
Sink, Jerry T., xxx-xx-xxxx.
Skolaut, Paul M., xxx-xx-xxxx.
Slee, Don H., xxx-xx-xxxx.
Slick, Steven H., xxx-xx-xxxx.
Sligar, Steven B., xxx-xx-xxxx.
Sligar, William G., xxx-xx-xxxx.
Slizeski, Robert J., xxx-xx-xxxx.
Sloan, Neal C., xxx-xx-xxxx.
Sloan, Shawn K., xxx-xx-xxxx.
Smith, Charles F., xxx-xx-xxxx.
Smith, Christopher D., xxx-xx-xxxx.
Smith, Dorian W., xxx-xx-xxxx.
Smith, Kevin J., xxx-xx-xxxx.
Smith, Lance D., xxx-xx-xxxx.
Smith, Michael L., xxx-xx-xxxx.
Smith, Nevin E., Jr. xxx-xx-xxxx.
Smith, Robert G., xxx-xx-xxxx.
Smith, Scott J., xxx-xx-xxxx.
Smith, Stephen W., xxx-xx-xxxx.
Sneed, David W., xxx-xx-xxxx.
Snively, Scott R., xxx-xx-xxxx.
Snodgrass, Michael A., xxx-xx-xxxx.
Snoy, Phillip J., xxx-xx-xxxx.
Snyder, David M., xxx-xx-xxxx.
Snyder, John D., xxx-xx-xxxx.
Snyder, Steven R., xxx-xx-xxxx.
Sonson, Charles V., xxx-xx-xxxx.
Sorrell, Thomas L., xxx-xx-xxxx.
Spain, Michael J., xxx-xx-xxxx.
Spears, Glenn F., xxx-xx-xxxx.
Spendley, Frank D., xxx-xx-xxxx.
Speziale, Salvatore, xxx-xx-xxxx.
Sponable, Jess M., xxx-xx-xxxx.
Stack, Trevor J., xxx-xx-xxxx.
Stahl, James J., xxx-xx-xxxx.
Stahl, Richard C., xxx-xx-xxxx.
St. Clair, Daniel J., xxx-xx-xxxx.
Steel, Robert P., xxx-xx-xxxx.
Stephens, Gary W., xxx-xx-xxxx.
Sterrett, John D., Jr., xxx-xx-xxxx.
Stewart, James H., II, xxx-xx-xxxx.
Stewart, Moses J., xxx-xx-xxxx.
Stgelais, Ernest C., xxx-xx-xxxx.
Stiles, Charles W., xxx-xx-xxxx.
Storie, Gary A., xxx-xx-xxxx.
Stough, Jeffrey R., xxx-xx-xxxx.
Strom, Randie A., xxx-xx-xxxx.
Strong, Gordon R., xxx-xx-xxxx.
Summers, Victor B., xxx-xx-xxxx.
Sviba, John F., xxx-xx-xxxx.
Swarsbrook, John R., xxx-xx-xxxx.
Swigonski, Mark S., xxx-xx-xxxx.
Sykes, John P. xxx-xx-xxxx.
Tait, Ronald M., xxx-xx-xxxx.
Takahara, Stuart E., xxx-xx-xxxx.
Talbot, Neal B., xxx-xx-xxxx.
Taliaferro, William C., xxx-xx-xxxx.
Taylor, Timothy J., xxx-xx-xxxx.
Temple, David J., xxx-xx-xxxx.
Terry, Richard L., xxx-xx-xxxx.
Thacker, Thomas H., xxx-xx-xxxx.
Therrien, Sam C., xxx-xx-xxxx.
Thomae, Carl J., xxx-xx-xxxx.
Thompson, Edward A., xxx-xx-xxxx.
Thompson, Eric M., xxx-xx-xxxx.
Thompson, Mark A., xxx-xx-xxxx.
Thompson, Stephen J., xxx-xx-xxxx.
Thompson, William D., xxx-xx-xxxx.
Thornton, Robert G., xxx-xx-xxxx.
Tindal, Steven R., xxx-xx-xxxx.
Torchia, Linden J., xxx-xx-xxxx.
Tovrea, Gaylen L. xxx-xx-xxxx.
Treadway, James D., xxx-xx-xxxx.
Trinka, James A., xxx-xx-xxxx.
Troemel, Benjamin H., Jr., xxx-xx-xxxx.
Tronsor, Jeffrey D., xxx-xx-xxxx.
Troy, William L., III, xxx-xx-xxxx.
Truex, Theodore L., xxx-xx-xxxx.

Trujillo, Alexander, [redacted].
Tseronis, Peter S., [redacted].
Turner, Scott H., [redacted].
Twohig, Thomas F., [redacted].
Umberger, William M., Jr., [redacted].
Undhjem, Lance D., [redacted].
Unger, David M., [redacted].
Usher, Steven C., [redacted].
Ust, Carl S., [redacted].
Valdivia, Michael A., Jr., [redacted].
Valle, Charles N., [redacted].
Valovcin, Paul, [redacted].
Vance, William B., [redacted].
Vanderpool, Gary C., Jr., [redacted].
Vanhaastert, Robert G., [redacted].
Vansteenwyk, Matthew D., [redacted].
Vaughn, Robert J., [redacted].
Vergaro, Peter J., [redacted].
Verstegen, Michael D., [redacted].
Vorwald, Frank G., [redacted].
Wagner, Robert J., [redacted].
Wainscott, Stuart B., [redacted].
Waldo, Jeffrey R., [redacted].
Walker, Stephen D., [redacted].
Wallace, Richard L., [redacted].
Waltman, Theodore J., [redacted].
Wambsganss, Michael C., [redacted].
Warton, George B., II, [redacted].
Waters, David B., [redacted].
Watt, Herbert, [redacted].
Watts, Robert M., [redacted].
Weida, Johnny A., [redacted].
Weidmann, James M., [redacted].
Weiss, Jonathan M., [redacted].
Weller, George P., [redacted].
Wells, Lawrence L., [redacted].
Wellsfry, John L., [redacted].
Wenrich, Robert C., [redacted].
Wentzell, Douglas R., [redacted].
Werthmann, Mark M., [redacted].
Wetlesen, David C., [redacted].
Wheble, Peter E., [redacted].
Wheeler, Derek P., [redacted].
Wheelock, Robert E., Jr., [redacted].
Whidden, James F., II, [redacted].
Whitbeck, Dyke H., [redacted].
White, Gary M., [redacted].
Whitehair, Thomas J., [redacted].
Whitehouse, Stephen R., [redacted].
Whitlow, Douglas A., [redacted].
Whitt, John J., [redacted].
Whyte, Michael M., [redacted].
Wilcox, Vincent S., [redacted].
Wilkinson, Keith M., [redacted].
Wilkinson, Mark S., [redacted].
Williams, Michael B., [redacted].
Williams, Paul W., [redacted].
Williams, William L., II, [redacted].
Williamson, Michael A., [redacted].
Willis, Joseph G., [redacted].
Winninger, David A., [redacted].
Winkopp, John J., III, [redacted].
Winter, Andrew C., II, [redacted].
Wise, Michael L., [redacted].
Wisniewski, Vincent P., [redacted].
Witt, Carlton M., [redacted].
Wohl, Barton H., [redacted].
Wolters, Timothy L., [redacted].
Womack, William P., [redacted].
Wong, Marshall L., [redacted].
Woodfork, Isaac K., [redacted].
Woody, Bill A., [redacted].
Workman, Carl E., Jr., [redacted].
Worley, Robert M., II, [redacted].
Worthington, Joseph A., III, [redacted].
Wrenn, Mark L., [redacted].
Wright, Michael A., [redacted].
Wynn, David M., [redacted].
Wynn, Mark S., [redacted].
Yamanaka, Dean S., [redacted].
Yeakel, Glenn S., [redacted].
Yearick, Patrick A., [redacted].
Yerkes, Frank A., Jr., [redacted].
Zamzow, Mark R., [redacted].
Zdeb, Keith D., [redacted].
Zeitz, Frederick H., III, [redacted].
Zenk, Michael A., [redacted].
Zielinski, Robert H., [redacted].
Zimowski, Peter F., [redacted].
Zink, Peter G., [redacted].
Zompetti, Anthony E., [redacted].

Executive nomination received by the Senate March 28, 1978, pursuant to the order of the Senate of March 23, 1978:

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Anita M. Miller, of California, to be a member of the board of trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1983, vice Jonathan Moore, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 3, 1978:

NATIONAL COUNCIL OF THE ARTS

The following-named persons to be members of the National Council on the Arts for the terms indicated:

For the remainder of the term expiring September 3, 1982:

Theodore Bikel, of Connecticut.

For a term of 6 years expiring January 26, 1984:

Maureen Dees, of Alabama.
Jacob Lawrence, of Washington.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE MARINE CORPS

The following-named officer under the provisions of title 10, United States Code, section 5202, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be general

Lt. Gen. Robert H. Barrow, [redacted], U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning James D. Sims, to be captain, and ending William M. Seward, Jr., to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 6, 1978.

IN THE ARMY

Army nominations beginning Salomon Abeyta, to be colonel, and ending Richard A. Brooks, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 6, 1978.

HOUSE OF REPRESENTATIVES—*Monday, April 3, 1978*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
April 3, 1978.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let not mercy and truth forsake you; bind them about your neck, write them on the tablet of your heart.—Proverbs 3: 3.

Spirit of life, in this new dawn,
Give us the faith that follows on,
Letting Thine all-pervading power
Fulfill the dream of this high hour.

Conscious of Your presence, our Father, and with the guidance of Your Spirit we face the tasks of this new week. Enable us so to commit our lives to You that we may have strength for daily duties and wisdom to serve our country with clear minds, warm hearts, and strong hands. Let not self-interest blind us to the higher good nor self-concern blot from our eyes the vision of truth nor self-seeking blur our concept of justice. Grant that we may have courage to stand up for the hard right lest we fall for the easy wrong.

Guided by You may our citizens live with good will for one another, may our Nation prosper, and may the nations get along together in peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 23, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on March 22, 1978, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 5383;

That the Senate insist upon its amendments to the bill H.R. 6782;

That the Senate passed without amendment H.R. 9169, H.R. 10982, H.R. 11055, and H.R. 11518;

That the Senate passed without amendment H.J. Res. 796; and

That the Senate passed S. 2452, an act to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett

McKinley Dirksen Congressional Leadership Research Center.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Wednesday, March 22, 1978, the Speaker did on Thursday, March 23, 1978, sign the following enrolled bills:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

H.R. 9169. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per cent of the actual or depreciated actual cost of each vessel.

H.R. 10982. An act to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974.

H.R. 11055. An act relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978 but attributable to 1977, and to extend for 1 year the existing treatment of State legislators' travel expenses away from home.

H.R. 11518. An act to extend the existing temporary debt limit.

H.J. Res. 796. Joint resolution making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 23, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received ir the Clerk's Office at 9:45 a.m. on Thursday, March 23, 1978, and said to contain a message from the President, wherein he transmits the 14th periodic report on the Progress in Negotiations of the Cyprus Conflict.

With kinds regards, I am,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

REPORT OF PROGRESS TOWARD NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–308)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by Public Law 94–104, this report describes the progress that has been made during the past sixty days towards a negotiated settlement on Cyprus.

In my last such report to the Congress, submitted on January 20, I outlined the continuing efforts that we and other nations have been making, in both bilateral and international meetings, to promote an early resumption of productive negotiations between the two Cypriot communities. I stressed that resolute action was still required, but still expressed the belief that we were moving in the right direction.

Since that time there have been developments of potential significance for Cyprus. Very shortly after his assumption of office on January 5, Turkish Prime Minister Ecevit publicly announced his intention to deal promptly and decisively with the outstanding foreign policy issues confronting his nation, prime among them being Cyprus. Ecevit acknowledged that a Cyprus settlement would be in Turkey's own best interests. "We want to see a rapid solution in Cyprus," he declared in a January 9 interview, "not because the U.S. or other friendly countries want it, but because it will be for the benefit of all Cyprus and for the benefit of peace in the region." Subsequently, in both public statements and private conversations, Prime Minister Ecevit said that he hoped negotiations between the communities would soon resume, and he declared that the Turkish side would submit concrete proposals on both the constitutional and territorial aspects of the issue.

United Nations Secretary General Waldheim visited Ankara, Athens and Nicosia between January 8 and 18. The Secretary General was apparently encouraged by his conversations with President Kyprianou, Prime Ministers Ecevit and Caramanlis, and Turkish Cypriot leader Denktash, and afterwards said that it might be possible to reconvene the stalled Cyprus intercommunal talks sometime early in the spring.

My Administration has welcomed Prime Minister Ecevit's declared intention to move forward on the Cyprus issue, and we have expressed our readiness to give full support to the initiatives of the Secretary General. Secretary Vance stopped in Ankara and Athens on January 20–22, following a visit to the Middle East, and held very useful discussions on a number of subjects, including Cyprus. The Secretary returned from these discussions convinced that both the governments of Turkey and Greece earnestly desired to work towards a Cyprus settlement.

The Turkish Cypriots, assisted by the Government of Turkey, are now preparing detailed constitutional and territorial proposals that could serve as a basis for resumed intercommunal negotiations. Our understanding is that these proposals may be completed sometime in March, and that negotiations between the two communities could be resumed by the Secretary General sometime thereafter. Toward that end, the Administration has recently urged the Turkish Cypriot leadership and the government of Turkey to develop proposals that are sufficiently substantive and forthcoming to form a basis for genuine negotiation. We have at the same time encouraged the Government of Cyprus to regard the new Turkish proposals, together with the proposals tabled by President Makarios last year, as a basis for initiating a round of intensive, good-faith negotiations which can lead to a narrowing of differences.

I strongly hope that productive Cyprus negotiations will be reconvened very soon. I am sure that all who wish to see peace, justice, and stability in Cyprus and in the eastern Mediterranean share this hope.

JIMMY CARTER.

THE WHITE HOUSE, *March 23, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 27, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:45 p.m. on Monday, March 27, 1978, and said to contain a message from the President on a comprehensive national urban policy.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

COMPREHENSIVE NATIONAL URBAN POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–309)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I submit today my proposals for a comprehensive national urban policy. These proposals set a policy framework for actions my Administration has already taken, for proposed new initiatives, and for our efforts to assist America's communities and their residents in the years to come. The policy represents a comprehensive, long-term commitment to the Nation's urban areas.

The urban policy I am announcing today will build a *New Partnership* involving all levels of government, the private sector, and neighborhood and voluntary organizations in a major effort to make America's cities better places in which to live and work. It is a comprehensive policy aimed both at making cities more healthy and improving the lives of the people who live in them.

The major proposals will:

Improve the effectiveness of existing Federal programs by coordinating these programs, simplifying planning requirements, reorienting resources, and reducing paperwork. And the proposals will make Federal actions more supportive of the urban policy effort and develop a process for analyzing the urban and community impact of all major Federal initiatives.

Provide employment opportunities, primarily in the private sector, to the long-term unemployed and the disadvantaged in cities. This will be done through a labor-intensive public works program and tax and other incentives for business to hire the long-term unemployed.

Provide fiscal relief to the most hard-pressed communities.

Provide strong incentives to attract private investment to distressed communities, including the creation of a National Development Bank, expanded grant programs and targeted tax incentives.

Encourage States to become partners in assisting urban areas through a new incentive grant program.

Stimulate greater involvement by neighborhood organizations and voluntary associations through funding neighborhood development projects and by creating an Urban Volunteer Corps. These efforts will be undertaken with the approval of local elected officials.

Increase access to opportunity for those disadvantaged by economic circumstance or a history of discrimination.

Provide additional social and health services to disadvantaged people in cities and communities.

Improve the urban physical environment and the cultural and aesthetic aspects of urban life by providing additional assistance for housing rehabilitation, mass transit, the arts, culture, parks and recreation facilities.

America's communities are an invaluable national asset. They are the center of our culture, the incubators of new ideas and inventions, the centers of commerce and finance, and the homes of our great museums, libraries and theatres. Cities contain trillions of dollars of public and private investments—investments which we must conserve, rehabilitate and fully use.

The New Partnership I am proposing today will focus the full energies of my Administration on a comprehensive, long-term effort. It will encourage States to redirect their own resources to support their urban areas more effectively. It will encourage local governments to streamline and coordinate their own activities. It will offer incentives to the private sector to make new investments in economically depressed communities. And it will involve citizens and neighborhood and voluntary organizations in meeting the economic and social needs of their communities.

The New Partnership will be guided by these principles:

Simplifying and improving programs and policy at all levels of government.

Combining the resources of Federal, State and local government, and using them as a lever to involve the even greater strength of our private economy to conserve and strengthen our cities and communities.

Being flexible enough to give help where it is most needed and to respond to the particular needs of each community.

Increasing access to opportunity for those disadvantaged by economic circumstances or history of discrimination.

And above all, drawing on the sense of community and voluntary effort that I believe is alive in America, and on the loyalty that Americans feel for their neighborhoods.

The need for a New Partnership is clear from the record of the last fifteen years. During the 1960's, the Federal government took a strong leadership role in responding to the problems of the cities. The Federal government attempted to identify the problems, develop the solutions and implement the programs. State and local governments and the private sector were not sufficiently involved. While many of these programs were successful, we learned an important lesson: that the Federal government alone has neither the resources nor the knowledge to solve all urban problems.

An equally important lesson emerged from the experience of the early 1970's. During this period, the Federal government retreated from its responsibilities, leaving States and localities with insufficient resources, interest or leadership to accomplish all that needed to be done. We learned that States and localities cannot solve the problems by themselves.

These experiences taught us that a successful urban policy must build a partnership that involves the leadership of the Federal government and the participation of all levels of government, the private sector, neighborhood and voluntary organizations and individual citizens.

PRIOR ACTIONS

The problems of our Nation's cities are complex and deep-seated. They have developed gradually over a generation as a result of private market and demographic forces and inadvertent government action; and the problems worsened markedly during the early 1970's.

These problems will not be solved immediately. They can be solved only by the long-term commitment which I offer today, and by the efforts of all levels of government, the private sector and neighborhood and voluntary organizations.

For my Administration, this commitment began on the day I took office and it will continue throughout my Presidency. With the cooperation of Congress, my Administration has already provided substantial increases in funding in many of the major urban assistance programs. Total assistance to State and local governments has increased by 25 percent, from $68 billion in FY 1977 to $85 billion in FY 1979. These increases are the direct result of actions we have taken during the past 14 months. They are as much a part of my Administration's urban policy as the initiatives which I am announcing today. Some of the most important programs have already been enacted into law or proposed to the Congress. These include:

A $2.7 billion increase over three years in the Community Development Block Grant Program, accompanied by a change in the formula to provide more assistance to the older and declining cities.

A $400 million a year Urban Development Action Grant Program providing assistance primarily to distressed cities.

An expansion of youth and training programs and an increase in the number of public service employment jobs, from 325,000 to 725,000. Expenditures for employment and training doubled from FY '77 to FY '79 to over $12 billion.

A $400 million private sector jobs proposal has been included in my proposal to reauthorize the CETA legislation. This initiative will encourage private businesses to hire the long-term unemployed and the disadvantaged.

A sixty-five percent increase in grants provided by the Economic Development Administration to urban areas.

A thirty percent increase in overall Federal assistance to education, including a $400 million increase in the Elementary and Secondary Education Act, targeted in substantial part to large city school systems with a concentration of children from low-income families.

An economic stimulus package enacted last year (Anti-recession Fiscal Assistance, Local Public Works and CETA) which provided almost $9 billion in additional aid to States and cities.

A welfare reform proposal which, upon passage, will provide immediate fiscal relief to State and local governments.

A doubling of outlays for the Section 312 housing rehabilitation loan program.

Creation of a consumer cooperative bank which would provide financing assistance to consumer cooperatives which have difficulty obtaining conventional financing.

IMPROVEMENT IN EXISTING PROGRAMS

The Administration's Urban and Regional Policy Group (URPG) has examined all of the major urban assistance programs and proposed improvements. It also has worked with agencies traditionally not involved in urban policy, such as the Defense Department, the General Services Administration, and the Environmental Protection Agency, and has developed proposals to make their actions more supportive of urban areas. As a result of this massive effort, the Federal government has become more sensitive to urban problems and more committed to their solutions.

The review of existing Federal programs has resulted in more than 150 improvements in existing programs. Most of these improvements can be undertaken immediately through administrative action. Some will require legislation. None will increase the Federal budget.

A few examples of the improvements are:

All agencies will develop goals and timetables for minority participation in their grants and contracts—five major agencies have already begun.

The Defense Department will set up a new program to increase procurement in urban areas.

EPA will modify its water and sewer program to discourage wasteful sprawl.

HUD has retargeted the Tandem Mortgage Assistance Program to provide greater support for urban housing.

The existing countercyclical fiscal assistance program will be retargeted to help governments with unemployment rates above the national average.

HUD and EDA are developing common planning and application requirements.

The General Services Administration will attempt to locate Federal facilities in cities whenever such a location is not inconsistent with the agency's mission.

The Department of Transportation has proposed legislation to consolidate many categories of urban highway and transit grants, and to standardize the local matching share. These steps will provide local governments with greater flexibility to develop transportation systems suited to their needs.

The Environmental Protection Agency will amend its regulations to accommodate new economic development in high pollution areas. Localities will be permitted to "bank" reductions in pollution which result from firms going out of business. These reductions then can be transferred to new firms locating in the community.

The effect of all these changes may be greater than even the substantial new initiatives which I have proposed in this message.

NEW INITIATIVES

The new initiatives which I am announcing today address five major urban needs:

1) Improving the operation of Federal, State and local governments.

2) Employment and Economic Developments.

3) Fiscal Assistance

4) Community and Human Development

5) Neighborhoods and Voluntary Associations

These initiatives require $4.4 billion in budget authority, $1.7 billion in new tax incentives, and $2.2 billion in guaranteed loan authority in FY 1979. For FY 1980 the budget authority will be $6.1 billion, the tax incentives $1.7 billion and the guaranteed loan authority $3.8 billion.

I. IMPROVING THE OPERATION OF FEDERAL, STATE AND LOCAL GOVERNMENTS

FEDERAL PROGRAMS

Over the long run, reorganization of the economic and community development programs may be necessary. Last June, I directed my reorganization project staff in the Office of Management and Budget to begin exploring the reorganization options. They have completed the first stages of this work. During the next several months, they will consult with the Congress, State and local officials and the public to develop the best solution.

There are several actions I will take immediately.

URBAN AND COMMUNITY IMPACT ANALYSIS

I am implementing a process through my Domestic Policy Staff (DPS) and Office of Management and Budget (OMB) to ensure that we do not inadvertently take actions which contradict the goals of the urban policy. Each agency submitting a major domestic initiative must include its own urban and community impact analysis. DPS and OMB will review these submissions and will ensure that any anti-urban impacts of proposed Federal policies will be brought to my attention.

INTERAGENCY COORDINATING COUNCIL

To improve program coordination, I will form an Interagency Coordinating Council, composed of the Assistant Secretaries with major program responsibilities in the key urban departments. The Council will have two functions:

It will serve as a catalyst for operational improvements which cut across Departments (for example, instituting uniform grant applications); and it will encourage interagency cooperation on projects which are too large or too complex to be funded by one agency. This Council will, for the first time, provide a coordinated Federal response to communities which develop comprehensive and multi-year projects. It will have direction from the Executive Office of the President.

CONSOLIDATING PLANNING REQUIREMENTS AND OTHER MANAGEMENT IMPROVEMENTS

We soon will announce the consolidation of intragency planning requirements. I have asked the Director of the Office of Management and Budget to direct an interagency task force to improve the management of Federal grant-in-aid programs and consolidate the numerous planning requirements in the community and economic development grant programs.

IMPROVED DATA AND INFORMATION

I have asked the Secretary of Commerce, in her capacity as Chair of the Statistical Policy Coordination Committee, to design an improved urban data and information system. At the present time much of this data is inadequate or out of date.

THE ROLE OF STATE GOVERNMENTS

State government policies, even more than Federal policies, are important to the fiscal and economic health of cities. States affect their cities in a number of ways, including setting taxation and annexation powers, determining the placement of major development investments and apportioning the financial responsibility for welfare and education expenditures.

The Federal government has little or no control over these developments, all of which clearly affect the economic and fiscal health of cities and communities.

These State responsibilities underscore the need for an urban policy which includes the States as full and equal partners. The effectiveness of our urban policy will be enhanced if the States can be encouraged to complement the Federal effort.

To encourage States to support their urban areas, I will offer a new program of State incentive grants. These grants will be provided, on a discretionary basis, to States which adopt approved plans to help their cities and communities. The plans must be developed with the participation and approval of communities within the State. The grants will be provided to the States to finance a portion of the plan. The State Incentive Grant Program will be administered by HUD and will provide $400 million over two years.

LOCAL GOVERNMENT ROLE

Many communities and cities can improve management and planning improvements by reforming fiscal management practices, streamlining local regulatory procedures, and coordinating local community and economic development activities.

The Federal government provides planning and technical assistance to communities through HUD and Commerce to help cities improve their management and planning practices. These funds will be used increasingly to build the local governments' capacity to undertake the necessary fiscal and management reforms.

The Federal government will offer special consideration in discretionary programs to cities which achieve coordinated action at the local level.

II. EMPLOYMENT AND ECONOMIC DEVELOPMENT

There is a serious shortage of jobs for many residents of our urban areas and a lack of investment to build the tax base of our cities.

The urban policy will address this issue in two ways.

In the short run, it wil provide additional employment opportunities through a labor-intensive public works program, a targeted employment tax credit, and a private sector training and jobs initiative to encourage businesses to hire the hard-core unemployment, together with the extensions I have already proposed in employment and training opportunities under the CETA Act.

In the long run, the policy attempts to rebuild the private sector economic base of these communities through a National Development Bank, a special tax incentive, an increase in economic development grants and other incentives.

LABOR-INTENSIVE PUBLIC WORKS

I ask Congress for $1 billion a year for a program of labor-intensive public works, targeted on communities with high unemployment. Half of the estimated 60,000 full-time equivalent jobs created annually by this program will be reserved for the disadvantaged and the long-term unemployed. These workers will be paid at Davis-Bacon trainee wage levels.

This program will enable cities to make needed repairs on buildings, streets, parks, and other public facilities.

In contrast to the Local Public Works program—which involves projects requiring large equipment, material expenditures and a prolonged planning period—more of the funds under this labor-intensive program will go to job creation.

TARGETED EMPLOYMENT TAX CREDIT

I also propose a Targeted Employment Tax Credit to encourage business to hire disadvantaged young workers between the ages of 18 and 24 who suffer the highest unemployment rates in the Nation.

Under my proposal, private employers of young and disadvantaged, or handicapped, workers would be entitled to claim a $2,000 tax credit for each eligible worker during the first year of employment and a $1,500 credit for each eligible worker during the second year.

I am proposing this Targeted Employment Tax Credit as a substitute for the expiring Employment Tax Credit. The current program costs $2.5 billion a year and has had little influence on hiring decisions. The Administration's targeted program will cost approximately $1.5 billion a year, with far greater impact.

LOCATION OF FEDERAL FACILITIES

I will sign a new Executive Order directing the General Services Administration to give first priority to cities in locating new Federal facilities or consolidating or relocating existing facilities. Under my Administration, Federal facilities will be located in cities, unless such a location is inconsistent with the agency's mission.

Federal buildings and facilities can be an important source of jobs and of rental payments and, in many cities, a principal stabilizing force preventing decline.

The Federal government should set an example for the private sector to invest in urban areas.

FEDERAL GOVERNMENT PROCUREMENT

To assure that Federal procurement is used to strengthen the economic base of our Nation's cities and communities, I will:

Strengthen the implementation of the existing procurement set-aside program for labor surplus areas, by directing the General Services Administration to work with each agency to develop specific procurement targets and to monitor their implementation. GSA will report to me every six months on the progress of each Agency;

Direct the Defense Department to implement an experimental program to target more of its procurement to high unemployment areas.

NATIONAL DEVELOPMENT BANK

I propose the creation of a National Development Bank, which would encourage businesses to locate or expand in economically distressed urban and rural areas. The Bank would be authorized to guarantee investments totaling $11 billion through 1981.

To lower operating costs in urban areas, the Bank would provide long-term, low-cost financing which, in conjunction with expanded grant programs administered by HUD and EDA, will reduce a firm's financing costs by up to 60 percent.

The Bank uses four major financing tools:

Grants of up to 15 percent of a firm's total capital cost, to a maximum $3 million, for fixed assets of a project. The grants, which would be made under expanded EDA and HUD authorities, would cover expenditures for land assembly, site preparation, rehabilitation, and equipment.

Loan guarantees, provided by the Bank to cover three-quarters of the remaining capital costs up to a maximum of $15 million per project. The Bank could, at its discretion, reduce the interest rate down to two and one-half percent for particularly desirable projects. Bank financing would be conditioned on obtaining 21 percent of the project's total costs from private lenders.

The ceiling for industrial reserve bonds in economically distressed areas would be increased from $5 to $20 million with the approval of the Bank. A business which used this financing for a project could also receive a grant.

The Bank also will provide a secondary loan market for private loans in eligible areas to finance capital expenditures. This will be particularly beneficial to small businesses.

Bank projects will require the approval of State or local government economic development entities, which would be responsible to the elected local leadership. Distressed urban and rural areas would be eligible. Additional employment would be a key test of project eligibility.

The Bank will be an interagency corporation, governed by a Board composed of the Secretaries of HUD, Commerce and the Treasury. This will ensure coordination between the major economic, community development and urban finance agencies of the government.

The Office of Management and Budget is currently assessing the organization of the Federal economic and community development activities. The Bank will function on an interagency basis pending recommendations in this area.

ECONOMIC DEVELOPMENT GRANTS

I propose substantial increases of $275 million each in the UDAG grant program and the EDA Title IX program. These increases will be used in conjunction with the financing incentives available from the National Development Bank.

Taken together these major increases will help leverage substantial new private sector investment in urban areas and address the long-term economic deterioration experienced by certain urban and rural areas.

DIFFERENTIAL INVESTMENT TAX CREDIT

I propose that firms that locate or expand in economically distressed areas be eligible for a differential 5 percent investment tax credit, to a total of 15 percent for both structures and equipment. The credit would be available only to firms awarded "Certificates of Necessity" by the Commerce Department based on financing need and employment potential.

Commerce will be authorized to issue up to $200 million in certificates for each of the next two years.

AIR QUALITY PLANNING GRANTS

I propose a $25 million planning grant program to help cities and communities comply with the Clean Air Act without limiting severely new, private sector investment within their areas.

I have also asked EPA, HUD and EDA to provide technical assistance to help local governments reconcile potential conflicts between air pollution and economic development goals.

MINORITY BUSINESS

Minority businesses are a critical part of the private sector economic base of many cities, communities and neighborhoods, and provide important employment opportunities to city residents.

I propose today two important initiatives which will increase the role of minority businesses in our economy. First, in comparison with FY 1977 levels, we will triple Federal procurement from minority businesses by the end of FY 1979—an increase over our earlier commitment to double minority procurement.

In addition, I intend to ask all Federal agencies to include goals for minority business participation in their contract and grant-in-aid programs. Five agencies—HUD, Commerce, EPA, Interior and DOT—already have proposed improvements in minority business programs. These programs all build on our successful experience with the Local Public Works Program.

Finally, I intend to facilitate greater interaction between the minority business community and the leaders of our Nation's largest corporations.

COMMUNITY DEVELOPMENT CORPORATIONS

I propose that an additional $20 million be appropriated to the Community Services Administration as venture capital for the most effective Community Development Corporations. This assistance will help them have a substantial impact on their designated areas.

The funding will be made available for projects that receive support from local elected officials, involve leveraging private sector funds and are coordinated with HUD, EDA or the Small Business Administration.

ROLE OF PRIVATE FINANCIAL INSTITUTIONS

An effective urban strategy must involve private financial institutions. I am asking the independent financial regulatory agencies to develop appropriate actions, consistent with safe, sound and prudent lending practices, to encourage financial institutions to play a greater role in meeting the credit needs of their communities.

First, I am requesting that financial regulatory agencies determine what further actions are necessary to halt the practice of redlining—the refusal to extend credit without a sound economic justification. I will encourage those agencies to develop strong, consistent and effective regulations to implement the Community Reinvestment Act.

Second, I propose the creation of an Institute for Community Investment, under the Federal Home Loan Bank Board. The Institute will bring together appraisers, realtors, lenders, building and insurance companies to develop a consistent approach toward urban lending and to train urban lending specialists.

Third, I propose a pilot program to create Neighborhood Commercial Reinvestment Centers under the Comptroller of the Currency. This proposal is an adaptation of the highly successful Urban Reinvestment Task Force housing credit concept to the commercial credit area. Neighborhood Commercial Reinvestment Centers will be local organizations, comprised of merchants and neighborhood residents, local government officials, and commercial banks

which will provide business credit in urban neighborhoods. SBA, EDA, and HUD will work with the financial regulatory agencies to revitalize specific commercial areas.

Finally, I have asked the Secretary of Housing and Urban Development to chair an interagency task force to evaluate the availability of credit in urban areas and recommend appropriate further action. I have asked the task force to examine and make recommendations with respect to the following areas:

The availability of mortgage and commercial credit in urban areas, and the impacts of the activities of Federal agencies on such credit;

Existing mortgage insurance, casualty insurance and business credit insurance programs;

The full range of urban credit and insurance risk reduction techniques.

III. FISCAL ASSISTANCE

While the fiscal condition of many State and local governments has improved dramatically over the last three years, many cities and communities still are experiencing severe problems. These cities and communities require fiscal assistance from the Federal government, if they are to avoid severe service cutbacks or tax increases.

SUPPLEMENTAL FISCAL ASSISTANCE

Cities and communities currently receive fiscal assistance through the Anti-Recession Fiscal Assistance Act (ARFA), which expires on September 30, 1978. This program has been an effective tool for helping States and local governments withstand the fiscal impact of high unemployment.

Current unemployment projections, however, suggest that even if the ARFA program were extended in its current form, it would phase out by mid-FY 1979, when unemployment is expected to drop below six percent. If the program is permitted to phase out, many cities and communities will experience severe fiscal strain.

I propose today that ARFA be replaced with a Supplemental Fiscal Assistance Program, which will provide $1 billion of fiscal assistance annually for the next two fiscal years to local governments experiencing significant fiscal strain. Further extension of this program will be considered together with General Revenue Sharing.

FISCAL RELIEF IN WELFARE PROPOSAL

In addition, I propose to phase in the fiscal relief component of the Better Jobs and Income Act as soon as Congress passes this legislation, rather than in 1981 as originally planned.

IV. COMMUNITY AND HUMAN DEVELOPMENT

A comprehensive program to revitalize America's cities must provide for community and human needs. This involves both physical facilities, such as parks, recreation facilities, housing and transportation systems, and the provision of health and social services.

HOUSING REHABILITATION

The conservation and upgrading of our housing stock is important to maintaining the strength of urban areas. Housing rehabilitation improves the quality of community life and provides construction jobs in areas of high unemployment.

I propose an additional $150 million in fiscal year 1979 for the section 312 rehabilitation loan program, which will more than double the existing program. This expanded effort will permit the rehabilitation of small multi-family housing projects in distressed neighborhoods.

URBAN TRANSPORTATION

In many cities, public transportation is inadequately financed. The Federal government has begun to make substantial investments to rehabilitate, revitalize and construct urban transportation systems.

I have already submitted to Congress my proposals to extend and strengthen the highway and mass transit programs.

To supplement these efforts I today propose an additional $200 million for capital investments in intermodal urban transportation projects. These funds will be used to link existing transportation facilities in selected cities.

RESOURCE RECOVERY PLANNING

Solid waste disposal is a growing problem in the many urban areas which face a shortage of landfill sites. At the same time, techniques to recover valuable resources and energy from solid waste have emerged.

I will request $15 million for the EPA to provide grants of $300,000 to $400,000 to cities for feasibility studies of solid waste recovery systems.

ARTS AND CULTURE

Cities are centers of culture and art, which thrive on the vitality of the urban environment.

To help renew and develop this artistic and cultural spirit, I propose a new Livable Cities program administered by the Department of Housing and Urban Development, with the participation of the National Endowment for the Arts. This program will provide up to $20 million in grants to States and communities for neighborhood- and community-based arts programs, urban design and planning, and the creation and display of art in public spaces. Historic preservation of buildings should also be encouraged.

URBAN PARKS AND RECREATION

The quality of life in urban areas is critically affected by the availability of open spaces and recreation facilities. Yet hard pressed communities often lack the resources to maintain and invest adequately in these amenities.

To address this problem, I propose a major new Federal grant program. Urban communities will compete for funds to revive and rebuild parks and recreation facilities. Challenge grants totaling $150 million will be provided for construction and major rehabilitation of urban recreation systems, such as parks, tennis and basketball courts, swimming pools, bicycle paths, and other facilities. Cities will be awarded grants based on the quality of their planning, the degree of need and their ability to match the Federal funds with private and local contributions.

SOCIAL SERVICES

Urban revitalization efforts must be accompanied by efforts to help those in need to improve their own lives. A variety of income support and social services programs are designed to do this. Since 1974, however, the support given to State social service programs by the Federal Government has declined in real terms.

I propose an additional $150 million of new budget authority for the Title XX program. These funds will be used to improve the delivery of social services in urban areas—ranging from Meals on Wheels for the elderly to day care for children of working mothers—and to develop greater coordination between local, public and private agencies.

HEALTH SERVICES

Nearly 50 million Americans live in areas without adequate health services. These areas, many of which are in inner cities, suffer from higher infant mortality rates, greater poverty and shortages of health care personnel.

In underserved areas, emergency room and outpatient departments of city hospitals are used as the routine source of medical care by the poor, primarily due to the lack of private physicians. As these departments were not designed to provide comprehensive medical care, the hospital resources are strained and the poor often go without adequate care.

To help meet the primary health care needs of the urban poor and reduce the strain on city hospitals, I propose to expand federally-supported Community Health Centers and to fund city-sponsored programs which provide comprehensive, but less costly, primary care services. The city-sponsored programs will enroll the medically indigent in existing health systems, such as HMOs. They also will help expand locally-supported centers, reform hospital outpatient departments and provide comprehensive health services.

EDUCATION

Schools are the focus of community activities in many places. Yet they are seldom fully used or linked to other community and social services.

I intend to provide $1.5 million to expand the experimental Cities in Schools program which seeks to bridge the gap by uniting a number of social services within schools to better serve both students and their families. We intend to expand this promising new program to 10 pilot schools.

In addition, I urge the Congress to enact the $600 million increase in the Title I program of the Elementary and Secondary Education Act, which I recently proposed, including my recommendation that $400 million of these funds be targeted to cities and other areas with high concentrations of low-income families.

V. NEIGHBORHOODS AND VOLUNTEER ORGANIZATIONS

No resource of our urban communities is more valuable than the commitment of our citizens.

Volunteer groups, which gain strength from the selfless efforts of many individuals, make an indispensable contribution to their cities.

URBAN VOLUNTEER CORPS

I propose a $40 million program in ACTION to increase the effectiveness of

voluntary activities at the local level. With the agreement of local government, the program will create a corps of volunteers at the local level and match their skills with the needs of local governments and community and neighborhood organizations.

It also will provide small grants averaging $5,000 for voluntary improvement and beautification projects.

ACTION would select, with the concurrence of local government, a lead agency in each city to administer the Urban Volunteer Corps.

SELF-HELP DEVELOPMENT PROGRAM

Neighborhood associations are playing a key role in housing and neighborhood revitalization. We must strengthen that role.

I will request $15 million in FY 1979 for a self-help development program to be administered by the Office for Neighborhoods in HUD.

This new program will provide funds for specific housing and revitalization projects in poor and low-income areas. Each project would involve the participation of local residents, the private sector and local government and would require the concurrence of the mayor.

CRIME PREVENTION

Street crime is a serious problem in America's cities and communities. Over the last few years a number of promising initiatives have been undertaken by community groups and local law enforcement agencies to combat street crime. Escort services for the elderly, centers to help the victims of crime, and neighborhood watchers are examples of promising developments.

I propose a program which will add $10 million in new resources to existing efforts in the Law Enforcement Assistance Administration for a program operated jointly by ACTION and LEAA. Under this program, mayors and local neighborhood groups will develop community crime prevention programs based on successful pilot models. My reorganization proposals for LEAA and the legislation I will submit to extend the Law Enforcement Assistance Act will strengthen our efforts at crime prevention.

COMMUNITY DEVELOPMENT CREDIT UNIONS

Some urban communities are not served by any financial institutions. Community Development Credit Unions address this problem by investing their assets in the communities in which they are established. This type of credit union was first established under the poverty programs in the 1960's. About 225 exist today, and many are the only financial institutions in their communities.

I am proposing a $12 million program to provide $200,000 seed capital for new Community Development Credit Unions, to provide them with an operating subsidy for staff, training and technical assistance.

The job of revitalizing the urban communities of our country will not be done overnight. Problems which have accumulated gradually over generations cannot be solved in a year or even in the term of a President.

But I believe that a New Partnership—bringing together in a common effort all who have a stake in the future of our communities—can bring us closer to our long-term goals. We can make America's cities more attractive places in which to live and work; we can help the people of urban America lead happier and more useful lives. But we can only do it together.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 27, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:45 p.m. on Monday, March 27, 1978, and said to contain a message from the President wherein he transmits the Budget of the District of Columbia for fiscal year 1979.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

BUDGET OF THE DISTRICT OF COLUMBIA FOR FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-310)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed with illustrations:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting for your consideration the budget of the District of Columbia for fiscal year 1979.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 27, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:45 p.m. on Monday March 27, 1978, and said to contain a message from the President wherein he transmits the 1975 Annual Report of Health Activities under the Federal Coal Mine Health and Safety Act of 1969.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

1975 ANNUAL REPORT OF HEALTH ACTIVITIES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I transmit herewith the 1975 Annual Report of Health Activities under the Federal Coal Mine Health and Safety Act of 1969.

I recommend that the statutory reporting requirement for this report be changed from once every year to once every three years. Department of Health, Education, and Welfare staff resources and time could be better spent on more research rather than on the preparation of annual reports of largely repetitious material. Basic information in this field has been known for some time, and new findings develop only slowly and infrequently. All of the information contained in this report is available to Congress during annual appropriations and oversight hearings, and the Department of Health, Education, and Welfare will inform Congress immediately of any scientific breakthroughs in the field.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 27, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:45 p.m. on Monday, March 27, 1978, and said to contain a message from the President wherein he transmits the Sixth Annual Report on the Status of Federal Advisory Committees.

With kind regards, I am
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

SIXTH ANNUAL REPORT ON THE STATUS OF FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message

from the President of the United States; which was read and without objection, together with the accompanying papers, referred to the Committee on Government Operations:

To the Congress of the United States:

In accordance with the provisions of Section 6(c) of the Federal Advisory Committee Act, I am transmitting the sixth annual report on the status of Advisory Committees.

This report reflects the results of the 1977 governmentwide, zero-base review that I directed be conducted of all advisory committees:

—The total number of committees was reduced to 875 from 1,159 at the end of 1976.

—While some new committees were established during the year, some 333 committees were terminated, and the number was reduced further by 81 as the result of the consolidation of existing committees.

While we recognize the contributions that advisory committees can make, we will continue our efforts to assure, through careful management and review, that such committees are terminated when they no longer are necessary, and that new committees are established only when they are essential to meet the responsibilities of the Government.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 28, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:50 p.m. on Tuesday, March 28, 1978, and said to contain a Message from the President wherein he transmits the Annual Report of the Corporation for Public Broadcasting for 1977.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING FOR 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

Enclosed is the "Annual Report of the Corporation for Public Broadcasting for FY 1977," prepared in accordance with the requirement of Section 396(i) of the Public Broadcasting Act of 1967 (Public Law 90-129) as amended.

The Corporation has again prepared a thoughtful report which highlights its efforts for the past fiscal year. The accomplishments of public broadcasting are well articulated with emphasis on television and radio programming, technological innovation, and human development services.

It should be noted that the projections of long range Federal financial contributions from the Federal Government exceed levels contained in the Administration's legislative proposal to reauthorize the Corporation for the period FY 1981–85.

The Annual Report is being forwarded so that it is available to the Congress for its deliberations.

JIMMY CARTER.

THE WHITE HOUSE, *March 28, 1978.*

COMMUNICATIONS FROM THE CLERK OF THE HOUSE—SUBPENA DUCES TECUM AND FINDINGS OF COURT OF U.S. DISTRICT COURT FOR DISTRICT OF COLUMBIA

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 27, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of House Resolution 10, I am hereby transmitting to you a subpoena duces tecum for certain travel records of the House served upon me on March 14, 1978, together with an accompanying finding of the court.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

The SPEAKER pro tempore. The subpena and the accompanying papers will be printed in the RECORD at this point.

The subpena and findings of the court follow:

[U.S. District Court for the District of Columbia, Misc. No. 78-0063]

IN RE: POSSIBLE VIOLATIONS OF 18 U.S.C. § § 201 AND 371

SUBPOENA DUCES TECUM

To: Clerk of the House of Representatives.

Attention: Michael Henry, Assistant Chief, U.S. House of Representatives, Washington, D.C. 20515, or his authorized representative

Bring with you: Copies of the following travel voucher of Otto E. Passman and the underlying documents to support it: August 21, 1972 (1261), August 7-21, $265.68.

You are hereby commanded to appear before the Grand Jury of this Court on March 17, 1978, Grand Jury Room No. 2, at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States and not depart the Grand Jury without leave of the Court or the United States Attorney.

Witness this 14th day of March, 1978.

WILLIAM B. BRYANT,
Chief Judge.

[U.S. District Court for the District of Columbia, Misc. No. 78-0063]

IN RE: POSSIBLE VIOLATIONS OF 18 U.S.C. § § 201 AND 371

FINDINGS OF COURT

Upon consideration of *in camera* disclosures made by Special Attorneys of the United States Department of Justice and of U.S. House of Representatives Resolution No. 10 adopted January 4, 1977, it is this 14th day of March 1978,

Found, that the documentary evidence subpoenaed under the subpoena duces tecum dated March 14th, 1978, and addressed to Michael Henry, Assistant Chief, Clerk of the House of Representatives of the United States or his authorized representative, a facsimile of which is attached hereto, is necessary, material, and relevant to a pending Grand Jury investigation in this judicial district and in this Court for the promotion of justice.

Wherefore, the court desires that the documentary evidence or certified copies thereof which are the subject of the subpoena duces tecum be supplied to its authorized representative and agent, Clerk of this Court James F. Davey, accompanied by Department of Justice Attorney David R. Scott as representative of the proper party to this proceeding, to wit: the Federal Grand Jury, pursuant to said subpoena duces tecum and in conformance with House Resolution No. 10.

WILLIAM B. BRYANT,
Chief Judge.

COMMUNICATION FROM THE SERGEANT AT ARMS—TWO SUBPENAS DUCES TECUM AND FINDINGS OF COURT, U.S. DISTRICT COURT FOR EASTERN DISTRICT OF PENNSYLVANIA

The SPEAKER pro tempore laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., March 23, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the requirements of House Resolution 10, this is to notify you that I have been served with the enclosed two subpoenas duces tecum, together with the accompanying findings of materiality and relevancy issued by the court, concerning certain bank records.

Sincerely,

KENNETH R. HARDING,
Sergeant at Arms.

The SPEAKER pro tempore. The subpenas and accompanying documents will be printed in the RECORD.

The subpenas and findings of the court follow:

[In the U.S. District Court for the Eastern District of Pennsylvania Miscellaneous No. 78-147]

IN RE: GRAND JURY INVESTIGATION INTO POSSIBLE VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTIONS 201, 371, 1962, 1952, 1951, 1503, 1343 AND 1341

SUBPOENA DUCES TECUM

To: Hon. Kenneth A. Harding, Sergeant at Arms, U.S. House of Representatives, Washington, D.C., or his authorized representative

Bring with you: All bank records pertaining to accounts maintained with you by U.S. Representative Daniel Flood from 1973

through and including the date of service of this subpoena. Records should include monthly statements, deposit slips and checks and deposit items in the amount of $100 or more.

You are hereby commanded to appear before the Grand Jury of this Court on Thursday, March 23, 1978 at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or the United States Attorney.

Witness this 8th day of March, 1978.

EDWARD R. BECKER,
U.S. District Court Judge.

[In the U.S. District Court for the Eastern District of Pennsylvania, Miscellaneous No. 78–147]

IN RE: GRAND JURY INVESTIGATION INTO POSSIBLE VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTIONS 201, 371, 1962, 1952, 1951, 1503, 1343 AND 1341

FINDINGS OF COURT

Upon consideration of *in camera* disclosures made by Alan M. Lieberman, Assistant United States Attorney in and for the Eastern District of Pennsylvania and of U.S. House of Representatives Resolution No. 10 adopted January 4, 1977, it is this 8th day of March, 1978,

Found that the papers, documentary evidence and materials subpoenaed under the subpoena duces tecum dated March 8, 1978 addressed to the Honorable Kenneth R. Harding, Sergeant at Arms of the House of Representatives of the United States or his authorized representative, a facsimile of which is attached hereto, are necessary, material, and relevant to a pending Grand Jury investigation in this judicial district and in this Court for the promotion of justice.

Wherefore, the Court desires that the documentary evidence or certified copies thereof which are the subject of the subpoena duces tecum be supplied to its authorized representative and agent, Clerk of this Court, John J. Harding, accompanied by Assistant United States Attorney Alan M. Lieberman as representative of the proper party to this proceeding, to wit: the Federal Grand Jury, pursuant to said subpoena duces tecum and in conformance with House Resolution No. 10.

EDWARD R. BECKER,
U.S. District Court Judge.

[In the U.S. District Court for the Eastern District of Pennsylvania, Miscellaneous No. 78–141]

IN RE: GRAND JURY INVESTIGATION INTO POSSIBLE VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTIONS 201, 371, 1962, 1952, 1951, 1503, 1343 AND 1341

SUBPOENA DUCES TECUM

To: Honorable Kenneth R. Harding, Sergeant at Arms, U.S. House of Representatives, Washington, D.C., or his authorized representative

Bring with you: All bank records, not heretofore produced pertaining to accounts maintained with you by Congressman Joshua Eilberg from 1973 through and including the date of service of this subpoena. Records should include monthly statements, deposit slips and checks and deposit items in the amount of $100 or more.

You are hereby commanded to appear before the Grand Jury of this Court on Thursday, March 16, 1978 at 10:30 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or the United States Attorney.

Witness this 6th day of March, 1978.

—— ——,
U.S. District Court Judge.

[In the U.S. District Court for the Eastern District of Pennsylvania, Miscellaneous No. 78–141]

IN RE: GRAND JURY INVESTIGATION INTO POSSIBLE VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTIONS 201, 371, 1962, 1952, 1951, 1503, 1343 AND 1341

FINDINGS OF COURT

Upon consideration of *in camera* disclosures made by Alan M. Lieberman, Assistant United States Attorney in and for the Eastern District of Pennsylvania and of U.S. House of Representatives Resolution No. 10 adopted January 4, 1977, it is this 6th day of March, 1978.

Found that the papers, documentary evidence. and materials subpoenaed under the subpoena duces tecum dated March 6, 1978 addressed to the Honorable Kenneth R. Harding, Sergeant at Arms of the House of Representatives of the United States or his authorized reprcsentative, a facsimile of each of which is attached hereto, are necessary, and relevant to a pending Grand Jury investigation in this judicial district and in this Court for the promotion of justice.

Wherefore, the Court desires that the documentary evidence or certified copies thereof which are the subject of the subpoena duces tecum be supplied to its authorized representative and agent, Clerk of this Court, John J. Harding, accompanied by Assistant United States Attorney Alan M. Lieberman as representative of the proper party to this proceeding, to wit: the Federal Grand Jury, pursuant to said subpoena duces tecum and in conformance with House Resolution No. 10.

—— ——,
U.S. District Court Judge.

ADDITION TO LEGISLATIVE PROGRAM FOR APRIL 4

Mr. BRADEMAS. Mr. Speaker, I wish at this time to announce the addition of two more bills to be considered by the House under suspension of the rules tomorrow, April 4.

Those bills are:

H.R. 11567. SEC authorizations fiscal year 1979–81; and

H.R. 11232. Standard Reference Data Act authorization.

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING RETIREMENT OF CERTAIN RESERVE ENLISTED MEMBERS AFTER 20 YEARS OF ACTIVE DUTY

The Clerk called the bill (H.R. 10341) to amend title 10, United States Code, to authorize enlitsed members of the Army and the Air Force to retire with 20 years of service.

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

RECALCULATING THE RETIRED PAY OF CERTAIN SENIOR ENLISTED ADVISERS OF THE MARINE CORPS

The Clerk called the bill (H.R. 10343) to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967.

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The SPEAKER pro tempore. That concludes the call of the eligible bills on the Consent Calendar.

SEVERE SENTENCES AGAINST UKRAINIAN HELSINKI WATCHERS

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, last Wednesday, on March 29, 1978, the Soviet authorities sentenced both Mykola Matusevych and Myroslav Marynovych, founding members of the Ukrainian Helsinki Watch Group, to stiff penalties: 7 years in labor camp and 5 years of internal exile for "anti-Soviet agitation." Marynovych and Matusevych have already spent 11 months in total isolation since they were arrested on April 23, 1977.

Their isolation continued even during the trial—neither family nor friends were admitted to the courtroom in the village of Vasilkiv near Kiev. As a mark of protest at the illegality of the proceedings, Matusevych refused to testify and therefore was taken from the courtroom.

Mykola Matusevych, a Kiev resident, was prevented from completing his education because of his political views and was once jailed for 15 days for taking part in traditional Christmas caroling. He has also been dismissed from work several times for defending political prisoners and has supported himself by working at odd jobs.

Myroslav Marynovych, an electrical engineer by profession, comes from the village of Kalynivka in the Kiev region. Reportedly, he was thrice dismissed from jobs for associating with dissidents and for expressing nonconformist views. Most recently, he was employed as an editor at a publishing house.

The fate of Marynovych and Matusevych has long been of concern to Soviet dissidents such as Gen. Pyotr Grigorenko. He feared that the Soviet authorities would deal with their case with particular severity due to their relative youth—Matusevych is 31 and Marynovych is 28—and because they are natives of the Western Ukraine, an area from which activists are always treated with special harshness.

Partly because rumors were circulated that the two men had been released, their case has received little attention in the West. I protest in the strongest terms this blatant violation of the Helsinki accords which the sentences of Mykola Matusevych and Myroslav Marynovych represent.

PROPOSED LIFTING OF EMBARGO AGAINST TURKEY IS SHATTERING

(Mr. BIAGGI asked and was given permission to address the House for 1 min-

ute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, the proposal by the administration to lift the arms embargo against Turkey is shattering. It is a proposal which in effect sanctions the illegality and immorality of Turkey's position on Cyprus at the expense of jeopardizing our relations with the people of Greece and Cyprus.

The fact is—the illegality and immorality continue undiminished. Turkey which illegally invaded Cyprus in 1974 with American weapons continues to this day to unlawfully occupy more than 40 percent of the island. Turkey's occupation has resulted in tens of thousands of Greek-Cypriots being made refugees in their own land. In addition, families and friends have been separated and more than 2,000 Greek Cypriots remain missing since the invasion.

Turkey if in good faith could have sought a resolution of this unlawful occupation. They have had 4 years to demonstrate their good faith. In the continuing absence of such a commitment it is intolerable that this administration would even suggest a change in the embargo.

To pursue lifting the embargo under these conditions would thwart the will of the people as reflected by the votes in Congress to impose the embargo. Moreover it would endanger our favorable relations with the people of Cyprus and Greece. Can we not expect their friendship to turn to hostility because of our abandonment and betrayal? How will it impact on the rest of the world? Will our allies feel that they would be similarly treated?

America's credibility is at stake. The question of human rights on the tiny island of Cyprus is our current concern. However the conduct of the United States will reverberate unfavorably throughout the world if we again compromise our commitment to adherence to human rights by all nations. History will record this event as being less than our most shining hour.

THE LATE HONORABLE J. HARDIN PETERSON

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, it is my sad duty to inform the Members of the House of the death of the Honorable J. Hardin Peterson on March 28, 1978.

Former Congressman Peterson served in this body for 18 years and they were 18 years of truly distinguished and outstanding service. He retired in 1950 at which time he was the chairman of the Committee on Public Lands. He also held other important committee assignments in the House.

Those Members who served with him, as I did, remember that he was one of the most highly respected, one of the most genuinely loved and admired Members of the House. His contributions to our Nation were indeed significant and important.

My deep and earnest sympathies are extended to his beloved wife Christine, to his son J. Hardin Peterson, Jr., and his daughter, Mrs. Ann Myers.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my distinguished friend and colleague, the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I appreciate the distinguished dean of the Florida delegation (Mr. SIKES) yielding to me at this time.

The late Honorable J. Hardin Peterson was a distinguished Member of this body. He was a fine public servant. He was widely loved. I remember all of the fine work that he did here in the Congress, the work that he did to help the congressional district that I am now privileged to represent. Much of the progress that has been made in that area extends back to the fine work of J. Hardin Peterson.

Mr. Speaker, it now takes at least six of us to fill or attempt to fill his shoes in the district he once represented. That is indeed a tribute to the fine work he did.

Mr. Speaker, on behalf of Mrs. Gibbons and myself I want to extend our deepest sympathy to his family, particularly his wife Christine, to his son, J. Hardin Peterson, and to his daughter, Ann Myers who are friends of ours and we love them. We extend them our deepest sympathy.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to comment on the services of our former colleague, the late Honorable J. Hardin Peterson.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

GIFTS TO CONGRESSMEN

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, yesterday when I returned to my office after the work period in my congressional district, I found on my desk a brightly colored gift-wrapped package. Not knowing what was in it, I opened it and found, to my surprise, and not to my enjoyment, a canned ham presented to me for some unknown reason by a corporation in Texas, the LTV Corp., with which I have no relations, and never have had, from an officer of that corporation whom I have never met.

Each Member of the Congress has the right, of course, to make his own decision about such things but I for one wish people would stop giving me gifts because I am getting tired of spending the money to send them back.

SOCIAL SECURITY

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I want to bring to the attention of my colleagues an article by Spencer Rich which apeared in the Washington Post on Saturday, April 1, 1978. The article contains many inaccuracies and omissions concerning social security in nations throughout the world.

Mr. Rich does not seem to think that the additional $227 billion in social security taxes over the next 10 years will have any impact on the economy. In fact, the Joint Economic Committee has estimated that this increasing social security tax will result in the lost of at least 1.3 million jobs. This reduction in jobs will result in a loss of $15 to $20 billion in general revenues in 1 year.

Over 60 nations throughout the world use general revenues for a portion of their social security. The United States is the only country I know of with a 50-percent tax on the employer and employee, each. The U.S. employers pay more social security taxes per worker than any of our competitive nations—$1,500 more per worker in the steel industry $1,200 more per worker in the auto industry, $1,100 more per worker in the electronics industry, $700 more per worker in the textile and footwear industries.

The social security taxes enacted in 1977 will have a crippling effect on the economy, putting more people out of work, and forcing more and more businesses, including newspapers, to close.

The people of this Nation deserve more thorough reporting from the members of the press.

Biased reporting has no place on a subject affecting over 140 million Americans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Today is the day for the Suspension Calendar, and pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. LEVITAS. Mr. Speaker, I observe that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 183]

Ambro	Heftel	Quie
Anderson, Ill.	Holland	Rahall
Andrews, N.C.	Howard	Rangel
Archer	Jeffords	Reuss
Ashley	Jordan	Rhodes
Aspin	Kazen	Rodino
Beard, R.I.	Kindness	Roncalio
Bevill	Krueger	Rosenthal
Blouin	LaFalce	Rostenkowski
Boland	Le Fante	Rudd
Bolling	Lederer	Runnels
Brown, Ohio	Leggett	Ruppe
Burke, Calif.	Lehman	Santini
Cederberg	Lent	Sarasin
Chappell	Long, La.	Shuster
Chisholm	McCloskey	Solarz
Clay	McDade	Spellman
Cleveland	McKay	St Germain
Conte	McKinney	Steed
Cornell	Madigan	Steiger
Cotter	Meeds	Stokes
D'Amours	Metcalfe	Teague
Diggs	Meyner	Thompson
Dingell	Michel	Thone
Dodd	Mikva	Thornton
Dornan	Milford	Tucker
Early	Mitchell, N.Y.	Udall
Eckhardt	Murphy, Ill.	Ullman
Findley	Myers, Michael	Vanik
Flood	O'Brien	Walsh
Fraser	Oakar	Whitley
Frey	Patten	Young, Alaska
Gonzalez	Pepper	Young, Mo.
Hanley	Pike	Zeferetti
Harkin	Preyer	
Harsha	Pursell	

The SPEAKER pro tempore. On this rollcall 328 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10984) to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance associated with the Jeffersonian Period of American history, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Friendship Hill National Historic Site in the State of Pennsylvania, including the former home of Albert Gallatin, as depicted on the map entitled "FRHI 80000" dated February 1978. Said map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, District of Columbia. The Secretary is authorized to acquire such land and improvements thereon by donation, purchase with donated or appropriated funds or exchange.

SEC. 2. Pending establishment of the site and thereafter the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

SEC. 3. (a) There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this Act.

(b) For the development of essential facilities there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this Act, but not to exceed $100,000. Within three years from the effective date of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a general management plan for the use and development of the site consistent with the purposes of this Act, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity or management and administration of the area in furtherance of the purposes of this Act and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10984, as introduced by the gentleman from Pennsylvania (Mr. MURPHY) and reported by the Committee on Interior and Insular Affairs, authorizes the Secretary of the Interior to establish a Friendship Hill National Historic Site in Fayette County, Pa.

Mr. Speaker, the historic site will preserve the home and commemorate the life of Albert Gallatin, Secretary of the Treasury during the Presidency of Thomas Jefferson.

The proposed national historic site includes the original residence which Gallatin had constructed in 1789, and which was enlarged in 1823. Some 700 acres of land are in the current tract which would be acquired for management by the National Park Service. The residence and its associated structures have been little altered from the time of Gallatin's ownership. The estate borders the Monongahela River and retains its pastoral character.

Albert Gallatin was born in Switzerland in 1761, and emigrated to this country while still a youth. He settled in Pennsylvania, and was elected to the U.S. House of Representatives in 1795. Thomas Jefferson appointed Gallatin as Secretary of the Treasury in 1801. During the War of 1812, Gallatin became the principal negotiator for the United States in the discussions that resulted in the Treaty of Ghent. He then served as minister to France, and later as minister to Great Britain.

Friendship Hill National Historic Site would interpret not only Gallatin's own life, but also that of the political and social development of the United States during the first several decades following independence. Friendship Hill is therefore important not only for its association with this early American statesman, but also for the opportunity it can provide to further understanding of the Jeffersonian period of history.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill establishes the home of Albert Gallatin, a former Secretary of the Treasury and influential statesman during the early years of our democracy, as the Friendship Hill National Historic Site in Pennsylvania. Located on nearly 700 acres of pastoral landscape bordering the Monongahela River, the original residence constructed by Gallatin in 1789 has had little serious alteration.

Gallatin made numerous major contributions to the development of our Nation, serving in the House of Representatives, as a principal U.S. negotiator in the War of 1812, and as minister to both France and Great Britain. He also was the founder of the Ethnelogical Society of America, and became its first president.

It is also important to note, Mr. Speaker, that a year and a half ago, the Congress enacted a provision of law directing the Secretary of the Interior to conduct studies, and from them to assemble a list annually of not less than 12 areas which he believes may possess national significance and may be worthy of addition to the National Park System. The list was to be prioritized, considering among other factors, impending resource threat and cost escalation factors, and submitted to the Congress annually. Friendship Hill was the very first item entered on that list, and I am pleased to see the House able to act so expeditiously on this item.

Mr. Speaker, I urge approval on this bill.

Mr. PHILLIP BURTON. Mr. Speaker, at this time I yield such time as he may consume to our distinguished colleague, the gentleman from Pennsylvania, Mr. AUSTIN MURPHY.

Mr. Speaker, the gentleman from Pennsylvania (Mr. MURPHY) has given this legislation remarkable leadership. I think he deserves the commendation of all of us for his diligence in pursuing this matter and in assuring that this valuable resource will be kept for future generations.

Mr. MURPHY of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding, and I appreciate the remarks of my subcommittee chairman.

Mr. Speaker, as sponsor of H.R. 10984, I would like to take this opportunity to relate to my colleagues my views on this matter and why I desire to see Friendship Hill, the home of Albert Gallatin, included in our national park system.

Mr. Speaker, as the Members are aware, Albert Gallatin's place in the history of our country was in various positions. He served as a U.S. Congressman, as Secretary of the Treasury under Presidents Jefferson and Madison, as head of the peace mission to Russia in 1813, and in 1815 he was the chief of the U.S. diplomats at the Treaty of Ghent. Albert Gallatin also served as Minister to France and as Minister to England and was nominated for the Vice Presidency of the United States, but declined the nomination.

Mr. Speaker, it is obvious that Albert Gallatin's background is one to be respected and revered. It is for this reason that in August of 1977 I visited the Friendship Hill site in my congressional district at the request of many individuals and groups who were concerned about its future status.

During this visit I met with the current owner, who advised me that he was financially unable to maintain the property in a proper manner, and it was his desire to see the Federal Government purchase this property and thus preserve it for future generations.

It became apparent during my visit that the size of the property was the main factor in the owner's inability to maintain the structure and the surrounding environs.

The main house consists of 25 rooms, with a well house, a gazebo, a 5-unit servants quarters, and a dairy barn in close proximity. The estate consists of approximately 700 acres of picturesque land, 2½ miles from the Monongahela River.

I might add, Mr. Speaker, that this acreage and river frontage undoubtedly offer a great potential for the development of recreational facilities, and if properly done, will in no way detract from the historic dignity of the home.

As I toured the house it was very apparent that the house, although structurally sound, was in dire need of extensive repairs. The private gas well which supplies the house with heating fuel is inoperable, although usable. Thus, the home has been without heat for the past two severe winters. The house also requires extensive roof repairs, painting, replacement of rotting exterior woodwork, and elimination of excessive dampness in the basement area.

The National Park Service officials who accompanied me on our trip stated in their report that it was their opinion that serious structural damage might occur if the house is to remain in the ownership of its present owner.

As a result of the serious threat to the structure and its obvious historical importance, the Honorable Cecil D. Andrus, Secretary of the Interior, included Friendship Hill as one of the 13 sites that had the potential for inclusion in the National Park system. Secretary Andrus submitted this report to the Congress on November 30, 1977. This recommendation by the Secretary was based on the historical significance of the site, its potential to become a viable part of our national park system, and the imminent threat to it.

By stating these facts, Mr. Speaker, it is my desire to relate to my colleagues and all individuals and organizations, not only in the State of Pennsylvania but throughout our country, that they are of the opinion that Friendship Hill is indeed threatened and worthy of preservation.

By supporting H.R. 10984, we will not only preserve a vital part of our heritage which is not presently covered in our present system, but we will honor Albert Gallatin, a man who spent most of his life serving his country with the highest dignity as a Congressman and Secretary of the Treasury.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ), the ranking minority member of the full committee.

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 10984, a bill to establish the Friendship Hill National Historic Site in the State of Pennsylvania.

This site will preserve the home and commemorate the life of a dedicated patriot, Albert Gallatin, who served this country well during its formative years.

Gallatin's distinguished career began as a Member of this body in 1795 and continued in 1801 as Secretary of the Treasury under Thomas Jefferson.

During the War of 1812, he was the primary U.S. negotiator for the Treaty of Ghent.

Later he was an able statesman as minister to France and Great Britain.

This legislation provides a lasting tribute to Albert Gallatin and his contribution to our country's early history. I therefore urge my colleagues to support its adoption.

Mr. Speaker, my colleague from Pennsylvania has related to the Members the positions which Mr. Gallatin held throughout the early days of our history, first as Secretary of the Treasury and later as a negotiator after the War of 1812. What he failed to point out was that it was Mr. Gallatin who really saved us from having a second revolution in the western part of Pennsylvania by the tremendous job he did in getting the forces together during the Whiskey Insurrection of 1793.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 10984, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

PROVIDING RECOGNITION OF THE SERVICES OF GEN. THADDEUS KOSCIUSZKO

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 359) to provide recognition of the services of Gen. Thaddeus Kosciuszko.

The Clerk read as follows:

H. CON. RES. 359

Whereas the year of 1977 marks the bicentennial of the Battle of Saratoga, a turning point of the American War of Independence; and

Whereas a part of the victory at Saratoga is credited to the military genius of General Thaddeus Kosciuszko of Poland; and

Whereas the engineering skill and advice of General Thaddeus Kosciuszko contributed significantly to the tactics of the Continental Army in both the north and south theaters of the American War of Independence: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), that the sites of service of General Thaddeus Kosciuszko as identified by, but not limited to, the Polish National Alliance and the Copernicus Society, should be recognized by the Federal, State, and local governments as the "Kosciuszko Military Engineering Sites" and marked by suitable markers; and be it further

Resolved, That the Secretary of the Interior be encouraged to accept the donations of such suitable markers for placement within units of the National Park System, pursuant to the authority granted to the Secretary of the Interior in the Act of August 21, 1935 (49 Stat. 666).

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Concurrent Resolution 359, which was introduced by Representatives MINISH and ANNUNZIO, is to express the sense of Congress that the sites of services of Gen. Thaddeus Kosciuszko should be recognized and suitably marked, and to encourage the Secretary of the Interior to accept the donations of suitable markers for placement within units of the National Park System.

As to the background of this matter, Thaddeus Kosciuszko came to America in August 1776, and volunteered his services to help in the struggle for independence.

His background as an engineer and his military training were invaluable to the efforts of the patriots in many parts of the country.

Revolutionary War historians know of the great contributions of this Polish general in the battlefields of New York—and particularly at the Battle of Saratoga. He also contributed to the defense of West Point and played an important role in the defense of Philadelphia, as well as making a significant contribu-

tion as the chief engineer for Gen. Nathaniel Greene in the battlefield of the South.

The committee agrees that the contributions of this hero of the Revolutionary War have gone too long without recognition and that suitable markers at appropriate locations where he served would be a meaningful way to remember him.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill which recognizes the achievements and military contributions of Gen. Thaddeus Kosciuszko, and encourages the Secretary of the Interior to accent donations of suitable markers for placement within relevant units of the national park system.

I do want to stress, Mr. Speaker, that great care be taken by the National Park Service in approving the proper character, location, and appearance of such markers, so that there not be an overreaction to this legislation. I have seen some of the historic areas of our national park system that are so grossly overembellished with markers that it destroys the appearance and historic integrity of the scene.

Oftentimes the natural appearance of the spot of the historic occurrence can impart a more favorable impression of how it was if left alone, than if cluttered up with all kinds of contemporary markers and signs. Man's current works should be placed so as to complement the interpretation and contemplation of the early day historic scene, and not intrude unduly upon it. I hope the implementation of this legislation is done very sensitively and discreetly, so as to constitute an asset and not a detriment to the historic scene we are trying to protect and display.

Mr. Speaker, with those cautions, I do support this legislation.

Mr. Speaker, I yield such time as he may consume to the ranking minority member, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of House Concurrent Resolution 359 in recognition of Gen. Thaddeus Kosciuszko.

This resolution merely encourages the Secretary of the Interior to accept donations of historic markers recognizing the important role of General Kosciuszko in the Revolutionary War.

No appropriations are authorized by this resolution. All markers would be voluntarily contributed for placement in appropriate units of the National Park System.

General Kosciuszko's contributions to this country were truly extraordinary.

After first serving in the military of his native Poland, he joined the Continental Army in 1776.

His engineering talents were employed at virtually every critical confrontation with the British throughout the Revolutionary War.

His fortifications at Saratoga were decisive in that victory. Moreover, the world was shown that Americans could fight and win against England's finest troops.

In battle after battle—at West Point, at Philadelphia, at Yorktown—it was General Kosciuszko's engineering and tactical genius which provided the key edge to the Continental Army.

After the war, although he returned to Poland, General Kosciuszko donated his military compensation for the establishment of a school in New Jersey.

I, therefore, urge support for this measure recognizing a man who gave America so much and took so little, Gen. Thaddeus Kosciuszko.

● Mr. DERWINSKI. Mr. Speaker, it is with great pride as an American of Polish ancestry that I support the resolution before the House today to authorize the Secretary of the Interior to accept donations of markers recognizing the contributions of Gen. Thaddeus Kosciuszko to America's struggle for independence.

General Kosciuszko was appointed by the Continental Congress as an engineer in the service of the United States in 1776, and even prior to his commission, he had begun laying out plans for the defense of Philadelphia along the Delaware River. Next assigned to the Northern Army under the command of General Gates, Kosciuszko's selection of sites and design of defense fortifications were crucial factors in the first great American victory in the Revolutionary War—the Battle of Saratoga. Gen. George Washington commended him for his direction of the building of fortifications at West Point, which resulted in the British being thwarted from attacking the Hudson Highlands and the upper reaches of the Hudson River. Kosciuszko also served as chief engineer for the Southern Army, spending a total of 7 years in the service of our country during our war for independence.

There is no question of the importance of his military engineering achievements, and I believe that this resolution authorizing the donation of descriptive markers to be placed at Kosciuszko's military engineering sites deserve the full support of the House.

This resolution is not only consistent with the service rendered to our country by a great military leader during the Revolutionary War, but as noted, it is supported by Polish-American fraternal, civic, and political organizations. Their support dramatizes the rebirth of ethnic spirit that is a very positive factor in American cultural life.●

● Mr. MINISH. Mr. Speaker, Gen. Thaddeus Kosciuszko, the military engineering specialist who played such a vital role in the American Revolutionary victory, was once described by Thomas Jefferson as being "as pure a son of liberty as I have ever known."

We have before us, today, House Concurrent Resolution 359, which will express the American people's gratitude for Kosciuszko's contribution to the American cause.

General Kosciuszko cherished the tenets of freedom and independence with the same vigor as our Founding Fathers. For 6 years he labored without rest at the side of the Revolutionary forces, designing the fortifications which made possible some of the greatest American victories of the war.

Up and down the length and breadth of our newborn Nation, General Kosciuszko left his mark as a military genius. His contributions to the war effort are not disputed. When asked to locate and fortify a position where fleeing American troops could make a last stand against the British in New York, Kosciuszko selected and engineered a battlement at a site along the Hudson River at Saratoga. His astute planning resulted in a resounding victory for the American forces against General Burgoyne in a battle which is thought of by today's historians as being one of the 10 most important engagements in history.

Later, Mr. Speaker, General Kosciuszko labored for 2 years to establish impregnable defenses at West Point and further distinguised himself as chief engineer of the American Army of the South, resulting in the notable American fortifications at Charleston.

Mr. Speaker, House Concurrent Resolution 359, which is before us under suspension of the rules, will provide long-overdue recognition of General Kosciuszko's contributions to the American Revolutionary effort. Through this legislation, the locations of his greatest labors will be recognized as the Kosciuszko Military Engineering Sites. The erection of commemorative markers will be encouraged at these sites.

General Kosciuszko, himself, once commented:

> The title of "an American" will always be sacred to me.

Favorable consideration of this legislation, today, will insure that the name of Gen. Thaddeus Kosciuszko will remain sacred to future generations of Americans.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to urge the support of my colleagues for House Concurrent Resolution 359, a bill I cosponsored with my good friend and colleague from New Jersey, Congressman JOE MINISH, authorizing the Secretary of the Interior to accept donations of markers recognizing the contributions of Gen. Thaddeus Kosciuszko to be placed at the sites of his service to our country. Kosciuszko was a valiant Polish patriot whose military engineering contributions were decisive in this country's struggle for independence in the Revolutionary War.

Also, I deeply appreciate the special attention given to this bill by Congressman PHIL BURTON, chairman of the Subcommittee on National Parks and Insular Affairs. I thank the chairman for his extra effort, and I know that Americans of Polish descent all over this Nation will also appreciate his outstanding cooperation on this legislative project.

House Concurrent Resolution 359 will not cost the taxpayers any money, since the historical markers called for in the bill will be provided by individuals and organizations interested in perpetuating the memory of General Kosciuszko's invaluable assistance to our Nation during its first years as an independent country. Because of the general's dedication and resourcefulness, Congress bestowed on him the rights and privileges

of American citizenship and the rank of brigadier general.

General Kosciuszko's engineering genius is given credit for the American victory at the Battle of Saratoga in 1777, a battle which halted the British advance in the north and is described by historians as the turning point in the Revolutonary War. Kosciuszko also designed fortifications at West Point, N.Y., and in other parts of the country.

After the war, he returned to Poland in an unsuccessful effort to free his homeland of foreign occupation. However, he was exiled from Poland by the foreign conquerors, and returned to Philadelphia.

Thaddeus Kosciuszko's small brick home at 301 Pine Street in Philadelphia, now a national memorial, was visited by Cabinet members, Senators, and Congressmen, Governors, and foreign diplomats. However, his most distinguished and regular guest was then Vice President Thomas Jefferson, with whom Kosciuszko shared many hours. General Kosciuszko's heroism and dedication to the cause of freedom in America as well as his beloved Poland, and his compassion for the sovereign human right of self-determination makes clear the respect Jefferson felt when he said of his Polish friend:

He is as pure a son of liberty as I have ever known, and of that liberty which is to go to all and not the few and rich alone.

Mr. Speaker, Gen. Thaddeus Kosciuszko was devoted to democracy and human freedom and he put his life on the line in our country's fight for independence. House Concurrent Resolution 359 would recognize the various Kosciuszko military engineering sites with suitable interpretive markets in order that much-deserved recognition can be given by our country to the contributions of this great man and to enable the people of our great Nation to pass our precious heritage of hard-won freedom along to future generations. Again, I strongly urge the support of my colleagues for this bill.●

● Mr. LEDERER. Mr. Speaker, fellow Members of the House, I am pleased to bring to the attention of the House of Representatives the name of a great Polish patriot and hero of our own American Revolution, Gen. Tadeusz Kosciuszko.

Today, the House votes on House Concurrent Resolution 359 to commemorate the sites of service of General Kosciuszko. I am proud to note that one of the general's first services in the Colonies was as a military engineer for my home State of Pennsylvania. Moreover, the Kosciuszko House, where the general resided briefly to recover from wounds sustained in his service, is located in my congressional district and is restored to commemorate his service. With such closeness to his service, all Philadelphians share in honoring General Kosciuszko.

His life and service are worth noting here. In October 1776, following a short spell as military engineer for the State of Pennsylvania, Kosciuszko received a commission as colonel of engineers in the Continental Army. He served in the northern forces and advised in the planning of the defense of Ticonderoga, N.Y. Then in the spring of 1778 he went to West Point, N.Y., to take charge of the fortifications there.

Two years later, he left the northern command for service in the south, where he remained as a fighting officer and a strategist until the capture of Charleston in 1782. In recognition of of his many services, the following year the Continental Congress promoted Kosciuszko to brigadier general, made him a citizen of the United States, and awarded him a land grant.

After the war, Kosciuszko returned to Poland, but 5 years later, he took up arms again, this time as a major general of the Polish Army in defense of his native land against the Russians. Unsuccessful at first, Kosciuszko was forced to flee the country. In 1794, however, he returned to lead a victorious, if brief, uprising of the Poles. He was captured in the autumn and sent to St. Petersburg, where he was imprisoned. In 1796, he was released and exiled; he traveled to several European countries before returning to a hero's welcome in America in 1797.

A year later Kosciuszko went back to France, where he wrote his war memoirs, an important study of the horse artillery, and essays on various subjects, including the history of democratic thought. In addition, he was active as a propagandist on behalf of Polish freedom. Kosciuszko spent his last years in Switzerland, where he died on October 15, 1817, in Solothurn. He was buried in Cracow Cathedral. He is one of Poland's most honored patriots.

He is also one of America's most honored patriots. Philadelphians of all ethnic backgrounds join the House of Representatives today in honoring General Kosciuszko.●

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 359).

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

AMENDING THE NATIONAL TRAILS SYSTEM ACT OF 1968 (82 STAT. 919), AS AMENDED, DESIGNATING THE OREGON NATIONAL HISTORIC TRAIL AND TRAVELWAY AS A UNIT OF THE NATIONAL TRAILS SYSTEM

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6900) to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designated the Oregon National Historic Trail and Travelway as a unit of the National Trails System, as amended.

H.R. 6900

A bill to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources".

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert ", scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows:

"(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for pubic use and enjoyment.".

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby established the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Application", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraph:

"(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841–1848', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The Trail shall

be administered by the Secretary of the Interior.".

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior", insert "through the agency most likely to administer such trail,"; delete the third sentence; and delete that portion of the fourth sentence which precludes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:".

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);"

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence; to a semicolon; and at the end of section 5(b) add the following new paragraphs:

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernable trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development. or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

(13) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the train passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(14) In section 5 add a new subsection (e) as follows:

"(e) Within two complete fiscal years of the date of enactment of legislation designating a trail as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans, including anticipated costs.".

(15) In section 6 in the first sentence delete "or national scenic" and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic".

(16) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection (c), after "scenic", insert "or national historic"; in the fourth sentence of subsection (c), after "trail", insert "and within any high potential historic sites and high potential route segments of any national historic trail"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national historic"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

(17) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

(18) In section 7(e), in the first proviso, delete "within two years".

(19) In section 7(g), delete the second proviso entirely.

(20) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

(21) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage State to consider, in their comprehensive statewide historic prservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trains.".

(22) In section 10, insert "(a)" preceding the first sentence; delete "(a)" in the second sentence and substitute "subsequent fiscal years" for "the subsequent fiscal year"; strike paragraph numbered (2) and subsection (b) in their entirety, and insert in lieu the following:

"(2) The Oregon National Historic Trail, not to exceed $5,000,000.

"(b) Until the entire acquisition program for the Appalachian Trail is completed, the Secretary of the Interior shall request the Appalachian Trail Conference to transmit a report at the close of each fiscal year to him, the Committee on Energy and Natural Resources of the Senate and to the Com-

mittee on Interior and Insular Affairs of the House of Representatives which shall include but not be limited to comments on—

"(A) the manner in which negotiations for the acquisition programs are being conducted for every section of the train;

"(B) the attitudes of the landowners with whom negotiations have been undertaken; and

"(C) whether in any case larger interests in land are being acquired than are necessary to carry out the purposes of this Act.

"(c) For the purposes of Public Law 95–42 (91 Stat. 210), the lands and interests therein acquired pursuant to subsection (a)(1) of this section shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the National Trails System Act, approved October 2, 1968 (82 Stat. 919), as amended, established a mechanism for the development of a national system of trails. At that time two trail routes were designated as national scenic trails: The Appalachian Trail, traversing approximately 2,000 miles through the Eastern United States extending from Maine to Georgia, and the Pacific Crest Trail, traversing approximately 2,350 miles extending through three western States from Washington to California. Segments of these two popular hiking routes had been in existence through previous use, and gained formal recognition and increased Federal protection and support through this legislation.

This 1968 enabling act also identified a series of other prospective trail routes considered to be of possible merit for national trail designation, but for which insufficient information was available at that time upon which to make a final determination. Hence, identification of such prospective trails was made in the legislation—commonly referred to as the "study list"—on which the appropriate Secretary was directed to make further detailed study and submit to the Congress recommendations as to the suitability of the various study candidates for designation as national trails.

Many of the 14 study trails originally listed have been studied and recommendations have been transmitted to the Congress. One such trail receiving a positive recommendation for becoming a designated route is the Oregon National Historic Trail, which is proposed for addition as a unit of the National Trails System by this legislation.

In the process of review of the various routes identified on the study list, it became apparent that two quite distinctly different types of trails existed, each having materialized from different patterns of use and for different purposes, and each, likewise, continuing to be worthy of perpetuation for somewhat differing patterns and purposes of use. The two initially established national scenic trails had materialized through time principally for recreational benefit. They generally traversed major mountain ranges through a great variety of scenery and landscapes, and afforded physical refreshment and spiritual inspiration to the hiker. Their continued use into the future definitely necessitates the protection of a continuous and uninterrupted route of travel, as well as adequate buffering from the intrusions of man's adjacent, more civilized and developed world.

In contrast, a number of the routes identified for study involved routes of travel of our early pioneers—paths of explorers, of settlers, of the advance of commerce, and of military campaigns. It is important that these routes be appropriately commemorated, not only on maps and in the history books, but also on the very face of the American landscape itself, as opportunities to preserve these very real remnant imprints of our historical heritage may yet physically exist. Much, if not most, of these imprints no longer exist, however—having faded into oblivion through the influences of natural forces and time, or through the expansion and intensification of use of travel routes and attendant development by man over the very top of the original route itself. In either event, original historic fabric may not yet remain. Nevertheless, the marking of the entire route, on-site, can and should be considered, where feasible and appropriate, and some of the best of the remaining segments of the trail route—where historic remnants or imprints of integrity yet remain, or where some particularly historic event occurred—should be protected.

As can be easily recognized, travel over many of these historic routes had a much different purpose than did the more contemporary routes which have materialized for scenic and recreational purposes. Routes for these earlier travels often materialized as the shortest, easiest or fastest distance between two points, and bore no necessary contemplation of or correlation with routes of attraction of enjoyment. Such routes were often monotonous, hot, dusty—or all of the above—and foot travel over all or parts of these same routes today, even under greatly decreased duress, may still not be sufficiently attractive to warrant continuous preservation of the entire route across the countryside for purposes of trail travel.

Consequently, for trails accorded the historic category designation, it is contemplated that only certain identified segments of a particular trail route may be subject to actual onsite protection and development for use. The extent and location of these segments will be identified in the historic trail study report to be submitted to the Congress, and may possibly be further identified or expanded upon by the comprehensive management plan subsequently to be prepared for each individual trail. In developed areas, the route, to the extent it sufficiently exists or so warrants, might merely be commemorated by appropriate signs. It may never be possible—as a practical matter—to traverse an entire historic trail route without some detours, discontinuities or disruptions because of the contemporary works of man and the patterns of land ownership. Such are the realities associated with the preservation and use of historic trails.

The Oregon Trail was a wagon road stretching 2,000 miles from Missouri to Oregon's Willamette Valley, It was not a road in any modern sense, but only parallel ruts leading across endless prairie, sagebrush desert, and mountains to an unknown "Promised Land."

A quarter of a million people set out on this faint track, their possessions reduced to what could be carried in a wagon or on the backs of their livestock. Most said goodby forever to friends, relatives, and familiar places. Many were destined to a shallow grave along the way, and the Oregon Trail often has been called the longest cemetery in the Nation.

To survivors, the 6-month journey was the most important event in their lives. Over 700 of them left diaries and journals. These written accounts, together with remnants and relics of the trail itself, today provide a window to the past.

Many trail remnants have been erased by the bulldozer and the plow. Much of the route today lies under highways and city streets, or traverses farmland where prairie grasses and sagebrush have given way to corn and wheat. Here and there, however, are segments relatively untouched by civilization. Much of the Oregon Trail's potential for public enjoyment lies in these visible remnants, and in the historic sites associated with the trail.

What remains of the Oregon Trail lies gently on the land, as easily erased as a pencil line on paper. If protected, these remnants can provide future generations the opportunity to catch glimpses of our land as it appeared to the pioneers, to relive vicariously their great adventure, and to sense the enormity of its consequence.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation which will establish the Oregon National Historic Trail, and will also establish a new category of national historic trail, through amendments to the National Trails System Act.

I certainly want to commend the gentleman from Colorado (Mr. JOHNSON) who is a most effective member of our committee, for his fine leadership on this bill. We would not have this bill here on the floor today had it not been for his determined effort and enthusiasm.

I think it will be very helpful in times ahead as we consider the addition of new trails, to have this additional category of historic trail. The provisions of the bill for this new category are much more

responsive to the needs and requirements of historic types of trails, and our evolving national system of trails will be all the better for it.

The Oregon Trail is certainly well known for its important role in the westward expansion and development of our Nation, and it is well time we lend it the national recognition and protection it deserves, through the provisions of this legislation.

Mr. Speaker this bill has numerous provisions, and there are several I would like to comment on specifically.

Nearly a full decade has elapsed since the enactment of the original legislation which established our national trails system. There were 14 trails listed for study at that time, and all of these studies have still not been completed and submitted to the Congress in all this time. To correct this situation, this legislation provides a reporting deadline of 3 years after a trail is added to the study list, so we can avoid these forever lingering submissions.

The bill also significantly shifts Interior Department conduct of these studies from the Bureau of Outdoor Recreation to the National Park Service. It has shown to be an awkward situation in the past for one agency to conduct a study and make recommendations that another agency will have to live with.

Another feature of this bill is to require the development of comprehensive management plans for each national scenic or national historic trail. This is in keeping with the standard practice of having such a guiding document for all units of the national park system, for many wilderness areas, wild and scenic rivers, et cetera. This plan will be particularly helpful in the case of trails. which go through so many States and jurisdictions. In this way, the plans for acquisition, protection, development and use can be publicly stated for the benefit and knowledge of all interested entities, landowners and the public.

The legislation recognizes the necessity of identifying carrying capacities for all trails, and for developing plans for their implementation into management of the trails. This is designed to assure that these trails do not become overused, so that both the resource values and the social experience are adequately preserved.

I would like to also comment on one specific feature of this legislation—a provision which removes the prohibition in the existing law of condemnation authority over the Pacific Crest Trail. Approximately 351 miles—or 15 percent—of the route of the Pacific Crest Trail yet remains on privately owned lands. Most of this is in California. There is nothing to say that this land cannot remain in private ownership, but some secure and permanent arrangement must be made to assure that public access over the trail route is always available, and that the integrity of the resources of the corridor is not jeopardized. The condemnation authority is meant to be used only as a last resort device to assure that the trail corridor is adequately protected. I think that the U.S. Forest Service, which is the lead agency for coordinating and managing this trail, should give this matter priority attention through assessment of the situation, and the conclusion of whatever agreements or acquisition may be deemed necessary, and should also report the status of the situation and plans for further action to the appropriate committees of the Congress within 6 months of the enactment of this legislation. I would hope they would take it upon themselves to follow such a course.

Mr. Speaker, I believe this is a good piece of legislation, and I urge its approval by my colleagues.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. Mr. Speaker, I am happy to yield to the distinguished gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, would like to join with the gentleman from Kansas (Mr. SEBELIUS), the ranking minority member on our subcommittee, in my most emphatic commendation to the gentleman from Colorado (Mr. JOHNSON) for his diligence, his efforts, and his leadership in bringing this matter up to this point and hopefully to ultimate fruition. The gentleman is to be commended for his hard work on our committee and in particular on this legislation, and for the leadership that he has shown.

Mr. JOHNSON of Colorado. Mr. Speaker, I want to thank the distinguished gentleman from California (Mr. PHILLIP BURTON) for his willingness to expedite this particular piece of legislation.

I do not suppose that very many people in the eastern part of the United States appreciate the human hardships that were incurred by those people who left Missouri and walked across the United States, the western half of the United States, in order to get to Oregon or to California. But it is one of the most dramatic events in American history in my mind and has been so from the time that, as a boy, I read the book "The Oregon Trail," by Francis Parkman, that has addressed to the trip out along the Platte River, then down the front range of the Rockies and back along the Arkansas River. Through this book he became one of the greater American historians. This was one of the great moments in American life when these people took to this trail. About some 250,000 of them want along the trail. Many of them died on the way. This was due partly because they did not understand about the dangers of pollution and they polluted the rivers so that the people following along behind them were then drinking contaminated water and as I say many of them died. The South Platte River became known as the longest cemetery in the world. Children particularly died by the thousands as they attempted to make this long trek through these areas in the western half of the United States. It is indeed a memorable thing for me to go along the area of this trail where one can still see the wagon wheel ruts still in the sod along the trail. Also there are some places in Wyoming where when there is a high wind, you can see artifacts that have become uncovered, dolls, for instance, left by children, knives, forks, and spoons, things of that kind that were discarded or lost by the pioneers as they traveled the trail. Those things are still uncovered along the way. There are some 230 miles out of something like 2,000 that have potential trail segments for preservation. There are some 36 highly potential historic sites and hopefully the commission that is to be established under the legislation will take the necessary steps so as to acquire these and preserve them for future generations.

I would like to make one more remark about the historic aspects of the bill and that is that there are many historic trails in this country which, to my mind, ought to be preserved, or at least denoted or marked so that the travelers can recognize them. The Oregon Trail is just the first one that is going to be designated. There is also the California Trail that went along the southern route, the Santa Fe Trail is another, the Chisholm Trail, the Butterfield Trail, and others. There are also trails in the Midwest that people feel should be commemorated that show the efforts of the people in our country and which have particular significance in the minds of many. I believe they will have significant meaning to those of us who are interested in the preservation of the early reminders of the history of our country that will last through the centuries if properly maintained and cared for.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. CORCORAN of Illinois. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Illinois.

Mr. CORCORAN of Illinois. Mr. Speaker, I ask for this time in order to engage the sponsor of this legislation in a colloquy. First of all, I want to make clear that I enthusiastically support H.R. 6900. I think the provision which develops a new category for treating these trails as historic trails is something that is long overdue, and I would hope that the full membership would support the legislation.

I would like to point out that during the Easter break just concluded, I had the opportunity to tour the Illinois-Michigan Canal, which is in large measure a part of my district. In October of last year I introduced a bill which would designate the Illinois-Michigan Canal as a part of the National Scenic Trails System, H.R. 9570, and it is against that

background that I would like to ask the sponsor of the bill a few questions.

First of all, will there be other trails added to this new historic trail designation?

Mr. JOHNSON of Colorado. That would depend upon sponsoring legislation, but the legislation contemplates that there will be other trails that will be examined and designated.

Mr. CORCORAN of Illinois. With respect to future designations, does a trail have to go through the feasibility study for a scenic trail before it can be an historic trail?

Mr. JOHNSON of Colorado. It has to go through the same study process.

Mr. CORCORAN of Illinois. In the gentleman's opinion, will the House Committee on Interior and Insular Affairs be considering a package of legislation which would include, as I noted in the gentleman's earlier comments, the recognition of several other potential historic trails?

Mr. JOHNSON of Colorado. I cannot speak for the chairman of the subcommittee, but I would suppose that if there were enough separate trails, that could be done, yes. At the present time I do not know that I could even comment on it at this point.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will be glad to yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

We are in the process of preparing an omnibus bill that will, hopefully, deal with a great number of deserved areas about which there have been expressions of interest by our colleagues. I am not sure in all particulars what will be included or excluded from that omnibus bill, but once we get that out of the way, we can measure the parameters of that effort. We do not intend to stop working for the balance of the session, and we will then recycle, if you will, or review, if you will, the other pending proposals of the Members. It is my hope that within the limitations imposed upon us in terms of fiscal outlays that we will be able to treat a lot of these items that we have neglected in the past. I am reasonably optimistic we are going to be reasonably productive this year. Regarding the particular question, I have not yet had an opportunity to study the gentleman's bill and, therefore, am in no position to give him specific assurances in that respect.

I would note this, however, that we have made an effort on our committee to be as bipartisan as could be, because we believe regarding these natural resources that should be protected, our objective is best served when all of our colleagues proceed—and we are going to proceed—in a bipartisan way without the kind of partisan consideration that sometimes intervenes in some of the other subject matters which come before us.

Mr. JOHNSON of Colorado. I would just add to what the gentleman from California has said that this has been a totally bipartisan type of approach. The gentleman's committee is noted for that, and he is to be congratulated. Those of us in the minority thank him for his broad-minded attitude and his tolerance toward our approaches, and his willingness to help us, because without him these things could not have been accomplished.

Mr. CORCORAN of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. JOHNSON of Colorado. I yield to the gentleman from Illinois.

Mr. CORCORAN of Illinois. I thank the gentleman for yielding.

I have one more question of the chairman of the subcommittee. With respect to H.R. 6900, it seems clear to me that there is a precedent being established here regarding this new historic category. Would the gentleman agree that this is a new precedent?

Mr. PHILLIP BURTON. If the gentleman would yield, I think it is a noteworthy addition of a category, the historic trails concept, and I suspect, more than any other single thing that has been done, if you will, having this as a part of the gentleman from Colorado's basic bill is further testimony that we are trying to see that proper credit, without regard to partisan considerations, is the essential thrust of our committee.

Mr. CORCORAN of Illinois. I thank the gentleman.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the ranking member of the full committee, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 6900, a bill to establish the Oregon National Historic Trail.

There are two primary purposes for this bill.

First, the National Trails System Act of 1968 is amended to provide a new category consisting of national historic trails.

This designation recognizes the distinction between scenic trails—like the Appalachian Trail—which provides an uninterrupted route for recreational purpose—and routes of historic significance which may be interrupted by the progress of mankind.

Historic trails are to be designated in their entirety on appropriate maps and documents, marked onsite where practicable, and preserved in part when found to be of high potential historic value.

The second purpose of this bill is to designate the Oregon Trail as the first entry in the new national historic trail category.

This action is entirely fitting for a route which stands alone in the magnitude of its symbolic tribute to the pioneer spirit which helped make this Nation.

A quarter of a million people set out on this 2,000-mile path from Missouri to Oregon—many never completed the arduous trek. But for those who did, it was one of the most important experiences of their lives.

The symbolic traces of the bravery and determination of those early men and women who are the "roots" of our greatness, deserve to be preserved and commemorated.

I, therefore, urge support of this measure insuring that heritage—the Oregon Trail—will be available to future generations.

Mr. SEBELIUS. Mr. Speaker, I yield the balance of my time to the gentlewoman from Nebraska (Mrs. SMITH), in whose district this trail means more than any other Member of Congress.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman.

Mr. Speaker, since I have lived most of my life within miles of the Oregon Trail, the landmarks, stories, and historic remnants of the vast westward migration are an intimate part of my own personal heritage. For this reason, I am a cosponsor and enthusiastic supporter of H.R. 6900. In fact, H.R. 6900 beautifully complements my dream to properly commemorate the most significant landmarks encountered by our west-bound forefathers by creating the Trails West National Historic Park in the States of Nebraska and Wyoming.

It generally took travelers about a month to reach the present State of Nebraska. By that time, all the freshness and novelty of the trip was far behind and only gruelling sacrifice lay ahead. When the 429 miles of Oregon Trail through Nebraska was traversed, the pioneers would be prepared for the Rockies. This toughening process, however, was costly in terms of wagons, livestock, and human lives. Sickness, accidents, and Indian attacks would be responsible for culling the weak and hardening the strong.

When the emigrants reached Ash Hollow, they were in for the first test of their ability to handle rough terrain. Here the prairie was broken by a deep canyon through which the trail descended in a series of steep and dangerous grades to the river bed below. Today a marker indicates where wheels were locked and ropes used to ease the conestogas down abrupt Windlass Hill. Ash Hollow—now a State historical park—would be the first element of the Trails West National Historical Park and is certainly critical to a full telling of the Oregon Trail story.

Let me at this point explain briefly the concept of H.R. 1732, the Trails West National Historic Park bill. This historic park would include the most important landmarks along the Oregon Trail that carried the pioneers west toward their "manifest destiny"—Ash Hollow State Historical Park, Courthouse and Jail Rocks, Chimney Rock National Historic Site, Scotts Bluff National Monument, and Fort Laramie National Historic Site. H.R. 1732 would link these individual entities together under the historic westward expansion theme, thus enhancing their cumulative significance. Management of this park, which is the heart of the Oregon Trail, would be facilitated by visitors centers already located at Fort Laramie, Scottsbluff, Ash Hollow, and Mud Springs Pony Express Station. I hasten to stress that Trails West Park would be very inexpensive because each of these sites is currently in the public domain. They would be donated to the National Park Service to assist their

mission of reconstructing the Oregon Trail story. H.R. 6900 and H.R. 1732 have the same goal: honoring the pioneers and focusing national attention on the historic resources of their chosen route west.

After the voyagers left Ash Hollow and proceeded up the North Platte Valley, the next notable milestone of their trip was Courthouse and Jail Rock. According to one account, these twin cliffs were named by early travelers from St. Louis who thought it resembled their county buildings back home. A nearby cliff had the words "post office" etched on it, and travelers often deposited letters in boxes hewn in the soft stone hoping that an eastbound trapper would convey them back to civilization.

Chimney Rock was probably the most famous landmark on the trail. This jagged needle was within view to the 19th century voyagers for several days and was a natural wonder for the quarter of a million emigrants who paused at its base. This shaft of stone, called "wigwam" by the Indians, was the subject of more mentions in pioneer journals than any other point on the overland migration route.

Scotts Bluff National Monument was the first butte of dominating height to prophesy of the highlands ahead. Many undoubtedly climbed to the summit to view the great trail 800 feet below. This massive promontory, named for Hugh Scott, a fur trapper killed in the vicinity around 1828, was Me-a-pa-te to the Indians, or "hill-that-is-hard-to-go around." The Overland Mail, Pony Express, Pacific Telegraph, and Overland Stage all built stations near the cliff.

Fort Laramie was the most important stop on the westward trek. Miles of travel had damaged the wagons. With the mountains looming ahead, defective wagon parts had to be replaced and depleted stores replenished before setting off toward South Pass, the lowest and widest break in the continental divide. Besides its pivotal role in westward emigration, the fort was also a key military post. It secured the territory against Indian attacks.

In 1854, however, the fort's commander insisted upon the surrender of an Indian accused of stealing a traveler's cow. Lieutenant Grattan was sent to enforce the demand. The demand was refused and a dispute followed. In the ensuing engagement, Grattan's entire detachment was killed. This incident touched off Indian wars which would rage for another 35 years.

As I mentioned at the outset, the Oregon Trail heritage is very dear to me. Today's visitors should be allowed to retrace the 2,000-mile trail. H.R. 6900 has my full support and I urge my colleagues to support it as well.

H.R. 1732, the Trails West Park bill, has received hearings in the House National Parks Subcommittee. I also urge the Congress to complete the commemorative process it will begin today. Honoring a trail is somewhat incomplete unless we preserve and honor the landmarks and natural wonders that provided the most memorable experiences for the trail's first travelers. Wagon wheel ruts, although interesting, are only important because they carried the pioneers through Ash Hollow, past Chimney Rock and Scotts Bluff, into Fort Laramie, and finally west to the Pacific. H.R. 6900 will be a wonderful complement for the Trails West National Historic Park. Since the Trails West Park would cost little and contribute immeasurably to the story of westward expansion, I heartily urge Congress to complete the commemoration it is beginning today by honoring the Oregon Trail.

Mr. DON H. CLAUSEN. Mr. Speaker, I want to add my support to this bill now before us which establishes the Oregon National Historic Trail, and also sets up a new general category of national historic trail.

In looking at the 14 trails on the original study list of the 1968 Organic Act, the great majority of them are historic type trails, and when and if we get around to designating any of them, many of them will certainly need to be considered as candidates for this new historic trail category. For that reason, I am glad to see we are setting up this category now. Most of the studies on the original 14 study trails have been completed, and soon they will all have been submitted to the Congress. I think it would be a most responsible action for the Interior Committee to review and act on all of these together, so that we can develop a proper overview of these trails collectively as to what degree of historic preservation and recreation opportunity would be entailed nationwide.

These historic routes are the product of the migration of many thousands of earlier day Americans, and wherever sufficient remnants of these trails and their associated historic features yet exist, we should closely scrutinize the desirability of providing adequate preservation and protection.

Mr. Speaker, I sincerely commend the gentleman from Colorado (Mr. JOHNSON) for his fine leadership on this legislation, and I certainly want to lend my strong support to his effort.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 6900, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR THE ESTABLISHMENT OF THE LOWELL NATIONAL HISTORICAL PARK IN THE COMMONWEALTH OF MASSACHUSETTS

Mr. PHILLIP BURTON. Mr. Speaker, I have transmitted to the desk a few technical amendments which have been agreed to, but are not in the printed copy of the report. None of these amendments are opposed or controversial and, as a matter of fact, have been cleared and worked up by the minority as well as the majority.

Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes, as amended.

The clerk read as follows:

H.R. 11662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

(2) the cultural heritage of many of the ethnic groups that immigrated to the United States during the late nineteenth and early twentieth centuries is still preserved in Lowell's neighborhoods;

(3) a very large proportion of the buildings, other structures, and districts in Lowell date to the period of the Industrial Revolution and are important historical resources, including the five-and-six-tenths-mile power canal system, seven original mill complexes, and significant examples of early housing, commercial structures, transportation facilities, and buildings associated with labor and social institutions; and

(4) despite the expenditure of substantial amounts of money by the city of Lowell and the Commonwealth of Massachusetts for historical and cultural preservation and interpretation in Lowell, the early buildings and other structures in Lowell may be lost without the assistance of the Federal Government.

(b) It is the purpose of this Act to preserve and interpret historically and culturally significant sites, structures, and districts in Lowell, Massachusetts, for the benefit and inspiration of present and future generations by implementing to the extent practicable the recommendations in the report of the Lowell Historic Canal District Commission.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "park" means the Lowell Historic National Historical Park, established by section 101(a)(1) of this Act;

(2) the term "preservation district" means the Lowell Preservation District, established by section 101 (a)(1) of this Act;

(3) the term "Commission" means the Lowell Historic Preservation Commission, established by section 301(a) of this Act;

(4) the term "Secretary" means the Secretary of the Interior; and

(5) the term "report of the Lowell Historic Canal District Commission" means the report submitted to the Congress by the Lowell Historic Canal District Commission pursuant to an Act entitled "An Act to provide for a plan for the preservation, interpretation, development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell,

Massachusetts, and for other purposes", approved January 4, 1975 (88 Stat. 2330).

TITLE I—ESTABLISHMENT OF PARK

ESTABLISHMENTS; BOUNDARIES

SEC. 101. (a)(1) To carry out the purpose of this Act, there is established as a unit of the National Park System in the city of Lowell, Massachusetts, the Lowell National Historical Park. There is further established in an area adjacent to the park the Lowell Preservation District, which will be administered by the Secretary and by the Commission in accordance with this Act. The boundaries of the park and preservation district shall be the boundaries depicted on the map entitled "Lowell National Historical Park, Massachusetts", dated March 1978, and numbered "Lowe-80,008A". Such map shall be on file and available for inspection in the office of the National Park Service, Department of the Interior, and in the office of the city clerk, city of Lowell.

(2) The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, a detailed description and map of the boundaries established under paragraph (1) of this subsection.

(b) The Secretary may make minor revisions of the park and preservation district boundaries established under subsection (a)(1) of this section, after consulting with the Commission and the city manager of Lowell Historic, by publication of a revised drawing or other boundary description in the Federal Register; but no waters, lands, or other property outside of the park or preservation district boundaries established under such subsection may be added to the park or preservation district without the consent of the city manager of Lowell and the city council of Lowell. A boundary revision made under this subsection shall be effective only after timely notice in writing is given the Congress.

COOPERATION OF FEDERAL AGENCIES

SEC. 102. (a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 302(e) of this Act, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) Any applicant for a required Federal license or permit to conduct an activity within the park or preservation district shall provide in the application to the entity issuing such a license or permit a certification that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act and that such activity will not have an adverse effect on the resources of the park or preservation district. No such license or permit shall be granted by any such entity if the Secretary finds that the granting of such license or permit will have an adverse effect on such resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 103. (a) There are authorized to be appropriated for fiscal years ending on or after September 30, 1979, such sums as may be necessary to carry out this Act, except that—

(1) the total of the amounts authorized to be appropriated for all fiscal years for the purpose of acquisition and development under the park management plan established pursuant to section 201(b) of this Act and emergency assistance under section 205(a)(1) of this Act shall not exceed $18,500,000; and

(2) the total of the amounts authorized to be appropriated for all fiscal years for the purpose of carrying out section 302(b)(2) of this Act, for the payment of grants and loans under section 303 of this Act, for the acquisition of property under section 304 of this Act, and for carrying out any transportation program and any educational and cultural program described in section 302(c) of this Act shall not exceed $21,500,000.

(b) Funds appropriated under subsection (a) of this section shall remain available until expended.

SPENDING LIMITATIONS

SEC. 104. Notwithstanding any other provision of this Act, no authority to enter into agreements or to make payments under this Act shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriation Acts.

TITLE II—ROLE OF THE SECRETARY

PARK MANAGEMENT PLAN

SEC. 201. (a) The Secretary shall submit a statement to the Congress, within two years after the date on which funds are made available to carry out this Act, which—

(1) reports on the progress that the Secretary has made in acquiring the properties designated for acquisition under section 202 of this Act, and describes the way the Secretary intends to use these properties;

(2) designates the properties within the park and preservation district respecting which the Secretary has entered into or intends to enter into agreements relating to interpretive exhibits or programs under section 203(a) of this Act;

(3)(A) reports on the progress of the Secretary in leasing a portion of the Lowell Manufacturing Company, located on Market Street, for the purpose of establishing a visitors' center in close proximity to parking and other transportation facilities, and (B) designates any other property within the park which the Secretary has leased or intends to lease for purposes of the park;

(4) reports any other activities which the Secretary has taken or intends to take to carry out the purpose of this Act; and

(5) contains a tentative budget for the park and preservation district for the subsequent five fiscal years.

(b)(1) Not later than three years after the date on which funds are made available to carry out this Act, the Secretary shall establish and submit to the Congress a park management plan containing the information described in subsection (a) of this section. Such plan shall, upon request, be available to the public.

(2) After consulting with the Commission, the city manager of Lowell, and the Commonwealth of Massachusetts, the Secretary may make revisions in the park management plan established pursuant to paragraph (1) of this subsection by publication of such revisions in the Federal Register. A revision made under this paragraph shall be effective 90 days after written notice of the revision is submitted to the Congress.

ACQUISITION OF PROPERTY

SEC. 202. (a)(1) The Secretary shall acquire the properties designated in paragraph (2) of this subsection, or any interest therein, by donation, purchase with donated or appropriated funds, condemnation, or otherwise. Any property or interest therein owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only with the consent of the owner. The Secretary may initiate condemnation proceedings under this paragraph only after making every reasonable effort to acquire property through negotiations and purchase, and consulting with the Commission (if established) and the city council of Lowell.

(2) The properties referred to in paragraph (1) of this subsection are the following:

(A) The Linus Childs House, 63 Kirk Street.

(B) The H and H Paper Company (Commonly referred to as Boott Mill Boarding House), 42 French Street.

(C) Old City Hall, 226 Merrimack Street.

(D) Merrimack Gatehouse, 269 Merrimack Street.

(E) The Wannalancit Textile Company, 562 Suffolk Street.

(F) The structures containing the Jade Pagoda and Solomon's Yard Goods, 210 and 200 Merrimack Street.

(b) Until the date on which the Commission conducts its first meeting, the Secretary may acquire any property within the park or preservation district not designated in subsection (a)(2) of this section, or any interest therein, if such property—

(1) is identified in the report of the Lowell Historical Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(2) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(3) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purposes of this Act unless acquired by the Secretary. Such property may be acquired only as provided in subsection (a)(1) of this section.

(c) The Secretary may acquire easements within the park for the purpose of carrying out this Act. Such easements may be acquired only as provided in subsection (a)(1) of this section.

AGREEMENTS AND TECHNICAL ASSISTANCE

SEC. 203. (a) The Secretary may enter into agreements with any owner of property within the park to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or the exhibits or attending the programs established by the Secretary under this subsection; and

(2) the Secretary may make such minor improvements to such property as may be necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(b)(1) The Secretary shall provide, upon request, technical assistance to—

(A) the city of Lowell to assist the city in establishing regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act; and

(B) the Commission to assist the Commission in establishing the index and the standards and criteria required by section 302 of this Act.

(2) The Secretary may provide to any owner of property within the park or preservation district, the Commission, the Commonwealth of Massachusetts, the city of Lowell, and any other Federal entity or any institution such technical assistance as the Secretary considers appropriate to carry out the purposes of this Act.

WITHHOLDING OF FUNDS

SEC. 204. (a) The Secretary may refuse to obligate or expend any money appropriated for the purposes described in section 103(a)

(1) of this Act or section 103(a)(2) of this Act if the Secretary determines that—

(1) the city of Lowell has failed to establish regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act within one year after the date such standards and criteria have been established, except that the Secretary may extend such one-year period for not more than six months if the Secretary determines that the city has made a good faith effort to establish such regulations or laws;

(2) the city of Lowell has failed to notify the Commission of (A) applications for building permits or zoning variances respecting any property which is included in the index established pursuant to section 302(d) of this Act, or (B) any proposals of the city of Lowell to change the regulations or laws described in paragraph (3)(A) of this subsection;

(3)(A) during the period before the city of Lowell has established regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which both the Secretary and the Commission consider to be inconsistent with such standards and criteria;

(B) after the city of Lowell has established the regulations or laws described in subparagraph (A) of this paragraph, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which both the Secretary and the Commission consider to be inconsistent with such regulations or laws; or

(4) the Commission has not made good faith efforts to (A) provide for the preservation, restoration, management, development, or maintenance of property within the park and preservation district or (B) carry out the park preservation plan approved under section 302 of this Act.

GENERAL ADMINISTRATIVE FUNCTIONS

SEC. 205. (a)(1) The Secretary, acting through the National Park Service, shall take appropriate actions to implement to the extent practicable the park management plan established pursuant to section 201(b) of this Act. In carrying out such plan, the Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system. Before the date on which the Commission conducts its first meeting, the Secretary may take any other action considered necessary to provide owners of property within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act.

(2) Subject to sections 204 and 302(b) of this Act, the Secretary shall make available to the Commission any funds appropriated under section 103(a) of this Act for the purpose of carrying out title III of this Act.

(b) Notwithstanding any other provisions of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of implementing the park management plan.

(c) The Secretary may sponsor or coordinate within the park and preservation district such educational or cultural programs as the Secretray considers appropriate to encourage appreciation of the resources of the park and preservation district.

(d) The Secretary may acquire such leases respecting property within the park as may be necessary to carry out the purpose of this Act.

TITLE III—ROLE OF THE COMMISSION

ESTABLISHMENT OF LOWELL HISTORIC PRESERVATION COMMISSION

SEC. 301. (a) "There is established within the Department of the Interior a commission to be known as the Lowell Historic Preservation Commission which shall administer the preservation district and provide certain services within the park in accordance with this title.".

(1) Three members who are members of the city council of Lowell, appointed from recommendations made by the mayor of Lowell.

(2) Three members appointed from recommendations made by the city manager of Lowell of persons who are representatives of organized labor, the business community, local neighborhoods, and cultural institutions, and who are not elected officials.

(3) One member appointed from recommendations made by the president of the University of Lowell.

(4) Three members appointed from recommendations made by the Governor of the Commonwealth of Massachusetts.

(5) One member appointed from recommendations made by the Secretary of Commerce.

(6) One member appointed from recommendations made by the Secretary of Transportation.

(7) One member appointed from recommendations made by the Secretary of Housing and Urban Development.

(8) Two members who are qualified to serve on the Commission because of their familiarity with programs of the Department of Interior involving national parks and historic preservation.

(b) If any member of the Commission who was appointed to the Commission under paragraph (1) or (4) of subsection (a) of this section as a member of the city council of Lowell or any other government leaves that office, or if any member of the Commission who was appointed from persons who are not elected officials of any government becomes an elected official of a government, such person may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such person leaves that office or becomes such an elected official, as the case may be.

(c)(1) Except as provided in paragraph (2) of this subsection, members shall be appointed for terms of two years. A member may be reappointed only three times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed four times.

(2) Of the members first appointed pursuant to subsection (a) of this section, the following shall be appointed for terms of three years:

(A) The members appointed pursuant to paragraphs (2), (3), and (8) of such subsection.

(B) One of the members appointed pursuant to paragraph (4) of such subsection, as designated by the Secretary at the time of appointment upon recommendation of the Governor.

(d) The chairman of the Commission shall be elected by the members of the Commission. The term of the chairman shall be two years.

(e)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term for a period not longer than thirty days.

(f) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) The Commission shall meet at least once each month, at the call of the chairman or a majority of its members.

(h)(1) Except as provided in paragraph (2) of this subsection, members of the Commission shall each be entitled to receive $100 for each day (including travel time) during which they are engaged in the performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States, the city of Lowell, or the Commonwealth of Massachusetts shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

PARK PRESERVATION PLAN AND INDEX

SEC. 302. (a)(1) Within one year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan meeting the requirements of subsection (c) of this section. The Secretary shall review the draft park preservation plan and, within ninety days after the date on which such plan is submitted to the Secretary, suggest appropriate changes in such plan to the Commission.

(2) Within eighteen months after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a park preservation plan which meets the requirements of subsection (c) of this section. The Secretary shall, within ninety days after the date on which such plan is submitted to the Secretary, approve or disapprove such plan. The Secretary may not approve such plan unless the Secretary determines that such plan would adequately carry out the purposes of this Act.

(3) If the Secretary disapproves a park preservation plan, the Secretary shall advise the Commission of the reasons for such disapproval together with the recommendations of the Secretary for revision of such plan. Within such period as the Secretary may designate, the Commission shall submit a revised park preservation plan to the Secretary. The Secretary shall approve or disapprove any revised park preservation plan in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(4) If the Secretary approves a park preservation plan, the Secretary shall publish notice of such approval in the Federal Register.

(5) If the Secretary fails to approve or disapprove a park preservation plan within ninety days after the date on which the Secretary receives any such plan from the Commission, such park preservation plan shall be considered to be approved, and the Secretary shall publish notice of such approval in the Federal Register.

(6) Any park preservation plan or draft plan submitted to the Secretary under this subsection shall, upon request, be available to the public.

(7)(A) No changes other than those specified in subparagraph (B) of this paragraph may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except for

any change specified in such subparagraph (B), in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(B) Any change in the approved park preservation plan relating to the index established pursuant to subsection (d) of this section or the standards and criteria established pursuant to subsection (e) of this section may be made by the Commission in the same manner specified in such subsections. The Commission shall promptly notify the Secretary of any change made under such subsections.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not make any funds available to the Commission to carry out section 303 or 304 of this Act until a park preservation plan has been approved under subsection (a) of this section.

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to—

(A) carry out activities to preserve, restore, manage, develop, or maintain any property designated in subsection (c)(1) of this section;

(B) take any action the Commission considers necessary to provide owners of property within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act; or

(C) acquire in accordance with section 304 of this Act, any property within the park which—

(i) is identified in the report of the Lowell Historic Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(ii) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(iii) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purpose of this Act unless acquired by the Commission.

(c) Any plan submitted to the Secretary under subsection (a) of this section shall—

(1) describe the manner in which the Commission, to the extent practicable in accordance with the recommendations in the report of the Lowell Historic Canal District Commission, proposes to provide for the preservation, restoration, management, development, or maintenance of—

(A) the Welles Block, 169 Merrimack Street;

(B) the Jordan Marsh Company Building, 153 Merrimack Street and 15 Kirk Street;

(C) the Yorick Club, 91 Dutton Street;

(D) the Lowell Gas Light Company, 22 Shattuck Street;

(E) St. Anne's Church and Rectory, 237 Merrimack Street;

(F) Lowell Institution for Savings, 18 Shattuck Street;

(G) the Ahepa Building, 31 Kirk Street;

(H) Boott Mill, Foot of John Street;

(I) Lowell Manufacturing Company on Market Street; and

(J) the structure commonly referred to as the Early Residence, 45, 47, and 49 Kirk Street;

(2) identify the properties included in the index established pursuant to subsection (d) of this section;

(3) designate the properties which the Commission intends to acquire under section 304 of this Act and specify how such properties shall be used;

(4) include the standards and criteria established pursuant to subsection (e) of this section;

(5) provide a detailed description of the manner in which the Commission intends to implement the grant and loan programs under section 303 of this Act, including information relating to the estimated amount of such grants and the manner in which such grants shall be awarded by the Commission;

(6) provide for a transportation program by which the Commission shall provide, directly or by agreement with any person or any public or private entity, transportation services and facilities for park and preservation district visitors, including barge equipment, docking facilities, and local rail facilities;

(7) provide for educational and cultural programs to encourage appreciation of the resources of the park and preservation district; and

(8) include a tentative budget for the subsequent five fiscal years.

(d) The Commission shall establish, within one year after the date on which the Commission conducts its first meeting, an index which includes—

(1) any property in the park or preservation district (except for any property designated in section 201(a)(2) of this Act) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its historical, cultural, or architectural significance; and

(2) any property which should be preserved, restored, managed, developed, or maintained in a manner compatible with the purpose of this Act because of its proximity to (A) any property referred to in paragraph (1) of this subsection, or (B) any property designated in section 201(a)(2) of this Act.

The index may be modified only by a majority vote of the members of the Commission, taken when a quorum is present.

(e)(1) The Commission shall establish standards and criteria applicable to the construction, preservation, restoration alteration, and use of all properties within the preservation district with the advice of the Commonwealth of Massachusetts and of the Secretary, and the consent of the city manager of Lowell.

(2) The Commission shall establish the standards and criteria described in paragraph (1) of this subsection for any property within the park with the advice of the Commonwealth of Massachusetts and the city manager of Lowell and with the consent of the Secretary.

(3) The Commission shall establish standards and criteria under paragraphs (1) and (2) of this subsection within one year after the date on which the Commission conducts its first meeting. Such standards and criteria may be revised in the same manner in which they were originally established.

(4) The Secretary shall publish the standards and criteria established under paragraphs (1) and (2) of this subsection, and any revisions thereof, in the Federal Register.

LOANS, GRANTS, AND TECHNICAL ASSISTANCE

SEC. 303. (a) The Commission may make loans to the Lowell Development and Financial Corporation (established under chapter 844 of the Massachusetts General Laws) to enable the corporation to provide low interest loans for the preservation, restoration, or development of property listed on the index established pursuant to section 302(d) of this Act. The Commission may make any such loan to the corporation only after entering into a loan agreement with the corporation which includes the following terms:

(1) The loan to the corporation shall have a maturity of thirty-five years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan without interest.

(2) The money received from the Commission, and any interest earned on such money, may be obligated by the corporation only for low interest loans made under paragraphs (6) and (7) of this subsection, except that the corporation may use such money to the extent the Commission considers reasonable to satisfy the costs of the corporation in administering the loan or procuring loan guarantees or insurance.

(3) Within five years after receiving the loan from the Commission, the corporation shall make loans under paragraphs (6) and (7) of this subsection which, in the aggregate, obligate the full amount of money received from the Commission (minus any amount required to satisfy the costs described in paragraph (2) of this subsection).

(4) As loans made under paragraphs (6) and (7) of this subsection are repaid, the corporation shall make additional loans under such paragraphs with the money made available for obligation by such repayments.

(5) The corporation shall make available to the Commission and to the Secretary, upon request, all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection.

(6) Before the corporation approves any application for a low interest loan for which money has been made available to the corporation by the Commission, the corporation shall require the prospective borrower to furnish the corporation with a statement from the Commission stating that the Commission has received the application and has determined that any loan received by the prospective borrower will be spent in a manner consistent with—

(A) the standards and criteria established pursuant to section 302(e) of this Act, and

(B) the goals of the park preservation plan approved under section 302(a) of this Act.

(7) The corporation may approve any application for a low interest loan which meets the terms and conditions prescribed by the corporation with the approval of the Commission and for which money has been made available to the corporation by the Commission if—

(A) the prospective borrower furnishes the corporation with the statement described in paragraph (6) of this subsection;

(B) the corporation determines that such borrower has sufficient financial resources to repay the loan; and

(C) such borrower satisfies any other applicable credit criteria established by the corporation.

In order to determine whether the corporation has complied with this subsection, the Commission, or such other appropriate person or entity as the Commission may designate, shall conduct an audit at least once every two years of all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection. If the Commission determines, after conducting a hearing on the record, that the corporation has substantially failed to comply with this subsection, the outstanding balance of any loan made to the corporation under this subsection shall become payable in full upon the demand of the Commission.

(b)(1) The Commission may make grants to—

(A) owners of property included in the index established pursuant to section 302(d) of this Act for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act; and

(B) any person or any public or private entity to provide for (i) educational or cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers desirable to carry out the purpose of this Act.

(2) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purposes for which the grant may be used, and any other condition the Commission considers appropriate. No grant recipient may use a grant in any manner or for any purpose other than as specified in the grant agreement.

(3) Any grant recipient which the Commission determines to be in noncompliance with paragraph (2) of this subsection shall be liable, at the discretion of the Commission, for the repayment to the Commission of any funds awarded under this subsection which have been paid to such grant recipient. The Commission may bring a civil action for repayment of such funds. The Commission shall determine whether any additional funds awarded under this subsection shall be paid to such grant recipient.

(c) The Commission may provide technical assistance to—

(1) owners of property within the park or preservation district to assist such owners in (A) making repairs to or improvements in any property included in the index established pursuant to section 302(d) of this Act, or (B) applying for loans under subsection (a) of this section; and

(2) any other person or public or private entity to assist such person or entity in taking actions consistent with the purpose of this Act.

(d) The Commission shall make available to the Secretary, upon request, all accounts, financial records, and other information of the Commission relating to grants and loans made under this section.

ACQUISITION AND DISPOSITION OF PROPERTY

SEC. 304. (a)(1) The Commission may acquire any property included in the index established pursuant to section 302(d) of this Act, or any interest therein, by donation, by purchase with donated or appropriated funds, or by condemnation in accordance with paragraph (2) of this subsection.

(2) Only properties within the park may be acquired by the Commission by condemnation. The Commission may initiate condemnation proceedings only after making every reasonable effort to acquire any such property through negotiations and purchase and consulting with the city council of Lowell.

(b) The Commission may sell or lease any property which it acquires under subsection (a) of this section subject to such deed restrictions or other conditions as the Commission deems appropriate to carry out the purposes of this Act.

(c) Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts or between the Commission and the city of Lowell, the Commission may sell, donate, lease, or in any other manner the Commission deems appropriate make available to such Commonwealth or city any property which it has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by such Commonwealth or city in a manner consistent with the purpose of this Act.

POWERS OF COMMISSION

SEC. 305. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties. Any acquisition of property by the Commission shall be in accordance with section 304 of this Act. Upon the termination of the Commission, all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

STAFF OF COMMISSION

SEC. 306. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS–15 of the General Schedule.

(b) The Commission may appoint and fix the pay of such additional personnel as the Commission deems desirable.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS–15 of the General Schedule.

(d) Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(e)(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 11662 as reported by the Committee on the Interior and Insular Affairs is to establish the Lowell National Historical Park in Massachusetts to preserve the most significant example of a planned industrial city in the United States.

The preservation of the city, also established with the park, was done with the cooperation of a Commission consisting of Federal, State, and local members, to protect this historic park in connection with the National Park Service.

Lowell was founded in 1822 at a site on the Merrimack River about 30 miles north of Boston. The city's developers brought together for the first time some of the most advanced ideas of the day in the areas of power generation, industrial and transportation technology, production control, capital formation, scientific research, and social organization. Because Lowell was a new city, it could be planned for mass production, unencumbered by an existing urban fabric or an entrenched lifestyle. As a result, Lowell became this Nation's first great industrial city, and the way of life that evolved there contained the germ of our modern industrial society.

The industrial revolution created a new social order, lifestyle, and urban environment. The self-sufficient cottage craftsman was replaced by a working class which produced and consumed goods. Life for working people became regulated by time and a moral tone conducive to the discipline required for factory employment. New forms of industrial finance and management—like the corporation—were developed, and a class of capitalists replaced the landed aristocracy. The production process was facilitated by the development of the industrial city with its segregation of manufacturing, commercial, and residential activities.

The integration of separate ideas and forces to form a social and industrial system, the physical embodiment of that system in a new city, and the way the two evolved over time to influence people's lives are the heart of the Lowell story.

Lowell transformed the textile industry by perfecting the system of creating finished products from raw materials at one location. Before the development of the Lowell system only a small part of

the production process was carried out within a given factory.

Ultimately, Lowell's story is the story of people, their working and living conditions, their origins, their motivations and desires, and their lifestyles as embodied in their homes and neighborhoods. Lowell was founded by tough yet visionary entrepreneurs who became the leading industrialists of their era. They were motivated not only by profit, but also by the utopian ideas of James Cabot Lowell, who believed that an industrial community could be both healthful and moral.

The majority of Lowell's early work force was made up of young, single women who came from all over New England. They were attracted to Lowell by the good wages, its religious tone, and its educational opportunities.

After 1850, immigrants of many nationalities began flooding into the city. Many were forced from their homes by economic disasters. Irish, British, French-Canadians, and later, Greeks, Poles, and Portuguese replaced Yankee mill girls as the chief source of labor.

By 1900, only 20 percent of the city's 100,000 inhabitants were native born of native parents. Different groups resided in segregated areas and developed distinct cultures that enabled them to adjust to urban, industrial life. These working class, ethnic neighborhoods still evolve and flourish in Lowell and their traditions are an important historical and cultural resource.

Lowell was one of the most remarkable examples of urbanization in the early 19th century. Within 20 years it grew from a rural area to a city of over 30,000.

A core area developed within the working and living areas of downtown Lowell. Within this cross section of 19th century Lowell can be found two mills, boarding houses, two power canals, important commercial and municipal buildings, social and educational institutions, and early transportation facilities.

Taken together the preceding elements describe an area of Lowell which can be termed Lowell's "historical and cultural scene." Within this area are the most significant resources which embody key aspects of the Lowell story. This area also provides a rationale for defining the extent of the proposed Lowell National Historical Park. While the park will intensively use only a modest portion of this "historical and cultural scene," programs will be established to preserve and enhance resources in the entire cross section.

Local preservation efforts began 12 years ago when a Model Cities community group produced a set of objectives aimed at revitalizing the city through the rediscovery of its heritage. This theme has since been adopted as the cornerstone for private, city and State development in Lowell and has resulted in a financial commitment of more than $50 million.

In October 1972, the Lowell City Council adopted a resolution designating the historical park concept as the focal point for local planning efforts. The city development authority took the lead with other local agencies in insuring that every major community improvement project was not only consistent with but supportive of the urban park concept. Since 1975, the city has spent more than $12 million for projects either integral to or supportive of the historical park.

The Commonwealth of Massachusetts has spent or pledged more than $10 million toward the development of the Lowell Heritage State Park, a project aimed at preserving and developing the recreational potential of Lowell's canal system and riverbanks.

In January 1977, the congressionally mandated Lowell Historic Canal District Commission unanimously recommended the creation of a Lowell National Park. The commission also proposed a detailed plan for the preservation and interpretation of Lowell's resources. A living national park, it was stated, would offer an extraordinary opportunity for Americans to explore the roots of their own culture while rediscovering a much neglected part of the Nation's history.

Industrial history has been largely overlooked by the Federal Government in its efforts to encourage preservation and to establish the national park system. In evaluating the effectiveness of the national park system in preserving and interpreting our heritage, the Park Service has concluded that "... there are serious gaps and inadequacies which must be remedied while opportunities still exist." These inadequacies are especially critical in the aspects of American history which Lowell represents. For example, Park Service studies have shown that the American experience related to commerce and industry, manufacturing, science and invention, urban design, and engineering is the most poorly represented of any thematic area in the national park system. Another weak area of the system relates to the development of American society and culture including the roles of ethnic minorities, occupational groups, economic classes as well as social and humanitarian movements such as utopianism, women's rights and labor organizations. These are all areas well represented in Lowell, where a preservation and interpretation effort can close many of these gaps in the national park system.

Despite substantial investment by the city of Lowell, Commonwealth of Massachusetts, and the private sector, many of Lowell's significant structures and properties are threatened. Therefore, the assistance of the Federal Government is essential. Only the National Park Service has the expertise and facilities to interpret Lowell's role in the industrial revolution for the benefit of present and future generations of Americans.

Mr. SEBELIUS. Mr. Speaker I yield myself such time as I may consume.

(Mr. SEBELIUS asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker this legislation constitutes a fairly bold new step for direct Federal involvement and financial support of large-scale historical rehabilitation and restoration efforts in a very urbanized downtown area of Lowell, Mass., and I congratulate the gentleman from Massachusetts (Mr. TSONGAS) for his leadership. I have visited this area twice on subcommittee inspections, and I am genuinely supportive of efforts to preserve the historic fabric of the old locks and canals and certain textile mill complexes which were such a dominant part of the early scene of the development of Lowell as one of America's first planned industrial cities.

The principal concern I have, however, is one of the degree of Federal involvement and the proper roles and responsibilities of the various governmental and related entities which are to be involved. There is the potential that the Federal Government could be expected to carry too much of the burden both financially and managementwise, particularly as the rehabilitation effort extends into areas of current operating commercial and business enterprise in the downtown area. This legislation cannot be permitted to be construed or utilized as a quasi or indirect effort for otherwise desirable urban renewal under the guise of a legitimate, nationally significant historic preservation effort.

I have had a concern with the original legislation in terms of the national historical park boundaries encompassing such a large area, most of which never will be nor should be publicly owned and available for public use in the more conventional sense of established units of our national park system. To my thinking, it is a serious misnomer to put the national historical park label on an area of this size which so predominantly embraces privately owned and operating commercial real estate. Through an adopted committee amendment, the size of the actual area to constitute the national historical park was considerably scaled down, with the result now being that the national historical park boundary will include only that area which constitutes the core of the important historic fabric of Lowell—the specified sites to be directly controlled by the National Park Service, the locks and canals and immediately related features, and the formerly identified "intensive use zone." This change makes the bill more acceptable to me.

The larger area, originally proposed to be the boundary of the national historical park, will still exist under a different name, and will constitute the boundary within which the newly authorized Commission may operate.

Even with this major change of boundary and several other refining amendments which were adopted, I still must express concern that Federal funds and National Park Service involvement be applied only to very legitimate, identified historic rehabilitation and restoration efforts which will return significant benefit to the American public. This legislation, in its implementation, must not be permitted to become a bottomless "goodie bag" of financial assistance for the nonpublic benefit of local interests in Lowell.

Mr. Speaker, I would like to make a part of my statement the following table, as extraneous matter, which reflects the current thinking of how the funds appropriated to the Commission are intended to be expended:

LOWELL HISTORIC COMMISSION FUNDS (ONE-TIME CAPITAL AND DEVELOPMENT BUDGET)

[All figures in thousands]

	Land acquisition	Building acquisition	Easements	Exteriors	Interiors	Relocation	Transportation	Landscaping	Total
Preservation related:									
Boott Mill			50	390	100		930	325	$1,795
Early residence				250				20	270
Hamilton-Appleton Mills			100						100
Lawrence Mills			45						45
Lowell Manufacturing Co			100	162					262
Massachusetts Mills			40						40
New Market Mills			40	80					120
Northern Canal Riverbanks	132			15				100	247
Booth/Tremont Riverbanks	40							60	100
Merrimack "Mile of Mills"	90							100	190
Swamp Locks			25	55	50			75	205
Welles Block			22	130					152
Central St. demolition						180		130	130
Control zone lands								1,510	1,510
Land acquisition contingency	751								751
Ahepa Building			25	70					95
Jordon Marsh Bldg				100					100
Yorick Club				150					150
Lowell Gas Light				50					50
Lowell Inst. for Savings				75					75
St. Anne's Church				25					25
Transportation related:									
Primary parking							1,600		1,600
Secondary parking							250	28	278
Barge acquisition and landing							1,150		1,150
Trolley							625	590	1,215
Bridge reconstruction							1,035		1,035
Assigned funds total	1,013		447	1,552	150	180	5,590	2,938	11,870

1. Assigned funds (plus 25 percent inflation and fees)	$14,837,500
2. Estimated unassigned preservation funds:	
(a) Grants, agreements	3,400,000
(b) Acquisition, easements	1,000,000
3. Estimated educational/cultural funds	500,000
4. Estimated maintenance, administration funds	1,000,000
5. Loan fund	750,000
Commission funds total	21,487,500

Mr. PHILLIP BURTON. Mr. Speaker, at this time I yield such time as he may consume to the author of this legislation, the gentleman from Massachusetts (Mr. TSONGAS).

First, however, let me pay tribute to the gentleman from Massachusetts, whose enormous commitment and effort has produced this product, a product about which in its earlier drafts I had major reservations. If there is any single example of dogged determination, ultimately resulting in legislative consideration of an idea whose time has come, that illustration is before us today.

For all these reasons, Mr. Speaker, I warmly commend our distinguished colleague, the gentleman from Massachusetts (Mr. TSONGAS), and am pleased to yield him such time as he may consume.

Mr. TSONGAS. Mr. Speaker, before getting to the major portion of my remarks, there are basically two or three comments I would like to make to add to what has been said previously.

The first concerns the question of what the role of the Park Service is in telling the people of this country what our history is all about and in making that story available.

Let me first review, Mr. Speaker, some of the accomplishments of the National Park Service.

Our natural wonders: Yellowstone, Yosemite, Grand Teton.

Our Civil War: Gettysburg, Antietam, Manassas.

Our American Revolution: Independence, Minuteman, Colonial Yorktown.

Our Presidents: The Jefferson Memorial, the Lincoln Memorial, the Roosevelt birthplace.

In America, we have memorialized our natural beauties, our wars, and our Presidents.

Our children can travel to see the canyons that awed America's pioneers. They can see the many battlefield graveyards of the Civil War. They can step into the room where the Declaration of Independence was signed. They can see the statues of Lincoln, the birthplace of Lincoln, his emancipation proclamation, and the site of his death.

Some of the children in Lowell, Mass., have seen these sites. Perhaps, on a weekend, their parents took them 15 miles south to see the rude bridge that arched the flood. Perhaps, one summer, their parents took them to Washington or maybe even as far as California to see Yosemite.

I grew up in Lowell. In school I learned about the purple mountains majesty. About truthfulness and cherry trees. And about many wars. I do not regret that education. What I do regret is that I never learned about Lowell.

All that time I did not know why canals ran throughout the city. I did not know why there was a mile of red brick mills along the Merrimack. I did not know why my father had come here from Greece, nor why every neighborhood seemed to have such different customs.

We did not know that Lowell was named for the financier and shipbuilder who had brought the power loom to America. We did not know that within 30 years Lowell had been transformed from farmland to the world's largest producer of cotton textiles by a single corporation. We did not know that Lowell, a model for hundreds of new cities, had changed the face of the Nation.

Charles Dickens had come to Lowell and praised the early working conditions. Presidents Jackson and Lincoln had come to Lowell to see the shape of America's future. So had thousands of visitors and planners.

Our parents and grandparents had come from all over Europe to build Lowell. To work 14 hours a day as card tenders and jack spinners. They also built neighborhoods like Little France and the Acre, churches like the first Greek Orthodox Church in the Nation, they had street stands and social clubs and foreign language newspapers. These people built not only Lowell, but the America we know today.

Yet, Lowell, like our Nation, had little interest in this history or in these cultures. In Lowell High School the industrial revolution was something that took place in England. The country had been willed by Washington, administered by the Adamses, framed by Franklin, and built by Daniel Boone.

I never learned that 30 feet from my classroom lay the first power canal the Nation had seen. Next door was the church the corporation had built for the Yankee mill girls. Across the street was the original city hall, the first savings bank, the first primary school, a boarding house, a mill agent's house, and a score of 19th century commercial buildings. And everywhere we looked—the mills.

This was the past left out of our history books. The past we were ashamed of. We were taught to praise famous men. Taught to worship a melting pot full of great American dreams. But as Jane Holtz Kay has written of Lowell—

Hide it, flee it, flatten it, deny it, our identity lies in this urban industrial past.

Twelve years ago Lowell decided that its identity was important. Important to its people and to the Nation. There are hundreds of people who should be credited for discovering this America. Many

were the descendants of the immigrant workers who wanted the good and the bad of the past preserved, rather than flattened and denied. Today I can say that there are over 90,000 persons in Lowell who deserve credit for this renaissance. For the unity in Lowell is remarkable. It has resulted in the investment of over $50 million to restore and preserve the physical symbols of the Industrial Revolution.

Today, Lowell is offering to share its identity with the Nation. We can help many Americans rediscover a much neglected past. We do not come here looking for a handout. We come here looking for a partnership.

Today, by the consideration of H.R. 11662, the House of Representatives can choose to offer Lowell such a partnership. We are considering the recommendation by the National Park Service, that the city be the site of a unique national historical park.

This is not the first such compliment the House has paid to Lowell. In January of 1975, Congress noted Lowell's national significance to the Nation by creating a commission to determine how best to preserve and interpret this story. The result was a report which won three national awards. It is the basis for H.R. 11662. I would like to read the first words of this report:

Growth and change have long been dominant in the American system of values. Things which have outlived their usefulness are removed and replaced. As they go, so do our opportunities to learn from them. As a people we rush forward, urged by a vague and anxious need to keep moving.

Perhaps because the nation is 200 years old, perhaps out of exhaustion, the realization is growing that we have lost touch with what America means. What does it mean? How did we get here? Who are we? What values reside in our actions? What possibilities lie before us?

Lowell, Massachusetts, provides an extraordinary opportunity for Americans to find answers to these questions while exploring the roots of their culture and their way of life.

You need not depend upon a Congressman who grew up in Lowell to tell you that the H.R. 11662 can fill a serious gap in the national park system. In a study conducted by the National Park Service, it was concluded that "America at Work" is the theme—"the most poorly represented of any in the national park system." Another theme relating to Lowell, the theme of "Society and Social Conscience" is described as—"clearly one of the weak areas of the system's representation." In fact, of 13 subthemes represented in Lowell, 5 are partially or poorly represented and 8 are not represented at all.

Perhaps this is why, on February 17, William Whalen, Director of the National Park Service, testified in favor of a Lowell National Historical Park. Director Whalen stated,

Lowell, due to its unique ability—more so than any other city—(can) portray the beginning of commerce and industry in America. Lowell presents an opportunity for preservation and adaptive use that should not be lost.

I would like to quote the testimony of one additional speaker. Historian Paul Rivard made these comments in 1974:

I am not presenting this statement to urge that development of the Lowell Park on the basis of architectural or engineering preservation, although this is certainly a worthy objective. I am not here to illustrate the potential uses of Lowell as a scholarly document, although it is perhaps America's finest document. Instead, I would suggest that the Lowell project be considered as testimony to the millions of workers, entrepreneurs, engineers, and businessmen who built American Industry through their work in this city and in the countless smaller 'Lowell's' throughout America. Countless Americans have worked as weavers, mechanics, or any multitude of other skills But what remains today of their work in the public consciousness? Where is the history of this segment of the American public?

Lack of attention to industrial history has led to a homogenized view of the industrial laborer. The results are skills which are demeaned in their worth, and workers whose pride is eroded by public disinterest and lack of historical perspective. It is therefore as a testimony to the worth—the value—of these many occupations that the Lowell project should be considered. What I wish to emphasize is simply this: not only will the Lowell National Park be an important tool for educators, historians, and casual visitors, but it will have even a more striking and personal meaning for Americans who work in similar occupations today—people whose story has thus far largely been cut out of our national history and consciousness.

So today I ask you to join 48 of your colleagues in the House, the Department of Interior, the House Interior Committee, the President's Advisory Council on Historic Preservation, Preservation Action, the Sierra Club, Friends of the Earth, the National Parks and Conservation Association, the AFL–CIO, the Massachusetts Legislature, the Lowell City Council, and many other organizations and individuals in supporting establishment of a Lowell National Historical Park.

It is my hope that generations of Americans will visit this living exhibit of the Industrial Revolution. That they will come to see its last working mill, ride a canal barge past the mill canyon walls, visit the 19th century boardinghouses and stores, walk alongside the spectacular Merrimack Falls, taste the ethnic foods, and observe the ways of work and life of the people who helped to build our country.

Mr. Speaker, I would like to recognize the contributions of various people who helped bring this bill before the House today. First, the gentleman from California (Mr. PHILLIP BURTON), chairman of the subcommittee, who has been guiding this bill from its inception; second, the gentleman from Kansas (Mr. SEBELIUS), together with his staff, whose amendments have clarified the title of the bill; third, the recognized contribution of Bradford Morse, who was a Member of Congress for 12 years, who first introduced the bill; and Congressman Paul Cronin, my predecessor.

I would like to recognize the contribution of the State of Massachusetts and Governor Dukakis, who has committed the State to $26 million to the State Heritage Park to complement what the Federal Government is being asked here today.

And, lastly, on behalf of the people of Lowell, who are committing their dollars, both in terms of private dollars and the city of Lowell, to do their share to pursue the historic dream to make sure that, for all time following, the story of the industrial revolution of the United States can be told.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 11662. But I do have some reservations with regard to the bill. This bill, rightfully, recognizes the historic role that Lowell, Mass., played as a model planned industrial city at the beginning of the industrial revolution. But Lowell today is a much different place than the Lowell of 100 years ago. It is a highly urbanized area, suffering from many of the same problems which face cities all across this country. These problems concern me, and I believe we have appropriate programs and legislative vehicles to help solve these problems; but designating this area as a national historic park or preservation district is not one of them.

Under this bill the national historical park area is under the administration of the National Park Service, while the preservation district is administered by a joint local, State, and Federal commission. I think it is important to point out that neither the $18.5 million authorized for the park nor the $21.5 million for the preservation district should be seen as some kind of new funding for urban renewal.

I am concerned that some of the language of this bill might be construed as condoning such use of the money.

I point out to the chairman of the subcommittee that in the findings and purposes of the bill, it states that the Congress finds:

. . . certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

It speaks of the structures, historic and cultural, but it does not speak of having national historic or cultural value.

On page 33, we find this language:

It is the purpose of this Act to preserve and interpret the historically and culturally significant sites, structures, and districts in Lowell, Massachusetts . . .

And then on page 49, we find, in section 302:

Within 1 year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan—

Which is to include an index of property to be acquired within the park or preservation district.

And then if we turn to page 55, we find the guidelines for this index:

any property in the park or preservation district (except for any property designated in section 201(a)(2) of this Act) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its historical, cultural, or architectural significance;

Mr. Speaker, I ask the chairman this question: When we speak of acquiring or restoring property which has historic, cultural or architectural significance, is the test—Does it have national historical, cultural, or architectural significance?

Mr. PHILLIP BURTON. If the gentleman would yield, Mr. Speaker, the gentleman is correct.

Mr. SKUBITZ. If that is correct, I have no objection to the bill. I just do not want the money to be used to restore any project in the area.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, the gentleman can be assured that before anything can be done to the structure, there must be an index of buildings, as submitted by the Commission to the Secretary.

Mr. SKUBITZ. The only reason I bring the point up is that we speak all the way of historical and cultural significance, but do not use the words "national historical and cultural significance." I want the record to show that that is what we intend by passage of this bill.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I have listened with interest to my colleague, the gentleman from Kansas (Mr. SKUBITZ). I think he is making a good statement on why we should not vote for this bill.

Do I understand that the gentleman is against the bill?

Mr. SKUBITZ. I am not against the bill, but I want the structures that are to be rehabilitated to have national historical significance so that we will not see some building downtown put in that category.

Mr. ASHBROOK. If the gentleman will yield further, Mr. Speaker, this sounds a little bit like an urban renewal project to me.

Mr. SKUBITZ. That is exactly what I am trying to guard against by saying that the only buildings that will be recommended are those that have national historic significance.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, once again I would like to commend our distinguished colleague, the ranking minority member of the full committee, the gentleman from Kansas (Mr. SKUBITZ), for his insight and for his successful effort to make clear that this is not an urban renewal project under another guise.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I would like to add my commendation to the chairman of the Subcommittee on National Parks (Mr. PHILLIP BURTON) and also the gentleman from Massachusetts (Mr. TSONGAS) for their successful resolution of the unique problems involved in putting together this kind of historic park in an urban area. I think it is a remarkable job and one that is not only significant from the standpoint of creating a new national historical park, but one that the whole country can look upon as a model for local as well as State action in other similar situations. None will, of course, be precisely similar, but still, this is a model of historic preservation and interaction between State, Federal, and local agencies.

Mr. Speaker, I would like to ask the gentleman one specific question: The waterways or the canals that powered the industry in 19th century Lowell are among the most scenic as well as historic features of this area. How is the Federal role going to assure that these will be properly protected to the extent that they are not in the Federal land portions of the bill?

Mr. TSONGAS. If the gentleman will yield, Mr. Speaker, it is contemplated that the Commonwealth of Massachusetts will negotiate with the owners of the canals to insure that outcome and to minimize the Federal expenditures, while still maintaining the historic character of the area.

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman for an outstanding job.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 11662, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 10984; House Concurrent Resolution 359; H.R. 6900; and H.R. 11662.

Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10984, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 10984, as amended on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 6, not voting 77, as follows:

[Roll No. 184]

YEAS—351

Abdnor	Carr	Fithian
Addabbo	Carter	Flippo
Akaka	Cavanaugh	Florio
Alexander	Cederberg	Flowers
Allen	Chisholm	Flynt
Ambro	Clausen, Don H.	Foley
Ammerman	Clawson, Del	Ford, Mich.
Anderson, Calif.	Clay	Ford, Tenn.
Anderson, Ill.	Cochran	Forsythe
Andrews, N.C.	Cohen	Fountain
Andrews, N. Dak.	Coleman	Fowler
Annunzio	Collins, Ill.	Frenzel
Applegate	Collins, Tex.	Fuqua
Archer	Conable	Gammage
Armstrong	Conyers	Garcia
Ashbrook	Corcoran	Gaydos
AuCoin	Corman	Gephardt
Badham	Cornell	Giaimo
Bafalis	Cornwell	Gibbons
Baldus	Cotter	Gilman
Barnard	Coughlin	Ginn
Baucus	Cunningham	Glickman
Bauman	D'Amours	Goldwater
Bedell	Daniel, Dan	Gonzalez
Beilenson	Daniel, R. W.	Goodling
Benjamin	Danielson	Gore
Bennett	Davis	Gradison
Biaggi	de la Garza	Grassley
Bingham	Delaney	Green
Blanchard	Dellums	Gudger
Boggs	Dent	Guyer
Bonior	Derrick	Hagedorn
Bonker	Derwinski	Hall
Bowen	Devine	Hamilton
Brademas	Dickinson	Hammer-schmidt
Breaux	Dicks	Hannaford
Breckinridge	Downey	Hansen
Brinkley	Drinan	Harkin
Brodhead	Duncan, Oreg.	Harrington
Brooks	Duncan, Tenn.	Harris
Broomfield	Edgar	Harsha
Brown, Calif.	Edwards, Ala.	Hawkins
Brown, Mich.	Edwards, Calif.	Heckler
Broyhill	Eilberg	Hefner
Buchanan	Emery	Hightower
Burgener	English	Hillis
Burke, Fla.	Erlenborn	Hollenbeck
Burke, Mass.	Ertel	Holt
Burleson, Tex.	Evans, Colo.	Holtzman
Burlison, Mo.	Evans, Del.	Horton
Burton, John	Evans, Ga.	Hubbard
Burton, Phillip	Evans, Ind.	Huckaby
Butler	Fary	Hughes
Byron	Fascell	Hyde
Caputo	Fenwick	Ichord
Carney	Fish	Ireland
	Fisher	Jacobs

Jenkins	Moore	Shipley
Jenrette	Moorhead, Calif.	Shuster
Johnson, Calif.	Moorhead, Pa.	Sikes
Johnson, Colo.	Moss	Simon
Jones, N.C.	Mottl	Sisk
Jones, Okla.	Murphy, N.Y.	Skelton
Jones, Tenn.	Murphy, Pa.	Skubitz
Jordan	Murtha	Slack
Kasten	Myers, John	Smith, Iowa
Kastenmeier	Natcher	Smith, Nebr.
Kazen	Neal	Snyder
Kelly	Nedzi	Spence
Kemp	Nichols	Staggers
Ketchum	Nix	Stanton
Keys	Nolan	Stark
Kildee	Nowak	Steers
Kostmayer	Oberstar	Stockman
Krebs	Obey	Stratton
Lagomarsino	Ottinger	Studds
Latta	Panetta	Stump
Leach	Patterson	Symms
Leggett	Pattison	Taylor
Levitas	Pease	Thompson
Livingston	Perkins	Traxler
Lloyd, Calif.	Pettis	Treen
Lloyd, Tenn.	Pickle	Trible
Long, Md.	Pike	Tsongas
Lott	Poage	Udall
Lujan	Pressler	Ullman
Luken	Price	Van Deerlin
Lundine	Pritchard	Vander Jagt
McClory	Pursell	Vento
McCormack	Quayle	Volkmer
McEwen	Quillen	Waggonner
McFall	Railsback	Walgren
McHugh	Regula	Walker
McKay	Rhodes	Wampler
Maguire	Richmond	Watkins
Mahon	Rinaldo	Waxman
Mann	Roberts	Weaver
Markey	Robinson	Weiss
Marks	Roe	Whalen
Marlenee	Rogers	White
Marriott	Rooney	Whitehurst
Martin	Rose	Wiggins
Mathis	Rosenthal	Wilson, Bob
Mattox	Rousselot	Wilson, C. H.
Mazzoli	Roybal	Wilson, Tex.
Meyner	Ruppe	Winn
Mikulski	Russo	Wirth
Mikva	Ryan	Wolff
Milford	Santini	Wright
Miller, Calif.	Satterfield	Wydler
Miller, Ohio	Sawyer	Wylie
Mineta	Scheuer	Yates
Minish	Schroeder	Yatron
Mitchell, Md.	Schulze	Young, Fla.
Moakley	Sebelius	Young, Mo.
Moffett	Seiberling	Young, Tex.
Mollohan	Sharp	Zablocki
Montgomery		

NAYS—6

Beard, Tenn.	McDonald	Risenhoover
Edwards, Okla.	Myers, Gary	Stangeland

NOT VOTING—77

Ashley	Howard	Rahall
Aspin	Jeffords	Rangel
Beard, R.I.	Kindness	Reuss
Bevill	Krueger	Rodino
Blouin	LaFalce	Roncalio
Boland	Le Fante	Rostenkowski
Bolling	Lederer	Rudd
Brown, Ohio	Lehman	Runnels
Burke, Calif.	Lent	Sarasin
Chappell	Long, La.	Solarz
Cleveland	McCloskey	Spellman
Conte	McDade	St Germain
Crane	McKinney	Steed
Diggs	Madigan	Steiger
Dingell	Meeds	Stokes
Dodd	Metcalfe	Teague
Dornan	Michel	Thone
Early	Mitchell, N.Y.	Thornton
Eckhardt	Murphy, Ill.	Tucker
Findley	Myers, Michael	Vanik
Flood	O'Brien	Walsh
Fraser	Oakar	Whitley
Frey	Patten	Whitten
Hanley	Pepper	Young, Alaska
Heftel	Preyer	Zeferetti
Holland	Quie	

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Lent.
Mr. Chappell with Mr. Brown of Ohio.
Mr. Patten with Mr. Frey.
Mr. Pepper with Mr. Preyer.
Mr. Rodino with Mr. Quie.
Mr. Rangel with Mr. McKinney.
Mr. Rostenkowski with Mr. Michel.
Mrs. Spellman with Mr. Sarasin.
Mr. St Germain with Mr. Cleveland.
Mr. Steed with Mr. Roncalio.
Mr. Teague with Mr. Reuss.
Mr. Zeferetti with Mr. McCloskey.
Mr. Boland with Mr. Thone.
Mrs. Burke of California with Mr. Walsh.
Mr. Bevill with Mr. Conte.
Mr. Dodd with Mr. Young of Alaska.
Mr. Flood with Mr. McDade.
Mr. Hanley with Mr. Whitley.
Mr. Howard with Mr. Madigan.
Mr. Krueger with Mr. Aspin.
Mr. Long of Louisiana with Mr. Crane.
Mr. Meeds with Mr. Beard of Rhode Island.
Mr. Metcalfe with Mr. Thornton.
Mr. Murphy of Illinois with Mr. Diggs.
Ms. Oakar with Mr. Whitten.
Mr. Rahall with Mr. Blouin.
Mr. Runnels with Mr. Dingell.
Mr. Stokes with Mr. Jeffords.
Mr. Vanik with Mr. Kindness.
Mr. Heftel with Mr. Mitchell of New York.
Mr. Early with Mr. Michael O. Myers.
Mr. Ashley with Mr. O'Brien.
Mr. LaFalce with Mr. Rudd.
Mr. Lederer with Mr. Solarz.
Mr. Lehman with Mr. Steiger.
Mr. Fraser with Mr. Findley.
Mr. Dornan with Mr. Holland.

Mr. STANGELAND changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

RECOGNITION OF GENERAL KOSCIUSZKO

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 359).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 359) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 358, nays 0, not voting 76, as follows:

[Roll No. 185]

YEAS—358

Abdnor	Archer	Bevill
Addabbo	Armstrong	Biaggi
Akaka	Ashbrook	Bingham
Alexander	AuCoin	Blanchard
Allen	Badham	Boggs
Ambro	Bafalis	Bonior
Ammerman	Baldus	Bonker
Anderson, Calif.	Barnard	Bowen
Anderson, Ill.	Baucus	Brademas
Andrews, N.C.	Bauman	Breaux
Andrews, N. Dak.	Beard, Tenn.	Breckinridge
Annunzio	Bedell	Brinkley
Applegate	Bellenson	Brodhead
	Benjamin	Brooks
	Bennett	Broomfield
Brown, Calif.	Hamilton	Obey
Brown, Mich.	Hammer-schmidt	Ottinger
Broyhill	Hannaford	Panetta
Buchanan	Hansen	Patterson
Burgener	Harkin	Pattison
Burke, Fla.	Harrington	Pease
Burke, Mass.	Harris	Perkins
Burlison, Mo.	Harsha	Pettis
Burton, John	Hawkins	Pickle
Burton, Phillip	Heckler	Pike
Butler	Hefner	Poage
Byron	Hightower	Pressler
Caputo	Hillis	Price
Carney	Hollenbeck	Pritchard
Carr	Holt	Pursell
Carter	Holtzman	Quayle
Cavanaugh	Horton	Quillen
Cederberg	Hubbard	Railsback
Chisholm	Huckaby	Regula
Clausen, Don H.	Hughes	Rhodes
Clawson, Del	Hyde	Richmond
Clay	Ichord	Rinaldo
Cochran	Ireland	Risenhoover
Cohen	Jacobs	Roberts
Coleman	Jenkins	Robinson
Collins, Ill.	Jenrette	Roe
Collins, Tex.	Johnson, Calif.	Rogers
Conable	Johnson, Colo.	Rooney
Conyers	Jones, N.C.	Rose
Corcoran	Jones, Okla.	Rosenthal
Corman	Jones, Tenn.	Rousselot
Cornell	Jordan	Roybal
Cornwell	Kasten	Ruppe
Cotter	Kastenmeier	Russo
Coughlin	Kazen	Ryan
Cunningham	Kelly	Santini
D'Amours	Kemp	Satterfield
Daniel, Dan	Ketchum	Sawyer
Daniel, R. W.	Keys	Scheuer
Danielson	Kildee	Schroeder
Davis	Kostmayer	Schulze
de la Garza	Krebs	Sebelius
Delaney	Lagomarsino	Seiberling
Dellums	Latta	Sharp
Dent	Leach	Shipley
Derrick	Leggett	Shuster
Derwinski	Levitas	Sikes
Devine	Livingston	Simon
Dickinson	Lloyd, Calif.	Sisk
Dicks	Lloyd, Tenn.	Skelton
Downey	Long, Md.	Skubitz
Drinan	Lott	Slack
Duncan, Oreg.	Lujan	Smith, Iowa
Duncan, Tenn.	Luken	Smith, Nebr.
Edgar	Lundine	Snyder
Edwards, Ala.	McClory	Spence
Edwards, Calif.	McCormack	Staggers
Edwards, Okla.	McDonald	Stangeland
Eilberg	McEwen	Stanton
Emery	McFall	Stark
English	McHugh	Steers
Erlenborn	McKay	Stockman
Ertel	Maguire	Stratton
Evans, Colo.	Mahon	Studds
Evans, Del.	Mann	Stump
Evans, Ga.	Markey	Symms
Evans, Ind.	Marks	Taylor
Fary	Marlenee	Thompson
Fascell	Marriott	Traxler
Fenwick	Martin	Treen
Fish	Mathis	Trible
Fisher	Mattox	Tsongas
Fithian	Mazzoli	Udall
Flippo	Meyner	Ullman
Florio	Mikulski	Van Deerlin
Flowers	Mikva	Vander Jagt
Flynt	Milford	Vento
Foley	Miller, Calif.	Volkmer
Ford, Mich.	Miller, Ohio	Waggonner
Ford, Tenn.	Mineta	Walgren
Forsythe	Minish	Walker
Fountain	Mitchell, Md.	Wampler
Fowler	Moakley	Watkins
Frenzel	Moffett	Waxman
Fuqua	Mollohan	Weaver
Gammage	Montgomery	Weiss
Garcia	Moore	Whalen
Gaydos	Moorhead, Calif.	White
Gephardt	Moorhead, Pa.	Whitehurst
Giaimo	Moss	Whitten
Gibbons	Mottl	Wiggins
Gilman	Murphy, N.Y.	Wilson, Bob
Ginn	Murphy, Pa.	Wilson, C. H.
Glickman	Murtha	Wilson, Tex.
Goldwater	Myers, Gary	Winn
Gonzalez	Myers, John	Wirth
Goodling	Natcher	Wolff
Gore	Neal	Wright
Gradison	Nedzi	Wydler
Grassley	Nichols	Wylie
Green	Nix	Yates
Gudger	Nolan	Yatron
Guyer	Nowak	Young, Fla.
Hagedorn	Oberstar	Young, Mo.
Hall		Young, Tex.
		Zablocki

NAYS—0

NOT VOTING—76

Ashley	Howard	Rahall
Aspin	Jeffords	Rangel
Beard, R.I.	Kindness	Reuss
Blouin	Krueger	Rodino
Boland	LaFalce	Roncalio
Bolling	Le Fante	Rostenkowski
Brown, Ohio	Lederer	Rudd
Burke, Calif.	Lehman	Runnels
Burleson, Tex.	Lent	Sarasin
Chappell	Long, La.	Solarz
Cleveland	McCloskey	Spellman
Conte	McDade	St Germain
Crane	McKinney	Steed
Diggs	Madigan	Steiger
Dingell	Meeds	Stokes
Dodd	Metcalfe	Teague
Dornan	Michel	Thone
Early	Mitchell, N.Y.	Thornton
Eckhardt	Murphy, Ill.	Tucker
Findley	Myers, Michael	Vanik
Flood	O'Brien	Walsh
Fraser	Oakar	Whitley
Frey	Patten	Young, Alaska
Hanley	Pepper	Zeferetti
Heftel	Preyer	
Holland	Quie	

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Ashley.
Mr. Chappell with Mr. Cleveland.
Mr. Patten with Mr. Findley.
Mr. Pepper with Mr. Jeffords.
Mr. Rodino with Mr. Fraser.
Mr. Rangel with Mr. Burleson of Texas.
Mr. Rostenkowski with Mr. Aspin.
Mrs. Spellman with Mr. Madigan.
Mr. St Germain with Mr. McKinney.
Mr. Steed with Mr. Rudd.
Mr. Teague with Mr. Beard of Rhode Island.
Mr. Zeferetti with Mr. Kindness.
Mrs. Burke of California with Mr. Conte.
Mr. Dodd with Mr. Dornan.
Mr. Flood with Mr. Lent.
Mr. Hanley with Mr. Eckhardt.
Mr. Howard with Mr. Blouin.
Mr. Krueger with Mr. Frey.
Mr. Metcalfe with Mr. Crane.
Mr. Rahall with Mr. Mitchell of New York.
Mr. Runnels with Mr. Brown of Ohio.
Mr. Vanik with Mr. O'Brien.
Mr. LaFalce with Mr. Quie.
Mr. Lederer with Mr. Diggs.
Mr. Lehman with Mr. Sarasin.
Mr. Boland with Mr. McCloskey.
Mr. Dingell with Ms. Oakar.
Mr. Early with Mr. Roncalio.
Mr. Heftel with Mr. Steiger.
Mr. Long of Louisiana with Mr. McDade.
Mr. Meeds with Mr. Thone.
Mr. Murphy of Illinois with Mr. Young of Alaska.
Mr. Preyer with Mr. Whitley.
Mr. Reuss with Mr. Walsh.
Mr. Solarz with Mr. Tucker.
Mr. Stokes with Mr. Thornton.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate concurrent resolution (S. Con. Res. 44) to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of Gen. Thaddeus Kosciuszko.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 44

Whereas the year of 1977 marks the bicentennial of the Battle of Saratoga, a turning point of the American War of Independence; and

Whereas a part of the victory at Saratoga is credited to the military genius of General Thaddeus Kosciuszko of Poland; and

Whereas the engineering skill and advice of General Thaddeus Kosciuszko contributed significantly to the tactics of the Continental Army in both the north and south theaters of the American War of Independence: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the sites of service of General Thaddeus Kosciuszko as identified by but not limited to the Polish National Alliance and the Copernicus Society should be recognized by the Federal, State, and local governments as the Kosciuszko Military Engineering Sites and marked by suitable markers; and be it further

Resolved, That the Secretary of the Interior be encouraged to accept the donations of such suitable markers for placement within units of the National Park System, pursuant to the authority granted to the Secretary of the Interior in the Act of August 21, 1935 (49 Stat. 666).

Mr. PHILLIP BURTON. Mr. Speaker, this Senate concurrent resolution which is offered in lieu of the House concurrent resolution is virtually identical. The main effect of this action is that we will now have completed action in both Houses on the Kosciuszko proposal.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 359) was laid on the table.

OREGON NATIONAL HISTORIC TRAIL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6900, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON), that the House suspend the rules and pass the bill H.R. 6900, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 353, nays 4, not voting 77, as follows:

[Roll No. 186]

YEAS—353

Abdnor	Badham	Brademas	Byron	Harris	Patterson
Addabbo	Bafalis	Breaux	Caputo	Harsha	Pattison
Akaka	Baldus	Breckinridge	Carney	Hawkins	Pease
Alexander	Barnard	Brinkley	Carr	Heckler	Perkins
Allen	Baucus	Brodhead	Carter	Hefner	Pettis
Ambro	Bauman	Brooks	Cavanaugh	Hightower	Pickle
Ammerman	Beard, Tenn.	Broomfield	Cederberg	Hillis	Pike
Anderson, Calif.	Bedell	Brown, Calif.	Chisholm	Hollenbeck	Poage
	Bellenson	Brown, Mich.	Clausen, Don H.	Holt	Pressler
Anderson, Ill.	Benjamin	Broyhill		Holtzman	Price
Andrews, N.C.	Bennett	Buchanan	Clawson, Del	Horton	Pursell
Andrews, N. Dak.	Bevill	Burgener	Clay	Hubbard	Quayle
	Biaggi	Burke, Fla.	Cochran	Huckaby	Quillen
Annunzio	Bingham	Burke, Mass.	Cohen	Hughes	Railsback
Applegate	Blanchard	Burleson, Tex.	Coleman	Hyde	Regula
Archer	Boggs	Burlison, Mo.	Collins, Ill.	Ichord	Rhodes
Armstrong	Bonior	Burton, John	Collins, Tex.	Ireland	Richmond
Ashbrook	Bonker	Burton, Phillip	Conable	Jacobs	Rinaldo
AuCoin	Bowen	Butler	Conyers	Jenkins	Roberts
			Corcoran	Jenrette	Robinson
			Corman	Johnson, Calif.	Roe
			Cornell	Johnson, Colo.	Rogers
			Cornwell	Jones, N.C.	Rooney
			Cotter	Jones, Okla.	Rose
			Coughlin	Jones, Tenn.	Rosenthal
			Cunningham	Jordan	Rousselot
			D'Amours	Kasten	Roybal
			Daniel, Dan	Kastenmeier	Ruppe
			Daniel, R. W.	Kazen	Russo
			Danielson	Kelly	Ryan
			Davis	Kemp	Santini
			de la Garza	Ketchum	Satterfield
			Delaney	Keys	Sawyer
			Dellums	Kildee	Scheuer
			Dent	Kostmayer	Schroeder
			Derrick	Krebs	Schulze
			Derwinski	Lagomarsino	Sebelius
			Devine	Latta	Seiberling
			Dickinson	Leach	Sharp
			Dicks	Leggett	Shipley
			Downey	Levitas	Shuster
			Drinan	Livingston	Sikes
			Duncan, Oreg.	Lloyd, Calif.	Simon
			Duncan, Tenn.	Lloyd, Tenn.	Sisk
			Edgar	Long, Md.	Skelton
			Edwards, Ala.	Lott	Skubitz
			Edwards, Calif.	Lujan	Slack
			Edwards, Okla.	Luken	Smith, Iowa
			Eilberg	Lundine	Smith, Nebr.
			Emery	McClory	Snyder
			English	McCormack	Spence
			Erlenborn	McEwen	Staggers
			Ertel	McFall	Stanton
			Evans, Colo.	McHugh	Stark
			Evans, Del.	McKay	Steers
			Evans, Ga.	Maguire	Stockman
			Evans, Ind.	Mahon	Stratton
			Fary	Mann	Studds
			Fascell	Markey	Stump
			Fenwick	Marks	Symms
			Fish	Marlenee	Taylor
			Fisher	Marriott	Thompson
			Fithian	Martin	Traxler
			Flippo	Mathis	Treen
			Florio	Mattox	Trible
			Flowers	Mazzoli	Tsongas
			Flynt	Meyner	Udall
			Foley	Mikulski	Ullman
			Ford, Mich.	Mikva	Van Deerlin
			Ford, Tenn.	Milford	Vander Jagt
			Forsythe	Miller, Calif.	Vento
			Fountain	Miller, Ohio	Volkmer
			Fowler	Mineta	Waggonner
			Frenzel	Minish	Walgren
			Fuqua	Mitchell, Md.	Walker
			Gammage	Moakley	Wampler
			Garcia	Moffett	Waxman
			Gaydos	Mollohan	Weaver
			Gephardt	Montgomery	Weiss
			Giaimo	Moore	Whalen
			Gibbons	Moorhead, Calif.	White
			Gilman		Whitehurst
			Ginn	Moorhead, Pa.	Whitten
			Glickman	Moss	Wiggins
			Goldwater	Mottl	Wilson, Bob
			Gonzalez	Murphy, N.Y.	Wilson, C. H.
			Goodling	Murphy, Pa.	Wilson, Tex.
			Gore	Murtha	Winn
			Gradison	Myers, Gary	Wirth
			Grassley	Myers, John	Wolff
			Green	Natcher	Wright
			Gudger	Neal	Wydler
			Guyer	Nedzi	Wylie
			Hall	Nichols	Yates
			Hamilton	Nix	Yatron
			Hammer-schmidt	Nolan	Young, Fla.
				Nowak	Young, Mo.
			Hannaford	Oberstar	Young, Tex.
			Hansen	Obey	Zablocki
			Harkin	Ottinger	
			Harrington	Panetta	

NAYS—4

Hagedorn	Risenhoover	Stangeland
McDonald		

NOT VOTING—77

Ashley	Jeffords	Rahall
Aspin	Kindness	Rangel
Beard, R.I.	Krueger	Reuss
Blouin	LaFalce	Rodino
Boland	Le Fante	Roncalio
Bolling	Lederer	Rostenkowski
Brown, Ohio	Lehman	Rudd
Burke, Calif.	Lent	Runnels
Chappell	Long, La.	Sarasin
Cleveland	McCloskey	Solarz
Conte	McDade	Spellman
Crane	McKinney	St Germain
Diggs	Madigan	Steed
Dingell	Meeds	Steiger
Dodd	Metcalfe	Stokes
Dornan	Michel	Teague
Early	Mitchell, N.Y.	Thone
Eckhardt	Murphy, Ill.	Thornton
Findley	Myers, Michael	Tucker
Flood	O'Brien	Vanik
Fraser	Oakar	Walsh
Frey	Patten	Watkins
Hanley	Pepper	Whitley
Heftel	Preyer	Young, Alaska
Holland	Pritchard	Zeferetti
Howard	Quie	

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Ashley.
Mr. Chappell with Mr. Cleveland.
Mr. Patten with Mr. Findley.
Mr. Pepper with Mr. Jeffords.
Mr. Rodino with Mr. Fraser.
Mr. Rangel with Mr. Watkins.
Mr. Rostenkowski with Mr. Aspin.
Mrs. Spellman with Mr. Madigan.
Mr. St Germain with Mr. McKinney.
Mr. Steed with Mr. Rudd.
Mr. Teague with Mr. Beard of Rhode Island.
Mr. Zeferetti with Mr. Kindness.
Mrs. Burke of California with Mr. Conte.
Mr. Dodd with Mr. Dornan.
Mr. Flood with Mr. Lent.
Mr. Hanley with Mr. Eckhardt.
Mr. Howard with Mr. Blouin.
Mr. Krueger with Mr. Frey.
Mr. Metcalfe with Mr. Crane.
Mr. Rahall with Mr. Mitchell of New York.
Mr. Runnels with Mr. Brown of Ohio.
Mr. Vanik with Mr. O'Brien.
Mr. LaFalce with Mr. Quie.
Mr. Lederer with Mr. Diggs.
Mr. Lehman with Mr. Sarasin.
Mr. Boland with Mr. McCloskey.
Mr. Dingell with Ms. Oakar.
Mr. Early with Mr. Roncalio.
Mr. Heftel with Mr. Steiger.
Mr. Long of Louisiana with Mr. McDade.
Mr. Meeds with Mr. Thone.
Mr. Murphy of Illinois with Mr. Young of Alaska.
Mr. Preyer with Mr. Whitley.
Mr. Reuss with Mr. Walsh.
Mr. Solarz with Mr. Tucker.
Mr. Stokes with Mr. Thornton.
Mr. Holland with Mr. Pritchard.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was annnounced as above recorded.

A motion to reconsider was laid on the table.

LOWELL, MASS., NATIONAL CULTURAL PARK

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11662, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 11662, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 132, not voting 74, as follows:

[Roll No. 187]

YEAS—228

Addabbo	Fisher	Nix
Akaka	Fithian	Nolan
Alexander	Florio	Nowak
Allen	Foley	Oberstar
Ambro	Ford, Mich.	Obey
Ammerman	Ford, Tenn.	Ottinger
Anderson, Calif.	Fuqua	Panetta
Anderson, Ill.	Garcia	Patterson
Annunzio	Gaydos	Pattison
Applegate	Gephardt	Pease
AuCoin	Giaimo	Perkins
Baldus	Gilman	Pickle
Barnard	Gonzalez	Pike
Baucus	Gore	Poage
Bedell	Green	Price
Bellenson	Gudger	Regula
Benjamin	Hagedorn	Richmond
Bennett	Hall	Rinaldo
Biaggi	Hamilton	Roberts
Bingham	Hannaford	Roe
Blanchard	Harkin	Rogers
Boggs	Harrington	Rooney
Bonior	Harris	Rose
Bonker	Hawkins	Rosenthal
Brademas	Heckler	Roybal
Breckinridge	Hightower	Ruppe
Brodhead	Holtzman	Ryan
Brooks	Horton	Santini
Brown, Calif.	Hubbard	Scheuer
Brown, Mich.	Hughes	Schroeder
Burke, Fla.	Ireland	Sebelius
Burke, Mass.	Jenrette	Seiberling
Burlison, Mo.	Johnson, Calif	Sharp
Burton, John	Johnson, Colo.	Shipley
Burton, Phillip	Jones, N.C.	Sikes
Byron	Jones, Tenn.	Simon
Caputo	Jordan	Sisk
Carney	Kastenmeier	Skelton
Carr	Kazen	Skubitz
Carter	Keys	Slack
Cavanaugh	Kildee	Smith, Iowa
Cederberg	Kostmayer	Staggers
Chisholm	Krebs	Stanton
Clay	Leggett	Stark
Cohen	Levitas	Steers
Collins, Ill.	Lloyd, Calif.	Stratton
Conyers	Long, Md.	Studds
Corcoran	Luken	Thompson
Corman	Lundine	Traxler
Cornell	McFall	Tsongas
Cornwell	McHugh	Udall
Cotter	McKay	Ullman
Coughlin	Maguire	Van Deerlin
D'Amours	Mahon	Vander Jagt
Danielson	Markey	Vento
Davis	Mathis	Volkmer
de la Garza	Mattox	Walgren
Delaney	Mazzoli	Wampler
Dellums	Meyner	Waxman
Dent	Mikulski	Weaver
Derrick	Mikva	Weiss
Derwinski	Miller, Calif.	Whalen
Dickinson	Mineta	White
Dicks	Minish	Wilson, Bob
Downey	Mitchell, Md.	Wilson, C. H.
Drinan	Mitchell, N.Y.	Wilson, Tex.
Duncan, Oreg.	Moakley	Wirth
Edgar	Moffett	Wolff
Edwards, Calif.	Mollohan	Wright
Eilberg	Moorhead, Pa.	Wylie
Emery	Moss	Yates
Evans, Colo.	Murphy, N.Y.	Yatron
Fary	Murphy, Pa.	Young, Mo.
Fascell	Murtha	Young, Tex.
Fenwick	Natcher	Zablocki
Fish	Neal	
	Nedzi	

NAYS—132

Abdnor	Bauman	Burgener
Andrews, N.C.	Beard, Tenn.	Burleson, Tex.
Andrews, N. Dak.	Bevill	Butler
Archer	Bowen	Clausen, Don H.
Armstrong	Breaux	Clawson, Del
Ashbrook	Brinkley	Cochran
Badham	Broomfield	Coleman
Bafalis	Broyhill	Collins, Tex.
Conable	Buchanan	Daniel, Dan
Cunningham	Holt	Daniel, R. W.
Devine	Huckaby	Duncan, Tenn.
Edwards, Ala.	Hyde	English
Edwards, Okla.	Ichord	Erlenborn
Ertel	Jacobs	Evans, Del.
Evans, Ga.	Jenkins	Evans, Ind.
Flippo	Jones, Okla.	Flowers
Flynt	Kasten	Forsythe
Fountain	Kelly	Fowler
Frenzel	Kemp	Gammage
Gibbons	Ketchum	Ginn
Glickman	Lagomarsino	Goldwater
Goodling	Latta	Gradison
Grassley	Leach	Guyer
Hammer-schmidt	Livingston	Hansen
Harsha	Lloyd, Tenn.	Hefner
Hillis	Lott	Hollenbeck
	Lujan	
	McClory	
	McCormack	
	McDonald	
	McEwen	
	Mann	
	Marks	
	Marlenee	
	Marriott	
	Martin	
	Milford	
	Miller, Ohio	
	Montgomery	
	Moore	
	Moorhead, Calif.	
	Mottl	
	Myers, Gary	
	Myers, John	
	Nichols	
	Pettis	
	Pressler	
	Pritchard	
	Pursell	
	Quayle	
	Quillen	
	Railsback	
	Rhodes	
	Risenhoover	
	Robinson	
	Rousselot	
	Russo	
	Satterfield	
	Sawyer	
	Schulze	
	Shuster	
	Smith, Nebr.	
	Snyder	
	Spence	
	Stangeland	
	Stockman	
	Stump	
	Symms	
	Taylor	
	Treen	
	Trible	
	Waggonner	
	Walker	
	Watkins	
	Whitehurst	
	Whitten	
	Wiggins	
	Winn	
	Wydler	
	Young, Fla.	

NOT VOTING—74

Ashley	Howard	Rahall
Aspin	Jeffords	Rangel
Beard, R.I.	Kindness	Reuss
Blouin	Krueger	Rodino
Boland	LaFalce	Roncalio
Bolling	Le Fante	Rostenkowski
Brown, Ohio	Lederer	Rudd
Burke, Calif.	Lehman	Runnels
Chappell	Lent	Sarasin
Cleveland	Long, La.	Solarz
Conte	McCloskey	Spellman
Crane	McDade	St Germain
Diggs	McKinney	Steed
Dingell	Madigan	Steiger
Dodd	Meeds	Stokes
Dornan	Metcalfe	Teague
Early	Michel	Thone
Eckhardt	Murphy, Ill.	Thornton
Findley	Myers, Michael	Tucker
Flood	O'Brien	Vanik
Fraser	Oakar	Walsh
Frey	Patten	Whitley
Hanley	Pepper	Young, Alaska
Heftel	Preyer	Zeferetti
Holland	Quie	

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Ashley.
Mr. Chappell with Mr. Cleveland.
Mr. Patten with Mr. Findley.
Mr. Pepper with Mr. Jeffords.
Mr. Rodino with Mr. Fraser.
Mr. Rangel with Mr. Holland.
Mr. Rostenkowski with Mr. Aspin.
Mrs. Spellman with Mr. Madigan.
Mr. St Germain with Mr. McKinney.
Mr. Steed with Mr. Rudd.
Mr. Teague with Mr. Beard of Rhode Island.
Mr. Zeferetti with Mr. Kindness.
Mrs. Burke of California with Mr. Conte.
Mr. Dodd with Mr. Dornan.
Mr. Flood with Mr. Lent.
Mr. Hanley with Mr. Eckhardt.
Mr. Howard with Mr. Blouin.
Mr. Krueger with Mr. Frey.
Mr. Metcalfe with Mr. Crane.
Mr. Rahall with Mr. Michael O. Myers.
Mr. Runnels with Mr. Brown of Ohio.
Mr. Vanik with Mr. O'Brien.
Mr. LaFalce with Mr. Quie.
Mr. Lederer with Mr. Diggs.
Mr. Lehman with Mr. Sarasin.
Mr. Boland with Mr. McCloskey.
Mr. Dingell with Ms. Oakar.
Mr. Early with Mr. Roncalio.
Mr. Heftel with Mr. Steiger.
Mr. Long of Louisiana with Mr. McDade.

Mr. Meeds with Mr. Thone.
Mr. Murphy of Illinois with Mr. Young of Alaska.
Mr. Preyer with Mr. Whitley.
Mr. Reuss with Mr. Walsh.
Mr. Solarz with Mr. Tucker.
Mr. Stokes with Mr. Thornton.

Mr. FOWLER and Mr. HUCKABY changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

THE COMING OIL SHORTAGE IN MONTANA

(Mr. BAUCUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BAUCUS. Mr. Speaker, I would like to address myself today to the problem of energy in Montana, with further specific reference to energy supply from our northern neighbor, Canada.

Montana is an energy exporting State. It produces hydroelectric power, coal, gas, and oil. Yet Montana has an energy crisis, like almost every other State. Those energy export figures cannot allow people in my State to be complacent.

Why?

First of all, our largest energy export is of coal. Montana lacks sufficient facilities for coal conversion to warrant its entire use within the State. The day will surely come when Montana will use more of its coal, but it will take time and needs sophisticated conversion techniques such as magnetohydrodynamics. Pollution control devices must also be perfected. So meanwhile, coal is a major export from the State.

Second, we export limited quantities of gas and hydroelectricity. However, these are relatively small quantities and much of our production is consumed locally.

Third is oil, and that is the subject I would like to focus upon.

Montana exports oil. We produce, refine and export it, sending it to eastern Washington, northern Idaho, and North Dakota. We consume large quantities ourselves; for example, out of 192.9 trillion Btu's of oil produced by Montana, fully 85.4 trillion Btu's were consumed by the transportation segment alone, which relies on petroleum products for 97.3 percent of its energy needs. Our agricultural sector relies on petroleum for 98.5 percent of its needs. So we have a marketing area and a domestic demand of considerable proportion, particularly when it is realized that those two sectors alone account for 13.2 percent of Montana's employment.

Nonetheless, we have a problem. It stems from the fact that years back, in the days before anyone dreamed of an energy crisis, Montana refineries were built to fit the nearest and best source of supply, which happened to be Canada. It was much easier to build a refinery to handle crude brought in from Canada than it was to use only our own. You will recall, Mr. Speaker, that in those heady days Canada was ardently selling its oil to us. We obliged and built our refineries to handle Canadian crude, so much so that Montana refineries used 40 percent Canadian oil in 1975.

The energy crisis changed all that. In October 1974 Canada's National Energy Board reported that Canadian oil supplies were being drastically depleted, and that production was declining at an alarming rate. Based on these findings, the NEB recommended that exports of oil be reduced gradually and be terminated by the early 1980's. The phaseout was gradual in part to allow U.S. refiners to find alternate sources of supply. Canada made clear that while it was willing to cooperate, it had to take care of its own needs first, and that we would have to do likewise. Canada's position was fully understood by our Government, which was sympathetic to the problem.

As a result, our Government has taken many measures to find alternate supplies. Obviously, Alaskan oil will eventually play a role in the resolution of the oil supply problem. Alternate sources of energy such as solar or wind power are being developed. Conservation measures are being encouraged. A national energy program has been presented and hopefully will be finally approved. We need it very badly. We must set our house in order if we are to survive.

Northern tier refineries were the hardest hit by Canadian cutbacks. Nonetheless, we went to work on the problem. We expanded shipments up through our midcontinental pipeline system. We worked out our problems on an Alaska pipeline, and oil is now coming down from the north slope of that State. We are looping lines which service the northern tier. We are using barges up our river systems. We are even studying unit trains as a means of delivery.

These efforts have helped. The eastern northern tier States are now beginning to get more oil via the intercontinental system. The Western States are getting Alaska oil.

But Montana and its marketing area remains a problem. We are too far west to obtain midwest pipeline service, and too far east to get west coast oil. And Canada is ending its shipment of sweet crude to Montana refiners by 1980.

We have plans for the longer run. We are actively considering the construction of a northern tier pipeline as one solution to bring crude to our refiners. But all this will take time, and the refiners anticipate a "window" period of 3 to 5 years when Montana will be in a critical situation.

What does this mean for Montana? The Department of Energy issued some interesting statistics: Canadian cutbacks could mean a loss of real income to Montana in 1978 of at least $225.4 million, with estimates running as high as $303.4 million. In the Billings area lone, DOE estimates that unemployment could reach as high as 2,755 workers. Meanwhile, Montana will be faced with a real problem: Where will it get all the oil it needs to keep its cars going, its agriculture functioning, its industries operating, and its homes heated?

There have been several proposals made. One has been temporarily successful: swapping arrangements with Canada. Under these agreements, U.S. and Western Hemisphere crude is delivered to eastern Canada via our midwestern pipeline in return for a continuation of western Canadian crude delivered to the northern tier.

It sounds like a good arrangement. Unfortunately, as we increasingly are taking care of our own needs, our midcontinent pipeline is now operating at capacity, with no room for crude to be shipped to Canada. As a result, we have no supplies to swap.

We have suggested that Canada permit us to deliver the oil to eastern Canada via Portland, Me. to Montreal. For a variety of reasons, including recent Canadian completion of a pipeline from Sarnia to Montreal which the Canadian Government thinks it must keep full, this has proven to be unacceptable to Canada.

A further possibility lies in U.S. storage of strategic oil in eastern Canada in return for continued swaps out west. There is evidence that Canada might approve such an arrangement. But again, we must study the feasibility of such a system of storage and that will take at least 2 years. And then it might prove unfeasible; I understand that at least one of the mines which have been suggested for such storage is under the sea and right now is full of water.

Time swaps have been suggested. We buy Canadian oil now in return for Alaskan oil delivered to Canada some time in the future. It sounds good, but no one knows what the price of oil will be a few years hence. Therefore no one wants to make such long term commitments.

The result is that we still do not have a solution to Montana's oil supply problem, or at least we do not have one which is economically viable.

I am concerned enough about the problem that I am traveling to Ottawa very soon to meet with Canadian energy officials. If we can somehow prevail upon Canada to make an exception for Montana, we will be assured stability until we have built our own line of supply. If Canada will not help out, we shall obviously survive, but at substantial cost. I am sure Montanans will adapt but we shall have a few tough years.

Looking ahead to that eventuality, it is important that Montanans study the options available. To this end, I also hope to organize a meeting in Montana of interested individuals, representing the various sectors involved, to see what can be done. If worse comes to worse, we may have to seek some Federal relief or other measures to ease the burden which geography has so unfortunately cast upon us. Whatever it is, something will have to be done, and I hope that meeting will at least start the process and focus attention on the problem we face.

RHODES LEADERSHIP APPLAUDED

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, I note with

pleasure an editorial in the Sunday, March 26, Arizona Republic praising the efforts of our minority leader, JOHN RHODES. Specifically, the editorial praises RHODES' work on the unanimous Republican vote against the ill-conceived Federal election bill.

For the benefit of my colleagues I would like to insert the text of the editorial at this point in the RECORD:

[From the Arizona Republic, Mar. 26, 1978.]

A VICTORY FOR RHODES

In at least one respect, the leader of a political party is like the leader of a wolf pack. Some follower will always be snapping at his heels. That's probably the way Arizona Congress John Rhodes feels today.

The Wall Street Journal reports that "conservative Republicans" hope to replace Rhodes as minority leader of the U.S. House of Representatives. Their candidate, according to The Journal, is Rep. Vander Jagt of Michigan. However, the news item ended with the prediction that Rhodes would survive easily.

The story followed by a few days a Washington Post report that Rhodes was in trouble with House Republicans because he tried to make a deal with the Democrats on campaign finance legislation.

The Washington Post is hardly the place to look for unbiased reporting about any Republican. It didn't oppose the legislation, which would have drastically reduced the amount of money a political party can give to a candidate in the congressional election.

Rhodes did oppose the legislation, and when the showdown came he secured a "No" vote from every one of his 139 fellow Republicans. He also picked up 69 "No" votes from Democrats. That was enough to beat the measure, which undoubtedly would have helped incumbent members of Congress and therefore assured the Democrats of retaining their 2-to-1 majority in the House and in the Senate.

It was a virtuoso performance. Rhodes told Ben Cole, of The Republic's Washington bureau, that he expected 70 Democrats would defect from their party on this vote. He missed the count by one vote. Cole called it "a David and Goliath victory for the Arizonan."

To predict the removed of Rhodes as party leader after such a smashing victory sounds like wishful thinking. Or maybe The Washington Post wants its readers to believe the Republican Party is being taken over by the radical right.

The Republican Party has a war chest of $16 million for this fall's campaign. It was raised in small contributions from 2 million citizens. The Democratic Party has very little in reserve. In fact, it is close to bankruptcy, and would much rather have "public funding" of all national election campaigns. That means using tax money.

Rep. Bob Stump of Arizona, a Democrat who voted with the Republicans on the campaign financing bill, said:

"This is the genius of the American Political process. Private contributions from individual citizens, business and labor organizations, political parties and other groups can be obtained by any qualified person.

"This encouraged good candidates to run, and most often discourages bad or ineffective candidates from jumping into the race. Since when did running for public office become a right that anyone is entitled to at the taxpayers' expense?"

That's a question Stump's fellow Democrats prefer not to answer.

Rhodes and 139 other Republicans have answered it conclusively.●

SOVIET REFUSENIK'S VIEW OF THE JACKSON-VANIK AMENDMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, while I was in Moscow, Prof. Naum Meiman gave me the following letter and statement to deliver to Senator HENRY JACKSON. I have done that, but I want to share his thoughts with my other colleagues also. His views were given to me in the apartment of Vladimir Slepak. Many other refuseniks were present, including the mother of Anatoly Shcharansky. They all agreed with Professor Meiman's view:

NABEREZHNAYA GORKOGO 4/22,
Moscow 113127, U.S.S.R., March 23, 1978.

Senator HENRY JACKSON,
The Senate,
Washington, D.C.

DEAR MR. SENATOR: Some days ago I was interviewed by David Willis of the Christian Science Monitor about your Amendment. Some refusniks, dissidents and I consider the subject of primary importance, so I feel you should have my opinion in writing. You may use it any way you deem necessary.

I would like to add that Academician Sakharov has read this statement and expressed full agreement with it. He has no objetcion to mention of this fact.

Sincerely, yours,

Prof. NAUM MEIMAN.

THE JACKSON-VANIK AMENDMENT

The Jackson-Vanik Amendment is a constant target of attack by the Soviet mass media. It aggravates American-Soviet relations and has not achieved its immediate goal of facilitating emigration from the USSR, particularly for Jews. This rouses doubt in a certain section of the American public as to the advisability of preserving the Amendment. Notice should be taken of the systematic campaign against the Amendment by a narrow, but active group of businessmen, such as the management of Pepsicola. who are specially interested in Soviet trade. The clash of views and opinions compels me to present my stand on this question.

I believe the Jackson-Vanik Amendment is of far greater importance than transient politics. Perhaps it will be properly assessed with the passing of time. The Amendment is more than an important Act of Congress. It is something altogether new, something unprecedented. For the first time in history the top legislature of a great country deemed it necessary to pass a law supporting one of the basic human rights, that of freedom of movement, on a global scale. This right was throughout history the main criterion, the main test, distinguishing the free man from the slave and the serf.

The Jackson-Vanik Amendment created an entirely new situation, making it impossible once and for all to consider freedom of emigration as a domestic affair of the country from which one wishes to emigrate.

This is understood perfectly by the Soviet government, which has to take it into actual account in spite of all the thunder in the Soviet press. The Soviet government quite soberly sees the Amendment as a political reality.

Over a long range the Jackson-Vanik Amendment is one of the most effective ways to assist the emigration movement. I am convinced that it will still play an extremely substantial role in promoting freedom of emigration.

The Amendment has gained special significance since the Belgrade Conference, where the USSR in fact refused to carry out its human rights commitments under the Helsinki Agreements. The Belgrade Conference highlighted the need for permanent practical measures to make the USSR respect human rights.

Let me underscore that the Jackson-Vanik Amendment is important not only for Jewish emigration, even not only for any kind of emigration. It is a stimulus in the general efforts for human rights.

Let me close by noting that the Amendment has already produced telling, though not always apparent results. There are grounds to maintain that it has restrained the Soviet authorities from committing further, stronger reprisals against participants in the emigration movement.

Prof. NAUM MEIMAN.

MOSCOW, *March 8, 1978.*

REGARDING RELIGIOUS DISCRIMINATION BY IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 20 minutes.

Mr. HANSEN. Mr. Speaker, I rise to address the House on a serious matter regarding religious discrimination by the Internal Revenue Services.

The first amendment to the Constitution of the United States declares that—

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Unfortunately as the high ideals of the Bill of Rights come under increasing assault from the mushrooming bureaucracy of paternalistic government, our freedoms are disappearing one by one and article I is no exception.

Everywhere we see the minions of government clashing with the forces of individual liberty and tradition as so-called new standards and new practices of morality are imposed. This is manifested in arbitrary government decisions, not always successful, to interfere in private educational systems even if they accept no Federal funds; to force integrated housing between the sexes contrary to the moral codes of those involved; to end father-son functions and boys' State and girls' State programs because of sexual segregation; and a whole host of other controversial proposals, regulations and laws.

All of this constitutes an invasion of first amendment—and other—rights to varying degrees, but far worse abuses of individual rights are taking place which by nature are more difficult to identify because of the shroud of fear and intimidation which shield them from exposure.

Certain abuses of citizen rights exposed in recent years regarding practices of the Central Intelligence Agency and Federal Bureau of Investigation shocked the Nation and the overreaction by some

people nearly ruined the effectiveness of both organizations.

However, several years of research and observation now convince me that the greatest assault on civil rights in this country is yet to be exposed. The CIA and FBI malpractices did not touch everyone because of their limited jurisdiction but one superagency, the Internal Revenue Service, does.

The IRS has the potential to reach everyone and the means to do it with the ruthlessness of a dictator because they are not restrained constitutionally as other agencies are.

Will the IRS misuse this vast authority? Is there evidence of abuse? Government agencies develop great competence in making themselves look good and covering their mistakes. In most cases a citizen is at impossible disadvantage in any showdown because of his limited resources and because the agency controls the ball game from the playing field to the referees.

It is not uncommon for documentation to be suppressed, destroyed or altered. It is not uncommon for the Government employee or average citizen to feel the threat of retaliation or the fear of intimidation.

On December 15, 1977, I wrote to IRS Commissioner Jerome Kurtz regarding grave concerns I had identified in IRS operation. Among these were problems involving religious discrimination against IRS employees and taxpayers. I asked, "Why is the IRS making such a strong effort to purge Mormon agents from key eastern Idaho audit positions particularly in the Idaho Falls area?"

Mr. Kurtz responded in a letter on February 24, 1978:

> Any such effort would be a violation of Federal law, established IRS policies and my personal convictions. Our investigation to date does not provide any basis for your allegations.

Chalk one up for bureaucratic platitudes and coverup. Does Government have the right to lie? I do not know who victimized Mr. Kurtz but the letter written for the Commissioner's signature was in absolute contradiction to volumes of facts available in IRS' own personnel and inspection files—unless, of course, they were destroyed as I have been told.

Fortunately for the truth, and perhaps unfortunately for any coverup by IRS, the records do exist and discriminatory practices are evident and provable. This is important because: First, current IRS employees are reluctant to talk because whistleblowers, no matter how right they are, always seem to suffer serious personal consequences, second, former IRS employees are reluctant to talk because of possible retaliation against them as taxpayers and especially because most of them remain in the accounting profession where they could be seriously handicapped by an adverse IRS relationship; and third, taxpayers in general are reluctant to talk because a hostile IRS can get at them year after year through their tax returns, even to the point of arbitrary harassing, embarrasing and expensive audits and investigations.

These records show that religious discrimination does indeed exist and, in fact, is broadly practiced by IRS. The particular sect subject to discriminatory practices may vary according to which one predominates, but prejudiced policies are domumented. Generally nothing beneficial can result from discrimination, but there are instances where employee manipulation for religious purposes has benefited some while doing harm to others which will be evident in the facts to follow.

A number of employee cases where religious discrimination is evident are available where IRS should not have to be advised because the records of substantiation come from their own files. In my own State of Idaho, IRS is involved in obvious Mormon manipulation.

One case within recent months had the Inspection Service extensively checking on an IRS employee to see if the individual was "doing too much Church work." For weeks IRS vehicles shadowed the employee only to conclude such an allegation could not be proved. However, no respectable person would want to work under such conditions and especially knowing that time is on the side of management and if they want to get you, they will finally get it done by destroying you little by little with adverse evaluations. Naturally the employee found a good job and got out. The personal situation has been salvaged but what can be said even on the outside without jeopardizing a professional career?

The most classic case involving a number of people throughout the Idaho IRS district office is one that is so widespread and covers so many years that IRS cannot possibly defend a position contending that they have no knowledge of discriminatory practices.

This involves the promotion-transfer from Idaho Falls to Boise of Mr. Dee Brady who according to witnesses including then District Director Howard Martin surprisingly was moved ahead of senior grade revenue agents. Mr. Brady was identified as a member of the Church of Jesus Christ of Latter-Day Saints (LDS or Mormon) and his promotion opened a GS–12 Revenue Agent position in Idaho Falls, an area of high Mormon concentration.

Applications for the open position were made by four employees of which three were of the Mormon faith. Of the three highest qualified two were Mormons. George Blank, a non-Mormon, was selected and in the aftermath it became evident that religion may have played a part in the process.

Complaints were filed and an investigation launched by the Equal Employment Opportunity (EEO) office for the western region of IRS. Investigator Glen L. Johnson submitted his report on September 10, 1975.

On October 10, 1975 agreements were drawn up and subsequently signed by district director, Howard Martin; Kenneth Peterson, assistant counsel of the National Treasury Employees Union (NTEU); Stephen R. Nestor, union representative; Tedd Woodard, regional EEO officer; and complainants Paul DesFosses and Robert Weaver guaranteeing the next available promotions in Twin Falls, Idaho Falls, or Pocatello to Weaver and DesFosses, and that such action must be in a reasonable time. Some effort by IRS to circumvent apparently was made but the action was eventually forced as resolution of the complaints.

The NTEU bulletin for December 31, 1975, headlined an article, "NTEU Secures Promotions for Two Denied Jobs Due to Religious Discrimination." The article states:

> Completing his study, the EEO Investigator concluded that the employees would have been promoted if not for management's discriminatory attitude toward Mormons.

Statements by fellow employees told the story even though some made denials or claimed uncertainty of memory.

Revenue Agent Winford Spiva in the EEO interview is quoted as reporting group manager Gus Santilli's statement to him that—

> I know one thing for darn sure, I'm not going to put another Mormon in Idaho Falls.

On another occasion Spiva reports:

> Gus Santilli again stated that he was "darn sure that he was not going to put another Mormon in Idaho Falls."

This probability of religious consideration in IRS policy was reinforced by office auditor Robert Gillette who recalled Santilli conversations in his presence. Further corroboration of religious consideration in employee assignment was provided by employee Albert J. Seefried.

Revenue agent Connie Bee told the EEO Investigator:

> . . . Dean Bigler, the former group manager over Pocatello and Idaho Falls offices, mentioned to me that he was concerned about having three LDS revenue agents in the Idaho Falls post of duty due to the number of Mormons in the Idaho Falls area.

Bigler's statement to EEO investigator Darryl W. Roosendaal conceded that—

> During an indoctrination with her (Connie Bee), it is very possible that I stated a concern about the all-Latter-Day Saints office in Idaho Falls . . . It is my belief from various comments and impressions that the all-LDS office was of concern to our then Chief of Audit Division, Tony Koberstein.

In a letter to me dated August 6, 1976, Equal Employment Opportunity officer Barbara R. Thompson stated the following:

> Your correspondence dated June 21, 1976 concerning the request from Stephen Nestor with reference to Paul J. DesFosses and Robert Weaver was referred to this office.
>
> Paul DesFosses and Robert Weaver each presently have a formal complaint of discrimination pending in the administrative process. After the investigation of the allegation of discrimination on the basis of religion, the Regional EEO Officer attempted informal adjustment in accord with the Civil Service Commission regulations. An agreement was documented and signed by management and by the complainants. A report of investigation, the signed adjustment agreement and other related documents were forwarded to this office.
>
> After review, it was determined that the adjustment agreement exceeded the authority of the Service in that it was not incompliance with Civil Service Commission regulations. The Regional EEO Officer was requested to correct the deficiency. Mr. Weaver and Mr. DesFosses did not accept the adjust-

ment agreement as corrected by the District Director . . .

Subsequent to the issuance of the letters of proposed disposition . . . a hearing was requested. The hearing was scheduled for July before a Civil Service Commission Complaints Examiner. The Director of Equal Opportunity Program, the Department of Treasury, will make a decision based upon the findings and recommendations of the examiner. If that decision is not accepted, it may be appealed to the Appeals Review Board, Civil Service Commission.

At this point, the primary issue appears to be the nature of the resolution that is acceptable to the complainants. The Service has made maximum utilization of the authority understood to be available but will implement whatever is the decision of the Treasury Department.

Following the letter from EEO, NTEU assistant counsel, Kenneth B. Peterson, from San Francisco, entered the case again in behalf of DesFosses and Weaver in strong letters to Dean Wright, chief appeals officer for the U.S. Civil Service Commission (Federal, Employee Appeals Authority) dated August 9, 1976, and to David A. Sawyer, Director, Equal Opportunity Program (Office of the Secretary of the Treasury) on September 1, 1976. Partial context of the latter is as follows:

Either you have not received a copy of the settlement agreement in question, or you have misread that settlement agreement, or you have had a failure of memory concerning the proposed disposition which was made. In fact, the settlement agreement which was reached on August 17, 1976, differs significantly from the proposed disposition made by the EEO officer.

The prior proposed disposition would have involved a competition between Mr. Weaver and Mr. Paul J. DesFosses for a single position. The loser in that competition would then receive no further remedy to redress the discrimination he had suffered. Furthermore, there was no time limitation on implementation of the remedy proposed.

In contrast, the agreement reached on August 17, 1976, concerns only the complaint of Robert D. Weaver, and does not discuss the still pending complaint of Mr. Paul J. DesFosses. The terms of the agreement provide that Mr. Weaver will receive exclusive priority consideration for the next available GS–12 Internal Revenue Agent position in Twin Falls or Pocatello, Idaho, and that such consideration shall take place within 30 days from the date of the agreement.

It is obvious that the terms of the negotiated agreement differ significantly from the proposed disposition made by the EEO officer, and that furthermore the terms of the agreement are significantly more beneficial to the complainant. I would suggest that you promptly correct any statistical records you may be maintaining concerning the acceptance of proposed dispositions by complainants, to indicate that the proposed disposition made by the Treasury Department in this case was not accepted.

The final results speak for themselves. Both Weaver and DesFosses received their promotions. That should be the happy end of a long struggle for justice against discrimination, but that is not necessarily so. IRS has not repented and only granted grudging relief when caught redhanded.

Mr. Speaker, discrimination goes on, harassment continues and, in the case of those who continue to stand their ground, retaliation becomes the name of the game. This and other forms of religious discrimination involving the handling of taxpayer matters are subjects for subsequent development.

LEGISLATION TO PERMIT ALL TAXPAYERS TO TAKE A DEDUCTION FOR CHARITABLE CONTRIBUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 10 minutes.

● Mr. CONABLE. Mr. Speaker, in February I joined with my colleague, JOSEPH L. FISHER, in introducing H.R. 11183, a bill to permit all taxpayers to deduct gifts to charity on their individual income tax returns. This is an area which requires our attention. We are reintroducing this measure with approximately 40 cosponsors.

In the interest of tax simplification and reform, we have unwittingly been reducing the tax incentives to charitable giving over the years until we have reached the point where soon only the very wealthy will receive any tax benefit from charitable giving. It is an easy step from that condition to the assumption that deductions for charitable contributions are only loopholes and that we would be better off letting the Government do the work of charities so that everyone can participate again in the good work of the world through his involuntarily donated tax payment. However, I for one do not want the Government running the Boy Scouts, or the churches, or all the universities, any more than I want only wealthy people to support them. As we see at every turn, Government control accompanies Government financing.

Let us look at some of the pertinent facts: Five increases in the standard deduction in the last 8 years have increased the number of taxpayers using the standard deduction from slightly more than 50 percent in 1970 to 75 percent in 1977. Charitable organizations estimate that they received about $5 billion less during that period as a result of this change. In 1977 alone, the loss was approximately $1.4 billion—$615 million of that amount is attributable to the standard deduction changes enacted by the Tax Reduction and Simplification Act of 1977 (Public Law 95–30). President Carter has proposed to extend further the use of the standard deduction by reducing the number of deductions which can be claimed; if this is realized, it is estimated that the number of taxpayers claiming the standard deduction would be increased to approximately 84 percent. In other words, if Congress adopts the President's proposals, only about 16 percent of the taxpayers would still be itemizing their deductions and thus be able to reduce their taxes by listing their charitable contributions.

The pluralism which the private charities provide is a great strength in our our society, and we should all be concerned about protecting and enhancing that diversity and strength. Certainly the major share of charitable giving is done for altruistic purposes, but the additional tax incentives are extremely helpful and appropriate, as well.

The expanded use of the standard deduction would be devastating for the voluntary sector. Contributions to public charities are certain to decrease, making it more difficult to meet the increasing demand for social services. The time has come to make a change that will offset the depressing impact of our recent tax decisions on the charities. Public policy should encourage and support the work of charitable organizations, not diminish it.

In my opinion, the only way to reverse this recent trend is to amend the Internal Revenue Code to permit all taxpayers to take a deduction for their charitable gifts, whether they itemize their deductions or not. It is estimated that revenue losses to the Treasury would be $2.35 billion. However, for each dollar of taxes lost by virtue of the deduction, estimates are that charitable organizations would receive between $1.15 and $1.30.

Furthermore, these increased gifts to charities would have a multiplier effect—they would bring an additional amount in volunteer efforts. Recent studies indicate a strong correlation between giving and active participation in charitable endeavors. For each dollar donated to public charities, there is an equivalent dollar's worth of volunteer effort. Conversely, if charitable giving continues to decline, there will not only be a loss in the financial base of the voluntary organizations, but there will also be a significant loss in volunteer effort.

I do not believe that the enactment of this legislation would be a step backward in our efforts toward tax simplification. It would require only a simple computation on the front of the tax form, much like the personal exemption. There is ample precedent for this treatment. Child care expenses, political expenses, and alimony now receive "above the line" treatment without protest from taxpayers utilizing those provisions.

The Ways and Means Committee is currently engaged in an extensive series of hearings on the President's tax reduction and reform proposals and related legislation. On Tuesday, April 4, the committee plans to devote the entire day to hearing representatives of charitable organizations testify on the President's proposals as they relate to charitable contributions. I hope that the members of the committee, as well as the rest of my colleagues in Congress, will recognize the uniqueness of the charitable contribution deduction and support the legislation to make it available to all American taxpayers.●

CRIME SUBCOMMITTEE HEARING ON UNEMPLOYMENT AND CRIME RESCHEDULED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, canceled its scheduled March 15 hearing

on the relationship between unemployment and crime, because of the debate on H.R. 50, the Full Employment and Balanced Growth Act, that took place on that date. That hearing has now been rescheduled for April 5, 1978, at 2 p.m., in room 2337, Rayburn House Office Building.

As previously announced, scheduled witnesses for this hearing include Secretary of Labor Ray Marshall and former Attorney General Ramsey Clark.

Those wishing to testify or submit a statement for the record should address their requests to the House Committee on the Judiciary, Subcommittee on Crime, 207E Cannon House Office Building, Washington, D.C. 20515.●

EFFECTS OF INTERNATIONAL BANKING ACT OF 1978 ON INTERNATIONAL BANKS IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, on Thursday of this week H.R. 10899, the International Banking Act of 1978, is scheduled for floor action, subject to a rule being granted. I would like to call attention to a particular section of this legislation which affects each and every State. Section 5 of this bill, as reported from committee, would prohibit interstate branching of foreign banks unless State banks of the State where the foreign bank already is established also are permitted to branch into the State.

This conditional arrangement effectively precludes a State from choosing the alternatives for international banking activities which would be most fortuitous for that State, and would force international banks to conduct operations only in a major money center of the United States. There is little doubt that New York, Chicago, Ill., and the State of California would retain their predominance in the international banking field, with little opportunity for other States to enhance their own position in the financing of foreign trade.

Mr. Speaker, Florida is very troubled by this legislation for the reasons I just outlined, and I have been in continuous contact with our State comptroller on this subject. Florida has recently enacted legislation, effective on January 1 of this year, which permits international banking agencies and offices to operate in the State. At a glance, the International Banking Act would seem to meet Florida's situation because the bill does permit agencies to operate without a tie-in arrangement. We in Florida strenuously object to this view, however, because section 5 would close future options to permit international banking branches into our State should we decide to do so.

In the 3 months that Florida's international banking law has been effective, five banks have applied and been approved for operation; four have subsequently opened agencies in the Miami area, with the fifth, Lloyd's of London, about to do the same. I am sure Congress can appreciate the importance of Miami and all of South Florida as a center for Caribbean and Latin American trade. The future is bright and bold for international trade and finance in our State, and a foreclosure of future international banking options as contained in section 5 of H.R. 10899 is neither necessary nor desirable.

Because of the direct effect this legislation would have on all States' banking prerogatives, I believe the House will be interested in the following letters from State banking commissioners around the country. These letters support a deletion of the tie-in requirements of section 5 of the bill, and you may be aware that a motion to that effect will be made by Mr. ANNUNZIO when the bill is considered on the floor. It is interesting to note, moreover, that New York's superintendent of banks, a State which might be expected to benefit from section 5, indicated to the Banking Committee that such restriction would not accord New York any significant benefit, while they would represent a "substantial disservice to other States." Mr. Speaker, the letters from various States follow.

DEPARTMENT OF BANKING AND FINANCE,
Atlanta, Ga., March 15, 1978.

Re International Bank of 1978 (H.R. 10899).

Hon. LARRY MCDONALD,
Congressman, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MCDONALD: The subject Bill was reported out of the Banking Committee on February 23, 1978 and is now scheduled to go before the Rules Committee of the House with possible floor action as early as March 17th. The Bill reported out of the Committee has three areas which are of concern to this Department and to Governor Busbee. Those areas are Sections 5 and 7 of the Bill and the grandfather date contained in the Bill. The attached memorandum from the Conference of State Bank Supervisors outlines these problem areas.

With respect to Section 5, Representative Frank Annunzio (D., Ill.) will be offering an amendment which the Department and Governor Busbee consider desirable. We would urge your support of that amendment on the floor.

In the event Representative Annunzio's amendment is not successful, we would urge your support of an appropriate amendment to change the grandfather date in Section 5 from May 1, 1976 to May 1, 1978, or some other appropriate, but more current, date. Six International banks are presently operating in Atlanta and they all would be required to terminate their operations under the present grandfather date in the Bill. However, if Representative Annunzio's amendment is accepted concern over the grandfather date would become a moot point.

With respect to Section 7, the Department feels that language contained in the Bill when it came out of Subcommittee is more desirable than the language presently contained in the Bill. The Subcommittee language would have given the Federal Reserve System reserve setting authority over Federally-chartered International banking operations only; whereas, the language presently contained in Section 7 would give the Federal Reserve System reserve setting authority over State-chartered International operations also. If an effort is made to restore the Subcommittee language, we would urge your support of that effort.

If that effort is unsuccessful, we would urge your support of the language presently contained in the Bill, but would further urge your opposition to any effort to further strengthen the Federal Reserve supervisory role over State-chartered International banking operations.

Thank you for your consideration of this legislation which can have a significant impact on the future growth of International banking and International trade development in this country. If I, or my staff, can be of any assistance to you or if the Conference of State Bank Supervisors can be of any assistance to you, please feel free to contact me.

Yours very truly,

E. D. DUNN,
Commissioner.

STATE BANK DEPARTMENT,
Little Rock, Ark., March 17, 1978.

Re H.R. 7325—International Banking Act 1977.

Hon. JIM GUY TUCKER,
Member of Congress, House Office Building, Washington, D.C.

DEAR CONGRESSMAN TUCKER: Arkansas, at this time, prohibits international chartering of banks in its state. If the above bill becomes law, more or less all of the international banking in this country will be confined to the states of New York and California. I do not think this is right. If Arkansas should, in the future, desire to have foreign banks or branches, then I think the state should enjoy the privilege if it so desires.

I am not supporting international banking in our state, but I do think it should not be confined to New York and California.

My good friend Jack Dunn, Commissioner of Banking in the State of Georgia, states that his state permits limited branching of foreign banks and if I understand the bill correctly, this would limit his state to accepting in the future foreign branch banks.

Very truly yours,

H. C. ADAMS,
State Bank Commissioner.

DEPARTMENT OF BANKING AND SECURITIES,
Frankfort, Ky., March 17, 1978.

Re International Bank Act of 1978, H.R. 10899.

DEAR CONGRESSMAN: It is my understanding that the above bill may be called before the floor of the House of Representatives for debate in the very near future.

As a state banking official I urge you to oppose Section 5 of the bill as it is now written. Representative Frank Annunzio will offer an amendment to the present Section 5 which I would ask you to support. Mr. Annunzio's amendment would preserve the authority which all states have had in the past to invite into their respective areas foreign-bank branches regardless of whether the particular branch of a foreign-owned bank might also be operating in another state. Mr. Annuzio's amendment would delete from Section 5 an onerous tie-in arrangement requiring that if a state desired to have in its borders a state-chartered foreign-bank branch located out-of-state, then state-chartered domestic banks located in the "home" state in which the foreign bank branch is operating must also be permitted the same interstate privileges. This tie-in arrangement has the effect of giving New York a virtual monopoly on international banking, particularly with regard to foreign-bank branches. The reason is simply that most all foreign-bank branches have a location in New York. Should Kentucky at some time in the future want to invite a foreign-bank branch into our state for international banking matters, our state should not be forced to also take a domestic bank from New York State.

Efforts may also be made on the floor of the House to broaden Section 7 to give the Federal Reserve Board additional powers over state-chartered foreign banking institutions and to treat them as though they were

"member" banks. This additional authority for the fed is not warranted. I would ask you to resist any effort to enlarge the powers of the fed to a degree greater than now provided in the bill.

Sincerely,

JAMES L. MCNEELY,
Deputy Commissioner.

BANKING DEPARTMENT,
Topeka, Kans., March 17, 1978.

Re: International Banking Act of 1978 (H.R. 10899)

Hon. LARRY WINN, JR.,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR LARRY: I understand the above bill will soon be debated on the floor of the House of Representatives.

I urge you to support the amendment to Section 5 of this bill that Representative Frank Annunzio from Illinois will offer on the floor of the House. The reasons for asking this are set forth in the enclosed Memorandum prepared by the Conference of State Bank Supervisors.

In addition, please oppose any effort that might be made on the floor of the House to broaden Section 7 of the bill to give the Federal Reserve additional powers over State-chartered foreign banking institutions. It is anticipated that efforts will be made to offer Section 7 to give the said (1) the power to examine State-chartered foreign banking institutions and (2) to impose other provisions of Federal law as though they were member banks. These additional powers are unwarranted.

Governor Bennett and I discussed this particular bill a few months ago and we both agreed that in the event a foreign bank should locate in Kansas, we would prefer that supervision, reserves, and other regulatory matters be the province of our State Banking Department, rather than subject to the Federal Reserve Board.

With best regards,

EMERY E. FAGER,
State Bank Commissioner.

COMMISSIONER OF BANKS
AND TRUST COMPANIES,
Springfield, Ill., March 2, 1978.

Re International Banking Act of 1978 (H.R. 10899).

Hon. MORGAN F. MURPHY,
Member of Congress,
Rayburn House Office Building,
Washington, D.C.

DEAR MORGAN: I discussed with your office last Thursday my extreme concern about H.R. 10899, the International Banking Act of 1978, which will soon be considered by the Rules Committee.

The bill has severe implications for Illinois. Section 5, as reported out of the House Banking Committee February 23, would require that before Illinois could invite a state-chartered foreign bank branch operating in another state into Chicago, Illinois would have to permit domestic state-chartered banks from the same jurisdiction to also come into Illinois. Illinois law does not permit this so growth of Chicago as a competitive international money center would be stymied if H.R. 10899 were to become law as now written.

We need foreign branches in Illinois to support Midwest industries engaged in international commerce and to increase Illinois' role in international banking matters. Our domestic banking needs are being adequately filled by our own domestic banks. We certainly don't need interstate branching from New York, for example, for that purpose. No other state is anxious to have out-of-state domestic banks branching into its area. The net effect of H.R. 10899 would be to require foreign branches to choose a one-state limitation. Under this condition, foreign branches would undoubtedly locate in New York or California to the exclusion of other states that now, or in the future, desire such financial development.

I urge you to consult with Congressman Frank Annunzio and Congressman Henry Hyde who will communicate the severely negative impact that H.R. 10899 imposes on Illinois. If the bill were to become law, as presently written, it's conceivable that retaliation procedures by foreign countries could be applied against Illinois banks that are presently engaged in foreign banking activities in such countries.

The amendments adopted by the full Banking Committee on February 23 are so sweeping in their effect, as compared to the bill when reported from the subcommittee, that considerable time is needed for the states to evaluate the differences. Truly, several weeks are needed to give everyone an adequate opportunity to understand the full implications of the proposal in its amended form before it goes to the House.

Please contact me if you have any questions. Thank you.

Sincerely,

WILLIAM C. HARRIS,
Commissioner.

DEPARTMENT OF BANK SUPERVISION,
Jackson, Miss., March 14, 1978.

Re: International Banking Act of 1978 (H.R. 10899).

DEAR CONGRESSMAN: Attached is a copy of a memorandum from the Conference of State Bank Supervisors briefly summarizing Sections 5 and 7 of the above bill as they were amended in the House Banking Committee on February 23, 1978. CSBS opposes the sections as now written for reasons cited in the attached memorandum.

It is our understanding that Representative Frank Annunzio (D. Ill.) will offer an amendment to the present Section 5. The Annunzio amendment would simply preserve the authority which states have had up to this time to invite into their respective areas foreign bank branches, regardless of whether a particular branch of a foreign-owned bank is also operating in another state. His amendment would knock out the tie-in arrangement presently in Section 5 requiring that if a state wants to invite into its borders a state-chartered foreign branch that is already operating in another state, then state-chartered domestic banks located in the "home" state in which the foreign banking branch is operating must be permitted the same interstate privileges.

With respect to Section 7, the attached memorandum speaks for itself. However, efforts can be anticipated on the floor to reinstate provisions which would give the Fed (a) examination powers over state-chartered foreign branches, agencies and commercial lending companies, and (b) the right to impose any other provision of Federal law which could be imposed on member banks. If these latter two points were added, it would amount to the Fed having compulsory membership powers over state-commercial lending companies, and (b) the commercial agencies. There is no reason for such authority being vested in the Fed with respect to such institutions. The Fed does not have such authority with respect to state-chartered domestic banking institutions that have not chosen to be members of the Fed System, and to give the Fed such powers would be discriminatory relative to the state-chartered foreign banking institutions.

This department supports the views of CSBS as reflected in the attached memorandum and we would appreciate your consideration of this matter.

Cordially,

JAMES H. MEANS,
State Comptroller.

DEPARTMENT OF FINANCE,
Boise, Idaho, March 17, 1978.

Hon. STEVE SYMMS,
U.S. Representative,
Longworth House Office Bldg.,
Washington, D.C.

DEAR STEVE: We understand that the International Banking Act of 1978 (H.R. 10899) will be sent to the House Floor for debate on Tuesday, March 21, 1978. We appreciate the assistance you have given us so far on this piece of legislation and now we must call upon you again. We would like to point out briefly some important points concerning this bill.

At the present time the individual states determine whether foreign banking institutions can or cannot operate within their respective borders. Foreign banking institutions are located principally in New York and California, our nation's leading money centers, and to a lesser extent in Chicago, Illinois. There are a few foreign banks in Florida, Georgia, Massachusetts, Oregon and Washington, but about 98% of the banking assets are in New York, California and Chicago, Illinois.

The House Banking Committee on February 23 amended Section 5 of this bill (by a 25–18 vote) to provide that no state-chartered branch could operate outside its home state unless the laws of the state which it desired to enter would also permit interstate branching of domestic state-chartered nonmember banks located in the "home" state of the foreign branch.

The net effect of this provision is to legislate the dominance of New York in the international banking field. Why is this? Simply because nearly every foreign branch in the United States has a presence in New York State. Therefore, under this bill, if a state such as Florida, Georgia, etc., wanted to invite into their respective areas a foreign branch already operating in New York, it would have to also permit state-chartered nonmember domestic banks from New York to also come into their states. There is no desire, generally, on the part of states to permit out-of-state domestic banks into their areas, and this would be particularly true of having to permit large domestic banks from New York.

As a result, if this section were to become law, it would have the effect of forcing foreign bank branches to choose a one-state location, and under such circumstances they would choose New York to the exclusion of all other states, except possibly California. This would be detrimental to the efforts of any other state which might in the future desire to attract these foreign branches.

The claim is made by opponents of the present situation that the multi-state presence of foreign branches gives them an unfair competitive advantage over our domestic banks. What are the facts: The multi-state locations of foreign branches are almost entirely confined to New York and Chicago, Illinois. New York has 59 foreign branches and Chicago has 29 foreign branches, most of which branches are also in New York. There are only a handful of foreign branches in other states such as Massachusetts, Oregon and Washington. So we are not talking about large numbers of multi-state foreign branches, or many states into which they have gone.

What about our domestic banks and their interstate banking activities? A series of articles which appeared in 1975–1976 issues of the "American Banker," a financial newspaper, show that 13 large banks alone have some 1,483 so-called "nonbank" offices in some 43 states outside the state in which they are headquartered. These include Edge Act Corporations, organizations handling international banking matters for domestic banks; loan production offices which solicit loans throughout the country and do everything but actually finalize such loans and

subsidiary banks which have been grandfathered under the Bank Holding Company Act. We have already been notified as recently as March 10, 1978 that Citicorp is planning to arrange a conversion of the Nationwide Finance Company offices in Idaho to Citicorp Person-to-Person Financial Center, Inc., offices. Although these domestic, interstate activities may not constitute deposit-taking functions in a purely technical sense, they generate deposits for their bank affiliates. Of these 13 banks, 12 through their out-of-state subsidiaries engage in interstate consumer and sales finance and in mortgage banking activities; 10 are in leasing activities; 9 in selling and reinsuring credit-related insurance; 8 are in factoring; 6 are in investment management advisory services and in real estate advisory services; 5 are providing venture capital to small businesses and handling computer services; 2 provide trust services and market travelers checks.

There is far more interstate domestic banking through these 13 banks alone than is engaged in through the interstate activities of a relatively small number of foreign bank branches which have their multi-state presence principally in New York and the Loop area of Chicago. The so-called competitive advantage enjoyed by foreign branches over domestic banks which cannot branch interstate is merely illusory.

Section 7 as amended by the House Banking Committee on February 23 would give the Fed reserve-setting over state-chartered foreign branches, agencies and commercial lending companies with worldwide assets of $1 billion. While this provision is much more palatable to us than the provisions sought by Representative St Germain in Committee, we take the position that these provisions are (1) discriminatory, in that affiliation with the Fed is optional for state-chartered domestic banks regardless of size and that it should be optional for foreign banking institutions, regardless of size; (2) the Fed has made no showing that it needs reserve-setting authority over all state-chartered domestic banks, let alone foreign-owned banking institutions.

We would like to inform you that Representative Frank Annunzio will offer an amendment to the present Section 5 and we would sincerely appreciate your support of the Annunzio amendment. This amendment would simply preserve the authority which states have had up to this time to invite into their respective areas foreign bank branches, regardless of whether a particular branch of a foreign-owned bank is also operating in another state. The Annunzio amendment would knock out the tie-in arrangement presently in Section 5 requiring that if a state wants to invite into its borders a state-chartered foreign branch that is already operating in another state, the state-chartered domestic banks located in the "home" state in which the foreign banking branch is operating, must be permitted the same interstate privileges.

On behalf of all the banks in Idaho, state and national, we sincerely appreciate your interest in this matter. If you should need additional information, please do not hesitate to contact me directly, or Mr. Alex Neale, Vice President/Director of Federal Legislation, at the Conference of State Bank Supervisors in Washington, D.C. Mr. Neale can provide you with additional information quickly by a simple telephone call; his address and telephone number is listed below for your information:

Mr. Alex Neal, Vice President/Director of Federal Legislation, Conference of State Bank Supervisors, 1015 18th Street, N.W., Washington, D.C. 20036. Phone Number: (202) 296-2840.

Sincerely,

TOM D. MCELDOWNEY, CFE,
Director of Finance.

STATE CORPORATION COMMISSION,
Richmond, Va., March 14, 1978.

Re H.R. 10899—International Banking Act of 1978.

DEAR CONGRESSMAN: If the captioned bill, as now amended, should become law, the practical effect would be to foreclose the establishment of branches of foreign banks in any states other than New York, Illinois and California, since it is fairly unrealistic to anticipate that branches of domestic banks will be permitted across state lines anytime within the foreseeable future.

The concept of branching across state lines by domestic banks and the establishment of branches in more than one state are separate and distinct and should be treated differently. The basic purposes of the two and the markets served are distinctly different and this action appears to be an attempt to force the acceptance of nation-wide branching as the price of attracting an opportunity for foreign investment, where such investment might be sought. I believe each issue should be considered on its own merits.

In addition to the foregoing, Section VII of the captioned bill would extend the authority of the Federal Reserve System to state-chartered foreign branches in a discriminatory manner, for which no need has been shown. I believe a choice as to Fed membership should be maintained in every case.

I strongly urge you to oppose Sections V and VII of the bill as now amended when it is presented to the House. I understand that Representative Annunzio (D., Ill.) intends to offer an additional amendment to Section V, which would preserve existing state authority to invite foreign bank branches, whether or not such a bank now has a branch in another state. The amendment would also delete the tie-in arrangement now contained in Section V with respect to the establishment of branches across state lines by domestic banks.

Your support in this matter will be deeply appreciated.

Very truly yours,

SIDNEY A. BAILEY,
Commissioner of Banking.

STATE BANK COMMISSIONER,
Baltimore, Md., March 17, 1978.

Re: H.R. 10899—International Banking Act of 1978

Hon. ROBERT E. BAUMAN,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN BAUMAN: It is my understanding that the above bill is scheduled to come out of the House Rules Committee and be sent to the floor some time next week. I would like to ask your support in opposing Sections 5 and 7 of the bill for the reasons cited.

Section 5 in its present form if it were to become law would have the effect of forcing foreign bank branches to choose a one state location, and under such circumstances they would choose New York to the exclusion of all other States, except possibly California, since the multi-state locations of foreign branches are almost entirely confined to New York and Chicago, Illinois. This would be detrimental to the efforts of any other State which might in the future decide to attract these foreign branches, due to the fact that the bill provides that no state chartered foreign branch could operate outside its home state, unless the laws of the state which it desired to enter would also permit interstate branching of state chartered non-member banks located in the "home" state of the foreign branch.

We have been advised that Representative Frank Annunzio, Democrat Illinois, will offer an amendment to the present Section 5, which would simply preserve the authority which states have had up to this time to invite into their respective areas foreign bank branches, regardless of whether a particular branch of a foreign owned bank is also operating in another State. We would appreciate your support of this amendment, since it would knock out the tie-in arrangement presently set forth in Section 5.

Section 7 as amended by the House Banking Committee on February 23, gives the Fed reserve-setting authority over state chartered foreign branches, agencies and commercial lending companies with worldwide assets of $1,000,000,000. I believe this provision would be discriminatory in that affiliation with the Fed is optional for state chartered domestic banks regardless of size, and that it should be optional for foreign banking institutions, regardless of size. The Fed has made no showing for such reserve setting authority, as set forth in the present bill.

I further understand that the Federal Reserve will sponsor an amendment that would further restrict the state chartered domestic banks. I strongly urge you to oppose this measure as vigorously as possible. In fact, I hope that somebody from the Maryland delegation will propose an amendment eliminating any Federal Reserve supervision, as this appears as the first step in eliminating the dual banking system. This system has provided the competition and flexibility of choice to both consumers and potential bank incorporators.

I truly hope you agree with my positions, and will give it your support. If you have any questions, please do not hesitate to contact me.

Respectfully,

CHARLES A. KNOTT, Jr.,
Acting Bank Commissioner.

P.S. Copies of this letter to all Congressional representatives except the three (3) previously written.

DIVISION OF BANKING,
Olympia, Wash., March 7, 1978.

Congressman LLOYD MEEDS,
Federal Building,
Everett, Wash.

DEAR CONGRESSMAN MEEDS: It has come to my attention that very soon the International Banking Act of 1978 will be presented to your House Rules Committee for consideration.

The Bill, as presented, will contain provisions in Section 5 that if passed would be detrimental to alien banking and subsequently international trade in the State of Washington, as well as other states.

The House Subcommittee on Financial Institutions, Supervision, Regulation and Insurance last October accepted amendments to the original Bill (HR 7325) in Section 5 allowing states to retain their current authority to determine whether or not a foreign bank branch could locate in more than one state. The full committee now changed this amendment to provide a tie-in provision that would require a state granting a branch to an alien bank (already situated in another state) to accept branch applications for a domestic state chartered bank from the other state in which the alien bank was doing business. In other words, an alien bank with a branch say in New York, subsequently granted a branch in Washington State would trigger a reciprocity agreement requiring that Washington also accept a branch application from a state chartered domestic bank in New York. Such a provision would serve to severely limit consideration for additional alien banks in the State of Washington.

It is my understanding that only two or three states permit reciprocity branching of domestic banks under very limiting conditions. In these few instances, at least it was the states' desire and not a forced reciprocity such as provided for in this Bill.

The domestic banks in the State of Washington adequately serve the banking needs within the state and, therefore, forced intro-

duction of other states' banks is unwarranted, in my opinon. On the other hand, alien banks granted branch charters in our state are often better able to expedite the international movement of goods and services than are the domestic banks. This is due to the alien banks' unique international networks and close affiliate relationships with multi-national corporations, trading companies and banking associations worldwide.

Should the Bill prevail, as now proposed, through the Rules Committee, state chartered banks in states such as New York, Illinois and California, where most alien banks presently maintain branch offices, would gain an unprecedented monopoly on cross state branching. The concept of cross state branching of states' domestic banks encounters major objections on its own let alone granting a monopoly for such activity to a few states where alien banking activity is currently centered.

Section 7 of the Bill, as cleared by the full committee, provides for the Federal Reserve Bank to set reserve requirements on alien banks of one billion dollars in assets or more. As you may be aware, domestic state chartered banks, regardless of size, have the choice of whether or not they belong to the Federal Reserve System and subject to their reserve setting authority. This Bill, however, provides a size test which I think discriminates against an alien bank operating under state law with respect to their reserves.

I urge you to return the International Banking Bill to the House Committee in view of the provisions contained in Sections 5 and 7 presenting a detrimental effect on our state's economy and well being.

Thank you.

Sincerely,

M. D. EDWARDS,
Supervisor of Banking.

OFFICE OF STATE EXAMINER,
Cheyenne, Wyo., March 17, 1978.

Re: International Banking Act of 1978, (H.R. 10899).

Hon. TENO RONCALIO,
Congress of the United States,
Washington, D.C.

DEAR TENO: With reference to my letter of March 13th concerning my position and that of the Conference of State Bank Supervisors with respect to the International Banking Act of 1978 (H.R. 10899), it may be that with all the material you must read that you have not had time to study the memorandum which I transmitted.

Since this Bill is to be on the floor of the House within a week, may I make two observations. I am in complete support of an amendment to Section 5 which is in the interest of several State Banking Departments which will be introduced by Representative Annunzio, and I would definitely appreciate your support of that amendment.

Conversely, I am opposed to any modification of Section 7. It is understood that spokesmen for the Federal Reserve plan to offer a floor amendment to Section 7 which would broaden the powers of the Federal Reserve on foreign Banks operating with States authority. I would appreciate your opposition to any modification of Section 7.

Although we both know that Wyoming does not permit branch banking, nor do we have any provision at this time for chartering of foreign Banks in the State, there has been some interest by Japanese Banks and it is that we stand with those States which are in the best interests of Wyoming banking currently faced with this problem.

Sincerely,

DWIGHT D. BONHAM,
State Examiner.

BATON ROUGE, LA.,
March 20, 1978.

STATE BANKING DEPT.,
Baton Rouge, La.

This mailgram is a confirmation copy of the following message:

Re: International Banking Act.

Congressman JOHN BREAUX,
U.S. House of Representatives,
Washington, D.C.

Section 5 in my opinion is detrimental to the financial industry of Louisiana in its present posture. I ask you to support an amendment which will be offered by Rep. ANNUNZIO and oppose any modification to section 7. This bill in its present form represents further oppression of States rights.

Kindest Regards,

KENNETH E. PICKERING,
Commissioner of Financial Institutions, State of Louisiana.

STATE BANKING DEPARTMENT,
San Francisco, Calif., Nov. 2, 1977.

Hon. JOHN H. ROUSSELOT,
U.S. Congressman, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN ROUSSELOT: Alexander W. Neale of the Conference of State Bank Supervisors, together with others, has told me of the excellent job you have done in helping with the Annunzio amendments to Section 5 and Section 7 of H.R. 7325, the International Banking Act of 1977.

We very much appreciate your efforts and thank you. If I can be of any help, please do not hesitate to call me.

Sincerely yours,

CARL J. SCHMITT,
Superintendent of Banks.

OFFICE OF THE
STATE BANK COMMISSIONER,
February 23, 1978.

Hon. THOMAS B. EVANS, Jr.
U.S. Representative, Longworth Building, Washington, D.C.

DEAR MR. EVANS: I have previously discussed with Rick Eckman of your staff my feelings concerning the International Bank Act of 1977 (HR 7325). I note that the bill is scheduled for a mark-up session before the full Committee on Banking, Finance and Urban Affairs. As a state bank regulator, I much prefer the bill as amended by the House Banking Committee on Financial Institutions Supervision, Regulation and Insurance. I am particularly addressing the amendments made by Rep. Frank Annunzio during the subcommittee sessions.

Section 5, as amended, would leave to the states their current authority to determine whether or not a foreign bank branch could locate in their state. While I have no knowledge of any foreign bank wishing to locate a branch in Delaware, I feel that Delaware should be the one to approve or disapprove such action. The bill, as originally drafted, would probably have foreign banks only in such states as New York and California.

Section 7, as amended, would restrict reserve setting authority and regulatory oversight to the Federal Board for only those foreign banking institutions with a federal charter. This is preferable to the Section 7 in the bill as originally drafted.

I would appreciate your consideration of my feelings as regards this particular piece of legislation.

Sincerely yours,

JOHN E. MALARKEY,
Delaware State Bank Commissioner.●

THE INTERNATIONAL BANKING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 5 minutes.

● Mr. MOAKLEY. Mr. Speaker, I wish to join my distinguished colleague from Florida (Mr. PEPPER) in placing in the RECORD collected statements by State banking commissioners expressing their concern over section 5 of the International Banking Act (H.R. 10899).

As the Senator has explained, this provision would restrict virtually all future international banking to the island of Manhattan. Yet the New York banking commissioner opposes this provision as a dangerous and shortsighted precedent.

When this legislation comes to the floor, the gentleman from Illinois (Mr. ANNUNZIO) will seek to defeat the committee amendment. If the gentleman's position is sustained, the effect will be to adopt the subcommittee version which would permit each State legislature to invite international banks to branch into their State. It should be noted that branching could occur only at the affirmative invitation of the State government. Any or all States could bar international bank branching simply by taking no action.

This seems a far fairer approach than the outright prohibition on international banking embodied in the committee substitute. I hope that my colleagues will review the statements of State officials which the Senator and I are inserting in the RECORD. I hope my colleagues will support the effort of the gentleman from Illinois in defeating the committee substitute and letting State government decide how to manage their own local economies.

I strongly support the International Banking Act and the reforms it will produce. But I agree with the State bank commissioners that the bill will be greatly improved by rejecting the committee amendment to section 5.

THE COMMONWEALTH OF MASSACHUSETTS,
Boston, Mass., March 20, 1978.

Re H.R. 10899 International Banking Act of 1978.

Mr. ALEX NEALE,
Conference of State Bank Supervisors,
Washington, D.C.

DEAR MR. NEALE: As Banking Commissioner of Massachuetts, I am very concerned about Section 5(a)(2)(A) of the International Banking Act of 1978 which would effectively take away Massachusetts' present authority to charter a foreign bank branch.

Therefore, I would hope that all members of the Massachusetts delegation would support Representative Annunzio's amendment which would leave Massachusetts free to charter banks as it saw its own interests.

Sincerely,

CAROL S. GREENWALD,
Commissioner of Banks.

STATE OF MINNESOTA,
DEPARTMENT OF COMMERCE,
February 9, 1978.

Re H.R. 7325—The International Banking Act of 1977.

Hon. BRUCE F. VENTO,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

DEAR REPRESENTATIVE VENTO: I would very much appreciate your support of Section 5 and Section 7 of this Bill as they were amended in subcommittee by Representative Annunzio.

ROBERT A. MAMPEL,
Commissioner of Banks.

DEPARTMENT OF COMMERCE,
Salem, Oreg., March 17, 1978.

Hon. AL ULLMAN,
U.S. Representative, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN ULLMAN: I am told that the International Banking Act of 1978 (House Resolution 10899) is scheduled to go to the floor of the House next Wednesday. I am particularly concerned with Sections 5 and 7 of the Bill because of the immediate effects it would have, upon passage, in our state.

The effect of Section 5, as it is now written, would be to bar further branch activity of foreign banks in the state of Oregon and in other states throughout the nation with the exception of New York and possibly California. Section 5 was removed by the subcommittee of the House Banking Committee but was put back in the full Banking Committee late in February. It would provide that no state chartered foreign branch could operate outside its home state unless the home state authorized interstate branching of domestic state chartered nonmember banks. You can surely see the debilitating effects of this portion of the Bill to the citizens and businesses in Oregon who depend upon financing of exports and imports.

As you are aware, the Canadian Imperial Bank is operating here and has four branches; and The Bank of Tokyo has one branch. They both serve needs that our domestic banks, because of their lack of world-wide contacts, cannot meet. We have under application and approval the Hongkong Shanghai Bank for a branch, and the Nova Scotia Bank for a branch. Each of them would be prohibited as the bill is now written, and one of the branches of the Canadian Imperial Bank would have to be divested. There are also two other foreign banks, one from Canada and one from London that wish to come into Oregon, not to serve domestic accounts, that is household accounts, but to finance letters of credit and drafts drawn against them. Our Legislature spoke to this issue in 1975 and provided the means by which foreign banks could enter the banking climate in Oregon. There was no opposition to this legislation from anyone in the financial community and indeed there was positive support from the banking community.

Section 7, as now amended, places reserve setting authority with the Federal Reserve Bank, which in my view is entirely unwarranted because of the lack of showing that the FED has made in seeking this power. As you are aware, in our state and federal system of checks and balances national banks must be members, state banks may be members, and we see not reason to depart from this long established posture. As a matter of interest to you, the state supervisors in states that have foreign banks have required that their foreign banks submit monthly data to the Federal Reserve for their monetary policy needs, a requirement that is far more stringent than we require for domestic banks.

I would like to ask that you vote against this bill. There is no justification for it, and I have found no support that would not bear scrutiny. Short of this, however, Representative Frank Annunzio of Illinois will be offering an amendment to Section 5 which would preserve the authority which states have had up to this time to invite into their respective areas foreign branches regardless whether a particular branch of a foreign bank is operating in another state. His amendment would knock out the tie-in arrangement presently included in Section 5. I would ask your support of Representative Annunzio's amendments.

There may be efforts on the floor to reinstate into Section 7 provisions which would give the FED examination powers and the right to impose other provisions of the federal law which could be imposed upon member banks. This would amount to giving FED compulsory membership powers over state chartered foreign branches. They don't have it now under state chartered domestic banking institutions which choose not to be members of the FED. To give them this power would be discriminatory relative to state chartered foreign banking institutions. Please resist any such efforts.

I am enclosing a photostat of a summary of the status of this bill prepared by the Conference of State Bank Supervisors which will give you a broader view of the problem. I hope I may have your support in my recommendations. It is key to the future of capital attraction to our state.

Very sincerely yours,

JOHN B. OLIN,
Superintendent of Banks.

STATE OF MONTANA,
DEPARTMENT OF BUSINESS REGULATION,
March 17, 1978.

Hon. MAX S. BAUCUS,
House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MAX: I am writing on behalf of the Department of Business Regulation of the State of Montana to urge you to oppose Sections 5 and 7 of H.R. 10899 (the International Banking Act of 1978). These Sections, as currently written, penalize states such as Montana in that we would be prevented from even the possibility of establishing a branch of a foreign bank in the event we chose to do so. Whatever this administration's feelings are on the establishment of a foreign branch, we should at least preserve for ourselves the opportunity to act in such a manner that would best protect our interests.

May I also express the view that the Federal Reserve System would be given power over state chartered banks, which they currently do not have, and which would also not necessarily be in the best interests of state chartered banks in Montana.

As you are aware, Representative Frank Annunzio of Illinois will offer an amendment to the present Section 5 and we would very much appreciate your support of Congressman Annunzio's amendment. This amendment would simply preserve the authority for states which have had up to this time to invite into their respective areas foreign bank branches, regardless of whether a particular branch of a foreign-owned bank is also operating in another state. In other words, the tie-in arrangement would be dropped.

If you desire further information on this bill, I would be happy to either call or write you immediately as time is very short. CSBS, the Conference of State Bank Supervisors, to which Montana belongs, is capable of providing you with substantial information in this area and, in fact, represents Montana's best interests in this particular legislation.

Please let me know if I can be of further assistance. Best personal regards.

Sincerely,

KENT KLEINKOPF,
Director.

STATE OF NEVADA,
SUPERINTENDENT OF BANKS,
March 15, 1978.

Re H.R. 10899—International Banking Act of 1978.

Hon. JAMES SANTINI,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN SANTINI: At the present time the individual states determine whether foreign banking institutions can or cannot operate within their respective borders. Foreign banking institutions are located principally in New York and California, our nation's leading money centers.

Nevada prohibits any branch offices unless the location of the principal office and the parent bank shall be within the State of Nevada. Sometime in the future the Nevada Legislature may wish to change this statute allowing foreign branching.

The House Banking Committee on February 23 amended Section 5 of this bill (by a 25–18 vote) to provide that no state-chartered foreign branch could operate outside its home state unless the laws of the state which it desired to enter would also permit interstate branching of domestic state-chartered nonmember banks located in the "home" state of the foreign branch.

The net effect of this provision is to legislate the dominance of New York in the international banking field. Why is this? Simply because nearly every foreign branch in the United States has a presence in New York State. Therefore, under this bill, if a state such as Florida, Georgia, etc., wanted to invite into their respective areas a foreign branch already operating in New York, it would have to also permit state-chartered nonmember domestic banks from New York to also come into their states. There is no desire, generally, on the part of states to permit out-of-state domestic banks into their areas, and this would be particularly true of having to permit large domestic banks from New York.

As a result, if this section were to become law, it would have the effect of forcing foreign bank branches to choose a one-state location, and under such circumstances they would choose New York to the exclusion of all other states, except possibly California. This would be detrimental to the efforts of any other state which might in the future desire to attract these foreign branches.

Is it in our national interests to legislate a monopoly in the international banking field for one state—New York—and preempt other states from inviting foreign branches that can stimulate international trade and investment in their respective areas and enlarge their international financial roles?

The claim is made by opponents of the present situation that the multi-state presence of foreign branches gives them an unfair competitive advantage over our domestic banks.

What are the facts: The multi-state locations of foreign branches are almost entirely confined to New York and Chicago, Illinois. New York has 59 foreign branches and Chicago has 29 foreign branches, most of which branches are also in New York. There are only a handful of foreign branches in other states such as Massachusetts, Oregon and Washington. So we are not talking about large numbers of multi-state foreign branches, or many states into which they have gone.

Section VII, Authority of the Federal Reserve System, as amended by the House Banking Committee on February 23 would give the Fed reserve-setting authority over state-chartered foreign branches, agencies and commercial lending companies with worldwide assets of $1 billion.

While this provision is much more palatable to me than the provisions sought by Rep. St Germain in Committee, I am of the position that these provisions are (1) discriminatory, in that affiliation with the Fed is optional for state-chartered domestic banks regardless of size and that it should be optional for foreign banking institutions, regardless of size; (2) the Fed has made no showing that it needs reserve-setting authority over all state-chartered domestic banks, let alone foreign-owned banking institutions.

I urge you to oppose Sections 5 and 7 of the bill for the reasons cited. Rep. Frank Annunzio (D. Ill.) will offer an amendment to the present Section 5. The Annunzio amendment would simply preserve the authority which the states have had up to this time to invite into our respective areas for-

eign bank branches. I would appreciate your support of the Annunzio amendment.

Sincerely,

JOSEPH O. SEVIGNY,
Superintendent of Banks.

STATE OF MISSOURI,
March 13, 1978.

Re International Banking Act of 1978, H.R. 10899.

Hon. RICHARD BOLLING,
U.S. Representative, House Office Building, Washington, D.C.

DEAR MR. BOLLING: It was recently brought to my attention that you may have some influence with respect to the above banking legislation by virtue of your position on the House Rules Committee. I am writing this letter because, as the chief state bank regulator for the State of Missouri, I find one provision of this legislation as amended by the House Banking Committee to be a serious threat to the independence of the State of Missouri in determining its own banking policy.

Section 5 of the bill prohibits a state chartered branch of a foreign bank from operating outside of its home state unless the laws of the state in which it desires to branch would also permit interstate branching of domestic banks. Therefore, a Swiss or Japanese bank which was chartered under the laws of New York or California would be unable to open an office and do business in the State of Missouri unless Missouri threw down its barriers to interstate branching and allowed domestic banks located in California or New York to likewise open offices in Missouri. I should point out that at the present time Missouri does not have any foreign branches or agencies operating within its boundaries. However, we look forward to the time when we will be able to attract such branches and agencies and we do not believe that Missouri should be compelled to abolish its long standing policies on branching in order to attract such foreign banks.

It is my understanding that this section of H.R. 10899 would have the effect of assuring the dominance of New York as the financial center of the United States. Foreign banks would be required to establish no more than one office in the United States and they would naturally choose the State of New York over the State of Missouri or other states. It is my belief that the way should be left open for such banks to open branches in Missouri as well as New York without requiring a complete change in the banking policy of the State of Missouri.

Any assistance you can render in removing this harmful and unnecessary provision from the International Banking Act would be greatly appreciated.

Yours very truly,

EDGAR H. CRIST,
Commissioner of Finance.

STATE OF MICHIGAN,
DEPARTMENT OF COMMERCE,
Lansing, Mich., March 17, 1978.

Re International Banking Act of 1978 (H.R. 10899).

To all House Delegates from Michigan.

DEAR SIRS: I understand that the International Banking Act will come before you soon. There are two sections of the bill that we have a significant interest in from the standpoint of the commerce of the state and the maintenance of our regulatory system. They are sections 5 and 7 of the bill.

We think it is important that the states, if they so desire, be permitted to permit foreign banks to be admitted to their state, even though they have a point of entry through New York or California. This relates to section 5.

We also believe that the regulatory power that the Federal Reserve System is seeking in section 7 is clearly unnecessary.

A memorandum from the Conference of State Bank Supervisors outlining the rationale for our position is attached. Your support will be appreciated.

Sincerely,

RICHARD J. FRANCIS,
Commissioner.

STATE OF NEW JERSEY,
DEPARTMENT OF BANKING,
Trenton, N.J., March 17, 1978.

Re The International Banking Act of 1978 (HR 10899).

Hon. JAMES J. FLORIO,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN FLORIO: The above bill is scheduled tentatively to be debated on the floor of the House of Representatives in the very near future. Because of the serious implications of section 5 of this bill to all States except New York, I would appreciate your support of an amendment to section 5 which will be offered on the floor by Representative Frank Annunzio.

Section 5, as presently written would have the practical effect of forcing all foreign bank branches to choose New York as their sole location in this country. Our State should have the option of inviting all foreign bank branches into the State, if and when it desires to do so, without a "tie-in" provision as now written into section 5. This "tie-in" arrangement would require that should New Jersey want to invite into its area a foreign bank branch already operating in New York, New Jersey would have to also permit a domestic bank from New York to enter New Jersey. The reason for inviting a foreign bank branch is to facilitate international trade and banking matters and our State does not need New York's commercial banks to meet our domestic banking needs. Representative Annunzio's amendments eliminates this tie-in arrangement, which is totally unacceptable to our State.

I would also appreciate your opposing any effort to broaden section 7 of this bill, to give the Federal Reserve Board authority to examine state-chartered foreign bank institutions and to otherwise treatment as "member" banks. The Fed does not have this authority over state-chartered domestic banks that do not choose to be members of the Fed system and it does not warrant such authority over state-chartered foreign banking institutions.

Very truly yours,

ANGELO R. BIANCHI,
Commissioner.

STATE OF NEW MEXICO,
Santa Fe, N. Mex., March 17, 1978.

Hon. HAROLD RUNNELS,
Longworth Building, Washington, D.C.

DEAR CONGRESSMAN RUNNELS: We exchanged correspondence back in July of 1977 on H.R. 7325 that is now H.R. 10899 "The International Banking Act of 1977". We expressed certain objections to that legislation at that time, and you concurred with our views.

The bill in question is expected to go to the floor of the House during the week of March 20th, and we harbor the same reservations that we did previously.

We understand that Representative Frank Annunzio is going to propose a floor amendment to cover one of our objections and we would appreciate your support for the Annunzio amendment. We continue to oppose the attempts to give the Federal Reserve Board veto power over state banking departments in determining whether foreign branches or agencies could be organized under state law. We also oppose their being granted the authority to impose reserve requirements on all state-licensed foreign-owned branches or agencies.

Thank you for your continued support and assistance in preventing the further erosion of the state's regulatory authority in these areas.

Best personal regards.

Sincerely,

ARTHUR L. ORTIZ,
Commissioner of Banking.

STATE BANKING DEPARTMENT,
Oklahoma City, Okla., March 17, 1978.

Re International Banking Act of 1977, H.R. 10899

Hon. WES WATKINS,
Cannon Office Building, Washington, D.C.

DEAR CONGRESSMAN WATKINS: The above bill is scheduled to come before the Floor of the House of Representatives in the near future. Section 5, as it was reported out of the full Committee on Banking and Currency, is objectionable to state bank regulators. I would appreciate your support of an amendment to this section that will be offered on the Floor by Representative Frank Annunzio.

Section 5, as it is presently written, has a "tie-in provision" that is unacceptable. This "tie-in provision" would require that if Oklahoma at sometime in the future wanted to invite into our state a foreign bank branch that is operating, say in New York, we would also have to permit a domestic bank from New York to operate in Oklahoma. While we do not need a New York bank to handle our domestic banking needs, it may be desirable at sometime in the future to invite a foreign bank branch to come to our state to facilitate international trade in banking matters but we do not need the "tie-in provision" presently in Section 5.

Mr. Annunzio's amendment would eliminate that objectionable feature. He would also appreciate your opposing any effort to change Section 7 that might broaden the power of the Federal Reserve Board to supervise state chartered foreign banking institutions operating in this country.

Sincerely yours,

D. F. VAN HORN,
Deputy Commissioner.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF BANKING,
Harrisburg, Pa., March 16, 1978.

Hon. JOHN P. MURTHA,
U.S. House of Representatives, Cannon Building, Washington, D.C.

DEAR JOHN: The House of Representatives will soon consider the International Banking Act of 1978 (H.R. 10899). I wrote to you last year (June 10, 1977) asking for your help in defeating a similar bill, H.R. 7325.

Pennsylvania has recently passed legislation giving foreign banks the right to establish an office in Pennsylvania. Bankers throughout the State have been most helpful in formulating regulations to permit entry and in soliciting foreign bankers who might be interested in coming to the Commonwealth. I believe these bankers and others are aware of the potential for greater employment which could result from any investment foreign banks make in Pennsylvania. This increased employment includes both employees of foreign banks and more significantly expansion of jobs which will result from the lending activity in Pennsylvania of these institutions.

The difficulty with H.R. 10899, as it is presently written, is that it would effectively bar foreign banks from coming into Pennsylvania. There is a provision in the bill which stipulates that any foreign bank which already has an office in any one of the fifty states could enter a new state only if the

new state would permit domestic institutions headquartered where the foreign bank already has an office to enter the state. In short, if a Canadian bank which has an office in New York wants to enter Pennsylvania, Pennsylvania could permit that only if it allowed New York based banks to branch into the Commonwealth. The practical effect of this provision would be to limit foreign banks in the United States to one state, probably New York or California.

Representative Frank Annunzio will offer an amendment to Section 5 to delete the objectionable feature. I hope you will be able to support his amendment; otherwise, I am afraid Pennsylvania will be denied the potential expansion of employment which could come as a result of foreign bank entry. If Representative Annunzio's amendment fails, I hope you will vote against H.R. 10899. I view most of the bill as being little more than a power grab by the Federal Reserve in any case, but I believe we could live with it were it not for the interstate branching feature.

This is the issue I discussed with you briefly during the reception for the Pennsylvania Congressional Delegation in Washington on February 27, 1978.

Sincerely,

BILL.

STATE OF SOUTH CAROLINA,
Columbia, S.C., March 17, 1978.

Hon. MENDEL J. DAVIS,
House of Representatives, Rayburn Building, Washington, D.C.

DEAR MR. DAVIS: We understand that the International Banking Act of 1978 (H.R. 10899) will be debated next week by the House. As you know, this is a very controversial bill especially since the House Banking Committee voted to amend Sections 5 and 7 of the bill.

We also understand that Representative Frank Annunzio (D., Ill.) will offer an amendment to Section 5 of the bill which will simply preserve the authority states have had up to this time to invite into their respective areas foreign bank branches regardless of whether a particular branch of a foreign-owned bank is also operating in another state. We are asking that you support the Annunzio amendment.

We further understand that the Federal Reserve Board probably will offer an amendment to Section 7 of the bill which will give the Board greater powers over state-chartered foreign branches, agencies, and commercial lending companies than it now has. We ask that you oppose any effort by the Federal Reserve Board to amend Section 7 of the bill.

We appreciate your giving these matters consideration.

Very truly yours,

ROBERT C. CLEVELAND,
Commissioner of Banking.

THE STATE OF UTAH,
Salt Lake City, Utah, March 17, 1978.

Re International Banking Act of 1978 (H.R. 10899).

Congressman GUNN MCKAY,
U.S. House of Representatives, Longworth Building, Washington, D.C.

DEAR GUNN: It is my understanding the above bill may be sent to the House Floor for debate within a few days. I would recommend your support of a change in Section 5 of the bill to retain the right of individual states to charter officers of foreign banks within their boarders irregardless of whether the bank has branches operating in other states. (I believe Representative Frank Anunzio will propose an amendment, which I would support to effect this change.)

Please oppose any effort to broaden the authority of the Federal Reserve Board beyond the authority given it under the present language in Section 7 of the bill.

Sincerely,

———— ————,
Commissioner.

STATE OF TEXAS,
March 17, 1978.

Re International Banking Act of 1978 (H.R. 10899).

Hon. J. J. PICKLE,
U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE PICKLE: I wish to advise you of my support of the position of the Conference of State Bank Supervisors regarding the subject bill. Attached hereto is a memorandum outlining their position.

I would also ask that you support an amendment to Section 5 of the bill which will be offered by Representative Annunzio. Texas, by its constitution, prohibits any foreign bank from doing business in Texas and if any change is to be made, it should be within the discretion of the voters of Texas to determine what that change will be.

I would appreciate your support in this matter. If you wish for further information, please call me.

Sincerely yours,

———— ————,
Commissioner.

STATE OF TENNESSEE,
Nashville, Tenn., March 17, 1978.

Re International Banking Act of 1978 (H.R. 10899).

Hon. ALBERT GORE, JR.,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN GORE: I understand the above bill will soon be debated on the floor of the House of Representatives.

I urge you to support the Amendment to Section 5 of this bill that Representative Frank Annuzio, from Illinois, will offer on the floor of the House. The reasons for asking this are set forth in the attached memorandum prepared by the Conference of State Bank Supervisors, and I support their views.

As you can see from the attached information, Section 5 as now written would legislate a practical monopoly by New York on international banking matters as they pertain to operations carried on by foreign bank branches located in this country. This would be detrimental to Tennessee should we at some time in the future want to invite a foreign branch to come into our state.

In addition, please oppose any effort that might be made on the floor of the House to broaden Section 7 of the bill to give the Federal Reserve additional powers over state chartered foreign banking institutions. It is anticipated that efforts will be made to alter Section 7 to give the Fed (1) power to examine state chartered foreign banking institutions and (2) to impose other provisions of federal law as though they were member banks. These additional powers are unwarranted.

Your consideration and support of these matters will be appreciated.

Cordially yours,

JOE H. HEMPHILL,
Commissioner of Banking.●

FORESTRY IS AN AREA OF MAJOR CONCERN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, forestry is an area of major concern for every American. For many it is a livelihood. For others it is a source of wholesome recreation. It is an essential part of our Nation's structure.

Forestry budgets in the National Congress seldom have been sufficiently high to meet the actual need for programs which properly insure sound forestry management and conservation programs.

American Forests is an important national publication which deals primarily with forests, soil, water, wildlife, and outdoor recreation, has editorialized on the sad state of the present forestry budget. This should receive consideration and I submit it for the CONGRESSIONAL RECORD:

WHAT'S NEW AT AFA

The saddest news for forestry in recent years is the President's 1979 fiscal year budget. While we are busy fighting to protect the Forest Service from being reorganized into the Department of the Interior or being broken down into its component parts, we suddenly are confronted with a budget crisis. For some unknown reason, about everything The American Forestry Association stands for is being downgraded by the Administration's Office of Management and Budget. There is no surer or quicker way of crippling an agency or its programs than cutting off or cutting down its funding.

According to budget officers, the most severe reductions in the 1979 USDA budget are in the natural resources area. Why? This is contrary to everything President Carter campaigned for. Some of his greatest support came from environmentalists who welcomed his conservation interest and commitment. Does he realize what his budget officials are doing?

State and Private Forestry programs have been reduced $11.9 million below 1978 levels. Forestry Incentives Payments were cut $5 million, although in all fairness this is the first time FIP has been recommended in the President's budget request. Rural Community Fire Control funds are nowhere to be found in the new budget. Clarke-McNary, Sec. 2, for cooperative fire control matching funds to the states, has been cut $4 million. Cooperative Forest Management is down $3.6 million, and General Forestry Assistance is $3.5 million below this year's appropriation. We have just testified before the House Forestry Subcommittee in support of increases in authorization for all of these State and Private Forestry needs. Each should be increased, not decreased, because they all benefit state and private forest lands. Yet, the Administration seems to be heading in the other direction.

President Carter has declared it his policy to put greater emphasis on helping the small, private, nonindustrial forest owners. He has endorsed a program to accelerate management and production from private forests to take some of the pressures off our public lands. If we are to meet future forest needs, he has said, much of the increased production in goods and services will have to come from the 59 percent of our total forest acreage in private, nonindustrial ownerships. How can the government go opposite directions at the same time? Obviously, it can't, and the 1979 budget is simply incongruous with everything we heard and expected.

Not only have State and Private Forestry programs been slashed, but National Forest programs as well. Forest Research is down $3.6 million; Reforestation and Timber Stand Improvement down $8.9 million; Insect and Disease Control down $6.6 million; Range Management down $6.2 million, and Fish and Wildlife Habitat Management down $2.6 million. To make matters even worse, personnel ceilings of the Forest Service have

also been cut for 1979, although a new manpower study is underway. In all, the 1979 Forest Service budget is about $53.8 million below the 1978 current estimate, but there are increases in some areas, such as $7.7 million in timber sales administration and $18.1 million in roads and trails construction. These increases will permit a timber sales program of $11.5 billion board feet from the National Forests in fiscal 1979, the same as this year. The Youth Conservation Corps is continued at the same level as fiscal year 1978, at $60 million.

Fortunately, the President's budget is only a recommendation or request. It is the Congress that appropriates federal funds. Many times in the past, Congress has disagreed with OMB and the Administration. We all share a sense of urgency for a balanced budget, but why does natural resources management have to bear the brunt? It is poor economy in the long run and contrary to what we expected from the Carter administration. (W.E.T.) ●

WHATEVER HAPPENED TO PATRIOTISM?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, patriotism is a matter of primary importance to our Nation; yet patriotism somehow no longer receives the emphasis which once was accorded this important subject. Patriotism, pride in America, belief in our Nation and its destiny, must always be top place in our thinking if we are to survive as a nation.

The Air Force Times of February 20, 1978, dealt in a very appropriate manner with this subject. I submit the publication's comment on patriotism for reprinting in the RECORD:

WHAT EVER HAPPENED TO . . .

Time was when a thing called patriotism ranked high among the reasons a person might give for serving in the armed forces. It had to do with the feeling that the country was worth defending and that the job was important.

An honest, unblushing love of country didn't used to be a source of embarrassment to people.

Now, patriotism apparently is not a very salable commodity in the eyes of the people whose job it is to attract young recruits. Education, benefits and the material things of life appear to be the big sellers.

There are plenty of experts around who will tell you where that old lump-in-the-throat feeling went. But they don't seem to agree.

Some say it began to ebb with WW II, when people became conscience-stricken about the use of the A-bomb and expired as a new generation grew up feeling that no country was much worth admiring—including their own.

Some say that patriotism died in Vietnam along with about 46,000 Americans, while a succession of national leaders debated whether we should fight to win or quit and get out.

Some say the feeling just faded away somewhere between the revelations of corruption in high office and the suspicions of hanky-panky in big business.

A few hopelessly optimistic souls will tell you there's still a little of that old 4th-of-July sentiment around if anybody wanted to tap it.

Oh, it's not likely, they concede, that we could rekindle anything like the chauvinism of the last century which had our forebears shouting, "My country, right or wrong." We're unlikely to revive that line and it's probably just as well. We've always preferred the philosophy that you back the country when it's right and, when it is wrong, do what you can to help fix it.

If, as the optimists believe, there's still a chance to rekindle some of the old sentiment, how do you get it started? We have the feeling that it must begin at the top.

We had hoped that this new President, having had some naval service and being strong on the matter of morality, would have something to say about patriotism—even about the dedication of the people who follow the profession of arms.

So far, however, the President has had curiously little to say about the citizens' obligation to the nation and even less to say about the people who meet the obligation in service. After a few superficial compliments last year to a Pentagon gathering, he launched into a discussion of the high cost of service retirements and the observation that the government shouldn't be subsidizing commissaries.

He has spoken a good deal about defense economy, but has shown little appreciation for the people involved. We combed his budget statement for some recognition of those people. The defense budget, it said, "is prudent and tight." It spoke of outlays for modernization and said the nation's armed forces "must always stand sufficiently strong to deter aggression and to assure our security." Nothing in there about the human beings who do the job.

Congressional leaders, with a few notable exceptions, seems no more inclined to talk about the subject. They will wax poetic about the nation in campaign speeches, but rarely elsewhere. They will mention service people in terms of what their pay is costing the taxpayers, but rarely in recognition of the services rendered.

We don't suggest that young Americans would come flocking to the colors after one kind word from the White House or Congress about the importance of a dedicated military establishment. We do think, however, that sustained support by national leaders would go a long way toward turning national attitudes around.

The country has survived and thrived, after all, because past Americans saw fit to pay their dues—some with interest—by serving the country in uniform or otherwise. We happen to think that many more would be of similar mind if someone made it clear that service to the country still is considered one of the higher callings. Might be even be a suitable topic for a fireside chat one of these nights. We'd listen, anyway.●

TIME FOR A REALISTIC APPROACH TO RHODESIAN PROBLEMS

(Mr. SIKES asked for and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, a more realistic approach by the United States to the efforts to achieve a peaceable settlement in Rhodesia is clearly indicated. Our policy on the Salisbury accord has been ambiguous and murky. The administration does not commend it, nor does it offer encouragement. In effect, the President has refused to endorse the internal leaders who propose a solution respecting democracy and human rights, while, in effect, the United States continues to support the external leaders who openly proclaim the only solution is war, who have openly rejected the idea that the rights of white Rhodesians also should be protected, and who appear headed not for democracy, but for racism and authoritarian dictatorship with Russian sponsorship.

Each passing day the U.S. policy makes it more difficult for us to effectively participate in bringing about democratic rule in Rhodesia without communist domination.

This subject is discussed in a highly realistic manner by James Burnham in the National Review. I submit it for reprinting in the RECORD:

[From the National Review, Mar. 31, 1978]

BLACK, WHITE, GREY—THE PROTRACTED CONFLICT

(By James Burnham)

If men were reasonable creatures, there would have been universal rejoicing at the Rhodesian "internal settlement" agreed to by white Ian Smith and black Abel Muzorewa, Ndabaningi Sithole, and Jeremiah Chirau. Not that it is an ideal solution: a negotiated agreement is always a pisaller, a compromise among diverse, in part conflicting aims and interests. However, this Salisbury accord is as good as reasonable creatures could expect to emerge from so sticky a morass. Moreover, its terms satisfy, generally speaking, what the many parties, local and global, to the Rhodesian confusion have professed to be their criteria for a satisfactory solution.

For better or worse, the most actively publicized of these criteria has been "one man, one vote." The accord embraces this criterion fully *en principe* (as the French are fond of saying); it was Ian Smith's capitulation to this *principe* that made the Salisbury negotiation possible. Under the terms of the accord, there will be a temporary restriction in applying the one-man-one-vote principle. Although everyone of 18 years or more will from the beginning have the right to vote, 28 seats in the new one-hundred-seat parliament will be reserved for whites, which means that during those transitional ten years white votes will count more than black votes. Reasonable persons, having in mind the post-independence history of the new African nations and noting that the three black nationalist leaders are willing to accept it, might judge that this temporary brake on all-out one man, one vote makes good sense. If Zimbabwe can integrate the expertise, money, energy, and international connections of the Rhodesian whites into its new structure, no one can doubt that its citizens, both black and white, are going to be a lot better off than if the whites pull an Angola.

BLACK AND/OR WHITE

It is not only material values that might recommend the Salisbury accord to reasonable persons. It shows up rather well on the human rights scale, about which we have heard so much of late. The accord came out of the peaceful discourse of men, not the barrel of a gun. It is democratic in a basic sense, not only in its provisions for the new government but in the fact that it was negotiated by the three black leaders whom, according to observers, a big majority of the blacks support and the democratically chosen leader of the whites. It envisions an African rarity, a non-racist state. It recognizes that, if rights are in truth human, they must hold for everyone, even whites.

It is true that, even on the most optimistic appraisal, the path of the Salisbury accord will be rough and heavily mined. Any or all of the four initiators could sabotage it out of ambition, trickiness, cowardice, or corruption. Many Rhodesian whites have not

reconciled themselves to the loss of racist privilege. Many Rhodesian blacks want revenge rather than justice. The guerrilla and terrorist armies, supported and sheltered by the neighboring states, are in the field.

Suppose, though, that the United States and Britain threw their support behind the Salisbury accord—not every detail, but the general course it maps. This would mean dropping the sanctions (pace the UN) and announcing a readiness to supply the transitional black-white government, about to be formed under the terms of the accord, with relevant weaponry to assure Zimbabwe's defense and security. Even as things stand, many of the Mugabe-Nkomo followers may decide to return home and go along with the accord. A positive Anglo-American initiative would surely strengthen that trend, and would thus minimize the chance of large-scale fighting.

Going along with the general course, the perspective, of the accord would not mean endorsing every move and project of the internal quadrumvirate. It would, rather, give the U.S. and Britain a powerful leverage that would help swing events toward a just and successful outcome. They would be able to propose, indeed command, procedures and supervision that would convincingly guarantee the fairness of the election. They could make sure that the Mugabe-Nkomo followers both within and outside Zimbabwe are offered an honorable chance to abandon civil war and join in the peaceful building of their transformed nation.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. LEHMAN. (at the request of Mr. WRIGHT), for April 3, 4, and 5, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. RUNNELS (at the request of Mr. WRIGHT), for an indefinite period, on account of medical reasons.

Mrs. SPELLMAN (at the request of Mr. WRIGHT), for this week, on account of illness.

Mr. STEIGER (at the request of Mr. RHODES), for the week of April 3, on account of attending the Multilateral Trade Negotiations as a congressional adviser.

Mr. WHITLEY (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 20 minutes, today.

Mr. KEMP, for 5 minutes, today.

Mr. CONABLE, for 10 minutes, today.

(The following Members (at the request of Mr. VOLKMER) to revise and extend their remarks and include extraneous material:)

Mr. BAUCUS, for 10 minutes, today.

Mr. HAMILTON, for 10 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

Mr. BIAGGI, for 60 minutes, April 5, 1978.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH) and to include extraneous material:)

Mr. YOUNG of Florida in five instances.

Mr. HANSEN in four instances.

Mr. MCCLOSKEY.

Mr. STEERS in two instances.

Mr. SYMMS in two instances.

Mr. BOB WILSON in two instances.

Mr. WHITEHURST.

Mr. CEDERBERG.

Mr. DEL CLAWSON.

Mr. COHEN.

Mr. KEMP.

Mr. CHARLES H. WILSON of California.

(The following Members (at the request of Mr. VOLKMER), and to include extraneous matter:)

Mr. HAMILTON in 10 instances.

Mr. BYRON in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. SISK.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MAZZOLI in two instances.

Mr. BAUCUS.

Mr. MONTGOMERY in two instances.

Mr. BINGHAM in five instances.

Mr. SOLARZ.

Mr. HOLLAND in five instances.

Mr. WALGREN.

Mr. BLANCHARD in two instances.

Mr. LEDERER in three instances.

Mr. JOHN L. BURTON in three instances.

Mr. EDGAR.

Mr. CARNEY in three instances.

Mr. MCDONALD in five instances.

Mrs. SCHROEDER in two instances.

Mr. UDALL.

Mr. RICHMOND.

Mr. MINISH.

Mr. ROONEY.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes;

H.R. 9169. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 10982. An act to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974;

H.R. 11055. An act relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978, but attributable to 1977, and to extend for one year the existing treatment of State legislators' travel expenses away from home;

H.R. 11518. An act to extend the existing temporary debt limit; and

H.J. Res. 796. Joint resolution making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

ADJOURNMENT

Mr. VOLKMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 4, 1978, at 12 o'clock noon.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1977, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, D.C., March 28, 1978.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, the calendar year 1977 report on Extraordinary Contractual Actions to Facilitate the National Defense is transmitted herewith.

Table I shows that 172 contractual actions were approved and that 59 actions were disapproved. Included in the number of actions approved are 88 actions for which a potential Government liability cannot be estimated.

Table II lists the actions which have an actual or potential cost to the Government of $50,000 or more. Table II also contains a list of 88 actions for which a potential Government liability cannot be estimated.

Sincerely,

DALE W. CHURCH,
Deputy Under Secretary
(Acquisition Policy).

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (PUBLIC LAW 85-804), JANUARY-DECEMBER 1977

DEPARTMENT OF DEFENSE, WASHINGTON HEADQUARTERS SERVICES, DIRECTORATE FOR INFORMATION OPERATIONS AND REPORTS

TABLE I—SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE, JANUARY TO DECEMBER 1977

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense, total	172	$7,807,477	$5,304,046	59	$18,286,452
Amendments without consideration	6	3,505,857	3,577,018	22	12,333,869
Correction of mistakes	27	768,269	520,975	27	4,398,201
Formalization of informal commitments	45	348,254	363,140	7	722,189
Contingent liabilities	88				
Other	6	3,185,097	842,913	3	832,193
Army, total	50	4,473,317	4,627,261	31	13,129,503
Amendments without consideration	4	3,243,461	3,460,245	12	9,365,752
Correction of mistakes	9	286,615	208,779	12	2,220,104
Formalization of informal commitments	31	160,144	175,140	6	711,454
Contingent liabilities	3				
Other (residual powers)	3	783,097	783,097	1	832,193
Navy, total	84	462,409	316,676	9	2,518,038
Amendments without consideration	1	255,560	109,937	3	2,461,472
Correction of mistakes	2	18,739	18,739	5	45,831
Formalization of informal commitments	14	188,110	188,000	1	10,735
Contingent liabilities	67				
Other					
Air Force, total	28	2,864,887	353,245	15	2,564,160
Amendments without consideration	1	6,836	6,836	6	451,894
Correction of mistakes	6	456,051	286,593	7	2,112,266
Formalization of informal commitments					
Contingent liabilities	18				
Other	3	2,402,000	59,816	2	
Defense Logistics Agency, total	10	6,864	6,864	4	74,751
Amendments without consideration				1	54,751
Correction of mistakes	10	6,864	6,864	3	20,000
Formalization of informal commitments					
Contingent liabilities					
Other					

Source: Department of Defense, Washington Headquarters Services, Directorate for Information, Operations and Reports, Mar. 13, 1978.

TABLE II.—LIST OF CONTRACTUAL ACTIONS WITH ACTUAL OR POTENTIAL COST OF $50,000 OR MORE TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE JANUARY TO DECEMBER 1977

Name and location of contractor	Actual or estimated potential cost	Description of product or service	Justification
Amendments without consideration:			
Army:			
Dixie Tool & Die Co., Inc., Gadsden, Ala.	$2,305,296	Periscope mounts, modification kits etc., for M-60 tank.	A negotiated multiyear contract was awarded in July 1975 for 7 components of the M-60 tank. The contractor immediately began having technical difficulties. The components being produced are necessary for the continued production of M-60 tanks. The Army Armament Material Readiness Command estimates that an average of 100 tanks per month will be manufactured over the next year. The costs associated with delay in production are estimated at $10,000 per tank. Without relief the contractor may fail and it will take approximately 10 to 12 mo to reprocure these items. It is determined that continued performance of this contract is essential to the national defense.
Kellett Corp., Willow Grove, Pa.	667,285	S-390 and S-393, electrical shelters.	This conractor was granted relief in the amount of $358,032 on Aug. 29, 1974 (calendar year 1974 report) and $688,833 on Sept. 30, 1975 (Calendar year 1975 report). Payments authorized in September 1975 were suspended in November 1975 due to the fact that the appropriation involved was over obligated. Lacking sufficient funds, the contractor stopped work on Jan. 16, 1976. Another contractor has been found for the S-390 shelters but the unit price is excessive. 2 other contractors who have been awarded a contract for the S-393 shelters have gone bankrupt attempting to perform. Apparently Kellett is the only contractor for these items. The ECOM Contract Adjustment Board concluded that the sole reason which caused Kellett to seek supplemental relief was the inability of the Government to implement the decision of September 1975 in a timely manner. It is determined that the productive capability of the contractor has been and continues to be impaired as a consequence of losses experienced under these contracts.
Ayer & Son, Inc., New York, N.Y.	430,433	Attorneys fees and other expenses incurred with litigation in terminating a subcontract with Naticnal Varsity Club, Inc.	The National Varsity Club, a subcontractor for Ayer, performed recruiting services on requests made directly to them by various Government officials without a written contract or delivery order. Ayer was unable to manage this subcontract due to these direct communications. Officials of the Recruiting Command, without proper contracting officer authority, directed Ayer to terminate the National Varsity Club program. As a result, National Varsity filed suit against Ayer for breach of contract. The motion of Ayer to dismiss the case because there had been no contract was denied as the court indicated there had been an implied contract. It was found that the contractors loss resulted from Government actions and that considerations of fairness make appropriate the granting of relief.
Shuey Aircraft, Inc., Anaheim, Calif.	57,231	Connecting rods for M48 and M88 vehicles.	Contract was awarded in June 1975 for 1,276 connecting rods at a unit cost of $41.26. Shuey has requested relief on the grounds of a mistake in submission of their bid as they failed to include the cost of tooling. There is no evidence of knowledge of the mistake on the part of the Government. A balance of 349 pieces remain to be delivered. The average monthly demand for connecting rods for the past 25 mo is 61. The lead time for procurement is 15 mo. A new solicitation was opened in November 1976 and the bids ranged from $68 to $297 and delivery time 360 to 390 days. While Shuey's continued existence is not essential to the national defense, the continued performance of this contract, however, is essential.
Navy:			
Sysdyne, Inc., San Diego, Calif.	109,937	Engineering support services, MK-46 torpedo program.	In January 1974, a contract was awarded for engineering support services for the Naval Undersea Center, Pasadena, Calif. The contract estimated $409,000 worth of work during 1974 while actual orders totaled approximately $68,000. In 1975, the estimate was $126,000 with $57,000 actual. During this time, orders that should have been given to Sysdyne were placed elsewhere. The impact of the Navy estimate, and actual work performed was inexcusably deficient and little was done to minimize the impact on Sysdyne, a very small firm without the necessary capital to sustain the losses which resulted. It is the opinion of the Board that Sysdyne sustained a loss as a result of Government action.
Formalization of informal commitments:			
Army:			
British Army Staff, British Defence Staff, Washington, D.C.	67,683	260 rounds of ammunition expended in expended in testing a British light gun.	Sec. 122 of the Basic Standardization Agreement 1964 (BSA 1964) entered into by the United States, United Kingdom, Canada, and Australia authorizes loans on a non-reimbursable basis between the armies of the countries when such loans are in the interest of standardization. Since 1970, the United Kingdon has been developing a 105 mm light gun (L118). Plans were made with the United Kingdom for testing of the gun with a view toward possible procurement of the weapon by the U.S. Army. A loan agreement was entered into in June for the use of 2 guns, but it did not specify which party was to pay for the ammunition. A formal contract could not be executed until funds became available for obligation, and in the meantime the ammunition was expended. The Army Contract Adjustment Board found that an informal agreement had been made by the Army to reimburse the United Kingdom for 160 of the 777 rounds needed for such testing and that the United Kingdom had furnished the ammunition in good faith with the understanding that such payment would be made.

TABLE II.—LIST OF CONTRACTUAL ACTIONS WITH ACTUAL OR POTENTIAL COST OF $50,000 OR MORE TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE JANUARY TO DECEMBER 1977—Continued

Name and location of contractor	Actual or estimated potential cost	Description of product or service	Justification
Navy: Hermes, Ltd., Via Sedile di Porto, 80134 Naples, Italy.	85,000	59 forged steel anchor shackles	As a result of severe storm damage, the aircraft carrier USS Independence, was scheduled for emergency repair in the port of Naples on Apr. 25, 1977. A buoy modification plan resulted from the need to bring the Independence into the inner harbor in this instance. It was not until after hours on Friday, Apr. 22, that an order was placed with Hermes (the only contractor who could satisfy this requirement), to deliver the shackles on Sunday, Apr. 24, to be ready by Monday morning. Normal procurement procedures were not followed in this instance because of the urgency of the requirement and the last minute identification of the exact number and type required.
Correction of mistakes: Air Force: Northrop Worldwide Aircraft Services.	159,583	Sick leave and paid holidays for employees.	Request arose from a time and materials contract to provide immediate level maintenance on Vietnamese Air Force F-5 aircraft and associated on-the-job training for VNAF technicians at Bien Hoa Air Base, Vietnam, from October 1973, through December 1974. The provisions for sick leave and paid holidays should have been included in the hourly rate and not billed separately. Because the contractor had not had previous experience in Vietnam and could not project the costs to be incurred from sick leave and Vietnamese holidays (not worked), these items were not included in the hourly rate. It was agreed these could be treated separately. The definitized contract failed to include the terms for recovery of these items that were agreed on during the negotiations.
Residual powers: Army: Vogue Instrument Corp., Richmond Hill, N.Y.	783,097		In July 1970, the Navy terminated Vogue for default on a page printer contract. The lengthy ASBCA appeal concluded in a decision in February 1974 that the termination for default be converted to a termination for convenience. This was followed by a protracted period during which a settlement was finally reached in January 1976. Vogue contends that the Navy's action in terminating them for default was a major contribution to their financial downfall. The Army's action in suspending funds owed as a part of the termination settlement caused an adverse impact on Vogue by inhibiting its ability to compete for and obtain business. In addition, there was evidence that Vogue's impaired financial condition contributed to its difficulties and losses sustained on the contracts in respect of which this relief was requested. Presently Vogue's financial situation is such that it cannot continue in business without a grant of relief. In the light of the extensive amount of additional information received, and after finding that Vogue has a history of successful manufacture of complex technology devices and that it would be desirable to retain Vogue as a viable second source for ballistic computers and distribution boxes, the Board determined that the circumstances warranted the grant of relief.
Air Force: Davidson Optronics, Inc. West Covina, Calif.	59,816		Company alleged that it sustained a total loss of $3,972,244 in the performance of 2 Army contracts and are facing bankruptcy. On the theory of essentiality to the national defense, the contractor requested relief in the amount of $2,402,812. Davidson presented its case in March 1977, and the financial data submitted was not complete. The contractor was given 60 days in which to reconstruct his records so that the Government could make a decision, Based upon recommendations that Davidson's capabilities were vital to the national defense, the Air Force Contract Adjustment Board made an interim decision that it was in the Government's best interest to make available additional funds up to $100,000 during this time to prevent the plant from closing during the 60-day period. $59,816 was made available to the contractor. After examination of additional information subsequently supplied to the Board, it concluded that Davidson was no longer essential to the national defense and thereupon issued a final decision denying the requested relief.

Contingent liabilities—Provisions to indemnify contractors against liabilities on account of claims for death or injury or property damage arising out of nuclear radiation, use of high energy propellants or other risks not covered by the contractor's insurance program were included in 88 contracts (the potential cost of these liabilities cannot be estimated inasmuch as the liability to the Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause). Items procured are generally those associated with nuclear-powered vessels, nuclear armed guided missiles, experimental work with nuclear energy, handling of explosives or performance in hazardous areas]

	Number of contracts		
	Army	Navy	Air Force
Aerojet General Corp			2
Automation Industries, Inc		1	
Boeing Co			5
General Dynamics Corp		18	
General Electric Co		17	2
Hercules, Inc			1
Honeywell, Inc		1	
Hughes Aircraft Corp		4	
Illinois Central Gulf RR. Co			1
Litton Systems, Inc		1	
Lockheed Corp		7	
Martin-Marietta Corp			2
Newport News Shipbuilding & Dry Dock Co		5	
Raytheon Co		1	
Rockwell International Corp		6	2
Seaboard Coastline RR. Co	1		
Singer Co		1	
Sterns-Roger, Inc	1		
Thiokol Corp			2
Vulcan Shipping Co			1
Western Electric Co., Inc	1		
Wastinghouse Electric Corp		5	
Total	3	67	18

Note: In addition to the above, indemnification clauses will be inserted into all transportation contracts entered into by the Military Airlift Command for transportation services to be performed by air carriers which own or control aircraft which have been allocated by the Department of Transportation to the Civil Reserve Air Fleet.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Mar. 22, 1978, the following reports were filed on Mar. 24, 1977*]

Mr. DANIELSON: Committee on the Judiciary. H.R. 8494. A bill to regulate lobbying and related activities; with amendment (Rept. No. 95-1003). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 10909. A bill to amend the Public Health Service Act to revise and strengthen the program under that act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such act to meet the requirements of such program, and for other purposes; with amendment (Rept. No. 95-1004, Pt. I). Ordered to be printed.

[*Pursuant to the order of the House on Mar. 22, 1978, the following reports were filed on Mar. 30, 1978*]

Mr. UDALL: Committee on Interior and and Insular Affairs. S. 917. An act to provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nevada, to the University of Nevada (Rept. No. 95-1006). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6997. A bill to authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in the Fairbanks Recording District, State of Alaska, to the Fairbanks North Star Borough, and for other purposes; with amendment (Rept. No. 95-1009). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11567. A bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979-1981, and for other purposes (Rept. No. 95-1010). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10822. A bill to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; with amendment (Rept. No. 95-

1011). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 3489. A bill to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy; with amendment (Rept. No. 95–1012). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10823. A bill to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980, and for other purposes; with amendment (Rept. No. 95–1013). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 10984. A bill to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania, and for other purposes, with amendment (Rept. No. 95–1014). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. House Concurrent Resolution 359. Concurrent resolution to provide recognition of the services of Gen. Thaddeus Kosciuszko (Rept. No. 95–1016). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 11092. A bill to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712) (Rept. No. 95–1017). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7101. A bill to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes (Rept. No. 95–1018). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2497. A bill to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes; with amendment (Rept. 95–1019). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8397. A bill to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation (Rept. No. 95–1020). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6612. A bill to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes; with amendment (Rept. No. 95–1021). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6900. A bill to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System; with amendment (Rept. No. 95–1022). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 11662. A bill to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes; with amendment (Rept. No. 95–1023). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on March 22, 1978, the following reports were filed on March 31, 1978*]

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10732. A bill to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981; with amendment (Rept. No. 95–1024). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10884. A bill to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981; with amendment (Rept. No. 95–1025). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10883. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1979, 1980, and 1981; with amendment (Rept. No. 95–1026). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10884. A bill to authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981; with amendment (Rept. No. 95–1027). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10730. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; with amendment (Rept. No. 95–1028). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10878. A bill to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1976; with amendment (Rept. No. 95–1029). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 11465. A bill to authorize appropriations for the U.S. Coast Guard for fiscal year 1979, and for other purposes; with amendment (Rept. No. 95–1030). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 7749. A bill to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora of the Antarctic Treaty, and for other purposes; with amendment (Rept. 95–1031, Pt. I). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Mar. 22, 1978*]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7588. A bill to confirm a conveyance of certain real property by the Southern Pacific Railroad Co., to M. L. Wicks; with amendment (Rept. No. 95–1007). Referred to the Committee of the Whole House.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7971. A bill to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co., (Rept. No. 95–1008). Referred to the Committee of the Whole House.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4243. A bill to authorize the Secretary of the Interior to convey certain lands in Placer County, Calif., to Mrs. Edna C. Marshall, and for other purposes (Rept. No. 95–1015). Referred to the Committee of the Whole House.

[*Submitted April 3, 1977*]

Mr. DANIELSON: Committee on the Judiciary. H.R. 1415. A bill for the relief of Ball State University and the American Association of Colleges for Teacher Education; with amendment (Rept. No. 95–1032). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 3994. A bill for the relief of Charles P. Abbott; with amendment (Rept. No. 95–1033). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. House Resolution 83. Resolution to refer, H.R. 1394, a bill for the relief of certain former employees of Western Airlines, to the Chief Commissioner of the U.S. Court of Claims; with amendment (Rept. No. 95–1034). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. S. 422. An act for the relief of the First Baptist Church of Paducah, Ky.; with amendment (Rept. No. 95–1035). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[*Pursuant to the order of the House on Mar. 22, 1978, the following report was filed on Mar. 24, 1978*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11192. A bill to extend for 2 years the scope of the containment requirements and the requirements of the experimental guidelines of the National Institutes of Health respecting recombinant DNA research to include all public and private recombinant DNA activities and to provide for a study respecting research and technology involving genetic manipulation; with amendment (Rept. No. 95–1005, Pt. I). Sequentially referred to the Committee on Science and Technology for a period ending not later than April 21, 1978 for consideration of such provisions as fall within the jurisdiction of that committee under clause 1(r), rule X, and ordered to be printed.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3649. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1978 and budget amendments for fiscal year 1979 for various agencies (H. Doc. 95–311); to the Committee on Appropriations and ordered to be printed.

3650. A communication from the President of the United States, transmitting his determination (78–8) that the sale and financing of certain defense articles and services to Turkey is necessary to enable her to fulfill her obligations as a member of NATO, and his suspension of the provisions of section 620(x) of the Foreign Assistance Act and section 3(c) of the Arms Export Control Act, pursuant to section 620(x)(1) of the Foreign Assistance Act of 1961, as amended (90 Stat. 757), together with notice of the Defense Department's intention to issue related letters of offer, pursuant to section 36(b) of the Arms Export Control Act (H. Doc. No. 95–

312); to the Committee on International Relations and ordered to be printed.

3651. A communication from the President of the United States, transmitting a report on his decision to modify the recommendation of three Commissioners of the U.S. International Trade Commission for import relief for the citizen band radio transceiver industry, pursuant to section 203(b)(1) of the Trade Act of 1974 (H. Doc. No. 95–313); to the Committee on Ways and Means and ordered to be printed.

3652. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years; to the Committee on Agriculture.

3653. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the U.S. Coast Guard for "Retired Pay" for fiscal year 1978 has been reapportioned on a basis which indicates the necessity for a supplemental appropriation, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3654. A letter from the Comptroller General of the United States, transmitting his review of the deferral and revised deferral of budget authority contained in the message from the President dated March 10, 1978 (H. Doc. No. 95–300), pursuant to section 1014 (b) and (c) of Public Law 93–344 (H. Doc. No. 95–314)); to the Committee on Appropriations and ordered to be printed.

3655. A letter from the Secretary of Defense, transmitting a shipbuilding plan for the U.S. Navy for fiscal years 1979–83; to the Committee on Armed Services.

3656. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

3657. A letter from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a report on the economic adjustment program for Selma and Dallas County, Ala., pursuant to section 610(b) of Public Law 94–431; to the Committee on Armed Services.

3658. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting the annual report covering calendar year 1977 on special pay for duty subject to hostile fire, pursuant to 10 U.S.C. 310(d); to the Committee on Armed Services.

3659. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness to the Army proposal to sell certain defense equipment to Switzerland (transmittal No. 78–25), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

3660. A letter from the Assistant Attorney General (Antitrust Division), transmitting the annual report on reviews of various agreements between the Government and private industry developed under the terms of section 708 of the Defense Production Act of 1950, as amended, pursuant to section 708(k) of the act (89 Stat. 814); to the Committee on Banking, Finance and Urban Affairs.

3661. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting notice of a change in the repayment schedule for a previously reported transaction with Furnas-Centrais Eletricas S. A. (Executive Communication No. 3052); to the Committee on Banking, Finance and Urban Affairs.

3662. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during February 1978 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

3663. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the annual report of the Corporation for the calendar year 1977, pursuant to section 17(a) of the Federal Deposit Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

3664. A letter from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; to the Committee on the District of Columbia.

3665. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the development and implementation of State programs for youth camp safety and health; to the Committee on Education and Labor.

3666. A letter from the Commissioner of Education, Department of Health, Education and Welfare, transmitting a proposed interpretation of the regulations governing State-administered vocational educational programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3667. A letter from the Director, National Commission for Manpower Policy, transmitting an interim report, entitled "Job Creation Through Public Service Employment", pursuant to section 15 of Public Law 94–444; to the Committee on Education and Labor.

3668. A letter from the Secretary of the Interior, transmitting the annual report for fiscal year 1977 on the disposal of Federal real property for park, recreation and historic monument purposes, pursuant to section 203 (o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3669. A letter from the Acting Inspector General, Department of Energy, transmitting the annual report of his office for calendar year 1977, pursuant to section 208(c) of the Department of Energy Organization Act of 1977; to the Committee on Government Operations.

3670. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to establish the Federal Information Centers; to the Committee on Government Operations.

3671. A letter from the Acting Administrator of General Services, transmitting a report on actions taken in response to the recommendations contained in reports of the National Advisory Council on Extension and Continuing Education entitled "Equity of Access: Continuing Education and the Part-time Student" and "Program Evaluation, Title I of the Higher Education Act," pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

3672. A letter from the Acting Administrator of General Services, transmitting a report on actions taken in response to the recommendations contained in a 1975 report by the Board of Visitors to the Air Force Academy, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

3673. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3674. A letter from the Executive Director, Indian Claims Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3675. A letter from the President, Inter-American Foundation, transmitting a report on the Foundation's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3676. A letter from the Chairman, National Transportation Safety Board, transmitting a report on the Board's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 522(d); to the Committee on Government Operations.

3677. A letter from the Commissioner, Securities and Exchange Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3678. A letter from the Deputy Assistant Secretary of Defense (Administration) transmitting notice of two new proposed records systems, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

3679. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of proposed new records systems, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

3680. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of seven new proposed systems of records and a proposed change, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3681. A letter from the Director of Administration, Department of Energy, transmitting notice of a proposed change in the Department's records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3682. A letter from the Acting Chief of Staff, U.S. Coast Guard, transmitting notice of a proposed change in the agency's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3683. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on the Commission's activities under the Government in the Sunshine Act from March 12, 1977 to March 14, 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3684. A letter from the General Counsel, Export-Import Bank of the United States, transmitting a report on the Bank's activities under the Government in Sunshine Act from March 12, 1977 through March 11, 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3685. A letter from the Chairman, Federal Election Commission, transmitting the annual report on the Commission's activities under the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3686. A letter from the General Counsel, Federal Home Loan Bank Board, transmitting a report on the Board's activities under the Government in the Sunshine Act for the period March 13, 1977, to December 31, 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3687. A letter from the President, Federal Home Loan Mortgage Corporation, transmitting a report on the Corporation's activities under the Government in the Sunshine Act from March 12 to December 31, 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3688. A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting a report on the activities of the agency under the Government in the Sunshine Act from March 12 to December 31, 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3689. A letter from the General Counsel, Inter-American Foundation, transmitting a report on the Foundation's activities under the Government in the Sunshine Act for

the period March 12, 1977, to March 31, 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3690. A letter from the president, Mississippi River Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act for the period March 12, 1977, to March 11, 1978, pursuant to 5 U.S.C. 522b(j); to the Committee on Government Operations.

3691. A letter from the Chairman, National Commission on Libraries and Information Science, transmitting the annual report on the Commission's activities under the Government in the Sunshine Act, pursuant at 5 U.S.C. 552b(j); to the Committee on Government Operations.

3692. A letter from the Acting Chairman, Renegotiation Board, transmitting a report on the Board's activities under the Government in the Sunshine Act from March 12, 1977 through March 11, 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3693. A letter from the Chairman of the Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting an annual report on the Foundation's activities under the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3694. A letter from the Chairman, Federal Election Commission, transmitting the Commission's 1977 annual report, pursuant to section 311 of the Federal Election Campaign Act, as amended; to the Committee on House Administration.

3695. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the receipt of two project proposals under the Small Reclamation Projects Act of 1956, pursuant to section 10 of the act; to the Committee on Interior and Insular Affairs.

3696. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of proposed modifications in the Las Vegas Wash Union of the Colorado River Basin Salinity Control Project, pursuant to section 208(a) of Public Law 93–320; to the Committee on Interior and Insular Affairs.

3697. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by designating the St. Joe River in Idaho as a component of the National Wild and Scenic Rivers System, together with the study report and environmental report, pursuant to section 4(a) and 5(a) of Public Law 90–542 (H. Doc. No. 95–315); to the Committee on Interior and Insular Affairs and ordered to be printed.

3698. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Robert L. Yost, Ambassador-designate to the Dominican Republic, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3699. A letter from the Administrator Agency for International Development, Department of State transmitting the annual report on the Sahel development program, pursuant to section 121(b) of the Foreign Assistance Act of 1961, as amended (91 Stat. 539); to the Committee on International Relations.

3700. A letter from the Administrator, Agency for International Development, Department of State, transmitting the second annual report on the famine prevention and freedom from hunger program, pursuant to section 300 of the Foreign Assistance Act of 1961, as amended (89 Stat. 866); to the Committee on International Relations.

3701. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the justification for a proposed increase in the funding level of the agency's fiscal year 1978 program in Ecuador, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

3702. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3703. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3704. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to a foreign country (transmittal No. 78–21), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3705. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Switzerland (transmittal No. 78–25), pursuant to section 36(b) of he Arms Export Control Act; to the Committee on International Relations.

3706. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–29), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3707. A letter from the Chairman, U.S. Advisory Commission on International Educational and Cultural Affairs, transmitting the Commission's 14th and final annual report, pursuant to section 107 of Public Law 87–256; to the Committee on International Relations.

3708. A letter from the president, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., transmitting notice of a further delay in preparation of the Institute's annual report for fiscal year 1977, required by section 3 of the act of May 7, 1928, as amended; to the Committee on International Relations.

3709. A letter from the Assistant Attorney General (Antitrust Division), transmitting the Department's third semiannual report on the impact on competition and small business of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

3710. A letter from the Secretary of Health, Education, and Welfare, transmitting companion volumes to the Department's previously submitted research plan on aging (Executive Communication No. 192); to the Committee on Interstate and Foreign Commerce.

3711. A letter from the Secretary of Energy, transmitting an amendment to the Strategic Petroleum Reserve Plan to provide for its expansion (Energy Action NO. DOE–001), pursuant to section 159(d) of the Energy Policy and Conservation Act of 1975 (Public Law 94–163) (H. Doc. No. 95–316); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

3712. A letter from the Acting General Counsel, Department of Energy, transmitting notice of a test of the international emergency allocation system by the International Energy Agency begun on March 31, 1978, pursuant to section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

3713. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to extend provisions of the Noise Control Act of 1972, as amended, for 2 years; to the Committee on Interstate and Foreign Commerce.

3714. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend certain provisions of title XIV of the Public Health Service Act for 1 year; to the Committee on Interstate and Foreign Commerce.

3715. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend certain provisions of the Toxic Substances Control Act for 1 year; to the Committee on Interstate and Foreign Commerce.

3716. A letter from Secretary, Federal Trade Commission, transmitting the Commission's fourth semiannual report on the impact on competition and on small business of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

3717. A letter from the Deputy Under Secretary of Defense (Acquisition Policy), transmitting on extraordinary contractual actions to facilitate the national defense, pursuant to section 4(a) of Public Law 85–804; to the Committee on the Judiciary.

3718. A letter from the Commissioner, Federal Prison Industries, Inc., Department of Justice, transmitting the annual report of the Board of Directors for fiscal year 1977, pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

3719. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the 1976 annual report of the Immigration and Naturalization Service; to the Committee on the Judiciary.

3720. A letter from the Librarian of Congress and the Register of Copyrights, transmitting addenda to the report of the Register of Copyrights on performance rights in sound recordings, previously submitted pursuant to section 114(d) of Public Law 94–553; to the Committee on the Judiciary.

3721. A letter from the Chief Scout Executive, Boy Scouts of America, transmitting notice of a delay in the transmittal of its report of the proceedings for 1977, required by section 8 of the act of June 15, 1916; to the Committee on the Judiciary.

3722. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to extend title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for 2 years; to the Committee on Merchant Marine and Fisheries.

3723. A letter from the Acting Secretary of the Treasury, transmitting the annual report for fiscal year 1977 on the experience of Federal agencies under the program for self-insuring fidelity losses of Federal personnel, pursuant to section 103 of Public Law 92–310; to the Committee on Post Office and Civil Service.

3724. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to extend certain provisions of the Federal Water Pollution Control Act, as amended, for 2 years; to the Committee on Public Works and Transportation.

3725. A letter from the Board of Directors, Tennessee Valley Authority, transmitting the Board's 44th annual report, covering fiscal year 1977, pursuant to section 9(a) of the act of May 18, 1933, as amended; to the

Committee on Public Works and Transportation.

3726. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the annual report for fiscal year 1977 on NASA and aerospace-related industry employment of present and former NASA employees, pursuant to section 6 of Public Law 91-119, as amended; to the Committee on Science and Technology.

3727. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Environmental Research, Development, and Demonstration Authorization Act of 1978 for 2 years; to the Committee on Science and Technology.

3728. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other expenses; to the Committee on Veterans' Affairs.

3729. A letter from the Secretary of the Treasury, transmitting notice of a delay in the preparation of the Trustees' reports on the social security trust funds; to the Committee on Ways and Means.

3730. A letter from the Deputy Assistant Secretary of Agriculture, transmitting the annual report on land acquisition in the Boundary Waters Canoe Area, Superior National Forest, Minn., pursuant to section 6(b) of the act of June 22, 1948, as amended (90 Stat. 1123); jointly, to the Committees on Agriculture, and Interior and Insular Affairs.

3731. A letter from the Comptroller General of the United States, transmitting a report on major human nutrition research gaps and a summary of Federal nutrition research activities (PSAD-77-156, March 28, 1978); jointly to the Committees on Government Operations, Agriculture, Interstate and Foreign Commerce, and Science and Technology.

3732. A letter from the Comptroller General of the United States, transmitting a report with recommendations for the coordination and evaluation procedures is disseminating nutrition information by the Departments of Agriculture and Health, Education, and Welfare (CED-78-75, March 22, 1978); jointly to the Committees on Government Operations, Agriculture, and Interstate and Foreign Commerce.

3733. A letter from the Comptroller General of the United States, transmitting a report on the possible savings which could be achieved by deferring spending for navigation systems which the NAVSTAR satellite system could replace (LCD-77-109, March 21, 1978); jointly, to the Committees on Government Operations, Armed Services, Merchant Marine and Fisheries, and Public Works and Transportation.

3734. A letter from the Comptroller General of the United States, transmitting a report on ways to improve naval shipyard operations (LCD-77-450, March 31, 1978); jointly to the Committee on Government Operations, and Armed Services.

3735. A letter from the Deputy Comptroller General of the United States, transmitting a report on the status of the Navy's High-Speed Antiradiation Missile System (PSAD-78-26, March 27, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3736. A letter from the Deputy Comptroller General of the United States, transmitting a report on the status of the Air Force's BF-111A Tactical Jamming System (PSAD-78-32, March 23, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3737. A letter from the Comptroller General of the United States, transmitting a report on the status of the Air Force's Missile X program (PSAD-78-35, March 31, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3738. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of Navy operational test and evaluation (PSAD-78-77, March 29, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3739. A letter from the Comptroller General of the United States, transmitting a report on the need for HUD to improve its methods of assessing the financial soundness of multifamily residential projects before providing insurance (CED-78-70, March 29, 1978); jointly to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

3740. A letter from the Comptroller General of the United States, transmitting a report on the need to redefine the national policy for Indian housing with realistic goals and objectives (CED-78-63, March 31, 1978); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Interior and Insular Affairs.

3741. A letter from the Comptroller General of the United States, transmitting a report on the limitations of the Federal Government's present condominium loan guarantee and mortgage insurance programs administered by the Veterans' Administration and the Department of Housing and Urban Development (CED-78-71, March 21, 1978); jointly to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Veterans' Affairs.

3742. A letter from the Comptroller General of the United States, transmitting a report on the efforts of the Department of Health, Education, and Welfare to disseminate child welfare research and demonstration results and on whether the legislative mandate to advocate and coordinate Federal programs affecting children should be granted to the Department (HRD-77-76, March 31, 1978); jointly, to the Committees on Government Operations, Education and Labor, and Ways and Means.

3743. A letter from the Comptroller General of the United States, transmitting a status report on the Sahel development program (ID-78-18, March 29, 1978); jointly to the Committees on Government Operations, and International Relations.

3744. A letter from the Comptroller General of the United States, transmitting a report on the problems and achievements of the Drug Enforcement Administration's South American drug control program and lingering deficiencies in the Department of State's international narcotic control assistance program (GGD-78-45, March 29, 1978); jointly, to the Committees on Government Operations and International Relations.

3745. A letter from Comptroller General of the United States, transmitting a report describing the factors limiting the success of the Department of Transportation's program to control billboards along Federal-aid Interstate and primary highways (CED-78-38, March 27, 1978); jointly, to the Committees on Government Operations and Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AMMERMAN:

H.R. 11795. A bill to amend the Internal Revenue Code of 1954 to provide that services performed by certain officers of closely held corporations will not be subject to the Federal unemployment tax; to the Committee on Ways and Means.

By Mr. BEDELL (for himself, Mr. AKAKA, Mr. ALLEN, Mr. BRODHEAD, Mr. EILBERG, Mr. DELLUMS, Mr. BONKER, Mr. CARTER, Mr. FITHIAN, Mr. FREY, Mr. HEFTEL, Mr. MOFFETT, Mr. NEAL, Mr. PRESSLER, Mr. MADIGAN, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. PEASE, Mr. SCHEUER, Mr. WAXMAN, Mr. CORNELL, Mr. RANGEL, Mr. HARRIS, Mr. PRICE, and Mr. FORD of Michigan):

H.R. 11796. A bill to provide a solar and conservation loan program within the Small Business Administration; to the Committee on Small Business.

By Mr. NICHOLS (for himself, Mr. MITCHELL of New York, Mr. MONTGOMERY, Mr. DICKINSON, Mrs. HOLT, Mr. DAVIS, Mr. BEARD of Tennessee, Mr. WON PAT, Mr. BADHAM, Mr. LLOYD of California, and Mr. STRATTON):

H.R. 11797. A bill to amend title 10, United States Code, to grant survivors of Reserves who retire for nonregular service and die before becoming entitled to retired pay eligibility for certain survivor benefits; to the Committee on Armed Services.

By Mr. BIAGGI:

H.R. 11798. A bill to amend title I of the Housing and Community Development Act of 1974 for the purpose of providing rehabilitation grants to metropolitan cities and urban counties; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROWN of Michigan:

H.R. 11799. A bill to amend the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers; to the Committee on Banking, Finance and Urban Affairs.

H.R. 11800. A bill to amend the Administrative Procedure Act to require each agency to estimate and publish the projected total costs and benefits of each new rule prior to its adoption, and for other purposes; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON (for himself, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. STARK, Mr. MINETA, Mr. MILLER of California, Mr. PANETTA, and Mr. EDWARDS of California.

H.R. 11801. A bill to provide grants for the purpose of constructing congregate facilities in federally assisted housing projects for senior citizens and handicapped individuals and families, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

By Mr. PHILLIP BURTON (for himself, Mr. JOHN L. BURTON, Mr. PANETTA, Mr. MINETA, Mr. STARK, Mr. MILLER of California, Mr. DELLUMS, and Mr. EDWARDS of California):

H.R. 11802. A bill to require that all future federally assisted public housing projects serving elderly or handicapped persons include the provisions of congregate services, and facilities for the establishment of community day health and nutrition centers; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

By Mr. COLLINS of Texas:

H.R. 11803. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obli-

gations of the United States; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. CORCORAN of Illinois, Mr. DUNCAN of Oregon, and Mr. TUCKER):

H.R. 11804. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Commitees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. BUCHANAN, Mr. EDGAR, Mr. RINALDO, Mr. STUDDS, and Mr. WHITEHURST):

H.R. 11805. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORNWELL:

H.R. 11806. A bill to provide for increased petroleum production in the United States through the use of incentives for tertiary recovery processes; to the Committee on Interstate and Foreign Commerce.

By Mr. DAVIS:

H.R. 11807. A bill to provide for the establishment of a board to administer certain agricultural production programs; jointly, to the Committees on Agriculture, International Relations, Interstate and Foreign Commerce, and Ways and Means.

By Mr. DENT (for himself and Mr. ERLENBORN):

H.R. 11808. A bill to establish a unified program for the education of minor dependents of military and civilian personnel overseas and on certain military bases, to establish an Office of Dependents' Education in the Department of Defense to administer such program, and for other purposes; to the Committee on Education and Labor.

By Mr. DERRICK:

H.R. 11809. A bill to provide in cooperation with the States benefits to individuals who are totally disabled due to employment-related byssinosis and to the surviving dependents of individuals whose death was due to such diesease or who were totally disabled by such diesaese at the time of their death; to the Committee on Education and Labor.

By Mr. DUNCAN of Tennessee:

H.R. 11810. A bill to authorize the Secretary of the Treasury to compensate depository institutions which maintain Treasury tax and loan accounts for services which they perform for the Department of the Treasury; jointly to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. EVANS of Georgia:

H.R. 11811. A bill to discourage the prevention of the marketing of certain patented means for energy conservation; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 11812. A bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations establishing minimum standards with respect to certain electronic equipment that is susceptible to radio frequency energy interference; to the Committee on Interstate and Foreign Commerce.

By Mr. GRADISON (for himself, Mr. BLANCHARD, Mr. BURGENER, Mr. CEDERBERG, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. FREY, Mr. HARRIS, Mr. HORTON, Mr. HUGHES, Mr. JEFFORDS, Mr. KINDNESS, and Mr. LAFALCE):

H.R. 11813. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. GRADISON (for himself, Mr. LAGOMARSINO, Mr. LEACH, Mr. LENT, Mr. MCDADE, Mr. MCEWEN, Mr. MARTIN, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. QUAYLE, Mr. QUIE, Mr. REGULA, Mr. ROUSSELOT, Mr. SPENCE, Mr. STOCKMAN, Mr. VANDER JAGT, Mr. WHITEHURST, and Mr. YOUNG of Alaska):

H.R. 11814. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 11815. A bill to designate the Ozark National Forest Headquarters Building, in Russellville, Ark., as the "Henry R. Koen Forest Service Building"; to the Committee on Agriculture.

By Mr. LENT:

H.R. 11816. A bill to amend title XVIII of the Social Security Act to provide for inclusion of the services of qualified audiologists under medicare, and for other purposes; jointly, to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. McKINNEY:

H.R. 11817. A bill to amend the Internal Revenue Code of 1954 to permit individuals to amortize certain rehabilitation expenditures for certified historic structures which are not depreciable, and for other purposes; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mrs. BOGGS, Mr. STEERS, Ms. MIKULSKI, Mr. BLOUIN, Mr. EILBERG, Mr. FRASER, Mr. GARCIA, Mr. HOWARD, Mr. LEHMAN, Mr. MAGUIRE, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. PATTERSON of California, Mr. RANGEL, Mr. SOLARZ, Mr. STUDDS, and Mr. VENTO):

H.R. 11818. A bill to amend title XX of the Social Security Act to authorize payments thereunder for the cost of emergency shelter or services furnished to individuals (whether adults or children) because of the danger of abuse or injury; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 11819. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOTTL (for himself, Mr. BIAGGI, Mr. BRADEMAS, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. GEPHARDT, Mrs. HOLT, Mr. HUGHES, Mr. MIKVA, Mr. RANGEL, and Mr. YATRON):

H.R. 11820. A bill to provide for the issuance of a commemorative postage stamp in honor of Gen. Casimir Pulaski and Americans of Polish descent; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of Pennsylvania:

H.R. 11821. A bill to amend the Internal Revenue Code of 1954 to require that employee stock ownership plans financed through an additional investment credit be nondiscriminatory to any group of employees; to the Committee on Ways and Means.

By Mr. NEAL (for himself, Mr. AKAKA, Mr. ALLEN, Mr. BRODHEAD, Mr. DELLUMS, Mr. BONKER, Mr. FREY, Mr. HEFTEL, Mr. PRESSLER, Mr. MADIGAN, Mr. PEASE, Mr. SCHEUER, Mr. WAXMAN, Mr. RANGEL, Mr. HARRIS, Mr. PRICE, and Mr. FORD of Michigan):

H.R. 11822. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NICHOLS (for himself, Mr. MITCHELL of New York, Mr. DAVIS, Mr. BEARD of Tennessee, Mr. WON PAT, Mr. BADHAM, Mr. LLOYD of California, and Mr. STRATTON):

H.R. 11823. A bill to amend section 1331 (c) of title 10, United States Code, to allow certain otherwise ineligible reservists to become eligible for retired pay, and for other purposes; to the Committee on Armed Services.

By Mr. PEPPER (for himself and Mr. WINN):

H.R. 11824. A bill to amend the Railroad Retirement Act of 1974 with respect to annuities for widows and widowers of certain railroad employees; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE (for himself, Mr. BRADEMAS, Mr. RODINO, Mr. REUSS, Mr. ST GERMAIN, Mr HAWKINS, Mr. MINISH, Mr. BEVILL, Mr. BIAGGI, Mr. CARNEY, Mr. YATRON, Mr. OTTINGER, Mr. MITCHELL of Maryland, Mr. RINALDO, Mr. BLOUIN, Mr. FLORIO, Mr. FORD of Tennessee, Mr. JENRETTE, Mrs. MEYNER, Mr. MOTTL, Mr. RICHMOND, Mr. TSONGAS, Mr. LE FANTE, Ms. MIKULSKI, and Mr. TUCKER):

H.R. 11825. A bill to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976; to the Committee on Public Works and Transportation.

By Mr. STEERS:

H.R. 11826. A bill to amend title XIX of the Social Security Act to make certain that individuals otherwise eligible for medicaid benefits do not lose such eligibility, or have the amount of such benefits reduced, because of increases in monthly social security benefits; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL:

H.R. 11827. A bill to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VENTO:

H.R. 11828. A bill to provide for the conservation, development, and use of the Nation's natural resources through the coordinated management of water and related land resources, through the establishment of an Office of Water Resources in the Office of the President, by providing financial assistance for State water management, and by providing for creation of interstate coordinating commissions; to the Committee on Interior and Insular Affairs.

By Mr. WALKER:

H.R. 11829. A bill to amend section 118(a) of title 28, United States Code, to provide for the holding of court for the Eastern District of Pennsylvania at Lancaster, Pa.; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON of California (for himself and Mr. RONCALIO):

H.R. 11830. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that any individual may elect (on an annual basis) to contribute to a private retirement plan rather than participating in the social secu-

rity program; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 11831. A bill to amend the Internal Revenue Code of 1954 to allow an individual a deduction for blood donations, and to allow an individual to take such a deduction whether or not he itemizes his deductions; to the Committee on Ways and Means.

By Mr. ZABLOCKI (for himself, Mr. FOUNTAIN, Mr. BINGHAM, Mr. STUDDS, Mr. BEILENSON, Mr. BROOMFIELD, and Mr. WINN):

H.R. 11832. A bill to authorize appropriations for fiscal year 1979 under the Arms Control and Disarmament Act; to the Committee on International Relations.

By Mr. CUNNINGHAM (for himself and Mr. BONKER):

H.J. Res. 815. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of Maryland:

H.J. Res. 816. Joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. SOLARZ, Mr. WOLFF, Mr. RANGEL, Mr. OTTINGER, Ms. CHISHOLM, Mr. GARCIA, Mr. BIAGGI, Mr. RICHMOND, Mr. BINGHAM, Mr. SCHEUER, Mr. UDALL, Mr. MURPHY of New York, Mr. FISH, Mr. ZEFERETTI, Mr. DOWNEY, Mr. CAPUTO, Mr. KOSTMAYER, Mr. MCHUGH, Mr. WEISS, Mr. LONG of Maryland, Mr. DENT, Mr. EDGAR, and Mr. ST GERMAIN):

H.J. Res. 817. Resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. ROSENTHAL (for himself, Mr. DELANEY, Mr. PATTISON of New York, Mr. STEERS, and Mr. AMMERMAN):

H.J. Res. 818. Joint Resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. ARCHER:

H. Con. Res. 548. Concurrent resolution expressing the sense of Congress that an import fee should not be imposed on crude oil; to the Committee on Ways and Means.

By Mr. BROWN of Michigan:

H. Res. 1106. Resolution amending rule XIII if the Rules of the House to require reports accompanying each bill or joint resolution of a public character (except revenue measures) reported by a committee to contain estimates of the costs, to both public and nonpublic sectors, of carrying out the measure reported; to the Committee on Rules.

By Mr. PATTERSON of California:

H. Res. 1107. Resolution relating to the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PRESSLER (for himself, Mr. D'AMOURS, Mr. EVANS of Delaware, Mr. JEFFORDS, Mr. MARLENEE, and Mr. MCKAY):

H. Res. 1108. Resolution expressing the sense of the House with respect to a reorganization of the Internal Revenue Service; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

347. By the SPEAKER: Memorial of the House of Representatives of the State of Georgia relative to prayer in public schools; to the Committee on Education and Labor.

348. Also, memorial of the Senate of the State of California relative to the recent terrorist attack upon Israeli civilians; to the Committee on International Relations.

349. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to opposing the sale of armaments to Egypt and Saudi Arabia; to the Committee on International Relations.

350. Also, memorial of the Senate of the State of New Jersey, relative to the sale of American weapons to Egypt and Saudi Arabia; to the Committee on International Relations.

351. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to Federal support of programs to eliminate tobacco use and production; to the Committee on Interstate and Foreign Commerce.

352. Also, memorial of the Legislature of the State of Kentucky, relative to withdrawing the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women; to the Committee on the Judiciary.

353. Also, memorial of the Legislature of the State of Kentucky, relative to applying the benefit/cost ratio to flood control projects; to the Committee on Public Works and Transportation.

354. Also, memorial of the Senate of the State of Connecticut, relative to maintaining the Stratford Weather Station; to the Committee on Science and Technology.

355. Also, memorial of the House of Representatives of the State of Hawaii, relative to proposed legislation to exempt State and local public pension plans from Federal taxation and reporting requirements; to the Committee on Ways and Means.

357. Also, memorial of the Senate of the State of New York relative to protection of the shore lines of Lake Ontario and the Saint Lawrence River; jointly, to the Committees on International Relations and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HAGEDORN:

H.R. 11833. A bill for the relief of Kyung Hee Kim, Dong Choon Kim, Dong Ho Kim; to the Committee on the Judiciary.

By Mr. MOORHEAD of California:

H.R. 11834. A bill for the relief of Kit Tung; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 11835. A bill for the relief of Dominic Mattiello; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

424. By the SPEAKER: Petition of the State Board of Agriculture, Sacramento, Calif., relative to controlling the Japanese bettle; to the Committee on Agriculture.

425. Also, petition of the president, American Numismatic Association, Fort McCoy, Fla., relative to issuing a commemorative coin for the Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

426. Also, petition of the American Board of Medical Specialists, Evanston, Ill., relative to the status of clinical graduate students in medicine; to the Committee on Education and Labor.

427. Also, petition of the Ambassador, Embassy of Guatemala, relative to the right of Guatemala over the Territory of Belize; to the Committee on International Relations.

428. Also, petition of the Lithuanian-American Council, Inc., and the Lithuanian-American Community, Inc., Waterbury, Conn., relative to Baltic States question before the United Nations; to the Committee on International Relations.

429. Also, petition of the Acting Governor, State of Kentucky, notifying Congress of her veto of the joint resolution to withdraw the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution, relative to equal rights for men and women; to the Committee on the Judiciary.

430. Also, petition of the Democratic City Committee, Cambridge, Mass., relative to extending the time limit for ratification of the Equal Rights Amendment to the Constitution; to the Committee on the Judiciary.

431. Also, petition of the Knights of Equity, Buffalo, N.Y., relative to consideration of House Resolution 88; to the Committee on Rules.

432. Also, Petition of the Don't Think Metric Association, Oklahoma City, Okla., relative to a resolution of the National Cowboy Hall of Fame and Western Heritage Center opposing the adoption of the metric system; to the Committee on Science and Technology.

433. Also, petition of the common council of the city of Rochester, Minn., relative to continuing existing Internal Revenue Service's actions to enable States and local governments to continue deferred compensation plans for employees; to the Committee on Ways and Means.

434. Also, petition of the New World Review, New York, N.Y., relative to peaceful coexistence, use of military funds, and human rights in the U.S. foreign policy; jointly, to the Committees on Armed Services, International Relations, and the Judiciary.

435. Also, petition of the Governor of South Carolina, relative to the position statement of 48 Governors regarding the use of nuclear power to meet energy demands; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7700

By Mr. MCCLOSKEY:

Strike section 12, beginning on page 21, line 1, through page 22, line 19.

By Mr. ALLEN:

Strike the word "levels" and substitute in lieu thereof the words "such levels below cost as would have the effect of undercutting the rates of, or": insert a comma after the word "against"; and insert after the words "private sector" the words "furnishing similar or comparable services and", so that the Nix substitute amendment to the Simon amendment will read as follows: "amounts sufficient to insure that rates for zone-rated parcels are not established at such levels below cost as would have the effect of undercutting the rates of, or which discriminate against, enterprises in the private sector furnishing similar or comparable services and engaged in the delivery of mail matter other than letters, and".

EXTENSIONS OF REMARKS

CONGRESSMAN PAUL SIMON PRAISES LEADERSHIP OF HOUSE AND SENATE BUDGET COMMITTEES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BRADEMAS. Mr. Speaker, I believe that Members of both the House and Senate will read with great interest the following newsletter, "P.S. Washington", by our distinguished colleague, the Hon. PAUL SIMON of Illinois, concerning the outstanding leadership given to the House and Senate Budget Committees by three other distinguished colleagues, the Hon. ROBERT GIAIMO of Connecticut, chairman of the House Budget Committee; the Hon. EDMUND S. MUSKIE of Maine, the chairman of the Senate Budget Committee; and the Hon. HENRY BELLMON of Oklahoma, the ranking minority member of the Senate Budget Committee.

Mr. SIMON's newsletter, a weekly column, follows:

BUDGET COMMITTEE LEADERS

"Can we make the budget process work?" is a question the chairman of the House Budget Committee, Rep. Robert Giaimo of Connecticut, often asks privately—and sometimes in public—as he sees the House and Senate occasionally act with almost no concern for the fiscal implications of its actions.

In 1974 Congress passed legislation creating the House and Senate Budget Committees, primarily with two purposes in mind: first, to restrain spending, and second, to set priorities.

The first of those two, restraining spending, we have worked on with limited success. For those who see the Budget Committees as failures in holding back spending, let me assure you that the deficit would be many billions greater were it not for the limiting factor of the Budget Committees. We may not have done all we should, but deficits have been reduced substantially and the fires of inflation have been dampened a little.

The second function of our committees—setting priorities—has not been grasped fully and probably will not be until the two committees start to go into five-year projections rather than one-year projections. That appears to be coming. (Rep. John Conyers of Michigan—not a member of our committee—has done more to prod us in the right direction or setting priorities than any other member of Congress.)

To the degree the House and Senate Budget Committees have been successful during my limited time on the House committee, the credit must go to three people: Rep. Robert Giaimo of Connecticut, Senator Ed Muskie of Maine and Senator Henry Bellmon of Oklahoma.

All three are well over six feet tall, but their stature in Congress comes from their courage and substance, not their height.

Giaimo, the son of Italian immigrant parents knows government expenditures from his seat on the Appropriations Committee where he specializes in the defense area. He is plain-spoken in his comments in debate and in private conversation with his colleagues. He is respected in the House, and his voice on issues is listened to, though often he and the rest of us on the Budget Committee get outvoted.

Muskie, long prominent on the national scene, needs no introduction But as chairman of the Senate Budget Committee he has found his niche, and the soft-spoken Maine accent conceals a basic toughness which his present post requires. He has emerged as one of the powerful figures in the Senate.

No less a contribution has been made by a quiet Oklahoma Republican Senator who is not widely known around the nation, but has shown amazing courage and leadership in Budget matters and in other areas. I mean no disrespect to my House colleagues when I say there is no counterpart to Senator Bellmon in the House.

If a secret vote were to be taken among Senators and House members of both parties on who in our two bodies is making a substantial contribution to the nation, Senator Bellmon's name would emerge high on the list—perhaps to the surprise of many who would look to those who get their faces on television more often.

There is no way the nation can adequately thank these three men. Their contribution has been—and continues to be—immense.

Perhaps I can say "thank you" in a small way by telling the people of Southern Illinois about them.●

CIVIL SERVICE REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. HAMILTON. Mr. Speaker, it is time to overhaul the civil service to make the vast Federal work force more competent, more efficient, and more responsive to the President's direction and the ordinary citizen's needs.

President Carter has just submitted to Congress the most sweeping reform of the civil service ever proposed. The initiative is the centerpiece of the President's Government reorganization program. He wants to make it easier to hire, assign, and fire Federal employees and to reward top civil servants who do their job well. As the President says, he is trying to put merit back into the merit system and the work ethic back into the public's business.

The present civil service code is a 21-volume tangle of obscure rules and regulations. Procedures for firing incompetent employees are so cumbersome that they are almost worthless to Federal managers. Since it can take up to 3 years to discharge someone for good cause, it is hardly surprising that only 223 people were separated from the Government for poor performance last year. A Cabinet Secretary recently told me that he simply could not get rid of a high-salaried, incompetent worker and had ordered that no task of any kind be assigned to the worker in the hope of shaming him into retirement. Promotion policies are just as bad. Pay raises have become virtually automatic. In 1977 only 600 persons were denied a merit increase out of millions who were eligible. Such promotion policies stifle initiative, reward mediocrity, and pay some bureaucrats very handsomely for doing very little.

The President's plan would create an elite corps of 9,000 top Federal managers who would trade job security for a chance at higher pay. The percentage of political appointees in such positions would remain as it is, but directors of agencies would have more discretion in placement. The plan would establish a fair and comprehensive system for protecting employees against abuses by splitting the Civil Service Commission into two agencies—one in the White House to manage the bureaucracy itself and the other an independent agency to protect employee rights and privileges—and by shielding dissident workers who "blow the whistle" on Government waste and corruption. The plan would also cut back to 10 years the lifetime advantages in hiring and job retention now given to nondisabled veterans and would eliminate the preferential hiring of senior military officers, making it more difficult for them to "double-dip." Finally, the plan would streamline rules for the hiring of women, minorities, and the handicapped and would permit more decision-making in agencies and regional Federal offices.

The adoption of the plan is by no means assured. In fact, the President has already negotiated for a year just to get his proposal before Congress. Other Presidents have tried to reorganize the bureaucracy without notable success, and they have quickly learned that many obstacles block the path to reform. Bureaucratic passions are aroused, various groups are unhappy with the weakening of their preferences, and many people fear that the effort to crack down on a small minority of shiftless or unproductive employees erodes legitimate rights and privileges. The plan does give Federal workers broader collective bargaining rights, but the unions are still divided on it. The only unshakable ally of the plan is the general public. Many citizens have become weary and resentful of a bureaucracy that forever costs more and yields less.

It needs to be emphasized that the real problem is the civil service, not the civil servant. Most Federal employees perform with integrity and their work is marked by competence and dedication. No one is more concerned than they with the Government's inability to deliver on its

promises. No one is more upset then they with the incompetent worker who tarnishes their image. The President's plan should be seen as a sincere attempt to improve the civil service, not as an attack on the civil servant. Federal employees should find their legitimate rights and privileges better protected under the plan, for surely the conscientious employee would benefit from a system that gave him high marks for a job well done. Only the incompetent employee would have less job security.

Few issues are more important than the competence of government. If people begin to see that the Government is trying to set its house in order, then some disillusionment with government may be dispelled. Consequently, I believe that the President's proposal is long overdue and should be approved. Because even the best organized government can only be as efficient as the people who work in it, this proposal may be one of the most significant to come before Congress in years. The plan may not be perfect, but Congress will have the chance to examine every line of it and make any changes that may be necessary. Given the choice between the bureaucracy as it is and the bureaucracy as it might be, I am hopeful that most Congressmen will vote for a change. If the plan were enacted, I would expect to see a more competent, efficient, and responsive Federal Government—perhaps even a Government worthy of the people it serves.●

CHILD HEALTH CARE PLANNING

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. JOHN L. BURTON. Mr. Speaker, I wish to take this opportunity to bring to the attention of this body, on behalf of the American Academy of Pediatrics, recent developments in the area of health planning. As you are well aware, amendments to the Health Planning Act of 1974 have been introduced in both the House and Senate, and subcommittee hearings on those bills have already been held.

The American Academy of Pediatrics prides itself for its response to the request in Public Law 93-641 for provider participation in the development of health systems plans, annual implementation plans and State health plans. The Academy feels that the following letter from Harry P. Cain, II, director, Bureau of Health Planning and Resources Development, Department of Health, Education, and Welfare, recognizes that fact, and it offers its services and resources for use in future health planning efforts.

The letter follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Hyattsville, Md., December 21, 1977.

To: Health Systems Agencies, State Health Planning and Development Agencies, Statewide Health Coordination Council.

Subject: Child Health Care Planning.

Recently some of my staff and I met with representatives of the American Academy of Pediatrics (AAP) regarding child health care consideration in the development of Health Systems Plans and Annual Implementation Plans. The purpose of this program information letter is to acquaint you with the AAP's interest in working with us in implementing the health planning program.

In response to the National Health Planning and Resources Development Act, the Academy developed two documents for its member AAP Chapters concerned with child health planning:

"A Handbook on Child Health Planning for AAP Chapters."

"A Sample Child Health Plan for AAP Chapters"

These documents have been disseminated to the individual AAP Chapters throughout the country. AAP officials stated that they believe that most of their Chapters will want to participate in planning for child health services and that the Chapters may be willing to make these documents available to the HSAs. They may be willing to help in other ways as well; for example, they can serve as a resource for data and information on child health in their area.

We have reviewed the two documents and while they do not conform in their entirety to our guidance on plan development, (nonquantifiable goals are used), and while many may disagree with some recommendations, we think you may well find the documents useful. We also encourage you to take advantage of the AAP's interest in plan development activities.

The Academy provided us with a list of the names and addresses of each AAP Chapter Chairman. A copy is enclosed for your reference.

Finally, I wish to take this opportunity to remind you that health plans must be responsive to the unique needs of the residents of the area for which the plans are developed. In providing guidance on this requirement, the Bureau has made every effort to ensure that planning agencies have the flexibility required to develop plans which respond to local or State priorities and needs. When identifying the unique needs of your area, I urge you to consider the special needs of children. I am sure we all agree that this population subgroup's health status and health service requirements deserve careful thoughts.

HARRY P. CAIN II, PH. D.●

PHILADELPHIA PORT AREA DEVELOPMENT GROUP ENDORSES MORE FUNDING FOR NAVIGATION PROJECTS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. EDGAR. Mr. Speaker, Mr. William Lewis, a resident of Springfield, Pa., has brought to my attention views of an area port development group with respect to funding of five navigation projects. This group is the Joint Executive Committee for the Improvement and Development of the Philadelphia Port Area, and is chaired by Paul Lane Ives, Jr. The committee is the voice of 21 civic and trade associations for the promotion of navigation improvements in the Philadelphia port area. Member organizations include the Delaware County Chamber of Commerce, the Delaware Valley Council, and the Port of Philadelphia Maritime Society. Organized in 1888, the committee has encouraged Delaware River navigation projects, and projects on river tributaries and on the Chesapeake and Delaware Canal.

I would like to share the views of the committee with my colleagues:

The Ports of Philadelphia rank first among East Coast ports in international waterborne commerce handled and second among these ports in number of ship calls. In 1977 it is estimated that the Port handled over 77 million tons of international cargoes. During the same period 4,339 merchant ships called at the Port. This activity generated an estimated $3 billion into the economy of the tri-state Delaware Valley region.

The following table outlines those navigation projects which we consider to be inadequately funded; indicating the amounts now in the FY 1979 budget and the amounts which we recommend be added to insure that waterborne commerce to this port area continues to move in a safe and expeditious manner:

Project	Fiscal year 1979 budget	Additional amount needed
Delaware River, Philadelphia to the Sea	$9,483,000	$8,600,000
Delaware River, Philadelphia to Trenton	1,543,000	520,000
Chesapeake and Delaware Canal	6,286,000	2,895,000
Wilmington Harbor	902,000	500,000
Delaware River Dredging Disposal Study, Pa., N.J., and Del	100,000	25,000
Total	.....	12,540,000

Included in the monetary benefits derived from port operations are those funds collected by the Federal Government as a result of Customs collections on waterborne commerce. In 1977, U.S. Customs collections at the Ports of Philadelphia reached an all time high of $260 million. Obviously, in order to keep the Ports of Philadelphia fully operative in the light of the increasing size of vessels using its waterways, it behooves the Federal Government to also protect its monetary interest in this Port by appropriating the additional $12.54 million requested herein.

PHILADELPHIA TO THE SEA

No funds have been provided in the FY '79 Budget for maintaining the two principal Delaware River anchorages—Marcus Hook and Mantua Creek—used by deep laden petroleum and chemical tankers and ore and other bulk carriers. These anchorages were authorized by the Congress in 1958 for the safety which they offer to deep draught vessels that transit in a relatively narrow and sometimes congested ship channel. A vessel scheduling her transit on the rising tide, as ninety percent of these vessels must, cannot anticipate conditions, perhaps as much as 130 miles upriver—fog can set in, engine or steering problems can occur, and a northwest wind will tend to reduce the depth of water available. These are all unknowns which may be encountered and which create hazards to the vessel and her crew.

A study recently conducted by The Philadelphia Maritime Exchange disclosed that 20 percent of Delaware River ship traffic carries draughts 36 feet or deeper. Vessels carrying draughts in excess of 36 feet cannot now utilize a Dealware River anchorage because they are not being maintained to project dimensions. Needless to say, such risks should not be acceptable, nor justified on the basis of economic terms.

The Philadelphia District, U.S. Army Corps of Engineers, has a capability to utilize $5,900,000 for maintenance dredging of Marcus Hook Anchorage to its full project dimensions. The Corps also has a capability of

$1,700,000 to perform maintenance dredging of Mantua Creek Anchorage to a depth of 37 feet over a 1400 foot width. While neither the depth nor width in the latter anchorage is satisfactory to meet full safety needs on the Delaware River, this would improve on the present situation, and we strongly urge that the necessary steps be taken to add these sums to the President's Budget.

In addition to the need for the vitally important anchorage funding, we should like to recommend that an additional $1,000,000 be appropriated under this project to cover additional hopper dredging.

DELAWARE RIVER, PHILADELPHIA TO TRENTON

This project, in the vicinity of Tioga Marine Terminal, was first requested in 1966 and authorized in 1976. It provides for dredging of a maneuvering area and a turning area adjacent to the existing 40 foot channel. The maneuvering area and turning area would be 36 feet deep. There are no funds in the President's FY 1979 Budget for this work. The Corps' FY 1979 capability for this work is $60,000.

There is an urgent need for modification of this approximately one mile area to permit ships to turn safely into and out of the busy Tioga Terminal and to accommodate the substantial volume of through traffic. The construction of the maneuvering area was accomplished by local interests during the time the site was being constructed for the Tioga Marine Terminal. Only minor construction remains, primarily in the turning basin area.

This is an exceptionally busy segment of the Delaware River. Waterborne commerce statistics issued by the Corps of Engineers indicate that in 1976, the latest year in which statistical information is available, 15,626,657 tons moved over the waterway between Allegheny Avenue and Trenton. During 1977, Tioga Marine Terminal handled 528 vessels and 1.117.000 tons of cargo. Container traffic for 1977 increased 24.7% over the prior year and there is every indication that the growth will continue. Because of the inordinate delay toward the achievement of the modification, the port is in danger of losing the operators of the new and larger containerships which are coming on the water in greatly increasing numbers. The channel at Tioga Marine Terminal is 400 feet wide but the containerships are approaching lengths of 1000 feet.

The Joint Executive Committee recommends an appropriation of $60.000 in the Corps' FY 1979 Budget to permit initiation of the necessary design work which must precede construction.

Also, we respectfully ask that an additional $440,000 be appropriated for this project for maintenance dredging of the upper river. This will permit the Corps to fully meet its capability in order to properly maintain this busy section of the waterway.

CHESAPEAKE AND DELAWARE CANAL IMPROVEMENT PROJECT

A ship will save 294 nautical miles using the Chesapeake and Delaware Canal during a transit from Philadelphia to Baltimore. In terms of hours, a ship transit via the Canal is accomplished in approximately eight hours compared to approximately twenty-six hours if the vessel was to use the "outside" route between the two ports. These are highly significant savings and when the project to deepen the waterway from twenty-seven feet to thirty-five feet and widen it from two hundred and fifty feet to four hundred and fifty feet was authorized in 1954, it was determined that the savings to justify this construction were twice the anticipated costs.

Construction on the C & D Canal improvement project began in 1962. The modernization program provides for a channel depth of 35 feet and a 450 foot width over the full length of the Canal. The project is now nearing completion, following an expenditure of $99.6 million. However, environmental objections to overboard disposal have delayed this important project for several years. As a result, minimum depths in the 35' western approach channel have deteriorated to 26'. At this limited depth, the Canal is only marginally functional for moderate sized vessels and actually non-functional for many of the larger containerships that dominate in the general cargo trades.

There is considerable optimism that in the year ahead environmentalists will accept a program to allow expansion of overboard disposal areas; permitting dredging to at least 32 feet in Fiscal Year 1979. With this in mind, we urge the Congress to appropriate an additional $2,400,000 for contract maintenance dredging in upper Chesapeake Bay.

Following an investment of nearly $100 million, the controlling depth for a ship passage through this wateway is approximately 26 feet. This is no more than the depth available to shipping back in 1962 when work on the improvement project began. Although the improvement project was justified on the basis of a 2:1 benefit/cost ratio, the benefits cannot be realized until the project is completed. We strongly urge the Congress to appropriate all necessary funding in order to bring this project to a speedy conclusion.

Other important work associated with this project that has not received funding in the FY '79 Budget is the following:

Repairs—Night Lighting System	$250,000
Construction—TV/Microwave Tower	75,000
Dredging Contract—Chesapeake City Anchorage Basin & Delaware City Bridge Channel	170,000

While not as important as the maintenance dredging in the western approach channel, these items are necessities to insure maximum efficiency in the operation of this multimillion dollar project. We therefore urge their inclusion in the appropriation figure.

WILMINGTON HARBOR

No funds have been provided in the President's FY '79 Budget for the badly needed rehabilitation of Wilmington Harbor's sheet pile bulkhead. Continuing deterioration of the bulkhead will contribute to the Harbor's siltation problem. Therefore, the anticipated savings to be gained by not performing this work will have been lost as a result of the additional dredging required to maintain this project's 35' channel; surely a self-defeating effort.

We urge that $500,000 be added to the President's FY '79 Budget and which we understand is the amount that the Corps can effectively use to complete this work.

DELAWARE RIVER DREDGING DISPOSAL STUDY, PA, NJ AND DE

This study was started in Fiscal Year 1978 with an initial appropriation of $75,000. While the President's Budget for Fiscal Year 1979 contains $100,000 for this study, the Philadelphia District has a capability of $125,000.

The purpose of the study is to develop a regional dredging spoil disposal plan for the tidal Delaware River, its tidal tributaries and Delaware Bay including designating specific disposal sites which may be used with minimum degradation of the natural environment.

Obviously, the most essential element and indeed the capstone of the entire port economy rests with the ability to dredge and to dispose of the dredge material. The implications involving this study are too important to tolerate a reduction in relatively minor study costs.

We are told that existing Delaware River spoil disposal sites are now reaching their capacities; some having a remaining life of no more than five years. We therefore urge that an additional $25,000 be appropriated for this most vital study.●

PANAMA DEFECTOR DENOUNCES CANAL TREATIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. McDONALD. Mr. Speaker, many thoughtful Panamanians fear and oppose the proposed treaties. They realize that the treaties are politically unpalatable to most Americans and they also know the passage of both treaties will cement a left-wing dictator in power for the rest of his natural life. Thoughtful Panamanians are appalled at the blackmail exercised by Torrijos. Lieutenant General Graham wrote an astute column on this matter in the Washington Weekly for Thursday, March 16, 1978, based upon his interviews with a Panamanian defector. The column follows:

PANAMANIAN DEFECTOR DENOUNCES CANAL TREATIES

Recently I interviewed Senor Alexis Watson-Castillo, an important former member of the Panamanian dictator Torrijos regime, who had engineered a bold and harrowing escape from Panama. Watson-Castillo and his wife were under threat of death for having refused to participate in the murder of three Panamanians exiled in Costa Rica and alleged cooperation with CIA. This courageous couple brazened their way through Torrijos guards and boarded a jet to the United States with nothing but the clothes on their backs and $20 in their pockets.

Watson-Castillo had held important positions in the Torrijos regime—chief of the Human Resources Department, Budget Accountant, and agent of the dreaded G-2 of the Guardia Nacional. From those positions he was able to observe and report on the viciousness and other corruption of the Torrijos regime. He provided final proof of the involvement of Torrijos in drug traffic, having observed the dictator and his cronies dividing up huge profits from the drug traffic.

He has first-hand knowledge of the rake-offs of Torrijos and the officers of the Guardia Nacional from gambling, prostitution and shakedown of businessmen. He has the details of the murder of the Catholic priest Collegas, who had the audacity to criticize the regime. He knows that the officers of the Guardia have already divided up the land and the houses in the Canal Zone among themselves. His attractive wife testifies to having been striped naked by Torrijos thugs and paraded before drunken guards in a Panamanian jail. She also testifies to seeing Torrijos' prisoners hung from the ceiling by their wrists.

As far the proposed treaties, Watson-Castillo insists they will do the Panamanian people a gross disservice. They will make Torrijos and his gang dictators for life. As a Panamanian, he believes there should be a new treaty with the U.S., but not with such a regime. As he put it, "It is unbelievable to me that a country as large and powerful as the United States could be blackmailed by Torrijos." In his view, the already powerful communist influence in Panama will become total once the treaties are ratified and that Torrijos will arrange for the Soviet Union to replace U.S. subsidies and technicians required to operate the Canal. When this happens, all hope for political freedom in Panama will disappear, and de facto control of the Canal will be in the hands of Castro and the USSR.

Watson-Castillo was very forthright in his testimony and eminently believable. But I

did not rely on my subjective judgment in this matter. The entire testimony was monitored by two of this country's leading experts in lie-detection techniques. Senor Watson-Castillo passed the lie-detection tests with flying colors. He speaks the truth.

The testimony of this courageous Panamanian should give pause to those senators who would, by ratifying the Panama Canal Treaties before them, perpetuate the Torrijos regime. If ever there was a chance for the United States to remove a terribly oppressive regime from the backs of a small country, we have it now. If the treaties are not ratified, the Torrijos regime will almost certainly fall of its own rottenness. We could then hope to renegotiate more reasonable treaties with a respectable government of Panama. Since Torrijos states that he would hold elections in August, let us call that bluff and wait until he does before acting on these treaties.●

SALUTE TO JOSEPH TOMLIN

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House to honor a great American and Philadelphian, Joseph J. Tomlin, Founder-President of Pop Warner Football League.

Joseph was born on October 19, 1902, in Shenandoah, Pennsylvania, moving to Philadelphia with his widowed mother in 1908. In a commitment to neighbors and community rarely seen in today's often transient society, Joe still lives in the same house that his stepfather built in 1908, at 3664 Richmond Street in the Port Richmond section of Philadelphia.

In the year 1929, one of the few good things that came out of the year of the great depression, was the junior football league founded by Joseph Tomlin. This league was renamed the Pop Warner Conference in 1933 when Glen Scobie "Pop" Warner came to Philadelphia to coach the then powerhouse Temple Owls. Warner and Tomlin became close friends; a friendship which helped develop an organization which would help countless youngsters throughout the world.

The Pop Warner Conference has become the largest football program in the United States and is perhaps the first to bring safety concepts of age/weight matching of youngsters to this sport. By 1959, the Pop Warner Conference had become a national headquarters for leagues throughout the country. The name Pop Warner Little Scholars was chosen to put emphasis on scholastic attainment which was always a hallmark of the Local Pop Warner Conference. The program today represents over 6,000 teams in the United States and Mexico, with projects underway to bring youth football to Japan and Saudi Arabia.

Among the many awards Joe Tomlin has received, the one which I am sure he cherishes the most, is the Stagg Award presented in 1955 by the American Football Coaches Association (AFCA). The AFCA is the national organization of all collegiate coaches. This presentation was the first and only time the college coaches presented their most prestigous award to a person who was not a college football coach.

Yet, despite the enormous amount of time which Joe Tomlin has devoted to the Pop Warner Conference, he has still found time to become involved in many other youth programs, including roles a co-founder and director. Among these organizations are Little League Baseball, All American Amateur Baseball Congress and the Sandlot Sports Association. Joe is still on many boards today, both locally and nationally.

On behalf of a justifiably proud city of Philadelphia, and the thousands of kids all over the world who have benefitted from the athletic competition and coaching promoted by the Pop Warner League, the House of Representatives salutes Joseph Tomlin.●

WHERE IS THE NATIONAL COMMISSION ON AIR QUALITY?

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. CEDERBERG. Mr. Speaker, the Clean Air Act Amendments of 1977 became Public Law 95–95 on August 7, 1977, with the signature of the President. Section 323 of this law calls for the establishment of a National Commission on Air Quality.

Congress specifically established this Commission to study alternative methods of carrying out the purposes of the Clean Air Act; and the economic, technological, and environmental consequences of achieving or not achieving them. This Commission is essential for examining whether the levels which the Environmental Protection Agency is seeking represent an appropriate balance among other national goals such as employment and energy efficiency.

This type of commission has a proven, successful track record. In the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500), a National Commission on Water Quality was created to undertake a similar study in the area of water quality. Based on the report which this Commission published, important changes were incorporated into the Water Pollution Control Act Amendments of 1977 (Public Law 95–217).

The Air Quality Commission is to be composed of 11 members, including the chairman and ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce or their delegates. The seven members of the public are to be appointed by the President, by and with the advice and consent of the Senate.

It is now 9 months since the President signed the Clean Air Act and none of seven public members have been appointed. This is particularly alarming when it is recognized that the law required the Commission to submit its first report to Congress by March 1, 1978.

Because of my concern over the clear lack of action on the part of the President in appointing the public members to this important Commission, I wrote to the President on March 17, 1978, urging his immediate attention to this important duty. I have received a response indicating that tentative selections for the Commission have been made pending necessary clearance and conflict-of-interest procedures.

In light of the critical nature of the work to be done by the National Commission on Air Quality, I hope that an official announcement of the appointment of the seven public members, which for reasons unknown has taken so long, will be made soon.●

CLAYTON FRITCHEY ON SADAT'S HARD LINE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BINGHAM. Mr. Speaker, I am pleased to see reports from the Middle East which indicate that Israel and Egypt are continuing their direct contacts. It is important that the United States do everything in its power to encourage those contacts without thrusting itself into the midst of the negotiating process.

The administration during the past few weeks has appeared to be openly associating itself with the Egyptian negotiating position in a way that is alarming to friends of Israel in the Congress. There has clearly been pressure on Israel to compromise on key points but no parallel pressure on Egypt. This is despite the fact that President Sadat has refused to submit a counterproposal to Prime Minister Begin's peace proposal and continues to insist that, in return for his visit to Jerusalem, the Israelis accept all the longstanding Egyptian demands. Unfortunately the press has, for the most part, focused on the alleged inflexibility of Prime Minister Begin while ignoring the fact of President Sadat's obduracy.

In Saturday's Washington Post columnist Clayton Fritchey asks that we "pause and check the record" before we all "accept the notion that Egyptian President Sadat is the 'world's foremost peacemaker' while Israeli Prime Minister Menachem Begin is the opposite." As usual, columnist Fritchey cuts through the prevailing myths and demonstrates just how far they are from the realities of the situation. I hope that Clayton Fritchey's suggestion that we "pause" before we judge Prime Minister Begin is widely heeded.

A PAUSE IN JUDGING BEGIN

Before we all accept the notion that Egyptian President Anwar Sadat is the "world's foremost peacemaker," while Israeli Prime

Minister Menachem Begin is the opposite, it might be well to pause and check the record.

If, as now seems improbable, there should be a resumption of the aborted peace talks between Egypt and Israel, it will largely be due to the willingness of a supposedly unbending Begin to send his defense minister to Cairo in the hope of persuading Sadat to negotiate again. Meanwhile, it should be kept in mind that it was Sadat, not Begin, who first broke up the peace negotiations that developed in the wake of the Egyptian leader's trip to Jersusalem and the Israeli leader's return visit to Ismailia.

Sadat, on Jan. 18, abruptly terminated the efforts of a special joint Egyptian-Israeli political committee to negotiate a new compromise agreement. It was a surprise, not only to the world, but even to Sadat's own negotiating team, especially in view of the hopeful progress that the Political Committee had reportedly made.

The reasons for Sadat's peremptorily recalling his representatives from the Jerusalem talks are still in dispute. He simply blamed Israeli "intransigence." In the diplomatic world, however, the more accepted view was—and still is—that the Egyptian president wanted time to soften up Israel by first precipitating American pressure on Begin for more concessions.

It now seems doubtful that Sadat ever took seriously the talks he torpedoed. Four days before the negotiators were to convene. Sadat was saying in Cairo that he had "absolutely no hope" that the joint Political Committee would achieve anything. He also indicated that he was already planning a "different strategy."

That statement was synchronized with personal attacks on Begin in the Cairo press, where he was insultingly referred to as a "Shylock." Sadat likewise became personal, saying, "My initiative for peace is not the King David Hotel, which Begin blew up in his youth."

The scornful reference was to Begin's underground activities in the Irgun resistance forces before Israel's independence. The Irgun blew up a wing of the King David Hotel in Jerusalem, where the British military had its headquarters during the Palestine Mandate.

There was no reason for Sadat to be surprised at the position taken by Israel at the Jan. 18 Political Committee discussions, for the Egyptian leader had been fully advised of Begin's views well before he flew to Jerusalem on Nov. 19 for his now famous appearance before the Israeli Parliament.

When Sadat, last Nov. 8, let it be known that he would be willing to visit Israel, Begin quickly extended him an invitation, but in doing so he said, "Israel categorically and absolutely rejects the conditions named by President Sadat—i.e., total withdrawal to the June 1967 lines and the establishment of a so-called Palestinian state."

Nevertheless, Sadat still chose to go to Jerusalem, but, as can be seen, he went with his eyes open. Likewise, when he later sent his representatives to the joint peace talks, he knew in advance what conditions the Israelis would present.

Moreover, he knew by then that Begin was more flexible than he had been pictured. When the Israeli prime minister went to Ismailia in December to see Sadat, he took with him an offer that had been checked with President Carter, who saw it as a "long step forward" and a "constructive approach."

Although Begin maintains that U.N. Resolution 242 does not require Israel to give up the territory it has occupied since winning the 1967 war, the peace plan he took to Ismailia offered to give back to Egypt nearly all the land it had lost.

As to Judea and Samaria on the West Bank, Begin suggested that for the first time in history the Palestinian Arabs residing in those areas be given self-rule. As Begin said, that has no precedent. And he added:

"For centuries, the Palestinian Arabs were directly ruled by the Turks, then by the British, and then for nearly two decades by the Jordanians in the East and by the Egyptians in the South. It never occurred to either of the two latter ruling Arab regimes to offer autonomy to the Palestinians. It is Israel which suggests self-rule for the first time in the context of an administrative autonomy that will enable the Palestinian Arabs to freely run their daily lives."

All that was made known to Sadat at Ismailia, where, Begin says, he heard "encouraging expressions" from the Egyptian president, who then readily agreed to the establishment of the joint negotiating committee.

"We parted in warm friendship," Begin says, but only a few weeks later, Sadat, with no warning to Begin or anybody else, killed the negotiations and launched his campaign to get the United States to turn the screws on Israel.

Yet, in the face of this, it was Begin who only a few days ago began a new effort to revive the aborted peace talks with Egypt. It is not hard to see why the Israeli prime minister has just won a new vote of confidence from his Cabinet and the Knesset.●

BYELORUSSIAN INDEPENDENCE DAY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BLANCHARD. Mr. Speaker, March 25 marked the 60th anniversary of the independent Byelorussian National Republic.

Sadly, we note that the independence of the Byelorussian people was short-lived as the Soviet Union reoccupied the territory within a year after the proclamation of independence was signed on March 25, 1918, in Minsk.

The Byelorussian people have fought bravely in attempting to break the shackles of Soviet oppression and regain their freedom. Armed uprisings took place in 1920 and 1922, and Byelorussian independence was very briefly proclaimed again in 1944, before yet another Soviet takeover. Under Soviet occupation the Byelorussians have been deprived of the most basic religious and political freedoms, and have endured harsh persecutions and attempts at russification.

Yet, they are a strong people with a fervent will to succeed in their quest for freedom and a lasting independence. There exists a firm and unceasing conviction that the forces of justice and human rights can win out over Soviet domination and oppression.

In recent years the Soviet Union has attempted to counteract the growing ties between America and the Byelorussian people through the use of propaganda that denigrates life in America, while at the same time stressing totalitarian dogma. We cannot allow such falsehoods to go unchallenged. The voice of freedom must penetrate the barriers of censorship, for only by speaking out can we enable the truth to be heard.

I salute the valiant spirit of the Byelorussian people and pledge my full support for this noble cause. I hope that my colleagues will join with the more than 1 million American citizens of Byelorussian descent in this fight for freedom.●

PRAISE FOR MISSISSIPPI'S VOICE OF DEMOCRACY WINNER

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MONTGOMERY. Mr. Speaker, I am extremely pleased and honored to be able to include the remarks of Miss Alicia Mathis, of Stonewall, Miss., who is the State winner of the Voice of Democracy contest. Sponsored by the Veterans of Foreign Wars, the contest plays an important role in helping to make our Nation's young adults more aware of their responsibilities as citizens and the freedoms we enjoy as a democratic country. Miss Mathis is the daughter of Mr. and Mrs. Horace Mathis and a student at Quitman High School. I urge my colleagues to read Miss Mathis' winning essay and take to heart her admonition that all Americans should be active participants in government.

The essay follows:

1977–78 V.F.W. VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

Birds flying through the air unhindered, a stream running swiftly down a mountain pass, dusk quietly falling, peace . . ., the epitome of America! This picture is in violent contrast to what a country could be, and what many countries are. Instead of the freedom of the birds, citizens are forced to be under constant surveillance. The quiet of the evening is continuously rent by the deafening roar of exploding artillery. In opposition to velvety green meadows is the blood red stains of the battlefields. And yet, many people ask, "Do I have a responsibility to America?"

My responsibility is deeply rooted in America's past. The first colonists in this country laid the foundation for America's democratic form of government. The patriots of the American Revolution built on that foundation, using blood as mortar and determination as bricks. Decades later, the union they had fought so hard to obtain was threatened by civil war. But, one hundred years had not killed the patriotism burning within many Americans. With more blood and more tears our free form of government was reinforced to stand taller and firmer than ever. Although peace reigned on American soil for many years, democracy was threatened across the ocean many times. Each time, Americans heard the cry for freedom, and fought and died so that an overseas threat could never harm their beloved homeland.

To these people who gave their time, their hopes, their prayers, their lives, I owe a great debt. I am obligated to uphold American democracy with the same fervency that past citizens have done. They must not have died in vain!

The preamble to the Constitution of the United States says that the document was written "... in order ... to secure the blessings of liberty ... to our posterity ..." I feel that I owe my children the same free environment as the one in which I have lived.

Future citizens of the world should have the opportunity to experience living at its fullest, which can only be enjoyed in a democratic society.

Also, I have a very grave responsibility to myself to preserve the liberty that is mine today. America should remain a strong, steadfast, and God-fearing nation. Otherwise, her decrease in strength and power will cause me to lose the liberty that is so important to me. Apathy and indifference must not take control of America. It is my duty to see that such a state of affairs never exists. One way of accomplishing this is to always maintain an active interest in the government. Voting is the most obvious way of exercising my political rights. But also, as an informed citizen I can contribute to the running of America by voicing my opinion. Freedom of speech and press gives unlimited opportunity for my letting the world know what I think. Because America is a representative form of government, it is important that I tell the elected officials my views on issues. I am a part of the people being represented. It is not enough to have a democracy. Each individual must use the voice he has been given. It is my responsibility to see that my voice does not remain idle, but speaks out for justice and freedom. In that way, my obligations to my country will be filled, and America will not be just a large piece of land, but a part of myself.●

U.N. SECURITY COUNCIL REPROACHED FOR UNFAIRNESS TO BISHOP MUZOREWA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MAZZOLI. Mr. Speaker, I have been a long time supporter of the United Nations. I have defended it on many occasions.

The United Nations provides a responsible and civil atmosphere in which all the nations of the world—with all their varing ideologies—can air their disagreements and debate the overriding global issues.

However, I am appalled at the recent actions of the U.N. Security Council with respect to Bishop Abel Muzorewa of Rhodesia—soon to be Zimbabwe.

When the council shut its door to Bishop Muzorewa, it shut its door to a legitimate spokesman and leader of his nations. And, the Security Council, by its unexpected actions, rejected the concept of freedom of speech which has been a foundation block of the United Nations.

No matter what his political philosophy, no matter what his ideology or motivations, Bishop Muzorewa should have been extended the opportunity to present his case before the Security Council.

I bring to the attention of my colleagues the following editorial which appeared in the Christian Science Monitor of March 13, 1978:

MUZZLING MUZOREWA

"Deplorable," said America's UN Ambassador Andrew Young. "Thoroughly regrettable and totally wrong," said Britain's UN Ambassador Ivor Richard. We could not agree more with such condemnations of shutting the Security Council door to Bishop Abel Muzorewa of Rhodesia.

As one of three black leaders who signed a majority-rule agreement with Prime Minister Ian Smith, the Bishop wanted to present his case as opponents of the agreement have been permitted to do. It defied all the rules of fair discussion for him to be blocked by the prospect of a majority of the council giving in to the demands of Africans who denounce the agreement as a fraud.

It may turn out to be a fraud, a risk Bishop Muzorewa and his colleagues are taking by going it alone with the Smith regime. Certainly the agreement's political provisions based solely on race are contrary to United Nations principles. And in practical terms any transition to majority rule would be difficult without the participation of the Patriotic Front guerrilla leaders, Joshua Nkomo and Robert Mugabe. Their pressures contributed to Mr. Smith's belated move, and they are supported by the front-line African nations neighboring Rhodesia.

But the agreement is a major step forward in Rhodesia's internal politics. The way to build on it or replace it by something such as the long-pending Anglo-American plan is not to suppress discussion but to encourage it. Indeed, the African opponents who term the agreement a black sell-out to Prime Minister Smith only make themselves look fanatical and undependable by such tactics as denying Bishop Muzorewa the UN forum given to Messrs. Nkomo and Mugabe. If they clamp down on free speech even at the UN what confidence do they inspire about preserving free speech should they come to power in Rhodesia?

Not much. The longer the opponents of the agreement behave in this matter the better the supporters of the agreement will look.●

BOY'S TOWNS OF ITALY TO HONOR YOUNGSTOWN, OHIO, MAYOR PHILLIP RICHLEY AT BENEFIT DINNER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. CARNEY. Mr. Speaker, on Sunday, May 7, 1978, a dinner and dance will be held for the benefit of the Boy's Towns of Italy at Powers Auditorium Grand Lobby in Youngstown, Ohio. Over 2,400 Youngstown area residents of all religious faiths are expected to attend.

Mayor J. Phillip Richley of Youngstown will be the honored guest at the event, and he will receive a special award from the founder of Boy's Towns of Italy for his outstanding work and contributions to the organization.

Presenting the award will be Msgr. John Patrick Carroll-Abbing, the remarkable Irish priest who founded Boy's Towns of Italy over 30 years ago.

Patterned after the American Boys Town, Msgr. Carroll's initial emergency program in 1944 assisted more than 200,000 destitute children in war-torn Italy. With the aid of contributions from Americans and Italians of all religious faiths, Boy's Towns of Italy has grown to include 40 day schools, a Girl's Town, and 9 Boy's Towns, all of which provide scholastic and vocational training to needy Italian children.

The boys at the Boy's Towns of Italy exercise self-government—with secret ballot elections for their own mayors, finance, public works, sanitation, and education commissioners. In addition, residents earn their own way by performing after-school chores in exchange for Boy's Town currency. The Boy's Town economic system teaches the boys responsibility by allowing them to purchase food, clothing, and supplies from their own stores, and to save at their own banks. A graduate of Boy's Town of Italy is a responsible, productive, well-trained, and well-educated member of society.

Statesmen and journalists have long praised the Boy's Towns of Italy. The late President Kennedy said:

From its modest beginning, this movement has, in a relatively short time, become a truly realized ideal and a model for those in the world who would endow a coming generation with hope and courage.

Clearly, the Boy's Towns of Italy program will pay dividends in good citizenship for generations to come. As one who will be present at the upcoming dinner and dance in Youngstown, I believe that everyone associated with this enterprise deserves the commendation and support of each of us.●

THE 60TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MINISH. Mr. Speaker, during the Easter district work period, the 60th anniversary of Byelorussian independence was marked. I am pleased at this time to pay tribute to the brave and freedom-loving people of Byelorussia.

During the late 19th and early 20th centuries a distinct Byelorussian culture asserted itself within czarist Russia. Despite strong opposition and constant harassment by the central government, books and newspapers were published in the Byelorussian language, a Byelorussian theater was established and a Byelorussian political party took shape.

World War I provided the Byelorussians with the opportunity to establish their national independence. Shortly after the Russian March Revolution of 1917, a congress of the Byelorussian Socialist Hromada was called in Minsk, Byelorussia's major city. The Congress called for the reorganization of Russia as a federative state with Byelorussia enjoying autonomous status. Soon after, a democratically elected congress of delegates adopted a resolution endorsing the right of self-determination for all people.

Before the congress adjourned, however, the Bolsheviks, who had seized power in Russia in November 1917, surrounded the building where the meeting was being held and disbanded the congress with a display of armed power. By this action, Byelorussia became one of the very first victims of Communist aggression.

More favorable conditions prevailed when the Germans occupied Byelorus-

sia after February 1918. On March 25, 1918, the Rada of the Byelorussian National Republic solemnly declared their independence and published an official decree to that effect.

Despite great difficulties imposed by the war and its consequences, the Byelorussian Government made significant advances in the fields of education, culture and social welfare. The new government was also active internationally, and sought and received recognition from numerous countries.

Byelorussian independence, sadly, was short-lived. On December 10, 1918, the Communists seized Minsk and set up a puppet government. With the Treaty of Riga in 1921, Byelorussia was divided between Poland and the Soviet Union.

Mr. Speaker, to this day the Byelorussian people have not been subdued by their Communist overlords. Tactics of deportation, executions, purges and terrorism have failed to dampen their belief in freedom and self-determination. I salute the brave Byelorussian people and pray that their goal of national liberation is soon realized.●

WATERWAY USER FEES

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. WALGREN. Mr. Speaker, I received recently a copy of Pennsylvania House Resolution Number 118 which was adopted by the Pennsylvania House of Representatives on July 12, 1977, and by the Senate on March 6, 1978.

This resolution expresses the opposition of the Pennsylvania General Assembly to the passage of an inland waterway user fee and the linking of the authorization of locks and dam 26 to the passage of the inland waterway fee.

I commend this resolution to my colleagues for their consideration.

HOUSE RESOLUTION No. 118

In the House of Representatives, June 15, 1977.

Whereas, The Congress of the United States has before it Senate Bill 790 which, if enacted in its present form, would mandate an inland waterways user fee in addition to providing for the replacement of a certain dam and locks; and

Whereas, Such user fee is in reality a tax upon the use of inland waterways, the imposition of which would raise the cost of water transportation; and

Whereas, Inland waterways provide the most energy efficient means of transportation; and

Whereas, The United States Department of Transportation reports that in terms of ton miles carried per gallon of fuel oil or gasoline consumed, a gallon will move 300 ton-miles by water, but only 180 ton-miles by rail and 50 ton-miles by truck; and

Whereas, Every ton taken off the river will end up in either a train or a truck thus increasing the Nation's energy consumption; and

Whereas, Inland waterway transportation causes less air and noise pollution as well as having the best safety record; and

Whereas, The iron, steel and other industries in the Pittsburgh and western Pennsylvania area are dependent to a great extent on efficient water transportation; and

Whereas, The increased cost of the transportation of fuels, raw materials and finished products resulting from the imposition of this tax would have a deleterious effect upon the industry of western Pennsylvania; and

Whereas, The joining of legislation dealing with a specific project authorization, with an issue involving a major policy consideration with substantial economic impact is ill advised, the two issues should be separated and each decided strictly on its own merits; therefore be it

Resolved (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memoralize the Congress of the United States to divide the specific project authorization from the waterways user fee proposal currently joined in Senate Bill 790, and to let each issue be divided separately as its own merits; and be it further

Resolved (the Senate concurring), that the General Assembly of the Commonwealth of Pennsylvania memoralize the President and Congress of the United States that the members of this general assembly oppose the inland waterways user fee as proposed in Senate Bill No. 790; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of the Congress of the United States and to each senator and representative from Pennsylvania in the Congress of the United States.●

MISSISSIPPI LEGISLATURE PRAISES GENERAL "CHAPPIE" JAMES

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MONTGOMERY. Mr. Speaker, just prior to the Easter district work period, the Mississippi Legislature passed a concurrent resolution memoralizing the lifetime of contributions of the late Gen. Daniel "Chappie" James, Jr. Because of the unique place in history held by General James and the great admiration in which he was held by all Americans, I would like to share with my colleagues that resolution.

The concurrent resolution follows:

HOUSE CONCURRENT RESOLUTION NO. 113

A concurrent resolution commending the life and accomplishments of the late General Daniel "Chappie" James, Jr., retired Commander in Chief of the North American Air Defense Command.

Whereas, on February 25, 1978, General Daniel "Chappie" James, Jr., retired Commander in Chief of the North American Air Defense Command (NORAD) and Commander in Chief of the United States Air Force Aerospace Defense Command, the United States element of NORAD, departed this life following a sudden illness, causing great sorrow and loss not only to his family but to this great Nation in general; and

Whereas, General James, the son of Mr. and Mrs. Daniel James, Sr., was born on February 11, 1920; and

Whereas, a native of Pensacola, Florida, General Daniel James was a graduate of Washington High School in Pensacola, Florida, in 1937, received his bachelor of arts degree in physical education from Tuskegee Institute in 1942, was a graduate of the Primary, Basic and Advance Flying Schools, Tuskegee, Alabama, in 1943, and a graduate of the Air Command and Staff College, Maxwell Air Force Base, Alabama, in 1957; and

Whereas, in his dual capacities as Commander in Chief of the North American Air Defense Command and Commander in Chief of the United States Air Force Aerospace Defense Command, General James had operational command of all United States and Canadian strategic aerospace defense forces, and was responsible for surveillance and air defense of North American airspace and for providing warning and assessment of hostile attack on the continent from bombers or missiles; and

Whereas, General James' ability and his dedication to the principles of this country enabled him to advance at a fast pace in the armed services, having attained the rank of second lieutenant on July 28, 1943; first lieutenant on July 1, 1944; captain on October 31, 1950; major on June 18, 1952; lieutenant colonel on April 25, 1956; colonel on November 15, 1964; brigadier general on July 1, 1970; major general on August 1, 1972; lieutenant general on June 1, 1973; and general on September 1, 1975; and

Whereas, always ready, willing and able to defend the country he loved so dearly, General James went to the Philippines in September 1949 and was assigned as a flight leader in the 12th Fighter Bomber Squadron, 18th Fighter Wing, at Clark Field; went to Korea in July 1950 where he flew 101 combat missions in the F-51 and F-80 aircraft; went to Udorn Royal Thai Air Force Base, Thailand, in December 1966 as Deputy Commander for Operations, 8th Tactical Fighter Wing, and was named wing vice commander in June 1967, and flew 78 combat missions into North Vietnam, many in the Hanoi-Haiphong area, and led a flight into the Bolo MIG sweep in which seven Communist MIG 21's were destroyed, the highest total kill of any mission during the Vietnam war; and

Whereas, this great warrior is widely known for his speeches on Americanism and patriotism for which he has been editorialized in numerous national and international publications; and

Whereas, in a speech to the Mississippi House of Representatives on March 14, 1977, General James said that he was "a warrior" and was "sworn to protect and defend this great Nation against all enemies, both foreign and domestic"; and

Whereas, this great warrior never shed his responsibility to fight for the security of his country; and

Whereas, President Carter saluted General James as "a superb military officer in times of peace or war" and pointed out that General James had been given "an equal authority" including responsibility for "initiating an atomic attack," and further noted that such responsibility was "a rare thing" and that it showed the superb confidence the military establishment had in General James; and

Whereas, General James' military decorations and awards include the Department of Defense Distinguished Service Medal, the Air Force Distinguished Service Medal with one oak leaf cluster, the Legion of Merit with one oak leaf cluster, the Distinguished Flying Cross with two oak leaf clusters, the Meritorious Service Medal, the Air Medal with thirteen oak leaf clusters, the Distinguished Unit Citation Emblem with one oak leaf cluster, the Presidential Unit Citation Emblem with three oak leaf clusters, the Air Force Outstanding Unit Award Ribbon with three oak leaf clusters, and the Republic of Korea Presidential Unit Citation Ribbon; and

Whereas, General James has been awarded honorary doctor of laws degrees from the University of West Florida in 1971; the University of Akron in 1973; Virginia State College in 1974; Delaware State College in 1975; and Saint Louis University in 1976; and

Whereas, General James was awarded the George Washington Freedoms Foundation Medal in 1967 and 1968, and received the Arnold Air Society Eugene M. Zuckert Award

in 1970 for outstanding contributions to Air Force professionalism and

Whereas, General Daniel "Chappie" James is survived by his widow, Mrs. Dorothy Watkins James; a daughter, Mrs. Denice James Berry; and two sons, Captain Daniel James III and Mr. Claude James:

Now, Therefore, Be It Resolved by the House of Representatives of the State of Mississippi, the Senate Concurring therein, That we do hereby extend our most sincere and heartfelt sympathy to the family of General Daniel "Chappie" James, Jr., upon his passing, and publicly express our belief that he was truly a great man and that his loss is shared by all.

Be It Further Resolved, That a copy of this resolution be furnished to his widow, Mrs. Dorothy Watkins James; to his children, Mrs. Denice James Berry, Captain Daniel James III and Mr. Claude James; to the President of the United States; to the Mississippi Congressional Delegation, Senator James O. Eastland, Senator John C. Stennis, Honorable Jamie L. Whitten, Honorable David R. Bowen, Honorable G. V. Montgomery, Honorable Thad Cochran and Honorable Trent Lott; to the Secretary of Defense, Dr. Harold Brown; to the Secretary of the Air Force, Mr. John Stetson; to the Chairman of the Joint Chiefs of Staff, General George S. Brown; to the Air Force Chief of Staff, General David C. Jones; and to members of the Capitol Press Corps.

Adopted by the House of Representatives, March 16, 1978.

Adopted by the Senate, March 21, 1978.●

GAO DOCUMENTS NEED TO IMPROVE HEALTH AND SOCIAL SERVICE PROGRAMS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. COHEN. Mr. Speaker, just prior to the Easter recess, the General Accounting Office released a report entitled, "Information and Referral for People Needing Human Services—A Complex System That Should Be Improved."

The report highlights the need to develop ways to consolidate existing information and referral services to health and social service programs and to promote the establishment of comprehensive information and referral centers. The report characterizes our existing $100 billion service delivery system as one whose effectiveness and efficiency is lost in the duplication and fragmentation of and competition between services and functions, which wastes resources and contributes to the high cost and inadequacy of existing services. For example, more than a dozen programs, including medicare, medicaid, title XX social services and the Older Americans Act, provide long-term medical or supportive services. Each of these programs has a different set of eligibility requirements and income limits, and often they are governed by conflicting regulations. No wonder needy citizens are frustrated in their efforts to avail themselves of their entitlements.

This report is one of 11 released within the last 13 months which attests to the need for a program of multidisciplinary assessment and case management. As a member of the House Select Committee on Aging, I am particularly concerned as to how this state of affairs effects the elderly. Certainly, older people should have their health and social needs assessed and, when necessary, have appropriate services delivered, monitored, and evaluated.

Acting on this wealth of information, Congressman PEPPER and I introduced legislation, H.R. 11410, authorizing a grant program for States to establish within communities "single entry point" programs of assessment and referral for the entire range of medical and social services needed by the Nation's chronically ill and disabled elderly. We have been joined by 42 other Members of Congress, namely:

Mr. ANDERSON of California, Mr. BLOUIN, Mr. CARNEY, Mr. HANNAFORD, Ms. HOLTZMAN, Mr. HYDE, Mr. LA FALCE, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOORHEAD of Pennsylvania, Mr. PRICE, Mr. RODINO, Mr. WEAVER, Mr. YOUNG of Missouri, Mr. BEARD of Tennessee, Mr. SOLARZ, Mr. GUYER, Mr. PANETTA, Mr. BIAGGI, Mr. CLAY, Mr. GOODLING, Mr. JEFFORDS, Mr. ZEFERETTI, Mr. MURPHY of Pennsylvania, Mr. SARASIN, Mr. SIMON, Mr. DOWNEY, Mr. DRINAN, Mr. HAMMERSCHMIDT, Mr. HUGHES, Ms. OAKAR, Mr. WAXMAN, Mr. AKAKA, Mr. BINGHAM, Mr. DIGGS, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EILBERG, Mr. FASCELL, Mr. FRASER, Mr. ROYBAL, and Mrs. SPELLMAN.

This legislation has as its goal a system of health and social service delivery which matches people with services—the kinds of services they need when they need them. Central to the success of our legislation is the willingness of the Secretary of Health, Education, and Welfare to encourage and facilitate the use of waivers and other financial mechanisms between categorical programs in order for localities to pool resources in the most advantageous manner. The GAO reports states that "the Secretary should play a prominent role in this effort."

I have taken the liberty of including a digest of the GAO report with my remarks for the benefit of my colleagues. I recommend that they take the time to read the report in full.

The GAO report follows:

COMPTROLLER GENERAL'S REPORT—TO THE CONGRESS

There is a vast, complex system of human services in the United States to meet individuals' needs. Many programs designed to reduce the dependency and increase the self-sufficiency of people throughout the Nation are supported by Federal, State, and local governments and by private organizations. The Federal Government spends over $100 billion annually to provide for services in areas such as health, rehabilitation, employment, income maintenance, nutrition, and education. (See ch. 1.)

Many agencies provide information and referral support to help people link up with these human service systems. Unfortunately, those who provide information and referral services have, themselves, become part of the maze to which they were supposed to offer guidance. This orderless growth has resulted in a specialized, fragmented system characterized by:

Duplication of and competition between services and functions;

Waste of resources;

Barriers obstructing access; and

Inadequate services.

As a result, people can be shuffled from agency to agency, and many either will not receive the services needed or will receive them only after great or exasperating difficulty. (See ch. 2.)

Many Federal agencies spend hundreds of millions of dollars collectively each year to support community information and referral services. Over half the total expenditures by 143 of these providers contacted by GAO were from various Federal agencies.

These agencies pay for many fragmented and competing providers within individual communities. Furthermore, most of them do not prescribe quality standards to help maintain at least minimum levels of acceptable services, with the result that Federal agencies contribute to the problems. A coordinated Federal program to deliver information and referral efficiently and effectively does not exist. (See ch. 3.)

Most Federal and local officials reached by GAO believe that consolidating activities into comprehensive centers, rather than specializing in certain classifications, will help eliminate fragmentation and improve the quality of their services. Comprehensive centers could serve all people and refer them to all types of services. But consolidating information and referral activities into such centers has been hindered by a lack of coordination and Federal leadership. (See ch. 4.)

Many agencies providing information and referral services are reluctant or unwilling to relinquish their activities and cooperate to pool resources. Centers established to consolidate activities and provide comprehensive services have found themselves competing with other providers for clientele and appropriations.

Not only is this cooperation lacking, but Federal agencies have not coordinated or consolidated their activities to avoid fragmentation, duplication, and inadequate services.

Many of the community providers receive financial support from various Federal agencies, but their local officials lack the authority and direction to consolidate activities. Many local officials believe that the coordinated policy must be developed federally before improvements can be achieved locally. Meanwhile, the lack of a single Federal focal point with the responsibility and authority for coordinating Federal programs for community-based information and referral services continues, and no action has been taken to develop such a national policy and plan.

Without assigned responsibility to do so, Federal agencies are unlikely to coordinate information and referral programs and consolidate funds and activities. (See ch. 5.)

The Director, Office of Management and Budget, in consultation with the Secretary of the Department of Health, Education, and Welfare (HEW) and the heads of other Federal agencies funding information and referral activities, should establish a task force to develop, for consideration by the Congress, a national policy and plan requiring coordination between agencies to consolidate such activities and promote the establishment of comprehensive centers. The Secretary of HEW should play a prominent role in this effort.

The policy and plan should cover:

—actions required to eliminate duplication of information and referral services among Federal agencies,

—ways in which Federal resources can be redirected and pooled with State, local, and private resources to form and operate comprehensive information and referral centers,

—strategies that the Office of Management and Budget should use to elicit the cooperation of Federal, State, local, and private organizations in emplementing the plan, and

—evaluation of whether there are better alternatives to comprehensive centers and whether they are more cost effective.

The Community Services Administration; the General Services Administration; United Way of America; and the Departments of Agriculture, Housing and Urban Development, and Labor agreed with GAO's findings.

The Veterans Administration expressed concern that comprehensive centers might not be feasible or cost effective.

The Office of Management and Budget favors doing a study of the entire human service delivery system and believes information and referral services can be considered as part of that study rather than singly.

GAO believes that information and referral services constitute an entry point to the human service delivery system and would provide a logical starting point for improvement of the entire system.

HEW endorsed the general concept of comprehensive information and referral services. It did express concern about the cost effectiveness of comprehensive information and referral compared to existing centers and suggested a formal mechanism to assure State and local participation. (See ch. 6.)

BROWN LUNG DISEASE ACT OF 1978

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. DERRICK. Mr. Speaker, I am introducing today the Brown Lung Disease Act of 1978.

There are more than 800,000 Americans involved in the processing of cotton fiber, and every one of these workers daily faces the threat of brown lung disease. At least 35,000 workers are estimated to be suffering from byssinosis, or brown lung disease.

A shortness of breath, a tightness in the chest, and decreased lung function are caused by brown lung. The dust involved with all operations of the cotton industry can affect workers adversely after only a year and can cause disabling effects within 7 years. This is permanent damage which no drug or treatment can reverse.

Brown lung has been recognized as a danger since the early 18 century, when Bernardino Ramazzinni noted a hacking cough among flax and hemp workers. The problem was traced to cotton dust, which still today permeates the atmosphere around workers in the cotton industry.

Brown lung is a specific chronic respiratory disorder that results from the action of cotton dust on the respiratory passages. Its effects can lead to chronic obstructive lung disease, with the employee losing up to 75 percent of his or her breathing capacity. The disease also kills.

My bill would provide benefits to active and retired workers who are totally disabled due to byssinosis. Benefits would also be available to dependents of workers who were totally disabled by the disease at the time of their death.

Under my proposal, compensation rates would be set at $219.80 a month for a worker with no dependents, $329.80 with one dependent, $384.80 with two dependents, and $439.80 with three or more dependents.

The Federal Government would make payments to workers who retire before January 1, 1979, and the owner who employed the brown lung victim would be responsible for those that retire after January 1, 1979.

The bill specifies that the authority to make payments expires after September 30, 1983, at which time the Congress would review the program based on information provided by the Secretary of Labor. This "sunset" provision is in keeping with the Legislative Oversight Act of 1978 which I introduced earlier this session and will assure that the program is held responsible to the taxpayers.

Furthermore, the Secretary of Labor would have to present on October 15 of each year a report advising the Congress as to whether or not the goals and planned accomplishments of the program (as spelled out in the bill) are being met. This report would have to be written in specific, quantifiable terms and include information on costs and the number of people screened, identified, and compensated for byssinosis.

I believe we can pass this important brown lung bill during this session of the 95th Congress and, by doing so, demonstrate to our constituents, especially those that work in the cotton industry, that we are concerned about their health and well-being.●

FIX THE TRACKS

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. JOHN L. BURTON. Mr. Speaker, the wave of recent freight train derailments which killed 22 people in Tennessee and Florida has once again underscored the deteriorated condition of this country's railroad tracks. They are both a national disgrace and a threat to human lives.

Although the shipment of dangerous or explosive substances in large rail tank cars compounds the threat presented by deteriorated railbeds and crowded rail corridors, the majority of the problems can still be traced to overall track conditions.

Federal reports show that in 1976 there were close to 8,000 train derailments and about one a day involved some shipment of hazardous substances. One of the causes for these accidents is the deteriorating track. While the railroads have been putting money into track repairs, much more is needed.

The San Francisco Sunday Examiner and Chronicle recently ran their idea in an editorial suggesting that some funds should be pared out of the defense budget and spent on railroad tracks and roadbeds. I think that the editors have an idea which merits the attention of my colleagues in Congress and I would like to submit their March 12 editorial here:

[From the San Francisco Sunday Examiner and Chronicle, Mar. 12, 1978]

FIX THE TRACKS

The neglect of railroad tracks in the United States is a national disgrace. During the last year, there were almost 8,000 derailed train accidents and 500 of those wrecks involved tank cars carrying dangerous chemicals. In the space of a few recent days, track-jumping crashes killed 20 persons and spewed lethal gases over nearby communities.

Some 200,000 miles of track are in service. Of these, more than 44,000 miles are under "go slow" orders because of poor track conditions. For example, Amtrak Metroliner express trains run at only about half speed between New York and Washington because of the deteriorated railbeds in that busy corridor.

Airlines and trucking companies have eaten up the freight and passenger-carrying business but railroads still play an important role in commerce and national defense.

The Carter administration should take about $15 billion out of the defense budget—where such a relatively small sum would hardly be missed—and spend it on tracks and roadbeds. Along with protecting a great national asset, the project would provide jobs for an estimated 100,000 unemployed, including thousands of youths who can't find work in private industry.●

LABOR GROUPS JOIN CONSUMERS IN SUPPORT OF FAMILY FARMERS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. RICHMOND. Mr. Speaker, the financial difficulties faced today by America's family farmers affect all segments of our economy. They reach all the way to urban consumers, who bear the brunt of high food prices even though farmers are not making a profit and in many cases are losing money.

As the only urban member of the House Agriculture Committee, I have long advocated that consumers and farmers join together to end this economic injustice. I am pleased to note that the AFL–CIO Executive Council, representing many of our Nation's labor unions, is also concerned about the plight of the family farmer.

I would like to share with my colleagues a recent statement by the AFL–CIO Executive Council expressing their support of efforts by Congress to solve the farm crisis. I hope my urban colleagues will remember this vital support by the AFL–CIO as we vote on many critical bills affecting both our rural and urban areas this coming year.

The statement follows:

SUPPORT FOR FAMILY FARMERS

The plight of America's family farmers is more serious today than at any time since the dust bowl, but the crisis today is man-made, not a natural disaster. The growth of corporate farming, insufficient regulation of commodity speculators and international grain traders, and high interest rates have created a blight for farmers far worse than any nature could apply.

At the same time, right-wing and corporate interests, working through the ultra-conservative, big business-oriented Farm Bureau Federation, have launched a propaganda at-

tack against the labor movement designed to alienate family farmers from their traditional allies. Throughout American political history, alliances between workers and family farmers have forged progressive social and economic programs to benefit average Americans. The traditional bond between workers and family farmers must not be allowed to be severed by cheap political propaganda.

The new movement in rural America, American Agricultural Movement—like the cooperative movement before it and the long-standing, progressive family farm organizations—deserves the support and assistance of the labor movement. The AAM has called a farm strike as a last resort, in the same way that union workers are sometimes forced to strike. The AAM sees no other way to achieve quick government action to assist family farmers. Family farmers are threatened by corporate and foreign takeover of farm land, which would also leave consumers at the mercy of corporate monopolies and absentee landowners.

Obviously the farm strike is a legitimate exercise of their right as Americans to withhold their labor when conditions are unfair. Just as we believe that workers are entitled to a fair wage for their labors, we believe farmers are entitled to a fair return for their labors.

Therefore, the AFL–CIO pledges to work with labor's traditional allies in the farm community in the pursuit of that goal. We urge the Congress and the Administration to seek speedy, effective solutions to the crisis in American agriculture tailored to meet the needs of the family farmer but denied to corporate farmers and to commodity speculators. Finally, we urge our state central bodies to continue to work with the family farm organizations in their state in pursuit of mutual goals.●

NATION'S MAJOR MEDIA EXHIBITING SUICIDAL TENDENCIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. HANSEN. Mr. Speaker, freedom of speech and of the press is guaranteed under the first amendment of the Constitution and has weathered many assaults from those who would restrict the latitude of the fourth estate. However, nothing in the Constitution can save the press from itself and its current self-imposed suicidal tendencies toward news management and manipulation.

As the Nation's media has centralized into large chain operations owned by international corporate structures, it is rapidly losing its independence and individualism and the communities of the Nation are being welded together by the great brainwashing devils available to the major media readily influenced by boards of directors which interlace with the executive structure of the Nation's multinational corporations and international unions.

Never was such a management and censorship operation so evident in this Nation as in the current controversy over the Panama Canal treaties. The multinational economic interests of the United States are unified for their own financial purposes behind approval of the treaties, and they have exerted enough muscle on officials of Government that it is very possible they will get their way despite the overwhelming resistance of grassroots America.

The best example of this interlacing of corporate directors is one of the treaty negotiators himself, Sol Linowitz, who at the time of his appointment was a member of the boards of Marine Midland Bank, Pan American Airways, and Time magazine. To illustrate how this management and censorship is working, I submit the following excellent commentary dated for release April 8, 1978, by Mr. Reed Irvine, chairman of the board of Accuracy in Media, a news monitoring organization based in Washington, D.C.

The commentary follows:

PRESS IGNORES POLL OF HOUSE ON PANAMA CANAL

WASHINGTON.—I have pointed out in this space before that over half of the members of the House of Representatives have signed a resolution calling for a vote in the House on the disposition of the Panama Canal Zone and the U.S. property located there. The House has no constitutional right to vote on treaties, but Article IV of the Constitution states: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

In the past, when territory that was originally included in the Canal Zone has been turned over to Panama, approval of the House of Representatives has been sought in nearly every case. These transfers involved property that was insignificant compared to what is now being proposed—giving the entire Canal Zone and nearly everything in it to Panama.

The Constitution and past precedents would seem to indicate quite clearly that this is the kind of action that both houses of Congress should vote on. However, the leadership of the House has not even permitted the resolution calling for such a vote to come to the floor, even though it has now been signed by well over half of the members.

Rep. George Hansen of Idaho, who has been the guiding spirit behind the effort to obtain for the House of Representatives its right to have a voice in this very important property transfer, has said that the signers of the resolution would not all vote against turning the Canal Zone over to Panama.

However, Lee Roderick, the enterprising Washington correspondent of the Scripps League Newspapers, decided to find out how the House would vote if it were given a chance to do so. Roderick had his staff query all of the 435 representatives. They found that 170 said they would vote against transferring the property to Panama, and another 38 said they were inclined to vote against such a transfer. Only 102 said they would vote for the transfer, with an additional thirty saying they were leaning in that direction. Seventy representatives said that they were uncommitted, and 25 declined to comment.

Since it would take only 218 votes in the House to kill the proposed transfer, it is clear from this tally that there is a very strong possibility that a bill to effect the proposed grant of U.S. property to Panama would not make it through the House of Representatives. This no doubt explains why the Administration and the House leadership are unwilling to heed the expressed will of a majority of the Congressman that such a bill be submitted for a vote.

Are the watchdogs of the news media up in arms about this flouting of the Constitution and democratic principles?

We pointed out in an earlier column that the fact that more than a majority of the Congressmen have signed the resolution asking for a House vote has been pretty generally ignored by the press. The New York Times did report on March 3 that the number of Congressmen backing this resolution was up to 227, but this was the only mention of this that we have seen in any of the major media. This story noted that not all of the co-sponsors of the resolution would vote against the transfer.

However, when the Scripps League tally of how the House would vote was released a week later, The New York Times was one of many, many papers that ignored the story. The story was carried on the wires of United Press International on March 10. I checked over twenty newspapers and could find only one that printed the information that Lee Roderick had so painstakingly compiled. That was the Des Moines Register.

This is the kind of behavior on the part of the news media that causes leaders of the anti-treaty forces such as Senator Griffin of Michigan to charge that the pro-treaty leanings of the news media have resulted in biased coverage of this great debate.●

AN EXAMINATION OF THE U.S. SALT POSTURE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. KEMP. Mr. Speaker, the United States is far advanced in its attempts to negotiate a second sound SALT agreement to replace the 1972 accords (SALT I) which expired in October of last year. As a consequence, most of the important contours of the proposed agreement are known and are in the public domain. One of the thorough and technically competent reviews of the U.S. SALT proposals has been produced by Mr. Edgar Ulsamer, senior editor of Air Force Magazine, in its January 1978 issue.

Mr. Ulsamer's essay, "The Equal Sign in the SALT II Equation," cites the aspects of the proposed agreement which undermine the basis for congressional support of the negotiations; namely, the manifest inequality—with the United States left with numerically inferior forces—of the agreement. The terms of the proposed treaty are so one-sided that, as Mr. Ulsamer clearly explicates, that the U.S. ICBM force will be vulnerable to unacceptable attrition by the early to mid-1980's. Other crucial weaknesses in the present form of the proposed agreement dealing with cruise missiles, technology transfer limitations to NATO, and the lack of verifiability provide a compelling case for congressional rejection of the agreement in its present form. I have included the text of Mr. Ulsamer's essay at the conclusion of my remarks:

THE EQUAL SIGN IN THE SALT II EQUATION

(By Edgar Ulsamer)

When Secretary of State Cyrus Vance last fall briefed a select group of U.S. senators on the status of SALT II, Sen. Henry (Scoop) Jackson (D-Wash.) reportedly reacted with undisguised irritation and frustration. Senator Jackson, a forceful, apperceptive critic of negotiating errors that in earlier rounds of the Strategic Arms Limitation Talks led to loopholes and asymmetries, putatively bristled at the apparent absence of coherent

U.S. policy approaches and at the concessions—not briefed to the appropriate Senate subcommittee—that occurred after the Carter Administration first went to the mat with Moscow's SALT II negotiators early in 1977.

At this writing, the bottom line on SALT II is still hazy but most of the pivotal features of this pending accord that will vitally influence the strategic posture of the two superpowers in the next decade and beyond, are becoming discernible. Capitol Hill SALT watchers guardedly predict that the agreement will be concluded before May 1978.

The proposed SALT terms are being aired publicly—to the obvious chagrin of the Administration—through volleys of news leaks and counterleaks. Gag orders, concerning direct discussion of SALT-related matters with Congress, issued to the Defense Department and other government agencies, have slowed but not shut off the leaks.

Rep. Robin Beard (R-Tenn.), a member of the House Armed Services Committee and Chairman of the House Republican Task Force on National Defense, charged the Carter Administration with attempting to suppress independent and critical assessments of the Administration's SALT II proposals. Beard released the text of an Administration memorandum, signed by David Aaron, Deputy Assistant to the President for National Security Affairs, to the Departments of State and Defense as well as the Arms Control and Disarmament Agency, the Central Intelligence Agency, and the Chairman of the Joint Chiefs of Staff. This White House order requested that any information to be provided to Congress on the strategic forces and programs of the U.S. and U.S.S.R. "should be cleared through the SALT Working Group" to assure that such analyses are "consistent with and represent the best judgment of the Executive Branch." The underlying objective, according to Beard, is "to stifle independent and objective assessments of the . . . SALT II proposal and prevent Congress from gaining access to any dissenting viewpoints."

At the same time, five Senators considered proponents of the Carter Administration's SALT approach launched a counteroffensive to change the makeup of the Senate's Arms Control Subcommittee. Sen. Gary Hart (D-Colo.) even called a special news conference to denounce unnamed malefactors "who oppose a SALT II treaty agreement—and possibly any realistic arms limitation treaty [and who] have rushed to judgment, to reveal and condemn the treaty still being fashioned."

Meanwhile, congressional sources report increasing Administration pressure via the "pork barrel sector" on members suspected of fostering opposition to the present terms of SALT II. White House concern is understandable; at least the core element of SALT II—the basic treaty that is to be in effect for eight years—requires Senate approval by a two-thirds majority. At this writing, opponents of the SALT II terms claim their informal polling suggests that "at least between thirty-five and forty nay votes" can be expected. It would take only thirty-four nays to reject such an accord.

Press coverage of SALT's terms, in spite of extensive public relations campaigns by the White House and other government departments concerned with SALT, has often been critical. Typical of the reaction among newspapers of generally conservative persuasion was this lead of a Chicago *Tribune* commentary: "The best thing that can be said about the proposed SALT agreement slowly emerging in Geneva is that it tilts so outrageously in favor of the Soviet Union as virtually to defy the Senate to ratify it." The fact that congressional action on the Panama Canal treaties, another cliff hanger, could well overlap with Senate action on SALT II, provides little comfort to the supporters of the latter. Two other Carter Administration initiatives in the disarmament field also might affect the congressional climate at the time: the so-called Comprehensive Test Ban Treaty (CTB) eliminating *all* nuclear testing—considered by most technical experts as essentially unverifiable—and a ban equally difficult to monitor and enforce on the test, development, and deployment of chemical warfare weapons.

Whether these basically adverse political factors—coupled with reportedly increasing Soviet recalcitrance concerning certain unresolved or "gray" issues—will cause the Administration to toughen its stance is problematical. What seems certain is that SALT II will undergo further, drawn-out modification. The case for revision—despite obvious U.S. eagerness to fill the vacuum brought about when the SALT I five-year interim accord expired last October—becomes formidable through such public statements as Rep. Jack Kemp's (R.-N.Y.) comment that "I am appalled at the extent of the collapse of our SALT negotiating posture. We are headed for an agreement which will increase the risk of nuclear war and codify Soviet strategic nuclear superiority with the unmeasurable consequences for our diplomacy such a condition implies. . . . The Congress will not ratify such a one-sided agreement, and I will make every effort to see that SALT II is not ratified until its terms are modified to provide for equality for the United States."

Perhaps even more significant was a recent letter to President Carter by three Democratic senators—all members of the Armed Services Committee and considered staunch supporters of strategic arms limitations. Sens. Thomas J. McIntyre (D-N.H.), John C. Culver (D-Iowa), and Dale Bumpers (D-Ark.), importuned the White House to take a stiffer stance and insist on more precise SALT II language to protect vital U.S. interests. The letter listed six specific treaty areas in need of shoring up "to strengthen the agreement and to broaden support for ratification."

THE SALT II OUTLINE

Possibly the most telling blow was struck by Paul Nitze, a former SALT negotiator and a Deputy Secretary of Defense in the Johnson Administration. The picture of SALT II's consequences drawn by Mr. Nitze for the news media—subsequently confirmed in terms of broad facts but not in implication by a senior defense official—is that "in *prompt* countermilitary potential residing in ICBMs the present approximate state of parity will degrade to a better than ten-to-one advantage for the Soviet Union by 1985; that by that year the Soviets will have achieved numerical parity with the U.S. in warheads; that by 1985 the Soviet lead in total megatonnage over the U.S. will be slightly more than six to one"; and that recent U.S. program decisions plus the terms of the probable SALT agreement make it virtually impossible "to maintain crisis stability, rough equivalence, or to reverse the presently unfavorable trends during the period of the agreements. . . . We are," said Mr. Nitze, "locked into inferiority and I don't know how to get out of it."

SALT II, as presently structured, is to consist of a treaty, a Protocol, and a Statement of Principles that spells out the major issues to be dealt with in SALT III.

The actual treaty, Mr. Nitze and several congressmen, including Representatives Beard and Kemp, told the press, likely to become retroactive to the expiration of the SALT I Interim Agreement last fall and, initially, is to limit both sides to an aggregate of 2,400 strategic nuclear launch vehicles (SNVLs) consisting of ICBM and SLBM launchers and heavy bombers. This limit was arrived at in the 1974 Vladivostok understanding. The initially authorized total is to be reduced to an extent and over a period of time that are still not firmly decided. The US proposed a reduction to about 2,160 by 1980 while the Soviets are holding out for an aggregate of 2,250 by 1982.

A sublimit of 1,320 MIRVed weapons—also carried forward from Vladivostok—is to become effective at once but now it includes *heavy* bombers carrying *armed* air-launched cruise missiles of *intermediate* range. ICBMs were defined in Geneva as systems with a range of 5,500 kilometers or more but no definition was reached on SLBMs. A further subcategory—within the MIRVed weapons—was created but specific numbers appear to be still under negotiation: The US proposed a maximum combined total of MIRVed ICBM and SLBM launchers at 1,200, whereas the Soviet ceiling was 1,250. Of this total no more than 820 may be MIRVed ICBMs. The Soviets will be permitted to have 326 (or 308, if operational launchers at test ranges are not counted) modern large ballistic missiles (MLBMs) of the SS–18 type. That missile's throw-weight exceeds that of the older SS–9—which US negotiators in 1972 erroneously assumed to represent the maximum permitted throw-weight—by about 4,000 pounds. The remaining MIRVed Soviet ICBMs can be SS–17s and SS–19s whose throw-weights are 7,000 pounds and 8,000 pounds, respectively. The US is not permitted any MLBMs *at all*.

The fate of USAF's proposed MX missile—with a throw-weight of 7,500 pounds, or slightly less than that of the SS–19—could be adversely affected by SALT II. The reason is that the provisions governing "new" ICBMs, including mobile or unconventionally based systems, are not yet firm. According to Mr. Nitze, the US proposed that during the initial three years of the treaty—the so-called Protocol period—there be no testing of ICBM types not previously tested, and no deployment of types not already deployed at the time the agreement is signed.

Yet another sticking point, congressional sources told Air Force Magazine, is precise definition of what is a "new" and what is a "modified" ICBM. With the Soviets known to have at least five ICBMs, including the mobile SS–16, ready either to join the operational inventory or to enter or continue operational testing, this question becomes crucial. Complicating the definition problem is the tendency of ICBM designers—especially in the Soviet Union—to incorporate proven components in new weapons. Hence the ambiguity inherent in the question of when is a "new" ICBM *new* in the sense of the treaty.

The Soviet position to date appears to be that the ban should be confined to new *MIRVed* ICBMs, thus permitting the testing and deployment of any new system, fixed-site or mobile, as long as it carries only a single RV. The implied potential for "breakout," *i.e.*, rapid conversion to MIRVed configuration in case of termination or abrogation of SALT, is conspicuous. So is the problem of verifying whether such weapons indeed remain un-MIRVed.

After the expiration of the Protocol, the treaty language would seem to permit the development, testing, and deployment of mobile or unconventionally based systems. They would, of course, be counted within applicable numerical limits.

Both sides apparently agree that mobile systems and mobile launchers can be tested—but *not* deployed—during the three-year life of the Protocol, as long as the missile is not actually test-fired from such a launcher. This provision would not seem to shackle the MX program because that system could not be ready for full testing until after the expiration of the Protocol.

OTHER ICBM RESTRICTIONS

Ballistic missiles with a throw-weight greater than that of the SS–18 will be prohibited and all those exceeding the throw-weight of the SS–19—presmably as stipulated

by the U.S. since the Soviets refuse to divulge such information—will be counted as MLBMs. The ambiguities that arise from such unilateral definitions would seem to portend rough sledding in the Senate for these provisions. Even under the best of circumstances—and assuming punctilious Soviet adherence to such basically unverifiable commitments as to forego MIRVing of single RV systems and not to seek a silo reload capability—the throw-weight chasm can be expected to widen significantly under SALT II. Mr. Nitze estimated that by 1985 the Soviet throw-weight aggregate residing in their ICBMs will approach 8,000,000 pounds which would translate into about 5,000 RVs, each with a yield several times that of the U.S. warheads. U.S. throw-weight, he predicted, will be 1,250,000 pounds assuming that the number of Minutemen III remains at 550 and is not reduced—as is likely—to accommodate additional bombers and SLBMs.

The consequences of this throw-weight imbalance, when coupled with normal, evolutionary improvements in Soviet warhead accuracy, could be decisive. Congressman Kemp calculates that under the terms of the tentatively approved SALT II Joint Draft Text, the Soviets could develop a capability to destroy up to 4,331 U.S. targets with a blast resistance of 1,000 pounds per square inch, the approximate hardness of some Minuteman silos. "This figure is four times the number of such targets in the United States [hence the U.S.] has agreed to terms that not only eliminate the Minuteman ICBM system as a viable element of our deterrent in the 1980s, but also undermine [the Administration's] plan to use 747-type aircraft to carry cruise missiles, because these aircraft can only use 150 bases, or less, in the entire U.S. because of the great weight of the aircraft."

Mr. Nitze suggested that once Soviet accuracy approaches 0.15 miles, about ninety percent of the US ICBM silos could be destroyed if the Soviets target two RVs on each sile. Such an attack would draw down the Soviet ICBM force by "less than half of the MIRVed ICBM RVs they are expected to have available by 1985. If and when their accuracy approximates a tenth of a mile, around ninety percent of our silos would be vulnerable to an attack by a single RV against each silo, provided that additional RVs are programmed to substitute for missiles that fail during their launch phase." If, on the other hand, the US were to launch all 550 Minuteman IIIs against Soviet silos and "assuming improved accuracy and the substitution of MK–12A for MK–12 RVs, . . . it is unlikely that we could destroy more than sixty percent of them," Mr. Nitze estimated.

A senior Defense official did not deny the basic accuracy of Mr. Nitze's contentions. He did challenge, however, the importance that SALT II opponents ascribe to narrow comparisons of Soviet vs. US MIRVed ICBMs, without regard to the capabilities inherent in the other components of the strategic Triad. Saving ICBMs per se should not be a *sine qua non* of SALT II, in the Administration's view. Rather, he said, the US objective is to reach terms that permit the US—if necessary—as much payload, as much hard-target kill capability, and as effective a deterrent capability as that of the Soviets. The means for retaining relative balance are to be the air-launched cruise missiles (ALCM) and SLBMs, according to the Defense Department. ALCM's accuracy and range allegedly will be sufficient to destroy Soviet ICBM silos if they are being reloaded with spare missiles in violation of the agreement, the senior Defense official said. Congressional experts on strategic warfare are sceptical about the practicality of such an approach.

CURBS ON SLBMS AND BOMBERS

It is likely that the SLBM balance will continue to slightly favor the US. There is also evidence that the US leads in the ability to detect submerged submarines although eventual advances in Soviet countermeasures technology might negate this US advantage. Whether or not SLBMs can redress the pronounced asymmetry in ICBMs expected in the 1980s is debatable. Neither the Defense Department nor the SALT II opposition expects SLBMs to achieve hard-target kill capabilities within the lifespan of SALT II. The prospect of solving the command and control problem of the Fleet Ballistic Missile force remains dim, in the view of most technical experts. Some defense analysts believe, therefore, that the role assigned to strategic submarines may have to be modified by curtailing their patrol area or using them as a highly survivable strategic reserve, instead of as part of the cutting edge of strategic deterrence.

At this writing, it appears that the Soviets will be authorized about 400 MIRVed SLBMs, assuming that they deploy their quota of 820 MIRVed ICBMs. Neither SALT II nor the three-year-protocol appears to place specific restrictions on deployment of the new Trident submarine or its Soviet counterpart, the twenty to twenty-four launch-tube TYPHOON.

The US appears to be handicapped somewhat, however, because the new Soviet SSNX–18 SLBM, thought to have a range close to 6,000 miles, came in under the wire whereas the US Navy's proposed Trident II SLBM of equal range did not. Trident I can be tested and deployed, but its range of about 4,000 miles does not permit launch from home ports against Soviet targets.

Some terms affecting heavy bombers and cruise missiles are still fluid at this writing. It seems certain, however, that the Soviet Backfire strategic bomber, contrary—according to Representative Beard—to the Joint Chiefs of Staff recommendation, will not be covered by SALT II. Neither apparently will the ninety to 100 heavy Soviet bombers—with bomb bays intact—that have been modified for reconnaissance and antisubmarine warfare missions. SALT II critics report that the Backfire's exemption came about through Soviet willingness to declare, informally and outside the treaty language, that the weapon would not be used in a fashion threatening the United States and that the present production rate would not be increased. There appears to be a colossal catch, however: The Soviets, for reasons known only to themselves, refuse to say what that rate is.

As yet unresolved is the question of whether or not US B–52s in protective storage will count against the SALT limit, unless, of course, they are destroyed voluntarily. At this writing, Administration witnesses are briefing Congress on what is billed as a major, last-minute Soviet concession concerning cruise missiles. A SALT II sticking point, heretofore, had been definition of cruise missile range. These low-flying subsonic weapons obviously are affected by wind and other environmental factors as well as being vulnerable to Soviet air defenses and, therefore, must be programmed to fly around SAM concentrations. Thus, in typical scenarios they will cover about twenty-five percent more distance than the straight-line from launch points to targets. Reportedly, the Soviets have agreed now to define range in light of practical conditions. During the life of the three-year Protocol, test and deployment and cruise missiles with a range of more than 2,500 kilometers is forbidden. By implication, the door is left open to increase that range once the Protocol expires in case changes in Soviet air defenses make it necessary. SALT II critics view this approach with apprehension if not alarm for a number of reasons.

The Joint Chiefs reportedly opposed from the outset *initial* range restrictions of ALCM to below 3,000 kilometers, and to below 3,500 kilometers following the expiration of the three-year Protocol. Grounds, presumably, were the need to reach the Soviet target complex along the Transsiberian railroad from standoff positions in the face of steady outward expansion of Soviet air defense capabilities. Recent intelligence analyses suggest convincingly that Soviet technology will soon permit moving the air defense perimeter much farther out to sea, possibly up to 1,900 kilometers. Such a development, obviously, would relegate first-generation cruise missiles launched from nonpenetrating platforms to a state of uselessness, especially if linked to massive Soviet deployment of the seven- to fifteen-mile range, low-altitude Soviet SA–X–10 surface-to-air missiles system.

Historical experience supports the argument that ground yielded in agreements with the Soviets is next to impossible to regain. The Administration's plan to extend ALCM's range after expiration of the Protocol—if so required—can be seen as doubly weak since the Soviet Union will not be required to reduce the aggregate of its nuclear delivery vehicles until that very time. As Mr. Nitze asked rhetorically: "Is it inconceivable that in the event we do not wish to renew certain provisions of the Protocol when it expires the Soviets might see some necessity to review the treaty terms?"

Critics of pertinent SALT II formulations see another catch in connection with air-launched cruise missiles. These intermediate-range weapons, contrary to some portrayals, are not independent from their launching platform. The viability of the bomber/cruise missile system depends on a number of factors: The prelaunch survivability of the bombers; sufficient hardness of the bombers to survive enemy barrage bombing of their escape routes; the ability of the bombers to penetrate close enough to the target without getting shot down; the ability to launch enough ALCMs to overload the defenses; and, lastly, the capacity of the cruise missile to penetrate area and terminal defenses and to strike the target with enough accuracy to destroy it. With the B–1 canceled, the proposed FB–111H program scuttled by Congress before it got off the ground, and the Backfire getting a free ride from SALT II, the cruise missile equation takes on a totally new meaning. On the strength of the Administration's SALT proposals for sublimits within the 1,320 MIRVed weapons ceiling it is being assumed that the US plans to equip about 120 B–52s with ACLMs.

As Mr. Nitze argued convincingly, it would be unlikely that more than about fifty percent of the B–52s would be on continuous alert or that more than about seventy percent could be maintained at full readiness during crisis periods requiring fully-generated strategic forces. From the Soviet perspective, the picture looks considerably brighter. There are no US air defenses to speak of, and the Backfire arsenal can be proliferated with impunity. (Even conservative CIA estimates foresee a force of 400 of these advanced strategic bombers.) If this assumption is correct, two conditions would obtain that threaten to negate US plans for maintaining strategic stability: The Soviet Union, within the next few years, would be able to deliver substantially more megatonnage on the US with its bomber force than this country could bring to bear on the USSR, *and* the component of the US strategic forces counted on to offset the Soviet lead in ICBMs—the bomber/cruise missile system—turns out to be a deficit position itself. Hence this dire warning by Mr. Nitze: "Under the now most likely provisions of a SALT II agreement we run a high risk of having no B–1, no cruise missiles adequate in numbers and range to penetrate Soviet defenses, no

follow-on to the aging Minuteman III, and an SLBM force at sea of [fewer] than twenty-five boats, each constituting four percent of our only reliable deterrent power and thus worth enormous Soviet effort to negate."

SINGLING OUT THEATER WEAPONS

Another late Soviet concession, seen as major by SALT II supporters, is the agreement to permit testing ground-launched (GLCM) and sea-launched (SLCM) cruise missiles over a distance of up to 2,500 kilometers from ground-based launchers. This "concession" does not seem to affect in any way, however, the prohibition of *deploying* such weapons with a range greater than 600 kilometers. The fact that these theater weapons are an element of SALT II is curious of itself. The Soviet SS-20, a new MIRVed mobile, intermediate ballistic missile with a range of well over 4,000 kilometers, is not counted under SALT II rules, even though its erectors/launchers can accommodate the clearly intercontinental SS-16 from which it differs only by deletion of one of the latter's three stages. Ditto for the Backfire, portrayed by the Soviets as a theater weapon, despite its duel capability due to its intercontinental range. There is little doubt among congressional experts on NATO, and US and European NATO commanders and analysts, that a 600-kilometer ground-launched cruise missile is not cost-effective and will not be built. Pershing IIs present range exceeds the proposed GLCM limit and could be extended to about 2,500 kilometers without degrading the weapons high accuracy, and without being hamstrung by SALT II, congressional analysts point out.

GLCM/SLCM weapons are embroiled in another SALT II dispute, the so-called noncircumvention and nontransfer clauses covering technologies of potentially strategic utility. The Soviet contention is that US transfer of such technologies to its allies—in the main satellite-derived terrain data used to keep cruise missiles on course, and high-energy fuel technology—could lead to a circumvention of SALT because one or more NATO powers could build GLCMs with a range greater than 600 kilometers. US willingness to entertain Soviet requests to shut out US allies has caused a rift between this nation and its European allies. As a prominent congressional source told Air Force Magazine, "The notion that we tell our allies, 'No, we can't give you the information needed to help offset the widening Warsaw Pact lead because we have made common cause with our mutual adversary,' boggles the mind."

THE VERIFICATION PROBLEM

SALT II critics uniformly view the lack of verification—beginning with the Soviet refusal to disclose essential information about their strategic capabilities, including numbers and performance characteristics—as a potentially fatal flaw of SALT II as it stands today. Even under the best of circumstances, compliance with SALT terms is difficult to verify. Verification becomes impossible if what is to be limited and the nature of the limitation have not been clearly defined. "How do you determine," Mr. Nitze and other critics have asked, "that a new missile having the throw-weight of an SS-19 and carrying the SS-19 bus, but with a single RV, is not capable of being deployed as a MIRVed missile? How do you determine that retired missiles, or missiles taken out of retired launchers, or extra newly produced missiles are not stockpiled and available for relatively prompt deployment on soft pads or reloaded in launchers using the cold launch technique."

This late in the SALT game it is not likely that the fundamental tone of the pending agreement can be changed. The near-mystic belief that any arms accord is better than none, linked to the notion that nuclear war is unthinkable and strategic asymmetries therefore inconsequential, have provided SALT with an unstoppable momentum. Even the most vocal critics of SALT are resigned to its inevitability. Most of them are resolved—if the accord is ratified by the Senate—to concentrate efforts on assuring that all the steps permitted the US in maintaining perceived essential equivalence in the future will indeed be taken. There is consensus that the first and most crucial step here must be MX, the system that Representative Beard predicts would demonstrate to the Soviets "the folly of an arms race [thus causing them] to accept an equitable SALT agreement which would contribute to long-term strategic stability and world peace."●

OPINION SUBMITTED ON PUBLIC WORKS PROGRAM

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. ROONEY. Mr. Speaker, on March 10, 1978, one of my constituents submitted testimony to two subcommittees of the House Committee on Public Works and Transportation. These two subcommittees, Economic Development and Investigations and Review, were holding oversight hearings on the local public works program of the Economic Development Administration. Mr. H. Robert Daws, chairman of the board of supervisors of Palmer Township, Northampton County, Pa., was asked by the National Association of Towns and Townships (NATaT) to submit this testimony because he serves as chairman of the executive committee of the Pennsylvania State Association of Township Supervisors. Mr. Daws was accompanied by Mr. Barton D. Russell, NATaT's executive director.

NATaT is a federation which represents public officials from over 13,000 communities around the country. Through its national support center in Washington, NATaT provides assistance to local governments on a wide variety of public management matters.

The National Association of Towns and Townships is unique among Washington-based public interest groups in that it is the only one comprised predominantly of smaller communities, those under 50,000 in population. Considering that well over one-half of all Americans live in such localities, NATaT provides the focus for a vital intergovernmental perspective.

The following is Mr. Daws' testimony:

My township of Palmer, located in eastern Pennsylvania, has a combination of urban, suburban and rural characteristics, and a rapidly growing population of 15,000. Palmer is the site of nearly 300 businesses and has the second largest industrial concentration in Northampton County.

We are honored to have been invited to these hearings by Chairman Roe to provide the Subcommittees with the perspective of smaller communities in general, and townships in particular, concerning the Local Public Works Program. We would like to thank both Chairman Roe and Chairman Ginn for the opportunity to comment on this very important subject.

LOCAL PUBLIC WORKS—ROUND I

Needless to say, the administration of Round I of the LPW Program did not enjoy a favorable review during the oversight hearings last year. The record showed a clear dissatisfaction on the part of many public officials concerning, among other things, the eligibility criteria which allowed some local governments to use the higher unemployment data of a neighboring jurisdiction to improve their own chances of receiving a grant. Another widely criticized provision was the 70%-30% split of Round I funds. These two aspects of the program are not now really significant, since the Economic Development Administration revised its Round II procedures and eliminated both provisions from the allocation formula.

One point related to the administration of Round I which is worth focusing on, however, is the charge by many big city officials that smaller communities received a disproportionately high level of funding. While it is acknowledged that some localities did receive substantial grants in consideration of their relatively small population, a look at figures provided by EDA officials in January 1977 shows that, on a national scale, urban areas were not shortchanged. Sixty-five percent of the Round I funds went to localities within Standard Metropolitan Statistical Areas (SMSAs). In my own state of Pennsylvania, 28.9 percent of the total allocation went to the cities of Philadelphia and Pittsburgh, while only 6.9 percent went to 12 rural counties. These non-metropolitan areas received $5.8 million to alleviate an unemployment rate of 7.39 percent and to lower the number of unemployed workers from a total of 51,079. Pittsburgh, by comparison, received $11 million to cope with a similar unemployment rate of 7.16 percent and 45,532 unemployed workers.

An examination of the Round I program nationally shows similar findings. However, the objections of the big city mayors about the supposed small-town bias, and the attendant media coverage which they received, had a profound effect on the administration of Round II.

ABSOLUTE NUMBERS OF UNEMPLOYED

As indicated in testimony presented last year to the Economic Development Subcommittee by a representative of the National Association of Towns and Townships, NATaT voiced its opposition to EDA's project selection criteria for Round II, which emphasized the absolute number of unemployed people living within an applicant's jurisdiction. This ranking factor provided for an obvious urban tilt and discriminated unfairly against smaller, less densely populated communities.

We recognize that a system which places total emphasis on an applicant's unemployment rate would not be equitable either, and if there is to be another round in the LPW Program, we urge EDA officials to develop an appropriate and fairer mid-point between these two major application rating factors.

PROJECT LOCATION ERRORS

One serious problem with the administration of Round II of the LPW program related to EDA's inability in some cases to distinguish certain units of local government, such as townships, from other municipalities within the same county which had a similar name or a different postal address. As Congressman Roe knows, this caused problems in his own state of New Jersey, as well as in the states of Michigan, Ohio, New York and, indeed, in my state of Pennsylvania. In fact, this problem affected my township of Palmer directly.

Palmer Township filed two applications under Round I, both of which were "shelved" until Round II. Because our township does not have its own post office, the mailing address listed on our application was Eas-

ton, Pennsylvania, a small city near Palmer. According to a study done by the U.S. General Accounting Office in August 1977, this type of situation was what caused the program administration difficulties: "Apparently, the grant application did not call for the address of the project or otherwise identify its location, but instead only required the applicant's address—and the two were not always the same."

While we know it is not within the purview of the Subcommittees, we believe this problem could easily be solved by developing separate and distinct Zip Codes to identify each municipality or political subdivision within each state. Such an approach would allow the identification of local government bodies in much the same way as Social Security numbers identify individuals.

Short of such a major operational change in current postal practices, NATaT suggests that EDA's computers be programed in a manner similar to the program used by the Office of Revenue Sharing. The ORS system allows for direct communication and coordination between the central office and all general local governments, large and small.

E.D.A. AND PUBLIC WORKS—A POSITIVE PROGRAM

While it is easy to criticize a program such as LPW for certain perceived inequities and deficiencies, the National Association of Towns and Townships believes that the program represents a pioneering countercyclical effort. EDA should be commended for its effectiveness in processing so quickly the many thousands of applications it received and getting the money to the communities where it has been used to provide jobs and fund projects that otherwise would have been impossible.

Our township of Palmer, in particular, is grateful for the support of this program, which has had a catalytic effect upon our community despite the low level of funding received. Through a positive federal and local partnership, we were able to take "off the shelf" a major development plan for a 94-acre industrial site which had been dormant for several years due to a lack of start-up funds. As a result of the flexibility under Round II regulations which allowed local officials to set their own priorities, Palmer was able to initiate construction of a tower which, in turn, allowed the Industrial Development Corporation to construct a water distribution system. Ultimately the LPW grant we received from EDA will result in the development of an expanded industrial site which will provide much-needed job and business opportunities for our citizens.

L.P.W.: A FEDERAL ASSISTANCE PROTOTYPE FOR THE FUTURE

The National Association of Towns and Townships believes that the local Public Works Program is a one-of-a-kind federal program which works and works well. We believe that it has been and can continue to be a federal assistance effort which effectively stimulates the local and therefore the national economy—as it is necessary.

NATaT encourages the subcommittees to consider legislation providing for at least a third round and possibly establishing a permanent LPW Program. Certainly in light of the vast number of previous applications for assistance there can be no doubt that a tremendous need exists.

A SMALL COMMUNITIES SET-ASIDE

If future rounds of the program are provided for, NATaT also recommends the consideration of a special set-aside of public works dollars for smaller communities under 50,000 in population. The program could theoretically be similar in intent to the smaller community program provided for by the Community Development Act of 1977. This approach recognizes that smaller communities are different in nature from large cities. It recognizes that many small communities are managed by part-time elected officials such as myself. The administration of a Small Community LPW Program could provide for simplicity, less red tape, and specialized technical assistance efforts. A Small Communities set-aside should, of course, be funded on a fair and equitable basis.

Again, I would like to thank Chairman Roe and Chairman Ginn, on behalf of the National Association of Towns and Townships, for providing us the opportunity to share our experiences and viewpoints relative to the Local Public Works Program. Both subcommittees and their respective staffs should be commended for their diligent and untiring efforts to improve the program itself and the National economy as a whole.

Thank you.●

IN MULTI-ETHNIC QUEENS, THE FAMILY IS MANKIND

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. ROSENTHAL. Mr. Speaker, I wish to share with my colleagues an informative article that well illustrates the ethnic diversity of Queens. The piece, which was written by Salvatore LaGumina, appeared in Newsday on March 5, 1978. It describes the borough as a kaleidoscope of ethnic groups and the new heart of New York City's melting pot. The article follows:

IN MULTI-ETHNIC QUEENS, THE FAMILY IS MANKIND

"All in the Family," the hit television show of recent years, revolves around the fears and prejudices of Archie Bunker, a bigoted white American living in a row house off Northern Boulevard in Queens. In weekly episodes viewers are regaled or angered by incidents in the life of the Bunker household, which frequently show the narrow-minded family head venting his spleen against ethnic groups with choice epithets.

Over the years, the show has been criticized by people sincerely rankled by such crude reminders of ethnic prejudice; yet its defenders are quick to point out that the show's success reflects the willingness of the average American to deal with the reality of ethnic pluralism in our midst.

Whatever the viewpoint, one can acknowledge that, in selecting Queens as a laboratory for ethnic diversity in our times, the producers of "All in the Family" were not far from the mark: Queens is indeed a polyglot borough. Ethnic diversity has been a characteristic of the borough's history for many years.

Half a centuy ago the population mix of the county was represented by considerable concentrations of Germans, Irish, Italians, Austrians and Russians. Currently, however, the ethnic mix reflects the addition of newer peoples who were hardly found in the U.S. Census Bureau statistics of 1920: Greeks, Filipinos, Haitians, Koreans, Dominicans.

More than any other part of New York City, one can conclude that Queens today is the real center of the city's melting pot, to use an overused and inaccurate phrase. The Manhattan of old sported recognizable ethnic neighborhoods, such as Chinatown, the Lower East Side (Jewish), Little Italy and Yorktown (German), all presenting visible evidence of high percentages of ethnic groups and accordingly honored in song and story. But today Queens has replaced Manhattan as an ethnic borough, boasting the highest percentage of foreign-born stock of any borough (more than 50 per cent), although Brooklyn has a higher absolute number.

The ethnic communities of Queens are more varied than ever. The borough still has the traditional white ethnic groups of yesteryear: the Jews of Forest Hills and Rochdale, the Italians of Ozone Park, the Irish of Flushing and Bayside, the Germans of Woodhaven. But many of the older groups have been forced to make room for the newer ones.

Astoria is a case in point. A generation ago the main ethnic group was Italian and, although that group is still numerous, a Greek presence is making itself felt. Indeed a resilient, lively and exciting Greek-American enclave of 60,000 has surfaced, replete with its family nightclubs featuring belly dancers, its kaffensions, which serve thick Greek coffee, and its Greek Orthodox churches, such as the venerable Transfiguration of Christ Church, the center of many social and cultural activities. Moreover, it is a true Greek community, keenly aware of its roots. During the recent time of trouble in Cyprus, a Greek-American ice-cream truck in Astoria had a large photo of the late president Archbishop Makarios taped to its side. A young, vigorous community, its people work long days at their jobs, invest in and improve their homes and vitalize community organizations.

Woodside is another example of a changing Queens neighborhood. During the 1950s, the neighborhood was populated largely by Irish-Americans and to a lesser extent German-Americans. In 1955, for example, Woodside Public School II was approximately 97 per cent Irish, Northern European and Anglo-Saxon. Today that same school is perhaps only 3 per cent Irish and the Northern European-Anglo-Saxon cast has given way to a student body covering an ethnic spectrum from oriental to Latin, encompassing blacks, Chinese, Cubans, Japanese, Puerto Ricans, Koreans, Indians, Colombians, Brazilians, Venezuelans, Filipinos, Russians and Ecuadorians. The sympoms of ethnic change are evident in the shops that dot Roosevelt Avenue: Colombian restaurants, Spanish bodegas, Korean supermarkets and Irish bars.

For some, the changing ethnic environment has brought upheaval. Thus in 1972 the predominantly Jewish community of Forest Hills proffered the astonishing spectacle of a liberal middle-class community fighting the building of a housing project, seeming thereby to align itself against racial integration. The neighborhood of better-off Conservative and Orthodox Jews resisted the project because they equated the low-cost scattered-housing project with an inevitable increase in crime. What made the situation even more astonishing was the fact that it pitted a Jewish population that traditionally supported integration against blacks, who were expected to be the largest ethnic group to be introduced into the neighborhood as a result of the project.

The Italian-Americans of Corona who settled the area early in the century, many building their own one- and two-family homes, found themselves confronted with a Lindsay administration plan calling for construction of a public high school that would have destroyed the heart of the closely-knit community. They resisted successfully; the plans were changed, although a number of Italian-Americans concluded they could no longer remain in the neighborhood.

Problems of adjustment are perceived not only by the population of ethnic neighborhoods but also by the newcomers, who realize only too well the obstacles before them as they try to obtain a foothold in society. The problem of finding adequate housing

is especially serious for darker-skinned ethnic groups, along with the difficulties in obtaining the full array of educational and other services. Thus issues dealing with bilingualism in schools, minority representation in the school systems and social service agencies and opportunities for job advancement are among the things they worry about.

For Queens, what is remarkable is that, on the whole, the borough remains a desirable place to live. I hope that the older ethnic groups come to see the newcomers as enriching and vitalizing forces, just as they and their parents enriched and enlivened the Queens of half a century ago. To the extent they are able to do so they will have relegated Archie Bunker to the past.●

THE CAMPAIGN FINANCING FIASCO

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MAZZOLI. Mr. Speaker, as a strong and consistent advocate of public financing—twice I have voted in the House for this needed reform—I was greatly distressed to be placed in a position of appearing to vote against public financing.

Many of my colleagues and many private congressional oversight groups—like Common Cause—urged me to vote for the bill changing the Federal Election's Act in order to get a vote on public financing of congressional races.

However, that measure was odious and so lacking in merit, that I could not do so despite my personal commitment to public financing of House races.

I believe that the following Washington Post editorial explains well the situation in which I found myself.

[From the Washington Post, Mar. 23, 1978]

THE CAMPAIGN FINANCING FIASCO

The House's Republicans and 69 of its Democrats did good work Tuesday when they shelved the campaign regulation bill. The bill's worst feature had been a Democratic attempt to counteract the Republicans' fundraising success by sharply curbing political parties' contributions to House campaigns. After muscling this partisan amendment through the House Administration Committee, chairman Frank Thompson (D-N.J.) and his allies did promise to delete it on the House floor if the GOP would agree to bring up the bill. Apparently fearing more mischief, the Republicans refused and voted as a bloc against considering the bill at all.

The other target of opposition was the plan for public financing of House campaigns, which a bipartisan coalition, spurred by Common Cause, had been poised to offer on the House floor. The backers of this plan may try to revive it and are already describing its shelving this week as a blow to "reform." So let's look at a few of the "reforms" it would involve.

For one thing, public financing is often praised as a way of "opening up the system" and making campaigns more competitive. The House plan could have the opposite effect. It would offer public funds to match small individual gifts to House campaigns, up to $50,000 in subsidies per candidate. The would help poorly financed candidates get some messages to the voters. But it would not apply to primaries. And who would be most likely to raise lots of small donations and get the big subsidies? Not fledgling candidates most strapped for funds, but incumbents and others who are already well known or waging highly publicized fights for vacant seats. Spending reports on the 1976 House campaigns suggests that an average House incumbent could easily qualify for a $50,000 grant, while an average challenger might be able to match only $25,000 or so.

The plan would promote equity in some cases, but this aspect, too, has severe flaws. It would give candidates extra public aid if their opponents benefit from large independent outlays by interest groups, or decide to forego the subsidies and spend more than $150,000 in private funds. There are several things wrong with that. It makes the judgment that some kinds of constitutionally protected political activity—free spending by individuals and groups to promote their own candidacies or views—are "excessive" or "bad." It assumes that government should impose that judgment and provide a financial counterweight, instead of simply disclosing the spending and letting voters judge its desirability for themselves. Indeed, experience shows that lavish spending by rich candidates or well-heeled interest groups often becomes a campaign issue anyway—and does not necessarily bring victory at the polls.

On those two grounds alone, the plan deserved to be shelved. It may be possible to devise a modest program that would ease candidates' access to the marketplace without distorting political competition in new, troubling ways. This wasn't it.●

CONCERN SHOWN FOR U.S. NAVY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BOB WILSON. Mr. Speaker, I continue to be most concerned about the state our Navy is in and the direction the administration would have it proceed. Already rocked by reductions in its fleet, this present cut would bring it to its lowest ebb in half a century—exactly at a time when it is never more important to be strong. We must have an ongoing program to strengthen our fleets, and the proposals put forward by the administration would have just the opposite and most deleterious effect. An editorial in today's San Diego Union points out the dangers inherent in President Carter's methodology most succinctly and I commend it to the attention of my colleagues:

CARTER'S NAVAL TWIG

Instead of speaking softly and carrying a big stick, as Teddy Roosevelt urged, Jimmy Carter talks tough and then reaches for a twig.

In a militant speech at Wake Forest University on March 18, the President warned the Soviet Union against continuing its massive buildup of military might, which far exceeds defensive requirements. Otherwise, he said the United States and its allies would strengthen their own armed forces as necessary. "We will modernize our strategic systems and revitalize our conventional forces," he said.

Mr. Carter's first official act after returning to Washington from announcing this new and sterner policy was to slash by more than half the Navy's shipbuilding program for the next five years.

Instead of implementing a plan on the drawing boards since the Ford Administration days to build 156 new ships and modernize 20 existing ones, the President and the Pentagon propose 70 new ships and 13 modernizations; of these, only 46 would be combatant vessels.

Thus, the 800-ship Navy thought necessary to defend American interests around the world is being whittled down to a 375-ship Navy designed, not for mastery of the seas, but merely for the convoy duty that administration strategies have assigned it.

In direct contrast with our weakened Navy is the Russian drive for overwhelming sea power. As we have cut back our fleet, the Soviets have doubled and redoubled theirs; with 981 ships to our 462, they are about twice as strong in every warship category except aircraft carriers. For example, there are 230 attack submarines to our 77 and 195 destroyer/frigates to our 122.

This discrepancy is too ominous to be ignored.

Why, then, is the President ignoring it? In view of the Soviet challenge and the obvious need for new naval construction to match it, he can only cite costs behind his action, which he does—the requirement to hold down federal spending.

Unfortunately, the Navy's own house is not in order. The President points to shipbuilding delays and cost overruns that amount to almost $3 billion. Whether these are due to mismanagement by the shipbuilders, as the Navy charges, or niggling Navy changes in design is beside the point; the problem provides Mr. Carter with some logic and rationalization for his new policy of cutting back the Navy.

We have no quarrel with the President for challenging the Navy to be more efficient and more economical. The trouble is he does not apply the same yardstick to his domestic programs, some of which are grossly wasteful and inefficient, which he has been approving almost every week of late in response to political pressure from one group or another. Standards imposed by the White House and Pentagon on the Navy are noticeably absent from the recently announced farm subsidization program and the new national urban program, where billions of dollars expended over the years have come to very little.

The fact is a Navy rebuilding program on a scale to meet the Soviet challenge would help to energize the American economy, provide thousands of jobs, and generate new tax revenues. And this appears attainable, if given the proper priority within the overall national budget, without weakening other defense commitments, including those to the North Atlantic Treaty Organization.

The point is that the United States is a continental island, dependent on mastery of the seas for its raw materials and for support of its allies around the world. We must rely upon a strong Navy all the way from the Middle East to Japan if we are not to forfeit our influence in international affairs.

It is time the American people aroused themselves from their complacency to this particular peril. It is not enough to hope that our national survival should command the same kind of effective political pressure that is producing so much spending on the domestic front.●

BYELORUSSIA: 60TH ANNIVERSARY

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. LEDERER. Mr. Speaker, March 25 was a memorable day in the history of

the people of Byelorussia and their many compatriots living in the United States because on that day in 1918 they realized their centuries-old dream and found themselves free again. Unfortunately, their hopes and aspirations were short-lived, because very shortly after their independence the new State was invaded by the Soviets, and Byelorussia as a nation ceased to exist.

Yet, the people of that unfortunate land never gave up their dreams. Even the Soviets had to recognize the fact they do not consider themselves an integral part of the Soviet Empire, since they have insisted that Byelorussia should have a separate vote in the United Nations.

We in the United States firmly believe in the principles of self-determination.

Thus, Mr. Speaker, on March 25 we celebrated the 60th anniversary of the proclamation of the Byelorussia Democratic Republic signed in Miensk, capital of Byelorussia, on March 25, 1918. Our efforts for human rights throughout the world have no better example than the spirit and determination of the Byelorussian peoples in their homeland and those of that heritage in our country.●

LINCOLN ESSAY CONTEST WINNER

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. DEL CLAWSON. Mr. Speaker, a project of the League of Republican Women of the District of Columbia is, in my opinion, worthy of commendation. It is an annual Lincoln essay contest, a program initiated this year in a special invitation to seniors of public, private, and parochial schools of the District of Columbia. This year's winner was Stephen Gander, a student at St. John's High School. The award was postponed from February to March because of this year's weather, but the presentation was made on March 6. It is a pleasure to include the winning essay at this point, in the RECORD. The essay follows:

ABRAHAM LINCOLN'S COMMITMENT TO CIVIL AND HUMAN RIGHTS AND OUR RESPONSIBILITY TO PRESERVE THESE RIGHTS

Rights—individual rights, equal rights, human rights, civil rights—all of these phrases have taken on specific and often individualistic meanings, yet they really convey one major concept. Two words envelop this concept completely. The world has sought it since time immemorial. Writers, philosophers, and statesmen have often defined, debated, and discussed it—yet have almost always agreed that it was lacking in society. It, is justice. The basic elementary, simple concept of social justice.

Many great leaders can be identified as champions of this great cause. One, however, stands out vividly not only in American but also in other lands, primarily because of his powerful impact and firm resolve. That man was the sixteenth president of the United States of America, Abraham Lincoln. His whole life was wrapped up in the principle of social justice, and it came to fruition in his presidency. During that critical juncture in our nation's history, he calmly and courageously stood steadfast in his desire to see social justice triumph so that men could live in harmony. His goal was not one of punishment or repression for those who did not agree with his way of viewing social justice, but rather one of reconciliation and understanding. His moderation, freedom from bitterness, and disdain for the exercise of power for its own sake has served as a model for all who were to follow. Through his firmness of purpose and great moral principles a people were freed and a nation saved. What a superb foundation upon which to build he has left us, for unfortunately the maintenance of social justice has proved to be a never ending task. Thus the legacy he left is a challenge to us and future generations to not only guard the freedoms which we now enjoy, but also to work for social justice in areas where it has yet to become a reality. An eloquent statement, but one might think it too idealistic to be accomplished. I challenge that viewpoint for I believe that it can and must be done.

Let me first explain that I do not have any clear cut blueprint as to how to achieve permanent, never-ending social justice. But I do have some ideas as to how each of us can, in our own way continue the commitment to equal justice for all.

Politically, since we are fortunate enough to be a government ". . . of the people, by the people, and for the people, . . ." let us continue to exercise our voting rights. We must research the policies and personalities of those who would seek to govern, as well as those who are governing. Determine how they view the concept of social justice. More importantly see how they are working for it. Actions speak louder than words, and responsible legislation by those who would seek to make the laws should be the ultimate criterion and prime factor in deciding who should be entrusted with the duty to govern.

Economically the answer to social justice does not lie in a redistribution of wealth, but instead in an equitable distribution of wealth. Very simply—a "just" wage for "just" labor. In that context both the employee and the employer share mutual respect for each others contribution to society. Neither feels disadvantaged and the opportunity is always present for one to decide just how much time, and effort he wishes to expend to bring about the economic conditions under which he desires to live. Individual freedom and initiative are paramount, but also important is "just" remuneration for one's efforts.

Socially, we should rededicate ourselves to ". . . the proposition that all men are created equal." Morally we know this to be true. Regardless of race, creed, or ethnic origin all men have the same basic human needs and desires. Why then should one group be singled out as superior or "different"? What insecurity or fear causes hatred and bitterness? These questions should constantly be addressed and debated, so that by raising each other's consciousness we all may begin to see in our neighbor the reflection of God.

These basic ideas are not new, but if they are really pursued they can lead to the fulfillment of man's basic desire for social justice. Lincoln saw this to be true and gave his life for the principles in which he believed. The majority of us will not be called upon to make the ultimate sacrifice, all we are asked to do is continue the legacy which he has left. Is that too hard? I don't think so. I deeply believe that there is in our country, and even in the world a new awareness and a resolve to end man's inhumanity to man. It is our duty to see that this continues, for if we fail, humanity's end will not be far behind.●

"ROME'S FALL: CAN IT HAPPEN TO US?"

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. SYMMS. Mr. Speaker, during recent years many different writers and historians have compared the parallels between the events that led to the fall of the Roman Empire and the present trends in the United States today. During 1968 the Philadelphia Inquirer ran a series of articles by Dr. Robert Strausz-Hupe dealing with such a parallel.

With the recent passage of the Humphrey-Hawkins income redistribution legislation by this House and the current status of the SALT proposals with the Soviet Union, I think it most appropriate to commend the Strausz-Hupe essay to my colleagues in Congress. The essay is rather lengthy so I will read it into the RECORD in two parts. Part two will appear in tomorrow's RECORD:

ROME'S FALL: CAN IT HAPPEN TO US?

(By Dr. Robert Strausz-Hupe)

EERIE SIMILARITIES NOTED IN PRESENT, PAST CIVILIZATION

Because our civilization possess resources of energy vastly greater than any of its predecessors and, in this respect, is truly novel, it is easy to assume that the lessons of history, interesting and diverting as they might be for their own sake, do not apply to us.

Widely held as this assumption is, only a few educated men care to state it quite as bluntly as I have done here.

In our educational system, the study of history occupies a highly respected place. Our scholars, armed with the methods of modern science, have gathered an immense amount of historical facts, uncovered the secrets of long buried cultures, and bared the most intimate details of men's lives throughout the millenia of civilized existence. We know more about history than any and all generations before us.

Yet the question need be asked: Do we fully understand the many things we know? Are we so confident of the power which knowledge of the past gives us that we need not fear repeating the fatal mistakes of the past, the "dead" civilizations?

The Founding Fathers were deeply steeped in the history of ancient Greece and Rome. Not a few among them were able to read the works of Plato and Thucydides, and of Livy and Tacitus in the original texts.

Their political ideas were shaped not only by the political thinkers of the 17th and 18th centuries—as, for example, Locke and Hume who, themselves, drew upon the Greek and Roman experience—but also by their own schooling in the history of Roman statecraft.

Indeed, the concept of the "separation of powers" which inspired the making of the American Constitution probably derived from the writing of the Greek philosopher-statesman Polybius, who, in the second century before Christ, recorded the rise of the Roman Republic and extolled the checks and balances of the Roman constitution.

Like most educated men of their times, the Founding Fathers believed that, by the right use of reason, men could improve themselves and create a more perfect society. They believed in progress.

Proven right

They also believed that progress could not be taken for granted, and that the many

dangers besetting a free society called for the constant vigilance and patriotic dedication of its members.

They were proven right on both counts: No country has progressed more rapidly than the United States; American progress under freedom has been achieved by the vigorous initiative and hard work of individual men and women, and safeguarded by the American people's willingness, in times of stress, to put the common good above individual interest.

Can we now assume that these conditions will always obtain in the future—that we have, once and for all, insured continuous progress and solved the key problem of the relationship of man and state, namely, how much does each owe to the other?

No prudent man would care to answer this question positively.

Despite novel forecasting techniques, the future of human society is now as unpredictable as it has always been. And even if the future were more certain than I believe it to be, we would still have to know whence we came in order to know where we are heading.

It is this circumstance which suggested to the great statesmen of all times the study of history and, especially, the history of ancient Rome.

The history of Rome spans a long time, much longer than the history of any contemporary Western state. It records an immense variety of political and social changes.

Similarities

It is the history of a highly intelligent and vigorous people who, at the height of their power, succeeded in welding many races into a universal state, leader of the known world.

Last but not least, Roman history is well documented: we know more about it than we know about any great civilization of the past.

Such historians as Oswald Spengler, Guglielmo Ferrero and Amaury de Riencourt have noted certain similarities in the urban life of the Romans and the Americans respectively, as well as the resemblance of the United States' position as leading world power to the pre-eminence of Rome in the ancient world.

This is far from saying that the Romans of nearly 2000 years ago were "like" Americans of the 20th century. Of course, they were not.

Yet some of the achievements and vicissitudes of the Romans evoke in us a sense of almost eerie familiarity—like meeting a perfect stranger and feeling that we have known him all the time.

The Romans were prodigious engineers: they built roads wherever they went, in Europe, Africa and Asia, and probably built them even more durably than ours, for some of them are still in use today.

Like the Americans, the Romans cherished bodily hygiene, the cosmetic arts, and spectator sports. They were inveterate sightseers and tourists.

In some of their major cities, they developed complexes of high-rise apartment houses (some of which were shoddily constructed and, despite stringent building regulations, menaced the health and safety of the infuriated tenants).

City problems

They mastered the art of plumbing and built water supply and sewer systems which were hardly inferior to our own, and some of which still function.

Long before us, they managed to run into the Urban Problem, complete with traffic congestion, slums, ghettos, unemployment and crime.

They tackled the task of Urban Renewal, razed slums and built model cities. Indeed, as planners of towns and splendid community centers, the Romans had no peers until the Americans set out to lift the faces of their urban centers.

The Romans developed a world-wide system of commerce and banking, and foreign-made utensils and luxury goods conferred prestige upon their users.

They were open to intellectual influences from abroad, first, from the Greek-speaking countries under their protection and domination and, then, from the cultural centers of the Middle East.

They thought themselves somewhat too materialist and crude; they were eager and humble students; they adapted what they learned to their own tradition; and they transformed their cultural borrowings into a virile, direct literary style; a grave, noble philosophy; and imposing artistic creations of their own.

It is perhaps in this respect that the analogy of Rome and America fits most closely: the Roman-Hellenic cultural achievement finds its counterpart in the American culture which derives from Europe and yet, in vital thrust and universal attraction, surpasses the European heritage.

Slavery

The Romans, though they produced able engineers and thinkers of scientific bent, did not engage in a systematic study of the laws of nature and, hence, failed to develop an advanced technology. By modern standards, their resources of energy were woefully small.

Some of the reasons for their technological backwardness are now easily explained; some are puzzling and still subject to conjecture.

The frugal Greeks, who taught the Romans so much about the uses of the mind, viewed science as an intellectual pursuit, rewarding for its own sake, and spurned its practical applications as unworthy of wise men.

The economy of Rome, like that of Greece, was based on that institution of antiquity which modern man finds most repugnant, namely, slavery.

More likely than not, Roman imagination stopped short at the threshold of machine technology because cheap and abundant slave labor supplied the "machines" of production.

Let it be noted that the Romans treated their slaves more humanely than some hundred generations of slaveholders after them, and provided them with elaborate protection in law and convention.

Masses of slaves were freed by their masters. Freedmen amassed great wealth and, under the emperors, attained highest office in the state and academic distinction.

Yet, the blemish of slavery distorted the moral countenance of Rome—and, probably, arrested its technical and economic development.

Blind reliance

Here the gap between modern America and ancient Rome is wide, unbridgeably wide. Yet, notwithstanding this, we must ask whether our machine technology makes us proof against all those destructive forces which plagued Roman society and, ultimately, wrecked Roman civilization.

Our reliance—an almost religious reliance—upon the power of science and technology to forever insure the progress of our society, might blind us to some very real problems which cannot be solved by science and technology.

These problems find their counterpart in the Roman experience, scant as were Rome's resources of machine power.

Some of the most crucial issues confronting America are political and moral. For their study, the lessons of history are timeless.

About their nature, Roman history might have much to tell us that we need to learn—perhaps only in order to satisfy ourselves that what happened to the Romans can never happen to us.

OPPRESSIVE TAXATION, CREEPING INFLATION LED EMPIRE TO RUIN

In the second century after the birth of Christ, the Roman Empire achieved its greatest prosperity and external security. Under the rule of Trajan, Hadrian, Antoninus Pius and Marcus Aurelius, which spans nearly 100 years, the military strength of Rome deterred or overwhelmed foreign aggressors. Internally, the empire insured the safety of individuals and their property as effectively as a modern state, if not more effectively.

The rulers encouraged the building of new towns and the improvement of the older municipalities. In these urban centers, a middle class consisting of tradesmen, manufacturers, contractors, judges, lawyers, municipal officials, and independent artisans grew steadily in numbers and in wealth.

Class mobility

Access to this middle class was, by our standards, democratic. Many of its members were Roman by neither birth nor extraction; many were descendants of peasant-soldiers, recruited from all over the empire, upon whom enlistment had conferred Roman citizenship and who were rewarded by a grant of land in the provinces.

In this epoch, the Roman society enjoyed a high degree of what our sociologists now call "upward mobility." Industry and intelligence received their fair rewards.

Although not all subject peoples qualified automatically for Roman citizenship, the emperors made it increasingly easy for the members of non-Roman and non-Italian communities to become Roman citizens.

All Roman citizens were liable for military service; all Roman citizens were as equal before the law as are now the citizens of any democratic community.

Judicial equality

As a matter of fact, the principle of judicial equality, as well as of due process, is Rome's bequest to our courts of law.

The Roman State, seeking to foster the rise of a middle class, not only did not interfere with economic competition but actively encouraged it.

Although the imperial bureaucracy was salaried, most local offices were honorific and administered without pay by individuals chosen by the community.

If, at any time in history, a people could have looked confidently to the future, it was the Roman people in the second century of our era: at the frontiers stood an invincible army; within the empire, law and order prevailed, and never did almost everybody "have it so good."

Seen in retrospect, all Rome had to do in order to perpetuate this happy state of affairs was to follow the enlightened course she had staked out at the beginning of her Golden Age. No foreign power could challenge her, and her growing middle class furnished the seemingly inexhaustible wellspring of progress.

Idle increase

Why did this splendid and benign civilization decline at all? And why did it decline so rapidly that, within another 100 years, the Roman Empire was plunged irreversibly into anarchy and penury, ravaged by foreign aggressors, and doomed to extinction?

Undoubtedly, one cause of the Decline and Fall of the Roman Empire can be found in the enduring nature of man: his capacity for self-delusion and complacency in good times.

Some of the other causes can be understood only by examining the special circumstances surrounding the evolution of Roman society, and it is these causes that are of greatest interest and relevance today.

As we have seen, the power and prosperity of the Roman Empire at its height rested

upon the valor of its citizen-soldiers and the enterprise of her middle class.

If we can identify the forces which undermined these two key supports of the Roman State, we will come as close to explaining the collapse of Rome as we can come to explaining anything about a people remote from us by nearly 2000 years.

Already during the century preceding the long reign of the Good Emperors, astute contemporaries had noted certain alarming trends in Roman life.

One of these was the increase of idle people in Rome, the idle rich and the idle poor.

This trend was fostered by some of the emperors who lavishly rewarded their favorites—pliant politicians and military, as well as contractors and financiers with an inside track to the government—and bid for the acclaim of the Roman masses by the inauguration of welfare measures such as free meals, a round of sensational entertainments and public services without charge to the consumer.

A large part of the Roman citizenry lived comfortably on the dole. Since, nominally, the emperors, as chief magistrates of the Republic, were elected officials, the Roman electorate was called upon to sanction their rule.

As a matter of fact, the emperors solved this problem by the massive purchase of votes—and, in fair exchange, the mass of the voters, so recompensed, looked to the government for ever more elaborate welfare measures, free of charge.

Not so surprisingly, the average Roman citizen idle, pleasure-seeking and pampered, felt less and less inclined to do service in the army, once the precious privilege of all free Romans.

It is amazing that, despite these demoralizing tendencies, the empire could, for a long time, find enough high-minded Roman citizens to man its armies and to maintain the traditional standard of Roman military discipline and valor.

Decay sets in

But, by the end of the second century, the dole and decadence had done their work.

The emperors saw themselves forced to rely on mercenaries for the defense of the frontiers.

Most of these mercenaries were recruited from barbarian tribes and the underworld of the cities. Many did not speak Latin and few felt any civic allegiance to the Roman State.

By the third century, the Roman legions had become boisterous bands of ruffians, bent on loot, and terrorizing the feckless, disarmed and helpless civilian population they were supposed to defend against foreign foes.

The traditional virtues of the Romans had made them invincible in war and ennobled their domestic institutions. They were: frugality, gravity, directness, piety and patriotism.

These simple moral values did not commend themselves to the new, the sophisticated philosophies which, originating in the East, swept Rome's intellectual market in the second century.

The alienated intellectual was as much a phenomenon of Roman society as it is of ours.

In Rome, the most popular teachers of new doctrines which heaped contempt and ridicule upon the steady values of the middle class were the Cynics.

Bearded, ragged and professing indifference to worldly goods, these bitter critics of Roman society view with the suave Sophists, academics more fashionable in the great school of learning, for public acclaim—and the patronage of the middle class.

Battening on the very social and economic system which they denounced, some grew influential and rich.

Let us beware of facile historical analogies! Seventeen hundred years before Karl Marx and 1800 years before Professor Marcuse, Rome's disaffected thinkers had not and could not have developed those doctrines of collectivism and anarchism which sparked the revolutionary movements of our times.

Unsafe places

Yet, just as in our times, a profound change in the intellectual and moral climate preceded the breakup of the established order—and that established order not only failed to reaffirm the moral values that had made it rich and powerful, but also embraced the very doctrines which demeaned it.

By the beginning of the third century, Rome's towns and countryside had become unsafe places.

Deserters from the army and escaped criminals beset the unwary traveler and robbed the tradesmen. In this age, the annals of Rome record the increase of riots, some culminating in conflagrations which destroyed whole towns.

The authorities, unable or unwilling to cope with these disorders, indulged the masses of idle people in the cities, seeking their political support in order to quell the growing discontent of the taxpayers—the producers.

Mighty Rome might have withstood civil disorder, the spread of disruptive doctrines, as well as the loss of prestige abroad, and kept on living on its immense accumulated wealth, had she not been smitten by a disease that even her once robust constitution could not tolerate.

Rome died of the twin malady which, throughout history, has laid low the strongest states: confiscatory taxation and creeping inflation.

Under the Emperor Commodus, the ruthless son of mild Marcus Aurelius, the burden of direct taxation began to depress the commerce and industry of the empire.

Under the Emperor Caracalla, that burden crushed the empire's economy and beggared the middle class.

The land tax and the poll tax, the chief taxes paid by lower income brackets, were not raised, but the income tax, which mainly affected the propertied and well-to-do, was sharply increased. The tax on inheritance was doubled.●

DEMOCRATS: MASTERY YIELDS TO DRIFT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. STEERS. Mr. Speaker, appearing in the Washington Post on February 26, 1978 was Joseph Kraft's article entitled, "Democrats: Mastery Yields To Drift." It was clear to me that Mr. Kraft attempted to use the incident between you and Congressman CAPUTO as an example of his general theme—the decline of authority in Government. I therefore, responded to the editor of the Washington Post with the following letter:

MARCH 1, 1978.

The EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: Joe Kraft's column of February 26, 1978 contained as usual some very cogent analysis. However, I believe Mr. Kraft is in error when he says "But when the one true heavyweight in town feels obliged to back down, it is an index of how little clout the administration has in both the country and tho Congress".

I feel that Speaker O'Neill's apology in no way indicates lack of clout; to the contrary, it was, I believe, an indication that the Speaker's largeness of spirit had overcome his hastiness in accusing Bruce Caputo. As one who criticized the Speaker, at the time, I believe the Speaker, by his apology, added to his stature.

Sincerely,

NEWTON I. STEERS, Jr.●

THE UNITED NATIONS AND A MID-EAST SETTLEMENT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. SOLARZ. Mr. Speaker, United Nations delegates have realized that their condemnations of Israel contribute nothing to a resolution of conflicts in the Middle East. Those nations which continue their attacks on the Jewish state are being excluded from a meaningful role in peace negotiations. Humorist Joey Adams, in an editorial printed in the Manhattan weekly, Our Town, makes these observations in a satirical critique of this international forum. Echoing the sentiments of all people committed to a viable Middle East peace settlement, Mr. Adams writes that the U.N. "* * * should encourage potentially moderate Arab States to follow Egypt's lead leaving the radicals with the choice of moderation or isolation." It is my hope that the United Nations will soon begin contributing to a reduction of hostilities in the Middle East, and throughout the world. I respectfully submit the editorial written by Mr. Adams:

From: Joey Adams
To: The U.N.—Useless Nations Organization
Subject: An open letter

DEAR USELESS: Goliath tried to deny the right of the tribes of Israel to live. Then Hitler tried to deny the right of the Jewish people to live. For 30 years the Arabs have tried to deny the right of the Jewish state to live. And now that we've got Egypt and Israel together, the giant against us is the United Nations.

Begin and Sadat are meeting face to face—but the United Nations is censuring Israel. For the first time in 30 years there's a prayer of peace in the Middle East—but the United Nations is censuring Israel. Israel is attacked on the day of Yom Kippur when its citizens are praying in the synagogue and the United Nations brands Israel the aggressor. With what were they aggressors? Could they shoot with their Bibles? Did they have ammunition in their prayer shawls? But the United Nations censured Israel!

What are these guys doing over there on the East River? What do they do here in our town anyway? Besides freeloading at every cocktail party, parking illegally at every fire hydrant between here and downtown Newark and eating up the city's money in protection and free services, what is it these bums do besides censure Israel?

Only recently people everywhere were looking to Jerusalem and Cairo for the maiden

voyage of the Dove of Peace. It was the first flutter of hope out of the Middle East in three decades. We saw Sadat lean over to kiss Golda. We saw Israelis wave Egyptian flags. We saw thousands of muslims welcome back their leader after a journey no one would have dreamt possible days before.

Meanwhile, the anachronistic Useless Nations creaked along its archaic way seeing nothing, hearing nothing and solving nothing. On November 25, five days after the Sadat visit, the U.N. General Assembly overwhelmingly passed yet another anti-Israel resolution. This time they condemned Israel for occupying Arab lands.

The U.N. is getting senile in its old age. It promotes anti-democratic ideas to weaken Western civilization. It tries to undermine the legitimacy of the only democratic state in the Middle East which also happens to be the strategic ally of the symbol of Western civilization, the United States. It abets bigots the world over and particularly in the Soviet Union by its passage of the 1975 Zionism-isracim resolution which serves as a justification for anti-Semitism.

The time has come for the U.N. to put up or shut up shop forever. Their purpose in case they forgot is to engender peace not war. When will such an olive branch, such an opportunity for peace present itself again? May this not be a beginning for all humanity to follow? Isn't this the reason for the U.N.?

To justify its existence the U.N. should encourage contacts between Israelis and Arabs on all levels—governmental, economic, cultural. It should encourage potentially moderate Arab states to follow Egypt's lead leaving the radicals with the choice of moderation or isolation. Above all, it must stop pandering to the terrorist organizations which hijack planes, which murder Olympic athletes, which bomb innocent women and children in supermarkets and which rule out the possibility of peace as long as Israel exists.

Israel asks only the right to live. How can mankind support an international organization of people who won't recognize that? Aren't six million Jews who were put in ovens enough?

Today it may be the Jews who are being pushed into the sea. Tomorrow it could be the Catholics or the blacks or even the Baptists.

Et tu, U.N.? The Jews have been pushed out of every corner of the world. They've been attacked, persecuted, burned and killed in Poland, Bulgaria, Russia, Rumania, Hungary, Germany and points East and West. It took 5,000 years but they have a country of their own. They paid for it with their money as well as their lives—and you want to take it away from them? Well, you can't do it. You can not trade Jewish blood for Arab oil.

Now is the time for this kept mistress of the world to show she hasn't outlived her usefulness. Now is the time for the U.N. to rise up and speak for reason, compromise and moderation. Now is the time for the U.N. to show if it's worth a damn. Okay, you dragged your feet on censuring hijacking but you were quick to censure Israel. Okay, you dragged your feet in praising Sadat but you were quick to protect the rights of the Palestinians. Okay . . . but now . . . now . . . stand up before it's too late.

But with or without this international Tinker Toy on the East River, let US back President Sadat and Prime Minister Begin in their bid for peace. If we are supportive rather than negative, if we give them our blessing rather than our hating—who knows, with Isaiah we, too, might see the day when, "The wolf also shall dwell with the lamb—and the leopard shall lie down with the kid—and the calf and the young lion and fatling together." ●

A NEW KIND OF NAVY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mrs. SCHROEDER. Mr. Speaker, our Navy needs some creative thinking. Like most institutions the Navy has become wedded to old concepts and patterned ways of thinking. In the January issue of the Proceedings of the United States Naval Institute I was pleased to find some innovative thinking by Commander Timothy J. Keen, U.S. Navy (Retired) in his article "A New Kind of Navy." Commander Keen raises some very basic questions about the continuation of the large deck carrier as the centerpiece of our fleet and the Navy's power projection role. I commend the Commander's article to my colleagues.

"A NEW KIND OF NAVY"

(By Cmdr. Timothy J. Keen)

The Missions of the Navy.—The missions are strategic deterrence, projection of power ashore, sea control, and naval presence. The top priority mission, strategic deterrence, assures a second-strike capability through credible strategic weapon systems at sea. Our ability to make devastating counter-strike against any power which might attack the United States gives us and the world some assurance that no nuclear war will occur. At the other extreme, naval presence implies no more than a show of naval force in any part of the world where it can be of constructive influence in the light of U.S. national policy. Naval presence is accomplished with relative ease if warships are available in adequate numbers and capabilities to provide for projection of power ashore and sea control.

To consider the in-between missions, projection implies the deliberate application of military force against an enemy, usually ashore. This can be accomplished through the delivery of ordinance by aircraft, shore bombardment by naval guns, or amphibious assault. The main thrust of such power projection is vested in carrier aviation. The carrier task force, with its potential for high-volume and far-ranging delivery of ordinance, has been the mainstay of the U.S. surface fleet since World War II. In the shadow of naval air, naval gunnery has struggled for notice and support with little success.

Power projection has preoccupied our thinking and planning since World War II. The naval heroes of our time, and those who have inherited the top leadership of the Navy, made their marks in the power projection field. Attacking the enemy with force and vigor, using the latest aircraft and combatant ships, is the career motivation of the profession. It has been the obvious avenue to promotion, and it offers "challenge" in the ultimate sense. Power projection is what most career officers have been trained to accomplish, and it is the professional area in which they believe their vocation is most likely to find fulfillment in terms of status and compensation. With this set of circumstances, it is understandable that naval planning might be strongly oriented to "power projection" capability.

Who among our contemporary naval leaders is likely to crusade for sea control forces if such an action may imply trading off carriers, attack aircraft, and cruisers? What is the incentive to provide more resources for convoy escort, antisubmarine warfare, minesweeping, patrol craft, and means for giving cargo ships meaningful defense systems? Who is likely to conclude that power projection should be secondary to sea control?

However, if we are not balanced in our thinking about future requirements, how serious might this be in distorting our naval posture? Beyond 1980, it appears sea control will very likely be the prime naval mission in nonnuclear war. Admiral Stansfield Turner writes that ". . . we must approach the use of the term 'Sea Control' from two directions: denying an enemy the right to use some seas at some times; and asserting our own right to use some seas at some times."[1] Admiral Turner points out that it is no longer conceivable, except in the most limited sense, to control the seas totally for one's own use or to deny them totally to an enemy. Party of the reason for narrowing the meaning of the term "sea control" is expansion of the potential naval threat. In addition to large numbers of torpedo-firing submarines, our presumed enemy has developed long-range aircraft which can launch antiship missiles at ranges beyond practical antiaircraft interception. The Soviet Union has also equipped a growing number of ships with surface-to-surface missiles of varying ranges and capabilities. Further, many of its submarines are equipped with antiship cruise missiles, some of which can be fired while the submarine is completely submerged.

These new attack dimensions require far more than systematic attrition of submarines as a means of asserting safe passage via the sea lines of communication. The oceans are becoming subject to guerrilla warfare of sophisticated character.[2] Antisubmarine warfare is not enough to protect friendly shipping. A protecting force must also be able to deal with a variety of antiship missiles. Since antimissile defense is extremely difficult, and because the sea lines of communication are prerequisites to projection of power ashore, it appears that first priority in allocation of resources may have to shift to sea control.

While the defense or assurance of sea lines of communication is an awesome challenge, with tens of thousands of miles of heavily traveled routes to protect and ever-increasing dependence of industralized countries on massive quantities of minerals and oil, the U.S. Navy does not seem to be addressing the issue. Insofar as a threat from the Soviet Union is concerned, the problem may be an unlikely one. Détente may keep us from serious confrontations, nation to nation, at that level. However, even without a war between the superpowers, we are becoming increasingly vulnerable to extortion by many other nations which can acquire weapons of exceptional capability. The U.S. Navy has an obligation to develop, organize, and deploy forces which can guarantee reasonable security of worldwide ocean traffic regardless of the Soviets. The need dictates many escorts capable in several dimensions of warfare; more complete use of advanced military technology; and a new world of operational integration between surface ships, aircraft, and submarines.

The Role of Naval Aviation.—In contrast to the sea control problem, consider current planning for naval forces. The U.S. Navy now has the makings of a dozen or so carrier task forces. We have invested our "Sunday punch" in the aircraft carrier and her covey of planes. This has provided tremendous offensive strike power and a source of international influence for decades. However, before

[1] Vice Admiral Stansfield Turner, USN, "Missions of the U.S. Navy," *United States Naval Institute Proceedings*, December 1974, p. 20.

[2] As used here, "guerrilla warfare" means a type which employs a variety of attack modes, unorthodox hostile actions, undeclared war, outrageous methods, etc.

we overextend our confidence in these carrier task forces, the future of manned aircraft as instruments of warfare should be analyzed. Our large aircraft carriers may go the way of the battleship.

Why might this unthinkable situation come about? Aviation, as an instrument of warfare, probably had its origin in the balloons of the 19th century. The ability to have a man aloft as an observer was exploited successfully on several occasions. Following the invention of the propeller-driven aircraft, aerial observers in World War I achieved even greater efficacy, and it was inevitably discovered that aircraft could be used for dropping explosives beyond the range of guns. When this practice began, it became necessary to apply other aircraft to intercept enemy aircraft which might drop bombs. The technology and the glamour associated with military aviation blossomed. Aircraft carriers appeared on the seas in the 1920's, and World War II found the carrier aircraft a well-developed machine with a capability for remote delivery of weapons with considerable accuracy. The Pearl Harbor attack was a spectacular demonstration of this progress. Without doubt, the war was dominated by aircraft, especially in the Pacific. A few years later, our air technology was effectively applied in Korea in close support of our troops.

Similarly, attack aircraft, both carrier-borne and land-based, figured heavily in the Southeast Asia operations during the late 1960s. However, by 1970, a serious new problem was recognized in offensive air operations. Aircraft were increasingly threatened by advancing capability in antiair weapon systems. It took extraordinary effort to reduce aircraft losses from these causes to an acceptable level in Southeast Asia. Elaborate suppression tactics and countermeasures had to be developed to permit aircraft penetration for the dropping of conventional ordnance. This situation did much to spur the standoff air-launched weapons which were used with increasing success in the late stages of the Vietnam War.

In 1973, when the Arabs and the Israelis fought one another, the antiair defenses of the Suez were dense and effective. This experience added emphasis to the current development of standoff weapons, remotely piloted vehicles, and other mechanisms for improving the safety of flight in a combat zone.

While we have yet to gain experience in attacking modern warships with manned aircraft, it seems likely that comparable developments in antiaircraft systems afloat have made overflight unacceptable. "Iron bombs" are thus obsolete in all types of air warfare except against target areas with little or no defense. Standoff weapons are current, practical, and essential. This changes the role of the fighter-interceptor pilot a great deal. No longer can he loiter in the vicinity of a protected force and dash out on any radial to meet intruders. Enemy aircraft will "stop" several hundred miles short of a defended point and launch weapons. If an interceptor is going to do anything about it, he must travel hundreds of miles to attack the bomber, its approach having been detected even more hundreds of miles beyond, or he must intercept the weapons as they approach the defended point. Since the missiles are small, fast, very high or very low, numerous, and likely to come on a coordinated basis from many directions and platforms, it does not appear that airborne fighter aircraft can provide adequate defense. A carrier force will not be able to maintain enough interceptors in the air to provide meaningful cover and still conduct strike operations.

Thus, as our primary naval investment, we have aircraft carriers to provide platforms from which attack aircraft can carry ordnance to targets. We have fighters on board the carriers to protect these ships from counter-destruction. We have large numbers of combatant and logistic ships committed to defense and support of the aircraft carrier. In aggregate, we have a huge equity in ships and planes to support a relatively small number of attack aircraft. If this is the best way to invest our resources, we are still on the right course. However, it appears that within a few years, the attack aircraft will not be able to carry ordnance very near to a target, perhaps only halfway, launching "smart weapons to proceed the remainder of the distance. If it comes to pass that conveyor aircraft of the future cannot approach closely to target areas, then we should assess the merit of having the weapons carried halfway when technology permits missiles that can fly all the way without the benefit of launching aircraft.

To put the situation in another perspective, it might be well to consider how carrier aviation came to be so important and attractive in the first place. In the early days of this century, aircraft operations were severely limited in many respects. The payload was small, the range was short, navigation was rudimentary, and communications in any form were lacking. This more or less dictated that air operations had to take place in the proximity of an airfield. The aircraft carrier emerged as a portable airfield so that air operations could be moved to the open sea or, later, across the sea to an enemy. This was a great military innovation. Over the past 50 years, however, huge improvements have been made in aircraft speed, altitude, range, payload, navigation, communications, control, defense, etc. Aircraft can now operate at great ranges from their home bases and with considerable efficacy. The Soviet "Bear" aircraft covers the entire Atlantic Ocean. U.S. B–52, P–3s, 747s, and many other aircraft can fly great distances and deliver large payloads. So it is no longer essential that an airport be moved to within a few hundred miles of an objective in order to operate aircraft against it. The Soviets know this. Their naval aviation is almost entirely land-based.

If this hypothesis is valid and we forgo the requirement for attack aircraft to lift weapons to altitude for launching, we can eliminate the need for the aircraft carrier in the present form. We can eliminate the fighter-interceptor aircraft needed to protect the carrier We can dismiss the defending surface antiair warfare ships and the logistic train associated with air operations. What we can have, instead, are other types of strike ships, presumably less expensive, more easily supported, and less readily targeted by enemies. New classes of surface ships can be the Navy attack weapons of the future, carrying a variety of surface-launched missiles instead of manned aircraft.

Coupled with the likely decline of carrier-launched aircraft as the cutting edge of U.S. naval power is the increasing vulnerability of the carrier herself. Ocean surveillance by all major powers is approaching a fine art. It seems safe to say that an aircraft carrier can be targeted by a sophisticated enemy at all times regardless of preventive measures designed either to quiet the carrier or hide her. With only 13 U.S. carriers available, the problem of enemy targeting is far too simple. The physical size of these massive ships also eases the problem of target discrimination by long-range weapons. While carriers have a high degree of survivability, the nature of their payload and the intricacy of their operations diminish the likelihood of effective performance after one or more hits by contemporary high-explosive warheads. Their flight decks and hangar decks are jammed with a dangerous array of metals, liquids, and explosives. A modern aircraft carrier may be able to take several missile hits without sinking, but the chances of continuing operations on a given mission are small. Occasional catastrophic flight deck accidents have conveyed this message without the reality of wartime attacks.

A disturbing aspect of this operational vulnerability is the size of the force which exists for the sole purpose of protecting the carrier. If the carrier is out of action, for whatever reason. the entire entourage of defensive and supporting ships has minimal useful function; the whole task force might well retire and avoid danger. Without the carrier, the force has no value as a projection-of-power instrument.

With the advent of technology to support production and deployment of longer-range, surface- or submarine-launched cruise missiles, an obvious alternative is development of a force of lesser ships with aggregate offensive strike power comparable to the striking force of a carrier's attack aircraft. Such a force would suffer only incremental degradation of capability with the loss of an individual ship and would avoid the tactical handicap of total dependence on the functioning of any one ship. The targeting problem for an enemy would be multiplied in proportion to the number of ships over which the offensive capability was divided. The logistic picture, certainly, should be simplified by the elimination of requirements for large quantities of JP–5 fuel, and the complexity and expense of aircraft support would be relieved. There would also emerge an element of enemy uncertainly in ship-launch versus air-launch threat in that a ship might launch at any time, whereas air-launch is possible only when an aircraft is airborne.

To suggest that the time-honored mission of the naval aviator is in decline is to invite strong reaction from dedicated aviation professionals. Considering the enormity of our national investment in military aviation, the notion that we may no longer need it is certainly hard to accept.

Surface Warship Concepts.—History has many examples of major changes in naval warship design technology which were contentious. The shift from sail to steam was marked by years of professional controversy, and the screw propeller was a difficult innovation. The Navy is a high-inertia institution when it comes to basic changes in the way ships are built. At the risk of provoking surface naval officers whose professional ideals are represented in sleek, heavily armed warships steaming at more than 30 knots, another disrupting thesis is proposed.

In order to achieve a surface fleet in the numbers that will be required for sea control missions of the future, the cost of each new ship must be reasonable. We may have to go for quantity rather than quality. However, there is at least one major cost factor currently associated with quality which may not be worth the price. The maximum speed requirement for a surface combatant is worth examining.

Warships have always been designed to achieve the "best speed" practical for their size and purpose. When the steam turbine made its debut in naval ship construction, ship speeds quickly advanced to take advantage of this power package. The destroyers of World War I were capable of 35 knots, and in later years, the Italians built a destroyer that was capable of more than 40 knots. However, it was eventually determined by designers that 30 knots or thereabouts is a practical maximum for a warship. This is generally close to the limiting ratio between speed and the square root of length. Above this design factor, the penalty is too great in terms of power plant and fuel consumption. That is not to say that 30 knots come easily, but that speed has been an acceptable compromise for almost 50 years.

Naval aviation long ago adopted the 30-knot ship speed as a threshold factor in air-

craft design. Because aircraft launch concepts were initially scaled to depend on 30 knots of wind, it became necessary that aircraft carriers be capable of 30 knots and that all associated ships likewise perform at 30 knots or better. Now, this speed level is the criterion for whether or not a ship is called "carrier capable." It is a measure of ship value in a carrier-task-force-oriented Navy.

Aside from the ability to run with a carrier, 30-knot speed is not a critically important feature of a warship in 1978. Weapon technology has long since wiped out the advantage of a few extra knots in a naval engagement. When ship-launched cruise missiles with 300-mile range arrive in the arsenal, it will take an entire day to make any difference in range with a speed advantage of 10 knots.

It also used to be that naval forces could essentially run away from submarines if they could operate at 30 knots. This is no longer true. Submarines can now exceed this speed, and target speed is essentially immaterial to torpedo fire control. Further, antisubmarine measures are severely degraded by high speed because of sensor interference.

The primary benefit which continues to be attached to warship speed is the ability to change location with greater rapidity and thereby to increase the strategic leverage of the force. Speed differential in the range of 20 to 30 knots has diminishing application to tactical effectiveness once a battle develops. However, even though speed may not buy as much as it used to, why worry about it if you can have 30 knots? As long as there is some merit in fast transit, should we not continue to strive for it? The answer depends on willingness to accept the penalties which go with high speed in ship design. Some of the factors are as follows:

For displacement-type hull designs, maximum efficient speed is essentially determined by the ratio of speed to the square root of the length. With the speed in knots and the length in feet, the practical limit is about 1.3.[3] To remain in a reasonable power situation, the hull must be longer with increasing speed.

If we are seeking a warship of relatively modest length and insist on more than 30 knots, she will demand a very powerful propulsion plant. If we concurrently require that the ship be heavily armed and have good range, we create a difficult design and construction challenge. The cost of construction is driven up because everything must be "fitted" as in a puzzle. The cost advantages of prefabrication modularity and the extra space and weight which are associated with modularity must be sacrificed in the interest of compactness, lightness, and weight distribution. The whole process becomes very complex and labor intensive. The ship costs many times more than a merchant ship of similar displacement, and she takes two or three times longer to construct.

While longer hulls can achieve higher speeds within the 1.3 ratio, insistence on 30 knots does drive up the cost because of proportional increases in shaft horsepower and the overall high-performance character of the ship. Furthermore, it is almost inescapable that a large, high-performance warship would be loaded with a large, high-performance combat system. This would negate the opportunity for low dollar cost per ship and high endurance. Our experience leads us to scale combat power to hull size when we think of combatant ships. A 50,000-ton ship with the armament of a 4,500-ton guided-missile destroyer seems ludicrous. It appears that we are driven to high prices in combatant ships by insistence on both high speed and high density of equipment. The result is a very high cost per ton, dense manning, and limited capacity for sustained operations without regular transfusions of food, fuel, and ammunition.

The obvious alternatives are to demand less performance in the traditionally sized surface combatants, or to put the same level of combat performance on much larger ships.

A New Kind of Navy.—Having predicted a declining future for carrier aviation as the centerpiece of U. S. naval power and criticized one of the most attractive features of the contemporary surface warship, positive suggestions are in order. If there is real need for surface combatants in the decades ahead, what shoud they be like? A desirable ship to cope with the sea control problems of the 1980's should be:

Able to steam 20,000 miles or more without refueling. This comes automatically with a nuclear-powered ship, but the range can be available in other types of ships.

Able to carry enough ordnance to preclude the necessity for underway rearming or even advanced base rearming in a "short war."

Sufficiently armored or bulky to protect vital systems and to enable the ships to maintain usable combat portential after being hit.

Cost-effective and flexible in mission potential, even though this might operate against peak performance in any particular role.

Air capable to a significant degre. The aircraft need not be high performance in the sense of speed and maneuverability, but they should have respectable payload, endurance, and the ability to operate without close control.

Able to carry a full complement of weapons. She has to be capable of operating in a severe air attack environment, coping with antiship missiles on a high-density, quick-reaction basis, and she should have antisubmarine warfare capability for self-defense and for protection of accompanying forces.

Capable of integrated operations with command and surveillance systems at other locations and have capacity to operate effectively with aircraft and submarines.

Roomy in that she provides adequate crew comfort over sustained periods at sea.

All of the foregoing would require a very large ship compared to the fleet escorts of today. If we insist on nuclear power and high speed, she would also be prohibitively expensive. However, the ship can be both large and inexpensive compared to current estimates for a nuclear-powered strike cruiser or even a highly complex destroyer.

Table 1 compares some of the characteristics of the proposed nuclear-powered strike cruiser, the proposed Aegis-equipped guided-missile destroyer (DDG–47), and the *Tarawa*-class (LHA–1) amphibious assault ships now in commission and under construction. While the LHA does not match all of the requirements cited for the "ideal" sea control combantant, she does have the basic attributes —of size, endurance, and air capability. She also brings the bonus features of Marine assault capability, since she can carry both troops and ship-to-shore vehicles. The LHA is large enough to accommodate almost any weapon suite which might be proposed with minor concern for weight or moment limits.

The LHA suggests a class of U.S. Navy ships somewhat comparable to the Soviet *Moskva* and *Kiev* "antisubmarine cruisers." These new Soviet designs are well armed with anti-air and antiship weapons, and they carry respectable complements of V/STOL (vertical/short takeoff and landing) aircraft. The aircraft flown from their decks are not attack aircraft as favored by the U.S. Navy, nor are they fighter aircraft in a class with the F–14 Tomcat. The Soviets seem to have concluded that they have no requirement for carrier-based fighters and attack bombers as we know them. We might wonder why.

In the geopolitical prospects for the next two decades, our requirements forecasters see new kinds of naval operations described by such terms as marine security, confrontation, interposition, constraint, crisis control, civil evacuation, occupation, interdiction, protection, and the like. Most of these suggest operations of a nonviolent nature backed up by force. They do not seem to be solvable by concentrated "strike operations" of the type in which a contemporary carrier task force specializes. One can envision these future situations being handled by helicopters, boats, vehicles, Seabees, Marines, and military tools other than explosive ordnance. While strike potential may be the essential backup, the orderly application of people and vehicles seems to be the way many of the jobs will be done.

A ship such as the new LHA offers exceptional potential for crisis control and all of the aforementioned types of operations. The LHA is big; she is relatively inexpensive (compared to an attack carrier or a strike cruiser) she can handle helicopters, motor vehicles, amphibious vehicles, Marines, great quantities of military cargo; and she has staying power. The LHA also features a 300-bed hospital and advanced communications. With a moderate increase in cost, the ship could also be armed with the Aegis antiair warfare system, roll-on/roll-off, surface-to-surface missiles, and respectable point-defense systems, thus becoming a dreadnought with respect to offensive and defensive fighting abilities. A gas turbine propulsion plant could make the entire fuel load of this ship usable for either air or ship operations. Finally, again on the theme of flexibility, the helicopter capability of the LHA could support antisubmarine operations and minesweeping. LHAs, with the addition of powerful weapon systems, would give the Navy broad capability to cope with the nonstandard kinds of naval operations which have been forecast for 1980 and beyond—crisis damping, evacuation, interposition, disaster support, etc.

The LHA has been accorded special treatment here because she is an actual ship already and thus provides a basis for practical speculation. However, the possibilities for less expensive ships are almost unlimited if the speed requirement can be scaled down and if the density of the combat payload is kept reasonable. Large, slow hulls are not expensive by Navy ship standards. A 15,000-ton roll-on/roll-off cargo ship can be had for $25 million, a 300,000-deadweight-ton tanker for about $35 million, or a 250,000-deadweight-ton tanker for about $100 million.

The June 1976 issue of the Proceedings contains a description of the remarkable SL–7 container ship—946 feet long, 51,000 tons displacement, and capable of 33 knots. With this great length, the SL–7s operate efficiently with 120,000 shaft horsepower, little more than half the power of a *Midway*-class (CV–41) carrier of comparable length, and with only two boilers and two shafts as compared to 12 boilers and four shafts in the *Midway*.

While these are not warships by traditional standards, they are huge oceangoing platforms. They are seaworthy and have great range and vast space and weight capacity for payloads which could include adequate sensors, weapons, and protection systems. The Navy could have 30–40 15,000-ton roll-on/

[3] Displacement hulls have resistance waves which rise exponentially with increasing speed. When the speed-to-length ratio (speed in knots divided by the square root of the length in feet) reaches 1.3, the power demand for greater speed becomes very great. This simplified thumb rule ratio, sometimes called Taylor's Quotient or Froude's Number, is reasonably accurate for estimating economical sustained speeds for proposed ships. By this formula, a 300-foot-long ship, for example, should be efficient up to 24 knots and an 800-foot ship might be propelled at 37 knots with reasonable fuel consumption.

roll-off-type hulls for $1 billion, and they could be equipped with respectable roll-on/roll-off combat systems. The point is that substantially larger hulls can reduce the acquisition cost of a warship if the payload stays constant and reduced maximum speed is accepted. Roominess can allow extensive prefabrication of payload modules, and the modules themselves can be spacious and heavy to ease the problems of equipment installation. With this approach, we could think of major warships—with high level of combat capability and endurance—at costs around $200 million each.

Conclusion.—To the extent that our current and future military requirements differ from those of World War II and the Korean War, so should our Navy. There are probably old things we can do without in terms of equipment and capabilities, and there are undoubtedly new things which we absolutely must acquire. With the constraints of the budget and our manpower, we must look critically at the traditional assets and approach our new acquisitions with imagination. Technology is our national trump suit and truly the "cutting edge" of our armed forces. Dr. Malcolm Currie, former Director of Defense Research and Engineering, has said:

If there is any single dominating trend in weaponry, it is for missiles of all kinds to become more accurate and more destructive. I believe this trend will continue. Missiles and precision guided munitions will continue to transform the nature of warfare by making the precision application of force at a distance a reality. . . . The surface Navy, dominated by the $2B carrier and projected as such into the 21st century, might be changed drastically . . . I think it will be. Air to air combat is now close to the limits of physiological endurance. I believe that new forms of weapons will replace the large battle tank, the supercarrier, and the all-mission manned aircraft sooner or later, and we must be ready with concepts and technologies that will force obsolescence in areas where the Soviets have vast investments in numbers. Our eventual survival may depend on our willingness and ability to do this.

This suggests the need for a searching look at the ships and aircraft which now form the centerpiece of our fleet. The guided missile has already supplanted the bomber, changed the whole character of antisubmarine warfare, and given almost unlimited strike potential to the surface combatant. Our future Navy, which must be planted now, should recognize these realities.●

PLEASANT RIDGE CELEBRATES ITS FIFTIETH

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BLANCHARD. Mr. Speaker, the city of Pleasant Ridge, Mich., marked its 50th anniversary yesterday, April 2. Since Congress was not in session Sunday, I want to take the opportunity today to note this special occasion and would like to include a brief history of the city in the RECORD.

Pleasant Ridge is a unique city. It is the smallest incorporated city in Michigan, encompassing only .58 of a square mile. The first subdivision was platted in 1906 and the community began its development in about 1908 with the subdivision of 12 lots along Ridge Road. The development of Pleasant Ridge continued at a steady pace for the next 20 years, with new subdivisions opening up periodically. In 1919, it became a village with Mr. Charles Staff as president.

In 1921 a move to consolidate with neighboring Ferndale and Royal Oak failed. By 1927 the population had increased to 2,289, and permission was sought from the county supervisors to incorporate as a city. Permission was granted, and the measure was put to a vote and passed by a large majority, 173–30. On April 2, 1928, the city charter was approved. Robert H. Crooker was elected as the first mayor, with Harry D. Chapman, Gale L. Wessinger, Neil I. McArthur, and James H. Lobban serving as city commissioners. A butcher shop on Woodward Avenue was converted for use as the first city hall.

The first school in Pleasant Ridge was started before village status was obtained, with money raised by the Pleasant Ridge Club. It was held in Mr. Bourne's chicken coop at 8 Ridge Road but was soon moved to the site of Roosevelt School. In 1921 this school was also outgrown and the present Roosevelt School built. Many of today's residents of Pleasant Ridge attended Roosevelt School, myself included.

Since World War II, Pleasant Ridge's growth has been relatively small, with the 1970 Federal census listing 3,991 residents. The city's first community center was opened in 1946 at 4 Ridge Road and in 1961 a new building was erected to house it. Also in 1961, the city offices moved into a new municipal building.

The city retains the commission-manager form of government of its original charter. Its governing body is composed of a mayor and four city commissioners. The city commission appoints the city manager, clerk, treasurer, assessor, attorney, and the members of the city planning and the city recreation commissions.

As Pleasant Ridge celebrates its 50th birthday, its elected and appointed officials included: Mayor John E. S. Scott; City Commissioners Charles Fillmore, Richard G. Perkins, Francis M. Coffey, and David B. Whyte; City Manager Louis Barry; City Clerk Anne Barnard; City Attorney Donald H. Gillis; Chief of Police Owen W. Parent; and Building Inspector Ernest J. Dellar.

Although Pleasant Ridge is a small city, it provides a broad range of services to its citizens. For example, its recreation facilities for residents of all ages are unequaled in any other city of comparable size.

As a resident of Pleasant Ridge, I know that the community truly lives up to its name. The many fine old homes and lovely tree-lined streets present a peaceful and friendly environment that is enjoyed by all its residents. The city and the residents of Pleasant Ridge, working together, have done an excellent job of living up to the vision of the city's founders, who sought to build a pleasant, residential community.

Today, the resident of Pleasant Ridge, new and old, share that same goal. As we look forward to the next 50 years, it is fitting that we pause to celebrate the unique identity of this city. The best way we can express our gratitude for having the opportunity to live in such a wonderful community, is by maintaining its character and preserving its future.●

GRIGORY GOLDSHTEIN, PERSECUTED IN THE SOVIET UNION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BIAGGI. Mr. Speaker, Grigory Goldshtein, a citizen of the Union of the Soviet Socialist Republics, has been carrying on the battle for freedom and justice in that country in a most personal way. A Jewish physicist who wants to emigrate to Israel, he has been stripped of his right to employment as a result of his application for an exit visa to leave the Soviet Union.

In typical Soviet fashion, his application was denied for knowledge of state secrets. However, unable to obtain any employment because of his "refusenik" status, he is now accused of the Soviet crime of "parasitism," a crime the Soviets use frequently to harass their Jewish citizens who want to emigrate to Israel.

Grigory Goldshtein is being tried in the Soviet Union for this alleged crime. The New York Legal Coalition for Soviet Jewry prepared a brief in his support. It is an outstanding defense of this most persecuted man. I am inserting it at this point in the CONGRESSIONAL RECORD, so that my colleagues may have the opportunity to read of the continuing problems for Soviet Jews.

The brief follows:

[Union of Soviet Socialist Republics v. Grigory Goldshtein.]

BRIEF IN SUPPORT OF GRIGORY GOLDSHTEIN, WHO HAS BEEN CHARGED WITH THE CRIME OF PARASITISM, A VIOLATION OF ARTICLE 209–1 OF THE SOVIET CRIMINAL CODE.

Submitted by: The New York Legal Coalition for Soviet Jewery, an affiliate of The Greater New York Conference on Soviet Jewry.

Prepared by: Martin Weisfuse of Delson & Gordon; Eric Rayman of Paul, Weiss, Rifkind, Wharton and Garrison.

At the request of: The New York Legal Coalition for Soviet Jewry.

STATEMENT OF FACTS

Grigory Goldshtein, a resident of Georgia, SSR, is a physicist in the Soviet Union and an expert in the field of automation. In 1971 he applied for an exit visa to Israel but was refused on the grounds that he possessed "state secrets." Shortly after his application was made he was fired from his job as laboratory chief of the Mendeleyev Meteorological Institute at Tbilisi. Since then he has not been able to find work. His "refusenik" status has effectively precluded his employment. In August 1977, he was charged with parasitism. If he is convicted, he could be imprisoned for a term of two years.

Point I

Goldshtein has not committed the crime of parasitism under Articles 209 and 209–1 of Soviet Law:

Article 209 of the Soviet Criminal Code makes it a crime to systematically engage in vagrancy or in begging. Article 209–1 makes criminal the "malicious evasion, by a person leading an antisocial form of life," of work assigned by a district executive committee of a soviet of working people's deputies designed to effect the "discontinuance of a parasitic existence."

The crime of "parasitism" has two elements: a) the avoidance of socially useful work, and b) leading an antisocial parasitic way of life. Grigory Goldshtein has consistently been ready, willing and able to perform work as a scientist, his field of endeavor. Because of his refusenik status prospective employers have denied him work. It cannot be said that Grigory Goldshtein is leading a parasitic way of life, notwithstanding the fact that he is through no fault of his own unemployed. While he was working he earned a salary of 400 roubles per month, a sum substantially higher than the average wage in the Soviet Union of 60 roubles per month. Having some money, he has sufficient savings in order to live without being a burden on the State or his family.

Moreover under Articles 3 and 7 of the Soviet Criminal Code the existence of the crime of parasitism must be predicted upon the commission of a socially dangerous act. No such act has been committed by Grigory Goldshtein. His letter of protest to President Nikolai Podgorny over the murder of Israeli athletes in Munich in 1972 certainly cannot be considered socially dangerous. Such atrocities as those in Munich caused universal outcries by all civilized nations and certainly is not inconsistent with Soviet policy. If the indictment is based upon Grigory Goldshtein's desire to practice his religious beliefs and to seek immigration to his homeland, then the application of this statute becomes the vehicle for fostering racism, a doctrine inconsistent with both the new Soviet Constitution and the rights of man. Articles 34 and 36 of the new Soviet Constitution guarantee that Soviet citizens will not be discriminated against on the basis of race or nationality. The systematic discharge from employment, harassment, warrantless searches by the KGB, and this very prosecution are all directed against Jews seeking to practice their religion and emigrate to Israel and attest to racial discrimination against Jews in the Soviet Union in violation of the New Soviet Constitution.

Point II

Invoking Article 209–1 of the Soviet Criminal code (the "anti-parasitism" section) in this case violates the Soviet constitution:

Article 40 of the New Soviet Constitution, ratified in October 1977, guarantees the equal rights to Soviet citizens irrespective of nationality or race. These rights are made meaningless if Grigory Goldshtein can be fired from his job, denied subsequent employment and then punished for "refusing" to work, all as a result of the attempted exercise of rights guaranteed him by a constitution to which the USSR proclaims adherence.

Article 40 of the New Soviet Constitution states that:

Citizens of the U.S.S.R. shall have the right to work, that is, to guaranteed employment and remuneration for this work in accordance with the quantity and quality, including the right to choice of profession, types of occupation and employment in accordance with their vocation, abilities, training, education, and with account of the needs of society.

Grigory Goldshtein is a trained physicist, who formerly worked as laboratory chief of the Mendeleyev Meteorological Institute. He was fired from that job in 1971 when he applied to emigrate. Since that time he has been offered only two types of work by the executive committee of a Soviet of working people's deputies, both of them unacceptable. First the committee offered Goldshtein menial work as a street sweeper. Goldshtein rejected such work as was his right under the New Soviet Constitution which guarantees him "the right to choice of profession . . . in accordance with [his] vocation, abilities, training [and] education." Secondly, the executive committee, knowing Goldshtein's desire to emigrate, offered him work in top secret, scientific research capacities. Were he to accept such a position it would greatly impede his ability to emigrate, thus denying him the "choice of profession" as guaranteed by the New Soviet Constitution, and violating canons of international law (described in Point IV below) to which the Soviet Union subscribes.

The anti-parasitism law punishes the "malicious evasion" of work after a district executive committee orders the performance of work. Grigory Goldshtein has expressed his willingness to work in a suitable capacity, but to date he has been denied all productive jobs solely because of his application to emigrate. The enforcement of the anti-parasite law in this fashion is a violation of the Soviet Constitution and an affront to human dignity.

Point III

Grigory Goldshtein cannot be convicted of violating the anti-parasite laws until an executive committee has assigned him productive work:

One of the procedural aspects of the anti-parasitism law is the requirement that a work shirker be assigned by a local Soviet executive committee productive work at an enterprise situated in the district of his permanent residence or in another locale within that particular region, territory or autonomous republic. There is no criminal liability until the supposed shirker fails to obey the decision of the local Soviet Committee.

The Employment Policy Convention, adopted by the General Conference of the International Labour Organization on July 9, 1964 and effective July 15, 1966, sets forth the labor policy of its member states (including the Soviet Union). Article 1 § 2 states the policy shall aim at ensuring that:

(a) There is work for all who are available and seeking work;

(b) Such work is *as productive as possible;*

(c) There is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, *a job for which he is well suited,* irrespective of race, colour, sex, *religion, political opinion,* national extraction, or social origin. (Emphasis added.)

The work which has been offered Goldshtein to date has consisted of menial jobs or top-secret jobs. Neither type is a job for which "he is well suited," the former because of his scientific training, and the latter because of his political opinion.

Grigory Goldshtein has not been assigned any appropriate tasks by a local Soviet executive committee. Until such time as he is assigned suitable work, which he thereupon refuses to undertake, he has not transgressed any Soviet laws.

Point IV

Denial of permission to emigrate violates multiple treaties to which the Soviet Union is a signatory:

In international forums officials of the Soviet Union have dismissed allegations that the USSR persecutes its Jewish citizens by claiming that such charges interfere with the internal affairs of a sovereign state. Even a cursory examination, however, of the major international humanitarian accords extending from 1948 through 1975 reveals that the Soviets have been violating not only the canons of morality, but also the international agreements which have been freely negotiated, signed, and ratified by the appropriate organ of Soviet government. The major accords are:

(1) The Helsinki Final Act (1975) (the "Helsinki Accord") which while not technically binding upon its signatories, is a major political agreement widely disseminated in Soviet newspapers.

(2) The U.N. Universal Declaration of Human Rights (1948) (the "Universal Declaration") which was passed by the General Assembly, 58–0. The Soviet Union initially abstained on this vote but agreed to abide by the Universal Declaration in subsequent International Agreements.

(3) The Convention on the Elimination of All Forms of Racial Discrimination (1965) (the "Discrimination Convention") which has the status of a full-fledged, binding international treaty.

(4) The International Covenant on Civil and Political Rights (1966) (the "International Covenant") which, upon ratification by a sufficient number of states, recently became binding upon its signatories including the Soviet Union.

A. The Helsinki Accord

In August 1975, the Union of Soviet Socialist Republics, along with 34 other countries, participated in the Conference on Security and Co-Operation in Europe, and signed the Helsinki Accord, thereby endorsing the rights of freedom of conscience and religion.

Principle VII of Section 1 of the Helsinki Accord, dealing with Principles Guiding Relations Between Participating States, sets forth the intention of the signatories to guarantee human rights and fundamental freedoms, including the freedom of thought, conscience, and religion or belief, for all without distinction as to race, sex, language or religion.

The Principle speaks, in paragraph 2, of civil, political, economic, social, cultural, and other rights deriving from the "inherent dignity of the human person" and "essential for his free and full development." In paragraph 4, the Principle speaks of the protection and enjoyment of rights of national minorities, and in paragraph 8, the signatories reaffirm their commitment to the human rights provisions of the major international documents and agreements, including the UN Charter, the Universal Declaration, and the International Covenant. The Soviet Union has recognized or is a party to each of these documents and agreements.

In Section 6 of the Helsinki Accord, the participating signers agreed to "Make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons. . . ."

B. The Universal Declaration

The USSR has agreed to be bound by the Universal Declaration. Although the Soviet Union initially abstained on this vote, it later agreed to abide by the Declaration by voting affirmatively on the 1965 Discrimination Convention and the 1966 International Covenant. Moreover, the Helsinki Accord reaffirmed the principles of the Universal Declaration and adopted them by reference.

On the right to free movement and emigration, the Universal Declaration in 1948 stated unequivocally:

Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.

C. The Discrimination Convention

The Discrimination Convention reaffirmed the principle of free movement and emigration in 1965 and the Soviet Union agreed at the time to grant its residents the following rights:

The right to freedom of movement and residence within the borders of each state. The right to leave any country, including one's own, and to return to one's country.

D. The International Covenant

The International Covenant, reaffirmed by reference in the Helsinki Accord, once again bound its signatories to honor the right of free movement across national borders by the signatories' residents. Article 12 ringingly restated the signatories' dedication to the principle of free emigration.

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

The denial of Grigory Goldshtein's petition to emigrate is a flagrant violation of the Helsinski Accord, the Universal Declaration, the Discrimination Convention and the International Covenant. The Soviet Union has pledged itself to uphold the principles set forth in each of the above-named international treaties.

Grigory Goldshtein was fired from his job when he applied to emigrate in 1971. Thereafter, his telephone was disconnected, his mail intercepted, and he has been the frequent subject of official interrogation. Grigory Goldshtein has been unable to find new employment. His status as potential emigree has made him unemployable. Though he has sought out other positions in the scientific community, no institution will hire him. Now he is about to be prosecuted for parasitism, the crime of avoidance of work. In reality, Grigory Goldshtein is being prosecuted for his desire to emigrate. He faces jail for his attempt to exercise a right guaranteed to every Soviet resident by four international treaties to which the Soviet Union is a member. The Soviet Union's conduct in this matter is an outrage under international law, the prosecution should be dismissed and the petition to emigrate should be granted.●

AMENDMENT TO H.R. 7700

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. McCLOSKEY. Mr. Speaker, I am inserting in the RECORD today an amendment to H.R. 7700 to strike section 12 of the bill.

Section 12 was added during the Committee markup, without testimony or hearings.

It has a serious impact on our maritime policy in that section 12 would:

First. Require the Postal Service to contract with U.S.-flag carriers for the surface transportation of mail unless no U.S. carrier served the route;

Second. Require that the rate charged be no less than the fully distributed costs of common carriers plus a fair and reasonable profit; and

Third. Prevent the Postal Service from specifying the size and characteristics of containers to be used on specific routes in their solicitations for bids.

These provisions are ill conceived, unnecessary, anti-competitive and should be deleted from the bill.

The cargo preference provision is a return of the Mail Subsidy Contract system, replaced by ODS in 1936 because it was corrupt, inefficient, and not achieving its goals. It could lead to high costs and poor service because foreign-flag competition and service will be eliminated.

The U.S. Postal Service (USPS) estimates that the increased costs will be a minimum of $1.4 million. They add that true increases cannot be accurately estimated because without foreign-flag competition or effective rate ceilings the U.S. carriers will charge what the traffic will bear.

This $1.4 million estimate is based on the assumption that U.S.-flag rates are 25 percent higher than their foreign competition. However, a recent Postal Service analysis indicated that U.S. carriers receive 31 percent higher rates worldwide and that in the European market, which accounts for 75 percent of the U.S. international surface mail, U.S. carriers receive 43 percent higher rates.

In addition, the Postal Service states that a Cargo Preference provision will result in poor service because:

First. Foreign-flag competition and almost all service on some routes will be eliminated;

Second. There may be periodic disruption of service unless it is mandatory that carriers move mail when tendered; and

Third. Some routes have infrequent service by U.S. carriers.

The State Department considers mail Government generated cargo, and therefore, a cargo preference scheme involving mail is not violative of our treaties of friendship, commerce and navigation. However, the governments of Denmark, Greece, the Netherlands, and the United Kingdom have sent an aide memoire to the State Department protesting the measure as "a most undesirable development" which "would encourage other countries to enact similar openly protectionist laws to the obvious detriment of commerce, trade and private citizens * * *". Since that time, the following additional countries have indicated support for the aide memoire: Belgium, Finland, Norway, Sweden, and Italy.

It should be noted that under the present system U.S. carriers carry 62 percent of the mail. This large percentage is a result of the USPS policy of using U.S.-flag vessels and section 901 of the Merchant Marine Act, 1936, which requires at least 50 percent of all Government generated cargo to be carried on U.S. vessels.

With respect to rate standards, the bill provides that any rate charged:

shall not be less than the sum of—

(1) The fully distributed cost of common carriers; and

(2) A fair and reasonable profit.

This provision puts a floor on bids by carriers. It prevents them from bidding below the sum of their fully distributed costs and a fair and reasonable profit. Even if they wanted to forego profit and bid a break-even rate to meet their competition they would be prevented from doing so. As a result this section could allow an operator with very low fully distributed costs to underbid all of his competitors and monopolize the trade. All of these results are contrary to the overall objectives of the legislation and the mandate of the USPS (to provide efficient and low cost mail service).

The USPS states that this provision forces them to move from competitive transportation at agreed-upon rates to regulated transportation at prescribed rates based on industrywide fully distributed costs, regardless of the costs of the individual carrier. And, that no other Government shipper must pay such rates in the name of U.S.-flag preference.

This section also guarantees a profit by requiring a carrier to include a fair and reasonable profit in his bid.

Section 12 also provides that the USPS may not specify the size of containers which may be used in a particular invitation to bid.

When offering section 12, Mr. WILSON stated that the purpose of the restriction was to prevent the USPS from discriminating against a U.S. carrier by specifying a particular size container which he may not have.

The USPS states that such a restriction:

First. Will hinder the transmission of mail to several foreign postal administrations that have prohibited the use of large containers because they are not equipped to receive them;

Second. Contradicts explicit directions in the general policy provision of their basic statute, 39 U.S.C. 101(f), to stress containerized transportation;

Third. Will result in the USPS having to accept and pay for empty space in large containers;

Fourth. Will delay the transportation of mail until sufficient quantities of mail were available to fill large containers;

Fifth. Will result in the abandonment of containers and the return to loose sacks; and

Sixth. Will hamper operations at two major exchange offices, New York and Oakland, because they can only efficiently accommodate specific size containers.

Mr. Speaker, in light of these problems, I find it easy to see why the administration opposes section 12 of H.R. 7700, and I hope my colleagues will support my amendment to strike it.

AMENDMENT TO H.R. 7700

Strike Section 12, beginning on page 21, line 1, through page 22, line 19.

AIDE MEMOIRE

The Governments of Denmark, Greece, the Netherlands and the United Kingdom have noted an amendment to the Postal Service Act of 1977 (HR 7700) which provides for United States flag preference for the carriage of United States originating international sea mail. They understand that this amendment is designed to strengthen United States Postal Service regulations which in practice at present allow foreign flag carriers to be selected for the carriage of such mail.

The above mentioned Governments wish to state that their postal authorities do not give preference to their own national flag carriers and that they would consider the strengthening of such preference by the United States as a most undesirable development. Such United States action would

encourage other countries to enact similar openly protectionist laws to the obvious detriment of commerce, trade and private citizens, who are best served when the postal authorities are free to use carriers offering the best combination of service and price, irrespective of flag.

The above mentioned Governments therefore request that their strong concern at the amendment be made known in the appropriate quarters in order that it may not become part of any Postal Service Act that is enacted into law.●

SYNTHETIC OIL REPORT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. STEERS. Mr. Speaker, as a member of the Ad Hoc Committee on Energy, I support all cost effective efforts for potential energy conservation. I would like to call to the attention of my colleagues a letter I recently received from a constituent indicating his efforts in energy conservation. By employing synthetic oil as the lubricant in his automobile, he has reduced his consumption of oil and in addition, has improved his fuel economy by roughly 15 percent. He further stated, that it was his responsibility as an "independent distributor of AMS/OIL" to inform the public.

Such efforts can reduce our dependence on foreign oil supplies. We therefore, applaud and encourage his efforts and of all Americans who attempt to meet our goals. I am inserting this letter into the CONGRESSIONAL RECORD as a tribute to such efforts.

TIFFANY ASSOCIATES
Gaithersburg, Md., January 13, 1978.

Congressman NEWT STEERS,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STEERS: As a member of the House Energy Committee you may be interested in the following: By employing synthetic oil and lubricants in my automobiles I both avoid the use of petroleum oil and improve fuel economy by 10–20 percent. Can you imagine the potential for energy conservation if all your constituents similarly contributed?

The synthetic oil (AMS/OIL) I use has a 25,000 mile drain rating. Using petroleum oils, four 5-quart changes at 6,000-mile intervals used to cost me $68.80 every 24,000 miles (Oil: 20 qts at $1.25=$25.00; Filters: 4 at $5.95=$23.80; Labor: 4 changes at $5.00=$20.00). Now, with synthetic oil one installation of 5 qts plus 1 qt at a 12,500-mile filter change costs $47.40 per 25,000 mile period (Oil: 6 qts at $4.25=$25.00; Filters: 2 at $5.95=$11.90; Labor: original oil change and a filter replacement only at 12,500-miles each at $5.00=$10.00). That represents a savings in lubrication costs of $21.40 every 25,000 miles. And, that's not all. The superior anti-friction properties of synthetic oil increases fuel efficiency with reports from 1 to 12 miles per gallon. My own experience has confirmed between 1 and 3 miles per gallon. An increase of 2 miles per gallon on a car averaging 14 miles per gallon with a petroleum oil represents a gas savings of about 15 percent. This car driven 25,000 miles saves (223.2 gal at $.65) $145.08 in gas expenses. ADDED UP: In a 25,000 mile period (roughly one year) the use of synthetic AMS/OIL has conserved 20 quarts of petroleum oil, 223.2 gallons of gas, and saved $166.48.

If any of your constituents would be interested in learning about AMS/OIL synthetic lubricants, I am prepared to provide literature which summarizes the above experience.

Respectfully,

NEDD D. MOCKLER.●

POLICE STATE COMING

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. JOHN L. BURTON. Mr. Speaker, the proposed overhaul of the entire Federal system of criminal justice, which is the essence of S. 1437, is nothing less than a frightening and complicated rewrite of nearly all the criminal laws for this country.

Since the 89th Congress, lawmakers have been toying with the idea of restructuring the Criminal Code. A national commission to study the criminal justice system was established during the 89th Congress and by January 1971, that Commission made its report to Congress. Based on the Commission's work, the Senate Judiciary Committee and the Nixon administration developed their own legislative package to reform the code. A modified version of "S. 1" has been reincarnated in the form of S. 1437.

Columnist Charles McCabe, writing for the San Francisco Chronicle's March 9 edition, has written some comments on S. 1437 which I believe merit the attention of my colleagues in Congress:

POLICE STATE COMING?

The name of the measure is S. 1437. It has been passed by the Senate and is now before the appropriate House committee. It is sometimes called "Son of S. 1," the notorious measure containing the Nixon administration's attempted repeal of many of the Bill of Rights provisions. An angry concourse of civil libertarians got this measure killed.

S. 1437 is generally thought to be a better bill than S. 1, but is still far from reassuring to those who feel strongly about civil liberties. The overall purpose of each measure was to recodify all the federal criminal law of the United States. The chief political clout behind the bill comes from its sponsor, Senator Ted Kennedy of Massachusetts.

The bill is a tremendously complex one. Influential newspapers, with the notable exception of the Los Angeles Times, have on the whole supported it. From what I know of it, I am against it for one chief reason.

If enacted, the bill would federalize crime to an extent that would virtually bring a national police into being. This is a facet of the bill that has been too little examined.

From the beginning of our country, the major agent for dealing with crime has been the states. Federal crime has existed in the shadows and on the borders of state enforcement. The new bill changes all that. It would give the federal government power to punish crimes that have never before been within the purview of the federal government.

S. 1437, according to John Quigley, professor of law at Ohio State University, "would give Federal authorities power to punish most blackmail; extortion and bribery offenses committed in the United States, plus a goodly proportion of all robberies.

"It achieves this by liberal use of such jurisdictional handles as employment of the mails or telephone, the crossing of a state line and the affecting of interstate commerce.

"These so-called 'Federal jurisdictional bases' would federalize crime with no real Federal impact—the only Federal connection would be the happenstance that a phone was used in connection with the crime."

Quigley estimates that passage of S. 1437 would likely yield a tenfold increase in the number of crimes the feds could prosecute. This, he adds, would cause the sharpest break in federal-state relations since the days of the New Deal.

Passage of the bill, Quigley argues, "would give rise to a Federal crime bureaucracy of heretofore unthinkable dimensions. More Federal judges, prosecutors and prisons would be needed, and the Federal Bureau of Investigation would grow into a national police force."

The bill is now being studied by the subcommittee on Criminal Justice of the House Judiciary Committee. One of the members of this subcommittee, Representative Elizabeth Holtzman of Brooklyn, is much alarmed by the police state aspects of this bill. She recently told journalist Nat Hentoff:

"It has not been at all widely reported that the bill increases federal jurisdiction over law enforcement to such an enormous extent that we're headed for a national police force if it passes the House, too."

It is generally believed if the bill gets out of the full House Judiciary Committee, and onto the floor, it will pass. Ted Kennedy is twisting all the arms he can find, including the immensely powerful arm of his Massachusetts House colleague, Speaker Tip O'Neill.

What worries me most about the whole thing, almost as much as the police state provisions, is the fact that they have been largely unreported. Conceivably, the national press is bored by the long, long fight to codify criminal law. I should think the boys would get onto this police state thing—big and soon.●

THE IMPORTATION OF ANIMALS: THE UNFORESEEN CONSEQUENCES

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. WHITEHURST. Mr. Speaker, the following article, by George Laycock, appeared in the April 1978, issue of Sierra, the bulletin of the Sierra Club. It outlines clearly and effectively the problems which are caused by the introduction of nonnative species of plants and animals, and I commend it to the attention of my colleagues.

THE IMPORTATION OF ANIMALS: THE UNFORESEEN CONSEQUENCES

(By George Laycock)

When the rumor first spread that the Ohio Division of Wildlife was experimenting with a new variety of carp in the shallow ponds of the old fish hatchery, my initial impulse was to dismiss it as false. We did not need another carp—after all, the old one promises to last indefinitely.

The century-old story of that original carp's invasion of American waters has become a classic. The carp arrived here welcomed and blessed by all except a few spoilsports who were "against progress." Typical

of the supporters' reaction was the excited response of Nevada's first Fish Commissioner, H. G. Parker. In his report to the governor in 1879, Parker made a plea for $1,000. "My first expenditure therefrom will be for the introduction of carp . . . a German fish, and the most delicious of all known fishes." He praised carp in glowing terms as a food fish with no superior and insisted that the people of Nevada would possess a grand luxury once the carp was established. "Carp should be as plentiful to our people as chickens," he said. "One of my greatest aims has been to stock our waters with the best species of carp."

He knew, as did fisheries people across the country at that time, of Rudolph Hessel's recent success in importing a breeding stock of carp from Germany. With the blessing of the federal government, Hessel established the fish in ponds in Boston, then in Washington, D.C. Legislators were excited about the carp. Here was evidence that the politicians in Washington were watching out for the folks back home. Congressmen practically lined up to get their share of young carp to ship back to their own states. Within two years the fish had gone out to 38 states and territories and begun its swift invasion of American waters.

From a carp's viewpoint the whole project was an astounding success. The carp advanced from stream to stream and lake to lake, taking over waters previously occupied by native fish, rooting in the mud, silting spawning waters and, perhaps worst of all, proving soon enough that it lacked great merit either as food or as a sporting fish.

In short, importation of the carp proved to be a disaster of shocking proportions. The action could not be reversed; the carp is so entrenched that even today there is little hope of eradicating it, despite continuing research and management efforts.

I was told by Ohio officials that the new "grass carp," also known as the white amur, could in no way become the problem the old-fashioned carp had proved to be. The grass carp was needed, the story went, to help keep waters free of weeds, and it would do so because of its hearty appetite for vegetable matter. Promises were also made that the white amur, which can weigh as much as 70 pounds, would prove valuable as a sport fish. These were strong inducements; many creatures have been imported with less to recommend them.

There is nothing new about our fondness for non-native species. The earliest settlers to reach these shores brought their favorite domestic plants and animals, and soon wild animals were also imported for release in the New World. Thousands of such introductions have been tried. In this way America adopted the common pigeon, house sparrow, starling and assorted other species completely foreign to New World ecosystems. Not all the imports released in the wild have flourished. To survive, a newly introduced species must find food, shelter and conditions that allow it to rear its young; this entails discovering an unoccupied niche or pushing aside animals already present.

Old lessons seem to be forgotten or ignored, however, and each new generation casts longing glances at foreign creatures on distant shores. In one recent year imported wildlife included 114,446 mammals, 689,404 foreign birds, 2,504,096 reptiles, 583,441 amphibians and 112,291,686 fish, largely for the pet and laboratory trades.

Reasons for our everlasting search for promising exotics are varied. Animals may be introduced because somebody believes they will provide sport for hunters or fishermen. Others are imported because of sentiment. Immigrants from Europe fostered the importation of a long list of familiar songbirds from other lands. Between 1872 and 1874 a group of "acclimatizers" in Cincinnati spent $9000 to import European songbirds at $4.50 a pair, among them skylarks, starlings, European robins, song thrushes, house sparrows, dunnocks, nightingales, blackbirds, siskins, great tits and corn crakes. Yet just half a century earlier John J. Audubon had been astounded at the abundance of beautiful native birds in and around Cincinnati—orioles, cardinals, warblers, and tanagers, and many more. Other acclimatization societies were busy in St. Louis, Portland, Philadelphia and elsewhere.

Exotic species are sometimes introduced for economic reasons. Sugar cane planters in Jamaica and some of the Hawaiian Islands faced an infestation of cane rats. They imported and released a breeding stock of mongooses to eliminate the rats. This in turn created more problems and the planters have yet to control the mongoose population. Similarly, house sparrows were imported, at least in part, in the mistaken belief that they would control insect pests of shade trees.

The quickest way to learn for myself whether or not there was truth in the rumor that grass carp were newly installed at the nearby fish hatchery was to pay it a visit. The manager, working in the ponds with an assistant, told me that they had acquired the new experimental carp from Arkansas (the epicenter of the current American infestation of these fish) and hoped the carp could be used to keep the hatchery ponds free of the algae that choke them through the summer months.

The first grass carp came to the United States from Taiwan in 1963 and were shipped to Auburn University in Alabama. The idea was that they might help control some of the proliferating exotic weeds that infest waters throughout the southeastern states. A later shipment arrived at the U.S. Fish and Wildlife Service fisheries research station at Stuttgart, Arkansas. Both federal and state biologists in Arkansas praise the grass carp. The state has stocked it in more than 100 lakes and streams and fish farmers there continue to promote its spread to new waters nationwide.

Concern about the grass carp's effects led to the 1969 Conference on Exotic Fishes and Related Problems conducted in Washington, D.C. by the Sport Fisheries Institute and sponsored by The American Fisheries Society and The American Society of Ichthyologists and Herpetologists. Professionals at that conference begged for serious research on the gass carp before additional stocking was carried out.

That plea, however, has been largely ignored in Arkansas. Grass-carp enthusiasts have also ignored the warnings of biologists that this fish could seriously compete with native species and, if it spreads into northern waters, destroy wild rice crops and bring new hardships to native waterfowl. Other states have heeded the warnings and banned importation of the carp. Among them is Missouri which, because its neighbor is Arkansas, must face the threat of grass carp regardless of its strong feelings against the entire project. Grass carp can already be found in 40 states. Having reassessed its initial flirtation with the grass carp, Ohio soon disposed of its experimental stock and joined the growing list of states banning the fish. Unfortunately, stock is still available, and some pond owners are reportedly purchasing grass carp and freeing them illegally.

Other exotic fishes have also muscled their way into American waters in recent years. Perhaps the most famous of these is Florida's walking catfish. This fish, capable of breathing air, has a choice of locomotion methods. When population pressures or other factors trigger a reaction, the fish climbs out of the water and sets off cross-country, "walking" on its pectoral fins. First released about 1965 by aquarium dealers in southern Florida, it has since infested waters throughout southern and central Florida. Florida fisheries biologists view the walking catfish as a distinct threat to native game fish but no longer hold hope of eradicating it.

Also in Florida, there is persistent concern that the piranha might become established. If this has not already happened, it could occur easily enough in a state where the aquarium industry is a major enterprise. Anyone doubting that piranha might be turned free should consider a case of some months ago in Rocky River near Cleveland, Ohio. Boys fishing that stream caught a piranha that promptly cut one boy's hand severely. A second piranha was then found in the same fishing hole. Although these tropical fish are unlikely to survive northern winters, the episode is a certain indication that an aquarium owner no longer wanted the meat-eating pets but could not face destroying them.

Almost as dreaded are the tiny South American fishes known as candiru. They too could probably establish themselves in southern states. South American natives have a deep fear of these fish, and with good reason. The candiru are small enough to work themselves into the urogenital openings of both men and women bathers. Removing the fish from its victims often requires surgery.

Florida has suffered most from infestations of unwanted exotic species. Scientists point to a long list of established foreign species including the blue talapia, imported in 1961 for weed control and now crowding bass and bluegills out of their native waters. "By the end of this century," predicts Dr. Walter R. Courtenay, zoologist at Florida Atlantic University, "there will be very few native fish left in the fresh waters of southeast Florida. There is just no way we can prevent the exotics from taking over."

Meanwhile experiments continue with introductions of peacock fish, also from South America, which are considered by some to be exciting sport fish. But little is known about the peacock fish's effect on any kind of native fish. Texas is also interested in establishing Nile perch in its large reservoirs where water is warmed by electric power plant effluents. The Nile perch is a predator that can weigh as much as 300 pounds.

Curiously, exotics that are established accidentally may develop their own defenders who stand ready to fight control efforts. For example, the Wild Burro Protection Association acts as advocate for the personable little burros infesting the dry slopes and canyons of Death Valley National Monument in California, the Grand Canyon and other western lands. These descendants of the North African ass have long served as beasts of burden. They found their way into western lands in the company of "single-blanket jackass" prospectors who burdened them with their worldly belongings, including shovels, pans and coffee pots. The old prospectors passed on, leaving their burros to care for themselves, and today the progeny of these burros number 1600 in Death Valley alone.

The burros' impact on the desert ecosystem is substantial. Studies show that those in Death Valley consume in excess of ten tons of forage daily. In addition they dominate desert water holes. Their most obvious victim is the desert bighorn sheep, which has been dwindling in numbers as the burros flourish. The native bighorn may well become extinct in Death Valley unless something is done soon to bring the burros under control.

But bighorn sheep are not the only victims. Forage consumed by the burros is the natural food of seed-eating birds and of rodents on which birds of prey survive. No animal can enter an existing ecosystem without sending ripples throughout that wild community.

Imported goats, too, continue to destroy the vegetation of fragile lands on which they were released. The Sierra Club recently brought a suit against the Hawaii Depart-

ment of Land and Natural Resources contending that the department's purposeful maintenance of feral goats and sheep on the Island of Hawaii critically threatens the habitat of the Palila, an endangered bird living only on the slopes of Mauna Kea. In one national park on the Big Island, National Park Service employees have been working to bring the goats under control.

Goats are also damaging San Clemente Island, a 21-mile-long piece of federal land off the Southern California coast. These free-roaming goats are descendants of animals released by early explorers or whalers. When the Navy took charge of the island in 1934, there were 30,000 goats there. Recently 6500 goats were rounded up and shipped to the mainlaid, leaving behind another 3000 that had taken refuge in the rocky canyons. The goats continue to destroy the island's endemic plants; scientists believe eight species have already been destroyed and eight more are threatened.

Of the thousands of efforts made to introduce exotic wildlife to new lands, most fail. And of those that establish populations, few species are considered a valuable asset. Even the pheasant and the brown trout have had destructive biological impacts, and the fact that no one measured these impacts, nor any longer can measure them, does not mitigate the damage. Shuffling animals about the earth is risky and often irresponsible. Even the most thorough scientific studies cannot predict with certainty how an animal will adjust to a new environment. A classic example of this occurred when eastern gray squirrels were transplanted from New Jersey to the British Isles. Once they began spreading through English woodlands, the squirrels developed an unexpected eating habit: they learned to eat the bark of valuable cultivated trees, often girdling and killing them. Says a publication of the U.S. Fish and Wildlife Service, "There is some risk with any importation."

The only safe way to approach the whole question of exotics is to leave wild animals where they occur naturally. The next best answer is to control the reshuffling of wildlife through legislation.

IN THE BEGINNING . . .

Ipswich Sparrows nest only on Sable Island, a small low outpost in the Atlantic 100 miles off Nova Scotia. Their estimated breeding population is only 4000 birds. They were first threatened with extinction when rabbits, introduced long ago as a source of food, depleted the island's vegetation. The rabbits were followed by rats, which escaped from a wreck; they too posed a serious problem to the sparrows, but almost exterminated the rabbits. Cats were then introduced; they successfully cleared out the remaining rabbits and all the rats, but they ate sparrows too. So dogs were taken to the island to destroy the cats. This they did, ably assisted by the lighthousekeeper's gun. Will they become feral dogs perhaps? No, as there is nothing to support them—unless they prey on the island's "wild" horses. In spite of everything, the Ipswich sparrow survived.

(Reprinted from "Animal Invaders", by Clive Roots, Universe Books, New York, 1976.) ●

HOUSE FAIR EMPLOYMENT PRACTICES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mrs. SCHROEDER. Mr. Speaker, I want to announce to all those who participated in the just completed special election that Bruce Kriegman of TED WEISS' office was elected to the House Fair Employment Practices Committee grievance panel.●

NATIONAL COUNCIL OF CHURCHES' MEMORANDUM ON NATIONAL ISSUES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. BRADEMAS. Mr. Speaker, on February 24, 1978, a number of the officers and leaders of the National Council of Churches met with President Carter to discuss with him a number of their concerns as Christians and representatives of a major segment of the religious community in the United States.

I insert at this point in the RECORD the text of the "Background Memorandum" prepared by the National Council of Churches for this meeting:

The memorandum follows:

BACKGROUND MEMORANDUM FOR PRESIDENT CARTER REGARDING CONCERNS WHICH OFFICERS AND LEADERS OF THE NATIONAL COUNCIL OF CHURCHES WANT TO DISCUSS WITH HIM AT THEIR MEETING FEBRUARY 24, 1978

Mr. President, we thank you for providing us with an opportunity to discuss with you some of the concerns, which we believe you share, about the life and health of our nation. We wish to assure you that we identify particularly with your statement of purposes for our nation's policy as expressed in your State of the Union Message: To insure economic justice, advance human rights, resolve conflicts without violence, and proclaim our faith in the liberty and dignity of human beings everywhere.

As you know, our religious tradition and our understanding of the Gospel compel us to study, speak out and act on issues which relate to the quality of our national life today and the relations which our nation has with other nations in an increasingly interdependent world. Within the political tradition of our republic, we believe that it is important that there be continuing dialogue between political leaders and those who represent various private associations of citizens and their views regarding national issues. As representatives of a major segment of our nation's religious community, we are grateful, therefore, for the opportunity to share some of our concerns with you and pleased to provide you, in anticipation of our discussion together, the following background information regarding those concerns.

DOMESTIC ISSUES

National urban policy

We are pleased that the Administration is currently reviewing proposals for new initiatives in urban policy. We are mindful of your campaign pledges in this respect.

The religious values which we hold in common speak of justice, human dignity and community. We know that justice is denied where opportunities to work, to grow and to prosper are unavailable. We know that human dignity is threatened where poverty and poor housing prevail. We know that community is impossible to build where fear supplants hope. A bold and compassionate urban policy can help to create new opportunities, protect human dignity and rebuild community in the cities where so many people live. A new commitment to our cities is a requirement of justice.

A new national urban policy is required to revitalize our urban areas as decent places for our people to live and work. We must construct both policy and program to preserve and enhance the social fabric and community life of our cities while at the same time respecting the neighborhoods which are the cornerstone of urban life. This policy, we believe, must include:

1. A national commitment to genuine full employment and special programs to provide jobs to the jobless in depressed urban areas.
2. A reformed national welfare system which assures a decent income for all American families and which lifts the burden of welfare costs from local governments.
3. A renewed national housing policy which seeks to provide decent housing at an affordable cost for poor and moderate-income families.
4. Efforts to promote reinvestment in urban areas through new economic development and financing structures, as well as programs to combat disinvestment and redlining, and to provide incentives for private investment in depressed urban areas.
5. Comprehensive national health insurance.
6. Comprehensive reform of tax laws to establish a just and equitable system of taxation based on the ability to pay.
7. Reformed federal assistance and procurement policies which seek to aid declining urban areas.
8. Recognition of the importance of neighborhoods and community organizations in urban recovery.

We would particularly lift up for your attention the first two items in these policy needs.

FULL EMPLOYMENT

In light of the persistence of high levels of unemployment and the enormous economic, social and human costs involved, we in the religious community believe that a major new commitment of will and resources to achieve genuine full employment is urgently required.

As religious leaders, we enter this debate not as experts or policymakers, but as men and women concerned about the human toll of unemployment in our families and communities. We fear that our nation is becoming apathetic and unconcerned about the human tragedy and enormous waste which result from large-scale joblessness. If our response is indifference and inaction, we have jeopardized far more than a portion of our work force or national product; we have lost a critical measure of social justice and concern for human dignity.

We believe that the inability of our economy to provide sufficient jobs for our people is a serious national failing and requires major action on the part of our leaders. We are particularly concerned that minorities currently experience the highest unemployment rates in thirty years and that minority unemployment has been twice the rate for whites for two decades. The nearly 40% unemployment rate among minority youth, even in the face of declining white youth joblessness, is one of our nation's most serious problems, in our opinion. The human waste and the related problems created by this unemployment can only be compounded in the future when these young people are full adults. This is a hard-core problem in our society which can only be addressed by the government, as it is much too massive to be dealt with successfully by the private sector.

We urge the Administration to seek imaginative and effective ways to harness the idle human potential of the jobless in meeting our enormous needs for more housing, better transportation, energy conservation, im-

proved education and child care and more adequate health care.

It is for this reason that we commend the action of this Administration in its endorsement of the Full Employment and Balanced Growth Act. We in the religious community have been active participants in the effort to promote legislation which seeks to achieve full employment through economic planning, structural reforms and the establishment of genuine employment goals, because we believe that full employment is the first priority of our economic life.

In March of 1976 the Governing Board of the National Council of Churches adopted a "Resolution on Full Employment" which concluded:

Therefore, the Governing Board of the NCC asserts that full employment is an essential element of a more just economic order and that every individual should be guaranteed the right and the opportunity to a job at adequate compensation. We commit ourselves to the task of shaping a national policy of full employment which would provide the hopes for a better and more productive life for ourselves, our families and our neighbors. We call upon the Federal Government to make full employment the nation's number one priority.

As early as 1958 our governing body adopted a Policy Statement which said in part:

The government should give continued consideration to both short-run and long-term measures to restore and maintain employment levels. The government has a responsibility to use, when needed as stabilizers and other aids, the vast resources available in its fiscal, monetary, public works, and other economic powers.

In commending the Administration's endorsement of the Full Employment and Balanced Growth Act, we would note that we expect the government to commit to the implementation of full employment legislation the resources which this bill's enactment would require.

We in the religious community have been and will continue to be active participants in public debate on the question of full employment legislation and we look forward to strong advocacy on the part of the Administration as Congress takes up this question in the very near future.

WELFARE REFORM

We are greatly concerned about the poor, the disadvantaged, the aged, and the children in our society. Religious communities have traditionally been concerned for the dispossessed and the vulnerable, conscious of the hardships that many of our citizens face in meeting their daily needs. We are, therefore, encouraged by the Administration's legislative proposals related to the desperate need for comprehensive welfare reform.

Most Americans would acknowledge that the present welfare system has failed to meet the needs of our people. Benefits are inadequate and inequitably distributed; certain policies and practices encourage the breakup of families; and there are many wage earners who receive little or no assistance even though their wages are too low to provide for their families. Our failure to maintain a policy and an economy in which we as a nation provide jobs for those who can work and an adequate income for those who cannot is being paid for by the human costs of suffering, alienation, the deterioration of family life, drug abuse, alcoholism and other problems.

With these concerns in mind, the Governing Board of the National Council of Churches adopted a Policy Statement "On Guaranteed Income" on February 22, 1968. The Governing Board endorsed the concept and desirability of a guaranteed income, saying that:

Such a program should meet the following criteria:

(1) It should be adequate to maintain health and human decency.

(2) It should be administered so as to maintain health and human decency.

(3) It should be administered so as to adjust benefits to changes in cost of living.

(4) It should be developed in a manner which will respect the freedom of persons to manage their own lives, increase their power to choose their own careers, and enable them to participate in meeting personal and community needs.

(5) It should be designed to afford incentive to productive activity.

(6) It should be designed in such a way that existing socially desirable programs and values are conserved and enhanced.

We recognize that the guaranteed income is not a substitute for programs of full employment and human resource development. It is not a panacea for all the socio-economic problems encountered by the family and the individual in the course of a life cycle. At the same time, we are compelled to acknowledge that our socio-economic system works imperfectly. It is, therefore, the responsibility of society to devise new institutions which more adequately fulfill basic human rights.

While recognizing that a comprehensive change in the welfare system, such as that embodied in the Administration's bill, involves complex technical and administrative issues, we are primarily concerned with those provisions that bear most directly on the human and moral dimensions of the present efforts to reform the welfare system. The proposed Better Jobs and Income Act reflects an awareness of many of these issues. It is particularly commendable that this bill is developed around a central policy of providing jobs for those who can work and assistance for those who cannot, and that it eliminates the features in the current programs which encourage the break-up of marriages and the dissolution of extended family living.

In light of our focus, there are, however, several issues that we would like to raise concerning the proposed welfare reform legislation.

Jobs.—We believe that the jobs and training provided under this bill must be socially useful and that they should provide future employment opportunity so that those on welfare may become full participants in the nation's work force. Some of the provisions of the bill create disincentives for people to take public service jobs rather than private sector jobs, which suggests that the labor of public service workers is somehow inferior. It is also clear that the public service jobs provided in the proposed act are designed only as temporary employment. What is needed, we feel, is the integration of welfare reform with a comprehensive full employment policy that provides jobs for all Americans able and willing to work in both the public and private sectors, doing useful work at decent wages.

Benefits.—We are concerned that the level of benefits for those not expected to work is inadequate. The proposed benefit level of $4,200 for a family of four is less than two-thirds of the poverty level and represents an improvement in benefit levels only in twelve states. While the states are encouraged to supplement the basic federal payment, there is no guarantee that those now receiving adequate benefits will not be hurt. Furthermore, the program is scheduled to begin in 1981 and yet there is no provision for improvement in the initial benefit levels or increases reflecting changes in the cost of living between then and when the bill was introduced in 1977.

Eligibility.—In the past we have opposed efforts to base eligibility for federal programs, such as food stamps, on a measure of a family's past financial situation. We believe that eligibility for assistance should be based on the current needs of the family.

We pledge ourselves to continue to work with the Administration and the Congress on the concerns which we have raised here, and on other issues relevant to welfare reform.

INTERNATIONAL ISSUES

Nuclear disarmament

Seeing strong Presidential leadership in principle on the issues of arms control and disarmament has given us great encouragement.

We commend you for using the symbolic and real power of your office to advance the cause of disarmament.

The member communions of the National Council of Churches have long shared a common call to work for peace with justice through the responsible use of power.

STRATEGIC ARMS LIMITATION TALKS (SALT II)

The goals you have set for your administration would, for the first time since we entered the nuclear age result not in "controls" or "ceilings" but in reductions of the number of nuclear weapons, and you dramatized this issue by your call for a goal of "zero nuclear weapons."

We look forward to the signing of a SALT II treaty with its built-in commitment to move immediately into SALT III negotiations leading to the first real reductions in the effort by the two super powers to cap the nuclear arms race. We are mindful of the up-hill battle that you will need to sustain to realize Senate ratification.

COMPREHENSIVE TEST BAN TREATY (CTBT)

On taking office, you proceeded quickly and aggressively with negotiations to bring to completion the negotiation of a comprehensive test ban treaty.

With the announcement on November 22, 1977 by President Leonid Brezhnev of Soviet willingness to agree to a moratorium on peaceful nuclear explosions (PNE's), there is renewed hope that the Trilateral Negotiations (Great Britain, USSR, and the US) may be in sight of a treaty text.

It is our hope that the CTBT may be signed by the three nations before the opening of the United Nations Special Session on Disarmament on May 23, 1978 giving a psychological boost as 149 nations gather for the first time since World War II to discuss disarmament. We urge you to use your influence to realize this objective.

NON PROLIFERATION OF NUCLEAR WEAPONS

More than any other President and even during your campaign, you raised the consciousness of the country as to the imminent threat of the proliferation of nuclear weapons capability to 10, 20, or 30 additional nations.

The National Council of Churches Resolution on Proliferation of Nuclear Weapons Resulting from Nuclear Fuel Reprocessing Technology adopted by the Governing Board on October 8, 1976 affirms your policy to postpone exports that would make weapons-grade material available.

Because your stand is courageous, it has met formidable opposition and will require continued effort on your part. The NCC is committed by this resolution to support your objectives.

NEUTRON BOMB

The neutron bomb has struck the moral nerve of an unexpected large number of Americans, and throughout Europe.

A bomb that was billed as "clean" which killed people and preserved property stretched the limits of the American tolerance for nuclear weaponry.

It is our understanding that you are awaiting indication of consensus from Europe in support of a decision to produce and deploy.

We urge you to disapprove this weapon, and assure you we are working toward that end.

ARMS SALES

On May 19, 1977 you announced your conventional arms transfer policy. You said, "The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world."

You continued, "I have concluded that the United States will henceforth view arms transfers as an exceptional foreign policy implement to be used only where it can be already demonstrated that the transfer contributes to our national security interests . . . in the future the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

It is with great disappointment that we do not see your commitment to lead the effort to reduce the international conventional arms race honored.

U.S. world-wide FY '77 sales of $11.5 billion were up from FY '76 and the $13.2 billion in FY '78 represents a 17 percent increase.

How can this but encourage the worldwide growth in militarism with its waste of this earth's resources and its increased risk of war.

MILITARY SPENDING

Again our expectations prompted by your campaign commitment that we would begin a slow but steady decrease in military spending have been met by an FY '78 defense budget with a 9.4 percent increase or 3.4 precent real increase after inflation with the same increase projected out five years.

The size of these expenditures can only be interpreted to mean that domestic priorities will be unmet.

HUMAN RIGHTS

Human Rights is and has been at the heart of the concerns and work of the National Council of Churches. We are therefore heartened by your commitment and your initiatives to include human rights as a basic element in the formation of your foreign policy. The elevation of the Human Rights Office to an Assistant Secretary position in the State Department has changed the tone from the laissez-faire of the past to active commitment.

We are mindful of the power you exert as President to assure that United States aid does not stabilize and support governments "engaging in a consistent pattern of gross violation of human rights." You:

propose which countries receive aid;

arrange sales of military equipment and weaponry to foreign governments (amounting to $11.3 billion in 1977);

determine which countries are excepted from human rights considerations;

permit U.S. industries to obtain licenses to sell to foreign purchasers;

determine trade policy (trade sanctions, arms embargoes);

determine the nature and extent of diplomatic contact: and

determine immigration policy for refugees.

We must have deep concerns about the selective nature of the Administration's application of human rights criteria to U.S. foreign policy. We must continue to urge you to use powers delineated above to make the foreign policy criteria credible.

We have for many years worked with our Christian colleagues in South Korea, the Philippines, countries in Latin America, the USSR, and other parts of the world supporting their struggle to gain or recover their human rights.

We believe this is a particularly urgent moment to manifest our long standing concern regarding the situation in South Africa. Violence already is a reality in South Africa, but we must urge you to bring to bear the pressure of full U.S. economic sanctions as the last non-violent action remaining which may yet avert the impending and unacceptable human disaster.

We commend you for your efforts to achieve ratification of the United Nations Covenants on Civil and Political and Economic, and Social and Cultural Rights.

We remain hopeful that the political climate and the Congressional schedule will soon make it possible to actively pursue the ratification of these international treaties to promote and protect human rights.

GENOCIDE TREATY

The tragedy of World War II in which an entire people were almost annihilated can never be allowed to occur again. Genocide must be formally condemned by our country.

In 1948, the U.S. worked very hard on the draft of the Genocide treaty yet we are not one of the eighty-three nations who have ratified it.

Power political groups which had heretofore opposed the treaty such as the American Bar Association have now called for ratification.

We appreciate your support of the treaty and we urge you to continue active efforts to create the climate in the Senate for ratification.

PANAMA CANAL TREATIES

The principle of negotiating a new and more just relationship between the United States and Panama has been strongly affirmed by the National Council of Churches for sometime.

The National Council of Churches in February, 1976 sent a fact-finding delegation to Panama. Since then we have taken action in support of the treaties, and have been at work providing educational resources to inform church members of the significance and value of the treaties.

We commend you for bringing to completion the long years of negotiations, and for your effort to bring about ratification of the treaties.

CONCLUSION

Mr. President, this is not, of course, an exclusive listing of the current concerns of the National Council of Churches, nor of each of its constituent communions. The issues raised here, however, do represent some of the more urgent needs of our nation which we believe require careful consideration and bold initiatives by you and your Administration.

We hope and trust that our reflections will be helpful to you as you make your own assessment of unmet social needs in this country and how government should respond to them. We trust also that you will welcome our views regarding peace and justice issues affecting our relations with other peoples and nations.

Again, we are deeply grateful for the opportunity to meet with you.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 4, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 5

9:00 a.m.

Armed Services

Research and Development Subcommittee

To resume closed hearings on S. 2571, FY 79 authorizations for military procurement.

212 Russell Building

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on S. 2796, authorizing funds through FY 81 for the Consumer Product Safety Commission.

5110 Dirksen Building

Energy and Natural Resources

To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.

3110 Dirksen Building

*Environment and Public Works

Resource Protection Subcommittee

To continue oversight hearings on the Environmental Noise Control Act (P.L. 92-574).

4200 Dirksen Building

Finance

Social Security Subcommittee

To hold hearings on S. 2503, S. 2501, and related bills, dealing with refinancing of the social security system.

2221 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 2416, proposing extension through FY 81 the program of assistance for nurse training.

4332 Dirksen Building

9:30 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on budget estimates for FY 79 for the Agricultural Stabilization and Conservation Service.

1318 Dirksen Building

Armed Services

Tactical Aircraft Subcommittee

To resume closed hearings on S. 2571, FY 79 authorizations for military procurement.

224 Russell Building

*Environment and Public Works

Nuclear Regulation Subcommittee

To continue hearings on proposed legislation to provide a means of safe nuclear waste disposal.

1202 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee
To resume hearings on S. 2318, the proposed Buy American Act.
3302 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on budget estimates for FY 79 for foreign aid programs.
S–126, Capitol

Appropriations
Interior Subcommittee
To continue hearings on budget estimates for FY 79 for the Bureau of Indian Affairs.
1223 Dirksen Building

Appropriations
Public Works Subcommittee
To continue hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on U.S. programs and facilities designed to increase U.S. exports.
5302 Dirksen Building

Budget
To continue markup of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold oversight hearings into how the U.S. Coast Guard will benefit from two proposed Intergovernmental Maritime Consultative Organization treaties.
235 Russell Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Intelligence
To continue hearings on S. 2525, the proposed National Intelligence Reorganization and Reform Act.
318 Russell Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AMVETS Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6226 Dirksen Building

2:00 p.m.
Appropriations
Defense Subcommittee
To continue hearings on budget estimates for FY 79 for the defense establishment.
S–128, Capitol

Appropriations
Public Works Subcommittee
To continue hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Budget
To continue markup of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

APRIL 6

8:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on S. 2796, authorizing funds through FY 81 for the Consumers Product Safety Commission.
235 Russell Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume hearings on S. 419, to test the commercial, environmental, and social viability of oil shale technologies.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To resume oversight hearings on the woman and infant children feeding program (WIC), and the child care food program.
322 Russell Building

Finance
Social Security Subcommittee
To continue hearings on S. 2503, S. 2501, and related bills dealing with refinancing of the social security system.
2221 Dirksen Building

9:30 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1318 Dirksen Building

Armed Services
Tactical Aircraft Subcommittee
To continue closed hearings on S. 2571, FY 79 authorizations for military procurement.
224 Russell Building

*Commerce, Science, and Transportation
To hold hearings on S. 2224, to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration.
318 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the activities of the National Bureau of Standards, and on S. 2615, authorizing funds for FY 79–81 to carry out the programs of the Standard Reference Data Act.
5110 Dirksen Building

Environment and Public Works
To hold oversight hearings on the Public Building Cooperative Use Act.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of Surface Mining.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Railroad Passenger Corporation (AMTRAK).
1224 Dirksen Building

Appropriations
Public Works Subcommittee
To continue hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To mark up S. 1010 and H.R. 2777, to establish a National Consumer Cooperative Bank.
5302 Dirksen Building

Budget
To continue markup of proposed first concurrent resoution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold a business meeting.
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommitte
To hold hearings on S. 1655, to establish the Lowell National Cultural Park, Massachusetts; S. 2699, relating to the preservation of historical and archeological data in parks; and S. 2566, authorizing funds through FY 80 for the Pennsylvania Avenue Development Corporation Act (P.L. 92–578).
3110 Dirksen Building

Governmental Affairs
To hold hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

10:30 a.m.
Select Intelligence
Budget Authority Subcommittee
To resume closed hearings on proposed FY 79 authorizations for Government intelligence activities.
S–407, Capitol

1:00 p.m.
Select Intelligence
Closed business meeting.
S–407, Capitol

2:00 p.m.
Appropriations
Public Works Subcommittee
To continue hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Budget
To continue mark up of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Select Ethics
Open business meeting.
S–210, Capitol

APRIL 7

9:00 a.m.
Armed Services
Arms Control Subcommittee
To hold closed hearings on the alleged Soviet ICBM threat, particularly as it affects U.S. ICBM forces.
S–407, Capitol

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2541, authorizing funds for FY 79–82 for certain highway safety programs.
5110 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 2692,, proposed FY 79 authorizations for the Department of Energy.
1202 Dirksen Building

9:30 a.m.
Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 2701 and 2704, bills to promote a more adequate and responsive national program of water research and development.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs

International Finance Subcommittee
To resume hearings on S. 2520, FY 79 authorizations for the Export-Import Bank.
5302 Dirksen Building

Budget
To continue mark up of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold hearings jointly with the Human Resources Subcommittee on Education, Arts, and the Humanities on proposed FY 79–80 authorizations for the National Sea Grant College program.
235 Russell Building

Governmental Affairs
To continue hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for March.
1224 Dirksen Building

Select Indian Affairs
To hold hearings on S. 857, to provide Federal financial assistance to Hawaiian natives, and on S. 859, propcsing extension of the Indian Self-Determination and Education Assistance Act to native Hawaiians.
318 Russell Building

11:00 a.m.

Appropriations
HUD–Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of Revenue Sharing, and New York City Seasonal Financing Fund, Department of the Treasury.
1318 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2410, to amend certain sections of the Public Health Service Act relative to health planning and health resources development and S. 2579, to establish a President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.
Until 1:00 p.m. 4232 Dirksen Building

2:00 p.m.

Budget
To continue markup of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

APRIL 10

9:00 a.m.

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 74, to amend P.L. 94–565 so as to include payments for lands on which certain semiactive or inactive military installations are located.
3110 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 571, to provide for direct enforcement action by HUD in discriminatory housing practices.
2228 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 50, the Full Employment and Balanced Growth Act.
1202 Dirksen Building

9:30 a.m.

Health Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2549, FY 79 authorization for the National Science Foundation.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.

*Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Aviation Administration.
1224 Dirksen Building

Banking, Housing, and Urban Affairs.
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on FY 79 authorizations for the strategic petroleum reserve.
3110 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the problems of serious juvenile crimes.
424 Russell Building

Select Ethics
To resume closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 12:30 p.m. S–407, Capitol

*Select Indian Affairs
To hold oversight hearings on the current status of the reorganization of the Bureau of Indian Affairs.
318 Russell Building

1:30 p.m.

Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 5:00 p.m. S–407, Capitol

2:00 p.m.

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Urban Mass Transportation Administration.
1318 Dirksen Building

APRIL 11

9:30 a.m.

Environment and Public Works
To consider proposed building prospectuses for the Nuclear Regulatory Commission and a Los Angeles FBI field structure.
4200 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume hearings on S. 2040, proposed Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on proposed reforms of the Speedy Trial Act (P.L. 93–619).
318 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 12:30 p.m. S–407, Capitol

1:30 p.m.

Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 5:00 p.m. S–407, Capitol

APRIL 12

8:30 a.m.

Agriculture, Nutrition, and Forestry Nutrition Subcommittee
To resume oversight hearings on the women and infant children feeding program (WIC), and the child care food program.
322 Russell Building

9:30 a.m.

Environmental and Public Works
Transportation Subcommittee
To mark up proposed Federal aid highway legislation.
4200 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 2040, proposed Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on proposed FY 79 authorizations for the U.S. Coast Guard.
235 Russell Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 242, 1812, 2606, and 2310, bills to amend the Federal land reclamation laws.
3110 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the problems of serious juvenile crimes.
424 Russell Building

Rules and Administration
To hold hearings on S. 1029, to authorize construction of museum support facilities for the Smithsonian Institution, and to consider other legislative matters.
301 Russell Building

Select Indians Affairs
To resume oversight hearings on the current status of the reorganization of the Bureau of Indian Affairs.
1202 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building

APRIL 13

9:00 a.m.
Human Resouces
Employment, Poverty, and Migratory Labor Subcommittee
To resume markup of S. 50, the Full Employment and Balanced Growth Act.
155 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the Rail Service Act (P.L. 94–210).
318 Russell Building
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To hold hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
Room to be announced
Environment and Publics Works
Resource Protection Subcommittee
To hold oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93–205).
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittees
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Board for International Broadcasting, International Communications Agency, and on supplemental appropriations for FY 78.
S–146, Capitol
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on S. 2691, the Congregate Housing Services Act.
4232 Dirksen Building
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on S. 2520, FY 79 authorizations for the Export-Import Bank.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
3112 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To continue hearings on S. 242, 1812, 2310, and 2606, bills to amend the Federal land reclamation laws.
3110 Dirksen Building
Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

APRIL 14

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1896, FY 79 authorizations for the Hazardous Materials Transportation Act.
235 Russell Building
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up S. 2527, proposed FY 79 authorizations for NASA.
1202 Dirksen Building
Judiciary
Improvements in Judiciary Machinery
To hold hearings on S. 2253, to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts.
4232 Dirksen Building
Select Small Business
To hold hearings on the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration.
424 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93–205).
4200 Dirken Building
*Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2549, proposed FY 79 authorizations for the National Science Foundation; S. 2416, to extend through FY 81 the program of assistance for nurse training; and S. 2474, to extend through FY 83 the Public Health Service Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To continue hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
6226 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building
Governmental Affairs
To resume hearings on S. 991, to create a separate Cabinet-level Department of Education.
3302 Dirksen Building

APRIL 17

9:00 a.m.
Energy and Natural Resources
To hold hearings on proposed legislation for the reconstruction of Guam, and on the rehabilitation of Bikini.
3110 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2090 and S. 2081 proposing an extension of certain programs of the Economic Opportunity Act.
4332 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
2228 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume markup of proposed Federal aid highway legislation.
4200 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on H.R. 9370 and S. 2582, to provide for the development of aquaculture in the United States.
235 Russell Building
Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of State, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 18

9:00 a.m.
*Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2090 and S. 2081, proposing an extension of certain programs of the Economic Opportunity Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To meet in closed session with Secretary of State Vance to discuss foreign policy.
S–146, Capitol
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 2096, Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electric funds transfer systems.
5302 Dirksen Building
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.
Room to be announced
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
Room to be announced
Energy and Natural Resources
Energy Research and Development Subcommittee

To mark up S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
5110 Dirksen Building

Select Small Business
To resume hearings on S. 2259, to expand and revise procedures for insuring small business participation in Government procurement activities.
424 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for International Organizations and Conferences and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 19

9:00 a.m.
*Environment and Public Works
Water Resources Subcommittee
To consider proposed water resources legislation.
4200 Dirksen Building

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
424 Russell Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Justice, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on the status of proposed construction of a Federal Interstate Highway near Memphis, Tennessee.
4200 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Rules and Administration
To resume hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs, and to consider other legislative and administrative business.
301 Russell Building

APRIL 20

9:00 a.m.
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 2390, the Citizens' Access to the Courts Act.
6226 Dirksen Building

9:30 a.m.
Appropriations
Agricultural Subcommittee
To resume hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1224 Dirksen Building

Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1313 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Attorney General Bell on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electric funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
S-126, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume markup of S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
318 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

APRIL 21

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To consider proposed resource protection legislation.
4200 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1314, to provide that State and Federal prisoners may petition the Federal courts in a writ of habeas corpus.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To consider proposed nuclear regulation legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on FY 79 authorizations for the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95-87).
6226 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4332 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed highway legislation.
4200 Dirksen Building
Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S–146, Capitol
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building
Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 26

9:00 a.m.
Commerce Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building
Veterans' Affairs
To mark up S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; and H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II.
412 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S–146, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building
Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94–265).
235 Russell Building
Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building
Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building
*Rules and Administration
To resume hearings on S. Res. 166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 27

9:30 a.m.
Environment and Public Works
Resource Protection
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S–146, Capitol
Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94–265).
6226 Dirksen Building
Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume overight hearings to examine the science and technology aspects of the Federal Research and Development budget.
235 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S–146, Capitol
Banking, Housing, and Urban Affairs
To mark up proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building
Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

MAY 3

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.

4200 Dirksen Building

MAY 5

9:30 a.m.

Veterans' Affairs

To resume markup of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; and H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II.

412 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.

5302 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.

5302 Dirksen Building

CANCELLATIONS

APRIL 28

9:30 a.m.

Judiciary

Citizens and Shareholders Rights and Remedies Subcommittee

To hold hearings on S. 2559, to provide a judicial remedy against the U.S. and U.S. officials who take retaliatory action against employees who charge impropriety in the Federal Government.

2228 Dirksen Building

SENATE—*Tuesday, April 4, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 12 noon, on the expiration of the recess, in executive session, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Lord God of the morning, the evening, and the noonday hour, we thank Thee that Thou art always near us, even when we are unaware of Thy presence. Make us to strive for excellence, never satisfied with what we are or do. Set our vision upon high goals. Keep us at tasks too hard for us, that we may be driven to Thee for strength.

Deliver us, O Lord, from self-pity, from concealed sin, and false guilt. Make us sure of the final goal and of the hidden good in the world.

Open our eyes to simple beauty all around us, and our hearts to the greatness and goodness men hide from us because we do not try hard enough to understand them. May Thy spirit of peace and illumination with which we begin this day so enlighten our minds and warm our hearts that all life will glow with new meaning and purpose, and at evening we may rest in Thy grace.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 4, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR. thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority and minority leaders be allowed up to 5 minutes each at this point before resuming the treaty, and this will be as in legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The minority leader is recognized.

Mr. BAKER. Mr. President, I yield my time under the order just entered to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER. The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for 5 minutes.

Mr. HARRY F. BYRD, JR. I thank the majority leader and the minority leader for their courtesies.

HEW FUNDS MISSPENT

Mr. HARRY F. BYRD, JR. Mr. President, yesterday the Inspector General of the Department of Health, Education, and Welfare reported that between $6.3 and $7.4 billion was misspent by that Department in 1977.

He said that most of the misuse of funds was due to waste and mismanagement, with about $1 billion traceable to fraud and abuse.

I find these figures incredible and appalling.

First, the funds misspent by HEW, at the lowest estimate, consumed the total Federal income tax payments of nearly 5 million American families with incomes of $15,000.

Second, the funds misspent by HEW exceeded by 50 percent the entire expenditure of the Federal Government on energy programs.

Third, the funds misspent by HEW exceeded by 40 percent the entire annual budget of the State of Virginia, a State with a population of 5 million, the 12th largest State in the Union in population.

And, fourth, the amount misspent by HEW equals $17 million a day.

Clearly, the Department of Health, Education, and Welfare is out of hand.

It seems to me that the chief cause of this gross waste of public funds is the astronomical growth of the budget of HEW.

Is it not obvious that money is being appropriated to this sprawling Department at so fast a rate that no one can keep track of it?

Is it not clear that the programs in HEW have mushroomed to the extent that they are out of control?

The total budget of HEW, which includes the social security trust fund, is $165 billion this year. Ten years ago, in 1968, it was one-fourth that amount, or $41 billion.

Just in the last 4 years, from 1974 to 1978, the HEW expenditures have grown from $94 to $165 billion, a gain of 76 percent.

This skyrocketing spending could only lead to misuse of funds. No agency can absorb and use wisely a constantly ballooning quantity of funds of such magnitude.

Each year, during consideration of the HEW budget, I have cited the tremendous growth in the Department's outlays and have warned that too much was being undertaken too fast.

Now from HEW itself comes a report that proves the point.

Congress cannot in good conscience ignore this multibillion-dollar waste.

The most rudimentary sense of responsibility for the stewardship of public funds—the tax dollars paid to the Government by the hard-working men and women of this Nation—demands that this monumental misuse of money be thoroughly investigated.

The General Accounting Office should

institute a review of the report of the Inspector General of HEW, analyzing the accuracy of the findings and making such recommendations as may seem appropriate as to measures which can be taken to eliminate this unconscionable waste of tax funds.

Furthermore, I urge that in consideration of HEW programs and budgetary requests for the forthcoming fiscal years, the authorizing and appropriating committees of both Houses of Congress look very closely at each item, bearing in mind the report of the Inspector General that $6.3 billion, at least, has been misspent.

The PRESIDING OFFICER. The time allotted to the Senator from Virginia has expired.

Will the minority leader request unanimous consent that the time of the majority leader be given to Mr. HARRY F. BYRD, JR.?

Mr. BAKER. Mr. President, in light of the fact the distinguished majority leader is the present occupant of the chair, I then on his behalf ask unanimous consent that his time under the previous order be yielded to the distinguished Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

And the Senator from Virginia, Mr. HARRY FLOOD BYRD, JR., is recognized for an additional 5 minutes if he so desires to utilize them.

Mr. HARRY F. BYRD, JR. I again thank the distinguished majority leader and distinguished minority leader.

It would be irresponsible to vote increases in funds for programs which are shot through with waste, mismanagement, and fraud.

Yet HEW in the budget Congress is now considering is seeking a $7 billion increase of funds, exclusive of social security.

The increase being sought by HEW in the new budget is a 13-percent increase on top of the tremendous increase that it received just last year.

The amount of increase sought by HEW is the amount the Inspector General of HEW says has been misused due to waste, mismanagement, and fraud.

I recognize that it may be necessary to increase funds for activities designed to monitor and control programs where waste is rampant, but it cannot possibly cost anywhere near as much to improve controls in HEW as the current mismanagement is costing the taxpayer.

We are dealing here with basic questions of competence, accountability, and honesty. The issue must be faced.

The Federal Government—the President and Congress—has a deep obligation to handle tax funds as a public trust. Obviously, this is not being done.

Mr. President, I ask unanimous consent that tables showing appropriated funds for HEW and outlays by the agency, which include trust funds not appropriated in the regular process, from 1970 through 1979, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

(The total outlays include social security payments; the appropriated funds figure is exclusive of social security.)

Department of Health, Education, and Welfare, appropriated, funds and total outlays, fiscal years 1970–78, inclusive

[Billions of dollars]

	Appropriated funds	Total outlays
1970	$17	$52
1971	21	62
1972	27	72
1973	31	82
1974	31	94
1975	37	112
1976	44	128
1977	51	148
1978 (est.)	55	165
1979 (request)	62	181

Sources: Office of Management and Budget, Senate Committee on Appropriations.

Mr. HARRY F. BYRD, JR. I again thank the distinguished majority leader and the minority leader.

THE PANAMA CANAL TREATY

The PRESIDING OFFICER. Under the order previously entered, the Senate will now resume consideration of Executive N., 95th Congress, 1st session, Calendar No. 2. The time between now and 6 p.m. today will be equally divided and controlled by the Senator from Utah (Mr. HATCH) and the Senator from Idaho (Mr. CHURCH) or their designees.

The clerk will report the treaty.

The legislative clerk read as follows:

Calendar No. 2, Executive N, 95th Congress, 1st session, the Panama Canal Treaty.

The PRESIDING OFFICER. Who yields time? Time will be equally charged against both sides.

Mr. HATCH. Mr. President, I yield time to the distinguished Senator from Alabama who desires to speak first.

The PRESIDING OFFICER. Mr. HATCH yields such time as he may consume to the Senator from Alabama.

(Mr. NELSON assumed the chair.)

Mr. ALLEN. I thank the Chair and I thank the distinguished Senator from Utah for yielding to me.

Mr. President, today we have before us one of the most important amendments that has been offered either to this treaty or to the so-called Neutrality Treaty. It is an amendment that would assure that the constitutional processes of the United States will be followed as the treaty called for, in providing for the disposition of the property of the United States in the Canal Zone.

On yesterday, Mr. President, the distinguished Senator from Idaho (Mr. CHURCH), the chief manager of the treaty, conceded—and it was a concession that was made for the first time in this Chamber by the proponents of these treaties—that the United States does actually own the property in the Canal Zone.

A statement had been made on the floor by a proponent of the treaties that the United States just rents that property, and the President of the United States himself in a fireside chat stated that we do not own the property in the Canal Zone. So I am pleased that those who seek to get the Senate to approve this treaty are now conceding that the United States, does, in fact, own the property in the Canal Zone.

Possibly they were prompted in making that concession by the fact that the Subcommittee on Separation of Powers of the Judiciary Committee did bring into a hearing of that subcommittee the actual records of the deeds themselves showing the transfer of title to this property by the various individual owners of of the property.

I might call attention to part 4 of the hearings of the Subcommittee on Separation of Powers that lists some 3,500 actual transactions with Panamanians in which this property was purchased, the name of the seller and the amount paid for the property.

I might state, too, that at this hearing the gentleman who had served as secretary of a joint United States-Panamanian commission, set up for the purpose of purchasing in the name of the United States the property in the Canal Zone, reported that the rule of thumb they followed in setting a price on this property was to first establish the value of the property and then pay twice that amount for the property.

So, Mr. President, the property belonging to the United States would then bring us under the provisions of article IV, section 3, clause 2 of the Constitution which says that Congress shall have the power to dispose of the property of the United States. Nowhere else in the Constitution is any power given to any branch of the Government to transfer property of the United States.

That being true, that being an exclusive grant of power, it would include all other grants unless they were specific in nature, and there are no such grants in the Constitution.

Mr. President, I am pleased that a time has been set for the final disposition of the question of whether or not the Senate shall give its advice and consent to the treaty before us. I am glad, Mr. President, that the Members of the Senate were able to take a recess of some days in length during which time I am sure most of the Senators took occasion to go back to their home States and consult with their constitutents, the Senate having acted on one of these treaties, to find out from their constituents whether their actions in voting for or against the approval of the first treaty met with the approval of their constituents.

I am hopeful that, having gone back and consulted with their constituents, they have come back and will vote what I feel is the will, certainly, in my home State of Alabama, and the will of the people of the United States.

I might say, too, Mr. President, I have noticed in the press that efforts have been made, efforts have been initiated in some States to circulate recall petitions against Senators. I deplore that activity. I deplore it because I feel it is not provided for in the Constitution. No matter what the State law might be on the subject, the U.S. Constitution would control.

There is no method under the Constitution of recalling a Senator. Even if that were not true, Mr. President, and a recall method was provided, I would certainly look with disfavor on any effort to have the passions of the moment control in a matter of this sort.

Senators are elected for 6 years. Their constituents have the right every 6 years to pass upon their records, and I see no reason for any effort of this sort. I think it is unfair to Senators, because I think Senators have a right to vote their convictions whether or not those convictions coincide with the feelings of the people in their home States.

And the people have the right, under the Constitution, every 6 years to recall Senators by the election process.

Then, too, Mr. President, I feel that any such effort is counterproductive, because if I had voted contrary to what I feel are the wishes of the people of Alabama, and had been threatened with defeat at the polls next time, or recall, my inclination would be to dig in with my position as expressed here on the Senate floor. I feel that this effort is counterproductive, and I would certainly emphasize that no Member of the Senate who has been seeking to improve these treaties by amendment, or, failing in that, to vote against them, no Senator who has been on that side of these questions has given any indication of approval of such action back in the States of the Senators involved.

So I hope and I feel confident that Senators will realize that that is a spontaneous action by the people of their States, and has no connection with any thought or action or belief of any Member of the U.S. Senate.

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief comment?

Mr. ALLEN. Yes, I will yield to the Senator, but I am not going to make a practice of yielding, I might state. I yield.

Mr. GRIFFIN. I just want to associate myself with the remarks the Senator made relative to the possibility that some States may seek to recall Senators who have voted for ratification of the treaties. Being on the same side of the issue as the Senator from Alabama, I wish to indicate my agreement with the remarks he has made. I think that many may assume or think that they would be helping our cause by initiating such recall petitions, but I do not think that is the case. I share the view of the distinguished Senator from Alabama that it is more likely to be counterproductive.

Furthermore, as the Senator has pointed out, there is no provision in the Constitution for the recall of U.S. Senators, and surely this was by design and deliberate intent of the Founding Fathers, who established a legislative branch where one house would be subject to the control and vote of the people every 2 years, at frequent intervals, and deliberately designed another body where there would be longer terms to be served, and where Senators could feel that they would not be subject to such frequent votes of approval or disapproval by the people, with the purpose in mind of Senators taking the longer view, perhaps, or looking at the issues from a little different perspective.

Certainly, if the provision for the recall of Senators had been included, that probably would have been frustrated, or would certainly not be the same thing.

I certainly hope that some of our colleagues, having been home and had a chance to listen to and talk with their constituents, will come back with a different point of view when we get to the second treaty, and I share the hope of the Senator from Alabama that we may be able to prevail. But I did want to indicate that insofar as that particular matter of recall is concerned, certainly there are those on both sides of the political aisle here who share the view expressed by the Senator from Alabama.

Mr. ALLEN. I thank the Senator from Michigan (Mr. GRIFFIN) for his very fine comments to emphasize the point that I have been seeking to make.

While I do not know of the status of any such efforts in any of the States, I would make a public plea that any such groups who are seeking to move in that direction cease and desist from such activities, because I do not believe that it is helping us who are seeking first to improve these treaties and second to defeat the treaties if we are unable to improve them.

I might state, Mr. President, that the manner in which the treaties are drafted, the wording of the treaties, makes the vote on this treaty, the Panama Canal Treaty, much more important than the first vote. All the first vote decided was that if the United States should give the Panama Canal away, starting in the year 2000 we should have certain defense rights as to the canal. It is a weak treaty from the standpoint of the United States. Many of us sought to improve it to give us added defense rights. For example, even though the first treaty, the Neutrality Treaty, or, to use another word for it, the Defense Treaty, the first treaty which has been approved gives us certain defense rights, they are weak defense rights, because under the Panama Canal Treaty and the Neutrality Treaty we have to have all of our troops out of Panama by the year 2000, and the Neutrality Treaty or the Defense Treaty gives us a right to defend the canal but deprives us of the means of defending the canal, because all of our troops will be out, and if we do seek to defend the canal, the defense would have to be by amphibious landing or actions involving paratroops. Those of us who tried to improve the treaty tried to have a provision that if the military presence of the United States was necessary for the proper defense of the canal come the year 2000, the President could so certify and we could continue to maintain troops in the Canal Zone for the defense of the canal. The leadership, in its wisdom, called on the Senate to reject our amendment, and reject it the Senate did.

But under the wording of the treaty, somebody among the negotiators seems to have slipped up; they provided that the Neutrality Treaty shall not go into effect unless the other treaty is agreed to. So the question has not been decided. The leadership thought that by putting the cart before the horse and talking about defense down in the year 2000, and getting that treaty approved, the momentum of that action by the Senate would carry forward, and this treaty would be agreed to in short order.

That is not the case. Momentum has stopped. We are going to see whether the administration and the leadership can prevail upon the Senate not only to defend the canal starting with the year 2000, which is all we have decided up to now, but whether they can get the Senate to agree to give the Panama Canal away; whether they can get the Senate to give the Panama Canal away without proceeding in accordance with the provisions of article IV, section 3, clause 2 of the Constitution requiring authorization by the entire Congress for the disposition of property of the United States.

Mr. President, it is interesting that the administration and the leadership seek to prevent having this matter considered by the House. I do not say the House is supposed to act upon this treaty; they are not. But this transaction involves giving away 500 square miles of territory and a canal, the replacement value of which is said to be in the neighborhood of $10 billion, and giving that away without complying with this section of the Constitution requiring action by the Congress.

The Panama Canal Treaty of 1955, most recent treaty with Panama, provided in three places in article V that where conveyance of property was being made to Panama, "The United States of America agree that"—and this is the significant phrase—"subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements in the territory under the jurisdiction of the Republic of Panama."

The phrase, "subject to enactment of legislation by the Congress," is used two more times in that article. They recognized that particular point in 1955 and complied with it. Here we have an administration and a leadership that says it is not necessary to have legislation by Congress.

Mr. President, that is all this amendment does. It just says to the treaty proponents:

> All right, go ahead with your treaty, but before it goes into effect we have to comply with Article IV, Section 3, Clause 2 of the Constitution providing for action by Congress for the disposition of property of the United States.

That is all the amendment does. Before this treaty goes into effect compliance with the Constitution must be made regarding getting the authorization from Congress for the disposition of the property.

Why, Mr. President, would the administration not want to call Congress into the act? It takes a two-thirds vote here in the Senate to approve the treaty. It would take only a majority vote in the House. With Members of the House being in many cases closer to the people, up for election every 2 years, frequently

going back and touching base with their constituents, are they afraid that the House is too close to the will of the people to risk submitting this matter to the House? One would suspect that that is the case.

Now, Mr. President, I am encouraged as to the outcome of this amendment. I might say that in this 6 or 7 weeks we have been debating these treaties the leadership has stonewalled against every amendment except two amendments called the leadership amendments based on a memorandum agreement between the President and Dictator Torrijos. As to all other amendments they have suggested that such an amendment would defeat the treaties.

I suggest that no Member of the Senate can state with any degree of certainty that any amendment would kill any treaty. Why should it? It merely goes back to Panama for acquiescence. If it is a substantial amendment, possibly a new plebiscite would be called. What is wrong with a plebiscite? What is wrong with a treaty being between the people of the United States and the people of Panama?

Mr. President, I have suggested that no matter how many amendments are added into these treaties they would be accepted by the Panamanian dictator. Do you know why, Mr. President? Just as soon as the treaties go into force, Mr. Torrijos will start collecting $100 million a year. The United States is going to be the guarantor for the Panama Canal Commission, set up by the Panama Canal Treaty, which takes over the property from the Panama Canal Company. We guarantee that at the end of 22 years we are going to convey the canal and all the property in the Canal Zone to Panama free from all debt, free from all loans.

We have what might be called a lien right now against the canal, the Treasury of the United States, the people of the United States, of a mere $319 million which is still owed on the canal from its original construction.

The dictator, in my judgment, will accept anything that will allow him to start collecting $100 million a year.

Mr. President, the leadership approved only two amendments in 6 or 7 weeks. That is quite a record, is it not? They have not approved any amendment by those seeking to strengthen the treaties, this group of Senators 32 strong on the final vote on the Neutrality Treaty.

I was interested just the other day when one of the proponents of the treaties called the result of the first vote on the treaty. He said it would be 68 to 32. Well, that is certainly what the vote was, 68 to 32. That sounds like a landslide vote, but the trouble is that the Constitution provides that treaties must be approved by a two-thirds vote. So, instead of being a landslide vote the first treaty was approved with only 1 vote to spare, because if it had been 66 to 34, the treaty would have failed. Sixty-seven to thirty-three, it would have been approved; 68 to 32, it was approved. But had two Senators who voted for the treaty voted against, it would have been defeated last time.

So I do not feel that this is a foregone conclusion, that they are going to get 67 votes for this treaty; and if they fail to get the 67 votes for this treaty, it kills both treaties.

Mr. President, let us see what the question is. It has already been decided tentatively—it is just a tentative decision, awaiting the outcome of this vote, that is all. We have tentatively decided that if the Panama Canal Treaty giving the canal away is approved, then the Neutrality Treaty goes into effect. But if this treaty is not approved, both treaties fall.

Senators will recall, I am sure, that at least three Senators, two of them on the floor here, stated that they were not pleased with the provisions of the Panama Canal Treaty. One of the Senators who voted for the other treaty said that if he had had to vote that same day on the Panama Canal Treaty, he would vote against it. Another Senator who voted for the treaty said that if he did not get a certain amendment adopted, he would vote against the treaty. Another Senator, on this side of the aisle, stated that his voting for the first treaty did not necessarily mean that he was going to vote for the Panama Canal Treaty.

I do not mention the names of these Senators—not that I feel that it would be an embarrassment to them, but Senators know, and I would not want any added powers of persuasion used on these three particular Senators that I might single out.

I submit, Mr. President, that Senators like, if possible, to be consistent. I submit that there is little, if any, inconsistency in voting that, if the canal is given away, we will defend it in a certain fashion. That is all those 68 Senators have decided, that if the canal is given away, we will defend it in the manner provided by the Neutrality Treaty. What they have not decided is the basic and fundamental question provided by the treaty under consideration now. That is, shall we give the canal away and shall we, in the process, give or guarantee to Panama hundreds of millions of dollars just to take the canal? So, Mr. President, it would not be inconsistent for Senators, having voted to defend the canal starting in the year 2000, to say, yes, I am for defending the canal in the year 2000 if we give the canal away, but I am certainly not in favor of giving the canal away.

It is with that thought, Mr. President, that we continue in this debate because the basic and fundamental question has not yet been decided. It is going to be up to the Senate, in its wisdom, to decide whether or not we are going to give the canal away. But before that, we have to decide whether or not we are going to follow the Constitution and require, before the treaty goes into effect, that the Congress shall pass legislation authorizing the disposition of the property.

Now, Mr. President, the argument has been made as to pretty nearly every amendment that has been offered, oh, we cannot do that, we cannot do that, that will kill the treaty; Mr. Torrijos will not agree to this; we cannot risk having the treaty defeated; Mr. Torrijos will not allow Panama to take this action.

Well, now, we have before us an amendment that places no burden whatsoever on Panama. All it does is define what the treaty says already shall be done. That is to follow our constitutional processes in the matter of ratification of the treaty. The Constitution says that Congress shall have the power to dispose of the property of the United States. All this amendment does is say, yes, let us follow the Constitution; let us make this treaty conditioned, as the 1955 treaty with Panama did, that these provisions are made subject to the enactment of legislation by Congress. That is all it does.

I am glad we got this 1955 treaty talked about, because, for days and days, on the Senate floor, about all we could hear from the proponents of these treaties was about this Colombian firing squad. The distinguished Senator from Idaho, yesterday, dusted off that old story again, that if the Panamanian people had not agreed to the treaty of 1903, they were facing a Colombian firing squad. I thought we left that argument weeks ago, but it was dusted off again in the argument yesterday by the distinguished Senator from Idaho (Mr. CHURCH).

Let us refer to the 1955 treaty, where property of the United States is given away, where it is conveyed. Oh, it is said, back in 1903, this was colonialism and we did not have two sovereign powers dealing at arm's length with each other, that these Panamanians were afraid that they were going to face a Colombian firing squad if they did not agree to this treaty. Well, I do not suppose there was any danger of a Colombian firing squad 52 years later, when the 1955 treaty was entered into by the United States and Panama. Surely, at that time, they were sovereign nations, dealing at arm's length with each other.

But the 1955 treaty provided that the conveyance of property was subject to approval by the Congress.

Has the Constitution become old hat now that we are in a modern age, different from the situation back in 1955? Should we follow the Constitution in 1955 and not follow it in 1975?

I say the Constitution is just as valid, just as much in force, just as much the instrument that governs our Nation now as it was back then.

That is all we are trying to do. That is all. It does not put any burden on Panama. It merely provides that we shall follow that section of the Constitution.

Mr. President, another reason why we should follow the Constitution, besides being a government under a written Constitution, is the matter that if this route is not followed, unquestionably the validity of this treaty, or the validity of the disposition of the property, to be more accurate, would be subject to litigation.

The Supreme Court has said in other efforts by people who are interested in seeing that the property of the United States is not given away, "Oh, this is premature, we cannot decide this question now, this is action between two bodies of Congress. We can't dispose of that, can't get into that."

Well, once the treaty is sought to be put into force and effect, it would be a fait accompli then. I certainly feel that

these reasons why the Supreme Court did not pass on this question on its merits would cease to exist and we would get back to the matter of whether the Constitution has been followed.

I submit that it will not have been followed unless this property is disposed of under authorization of an act of Congress.

So why beat around the bush? Why say, "No, our policy is to accept no amendments, we're not going to accept this amendment." That is the leadership position.

On the other treaty, Mr. President, it was a real bad treaty, to hear some of the present proponents of the treaty: "Oh, it couldn't be agreed to at all, it would be defeated by the Senate."

Some of the leading proponents, the two leaders, wanted to consider it and could not make up their minds for weeks about it. But then they hit on this leadership amendment.

Did the leadership amendment show a lot of ingenuity, resourcefulness, wisdom?

Word for word, the memorandum that the President and the dictator entered into, and it was as full of loopholes and defects as we could imagine.

But they said:

Oh, if the Senate will agree to these amendments, then it is going to be a fine treaty, a treaty we can support, and by the way, it is a treaty that should not be amended any more, just take the leadership amendments based on the memorandum between the President and the dictator and that makes this treaty so fine that it must not be amended any more.

Well, that cuts out a pretty good role for this leadership amendment. We have debated the deficiencies of that amendment. I could point them out again and again. I am not going to take the time of the Senate in doing that.

That treaty, the first treaty that was considered—not the first treaty, because the first treaty would be the treaty giving the canal away, but the first treaty considered by the Senate—was saved by the leadership amendment, deficient as it was and as weak as it was in providing for the defense of the canal. But it was so great, so all-encompassing, that the leadership has taken the position that no more amendments should be offered.

I heard the distinguished majority leader (Mr. ROBERT C. BYRD) on the television program one Sunday a couple of weeks back and he said he had an open mind on amendments. I followed his voting pretty carefully here and I do not recall his favoring an amendment, other than the leadership amendments which had already been agreed to at the time he made that statement. I do not recall the distinguished majority leader voting for a single amendment offered here on the floor of the Senate except for the two leadership amendments, which were deficient as I have pointed out many times on the floor of the Senate.

So I am hopeful that the distinguished majority leader's open mind is going to open wide enough to accept constructive and legitimate amendments, an amendment that has the effrontery to suggest that we follow the Constitution.

I hope that the Senate will open up its collective mind wide enough to allow us to suggest that we follow the Constitution on disposing of property of the United States in Panama.

But, Mr. President, I am encouraged on this matter on the outcome of this amendment. As I say, our high water mark on amendments has been 42 voting in favor of an amendment not approved by the leadership. As I have pointed out, there were two that were approved by the leadership.

I have to come back to the distinguished Senator from Idaho (Mr. CHURCH) and his attitude, and, while I disagree with his attitude with respect to amendments, I completely agree with his candor. I commend him for it, because his attitude is one of, "Rubber stamp this treaty, we don't want any amendments to it."

Then he says the Senate is not supposed to negotiate treaties, that is for the executive branch.

That is true. The Senate is not supposed to negotiate treaties, Mr. President. But Members of the Senate have the duty imposed upon them to advise and consent with the President on the wording of that treaty.

That is not negotiation. That is still left in the hands of the executive department. But part of our constitutional duty is to advise the President as to whether this treaty is good, good for the country, whether it protects our interests or not. That advice, Mr. President, is not handed down in the form of a communication from the Senate:

DEAR MR. PRESIDENT: We think that you ought to renegotiate this treaty and do thus and so.

The advice of the Senate is given in the form of amendments shaping the treaty. That is the way the advice of the Senate is given.

(Mr. FORD assumed the chair.)

Mr. ALLEN. We have this elaborate procedure under rule XXXVII of the Senate. We go into the Committee of the Whole. That is what we are in now. That is the only time the Senate uses the Committee of the Whole. But under the Committee of the Whole procedure, we take up the various articles of the treaty one by one. We are still on article I, by the way. Then, if the committee has any amendments to article I, they offer them.

However, it is a strange thing, Mr. President: These two treaties went to the Foreign Relations Committee for study and for recommendation, and they had dozens of witnesses before the committee. They did not make a single amendment in committee—not one. What they did was to take the unsigned memorandum—by the way, the dictator has a different view of what that memorandum meant from the meaning we ascribe to it. He said that under this memorandum, which became the leadership amendment, we do not have the right to intervene militarily for the protection of the canal. We just have the duty to do it when he calls on us to come down and defend the canal. That same construction, of necessity, carries over to the leadership amendment itself, because the leadership amendment is word for word what the memorandum provided.

What action did the Foreign Relations Committee take? It took his memorandum, and I believe the committee put it in the form of a new article, or possibly two new articles, and adopted it in that form, taking the memorandum word for word and incorporating it as one or two new articles.

The State Department said to the Foreign Relations Committee:

We had better not do it that way. We had better not add a new article, because that will require a new plebiscite in Panama. You had better back up and lick the calf over again.

To use an old Southern expression, I say to the distinguished Presiding Officer, the Senator from Kentucky (Mr. FORD), who is familiar with that expression. They said, "Do the job over."

The Foreign Relations Committee did the job over. Panama represented to the State Department that we had better not do it that way; that we had better take the same language and add it as amendments to existing articles, and that way they can get by without a new plebiscite. What did the Foreign Relations Committee do? It got right in line with that suggestion.

Mr. President, this attitude of stonewalling against amendments is not acceptable to the Senator from Alabama. This attitude of saying, "Yes, here are these treaties before us; rubber stamp them," does not set too well with the Senator from Alabama. I feel that the Senate is abdicating its role, provided under the Constitution, of advising and consenting if it wishes, or nonassenting if it wishes, with respect to treaties that are submitted to it, when it does not take its duty seriously; when the leadership says—I will correct myself there—when the manager of the treaty and apparently the leadership take the position that no amendments must be agreed to.

The leadership saved the first treaty. Oh, they found these great defects in it with respect defense, and they came up with this memorandum; and they said it cured these defects and cured them so well that no other amendment need be offered. They spoke pretty highly of this amendment.

I did not think much of it in many particulars. One that I pointed out was that it leaves us robbed of other means of defense of the canal, by allowing the provision to be in the treaties that we have to remove all our troops by the year 2000. How is that giving the best possible defense to the canal?

The dictator put in another provision, and I wonder whether I should take the time of the Senate to point it out. He got a little paragraph in the leadership amendment, or in the memorandum which became the leadership amendment. This provision said that in any defense of the canal, we should not interfere with the internal affairs of Panama, that we should not interfere with the territorial integrity of Panama. How in the world are you going to land troops there without having something to do with territorial integrity? It also

provided that we should not interfere with Panama's independence. Translated, that means, as the Senator from Alabama sees it: "Don't bother my dictatorial regime."

That little paragraph was put in the memorandum, and it was in the leadership amendment, this amendment to serve as the amendment that made all other amendments unnecessary, in the view of the leadership, apparently, because they did not allow any others to be adopted.

But I have digressed. I was pointing out that our highwater mark was 42 votes, and it came on an amendment by the Senator from Alabama having to do with this proposition: Under the Neutrality Treaty, Panama cannot permit any troops of a foreign nation to come into Panama, starting with the year 2000. But, strange to say, the treaty now before the Senate has no such provision. Even though the United States, for the next 22 years, is there to defend the canal, Panama now can bring in troops from foreign countries. What is the logic of that, Mr. President? In the year 2000, when Panama is going it alone, they cannot bring in foreign troops; but for the next 22 years, when we are there to defend the canal, they can bring in foreign troops.

What useful purpose would that be? We do not need anybody down there to help us defend the canal. It would just be a source of irritation and a source of confrontation if Panama brings Cubans or Russians into Panama.

And, Mr. President, I offered an amendment which would have prevented Panama during the next 22 years from inviting in foreign troops to Panama. That amendment was defeated at the behest of the manager of the treaty, backed by the leadership, but we received 42 votes on it.

I believe this amendment that we have before the Senate now that requires complying with the Constitution is going to beat those 42 votes.

As stated a moment ago, I am encouraged as to the outcome of this amendment, and one thing that gives me encouragement is the fact that back in 1975, March 4, 1975, in the Senate there was introduced Senate Resolution 97. I could read that resolution. It would take 15 minutes, I daresay, to read it. That resolution was sponsored by 37 Senators, enough to defeat any treaty.

I shall only read the resolved clause, and it gives all these "whereases": Whereas, The Hay-Paucefote Treaty; whereas The Hay-Bunau-Varilla Treaty, this and that and the other, but getting down to the meat in the resolution:

Resolved, That it is the sense of the Senate of the United States of America that—

(1) the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute forfeit, neogtiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

I might state this is on page 5071 of the Senate portion of the CONGRESSIONAL RECORD of March 4, 1975.

So, this resolution sponsored by 37 Senators said we should not give the canal away. That is what the paragraph says.

Here is the portion of the resolution that has direct reference, and direct applicability to the amendment before the Senate at this time. Let us see what it says. It carries forward the resolving clause. Resolved, and so forth.

there be no recession—

Meaning receding, of course—

there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution.

So, in the body of the resolution, one of these whereases, let us read that having to do with this exact issue.

Whereas under article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives;

So this resolution was introduced by 37 Senators. The Senator from Alabama was one of them and he sticks by what he said back then in 1975 as to the inadvisability of giving the canal away and the second portion that if we do give it away we must not give it away unless and until Congress, meaning the House and Senate, authorizes that disposition.

Mr. President, there being eight Members of the Senate who cosponsored that resolution, having these two points involved that we should not enter into a treaty giving the canal away, but if we do we should not give the canal away without complying with the provisions of the Constitution requiring authorization by Congress—those are the two points—but there are eight Members of the Senate at this time who were cosponsors of this resolution who voted for the first treaty.

I discussed on the floor in colloquy with the distinguished majority leader the matter of his former opposition to a canal treaty and then his coming to a position in support of a treaty, and the distinguished Senator stated very logically that he did not have the treaties before him the first time; having read the treaties, considered them, and weighed them, he now feels that the treaties are in the best interest of the United States and should be agreed to here in the Senate, and I accept that as being an accurate representation of the distinguished Senator's feelings.

It is certainly not inconsistent to a fault to change your mind on an issue. But, Mr. President, a constitutional point based on the same facts and construing the same section of the Constitution does not change in 2 years. It might be logical to change your position with respect to voting for a treaty now when under a prior administration of a different party you might be willing to join in a resolution saying that you would not support a treaty giving the canal away. But what justification, Mr. President, is there for saying in 1975 that the Constitution requires the submission of this question of disposition of property of the United States to the whole Congress and in 1978 saying that you do not have to? What possible justification would there be for a reversal of an opinion and an attitude on a constitutional question where there has been no change in the Constitution and no change in the facts? What justification is there for saying in 1975 it has to be submitted to the entire Congress and in 1978, oh, no, the Senate under its treaty-making power can make the disposition of the property of the United States?

Mr. President, I ask unanimous consent that this resolution, Senate Resolution 97, which can probably be obtained from the document room but, if not, it appears on page 5071 of the Senate portion of the CONGRESSIONAL RECORD under date of March 4, 1975, be printed in the RECORD; and I ask further unanimous consent that not only the body of the resolution be set forth in the RECORD but all the cosponsors appearing on this page be listed in the portion inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 97

Resolution urging retention of undiluted United States sovereignty over the Canal Zone

Whereas United States diplomatic representatives are presently engaged in negotiations with representatives of the de facto Revolutionary Government of Panama, under the declared purpose to surrender to Panama, now or on some future date, United States sovereign rights and treaty obligations, as defined below, to maintain, operate, protect, and otherwise govern the United States-owned canal and its protective frame of the Canal Zone, herein designated as the "canal" and the "zone", respectively, situated within the Isthmus of Panama; and

Whereas title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were vested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Colombia, to wit:

(1) The Hay-Pauncefote Treaty of 1901 between the United States and Great Britain, under which the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for operation, regulation, and management of the canal; and

(2) The Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, by the terms of which the Republic of Panama granted full sovereign rights, power, and authority in perpetuity to the United States over the zone for the construction, maintenance, operation, sanitation, and protection of the canal to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

(3) The Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922, between the Republic of Colombia and the United States, under which the Republic of Colombia recognized that the title to the canal and the Panama Railroad is vested "entirely and absolutely" in the United States, which treaty granted important

rights in the use of the canal and railroad to Colombia; and

Whereas the United States, in addition to having so acquired title to and ownership of the Canal Zone by constitutional means, purchased all privately owned land and property in the zone making it the most costly United States territorial possession; and

Whereas the United States since 1904 has continuously occupied and exercised sovereign control over the zone, constructed the canal, and, since 1914, for a period of sixty years, operated the canal in a highly efficient manner without interruption, under the terms of the above-mentioned treaties thereby honoring their obligations, at reasonable toll rates to the ships of all nations without discrimination; and

Whereas the long history of friendly and cooperative relations between the United States and the Republic of Panama are prone to deterioration by the dilution of any United States sovereignty or jurisdiction in the canal zone; and

Whereas from 1904 through June 30, 1974, the United States made a total investment in the canal, including defense, at a cost to the taxpayers of the United States of over $6,880,370,000; and

Whereas the investment of the United States in the canal includes the sacrifices of many thousands of United States citizens who have worked to construct the canal and keep it operating smoothly and efficiently for the last sixty years; and

Whereas Panama has, under the terms of the 1903 treaty and the 1936 and 1955 revisions thereof, been adequately compensated for the rights it granted to the United States, in such significantly beneficial manner that said compensation and correlated benefits have constituted a major portion of the economy of Panama giving it the highest per capita income in all of Central America; and

Whereas the canal is of vital and imperative importance to hemispheric defense and to the security of the United States and Panama; and

Whereas approximately 70 per centum of canal traffic either originates or terminates in United States ports, making the continued operation of the canal by the United States vital to its economy; and

Whereas the people of the United States, in various ways and means, have exhibited strong support for retention of full and undiluted jurisdiction over the canal and zone, and the Congress ought to insure the supremacy of the will of the people; and

Whereas the present negotiations under a February 7, 1974, statement of "principles of agreement" by United States Secretary of State Henry A. Kissinger and Panamanian Foreign Minister Juan A. Tack constitute a clear and present danger to the hemispheric security and the successful operation of the canal by the United States under its treaty obligations; and

Whereas the present treaty negotiations are being conducted by our diplomatic representatives under a cloak of unwarranted secrecy, thus withholding from our people and their representatives in Congress information vital to the security of the United States and its legitimate development; and

Whereas the United States House of Representatives, on February 2, 1960, adopted House Concurrent Resolution 459, Eighty-sixth Congress, reaffirming the sovereignty of the United States over the zone territory by the overwhelming vote of three hundred and eighty-two to twelve, thus demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty, and jurisdiction over the canal and the zone; and

Whereas under article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives; and

Whereas the Congress of the United States is invested with constitutional responsibilities to provide for the common defense and general welfare of the United States, to regulate commerce with foreign nations, to raise and support armies and provide and maintain a Navy, to make all needful rules and regulations respecting the territory of the United States, and to make all laws necessary and proper for carrying into execution these and other powers, all of which denote that it is the solemn duty of Congress to safeguard the canal and zone: Now, therefore, be it

Resolved, That it is the sense of the Senate of the United States of America that—

(1) the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

(2) there be no relinquishment or surrender of any presently vested United States sovereign right, power, or authority or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and

(3) there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution.

Mr. ALLEN. Mr. President, I have no fault to find with distinguished Senators who cosponsored this resolution taking a different view now, and I am not going to name the Senators. It might possibly embarrass them. I am sure the Senators know who they are, but I am hopeful that these eight Senators who voted for the first treaty will reconsider when this treaty comes up for a final vote, and go back to their original position because, as I say, there were eight Senators who said in 1975, "We won't approve of such a treaty," yet in 1978 they voted for it.

That is all right. Senators have a right to change thier minds. I am sure I have changed my mind on issues here before the Senate from time to time. This, however, is not one of them.

But on the matter of the constitutional issue involved, how can there be a change? I am going to be interested in seeing just what result there is of this issue because the issue has not changed, the Constitution has not changed. Why should there be a different opinion as to what the Constitution means?

Mr. President, it is not Senators alone who are interested in seeing the House of Representatives act on this matter. The House of Representatives, Mr. President, is somewhat jealous of its rights and prerogatives. The Members do not want to be deprived of any of their powers under the Constitution. It is not just the Members of the Senate who say, "Let us let the House in on this decision." I am not talking about the approval of the treaty, Mr. President, as such, and this amendment is not directed at that. It does not say that the House shall have an opportunity to pass on the treaty. That is not the point.

But insofar as the treaty seeks to make disposition of property of the United States, it has gone too far without express authorizations from Congress, going back to the way it was handled with Panama in 1955.

If that was the process back in 1955—and I call attention again to article V of the 1955 treaty—in three separate places where the treaty speaks of disposing of property it has this phrase, "subject to the enactment of legislation by the Congress."

So if our treaty negotiators back then knew that Congress was supposed to act on matters of disposition of U.S. property, why did not Mr. Bunker and Mr. Linowitz know that and write that into the provisions of the treaty as negotiated between the negotiators? Why were they less observant than the negotiators back in 1955? Why were they less vigilant in following the Constitution than the negotiators were when the 1955 treaty was entered into between Panama and the United States?

So, Mr. President——

Mr. KENNEDY. Mr. President, will the Senator yield on that point for a question?

Mr. ALLEN. Yes.

Mr. KENNEDY. Is it not also true that under the 1955 treaty there were two additional articles, article VI and article VII of the treaty, that were self-executing, and also provided for the transfer of property?

Mr. ALLEN. I believe the Senator will find those have to do with boundary matters and not express grants of property which require approval of Congress.

Mr. KENNEDY. Well, the adjustments of the boundaries also included the disposition of property.

Mr. ALLEN. Yes, but there is a different rule, I will say to the distinguished Senator, recognizing boundary rights. Obviously, if you recognize a certain boundary to exist you are not giving property away because the boundary would define where the property of one nation stops and the other begins, so it is not a disposition of property.

Mr. KENNEDY. Did the treaty not provide for the adjustment of the boundaries as well as the removal of property from Canal Company books, consistent with the new boundaries?

Mr. ALLEN. Well, removal of property the Senator is talking about—yes, that would be part of the recognition of the boundary, yes, that is correct.

Mr. KENNEDY. As I was listening to the Senator talk about the provisions—and my understanding is the same as that of the Senator from Alabama with regard to article V——

Mr. ALLEN. Yes.

Mr. KENNEDY (continuing). That article did establish under the agreement that there would be action taken by the Congress. But in the same treaty, articles VI and VII also related to the transfer of property, and there was a transfer of property under those two self-executing provisions to Panama, without further action by Congress.

Mr. ALLEN. I believe the Senator will find those are boundary line disputes and, therefore, no property was really transferred from the United States.

I point out the fact that I merely read one of them. There are three separate instances here in article V where the dis-

positions are made subject to the enactment of legislation by the Congress.

But I must go on because my time is limited.

Not only the Senate, certain Members of the Senate, but the House of Representatives wants this matter submitted to it. Not necessarily, Mr. President, are they going to vote against the disposition of the property. I have little doubt, Mr. President, that the House of Representatives would in all likelihood, if called upon by the administration to approve this transfer of property, this disposition of property, it would do so.

I do not say that each one of the 235 Members of the House, well over a majority, who have cosponsored House Concurrent Resolution 347—and, Mr. President, I ask unanimous consent that a copy of House Concurrent Resolution 347 be printed in the RECORD at this point, along with a copy of the pending amendment to let them stand side by side.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY

At the end of Article I add the following new section:

5. It is expressly provided that this Treaty shall, in no event, enter into force until the Congress of the United States, in accordance with the provisions of Article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.

H. CON. RES. 347

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress of the United States that any right to, title to, or interest in the property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

Mr. ALLEN. Two hundred and thirty-five Members of the House of Representatives are cosponsors of this House concurrent resolution. Now, a concurrent resolution is a more or less in-house action between the two bodies. If it had been a joint resolution, that would be something that would need the President's signature, but House Concurrent Resolution 347 is an in-house resolution, the two Houses acting together on a particular question.

This concurrent resolution says:

It is the sense of the Congress of the United States that any right to, title to, or interest in the property of the United States Government agencies in the Panama Canal Zone, or any real property or improvement thereon located in the zone, should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment or other disposition by an Act of Congress.

So a majority of the Members of the House have asked for the right to participate in this decision. I daresay some of those 235 would be active supporters of such a bill. But I see the Members of the House being concerned about rights given them under the Constitution, of which they are about to be deprived by the Senate not allowing the House to act on this matter.

The House is quite jealous of certain things that have to originate there in the House of Representatives. Revenue measures have to originate there, even though on some minor bill having little effect on the revenue the Senate has a right to amend such a bill and tack a whole tax reform package on a minor bill having to do with the duty on a certain item of import or something of that sort. The Senate can put anything it wants to on such a bill; but the bill has to originate in the House of Representatives.

Then, too, Mr. President, even though there might be some little difference of opinion, by custom this situation has existed between the two bodies: The House takes the position that, since revenue measures have to originate in the House, therefore, appropriations bills have to originate in the House, even though there is nothing in the Constitution that says that. But since appropriations have a great bearing on what revenue we have to raise, I think it is not illogical that the House have that right.

Article IV, section 3, clause 2 of the Constitution gives the House the right to be a party to legislation disposing of property of the United States. Mr. President, I wish the distinguished Senator from Texas (Mr. BENTSEN) were here. I remember several years ago, back around 1970, I believe, and then in 1963, there were treaties with Mexico by the United States. The Rio Grande River, you know, meanders along and is the border between the United States and Mexico, and frequently gets out of its banks. It does not have much bank; it is pretty well flat on the ground, and frequently it changes its course. Sometimes Mexican property ends up on the U.S. side of the river, and sometimes U.S. property ends up on the Mexican side of the river.

In 1963 and 1970, the United States was conveying property of the United States; if I am not mistaken, if my recollection is correct, they entered into a treaty with Mexico to provide for giving this property, or giving control of the property—because the United States did not own it—giving control of the property to Mexico, and we followed it with a statute. We did that in 1970 and did it in 1963, even though the United States did not have fee simple title to the property, as it has to the Panamanian property, the Panama Canal Zone, which was conceded just on yesterday, not in answer to a question but by a unilateral assertion that the United States does the property in the Panama Canal Zone. That was a concession made by the distinguished manager of the treaty, the Senator from Idaho (Mr. CHURCH).

So the 235 Members of the House of Representatives are not necessarily saying, "Let us in on this procedure so we can vote against this disposition." I do not believe that is what those 235 Members of the House of Representatives are saying. They are just saying, "Please, Members of the Senate, and please, administration, recognize our constitutional rights and duties and let us act on this matter."

Is the Senate going to deprive the House of Representatives of the power that it has under the Constitution? If it does, Mr. President, this matter is headed for litigation. And the Supreme Court will not be able to sidestep it by saying the action is premature, or "This is action between the two Houses; we will not intervene on a legislative matter." They will not be able to say that if the Constitution is not complied with.

So why, Mr. President, would we turn down this pending amendment by the distinguished Senator from Utah (Mr. HATCH)? I regard it as the most important amendment that has been offered as to this treaty, certainly so far as the constitutional issue is concerned, though perhaps not as important as some amendments that were offered giving us greater defense rights as to the canal; but regarding the application of the Constitution, this amendment is the most important amendment that has been offered to this treaty, and the most important amendment, I daresay, that will be offered to the treaty.

Moreover, Mr. President, as I have pointed out, it does nothing to cause Panama to lose face. That is the argument made against some of these amendments: "Oh, we could not require a sovereign state to knuckle under to a thing like that." But this does not provide for any action by Panama. This is entirely action up here—action within our Government.

The treaties talk about their being ratified in accordance with the constitutional processes of the two governments. Why should we not follow the Constitution in the approval of this treaty? Let us go along with the House in this matter.

Another thing: I see the distinguished Senator from Louisiana (Mr. LONG) is present. As I have pointed out, frequently here in the Senate we take a minor House bill, and the distinguished Senator from Louisiana very wisely generally has three or four of those minor bills on the Senate Calendar that he can call up whenever he has a tax measure or welfare measure or a debt-limit measure, call it up and add such a Senate provision, and then it goes back over to the House of Representatives, where they had not considered these matters added by the Senate amendment.

It is just like the farm bill, though it is not exactly in point because it did not have to go through the Ways and Means Committee of the House or the Finance Committee here in the Senate. They took a little bill having to do with raisins, as passed by the House. It came to the Senate where they called it up and attached this huge farm bill to it. The House did not get to act on the farm bill provision at all. They immediately went to conference on the raisin bill, which was greatly outweighed by the farm bill. Today, early this morning, they agreed upon the farm bill. That action was taken in the conference committee.

I appeal to men such as the distinguished Senator from Louisiana (Mr. LONG). If we attached a major provision

to a minor bill here in the Senate, and they go back to the House either to accept or to go to conference, if we have told the House that we are not willing to allow them to consider something they view as their right under the Constitution, with how much favor are they going to look upon important tax bills, important revenue bills, important welfare provisions, welfare reforms, anything that has to go through the two committees, Ways and Means and Finance?

They would say, "Well, Senator LONG, why did you not vote to let us consider this matter as the Constitution provides?"

Comity between the Houses, Mr. President, requires that we lean over backward to see that the House is recognized in the balance of powers we have as between the branches of Government and as between the two Houses.

I do hope, Mr. President, that the Senate will see fit to follow the Constitution and let the House act upon this matter. As I say, I do not feel that all 235 House Members who are cosponsors of this resolution are going to vote against disposal of that property. I dare say many will take the lead in favor of that. But they do want their prerogatives recognized. I say it would be an offense against the dignity of the House to say, "No, this matter must not be considered by the House."

Mr. President, we have had amendments defeated time and time again. We have had the argument made, in effect, that, "If this amendment is agreed to, it will not please the Panamanians. Therefore, we have to defeat the amendment."

If we reject this amendment it might not please the Members of the House of Representatives. Are we less interested in the feelings and the dignity of the House of Representatives than we are the Panamanian dictatorship? We take extra effort to avoid displeasing the Panamanian dictatorship; let us take the same effort here to avoid displeasing our colleagues in the House of Representatives.

That is all this amendment would do. It is not a complicated amendment. It is a simple amendment. It guarantees against future litigation attacking this illegal and unconstitutional transfer of property of the United States. It guarantees that the prerogatives of the House of Representatives will be respected. It guarantees that the Constitution will be followed. All it says is before this treaty shall go into force, the disposition of the property which is owned by the United States in fee simple must be approved by act of Congress.

That does not cast reflections on the dignity of Panama. It does not cause them to take a single act at all. But it does say that we have to take certain acts to comply with the provisions of the Constitution as to what it takes to put the treaty in force. Panama cannot complain. We will have followed the Constitution. We will have honored the rights of the House of Representatives on this constitutional issue. We will have seen to it that the House is allowed to have the duties, the rights, and the responsibilities that the Constitution ascribes to it.

Mr. President, the Constitution provides in article IV, section 3, clause 2 that—

> Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The power given to Congress over the public property is plenary and exclusive; therefore, the absence of congressional action makes illegal or void any attempted transfer of property by treaty alone.

As chairman of the Subcommittee on Separation of Powers of the Committee on the Judiciary, on July 22, 1977, I initiated an indepth subcommittee investigation of the precise constitutional issue which is the subject of the pending amendment. This investigation by the Subcommittee on Separation of Powers was necessary because the executive department of Government proposed for the first time in the history of the United States to attempt to exercise by treaty alone, with nothing more, the exclusive Congressional power over the disposal of public property.

A study of the issue brings me to the conclusion that the Panama Canal Treaty without a requirement of congressional authorization proposes an illegal, unconstitutional transfer to the Panamanian dictatorship of public property belonging to the people of the United States. Hence it is recommended that there be a direct amendment of the proposed Panama Canal Treaty in order to cure this clear constitutional defect and in order to preclude the possibility—or, indeed, probability—that the treaty, if ratified, might later be declared void as having effected an illegal transfer of public property.

The subcommittee gave careful consideration to evidence amassed over a period of some 8 months from 36 witnesses, from court records, and from many other sources, and made a careful and painstaking analysis of all the precedents relevant to the issues presented as well as on a complete study of all of the recent papers prepared by the many respected legal scholars who have focused their attention on the crucial constitutional question.

To understand why there is a constitutional defect in the proposed Panama Canal Treaty, first it is necessary to understand and define the true nature of the constitutional proposition studied by the subcommittee. Stated simply, the question at issue was whether the President, by virtue of the treatymaking power, could, without congressional assent, exercise an express power of the Congress by making by treaty alone a disposal of public property to a foreign government.

Not at issue, Mr. President, were such questions as whether the United States is sovereign within the Panama Canal Zone or whether the proposed disposition of property is itself advisable or inadvisable. The existence of full sovereignty of the United States in the Canal Zone is a close question, charged with emotion, but the operative language of the Constitution grants to Congress power to dispose of "territory or other property" so that it is completely moot, Mr. President—completely moot—for purposes of this debate whether the United States is or is not sovereign in the Canal Zone. In fact, whether the Canal Zone is unincorporated territory of the United States as was held by the Fifth Circuit Court of Appeals in *U.S. v. Husband*, 453 F. 2d 1054 (5 Cir. 1971) cert. den. 406 U.S. 935 (1972) is also an issue entirely moot to this debate.

All that matters, Mr. President, is that the United States does own property in the Isthmus of Panama, and since the Constitution gives to Congress the power to dispose of property belonging to the United States, then the requirements of the Constitution are triggered simply by the intention or the proposal that public property of whatever sort be transferred from the public to some other party.

Similarly, strong arguments can and have been made in the Senate and elsewhere regarding virtually every aspect of the proposed disposal of United States public property in the Canal Zone to the Republic of Panama, but, Mr. President, the pending amendment is not intended in itself to advance or to forbid these proposed multibillion dollar property transfers. The pending amendment addresses only the question of the constitutional legality of the proposed property transfers, and it seeks to establish the modes or methods by which these proposed transfers can be legally accomplished in the event the Congress should decide that any proposed transfer is in the national interest.

So this amendment, Mr. President, would not preclude a transfer of public property in the Canal Zone from the United States to Panama, but this amendment would insure that any such transfer was accomplished legally and in accordance with the Constitution.

Finally, Mr. President, inasmuch as nowhere has the claim been made that Congress does not have power to dispose of the territory or other property of the United States, then the only issue properly addressed in this debate is whether or not the power of Congress is express and exclusive. If the power of Congress is express and exclusive—and certainly it clearly is—then the President and the Senate cannot by means of a treaty alone, without any Congressional assent, alienate and transfer property belonging collectively to the citizens of the United States.

Let us, Mr. President keep that latter thought firmly in mind during the conduct of this debate. The property belonging to the United States in the Canal Zone, the zone itself, the fee simple title to the land, and the canal facilities—all estimated in excess of $10 billion in worth and known to be of untold value in terms of our national interest—is, indeed, property owned collectively by every single man, woman, and child who is a citizen of this country. The framers of the Constitution felt, as I am sure a vast majority of the citizens of the country feel strongly today, that public property belonging to all the people should not be transferred by any unauthorized unilateral action

of the President and Senate through the treatymaking process and ought to be accomplished, as is provided in the Constitution, only pursuant to authorization or assent given by the whole Congress acting on behalf of all of the people. In kind with all property transfers, any public property transfer can occur legally only with the consent of the owner, the people of the United States in Congress assembled.

Some of the many commentators on this constitutional issue have missed by a wide mark a salient point which must be understood. Dean Louis Pollak, for example, in his recent paper on this subject wholly misunderstands the basic matter at issue. Dean Pollak infers that there is no merit to the argument that the Congress has exclusive power to dispose of U.S. property because public property can be dealt with in the provisions of a treaty. Mr. President, of course, the disposal of public property can properly be the object of a treaty, but the issue is whether it can actually be transferred by the treaty alone. Of course, the President of the United States with the advice and consent of the Senate has the power to make a treaty—a contract really—with a foreign government in which it is proposed or even promised that public property will be transferred, but the President of the United States acting by treaty with the advice and consent of the Senate lacks completely the power actually to make the promised conveyance—that can come only from Congress or can be done only with the assent and under the authority of the Congress. The argument then is not whether the President and Senate can make a treaty concerning a disposal of public property but whether the disposal itself can be accomplished except under express authority of the Congress in the exercise of its exclusive "power to dispose of * * * property * * * belonging to the United States."

Dean Pollak's mistake in this regard is typical of similar errors made by many of those who have given this question only superficial study. By this I mean no disrespect for Dean Pollak. Certainly he is a well respected scholar, but I do feel that in this instance he has entirely missed the boat. I suspect unintentionally he and others have set up a strawman and then, in their argument of this topic, proceeded to knock him down without much effort. The strawman has been this—that the President with the advice and consent of the Senate has concurrent power by treaty to dispose of public property and that the precedents and comments made in the early great debates of the treaty power establish this concurrent nature of the role of the President and the Senate in using the treaty power to deal with matters over which the Congress is given express authority in the Constitution.

Mr. President, long, long ago the issue was put to rest that the President and the Senate can deal by treaty with subjects within the province of the Congress. Thus, treaties can deal with the regulation of commerce and can promise indemnities or make financial commitments; however, Mr. President, in no context can a treaty actually carry into effect by its own terms an action over which Congress is given by the Constitution express authority. So Dean Pollak sets up a strawman by arguing that those of us who are seeking to uphold the constitutional power of Congress are seeking to deny the authority of the President and the Senate to make a treaty concerning a disposal of public property. Naturally, Dean Pollak has no trouble whatsoever demolishing that position. But that is not the position, Mr. President, that the proponents of the pending amendment have taken and either the real issue has been misunderstood as a result of superficial and hurried study or it has been misunderstood in an effort to misconstrue our arguments in order to make it possible to have an answer for them.

In short, Mr. President, the proponents of the pending amendment do not claim and would never claim that a disposition of public property cannot be conditionally agreed to in the treaty-making process, but we do claim—and we claim from a solid constitutional base—that no valid transfer can occur by the operation of a treaty without express congressional authorization; that is, without express authorization from both Houses of the Congress by statute.

So the issue, Mr. President, is simply whether the congressional power to dispose of public property will be upheld by the Senate and, hence, whether the proposed Panama Canal Treaty will be freed from constitutional defect by providing in it for congressional authorization of the public property disposals which it proposes.

The amendment is needed because without it, the Panamanians would be justified in asserting that they were not on notice of our constitutional requirement in this respect and that the proposed treaty itself was sufficient to effect the promised property transfer. Now, Mr. President, I recognize that article II, paragraph 1 provides that the Panama Canal Treaty "shall be subject to ratification in accordance with the constitutional procedures of the two parties." But that provision is not sufficient to alert Panama to the fact that our Constitution has not changed since the last property disposal was made to Panama in 1955 and that like the treaty of 1955 this new proposed treaty, insofar as it would effect a property disposal, is—and I quote from the treaty of 1955—"subject to the enactment of authorizing legislation by the Congress." So let us not mislead Panama in this respect. Let us instead adopt the pending amendment so that Panama will recognize that something more is required—that one more step is required beyond the approval by the Senate of these treaties before any public property belonging to the citizens of the United States can be transferred from the United States to any third party To do otherwise would be unfair, illegal, and—in terms of our domestic law—unconstitutional.

I might add also that should this amendment not be adopted, the requirement for congressional authorization of the property disposal will still remain. In other words, Mr. President, the adoption of this amendment is not the determinative factor in insuring the compliance of our Government with the provisions of the Constitution. Should this amendment fail, it will still be necessary before any property transfer could occur in Panama for the full Congress to authorize the transfer. Therefore, conceivably—and I believe this is something no Senator would want—the Panama Canal Treaty could be ratified and Panama would expect to receive the U.S. public property promised to Panama by the treaty, yet it could take years and possibly never for the Congress to authorize that transfer either in whole or in part. This amendment, therefore, should have the support of all Senators, both proponents and opponents of the treaty, since this amendment is primarily designed to alert Panama to the particular provision of the our U.S. Constitution which vests in Congress final authority over any disposal of U.S. public property.

Now, the Attorney General, like Dean Pollak, has also seen fit, I believe somewhat hurriedly, to issue an opinion appearing to state that a disposal of publice property can occur by the mechanism and exclusive action of a treaty made with the advice and consent of the Senate. Again, like Dean Pollak, the Attorney General completely misunderstands the issue. He makes the same mistake Dean Pollak makes because again he argues that the specific grant of authority to Congress to dispose of property does not prevent the President, with the advice and consent of the Senate, to deal with a property disposal by treaty. Obviously—and I say this again, Mr. President, for emphasis—it is entirely constitutional for the President to conclude a treaty which has in part as its subject matter a proposed disposal of public property belonging to the United States, it would be proper also for the Senate to give its advice and consent to a treaty dealing with a property disposal, but it is not proper for the President to assert that the treaty power alone is sufficient actually to accomplish the transfer. The Attorney General, Mr. President, fails to appreciate this distinction, and his rather short analysis of the subject, which relies primarily on dicta from cases not on point, leads many to the conclusion that the Attorney General could not have studied carefully the constitutional question that has been under study for many months in the Senate.

I greatly respect and admire the Attorney General, but the Attorney General must deal with thousands of questions of great importance day after day and must, therefore, rely heavily on subordinates. Also, perhaps we should be candid with each other during debate of this important question and perhaps therefore we should recognize openly that, after all, the Attorney General is essentially a lawyer serving a client. So let us not give too much weight to this superficial, hurried analysis done by an Attorney General serving a client and, in essence, arguing a case. Obviously, the Attorney General cannot be free from bias in studying this matter since, even at the time the opinion was issued, the Department of Justice was defending the President and the Secretary of State in a lawsuit brought against them dealing

with precisely the subject matter of the pending amendment.

But if the opponents of the proposed amendment insist on relying on the opinion of the Attorney General, it will be necessary to explain in greater detail why it is completely faulty. But one thing is certain, however, Mr. President, the opponents of this amendment are not going to quote from the opinion of the Attorney General of the United States issued in 1899 wherein that Attorney General stated:

> The power to dispose permanently of the public lands and public property . . . rests in Congress and, in the absence of a statute conferring such power, cannot be exercised by the Executive Department for the government.

We will not hear that opinion quoted to us during this debate by the opponents of the amendment, and properly so, because the opinion of an Attorney General cannot be permitted to be given any serious weight in studying this fundamental issue of constitutional law.

As I pointed out immediately before the recess, Justice Jackson, when sitting as a Justice of the Supreme Court of the United States, rejected his very own opinion issued previously when he had served in the capacity of Attorney General. Justice Jackson had the honesty and integrity to refuse to accept his own opinion as Attorney General because, and he stated this about his own work, Attorneys General may not have the time to study truly a close legal question when serving in the difficult administrative and political environment in which they inevitably work.

So, Mr. President, let us not simply wave before the Senate a copy of an opinion of the Attorney General. Let us instead analyze this question for ourselves and, in so doing, let us uphold the Constitution of the United States.

Now, what does the Constitution say? The Constitution says, "The Congress shall have the power to dispose of * * * property belonging to the United States." The Constitution also says that the President, with the advice and consent of the Senate, may conclude treaties with foreign governments. How are these two provisions in the text of the Constitution reconciled—and I might state at this point, Mr. President, that the Constitution itself is the best evidence of its meaning, and it is to the Constitution itself that we should pay greatest attention in analyzing the merits of the pending amendment. And in examining the Constitution, we do find these two provisions, on the one hand an express grant of power to the Congress to dispose of public property, and on the other hand the grant of power to the President, with the advice and consent of the Senate, to conclude treaties.

There are two cardinal rules of construction which must be used to properly understand the impact of these two grants of power in the Constitution. The first rule of constitutional and statutory construction is that express mention signifies an implied exclusion. This rule the Supreme Court has employed again and again. For instance, in *Botany Worsted Mills* v. *United States*, 278 U.S. 282, at p. 289, the Court said:

> When a statute limits a thing to be done to a particular mode, it includes the negative of any other mode.

In other words, if there is an express procedure set up, then other possible procedures are negated or forbidden. In this case, since the Constitution establishes the mode by which public property is disposed, that established, express mode excludes any other conceivable mode of disposal under the rule of construction, the rule of express mention. Nowhere in the treaty power is any mention made of the disposal of public property; therefore, the rule of express mention negates the use of the treaty power as a mode for disposing of public property because express mention of that mode is made elsewhere. The rule of express mention does not prevent the treaty power from addressing the issue of a disposal of public property, but it does prevent, in terms of modality, the disposal by treaty alone of public property.

This same rule of express mention was well known and often invoked by the founders of the United States during deliberations on the Constitution and the organization of the Government; for example, Egbert Benson in the first Congress, in which sat many framers and ratifiers, stated unequivocally that:

> It cannot be rationally intended that all offices should be held during good behavior, because the Constitution has declared [only] one office to be held by this tenure.

Thus, the fact emphasized by the opponents of the pending amendment that the property clause contains no language excluding concurrent jurisdiction of the treaty power is of no significance whatsoever. Obviously, the framers could not have drafted a national constitutional document if they had been required in each instance in which power was granted to exclude expressly every other conceivable agency of the Government which might exercise the power conferred. The language of the Constitution, expressly giving to Congress the power to dispose of public property, therefore, under this cardinal rule of construction, leads to the conclusion that the President and Senate under the treaty power were excluded from concurrent authority.

Secondly, there is another settled rule of constitutional and statutory construction which must be used to understand the interaction of these two provisions of the Constitution. This second rule is that the specific governs the general. In *Swiss National Insurance Co.* v. *Miller*, 289 Fed. 570, at p. 574 (App. D.C. 1923), the Court said:

> Where there is an act, a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.

In the words of the Supreme Court in *Buffum* v. *Chase National Bank*, 192 F. 2d 58, 61 (7 Cir. 1951):

> General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment.

Viewed in this light, the facts stressed by proponents of the concurrent power theory, that the framers contemplated that a treaty could "affect" territorial rights, is far from decisive since a treaty affecting territorial rights could yet be subject to the specific and special congressional "power to dispose." In short, in terms of the present issue, the specific power of disposition of territory or other property belonging to the United States governs and limits the general treaty provision.

Therefore, Mr. President, under these two, well-recognized rules of constitutional construction, it is of no moment that, as one of the witnesses before the Subcommittee on Separation of Powers testified on behalf of the administration, and I quote:

> There is no restraint expressed in the treaty power in respect to dispositions.

No restraint is expressed because under these basic, well-known canons of construction no restraint was needed to be expressed. Obviously, the treaty power itself would have extended for several pages if every congressional restraint on the treaty power were required to be specifically enumerated.

Oddly enough, Mr. President, the opponents of this amendment have relied on commentators who have relied rather heavily and ironically on a passage from *Geofroy* v. *Riggs*, 133 U.S. 258. This passage is found at page 267 and reads as follows:

> The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument.

Notably, Mr. President, the citation from Geofroy does not call for express restraints—the Court saw it to be entirely sufficient that restraints be found, Mr. President, in the Constitution in order to limit the treaty power. It follows that the implied exclusion and limitation on the treaty power in the case of property disposal is found in the Constitution by virtue of the express grant of the disposal power to Congress, both because the rule of express mention negates the use of any other mode and because the rule that the specific governs the general requires a limitation on the general treaty power by the specific disposal power.

The operation of both these canons of constitutional construction is made apparent in the Supreme Court's flat statement in *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, at p. 326 (1942):

> Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive's power to convey any interest in the lands must be traced to Congressional delegation of its authority.

Now, Mr. President, there are other sources of evidence which can and will be examined during the conduct of this debate. But no source is superior to the primary source, and that primary source is unambiguous in granting exclusively to Congress the power to dispose of the property of the people of the United States. But beyond the Constitution itself, Mr. President, virtually every other piece of evidence we have examined leads also to the inescapable conclu-

sion that the disposal power is indeed an exclusive power of Congress. The sources of these additional items of evidence are, first, the intent of the framers of the Constitution as expressed in debate during the Constitutional Convention in 1787; second, consistent past treaty practice; and third, the various judicial authorities.

Without today going into detail in each of these areas I simply note that the limited records that do exist of the Constitutional Convention appear to demonstrate that the framers of the Constitution had the intent to preclude the President, with the advice and consent of the Senate, from acting through the treaty mode alone to dispose of Government property. Second, I note that past treaty practice supports the exclusive power of Congress to cause the disposal of property belonging to the United States. While it is true that certain treaties of peace have been concluded by which boundary disputes have been settled, nowhere has a treaty itself purported to transfer property clearly belonging to the United States. In this respect, the Committee on Foreign Relations itself has failed to appreciate the distinction between a treaty of cession and a treaty of recognition. A treaty of cession involves a disposal of property to which title has vested in the people of the United States, whereas a treaty of recognition involves simply the acknowledgement of another country's title to disputed territory along an unresolved boundary. If this distinction is properly appreciated, then it is obvious that past treaty practice supports fully the exclusive power of Congress to cause a disposal of public property.

Thus, for example, in the Treaty between Panama and the United States concluded in 1955, the United States specifically made subject to the enactment of authorizing legislation that portion of the treaty which transferred public property to Panama. In the same treaty, where certain, very minor boundary adjustments were also accomplished, no specific mention was made of the congressional power to dispose. The treaty of 1955, therefore, is a perfect illustration of the distinction between boundary adjustments made in treaties of recognition and property disposals covered by treaties of cession, a distinction which the August Committee on Foreign Relations has completely failed to appreciate.

Finally, Mr. President, I will conclude by observing that the judicial authorities do not dispose of this question. The United States, in the main, has been an acquisitive Nation, a growing Nation, and only rarely has the United States given up public property to foreign governments. In those cases in which the United States has given up public property to foreign governments, there has always been congressional authorization. Therefore, there has never been a situation in which the courts have been asked to decide whether a property disposal can occur through the mode of a treaty alone, as opposed to the normal mode of disposal by congressional action or consent.

There are many cases, however, that have examined the power of Congress to dispose in relation to the exercise by the President of his powers. In all of those cases, Mr. President, the courts have held consistently that the President's power must be traced to a delegation or authorization by Congress. The opponents of the amendment, no doubt, will cite the same melange of dicta which has already been cited to the Subcommittee on Separation of Powers arising out of certain Indian treaty cases, but at this stage, I will comment only that these cases provide dicta only and, if closely analyzed, actually lend themselves support to the proposition that no public property may be transferred except by the Congress of the United States.

In concluding, I call particular attention to a bill pending in the House of Representatives, H.R. 11634, which would authorize the disposal of public property in Panama pursuant to the proposed treaties. I will not support this bill and I will work against its passage, but this bill or a similar measure is the only way by which the property of the United States can be constitutionally transferred to the Panamanian dictatorship.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I know the Senator from Massachusetts has been waiting patiently, and I yield to him such time as he may consume.

Mr. HATCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it .

Mr. HATCH. Who has the floor?

The PRESIDING OFFICER. The Senator from Maryland has the floor and the time has been divided equally to both sides. The Senator from Maryland is yielding to the Senator from Massachusetts.

Mr. SARBANES. Mr. President, I yield such time as the Senator may desire.

The PRESIDING OFFICER. The Chair recognies the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, earlier in the discussion of the Senator from Alabama, he made reference to article V of the 1955 treaty, which required action by the Congress on the disposition of certain properties.

I made reference to this treaty as well, to article VI and article VII, which were couched in self-executing terms, involving a change in the boundary of the Canal Zone. Then we entered into a brief dialog about whether the change of boundary was really a change of property.

I would just like to complete my comment on those particular provisions of articles VI and VII, and include in the RECORD what these articles provided for in terms of transfer of property. The transfer under article VI included a strip of water around the Colon Shores, an unused site known as Battery Morgan, and a small portion of the Colon end of the Colon Corridor. The property transferred under article VII consisted of a landing pier and the land and water area under the pier.

These clearly were transfers of property. You can define them as being adjustments of boundaries, but unquestionably, they included the transfer of property. This transfer was consistent, really, with the treaty powers under article II of the Constitution and with Supreme Court interpretations of the transfer of property as being a legitimate function of the article II provision for treaties between the United States and foreign countries. Perhaps later in our comments, we can develop that treaty-making power in greater detail.

I know that reference is made to the special arrangements between the United States and Panama, but I think that, in a very careful review of the history even of those arrangements, we can see a number of examples where there has been a transfer of property on the basis of treaty.

The proponents of the amendment which is now before the Senate can also point to examples where there has been concurrent congressional action. This points out quite clearly what, at least, is my understanding of the law, that we can use the provisions of either article II or article IV of the Constitution for the transfer of property.

That has been the position of all executives throughout the history of our country. It is the understanding of a distinguished group of constitutional attorneys, the Justice Department, and many other groups who have studied the Constitution. It is, perhaps most importantly, the understanding of the Supreme Court of the United States in its holdings. Again, we may have the opportunity to explore the details of those holdings later in this discussion.

Mr. President, I should like just to address the Senate briefly on the basic treaty before us and then to make a further comment on the amendment before the Senate this afternoon.

Last month, Mr. President, the Senate of the United States wisely adopted the Resolution of Ratification of the Panama Canal Neutrality Treaty. This treaty permanently guarantees an open, accessible, secure, and efficient waterway between the Pacific and the Atlantic.

This month, the Senate can and should adopt the Resolution of Ratification of the basic Panama Canal Treaty. This treaty will transfer control of the canal to the Republic of Panama by the year 2000—completing a historical process which has been at the heart of Panama's search for territorial integrity since it became independent in 1903.

We meet after having seen and heard again from our constituents during the spring recess. I am convinced that more and more Americans are learning about the specifics of these treaties, and as a result, more and more will lend the treaties their support. This trend is confirmed by the public opinion polls. After the Senate approved the neutrality treaty, our action was endorsed by a 49 to 41 percent margin in the latest Harris survey. Even at the start of our debate on the basic treaty, it is supported by a 44 to 39 percent margin, and I predict that the margin will increase as the Senate moves to approve this treaty as well.

For those who continue to have concerns and reservations, I hope that they will carefully reconsider them on their merits, and weigh them against the long-term benefits of the Panama Canal treaties as a whole. When there are serious points at issue, they should be seriously discussed and resolved. What is objectionable, Mr. President, is the effort of a well-organized lobby in this country, not to reason over differences, but to put unreasonable pressure on Members of this body to vote against what they genuinely believe to be in our best national interests. This lobby has even launched efforts to recall Members of the Senate for voting their consciences.

I believe these recall efforts will fail. They will fail because the single issue which counts the most for the American people is what is in the best interest of our country, which has always sought to do what is right. And the American people are recognizing that it is both right and in our best, long-term interest to ratify the Panama Canal treaties.

Our best political interest is served by establishing a lasting relationship of cooperation rather than confrontation with Panama—by demonstrating to Latin America and the world that the United States is too great a nation to rely on the inequalities of the past instead of the political partnership of the future.

We can only join hands with the people of Panama if we recognize the justice of their 75-year-old claim to the very heartland of their country.

Our best economic interest is served through assured, expeditious use of the canal by our shipping under terms that are fair to us, to Panama, and to all countries of the world. The overwhelming majority of Americans understand by now what the Western Hemisphere has always understood: that the Canal Zone has been Panamanian territory ever since Panama became independent in 1903. Our true interest was never to own the canal, but to use it, and we must join hands with the people of Panama to assure the fair and efficient use of this waterway.

Our best security interest is served by the permanent neutrality of the canal, and by our ability to act against aggression or threats directed against the canal or against transit through it. We must join hands with the people of Panama to assure the continued security and efficiency of this key waterway.

Whether narrowly defined or broadly defined, Mr. President, our interests are well served by the Panama Canal treaties. To be true to our own traditions, our responsibility cannot be limited to what merely benefits the United States: It must extend to what is just to Panama.

And it surely is just that the government and people of Panama should look forward to ending foreign military occupation over their own territory, that they should look forward to regaining full national control over their own territory almost 100 years after independence.

Would the American people have accepted French occupation of the Mississippi River in the 19th century, let alone in the 20th? No, we would have struggled unceasingly against this injustice, just as the people of Panama have since 1903.

Historians will surely remark on the protection of American interests under the Panama Canal treaties. But they will just as surely remark on the understanding displayed by the Government and people of Panama—who have decided to wait 22 more years before regaining what has been rightfully theirs for this entire century. They deserve recognition for negotiating in good faith with four American administrations over 14 years; for voting in favor of the Panama Canal treaties after they were negotiated and signed in Washington; for preparing to work as partners with us in assuring the neutrality as well as the fair and efficient operation of a canal in which we all can take great pride, not just in this century but in the next.

Not only the American people but the Panamanian people are following each development in this debate, Mr. President. Many in Panama have been seriously concerned by efforts in this body to extend our defense rights over their own affairs. When he was in Washington last September, General Torrijos rightly warned that the neutrality pact "could, if it is not administered judiciously by future generations, become an instrument of permanent intervention."

This is why I opposed the amendment to the resolution of ratification, designed to permit the use of military force if the Panama Canal is closed "or its operations interferred with." Fortunately, the Senate voted decisively against making this an amendment to the neutrality treaty itself. The right of military action is and must continue to be defined by article IV of that treaty: We can act against aggression or threats to the canal and canal transit; we cannot act against the territoril integrity or political independence of Panama; we must not intervene in the Panama Canal on any pretext labeled as interference with its operations. Still more importantly, we can and should join with Panama in assuring that no need for military action arises in that part of the world.

Mr. President, I have said that the people of Panama have demonstrated understanding of the political needs underlying the amendments adopted by the Senate to date. We, in turn, should act with responsibility and restraint, so that any changes that we seek are not only consistent with the treaties as negotiated, but responsive to real and valid American interests. If we act in this manner, we can look forward not only to mutual acquiescence in these treaties, but to friendship and cooperation in carrying them out.

We should recognize that the basic treaty before us goes a very long way to meeting the basic interests and concerns of Americans, in the full use and efficient management of the Panama Canal.

The United States will continue to operate the canal until the year 2000. Until that time, five out of the nine board members of the Panama Canal Commission will be Americans, and the Commission will operate the canal in accordance with U.S. law.

During this period of continued U.S. control, Panamanians will move into all levels of canal management and will be prepared to run this waterway when they achieve control by the end of the century. From this perspective it is surely the residents of Panama who are being more than fair and reasonable in exercising their full rights of sovereignty in the 21st century, after having held these rights in abeyance throughout the 20th century.

And Panama itself has a fundamental interest in the efficient management and full international use of the canal. Panama derives 12 percent of its gross domestic product and 18 percent of its foreign exchange earnings from canal-related activities. Under the new treaties, the earnings of Panama will depend on the amount of shipping that moves through the canal. Panama, not the United States or any other country, will be the biggest loser if traffic through the canal should diminish.

Last week, President Carter traveled to Latin America to further the important objectives of the United States in this hemisphere: The expansion of political, economic and social ties; the promotion of human rights; the safe use and effective control of nuclear energy.

It was brought home once again how important the ratification of the Panama Canal treaties will be to new directions and new hopes for our relations with Latin America.

The fact is that Latin Americans have viewed our Panama Canal policies for years as a litmus test of our relations in the Western Hemisphere. The canal has cut through not only Panama, but the hemisphere as a whole. American President after American President has talked about new relationships of equality and maturity. This is a critical opportunity for the United States to match words with deeds—not only to make Panama whole, but to begin to make our relationships whole with all peoples of this hemisphere.

So we must move ahead. The United States did not come into this world to occupy and colonize foreign territory. We did not come to impose our military will on the weak nations of this Earth. The foundation of our influence and stature in the world will always be our interest in liberty and fairness—in what is right. And that is why I am confident that, consistent with our national security interests, the Senate will choose moral strength over imperial strength by adopting the Panama Canal Treaty this month—and by clearing the way for the United States to pursue its other important priorities, domestic and foreign.

Mr. President, I would now like to comment briefly on the amendment which is before is at this time, the Hatch amendment. This amendment would require both Houses of Congress to act to dispose of U.S. property in the Panama Canal Zone.

There is no question in my mind that the treaty could have been negotiated in a form requiring such action under article IV, section 3, clause 2 of the Constitution—if both parties so desired. There are precedents for taking this course in transferring American property to foreign states.

But there is also no question in my mind that the power to dspose of U.S. property is available separately and concurrently to the President and the Senate under article II, section 2, clause 2

of the Constitution—permitting the President to make treaties "by and with the advice and consent of the Senate."

Last year, the Attorney General stated his opinion that—

Territory or property belonging to the United States may be disposed of by action of the President and the Senate under the treaty clause.

Last month, 15 leading constitutional scholars, including professors Paul Freund and Lawrence Tribe of Harvard Law School, advised the Congress that:

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

Even before the 1903 treaty with Panama, the Supreme Court had confirmed that the treaty power could be used for the transfer of lands—notably in Holden against Joy (1876) and Jones against Meehan (1899). In addition to our treaties with Indian tribes, there are 12 treaties which have transferred property from the United States to other nations—from our 1819 treaty with Spain to our 1971 treaties, in which the Senate approved transfer of the Ryukyu and Daito Islands to Japan and transfer of the Swan Island to Honduras.

I am, therefore, in full accord with the Committee on Foreign Relations, which concluded in its report that—

The Constitutional text, the intent of the framers, opinions of the Supreme Court, and historical precedent all suggest that the Panama Canal Treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation.

What I strongly oppose, Mr. President, is any effort to detract from the treaty powers of the President and the Senate. With the current comprehensive treaties before us, involvement of the House would suggest that the Senate no longer has the sole legislative authority in the treaty-making process. This would, to my mind, violate article II of the Constitution and constitute an intolerable precedent for the future foreign policies of our country.

Mr. President, perhaps I could engage the floor manager in a further development of this particular issue which is before the Senate at the present time.

Mr. SARBANES. Will the Senator yield for just a moment?

Mr. KENNEDY. I am glad to.

Mr. SARBANES. I want to underscore the reference which the Senator made to the letter sent to the Congress by 15 distinguished legal scholars, deans of our leading law schools and leading professors of constitutional law, because I think they state the question that is before us with respect to this amendment in a very succinct and concise way and also give a very forthright response to it.

I think if I take just a moment of the Senate's time to read the letter from which the Senator quoted, it might make some contribution to this debate.

Their letter stated:

We have been informed that the constitutional validity of the new Panama Canal Treaty has been questioned by several lawyers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, Section 3, Clause 2 of the Constitution, are concurrent powers, and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiations with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

Now, that puts the issue and the response to it, in as succinct a manner as one can do it. It is very strong for the position which I think our practice in this country supports over the history of the Republic, that property can be transferred by the treaty power, as well as by a legislative enactment on the part of the Congress.

The other point I want to add is that it was implied yesterday that, somehow or other, the President was seeking to reach out for extra power.

Nothing could be further from the case. The President has come to the Congress with this treaty. No treaty can take effect unless two-thirds—two-thirds—of the Members of the Senate of the United States are prepared to advise and consent to the treaty.

So the President's actions with respect to negotiating a treaty can only have an effect if the Senate is prepared by a two-thirds vote to advise and consent to the treaty.

(Mr. MELCHER assumed the chair.)

Mr. KENNEDY. The Senator, I know, is well aware of the statement by presidents of the American Society of International Law which have reached the same conclusion.

Mr. HATCH. Will the Senator yield on this point?

Mr. KENNEDY. I will be glad to yield in just a few minutes, if I might finish on this point.

Mr. HATCH. I thank the Senator.

Mr. KENNEDY. I think we ought to make that part of the RECORD. I will just refer to the relevant section, and I quote:

The Constitution grants the President the power to make treaties by and with the advice and consent of the Senate, and these treaties become the supreme law of the land. The Constitution also empowers the Congress to dispose of property belonging to the United States. Nothing in the language of the two clauses limits the treaty power with respect to dispositions of property.

This is a statement by a distinguished group of presidents and past presidents of the American Society of International Law.

I understand that this is the opinion of most of our leading constitutional authorities, the presidents of the American Society of International Law, and also is the view of the committee and the holding of the Supreme Court, dating to the last century, both explicitly and in its dicta.

I referred to the Holden against Joy case in 1872—and I will enter the relevant finding in the RECORD:

It is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to grantee a good title to such lands without an act of Congress conferring it.

Am I correct that in its review of the constitutional precedents, it was the conclusion of the committee and the courts that article II as well as article IV of the Constitution grant concurrent powers and that the transfer of property could be realized under the treaty-making authority and power of article II? That is my reading of the holdings, as well as the dicta, of the Supreme Court. That is my understanding, and I assume that is the understanding of the Senator from Maryland.

Mr. SARBANES. The Senator is correct.

The Attorney General of the United States, of course, came before the committee and, in effect, rendered a legal opinion to the committee.

The Senator from Utah suggested on the floor yesterday that no representative of the State Department or the Department of Justice has cited a single case or read from the text of a single constitutional treatise any statement by any member of the Supreme Court or any other court that even remotely suggest that Congress power to dispose of United States territory is not an exclusive power.

All I want to say is that the Senator may disagree or seek to disagree with the interpretation that representatives of the State Department or the Department of Justice place on a case. But to make the assertion that they have not cited a case and have not, in effect, put together an able legal document in support of their position simply does not square with the facts.

Mr. HATCH. Mr. President, will the Senator yield on that point?

Mr. SARBANES. I would like to finish.

Mr. HATCH. I would like to know the case they cited.

Mr. SARBANES. That is not the Senator's assertion. The Senator's assertion was that they had not cited a single case.

Mr. HATCH. That is right, and I do not believe they have.

Mr. SARBANES. They have. The legal opinion of the Attorney General discusses the wording of the Constitution. It discusses the ratification process of the Constitution in order to deal with the meanings of it. It discusses certain cases.

Mr. HATCH. But not one case——

Mr. SARBANES. And it discusses treaty practice in this country.

The Senator may want to quarrel with the Attorney General in his view. The Senator may want to quarrel with the 15 deans and constitutional lawyers who have communicated with the Members of the Senate. The Senator may want to quarrel with the presidents of the American Society of International Law. But all have reached conclusions different from that of the Senator.

In fact, the Attorney General concluded his statement——

Mr. HATCH. Mr. President, if the Senator——

Mr. SARBANES. If the Senator would desist, I would be happy to yield to the Senator after I have a chance to make the point.

Mr. HATCH. I will be delighted to desist. However, I would like——

Mr. SARBANES. I recall yesterday——

Mr. KENNEDY. Mr. President, I would like to have an understanding with the Senator from Utah. I would like to finish my exchange with the Senator from Maryland and then enter into an exchange with the Senator from Utah.

I believe I have the floor, Mr. President. Therefore, I am going to continue my dialog with the Senator from Maryland, and after I have completed that, I will be glad to yield to the Senator from Utah or to yield the floor, and let the Senator from Utah address questions to the Senator from Maryland. I would like to proceed in that way. I have not taken a great deal of time in this debate, and I would like to complete my inquiries with the floor manager.

Mr. CHURCH. I insist on the regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized, and he does not yield at this time, except to the Senator from Maryland.

Mr. HATCH. Mr. President, will the Senator from Massachusetts let me make a 10-second statement? I have to leave the floor. That is the only reason why I tried to interject at this point.

Mr. KENNEDY. The Senator from Utah has already used 10 seconds, but I will yield him 10 seconds more.

Mr. HATCH. I wanted to interject at that point because I have to leave the floor, but I will discuss this thoroughly later and discuss the 15 law professors and the argument made by the Senator from Massachusetts and the Senator from Maryland.

I apologize for having attempted to interject at this point, but that is the reason. I just wanted to make it clear in the record. I will return later and make these points clear.

I thank my friend from Massachusetts.

Mr. KENNEDY. Mr. President, as the Senator from Maryland was pointing out, I think the case has been made during this debate that there are basically three important holdings of the Supreme Court on issues which are directly related to this amendment.

There is the Geoffrey against Riggs case of 1890, which states that the treaty power is unlimited, except when otherwise provided in the Constitution. Clearly, there can be no agreement through the treaty-making power if it is going to violate other constitutional provisions. But quite clearly, that would not only be a common and a reasonable understanding of the treaty power, it has been reaffirmed by the Supreme Court of the United States.

Then, the cases of Holden against Joy and Jones against Meehan, 1872 and 1899 respectively, conclude that a treaty may convey good title without an additional act of Congress. This is basically the holding of those two cases.

So you have the language of article II and the interpretation of what its parameters in Geoffrey against Riggs. You have the reaffirmation in the cases of Holden against Joy and Jones against Meehan, that a treaty may convey good title without an additional act of Congress.

As I understand, after the late 1800's, the Supreme Court has made no holdings that would challenge those particular decisions, which represent the supreme law of the land.

Finally, Mr. President, one of the points made by the proponents of this amendment is that we have a rather unique relationship with Panama because of our historic ties, our numerous agreements and treaties, and the important commercial and security interests of the United States. Therefore, what we really have to do is to look at the range of agreements with Panama itself that affect the territorial transfer issue.

And as I read these agreements, the record is basically mixed. There have been transfers of property under treaties and there have also been transfer of properties under actions of both Houses. We have the examples of both, and I will include those shortly in the RECORD.

As I understand it, this makes the case of the Senator from Maryland and the great majority of the members of the Foreign Relations Committee, that the transfer of property can be accomplished either under article II or article IV. In the closer examination of even our relationship with Panama, we can see different instances over the history where each article has been used. I think that this is an important point. Is my understanding of that correct as far as the Senator from Maryland is concerned?

Those who support the Hatch amendment refer to the 1933 agreement which involved changes of boundaries, the 1942 agreement which concerned land parcels in Panama, and the 1955 treaty whose article V required implementing legislation—but whose article VI and article VII provided for the transfer of property without any executing legislation.

On the other side, we have the treaties of 1936 where the United States gave up the right to take land from Panama: The rather extraordinary provision in the 1903 treaty which effectively permitted the United States to take any land in Panama at any time at its sole discretion. We have the 1950 treaty which provided for the Colon Corridor adjustment for highways, and the 1955 treaties which included the articles VI and VII already cited.

So is my understanding correct that in the transfer of property there have been examples of where the treatymaking power under article II has been used and examples where article IV has been used?

Mr. SARBANES. The Senator is correct. We do not contend that property can be transferred only by the treaty-making power. Our position is that property can be transferred in one of two ways: Through the treatymaking power or under article IV by enactment of Congress.

It is important, I think, to note that the supporters of this amendment have cited a number of cases that dealt with the question of whether either the executive or the judiciary could transfer property of the United States without the involvement of the legislative branch of our Government, and it is clear under the Constitution that cannot be done. The President alone cannot transfer property, nor the courts. The President, however, either with the approval of two-thirds of the Senate of the United States, acting through the treatymaking power, can transfer property, or, alternatively, it can be done by majority action of both Houses of Congress, both the House of Representatives and the Senate. But in either instance there is an involvement of the legislative branch of the Government, and the cases which reject any assertion of executive authority to do it alone are quite correct.

This Executive has not made that assertion. Although it has been implied and said yesterday that there was a reach for power unprecedented in our history, that is clearly not the case. The President has submitted this treaty to the Senate and awaits the Senate's action upon the treaty, and in order for it to be approved it has to have a two-thirds vote which is an extraordinary majority of this body.

In fact, if I may add this comment, I think it is a reflection of the substantive merits of these treaty provisions that the Neutrality Treaty did in fact command the support of 68 Members of the Senate, and I am hopeful that the Panama Canal Treaty will likewise command in excess of two-thirds of the body.

It is almost impossible to get two-thirds of Senators to agree on anything, and if you can get them to agree on something as invloved and as important as the treaties that are before us I think that speaks to the merits of the treaties in terms of how well the substance of the treaties enhance, protect, and further American interests with respect to our situation in Panama and elsewhere in the world.

Mr. KENNEDY. I shall just pursue further with the Senator from Maryland. Now that we have talked about the special relationship between the United States and Panama, in the majority of cases the transfer of property has been accomplished either under the treaty-making provisions or under the legislation where we have disposed of excess foreign property. At least that is my understanding.

Furthermore, the most recent case which comes to mind is a case which is familiar to the Senator from Maryland. It is the treaty between Japan and the United States, involving the reversion of a sizable transfer of land in 1971. This obviously was a matter of key security interest to the United States involving millions of dollars in property of the United States, transferred through the treaty. Am I not correct?

Mr. SARBANES. The Senator is correct.

Mr. KENNEDY. As to this particular amendment of the Senator from Utah, where some Members actually voted for that treaty back in 1971, they will have an opportunity to explain any distinction in their vote. But am I not basically correct that over the period of historical precedents treaties have been a means and mechanism by which property has been transferred?

Mr. SARBANES. Treaties have been one of the means and mechanisms.

Mr. KENNEDY. That is right.

Mr. SARBANES. And statutes have been another. Again I do not want to overstate our position. We recognize both approaches as appropriate. There is a concurrent authority, and it has been done in both ways over the course of the history of the Republic. But I think the references that the Senator has made are good references and support the line of argument which he has advanced here on the floor of the Senate today.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. KENNEDY. Just in 1 minute.

Mr. ALLEN. Yes.

Mr. KENNEDY. As I understand the Foreign Excess Property Act has proved a principal interest for the transfer of property under article IV of the Constitution.

Finally, let me just ask the Senator from Maryland, who has been a floor manager, whether he has received any assurances from the supporters of this particular amendment that under this particular procedure, it would only require a majority of the Members of the Senate effectively to dispose of U.S. property, just as it would only require a majority of the Members of the House of Representatives? Is it his understanding that those who are putting this amendment forward are prepared to give an early time agreement for disposition of this issue, or has the Senator been unable to determine that this is the position of the Senator from Utah and those who are cosponsoring the amendment?

Mr. SARBANES. The Senator asked a very interesting question, and I have to say to the Senator we have received no indication of that sort.

One might hazard a guess that what the proponents of this amendment, the opponents of the treaty, in fact, may like to have is a totally new hybrid animal that requires a two-thirds approval in the Senate of the United States and a majority approval in the House of Representatives.

It is very interesting—and I want to underscore this—that the constitutional system that was devised by the Founding Fathers and under which we operate with respect to the disposal of property, in that instance in which the President, working only with the Senate, will dispose of property through the treaty power, that a two-thirds vote in the Senate is required.

In those instances in which you use the other authority, the statutory authority, then you need only a majority vote in each House.

But there has been no indication that the involvement of the House is designed to diminish the requirement in the Senate from two-thirds to a majority, and I would assume the contention would be that clearly under the treatymaking power you require two-thirds of the Senate, and that is what would be necessary. But the question is a very interesting one.

Mr. KENNEDY. I would just venture to say it might be a "tribrid" proposal, because you would have the basic treaty, the transfer of property, and then the implementing legislation. It just begins to show perhaps how ridiculous this would be, in terms of any fair evaluation of the diplomatic history of this country or the Constitution or the teachings of the Supreme Court or the understandings of the Founding Fathers.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. ALLEN. I believe the distinguished Senators are a little confused as to the attitude of the Senators who are seeking to strengthen this treaty. We do not propose that this treaty be considered by the House, and the Senators well know that. What we are insisting upon is that the Constitution requires that legislation be adopted by Congress—that is not this treaty, that is an entirely different matter—authorizing the disposition of this property. This treaty would not be submitted to the House, but before the treaty could go into effect it would require legislation, another piece of legislation altogether, and it is not a question of any hybrid animal.

This treaty would not be considered in the Senate and in the House. Only the matter providing for the disposition of the property.

On another matter, I would like to suggest that I am a little surprised that the distinguished Senator from Massachusetts uses the treaty with Japan returning to Japanese sovereignty the Ryukyu Islands. The United States did not own the Ryukyus, as we all know. We did not gain that title to that by conquest, and this was not property of the United States as is the property in the Canal Zone.

What was transferred was not the property itself but our right of control over these islands. So this treaty is not in point as to the executive with a two-thirds vote in the Senate by treaty conveying property of the United States.

I would like to call the Senator's attention to the nonanalogy of the illustration.

Mr. KENNEDY. Mr. President, the point I would make on this is that the rights of the United States in the Ryukyu Islands were basically comparable, under the treaty with Japan, to the rights of the United States under the Treaty of 1903 with Panama and, therefore, the parallel is real in terms of the essence of the issue, and that is the transfer of property.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, I want to support the Senator in that statement.

I think the parallel is very definitely real. In fact, it was stated at the time there was residual sovereignty for Japan much as there was residual sovereignty for Panama.

We had an extended discussion with the Senator from Alabama yesterday over this question of ownership, sovereignty, and jurisdiction, and the whole bundle of property rights that you can have. With respect to the Japanese treaty involving the Ryukyu Islands, it was stated at the time that about the only power the United States did not have with respect to those islands was to transfer them to some third party.

So no matter how extensive one wants to define the rights in the Canal Zone, they are certainly not more extensive than that, and in that sense the parallel is very close, and the disposition of those islands is a very apt analogy to draw in the situation with respect to the authority of the treatymaking power with respect to the transfer of property.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. KENNEDY. Just one final point. We owned the airport, the naval air station, and other facilities in the case of Japan. This is a direct parallel, I think, to the case of the Panama Canal. Both properties are to be transferred by treaty. Then there were other rights dealing with both administration, legislation, and jurisdiction which we transferred to Japan by treaty.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MATSUNAGA. I rise in support of the Senator's contention. There is a definite parallel in the Ryukyu Islands. We built facilities which became part of the realty which the United States owned. This is much in parallel with the case of Panama, so I think the citation of the Ryukyu Islands Treaty between Japan and the United States is very much in line.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. KENNEDY. I thank the Senator from Hawaii. Obviously, he is well-briefed and he understands fully the nature of our commitment in that part of the world. Having his comments on it I think has been very helpful.

I would be glad to yield to the Senator from Alabama.

Mr. ALLEN. I thank the Senator.

The Senator, particularly the distinguished Senator from Maryland, was saying that the property rights were the same. Of course, that is not correct because the United States purchased and owns in fee simple the property in the Panama Canal Zone, and I have a record——

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. ALLEN. No. I have not even finished my remarks.

The situation is entirely different. We had possession of the Ryukyus by conquest, but we know that does not vest fee simple title in the United States. So far from the situation being as the distinguished Senator from Hawaii said that we owned the land, we did not own the land. Therefore, when we gave back the islands obviously we gave back the improvements on the land. So there is no parallel at all.

We own the Panama Canal Zone by deed and by grant from the Panamanian

Government. No such situation exists with respect to the Ryukyus. That was conquest, and that does not vest title under international law.

Mr. KENNEDY. I wish to make one statement, and then I would welcome yielding. My understanding is different from the understanding of the Senator from Alabama. Basically, one-third of the property—and I would like to be corrected by the Senator from Maryland—was clear title based upon a prior claim of the Panama Railroad Company.

The second third was the quitclaim from the private claims in Panama. And the final third represented untitled land. But there is very serious question and controversy as to the nature of the title in all of these areas. It is not as the Senator from Alabama has described it.

Mr. ALLEN. Just quoting——

Mr. KENNEDY. I thank the Senator from Maryland for his understanding of it.

Mr. SARBANES. I want to say the statement of the Senator from Massachusetts is correct. I do want to say in fairness to the Senator from Alabama that in the statement he just made he was very careful, after talking about owning it in fee simple and having bought it, when he made his final statement, to say that we had acquired it by deed which, I assume, are the purchases from private landowners, and by grant from the Panamanian Government.

Now, that statement, properly explained, is probably correct. What it means—and this is important—is that, first of all, we paid over $4 million to private people who owned property, some of the property in the area that is now the Canal Zone, and we, in effect, got whatever title they had.

Whatever title it was, it is not the equivalent of the property right that the sovereign government of that area has. If the Government of Great Britain or the Government of France comes to the United States and buys property from American citizens in the United States, it does not get a title to that property that is the equivalent of the title of the U.S. Government with respect to what it can do. The right of eminent domain, for example, to take over the property. By buying that property from private owners in this country, they are not able to create a little France or a little England somewhere in the United States and assert that they have rights there to the exclusion of the Government of the United States. So even though we bought those private titles from private owners—and we should have done it; they should have been compensated, in fact, the 1903 treaty had some very careful provisions as to that. But the fact that we made that purchase from private owners did not create a little United States in that area. That is the first point.

The second point is the reference to the grant from Panama. The fact of the matter is that we got title to some of the territory by buying the rights of the Panama Railroad, and the balance of it was public lands of the country of Panama; and we did not buy them in the same sense as we bought the Louisiana Purchase or bought Alaska. In fact, we have been paying an annual payment to Panama ever since the 1903 treaty took effect. With respect to the annual payment, which came some time after the initial treaty was signed, because there was a lump-sum payment, then no payments for a certain number of years, and then we picked up with an annual payment, an analogy has been made to the effect of that annual payment being comparable to rent. And that is not a bad analogy, either.

But in neither instance did we acquire that bundle of rights of ownership, sovereignty, jurisdiction, and all the rest of it, so that the area became for us the equivalent of the area we acquired under the Louisiana Purchase or by the acquisition of Alaska.

If foreign citizens have a child in the area encompassed by the Louisiana Purchase or by Alaska, that child is an American citizen. That is not the case in the Panama Canal Zone. The 1903 Treaty is very careful to make the point that we are not the sovereign. We get certain rights as though sovereign with respect to that area.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. SARBANES. So these acquisitions did not give us the kind of property rights with respect to those areas that we acquired in the Louisiana Purchase or in the purchase of Alaska.

I think that the statement which the Senator from Massachusetts has made is eminently correct, and in fairness to the Senator from Alabama, we did note that he recognized that it was more than just by a deed from private property owners that we exercised jurisdiction over the area that encompasses the Panama Canal Zone.

Mr. ALLEN. Will the Senator yield?

Mr. SARBANES. Yes, I yield to the Senator from Alabama.

Mr. ALLEN. I thank the Senator. I do not really need the distinguished Senator from Maryland to advise the Senator from Alabama.

He brings the word "sovereignty" into this debate all the time. We are not talking about sovereignty; we are talking about ownership of property.

I would like also to call the Senator's attention to a statement made here on the floor by the distinguished Senator from Idaho (Mr. CHURCH) on yesterday. The Senator from Maryland was here at the time, I believe.

Said Mr. CHURCH:

> I want to make it clear at the outset, that no one favoring the treaties, to my knowledge, denies that the United States has title to property in the Panama Canal Zone. I listened with some curiosity to the extended brief presented by the distinguished Senator from North Carolina concerning the origins of the United States legal title to property in the Canal Zone. He took an hour and a half pressing an open door. Of course, the United States acquired legal title to property lying within the boundaries of the Canal Zone.

I would suggest that the distinguished Senator from Maryland ought to tell the distinguished Senator from Idaho (Mr. CHURCH) if he disagrees with Mr. CHURCH, who says we do own the property in the Panama Canal Zone.

I repeat, it is not a question of sovereignty. That is not involved. This red herring is continually dragged across the terrain by the proponents of the treaty.

What is involved is the transfer. Nobody claims sovereignty is being transferred. What is being transferred is property, and the Constitution requires that the House of Representatives, not as a part of the ratification of the treaty but in a separate piece of legislation, along with the Senate, enact a statute authorizing transfer of the property.

It is not a question of sovereignty; it is a question of ownership of property. The Senator from Idaho has conceded that we own it. Now there is an argument between the proponents of the treaty, apparently, because they seem unable to agree on whether we own it or not. The President, in his fireside chat, said we do not own the property, so apparently there is a difference of opinion here, but I am willing to take the opinion of the distinguished Senator from Idaho (Mr. CHURCH) that we do own the property in the Panama Canal Zone, and I have here a record of some 3,500 transactions in which the United States purchased property from the private owners.

So let us not talk about sovereignty. Let us talk about the property that the United States owns in the Canal Zone, which requires, for its disposition, an act of Congress. Not approval of the treaty; that is not involved. This is a separate act of Congress that is required.

Mr. SARBANES. Mr. President, I would like to make just two points in response to that.

One is that while it may be a matter of indifference to the Senator from Alabama whether he is treated fairly, I want to assure him that it is not a matter of indifference to the managers of the bill, and I try to be scrupulously fair.

In responding to the Senator from Massachusetts, who recognizes, I think, what we had said, and who recognizes the fact that the Senator from Alabama phrases it in a way that it embodies both approaches——

Mr. ALLEN. I thank the Senator.

Mr. SARBANES. It is my intention, throughout the remainder of this debate, to continue to be fair to the Senator from Alabama.

Mr. MATSUNAGA. Mr. President, will the Senator from Maryland yield?

Mr. SARBANES. Let me make one further point.

The Senator from Vermont (Mr. LEAHY), at one point in this debate, said that this debate was much like a soap opera, because when you went away and came back to it, the same theme was being developed.

I might say to the Senator from Alabama I was reminded of that statement, because, as he will well recall since it happened only yesterday afternoon, he and I and the Senator from Idaho had an extended discussion about the question of ownership, sovereignty, jurisdiction, and the President's fireside chat,

and the assertion that it had been inaccurate or misleading, and of course our contention that it was not when read in full.

I only hope that the people who have read the RECORD and followed this debate will recall that exchange. I do not intend to embark upon it again.

I yield to the Senator from Hawaii. I know the Senator from Arizona has been waiting. I intend to yield the floor shortly so he may deliver his statement.

Mr. MATSUNAGA. I thank the Senator from Maryland for yielding.

I do not believe the Senator from Alabama meant to say, as I believe he said earlier, that we owned no part of the Ryukyu Islands. The Senator will recall, I am sure, inasmuch as the Senate during his time ratified the treaty between Japan and the United States for the return of the Ryukyu Islands to Japan, that we did, in fact, pay individual owners of the property for the airstrip, and that the United States did, in fact, own realty in the Ryukyu Islands. I am sure, now that the Senator's memory has been refreshed, the Senator recalls that.

Mr. ALLEN. Will the Senator yield?

Mr. MATSUNAGA. So there is a definite parallel between Panama and the Ryukyu Islands.

Mr. ALLEN. What the Senator from Alabama was objecting to was the statement that we owned the Ryukyu Islands, which we did not own. It was merely by conquest. We know that title does not vest in a conqueror. As the distinguished Senator said, we were giving the land back to Japan. So it was Japan's land, of course.

Mr. MATSUNAGA. But the parallel lies in the fact that we did pay for realty in Panama, which the Senator from Alabama says we own by conveyance. It is just as in the case of the Ryukyu Islands, where we dealt not with the Japanese Government, but with the individual owners of land. For example, there is the airstrip, wherein we did pay the individual owners for the land. So while the individual owners had no claim to that land, for which we paid the individuals, we still did not, because of the lack of sovereignty, own such property and had to return such land to the Japanese Government. The parallel, as I see it, is so clear. Just because we have no exercise of sovereignty over Panama, and we do not, the property for which we paid the individual owners still is not property which we can say is within our sovereignty and, therefore, is American property, to which article IV applies.

Mr. ALLEN. I thank the Senator. If he sees the parallel between ownership of an airstrip and ownership of the entire Panama Canal Zone, I will say he can see something there that I cannot. In the conveyance to Japan, revesting sovereignty in Japan to the islands that we got by conquest, we still own the airstrip property which we purchased. There has been no authorization for its disposition.

Mr. MATSUNAGA. But the parallel lies. The case does apply in the case of Panama now because we did, by treaty, convey or reconvey to Japan——

Mr. ALLEN. No, we did not convey the property. The Senator is mistaken, I feel sure.

Mr. MATSUNAGA. Is it not by treaty that we returned the Ryukyu Islands to Japan and not by legislation?

Mr. ALLEN. It was by treaty. We did not return the land. We returned the oversight and sovereignty. That is all we returned.

Mr. MATSUNAGA. I am talking about the land which we purchased. We did exercise even fee simple rights over the land, which we purchased directly from the individual owners. It is just as with the Panama Canal.

Mr. ALLEN. If the Senator will show me that the treaty provided for transfer of realty as distinguished from transfer of sovereignty, then I think he might be able to draw some parallel. But if we owned it at that time and Congress has not authorized the disposition of it, we still own it, even though Japan has sovereignty over it. I thank the Senator.

Mr. SARBANES. I thank the Senator from Hawaii. I believe he has made some extremely effective points with respect to the parallel between the two cases. I think the analogy he drew is absolutely on point.

Mr. President, how much time remains under the division?

The PRESIDING OFFICER. The Senator from Maryland has 108 minutes and the Senator from Arizona has 78 minutes.

Mr. SARBANES. I know the Senator has been patiently waiting. I yield the floor.

Mr. GOLDWATER. How much time do I have, Mr. President ?

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Arizona has 78 minutes remaining.

Mr. GOLDWATER. I assure the Chair I will not use all that time.

Mr. President, I rise to support the amendment offered by the Senator from Utah (Mr. HATCH), which I am cosponsoring.

Before I begin I might make an observation relative to the discussion concerning Okinawa and the disposition of property. As to the transfer of personal property, there was legislation which authorized it, the Foreign Excess Property Disposal Act of 1947, which conferred implied authority upon the President to convey the personal property to Japan. That did not necessitate a treaty.

Mr. President, this may be the most important amendment before us during the long debate on the Panama Canal treaties. In fact, it may be even more important than the treaties themselves, in the long run.

For if we establish the precedent now of allowing the Executive by a treaty to usurp the powers given to the whole Congress, it will be built on and built on by future administrations until our representative form of Government has been radically altered.

Mr. President, I am shocked that the State Department and the Foreign Relations Committee have not devoted adequate attention to this issue. I congratulate the Senator from Utah for the outstanding and documented address he presented on the subject and also the Senator from Alabama (Mr. ALLEN), who has done yeoman's work in analyzing this issue as chairman of the Subcommittee on Separation of Powers.

Before I proceed to the substance of my remarks, let me explain just what this amendment is all about. For I believe many Senators have not yet understood just what our contention is.

We do not argue that the President cannot negotiate a treaty relating to the transfer of U.S. property.

We do not argue that a treaty cannot deal with the subject of transferring property belonging to the United States.

We do not argue that the U.S. Government cannot agree with another nation to transfer property.

In fact, Mr. President, it requires action by a treaty to first agree with a foreign country to dispose of property and then it requires a statute to complete that transfer. In fact, it takes both.

Nor, do we contend that in no case whatsoever can a treaty be self-executing.

Rather, we say that when a treaty calls for the transfer of property belonging to the United States, it cannot be carried into final operation without Congress passing a law to execute that treaty.

In other words, the President can negotiate a treaty relating to the transfer of property and that treaty can be brought to the Senate for its advice and consent. But that treaty is subject to the constitutional processes of our country, which in the case of the transfer of property requires action by the whole Congress to carry it into operation.

I. EFFECT ON REPRESENTATIVE GOVERNMENT

Mr. President, to show just how absurd the notion is that says a treaty itself can transfer property, let us look at the effect this proposition would have upon the people in the several States. If we do, we will see immediately that the idea makes a mockery of popular rule and representative government, which were at the heart of the plan of government established by the framers.

In 1787, the year of the Constitutional Convention, the total population of free citizens in the country was estimated to be 2,223,000. Omitting Rhode Island, which did not send any delegates to the Convention and did not join the Union until May 29, 1790, the population was 2,165,000.

Until Rhode Island was admitted, it took only 16 Senators from 8 States, the smallest in population, to ratify a treaty. They contained a total population of 934,000. The other one-third of the States contained 1,231,000 persons. The population statistics I am giving come from the tables actually used in the Constitutional Convention.

In other words, 43 percent of the people could approve a treaty against the will of 57 percent. Even if the 13th State, Rhode Island, were included in this calculation, the power of severing the United States would be given to a minority of four-ninths of the people, if it can be done by treaty alone.

Moreover, the framers fully expected several States having small populations to be added to the Union, such as Vermont, Maine, and Kentucky. They knew this development would add to the imbalance given the less populated regions in making treaties.

Mr. President, if we look at the latest census statistics, the result is even more

striking. According to the 1970 census, there are 34 States with a population of fewer than 4 million persons. Under the theory which the State Department is using, a treaty ratified by 68 Senators representing only 62 million citizens in these 34 States could give away the Panama Canal against the protest of 32 Senators representing 140 million citizens in 16 States.

This means that States having a combined total of only 31 percent of the national population could overrule the Senators from States containing 69 percent of the people.

Mr. President, it is an absurdity to contend that the framers intended to give a power to a small minority of the population to dominate the great majority. Such a result is totally contradictory to the political thinking of the patriots who framed the Constitution and voted for it in the several State ratifying conventions.

There is no question in my mind that the framers meant for any proposed transfer of Government property or territory which might have an important bearing on the economy or security of the country, to be conditioned on the passage of legislation by the whole Congress. That is why they gave Congress the specific power in article IV to dispose of property.

And, remember that in the early years of the Republic, the Senate was elected, not by the people, but by legislatures of the States. The only check upon the President's authority to give away the territory of the United States was a nonrepresentative body, if Government property might be transferred without act of Congress. The popularly elected body, the House of Representatives, in whom was expressly vested the power to dispose of public property as a joint partner with the Senate, would be divested of this power.

II. SECRECY IN MAKING TREATIES PROVES REQUIREMENT OF EXERCISING POPULAR WILL TO DISPOSE OF PROPERTY

Mr. President, there is another aspect of the treatymaking power which reveals the absurdity in supposing that by a treaty the President and Senate might exclude the House of Representatives from acting on the transfer of Government property.

In the Federalist Paper No. 64, John Jay discusses the nature of the treaty power at length. He claims that one of the decisive reasons the framers chose to place the treatymaking authority in the Senate, jointly with the President, is that—

> Our negotiations for treaties shall have every advantage which can be derived . . . from secrecy and dispatch . . .

Alexander Hamilton says the same thing in the Federalist Paper No. 75. He argues that the large numbers of the House of Representatives are incompatible with secrecy and dispatch, which are essential to the proper making of treaties.

This reasoning may be suitable to making self-executing treaties which do not impinge on the express powers of Congress; but if the treaty power is claimed to be broad enough for carrying into execution the specific powers conferred upon Congress, then how ridiculous it would sound, in a representative government, to claim that U.S. territory could be given away in a secret session of the Senate without giving time for popular protest. This is the logical extension of the idea put forth by the State Department, but had it been suggested to the American people during the ratification process, public opinion would have been so shocked that the Constitution would have failed of adoption.

The reasoning of Jay and Hamilton, which was widely circulated to influence public support for the Constitution, makes sense only if enabling legislation was necessary to carry out such a treaty which had been made in secrecy.

III. VOTES AT CONSTITUTIONAL CONVENTION UPHELD EXCLUSIVE POWER OF CONGRESS TO DISPOSE OF PROPERTY

Mr. President, we have examined the important considerations which influenced the framers in drafting the treaty clause. Now, let us see what the framers and supporters of the Constitution actually said and did on the subject of yielding public property by a treaty.

It is true that the Constitutional Convention rejected at least two proposed amendments which would have added the House of Representatives to the making of treaties. One of these was presented on August 23, 1787, and the other on September 7.

However, this does not mean the Convention rejected the need for enabling legislation when a treaty extends to the powers of Congress. Each of the defeated amendments was offered after August 18, when, on the motion of James Madison, the Convention referred to its Committee on Detail the proposition that the Congress shall have the power "to dispose of the unappropriated lands of the United States."

As is described in a landmark study by Prof. Arthur Bestor of the intent of the framers in the domain of foreign affairs, the major task confronting the Committee of Detail was to define with precision the expanded powers being conferred on the Federal Government and to allocate these powers among the three branches. The resolutions adopted by the Convention provided the mandate of the committee.

Thus, in approving Madison's resolution to give to Congress the power to dispose of unappropriated lands, the Convention had made an initial commitment to placing the power of transferring land in the whole legislature.

Knowing this, it is not surprising that on August 23, only 5 days after it had passed Madison's resolution, the Convention rejected an amendment providing that no treaty shall be binding which is not ratified by a law. Insofar as any delegate was concerned about the abuse of treaties in disposing of land, they felt secure in the fact that Madison's safeguard had already been referred to the Committee on Detail.

Moreover, Mr. President, there are other grounds on which the Convention may have rejected the amendment. As Madison later states, the rejected proposition was one which would have made the House a participant in making all treaties. But Madison and others recognized that there was a difference between treaties which were complete and final of themselves and others which were incomplete, without implementing law.

By failing to make all treaties subject to the voice of the House, it does not follow that the Convention meant to remove the House from giving its sanction to some treaties.

In this connection, it is relevant to invoke Vattel, the 18th century authority on international law, whose writings were mentioned and relied upon in numerous instances by delegates to the Federal and State conventions.

Vattel's Law of Nations, which is known to have been in the hands of delegates to the Constitutional Convention, stated as a general principle that the very words used by the framers in conferring the treaty power—"to make treaties"—were universally understood to require implementing legislation whenever the conditions of a treaty were of a legislative nature.

According to Vattel, international law held that in all divided governments, the power given to the Executive of making contracts with other nations does not include that of making legislative regulations, but when the contract happens to embrace legislative objects, the assistance of the legislature is necessary to give it effect.

Thus, being well-versed in international law, the framers assumed, without needing to spell it out, that the treaty power was limited by the powers vested in Congress.

The same explanation applies to the vote in the Convention on September 7, when James Wilson proposed to add the House of Representatives to making treaties. By then, the Convention had reaffirmed lodging in Congress the power to dispose of territory, so that there was no longer any need for repeating what was already contained in the Constitution.

IV. STATEMENTS OF FRAMERS AT FEDERAL AND STATE CONVENTIONS SUPPORT EXCLUSIVE POWER OF CONGRESS TO TRANSFER PROPERTY

So much for the votes in the Constitutional Convention. But how was the document explained at the State conventions on approving the Constitution?

Remember, the Constitution was but a lofty piece of paper until it had received the breath of life through acceptance by at least 11 States. The way the Constitution was explained in order to win adherence in the State conventions is an important test of the true meaning of the document.

Actually, there is an abundance of statements by friends of the Constitution, who construed it in the State conventions as being subject to action by the whole Congress whenever it embraced subjects vested in Congress. At the Pennsylvania Convention, James Wilson indicated as much when he drew a parallel between the power of the King of Great Britain and that of the President and Senate, with respect to making treaties. Wilson said:

> In England, if the King and his ministers find themselves, during their negotiations, to be embarrassed, because an existing law is not repealed, or a new law is not enacted,

they give notice to the legislature of their situation, and inform them that it will be necessary, before the treaty can operate, that some law be repealed, or some be made.

"And will not the same thing take place here?" Wilson asked.

At the Virginia Convention, Mr. Nicholas made a similar, direct comparison between treaties made in England and treaties made under the Constitution.

Moreover, five delegates to the second and successful North Carolina Convention, Nathan Bryan, James Gillespie, James Holland, Matthew Locke, and Absalom Tatum, each indicated after the convention that they were given the understanding that the treatymaking power was limited by the necessity for enabling legislation whenever treaties involved the enumerated powers of Congress.

For example, James Holland said in 1796 that he would have been opposed to the Constitution except that those in favor of its adoption assured the North Carolina delegates that important subjects which had expressly been given to the Congress would remain secured to the legislature and could not be usurped by treaties.

Consistent with this interpretation of the Constitution, there also is statement made at the Massachusetts Convention by Mr. King. He emphasized that "the treatymaking power would be found as much restrained in this country as in any country in the world." He appears to have reference to the practice in 18th century England, where, as I said earlier, the consent of Parliament was necessary to the completion of a treaty which touched on legislative powers.

Another statement which relates to the Panama Canal Treaty, since it directly involves commerce, was made by Mr. Choate at the Massachusetts Convention. He said that—

> As the regulation of Commerce was under the control of Congress, it could not be regulated by treaty without their consent and concurrence.

There also is strong evidence out of the Virginia Convention to show that the majority who voted for the Constitution believed a treaty could not dispose of Federal property without authority given by the whole Congress. Governor Randolph, who was a delegate both to the Federal and Virginia Conventions, discussed this very issue at his State convention.

In answering the charge by opponents of the Constitution that there is no restriction on making treaties, he replied that the Constitution provided "the most express restriction" on yielding property rights of the Nation in article IV, which is the provision relied upon in the pending amendment by the Senator from Utah.

Randolph was not the only one who took this view at the Virginia Convention. Francis Corbin added that popular rule was secured by the commerce clause.

Corbin said that if property is sought to be transferred by an agreement in the nature of a commercial treaty—a description broad enough to fit a treaty relating to commerce through the Panama Canal—"the consent of the House of Representatives would be requisite, because of the correspondent alterations that must be made in the law."

Mr. President, this view was repeated by so many delegates to the various State conventions on adopting the Constitution as to leave no doubt of the true meaning of our Federal charter. If we will study the past and review what was actually said by the brilliant leaders who wrote and voted for the Constitution, we can learn how they meant for the document to operate.

V. TEXT OF CONSTITUTION PROVES TREATY IS CONDITIONED ON ACTION BY CONGRESS TO DISPOSE OF PROPERTY

But we have more than the statements of the framers. We have even more than the records of the Constitutional Convention. We have the text of the Constitution itself.

Turning to the specific words of the Constitution, I cannot see how anyone can believe that treaties may divest the Congress of its express power to dispose of property.

In the words of Albert Gallatin, one of the political giants of the early years of the Republic:

> The treaty-making power is limited by the Constitution when in the first section of Article I it is said that "All Legislative power" is granted to Congress.

Although the treaty power is expressed in article II without any limitation, the sweeping grant of all the legislative power in article I limits the power of treaties. If a treaty can execute the legislative powers, then Congress has not been vested with all such powers, but only those powers not conferred upon the treatymaking authority.

Moreover, Congress is vested with enumerated powers. As Professor Berger writes:

> There is the settled rule that the specific governs the general.

Berger continues:

> Where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act. . . .

Thus, Berger concludes, the specific power given Congress to dispose of property governs the general treaty provision.

Mr. President, I am especially persuaded by the reasoning of Professor Berger, since he supports the Panama Canal Treaty. But he insists on the need for enabling legislation since he believes the power of Congress in disposing of property cannot be subverted by a treaty.

Another provision of the Constitution which has a direct bearing on this issue is the necessary and proper clause. This clause declares that—

> Congress shall have power to pass all laws necessary and proper for carrying into execution all powers vested by the Constitution in the Government of the United States or in any department or officer thereof.

In 1885, Congressman Tucker, chairman of the House Committee on the Judiciary, submitted a report to the House in which he argued that the language of this clause "makes it clear that while the executory agreement is in the treatymaking power, the power of execution is vested in Congress."

He meant by this that a treaty can agree to act, which would make it executory. But the treaty is not executed until Congress has acted in the case of powers vested in it.

Since the necessary and proper clause gives Congress power to carry into execution the powers vested in any other department of the Government, which includes the treatymaking authority, this clause is consistent with the principle that a treaty agreeing to carry out one of the express legislative powers requires implementing action by Congress. On the other hand, the Constitution would be in conflict among its provisions if it is assumed a treaty can carry into execution the powers vested in Congress.

This interpretation would turn the necessary and proper clause on its head. Such a theory would not only read into the treaty provision a necessary and proper clause where none appears, but it would negate the one clause of this kind which is written into the Constitution by depriving Congress of its proper role in passing laws.

Another argument, which demonstrates the fallacy in the construction of the Constitution made by the State Department, was raised by James Madison in a brilliant speech he delivered in Congress on March 10, 1796. Madison objected that—

> If the treaty power alone could perform any one act for which the authority of Congress is required by the Constitution, it may perform every act for which the authority of that part of the government is required.

If the President and Senate can exercise any of the enumerated powers by treaty alone, Madison said, then they might by means of a treaty make the United States a party to war. He said:

> They might stipulate subsidies and even borrow money to pay for them; they might furnish troops to be carried to Europe, Asia or Africa . . . for the purpose of cooperating, on given contingencies with an ally, for mutual safety, or other common objects.

Those of my colleagues who hold that a treaty alone cannot commit the United States to go to war, without a declaration of war, might do well to heed the warning given by Madison. If they now accept the theory that a self-executing treaty can exercise the express power conferred upon Congress to dispose of property, then what distinction do they make as to the power to declare war?

In 1796, Madison said that if any reasonable line can be drawn, except one arbitrarily made to serve the immediate purposes of the treaty proponents, it ought to be submitted. No answer was given to Madison then, nor have I heard any suggestions by the State Department today as to where it would draw that line.

If we do not halt the treaty-power at the point where it attempts to carry into execution the powers specifically vested in Congress, then as sure as day follows night, we will be setting an open-ended precedent should the Senate advise and consent to the Panama Canal Treaty without conditioning it on enabling legislation.

For example, Congress has power to naturalize citizens. Does this mean a treaty can make hundreds of thousands of immigrants from another area of the world instant citizens the moment they apply for admission to this country?

Can a treaty provide that the German

mark shall become the currency of the United States? Can a treaty subject U.S. citizens to an international court and free the decisions of that court from review by our Supreme Court?

All these things could be done by treaty if the theory of the State Department is correct. The absurdity of these propositions illustrates the fallacy in it. There must be reasonable limits on the treaty power or our representative form of government will be replaced with a new system totally alien to the framers.

Mr. President, in closing, I want to address the heavy reliance on Calhoun, Marshall, and Story by those who argue that the Panama Canal Treaty can be self-executing. Over and over, I have heard the other side invoke the name of John C. Calhoun.

John Calhoun has suddenly become the favorite constitutional authority of the State Department. Even many civil rights activists in this body have taken to quoting John Calhoun on the Constitution.

Mr. President, I remind Senators that as brilliant as he was, Calhoun was the author of the nullification theory. He argued that no State was bound by a Federal law which it believed was unconstitutional. It took a domestic war to end that theory.

In 1832, Calhoun resigned as Vice President to enter the Senate to support his nullification theory in Congress. Also, his closing years were marked by strong support of slavery and its extension.

Mr. President, history says that Calhoun was wrong on nullification. He was wrong on slavery. And his novel theory that the treatymaking power can exercise the same powers as Congress was equally wrong.

In fact, Calhoun admits, in the speech most often quoted by the other side, that the treaty authority "has many and powerful limits."

As to John Marshall, I need only mention that when he was Chief Justice of the Supreme Court, Marshall wrote as follows:

> A treaty is, in its nature, a contract between two nations, not a legislative act, and does not generally effect of itself the object to be accomplished, but is carried into execution by the sovereign power of the respected parties to the instrument. In the United States, the Constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the Legislature whenever it operates of itself, without any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department, and the Legislature must execute the contract before it can become a rule for the court.

So said Marshall in the case of Foster against Neilson.

Mr. President, the Panama Canal Treaty is exactly such a contract as Marshall described. It engages to perform a particular act, the transfer of U.S. property to Panama, and the legislature must execute that agreement before it can be carried into operation.

Finally, Mr. President, I would note that in his famous commentaries on the Constitution, Justice Story specifically declared "the power of Congress over the public territory is clearly exclusive and universal." This is exactly what we are saying, that the power of Congress to dispose of public territory is an exclusive one, and rather than challenge our position, Story actually confirms it.

Thus, Mr. President, none of the three major authorities relied on by the other side stands up upon close examination.

Mr. President, I urge support for the pending amendment.

In closing, I state again what I stated at the outset and what I feel that many of us wander away from in this very prolonged, sometimes pleasant, sometimes unpleasant, debate on the Panama Canal treaties: Those of us who are opposing this treaty oppose it on a simple ground—the Constitution—because it requires an action by a treaty to first agree with a foreign country to dispose of property. After that happens, it requires a statute to complete that transfer. It takes both.

Mr. President, I was most happy to receive a communication from the State Department, a rather belated one, a rather lengthy one, indicating that they, too, believe that this legislation is necessary.

So I hope that my colleagues in this body will support this approach. I see nothing wrong in keeping within the bounds of our Constitution.

Mr. President, I relinquish the floor.

(Mr. SARBANES assumed the chair.)

Mr. MOYNIHAN. Mr. President, I congratulate the senior Senator from Arizona, a revered figure in this Chamber and in this Nation, for the character and the quality of his address. It is not the first time that the senior Senator from Arizona has risen in this Chamber or in the political forums of our Nation to speak to constitutional matters, only to find that persons such as myself have not agreed with him and only to have those persons years later wish they might have listened more closely. Evidently, this will continue to be the case. It will be so on this occasion, in any event.

This Chamber cannot have heard, in this debate or in any other debate, many such careful and thoughtful and reasoned expositions of a powerfully important position. The Senator from Arizona speaks to the integrity of the constitutional provisions which inform our behavior and which constitute our mandate. He spoke splendidly.

If, on a matter of close decision, others do not share his vital judgment, surely none will deny the extraordinary authority with which he has set it forth.

Mr. GOLDWATER. I thank my good friend from New York for those very kind words.

Mr. NUNN. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. The Senator from New York is happy to yield to the Senator from Georgia.

Mr. NUNN. I thank my distinguished colleague from New York.

The subject I am about to address has nothing at all to do with the Panama Canal. Because of the impending decision on the neutron bomb, I wish to address myself to that issue for about 4 or 5 minutes, if the Senator will yield me that much time.

Mr. MOYNIHAN. I am happy to do so.

(At this point in the proceedings there was a colloquy concerning the neutron bomb, which is printed subsequently in today's RECORD.)

Mr. MOYNIHAN. Mr. President, I would like, having stated the great regard with which any Member of this Senate would have listened to the address of the Senator from Arizona, nonetheless to respond to his points with an equal conviction that however ably they were presented they are not sufficiently persuasive. This has to do with the responsibility of the Senate in regard to property transfer, and it goes, Mr. President, to an experience of a century's standing in which a clear understanding as between the Senate and the Executive has emerged as to just what these responsibilities are and how they are to be executed.

Mr. President, for over a century, no serious question has been raised with respect to the authority of the President and the Senate to transfer U.S. property through the treatymaking process.

Let me just repeat it because it is so important: For over a century no serious question has been raised with respect to the authority of the President and the Senate to transfer property through the treatymaking process.

The text of the Constitution, the history of the constitutional debates, the decisions of the courts, all make it perfectly clear that the Senate and the President have the full power to dispose of property through a self-executing treaty such as the one now before us.

Perhaps, more importantly, the Senate and the President, working together, have entered into numerous treaties doing just that, disposing of U.S. property in the normal activities of a major nation with interests all around the world, which interests change from time to time, from decade to decade.

As recently as 1971, the Senate gave its advice and consent to the treaty with Japan relinquishing large amounts of U.S. property on the island of Okinawa to Japan.

In that same year the Senate gave its advice and consent to a treaty with Nicaragua relinquishing any U.S. rights to construct a canal in that country, clearly a property right, and U.S. leasehold rights over the Corn Islands.

Again in 1971, the Senate gave its advice and consent to a treaty relinquishing U.S. property on the Swan Islands to Honduras.

At that time no Member of the Senate or of the House raised any question as to the power of the Senate and the President through the treatymaking process to take these actions.

What is there to distinguish these treaties from the Panama Canal Treaty, the treaty immediately before us?

Mr. President, there is none. The Okinawa Treaty, like the Panama Canal Treaty, involved millions of dollars worth of property, and certainly no one would contend that Okinawa is not of strategic importance to the United States.

Both the Okinawa Treaty and the treaty with Nicaragua relinquished jurisdiction and authority over territory, just as the proposed treaty would do, but no

one argued that these treaties required the approval of the House. The Senate and the present executive pattern had been established for over a century.

Why then is this issue being resurrected at this late date suddenly in connection with this treaty? What are the differences that really animate and explain this event?

I suggest it is not because there is any serious legal or constitutional issue involved; not because the House would be deprived of any of its legitimate legislative powers under the Constitution. Rather, I submit, this issue has been raised simply because those who do not approve the treaty believe they may not be able to prevail on the merits of the treaties themselves and are understandably attempting to obtain a second chance since they cannot defeat the treaties in the Senate, hoping to do so in the House.

We can admire the ingenuity of the effort and respect the dedication to their point of view which it involves. But we ought not to be swayed by the argument that not only allows but indeed requires us to avoid our own responsibilities as Senators.

The Constitution clearly and specifically places the power to make treaties in the hands of the President, by and with the advice and consent of the Senate. There are, perhaps, no words in the Constitution relating to the Senate which are better known and, if I may suggest, better understood.

This is a weighty responsibility. As Senators we are required to study the merits and the demerits of treaties proposed by the President, and to give our advice and consent based on our own judgments as to our national interests.

In the case of the treaties that are as controversial as those before us, this admittedly places us in a difficult position. We all know there are those who are strongly against treaties as well as those who are strongly for them, but we cannot take the way out of our own responsibilities by asking that they be executed elsewhere. We, in this Chamber, must stand and advise and consent to the ratification of these treaties or not.

Mr. President, it seems to me that in the midst of this diversion with which we are now dealing—I wish to say, a perfectly legitimate and understandable diversion, but one which we nonetheless regard as that—it may be useful to come back for a moment to the question of what is at stake in this debate. What will be determined by the success or failure of the treaties? It is an appropriate time to do so because only last evening the President of the United States returned from a trip to Latin America and a trip to Africa, the first trip to that continent in the history of the Presidency. The President had a strong personal success, as one would expect and hope, in each of the four countries he visited, for he is a man of transparent integrity and good will. Nonetheless, everywhere the President went he found a cloud cast over the efforts he made to establish America's concern for those parts of the world in our desire to see them treated equally as nations, as equal members of the family of nations. The cloud, the mist that somehow obscures the vision of what we would have of our own purposes is the still hanging uncertainty of a colonialist and imperialist past which we and all the major nations of the Northern Hemisphere seem to have acquired, but which we are now at last divesting. This leaves the Soviet Union, in its imperial purposes, still more blatantly and glaringly exposed for the conquering power it is and proposes to be.

In this afternoon's Washington Star, Mr. Henry Bradsher, who accompanied the President on his trip, and who is one of the most distinguished diplomatic journalists of our time, writes a long story over which the headline is "Credibility Gap Sours Carter Trip."

In particular, he notes that in Nigeria, in Lagos, in the long conferences the President had there, in which the President called for an Africa free of foreign interposition and foreign troops, meaning the Cuban "Afrika Korps" deployed, supported, and wholly subsurvient to the imperial purposes of the Soviet Union, moving about Africa, killing and maiming as it goes, destroying the efforts at self-asertion of independence and territorial integrity of the peoples of Angola, associating itself under the direction of General Petrov, the commanding general of Soviet land forces, first in the war in the Ogudan, now in Ethiopia on the part of the Central Goverment in Eritrea—somehow our call for the end of European imperialism in Africa got no response.

Now, there is more involved than just the negotiations involving the Panama Canal, and I do not for a moment suggest that our ratification of the treaty would have a decisive effect; but how long a day will it be when, with clean hands and an absolutely open record, the United States can finally ask the rest of the world to confront the fact of Soviet imperialism?

If I might introduce a personal note, it was on the 12th of August last year that I announced my own support for these treaties, calling them an extraordinary feat of diplomacy, as they were and as I believe this debate has shown them to be. I said this not with the thought that they were of such perfection that their improvement could not be imagined, but rather because the treaties give to us important rights, advantages, and privileges—and give them to us in a form that we might be able to retain them for many years to come. The treaties offer a reasonable expectation that the position of the United States with respect to the Panama Canal can indeed be sustained over the long run. It seems to me that the existing agreements, concluded 75 years ago in 1903—whatever their advantages in specific content—will not, cannot, endure into the next century at a cost which the American polity is prepared to bear.

It is my simple view that if we want the use of this canal in the circumstances that these treaties support, we should ratify these treaties; otherwise we will not find the Nation willing to put up with them.

For what will the public opinion polls show with regard to maintaining our position in Panama when we are fighting a guerrilla war there? This body has had some experience with that sort of response from the public.

Moreover, Mr. President, I have reached the conclusion that the general approach to the future of the canal as embodied in these treaties has been so much a part of American foreign policy for 20 or so years, so bound up with every American President really since the time of Franklin Roosevelt, that the rejection of the treaties by the Senate is unimaginable, an act that would be so at variance with the broad consensus that sustained American foreign policy for the past generation—and which must be continued if we are to have even the semblance of a foreign policy in the future—as to be an event of seismic character.

This is so, precisely because of the historic Senate responsibility to provide advice and consent. For in no small measure, the very terms of these treaties show the influence of Senate "advice" not only in recent years, but in recent months. If the treaties on the floor of the Senate today are sounder in meaning—and with the ratification of the first treaty with the amendments offered by the joint leadership we must certainly agree they are much sounder in meaning—and destined to be sounder in language as well, that is only because of the will of the Senate, and the role of the Senate in this process is not only intact but is more powerful in consequence.

And if the opponents of these treaties are yet not content to claim the credit they too deserve for these improvements—and indeed offer the contrary view that these improvements are no improvement at all in order that they may continue to oppose the treaties as such, it falls to us who support the treaties to make the most of their generosity. And, in particular, we must ponder the consequences of withholding ratification from documents which we, in no small measure, have created.

With all this, one could still imagine a basis for the rejection of a treaty negotiated by the President, based on a negotiating position informed by the best advice of the Senate and even of the House of Representatives. One could indeed imagine it—if there emerged in the course of the discussion of such a treaty a compelling argument, a new set of facts, or even a startling development on the world scene which might have rendered nugatory the very premises which underlay that treaty's negotiation. But such has not occurred these past months, nor is it likely to do so in the months ahead.

Instead, we are in what I believe to be the 9th week of debate on these treaties, Mr. President, with a growing sense of the certainty of their ratification. But I believe that the public's certain drift away from the political and strategic issues this debate was designed to illuminate, if such a thing should happen, perhaps is inevitable in the consideration of an issue which has evoked an uncommonsense of seriousness and perhaps

even severity among proponents and opponents alike. And, we must acknowledge further that our debates are governed by rules of procedure and parliamentary precedent almost centuries in the making. It is, therefore, not surprising that the effort to enlist such procedures and precedents as an ally in debate will lead to a mode of presentation somewhat different from that compelled by mere argument and rhetoric alone.

I am struck further, Mr. President, by the historic proportions these deliberations have now assumed as against the issues we in fact deliberate. This is one of the great treaty debates of the century—but can we say that the stakes, or the commitment, embodied in these treaties approach those of Versailles, nor even of the North Atlantic Treaty of 1949? In this last case, the Senate ratified an undertaking of the most profound importance, an undertaking unprecedented in our history—the creation of a permanent alliance, a permanent "foreign entanglement" of the sort our history had made traditionally suspect and seemingly dangerous—and that treaty, the North Atlantic Treaty, on which we may say our security as a democracy so much depends, was ratified on July 9, 1949, after having been debated for 12 days.

I offer this contrast, not in criticism, but rather as a form of apology. Is there that much more to be learned about the treaties before us—do we not already know more about the Panama Canal than most persons in ordinary circumstances would care to know—so that an additional address on the subject can be taken as a wholly gratuitous effort to maintain the floor throughout the afternoon? Indeed, let us be honest and say that we come close upon that point where rhetoric appears either tedious or tenacious—or both—especially when, for parliamentary purposes which some of us can scarcely absorb, the traditional injunctions about brevity seem inappropriate. I speak to do my duty by these treaties, as but one Senator in the cause so ably led by both the majority and minority leaders and by virtually every member of the Senate Foreign Relations Committee. I propose to add neither to the general data base so laboriously built up in support of the treaties, nor to the results of the legal reasoning which has been so cogently applied in elucidation and explanation of the treaties' terms, nor even to the fruits of the linguistic analysis which have been applied to problems of translation and grammar and—with deference to my dear friend the junior Senator from California—even semantics.

Yet, Mr. President, I believe that I can offer a different perspective on this matter, for each of us comes to this body with differing experiences, with differing habits of thought built up from ones previous profession or business, indeed, with differing stocks of information. In my own case, I have had the opportunity to represent the United States as Ambassador, first in India, later at the United Nations. I hope these experiences have contributed something of value in evaluating certain aspects of these treaties.

At the outset, I said that my support for these treaties rests on the fact that they provide us with important and beneficial rights and in a manner such that we have a reasonable expectation that we will be able to exercise and derive benefits from those rights over a long period of time. Not the least of these is an important, indeed decisive, role for the United States in the future evolution of the Panama Canal. These treaties establish a close relationship between the United States and the Republic of Panama not merely for the rest of this century, but perhaps indefinitely or as much as men can know what will be indefinite.

Panama acquires control of the canal at the end of the century, and as the price for the acquisition of this assest—as valuable as any asset can be to Panama, in that the isthmus is the only resource in Panama of substantial value, assuming that it remains developed—Panama acknowledges that the canal is a unique strategic entity for the United States, a point and a place of special sensitivity to the United States, such that we could not transfer ownership of the canal without maintaining for ourselves an exclusive right to insure that the canal is never used against us. For as much as we can attempt to determine the value of the canal, 10, 20, 30 years hence, there is in it a value of denial to potential or actual enemies. I should think that a fair reading of the Neutrality Treaty indicates that we can act to preserve what is euphemistically called the "regime of neutrality," that is to say, a regime of nonhostility to the United States of America.

On February 23, I engaged in interesting discussions on the floor with the senior Senator from Nebraska (Mr. CURTIS), who is so respected in this Chamber, and with my new friend and good friend the junior Senator from Utah (Mr. HATCH), who is the author of the amendment now before us.

I brought to that enterprise the very substantial support of the junior Senator from Maryland (Mr. SARBANES), who expertise in these matters is now nationally known, and with the senior Senator from Idaho (Mr. CHURCH), the second-ranking Democrat on the Foreign Relations Committee. I offered then two propositions which I wish today to amplify. First I offered the thought that one large achievement of the canal negotiations was to provide a continued U.S. presence in Panama, and thereafter a continued U.S. relationship which has and would have broad hemispheric and international support—whereas there was no longer any of either for the present arrangement. Second, I sought to relate this startling turnabout in the position of the United States in this matter—from a position of general opposition to one of general support—to the position of the United States in world politics as a whole. And here, I believe the major point to note is that this significant reversal is not the result of unwarranted concessions or of retreat, but rather that the treaties properly understood and exploited, will soon be seen as a turning point, a point of advance, a supreme ascension of America's future purpose and role.

It is important to note that the strategic dilemmas of today's world owe much to the force of American political ideology. The retreat of the European powers from their old colonial dominions—a process, surely, made inevitable by the exhaustion of their substance in two intra-European wars—was nonetheless hastened by American insistence that colonial regimes give way to self-government democratically organized. There is but one European power, and President Carter spoke about this yesterday in Africa, one caucasian power, still committed to the old imperialism, to the imposition of caucasian rule by force over noncaucasian peoples, prepared to import foreign mercenaries to expand its imperial interests. That single power is, of course, the Soviet Union, which seeks now to fill some presumed vacuum of power in Africa especially, but also in Asia or Latin America—wherever it feels it can gain ascendency on the cheap, or at least at the expense of other people's lives and substance. If many in the so-called Third World still seem unwilling to see the new Soviet imperialism for what it is, the more, then, ought we to stress the uniqueness of Soviet behavior in today's world.

The United States is a great power, of course, and requires for the defense of its interests and of the interests of the world's democracies with which it is allied, certain prerogatives and, if you will, privileges. In each case, those prerogatives derive from the consent of any country which chooses to afford them to us. That consent grows out of the perception of a common interest. In Europe or in Japan or in Australia, the United States finds hospitality and receptivity precisely, because it has been able to establish a common interest worthy of a joint enterprise.

Let us be honest and say that since, 1903, the same cannot be said of our relationship with Panama. This does not mean that we have mistreated or expropriated or repressed or otherwise extorted from the people of Panama that which otherwise would have been theirs were it not for our presence and our actions. Rather, it is merely to say that our relationship with Panama does not meet the same tests of legitimacy we customarily apply in our common strategic and economic undertakings with other countries. Nor does it meet the tests the world as a whole has come to apply, tests it has, incidentally, come to apply in the past 30 years in the main because of our insistence.

This is a fact, and the argument that we should somehow resist for ourselves the implication of Wilsonian principles of self-determination which now prevail in almost the whole of the world outside the sphere of influence of the Soviet Union, when it comes to Panama may have a certain plausibility, but certainly no forthright persuasion. And yet that argument is nonetheless made, however flawed.

It offers an impossibility. It offers an irrecoverable world, a world premodern in the basic sense. In short: We can no doubt maintain the 1903 arrangements by force, for our force is sufficient; if we can convince ourselves that there is some higher necessity for so doing. But we must face the fact that such a policy is untenable over the longer run, perhaps even in the immediate future. And I believe that the broad support that the modernization of the Panamanian arrangements has enjoyed across the political spectrum, from among all the past war Presidents, from the time of Franklin D. Roosevelt, grows out of a recognition of these facts.

One measure of the success of the treaty negotiations is seen in another important respect, for the conclusion of the treaties has reduced the question of Panama to more appropriate proportions. In the past dozen years, the future of the canal, an issue in Panamanian-American bilateral relations, had been transformed into a broad international issue with a pointed anti-American character. The future of the canal became a not insignificant issue in what might be called world "ideological politics."

How is it that the canal came to intrude into the world's political agenda? We recall that in January 1972, the Security Council of the United Nations convened for the first time away from its headquarters in New York. Interestingly, in light of recent events, it sat in Addis Ababa, the capital of a country then enjoying a relative measure of tranquility—not yet the base of operations for Soviet expansionism and for the deployment of the Cuban Africa Corps under the command of Soviet generals it has now become. In any event, it was arranged in that meeting that the Security Council would meet the following year, in March of 1973, in Panama City.

That Security Council meeting 5 years ago shows the extent to which at that time we had lost control of the terms of reference of the discussion. For example, invited to participate in the council's discussion, but without the right to vote, were an additional 25 countries including such non-Western Hemisphere countries as Algeria, Mauritania, Zaire, and Zambia. Cuba was also invited. Cuba invariably sought to link the issue of the Panama Canal Zone to that of Puerto Rico as dual instances of "American imperialism"; the United States presence in Panama had never been sanctioned by the Panamanian people, the Cuban delegate would assert, and neither had our presence in Puerto Rico, despite repeated emphatic democratic elections in that Commonwealth.

The Security Council's Report A/19002 summarizes what the Cuban representative had to say:

> . . . The main item on the agenda was the threat to international peace and security in the hemisphere that lay in neo-colonial relations imposed on Panama by the United States under a treaty that infringed and violated the most elementary norms of international law. Cuba considered that the perpetuity of that neo-colonial agreement should be abrogated, and the concessions as well, because there had been no free consent. The will of the United States had been imposed without the approval of the Panamanian people. As the neo-colonial enclave was affecting the sovereignty and territorial integrity of Panama, full enjoyment of its inherent powers over the entire territory of the Isthmus must be returned to that country. . . . The hour had already struck when all forms and manifestations of colonialism and neo-colonialism in Latin America must be wiped out, including the Associated Free State of Puerto Rico, the seditious activities of transnational enterprises and the naval base of Guantanamo, a part of Cuba's national territory taken over against the express will of its people and used after the triumph of the Cuban revolution as a nest for counter-revolutionaries and spies. It was up to the Security Council to set the political and juridical framework that would guarantee recognition, obedience and respect for the sovereign rights of Panama in its negotiations with the United States regarding the Canal Zone. The alternative was clear-cut and final: either the Canal and the Canal Zone were made Panamanian and Latin America was allowed to be freed and developed or peace and security would be increasingly endangered in that part of the world.

Interesting words from the representative of a government which has placed thousands of its soldiers at the service of the only remaining old-fashioned imperial power in the world, the Soviet Union. Yet they clearly indicate the capacity of those nations to think in terms of direct military aggression and, in this case, it would be military aggression in which the whole world would hold our position to be illegitimate, and theirs to be sanctioned by international usage. This possibility disappears altogether, Mr. President, not ever to reappear, when this second treaty has been ratified by the Senate and implemented by the two nations.

It is an important fact that, in the past 5 years, the terms of reference so arrogantly protruded by Cuba—which is to say the Soviet Union— redound increasingly to the disadvantage of the totalitarian powers. The Security Council met in Panama as part of a scheme to isolate the United States in this hemisphere, to link Latin American issues with so-called Third World issues so as to organize overwhelming international majorities against the position of the United States—especially in Panama. That policy, seen today, is a failure.

Are we to say that our diplomacy had nothing to do with this reversal? Ought we deny ourselves whatever measure of satisfaction our own handiwork deserves? I reiterate my basic point: the ratification of these treaties will underscore the isolation of Castro and Castroism in this hemisphere, will highlight the bizarre adventure of Soviet-Cuban imperialism in Africa, will in sum derive for the United States a continued strategic and political position in the Isthmus. But it will be a position supported by those very States which others had sought to turn against us on this issue.

Let us recognize that these treaties are a worthy result of a long and difficult negotiation, a result which preserves for us important and substantive interests, and a result which also has strengthened the institutional role of the Senate while allowing the President the opportunity he needs to conduct foreign policy with a reasonable base of domestic support.

It is so important to understand that when these treaties are behind us, a new period is ahead of us. We become the spokesman for the Wilsonian principles of self-determination, of independence, which we ought to be, which we have been, but whose words have been blurred to those who might have wished to hear them and have been ignored by those who do not wish to, because of this one remaining legacy of a long-since-used-up past.

Mr. President, in closing I should like to introduce into the record a statement by the Liberal Party of New York State on the subject of the Panama Canal treaties entitled "Justice and Fair Play." I do not suppose there is a political group in this Nation which can claim as honorable an attachment to the principles that Franklin D. Roosevelt brought to this Nation and this world than the Liberal Party of New York State. It has produced an exceptionally persuasive, concise, compelling statement of why the good neighbor policy, known across the world and respected throughout this hemisphere, can have as one of its shining monuments in this decade, four decades after it was propounded by Franklin Roosevelt, the approval of these treaties by the United States and their ratification by the two nations involved.

Mr. President, I ask unanimous consent that the complete text of the Liberal Party's statement be printed in the RECORD.

(Mr. RIEGLE assumed the chair).

Mr. MOYNIHAN. I thank the Chair.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JUSTICE AND FAIR PLAY IN PANAMA

(A Statement on the Panama Canal Treaties by the New York State Liberal Party)

The Liberal Party of New York State, committed to the principles of justice and fair play, calls on the Senate of the United States to honor these principles by giving its assent to the Panama Canal Treaty and the Treaty Concerning the Neutrality and Operation of the Panama Canal.

At stake are four critical issues—the maturity of the American people in a rapidly changing world, the consistency with which we apply the same standards to our own behavior as we do to others, the security of the United States, and equity for Panama.

The United States is confronted with a test of its maturity in the conduct of its relations with other nations. Britain, France, Netherlands, Belgium, Portugal and other European countries with a far larger stake in their colonial possessions have already demonstrated, albeit with varying degrees of reluctance, that they have reached maturity in the post-war era. We are now being asked to give up a colonial outpost no longer vital to our economic or security needs in a country whose people are no longer willing to accept external domination.

Twenty years ago, while protesting Egypt's nationalization of the Suez Canal, we prevented Britain and France from restoring international control of the Canal, and we accepted the principle of Egyptian ownership and management. We must be consistent, applying the same standards to our own behavior with the Panama Canal.

Those whose role in our national government is to be forceful advocates of protecting our national security—the Secretary of De-

fense and the Joint Chief of Staff—have asserted that "these treaties fully serve and *greatly promote* our national security interests." (Testimony of Harold Brown before the Senate Foreign Relations Committee, September 27, 1977; emphasis added.)

The proposed treaties go at least part of the way in establishing greater equity in our relations with the Republic of Panama. Last year, Panama received $2.3 million for the lease of some 550 square miles of the Canal Zone, on which there are fourteen military bases. That same year, Spain received $20 million from the United States for leasing land for three military bases.

The United States has deprived Panama of a fair return on its principal economic asset—strategic geographical location—and preempted the use of some of the choicest land within that small country.

Even more important than economic considerations is the United States' denial under present treaty arrangements of the principle of political fairness. "It does not," commented a Panamanian civic leader in a letter to a U.S. magazine recently, "feel good at all when your country is divided in two by a ten-mile-wide zone in which your language is not spoken, your laws are not applied, and your country is not your country."

The issue of political fairness extends the implications of our action on the proposed treaties far beyond our relations with Panama. What we do with respect to Panama will have an enormous effect upon our future relations with the rest of Latin America. Any future relationship with Cuba will be vitally affected by what we do with Panama. The question is whether we are going to continue the Good Neighbor Policy with respect to Latin America. Perhaps more important still, nations throughout the world and especially those of the Third World, are watching closely to see whether we will apply our own rhetoric to ourselves and be true to our anti-colonial heritage and our commitment to human freedom and national independence.

The opponents of the treaties are noisy, well-heeled and well-organized. Using jingoism of the worst sort in their appeals to a distorted sense of American patriotism, they appear to be less interested in the treaties themselves than in using the cause to engineer a conservative take-over of the Republican Party. Their case centers around four false arguments:

1. The United States gave Panama its independence. (Not so. The Panamanians tried over fifty times to assert their independence from Colombia in the nineteenth century. We assisted when they finally succeeded in 1903 but did not create their desire for independence.)

2. The 1903 treaty gave the United States sovereignty over the Canal Zone. (Not so, again! That treaty gave "rights," not "ownership.")

3. The Canal Zone is essential to our economy and security. (Not so. Less than one percent of our Gross National Product is affected by the Canal, and only sixteen percent of United States international trade uses the Canal. The importance of the Canal is outdated today. The Secretary of Defense and the Joint Chiefs of Staff do not think the Canal is vital to the security of the United States.)

4. The proposed treaties are a "giveaway." (On the contrary. The 1903 treaty was a giveaway by Panama to the United States!)

One other argument is sometimes used by the treaty opponents: We should not give a monopoly to Panama by agreeing not to be a party to constructing a competing canal. The alternative most frequently mentioned is a sea-level canal through Columbia, the so-called Route 25. But Colombia is a sovereign country and the United States has no monopoly on the necessary international finance or engineering skills.

If the Liberal Party is critical at all of the proposed treaties, it is because they do not fully meet the test of political fairness. By giving the United States rights of access in perpetuity, the new treaties constitute a significant abridgement of Panama's sovereignty. The fact that a third of the Panamanian people voted no in the recent referendum on the treaties is a reflection of this fact. But we recognize the need for compromise in balancing conflicting interests internationally and domestically, and therefore urge speedy Senate approval of the treaties.

President Torrijos is not our ideal of a political leader, but that is no argument against Senate approval of the treaties. The Panamanians must work out their own political destiny for themselves. The sooner the United States eliminates its colonial presence in Panama, with the continuing temptation to manipulate Panamanian political choice, the better.

The 1903 treaty is an intolerable anachronism which debases our American principles of justice and fair play, and makes a mockery of our support of human freedom in Southern Africa and elsewhere.

The conservative opponents to the 1977 treaties are seventy-five years out of date with a rapidly changing world.

In urging prompt Senate approval of the 1977 treaties, the Liberal Party of New York State calls upon all objective, sane, responsible political forces and right-thinking people throughout the United States to join with it in the fight for treaty approval by rededicating themselves to the time-honored American ideals of justice and fair play.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator is happy to yield to the Senator from Maryland.

Mr. SARBANES. I thank the very able junior Senator from New York (Mr. MOYNIHAN) for an extremely thoughtful and perceptive statement, and in particular, for his emphasis on two things. One is the opportunity which these treaties open up to the United States, not only in terms of establishing a fair relationship between ourselves and Panama, but in terms of what the United States will stand for in that part of the world and, indeed, elsewhere in the world; and the contrast, then, that we can develop between how America seeks to base its relationship with small nations, such as Panama, and the approach which the Soviet Union takes to its relationships with nations around the world. Contrast, if you will, the brutal aggression by the Soviet Union in Czechoslovakia and in Hungary to establish their interests, without any legal or moral basis, clear and simple aggression, with this effort on the part of the United States to establish a relationship with Panama based on equity and fairness and justice as embodied in these treaties, treaties which protect our interest and protect the interests of the Republic of Panama and the people of Panama. It seems to me that that contrast and the opportunity for us to establish that contrast in the thinking of peoples across the world gives us a chance here to carry forward the Wilsonian and the good neighbor principles which the Senator from New York has spoken about so eloquently.

(The following occurred later in today's proceedings and are printed at this point by unanimous consent.)

Mr. SARBANES. Will the Senator yield for a moment?

Mr. CHURCH. I am happy to yield to my distinguished colleague, the Senator from Maryland.

Mr. SARBANES. Mr. President, earlier today in the course of the debate, the very able and distinguished Senator from New York (Mr. MOYNIHAN) made a very perceptive, thoughtful, and eloquent address, concerning the meaning of these treaties to the United States position not only on Panama and Latin America, but, indeed, throughout the world.

I would like to briefly make reference to the welcoming statement given by Venezuelan President Carlos Andres Perez on the arrival of President and Mrs. Carter in Venezuela on their trip. I hope Members will pay close attention. It will take only a moment or two.

We have heard the contention made on the floor of the Senate by some opponents of the treaties that the people of Latin America, the leaders of the Latin American countries, do not really care whether these treaties are approved. We have had it suggested that the treaties could be rejected and we could still maintain close and friendly relationships with the Latin American countries. Opponents of the treaties have downplayed, their significance in Latin America.

President Perez said the following:

We Venezuelans receive your visit with profound pleasure. President Carter and his wife have stood out as two genuine standard bearers of the cause of universal democracy, which makes it especially satisfying for Venezuela that our fatherland should be the first one you visit in Latin America, Mr. President.

You have come to Latin America at a time in which all our people have their eyes and ears upon the U.S. Congress. The Senate is discussing the future of hemispheric relations between South America and North America. Every word said there on the ratification of the new Panama Canal treaties has deep repercussions in all countries of Latin America. When we, the government leaders of Latin America, were in Washington in the headquarters of the Organization of American States, all of our people, without distinction as to race, belief or origin of their governments, supported the documents signed by you and the Panamanian chief of government, Gen. Omar Torrijos. Not since the entrance into World War II by the United States had the people of Latin America expressed such unanimous and enthusiastic support as that which they gave these treaties signed by you, the chiefs of government of the United States and Panama.

This means that that day, 7 September 1977, is marked in the history of the hemisphere as the date in which resentments were erased and a historic era ended. [They] were erased as they had been earlier between the United States and England or between Latin America and Spain. Such is the immense meaning of those treaties in the context of the friendship and fraternity between our peoples.

The President of Venezuela then continued in his welcoming speech to President Carter at the Simon Bolivar Airport in Venezuela:

We have confidence in the American spirit and the democratic justice of the U.S. Senate. Republicans and Democrats represent a great people who identify their existence with the struggle for freedom, the dignity of peoples and their sovereign rights which they were the first to champion when they proclaimed their independence in 1776.

I say all this, Mr. President, interpreting the feelings of the Latin American people with full optimism but without being able to hide the sincere concern we throughout Latin America feel toward any congressional action which may detour the noble route of this gallant initiative, the emblem of the U.S. bicentennial, which we Latin Americans joyously celebrated just as we want to celebrate with the same fraternal joy the ratification of the new treaties, which will be the initiation of a new era of friendship and cooperation between Latin America and the United States. Such is the symbolic meaning of the new Panama Canal treaties. Not only will this be a ratification of a new, just and honorable treaty of sovereignty, but also a ratification of the eternal friendship between the United States and Latin America.

Mr. President, I ask unanimous consent that my comments, and my colloquy related to the statement of the President of Venezuela which I have just read to the Senate, be included in the RECORD immediately after the colloquy with the distinguished Senator from New York (Mr. MOYNIHAN) in which he spoke of how important these treaties were for America's position throughout the world.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I thank the Senator from Maryland for having read into the record the statement by President Perez of Venezuela. Venezuela is one of the most important democratic governments in the Western Hemisphere. I think the statement of President Perez adds eloquent testimony to the strong endorsement given these treaties by the governments of Latin America.

(This concludes proceedings which occurred later in the day.)

Mr. MOYNIHAN. I thank the Senator and would just confirm his impression of what I have said.

The Senator knows, no American of Greek ancestry could not know, this is a dangerous world. If one is not prepared to fight for what he has, he might find he does not have it any more, that armed force is a reality, and that the forces of the totalitarian expansion exist in the world. With every day we find some new effort, some new Soviet weapon, some new Soviet expeditionary force.

There is no question in the minds of the proponents of these treaties of withdrawing from the world. We cannot withdraw. We can lose our rights, we can lose our strength, we can lose our importance in the world, but we cannot get out of it.

The President of the United States was not withdrawing from the world in Venezuela, Brazil, Nigeria, Liberia. He is asserting that we are still out there.

But how difficult, curious, and shortsighted on the part of other nations that they will still look to whatever excuse they can find to avoid the reality of what they see as a greater Soviet threat.

What these treaties do is get rid of the unfinished business of the middle half of the 20th century so we can focus on the serious problems of totalitarian expansion in the rest of the world.

Nobody on this side of the treaties, nobody on both sides of the aisle, of course, has any thought of withdrawing from the world. Our concern is with an effective and respected American voice in the world. A big country that can get rid of a small problem like this is a country that can do anything—nobody can do everything, but we can do large and serious things worthy of the American respect.

We are here not just to handle this not very important technical matter. We are here to show what kind of people we are and what kind of country we propose to continue to be and what kind of influence we hope to have in the world in the generations ahead.

Mr. President, I thank the Chair and the Senator from Maryland for his thoughtful and friendly remarks.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the Senator from Kansas had a statement at this point, but I am not quite sure where he is.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. As the Senator from Kansas does not appear to be on the scene, I would like to take the opportunity to extend my own remarks for just a moment in view of the fact that the junior Senator from Utah is on the floor.

I have been speaking of the President's visit to Africa, of his warnings against the Cuban mercenaries, of which he spoke, of the failure of his Nigerian hosts to provide any reciprocal suggestion that they agreed with the President's views about the need to free Africa of Soviet aggression.

Over the weekend I had the great pleasure of reading an extensive review essay, as I believe they are called in academic life, in a new journal of international affairs in which the Senator from Utah reviewed five books on the situation in Southern Africa. He did so with clarity, with conciseness and a view which will be persuasive to a great many persons.

He points to the needs of the United States to maintain a viable position in that role in the world and the Soviet purpose that we should not do so.

I have been so persuaded by his argument, yet I thought he would immediately recognize the direct connection between African developments and the impediment which the old Panama treaties impose on the pursuit of a larger, certainly more noble, and incontestably more contemporary undertaking.

Mr. HATCH. I certainly thank the distinguished Senator from New York for his expression.

I always enjoy his friendship, and I certainly am his friend.

I do see some differences, however, in the review of the books and the Panama Canal. However, I do appreciate the contrary opinions of the distinguished Senator from New York.

I want to compliment him for his comments here today, even though we are on opposite sides of this question.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I believe the Senator from Kansas is on the floor. I understand he wishes to speak now.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I, unfortunately, have not had an opportunity to listen to much of the debate the past 2 or 3 days. Many of us have been working on legislation to help America's farmers. I suggest that we are on the threshold of accomplishing that end, hopefully, by tomorrow at this time there will be some conference agreed to which will present the American farmers, and I might add the American consumers, with an opportunity which we believe should be accepted, and we believe should be adopted by the Senate, by the House and signed by the White House. That is the new concept in farm programs known as flexible parity.

So, for that reason, Mr. President, I have not had the opportunity to listen to the distinguished junior Senator from Utah, or other Members of this body who debate what I consider one of the important amendments to this treaty.

Mr. President, I support this effort to reaffirm the constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Panama Canal Zone territory. Certainly, this discussion is one of the most significant aspects of the canal treaty debate. The resolution of this issue has important ramifications, not only for this treaty, but as a precedent for similar proposals in the future.

The source of confusion arises because of two separate sections of the U.S. Constitution which contradict each other under the present circumstances. It has already been made abundantly clear in the course of this discussion, but I will briefly reiterate:

Article II, Section 2 of the Constitution states that the President "shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur . . ."

Article IV, Section 3 of the Constitution states, with respect to the transfer of United States property: "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States . . ."

Mr. President, last September, the Senator from Kansas proposed a reservation to the Panama Canal Treaty to reaffirm the role of the House of Representatives in the transfer of our property in the Panama Canal Zone. Reservation No. 2, offered by the Senator from Kansas on September 23, states that, before the canal treaty enters into force, "the Congress" must adopt appropriate legislation to transfer the Canal Zone to the Republic of Panama. I feel at this time, as I did then, that this type of approach would protect the right and the responsibility of the House of Representatives to participate in this significant decision.

JUDICIAL PRECEDENT

One of the principal issues in this debate has been the question of whether the Canal Zone is, in fact, American territory.

U.S. title to the Canal Zone property has been affirmed on several occasions by the highest courts in our land. In 1907, the Supreme Court, by unanimous decision, confirmed our clear title to the Canal Zone property:

It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate. (*Wilson* v. *Shaw*, 204 U.S. 24.)

That is the phrase—"hypercritical to contend."

That unanimous Supreme Court decision affirming U.S. sovereignty over the Panama Canal Zone still stands as a law of our land, and was reaffirmed by the U.S. Court of Appeals decision in 1971 (*United States* v. *Husband R. Roach*, 453 F. 2d 1054, 1057) where the court said:

The Canal Zone is an unincorporated territory of the United States.

Both of these cases clearly reaffirm the fact that the Canal Zone is "territory" of the United States. Consequently, under the terms of article IV, section 3, of the U.S. Constitution, not only two-thirds of the U.S. Senate but a majority of the U.S. House of Representatives must approve the proposed treaties as well.

Additionally, it should be pointed out that our Government actually made payment to individual property owners at the time the original treaty was promulgated. Besides the initial payment of $10 million to the Panamanian Government, the United States paid approximately $4 million for acquisition of property from ownerships that existed in the Canal Zone area. We paid over $300,000 to the French for land rights they already possessed in that region. So I think there is little question that we currently have clear title to this territory. As such, both Houses of Congress must participate in its transfer, and the amendment offered by Senator HATCH of Utah will make this a precondition to enforcement of this treaty.

POPULAR SUPPORT

Mr. President, the communications I have received from constituents in my own State, as well as from other parts of the country, indicate that there is considerable attention and concern about this aspect. It is not simply a dilemma dreamed up by treaty opponents as a means of obstruction.

I often have wondered, since the debate on the first treaty, why those who offer amendments and those who try to perfect the treaties are referred to more often than not as obstructionists, while others who support the treaties and beat down every effort to amend the treaties are sometimes referred to as statesmen.

I suggest that this amendment is not offered for that purpose. It is not simply a dilemma dreamed up by treaty opponents.

Because there is so much attention to the issue, I feel that the historical decision on this point, which will be made by the Senate on Wednesday of this week, may have serious ramifications for the perceived legitimacy of the treaty ratification process. It is considerably significant that 231 Members of the House of Representatives have already petitioned their own leadership to give them a voice in the transfer of our Canal Zone property. That is over one-half of the House membership. It is rare that you get such strong bipartisan consensus on such a controversial issue. Unfortunately, there are not that many Republicans in the House of Representatives.

A PRECEDENT FOR THE FUTURE

Perhaps the thing that concerns me the most, Mr. President, is the fact that the decision which we make on this very important question will stand as a precedent for future treaty consideration by the U.S. Congress. It is precisely because there is no clear precedent at this time that this issue has been so controversial. The Senate will, in effect, be establishing a very significant constitutional standard. It will bear not only on the separation of powers between the executive and legislative branch, but also upon the relationship between the two Houses of Congress with respect to treaty consideration.

Let us not underestimate the historical consequence of our duty in this regard. In my opinion, the detrimental aspects of denying the House of Representatives their rightful participation in the transfer of our property could, in effect, upset a delicate balance of duties which were carefully drafted by the Founding Fathers of this Nation.

I reject the contention by one of my distinguished colleagues who sits on the Senate Foreign Relations Committee, who, during the course of committee consideration on this point, asked rhetorically:

Why should we give them (the House of Representatives) a shot at it?

The comment was meant to suggest that this was simply another effort by treaty opponents to kill the accord. But I feel that comment was insensitive to the legitimate desire by our colleagues in the other body to exercise their proper role in the transfer of American property in Panama.

It is my hope that serious reflection by each Member of the Senate will facilitate adoption of this amendment on Wednesday.

Mr. President, I commend the distinguished Senator from Utah for his tireless efforts. He has spent hour after hour on this floor, on this one issue, not just because he desires to talk about the Panama Canal Treaty or the amendment, but because he recognizes the significance of this amendment.

It seems to me that there is a dilemma. We have almost gone full circle during the debate on the treaty first considered, the Neutrality Treaty, to this treaty, which in effect it is the giveaway. Whether you are for or a gainst the treaty, it is a fact that this gives the Panama Canal to Panama.

It gives more power to Omar Torrijos. Maybe he should have more. Maybe we should ask the American people to prop up that leader of Panama.

I suggest that we probably are dealing with one of the most important amendments to be considered by this body.

The Senator from Kansas indicated at the outset that he has not had the opportunity to pay close attention to the debate for the past 2 days. But as I review my mail on the Panama Canal issue, as I look back to the preconvention campaign in 1976, I recall that this was the big issue in the Republican Party. It became an issue because of the efforts of Governor Reagan. I do not share the view of Governor Reagan. In fact, the sovereignty issue does not bother the Senator from Kansas as much as control and maintenance and who is going to be there to operate the canal, and all the other ramifications about the cost and about the interests of our country.

Is the canal important? Is it important to our military interests? Is it important to our economic interests? Will these interests be jeopardized if we transfer the property to Panama? No one knows for certain.

I never have questioned the motives of those who support the treaties. I think the distinguished majority leader and the distinguished minority leader deserve great credit for those who support the treaties because they were able to get enough votes.

So the first treaty was adopted. Now we have reached the second treaty. Of course, it is obvious that amendments will not be accepted willingly. So the distinguished Senator from Utah is making every effort to educate the American people, to inform those of us in the Senate who have the final responsibility of the serious nature of this amendment.

The issue seems rather clear, just upon a reading of the Constitution, if we look at article III, section 2, as the Senator from Kansas indicated earlier. It says that the President shall have the power, with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators concur.

Then we look at article IV, section 3, with respect to transfer of property. Based on the Supreme Court decision referred to, we know that it is the property of the United States. That is where we have the dilemma, because that article clearly states "the Congress"—and the Congress is both the House of Representatives and the Senate of the United States. Article IV, section 3, states:

The Congress shall have Power to dispcse of and make all needful Rules and Regulations respecting the Territory of other Property belonging to the United States; . . .

So, Mr. President, the Senator from Kansas supports the amendment and commends the distinguished Senator from Utah for his tireless efforts.

Mr. HATCH. Mr. President, I thank the distinguished Senator from Kansas for his usual effective approach to many problems. I have deep appreciation for the astuteness with which he has approached this area and for the kind re-

marks he has made about the Senator from Utah.

Mr. President, how much time is remaining to the Senator from Utah?

The PRESIDING OFFICER. The Chair advises that the Senator from Utah has 30 minutes remaining and the Senator from Idaho has 50 minutes remaining.

Mr. HATCH. I thank the Chair.

Mr. President, the purpose of my remarks yesterday was to reveal the many errors contained in the Foreign Relations Committee Report on the constitutional question of whether the President may dispose of public lands by a self-executing treaty. In my view, every paragraph, and indeed almost every sentence of the report addressing this question is either false, misleading, or irrelevant.

At the appropriate time, after I have had an opportunity to study all of the committee's responses to my analysis of the report, I shall again return to this subject.

Today, however, I wish to discuss, in greater detail, one of the more conspicuous errors of the report by the Foreign Relations Committee and to bring to the attention of the Senate additional facts and precedents which the committee has overlooked. These facts and precedents, as I shall demonstrate today, go to the heart of the committee report and completely undermine the peculiar theory of the treaty power which the committee, the State Department, and the Justice Department are attempting to engraft upon the Constitution.

Throughout the committee report, as I noted yesterday, the constitutional issue has been repeatedly misstated and misrepresented. Again and again the report states that the issue we are debating is whether the treaty power may be exercised in order to transfer property. The statement on page 65 of the report provides a representative sampling of the committee's profound misunderstanding of the constitutional question we are considering, "The constitutional text," says the committee, "gives no reason to assume that the power to dispose of property may be exercised only by statute, and not by treaty."

The question, of course, is not whether property may be disposed of by treaty, but whether it may be disposed of by a self-executing treaty. Why the committee and its supporters on the floor persistently misrepresent the true issue is a matter of no little concern to me. By improperly presenting the constitutional issue, the committee has promoted widespread confusion and misunderstandings that can only serve to conceal a dangerous exercise of unprecedented executive power and embarrass the Senate. What is more, these continued misrepresentations have very artfully set up a strawman to make it appear that my amendment is challenging a well-established practice of transferring public lands by a treaty. But I remind the members of the Foreign Relations Committee that there has never been any serious doubt, at least since 1795, when the Jay Treaty was debated on this floor, that the power to dispose of property may be exercised by treaty. No Member of this body is challenging the right of the President to make a treaty disposing of American territory and property. What we are challenging is the administration's claim that such a disposal can be effected by a self-executing treaty, without the approval of Congress. When the President makes a treaty, all he makes is a contract, an executory contract. He has the right to do that. But only Congress can make that contract the law of the land when the contract calls for the transfer of American territory to a foreign government. He can make the treaty, he can make the contract, but he cannot make the law. Only Congress can convert the treaty into law, and without a law this contract to give away the Panama Canal has no legal effect.

The source of the committee's hopeless confusion, Mr. President, seems to be the committee's profound misunderstanding of the so-called concurrent power theory of the President respecting treaties. Both the State Department and the Foreign Relations Committee have insisted that the President has the authority to bypass the House of Representatives because he has concurrent authority with Congress to dispose of public property. Such a view represents a complete distortion of the concurrent power theory.

To understand the origin and meaning of the concurrent power theory, which rests at the whole foundation of the Foreign Relations Committee report, it is necessary to turn back to 1795, when this theory was first offered by Alexander Hamilton. The first major treaty that this Nation made under the new Constitution was the Jay Treaty of 1795.

The purpose of the treaty was to resolve disputes between the United States and Great Britain arising out of the American Revolution and the refusal of the British to abide by certain provisions of the treaty of 1783, which had been made by the Congress under the Articles of Confederation. In 1794, Chief Justice John Jay concluded a treaty of peace and commerce, which was approved by the Senate the following year after a bitter contest and one of the greatest political debates in American history.

The major objection to the treaty was that it violated the Constitution. The treaty regulated commerce and the Constitution gave that power to Congress, which included the House of Representatives; yet the House had not been consulted. The treaty also involved naturalization, the punishment of piracies, the laying of imposts, and the expenditure of money—and all of these subjects were expressly placed under the control of Congress. Thus the question was raised whether a commercial treaty, or an international compact requiring an appropriation of money, or indeed any treaty whatever dealing with the delegated powers of Congress could be made by the President.

In a series of public letters under the signature of "Camillus," Alexander Hamilton vindicated the treaty and set to rest the question of constitutionality. These letters by Hamilton were his last great exposition of the Constitution, and they represent the most extensive analyses of the treaty power ever written by one of the Framers.

In letter No. 36, Hamilton explained that the Constitution does not specify the kinds of treaties which can be made, and that

> The general proposition must, therefore, be, that whatever is a proper subject of compact between nation and nation, may be embraced by a treaty between the President of the United States, with the advice and consent of the Senate, and the correspondent organ of a foreign state.

At the same time, he insisted, the treaty power is not unlimited:

> It shall not change the Constitution; which results from this fundamental maxim, that a delegated authority cannot alter the constituting act, unless so expressly authorized by the constituting power. An agent cannot new-model his own commission—a treaty, for example, cannot transfer the legislative power to the executive department . . .

Furthermore, he added:

> A treaty which should manifestly betray or sacrifice the private interests of the state, would be null . . . Thus the power of treaty, though extending to the right of making alliances offensive and defensive, might not be exercised in making an alliance, so injurious to the state as to justify the non-observance of the contract.

But, he said, these are the only exceptions to the treaty power. It is therefore erroneous to state—

> that a treaty can establish nothing between the United States and a foreign nation, which is the province of the legislative authority to regulate in reference to the United States alone.

The important distinction to keep in mind, Hamilton observed, is the difference between laws and treaties. They operate by different means and on different subjects:

> The power to make laws is "the power of pronouncing authoritatively the will of the nation as to all persons and things over which it has jurisdiction,"; or it may be defined to be "the power of prescribing rules binding upon all persons and things over which the nation has jurisdiction."

In other words, he explained, the power to make laws is primarily an internal matter that—

> acts complusively upon all persons, whether foreigners or citizens, and upon all things within the territory of such nation, and also upon its own citizens and their property without its territory in certain cases and under certain limitations.

But the power to make laws—

> can have no obligatory action whatsover upon a foreign nation, or upon any person or thing within the jurisdiction of a foreign nation.

On the other hand, the power to make treaties, said Hamilton—

> is the power by agreement, convention, or compact to establish rules binding upon two or more nations, their respective citizens and property. The rule established derives its reciprocal obligation from promise, from the faith which the contracting parties pledge to each other—not from the power of either to prescribe a rule for the other.

Thus it may be seen that—

the means which the power of legislation employs are laws which it enacts, or rules which it enjoins; the subject upon which it acts is the nation of whom it is, the persons and property within the jurisdiction of the nation. The means which the power of treaty employs are contracts with other nations and the subjects upon which it acts are the nations contracting and those persons or things of each to which the contract relates.

So on the one hand we are talking about legislating and on the other contracting. The difference between the two is further amplified by the fact observed Hamilton, that—

though a treaty may effect what a law can, yet a law cannot effect what a treaty does.

The key to an understanding of the difference between laws and treaties, concludes Hamilton, is recognition of the fact that the purpose of treaties is to accomplish that which cannot be done by laws; or as Hamilton puts it—

It is the province of the latter (treaties) to do what the former (laws) cannot do.

Applying these considerations to the Jay Treaty, which included provisions for commercial agreements, Hamilton rejected the view that the United States could not make a treaty with Great Britain on this subject simply because it is provided in the Constitution that Congress "shall have power to regulate commerce with foreign nations." Congress, he noted, may regulate, by law, our domestic trade and "that which foreigners come to carry on with us."

But here is the crucial consideration: Congress "cannot regulate the trade which we may go to carry on in foreign countries"; Congress "can give to us no rights, no privileges there. This must depend on the will and regulations of those countries; and consequently it is the province of the power of treaty to establish the rules of commercial intercourse between foreign nations and the United States. The legislative may regulate our own trade, but treaty only can regulate the national trade between our own country and another country."

To put it another way, the treaty power extends to "commerce with foreign nations" in those instances where the laws of Congress cannot reach, that is to those aspects of foreign commerce which are subject to the jurisdiction of a foreign government. Congress has the "power to regulate commerce with foreign nations." But it does not have the power to regulate the commerce of a foreign state that lies beyond the jurisdiction of the United States; that commerce can be reached only by the treaty power and the acquiescence of a foreign government. As Hamilton explains:

When it is said that Congress shall have power to regulate commerce with foreign nations, this has reference to the distribution of the general legislative power of regulating trade between the national and the particular governments; and serves merely to distinguish the right of regulating our external trade, as far as can be done by law, which is vested in Congress, from that of regulating the trade of a State within itself, which is left to each state.

In sum—

It is indeed an absurdity to say that the power of regulating trade by law is incompatible with the power of regulating it by treaty; since the former can, by no means, do what the latter can alone accomplish.

One of the principal purposes of the treaty power, then, is to accomplish an objective through contracts with foreign nations that cannot be accomplished through law. In this sense, the treaty power allows the United States, in its sovereign capacity, to attain goals which cannot be reached through the ordinary course of legislation. Simply put, the treaty power extends to those objects which are beyond the jurisdiction of Congress and the Nation.

In this instance, neither the House of Representatives nor the Congress as a whole can properly object to the exercise of the treaty power on constitutional grounds, since the object of the treaty is beyond the scope of Congress delegated powers.

When, however, the obligation assumed under a treaty falls within the purview of Congress powers, and the object of the treaty could also have been achieved through legislation, it is clear that the treaty cannot become the law of the land unless Congress consents. Otherwise the treaty power could be used to override the delegated powers of Congress. This would amount to the transfer of the legislative power to the executive department by treaty which, as Hamilton explains, is forbidden by the Constitution.

Applying Hamilton's reasoning to the territorial or disposal-of-property clause of article IV of the Constitution, it is readily apparent that a treaty disposing of public lands seeks to accomplish an objective which can already be reached by regular statute. It is not the same as a treaty which purports to deal with objects beyond the jurisdiction of the United States, and can be reached only by treaty—American territory is a domestic concern. It, as well as the inhabitants therein, is under the jurisdiction of Congress and the United States. The subject of a treaty disposing of American territory, unlike a treaty concerning external commercial relations with a foreign state, is strictly internal. It is, to repeat, a domestic matter concerning American property and American citizens. The treaty power is not even needed to effect the disposal.

The principle was clearly explained by Edward S. Corwin, the preeminent constitutional authority, in his classic study on The President: Office and Powers. On February 9, 1922, Congress passed a statute creating a commission to carry out agreements with other governments regarding certain foreign debts. The question was raised whether these agreements should not be made by treaty rather than an act of Congress. "The fact is," observed Corwin, "that on occasions like this the treatymaking power is a fifth wheel to the coach. For ever had it been resorted to, the resulting agreements would still have to receive the approval of Congress, to which the Constitution assigns the power to dispose of property of the United States, which is what these debts undoubtedly were" (p. 216). "Similarly, there are even instances where territory has been acquired by Congress after the treaty process broke down. Thus it was by simple congressional resolution that Texas was annexed in 1845 after the Senate defeated a treaty for the same purpose. It was thus that Hawaii was annexed in 1898 after a treaty for the purpose had been blocked by a group of Cleveland Democrats" (Corwin, p. 216).

In letter No. 37, Hamilton discusses the relationship between certain delegated powers of Congress and the treaty power, and argues that "In all these cases the power to make laws and the power to make treaties are concurrent." Here, then, is Hamilton's theory of concurrent powers which the State Department and the Foreign Relations Committee repeatedly cite in support of the view that the President may dispose of public lands by a self-executing treaty. As we shall now observe, however, this represents a gross distortion of Hamilton's views.

One of the delegated powers of Congress which Hamilton examines in detail is the disposal-of-property power under article IV. According to the opponents of the Jay Treaty, he observes—

The Constitution is said to be violated in that part which empowers Congress to dispose of, and make all needful rules and regulations respecting the territory, or other property of the United States, by those provisions of the treaty which respect the adjustment of boundary in the cases of the rivers St. Croix and Mississippi.

But upon closer examination we find, says Hamilton, that there has been no violation of the Constitution because the property in question is subject to dispute. Only were the property clearly and unquestionably belongs to the United States, he suggests, is the President forbidden to transfer it by treaty alone. "As to the disposal and regulation of the territory and property of the United States," says Hamilton, "this will be naturally understood of dispositions and regulations purely domestic, and where the title is not disputed by a foreign power." But, he continues, "where there are interfering claims of foreign powers * * * treaty must directly or indirectly adjust the dispute."

What Hamilton is suggesting, in other words, is that Congress has full and complete control over territory and property belonging to the United States, and that property of this nature, which is "purely domestic," would not be subject to the treaty power unless, of course, Congress authorized its disposal. In the case of disputed property, on the other hand, only the treaty power can adjust the boundary and establish clear title, because the power of Congress does not extend to territories which do not clearly belong to the United States or are not under the jurisdiction of the United States. In cases of this kind, Congress does not really have any property to dispose.

Now if we apply Hamilton's understanding of the relationship between the disposal of property power and the treaty

power to the Panama Canal Treaty, it is obvious that Hamilton would oppose the transfer of this territory by a self-executing treaty. The Canal Zone is an American territory, "purely domestic," that is under the jurisdiction of Congress. There is no disputed title. If Congress has the power to dispose of this territory under its own authority—which it surely has—without the need of a treaty, then surely the President does not have the authority to dispose of it by a self-executing treaty, contrary to the wishes of Congress. The treaty power cannot be used to nullify the powers of Congress or remove its jurisdiction unless Congress indicates that it wishes to surrender or delegate its power to the President.

In Letter No. 38, Hamilton goes one step further by pointing out that even treaties with Indian tribes, which do not involve cessions of American territory, but boundary disputes and the acquisition of land, have proceeded on the basis of congressional approval. "Our treaties with several Indian nations," he observes, "regulate and change the boundaries between them and the United States. And in addition to compensations in gross, they stipulate the payment of certain species and perpetual annuities. Thus a treaty in August 1790, with the Creeks (article 5) promises them the yearly sum of $1,500. And similar features are found in susbequent treaties with the six Nations; the Cherokees, and the North Western Indians. This last has just been ratified by the unanimous voice of the Senate. It stipulates an annuity of $9,500 and relinquishes to the Indians, a large tract of land which they had, by preceding treaties, ceded to the United States."

From this Hamilton concludes that—

> Our former treaties under the present government, as well as one subsequent to that under consideration, contradict the doctrine set up against its constitutionality—in the important particulars of making dispositions concerning the territory and property of the United States, and binding them to raise and pay money. These treaties have not only been made by the President and ratified by the Senate, without any impeachment of their constitutionality, but the House of Representatives has heretofore concurred, and without objection, in carrying them into effect, by the requisite appropriation of money.

So there we have it, Mr. President, from Hamilton himself. The Indian treaties for the acquisition of land are constitutional, in Hamilton's view, because Congress carried them into effect. Since these were purchases of land, an appropriation was necessary to carry them into effect; and it may reasonably be deduced that if they were disposals of land, Congress would have to agree to the disposal to carry them into effect also. For the criterion, once again, is whether Congress has given its authority. To acquire property, Congress gives its authority by appropriating the necessary funds; to dispose of property, Congress gives its authority by authorizing the transfer. And where there is a boundary dispute and the United States does not have clear title, Congress approval is not necessary because disputed lands are not necessarily under the jurisdiction of the United States. But according to Hamilton's reasoning, the approval of Congress would be required even for a treaty resolving a boundary dispute if the treaty called for the purchase of any of the disputed lands.

Mr. President, it should be abundantly clear to anyone who has read the letters of Camillus that Hamilton did not intend by the concurrent power theory to justify the exercise of the treaty power that is presently contemplated under the Panama Canal Treaty. As Hamilton clearly explains in letter No. 37, the power of Congress to dispose of territory and property extends to what he calls "purely domestic" property of the United States, "where the title is not disputed by a foreign power." In other words, the disposal power of Congress would extend to a territory such as the Panama Canal Zone. It is an American territory to which we have clear title.

The power of the President, on the other hand, extends to disputed property because only the treaty power can resolve the dispute and establish clear title.

By concurrent power, Hamilton obviously means, in connection with the disposal of property, that both Congress and the President have the power to dispose of property. But the exercise of this power is determined by the jurisdiction which each branch has over the property in question. Thus the Congress has the sole power to dispose of property that is under the jurisdiction of the United States—that is purely domestic property such as American territory, where our title is clear; and the President's power extends to disputed territory, where our title is not clear and the jurisdiction of the United States is either uncertain or nonexistent.

In other words, the Congress and the President have concurrent power to dispose of property, but only Congress has the power to dispose of property belonging to the United States. Of course the treaty power may also be used to dispose of property belonging to the United States, but only if the Congress authorizes the transfer. In general, the purpose of the treaty power is to accomplish what cannot be accomplished by ordinary legislation, not to substitute the treaty power for the legislative power and render the latter null and void.

Such, then, was Hamilton's understanding of the relationship between the power of Congress to dispose of public lands and the treaty power. It is in no way inconsistent with the position that was finally adopted by the House of Representatives with respect to the Jay Treaty. On April 6, 1796, the House passed what is known as the Blount Resolution.

Mr. President, the claims of the House of Representatives which are recorded in this resolution have never—I repeat, never—been relinquished by the House. What is more, this resolution accurately reflects the meaning and substance of the amendment that I have offered to the Panama Canal Treaty. Here are the words of that resolution—and they bear repeating:

> *Resolved*, That, it being declared by the second section of the second article of the Constitution, "that the President shall have power, by and with the advice of the Senate, to make Treaties, provided two-thirds of the Senate present concur," the House of Representatives do not claim any agency in making Treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such Treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good. (Annals of Congress, 4 Cong. 1 Sess., reprinted in Allen Johnson (ed.), Readings in American Constitutional History, 1776–1876," p. 205).

Mr. President, Alexander Hamilton is the author of the concurrent theory that the Foreign Relations Committee and the State Department have invoked to justify the disposal of the Panama Canal by a self-executing treaty. As I have said before, it is the whole foundation of the Foreign Relations Committee report. But in the hands of the Foreign Relations Committee, its true and original meaning has been distorted—gnarled and twisted beyond recognition. Like every other precedent cited by the committee, the preposterous rendition of the concurrent power theory is a fraud. And with the departure of this theory, the whole report of the Senate Foreign Relations Committee collapses.

It is also worthy of mention, Mr. President, that Alexander Hamilton favored not a narrow construction of the treaty power, but the broadest construction possible. His writings, especially his Letters of Camillus, are generally regarded as the touchstone for a broadly based exercise of the executive power. And yet we have seen that not even the arguments of Alexander Hamilton can be stretched to support the expansive views of the treaty power concocted by our imaginative Foreign Relations Committee.

Mr. President, one false assumption will give rise to a hundred errors, layer upon layer. Such is the unfortunate circumstance of the Foreign Relations Committee report. The committee's profound misunderstanding of the concurrent power theory explains in large measure why the committee has been unable to grasp the basic constitutional issue that we are addressing. Perhaps this also explains why the committee has apparently been unable to formulate the question properly for others to examine.

I must confess that I am somewhat amused for example, by the distinguished Senator from Maryland's repeated references to a letter signed by 15 law professors. Apparently the constitutional issue was improperly presented to them, because the statement they signed proves absolutely nothing. It is, in fact, an unsupported statement which simply tells us what we have known all along.

Here is the statement that these law professors signed.

> We have been informed that the constitutional validity of the new Panama Canal treaty has been questioned by several law-

yers who have claimed that the United States may transfer its property only by legislation enacted by Congress and may not transfer its property by treaty.

We respectfully submit that such a claim is erroneous.

The Constitution unequivocally permits transfer by treaty of property belonging to the United States. The treaty power, and the power of Congress under Article IV, section 3, clause 2 of the Constitution, are concurrent powers and either may be used to transfer property.

The treaty power extends to all proper subjects of negotiation with foreign nations; a transfer of United States property is such a subject, and accordingly may be effected by treaty.

And that, Mr. President, is all the statement says. Why the Senator from Maryland regards this statement as so important is quite puzzling to me. All that these lawyers have said is that the transfer of property is the "proper subject" of a treaty, and that "the Constitution unequivocally permits transfer by treaty of property belonging to the United States."

Now who would not sign this? Of course the transfer of property is a proper subject of a treaty. Of course "The Constitution unequivocally permits transfer by treaty of property belonging to the United States."

Indeed it is also true that the treaty power and the power of Congress under article IV are concurrent powers, as Alexander Hamilton explained.

These lawyers might just as well have been asked to sign their names to a statement declaring that two plus two equals four. What they did not sign—and here, Mr. President, is the real significance of this statement—is a statement declaring that the President has the power to transfer American territory to a foreign government by a self-executing treaty. The words "self-executing" are, in fact, conspicuously absent from the statement.

So it appears, Mr. President, that the misunderstandings of the committee regarding the constitutional issue before us have now spread the confines of the committee to other quarters. Even though some of these lawyers are alleged to have been in the employ of the State Department or are apologists for the most liberal construction of the Constitution imaginable, I would hesitate to suggest that any of these distinguished gentlemen is collaborating with the administration.

Rather, I think that they, like Members of the Senate, are the innocent victims of the Foreign Relations Committee's helpless misunderstanding of the constitutional issues before us. I regret to say there seems to be no end to this mischief, and I sincerely hope that the committee will improve its understanding of our Constitution before long.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The time of the Senator from Utah has expired. The Senator from Idaho has 16 minutes.

Mr. CHURCH. Mr. President, within the last few minutes, I have heard the Foreign Relations Committee labeled incompetent, charged with foisting misrepresentations on the Senate, accused of falsehoods, and indicted for issuing a gnarled, twisted and distorted report.

Mr. President, I happen to be proud of my membership on the Foreign Relations Committee. I have served on that committee for nearly 19 years. Throughout the history of the Senate, the Foreign Relations Committee has long been regarded as highly competent, skillful, and knowledgeable in the work it performs and the service it renders to the Senate as a whole.

I think it is rather sad that a freshman Senator should attack the committee in so unrestrained a manner.

The Senator from Utah reminds me of a bumblebee, biggest when first born.

He argues that the Foreign Relations Committee report completely ignores the precedents distinguishing self-executing treaties from those that are not self-executing. He says:

The committee's report makes no mention of the rules that have traditionally been followed by Congress, by our courts and by past Presidents' rules that must be consulted in order to determine the character of this treaty. The report simply assumes, without discusssion, without even acknowledging the existence of these precedents, that this is a self-executing treaty.

Mr. President, the reason the committee's report does not discuss the specific issue of whether this treaty is self-executing and the reason why the Attorney General, the State Department legal adviser, and other administration witnesses did not address that issue as such, is that it begs the question to say that the treaty is self-executing.

The very question in dispute is whether a treaty provision disposing of property belonging to the United States can be self-executing. The entire committee report is directed at discussing this question, as is the testimony of each of the administration witnesses who testified on it. The committee and the administration—and the overwhelming majority of legal scholars who have expressed themselves on the issue—all believe that such a treaty can be self-executing.

The Senator from Utah seems to assume, however, that this is simply one additional question to be debated with all the others. He seems to believe that the question is whether the treaty is intended to be self-executing. Of course, it is intended to be self-executing; it is not necessary to apply any court-formulated test to conclude that. The language of the treaty, the testimony of the administration, and the report of the committee all make clear beyond question that the treaty is intended to be self-executing. That is why we are having this debate. The kinds of tests that Senator HATCH cites are applied by the courts only for the purpose of determining whether the agreement was intended to be self-executing. Said Prof. Louis Henkin in his authoritative treaties "Foreign Affairs and the Constitution":

The courts have considered that to be a matter of interpretation of the agreement, but agreements have often been drafted without attention to that question so that it may be difficult to determine what was contemplated.

I suggest to the Senator that anyone following this debate knows precisely what is contemplated in the Panama Canal Treaty.

It is my intention, Mr. President, to directly rebut the extended arguments of the Senator from Utah by referring to three self-executing treaties of the past which conveyed U.S. Government owned property to foreign governments without benefit of any legislation by Congress. Before doing so, I note that the distinguished Senator from New York is on the floor. I have spoken with him in committee conferences during the day and I know he has come to the floor several times expecting to address this issue. I propose to him that we divide the time remaining to our side between us.

Mr. JAVITS. That is fine, Mr. President.

Mr. CHURCH. For that purpose, Mr. President, I ask the Chair how much time remains to the opponents of the pending amendment.

The PRESIDING OFFICER. Thirty-six minutes.

Mr. JAVITS. If the Senator will yield me 15 minutes. I shall be grateful.

Mr. CHURCH. I yield the Senator 15 minutes.

Mr. JAVITS. Mr. President, I have addressed this issue before, and as we approach the close of the debate on this issue, since we vote tomorrow—and the time tomorrow will be very limited—I should like those who do read the RECORD tonight to have some concept of my own position respecting it.

I realize the temptation to reply to individual points of difference and argue the meaning of individual cases on both sides. This is a temptation in an extended debate such as we are having that it is very easy to accept and, indeed, could prove to be very useful.

Mr. President I should like, if I may, to sum up the legal position which I believe sustains the fact that, this treaty having been submitted as a treaty, a two-thirds vote of the Senate makes the law of the land, which is what the Supreme Court has held time and again with respect to treaties and which is what the Constitution calls for. It is fully within the cases and the historical precedents that, in that treaty, property may be transferred fully in accord with the Constitution.

The point which I think is critical to this matter is, one, that the President exercise his option to submit this particular treaty as a treaty. Of course, the President could, if he chose, have entered into an executive agreement relating to the Panama Canal, which would have been then submitted to both Houses. But he did not choose that course; he chose this course. I believe that our history indicates that this is the course which is proper and can be followed.

I heard with great interest the fact that 235 Members of the House had introduced a resolution alleging that the House also desired jurisdiction of this

particular matter. That is House Concurrent Resolution 348, the principal sponsor of which is Mr. HANSEN, with, allegedly, 235 cosponsors. I have no doubt; I use the word "allegedly" only because they are not all printed. I am sure that is so.

Mr. President, I suppose we could get a pretty big majority of the Senate to assert its claim to a revenue measure or a tax measure, which must originate in the other body. We would love to do that on many occasions, and I am sure many Senators could concur. But what does that prove? It simply proves that they do not like the way the Constitution is written; they would like it written some other way. But it is a matter about which we can do absolutely nothing.

It is in accord with legislative desire to want, as it were, to have a part in this particular activity. At a given level, the House will. Their implementing legislation is essential; and we shall have an opportunity, too, to implement the terms of this treaty. But it is not essential under the Constitution.

That is certainly no reason why the Senate has to surrender its jurisdiction, the fact that the House wants it. I have stood in this Chamber on many closing days, Mr. President, in many Congresses in my career here, and have found that the House has gone home, leaving us with some essential appropriations bill which we did not like and which, in our judgment, was odorous to high heaven. But there was nothing we could do about it but take it. No matter how many petitions or how many resolutions we would have filed, the House was not coming back.

So, Mr. President, it is the case with this matter. It has been submitted as a treaty. Therefore, the Constitution says we must have the responsibility. While we respect our House colleagues, that is certainly no argument that the Constitution can or needs to be undone.

Second, Mr. President, it is very clear to me that the tenor of the cases—and the cases are not many that are leading cases on this subject, going to the leading ones, in my judgment—Jones against Meehan, which has been cited time and time again, decided in 1899; Holden against Joy, decided in 1872; and Jeofroy against Riggs, decided in 1890—they clearly decide the fact that when a transfer of property is an incident to a treaty and that property certainly, unequivocally, is outside the confines of the United States, and the issue is between the United States and a foreign country—which is true of the issue here—that can be decided, determined, and made operative by treaty.

The idea which has been put forward here is that it is self-operating, meaning it is something different from another law, some extension, some outreach of authority. Well, Mr. President, this is as much law as any other law that Congress passes. If it were not, it would not be binding, and we could not do anything about the Panama Canal, or taxation treaties, or treaties of commerce and friendship, or agreements with respect to any other matter which is susceptible of being dealt with by treaty between two countries.

So, Mr. President, though there has been a lot of smoke, there is very little, if any, fire, and what little has been flatly determined over the generations by the practice which we have pursued and by the decisions of the Supreme Court.

I believe that transfers of property are not even unusual by force of treaty in the matter of the Panama Canal at all.

In 1955, though some of the transfer of property was passed on by the House, some of the transfer of the property was also made in the treaty itself, and there was no challenge to it. It was, as a matter of fact, law, as that part which went to the House and was enacted as a law.

Of course, we have many other instances. I do not want to steal any of Senator CHURCH's thunder, but the issues are the same in respect of Ryukyu and Okinawa where we gave up a very valuable piece of property, and the Swan Islands, which have been argued here, with a Central American nation. Similarly, in the treaty with Nicaragua, also affecting property outside the United States.

This leads us to reason, Mr. President, then what is the treaty power about if it stops at an act which is an act between the United States and other foreign countries, to wit, a transfer of any property which we may have?

Is it contended for one moment that to acquire or to release or to sell a piece of property which belongs to the United States in a foreign country that we can only do that by law and not by treaty with that foreign country?

Of course, it makes the whole treaty power absolutely barren of real effect.

So, Mr. President, in the final analysis, we must realize one other thing. Our colleagues who are against this treaty and feel that it is a very serious detriment to the United States to enter into this treaty, naturally, will try to defeat it by every means they possibly can, including, if they possibly can do it, making us believe we do not have the power to ratify this treaty and that it must go to the other body.

That is as good a way as defeating it as any other. Indeed, I must say I have a little doubt about this, I doubt very much that the 235 Congressmen who put their names to the resolution they wanted would vote against it if they could because they, too, would then be put to, "What is the best interest of the United States?"

That question has been argued completely and thoroughly and there is no need of my adding to that argument in my own arguments or in the arguments from the cases.

The fact is, Mr. President, that this case has been argued and reargued and reargued in the hope that somehow or other the American people would be induced to rise in their anger in solemn judgment and say to the Senate, "We don't want this treaty."

Indeed, there have been considerable exaggerations, stretching of what the treaty really says and what it really does.

This has gone on, Mr. President, for some 26 or 28 days of debate, for a couple of months of time. But, Mr. President, there has been no such revolution. If anything, the country has gotten more and more accustomed to the fact that this treaty is an absolute necessity if we are going to have tranquility in the Western Hemisphere and that it should be approved.

Mr. President, upon that, I rest my case, the point of Senate debate on the law and the facts, and the policy is to persuade and convince.

I respectfully submit that the persuading and the convincing has been done, not by the opponents, but by the proponents, and that the revolution which they envisaged on the part of the American people has not occurred at all.

On the contrary, this debate has gotten quieter and quieter, as witness the empty galleries and the empty press gallery. The fact that we transmit it over the radio may be a little more of a bore than it is an amusement to most of the American people who are listening to the radio because it has been protracted, probably beyond the point of real instruction.

But, be that as it may, I am a proponent, not an opponent, and the opponents of this treaty not only have every right, but is their duty, I have said that before, to debate it to the full extent that they feel that it ought to be debated.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. Not yet.

But, Mr. President, I believe that the fundamental point has been made now on the law, on the facts, and in the eyes of the public. I hope very much, therefore, that this question may at long last be settled as soon as we possibly can settle it, hopefully, as we expect, this month, and that we may go on to other critical business as far as the country is concerned.

But I deeply believe and I submit that the question of law which is here posed by this amendment is not really a question of law any more and that it has been profoundly settled by decision and by historical precedent, and at least that part of it is clear, that a piece of property can be transferred by a treaty, ratified according to the Constitution, by the Senate of the United States, and that the transfer is legal, valid, and binding on the United States.

Indeed, I offer the prediction, Mr. President, that if this treaty is ratified, there will be no effective contest of the fact that the property transferred under it is legally and fully transferred and that its ownership has truly changed.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. If I have any more time, I will.

Mr. CHURCH. I think we are on limited time. I have reserved just enough time to make the concluding argument.

The PRESIDING OFFICER. The Senator from New York has 2 minutes.

Mr. JAVITS. I yield that, if that is all right.

Mr. ALLEN. I thank the distinguished Senator from New York for yielding.

The Senator has talked about the 1955 treaty. Of course, article V in the 1955 treaty makes reference to three sep-

arate dispositions of property and in each case it has the phrase, "subject to enactment of legislation by the Congress."

Then the Senator spoke of articles VI and VII which actually have to do with boundary line disputes rather than the actual conveyance of property. But even in that instance, I call the distinguished Senator's attention to the fact that Secretary Holland back in 1955, when the 1955 treaty was before the Senate Committee on Foreign Relations, and Senator Morse was questioning him. He asked about the legislation that was to be submitted.

I have here before me what appears in the report of hearings before the Foreign Relations Committee of the Senate on the Panama Canal Treaty, pages 60 and 61, where Mr. Holland, representing the State Department, submitted a memorandum. I refer to it here, and his memorandum says:

Articles V, VI, and VII of the treaty and item 2 of the memorandum transfer certain lands and improvements to Panama. Authorizing legislation is required. Necessary replacement would require appropriations.

So, apparently, the Secretary of Inter-American Affairs, appearing before the Foreign Relations Committee in support of the 1955 treaty, stated that authorizing legislation by the Congress would be required.

Does the Senator have familiarity with that hearing?

Mr. JAVITS. Mr. President, not to intrude, I do not think anything the Senator has said challenges the proposition that there was a self-executing transfer of property in that treaty. In aid of that, I ask unanimous consent to have printed in the RECORD a memorandum specifying the terms of the paragraphs of the treaty which are referred to.

Mr. ALLEN. Authorizing legislation was enacted, was it not?

Mr. JAVITS. I said that.

Mr. CHURCH. Mr. President, I call for the regular order. I am on limited time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TREATY BETWEEN THE UNITED STATES AND PANAMA (MUTUAL UNDERSTANDING AND COOPERATION), JANUARY 25, 1955, 6 U.S.T. 2283

The treaty of 1955 provided for transfers of property belonging to the United States in Articles V, VI and VII. Article V was not drafted in self-executing terms but was predicated on enactment of legislation by the Congress. It concerned real property located in the territory under the jurisdiction of Panama and depended on a determination that such property was no longer needed. The details were specified in a Memorandum of Understandings (attached to the treaty), item no. 2.

The transfers in Articles VI and VII were couched in self-executing terms and involved a change in the boundary of the Canal Zone. The property transferred by Article VI consisted of (a) a strip of water around the Colon shores, (b) a small unused site known as Battery Morgan and (c) a small portion of the Colon end of the Colon Corridor. The property transferred by Article VII consisted of a landing pier and the land and water area under the pier. All properties transferred were described in the Message of the President, transmitting the treaty for advice and consent to the Senate (84th Cong., 1st Sess., Sen., Executive F). The self-executing nature of the transfers in Articles VI and VII were expressly recognized both in the Memorandum of Understandings attached to the treaty, item No. 2 f, and in the Congressional statute implementing the article providing the transfers (71 U.S. Stat. 509, Sec. 102(b)).

MEMORANDUM OF UNDERSTANDING REACHED

In connection with the 1953–1954 negotiations between representatives of the United States of America and the Republic of Panama, which have resulted in the signature of a Treaty between the two countries, the following understandings have been reached:

On the part of the United States of America:

1. Legislation will be sought which will authorize each agency of the United States Government in the Canal Zone to conform its existing wage practices in the Zone to the following principles:

(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

(b) In the case of an employee who is a citizen of the United States, there may be added to the base pay an increment representing an overseas differential plus an allowance for those elements, such as taxes, which operate to reduce the disposable income of such an employee as compared with an employee who is a resident of the area.

(c) The employee who is a citizen of the United States will also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.

Legislation will be sought to make the Civil Service Retirement Act uniformly applicable to citizens of the United States and of the Republic of Panama employed by the Government of the United States in the Canal Zone.

The United States will afford equality of opportunity to citizens of Panama for employment in all United States Government positions in the Canal Zone for which they are qualified and in which the employment of United States citizens is not required, in the judgment of the United States, for security reasons.

The agencies of the United States Government will evaluate, classify and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by United States agencies in the Canal Zone.

2. With reference to that part of Article V of the Treaty signed today which deals with the conveyance to the Republic of Panama free of cost of all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements situated in territory under the jurisdiction of the Republic of Panama, steps will be taken as provided in this Item.

(a) Legislation will be sought to authorize and direct the transfer to the Republic of Panama of all the right, title and interest held by the United States or its agencies in or to the following real property:

1. The J. N. Vialette and Huerta de San Doval tracts in the city of Panama and the Aspinyall tract on the Island of Taboga.

2. Las Isletas and Santa Catalina Military Reservations on the Island of Taboga. This transfer will include the cable rights-of-way which have a width of 20 feet (6.10 meters) and extend between the Ancon Cove Military Reservation and the Santa Catalina Military Reservation, and between the El Vigia Military Reservation and the Las Isletas Military Reservation.

3. The lot in Colón now reserved for consulate purposes.

4. Certain lands on the westerly shores of the city of Colón described roughly as extending from the southerly boundary of the de Lessepa area (4th Street extended) to the Colón-Canal Zone boundary and bounded on the east by the east wall of the old freight house and, below that structure, by a line 25 feet (7.622 meters) west of the center line of of the most westerly railroad track. This transfer will include the certain improvements consisting of the old freight house and Colón Pier Number 3.

(b) Legislation will be sought to authorize and direct the Panama Canal Company to remove its railway terminal operations from the city of Panama and to transfer to the Republic of Panama free of cost all of the right, title and interest of the Panama Canal Company in and to the lands known as the Panama Railroad Yard, including the improvements thereon and specifically including the railway passenger station. This action will also relieve the Government of the Republic of Panama of its obligation under Point 10 of the General Relations Agreement between the United States of America and the Republic of Panama signed May 18, 1942 to make available without cost to the Government of the United States of America a suitable new site for such terminal facilities.

(c) With respect to those areas in the city of Colón known as de Lessepa, Colón Beach and New Cristobal (with the exception of two lots in the de Lessepa area which the United States intends to use for consulate purposes), legislation will be sought to authorize and direct the gradual withdrawal from these areas and the conveyance or transfer to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to the lands and improvements thereon. Under this process of gradual withdrawal the United States Government, and/or its agencies, will not be obligated to install any new structure in such areas and, as severable parts of the areas cease to be needed, the lands and improvements would be conveyed or transferred. The severability of parts of the areas depends upon a number of practical considerations including those having to do with the present obligations of the United States, with respect to the subject areas, concerning water and sewerage facilities, street cleaning and paving, water supply, et cetera, as stipulated in the Instrument of Transfer of Water and Sewerage Systems, executed between the Governor of the Panama Canal and the Foreign Minister of Panama on December 28, 1945.

(d) With respect to the railroad passenger station and site in the city of Colón, legislation will be sought to authorize and direct the withdrawal from such site and structure at such time as the withdrawal from the areas known as de Lesseps, Colón Beach and New Cristobal, contemplated by the next preceding subparagraph, shall have been fully completed, and the conveyance to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to such site and structure. However, the railroad tracks and trackage area in Colón, being required for switching purposes serving the Cristobal piers, will be retained for such purposes.

(e) All transfers or conveyance of lands and improvements contemplated by this Item, subject to legislative authorization and direction, will necessarily be made subject to any leases which may be outstanding in the respective areas, and will also contain

provisions fully protecting the Government of the United States of America against any claims by lessees for damages or losses which may arise as a result of such transfers or conveyances.

(f) The transfers or conveyances contemplated by this Item, subject to legislative authorization, are in addition to the conveyance of Paitilla Point as specifically covered by Article V of the Treaty signed today, and to the transfer of real property effected by Article VI of said Treaty.

3. Articles, materials, and supplies that are mined, produced or manufactured in the Republic of Panama, when purchased for use in the Canal Zone, will be exempted from the provisions of the Buy American Act.

4. Referring to the exchange of notes dated March 2, 1936, accessory to the General Treaty between the United States of America and the Republic of Panama signed on that date, relative to the sale to ships of goods imported into the Canal Zone by the Government of the United States of America, the United States of America agrees, effective December 31, 1956, and in benefit of Panamanian commerce, to withdraw wholly from, and thereafter to refrain from, any such sales to ships, provided that nothing in this Item shall apply:

(a) to sales to ships operated by or for the account of the Government of the United States of America,

(b) to the sale of fuel or lubricants, or

(c) to any sale or furnishing of ships stores which is incidental to the performance of ship repair operations by any agency of the Government of the United States of America.

5. Legislative authorization and the necessary appropriations will be sought for the construction of a bridge at Balboa referred to in Point 4 of the General Relations Agreement of 1942.

6. The United States of America agrees, effective December 31, 1956, to withdraw from persons employed by agencies of the Government of the United States of America in the Canal Zone who are not citizens of the United States of America and who do not actually reside in said Zone the privilege of availing themselves of services which are offered within said Zone except those which are essential to health or necessary to permit them to perform their duties.

7. It is and will continue to be the policy of the Panama Canal agencies and of the Armed Forces in the Canal Zone in making purchases of supplies, materials and equipment, so far as permitted under United States legislation, to afford to the economy of the Republic of Panama full opportunity to compete for such business.

8. In general connection with the matter of the importation of items of merchandise for resale in the sales stores in the Canal Zone, it will be the practice of the agencies concerned to acquire such items either from United States sources or Panamanian sources unless, in certain instances, it is not feasible to do so.

9. With respect to the manufacture and processing of goods for sale to or consumption by individuals, now called on by the Panama Canal Company, it will be the policy of the United States of America to terminate such activities whenever and for so long as such goods, or particular classes thereof, are determined by the United States of America to be available in the Republic of Panama on a continuing basis, in satisfactory qualities and quantities, and at reasonable prices. The United States of America will give prompt consideration to a request in writing on the part of the Government of Panama concerning the termination of the manufacture or processing of any goods covered in this Item as to which the Government of Panama may consider the criteria specified in this Item to have been met.

10. Prompt consideration will be given to withdrawing from the handling of commercial cargo for transshipment on Canal Zone piers so soon as Panamanian port facilities are in satisfactory operation in Colón.

11. The United States agrees that the term "auxiliary works" as used in the Treaty includes the Armed Forces of the United States of America.

On the part of the Republic of Panama:

1. The Republic of Panama will lease to the United States of America, free of all cost save for the recited consideration of one Balboa, for a period of 99 years, two parcels of land contiguous to the present United States Embassy residence site, as designated on the sketch (No. SGN–9–54, dated November 19, 1954) and accompanying descriptions prepared by the Comisión Catastral of the Republic of Panama, attached hereto.

2. The Republic of Panama assures the United States of America that the property, shown and described on the attached map (No. SGN–6–54, dated October 1954) and accompanying description prepared by the Comisión Catastral of the Republic of Panama, in front of the United States Embassy office building site and between the Bay of Panama and Avenida Balboa as it may be extended between 37th and 39th Streets, will be preserved permanently as a park and not developed for commercial or residential purposes.

3. So long as the United States of America maintains in effect those provisions of Executive Order No. 6997 of March 25, 1935 governing the importation of alcoholic beverages into the Canal Zone, the Republic of Panama will grant a reduction of 75 percent in the import duty on alcoholic beverages which are sold in Panama for importation into the Canal Zone pursuant to such Executive Order.

4. In connection with the authorization granted to the United States of America in Article VIII of the Treaty, the United States shall have free access to the beach areas contiguous to the maneuver area described in said Article VIII for purposes connected with training and maneuvers, subject to the public use of said beach as provided under the Constitution of Panama.

The provisions of this Memorandum of Understandings Reached shall enter into force upon the exchange of instruments of ratification of the Treaty signed this day by the United States of America and the Republic of Panama.

Done in duplicate in the City of Panama, in the English and Spanish languages, this 25th day of January 1955.

Hecho en duplicado en la ciudad de Panamá, en Inglés y en Español, a los 25 días del mes de Enero de 1955.

For the United States of America:

For Los Estados Unidos de America:

Selden Chapin.

Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama Embajador Extraordinario y Ministro Plenipotenciario de los Estados Unidos de America en la República de Panamá.

For the Republic of Panama:

For La Republica de Panama:

_____ _____.

Minister of Foreign Affairs of the Republic of Panama.

Ministro de Relaciones Exteriores de la República de Panamá.

[SEAL].

Mr. CHURCH. Mr. President, as the distinguished Senator from New York pointed out, our prior treaty practice contradicts the contention of the sponsor of the pending amendment. A number of self-executing treaties may be considered as precedents for disposition of property without authorization by act of Congress. I will discuss three of them: First, our 1971 treaty with Honduras, relinquishing all U.S. claims to the Swan Islands and also transferring property and equipment on the islands to Honduras; second, the 1971 treaty between the United States and Japan returning Okinawa and other islands to Japan, and; third, our 1970 treaty with Nicaragua by which the United States returned to that country certain proprietary rights we had held since 1914.

The Senator from Utah (Mr. HATCH) alleged yesterday that "the President has never made a self-executing treaty ceding American territory and property to a foreign state."

Yet, as he himself later conceded, the President has indeed transferred property to a foreign government by self-executing treaty, "Congress silence," said the Senator, "may have indicated tacit consent to the transfers of disputed parcels of insignificant property" under the Honduras Treaty of 1971.

Let me review the situation that existed between the United States and Honduras which led to the dispute over the Swan Islands and exactly what the Honduras Treaty of 1971 accomplished.

In the first half of the 19th century, American explorers claimed they had discovered the Swan Islands, located just off the coast of Honduras. The islands were covered with guano, a valuable fertilizer. The United States claimed sovereignty over the islands by the Guano Act of 1846. Honduras objected, claiming sovereignty as well. The dispute lasted for more than a century ending with the Honduras Treaty of 1971, whereby the Swan Islands were ceded to Honduras. Let me review exactly what the treaty with Honduras on the Swan Islands, entered into on November 22, 1971, provides.

Article I of the treaty provides:

The Government of the United States recognizes the sovereignty of Honduras over the Swan Islands.

Article IV of the treaty provides:

The Government of the United States of America transfers to the Government of Honduras as of the date this Treaty enters into force all land, buildings, equipment and other real and personal property in the Swan Islands to which it holds title, except as agreed pursuant to Article II of this Treaty.

Article II related to certain meteorological and communication facilities used for a cooperative program established on the same date.

Although the relinquishment of the claim to sovereignty over the islands might be construed as stemming from the Guano Island Act of 1856 (II US Stat. c. 164, Sec. 4), the transfer of U.S. Government-owned property later located on the island cannot rest on that statute.

Now, Senator HATCH says that the treaty involved "two minute islands of no significance to the United States." However, if article 4, section 3, clause 2 of the Constitution actually acts as a limitation of the power of the President and the Senate to make treaties, as alleged by the Senator, the size of the property transferred or its importance is of no relevance whatever. If the Constitution did

restrict the treaty power, as the Senator maintains, the restriction would apply to all property whether it be the Canal Zone or 1 square foot of desert salt flat.

The Senator from Utah argues that the Swan Island Treaty can be distinguished because it involved disputed territory. The Senator also dismisses previous boundary settlement treaties for the same reason. If the disputed nature of a claim to territory is all that it takes to remove the prohibition on transfer of property by treaty, which the Senator says the Constitution imposes, then how can he exempt the Canal Zone? If anything, the Canal Zone's status is in dispute; not only with reference to sovereignty, but also as to valid title to much of the land the United States claims. Moreover, the Senator's allegation that disputed territory is not covered also ignores basic facts taught in first year law school courses on property. Leaseholds, options, residual interests, and other lesser interests in property, including disputed claims, are still property interests and must be treated as such. If the Constitution required an act of Congress to convey property rights claimed by the United States, as alleged by the Senator, it would necessarily apply to disputed claims of title.

Finally, the Senator from Utah states "Congress silence, in the Swan Island case, may have indicated tacit consent to the transfers of disputed parcels of insignificant property." I have already dealt with the arguments on the disputed or insignificant nature of the property, but the most glaring error of the Senator's argument is the implication that Congress, through silence, can legitimate what the Senator implies would otherwise be an unconstitutional act. Should this be true, there would be nothing to prevent the President from unilaterally appropriating funds, declaring war, or imposing taxes, as long as Congress did not object. Such a convoluted argument is not only wrong, it is a subversion of our constitutional system.

Let me describe another treaty that contradicts the assertions of the Senator from Utah. On June 17, 1971, the United States and Japan agreed to the Treaty on the Reversion of the Ryukyu and Daito Islands.

The major island of the Ryukyu group is Okinawa, the island we conquered during World War II in one of the bloodiest and costliest battles in the Pacific war. On Easter Sunday, April 1, 1945, two corps of army and marines, commanded by Lt. Gen. Simon Buckner, invaded Okinawa. The Japanese fought desperately and organized resistance did not end until more than 2 months later, on June 21, 1945. During that battle, Lt. Gen. Buckner was killed, our forces suffered 49,000 casualties, while Japanese kamikazes sunk 36 of our ships and damaged 332 others. It proved to be the last major island battle of the war.

Under article III of the Treaty of Peace with Japan, the United States obtained sole and full power of administration, legislation, and jurisdiction over the territory of the islands, including their territorial waters. Japan's "residual sovereignty" was recognized by the United States just as Panama's "titular sovereignty" was recognized over the Canal Zone. Again, as in the case of Panama, the rights of the United States to Okinawa were granted for an indefinite period.

Now, let me describe the 1971 treaty by which the United States transferred its rights in Okinawa and other islands back to Japan.

Article I of the treaty provides:

1. With respect to the Ryukyu Islands and the Daito Islands, as defined in paragraph 2 below, the United States of America relinquishes in favor of Japan all rights and interests under Article 3 of the Treaty of Peace with Japan, signed at the City of San Francisco on September 8, 1951, effective as of the date of the entry into force of this Agreement. . . .

Article VI of the treaty provides:

1. The properties of the Ryukyu Electric Power Corporation, the Ryukyu Domestic Water Corporation and the Ryukyu Development Loan Corporation shall be transferred to the Government of Japan on the date of the entry into force of this Agreement and the rights and obligations of said Corporations shall be assumed by the Government of Japan on that date in conformity with the laws and regulations of Japan.

2. All other properties of the Government of the United States of America, existing in the Ryukyu Islands and the Daito Islands as of the date of entry into force of this Agreement and located outside of the facilities and areas provided on that date in accordance with Article III of this Agreement shall be transferred to the Government of Japan, except for those that are located on the lands returned to the landowners concerned before the date of the entry into force of this Agreement. . . .

3. Such lands in the Ryukyu Islands and the Daito Islands reclaimed by the Government of the United States of America and such other reclaimed lands acquired by it in these islands as are held by the Government of the United States as of the date of entry into force of this Agreement become the property of the Government of Japan on that date.

This treaty's article VI was a self-executing transfer. This is evident from the President's message of transmittal to the Senate and the report of the Foreign Relations Committee. Both statements say "article VI transfers to the Government of Japan certain properties of the United States" (92d Cong. 1st Sess., Ex. J., p. IX, 92d Cong. 1st Sess., Ex. Report 92–10, p. 3). The corporations mentioned in article VI were owned by an agency of the U.S. Government, the United States Civil Administration.

We had paid for the islands, particularly Okinawa, with the blood of Americans, they were of enormous strategic value, and American property, valued in the hundreds of millions of dollars was involved. Yet the treaty effectuated the transfer; no act of Congress was necessary.

Also of relevance to this debate is the treaty between the United States and Nicaragua For Termination of Rights and Options under the Bryan-Chamorro Treaty, entered into on July 14, 1970.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. CHURCH. I will yield when I am through with my argument if I have the time.

Mr. ALLEN. I thank the Senator.

Mr. CHURCH. Mr. President, let me first describe the Bryan-Chamorro Treaty of August 5, 1914. We consummated this treaty with Nicaragua to insure we would be able to build a canal through that country if we thought it best for the United States. As Senators know, we never did build that canal, and studies consistently have shown that the most economic route is still through Panama.

Nonetheless, the Bryan-Chamorro Treaty granted to the United States:

First. "* * * in perpetuity the exclusive proprietary rights necessary and convenient for the construction, operation, and maintenance of an inter-oceanic waterway * * * over Nicaraguan territory, the details of the terms * * * to be agreed upon by the two governments whenever the Government of the United States shall notify * * * its * * * intention to construct such canal";

Second. A leasehold for a term of 99 years, with the option of renewal by the United States for another 99 years, of Great Corn Island and Little Corn Island; and

Third. The right to establish a naval base on the Gulf of Fonesca, likewise for a period of 99 years subject to a renewal by the United States for a further 99-year period. The islands and the base were to be subject to the laws and sovereign authority of the United States during the terms of such lease and grant.

The consideration was a payment of $3,000,000 to Nicaragua. Congress appropriated the $3,000,000 in the Deficiency Appropriation Act of September 8, 1916, passed after the entry into force of the treaty on June 22, 1916.

The United States never exercised any of the rights or options granted by the 1914 convention and never entered under the leases, except for the construction of a lighthouse. Nevertheless, these rights were territorial and property rights belonging to the United States, valued at $3,000,000 at the time of their acquisition and were relinquished by treaty, in 1970, without benefit of statute.

I think these examples demolish the argument that transferring U.S. property to the Government of Panama by self-executing treaty is some new departure, not founded upon past precedent. We have done it before, it is a constitutional exercise of the treaty-making power, and we can do it again as provided by the terms of the Panama Canal Treaty.

In doing so, Mr. President, we simply reconfirm the authority vested in the Senate by the Constitution of the United States, and we do so in line with past practices.

I am happy to yield to the Senator for a question.

But I shall first inquire: How much time remains for that purpose?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining.

Mr. CHURCH. I yield to the Senator for a question.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, could we ask unanimous consent that an additional 10 minutes to be equally divided between the sides be granted? I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is the Senator aware that there is an order to recognize Senator BARTLETT at 6 p.m.?

Mr. ALLEN. Notwithstanding that, I take it on myself to say that the Senator from Oklahoma will not object.

Mr. CHURCH. Mr. President, I wonder if the Senator would not try to cover this in the time remaining so Senator BARTLETT may be accommodated. He is expecting to take the floor at 6 p.m.

Mr. ALLEN. Very well.

I am interested very much in the speech the distinguished Senator has been reading, and I have been interested in his analysis of the Ryukyu treaty and his feeling that that constitutes precedent for the transfer of property by treaty.

Of course, the Senator knows that as to the conquest of Okinawa I had some little familiarity with that because I happened to be there some 3 days before the invasion actually started and throughout the invasion. But the United States acquired no title by conquest under international law to the Ryukyus, including Okinawa.

So what the United States conveyed was not the real estate, but it was instead our right of administrative control over the island and, of course, not having the title to the real estate by conquest the structures that were placed on that real estate went with the land.

So I would hate for the Senator to feel that this is a proper precedent to indicate that the Senate only through the treatymaking power has the right to transfer property belonging to the United States.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. ALLEN. I make that statement to the distinguished Senator. And he pointed out what we had were the rights of administration over this.

Also I call attention to the Senator, and he is very familiar with the Foreign Aid Act, there is a provision there for the President to dispose of surplus foreign property that we own and in all likelihood if any transfer of foreign property were made it was made under the provisions of this act. I believe the Foreign Relations Committee report states that it may well have been under that act.

Does the Senator care to comment on that?

Mr. CHURCH. Mr. President, obviously there are various ways by which property belonging to the United States can be disposed. Congress has the authority to dispose of such property by statute or it may confer that authority on the President as is the case under the Foreign Aid Act.

But a third way that property interests may be transferred is by treaty, when the terms of the treaty are self-executing. This was the method used in the three treaties to which I referred. And it seems to me that the observations of the distinguished Senator from Alabama do nothing to deny the validity of these precedents.

Of course, we had conquered the Ryukyu Islands, but the jurisdiction that we obtained in the Treaty of Peace with Japan, entered into in San Francisco, extended far beyond the rights of conquest. Under the terms of that treaty cessions were made to the United States. Later when we decided it was in the American interest to restore the Ryukyu Islands to Japan, that too was accomplished by a self-executing treaty, without benefit of statute.

Mr. ALLEN. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 8 minutes.

Mr. BARTLETT. Mr. President, I yield 30 seconds to the Senator from Utah.

Mr. HATCH. Mr. President, I sat here for 2 days to hear the arguments on this matter, and it seems to me that to base the arguments on the dictum in Holden against Joy, the Japan treaties and the Honduran and Nicaraguan treaties hardly justify the transfer of the Panama Canal and hardly substantiate the position of the Senate Foreign Relations Committee.

I basically feel that, as I understand it, with all kinds of constitutional lawyers investigating what we raised yesterday, they hardly have come up with any precedents which really sustain this, I think, violent overthrow of constitutional principles.

I thank the distinguished Senator.

Mr. BARTLETT. Mr. President, I yield 30 seconds to the other side.

Mr. SARBANES. Mr. President, I appreciate the Senator's courtesy in offering to make 30 seconds available, but I do not think it is really necessary. The Senator from Utah has made his extended statement. We have analyzed it very carefully, and we think we have responded with good authorities.

The Attorney General was accused earlier of making a statement without even citing any authority. That was clearly not the case, and just because people differ with the Senator from Utah does not, I submit, mean that their position is without merit. I thank the Senator for his courtesy.

Mr. HELMS. Mr. President, I ask unanimous consent that a member of my staff, Mr. Sam Currin, be accorded the privilege of the floor during discussion and any votes thereon in connection with the pending treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Ken Fish of the Senate Armed Services Committee be accorded that privilege also.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. HEINZ. Mr. President, on March 14, in a statement on the Senate floor, I indicated that the Panama Canal Treaties were unacceptable as submitted to the Senate. I also stated that if, and only if, the treaties were amended and three major changes made—changes I judged essential to strengthen the treaties and fully protect our taxpayers and our security interests—would I then support the treaties.

My position today is exactly the same.

In addition to the Baker-Byrd amendments, the two changes I suggested to the Neutrality Treaty were adopted by the Senate when it accepted the reservation by the gentleman from Georgia (Mr. NUNN) and my own reservation. With these amendments and changes, I voted for the Neutrality Treaty on March 16.

The third and remaining change, the one that needs to be made to the second treaty, the Panama Canal Treaty, is one I will continue to insist on. That change is the same one I cited in my March 14 speech. The Panama Canal Treaty must be amended to make certain that any unpaid balance of the so-called $10 million annual contingency payment to Panama, which is supposed to be paid only from surpluses, is not a residual liability to be borne by U.S. taxpayers. The treaty must leave no doubt that if there are any uncollected contingency payments, the balance does not accumulate beyond 1999 and does not come due at that or any other time. Without incorporating this change into the treaty resolution, I will not support the treaty. But, as I have previously stated, I will support the treaty if such a clear and unequivocal provision is adopted, and I am optimistic that such a provision will be included in the treaty resolution.●

A PANAMANIAN POINT OF VIEW

● Mr. CULVER. Mr. President, the March 19 edition of the Cedar Rapids Gazette contained an excellent interview about the Panama Canal treaties with Mr. Wilfredo Uriah Robinson-Hinds of Colon, Panama, who is currently a graduate student at the University of Iowa.

Mr. Robinson-Hinds makes a number of valuable observations in his interview, and his reasonable views offer hope for a cooperative and successful relationship between Panama and the United States under the new treaties.

Mr. President, I ask that the Cedar Rapids Gazette article be printed in the RECORD.

The article follows:

PANAMA CANAL FOES UNINFORMED

(By Art Hough)

(EDITOR'S NOTE: Wilfredo Uriah Robinson-Hinds of Colon, Panama, is a graduate student at the University of Iowa. He came to the University of Iowa in August 1977 to work on his master of arts degree in mechanical engineering. He is a graduate of the University of Panama and is on a fellowship sponsored by the Organization of American States, in cooperation with the University

of Iowa. He is scheduled to receive his advanced degree in December, after which he will return to Panama. His goal is to become a university professor, hopefully in machine design. This interview is an attempt to get the Panamanian point of view concerning the controversial treaties between the United States and the Republic of Panama.)

IOWA CITY.—President Carter and President Omar Torrijos Herrera of Panama signed two controversial treaties last fall. The first would gradually cede control of the Panama Canal to Panama by the year 2000. The second would guarantee neutrality and permanent protection of the canal by the United States.

Within a few weeks, more than 700,000 Panamanians voted in a plebiscite to ratify the new canal treaties. The final count was a 2–1 mandate of 506,805 to 246,177 in favor of the treaties.

In the U.S., there has been strong public sentiment, both for and against ratification of the treaties, but the senate ratified the neutrality treaty Thursday.

"First of all," said Robinson-Hinds when we talked in the Memorial Union, "my opinion is just an opinion. The population of Panama is about 1,800,000 and I am just one person."

About the group of American people who are against the treaties, he said, "I think some of them would not have that idea if they were better informed about the U.S. role within the Republic of Panama and the Panama Canal.

LEASED, NOT BOUGHT

"Something that has kind of surprised me are the arguments some of the people who are complaining against the treaties use. For example, there is a group that says the canal was bought fair and square. It seems to me they have not really read the (old) treaty, because no part of the treaty says the land on which the canal was built was sold to the U.S. government.

"So it's surprising when lawyers, senators, governors, attorneys general use statements like those.

"The word, in my judgment, that would fit it best is 'lease.' I cannot quote the article in the treaty, but the first article says something to that effect. Those five miles on each side of the strip for the canal were leased to the U.S. for the purpose of building, constructing, maintaining, defending and operating the Panama Canal.

"There was just one point within that treaty that says this lease is for eternity or perpetuity, which cannot be today in international law. You cannot sell or lease part of a country for eternity.

"The other part to look on is that when the treaty was signed, Panama was a very, very young nation—very poor, weak and vastly uneducated—and that the people who did the major part of the negotiations, if you could call it that, were not even Panamanian. They were members of the French construction company that was trying to salvage some of its investment. To my knowledge when the primary representative came to the United States to sign the treaty, the treaty was already signed. They just handed him a copy.

"So now that the small nation of Panama has learned and has grown and matured to some extent, they have realized they could have a major role in the operation because it is in our country."

"Some people have the belief that the Republic of Panama gained importance because of the construction of the canal in 1903, but a little history would let us know that long before that the Isthmus was very important to the American continent and the European continent because it was a convenient way for Spain to get to its gold mines in South America and Peru in early colonial days, the 1800s and before.

"There had always been ideas of constructing some sort of a route across the Isthmus. There was a road first, because the ships found it very inefficient, to go all the way around South America to come to the other side. So they would come to the Atlantic coast of the Republic of Panama and then go by road across the southern coast and then by ship again down to South America and reverse that process.

"So, that's why the French began construction of the canal in 1855.

"Our prime source of economy is not the revenue from the canal company. Within the Republic of Panama are other prime interests, such as the international airport, a major stop for the vast majority of airline routes because of its geographical position, not only because of the existence of the canal. Also, we have a free zone here, commercial fishing and agriculture."

The Panama Canal runs south and southeast from Limon Bay at Colon, on the Atlantic, to the Bay of Panama, at Balboa on the Pacific.

The canal was built by the U.S. between 1904–14 on territory leased in perpetuity from the Republic of Panama.

In 1903, Panama revolted against Colombia and gained independence. Invoking the treaty of 1848 the U.S. sent a warship to Panama, preventing Colombian troops from quelling the outbreak.

Wilfredo noted that there is a faction in the Panama Canal community, Americans and Panamanians who work for the canal company, who would not like to lose "a sort of privileged atmosphere," but he adds that of the work force of about 16,000 people, between 11,000 and 12,000 are Panamanians and the rest Americans, as apart from the soldiers and civilian personnel.

Asked why the Panamanians want new treaties, he said the treaties are not a new idea, "Signs of wanting a new agreement, or at least wanting to negotiate the previous agreement to better terms, have been popping up for a very long time, probably before I was born.

GOVERNING PROBLEMS

"I could state several reasons. For example, the way in which the so-called Canal Zone is operated and governed. It has created some differences and problems within the Republic of Panama."

Panamanian children in the Canal Zone were taught in English, up until 8 or 10 years ago, Wilfredo said. "Although they were Panamanian citizens these people were never really incorporated to the Panamanian nationality, because they lived apart.

"This has a psychological effect on some of these people, who have begun to believe they are American citizens. Nothing is wrong with that, but some of them have begun to deny their nationality. The United States government, I think, cannot recognize them as U.S. citizens, contrary to the children of those American workers who were born in the Canal Zone.

"Another problem could be they are not getting sufficient economic benefit from the operation of the canal. Until lately, Panamanian employees of the Panama Canal Co. have had only lower paying jobs. The operation of the property is by the United States. We know that. They built it. But, if two men are doing the same job they should get the same benefits."

We suggested that some of the "cons" fuel that ratification of the treaties will mean Americans will get kicked out of the Canal Zone entirely and that they worry, too, about getting warships through the canal in the event of emergencies.

PRIVILEGED PASSAGE

"I don't think that is true," the Panamanian replied. "As far as I understand it, the new treaty would establish that after the year 2000 most of the operation, if not all, would be in the hands of the Panamanian government. I think, also, the strip of land called the Canal Zone would not exist anymore. But, I would not look at it as being 'kicked out.'

"Because," he continued, "that agreement is established that the United States would have privileged passage through the canal and also would have priority in the case of emergencies or wars. Also, the treaty establishes an agreement by which the U.S. would fortify the Panamanian military capability for them to offer significant means of protections and defense of the Panama Canal.

"The prime issue here is that the U.S. government believes and I agree with it, that if they negotiate a treaty that is to the satisfaction of the Panamanian government and people, then the fear of defending the canal against sabotage, or whatever, is very negligible.

"Because the treaty is to our benefit, there would be no strong parties within the country that would attempt to do anything, like crippling the canal. Some people interpret this as a threat, saying that if the treaty is not negotiated to Panama's satisfaction, then we would try to sabotage. That's not true.

"What would happen is that the nations of the world would make use of the uncomfortable situation between Panama and the United States, in other words try to infiltrate to break out a big sore in the Republic of Panama, like they have done in Vietnam, Korea, Cuba, Angola, and Ethiopia.

NOT A DICTATOR

"The Panamanian people don't want that. That's something the people of the U.S. should know. They may look at us as a small, poor country, that is looking for support anywhere and that if we can't get it from the United States we'll go to Communists. That's not really true.

"We've lived a Republican and Democratic life all of our lives and to change our lifestyles to Socialist or Communist would be a very hard blow."

Asked about General Torrijos, Wilfredo said it hurts him when Torrijos is called a dictator, comparing him to Castro or Idi Amin. He agrees that Torrijos is powerful. "Because he was the sponsor of the revolution in 1968 . . . the powers give him the authority to override some decisions within the government machinery. But he doesn't dictate laws. We have a constitution and we abide by that constitution.

"The treaty will be carried out. I have no reason to believe that it won't, because, as a matter of fact, if it is not respected I would see a lot of harm to the Panamanian nation and the Panamanian people.

"We can not survive without aid not only from the United States but from Latin American neighbors.

"I think that because of the importance of the relationship between the two nations (U.S. and Panama), the U.S. people should have been informed more thoroughly and more properly. It is because of the group that is contrary to the treaty that the people have been misled in public opinion of the uncertainty of Panama people's integrity and the integrity of the government.

"I feel personally there is no doubt in the high officials of the U.S. government and the responsible ones that the treaty is the best thing.

"I believe they know best and that they'll do everything to get the treaty ratified because they know what it would mean if it

was not ratified. There would be deterioration of relations not only with Panama but with other Latin American countries.

"I feel it will be approved—not without a very strong and high battle in the Senate. And probably even after approval there will be a lot of backfire and bad names." ●

NEUTRON BOMB

(The following proceedings occurred during the debate on the Panama Canal Treaty and are printed at this point in the RECORD by unanimous consent.)

Mr. NUNN. Mr. President, I am dismayed over reports in this morning's New York's Times that the administration will shortly announce a decision not to produce enhanced radiation weapons. I would hope that the Times is incorrect, and I would urge the President to make an affirmative decision with respect to the so-called neutron bomb.

A decision not to proceed with its production would represent the successful culmination of one of the most vigorous Soviet propaganda campaigns in recent history. It would also constitute a victory for those on both sides of the Atlantic who have sought to fan the flames of popular hysteria over a weapon whose development represents the achievement of a long-standing NATO goal.

The spectacle of a timid and indecisive NATO leadership prepared to capitulate to the irrationality of those who seek to cripple the Alliance is not a becoming one.

For years, NATO has sought to reverse the declining credibility of its theater nuclear deterrent by reducing the collateral damage which would inevitably accompany the use of its existing nuclear weapons. Development of enhanced radiation weapons was undertaken precisely for this purpose, and has been strongly supported by the Alliance's own nuclear planning group, NATO's supreme commander Gen. Alexander Haig, Secretary of Defense Harold Brown, and the Joint Chiefs of Staff. The destructiveness of NATO's current nuclear weapons is so great that NATO is likely to be deterred from ever employing them in defense of its own territory.

As I stated on the floor of the Senate last July, the purpose of deterrence in Europe is to deter Soviet aggression, not to deter ourselves from responding to that aggression. A unilateral cancellation of the neutron bomb would be the ultimat in self-deterrence. The Soviets are not deterred by NATO weapons which the alliance probably cannot use for fear of destroying the very territory it is sworn to defend. The Soviets are deterred by weapons whose use is credible. If we do not have usable weapons, then we do not have deterrence, and if we do not have deterrence, we may end up being forced to use unusable weapons or to capitulate. This was and remains the logic underlying the neutron bomb. This weapon will not cure NATO's many problems. It is a small step in the right direction, but a highly symbolic step.

As I also pointed out last July, the neutron bomb program comprised but one element of a much broader theater nuclear force modernization program initiated by NATO several years ago. A decision to kill the enhanced radiation warhead also jeopardizes this program. A NATO willing to succumb to pressures to block production of the neutron bomb is a NATO which may also be willing to succumb to opposition to other improvements in the alliance's theater nuclear force posture, such as programs to enhance the survivability and increase the range of delivery systems.

In short, Mr. President, I believe that a decision not to produce enhanced radiation weapons not only risks torpedoing the alliance's long overdue theater nuclear force modernization program, but would also place in the minds of the Soviets, the image of a timid and hesitant America which lacks the courage to confront the difficult defense choices ahead.

What other interpretation can the Kremlin place upon a unilateral decision to give up a weapon which would contribute significantly to restoring the military balance in Europe? What other interpretation can the Kremlin place upon a unilateral decision to forswear a promising military technology without asking for reciprocal restraint on the part of the Soviet Union? What other interpretation can the Kremlin place upon a decision which goes against the strong advice of the Secretary of Defense, NATO's supreme commander, and the Joint Chiefs of Staff?

If the President has made a decision not to go forward with enhanced radiation weapons, I would urge him to reconsider his decision.

Mr. President, that completes my remarks.

I thank my colleague from New York for yielding to me for this extraneous speech on a subject that is not now before the Senate but one which we debated long and hard last summer and which I think is of great importance not only to our Nation but also to the overall NATO alliance.

Mr. MOYNIHAN. The Senator from New York was happy to do so and begs to suggest that the subject of the speech of the Senator from Georgia is not in the least extraneous to this debate.

May I also at this point offer my own thoughts that what the Senator has said has been listened to and will be read with great interest and concern by Members of the Senate who attended the most careful and thoughtful debate on this matter last summer, a closed session of the Senate, which was characterized by a very thorough and almost prayerful consideration of this matter. We now read in the newspapers that somehow the American policy has suddenly changed, without any indication that this kind of shift was about to take place and with no suggestion that in the negotiations over arms and strategic forces this decision would bring about some general lessening of military tensions. If that were possible, if for our giving up something the others gave up something as well, one can seriously entertain that thought and indeed welcome it, if it is significant.

Mr. NUNN. The Senator is entirely correct. If we asked the Soviet Union to restrain themselves on the SS–20 missile, which threatens all of Europe, and asked them to take out about 10,000 tanks, which is really what is distorting the overall balance in Europe today, their offensive power, their huge offensive power, if we had gotten quid pro quo for this decision, it would be entirely different.

Mr. MOYNIHAN. The Senator from New York just wishes to say that perhaps the Senator from Georgia is not aware that evidently there is no such thing as an SS–20 missile. A number of Senators have just returned from the International Parliamentary Union meeting in Lisbon where a proposal was made by the Soviet Union that we do not deploy and develop the neutron bomb. Our representative said, "What do you say we include in this resolution the proposal that the Soviets not develop and deploy the SS–20?"

The Soviet delegate said, "There is no such thing as an SS–20."

We said: "If there is no such thing, surely there is no great harm in not deploying it."

"That is different," they said; "that is a very different thing. One must have an absolute right to deploy that which does not exist."

We are dealing with a totalitarian, expansionist, imperialistic power that will take every advantage of our weakness, that denies to its own citizens its possession of weapons of mass destruction when all the world knows about it. It insists upon a fiction.

Is that not the case?

Mr. NUNN. I would certainly agree with the Senator from New York. I did not know the Soviets had taken a position that there was no such thing as an SS–20. I am being enlightened today and, perhaps, our intelligence sources and all the information we have will be revised in light of the Soviet message.

Mr. MOYNIHAN. In light of the photographs, there is something enormous going on in that country.

Mr. NUNN. There is something going on, and what is going on is that the Soviets are acquiring a very significant offensive potential in Europe.

The neutron enhanced radiation weapon is a defensive weapon. No one can make it out as anything other than that. It is to try to counter some of the buildup the Soviet Union and the Warsaw Pact nations have made over the last several years, and now we are giving up a defensive weapon unilaterally, as I understand it—at least that is what is being talked about in the news media—without any quid pro quo, without any decision to produce, and to table this in the MBFR talks which, if we go ahead with production, might be appropriate.

Of course, it does not do any good to table this kind of proposal in the MBFR talks unless one goes ahead with production so we have some very tangible signal that we are going to go forward unless there is a quid pro quo. But I find this discussion dismaying, frankly.

Mr. MOYNIHAN. I thank the Senator.

(This concludes proceedings which occurred earlier.)

Mr. BARTLETT said earlier. Mr.

President, I ask unanimous consent that at the end of the division of time, I be given 8 minutes to speak on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier request.)

The PRESIDING OFFICER. The hour of 6 o'clock having arrived, under the previous order, the Senator from Oklahoma is recognized for 8 minutes.

DECISION NOT TO PRODUCE THE NEUTRON WARHEAD

Mr. BARTLETT. Mr. President, I am alarmed at recent press reports that the President of the United States will announce this week that he has decided not to place the enhanced radiation/reduced blast warhead into production. Such a decision is not in the best interests of the United States or her European allies. This low-yield, enhanced radiation (ER) warhead—called by many people a neutron bomb—was designed to counter massive Warsaw Pact ground forces which threaten Western Europe. Tanks and armored personnel carriers in these Warsaw Pact forces are equipped to operate in a radiological and chemical warfare environment and are sheltered against many of the heat, blast, and fallout effects of our present nuclear weapons.

Thus the Soviet Union and its Warsaw Pact allies are so superior to NATO forces in conventional warfare capability and radiological defenses that NATO, even with the use of present American tactical nuclear weapons stationed in Europe might not be able to prevent a surprise Soviet Union attack on Western Europe from achieving a quick and sudden victory.

In the desperate process of deploying our tactical nuclear weapons of older technology, we run the risk of devastating Europe in the process of defending it. By reducing collateral damage to land and populations around the battlefield while at the same time effectively destroying enemy armored formations at specific locations, the ER warhead makes both conventional and nuclear war less likely.

Emotionalism surrounding the enhanced radiation warhead has confused its purpose. The enhanced radiation warhead does not increase the destructiveness of our tactical nuclear weapons, it lowers it. ER weapons designed to attack targets now designated for our older tactical nuclear weapons will be smaller and will produce less heat, blast and fallout. Levels of immediate radiation will be about the same.

Even with the enhanced radiation warhead, the United States will rely mainly on its conventional forces to deter Soviet aggression against NATO. Nevertheless, theater nuclear weapons help deter conventional war because the Soviet Union cannot be sure that the West would not use nuclear weapons to defeat a surprise conventional attack. An improved American theater nuclear force is a more credible deterrent to the use of theater nuclear weapons by the Soviet Union.

Opponents of the enhanced radiation warhead are not all driven by emotionalism, although the degree of unclear thinking on this issue is probably greater than has been seen on any controversial defense issue in the last 20 years. Some opponents argue that the enhanced radiation/reduced blast warhead will lower the nuclear threshold because the President of the United States would be more likely to use this less destructive weapon. There is little evidence to support this view.

The use of the enhanced radiation warhead would be every bit as much a quantum leap above a conventional defense of Europe as would be the use of our present tactical nuclear weapons.

This view was taken by President Carter himself in a letter to Chairman JOHN STENNIS on July 11, 1977. I quote:

> The decision to use nuclear weapons of any kind, including ER weapons, would remain in my hands, not in the hands of local theater commanders. A decision to cross the nuclear threshold would be the most agonizing to be made by any President. I can assure you that these weapons would not make that decision any easier. But by enhancing deterrence, they could make it less likely that I would have to face such a decision.

The decision to begin a nuclear war would be difficult both for the United States and for the Soviet Union. Nevertheless, it is strange that the opponents of the enhanced radiation/reduced blast warhead are so preoccupied with the fear that the United States will lower the nuclear threshold that they have not considered the degree to which crossing the nuclear threshold is a decision largely in the hands of the Soviet Union.

I find it inconceivable that NATO would launch a surprise attack into Eastern Europe, with or without the use of nuclear weapons. In fact, there is some doubt that NATO would decide to use nuclear weapons even in its own defense. It is the Soviet Union which would decide whether to begin a war in Europe with or without a nuclear attack, and it is the Soviet Union which would decide whether to risk driving the West to the wall forcing NATO to retaliate with nuclear weapons. All that NATO can do is simply make it as difficult as possible for the Soviet Union to make these decisions in the affirmative. The enhanced radiation warhead increases our deterrence, while reducing the destruction which would result if that deterrence should fail.

If it is decided not to produce the enhanced radiation/reduced blast warhead, this will be another example of the President of the United States taking a unilateral disarmament step, under pressure from a small constituency, which undermines the defenses of the United States and her allies and at the same time achieves no corresponding concessions from the Soviet Union. This particular act of unilateral arms control is made worse by the fact that we have no way of knowing whether or not the Soviet Union has neutron weapons, is developing neutron weapons, or intends to develop and deploy neutron weapons. What we do know is that the United States and her NATO allies need this weapon to counter the existing Warsaw Pact threat to Western Europe.

If the President decides not to produce the enhanced radiation warhead, it will be widely interpreted as one more example of America's lack of will to counter the rising Soviet threat.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from New Hampshire (Mr. MCINTYRE) as a congressional adviser to the SALT delegation in Geneva during 1978.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, as in legislative session, of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Robert J. Sugarman, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, which was referred to the Committee on Foreign Relations.

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on March 27, 1978, he had approved and signed the following acts:

S. 833. An act for the relief of Ah Young Cho Kwak;

S. 1135. An act for the relief of Youngsoon Choi; and

S. 1671. An act to designate the Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, in the State of Montana.

MESSAGE FROM THE HOUSE

At 4:15 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 44) to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of Gen. Thaddeus Kosciuszko, without amendment.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2960) to author-

ize the Secretary of the Interior to memorialize the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 8358) to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications.

The message further announced that the House has passed H.R. 10984, an act to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania, and for other purposes, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 10984. An act to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3181. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Administrator of the U.S. Environmental Protection Agency, relative to the extension of the Federal Insecticide, Fungicide, and Rodenticide Act, be referred jointly to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–3182. A communication from the Deputy Assistant Secretary of Agriculture, reporting, pursuant to law, relative to the acquisition of lands or interest in lands within the Boundary Waters Canoe Area, Superior National Forest, Minnesota; to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Deputy Assistant Secretary of Agriculture, relative to the acquisition of lands or interest in lands within the Boundary Waters Canoe Area, Superior National Forest, Minn., be referred jointly to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–3183. A communication from the Comptroller General of the United States, reporting, pursuant to law, on a special message from the President for fiscal year 1978 that was transmitted to the Congress pursuant to the Impoundment Control Act of 1974, proposing one new deferral and a revision to a previously reported deferral; to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry, jointly, pursuant to order of January 30, 1975.

EC–3184. A communication from the Assistant Secretary, International Affairs and Commodity Programs, Department of Agriculture, reporting, pursuant to law, on the status of planned programming of Public Law 480, Title I commodities as of March 31, 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3185. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Human Nutrition Research Needs a Coordinated Approach to Advance Nutrition Knowledge," March 28, 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3186. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the United States Coast Guard for "Retired Pay," for the fiscal year 1978, has been reapportioned on a basis which indicates the necessity for a supplemental appropriation; to the Committee on Appropriations.

EC–3187. A communication from the Deputy Assistant Secretary of Defense, Military Personnel Policy, reporting, pursuant to law, on special pay for duty subject to hostile fire authorized at the rate of $65 per month; to the Committee on Armed Services.

EC–3188. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Switzerland for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3189. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, contract award dates for the period March 15, 1978 to June 15, 1978; to the Committee on Armed Services.

EC–3190. A communication from the Secretary of Defense, transmitting a shipbuilding plan for the U.S. Navy for fiscal years 1979–1983; to the Committee on Armed Services.

EC–3191. A communication from the Principal Deputy Assistant Secretary of Defense, Manpower, Reserve Affairs, and Logistics, transmitting, pursuant to law, a report on the Economic Adjustment Program for Selma and Dallas County, Alabama; to the Committee on Armed Services.

EC–3192. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on results of a study of the various agreements between government and private industry which have been developed under the terms of the Defense Production Act of 1950, as amended; to the Committee on Banking, Housing, and Urban Affairs.

EC–3193. A communication from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report of its operations for the calendar year 1977; to the Committee on Banking, Housing, and Urban Affairs.

EC–3194. A communication from the President and Chairman, Export-Import Bank of the United States, relating to financing to assist Furnas-Centrais Eletricas S.S. in purchasing from the United States $39,000,000 worth of nuclear power equipment; to the Committee on Banking, Housing, and Urban Affairs.

EC–3195. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee, and insurance transactions supported by Eximbanks during February 1978 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC–3196. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a list of the present and former NASA employees who have filed reports with NASA pertaining to their NASA and aerospace-related industry employment for the fiscal year ended September 30, 1977; to the Committee on Commerce, Science, and Transportation.

EC–3197. A communication from the Acting Director, Office of Telecommunications Policy, Executive Office of the President, transmitting a draft of proposed legislation to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–3198. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to extend Title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for 2 years; to the Committee on Commerce, Science, and Transportation.

EC–3199. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend certain provisions of Title XIV of the Public Health Service Act for 1 year; to the Committee on Commerce, Science, and Transportation.

EC–3200. A communication from the Secretary of Energy, transmitting Energy Action No. DOE–001. an amendment to the Strategic Petroleum Reserve (SPR) Plan; to the Committee on Energy and Natural Resources.

EC–3201. A communication from the Acting Inspector General, Department of Energy, transmitting, pursuant to law, a report of the Office of Inspector General; to the Committee on Energy and Natural Resources.

EC–3202. A communication from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, on the Las Vegas Wash Unit of the Colorado River Basin Salinity Control Project; to the Committee on Energy and Natural Resources.

EC–3203. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Energy Conservation Standards for Buildings: Status of States' Regulatory Activities," dated February 15, 1978; to the Committee on Energy and Natural Resources.

EC–3204. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report covering actions taken during calendar year 1977 on the implementation of the Alaska Native Claims Settlement Act, as amended; to the Committee on Energy and Natural Resources.

EC–3205. A communication from the Acting General Counsel, Department of Energy, reporting, pursuant to law, that the International Energy Agency (IEA) will conduct a test of the international emergency allo-

cation system; to the Committee on Energy and Natural Resources.

EC–3206. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report of the Federal Trade Commission concerning the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC–3207. A communication from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, on receipt of project proposals under the provisions of the Small Reclamation Projects Act of 1956; to the Committee on Energy and Natural Resources.

EC–3208. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by designating the St. Joe River in Idaho as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC–3209. A communication from the Federal Cochairman, The Ozarks Regional Commission, transmitting, pursuant to law, the 1977 annual report of the Ozarks Regional Commission; to the Committee on Environment and Public Works.

EC–3210. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend certain provisions of the Toxic Substances Control Act for one year; to the Committee on Environment and Public Works.

EC–3211. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Environmental Research, Development, and Demonstration Authorization Act of 1978 for two years; to the Committee on Environment and Public Works.

EC–3212. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to extend provisions of the Noise Control Act of 1972, as amended, for two years; to the Committee on Environment and Public Works.

EC–3213. A communication from the Administrator, United States Environmental Protection Agency, transmitting a draft of proposed legislation to extend certain provisions of the Federal Water Pollution Control Act, as amended, for two years; to the Committee on Environment and Public Works.

EC–3214. A communication from the Secretary of the Treasury, reporting the possibility that the report of the Managing Trustee for the Social Security funds will be several weeks late in completion; to the Committee on Finance.

EC–3215. A communication from the President of the United States, setting forth his decision to modify the import relief recommendation of three Commissioners of the U.S. International Trade Commission (USITC) by proclaiming a moderate tariff increase for Citizens Band (CB) Radio Transceivers and giving the reasons for his decision and why the import relief recommended by the USITC is not in the national economic interest; to the Committee on Finance.

EC–3216. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that, in order to maintain in the first quarter of fiscal 1978 the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., $533,000 is needed because of the downward fluctuation in foreign currency exchange rates; to the Committee on Foreign Relations.

EC–3217. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

EC–3218. A communication from the Chairman, United States Advisory Commission on International Educational and Cultural Affairs, transmitting, pursuant to law, the fourteenth regular report of the commission; to the Committee on Foreign Relations.

EC–3219. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–3220. A communication from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

EC–3221. A communication from the Administrator, Agency for International Development, Department of State, transmitting, pursuant to law, a report regarding activities carried out under Title XII of the Foreign Assistance Act of 1961, as amended, on Famine Prevention and Freedom from Hunger; to the Committee on Foreign Relations.

EC–3222. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–3223. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on the experience of Federal agencies under the program for self-insuring fidelity losses of federal personnel, for the fiscal year ended September 30, 1977; to the Committee on Governmental Affairs.

EC–3224. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report covering the implementation of its responsibilities under the Sunshine Act during calendar year 1977; to the Committee on Governmental Affairs.

EC–3225. A communication from the Chairman, National Commission on Libraries and Information Science, transmitting, pursuant to law, a report covering the implementation of its responsibilities under the Sunshine Act; to the Committee on Governmental Affairs.

EC–3226. A communication from the Chairman, United States Commission on Civil Rights, transmitting, pursuant to law, a report of the U.S. Commission on Civil Rights on its implementation of its responsibilities under the Sunshine Act, covering the period March 12, 1977 to March 14, 1978; to the Committee on Governmental Affairs.

EC–3227. A communication from the President and Chief Executive Officer, The Mortgage Corporation, transmitting, pursuant to law, a report with regard to its implementation of responsibilities under the Sunshine Act, from March 12, 1977 through December 31, 1977; to the Committee on Governmental Affairs.

EC–3228. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Administration for Children, Youth, and Families—Need to Better Use its Research Results and Clarify its Role," March 31, 1978; to the Committee on Governmental Affairs.

EC–3229. A communication from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, a report concerning compliance with the requirements of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–3230. A communication from the Administrator, General Services Administration, transmitting a draft of proposed legislation to establish the Federal Information Centers; to the Committee on Governmental Affairs.

EC–3231. A confidential communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness of Navy operational test and evaluation; to the Committee on Governmental Affairs.

EC–3232. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Sahel Development Program—Progress and Constraints," March 29, 1978; to the Committee on Governmental Affairs.

EC–3233. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Drug Control in South America Having Limited Success—Some Progress But Problems are Formidable," March 29, 1978; to the Committee on Governmental Affairs.

EC–3234. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "HUD Needs to Better Assess Financial Soundness of Multifamily Residential Projects Before Insuring Them," March 29, 1978; to the Committee on Governmental Affairs.

EC–3235. A communication from the President, Mississippi River Commission, Department of the Army, transmitting, pursuant to law, a report concerning compliance with the requirements of the Government in the Sunshine Act, covering the period from March 12, 1977, to March 11, 1978; to the Committee on Governmental Affairs.

EC–3236. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report concerning compliance with the requirements of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–3237. A communication from the General Counsel, Export-Import Bank of the United States, transmitting, pursuant to law, a report concerning compliance with the requirements of the Government in the Sunshine Act, for the period from March 12, 1977 through March 11, 1978; to the Committee on Governmental Affairs.

EC–3238. A communication from the comptroller General of the United States, transmitting, pursuant to law, a report entitled "Is Production of the CH–53E Helicopter Warranted?", March 23, 1978; to the Committee on Governmental Affairs.

EC–3239. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Obstacles to Billboard Removal," March 27, 1978; to the Committee on Governmental Affairs.

EC–3240. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the High-Speed Antiradiation Missile System; to the committee on Governmental Affairs.

EC–3241. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report of seven new personal records systems and the modification of one Department of the In-

terior system; to the Committee on Governmental Affairs.

EC–3242. A communication from the General Counsel, Inter-American Foundation, transmitting, pursuant to law, a report concerning compliance with the requirements of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–3243. A communication from the Mayor, District of Columbia, transmitting a draft of proposed legislation to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; to the Committee on Governmental Affairs.

EC–3244. A communication from the Associate General Counsel, Federal Home Loan Bank Board, transmitting, pursuant to law, a report of the agency for the period March 13, 1977 to December 31, 1977; to the Committee on Governmental Affairs.

EC–3245. A communication from the Secretary, Postal Rate Commission, transmitting, pursuant to law, a report concerning compliance with the requirements of the implementation of the Privacy Act during calendar year 1977; to the Committee on Governmental Affairs.

EC–3246. A communication from the Secretary, Postal Rate Commission, reporting, pursuant to law, a report concerning compliance with the requirements of the implementation of the Government in the Sunshine Act during calendar year 1977; to the Committee on Governmental Affairs.

EC–3247. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the EF–111A Tactical Jamming System; to the Committee on Governmental Affairs.

EC–3248. A communication from the Acting Chief of Staff, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, a modification to an existing system of records; to the Committee on Governmental Affairs.

EC–3249. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a follow-up report on the recommendations of Presidential advisory committee on the Board of Visitors to the Air Force Academy; to the Committee on Governmental Affairs.

EC–3250. A communication from the Director of Administration, Department of Energy, reporting, pursuant to law, its proposal to alter an existing system of records; to the Committee on Governmental Affairs.

EC–3251. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a proposal on two new systems of records; to the Committee on Governmental Affairs.

EC–3252. A communication from the Secretary of Health, Education, and Welfare, transmitting companion volumes to the Department's Research Plan on Aging which was transmitted to the Senate in December 1976; to the Committee on Human Resources.

EC–3253. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, notice of Interpretation for Vocational Education—State Administered Programs; to the Committee on Human Resources.

EC–3254. A communication from the Director, National Commission for Manpower Policy, transmitting, pursuant to law, its findings and recommendations on the Public Service Employment Programs conducted under the Comprehensive Employment and Training Act (Public Law 93–203); to the Committee on Human Resources.

EC–3255. A communication from the Librarian of Congress and the Register of Copyrights, Copyright Office, Library of Congress, transmitting four additional documents as addenda to the Report on Performance Rights in Sound Recordings; to the Committee on the Judiciary.

EC–3256. A communication from the Chief Scout Executive, Boy Scouts of America, relating to a report of its proceedings for the year ending December 31 preceding; to the Committee on the Judiciary.

EC–3257. A communication from the Chairman, National Transportation Safety Board, reporting, pursuant to law, concerning compliance with the requirements of the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC–3258. A communication from the Secretary, Foundation of the Federal Bar Association, transmitting, pursuant to law, an audit report of the Foundation for the fiscal year ending September 30, 1977; to the Committee on the Judiciary.

EC–3259. A communication from the Executive Director, Indian Claims Commission, transmitting, pursuant to law, a report concerning compliance with the requirements of the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC–3260. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report concerning compliance with the requirements of the Freedom of Information Act for the calendar year 1977; to the Committee on the Judiciary.

EC–3261. A communication from the Commissioner, Federal Prison Industries, Inc., Department of Justice, transmitting, pursuant to law, a report of the Board of Directors of Federal Prison Industries, Inc., for the fiscal year 1977; to the Committee on the Judiciary.

EC–3262. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the 1976 Annual Report of the Immigration and Naturalization Service; to the Committee on the Judiciary.

EC–3263. A communication from the Commissioner, Securities and Exchange Commission, transmitting, pursuant to law, a report concerning compliance with the requirement of the Freedom of Information Act during the last calendar year; to the Committee on the Judiciary.

EC–3264. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the 1977 annual commission report; to the Committee on Rules and Administration.

EC–3265. A communication from the Administrator, Veterans Administration, transmitting a draft of legislation to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM–560. A resolution adopted by the National Cowboy Hall of Fame and Western Heritage Center, relating to the Metric Conversion Act of 1975; to the Committee on Commerce, Science, and Transportation.

POM–561. A resolution adopted by the Legislature of the State of Alabama; to the Committee on Commerce, Science, and Transportation:

"H.R. 30

"Whereas, laws and regulations of the United States government have pressured the State of Alabama into restricting motor vehicle speed on Interstate Highways to a maximum of fifty-five miles per hour, under the threat that the federal government would otherwise withhold highway funds from the State; and

"Whereas, fifty-five miles per hour is too slow for Interstate Highways; and

"Whereas, drivers become bored, sleepy, and careless at this excessively low speed; and

"Whereas, the energy saved by this low speed limit is counterbalanced by the time lost; and

"Whereas, Americans' time is as precious as their petroleum; now therefore

"Be it resolved by the House of Representatives of the State of Alabama, That we urge the legislative and executive branches of the United States government to adopt all measures necessary to allow the State of Alabama to increase to sixty-five miles per hour the maximum speed limit on Interstate Highways within this State.

"Be it further resolved, That copies of this resolution be sent to the President of the United States and to the entire Alabama Congressional Delegation and to the Clerk of the House and the Secretary of the Senate of the United States Congress."

POM–562. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Energy and Natural Resources:

"JOINT RESOLUTION NO. 2

"A joint resolution calling for the Congress of the United States to take appropriate action to require the National Park Service to adhere to the intent of Public Law 95–42 regarding land acquisitions; to require the National Park Service to rescind unwanted parts of its land acquisition directives; to stay condemnation proceedings commenced under these directives; and to make restitution to landowners who have lost normal rights of property ownership

"Be it resolved by the Legislature of the State of Wyoming:

"Whereas, the Ninety-Fifth Congress of the United States, through the enactment of Public Law 95–42 in 1977, made funds available to purchase private lands within the boundaries of the nation's national parks from willing sellers; and

"Whereas, The National Park Service has ignored restrictions within Public Law 95–42 in an overzealous attempt to acquire private lands without the consent of the landowners; and

"Whereas, The National Park Service has harshly exercised its right to eminent domain to acquire private property within the boundaries of Grand Teton National Park, including parts of the Town of Kelly, Wyoming; and

"Whereas, the guidelines for implementing this land acquisition program are directives from the Director of the National Park Service, which directives are extreme in their arbitrary and capricious nature, are contrary to traditional patterns in business relations between private citizens and governmental agencies and set dangerous precedents which could be used broadly by other governmental agencies; and

"Whereas, the application of these guidelines is creating undue hardship and embarrassment to Wyoming citizens in a manner not proper nor easily protested except through the courts, which remedy involves high costs thereby prohibiting its use to most common landowners.

"Now, Therefore, be it resolved by the Legislature of the State of Wyoming, that the Congress of the United States is requested to take appropriate action to require governmental agencies to adhere to the intent of the law specifically, and to the Constitution of the United States generally;

"It is further resolved that Congress is requested to order the Director of the National Park Service to rescind unwanted parts of the land acquisition directives and to advise all interested parties of the willingness to

buy land and of the willingness to negotiate on the basis of values established by a free and unlimited market place;

"It is further resolved that Congress is requested to stay condemnation proceedings commenced under the directives of the Director of the National Park Service and to make full restitution to those landowners who have lost the normal rights of property ownership;

"It is further resolved that copies of this resolution be transmitted by the Secretary of State to the President of the United States, to the presiding officers of each House of the Congress of the United States, to the Secretary of the Interior, to each Senator and Representative from Wyoming in the Congress of the United States and to each State Legislature of the several Western States in the Union."

POM–563. A resolution adopted by the Legislature of the State of Kentucky; to the Committee on Environment and Public Works:

"RESOLUTION

"A concurrent resolution requesting the United States Congress to enact legislation prohibiting the U.S. Army Corps of Engineers from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky

"Whereas, during the past 5 years there have been 85 floods in Kentucky causing actual damages amounting to $181,848,000 according to the U.S. Army Corps of Engineers; and

"Whereas, it is estimated that the floods of April 4–7, 1977 caused property damages well over $100,000,000 to 15 southeastern Kentucky counties and took the lives of 10 persons; and

"Whereas, it is estimated that the floods of April 4–7, 1977 injured 2,255 persons, caused property losses to 9,715 families, and destroyed or severely damaged 4,507 homes and businesses; and

"Whereas, the large number of floods, the actual damages caused by the floods, and the sociological damages to persons requiring rehabilitation or relocation evidence the necessity for immediate design and construction of flood control measures to prevent or reduce future damages from floods in the Commonwealth; and

"Whereas, the benefit/cost ratio can be arbitrarily applied so that costs exceed benefits and deny construction of flood control measures for counties of the Commonwealth subject to flooding;

"Now, therefore, be it

"*Resolved* by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

"Section 1. That the United States Congress is hereby requested to enact legislation prohibiting the U.S. Army Corps of Engineers, when determining the necessity for flood control measures, from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky.

"Sec. 2. That the Clerk be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress."

POM–564. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTION

"Resolutions memorializing Congress and the President of the United States in opposition to the sale of armaments to Egypt and Saudi Arabia

"*Whereas*, History has shown that you cannot buy friendship of nations with money or weapons, that arms are bought to be used—not stored, that peace lies in the hearts of men not in the arsenals of wars, that morality—not the short-term values of the marketplace—provide the best hope for peace, that our nation endangers its own integrity when it strays from its promises to its allies; now therefore be it.

"*Resolved*, That the Massachusetts Senate, alarmed that the United States appears to be running out on its commitment of support for Israel, disturbed that executive agencies of the United States have offered to sell our most modern weapons including F–5's and F–15's to Egypt and Saudi Arabia, a move that threatens to upset the balance of power in the Middle East and engulf that region in yet another war that could destroy Israel, a tiny island of free enterprise democracy in an ocean of fascistic and communistic states, does hereby implore the President and the Congress of the United States to block such proposed sale; and be it further.

"*Resolved*, That copies of these resolutions be transmitted forthwith to the President of the United States, the presiding officer of each branch of the Congress and to the National Association of Jewish Legislators."

POM–565. A resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 43

"Relative to the recent terrorist attack upon Israeli civilians

"Whereas, The killing of 37 Israeli civilians and the wounding of 70 other civilians in a terrorist raid by the Palestine Liberation Organization on the outskirts of Tel Aviv is a criminal outrage against world peace; and

"Whereas, This criminal act spotlights the impossibility of expecting peace by carving out of Israel a homeland for guerrillas and terrorists who would be within minutes of Israeli's capital; and

"Whereas, Many Californians annually visit the State of Israel, a small nation which includes within its borders holy shrines for three major religious faiths, Judaism, Christianity, and Islam; now, therefore, be it

"Resolved, That the Senate of the State of California does hereby express its condolences and sympathy to the families of those murdered and calls upon our administration and Congress in Washington to recognize the peril to world peace in forcing Israel to accept as a precondition to negotiations between Egypt and Israel the creation of a homeland for PLO guerrillas and terrorists within its heartland."

POM–566. A resolution adopted by the Legislature of the State of New Jersey; to the Committee on Foreign Relations:

"SENATE RESOLUTION

"Whereas, History has shown that you cannot buy friendship of nations with money or weapons, that arms are bought to be used, not stored; that peace lies in the hearts of men not in arsenals of war; that mortality, not the short-term values of the marketplace, provide the best hope for peace; and that our Nation endangers its own integrity when it strays from its promises to its allies; now, therefore, be it

"*Resolved* by the Senate of the State of New Jersey:

"This House is alarmed that the United States appears to be running out on its commitment of support for Israel and disturbed that the executive agencies of the United States have offered to sell our most modern weapons, including F–5s and F–15s, to Egypt and Saudi Arabia, a move that threatens to upset the balance of power in the Middle East and engulf that region in yet another war that could destroy Israel, a tiny island of free enterprise democracy in an ocean of totalitarian states, and does hereby call on the Congress of the United States to block such proposed sale. Be it further:

"*Resolved*, That duly authenticated copies of this resolution be transmitted to the Vice President of the United States and the Speaker of the United States House of Representatives, and to each of the members of Congress elected from this State."

POM–567. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Human Resources:

"SENATE JOINT RESOLUTION No. 33

"Memorializing the President, Congress and the Secretary of the Department of Health, Education and Welfare to desist from advocating or supporting policies and programs which have as an objective the elimination of tobacco use and production

"Whereas, the farming of tobacco is a cornerstone of the Virginia agricultural economy, supplying a high standard of living to over forty thousand farm families in the Commonwealth and providing approximately one hundred and sixty-four million dollars worth of gross income to such persons; and

"Whereas, an additional fifty thousand persons are employed in the processing and manufacturing of tobacco products in the Commonwealth; and

"Whereas, the port of Hampton Roads is the largest mover of tobacco products of any port in the world, generating over seven hundred eighty-four million dollars worth of tobacco related revenue; and

"Whereas, all states tax tobacco and derive considerable revenue from such taxes to support beneficial public programs; and

"Whereas, the Secretary of the Department of Health, Education and Welfare has embarked on an expensive and counter-productive attack on tobacco, an industry of vital importance to this Commonwealth and to the nation; and

"Whereas, the elimination of the tobacco industry would cause serious national repercussions, creating an adverse effect on the national balance of payments and eliminating over two and one-half billion dollars of United States Treasury revenues at a time when such money is needed from any available source; now, therefore, be it

"*Resolved* by the Senate, the House of Delegates concurring, That the President of the United States, Congress of the United States and the Secretary of the Department of Health, Education and Welfare are hereby memorialized to desist from advocating or supporting policies and programs which have as an objective the elimination of tobacco use and production; and, be it

"*Resolved further*, That the Clerk of the House of Delegates is directed to send copies of this Resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this Body."

POM–568. A resolution adopted by the Legislature of the State of Georgia; to the Committee on the Judiciary:

"H.R. No. 836

"A resolution requesting the Congress of the United States to take certain actions respecting the freedom of religion in permitting prayer in the public schools; and for other purposes

"Whereas, a fundamental principle upon which this nation was founded was the freedom to completely exercise one's religious beliefs and convictions unrestrained by any action of the government; and

"Whereas, this principle was adhered to for almost two hundred years, in permitting the free and unrestrained opportunity for prayer in the public schools, before the United States Supreme Court arbitrarily and unreasonably ruled that prayer had no place in the public schools; and

"Whereas, just as there can be no true freedom of religion without education, there can be no true education without an exposure to and understanding of faith and the role of the Almighty in our lives; and

"Whereas, the great majority of Georgia parents desire that their children be reared so that regular exposure to religious principles is part of their daily lives; and

Whereas, every school child should have the opportunity, but not be compelled, to hear Scripture and prayer each school day.

Now, therefore, be it resolved by the House of Representatives that this body hereby calls on the Congress of the United States to provide, by appropriate legislation, for the hearing of Scripture and prayer in public schools for those children desiring this opportunity.

"Be it further resolved that the Clerk of the House of Representatives is hereby directed to transmit appropriate copies of this resolution to the Speaker of the United States House of Representatives and the Vice President of the United States."

POM–569. A resolution adopted by the Legislature of the State of Kentucky; to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 20

"A joint resolution to withdraw the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women

"Whereas, at the First Extraordinary Session of 1972, the General Assembly of the Commonwealth of Kentucky, by Joint Resolution, ratified an amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-Second Congress (Second Session), proposing the 27th amendment to the Constitution of the United States, relative to equal rights for men and women and reading as follows:

"Joint Resolution Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Section 1. Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex.

"Sec. 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

"Sec. 3. This amendment shall take effect two years after the date of ratification.

"Whereas, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Joint Resolution of the General Assembly of the Commonwealth of Kentucky ratifying the amendment be withdrawn; Now, therefore, be it

"*Resolved* by the General Assembly of the Commonwealth of Kentucky:

"Section 1. That the ratification of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women, effected for Kentucky by the adoption of House Joint Resolution 2 at the First Extraordinary Session of 1972 of the Kentucky General Assembly, is withdrawn the action of the General Assembly of the Commonwealth of Kentucky thereon is hereby rescinded, and House Joint Resolution 2 is repealed.

"Sec. 2. That copies of this resolution, duly certified by the Secretary of State of the Commonwealth of Kentucky with the Great Seal of Kentucky attached thereo, be sent to the Administrator of General Services of the United States, Washington, D. C. to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall also cause certified copies of the resolution to be sent to the Governor of each of the United States.

"Whereas, the official records of the Secretary of State reflect the fact that the Governor of the Commonwealth of Kentucky is "absent from the State" within the meaning of section 84 of the Constitution of Kentucky, and

"Whereas, in such circumstances, it becomes incumbent upon the Lieutenant Governor to discharge the duties of the office of the Governor.

"Now, therefore, HJR 20, 1978 Regular Session of the General Assembly of Kentucky should be and it hereby is vetoed.

"Conformable to the requirements of Section 88 of the Constitution of Kentucky the objects and reasons for the veto of HJR 20 are:

"(1) It is not in the best interest of the people of the Commonwealth of Kentucky;

"(2) The General Assembly of Kentucky was powerless to rescind the action previously it had taken on the identical subject matters of HJR 20.

"(3) The manner in which HJR 20 obtained concurrence by both Houses of the General Assembly were illegal."

POM–570. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary:

"H.J.R. 66

"Urging the United States Congress to reject proposals for extending the time for Ratification of the ERA amendment

"Whereas, never before in our nation's history has any amendment to the United States Constitution taken longer than three years to be ratified, the purpose of such limitation to obtain a consensus of the majority view within a reasonably current timeframe; and

"Whereas, it is obvious that this consensus has yet to be received even within the longest period of time heretofore taken to ratify an amendment; and

"Whereas, this body and, in our opinion, the majority of the citizens of our state are vehemently opposed to any extension of time for ratification of the ERA amendment; now therefore

"Be it resolved by the legislature of Alabama, both Houses thereof concurring, That we strongly urge the Congress of the United States to promptly and soundly reject any proposal to extend the time for ratification of the ERA amendment to the U.S. Constitution.

"Be it further resolved, That a copy of this resolution be sent to each House of the United States Congress and a copy also to each member of the Alabama Congressional Delegation in Washington, D.C."

POM–571. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Governmental Affairs:

"SENATE JOINT MEMORIAL No. 117

"A joint memorial to the President of the United States, Jimmy Carter, the Secretary of the Department of Agriculture, Robert S. Bergland, the Secretary of the Department of Interior, Cecil D. Andrus, the Senate and House of Representatives in the Congress of the United States, and the Senators and Representatives representing the State of Idaho in the Congress of the United States

"We, your Memorialists, the Senate and House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-fourth Idaho Legislature, do hereby respectfully represent that:

"Whereas, the Soil Conservation Service, established in 1935 within the Department of Agriculture, was created and designed to serve the interests of the public by providing technical service and assistance to the public on private lands through local soil conservation districts; and

"Whereas, this pattern of service to the public has grown and prospered through more than forty years and provides an excellent delivery system of service to soil, water and related natural resource problems, not only in Idaho, but to all fifty states; and

"Whereas, this operation of the Soil Conservation Service and Department of Agriculture has developed realistic working relations, at the local field level, with the fifty-one soil conservation districts in Idaho and almost three thousand such districts nationwide; and

"Whereas, the 95th Congress passed amendments to the Federal Water Quality Act (PL 95–217) committing the Department of Agriculture, Soil Conservation Service and other agencies in the Department of Agriculture to provide additional assistance and service to clean water programs, through soil conservation districts and state soil conservation commissions; and

"Whereas, removing the Soil Conservation Service from the Department of Agriculture would destroy PL 95–217, adversely affecting existing cooperative working relations and service and delivery systems to the local soil conservation districts at the grass roots level where all good conservation practices must take place; and

"Whereas, proposals are now under consideration to transfer the Soil Conservation Service from the Department of Agriculture to the Department of Interior or some other agency; and

"Whereas, we believe the present structure has served well for more than four decades and we urge the Congress to carefully consider this long history of service and the many conservation accomplishments.

"Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States and the President to reject proposals for transfer of the Soil Conservation Service from the Department of Agriculture.

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, Jimmy Carter, the Secretary of the Department of Agriculture, Robert S. Bergland, the Secretary of the Department of Interior, Cecil D. Andrus, the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

POM–572. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE JOINT MEMORIAL No. 114

"A joint memorial to the President of the United States, the Secretary of the Department of Housing and Urban Development, the Congress of the United States, and to the Senators and Representatives representing the State of Idaho in the Congress of the United States regarding regional development

"We, your Memorialists, the Senate and House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-fourth Idaho Legislature, do hereby respectfully represent that:

"Whereas, the federal government is developing proposals for a federal urban policy with specific recommendations for ways to help cities; and

"Whereas, these proposals include the establishment of criteria for federal review and certification of local and regional development strategies designed to achieve national goals in housing, employment and economic stability; and

"Whereas, cities would be required to develop such certified strategies in order to qualify for the receipt of certain federal revenues; and

"Whereas, this proposal will have the effect of strengthening large metropolitan regions at the expense of our nation's smaller cities and rural areas; and

"Whereas, we believe that local goals in Idaho are best established at the local level.

"Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the President and the Congress to reject any proposal which would mandate federal criteria for the development of any sort of State, local or regional development strategies or make establishment of such strategies a criteria for receiving federal revenues at the state or local level.

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of the Department of Housing and Urban Development, to the President of the Senate and Speaker of the House of Representatives of Congress and to the Senators and Representatives representing this State in the Congress of the United States."

POM–573. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources:

"SENATE JOINT MEMORIAL No. 112

"A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled

"We, your Memorialists, the Senate and House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-fourth Idaho Legislature, do respectfully represent that:

"Whereas, in 1950, we were virtually self-sufficient in oil; and

"Whereas, America's self-sufficiency in oil supply has been eroded since 1950, with oil imports rising from 23% in 1970, to 33% in 1972, to 44% in 1976; and

"Whereas, in 1970, we paid nearly three billion dollars for imported oil (or approximately $15.00 per person), and in 1976, this already staggering tribute to foreign oil suppliers increased to $35 billion, or $160 for every man, woman and child in this nation; and

"Whereas, the main dependable and available energy resources are coal and uranium; and

"Whereas, oil and natural gas represent 6% of our identified primary energy reserves but together constitute 75% of our energy consumption; and

"Whereas, on the other hand, coal is our most abundant fossil fuel with American coal reserves estimated at more than 1½ trillion tons—enough to last for 500 years; and

"Whereas, coal comprises 93% of our fuel reserves, yet supplies only 17% of our total energy requirements; and

"Whereas, solar energy and wind energy also represent potentially unlimited power resources deserving of vigorous development; and

"Whereas, the increased energy supplies available through the development of our water resources is even now being demonstrated through the use of low head turbines to generate hydroelectric power on previously unharnessed low-fall streams; and

"Whereas, as oil and natural gas shrink in supply and rise in price, the energy salvation of this nation must depend upon the maximum development and use of our coal and uranium reserves and the full realization of the energy potential present in the sun, the wind and our water resources.

"Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to act now to break the chains of dependence on foreign oil supplies.

"Be it further resolved that we most respectfully submit to the Congress of the United States that it must act immediately to promote and encourage the development of all sources of energy, with emphasis on coal and nuclear power, and further energy conservation if America's energy freedom is to be restored.

"Be it further resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the Senate, the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

POM–574. A petition from a group of citizens relating to the Panama Canal Treaty; laid on the table.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Harold H. Saunders, of Virginia, to be an Assistant Secretary of State.

Alfred L. Atherton, Jr., of Florida, to be Ambassador at Large.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Alfred L. Atherton, Jr.

Post: Ambassador at Large.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Lyne & Ravi Dat, none.

Michael & Judy Atherton, none.

Reed & Cecilia Atherton, none.

4. Parents names, Joan R. Atherton, none.

5. Grandparents names, none.

6. Brothers and Spouses names, Robert & Jean Atherton, none.

7. Sisters and Spouses, names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Robert L. Yost, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Dominican Republic.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Robert L. Yost.

Post: Ambassador, Dominican Republic.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Barbara, Elizabeth, and John, none.

4. Parents names, deceased more than 5 years.

5. Grandparents names, deceased more than 5 years.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Olin C. Robison, of Vermont, to be a member of the U.S. Advisory Commission on International Communication, Cultural and Educational Affairs.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. SPARKMAN. Mr. President, as in executive session, I report favorably from the Committee on Foreign Relations sundry nominations in the Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 23, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (by request):

S. 2820. A bill to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes; to the Committee on Energy and Natural Resources.

S. 2821. A bill to authorize $8,868,000 for grants to the Government of Guam for construction of public facilities, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2822. A bill to authorize the appropriation of funds for the rehabilitation and resettlement of Bikini Atoll, Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (by request):

S. 2823. A bill to amend the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Human Resources.

By Mr. LEAHY:

S. 2824. A bill to amend, revise, and consolidate the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BARTLETT:

S. 2825. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions; to the Committee on Finance.

By Mr. McCLURE:

S. 2826. A bill to establish water resources research centers, to promote a more adequate national program of water research, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (by request):

S. 2820. A bill to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes; to the Committee on Energy and Natural Resources.

RECLAMATION SAFETY OF DAMS ACT OF 1978

● Mr. JACKSON. Mr. President, I introduce today, at the request of the Department of the Interior, a bill to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

I ask unanimous consent that the text of the bill, and the letter of transmittal with enclosure, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. There is hereby authorized to be appropriated such sums as may be necessary to accomplish the purposes of this Act. All costs heretofore or hereafter incurred in the modification of dams to insure their safety from failure shall be allocated among the authorized purposes served by the dams and related reservoirs in accordance with standard cost allocation procedures: *Provided, however,* That costs allocated to irrigation shall be reimbursable to the extent of the water users' ability to repay as determined by the Secretary of the Interior in the light of their outstanding repayment obligations.

WASHINGTON, D.C.,
February 14, 1978.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill "To authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes."

We strongly recommend that the bill be introduced and expeditiously passed.

The purpose of the draft bill is to authorize modification of Bureau of Reclamation dams for safety purposes.

In 1948, Reclamation's efforts to ensure that existing dams and reservoirs are operated and maintained safely led to the development of a formal program for periodic inspections of existing structures. Each dam is included in that program, entitled to Review of Maintenance Program, as soon as the dam has been transferred from construction to operation and maintenance status.

Under the Review of Maintenance Program, each dam is examined by Reclamation project and regional personnel at 2- or 3-year intervals, depending upon the nature of the facility. Specialists from Reclamation's Engineering and Research Center, Denver, Colorado, participate in the review of each dam at least once every 6 years.

A formal report on the condition of each dam and of its appurtenant structures, including recommended corrective actions, if any, is prepared after the examination and becomes a part of the permanent history of the dam's performance.

As the engineering profession develops new criteria and technology for the design of dams, it becomes necessary to reevaluate the safety of the older dams. In 1965, the Examination of Existing Structures Program was initiated to evaluate the ability of reclamation's older dams to withstand safely the current estimated maximum probable flood and to prescribe corrective action necessary to ensure the safety of the dams.

Initially, the Examination of Existing Structures Program focused on structural and hydrological aspects of the dams. New methodology for estimating floodflows made the review necessary. Later, the scope of the program was enlarged to include new methodologies for evaluating the response of dams to earthquakes, the effect of existing or potential landslides, and a review of the condition of upstream dams.

Under the Examination of Existing Structures Program, a formal report is prepared for each structure which the review identifies as having signficant deficiencies. The report includes information on the need for structural modification, the hazards to the public, the recommended corrective action and alternatives thereto, the environmental impacts, and the repayment ability of the water users. The completed reports are used as a basis for recommending corrective action.

Of the dams for which studies have been completed under the Examination of Existing Structures Program, major modifications have been completed at Boca and Clear Lake Dams (California) and Conconully Dam (Washington). Minor modifications (less than $250,000) have been completed at Bull (Wyoming), Gerber Dam (Oregon), and Vallecito Dam (Colorado).

Major work is authorized and is in progress on McMillan and Avalon Dams (Brantley Project, New Mexico), American Falls Dam (Idaho), and Belle Fourche Dam (South Dakota). Major work is authorized but has not been started on McKay Dam (Oregon) and Dickinson Dam (North Dakota).

As a result of studies completed to date, we have found 13 other dams which require structural modification to enable them to withstand safely the inflow design flood and/or the maximum credible earthquake. The names of the 13 dams, the project, State, modifications required, and estimated costs (January 1977 price level) are as follows (also refer to the attached fact sheets for each dam):

1. Deerfield Dam, Rapid Valley Project, South Dakota. Increase the height of the dam 16 feet and modify the spillway and dam outlet works. (The increase in dam height is the only feasible way of ensuring dam safety, and is not for the purpose of increasing operating capacity.) Estimated cost $1,092,000.

2. Lahontan Dam, Newlands Project, Nevada. Rehabilitate the spillway and outlet works and construct a concrete curtain wall in the dam crest. Estimated cost $5,070,000.

3. Hyrum Dam, Hyrum Project, Utah. Construct an auxiliary spillway. Estimated cost $810,000.

4. Stony Gorge Dam, Orland Project, California. Construct an auxiliary spillway. Estimated cost $2,600,000.

5. Gibson Dam, Sun River Project, Montana. Construct aeration piers and protect the downstream abutments by the installation of rockbolts. Estimated cost $962,000.

6. Black Canyon Dam, Boise Project, Idaho. Construct an auxiliary spillway. Estimated cost $3,250,000.

7. Altus Dam, W. C. Austin Project, Oklahoma. Lower the height of the north dike 1 foot, raise the height of the other dikes 2 feet, and construct a new dike. Estimated cost $858,000.

8. Theodore Roosevelt Dam, Salt River Project, Arizona. Increase the height of the dam 4 feet and modify the spillway. Estimated cost $1,209,000.

9. Stewart Mountain Dam, Salt River Project, Arizona. Modify the spillway. Estimated cost $6,760,000.

10. Jackson Lake Dam, Minidoka Project, Wyoming. Protect the dam against possible seismic events in the vicinity of the dam. Estimated cost $4,000,000.

11. Island Park Dam, Minidoka Project, Idaho. Modify the spillway and outlet works. Estimated cost $2,405,000.

12. Willow Creek Dam, Sun River Project, Montana. Construct a replacement spillway. Estimated cost $3,640,000.

13. East Park Dam, Orland Project, California. Construct a larger spillway. Estimated cost $3,900,000.

(Additional information on the above dams is provided on attached sheets).

Although the 13 dams are not in imminent danger of immediate failure, failure would be possible if a "maximum probable flood" were to occur upstream from those dams incapable of safely passing or storing such a flood or if the maximum credible earthquake occurred at those dams incapable of withstanding such an event.

(While the probability of such a flood occurring at a given site is small such floods have been known to occur. The term "maximum probable flood" is an engineering term generally defined as "the largest flood that theoretically could occur at a given site during our present geological and climatic era." The time frame for the probability of such a flood cannot be precisely estimated and would vary from site to site, but it is greater than 100 years, and usually considerably greater.)

The bill would provide general authority to undertake work on these dams, and on others when the need is discovered, for safety purposes. The bill would authorize appropriation of such sums as may be necessary. As drafted, the bill provides that the costs of modifying the dams shall be allocated among the authorized purposes served by the dams and reservoirs in accordance with standard cost allocation procedures. Costs allocated to irrigation shall be reimbursable only to the extent of the water users' ability to repay as determined by the Secretary. This is based on the premise, stated in section 2 of the bill, that the modifications are for safety purposes only, and not for providing any additional benefits over and above those originally authorized and provided by the original dams and reservoirs.

Proposals for modification shall appear as line items for budget review. They shall be based upon such assessment, as necessary, of the relative costs of the modification as compared to the costs and benefits of other measures which may be taken to achieve the same safety objective, such as modified operating procedures, phasing out the use of a project facility, or replacement of a project facility.

The bill is consistent with our desire for an active dam safety program within the Department and we strongly recommend that the bill be expeditiously approved by the Congress.

The Office of Management and Budget has advised that the enactment of this draft bill would be in accord with the program of the President.

Sincerely,

CECIL D. ANDRUS,
Secretary.

DEERFIELD DAM

Deerfield Dam, a feature of the Rapid Valley Project, South Dakota, was completed in 1947 It is located in Castle Creek, approximately 27 miles west of Rapid City. The dam is a 133-foot-high zoned earthfill structure. The dam crest is 35 feet wide and 825 feet long An uncontrolled, concrete, side-channel-type spillway is located at the right abutment of the dam. The reservoir capacity is 16,000 acre-feet when the water level is at the spillway crest. Deerfield Dam was constructed to supply water to approximately 8,900 acres of supplemental-service land

If the maximum probable flood were to occur, the capacity of the spillway and outlet works would be exceeded, and approximately 23,000 cubic feet per second would flow over the dam crest. Rapid erosion of the earth embankment would result, and the peak flow below the dam would probably exceed 700,00 cubic feet per second.

The seismic analysis of Deerfield Dam indicates that the dam is capable of withstanding safely the maximum credible earthquake event.

The proposed corrective action includes raising the dam 16 feet and modifying the spillway. The estimated cost of the work is $1,092,000 (based on January 1977 price level.)

Deerfield Reservoir and the downstream Pactola Reservoir are operated on a pooled storage basis. Deerfield Reservoir is filled each spring. The water elevation is held high during the summer months for recreation and is drawn down following the irrigation and recreation season. The evacuated reservoir space is reserved for winter inflow to prevent use of the outlet works and spillway during the coldest winter months.

LAHONTAN DAM

Lahontan Dam, a feature of Newlands Project, Nevada, was completed in 1915. It is located on the Carson River, 18 miles west of Fallon, Nevada. The dam is a 162-foot-high zoned earthfill structure; the crest is 20 feet wide and 5,400 feet long. The active storage capacity of 295,000 acre-feet when the water level in the reservoir is at the spillway crest can be increased to approximately 314,000 acre-feet by the installation of flashboards across the two spillways. The project is designed to irrigate approximately 73,000 acres of full-service land, including approximately 4,900 acres of Indian land.

Lahontan Dam is incapable of storing or safely passing the maximum probable flood. Flows from such a flood would damage the already deteriorated concrete in the spillway chutes, cause the right abutment of the dam to slough, and ultimately, failure of the dam. The resulting breach in the dam would permit an uncontrolled peak discharge of approximately 275,000 cubic feet per second.

The maximum credible earthquake event would cause substantial damage to Lahontan Dam but would not cause it to fail.

Corrective action includes the rehabilitation of the spillways and the outlet works and the construction of a concrete curtain wall in the dam crest. The estimated cost is $5,070,000 (based on January 1977 price level).

Until the corrective work can be accomplished, the amount of storage during the snowmelt runoff season has been restricted.

HYRUM DAM

Hyrum Dam, a feature of the Hyrum Project, Utah, was completed in 1935. It is located on Little Bear River at the southwest corner of the town of Hyrum, about 10 miles south of Logan, Utah. The dam is a 116-foot-high rolled earthfill structure; the crest is 35 feet wide and 540 feet long. The active storage capacity of the reservoir is approximately 15,000 acre-feet. Hyrum Project contains approximately 6,800 acres of supplemental-service land.

Porous material was used to construct the top 5 feet of the dam. Even if the reservoir were empty at the start of the maximum probable flood, the water level in the reservoir would rise sufficiently to permit the water to saturate and flow through the porous material. The flowing water would cause rapid breaching of the embankment and, ultimately, failure of the dam.

The seismic analysis of the dam has not been completed.

The proposed corrective action includes the construction of an auxiliary spillway at an estimated cost of $180,000 (based on January 1977 price level).

Until the corrective action is completed, the spillway gates are kept completely open throughout the winter months, until runoff forecasts indicate that low frequency, high-volume snowmelt runoff is not likely to occur.

STONY GORGE DAM

Stony Gorge Dam, a feature of the Orland Project, California, was completed in 1928. It is located on Stony Creek, approximately 40 miles southwest of Orland. The dam is a 139-foot-high concrete slab and buttress structure. The dam crest is 9.75 feet wide and 868 feet long Flow in the spillway at the center of the dam is controlled by three crawler gates. The active storage in the reservoir is approximately 50,000 acre-feet. The Orland Project contains approximately 19,600 acres of full-service land.

If the maximum probable flood were to occur, the capacity of the spillway and outlet works would be exceeded and the water level in the reservoir would rise 4 or 5 feet higher than the crest. Overtopping the dam would result in the undermining of the buttresses and cause failure of the dam.

The seismic analysis of Stony Gorge Dam indicates that no appreciable damage would result from the occurrence of the maximum credible earthquake event.

The proposed corrective action includes the construction of an additional spillway and would cost an estimated 2,600,000 (based on January 1977 price level).

Because Stony Gorge Dam can store or safely pass intermediate size floods safely, no interim operating procedures have been implemented.

GIBSON DAM

Gibson Dam, a feature of the Sun River Project, Montana, was completed in 1927. It is located on the north fork of Sun River, 70 miles west of Great Falls. The dam is a 199-foot-high concrete arch structure. The 960-foot-long crest is 15 feet wide. A drop-inlet spillway is located near the left abutment. The atcive reservoir capacity is 105,000 acre-feet. The Sun River Project contains approximately 91,000 acres of full-service irrigable land.

If the maximum probable flood were to occur, the capacity of the spillway and outlet works would be exceeded, and the water level in the reservoir would rise 11 feet above the dam crest. Although the overflow would not cause the dam to fail, it would erode the abutments and weaken the dam.

The seismic analysis indicates that the dam would not fail during the occurrence of the maximum earthquake event and that damage resulting from the event would not be major.

The proposed corrective action includes the installation of aeration piers and protection of the left and right abutments by the installation of rockbolts. The estimated cost is $962,000 (based on January 1977 price level).

To protect the dam from being overtopped by floods of less than a 100-year frequency, the reservoir storage is restricted until the snowmelt runoff recedes to less than 6,000 cubic feet per second.

BLACK CANYON DAM

Black Canyon Dam, a feature of the Payette Division, Boise Project, Idaho, was completed in 1924. It is located on Payette River, 5 miles northeast of Emmett, Idaho. The dam is a concrete gravity structure with a gated ogee spillway. The dam crest is 1,039 feet long. A power-pumping plant is located at the north end of the dam. The dam serves to divert water into the Black Canyon Canal. The Payette Division contains approximately 60,000 acres of full-service land and approximately 54,000 acres of supplemental-service land.

If the maximum probable flood were to occur, the dam would be overtopped by more than 3 feet, and the power-pumping plant building and penstocks, the utility building, the switchyard, and the new control building would be extensively damaged. No lives would be endangered.

There is some concern about the capability of the dam to withstand the maximum credible earthquake event, and seismic studies have been initiated.

The proposed corrective action includes the construction of an auxiliary spillway. The estimated cost is $3,250,000 (based on January 1977 price level). The results of the seismic studies may indicate that additional corrective action is required.

Because Black Canyon Dam is a diversion dam and the reservoir contains only limited storage, a change in operation would not eliminate the need for corrective action.

ALTUS DAM

Altus Dam and related earth dikes, features of the W. C. Austin Project, Oklahoma, were completed in 1945. The dam is located on the north fork of Red River, approximately 18 miles north of Altus, Oklahoma. The 110-foot-high concrete gravity dam is faced with granite masonry on both faces except for the downstream face of the overflow section. The crest is 10 feet wide and 1,112 feet long. The active storage capacity of the reservoir is 154,000 acre-feet. The W. C. Austin Project furnishes water to approximately 47,000 acres of full-service land.

If the maximum probable flood were to occur, the water level in the reservoir would rise approximately 12 feet above the crest of the dam, assuming that the existing dikes did not fail.

The seismic analysis indicates that the dam and dikes would withstand safely the occurrence of the maximum credible earthquake.

The proposed corrective action includes the lowering of the north dike, raising other dikes, and constructing one new dike. The estimated cost is $858,000 (based on January 1977 price level).

To reduce the probability of serious freeboard encroachment at Altus Dam prior to the completion of corrective action, special arrangements for the receipt of precipitation and streamflow data have been made with the Weather Service and with the Corps of Engineers. We are cooperating with the Corps in revising flood-control regulations for Altus Dam.

THEODORE ROOSEVELT DAM

Theodore Roosevelt Dam, a feature of the Salt River Project, Arizona, was completed in 1911. The dam is located on the Salt River, approximately 30 miles northwest of Globe. The 280-foot-high rubble-masonry, thick-arch structure has two overfall spillways. Flows in the spillways are controlled

by radial gates. The dam crest is 16 feet wide and 723 feet long. The active storage capacity of the reservoir is approximately 1,382,000 acre-feet. A powerplant is located at the base of the left abutment. The Salt River Project contains approximately 263,000 acres of irrigable land, of which 238,000 acres are full-service land.

If the maximum probable flood were to occur, the water in the reservoir would rise approximately 2.5 feet above the top of the dam parapet and the dam would fail.

The seismic analysis indicates that the dam is capable of withstanding the maximum credible earthquake event safely.

The corrective action being considered at the present time includes raising the dam and modifying the spillway at an estimated cost of $1,209,000 (based on January 1977 price level).

Under present operating restrictions, the normal water level in the reservoir has been reduced to protect against failure during intermediate floods.

STEWART MOUNTAIN DAM

Stewart Mountain Dam, a feature of the Salt River Project, Arizona, was completed in 1930 and modified by the Bureau of Reclamation in 1936. It is located on the Salt River, approximately 41 miles northeast of Phoenix, Arizona. The dam, a thin-arch, concrete structure, has a concrete weir spillway at the left abutment. The dam crest is 8 feet wide and 1,260 feet long. The active capacity of the reservoir is approximately 70,000 acre-feet. A powerplant is located at the base of the right abutment. The Salt River Project contains approximately 263,000 acres of irrigable land, of which approximately 238,000 acres are full-service land.

In the event the maximum probable flood were to occur, Stewart Mountain Dam would not fail; the undermining effect of the high-velocity flows in the spillway, however, would cause severe damage to the right wall and floor slab of the spillway chute.

A seismic analysis of Stewart Mountain Dam indicates that the dam could withstand the maximum credible earthquake event safely.

The proposed corrective action includes raising the dam and modifying the spillway at a cost of $6,760,000 (based on January 1977 price level).

To minimize damage to the spillway, discharges through the spillway should be restricted to 105,000 cubic feet per second (approximately two-thirds of its capacity) until the corrective work has been completed.

JACKSON LAKE DAM

Jackson Lake Dam, a feature of the Minidoka Project, Idaho-Wyoming, was completed in 1911 and was enlarged in 1916. It is located on the Snake River, near Moran, Wyoming. The 78-foot-high dam is a concrete gravity structure with earth embankment wings. The crest is 20 feet wide and 4,920 feet long. The active capacity of the reservoir is approximately 847,000 acre-feet. The concrete overflow spillway is controlled by radial gates. Jackson Lake Dam is one of five Minidoka Project dams. The project contains approximately 1,163,000 acres of irrigable land, of which 217,000 acres are full-service land.

Jackson Lake Dam is capable of withstanding the maximum probable flood.

The seismic studies are incomplete, however, the indications are that the earth embankments may require stabilization to enable them to withstand the maximum credible earhquake event. The concrete section of the dam has been stabilized and is capable of withstanding that event.

The amount of corrective action needed to make the earth embankment safe will be determined when the current seismic studies have been completed. At this time, the estimated cost of the work needed to stabilize the embankments is $4 million (based on January 1977 price level).

Interim operating procedures are not required at Jackson Lake Dam.

ISLAND PARK DAM

Island Park Dam, a feature of the Upper Snake River Storage Division, Minidoka Project, Idaho, was completed in 1938. The dam is located on Henrys Fork, approximately 38 miles north of Ashton, Idaho. The 91-foot-high zoned earthfill structure has a U-shaped concrete weir spillway located at the right abutment. The dam crest is 35 feet wide and 9,448 feet long. The active capacity of the reservoir is approximately 128,000 acre-feet. The Upper Snake River Storage Division contains approximately 112,000 acres of supplemental-service land.

The concrete in the Island Park Dam spillway is in an advanced stage of deterioration. Studies have indicated that the dam is incapable of storing or passing safely the maximum probable flood.

The proposed corrective action includes the modification of the spillway and outlet works of the dam, at an estimated cost of $2,405,000 (based on January 1977 price level).

The material in the upper portion of the embankment is not watertight, and the operating procedures have been revised to limit the amount of storage in the reservoir during periods when the maximum probable flood could occur.

WILLOW CREEK DAM

Willow Creek Dam, a feature of the Fort Shaw Division, Sun River Project, Montana, was completed in 1911. The dam is located on Willow Creek approximately 5 miles northwest of Augusta, Montana. The 93-foot-high modified homogeneous earthfill structure has an uncontrolled open channel emergency spillway in dike No. 5, approximately 3,600 feet north of the dam. The crest of the dam is 30 feet wide and 650 feet long. The active reservoir capacity is approximately 32,000 acre-feet. The Fort Shaw Division contains approximately 10,000 acres of full-service land.

A geological investigation revealed that the top 7 or 8 feet of the unlined spillway channel are highly erodible. If the maximum probable flood were to occur, the spillway would fail and a substantial loss of reservoir storage would occur.

The seismic analysis indicates that Willow Creek Dam is capable of withstanding the maximum credible earthquake event.

The proposed corrective action includes raising the dam and the construction of a replacement spillway. The estimated cost of the work is $3,640,000 (based on January 1977 price level).

There are no operating restrictions at Willow Creek Dam.

EAST PARK DAM

East Park Dam, a feature of the Orland Project, California, was completed in 1914. The outlet works were modified in 1916. The dam is located on the Little Stony Creek, approximately 31 miles southwest of Orland, California. The 139-foot-high concrete thick-arch dam has a concrete multiple-arch uncontrolled overflow spillway approximately 2,000 feet south of the dam. The crest of the dam is 10 feet wide and 266 feet long. The active storage capacity of the reservoir is approximately 51,000 acre-feet. The Orland Project contains approximately 19,600 acres of full-service land.

If the maximum probable flood were to occur at East Park Dam, the water surface in the reservoir would rise approximately 4 feet higher than the dam. The event would cause failure of the spillway structure and probably one or both dikes and the small retaining wall south of the dam.

Results of the seismic analysis indicate that the dam would suffer damage during the occurrence of the maximum credible earthquake event; although the dam would not fail, the stability of the spillway structure is marginal, and it would probably fail.

The proposed corrective action includes the construction of a larger spillway, at an estimated cost of $3,900,000 (based on January 1977 price level).

There are no operating restrictions at East Park Dam.●

By Mr. JACKSON (by request):

S. 2821. A bill to authorize $8,868,000 for grants to the government of Guam for construction of public facilities, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to authorize $8,868,000 for grants to the government of Guam for construction of public facilities, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication accompanying the proposal from the Under Secretary of the Interior be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the Secretary of the Interior (hereinafter referred to as the Secretary), an amount not to exceed $8,868,000 for a grant to the government of Guam to assist in the rehabilitation, upgrading and construction of public facilities.

SEC. 2. Funds provided under this Act may be used as the matching share for Federal programs and services.

SEC. 3. The government of Guam in carrying out the purpose of this Act may utilize, to the extent practicable, the available services and facilities of agencies and instrumentalities of the Federal Government or a reimbursable basis. Reimbursements may be credited to the appropriation or fund which provided the services and facilities. Agencies and instrumentalities of the Federal Government may, when practicable, make available to the government of Guam upon request of the Secretary such services and facilities as they are equipped to render or furnish, and they may do so without reimbursement if otherwise authorized by law.

SEC. 4. Funds appropriated pursuant to this Act shall remain available until expended, and the Secretary may place such stipulations as he deems appropriate on the use of these funds.

SEC. 5. No request by the Governor of Guam for the payment of funds pursuant to this Act will be accepted unless the territorial legislature has concurred in the Governor's request.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 6, 1978.

Hon. WALTER F. MONDALE,
President, United States Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To authorize $8,868,000 for grants to the Government of Guam for construction of Public facilities, and for other purposes.".

We recommend that the bill be referred to the appropriate Committee for consideration, and that it be enacted.

The draft bill would authorize the appropriation of $8,868,000 to the Secretary of the

Interior for a grant to the Government of Guam for the purpose of rehabilitation and upgrading existing public facilities and constructing new facilities. Many of Guam's public facilities were severely damaged or destroyed by Typhoon Pamela which devastated Guam in May 1976. In addition, many of the territory's public facilities were constructed by the United States military after World War II and are no longer adequate to met the needs of Guam's growing civilian population.

For fiscal year 1977, this Department received a $500,000 supplemental appropriation which is being used to develop a program plan to help the Government of Guam deal with its short and long range needs. The plan will cover a broad range of activities, including governmental operations, financial management, economic development, and alternative proposals for Federal Government assistance.

However, until the program plan is completed and final recommendations and alternatives have been evaluated, this proposed $8,868,000 construction grant will provide for the improvement of the territory's water system which the government of Guam has identified as the highest priority for capital improvements. The requested funds will permit Guam to start on some of the more immediate projects thus providing some immediate assistance to Guam until the overall assessment plan is completed and a more comprehensive program for the territory can be developed.

Local revenues are forecasted to be deficient over the insuing period and thus will provide for only the basic operating programs of the Government of Guam. This then leaves no funding to provide for priority capital improvement needs.

Since Typhoon Pamela, this Department has assisted the Guam Government in obtaining direct Federal financial assistance of $45.2 million for the rebuilding of the island. This assistance consisted of a $20.0 million emergency grant following the typhoon to maintain essential government services; a $10.2 million grant to reconstruct and upgrade power and water facilities damaged by the typhoon; and a $15.0 million grant to supplement Guam's reduced revenues.

In addition, approximately $64 million in grants and loans has been received by Guam from other Federal agencies, such as the Department of Health, Education and Welfare and the Federal Disaster Assistance Administration as a result o fthe damage created by the typhoon. The grants for which this authorization is being requested will allow Guam to continue on its program of typhoon rehabilitation and general infra-structure improvement and development.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

Sincerely,

JAMES A. JOSEPH,
Under Secretary.●

By Mr. JACKSON (by request):

S. 2822. A bill to authorize the appropriation of funds for the rehabilitation and resettlement of Bikini Atoll, Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to authorize the appropriation of funds for the rehabilitation and resettlement of Bikini Atoll, Trust Territory of the Pacific Islands, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication accompanying the proposal from the Under Secretary of the Interior be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby authorized to be appropriated not more than $15 million (December 1977 prices) plus or minus such amount, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved, for rehabilitation and resettlement of Bikini Atoll.

U.S. DEPARTMENT
OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 6, 1978.

Hon. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a proposed bill "To authorize the appropriation of funds for the rehabilitation and resettlement of Bikini Atoll, Trust Territory of the Pacific Islands, and for other purposes.".

Bikini Atoll lies among the Marshall Islands, which are a part of the Trust Territory of the Pacific Islands administered by the United States pursuant to an agreement with the Security Council of the United Nations. The United States carried on atomic testing there between 1948 and 1958 which severely damaged Bikini Atoll and rendered much of it uninhabitable.

The United States has committed itself to returning the atoll to its original owners when security purposes no longer required its use for testing or defense purposes, and from 1958 onward the people of Bikini increasingly pressed for a return. Between 1966 and 1967, the former Atomic Energy Commission conducted several radiological surveys, and reported that after cleanup, a certain number of the islands of the atoll were safe for civilian habitation. Accordingly, on August 12, 1968, President Johnson announced that Bikini Atoll was no longer required for the nuclear testing program or for defense purposes, and that the atoll would be returned to the people of Bikini following cleanup and rehabilitation.

In June 1975 an intensive ground radiological survey was conducted by Energy Research Development Administration (ERDA) and it revealed that the original recommendations concerning resettlement on Bikini Island needed major revision. It became evident that radionuclide intake in the plant food chain had been significantly miscalculated in terms of human consumption. The results of the 1975 ERDA survey led to the decision that an aerial radiological survey be done for Bikini Atoll also. This kind of aerial survey can reveal residual results not available from ground techniques, particularly the presence of plutonium in the soil. The aerial radiological survey is expected to be carried out in early 1978, and results for Bikini Atoll will be available shortly thereafter.

The 1975 ERDA radiological survey demonstrated conclusively that the interior of Bikini Island should not be used for residential purposes; that well water should not be used for human consumption; and that locally grown food products must be placed on a restricted basis as far as consumption by the people is concerned. By late 1976, it was evident that coconut trees, formerly not expected to pose a recycling danger, were also suspected. The restriction on the use of coconut products produced on Bikini Island for food and export additionally make the island of Bikini unrealistic as a permanent place of settlement and for agricultural use.

It is now clear that the use of Bikini Island (the largest island on the Atoll) cannot be considered at the present time as the site for permanent resettlement for the approximately 500 Bikinians who seek to return, or for immediate agricultural purposes. In short, a complete recasting of the Bikini Resettlement Program is required.

A Master Plan for Bikini Resettlement, completed in 1974, revised the original 1969 plans for development of the atoll. This 1974 Master Plan envisioned using both Bikini Island and Eneu Island for habitation and for agricultural purposes.

Since action on the Bikini resettlement problem is urgently needed, a number of alternative plans currently are being considered. The most feasible, at present, appears to be to concentrate the major resettlement project on Eneu Island. This Island, which lies approximately 12 miles south of Bikini Island, did not, in contrast with Bikini, receive significant amounts of radiation fallout, and radiation exposure of people living there would meet U.S. Federal safety standards. A preliminary recasting of the 1974 Bikini Master Plan indicated that approximately $13 million will be required to rehabilitate Eneu Island and to develop suitable residential community facilities there. 21,000 coconut trees already have been planted on Eneu Island and are bearing. Analysis reveals that these Eneu Island coconuts can be used for food and possible future copra export. Additionally, there are smaller islands available which must be planted with coconut groves and other food crops to replace the coconut groves and garden plots on Bikini Island which, for the foreseeable future, will continue to be restricted as to use.

Experimental garden plots for vegetables, breadfruit, and other crops have been established on Eneu Island and are flourishing. Analytic test results of these garden crops will be available by early summer, 1978. Since coconuts on Eneu Island already have been tested and are safe, it is expected, in view of the vastly lower radioactivity level of the Eneu soil, that other food crops also will be useable.

The restrictions on the use of Bikini Island, however, do pose the question as to whether all of the approximately 500 Bikinians who have indicated a strong desire to return to Bikini Atoll, can be adequately accommodated on Eneu Island. Even if they can it is anticipated that a small group of Bikinians will elect to remain on Kili Island. Estimates for rehabilitation of the Kili Island community facilities are set at a minimum of $2,000,000, thus making the overall Bikini rehabilitation project estimate $15 million at 1977 prices.

The Office of Management and Budget has advised that enactment of this legislation would be consistent with the Administration's objectives.

Sincerely,

JAMES A. JOSEPH,
Under Secretary.●

By Mr. CRANSTON (by request):

S. 2823. A bill to amend the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Human Resources.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1978

● Mr. CRANSTON. Mr. President, today I am introducing, at the request of the administration, S. 2823, the proposed "Domestic Volunteer Service Act Amendments of 1978." I ask unanimous consent that the letter of transmittal of March

20, 1978, from Sam Brown, Director of the ACTION Agency, the text of the bill, and the administration's section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1978".

SEC. 2. The first sentence of section 105(a)(2) of the Domestic Volunteer Service Act of 1973, (P.L. 93–113; 87 Stat. 394 et seq.) (hereinafter referred to as the "Act") is amended to read as follows:

"(2) Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, the accrued stipend, or any part thereof, may be paid to the volunteer, members of his family, or others during the period of his service."

SEC. 3. The Act is amended by striking out Section 108 thereof.

SEC. 4. Section 114(a) of the Act is amended by;

(a) Striking out all of the first sentence preceding the words "to encourage", and by substituting therefor the words "The Director is authorized to conduct, or make grants or contracts for programs"; and

(b) Striking out the second sentence thereof.

SEC. 5. Section 122(c) of the Act is amended to read as follows:

"(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as volunteers in programs under this part such allowances, stipends and other support as he determines are necessary to carry out the purposes of this part; *provided, however* that volunteers enrolled for less than 10 weeks of service or less than 20 hours of service a week shall not be eligible to receive a stipend."

SEC. 6. Section 201 of the Act is amended:

(a) by striking out "sixty" in subsection (c) and inserting "thirty" in lieu thereof; and

(b) by adding thereto a new subsection (d) as follows:

"(d) Volunteers under this part shall not be deemed to be employees, and their volunteer service shall not be deemed employment, for any purpose."

SEC. 7. Section 212 of the Act is amended by:

(a) Striking out paragraph (a)(2) and by inserting the following in lieu thereof:

"(2) The Director shall not award a grant or contract under this part for a project to be carried out over an area in a state more comprehensive than one community to any agency or organization unless, if such state has a state agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024 (a)(1)), such agency is the recipient of the award or has been afforded at least thirty days in which to review the project application and make recommendations thereon.", and

(b) Striking out paragraph (a)(3) and inserting in lieu thereof:

"The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless such agency is the recipient of the award or has been afforded at least thirty days in which to review the project application and make recommendations thereon."

SEC. 8. Section 401 of the Act is amended by

(a) striking out, in the first paragraph, "shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and" and

(b) striking out, in the first paragraph "shall be designated "Associate Director for International Operations" and".

SEC. 9. Section 402 of the Act is amended by striking out, in clause (12), "(except as provided in section 108)".

SEC. 10. (a) Section 415(b) of the Act is amended:

(1) by striking out, in the first sentence, "under title I of this Act for periods of service of at least one year," and by inserting in lieu thereof "as full-time volunteers, or part-time volunteers enrolled for periods of service of at least 20 hours per week, in programs under title I of this Act";

(2) (A) by striking out "and" at the end of clause (3);

(B) by amending subclause (4)(A) to read: "(A) in computing compensation benefits for disability and death, the monthly pay of a full-time volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee, and the monthly pay of a part-time volunteer enrolled for a period of service of at least 20 hours per week shall be deemed that received under the entrance salary for a GS–2 employee, and subsections (a) and (b) of section 8113 of title 5, United States Code shall apply, and", and

(3) by adding before the period at the period at the end thereof the following:

", and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United tSates Code (and stipends and allowances paid under this Act shall be considered as pay for purposes of such section)".

(b) Section 415 is amended by adding the following new subsections:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, or (B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentists, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnal in furnishing medical care or treatment while in the exercise of such person's duties as a full-time volunteer under title I of the Act shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, phramacist or paramedical or other supporting personnel (or such person's estate) whose action or omission gave rise to such claim.

"(2) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such persons against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever was designated by the Director to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

"(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State Court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

"(g) Notwithstanding any other provision of law, a full-time volunteer under title I of this Act who is otherwise entitled to receive assistance or services under any governmental program shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment."

SEC. 11. Section 417 is amended:

(a) by adding at the end of subsection (a) the following new sentence:

"For the purposes of this section, and Title VI of the Civil Rights Act of 1964, programs or activities receiving the services of volunteers shall be deemed to be receiving Federal financial assistance."; and

(b) by adding the following new subsection at the end thereof;

"(c)(1) All personnel actions by the ACTION agency affecting individuals enrolled as full-time volunteers or part-time volunteers enrolled for periods of service of at least 20 hours per week, or applicants for such enrollment, shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(2) The Director shall have authority to provide appropriate remedies to effectuate the policies of paragraph (1), including reinstatement or enrollment of volunteers with or without back allowances, benefits and stipends, and shall issue such rules, regulations, orders and instructions as he deems necessary and appropriate to carry out his responsibilities under this subsection, which shall include a requirement that a volunteer or volunteer applicant shall be notified of any final action taken on any complaint of discrimination filed by him thereunder.

"(3) Within thirty days of receipt of notice of final action referred to in paragraph (2), or after one hundred and eighty days from the filing of the initial complaint with the ACTION Agency until such time as final action is taken by the ACTION Agency, a volunteer or volunteer applicant, if aggrieved by the final action taken, or by the failure to take final action on such complaint, may file a civil action as provided in section 706 of the Civil Rights Act of 1964, as amended, and the provisions of section 706(f) through (k) of such Act shall govern civil actions brought hereunder."

SEC. 12. (a) Section 501 of the Act is amended (1) by striking out, in subsection (a), everything after the word "appropriated" and by inserting in lieu thereof "such sums as may be necessary for the fiscal year

ending September 30, 1978, $48,239,000 for fiscal year ending September 30, 1979, and such sums as may be necessary for the fiscal year ending September 30, 1980, for the purpose of carrying out programs under title I of this Act.", and (2) by striking out all of subsection (b).

(b) The Act is amended by striking out section 502 and by inserting in lieu thereof:

"SEC. 502. There are authorized to be appropriated $57,940,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for the fiscal year ending September 30, 1980 for the purpose of carrying out programs under title II of this Act."

(c) Section 504 is amended by striking out "and" after "September 30, 1977," and by adding "September 30, 1979, and September 30, 1980," after "September 30, 1978,".

Section 13. P.L. 94–130, 89 Stat. 684, is amended by striking out the second sentence of section 5(b) thereof.

ACTION,
Washington, D.C., March 20, 1978.

Hon. WALTER F. MONDALE,
President of the United States Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration is draft legislation which will enable ACTION to continue its work in providing volunteers to programs which seek to alleviate poverty and poverty-related human, social and environmental problems within the United States.

The proposed bill authorizes the appropriation of $48,239,000 for programs under Title I of the Domestic Volunteer Service Act of 1973 for fiscal year 1979, and such sums as may be necessary for these programs for fiscal year 1980. Programs authorized by Title I of the Act include VISTA, University Year for ACTION, the National Student Volunteer Program, the Youth Challenge Program, Mini-Grants, assistance to state volunteer organizations, and technical assistance to volunteer agencies. Since ACTION's budget does not include funds for the University Year for ACTION program for fiscal year 1979, the authorization requested does not include funds for that program.

The bill would also authorize the appropriation of $57,940,000 for Older American Volunteer Programs for 1979, and such sums as may be necessary for these programs for 1980.

priation of such sums as may be necessary for the administration of programs under the Domestic Volunteer Service Act for fiscal years 1979 and 1980.

There are, in the bill, a number of new proposals to broaden the authority of the Director to operate a full range of volunteer programs and to provide effective support to volunteers serving in the agency's programs. These include a provision which will permit the Director to determine what types of allowances, stipends and support should be provided to persons serving in Special Volunteer programs under Part C of Title I of the Act. Under the proposed amendment, the Director could provide volunteers in these programs with appropriate allowances.

Other provisions which will provide more effective support to volunteers include a proposal that section 415(b) of the Domestic Volunteer Service Act be amended to include all full-time volunteers, and part-time volunters serving at least 20 hours in programs authorized by Title I of the Act to the extent that the Director deems appropriate. Coverage of volunteers for Federal Tort Claims Act and Federal Employees' Compensation Act purposes, which are among the benefits contained in this section, is essential to the performance of the volunteers' duties. They are presently available only to volunteers enrolled for periods of service of at least one year.

The bill also adds a new provision permitting the government to waive collection of erroneous payments of volunteer allowances where collection would be against good conscience and not to the advantage of the government. This authority is presently available with respect to federal employees, and has been extended to Peace Corps volunteers. Enactment of this provision would prevent hardship to volunteers who receive small overpayments of allowances and stipends which they are unable to repay because their allowances are only sufficient to permit them to live at the level of the poor people whom they serve.

The bill contains a provision which would extend to full-time volunteers under Title I of the Act the same type of medical malpractice coverage under the Federal Tort Claims Act as is now available to medical personnel serving in the Public Health Service, with the Veterans Administration, under the Foreign Service Act, and with various military services. This coverage would make the Federal Tort Claims Act the sole remedy for damages for personal injury or death resulting from malpractice arising out of performance of the volunteer's duty.

The Solicitor of Labor has recently ruled that volunteers who are receiving Aid to Families with Dependent Children are required to enroll in the Work Incentive program (WIN). WIN requires that, to be eligible for benefits (and, under recent legislation, food stamps), recipients are required to register for, seek, and accept employment. Under the Domestic Volunteer Service Act, low-income locally recruited volunteers who were receiving AFDC benefits prior to their enrollment in ACTION volunteer programs are entitled to exclude their volunteer allowances and stipends in computing their eligibility for public assistance. This provision is intended to permit low-income persons with dependents to serve as volunteers, while continuing to receive the public assistance necessary to support their dependents.

These volunteers' assignments are based on the expectation that they will be able to complete their full year of service. If however, they were required, while serving as volunteers, to actively seek employment, the provisions of the Domestic Volunteer Service Act which encourage the enrollment of low-income volunteers would be defeated. We are proposing that such volunteers be exempted from the requirement that they register for and seek employment as a precondition to receiving the public assistance to which they would otherwise be entitled.

Finally, the proposed bill would strengthen the antidiscrimination provisions of the Domestic Volunteer Service Act by making it clear that volunteer service is Federal financial assistance for the purposes of Title VI of the Civil Rights Act of 1964, and by specifically prohibiting discrimination in personnel actions involving volunteers and volunteer applicants.

Several provisions relating to the management of Older American Volunteer programs are included in the bill. The bill amends section 201 of the Domestic Volunteer Service Act to reduce the time State Agencies on Aging have to make recommendations on RSVP project applications from 60 to 30 days and to make clear that Retired Senior Volunteer Program participants are not employees of ACTION or of sponsors for any purpose. These volunteers, who are all over 60 years of age, receive no compensation for their services, and are reimbursed only for certain types of out-of-pocket expenses.

Certain State Workers Compensation Agencies are contending that RSVP volunteers should be covered by worker's compensation. ACTION makes low cost accident insurance for volunteers available to sponsors, except for certain public agencies which are self-insurers in this regard, to cover the medical cost of any injury suffered by the volunteers. The contention that these older volunteers are employees for the purpose of worker's compensation is inconsistent with the volunteer nature of the RSVP program, and because of the large number of volunteers involved, could lead to substantial and unwarranted expense.

The proposed legislation also would replace the provision which requires that State Agencies on Aging and Community Action Agencies be given the right to apply for and become sponsors of Foster Grandparent and Senior Companion Programs on a preferential basis with a provision which would give these agencies notice and an opportunity to comment on project proposals. The new provision is similar to that which is applicable to the Retired Senior Volunteer Program. This new provision will permit ACTION to follow a consistent policy of coordinating its programs for Older American volunteers with state agencies on aging and community action agencies.

Several provisions of the bill are aimed at improving the management capabilities of the agency. It would delete the mandatory titles which the Act now requires be assigned to Associate Directors for Domestic and International Operations. These Presidentially appointed officers would continue to be designated Associate Directors. However, the title "Associate Director for International Operations" does not adequately reflect the duties of the Associate Director responsible for activities under the Peace Corps Act, and should not be required to be used.

The bill eliminates a number of constraints presently found in the Domestic Volunteer Service Act which inhibit the ageny's ability to manage appropriated funds in the most efficient manner. These include a requirement that at least $29,600,000 of the funds appropriated for programs under Title I of the Act be expended for poverty-related programs, and that, of this amount, at least $22,300,000 must be apportioned to VISTA. Since the agency budget request for these purposes far exceeds these limits, they have become essentially meaningless.

The proposed bill would also strike out the current limitation, contained in section 108 of the Domestic Volunteer Service Act, on the portion of VISTA appropriations that can be used for grants and cost shared programs. These program mechanisms have now proved themselves and the limitation initially placed on their use is no longer necessary.

The bill also strikes out a limitation in the Act which prohibits the expenditure of more than 10 percent of the first $6,700,000 of the appropriation for Service Learning Programs under Part B of Title I of the Act for programs other than the University for Action Program. This provision penalizes other service learning programs if less than $6,030,000 is expended on the UYA program. In view of ACTION's decision not to continue the support of existing University Year for ACTION grants in fiscal year 1979, it is necessary that this limitation be removed so that ACTION's other service learning program—the National Student Volunteer Program, which will be modified to include the Youth Challenge Program, can continue to operate.

The Office of Management and Budget has advised that there is no objection to the submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

SAM BROWN,
Director.

SECTION-BY-SECTION ANALYSIS

AMENDMENTS AFFECTING PROGRAMS UNDER THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

Section 1, the enacting clause, contains the short title of the Act, the "Domestic Volunteer Service Act Amendments of 1978."

Section 2, authorizes the Director to de-

termine the circumstances in which VISTA volunteer stipends can be advanced to volunteers. The amended provision will be identical to the provision of the Peace Corps Act applicable to Peace Corps volunteers. At present, VISTA volunteer stipends can be advanced to volunteers only in "extraordinary circumstances." One present difference which would be eliminated is that Peace Corps volunteers may invest their accrued readjustment allowances in savings bonds, while VISTA's may not.

Section 3 strikes out section 108 of the Act, which limits the proportion of the VISTA appropriation that can be used for grants and cost-shared programs to 20%. This limitation places an unnecessary constraint on the method by which VISTA programs are managed.

Section 4 strikes out those parts of Section 114(a) of the Act which prohibit the expenditure of more than 10% of the first $6,700,000 of the appropriation for service-learning programs for programs other than the University Year for ACTION (UYA) program. This provision penalizes other service learning programs if less than $6,030,000 is expended on the UYA program. The requested change is necessary to permit the ACTION agency to carry out the proposal, contained in its fiscal year 1979 budget, to discontinue funding of the UYA program, and to slightly increase funding for a combined National Student Volunteer Program and Youth Challenge Program.

Section 5 amends Section 122(c) of the Act to provide the Director with greater authority to determine what types of allowances, stipends and support should be paid to persons serving as volunteers under Part C of Title I of the Act. At present, allowances and stipends may be paid only to volunteers serving full-time in programs of at least one year's duration. This makes it impossible for the agency to offer a full range of volunteer programs. Full-time short-term volunteers, such as those who might be mobilized to assist at the scene of a natural disaster, cannot now be paid either allowances or stipends. Volunteers who work a substantial number of hours, but less than full time, cannot be paid either allowances or stipends. An example of the type of program which would fall into this category is the displaced homemaker program, in which women making a transition to full-time employment might volunteer for twenty hours a week.

The amended section will authorize the Director of ACTION to provide volunteers such allowances, stipends and other support as he determines are necessary to carry out the . . . of Part C of Title I of the Act—that is, to enroll volunteers to meet a broadrange of human, social and environmental problems, especially those related to poverty. The Director, however, may not pay an end-of-service stipend to volunteers who serve less than 10 weeks or less than 20 hours a week.

Section 6 would amend section 201 of the Act by decreasing the time which is given to State Agencies on Aging to comment on proposed RSVP programs from sixty days to thirty and by adding a new subsection to make clear that Retired Senior Volunteers are not employees of either ACTION or the sponsoring agency for any purpose, including State Workers Compensation laws. Limiting the time permitted for comments on RSVP proposals to thirty days would substantially decrease the amount of time required to process proposals.

The provision declaring that RSVP volunteers are not employees is necessary because a few states have asserted that RSVP's are employees of program sponsors for workers' compensation purposes even though the volunteers receive no compensation for their volunteer activities. ACTION makes low-cost accident insurance coverage for volunteers available to sponsors, except public agencies which are self-insurers. The contention that these older volunteers are in fact employees for the purpose of workers' compensation is inconsistent with the volunteer nature of the program and, because of the large number of volunteers involved, could lead to substantial and unwarranted expense for projects. It is therefore necessary, in order to have a uniform solution to this problem throughout the country, to include in the legislation a declaration that volunteers are not employees for any purpose.

Section 7 amends section 212 to substitute a notice provision for the present preference given to State agencies on Aging and Community Action Agencies in the selection of sponsors for Foster Grandparent and Senior Companion Programs. This preference limits the agency's ability to select the best sponsor in each situation. The new provision, which will be the same as that proposed for the Retired Senior Volunteer Program, requires that 30 days notice of all proposed grant or contract awards for Foster Grandparent and Senior Companion programs conducted in an area greater than one community be given to State Agencies on Aging, unless that agency is the grantee, to permit the State Agency on Aging to review the application and make recommendations.

If the project is to be operated in a community entirely within the jurisdiction of a Community Action Agency, the Community Action Agency must be given a similar thirty day period to review the proposal, and make recommendations.

These new provisions replace requirements that the State Agency on Aging be given reasonable opportunity to apply for and receive an award of Foster Grandparent, and to administer or supervise the administration of the project. In cases in which the State Agency on Aging is not the grantee or contractor, the application is required to contain assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of such agency.

Community Action Agencies are covered by similar provisions with respect to projects entirely conducted within a single community.

Under the new provisions, State Agencies on Aging and Community Action Agencies would still be eligible to receive Foster Grandparent and Senior Companion grants. However, they would be considered on the same basis as other agencies. In recognition of the legitimate interest of these agencies in these types of programs, they would be given a thirty day period to review grant proposals and make recommendations.

Section 8 amends Section 401 of the Act to delete the mandatory titles which Section 401 now requires be assigned to the Associate Directors for domestic and international operations. Both would continue to be designated Associate Directors. However, the agency believes that the title "Associate Director for International Operations," in particular, does not adequately reflect the duties of the Associate Director responsible for activities under the Peace Corps Act, or give adequate recognition to the separate identity of the Peace Corps within the agency.

Section 9 amends section 402 of the Act to strike out the reference to section 108, which is repealed by section 3.

Section 10(a) amends section 415(b) of the Act in two respects:

(a) The restrictions and benefits of the section, which include the Hatch Act, federal employee status for income tax and social security purposes, and Federal Tort Claims and Federal Employee Compensation coverage, are extended to all full-time volunteers, and also to part-time volunteers serving at least 20 hours a week in Title I programs to the extent the Director deems appropriate. These coverages are now available only to full-time volunteers in Title I programs enrolled for at least one year. Lack of tort claims and workers compensation coverage has proved a major obstacle to the agency's efforts to offer short term service opportunities, and to enroll individuals in programs of part-time service where the individual contributes a substantial period of time (20 or more hours a week) to volunteer service. Full-time volunteers would continue to be deemed to receive compensation at the entry level of a GS–7 employee, but part-time volunteers serving at least 20 hours per week would be deemed to be receiving compensation at the entry level of a GS–2 employee. Part-time volunteers serving less than 20 hours per week are not covered by these provisions.

(b) The provisions of section 5584 of Title 5, United States Code, permitting the government to waive erroneous payments of pay to employees where collection would be against good conscience, and not to the advantage of the government, are made applicable to volunteer allowances and stipends paid under Title I of the Act. This coverage is presently available to Peace Corps volunteers, and would prevent hardship to volunteers who receive small overpayments of allowances and stipends which they find themselves unable to repay because their allowances are so small. In addition, the requirement that these erroneous payments be collected results, in many cases, in an expenditure of time by government employees in excess of the anticipated collection.

Section 10(b) adds two new subsections to section 415 of the Act. New subsection (f) would extend to full-time volunteers under Title I of the Act the same type of medical malpractice coverage under the Federal Tort Claims Act as is available to medical personnel serving in the Public Health Service, in the Veterans Administration, under the Foreign Service Act and with various military services. This coverage makes the Federal Tort Claims Act and the Federal Employees' Compensation Act the sole remedies for damages for personal injury or death resulting from malpractice arising out of the performance of a volunteer's duties. The coverage extends to all volunteers performing medically-related duties. At present, a person receiving such services has the option of making a claim against the federal government, or of suing the individual for damages. In view of the increase in the number, and dollar-value of malpractice suits, this coverage is considered necessary to permit the agency to attract individuals to serve in projects which involve medical treatment, and to provide full protection to volunteers presently involved in these types of projects.

New subsection (g) is made necessary by a recent opinion of the Solicitor of Labor that volunteers who are receiving Aid to Families with Dependent Children (AFDC) are required to enroll in the Work Incentive program (WIN) established by P.L. 90–248 (42 U.S.C. § 630 et seq.). WIN requires that, to be eligible for AFDC (and, under recent legislation, food stamps), recipients, with certain exceptions, are required to register for, seek, and, if it is available, accept employment. Some volunteers who were eligible for benefits prior to enrollment as volunteers, are entitled, under Section 404(g) of the Act, to exclude their volunteer allowances and stipends in computing their eligibility for public assistance. That provision was intended to permit low-income persons, with dependents, to serve as volunteers, while continuing to receive the public assistance necessary to support their dependents.

The requirement that volunteers register for, and seek employment as a pre-condition to receiving the benefits to which they are otherwise entitled, is clearly in conflict with this objective, and with the Congressional and agency intent that low-income persons be encouraged to serve as volunteers. It also is in direct conflict with the legislatively-mandated requirement that VISTA volunteers be enrolled for periods of service of at least one year. Planning for the service of low-income VISTA's will be much more difficult if their service can be interrupted at any time to require the volunteer to seek work, or accept employment. This amendment reaffirms the basic concept of ACTION's full-time programs that volunteer service provides a positive benefit to the persons served, and should be permitted to continue without interruption for the full period of the volunteer's service.

Section 11 amends section 417 of the Act in two respects: Subsection (a) adds a new sentence to section 417(a) which provides that the services of volunteers receiving support under the Act are deemed to be Federal financial assistance for the purposes of Title VI of the Civil Rights Act of 1964. The proposed amendment is intended to remove any doubt that the remedies available under Title VI are available to volunteers in and beneficiaries of projects to which ACTION assigns volunteers, but does not otherwise provide financial assistance, in cases of discrimination on the basis of race, color or national origin. It would also make clear that sponsors of ACTION volunteers who do not receive monetary assistance, but who receive the services of ACTION volunteers are required to give the assurances against discrimination required by section 417 equally with recipients of financial assistance.

Subsection (b) requires that all personnel actions affecting individuals enrolled as full-time volunteers or part-time volunteers serving at least 20 hours per week shall be made free from any discrimination based on race, color, religion, sex, or national origin. This requirement also covers applicants for enrollment, and would cover such matters as enrollment, termination and assignment of volunteers.

The Director of ACTION is authorized to provide appropriate remedies to effectuate these policies, and to issue necessary rules, regulations, or other documents necessary to implement the legislation. The Director is also required to assure that a volunteer applicant who has filed a complaint shall be notified of final action on it.

The complainant may, within 30 days of receipt of notice of final action, or after one hundred-eighty days from the filing of a complaint, and until final action is taken by the agency, file a civil action as provided in section 706 of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e-5), and the provisions of section 706(f) through (k) govern any such civil actions.

At present, volunteers and volunteer applicants have no specific remedy against discrimination by the ACTION agency, since they are not employees and are therefore not covered by section 717 of the Civil Rights Act of 1964. Volunteers are entitled, under the agency grievance procedure, to file a grievance if they believe they have been subjected to discrimination. However, applicants have no such remedy. The section is specifically restricted to full-time volunteers and volunteers enrolled for at least twenty hours per week because the agency does not have a direct relationship with other part-time volunteers who serve under grants.

Section 12(a) amends section 501 of the Act to authorize the appropriation of $48,239,000 for the fiscal year ending September 30, 1979, and of such sums as may be necessary for the fiscal year ending September 30, 1980 for programs under Title I of the Act. It also deletes the requirement that not less than $29,600,000 of the sums appropriated for Title I be expended on programs designed to eliminate poverty and poverty-related human, social environmental problems, and the requirement that, of this sum, not less than $22,300,000 be expended on VISTA. Also eliminated is a provision that sums authorized to be appropriated in excess of $37,600,000 shall be apportioned to provide a commensurate increase for Part A programs. It is believed that these restrictions, which make the expansion of Title I programs interdependent, are unnecessary; and inhibit the agency's ability to develop individual programs in the most beneficial and efficient manner. The authorization of such sums as may be necessary for fiscal year 1978 is retained because of the pending request for a supplemental appropriation.

Section 12(b) amends section 502 of the Act to authorize the appropriation of $57,940,000 for the fiscal year ending September 30, 1979 and of such sums as may be necessary for the fiscal year ending September 30, 1980 for Older American Volunteer Programs under Title II of the Act.

Section 12(c) amends section 504 of the Act, which authorizes administrative expenses associated with programs under the Domestic Volunteer Service Act, to authorize the appropriation of such sums as may be necessary for such expenses for the fiscal years ending September 30, 1979 and September 30, 1980.

Section 13 amends Public Law 99-130 (89 Stat. 684) by striking out the second sentence of section 5(b). Section 5(a) of Public Law 99-130 amended section 105(a)(1) of the Domestic Volunteer Service Act of 1973 to authorize an increase in the maximum end of service stipend which can be paid to VISTA volunteers from $50 per month to $75 per month. The second sentence of section 5(b) provides that this authorized increase shall only be effective to the extent that it is specifically provided for in each year's appropriation act.

This provision was inserted in recognition of the fact that an increase in the end of service stipend could only be provided by decreasing the number of volunteers who are enrolled, unless additional funds for the increase are provided in an appropriation act. The circumstances which made this amendment necessary no longer exist. Additional funds for a stipend increase have been requested as part of the general appropriation request for VISTA. The requirement that these funds be specifically identified in the appropriation each year is now an unnecessary and cumbersome requirement, which should be deleted.●

By Mr. LEAHY:

S. 2824. A bill to amend, revise, and consolidate the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL CHILD NUTRITION ACT OF 1978

● Mr. LEAHY. Mr. President, I am introducing today a bill to amend, revise, and consolidate the provisions of the child nutrition programs authorized by the National School Lunch Act and Child Nutrition Act. This act, the National Child Nutrition Act of 1978, brings together for the first time all Federal child nutrition programs. The act is designed to streamline and simplify the existing Federal programs. By doing so, I believe these important nutrition programs will be given a new vitality and emphasis and thereby made available to all children who are in need of the benefits provided.

The legislation is based upon a draft developed by the National Child Nutrition Coalition, and its legislative task force. This coalition worked for several months exploring suggestions for improving the operation and availability of child nutrition programs. I thank them for their efforts and proposals and although my bill does not completely reflect all their suggestions, I will insure that all their ideas receive full discussion.

This bill provides a more coordinated approach to the two oldest programs, the national school lunch and breakfast programs, by providing for a unified school meals program. This unification will make it clear that both programs are of equal importance to a child's adequate nutrition, and that the two programs must work together to be truly effective.

Breakfast is a very important meal for all age groups, but particularly for growing children. Yet, only about 14 percent of our country's nutritionally needy children are able to participate in the school breakfast program because of lack of availability. Breakfast can make a significant positive contribution to the quality of a child's dietary intake.

In addition, several studies have shown a clear relationship between eating breakfast and the ability to learn and perform in school. A hungry child cannot perform to his full potential in the classroom. He has trouble paying attention and concentrating, diminishing his ability to learn no matter how skilled the teacher or advanced the learning aids. It is unfortunate that this meal is the one most likely to be neglected. Surveys of breakfast habits have shown that children in all socioeconomic groups omit breakfast or eat an inadequate meal. Where schools have taken advantage of the opportunity to provide their students breakfast, school personnel are impressed with the improvements in physical well-being, learning abilities, behavior and attendance. I believe that schools should play a major role, through the breakfast program, in alleviating hunger, improving the overall nutritional status of the children, teaching good food habits, and increasing the capacity of children to learn.

Although the national school breakfast program was first established in 1966, and made permanent in 1972, expansion benefits has been disappointingly slow, and many children whose nutrition and educational development would benefit by participation do not have access to the program. Incentives, encouragement, exhortation, and past legislative requirements have not been effective in bringing about meaningful expansion. In recognition of the importance of this program, my bill requires implementation of the school breakfast program in those schools where a substantial number of children are eligible for free and reduced-price meals, in accordance with standards established by the Secretary

of Agriculture. The bill does not contain a specific figure or percentage of needy children which would justify implementation of the breakfast program, but I do intend to suggest such a figure during committee debates, based upon a thorough examination of data, information from the hearings that will be held on this bill, and discussions with all concerned individuals to insure that the expansion of the program is both meaningful and achievable.

In order to accomplish our goals of improving program availability and operation, my bill will increase the amount of administrative expense monies a State may receive, to a maximum of 2 percent of the total program funds. The Secretary is required to reimburse each State, within this maximum, in an amount sufficient to insure effective and efficient implementation and operation of the programs. To provide for program stability and to encourage program planning, State's are guaranteed a minimum amount of administrative expense money, or the amount it received in fiscal year 1978, whichever is more.

Another provision of this legislation will encourage effective planning by each State agency, and will enable the Secretary and concerned citizens to be aware of the State planning process and projected State actions. This provision, the State planning section, merely sets out in the legislation that we, and the Secretary, expect to see in State plans submitted to the Department describing how the State agencies will utilize funds authorized under the act. The planning process is a crucial one; it provides a blueprint for State actions, and an information and monitoring tool to the Secretary. It must be a meaningful document if it is to be effective.

Specific actions that should be undertaken to ensure implementation and operation of the programs are set forth, as well as specific information that should be gathered to target needy areas and children. Much of the material is now being collected; my bill will ensure that it is presented in a meaningful, intelligible, and useful format, so that State officials, local concerned parents and advocates, and Members of Congress are able to evaluate the State planning process.

Two other provisions in my bill relate directly to improving the quality of the meals served and the availability of equipment in furtherance of expansion and meal improvement. The food service equipment section of the bill recognizes the three equally important priorities for these funds: assisting schools with no meal programs to implement a school meal program; providing funds needed to assist a school with only one program to implement the nonavailable program; and upgrading the quality of the meal service provided.

Most important, my bill increases the authorization level for funds under this section. It is essential, if we want meaningful improvement and expansion in the school feeding programs, to provide the necessary support to our local schools to enable them to effectively implement and improve meal service. We can do this by providing equipment funds in an amount sufficient to do the job.

Under current law, one-third of the available funds are reserved for no-program schools. If these funds are not utilized, because a State has done an effective job of implementing the program, the funds revert to the Secretary for reallocation, under the same reservation. My provision will enable the Secretary to reallocate unused, and unusable, no-program funds to State agencies for use in the other two priority categories—two program schools, and then to general meal quality improvement. This provision should insure that all moneys available are indeed used to improve program service to the maximum extent possible.

In our efforts to expand participation, we must also recognize the importance of improving meal quality. My bill does so by revising the nutrition requirement section which gives the Secretary authority to develop mean patterns and plans. The revised section provides flexibility to the Secretary by broadening the nutritional research data to be taken into account. It also provides that the Secretary develop methodologies which will assist State and local agencies to review and monitor nutritional requirements and plate waste, and specifies the provision of guidelines and technical assistance by the Secretary to the State agency to help them effectively improve their program operation. Several of the provisions in this section are now contained in the Secretary's proposed regulations changing the meal pattern requirements. I believe, however, that in recognition of their importance, and to reflect the congressional concern about this area, these provisions should be clearly stated in the legislation, as I have done.

I believe that provisions in this bill will bring about much needed clarification and improvement in the child nutrition programs. Substantial discussion is needed for the exact details of some provisions, and I look forward to participating in that debate. The National Child Nutrition Coalition has played an important and active role in gathering information about program operation, and improvements needed to make our goals meaningful, and I commend them on their efforts. The unification and consolidation of the National School Lunch Act and Child Nutrition Act of 1966 into the National Child Nutrition Act is an important one which I fully support. I anticipate, and welcome, discussion on specific proposals contained in this legislation.

Finally, in order to facilitate understanding of this comprehensive measure, I ask unanimous consent that a section-by-section explanation of this bill be printed in the RECORD following the bill.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 2824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Child Nutrition Act of 1978."

STATEMENT OF PURPOSE

"SEC. 2. As a matter of national nutrition and health policy and as a measure of national security, it is the purpose and intent of Congress to safeguard the health and well-being of the Nation's children and to encourage the consumption of nutritious domestic agricultural commodities and other food. The Congress finds that increased utilization of food in establishing and maintaining child nutrition programs will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. In recognition of the demonstrated relationship between food, good nutrition and health, and the capacity of children to develop and learn, it is hereby declared to be the policy of Congress that the child nutrition program shall be expanded and strengthened under the authority of the Secretary of Agriculture by assisting the States, through grants-in-aid and other means in providing an adequate supply of food and other facilities for the establishment, maintenance, operation and expansion of all child nutrition programs, thereby more effectively meeting the nutritional needs of our children.

DEFINITIONS

"SEC. 3. (a) 'State' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) 'State educational agency', means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education.

"(c) 'Food service equipment assistance' means financial assistance paid or payable to schools for equipment used by schools in storing, preparing, or serving food for school children.

"(d) 'School' means (1) any public or nonprofit private school of high school grade or under, including kindergarten programs operated by such school, (2) any public or licensed nonprofit private residential child care institution (including but not limited to, orphanages and homes for the mentally retarded) and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (1) and (2) of this subsection, the term nonprofit, when applied to any such private school or institution, means any such school or institution which is exempt from tax under the Internal Revenue Code of 1954.

"(e) 'School year' means the annual period determined in accordance with regulations issued by the Secretary.

"(f) 'Consumer Price Index' means the Consumer Price Index series for food away from home statistics published by the Bureau of Labor Statistics of the Department of Labor.

"(g) 'Adjusted semi-annually,' for purposes of payments to States and local entities for costs associated with meal service and commodities, means adjustments of payments to the nearest cent, effective every January 1 and July 1 of each fiscal year, to reflect cost changes in the series for food away from home of the Consumer Price Index for the most recent 6-month period ending in November and May, respectively, of such fiscal year.

"(h) 'Secretary' means the Secretary of Agriculture.

"(i) 'Food assistance payment' means the

total financial assistance paid or payable to States and participating schools for all meals served to children, which may be paid by way of advance or reimbursement.

"(j) 'National Average Basic Payment' means financial assistance paid or payable to States and participating schools for meals served to children participating in the school meals program.

"(k) 'Reduced-price meal payment' means financial assistance paid or payable to States and participating schools in addition to the national average basic payment for each meal served to children eligible to receive reduced-price meals.

"(l) 'Free meal payment' means financial assistance paid or payable to States and participating schools in addition to the national average basic payment for each meal served to children eligible to receive free meals.

"APPROPRIATIONS

"SEC. 4. Appropriations to carry out the provisions of this Act for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this Act shall remain available for the purposes of the Act for which appropriated until expended. The sums appropriated for any fiscal year pursuant to the authorization contained herein, excluding the sum specified in Section 6 of this Act, shall be available to the Secretary for supplying agricultural commodities and other foods, and for the costs of operating the programs in accordance with the provisions of this Act.

"SCHOOL MEALS PROGRAM

"SEC. 5(a)(1) For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary to carry out the provisions of this section. For each fiscal year the Secretary shall make food assistance payments, at such times, as he may determine, from the sums appropriated therefore, to each State educational agency, in a total amount equal to the result obtained by multiplying the number and types of meals (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 15 of this Act) served during such fiscal year to children in schools in such States, which participate in the school meals program under this Act under agreements with such State educational agency, by the appropriate meal payment rate per meal for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act. Any school shall receive the school meals program upon its request.

"(2) In any fiscal year, the national average basic payment established by the Secretary shall not be less than 11.50 cents per breakfast and 14.50 cents per lunch. Free and reduced-price meal payments shall be made to each State educational agency in an amount not less than 21.75 cents for each reduced-price breakfast, 55 cents for each reduced-price lunch, 28.75 cents for each free breakfast and 65 cents for each free lunch: *Provided*, that the Secretary may establish appropriate adjustments reflecting the cost differentials in Alaska, Hawaii, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, the Northern Marianas and the Trust Territories of the Pacific. The meal payment rates shall be adjusted semi-annually, provided that the first such adjustment shall be made January 1, 1979.

"(3) Except as provided in Section 10 of this Act, the free and reduced-price meal payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools in financing the cost of providing free and reduced-price meals served to children pursuant to section 9 of this Act, within a maximum per meal amount established by the Secretary. Such maximum amounts established by the Secretary shall not be less than 94.50 cents per lunch and 50.25 cents per breakfast. Food assistance payments to any State under this section shall be adjusted semi-annually, provided that the first such adjustment shall be made January 1, 1979.

"(b)(1) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need. The maximum payment for each such free breakfast shall be the higher of:

(A) the free meal payment established by the Secretary for free breakfasts plus 10 cents or

(B) 45 cents, which shall be adjusted semi-annually.

The maximum payment for each such reduced-price breakfast shall be 5 cents less than the maximum payment for each free breakfast as determined under this section.

"(2) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry out an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and included in the State Plan of Child Nutrition Operations required by section 19 of this Act. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (b)(1) of this section, whichever is less. In those States where State law establishes a requirement that particular schools implement a school breakfast program, those schools shall qualify for payments under subsection (b)(1) of the section.

"(c) The Congress finds that although the benefits of a nutritious breakfast are well documented, substantial numbers of children are not receiving school breakfast benefits under this Act, and therefore are not receiving adequate nutrition. To further the purposes of this Act, and assure all needy children of the opportunity to receive adequate nutrition, the school breakfast program shall be implemented within one school year from enactment of this section, in accordance with requirements established by the Secretary, in all schools in which a substantial number and percentage of children are eligible for free and reduced-price meals. Each State agency shall maintain such records as may be necessary for it to determine when a school within the State is required to implement the breakfast program in accordance with the criteria set out herein.

"(d)(1) In the case of any school in which 80 percent of the children participating in the school meal program are eligible for free or reduced-price meals, the school may request free and reduced-price payments to be determined for that year and the year following, on the basis of the number of free meals or reduced-price meals, as the case may be, that are served by that school during the school year for which the request is made, and the number of free meals and reduced-price meals served during the second year to other children determined for that year to be eligible for such meals. In the case of any school that (1) elects to serve all children in that school free meals during any period of three successive school years and (2) pay, from sources other than Federal funds, for the costs of serving such meals which are in excess of the value of assistance received under this Act with respect to the number of meals served during that period, the Secretary shall pay to the State educational agency with respect to that school during that period on the basis of the number of meals determined under the succeeding sentence. For purposes of making payments in accordance with the preceding sentence, the number of meals served by a school to children eligible for free meals and reduced-price meals during each school year of the three-school-year period shall be deemed to be the number of meals served by that school to children eligible for free meals and reduced-price meals during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price meals who are served meals during such period.

"(2) Each school participating in the school meals program under this Act shall report each month to its State educational agency the number of children in the school who received paid, free or reduced-price lunches and the number of children who received paid, reduced-price or free breakfasts during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced-price lunch or breakfast.

"(3) The State educational agency of each State shall report to the Secretary each month the number of children in the State who received paid, reduced-price and free lunches, and who received paid, reduced-price and free breakfasts, during the immediately preceding month, and shall certify that the reports required by subsection (d)(2) will be available for review in the office of the State educational agency for not less than one year.

"FOOD SERVICE EQUIPMENT ASSISTANCE

"SEC. 6. (a) There is hereby authorized to be appropriated 75 million dollars for each of the fiscal years 1979, 1980, 1981, 1982, which shall be available to the Secretary for the purpose of providing food service equipment assistance to assist the States through grants-in-aid and other means to schools drawing attendance from areas in which poor economic conditions exist in order to supply them with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain and expand school food service programs. In the case of a non-profit private school, such equipment shall be for the use of such school principally in connection with child feeding programs.

"(') (1) Of the funds appropriated for the purposes of this section, 33⅓ percent initially shall be allocated by the Secretary to assist school without a food service program. The funds so allocated shall be used by the State, or the Secretary in the case of non-profit private schools, to assist schools without a food service program so that they can implement such a program or programs.

"(2) If the funds appropriated for the purposes of this section, 33⅓ percent initially shall be allocated to the Secretary for school offering either lunch or breakfast meals to assist them to implement a second meal service. The funds so allocated shall be used by the State, or the Secretary in the case of non-profit schools, to obtain the non-food assistance that is needed to implement, for the first time, concurrent operation of lunch and breakfast services in a school.

"(3) of the funds appropriated for the purposes of this section, 33⅓ percent initially shall be allocated to the Secretary for

schools that need equipment (including the replacement or repair of equipment that is impaired or antiquated) to prepare and cook hot meals at the schools or at a kitchen that serves the schools and that is operated by the local school food authority or by a non-profit private school or the authority that is responsible for the administration of one or more non-profit private schools. The funds so allocated shall be used by the State, or the Secretary in the case of non-profit private schools, to obtain or replace equipment that is used for the purposes of permitting the school food authority or non-profit private school to inaugurate or continue the self-preparation of school meals.

"(c)(1) Of the funds allocated pursuant to paragraph (1) of subsection (b) of this section, the Secretary shall apportion the funds so allocated among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program bears to the number of children in each State enrolled in schools without a food service program. In those States in which the Secretary administers the food service equipment assistance program in non-profit private schools, the Secretary shall withhold from the funds apportioned to any such State pursuant to this paragraph and paragraph (1) of subsection (b) of this section an amount which bears the same ratio to such funds as the number of children enrolled in non-profit private schools without a food service program in such State bears to the total number of children enrolled in all schools without a food service program in such State. If any State cannot use all the funds apportioned to it under the provisions of this paragraph, the Secretary shall make a further apportionment to the remaining States for use only in assisting schools without a food service program. If after such further apportionment any funds received under this paragraph remain unused, the Secretary shall immediately apportion such remaining funds among the States for use in obtaining equipment to implement a second meal service, and such funds shall be allocated among the States on the basis of the ratio of the number of children in each State enrolled in schools which provide only one meal service bears to the number of children in all States enrolled in schools.

"(2) Of the funds allocated pursuant to paragraph (2) of subsection (b) of this section, the Secretary shall apportion the funds so allocated among the States on the basis of the ratio of the number of children in each State enrolled in schools which provide only one meal service bears to the number of children in all States enrolled in schools which provide only one meal service. In those States in which the Secretary administers the food service equipment assistance program in non-profit private schools, the Secretary shall withhold from the funds apportioned to any such State pursuant to this paragraph and paragraph (2) of subsection (b) of this section an amount which bears the same ratio to such funds as the number of children enrolled in non-profit private schools with only one meal service in such State bears to the total number of children enrolled in all schools with only one meal service in such State. If any State cannot use all the funds apportioned to it under the provisions of this paragraph, the Secretary shall make a further apportionment to the remaining States for use only in assisting schools to implement a second meal service. If after such further apportionment any funds received under this paragraph remains unused, the Secretary shall immediately apportion such remaining funds among the States for use in obtaining equipment to permit schools to self-prepare and cook hot meals, and such funds shall be allocated among the States on the basis of the ratio of the number of children in each State enrolled in schools bears to the number of children in all of the States enrolled in schools.

"(3) Of the funds allocated pursuant to paragraph (3) of subsection (b) of this section, the Secretary shall apportion the funds so allocated among the States on the basis of the ratio of the number of children in each State enrolled in schools bears to the number of children in all of the States enrolled in schools. In those States in which the Secretary administers the food service equipment assistance program in non-profit private schools, the Secretary shall withhold from the funds apportioned to any such State pursuant to this paragraph and paragraph (3) of subsection (b) of this section an amount which bears the same ratio to such funds as the number of children enrolled in non-profit private schools bears to the total number of children enrolled in all schools. If any State cannot use all of the funds apportioned to it under the provisions of this paragraph, the Secretary shall make a further apportionment to the remaining States in the manner set forth in this paragraph.

"(d) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools which draw attendance from areas in which poor economic conditions exist and which have no, or inadequate, equipment to conduct school food service programs, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of children in the school, using to the maximum extent practicable self-preparation of meals.

"(e) Payments to any State of funds under this section shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such a condition shall not apply with respect to funds used under this section to assist any school that is expecially needy, as determined by criteria established by each State and approved by the Secretary. Such criteria shall be published in the State Plan of Child Nutrition Operations required by section 16 of this Act.

"(f) The State agency, upon notification by the Secretary of that State's apportionments of funds under this section, shall notify all schools of the availability of these funds, and the criteria for receipt of funds. The notification shall also set forth the State's criteria by which schools may qualify for especially needy status, thereby allowing them to receive funds without providing funds from their own resources. A similar notice shall be sent by the State agency upon the notification from the Secretary of any funds received by way of reapportionment.

"(g)(1) Funds authorized for the purposes of this section shall be used only for facilities that enable the schools or local public or private non-profit institutions, including kitchens that serve the schools operated by the local school food authority, under the conditions prescribed in paragraph (2) of this subsection, to prepare and cook hot meals or receive hot meals at the school or institution, unless the school can demonstrate to the satisfaction of the State (or, in the case of non-profit private schools in the States where the Secretary administers the food service equipment program in such schools, to the satisfaction of the Secretary) than an alternative method of meal preparation is necessary for the introduction of the school lunch or breakfast program in such school: *Provided*, that a school eligible to participate in programs under this section may enter into an agreement with other public or private non-profit institutions to provide such programs for children attending the school.

"(2) If a school authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private non-profit institution to provide school lunch and/or breakfast services for childern attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (A) the school retains legal title to such facilities and, (B) in the case of funds made available under paragraphs (1) and (2) of subsection (b) of this section, the institution would otherwise be without such facilities.

"(h) If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in non-profit private schools within the State, the Secretary shall administer such program in such private schools.

"PAYMENTS TO STATES

"SEC. 7. Funds appropriated to carry out section 5 during any fiscal year shall be made available to the States for disbursement by State educational agencies; for the purpose of assisting schools of the States in supplying (a) agricultural commodities and other foods for consumption by children and (b) food service equipment assistance in furtherance of the school meals program authorized under this Act. Such payments to any State in any fiscal year shall be made upon condition that each dollar thereof will be matched by $3 during such year from sources within the State determined by the Secretary as being expended in connection with the school meals program under this Act: *Provided*, That States shall not be required to match payments for free and reduced price meals made to participating schools. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal or school year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 10, respectively, have been met, the reasonable value of donated services, supplies, facilities and equipment as certified, respectively, by the State educational agency and in the case of schools receiving funds pursuant to section 10, by such schools, but not the cost or value of land, or of the acquisition, construction, or alteration of buildings, or commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school meals program. For the school year beginning in 1978, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 10 percent of the matching requirement for the preceding school year, which level shall be met with respect to the food assistance payments of each State. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such a manner that each school receives the same proportionate share of such revenues as it receives

of the funds paid or payable to the State for the same year under section 5 of this Act.

"STATE DISBURSEMENTS TO SCHOOLS

"SEC. 8. Funds paid to any State during any fiscal year pursuant to section 7 of this Act shall be disbursed by the State educational agency in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. Such disbursement to any school shall be made for the purpose of assisting schools to (a) finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school meals program and the operational costs, and (b) food service equipment assistance in connection with such programs. Such costs may include in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, handling, preparing, serving, and supervising thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of meals served in the school in the school meals program under this Act during such year by the maximum food assistance payments prescribed by the Secretary for the type of meal served. In any fiscal year in which the national average basic payment per meal determined under section 5 is increased above the amount prescribed in the previous fiscal year, the maximum food assistance payment, for the type of meal served, shall be increased by a like amount. Food assistance payments to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

"INCOME REQUIREMENTS

"SEC. 9. (a) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guideline currently in effect by the change in the Consumer Price Index for the 12-month period ending in April of such fiscal year. Children from families with an annual income of 25 percent or less above the applicable family size income levels prescribed by the Secretary shall be served a free meal. Children from families with annual income between 25 percent and 95 percent above the applicable family size income levels shall be served meals at a reduced price: *Provided*, that the cost of a reduced-price breakfast shall not exceed 10 cents and the cost of a reduced-price lunch shall not exceed 20 cents. Local school authorities shall announce publicly and in writing to each parent such income guidelines on or about the opening of each school term. In areas where there is a known population of non-English speaking families, these notices shall be bilingual. Local school authorities shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. In situations of special hardship, such as major catastrophe or casualty loss, the school may, within its discretion, provide for participation of a child in the free or reduced-price meal program under this section. No physical segregation of, or other discrimination against, any child eligible for a free meal or a reduced-price meal shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, work requirements, or any other means.

"(b) The State educational agency shall, in cooperation with local schools, publicize the availability of the school meals programs, including eligibility criteria for participation. To maximize the effort to expand the program to children and parents, such information shall be distributed to governmental offices, public and private health and medical organizations, and church, civic, and community groups. Such materials shall be bilingual in areas where substantial numbers of households speak a language other than English.

"(c) School meals programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its meal program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (42 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school meal program under this Act as well as to other schools carrying out nonprofit school meal programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agricultural Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirement of this section relating to the service of meals without cost or at a reduced cost shall apply to the meal program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence.

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonprofit private schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purpose and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 7 for such State, by funds from sources within the States expended by such schools within the State participating in the school meal program under this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 7.

"SPECIAL MILK

"SEC. 11. There is hereby authorized to be appropriated for the fiscal year ending September 30, 1979, and for each succeeding fiscal year, such sums as may be necessary to enable the Secretary, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) non-profit nursery schools, child care centers, settlement houses, summer camps, and similar non-profit institutions devoted to the care and training of children. Any school or non-profit child care institution shall receive the special milk program upon its request. Children who qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk, when milk is made available at times other than the period of meal service in outlets that operate a food service program under section 5 of this Act. For the fiscal year ending June 30, 1978, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 6.25 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the wholesale price index for milk of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost of the school or institution of milk served to children.

"CHILD CARE FOOD PROGRAM

"SEC. 12. Section 17 of the National School Lunch Act shall be redesignated section 12 of the National Child Nutrition Act of 1978.

"SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

"SEC. 13. Section 17 of the Child Nutrition Act of 1966 shall be redesignated section 13 of the National Child Nutrition Act of 1978.

"SUMMER FOOD PROGRAM

"SEC. 14. Section 13 of the National School Lunch Act of 1946 shall be redesigned section 14 of the National Child Nutrition Act of 1978.

"NUTRITION REQUIREMENTS

"SEC. 15. (a) Meals served by the schools and sponsors participating in the child feeding programs shall consist of a variety of foods which when served together in the form or breakfast, lunch, dinner, and/or snacks meet the nutritional requirements of participants as prescribed by the Secretary on the basis of the most recent analysis of nutrition research. In developing these nutritional requirements the Secretary shall take into account research in the following areas: (1) the nutritional requirements of the participants; (2) the relationship of particular dietary patterns to health status; (3) the nutritional and health-related aspects of food preparation, processing, storage, and delivery methods; and (4) any other research which is related to the provision of a nutritional and healthful meal to participants. A one-ounce serving of meat or meat alternative shall be served to participants in the School Breakfast Program at least two times per week. These nutrition requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary need of individual students. The Secretary shall study on a regular basis the nutritional quality of meals eaten by the participants in the child feeding programs, and shall require that, whenever feasible, the nutritional requirements of the participants be provided as natural constituents of foods and in foods that do not contain additives.

"(b) The Secretary shall provide the kind and quality of commodities which enhance the nutritional quality of the meal pattern by increasing the variety of foods available, by acquiring foods which contribute to children's present and future health status based on the most recent analysis of nutrition research, and by facilitating their distribution, storage, and use. The Secretary shall compile, develop, and disseminate a variety of meal patterns which meet children's nutritional requirements, are practicable in schools and institutions, and increase the overall quality of the meals. Foods and meals served in the child feeding programs shall be considered as part of participants' nutrition education and therefore shall exemplify nutritional and healthful food habits.

"(c) The Secretary shall encourage the local school food authority and sponsors to: (1) provide a selection of foods within each component of a meal so that choice by participants is possible; (2) serve food which

takes into consideration the cultural and ethnic food habits of participants; and (3) undertake regular monitoring of the acceptability of foods served.

"(d) The Secretary shall develop methodologies whereby local school food authorities may monitor food waste or consistent rejection of menu items, investigate the causes, and remedy the problems. Any procedure designed to diminish waste of foods which are served by schools participating in the child feeding programs shall include local educational agency and student participation, and shall not endanger the nutritional integrity of the lunches served by such schools.

"(e) The Secretary shall prepare, review on a regular basis, and amend when necessary, a set of performance guidelines which outline the objectives of the child feeding programs and how these objectives can best be achieved by local school food authorities and participating institutions. These guidelines shall include, but are not limited to: (1) environment and atmosphere of the eating place, including ventilation, space per child, and lighting; (2) optimum time that should be allowed for eating meals; (3) appropriate scheduling of meals; (4) presence and role of adults in eating place; (5) criteria for foods which may be introduced into the child feeding programs; (6) variation of meal patterns; (7) the most desirable meal delivery, food preparation, and food processing methods; and (8) extent and kind of parent and student involvement upon which may be based self-evaluation by local school food authorities and participating institutions, and regular on-site reviews by State monitors.

"(f) The Secretary shall: (1) develop standards for the frequency of on-site reviews by State monitors, and shall encourage follow-up with appropriate technical assistance to local program staff, based on the results of on-site reviews; (2) periodically assess the training, technical assistance, and guidance materials needed by local food service personnel, giving special attention to the following areas: (A) food preparation for maximum palatability, attractiveness, and nutritional quality; (B) local self-evaluation of palatability, attractiveness, and overall student acceptability; and, (C) positive interaction and informal nutrition education experiences with children; (3) review the results of demonstration projects carried out under Section 10 of Public Law 95-166 and shall disseminate recommendations for improved programs to all school food authorities based on the project results; (4) examine successful child feeding programs and disseminate recommendations for improved programs to all school food authorities based on the successful programs' characteristics and experiences; and (5) conduct pilot projects which experiment with various approaches to improving meal quality and participation in child feeding programs and disseminate recommendations for improved programs to all school food service authorities based on the results of these projects.

"DIRECT FEDERAL EXPENDITURES

"SEC. 16(a) The funds provided by appropriation and transfer from other accounts for any fiscal year for carrying out the provisions of this Act, less (1) such funds as may be necessary to the Secretary for his administrative expense under this Act; (2) the amount apportioned by him for direct payments to States for programs under this Act; and (3) not to exceed one quarter of one percent of the funds appropriated for the preceding year for carrying out the programs under this Act, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through pilot projects, studies, and evaluations of the plans developed pursuant to Sections 22 and 23 of this Act, shall be available to the Secretary during each year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service program under this Act in accordance with the needs as determined by the local school and service institution authorities. Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during the year The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under Section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specification will result in significant advantages to the food services programs authorized by this Act.

"(b) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school meal program. If such estimated value is less than the total level of assistance authorized under section 17(c) of this Act the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries and then programed for such State and the total level of assistance authorized under Section 17(c) of this Act. In any State in which the Secretary directly administers the school meal program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this Subsection an amount that bears the same ratio to the total of such payment as the number of meals served in schools in which the school meal program is directly administered by the Secretary during that school year bears to the total of such meals served under the school meal program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school meal program, shall promptly and equitably disburse such funds to schools participating in the school meal program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service programs. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.

"(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said Section 32.

"(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

"COMMODITY DISTRIBUTION PROGRAM

"SEC. 17. (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1979, and ending September 10, 1983, shall (1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programed level of assistance for programs carried on under this Act, and Title VII of the Older Americans Act of 1935; (2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation; and (3) the Secretary shall, to the maximum extent practicable, purchase commodities from sources local to the State in which such commodities will be delivered, and shall give special emphasis to meat alternatives, cereal, shortening and oil products, and fresh fruits and vegetables.

"(b) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the type customarily purchased for donation under Section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under Section 707(d)(1) of such Act (42 U.S.C. 3045f(d)(1)).

"(c) For the year ending June 30, 1978, the national average value of donated food, or cash payment in lieu thereof, shall not be less than 12.75 cents per lunch and 3 cents per breakfast, and that amount shall be adjusted on an annual basis each July 1 after the school year ending July 1, 1978, to reflect changes in the Consumer Price Index. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provisions of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school meals program.

"(d) Notwithstanding any other provisions of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments shall be governed by subsection (c) of this section.

"(e) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

"(f) The Secretary shall establish procedures which will: (1) insure that the views of local school districts and private nonprofit schools and institutions, with respect to the type of commodity assistance needed for child nutrition programs are fully and

accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools and institutions within the States; (2) solicit the views of States with respect to the acceptability of commodities; (3) insure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice; (4) provide for systematic review of the costs and benefit of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools and institutions; and (5) make available technical assistance on the use of commodities available under this Act.

Within eighteen months after the date of the enactment of P.L. 95–166, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and admiistrative benefits of such procedures. In purchasing commodities for programs carried out under this Act, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection rules and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

"(g) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools and institutions in the State that participate in the child nutrition programs. The Council shall advise such State agency with respect to the needs of such schools and institutions relating to the manner of selection and distribution of commodity assistance for such programs.

"STATE ADMINISTRATIVE EXPENSES

"SEC. 18. (a) The Secretary shall pay to each State for its administrative costs incurred pursuant to its administration of this Act an amount sufficient to reimburse the State for the efficient and effective implementation and operation of each program authorized pursuant to this Act: *Provided*, That such amounts shall be not less than 1 percent of more than 2 percent of the funds used by each State: *Provided further*, That in no case shall payment to a State agency be less than , nor shall any State receive less than was allocated to it for fiscal year 1978. The amounts paid to each State shall be in accordance with a formula developed by the Secretary and the funds alloted to the appropriate State agency, taking into account the Secretary's staffing plan formula for each program, current and potential program participation, need for program expansion, technical assistance, monitoring and such other factors as the Secretary determines appropriate to further the goals of this Act: *Provided*, That, where the Secretary is responsible for the operation of programs under this Act, the amount of administrative expenses which would be allocated to the State pursuant to this section shall be retained by the Secretary for the same purposes as the State agency.

"(b) The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of the programs authorized by this Act that will ensure sufficient staff for the planning and administration, including training, technical assistance, and effective outreach, of each program covered by State administrative expenses, and shall develop appropriate staffing standards for the Secretary's regional offices to ensure sufficient staff for monitoring, training, and technical assistance.

"(c) Funds paid to a State under subsection (a) of this Section may be used to pay salaries, including employee benefits and travel expenses, for administrative supervisory personnel; for support services; for office equipment; and for staff development. Upon demonstration by a State agency that the administrative funds allocated to a program pursuant to this section are not necessary to the effective administration and expansion of that program, the Secretary may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects to further the effectiveness of child feeding programs, and may provide for the transfer of funds to another child feeding program authorized by this Act on the basis of an approved State plan of operation for the use of the funds.

"(d) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year: *Provided*, That such State shall receive startup funds in an amount to be determined by the Secretary to be necessary to enable the State to assume such responsibilities. Start-up funds shall be in addition to the administrative funds authorized by this section.

"(e) Notwithstanding any other provisions of law, for each fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary deems appropriate.

"(f) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

"(g) Each State shall each year submit to the Secretary for approval by a date to be established by the Secretary an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

"(h) Payments of funds under this Section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act not less than the amount expended or obligated in the preceding fiscal year.

"(i) If the Secretary finds that State has failed without good cause to meet one or more of the Secretary's standards established pursuant to this section, the Secretary shall withhold from such State sufficient funds authorized under this section as is reasonably necessary to induce compliance with the Secretary's standards on the State's administrative plan.

"(j) There shall be appropriated such sums as may be necessary for the purposes of this section.

"STATE PLAN REQUIREMENTS

"SEC. 19. (a) Each year, by not later than a date specified by the Secretary, each State agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act, a State Plan of Child Nutrition Operations for the following school year, for programs authorized under this Act, except for programs under Section 12 and 13. The State Plan shall provide, among such other provisions as may be required by regulation:

"(1) That the State agency shall (A) inform low-income households and all nonparticipating schools and licensed approved child care institutions about the availability, eligibility requirements, and benefits of the programs under this Act, and the availability of technical assistance in developing and implementing the program, (B) use appropriate bi-lingual printed materials in the administration of the program in areas where substantial numbers of low-income households speak a language other than English;

"(2) That the State will comply with any standards prescribed pursuant to Section 18 of this Act;

"(3) That the State, upon notification by the Secretary of that State's apportionment and reapportionment for school food equipment assistance under Section 6 of the Act, shall notify in writing all schools and licensed approved child care institutions of the availability of these funds, and the criteria for receipts of funds, which notification shall set for the State's criteria by which schools and sponsors may qualify as especially needy, thereby entitling them to receive funds without providing funds from their own resources;

"(4) That the State will provide appropriate technical assistance and training to schools and sponsors to enable them to participate as effectively as possible, including specifications of its plans, schedule, and personnel and material;

"(5) That the State, in cooperation with the Secretary, will develop an effective procedure to monitor compliance by schools and sponsors with the nutritional requirements for meals under this Act;

"(6) For the granting of a fair hearing and a prompt determination thereafter in accordance with regulations issued by the Secretary to any participant aggrieved by the action of the State agency under any provision of its plan of operation and administration of the program as it affects such entity's participation in the programs under this Act;

"(7) For the submission of such report and other information as from time to time may be required by the Secretary;

"(8) For a Plan of statewide targeted outreach to low-income areas, including but not limited to: (A) a listing of the schools eligible for funds under Title I of the Elementary and Secondary Education Act with an indication as to whether such schools offer breakfast and/or lunch services; (B) a listing of the schools wherein 25% or more of the children qualify for free or reduced-price lunches with an indication as to whether such schools offer breakfast and/or lunch services; (C) a listing of the schools targeted for implementation of breakfast and/or lunch meal services during the following school year with a timetable for such implementation, such listing to reflect maximum practicable efforts to reach needy children in impoverished communities; (D) a listing of the number of schools and the number of those schools that provide breakfast and/or lunch meal services; (E) a listing of the number of schools that implemented school breakfast and/or lunch services under the prior year's plan together with the names of the targeted schools that did not implement meal services and a brief narrative of the reasons therefor; (F) a narrative concerning the schedule of direct outreach, technical assistance and informational work that will be undertaken by State personnel among school and school food authority officials responsible for the schools listed in clause (c) of this paragraph; (G) the definitions of "especially needy" for higher reimbursement rates and for equipment assistance payments for

schools and sponsors participating in the child care food program; (H) the number of schools and sponsors using self-preparation of meals, including central kitchens, and the number using vended meals; (I) the State's methodology for determining the amount of program payments due to schools and sponsors for disbursing such payments.

"(9) That the State agency will prepare and disseminate a procedures manual to assist schools and sponsors in the implementation and operation of child feeding programs.

"(10) That wherever feasible, not less than one month prior to the submission of the State plan required by this section the State agency shall conduct public hearings to enable the general public to participate in the development of the State plan. The State agency shall establish and implement procedures which ensure that local schools, sponsors and concerned individuals are informed of the State plan requirements under this section, and are given the opportunity to comment on the State's preparation of its annual plan.

"(b) If the Secretary determines that there is a substantial failure without good cause by a State agency to comply with an approved State Plan of Child Nutrition Operations as required by this section or State Plans of Operations required pursuant to sections 12 and 13, the Secretary shall immediately inform such State agency of such failure. Until such failure is corrected, the Secretary shall not approve such State's Plan of Child Nutrition Operations, or State Plans of Operations pursuant to sections 12 and 13, for the year subsequent to the year in which the failure occurred.

"MAINTENANCE OF EFFORT

"SEC. 20. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act to an amount less than the total amount spent for such program in each State for the preceding fiscal year. Such funds shall be used to further improve the quality of meals provided through this Act, to improve food service facilities, or for any other purpose in furtherance of the purposes of this Act. Each State agency shall include in its State Plan of Child Nutrition Operations, such information as may be required by the Secretary to establish compliance with this section.

"NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

"SEC. 21. Section 15 of the National School Lunch Act of 1946 shall be redesignated section 21 of the National Child Nutrition Act of 1978, and the references in subsection (c) to the National School Lunch Act and Child Nutrition Act of 1966 shall be deleted.

"PILOT PROJECTS

"SEC. 22. Section 20 of the National School Lunch Act of 1946 shall be redesignated section 22 of the National Child Nutrition Act of 1978.

"NUTRITION EDUCATION AND TRAINING

"SEC. 23. Section 19 of the Child Nutrition Act of 1966 shall be redesignated section 23 of the National Child Nutrition Act of 1978.

"CASH GRANTS FOR NUTRITION EDUCATION

"SEC. 24. (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies, institutions of higher education, and non-profit organizations and agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

"(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed 1,000,000 dollars annually. The Secretary shall without not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

"REGULATIONS

"SEC. 25. The Secretary shall issue such regulations consistent with this Act as he deems necessary or appropriate for effective and efficient administration so as to facilitate to the maximum extent possible implementation of programs authorized by this Act, and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of Title 5 of the United States Code. Such regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools.

"REMEDIES

"SEC. 26. (a) If the Secretary determines that in the administration of the child nutrition programs authorized under this Act there is a failure by a State or local agency to comply with any of the provisions of this Act or the regulations issued pursuant to this Act, the Secretary shall immediately inform such agency of such failure and shall allow the agency a specified period of time for the correction of such failure. If the agency does not correct such failure within that specified period, the Secretary shall withhold from the violating agency sufficient funds, from the funds authorized by the pertinent statutory authorization section, that are reasonably necessary to induce compliance with provisions of this Act or the regulations pursuant to this Act: *Provided*, That the funds withheld by the Secretary shall be placed in an escrow account and, if compliance is achieved, the funds may be returned to the offending agency."

"(b) If the Secretary determines that, despite the remedy applied in subsection (a) of this section, that there is a continuing failure by any agency to comply with any of the provisions of this Act or the regulations issued pursuant to this Act, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the agency and, upon suit by the Attorney General, or joinder in a suit brought by private parties, in an appropriate district court of the United States having jurisdiction of the geographic area in which the agency is located and showing that noncompliance has occurred, appropriate injunctive relief shall issue."

"(c) If any State or local agency or eligible child is aggrieved by the Secretary's actions pursuant to sections 15(i), 16(c), or 20(a), such agency or eligible child may seek review of the Secretary's determinations and actions in an appropriate district court of the United States having jurisdiction of the geographic area in which the agency is located. If no review is sought by the agency within 60 days, the action of the Secretary shall be final. The suit in the United States district court shall be a trial de novo in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless an application to the court, and after a hearing thereon and a showing of irreparable injury to children eligible under the program or programs, the court temporarily stays such administrative action pending disposition of such trial or appeal."

PAYMENTS TO STATES

"SEC. 27. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

"REDUCTION OF PAPERWORK

"SEC. 28. Section 21 of the National School Lunch Act of 1946 shall be redesignated section 28 of the National Child Nutrition Act of 1978, and all references to the Child Nutrition Act of 1966 and the National School Lunch Act of 1946 shall be deleted.

"PROHIBITIONS

"SEC. 29. Section 11 of the Child Nutrition Act of 1966 shall be redesignated section 29 of the National Child Nutrition Act of 1978, and the words 'of sections 3 through 5' shall be deleted.

"CENTRALIZATION OF ADMINISTRATION

"SEC. 30. Section 13 of the Child Nutrition Act of 1966 shall be redesignated section 30 of the National Child Nutrition Act of 1978, and references to the National School Lunch Act of 1946 shall be deleted.

"FEDERAL COST

"SEC. 31. Section 14 of the Child Nutrition Act of 1966 shall be redesignated section 31 of the National Child Nutrition Act of 1978.

"REPEAL

"SEC. 32. This Act repeals the National School Lunch Act and the Child Nutrition Act of 1966.

"EFFECTIVE DATE

"SEC. 33. This Act shall become effective on October 1, 1978, and the Secretary shall promulgate regulations implementing the provisions of this Act to become effective 90 days thereafter."

EXPLANATION OF THE ACT

The National Child Nutrition Act of 1978 combines the National School Lunch Act (NSLA) and the Child Nutrition Act (CNA) into one National Child Nutrition Act. The following is a section-by-section description of the Act.

Section 2. Statement of Policy. This section pulls together the purpose clauses of § 2 of the NSLA, § 2 of the CNA, and § 4(g) of the CNA. It also adds a new phrase emphasizing the use of child nutrition programs in strengthening domestic agriculture programs through the use of commodities.

Section 3. Definitions. This section moves to the beginning of the Act definitions contained in § 12(d) of the NSLA and § 15 of the CNA. It deletes the definitions for "participation rate" and "Assistance Need Rate," as outdated and repetitive. This section also adds the Northern Marianas to the definition of "State," and a definition for the Consumer Price Index, including a provision for adjustment. The latter definition was added only to obviate the necessity of repeating the same language in several sections throughout the Act. Also defines Food Assistance Payment, National Average Basic Payment, Reduced-price Meal Payments, Free Meal Payment.

Section 4. Appropriations. This section provides that appropriations be made a year in advance of when they will be available for disbursement to States, and that funds unspent will remain available.

Section 5. School Meals Sections. This section combines §§ 4 and 11 of NSLA and § 4 of CNA, the school lunch and school breakfast provisions. The changes were made in

order to establish a "school meals" program, recognizing the equal importance of both lunch and breakfast, and thereby developing a unified concept. Most changes are merely technical to accomplish this goal, or to delete out-of-date language such as references to special appropriations which have now expired.

Section 4 of NSLA establishes the lunch program, providing reimbursement for all meals served; § 11 provides for special assistance, in addition to basic payments, for free and reduced-price meals. Section 4 of CNA establishes the breakfast program.

(a)(1) combines the appropriations language of § 4 of NSLA and § 4(a) of CNA, and includes the current national average payment formula for payments to State agencies.

(a)(2) establishes the national average payment minimum rates for basic, free and reduced-price meals, using current reimbursement rates. This merely encompasses §§ 4 and 11(a) of NSLA and § 4(b) of CNA. All out-of-date language was removed from the relevant sections, i.e. FY 1973 allocations. This section adds a new provision authorizing adjustments in the national average payments for Alaska, Hawaii, etc. It is believed that this is necessary to more adequately reflect costs and circumstances in these areas.

(a)(3) refers to the maximum payments for free and reduced-price meals and reflects the language in § 11(b) of the NSLA with appropriate technical changes necessitated by a unified program.

(b)(1) and (b)(2) establish the especially needed concept for the school breakfast program, now contained in § 4(b) of CNA. The language is similar to that of P.L. 95–166.

(c) amends § 4(g) of CNA to require that the school breakfast program be implemented in all schools where a certain percentage of the children, the level not yet specified, are receiving free or reduced-price meals.

(d)(1) amends the language enacted by P.L. 95–166, found in § 11(a) of NSLA, which authorizes schools with a high percentage of children receiving free or reduced-price meals to receive reimbursement for 2 years on the basis of documentation filed the first year. This section is amended to reflect "school meals" and not just lunch.

(d)(2) repeats the language of § 11(e)(2) and (3), requiring the filing of reports on participation in the program. It adds reports on breakfast participation to the reporting requirements, which reflects current agency practice.

Section 6. School Food Service Equipment. Current law (§ 5 of CNA), reflecting the amendments of P.L. 95–166, authorizes $40 million for equipment assistance. Section 5 of NSLA has an authorization amount of $10 million, § 5 of CNA provides for allocation of funds for equipment to schools with poor economic conditions to purchase equipment necessary for storage, preparation, transportation and serving of food, and establishes a reserve of one-third of the funds for schools with no programs or without the facilities to prepare or receive hot meals.

Authorization is increased by $35 million to $75 million. This amount is to be distributed in three equal shares:

(1) ⅓ for no program schools,

(2) ⅓ for one program schools to assist in implementation of the second meal program,

(3) ⅓ for improvement of existing meal service facilities.

The "no-program funds" are to be allocated to a state on the basis of the ratio of the number of children in each state in schools without a food service program to the number of children in all states enrolled in such schools.

The "one-program" funds are to be allocated to a state on the basis of the ratio of the number of children in each state in schools with only one program to the number of children enrolled in such schools in all states.

Allocation of funds for improvement of existing meal service facilities are made on the basis of the ratio of the numbers of children in each state enrolled in schools to the number of children enrolled in all the states enrolled in schools.

In reallocations, the Secretary will be able to reallocate to states unused "no-program" funds, for use by them in expanding "one-program" schools. Any funds not utilized for either of these purposes will be able to be reallocated for the use of states in improvement of existing meal service facilities.

Section 7. Payments to States. Basically the same as current § 7 of NSLA, which establishes State matching requirements, and removes all outdated language, i.e. State matching percentages for 1972. We have deleted the last paragraph of this section relating to timing of payments for States, and moved it to § 21 of our draft, which provides that payments be made to States at such times as may be fixed by the Secretary.

Section 8. State Disbursements to Schools. This section, similar to § 8 of NSLA and § 4(c) of CNA, provides that State agencies make payments to schools in accordance with agreements between States and schools, and that funds be used for purchase of commodities and the cost of processing, distributing, transporting, storing and handling.

Section 9. Income Requirements. (a) This section amends § 9(b)(1) of the NSLA, which requires the Secretary to issue revised poverty guidelines each year and allows States to establish eligibility for receipt of free meals between 100 percent and 125 percent of the poverty line.

Changes include deletion of all out-dated language, simplification of language, and requires that all States establish eligibility for free meals at 125 percent of the poverty line. Two new provisions are added. The bill requires bi-lingual materials where there is a substantial population of non-English speaking families. It also allows a local school to provide free or reduce-price meals to children from families in situations of special hardships.

Section 10. Disbursement to Schools by the Secretary. This section provides for the Secretary to disburse money to private schools where the State is prohibited by law from doing so. The only change is to substitute the word "meals" for "lunch" to bring it into conformity. This section is the same as current law.

Section 11. Special Milk Program. Same as current law.

Section 12. Child Care Food Program. This section merely redesignates Section 17 of the NSLA as part of this bill.

Section 13. Supplemental Food Program for Women, Infants, and Children. This merely redesignates Section 17 of CNA as part of this bill.

Section 14. Summer Food Program. This redesignates Section 13 of NSLA as part of this bill.

Section 15. Nutritional Requirements. Current law [§ 9(a)] states that lunches served by schools participating in the school lunch program under this Act shall meet minimum nutritional requirements *prescribed by the Secretary on the basis of tested nutritional research;* except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate this medical or other special dietary needs of individual students. Section 9 also specified certain meal service procedures.

The bill expands and elaborates upon the nutrition requirements in current law. It changes current language describing nutritional requirements by ("shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research") significantly broadening factors to be considered in developing nutritional standards for the school meals program. It emphasizes: 1) acceptability and nutritional quality of the food; 2) the health-related aspects of food; 3) nutrition education as part of the meals program; 4) the importance of flexibility in the meal pattern; 5) improved training and technical assistance to food service personnel; 6) the necessity of parent and child input into menu planning and nutrition program operations; 7) guides for the improvement of the atmosphere of the eating place; and 8) the use of pilot project results in program improvement.

Section 16. Similar to current law § 6 NSLA, commodity purchase.

Section 17. Similar to current law § 14, commodity distribution.

Section 18. State Administrative Expense. (a) Current § 7 of CNA establishes payment for State administrative funds for the school meals and child care food programs equal to 1 percent through FY 1978, and up to 1½ percent for FY 1979 and 1980. As amended by P.L. 95–166, it also requires the Secretary to develop staffing patterns, annual State plans for use of such funds, and for reallocation of unused funds.

The amended section primarily affects § 7(a), and provides that a state will receive not less than 1 percent or more than 2 percent of program funds.

(b) and (c) are identical to current law.

(d) is similar to current subsection (d) which provides for appropriate adjustments in administrative funds when a State assumes responsibility for the program in non-profit schools. Added is a provision for start-up funds in such instances.

(e)–(h) is identical to current law.

(i) is new and permits the Secretary to withhold a portion of funds upon a State's failure to carry out the State's plan of child nutrition operations.

Section 19. State Plan Requirements. Currently set forth in § 11(e)(1) of NSLA, are requirements for each State to prepare plans of operations for the child nutrition programs, including detailed action plans to expand the programs to the maximum extent practicable for reaching needy children. Subsection (a) of the draft requires specific details in the plan for State action regarding outreach activities, compliance with the Secretary's staffing patterns, providing technical assistance and training, monitoring of local agency compliance, fair hearing procedures, and specific data collection. It also requires procedures allowing local schools, sponsors, and concerned citizens to have the opportunity to comment on the plan.

(b) also new, requires the Secretary to prepare guidance material to assist the States in preparing their plan.

The Department currently prepares what it considers guidance material. It merely restates the current regulations, i.e. requires a "detailed action plan" with no further specifics. Again, the Secretary must plan a meaningful role, and States must know clearly what is expected of them.

(c) is a new section which authorizes the Secretary to seek injunctive relief against a State for its failure to comply with the Act, or regulations, after notification and a time period for correction. This subsection is similar to the one passed in the recent food stamp amendments.

Section 20. Maintenance of Effort. Current § 17(g) of NSLA provides that expenditures from state and local sources not be reduced as a result of payments under the Section.

Sec. 21. National Advisory Council on Child Nutrition. This redesignates current Sec. 15, NSLA.

Sec. 22. Pilot Projects. This redesignates Sec. 20, NSLA.

Sec. 23. Nutrition Education and Training. This redesignates Sec. 19, CNA.

Sec. 24. Cash Grants for Nutrition Education. Similar to current Sec. 18, CNA, and provides some funds for Secretary to carry out research and development projects in this area.

Sec. 25. Regulations. Current Sec. 10 of CNA authorizes the Secretary to prescribe regulations necessary to carry out the Act.

The amendment requires regulations to be promulgated in accordance with the Administrative Procedure Act, and also simplifies the current language.

Sec. 26. Remedies. This new section prescribes remedies available if a state or local agency fails to comply with the statute or regulations. These remedies include: notification of lack of compliance, time to correct, upon failure to correct the withholding of appropriate funds to be put into escrow pending compliance, or as a last resort, authorization to seek injunctive relief. States have the right to seek review of the Secretary's actions.

Sec. 27. Payments to States. Same as Sec. 6, CNA.

Sec. 28. Reduction of Paperwork. Redesignates Sec. 21, NSLA.

Sec. 29. Prohibitions. Redesignates Sec. 11, CNA.

Sec. 30. Centralization of Administration. Redesignates Sec. 13, CNA.

Sec. 31. Federal Cost. Redesignates Sec. 14, CNA.

Sec. 32. Repeal. Provides for repeal of NSLA and CNA

Sec. 33. Effective Date. Establishes October 1, 1978 as effective date, and requires regulations to be effective within 90 days.●

By Mr. BARTLETT:

S. 2825. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions; to the Committee on Finance.

● Mr. BARTLETT. Mr. President, on May 11, 1977, I introduced S. 1485 to alter the Internal Revenue Code in order to provide equal treatment to certain types of private foundations which are operating charitable programs. Under present tax law, a charitable organization is exempt from the private foundation rules if it is operated, supervised, or controlled by or in connection with another charitable organization, social welfare organization, civic league, labor union, or trade association. The intention of S. 1485 is to extend this exemption to charities operated, supervised or controlled by or in connection with a fraternal society.

This legislation is not new to the Senate or the House, and the matter has been taken up in hearings by both the House and the Senate. However, no action has been taken on the language in S. 1485, in part, because of the uncertainty as to its ultimate effect and the specific types of charities that might be allowed this exemption under the proposed language.

Because of this problem I am today introducing an alternative measure, which I believe clearly defines the type of facility which should be eligible for equal treatment under the foundation rules. The language which I am proposing states that the charity must have been operated or maintained with its own "* * * principal functional purpose: facilities for the long-term care, comfort, maintenance or education of permanently and totally disabled persons; elderly persons; needy widows; or children,".

This definite language should resolve the uncertainties which have previously existed in both my legislation and other bills that have been introduced in both the House and the Senate.

Mr. President, in order not to belabor the subject which I have previously discussed on May 11, I ask unanimous consent to insert in the RECORD a statement made by Mr. S. Neal Johnson, trustee of the Sand Springs Home, before the House Ways and Means Committee on April 13, 1973.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF S. NEAL JOHNSON, TRUSTEE, SAND SPRINGS HOME, SAND SPRINGS, OKLA., ACCOMPANIED BY HON. CLEM ROGERS MCSPADDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA, GEORGE D. WEBSTER, T. NEAL COMBS, AND JOHN R. MARCH, JR.

SUMMARY

1. Organizations such as the Sand Springs Home which provide care for orphans, children, widows and/or the aged should not be subjected to the restrictive provisions imposed by the Tax Reform Act of 1969.

2. The Sand Springs Home supports and urges the enactment of two bills which have been introduced by Mr. Brotzman:

(A) The first of these bills is H.R. 2258 which provides that organizations controlled by organizations described in sections 501(c)(8) and (19) [masonic and fraternal beneficiary associations] will qualify as other than private foundations.

(B) The other bill is H.R. 2259 which would provide that under certain circumstances, organizations providing for the long-term care, comfort, maintenance, or education of permanently and totally disabled residents, elderly persons, widows or children will qualify as other than private foundations.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I would like to introduce, on my far left, George Webster, an attorney here in Washington; Mr. John March, with the Arthur Young & Co., auditors for the Sand Springs Home, and has been for many years. On my immediate right is Mr. T. Neal Combs, who is an associate of Mr. Webster; and on my far right, and probably I should have introduced him first, a Representative from the great State of Oklahoma, my district, and I am happy to support him, Mr. Clem Rogers McSpadden, who is in Washington his first year. I am sure you will appreciate him more as time goes on, as we do in Oklahoma.

I have a prepared statement, Mr. Burke, which I sincerely hope will become a part of the record.

Mr. BURKE. The entire statement will be made part of the record. You may summarize if you wish.

Mr. JOHNSON. I would like to give you just a short history of the Sand Springs Home and the reason for its origin.

Mr. Charles Page, pioneer oilman in the State of Oklahoma, made a promise to his mother, who was a widow, that if the Lord ever made it possible for him to accumulate any of this world's goods, that he would devote his life and his fortune to help alleviate the suffering of widows and their children and needy, neglected orphans and children of broken homes.

The Sand Springs Home had its beginning on June 2, 1908. It was a small beginning. There was not even a town present there where Sand Springs, Okla., is now located. Mr. Page continued to explore the early oilfields of Oklahoma and, as he accumulated more money, he began to expand his charities, and thus the Sand Springs Home really came into being.

In 1912, August 9, the Sand Springs Home was incorporated under the bylaws of the State of Oklahoma. In the beginning, Mr. Page thought that he could operate the children's home and a Widows' Colony, or a widows' home, together. He saw the fallacy of this and in 1914 he established a Widows' Colony, which I believe is one of the most unique charitable operations in our country today.

Since the beginning of the Sand Springs Home, which Mr. Page personally endowed prior to the enactment of the 16th amendment—he did not do it to find any tax shelter, because there was no Federal income tax law on the books at that time—through the years of continuous operation, 65 years, there have been over 800 children raised and educated by the charitable policies of the Sand Springs Home.

In the Widows' Colony, which is a separate and distinct, different operation—and the Widows' Colony is governed by rules set forth by the Board of Trustees, of which I am a member—there have been 1,200 widows with approximately 3,000 children raised in the Widows' Colony.

So, through the years we have not necessarily invested our reserves or our money in stone and bricks; we have invested it in children and needy individuals who needed help.

What we have considered all through the years as a virtue, under the 1969 reform bill it seems to us is now a detriment, because we are not allowed by the bylaws of the Sand Springs Home to accept a contribution from anyone. There has never been one penny of government money—city, county, State, or Federal—that has ever gone into the operation. All moneys received by the children of the Sand Springs Home are placed under guardianship. That money is impounded, invested by their guardians. When they reach their majority, that money is turned over to them. It is never commingled with the funds of the Sand Springs Home.

The number of children presently in the home are 73. I think in the prepared statement you will find the number 68, but since this was prepared we have taken in a family of five children, the youngest of which is 3 months old.

We feel that we cannot be asked to continue to meet the requirements of section 4940 or for the distribution of our income when we have just in the past week taken on an obligation for which we are going to have to have funds for the next 18 years in order to carry out the wishes of Mr. Charles Page.

He set up and appointed, prior to his death, a five-man Board of Trustees because he realized that at his death he wanted men, honest men, men who would endeavor to the best of their ability to carry out this philanthropic work. He said prior to his death that "I will leave enough tangible assets if properly managed to perpetuate the Sand Springs Home from now on."

The one thing that bothered Mr. Page was how he was going to fill the vacancies on the Board of Trustees after his death. In 1925 he petitioned a society known as the Free and Accepted Masons of the State of Oklahoma, asking them to grant to the grand master of that society the authority and the power to fill the vacancies as they should occur.

This was done. The Masonic Order accepted the responsibility of filling the vacancies, and in 1956 I was appointed by the grand master of the Grand Lodge of Oklahoma as a member of the Board of Trustees. We have endeavored every day, and we are not the type of foundation that sits around and clips coupons, we are a working foundation. I am in my office at 7:30 in the morning, and I am at the beck and call of the children, the

widows and their children, to help solve any problems they might have.

Our purpose in being here today is to ask this committee and Congress to classify the Sand Springs Home as something other than a private foundation. We strongly support and urge the passage of two bills which have been introduced by one of your colleagues, Representative Brotzman, because we feel with the passage of the legislation that the inequities we are now operating under would be changed entirely and we would be classified as a public foundation, which is the classification we feel we should have.

In the years we have been operating the Sand Springs Home we have educated doctors, lawyers, almost any profession you can think of, at the expense only of the Sand Springs Home. None of the children's money is ever spent. As long as they go to school they are at home in the Sand Springs Home. We furnish them with a high school education.

We send them to any 4-year-accredited college when their counselor says the child is capable of receiving an education, and we pay for it, all of it. We do not expect to be paid back in any number, shape, or form.

It has not been the policy of the home to carry out that type of educational program for the children of the widows' side. Where we have an outstanding child in the Widows' Colony, we make available to that child enough money to pay the tuition, scholarship, books, clothes, whatever it takes for that child to go to college. We lend them the money from our scholarship fund at no interest, and after they get out of college, start teaching or whatever their education prepares them to do, then they pay that money back.

We feel that we should not be asked to expend sums of money that are really just a waste. There is a time when you have to stop and consider, "Well, we could better use this money to help the elderly who have worked for the Sand Springs Home for many, many years," and we find that their social security checks are not enough to take care of them. So we supplement their security.

We are taking care of I don't know exactly how many at the present time, but it is about $1,800 a month that it costs us to supplement social security checks whereby our people and employees and relatives of Mr. Page can live in dignity.

This is why we think that we should be exempt from the 85 percent requirement under the Internal Revenue Code section 4942, and section 4940. Of course, if we were classified as a public foundation we would be exempt. We would not have to pay the 4 percent excise tax which has already taken from our funds over $50,000 since 1969 to pay that excise which we feel could have better been used because we have raised and educated and nurtured far more people than most any other home that I know of its kind.

For this reason, as I say, we support this legislation by Representative Brotzman. The Sand Springs Home has spent money to try to meet the requirements of the law as we are now classified. We have built a swimming pool at an expense of almost $6,000—a private swimming pool. We have built a brand new widows' colony in which we have invested over $400,000. We are building a summer recreational camp, rather a year-round recreational camp, on Grand Lake which will cost us over $300,000 by the time we are finished with it.

The widows' colony at the present time has 14 duplexes and there are 28 mothers with about 85 children living in the colony. We have let the contract just this past week for six new duplexes to expand our charity for the widows and their children.

We think that we are conforming to the letter of the law of what a charitable organition and charitable foundation should do, but because of the long term that we are expected to furnish funds and a home for these children and the widows, we do not feel that we should be called upon to expend a certain amount of money each year because, as most of you gentlemen know, sometimes there is a rainy day.

We have no objections to the 3-percent investment test. All we really and truly want is to be classified as a private operating foundation or a public foundation, because we do not just come down to the office and get our check and turn around and go back home. We work, the five men work at the job.

Mr. Chairman, I will be happy to answer any questions that any of you distinguished gentlemen might have. I will do the best I can, at least.

[The prepared statement follows:]

STATEMENT OF S. NEAL JOHNSON

Mr. Chairman and Members of the Committee: I am appearing on behalf of the Sand Springs Home, an orphanage in Sand Springs, Oklahoma. With me are George D. Webster and T. Neal Combs who are attorneys for the Home and John R. March, Jr., who is with Arthur Young & Company, auditors for the Home.

As a result of the Tax Reform Act of 1969, the Sand Springs Home is classified as a private foundation. The Home believes this was an unintended result. First, the Home submits that organizations such as the Sand Springs Home which are controlled by Masonic Orders should not be classified as private foundations but should be classified as other than private foundations. They should be accorded the same status as provided for charitable organizations which are controlled by labor unions, trade and professional groups, and social welfare organizations. Certainly, there could have been no intent in 1969 to discriminate against organizations controlled by Masonic and fraternal orders. The enactment of H.R. 2258 which would amend the last sentence of section 509(a) of the Internal Revenue Code to add language including organizations controlled by organizations described in section 501(c)(8) or (10) would achieve this result.

The Sand Springs Home further submits that in any event orphanages as well as homes for the aged and other charitable organizations providing for long-term care of individuals should not be treated as private foundations but should be specifically excluded from such treatment and relieved of the section 4940 taxes and the distribution requirements of section 4942 of the Internal Revenue Code. This would place them in the same position as colleges, schools and hospitals which also provide basic charitable services to the public and which are not required to meet a test of support by the public. This can be accomplished by the enacting of H.R. 2259.

HISTORY OF THE SAND SPRINGS HOME

The Sand Springs Home was founded by one Charles Page on June 2, 1908. On August 9, 1912, it was incorporated under the laws of the State of Oklahoma. At the time the Home was founded there was no federal income tax since a federal income tax could not be imposed until 1913 after the passage of the Sixteenth Amendment. The Home was originally formed for the purpose of caring for orphans, however in 1914 recognizing that there was a need for a facility which would provide a place for widows to raise their children, there was formed a Widows' Colony. These activities have continued until the present time. At the present time the Home has 68 dependent children in the Home and in the Widows' Colony there are 28 widows with a total of 75 children.

The Sand Springs Home since its formation has expended in excess of $20 million for charitable and philanthropic purposes and has cared for a total of 800 dependent children, for whom the Home has provided all necessities of life, and more than twice this number of children and widows. Thus, there can be no doubt that it is carrying out its charitable purposes. The Home is unique since Mr. Page, recognizing the need for such organizations at an early date, provided the organization with an endowment which has resulted in its never having to request that the public make contributions to it. The Home has been able to operate without having to further burden the public with requests for funds. However, what would be considered a virtue is now a detriment since if the Home had requested additional funds through the years from the public for its support, it would undoubtedly be able to qualify as a public foundation. However, leaving the funds of the community available to be used for other charitable activities, the Home now finds itself in the position of being classified as a private foundation.

ADDITIONAL INFORMATION CONCERNING THE HOME

Children are committed to the Home by the order of the Oklahoma State District Court which charges the Home with the duty of the care, maintenance and education of the children. Widows and their children are admitted to the Widows' Colony under rules and regulations authorized by the Sand Springs Home, but the children remain under the jurisdiction of their mothers.

Personal assets of children are held in trust under guardianships established under the Probate Division of the District Court of Tulsa County, Oklahoma. Individual bonded guardians are appointed by the Court, and all personal assets, including Social Security, Veteran's benefits, etc., are impounded in the duly established guardianships which are administered under the watchful eye of the above-mentioned Court until its approval of the final distribution by the guardian of assets, and all increments accruing thereto, to said child on reaching his or her majority. No personal funds of any child are ever accepted into or co-mingled with the accounts of the Sand Springs Home. The Home's Legal Department protects each child in effecting settlement of claims for death, insurance, Social Security and Veteran's benefits from which such guardianship assets customarily accrue.

The Home makes available to the Public School System of Sand Springs and to the various churches of Sand Springs and immediate area, lands belonging to it, as long as such lands are occupied and used for educational or religious purposes as the case may be.

The Home's assets consist, in addition to the land and buildings directly utilized for the carrying out of the exempt activities, of large tracts of land which are increasing in value, as Tulsa, Oklahoma expands, stock in several small but prosperous wholly-owned companies (e.g., the Sand Springs Railroad Company), oil properties, and investments in governmental obligations and certificates of deposit. It is difficult to assess the total value of the assets (this being one of the problems presented by the Tax Reform Act), however the total endowment is substantial and at a minimum this value exceeds $12,000,000.

The trustees of the Home are appointed by the Oklahoma Grand Master of the fraternal society known as the Ancient Free and Accepted Masons which is a section 501(c)(8) organization.

PROBLEMS OF THE SAND SPRINGS HOME UNDER SECTIONS 4940 AND 4942

The Home has paid total taxes as required by section 4940 of $50,000. These funds have, of course, thus been diverted from charitable use and have not been available for use by

the Home for the benefit of dependent children and widows and their children. It is submitted that the Home should not be forced to pay the tax but should be accorded the same treatment as colleges and hospitals receive.

The Home is also experiencing severe problems with respect to the minimum distribution requirement of section 4942 of the Code. While section 4942 is not a great problem to grant-making organizations which simply spend more in the form of grants to meet the distribution requirement, the Sand Springs Home and other such organizations which must meet obligations of long-term care, and have already invested considerable sums in the assets used to carry out their charitable purposes, are experiencing problems with the requirements of section 4942. These organizations, with their continuing obligations, must be careful that over spending now does not prevent them from meeting their continuing obligations to the residents of their facilities. However, not only are the general distribution requirements of section 4942 of the Code causing problems for this type organization, but they also have difficulty meeting the private operating foundation requirements of section 4942. In order to qualify as a private operating foundation, an organization must normally expend directly for its operating purposes an amount equal to 85% of its adjusted net income and an amount equal to not less than two-thirds of its minimum investment return. It is the second requirement, known as the "endowment test" which provides problems for the Sand Springs Home and many similarly situated homes.

The Sand Springs Home must be in a position to hold assets which will appreciate in value to insure that it will be able to meet the continuing responsibility to the children and widows for whom it has accepted responsibility. This is, of course, even more important with the current inflationay trends. The Home must be in a position to invest for the future as well as for current income. Of course, some could argue that the Home could simply increase its expenditure per widow or child. However, there are, of course, limits to the providing of support and the Home should not be forced to engage in wasteful, needless spending to meet an artificial requirement of the tax laws.

Profligate spending will only serve to prevent the Home from meeting its long-term charitable responsibilities. Also, it should be remembered that the Home already has its substantial investment in facilities and it is not feasible continuously to simply rebuild the Home.

SOLUTIONS TO THE PROBLEM: H.R. 2258

First, there is H.R. 2258 which would amend the last sentence of section 500(a) to provide:

"For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c) (4), (5) or (6) or an organization incorporated before June 1, 1939 and described in section 501(c) (8) or (10) which would be described in paragraph (2) if it were an organization described in section 501(c)(3)."

The new language refers to sections 501(c) (8) and 501(c)(10). The importance of this to the Sand Springs Home is that since its trustees are appointed by the Grand Master of Masons in Oklahoma, which is exempt under section 501(c)(8) and which could meet the requirement of section 509(a)(2) if they were exempt under section 501(c)(3), the Home, if H.R. 2258 is enacted, will be other than a private foundation. It is submitted that the grandfather features of the bill should be eliminated since regardless of when formed an organization controlled by an organization described in section 501(c) (8) or (10) should be treated as other than a private foundation.

During the passage of the Tax Reform Act of 1969, there was considerable attention directed by the American Bar Foundation, the American Society of Association Executives, labor unions and the Chamber of Commerce of the United States to foundations which received most of their support from or were controlled by labor unions or business or professional associations (such as the American Bar Association) and that would have otherwise been classified as private foundations under the initial proposed definition of private foundations. The House version was amended accordingly by the Senate and this was finally adopted as a part of the Internal Revenue Code to provide that organizations that were controlled or operated in connection with designated organizations would not be classified a private foundations. If it were not for the last paragraph of section 509(a), a foundation which received all of its funds from the International Ladies Garment Workers Union, or the trustees of which were appointed by the Chamber of Commerce of the U.S., for instance, would be classified as a private foundation.

It is this paragraph of section 509(a)(3) that is proposed to be amended. The purpose of this proposed amendment is to provide that the same treatment shall be extended to organizations controlled by organizations described in sections 501(c)(8) and 501(c)(10). There is no reason for organizations, the governing bodies of which are appointed by the Masons, and other similar organizations such as Knights of Columbus, not to be extended the same treatment as organizations, the governing bodies of which are appointed by unions or trade associations, since the control is in a "public" organization. In the case of the Sand Springs Home, where trustees are appointed by the Grand Master of Oklahoma Masons, it is clear that the control is a public organization.

It is submitted that H.R. 2258 should be enacted since undoubtedly it was only because of oversight that this provision was not placed in the Internal Revenue Code in 1969 at the time similar language was added providing such treatment for organizations controlled by trade associations and labor unions.

H.R. 2259

H.R. 2259 also should be enacted. It is very meritorious. It provides that organizations such as the Sand Springs Home formed before October 31, 1969 which expend an amount equal to 3% of the net fair market value of their assets, as defined in section 4942(e)(1)(A), would not be classified as private foundations. This language was introduced in the last Congress and was known as the "Allott Bill." It has been introduced this session by Congressman Brotzman and is cosponsored by Congressmen Armstrong, Burleson and Conable. It is submitted that this legislation should be enacted. The fact that the Home's endowment has come from one individual should not prevent its being classified as other than a private foundation since there are other sections of the Internal Revenue Code which permit organizations to be classified as other than private foundations even though the endowment has been supplied by a limited number of persons. Examples of this are medical research organizations as well as universities and schools which are classified under sections 170(b)(1)(A) (ii) and (iii) of the Internal Revenue Code and by virtue of section 509(a)(1) as public organizations. Therefore, there is ample precedent for the treatment requested.

MANY ORGANIZATIONS ARE EXEMPT FROM PRIVATE STATUS DUE TO THE FUNCTION WHICH THEY SERVE

Churches, schools, hospitals and units of government are types of organizations which are treated as other than private foundations because of the function they perform or the benefits they confer on society. Certainly, organizations which operate facilities for the long-term care of children, widows and elderly persons should be accorded the same status as these organizations.

Another factor should also be considered. There are numerous other homes for children and the elderly in the United States, which are operated or sponsored by churches, fraternal organizations and labor organizations. These organizations already are relieved of the private foundation requirements. It is submitted that the Sand Springs Home and other organizations which have been privately endowed and which care for children and the elderly should not be treated differently and should be relieved of the requirements imposed on private foundations, including the 4% annual excise tax on net investment income imposed by section 4940 of the Code.

We refer you to testimony presented on April 10, 1973, by Karl L. Ross, President of the Myron Stratton Home in Colorado Springs, Colorado, wherein information was given concerning the number of homes affected.

There is now pending in this Committee a bill, H.R. 2259, sponsored by Congressmen Armstrong, Burleson and Conable which is substantially identical to bills introduced in previous sessions. This bill will provide the relief which is sought. It amends section 170(b)(1)(A)(iii) of the Code (the clause relating to hospitals and medical research organizations) to include organizations which operate and maintain as their principal purpose or function facilities for the long-term care, comfort, maintenance or education of resident permanently and totally disabled persons, elderly persons, needy widows and children and which expend annually for such purposes an amount equal to not less than 3% of the value of their investment assets.

The Brotzman bill seeks to afford to organizations which operate facilities for the long-term care of the elderly and children the same status as is now accorded to hospitals and medical research organizations, except for the added requirement that annual expenditures for operation of the facilities must equal or exceed an amount equal to 3% of endowment. If enacted, the Brotzman bill would exempt such organizations from the 4% annual excise tax on net investment income and permit the funds otherwise payable as taxes to be devoted to care of residents. The bill would also eliminate the uncertainties associated with qualification of such organizations as operating foundations under section 4942 of the Code.

CONCLUSION

In summary the Committee is respectfully requested to consider both H.R. 2258 and H.R. 2259 and to act favorably on both of these meritorious bills.

Mr. BARTLETT. Mr. President, the Sand Springs Home is a charitable operation of the Oklahoma Masons, and provides services for orphans and widows. Mr. Johnson's statement clearly describes the effect of the unequal treatment on these fraternal charitable organizations, and, I believe, is representative of other similarly controlled charities in other States.

Mr. President, I also ask unanimous consent to insert in the RECORD a partial list of charities which would be similarly affected by the change which I am proposing.

Mr. President, the number of fraternally operated charities which would come under this definition is not large, and this change represents a significant benefit to each of these charities in that

they will annually have additional funds to spend on the children or widows that reside with them.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CHARITIES OPERATED BY FRATERNAL ORGANIZATIONS

NAME AND ADDRESS OF ORGANIZATION
DATE FOUNDED

Hendrick Home for Children, Abilene, Tex., 1939.
Home for Homeless Women, Wilkes-Barre, Penn., 1893.
Judson Palmer Home, Findlay, Ohio, 1950.
Myron Stratton Home, Colorado Springs, Colo., 1909.
Aged Woman's Home of Georgetown, Washington, D.C., 1860.
Heritage, San Francisco, Calif., 1850.
Warner Home, Jamestown, N.Y., 1911.
Elizabeth Shoemaker Home, Washington, D.C., 1952.
Smith Memorial Home, New London, Conn., 1881.
Guyor Memorial Home, Peoria, Ill., 1889.
Sand Springs Home, Oklahoma City, Okla., 1908.
Miriam Osborn Home, Rye, N.Y., 1908.
James Sutton Home, Wilkes-Barre, Penn., 1920.
Widow's and Old Men's Home, Cincinnati, Ohio, 1848.
Amasa Stone House, Cleveland, Ohio, 1877.
Lisner Home, Washington, D.C., 1941.
Society for the Relief of Destitute Orphan Boys, New Orleans, La., 1820.
State Street Children's Home, New Orleans, La., 1866.
Moor Children's Home, El Paso, Tex., 1959.
Andrew Freedman Home, Bronx, N.Y., 1924.
Rogerson House, Boston, Mass., 1860.
Marcus L. Ward Home, Maplewood, N.J., 1921.
Cartwell Home, Palestine, Tex., 1953.
Wiles Home, Brockton, Mass., 1893.
St. Luke's Episcopal Church Home, Highland Park, Mich., 1861.●

By Mr. McCLURE:

S. 2826. A bill to establish water resources research centers, to promote a more adequate national program of water research, and for other purposes; to the Committee on Environment and Public Works.

WATER RESOURCES RESEARCH ACT OF 1978

● Mr. McCLURE. Mr. President, I am introducing a bill today that amends the Water Resources Research Act of 1964 to provide additional authorization for the water research institutes as well as change some of the provisions of the act to allow for a more varied use of funds in the institutes and private sector.

The 1978 act was written and recommended by the Water Committee of the National Association of State Universities and Land-Grant Colleges in consultation with members of the water research institutes. It differs from S. 2704, the administration bill to increase authorizations for the program and should be considered at the hearings on Friday, April 7 in the Public Works Committee on water resources research.

The first change from the original act is in the allotment program. The current act is authorized at $250,000 and each institute has been allocated $110,000 per year. This bill will increase each State institute allotment portion to $150,000 and an additional $100,000 would be granted for approved programs meeting special research needs in that region. The basic allotment per institute enables them to maintain, on a continuing basis, a minimal type of research, technology transfer, and training function on which to build a Federal-State partnership. The additional funds meet unique needs the different institutes may have and recognizes that water- and land-related problems are not uniform throughout the country. These additional funds are also contingent on the States providing one non-Federal dollar for every two Federal dollars to the program.

The next major change increases the authorization for matching funds to $10 million. These funds are to be used primarily to address regional problems. Problems may range from contiguous States having rivers forming boundaries and causing impacts on each State and States sharing common problems on water quality such as mining activities. The magnitude of these problems is the reason for increasing this authorization.

The authorization for title II remains at $10 million. This section is concerned with problems which can utilize both the expertise of the universities and the private sector. The program would be coordinated through OWRT and thus permit national issues to be addressed.

The last change is concerned with technology transfer. The institutes are designed to bring information to the users in a particular State or region irrespective of the sources of that information; $75,000 would be provided to each institute for this purpose and an additional $50,000 is authorized for institutes that meet certain qualifications.

This legislation should be seriously considered in our efforts to revise and improve our very important water research programs in this country.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, "that the Water Resources Research Act of 1964 (P.L. 88-379, 78 Stat. 329; 42 U.S.C. 1961 et seq.), as amended is amended to read as follows:

"(a) This Act may be cited as the 'Water Resources Research Act of 1978.'

"(b) In order to assist in assuring the Nation at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this Act, to create a nationwide capability, including a network of state institutes, which will provide a state and regional and national focus for resolving water and related land problems through the stimulation and sponsorship of research, investigations, experimentations, and demonstrations; dissemination of data and research results to all users including the general public; and the training of scientists in disciplinary and interdisciplinary fields which affect the water resources.

"TITLE I—STATE WATER RESOURCES RESEARCH INSTITUTES

"SEC. 100. (a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1979 and each subsequent year thereafter sums adequate to provide $150,000 each year to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as 'institute') at one college or university in that State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503), entitled 'An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanical arts' or some other institution designated by Act of the legislature of the State concerned: *Provided,* That (1) if there is more than one such college or university in a State, established in accordance with said Act of July 2, 1862, funds under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this Act; (2) the designated State institute shall cooperate closely with other colleges and universities in the State with demonstrated research, information dissemination, and graduate training capabilities in developing a statewide program directed to resolving state and regional water and land related problems; (3) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; (4) the designated State institute shall cooperate closely with regional consortia, as may be designated by the Secretary, to increase the effectiveness of the nationwide network of institutes and for the purpose of regional coordination, particularly with regional river basin commissions and other interagency river basin organizations as may be established by Congress; and (5) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute: *Provided further,* That for fiscal year 1979 not more than $125,000 shall be appropriated for each of the District of Columbia, the Virgin Islands, Puerto Rico, and Guam, and for fiscal year 1980 not more than $150,000 shall be appropriated for each of such areas.

"(b) There shall be authorized to be appropriated to the Secretary of the Interior for fiscal year 1979 and each year thereafter sums adequate to provide an additional $100,000 to each State institute to support water resources research in the institutes provided these funds are approved only for specific projects and only if the institute has shown to the satisfaction of the Secretary that it has developed a comprehensive research plan focused on water problems of high priority and of importance to more than one State in its region and provided further that the institute shows that the research projects supported have at least $1 of non-Federal contribution for each $2 of Federal support under this section.

"(c) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated or with other qualified colleges or universities in the State to conduct competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being

limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems; having due regard to the varying conditions and needs of the respective States and regions, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, other university research centers, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research. The annual programs submitted by the State institutes to the Secretary for approval shall include assurance satisfactory to the Secretary that such programs were developed in close consultation and collaboration with leading water resources officials within the State and region to promote research, information dissemination, training, and other work meeting the needs of the State.

"SEC. 101. (a) There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1979 and each year thereafter sums adequate to provide to each State institute a minimum of $75,000 and no more than $125,000 for the purpose of organizing and carrying out an approved program of technology transfer and/or information dissemination so that the results of research are put into practical use at the earliest feasible time, and provided further that the institute shows that the technology transfer and/or information dissemination program have at least $1 of non-Federal contribution for each $2 of Federal support under this section. This technology transfer program must comprise a comprehensive plan to provide scientific information dissemination activities, such as identifying, assembling, and interpreting the results of scientific and engineering research deemed potentially significant for solution of water resource problems, providing means for improved communication regarding such research results, including prototype operations, ascertaining the existing and potential effectiveness of such for aiding in the solution of practical problems, and for training qualified persons in the performance of such scientific information dissemination.

"SEC. 102. (a) There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1979 and each subsequent year thereafter sums not in excess of $10,000,000. Such moneys when appropriated, shall be available to match, on a dollar-for-dollar basis, funds made available to institutes by States or other non-Federal sources to meet the necessary expenses of specific water resources research and information dissemination projects which are of high priority to one or more States in the region or which have national significance and which could not otherwise be undertaken, including the expenses of planning and coordinating regional water resources research projects by two or more institutes. Such high priority projects shall be identified by the Secretary of the Interior in consultation and collaboration with the institutes, including regional institute consortia as designated by the Secretary.

"(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region, and the State concerned, its relation to other known research projects theretofore pursued or currently being pursued, the extent to which potential users of the research findings have been involved in formulation of the research plans and method for user involvement during the study period, and the extent to which it will provide opportunity for the training of water resources scientists. No grant shall be made under said subsection (a) except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists.

"SEC. 103. Sums available to the States under the terms of sections 100, 101 and 102 of this Act shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Funds received by an institute pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions (41 CFR 1–15.3), including future amendments thereto: *Provided,* That the direct costs of the programs of each State institute, as distinguished from indirect costs, are not less than the amount of the Federal funds made available to such State institute pursuant to section 100 of this Act. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the 1st day of December of each year, on the total program of the institute in research; technology transfer and information dissemination and training toward the resolving of water and land related problems of each State and region during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

"SEC. 104. Moneys appropriated pursuant to this Act, in addition to being available for expenses for research, investigations, experiments, demonstrations, technology transfer, and training conducted under authority of this Act, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this Act in cooperation with each other, with other colleges and universities and with such other agencies and individuals as may contribute to the solution of the water and related land problems involved, and moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research and information dissemination.

"SEC. 105. The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of developing a comprehensive program of research, information dissemination, and training designed to resolve water and land related problems in a timely manner. He shall furnish such advice and assistance as will best promote the purposes of this Act, participate in coordinating research initiated under this Act by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

"SEC. 106. On or before the 1st day of October in each year after the passage of this Act, the Secretary shall ascertain whether the requirements of section 103 have been met as to each State, whether it is entitled to receive its share of the annual appropriations for water resources research, information dissemination, and training under sections 100, 101, and 102 of this Act, and the amount which it is entitled to receive.

"SEC. 107. Nothing in this Act shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education at any college or university.

"TITLE II—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

"SEC. 200. (a) There are authorized to be appropriated to the Secretary of the Interior $10,000,000 for the fiscal year 1979 and for each of the fiscal years 1980–88 inclusive, from which appropriations the Secretary may make grants to and finance contracts and matching or other arrangements with educational institutions, private foundations or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects, and with local, State, and Federal Government agencies, to undertake research into any aspects of water and related land problems which are of a national interest and which are not otherwise being studied.

"(b) In addition to other requirements of this Act, the Secretary's annual report to the President and Congress as required by section 307 of this Act shall indicate in a comprehensive manner the contribution made to resolving water and land related problems of a national interest by contract and grant award approved under subsection (a) of this section.

"TITLE III—MISCELLANEOUS PROVISIONS

"SEC. 300. The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments, and of private institutions and individuals, to assure that the programs authorized in this Act will supplement and not duplicate established water research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of water and related resources research. He shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this Act, in addition to any direct publication of information by the institutes themselves.

"SEC. 301. Nothing in this Act is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over water resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its areas of responsibility and concern with water resources.

"SEC. 302. Contracts or other arrangements for water resources work authorized under this Act with an institute, educational institution, or non-profit organization may be undertaken without regard to the provisions

of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

"SEC. 303. No part of any appropriated funds may be expended pursuant to authorization given by this Act for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exceptions and limitations as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activity of any rights which that owner may have under that patent.

"SEC. 304. There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current and projected scientific research in all fields of water resources. Each Federal agency doing water resources research shall submit quarterly to such cataloging center information on research underway, scheduled, and completed. The cataloging center shall classify and maintain for general use a printed catalog and computer information search system of water resources research and investigation projects in progress or scheduled by all Federal agencies. The cataloging center shall also establish a program to facilitate and encourage non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as to voluntarily make similar information available concerning in-house research and research supported by grants and contracts on a systematic basis.

"SEC. 305. The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and provide interagency coordination of such research, including the research authorized by this Act. Such coordination shall include (a) continuing review of the adequacy of the Government-wide program in water resources research, (b) identification and elimination of duplication and overlaps between two or more agency programs, (c) identification of technical needs in various water resources research categories, (d) recommendations with respect to allocation of technical effort among the Federal agencies, (e) review of technical manpower needs and findings concerning the technical manpower base of the program, (f) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (g) actions to facilitate interagency communication at management levels. The President shall submit to Congress on December 1 of each year a report on the progress being made to effectuate the coordinating function described in this section and the need for legislation to implement the objectives of this section.

"SEC. 306. As used in this Act, the term 'State' includes the Commonwealth of Puerto Rico, the District of Columbia, and the territories of the Virgin Islands and Guam.

"SEC. 307. The Secretary shall make a report to the President and Congress on or before February 1 of each year on contributions which the total institute program (sections 100, 101, and 102) has made toward resolving water and related land problems during the preceding fiscal year. The report shall also include a detailed statement of the water and related land problems to be given priority attention during the next fiscal year. This statement shall be developed in consultation and collaboration with the network of State institutes.

"SEC. 308. Excess personal property acquired by the Secretary under the Federal Property and Administrative Services Act of 1949, as amended, for use in furtherance of the purposes of this Act may be conveyed by the Secretary to a cooperating institute, educational institution, or nonprofit organization, with or without consideration, under such terms and conditions as the Secretary may prescribe." ●

ADDITIONAL COSPONSORS

S. 1860

At the request of Mr. ROTH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1860, a bill to provide for permanent tax rate reductions for individuals and businesses.

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1967, a bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis.

S. 2042

At the request of Mr. JAVITS, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2042, a bill to amend the Rehabilitation Act of 1978 to improve the formula for State allotments under Part B of that Act, and for other purposes.

S. 2300

At the request of Mr. BAYH, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2300, a bill to extend the Civil Rights Commission.

S. 2309

At the request of Mr. STEVENS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2309, a bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment because of membership in such Reserve component.

S. 2367

At the request of Mr. NELSON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2367, the National Small Business Policy Act.

S. 2384

At the request of Mr. CRANSTON, the Senator from Maine (Mr. HATHAWAY), the Senator from New York (Mr. MOYNIHAN), and the Senators from Kentucky (Mr. FORD and Mr. HUDDLESTON) were added as cosponsors of S. 2384, the Veterans' and Survivors' Income Security Act.

S. 2424

At the request of Mr. BAYH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2424, a bill to redefine eligibility for membership in the American Legion.

S. 2505

At the request of Mr. JAVITS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2505, a bill to amend title XIX of the Social Security Act to provide that certain handicapped individuals shall be eligible for medical assistance.

S. 2565

At the request of Mr. MATHIAS, the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 2565, a bill to provide for further research and services with regard to victims of rape.

S. 2716

At the request of Mr. NELSON, the Senator from Texas (Mr. BENTSEN), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 2716, the Interstate Land Sales Full Disclosure Act Amendments of 1978.

S. 2731

At the request of Mr. PERCY, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2731, the Solar Global Market Survey Act.

S. 2732

At the request of Mr. PERCY, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2732, the Small Scale Energy Technology Programs Reorganization Act.

S. 2759

At the request of Mr. CRANSTON, the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2759, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist the victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Joint Resolution 65, to provide representation of the District of Columbia in the Congress.

SENATE RESOLUTION 300

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Resolution 300, urging the President to seek international cooperation in curbing airline hijackings, and for other purposes.

SENATE RESOLUTION 414

At the request of Mr. PERCY, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Resolution 414, to study the feasibility of installing a solar energy system in the Dirksen Office Building extension.

AMENDMENT NO. 1702

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of amendment No. 1702 intended to be proposed to

H.R. 7200, which would end abuse of the welfare system by newly arrived aliens.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION RECOGNIZING APRIL AS FAIR HOUSING MONTH

Mr. MATHIAS (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. GARN, Mr. HEINZ, Mrs. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. LUGAR, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. PROXMIRE, Mr. RIEGLE, Mr. STAFFORD, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. WEICKER, and Mr. WILLIAMS) submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 74

Whereas it is the policy of the United States to guarantee to every citizen the right to fair housing; and

Whereas this right and the responsibilities attendant on it are set forth in the National Fair Housing Law, Title VIII of the 1968 Civil Rights Act; and

Whereas, during the decade that has elapsed since 1968 the Month of April has been set aside each year for commemoration of the Fair Housing Law; now, therefore, be it

Resolved, that the Senate (the House of Representatives concurring) recognizes the month of April as Fair Housing Month and that the Congress of the United States hereby rededicates itself to the promulgation and practice of the letter and spirit of the Fair Housing Law so that fair housing will become a right that can be realized by every American.

● Mr. MATHIAS. Mr. President, April marks the 10th anniversary of the enactment of the Fair Housing Law, known as title VIII of the Civil Rights Act of 1968.

The resolution I am submitting today on behalf of several of my colleagues designates the month of April as "Fair Housing Month" and recommits the Congress to the goals of the Civil Rights Act of 1968. My Maryland colleague, Representative PARREN MITCHELL, is introducing a companion resolution today in the House.

Title VIII specifically prohibits discrimination in the sale or rental of housing because of race, color, religion, national origin, or sex. Over 80 percent of the Nation's housing is subject to the Fair Housing Law, while the remainder is covered by the Civil Rights Act of 1866 with respect to racial discrimination.

Over the past 10 years, title VIII has served as the Federal "big stick" behind local efforts of committed open housing advocates. These joint national and local efforts have helped eradicate such blatantly discriminatory practices as racial steering, dual housing markets, redlining, discriminatory zoning, and cross burnings on front lawns. We have them to thank for the elimination of "white only" policies in advertising, rental applications, and the use of racial stereotype models in housing advertisements.

But we still have a way to go. While the more blatant forms of racial discrimination have subsided, racially discriminatory practices still exist. A report prepared for HUD by the National Committee Against Discrimination in Housing (NCDH) found that discrimination by race is still occurring in the Nation's real estate markets. I ask unanimous consent that an article from Trends in Housing on NCDH's findings be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXAMPLES OF DISCRIMINATION CITED BY TESTERS

(NOTE.—Housing discrimination takes many forms. Quite often the black homeseeker is unaware that discrimination has occurred. Auditors in the survey were asked to write a narrative report giving their impression of the audit, if they wished to do so. Narratives usually were written only when something unusual had occurred. However, the narratives, combined with the facts in the survey documents, point out some forms of discrimination which the average homeseeker may not notice. Below are some examples of discrimination which occurred during the survey. They are not necessarily typical of the auditors' experiences in the areas surveyed.)

In Oklahoma City, the black auditor was very impressed with the kindness and courtesy of the agent. "She seemed unbothered about showing me houses where no blacks apparently live," the auditor reported. However, the auditor didn't realize that although the down payment mentioned to her for a particular house was 20 percent of the purchase price, the white auditor was told it was 10 percent. In the same city, a black auditor was greeted by a secretary in a real estate office. As the secretary was showing the auditor the listing book, the agent arrived. He apparently panicked. He did show the black auditor one house, but said the other house wouldn't be ready for inspection for an hour. He arranged to meet the auditor at the real estate office; however, when she arrived, she was told he'd gone to the house. She drove to the house but there was no agent, and a "sold" sign appeared in the front yard. And the agent had never asked her name or given his.

And another black auditor in Oklahoma City twice found doors locked at a small realty company. Non unusual—but in her words, "I waited 10 minutes, I believe. Before I could get out of the driveway the shades went up."

In Nassau County, New York, the black auditor reported she was told "no agent was available, two other people at desks were not salespersons, one at funeral, another sick, and he couldn't leave the office." He didn't ask her to sit down, and suggested she look in another neighborhood which is 60 percent black.

In Westbury, New York, the agent got a computer printout of the multiple listings for the white auditor, but not for the black one. He took the black auditor to see a house, which he then claimed he couldn't find. The white auditor reported that the "agent asked if I knew this was an integrated area . . . said the areas he was showing me had some blacks but he couldn't tell their houses from the others . . . said Westbury School System wasn't as good as East Meadow because it had so many blacks."

One black auditor was only shown one house because the salesman said he had just returned from vacation and didn't know what was available. A black auditor was kept waiting for an hour before being shown unsuitable houses. She was also asked if her husband was going to live with her. A white auditor reported that when a white agent was late for an appointment, the agent explained that the previous day had been hectic. "She said she had had one black person waiting for her when she opened the office, and three telephone calls during the day from 'black people' she could tell by their voices. She has to be very careful because they could be from the state department or civil rights group." Her caution was wasted. The black person waiting for her was indeed an auditor, and the agent did clearly discriminate. (She could only find two houses to show her, she kept her waiting, and she didn't show her the homes in white neighborhoods that she showed to the white auditor.)

One agent had the black auditor follow her in his own car, because she didn't want to be seen showing a home to a black in a white ethnic neighborhood. That was after telling him at great length about a black family that got bombed when they moved into that neighborhood.

The price of a house in Rye City, New York, was $83,000 to the white auditor on June 13, and $87,000 to the black auditor on June 16. Same agent. One black auditor had a white broker say to a salesman, "I won't let her go into one of those prejudiced neighborhoods (Bronxville, N.Y.); near me in East Mt. Vernon is a lovely Tudor house just right for her."

An agent in Riverside, California, in the same area showed both the black and white auditors the same house—but the black auditor was told the down payment was 20 percent, while the white was told it was 10 percent.

In Savannah, Georgia, a white auditor was told by an agent, "This area is not all, shall we say, caucasian." She also told her she wouldn't want to live in the downtown area because she would have to buy burglar bars.

In Saginaw, Michigan, the price of a house went up by $7,600 when it was shown to the black auditor. On June 22 at 3:15 p.m., it was $41,900 (to the white auditor) and on June 23 at 10:15 a.m., it was $49,500 (to the black auditor). It was the same agent.

A white auditor was asked if he was married to a black woman, since he had requested to look at homes in an integrated neighborhood.

In one real estate office in Saginaw Township, the black auditor got no response from the agent. The secretary was told to tell the auditor that the company handled only commercial and industrial real estate. However, the white auditor was asked to be seated, offered a business card and asked questions about the kind of home she wished to purchase. The agent offered to obtain financing for her, and even picked her up the next day so they could look at homes together. She was shown three homes, all in her price range with good financing available. One white auditor reported that the agent "said I must have been from out of town to be requesting 'East Side' housing! . . . said it was 'against the law' for her to make references to 'mixed neighborhoods' but thought I'd better know first—she didn't want me to be walking in 'cold' and then coming down on her because she was showing me 'mixed' areas." The auditor was shown homes in non-"mixed" areas.

In Woburn, Massachusetts, an agent absolutely refused to show a black woman auditor any houses, despite the fact she called for an appointment first. The agent claimed she would only show houses to husbands and wives together, yet another agent in the same small office had shown homes ear-

lier that day to a white female auditor who was alone.

In Atlanta, Georgia, a white tester went first. She and the agent spotted a house as they were driving around and went to look at it. They found it to be overpriced, but later that afternoon, the same agent showed the house to the black tester and told her that the down payment was 10 percent instead of the 5 percent the white tester had been quoted.

Mr. MATHIAS. The forms of housing discrimination have become more subtle today. The complaints coming before fair housing enforcement agencies now include, among other things, marital status, unwillingness to count a spouse's income for credit purposes, age, and discrimination against the handicapped and children. All of these areas must be carefully monitored by fair housing advocate groups as well as by those agencies with enforcement powers.

Next Monday, April 10, the Senate Judiciary Committee on the Constitution will hold a hearing to examine the Department of Housing and Urban Development's enforcement powers in fair housing discrimination cases. S. 571, which I and Senator GLENN introduced, would authorize HUD to enter Federal suits for relief on behalf of individual complainants. It would also provide for the award of attorneys' fees to the successful complainant, which would make the law almost self-enforcing. We have been joined in sponsoring this legislation by Senators BAYH and HUMPHREY.

In the long term, Mr. President, I believe we shall overcome the obstacles, however concealed, to achieving open and equal access to housing.

This April also marks the 10th anniversary of the death of our national leader in the struggle for civil rights, Dr. Martin Luther King, Jr. We need only recall the stirring words of Dr. King in Selma, Ala., on March 21, 1965, to strengthen our own commitment to the mission he began.

Let us march on to the realization of the American dream . . . for all of us here today the battle is in our hands. The road ahead is not altogether a smooth one. There are no broad highways to lead us easily and inevitably to quick solutions. . . . We are still in for a season of suffering. . . . How long? Not long, because no lie can live for ever. . . . Our God is marching on!

We must continue to be vigilant about fair housing so that the Federal institutions lead the way in providing fair housing and equal opportunity for all Americans.●

● Mr. GARN. Mr. President, I wish to commend our colleague, the senior Senator from Maryland, for his sponsorship of S. Con. Res. 74 which was submitted today and which proclaims April as Fair Housing Month.

It has been the established policy of this Government since 1968 that the terms, conditions, and privileges associated with selling or renting a dwelling are not to be determined by race, color, religion, or national origin. In 1974, "sex" was added to the categories of impermissible criteria for determining the terms of real estate rental and sales.

There is a broad national agreement that fair housing laws are an important aspect of the rights and privileges of Americans. The past few decades have brought progress in the area of civil rights that was long overdue. The National Fair Housing Law (title VIII of the Civil Rights Act of 1968) was designed primarily to aid black families who were unable to obtain equal treatment in the housing market. For them, the housing market was determined primarily by the color of their skin rather than their financial abilities and housing needs and desires. Of course, the 1968 act was directed at more than race discrimination but its main thrust was aimed at racism.

Governments and private organizations should continue to insure that, by law and in fact, citizens are not barred from moving from one neighborhood to another or from one community to another on grounds of race. To limit the housing opportunities available to blacks and other minorities to inner-city areas is to deny these people, on grounds other than their personal behavior, a chance to participate in or create for themselves a viable communal order.

It is often said that the greatest price of segregation is the perpetuation of a divided society, one black and the other white. While there is some merit in this view, it overlooks the fact that most ethnic groups, when reasonably free to choose a place to live, have chosen to live among people similar to themselves. (I am thinking especially of the predominantly Jewish suburbs.) The real price of segregation, in my opinion, is not that it forces blacks and whites apart but that it forces blacks of different class positions together. * * * The streets are no longer controlled by either the respectable residents or by the police, but by the members of an "underclass" who "viciously prey upon the weak, the old, and the unsuspecting," for whom fear is "something palpable that walks among us every day and will not leave us alone."

My quotation is from James Q. Wilson's excellent book, "Thinking About Crime" (Basic Books, New York). Professor Wilson's insight into discrimination, housing, community, and crime is excellent. Discriminatory housing laws have tended to promote the following phenomena: First, middle class blacks who would choose to leave the inner city are unable to do so because of discriminatory housing practices and are subjected to the despair and terror that often characterize the inner city. Their failure to leave may expose them to pressures that will create serious problems in the home as parents and children seek to withstand the pressures of the community. Again quoting Professor Wilson:

If a family sends its children to schools in which many students reject school work, if they live in an area where illegitimacy is as common as marriage, if they regularly encounter on the streets persons for whom self-expression is more attractive than self-control, the family will either find itself conforming to a standard it does not value or isolating itself from its neighbors. . . .

The second phenomenon that discriminatory housing practices has encouraged is the mistaken view among some whites that blacks, as a group, adhere to the lifestyle of that fraction of the black community that rejects what have been described as "middle class values"; for example, the work ethic, the value of education, the rejection of violence and crime and so on. If Professor Wilson is right, then the inability of "middle class" blacks to escape the communities dominated by the "underclass" is the most serious price of segregation. At the same time that middle class blacks are finding themselves trapped in the inner city, suburban whites are making incorrect generalizations about "all blacks" and the cycle of discrimination remains unbroken.

It is this cycle which fair housing laws are aimed at. These laws are designed to allow "middle class" blacks and other groups that have traditionally been the subject of discrimination (and "middle class" describes a family's values, not its income) to escape from the cycle that would have restricted their parents' options and maintained the mistaken stereotypes held by many whites.

I am always extremely gratified when a scholar of Professor Wilson's stature shows that simple fair play in the American tradition has such extraordinary results, for example, when fair housing turns out to be an important aspect of family solidarity and crime prevention.

Now, Mr. President, if I may turn my attention to another aspect of fair housing for a few minutes. When the fair housing law was passed, and amended, and indeed when any law is passed by this body there are legitimate constitutional and policy questions that arise. We must ask ourselves if a bill is constitutional, and if so, under what article and section of the Constitution is it authorized (since the Federal Government is one of limited powers, it must find within the Constitution authority for its actions)? If we conclude that a bill meets the constitutional standards, then we may ask under what circumstances does the bill conflict with other statutes or constitutional provisions, and to what extent should the bill be limited to reduce its potential conflicts and overextension? All of these questions were raised in 1968, and they are all legitimate questions. Congress and the courts have now agreed that the 1968 act met its constitutional requirements, that it does not unjustifiably infringe on the competing rights of property owners, for example.

Of course, the meaning of the 1968 Civil Rights Act, as amended, continues to be determined by agency regulations, administrative decisions, and judicial opinions. The Department of Justice and Brigham Young University (BYU) in Provo, Utah, are now negotiating over the meaning of the fair housing legislation as it relates to a private university making men students live with men students, and women students with women students. Apparently, the Department of Justice is convinced that BYU is breaking the law.

Brigham Young University is a privately owned and operated school. Its sponsor is the Church of Jesus Christ of Latter-day Saints. It requires single students, whether male or female, whether living on campus or off, to live in buildings or separate wings of buildings that are restricted to students of their own sex. The school has adopted this policy because it teaches and practices the highest standards of morality,

including sexual morality, and it requires its students to live these standards. It has concluded that reasonable separation of the sexes in housing reinforces its moral teachings by helping maintain traditional restraint in relations between the sexes.

Naturally, this all seems perfectly reasonable and fair (since men and women are treated identically) and, in my opinion, constitutional. But the Justice Department (or perhaps the blame should be layed at the feet of Congress for enacting a statute that did not take every contingency into account) thinks that BYU is violating Federal housing laws and is threatening to sue. BYU maintains that its standards are nondiscriminatory (a point with which no one disagrees); all students are treated identically regardless of sex. Men cannot live in the women's wing; women cannot live in the men's wing. BYU also maintains that Justice's interpretation of the statute is inapt (I am tempted to say "inept") and that its practice is protected by the first amendment. The school contends that:

> Congress cannot have intended that the antidiscrimination laws be used to encourage sexual license or to establish the so-called "new morality." * * * We simply insist on our Constitutional right to teach and to require our students to live high moral standards and to foster housing patterns supportive of that effort.

I wholeheartedly support BYU's position. I also wholeheartedly support fair-housing legislation. And the fortunate thing is that we can have both: We can have anti-discrimination laws at the same time that we allow private, church-supported schools to teach high moral principles and exercise their first amendment rights. It is unfortunate that the Department of Justice thinks these goals are exclusive.

I think it is appropriate to remind the Department of Justice that the first section of the fair-housing provisions of the 1968 act reads:

> It is the policy of the United States to provide, *within constitutional limitations*, for fair housing throughout the United States." (Emphasis added.)

The Department ought to reconsider its position in light of the school's first amendment claims, congressional intent, and the logical implications of their position which will certainly mean that if men and women cannot be placed in separate wings of buildings then neither can they be placed in separate rooms of buildings.

I have cosponsored S. 2721, whose chief sponsor is Senator MCCLURE, that would permit private educational institutions to require separate housing for students and staff by sex. I hope that we do not reach the point where S. 2721 is needed. The Department of Justice and BYU are still discussing the matter, and doing so in a reasonable manner, and I hope that an agreement can be reached short of litigation.

I support fair housing; I also support reasonable distinctions and BYU's case for their practice is fully supported by law and reason. I am pleased to support both Senator MATHIAS' fair housing resolution and Senator MCCLURE's "private school freedom" bill. Both represent the American ideal, and they are compatible with each other.

I include two letters that are relevant to the situation and ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., February 28, 1978.

Re Proposed Lawsuit. United States v. Brigham Young University, et al. (D. Utah)

Mr. H. HAL VISICK,
Assistant to the President and General Counsel, Brigham Young University, Provo, Utah.

DEAR MR. VISICK: Please refer to the correspondence between you and attorneys from this Division in March and April 1977.

This Department has now completed an extensive, time-consuming and painstaking investigation into the off-campus housing policies of Brigham Young University (BYU) and the housing practices of the major apartment complexes which BYU has approved for off-campus housing by its students, to determine whether these policies and practices are consistent with the Fair Housing Act of 1968, 42 U.S.C. § 3601 *et seq.*, as amended. On the basis of this investigation, this Department has reasonable cause to believe that BYU has caused landlords to segregate their apartment buildings on the basis of sex as a condition of being eligible to house BYU students, and that by this practice, both BYU and the landlords have engaged in a pattern and practice of discrimination in violation of the Act and have denied equal housing opportunity to groups of persons under circumstances which raise a question of general public importance. See 42 U.S.C. § 3613. While we have carefully considered the contentions in your letter of April 20, 1977, to Ms. Joan Magagna of our office, and while we appreciate the temperate and reasonable tone in which it was written, we do not believe that the practices in question are exempt from the provisions of the Act under 42 U.S.C. § 3607, or that institution of the proposed lawsuit would deny BYU or its students any rights protected by the First Amendment. Accordingly, we have determined, pursuant to this Department's authority under § 3613, that such practices require injunctive and affirmative relief to insure the full enjoyment of rights secured by the Act.

Accordingly, the undersigned has been authorized and directed to file a civil suit alleging violations of the Fair Housing Act by BYU and 36 other defendants who own or manage apartments in Provo, Utah. The complaint, which is to be filed in the United States District Court for the District of Utah, alleges, among other things, that the defendants have refused to rent dwellings to persons because of their sex, and have discriminated in the terms, conditions or privileges of rental because of the sex of the renter. The gravamen of the complaint is that, by requiring sexual segregation in housing covered by the Act, BYU and the landlords have engaged in practices which deny housing to individuals on grounds prohibited by the Act. We also believe that rules which permit men but not women students to live in specified kinds of apartments are forbidden by the Act.

We recognize that the problems of sex segregation in housing occupied in part by students are of a sensitive character, and we are particularly anxious to ascertain whether a negotiated settlement can be reached. We are looking towards a resolution which will correct what we believe to be unlawful conduct, while at the same time limiting federal intrusion into the practices of BYU and the landlords to the minimum compatible with equal opportunity. See *United States* v. *West Peachtree Tenth Corp.*, 437 F. 2d 221, 229 (5th Cir. 1971). Accordingly, we are prepared to delay the filing of this suit for a period of approximately one month, to afford all defendants an opportunity to enter into a consent decree to be filed simultaneously with the complaint, if agreement on the terms of such a decree can be promptly negotiated. The specifics of an appropriate consent decree, of course, depend on the circumstances of the case, and during negotiations it may be necessary for us to obtain further information in order to formulate the details of the remedy required in this case. We believe that the decree should prohibit sexual discrimination or segregation at all housing covered by the Act and require reasonable steps to correct any continuing effects of past practices. The details of the transition to nondiscriminatory residential opportunities can be worked out during negotiations, or, if a settlement cannot be reached, then through litigation. We wish to assure you, in any event, that, whether the case is settled or litigated, our approach will be as sensitive to the problems of all concerned as we believe that the Fair Housing Act permits.

We urge that you contact us promptly and advise us as to whether you believe that it would be helpful to initiate negotiations towards a consent judgment which would require the end of segregation in housing by sex, at least in the absence of compelling considerations of privacy. If you believe that such negotiations would be helpful, we propose that you and the attorneys for the landlords meet with representatives of this Department at a mutually convenient time and place to discuss an appropriate decree. If an agreement has not been reached within a reasonable period after negotiations begin, and it appears that no agreement is imminent at that time, it will be our responsibility to file the suit. We would, of course, be prepared to continue to discuss a negotiated settlement of the case even after the lawsuit has been filed, and we would agree to such reasonable extensions of time for answering the complaint or otherwise pleading as may be appropriate under the circumstances.

Please feel free to contact the undersigned (202) 739-4123 or Mr. Daniel P. O'Hanlon (202) 739-4139 if you have any questions concerning the matters set forth in this letter. Assistant Attorney General Drew S. Days, at whose direction the undersigned is writing this letter, is personally aware of the complexity and sensitivity of the issues in this case and has asked us to advise you of his personal interest in it and his availability to meet with you. He will not, of course, be in a position to personally handle protracted and detailed negotiations.

We are sending copies of this letter to 36 landlords, and also inviting them to initiate negotiations with us. We enclose a copy of our cover letter to the landlords. We hope that this matter can be promptly and amicably settled on a nondiscriminatory basis which recognizes the rights of all concerned.

Sincerely,

DREW S. DAYS, III,
Assistant Attorney General Civil Rights Division.

By FRANK E. SCHWELB,
Chief, Housing and Credit Section.

BRIGHAM YOUNG UNIVERSITY,
March 14, 1978.

Re Proposed Lawsuit: *United States* v. *Brigham Young University, et al.* (D. Utah)

Hon. DREW S. DAYS III,
Assistant Attorney General, U.S. Department of Justice, Washington, D.C.

DEAR MR. DAYS: In order to respond appropriately to your letter dated February 28, 1978 (received March 6, 1978), we need further clarification of your contention that

BYU and 36 local landlords are violating the Federal Fair Housing Act, 42 U.S.C. § 3601, et seq., as amended. We therefore request that you respond to the questions set out in this letter.

As you will realize, Brigham Young University must assure that a variety of housing arrangements are available for its 25,000 students. In the current semester we are providing housing for 5,220 single students in dormitories and individual apartment units on the University campus. Another 13,260 single students live in Provo and adjourning communities in private off campus housing, and 2,490 reside with their parents or other relatives. Most of the 13,260 students who are renting in the community live in individual apartments housing four to six single students in buildings containing 4 to 50 such units. In the typical housing arrangement each individual student signs a rental agreement with his or her landlord. This agreement gives the student a right to occupy one of these apartments along with three to five others, each of whom also signs individual rental agreements.

We are unsure which of the several elements of our housing picture you are challenging. Though you may be attacking only one or two of these arrangements, our concerns extend to the housing of every student and, therefore, we seek to understand how your proposed action will affect each housing arrangement.

Since receiving your letter from a member of the press and making our initial general response (a copy of which is enclosed for your information) we have been asked many questions. Our students, friends, cooperating landlords, and persons with similar interests in other colleges and universities have asked such questions as: Is the government attacking sex separation in Brigham Young University's on-campus housing? Is the government proposing to create a situation where the law would compel an off-campus landlord to put single students of different sexes in the same multiple-student apartment? How does BYU justify applying its policies to off-campus landlords? We desire to answer these questions, and seek clarification of your position so that we can do so.

We therefore request your answers to the following specific questions:

1. (a) Is it your position that Brigham Young University breaks the law when it assigns single students to campus dormitories and campus apartment buildings restricted to one sex?

(b) If not, what legal principle exempts university campus housing?

2. (a) Is it your position that Brigham Young University would break the law if it were to advise its single students who live in off campus housing that they will be dismissed if they live in an apartment with students of the opposite sex or in a building or wing not restricted to students of their own sex?

(b) If so, what provision of law would be violated by this policy?

(c) If not, is it your position that Brigham Young University violates the law when it makes this policy known to off-campus landlords and encourages them to set up housing arrangements that will permit our single students to rent from them?

3. We have been informed by Frank E. Schwelb, Chief of the Housing and Credit Section, that you are not attempting to force BYU to allow students of different sexes to live in a single apartment. Yet Section 3604 of the Act states that it is "unlawful . . . to refuse to . . . rent . . . or otherwise make unavailable . . . a dwelling to any person because of . . . sex. . . ." The Act defines "dwelling" as a building or any portion thereof. Therefore, the law seems to require that if a landlord has signed rental agreements with five women students to live in a six-student apartment and a male applies for housing, the landlord must rent the sixth space in that apartment to the male applicant. The law seems to compel this result even if the five women occupants or the landlord object on moral grounds and assert the right of privacy of the persons already in the apartment. You state that you are not trying to obtain that result, but we wish to know what provision of law supports your position while protecting us against the result just described.

4. If a landlord can consider the sex of an applicant in assigning that applicant to a multiple-occupancy apartment, why cannot the landlord consider the sex of the applicant in determining the building or wing of a building in which that applicant will be accommodated?

5. Title IX forbids sexual discrimination in federally assisted educational programs or activities. Section 86.32 of the Title IX regulations provides that separation of men and women students in on-and-off-campus housing is not discrimination on the basis of sex, so long as facilities of comparable quality are available. If this is a sound principle for federally assisted programs or activities (which are definitely not involved in BYU on-campus or off-campus housing), we invite you to consider the appropriateness of a similar interpretation of the Fair Housing Act. One department of government should not be in court to prevent actions in the private sector that another department expressly permits in federally assisted programs.

6. Your letter also charges that "the defendants have . . . discriminated in the terms, conditions or privileges of rental because of the sex of the renter." Could you please advise us what different "terms, conditions or privileges of rental" are referred to in this passage? Our current off-campus housing policies make no distinction as to the facilities or terms of rental for male and female students, except that they do require separate housing.

We are well aware that the Department of Justice does not make the laws in this country. You are charged only with administering the laws as they are embodied in acts of Congress and court decisions. The fact that representatives of your Department state that they have no present intention of forcing us to permit single men and women to live in the same apartment is very little comfort if there is no legal distinction between this result and the one you are presently pursuing. Your letter states that "The gravaman of the complaint is that, by requiring sexual segregation in housing covered by the Act, BYU and the landlords have engaged in practices which deny housing to individuals on ground prohibited by the Act." It states further that "the decree should prohibit sexual discrimination or segregation at all housing covered by the Act. . . ." "All housing" may well include individual apartment units. Consequently, you can see why we need clarification of this issue before we make our formal response to your letter.

We are also troubled by the fact that the Justice Department, which is charged with protecting the civil rights of all citizens, here asserts a right based on statute against our constitutional right to the free exercise of religion guaranteed by the First Amendment. We cannot believe that our proscription against students living with or next to persons of the opposite sex is a sufficient injury to justify interference with the fundamental right of religious freedom at this church-sponsored university. This is particularly true when students know and accept our rules when they enroll and can obtain the privileges you seek to enforce simply by attending another institution.

We appreciate the temperate tone of your letter. We hope we may continue this spirit in our future communications, negotiations, or possible litigation. We also hope you will be able to respond to our questions promptly so as to clarify your position and help us reply to your initial letter in an appropriate manner.

Your letter of February 28th was in the hands of the local media before we received it in the University. While we understand from Mr. Schwelb that this was not your design, the publication of that communication has made it appropriate for us to give copies of this letter to the press at approximately the time you will receive it. Future exchanges of information and negotiations may be conducted more privately, though each of us will, of course, need to make our final positions known publicly when we have completed our preliminary communications and negotiations.

Sincerely,

DALLLIN H. OAKS.●

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENT NO. 1756

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to House Joint Resolution 554, proposing an amendment to the Constitution providing for representation in Congress for the District of Columbia.

AMENDMENT OF THE INTERSTATE LAND SALES FULL DISCLOSURE ACT—S. 2716

AMENDMENT NO. 1757

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. NELSON (for himself and Mr. HASKELL) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2716) to amend the Interstate Land Sales Full Disclosure Act.

LABOR REFORM ACT OF 1978—S. 2467

AMENDMENTS NOS. 1758 THROUGH 1760

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, April 13, 1978, at 9:45 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Donald W. Banner, of Illinois, to be Commissioner of Patents and Trademarks, vice Curtis Marshall Dann, resigned.

Daniel M. Friedman, of the District of Columbia, to be Chief Judge for the

U.S. Court of Claims, vice Wilson Cowen, retired.

Harold H. Greene, of the District of Columbia, to be U.S. District Judge for the District of Columbia, vice John J. Sirica, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

COMMITTEE TO MEET AT 7 A.M.

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, a change in the scheduling of public hearing before the Senate Committee on Energy and Natural Resources.

In order to provide time for as many witnesses as possible, the hearings set for April 8 in Seattle and April 15 in Portland will begin at 7 a.m. The committee will be accepting testimony regarding S. 2080, the proposed Pacific Northwest Electric Power Supply and Conservation Act, related amendments, and issues associated with electric power planning and production in the Pacific Northwest.

The earlier starting time was set because of the widespread interest in the Pacific Northwest in this legislation and electric power production and marketing. We feel it is important to provide an opportunity for every viewpoint to be expressed.

The Seattle hearing will be held at the new Federal Office Building at Second and Madison Streets. The Portland hearing will be held in the auditorium of the Bonneville Power Administration Building, 1002 NE Holladay Street.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the following hearings and business meetings scheduled before the Senate Committee on Energy and Natural Resources for the month of April:

April 4—Energy Research and Development Subcommittee: 9:00 a.m., room 3110, hearing S. 2692, Department of Energy authorization bill.

April 5—Full committee: 9:00 a.m., room 3110, hearing: S. 499, S. 1500, S. 1546, S. 1787, S. 2465, legislation re lands of national interest in Alaska.

April 6—Energy Production and Supply Subcommittee: 8:00 a.m., room 6226, hearing: S. 419, to test the commercial, environmental, and social viability of various oil shale technologies.

April 6—Parks and Recreation Subcommittee: 10:00 a.m., room 3110, hearing: S. 1655, Lowell National Cultural Park; S. 2699, relating to the preservation of historical and archeological data in the parks; S. 2566, to amend the Pennsylvania Avenue Development Corporation Act of 1972.

April 7—Public Lands and Resources Subcommittee: 10:00 a.m., room 3110, hearing: S. 74, to amend the Act of October 20, 1976, re payment in lieu of taxes.

April 7—Energy Research and Development Subcommittee: 9:00 a.m., room 1202, hearing: S. 2692, Department of Energy authorization bill.

April 8—Full Committee (field hearing): 8:00 a.m., New Federal Building, Seattle, Wash.: S. 2080, Pacific Northwest Electric Power Supply and Conseravtion Act.

April 10—Energy Production and Supply Subcommittee: 10:00 a.m., room 3110, hearing: Strategic petroleum reserve authorization.

April 11—Full Committee: 10:00 a.m., room 3110, business meeting: Pending calendar business.

April 12—Public Lands and Resources Subcommittee: 10:00 a.m., room 3110, hearing: S. 242, S. 2310, S. 1812, S. 2606, "160 acre limitation" legislation.

April 13—Energy Production and Supply Subcommittee: 10:00 a.m., room 3112, hearing: S. 2692, Department of Energy authorization bill.

April 13—Energy Conservation and Regulation Subcommittee: 9:30 a.m., room to be determined, hearing: S. 2692, Department of Energy authorization bill.

April 13—Public Lands and Resources Subcommittee: 10:00 a.m., room 3110, hearing: S. 242, S. 2310, S. 1812, S. 2606, "160 acre limitation" legislation.

April 14—Energy Production and Supply Subcommittee: 10:00 a.m., room 3110, hearing: S. 2692, Department of Energy authorization bill.

April 14—Energy Conservation and Regulation Subcommittee: 10:00 a.m., room 6226, hearing: S. 2692, Department of Energy authorization bill.

April 15—Full Committee (field hearing): 8:00 a.m., Bonneville Power Adm. Bldg., Portland, Ore.: S. 2080, Pacific Northwest Electric Power Supply and Conservation Act.

April 17—Full Committee: 9:00 a.m., room 3110, hearing: Proposed legislation re Bikini rehabilitation and Guam reconstruction.

April 17—Full Committee: 10:00 a.m., room 3110, hearing: Pending nominations.

April 18—Energy Research and Development Subcommittee: 10:00 a.m., room 3110, business meeting: To markup Department of Energy authorization bill.

April 18—Energy Conservation and Regulation Subcommittee: 10:00 a.m., room to be determined, hearing: S. 2692, Department of Energy authorization bill. (Energy Information Adm. & Federal Energy Regulatory Commission).

April 19—Full Committee: 10:00 a.m., room 3110, business meeting: Pending calendar business.

April 20—Energy Research and Development Subcommittee: 10:00 a.m., room 3110, business meeting: S. 2692, Department of Energy authorization bill.

April 20—Energy Conservation and Regulation Subcommittee: 10:00 a.m., room S-126, Capitol, hearing: S. 2692, Department of Energy authorization bill.

April 21—Full Committee: 10:00 a.m., room 3110, hearing: Pending nominations.

April 24—Parks and Recreation Subcommittee: 10:00 a.m., room 3110, hearing: S. 88, to enlarge the Sequoia National Park in the State of California by adding Mineral King Valley.

April 24—Public Lands and Resources Subcommittee: 10:00 a.m., room 6226, hearing: Oversight of PL 95-87, Surface Mining law.

April 25—Full Committee: 10:00 a.m., room 3110, hearing: S. 499, S. 1500, S. 1546, S. 1787, S. 2465, legislation re lands of national interest in Alaska.

April 26—Full Committee: 10:00 a.m., room 3110, business meeting: Pending calendar business.

April 27—Full Committee: 10:00 a.m., room 3110, hearing: Pending nominations.

April 28—Parks and Recreation Subcommittee: 10:00 a.m., room 3110, hearing: Omnibus ceiling increases and boundary adjustments.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

● Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agriculture Research and General Legislation will hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system; and the availability and applicability of the research to rural people, communities, and institutions.

The hearings will commence at 8 a.m. on Thursday, May 4, and Friday, May 5, 1978, in room 322 of the Russell Senate Office Building. They will be chaired by Senator LEAHY.

Due to time constraints, we are limiting the amount of oral testimony to invited witnesses only. However, we welcome and encourage all interested to attend the hearings and submit written statements for the hearing record. All statements should be sent to the Subcommittee on Agriculture Research, room 322, Russell Senate Office Building, Washington, D.C. 20510. For further information please contact Fred Schmidt or Dave Clavelle, in care of Senator LEAHY's Office, 232 Russell Building, Washington, D.C. 20510, 202-659-2800.

For further clarification of the structure of the hearings, a draft outline follows:

HEARINGS OUTLINE

I. What is non-farm, non-food and fiber, rural development research?

A. How is it defined by USDA and categorized by Current Research Information System, (CRIS)?

B. Examination of the nature of rural development research within CRIS.

C. Testimony toward a definition of Rural Development.

D. How much of what is reported is actually rural development research. (e.g. fits the definition).

E. Number of Scientific Man Years and total dollars allocated to rural development research by topic and area.

F. The role of Rural Development Service in research priority setting within USDA for in-house and land grant research.

G. The need for a separate research agency within USDA devoted solely to non-farm, non-food and fiber rural development research.

H. Coordination of in-house rural research among the different USDA research divisions.

I. Coordination by USDA of other federal agency rural research.

II. Analysis of Research Priority System for USDA and Land Grant System.

A. This analysis will focus on how nonfarm, non-food and fiber rural development research is represented in the priority system.

1. Is the system dominated by agricultural and food and fiber concerns?

2. If so, what can be expected for future rural development research?

3. What can be done to increase the concern for rural development research at the federal and state level?

B. Projections for rural development research.

1. Will they and can they be met?

2. Should they be greater?

C. Composition of the various research priority committees.

1. Representation of rural development researchers.

2. The need for non-government, non-university representatives of rural people and communities.

D. Examples of inability of researchers concerned with rural development research to receive funding and support from USDA and the Universities.

III. Applicability and availability of research to rural people: Issues of access and usefulness.

A. Examination of application of present research to rural situations.

B. The role of Extension Service.

1. Lack of extension communication with non-farm rural people.

2. Do we need new and different structures for dissemination of rural development research?

3. What rural people are not being serviced by the research and Extension efforts of the system?

4. Are the alternatives forms of rural development being served by rural development research and extension (e.g. Consumer cooperatives, alternative housing, health clinics)?

C. How can more emphasis be placed on applicable research for rural development concerns?●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on S. 2259, the Small Business Procurement Expansion and Simplification Act. The hearing will be chaired by Senator MCINTYRE and will be held on April 18, 1978 in room 424, Russell Senate Office Building at 10 a.m.

Further information can be obtained from the committee offices, room 424, Russell Office Building, extension 43188.

ADDITIONAL STATEMENTS

UN OPERATIONS IN SOUTHERN LEBANON

● Mr. CHURCH. Mr. President, the Committee on Foreign Relations has received a detailed response from the Department of State to Senator SPARKMAN's request concerning United Nations operations in southern Lebanon. I ask that the exchange of correspondence be printed in the RECORD.

The material follows:

MARCH 22, 1978.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to you concerning the intent of UN Resolution 425 (1978) with respect to restoring the peace in southern Lebanon. As you know, the UN Resolution calls for the withdrawal by Israel of its forces in southern Lebanon, "restoring international peace and security and assisting the Government of Lebanon in insuring the return of its effective authority in the area . . ." Specifically, the Committee is concerned about the mandate of the United Nations forces that will be brought into southern Lebanon.

According to the Secretary General's Report on UN Resolution 425, he envisages the responsibility of the United Nations Interim Force in Lebanon "as a two-stage operation. In the first stage the Force will confirm the withdrawal of Israeli forces from Lebanense territory and maintain an area of operation as defined (in his report). In this connection it will supervise the cessation of hostilities, ensure the peaceful character of the area of operation, and take all measures deemed necessary to assure the effective restoration of Lebanese sovereignty."

Specifically, the Committee on Foreign Relations seeks confirmation that the objective of the Force, along with confirming Israeli withdrawal, is to prevent the re-entry of armed Palestinian forces, whether members of the Palestine Liberation Organization or other armed Palestinian units, into southern Lebanon and to restore full sovereignty and control of southern Lebanon to the Lebanese Government so that the terrorist attacks on Israel perpetrated by Palestinian groups will not recur. Furthermore, does the Force have a mandate sufficient to prevent the in situ establishment of organizational and political structures that might, at a moment's notice, be rearmed and re-equipped as an effective fighting force? In addition, considering that the Resolution in the Security Council was agreed upon before the completion of the military operation in southern Lebanon, can you confirm in writing the areas in southern Lebanon over which the UN will have supervision.

The Committee also would appreciate a report from the Department of State on the humanitarian assistance we may render in southern Lebanon.

The Foreign Relations Committee will appreciate a detailed reply on the points raised above.

Sincerely,

JOHN SPARKMAN,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., March 31, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: In the absence of the Secretary, I am replying to your letter of March 22 to him concerning United Nations Security Council Resolution 425 and the terms of reference of the United Nations Interim Force in Lebanon (UNIFIL). Before addressing your specific questions regarding the objective and the mandate of UNIFIL, I would like to discuss our aims in putting forward Resolution 425.

As you know, south Lebanon has long been a particularly dangerous area, posing a threat both to the stability of the Lebanese state and to the security of Israel. We have always been concerned that events there might spark another full-scale Arab-Israeli war or frustrate the efforts that are being made to reach a peaceful settlement of the Middle East conflict. Moreover, the fighting in the south in recent years has created a refugee problem which has taken on much greater dimensions following the recent Israeli incursion. The continuing cycle of violence has resulted in widespread death, destruction and suffering by innocent people. The only complete solution to this problem lies in accomprehensive settlement of all Middle East peace issues, a course which the President and Secretary Vance are pursuing vigorously. In the meantime, over the past months and prior to this most recent crisis we were working at various times with the parties in the area to arrive at an agreement which would reestablish Lebanese authority in the south. It is in the context of that previous effort that the current action of the Security Council must be understood.

Our goals in proposing Resolution 425 were:

To stop the fighting in southern Lebanon;

To obtain withdrawal of Israeli forces;

To engage the United Nations in assisting the Government of Lebanon to restore its authority in the south;

To prevent a return to the status quo ante in south Lebanon, with the threat it posed to Israel of attacks by armed Palestinians and other hostile elements;

To involve the international community in a major effort to preclude the reemergence of those conditions which led to the cycle of violence in southern Lebanon and in Israel; and

Finally, to begin the process of restoring security and peaceful conditions in this area to encourage and facilitate the return of the several hundred thousand people who have fled their homes and who were victims, along with Israeli civilians, of the status quo ante.

In support of these goals we proposed the creation of a United Nations Force for southern Lebanon. We recognized that such a Force could not of itself provide effective remedies to the problems which led to the violence. Such remedies can only come through the extension of effective Lebanese authority in the area. It is important to emphasize that the extension of Lebanese authority is a point on which all the states concerned—Israel, Lebanon, troop contributors and the Security Council membership as a whole—are formally agreed. The Security Council resolution and the UN Force mandate therefore underline this central point. The UN Force, of course, cannot impose this outcome; but it can facilitate it in a way not open to any party to the dispute. We will be working with the governments concerned and with the UN to promote the reestablishment of stability and Lebanese authority; success in this difficult and complicated UN endeavor can only be achieved with the cooperation of all concerned. We are making, therefore, every possible diplomatic effort to encourage the required cooperation. I should also note that the UN Force is contemplated as temporary in nature and described as interim in the resolution. The initial period of deployment is for six months which could be renewed. This time-limited concept is in keeping with UNIFIL's primary goal of helping the Lebanese government reestablish its own effective control and authority in the south.

We believe that UNIFIL's objectives should be as broad as possible within the realm of what it can practically achieve. The mandate was carefully drafted in order to grant the Secretary General the authority he requires while at the same time obtaining the necessary degree of support for passage by the Security Council.

In view of the delicacy of the situation in south Lebanon and the complexity of the task force, Secretary General Waldheim's mandate to the UN Force is not detailed and explicit on all points. The main lines of UNIFIL's mandate are nonetheless clear.

It is clearly the intention of both Resolution 425 and Secretary General Waldheim's March 19 report that the area of UNIFIL's responsibility should no longer be a battlefield or used as a launching pad for attacks on Israel. Paragraph 2(b) of the March 19 report calls upon the Force to "assist the Government of Lebanon in ensuring the return of its effective authority in the area." Paragraph 2(d) states that the Force "will use its best efforts to prevent the recurrence of fighting and to ensure that its area of operation is not utilized for hostile activities of any kind." Paragraph 6 states that the Force "will supervise the cessation of hostilities, ensure the peaceful character of the area of operation, control movement and take all measures deemed necessary to assure the effective restoration of Lebanese sovereignty." As soon as the report was approved by the Security Council, the Secretary General made a statement elaborating on it and specifying that the Force would endeavor to control movement "into and out of the zone." We regard this as an important clarification of the language of the report itself and as responsive to your query whether one objective of UNIFIL is to prevent the reentry of armed Palestinian forces into southern Lebanon. As you know, some such forces are still in southern Lebanon, however, both in areas south of the Litani River, and north and east of the Litani, where Israeli military opera-

tions did not reach. This is why it is important to consider UNIFIL's mandate in its totality, including ensuring that its area of operation is not utilized for hostile activities of any kind, rather than to rely on any one element of that mandate in isolation.

Initially, the Force will expand its area of operation by moving south from the Litani River to the Israeli border. There is, of course, no direct link or conditionality in Resolution 425 between Israeli withdrawal and UNIFIL deployment. Nevertheless, we would expect UN officials on the ground to be in touch with Israeli authorities to discuss practical problems of UN deployment and Israeli withdrawal. We believe the definition of the "area of operation" for the Force is sufficently broad to permit it to move into other areas as requested by the Government of Lebanon as well, once it has been deployed in adequate strength and its initial tasks have been fulfilled.

As concerns your question about UNIFIL's mandate in regard to prevention of the establishment of organizational and political structures that might be rearmed and reequipped to become a fighting force, the key to this issue is precisely the restoration of effective Lebanese authority in the area of the conflict. This is the heart of the crisis, and one that we will bear in mind in our contacts with the United Nations and the parties.

You also asked about our plans for humanitarian assistance. In response to the problem of the 170,000 or more people who fled the fighting and at the request of the Lebanese government, we began on March 23 an airlift of relief supplies from Agency for International Development stockpiles in Leghorn, Italy. Supplies worth $1.2 million, including blankets, tents, water jugs, stoves for mass feeding, and medicines have arrived in Beirut. They are being distributed to those in need through the High Relief Committee of the Lebanese government. As a working hypothesis, we are prepared to make up to $5 million available from disaster relief funds to meet further requirements for relief for these displaced people.

Some of these displaced people are already beginning to return to southern Lebanon. As security there is restored, we expect that eventually the great mass of people who had left the area, not only as a result of the most recent fighting, but also in the months since 1976, will return. We believe there should be a major international effort to assist in the rehabilitation programs that will be so essential, and that the United States should play its role. We are now considering ways in which damaged homes can be rebuilt, essential services can be restored, the quality of medical care can be improved, and credit facilities for farms can be provided. We will be consulting with Congress as our planning proceeds.

I would be happy to arrange for appropriate officers of the Department to discuss this, or any other issue pertaining to the southern Lebanon problem, with the Committee.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.●

ROCKY FUTURE FOR ROCKFISH?

● Mr. MATHIAS. Mr. President, among the magnificent flora and fauna of Maryland none is more magnificent than the rockfish or striped bass. This denizen of Chesapeake Bay and the rivers that feed the bay has long been admired by sports fishermen for its gameness and by gourmet diners for its subtle flavor.

But, as happens so often when too many people discover a good thing, the rockfish, or to use its proper Latin moniker, *roccus saxatilis* is in serious trouble. Their ranks—once ample for fishing and dining enthusiasts alike—are yearly depleted by a combination of factors, including overfishing and underbreeding. And the waters they frequent are increasingly polluted.

Happily, however, the State of Maryland has recognized the threat to the rockfish and has made a timely move to protect them. But, Maryland alone cannot turn the tide. The rockfish problem is a regional one and will require regional solutions. If the magnificent creature that was designated Maryland's official fish by act of the Maryland General Assembly in 1965 is to flourish, most of the States on the Atlantic coast will have to follow Maryland's example and move to protect rockfish at least seasonally.

So that my colleagues may appreciate the nature of the rockfish problem that affects so much of the east coast, I commend to their attention a delightfully written and comprehensive account of the plight of the rockfish by Gene Mueller, published in The Washington Star on March 24, 1978.

I ask that this article, entitled "The Striped Bass—Beleaguered Symbol of Maryland," be printed in the RECORD.

The article follows:

THE STRIPED BASS—BELEAGUERED SYMBOL OF MARYLAND

In the rips and backwaters the young menhaden and herring and eels were plentiful. The nights were noisy as the bass fed and fattened on them. . . . So came a cloudless night of thin moon. . . . In the marshes, gathering, black ducks were raucous.—"The Shining Tides" by Win Brooks.

(By Gene Mueller)

Perhaps it is a fitting tribute that there should be a creature that can create an emotional debate in the Maryland legislature as easily as it can in a Baltimore street corner pub.

Even the scientific community can't completely agree on an official name. Is it Roccus Saxatilis or Morone Saxitilis? Either one will do. Lesser mortals will just as quickly recognize it as a striped bass or rockfish.

One simple fact, however, cannot be argued with. The state fish of Maryland—the stripped bass—is a most troubled fellow. It is in dire straits from the blue shoal waters of North Carolina to the rock-strewn coastline of Massachusetts. That much is agreed upon.

The questions and arguments will go on as long as there is gasoline to be pumped into fishing boats which search the Atlantic or nearby Chesapeake for the striped delicacy. The status of this majestic fish will be in doubt for years to come, and answers aren't easy to come by.

We do know, for example, that the striper's major eastern producing areas are the Pamlico Sound, N.C., the Chesapeake Bay and Delaware Bay. We also know it's an anadromous species that spends most of its life in the sea, but ascends freshwater rivers to breed. April and May is spawning time hereabouts, with rockfish able to trigger the breeding act in water temperatures anywhere from 58–70 degrees.

Oddly, there is a critical 60-minute period following ovulation during which the striper female's eggs must be extruded if spawning is to be successful. Eggs retained by the female longer than the 60-minute period will be overripe and next to impossible to fertilize.

So much for what we know. Unfortunately, most of us are also aware that with each passing year, for at least 10 years running, the overall number of the striped bass has declined dramatically. Accusations come quickly. Blame it on pollution, on commercial netters, or on a hurricane that probably wiped out the newborn class of 1972.

"I used to buy rockfish for about 20–30 cents a pound," says Galesville's John Tucker who's lived along the Chesapeake all of his 44 years. "Seven or eight years ago you could get as many as you wanted at that price direct from local gill netters. Now . . ." Tucker's voice trails off and he slowly shakes his head. It's a powerful comment from a native son of the Chesapeake.

The good days of yore are no longer. As little as five years ago commercial fishermen in Maryland reported landings of 4,976,000 pounds. By 1977 the total catch had dipped to 1.2 million pounds. Rockfish suddenly started selling as if they were grain-fed on western pastures.

Surely, massive pollution of water and air can be pointed out as one of the responsible culprits. All that lives—including the striped bass fishery—is affected by it.

But the accusing finger more often than not is directed toward the netters—the men who try to earn a living out of the sea. Gill netters and haul seiners would be hard-pressed entering a popularity contest in the midst of a group of sport fishermen.

Sport anglers, the trollers and surf casters of the mid-Atlantic states, look down with distaste on the commercial men. The netters, they say, are robbing them of a magnificent resource. Emotion runs high, and only a true lover of the hook-and-line sport can understand this dislike of the weather-beaten shore folk who fill the mesh—at times—with other people's favorite sporting prey.

"If a committee of sport fishermen tried to design a fish for general popularity, impressive appearance, excellent table qualities, fighting heart; and the indefinable aura of mystery that makes good fish great, it would be hard-put to do better than nature's very own striped bass, *Roccus Saxatilis*," says Frank T. Moss, nationally known marine angling authority and author.

Moss speaks of handsome profile, robust build, a fish capable of withstanding wide temperature differences, which is equipped to live in the coastal regions of the Atlantic, Pacific, or even freshwater impoundments.

Small wonder then why such awe is commanded by it from millions of faithful anglers throughout the United States.

Heated arguments were commonplace when commercial netters laid siege to the rockfish around the four-mile-long Bay Bridge again last summer. Sport fishermen demanded that Maryland state officials step in and halt the senseless slaughter of thousands of stripers which would end up on dinner tables along the coast. Bills were introduced in the legislature to keep netters away from this major congregation ground of the rockfish. It was to no avail. The watermen carry a potent voice and lobby in Annapolis.

But in February Maryland's Department of Natural Resources took a courageous step. Under emergency law it declared the major rockfish spawning rivers of the Chesapeake off limits to everyone—commercial and sports interests—between March 15 and June 1. It was obvious that the outcries from the public had reached a sympathetic ear.

The professional netters became incensed. Charges were placed that expensive equipment had been purchased in anticipation of netting migrating spawning fish that enter Maryland waters each spring. Again, the commercial men made inroads. The river netting ban was shortened to between April 26 and June 1.

Despite the disappointment felt by sport anglers it is generally agreed that some progress was made, however. Traditions fall hard in Maryland. But it happened. More protective moves may be accomplished in the future.

Now, the Choptank, Nanticoke, Patuxent, Wicomico, Blackwater, Pocomoke, Transquaking, Chester, Manokin, and the Potomac above the Harry W. Nice Bridge are sanctuaries for striped bass for a critical 36 days this spring. There are several other areas north of Abbey and Worton points, including the Sassafras, Elk, Northeast, Susquehanna River and Flats, and that portion of the Chesapeake and Delaware Canal within Maryland, that will be protected between May 6 and June 1.

In addition, one of the greatest rockfish grounds on the Atlantic, the Outer Banks of North Carolina, are also somewhat regulated. There was a day when unabated surf netting would see thousands of pounds of gasping stripers laying on the beaches of Hatteras Island. These were frequently giant females that would never see a Maryland sunrise, or get a chance to deposit their eggs—all because of money offered by seafood stores and pet food processing plants.

On the other side of the rockfish arguments are the biologists who for obvious reasons must keep a clear head and not fall prey to emotion. The Natural Resources specialists who worry a great deal about the fuure of the striped bass—be it for netters or sport fishermen—feel that unilateral action of additional protective legislations for rockfish would probably not help significantly when the overall picture is taken into account.

Maryland is the keystone of the Atlantic striper population. Yet, when DNR personnel tagged and released 1,375 striped bass weighing from 15 to 70 pounds during the 1972 and 1973 spawning runs, an astounding 94 percent of the 126 recaptured fish was reported from outside of Maryland. It offers proof that the striper moves about greatly and doesn't—as some people believe—live out his days in Maryland alone.

The powers in Annapolis are among the very few who have afforded protection to striped bass by way of harvest restrictions, seasons and off-limits fishing areas. Thus it becomes an exercise in futility when worried men and women care for the future of a resource that gets very little help, if any, from their nearest neighbor, Virginia—to name just one.

It's the well-worn line of the weakest link in the chain, and so on. If one 50-lb. female rockfish, for example, is intercepted in nets before she reaches protected Maryland waters some five million eggs will be lost forever.

Much is yet to be done. Pollution takes a heavy toll of eggs, larvae, and juvenile fish. Dredging of coastal bays and rivers destroys nursery grounds. Damming of rivers robs the striper of breeding locations. The list is almost endless.

It becomes a national coastal problem then. It's a giant hurdle the federal government may eventually have to clear. Atlantic states will have to join hands and come to grips with the ever-growing decline of this magnificent creature.●

WE WILL NOT FORGET MARTIN LUTHER KING—HE AFFECTED OUR LIVES

● Mr. METZENBAUM. Mr. President, one of the proudest moments of my life occurred some 15 years ago when I was privileged to walk shoulder-to-shoulder with the Rev. Martin Luther King through the streets of Selma, Ala. That symbolic moment marked a high point in the struggle of millions of Americans who had been denied their basic freedoms for nearly two centuries.

Of all those who have fought the evils of bigotry and hatred, few have made the impact on our society that Dr. King did.

Sadly, as is the case so many times, those who carry the banner of justice are struck down by the sword of injustice. Such was the case with Martin Luther King.

This week, we mark the 10th anniversary of that tragic day when Dr. King died at the hands of an assassin in Memphis, Tenn. Since then, many of the dreams he expressed in his memorable speech at the Lincoln Memorial have come true. Many have not.

But there can be no doubt that Dr. King laid a foundation upon which generations to come can build.

Yes, there is still racism in America. But because of Dr. King's contributions, there is hope for all of us.

Yes, black Americans have not yet achieved their rightful status in our society in many areas. But because Dr. King walked among us, all Americans are aware of the injustices and have been spurred to eliminate them.

Yes, there is still poverty, despair, and deprivation. But because of Dr. King's example, black Americans have shown the world that by their own efforts they can surmount these obstacles with dignity and pride.

As Haynes Johnson of the Washington Post put it so aptly in a column last Sunday, Dr. King was able to do these things because he was "a man of dreams and visions and no American expressed them with more eloquence and conviction."

Mr. President, I can think of no finer tribute to the memory of Dr. King than the words spoken by the Rev. Jesse Jackson, a man who knew him so well:

He would challenge us not to lose the spirit of reconciliation. He believed as long as people are living, they chan change. He would never give up on that.●

OUTSTANDING YOUNG FARMER AWARD

● Mr. BAYH. Mr. President, I am proud to inform my colleagues that Louis Abbett of La Crosse, Ind., has been chosen from a group of 38 State winners as one of the Nation's four outstanding young farmers for 1977–78.

The Outstanding Young Farmer Awards are conducted by the U.S. Jaycees and sponsored by the John Deere Co. Through this program, the Jaycees and John Deere strive to recognize the noteworthy achievements of today's young farmers and to encourage better understanding between urban and rural America.

Indiana is blessed with many able and hardworking farmers. Yet it is clear that Louis Abbett stands out as an exceptional farm manager. Originally he rented two small farms to earn money for college. Later, while working on his own farm he also taught school to obtain necessary capital. Despite some setbacks, Abbett consistently improved his farm and his equipment. Now, he is president of the La Porte County Row Crop Producers Association and Indiana Corn Growers Association, and he is also active in other important farm and civic groups.

I am pleased to congratulate a fellow Hoosier, Louis Abbett, for his impressive achievements in his agricultural career and community service which have earned him the National Outstanding Farmer Award. Louis Abbett illustrates the efficient management and strong character of America's young farmers on whom the Nation and the world will increasingly depend.●

REDUCING WORLD NUCLEAR ARMS ARSENALS

● Mr. CRANSTON. Mr. President, Mr. Irving Laucks of Santa Barbara, Calif., has long contributed to the cause of peace in word and deed. Recently, he continued his commitment to work for peace by encouraging others to think about ways to end the nuclear arms race.

The Laucks Foundation, an educational institution he established recently sponsored an essay contest on the subject of "preventing nuclear war."

The Santa Barbara News-Press carried the prize-winning essay by Mr. Wallace T. Drew, a Santa Barbara businessman. The centerpiece of Mr. Drew's essay is the proposal that an international organization supervise the destruction of 2 percent of each nuclear-capable country's weapons.

I am sure Wallace Drew shares my appreciation that our President is committed to this very purpose of controlling the arms race—not just through limitations of existing weaponry—but through nuclear arms reductions.

The proposed SALT II agreement, which is still under negotiation, is reported to make the first step toward reducing nuclear weapons now in existence, as well as controlling future developments. SALT II would require the Soviet Union to dismantle over 300 of its nuclear missiles and heavy strategic bombers.

The U.S. smaller strategic force would not be affected in this way by SALT II. However, SALT II is expected to set the stage for building on this precedent of reducing existing arms arsenals. The statement of principles for SALT III contained in the SALT II agreement hopefully will pledge the United States and the Soviet Union to negotiate significant reductions in both countries nuclear forces.

Mr. Drew's thoughtful essay also addresses other methods of preventing nuclear war through controlling nuclear weapons. I ask that his full essay, as reported by the News-Press of December 25, 1977, be printed in the RECORD at the conclusion of my remarks. I congratulate Wallace Drew for his prize-winning essay and Irving Laucks for his continuing encouragement to Americans who seek to prevent nuclear war.

The article follows:

LAUCKS FOUNDATION WINNING ESSAY—A PROPOSAL FOR SAVING HUMANITY FROM NUCLEAR WARFARE

(By Wallace T. Drew)

During my many years as an Episcopal layman, I have developed serious concerns about the implications of nuclear weaponry, and have given a great deal of thought and study of the methods devised for bringing about a society on earth closer to that which God envisioned—a world of peace and serenity, justice and beauty, free of the terror of nuclear blackmail.

My thoughts spring from the following premises, that:

1. Preparation for war and defense is a crushing financial burden on peoples of all nations, prventing achievement of peaceful objectives.

2. Existence of nuclear weapons leads to temptation to use them to settle disputes or achieve national ambitions.

3. Focus on nuclear weaponry detracts from research on peaceful use of the atom and of solving the environmental problems involved both for the present generation and for posterity.

4. The present method of achieving detente among the major powers—nuclear standoff—involves unacceptable risks.

5. The will of the people is to secure peace, as evidenced by the many international organizations that have been set up over the years with the sole purpose of obtaining peace. The enemies of peace, however, have been consistently successful in check-mating peace moves in international organizations. Witness the tortuous negotiations and dismayingly small successes in the United Nations commissions working to halt nuclear weapon proliferations. One antidote to this situation is to seek new methods and new organizations through which success might possibly be more easily achieved.

Having accepted the above premises, it is easy for me to welcome and encourage new concepts for achievement of peace and avoidance of nuclear war. As a follower of Christ, indeed, I can take no other course. "Blessed are the peacemakers: for they shall be called the Children of God"—Matthew 5:9 King James Version.

One new concept brightens the prospects for the future—a serious new proposal made by an educational organization called "The Cooperators" of the Laucks Foundation of Santa Barbara, Calif., Irving Laucks, president.

This proposal is entitled "A Suggested Six-Point Plan for Peace," and is well worth examining closely because it provides for specific steps to be taken within a limited time frame.

Point one proposes that the president of the United States order the destruction of 2 percent of the nuclear weapons of the United States.

This would be a step in the right direction. The first step must necessarily be modest if only to reassure our own citizens, while giving evidence of our commitment to the other nations involved. It would also encourage matching steps from the other major nuclear powers. L. I. Brezhnev, chairman of the presidium of the Supreme Soviet of the U.S.S.R., recently proposed again a stop to testing of nuclear weapons and an end to the arms race and could respond favorably with a two percent reduction in atomic arms in the Soviet Union.

Point two provides that the president of the United States ask other nations to:

A. Destroy two percent of their nuclear weapons, and

B. Join the United States in a "Federation for Peace," composed of all nations with nuclear weapons, plus two other members of the United Nations, to develop a plan for the gradual and complete destruction of all nuclear weapons and general disarmament.

This point follows naturally in the path of point one and assumes correctly that the stage-by-stage method of weapon destruction will be most reassuring to citizens of the major powers.

Point three provides that the nations belonging to the "Federation for Peace" would bind themselves to a treaty to form an international commission which would supervise a step-by-step disarmament process, which might take five years to complete.

It seems likely that negotiations will be more protracted than five years, since general disarmament is involved in addition to destruction of atomic weapons. The Soviet Union may be reluctant to reduce its large land army in fear of Chinese forces, or a possible loss of control in Eastern European satellite nations. France, accustomed to playing a lone hand in nuclear matters since withdrawing from the United Nations Disarmament Commission in 1962, may require extended persuasion. India and Brazil, nations on the fringes of the nuclear weapons community, may be loath to sacrifice anticipated power. And the United States may be slow to ratify, fearing sacrifice of nuclear superiority, real or fancied.

The Soviet Union has a slow examination system of such measures through the autonomous and regional Soviets before consideration by the Supreme Soviet.

Point four provides for trade and military sanctions and actions by the "Federation for Peace" to ensure compliance with weapon destruction orders. It is hoped that such actions would be taken only as a last resort since history shows they cause a reaction of fear and incite national pugnacity. It may be necessary to take such measures in the end. God's will in the matter is carved in the granite "Isaiah Wall" across First Avenue in New York from the United Nations buildings:

"And he shall judge among the nations, and shall rebuke many people: and they shall beat their swords into plowshares, and their spears into pruninghooks. Nation shall not lift up sword against nation, neither shall they learn war any more."—Isaiah 2:4.

Point five provides for an international court of justice to decide disputes between nations. This should not be too difficult to create, since most nations accepts the principles of international law, and such tribunals already exist.

Point six provides for liaison and support by the "Federation for Peace" of the United Nations and its agencies and eventually for a phaseout and assignment of the peacekeeping role to the United Nations. This should help to allay the fears of some members of the United Nations, particularly the Third World and non-nuclear nation members, that the "Federation for Peace" may be a deceptive device that may allow the nuclear powers to "go their own way," to establish private agreements among themselves, and to circumvent already established commissions designed to solve these very problems.

The answer is that the charter of the United Nations recognizes the usefulness of such organizations as the "Federation for peace," and many have official connections with one or more of the specialized U.N. agencies.

The question may be asked, "Why is the Federation for Peace necessary?"

A bit of history may provide the answer. The charter of the United Nations provides for formulation of disarmament plans in the Security Council, and disarmament has been a major concern of the United Nations since its inception.

The first resolution of the U.N. General Assembly (1946) set up a U.N. atomic commission to make proposals for the peaceful use of atomic energy and for the elimination of the weapons of mass destruction.

The commission concentrated its first debates on the Baruch Plan, which proposed an international agency to control all potentially dangerous atomic power. By 1948, Cold War hostility closed off all debate and the commission was at an impasse.

The issue languished until 1952 when the U.S. disarmament commission was organized under the Security Council to deal with all issues of disarmament. This commission became the repository for all disarmament proposals arrived at by groups inside or outside the United Nations. After the hydrogen bomb explosions by the United States (1952) and the Soviet Union (1953) the urgent need for disarmament became apparent. In 1963, a subcommittee of the commission was set up consisting of Canada, France, the United States and the Soviet Union.

Mounting disagreement in an atmosphere of mutual distrust between East and West took placed during meetings 1945–57. The West held that an international control system and on-site inspection must be developed before disarmament could proceed. The East rejected this position, stating that the West's position would result in inspection without disarmament, and proposed instead an immediate ban on nuclear weapons, without inspection but with possible later (and unspecified) controls. The West promptly rejected this position.

Impasse again! And there the matter stands today, 20 years later!

It is true that modest gains have been made since. In 1963 the United States, the United Kingdom and the U.S.S.R. reached the Moscow Agreement banning nuclear weapons testing in the atmosphere, outer space, or under water. In 1968 the United States and the Soviet Union drafted a proposal to the commission for a non-proliferation treaty on nuclear weapons which was approved by the U.N. General Assembly.

The Strategic Arms Limitations Talks (SALT) of 1972 by the United States and the Soviet Union agreed to limit antiballistic missiles and reached as interim accord limiting offensive nuclear weapons. Another SALT agreement on the same matters was reached at Vladivostok in November, 1974. Since that date little progress has been made partly because of the political turmoil in the United States associated with the change in the administration.

The atmosphere of distrust that persists between East and West, despite the healing balm of detente, is the major obstacle to disarmament, nuclear or otherwise.

Thus, a new thrust for disarmament agreement such as "A Suggested Six-Point Plan for Peace" is welcomed since it may well give a fresh new approach to the problem.

It is clear, that, as President Anwar al-Sadat of Egypt observed during his recent visit to Israel, achieving the psychological and emotional climate for peace is a precondition for international agreement.

The plan advanced by "The Cooperators" is, in my judgment, based on an intelligent appraisal of the psychological and emotional factors needed to achieve concord, and if skillfully employed can help lift the burden of the nuclear genii off the back of mankind and put it to work, this time for human advancement.●

BURLINGTON RESIDENTS CONGRATULATED ON BOND ISSUE APPROVALS

● Mr. LEAHY. Mr. President, the January 24, 1978, CONGRESSIONAL RECORD contains my congratulations to the Burlington, Vt., Electric Department for its successful experiment in the generation of electricity with wood.

Today, I would like to congratulate the

residents of Burlington for the recent approval of three bond issues, all related to the generation of power with alternative fuels: Wood, water, and wastepaper.

The residents of Burlington deserve special congratulations, because they have become, to the best of my knowledge, the first community in the country to take the initiative to explore alternatives to the conventional fossil fuels upon which we all have become deplorably dependent. I laud the community's resolve to seek alternative energy resources, and hope that communities in other States will have the courage to join with Burlington in shaping a better destiny for us all.

Mr. President, I ask to have the following article printed in the RECORD. It appeared in the April 2, 1978, Washington Post.

The article follows:

VERMONT TOWN HARVESTS WOOD CHIPS TO EASE ENERGY CRUNCH

(By Lee Lescaze)

BURLINGTON, VT.—Each day, about an acre of Gordon Fletcher's birch and pine woods is ground into 100 tons of matchbook-size chips and trucked off to provide electric power for Burlington.

Fletcher's trees are feeding a utility that proclaims itself the first in the nation to sell electricity generated from wood chips, but Burlington's planners see them as only the beginning of a long line of "chip harvesters" like the red machine on Fletcher's farm that will turn whole trees into chips in a few seconds.

This month, Burlington's traditionally tight-fisted voters gave 2-to-1 approval to a $40 million bond proposal for a large new generating plant that will keep chip harvesters grinding through Vermont's woods at a rate of about 470,000 tons of chips a year.

The coal strike, protests and fears that have stymied development of several New England nuclear power plants, the hazards of relying on imported oil and the success of the wood chip experiment begun here last fall all contributed to the bond proposal's overwhelming approval, Robert Young, general manager of the municipal electric company, said.

Heating oil cost 12 cents a gallon in 1972 and is 40 cents today. Canadian natural gas which was available for 40 cents per thousand cubic feet now costs six times as much.

It takes three times as much wood as coal to generate the same amount of heat, but at $12 a ton for delivered chips, wood is already the cheapest fuel available to Burlington Electric. Young expects wood chips to provide even a greater savings as costs of other fuels rise.

Young is also confident that there is enough wood in the Burlington region to feed the proposed new generating plant without damaging the forests.

For Young, whose Burlington Electric Department also won approval of bond proposals for a hydroelectric project and a facility to burn trash in order to produce hot water, energy-poor Vermont's predicament had become clear.

"We've got to do something for ourselves and the only resources we have are wood, water and trash," Young said. Even with the new projects, Burlington will be dependent on coal or nuclear energy or both for its base load of power but it will be more self-sufficient than it is now.

In 1972, Burlington Electric paid $11.92 a ton for coal delivered to its J. Edward Moran plant on the edge of Lake Champlain. Recently, it has paid more than $50 a ton, Young said.

According to a survey done for Burlington by the Washington firm Henningson, Durham & Richardson, there is enough annual wood growth within about 75 miles of Burlington to stoke the proposed 50-megawatt generator and its estimated annual consumption of 470,000 tons indefinitely.

Other power producers with larger needs have looked at wood chips and turned away in dismay. Gordon McKenny of the Public Service Co. of New Hampshire said studies indicated that to obtain from wood the 1,150 megawatts the company expects from its much-protested Seabrook nuclear plant it would need: 204 truckloads of wood per hour, or a truck unloading every 17.6 seconds and in 7.8 years would denude New Hampshire of trees.

By 1870, after generations of logging, Vermont was 42 percent forested. But as people left the land and farms were abandoned in this century, trees grew back until now more than 76 percent of the state is wooded—but it is not the same quality forest that the settlers found.

A 1973 forest survey discovered that nearly 30 percent of Vermont's trees over five inches in diameter are commercially undesirable because they are rotting, diseased, misshapen or of a species not suited for lumber.

When the chip harvesters work in hardwood forests, whether private or state-owned, Young said, they will follow the directions of foresters and cut only those trees whose absence will aid the forest.

Gordon Fletcher, however, wants all his trees cleared to reclaim what once were fields. Before the chip harvester came to his farm, Fletcher was paying men to clear an acre or two of his land each year.

Now, he gets paid 40 cents a ton for his previously unmarketable trees, but more important, he gets an acre cleared every day.

The trees are snipped off close to the ground by giant clippers mounted on a large-wheeled vehicle. Another machine grabs a bundle of them and drags them from the woods to the clearing where the whole trees are taken in at one end of the chip harvester and chips are blown out the other as a snow blower blows out snow.

The chips fly into trailers each of which holds more than 20 tons. They are driven to the Moran plant where a huge pile of coal now shares yard space with two smaller piles of chips.

Burlington Electric converted one of the Moran plant's three burners to take chips last fall. Plant Superintendent Thomas Carr designed and executed the conversion for $25,000. "That's less than we could've paid for a feasibility study that I could put on my shelf," Young said.

Three parts chips are burned with one part Number 2 heating oil to increase their heat generating capacity. However, a mixture of one-quarter oil is a saving for Burlington Electric, which has to mix 55 percent oil with 45 percent coal to meet state air quality standards when it burns coal. The chips cost about 2.3 cents a kilowatt-hour against about 3 cents a kilowatt-hour for the coal mixture, Young said.

"I don't think that small utilities should be gamblers," Young said. He stressed that the technology of wood chip burning is tested. A number of pulp and paper plants have used their waste wood to generate power. The Weyerhaeuser plant at Longview, Wash., consumes almost exactly the 1,200–1,500 tons a day Burlington will need.

The total cost of the wood chip plant which Burlington hopes will open in 1982 will be almost $80 million.

Within a month, Young and other Burlington officials will visit Washington to knock on some doors. Young knows that Washington is interested in alternate energy projects and is funding many experiments.

"I'm hoping what we're doing will have a little appeal in Washington," he said.●

THE NATIONAL FARM COALITION ON FOREIGN TRADE POLICY

● Mr. CHURCH. Mr. President, the National Farm Coalition, an ad hoc group of 36 general commodity and cooperative organizations from across the Nation, met in Washington, D.C., on March 15, 1978. The group reviewed the general farm situation and formulated a paper on foreign trade policy.

I believe that the coalition's paper makes good sense. In a time when our Nation's trade deficit is rapidly increasing and our farmers are caught in a vicious price squeeze, our foreign trade policy is of critical importance.

A vigorous effort must be made by U.S. negotiators to break down the barriers to world trade during the ongoing GATT multilateral trade negotiations and to obtain the greatest possible benefits for U.S. agriculture.

Mr. President, I commend this paper to my colleagues and I ask that it be printed in the RECORD, along with a list of the members of the National Farm Coalition.

The material follows:

STATEMENT OF NATIONAL FARM COALITION ON FOREIGN TRADE POLICY

American agricultural interests are becoming increasingly concerned about the rising trend toward support of trade restrictive policies both here and abroad. Such protectionist attitudes threaten the success of the current round of GATT trade negotiations in the short run and in the long run could seriously restrict U.S. farm exports, the expansion of which is so essential to the health of both U.S. agriculture and the U.S. economy.

A liberal foreign trade policy is not only a must for agriculture, it is a must for America. Such a policy does not require the U.S. to tolerate trading practices that compete unfairly with U.S. products both here and in third countries. We must continue to protect ourselves against trade-distorting practices such as, a matter of particular concern, foreign export subsidies and against products that are produced under health, grade, or environmental standards that are much lower than are tolerated here. However, we must be careful to impose and administer such legitimate control measures in such a way as to maintain the central thrust of a liberal trade policy.

Agriculture is America's largest and most important industry. Farmers buy annually about $80 billion worth of inputs to produce an output of about $100 billion. Over 15 million jobs are involved in the entire food and fiber complex which finds its base in agriculture.

In 1977 the value of farm exports exceeded the value of agricultural imports in the U.S. by about $10.5 billion. The total farm products exported had a value of $24 billion—the equivalent of about 25 percent of cash receipts from farm marketings. Farm exports are therefore of great financial value to farmers and to the national economy by paying for a large portion of our imported energy. For this favorable economic relationship to continue, we shall need an even greater emphasis on agricultural exports unencumbered by the backlash of trade restrictive policies both here and abroad.

We applaud the efforts of our chief negotiator, Robert Strauss, to maximize our opportunities for agricultural exports, through GATT and other special negotia-

tions. The strong encouragement and assistance he has had from many Congressional leaders, from Secretary of Agriculture Bergland and from other key Administration trade leaders have greatly assisted his commendable activities toward reducing Japanese trade barriers. He deserves great credit for dealing with some very serious U.S. import problems in ways which have not invited serious retaliations or a wave of extreme international protectionist moves which could disrupt the international trading system and bring on world economic chaos.

We urge that a maximum effort be made by U.S. negotiators, with strong support from Congress, to obtain the greatest possible benefits for U.S. agriculture from the ongoing GATT Multilateral Trade Negotiations. In this effort, it is essential that agricultural negotiations be closely linked with all other negotiations in the international arena and that the interests of U.S. farmers and of agribusiness be fully considered in every trade policy action taken by our government.

Special attention should be directed toward the achievement of an export subsidy code which can benefit all our trading interests, agricultural and industrial alike. And while special discussions can be necessary for agricultural problems, such as the International Wheat Agreement talks outside of GATT, they must not be allowed to delay agricultural progress or to isolate agriculture at the stage of negotiations when the total package's benefits and costs must be balanced.

In this regard, it is vital that our U.S. industrial community and our national leadership keep in mind that we have U.S. concessions outside of the trade area which can be made in payment for gains which must be compensated for. President Carter's recent and most beneficial trip to France, with political assistance for French Premier Giscard d'Estaing and further assurance of military support for Western Europe, was a dramatic illustration of this capability.

The trade negotiations which are building toward a climax in Geneva at this very moment may represent the best opportunity the world will have for many years to frustrate the growth of new and damaging trade barriers and to remove some of the existing barriers. The re-emergence of protectionist sentiment is seriously threatening the success of this effort in which the U.S. economy, and particularly U.S. agriculture, has such an enormous stake. The unmatched efficiency of U.S. agriculture makes it possible for great gains to be obtained from a freer flow of trade in farm products, the benefits of which will be enjoyed by all Americans. We must not let this opportunity slip away.

MEMBERS OF NATIONAL FARM COALITION

Midcontinent Farmers Association.
The National Grange.
FARMAR–CO, Inc.
National Association of Wheat Growers.
National Farmers Organization.
National Milk Producers Federation.
North Carolina Peanut Growers Association.
Virginia Peanut Growers Association.
Peanut Growers Cooperative Marketing Association.
Southwestern Peanut Growers Association.
Alabama Peanut Growers.
Georgia Agricultural Commodity Commission for Peanuts.
GFA Peanut Association.
Texas Peanut Producers Board.
Oklahoma Peanut Growers Association.
South Carolina Peanut Board.
New Mexico Peanut Growers Association.
Florida Peanut Council.
Farmers Union GTA.
Grain Sorghum Producers Association.
National Corn Growers Association.
Land O'Lakes, Inc.
Soybean Growers of America.
Webster County Farmers Organization.
National Association of Farmer-Elected Committeemen.
United Grain Farmers of America.
National Wool Growers Association.
Farmers Grain Cooperative.
National Rice Growers Association.
Trans-Pecos Cotton Association.
Rolling Plains Cotton Growers, Inc.
Farmers Cooperative Council of North Carolina.
Virginia Council of Farmer Co-ops.
Farmers Union Central Exchange (CENEX).
Farmers Union Marketing & Processing Association.
American Rice, Inc.●

AMERICAN ACADEMY OF PEDIATRICS PARTICIPATION IN THE HEALTH PLANNING PROCESS

● Mr. CRANSTON. Mr. President, I wish to take this opportunity to bring to the attention of the Senate, on behalf of the American Academy of Pediatrics, recent developments in the area of health planning in which the academy has been involved.

The American Academy of Pediatrics prides itself on its response to the request in Public Law 93–641, the National Health Planning and Resources Development Act of 1974, for provider participation in the development of health systems plans, annual implementation plans, and State health plans. The academy feels that a program information letter from Harry P. Cain, II, Director, Bureau of Health Planning and Resources Development, Department of Health, Education, and Welfare, recognizes contributions the academy can make to the planning process. The academy, through its president, Dr. Saul J. Robinson, a distinguished Californian, has asked me to relay to the Members of the Senate its eagerness to offer the academy's services and resources for use in future health-planning efforts.

Mr. President, I ask that the program information letter written by Mr. Cain be printed in the RECORD.

The material follows:

HYATTSVILLE, MD.,
December 21, 1977.

To: Health Systems Agencies, State Health Planning and Development Agencies, Statewide Health Coordinating Councils.
Subject: Child Health Care Planning.

Recently some of my staff and I met with representatives of the American Academy of Pediatrics (AAP) regarding child health care considerations in the development of Health Systems Plans and Annual Implementation Plans. The purpose of this program information letter is to acquaint you with the AAP's interest in working with us in implementing the health planning program.

In response to the National Health Planning and Resources Development Act, the Academy developed two documents for its member AAP Chapters concerned with child health planning:

"A Handbook on Child Health Planning for AAP Chapters"

"A Sample Child Health Plan for AAP Chapters"

These documents have been disseminated to the individual AAP Chapters throughout the country. AAP officials stated that they believe that most of their Chapters will want to participate in planning for child health services and that the Chapters may be willing to make these documents available to the HSAs. They may be willing to help in other ways as well; for example, they can serve as a resource for data and information on child health in their area.

We have reviewed the two documents and while they do not conform in their entirety to our guidance on plan development, (nonquantifiable goals are used), and while many may disagree with some recommendations, we think you may well find the documents useful. We also encourage you to take advantage of the AAP's interest in plan development activities.

The Academy provided us with a list of the names and addresses of each AAP Chapter Chairman. A copy is enclosed for your reference.

Finally, I wish to take this opportunity to remind you that health plans must be responsive to the unique needs of the residents of the area for which the plans are developed. In providing guidance on this requirement, the Bureau has made every effort to ensure that planning agencies have the flexibility required to develop plans which respond to local or State priorities and needs. When identifying the unique needs of your area, I urge you to consider the special needs of children. I am sure we all agree that this population subgroup's health status and health service requirements deserve careful thought.

HARRY P. CAIN II, Ph. D.●

MERIT SELECTION—THE PRESIDENT'S BROKEN PROMISE

● Mr. LUGAR. Mr. President, in one of the most exhilarating and often made promises of the 1976 campaign, President Carter proclaimed, "All judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspects or influences." Americans were genuinely excited by this pledge to remove political patronage from the selection of Federal judicial officers.

Unfortunately, soon after the President's inauguration, campaign rhetoric and Presidential performance parted company. According to the December 5, 1977 issue of Time magazine, President Carter had appointed 86 U.S. judges and attorneys before December 1, 1977. Of these 86 appointees, all except one were Democrats.

The President's policy in regard to this issue has been best explained by Attorney General Griffin Bell. On May 26, 1977, Judge Bell responded to a question about the firing of Detroit U.S. Attorney Philip Van Dam by stating:

Well, I'd say the main reason (Van Dam was fired) was we had an election last November and the Democrats won.

More recently in explaining why another U.S. attorney was being replaced, the Attorney General explained:

Well, we have two parties. The ins are the Democrats.

Indeed, the record is clear. No public relations gimmickry or rewriting of 1976 campaign history can absolve the President from his obvious use of political considerations in selecting these important judicial officers.

On Wednesday, March 22, 1978, the Christian Science Monitor published a most perceptive column by Roscoe Drummond entitled "Marstongate." I take this

opportunity to commend Roscoe Drummond for his fine presentation, and I ask that this article be printed in the RECORD.

The editorial follows:

MARSTONGATE

(By Roscoe Drummond)

WASHINGTON.—Every time President Carter thinks he has the Marston affair safely buried under a rock in the Rose Garden, little worms crawl out from under and raise new doubts.

I do not imply that there is any prospect whatsoever that the President will reverse course and admit that, in firing U.S. attorney David Marston in Philadelphia not on merit but because he was a Republican, he thereby did violence to one of his more appealing campaign promises. His promise was that, if he was elected, all federal prosecutors would be selected strictly on the basis of merit and without any political considerations.

Past presidents have done it politically. The difference is that Mr. Carter promised that, if elected, he wouldn't do it any more. He was elected. He did it some more.

Attorney General Griffin Bell reportedly assured a powerful Southern Republican senator that selection by merit would apply to removing federal prosecutors exactly as it would apply to naming the new prosecutors. Mr. Marston had a meritorious record of effective prosecutions, achieving guilty verdicts on corrupt Democrats and Republicans.

Mr. Marston was fired by the Attorney General, at the direction of President Carter, after it was known that Democratic Representative Joshua Eilberg of Pennsylvania was involved in a Marston investigation and after he had appealed directly to the President to get that man out of there. Mr. Eilberg apparently didn't care who replaced Marston.

Now come the new worms of doubt which are crawling to the surface. They have to do with a worse offense.

The real offense in Watergate was not the break-in, but the subsequent cover-up. It is now becoming evident that much of the maneuvering by the White House and the Justice Department to make the Marston case look better doesn't look much different from the Nixon stonewalling. Examples:

In Marstongate the Justice Department did its own investigating and quickly cleared itself—and the President—of any wrongdoing. That's what President Nixon wanted to do but they wouldn't let him.

In Marstongate the Justice Department first withheld and then finally released, upon congressional demand, parts of an affidavit—previously exercised—prepared by Marston as long as Jan. 16 reporting that Marston considered Eilberg and Rep. Daniel Flood, also of Pennsylvania, "certain to be indicted."

In Marstongate top Justice Department officials seemed to be sure that the White House would want to erect a screen around testimony from those who knew Marston was doing a good job in Philadelphia and should on merit be kept on the job so as not to slow the momentum behind prosecutions in progress and in prospect. Hence the President's men collaborated in deleting from a key affidavit a sworn statement by an FBI agent that Marston was doing an excellent job and that it was important to retain him.

The Washington Post reported: "Deletions were made in several of the affidavits, Justice officials said, so the department wouldn't be confirming that Eilberg, in fact, later did become a subject of a criminal investigation."

The effect of these distorting deletions—this erasing from affidavits—was to protect the administration from having to reveal pro-Marston information.

In Watergate the Nixon White House erased 18 minutes of a tape recording which could have been damaging.

The reason it is useful to get all the Marston scandal into the open is this: If the President won't take partisan politics out of law enforcement appointees, Congress may be persuaded to do so if public opinion demands it.●

ENERGY INDEPENDENCE CAN BE ASSURED IF CONGRESS ACTS AND THERE IS A NATIONAL COMMITMENT OF THE AMERICAN PEOPLE

● Mr. RANDOLPH. Mr. President, I was gratified to observe last week that the Senate and House conferees had their first public meeting of the 2d session of the 95th Congress. Their discussions on natural gas pricing and the emerging points of possible compromise exchanged gave me new hope that soon the Nation might become more energy independent. I urge my Senate colleagues, and all of us, to continue diligent efforts toward final resolution on a national energy plan.

Last Saturday, April 1, I had the privilege to participate in the awards banquet for the American Institute of Mining & Metallurgical Engineering at West Virginia University, with many other Mountaineers keenly aware of the new attitudes which are emerging with regard to production and utiliation of our fossil and other domestic energy supplies.

I told this group of 400 persons that recently I noticed, in an issue of the WVU Alumni Quarterly, the replicas of the school mascot and State symbol—the Mountaineer—are being made from coal. This is truly a fitting substance from which to construct an image which reflects the proud and dignified heritage of the State, for West Virginia perhaps more than any other area of our Nation, relies on is mineral resources for its economic base.

Mr. President, it is not surprising that both the Federal Government and private industry are continuing to gain confidence in the coal and energy-related research capacities of the West Virginia University faculty, staff, and students. That confidence is refletced in the fact that during 1977, WVU received $9.3 million in coal and other energy research grants. The Federal Government awarded $7.9 million of the total, along with $751,000 from State government. The increase in energy-related grants from the private sector rose from about $98,000 in 1974–75 to $591,000 in 1976–77.

Coal research projects will continue to be a major thrust of university activity. More utilities and industries will have to use greater amounts of coal for power and heating requirements as is now being used, for example, in the engineering sciences building on the Evansdale campus of WVU, highlighting Appalachian coal as it continues to assume increasing importance as a major domestic source of energy.

Coupled with coal, however, are other less prevalent but significant energy sources in West Virginia still waiting to be tapped or discovered. Currently, faculty and students of the College of Mineral and Energy Resources at WVU are exploring the possibilities of cultivating geothermal energy in Appalachian formations that might yield the equivalent of 35 trillion barrels of crude oil in the future. Other members of the staff are looking at methods for enhanced oil recovery from known West Virginia fields which still hold 2 billion barrels of oil.

While wrestling with these problems other staff from WVU's Department of Aerospace Engineering are laboring on questions of how to extract from the wind on an economic basis, realizing that energy from this source at any given moment is estimated to be at least 54 times the world's total energy requirements. It is clear, from these efforts being made at West Virginia University that even without a formal energy program, Americans are well on their way to providing answers which will solve some of our energy problems.

Over the last 2 months, I have read many articles and editorials outlining the lack of congressional movement on the creation of a national energy policy. Actually the lack of movement has been on natural gas pricing and tax provisions of the bill. In action last year Congress did enact the Surface Mining Control and Reclamation Act of 1977 and early this year passed black lung benefits legislation. I have long recognized that to achieve and maintain high levels of coal production, the Federal Government must adopt a coal policy which was easily understood and implemented. With the grueling coal strike now behind us, I feel these two legislative actions will begin to coordinate national policies on mine health and safety, surface mine reclamation and environmental quality. The Reclamation Act also provides universities in West Virginia and other States with the opportunity to apply and become involved in the coal research laboratory program (title 8) of that law.

In anticipation of Federal legislative action on energy significant progress is being made in private industry which will lead to decreases in energy imports.

Conversion of utilities and industry from gas and oil has increased. The National Coal Association says hundreds of utilities have shifted back to coal in the past 2 years, and 241 new coal boilers are now on the drawing boards. Boiler industry officials report not one oil or gas-fired boiler has been ordered since late 1975.

New exploration for energy has increased steadily. Industry statistics show operation of new drilling rigs at historically high rates, and recent increases in natural gas prices have spurred new exploration.

The results of all this have been fairly dramatic. While the Nation's economy has grown by some 13 percent since 1973, demand for petroleum has increased only at about half that pace—7.1 percent. On a day-to-day basis petroleum demand now is running at about 17.5 million barrels a day, on a seasonally adjusted basis—virtually unchanged from its levels in 1973.

These initiatives are encouraging and I know congressional action not apathy have paved the way for these efforts. I also know, however, there is still definite

value in passing a major energy blueprint to end uncertainty over what exactly the Government will require from industry and consumers, and to negate, as much as possible our dependence on foreign energy resources.

Mr. President, as I indicated earlier energy conferees of the House and Senate are still trying to reach agreement on deregulation, a definition of new gas and whether the Federal Government will be able to allocate intrastate supplies under emergency situations. Many tax portions of the bill will depend on decisions reached on natural gas pricing. The important point, however, is this: Three important parts of the energy bill have tentatively been agreed to—conservation, utility rate reform, and of most importance to West Virginia—coal conversion.

Conference reports on these sections, passed by the Senate as separate pieces of legislation are essentially complete. Perhaps, if deadlock continues on natural gas pricing and taxes the Congress should be best advised to move ahead and pass these provisions, rather than place everything in stalemate.

Why? Coal represents 90 percent of the Nation's total fossil fuel reserves. Yet, it currently supplies only 18 percent of our energy needs. The Natural Gas and Petroleum Conservation and Coal Utilization Act, as agreed to by the energy conferees, establishes part of the policy necessary to make widespread coal use a reality and encourages powerplants and industrial plants to switch from oil and gas to coal. I believe that at least 80 percent of the provisions in the conference version of the coal conversion bill were included in S. 273 which I introduced on January 14, 1977, under the same title. Of course, this is not our first effort on increasing coal utilization—we have worked on these issues for many years. For example, on October 18, 1973, I introduced along with Senators JACKSON and MAGNUSON S. 2589, which eventually became the framework of the Energy Supply and Environmental Coordination Act of 1974.

The coal conversion portion of the energy bill is quite complex, containing numerous exemptions for cases in which conversion would be uneconomical, technically impractical or would violate environmental requirements. The bill does not directly order the use of coal. Rather, it forbids the use of petroleum and natural gas, thus leaving industry the choice of picking another fuel source. Besides coal, a plant could use municipal waste or wood chips. Synthetic fuel from coal not mixed with natural gas could also be used.

Another constructive provision of the coal conversion legislation would establish an $800 million loan program for existing powerplants to buy pollution control equipment. The bill would also provide financial assistance to areas affected by increased coal or uranium production processing and transportation totaling $180 million over a 2-year period. Loan guarantees for coal preparation facilities to reduce the sulfur content of coal and Presidential power to allocate the use of coal during emergency situations are also included.

We have faced a crossroads in the energy market before in this country. In the 1850's coal oil (kerosene) developed, rapidly replacing the runaway costs of whale oil which previously had dominated the residential illumination market. Barely had coal oil achieved its success when it was driven out by a new fuel, petroleum. By 1863, coal oil refineries had shifted to crude oil.

Today in the energy market we are at the point where petroleum resources will again give way in part to coal, synthetic fuels from coal, local hydropower generation from small dams, and other energy alternatives. The point is this—we must not create another uncertainty to accompany that natural scarcity of oil and gas by being unclear and indecisive on Government policy regarding energy issues on which agreement has already been reached.

The conference agreements on coal, energy conservation, and electric rate reform are legitimate compromises which can aid this Nation in becoming one that is energy independent again. If we cannot reach consensus on natural gas pricing and taxes than I feel we should take a long, hard look at seeing that these other energy measures are enacted.

Since the introduction of national energy legislation last April, I have emphasized the lack of attention given to energy development of new synthetic and coal technologies in the President's proposal. The Federal investment of $12.5 billion we are pledging for a 1-billion-barrel strategic reserve system could be redirected toward the construction of coal gasification facilities capable of producing the equivalent of 1 million barrels of oil per day for at least 20 years.

By subsidizing new energy supplies and technologies for the differential cost between market prices (for example, of imported oil) and domestic alternatives, we can foster even greater energy supplies from domestic sources. It would be in the national interest to consider financial incentives as a means to stimulate domestic energy alternatives to oil imports from traditional and unconventional sources, such as coal gasification and liquefaction, solvent refined coal, and oil shale.

Tax revenues raised from energy usage should be directed to the development of new energy supplies; otherwise after the high prices have been paid, we will be no better off than now from the standpoint of energy self-sufficiency.

Reacting to these statements, and others, the Department of Energy is developing what they term a "phase two" energy plan which will emphasize Federal subsidies for development of synthetic oil and natural gas from coal and oil shale, which should be finalized and sent to Congress during the next month or two.

Attention to our environment, one of my main concerns as chairman of the Environment and Public Works Committee, requires bringing these issues into the energy planning process. I have heard it stated that in the future we will either be "breathing clean air in the dark, or choking our way through the light." Environmental damage cannot be altogether avoided in obtaining and using energy. Energy policy, however, should be extremely sensitive to activities that may damage the environment for decades or generations to come. I firmly believe that both legislative and executive proposals on vital issues such as coal conversion technologies should be built with safeguards for retention of environmental quality, rather than considering these areas as an afterthought.

Once the substance of new technologies are developed by industry and university research efforts we must assure they are not smothered by unnecessary procedural requirements. Some of the pitfalls we must try and avoid are:

Too many detailed and lengthy provisions into law;

Government agencies responsible for carrying out these statutes being understaffed (examples: strip mining function in the Department of Interior and toxic substances in the Environmental Protection Agency) which then establishes a regulatory jurisdiction beyond the agency's ability to discharge them. This, in turn, will eventually create a tremendous backlog of court cases;

Inadequate delegation of responsibility to regional and division Federal staff; and

Allowing citizen involvement at the local level to balloon into nothing more than elaborate stall tactics, again causing an overloading of the judiciary system.

Some individuals believe environmental protection should be pursued above all other national goals. Others advocate growth and production as the lone objective. But I emphasize that either of these extremes would impose excessive societal costs on our country—costs which are neither desirable nor necessary.

We can have a clean and healthy society at the same time as we have a productive society. But first we must agree that the issues surrounding growth and environmental quality are reconcilable. The compatibility of coal and the environment are some of the questions being examined by employees of the Department of Energy at the Morgantown Research Center.

Unlike foreign policy, elements of economic policy, or national defense, national energy policy cannot be made, much less implemented, solely by our elected leaders. It must be determined by the man in the street, by the university professor and the student, and by those working in industry. It requires no less than a true consensus among our individual citizens, or it will not work.

Why is energy so different from these other policy questions? The answer lies in how and by whom such policy decisions are implemented. Foreign policy is carried out largely by the President and diplomatic corps, all of which are part of the Federal Government. Defense policy is carried out by our military services, which are under the direct control of the President and Congress. Monetary policy is carried out largely by the Fed-

eral Reserve Board, which is an agency of the Federal Government. Energy policy, on the other hand, can be carried out only by individual citizens, groups, and institutions in the private sector who are under no one's control but their own.

Mr. President, the point is that energy and energy policy affect people so directly, and in turn are so directly affected by them that everyone is involved. Everyone must participate, like it or not. And only those policy decisions on which everyone can finally agree will ultimately be carried out and incorporated into a true national energy policy. I think it is also true that groups such as the College of Minerals and Energy Resources at West Virginia University and other State institutions of higher learning will continue research which will accent America's need for energy resources of every description—not competition between those resources. Mixed powdered coal for roads, coal gasification processes for plants and homes, liquefied coal or alcohol to substitute for gasoline, solar energy, and others must all contribute, with gas and oil, to the final product—a strong United States for future generations.●

THE LABOR REFORM BILL

● Mr. HELMS. Mr. President, the so-called labor reform bill presently before the Congress has been nicknamed by some as "J. P. Stevens bill." This apparently is in reference to the inability of the Amalgamated Clothing and Textile Workers Union to organize the J. P. Stevens Co., over the past 15 years. One of the purposes of the so-called labor reform bill is to make it easier for unions to organize plants and factories which contain a majority of those not wishing to be represented by a union.

It would not be appropriate for me to take sides in the dispute between J. P. Stevens and the Textile Union. That is a matter properly left to the courts. However, one cannot ignore the vicious and distorted propaganda campain generated by the labor bosses against the J. P. Stevens Co. By the daily hoisting of inaccuracies into the public view, big labor apparrently intends to create a climate favorable for the passage of the so-called labor reform bill.

Fortunately, the Wall Street Journal has recently published two excellent editorials concerning the J. P. Stevens controversy which put the matter in a better perspective. It is important that these editorials be read by those who have never had an opportunity to examine the facts of the dispute, and who have heard only the big union propaganda.

Mr. President, I ask unanimous consent that two editorials appearing in the March 24 and March 31 editions of the Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

The editorials follow:

[From the Wall Street Journal, Mar. 24, 1978]

LABOR'S BLACKLIST

It is not often that we stick our nose into a strictly private conflict between management and labor. Especially when the slugging match goes back 15 years. We just assume that sooner or later one party or the other will throw in the towel or both sides will be so black and blue that they'll come to a gasping compromise.

But the beef between the Amalgamated Clothing and Textile Workers Union and J. P. Stevens & Co., which dates to at least 1963, has gotten out of hand. The union has essentially lost its long fight to organize Stevens. Most of the 44,000 workers of Stevens' 83 plants through the South have made it painfully clear that they do not want to be represented by Amalgamated. Over the years the union has tried elections in the 12 likeliest locations and lost all but one, at Roanoke Rapids, N.C., which voted union 1,685 to 1,448 in 1974.

The union has lost a fortune in its long drive, and its frustration and bitterness are not hard to understand. But we can't sympathize with the union's last-ditch tactics. Because Stevens can't be beaten in a fair and square stand-up fight, Amalgamated has now resorted to terrorizing businessmen who do business with Stevens. The object is to starve Stevens into submission by isolating it from the rest of the business and financial community.

The tactic isn't likely to achieve the union's goals, but it is having dramatic short-term effects. Manufacturers Hanover Corp., threatened by the union with having union pension funds yanked out of the bank, has parted instead with two directors associated with Stevens. They are James D. Finley, chairman and chief executive of the textile firm and David W. Mitchell, a Stevens director who also is chairman and chief executive of Avon Products Inc.

Then it was Avon's turn, yanking Mr. Mitchell off Stevens' board after the textile union threatened a boycott of Avon products, on top of its unsuccessful boycott of Stevens' products. A string of labor leaders, politicians and clergymen—including a number of Catholic bishops—openly advocate the severing of all corporate ties to Stevens' board. Unlike a straightforward boycott, a la Cesar Chavez and his grapes, the textile union tactic concentrates wrath not on inanimate products but on human beings.

And it is all mindless fury by now. There is no denying that Stevens has been a tough union foe but union claims that the company does not fight fair are more dubious. It's true that over the last 15 years the union has been able to make unfair labor practice charges against Stevens stick 12 times. On the other hand, hundreds of its complaints have been dismissed. Considering that the National Labor Relations Board is scarcely antiunion, this seems to us the record of a hard, tough fight, not the record of a rogue employer. Even the 12 successful complaints seem to have little to do with the union's inability to win elections.

Clearly, labor's problems with J. P. Stevens, the Southern textile industry and the South in general go well beyond the toughness and intransigence of a single corporate management. The textile industry is subject to fierce international competition. That's the reason it fled to the South from the North in search of lower costs. Many Southern workers apparently think that management is right when it claims that unions can't do much for them but price them out of a job and make more work for the Taiwanese.

It is significant that although the ACTWU won the Roanoke Rapids election in 1974, no contract has yet been negotiated nor has the union called a strike. This could be called another sign of Stevens' toughness, but it also suggests that the union itself recognizes a fundamental weakness in its economic position.

Blackmailing Manny Hanny and Avon won't cure that. Nor will the "labor reform" bill the AFL–CIO is trying to push through Congress as a new weapon for organizing the South, even though it will put dubious new strictures on management. It will be illegal, for example, to fire a worker who is organizing other workers on company time.

Labor's problems are serious. But it will solve them sooner by looking inward, not by trying to threaten individual corporate directors with the novel weapon of the secondary blacklist.

[From the Wall Street Journal, Mar. 31, 1978]

COMING ATTRACTIONS, 1984

As we now are following with renewed interest the 15-year campaign of the textile union to organize J. P. Stevens Co., the latest development is especially absorbing. A National Labor Relations administrative law judge—Joel Harmatz—has declared the union to be the bargaining agent for 1,000 employes at Stevens' plants and warehouses in Wallace, N.C., even though a majority of the employes there voted against the union in a 1975 election.

We have examined Mr. Harmatz's decision and can report what has been going on. It will make particularly interesting reading since the House just passed the AFL–CIO's Labor Reform Bill, which gives union organizers new rights and further restricts what employers can do to fight back.

In the fall of 1974, the Amalgamated Clothing and Textile Workers Union successfully collected authorization cards from about half of the employes at the Wallace complex, the cards authorizing an NLRB election to determine whether or not a majority desired representation by the ACTWU.

On Feb. 19, 1975, 404 workers cast ballots for the union and 540 cast ballots against the union.

The ACTWU thereupon charged Stevens with unfair conduct leading up to the election, asked that the vote be disregarded and that it be declared the bargaining agent. After reviewing the charges, Mr. Harmatz deemed the authorization cards "a more reliable measure of employe choice than the results of the Feb. 19, 1975 election." He ordered Stevens to pay all the costs of litigation including the expenses of the union.

What did Stevens did that was so grossly unfair as to invalidate a secret-ballot election and elevate in its place a mere petition?

First, Stevens interfered with union distribution of campaign literature the day before the election. In the weeks preceding the election, the union distributed its literature outside the plant gate and via mail and in person at the homes of the workers. On Feb. 18, the union abruptly switched tactics and began handing out literature inside the plant. Supervisors ordered the workers to cease. In the hearings, Stevens conceded that the workers should not have been stopped as long as they were in nonwork areas, but that the supervisors were not aware of this fine point in labor law and were reacting to the abrupt change in the union's practice (which almost seemed designed to elicit a technical violation).

Second, Stevens has a profit-sharing plan for its employes. In 1974 when the stock market hit bottom, the value of the invested funds sank with it and employes were alarmed. One of Stevens' competitors, Burlington Industries, had the same problem. On September 19, 1974, Burlington announced a revision of its profit-sharing plan to give employes some protection against market fluctuations. On January 17, 1975, Stevens followed suit. The union charged dirty pool, saying Stevens, unlike Burlington, did not have the interests of the workers at heart, only removing a grievance that would help the union win the election.

Third, on Sept. 30, 1974, 134 workers at the Wallace plant were laid off because of slack, drawing unemployment compensation of $68 per week. If they had been laid off the next

day, Oct. 1, they would have drawn $90 per week because of a change then taking place in North Carolina law. Stevens, having checked with the state bureaucracy, though the workers would get the new, higher rate. It tried to clear up the misunderstanding, but the state refused to budge. On Feb. 11, 1975, Stevens said it would pay them the difference itself. Again, dirty pool, said the ACTWU and administrative law Judge Harmatz.

In these violations Mr. Harmatz finds a "pattern of unlawful conduct." He was horrified, "No end appears to this unrelenting effort to exhaust the resources of this union in the hope that eventually it will be left with no alternative other than complete withdrawal." And because of the inability of the union to distribute literature inside the plant, because of a change in profit sharing and because of extra payments to the unemployed, it seems, 540 workers were so confused their ballots can't be counted.

For Mr. Harmatz's remedy is not to order a new election, but simply to declare the losers the winners. The union did get about half of the workers to sign authorization cards, and he declares this the "more reliable measure of employe choice." No matter that the cards are often sold as simply election petition. No matter that they are gathered face to face, maybe or maybe not by smiling union organizers in dark alleys. If you signed a card for an election to get the organizer off your back, it counts as a vote for the union. But it does not count if you vote against the union by secret ballot.

George Orwell couldn't have dreamed up a better example of Doublethink. 1884, here we come.●

RHODESIA

● Mr. HATCH. Mr. President, on February 22 Senator DOLE, Senator GARN, and I sent a letter to President Carter expressing concern over the then recent remarks that had been made by Ambassador Young and other officials in the administration concerning the "Salisbury Settlement" for the Rhodesian problem. At that time we indicated that we were concerned over administration statements that could be deleterious to the chances of the settlement reaching its fruition. We called upon the President to permit the people of Rhodesia, both black and white, to try and arrive at a peaceful solution to the problem of majority rule.

On March 22 I received a reply to this letter and at that time the administration appeared to be heading in the direction that we had suggested in our letter of the previous month. Their response quoted President Carter as stating:

We have not rejected the individual component parts of the so-called internal settlement plan. To the extent that they are consistent with the overall Anglo-American plan provisions, they are a step in the right direction.

At this time I took heart that the world might eventually see a peaceful conclusion to the unrest that has dominated this African nation.

Mr. President, the news of the past weekend has brought home to me the fact that such is not to be the case. President Carter's denouncement of the settlement has dealt that initiative a grievous blow. Once again the administration has failed to recognize the issue and what is most beneficial to the United States. By recognizing the leaders of the guerrilla groups, the Patriotic Front, the United States has given them the incentive to continue to wage this brutal war against the people who desire to live in peace. Robert Mugabe and Joshua Nkomo have vowed to continue the fight until they have control of the government.

However, had this settlement been given the support of the United States, or at the very least been permitted to develop independent of U.S. interference, the people of Rhodesia might well have decided that to live in peace is better than war and the recruits that these guerrilla leaders seek might have been a little slower in coming forward. Now with the United States apparently legitimizing their cause, it will be much easier for them to continue to wage their war.

What will the United States gain by supporting these men? As I view the situation, we have nothing to gain, and everything to lose. The Patriotic Front bases its operations out of Marxist nations, supported by the Soviet Union. They are tied to the Communists and allowing them to usurp the reigns of government would be tantamount to creating a new Communist state in southern Africa.

In yesterday's Washington Post the Evans and Novak column dealt with this topic in an excellent manner. In their column they indicate that the administration is using the rationale that to support anything but the guerrillas would be an open invitation for Soviet-Cuban intervention. It is this fear of Soviet intervention through their puppet army, the Cubans, that has forced the administration to once again demonstrate a "knee-jerk" response to the Soviet wishes. As I have stated before on the floor of the Senate, the Carter administration seems hellbent on continuing a foreign policy that is centered around a policy of avoiding a confrontation with the Soviet Union at all costs, even the cost of freedom for the people of Rhodesia.

Mr. President, I call on the Carter administration to take a stand for the freedoms of people around the world. Let us deal with the moderates in Rhodesia, the men who see the wisdom of a settlement through the ballot box and not by the force of a gun barrel. These are men who are committed to the Western alliance. These are men who truly want peace and are willing to take the necessary steps to reach this goal. The administration owes it to the people of Rhodesia to allow them to work out their problems in a peaceful manner.

Mr. President, I submit the Evans and Novak column from the Washington Post of April 3 for the RECORD.

The article follows:

A DEAD END ON RHODESIA?

(By Rowland Evans and Robert Novak)

The newest rationale behind Carter administration preference for Soviet-supplied guerrillas instead of pro-Western moderates to run Rhodesia is fear of yet another Cuban military operation, a rationale so clearly bogus that it brings the United States near dead end in Africa.

While the British government gently nudges closer to supporting the internal (biracial) Rhodesian settlement, the official U.S. line grew tougher last week. The agreement between white Prime Minister Ian Smith and moderate black nationalists, a feat beyond imagination a short year ago, gives hope for a Western-oriented Zimbabwe (the future name for Rhodesia) with the white minority retaining a vital role. Yet the State Department's official spokesman on March 27 branded that settlement "illegal."

Since it seems clearly in U.S. interests, why should the Carter administration denounce it? The State Department's private answer: fear of Fidel Castro's potent Africa corps, fresh from military triumphs in Angola and the Horn of Africa. Should the United States promote a moderate government for Zimbabwe, policymakers told us, the Kremlin might signal Castro to move into Rhodesia and, considering the mood on Capitol Hill, Congress would permit no U.S. response.

Yet U.S. intelligence considers a Soviet-Cuban intervention most unlikely and in no way influenced by statements out of Washington. Those few sturdy souls at State seeking rationality in Africa policy recognize the Cuban threat as a ploy of policymakers headed by Andrew Young, ambassador to the United Nations.

Young's policy is geared entirely to the desires of Nigera and the "frontline" states bordering Rhodesia. These nations have no interest in Rhodesia's white minority and are the patrons of Soviet-backed guerrillas in the Patriotic Front. Thus, the United States enters a policy dead end contrary to its own interests.

But support for the internal settlement is rising among the anti-communist black nations of French-speaking Africa (reflected by Gabon's March 24 statement expressing "optimism"). Once elections install black majority government with a black prime minister in independent Zimbabwe starting in 1978, world support would move toward the moderates. The one potential obstacle: a military takeover before then. That is easier said than done. Guerrilla activity is tepid. Base camps in Mozambique have been cut up by cross-border raids, and barely 1,000 guerrillas now operate within Rhodesia. So the Patriotic Front's only certain way of preventing elections would be intervention by Cuba's well-armed Africa corps.

But U.S. analysts regard such a move as most unlikely, partly because Moscow knows it would bring in the South African army (which, of course, needs no authorization from the U.S. Congress). Although outgunned and outnumbered, White South African troops handled the Cubans in Angola two years ago. This time they would attack in force.

What is truly involved in U.S. policy is not fear of Cubans so much as desire to please Nigeria and other black African states. That this is also British policy was pointed up in London during secret talks Feb. 20–23 between Foreign Secretary David Owen and the Rev. Ndabininghi Sithole, a principal black nationalist leader in the internal settlement.

While calling that settlement "a step in the right direction," Owen repeatedly expressed his need to follow "the opinion of the world," adding: "We can't isolate ourselves from the rest of the world." By "world opinion," Owen clearly meant black African opinion.

Owen pleaded with Sithole to bring in Patriotic Front leader Joshua Nkomo, who exercises political control over the Soviet-equipped but militarily untested guerrilla army based in Zambia. Since Nkomo has little popular support inside Rhodesia, his lifelong dream of power depends on his army—not the ballot box.

On Feb. 20, Owen told Sithole that Nkomo must return for the internal settlement to

be acceptable. On Feb. 21, Sithole replied with a question: "How do we get Joshua [Nkomo] to return when he says publicly he will destroy the polling booths in the country and disrupt the democratic process?" A Sithole lieutenant, Joseph Gopo, put it more graphically: "What choices are we given? Take Joshua as King or get slaughtered. He is welcome to try the slaughter." Sithole complained that "a space for Nkomo" means "not only Nkomo but the Cubans and Russians and Zambians as well."

Owen did not insist, declaring: "I don't rule out accepting the internal settlement." He seemed to accept Sithole's objections to an interim British high commissioner and guerrilla domination of Zimbabwe's new national army.

There is not much flexibility in Washington. A Sithole emissary visiting the State Department March 4 was informed that any settlement must be predicated on the Anglo-American proposals. When the official State Department spokesman was instructed on March 24 to put the "illegal" brand on the internal settlement, the United States reached a policy dead end, publicly rationalized by the Cuban spectre.●

DR. MARTIN LUTHER KING, JR.

● Mr. SASSER. Mr. President, today marks the 10th anniversary of the death of one of the truly great men of American history, Dr. Martin Luther King, Jr.

At the age of 39, Martin Luther King had won many great victories. Not only in the South, but all across the Nation, black Americans made significant political and social gains under Dr. King's leadership. Dr. King's powerful weapon was the manner in which he appealed to the conscience of America, saying that "injustice anywhere is a threat to justice everywhere."

The powerful persuasion of his nonviolent movement encouraged the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Radical changes improved the standing of blacks in America—changes accomplished by the moral force generated by Dr. King.

When Martin Luther King became the youngest man ever to win the Nobel Peace Prize, he said:

Nonviolence is the answer to the crucial political and moral questions of our time; the need for man to overcome oppression and violence without resorting to oppression and violence. Man must evolve for all human conflict a method which rejects revenge, aggression, and retaliation. The foundation of such a method is love.

Ten years ago today, Americans lost the moral force embodied in Dr. King. But that does not mean that the goals and dreams of Martin Luther King are forgotten. His legacy can inspire us to take up the cause to which Dr. King was increasingly focusing his attention—economic injustice.

I have walked the streets of Memphis where Martin Luther King led his last march prior to his tragic death. I have visited with the Memphis sanitation workers with whom Dr. King spent his last days.

I have seen the debilitating effects of economic inequality in Memphis and other cities and towns across the country—and the despair reflected in the faces of millions of jobless young people, many of whom have little hope for the future.

So there is plenty of work to be done. But Dr. King demonstrated the leadership necessary to succeed in difficult times, and we can all benefit from his example.

Martin Luther King offered every American hope that our country would allow every individual to live a decent and fulfilling life. Today, a decade after his death, we must renew our commitment to those dreams which he inspired us to believe.●

CAN THE CONGRESS CATCH UP WITH THE COUNTRY?

● Mr. KENNEDY. Mr. President, in hearings held last month by the Joint Economic Committee's Subcommittee on Energy, for which I serve as chairman, it became clear that solar, wind, and other renewable energy sources provide opportunities for employment and energy production which are not being fully utilized by the Federal Government. Now, in an article in the New York Times for April 1, David Morris, director for the Institute for Local Self-Reliance in Washington, tells us about many of the initiatives around the country which are running ahead of the Federal Government in demonstrating how we can save and produce energy.

Instead of increasing electrical energy, Davis, Calif., intends to cut its electricity bill in half in 1985. Ocala, Fla., is rapidly going to solar energy through a unique new financing system. Builders in Atlanta and Eugene, Oreg., have constructed energy-efficient houses which reduce by 60 percent the energy consumption required under the Federal Housing Administration's new minimum standards.

Mr. Morris' article is an invitation for the Federal Government to begin learning from the remarkable innovations taking place throughout the country. I intend to learn about, recognize, and encourage energy innovation at the local level and am pleased to ask that his article, "Looking to Localities for Energy Policy Insights," be printed in the RECORD.

The article follows:

LOOKING TO LOCALITIES FOR ENERGY POLICY INSIGHTS

(By David Morris)

WASHINGTON.—The public has moved far beyond the Federal Government in dealing with the energy crisis. The creativity of our 50 states and more than 6,000 cities and counties should be the basis for national policy. To date, it has not.

While the National Energy Plan has projected a 50 percent increase in electric generation by 1985, the city of Davis, Calif., has adopted a goal of reducing by 50 percent its electricity usage by that year. While the National Energy Plan projects a 300 percent increase in nuclear reactors by 1990, the publicly owned Seattle city light and power utility has refused to participate in new nuclear construction. Its calculations show that energy conservation is a far more beneficial investment than new construction. The Tennessee Valley Authority has discovered that it is economical to provide zero-interest loans for energy conservation.

After three years, the Federal solar tax credit is still languishing in Congress. Since its introduction, California has implemented, not one but two tax credits, raising the credit from 10 percent to 55 percent. It is still unclear whether the Congressional tax credit will contain a refund provision. If it does not, it will lessen the chances of our working class entering the solar age, for this group may not be able to take advantage of the entire credit in one year. New Mexico has a refund provision, and California's tax credit can be carried over until fully used.

Most energy professionals have learned that it can be more efficient to design a home that acts like a collector and storage system than to add on a solar collector. This is done by increasing the amount of south-facing glass and using floor and wall material that collects and stores heat. While the national tax-credit legislation is silent on the eligibility of these so-called passive solar systems, New Mexico already has several years' experience in developing workable regulations in this area.

Local creativity goes still further. There is almost no chance that the Federal Government will enact a low-interest loan program for solar technology this session, even though everyone in the solar field recognizes that financing is the key to rapid commercialization, Santa Clara, Calif., has, through its water and power department, been leasing solar systems. Ocala, Fla., has authorized its publicly owned utility to become the billing and bookkeeping agent for any private solar company that can install solar-energy systems that can be paid for through energy savings.

The Federal Department of Energy's small-scale energy programs are just beginning. Although they are but a speck in the budget, even that little has been a reaction to the successes of small wind-generator companies and small hydroelectric producers, which have successfully demonstrated the economic viability of home systems.

The final draft of the National Energy Plan deleted a prohibition on utilities' discriminating against solar-energy systems through their rate structures, believing it was unnecessary. Yet legal controversies, such as the Public Service Commission litigation in New York State concerning the rate to be paid by Con Edison to purchase electricity pumped back into the grid system from home wind generators, are occurring regularly.

The Federal Government's energy-conservation standards may already be obsolete. There are localities that have surpassed the standards significantly. Builders in Atlanta and Eugene, Ore., have constructed fast-selling energy-efficient houses that reduce by 60 percent the energy consumption required under the Federal Housing Administration's new minimum standards.

It may be understandable that the Federal Government should be behind the rest of the country. The Government's huge size makes any program development a tortuous process. And the relative newness of the energy crisis means that the rest of the country is learning at an accelerated pace.

Yet I am constantly amazed at the lack of knowledge by Federal Administrators and Congressional staff members about what is going on in the rest of the country. It will be extremely unfortunate if the Government should wind up enacting minimal legislation rather than encouraging states, cities and communities to go as far as has been proved feasible in attaining energy self-reliance.

We need a national program that can spotlight those innovations that have proved successful and can learn from the failures. The rich diversity of experimentation is heartening. It is problematic whether the Federal Government is learning from the people.●

CURRENT STATUS OF SALT

● Mr. CULVER. Mr. President, the Strategic Arms Limitation Talks (SALT) are the most important and far-reaching negotiation in which the United States is currently engaged. The slow but careful process of diplomacy is producing an agreement which appears to reduce strategic weapons competition and restrict the range of uncertainty about future threats. Many important issues, however, still remain to be resolved.

The most complete, unclassified summary of the current status of the SALT negotiations, including the issues already agreed and those still under discussion, was given recently in a public address by Mr. Walter Slocombe, Director of the SALT Task Force in the Department of Defense.

Mr. President, I submit Mr. Slocombe's statement for the RECORD.

The statement follows:

STATEMENT ON SALT BY MR. WALTER SLOCOMBE, DIRECTOR, DOD SALT TASK FORCE

Before discussing SALT in detail, let me first offer some general background on the strategic nuclear balance and our nuclear forces.

Although a strategic nuclear attack is the least likely contingency we face, maintenance of the strategic nuclear balance is one of the most vital defense tasks before us. A strategic nuclear equilibrium, in fact, exists between the United States and the Soviet Union at the present time. Strategic deterrence and essential equivalence are in effect.

To be sure, there are differences between the two forces. Without going into detail, suffice it to say that the Soviets now have about 10 percent more launchers, a heavier emphasis on ICBMs, and more throwweight, while the US has more MIRV launchers, and more re-entry vehicles, i.e., weapons, as well as leads in technological quality.

In summary, the United States and the Soviet Union both have large and redundant deterrent forces. Neither side now has a credible capability in terms of sufficient hard target kill weapons for use against hardened silos although this is an area of great concern for the future. While specific force elements and capabilities on each side pose certain problems for the other side, there is a rough balance of strategic capabilities when measured against the static and dynamic indicators used in our strategic analyses. The present situation is a condition of strategic equilibrium.

It is the preservation of this equivalence and stability that we seek to promote in SALT.

This Administration is determined to maintain the U.S. strategic deterrent. We would prefer to maintain it through equitable and verifiable agreements for nuclear arms limitations and reductions. But we as a nation will maintain it by whatever means and resources are necessary. No one should have any doubts whatsoever on that score.

I stress this determination for two basic reasons:

The first, quite simply, is that the strategic balance is not static; owing to a substantial and continuing Soviet effort, it is highly dynamic.

And it is essential to recognize that arms control is only one of the instruments on which we rely. We cannot and do not expect it to do everything—nor is it a reasonable objection to a good agreement that it will not do everything.

The United States has not been idle in the competition; we have done more than sit on our hands. We have programs to maintain each element of the Triad: Trident subs and missles, ALCMs, and Minuteman improvements and work on a mobile ICBM. But all of us must recognize that the Soviets have underway a number of large, impressive, and costly strategic programs to strengthen their offensive capabilities, their active defenses, and their passive defense system.

The Soviets are now deploying a fourth generation of ICBMs at a rate of between 100 and 150 a year. At the same time that the Soviets are improving the current models, they also have four new ICBMs under development. Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain.

What is certain is that we cannot ignore their efforts. The view of this Administration is that we have for many years been at the point where a full-scale thermonuclear exchange between the Soviet Union and the United States would be a disaster of unprecedented proportions to both sides. None of these Soviet programs—as we understand them in the Defense Department—changes the judgment that a full-scale nuclear exchange would be an unprecedented disaster for them as well as for us.

But if deterrence of nuclear war is our most fundamental defense objective—and it surely is—what counts is what Soviet civilian and military leaders believe. And there is the dimension of how others—Allies and even we ourselves—see the balance. On that score, we face another uncertainty. What we see as sufficient may appear as something else to them. What would deter us might not deter Soviets. What some consider credible as a deterrent, they may dismiss as a bluff. The converse is also true: what seems excessive to us may seem to them no more than an exaggerated prudence demands.

Great caution and careful hedging are essential in the face of these uncertainties. In these circumstances, our strategic forces will need more than the capability for second-strike assured destruction of urban-industrial targets. They must also have the capability to execute a number of other options, and to hold back a significant post-exchange reserve.

Moreover, to meet both our direct military and our broader political need, we insist on essential equivalence with the Soviet Union in strategic nuclear forces.

By essential equivalence, we mean the achievement of these four general conditions:

First, that the Soviets do not see their strategic nuclear forces as usable instruments for political leverage, diplomatic coercion, or military superiority;

Second, that nuclear stability, especially in a crisis, is maintained;

Third, that any advantages in force characteristics enjoyed by the Soviets are offset by other U.S. advantages; and

Fourth, that the U.S. posture is not in fact, and is not seen as inferior in performance to the forces of the Soviet Union.

As long as we maintain the capabilities for these tasks, the strategic nuclear balance should remain stable. These objectives set the framework for SALT.

Arms Control. Strategic stability would, ideally, be assured through specific, equitable, and verifiable arms control agreements. Furthermore, stable mutual deterrence and essential equivalence can be maintained at substantially lower strategic force levels than exist at the present time. That is why we have been seeking not only limits on what the United States and the Soviet Union can build, but also reductions in what they actually deploy.

I believe it will be useful to begin by reviewing what has been agreed—and what remains to be done.

The proposed SALT TWO agreement has three principal elements:

A Treaty to last until 1985, embodying basically the Vladivostok Accord with some reductions below the Vladivostok ceilings; as well as a variety of structural provisions to enhance verification and lend precision to the limits.

A Protocol to last until September 1980, temporarily limiting certain aspects of cruise missiles, new types of ballistic missiles, and mobile ICBMs; and

Principles and Guidelines for SALT THREE.

The proposed Treaty includes the following major provisions:

An initial overall aggregate level of 2400 strategic systems, to be reduced to an agreed number between 2160 and 2250 during the term of the Treaty.

A 1320 sublimit on MIRVed ICBM and SLBM launchers and aircraft equipped with long-range cruise missiles.

A sublimit of an agreed number between 1200 and 1250 on MIRVed ballistic missiles.

A sublimit of 820 on MIRVed ICBM launchers.

The proposed Protocol includes the following provisions:

A ban on deployment of mobile ICBM launchers and on the flight testing of ICBMs from such launchers.

Limitation on the flight testing and deployment of new types of ballistic missiles.

A ban on the flight testing and deployment of cruise missiles capable of a range in excess of 2500 km, and on the deployment of cruise missiles capable of a range in excess of 600 km on sea- or land-based launchers.

The agreement is still under active negotiation and these issues remain:

First of all, there is the question of the definition of the new types of ballistic missile that are to be restricted in the Proctol. In other words, this involves the nature of the qualitative improvements that are to be inhibited through the Protocol.

What is a new type? Is the improvement of a marginal type, changing of the screws, a significant improvement or not? How about several improvements of this sort? How about the introduction of a new guidance system for an existing missile? At what point do minor improvements become major improvements? At what point do improvements become qualitative changes?

The question of inhibition on new types has become further complicated by the Soviet desire to have a specific exemption permitting them to introduce one new missile type, one new ICBM.

A second issue which is yet to be resolved involves the issue of cruise missile range definition

To simplify, I suppose most people would say if you are setting a limit and a range of cruise missiles, it is a limit from the place of launch to the place of target. The problem, however, is the cruise missile does not fly in a straight line at a certain altitude. It flies at different altitudes and it flies in a zigzag pattern. It flies at different speeds. And thus the question arises of how to reflect in the range definitions an allowance for the cruise missile to follow its flight pattern.

A third issue which is yet to be worked out is, of course, the issue of the Backfire. What kind of restrictions on the Backfire can give us a sufficient assurance that it will not be relied on as a strategic system? The Russians feel strongly this should be exempted altogether; that it is an intermediate range system. They feel that their word on it suffices. Our position is in addition to their word, we would like to have explicit assurances, the effect of which will be to inhibit them significantly from using the system as a strategic system.

Fourth, there is still the issue of the "aggregates," i.e., the numerical limits. Our position is that the total limits imposed on all strategic systems should be reduced from

the Vladivostock level of 2,400 to 2,160. That is to say, a flat 10 percent reduction. The Soviets would prefer a more modest reduction down to 2,250.

The second numbers issue is that the combined ALCM-MIRed limit of 1,320 should have a sub-limit for it of 1,200 specifically for MIRV ballistic missiles alone. It permits us to have 120 heavy bombers with ALCMs without paying a price for it in MIRVs. The Russians insist that this limit be 1,250, which gives us only 70 such heavy bombers, after which we have to pay a price in MIRVs.

A fifth issue which is still to be resolved is the kind of principles for SALT III that SALT II will incorporate. It is our hope that when SALT II is signed, it will include targets for SALT III. And we would like to make these targets fairly explicit and fairly ambitious—significant reductions, further restraints on modernization.

Sixth, there is still some negotiating going on on data base. This is an exchange of data on both sides. In the past, much of SALT was negotiated on the basis of American data. We are now having an exchange of data. We are making good progress on that.

Seventh, there is a question of MIRV verification. This is a highly complicated technical issue again, but we want certain assurances that missiles which are not MIRVed are not placed in launchers which are the same for MIRVs and non-MIRVs.

Eight, there is the question of how to distinguish among different planes of the same type some of which are strategic bombers but some of which are also used for non-strategic missions—for example, anti-submarine warfare or tankers. If you don't count them, how do you distinguish them and how do you make sure they are not easily transferable from one mode to the other. This issue also affects our flexibility to equip aircraft with cruise missiles.

Here in a nutshell is the package of issues. This detail I think indicates to you the problems in SALT which have necessitated a slow pace are real. They are not political. They are not artificial. They are genuinely complicated and difficult issues. And we have made reasonably good progress on them.

As to verification, although the possibility of some undetected cheating in certain areas exists, any cheating on a scale large enough to alter the strategic balance would be discovered in time to make an appropriate response. There will be areas of uncertainty, but they are not such as to permit the Soviets to produce a significant unanticipated threat to US interests and those uncertainties can, in any event, be compensated for with the flexibility inherent in our own programs.

In summary, we are making some progress in SALT on both constraints and reductions. If the eventual SALT II agreement meets our expectations, it will:

Mean somewhat lower levels of strategic delivery systems and MIRVs than was envisaged at Vladivostok or in later talks—and lower than we estimate we would face if there were no agreement;

Introduce an important new sublimit on deployments: a sublimit on the total number of MIRVed ICBMs;

Permit us to deploy an air-launched cruise missile (ALCM) force to maintain the effectiveness of the bomber leg of the TRIAD;

Constrain to some degree the pace of technological change, but preserve U.S. flexibility to continue R&D on various types of cruise missiles and mobile ICBMs;

Meet specific allied concerns by omitting forward-based systems (FBS) and allied systems while fully preserving cruise missile options;

Place some limits on BACKFIRE, although important details of the limits are still being negotiated.

While the United States would have preferred a more far-reaching agreement, the one that is now beginning to take shape will constitute a significant step toward meeting our strategic objectives through arms control, and could lead to further mutual restraint, both qualitative and quantitative. The reductions in Soviet launchers, coupled with the sublimits on MIRVed ballistic missiles in general, and MIRVed ICBMs in particular, will help to preserve perceptions of essential equivalence and will contribute to military equivalence and stability. Mobile ICBM research and development can continue on a schedule that will not inhibit our present plans. Work can go forward on ground-launched and sea-launched cruise missiles.

In sum, we are drawing close to an agreement that will serve our strategic purposes. Even with such an agreement, however, we will have to continue looking to our own exertions in several key areas to ensure the conditions of deterrence. Under present conditions, SALT alone cannot preserve long-term strategic stability; it must be supplemented by prudent U.S. decisions to ensure the strategic deterrent.●

TAX REFORM AT THE MASTERS GOLF TOURNAMENT AND THE KENTUCKY DERBY

● Mr. KENNEDY. Mr. President, yesterday I wrote to Mr. Jerome Kurtz, Commissioner of Internal Revenue, asking the IRS to crack down on the tax-deductible use of corporate jets and other private aircraft for pleasure trips to sporting events like the Masters Golf Tournament this week in Augusta, Ga., and the Kentucky Derby next month in Louisville, Ky.

As I stated in the letter, these two events have become notorious magnets for pleasure seekers in corporate jets. I believe that tax subsidies should not be used to defray the cost of the trip. Highly paid executives are entitled to fly to these famous sports events in corporate aircraft. But they are not entitled to a Treasury tax subsidy to help pay the cost of the trip—a tax subsidy that must be paid for with the tax dollars of average citizens.

Mr. President, I submit the text of my letter to Commissioner Kurtz for the RECORD.

The letter follows:

U.S. SENATE,
April 3, 1978.

HON. JEROME KURTZ,
Commissioner, Internal Revenue Service.

DEAR COMMISSIONER KURTZ: Although I am a strong supporter of the Carter Administration's tax reform proposals in the area of martini lunches, business entertainment, and other forms of expense account living, I believe that it is also important for the Internal Revenue Service to more effectively police the existing law, imperfect as it is, to insure that abuses are avoided to the greatest extent possible.

One area that has been a source of increasing concern in recent years has been the promiscuous use of private corporate jets for personal pleasure trips. In some cases, of course, the tax-deductible use of company planes can be justified as an "ordinary and necessary" business expense within the meaning of section 162 of the Internal Revenue Code, as in cases where company planes are used for business purposes to transport executives to locations inaccessible or poorly served by commercial airlines.

But it is difficult to believe that tax deductions should be permitted under current law in cases where the obvious and overwhelming purpose of the use of company planes is for executive pleasure trips.

This week and next month, two sporting events are scheduled to take place which have become notorious magnets for wealthy pleasure seekers in corporate jets—the Masters Golf Tournament in Augusta, Georgia, and the Kentucky Derby in Louisville, Kentucky.

I am writing at this time to urge the Internal Revenue Service to ensure that the costs of such pleasure jaunts to these and similar events are not charged off as tax deductible business expenses. I would hope that, as tax returns are audited, IRS agents will pay particular attention to this kind of expense in connection with their audits.

Highly paid executives with private planes or with access to their corporate aircraft are entitled to fly to these outstanding sports events. But they are not entitled to a Treasury tax subsidy to defray the cost of the trip—a tax subsidy that must be paid for with the hard-earned tax dollars of average taxpayers.

My understanding is that your authority under current law is ample to end these abuses of the Internal Revenue Code, by denying a business tax deduction for such expenses, or by requiring the value of such a trip to be added to the taxable income of the executives who make the trip. If that is not the case, I hope you will let me know, so that adequate remedies may be included as part of the President's tax reform program that Congress is now considering.

I understand that you have recently sent out additional instructions to IRS agents in the field to pay more careful attention in their audits to travel and entertainment expenses. Certainly, the sort of flights I have mentioned should be prime examples of the types of expenses that need greater scrutiny.

I realize that the resources of the Internal Revenue Service for enforcement purposes are already stretched thin. But these luxury sporting event trips are highly visible abuses of the tax system and have highly adverse effects on the morale of ordinary taxpayers now filling out their annual tax returns. In this situation, I believe that the value of an effective IRS compliance effort would be well worth the additional IRS resources required to achieve it.

Sincerely,

EDWARD M. KENNEDY.●

PRODUCTIVITY SCIENCE, AND TECHNOLOGY: KEYS TO U.S. ECONOMIC GROWTH

Mr. PROXMIRE. Mr. President, last night I made a statement about the importance of dealing with the inflation problem, how we neglected it very badly, and how it was the No. 1 economic problem which faces our country. There are a number of things we can do about it.

It was called to my attention today that the distinguished Comptroller General of the United States, Mr. Staats, has recently made a speech on productivity. This is at the very heart of the longrun inflation problem. Obviously, if we can make industry more productive it will be possible to pay higher wages without wage costs going up and, therefore, without inflationary pressures. I would like to call attention to several of the elements of this remarkable speech by Mr. Staats. He points out:

Daily, we are reminded in the press, in congressional debate, and by business and labor leaders—

That technology innovation has not kept

pace with that of our principal industrial competitors;

That we are becoming an increasingly "have not" Nation in the critical areas of energy and minerals;

Of the seriousness of decline in the value of the dollar against the hard currencies of many countries—a direct result of our large adverse balance of payments; and

Of the impact on production costs arising from popular demands for stricter regulations dealing with health, safety and the environment.

In addition to that, Mr. President, Mr. Staats refers to the National Commission on Productivity, and he points out that they identified four major factors contributing to productivity improvement:

1. There must be a strong underlying scientific base to provide the technological change from which practical applications can be developed,

2. There must be access to available technical information and know-how about products and processes,

3. There must be incentive to develop new products or to invest in products developed by others, and

4. There must be adequate capital resources available to finance the development and installation of new products and processes.

As far as what the Federal Government can do about it, Mr. Staats points to these areas:

Assessing periodically the nature, extent, and location of productivity problems and the status of ongoing productivity programs for all sectors of the economy;

Acting as a facilitator in bringing various groups together in a non-adversary environment to discuss productivity problems affecting more than one group, organization, or industry. Similarly, it can serve as a neutral third party, encouraging labor-management cooperation in finding ways to better use the energy and talents of workers;

Operating a productivity clearinghouse to provide national and international productivity data and knowledge on what is known about various aspects of productivity: Who knows what methods work, how much they cost, and how long they take to accomplish. This would serve all sectors of the economy.

To counteract industry's reluctance to invest in innovative R&D, the Government should seek ways to stabilize the economic outlook and the regulatory environment. The Carter administration has indicated a need to better understand how the Federal Government can assist in the technology innovation process.

I have been informed that the President's Science Advisor, Dr. Frank Press, will soon be proposing to the President that his Office and the Department of Commerce undertake a year-long domestic policy review of how the Federal Government can assist industry in stimulating the rate of technological innovation.

I might say, in conclusion, our Banking Committee expects to hold hearings on inflation in the next few weeks. We will have hearings particularly on productivity and what the Federal Government can do to improve productivity so our economy can move ahead.

PRESSING NEED FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Inter-American Commission on Human Rights recently reported on the state of human rights in several countries. Uruguay came under stiff criticism in the Commission's report for repeated violations of basic human rights. Specifically, it noted:

"Grave violations of the following human rights have been committed in Uruguay: The rights to life, to liberty, to the security of the person; the right to freedom of opinion, expression and diffusion of beliefs.

The situation of the following human rights in Uruguay is a serious one. The United States has already terminated military assistance to that country because of its poor human rights record. I applaud this strong action; it takes strong action for this country to further the cause of human rights to which it is so dedicated.

President Carter has spoken often about the importance of the human rights issue. It was certainly one of the central themes of his recent trips to parts of South America and Africa. I believe that it is fitting for this country not only to pride itself on its own respect for human rights, but also to urge other countries, such as Uruguay, to adopt a more progressive approach to those rights.

The fact that human rights are still not universally respected is one of the best arguments in favor of the ratification of the Genocide Convention. The treaty provides that the commission of genocide will be considered as an international crime. For thirty years now, the treaty has been awaiting the action of the Senate, action which I feel is long overdue. Every President since President Truman has pleaded with the Senate to ratify this convention. This country should welcome the opportunity to associate itself with a document which seeks to guarantee that the fundamental human right, the right to live, will be respected. Uruguay is certainly not the only country where human rights violations are rampant. I have often referred to the barbarous activities of the governments in Uganda and Cambodia.

I hope that the Senate will act affirmatively on the Genocide Convention soon. Ratification of this treaty will serve to show that this country is willing to take the strong steps necessary to further the cause of human rights. I urge the Senate to ratify the Genocide Convention as soon as possible.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the session of the Senate on Friday, April 7, to consider the military procurement authorization bill and the military construction authorization bill, both of which must be reported by the Senate by May 15 under the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Commerce, Science, and Transportation Committee be authorized to meet during the session of the Senate on Wednesday, April 5, 1978, to hold hearings on S. 2706, reauthorization of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures on the calendar which have been cleared all around for passage. I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 653 and 655.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING AUTHORIZATIONS FOR THE AMERICAN FOLKLIFE CENTER

The bill (H.R. 5981) to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–712), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The bill would amend the American Folklife Preservation Act, Public Law 94–201, approved January 2, 1976, to provide (1) that the authorization of appropriations for the American Folklife Center at the Library of Congress be extended for a 3-year period—fiscal years 1979, 1980, and 1981; and (2) that Presidential appointees as members of the Board of Trustees for the Center shall serve only during the time they are officials of Federal departments or agencies concerned with some aspect of American folklife traditions and arts.

BACKGROUND

The American Folklife Center was created in 1976 by Congress and directed to preserve and present American folklife through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

EXPLANATION OF THE BILL

The extension of authorization is limited to an additional 3-year period in order to provide the Congress with the opportunity to evaluate the Center's operations. Authorization levels are set at $685,000 for the fiscal year ending September 30, 1979; $1,065,000 for the fiscal year ending September 30, 1980; and $1,355,000 for the fiscal year ending September 30, 1981. These levels represent increases in the present budget with a stable operating budget to be reached in 1981.

The present statute provides that 4 of the

13-member Board of Trustees for the Center be appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts. The amendment to the act contained in H.R. 5581 would clarify the intent of the Congress that a Presidential appointee from such a department or agency be entitled to serve only during the time he remains an official with a department or agency related to folklife concerns. Transfer to a nonfolklife department, or resignation from the Federal service, would terminate the appointment.

INCREASED AUTHORIZATION FOR THE WORK INCENTIVE PROGRAM

The bill (S. 2779) to authorize additional appropriations for the work incentive program establishing by title IV of the Social Security Act, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401 of Public Law 95–30 is amended by striking out "$435,000,000 for fiscal year 1979" and inserting in lieu thereof "$700,000,000 for fiscal year 1979".

SEC. 2. (a) Subsection (d) of section 403 of the Social Security Act is amended to read as follows:

"(d)(1) Notwithstanding paragraph (3) of subsection (a) the rate specified in such paragraph shall be deemed to be 90 per centum with respect to social and supportive services provided pursuant to section 402(a)(19)(G).

"(2) Of the sums authorized to be appropriated by sections 401 and 431 for any fiscal year (commencing with the fiscal year ending September 30, 1980), the aggregate of the sums appropriated for the following purposes shall not exceed $1,500,000,000: (A) for the purpose of making payments with respect to services to which paragraph (1) applies, and (B) for the purpose of establishing or carrying out programs authorized to be established by section 432.".

(b) The first sentence of section 431(a) of such Act is amended by striking out "There" and inserting in lieu thereof "Subject to section 403(d)(2), there".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–713), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY OF THE BILL

The work incentive (WIN) program is designed to assist families on welfare to become independent through training, placement, and other services. Federal funds pay 90 percent of the cost of the program. The administration has included $365 million in the 1979 budget for the WIN program; a bill signed into law last year (Public Law 95-30) authorized an additional $435 million for employment and supportive services for welfare recipients, with no requirement for State matching funds.

The committee bill would increase the amounts authorized under existing law by an additional $265 million in fiscal year 1979. In addition, the bill would authorize funding for the WIN program of up to $1.5 billion for years after fiscal year 1979.

II. BACKGROUND AND GENERAL EXPLANATION OF THE BILL

The work incentive (WIN) program was established under the Social Security Act as a means of assisting families on welfare to become independent through training, placement, and other services. Federal funds pay 90 percent of the cost of the program. Despite limited Federal funding, which has remained basically at the same level since fiscal year 1974, this program has been progressively more successful in placing WIN participants in nonsubsidized employment and reducing the welfare rolls.

In fiscal year 1973, 34,000 families in which a family member was a WIN participant went off welfare and an additional 31,000 families received a reduced AFDC grant because of the salaries earned by WIN participants who became employed. In fiscal year 1976, 87,000 such families went off welfare, and 95,000 received a reduced AFDC grant because of the salaries earned by WIN participants. These figures represent a substantial increase over fiscal year 1973. In fiscal year 1977, there were 136,000 such families who went off welfare, and an additional 135,000 families who remained welfare recipients, but whose AFDC payments were reduced due to their additional income.

The Labor Department estimates overall savings of $655 million in fiscal year 1977 related to the employment of WIN participants, including $409 million in Federal funds and $246 million in State and local funds. The total represents $439 million in annualized welfare payment reductions, medicaid savings of $115 million, and food stamps reductions of $102 million. All of this has occurred with basically the same amount of funding in the last 4 fiscal years, and despite the fact that this has been a period of relatively high unemployment.

The administration has included $365 million in the 1979 budget for the WIN program. Public Law 95–30 authorized an additional $435 million for employment and supportive services for welfare recipients with no requirement for State matching funds. The committee bill would increase the amounts authorized under last year's law by an additional $265 million in fiscal year 1979. In addition, the bill would authorize funding for the WIN program of up to $1.5 billion for years after fiscal year 1979.

Present funding levels allow full participation in the program by only one-fourth of WIN registrants. Seventy-five percent of the current 2.2 million persons registered during a given year receive no services other than registration and appraisal. The committee bill would enable the Secretary of Health, Education, and Welfare and the Secretary of Labor to provide the kinds of services needed to help significant numbers of welfare recipients prepare for and find employment. This includes coaching and orientation to employment and job development and placement assistance. In addition, supportive services, including child care, are to be provided when necessary.

The WIN program is directed at those who most need help in finding and holding a job—employable recipients of aid to families with dependent children (AFDC). Increasing the level of activity under the WIN program will result in promoting the employment of recipients, thereby increasing their income, and enhancing their capability for self-support and independence. It will also help to reduce the welfare caseload.

Section 1 of the committee bill would authorize additional funding for the WIN program of $700 million for fiscal year 1979 (compared with $435 million under present law) without a requirement for State matching. When this authorization is added to the amount already in the President's budget ($365 million), the total funding would be $1.065 billion. With a program of this magnitude, it is estimated by the Department of Labor that the WIN program would generate total welfare and other savings to the taxpayer in 1979 of $1.526 billion of which $949 million would be the Federal share and $577 million would represent State and local savings.

At the increased funding level of $1,065 billion, it is anticipated that 575,000 WIN participants will be employed in nonsubsidized employment in 1979. In fiscal year 1979, 335,000 families in the aid to families with dependent children (AFDC) program in which a family member was one of these WIN participants will go off welfare and an additional 240,000 families will receive a reduced AFDC monthy payment because of salaries earned by the employed WIN participants. This would result in annualized welfare payment reductions of $1.0 billion, savings in medicaid of $296 million, and savings in food stamp expenditures of $230 million in fiscal year 1979.

Section 2 of the committee bill would amend sections 403(d) and 431 of the Social Security Act to authorize funding for the WIN program of up to $1.5 billion for years after fiscal year 1979.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, when it completes its business today, stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION TOMORROW OF SENATOR HARRY F. BYRD, JR., AND SENATOR DOLE AND FOR RESUMPTION OF CONSIDERATION OF THE PANAMA CANAL TREATY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the prayer on tomorrow morning, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 10 minutes; that Mr. DOLE then be recognized for not to exceed 15 minutes, and that, no later than 9:30 a.m. on tomorrow, the Senate resume consideration of the treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow morning. After the prayer, Mr. BYRD of Virginia will be recognized for not to exceed 10 minutes, after which Mr. DOLE will be recognized for not to exceed 15 minutes, after which the Senate will resume its consideration of the Panama Canal Treaty, with the time to be equally divided between Mr. CHURCH and Mr. HATCH or their designees. A vote will occur in relation to the amendment by Mr. HATCH at 11 o'clock a.m. tomorrow. That will be a rollcall vote. There

may be other rollcall votes during the day.

I guess that about sums it up for tomorrow.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate, in executive session, stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and, at 6:34 p.m., the Senate, in executive session, recessed until tomorrow, April 5, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 4, 1978:

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Robert J. Sugarman, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

HOUSE OF REPRESENTATIVES—*Tuesday, April 4, 1978*

The House met at 12 o'clock noon.

Rabbi Henry E. Kraus, Ph. D., D.D., Temple Beth Ami, West Covina, Calif., offered the following prayer:

I humbly ask God to bless the work of your hands and the thoughts of your minds. May you establish justice to bring peace to mankind. I pray we will understand: "Eternity is not perpetual future, but perpetual presence."

I quote the ancient prayer:

"May God who established peace in the High, may He establish peace here in Earth."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RABBI HENRY E. KRAUS

(Mr. LLOYD of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD of California. Mr. Speaker, I am very pleased to welcome a close friend, Dr. Henry E. Kraus, rabbi of Temple Beth Ami, West Covina, Calif., as today's visiting clergyman. Rabbi Kraus was ordained at the Jewish Theological Seminary at Budapest, Hungary, with the highest rabbinical degrees and received his Ph. D. at the University of Budapest.

It was on this day, April 4, 1944, that he was forced by the Nazis to wear the Yellow Star of David as a sign of degradation. Along with his congregation, he was deported to Auschwitz and later, Buchenwald. The American 3d Army liberated him in 1945.

After the war, he became chief rabbi of western Hungary. Rabbi Kraus was one of the 12-member governing body of the Hungarian Jews, as well as one of the 7 members of the board of governors of the Jewish Theological Seminary of Budapest, where he lectured on the "practical rabbinate." He also lectured at the universities on philosophy and ancient history and was a frequent speaker on Radio Budapest. He has authored a book and many articles. It was during the Hungarian revolution that he escaped and came to this country in January 1957.

A member of the Rabbinical Assembly, Rabbi Kraus served as one of the vice presidents of the assembly's western region and is also a former president of the Los Angeles Eastern Area Board of Rabbis.

In 1975 the State of Israel honored him with the Ben Gurion Award—he was the first recipient of this award in California—and in June 1976 the Jewish Theological Seminary of America awarded him a doctor of divinity, honoris causa.

I feel we are honored to have him with us today, and would also like to welcome his family, who are here with us today.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

HABIB HADDAD

The Clerk called the bill (H.R. 3995) for the relief of Habib Haddad.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LOURDES MARIE HUDSON

The Clerk called the bill (H.R. 8449) for the relief of Lourdes Marie Hudson.

There being no objection, the Clerk read the bill, as follows:

H.R. 8449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lourdes Marie Hudson may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by John Allen Hudson and Genevieve Lynch Hudson citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. YOUNG HEE KIM KANG, HEE JAE KANG, HEE JIN KANG, AND HEE SOO KANG

The Clerk called the bill (H.R. 3996) for the relief of Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang.

There being no objection, the Clerk read the bill as follows:

H.R. 3996

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang shall be deemed to have a priority date of April 22, 1974, on the fifth preference foreign state limitation for Korea.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

ERNESTO J. GARCIA, JR.

The Clerk called the bill (H.R. 2660) for the relief of Ernesto J. Garcia, Jr.

There being no objection, the Clerk read the bill as follows:

H.R. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the adminisration of the Immigration and Na-

tionality Act, Ernesto J. Garcia, Junior, may be classified as a child within the meaning of section 101(b)(1) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. Ernest Garcia, citizens of the United States, pursuant to section 204 of such Act.

With the following committee amendments:

On page 1, line 4, strike out the name "Ernesto J. Garcia, Junior," and insert the name "Ernesto F. Garcia, Junior,".

On page 1, line 8, strike out the word "Act." and insert in lieu there the following: "Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Ernesto F. Garcia, Junior.".

A motion to reconsider was laid on the table.

MARTINA NAVRATILOVA

The Clerk called the bill (H.R. 10210) for the relief of Martina Navratilova.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ERNEST WARD McBRAYER

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding the late Ernest Ward McBrayer of Greenup, Ky.

Mr. McBrayer was born July 31, 1912, in Greenup County, a son of the late Ernest and Myrtle Brown McBrayer. He was a retired roundhouse foreman for the Chessie System, an elder of the Greenup Christian Church, a member of the Greenup Lions Club and a member of the Friday Morning Prayer Breakfast Group in Greenup. He was a veteran of the U.S. Navy, serving in World War II.

His son, Kentucky Commerce Commissioner W. Terry McBrayer, is a longtime friend of mine with whom I attended the University of Louisville School of Law and we served together in the Kentucky Legislature and various political endeavors.

Surviving in addition to Ward McBrayer's son are his wife, Mrs. Ethel Brown McBrayer, a retired elementary school principal; two daughters, Mrs. Phyllis Smith of Greenup and Mrs. Judy Campbell of Frankfort; a brother, Sherman McBrayer of Raceland; four sisters, Mrs. Nell Burroughs, Miss Virginia McBrayer and Mrs. Dixie Daugherty, all of Worthington, and Mrs. Edna Hall of Greenup; and seven grandchildren.

I extend to the McBrayer family my sincere sympathy upon the death of this outstanding Kentuckian whose life influenced so many people.

CRUDE OIL TAX MAKES LITTLE SENSE

(Mr. LEACH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEACH. Mr. Speaker, with the return of the President from his extended trip to Latin America and Africa, there is wide ranging speculation that the administration is considering the possibility of imposing a substantial duty on imported crude oil. This tax would add an additional one-fourth to one-half percent to the rate of inflation in America and give OPEC every incentive to increase prices even further.

Of fundamental significance to people of my home State of Iowa is that any tax on crude oil will not be equitably distributed. Most heavily such a tax will fall on the Midwest in that 16 percent of all crude oil is consumed by farmers although they make up less than 4 percent of the population. In addition to being antiagriculture, a tax on crude oil is anti-Northern because of our severe winters and antirural because in States like Iowa we do not have the benefit of mass transportation nor the option to drive smaller cars on our rural gravel roads.

A 7-cent-a-gallon increase in gasoline prices, which a $6 a barrel import tax implies, can only be justified if it leads to decreased consumption or decreased reliance on imported oil. Unfortunately most economists agree that energy usage is not apt to be discouraged much nor domestic production encouraged much by price increases of this nature. What therefore is disturbing to the people of Iowa is the appearance that a new crude oil tax will be less related to the need for an energy program than it is to the need to raise new taxes to pay for the President's spending programs, particularly his new urban emphasis.

In this regard, it is becoming increasingly clear that what we are witnessing in this administration is a massive reorientation of Federal spending away from rural areas to the urban centers and a massive increase in tax obligations for States like Iowa to pay for these programs. In 1976, for example, the 10 most depressed urban centers received 31 cents in Federal aid for every dollar raised locally. Now in 1978, these same cities get 54 cents for every local tax dollar, and this will go up further if the administration's latest urban program is adopted.

My feeling is that neither energy nor many other American problems are likely to be solved through taxation. A crude oil tax, whether it be in the form of an import duty to raise the price of imported oil or a crude oil equalization tax, as the administration proposed last spring, to raise the price of American-produced oil to world standards, is clearly unjustified. But if the administration imposes the former or Congress acquiesces to the latter, any new revenues should be used to roll back recent social security tax increases rather than to support the new spending programs which have so disastrously gotten out of hand. Inflation can only be controlled if we constrain Federal spending and match revenues with expenditures. The administration would be well advised to rethink its tax and spending initiatives. We need greater constraints in Federal spending, greater equity in the raising as well as distribution of Federal funds.

REINTRODUCTION OF SMALL BUSINESS TAX

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am today reintroducing, for the second time, the Small Business Tax Relief Act of 1978. I am pleased to note that the response to the bill has been very positive from both sides of the aisle and from all parts of the country.

To date 37 of my colleagues have cosponsored the Small Business Tax Relief Act of 1978. I believe that this bill provides a vehicle for assisting, in a meaningful way, small businessmen and those in our Nation who wish to become small businessmen.

There is not one Representative in this Chamber who does not have a significant number of small businessmen in his or her constituency. When one considers that approximately 87 percent of businesses are small businesses it is clear that we in the Congress must help insure that these commercial ventures prosper and grow.

Mr. Speaker, I am gratified to be able to reintroduce the Small Business Tax Relief Act of 1978 and call upon my colleagues to join me in nonpartisan efforts to assist those who make up our Nation's commercial backbone.

CANCELLATION OF NEUTRON WEAPON SEEN AS SERIOUS MISTAKE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I understand that it has been partially confirmed that President Carter has reconsidered and ordered that the neutron weapon system not be completed. I have reference to what is described as the neutron bomb.

As a member of the Committee on Armed Services chaired by the gentleman from Illinois (Mr. PRICE), I along with 16 other Members, went to Russia this past week, and we met with the Soviets. One of the great concerns of the Russians was that they are awfully anxious about the neutron weapon.

This weapon is, in my opinion, one of

the real deterrents that we have against Russia. What I am saying is that I think President Carter, if he has canceled the building of the neutron weapon, has made a very serious mistake.

The neutron weapon is not a bomb. It is a weapon that can be used on the battlefield and would be most useful on the battlefield; it would not be used to kill civilians, as would the SS–20 Russian missile which is aimed at the NATO forces. I might add that the neutron weapon is not aimed at the Soviets but would be used in battle.

Mr. Speaker, I repeat that I think this is a very serious mistake. This action weakens our position in dealing with the Soviet Union.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 188]

Akaka	Harsha	Rostenkowski
Archer	Holland	Runnels
Ashley	Jenrette	Ruppe
Aspin	Kastenmeier	Santini
Barnard	Krueger	Sarasin
Bolling	Leggett	Scheuer
Burke, Calif.	Lehman	Shuster
Burton, John	Long, La.	Skubitz
Cederberg	Lujan	Solarz
Chappell	McCloskey	Spellman
Clay	McDonald	Steed
Cochran	McKinney	Steiger
Davis	Mathis	Stokes
Delaney	Meeds	Teague
Diggs	Michel	Thompson
Dodd	Mikva	Thornton
Drinan	Mineta	Tucker
Edwards, Calif.	Murphy, Ill.	Udall
English	Myers, Michael	Ullman
Flood	O'Brien	Vanik
Flynt	Preyer	Whitley
Foley	Reuss	Wiggins
Frey	Risenhoover	Wilson, Tex.
Giaimo	Rodino	
Hall	Rosenthal	

The SPEAKER pro tempore (Mr. MCFALL). On this rollcall 361 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CANCELLATION OF THE NEUTRON BOMB WOULD SERIOUSLY IMPAIR OUR BARGAINING POSITION IN THE SALT NEGOTIATIONS

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I take this time to join in the remarks which I understand my colleague from Mississippi (Mr. MONTGOMERY) made a few moments ago with respect to the news that appeared on the front page of the New York Times this morning to the effect that the President has already made a decision to cancel the neutron bomb.

Like Mr. MONTGOMERY, I was a member of a delegation of the Armed Services Committee which just returned from one week in the Soviet Union, and which conferred with the top Soviet military official, the Chief of Staff of the Soviet Armed Forces, Gen. Nikolai Ogarkov. I think it ought to be noted by the administration and by this House that the neutron bomb, as we discovered in Moscow, does represent about the only bargaining chip that we have in trying to conclude a SALT treaty that will effectively protect the interests of the United States.

I think, at this point in the negotiations, it would be most unwise for us to take another action in the direction of unilateral disarmament. I trust that the press story this morning is not true, and that the President will proceed with this new, cleaner weapon as scheduled.

Mr. BRECKINRIDGE. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I will be happy to yield.

Mr. BRECKINRIDGE. Mr. Speaker, I would like to join in the remarks of my friend from New York (Mr. STRATTON), and associate myself with him.

I would also like to observe, as a member of the same group just returned from Russia, that that decision if it is indeed and in fact the decision of the President, rather than merely a rumor, as I trust it is will be recognized by our enemies and allies alike as the retreat of America from the frontline defense of Europe, and the desertion of its allies.

Mr. STANTON. Mr. Speaker, I thank the gentleman for yielding.

ERNESTO J. GARCIA, JR.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 958) for the relief of Ernesto Garcia, Jr., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ernesto Garcia, Junior may be classified as a child within the meaning of section 101(b)(1)(C) of such Act upon approval of a petition pursuant to section 204 of such Act filed in his behalf by Ernesto Juan Garcia, a citizen of the United States: *Provided,* That the brothers and sisters and the natural mother of the beneficiary shall not, by virtue of such relationship or parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

MOTION OFFERED BY MR. EILBERG

Mr. EILBERG. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EILBERG moves to strike out all after the enacting clause of the Senate bill S. 958, and insert in lieu thereof the provisions of H.R. 2660, as passed by the House.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Ernesto F. Garcia, Junior.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2660) was laid on the table.

AUTHORIZING SECRETARY OF THE INTERIOR TO MEMORIALIZE THE 56 SIGNERS OF THE DECLARATION OF INDEPENDENCE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2960) to authorize the Secretary of the Interior to memorialize the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 7, after "Secretary," insert "with".

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, could the gentleman from Michigan explain what this legislation does and what the other body's amendment does.

Mr. NEDZI. If the gentleman will yield, I will be very pleased to explain for the benefit of the Members of the House.

Mr. Speaker, as my colleagues will remember, H.R. 2960 authorizes the Secretary of the Interior to erect a memorial in Constitution Gardens to honor the 56 signers of the Declaration of Independence.

The Senate Rules Committee, in considering the bill, detected and corrected a drafting error in line 7. The House version omitted the word "with" in the following sentence:

The Secretary of the Interior . . . may establish a memorial in honor of the 56 men who signed the Declaration of Independence, such memorial to be on a suitable site selected by the Secretary, with the approval of the National Commission of Fine Arts . . .

And so on. The Senate amendment corrects the obvious omission. It does nothing to change the meaning, and I recommend that the amendment be agreed to.

Mr. BAUMAN. I wonder if the gentleman could refresh the recollection of the gentleman from Maryland. It seems to me we had this bill up sometime last year. What is the cost associated with the overall legislation?

Mr. NEDZI. If the gentleman will yield further, my recollection is that there was no cost. It was to be paid for out of the proceeds of the sale of certain Bicentennial medals that the Bicentennial Commission had provided for.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Michigan, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR DESIGNATION OF LIBRARIES OF ACCREDITED LAW SCHOOLS AS DEPOSITORY LIBRARIES OF GOVERNMENT PUBLICATIONS

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8358) to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 9, strike out "purpose."." and insert "purpose or accredited by the highest appellate court of the State in which the law school is located."."

Page 2, after the matter following line 12, insert:

SEC. 3. The amendments made by this Act shall take effect on October 1, 1978.

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman can offer an explanation.

Mr. NEDZI. Mr. Speaker, if the gentleman will yield, I would be very happy to.

This bill, H.R. 8358, provides that libraries of accredited law schools may, upon application to the Public Printer and in compliance with the depository laws, be designated depositories of Government documents.

The Senate has added two amendments: The first simply adds a new section 3 providing for an effective date of October 1, 1978. The amendment allows the Public Printer to prepare for the program and provides that startup coincide with the start of the coming fiscal year.

The second amendment enlarges the term "accredited law school" as used in the bill. As the bill passed the House, an accredited law school was defined as:

Any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner of Education for such purpose.

The nationally recognized accrediting agency for law is the American Bar Association.

The Senate added as an additional accrediting body the highest appellate court of the State in which the law school is located.

Estimates vary as to the number of schools actually affected by the amendment. However, it seems clear that supreme courts in only five States, Alabama, California, Georgia, Mississippi, and Tennessee—accredit non-ABA accredited schools for purposes of allowing the students of these schools to take the bar in the State.

More importantly, because law school libraries applying for depository status must also meet the preexisting requirements of the depository laws, such as possession of minimum number of volumes, and accessibility by the public among others, it is estimated that few schools not accredited by the ABA will be able to meet the threshold requirements for the program. The only costs involved will be the costs of inspection by the Public Printer.

I recommend that the House agree to both Senate amendments.

(Mr. NEDZI asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

WHITE HOUSE PERSONNEL AUTHORIZATION

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 105 and 106 of title 3, United States Code, are amended to read as follows:

"ASSISTANCE AND SERVICES FOR THE PRESIDENT

"SEC. 105. (a) (1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

"(B) 25 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 50 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

"(b) (1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the Executive Residence at the White House without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(B) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

"(c) The President is authorized to procure for the White House Office and the Executive Residence at the White House, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109 (b) of title 5—

"(1) in the case of the White House Office, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and

"(2) in the case of the Executive Residence, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of

basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured for a period in excess of one year if the President determines such procurement is necessary.

"(d) There are authorized to be appropriated each fiscal year to the President such sums as may be necessary for—

"(1) the care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House;

"(2) the official expenses of the White House Office;

"(3) the official entertainment expenses of the President;

"(4) the official entertainment expenses for allocation within the Executive Office of the President; and

"(5) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the President.

Sums appropriated under this subsection for expenses described in paragraphs (1), (3), and (5) may be expended as the President may determine, notwithstanding the provisions of any other law. Such sums shall be accounted for solely on the certificate of the President, except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraph (1), (3), or (5). The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.

"(e) Assistance and services authorized pursuant to this section to the President are authorized to be provided to the spouse of the President in connection with assistance provided by such spouse to the President in the discharge of the President's duties and responsibilities. If the President does not have a spouse, such assistance and services may be provided for such purposes to a member of the President's family whom the President designates.

"ASSISTANCE AND SERVICES FOR THE VICE PRESIDENT

"SEC. 106. (a) In order to enable the Vice President to provide assistance to the President in connection with the performance of functions specially assigned to the Vice President by the President inthe discharge of executive duties and responsibilities, the Vice President is authorized—

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 5 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of Section 5313 of title 5; and in addition

"(B) 3 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5232 of title 5; and in addition

"(D) such number of other employees as he may determine to be appropriated at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured under paragraph (2) of this subsection for a period in excess of one year if the Vice President determines such procurement is necessary.

"(b) In order to carry out the executive duties and responsibilities referred to in subsection (a), there are authorized to be appropriated each fiscal year to the Vice President such sums as may be necessary for—

"(1) the official expenses of the Office of the Vice President;

"(2) the official entertainment expenses of the Vice President; and

"(3) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the Vice President.

Sums appropriated under this subsection for expenses described in paragraphs (2) and (3) may be expended as the Vice President may determine, notwithstanding the provisions of any other law. Such sums shall be accounted for solely on the certificate of the Vice President, except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraph (2) or (3). The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.

"(c) Assistance and services authorized pursuant to this section to the Vice President are authorized to be provided to the spouse of the Vice President in connection with assistance provided by such spouse to the Vice President in the discharge of the Vice President's executive duties and responsibilities. If the Vice President does not have a spouse, such assistance and services may be provided for such purposes to a member of the Vice President's family whom the Vice President designates.".

(b) The items relating to sections 105 and 106 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows:

"105. Assistance and services for the President.

"106. Assistance and services for the Vice President.".

SEC. 2. (a) Chapter 2 of title 3, United States Code, is amended by striking out section 107 and inserting in lieu thereof the following new sections:

"DOMESTIC POLICY STAFF AND OFFICE OF ADMINISTRATION; PERSONNEL

"SEC. 107. (a) In order to enable the Domestic Policy Staff to perform its functions, the President (or his designee) is authorized—

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 6 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(B) 18 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(C) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5.

"(b)(1) In order to enable the Office of Administration to perform its functions, the President (or his designee) is authorized—

"(A) without regard to such other provisions of law as the President may specify which regulate the employment and compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(i) 5 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(ii) 5 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and

"(B) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.

"(2) In addition to any authority granted under paragraph (1) of this subsection, the President (or his designee) is authorized to employ individuals in the Office of Administration in accordance with section 3101 of title 5 and provisions relating thereto. Any individual so employed under the authority granted under such section 3101 shall be subject to the limitation specified in section 114 of this title.

"(c) There are authorized to be appropriated each fiscal year such sums as may be necessary for the official expenses of the Domestic Policy Staff and the Office of Administration.

"ASSISTANCE TO THE PRESIDENT FOR UNANTICIPATED NEEDS

"SEC. 108. (a) There is authorized to be appropriated to the President an amount not to exceed $1,000,000 each fiscal year to enable the President, in his discretion, to meet unanticipated needs for the furtherance of the national interest, security, or defense, including personnel needs and needs for services described in section 3109(b) of title 5, and administrative expenses related thereto, without regard to any provision of law regulating the employment or compensation of persons in the Government service or regulating expenditures of Government funds.

"(b) The President shall transmit a report to each House of the Congress for each fiscal year beginning on or after the effective date of this subsection which sets forth the purposes for which expenditures were made

under this section for such fiscal year and the amount expended for each such purpose. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report.

"(c) An individual may not be paid under the authority of this section at a rate of pay in excess of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.".

(b) The items relating to sections 107 and 108 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows:

"107. Domestic Policy Staff and Office of Administration; personnel.
"108. Assistance to the President for unanticipated needs.".

SEC. 3. (a) Chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new sections:

"DETAIL OF EMPLOYEES OF EXECUTIVE DEPARTMENTS

"SEC. 112. The head of any department, agency, or independent establishment of the executive branch of the Government may detail, from time to time, employees of such department, agency, or establishment to the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration. Any such office to which an employee has been detailed for service to such office shall reimburse the detailing department, agency, or establishment for the pay of each employee thereof—

"(1) who is so detailed, and

"(2) who is performing services which have been or would otherwise be performed by an employee of such office,

for any period occurring during any fiscal year after 180 calendar days after the employee is detailed in such year.

"REPORT ON DETAILEES, EXPERTS, AND CONSULTANTS

"SEC. 113. (a) The President shall transmit to each House of the Congress, and make available to the public, reports containing information described in subsection (b) for each fiscal year beginning on or after the effective date of this section. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report and shall contain a statement of such information for such year.

"(b) Each report required under subsection (a) shall contain—

"(1) the number of individuals detailed under section 112 of this title for more than 180 days to the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration (in the aggregate and by office);

"(2) the number of individuals whose services as an expert or consultant are procured under this chapter for service in such offices, and the total number of days employed (in the aggregate and by office);

"(3) the total amount of appropriated moneys paid to procure such expert and consultant services (in the aggregate and by office); and

"(4) the amount of reimbursements made for employees detailed under section 112 of this title (in the aggregate and by office).

"GENERAL PAY LIMITATION

"SEC. 114. Notwithstanding any provision of law, other than the provisions of this chapter, no employee of the White House Office, the Executive Residence at the White House, the Domestic Policy Staff, or the Office of Administration, nor any employee under the Vice President appointed under section 106 of this title, may be paid at a rate of basic pay in excess of the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.".

(b) The table of sections for chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new items:

"112. Detail of employees of executive departments.
"113. Report on detailees, experts, and consultants.
"114. General pay limitation.".

SEC. 4. Section 103 of title 3, United States Code, relating to travel expenses of the President, is amended by striking out "$40,000" and inserting in lieu thereof "$100,000".

SEC. 5. (a) Section 102 of title 3, United States Code, is amended by striking out "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House".

(b) (1) Section 109 of title 3, United States Code, is amended—

(A) by striking out from the section caption "EXECUTIVE MANSION" and inserting in lieu thereof "THE EXECUTIVE RESIDENCE AT THE WHITE HOUSE", and

(B) by striking out from the text "Executive Mansion" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 109 in the table of sections for chapter 2 of such title 3 is amended by striking out "Executive Manison" and inserting in lieu thereof "the Executive Residence at the White House".

(c) (1) Section 110 of title 3, United States Code, is amended—

(A) by inserting in the section caption, immediately before "WHITE HOUSE" the following: "THE EXECUTIVE RESIDENCE AT THE";

(B) by striking out "President's House" and inserting in lieu thereof the following: "Executive Residence at the White House"; and

(C) by striking out "White House" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 110 in the table of sections for chapter 2 of such title is amended by inserting immediately before "White House" the following: "the Executive Residence at the".

(d) Section 202 of such title is amended by striking out "Executive Mansion and grounds" and inserting in lieu thereof "White House".

SEC. 6. (a) The amendments made by this Act shall apply to any fiscal year which begins on or after October 1, 1978.

(b) In the case of an individual—

(1) who is an employee of the Office of Administration as of the date of the enactment of this Act, and

(2) whose position would be terminated or whose rate of basic pay would be reduced (but for this subsection) by reason of section 107(b) of title 3, United States Code (as amended by this Act),

such employee may be allowed to continue to hold such position and receive basic pay at the rate in effect on the effective date of this Act during the period which begins on such date and ends 2 years after such date so long as such employee continues as an employee of the Office of Administration.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

Mr. GILMAN. Mr. Speaker, I demand a second. I challenge the qualifications of the gentleman from Illinois.

Mr. Speaker, I will object to unanimously ordering the second and I demand that it be ordered by tellers.

The SPEAKER pro tempore. Is the gentleman from Illinois opposed to the bill?

Mr. DERWINSKI. No, Mr. Speaker, I am not. I strongly support the bill.

The SPEAKER pro tempore. Is the gentleman from New York opposed to the bill?

Mr. GILMAN. Yes, I am opposed, Mr. Speaker.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mrs. SCHROEDER and Mr. GILMAN.

The House divided, and the tellers reported that there were—ayes 25, noes 22.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. MURTHA). Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 147, not voting 48, as follows:

[Roll No. 189]

YEAS—239

Addabbo	Dent	Jones, N.C.
Akaka	Derrick	Jones, Okla.
Alexander	Derwinski	Jones, Tenn.
Allen	Dickinson	Jordan
Ambro	Dicks	Kastenmeier
Ammerman	Downey	Kazen
Anderson, Calif.	Drinan	Keys
	Duncan, Oreg.	Kildee
Andrews, N.C.	Early	Kostmayer
Annunzio	Eckhardt	LaFalce
Applegate	Edgar	Le Fante
Ashley	Edwards, Calif.	Lederer
AuCoin	Eilberg	Levitas
Baldus	English	Lloyd, Calif.
Barnard	Ertel	Lloyd, Tenn.
Baucus	Evans, Colo.	Luken
Beard, R.I.	Evans, Ga.	Lundine
Bellenson	Evans, Ind.	McCormack
Benjamin	Fary	McFall
Bennett	Fascell	McHugh
Bevill	Fisher	McKay
Biaggi	Flippo	Madigan
Bingham	Florio	Maguire
Blanchard	Flowers	Mahon
Blouin	Foley	Mann
Boggs	Ford, Mich.	Markey
Boland	Ford, Tenn.	Mattox
Bonior	Fountain	Mazzoli
Bowen	Fowler	Metcalfe
Brademas	Fraser	Meyner
Breaux	Fuqua	Mikulski
Breckinridge	Gammage	Mikva
Brinkley	Garcia	Milford
Brooks	Gaydos	Miller, Calif.
Brown, Calif.	Gephardt	Mineta
Burke, Mass.	Giaimo	Minish
Burleson, Tex.	Gibbons	Mitchell, Md.
Burlison, Mo.	Ginn	Moakley
Burton, John	Gonzalez	Moffett
Burton, Phillip	Gore	Mollohan
Butler	Gudger	Montgomery
Carney	Hamilton	Moorhead, Pa.
Carr	Hanley	Murphy, N.Y.
Carter	Hannaford	Murphy, Pa.
Cederberg	Harkin	Murtha
Chisholm	Harrington	Myers, Gary
Clay	Harris	Myers, Michael
Collins, Ill.	Harsha	Natcher
Conte	Hawkins	Nedzi
Conyers	Hefner	Nichols
Corman	Heftel	Nix
Cornell	Hightower	Nowak
Cornwell	Howard	Oakar
Cotter	Hubbard	Oberstar
Danielson	Huckaby	Obey
Davis	Ireland	Ottinger
de la Garza	Jacobs	Panetta
Delaney	Jenkins	Patten
Dellums	Johnson, Calif.	Patterson

Pattison	Santini	Vento
Pease	Scheuer	Volkmer
Pepper	Schroeder	Waggonner
Perkins	Seiberling	Wampler
Pickle	Sharp	Watkins
Poage	Shipley	Waxman
Price	Sikes	Weaver
Rahall	Simon	Weiss
Rangel	Sisk	Whalen
Richmond	Skelton	White
Risenhoover	Slack	Whitten
Roberts	Smith, Iowa	Wiggins
Roe	St Germain	Wilson, Tex.
Roncalio	Staggers	Wolff
Rooney	Stark	Wright
Rose	Studds	Yates
Rosenthal	Stump	Yatron
Rostenkowski	Thompson	Young, Mo.
Roybal	Traxler	Young, Tex.
Russo	Ullman	Zablocki
Ryan	Van Deerlin	Zeferetti

NAYS—147

Abdnor	Frenzel	Mottl
Anderson, Ill.	Gilman	Myers, John
Andrews, N. Dak.	Glickman	Neal
	Goldwater	Nolan
Archer	Goodling	Pettis
Armstrong	Gradison	Pike
Ashbrook	Grassley	Pressler
Badham	Green	Pritchard
Bafalis	Guyer	Pursell
Bauman	Hagedorn	Quayle
Beard, Tenn.	Hammer-schmidt	Quie
Bedell		Quillen
Brodhead	Hansen	Railsback
Broomfield	Heckler	Regula
Brown, Mich.	Hillis	Rhodes
Brown, Ohio	Hollenbeck	Rinaldo
Brovhill	Holt	Robinson
Buchanan	Holtzman	Rousselot
Burgener	Hughes	Rudd
Burke, Fla.	Hyde	Satterfield
Byron	Ichord	Sawyer
Caputo	Jeffords	Schulze
Cavanaugh	Johnson, Colo.	Sebelius
Clausen, Don H.	Kasten	Shuster
	Kelly	Skubitz
Clawson, Del	Kemp	Smith, Nebr.
Cleveland	Ketchum	Snyder
Cohen	Kindness	Spence
Coleman	Krebs	Stangeland
Collins, Tex.	Lagomarsino	Stanton
Conable	Latta	Steers
Corcoran	Leach	Stockman
Coughlin	Lent	Stratton
Crane	Livingston	Symms
Cunningham	Long, Md.	Taylor
D'Amours	Lott	Thone
Daniel, Dan	McClory	Treen
Daniel, R. W.	McDade	Trible
Devine	McDonald	Walgren
Dornan	McEwen	Walker
Duncan, Tenn.	Marks	Walsh
Edwards, Ala.	Marlenee	Whitehurst
Edwards, Okla.	Marriott	Wilson, Bob
Emery	Martin	Winn
Erlenborn	Mathis	Wirth
Evans, Del.	Miller, Ohio	Wydler
Fenwick	Mitchell, N.Y.	Wylie
Findley	Moore	Young, Alaska
Fish	Moorhead, Calif.	Young, Fla.
Fithian		
Forsythe	Moss	

NOT VOTING—48

Aspin	Krueger	Ruppe
Bolling	Leggett	Sarasin
Bonker	Lehman	Solarz
Burke, Calif.	Long, La.	Spellman
Chappell	Lujan	Steed
Cochran	McCloskey	Steiger
Diggs	McKinney	Stokes
Dingell	Meeds	Teague
Dodd	Michel	Thornton
Flood	Murphy, Ill.	Tsongas
Flynt	O'Brien	Tucker
Frey	Preyer	Udall
Hall	Reuss	Vander Jagt
Holland	Rodino	Vanik
Horton	Rogers	Whitley
Jenrette	Runnels	Wilson, C. H.

Mrs. LLOYD of Tennessee and Mr. RISENHOOVER changed their vote from "nay" to "yea."

Mr. RINALDO changed his vote from "yea" to "nay."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I yield myself as much time as I might consume.

Mr. Speaker, H.R. 11003 amends various provisions of title 3, United States Code, which provide staff assistance to the President. The provisions are quite outdated. They now only permit the President 14 assistants.

The need for this legislation is plain. Presidents have for years employed more than 14 assistants and have for years obtained authority for such hiring through legislative language in annual appropriation acts. However, any such language in an appropriation act is subject to a point of order on the floor of the House. Rule XXI, clause 2, provides that no appropriation shall be reported in any general appropriation for any expenditure which is not previously authorized by law. In recent years, points of order have been offered on the House floor. Although the Senate has restored the funds, and the funds have been retained through conference committee, less accommodating action by the Senate would leave a President with little or no staff and might create a crisis of constitutional proportions.

H.R. 11003 is in one sense a housekeeping measure. It will permit the House once again properly to consider appropriations for White House staff, within the limits it authorizes. It is really a pretty simple bill. All of my colleagues on committees with legislative jurisdiction should have a good idea of what it contains since they all from time to time have acted on a similar bill for an agency within their jurisdiction.

Mr. Speaker, in another sense and because H.R. 11003 does not deal with any old entity in the executive branch, I must caution my colleagues that in voting for the bill, they must consider the implications in the bill beyond its neatening up of the legislative process.

An authorization bill, much more so than an appropriation bill, establishes mechanisms for control and accountability. Certain provisions of H.R. 11003 will impose upon the President standards of reporting on his staff which have never before existed. New section 113, for example, will require the President to report to Congress on his employment of experts and consultants and long-term detailees from other agencies. Other provisions limit the amounts he may pay employees. Another section requires him to report on expenditures from his unanticipated needs funds. These provisions are all limitations upon the President's discretion to hire and spend. They impose accountability.

The central issue before us, in this regard, is whether the Congress should acquiesce in, and by implication, approve of, having Presidents who are unaccountable for their funds and their close staff. To oppose placing limitations upon the President's staff, however strongly we might wish to give him a blank check to get his jobs done, is to ignore the duty and power of Congress under article II, section 2, clause 2 of the Constitution to provide from time to time positions in the executive branch. This provision is one of the tensions which the Founders of our Nation put into the structure of the Federal Government. It must not be compromised by our inaction. It must be conscientiously exercised.

I believe that the provisions of H.R. 11003 are an appropriate exercise of this responsibility. Very simply, it places permanent limitations upon the President as to the taking of certain actions which have in the past been subject to abuse. Any employment of persons for unlawful activities, or personal use of Presidential funds would be subject to oversight. Moreover, Presidents will not be able to hide the true size of their staff through the use of detailees, experts, and consultants will show up on the White House books.

On the other hand, the controls placed upon the President do not represent a blunderbuss approach. The committee bill does not burden the President with writing us a letter every time he hires or fires an employee. It permits him to hire whom he wishes, and it permits, within generous boundaries, good wages to be paid. In essence, it puts upon the President about the same criteria as we ourselves have for our own congressional staffs. Consequently, there is sufficient leeway in the bill for any President in the foreseeable future to have effective help.

Mr. Speaker, I will offer only one further note on this bill. President Carter has personally reviewed it and fully support its terms. It has taken a year of hearings, discussions, and drafting to develop H.R. 11003. I believe that the work which has gone into this bill has paid off in an effective, comprehensive bill.

I urge my colleagues to support H.R. 11003.

Mr. HARRIS. Mr. Speaker, I rise in support of this bill that does represent literally years of work.

Mr. BAUMAN. Mr. Speaker, under what authority does the gentleman from Virginia (Mr. HARRIS) speak?

The SPEAKER pro tempore. The gentleman from Maryland is absolutely right.

Mrs. SCHROEDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, House consideration today of H.R. 11003, the White House staffing bill, presents us with a historic opportunity to make a fundamental reform of our Government: It reasserts Congress constitutional responsibility and reaffirms our cabinet form of government in the executive branch.

H.R. 11003 accomplishes this in three major ways:

First. It places numerical ceilings on the number of top-level officials, execu-

tive levels and supergrades, on the White House staff;

Second. It requires the White House to reimburse agencies that detail employees to the White House, closing a funnel that could lead to adding staff out of funds other than those appropriated for the White House; and

Third. It requires full reports to Congress on the number and cost of detailees and consultants in the White House.

EFFORT BEGAN IN 1970

The Post Office and Civil Service Committee's interest in White House staffing patterns began in the early 1970's and resulted in a 1972 report prepared by Congressman UDALL entitled, "A Report on the Growth of the Executive Office of the President, 1955–73." This report notes that the Executive Office of the President was created by Reorganization Plan No. 1, April 25, 1939; the order implementing that plan stated:

In no event shall the Administrative Assistants [to the President] be interposed between the President and the head of any department or agency.

The Executive Office of the President was in no way to subordinate or usurp the cabinet departments. The report details the gradual growth in staffing over 18 years and notes that "over 50 percent of the increase in the Executive Office of the President has occurred since 1970."

The committee's research also revealed that the law is deficient and obsolete. Briefly, the "current" law, dating back to 1939, authorizes six administrative assistants and eight other secretaries or assistants to the President. There is no requirement to reimburse agencies for employees detailed to the White House and many expenses of the White House are not authorized in law.

THE 93D AND 94TH CONGRESSES

In both the 93d and 94th Congresses, White House staffing legislation was considered. H.R. 14715 in 1974 died in a conference committee; H.R. 6706 in 1975 died in the Senate. In the 94th Congress, in the Post Office and Civil Service Committee and in the House I offered a number of amendments to strengthen the bill.

On July 17, 1975, I offered an amendment to H.R. 8597 which contained appropriations for the White House in an effort to curb nonreimbursable details to the White House; the amendment failed. However, on September 1, 1976, I offered an amendment to H.R. 14886, the Presidential Transition Act amendments, which required that all detailees be paid from transition funds. This amendment was adopted.

Additionally, on June 14, 1976, I raised a successful point of order against the 1977 White House appropriations because I believed the appropriations violated House Rule XXI which provides that no appropriation for any expenditure not authorized in law can be in order. Similarly, on June 8, 1977, I made another successful point of order against the 1978 White House appropriation on the same ground. Both times, the Senate restored the funds. Clearly the rules of the House had been circumvented.

THE 95TH CONGRESS

Since we began the current Congress still without an appropriate authorization in law, I introduced H.R. 6236 on April 19, 1977, after seeking the views of the administration. Hearings were held on April 26, 1977, and administration officials testified that they could not address the specific provisions of the bill until the President's reorganization of the Executive Office of the President was completed. A second hearing on my bill was held on September 3, 1977. At this hearing, administration officials testified that a bill was being drafted. Reorganization Plan No. 1 was approved by the House on October 14, 1977.

Over the next 5 months I and my fellow subcommittee members met numerous times with administration representatives and gradually developed H.R. 10657 which I introduced on January 31, 1978, cosponsored by Representatives UDALL, SCHROEDER, DERWINSKI, LEHMAN, SPELLMAN, and STEED. Hearings were held on this bill on February 7 and the administration testified, "President Carter strongly supports this White House authorization bill." The subcommittee approved the bill on a 6-to-1 vote on February 16, and reported a clean bill, H.R. 11003. The full committee ordered H.R. 11003 to be reported on March 8, 1978, by a unanimous voice vote.

In short, it has been an intense, 6-year effort.

STRONG STAFFING LIMITS IN LAW

H.R. 11003 provides authorization for personnel and operations of five units within the Executive Office of the President: The White House Office, the Executive Resident at the White House, the Vice President, the domestic policy staff and the Office of Administration. The bill would place in law the following requirements for assistance to the President: First. It authorizes not more than 50 employees paid at the executive level, a salary range of $47,500 to $57,000. Within this limit, there is a limit of 25 employees paid at executive level II, $57,500 and 25 at executive level III, $52,500. Second. It limits to 50 the number of employees paid at supergrade levels GS–16, 17, and 18 at salaries of $39,629 to $47,500.

The staffing and salary limits for the other units are as follows: Executive residence of the White House: 3 GS–16–18's. Vice President: 8 executive levels and 3 GS–16–18's. Domestic policy staff: 6 executive levels and 18 GS–16–18's. Office of Administration: 5 executive levels and 5 GS–16–18's.

Additional provisions include:

First. An authorization of $1 million for the President's "unanticipated needs";

Second. An authorization for detailing agency employees to the White House and a requirement that agencies be reimbursed for all personnel who are detailed to any of the units for over a period of 180 cumulative days per year;

Third. Varying top salary limits on the hiring of outside consultants for each unit;

Fourth. A full annual report to Congress on the number and cost of detailees and consultants;

Fifth. Authorization for a variety of operations of these offices, including official expenses, assistance to spouses, travel and maintenance of the executive residence; and

Sixth. Authorization for the General Accounting Office to inspect documentation of expenses for the purpose of verifying that the expenditures were properly within authorized categories.

In summary, it is a clear, tough bill updating a 39-year-old law and closing loopholes in our statutes.

A STEP TOWARD RESPONSIBLE GOVERNMENT FOR CONGRESS AND ADMINISTRATION

The responsibility for letting White House staffing grow unabated while the law stagnated rests at the doorstep of both the Congress and all recent administration. Both branches of our Government have neglected this important area.

Commendably, President Carter in his campaign and early in his Presidency enunciated his view that the White House staff should be reduced and that policymaking power should be returned to the Cabinet. After an extensive study of the Executive Office of the President, the President submitted Reorganization Plan No. 1 on July 15, 1977, which reduced full-time White House staff positions from 485 to 351—a reduction of 28 percent. This plan was approved in October 1977. H.R. 11003 further carries out the President's mandate by placing in law authority for the staffing and operations of these five Executive Office of the President units.

The House of Representatives, despite several serious and notable attempts, has shirked its responsibilities. We have tolerated appropriation bill after appropriation bill without a legal authorization in place. I have and will continue to question the wisdom of spending public funds for purposes not specified in law. Clause 2 of House rule XXI prohibits legislation in appropriations bills. In this area, we have ducked our responsibility by approving spending measures without first determining with precision for what purposes these funds can be spent. I strongly believe it is wrong to write "blank checks" with taxpayers' money. The challenge here for Congress is one of legislative responsibility and integrity.

So today, this House and this administration are directly undertaking mutual responsibilities to get the central power base of our Government back on the right track.

WHO RUNS THE GOVERNMENT?

Mr. Speaker, my 3-year effort has not been a game of pointing a finger at any President or quibbling about numbers of staffers, be they 100 or 1,000. Staff growth is not inherently bad; as the problems of the seventies become more complex, surely staffing needs must adjust. The fundamental point here is to make sure power is in the hands of accountable people: the Cabinet. Executive advisers and special assistants to the President have their proper advisory role. But our form of government does not vest in them unlimited powers. They are unelected and sometimes inaccessible. Quite simply, our Government should not be run by, and

our President should not depend on, a "palace guard."

Centralized power in the hands of a few anonymous individuals is contrary to a democracy. This bill is a very fundamental policy measure reaching to the heart of our Government.

STAFFING GROWTH SINCE 1934

Mr. Speaker, I would like to share with my colleagues at this time some statistics on staffing for the President since 1934 to place this bill in the proper perspective.

Fiscal year	Total [1]	Detailed [2] employees	Real total
1934	45	120	165
1935	45	127	172
1936	45	115	160
1937	45	112	157
1938	45	119	164
1939	45	112	157
1940	63	114	177
1941	62	117	179
1942	47	137	184
1943	46	148	194
1944	47	145	192
1945	48	167	215
1946	51	162	213
1947	190	27	217
1948	245	23	268
1949	220	26	246
1950	223	25	248
1951	257	40	297
1952	252	31	283
1953	262	28	290
1954	250	23	273
1955	272	41	300
1956	351	59	392
1957	364	59	423
1958	352	51	403
1959	354	31	385
1960	355	33	388
1961	342	134	476
1962	309	123	432
1963	318	111	429
1964	306	125	431
1965	294	154	448
1966	256	219	475
1967	251	246	497
1968	250	206	456
1969	314	232	546
1970	345	287	632
1971	555	17	572
1972	550	34	584
1973	496	24	520
1974	506	47	553
1975	533	27	560
1976	474	25	499
1977	446	17	463
1978	351	[3] 10	[3] 361

[1] Total employees includes full-time employees and special projects employees. Full-time employees are the average number of employees as printed in the actual budgets for 1934 through 1962.

[2] Detailed employees are as of June 30 of each year.

[3] As of March 1, 1978.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I am not in the least surprised, I must confess to having experienced some chagrin over the decision of the White House to coax the majority into taking up H.R. 11003, the White House authorization bill, under today's Suspension of the Rules thereby depriving the Members of the House the means and opportunity by which to test the merits of the several provisions of this bill through the offering of perfecting amendments. H.R. 11003 is simply too important a piece of legislation, too significant in its implications, and too far reaching in its scope to be dealt with in this summary manner.

This bill is, indeed, a historic measure. The law authorizing White House staff was last updated some 30 years ago in 1948. Because it is just conceivable that another 30 years may elapse before the Congress next updates this legislation, it is vitally important that we fashion this measure into a law that will stand on its own merits for possibly another 30 years or more. I submit that this bill in its present form will not stand that test of time.

It is amazing to me, as one who has been involved with this legislation since its inception, that my distinguished colleague, the gentlewoman from Colorado (Mrs. SCHROEDER), the chairwoman of the Subcommittee on Employee Ethics and Utilization, from whence the bill originates—for whom I have the greatest respect—should have forgotten so quickly the lessons we all learned in dealing with the White House in matters concerning pay and staffing. In the evolution of this measure, can we forget the interminable months of delay and obfuscation by the administration, both in providing personnel data for the staff of the subcommittee to study, and representatives to come before our subcommittee for some hard questioning. We need only glance at the various dates of our hearings on the bill to acknowledge the truth of that statement.

For the benefit of my colleagues who may not have had the opportunity to look over the transcript of those hearings, let me call to their attention that our first hearing on authorizations for White House staffing was April 26, 1977. Our next hearing on the subject was September 30, 1977, and our last meeting was February 7, 1978. Yet now my distinguished colleague. the distinguished gentlewoman from Colorado, is willing to support legislation that authorizes ceilings on White House staff, which ceilings, I might add, in some instances nearly doubled the number of the present White House staff, over an indefinite period of time, conceivably 30 years, with little or no meaningful reporting requirements.

In a recent National Journal article of April 1, 1978, entitled, "The 'Lean White House' Has a Fat Staff Authorization in the Works," author Dom Bonarede notes:

Proposed legislation awaiting House action would allow President Carter the most expensive White House staff in history.

The National Journal article goes on to state:

An authorization bill, H.R. 11003, unanimously approved March 16 by voice vote by the House Post Office and Civil Service Committee, would let the President almost double the number of executive level and supergrade aides on his personal White House staff from 55 to 100. Occupants of such senior positions receive annual salaries ranging from $42,500 to $57,500.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentlewoman from New York.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman has stated correctly some of the facts about the cooperation we have had on this bill and how frustrating it has been and how long it has been around; but some of the accusations the gentleman is making about numbers are not quite accurate. We have to remember this is an authorization bill and not an appropriation bill. It is not the first time this has happened. We often have numbers higher than are appropriated.

I attempted to find the gentleman from Oklahoma (Mr. STEED), who I do not think is in town today, but the gentleman from Oklahoma is the person who chaired the Committee on Appropriations and the numbers, I am sure, will be about the same.

Part of the reason for the change in numbers, as the gentleman knows, is that for the first time we are counting detailees and paying for detailees, rather than playing the usual shell game and saying we have a certain number and when we go over and count them, there are more and we do not know where they came from. They get the pay for them and do not get to use them. That is an important distinction, that for the first time the detailees there are counted and paid for. We have to make allowances for that in the slot and it really would not be quite fair.

Mr. GILMAN. Mr. Speaker, there is no question we are making some significant progress by this bill, but what I am seeking is more adequate provision for oversight, so that the Post Office and Civil Service Committee can fulfill its responsibility.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the distinguished gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, while our friend, the gentlewoman from Colorado, was pointing out one difference, I would like to point out another difference that makes a person not a member of the committee wonder. I have been around a few years. I remember voting on amendments in the Nixon years and in the Ford years, some up and some down. I voted for some cuts and for some additions. At least we had a vote.

Can my friend, the gentleman from New York, tell me why we cannot offer amendments, as they did under the Ford and Nixon administrations? Is there politics involved, or what is this?

Mr. GILMAN. That is precisely the point I am raising in my argument today in attempting to take the bill off the suspension calendar and amend it on the floor in order to provide proper oversight. In response to the gentleman's inquiry, I do not understand or condone the decision for placing this bill on the suspension calendar, thereby preventing the consideration of any amendments.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, may I say, having worked as closely together on a number of pieces of legislation and having worked as closely on this piece of legislation, except for one or two provi-

sions, I think this is an unfortunate, but the correct response to the question, in my opinion, that this bill was, in fact, reported out by a unanimous vote by the full committee. It was reported out with the cosponsorship of the ranking minority Member on the full committee. It was, in fact, reported out of the subcommittee with one negative vote, that of the gentleman from New York (Mr. GILMAN), because of the reporting requirements the gentleman from New York (Mr. GILMAN) wanted.

The fact this was put on suspension is clearly a function of the fact that we clearly arrived at the bill with broad and bipartisan support and that is the reason it is on suspension.

Mr. GILMAN. In commenting on this measure, the National Journal went on to state:

> The Administration-endorsed legislation, which is expected to be taken up by the full House in a few days, appears to represent a reversal of a movement towards a deimperialized presidential establishment and to run counter to Carter's pledge to constrict the White House bureaucracy.

The Journal article further stated:

> There was a tradeoff for a higher authorization of staff in exchange for some limitations and oversight provisions. . . . But actually they are not as stringent as for other agencies and are close to what Congress has for itself.

The report issued by the Committee on Post Office and Civil Service candidly concedes the bill "allows the Congress limited oversight."

According to the article in the National Journal, which is a weekly publication of politics and government, the Congressional Budget Office has estimated that the increase in staff would cost $8.6 million for fiscal year 1979 and up to $9.67 million by 1983.

Mr. Speaker, we are making a serious mistake if we pass legislation that sets a precedent—a most unfortunate precedent—for future measures containing similar authorizations that are not annual or biannual or even under some 5-year concept of economic planning but are in themselves self-sustaining.

Given the opportunity, Mr. Speaker, I will offer two perfecting amendments to H.R. 11003.

My first amendment, Mr. Speaker, would strike the language of section 6(a) of this bill, which authorizes for an indefinite period of time the employment of persons by the White House Office, Office of the Vice President, the Office of Administration, Domestic Policy Staff, and the Executive Residence at the White House up to the ceilings on the number and pay of Executive Office personnel imposed by this legislation.

In its place, I would offer a sunset provision requiring that the next President, consistent with the Congressional Budget Act of 1974, submit to the Congress, 1 year from the date of assuming his office, a new authorization request for Executive Office personnel and related expenses. This could easily be accomplished by the submission of legislation simply extending the time period specified in my proposed amendment. It would, however, force a President to periodically justify the size of the White House Office to the Committee on Post Office and Civil Service and to the Congress.

My amendment permits the incumbent President 4 years, or a new President a maximum of 1 year, to plan for the staff needs and expenses of his office. This, in effect, is no more than what the Committee on Post Office and Civil Service has demanded of President Carter, and I really believe, imposes no undue hardship on the President or impairs the flexibility he desires. However, without this amendment the committee's oversight function, I would suggest, will prove to be virtually meaningless in this area.

I must add that it is ironical that several of my distinguished colleagues who both voted against this amendment in subcommittee and later in full committee, are normally the most vocal advocates of the "sunset" principle. I also find it surprising that while they usually are the first to recognize the inherent value of the sunset provision, that, in this instance, they do not place a similar value on my amendment.

It should be noted that the strongest supporter of sunset provisions and zero-based budgeting, which my amendment would certainly aid in, is the very same President who would be most immediately affected by this amendment.

Should this legislation be allowed to lapse, the current law of 1948 providing for a minimal number of staff—14—would automatically become available to the President until such time as he resubmits new authorizing legislation.

My other amendment, if I am permitted the opportunity to offer it, would amend section 113 of H.R. 11003. I propose to delete the language of section 113(b) and substitute in its place a new subsection (b) to require the President to transmit an annual report to the Congress disclosing—

First, the total number of staff employed by the Executive Office and the aggregate amount paid to such staff;

Second, the total number of individuals detailed to the Executive Office, the number of days so detailed, and the aggregate amount of reimbursement to agencies; and

Third, the total number of experts and consultants employed by the Executive Office, the number of days employed, and the aggregate amount paid to them.

All information required by the first and succeeding reports shall be shown both in the aggregate and by office involved; that is, White House Office, Executive Residence at White House, Office of the Vice President, Domestic Policy Staff, and Office of Administration. This report would have to be transmitted no later than 60 days after the close of the fiscal year covered by the preceding report.

The purpose for offering this amendment is to insure the integrity of the oversight function of the Committee on Post Office and Civil Service by having available to us by law on a timely basis the information necessary to carry out our duty. In addition, it is vitally important that we have the data contained in these reports so that the members and staff of the committee can properly evaluate the continuing efficacy of this legislation.

Mr. Speaker, the atmosphere that has permeated the hearings, the debate, and votes on this legislation since its reintroduction, the manner in which this bill is being considered today, depriving as it does my colleagues of the opportunity to test the merits of its several provisions, does not augur well for us at the time when the Committee on Post Office and Civil Service and the Congress must exercise our oversight responsibility to measure the compliance of the White House against the limits specified in H.R. 11003 by seeking the information we need to make this determination.

Accordingly, I urge my colleagues to vote against this measure and should we prevail, to allow this measure to be reconsidered under an open rule.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to compliment the gentleman from New York for his position on this legislation.

The gentleman from Virginia explained what, to him, is sufficient justification for the fact that this bill was brought up under suspension, and I can understand his reason. But the action of this committee does not bind the full House, and more than 140 Members just voted against bringing the bill up under suspension. That, to me, indicates the bill indeed is very controversial. If the bill is as good as the sponsors say it is, it ought to be able to stand up under the amendment process and full debate. I have been reading the bill, and I find it very difficult to accept many of the provisions which will go through if we vote for this suspension.

The gentleman indicates, for instance, that the increase in the number of White House supergrades, those who are getting paid from $42,000 to $52,000 a year, goes from 52 positions to 100 under this bill. That to me is astounding. That may or may not be funded in later appropriations, but that is still an enormous increase. This is the President who campaigned on the very specific pledge that he was going to reduce the numbers of White House staff, that he was going to cut back on the level of White House spending. Then he got elected and reorganized the staff of the White House and gave most of them hefty pay raises.

As I travel around my congressional district I have heard this issue brought up over and over as a breach of his pledge to the American people. We have a duty to the people we represent to consider legislation in good order. This may be a good bill or it may be a bad bill, but we ought to debate it in a proper manner and not try to ram it through under suspension simply because one committee wants to get the bill passed.

Mr. GILMAN. Mr. Speaker, I thank my colleague from Maryland for his pertinent remarks. And for underscoring the need to oppose this measure.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, as a cosponsor of this legislation, I fully support it, but I am a little puzzled as to why the Democratic leadership would choose this restrictive procedure for bringing this bill before the House.

Surely they do not suspect someone is lurking in the bushes ready with an amendment to lop off the generous White House staffing this bill authorizes. That, after all, might have been the case B.C.—before Carter—when, 3 years ago, detractors expressed concern and dismay about the centralization of power and policymaking authority in the White House. They were grieved over what they said was the proliferation of top staff people surrounding the President.

Surely they do not fear that the voices which were raised 3 years ago attempting to limit the Ford White House to 13 executive level staff members will rise again and prevail in reducing the 50 executive level staff positions authorized in this legislation.

As a matter of fact, I question the parliamentary procedure under which H.R. 11003 is being considered today. It denies me the opportunity to offer an amendment giving the President blanket authority to assemble a White House staff limited only by the annual White House appropriation. It has always been my position that a President should have the responsibility and flexibility to determine how much he will have to pay to attract competent staff people.

It is heartening to see my friends on the other side of the aisle belatedly come around to that point of view now that they have their own man in the White House.

It is pointless to quibble over the size of the President's staff. Commonsense dictates the President must have a substantial degree of flexibility in running his office. Continuing changes in the Federal structure have placed tremendous responsibilities on the President. Cabinet officers must concentrate on operations in their own departments and are generally not equipped to provide the President with the constant and often instantaneous analytical advise and counsel he needs.

H.R. 11003, as far as it goes, provides a good basic foundation for White House staffing. I urge the House to pass this legislation and avoid the temptation to tamper with it.

This is a simple and brief appeal to your political fairness and objectivity.

My position is that the President should have the flexibility to hire competent staff people. I support this bill and wish it went further. In committee I had prepared an amendment giving the President unfettered authority to assemble a White House staff, limited only by the annual White House appropriation. But in the interest of expediting this important legislation, I withdrew my amendment to avoid any delay.

Passage of H.R. 11003 is long overdue and will relieve us of the annual sham of raising and subsequently waiving points of order against the White House appropriation.

The legislation brought to the floor by our committee provides a good basic foundation for White House staffing and deserves bipartisan support.

Mr. Speaker, I will try to lay out the facts of life that should be understood. This should not be a partisan bill. Any President of the United States has his hands full. Any President of the United States should have the right to staff the White House as he sees fit. Sure, I recognize our dear majority party friends played games with the last Republican occupant of the White House. They should be ashamed of it. Now they have their own President and they are looking at it more logically. But again, it should not be partisan. Any President deserves the kind of staff he thinks he needs to run the country. I would suggest to those who are talking about controlling the White House staff, would they give the President the same option to control their staff expenditures? Would they want the same type of limitation by the other branch of Government on this bureaucracy we have in the Congress?

If we get an open rule, I might just be tempted to offer an amendment giving the White House the authority to manipulate our staff as we are claiming the right to manipulate the White House staff. As a matter of fact, I feel there should be no restriction whatsoever on White House staffing; just the restriction of an open record, public scrutiny.

The President of the United States ought to have people who are competent, who are loyal, who are there to carry out his responsibilities as the Chief Executive. For too long we have had this sham where we bring the appropriation bill to the floor and we waive points of order because the White House staff is not authorized. The White House staff should be authorized.

Mr. Speaker, the President should have staff flexibility; and I would hope my dear Republican colleagues realize that they scored a great tactical victory on the earlier vote since it shows the concern some Members have; but when we finally come down to separating the men from the boys on final passage of this bill, let us be bipartisan; let us be objective; let us support the White House authorization.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the manner in which this legislation reaches us is as objectionable as the legislation itself? Why is it on the suspension calendar? Is someone afraid the bill might be amended?

I remind my colleagues of the strong words uttered in this Chamber in 1975 by the distinguished gentleman from Arizona and a recent candidate for nomination to the White House himself, when a far more modest bill affecting the Ford White House was being hotly debated. The gentleman said:

> We ought to be rolling back the levels of power at the White House. We ought to be rolling back the number of high level positions at the White House.

Where is that voice of Democratic leadership today? Why he is a cosponsor of this bill. Where are the Democrat denunciations against this bill which would give President Carter the most expensive White House staff in history—the same President Carter who, shortly after his inauguration declared he was cutting the White House staff by one-third?

Is this what the President really means by zero-based budgeting?

Instead of cutting the White House staff by nearly one-third as promised, President Carter and his cousin Hugh want an increase of 30 percent in 1 year, and which will cost nearly as much as the late, unlamented Agency for Consumer Advocacy.

Today's Washington Star quotes Mr. Hugh Carter of the White House as follows in justifying this:

> THE EAR—QUOTES TO NOTE
>
> "We want to have plenty of flexibility for the future, in the event of an emergency like World War III or something, and needed to suddenly increase the staff"—Hugh Carter at the White House. Cousin Cheap was justifying a proposed $8.6-million-the-first-year-alone White House staff raise now before the House . . .

In addition to nearly doubling the number of executive and supergrade positions on the White House staff, at salaries from $42,500 to $57,500, the bill authorizes a number of unprecedented features which ought to concern those recent converts to the idea of executive accountability.

The White House will have authority to hire an unlimited number of consultants and "detailees" from other agencies. Such detailed personnel, if assigned for 179 days or less, need not be reported to Congress. If this is not enough, there is provided unlimited use of consultants. Where is the accountability? Are the jobs of last resort we spoke of in Humphrey-Hawkins to be supplied by the White House?

Why the increase in the "unanticipated needs" account for the President's use, from $500,000 to $1 million. Other than the vague definition of "furtherance of the national interest, security or defense," we know nothing more. The 94th Congress reduced the amount to $500,000. Why is it being increased to $1 million? Is it for petty cash? Pocket money? We are talking about 1 million tax dollars and we deserve to know a few facts, at the very least.

There are loopholes in the legislation, however, which should be amended on the floor—an impossibility under suspension of the rules.

Why is there no limit on the authorization in the bill? Does it go on forever? Is it for 1 year, 2 years, 3 or more? Will they be back for more next year? The year after?

Why is there not more accountability in the legislation? Another distinguished Member of this body, the gentlelady from Colorado, during the previously mentioned debate in 1975, said:

The issue is the centralization of relatively unaccountable power in the White House at the expense of our Cabinet form of government.

Why would centralization of relatively unaccountable power in the White House not be an issue today?

Most of us thought, under the leadership of the majority party, that the "Imperial Presidency" had been slain. Perhaps the season of Easter has had its effect on those who were so strident when President Ford was in the White House—those zero-based budgeteers who can be counted on to demand accountability. But this bill provides a "resurrection" for the Imperial Presidency—one that America is better off not celebrating.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 3 additional minutes.

I just want to respond briefly to several things that were said here.

One of the reasons that I think the sunset amendment discussed should not apply in this bill is I really do not think we can anticipate the sun setting on the White House. There may be days when we wish it would, but I think sunset amendments should apply to programs that we want to try for a while and then determine whether or not we are going to have them, not to the White House which will be with us always.

Mr. Speaker, with respect to the question about whether or not the White House was helpful on this bill, I would be the first to admit that it had not been helpful for over a year; and I was very, very frustrated. However, after we submitted our request on February 14, we got all sorts of information from the new team that was handling the matter, within 2 days.

One of the reasons we put this bill on the suspension calendar today is that we really did not know the answers to an awful lot of these questions we would like to ask because prior administrations do not have comparable records. Some people are saying now that if we do not pass the bill, matters will be even worse. For example, now they can go and hire all sorts of consultants. They can have all sorts of detailees and not account for anyone. All sorts of things can go on, just as they have been going on since 1939.

The only authorization this House has ever passed was for 14 staff aides in 1939. That was before I was born.

If anyone here believes there are 14 staff aides in the White House right now and that that is all they have, they might just as well believe in the tooth fairy.

Therefore, Mr. Speaker, part of the job that we have to do will come later once we start getting this information and really finding out what has happened in the past. Heretofore it has been a wonderful thing for all sides to make political hay with and not having the facts, one could never find out what was really going on.

This bill, for the first time, puts us into some factual details so that we can begin to get a handle on them and begin to have some oversight; and hopefully, in the future, start making some very hard decisions. But, it is hard to compare slots that they should have to do those things. We do not even know that in prior administrations because they were detailed, they were consultants. As I say, in the past, the whole White House accounting has been just like the privy purse, and will continue to be so if we do not pass this bill.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield.

Mr. HYDE. Mr. Speaker, I do recall that one of the first impressions I got when I came to this House was the gentlewoman from Colorado leading the fight—or one of the leaders—against the legislation to augment the Ford White House staff. I remember the gentlewoman saying, "The issue is the centralization of relatively unaccountable power in the White House at the expense of our cabinet-form of government."

Why was centralization of relatively unaccountable power in the White House an issue then, and not now?

Mrs. SCHROEDER. I think it is an issue now, and I think they came forward on that. We have in the report the justification for the requests they made. I hope the gentleman looks at that report. I think he will find that there is some accountability this time, and there was not the last time.

Mr. DERWINSKI. Mr. Speaker, will the gentlewoman yield for a nonpartisan question?

Mrs. SCHROEDER. I yield.

Mr. DERWINSKI. Is it not true that if we do not pass this authorizing legislation, we would either continue the improper procedure of waiving points of order, or the White House could just detail people in from agencies and departments, and we would have even less control?

Mrs. SCHROEDER. The gentleman is correct. An interesting amendment might be to allow them to draw on our staffs.

The SPEAKER pro tempore. The time of the gentlewoman from Colorado has expired.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 1 additional minute.

Mr. HARRIS. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Virginia (Mr. HARRIS) as much time as he requires.

Mr. HARRIS. Mr. Speaker, I do think that the argument is a little bit strange that the restrictions in this bill are not tight enough, and so the thing to do is to vote down this bill so that there will be no restrictions. I think it is absolutely incredible that we have gone without an authorization bill, without restrictions, and that for the first time in modern history we are putting restrictions on the staff; and we are putting restrictions on with respect to consultants; we are putting restrictions on with regard to detailees for the first time in modern history.

Yet, we have opposition stating that the bill should not be passed because the restrictions are not tight enough. The fact of the matter is that the gentleman who has opposed this most vigorously wishes to offer amendments to restrict further the staff. He wishes to offer an amendment with regard to reporting. He wishes to offer an amendment with regard to sunsetting the staff of the White House. If in fact we sunsetted the staff, we would be in exactly the same position we have been in, with the White House overcoming this thing through appropriations for consultants, through appropriations for staff, but not having an appropriation. This is what we are trying to stop.

The fact of the matter is that the problems of centralization we see in the White House staff are exactly what puts the impetus in the work behind this bill.

I know my colleague shares with me the need to try to have restrictions on this fourth arm of government. We want to return to a cabinet-form of government. We have the commitment from the White House that this is what they want to do. We have put restrictions on the amount of staff, restrictions on what they pay to consultants, real restrictions with regard to detailees. We have for the first time real cooperation from the White House. I hate to see us lose out on this opportunity, and I know my colleague does also.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me. Of course, the intent here of suggesting the amendments is not an endeavor to kill the bill, but an endeavor to provide full oversight, and not limited oversight. The Post Office and Civil Service Committee has a responsibility of undertaking oversight of White House employment.

If we are going to have that oversight responsibility, then we should have the opportunity to fulfill that responsibility. What I am suggesting by the amendment is to provide us with adequate reporting so that the information will be made available to us.

Mr. HARRIS. May I reclaim my time at this point? May I say to the gentleman that we do have, for the first time, real reporting requirements in this bill, especially as to detailees, and other reporting requirements with regard to consultants, which are very important. If my colleague feels that the reporting requirements are not extensive enough; if the experience of our committee is that we do not get the information on request, which information we have gotten this year certainly, for the first time in history, and they have opened the books and showed us how much staff they have had and how many detailees—this is the progress they have made—if in fact we run into the situation where we do not get that information in our legitimate oversight fulfillment, then I would join with my colleague in a bill to put such additional reporting requirements into law that he might feel is needed, and I might feel is needed.

But what we have here, as my colleague has admitted here on the floor, is a real step forward with regard to control of the legislative authorization of the White House staff. I would urge my colleagues not to miss this opportunity

which, for the first time in modern history, puts legitimate limitations on the White House.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I use this method because the gentlewoman from Colorado (Mrs. SCHROEDER) was in the well of the House a few moments ago and I attempted to gain time to ask a question. In the beginning of the gentlewoman's statement, she said that we know who the employees are and we have an accounting of them so that no games can be played.

Since we have an accounting, I would like to know how many persons are involved. Because it was also stated that the chairman of the Appropriation Subcommittee is not here at the present time, and that the gentlewoman was sure that the Appropriation Subcommittee would have the same figures as the authorizing committee.

I would like to know how many?

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield, if the gentleman from Ohio (Mr. MILLER) will refer to the hearings on page 48, we have a chart that I will be happy to read from if the gentleman from Virginia (Mr. HARRIS) will yield for that purpose.

Mr. HARRIS. Mr. Speaker, I yield back the balance of my time to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman and I yield myself such time as I may consume.

We list there the executive level.

Mr. MILLER of Ohio. What is the total, how many?

Mrs. SCHROEDER. The total is 354 all told.

It is broken down by executive level II and executive level III, then supergrades 16 through 18 and GS–15 and below. That is the way it is broken down, that is the breakdown we have had.

Mr. MILLER of Ohio. Does that include the 72 that are transferred from the White House over to the Office of Administration for the White House?

Mrs. SCHROEDER. No, we have 163, and that is found on page 49 of the same report. Many of those did come from the OHB Office. Some of those came from the Office of the President, and some from OMB.

Mr. MILLER of Ohio. There were 72 from the Office of the President, is that correct?

Mrs. SCHROEDER. That is correct, and the rest came from the OMB.

Mr. MILLER of Ohio. I take this time to try to express the problem that we have in the Appropriations Committee in attempting to find the number, and we do have a problem. That problem has been compounded to a high degree. We receive conflicting information, and the numbers seem to change from day to day. We feel that it is important enough that we have asked the General Accounting Office to make a survey to try to find out how many there are. Here we have personnel borrowed from other agencies who are moved into the White House. As a matter of fact, we are talking about 354, we have over 400 now, but we have in total, in the Executive Offices, over 1,700 people working.

Mrs. SCHROEDER. If I may reclaim my time, I agree we have had trouble in the past getting the numbers, but I must say they have been uniform as of late. I think we have finally gotten the classifications broken out properly, and they have been uniform. The gentleman from Oklahoma (Mr. STEED) has cosponsored the bill because he, too, has been delighted with finally having something concrete. As the Members know, the detailees have been very, very thorough.

Mr. MILLER of Ohio. If I may interject there, if the gentlewoman would yield, the purpose of the letter to GAO is to unravel the problem and to try to find out what the numbers game really is.

Mrs. SCHROEDER. That is correct, but he has cosponsored this bill because we have finally gotten some hard data for the first time, and it appears to be a breakout. That is a great step forward. I urge the Members to vote for the bill.

I yield back the remainder of my time.

● Mr. GOLDWATER. Mr. Speaker, I am opposed to the House passing the White House authorization, H.R. 11003, under suspension of the rules, and I urge my colleagues to defeat this bill so that we will have the opportunity to amend it, if that is the will of the House.

My reasons are as follows:

First. It appears we have a double standard based on partisan political considerations. During the previous 8 years, when we had a Republican President what is now being called a simple matter was always subject to a rule, and was opened to amendment. As a matter of fact, those bills were often amended by the Democrat majority. We are now being asked for parliamentary consideration to change the process. My constituents rightly believe there is some budgetary fat in the White House staffing, and they like the rest of the taxpayers in this country deserve the opportunity for their Representatives to trim the fat. A partisan double standard is not acceptable.

Second. While the public memory is sometimes short, we should not forget that certain members of the staff of the White House engaged in highly questionable post-election fundraising. I noticed that this authorization does not address this situation at all. Considering this bill under suspension prohibits the House from making any corrections in this area at all. I have no doubt that some of my esteemed colleagues in the other party would be objecting violently to this glaring omission, were a different party occupying the White House.

I intend to vote against this bill, and I again urge my colleagues to do the same.●

Mr. BAUMAN. Mr. Speaker, will the gentlewoman yield?

The SPEAKER pro tempore. The gentlewoman from Colorado yielded back the remainder of her time.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. How much time does the gentlewoman from Colorado have remaining?

The SPEAKER pro tempore. The gentlewoman had one-half minute remaining. The gentlewoman yields back the remainder of her time.

The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill H.R. 11003, as amended.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the bill, H.R. 11003.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

NATIONAL OCEANS WEEK

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 730) to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, "National Oceans Week."

The Clerk read as follows:

H.J. RES. 730

Whereas the oceans are playing an increasingly important role in the food, energy, and mineral production of the United States as well as the transportation of United States goods; and

Whereas it will be beneficial for the American public to learn of the interrelationship of the United States and the world's oceans; and

Whereas the declaration of a National Oceans Week would help Americans learn about the importance of the oceans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the week of April 16 through April 22, 1978 "National Oceans Week" and calling upon the people of the United States to observe such same week with appropriate activities.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, representing the great deepwater port of Denver, I consider it a great honor to be able to bring up House Joint Resolution 730.

House Joint Resolution 730 is cosponsored by 220 Members of the House and was unanimously reported by the Post Office and Civil Service Committee on March 15. Ordinarily, Mr. LEHMAN, the chairman of the Census and Population Subcommittee that has jurisdiction over these matters handles bills of this type before the House. However, he is not able to be here today and he has asked me to take over in his absence.

The Senate has already passed an identical resolution. So as not to delay final congressional approval of this worthwhile legislation I would just like to inform Members that I will ask for unanimous consent to take up and consider the Senate passed measure following House action on this resolution.

Mr. Speaker, House Joint Resolution 730 designates the week of April 16–22 of this year as "National Oceans Week." This resolution focuses public attention on the increasingly important role oceans may soon play as a source of food and energy. I hope, too, that it will serve to remind all of us of an equally important responsibility that we share with other nations interested in exploiting the oceans' potential to protect and preserve the ocean environment for use by future generations. Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. BREAUX).

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. Mr. Speaker, I yield to the gentleman from New York (Mr. MURPHY), the chairman of our full committee.

Mr. MURPHY of New York. Mr. Speaker, I want to thank my colleague and also to thank the gentleperson from the "Mile High City" for giving us the opportunity to consider this legislation today.

Mr. Speaker, I rise in support of House Joint Resolution 730, a resolution to declare the week of April 16 as "National Oceans Week." I would also like to thank the Members who joined Mr. BREAUX and myself in cosponsoring the resolution, the members of the Post Office and Civil Service Committee for their consideration, and commend the American Oceanic Organization (AOO) and the Waterfront Washington Association (WWA) for the job they have done in scheduling a truly exciting series of exhibits and events for Oceans Week.

The activities scheduled for Oceans Week will not only remind the people of the United States of the rich maritime tradition they inherit from the past, but will also call their attention to the promise the oceans hold for the future. Considering that water covers three-quarters of the Earth's surface and that still relatively little is known about the resources lying under these waters, one must conclude that ocean resources could ultimately provide a significant portion of the world population's need for food, energy, and minerals.

Rapidly advancing technology, the fact that we are now beginning to recover resources from the Continental Shelf, and the research now being pursued with respect to aquaculture, deep sea mining, ocean thermal energy conversion, and development of other resources, indicate that this time could arrive as early as the end of this century.

This resolution will cost the taxpayer nothing and has already passed unanimously in the Senate. It is an excellent opportunity for us to start Americans thinking about the oceans, the future, and the role the oceans can play in making that future the best possible.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield.

Mrs. SCHROEDER. Mr. Speaker, I apologize to the gentleman from New York for not looking at the rank. I was looking at the list in front of me, which was done in alphabetical order, rather than by seniority.

Mr. BREAUX. Mr. Speaker, I thank the gentleman from New York for these comments. I also thank the gentleman from Michigan (Mr. NEDZI) from the full Committee on Post Office and Civil Service.

I appreciate the valuable help of the gentlewoman from Colorado (Mrs. SCHROEDER) on this resolution, House Joint Resolution 730, which designates the week of April 16–22, 1978, as National Oceans Week. I would like to express my appreciation to the 220 cosponsors for their support of the resolution.

National Oceans Week is being sponsored by the American Oceanic Organization (AOO) with the cooperation of the Washington Waterfront Association. AOO was founded in 1967 and has often been described as the most important forum for ocean policy in the Nation's Capital.

In support of the proclamation designating the week as National Oceans Week, the AOO has scheduled a week-long series of events to increase public awareness about activities in the oceans and to heighten interest in the proper utilization of marine resources. The celebration will feature ship visits, marine art and craft shows, government and technical exhibits, public discussion forums, waterside concerts, and AOO's Annual Neptune Awards Banquet.

The Nation's Capital was chosen for the oceans week celebration in recognition of the key role national policy, legislation, and regulation play in the development and preservation of the oceans. Coastal States are also joining in the effort to illustrate what has been done in the oceans, and what must be done to best utilize marine resources for the benefit of society.

It is increasingly apparent that the oceans, still a relatively unexplored frontier area, will play a more important role in the years ahead as a source of energy, food, minerals for the world's growing population, and our Nation's security. The oceans were the basis of our Nation's early strength and independence and it is clear that our future will be even more dependent upon the resources of the sea.

For as long as civilization has existed on Earth, the oceans have held a profound romance and mystery for those whose lives have been entwined with them. Art treasures inspired by the sea and handed down through the decades will be displayed for the enjoyment of all. Demonstrations of ancient shipbuilding crafts which were once common labor but are now vanishing arts will be sure to intrigue all viewers.

Although the oceans comprise two-thirds of the Earth's surface, we understand less about the functions of the oceans than we do outer space. The oceans have often been referred to as our last frontier.

With the advance of modern science, we are beginning to appreciate the crucial role oceans play in the sustenance of all life on Earth. A variety of short films from private industries, government agencies, and universities will be shown to educate and entertain the public. Movies depicting our maritime heritage, how the marine environment affects man, how the oceans play a role in medicine, energy production, and new sources of food will be shown at the Waterfront Theater. This is a real opportunity to learn of the ever-changing aspects of the oceans and the important role they play in our everyday lives.

A series of public forums is designed to inform participants of the current, pressing needs associated with the protection, preservation, and utilization of our marine resources.

As you are aware, the resolution we are considering today contains no provision for the expenditure of Federal funds. All of the activities planned are open to the public free of charge. The success of the celebration is entirely dependent upon the cooperation and assistance provided by individuals, industries, and government entities who support the concept of drawing national attention to the uses and benefits of our oceans. The planning of the series of events is a major undertaking and the AOO is to be commended for their efforts in making National Oceans Week a reality.

On March 20 the resolution was passed unanimously in the Senate. Thank you for your support.

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Speaker, I want to take this moment to compliment my colleague, the gentleman from Louisiana, for the gentleman's leadership in developing oceans policy for this Congress. As chairman of the Oceanographic Subcommittee, the gentleman has taken a great deal of interest in the tremendous

resources of the oceans. I commend the gentleman on this resolution and I urge its support.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of House Joint Resolution 730, a bill which would establish the week of April 16–22, 1978, as "National Oceans Week." This bill has received more than the required 218 signatures and an identical resolution has already passed in the Senate.

In the past the Congress has honored the Earth and the Sun, certainly we cannot ignore the oceans. It is my understanding that the American Oceanic Organization is planning numerous activities to highlight the week of April 16–22 and to emphasize the importance of the potential for use—both for energy and food—of the oceans which cover three-fourths of the surface of the globe.

In California we are especially conscious of the ocean and its commercial possibilities. Because of the beauty and majesty of the Pacific Ocean, this great body of water is a prime tourist attraction for our State. The Pacific has provided California with several important ports and the ocean supports a large fishing industry.

Aside from these readily recognizable benefits derived from the world's oceans, the American public needs to be made aware of the fact that the oceans offer a relatively unexplored frontier for research and development. National Oceans Week will help focus attention on the oceans—attention that should continue throughout the year. I urge my colleagues to support House Joint Resolution 730.

● Mr. GILMAN. Mr. Speaker, I was pleased today to support House Joint Resolution 730, authorizing the President to issue a proclamation designating the week of April 16, 1978, as National Oceans Week. This measure, of which I am a cosponsor, provides a National Oceans Week as a means to inform the American public of the increasingly significant role that oceans play in relation to food, energy, and mineral production, as well as the transportation of U.S. goods.

The American Oceanic Organization, which has provided an important forum for the discussion of ocean policy, is planning a series of events to increase public awareness about activities relating to the oceans. Other interested groups and individuals will also be engaged in activities designed to heighten interest in the responsible utilization of marine resources.

There could hardly be a more appropriate time to focus national concern on the oceans and what constitutes an effective U.S. oceans policy.

On March 28, 1978, the seventh session of the United Nations Law of the Sea Conference began in Geneva and will run through the latter part of May. This Conference, which is being attended by delegations of 156 countries, will be attempting once again to hammer out a comprehensive treaty. This seventh session has been marked by many knowledgeable observers as a "do or die" proposition, for if agreement on both key procedural and substantive issues cannot be reached at this meeting, many feel that the chance for a comprehensive treaty will have slipped through our fingers.

Ambassador Elliot L. Richardson, chairman of the U.S. delegation to the Law of the Sea Conference, recently stated:

> Agreement at the Seventh Session can come only through an extension of political will and a determination by all nations to forge an accommodation that leaves no nation with essential interests impaired.

Indeed, the essential interests of all nations can best be served by a responsible comprehensive treaty. Such compromise can only be achieved, however, if negotiations proceed in good faith, free of unreasonable, obdurate demands.

While significant progress has been made on a number of issues brought before the Conference at past sessions, for example, navigation through straits, environmental protection, dispute settlement, protection of interests on the high seas, other topics such as deep seabed mining, definition of the limits of the Continental Shelf, and marine scientific research have proved markedly contentious.

The United States, while obviously concerned with protecting its own national interests, has nevertheless sincerely sought to promote a deep seabed mining proposal which recognizes and respects the legitimate concerns of less developed countries. I am hopeful that those States which have sought equitable compromise on difficult issues will prevail.

Ambassador Richardson characterized the seventh session as providing "the world community" with "a singular opportunity to consummate a breakthrough. However, I was dismayed recently by an article indicating that little public concern was focused on the Law of the Sea negotiations. Thus, I am hopeful that a National Oceans Week can help in part direct national attention to the historic session in Geneva.

Accordingly, I urge my colleagues to vote to suspend the rules and vote in favor of House Joint Resolution 730.●

● Mr. LUKEN. Mr. Speaker, I rise today in support of "National Oceans Week" which will take place from April 16 through April 22, 1978. This week will greatly help to increase the public's awareness of the vital role of our oceans in dealing with many of the major problems facing this country today.

Our oceans are filled with natural resources which have the potential to help alleviate many of the world's energy and food shortages. Further, the development of our oceans will be playing a more and more significant role in providing jobs for American workers and keeping our economy strong.

At present there are numerous government and private industry initiatives underway to make use of marine resources; these include plans for deep seabed mining, development of ocean farms and new sources of protein from the sea, research into the energy-producing potential of the oceans, and attempts to control marine pollution.

I am personally hopeful that through the celebration of Ocean's Week that the public, industry and the government can come together in their search to solutions of today's pressing problems. The seas offer us infinite, renewable resources and our approach to their use must be careful and deliberate in an effort to protect and preserve the marine environment.●

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time.

Mr. ROUSSELOT. Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the joint resolution (H.J. Res. 730).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate joint resolution (S.J. Res. 124) to authorize the President to issue a proclamation designating the week beginning April 16 through April 22, 1978, as "National Oceans Week."

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 124

Whereas the oceans are playing an increasingly important role in the food, energy, and mineral production of the United States as well as the transportation of United States goods; and

Whereas it will be beneficial for the American public to learn of the interrelationship of the United States and the world's oceans; and

Whereas the declaration of a National Oceans Week would help Americans learn about the importance of the oceans: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the week of April 16 through April 22, 1978, as "National Oceans Week" and calling upon the people of the United States to observe such same week with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 730) was laid on the table.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION

Mr. ECKHARDT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11567) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Ex-

change Commission for fiscal years 1979–81, and for other purposes.

The Clerk read as follows:

H.R. 11567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence thereof, by striking out "1977, and" and inserting in lieu thereof "1977,";

(2) by inserting immediately before the period at the end of the first sentence thereof the following: "; $70,000,000 for the fiscal year ending September 30, 1979, $80,000,000 for the fiscal year ending September 30, 1980, and $91,000,000 for the fiscal year ending September 30, 1981"; and

(3) in the last sentence thereof, by striking out "fiscal year 1978" and inserting in lieu thereof "fiscal year 1981".

SEC. 2. (a) Section 11(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78k (a)(3)) is amended by striking out "May 1, 1978" each place it appears and inserting in lieu thereof "November 1, 1979".

(b) Section 11 of the Securities Exchange Act of 1934 (15 U.S.C. 78k) is amended by adding at the end thereof the following new subsection:

"(e) No provision of this Act, the Investment Company Act of 1940, or the Investment Advisers Act of 1940 shall be construed to create a duty for any investment adviser or affiliated person of an investment adviser to become a member of a national securities exchange for the purpose of engaging in any securities transaction on behalf of any account with respect to which such investment adviser or affiliated person exercises investment discretion, except as may be agreed between the parties to an advisory agreement.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today, H.R. 11567, would do two things. First, it would provide budget authorizations for the Securities and Exchange Commission for the fiscal years ending 1979, 1980, and 1981, in the amounts of $70, $80, and $91 million, respectively. Although provision is made for small increases in staff, it is significant that the number of authorized positions for 1979 are actually fewer than for 1975. The authorization is more than justified by the heavy new responsibilities placed upon the agency by the Securities Acts Amendments of 1975—including development of a national market system—and more recent responsibilities including surveillance of the burgeoning options market. The largest proportion of the authorization increase will be used by the agency to meet inflation and mandatory pay increases.

I think my colleagues should be interested in knowing that more than 55 percent, or an estimated $35.6 million, of this modest authorization will be returned to the U.S. Treasury in the form of fees collected by the agency.

The second principal purpose of H.R. 11567 is to delay the effective date of section 11(a) of the Securities Exchange Act of 1934 from May 1 of this year to November 1, 1979. Section 11(a) makes it unlawful for any member of a national securities exchange to effect any transaction on such exchange for, basically, an account for which the member makes investment decisions. If the extension is not granted, the implementation of the national market system may be seriously impeded and, in addition, there may be repercussions to an industry which has been facing some very difficult times.

Section 11(a) was adopted in the Securities Acts Amendments of 1975 for two overriding purposes: To eliminate the conflict of interest in having the same person manage an account and receive its brokerage commissions and to preclude institutions—such as banks, insurance companies, and mutual funds—from joining exchanges. There are a number of activities which provide very substantial revenue streams to the brokerage industry, and whose exemptions from the section 11(a) provisions would seem to be consistent with the purposes of the section. On March 15, the Commission released rules under section 11(a), effective May 1, 1978, designed to provide some relief to the industry. There remain two fundamental difficulties for which the extension is needed.

First, many firms will be unable to adequately adjust to the rules by the May 1 deadline. Second, and most importantly, it is quite clear that the Commission cannot now solve through rulemaking all the problems which full effectiveness of section 11(a) will likely cause.

The overriding question remaining to be resolved is, how do the provisions of section 11(a) relate to the currently evolving national market system? The Commission is concerned that the disruption to the firms caused by implementation of section 11(a) will seriously hamper efforts by the Commission and the industry to develop a national market system. It seems prudent to await 18 months, by which time the national market system is expected to have evolved adequately for the Commission to make necessary rule adjustments.

Some people are very troubled, and quite properly so, by the conflict inherent in having the same person manage an account and receive its brokerage commissions. They are convinced that we should bring those conflicts to an end by May 1, 1978. Yet, while the conflicts do exist, the legislative record leading to the enactment of the 1975 acts amendments and the hearings on the extension of time have not demonstrated abuses. The conflicts have existed for 200 years and all the bill before us asks is a delay of 18 months. Moreover, the extension was proposed and is strongly endorsed by the agency charged with protecting the public from abuses in connection with conflicts of interest.

H.R. 11567 contains a provision designed to allay longstanding concerns of many institutional investors with respect to exchange membership. These firms do not desire to become members of stock exchanges; on the contrary, they would prefer not to hold exchange memberships. However, they fear exposure to litigation which has in the past sought to establish some duty under the Federal securities laws to compel institutional managers to join stock exchanges in order to minimize brokerage commissions for affiliated institutional accounts. This provision in section 11(a) should lay this matter to rest.

H.R. 11567 is supported by the Securities and Exchange Commission, the Securities Industry Association, the New York Stock Exchange, the American Stock Exchange, and the Chicago Board Options Exchange. Even those who appeared at our hearings to oppose the delay acknowledge that they did so, not because of any adverse competitive impact, but either for philosophical reasons or because they fear that the delay will be used to repeal the section. I would suggest this fear is groundless for both the SEC and the Securities Industry Association stated they did not favor repeal.

I urge my colleagues to vote in favor of H.R. 11567.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Moss).

Mr. ECKHARDT. Mr. Speaker, I yield an additional 5 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, I truly regret that this legislation is being considered under a suspension of the rules. I think it inappropriate. This is a complex question. We are going to focus on the issue of section 11(a) of the Securities and Exchange Commission Act and overlook entirely in our discussion the important authorization of funding for the Securities and Exchange Commission.

I want to assure the distinguished chairman of the Subcommittee on Commerce, the gentleman from Texas (Mr. ECKHARDT), that he is in total error when he states, in telling that the Securities and Exchange Commission supports this legislation, that that is the agency charged with protecting the public from conflicts of interest. That is not the agency charged with protecting the public from conflicts of interest. This body—the Congress—is the agency charged with protecting the public from conflicts of interest, and we specifically took away in the 1975 amendments the authority of the SEC to suspend in any manner the provisions of section 11(a).

We gave them the authority to suspend many other provisions of the Securities Exchange Act, but we did not give them the authority to suspend section 11(a).

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. MOSS. Certainly, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding.

The gentleman will recognize, however, that we provided flexibility in rulemaking for exceptions from section 11(a), will he not?

Mr. MOSS. We provided very limited exceptions from the requirements of 11(a).

Mr. ECKHARDT. If the gentleman will yield further, Mr. Speaker, the gentleman does not contest the authority of the SEC to have issued the rules that it has presently issued, does he?

Mr. MOSS. I do not. I state that the act required them to issue the rules that they issued on the 15th day of March.

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman.

Mr. MOSS. Mr. Speaker, they did issue rules dealing with this question of conflict of interest.

Let me point out that not only do we not, by this action here through a suspension, deal with the effect of the Securities Exchange Act, but we are going to leave a problem for our friends over on the Committee on Education and Labor because ERISA, the act of 1974, also contains a provision which we have tried to conform in the past. It prohibits an investment advisor of a covered employee benefit plan from executing brokerage transactions for that plan.

I can see that immediately following the passage of this legislation on suspension, an effort will be made to continue the conflict of interest, which is so obvious in ERISA, for that program for a similar 18 months.

Why is it necessary that we sanction a proven pattern of conflict of interest for 18 months? We granted 3 years following enactment of the amendments of 1975 to permit an orderly transition in the brokerage industry. Everyone engaged in this business knew that they were faced with a change in rules on May 1, 1978. As a matter of fact, all of those who came in after May 1, 1975, have been subject to this limitation on trading. The only ones who have the authority at the present time are those grandfathered in.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I thank the gentleman for yielding.

I want to thank the gentleman for making that particular point. I think it is very, very relevant. Everybody who came in after the applicable date of 1975 has not been able to engage in what could be a conflict of interest situation; therefore, we are talking only about the pre-1975 period.

Mr. MOSS. The gentleman is correct. We are talking about those who, if there was abuse, caused the abuse; and we are saying to those who entered the business after that date, "You will continue to be covered by the prohibition against trading for your managed accounts."

Mr. Speaker, it makes no sense to me. There has not been a showing here before the SEC or before the Committee on Interstate and Foreign Commerce of any data that would support the claim of hardship. As for saying that it is necessary in order to move toward the national market system or the central market system, that has been the excuse of the Commission and of the industry for either supporting or resisting every change that I can think of for the last 5 years, looking forward to moving into the central market system.

We have made progress, but that is not the finite date. We may be moving toward it 10 years from now, and I can find, in looking ahead, as much excuse in 1979 to extend it for an additional 18 months as I have heard so far this year.

Let me say that this was not a casually considered provision. I was the chairman of the then Subcommittee on Commerce and Finance. We held the most extensive hearings covering the securities markets of this country held at any time since the 1930's.

They extended for over 2 years. An additional 2 years was consumed in the markup and drafting of legislation and passage in 1975, and in this instance a 3-year leadtime.

Now, the Securities and Exchange Commission started circulating those proposed rules back in 1976 and 1977. They have adopted them. They have the authority to modify as experience proves it is necessary, but this suspension for 18 months is an open invitation to every kind of abuse which was discussed in those hearings, leading this body and the other body to write this absolute prohibition into law.

I strongly urge the Members of this body not to act here in this hasty and—I might add—uninformed manner because as of the 31st of March I could not get a single bit of statistical data from the Securities and Exchange Commission giving any basis for the conclusion that a hardship would follow the implementation of the existing law.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield.

Mr. ECKHARDT. I thank the gentleman for yielding to me. I do not arise argumentatively at this time, but merely to pin down the dates. As I recall, the study we conducted in the subcommittee under the chairmanship of the distinguished gentleman from California was in 1973 and 1974; is that correct?

Mr. MOSS. The gentleman is in error. It started in 1970.

Mr. ECKHARDT. In 1970?

Mr. MOSS. In 1970, and it continued in 1971 and into 1972. We then started the drafting, and the bill was circulated in 1972 and 1973. We held hearings on the title-by-title provisions of the bill in 1973 and 1974. It was held up here on the floor because the New York Stock Exchange decided it wanted to resist some of the provisions of the bill.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. MOSS. Of course, I yield to the gentleman.

Mr. ECKHARDT. The gentleman is correct, and I thank him for placing those dates. So, then, by January 1974, the gentleman in the well was very familiar with this question, I understand?

Mr. MOSS. Yes; I think I was.

Mr. ECKHARDT. The gentleman recalls the testimony and arguments on the question?

Mr. MOSS. That is correct. And on the basis of having heard all of that testimony and those arguments, I counsel my friends to vote against this legislation.

Mr. SKUBITZ. Mr. Speaker, I yield 12 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding to me. I do not know that I will use the full 12 minutes, but I rise in strong support of this bill.

As the chairman of the subcommittee, the gentleman from Texas (Mr. ECKHARDT), has already pointed out, the bill does two things. First, it contains authorizations for appropriations to operate the SEC for the next 3 years. It is necessary to get this bill through so that we can meet the May 15 deadline, and also to make sure that this bill is enacted in time to get the bill ready for the Appropriations Committee.

The second thing this bill would do, would be merely to extend for 18 months the effective date of section 11(a) of the SEC Act. Section 11(a) is scheduled to go into effect on May 1.

Briefly stated, section 11(a) is aimed at potential conflicts of interest problems that arise when an exchange member is also acting for an account over which he exercises some investment discretion. In other words, the broker has entered into some contractual relationship with a trust fund of one kind or another, and is not only acting as an investment advisor, but is acting as the broker at the same time. Back in 1975 we gave the SEC 3 years to come up with rules and regulations, and gave them the responsibility of writing rules to implement section 11(a). Now, the Commission has just, in the last 2 and 3 weeks, come up with those rules. They did not come up with those rules a year ago or 2 years ago, to give these brokers who do have investment accounts of this type an opportunity to change and make new business arrangements.

The SEC just issued these rules 2 or 3 weeks ago. They are very complex. I wish I had them with me here.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I will be glad to yield to the gentleman from California.

Mr. MOSS. Is it not true that the Commission circulated copies of the proposed rules in 1976 and 1977 and, as the Commission has always done in the promulgation of rules, there has been a continuing dialog with representatives of the securities industry who would be affected?

Mr. BROYHILL. Certainly proposed rules have been circulated, but as the gentleman well knows, proposed rules are a far cry from the rules that are finally adopted.

Mr. MOSS. Mr. Speaker, if the gentleman will yield still further I would ask are they in this instance?

Mr. BROYHILL. In this instance some changes were made but, at the same time, there was no one who had any firm knowledge of what the Commission would finally do and thus had no idea what the rules of the road were

going to be as far as the future was concerned.

When the Commission issued those rules just 2 or 3 weeks ago, the SEC itself made a very strong recommendation that implementation of section 11(a) be delayed for 18 months. I believe that implementation of section 11(a) would cause some very severe dislocation within the brokerage community, especially in view of the fact that the SEC is just now in the process of developing what is called a national market system that was also mandated by that 1975 act. The SEC strongly believes, and I agree with them, that implementing section 11(a) just 2 or 3 weeks from now, at this time, and at the same time you have got to remember that we are trying to develop this national market system, that this is going to have some very severe competitive effects that were contrary to what we were hopeful for when we wrote this section back in 1975.

In other words, what I am saying is that the act we wrote back in 1975 helps a lot of people, particularly the institutions, those who for one reason or another felt that they were not getting the low dollar as far as commissions were concerned. We did two or three things there, we not only said that they could not be trading with themselves and thus could not be a member of the exchange, but we also did away with fixed commission rates.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, as the gentleman in the well knows, I am not a member of the committee, but it is my understanding that in the committee there was an effort made to provide a 4-month extension rather than the 18-month extension, is that correct?

Mr. BROYHILL. I cannot remember at this time of an amendment that was offered to that effect.

Mr. RAILSBACK. If the gentleman would yield still further, I think the thing that bothers some of us—and I have the greatest respect for the gentleman in the well—but I think the thing that bothers some of us is whether an 18-month period is, No. 1, necessary, and, No. 2, is it desirable and whether, you know, if this bill was not being handled under suspension of the rules then there would be an opportunity to amend it to have a shorter deferral period.

Mr. BROYHILL. I, of course, am not the manager of the bill. The gentleman from Texas (Mr. ECKHARDT) is the manager of the bill. But what I am trying to say, in summary, and the point I am trying to make to the gentleman from Illinois and others is that the implementation of section 11(a) at a time when the rules have just now been promulgated, is going to have very serious effects and could do serious harm to certain people who are in the brokerage business. Not all of them are involved. There are only a very few people involved in this particular situation. On the other hand, an 18-month extension is in no way going to harm the institutions, it is not going to in any way harm the investment advisers or life insurance companies who have lived under the system for years. When they were before the committee I repeatedly asked the question, in the subcommittee, "Will an 18-month extension do harm to you?" And they could not in any way give me an answer that it would harm them in any way.

Mr. RAILSBACK. Will the gentleman yield further?

Mr. BROYHILL. I yield further to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I would think that the allegation would be that by giving an 18-month deferral period, you would have all these pre-1975 Members that could potentially engage in what could be a conflict of interest situation.

Mr. BROYHILL. I am saying those people in the pre-1975 situation would have 18 months in order to change their business arrangement so that they could either stay in business or make the necessary arrangements so that they could be in one business or the other. They have not had that opportunity.

As stated by those people who opposed the bill, and I want to make this point, they are talking about serious conflicts of interest here that have to be corrected. I am convinced that a conflict of interest situation is a theoretical problem, and more of a theoretical problem than a real problem.

Let me make this point and then I will be glad to yield. SEC Commissioner Loomis in response to a letter which I recently wrote stated:

> I am not aware of widespread abuses involving a conflict of interest arising specifically from the combination of money management and brokerage such as churning of accounts of similar practices in the case of institutional accounts.

In other words, the SEC which enforces the securities laws does not believe that a significant problem exists in this area. Furthermore, they feel that there are problems here that are going to take some time to work out. Therefore, I believe that sufficient time is needed in order to make sure this is done in a proper way without unduly harming people.

Mr. Speaker, now I yield to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, is it not true that the Securities and Exchange Commission itself had adopted a proposed rule that would require 80 percent of the business being brokered to be nonaffiliated and 20 percent only could be executed or carried by the broker himself as a means of dealing with perceived serious conflicts that existed at the time of the Commission's action in 1972?

Mr. BROYHILL. Yes, that is correct.

Mr. MOSS. And the House and the Senate in further response to that mandated a full 100-percent bar against self-trading; is that not true?

Mr. BROYHILL. But we did far more than that. We did far more than just provide that the brokerage firm has to do 100-percent public business. If you look at the legislative history, one of the principal purposes of the legislation was to prevent large financial institutions, such as life insurance firms and others, from obtaining exchange membership for the purpose of saving commissions, going on the exchange and then effecting transactions for their own account. That was the reason we adopted the 100-percent rule. I think it was a good rule at that time, but at the same time, remember in the same act to avoid any of these perceived competitive advantages in money management which this restriction would give to those in the brokerage community, what we did was do away with fixed commission rates.

As a result of eliminating fixed commission rates, commissions have fallen drastically since that time. The institutions have benefited from this. The people who share in these accounts have benefited greatly. I do not even know how much the figure would be, but there is a substantial amount of savings that has resulted from the passing of that law.

In other words, we not only put in the 100-percent rule, but we also did away with the fixed commission rates At the present time what we are talking about is implementing section 11(a), which is the 100-percent rule, but only 2 or 3 weeks after the SEC has issued its final ruling. I do not think this is enough time for the people to make their necessary arrangements to make the changes that will be needed.

Mr. ECKHARDT. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) has 8 minutes remaining, and the gentleman from Kansas (Mr. SKUBITZ) has 3 minutes remaining.

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the inception of section 11(a) was at a time when the brokerage community feared that institutional investors would enter into brokerage business in order to recoup commission rates and at a time when commission rates were fixed. Large transactions required the payment of commissions vastly in excess of what it actually cost to execute them.

At that time it was feared that institutions would so massively move into the brokerage business as to jeopardize the existence of those already in that business.

The gentleman from California (Mr. Moss) has very correctly stated that he was working on this problem, as was the subcommittee, and had heard such testimony prior to January of 1974. I want to recognize my distinguished colleague, the gentleman from California, as my mentor and teacher in this area, and I am not sure that he did not teach me the particular lesson that he is attempting to teach the House today.

I also want to compliment the gentleman from California as a Member of a large and capacious mind, one who is certainly not afraid of hobgoblins, because at the time he had all this information before him, on January 18, 1974, he addressed a conference for senior management at the St. Regis Hotel and said as follows:

I believe that the industry has struck a bad bargain for itself. It was the maze of reciprocity and blatant gimmickry in the 60's which helped erode investor confidence in the first place. To reinstitute the reciprocity game is both foolhardy and short-sighted. It would seem to me that the industry would be better off if no legislation was enacted at this time concerning either institutional membership or the separation of brokerage and money management. If the institutions truly lack the desire to join exchanges in a competitive rate environment, no harm will come to the securities industry. But if the elimination of fixed rates does not stem the interest in institutional membership—

And I interject to say that I think it has stemmed the interest in institutional membership—

it will then be time for Congress to act.

Now, mind you, this was after an era in which institutions could engage in brokerage business. Yet the gentleman from California (Mr. Moss) was not afraid of any harm at that time, he thought we ought to wait to see what happened with competitive rates before acting, and did not see any danger that would be occurring.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague, the gentleman from Texas (Mr. ECKHARDT), for yielding.

I might say that I would not want someone to read back to me some of my speeches from the year 1974, because in light of the problems of 1978, we ought to recognize perhaps there could be a different situation now. I believe we do see a different situation has developed in this industry.

At this point I would like to say that no Member of the Congress during the last several decades has made a greater contribution to this industry or to the public that deals in this industry and for the protection of that public than the gentleman from California (Mr. Moss). He has been a tower of strength in protecting the public interest.

As the gentleman from Texas has just stated, he has been a mentor of his and he has been a mentor of mine. In this particular instance, however, I support the legislative intent and initiatives of the gentleman from Texas. I feel we are in such a transition in this industry at this time that a delay of 18 months is certainly warranted as we move into what will probably be a national security exchange, and I think that this 18 months will lay the basis for the proper protection, not only of the public, but also the industry.

Mr. ECKHARDT. Mr. Speaker, I would like to comment briefly on that last statement. What the gentleman from California was talking about at that time, as I understand the context of the speech, was a situation in which competitive rates were coming into effect, and there was needed a period of time to see what would happen.

Would the gentleman not agree with me that the same situation, perhaps in spades, exists at a time when a national marketplace is coming into existence? Does not the gentleman feel that we need some time to take a look at the SEC's rules and at the entire question, not in light of repealing the rule, but in light of trying to accommodate business to the principles embodied therein?

Mr. MURPHY of New York. If the gentleman will yield, I agree with the gentleman. That is the reason for my agreeing with this 18-month period to further evaluate and study those rules.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. I thank the gentleman for yielding.

Mr. Speaker, I would say to the gentleman from Texas that the speech I gave—and I am pleased to find that they have been culling my speeches; they are rather consistent—envisioned immediate action. We waited 3 years for this particular provision of the bill. Three years. This is 1978. There is no need for additional time. I asked the Securities and Exchange Commission for the information bearing upon the implementation of the national market system. The SEC has been unbelievably timid in moving toward the implementation of the national market system. As a matter of fact, they have exercised their discretion to slow down the whole process wherever they could. This is one area where they could not. They had to come back to the Congress.

The gentleman joined me earlier in this Congress in a joint oversight hearing, and he joined me in my assessment of the lack of vigor on the part of the Commission in the implementation of the act that we wrote in 1975.

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield back to me, I agree that the SEC has not moved with that alacrity that both he and I would like to see it move. But I do not believe that the brokerage industry should be punished for the failure of the SEC to move quickly.

Mr. MOSS. Mr. Speaker. will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. Mr. Speaker, has the gentleman ever known the industry to do anything but encourage that delay?

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. SKUBITZ. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I rise in opposition to the motion to suspend the rules and pass H.R. 11567, a bill which would authorize appropriations to the Securities and Exchange Commission and which would also amend the Securities Exchange Act of 1934. I do this because I question section 2 which would amend the Act to extend the effective date of section 11(a) for another 18 months. I feel this matter should be thoroughly analyzed and debated before a decision is made to extend that deadline.

As I understand it, section 11(a) prohibits a member of a stock exchange from being both a broker and an investment advisor for institutional accounts—such as pension funds—under its management. This section was included in the Securities Act Amendments of 1975 because Members at that time felt there may be a conflict of interest on the part of the broker-dealers. A broker-dealer could possibly use institutional accounts under his management to the detriment of his clients. For example, the broker could use the funds for excess transactions to gain commissions or to buy overvalued securities from his own firm. The SEC considers this potential problem to be theoretical rather than real. However, Members in 1975 found a possible conflict of interest and passed the legislation, and I feel it warrants very careful debate now.

Also, the SEC argues that the provisions of section 11(a) are not adequately covered under its rules issued last month. It points out that the securities market is in a state of flux due to the new national market system. Additional time may or may not be needed. I personally feel that 18 months seems to be an unnecessarily long extension.

The point is that the issue needs much more discussion, and I therefore urge my colleagues to reject the motion to suspend the rules and pass H.R. 11567.

I feel that the matter should be thoroughly analyzed and debated before a decision is made to extend that deadline.

Mr. Speaker, I would like to say that it seems to me that a 4-month extension or a 6-month extension would certainly be adequate.

Mr. SKUBITZ. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the legislation and wish to commend my colleague, the gentleman from North Carolina (Mr. BROYHILL), for his excellent work and dedication in trying to come up with meaningful legislation.

I would like to point out that Mr. Loomis, who was referred to by my colleague, the gentleman from North Carolina (Mr. BROYHILL), not only is on the Commission, but served in the capacity of general counsel for more years than I can recount. As the counsel, he favors this legislation.

Mr. Speaker, I would quote a portion of his letter dated the 20th of March to the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from New Jersey (Mr. RINALDO), in which he points out some of the safeguards. He said the following:

As you are aware, the antifraud provisions of the Federal securities law and other Federal and State law limitations on fiduciary conduct prohibit churning of customers accounts and other abuses by broker-dealers which act as investment managers for their customers. The Commission and the self-regulatory organizations examine the books and records of broker-dealers with a view to

determining whether they are engaging in prohibited activities and bring appropriate disciplinary and other enforcement action where violations are found.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. DEVINE) has expired.

● Mr. MURPHY of New York. Mr. Speaker, on the 22d of last month, I, as a member of the Interstate and Foreign Commerce Committee, voted for this very legislation the Securities Acts Amendments of 1975 provide that, as of May 1, 1978, members of National Securities Exchanges can no longer effect any transaction on such an exchange for an account for which the member makes investment decisions. The bill before us today will extend the effective date of the prohibition from May 1, 1978 to November 1, 1979.

In passing these amendments in 1975, we gave to the Security and Exchange Commission the chore of writing the necessary rules to carry out the provisions of section 11(a). The SEC is presently in the midst of writing these rules but, it has had great difficulty in developing those necessary to implement the section. This is because of certain ambiguities in the section, widely differing views of the scope of the section and concerns about how implementation of 11(a) would affect the developing national market system last month, the commission was able to issue rules clarifying certain aspects of section 11(a). At that time the SEC made it clear that a number of problems remain which they have been unable to resolve as yet. By granting an extension, we can help assure against the confusion which would in all likelihood result in an immediate implementation of section 11(a).

Also, an unnecessary hardship would result by causing exchange members to revise their business practices while not knowing what the future rules will be. I do not believe that this would be fair to the industry. An extension would not harm institutions and investment advisors who have lived under the present system for years.

In no way must it seem that by granting an 18-month extension we are, in effect, repealing section 11(a). This is merely and extension to provide time for the Security and Exchange Commission to formulate adequate rules.●

● Mr. STAGGERS. Mr. Speaker, H.R. 11567 authorizes appropriations for the Securities and Exchange Commission for fiscal years 1979–81 and extends the effective date of section 11(a) of the Securities and Exchange Act of 1934 for 18 months from May 1, 1978 to November 1, 1979.

The bill authorizes funds for the Commission in the amounts of $70, $80, and $91 million for fiscal years 1979, 1980, and 1981, respectively. These amounts are conservative in view of the fact that the projected number of authorized positions for 1979 is actually lower than that authorized for 1975, in spite of the SEC's responsibilities having significantly increased due to the enactment of the far-reaching 1975 Securities Acts amendments and as a result of massively stepped-up activity in the options market.

The bill also delays the effective date of section 11(a) of the Securities and Exchange Act of 1934, which was enacted as part of the 1975 Securities Acts amendments. Essentially, section 11(a) prohibits a member of a national securities exchange from effecting any transaction on that exchange for the member's own account, the account of a person associated with a member, or an account over which a member or an associated person exercises investment discretion. The section became effective upon enactment as to those who became exchange members after May 1, 1975, but for existing exchange members the effective date was delayed until May 1, 1978.

Mr. Speaker, the SEC has requested that the delay of section 11(a) be extended to November 1, 1979, for a number of reasons, principally the uncertainty of the effect of the section on the implementation of the national market system mandated by the 1975 amendments and the possible anticompetitive effects on smaller and regional firms which derive significant revenues from business that would soon be prohibited. The SEC has also noted that the activities to be prohibited do involve a conflict of interest that is inherent in the management and execution of transactions for a single account. The SEC has also adopted rules to implement section 11(a). Nevertheless, because of the substantial uncertainties I have just described and the fact that the practices which would be prohibited have been going on for some time, the SEC is of the opinion that the rules themselves would have uncertain effect and, on balance, the 18-month delay of the effective date of the section is desirable.

Finally, the bill contains a provision to clarify that fiduciaries are not under any duty to join an exchange for the purpose of less expensively engaging in securities transactions for managed accounts. This provision was adopted to remove uncertainty perceived by institutional investors as to the existence of such a duty, until the ultimate implementation of section 11(a).

For the foregoing reasons, I urge passage of the bill.●

Mr. SKUBITZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the bill H.R. 11567.

The question was taken.

Mr. MOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of no quorum is considered as having been withdrawn.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 11567.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

STANDARD REFERENCE DATA ACT AUTHORIZATION

Mr. FLIPPO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11232) to authorize appropriations to carry out the Standard Reference Data Act.

The Clerk read as follows:

H.R. 11232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to the Department of Commerce not to exceed $3,152,000 for fiscal year 1979, $3,750,000 for fiscal year 1980, and $4,500,000 for fiscal year 1981 to carry out the purposes of the Standard Reference Data Act (15 U.S.C. 290–290f; 82 Stat. 339.)

The SPEAKER pro tempore. Is a second demanded?

Mr. HOLLENBECK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. FLIPPO) and the gentleman from New Jersey (Mr. HOLLENBECK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 11232 is to authorize funds for the continuation of the standard reference data program. This small but important program is being conducted by the National Bureau of Standards in accordance with Public Law 90–396 which was enacted by the Congress in 1968.

Under this law, the standard reference data program performs a little noticed, but highly significant activity which serves to increase the efficiency of American science and technology. The program makes available to scientists and engineers much data and information which otherwise would not be easily available.

Throughout the world each year thousands of experimental results are published. But in most cases these results are not directly useful to practicing scientists and engineers. Variations in the manner in which the data was developed, and in the way it is reported would make it necessary for each individual worker to make a detailed analysis of such data before he or she could use it.

The search of the literature, its carefull evaluation and its publication in a

standardized form is performed by the staff of the standard reference data program. The actual work is performed by dedicated specialists through the use of data centers and data projects located elsewhere in the Bureau of Standards and in the universities.

H.R. 11232 would authorize appropriations for the standard reference data program for the next 3 fiscal years. This is in accordance with the practice followed since the program was first authorized 10 years ago. In 1972 and again in 1975 the Congress renewed the authorization on a 3-year basis, and our committee is again urging such a 3-year renewal.

The funds which the bill would authorize are as follows: in fiscal year 1979, the sum of $3.157 million; in fiscal year 1980, the sum of $3.75 million; and in fiscal year 1981, the sum of $4.5 million. These amounts, if approved, would represent very modest increases in funding levels for the next 3 years and would permit a gradual increase in the work conducted under the program in order to provide support to the many important activities in the environmental and energy fields which are increasingly in demand.

Mr. Speaker, the continuation of the standard reference data program is important to our Nation, and I urge my colleagues in the House to support H.R. 11232 which will permit it to continue this work.

Mr. HOLLENBECK. Mr. Speaker, I yield 2 minutes to the ranking minority member of the full committee, the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I rise in support of H.R. 11232, authorizing appropriations for fiscal year 1979, 1980 and 1981 to carry out the Standards Reference Data Act.

I wish to commend my colleague, Mr. HOLLENBECK, the ranking minority member of the Subcommittee on Science, Research, and Technology, for his outstanding effort in helping to prepare this bill for consideration today. It is evident that he has done an extraordinary job in grasping the principles of a difficult subject not always appreciated by the nonscientist, and that he has seen an important avenue for necessary new efforts on the part of the Bureau of Standards and the Office of Standard Reference Data.

The Standard Reference Data System, for which we are authorizing appropriations today, is an important element in the effective use of the Nation's scientific research. Given the large sums which the Federal Government and private industry spend on both basic and applied research, it is important that we get the greatest return on the investment on these programs. The Standard Reference Data System which provides for compilation and critical evaluation of standard reference data on the physical and chemical properties of materials is important in helping to achieve the wide dissemination of the results of laboratory experimentation.

Physical data measured in one laboratory in any place around the world can then be used in other laboratories. But it is important that the scientist who is using this data know how the data was measured and to determine how reliable the measurements were. This is a job that only a specialist in the field can determine. Very often, with the growth of interdisciplinary research, the scientists are required to use models and data drawn from fields far removed from their own immediate experience. The standard reference data system meets this need by compiling and evaluating basic physical and chemical data gathered from around the world, from a broad range of scientific disciplines.

In conclusion, I urge my colleagues to join me in supporting H.R. 11232, and I join my colleague Mr. HOLLENBECK in urging that the Director of the National Bureau of Standards develop a pilot program for the evaluation of scientific models as suggested in the committee report.

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11232, which would authorize $3.15 million for fiscal year 1979, $3.75 million for fiscal year 1980, and $4.5 million for fiscal year 1981, for the Office of Standard Reference Data at the National Bureau of Standards.

Mr. Speaker, I wish to commend my colleague, Mr. FLIPPO, for his leadership and interest in preparing this bill on the little known but important Office of Standard Reference Data at the National Bureau of Standards.

The purpose of the standard reference data system is to collect, critically evaluate, and then disseminate data concerning the basic physical, chemical, thermodynamic, and electrical properties of materials. This data is gathered from journals, from research reports and papers, and from scientists around the world. It is then evaluated by comparing differences in measurement techniques and trying to arrive at "best" set values for the important physical and chemical parameters. The results of this evaluation are disseminated to the scientific and industrial communities through the Journal of Physical and Chemical Reference Data.

The program is organized in four main areas of application: Energy and environmental data; industrial process data; materials utilization data; and physical science data. As testimony indicated, there is very strong support for the program, both within the scientific and industrial communities. Indeed, several witnesses stated that the industrial community could well use an expanded program beyond that currently supported.

Mr. Speaker, it is important for us, as laymen, to understand that there is a great variability to the physical and chemical data needed by the research community. There are different methods of measurement. Each method is associated with different sources and sizes of error. This data, such as basic physical constants, form the foundation for advanced research—often performed by scientists who are not immediately familiar with the methods by which the original data was compiled. Thus, there is a great need in the research and industrial communities to have some standard source to which scientists and engineers can go to obtain authoritative values of these parameters. That is the function served by the Office of Standard Reference Data. As indicated earlier, it has a wide variety of applications ranging from energy and environmental research to industrial processes design.

Looking to the future, it is important to understand that data can never be perfect. This is especially true for large multidisciplinary systems such as those encountered in energy and environmental research. But if this data has a wide range of error, it is doubly important to understand the sensitivity of our models of atmospheric and environmental systems to these errors. Thus, in addition to the evaluation of data, there is also a need to evaluate the scientific models which use such data. Increasingly, regulatory bodies as well as the private sector rely on models as an aid in formulating environmental regulations and in designing industrial processes.

As a complement to the critical evaluation of physical data, it is my belief that the analysis of uncertainties in scientific models and the sensitivity of predictions based on such models should be undertaken by the Bureau. Specifically, I hope that the Director of the Bureau, together with the staff of the Office of Standard Reference Data, will initiate an effort to undertake the evaluation of scientific models. In view of the importance of climate problems, and especially of climate change, for long range energy policy, I would urge the Bureau to prepare a plan for a pilot program in model evaluation and in the critical evaluation of environmental data as related to atmospheric heating by carbon dioxide. This pilot program should enable us to understand the extent to which it is appropriate for the Bureau to attempt the evaluation of scientific models as a complement to the existing standard reference data system. These views are shared by the Science and Technology Committee as indicated in the report of this bill.

In conclusion, Mr. Speaker, I would urge my colleagues to join me in supporting H.R. 11232.

Mr. FLIPPO. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. HOLLENBECK. Mr. Speaker, I also have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. FLIPPO) that the House suspend the rules and pass the bill H.R. 11232.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 3(b), rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 11003, by the yeas and nays, and H.R. 11567 (de novo).

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

WHITE HOUSE PERSONNEL AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11003, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill H.R. 11003, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 207, nays 188, not voting 39, as follows:

[Roll No. 190]

YEAS—207

Addabbo	Derwinski	Lundine
Akaka	Dicks	McCormack
Alexander	Downey	McFall
Allen	Duncan, Oreg.	McKay
Ambro	Eckhardt	Madigan
Ammerman	Edwards, Calif.	Maguire
Anderson, Calif.	Eilberg	Mahon
Andrews, N.C.	Evans, Colo.	Mann
Annunzio	Fary	Markey
Applegate	Fascell	Marks
Baldus	Fisher	Mathis
Barnard	Flowers	Mattox
Beard, R.I.	Flynt	Metcalfe
Beilenson	Foley	Mikulski
Benjamin	Ford, Mich.	Mikva
Bevill	Fountain	Milford
Biaggi	Fowler	Miller, Calif.
Bingham	Fraser	Mineta
Blanchard	Gaydos	Minish
Blouin	Gephardt	Mitchell, Md.
Boggs	Giaimo	Moakley
Boland	Gibbons	Moffett
Bonior	Ginn	Mollohan
Bonker	Gonzalez	Montgomery
Bowen	Gudger	Moorhead, Pa.
Brademas	Hamilton	Murphy, N.Y.
Breckinridge	Hanley	Murtha
Brinkley	Hannaford	Myers, Gary
Brodhead	Harkin	Myers, Michael
Brooks	Harrington	Natcher
Brown, Calif.	Harris	Neal
Burke, Mass.	Hawkins	Nedzi
Burleson, Tex.	Heckler	Nix
Burlison, Mo.	Hefner	Nolan
Burton, John	Heftel	Nowak
Burton, Phillip	Holland	Oakar
Carney	Howard	Oberstar
Carr	Hubbard	Obey
Carter	Ireland	Ottinger
Cavanaugh	Jenkins	Patten
Cederberg	Jenrette	Patterson
Chisholm	Johnson, Calif.	Pattison
Clay	Jones, N.C.	Pease
Collins, Ill.	Jones, Okla.	Pepper
Conte	Jordan	Perkins
Conyers	Kastenmeier	Poage
Corcoran	Kazen	Price
Cornell	Ketchum	Quillen
Danielson	Kildee	Rahall
de la Garza	Leggett	Rangel
Delaney	Levitas	Richmond
Dellums	Lloyd, Calif.	Roberts
Derrick	Lott	Roe
	Luken	Roncalio
Rooney	Smith, Iowa	Weaver
Rose	St Germain	Weiss
Rosenthal	Staggers	Whalen
Rostenkowski	Stark	White
Roybal	Studds	Whitten
Russo	Taylor	Wiggins
Santini	Thompson	Wilson, C. H.
Scheuer	Traxler	Wilson, Tex.
Schroeder	Treen	Wolff
Seiberling	Tsongas	Wright
Shipley	Ullman	Young, Mo.
Sikes	Van Deerlin	Young, Tex.
Simon	Vento	Zablocki
Sisk	Waggonner	Zeferetti
Skelton	Watkins	
Slack	Waxman	

NAYS—188

Abdnor	Florio	Miller, Ohio
Anderson, Ill.	Ford, Tenn.	Mitchell, N.Y.
Andrews, N. Dak.	Forsythe	Moore
Archer	Frenzel	Moorhead, Calif.
Armstrong	Frey	Moss
Ashbrook	Fuqua	Mottl
AuCoin	Gammage	Murphy, Pa.
Badham	Gilman	Myers, John
Bafalis	Glickman	Nichols
Baucus	Goldwater	Panetta
Bauman	Goodling	Pettis
Beard, Tenn.	Gore	Pickle
Bedell	Gradison	Pike
Bennett	Grassley	Pressler
Breaux	Green	Pritchard
Broomfield	Guyer	Pursell
Brown, Mich.	Hagedorn	Quayle
Brown, Ohio	Hall	Quie
Broyhill	Hammer-schmidt	Railsback
Buchanan	Hansen	Regula
Burgener	Harsha	Rhodes
Burke, Fla.	Hightower	Rinaldo
Butler	Hillis	Risenhoover
Byron	Hollenbeck	Robinson
Caputo	Holt	Rogers
Clausen, Don H.	Holtzman	Rousselot
Cleveland	Horton	Rudd
Cochran	Huckaby	Ryan
Cohen	Hughes	Satterfield
Coleman	Hyde	Sawyer
Collins, Tex.	Ichord	Schulze
Conable	Jacobs	Sebelius
Cornwell	Jeffords	Sharp
Cotter	Johnson, Colo.	Shuster
Coughlin	Jones, Tenn.	Skubitz
Crane	Kasten	Smith, Nebr.
Cunningham	Kelly	Snyder
D'Amours	Kemp	Spence
Daniel, Dan	Keys	Stangeland
Daniel, R. W.	Kindness	Stanton
Davis	Kostmayer	Steers
Devine	Krebs	Stockman
Dickinson	LaFalce	Stratton
Dingell	Lagomarsino	Stump
Dornan	Latta	Symms
Drinan	Le Fante	Thone
Duncan, Tenn.	Leach	Trible
Early	Lederer	Vander Jagt
Edgar	Lent	Volkmer
Edwards, Ala.	Livingston	Walgren
Edwards, Okla.	Lloyd, Tenn.	Walker
Emery	Long, Md.	Walsh
English	Lujan	Wampler
Erlenborn	McClory	Whitehurst
Ertel	McDade	Wilson, Bob
Evans, Del.	McDonald	Winn
Evans, Ind.	McEwen	Wirth
Fenwick	McHugh	Wydler
Findley	Marlenee	Wylie
Fish	Marriott	Yates
Fithian	Martin	Yatron
Flippo	Mazzoli	Young, Alaska
	Meyner	Young, Fla.

NOT VOTING—39

Ashley	Krueger	Ruppe
Aspin	Lehman	Sarasin
Bolling	Long, La.	Solarz
Burke, Calif.	McCloskey	Spellman
Chappell	McKinney	Steed
Clawson, Del	Meeds	Steiger
Corman	Michel	Stokes
Dent	Murphy, Ill.	Teague
Diggs	O'Brien	Thornton
Dodd	Preyer	Tucker
Evans, Ga.	Reuss	Udall
Flood	Rodino	Vanik
Garcia	Runnels	Whitley

The Clerk announced the following pairs:

On this vote:

Mr. Rodino and Mr. Flood for, with Mr. Runnels against.

Mr. Teague and Mr. Solarz for, with Mr. Michel against.

Mr. Chappell and Mrs. Burke of California for, with Mr. Del Clawson against.

Mr. Stokes and Mrs. Spellman for, with Mr. McCloskey against.

Until further notice:

Mr. Steed with Mr. Dent.
Mr. Meeds with Mr. Diggs.
Mr. Corman with Mr. Garcia.
Mr. Dodd with Mr. Steiger.
Mr. Evans of Georgia with Mr. Udall.
Mr. Whitley with Mr. Vanik.
Mr. Murphy of Illinois with Mr. O'Brien.
Mr. Ashley with Mr. Aspin.
Mr. Lehman with Mr. Krueger.
Mr. Long of Louisiana with Mr. McKinney.
Mr. Preyer with Mr. Reuss.
Mr. Thornton with Mr. Sarasin.
Mr. Tucker with Mr. Ruppe.

Messrs. FUQUA, FINDLEY, BENNETT, LUJAN, and KREBS changed their vote from "yea" to "nay."

Mr. QUILLEN changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clauses 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11567.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the bill, H.R. 11567.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO FILE REPORT ON H.R. 11445

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until midnight tonight to file a report on the bill (H.R. 11445) amending the Small Business Act and the Small Business Investment Act of 1958.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1000) to provide for the expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1000

Resolved, That effective January 3, 1978, the expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $1,645,926, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $163,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That effective January 3, 1978, the expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $1,400,000, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $163,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the request of the Committee on Merchant Marine and Fisheries was for $1,645,926. The Committee on House Administration approved a request for $1,400,000, a decrease of $245,000.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 978) to provide funds for the expenses of the investigation and studies to be conducted by the Committee on Interstate and Foreign Commerce, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 978

Resolved, That effective January 3, 1978, expenses of investigations and studies to be conducted by the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, not to exceed $4,005,612, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of such contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $175,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)): but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Interstate and Foreign Commerce shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That effective January 3, 1978, expenses of investigations and studies to be conducted by the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, not to exceed $3,200,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of such contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $175,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section

202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)): but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Interstate and Foreign Commerce shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

The request of the Committee on Interstate and Foreign Commerce was for $4,005,612. The Committee on House Administration cut it to $3,200,000, and it was approved.

Mr. Speaker, I now yield such time as he may consume, for purposes of debate only, to the distinguished gentleman from Ohio (Mr. DEVINE), who is the ranking member of the Committee on Interstate and Foreign Commerce.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Committee on House Administration, in its wisdom, exercised frugality. It struck $800,000 from this request.

Mr. Speaker, I urge adoption of the resolution.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON), for purposes of debate only.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

Although I served on this committee, I was not there during the markup.

Mr. Speaker, as I recall, most of these committee resolutions are higher than those of last year; but I believe that this resolution is higher than that of any committee's request of the entire House.

I was wondering, just for the record, if the gentleman could give us an explanation of the request of $4 million, which was scaled down to $3,200,000. I understand that this is a very important committee, but I was wondering what necessitated this tremendous amount of money.

Mr. ANNUNZIO. I want to say to my good friend from Alabama that the request in the 2d session of the 95th Congress was for $3,197,000. Consequently, the Subcommittee on Accounts felt, after looking at the committee sheet, that on the $3,197,000, they had actually expended in the first session $2,947,650, which left an unexpended balance of $249,349.

The committee felt that with the unexpended balance, and the fact that we did give them in the first session $3 million, that they could very well get along in the second session with the $3 million, and so we cut them by $1 million.

Mr. DICKINSON. Let me say that I want to thank the gentleman for his very clear and lucid explanation. I have not heard a more convincing argument since our colleague, Mr. Friedel, left the House.

Mr. ANNUNZIO. I am highly honored by the compliment that the distinguished gentleman from Alabama has just paid me, because he has no peers in this House.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES OF THE COMMITTEE ON SMALL BUSINESS

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 997) to provide funds for the further expenses of the investigations and studies of the Committee on Small Business, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 997

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on Small Business acting as a whole or by subcommittee, not to exceed $836,650 including expenditures for the employment of investigators, attorneys, and clerical and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That for the further expenses of the investigations and studies to be conducted by the Committee on Small Business acting as a whole or by subcommittee, not to exceed $752,650, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, on this resolution, the request of the Committee on Small Business was for $836,650. The committee cut that to $752,650.

Mr. Speaker, I have nc further requests for time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

PROVIDING FUNDS FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Ad-

ministration, I call up a privileged resolution (H. Res. 1041) providing funds for the Committee on Post Office and Civil Service, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1041

Resolved, That effective January 3, 1978, expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $767,500, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $135,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That effective January 3, 1978, expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $700,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $135,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, the request of the Committee on Post Office and Civil Service amounted to $767, 500. The committee recommends $700,000.

Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY SELECT COMMITTEE ON POPULATION

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 989) to provide for the expenses of investigations and studies to be conducted by the Select Committee on Population, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 989

Resolved, That for the further expenses of investigations and studies to be conducted by the Select Committee on Population, acting as a whole, not to exceed $877,500; including expenditures for the employment of investigators, attorneys, clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such select committee, signed by the chairman of such select committee, and approved by the Committee on House Administration. Not to exceed $48,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committees of the House; and the chairman of the Select Committee on Population shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That for the further expenses of investigations and studies to be conducted by the Select Committee on Population, acting as a whole, not to exceed $750,000, including expenditures for the employment of investigators, attorneys, clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by each select committee, signed by the chairman of such select committee, and approved by the Committee on House Administration. Not to exceed $48,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committees of the House; and the chairman of the Select Committee on Population shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by this

resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, with reference to this particular resolution, let me state that the Select Committee on Population had been in existence for only 2 months in the 1st session of the 95th Congress and they spent $63,000. The resolution in the second session was for $877,500 and the committee voted for $750,500, a cut of approximately $100,000.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Alabama (Mr. DICKINSON) for purposes of debate only.

Mr. DICKINSON. Mr. Speaker, I was just wondering if the gentleman from Illinois (Mr. ANNUNZIO) might state, just for the record, at least, as to what the anticipated life of this ad hoc special subcommittee is.

Mr. ANNUNZIO. Mr. Speaker, like all other select committees of this House, I hope that when this session of the Congress ends that this committee will die.

Mr. DICKINSON. Am I correct in assuming that unless this House takes affirmative action, that this committee does die with this Congress?

Mr. ANNUNZIO. That is correct.

Mr. DICKINSON. Was there any testimony as to how much of this three-quarters of a million dollars would be used for travel?

Mr. ANNUNZIO. As I recall, there was some testimony on travel plans. According to the estimates, they are going to spend, on domestic travel, $10,500 and on foreign travel, in which they anticipate one foreign trip for investigation, they are planning to spend some $36,000.

Mr. DICKINSON. I wonder if the distinguished chairman, the gentleman from Illinois (Mr. ANNUNZIO) can tell us where this trip is that they plan to make a study on population control and where they plan to spend $36,000?

Mr. ANNUNZIO. Mr. Speaker, I would like to yield to my distinguished friend, the gentleman from Illinois (Mr. ERLENBORN) for purposes of debate only, in order that he might answer that question.

Mr. DICKINSON. The reason I would like to know is because I do not believe there are many places left in which to travel.

Mr. ERLENBORN. Mr. Speaker, in answer to the question posed by the gentleman from Alabama (Mr. DICKINSON) let me say that I do not believe the plans of the committee are necessarily completed at this time, but I might point out that there is an inter-parliamentary meeting on the topic of population in Sri Lanka later this year, so that likely will be attended by some members of the committees. Others of us, myself included, would like to go to our nation to the south, the country of Mexico, where there are some grave population problems involving immigration problems with the United States, and I would suppose that that probably would be the major portion of the traveling.

Mr. ANNUNZIO. Mr. Speaker, I yield for the purposes of debate only to the distinguished chairman of the full committee, the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I would like to express my deep appreciation to the gentleman from Illinois (Mr. ANNUNZIO) and to the other members of the Subcommittee on Accounts of the Committee on House Administration for the work that they have done. These matters have been gone over with great thoroughness and in my judgment are justified. I would hope that this resolution would be adopted.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield further?

Mr. ANNUNZIO. I yield further to the gentleman from Alabama (Mr. DICKINSON) for the purposes of debate only.

Mr. DICKINSON. Mr. Speaker, I would assume, then, from the answer given by my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN) that they are still working on the itinerary for the traveling and that this has not been firmed up as yet.

Mr. ANNUNZIO. It is very, very important to arrive at establishing an itinerary when we are studying a subject as important as population.

Mr. DICKINSON. I am sure we could not learn this information anyplace else.

Mr. ANNUNZIO. I know that the gentleman from Alabama, who is one of the most distinguished members of the House Committee on Administration, who attends every meeting, knows the intricate problems that our committee has to deal and cope with.

Mr. DICKINSON. We do not do much travel on our committee, so we learn by what we find out here at home, so I appreciate the gentleman's answer.

Mr. ANNUNZIO. I appreciate the inquiries from my friend, the gentleman from Alabama. That is what keeps our committee going.

I have no further requests for time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR COMMITTEE ON INTERNATIONAL RELATIONS

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1047) providing funds for the Committee on International Relations with expenses incurred in connection with visits to the United States by foreign heads of state and other foreign officials and for similar expenses incurred for meetings with senior U.S. Government officials and other dignitaries to discuss matters relevant to U.S. relations with other countries, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1047

Resolved, That (a) it is the purpose of this resolution to enable the House of Representatives more properly to discharge and coordinate its activities and responsibilities in connection with participation in various interparliamentary institutions, to facilitate the interchange and reception in the United States of members of foreign legislative bodies and permanent officials of foreign governments, and to enable the House of Representatives to host meetings with senior United States Government officials and other dignitaries in order to discuss matters relevant to United States relations with other countries.

(b) For payment of expenses incurred in carrying out subsection (a) of this section, there shall be paid out of the contingent fund of the House, until otherwise provided by law, such sums as may be necessary but no to exceed $35,000 in any calendar year. Such payments shall be made on vouchers signed by the chairman of the Committee on International Relations and approved by the Committee on House Administration.

SEC. 2. The first section of H. Res. 348, Eighty-seventh Congress, adopted June 29, 1961 (2 U.S.C. 130), and enacted as permanent law by the Legislative Branch Appropriation Act, 1963 (Public Law 87–730; 76 Stat. 680), and H. Res 434, Ninety-fifth Congress, adopted March 31, 1977, and enacted as permanent law by the Legislative Branch Appropriation Act, 1978 (Public Law 95–94; 91 Stat. 653), shall not be effective in the Ninety-fifth Congress upon the adoption of this resolution and, effective on the date of the enactment of this resolution as permanent law, are repealed.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That (a) it is the purpose of this resolution to enable the House of Representatives more properly to discharge and coordinate its activities and responsibilities in connection with participation in various interparliamentary institutions, to facilitate the interchange and reception in the United States of members of foreign legislative bodies and permanent officials of foreign governments, and to enable the House of Representatives to host meetings with senior United States Government officials and other dignitaries in order to discuss matters relevant to United States relations with other countries.

(b) For payment of expenses incurred in carrying out subsection (a) of this section, there shall be paid out of the contingent fund of the House, until otherwise provided by law, such sums as may be necessary but not to exceed $35,000 in any calendar year. Such payments shall be made on vouchers

signed by the chairman of the Committee on International Relations and approved by the Committee on House Administration.

SEC. 2. The first section of H. Res. 348, Eighty-seventh Congress, adopted June 29, 1961 (2 U.S.C. 130), and enacted as permanent law by the Legislative Branch Appropriation Act, 1963 (Public Law 87–730; 76 Stat. 680), and H. Res. 434, Ninety-fifth Congress, adopted March 31, 1977, and enacted as permanent law by the Legislative Branch Appropriation Act, 1978 (Public Law 95–94; 91 Stat. 653), shall not be effective in the Ninety-fifth Congress upon the adoption of this resolution and, effective on the date of the enactment of this resolution as permanent law, are repealed.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ANNUNZIO TO THE COMMITTEE AMENDMENT

Mr. ANNUNZIO. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ANNUNZIO to the committee amendment: On page 3, line 10, strike "$35,000" and insert in lieu thereof "$55,000".

Mr. ANNUNZIO. Mr. Speaker, my amendment is merely technical in nature, and seeks to correct a typographical error in the amount authorized pursuant to adoption of this resolution. My amendment strikes on page 3 line 10, $35,000 and inserts in lieu thereof $55,000 which accurately reflects the will of the Committee on House Administration.

This is only the second time in the last 7 years in which this allowance has been raised. I would like to point out that the Senate Foreign Relations Committee, which performs the same function for the Senate, has an annual ceiling of $25,000. In addition the Senate requested and received an additional $25,000 to cover the visit of the Soviet delegation in January of this year. The Senate therefore has received a total of $50,000 as compared with the $15,000 the House has received. I would like to also point out that these funds are not carried over from year to year, but are returned to the Treasury at the end of each Congress, I urge the adoption of the $55,000 ceiling as it would allow the House of Representatives to adequately dispense with its representational responsibilities.

The SPEAKER pro tempore. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE SELECT COMMITTEE ON CONGRESSIONAL OPERATIONS

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 985) to provide funds for the Select Committee on Congressional Operations, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 985

Resolved, That, effective January 3, 1978, expenses of investigations and studies, to be conducted by the Select Committee on Congressional Operations, acting as a whole or by subcommittee, not to exceed $951,680, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of committee staff performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $136,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), and not to exceed $13,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Congressional Operations shall furnish the Committee on House Administration information with respect to any study or investigations intended to be financed from such funds.

SEC. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That, effective January 3, 1978, expenses of investigations and studies, to be conducted by the Select Committee on Congressional Operations, acting as a whole or by subcommittee, not to exceed $900,000, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended "(2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to Section 202(j) of such Act, as amended. (2 U.S.C. 72a(j)), of committee staff performing professionnal and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $136,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and not to exceed $13,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Congressional Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, the Committee on Congressional Operations requested $951,680 and the committee approved a budget of $900,000.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. ANNUNZIO. I am happy to yield to my distinguished colleague from Maryland for a question.

Mr. BAUMAN. Mr. Speaker, if I am not mistaken, this select committee, grew out of the fact that at one time there was a Joint Committee on Congressional

Operations. A year or so ago the other body decided to do away with their part of the joint committee and the House solution was to create this select committee. At that time some of us asked in the debate whether the existence of the committee was necessary at all, whether it did not, in fact, duplicate the Committee on House Administration duties in a number of important respects.

Now I see the committee is coming in with an approved budget that is 40 percent over last year.

Would the gentleman give us some justification for the enormous increase in a committee which in fact might not be necessary?

Mr. ANNUNZIO. Mr. Speaker, I yield to the gentleman from New Jersey, the chairman of the full committee.

Mr. THOMPSON. Mr. Speaker, I will say to the gentleman from Maryland, this was gone over very carefully. The gentleman from Texas (Mr. BROOKS), the chairman of the committee, and I have gone over it. There is no conflict, nor will there be one, nor will there be a duplication of effort.

The gentleman has noted that for a period of years there was a joint House-Senate committee. The Senate, the other body, apparently lost interest in it, felt that it was in competent hands, in the hands of the gentleman from Texas (Mr. BROOKS).

It is a select committee and must, as all other select committees, finish its business by the end of this Congress or be reconstituted in the next Congress.

We do not anticipate any difficulty. We have gone over this with really great care, I assure the gentleman.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE AD HOC SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1045), providing funds for the Ad Hoc Select Committee on the Outer Continental Shelf, and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 1045

Resolved, That for the further continuance of the Ad Hoc Select Committee on the Outer Continental Shelf during the second session of the Ninety-fifth Congress, effective January 3, 1978, the expenses of special investigations and studies to be conducted by the Ad Hoc Select Committee on the Outer Continental Shelf, acting as a whole, shall not exceed $335,000, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the Chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House except in conformance with H. Res. 97: and the chairman of the Ad Hoc Select Committee on the Outer Continental Shelf shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law, and pursuant to H. Res. 97.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That for the further continuance of the Ad Hoc Select Committee on the Outer Continental Shelf during the second session of the Ninety-fifth Congress, effective January 3, 1978, the expenses of special investigations and studies to be conducted by the Ad Hoc Select Committee on the Outer Continental Shelf, acting as a whole, shall not exceed $300,000, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the Chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House except in conformance with H. Res. 97: and the chairman of the Ad Hoc Select Committee on the Outer Continental Shelf shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law, and pursuant to H. Res. 97.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FISH), for the purpose of debate only.

Mr. FISH. Mr. Speaker, I rise in support of extending the life of the House Ad Hoc Select Committee on the Outer Continental Shelf until the completion of business under its jurisdiction, which is expected to run through the end of this year.

As you know, both the House and the Senate have overwhelmingly passed legislation amending the 1953 Outer Continental Shelf Lands Act. Conferees have been appointed, and we are currently awaiting a House/Senate conference to iron out the differences between the two bills.

This upcoming conference between the House and Senate will involve many issues since there are innumerable differences between the two bills. How long this conference will take is not known, especially since many of the Senate OCS conferees are also energy conferees. It is hoped that an acceptable compromise can be worked out in order that the bill can be signed into law at the earliest possible date. This is vital due to the fact that this legislation will entail the drafting of as many as 40 new sets of regulations.

Additionally, the administration has shown a strong interest in this legislation which is evidenced by its submission of over 50 technical amendments for inclusion in the bill. In an attempt to work with the administration, many points must be taken into consideration; not least among these are congressional intent and interest, and the fact that we now have a Department of Energy which has been given authority in many areas previously under the jurisdiction of the Interior Department. It is vital that

Congress works closely with the administration in order to insure that congressional intent is accurately reflected by the new rules, orders and regulations which are to be forthcoming.

The OCS Lands Act amendments as passed by the House is a very complicated piece of legislation, and like many other measures that are considered by Congress, each of the sections of the bill are dependent on the others and are interrelated. The Ad Hoc Select Committee on the OCS was created in April of 1975 to handle the many complex and divergent issues involved in the development of energy from the OCS. During the past 3 years there have been numerous hearings, hundreds of witnesses testifying, and one previous attempt at passage. During this time, the members and staff of the committee have increased their knowledge and understanding to the point where they are the recognized experts on the myriad subjects and issues, and have earned the respect of both Government and industry.

The legislation gives oversight of the exploration, development, and production of energy resources from the Outer Continental Shelf to the Congress, and it is in our best interests that the OCS Committee be kept intact during the promulgation of the new rules and regulations this year.

I certainly hope the House can support this resolution.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE AD HOC COMMITTEE ON ENERGY

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1051), providing funds for the Ad Hoc Committee on Energy, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1051

Resolved, That for the further expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy, acting as a whole or by subcommittee, not to exceed $90,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Ad Hoc Committee on Energy shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 2. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979, or upon completion of the legislative process, including final disposition of any veto message, with respect to all legislation referred to the ad hoc committee.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in House Resolution 1051, the Ad Hoc Committee on Energy requested for the second session $90,000 and the committee recommended $90,000 in order to complete their work.

Mr. Speaker, I now yield for purposes of debate only to my distinguished colleague, the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding. I merely wanted to ask a question.

Does the chairman of the Subcommittee on Accounts recall how many times this committee has met since Thanksgiving?

Mr. ANNUNZIO. Mr. Speaker, this committee was appointed in October of 1977, and in the report there is no information as to the number of times the committee met. However, since the conference committee has been meeting, the staff of the ad hoc committee has been monitoring the proceedings, and requests for information from the conference have been filed with the staff of the ad hoc committee. This is a continuing process.

Mr. DEVINE. Mr. Speaker, if I am not mistaken, most of the members of this committee are members of the conference committee and are meeting with the Senate in an effort to resolve the energy bill. It is my understanding that nothing has happened since about Thanksgiving, and I am wondering if there is any indication the gentleman could give us as to what is happening.

Mr. ANNUNZIO. Mr. Speaker, I am not privy to any information as to what is happening, as the gentleman knows.

Mr. DEVINE. Mr. Speaker, I thank the gentleman.

Mr. ANNUNZIO. Mr. Speaker, before I move the previous question, let me say that this is the last funding resolution before us, and I want to thank each and every member of the Subcommittee on Accounts for their cooperation in attending the meetings and listening to us and sharing the burdens of the subcommittee chairman. I also want especially to express my appreciation to all the Members of the House this afternoon for the wonderful manner in which they have cooperated.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on all the funding resolutions agreed to this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO THE U.S. MERCHANT MARINE ACADEMY

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., February 21, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Public Law 301 of the 78th Congress, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Merchant Marine Academy for the year 1978:

The Honorable Mario Biaggi of New York.

The Honorable Leo C. Zeferetti of New York.

The Honorable Paul N. McCloskey of California.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

Sincerely,

JOHN M. MURPHY,
Chairman.

OVERSEAS SERVICEMEN SUFFER BECAUSE OF DECLINE IN DOLLAR

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, the news media have been reporting for some time news on the dollar's decline overseas. Only recently, however, have we seen reports of the hardships being experienced by many of our troops stationed in Germany and their dependents.

Each time the dollar moves down on the world money markets, these servicemen receive in effect, a cut in pay. The decline in value of the U.S. dollar has had an impact on all U.S. personnel assigned in Germany. The impact has been devastating for the families of 16,000 soldiers commonly referred to as noncommand sponsored, who have chosen to bring their wives and children to Germany at their own expense. Inasmuch as they are not entitled to Government-furnished quarters, they are forced to live on the economy.

These servicemen and their dependents are suffering considerable economic and social hardships with a far more serious threat to morale. These servicemen—particularly those in the lower grades—must dip into personal savings or lower their standard of living to meet rapidly rising dollar costs of maintaining families overseas.

While families who live in Government housing and single GI's in the barracks are also feeling the pinch, it is to a lesser degree. Much of the merchandise in the post exchanges and food in the commissaries and snack bars is purchased on the West German market and paid for in marks that steadily increase in value.

The Army itself is also taking a financial beating in West Germany. During the fiscal year that ended last September, the dollar fell so far below the anticipated level that the Army was $69.7 million in the hole. This year the shortfall is expected to be at least $215 million—more if the dollar continues its downward trend.

A recent comparison of the pay of lower enlisted personnel in the U.S. Army with their British and German counterparts shows that our soldiers are worse off financially. American soldiers are paid in dollars and get very little compensation for the declining purchasing power of their currency. The British Army troops are paid in deutsche marks at a fixed rate which at the present time runs slightly higher than the pound's actual value on the money markets. By contrast, the British troops get a substantial allowance for the fact that the pound is worth today little more than one-third of its value in deutsche marks a dozen years ago.

The situation is so grave that many of our enlisted men are sending their families home. Also, as a result of a German nationwide television program which reported the plight of our troops, hundreds of West German citizens and various religious groups are contributing money, clothing, and old cars in support of our troops. While this is a gracious gesture on the part of the German people, it is disheartening that American military families must be objects of charity.

The Department of Defense recently relaxed its rules to permit spouses and children of enlisted and junior officers to eat more frequently in mess halls. The revised policy allows soldiers to pay the cost of food and a service charge totaling about $3 a day for three meals. Given the quality and quantity of food served in the mess halls, the proposed privilege would reduce the low-ranking soldier's family cost of living substantially.

This effort and those similar to it are at best only short-term solutions because every time our military personnel pay their bills in marks, and every time the dollar falls, their expenses go up, in many cases faster than their pay and their allowances.

Many business leaders, economists, and governmental officials do not think a quick and easy solution is in the cards. I do not believe soldiers and their dependents should be faced daily with these economic and social hardships while the administration and other foreign governments argue over the question of whether anything can be done to save the dollar. The end result is, as European military service becomes more onerous, it becomes harder to encourage voluntary military service. For several years, the emphasis has been on readiness and combat effectiveness, with little stress placed upon the quality of life of military personnel and their dependents. I believe that it is important, this year, to provide improvements for American forces in Europe and other areas of the world where the dollar devaluation is a factor.

THE MOSCOW JEWISH WOMEN'S SOVIET COMMITTEE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, recently while in Moscow I met with a very courageous group of women who have formed the Soviet Women's Jewish Committee. They have been meeting since May 8, and they have been speaking out in attempting to practice their own religion and reunify the families who emigrate to another country. They were brave enough to come to our hotel and present a petition to the Congress which I would like to insert in the RECORD, and I would hope that my many colleagues would read it. It is very touching and moving, and I think that in this era when we do not have a lot of heroes, there certainly are some heroines over there who have more courage than any of us have.

The petition is as follows:

On October 6th a group of women, whose applications for exit visas to Israel have been denied for years, were going to submit a petition to the Supreme Soviet asking it to accept us for the discussion of our situation. But we were put under house arrest which is illegal according to the Soviet law and kept under it for several days. No answer to our petition that was mailed later was given.

On January 27th, 1978 H. Elinson, N. Rosenstein, I. Gildengorn, L. Vilenskaya, N. Hassina, L. Lihterova. Y. Gudz, ,E. Dubianskaya, B. Elistratova, F. Cohen and M. Karnovskaya-As made another attempt to deliver their petition and were accepted by the Deputy Chief of the Administration Department of the Central Committee of the CPSU. A. Ivanov wih K. Zotov, Director of the All-Uniion OVIR, present.

We expressed our deep dissatisfaction with the present practice of the considerations of the applications for exit visas when people are often denied permissions to emigrate without giving justified reasons and have to wait for many years not knowing when and whether these permissions will be granted them.

A. Ivanov told us that there would not be any juridical changes in the procedure of the making decisions on giving visas. There will not be any laws on emigration and each case will be considered on individual bases.

We were, however, promised that our cases would be reconsidered shortly. Our criticisms were promised to be taken into account so that those of us who are not given visas will be explained reasons for denying them and told when they will be granted.

However, in a week when we phoned A. Ivanov and K. Zotov to enquire about the progress in the reconsiderations of our cases it became clear that the promises given earlier were a deception. Probably, they were given due to the presence of the delegation of the Supreme Soviet headed by B. Ponomarev in the USA at that time.

In the end of February we were accepted by K. Zotov but from the answers he gave it was absolutely clear that no case was really reconsidered.

Thus, the Soviet authorities had demonstrated again the worth of their promises and what women's rights in this country really mean. Once more we were denied our right to reunite our relatives in Israel and even the right to discuss our cases with the competent officials. We were doomed to continue the life of uncertainty without any possibilities to raise our children in Jewish traditions and get jobs according to our qualifications.

On the 8th of March, protesting against the violation of our rights 44 women went on hunger strike whereas 22 of them were going to hold a peaceful demonstration under signs "Visas–yes, lies–no!", "Homeland for our children", "Let my people go!". However, the demonstration was cruelly suppressed: 10 women were placed under house-arrest, 7 were arrested on the way to the scene of the demonstration which was reached only by 5 women. No sooner had they displayed their signs then they were frogmarched by plains-clothes men and driven to the different police stations, where they were kept for a day and talked to by the KGB men. Some of them threatened to punish us more severely if we continued our struggle for leaving this country.

But we have no choice. We will continue our just struggle. No persecution will stop us.

We appeal to the Congress of the USA to use its influence to help us to win our rights.

Soviet Women's Jewish Committee:

Gildengorn I., Moscow 117342, Profsoyuznaya 87, k.4, apt. 26, tel. 333–36–74;

Elinson H., Moscow 127018, Streletskaya 6, apt. 24, tel. 289–89–17;

Elistratova B., Moscow, B. Cherkizovskaya 1, k.2, apt. 50;

Joffe R., Moscow, Profsoyuznaya 97, k.1, apt. 203, tel. 333–63–61;

Riabkina M., Moscow 117485, Profsoyuznaya 102, k.2, apt. 1, tel. 335–66–47;

Rosenstein N., Moscow 117485, Butlerova 2, k.1, apt. 69;

Vilenskaya I., Moscow 105203, Ismailovsky prosp. 115a, apt. 46, tel. 463–0135.

A RESPONSE FROM THE ATTORNEY GENERAL

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, before our Easter break, I rose on several occasions to complain that the Attorney General of the United States had failed to respond to repeated correspondence from me since early last year, in which I raised serious concerns over his handling of the persecution of former FBI special agent John Kearney and the intelligence-gathering policies of the Department of Justice.

I have now received a response from the Attorney General.

It is a statesmanlike response, in which he acknowledges my concerns and informs me that he will publicly announce his decision in this matter within 2 weeks.

I would like to include my original let-

ter to the Attorney General, dated June 13, 1977, and his response to me of March 30, 1978, at this point in the RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 13, 1977.

HON. GRIFFIN B. BELL,
Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR MR. BELL: I wish I could say that your actions to date reassured me of your total agreement with the sentiments expressed in my April 19th letter, your assurance "that the rule of law always is tempered by fairness and common sense," that "this matter is not a vendetta against the FBI", and that "no one holds the FBI in higher esteem" than you.

On the one hand, we have the record of John J. Kearney: A man who served in the Federal Bureau of Investigation for 25 years with honor and distinction; a man without a blemish on his record of service during that time; and a man who obeyed orders from his superiors right up the line to collect evidence against members of the Weather Underground—evidence which was later used with knowledge of where it was obtained, and how it was obtained, by the U.S. Attorney who won indictment against Bernardine Dohrn and other members of the Weather Underground guilty of violent terrorist crimes against the United States.

On the other hand, we have the admitted terrorists of the Weather Underground who were being investigated by Special Agent Kearney, and for which investigation Mr. Kearney now stands indicted with your apparent approval: These terrorists, including Bernardine Dohrn and others, have published a 152-page manifesto entitled *Prairie Fire*, a revolutionary policy statement and public admission of numerous terrorist criminal acts in violation of U.S. and state laws.

In this May 9, 1974, publication by Bernardine Dohrn and three others for the Weather Underground, they take credit for no less than 19 bombings between 1969 and 1974—during the time of the FBI investigations for which Mr. Kearney now stands indicted.

These Weather Underground bombings resulted in several deaths, many injuries, and enormous property damage. *Prairie Fire* states that these violent terrorist acts were committed against the American people, their government officials and agencies, and private institutions, in behalf of the worldwide Communist revolution and its criminal guerrillas.

Just this statement from *Prairie Fire* puts into perspective the criminal conspiracy that John J. Kearney and others then working for the FBI were ordered to investigate and help stop:

Attacks by the Weather Underground have been focused and specific. These actions were a catalyst for thousands of politically-directed armed actions between 1970 and 1972, almost all of which complemented mass struggles.

These bombings were carried out by the Weather Underground:

To retaliate for the most savage criminal attacks against Black and Third World people, especially by the police apparatus:

Haymarket police statue, Chicago, October 1969 and October 1970;

Chicago police cars, following the murder of Fred Hampton and Mark Clark, December 1969;

New York City Police Headquarters, June 1970;

Marin County Courthouse, following the murder of Jonathan Jackson, William Christmas and James McClain, August 1970;

Long Island City Courthouse, in Queens, in solidarity with prison revolts taking place in New York City, October 1970;

Department of Corrections in San Francisco and Office of California Prisons in Sacramento, for the murder of George Jackson in San Quentin, August 1971;

Department of Corrections in Albany, N.Y., for the murder and assault against the prisoners of Attica, September 1971;

103rd Precinct of the New York City police, for the murder of 10-year-old Clifford Clover, May 1973 . . .

To disrupt and agitate against U.S. aggression and terror against Vietnam and the Third World:

Harvard war research Center for International Affairs, Proud Eagle Tribe (women's brigade), October 1970;

U.S. Capitol, after the invasion of Laos, March 1971;

MIT research center, William Bundy's office; Proud Eagle Tribe (women's brigade), October 1971;

The Pentagon, after the bombing of Hanoi and mining of the harbors of North Vietnam, May 1972;

Draft and recruiting centers;

ROTC buildings;

ITT Latin America Headquarters, following the fascist counter-revolution in Chile, September 1973 . . .

To expose and focus attention against the power and institutions which most cruelly oppress, exploit and delude the people:

National Guard Headquarters, Washington, D.C., after the murders at Jackson State and Kent State, May 1970;

Presidio Army Base and MP Station, San Francisco, July 26, 1970;

Federal Offices of HEW (Health, Education and Welfare), (women's brigade), San Francisco, March 1974;

Liberation of Timothy Leary from California Men's Colony, San Luis Obispo, September 1970 . . .

In light of this continued terrorist criminal activity by the Weather Underground, and the orders of his superiors right up the line, how can you justify continued persecution of Mr. Kearney and other FBI special agents at that time involved in investigative actions now deemed by some to be illegal, in light of your statement to me on May 31 that, "I shall make every effort to assure that the rule of law always is tempered by fairness and common sense."?

Where is the fairness, where is the common sense, where is the esteem for the Federal Bureau of Investigation, in allowing this one man, and perhaps others, to be persecuted and vilified for helping to save our people from the type of criminal terrorism by the Weather Underground described in Prairie Fire? Even if mistakes were made in these investigations, why select out one or several lower-echelon members of the FBI for persecution, when there is evidence that even the then Attorney General of the United States and his predecessors sanctioned such investigative actions—maybe even Presidents of the United States themselves?

Mr. Bell, I respectfully request and will greatly appreciate your direct answers to these questions, in light of the circumstances I have cited, and the Weather Underground material I have quoted.

I would also appreciate a more thorough response to my earlier telephone request to the Department of Justice for a complete copy of the directive on Department intelligence gathering activities issued by Attorney General Ramsey Clark in September, 1967, or thereabouts. I have been told by your Administrative Counsel's office that they are unable to locate the directive, despite my providing the following information:

This directive was disclosed by former Assistant Attorney General Robert Mardian during the Senate Judiciary Committee's March, 1971, hearings on Federal data banks, and is quoted in his testimony. I understand that a full copy of the directive was made public at that time. The directive states in part:

"It is imperative that the Department seek to obtain the most comprehensive intelligence possible regarding organization or other purposeful stimulation of domestic dissension, civil disorders and riots. To carry out these responsibilities, we must make full use of and constantly endeavor to increase and refine the intelligence available to us, both from internal and external sources, concerning organizations and individuals throughout the country who may play a role in either instigating or spreading disorder or in preventing or checking them."

This is a strong directive. It presumably had the effect of reversing earlier restrictions against electronic surveillance, mail cover, and certain other intelligence gathering operations of the FBI ordered by FBI Director J. Edgar Hoover. In addition to a copy of the full directive, I would like to request a list of its distribution throughout the Department of Justice, so that I and other Members of Congress can independently evaluate the impact of this directive on intelligence gathering operations of the Department of Justice, in light of actions currently being taken against Mr. Kearney and others under your direction.

A prompt reply will be appreciated.

Sincerely,

ELDON RUDD,
Member of Congress.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 30, 1978.

HON. ELDON RUDD
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RUDD: This is in response to your letters of June 13, 1977; October 5, 1977; and December 30, 1977.

First, I regret the delay in my responses. As you stated in your October 5, 1977 letter I am sure that it is "disquieting" to find that such correspondence could be misplaced or neglected for such substantial periods of time. It is "disquieting" to me also. I have recently impressed upon my personal staff and others in the Department the importance of prompt responses to congressional inquiries, and I hope that your experience in this instance will not be repeated in the future.

Second, I share your view that a letter from you to me should not be answered by a letter from my aide to your aide. As a general rule my office does not respond to congressional inquiries in that manner. It is my understanding that Mr. Jordan's December 14, 1977 letter to Mr. Archibald resulted from a misunderstanding between Mr. Jordan and Mr. Archibald in their November 29, 1977 telephone conversation. It was Mr. Jordan's understanding from that conversation that your primary interest was in obtaining the document mentioned on page 5 of your June 13, 1977 letter, and that a letter from Mr. Jordan enclosing that document would satisfy your inquiry. I regret this misunderstanding.

As you know, at my direction attorneys in the Department of Justice have been engaged for almost one year in a thorough investigation of all the circumstances surrounding the activities of John Kearney and others on Squad 47. I have stated on several occasions that this renewed investigation has been aimed at determining whether persons outside the FBI had knowledge of or authorized the activities for which Kearney and others stand subject to prosecution. This investigation is concluded, and I expect to be announcing within two weeks my decisions based on it. I assure you that concerns like those expressed on page 4 of your June 13, 1977 letter will enter into my decisions.

Sincerely,

GRIFFIN B BELL,
Attorney General.

ANDY YOUNG'S SHOWCASING

Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAGEDORN. Mr. Speaker, you have got to admire Andy Young's persistence. He is not content with showcasing Rhodesia's Marxist guerilla leaders before the United Nations, nor with denying admittance to this country for the moderate black leaders of Rhodesia, nor with undermining an internal peace settlement among majority elements in Rhodesia. Young is now informing the Zambian press that the United States would consider providing arms to African states in support of the war upon Rhodesia.

It is time that the Carter administration quit subordinating the foreign policy of this country to domestic, special interest politics. The internal settlement in that troubled land is clearly in the best interests of Rhodesians, black and white, and most importantly in the best interests of the United States. That Mugabe, Nkomo, Nyerere, or Brezhnev are dissatisfied should concern us not at all.

What kind of administration is this that can speak of Marshal Tito as an exemplar of independence and liberty, laud the "freedom-loving" regime of Gomulka in Poland, break bread with the dictator Obásanjo of Nigeria, and threaten bloodshed upon a stable, pro-Western, multiparty state making difficult, yet unmistakable, progress toward a democratic, biracial state?

What kind of foreign policy is it that would deny U.S. recognition to such a government unless they open themselves to participation by Soviet- and Chinese-backed terrorist elements who have repeatedly and convincingly disclaimed interest in either a peaceful or a democratic settlement?

Mr. Speaker, the Fraser amendment of 1977, reimposing the U.S. embargo on Rhodesian chrome, should be lifted in order to show our tentative support for Rhodesia's progress. A complete elimination of economic and military sanctions should follow once this progress is certain.

It is time for this administration to stop "sleepwalking" through its foreign policymaking.

Include the following:

Is Carter Sleepwalking On Foreign Policy?

(By George F. Will)

The Carter presidency may be the first presidency fatally wounded by foreign policy in peacetime. Its worst tendency became apparent in its theory, now dead, that a Middle East settlement must include the Palestine Liberation Organization. The administration continually tries to accommodate implacable forces.

When Rhodesian whites and blacks reached an internal settlement promising black majority rule, Andrew Young, ambassador to the United Nations, denounced it as a recipe for war. His real complaint was that it did not accommodate those determined to have war: the guerrillas camped ouside Rhodesia, armed by the Soviets and led by persons who aim to conquer Rhodesia and establish a black racist dictatorship of the left.

The United Nations refused even to hear the bishop who is one of the most popular black leaders in Rhodesia and who supports the agreement. After hearing a guerrilla leader call for "armed struggle," the United Nations condemned Rhodesia's settlement. The United States did not oppose condemnation. It abstained.

When the Soviets intervened with Cuban troops in Angola, the United States warned them not to do it again. When they did it again in the Horn of Africa, the administration briefly seemed to warn that Soviet restraint in Africa would be a precondition for U.S. cooperation in the strategic arms limitation talks (SALT).

But even before the administration backed away from the warning, the warning was not credible. The administration unilaterally has slowed or curtailed so many arms programs (for example, the sea-launched cruise missile, the MX missile and the B1 bomber) that it now wants an agreement more than the Soviets do.

While Cubans have been marauding through Africa, the Carter administration established a diplomatic mission in Cuba, allowed Castro to open one in Washington and sent Commerce Department officials to Havana.

On "Meet the Press" recently, Young was asked: "Are you for, against or neutral toward the Cuban presence in Africa?" He waffled through 370 words about Cuban doctors and Chinese railway builders doing good works. The reporter then asked if Young meant that "it is all right for the Cubans to send 10,000 troops here and there as long as they don't get into combat." Young answered: "It is all right for Cubans to build, but it is not all right for Cubans or Americans to destroy."

That dismal performance, concluding with the suggestion that American and Cuban acts of aggression are equally at issue, is characteristic of those persons (they are amply represented in the Carter administration) who think the United States is as much a threat to world peace as communist powers are.

Paul Warnke, Carter's chief SALT negotiator, says there has been an arms race because the United States and the Soviet Union are "apes on a treadmill," perhaps equally mindless, but not equally culpable. The United States deserves special blame because it is the only superpower "model" the Soviet Union has.

Recently Warnke explained why the administration did not insist that the Soviet SS20 missiles be counted against Soviet totals permitted under an arms agreement. The SS20 is mobile, equipped with multiple independently targeted re-entry vehicles (MIRVs) and deployed. It has twice the range permitted for the U.S. cruise missile under the treaty Warnke is negotiating. And with one MIRV removed, it can strike targets in the United States. Warnke's explanation included this thought: "If we were to negotiate about the SS20, they would insist on negotiating about our theater nuclear forces such as our FB111s, which are stationed in the United Kingdom and can devastate Soviet targets."

But FB-111s are not stationed in the United Kingdom or anywhere else in the European theater.

When Warnke was nominated as chief SALT negotiator, there were fewer than 10 senators prepared to vote against his nomination. After hearing his testimony and examining his writings, 40 senators voted against him. (A 41st was "paired" against.) And the controversy about Warnke and his work is not over.

Carter's Panama victory was a false dawn. It never was likely that those treaties would be rejected. But it has been likely for many months that the SALT treaty Warnke has been negotiating will be soundly beaten. An experienced Democrat and an experienced Republican recently counted votes on their sides and concluded that there are far more than the 34 votes necessary to defeat the SALT treaty. Carter may be sleepwalking toward a shattering defeat that will do incalculable damage to his presidency.

[From the London Daily Telegraph, Mar. 29, 1978]

"Young and Foolish"

A bull in a china shop is a relatively inoffensive and harmless creature compared with Andrew Young on his self-righteous African crusade. The bull could well plead that he was out of his element and the havoc unpremeditated. Mr. Young, by contrast, is convinced that he has the mission to restore freedom, peace and plenty to Africa after European colonialism.

There seemed reason to hope that after his many past gaffes ("The Cubans are a stabilising influence in Angola"), and insults ("Are the British going to run out again and leave us with 30 years of trouble?") President Carter would insist on more restraint and better manners. Indeed Dr. Owen, who switched from outright opposition to the "internal settlement" in Rhodesia to a cautious, grudging and quarter-hearted welcome, seemed to influence Mr. Vance in the same direction. But yesterday Mr. Young was throwing mud at Britain again. Britain, he said, wanted to wash her hands of Rhodesia, regardless of the consequences, and "turn it over to Smith." The State Department also relapsed into total hostility to the "internal settlement" and is carrying the British Government with it.

Britain's record in Rhodesia, before and after Mr. Smith's seizure of independence, belies Mr. Young's insults. So does the condition of the country—despite sanctions and the terrorist attacks encouraged by Mr. Young—especially when compared to that of its neighbours. Acceptance of the Salisbury agreement would not be "handing over to Smith" but support for the best chance of democratic multi-racial black majority rule that Rhodesia will ever have. Meanwhile the Russian deputy defense minister is in Mozambique, and is to be joined by the Cuban foreign minister—doubtless to bring more "stability." They may well hope that their very presence will be enough to scare off the Americans. If it does, they will proceed with the air-lift and the take-over. All this would be a big price for Mr. Carter to pay for the Negro vote back home which Mr. Young's main job is to deliver.

[From the London Daily Express, Mar. 29, 1978]

"The Incredible Talking Envoy"

Mr. Andrew Young is the past master of the deliberate accidental affront. How many insulting things has he said about the British only to follow the snarl with a smirk and tell the world that he has been misinterpreted? For reasons which may make sense to him, the internal settlement in Rhodesia-Zimbabwe could "bring down the government in Britain."

The British are heartily sick of being insulted. We get it from the three-halfpenny soap opera at the UN Assembly. We get it from international hustlers wanting to work the old anti-imperialist routine. We do not expect to get it from a member of the U.S. cabinet. Senator Dan Moynihan cleared a great deal of air when he told the UN that the United States had taken all the abuse and insults it was going to. On the same principle somebody over here should stand up and start shouting back.

Marxism, Carrillo said at another juncture, is a scientific theory, but "we Marxists must learn to use a language understood by everyone. And if we continue to use our traditional jargon to explain our topics, however right these may be, unfortunately the majority of people will not understand us."

"What are the real stages in the transi-

tion to socialism? As for the stages which we have learned from our teachers—first socialism and then communism—all experience shows that these are not the only stages and that the socialist countries are experiencing stages which are not exactly the same as the ones foreseen by our teachers, because what has happened is that the transition to becoming a socialist society has not been as easy as was believed in the last century."

With regard to political topic No. 15, which is to describe the party as "a revolutionary Marxist party," the text presented by the Central Committee was approved by 443 votes, 115 votes supporting an amendment proposing to retain the definition "Marxist-Leninist." A motion to postpone a decision until an extraordinary congress was rejected by 334 votes to 228.

Comrade [PCE Executive Committee member] Sanchez Montero spoke during the debate on this topic.

"It is not," he said, "that we are abandoning anything. The fact is that history, social, economic and political development and life have left a number of Lenin's fundamental ideas behind. . . ."

He added that by not describing itself as Leninist, the party 'is not modifying anything essential in its policy or abandoning its theoretical and revolutionary foundations. It is confirming them. We are retaining Lenin's contributions which are still valid today—the final goals which are those of revolutionary Marxism, the struggle for a socialist society and for communism, the unshakable will to attain such a society, our adherence in our revolutionary activity to a specific analysis of the specific situation—and these are what made Lenin the greatest revolutionary in history."

Recalling Lenin's thesis on the inevitability of imperialist wars, Simon asked: "Can we now base revolutionary strategy on the inevitability of a world war?" That would mean an end to everything. It must be drawn upon the basis of another assumption, and those ideas of Lenin's are no longer valid. We have an obligation as Marxists to draft a new revolutionary plan."

Sanchez Montero concluded by saying that official Leninism is now an empty husk. "They have embalmed Lenin's body and they have also embalmed his ideas. But this is anti-Leninist.

"We will return to the origins, to the revolutionary Marxism—which includes Lenin—which guided Lenin's entire career and revolutionary activity."

RIDICULOUS COURSE OF STATE DEPARTMENT TOWARD RHODESIA

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, it is inconceivable to me that our Government could be pursuing its present policy on Rhodesia with any hopes of contributing to peace in that nation.

For years we have claimed that all we wanted was a peaceful settlement there that provides for majority rule. Well, the leaders of the people of Rhodesia, both black and white, have reached such a settlement that will give that nation black rule this year

You would think that our Government would be pleased with this arrangement because it will bring to power leaders who are committed to giving biracial democracy a chance in Rhodesia.

But such is not the case. For some strange reason beyond my comprehension, our Rhodesia policy, engineered by U.N. Ambassador Andrew Young and endorsed by President Carter, is apparently dedicated to a course that will result in the establishment in Rhodesia, of a Communist dictatorship. Our Government is committed to propelling into the Rhodesia settlement, the Soviet backed, violence prone, Marxist Patriotic Front of Joshua Nkomo. This is strange because Nkomo enjoys little popular support in Rhodesia not stimulated by threat of violence. His influence is limited to a small Russian supplied, guerrilla force of questionable quality that the small Rhodesian Army has defeated time and time again.

Evans and Novak, in their April 3 column in the Washington Post, report that Ambassador Young is catering to the desires of the military dictatorship of Nigeria. Government in that unstable land has turned over six times since 1963, by assassination and military coup. The latest dictator, General Obasanjo, whom we are trying to please, only came to power in 1976 following the assassination of his predecessor.

How can we, as a mature and powerful bastion of democracy, base our policy on the dictates of such a regime as Nigeria?

Nkomo's power in Rhodesia would depend on threat of violence because he does not enjoy the constituency to gain power through the ballot. In fact he has stated, according to Evans and Novak, that he will destroy the polling booths and disrupt the democratic process.

How can our Government, which is supposed to be dedicated to freedom and democracy, actively sponsor such a reckless policy that will result in the installation of a Communist dictatorship in Rhodesia? I believe deeply that we are on the wrong course.

THE TRAGEDY OF THE IMPORTATION OF STEEL FASTENERS

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, there is a trade-related case pending that was discussed this morning in the hearings. It is one that we have already talked about concerning the steel fastener industry.

I want to give the Members a few quick points regarding this matter:

Between 1968 and 1976 steel fastener imports rose by 395 million pounds, an increase of 127 percent.

At least five major plants have closed since 1977, and this is only April 1978. Other shutdowns are expected in the near future.

Imports now account for 45 percent of the American market compared to 21 percent in 1969.

Over 7,300 steel fastener workers have joined the jobless rolls since 1969.

Since 1974 employment in this industry has dropped by 26 percent. The fastener industry is operating at 57 percent of capacity.

Mr. Speaker, I want to call the attention of this body to a couple of facts that we ought to at least start thinking about. In fiscal year 1962 there were 59,532,000 payments being paid to Americans from selected social welfare programs in the United States. In 1977, the number of payments stood at 173,495,798. (Enclosed are tables which outline in detail these programs.) Put another way, that means that one person is paying something to some or all of four other persons in the United States. With only one-fifth, or 20 percent, of the American people contributing to the Treasury without aid of some kind from the Federal coffers, the road before us is not only narrow but it is also very short.

I tell the Members now that this is the worst position this Nation has been in in its entire history and this Congress has to do something about it.

TABLE I.—SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 AND 1977

	Fiscal year—	
	1962 actual	1977 estimate
"GROUP I"		
1. "Workers collecting unemployment compensation"	[1] 6,467,000	[7] 2,527,400
2. "People collecting military retirement benefits"	[2] 313,436	[8] 1,175,019
3. "People collecting social security"	[2] 17,280,364	[8] 33,200,000
4. "Civil service retirees or survivors"	[2] 602,269	[8] 1,522,600
5. "Railroad-retirement beneficiaries"	[3] 941,000	[9] 1,200,000
6. "People on welfare"	[4] 7,389,700	[10] 21,500,000
7. "Veterans collecting GI benefits, other than education aid" [6]	[5] 179,170	[5] 357,958
8. "Veterans or survivors collecting pensions or compensation"	[5] 4,244,898	[5] 4,908,242

[1] Department of Labor. Manpower Administration. Unemployment Insurance Service. Figures include those for the State unemployment insurance program, the Federal employee program, the program for ex-servicemen, and the railroad unemployment program.
[2] Fiscal year 1964 Budget Appendix.
[3] Railroad Retirement Board.
[4] "Trend Report—Graphic Presentation of Public Assistance and Related Data—1970." Social and Rehabilitation Service. National Center for Social Statistics.
[5] Fiscal year 1964 Budget Appendix and the fiscal year 1962 VA Annual Report.
[6] Benefits included for this item are vocational rehabilitation, housing grants, automobiles and other adaptive equipment, and burial allowances.
[7] Social Security Monthly Bulletin, January 1978: average weekly number of beneficiaries. Only includes Federal employees. Statistics on private sector not available.
[8] Fiscal Year 1979 Budget Appendix.
[9] Monthly Benefit Statistics: Railroad Retirement Board.
[10] Estimates from the Department of Agriculture for food stamps, the Social Security Administration for recipients of SSI and AFDC.

SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 AND 1977

	Fiscal year—	
	1962	1977
"GROUP II"		
1. Military personnel	2,807,819	[1] 2,073,580
2. Government workers	2,514,350	[2] 2,842,651

[1] Fiscal year 1979 Budget Appendix.
[2] Manpower Information Statistics Division, Civil Service Commission.

SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 AND 1977

	Fiscal year—	
	1962 actual	1977 estimate
"GROUP III"		
1. "Children in school-lunch program"	[1] 14,184,000	[9] 26,800,000
2. "People helped under Medicaid"	[2] NA	[10] 21,600,000
3. "Medicare beneficiaries"	[3] 0	[11] 25,400,000
4. "Veterans getting hospital care"	[4] 589,975	[10] 1,322,773
5. "People receiving food stamps"	[5] 132,000	[10] 17,100,000
6. "College students, excluding veterans, getting loans and/or grants"	[6] 186,465	[12] NA
7. "Adults receiving vocational education"	[7] 2,100,000	[13] NA
8. "Children of poor families counted for Elementary and Secondary Education Act"	[8] 0	[14] 9,965,575

[1] Preliminary figure from the fiscal year 1964 Budget Appendix.
[2] There was no "Medicaid" program in fiscal year 1962. There were, however, public assistance payments to assist in paying the medical expenses of the poor on Welfare. Data on the number of persons who received this assistance in meeting medical expenses is unavailable.
[3] There was no "Medicare" program in fiscal year 1962. However, some of the elderly poor were assisted through the public assistance programs. Refer to footnote number 3.
[4] Fiscal year 1964 Budget Appendix and the fiscal year 1962 VA Annual Report
[5] September 1962 figure from the fiscal year 1964 Budget appendix.
[6] Report on the National Defense Education Act—fiscal years 1961 and 1962. Office of Education.
[7] Office of Education. Bureau of Occupational and Adult Education. Division of Vocational and Technical Education.
[8] There was no Elementary and Secondary Education Act in fiscal year 1962.
[9] Department of Agriculture Food and Nutrition Budget Division.
[10] Fiscal year 1979 Budget Appendix.
[11] This number is a minimum estimate from the fiscal year 1979 budget estimate. The number cited is for those receiving medical insurance assistance. There were an additional 5,900,000 recipients of hospital assistance. However, there is significant overlap between these 2 parts of the "Medicare" program in that many of those receiving hospital assistance are also counted as receiving medical insurance assistance. As a result, the higher of the 2 figures was taken as a minimum.
[12] The total number of loans and grants (excluding veterans education benefits) made during fiscal year 1977 was 3,350,000. A number of students receive awards under more than 1 program. Special Analysis of the Budget, fiscal year 1979.
[13] 4,024,104 in fiscal year 1975. More recent data is not available. Division of Vocational and Technical Education, Office of Education 1076.
[14] Office of Education program data.

LEGISLATION TO REFINANCE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 15 minutes.

● Mr. CONABLE. Mr. Speaker, I am today reintroducing, with cosponsors, my proposal for refinancing the social security system by transferring a portion of medicare taxes to the social security trust funds.

This proposal was the core of my motion to recommit the Social Security Amendments of 1977, offered here October 27, 1977.

Specifically, the proposal would restore, starting next year, the tax rates and taxable wage bases which would have been in effect had the 1977 social security amendments not been enacted into law. Under this proposal, for example, the tax rate next year would continue to be 6.05 percent instead of 6.13 percent, and the taxable wage base would be $18,900 instead of $22,900. Ten years from now, in 1988, the tax rate under this proposal would be 6.45 percent, instead of 7.15 percent under current law, and the wage base would be an estimated $33,000, instead of $45,000 under current law.

In 1979, the proposal would shift 25 percent of the medicare—or hospital insurance—taxes collected to the old age survivors and disability insurance (OASDI) trust funds. In 1980 and subsequent years, 50 percent of the medicare taxes would be shifted to the OASDI trust funds. The hospital trust fund would be replenished with general Treasury revenues.

Under this proposal, the social security system would be placed on a sound financial basis for at least the next 75 years. That is substantially different from current law, which leaves the system with an estimated actuarial deficit of 1.46 percent of taxable payroll, which translates into an estimated $800 billion in current dollars.

Mr. Speaker, the concept of using general revenues for medicare purposes is well founded in the law and legislative history. When the medicare bill was being debated in the House, Republicans offered such a plan as a substitute for the proposal which prevailed. Under the law itself, only part A of medicare—hospitalization insurance—is financed through payroll taxes. Those who have not paid social security taxes for a sufficient number of quarters to qualify for coverage may obtain part A protection by paying a premium—now $54 a month—estimated to equal the cost of that protection.

Part B of medicare—covering physician's services—already is financed largely through general revenues. For fiscal 1977, estimates indicate more than two-thirds of this program's funding will come from Treasury's general funds. The rest comes from monthly premiums paid by the participants.

Since enactment of the medicare law, numerous economists and social security experts have proposed shifting more of the medicare tax burden to general funds, at least partly because the program is not actuarially based. The most recent Social Security Advisory Council suggested this, noting that the OASDI programs—popularly called social security—are actuarially based and should be supported by payroll contributions. The Council stated in its report:

> The OASDI program is financed from taxes on wages, because the benefits of the program are always related to the wages of a worker-taxpayer. It is obvious that benefits are wage-related in the case of the retirement of a worker-taxpayer. It is not so obvious, but it's just as true, in the case of a beneficiary who is a survivor or a spouse, because those benefits are still measured by the wages of the person who paid the tax, albeit not the wages of the beneficiary.
>
> The same principle does not apply to benefits under the Medicare program. There the benefits are determined by the medical costs of a particular person, and they bear no relationship whatsoever to his wages or those of anyone else.
>
> Under such circumstances there does not seem to be any real reason for funding such costs by a tax on wages. Medicare expenditures would seem to be more properly funded from general revenues, and a majority of the Council has voted to recommend such a proposal to the Congress. If adopted it could make an important contribution to the solution of the financial problems of the OASDI program.

In the next section of this report it will be established that an increase in the OASDI tax is required at this time to preserve the financial integrity of the system. If the financing of Medicare is partly shifted to general revenues now, the increase in the OASDI tax can be accommodated without increasing the total Social Security tax.

Mr. Speaker, this proposal can eliminate the excessive payroll tax increases which are scheduled to take effect beginning next year. It can do so by financing the medicare program in a more logical way and without undermining the insurance character of the basic social security programs. I invite my colleagues to join in supporting this concept.●

U.S. CANAL ZONE AND PANAMA CANAL: LATEST INFORMATION ON PROJECTED BETRAYAL OF U.S. TAXPAYERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in an address in the CONGRESSIONAL RECORD of December 5, 1974, page 38294, I reported that the total book value for the Panama Canal enterprise, including its defense, from 1904 through June 30, 1974, as being $6,880,370,000. In a special report, prepared at my request, the Department of the Army on March 15, 1978, updated the 1974 estimates to show the latest estimate of the total sums invested in the enterprise to September 20, 1977, as follows:

DEFENSE OF PANAMA CANAL

	1904 to June 30, 1974	July 1, 1974, to Sept. 30, 1977	Totals
Army	$3,686,730,000	$457,155,000	$4,143,885,000
Navy	1,003,784,000	36,658,000	1,040,442,000
Air Force	621,656,000	123,525,000	745,181,000
Total	5,312,170,000	617,338,000	5,929,508,000

Panama Canal enterprise

Gross U.S. Investment from Inception to September 30, 1977	$2,788,900,000
Recoveries by U.S. Government	2,036,800,000
Unrecovered balance	752,100,000
Retained earnings	175,400,000
	927,500,000
Defense costs, 1904 through September 30, 1977	5,929,508,000
Grand total	6,857,008,000

The reduction from the 1974 estimate of $6,880,370,000 to the 1978 figure of $6,857,008,000 is explained by the large increase of recoveries by the U.S. Government in spite of the substantial increase of defense costs.

Mr. Speaker, the total book value of the Panama Canal enterprise, including its defense, of $6,857,008,000 no doubt exceeds what many would expect. If converted into 1978 dollars the estimate would be far greater. The very idea of surrendering this vital canal asset of the United States to a small, weak and unstable country that is virtually bankrupt is not only unthinkable but an atrocious assault on U.S. taxpayers who have borne all the costs involved in acquiring the Canal Zone and in constructing, maintaining, operating, sanitating and defending the canal. No wonder the architects of this projected betrayal seek to accomplish through the treaty process what they could never secure through forthright legislation. The House of Representatives, as the body of the Congress charged by the Constitution with the origination of all bills for raising revenue, should make its views known to the Senate.

As the latest information on the U.S. investment in the Panama Canal enterprise should be of high interest to all members of the Senate now debating the current Panama Canal giveaway treaty proposals, I quote the indicated report of the Department of the Army as part of my remarks:

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., March 15, 1978.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

DEAR MR. FLOOD: On behalf of Secretary Alexander I am responding to your letter of January 13, 1978, regarding the Panama Canal.

The inclosed data update the information previously provided on expenditures and receipts of the United States Government for the Panama Canal Enterprise including its defense.

Inclosure I provides an unaudited summary statement of funds and property received by the Canal enterprise from the U.S. Government; interest, some of which is and some of which is not payable to the United States Treasury; and funds repaid to our Government by the Panama Canal Enterprise from inception to September 30, 1977. There are various methods of computing the amount of investment in the Panama Canal Enterprise as well as the amount of recoveries. The method in Inclosure 1 is that of the General Accounting Office and the Panama Canal Company/Canal Zone Government.

The cost of protection and defense of the Panama Canal is reflected in the reports at Inclosure 2.

I hope you will find this information useful. Please let me know if I can be of any further assistance.

Sincerely,

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

PANAMA CANAL ENTERPRISE

Unaudited summary statement of funds and property received by the Panama Canal enterprise from the U.S. Government, interest costs thereon payable to the U.S. Treasury and funds repaid to the U.S. Government by the Panama Canal enterprise from inception to September 30, 1977. The Panama Canal enterprise consists of the Panama Canal Company, the Canal Zone Government, and their predecessor agencies. The enterprise does not include military or other Federal agencies located in the Canal Zone.

[In millions of dollars]

	July 1, 1951	Sept. 30, 1977
Gross investment of U.S. Government:		
Funds and property transfus (1)	1,013.9	2,066.5
Interest on net investment of U.S. Government:		
From inception to June 30, 1951 (2)	373.4	373.4
From July 1, 1951, to Sept. 30, 1977:		
Panama Canal Company (paid to U.S. Treasury) (3)		291.6
Canal Zone Government and Thatcher Ferry Bridge (4)		57.4
Total gross investment of U.S. Government	1,387.3	2,788.9
Recoveries by the U.S. Government: Deposits and deposit credits from all sources (5)	784.6	2,036.8
Total unrecovered balance, excluding retained earnings	602.7	752.1
Note: The total unrecovered net investment, as shown above, excludes retained earnings recorded in the accounts totaling $175,400,000. Of this amount, $71,100,000 was carried over from the Panama Railroad Company on June 30, 1951, and $104,300,000 was earned by the Panama Canal Company subsequent to July 1, 1951. If this amount is to be considered as an additional investment, it should be added to the amounts shown above, as follows:		
Totals as shown above	602.7	752.1
Add recorded retained earnings	71.1	175.4
Adjusted totals	673.8	927.5

Prepared: October 1977.

Source: Reports and analysis staff.

FUNDS AND PROPERTY TRANSFERS

(a) Funds appropriated directly for the enterprise:

Original construction, $386,910,301.00.

Maintenance, operation, and additional capital expenditures, $1,548,837,815.57.

Subtotal of (a) $1,935,748,116.57.

(b) Funds appropriated for other U.S. Government agencies for the direct benefit of the enterprise:

Construction annuity to employees (and their widows) engaged in the construction of the Canal, $52,158,075.99.

Increased annuity to Panama, $34,818,844.50.

Annuities to employees retired prior to July 1, 1951, $15,091,000.00.

Salaries of military personnel assigned to the Canal prior to July 1, 1951, $9,307,002.00.

Injury and death payments, Bureau of Employees' Compensation, $6,105,087.82.

Subtotal of (b), $117,480,010.31.

Total appropriations, $2,053,228,126.88.

(c) Property transferred from other U.S. Government agencies, $20,919,831.90.

(d) Property transferred to other U.S. Government agencies, $7,692,491.26.

Total property transfers, net, $13,227,340.64.

Total funds and property transfers, $2,066,455,467.52.

INTEREST ON NET DIRECT INVESTMENT

From inception to June 30, 1951:

Interest at 3 percent to August 14,, 1914 and at individual annual rates thereafter, (as determined by the Secretary of the U.S. Treasury) has been calculated on net withdrawals (total appropriations less deposits of Canal tolls and other deposits) from 1904 to 1951, $373,422,987.50.

From July 1, 1951 to September 30, 1977—Panama Canal Company:

Interest at rates from 1.95 percent for fiscal year 1951 to 5.677 percent for fiscal year 1977 (as determined by the Secretary of the U.S. Treasury) has been calculated on the Company's net direct investment, established in accordance with Section 62 of Title 2 of the Canal Zone Code, charged to Company operations and subsequently deposited into the U.S. Treasury as miscellaneous receipts, as required by law, $291,644,160.81.

Canal Zone Government and Thatcher Ferry Bridge: Existing law specifically exempts the net direct investment of the Canal Zone Government and the Thatcher Ferry Bridge from interest charges. However, it is considered that this element should be included in arriving at the unrecovered investment of the U.S. Government in the Canal enterprise.

The interest cost reflected herein has been calculated at the same rates used for the Company as shown under paragraph 3 above, on the net direct investment of the Canal Zone Government and Thatcher Ferry Bridge as of June 30 each year through June 30, 1976 thereafter as of September 30 each year through September 30, 1977, $57,397,322.00.

RECOVERIES BY THE U.S. GOVERNMENT

(a) Actual deposits into the U.S. Treasury:

Canal tolls prior to June 30, 1951, $643,883,520.78.

Net profits from business operations (activities corresponding roughly to our present supporting operations), $28,591,812.05.

Licenses, fines, fees, and postal receipts, $6,887,294.59.

Proceeds from sale of construction equipment, $6,990,681.75.

Capital repayments and interest on public works in Panama and Colon, $3,547,006.22.

Dividends paid by the Panama Railroad from 1905 to 1950, $23,994,905.00.

Interest on net direct investment of the Company from July 1, 1951 to date, $287,761,284.78.*

Capital repayments from July 1, 1951 to date, $40,000,000.00.

Net cost of Canal Zone Government, reimbursed by the Panama Canal Company, $465,799,776.99.

Canal Zone Government revenue and plant salvage, $458,679,508.55.

Total, $1,966,135,790.71.

(b) Deposit Credits:

Value of canal tolls on U.S. Government vessels to June 30, 1951, $70,668,969.00.

Total deposits and deposit credits, $2,036,804,759.71.

DEPARTMENT OF THE ARMY—COST OF PROTECTION AND DEFENSE OF THE PANAMA CANAL

[Dollar amounts in thousands]

Appropriation	Fiscal year— 1975	1976	19TQ	1977
Military personnel	$75,113	$73,341	$17,449	$71,435
Operation and maintenance	42,107	42,632	9,891	45,676
Procurement	9,275	9,936	2,661	10,644
Military construction	[1] 8,957	[2] 386	0	[3] 1,591
Subtotal	135,452	126,295	30,001	129,346
Family housing	(9,061)	(11,048)	(2,558)	(13,394)
Construction	83	8	0	13
Operation and maintenance	8,978	11,040	2,558	13,381
Total	144,513	137,243	32,559	142,740
Military strength (man-years)	7,562	7,128	[4] 6,712	6,597

[1] Major project—EM barracks modernization.
[2] Commissary addition.
[3] Replace French canal bridge.
[4] Man-quarters.

*Excludes interest withheld from payment to the U.S. Treasury in amount of $3,882,876.03 "unearned cost" for fiscal year 1977 as authorized by Section 62 of Title 2 of the Canal Zone Code.

[Dollars in thousands]

	Fiscal year—			
	1975	1976	Transition quarter	1977
Military strength	409	360	333	328
Military pay	$4,526	$3,953	$967	$3,764
Operation and maintenance [1]	$5,962	$6,465	$1,669	$6,783
Procurement [2]	0	$25	0	$414
Military construction	0	0	0	0

[1] Includes O. & M. for family housing:

Fiscal year 1975	$777
Fiscal year 1976	695
Transition quarter	155
Fiscal year 1977	984

[2] Value of contracts over $10,000.

DEPARTMENT OF THE NAVY,
Washington, D.C., February 2, 1978.

MEMORANDUM FOR THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

Subj: Investment of the United States in the Panama Canal.

Ref: (a) ASA(CW) memo of 23 Jan. 1978.

The above information regarding the Department of the Navy's investment in the Panama Canal Zone including its defense is furnished in compliance with the request in reference (a).

DEPARTMENT OF THE AIR FORCE COST OF PROTECTION AND DEFENSE OF THE PANAMA CANAL

[In thousands of dollars]

Appropriation	Fiscal year—			
	1975	1976	19TQ	1977
Military personnel	$18,458	$18,221	$4,408	$17,324
Operation and maintenance	17,250	14,271	5,975	16,250
Procurement	60	40	16	142
Subtotal	35,768	32,532	10,399	33,716
Family housing	(3,048)	(3,213)	(1,063)	(3,741)
Construction	5	15	47	.....
Operation and maintenance	3,043	3,198	1,016	3,741
Total	38,861	35,745	11,462	37,457
Military strength (man-years)	1,522	1,446	399	1,347

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ART BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana, (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I am today introducing together with my distinguished colleagues, Representatives FRANK THOMPSON, JR., of New Jersey, and JAMES M. JEFFORDS, of Vermont, a bill to establish an Art Bank which can encourage art and artists in the United States through the purchase of works of art for display in Federal offices and public buildings.

I should here note, Mr. Speaker, that the Government of Canada established in 1972 an Art Bank for the purchase of works of artists in Canada. Since that time, over 7,000 works by 900 different artists have been acquired by the Canadian Art Bank at a cost of $1 million a year for display in Government offices.

Mr. Speaker, the Art Bank in Canada has been most successful and has created interest in this country as an imaginative way for the Government to support the visal arts. The establishment of an Art Bank in the National Foundation on the Arts and the Humanities could be a significant new approach through which the Federal Government can appropriately encourage artists in our country.

The bill today being introduced would provide for an Art Bank within the National Foundation on the Arts and the Humanities, headed by a Director who would select juries of artists and art experts to purchase the works of art.

For many artists, the Art Bank would represent an opportunity for recognition. It would give artists the chance to earn money from their own work, and, for many, it could be the first taste of professional status.

Works of art purchased for the Art Bank would be selected for their high quality but the Art Bank would be mindful to encourage little-known but talented artists in all the States. The juries of artists and art experts would be drawn from around the country and would, in selecting works for the Art Bank, visit artists' studios and art galleries throughout the United States.

The works of art comprising the Art Bank would be made available for display in public and private agencies and organizations. Federal offices could borrow works from the Art Bank without charge.

State and local governments, nonprofit institutions, and private organizations could rent works from the Art Bank for public display.

The legislation would allow artists to repurchase their work from the Art Bank for a price not less than the acquisition of the work nor more than the original purchase plus half of any increase in the value of the work.

Public auctions could also be held for renewal of the Art Bank collection. Through such sales, as well as rental fees, the Art Bank would be able to recover a large part of its investment.

Not more than $25,000 could be expended for the work of any one artist per year.

This bill to establish an Art Bank provides for a 3-year authorization of $2 million in fiscal year 1979, $3 million in fiscal 1980, and $4 million in fiscal year 1981. Not more than $250,000 each year could be used for administering the program.

Mr. Speaker, the Art Bank would provide an important opportunity to support the artists of this country and to expand the artistic richness of our culture to more people.

Mr. Speaker, at this point, I insert the text of the bill introduced today.●

EXPLANATION OF VOTE ON CONFERENCE REPORT ON AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

The SPEAKER pro tempore. Under a pevious order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

o Mr. FITHIAN. Mr. Speaker, I am here today to clarify my vote on the conference report on the Age Discrimination in Employment Act Amendments of 1978, H.R. 5383. This is indeed a monumental piece of legislation for our older Americans. The senior citizens of this country simply demand equity and dignity and they should have it.

This bill strengthened the Age Discrimination in Employment Act of 1967 by increasing the maximum age for protection under the act to 70 from 65 for most private employees, and by removing completely the mandatory retirement age of 70 for most Federal employees. This move is long overdue and I supported it.

Some amendments were included in the conference bill which I do not support. Under this new law, the application of the new upper age limit to tenured college and university faculty members would be delayed until July 1, 1982. The Supreme Court previously interpreted the Age Discrimination in Employment Act to permit mandatory retirement within a protected age group such as law enforcement and foreign service personnel, if it is accompanied by a bona fide pension or similar benefit plan. I feel strongly that the exemption provisions are unfair and will be challenged in court. Tenured professors as well as individuals who, for the 2 years before retirement are employed in a bona fide executive or high policymaking position and are entitled to a pension from the employer of at least $27,000 a year are singled out for exemption in this new law.

This legislation directs the Secretary of Labor to study the effects of raising the upper age limit to 70, the feasibility of increasing or abolishing the limit, and the effect of the exclusion of tenured

professors and executives. The Secretary must report to Congress in 1982.

I think it is important that we study the impact that this raise in the retirement age will have on our society and economy. But I feel that we can best evaluate the situation in our colleges and universities after the retirement age has been raised for the faculty members.

I have some serious reservations about setting no limit on retirement age for Federal employees. We could have an even more serious problem than we now have with the civil service program. I will be looking for the results of the study.

I supported this raise in the age of mandatory retirement but I will be the first to support any efforts to change the sections of this law to which I have registered my opposition.●

INTRODUCING LEGISLATION TO ROLL BACK SOCIAL SECURITY TAX RATE TO 1977 LEVEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa, (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, we all know how upset the American people are over the recently enacted social security tax increases. I think that they have cause to be concerned, and I am today introducing legislation which would roll back the social security tax rate to the 1977 level and which would hold it there for another 7 years. My proposal would accomplish this reduction by removing the disability insurance program from payroll tax financing and shifting it to general revenue funding. The bill would also place a means test on the social security disability insurance program, which would restrict eligibility to individuals who truly need benefits, and it would mandate certain changes to improve the administration of the program.

The specific rate structure of my bill is as follows:

Years	Current law		Bedell bill	
	Employer/employee	Self-employed	Employer/employee	Self-employed
1979-80	6.05	8.1	5.85	7.9
1981	6.30	9.3	5.85	7.9
1982-4	6.30	9.35	5.85	7.9
1985	6.30	9.90	5.85	7.9
1986-9	6.45	10.00	6.20	8.58
1990-2010	6.45	10.75	6.55	9.10
2011-later	7.45	10.75	6.55	9.10

Mr. Speaker, it is clear that there is growing sentiment in the Congress that last fall's social security tax increases were excessive, and it appears that action will be taken to roll them back. I agree that reductions are in order. However, at the same time, we should not lose sight of the factors which precipitated the initial increase—the precarious financial condition of the social security trust fund. If we are to roll back social security taxes—which I believe we should do—we must do so responsibly, not only for the social security recipient, but also for the American taxpayer.

I believe that my proposal meets this criteria. It would reduce the social security tax rate while maintaining the financial solvency of the social security trust fund which was restored by the enactment of Public Law 95-216 last fall. In addition, by placing a means test on the disability program, the bill would substantially reduce the cost of that program. In fact, the social security actuary has estimated that my proposal could save as much as $1 billion in the disability program, which is currently in the worst financial shape of all the social security programs. And finally, by utilizing general revenues, my bill would fund this program, which would then be based on need, through the more progressive Federal income tax.

It is significant to note that while legislation has been introduced in Congress which would transfer both the medicare and disability to general revenue financing, none of these bills would place any income limit on participation in these programs. In my view, these proposals would get only half the job done. They would allow for a social security tax reduction by making the general taxpayer foot the bill for medicare and/or disability. But, they would also remove incentive for insistence upon financial discipline in those programs. Under these proposals, neither the medicare or the disability programs would be forced to operate in an actuarially sound manner.

I believe that the problem with straight general revenue financing is that it weakens the link in the average taxpayer's mind between increasing benefits on the one hand and paying for them on the other. While my bill would fund the disability insurance program out of general revenues, it would retain a measure of financial discipline in the program through the imposition of an income cap. It would not provide for general revenue funding of the medicare program.

In addition to the problem just discussed, I think that there are certain other negative aspects to funding medicare through general revenues at this time. Medicare presents the problem of Government-sponsored third-party payment programs contributing significantly to increased health care costs. Before we can seriously contemplate general revenue funding for medicare, it seems to me that we have to devise a fair and effective way of controlling the spiralling increases in health care costs. At least under the current system, medicare has to meet an actuarial balance. Financing the program exclusively through general revenues would greatly reduce the institutional pressure to control costs.

For these reasons, I think that it would be advisable to limit general revenue funding only to the disability program at the present time. That program is not tied to the high costs of medical care. And, past history has demonstrated that it is extremely difficult to insure against disability because it is impossible to predict what your costs are going to be. This fact is well described in a report released by the Ways and Means Committee staff in 1974. The report states:

> Since the Committee's last major study of the disability program in 1960, the number of beneficiaries on the rolls of the program has grown from 750,000 disabled workers and dependents to about 3.5 million workers and dependents. In 1960 State agencies were conducting about 30,000 disability determinations a month. In June of this year (1974), the State agencies were making social security and SSI determinations at the rate of 60,000 a week.

Finally, the current administration of the disability program is badly in need of reform. For example, State officials are responsible for making the determination as to whether or not a person is disabled. Yet, these officials have never had any training which would enable them to judge applications in accordance with any standard criteria. The result has been that it is easier to qualify for disability in some States than in others. My bill would help make this program more objective and equitable by mandating that all State officials undergo a standard national training program before being allowed to make determinations of disability.

Another problem with the current administration of the disability program is that it encourages prolonged appeals of adverse decisions because a claimant's chances of finally receiving disability benefits increase significantly if he or she goes through the first few appeal levels. This is an inefficient and costly process which clogs an already overburdened decisionmaking process and prolongs the period which claimants must wait for a disability determination. My bill would provide the claimant with a personal interview at the first appeal level rather than requiring him to wait until a later level as is currently the case. This change would provide the individual making the determination of disability with more information upon which to make a judgment at an earlier stage than is current practice. My bill would also mandate that HEW expedite the announcement of updated criteria regarding the latest medical opinions as to what constitutes a disabling characteristic. These changes would greatly facilitate the decisionmaking process on disability claims.

Mr. Speaker, we all recognize the need for reducing the unbearably high social security tax rates that were enacted last fall. In view of the pressure on the Congress to do so, the idea of general revenue funding is gaining considerable appeal. I feel very strongly that, if we do go that route, we should do it in a responsible manner. I think that my bill represents a balanced plan for proceeding in this direction, and I hope that other members will give it their consideration and support.●

THE SOCIAL SECURITY SYSTEM: ITS HISTORY AND ITS FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, more than 40 years have passed since Franklin Roosevelt first signed into law the Social Security Act. Since then the system has

served, in my judgment, as a bulwark against major economic disasters for an increasing number of Americans of all ages.

Several weeks ago Nelson Cruikshank, Counselor to the President on Aging, and Chairman of the Federal Council on the Aging, addressed the Young Lawyers Division of the American Bar Association. In that speech, he presented a dynamic look at the past, present, and future of our social security system.

It cannot be emphasized enough that social security is a strong system, built on basic concepts of insurance which provides benefits not only to retirees but to disabled workers, survivors, and dependents as well. These are earned benefits.

A close examination of the existing system, and the future impact of recent statutory changes, is particularly timely as the Democratic Caucus, the House and Congress itself reconsider the possible use of general revenues as a partial substitute for payroll tax increases. Nelson Cruikshank's insight into these issues is as keen a one as exists, and I commend to my colleagues the text of his remarks:

SOCIAL SECURITY—YESTERDAY, TODAY AND TOMORROW

(Remarks of Nelson H. Cruikshank)

To those of us who were around in 1935, and recall the Presidential campaign of 1936, it seems strange that issues which we thought then were settled have now emerged again on the scene.

With 25 percent of the workforce unemployed, and with most older people having no continuing source of income and no hope except the poorhouse, President Franklin Roosevelt appointed a five-member Commission on Economic Security in 1934. This Commission was made up of four Cabinet officers and his Director of Relief. They developed an extensive set of advisory councils bringing together scores of prominent people from business, labor, the professions, and the general public to develop a set of recommendations designed to meet the immediate problem and to develop a program that would prevent such social catastrophe in the future.

The result was the Social Security Act of 1935 which President Roosevelt signed on August 14, 1935.

The Act was perhaps the most far-ranging piece of social legislation in the history of the United States.

It covered six major programs including a set of grants to states for old age assistance and two major social insurance programs—(1) insuring on a Federal basis against the loss of income due to old age and (2) an insurance against loss of income due to involuntary unemployment. This was done by a tax device which stimulated the states into passing unemployment insurance laws.

It covered a series of grants to states for aid to dependent children and for maternal and child welfare and a broad public health program, although it avoided the issue of national health insurance.

It is Title II of the Act, "Federal Old Age Benefits," which with its later amendments has come to be what we usually refer to as Social Security. The Act also included a set of provisions to finance Title II mainly by a series of taxes on the employment function to be paid by employers and income taxes in equal amounts to be paid by employees.

On signing the bill, President Roosevelt said:

"We can never insure 100 percent of the population against 100 percent of the hazard of the vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and his family against the loss of a job and against poverty-ridden old age. This law, too, represents a cornerstone in a structure which is being built, but is by no means complete."

The enrollment and tax collecting provisions of the Act were to go into effect in 1937 and benefits were to begin to be paid in 1940. This provided nearly a 4½ year tooling up period for the implementation of this great leap forward in legislation designed to alleviate the rigors of unemployment and the hardships of old age.

It also, of course, provided a period for an unprecedented attack on the part of conservative forces against both the provisions and the philosophy of the Act.

It seems strange now to recall that it became one of the foremost issues in the Presidential campaign of 1936. Governor Landon, the Republican candidate, was induced to make a major attack on it, referring to it as, "a cruel hoax" against the American worker.

Emotional issues were raised in opposition to the law on the ground that the enumeration of workers and the assignment of Social Security numbers to each employee was going to enslave the American worker. Full page advertisements appeared in papers all across the country in which a worker was depicted as a sorry, downtrodden, exploited victim with a chain around his neck fastened to an identification tag with a Social Security number on it. The campaign evidently succeeded in convincing the majority of people in Maine and Vermont!

Meanwhile, attacks were made against the system in the courts. The most definitive decision was rendered by the Supreme Court on May 24, 1937, in the case of *Helvering* vs. *Davis*. Mr. Justice Cardozo delivered the opinion of the Court upholding the validity of both the tax and benefit provisions. He stated, among other things:

"The purge of nationwide calamity that began in 1929 has taught us many lessons. Not the least is the solidarity of interests that may once have seemed divided. . . . Spreading from state to state, unemployment is an ill not particular but general which may be checked if Congress so determines by the resources of the nation. If this can have been doubtful until now, our ruling today . . . has set the doubt at rest. . . . The hope behind this statute is to save men and women from the rigors of the poorhouse as well as from the haunting fear that such a lot awaits them when the journey's end is near."

Since then, the prophecy President Roosevelt made when he signed the bill has been fulfilled many times. Title II, particularly, has been broadened to provide family income in the case of death of the breadwinner and to provide against the loss of income due to permanent and total disability. Other titles have been added to insure against the threat of economic insecurity arising from large medical bills for those over 65 and those permanently and totally disabled. This, of course, is the program popularly known as Medicare.

Today, Social Security is by far the largest program operated by the Federal Government. This is indicated by its place in our national budget. In 1978, under Old Age, Survivors and Disability Insurance, we will pay out some $94.7 billion in benefits. Another $25.5 billion will be paid under Medicare to cover a large part of the costs of hospitalized illnesses and a lesser part of the cost for doctors and related services. This is a total of $120.3 billion—larger by nearly $12 billion than our total outlay for national defense.

If there are in the audience those who, like myself, have difficulty in grasping the meaning of figures this large, it may be helpful to note that this figure reflects the payment of $329.6 million in benefits each day of the year.

This is, indeed, an enormous figure, but when divided by the number of people in each category receiving benefits, it is not so impressive. The average benefit paid to older retired workers as of this Autumn was $241, although the benefits being currently awarded were somewhat higher—some $255 a month. The average pay being awarded to disabled workers was $295 a month (rounded to the nearest dollar).

Of course, not all of the payments are to the elderly or the disabled. Of the 33.7 million monthly beneficiaries, only 21.7 million are age 65 and over. 15.7 million are retired workers in this age bracket and nearly 6 million more are survivors and dependents. Nearly 12 million beneficiaries are under age 65. Of these, 1.8 million are retired workers, 2.8 million disabled workers and 7.3 million survivors and dependents.

I cite these figures primarily to remind you that the Social Security system is not, as it is so often referred to, just a system to pay retirement benefits. Thirty-six percent of the benefits are people under 65 years of age.

Nor is the system, *per se*, the problem. This would seem self-evident, but it is not self-evident to one who relies on the treatment of the system so currently characteristic of the media. The problem is one inherent in our industrial society—namely, that various contingencies can arise which reduce drastically or terminate one's earning power or earning opportunity. The Social Security system, built around basic concepts of insurance, provides a means of ameliorating the dire results of those contingencies. Social Security, therefore, is not the problem, it is the answer to a set of problems. It is not a perfect answer, but it is the best we have been able to devise so far, and on the whole it is a good one.

If we had no Social Security system today, there would be 12.5 million more people living below the poverty level. Millions would be on public welfare who are now able to live with dignity with a small but assured income to which they are entitled without the application of a means test. And remember that in our society, a means test can be the most demeaning experience because it means that an individual must go into some government office and prove that his life has been a "failure" by the accepted standards of our culture.

This freedom from a means test is one that is today being challenged. It is being challenged partly because we are so prone to evaluate programs by computer. Social Security can be described by economists as a massive set of transfer payments and evaluated on that basis. The computer readout says the system places an excessive tax burden on the worker and his employer and that it provides too meager an income maintenance for the beneficiary, and worst of all, it pays out money to people who don't need it.

The trouble with this kind of evaluation is that no computer has yet been devised which can measure a social attitude or a psychological benefit.

Many economists whose works I have read, and with whom I have conversed, are appalled at what they call the stupidity of the American worker as reflected in his willingness to pay what they call a regressive tax to support this system. This is because they don't understand that, to the worker, one of the greatest values of this system is not just the cash benefits received, but the protection his having contributed gives to his dignity and self esteem. His participation in the support of the system entitles him to benefits without having to prove himself in need when he is unemployed, or when he is

disabled, or when he reaches retirement age. It also assures that his family will not be subjected to such indignities in the event of his death.

Many persons erroneously believe that Social Security is simply a retirement program. They frequently overlook the fact that Social Security contributions pay for four major kinds of benefits and not merely for old age. These types of protections are as follows:

1. Old Age Benefits;

2. Disability Benefits (premature retirement due to disability) prior to age 65;

3. A system of benefits to survivors in some ways comparable to term life insurance which pays monthly benefits to widows and children; and

4. Medicare benefits to the aged and disabled.

Only 55 percent of the total contributions is for cash old age benefits. The other 45 percent is for disability, survivor benefits and Medicare.

Let us look for a moment at some of the values which are, incidentally, otherwise unavailable under the third item that I have mentioned—namely, the survivor benefits provided under the system to younger workers. I took a case of a young worker aged 30 who might be typical of those now prompted to complain about the high tax that he must pay because he is paying tax on a larger part of his earnings.

I described this typical worker's family to the actuaries of the Social Security Administration. I described him as having a wife also aged 30 and two children—aged 1 and 3. He begins paying when he is 25 years old on the maximum wage base.

Now, our worker dies in 1983 at the age of 30. Under the economic assumptions that the cost of living would increase at the annual rate of 4 percent and wages would increase at the rate of 5.75 percent, here is what this man's surviving family—his widow and children—would receive: $15,325 per year initially, increasing with the cost of living, so that at age 60—if the widow were not remarried or working—she would receive approximately $6,300 annual benefits, plus an additional amount to reflect increases in the cost of living between ages 30–60. We also assume she lives to age 80.

The total benefit paid out to this family over the period of years until both of these children become age 18 and the widow dies would be roughly $960,000, including the expected cost of living increases. A term life insurance policy, on the other hand, that would provide the same monthly benefits for the same period of years, would have to have a face value of $275,000. This assumes that the widow would continue to draw benefits after age 60. The potential benefits to the worker's family would be more than 100 times what he had paid in Social Security taxes.

This is not a typical worker's case, to be sure. However, it is typical of that group of workers who are now perhaps most prompted to complain about what they feel are the excessive Social Security taxes they are required to pay. I've been describing a worker in the top income bracket, but it is only such workers for whom the highest taxes are applicable. Much of the description of the tax provisions of the 1977 Act are written as though the top tax levels were applicable to all workers. This is distinctly not the case.

Let us now take a look at what the 1977 law actually does with respect to the Social Security tax structure. As you know, of course, any tax is a result of the two factors—namely, the tax rate times the amount to which it is applied.

When Social Security was enacted in 1935, the tax rate was applied only to the first $3,000 of annual earnings. That figure seems low in light of present circumstances, but it actually covered the total earnings of about 96 percent of the workers covered under the system.

Over the years; that base to which the rate has been applied has been increased by statute a number of times. In 1972, a provision was written into the Act which raised the base automatically with the increases in cost of living. The base for the year 1978 is $17,700 annual earnings.

Even if the Congress had made no change in the tax provisions of the Social Security law, under the automatic increase, by 1987, that base would have been $31,200. However, Congress raised the base again to the point where, with the cost of living increases, it would be $42,600 in 1987.

Congress in 1977 also provided for modest increases in the tax rate. Under terms of the old law, the rate increased from 5.85 percent of taxable payroll to 6.05 percent in 1978, and by small steps to 6.45 percent in 1987. The 1977 change lifted that rate to 7.15 percent in 1987—an increase in the rate of just under 11 percent. Another half percent increase will become effective 3 years later, bringing the total increase in rate over the next 12 years to 26.4 percent. Two-thirds of that increase, however, was in the law prior to the 1977 Amendments. The greater increases for the average worker resulting from the application of the top tax rate of 7.65% and the raising of the base to keep pace with rising wages will not fall due until 1990. Before that time the Congress will have plenty of opportunity to shift a part of the cost of the system to general revenues.

When the increase of 11 percent in the rate in the next 10 years is applied to the increased base for persons at the upper limit, the combination results in an increase in the amount of tax payable under the old law in 1987 from $2,012.40 to $3,045.90; or an overall increase of $1,033.50 per year. The talk you have heard or the articles you have read that refer to a "tripling" of the tax come from applying the increases in the rate under the old law, plus the increases in rates in the 1977 Act, plus the increases in the base.

To get a more realistic view of the actual impact of the increase in the Social Security tax, take as an example a worker earning $10,000 a year. Last year he paid $585 in Social Security taxes. This year, because of the increase that was already scheduled in the law, he will pay $605—an increase of a little under 40 cents a week.

If this worker remains at the $10,000 level—which I agree is hardly likely—in 1987 he will have paid $645 Social Security tax without any change in the law, but with the changes in the 1977 Act, he will pay $715 total tax during the year, or about $1.35 a week more.

If, with the increases in wages that he might expect, in ten years this worker should double his earnings, he would be paying the new rate applied to $20,000 a year, or an increase of $140.00 a year, or $2.70 a week more Social Security. But with that additional payment would go the added protection for his family and himself in the case of his disability or death, and a higher benefit on retirement.

These figures may be a bit tedious, and possibly it is because they are those who present the news to our voting public about Social Security fail to explain it in all its aspects. The facts, however, are important and I, for one, feel strongly that the Administration should engage in a more active informational program so that people who are paying the increases, even though they are no where near as horrendous as they are frequently presented as being, can know the advantages that they receive from the system which they are supporting out of their weekly payments.

But I must beware that I not make the error of describing the 1977 Act in ways of which I have been so critical—namely, describing it in terms of the tax increases. Actually, there are some fifteen substantive improvements in the benefit provisions of the Act which have been roundly ignored in most discussions of the new law. Some of these are of great importance and some minor. Among the most significant are these:

1. A "decoupling" provision that assures future benefits geared to rising standards of living;

2. A reform of the minimum benefit structure which will protect the benefit levels of the low-paid by long-time participants in the system while phasing out special advantages for workers who contributed very little;

3. A 3 percent increase in primary benefits for every year after 65 a worker postpones retirement;

4. An end to the situation where an elderly couple gets less in benefits if they marry;

5. A liberalization of the test of retirement by raising the allowable amount of earnings and reducing the applicable age from 72 to 70; and

6. A provision that makes divorced women eligible for benefits after 10 years of marriage instead of 20.

Among the most significant aspects of the 1977 Act is a recognition on the part of Congress that even with these changes the program is not perfect, and will need to be changed to meet changing circumstances in the future.

Throughout its history, the Social Security program has been amended and extended by Congress in major respects some sixteen times. There have been some setbacks but generally the movement has been in the direction of progress—an improvement in the original law.

Social Security has been one of the most thoroughly studied—both within and outside government—of any program enacted by Congress. So the new law contains a provision for establishment of a bi-partisan national commission on Social Security—independent of the Executive branch, and composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate. This Commission is charged with the responsibility of making a broad study of the Social Security program, including Medicare and including the fiscal status of the trust funds—the adequacy of benefits, possible inequities between the sexes; and alternatives to current financing methods.

In addition, a comprehensive study will be made of the feasibility of instituting universal Social Security coverage by bringing into the system, on a mandatory basis, all federal employees, the remainder of state and local government employees, and employees of non-profit organizations not now covered.

Furthermore, the Secretary of Health, Education, and Welfare is directed under the new Act to conduct a study of the changes in the Social Security program which are needed to guarantee that women as well as men are treated equitably. The study is to be completed and the report submitted to Congress within six months after enactment of the legislation.

When President Carter submitted his proposals last May for undergirding the financing of the system, he proposed that there be modest contributions to the system from the general revenues of government. Congress was not ready in 1977 to adopt this provision which I, and many other students of the subject, believed was sound and thoroughly justified. As a result of Congress' decision not to incorporate that provision at this time, it became necessary to collect higher taxes from workers than would have otherwise been required. Still, the distribution of the tax burden has been made more progres-

sive by the provisions of the 1977 Act. It appears now, however, that Congress may be having second thoughts about their turndown of the President's request. There are various proposals now being introduced to review the possibility of introducing some general revenue financing into the system.

Both the provisions for further change, written into the 1977 Act, and the present stirrings in the Congress indicate that Social Security is still a dynamic and lively theme in public policy. This is all to the good, and young lawyers should have an active role in the review and analysis and development of new recommendations for change. It is for this reason that I am glad to have had the opportunity to bring to your attention these considerations, here at your convention in New Orleans today.●

ANNOUNCEMENT OF HEARINGS ON AGRICULTURAL EXPORTS AND U.S. FOREIGN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, I am pleased to announce that the Subcommittee on International Economic Policy and Trade, which I have the honor to chair, will conduct hearings April 18, 19, and 20 on the matter of agricultural exports and U.S. foreign economic policy.

Numerous bills have been refered to the subcommittee in recent months proposing revisions in the terms and availability of Commodity Credit Corporation credits for agricultural exports, the organization of the U.S. foreign agricultural service, and other measures presumably aimed at expanding agricultural export trade.

Most of these bills and provisions have been jointly referred to the Committee on International Relations and the Committee on Agriculture. A subcommittee of the Agriculture Committee has already held hearings on these measures and plans to take formal action on them in the near future.

The Subcommittee on International Economic Policy and Trade plans to examine and assess these provisions primarily in terms of their impact upon and consistency with U.S. foreign policy. The subcommittee is particularly interested in how proposed agricultural export credit terms compare with such credits provided by other major agricultural exporting countries, what countries would be most affected by such credit policy changes, and how.

Among the specific bills the subcommittee will have under consideration are the following: H.R. 10377, H.R. 10434, H.R. 10946, H.R. 11096, and related and identical bills.

The subcommittee will hear from both executive branch and public witnesses. Any person wishing to present testimony should so request as soon as possible, but in no case later than the close of business Thursday, April 13, 1978. Requests should be directed to Roger Majak, staff director, Subcommittee on International Economic Policy and Trade, room 707, House Office Building, annex No. 1, Washington, D.C., 20515 (telephone 202–225–3246). The subcommittee will hear as many witnesses as possible in the time available. Time for oral presentations will be strictly limited with the understanding that more detailed statements may be submitted in writing to appear in full in the hearing record. Persons and organizations having similar or common positions are urged to make every effort to designate a single spokesman to represent them.

In accordance with committee rules, all witnesses are required to submit a minimum of 50 copies of testimony to the subcommittee no later than 48 hours before their scheduled appearance.

All hearings will be held in Washington, D.C. Witnesses will be notified of the precise time and place of hearings at which they are to testify as the hearing schedule is worked out.●

"DENTON'S DYNAMO"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MILFORD) is recognized for 5 minutes.

● Mr. MILFORD. Mr. Speaker, I would like to share a story written by Karen Muncy for Texas Business magazine with my colleagues in the House.

Karen is married to one of my former staff members, Steve Muncy. I think she has written an excellent story about my friend Rex Cauble.

Rex is a real success story—a sort of rags-to-riches man. Born the son of a cotton farmer, he now manages a multimillion-dollar business called Cauble Enterprises. I place this article in the RECORD.

DENTON'S DYNAMO

It was an especially hectic day at Rex Cauble's ranch, a 4,700-acre showplace just north of Denton bisected by a stretch of Interstate 35E. Another horse sale was in the works and several extra hands had been taken on for the duration.

Taking advantage of a momentary lull in the preparations, the new men bunched together near the glistening show barn, the Cutter Bill Championship Arena, and commiserated about how hard this multimillionaire was working them.

As they talked, a Cauble veteran of some 30 years strolled up behind them and stood quietly, listening, then volunteered: "I've never found Rex hard to work for—but I've found him hard not to work for."

Comfortably ensconced behind the massive, wooden desk in the otherwise unassuming Denton headquarters of Cauble Enterprises (a limited partnership—Cauble, his wife and his son), the object of those words tells the story with obvious enjoyment. At 64, successful in a wide range of business endeavors and with personal wealth estimated by some to exceed $50 million, Rex Cauble can afford to chuckle about his reputation as a taskmaster.

Probably best known to the general public as the owner of Cutter Bill Western World (you might call it—and some have—the Nieman-Marcus of western wear stores) and as the chairman (since 1971) of the Texas Aeronautics Commission, Cauble is a rancher; an oilman; a banker with interests in Denton, Dallas and Houston institutions; a cattle rancher with spreads in Bosque and Leon as well as Denton counties; a businessman who has invested in a horse trailer company, a couple of welding supply firms and a steel fabricating plant; a dabbler in politics and a raiser of horses—and, occasionally, a little hell.

Like the time he hauled off and punched fellow TAC member Jack McCreary in the face following a disagreement over use of the commission staff (the Austin attorney declined to respond in kind, saying, "I won't hit a man his (Cauble's) age.") It was an occasion when a little of Cauble's background as a two-fisted young oilfield worker found its way into the conference room usually ruled by Robert's Rules of Order.

Cauble was only 16 when he graduated from Hillsboro High School and went to work roughnecking in the oilfields of East Texas. He was a driller at 19, a tool-pusher at 20. And the drive to succeed was always there. "I knew I would be a millionaire," he explains simply. "I didn't want to keep on picking cotton; I didn't want to be poor."

Poor was all he had known since his parents went broke in the drought of 1918. The Caubles, with 6-month-old Rex in tow, had moved from Hill County to West Texas for a try at ranching. After three years of working for an uncle, F. C. Cauble struck out on his own. But the drought sucked the land and their pockets dry. "The cows got weak and died." Cauble remembers. "Mom and Dad went broke, so we went back to Hillsboro and they started cotton farming."

When he was only five or six years old, Cauble heard his parents worrying about their debts and discussing bankruptcy. "But people who hide behind the law are weak," he says contemptuously. Apparently his folks weren't weak. Eventually, they paid their debts—"paid 'em all by cotton farming."

With that same determination, Cauble worked his way into the oil business.

"A drilling contractor named Curly Burnett helped me go into business for myself—he got me out of the Army," he remembers with a smile. "I was 28 years old and I'd just finished my basic training." A cratered well near Houston was the catalyst: "They got me out to drill a directional well to kill that crater." The tone of his voice reveals that he remembers the incident with pride.

Cauble formed his own drilling company, headquartered in Houston, in the mid-1940s and began branching out into oil and gas production—and ranching.

In 1954, with wife Josephine and son Lewis in tow, he took up residence on a spread near Crockett and inaugurated what was to become a widely known and respected horse-raising operation. Its crowning glory was, and is, an award-winning palomino cutting horse, the world-renowned Cutter Bill.

It was at Josephine's urging that Cauble brought the yearling stud that was to become the world champion cutting horse of 1962. He paid $2,800, and an offer of a quarter of a million dollars wasn't enough to make him part with the animal that is the most recognizable symbol of Cauble Enterprises.

Most recently, Cutter Bill has loaned his illustrious name to two Western World stores: the original Houston outlet, whose doors opened in 1969, and the spanking new Dallas facility on LBJ Freeway which debuted with a rhinestone-studded round-up that did proud the "Texas millionaire" legends Yankees are so fond of perpetuating.

Cauble welcomed his 1,000-plus guests in a $6,000 custom-designed (what else?) western suit that glittered with some 20 pounds of rhinestones. Plain old Levis and discount-store boots would have felt mighty lonely amid the store's dazzling merchandise: $1,000 ostrich-skin boots, a $32,000 hatband, and a $70,000 belt buckle, both studded with diamonds. Even the guest list sparkled with the likes of actor Dale Robertson, rodeo star Larry Mahan and Cauble's best known buddy, John Connally.

Cutter Bill Western World isn't Cauble's first venture into merchandising. In the late '50s, he proved he had a touch for retailing by pulling in some $60,000 for the first year of his veterinary supply business. Western World is fulfilling the promise of that initial

achievement: the Houston store achieved sales of $2.1 million in 1976, a 23% increase over the previous year's figure. Management projects a minimum 15% hike in sales this year.

Catering to the over-25, over-$25,000-a-year-cowboy whose bank account, and stomach, doesn't go into a tailspin at the purchase of a $350 mink hat or a $2,200 silver-studded saddle, Cutter Bill Western World may soon be offering its finery up north. There are plans for a branch in New York City (Saks Fifth Avenue reportedly is interested in allocating space for a scaled-down version of Western World).

The flash-and-dazzle world of New York might be just the place for the merchandise of Cauble's store. Cauble himself seems to fit into that world quite well on occasion, but his everyday appearance isn't exactly in the stop-and-stare category. In boots, open-necked shirt and well-cut slacks, he conveys the image of a man who uses his money more for comfort and quality than for show.

His Denton offices are the same—attractive and functional. His personal inner sanctum, dominated by the desk across which papers seem to flow endlessly, indicates a more individual and less utilitarian touch. The walls are wood-paneled, the carpeting is chocolate-brown, and an elegantly framed portrait of Connally smiles down from a spot just above and behind Cauble's swivel chair. (The only jarring note is the armadillo—a life-sized figure crouching in front of the desk, looking somewhat out-of-place and a trifle embarrassed.)

It is from this office that Cauble rules his empire much of the time. The competition is stiff between the ringing telephone, the employees who demand his attention and the tenacious stacks of papers awaiting his signature (he dashes off at least a dozen, with scarcely a glance at what he is signing, during a two-hour period). "I guess I'm tied too much to the financing part of it; it sure does stack up," he muses, shaking his silvered head slowly. "I miss getting out and visiting."

Despite a workday that normally runs from 7 a.m. to 7 p.m. Cauble makes time for jogging. That and dieting have him healthier today than he was ten years ago. He also plays tennis and, of course, rides. In the North Texas Cutting Horse Assn. competition this fall, he competed for the first time in four years, and almost finished in the money.

Cauble's influence is reflected among the company he keeps, including John Connally, one of his closest friends. He refers to the former governor as "the most loyal, knowledgeable person of any we have in the world today. He's the most intelligent man I ever knew; he can make a speech on any subject."

Cauble, a frequent and generous contributor to political campaigns, claims he wasn't too interested in politics until Connally came along. Cauble was a drilling contractor in Houston when Connally came through town. "He was stumping for LBJ. He got a group of us together—contractors, oil producers—and got up on a chair in the middle of the room and made his pitch for LBJ. It was the first time I remember his dynamic speaking ability."

Cauble was already supporting Price Daniel for the governorship. In fact, had contributed $500 to that candidacy when Connally announced. He immediately switched his allegiance, and monetary support, to the latter's campaign, and he's never been sorry.

"I think he was one of the greatest governors Texas ever had," Cauble says flatly. "When he got ready to announce for a second term, I sent him a check for $15,000; he said, 'I don't need that much; send me $500.' And they talk about him stealing $10,000," Cauble says incredulously. "That was pure politics."

It was Connally who got the volatile Cauble into the columns of newspapers throughout the state by appointing him to the Texas Aeronautics Commission in 1967, a year before TAC gave its unanimous OK to Southwest Airlines to begin commuter routes, a move strenuously protested by Texas International and Braniff International airlines. It was the beginning of a battle that continued for years, pulling TAC out of obscurity and into the courtroom. Texas International accused the commission of "extreme favoritism" toward Southwest and Cauble of being "extremely angry and hostile" toward Texas International. Cauble denied the latter charge—"I go by what is best for the people of Texas"—and he maintains that he and the commission have done right by the state's air travelers in lowering fares and increasing passenger loads by giving Southwest the go-ahead.

His own experiences in the public eye, and those of his friend, Connally, have convinced Cauble that he is "too thin-skinned to run for office. They think up untruths to lambast you with, and I'd probably not hold my temper too well. You have to be smarter than that in politics."

Cauble's own politics have played havoc with party lines while remaining mostly in the conservative vein. He won't tie himself permanently to Democrats or Republicans. "I go with whomever I think is best." His best have included Richard Nixon for President and several years ago. Hank Grover (of the GOP's whatever-happened-to-? list) for governor. "I've helped some real good ones and some ungrateful bastards," he assesses with a tightening of the lips. (He lumps Grover into the category of poor choices, claiming large unrepaid loans.) His support for the Democratic gubernatorial nomination is committed to John Hill; he declines to be quoted concerning his opinion of Gov. Briscoe.

Cauble's largesse isn't limited to candidates for public office. He's fond of opening up his Denton County ranch to metroplex philanthropists for functions to benefit such causes as the March of Dimes. This fall, he agreed to host another of his extravagant roundups on the condition that his pet concern, North Texas State University's Center for Behavioral Studies, be added as a co-beneficiary (with the MOD) when the proceeds were passed out. Cauble became interested in the center "a few years ago, (when) the governor (Briscoe), in slashing funds and cutting corners, cut off the center's allocations" of state funds, he said. With his son, who had become a friend of the center's director, Cauble sponsored a benefit concert starring Willie Nelson, followed by a $50-per-person reception for the singer at Cauble's ranch; the project netted a total of $42,000 for the center, whose most notable work has been with autistic children.

From battling to make a buck on a cotton farm to the juggling act that keeps his million at work throughout the state, Rex Cauble has driven himself to a position of power and influence with a combination of the all-American Protestant work ethic and a little old-fashioned self-concern not to be poor. And like many men in his position, retirement would be the antithesis of his lifestyle; at this point, he refuses to consider it. There are too many phones to answer, too many papers to sign, too many aspects to ruling an empire for Rex Cauble to quit.

Cauble's term on the commission expired in late 1977 but he continued as chairman until mid-January because Gov. Briscoe hadn't appointed a successor. Since Cauble had already announced his support of Atty. Gen. John Hill in the Democratic gubernatorial race, it was only a matter of time before Briscoe would appoint someone from his own camp.

Whether the new commissioner, El Paso banker James D. Abrams, will be better for the job or not, it's a sure bet that the commission will be losing some of its fire and brimstone with Cauble gone.●

TWENTY-THREE HOUSE MEMBERS INTRODUCE RESOLUTION TO BAN USE OF NUCLEAR MATERIALS IN SPACE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a resolution urging "the President of the United States urgently to initiate negotiations for an international agreement to ban the use of nuclear materials in all space vehicles" was recently introduced by JOHN SEIBERLING, of Ohio, me, and 21 other Members of Congress, in response to the incident on which the Soviet satellite "Cosmos" fell to Earth in Canada in January. Cosmos carried a nuclear reactor and a substantial quantity of highly radioactive material.

Taking note of President Carter's expressed concern and his desire to negotiate an end to the use of power reactors in space, the intent of the resolution is to demonstrate to the President that there is support in Congress for initiatives which he might take to prohibit nuclear materials in space.

Fortunately, the Cosmos satellite fell in a remote area and not in a densely populated area, but the very fact of its falling proves the possibility for other satellites to fall in the future—and next time we might not be so lucky. There are both Russian and American satellites in space now carrying nuclear materials. We welcome the President's suggestion that there should be a prohibition on further launching of earth-orbiting satellites carrying nuclear materials.

The text of the resolution follows:

H. RES. 1110

Whereas the use of nuclear materials in space vehicles poses potentially adverse health and genetic effects to all forms of life; and

Whereas the falling of a Russian satellite containing nuclear materials into Canada demonstrates the very real possibility of such satellites descending to earth and exposing populations to dangerous radiation levels; and

Whereas it is in the interest of the peoples of all nations to prevent such hazards to their populations as would result from a space vehicle containing nuclear materials falling on their territories: Now, therefore, be it

Resolved, That the House of Representatives hereby urges the President of the United States urgently to initiate negotiations for an international agreement to ban the use of nuclear materials in all space vehicles.

In addition to myself and Mr. SEIBERLING, cosponsors are Representatives BEDELL, of Iowa; BINGHAM, of New York; BONIOR, of Michigan; CONYERS, of Michigan; DELLUMS, of California; DRINAN, of Massachusetts; EDWARDS, of California; EILBERG, of Pennsylvania; GARCIA, of New York; HOLTZMAN, of New York; ICHORD, of Missouri; KEYS, of Kansas; MCHUGH, of New York; MEYNER, of New Jersey;

MITCHELL, of Maryland; RANGEL, of New York; RICHMOND, of New York; SIMON, of Illinois; VENTO, of Minnesota; WEISS, of New York; and WOLFF, of New York.●

ARMED SERVICES COMMITTEE SETS APRIL 11 TO HEAR HOUSE MEMBERS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. PRICE. Mr. Speaker, the Committee on Armed Services is in the process of considering in detail the various elements of the defense budget subject to authorization and has been conducting hearings on military posture on H.R. 10929, the Defense Department appropriation authorization bill, since late January. We have set aside April 11 as a day to hear Members of Congress who wish to testify, as well as non-Government witnesses who have asked to be heard on various matters pertaining to H.R. 10929.

I make this announcement to the House today so that those Members interested in appearing before our committee on any matter relative to the defense authorization bill might have sufficient notice to mark their calendar and prepare their testimony. Any Member desiring to appear on April 11 should notify the committee staff director, Mr. John J. Ford, on 225–4158, as soon as possible.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) and to revise and extend their remarks and include extraneous matter:)

Mr. COLLINS of Texas, for 30 minutes, on April 30.

Mr. CONABLE, for 15 minutes, today.

(The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. FITHIAN, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Mr. PEPPER, for 10 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Mr. MILFORD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. BROWN of Ohio in two instances.
Mr. COLLINS of Texas in three instances.
Mr. HAGEDORN in two instances.
Mr. GRADISON.
Mr. YOUNG of Florida.
Mrs. FENWICK.
Mr. PURSELL.
Mr. CORCORAN of Illinois.
Mr. SYMMS in two instances.
Mrs. HOLT.
Mr. BOB WILSON in two instances.
Mr. DORNAN in four instances.
Mr. GILMAN in two instances.

(The following Members (at the request of Mr. CORNWELL) and to include extraneous matter:)

Mr. RODINO.
Mr. CARNEY in four instances.
Mr. KASTENMEIER in two instances.
Mr. DENT.
Mr. HUGHES in 10 instances.
Mr. DE LA GARZA in two instances.
Mr. BOLAND.
Mr. PEASE.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BRADEMAS in 10 instances.
Mr. GAYDOS in five instances.
Mr. HAMILTON.
Mr. WALGREN.
Mr. WAXMAN.
Mr. BYRON in four instances.
Mr. EILBERG in 10 instances.
Mr. WON PAT.
Mr. BRECKINRIDGE.
Mr. WOLFF.
Mr. OTTINGER.
Mr. MCDONALD in three instances.
Mr. AMBRO.
Mr. ROONEY.
Mr. HARKIN.
Mr. ASHLEY.
Mr. BENJAMIN.
Mr. AKAKA.
Mr. STARK.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On March 22, 1978:

H.R. 3813. To amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes.

On March 23, 1978:

H.R. 11518. To extend the existing temporary debt limit.

On March 28, 1978:

H.R. 5883. To amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes;

H.R. 9169. To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 10982. To rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974;

H.R. 11055. Relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978 but attributable to 1977, and to extend for 1 year the existing treatment of State legislators' travel expenses away from home; and

H.J. Res. 796. Making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

ADJOURNMENT

Mr. CORNWELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 5, 1978, at 3 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3746. A letter from the Assistant Secretary of Defense (Comptroller), transmitting the annual report for fiscal year 1977 on reciepts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products, pursuant to section 712 of Public Law 94–212; to the Committee on Appropriations.

3747. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3748. A letter from the Secretary of the Treasury, transmitting the first annual report on progress made in promoting the development and utilization of light capital technologies in the activities of international financial institutions, pursuant to section 801(b) of Public Law 95–118; to the Committee on Banking, Finance and Urban Affairs.

3749. A letter from the Executive Director, National Center for Productivity and Quality of Working Life, transmitting the second edition of the Center's "Directory of Labor-Management Committees," dated spring 1978; to the Committee on Banking, Finance and Urban Affairs.

3750. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing grants to State agencies for programs to meet the special educational needs of children in institutions for neglected or delinquent children, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3751. A letter from the Inspector General, Department of Health, Education, and Welfare transmitting his Office's first annual report covering the period April 1 to December 31, 1977, pursuant to section 204(a) of Public Law 94–505; to the Committee on Government Operations.

3752. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during February 1978, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

3753. A letter from the Deputy Director, Office of Public and Consumer Affairs, Department of Transportation, transmitting as amended page 1 of the annual report of the agency's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

3754. A letter from the Executive Director, National Capital Planning Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during the calendar year 1977, pursuant to 5 U.S.C. 522(d); to the Committee on Government Operations.

3755. A letter from the Chairman, Equal Employment Opportunity Commission transmitting the annual report on the Commission's activities under the Government in the Sunshine Act, pursuant to 5 U.S.C. 522(j); to the Committee on Government Operations.

3756. A letter from the Chairman, Federal Communications Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act for the period of March 12, 1977 to December 31, 1977, pursuant to 5 U.S.C. 522b(j); to the Committee on Government Operations.

3757. A letter from the Secretary, Federal Trade Commission, transmitting the annual report on the Commission's activities under the Government in the Sunshine Act, pursuant to 5 U.S.C. 522b(j); to the Committee on Government Operations.

3758. A letter from the Executive Secretary, National Mediation Board, transmitting a report on the Board's activities under the Government in the Sunshine Act for the period March 12, 1977 to March 11, 1978, pursuant to 5 U.S.C. 522b(j); to the Committee on Government Operations.

3759. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programing and obligation of funds for relief and rehabilitation assistance to Romanian earthquake victims, pursuant to section 459D (e) of the Foreign Assistance Act of 1961, as amended (91 Stat. 48); to the Committee on International Relations.

3760. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to the Democratic Republic of Sudan (transmittal No. 78-28), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3761. A letter from the Under Secretary of Energy, transmitting the annual report on the energy conservation program for consumer products other than automobiles, pursuant to section 338 of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

3762. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

3763. A letter from the President and the National Executive Director, Girl Scouts of the U.S.A., transmitting the organization's 28th annual report, pursuant to section 7 of the act of March 16, 1950, as amended, and section 3 of Public Law 88-504 (H. Doc. No. 95-317); to the Committee on the Judiciary and ordered to be printed.

3764. A letter from the controller, Boys' Clubs of America, transmitting the audit report of the organization for calendar year 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

3765. A letter from the Executive Director, Civil Air Patrol, transmitting the organization's annual report for calendar year 1977, including its financial statements, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

3766. A letter from the Secretary, Foundation of the Federal Bar Association, transmitting the audit report of the Foundation for the year ended September 30, 1977, pursuant to 3 of Public Law 88-504; to the Committee on the Judiciary.

3767. A letter from the Secretary of Transportation, transmitting the seventh annual report on the special bridge replacement program, pursuant to 23 U.S.C. 144(h); to the Committee on Public Works and Transportation.

3768. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the agency's semiannual report on the effectiveness of the civil aviation security program, covering the period ended December 31, 1977, pursuant to section 315(a) of the Federal Aviation Act of 1958, as amended (88 Stat. 415); to the Committee on Public Works and Transportation.

3769. A letter from the Federal Cochairman, Ozarks Regional Commission, transmitting the Commission's annual report for fiscal year 1977, pursuant to section 510 of the Public Works and Eonomic Development Act of 1965, as amended; to the Committee on Public Works and Transportation.

3770. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 13th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

3771. A letter from the Comptroller General the United States, transmitting a report on the need for the Departments of Defense, and Health, Education, and Welfare, and the Veterans' Administration to share cardiac catherization laboratories (HRD-78-14, November 17, 1977); jointly, to the Committees on Government Operations, Armed Services, Interstate and Foreign Commerce, and Veterans' Affairs.

3772. A letter from the Acting Comptroller General of the United States, transmitting a report on the production of the CH-53E helicopter (PSAD-78-27, March 23, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3773. A letter from the Comptroller General of the United States, transmitting a report on the problems in the use of third party funding agreements to appropriate funds for the handicapped through the vocational rehabilitation program (HRD-78-7, April 4, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

3774. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting his determination and certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain during the first quarter of fiscal year 1978 the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., pursuant to section 8 of the Board for International Broadcasting Act of 1973, as amended (90 Stat. 832); jointly, to the Committees on International Relations, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 10255. A bill to assist the States in developing comprehensive fish and wildlife resources management plans and in implementing such plans with respect to nongame fish and wildlife; with amendment (Rept. No. 95-103b). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. H.R. 11445. A bill to amend the Small Business Act and the Small Business Investment Act of 1958; with amendment (Rept. No. 95-1037). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. DICKS, and Mr. WHITEHURST):

H.R. 11836. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. BEDELL:

H.R. 11837. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits shall be financed from general revenues rather than through the imposition of employment and self-employment taxes as at present, to adjust the rates of such taxes for OASI and HI purposes, to provide for reductions in the amount of such disability benefits to take account of the recipient's need as determined on the basis of his family income, to improve disability determination procedures, and for other purposes; to the Committee on Ways and Means.

By Mr. BEDELL (for himself, Mr. OTTINGER, Mr. KILDEE, Mr. LAFALCE, Mr. BAUMAN, Mr. BLOUIN, Mr. DOWNEY, Mr. SIMON, Mr. D'AMOURS, Ms. KEYS, Mr. STOCKMAN, Mr. ENGLISH, Mr. MIKVA, Mr. DERWINSKI, Mr. STANGELAND, Mr. GORE, Mr. WAXMAN, Ms. HOLTZMAN, Mr. STEERS, Mr. ROE, Mr. THONE, Mr. VENTO, Mr. DORNAN, Mr. STARK, and Mr. KREBS):

H.R. 11838. A bill to amend the Agricultural Act of 1970 to require additional reports of exports sales of certain agricultural commodities; to the Committee on Agriculture.

By Mr. BEDELL (for himself, Mrs. SPELLMAN, Mr. EVANS of Georgia, Mr. CAVANAUGH, Mr. BAUCUS, Mr. GLICKMAN, Mr. NOLAN, and Mr. HUGHES):

H. R. 11839. A bill to amend the Agricultural Act of 1970 to require additional reports of exports sales of certain agricultural commodities; to the Committee on Agriculture.

By Mr. BRADEMAS (for himself, Mr. THOMPSON, and Mr. JEFFORDS):

H.R. 11840. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to authorize the purchase and display of works of art, and for other purposes; to the Committee on Education and Labor.

By Mr. BRECKINRIDGE (for himself, Mr. DE LA GARZA, Mr. CARTER, Mr. ENGLISH, Mr. GOODLING, Mr. JENRETTE, Mr. LAGOMARSINO, Mr. MONTGOMERY, Mr. PERKINS, Mr. QUIE, Mr. ROBINSON, Mr. SANTINI, Mr. WAGGONNER, Mr. HIGHTOWER, Mr. CHAPPELL, and Mr. NOLAN):

H.R. 11841. A bill to direct the Secretary of Agriculture to take an enumeration of horses; to the Committee on Agriculture.

By Mr. BROWN of Michigan:

H.R. 11842. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly to the Committees on Agriculture and International Relations.

By Mr. CARNEY (for himself and Mr. HILLIS):

H.R. 11843. A bill to pay tribute to those members of the U.S. Armed Forces who served honorably in Southeast Asia during the Vietnam conflict; to the Committee on Veterans' Affairs.

By Mr. CARNEY:

H.R. 11844. A bill to amend title 38 United States Code, to increase the maximum amount which the Administrator of Veterans' Affairs may pay for the funeral expenses of a veteran from $250 to $350; to the Committee on Veterans' Affairs.

H.R. 11845. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. COCHRAN of Mississippi (for himself, Mr. JENRETTE, and Mr. RYAN):

H.R. 11846. A bill to amend the Internal Revenue Code to allow an additional exemption for a taxpayer who is deaf, and for other purposes; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. HORTON, Mr. MCCLORY, and Mr. STEIGER):

H.R. 11847. A bill to amend chapters 2 and 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to improve the financing of the social security programs by adjusting old-age, survivors, and disability insurance and hospital insurance tax rates, increasing the allocations for disability insurance purposes, repealing the recently enacted statutory increases in the contribution and benefit base, and permitting the two Old-Age, Survivors, and Disability Insurance Trust Funds to borrow from each other when necessary to make benefit payments and continue full operation; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. EDWARDS of Oklahoma, Mr. CUNNINGHAM, Mr. KASTEN, Mr. KETCHUM, Mr. KINDNESS, Mr. LOTT, Mr. SPENCE, and Mr. SYMMS):

H.R. 11848. A bill to require the Environmental Protection Agency and all other Federal regulatory agencies to evaluate, prior to the issuance of a regulation, the potential economic effect and environmental impact of such regulations; to the Committee on Government Operations.

H.R. 11849. A bill to amend the Antidumping Act of 1921; to the Committee on Ways and Means.

H.R. 11850. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. FISHER (for himself, Mr. CONABLE, Mr. BEVILL, Mr. BURKE of Massachusetts, Mr. CLEVELAND, Mr. CONTE, Mr. CORCORAN of Illinois, Mr. DAN DANIEL, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. EMERY, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. GONZALEZ, Mr. GRASSLEY, Mr. HALL, Mr. HORTON, Mr. HYDE, Mr. KEMP, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LEDERER, Mr. LUKEN, and Ms. MIKULSKI):

H.R. 11851. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 11852. A bill to provide that compensation be allowed under chapter 81 of title 5, United States Code, for certain work injuries which occurred before September 7, 1974; to the Committee on Education and Labor.

H.R. 11853. A bill to amend title 5, United States Code, to provide that any Federal employee retiring with accrued sick leave shall be entitled to a lump-sum payment for one-third of such days, and the amount of such sick leave such employee is entitled to have included in years of service for computing his retirement annuity shall be limited to one-third of such sick leave, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Mr. MITCHELL of Maryland, Mr. EDWARDS of California, Mr. EILBERG, Mr. JOHNSON of Colorado, Mr. STEERS, Mr. BONIOR, Mr. HARKIN, Mr. BAUCUS, Mr. BROWN of California, Mr. PHILLIP BURTON, Mr. BINGHAM, Ms. KEYS, Mrs. MEYNER, Mr. SIMON, Mr. WEISS, Mr. GARCIA, Mr. NOLAN, Ms. HOLTZMAN, and Mr. MCCLOSKEY):

H.R. 11854. A bill to allow the President to waive certain prohibitions on the furnishing of food assistance to foreign countries if he determines that such assistance would help needy people; to the Committee on International Relations.

By Mr. HARRIS (for himself, Mr. PREYER, and Mrs. SPELLMAN):

H.R. 11855. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the old-age and survivors insurance program) accordingly; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself, Mr. BRADEMAS, Mr. QUIE, and Mr. PERKINS):

H.R. 11856. A bill to amend the Rehabilitation Act of 1973 to establish programs for training interpreters and for providing interpreter services to deaf individuals, and for other purposes; to the Committee on Education and Labor.

By Mr. KRUEGER (for himself, Mr. BAUCUS, Mr. PATTERSON of California, Mr. LAFALCE, Mr. EILBERG, and Mr. RISENHOOVER):

H.R. 11857. A bill to provide protection of franchisees against the possibility of arbitrary franchise terminations; to establish fair procedures for protecting the rights of franchisees and franchisors upon expiration of a franchise; and to protect the quality of franchise systems for the benefit of consumers, Franchisors, and franchisees; to the Committee on Interstate and Foreign Commerce.

By Mr. LENT:

H.R. 11858. A bill to amend the Housing and Community Development Act of 1974 with regard to the definition of the term "city" as it is used in that act; to the Committee on Banking, Finance and Urban Affairs.

By Ms. MIKULSKI (for herself, Mr. MONTGOMERY, and Mr. VENTO):

H.R. 11859. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (by request):

H.R. 11860. A bill to amend the Intercoastal Shipping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. BIAGGI, Mr. ANDERSON of California, Mr. METCALFE, and Mr. ZEFERETTI):

H.R. 11861. A bill to establish a Navy-Maritime Advisory Board; to the Committee on Merchant Marine and Fisheries.

H.R. 11862. A bill to amend the Shipping Act, 1916, as amended, to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transportation agreements entered into between carriers of the flags of the United States and of the nations with which we trade and to provide immunity for such agreements from the application of the antitrust laws; to the Committee on Merchant Marine and Fisheries.

By Mr. NEDZI:

H.R. 11863. A bill to amend title VIII of the National Housing Act to authorize the Secretary of Housing and Urban Development to terminate the requirement for mortgage insurance premiums with respect to military family housing properties under the jurisdiction of the Department of Defense the mortgages of which are insured by the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

H.R. 11864. A bill to amend section 1719 of title 44, United States Code, to provide for the distribution of copies of all Government published materials to foreign governments through the Government Printing Office rather than through the Smithsonian Institution; to the Committee on House Administration.

By Mr. NIX:

H.R. 11865. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of a man of peace, Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

By Mr. PATTEN (for himself, Mr. ADDABBO, Mr. HOWARD, Mr. HUGHES, Mr. PEPPER, Mr. MURPHY of Pennsylvania, Mr. THOMPSON, Mr. FORSYTHE, Mr. FLORIO, Mr. MINISH, Mr. RODINO, Mr. EILBERG, Mr. LE FANTE, Mr. HOLLENBECK, and Mrs. MEYNER):

H.R. 11866. A bill to establish the Thomas A. Edison Centennial Commission, to establish a grant program to assist the collecting, compiling, editing, and publishing of The Papers of Thomas A. Edison, and for other purposes; to the Committee on Education and Labor.

By Mr. RANGEL:

H.R. 11867. A bill to amend the Internal Revenue Code of 1954 to provide an additional 20 percent credit for employment of new employees who have completed any training program at an Opportunities Industrialization Center; to the Committee on Ways and Means.

By Mr. RINALDO (for himself, Mr. EVANS of Georgia, Mr. SPENCE, and Mr. FLOOD):

H.R. 11868. A bill to prohibit the Board for International Broadcasting from providing funds or other assistance to Radio Free Europe and Radio Liberty if they allow any Communist country to use their facilities to broadcast; to the Committee on International Relations.

By Mr. ROONEY:

H.R. 11869. A bill to amend the act of July 19, 1940, relating to travel in the United States, to authorize additional appropriations; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY (by request):

H.R. 11870. A bill to amend the act of July 19, 1940, to authorize additional ap-

propriations and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY:

H.R. 11871. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979; jointly to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. ROONEY (by request):

H.R. 11872. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1979 and 1980; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. SCHULZE (for himself, Mr. ARMSTRONG, Mr. BALDUS, Mr. BAUCUS, Mr. BROYHILL, Mr. DON H. CLAUSEN, Mr. ENGLISH, Mr. EILBERG, Mr. GRASSLEY, Mr. KEMP, Mr. LOTT, Mr. ROUSSELOT, Mr. STANGELAND, and Mr. WINN):

H.R. 11873. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses; to the Committee on Ways and Means.

By Mr. SYMMS:

H.R. 11874. A bill to provide for the issuance of gold medallions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. THORNTON (for himself, Mr. JONES of North Carolina, Mr. HANSEN, Mr. LOTT, Mr. THOMPSON, Mr. JENRETTE, Mr. MONTGOMERY, Mr. COCHRAN of Mississippi, Mr. MCKAY, and Mr. TUCKER):

H.R. 11875. A bill to provide price and income protection for agricultural producers by assuring such producers a price for their agricultural commodities of not less than the cost of producing such commodities; to assure consumers an adequate supply of food and fiber at reasonable prices; and for other purposes; to the Committee on Agriculture.

By Mr. ZABLOCKI (by request):

H.R. 11876. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on International Relations.

By Mr. AKAKA (for himself, Mr. KINDNESS, Mr. EILBERG, Mr. MITCHELL of Maryland, Mr. WAXMAN, Mr. LAFALCE, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. RAHALL, Mr. HUGHES, Mr. WEISS, Mr. MURPHY of Pennsylvania, Mr. BRODHEAD, Mr. EDWARDS of California, Ms. MIKULSKI, Ms. HOLTZMAN, Mr. NOLAN, Mr. STOKES, Mr. LEDERER, and Mr. FRENZEL):

H.J. Res. 819. Joint resolution requiring improvement and expansion in the collection, analysis, and publication of statistical data relating to women in the professional, technical, and managerial occupations, and for other purposes; jointly to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. BRADEMAS:

H.J. Res. 820. Joint resolution to authorize and request the President to issue a proclamation designating May 18, 1978, as "Museum Day"; to the Committee on Post Office and Civil Service.

By Mr. EILBERG (for himself, Mr. ERTEL, Mr. FLOOD, Mr. GAYDOS, Mr. LEDERER, Mr. MOORHEAD of Pennsylvania, Mr. MURPHY of Pennsylvania, Mr. MURTHA, Mr. MICHAEL O. MYERS, Mr. NIX, and Mr. YATRON):

H.J. Res. 821. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. NOWAK:

H.J. Res. 822. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H.J. Res. 823. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. VENTO (for himself, Mr. FRASER, Mr. OBERSTAR, Mr. FRENZEL, Mr. QUIE, Mr. NOLAN, Mr. HAGEDORN, Mr. AUCOIN, Ms. MIKULSKI, and Mr. LEVITAS):

H.J. Res. 824. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. CORNWELL (for himself, Mr. BONIOR, Mr. BRADEMAS, Mr. COUGHLIN, Mr. FRENZEL, Mr. GAMMAGE, Mr. NOLAN, and Mr. YATRON):

H. Res. 1109. Resolution expressing the sense of the House of Representatives with respect to the killing of some 1,000 dolphins by Japanese fishermen in February 1978, and encouraging the Government of Japan to reassess its policy in permitting such killing; to the Committee on International Relations.

By Mr. OTTINGER (for himself, Mr. SEIBERLING, Mr. BEDELL, Mr. BINGHAM, Mr. BONIOR, Mr. CONYERS, Mr. DELLUMS, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. GARCIA, Ms. HOLTZMAN, Mr. ICHORD, Ms. KEYS, Mr. MCHUGH, Mrs. MEYNER, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. RICHMOND, Mr. SIMON, Mr. VENTO, Mr. WEISS, and Mr. WOLFF):

H. Res. 1110. Resolution urging the banning of the use of nuclear materials in space vehicles; to the Committee on International Relations.

By Mr. ST GERMAIN (for himself and Mr. BAUCUS):

H. Res. 1111. Resolution expressing the sense of the House with respect to a reorganization of the Internal Revenue Service; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

358. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to the prevention of Nazism in America; jointly, to the Committee on the Judiciary, and International Relations.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

436. By the SPEAKER: Petition of the Western States Land Commissioners Association, relative to relationships between the States, and certain treaty tribes of Native Americans; to the Committee on Interior and Insular Affairs.

437. Also, petition of the council of the city of New York, N.Y., relative to banning the sale of fighter planes to Egypt and Saudi Arabia; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7700

By Mr. GONZALEZ:

On page 6, immediately after line 7, add the following new subsection:

(f)(1) subchapter V of chapter 36 of title 39, United States Code, as enacted by the Posta' Reorganization Act, is amended by adding at the end thereof the following new section:

"3686. One cent postage rate for postal and post cards or modernized equivalent thereof.

"Notwithstanding any provision of this title or of any other law, the rate of postage of each single modernized postal card and for each portion of a double modernized postal card, including the cost of manufacture, and for each modernized post card and the initial portion of each modernized double post card is 1 cent until otherwise provided by law. For the purposes of the preceding sentence a modernized postal card is a card supplied by the Postal Service with a postage stamp printed or impressed on it for the transmission of messages, orders, notices and other communications, either printed or written in pencil or ink or the modernized equivalent thereof.".

(2) The table of sections of subchapter V of chapter 36 of title 39, United States Code, as enacted by the Postal Reorganization Act, is amended by adding at the end thereof the following new item:

"3686. One cent postage rate for postal and post cards or modernized equivalent thereof.".

EXTENSIONS OF REMARKS

"DECLARATION OF INTERDEPENDENCE" BY UNIVERSITY OF CINCINNATI RELIGIOUS ORGANIZATIONS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. LUKEN. Mr. Speaker, the following declaration was presented to me by the Hillel Jewish Student Center and the United Christian Ministries on the Campus of the University of Cincinnati, on the occasion of Brotherhood Week, on Monday, February 20, 1978:

A DECLARATION OF INTERDEPENDENCE

When in the course of human events it becomes necessary for one people to dissolve the political, economic and cultural distinctions that separate it from another and assume among those who define themselves in broader terms than race, national origin, religion or creed, the interdependent and cooperative station to which the laws of nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to this action.

We hold these truths to be self-evident: that all humans—regardless of color, race or sex—are born with the desire to live, with the assurance of the basic necessities of life. but beyond that, realizing we neither grow in personal consciousness or appreciation for our fellow humans if we allow the restrictions of tribe, nationality, race, color, religion or creed to impede our goal.

And our goal is this: that the boundaries that separate us be dissolved, that these boundaries, whether they be political systems or narrow ideologies, be replaced by one process—Communication, through which we may grow toward the attainment of universal peace, happiness and freedom.

We look to the stronger among us to enable the weaker to gain strength, and the weak and strong alike to realize that power lies not in economic superiority, political astuteness or military might; rather in the essential goodness of each human person in all their diversity, and the inherent unity that goodness calls us to.

We, therefore, representatives of a very small section of humankind, but important members thereof, assembled at this circus in recognition of the weakness of our brother/sisterhood, do hereby as our first official act in recognition of our membership in the greater world community, affix our names as a sign of our commitment to the establishment of a community of persons and mutually pledge to each other, and to the world of humankind, our time and energy, our hearts and minds.

Mr. Speaker, in the light of this symbol of unity among the various religious organizations on the University of Cincinnati campus, I think we can see the importance and beneficial results of learning to live and work together in appreciation of some of the differences which exist among people. Only when such differences are acknowledged and dealt with creatively can we hope to overcome the misunderstandings which often occur among the various groups who live in the United States.●

RICHARD C. GARVEY, EDITOR OF THE SPRINGFIELD, MASS., DAILY NEWS, SELECTED FOR 1978 OUTSTANDING CITIZEN AWARD BY GREATER SPRINGFIELD FREEDMAN POST NO. 26, JEWISH WAR VETERANS OF THE U.S.A.

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BOLAND. Mr. Speaker, an eminent Massachusetts journalist, Richard C. Garvey, editor of the Springfield Daily News, has been selected by the Greater Springfield Freedman Post, No. 26, Jewish War Veterans of the U.S.A. for its 1978 Outstanding Citizen Award.

Mr. Garvey is a distinguished community leader who has contributed frequently and unselfishly of his time and talents over the years to countless civic projects for the betterment of the people of Greater Springfield. He is the 29th individual to receive an award, given annually to a person who has enriched the life of his community by devotion above and beyond the call of duty.

I want to take this opportunity to congratulate Dick Garvey on being chosen for this award. Respected and unpretentious, he is a perceptive and scholarly individual who is unsurpassed in his knowledge of western Massachusetts history. I cherish the warm friendship we have enjoyed over the years.

Dick Garvey has devoted a lifetime to newspaper reporting and editing. He was on the staff of the Daily Hampshire Gazette in Northampton for several years before joining the Springfield Daily News staff 34 years ago. After serving as reporter and copy editor, he became assistant managing editor in 1950 and succeeded Frank H. Kelly as editor in 1966, the fifth editor in the 98-year history of the Daily News.

He is a past president of the New England Society of Newspaper Editors, and the winner of several editorial awards, including the Grenville Clark National Award in 1962, and the Allan B. Rogers Memorial Award for best editorials in New England in 1970.

Mr. Speaker, the Freedman Post Outstanding Citizen Award of 1978 will be formally presented to Dick Garvey on April 30. It will be one more in a long list of honors and awards he has received over the years, including:

Honorary Doctorate of Humane Letters from the University of Massachusetts.

The prestigious William Pynchon Award given by the Advertising Club of Springfield.

American National Theater and Academy's Rose Kamberg Award.

Springfield Elks Club's Newspaperman of the Year Award.

Silver Beaver Boy Scout Award for service to boyhood, given by the Pioneer Valley Council and the National Court of Honor.

St. George Boy Scout Emblem, given by the Roman Catholic Diocese of Springfield.

Mr. Garvey is chairman of the board of trustees of Springfield College, and a trustee of Mercy Hospital in Springfield, Our Lady of Providence Children's Center, and the Springfield Institution for Savings. He is also a director of Pioneer Valley Chapter of the American National Red Cross, the Springfield Area Development Corp., the Springfield Adult Education Council, the Springfield Boys Club, and the Edward Bellamy Memorial Association, named after the cofounder of the Springfield Daily News.

He has served as president of the Community Council of Greater Springfield, as general campaign chairman of the Pioneer Valley United Way, and is a member of the Springfield Rotary Club.●

A BILL REQUIRING THE ISSUANCE OF A COMMEMORATIVE STAMP HONORING DR. MARTIN LUTHER KING, JR., ON THE 10TH ANNIVERSARY OF HIS DEATH

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. NIX. Mr. Speaker, it is high time that we honored Dr. Martin Luther King, Jr., who died 10 years ago, on April 4, 1968, by an assassin's bullet. He was just 39 years old.

On May 1, 1968, I introduced H.R. 16937, a bill providing for a commemorative stamp honoring the life and work of Dr. King.

In April 1968, and in February 1971, I introduced similar bills. H.R. 4385 was introduced on February 17, 1971, and similar bills were cosponsored by 71 Members of Congress.

The reason offered by the Postal Administration in those years for nonaction was that the policy of the Postal Service would not permit the issuance of a commemorative stamp honoring an individual until that individual had been dead for 10 years.

April 4, 1978, marks the 10th anniversary of Dr. King's death.

There is no longer any reason, policy or otherwise, to delay the issuance of a commemorative stamp honoring a man who has done so much to benefit his fellow Americans.

Martin Luther King, Jr., not only freed black Americans from the burdens of legal discrimination, but he also freed white Americans from a mythical duty to discriminate against their black neighbors. President Carter has often stated that Dr. Martin Luther King freed whites and blacks together and made national progress possible. Without Dr. King's great work, the United States of America would be chained to a future involving total racial animosity.

We are closer to one society in the United States rather than two because of Dr. Martin Luther King, Jr. His life and work resulted in the passage of three civil rights bills. His life brought within reach equality for all Americans.

The United States of America is more of a democracy; it is a bigger country and a better Nation because Martin Luther King, Jr., lived and died in America.

It is for the benefit of all Americans that we honor great men and the time to honor Dr. Martin Luther King, Jr., is now.●

USABLE FORMS OF ATOMIC POWER PLANT BYPRODUCTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BOB WILSON. Mr. Speaker, in an age when we are trying to conserve all forms of energy and make the best use of what we have got, nuclear power plant byproducts too should not be wasted.

Rather than merely getting rid of it, we should think in terms of reprocessing the waste—breaking it down into its most usable forms. And such nuclear powerplant waste is usable with the following benefits, delineated in a recent article, by George P. Dix, of the Department of Energy illustrate.

The article follows:

ATOMIC POWERPLANT BYPRODUCTS

I. FOOD IRRADIATION

Food irradiation can eliminate food-spoilage organisms, retard spoilage, inactivate disease causing organisms, destroy insects and parasites, and disinfest grains and fruits, and delay post-harvest ripening of fruits and vegetables. Irradiation is also effective in sterilizing male pests and reducing pre- and post-harvest losses by reducing pest populations.

Almost half of the food produced today is lost to pests, despite the fact that world pesticide use will reach a record of 1.9 billion kilograms this year (453.6 grams or a pound of pesticide for every man, woman, and child on earth). Post-harvest world food losses are running at about half of the above level. One estimate of seed food losses was 30 million tons per year equivalent to the production of about 50,000 square kilometers of farm land. The scarcity of foods, the cost of fertilizers to produce them, the large energy required to treat and store them (thermal treatment, refrigeration, etc.) and the dependence on chemical additives and toxic pesticides to preserve and disinfest them has created a resurging interest in food irradiation, as a potentially effective and energy saving technology for preserving foodstuffs.

One of the past problems with implementing food irradiation has been international approval for consumption of irradiated foods. In September, 1976, a committee consisting of the World Health Organization, Food and Agriculture Organization, and International Atomic Energy Agency evaluated experimental evidence and recognized five irradiated foods (potatoes, wheat, chicken, papaya, and strawberries) as unconditionally safe for human consumption and three irradiated foods (rice, fish, and onions) were given provisional approval. This has fostered worldwide interest in implementing food irradiation. In the U.S., Brynjolfsson and his co-workers at the U.S. Army Natick Development Center have intensified their efforts on meat and poultry. To date there have been no indications that irradiation will affect the wholesomeness of beef, which, when irradiated and packaged can be stored for years.

Heretofore food irradiation has been performed with Cobalt-60, an artificially produced isotope. The advent of large quantities of radiocesium from the nuclear wastes may have a large positive impact on the economics and scale of food irradiation.

It is predicted that food irradiation will be utilized in the next decade in a massive way to contribute to making foodstuffs disease-free, extend storage times, reduce food losses, and make protein available to curb hunger and malnutrition in the developing nations.

II. LIGHTING

Krypton-85 is a noble gas, having a 10.7 year half-life, which emits beta particles (electrons) from 99.6% of its disintegrations and some gamma rays. In a nuclear fuel reprocessing plant rediokrypton is released in the sheering and dissolution of spent nuclear fuel. Systems for separating krypton gas in use or being developed are 99% efficient. The recovered krypton gas has a nominal composition of 50% Kr-86, 4% Kr-85, 30% Kr-84, 14% Kr-83; and traces of Kr-78 and 80. There is one part per million of elemental krypton in the air that we breathe. In a continuing nuclear energy scenario a large inventory of Kr-85 will be accumulated—about 200 kilograms in the U.S. and about four times that worldwide or 1000 kilograms by the end 2000.

Beta irradiation from Kr-85 of a phosphor, such as zinc sulfide, causes visible light. However, such a light requires no electrical input; it runs on its own electrons. Such lights are more reliable and long-lived than any conventional light source, and if broken or otherwise disrupted will not create sparks or other spurious sources of electricity. Hence, they have widespread applications where reliable lights are required (e.g., airports, railroads, hospitals, emergency facilities) or where dangerous sources of electricity could detonate explosive products (e.g., coal mine gas, high explosives, natural gas, liquid natural gas, etc.).

Although the krypton beta light was demonstrated almost two decades ago, the barrier to its deployment has been availability, cost, and enrichment in the Kr-85 isotope. Currently, it costs $25 per curie in the unenriched form which is unsuitable for high intensity lighting applications. Krypton enriched from 12 to 36% in the Krypton-85 isotope is sought.

Presently, krypton is enriched in Kr-85 by a thermal diffusion process. Many days are required to produce 1 liter of 45% enriched material at a cost 4 times that of the 4% mixture from a nuclear fuel reprocessing plant. However, as reprocessing plants go on stream and large quantities of Kr-85 become available, other and more cost-effective methods of Kr-85 enrichment can be used, such as plasma centrifuges or laser separation devices. It may be possible, with these new separation devices to produce 70–90% Kr-85 for $1 or less per curie.

A reflecting surface is used in order to minimize gamma radiation emission from the light. A practical light application would require from 4 to 60 curies of Krypton-85. A typical nuclear fuel reprocessing plant might produce 50,000 curies per day (16 million curies per year) and the cumulative U.S. production from now until 2000 could be 1,000,000,000 curies, accounting for losses from radioactive decay. Assuming 10^{-2} curies would produce a brightness of 3.4 cd/m^2 (1 foot-lambert), the Kr-85 inventory represents a formidable amount of light considering that a page of fine print can be read with a brightness of 34 cd/m^2 (10 footlamberts).

Aside from lighting, Krypton-85 has been used widely in fluid flow, gauging, leak detection, non-destructive testing and has demonstrated applications in medicine and polymerization. One of its co-products, in fuel reprocessing from cryogenic separation, is xenon which has medical and electronic applications.

III. TRANSURANIUM BY-PRODUCTS

Plutonium–238—Among the transuranium by-products in the wastes, Plutonium–238 is perhaps the best example of a strategic material. It has a 90 year half-life and produces about one-half thermal watt per gram from alpha decay, which is self-absorbed to produce heat. Table I shows an inventory of 850,000 grams of Plutonium–238 in the wastes by 1990 and Table II shows an inventory of 1 thermal megawatt by the turn of the century, excluding the contribution from artificially produced Pu–238 from neptunium or americium. Because of its low penetrating radiation, its long half-life, and high power density, it is an ideal fuel for special purpose power supplies which convert its thermal energy to electrical energy by thermoelectric or thermomechanical converters. It is ideal for space power systems and remote terrestrial power systems, has widespread use in heart pacers, and is the candidate for powering the artificial heart under development by the National Heart and Lung Institute which has sponsored the development of artificial hearts using nuclear power sources for a decade along with ERDA.

The scope of the later would be 12,000–32,000 units per year for potential candidates for heart replacement who are destined to die imminently from terminal heart disease. If one assumes that implantation of an artificial heart would eliminate major disability, another large group of patients, perhaps as many as 100,000 to 150,000, would be potential candidates for an artificial heart or a partial mechanical heart.

Approximately 30 thermal kilowats of Plutonium–238 have been launched into space in electrical power sources on a variety of military and space missions. It provides for a rugged, long-lived, power source with a high reliability. It has been used as a power source on Navy navigation, Air Force communciation, and weather satellites. It powered five stations on the lunar surface that transmitted data to earth for up to seven years after the U.S. lunar landings. It is responsible for our successful scientific exploration of Mars and is currently powering two Mars Landers. On the Pioneer 11 and 12 flights it gave us our first data and pictures from the planet Jupiter. After leaving Jupiter, Pioneer 11 will be the first man-made object to leave our solar system. Pioneer 12 is currently targeted for a 1979 arrival at Saturn. Future Plutonium–238 powered missions such as Voyager I and II to be launched in 1977 will yield further data on Saturn, will reveal the nature of Uranus, and will give us a superior military capability in inner space.

Neptunium-237—By 1990 the wastes will contain about 36 million grams of Neptunium-237. It is used to make Plutonium-238 by neutron capture and is currently worth about $100 per gram.

Americium-241. Americium-241 is currently in short supply worldwide; it is used in logging oil wells. It is also used in smoke detectors and for various gauging and metering devices. By 1990 the nuclear wastes will contain about 6,500,000 grams of Americium-241. Its current price is $210 per gram.

Curium-244—Curium-244 has a half-life of 18 years and its alpha decay produces 2.84 thermal watts per gram. By 1990 the wastes will contain about 2,000,000 grams of Curium-244 or about 5.6 thermal megawatts for special purpose thermal and electrical energy applications.

IV. RADIOSTRONTIUM APPLICATIONS

Radiostrontium is currently being extracted and encapsulated from ERDA wastes at Hanford. Each capsule produces one thermal kilowatt initially and at the end of 28.6 years five hundred thermal watts. By the year 2000 the waste radiostrontium inventory will be equivalent to about 67 thermal megawatts which in one half-life will produce 12,500,000 megawatt-hours of thermal energy (Table II).

Perhaps the most recent development in this area is the intention of the FAA to replace a fossil fueled power system at their Lake Clark Pass, Alaska, unmanned navigation station with strontium-fueled radioisotope thermoelectric generators. The new power system is expected to be much more reliable and will eliminate the logistics costs and hazards of bringing in propane tanks by helicopter.

About 40 U.S. strontium fueled thermoelectric generators have been put into operation and have accumulated about 2,000,000 operating hours. Generators are currently produced commercially by Teledyne Energy Systems. These are ideal for remote land or undersea power supplies and their proven reliability surpasses any other remote power source. An outstanding example of these power sources is a U.S. Navy oceanographic data acquisition system on Fairway Rock in the Bering Straits which has derived its power from a strontium fueled thermoelectric generator for nine years, completely unattended. Overseas primary marine navigation aids, such as unmanned lighthouses, are powered with radiostrontium in the U.K., Sweden, Denmark, and U.S.S.R.

Current applications studies for radiostrontium include the possible use of ERDA capsules to provide heat to run thermomechanical engines to provide two electrical kilowatts to power unmanned solid state radar stations, as a partial replacement to the Distant Early Warning Line which has logistics, fuel and manpower costs of about $40,000,000 per year. The current thermoelectric generators have a thermal to electrical efficiency of about 5 percent, whereas the thermomechanical systems would have an efficiency of 25 to 30 percent. Other studies include space heaters, sanitary system heaters, and navigation aids in the Arctic in applications where high reliability is sought and where conventional fuels cost as much as $2.50 per gallon.

V. SANITARY ENGINEERING AND AGRICULTURAL APPLICATIONS

Ionizing radiation such as that produced by Cesium-137 or Cobalt-60 can effectively destroy pathogens (e.g., bacteria, viruses, parasites) in municipal sewage sludge. Although this has been studied in the laboratory for 20 years, in 1975, a full scale Cobalt-60 irradiation plant was put into production in Munich, Germany with a throughput of 120 m^3 day with the product being used successfully as fertilizer and soil conditioner (nitrogen, phosphorous) in the plant environs.

ERDA, EPA, and the Department of Agriculture are performing pilot studies for U.S. sludge irradiation facilities, H. D. Sivinski, his co-workers at the Sandia Laboratories, and others have observed other favorable radiation induced phenomena, including enhancement of settling rate, odor reduction, and the synergistic effects of heat and radiation in reducing pathogens.

About five million equivalent dry tonnes of municipal sludge are being produced each year in the U.S. and the new requirement for secondary treatment is expected to increase this by about 80 percent. Alternatives for national municipal sludge disposal processes are limited and include ocean disposal (15 percent), incineration (35 percent), landfill (25 percent), and land application (25 percent). Ocean disposal has caused significant problems and will be phased out, hopefully by 1981. In 1973 New York City was dumping about 4,000,000 wet tonnes of sludge at sea with serious environmental consequences. Incineration is energy intensive and causes air pollution. Landfill operations are transportation intensive and the sludge can eventually reach water supplies. Land applications for agricultural purposes are desired but require strict pathogen control.

The above conventional methods all involve sunk dead-end costs varying from $25 per tonne (ocean dumping) to greater than $70 per tonne (landfill). The thermoradiation process costs about $35/tonne and produces a fertilizer product worth about $25/tonne or potentially a feed product for cattle and sheep worth about $100/tonne. Composted irradiated sludge processing is estimated to cost about $50/tonne and has a potential product value of $65/tonne. Thus, there is the potential for using waste Cesium-137 to convert the fiscal and pathogenic liability of municipal sludge to a vital agricultural asset. At the same time a new and effective method has been developed to reduce pathogens, public health and environmental risks which appears superior to the various conventional methods now being used today.

VI. CONCLUSIONS

Nuclear waste appears to constitute a formidable potential future resource, *if* by-products are separated and applied. The *if* looms large and uncertain, but the option exists nevertheless. Aside from the uncertainty of by-product separation, weighed directly against high level waste vitrification and disposal, the option cannot be preserved in the near term unless applications research and development is pursued in order to develop economic parameters. Aside from demonstrating and developing by-product applications, the issues of the safety and environmental viability of each application must be addressed and resolved. However, the by-product alternative cannot be denied or dismissed from consideration today by any quantitative data pro or con. The scenarios of strategic materials, energy, international developments, and our advancing technology may or may not force the option into the open in the future.

There is perhaps an ultimate analogy to be made between the conservation, recycle, and utilization of our existing natural resources and our artificially created nuclear resources. Conservation, recycle, and utilization of our existing resources are inevitable, although marginally economic or exigent today. In the case of the latter, any additional nationally-independent strategic resources that the U.S. does not possess by natural endowment can only be created by fission, neutron capture, fusion, or other nuclear processes.●

WHITE OAK LEGION FETES NATIONAL COMMANDER

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GAYDOS. Mr. Speaker, later this month the officers and members of Gen. Smedley D. Butler Post 701, American Legion, will honor their national commander at a testimonial dinner in White Oak, Pa.

Robert C. Smith, national commander of the American Legion, will be publicly recognized for his 31 years of service on behalf of those who have worn the uniform of their country in time of need. It will be recognition richly deserved.

A veteran of World War II, Commander Smith is a member of Banks-Strong Post 166 in Springhill, La., where he served as post and State Legion commander before his election to the national office. He also has been a member of the National Executive Committee, a policy-making body of the Legion organization; the National Americanism Commission, and the American Legion Endowment Fund Corporation.

In addition to his Legion work, Commander Smith is active in civic service. He has been the president of the Springhill Chamber of Commerce; chairman of his community's welfare board; president of Louisiana Tech's Alumni Association; chairman of the United Givers Fund, and an active member of the Louisiana Manufacturers Association.

He has been named "Young Man of the Year" by the Springhill Jaycees, "Layman of the Year" by the Ruston District of the United Methodist Church and, in 1973, was awarded the Silver Beaver by Norwela Council, Boy Scouts of America.

On hand to honor Commander Smith in White Oak on April 19 will be a number of prominent Pennsylvania Legionnaires as well as local officials, including:

Eugene Eichelberger, commander of the Pennsylvania Legion; Edward T. Hoak, State Adjutant; James Streets, state vice chairman; Dr. Almo Sebastianelli, and Stephen J. Milkosy, National Executive Committeemen; Mrs. Stay, president of the Pennsylvania Legion's ladies auxiliary; Jay Long, commander of the 33d district; James Comiskey, Allegheny County commander; Frank Spreha, Western vice commander; Robert Picth, 33d district chaplain; William Rankin, commander of Post 701, and the Hon. John L. Patterson, mayor of White Oak.

Mr. Speaker, it is a pleasure to join in the tribute to Commander Smith. On behalf of my colleagues in the Congress of the United States, I extend sincere thanks for his service to his country and the American Legion.●

TRIBUTE TO CHARLES R. KRAMER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. YATRON. Mr. Speaker, I would like to take a moment to pay tribute to a man who I am proud to represent in the Congress, Mr. Charles R. Kramer.

Mr. Kramer, a guidance counselor in the Oley Valley School District in Pennsylvania for the last 26 years, has been named counselor of the year by the Pennsylvania School Counselors Association and the Pennsylvania Association of Private School Administrators.

As I have always believed that efforts to better educate our young are an investment in the future of our Nation, it is with great pleasure that I congratulate Charles Kramer, whose efforts are so typical of the long history of dedicated educators in Berks County. In fact, another constituent of mine, and long-time friend, Mr. Dennis E. Fiant of the Hamburg Area School District, has served as president of the Pennsylvania School Counselors Association, which presented this award to Mr. Kramer.

There is no question that Charles Kramer was an excellent choice to receive the Ben Franklin Award, an engraved pewter bowl. During his years of dedicated service, Mr. Kramer has teamed with Anthony Fredicine, another counselor in the Oley district, to establish a student tutoring program. He has also been active in setting up career day programs and has developed a system to select students for vocational technical training. Mr. Kramer has coauthored articles published in "The School Counselor" and "Pennsylvania School Counselor" and served as co-chairman of the exhibits at the counselors association conference.

He also has served as treasurer of the Berks Area Counselors Association for the last 10 years. He has distinguished himself by his efforts to assist handicapped students who preferred school programs to home study. Once, he helped carry a girl wearing 50-pound braces up and down stairs so she could attend class. There have been many other instances, but Mr. Kramer minimizes those efforts as part of my job.

The counselor also is active in the community. He was an active volunteer fireman for many years, is the scorer and timer for wrestling matches and basketball games, helps the track coach, and runs the night school extension classes for the Reading Area Community College.

Throughout our history, it has been the kind of selfless dedication and commitment to excellence typified by Charles Kramer that have made America's educational system the finest in the world. We are truly fortunate to have men like Charles Kramer serving in our schools. Our childrens' future is in good hands.●

WMRN: "THE AIR OF DIFFERENCE"

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BROWN of Ohio. Mr. Speaker, it is with great pleasure that I would like to recognize the community service provided by the Marion, Ohio, Broadcasting Co., during last January's blizzard.

This company, which operates both an AM and FM station, managed to keep the lines of communication open between those in need and those able to offer assistance during the aftermath of the January 26, 1978, storm.

Possibly part of the station's performance during the crisis must be attributed to the company's standby generator which met the station's power needs when the area was without electricity. But standby generators, or any other such technology, cannot be of assistance in an emergency without dedicated personnel. The technicians, announcers, and other members of the WMRN staff are to be commended for delivering the news to the Marion area despite the forces of nature.

The following editorials from Marion's two newspapers further commend WMRN for its tireless efforts in providing radio communications during the crisis:

[From the Commentator, Feb. 2, 1978]

THE AIR OF DIFFERENCE

(By Vic Pytho)

We in the communications field are a competitive bunch: we like beating the other guys to the news and revel when we uncover a story long before the others get wind of it.

As a twice-a-week newspaper, we are, perhaps, the most disadvantaged of the local news pool. The Marion Star is a seven-day-a-week daily that attempts to provide day-after, and sometimes, same-day, news coverage. Both radio stations, WMRN and WDIF, have active news staffs, and on occasion air the news moments after it happens, but, more often, the news is broadcast hours after the event if not the next day.

The Commentator, however, by design, cannot bring up-to-the-minute reports nor easily accommodate next-day coverage. Yet, each of us on the news staff, one-time or another "daily" veterans, recognize the other three news staffs for their ability to communicate more rapidly.

I'm not knocking a weekly, or in our case, the twice-a-week concept, but in events such as last week's horrendous blizzard, immediacy of news is enviable.

And it is not that news of the storm had to be told. It was evident no matter where one was located. But people needed and wanted to know what was going on outside their confines, and journalists live to provide that information.

The storm was a powerful equalizer. The Star became little better than The Commentator in terms of delivery. Going to press does little good if deliveries cannot be made, and while The Star did not fail to meet its press runs, it could not, as we could not last Thursday, make deliveries to all the customers.

Even radio station WDIF, having no auxiliary generator, became powerless once the electricity went out. Outshining us all, was WMRN which, in my terms, provided a flawless service to every resident and non-resident within its broadcast range.

During those fateful days, nearly everyone listened to some portion of its broadcast, obtaining word about the safety of relatives and hearing about life-saving operations. To many, it was the only voice on the outside for several days. People listened to the speakers fervently and enabled many to find a means to food and shelter.

WMRN provided a service the rest of us in the news media could not . . . it delivered the news unhindered by the force of Nature, immediately and powerfully.

Oh yes, I still hold that newspapers have their place, and a good one at that, but no one can deny that that "small town" radio station stood above the rest of us last week and provided the public service we could not. Envy? Yes, I am envious, but also I am proud for them, for we are brothers in communication.

To be more than just a bulletin board of information, a rehasher of public meetings, or a means of filling a scrapbook with pictures of ribbon cuttings and grand openings, is a desire any journalist seeks for "his" paper, or radio station. To be of real public service, which is greater than exposing crooked administrators or printing award-winning photos, is a level of professionalism rarely experienced by smalltown journalists. Yet, that came to be for the employees of 1490 Radio.

And it didn't happen by plan. There was no scheme to be "the best." It was spontaneous: a job had to be done, they did it, and they did it well. And I'm confident my feelings are shared a thousand times over by the Marion residents who listened or called in the day the blizzard struck.

Here is one instance when there is no embarrassment in recognizing the good work of a "competitor." And the fact that we are not first to applaud its efforts, our sincerity in praising WMRN is second to none.

[From the Marion Star, Jan. 29, 1978]

MAY GOD BLESS

Sometimes it takes a natural emergency or disaster to bring out the best in the human race.

That is what all of us in the Marion area and throughout Ohio have been witness to during the past few days—the best in people.

After the blizzard struck the area beginning early Thursday, area residents began to show their mettle.

Very quickly a spirit of helping one another through the weather crisis developed and even though the area was virtually paralyzed for three days, things began to look brighter Saturday with everyone in the county and neighboring counties pitching in to help those stranded in mobile homes and houses without heat, power or food.

While those who offered a helping hand to others in dire need are too numerous to even attempt to identify in this space there is one organization that has done an outstanding job in helping to maintain communications between those in need and those that might be able to help.

That organization is the Marion Broadcasting Co. (WMRN).

The crew there worked tirelessly to maintain radio communications throughout the crisis period. It was the only radio station in the immediate area that was able to stay on the air, partly because it has a standby emergency power generator that was pressed into use when electric power in its area failed.

How the technicians and announcers managed to reach the station during the height of the blizzard we do not know, but we suspect some of them remained at the station many hours rather than risk trying to go home and be unable to make it back the next day.

Dedication to duty and service to the community by WMRN personnel is commendable and should be at the top of the appreciation list of everyone in this and neighboring counties. The immediacy of radio makes it an invaluable emergency communications system. To all of the WMRN personnel who worked so hard during the weather crisis we say: "Bravo."

Lest any others in the community feel slighted (after all they were just doing their job at WMRN, some might say), we also offer our highest commendation to the hundreds of others who went to the aid of others with four-wheel drive vehicles, with CB radios; those who walked to those few groceries that were open to help a neighbor with food supplies; the churches and fire stations that welcomed those who had to be evacuated from heatless and powerless homes, to all who helped in any way, may God Bless you each and every one.●

A TRIBUTE TO GEN. THADDEUS KOSCIUSZKO

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. MOFFETT. Mr. Speaker, the House on April 3, 1978, unanimously passed House Congressional Resolution 359, providing that the sites of service of General Kosciuszko should be recognized by Federal, State, and local governments as Kosciuszko Military Engineering Sites, and be marked accordingly.

General Thaddeus Kosciuszko was among the foremost patriots in our Nation's War for Independence. As a colonel in the fledging U.S. Army, General Kosciuszko played a major role in the American victory at Saratoga, N.Y., which proved to be a turning point in the war.

As a result of his efforts on behalf of a free America, he was granted U.S. citizenship, and was promoted to the rank of brigadier general.

Throughout his life, General Kosciuszko worked and fought for the rights of people everywhere to live in a free society. After fighting for a free Poland against Russia, General Kosciuszko returned to America in 1796. Perhaps the greatest testimony to the integrity of this man was that he left his will with his friend, Thomas Jefferson, which contained provisions setting aside funds for the education and freedom of blacks in this country.

Upon his death in 1817, earth was raised in Poland on all battlements on which he had fought. It is fitting that now, 200 years after the Battle of Saratoga, this country respond with a similar tribute to to this remarkable and free-thinking man.

It is a tribute to Polish-Americans everywhere—a tribute to all Americans who value their hard-fought freedom.

In my own district in Connecticut, there are a number of Polish-American organizations that epitomize the spirit of General Kosciuszko. These groups are dedicated to the advancement of those same principles espoused by General Kosciuszko—freedom, democracy, and the right to live a life of dignity.●

WHAT CAUSES IT?

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. COLLINS of Texas. Mr. Speaker, I have been given 12 reasons why youngsters today lack educational strength. With how many would you agree.

First. Parents Lack of Interest. More and more experts cite parents interest as the biggest element in achievement. Do parents discuss school work? Do they commend their children? Do they listen to them read?

Second. PTA. Are parents active in back up programs? Do parents go to school games, open house, and activities?

Third. Teachers Backed Up. My mother told me that when her brother got spanked at school, he also got spanked by her dad when he got home. Do you give solid support to your teachers and principal?

Fourth. Teachers Are Good. I had three youngsters go completely through the school system and only had one teacher in junior high that did not know how to teach his subject (mathematics). That is a great record—only 1 poor teacher with 225 excellent teachers.

We should have a proficiency test for teachers to prove their knowledge of subject and motivational skills. Teachers are blamed and it is not their fault for poor learning.

Fifth. Television. Has watching television lowered time spent for reading? Has it developed a lazy generation? Does it overstimulate violence reactions? Does TV do more harm than good for children?

Sixth. Discipline. Families let youngsters "do their own thing" so they act the same way at school.

Consideration for neighbors and better learning environment requires rules. For instance, you cannot sing in the library. You cannot throw objects in class. You cannot sass the teacher. Students who are obstructionist must be disciplined.

Seventh. Teachers Merit Raises. Teachers who motivate strongly, and have compassionate understanding, gain respect of students and have knowledge of subject should receive added remuneration. Good teachers can be judged by parents and by fellow-teachers.

In high school the reaction of students in nonsigned remarks would be beneficial.

Eighth. Less Student Ambition. Do students have as much desire to learn? Many youngsters say they believe the Government will take care of them, so they will not need work skills.

Ninth. Parents Example. Do parents read extensively? Do parents have a stable family life? Is there discipline in the home? Is there a religious spirit in the home?

Tenth. Family Eat Together. Does the family eat together each evening? Is there a blessing. Or does each one get a snack and eat watching TV?

Eleventh. School Staff Excessive. Do most of the school system employees teach? In Chicago 46 percent of total are support. In New Orleans 49 percent do the administrative, secretarial, and maintenance work. In Indianapolis 49 percent do general work yet size of classes is only 21 students. In Detroit, it is an even 50–50 teaching.

When I was in grade school we had one principal, two office staff and two janitors with the rest teachers.

In Detroit 50 percent of the staff are teachers, librarians, and counselors. Having an equal number of staff to supervise and maintain property seems excessive.

Twelfth. Too Many Forms. Teachers and the whole system are burdened with too many deadhead reports and excessive paperwork.

HARRY F. GLAIR NIGHT

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BENJAMIN. Mr. Speaker, allow me to take this opportunity to ask my colleagues to join with me in commending and congratulating Harry F. Glair of Flossmoor, Ill., who is being honored and certified by the Whiting, Ind., American Legion Post 80 as one of the area's most distinguished citizens. "Harry F. Glair Night" will take place on Wednesday evening, April 12, 1978, in the Whiting, Ind., Community Center, a most appropriate setting inasmuch as Mr. Glair, along with others, was responsible for the center's construction.

Mr. Glair, who was born on August 28, 1888, has had an illustrious career of service in the petroleum industry and in community civic activities. He began his affiliation with Standard Oil Co. at the Whiting, Ind., refinery on Monday, September 21, 1906, at the age of 17. In 1908, he left to enter the University of Illinois and graduated with a degree in mechanical engineering in 1912. That same year, he returned to the Whiting plant as an engineer. In January 1914, Mr. Glair was promoted to assistant superintendent and in 1920 to superintendent of the paraffin works. By 1929, he was manager of the Whiting refinery, during which time he was responsible for many technological achievements in the petroleum industry.

It would be difficult to recount all the positions of responsibility Mr. Glair successfully discharged. He concluded his distinguished career with Standard Oil Co. in 1953 at the age of 65 and was truly one of the early pioneers in the petroleum industry.

Not only did Harry Glair's expertise and dedication benefit the business sector, but his foresight and untiring efforts resulted in the improvement of the quality of life in the Whiting area.

In the 1920's, Mr. Glair realized the necessity for a common meeting place for European immigrants as well as a center where the family unit could participate in a variety of activities. Thus, his efforts served as an impetus for providing a community center for Whiting, Ind.—a monument to family togetherness and a great tribute to all American Legionnaires who have valiantly served our country.

Mr. Speaker, colleagues, Harry F. Glair deserves our recognition, congratulations and praise for a job well done. He epitomizes what Americans should be—always striving in love, faith and dedication to make our country a better place in which to live.●

CONDEMNATION OF ALDO MORO ABDUCTION

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. AMBRO. Mr. Speaker, prior to the Easter recess the House considered a resolution condemning the abduction of Aldo Moro. As the cosponsor of this resolution, I rose in its support and would like to now add my comments to those of my colleagues.

Mr. Moro was one of the foremost Christian Democratic leaders, and his abduction by the so-called Red Brigade is truly an outrage. The Red Brigade is already responsible for more than 25 killings and serious woundings, and Congress must clearly speak out on its morally bankrupt actions.

Mr. Moro is a symbol of unity to a country that has faced great inner dissension and turmoil. Almost singlehandedly, Mr. Moro has knitted together the delicate political fibers that bind the fragile Italian Government. The Red Brigade is a symbol of the antithesis—chaos—and its sole aim is to destroy all existing political and social order. Although more radical than the Italian Communist Party, the Red Brigade shares the same Marxist philosophies that accept as a first principle any means to achieve their ends.

Italy has never been known to cower under the threats of murderers and cutthroats. The Italian people have historically demonstrated their strong spirit and national character in protecting their rights and freedom. The Italian Government must now take a spirited stand against the Red Brigade and all terrorists, for terrorism is a stifling, inertia-producing activity. Terrorism has never bettered an organized legislative process, and Italy must demonstrate that terrorists cannot achieve their ends through violent means. In their condemnation of this act, the Italian people must know they have the unswerving support of the American people and their institutions.

The United States owes Italy its backing during this trial. For decades, millions of Italian immigrants have come to these shores and through their hard work and devotion to family and religion have made great contributions to the American way of life. Their heritage has enriched our heterogeneous culture. In approving this resolution, House Resolution 1082, the Congress will express to the Italian people our solidarity with them, our understanding of their values,

and our empathy with their concern, while showing our disdain for this senseless, barbaric act.●

REVELATIONS OF AN INVISIBLE NATION

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. AKAKA. Mr. Speaker, I would like to bring to the attention of my colleagues two exceedingly illuminating articles on world population growth which appeared in the January and March issues of Intercom, published by the Population Reference Bureau.

As a member of the House Select Committee on Population, I believe that the ramifications of present growth rates cannot be too strongly stated. I hope that the articles will prove as startlingly illustrative to others as they were to me.

THE BIRTH OF A NATION: POPULANDIA

"Then came a terrific explosion, and fire and smoke billowed up from the Pacific's depths. A tidal wave rocked our steamship, nearly swamping her. When the next day finally dawned, we described to the west a new, mist-shrouded land on the horizon where only ocean had rolled before. We were then at latitude 25° 15′ South, longitude 179° 20′ West."—Captain's log. the *SS Interdependence.*

One of 1977's most celebrated events was the volcanic appearance of a new mini-continent in the Pacific Ocean. The new land consisted of about 160,000 square miles of low rolling terrain—about the size of California. The ground cooled, and within a few months vegetation began to take root.

Cartographers called the new mini-continent "Populandia", which means "Surprise, surprise" in the dialect of French Polynesia.

Populandia seemed heaven-sent. The new addition to the world's land area lay situated in a pleasant, subtropical climate, surrounded by blue ocean. And, unique among all the continents, the new land was completely unpopulated.

"The population crunch is solved," exulted one international leader as the World League of Countries met in late 1977 to lay claim to the verdant mini-continent. In a special session, the august world body made a historic pronouncement: To ease population pressure on the nations of the world, from January 1, 1978, onward, all the world's natural increase (that is, all the extra people born over and above those needed to replace people who die) would be transplanted to Populandia. Such a move would leave the present continents with their present cozy levels of population. And since the new land, some 400 by 400 miles, was starting off with zero inhabitants, it was reasoned that a long, long time would pass before the world would have to worry about population pressure again.

The practical details of the shift proved somewhat dicey. Suffice it to say that unlimited visiting privileges, and hefty tax incentives were promised to parents willing to let their children become Populandians, while Harvard University generously volunteered to build an extension campus on the mini-continent for its citizens' future education. ("They deserve," a Harvard spokesperson said, "the best.")

The first child to become a citizen of Populandia was born at 12:00:01 a.m. (local time), January 1, 1978, in the Tonga Islands. A few hours later, the child, Beverly Ming, was flown to Populandia, where an army of World League nurses and a new temporary city of nurseries and dairy farms awaited her.

The one-thousandth "excess" or natural increase child was born in Fiji about 7 minutes and 14 seconds later. And soon the tropical air was buzzing as every two minutes a jumbo jet carrying 280 more children touched down at Populandia International Airport, the largest busiest airport in the world.

As the New Year moved west from time zone to time zone, more and more Populandians arrived in the world, culminating in John Cabot Peabody IV, born at 12:00:01 a.m. (local time) January 1 in the Aleutians—24 time zones after little Beverly Ming. A total 200,677 Populandians had been born by this moment, and January 2 had not yet come to Populandia.

Intercom will publish periodic progress reports on Populandia, its population and progress, as the world's newest country continues inexorably to grow.

POPULANDIA NOW WORLD'S 33D LARGEST COUNTRY

What has happened to Populandia in the three months since the first child was landed on its shores?

Perhaps the most noticeable fact is that Populandia is now the 33d largest country in the world. As of March 31, its population was expected to be 18,060,930.

Another Populandian superlative is its international airport—the world's busiest, as wide-body jets land every two minutes with a full passengerload of the newly born. These Populandian babies are met by regiments of WLC nurses and whisked down Myrdal Avenue to the Tots Clinic. There they are fed by WLC wet nurses, while outside an army of workers labors mightily to build new clinic wings to meet the constant need for more space—the equivalent of a new Massachusetts General Hospital (1,084 beds) every seven minutes.

Who are Populandia's tinv citizens? Nearly two-thirds (64 percent) are Asians. This is because some 57 percent of the world's population are Asian; it is also because the rate of natural increase is higher in developing countries (including Asia's) than in the developed nations.

African children make up the next largest contingent of Populandians—15 percent of the total. Next come the Latin Americans, who make up 12.5 percent, while the developed continents are presently sending relatively small numbers of people—only 2 percent of Populandians come from North America, 2.6 percent from Europe, 3.3 percent from the U.S.S.R., and 0.4 percent from Oceania.

Not only are Asians the Populandian majority, but seven Asian countries—China, India, Bangladesh, Pakistan, Indonesia, the Philippines, and Thailand—by themselves contribute over half the world's natural increase. During Populandia's first three months in existence, India has contributed 3,234,000 people to the mini-continent. In the same period, France has contributed only 39,500, while the Federal Republic of Germany and the German Democratic Republic (because of their present negative growth) have yet to send a single child to Populandia.

At midnight New Year's Day, Populandia had a population of zero. But with 200,677 new citizens arriving each day, its population had reached the 1 million mark by January 5. By February 19, Populandia's population was 10 million, and by the end of March, stands at the 18 million mark—giving the island a population density (112 people per square mile) about that of Burma's. And none of Populandia's citizens are over three months old.

Intercom will give periodic reports on Populandia, its problems and progress, as the world's newest nation continues inexorably to grow.●

TRANSPORTATION POLICY NEEDED IN AMERICA

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. ROONEY. Mr. Speaker, as a member of the National Transportation Policy Study Commission, I am delighted to have an opportunity to make available to you a recent statement by Arthur D. Lewis, president of the American Bus Association, on the critical need for a national transportation policy in this country—one that will encompass energy, environmental, and budgetary considerations. Such a policy would set national transportation priorities and serve as a framework for Federal funding of the various modes.

Mr. Lewis is particularly well-qualified to address this country's transportation needs, having had vast experience in running our railroad, airline, and bus industries. Mr. Lewis' March 1978 article in Newsline follows:

I am struck by the total pervasiveness of the transportation industry as an element in our society. One frequently speaks about the fact that transportation constitutes over 20 percent of our gross national product without really coming to grips with just what that means in the development of policy. More than any country in the world, the U.S. economy and society is characterized by mobility of the individual and the movement of goods. Despite the importance of our transportation system, the deveopment of a national transportation policy has proved to be elusive.

Recently, Secretary of Transportation Brock Adams proposed a national transportation policy which would, for the first time, set national priorities and see that government funding follows priorities. He has identified five major issues that will determine the future of most highway and mass transit programs: energy considerations, the environment, urban problems, unemployment and the requirement of a balanced budget (inflation). To me, at least three of these factors will be crucial in developing our national transportation system. They are: energy considerations, the environment and inflation. I think a couple of other basic factors which will govern transportation policy could be added. One is that this country will not change from being one which is a heavy consumer of transportation in all its forms. We will continue to be predominately a culture which depends on a growing, developing transportation system. Second, the private enterprise system will continue to be the fundamental mechanism for delivering that service, aided and guided by public expenditures.

The first of these imperatives which will determine the development of our transportation system of the future is the limited supply of domestic oil which has fueled our transportation system. At the present time transportation utilizes over 50 percent of total petroleum products consumed in this country and that use is growing rapidly. This is creating a very serious problem for the nation since it is resulting in an enormous trade deficit with adverse effect on the value of the dollar. As our foreign trade balances get further out of kilter, there will be major efforts made to reduce the depend-

ence on imported oil. This means curtailment of its use. I know it is dangerous to talk of limitations on natural resources such as petroleum but I do believe that now is the time to take action predicated on not only a potential shortage of energy, but the need to control our adverse balance of payments.

Relative fuel efficiency will become increasingly important in the determination of national policy. There is no question but that environmental factors will limit the development of transportation.

National transportation policy is going to be built around the shortage of energy, the limitations of our environment, the need to fight inflation and the pressures to continue to provide mass transportation of some sort, both passenger and freight. And, there will continue to be substantial pressure to see that this is done in the private sector. While it will be difficult to reconcile conflicting historic interests whose technology is out of phase with today's energy requirements, I think they will be reconciled in the only way they can be today—that is in the support of ways and means of increasing efficiency in transportation. I think there is going to be less unplanned duplication, less waste. There will be more integration in planning so that the strengths of each mode are emphasized and their contribution maximized.

One of the prime tasks of leadership is to deal with change, to anticipate it, to accommodate to it, and to bring it about. The basic underlying factor affecting change in the transportation systems today is the coming shortage of transportation power, absence of sufficient oil to do what we want to do. And, we will have to learn to deal with that.●

NEUTRON WEAPONS: A VIEW FROM WEST GERMANY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CONYERS. Mr. Speaker, since last September when the House voted to continue the development of neutron weapons under the ERDA national security authorization bill, a very far-reaching and illuminating debate has taken place in Europe on the deployment of these weapons. That debate has been particularly intense in Germany, the nation in which these new weapons would most likely be stockpiled and used in the event of war. The intense reaction generated by the revelation last year that neutron weapons were under development in this country was not, however, confined to Germany; recently the Parliament of the Netherlands voted to ban the use of such weapons on Dutch soil.

The debate on neutron weapons in Europe has, if anything, intensified in recent weeks, just as the world awaits the decision by the President whether this country will start production of these weapons or not. Several newspapers today have reported that a decision on neutron weapons will be announced this week.

As we near the announcement I want to share with my colleagues further information about the emerging view in Europe that oppose the further development, production, and deployment of neutron weapons. Perhaps the individual who has done more than any other to stimulate European debate on these weapons is Dr. Egon Bahr, the secretary-general of the German Social Democratic Party, publisher of the party newspaper, Vorwarts, and a deputy in the Western German parliament, the Bundestag. In July 1977, he published the first major criticism of the weapons, entitled "The Neutron Bomb Is Turning All Values Upside Down"—which I took the liberty of inserting in the September 14, 1977, CONGRESSIONAL RECORD. A few weeks ago I came across a second major commentary by Egon Bahr, entitled "Neutron Weapons and Détente," in which he discusses the political and military implications of this new weapons system. The core.

The core of Dr. Bahr's commentary is that détente requires steps to reduce the scale of armaments and reverse the proliferation of nuclear weapons, not the development of new nuclear weapons systems that threaten yet further rounds in the arms race, greater instability, and an even greater loss of control over military technology than exists at the present time. He regards a Presidential decision against further development of neutron weapons as an essential precondition for a larger agreement between the United States and the Soviet Union to reverse the dangerous trend toward new nuclear weapons proliferation.

Dr. Bahr's commentary is significant not only for his closely reasoned analysis of the perils of neutron weapon deployment, but also because he represents a substantial body of political opinion in Europe. I urge my colleagues to read the commentary that follows:

[Source: "Neutronenwaffe und Entspannung" from *Flensburger Tageblatt* of Feb. 4, 1978 by Egon Bahr]

NEUTRON WEAPONS AND DETENTE

(Translated by Casimir Petraitis)

At the end of last year the "Flensburger Tageblatt" suggested I express my opinion with regard to neutron weapons.

I gladly followed this suggestion all the more because the time since the discussions of last summer allowed me to reach conclusions and because the Federal Republic of Germany was not required to make a decision on this matter in the foreseeable future.

I. The results of these international discussions delay the decision that the United States President was expected to make with respect to the production of these weapons. A series of factors and arguments came to light which until then had not been taken into account, or had not had the importance that they have acquired since then. These facts represent an asset to international politics, especially since they have not been detrimental from the security point of view.

The discussions took place on three different levels: ethic-philosophical, military and political. In some instances it was difficult clearly to distinguish these levels one from another. Unfortunately the world is like this: what I refuse from the philosophical point of view could be still indispensable from the military point of view and desirable from the political point of view. Or vice versa: the philosophically right circumstances such as total disarmament, can be questionable from the military point of view, desirable politically but unattainable practically.

II. On the ethico-philosophical level I would like to make only one correction: I have learned in the meantime that it is wrong to speak about "a neutron bomb". The system should be called "neutron weapons". Earlier I had taken the expression "neutron bomb" from its inventor, who by now must have learned more.

Nevertheless, I maintain my view that the human race must be wondering what the term "progress" really means and what became of the idea that man must remain master of his political decisions and activities. Among numerous environmental questions we also discussed the fact that the results of man's genius and invention should not become the means for his enslavement. Technological progress can liberate but it can also destroy. Problems created by science can be only solved objectively through political decisions. One difficulty remains: science, which deals with objective factors, is more expedient than politics, which has to deal with human beings, their desires, concerns, motivation and hopes.

At no time is it of any use to worry about the latest scientific findings, which cannot fall into oblivion. This applied and still applies to chemical and bacteriological weapons, which exist in theory and practice though they did not become the planned part of strategic concepts.

If the preoccupation with matter moves into the center of all that we call progress—and this was the starting point of our discussions last summer—the human being runs the risk of becoming marginal. This would mean a perversion of thought and a reversal of our values. We can say with the German President of the International Catholic Pax Christi Movement: "When we are told in the discussions that the neutron bomb is a clean and humane weapon, such an utterance constitutes a complete reversal of all values."

In the discussions for and against the neutron bomb, the Pax Christi Movement asks the politicians to look for their guidance in the political and moral principles, so that they will not be completely overwhelmed by the military and technological considerations.

In the discussions of abstract values it is difficult to reach conclusions about neutron weapons, belonging to the world of reality, as it is the case in all value discussions. This should not prevent us from being aware of the hierarchy of values and even to win over many other people for these values. Even when the United States has nuclear weapons and contemplates producing new ones, it is still of great importance when President Carter, contrary to his predecessors expresses his intention to do away with all the nuclear weapons. The impossibility of getting rid of thieves should not prevent us from disapproving of stealing. In a world which is getting more and more concerned about technology, man will have to see to it that he remains master of technology.

III. Anybody who advances arguments on a purely military level can find numerous positive points in favor of the neutron bomb. The neutron bomb is smaller, can be used with more precision, is less destructive and appears more suitable for defense, especially against overwhelming tank forces since we would use it against attacking enemy forces. If all this were true, then the military, more effective use would be trustworthy and the deterrent more effective.

This is an argument that should be taken seriously in opposition to another argument according to which the higher eventuality of its use, diminishes nuclear threshold, even when it is said at the same time that the neutron bomb means transition from conventional to nuclear warfare. For this reason, as in the case of all the other nuclear weapons, its use would require a political decision by the United States President. The range of the neutron bomb is smaller and for tactical reasons it must be stationed near the first front line, and its use would call for a rapid political decision.

We must add that according to the in-

ventor, the neutron weapons are essentially a new kind of weapon, which differ from nuclear weapons insofar as they allow getting into the bombed area immediately after explosions, and entering into such area depends only on the speed of the marching army. With other kinds of nuclear weapons, the radiation effects are stronger and longer-lasting. From the military, political and psychological points of view the latter factor is an additional factor for reducing the nuclear threshold.

First General Inspector of the Federal Armed Forces, Adolf Heusinger, regards the introduction of the neutron weapons as an "extremely serious matter", because according to the experience, it would take the other side only two years to produce the neutron bomb. The enemy would be encouraged to occupy the Federal Republic of Germany without destroying its industry. In this context Heusinger reminded us of the introduction of toxic gas during the First World War, when the opposite side got it also in less than two years' time and the balance was again established.

In general there was too little discussion about the neutron weapon as an interesting attack weapon to eliminate the defending army and to destroy its known equipment. History teaches us that there has never been a weapon invented which the enemy would not have in a foreseeable future. Finally there has never been a weapon invented against which there would be no protection.

If it were possible to exclude these factors, the introduction of neutron weapons would be recommended in our alliance against the stronger forces of the Warsaw Pact. But exactly these factors should not be regarded as possible.

It would again result in a new armaments and reciprocal deterrence spiral, except for the limited period of time during which the West alone possess the neutron bomb.

There was no discussion whatsoever about the military probability, that an eventual attacker, if he wants to attack, will take into account politically and militarily the increased possibility by our side of the use of the neutron weapons.

The probability that nuclear technology can advance to still smaller weapons is undeniable. In the theory of the protagonists of the neutron weapons, this would lead to the increased deterrence. In truth the threshold between the conventional and nuclear warfare would be blurred, would make the transition easier and increase the danger (of atomic conflict).

Anybody who refuses nuclear weapons cannot deny that these weapons have helped to achieve an equilibrium and become the decisive factor in guaranteeing peace. The nuclear weapons, so much reviled, lead to what is today called "détente", exactly because the risks are too high and in any case unbearable, since there is the capacity to exterminate each other. Nobody can say today whether without the nuclear weapons and their possibility of the apocalypse, all the disasters of the cold war could have been avoided. Anybody who says that they could not be used in serious cases should do away with them. Exactly because they remain so effective that even when the risks of the jump into the abyss on both sides is small, seen with perspective it is sufficiently great and even too great. I advocate the view that the big weapons guarantee us more relative safety that the small weapons, and that with the development of the small weapons the instability in the field of security increases.

Even if the military discussions are not yet terminated, the arguments advanced so far are insufficient to endorse nuclear weapons.

IV. In addition we have weighty political considerations. In the first place there are political security considerations. Europe finds itself under the effect of that global balance, which has been created by the United States and the Soviet Union with their respective allies. What is covered by these security systems on the geographical level, is undoubtedly sure. There should be no uncertainty, that what happens at Neuköln, Hamburg or in Sicily should not be taken seriously. The question, whether it would have been worthwhile to die for Danzig, was an encouragement for Hitler and in an attack on Danzig many had to sacrifice their lives. Only when it is clear, that the Alliance would intervene with all its might, in case of attack against its territorial integrity, accepting all the consequences, will the integrity be left untouched.

For this reason the unlimited solidarity within both Alliances is the cementing force of these alliances. In other words: a way of thinking which decreases the risks for both super powers, and increases for its allies, what already exists due to the unchangeable geographic situation. Who would not think like this if we were in their place, though it could mean insatisfaction for the allies and weakening of the solidarity of the alliances?

If we were in place of both superpowers, we would have to think in this way—in our own interest and in the interest of mankind—not to get into irresponsibility in case of armed conflict which could not be stopped until both sides were annihilated. The historical nuclear agreement of 1973 expresses this interest of both Big Powers in a form of a treaty. Agreements for the limitation of the strategic weapons should supplement the first agreement and be adopted to the technological development. In this a greater importance is attributed to the strategy of deterrence and poses an urgent question about the non-strategic equilibrium in Europe. The vital interests of the United States and the Soviet Union can tolerate a limited war in Europe. The vital interests of Germany cannot. For this reason it is understandable that the discussions in this matter are more intense in our country. The Berlin example makes it especially evident: the security in that city is based overwhelmingly of the guarantees provided by the Alliance with complete strategic and global support. The risks lie there for the attacker and not in the capacity to defend itself on the spot. The same applies mutatis mutandis for West Europe: the security lies in the credibility of the global strategic power of the United States against an eventual attack, who is not present on the European mainland. This applies all the more so, when the Soviet "back-fire" and the SS 20 constitute a menace to Europe, and cannot be faced by the European defense.

It would be a false development to try to create a central point of equilibrium in addition to those points existing at the ends of the beam. This is because not only the global equilibrium would become weakened, but because such a development would lead to a displacement of the present-day equilibrium, which would bring uncertainties with it. This would be also a development which would work against the detente.

The policy of relaxations of tensions starts with the strategic global equilibrium between East and West without prejudicing the one or the other. Relaxation of tensions calls for a long term policy, which brings trust through new agreements, makes warfare impossible and is irreversible in the end. Detente requires steps of reduction of armaments or its limitation and not steps for strengthening armaments or introduction of new systems, which will create new instabilities.

Neutron weapons, which exist theoretically, cannot change the strategical balance, but can play a role which would decide the fate of the detente policy. The conclusion is clear: neutron weapons should become a means for the relaxation of tensions.

V. Here we pass from the theoretical political considerations to the practical ones.

One-sided relaxation of tensions would mean weakness. The relaxation of tensions requires equally important efforts and commitments on both sides. The Soviet Union was too lighthearted in protesting against exactly this kind of weapon, which is able to balance her own superiority on the conventional level. The Soviet Union must admit that her attitude against neutron weapons has an essential defect as long as there is no declaration, and she refuses to develop, produce and deploy them. Brezhnev's letter leaves the option open to the Soviet Union for the development of neutron weapons and makes this in the form of a warning to the West. This will only lead to the possibility that the West will also have to leave the option open.

We must start with the assumption that the Soviet Union will develop this weapon also, where it is improbable, that the question of its production will be debated publicly, and be influenced by the West. The letter of the Soviet Secretary General could be an alibi for later decisions which would not change the strategic balance for the Soviet Union but rather because neutron weapons constitute as little a menace to the Soviet territory as it does to the American. But the question for continuation of the detente policy should equally concern the Soviet Union.

On the American side the decision for production has not yet been made by President Carter. This will be only his decision, because Americans have not consulted others in the past, but also because they are the main discussion partners with the Soviet Union in the field of the detente policy desired by both sides. A German decision would only be required when the questions of storing them arises, and this cannot happen earlier than one and a half to two years later.

It is no exaggeration to assume that the détente policy in the two coming years will face the alternative of a qualitative breakthrough in the military field or suffer a profound setback.

It is said that the Soviet Union gives nothing for a simple option, so that negotiations on the theme of neutron weapons would presuppose the decision of the United States to produce them. But this must be left to President Carter to find out, whether this is so or whether his permission to produce neutron weapons would provoke a similar decision in Moscow.

Since the neutron weapon is not a strategic weapon and it does not belong to the systems about which the negotiations are in progress in Vienna on the troop reduction in Central Europe, the question arises as to where the negotiations should take place concerning this or other dismal weapons. That there must be negotiations about them is indisputable, because in the area of military detente there should be no area that would escape the agreements.

This calls for an agreement, according to which the parties renounce either introduction of a new kind of weapon systems, or at least are ready to include into the agreements all new and present day systems. It is also conceivable that the Soviet Union will develop a new kind of weapon system; nobody has a monopoly on progress, and nobody may change the existing balance unilaterally.

For practical reasons it is appropriate to discuss the complexity of the neutron weapons in Vienna, because it changes the factors which are the object of discussion there. The goal in the Vienna talks is parity — of bi-

lateral forces in the area foreseen for agreement. We know, that this goal will be reached gradually. But if the detente has to continue, coming to a practical agreement in the foreseeable future is unavoidable. Here the Soviet Union must make big concessions with respect to its existing conventional arms superiority.

The goal of parity remains the main point with or without the neutron weapons. The additional strengthening of peace to a point, at which attacks are no more possible, is a political goal, to which other factors, desirable or undesirable, old or new weapon systems must be made subservient. The neutron weapons exist from political point of view, and must be included in the desire to attain an agreement according to which they should not be introduced.

During the SPD Party Meeting in Hamburg in 1977 I said: "It would be wrong in this situation to make a decision, without influencing the decisions of others. Rather we have to create preconditions, politically and strategically, so that the storage of neutron weapons on the soil of the Federal Republic of Germany will not be necessary. It calls for a clear decision by this Party Meeting for giving a mandate to the Federal government in this direction. In political terms this requires negotiations and the need to see to it that this kind of weapon will not hamper the disarmament talks in Vienna, but on the contrary will benefit them.

The neutron weapons should be dealt with in such a way as to facilitate the disarmament agreements and in order to avoid a new arms race. Here we know, that the Soviet Union because of her attitude in the months to come, bears her part of responsibility for sparing us from a new arms race.

In its debates this Party Meeting will prevent the deployment of neutron weapons in the Federal Republic of Germany.

The decision of the German Socialist Party is clear, even for the neutron weapons, that the Federal Government must make all the necessary efforts in order to reach a disarmament agreement. This attitude is necessary for our country and for Europe from a historical and political point of view, because through its geographic situation the Federal Republic of Germany plays a key part in the policy of relaxation of tensions.●

TAMAQUA BLUE RAIDERS BASKETBALL TITLE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

Mr. YATRON. Mr. Speaker, on Friday, March 17, at the Hersheypark Arena, determination and drive led the Tamaqua Area High School girls' basketball team to their first PIAA class AA girls' State basketball title.

The Blue Raiders finished their 33 and 3 season with a 70 to 49 victory over the Brentwood Spartans. A special congratulations was certainly earned by the team, the coaches, and the fans of the Blue Raiders whose dedication and devotion made Tamaqua No. 1.

I wish to give special tribute to the members of the team: Lisa Baddick, Betsy Boyer, Jane Boyer, Karen Deininger, Beth Delay, Kim Haldeman, Karen Jones, Barb Koch, Karen Major, Chris Mateyak, Cindy Miller, Lynne Titus, Wendy Truskey, Kathi Young, and their coaches, Karen Sheetz and Dennis Kormonick.

I know all of the Pennsylvania delegation would agree that the Tamaqua Area High School girls' basketball team's outstanding accomplishment should be brought to the attention of this body and I am proud that I have the opportunity to do so.

MR. ROBERT PEGUES, RESIGNING SUPERINTENDENT OF YOUNGSTOWN, OHIO, PUBLIC SCHOOL SYSTEM, TO BE HONORED

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CARNEY. Mr. Speaker, on April 8, 1978, Mr. Robert Pegues, who has recently resigned as Youngstown public schools superintendent, will be the honored guest at a dinner and dance sponsored by the Zeta Phi Beta Sorority of Youngstown State University. The sorority has established a scholarship at the university to commemorate the outstanding work performed by Mr. Pegues. Proceeds from the dinner will benefit this fund.

Mr. Pegues was born, raised, and educated in Youngstown, and he has built his professional career as an educator in his hometown. A widower, Mr. Pegues has three children, Tamra, Robert, and Chilita. He is a member of the Centenary Methodist Church.

As an undergraduate at Youngstown State University, Mr. Pegues received the Nathan Hale Award, the Colonel Lash Award, and the Distinguished Military Student Award. Shortly after his graduation in 1958, he became associated with the Youngstown city school system as a sixth- and seventh-grade teacher at the Lincoln School. While teaching, he served as treasurer of the P.T.A., safety council adviser, safety patrol supervisor, and director of the afterschool boys athletic program.

After teaching for 5 years, Mr. Pegues became the Federal project director of the Youngstown adult basic education program. In 1955, he assumed the position of principal at the Tod Elementary School. Two years later, he received his master's degree in school administration from Westminster College, and became an administrative assistant for urban affairs with the Youngstown city school system. He left Youngstown in 1969, to assume the position of director of the Urban Education of the Educational Research Council of America in Cleveland, Ohio. In 1970, he returned in the capacity of assistant superintendent of the Youngstown city school system.

In addition to his professional involvement, Mr. Pegues is affiliated with over 25 community, State, and national agencies, including various church groups, the Urban League, N.A.A.C.P., local, State, and national education associations, and the Youngstown State University alumni board of directors. He has been listed in the 1969 editions of "Outstanding Young Men of America" and "Community Leaders of America." Mr. Pegues received the Man of the Year Brotherhood Award of 1972, and was listed in the 1976 editions of "Men of Achievement" and "Who's Who Among Black Americans." He has also received the Outstanding Educator's Award from the Ohio State P.T.A.

Mr. Pegues accepted his position as superintendent of Youngstown city schools during a very difficult period. He has performed his duties with understanding, intelligence, and a deep commitment of two principles: the pursuit of educational excellence and equality of educational opportunity for all children. Commenting on his sterling performance in the field of education, the Educational Research Council of America said that he is "wise beyond his years and experience as to the true needs of children in a free democratic society."

Mr. Speaker, this gentleman is indeed one of the finest educators in both the Youngstown area and the Nation. As a Youngstown Vindicator editorial recently noted, Mr. Pegues will be missed greatly by the Youngstown city school system. Under his supervision, the city of Youngstown has developed an urban school system which is both financially and educationally sound. At this time, I want to commend him for his many years of dedicated service to our community, and to wish him every success in his future endeavors.●

CHANGE IN COMPENSATION LAWS ON FEDERAL EMPLOYEES

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GONZALEZ. Mr. Speaker, I am introducing a bill that would make retroactive a recent change in the compensation laws covering Federal employees.

My bill is specifically concerned with those people who suffered internal injuries or back injuries. When the Federal compensation law was changed in September 1974, it was amended so as to make eligible for benefits those who had suffered back or internal injuries. However, the bill did not provide eligibility to those who suffered these injuries before the law was amended. The bill I am proposing would cover those who have filed compensation claims for a period of 15 years prior to the date the amendment was signed into law.

By not making this amendment retroactive, we are discriminating between those employees injured after the passage of the law and those injured before passage. I believe we share the same responsibility for our workers in 1973 as we recognized in September 1974. Those workers who loyally provided services and received injuries while working for their Government are entitled to compensation.

I realize that the cost of making such a law retroactive is a main concern but by not providing assistance to those whose injuries caused the law to be changed is unconscionable.●

TENTH ANNIVERSARY OF THE ASSASSINATION OF MARTIN LUTHER KING, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. RANGEL. Mr. Speaker, 10 years ago today, a great American leader was killed by an assassin's bullet. That man, Martin Luther King, Jr., touched the hearts of black America and inspired a movement that changed the lives of not only blacks but whites as well.

In recognition of the 10th anniversary of Martin Luther King, Jr.'s death, I would like to share with my colleagues an article written by his father published in the April issue of McCall's magazine. This article is a poignant reminder of the man, the movement, and his contribution to American history.

THE DAY THEY KILLED MY SON

(By Martin Luther King, Sr.)

(NOTE.—Ten years ago this month Martin Luther King, Jr., was shot and killed by a sniper on the balcony of the Lorraine Motel in Memphis, Tennesssee. In the article that follows King's father, himself a minister, writes movingly of the last meeting he and his wife, Alberta—whom he called Honeybunch, or Bunch—had with their son, known to them both as M.L. This was not the last tragedy in Martin Luther King, Sr.'s, life: A year after M.L.'s assassination his younger son, A.D., drowned, and on June 30, 1974, in what seemed to be a motiveless crime, his wife of 50 years was shot down in his own church. But through it all, he has kept his faith in his country and in God)—The Editors.

It shouldn't have come as a surprise. M. L. had hinted to me a number of times that he should sit down one day and talk with his mother and me about . . . well, about the way his work was going and the directions in which it was taking him. I knew then that he wanted to prepare us for the possibility that an attempt might be made on his life.

In March, M. L. went to Memphis and worked hard to assist the sanitation workers there in the struggle they had against the city. It was a departure from the civil-rights-movement philosophies most people were used to. Now M. L. was moving into another arena, rights for working people, regardless of their color, their religion, anything like that.

M. L.'s activities were keeping him out of town more and more. So, on that Sunday afternoon, March 31st, when he called and said he was going to stop by the house, I wasn't surprised. Was mother home? he wanted to know. It was clear to me what we were going to talk about. And Bunch was nervous, too; I think she was aware of the tension, the changes in M. L. over a period of months. Who would have known better than his mother? But she kept a lot of this to herself.

We had some dinner together, M. L. and Bunch and me. Sat out on our patio and enjoyed the sun. Talked about old times. What a youngster he had been. Smart as he could be, always a gentleman, very sure of himself in all situations. People often told me that M. L. was a child that folks dream about having for their own. Destined to be someone special. But never turning sour, developing a standoffish personality or becoming snobbish. M. L. remained himself, and he knew who he was. Child of God, his grandmother used to say, child of God.

"Mother," he said, sitting out there on the patio, turning the conversation into a very serious one just by changing the tone of his voice. "Mother, there are some things I want you to know."

I think Bunch wanted to turn away, not to face it just then. But she smiled at him, tried to relax him, because she knew how difficult this was going to be from his side.

"I want you and Dad to know this," he went on. "There is a very good chance that . . . I might be murdered. Any day this could happen, any night. And I want to tell you about it because it will be sudden, if it does happen. You must be prepared, for I am not afraid. The reports are that they are out to get me."

He stopped. I could see he was looking very closely at his mother, trying to gauge how much of this to explain to her, trying to see if it was upsetting her too much. "It's all right," she told him. "You can tell us just what you have to tell us, M. L. It's all right."

The word was all over the South. Police departments everywhere had been alerted by people who knew but didn't want to see it happen, some of them white, some of them black. One man heard some others talking while he was waiting on them in a restaurant. Telephone conversations were overheard. The reports were getting around.

"I don't want you to worry over this," M. L. told his mother. "Because there is no need. I have to go on with my work. I am too deeply involved now to get out, it's all too important. Sometimes I want to stop. Just go away some place, and forget that I am Martin Luther King, Jr. . . . just have some quiet days, maybe, finally, a quiet life with Coretta and the children. But it's too late for that now. I have my path before me. I know what I have to do."

When he left later on that afternoon, Bunch and I went back to the patio and sat down. The sun was going down, it was a nice warm afternoon, so we just sat quietly and listened to the children playing throughout the neighborhood, and some radios that were playing a ball game. Neither of us wanted to say very much. What words were there that could make us feel better, make us fear the future any less? Get it into your mind, King, I told myself over and over, just get it into your mind that he could be . . .

But it was my heart I knew would not come to terms with this. I could make a thoughtful peace with it, I could give it all my intellectual consideration. But that was all. Deep inside I was starting to ache. Every day, more and more. Felt something moving closer, closer all the time.

And Bunch. I knew she was in pain over this. Every newspaper, all the television news broadcasts, they all told her that her son was always in danger. She could see it in the faces that were sometimes looking at him in those pictures that were shown. Whites standing off in the background, listening to him with hatred burning in their eyes. And in the next weeks it would become even worse. And Bunch would hurt even more.

She'd just finished speaking to him on the phone on this April afternoon, when I came into the house from a meeting at the Ebenezer Baptist Church. Something about the conversation had greatly pleased her. I could see it in her face as soon as I walked in.

"M. L. and A. D.," she told me, "called from Memphis, the two of them on the phone at the same time. They sounded so good together, it was wonderful to hear them laughing and trying to cheer me up."

A. D. had a more difficult time finding himself in the world than his brother did. Perhaps, he felt pressed to go into the ministry, pushed into it before he had made up his own mind. M. L. had made a mark early, and A. D., at a similar age, was not as committed or as clear about what he wanted to do.

For a time there seemed to be a gap between them, not anything deep or serious, but enough for it to mean a lot for them to be enjoying each other's company so far away from home.

Later that afternoon, my wife asked me to ride with her by the church, there was a choir rehearsal that she'd like me to hear. Bunch was always very proud of the development of the Ebenezer choir over the years she had been in charge of it. And whenever something special was going to happen on a Sunday, she liked me to have a preview.

I had just parked the car in front of the church, when a woman driving past in the other direction stopped in the middle of the street.

"Your son!" she started yelling. "Daddy King, your son!"

Next to me, Bunch turned suddenly and said, "King, what's happened? What's that woman saying?"

Maybe I didn't want to hear, but for a moment I could only see the woman's mouth moving. The words kept coming, as though she was saying the same thing over and over, hoping to get through, because I must have looked as if I wasn't hearing anything.

I looked back at my wife, looked into her eyes, waiting for us both to understand those words.

"He's been shot, down there in Memphis, they shot him, your son, Daddy King, somebody went an shot him. . . .!"

Bunch and I got out of the car without saying a word to each other. We went right into the church, and it wasn't until then, until we were inside, that I heard Bunch speak.

"Oh, Lord," she said, "oh, Lord, is he dead, is he?"

I walked upstairs with her and helped her into a chair in my study. She cried out suddenly, and began to cry.

"Wait now, Honey, just let's find out what's happened," I said to her, and I went over to the radio, and turned it on.

A news broadcast was giving the details that were known at that point. M. L. had been shot while standing on a balcony at the Lorraine Motel in Memphis. The report said at first that a bullet had struck him in the shoulder.

We waited. A lot was repeated over and over, the way the news announcements are when they're waiting for additional information. When it seemed like the sixth or seventh time the announcement came on, we heard another voice break in to say that Martin Luther King, Jr., had been killed by a gunshot wound. He had died moments earlier.

I reached to embrace Bunch, and she went limp in my arms. All the waiting, all the fear, the expectation of a phone call in the middle of the night . . . now it had happened. So many times he had said it was possible for it to come to this. There were strangers in the land, angry, unbalanced people who could kill and feel no remorse for it. I had known them all my life, had seen death in their eyes a thousand times or more. White and black, color made no difference, they could gun someone down as quickly as you or I might swat a mosquito. My wife began shaking. I tried to comfort her, but there are no words to say when this has happened to a woman. A man can only be there, and hope he has the strength to help and not be overcome himself, especially at that first moment.

Because the time will come when he will need to lean, even for just a moment, on her strength, later on when his mind tells him something the emotions don't always reveal . . . that his son is dead.

One of the things about tragedy is that it requires you to take care of so many things at once. When we realized M. L. was dead

in Memphis, my daughter, Christine, and Coretta and I met and put together the plans for all that would follow. It was decided they would go to Memphis and return with M. L., while I remained in Atlanta and prepared all that needed to be done for their return. I would talk to all of the children; they would be in the middle of a lot of pressure, tears and sadness in the next days. We talked and we prayed, Coretta's children, and A.D.'s, and Christine's. And sometimes we couldn't keep the tears back, but it seemed all right to let them fall, we were together in that unhappy time, we kept each other from falling down.

Christine and Coretta flew over to Memphis that next day. I know it took a lot out of both of them, the same pain was sinking deeper and deeper every passing hour. But they held up so well, brought forth from within themselves so much courage and strength.

They are both very private women. They had been facing press coverage, television, and crowds before; now this tragedy had turned them into international figures. But Christine and Coretta came through, and they stood as proud people all the time. I don't think anyone without a strong character could have stood up to both the grief and the media attention being paid to it.

As those hours were passing, when so many things had to be done, so many people had to be spoken to, I determined that I would keep everything I was feeling locked up tightly inside myself. Whatever ache was there, I'd just speak to everyone in my usual way, for as long as I could.

I had decided not to go and view my son's body as he lay in state at Sisters Chapel on the Spelman Campus. Christine had selected a time for all the family to go and see him, but I had said at first, "No, I can't. I just can't go."

"Dad, you know you have to come with us..." Christine knew how hard I was taking things; even if my feelings were kept under wraps, she and her mother knew. But standing there in the house with them, with the cars waiting outside, I said, "Yes, I have to go on down there and see him, of course I do." I just had to face whatever might happen. There were great waters boiling up inside me. I knew this, could feel them rising from time to time. But I had to go and see my son, see what they had done to him, remember what he had tried to do for them. I had to look at him and say all of this to myself, all that I could recall of the years he was here, how much they meant, how important they were....

And so we drove over there, with very little talking in the cars, with everyone trying to hold on to feelings that would be coming out again and again in the next few days.

We arrived and went inside, and were allowed to see him alone, just the family. I looked down, and just a moment later I felt my grief wash over me, sweep me away. I screamed, frightening everyone . . . and falling forward, crying, "M. L.! M. L., answer . . . son, answer me!!"

In my twilight I reflect upon many days and times. There has been, my heart tells me, too much grief and sorrow. And out of those feelings there often come bitterness and hatred. I've thought to myself on many occasions: King, you could be some kind of hater. You could build up in you all the bitterness the world has ever seen in one man. And sometimes I say to myself. Well, where would all that hatred and bitterness go, where should it be directed?

Now, I learned a great deal from asking myself these things, because whenever an answer comes to me, it reveals over again just how foolish hating people really is, how much energy it drains from you, how much it costs you in the soul.

I know some truths, though not all. One that I have learned concerns the nature of this country and the quality of all our lives here: We are all Americans, all of us. And all the attempts in the world that are made to separate us into different people will never change this. Whatever the color of an American, whatever his religious background or belief, whether he is man or woman, child or senior citizen, we all belong here. And we will finally have to live with that fact or all perish together. That means we have to reach the point one day when the color of a person's skin has faded from our minds as a reason for limiting someone or giving him special treatment.

For what does it mean, finally, this color business? I look at my own history and I wonder. There is a man down in Tennessee, locked away in a prison there. He is supposed to have murdered my son in Memphis. Maybe he did, and maybe not. Either way I will never spend a moment in my life hating him, not an instant. I will not do that. Not today, nor tomorrow, not ever as long as I live on this earth, because I cannot find it in me to do so. I have come this far as I am, and I will continue. I'm going on to see what the end will be, serving my Lord as I always have, living as a friend to all men all over this planet, whatever their color, creed, religion.

Deep in me, I know there is only one answer. Peace, that is what mankind has always been seeking. And somehow, so many times, we've been sidetracked. My son, following in a tradition of Jesus, asked people to love and respect one another. He said this in some of the most glorious ways any preacher ever stated anything. And somehow, I think, it must have been frightening to some of those who heard him. Why are those who counsel peace and love the ones to be killed? What kind of society do we have when this is what happens to a leader who tries so hard to bring all people together?

I passed this way and did the best I knew how to do. Always I ask myself: Has it been enough? Will any of what I still see around me, the violence, the separation of people, the family falling to pieces . . . will any of this change? Ever?

Some folks say they won't stop struggling. I say that I can't stop. It's not in me to do so. Maybe I just have a lot of curiosity in me. But I just want to know before I leave this earth and go on home. I'd like to know that some of it changed for good and forever.

I watched America become another place, different from the place I knew as a boy. And I watched that same America disappoint me, and so many others, so many times. But I didn't lose hope. Not ever. Maybe I'd have had it come around sooner to being what I think it will be one day, this America. But I look along the road ahead, as well as looking back on it, and I know that all grandchildren and great-grandchildren of mine will see an even better world than the one I was hoping for while I was here. And that M.L.'s life helped make it so.●

JEWISH WAR VETERANS POST DONATES VAN TO COMMUITY CENTER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BINGHAM. Mr. Speaker, one of the most active of the many community groups in my congressional district is the Neumann-Goldman Post No. 69 and Ladies Auxiliary of the Jewish War Veterans. Last week I had the honor of attending dedication ceremonies for a new 1978 Dodge Maxi Van being presented by the post and ladies auxiliary to the Mosholu-Montefiore Community Center, a member agency of the YM–YWHA's of Greater New York. The center provides a multiplicity of sorely needed services in the community, and the van will enable the center to provide even more and better services, especially for the elderly, the handicapped and the very young.

In a special edition of its newsletter, the center appropriately stated that the Jewish War Veterans' decision "to help the center purchased this much needed vehicle * * * typifies their commitment to the community." The newsletter concluded:

> Without this kind of support and caring on the part of the Jewish War Veterans, the Center would have been unable to continue some of the vital services that we provide, and which are dependent upon transportation.

In these days when our New York communities face so many problems, including too often a diminution of needed services, it is heartening to see two such community-minded agencies cooperating in this constructive fashion.●

CHANGE IN SICK LEAVE AT RETIREMENT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GONZALEZ. Mr. Speaker, I am reintroducing a bill I had proposed in the 94th Congress that has the support of many civil servants and which will also help resolve any problems with the current system of sick leave.

Under present law, unused sick leave is counted toward the total number of years and months of service used in computing the amount of a Government employee's annuity when he retires. However, this addition to his annuity adds up to only pennies a month for the civil service worker, and thus there is not a great deal of incentive to save this leave.

My proposal calls for using accumulated sick leave at the time of retirement in the following manner: One-third of unused sick leave would be redeemed in cash, one-third would be credited to annuity computation, and one-third would be lost.

The payment for unused sick leave would encourage employees to conserve this leave, and could result in greater output and efficiency. And the cost imposed by cash redemption of the one-third accumulated sick leave would probably be offset by the reduction in leave taken. This method would reward the conscientious civil servant who through the years displayed a strong sense of responsibility toward his job.

I believe my bill has merit and I hope that the Post Office and Civil Service Commission will give this bill earnest consideration so that perhaps before this Congress is over the House will have a chance to consider my measure.●

LABOR LEADER WILLIAM LUCY HONORED FOR 25 YEARS OF OUTSTANDING SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. STOKES. Mr. Speaker, on Wednesday evening, March 22, the Hyatt Regency Hotel in Washington, D.C., was the setting for a gathering in honor of Mr. William Lucy, one of the Nation's leading civil rights advocates and labor leaders. Over 1,000 leaders in labor, Government, and business were on hand to pay tribute to this outstanding individual.

Mr. Speaker, many of Bill Lucy's closest associates, myself included, felt that this tribute was long overdue. He nas been at the forefront of the organized labor movement for 25 years. His many achievements on behalf of all workers, especially black, minority, and poor workers, are legendary.

Currently, Mr. Lucy is the distinguished international secretary-treasurer of the American Federation of State, County, and Municipal Employees, AFL-CIO, which makes him the highest-ranking black in organized labor. He is also the president and cofounder of the Coalition of Black Trade Unionists, an organization consisting of 27 chapters across the country.

William Lucy was born 43 years ago in Memphis, Tenn. When he was only 6 years old, the Lucy family moved to Richmond, Calif. because of lucrative opportunities in the shipbuilding industry during World War II. Young William attended high school and college in California and later went to work as a research engineer with the Contra Costa County, where he became actively involved in the county employees association. By great demand from Lucy and other activist members, the association became a local union in the banner of AFSCME. Lucy worked his way up the ladder from a rank-and-file member to president in 1964 and 1965.

In 1965, Lucy came to Washington to head up the union's department of legislative affairs, and was later appointed special assistant to the international president, Jerry Wurf. By 1970, Lucy was promoted to presidential executive assistant and in 1972, he was elected to his present position as secretary-treasurer.

Mr. Speaker, during this same period, Lucy, along with four black labor leaders, founded the Coalition of Black Trade Unionists to represent the concerns of the 2.7 million blacks in organized labor. The plight of the black worker has always been a priority for Lucy. In fact, he was the chief negotiator of the 1968 Memphis garbage workers strike in which the late Rev. Dr. Martin Luther King was a supporter and participant. It was during that historic protest 10 years ago that Rev. King gave his visionary "I've been to the mountain top" speech. The next day, April 4, King was assassinated.

Mr. Speaker, in addition to his labor union duties, William Lucy has devoted great time and energy to some of the Nation's leading civil rights organizations. He has been asked to serve on the boards of the National Urban League, Operation PUSH, the African-American Institute, and Trans Africa. For 3 consecutive years, he has been selected as one of the "100 most influential black Americans" by Ebony magazine.

At this time, Mr. Speaker, I would like to ask that my colleagues in the House join with me in commending William Lucy for his outstanding service to the country. His exemplary leadership and commitment to the Nation's workers has enabled millions of citizens, especially blacks and disenfranchised minorities, to lead better, more fulfilling lives.●

TESTIMONIAL DINNER FOR DR. RUSSELL M. ATCHISON

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. PURSELL. Mr. Speaker, on May 6 an outstanding citizen from the Second Congressional District of Michigan will be honored for 40 years of community service by a testimonial dinner. Dr. Russell M. Atchison of Northville, Mich., can be proud of his 40 years of remarkable service as a general practitioner who continues to see hundreds of patients weekly and who makes house calls regularly. I hope this exemplary record will be an inspiration to his colleagues across the Nation.

Born in Ann Arbor, Mich., Russell Atchison received his BA and MD degrees from the University of Michigan. Dr. Atchison had the unusual choice of attending law school or medical school at the university as well as divinity school at Harvard. I believe the Northville community is very fortunate in the doctor's decision upon medicine.

Dr. Atchison joined his father in practicing medicine in Northville, and in 1950 began the Atchison Memorial Hospital which remained in operation until 1960. The Doctors' Clinic, started by his father in 1925, continues to operate and was expanded by Russell.

In addition to his service as a general practitioner, Dr. Atchison has been active in civil affairs as well. He served as a member of the Northville Public Schools Board of Education for 12 years and donated time and skill to medical causes during World War II.

His distinguished career in medicine was so unostentatiously accomplished that the stirrings the good doctor created in Northville's community health may be taken for granted. Yet, this is not so. As shown by the planned tribute we are all very grateful for Dr. Atchison's efforts.

There is an old saw that divides men into two groups: work horses and show horses. However simplified that division may be, it is true by any standard that Russell Atchison is one of the work horses of his generation. May I extend the House's and my genuine congratulations for the years of dedication and service.●

FRATERNAL ORDER OF POLICE ENDORSE ANDERSON CRIME-CONTROL BILL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. ANDERSON of California. Mr. Speaker, I have recently received a rather impressive letter I would like to share with my colleagues. The Fraternal Order of Police, representing nearly 150,000 policemen nationwide, has endorsed my firearm crime-control bill, H.R. 1559.

As each day passes, and the list of supporters grows, my belief is reaffirmed that this Nation should have a mandatory sentencing provision for those convicted of gun-related crimes.

I would like to enclose for the RECORD, the letter from R. Pat Stark, national president, Fraternal Order of Police.

FRATERNAL ORDER OF POLICE,
Indianapolis, Ind., March 28, 1978.

Congressman GLENN ANDERSON,
Rayburn House Office Buidling,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: I have read H.R. 1559 and it is gratifying to know that some of our elected law makers are at least approaching the issue of firearms in the right manner.

Until we see the day that the Congress of the United States and the State General Assemblies across this country institute laws that will become a determent to any citizen of this country who carries a firearm for the purpose of committing a crime, the useless slaughter of decent citizens will continue.

I am very pleased to see that you have introduced H.R. 1559 which will punish those criminals who use firearms in the commission of a crime. Perhaps your bill will start the trend of making the lawless elements of this country think twice before using a firearm if they are aware that they will go to jail instead of being turned loose by some court to commit another crime.

I am sure that if many of your fellow Congressmen would take the time to visit the scenes of some of the homicides that occur in their cities and see the lifeless bodies of innocent victims, maybe then they would not hesitate to support you and pass H.R. 1559.

However I am sure you will probably have to spend many hours in debate in Congress, with opposition from some Congressmen who will still worry more about the criminal element in this country than the decent law abiding people.

As National President of the Fraternal Order of Police and currently in my 28th year of Law Enforcement, now assigned as Commander of the Homicide Branch of the Indianapolis Police Department, I support your legislation H.R. 1559 one hundred percent.

If our organization can assist you in anyway, please feel free to call upon us. We represent 147,000 Policemen across this country.

I wish you much success in your endeavor to pass this piece of legislation, H.R. 1559, that will benefit the citizens of the United States.

Respectfully yours,

R. PAT STARK,
National President.●

MAJ. GEN. HILDING JACOBSON, U.S. AIR FORCE

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. WON PAT. Mr. Speaker, throughout this century U.S. military services have played an influential role in my district of Guam. The island was acquired by the United States during the Spanish-American War, because of its strategic importance. This importance is even greater today.

Prior to World War II and for years after, Guam was either totally governed by a military government or effectively through the naval security regulations. During these years the military and civilian communities merely lived together on an island, the governing and the governed.

However, in recent years, local popularly elected civilian government has been established. Although a large military presence continues to have a strong influence on life in Guam, the respective roles have been significantly changed and this radical transition has been made with a minimum of problems. The two communities now are all U.S. citizens, sharing neighbors in one populace.

One of the primary reasons this radical change has come about so smoothly is that we have been blessed by a succession of outstanding, capable senior military officers who have provided the necessary high quality of leadership during changing times.

Among the most exemplary of these has been Maj. Gen. Hilding Jacobson, commander of the Third Air Division, Strategic Air Command at Andersen Air Force Base, presently the senior military officer on Guam. General Jacobson is retiring this month after a long and distinguished career.

Mr. Chairman, on behalf of the people of Guam, I wish to publicly thank General Jacobson for his many contributions to our island and our Nation and report to you and our colleagues some reasons General Jacobson is held in high esteem on our island and will be sorely missed.

Maj. Gen. Hilding Jacobson served as commander, Third Air Division, Strategic Air Command (SAC) on Andersen AFB, Guam, from August 17, 1976, to April 30, 1978.

During this period General Jacobson was the senior SAC commander in the Western Pacific (WESTPAC). In his capacity he participated in the formulation of plans and policies to meet the changing and dynamic requirements of the strategic bombardment, reconnaissance and air refueling missions for WESTPAC.

His command responsibilities included SAC forces in the WESTPAC area, the preparation of unit plans to support the single integrated operations plan, the formulation of guidance for contingency planning, and the preparation of special projects and studies on far-reaching activities involving SAC policy, strategy, force capabilities, and requirements. General Jacobson was part of the rapid decisionmaking processes which took place during an international incident in the Korean demilitarized zone in August 1976, commonly referred to as "The Tree Cutting Incident." The response of Third Air Division aircraft contributed to the demonstration of American resolve and force capability while also demonstrating the constancy of the U.S. military commitment in Asia.

As the senior U.S. military officer on Guam, General Jacobson worked closely with the island's leaders to achieve mutual, meaningful, and attainable goals. Military-community relations were enhanced and led to increased understanding among the many segments of the local people.

In cooperation with the Governor of Guam and senior naval officials General Jacobson solicited assistance from the Department of Health, Education, and Welfare to upgrade the system of public education on Guam. The resultant Educational Task Force and teacher in-service education program made great strides toward the achievement of desired results. General Jacobson's commitment to establish and maintain rapport with the Guam Department of Education also contributed to increased harmony and improved academic standards in the Guam schools.

To promote military-community relations, General Jacobson's personal emphasis energized the Andersen Base Community Council and the village adoption program in which each island village entered into a mutual adaptation with one of Andersen's Air Force squadrons. His leadership in these activities brought together village commissioners and key leaders of the business, educational, and military communities. The village adoption program was commended in a resolution by the Guam Legislature and was subsequently lauded in correspondence by the Secretary of the Air Force, the Air Force Chief of Staff, and the Commander in Chief of the Strategic Air Command.

General Jacobson, in concert with Guam's top leadership, assisted in efforts to eliminate the abuse of drugs and other harmful substances on the island. His commitment to this end was reflected by a dynamic program to control drug abuse at Andersen Air Force Base and by his participation in the Guam Conference on Drug Abuse and Other Substances and the International Drug Enforcement Association Conference.

A prime example of harmonious military-community relations was the Armed Forces Day open house sponsored by Andersen Air Force Base in May 1977. Nearly 40,000 people participated in one of the largest military-hosted events in the history of Guam. The spirit of cooperation and patriotism generated on this occasion demonstrated a united island community sharing-aspirations for friendship and understanding.

As commander of the Third Air Division, General Jacobson made contributions to the United States of America which are of far reaching importance. He provided leadership and service of distinct national and international significance. He added credibility to the determination of the U.S. Air Force to defend our freedoms and those of our allies.

General Jacobson's accomplishments on Guam culminate a long and distinguished military career in the service of his country and reflect the highest credit upon himself, Andersen Air Force Base, the U.S. Air Force, and the United States of America.

Thank you.●

A PROTECTIONIST CONGRESS IS NEEDED NOW

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. DENT. Mr. Speaker, on March 9, 1978, I made a brief report to the House on an international trade-related aspect of my recent trip overseas. Unfortunately, there were a few minor errors made in recording my remarks. In the interest of accuracy, I would like to submit a corrected statement for the record.

A PROTECTIONIST CONGRESS IS NEEDED NOW

Mr. Speaker, on February 24 I arrived home from a tramp steamer trip in the Mediterranean. When I left, our ship was loaded to the gunnels with perhaps 90 percent American goods funded under one or another American foreign aid programs. When we arrived in Corpus Christi there was not 1 pound of freight on that American ship. That was its second straight voyage without a return load.

I just received a message from the port of Houston. The Houston mass transit system just purchased 500 double-decker buses from Germany. The first load arrived in Houston on a Russian ship. During my trip we were held in the Port of Morocco for 9 days out on the quay, at a $4,500 waiting time cost to the American company, while they let foreign ships go in and out. Other individuals witnessed them taking corn and other goods from American ships, loading it on a truck, taking it to the end of the pier and loading it on a foreign ship.

I want to tell the Members that if they do not pass some kind of protective legislation, this country will not long survive. Twenty years ago I told you this. For 20 years I pleaded with you. Now I am leaving Congress for many reasons, but one is that I could not convince this House of the dangers inherent in this crazy "free trade" policy.●

DOES H.R. 39 MEET THE NEEDS OF ALASKA?

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. YOUNG of Alaska. Mr. Speaker, on March 21, the Committee on Interior and Insular Affairs finished deliberation on H.R. 39, the Alaska National Interest Lands Act. The committee members have spent countless hours deliberating this bill and its impacts on the Nation and the State of Alaska and I would like to thank them for all of their efforts in this regard. However, I would like to point out that our work is not yet finished.

While the bill meets the needs of those interested in preserving large tracts of land, it does not take into account the needs of the people of Alaska. Gov. Jay Hammond of Alaska has expressed these needs in a letter written to the committee on March 18. I would like to take this opportunity to share that letter with you so that you can be aware of the work that is still to be done.

The letter follows:

STATE OF ALASKA,
Juneau, Alaska, March 18, 1978.

Hon. MORRIS UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Before the House Interior Committee votes to report H.R. 39 as amended, I want to share with you my concerns about this legislation and its impact on the State of Alaska. I congratulate the Committee for the many improvements made to the bill, but I remain persuaded that you will examine these shortcomings, and move to correct them as the bill moves through Congress. If the necessary changes can be made, the final H.R. 39 can take into account both the interests of the Nation as a whole and the State of Alaska.

Approximately nine million acres of important lands which the State has a high interest in selecting remain within the proposed conservation system unit boundaries. This selection interest was based on extensive study and on our comprehensive resource assessment. Only those lands with outstanding values for state ownership were identified. Moreover, the State endeavored to identify only those lands which made logical management units and minimized conflicts with important national interest areas. I hope that the House will reconsider some of the boundaries adopted by the Committee and tailor them to accommodate our important and reasonable interests.

I appreciated your remarks regarding the proposed cooperative management area involving the Togiak region and the Wood River-Tikchik Lakes. I was, of course, disappointed that the Committee did not adopt some form of formalized cooperative management, if only on a "pilot project" basis. However, I hope that you and other members can remain amenable to the concept and consider it further. I am totally convinced that cooperative management is the very best way to manage much of Alaska's land over the long term. Continued imposition of artificial boundaries and arbitrary management regimes will eventually work to the detriment of all those who are interested in the overall welfare of Alaska's natural systems.

Excessive "instant" wilderness designations without prior study continue to be a deficiency of the current bill. The Committee is to be commended for restricting wilderness within the Tongass Forest to reduce (but probably not entirely eliminate) adverse economic impacts in Southeastern Alaska. I had hoped that Committee members would have been able to apply the findings of the Land Use Management Plan before acting, and I still urge Congress to take this course of action.

Regarding interior wilderness units, many areas are the subject of basic agreement, but appropriate study prior to wilderness designation could further reduce unnecessary conflicts.

I was also disappointed that the Committee acted to reduce National Preserve areas. Preserve designation permits regulated sport hunting and trapping to continue and minimizes conflicts between conservation system units and the traditional Alaskan lifestyle. Since activities such as these are an important reason why people move to Alaska, it is regrettable that such areas were reduced and not expanded. In addition, important sport hunting areas remain in parks where public hunting will be closed, rather than in preserves.

Finally, I was pleased that the Committee adopted the State Land Conveyance language in Title VIII which was developed in cooperation with the Secretary of the Interior. Two other aspects of Title VII, however, cause me some concern. First, providing that core townships in village selection areas are to be transferred to Native corporations without any easements to protect access to public lands and resources fails to recognize legitimate public interests. More important, the Secretary of Interior has recently issued a new easement identification policy acceptable to both Native and state interests.

Second, the existing language does not solve the substantial Native land overselection problem. The state certainly emphasizes with Native frustration about not receiving lands in a timely manner and strongly supports appropriate Congressional action to expedite Native land conveyances, but feels this should be accomplished only in conjunction with provisions to very substantially reduce the more than 40 million acres of Native overselections which presently preclude state selections. The Alaska Lands Subcommittee originally adopted appropriate language in February which was accepted at that time by Native representatives. Readoption of this language would be most beneficial to all concerned.

I believe that these changes can make H.R. 39 a good balance between all the interests involved in Alaska's lands. I am afraid that failure to make such changes will leave the bill with a definitive tilt which ignores many legitimate concerns of the Nation and the State of Alaska. I hope you can ultimately agree on changes such as I have proposed and can incorporate them into the bill when it reaches the House floor.

Sincerely,

JAY S. HAMMOND,
Governor of Alaska.●

ST. PATRICK'S DAY

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CAVANAUGH. Mr. Speaker, March 17 is the day of the year when all the world is Irish. One day when America recognizes the great contributions that the Irish have made to build and defend our country. But there is a sadness in that celebration as well, for the deplorable violence in Ireland continues day by day, and the deprivation of human rights continues unabated.

The people of Ulster need to reconcile their differences, but the governments of Britain and Ireland must act in the best interests of the people of Ulster if the violence is to end. As Americans, we too have an obligation, be Ireland to any one of an ancestral home, an ally or a small nation rich in cultural heritage. We must do all that we can to facilitate the establishment of a permanent peace in Ireland. Every quarter of Irish opinion, Republican, unionist, and moderate, must be allowed to air their programs for establishing a lasting peace.

It is said that there is no present in Ireland, only the past happening over and over again. Looking to the future, however, must be the main concern of all parties involved. The discrimination and violence of the past and present must be cast aside for a future society in which all Irishmen and Irishwomen around the world can look upon with pride.

The land of saints and scholars can once again be foremost among the small nations of the earth. When the industry of the northerners is again coupled with the artistry of the southerners, then the freedoms we have so well realized in America can be Ireland's as well.

The gael fought so hard for America's freedom. Several signers of the Declaration of Independence were Ulstermen. The Irish in America have never failed to respond when called to defend this country.

It is in that sense of obligation to all of America's ethnic roots and our firm desire for peace with justice around the world that we cannot ignore Ireland's troubles as we have so often in the past. The beacon of hope that America has been to Ireland's downtrodden should now shine all the brighter to give them the same life, liberty, and equality that American's enjoy and all Irishmen deserve. The Irish are far-flung, but they are no transient tribe, no petty people and they should be allowed to live in peace and dignity in their own land.

What a cause for celebration it would be indeed if next St. Patrick's Day we could sport the green and the orange together, and honor an Ireland no longer rent by destruction and discrimination. An Ireland where protestants and catholics could work together in building the future of their own country, as they have so diligently helped to build our own.●

THE MAN WHO HAD A DREAM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GILMAN. Mr. Speaker, I ask this body's permission to insert in today's RECORD testimony to a gentleman who provided our Nation's black community with hope for the future, and who gave to all of our people a lesson in love of our fellow man.

Dr. Martin Luther King, Jr., was struck down by a vicious assassin in Memphis 10 years ago today. When I heard the news I was driving south to my home in Orange County, N.Y., from a meeting of the State legislature in Albany, where I was then representing the 95th Assembly District of New York. At the moment the radio announcer injected that infamous bulletin, several thoughts raced through my mind.

I felt anger, sickness, fear, and pity. I felt the same feelings we all had following President Kennedy's death only 4½ years earlier.

Dr. King possessed so many noble virtues, and he exhibited them daily. He constantly intertwined courage and charity. He showed all people that social change can result from nonviolence. He made his arguments against bigotry, prejudice, and hatred living lessons for all of us. His crusade ended prematurely, but his work goes on.

Although a glowing chapter in the civil rights movement of the United States ended as a result of that sniper's bullet in Memphis a decade ago, the entire book is not yet complete. The history of the civil rights movement will continue to be written until there truly is equality in the United States, the land of brotherhood; a slogan which Dr. King attempted to prove correct.

This martyred leader of the black community left us a legacy of his goodness. And as Roger Wilkins of the New York Times so eloquently stated in a recent article:

> ... conversations with blacks of both high and low estate, with those that knew him and those who did not, indicate quite clearly that his principal legacy was the changes that his life, his force, his programs and his courage wrought in their minds and spirits. There were other legacies, of course, but a broad spectrum of opinion holds that this, of all his gifts to black Americans, was the most precious.

My own memory of Dr. King brings to mind countless incidents where this great gentleman braved a hostile environment.

There was the 1955 bus boycott in Montgomery, Ala.; the demonstrations opposing segregated schools in Birmingham in 1963; that same year, in Washington, the famous march to Washington; scattered demonstrations, sit-ins, and public gatherings throughout the Nation; and finally that tragic bulletin on the radio from Memphis.

We all remember Dr. Martin Luther King, Jr. He left his mark on blacks and white alike, as many great moral leaders have. As the Rev. Jesse Jackson said of Dr. King:

> He taught us that the freedom struggle is a marathon, not a sprint. A lot of people marched in Birmingham, then left, or marched in Selma, then left. But some of us learned that you've got to be there for a lifetime and be consistent, mountain high or mountain low. That gives you moral authority.

Dr. Martin Luther King, Jr., had the moral authority to bring peaceful, nonviolent change.●

CONGRESSMAN RON MAZZOLI ON FINANCIAL DISCLOSURE AND THE CIA

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. KASTENMEIER. Mr. Speaker, during the month of April, the House will consider the most important ethics legislation to come before this Congress. H.R. 7401 will write the present House rules on public financial disclosure into permanent law, and H.R. 1 will extend these public disclosure requirements to the executive and judicial branches of our Government. These measures deserve our full support.

There is, however, one provision of H.R. 1 which is disturbing. Although H.R. 1 originally provided the President with the authority to exempt any individual in our intelligence agencies from filing a public financial disclosure report if the President found that the public disclosure of such a report would reveal the identity of an undercover agent of the Government, this exemption was not entirely satisfactory to the CIA. Instead, the CIA went further. It sought and won support for an additional provision which permits the filing of false disclosure reports. Such a false filing, of course, is the very antithesis of what we seek to accomplish through public disclosure, and a number of us on the Judiciary Committee submitted separate views to H.R. 1 which express our opposition to this provision.

Our able colleague from Kentucky, RON MAZZOLI, is one of those who has challenged the provision for false filing. Congressman MAZZOLI, one of the earliest and most vigorous supporters of public financial disclosure, is uniquely qualified to speak out on this particular issue. He serves on the Judiciary Committee, the Select Committee on Ethics and the Permanent Select Committee on Intelligence. In a column which he wrote for the April 1, 1978, Washington Post, Congressman MAZZOLI refers to this false filing provision by stating that:

> It would be unforgivably ironic if a provision of a financial-disclosure bill—held out to be an ethical reform and aimed at restoring public confidence—were to lay the groundwork for a return to executive abuses.

Mr. Speaker, Congressman RON MAZZOLI has well stated the case for opposing the false filing provision of H.R. 1, and I strongly urge our colleagues to take the time to read his comments which follow:

FINANCIAL DISCLOSURE: SHOULD WE LET CIA AGENTS LIE?

During the second week of April, the House is scheduled to consider H.R. 1, a measure calling for comprehensive governmental financial disclosure. Yet, H.R. 1, officially entitled the Ethics in Government Act, ironically—and unacceptably—gives the intelligence community the legal right to lie.

In commenting on the bargain struck between former Central Intelligence Agency director Richard Helms and the Justice Department, President Carter said, "A public official does not have a right to lie." Attorney General Bell said of the same case, "It sets the intelligence community out on a new course."

Despite those commendable statements of principle, the administration, through the CIA, delivered a letter to my House Judiciary subcommittee requesting in one sentence that the subcommittee authorize the CIA to lie to the public and to Congress. Without any testimony to justify that extraordinary action, the subcommittee agreed.

The contradiction between the "new course" for the intelligence community hailed by the administration and the legal right to lie it subsequently requested of Congress could not be more striking.

H.R. 1 requires a complete financial disclosure by some 20,000 high-ranking federal employees and their spouses and dependents.

Under the bill, most of those employees must file annual reports making public such information as source and amount of income; source, value and description of gifts given and received; value and identity of personal and real property; and certain liabilities and business relationships.

Refusal to file reports—or the intentional reporting of false information—exposes an employee to criminal penalties of up to $10,000 in fines, and imprisonment for up to one year.

In a concession to the intelligence agencies, the bill contains a provision that would allow the President to exempt from public disclosure any financial reports filed by an intelligence agent. The provision is designed to protect an intelligence agent working under the cover of being an employee of a nonintelligence agency of the federal government.

However, this "cover" provision clearly was not satisfactory to the CIA. The agency requested that the President additionally be authorized to allow an intelligence agent to disclose to the public a false financial report.

Under the CIA's proposal, agents would file truthful reports with the President and disclose false information to the public for cover purposes. No one would be allowed to examine the true reports or to challenge the President's decision to allow the false disclosure.

There was neither public nor closed-session testimony to justify the granting of that exception. The CIA's one-sentence request stands alone in justification of the provision.

The CIA did meet with me and my staff to discuss its proposal. However, the offer of that meeting was made after my subcommittee had agreed to the proposal and after the CIA learned that I intended to challenge the provision in full committee.

From my meeting with the CIA I gather the agency justifies the false-disclosing provision because it facilitates placing intelligence agents in top posts in nonintelligence federal agencies.

Such an exception may not be cause for alarm with a president, an attorney general and a CIA director who do not believe public officials have an inherent right to lie. They guarantee the disclosure exception will be infrequently and judiciously exercised.

But persons with vastly different attitudes could succeed to those positions. They might not be prudent or watchful in the exercise of the disclosure exemption. That could easily lead to executive branch abuse of the Constitutional rights of American citizens.

It would be unforgivably ironic if a provision of a financial-disclosure bill—held out to be an ethical reform and aimed at restoring public confidence—were to lay the groundwork for a return to executive abuses.

The false-report language also contradicts Carter's statement in transmitting this proposed legislation to Congress: "The American people must be assured that no one, regardless of position, is above the law."

Further, there are policy reasons to question an unrestrained CIA use of other governmental agencies for cover. Previous revelations of CIA use of the Peace Corps and State Department as "cover" organizations have damaged the credibility of those agencies in many countries and limited their ability to perform their missions successfully.

To grant such blanket exemption without careful testimony and serious congressional debate is not responsible lawmaking.

The House should remove the false-reports language from H.R. 1. Then the CIA and its associates in the intelligence community should be requested to come before the House and Senate intelligence committees to justify—if that is possible—the need for such an exemption and to offer feasible alternatives.

One alternative would be to require those committees to consider all requests for the right to publish false financial reports and to review annually the need for that provision.

Another alternative would allow falsifying only the salary and the employing agency of an intelligence agent. A third option would be to limit the life of the exemption to three years. Its extension would depend upon our experience with it.

The House has a choice to make. It can permit—under the guise of ethical reform—a step backward in its efforts to correct past intelligence excesses and abuses.

Or, as I hope it will do, it can send a powerful and assuring message to the nation that no public official has a right to lie and none will be permitted to do so.●

MR. CHARLES J. FLEMING, SR., PAST PRESIDENT OF THE MAHONING VALLEY GAELIC SOCIETY TO BE HONORED

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CARNEY. Mr. Speaker, a dinner and dance honoring Mr. Charles J. Fleming, Sr., past president of the Mahoning Valley Gaelic Society will be held on Saturday, April 15, 1978. The dinner will commemorate Mr. Fleming's outstanding contribution to Irish culture in the Mahoning Valley of Ohio.

A millwright at Packard Electric, Mr. Fleming and his wife of 24 years, Patricia, reside in Girard, Ohio. The couple belongs to the St. Rose Parish, and they have seven children and one grandchild.

Mr. Fleming's involvement with Irish culture spans many years. During his 14-year membership in the Mahoning Valley Gaelic Society, he has worked on many committees, served as recording secretary, and, most recently, as president during 1976 and 1977.

In addition to his involvement with Irish culture on the local level, Mr. Fleming is affiliated with nationwide Irish groups. For 2 years he was a trustee for the Irish Arts and Historical Society. Currently, he is a member of the Irish National Caucus.

Mr. Speaker, Mr. Fleming's involvement with Irish heritage, both on the local and on the national levels, is to be commended. We are now just beginning to appreciate the richness and diversity of our respective ethnic backgrounds, and Mr. Fleming has been contributing to this appreciation for years.

I want to congratulate Mr. Fleming for his many years of dedicated work in the field of preserving the Irish-American heritage. May he continue his involvement for many years to come.●

"ONE'S RESPONSIBILITY"

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. THONE. Mr. Speaker, the Veterans of Foreign Wars and its Ladies Auxiliary have bettered America through their 16 years of sponsoring an annual "Voice of Democracy" program.

As a life member of Hartington, Nebr., VFW Post No. 5283, I am very proud of the accomplishments of the 1978 winner from Nebraska. He is Thomas Lyon, a junior at Lincoln East High School. All contestants this year spoke on the subject, "My Responsibility to America."

Mr. Speaker and fellow Members of the House, I believe you can gain much from Mr. Lyon's remarks on that theme:

One man, one vote. This may seem insignificant to any one man who sees the millions upon millions of other men, each with one vote, too. Probably, to explorers of old, the land on which we live looked insignificant as well, considering the hundreds upon hundreds of other countries.

But to the creators of our country, it was not the land that made the difference; it was the thought behind it. The thought that freedom must be preserved. Our forefathers were not concerned with the seeming triviality of making so much fuss over so much forest. Rather they only worried that people later on would believe it trivial, and let the philosophy die.

Freedom is an integral part of our nation's founders and our views today. Without it, the documents, the people, and the country would be but one empty commitment to an unrealistic goal. And it is our responsibility to keep the philosophy going. But to do that, we must look at how our forefathers expected to make it last.

Naturally they considered many alternatives. Perhaps they seriously contemplated having one man rule above all others; a leader to uphold the guarantees and promises of the country's beliefs. If they did, it is not unlikely that this idea was quickly discarded, for it would be too easy to let one bad apple slip in, and spoil the whole bunch. Then, of course, a group of leaders all coordinating the nation's goals would be the best solution. But even with this answer, other questions arise: Who shall choose those leaders? Who shall replace them when they die? And who will insure that those leaders do in fact lead correctly?

The answer to our forefathers and to us is us. With the gift that our country's creators gave us, came an added dose of responsibility. Responsibility to keep freedom, and to choose others to represent us in furthering that goal.

Obviously each of us cannot individually make the decisions in the upper echelons of government. But in no way should that make us feel less powerful, or less important. Rather it should make us realize the immense importance of getting good leaders. And we can only transform that realization into action by our vote.

Without voting we are nothing, and even less to put on a respectability to the idle ballot. As famous American poet Ogden Nash put it, "(Non-voters) are uncitizens in citizens clothing."

As of now I still cannot cast a ballot. But I can cast my lot to democracy by asking all of you to prove that democracy does work, through electing others to make it work. Never for one minute think of it as an indication of how insignificant you are, only of how insignificant you would be if you didn't join with others to choose responsibly.

For where would we be if every soldier who ever fought said "I'm but one" and put down his arms? or if every contemporary human rights leader said "I'm but one" and gave up the fight?

It's not only a right to choose our leaders, but a responsibility. And any shirking of that responsibility is a shirking of the country itself. Not just its leaders, not just its election system, but its whole philosophy. A philosophy of government by the people, not in spite of the people.

My responsibility to America is far reaching and too important for words alone. But through speech and participation we can all choose our leaders, and continue to choose our words.

One man, one vote, may not seem like much. But one country, 200 million votes, makes it all worthwhile.●

MARTIN LUTHER KING, JR., REMEMBERED

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. RODINO. Mr. Speaker, 10 years ago today Dr. Martin Luther King, Jr., was assassinated in Memphis, and many people believed that his dream of social justice in America would die with him. However, this did not happen, largely because of the faith and determination he instilled in his followers. Although we cannot say that Dr. King's goals have been fulfilled, I believe that if he were alive today he would be pleased by many of the changes which have taken place as a result of the movement he set in motion.

While one-quarter of all black American citizens are still dependent on welfare, their upward mobility has increased tremendously along with their opportunities for better housing and education.

Mr. Speaker, it is a tribute to Dr. King that we continue to regard his ideas as the guide for our policies toward social change and the measuring stick for our achievements. In 1975, I shared my thoughts about Dr. King with the Southern Christian Leadership Conference. I told them:

They shot down the man and they snuffed out his life and the man died. But they could not shoot down his dream. For his dream was stronger than life and more powerful than death and the dream lives on.

Mr. Speaker, it is fitting, 10 years after Dr. King's death, that all of us reexamine our actions and rededicate ourselves to the realization of Dr. King's dream of equal justice and equal opportunity for all Americans.●

"ROME'S FALL: CAN IT HAPPEN TO US?"—PART II

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. SYMMS. Mr. Speaker, in yesterday's RECORD I submitted the first part of an essay written in 1968 by Dr. Robert Strausz-Hupe and carried in the Philadelphia Inquirer that compared the events that led to the deterioration of the Roman Empire with certain trends in the United States today. Part two of the esssay is as follows:

ROME'S FALL: CAN IT HAPPEN TO US?

(By Dr. Robert Strausz-Hupe)

Taxes increase

Another abundant source of revenue was the compulsory "gifts" extorted from the cities, an arbitrary capital levy.

Extraordinary supplementary income taxes—to pay for "emergencies"—were decreed whenever the state felt the need of replenishing its empty coffers.

Mindful of the average man's reluctance to pay taxes, the rulers of Rome kept the direct taxes on lower incomes low.

Long before some of our contemporary economists began to argue that national budget deficits are healthy, and that unfunded public spending increases the national wealth, the Roman emperors had discerned the political advantage of public made-work schemes and the vital exemption from direct taxation of the lower income groups.

Yet the concern of the rulers for the welfare of the working population and the poor was more apparent than real. What they gave with one hand they took away with the other.

Copper coins

What always happens as a consequence of excessive taxation also happened in the Roman Empire: prices rose, and creeping inflation culminated in a scramble for real goods at ever higher prices and in the debasement of the currency.

As always, the lower income groups, depending on the purchasing power of their daily earnings, were the worst hit.

The deterioration of the currency was the most tangible symptom of the increasingly serious financial situation of the empire.

From the first century onward, the metal of which the most used coinage, namely the denarius—the equivalent of our now vanished silver half-dollar—and its fractions were made, had suffered a slow but ever increasing addition of copper.

Since the Roman State, technologically less ingenious than ours, could not—as did our government—devise shiny coins made by cheap alloys that tolerably resemble the real thing, the average citizen preferred to be paid in kind.

And he hoarded the silver coins which the government had not been able to induce him to surrender in exchange for its coppery "silver" tokens.

On the black market, gold and silver commanded premium prices. Gold and silver were hidden, and disappeared from circulation.

This fact explains the discovery, in later times, of coin hoards of the late second century, some of which have found their way to our museums.

Increase in taxation went hand-in-hand with the increase in bureaucracy. In order to extract taxes from the reluctant populace, the emperors had to tighten the screws of the system of tax collection.

Gross inequity

By the third century, the Roman State employed an army of tax collectors, census takers, spies, informers and policemen about as large as the effectives of its legions.

These public servants had to be suitably remunerated. The bill for their services had to be paid by the one population group that could be coerced into carrying this additional load; namely the producer, the taxpayer.

Since the gross inequity of the system engendered widespread tax evasion, the bureaucracy, itself the victim of inflation, succumbed to corruption. The venal tax collector, the bribe-taking government informer are the standard characters of the literature which has come down to us from these somber times.

"Policemen" of world grew tired of role and finally perished

By the third century the Roman people no longer trusted the state—or, as we now would say, the "credibility gap" was widening: the promises of the emperors were belied by their practices.

On the average, the emperors were highly skilled in what we would call now the manipulation of public opinion. The ablest opinion makers—writers, poets and academics—were in their pay.

When the populace grew restive, they knew how to numb its resentments by giving it "bread and circuses—subsidies and shows. But, by the third century, the goose that had laid the golden eggs—the middle class—had been choked to death.

"Private capital and initiative", so writes the greatest student of Roman economics and social history, M. Rostovtzeff, "had been removed from large and flourishing concerns, and were replaced by a new system of management, bureaucratic and lifeless in the extreme."

The Roman virtues—honesty, candor, frugality and patriotism—had withered. What was left was a people whom neither the vices of the rulers nor the increasingly bold attacks of foreign enemies could shake out of their apathy.

Honest ally

A few generations earlier, Rome had stood steadfastly by her commitments to her allies. Her word had been as good as her bond—so good indeed that not even the Parthian Kingdom, then the most powerful eastern state under despotic rule, cared to challenge it.

By the third century, the retreat of Rome from her forward positions on the Rhine, Danube and Euphrates had turned into an unseemly rout.

Of course, the propaganda of the emperors presented to the Roman public these defeats as triumphs of their diplomacy: the inscriptions on the monuments which these emperors erected to commemorate their alleged achievements still bear mute witness to this ancient kind of double talk.

But official vanglory and popular self-delusion were poor weapons for stemming the march of the barbarians.

A setback

The demoralization and impoverishment of the Roman people had made inevitable the collapse of the empire. It was now left to the enemies from within and from without to push what was already falling.

Rome perished. Her fall set back the progress of mankind by many hundreds of years.

When Rome was at her height, no one thought all this possible. No one foresaw it. Yet it happened.

What can the Roman experience teach us? Of course, it can each us nothing if, in considering this question, we are satisfied with the irrefutable truism that the Romans of the second century were not Americans of the 20th century, and that, hence, what happened to them can never happen to us.

Indeed, there is a conspicuous difference between the past and the present. But, in order to blissfully ignore the lessons of history, we need to convince ourselves that we are made of stuff not at all like that of men before us.

Now, all anthropologists agree that, as regards human traits, second century Romans, man for man, were very much like we are today—about as intelligent or stupid, about as abstemious or greedy, and about as virtuous or vicious.

World powers

Domestically, our problems are those of a highly mechanized industrial-urban society; domestically, the problems of the Romans were those of a technologically more primitive, yet highly urbanized society.

Abroad, the Romans, armed with swords, spears and gold, had to cope with the problems of world leadership; our global commitments are underwritten by fire power and by the vast resources of our modern technology, industry and finance—which leaves them still as burdensome to us as were Rome's far-flung commitments to the Romans.

Since our techniques for gathering and sifting information are highly developed, we know a great deal about our problems. By comparison the Romans probably knew less about theirs, though the remaining records bespeak the Romans' wide awareness of current issues.

It is not clear, however, whether we understand how much we know any better than the Romans understood the little they knew.

Military flaw

As a matter of fact, the Romans were politically a highly sophisticated people. Like modern Americans and quite unlike other ancient peoples such as the Greeks, they were attuned to change over time.

For example, like Americans today, second century Romans knew that, in politics, they could not turn the clock back to the republic of independent landholders of two centuries earlier.

They understood that mass society and universal empire called for a management far more professional and specialized than that which had sufficed for a small state of farmers at the periphery of Mediterranean power politics.

The Roman emperors were not constitutional heads-of-state, freely elected by the people. Nearly all were military leaders. Control of the armies was the basis of their rule.

Even in the most stable epoch, the dependence of the emperors on the crucial support of the military flawed the government and politics of the empire.

Ultimately, this flaw proved fatal: Rome fell under the sway of military usurpation.

This Roman experience furnished one of the lessons which the makers of our Constitution took much to heart.

Open debate

The Good Emperors of the second century, however, deliberately hedged in their power by marked deference to traditional republican institutions, such as the Roman Senate and the Assembly of Roman Citizens.

They did not suppress dissent. Public debate was remarkably free, and the voices of criticism and protest, such as the Cynics, enjoyed the authorities' patient toleration.

The emperors were not absolute rulers like those oriental despots who were their con-

temporaries. During the second century, imperial rule was not hereditary.

Complex and, by our standards, undemocratic as was the process of selection, the emperors of the second century attained office on the strength of their personal merit and recognized devotion to the public good.

Their people submitted to their rule because they ruled well, but did not grant them the right to establish a dynasty.

Rome's dark age begins with the succession to imperial office of a deceased emperor's blood relation, namely Marcus Aurelius' son, Commodus.

How big?

Although we, too, know that we cannot go back to a democracy of free farmers, such as that envisaged by Thomas Jefferson, it is not at all clear that we understand better than did the Romans the problems posed by the centralization of immense power in the hands of the Chief Magistrate—a title, incidentally, bestowed by the Romans upon their emperor.

Perhaps, the history of Rome might not be able to tell us anything which we do not already know: A big, powerful country needs a big, powerful government.

But exactly how big and powerful? To this question, the Romans did not find an answer. Perhaps there is none.

It might be more difficult than I think it is for interested Americans to step imaginatively into the shoes of the Romans. There are more books about Rome in our public libraries than about any other past civilization, and it is easier to learn Latin than Russian or German or Chinese.

Yet, I am quite sure that a Roman of the second century, could he come back to the earth, would easily understand some of the key issues of our public policy.

Whether men move about on barks or oxcarts, or in motor cars and jet planes, these are not differences which differentiate their respective attitudes towards taxes and the cost of living.

Our resurrected Roman might have a hard time understanding the scientific principles underlying computer technology.

Recalling his own experience, he would be able, after a few hours' of indoctrination, to grasp the relation of our government's outlay and its revenue and the rate of the tax bite to the individual income.

Similiar problems

Then, too, he might be able to add to our store of knowledge a few practicable insights into the nature of inflation, "gold crisis," currency devaluation and hoarding of precious metals which he gleaned not from books, but from rending experience.

Another ever-recurring theme of Roman history which should seem familiar to us is that of the empire's foreign commitments and the costs of world power.

Rome was the "policeman" of the ancient world. Her people grew weary of this assignment. By the end of the second century, Rome had withdrawn her legions from some outlying defense positions such as Dacia (modern Rumania) and east of the Rhine.

The argument then advanced by some of her political leaders was that these withdrawals bettered Rome's strategic position and thus strengthened, rather than weakened, the health of the empire.

Shortly thereafter, Rome's hostile neighbors turned more aggressive, and when the Parthians captured a whole Roman expeditionary army, including the reigning emperor, Rome confined herself to indignant complaints—and did nothing.

For a while, appeasement of her enemies bought Rome peace.

Then, her strongest allies defected, and her enemies, encouraged by Rome's limp response to their provocations, renewed the attack and proceeded to ravage Rome's home territories, Italy and Gaul.

Is this lesson relevant to us? Has any people ever grown stronger by growing weaker in the resolution to punish hostile provocations and to stand by its allies?

Has any people ever been able to improve its internal welfare at the expense of its external security? It seems that, here, Roman history has to tell us something that we might want to hear.

Most men think themselves unique. This is a healthy conceit—as long as they do not believe that the laws of the universe rule everybody but themselves. The greater is a nation, the more it is susceptible to the belief that it is unique and, hence, imperishable.

Unknown limits

No one can now state convincingly where lie the limits of our wealth; as to whether, for example, a permanent tax burden, representing 25 percent of our national income, is bound to crush the incentive of the nation's producers (some of our most respected economists opine that it will); whether chronic inflation will affect our future welfare and, especially, the welfare of our poorer fellow citizen; and whether, in order to deal effectively with the blight of poverty, we must not first halt the inflationary rise in the cost of living and restore incentives to private enterprise.

In the live context of the here and the now, these problems are new and perplexing; at their core lie issues that are as old as recorded history, as old as ancient Rome and as stark as Rome's fate.●

BYELORUSSIAN INDEPENDENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues the 60th anniversary of the proclamation of independence by the Byelorussian Democratic Republic which was observed on March 25. Byelorussia was once a proud nation which now suffers under the yoke of the Soviet Union.

The nation inhabited by the Byelorussian people was carved up by the Soviet Union and Poland. The remainder was swallowed up by the U.S.S.R. and named a "Soviet Socialist Republic." The Byelorussian culture and language has been severely restricted and repressed, the ethnic identity of a people, crushed.

While we certainly must continue to seek an easing of tensions with the Soviet Union, we must not forget the many people who suffer under her severe repression. The recent final document of the Belgrade Conference on the Helsinki accords, which made no mention whatsoever of human rights, shows the lack of seriousness with which the Soviets approach basic human freedoms. We must not forget that there are many in the world who do not enjoy the fruits of freedom and are not accorded basic human rights and civil liberties.

I call upon my colleagues to join me in commemorating the Byelorussian proclamation of independence. Let us not forget these proud people.●

BLUNDER OVER RHODESIA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BOB WILSON. Mr. Speaker, I commend to my colleagues' attention an article by James J. Kilpatrick in the Washington Star of March 21, 1978, concerning Rhodesia. The article is as follows:

BLUNDER OVER RHODESIA

(By James J. Kilpatrick)

LONDON.—In both London and Washington, we are witnessing these days the making of a monumental blunder. By their refusal to embrace the Rhodesian settlement, Britain and the United States are demonstrating to the whole world how the West will be lost.

There are terrible failures afoot—failures of understanding, failures of purpose, failures of will. Britain and the United States have been handed a golden opportunity to advance every conceivable interest they might have in southern Africa—and the two Western nations seem aimlessly inclined to muff it.

How can these interests be defined? Unless reason has fled our temples altogether, we are interested in halting the spread of Soviet-Cuban adventuring in Africa; we are interested in having an anti-Communist, as distinguished from a pro-Communist regime in this part of the world. We are interested in seeing in Rhodesia a peaceful, multi-racial, more or less democratic society, in which the black majority rules without obliterating the rights and the property of the white.

The settlement reached between Prime Minister Ian Smith and the three moderate black leaders provides all these things. Without bloodshed, and without provoking incurable animosities, this agreement would transform white Rhodesia into black Zimbabwe by the end of this year. All that is required is for Britain and the United States publicly to welcome the compact, and to throw their influence, their money and their arms behind its acceptance.

In Washington, President Carter and Secretary of State Cyrus Vance are vacillating. U.N. Ambassador Andrew Young, foot in mouth, is saying the fatuous things for which he is justly acclaimed. Here in London, Foreign Secretary David Owen is under heavy pressure from Conservative forces, but he seems to have no clear idea of what to do. He is stalling.

This is their explanation: The settlement does not include the terrorist factions headed by Joshua Nkomo and Robert Mugabe. The objection is quite simply fantastic. Nkomo and Mugabe, by the most generous description, are a pair of Marxist freebooters whose main interest lies in gaining power for themselves. Neither cares a fig for democracy, for human rights, for the ideal of one man, one vote.

Nkomo and Mugabe profess to lead the "Patriotic Front." Theirs is the patriotism of murder, mutilation and rape. Over the past two years, their ragtag guerrilla forces, amounting to no more than 5,500 persons, have committed unspeakable atrocities upon blacks unwilling to fall in line.

The fear voiced by the Carter administration is that guerrilla warfare will continue if Nkomo and Mugabe are not given power in a new government. But this is pusillanimous counsel. There is no way of knowing what support the two brigands might command in a free and fair election. Nothing in the pending settlement would prevent Nkomo and Mugabe from political participation in the future. If they can win power

through the democratic process, well and good; but it is madness to insist that they be handed power on a platter.

There are times when great powers must act as great powers. Ordinarily nothing much may be lost, save only self-respect, in bootlicking the United Nations and fawning upon the Organization of African States. It is nice to be loved. But now and then great powers must flex their muscles and impose their will.

Such time is at hand in Rhodesia. Britain and the United States need only to act decisively, promptly and fearlessly. So far as we are concerned, they might say that the U.N. sanctions no longer will be honored; we will support the new government with credits, loans, diplomatic recognition, and with whatever military aid may be required to smash the guerrillas and their Communist Cuban allies.

There would be howls from the Third World. The congressional black caucus would object. Ambassador Young might even resign. Hallelujah! Do Britain and the United States have the wisdom and the guts to stand up in Rhodesia for what is right? The maddening answer, so far, is: No. 8.

FATHER BRANIMIR RADETIC OF YOUNGSTOWN, OHIO, HONORED IN SILVER JUBILEE CELEBRATION

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CARNEY. Mr. Speaker, a silver jubilee dinner honoring the Rev. Branimir Radetic of the Sts. Peter and Paul Croatian Parish in Youngstown, Ohio, will be held at the Mahoning Country Club in Girard, Ohio, on Sunday, April 16, 1978.

The commemorative dinner is being held to celebrate the 25th anniversary of Father Radetic's ordination as a priest in the Croatian Catholic Church.

Born in Rijeka, Croatia, Yugoslavia, Father Radetic received his higher education in Rome, Italy, at the German-Hungarian College and later at the Pontifical Gregorian University. After his ordination in December, 1952, he worked with refugees in Italy, and served in parishes in Germany and Switzerland.

Arriving in the United States of America in 1957, he was assigned to the Sts. Peter and Paul Croatian Parish in Youngstown, Ohio. Prior to his appointment in 1970 as pastor of the Sts. Peter and Paul Croatian parish, Reverend Padetic served as assistant pastor of that parish for 13 years.

Mr. Speaker, Reverend Radetic's career reveals his dedication to the well-being of all people. Indeed, in the Croatian parish of Youngstown, he is a source of spiritual strength and a friend to many.

Mr. Speaker, I want to take this opportunity to extend my sincere and heartfelt congratulations to Father Branimir Radetic on the occasion of his silver jubilee as a priest in the Croatian Catholic Church. I also want to join with his many friends and well-wishers in commending him for his outstanding and devoted service to our community. We wish Father Radetic well in all of his future endeavors.●

SENATE SUBCOMMITTEE BUY AMERICAN HEARINGS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GAYDOS. Mr. Speaker, on Friday, March 17, the Senate Subcommittee on Federal Spending Practices and Open Government held a hearing in Pittsburgh, Pa., on S. 2318, which proposes certain amendments to the Buy American Act now on the books. Companion bills, H.R. 9247 and 9248, have been introduced in the House and are before the Subcommittee on Legislation and National Security.

Many of us have long sought to strengthen the existing Buy American Act. The language in the legislation is so vague, so subject to differing interpretations as to render the law virtually useless. The result has been hundreds of millions of American tax dollars have been spent by the Federal Government to buy foreign made products and materials at the expense of domestic industries, their employees, and the national economy.

S. 2318 proposes to correct some deficiencies by redefining what is a U.S. end product and by incorporating provisions of the Buy American Act in any contract financed in whole or in substantial part by Federal loans or grants.

A U.S. end product now is defined as one where 50.1 percent of the cost of all components in the product must be of domestic origin. S. 2318 would increase that figure to 75 percent. The proposed legislation also would correct the situation where State or local public works construction is financed by Federal funds but where the States themselves are not required to include Buy American provisions in contracts.

I will insert into the RECORD some examples of what I believe is a mis-use of tax dollars by the Federal Government as taken from a statement submitted to the Senate Subcommittee by Mr. Bruce E. Davis, Commercial Counsel and Assistant Secretary for Bethlehem Steel Corp.

Mr. Davis noted that up to 90 percent of funds utilized for State highway construction projects are Federal; however, the projects are advertised and awarded by State highway departments. He makes the distinction that if a Federal agency handled the procurement the domestic preference provisions of the Buy American Act would apply. But, since the States control procurement, no preference at all need be given to domestic materials.

Example No. 1. On December 16, the Minnesota Highway Department received bids on an interstate bridge project financed by 90 percent Federal funds. The low bid was $3.75 million; the second low bid was $3.78 million—a difference of less than $30,000. The low bidder declared 75 percent of the steel used would be rolled and fabricated in Japan. The second low bidder intended to purchase all domestically produced steel and it would be fabricated in the U.S.

This project, financed by tax dollars, was awarded the low bidder because Minnesota extends no preference at all to domestic materials. Ironically, the States' highway department included a "domestic steel only" clause in its contract specifications until 1974 when it was stricken at the urging of foreign steel interests, with the support of the U.S. State Department, according to Mr. Davis.

That so-called $30,000 in savings in a nearly $4 million procurement subjected Minnesota, its residents and the residents of steelmaking States as well as the national economy to an unjustifiable loss of employment, wages, taxes, and purchasing power, Mr. Davis feels. And, I agree.

Example No. 2. On February 10, the Tennessee Highway Department opened bids on a bridge project funded by Federal money and requiring 4,000 tons of steel. The low steel bid was $6 million from a concern intending to use steel produced and fabricated in Japan. The second low bid, $6.1 million, intended to buy domestic steel and have it fabricated in Tennessee. A savings of $136,000 but a terrible blow to the economy of Tennessee and other States. Tennessee, too, once had a domestic preference policy until it was discontinued several years ago pursuant to a court decision, Mr. Davis contends.

Mr. Davis cited, in less detail, several other examples of recent highway projects involving foreign steel, foreign fabrication or both. There are others that he could have listed, he said, in noting the American Institute of Steel Construction estimates 25 percent of all interstate highway bridges currently under construction are being fabricated outside the United States.

Mr. Davis further noted that only 14 States, by law or regulation, grant a preference to domestic materials in public works projects whereas 36 States grant no preference despite the fact 70–90 percent of project costs are paid by Federal tax dollars.

Mr. Speaker, I find such policy intolerable, particularly in light of the weakened stability of the domestic steel industry today, and I would hope the House and the Congress act quickly to correct this situation.●

LIONEL WILSON SPEAKS ON CABLE TELEVISION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. STARK. Mr. Speaker, I would like to take this opportunity to share some observations on cable television with my colleagues. Lionel J. Wilson, mayor of the city of Oakland, Calif.,

made these remarks before a gathering of the California Community Television Association last fall. As a highly respected former judge, practicing attorney, and mayor of a major urban center, Mayor Wilson addresses the issue from a fresh perspective. He brings, moreover, a keen intellect and a great deal of integrity with him to the subject. As Congress prepares to turn its attention to a major rewrite of the Communications Act, I would commend Mayor Wilson's comments to the attention of my colleagues:

PREPARED REMARKS OF THE HONORABLE LIONEL J. WILSON

As I look around at this illustrious group, my court trained eyes see two things:

(1) A group of tennis players mad at me for being late to the tennnis tournament this morning; and

(2) A group of experts intensely interested in cable television expecting some words of wisdom from a Mayor—who because of an obvious conflict—can't even take part in his own City's regulation of cable television.

Maybe I should take a minute and explain how I got into this position.

About a year ago I decided that I had worked long and hard enough as a lawyer and a judge, and so decided to look for a situation where I could relax a bit—work when I wanted to and play tennis when I wanted to.

I decided that the easy way to do this was to get a part-time job as mayor of some nice small city with none of the problems Mayor Janet Gray Hayes has in San Jose—housing, jobs, racial mix, solid waste, energy, water, inadequate tax base, welfare, unemployed youth, inadequately provided for senior citizens, crime in the streets, and the lack of baseball and football franchises.

I chose Oakland.

Then, I thought that, just to keep my hand in, I would join an old fashioned law firm—one that was slow-paced, low pressured and conservative. One that didn't make waves. One that would not do foolish things such as fighting with banks or insurance companies, or telephone and power companies, or cities, or federal commissions. One that would stay out of controversial issues before legislative committees.

With my usual good judgment—I chose to join Harold Farrow and Sol Schildhause.

Kidding aside, I have been receiving an intensive course—not just in cable T.V.—but in the whole concept of the explosion of communications technology that has resulted from the tiny bit of competition allowed by the combination of the Carterphone, the MCI and the 214 cases.

Just the bare promise that the traditional strangle hold of AT&T over all forms of intra-city and inter-city land lines, plus control of station and switching equipment, would be loosened, has brought out from industry leaders all over the country including AT&T all kinds of innovations in the design of communications equipment, in the manufacturing of that equipment, and in the marketing of communication services.

But as competition has emerged in cable, in the specialized common carrier field, in the use of satellite technology, that competition has drawn the attention and the ire of those whose function it is to protect their own vested interests, and heir allies in government. This is neither surprising, nor should it be frightening to you. You should just recognize it, and accept it as one more set of problems to be solved.

And though I am limited in what I can say or do about cable T.V. in Oakland, I would like to give you a few thoughts from the perspective of a mayor of an urban city on some of the issues as I see them.

First—as to your relations with your local franchise authorities:

I concur with Mayor Hayes' views about deregulation of cable rates—especially in the urban areas where you face the major competitive battle with off-air broadcast services and with the other available sources of entertainment and information.

And to the question Harold Farrow often poses:

"What would it be worth to a large city to get cable if it did not have it?"

I answer—a lot. In terms of the stablizing influence of new investment in the central cities—in terms of improvement of the quality of life that is possible with your technology—in terms of the jobs provided directly, (in Oakland, over a hundred, and often for people who would otherwise have no job opportunities at all)—in terms of City revenues from property taxes and franchise fees, cable T.V. is or could be worth a lot to any urban area.

But, after saying that, let me say that you have only scratched the surface.

If, while continuing your task of straightening out the mistakes of the late sixties and early seventies in the nature of over-selling the cities, you will continue to search for and invest in the so-called Blue-Sky areas, you will be worth even more to us in the long run.

If your leased channels can truly open up the highways of commerce in the communications field, the fallout benefits to you and to the cities will be greater yet.

And those in City governments can do more to aid you in this area. Instead of asking you how many channels and how much equipment you are going to provide free of charge to the city, or to the schools, or to the local Ad Hoc Committee on How to Operate a Sony Port-a-Pak, we should be assessing our present and future communications needs and the traditional costs of them, and then we should be working out a way to use and pay for some of your excess capacity on some sort of incremental cost basis.

If we can cut our phone bills between our service centers and our City Halls and you can make a little money from it, we should be doing it. If we can use cable to intertie our own computers and the county computers, and you can make a little money at it, we should be doing it.

And, if in partnership, we could do a few such things—it would perhaps aid you on your way to providing alternative and competitive services to industry and to commerce by interties with the specialized common carriers and the computer industries in cooperation with the existing communication systems.

And if this happens there will be more jobs, and more income, and a greater tax base, and a better quality of life for those who elect mayors.

We could go on and on with examples, but the point is, you must first decide the direction and then you must help to educate and sell that direction, knowing full well that you will have the opposition of inertia and the self-preservation efforts of the established modes of communications every step of the way.

As to the States.

I agree with Walter Kaitz that rate of return regulation by public utility commissions, with or without preemption of local regulation, would be a disaster; for aside from the First Amendment problems, those Commissions are charged with the preserving the health of the very companies you are going to be competing with.

As of now, I am not knowledgeable enough to take a position on the propriety of state cable commissions, but I do feel strongly that the state has a major role to play in the advancement of the public interest insofar as cable is concerned.

Most states have an expressed or implied policy that the development of cable is in the public interest. This should not only include the protection of the consumer, it should include the state's active efforts to set aside any artificial barriers to the development of cable.

For example, instead of fighting rate deregulation city by city and county by county, if rate deregulation makes sense—why not do it all at once by one state statute.

If some rate regulation, or the opportunity for such regulation must be preserved, why not one state statute to set up the mechanics of it so that it can be handled expeditiously, and inexpensively, and with proper due process protection to all.

And if there are major inequities in property taxation from one county to another, why not one statute with proper standards to settle this issue, and put it behind us?

And I understand that in many communities in this, and in many states, there are property owners who will not allow cable to be installed at all, or only on the condition that the property owners are given a piece of the action. I fail to see the logic or morality of a situation where those who are in the business of charging money for living accommodations can put a toll gate between their tenants and those who supply them services. Are we going to allow the landlord a cut from the phone company? Or the milkman? Or the paper boy?

Why not one statute to put this problem behind us?

Now at the Federal level, I would have a different approach.

If you think about Sol Schildhause's old copyright paper, you will recall his argument that in broadcasting the thing that is sold is not a ticket to a performance by an artist—rather it is the sale of an audience to an advertiser. And this is true whether you are dealing with the stations or the networks.

And if you recall Farrow's logic on the reasoning of Telephone Company harassment on poles and leasebacks, it is to protect their markets from potential competition from intra-city cable parallel land lines.

Now both the telephone company's markets and the broadcasters' audiences are in the cities—the metropolitan areas.

What kind of logic, what kind of morality, what kind of so-called "public interest" is served by a process whereby the big cities of the nation are captured, held in hostage, and delivered lock, stock and barrel to these two vested interests by the process of preventing and inhibiting the development of new technology?

Here, those of us who are elected officials in these cities can raise our voices and lend a hand through the Congress, the White House, and maybe even the FCC to open up competition and preserve the opportunity for the renaissance of the cities.●

DR. JOHN J. DILLON, JR.

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

Mr. BYRON. Mr. Speaker, it is with great regret that I note the untimely passing of Dr. John J. Dillon, Jr., president of Mount Saint Mary's College in Emmitsburg, Md.

Certain individuals touch the lives of people around them with great influence, and Dr. Dillon was such a man. Not only is his passing a great loss to me personally, but also to the untold numbers

of persons with whom he had contact, directly and indirectly.

Dr. Dillon was a moving force at the college and in his community, where he was a member of the Knights of Columbus and chairman of the citizens advisory board of the Victor Cullen Center for Mentally Retarded.

Although his talents and contributions are too numerous to list here, his services will long be remembered and appreciated. He will be greatly missed by his family, friends and coworkers, and I know you join me in extending the official sympathies of the House to this unselfish and generous American.

FEDERAL LOAN GUARANTEES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mrs. HOLT. Mr. Speaker, Federal loan guarantees have been around for over four decades and they are little understood. They have a tremendous impact on our national economy because of the pressures they create on money and credit markets. I came across an article by Mr. Art Pine in the April 3, 1978, issue of the Washington Post succinctly discussing this matter; I commend the excellent article to my colleagues:

LOAN GUARANTEES—CRITICS WARN OF WEAKENING GRIP ON FEDERAL PURSE STRINGS

(By Art Pine)

When President Carter announced his new national urban policy last month, one of the main elements was a new federal loan guarantee program to help finance business investment in economically hard-hit areas.

Under the plan, the government would guarantee to pay 75 percent of the interest and principal on up to $11 billion in long-term loans in cases where the businesses defaulted. And it wouldn't bloat this year's deficit.

Carter's new program wasn't the first time a president has proposed a big loan guarantee program, and undoubtedly it won't be the last.

Indeed, the device has become so popular in recent years that loan guarantees have mushroomed into a major source of federal aid to the private sector. In fiscal 1965, the government was underwriting only $80 billion in private loans. In fiscal 1979, the total will be $311 billion.

Today, there are an estimated 175 federal loan guarantee programs, underwriting loans for everything from the Metro subway and RFK Stadium in Washington to power plant construction in Guam.

The major question is, is this a good way for the government to do business?

Although the loan guarantee device is convenient for policy makers and Congress, public finance experts both in and out of government question whether it isn't more of a detriment than a help.

Rudolph G. Penner, former Ford administration budget economist, warns that loan guarantee programs tend to erode policy makers' control over the federal pursestrings and too often give voters the illusion that they are getting a free lunch.

And President Carter warned in his budget message last January that the loan guarantee programs were getting out of hand. (Carter promised to propose legislation to tighten control over loan guarantees, but aides say that package won't be ready until next year.)

Although the government issued its first loan guarantees in the early 1930s, the big push came in the mid- and late-1960s, when the Johnson administration was looking for a way to increase Great Society spending without worsening the budget deficit.

The loan guarantee offered an easy out. Because the government merely pledged to back up loans in cases of default—not to lend the money on its own—the program didn't show up in the budget unless a borrower reneged.

At the same time, the scheme made it possible for a relatively small amount of money to go a long way in achieving various social goals. Several billion dollars worth of loans would require only a few million dollars of spending—for defaults and interest subsidies.

The problem is, while the device may be handy for policy makers who want to avoid large budget increases, experts say it actually distorts the impact of the budget by making it seem that the government is spending far less than it is.

The way the federal budget is set up, loan guarantees show up only in cases where the borrower can't repay on his own, or where the loan is repurchased. As a result, the loan guarantee programs largely escape the scrutiny of Congress.

Loan guarantee programs hardly even are considered in the new congressional budget process, and congressional legislative and appropriations committees don't ride herd on guarantees and other so-called "off-budget" programs.

More important in some cases, the system leaves policy makers with virtually no way of measuring the actual impact of a loan guarantee program to tell whether it's accomplishing what sponsors intended.

Together with other programs not counted in the budget—such as the Export-Import Bank—the guarantees have an enormous impact on the nation's financial and credit markets.

What the loan guarantee does is effectively substitute the government's own credit for that of the borrower. Some also subsidize a lower interest rate than the borrower would be able to get otherwise.

The loan guarantee device was used first in the early 1930s for the then-budding FHA mortgage program. It gradually spread to other housing and agricultural programs. Now it's used across the board—in pollution control, railway modernization and disaster relief.

Experts began to question the loan guarantee device seriously in the early 1970s, when the Nixon administration proposed a massive $250 million guarantee to bail out the Lockheed Aircraft Corporation—the first major guarantee aimed at a single company.

This year, the Carter administration is proposing loan guarantees as the centerpiece of its plan to aid New York City.

Among other loan guarantee programs:

$97 million to underwrite construction loans to the Virgin Islands and Guam Power Authority. The Interior Department would pay the interest and principal if the two authorities defaulted.

$31.6 million for interest subsidies and payments to help finance Washington's Metro subway construction. The federal government guaranteed bonds for the District.

The problem with the loan guarantee device isn't one of massive defaulting. Analysts say while it's theoretically possible for a large number of guaranteed loans to go under at once, it's highly unlikely. Overall, there are relatively few defaults.

But the question remains whether, from a budget maker's standpoint, this is any way to run a government. The volume of loan guarantee programs has grown enough that officials are beginning to take a second look.●

SENATE SUBCOMMITTEE ATTACKS ADVERTISING

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. SYMMS. Mr. Speaker, I am concerned about the current efforts of the Senate Subcommittee on Administrative Practice and Procedure to subpena confidential advertising information from the major oil companies. The following editorial from Barron's, April 3, 1978, points out that the subcommittee's probe could seriously hinder major corporations from doing any type of image or issue advertising and, in a broader sense, could "undermine the financial foundations of the free press":

GETTING THE MESSAGE—WASHINGTON HAS LAUNCHED A DRIVE AGAINST CORPORATE ADVERTISING

WASHINGTON.—A Senate subcommittee has just launched a hunting expedition aimed against advertising which gives corporate views on controversial issues. It also includes ad campaigns designed to improve the corporate image. Specifically, the Senate Subcommittee on Administrative Practice and Procedure has subpoenaed mountains of material, much of it confidential and some involving trade secrets, from four major oil companies, Exxon, Gulf, Mobil and Texaco, and their four advertising agencies; Benton & Bowles; Doyle, Dane, Bernbach; McCaffrey & McCall, and Young & Rubicam. The chief executive officers of the eight firms have been ordered to appear, with the material, before the Subcommittee this Friday.

Stated purpose of the investigation is vague. According to Subcommittee Chairman James Abourezk (D., S.D.), it's to see whether the Internal Revenue Service, Department of Energy, Federal Communications Commission and Federal Trade Commission are carrying out their duties with regard to such advertising and exercising proper coordination in doing so. In fact, it looks like a thinly disguised attempt to see whether the Subcommittee can find anything to pin on the oil companies in their effort to get across to the public their side of issues. On this score, of course, their position tends to differ from that of Chairman Abourezk, who last year co-sponsored legislation to break up 18 major oil companies. The Subcommittee reportedly also plans to extend its ad investigation to such food processors as General Foods, General Mills, and Pillsbury.

Whatever the purpose of the Subcommittee's probe, it is bound to have a chilling effect on all issue and image advertising. The specter of subpoena of confidential information may haunt all future dealings with Madison Avenue. Among other things, the Subcommittee wants all tapes and movies for broadcast commercials and tearsheets for printed ads since 1973, tax records involving the ads, minutes of boards of directors' meetings and corporate correspondence setting advertising strategy. Thus, compliance in itself would be punitive, even if the Subcommittee finds nothing wrong. Contrariwise, failure to honor the subpoenas would involve substantial legal expense, as well as perhaps risking a finding of contempt of Congress.

Ominous enough in itself, the Subcommittee is only part of a growing and multifaceted federal attack on advertising, one which bodes ill for future freedom of expression. It also seems to run counter to several recent U.S. Supreme Court decisions, notably that involving the Virginia Pharmacy Board, in which the high tribunal declared:

". . . Speech does not lose its First Amendment protection because money is spent to project it, as in a paid advertisement. . . ."

However, more than free speech for advertisers is involved. After all, the press keeps watch on government. To carry out that mission, it needs the financial support of advertisers (who obviously don't control it, or they wouldn't spend their ad money to express contrary views). Taken altogether, the federal attacks on advertising strike some observers as an attempt to undermine the financial foundations of the free press.

Over on the House side, the Subcommittee on Commerce, Consumer and Monetary Affairs is in the midst of an investigation of advertising; it expects to hold hearings later this month. The House effort is concentrating on what it views as the illegality of deducting issue and image advertising as a cost of doing business.

Peter Barash, staff director of the House Subcommittee, estimates that corporations spend $1 billion or more a year on advertising and mass mailings aimed at influencing public opinion on legislative matters. He cites particularly the ads of Mobil, the utility and shipping industries and mass mailings which seek to influence stockholders and/or employes. Many companies, he said, don't realize that because they constitute so-called grass roots lobbying, such expenses are not deductible. (Mobil told *Barron's* it takes no tax deductions for its political ads.) Barash adds that the Subcommitte so far has found inadequate IRS enforcement and significant non-compliance with the law.

IRS has gotten the message. Commissioner Jerome Kurtz wrote the General Accounting Office last December that the agency will audit half the returns filed by large trade associations (and perhaps large firms later) to see if they are violating Section 162 of the Internal Revenue Code on issue and image advertising. Kurtz added: "We recognize our responsibility to audit this area because of its public policy implications, even though its revenue producing potential may be less than other issues."

Section 162 of the Code involves thorny issues concerning the difference between indirect lobbying, educational material and free speech. (The Code exempts the press.) It permits lobbying to be deducted as a business expense when it involves direct contact with the legislature, but stipulates that this "shall not be construed as allowing the deduction of any amount paid or incurred in connection with any attempt to influence the general public, or segments thereof, with respect of legislative matters, elections or referendums."

Stuart Siegel, chief counsel of IRS, told *Barron's* that so far as he knows, this has never been challenged constitutionally. Tax deductions, he said, are a matter of legislative grace. We pointed out, however, that the press is specifically exempted from Section 162. Doesn't this indicate that First Amendment rights are involved? "That is an interesting point; I really haven't thought it out," he replied. Siegel added, however, that newspaper and magazine stories and editorials deal with matters involving the public interest, whereas mass mailings, issue advertising and other forms of indirect lobbying deal with issues in the self interest of business, not the public interest. The Constitution, however, doesn't guarantee free speech only to those promoting the public interest.

Conceding gray areas in the Code, Kurtz wrote that IRS will publish clarifying rulings; it has issued four. These hold, in essence, that corporate expenses are not deductible if they seek to influence legislation through stockholders (mailing testimony of a corporate president, for instance) or through newspaper and magazine ads. An association may deduct the expense of urging its members (but not prospective ones) to contact their Congressmen. It must not deduct the cost of urging its members to contact their employes and customers on legislative matters.

Uncle Sam already has financed propaganda against advertising through the National Endowment for the Humanities. It paid for a blistering tirade in one instalment of Courses by Newspaper, the gist of which was that advertising is ripping off the public and should not be tax deductible as a business expense. While we read it in *The Washington Post*, some 400 newspapers publish the Courses, and over 250 colleges give credits to those who read them and pass tests on them.

Here's just one of the instalment's many controversial statements: "The advertising subsidy that supports and guides the cultural industry is extracted through a levy on the price of all advertised goods and servites. Some call this private taxation without representation. The price is hidden in the price of soap; I pay when I wash, not when I watch TV or read a magazine."

Such views, of course, run counter to elementary economics. Advertising is essential for large volume, which, in turn, permits lower prices because of economies of scale. And advertising also encourages competition. The results, needless to add, have been a standard of living that is the envy of the world.●

TRIBUTE TO THE MOUNT VERNON KNIGHTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. OTTINGER. Mr. Speaker, I am pleased to announce that the Mount Vernon High School Knights are this year's New York State basketball champions. This hard-working and talented team captured the title on March 19 in Rochester, N.Y., by defeating Buffalo's Kenmore West High School team.

Heartiest congratulations should be extended to Coach Richard Shore and Assistant Coach Anthony Fiorentino for guiding the team through an undefeated season. Also to be commended and thanked for their hard work are the members of the Knights: Howard Barrington, Gary Bess, Jeffrey Cole, James Gibbs, William Grier, Jr., Dennis Kirkland, Carlton "Scooter" McCray, Rodney McCray, Larry McDonald, Joseph Palmer, Roy Smith, and Lonnie Webb.

The managers are Rickey Stanley and Eric Winely; the statistician, Rocco D'Ambano. Neil Schere served as scorekeeper and George Olson was the team's photographer.

I am including for the RECORD a news article on the final victory from the Mount Vernon Daily Argus:

KNIGHTS ARE THE CHAMPS

(By Ernie Palladino)

ROCHESTER.—It couldn't have been more, convincing. Mount Vernon High, winner of 25 straight basketball games this year and in search of the first New York State basketball championship in 49 years, completed their season-long quest with an 82–52 trouncing of Buffalo's Kenmore West at the War Memorial Auditorium on Saturday.

For the Knights, it was a return to their old ways of blowing opponents out of the gym early. During the preliminary days of Capital Conference championship competition, the Knights were given tough games by Clarkstown South and Catholic Central. This was due mainly to the absence of Rodney McCray, Mount Vernon's 5-foot-5 rebounder.

Saturday, it looked as if the Knights had recovered fully from their problems as Dennis Kirkland and Lonnie McDonald turned in stellar defensive performances.

Scooter McCray, who led all scorers with 21 points, also pulled down 11 rebounds and was named the Class AAA's Most Valuable Player. Other Knights to make the AAA All-Tournament team were McDonald, Lonnie Webb, and Kirkland, McCray also was named to the overall All-Tourney squad.

After the contest in a calm locker room, assistant coach Tony Fiorentino stated the Knights' victory, although expected since the season's start, was "like a dream come true."

Nathan said that the team has given the 3,200-student school a new feeling of unity and pride.

The wave of enthusiasm engendered by the Knights' success also touched the city's older basketball fans, who were provided an oasis of happy news amidst the usual reports of the crime, poverty, and racial tensions. Saturday night, many residents tuned in on the radio account of the game to join the regulars who've followed the Knights' every step to the top.

Students said that the best thing about the Knights is that their success hasn't given them a superstar complex that a lot of professional athletes have. "They're very friendly. They ain't stuck up," said ninth-grader Larry Natham. "They're not the type that when they get to be known, they won't talk to you."

One of the ways in which a successful sports team helps the school is that it gives good athletes a reason to stay in school and keep up their grades, tenth grader Andre Hinton said. He should know. The 6-foot Hinton plans to try out for forward this year, and is busy hitting the books in the meantime.

Mount Vernon students were exultant. "We're definitely number on in the whole world," Nathan Adams said.

Andre was more prudent, "We're number one in the country," he said.

MEMBERS

Howard Barrington, Gary Bess, Jeffrey Cole, James Gibbs, William Grier, Jr., Dennis Kirkland, Carlton (Scooter) McCray, Rodney McCray, Larry McDonald, Joseph Palmer, Roy Smith, and Lonnie Webb.

Managers: Rickey Stanley and Eric Winely.
Statistician: Rocco D'Ambano.
Scorekeeper: Neil Scherer.
Photographer: Geo. Olson.
Head Coach: Mr. Richard Shore.
Assistant Coach: Anthony Fiorentino.●

GREGORY, LISA, AND JONATHAN HAYWARD

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BYRON. Mr. Speaker, it is with a great sense of personal loss that I address the tragic accident resulting in the passing of Gregory and Lisa Hayward and their young son, Jonathan.

The untimely demise of this Frederick, Md., family was a great shock to all who knew and loved them. The future appeared to hold great happiness and success for them, and our community greatly mourns the loss.

Mr. Hayward was prominent in the Frederick area in political and civic affairs, and was associated with the Monocacy Battlefield Commission, the YMCA, and the Frederick County-City Arts Council. In the 1974 and 1976 elections, Greg served loyally and well as my campaign manager and he was an outstanding young man. Lisa had been employed by the Maryland School for the Deaf in Frederick as a therapist, and left prior to the birth of their son Jonathan.

I know you will join me in extending the official sympathies of the House to the family and friends of this young American family.●

"WHITEWASH" ON HUMAN RIGHTS IN TURKEY?

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. EILBERG. Mr. Speaker, with news reports indicating that the administration will ask Congress to lift the arms embargo against Turkey, I firmly believe that we must be aware of reports on continuing violations of human rights in Turkey and on the island of Cyprus.

I recognize that our Nation must take note of the importance of Turkey in the NATO alliance. But I also recognize that we cannot turn our backs on the harsh treatment that religious minorities and political prisoners are subjected to in Turkey or the treatment that Greek Cypriots have received. To ignore the many reports of these gross violations of human rights would be to sanction them—and to bear responsibility for them.

Mr. Speaker, a recent column by Jack Anderson, distributed by United Features Syndicate, Inc., reports that the administration might be compromising its commitment to the protection of human rights abroad for the sake of Turkish military power. I offer Mr. Anderson's account for the RECORD, along with the statement that I share the feelings of a great number of my constituents in Philadelphia who care deeply that the United States stand firm in its support of individual freedom and human dignity around the world:

[From The Washington Post, March 5, 1978]

A "DELIBERATE WHITEWASH" ON HUMAN RIGHTS IN TURKEY

(By Jack Anderson)

The Carter administration is so worried about declining Turkish military power that it has falsified its report on human rights practices in Turkey and has portrayed the country as a virtual human rights paradise.

The false account, part of the State Department's "Country Reports on Human Rights Practices," was delivered to Congress several weeks ago. The department claimed it had little "conclusive proof" or "significant evidence" to support allegations of human rights abuses in Turkey.

A more enigmatic statement, worthy of master diplomat Henry Kissinger, was issued on Turkish-controlled northern Cyprus. Human rights questions in Cyprus, stated the report, "cannot be treated in isolation from political considerations."

These conclusions are disputed by the State Department's own files, which contain abundant evidence of the harsh treatment of minority groups and political prisoners. Indeed, the Turks have a reputation for brutality, which makes them fierce fighters and cruel jailers.

American citizens, who have had the misfortune of landing in a Turkish lockup, have told of vicious beatings. A favorite Turkish torture is to batter the soles of a prisoner's feet with truncheons, which causes excruciating pain and leaves him unable to walk.

The Greek government, taking exception to the State Department's fairy tale, lodged formal protests both in Athens and Washington. And Cypriot Ambassador Nicos Dimitriou marched into the State Department and indignantly delivered an official letter of protest.

The official view of human rights in Turkey, insiders suspect, is a deliberate whitewash intended to tip-toe around Turkish sensitivities. The Turks are still smarting from an arms embargo imposed by Congress after Turkish troops invaded Cyprus with U.S. weapons.

The Turks retaliated by closing U.S. intelligence installations in their country. These electronic listening posts monitored Soviet missile tests and military maneuvers. At Sinop on the Black Sea, for example, sophisticated radar devices could zoom directly on Soviet missile launch sites.

At the time the bases were closed, intelligence sources claimed they were responsible for about a fourth of the clandestine information gathered about Soviet military activities. American technology and ingenuity, however, have produced substitutes for most of the Turkish installations.

Far more important, in the Pentagon's view, is Turkey's role as the Mediterranean anchor of the NATO alliance. One worried general told us: "The big question is whether they can perform their NATO responsibilities without military aid. We get a real buy with the Turks. Give them a few weapons, and you buy a bunch of divisions. They've got the manpower, and they proved they could use it in the Korean War."

Our sources say that President Carter has adopted the military view. He has been strongly influenced by the joint chiefs, who meet with him frequently. In fact, the president recently boasted to his Cabinet behind closed doors that he "has generated a compatability among the strategic planners of our government unknown in former administrations."

He reportedly is preparing therefore, to ask Congress to approve the $1-billion defense agreement that was signed in 1976 between Turkey and the United States. The State Department soft-pedaled Turkish human rights abuses, our sources say, to avoid irritating a Congress that is already sympathetic to the Greek and Cypriot causes.

In any event, the human rights reports on Turkey simply do not reflect the truth. Particularly galling to the Greeks is the statement that "there does not appear to be any official discrimination against individuals belonging to minority groups" and that they enjoy, among other rights, "freedom of worship."

There has been a history of religious discrimination against the Greek Orthodox Church on Turkey. The best evidence can be found in the statistics; the Greek Orthodox population in Turkey has dwindled from 111,700 in 1924 to 13,500 today. A confidential diplomatic document, reporting on the oppression of Greeks in Turkey, cites these flagrant abuses:

A deliberate campaign of harassment has been reported against Greek Orthodox clerics in Istanbul, the very city where the head of the church traditionally resides. Greek religious leaders have been denied passports to travel abroad, even for pressing personal reasons. Editorials in the Turkish press have railed against the church. Following one series of articles, demonstrators laid a "black wreath on which were pinned slogans asking for the expulsion of the [Greek Orthodox] Patriarchate from Turkey."

Turkish authorities are cracking down on Greek minority schools. Teaching of the Greek language has been "severely curtailed," and Turkish officials have refused to appoint principals to Greek high schools. All repair requests in excess of $15 were refused last year. And the Turks have begun assessing heavy taxes on Greek schools, though they are owned by charity institutions, which are supposed to be tax-exempt.

Last year, Turkish officials began "the close surveillance of persons who visit the Greek General Consulate in Istanbul" and "systematically ask for [their] identity cards." Leaders in the Greek Orthodox minority have also begun to "receive anonymous letters, threatening the property and lives of the recipients and containing demands for ransom."

There is other evidence, which we lack the space to recount, that the State Department deliberately deceived Congress about human rights in Turkey.

Footnote: A spokesman for the Turkish embassy said his government would prefer to eschew "polemics" and discuss "issues" instead. Turkish authorities, he said, do not want to expel the Greek Orthodox Church from Istanbul, and they do not tax the church illegally. With respect to passports, the spokesman said that all Turkish citizens are limited to a single trip out of the country every two years, in order to conserve "hard currency." He also claimed that the Turkish minority in Greece is harshly treated.●

HELSINKI WATCH GROUPS IN U.S.S.R. SUFFER FURTHER DECIMATION

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mrs. FENWICK. Mr. Speaker, Martin Luther King, Jr.'s assertion that "Injustice anywhere is a threat to justice everywhere" eloquently captures the spirit of Helsinki final act provisions dealing with the subject of human freedoms.

On March 29, 1978, justice everywhere was threatened when two young citizens of the Soviet Ukraine, Mykola Matusevych and Myroslav Marynovych, were convicted of the "crime" of anti-Soviet agitation and sentenced to 7 years in labor camps followed by 5 years of internal exile. In other words, Matsevych and Marynovych lost their freedom because they actively participated in the activities of the Ukrainian Public Group to Promote Observance of the Helsinki Accords.

The sentencing of Matusevych and Marynovych was the last step in a judicial process whose every stage was characterized by injustice, illegality, and contempt even for Soviet "due process" statutes: Matusevych and Marynovych were kept in complete isolation for the 11 months preceding their trial. Their families and friends were barred from the courtroom during the trial, which was purposely conducted in the small Ukrainian village of Vasilkiv so as not to attract

public attention. The trial was such a mockery of justice that Matusevych refused to grant it the dignity of testifying in his own behalf, which resulted in his being forcibly removed from the courtroom. To keep Matusevych (31) and Marynovych (28) out of circulation during the most productive years of their lives, both were given especially long and harsh sentences.

With great moral indignation I protest the treatment given to Matusevych and Marynovych.

What is at stake here is not only the freedom of two courageous men, but actually, the liberty of their colleagues who carry on their work in the Helsinki watch groups.

Unless reaction in the West to this Soviet travesty of justice is swift and strong, unless we stand together in support of Matusevych and Marynovych, it is virtually certain that other Soviet Helsinki monitors will suffer.

To date, 18 out of the 55 members of the Helsinki watch groups in the Soviet Union have lost their freedom. Let us make sure that inaction on the part of principled men and women in the West does not seal the fates of the remaining 37.●

INFLATION AND THE DISASTROUS RECORD OF PRICE CONTROLS: PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. McDONALD. Mr. Speaker, the imposition of price controls under the previous Republican administration precipitated an economic disaster—the worst recession in 20 years, joblessness and unemployment for many American working men and women. That failure of the previous administration should serve as an object lesson to the present Democratic one; nevertheless, there are continuing reports that the Carter administration's antibusiness economic bureaucrats are considering a new imposition of price controls by the end of this year.

Barron's editor Robert M. Bleiberg is known both in this country and abroad as probably the most articulate and incisive economic analyst writing in the United States. Mr. Bleiberg is a perceptive critic of the strangulation of U.S. business by the multiplicity of Federal regulations, not the least of which has been the antibusiness price controls. He has recently published two editorial commentaries on the anti-inflation campaign of this administration and the price-control experiments of the Nixon-Ford administration; I thoroughly recommend these important reviews to my colleagues concerned with these issues.

The first article follows from Barron's of March 20, 1978, at this point:

TORCH FOR FIRE CHIEF? A CRITICAL NOTE ON THE ANTI-INFLATION CAMPAIGN

To judge by the newspapers, G. William Miller, just confirmed as chairman of the Federal Reserve Board, last week got off to a good start. "Miller Urges Top Priority for Fight on Inflation," ran the lead story in the American Banker, "Prompt Action on Energy." Headlined The Wall Street Journal "New Fed Chairman Miller Presses Carter to Boldly Attack Inflation, Energy Woes." Details of his testimony before the Senate Budget Committee served to strengthen the impression of a sound-money man and take-charge guy. Among other sensible remarks, the new head of the FRB, in commenting on the Administration's tax proposals, indicated that he favored more relief for business. He flatly labelled inflationary any increase by Congress in farm price supports. And to underscore his independence of the White House, Mr. Miller made a point of urging fiscal restraint. Specifically, he said that the $53 billion deficit in the nation's accounts which looms in the current year should be viewed as a "maximum," adding that it would be "prudent" to cut the $60 billion shortfall projected for fiscal '79. All in all, as several reporters noted, the new chairman sounded very much like his predecessor at the Fed, Dr. Arthur F. Burns, "if not more so."

By contemporary standards, journalistic and public relations-wise, high praise indeed. Despite an overwhelming weight of evidence to the contrary, including two devaluations of the national currency for which, as chairman of the late unlamented Committee on Interest and Dividends, he was largely responsible, Arthur Burns has now retired on his laurels as a staunch defender of the dollar. To be a central banker (as we have observed before), one needn't be a flim-flam man, but it helps. Be that as it may, after several close encounters with the credibility gap that frequently yawns between official words and deeds, the market reacted skeptically to Mr. Miller's strictures. After a brief burst of strength early in the week, on great (and overblown) expectations over the rescue operation supposedly launched by Washington and Bonn, the dollar again turned weak. Even as Chairman Miller was speaking, the greenback in several strategic foreign exchange markets, notably Tokyo, approached or touched new lows.

To one who regularly chronicles the foibles and follies of the mighty, such universal mistrust seems singularly well advised. Despite the plaudits which he tended to evoke in the press, Chairman Miller's testimony strikes us as something of a mixed bag. Amidst all the wit and wisdom, for example, the Fed official also was quoted as urging "strong Presidential leadership" to promote the so-called anti-inflation program, with its appeals to industry and labor for price and wage restraint, unveiled by the White House in January. Nor did his plea fall on deaf ears. Barely 24 hours later, Secretary of the Treasury W. Michael Blumenthal "confirmed" that the Carter Administration is weighing a "stronger" anti-inflation stance.

Meanwhile, a well-orchestrated chorus, featuring a number of current and former Washington economic seers, as well as the Federal Reserve Bank of New York, lately has began to voice cautious appraisal of one or another variation of what euphemistically is known as incomes policy.

What they mean, of course, is controls, with which (despite repeated disclaimers) the Administration is constantly flirting. As *Barron's* time and again has observed—and as the country not long ago had the painful opportunity of seeing for itself—wage and price controls don't work. However, temporarily at any rate, they may succeed in diverting public attention from the real villain of the piece, Washington's profligate financial and monetary policies.

Heedless of the consequences, to illustrate the White House has promoted such extravagant schemes as an increase in the minimum wage and a higher support level for milk. While preaching moderation to everyone else, the powers-that-be are pushing a vast expansion of government spending, the more wasteful, apparently, the better. Approaching the fourth year of economic recovery, when common sense and prudence, not to mention orthodox Keynesian countercyclical theory, would argue for restraint in federal outlays, the budget for the current and forthcoming fiscal years lurches more and more out of balance. Drunk for bartender is bad enough, but would you believe torch for fire chief?

Where there's smoke—or a smokescreen—there's usually fire. Thanks to the change in command at the Fed, all jokes about Carter fiddling while Arthur Burns are out, but the inflation scene is unmistakably getting hotter. Community prices lately have been surging by 3 percent per month, while in February, the wholesale price index for finished goods rose by a seasonally adjusted 1.1 percent, tantamount to an annual rate of 13.2 percent. Though doubtless aggravated by the extreme winter, with which no seasonal adjustment can cope, the return of double-digit inflation has triggered reveille in Washington. Instead of the 6 percent increase in the cost-of-living once confidently forecast for 1978, officialdom now is talking uneasily of 7 percent (the decline in the dollar, so Chairman Miller admitted last week, all by itself will add three fourths of a point to the index). Small wonder that he told the Senators: "I hope we have the courage to make inflation our highest priority.

Action (or at least the appearance thereof) is plainly what's needed, and action we're going to get. By the end of the month, so a spokesman for the President's Council on Wage and Price Stability has averred, his watchdog group will start to hold a series of meetings with key industrialists. According to Leonard Silk in *The New York Times*: "The first batch of business executives invited to sit down with government economists are expected to come from the automobile, aluminum, steel and lumber industries"; in contract to former practice, those on the list "would not be 'summoned' but invited to come on their own." Whether this is a distinction without a difference remains to be seen. What's clear is that despite the outrageous coal settlement, for which its behind-the-scenes arm-twisting is largely to blame, the White House aims to pursue its policy of urging restraints upon business. Push hasn't yet come to shove, but the thrust in that direction is painfully clear.

In short, the search for scapegoats is on; the game, so to speak, is afoot. All the while, the true culprits—which as always, are the U.S. Treasury and Fed—remain scot free to pursue their nefarious deeds. To be sure, in recent months the Federal Reserve—perhaps, as someone remarked to a leading business daily, as a "parting gift from Arthur Burns"—has been acting uncharacteristically tight-fisted. Whatever the reason, growth in money supply lately has slowed from a gallop to a crawl: approximatey 1%–3% in the weather-pagued current quarter. If the past is any guide, however, the slowdown is apt to prove strictly temporary. In 1976, the money stock increased at over 6%; in 1977, at an excessive 8.4% (in the second and third quarters alone, closer to 9%). With the coming of spring, we're willing to bet, the unwonted sluggishness in money supply will abruptly end.

As to federal expenditures, the Carter Administration has unveiled a budget which it describes as "lean and hard," thereby doubtless setting back fiscal fitness a generation or more. In any case, the figures have evoked caustic comment from several knowledgeable sources, notably Yale Brozen, Professor of Business Economics at the University of Chicago, who has described the $600 million allotted to Amtrak—"so many rolling museums"—and the $2 billion Tennessee-Mississippi River canal. More seriously, as Professor Brozen points out: "We are coming to

the end of a third year of recovery in the economy from a cyclical low . . . Deficits taper off during recovery and disappear by the time the economy enters its prosperity phase. The capital that was soaked up by large governmental deficits in the late recession and early recovery phase is no longer absorbed by government. It becomes available to finance additional business activity and construction. . . . This Administration, however, is not following the usual scenario. Instead, expenditures are being increased to new record peacetime levels, both in absolute amount and as a percentage of national income. The result is that the federal deficit is not decreasing. In this third year of recovery, it has increased to $60 billion from its $45 billion level in the second year of recovery. And it is being continued at that level in the coming fiscal year. That is absolutely unprecedented and utterly irresponsible behavior."

All of which gives added point to an insight offered by that wise man, the late Ludwig von Mises. In his book, Planning for Freedom, von Mises wrote: "The superstition that it is possible for the government to eschew the inexorable consequences of inflation by price control is the main peril. For this doctrine diverts the public's attention from the core of the problem. While the authorities are engaged in a useless fight against the attendant phenomena, few people are attacking the source of the evil, the Treasury's methods of providing for enormous expenditures." You can still fool most of the people most of the time.—Robert M. Bleiberg.●

THE ARMS CONTROL AND DISARMAMENT AGENCY CONTINUES TO SUPPORT UNVERIFIABLE AGREEMENTS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. KEMP. Mr. Speaker, on Monday, April 3, 1978 the New York Times carried a dispatch by Richard Burt concerning the latest arms control proposal advanced by the Arms Control and Disarmament Agency. This proposal—advanced surreptitiously to avoid comment by the Department of Defense according to the dispatch—would ban the production of fissile material suitable for the manufacture of nuclear weapons. Quite independent of the dangerous policy of seeking to avoid Department of Defense participation in a matter which so vitally affects our defense posture, the agreement proposed by ACDA continues the appalling pattern advancing high-minded arms control proposals which are utterly unverifiable, even if they were in the interest of the United States (which this most certainly is not).

Fissile material suitable for use in nuclear weapons can now be produced in a variety of facilities which are no different in outward appearance than any moderate-sized industrial establishment. The probability that laser-fusion techniques will soon be perfected diminishes further the chance that such restraint imposed on the United States and the other nuclear powers could act as a meaningful constraint on the Soviet Union. The ACDA proposals for a Comprehensive Test Ban, a Chemical Warfare Treaty, and for the limitation of strategic arms (SALT II) share a common property—they cannot provide complete confidence that Soviet compliance with such agreements can be verified. It appears that ACDA is more interested in making arms control agreements with the Soviet Union, whatever their merit, than in employing arms control for the purposes which the Congress intended when it established ACDA, to enhance the security of the United States.●

PHILADELPHIA MANPOWER COUNCIL HAS PUT 30,000 PEOPLE TO WORK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. EILBERG. Mr. Speaker, just recently Philadelphia's Mayor Frank L. Rizzo reported that in the past 6 years, more than 30,000 residents of the city have found jobs through the effort of the Philadelphia Area Manpower Planning Council (AMPC).

The AMPC is funded by Federal comprehensive employment and training programs.

By far, the majority of those employed through the AMPC—some 70 percent—were disadvantaged minority persons. Many others who secured jobs were unemployed, low-income, handicapped, or recent immigrants.

Some 19,000 of these jobs are in private industry—neighborhood stores, bakeries, business offices, manufacturing plants, lumber yards, and other industries.

The Mayor said:

These Philadelphians are now earning between $3.25 and $3.50 an hour, slightly above the country's minimum wage. After being trained by Area Manpower, they have gone out to fill these jobs found by AMPC's Private Sector Job Development Outreach Offices, and are contributing to the city's economic growth.

In addition, more than 11,000 Philadelphians were employed by the city in virtually every department and agency. At least 1,600 of these have transferred to employment with private industry, and over 6,000 are currently employed in federally subsidized jobs with the city, the School District of Philadelphia, and in public service employment programs of 1-year duration with nonprofit organizations throughout the city.

The city's public service employment program has been commended by J. Terrell Whitsitt, region III administrator, who noted that it was instrumental in helping the region to find jobs for more than 76,000 unemployed persons, or more than its share of the national goal.

Among the nonprofit groups which have been aided in this way are such organizations as the Spanish-speaking Concilio, the Philadelphia Association for the Blind, the Philadelphia Corporation for Aging, Jewish Y's and centers, Women in Transition, the Cardinal's Commission on Human Relations, Nationalities Services Center, Women Organized Against Rape, the American Red Cross, the Chinese Cultural Association, Horizon House, the Painted Bride Art Gallery, the Joan Kerr Dance Co., the Center for Literacy, et cetera.

Hugh Ferguson, executive director of the Area Manpower Planning Council, noted that AMPC's programs of training and employment services have brought well over a quarter of a billion dollars to the city's economy.

Ferguson said:

Beginning in 1971, with the Federal Public Employment Program, and then from 1974 with the broader Comprehensive Employment and Training Act (CETA), Philadelphia has been able to avail itself of $286 millions.

In addition to actually putting people to work at jobs in both government and private industry, we have provided a wide range of training programs for teenagers and adults to increase their employability.

More than 52,000 Philadelphians in the past 6 years have benefited by jobs training under CETA title I programs which aim to improve the work skills of people who have difficulty finding a job because of poor education, racial discrimination, or other social and economic reasons.

This job training has ranged from counseling to specific skills training to eventual job placement. In addition to AMPC's own training programs, subcontracts for training have been developed with such organizations as Opportunities Industrialization Center, John F. Kennedy Skill Center, the Negro Trade Union Leadership Council, the Philadelphia Welfare Department, the Concilio, the School District of Philadelphia, and organizations concerned with the mentally and/or physically handicapped.

Other persons have substantially benefited from CETA educational programs, with thousands obtaining a general equivalency diploma (GED), thus completing their high school education, or becoming more fluent in English for those to whom English is a second language, or completing adult basic education courses.

Teenagers are also a vital concern for area manpower, Mayor Rizzo noted:

More than 56,000 teenagers and young adults between 14 and 21 have had eight-week summer jobs in the City's Summer Youth Programs during the past six years.

Last summer, more than 5,000 of these young people were employed in 22 different City departments, and over 7,000 more were employed by the Negro Trade Union Leadership Council, the Archdiocese of Philadelphia, the Greater Philadelphia Federation of Settlements, and the Philadelphia School District.

For the coming summer in 1978, we expect to be able to provide summer jobs for about the same number with more than $6-million we will receive from the U.S. Labor Department.

Another group of about 1,500 young people from 14 to 21 years, both in and out of school, are receiving a variety of training and employment services through 13 public and private agencies with experience in employment services for youth, including the school district

and the archdiocese. At the conclusion of the 9-month project, it is expected that over 400 of them will find unsubsidized employment and most of the 1,100 remainder will have been motivated to return to school.●

SCHOLARSHIP HOLDUPS HAVE COLLEGES FUMING

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. CORCORAN of Illinois. Mr. Speaker, our tuition tax credit legislation has caused some controversy on Capitol Hill because the bureaucrats want to control all the dollars used to educate our children. If they had better control over existing education funds and programs, perhaps the tax credit approach would not have the popularity evidenced in the 218–156 vote of the House on March 20, preventing the railroading of H.R. 11274 to the House floor with restrictions prohibiting any amendments.

Recently I read an article in the March 19, 1978 edition of the Davenport, Iowa Quad-City Times which documents the difficulties the bureaucrats are having and suggests why any new Federal funds for education should go the tax credit route. I commend the following article to my colleagues:

SCHOLARSHIP HOLDUPS HAVE COLLEGES FUMING

(By Mike Briggs)

SPRINGFIELD, ILL.—The head of the state scholarship commission is sorry—again.

Private college officials moan that the state agency that distributes nearly $70 million in financial aid is a sorry situation. Dr. Joseph Boyd, executive director of the scholarship commission, blames computer problems for the delays that often leave applicants and colleges in financial limbo. He says the commission is striving to do better.

Lags between making applications and the announcement of state scholarship recipients cause recruiting problems for expensive private colleges. A prospective student faced with making a commitment about which college or university to attend often opts for the cheaper state university if the amount of state scholarship aid—potentially up to $1,550—is unknown.

Delays in making payments to colleges where state scholarship students are already enrolled causes another problem.

"They owe us about 400 grand for the second quarter, which was over at the end of February," complained Tim Dodge, associate director of admission and financial aid at Augustana College, Rock Island. "Our business office is screaming at us to find out where the money is," he said.

Knox College, a small liberal arts school in Galesburg, Ill., still is waiting for about $200,000 the state agency owes for students who attended winter term classes.

"If we don't get that until three months later after it has been spent, it causes cash flow problems," Knox president E. Inman Fox said. Knox spends about $45,000 a year to pay interest on short term loans necessitated partially by delays in getting money from the state.

Officials at George Williams College have been assured by commission officials almost weekly for several weeks that the roster of scholarship students enrolled for the winter term would be available the following week. The roster is needed as one step in the process of getting state reimbursement, and president Richard Hamlin was still waiting Friday.

The Downers Grove, Ill., private school is feeling the pinch of being short about $165,000 owed by the state. "The commission has us veritably by the throat," said Chuch Coughlin, admissions and records director at the suburban Chicago college.

Private colleges feel another kind of squeeze when announcements of state scholarship winners aren't made until after students are pressed by state university admission offices to make enrollment deposits for the coming school year.

Boyd had hoped announcement of aid recipients would have begun in November and December. Instead—because of computer problems—the first announcements were not made until mid-February.

Computers were blamed for even greater delays in making scholarship announcements last year, and programming problems are the culprit in the late payment problem, Boyd said.

He said the kink that stalled the reimbursement effort for weeks was finally unraveled Thursday and the paperwork stream of foster printouts that lead to vouchers from the schools that are sent to the state comptroller's office and eventually result in checks being issued to the colleges should begin to flow again soon.

Alban Weber, president of the 54-member Federation of Illinois Colleges and Universities, said he has heard the story that the computer problem was finally fixed before. "They tell me that they got that part of it licked," Weber said. "I don't believe it yet. I'll believe it when I see it."

Boyd said he knows the situation makes it rough on colleges, that he is sorry it happened again and that "our goal is to continue to make announcements earlier."

Augustana's Dodge said the time lag in getting information from the scholarship commission has become routine. "We have experienced it so many years we just plan our program to experience such delays," he said.

He said trouble with the commission was one factor in Augustana's decision to begin a greater student recruiting effort in other states. "We counted on the state scholarship commission too long. We're planning for the future," he said.

At Knox, Fox said the delay in award announcements again this year is troublesome, "but they are so far ahead of last year we feel it's a victory. Last year they were still processing scholarships in August."

Robert Corcoran, Gov. James R. Thompson's advisor on education, said changes are needed to make the scholarship commission operation more efficient.

"I have trouble myself blaming it on a computer," Corcoran said. "That sort of evaluation can only last for so long."

The commission members and the staff should view the problem as a high priority item "and come forward to the institutions that depend on them to indicate what they're going to do to correct the problem," Corcoran said.

Corcoran said one way to make the commission operate more efficiently would be to make the criteria for state scholarship eligibility clearer and simpler.

"One of my personal hopes is that we can take out the mystery of who qualifies for financial aid," he said.

Curtis W. Tarr, Moline, who was recently appointed chairman of the scholarship commission by Gov. Thompson, said he is not familiar with agency procedures but hopes to meet with leaders from private and public education to develop a plan for the process to run smoother next year.

He said the commission that oversees the operation of the state scholarship agency should take greater responsibility and a more active role in assuring the program is run efficiently.

"I feel the real purpose of the commission is to take care of the needs of the young," Tarr said.●

RECIPROCAL OCEAN AGREEMENTS ACT OF 1978

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. MURPHY of New York. Mr. Speaker, the Committee on Merchant Marine and Fisheries has been seeking to enact legislation that will carry out our national shipping policy as stated in the Merchant Marine Act of 1936 and the Shipping Act, 1916. That is, to establish and maintain a strong merchant fleet, owned by American citizens, manned by American crews, and capable of serving as a naval and military auxiliary in time of war or national emergency.

This national policy also specifically provides that we have a merchant marine sufficient to carry a substantial portion of our commerce in our foreign trades.

The Federal Maritime Commission is the regulatory agency charged by Congress with the statutory responsibility for regulating both U.S. and foreign shipping lines engaged in carrying our Nation's import and export trade in foreign commerce. The Shipping Act, 1916, as amended still provides the basic pattern of Federal regulation of the ocean freight industry.

In the administration and general application of the shipping laws the Commission is charged with the responsibility to keep always in view the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of an adequate privately owned merchant marine.

I am introducing today legislation which is primarily intended as a procedural statute designed to overcome procedural delays which can disrupt commercial relations with our trading partners.

This bill would authorize U.S.-flag carriers and carriers of our trading partners to enter into pooling, rationalization or similar types of reciprocal ocean transportation agreements and would permit those agreements to become effective 30 days after filing with the Federal Maritime Commission.

The types of agreements which would be covered by the bill are those which frequently are entered into by carriers to implement bilateral, government-to-government agreements. In recent years, these agreements have been particularly conspicuous in our liner trades with South American countries where, from all present indications, rate increases, malpractices, and Soviet carrier penetration have been kept to a minimum.

Therefore, the rapid implementation of these agreements should facilitate trade and improve the ability of our U.S.-flag merchant marine to compete fairly in our liner trades, while at the same time providing a stable atmosphere for shippers through rationalization of competing services.

The major problem in implementing agreements of this nature in the past has been the general requirement that a hearing be held before approval whenever there is a protest to such an agreement. Hearings often take years to complete and, meanwhile, the agreements cannot become effective.

This bill would eliminate that problem by permitting these agreements to become effective 30 days after filing with the FMC unless the FMC exercised its power of suspension.

Agreements that appear not to be in the best interest of our commerce could be suspended by the FMC pending a hearing.

The FMC's power to suspend would be discretionary, as it now is with respect to tariff rates in the domestic off-shore trades. The Commission would have to state its reasons for suspending an agreement, but failure to suspend would require no justification.

In addition to its suspension power, the Commission could also disapprove after hearing any agreement that it found in violation of the standards now set forth in section 15 of the Shipping Act, 1916.

The agreements would be immune from the antitrust laws as long as they permit other carriers to participate in the trade and provided that the Federal Maritime Commission did not suspend nor disapprove them.

This legislation meets the need for rapid implementation of specific agreements without stripping away all Government control over such agreements. The type of control that is prescribed in the bill, moreover, will be more expedient and less cumbersome than the current process of approval of all such agreements. Procedural delays would be eliminated for most of these bilateral agreements because they would become effective without hearing and without the necessity for any type of approval.

Mr. Speaker, we have set forth on a comprehensive program to effect a coherent national maritime policy. In addition to H.R. 9518 which has already passed the House and is intended to clear our trades of malpractices, we are already engaged in hearings on H.R. 9998, a bill designed to remedy the problem of predatory rate cutting which threatens the stability of our ocean trades by States-controlled carriers; and we have also commenced hearings on H.R. 11422, a comprehensive bill whose purpose it is to deal effectively with the overtonnaging problem. This bill for the first time would make some of the most significant changes to our maritime regulatory scheme since the Shipping Act became law in 1916.

The proposed legislation addresses the problems which presently exist in those trades where governments of certain nations have enacted laws and decrees assuring the carriage of a substantial portion of their exports and imports on their national flag ships. In these trades there would be immediate strengthening of U.S.-flag liner services where the provisions of this bill were implemented, reduction of overtonnaging and assurance to the American public of continued long-term efficient and economical shipping service.

Joining with me in introducing this important legislation are: Mr. LEGGETT, Mr. BIAGGI, Mr. ANDERSON of California, Mr. METCALFE, and Mr. ZEFERETTI.●

BOSTON CELTIC—JOHN HAVLICEK RETIRES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. MOAKLEY. Mr. Speaker, the word "superstar" is often overused in the world of sports, but in the case of John Havlicek I think it fits him perfectly.

For "Hondo," as he is known to his fans, has been a true all star both on and off the court.

Who will ever forget the game where Havlicek stole the ball on a Philadelphia inbounds pass of a championship game to protect a Celtics' victory?

Or the year when he injured his shooting shoulder and played a tremendous playoff series, against New York, left handed?

And who could forget his 15-footer in the final seconds of the second overtime in that memorable triple-overtime game against Phoenix, which helped the Celtics on to their most recent championship?

These are just a few example of John's ability, as is true of all real superstars, to rise to the occasion.

In the course of his 16 year career, John has set his spot in the NBA record book: Third all-time leading scorer behind Wilt Chamberlain and Oscar Robertson; most games played; most field goals attempted; second only to Chamberlain in field goals made; second to Chamberlain in minutes played; sixth in assists; and sixth in foul shots made.

But sports fans in New England and across the Nation admire John Havlicek for more than just his basketball skill. Throughout his career, he has been a good example of sportsmanship and always appreciative of the support of his fans. John has also been selfless in his work with the retarded, and others in needs.

Recently, John announced that this season will be his last, and has been met by large crowds in arenas across the country during his farewell tour.

Basketball will miss John Havlicek for his ability for teamwork and hustle was instrumental to the eight championship teams he played on, but John will take with him the respect and love of his many supporters.

On April 9, when John Havlicek hangs up Celtics' jersey No. 17 for the last time, it will end the era of a true superstar.●

OVERVIEW OF AVAILABLE HUD PROGRAMS

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. ASHLEY. Mr. Speaker, I am pleased to have this opportunity to share with my colleagues the remarks recently given by Secretary Patricia Roberts Harris to the National Newspaper Association on the occasion of their 17th Annual Government Affairs Conference in Washington. I want to particularly commend to the Members' attention, the Secretary's presentation of HUD's efforts to promote comprehensive community development, and her cogent analysis of special initiatives designed to assist our country's smaller metropolitan areas. This concise overview of available programs and departmental policy and objectives should prove valuable to all those Members with small municipalities in their districts.

REMARKS BY PATRICIA ROBERTS HARRIS, SECRETARY OF HUD

When I received your invitation to address you today, I was reminded of some words written a few years ago by the late Walter Lippmann: "The tension between elected officials and the working press is not a deplorable inconvenience . . . It is at the very heart of the American system of Government . . . The genius of the American system is to check and balance all forms of absolutism including that of the majority and that of the press.

"In the relationship between the government and the press there exists a system of checks and balances . . . These opposing powers check and balance one another, and result in a tolerable and workable adjustment. The fundamental assumption in the American system is that the individuals concerned—officials, voters, newspapermen—understand and believe in the system and mean to make it work. This is the great consensus by which the Republic operates."

This description of the roles of press and government is quite different from the popular contemporary expression of the relationship between the two. Again and again, members of the working press and other members of the media assure me that the press is the "adversary" of the government and that media coverage of public officials and public acts must never lose sight of that "adversary role." The dictionary defines adversary as "opponent" and "foe," Where there are opponents and foes, there must be efforts to create "winners and losers." Surely neither the press nor the government want the other to "lose" in any sense of that word. Yet, attack for the sake of attack, and insistence that only weakness of government and government officials be revealed is the essence of the creation of "losers," both within government and within the press. The press loses because the public knows, even as they lick their chops over the latest revelations of the misbehaving of their elected and appointed officials, that nothing is all bad, and they then question the veracity of the press. At the same time, they don't know whom to trust in government.

and therefore dismiss us all as self-seeking, self-indulgent, and probably dishonest.

How much better then, is the Lippman thesis that we, the press and the government, are part of a carefully crafted system of checks and balances. Your task is to seek the truth and to publish it for your readers. My task is to execute my governmental responsibilities in a responsible and open way that can be conveyed to your readers. But if your selection of what occurs is not fair and accurate, you fail to serve both your public and my public—they are both the same—the American people.

We share the opportunity and responsibility to make certain that government works properly. While we officials formulate plans and operate programs here in Washington, it is you who convey information about them to the people. You decide how much—or how little—they are to know about any given action.

This is especially true in small towns and suburbs, where the weekly newspaper frequently remains in the house for several days and is read in greater detail than the big-city dailies of massive size. I am no stranger to small cities; I was born in a town of less than 20,000 population in Illinois.

You are an influential partner in our work and your readers are a significant part of our public. One-third of the American people live in cities of less than 10,000 inhabitants or in the open country. Many of you publish papers in much larger areas.

How you decide to translate our programs to the people of America is of vital importance. What you do not report can be of even greater significance than what you choose to print.

For example, recent newspaper reports have attempted to distinguish between community development and economic development, despite the fact that there can be no community development without integrally related development and maintenance of those economic institutions that provide jobs and services for people who live in the community and a tax base for maintenance of the health of the city.

The Department of Housing and Urban Development and its predecessors have always been a major source of community economic development in both urban and rural areas. Any report of our economic development initiatives would reflect the important fact that HUD provides the largest amount of funding for community and economic development of any Federal agency.

The Department and its predecessor agencies have been building housing in urban and rural areas for 40 years. Some of the best housing in rural areas is operated by local housing authorities with HUD operating subsidies. Subdivision after subdivision of single family housing has been insured by FHA in the last three-and-a-half decades. HUD provided $13.7 billion for Urban Renewal. Half of that was for economic development activities, such as downtown business district projects, industrial parks, and support for neighborhood business. The Model Cities Program devoted nearly $360 million to neighborhood economic development activities.

In the Community Development Block Grant Program, which succeeded Urban Renewal and Model Cities, as much as 10 percent of the funds were used to support economic development activities. Several times that amount has been used for such related activities as land acquisition and water and sewer installation. Thus the economic base of many cities was created and maintained by FHA insured housing developments.

Our commitment to focus all of the necessary tools of housing and community development cohesively and coherently on the problems is unswerving, and our results have been unprecedented. This year, for example, HUD will provide for the construction of $5.2 billion of new and rehabilitated housing and it will insure $8.3 billion worth of mortgages in urban areas.

Our realistic perspective and pragmatic understanding are clearly evident in the 1977 Housing and Community Development Act. Changes in this Act will enable HUD to become a strategic investor in cities and an active partner with public agencies and the private sector in combating economic decline in urban America.

While our greatest resources will be targeted to the areas of greatest need, our goal is decent housing and a suitable environment for all of our people—in cities, suburbs, and rural areas. Prior to the 1977 Act, the resources of the Basic Block Grant Program were used almost entirely for residential rehabilitation and infrastructure renovation—infrastructure being the buildings, roads, water and sewer systems, and related items already in place in cities.

Amendments in the 1977 Act greatly broaden eligibility for economic development activities. Cities now have broad latitude in the kind of activities they can undertake in business assistance, the acquisition and improvement of commercial structures, and the development of comprehensive economic development programs.

The most significant change in the 1977 Act was the creation of an entirely new program, the Urban Development Action Grants Program. I fought for this program because it marks a major step toward a comprehensive approach to local development needs. There is no other program like it.

The Action Grant idea is predicated on the assumption that the best way to aid stagnating local economies is to encourage private investment that will lay the foundation for more permanent solutions to recurring development problems. The Federal government cannot solve all of the problems of declining urban economies by itself. The program will provide communities with adequate "up-front" money to help them initiate economic development action and attract the necessary private investment to make those actions work.

The Action Grant program is neither anticipatory nor speculative. It is not an off-the-shelf program. Each city must submit a plan that meets the Urban Development Action Grant requirements. The Grant can be used for everything from land write-downs to quasi-public development of commercial properties with lease-backed provisions to private enterprise. It can be combined with secondary mortgages. We sought and have obtained $1.2 billion for the program over the next three years, of which $400 million is budgeted for the 1979 fiscal year.

One example of what a community plans to do with an Action Grant comes from a relatively small city. It is proposing to use the funds to acquire land for the construction of a major hotel and office building complex in a declining downtown central business district. As an added bonus, the city has secured funds from the Economic Development Administration of the Department of Commerce to build a Civic Center in an adjacent area. More than 500 new jobs will be generated and at least as many existing jobs will be preserved. This is an innovative proposal which dramatically illustrates how effective joint ventures involving the business and public sectors can be.

The Action Grant program promises to be one of the most effective and popular programs ever formulated by HUD. The application process is relatively simple, representing a miraculous reduction of Federal red tape. There is a built-in time clock to ensure that the review process moves expeditiously. The program is flexible and encourages local communities to take a creative and comprehensive look at their development needs. In response to the comments received from small cities on our draft regulations, we have established May as the first month that applications will be officially received under the program from small cities.

The Action Grant Program, combined with the Basic Block Grant, the Housing Programs, and other Federal assistance, provides local leadership with a major tool to battle recurring economic problems. It is premised on our firm belief that all community development activities are interrelated and that all elements of the community must be involved to make local programs work as wisely and well as possible.

Our efforts to communities to harness a variety of Federal assistance already have had positive results. For example, last year in Jackson, Michigan, separate sanitary and storm sewer systems were financed by HUD Block Grants and the Economic Development Administration's Local Public Works Grants. Social services for the elderly were jointly funded with ACTION's Retired Senior Volunteers Program.

In Asheville, North Carolina, Block Grants and Section 312 Rehabilitation Loans were used to fund a housing rehabilitation program. A fire station was jointly financed with EDA funds. And the Appalachian Regional Commission was funding a child development project area.

Examples abound, and their message is clear. HUD does a great deal more than install street lights in rundown neighborhoods. We are dedicated to the concept of comprehensive community development. This must include economic development, housing preservation, infrastructure repair, and all of the other physical and social investments needed to improve our cities' living environment and local economy.

This is important in small and large cities alike. HUD allocates more than one billion dollars a year to cities under 50,000 population to help them solve their community development problems. The small cities of this country are among its greatest assets. Final rules of our Small Cities Program, which we refined after receiving a heavy volume of comment from the cities on the draft rules, were published in the "Federal Register" on March 1. These rules will help us help your cities—and enable them to help themselves—better and more effectively.

We cut the original draft regulations by 25 percent, which means considerably less red tape for the small cities. Key elements of the program include: multi-year funding commitments—up to three years—to small cities of any size; the establishment of a competitive selection system which gives priority to the real needs of the community; and encouragement for states and counties to apply for grants on behalf of the small cities which may lack technical expertise. These rules show once again that listening to the voices of those affected by Federal action is HUD's best, common sense approach to making wise decisions.

In January, I established a Task Force on Rural and Non-metropolitan Areas, chaired by Joseph Burstein, Counselor to the Secretary of HUD, to work to improve HUD's performance delivery in all programs serving the nation's rural and non-metropolitan areas. Last week I announced initiation of a second examination with a different emphasis. A major study of the immediate and long-term community development needs of small cities will be made by Assistant Secretaries Bob Embry and Donna Shalala. They will determine how well the Federal funds that are provided to small cities match the needs of those cities, their residents, and the needs of the nation as a whole.

We again will be listening to the voices of the communities by relying heavily on the views of small cities and their representatives. We are determined to improve the Department's long-range ability to serve smaller cities and non-metropolitan areas.

These programs and studies are the cutting edge of HUD's determination to serve all cities, regardless of size, composition, or location. Small cities are an integral part of our whole urban network. And it has been proven time and again that no whole is better than the sum of its parts.

Fortunately many of you have not yet been faced with the problem afflicting our larger, older urban areas, but you know that the problems have spread. You must have been highly pleased with the Gallup Poll which was released last weekend. It indicated that only 15 percent of the people in communities under 50,000 population desired to move to a new location, as contrasted with 36 percent in cities over 50,000 and 39 percent in cities over one million population.

The health of the nation as a whole is dependent on the condition of each and everyone of our cities. The more people continue to flee the big cities, the greater the chance that you will be faced with haphazard growth and its inherent problems.

As Chairperson of the President's Urban and Regional Policy Group, I am committed to a better America for all of our people. Our examination of the condition of America found that many cities are unable to provide the services their people need, that migration of people and industry in many cities has eroded the city's fiscal resources and increased the problem of unemployment, and that many cities which received the new people and firms are having serious problems with unplanned growth.

The changing people and job patterns mean that: many disadvantaged people are being ignored and left behind; older central cities have eroding tax bases and are reducing urban services; there is a decline of larger, older metropolitan areas and their regions; there is dispersal and sprawl on a metropolitan scale; there are fiscal imbalances between older cities and suburbs; and some growth cities are experiencing early signs of decay.

A recent report by the Brookings Institution suggested that one-quarter of the cities above 50,000 population and one-half of all cities above 500,000 population can be characterized as distressed. Even "healthy" cities have "pockets of distress." Our mission is to restore those cities, while ensuring that the others remain viable. Clearly, just as there is no single urban problem, there is no single solution.

A truly national urban policy must reach out to all of our cities, but it must recognize that some require more—and more immediate—assistance than others if it is to be equitable. The vitality of our cities is crucial to maintaining the economic strength and quality of life in our country.

The economic necessities and moral imperatives are clear. We simply cannot afford to abandon our cities with their multibillion dollar infrastructures already in place. And we would not be so callous as to move the poor city dwellers out of the urban centers where they live. For millions of people, the cities—with their historic buildings, architectural landmarks, and towering skyscrapers—have symbolized choice, opportunity, and hope.

In order to save the cities, in order to help the disadvantaged and those left behind, we must target our limited resources where they are most needed. By sharing up their lagging economic bases now, we can short-circuit portended trouble for other cities . . . for other people.

People are the only reason that there is a Department of Housing and Urban Development and the only reason that there will be a national urban policy, just as they are why you publish your newspapers. A profile of the people left behind in the declining cities is bleak at best.

The flight of the middle class left concentrations of the poor, usually black and disadvantaged ethnic groups, in the central city. In 1973, some 8.4 percent of all persons from poor white families lived in low-income areas of central cities, while 40.4 percent of members of black families lived in such areas. Today more central city children face the hardships of poverty than in 1970, and between 1970 and 1975, the number of city families in poverty grew by 270,000.

Fortunately, we may be beginning to see a modest reversal of the migratory trend. Recent polls and reports have indicated that many people take pride in their neighborhoods. And we are seeing examples throughout the country of young couples and other people moving back to the cities from the suburbs.

Our work is to support that movement, to give people the wherewithal and encouragement to reclaim their cities. We must ensure that all people have the opportunity to live and live decently where they choose—whether that be city, suburb, or rural area. I commend your cooperation with HUD's Office of Voluntary Compliance in furthering the objectives of the Fair Housing Advertising Guidelines. Your participation on our ad hoc national newspaper committee and other special projects has advanced this important work substantially in recent years. We are particularly grateful for the unfailing cooperation of Jim Cregan, your General Counsel.

All of these efforts must be continued, redoubled, if we are to provide decent housing in a suitable environment for all of our people. We must not minimize the magnitude of that challenge—14 million Americans still lack decent shelter. The words "equal opportunity" must sound hollow indeed to those 35 million households which have incomes below $10,000.

In the reclamation of urban America lies the salvation of all our country, all of our people. Clearly on such an issue and such a mission we can never be adversaries. Our mission must be the same—to inform our people of our need, so they can meet it responsibly. When we fail to make the proper judgment about need, and you point to our error, you are not our adversary; you are our salvation. By working together, we find the truth.

In this way, we make real the checks and balances which Walter Lippmann described. By so doing, we do indeed create "the great consensus by which the Republic operates."

Thank you.●

EDWARD M. AKERS

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BYRON. Mr. Speaker, certain individuals touch the lives of people around them with great influence. One such man who was a moving force in his community and State was Edward M. Akers, well-known Frederick and Maryland resident. It is with a great sense of personal loss that I note his passing.

Mr. Akers had served more than 30 years in the Maryland Comptroller of the Treasury's office, had served in many positions in the Democratic Party, was a member of the Order of DeMolay, the Knights of Pythias, Francis Scott Key Lions Club, Independent Hose Co., the Ruritan Club, American Legion, and Maryland Classified Employees Association, to name just a few.

Although Mr. Akers' talents and contributions are too numerous to list here, his services will long be remembered and appreciated. He will be greatly missed by his wife, Ruth, and family, friends, and coworkers; and I know you join me in extending the official sympathies of the House in honor of this unselfish and patriotic American.●

WHO'S MINDING THE STORE?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. DORNAN. Mr. Speaker, President Carter has recently returned from his trip to Africa where he talked to some black national leaders. Many topics of mutual interest to Africa and the United States were discussed. Now, I do not know if the Cuban presence in Horn of Africa was high on that list of topics, but it most certainly must be on the minds of those African leaders.

The undeniable presence of Cuban soldiers in Ethiopia and Somalia has raised many questions which have been voiced in the media, in Congress, and across the country. What is their long-term goal in Africa? Is this a mere rehearsal for future guerrilla warfare in South America? Should the United States intervene to reverse this foreign aggression? Should Soviet/Cuban withdrawal be a prerequisite to any SALT II negotiations?

But one question which I have not heard asked is this: "Who's minding the store?" If the Cuban soldiers are spread all around Africa, who's manning the barricades in Havana? If Cuban pilots are flying around the skies of Somalia, who's handling the air defenses over the home island? Could it be that Castro's dictatorship was shortsighted enough to leave itself temporarily defenseless?

Not likely.

Who's minding the store and who's manning the barricades and who's flying the planes is the topic of a recent article in the international magazine, "To the Point." I ask that that article be reprinted in the RECORD for my colleagues and urge that they read it carefully.

[From To the Point International, Feb. 27, 1978]

SOVIET AIR FORCE STANDING IN FOR CASTRO'S

Ugly reminders of the early 1960s Cuban missile crisis have been dragged up again by reports that Russian pilots are flying in defence of Cuba.

The Soviet Union, it has been established, is standing in for Fidel Castro's air force while more and better Cuban pilots are sent to the Horn of Africa to support Ethiopia in its war against Somalia in the Ogaden.

Cuban intervention there in Soviet-built

fighters has been a major factor in Ethiopian success as the jets provide air cover during counter attacks. Russian's presence now above Cuba has a double significance. First, it increases the strength of the communist fighting presence in the Horn of Africa without the risk of worldwide condemnation of the Soviet Union for being directly involved itself. Cuba, as a third world revolutionary nation, is seen as a far more fitting country to involve itself in African battles. Secondly, Russian aid to Cuba is increasingly held to contravene an agreement reached during the missile crisis, when Russia tried to deploy nuclear missiles on the island, that America would not invade Cuba provided Russian troops were not based there.

Washington, which has not yet said how it discovered the Russians' presence or what significance it attaches to them, will probably not see the latest events as a direct threat to national security. While Moscow merely flies in defence of Havana, and takes no more hawk-like role than that, Washington decision makers are likely to sleep reasonably easily in their beds.

On the other hand, increasing the number of Cubans available for the battle is not a move calculated to improve Washington's chances of success in securing peace in the Horn of Africa and in discouraging Cuban intervention elsewhere on the continent.

Cuba is not a member of the Warsaw pact defence alliance but co-operation is nevertheless close. Soviet military aid to the island was increased, for example, when Cuban exiles with American support tried unsuccessfully to overthrow Castro in 1961. Russian forces are believed to have manned the defence batteries which brought down a U.S. U–2 spy plane in 1962. Havana and Moscow have been in close communication ever since.●

ST. BERNARD (OHIO) CITY CENTENNIAL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. GRADISON. Mr. Speaker, April 6 marks a very important date in the history of St. Bernard, Ohio. On April 6, 1878, St. Bernard City Council conducted its first meeting and 100 years later a commemorative council meeting will be held to kick-off the St. Bernard City Centennial. I want to take this opportunity to congratulate St. Bernard on 100 years of exemplary government.

The city of St. Bernard has provided a well-balanced community structure for its residents over the years. As a self-contained city within the larger Cincinnati metropolitan area, St. Bernard offers the advantages of a big city with the comforts of a small community.

St. Bernard has provided its citizens with outstanding educational and recreational systems and facilities. Its residential property ranges from meticulously kept older homes to modern subdivisions and apartments. This quality of life is reflected in its public services as well. Its police department, fire department, and municipal services are all housed in modern facilities and outfitted with up-to-date equipment.

In addition, St. Bernard has fostered a sound relationship with private businesses which has produced the strong economic base that makes these public services possible. Besides local businesses, three nationally recognized private enterprises—Procter & Gamble, Emery Industries, and Miami Margarine Company—make their home in St. Bernard.

St. Bernard aptly describes itself as a community that takes its self-government seriously—over 90 percent of the population turns out for local elections. This enthusiasm and civic consciousness is reflected in the quality of St. Bernard's municipal institutions.

Mr. Speaker, St. Bernard's Centennial is an event we all can celebrate, a century of successful municipal self-government.●

"GREENING OF USDA"

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. HAGEDORN. Mr. Speaker, I believe that the following correspondence from the American Association of Meat Processors to Secretary of Agriculture Bergland will be of interest to those concerned about the greening of the U.S. Department of Agriculture:

AMERICAN ASSOCIATION
OF MEAT PROCESSORS,
ELIZABETHTOWN, PA.
March 23, 1978.

Hon. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR SECRETARY BERGLAND: The purpose of this letter is to lodge a formal complaint with you against one of the officials of your department, Dr. Robert Angelotti.

On Thursday, March 16, 1978, I took part in a hearing in Washington conducted by Dr. Angelotti on the Meat Grading and Labeling proposal that was published in the Federal Register on January 23, 1978. I was one of approximately 20 people representing every major group in the meat industry and allied agribusiness interests who came to Washington, many from distant points, to present testimony concerning this far-reaching proposal. All of those who testified opposed the proposal . . . even the consumer representative. Many facts and figures were presented concerning the adverse effect the proposed changes would have on the industry and on consumers if adopted.

Never before in the 27 years I have been representing small meat firms in Washington have I witnessed anything like Dr. Angelotti's antics as he conducted that hearing. He was arrogant, disrespectful and abusive. As witnesses gave testimony, he frequently conveyed to the audience his disdain of what was being said by the way he carried on with the members of his panel . . . laughing, talking, gesturing and posturing. He rudely interrupted me during my testimony to challenge something I said, claiming that I was purposely trying to make Department officials look ludicrous. Joan Dannelley, a member of my staff, immediately challenged him from the floor, quoting from the grading proposal to show him that what I was saying was true. When he realized that he had, in fact, made himself look ludicrous because of his own ignorance of how the point of the proposal under discussion would affect the meat industry, he lamely apologized and allowed me to continue.

After an entire day of receiving testimony, Dr. Angelotti adjourned the hearing . . . but before he did so he scolded those in attendance. He said he was disappointed, that the day was wasted, and that he had not heard one fact presented during the entire day.

In one sense he was right. The entire day was wasted for all of the approximately one hundred people who came to that hearing. It was wasted because Dr. Angelotti did not want to hear anything with which he disagreed. It was evident that his mind was made up before he came. Because of this, the hearing was not only a waste of time, it was a farce.

Let me make one thing clear. I have no personal feelings against Dr. Angelotti. If anything, I guess I'd say I am amused by his buffoonery. But, what I and thousands of people in the meat industry are deeply concerned about is the low level to which officialdom is sinking in the minds of the rank and file of Americans because of people like Dr. Angelotti.

This man is dangerous. He is dangerous because he is making sweeping changes in the Department and throughout the meat industry without really understanding what he is doing. His ignorance about the meat industry and how it works is appalling. Many of the things he is proposing will be destructive to the meat industry and costly to the consumer. And, at the same time, he is wrecking the morale of dedicated professionals within the Department who have given lifetimes of devoted service to our nation. This must be stopped!

Mr. Secretary, we respectfully ask you to act immediately to end the confusion and uproar that Dr. Angelotti has created by demanding his resignation as the Administrator of the USDA's Food Safety and Quality Service.

Sincerely,

ROBERT L. MADEIRA,
Executive Director.●

RURAL AVIATION

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BAUCUS. Mr. Speaker, the upcoming months will present three crucial issues for aviation. First, the Federal Aviation Administration will continue to formulate new policies regarding flight service stations. Second, new regulations governing the Airport and Airways Trust Fund will be considered in committee. Third, legislation deregulating the airlines may soon be voted on by the House.

Large rural States, such as my own home State of Montana, are dependent upon aviation. Distances are great and commercial transportation is nonexistent in many towns across Montana. While in many areas of the country private ownership of aircraft is considered the ultimate in luxury, for many Montanans it is an economic necessity.

This role of aviation in States such as Montana is frequently not fully understood by those from smaller, less geographically diverse, and more urbanized States. As a Congressman who spends a great deal of time flying in Montana, I feel great responsibility to educate my colleagues to the aviation and flight safety needs of our pilots. The Federal Government plays a big role in

the field of aviation, and I will do all that I can to insure that it is an informed Congress that legislates in these important areas.

MONTANA'S FLIGHT SERVICE STATIONS

The Federal Aviation Administration is currently considering a plan for the part-timing or closure of many flight service stations. These stations provide vital weather and traffic information for pilots, and Montana pilots are greatly concerned over any reduction in services at these stations.

The FAA has been willing to listen to concerned groups on the flight service station question, and Montanans should be proud of the important role that our citizens played in educating the FAA about the unique geographic conditions which complicate flight safety measures in Montana. A group of concerned Montanans came to Washington in January and met with Federal Aviation Administration Administrator Langhorne Bond, presenting in an organized and precise manner the safety problems which would be created with a reduction in service at flight service stations.

The Administrator seemed receptive to the concerns expressed by this group, but it remains to be seen if this translates to a change in policy with regard to Montana. A moratorium on the closure of flight service stations is due to expire this year, and it may prove necessary to seek an extension of this moratorium here in Congress.

AIRPORT TRUST FUND NEEDED FOR SAFETY EQUIPMENT

The Oversight Subcommittee of the House Ways and Means Committee recently held hearings on another crucial aviation safety issue—the Airport and Airways Trust Fund. I agree completely with the subcommittee that something is wrong when many airports are in need of basic safety equipment, yet there is an unallocated balance of $1.7 billion in the trust fund. Clearly, the time for new legislative guidelines concerning the allocation of these funds is now.

As I explained in my testimony before this subcommittee, Montana's needs for increased funds for safety equipment are great.

My testimony follows:

TESTIMONY BEFORE THE OVERSIGHT SUBCOMMITTEE OF THE HOUSE WAYS AND MEANS COMMITTEE, JANUARY 25, 1978

Mr. Chairman, I would like to open my remarks by commending the Subcommittee for holding these important oversight hearings. We in Montana are gravely concerned about the lack of many important safety features at even our largest airports. The Airport and Airways Trust Fund has funds which could help us, but we do not have access to them.

Montana is a rural state. We do not have just one population center. Given the current formula used in allocating ADAP funds, we are held to a funding level which cannot meet even our most critical needs.

The fiscal year 1978 total, which is to be distributed among all of Montana's 15 carrier airports, is slightly over $4 million.

Let me cite just one example of the tremendous inadequacy of these funds. Three major airports in my district—Bozeman, Butte and Missoula—do not currently have functional parallel taxiways for their runways. To taxi, all aircraft must make use of the runway. Safety concerns here are obvious, and are compounded when you learn that Bozeman is also lacking a tower to enable it to precisely control the flow of traffic landing at the airport.

The Airport Master Plans which have been developed for the 3 airports place the cost of constructing these 3 taxiways alone at $4 million, or equal to our total fiscal year '78 ADAP allocation.

Another critical safety problem in my district is at the Butte airport. This airport has had jet service for a full 8 years, yet to this day it operates without an instrument landing system.

While I was in Montana during the recess, I approached some of my constituents who are knowledgeable about the needs of our airports. I was shocked. From airline representatives to airport employees, I received a list as long as my arm. We need high-intensity lights, a runway visual range (RVR) on many runways, distance measuring equipment, and on and on.

I admit that I am not an expert in this field. However, my research into the Airport and Airways Trust Fund indicates that it is not a quesion of too little revenue, but rather one of too little going back out to the airports that need these funds most. Given the tremendous needs, I find it hard to justify an uncommitted balance at the end of fiscal year 1977 of $1.7 billion in the Trust Fund.

It is a simple fact that small airports do not bring in as much revenue to the Trust Fund as their large counterparts. However, the safety of small airports must be insured.

The allocation formula must be altered in order to accommodate the needs of our small airports. In this regard, I agree with the thought of the Chief of the Airport/Airways Bureau in Montana.

"In short, airports and aviation should be viewed as a system, completely intra-dependent among its many facets, and available development money should be directed toward the greater system needs."

I thank you, Mr. Chairman and the Members of the Subcommittee, for allowing me to appear on this first day of hearings. We have great needs in Montana which are not being met, and I am hopeful that with your assistance the situation can be quickly rectified.

AIRLINE DEREGULATION

Another timely aviation issue of concern to all Montanans is airline deregulation. Frequently flying back home from Washington has made me painfully aware of the already limited commercial airline service in Montana. Lower fares and increased competition are desirable results of deregulation. However, easy abandonment regulations could be disastrous for rural States like Montana. I expressed some of my concerns last fall before the Subcommittee handling the deregulation issue, as follows:

TESTIMONY BEFORE THE AVIATION SUBCOMMITTEE OF THE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, OCTOBER 12, 1977

Mr. Chairman, thank you very much for permitting me to appear before you this morning. While I am neither a member of the Aviation Subcommittee nor an expert on the airline industry, I do know that my constituents in Montana are gravely concerned about the effect that airline deregulation—as presented in H.R. 8813—will have on the presence of air transportation in Montana.

As you may know, routes within Montana are not coveted by the airlines. On many instances they are far from lucrative routes which connect small agricultural communities and require extreme Federal subsidies. While I, and my constituents, would like to see even more routes opened in Montana—to serve our small, remote communities—with the type of deregulation this subcommittee is considering, we might well have to fight to stay where we are.

I agree that there should be more competition in the airline industry. I would also like to see reduced fares. However, I do feel that this can be accomplished without jeopardizing air service in rural areas.

It is my understanding that CAB currently has authority which would permit them to develop a system of broader entry for new routes, and also to lower fares as they see fit. My suggestion would be to present the CAB with new instructions on relaxing entry requirements, and to require the Board to expedite its procedures, eliminate regulatory lag and improve its processing procedure. In this way Congress could support increased competition along the more desirable markets, while not jeopardizing service to smaller cities and towns.

A rigid automatic entry provision will allow more competition among all the airlines on heavily traveled routes. This concentration of service will result in decreased service elsewhere—along routes where planes have been pulled to service the more "desirable" markets.

In short, I am asking that this subcommittee be sensitive to the necessity of protecting air service to small cities and towns and specifically that you will look at both sides of the automatic entry issue. We in Montana are extremely concerned over the possibility of deregulation and we are counting on this subcommittee to understand and protect our air service.

Thank you.

The subcommittee has as yet been unable to agree on the provisions that will be included in the final deregulation bill that they will report out, but it appears that many members are sensitive to the needs of rural areas.

My hope is that this statement has provided you, my colleagues here in Congress, with a better understanding of the aviation concerns and needs of Montanans and the residents of other rural States. As we consider aviation-related issues in Congress this year, keep in mind the small airport where safety needs are not that different from those here at National Airport. Also do not forget the citizens who care less about lower air fares than they do about retaining the limited air services that they now enjoy.

A TRIBUTE TO DR. JOSEPHINA MAGNO, M.D.

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. WALGREN. Mr. Speaker, on March 9, 1978, I had the great honor of meeting with Dr. Josephina Magno, M.D., of Georgetown University Hospital to discuss at length the concept of hospice. Dr. Magno has taken upon herself the difficult task of developing and coordinating a pilot project here in Washington, D.C. which will provide six hospice beds for the terminally ill. It was evident in speaking with her that she is motivated by her firm belief in the dignity of man—both in life and at death.

During the course of our meeting, Dr. Magno relayed her concerns for the treatment of the terminally ill in this

country. These difficulties first became apparent to her while treating a young Government employee dying of cancer. This man faced frequent hospital admissions for the treatment of symptoms associated with his illness. With each new symptom, he was subjected to uncomfortable and expensive procedures aimed at pinpointing the cause. He also faced financial burdens when his insurance benefits no longer covered "supportive" care. At home, he experienced the fear of being—and dying—alone. Dr. Magno negotiated with a local nursing home, admitted the young man there, and paid for his care herself. He died 3 days later.

This incident convinced Dr. Magno of the need for another alternative in the care of the terminally ill. During the past 2 years, she has worked continuously to overcome administrative obstacles and thus to establish the hospice at the Washington home. We salute her for her efforts in providing the terminally ill with an opportunity to live—and to die—with the dignity accorded them.●

HYDE AMENDMENT AND CATHOLICISM: STRAWMAN ARGUMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. DORNAN. Mr. Speaker, on February 28 I distributed a "Dear Colleague" letter to the Members of this body telling them about the Congressional Quarterly's "asterisking" of Roman Catholics who voted on the Hyde amendment. This was, in my mind, an insult to the integrity and motives of the Members of Congress who voted in favor of the Hyde amendment. Those asterisks said, in effect, that Members who voted in favor of the Hyde amendment were knee jerk sectarian zealots who voted according to religious dogma rather than principles.

On March 21, I was glad to see that the Washington Star agreed that this kind of interpretation of House votes does no credit to those who use it. In the editorial of that evening, the "dubious tactics" of the prolife and proabortion sides were deplored. The editorial stated:

> Still, for leaving both fact and logic behind, there's nothing like the argument that tried to pin all anti-abortion activity and sentiment on the Catholic Church . . . the better to maintain that opposing on-demand abortion is a narrowly sectarian position and keeping abortions off Medicaid is the same as violating the Constitution with a state-established church.

I commend this editorial to my colleagues, and urge them to read it. It is also my sincere hope that when we are faced with another Hyde amendment vote—and I am certain we shall be—that the proabortion forces in the House will not stoop to the "strawmen" argument that prolife Members are all Roman Catholics at heart.

[From the Washington Star, Mar. 21, 1978]

ABORTION: STILL A FIGHTING WORD

Today, more than five years after the Supreme Court's decision narrowing the scope of federal authority over it, abortion is still a fighting issue.

The successes of the abortion advocates—pro-choice, if you prefer their euphemism—are conspicuous everywhere. More abortions than live births in the District, with the margin increasing conspicuously—what more evidence does anybody need? Yet the other side has had its victories too, and not just in holding back state funding for on-demand abortions.

That, of course, has involved victories for the anti-abortion, or, as they choose to call themselves, pro-life, people. Only 16 states and the District of Columbia now use public funds to cover the cost of elective abortions for the indigent and several of those are reconsidering.

Everywhere, it's a hard fight, generating more dubious tactics than most controversies. Some anti-abortion groups, presumably conservative enough to value civility in politics, have persuaded themselves that invading clinics and demonstrating in the streets help their cause. As for the pro-abortion people, their manipulations of language and logic would make the creator of a cigarette ad look scrupulous.

The pro-abortion position is that because the Supreme Court has declared early abortion out of bounds to government regulation, everybody's entitled to a free one at government expense. Try that line of reasoning on other goods and services and see how well it holds up.

For the pro-abortionists, it's also the springboard to depths of bathos on poverty, battered babies and "scared 14-year-olds." There are still murmurings about sex education and freely available contraceptives, but now that there are so few barriers to either sex information or contraceptives, the emphasis is on the idea that nothing can be done to keep the 14-year-olds from getting into the scary situation.

Still, for leaving both fact and logic behind, there's nothing like the argument that tries to pin all anti-abortion activity and sentiment on the Catholic Church. Voting patterns in and out of Congress show that a great many non-Catholics also oppose abortion, but the pro-abortion faction continues to blame the Catholics, the better to maintain that opposing on-demand abortion is a narrowly sectarian position and keeping abortions off Medicaid is the same as violating the Constitution with a state-established church.

And ah, the euphemisms! The talk of "medical procedures" and "intra-uterine tissue;" "viability" and "products of conception"! In spite of themselves, the advocates of abortion reinforce the other side by their intensity.

There is no principle without its troubled frontier where the hard cases are. Certainly abortion can pose painful value conflicts at the margins. Even though the Supreme Court has transferred so many of them from the sphere of public policy to that of private morality, there are still all too many that demand political resolution. Decisions can be made with the best hope of soundness when we admit that they do involve questions of human life and death.●

E. EUGENE THOMAS

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of a native Marylander and highly respected citizen of Frederick, Mr. E. Eugene Thomas.

Mr. Thomas, president of the Frederick Trading Co., was extremely active in civic and business activities and had a keen sense of responsibility and duty to all with whom he came in contact.

He was an active member of the Grace United Church of Christ where he held many offices, a past president of the Pennsylvania Wholesale Hardware Association and the Middle Atlantic Wholesalers Association; served on the official boards of numerous trade associations, director of the Frederick County Mutual Insurance Co.; member of the Frederick County Chamber of Commerce, Maryland Chamber of Commerce and the Pennsylvania and Atlantic Seaboard Hardware Association; past president of the Frederick Children's Aid Society and the Catoctin Club, and was a member of the board of trustees of Hood College.

In addition, Mr. Thomas was active with the YMCA, Frederick Community Chest, the VFW, the Francis Scott Key Post 11, the American Legion, Sojourners Club, the Terrapin Club of the University of Maryland, the Masonic bodies, the Frederick Rotary Club, and served as a member of the board of directors of Fredericktown Bank & Trust Co.

He will be greatly missed by his wife, Helen, sons, Robert and Richard, and family, and all who knew him. I know you will join me in extending the official sympathies of the House to the family and friends of this patriotic and civic-minded American.●

INFLATION AND THE DISASTROUS RECORD OF PRICE CONTROLS: PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. McDONALD. Mr. Speaker, in a recent article in the prestigious newspaper, Barron's, its editor, Robert M. Bleiberg, provided a clear and concise analysis of the Government policies that exacerbated the slump of 1974–75. In view of the financial situation in America today it is of importance that we seek to avoid the mistakes of the recent past, and I urge my colleagues concerned with these issues to read this excellent editorial commentary.

The second article follows from Barron's, March 27, 1978:

LEST WE FORGET—CONTROLS PROVED A DISASTER THE LAST TIME AROUND

Fear and loathing, ladies and gentlemen, nicely sum up my sentiments toward the topic for today. "The Perennial Threat of Price Controls," and I make neither apologies nor bones about it. Scholarly detachment may be all well and good when one is discussing ancient history, but anybody who has closely observed, and chronicled, the absurdities and atrocities of half a dozen wage and price freezes and phases is surely entitled to use stronger language (if not expletives deleted).

All of which brings us to President Nixon and the New Economic Program, which he unveiled in mid-August 1971. Let's not forget that Nixon's the one who ran on the 1968 Republican platform, which assured the American people: "The dynamism of our economy is produced by millions of individ-

uals who have the incentive to participate in decision-making that advances themselves and society as a whole. Government can reinforce these incentives, but its over-involvement in individual decisions distorts the system and intrudes inefficiency and waste."

In a campaign speech, Mr. Nixon put the issue in stronger terms: "The imposition of price and wage controls during peacetime," he said, "is an abdication of fiscal responsibility. Such controls treat symptoms and not causes. Experience has indicated that they do not work, can never be administered equitably and are not compatible with a free economy."

Unlike Jimmy Carter, who we know would never lie to us, Richard Nixon on occasion evidently stretched the truth a bit. Be that as it may, despite his campaign promises, Nixon's also the one who, on Sunday, Aug. 15, 1971, unveiled this country's first comprehensive system of more-or-less peacetime price controls.

How were controls administered? In fits and starts, phases and freezes and with an unswerving bias against big business. The first freeze lasted 90 days, from mid-August to mid-November 1971, and was relatively easy to enforce. At the time, one bureaucrat said enthusiastically: "This is an exhilarating experience. It's fun." The nation was still recovering from the recession of 1969–70, industry was operating at a relatively low percentage of capacity and prices in many lines were soft. Hence the freeze was more psychological than real.

Phase Two, however, was something else. In the guise of wage and price controls, it really constituted a deliberate, overt restraint on corporate profits. Specifically, Phase Two required companies with sales of $100 million or more to pre-notify the Price Commission on proposed price hikes. Firms with sales of between $50 million and $100 million had to make quarterly reports to the Price Commission on changes in prices, costs and profits. Manufacturers were allowed to increase prices only to reflect allowable cost hikes, less gains in productivity. In any case, no company could increase prices if such a move served to raise profit margins above those of a selected base period.

Sound complicated, unwieldy and more than a trifle discriminatory? Phase Two proved to be all of these and worse. For example, while cracking down on investor-owned utilities, it wholly exempted public power bodies—such as rural cooperatives, municipally owned utilities and the Tennessee Valley Authority. Hence, while there was a rigid ceiling over utilities generally, TVA was able to raise rates virtually at will. A far more significant inequity lay in the base period chosen—any two of the three fiscal years ending Aug. 15, 1971. Those fiscal years, of course, encompassed a period in which the U.S. was plunging into recession: production, trade (and, of course, profits) were relatively depressed. Price controls hitched to such a standard had to work hardship.

So they did, notably after mid-March of 1972, when John B. Connally, then Secretary of the Treasury, had to fork over five bucks for eggs Benedict at the Hotel Pierre and the White House hit the roof. As corporate reports for the March quarter of 1972, which generally showed the first vigorous gain in earnings in five years, began to pour out, the Price Commission launched a crackdown. In an arbitrary move, American and Continental Can Cos. were told to rescind price hikes perviously approved and in effect. A score of other companies—Armco Steel, Champion Spark Plug, Textron, Woolworth—were ordered to roll back quotation and/or to make refunds to over-charged customers. In other abrupt policy shifts, the Price Commission clamped a freeze on the prices of all companies delinquent in filing reports. Finally, the Internal Revenue Service announced that it would disallow as business expenses prices and wages which exceeded official lids.

Phase Two was followed by Phase Three. The Price Commission and Pay Board were replaced by the Cost-of-Living Council. And the reporting regulations were eased. Phase Three lasted barely six months. Shortly after it was unveiled, a number of dramatic and untoward events occurred. In early February 1973, the U.S. devalued the dollar for the second time, by nearly 10%, a move which unleashed the pent-up mistrust of this country's European creditors, who promptly began to dump their huge dollar holdings in what has come to be known as the third, if unofficial, devaluation. By the end of June, the dollar had depreciated 20%–25% against the strong European currencies and the Japanese yen. Prices of food and fibre, none of which had been controlled from the outset of the New Economic Program, began to soar.

In sheer desperation, the White House unveiled Freeze Two, a 60-day affair, which, unlike its predecessor, swiftly came to grief. In contrast to mid-1971, inflation was in full swing. Official efforts to clamp a freeze on processed goods and end products, while leaving raw material prices free to rise, yielded what sensible economists had consistently predicted that they would yield: instant shortages. Soon after the emergence of Freeze Two, its chilling effects had begun to spread far and wide across the economic pipeline. Owing to the runaway in feed grains, poultry growers began to slaughter baby chicks, while flour mills, ground between the surging cost of wheat and their own low ceilings, started shutting down. The squeeze on profit margins compelled General Foods to cut back on the number of items it could package. "For the first time in our history," warned the president of Green Giant Co., "there might be great, gaping blank spaces on our supermarket shelves." Price controls, as their advocates have claimed all along, do work like magic. They can make things disappear in the twinkling of an eye.

Freeze Two was succeeded by Phase Four, which was just a holding action. By the fall of 1973, it had grown clear to virtually everyone that controls had been a dismal failure. Hence, the Cost-of-Living Council quietly began beating a retreat, first decontrolling one industry and then another—after the bureaucrats exacted a promise from the industries concerned that they would delay raising prices for a certain length of time. On May 1, 1974, wage and price controls formally disappeared from the scene.

What did they achieve? Well, let's look at the record. In August of 1971, the Consumer Price Index was rising at a rate of roughly 3% per year. In 1973, the cost of living officially increased by 8% (and, check it out with any housewife, in fact perhaps half again as much more). In the early months of 1974, the rate of inflation as measured by this Index nearly doubled, to an unbelievable 15% per annum, a figure which seems more appropriate to a banana republic than to our own.

If the benefits of controls were wholly illusory, the costs proved to be very real. From the outset, even in a relatively slack economy, controls had begun to create economic distortion. As business activity started to boom throughout the world, prices of commodities bought and sold on a global basis, like the non-ferrous metals, began to rise above domestic ceilings, thereby impelling producers to channel their output where it fetched the most and creating artificial shortages at home. Late in 1973, in large measure owing to price controls, the National Association of Purchasing Management reported that "almost everything is in short supply."

Apart from aggravating and creating shortages, with all the inconvenience and cost that entailed, controls did perhaps their worst damage on the financial scene, domestic and foreign alike. As to the domestic scene, the harm was inflicted by a little-known, if highly strategic, part of the controls structure known as the Committee on Interest and Dividends. Headed by Arthur Burns, chairman of the Federal Reserve Board, and comprising such other top officials as the Secretary of the Treasury, the CID, as it was known, early on decreed that corporate dividends could increase by no more than 4% per year. In contrast, wages and salaries were allowed to rise by 5½%, while consumer prices, in fact, went up far more. What the powers-that-be decreed, in effect, was that for the first time in history, stockholders should no longer have the privilege of sharing the fruits of business recovery.

By placing a lid for more than two years on what investors could hope to receive in the way of returns, the Committee on Interest and Dividends must shoulder some of the blame for the sorry showing staged by the stock market from late 1972 to the fall of 1974, the slow disintegration of Wall Street, and, perhaps most significant, the clogging of the customary channels by which corporate enterprise taps the nation's savings.

Even in phasing out, controls did an incredible amount of harm. Specifically, the gradual timetable cited above encouraged and incited businessmen to buy in advance of decontrol. In 1973, American industry piled up nearly $15 billion worth of inventory, one of the largest accumulations on record. In the first quarter of 1974, largely in anticipation of the scheduled—and staggered—end to price ceilings, stocks built up at an unbelievable $20 billion annual rate, in the process helping to generate both double-digit interest rates and double-digit inflation.

In short, psychologically as well as financially, misguided government policy helped to compound the mistakes which sooner or later industry tends to make on its own, thereby turning the subsequent slump of 1974–75 into far and away the worst in a generation.

Incidentally, a member of the Young President's Organization, with whom I shared a platform in New Orleans last November, has predicted a rerun of this horrendous scenario this year. I'm on record as disagreeing. In fact, I've bet him a British gold sovereign, currently worth about $60, that the prime rate on July 1 won't be 10%. But if controls are imposed, all bets are off.●

AMENDMENTS TO THE INTERCOASTAL SHIPPING ACT, 1933

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

o Mr. MURPHY of New York. Mr. Speaker, I am introducing today legislation proposed by the Federal Maritime Commission which would amend the Intercoastal Shipping Act, 1933, to make public the financial reports of domestic offshore operators.

Every common carrier by water in the domestic offshore commerce of the United States is required by the Intercoastal Shipping Act, 1933, to file tariffs with the Federal Maritime Commission, and is also required by the Commission's General Order 5 to file an annual report within 120 days after the close of its fiscal year. Under the Commission's General Order 11, each such carrier is also required to file with the Commission, within 150 days of the close of its fiscal year, a statement of rate base and income account for each domestic off-

shore trade served by that carrier. It is believed that the Intercoastal Shipping Act, 1933, should be amended to enable the Commission to make available to the public the information contained in these reports, which is presently held confidential.

Both the Interstate Commerce Commission and the Civil Aeronautics Board have specific statutory authority to make available for public inspection the financial reports submitted by carriers subject to their respective jurisdictions. The Federal Maritime Commission should have similar authority, since it is often difficult, if not impossible, to explain this lack of comparability in responding to inquiries from the public.

The annual report which is filed with the Federal Maritime Commission pursuant to General Order 5 may, depending on the operations and ownership of the carrier, also be filed with the Interstate Commerce Commission and/or the Maritime Administration. In such cases data are submitted on the same form. If the carrier does not delete the Federal Maritime Commission information on its submission to the Interstate Commerce Commission, the Federal Maritime Commission is in the position of having to deny access to information which is publicly available at the Interstate Commerce Commission.

It is also believed that the availability of this information to the public may be meaningful to protestants of rate increases who, without this information, are forced to make uninformed protests of rate increases or endorsements of rate decreases.

This bill would make possible the conduct of domestic rate proceedings without the awkward imposition of confidentiality invoked under rule 10(aa) of the Commission's rules of practice and procedure. In some more recent Commission proceedings, carriers have not chosen to invoke confidentiality. Moreover, the invocation of rule 10(aa) is not binding on the presiding administrative law judge or the Commission.

Finally, this bill would be consistent with the current trend toward making available to the public all Government-held information that the security of the Nation permits. Such disclosure is in the spirit of the Freedom of Information and Sunshine Acts, would materially assist the administrative and judicial processes, and would be consistent with the authorities of the two other transportation regulatory agencies, the Interstate Commerce Commission and the Civil Aeronautics Board.

It is believed that this legislation will not involve any increase or decrease in appropriations.●

PERSONAL EXPLANATION BY CONGRESSMAN JOHN BRECKINRIDGE CONCERNING VOTES OF MARCH 15 AND MARCH 16, 1978

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I regret that I was not present to vote on rollcall No. 151 and rollcall 156 when the House agreed to resolve itself into a Committee of the Whole. I would have voted "aye" on both of these votes had I been able to be present.●

CIVIL RIGHTS FOR THE DISABLED

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. BRADEMAS. Mr. Speaker, in the last few years we have seen significant strides made by some 35 million physically and mentally disabled Americans who are struggling for equal partnership in our society.

Those strides have in no small measure been made possible by the passage of a number of laws by the Government of the United States and including the Rehabilitation Act of 1973, the Education of All Handicapped Children Act, the Architectural Barriers Act, and the nondiscrimination provisions of the Revenue Sharing Amendments of 1976.

As chairman of the Subcommittee on Select Education of the House Committee on Education and Labor, I have been privileged to have taken part in the shaping of some of these measures that are aimed at helping make the promise of American life reality for the disabled citizens of our society.

Although implementation of these measures will not always be easy, I believe that all Members of Congress are aware that it is important to the effectiveness of any law that it have both public understanding and acceptance.

I, therefore, commend to the reading of my colleagues the following article from the February 18, 1978, issue of National Journal concerning the role of the Federal Government in insuring the rights of handicapped Americans.

The article, by Rochelle L. Stanfield, follows:

[From the National Journal, Feb. 18, 1978]

BRINGING THE WORLD TO THE DISABLED—THE FEDS START TO GET TOUGH

(By Rochelle L. Stanfield)

James D. Bennett graduated from a New Jersey high school in 1964 and wanted to attend Rutgers University, a state institution supported by his parents' tax dollars.

But Bennett couldn't get his wheelchair up the steps to the classrooms and the dormitories were not equipped to accommodate a student who could not walk. So he went to a small private college in the South, solely because its facilities were accessible to him.

Now Bennett is head of the technical assistance unit of the Health, Education and Welfare (HEW) Department's Office of Civil Rights, where he is helping to implement what is potentially the most far-reaching civil rights law for the handicapped ever enacted.

The statute, Sec. 504 of the Rehabilitation Act of 1973 (87 Stat. 355), says that all institutions and agencies that accept federal aid must make their programs accessible to the handicapped or lose the federal funds.

For more than four years, educational institutions, hospitals, transit authorities, and state and local governments have resisted implementing the act, fearing it would cost them billions of dollars to remodel their facilities.

But under strong pressure from the handicapped lobby, the Carter Administration has begun to crack down. Six months ago, HEW issued regulations for compliance and, in accordance with these regulations, other affected agencies have until April 14 to write rules for their programs.

Bennett and others in the disabled rights movement believe the law can help open society to a large minority that has had trouble getting everything from a good education to a ride on a bus.

Bennett was more fortunate than most of the estimated 25 million to 30 million Americans considered handicapped, as defined by handicapped groups. Many have been unable to get even a high school education. But times are changing.

A few institutions and governments voluntarily have made facilities accessible to the disabled. Others are doing so under federal and state laws and the threat of court action. In large part, this is the result of new militancy of the handicapped lobby.

"Before my generation, handicapped people were not conscious of their civil rights," said Bennett. "They did not recognize that they were not being allowed accessibility to things paid for by public money. But my generation began to see parallels to the struggle for black civil rights."

Bennett graduated from college in 1968 and went on to graduate school. Eventually, he went to Rutgers, where, as a teaching assistant rather than an undergraduate, he had enough clout to get seminars moved to rooms his wheelchair could reach.

In 1974, the year Bennett left Rutgers with all the qualifications for a Ph.D. except his dissertation, the university spent $200,000 to enable handicapped students to use the campus.

This figure is not out of line, according to the National Association of College and University Business Officers, which estimates that to make the nation's colleges and universities accessible it will cost between $1 billion and $1.8 billion, money they don't have.

Bennett argues that those figures are grossly exaggerated, based on an average cost of $2 a square foot. Bennett says the actual cost should be closer to 17 cents. But the costs are irrelevant, he said, because basic civil rights are involved.

"Sec. 504 is not a program for the handicapped, but rather a civil rights statement," he said.

His colleague in the Office of Civil Rights, John L. Wodatch, who wrote the Sec. 504 regulations, added, "Someone's rights do not depend upon someone else's ability to pay. It is a matter of the right to participate in American society."

SECTION 504

The economic implications of Sec. 504 generated the long-standing controversy over implementing it.

Handicapped rights advocates argue that the rules are flexible and call only for reasonable measures that do not necessarily cost much money. They say the estimates of billions of dollars for compliance are based on misinterpretation of the regulations, and arise partly out of deep-seated fear and prejudice against the handicapped.

Frank Bowe, director of the American Coalition of Citizens with Disabilities (ACCD), who is deaf, quoted a wheelchair-bound colleague as testifying that transit companies are resisting compliance because, "They know that when an accessible bus comes to a stop, people like me will be getting on." (ACCD is the umbrella organization of 60 groups of the handicapped.)

The reaction of the grant recipients who must comply with the regulations is just the opposite. They contend that the regulations are vague and inflexible. They fear that unless they take the most comprehensive steps, which usually means the most expensive, they will be in trouble with the courts, if not with HEW.

They also worry that once they make the expensive changes, few handicapped persons will use the facilities. They point to transit lines that have equipped their buses with lifts only to find them barely used and universities that have spent hundreds of dollars on facilities for the handicapped and then attract only one or two students, if any.

The law is a simple statement of rights providing that "no otherwise qualified handicapped individual . . . shall . . . be excluded from participation in . . . any program or activity receiving federal financial assistance."

It covers all grant programs from general revenue sharing to categorical grants. It also defines handicapped individuals broadly, including physical and mental disabilities, diseases such as cancer, diabetes and heart ailments, and conditions such as alcoholism and drug addiction. It includes people who have a record of a handicap and those who are regarded as disabled even if they are normal.

HEW Secretary Joseph A. Califano, Jr. issued regulations relating to HEW programs last May, after ACCD led demonstrations by the handicapped in Washington and 10 major cities across the country, protesting the long delay in implementation. Those rules went into effect in June, but little has been done so far to see that they are enforced.

On Jan. 13, Califano issued guidelines for the other agencies to follow in writing regulations to be published by April 14.

The guidelines would give grant recipients three years to make any structural changes necessary, except transit agencies, where the time may be extended.

ARCHITECTURAL BARRIERS

Under another law, the Architectural Barriers Act of 1968 (82 Stat. 718), all newly constructed public facilities must be free of architectural barriers. However, the Sec. 504 regulations do not require existing structures to be made barrier-free. The HEW staff points out that this a major area of misunderstanding.

The rules require that programs be generally accessible to the disabled. According to the Jan. 13 HEW guidelines. "This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons."

A local government, for example, does not have to install elevators—which can cost $150,000 each—to make all floors accessible. It might install a ramp to the first floor, at the cost of about $1,000, and give some first floor space to the service located on the upper stories.

"There are all sorts of ways to meet the requirements without tearing down buildings," said Michael K. Gemmell, the human resources lobbyist for the National Association of Counties. "Everybody's at fault for this hysteria over the regs. The law has been in effect since 1973. We all knew it was coming and should have been prepared."

The regulation also forbid discrimination in employment. Recipients are less concerned about meeting this rule because discrimination can only be found if the applicant is qualified.

"They are not going to have to hire a teacher who is a known drug abuser or a blind bus driver," said a public interest group lobbyist.

EMPLOYMENT

About half of the complaints filed so far have cited employment discrimination, according to the Office of Civil Rights. Nonetheless, most handicapped rights advocates do not see discrimination as the major problem of the future.

"There's a domino effect. Once disabled people get hired, the employers find that their misconceptions just don't hold true," said Deborah Kaplan, director of the Disability Rights Center in Washington. "We've been pleasantly surprised."

Because the regulations are broad and are being implemented in stages, their effect on institutions varies. The initial reaction of each group of organizations affected has been negative, although individual institutions and state and local governments have complied easily.

The primary concern of governors, mayors and the heads of public institutions is that the federal government is imposing requirements that the states and localities must meet.

"I think we've already done a pretty good job of making our facilities accessible to the handicapped with curb cuts and ramps and restroom facilities," said Los Angeles Mayor Tom Bradley. "But I am concerned about any mandated federal programs which put additional burdens on a city without commensurate financial assistance."

Civil Rights Office aides and the handicapped say there are various sources of funds available to state and local governments, such as general revenue sharing, community development block grants or local public works money. But local officials respond that those resources are already allocated and that additional funds will be necessary.

THE SCHOOLS

Colleges and universities have been a major battleground in the dispute over compliance.

On the other hand, elementary and secondary schools are among the few recipients of federal aid that also get special financial assistance for helping the handicapped. Nevertheless, education lobbyists say the program, the Education for All Handicapped Children Act of 1975 (89 Stat. 773), has too little money and too many strings. (*See box, this page.*)

The fight at the college level centers on how extensively buildings will have to be altered to assure accessibility. HEW's regulations deliberately set no standards for accessibility in order to permit greater flexibility, according to the Office of Civil Rights staff. But the universities want specifics they can use as support in complaint procedures or court fights. They have turned to the architectural barrier-free standards set by the American National Standards Institute, the most expensive approach, but not a requirement.

"We're getting mixed signals. Who should we listen to? Who can we trust? The regulation is vague and there are too many ambiguities," said Steven Hychka, director of federal focus of the National Association of College and University Business Officers, the higher education group most directly concerned with building costs.

"The problem with the universities is they went first to the architects and engineers and didn't bother to consult the handicapped consumers," said the ACCD's Bowe. "We have a lot of innovative answers because we have been confronted with these problems all our lives."

A nonprofit organization, Mainstream Inc., was set up in 1975 solely to help business and governments meet the requirements of the Rehabilitation Act. Another provision of the statute, which requires all businesses contracting with the federal government to meet similar accessibility standards, went into effect in 1976.

Mainstream worked with about 100 corporations. "The corporations did the same thing as the universities. They looked to the most expensive solutions first," said Leslie Milk, Mainstream's executive director. Kaiser Aluminum and Chemical Corp. estimated it would cost $150,000 to make a plant accessible, Milk said. Mainstream showed the firm how to do it for $7,800.

"We figure it costs about a penny a square foot," said Milk. "And the corporations have a harder time than the schools. A classroom can be used to teach anything; an assembly line cannot."

Hychka agrees that Mainstream has a lot of good ideas, but said some present other, more difficult problems.

For example, one Mainstream suggestion is to place a paper cup dispenser next to drinking fountains instead of buying lower fountains accessible to those in wheelchairs. Hychka said, however, that many handicapped people do not have the strength to raise their arms high enough to reach the water.

He also cited conflicts between accessibility solutions and safety regulations. Most new dormitories have elevators that enable handicapped students to live on any floor. This fulfills the spirit of 504 regulations, which call for integrating the handicapped into the regular life of the institution. But under fire rules, as soon as an alarm is sounded, the elevators go to the bottom of the shaft and stay there, he said. He also explained that "fire marshals don't want wheelchairs in a chemistry lab because in case of fire, they can't get out fast enough and they impede others. What are we to do about lab courses?"

Leslie Milk said a great deal of rethinking of curriculum requirements is going to be required as more handicapped students go to college.

A number of educational institutions were working on accessibility problems long before the regulations went into effect. Others, now trying to comply with Sec. 504, are doing so without resistance.

Tufts University, for example, is working with Mainstream to find the least costly way to provide accessibility.

John Mitchell, vice president of the University, has turned the project into a learning experience for the school's engineering students by having them survey the campus for architectural barriers.

"We felt if we include all the people in the process, we are more likely to get the right attitude when we have to ask them to relocate their offices or classrooms," said Mitchell.

He indicated that once the school was accessible, it would use the fact in actively recruiting handicapped students. Tufts currently has two wheelchair-bound students.

Hychka argued that even in universities with long-standing outreach programs for the handicapped. such as the University of Illinois, fewer than 1 per cent of the student body is handicapped. He asked whether accessibility was worth the cost.

Milk said that the total of students might be small now because so few handicapped youngsters have gone as far as college. But new educational opportunities for the handicapped. coupled with accessibility programs, will increase the numbers. "Come back in 1988 and see what the numbers are like then," she said.

TRANSPORTATION

The final regulations governing accessibility to public transportation have yet to be written, but the fight over accessibility is an old one.

The handicapped want to be able to use regular modes of public transit, the "fixed route" in transit jargon. The transit operators want to provide alternate means of transportation for them, such as vans and "dial-a-ride" services.

The handicapped contend that access to the regular system is a basic right. Mass transit is heavily subsidized by the federal government and should be available to all equally, they say.

The transit lobby argues that it is not now technically possible to make fixed-route transit accessible and, if it were, it would be so expensive it would constitute an irresponsible use of the public's money. Some transit operators further argue that the handicapped wouldn't use the regular system because other barriers prevent access to the buses or subways and because they need and want door-to-door service.

Subways present the toughest problem. The only answer is elevators, which are expensive. It has been estimated that it would cost as much as $5 billion to make the nation's seven major subway systems accessible to the handicapped. Elevators are not always the solution. Washington's new Metro built elevators into the design, but the handicapped have found them inconveniently located and difficult to use, in some cases impossible to reach because of other barriers.

There is no agreement on buses. The handicapped say buses can be equipped now with lifts or ramps, and that the transit operators are just dragging their feet.

Transportation Secretary Brock Adams has required that all federally subsidized buses ordered after Sept. 30, 1979, be futuristic "transbus" models, which have low floors and ramps as well as wider doors and other features.

"That will be fine, if you can put the technology on the street by then," said Stanley G. Feinsod of the American Public Transit Association (APTA). "They are having problems with the [transbus] ramp. And no one believes that the lift now on the market is reliable."

The State of California probably has the most advanced plans for transportation accessibility. By 1985, all regular bus services in the state are to be fully accessible. A number of regional transit systems in California have purchased lift buses and are having "a lot of technical problems," according to Jesus Garcia of the California Department of Transportation.

On the other hand, the Bi-state Development Agency, which runs the transit system in St. Louis, has 157 lift buses, which officials say work fine. But St. Louis has another problem. After the first 60 special buses were put into service on the 10 most heavily traveled lines last August, their use by handicapped people averaged only 35 passengers per week. Since then, the number has declined. A spokesman for the agency put the blame on the newness of the service and the harsh St. Louis winter, and said he expects use to pick up in the spring.

Transit operators also complain that because handicapped people take longer to board a bus, this will require more buses on each route.

"This is a Catch-22 argument," said California's Garcia. "First they say there aren't enough people using a wheelchair to install a lift. But then they say, if they do it, there are going to be so many people, it will slow down the bus."

HOUSING

Housing the handicapped is a priority matter with Housing and Urban Development Secretary Patricia Roberts Harris, who announced last May her commitment to spend 5 per cent of her housing budget for such purposes. Since then, she has established the Office of Independent Living for the Handicapped in HUD. That office is drafting the department's Sec. 504 regulations.

Under the 1968 Architectural Barriers Act, much of the new public housing being constructed is barrier-free. "In the long run, it is not any more expensive," said John Simmons of HUD's Office of Community Planning and Development. "If you make a door 28 inches wide rather than 22 inches (to accommodate a wheelchair), you just subtract that amount from the wall."

The organized disabled's major problem with HUD and housing officials generally has been that the handicapped have been lumped together with the elderly in most programs. On a bureaucratic level, this has made it hard to distinguish the dollars actually going to help the handicapped. On a personal level, it has meant that handicapped housing is usually included in elderly housing projects.

"They [the handicapped] are like thee and me and want to live a normal life. They can't do that if they are placed in [elderly] projects," said Simmons. A practical problem with this is that apartments for the elderly—designed for one or two people—are rarely large enough for a family that includes one handicapped member.

David Williamson, head of the HUD Independent Living Office, said HUD is working on a requirement that cities must distinguish between the elderly and the handicapped in the housing assistance plans they file to receive housing aid.

ENFORCEMENT

The threat of withdrawal of federal funds gives Sec. 504 teeth, but they will be useless without strong enforcement.

"Actually, there is little new in 504," said Wodatch of the Office of Civil Rights. "Most states and local governments have had these requirements on the books for years. The big difference is that they have to do something about it now, or lose their federal funds."

But HEW's Office of Civil Rights has had a dismal record of enforcement so far, and the handicapped groups worry that HEW won't be able to handle the additional caseload brought on by the Sec. 504 regulations.

The recent settlement of another anti-discrimination case, *Adams* v. *Califano*, resulted in an agreement that would nearly double the size of the 800-member enforcement staff. The Civil Rights staff says this will help considerably, but some affected groups worry about the sensitivity of hastily recruited enforcers.

The handicapped advocates and the Civil Rights staff see the full implementation of Sec. 504 as a common-sense, way to make the disabled full-fledged taxpayers contributing to the economy. But what may delay the transition is the economic costs of compliance.

WHERE THERE'S HELP ALREADY

There's at least one grant program specifically designed to help states and localities educate the handicapped. But some states and local officials question whether the money involved is worth the strings that are attached.

The Education for All Handicapped Children Act of 1975 (89 Stat. 773), which went into effect last October, provides $535 million in fiscal 1978 to subsidize the education of handicapped children. But states and localities estimate that this is only 9 per cent of the full cost.

The program's strings include a state guarantee of a free education for every handicapped child, a promise some states don't want to have to make without federal funds to back it up. In addition an "individualized education program" is to be developed for each child, stating his or her educational needs. The states are afraid this will be taken as a contract for services and turn what is supposed to be a planning process into an adversary procedure. Under the statute, the state education agency is responsible for supervising the program, although that conflicts with some state laws. And the law sets out a detailed due process procedure that also conflicts with some state laws.

States need not apply for the funds, but if they accept the grants and are found in violation of any provision, they stand to lose not only these funds but also handicapped aid under the Elementary and Secondary Education Act.

New Mexico has announced it will not apply for grants under this program.

"It has a price of admission that some states regard as unjustifiably high," said William H. Wilken of the National Conference of State Legislatures. "The federal government puts up nine cents on the dollar and states must meet 91 cents worth of need, and they must meet it exactly in the manner required by the federal government."

In his fiscal 1979 budget. President Carter has asked for a $269 million increase in funding to $804 million, 12 per cent of the increased estimated cost. The states are pleased with the increase, but note that it still is below the 20 per cent funding level authorized for fiscal 1979 in the 1975 legislation.●

THE NAVY-MARITIME ADVISORY BOARD ACT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

Mr. MURPHY of New York. Mr. Speaker, I am introducing legislation today for the purpose of improving the coordination between the Department of the Navy and the Maritime Administration to insure that the United States has an adequate and well-balanced merchant marine and an adequate shipbuilding mobilization base. Joining with me in introducing this bill are: Mr. LEGGETT, Mr. BIAGGI, Mr. ANDERSON of California, Mr. METCALFE and Mr. ZEFERETTI.

The Maritime Administration is charged with the statutory responsibility as set forth in the Merchant Marine Act, 1936, as amended to develop an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Maritime Administration is directed to cooperate closely with the Navy Department as to national defense needs and the possible speedy adaptation of the merchant fleet to national defense requirements. Further this fleet is to be American-owned, citizen-manned, American-built, and supported by an adequate and efficient shipbuilding and repair industry.

Experience has proven that it is a difficult and elusive task to reconcile the sometimes divergent interests in providing the well-balanced merchant marine called for in the Merchant Marine Act.

The objective of the proposed legislation is to assure that the coordination between the Maritime Administration and the Navy is encouraged and made fully effective by providing additional information and recommendations from representatives of the merchant marine and shipbuilding industry. Accordingly, there is provided a Navy-Maritime Advisory Board constituted of the Secretary of the Navy; the Assistant Secretary of Commerce for Maritime Affairs; and, representatives from the shipbuilding industry, U.S.-flag liner and U.S.-flag tanker and bulk vessel operators.

The Board will meet at least four times each year and submit a comprehensive annual report of its activities and recommendations to the President and the Congress.

I believe that this Board will be effective not only in making recommendations to the Maritime Administration in

respect to its responsibilities cooperating with the Navy as to national defense needs under the Merchant Marine Act, 1936, but will also assist in providing the Congress with the required information and understanding to insure that the United States continue to develop a maritime program that will effectively and aggressively promote U.S. national security interests.●

"LEFTY" GOODHUE, CARSON'S CHAMP

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. DORNAN. Mr. Speaker, William Lyon Phelps said once that to be truly educated means to prefer the best not merely to the worst, but to the second best.

Today I should like to celebrate the 59th birthday of W. W. Goodhue, an educator of many talents who has always opted for the best. He has served his country and his community proudly, but he is perhaps best known as the retiring principal of Carson High School, and in that capacity he will be honored at a retirement banquet April 22.

"Lefty" Goodhue is a former president of both the Southern California Football Officials Association and Senior High School Principals Association. A member of the National Council of Urban School Administrators and Supervisors, he served for 3 years as Los Angeles city school representative, and was national treasurer from 1972 until 1974.

Appropriately enough for an educator, the busy administrator is an expert at word puzzles, and is member and former president of the international organization, National Puzzlers' League. In a somewhat more substantial vein, Lefty has been a numismatist for many years. He has specialized the past 15 years in foreign coins, and for the past 10 years has been a consultant on foreign coins to one of the largest coin dealers in southern California.

Lefty Goodhue came to California from Hyrum, Utah, at the age of 3, attending school in Maywood and Downey before graduating in 1936 from Downey High School, where he lettered in football, basketball, track, and baseball. He went on to Occidental College, earning a bachelor of arts degree in physical education, and education, and minors in biology and social studies.

Lefty wasted little, if any, time during his undergraduate career. He earned three letters each in football, basketball, and track. In his senior year he was track cocaptain and football tricaptain, and was named outstanding athlete of his graduating class. During that year he also found time in a well-balanced college life to serve as president of Alpha Tau Omega, national social fraternity, and also as president of Phi Epsilon Kappa, national honorary professional fraternity for physical education majors. Graduate work has continued throughout his professional life, at Occidental College and the University of Southern California, with degrees and credentials including the General Administrative Credential requirements, completed in 1973.

Four years of service as a U.S. Navy commissioned officer interrupted his teaching and coaching at El Monte Union, as well as professional football with Pacific Coast League's Hollywood Bears, where he made the 1941 All-Coast Team. After serving in New Guinea, Philippines, the South Pacific, and China Sea during World War II, Lefty completed his teaching and coaching at El Monte Union, moving on in coming years to the Los Angeles City school system, and as boys vice principal at Banning and Huntington Park High Schools. In 1962 he was named principal of Bell High School, and most recently served as Carson High School principal from 1970 until September of 1977.

The coach and teacher was not restricted to the sidelines, however. His activities were once again versatile and impressive. He played football in the Navy, and from 1948 to 1952 was with Tom Bergin's AAA Softball Ram team, in addition to officiating for many years in both football and basketball.

Lefty and Betty Goodhue have been married almost 35 years, and have two daughters, Glenda Brown and Ginny Elmgreen, and a 3-year-old granddaughter, Heather Brown. Lefty's sister, Georgia Johnson, lives in Whittier.

Such many faceted and faithful service is exemplary of the best in American life and well-rounded educational development, and for this service and much more, I would like to join the citizens of Carson, Calif., in paying tribute to W. W. "Lefty" Goodhue.●

CONSTITUTIONALITY OF TUITION TAX CREDIT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. HAGEDORN. Mr. Speaker, opponents of proposed tuition tax credits in both Houses of Congress have relied heavily upon arguments of constitutionality, suggesting the existence of first amendment barriers. I believe that the following statements may be of interest on this matter. The first is an American Enterprise Institute reprint of testimony by University of Chicago law professor, Antonin Scalia before the Senate Finance Committee, while the second is an excerpt from an article by Carleton University economics professor, E. G. West, in the Heritage Foundation's Policy Review:

TESTIMONY ON THE CONSTITUTIONALITY OF TAX CREDITS

(By Antonin Scalia)

I appreciate the opportunity of appearing before you today, to address the constitutional aspects of the proposals for tuition tax credits. I will not take much of your time—partly because you have wisely not agreed to give me much of it, and partly because the message I have to convey is brief.

It is my understanding that this committee has not often had to grapple, as others have, with the possible impediments to legislation posed by the freedom of religion clause and the establishment clause of the First Amendment. If that is so, you will be surprised, I expect, by the barrage of categorical assertions you receive on both sides of the issue—that the proposal before you, insofar as it provides tax relief for tuition payments to sectarian schools, clearly should be, or clearly should not be, regarded as constitutional. I side with the former camp myself, but that is not primarily what I want to talk to you about. The principal point I want to make is that, regardless of how one feels about the "shoulds" of the matter, the issue has not been resolved by any holding, or even by any consistent line of dictum, from the Supreme Court. And for that reason, the responsibility which rests upon you is all the greater. In approving or disapproving the present proposal on constitutional grounds, you will not be following—and cannot pretend to be following—any dictate of the Supreme Court, but will rather be expressing your sense, and the sense of the society, as to what our most profound national convictions require. Your expression, in turn, can be expected to influence the course which the Supreme Court will steer in the future.

It is impossible, within the time allotted, to describe with any completeness the utter confusion of Supreme Court pronouncements in the church-state area, but a few examples may bring home the point. The Court has not been consistent even on the fundamental question of whether the constitutional prohibition against establishment of religion forbids merely the preference of one religion over another or rather prevents any special governmental favors to religion in general. In 1947, the Court said that the First Amendment "requires the state to be a neutral in its relations with groups of religious believers and non-believers; . . . State power is no more to be used so as to handicap religions than it is to favor them." *Everson v. Board of Education*, 330 U.S. 1, 14–15 (1947). Five years later it had changed its mind, and wrote the following oft-quoted passage:

We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. . . . The government must be neutral when it comes to competition between sects. . . . But it can close its doors or suspend its operations as to those who want to repair to their religious sanctuary for worship or instruction. *Zorach v. Clauson*, 343 U.S. 306, 313–14 1952).

Since then, the Court's expression of basic First Amendment philosophy has changed yet again, reverting to the principle that religion in general can be neither favored nor disfavored. See, for example, *Abington School District v. Schempp*, 374 U.S. 203 (1963). These dicta, however, are impossible to square with the Court's decisions—which have, for example, prevented the State of Wisconsin from compelling Amish parents to send their children to school beyond eighth grade (an exemption which the State would not be compelled to grant those who demand it for nonreligious reasons) *Wisconsin v. Yoder*, 406 U.S. 205 (1972); and prevented the State of South Carolina from withholding unemployment compensation from a Seventh Day Adventist who refused to accept employment that required Saturday work (again a special privilege accorded only to religion)

Sherbert v. Verner, 374 U.S. 398 (1963). Of course even the "neutrality" principle would support (indeed, require) the inclusion of sectarian school tuition payments in the benefits accorded by the present bill—but I raise the issue merely to demonstrate how inconclusive the Supreme Court's pronouncements are, even with regard to the fundamental philosophy of the First Amendment.

If one wishes to examine the specifics of Supreme Court holdings, confusion still abounds. The Court has, for example, approved state provision of bus transportation to and from school for parochial school students, Everson v. Board of Education, 330 U.S. 1 (1947), but has disapproved provision of transportation to and from field trips, Wolman v. Walter, 97 S. Ct. 2593 (1977); it has approved state provision of textbooks for use in sectarian schools, Board of Education v. Allen, 392 U.S. 236 (1968), and Meek v. Pittenger, 421 U.S. 349 (1975), but has disapproved provision of other instructional materials and equipment, Wolman v. Walter, supra; it has sustained state exemption of churches and places of worship from property taxes, Walz v. Tax Commission, 397 U.S. 664 (1970), but has, in certain circumstances, stricken down state income tax remission for tuition payments to sectarian schools, Committee for Public Education v. Nyquist, 413 U.S. 756 (1973). (I will have more to say of that case shortly.)

There is, to be sure, no dearth of Supreme Court expressions of the principles which are to govern the decision in cases of this sort. And the principles sound fine in the abstract. The currently favored formulation is the so-called three-pronged test enunciated in Lemon v. Kurtzman, 403 U.S. 602 (1971):

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion. . . ; finally, the statute must not foster 'an excessive government entanglement with religion.'"

The trouble is that, when held next to the bewildering diversity of results which the Court has reached, these tests, like those that preceded them, are revealed to be less tools of analysis than convenient bases for rationalizing results reached in some other fashion—convenient, because they may be applied strictly or liberally, rigidly adhered to or virtually ignored, in order to support the outcome. The situation has not changed since 1963, when Mr. Justice Stewart bemoaned as follows the sorry state of First Amendment case law:

"[S]o long as the resounding but fallacious fundamentalist rhetoric of some of our establishment clause opinions remains on our books, to be disregarded at will as in the present case, or to be undiscriminatingly invoked as in [Abington School District v. Schempp, supra], so long will the possibility of consistent and perceptive decision in this most difficult and delicate area of constitutional law be impeded and impaired. And so long, I fear, will the guarantee of true religious freedom in our pluralistic society be uncertain and insecure." Sherbert v. Verner, supra, at 416–17 (concurring opinion).

I want to say a few words in particular about two Supreme Court cases, *Committee for Public Education v. Nyquist*, 413 U.S. 756 (1973) and *Sloan v. Lemon*, 413 U.S. 825 (1973), because they are the opinions most likely to be cited by the opponents of this legislation as demonstrating its unconstitutionality. These cases involved (and struck down) tuition tax reimbursement programs, by New York and Pennsylvania, respectively, similar in their technical structure to the present bill. But there the similarity ends. Both New York and Pennsylvania had a history, prior to enactment of the laws in question, of unsuccessful attempts to subsidize directly their extensive sectarian (overwhelmingly Catholic) school systems; the legislative histories and even the texts of the tax provisions indicated that this was still their purpose; and the vast majority of the funds involved would in fact reimburse only sectarian (and primarily Catholic) school tuitions. That is a far cry from the state of facts underlying the present bill, whose benefits will not be conferred almost entirely upon those who attend sectarian schools, but will be spread broadly over the entire population. The very opinion in *Nyquist* suggests that incidental aid to those attending sectarian schools, in connection with a more broadly based program, may occupy a different constitutional status (413 U.S. at 794). Nor is the present bill designed to perpetuate particular school systems. Many of the senators who support it have in fact no extensive private school systems, sectarian or nonsectarian, within their states.

What motivates them—and what will motivate the Congress if it passes this bill—is not a commitment to the preservation of a particular school system, but belief in the fairness and desirability of providing tax relief and financial assistance to those whose real incomes are reduced by educational expenses, wherever paid; and a conviction that, unless such relief is provided, the treasured freedom to obtain the education of one's choice—outside the state schools if one wishes—will for most Americans be an illusion. And a final distinction, perhaps the most critical, between the present bill and the laws struck down in *Nyquist* and *Sloan*, is that here we are talking about a federal law. It is unquestionable that the Supreme Court—in this field even more than in most—is more disposed to accord validity to the acts of this Congress than to those of state legislatures. Compare *Lemon v. Kurtzman*, 403 U.S. 602 (1971), with *Tilton v. Richardson*, 403 U.S. 672 (1971). To my knowledge, only one minor feature of any federal aid-to-education provision has been invalidated on establishment clause grounds.

The reasons for that are sound—and much more understandable than such elastic abstractions as the "three-pronged test" which pass for the "principles" of First Amendment adjudication. In the individual states, where, not infrequently, a single denomination accounts for a majority or a near majority of the electorate, the danger that the legislature will aid a particular religion under the guise of pursuing purely secular governmental ends is sometimes acute, and justifies particularly rigorous application of antiestablishment principles, even at the expense of other constitutional values which might otherwise predominate. In the national legislature, by contrast, no single religious sect predominates, and the danger of sectarian action in favor of a particular group is negligible.

But this detailed discussion of *Nyquist* and *Sloan* is in disgression from (and even in disregard of) my principal point—which is that the decisions of the Supreme Court in this area of governmental aid to religion in general and to sectarian education in particular have little to tell you. However neat their formulation of principles may appear (and even this changes every decade), their decisions conform neither to any consistent interpretation of those principles nor to one another. Now, there is a large body of men and women to which I belong, called lawyers, who, for our sins, must analyze and seek to reconcile, however artifically, all the decisions and all the pronouncements of the Supreme Court—and even to identify the particular constitutional philosophies of the individual justices, so that we can predict (in an area such as this, where the Court frequently splits in two, or three, or even four groups of varying compositions) how many votes will be for affirmance and how many for reversal in the next case. That is fine, I suggest, for us lawyers; it keeps us, perhaps, from greater mischief. But for the representatives of the people to proceed in this fashion in determining whether or not a particular proposal before them is in accord with the fundamental principles of our nation; for the Senate of the United States to dissect cases and hang on every stray judicial dictum in a body of opinions which is notoriously unclear and indeed contradictory; that, I suggest, would be grotesque. And it would display, I think, not so much a fine regard for the Constitution as a failure to appreciate the role of this body in the development of constitutional law. This area of church-state relations in an era when the government has become deeply involved in every aspect of human life—and when many activities, including education, can no longer feasibly be conducted without governmental assistance in some form—this area resembles in many respects that of civil rights, where the Court has taken guidance from the Congress as to what the fundamental beliefs and aspirations of our people require.

I urge you, then, to approach this issue as a question of what the constitutional law "should be," rather than vainly seeking to determine what it "is" under the decisions of the Court. For me, the answer to that question seems quite clear. There is no doubt, of course, that the tuition tax relief provided by this legislation is constitutional as applied to parents and students paying tuition to *non*religious private schools. Is it conceivable that in this country—as opposed, let us say, to Hungary—it is not only proper, but *necessary* to single out for special discrimination those parents who choose to follow the long American tradition of religious schooling? Must the income tax deduction for charitable contributions be similarly limited, so that only contributions to religious organizations do not qualify? You must ask yourselves whether the special solicitude for religion contained in the Constitution was meant to produce such a distinctively antireligious result.

[From "Policy Review"]

TUITION TAX CREDIT PROPOSALS

(By E. G. West, Professor of Economics, Carleton University, Ottawa, Canada)

(NOTE.—Tables referred to not printed in the RECORD.)

JUDICIAL INTERPRETATION OF THE TAX CREDIT BILL

One possible problem with the tax credit bill must be faced and anticipated. This is the question of constitutionality. Mr. Moynihan gives considerable attention to this problem in his Report to the Senate (Congressional Record, September 26th, 1977). I shall contend that his argument can be strengthened considerably, again by demonstration of some economic reasoning.

The possible constitutional "problem" with the proposal that some critics will point out is that, because the plan provides credits that are refundable (e.g., to individuals who don't earn enough to qualify for income tax), the scheme will be transformed into one of tuition reimbursements. These are direct payments that can be spent in parochial schools, and as such they will be regarded as "aid to religion." Again, even without rebates, income tax credits may not be acceptable to the Courts, because if credits were restricted to parents with children in schools that conformed to government regulations, such regulations would involve "excessive entanglement" (to use the Supreme Court's current terminology) between Church and State. On the other hand, if the credit were available without such regulations the Courts would have no evidence that public aid was not being employed to finance the religious component of parochial schooling.

Some experts have replied that since tax credits represent aid to the parents, not to

the school or religious organization, they should not be regarded as unconstitutional. If, moreover, the credit is limited to a fraction of tuition paid, it can be argued that it finances only the secular portion of the education.

The fact is that the recent Nyquist case refused to allow the argument of family directed aid as distinct from denominational school directed aid. Moreover the Nyquist Court appeared to view any attempt to show that the public subsidy financed only the secular part of education as being fraught with almost insuperable "entanglement" difficulties.

In his response to the Supreme Court's latest stance, Mr. Moynihan relies on the argument that the Court itself is wrong in its interpretation of the Constitution. Many will sympathize (including the present writer) with this argument that historically interpreted, the First Amendment attemped primarily to insure against a state religion. Some will also sympathize with his claim that tax credits provide modest amounts of aid anyway, and will protect a pluralistic system that was intended by the Founding Fathers.

Mr. Moynihan's argument, however, would be more persuasive if he had focused on the Free Exercise Clause of the First Amendment, instead of the Establishment Clause. The Free Exercise Clause states that Congress, in its attitude to religion, shall make no law "prohibiting the free exercise thereof." The fact is that a system that taxes everybody to support a public school system prohibits in degree the ability of those parents who normally patronize a parochial school. Under such a system, whenever the parent chooses a parochial school he forgoes the opportunity of receiving a "free" education in the government sector. The forgoing of this opportunity, to the economist at least, is the very essence of the term "cost." In other words a public sector, so financed, automatically imposes costs on the private and parochial sector. As such it cannot be denied that the result is some degree of prohibition of religious education and therefore of religion.

Mr. Moynihan defends his tax credit system on the ground that *aid* to parochial schools is legitimate in the strictest historical interpretation of the First Amendment. To the extent, however, that the so-called "aid" is nothing but a return of the parochial taxpayers' public contributions, the correct viewpoint is that a previous "prohibition" of the religious sector is cancelled out. It is the deletion of a previous error rather than a provision of a (debatable) right to state help.

Some will argue that, in the case of those who qualify for no income tax but receive the tax credit for education, the state, in the sense of other taxpayers, is indeed involved. Such an argument, however, can be firmly rebutted. First, income tax is not the only revenue source to finance education. Revenues flow from several types of taxes including sales taxes and property taxes which are particularly regressive. It is not unreasonable, therefore, to view the refunded credit to persons who do not qualify for income tax as a refund offsetting other taxes that they pay. Moreover, because a person does not pay income tax in the current period, this is not to say that he will not pay it in future periods of his lifetime. Indeed, the correct way to view the individual taxpayer's contribution to education is as a contribution from his lifetime income. Over his lifetime he will go through several stages of income levels and social positions. He or she will pay indirect taxes at all of these stages. After leaving school the individual will pay taxes of various kinds on his earnings. When married, but before having children, the individual will contribute probably to direct as well as indirect taxes. When children arrive, the preschool period of their lives will coincide with continuing tax payments by their parents. The same tax payments will continue through the school age and after.

Table 2 shows one recent piece of investigation on the distribution of costs of public school systems. It revealed that people in the very poorest family income categories were paying nearly 8 percent of their annual incomes in education taxes. Table 3 produces the absolute dollar contributions of families in different income groups. These figures, it should be remembered, related to the 1960 census year. To make them representative of present day conditions we would have to multiply by a considerable inflation factor. Using this table, I have estimated elsewhere [3] that a poor family contributes a total undiscounted lifetime contribution in education taxes of $7,380. We have to remember also, that the poor typically receive an education that is of a shorter duration than others. So while their cost contributions are lower than average so are their benefits. It is, therefore, not clear that they are not contributing enough to finance themselves entirely.

Finally, it may be retorted that if the burden of our argument is that each individual family pays for its own education through its lifetime taxes, then the correct response of government is to withdraw from education entirely rather than provide tax credits. This, however, does not necessarily follow. The fact that we argue that so far there has been no demonstration that the typical individual family does not pay for its education over its lifetime does not necessarily mean that the same family could obtain the same funds without intervention. It could indeed do this if there were a perfect capital market. In this case the family would pledge its future income and borrow money accordingly. Insofar as there are serious capital market imperfections, however, and some economists argue strongly that this is the case, it is possible that the government can provide the equivalent of a capital market via the tax process. The resultant government facility is a financial one rather than an educational one. Individuals would receive financial facilities in the same way as they receive help in the purchase of long-lasting durables such as houses. The important point remains that when the individual family is viewed as spending its own money through a stimulated loan scheme, one can no longer complain that it is relying on public funds, or that those funds are aiding in religion or anything else.

Finally the possibility remains that some individual families will be net receivers from the system, that is they will receive more in benefits than the lifetime education tax contributions. A loan system of the income contingent kind, however, will have the same effect ex post. When people join such a scheme they are uncertain of their future income prospects. They will probably agree to some kind of "insurance" element built into the scheme so that should it turn out that they are more prosperous than expected they will contribute more to the revolving loan fund than people in the opposite position. They will do this ex ante with the balancing benefit that, should their income earnings fall below those expected, they will enjoy the "insurance" of contributions from others. Again, this is a financial system not an educational one.

In any case even if some families do receive more in benefits than they have contributed it is almost impossible to conceive of a family that pays less tax contributions from its lifetime income than the modest amounts of tax credit that are involved in the Packwood/Moynihan bill.●

PROPERTY TAX LIMITATION IN CALIFORNIA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. ROUSSELOT. Mr. Speaker, polls show that rising taxes are an incessant worry to the American people. Some of the wage earners who are the constant prey for unrestrained Government spending are finding an opportunity to protest and voice their grievance through the voting process. In my home State of California there is a widely discussed property tax limitation measure on the June ballot—the Jarvis-Gann initiative. The pros and cons of tax reforms and tax limitations have roused a heated debate throughout California and the burdened taxpayers are weighing the arguments carefully. Opponents of the Jarvis-Gann initiative are seeking forces to beat it by threatening loss of community services—fire, police, schools—and public jobs. We know of a teacher who was asked for an additional $5 contribution to her union for the sole purpose of fighting the initiative. Her question is if she does not pay this additional $5 will she be looked upon less favorably when job opportunities in her teaching profession come up. Noted economist Milton Friedman has stated the case concisely in his byline article which appeared in the April 10, 1978 issue of Newsweek. I submit this article to the attention of my colleagues in Congress because I believe Milton Friedman has not only summarized the feelings of the taxpayers in California, but also those of the taxpayers throughout our Nation. Certainly this House which is responsible for the appropriation process has a major responsibility to hold down increases in Government spending.

The article follows:

A PROGRESS REPORT

(By Milton Friedman)

One down, 49 to go.

That is the present state of the grassroots movement that Ronald Reagan started in California five years ago when he sponsored Proposition 1—a constitutional amendment to limit spending by the state government to a specified, and slowly declining, fraction of the personal income of the residents of California.

That amendment was narrowly defeated, as were similar amendments in two other states in recent years.

However, there is no reason for proponents of tax limitation to despair. Five years is a short time to effect a basic change in our governmental structure. The defeats are less impressive than the growing strength of taxpayer resentment at zooming governmental budgets.

VICTORY IN TENNESSEE

The first victory came in Tennessee on March 7, 1978, when a 2-to-1 majority approved an amendment to limit the "rate of growth" of state spending to the "estimated rate of growth of the state's economy."

Similar amendments will be on the ballot in a number of other states this fall, and the prospects look good for their adoption.

At the moment, the hottest fight again rages in California. Proposition 13, the Jarvis-Gann amendment, which will be voted on in June, has thrown politicians and state

and local government employees into a literal state of panic. The amendment would limit property taxes to 1 per cent of assessed valuation. It would restrict increases in assessed valuation to a maximum of 2 per cent per year except when property changes hands. In addition, it would require a two-thirds vote to raise other taxes. It is estimated that the amendment would cut property taxes more than in half—or by some $7 billion.

After dawdling for two years, the state legislature, under the gun of Jarvis-Gann, finally passed a property-tax-relief bill. It is much smaller ($1.5 billion vs. $7 billion), requires passage of an amendment permitting lower tax rates on owned homes than on other property and, being a legislative act can be readily undone by subsequent legislation.

In a reaction that has become only too familiar, the big-government coalition has been threatening dire consequences if Jarvis-Gann passes: police and fire departments "crippled," bond issues in "default," "bankrupt schools." The opposition is preparing to launch a major media blitz to be financed in large part by big business, which apparently has let fear of Sacramento trigger its unerring instinct for self-destruction.

Jarvis-Gann has many defects. It is loosely drawn. It cuts only the property tax, which is by no means the worst tax. It does nothing to halt the unlegislated rise in taxes produced by inflation. Proposition 1 was a far better measure, and a revised version will be needed even if Jarvis-Gann is passed. Yet I strongly support Jarvis-Gann. It does cut taxes. It does raise obstacles to further increases in government spending. And it will not have the dire consequences its opponents threaten. The state government has a surplus of some $3 billion to offset the $7 billion revenue reduction. The remaining $4 billion is roughly 10 per cent of the state and local spending now projected for the next fiscal year. Is there a taxpayer in California (even if he is a government employee) who can maintain with a straight face that there is not 10 per cent fat that can be cut from government spending without reducing essential services? Of course, the reallocation of revenues to finance the most essential services will take some doing—but what are elected representatives for?

SENTIMENT IN CALIFORNIA

A letter to the editor of The San Francisco Chronicle by Norman I. Arnold stated eloquently the view of many citizens of California:

". . . We are saying that we know it [Proposition 13] will severely disrupt state and city governments. We are also saying that we want it to severely disrupt state and city governments. We are not anarchists, we are not radicals and we do not think we are irresponsible. We are simply full sick and tired of having our pockets picked at every level of government . . .

"We want only the most necessary government 'services.' We want an end to the countless layers of useless bureaucracies. We refuse to pay any longer for the parasites who are feathering their own nests directly out of our pocket." ●

A LOOK AT THE OCCUPATION OF LATVIA, 38 YEARS LATER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. EILBERG. Mr. Speaker, 38 years ago this coming June, troops of the Soviet Union occupied Latvia. This invasion in 1940 of Latvia and the other free and independent Baltic republics of Estonia and Lithuania was a result of the Stalin-Hitler pact, which had been forged 1 year earlier.

Today, in international forums such as the just completed Belgrade Conference, the Soviet Union maintains that the people of Latvia voluntarily surrendered their right to self-determination, their individual freedoms, and their high standard of living.

But as the following thorough background information shows, the nation of Latvia was occupied in the truest sense of the word. No freedoms were surrendered voluntarily. I commend to my colleagues the following, which was prepared by the American Latvian Association in the United States, Inc.:

THE INCORPORATION OF THE BALTIC STATES INTO THE SOVIET UNION: "THE BIGGEST RAPE OF MODERN TIMES [1]

On June 17, 1940, in flagrant violation of the Peace Treaty signed with Latvia twenty years earlier, Soviet armored divisions crossed the Latvian frontier and occupied the country. Within less than two months after this unprovoked aggression, Latvia was illegally incorporated into the Union of Soviet Socialistic Republics.

The purpose of this summary is to familiarize the reader with the events which ultimately led to the forceful incorporation of Latvia into the Union of Soviet Socialistic Republics at a time when Hitler's armies were on the march and the free World was stunned by the fall of France and the Low Countries.

BACKGROUND OF LATVIAN-SOVIET RELATIONS

During the period following World War I, one of the principal aims of Latvia's foreign policy was the development of good and cordial relations with all states, and especially with her nearest neighbors, chiefly among them the Soviet Union. To this end, Latvia and the Soviet Union concluded several important treaties.

Formal relations between the independent Latvian Republic and Soviet Union were based on a peace treaty signed between the two countries on August 11, 1920.[2] According to Article 2 of this treaty:

"Soviet Russia unreservedly recognizes the independence, self-subsistency and sovereignty of the Latvian state and voluntarily and forever renounces all sovereign rights over the Latvian people and territory." [3]

On February 9, 1929, Latvia, Estonia, Poland, and Rumania signed with the Soviet Union a protocol providing for the immediate enactment of the Treaty of Paris of August 27, 1928, regarding the renunciation of war as an instrument of national policy.[4]

Then, on February 5, 1932, Latvia signed a non-aggression pact with the Soviet Union. On April 4, 1934, this treaty was extended to December 31, 1945. ARTICLE 1 provided that:

"Each of the . . . contracting Parties undertakes to refrain from any act of aggression directed against the other and also from any acts of violence directed against the territorial integrity . . . or the political independence of the other contracting Party . . ." [5]

A convention relating to conciliatory procedures between the Soviet Union and Latvia was signed on June 18, 1932.[6]

SOVIET COERCION BY TREATY OVER LATVIA

Despite these treaties and the efforts of the Latvian government to ensure friendly relations with the Soviet Union, indications in the 1930s were that just as soon as the Soviet Union and Nazi Germany could come to an agreement, they would endeavor to destroy their neigboring countries.[7] This eventually took place on August 23, 1939, when Hitler and Stalin concluded their pact of mutual friendship and non-aggression. Secret protocols attached to the agreement consigned the Baltic States to the Soviet sphere [8] and allowed Hitler (as early as September 1, 1939) to launch his attack against Poland.

After the defeat and division of Poland, the Soviet Union took advantage of an incident involving a Polish submarine that had taken refuge in the harbor of Tallin (the capital of Estonia) to initiate its aggressive aims against the Baltic States.[9]

On October 2, 1939, the Latvian Foreign Minister was summoned to Moscow to discuss a mutual-assistance pact with the USSR. Among the participants was Stalin, who opened the conference by saying:

". . . Twenty years have passed: we are stronger and you also are stronger. . . . The States of Austria, Czechoslovakia, and Poland have already disappeared; others may also disappear. . . . That which was determined in 1920 cannot remain for eternity. Peter the Great saw to it that an outlet to the sea was gained. We are now without (such) an exit, and the situation in which we are now cannot remain." [10]

After the Soviet Union demanded a positive answer in 48 hours to its insistence on gaining access to Latvian territory,[11] on October 5, 1939, under the menacing pressure of Soviet armed forces, Latvia agreed to allow Russian military, naval, and air bases on its territory. In return the Soviet Union agreed (Article 5) that:

"The enforcement of this pact shall not affect the sovereign rights of the contracting Parties in any way, especially their state structure, social systems and military measures." [12]

Estonia and Lithuania were coerced into similar Mutual-Assistance Pacts with the Soviet Union.

The Latvian government entered into its agreement with the Soviet Union in good faith, unaware of the fact that at that time the fates of the three Balic Republics had already been sealed by the secret Stalin-Hitler Agreement.[13]

SOVIET DEMANDS FOR UNCONDITIONAL SURRENDER OF THE BALTIC STATES

On November 30, 1939, the Soviet Union attacked Finland when the latter refused to sign a mutual-assistance pact. Although this attack caused the League of Nations to expel the Soviet Union from its membership, assistance to the Finns from the West was almost non-existent and after a winter of bitter fighting Finland was forced, on March 12, to accept the harsh demands dictated by the Soviet Union.[14]

Following the bloody resolution of the "Finnish question," the Soviet Union renewed its pressure upon the Baltic States by falsely accusing them of not fully complying with provisions of the Mutual Assistance Pact.[15]

Finally, on June 14, 1940, Lithuania received an ultimatum from the Soviet Union demanding the right to station an unlimited number of troops in Lithuania. Without waiting for an answer, Soviet troops entered Lithuania the very next day.[16]

That same day, Red Army reconnaissance units crossed the Latvian border, killing a woman and a child and several frontier guards, and taking a number of civilian prisoners.[17]

On June 16, 1940, at 2:00 p.m. (14:00), V. M. Molotov, the Soviet Minister of Foreign Affairs, delivered an ultimatum to the Latvian Ambassador in Moscow addressed to the Latvian government. It made the following demands:

Footnotes at end of article.

1. Immediate establishment in Latvia of a government capable and ready to ensure the honest execution of the Latvian Soviet Mutual-Assistance Pact.

2. To ensure without delay the free entry of an unlimited number of Soviet troops in Latvian territory to be stationed in strategic centers in Latvia.[18]

The Latvian government was given six hours to comply with these demands.[19] In case of Latvian resistance the Soviets threatened to bomb Latvian cities in a manner reminiscent of Hitler's tactics against Czechoslovakia a year earlier.[20]

The Estonian government received a similar ultmatum half an hour later at 2:30 p.m. (14:30), and was given eight and a half hours to reply.[21]

Militarily the Baltic States were unable to oppose the might of the Soviet armed forces.[22] Since no assistance was forthcoming from the West, the Baltic States were forced into unconditional surrender.

SOVIET OCCUPATION OF LATVIA

On June 17, 1940, between 1:00 and 2:00 p.m. (13:00–14:00), the first Red Army units arrived in Riga, the capital of Latvia. These units, contrary to the terms of the ultimatum, immediately occupied all communication facilities (radio, telephone, telegraph, etc.), isolating Latvia from the rest of the world. Radio broadcasts were resumed an hour later, but now firmly under Soviet control. At first, only music was allowed to be transmitted.[23]

After the occupation of Latvia by the Red Army, a pro-Soviet government was formed by A. Vishinsky, Deputy Chairman of the Council of People's Commissars of the Soviet Union.

On June 19, 1940, two days after the occupation, Vishinsky personally delivered to Latvian President, Dr. K. Ulmanis, a list of names comprising the new government, Vishinsky stipulated that since these officials had been chosen by Moscow, no changes were possible.[24] At this time, the guns of the Soviet fleet anchored in Daugava were trained on Riga, and the President was made to understand that opposition would result in the bombardment of the city.[25]

SOVIET-CONTROLLED "ELECTION"

On July 4, 1940, the new government called for general elections to be held on the 14th and 15th of July under new election rules—thus violating article 81 of the Latvian Constitution, which gave only the Saeima (Parliament) the power to make changes in the election rules. The speed called for in the election also contravened the Constitution, which provided that at least 40 days must elapse between the call for elections and their taking place.[26] The reason for this undue haste on the part of the Soviets was to become obvious later.

The newly legalized Community Party was officially declared as the only political organization in Latvia, and it was entrusted to draw up a list of candidates (United Workers Bloc) for these elections.[27] Only one candidate for each seat was selected; thus, regardless of how many votes each of the "approved" candidates received, he or she would be elected. Much to the surprise of the puppet government, the neatly designed political monopoly was broken when a coalition was formed by the major Latvian political parties (Farmers Union, Democratic Center, etc).[28] This unexpected turn of events resulted in the puppet government making several modifications in the election rules in order to eliminate the non-communist candidates.

The registration deadline for candidates was set for July 10th, only five days after the elections were proclaimed. Even with this tight time limit a further constraint was imposed by restricting registration on the 8th and 9th of July to only between 10:00 a.m. and 12:00 a.m., and on the 10th to between 10:00 a.m. and 2:00 p.m.[29]

On July 8, 1940, two days before the registration deadline, the government appointed Election Board came out with yet another requirement—stating that the candidates, at the time of filing, must also submit a complete platform.[30]

This was further amended by demanding that the Coalition Party's platform and the names of the candidates be printed and distributed to the electorate prior to the registration. Since the new regime had prohibited printing shops from duplicating these materials, the platform and candidate lists were printed surreptitiously in various cities around the country.[31]

Finally, after everything else had failed, on June 9, one day before the deadline, about 70 militiamen raided the Coalition Party's headquarters and confiscated all materials. The warrant was signed by the Minister of Interior V. Lacis, and the Chief of the Secret Police, V. Latkovskis, both members of the Communist Party.[32] Shortly afterward, several of the Coalition leaders (A. Kenins, H. Celmins, J. Balodis, and others) were arrested and eventually deported.[33]

The Election Board subsequently ruled that only the Communist Party's approved candidates, the United Workers Bloc, had met all the requirements and thus were the only ones permitted to run in the election.[34]

The "elections" took place in all three Baltic Republics as scheduled. The elections were mandatory in nature, since each individual who participated had his passport stamped. Failure to vote could result in a person losing his or her employment and being marked as an enemy of the new regime.[35] The Soviet news agency TASS carried the "official results" 24 hours before the polls closed.[36]

ACTIONS OF THE NEW "PARLIAMENT" TO INCORPORATE LATVIA INTO THE U.S.S.R.

The new Saeima (Parliament) elected in the mock-election passed an illegal resolution on July 21, 1940, calling for Latvia to join the Union of Soviet Socialistic Republics.[37] The Latvian Constitution did not grant the Saeima such powers (see Articles 1, 76, 77 below).[38] The Estonian and Lithuanian Parliaments passed similar illegal resolutions.[39]

The illegal incorporation of Latvia into the U.S.S.R. was completed in Moscow on August 6, 1940. At a session of the Supreme Soviet of the Union of Soviet Socialistic Republics, a few selected "representatives" of the Latvian people read a petition written by A. Vishinsky, a Soviet government official, asking that Latvia be admitted into the Soviet Union. On the basis of this petition asking for admission and a corresponding resolution by the Supreme Soviet, Latvia was incorporated into the Soviet Union.[40]

Although the Soviet Union attempted to give a semblance of legality to the proceedings, it was all a flimsy veil to cover the Soviet takeover and the annihilation of Latvia. The Constitution of Latvia clearly states:

Article 1. Latvia is an independent democratic republic.[41]

Article 76. Saeima (Parliament) may amend the Constitution in sessions where at least two-thirds of the members of Saeima participate. Amendments shall be adopted in three readings of not less than two-thirds of the deputies present.

Article 77. Should the Saeima amend Articles One, Two, Three, or Six of the Constitution, such amendments to attain legal legal force shall be referred to a national referendum.[42]

CONCLUSION

The information above shows that no referendum was carried out in Latvia and that the Saeima elections were unconstitutional. Moreover, no referendum or plebiscite could have been carried out in the presence of an occupying Soviet military force. Thus, the actions of the Soviet Union and of the Latvian puppet Saeima in incorporating the Republic of Latvia into the Soviet Union does not have the slightest constitutional legality.[43]

After the eventual breakdown of the collusion between the Soviet Union and Nazi Germany, the Baltic countries became a battleground for the two warring powers. During the final days of World War II, the Soviet Union once again occupied the Baltic territory and reinstated its unlawful rule over Latvia.

FOOTNOTES

[1] The Chief of the United States Delegation to the Belgrade Conference and former Supreme Court Justice Arthur J. Goldberg, when asked to comment upon the incorporation of the Baltic States into the Soviet Union, declared that it was "the biggest rape of modern times." Latvian Newspaper *LAIKS*, Dec. 4, 1977, Brooklyn, N.Y.

[2] Hearings Before the Select Committee to Investigate the Incorporation of the Baltic States into the U.S.S.R. (of the U.S. House of Representatives), *Baltic State Investigation, Part I* (Washington, D.C.: Government Printing Office, 1954).

[3] Bilmanis, Alfred, ed. *Latvian-Russian Relations: Documents.* (Washington, D.C.: Latvian Legation, 1944), p. 70.

[4] Hearings Before the Select Committee, p. 15.

[5] Bilmanis, p. 170; Hearings Before the Select Committee, p. 15.

[6] *Ibid.*, pp. 172–175.

[7] Jurmalnieks, Janis. *Latvijas ieklausana Padomju Savieniba. Tas prieks un pecspele* (Stockholm: Memento, 1973), p. 49.

[8] *Ibid.*, pp. 7–14.

[9] The Latvian Legation. *Latvia in 1939–1942: Background, Bolshevik and Nazi Occupation* (Washington, D.C.: Latvian Legation, 1942), p. 21.

[10] Bilmanis, pp. 192–193.

[11] Jurmalnieks, p. 16.

[12] Bilmanis, p. 199.

[13] Hearings Before the Select Committee. p. 16.

[14] Jurmalnieks, p. 49.

[15] The Latvian Legation, p. 22.

[16] *Ibid.*, pp. 22–23.

[17] Jurmalnieks, p. 27.

[18] Hearings Before the Select Committee. p. 16.

[19] Jurmalnieks, p. 27.

[20] *Ibid.*, p. 28.

[21] *Ibid.*, p. 27.

[22] Hearings Before the Select Committee, p. 59.

[23] *Ibid.*, p. 60.

[24] *Ibid.*, pp. 62–63.

[25] The Latvian Legation, p. 24.

[26] Jurmalnieks, pp. 33–34.

[27] The Latvian Legation, pp. 24–25.

[28] Jurmalnieks, p. 34.

[29] *Ibid.*

[30] *Ibid.*, p. 35.

[31] *Ibid.*

[32] *Ibid.*

[33] *Ibid.*

[34] *Ibid.*

[35] The Latvian Legation, p. 25.

[36] Jurmalnieks, pp. 38–39.

[37] *Ibid.*, pp. 39–40.

[38] Bilmanis, pp. 238–244.

[39] Jurmalnieks, p. 40.

[40] *Ibid.*, p. 41.

[41] Bilmanis, p. 238.

[42] *Ibid.*, p. 243.

[43] *Ibid.*, p. 211.

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WITH BEGIN IN ISRAEL: FREE ENTERPRISE AND ANTICOMMUNISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. McDONALD. Mr. Speaker, the present government in Israel, led by Prime Minister Menachen Begin, represents a fundamental break with the political ideology that has governed Israel since its establishment; namely, socialism. Last May in a free and open election the Israeli voters sent a majority of Conservative candidates to fill the Knesset seats.

Prime Minister Begin has had few people outside Israel speaking in his favor. This is partly a result of two decades of collaboration between the former Socialist government and Zionist organizations abroad, partly due to the long campaign against Begin conducted by his Israeli Socialist political opponents, and to a considerable extent due to a vicious smear campaign orchestrated by the Soviet Union and its allies.

However. Rabbi Marvin S. Antelman, Chief Justice of the Supreme Rabbinic Court of America, has written an informative article on the political and religious background to the collapse of the former Socialist government, the election of Prime Minister Begin's Likud government, and on its political and moral stands. The article published in the March 29 edition of Review of the News follows:

WITH BEGIN IN ISRAEL

Menachem Begin heads Herut, Israel's anti-Communist and Free Enterprise political party. One year ago, few Americans had ever heard of him or of the Herut. In fact, the Socialist-dominated Jewish Agency—administrative arm of worldwide Zionist organizations—had done its best to assure this obscurity among a majority of Jews living outside Israel. Where it could not guarantee obscurity it did its best to label Begin an extremist, fanatic, or terrorist.

The Herut Party is now actively seeking to duplicate the victory it won in ousting the secular Socialists from power in the Israeli Government by also cleaning house in the Jewish Agency. Outsiders have been astounded to observe Menachem Begin in action, especially as it has become obvious that his Herut Party is one of the most formidable enemies of both the International Communist Conspiracy and the insidious Council on Foreign Relations (C.F.R.) with which the Reds are seeking a New World Order.

While Begin and the Herut Organization agree about who the enemy is, Premier Begin has been subjected to extreme pressure by the C.F.R. on the international scene. This has caused some disagreement between many Herut leaders and Mr. Begin as to how best to deal with these enemies. For tiny Israel, this is far worse than even our Panama Canal problem. The Panama Canal was not given by God to the United States, but Jews believe the mandate for liberated Judea and Samaria places them in the category of God-given territories. The occupied Sinai is also seen as a gift of God in the Scriptural proclamation: "Every spot on which your foot treads shall be yours; your territory shall extend. . . ." (Deuteronomy 11: 24.)

Herut has sought to remind the world that 80 percent of Israel was taken away by the designs of the Royal Institute for International Affairs, the British C.F.R. counterpart, creating Jordan out of land which the founders of Herut, under the aegis of the Jewish Legion, had liberated under the British flag during World War I. This territory of "Palestine" had been promised to the Jews by England when London wished to recruit Jews from other countries (including the United States prior to its own involvement) to fight the Turks and then stabilize the area against the French. The idea of a Jewish Legion was sold to the English by Vladimir Jabotinsky (1880–1940), a Jewish Russian journalist who had fought Bolshevik agitators as well as the machinations of the collectivist Lord Milner and the Rothschild Dynasty in England. This is documented in detail in Elias Gilner's "War And Hope" (Herzl Press, 1969). It was the anti-Communist Jabotinsky who subsequently founded the Revisionist Zionist Party, which today is known worldwide as the Herut Zionists. And it was Jabotinsky who was Begin's mentor, though Premier Begin's own experiences in a Soviet slave camp are more than sufficient to establish his anti-Communist credentials.

BLACKOUT ON THE RIGHT

The American mass media have done a successful job of obscuring Israel's astounding turn from collectivism and the subsequent destruction of secular Communism and Socialism as viable powers in the Israeli Government. It was apparently felt by the masters of our "Liberal" media with their own ties to Israel's former hierarchy, that this victory by the Right would be too much of an encouragement and inspiration to foes of collectivism here in America. That attitude, and the resulting news blackout, is greatly to be lamented.

With the Grace of God, I was fortunate to observe some of these unreported events as an eyewitness in Israel during June and July of 1977. On the afternoon of June 20th, exactly one year after C.F.R. operation Henry Kissinger was excommunicated from Judaism by the Supreme Rabbinic Court of America, Menachem Begin officially presided over the first session of the Knesset under his Administration. I was present as the sole representative of the Herut Zionists of America.

Begin's opening remarks were prefaced by the words *Bishem Hashem Yitbarach*—in the Name of God may He be blessed—causing a great swell of emotion in the Knesset. Here was the first Prime Minister in 29 years to invoke God in the national parliament, causing commentators to say that Begin was the first "Jewish" Prime Minister of modern Israel. He then humbly thanked God for the miraculous creation of the State of Israel, bringing myself and most of his audience to tears, as the atheistic Communists and secular Socialists grimaced in despair.

Premier Begin now briefly outlined his domestic policy—stressing his intention to uproot militant secularism in Israel and embrace traditional Judaism as the primary driving force of the nation. Israel would now teach moral values to its youth as part of their education. And, said the new Premier, his Government would destroy the Socialist bureaucracy that had sapped Israel—even if it meant immediate massive firings at all administrative levels of the government agencies. Menachem Begin suggested that the displaced bureaucrats could find employment under the new Free Enterprise system . . . if they could adjust to it. He declared that Herut's policies of Free Enterprise would substantially reduce the nation's unemployment and inflation problems, observing that "unemployment drives men to madness." The result of the turn to Free Enterprise, he said, would be more jobs and greater productivity.

The new Premier also invited Jews from all over the world "to come home" to Israel, saying they would be made to feel at home as one does in his own house. It was well known that the previous Administration had turned a cold shoulder to enterpreneurs seeking to settle in Israel, and had in typical Socialist fashion sought to polarize the religious and secular communities, the urban and rural communities, and to turn the Oriental Sephardic Jews against the Western Europeans.

After speaking for an hour, the Prime Minister yielded the floor to Shimon Peres, the head of the formerly ruling Histadrut, now in Opposition. Unlike Begin, who had spoken calmly and softly, Press opened by shouting a tirade of insults, reproofs, and remonstrations. He denounced Begin's policy of "homecoming" with a hostility later elaborated upon by the Socialist throughout the evening. In fact this Knesset session, which marked Israel's turn from the Left, lasted from about 4:00 to 12:30 a.m., punctuated by a series of exciting verbal exchanges as spokesmen of the various parties were in turn given the floor. Israelis throughout the country sat glued to their television sets watching the historic proceedings. Here are some of the highlights:

Shimon Peres turned to the leaders of Israel's most venerable religious party, the Agudat Israel, and declared: "Begin will bring you a secular Government you can't stand." He then turned to Begin's Likud-Herut, and roared: "Begin brings you religious domination you can't tolerate." The words were empty rant, as it was clear that members of the Knesset and the larger television audience were solidly with the new Premier.

Following the Peres line, other members of the old Socialist party sought to mock the idea that Jewish entrepreneurs and talented professionals would come home to a religious Free Enterprise country. They declared that only bourgeois millionaires would be coming to Israel, that they would do no more than lead lives of leisure, and that what the country needed were people willing to build a Worker's Paradise. One infuriated Socialist screamed: "Millionaires did not build Israel." Ah, my Conservative friends, it was wonderful.

Likud M.K. (Member Knesset) Savidore now arose and delivered a searing indictment of Socialist Labor which was considered by informed observers to be one of the most eloquent denunciations from the floor of the Knesset in Israeli history. Savidore addressed the former ruling coalition with irony, ask-

ing: "Let us see where your ideology comes from; yes, Histadrut, who are your heroes? The self-hating renegade Jew, Karl Marx? Eh yes, who else? Let's see . . . (pause). I vaguely recall someone by the name of Stalin. He was one of your heroes, was he not?" In answer to Histadrut's anti-capitalist charges that the millionaires had taken over Israel, he said: "If we are the party of the capitalist millionaires, it is news to me. I didn't realize that there are hundreds of thousands of millionaires in Israel who voted for us."

Savidore continued: "Who polarized the country with hate for everything sacred and religious . . .? Who implanted such a hatred for religion in our youth, and infected our national educational system with it, as to turn many into actual or potential juvenile delinquents bereft or moral character?" The Knesset was all but hysterical as M.K. Savidore deftly thrust the knife of his rhetoric into the Left, slowly turning it with dramatic poise and at once drawing Histadrut's blood and anger.

M.K. Ben Meir of the National Religious Party, a young American-born rabbi and graduate of Yeshiva University in New York, stood to speak. He had been elected for the first time to the Knesset and sought to answer insults hurled against his Agudat Israel colleagues by the prodominantly Leftist mass media. The Israeli news media had for months prior to the elections carried on such an incessant propaganda barrage that it was amazing to many that the Right won. There had been wild predictions of dire chaos, immediate war, and apocalyptic catastrophies that would descend upon the land. When Begin formed his coalition the collectivist Israeli media had called it a black day in history, and that sentiment was reiterated worldwide through America's cooperating "Liberal" press. But it didn't work. Ben Meir demanded to know by what criteria a judgment is rendered by the media that this or that is a black day. He noted with biting irony that when Socialist Labor and the anti-religious forces of secularism enjoy a victory it is termed a glorious day, but when religion and Free Enterprise win it is said to be a black day.

And so it went as the religious and anti-collectivist forces enjoyed their victory. "You have accused me of setting up a theocratic state dominated by religion. What do you want from me?" asked Premier Begin, shrugging his shoulders innocently. "I am only keeping all the promises you, the Histadrut, made to the religious parties all these years and did not keep." Mr. Begin now began to point out how the Histadrut had "used" the National Religious Party, enticing it into coalitions and making all sorts of promises which had never been kept. He declared dramatically that he had signed a formal pledge to keep them on the previous day, June 19th.

I was present on June 19th at the imposing Herut Party headquarters, Bet Jabotinsky, in Tel Aviv. That headquarters, incidentally, houses the party library and archives where American Opinion and The Review Of The News are regularly received and studied. These archives maintain files that include dossiers on Communists, members of the conspiratorial Council on Foreign Relations, and documentary photos of destruction of Jewish neighborhoods and institutions by black militants and other terrorists in America. It was there at the Herut headquarters that I witnessed the signing of the coalition agreement between Begin's Likud and the religious parties. The atmosphere was a joyous one for the religious Right as everyone hugged each other and drank a small glass of liqueur with the traditional "LiChayim" toast to life, reciting a benediction in praise of God. I had myself brought a bottle from the United States to celebrate that splendid occasion.

THE GOVERNMENT FALLS

In order better to understand the significance of the coalition agreement, it would be well to turn back the clock one year to 1976, the Friday before Chanuka. As many Americans know, Chanuka is the holiday at which all Jewry celebrates the victory of the Maccabees against Platonic Hellenism, which had sought to impose a One World government and destroy the identity of the Jewish nation as a religious cultural entity.

The atmosphere of concern in the Knesset in early December of 1976 had swelled in overture through a series of events that would topple the Government. Ironically it had begun with a serious mistake by the Council on Foreign Relations in far-off New York, Foreign Affairs, the C.F.R. quarterly, had carried an article in its issue for October 1976 entitled "Israel: The Case For Defensible Borders" by Yigal Allon, Israel's Deputy Prime Minister and Foreign Minister, who considered himself to be a disciple of C.F.R. operative Henry Kissinger. When the article appeared, the reaction in Israel was entirely negative and it was vigorously attacked by the Knesset where demands for Allon's resignation were voiced in the Security and Foreign Affairs Committee. Some went so far as to characterize Mr. Allon as a traitor. The timing of the article was of special concern and charges of conspiracy were heard throughout Israel, for it appeared on the very eve of the convening of a U.N. Assembly which in recent years has provided a stage for victous anti-Semitism.

It was at about this time that Menachem Begin declared: "A Government"s credibility is one of the most vital factors in its conduct of national policy. Foreign Minister Allon is in total agreement as far as credibility on the home front is concerned. He is determined that the threats uttered against the settlers of Kadum in Samaria must be carried out, and his language suggests that he is even threatening to resign if the Government loses its credibility on this issue . . ." Begin went on to say, "I can affirm without fear of contradiction that there has never yet been a Government in Israel so lacking in credibility as this present Government."

On the Friday before Chanuka. 1976, Jews all over the world were preparing for the holiday. The major theme of Chanuka is a clash never fully resolved between Jewish spirituality and Hellenistic materialism. In 1973, Begin had earlier used the Chanuka theme for a searing denunciation of Communist Revolutionary Movements in an essay called "Why Men Rebel." He observed that the authors of the Communist Manifesto" unhesitatingly declared that the entire history of society is the history of class struggle between master and slave, patrician and plebian, lord and serf, artisan and apprentice. But even if the Secretary General of the Histadrut Israeli Labor Federation does cling to this view . . . it is obvious to every intelligent person that it is contradicted by experience from days of old down to our own day."

Menachem Begin then noted: "From an old original source, we learn of the dialogue preceding a fateful turning point in the history of Israel, when the King's agents came to the village of Modin. They asked to see one of the notables, Mattathias, and demanded that he obey the King's commands. This command was accompanied not by threats but tempting promises. 'You are a greatly respected leader in this city, supported by sons and brothers. Be the first to come forward and obey the King's commands as all the nations have done, and the people of Judah and those remaining in Jerusalem, and you, with your sons, shall be favored,' said the King. 'You will be honored with gold, silver and abundant gifts.' But Mattathias refused to accept these improvements in his social and economic status, replying in ultimately revolutionary fashion, 'Even if all nations forsake the services of their ancestors, my sons and I shall follow the Covenants of our forefathers. Heaven forbid that we abandon the Torah and its Commandments. We will not obey the King's Commands to turn to the right or the left from our ancestors.' Thus began the revolutionary war program for our Maccabean ancestors."

Begin asked: "What connection is there between this and the struggle between the factors of production? What has it to do with the conflict between artisan and apprentice, lord and serf? On the contrary, the material was here sacrificed to the spiritual. Not only status but life itself was placed on the balance for the abstract ideal of faith and its eternity. Thus it was in all generations and including the recent era which we know from experience and not from just reading, that Marxists called themselves scientific socialists. They should restudy the roots from which their philosophy has sprouted. If they do not wish to deny the historical truth so obvious to all, they shall have to admit that their teachers gave them a philosophy which does not stand up to the scientific challenge of history. Marx's definition is certainly, only a partial one and can, therefore, not be correct. We come closer to a complete unifying definition if we state that the history of civilization is an account of the opposition of the oppressed to the violence of the oppressors."

Begin now called for the overthrow of Communist totalitarianism throughout the world, stating that this is the meaning of the Jewish prayer. "Remove wicked governments from the earth." If the regime is violent in its wickedness, he said, "then one who rises to battle is not guilty of the sin of violence, but on the contrary, he fulfills the Commandment to oppress wicked violence. The edge of physical power is always in the hands of the oppressors. The edge of moral power is in the hands of the few who rebel" against the Communist oppressors.

Little did Begin realize that the Chanuka principles which he had so eloquently defended three years earlier would be the major factor in bringing about the defeat of the collectivist Histadrut Government. For, contrary to what the "Liberal" media had been falsely saying for years—that Israel was not a religious country—it was a religious issue that made the difference.

On that Friday before Chanuka, America delivered to Israel the first installment of its promised F–15 jets—a much needed shot in the arm for the Israeli military. Then, on the very eve of the festival that celebrates the triumph of spiritual determination over physical might, the sanctity of the Sabbath day was trampled upon by the Socialist Government. In spite of warnings that the schedule was too tight, Prime Minister Rabin's ceremony for accepting the F–15s was arranged so that participants could not return home without violating the Sabbath. Infuriated at this calculated secularist insult at Chanuka, the religious block headed by Agudat Israel initiated a vote of "no confidence" against the Rabin Government, the Government fell, and elections were annouced for May.

The fall of the Socialist Labor Government can be traced to all sorts of causes, political and otherwise, but the crisis was undisputably triggered by Histadrut's desecration of the Sabbath at Chanuka.

THE COALITION

After victories for the religious Right in the May elections, Begin forged his coalition. An earlier arrangement had been worked out in 1973 between the Herut, Begin's party, and what were called the Liberals, to make a coalition called Likud which gave Menachem Begin its mandate. The Liberals, consisting of many people who were not religious but who had the same Free Enterprise economic commitment as Begin, were disgusted with Socialism and agreed to accept Begin's leadership on religious issues irrespective of their per-

sonal religious convictions. Likud won 43 of the votes. There were also two members of Herut who had established their own small party, Knesset member General Arik Sharon and M. K. Savidore, who followed the Likud. The National Religious Party won 12 votes, and the Agudat Israel received 4, which gave Begin a majority of 61 out of the 120 seats in the Knesset. When the "vote of confidence" was taken on June 20, 1977, the total for the new coalition was 63 to 53 with a few abstentions.

It is to the credit of Agudat Israel's venerable character that when it signed the coalition agreement it sought for its members no gain whatsoever; it did not ask for a single Cabinet seat, head of ministry, deputy ministry, or any political plum of any kind. It proposed to enter this coalition strictly as a matter of conscience and religion, refusing all traditional rewards. Its concerns were strictly religious and moral. Consider the contents of the agreement:

The Israeli medical establishment had come over the years to believe that it could do whatever it wanted, and it seemed to take pleasure in performing autopsies, a practice prohibited according to Jewish religious law except in extreme circumstances. Thus critically ill religious Jews often demanded to stay home and die rather than undergo hospitalization for fear of autopsy. Under the new coalition agreement, autopsies could only be performed by informed prior consent, in writing, from next of kin. In reply to an attack on the floor of the Knesset by the Socialist Histadrut, Minister Berg of the National Religious Party pointed out that this is a question of civil rights and not of religion, and that therefore the bureaucratic practice of hauling bodies off to the autopsy room without concern for the wishes of the dead and their families would be stopped.

Another concern was a deplorable law that had recently passed in Israel guaranteeing a right to abortion on demand. The coalition agreement called for elimination of that most pernicious section in the abortion statute permitting abortions for economic and social reasons.

Also, Israeli law grants special privileges to all Jews who immigrate to the Holy Land. This includes converts. Although Judaism is non-proseletyzing and has no missionaries, nowhere did the statute stipulate that conversions must be performed in keeping with the requirements of Jewish Law. What happened was that usurpers who were not properly ordained would confer official status as Jews upon non-Jews who underwent spurious conversions that were not in accordance with the ancient Jewish Law. Under the new agreement, the Government would appoint a committee to draft legislation that would recognize only conversions performed in accordance with Jewish Law.

The Socialist Histadrut had been hostile to religious Jews who suffered terribly to come to Israel from Russia. These were devout people disgusted with Communism and thirsting for a normal life with their coreligionists, but the secular Socialist Administration had gone out of its way to assign housing in communities isolated from religious settlements, denying the immigrants many of the advantages of living in a religious state. This resulted in a spiritual deterioration of the Russian immigrant population and accounted for the fact that many Russian immigrants became discouraged and left Israel for other countries, especially the United States. Under the new coalition agreement, religious Jews from Russia would be provided a choice of housing in religious settlements and members of the religious party would be appointed to the absorptions committee.

The discrimination by the Socialist Government against the religious schools in Israel was also disturbing; and, under the new laws brought in by the coalition, religious schools were granted status equal to government schools in terms of buildings, matriculation, and other matters. At the same time their unequivocal independence in educational policy was guaranteed. The Socialist Government had even discriminated against Rabbinical students who studied in the seminaries of Israel, permitting them stipends in advanced studies which were considerably less than their counterparts at the universities. This was also stopped and the stipends are now equal.

Another moral concern of the new coalition was movie advertisements displaying pornographic scenes on outdoor billboards, and these have been outlawed. Under the new laws, decisions of Rabbinic courts regarding marriage, divorce, and religious identity could no longer be appealed to a hostile secular court as formerly. Previously, when the Rabbinate denied certificates of Kosher food to eating establishments that violated the Sabbath, it had been coerced through the secular courts to give certificates to eating establishments on the basis of the food itself being Kosher regardless of the fact that the entire atmosphere was not. This was also to be ended by the new legislature.

These were the main religious points, but there were others as well.

THE MOVE TOWARD SANITY

On June 21st, the date following Begin's coming to power in the Knesset, the Herut Party was immediately involved in an educational project on which I personally worked at Bet Jabotinsky. We were determined to take our fight against Socialism into the heart of the Histadrut Organization itself. It was our hope to put up a fight within the Histadrut that none there would ever forget, changing the commitment of the rank-and-file of Histadrut from Socialism to one of liberty and personal responsibility. There were people in Histadrut (the previous Government having created a Socialist monopoly) who were there because of coercion. They had been sold a bill of goods during the War of Israeli Independence of 1948, being told that Menachem Begin was a fascist and would lead the country to fascism. All of this resulted from the fact that Begin was a known anti-Communist who opposed Marixism in all its forms.

It was fear that the anti-collectivist Begin would quickly rise to power which had led David Ben Gurion and his Socialists actually to sink and shell the *Altulena*, a ship containing badly needed ammunition, because Begin's Irgun had brought it to Israel. This was a terrible tragedy in Israeli history as many died aboard the Jewish ship. The entire incident was described in *Revolt*, Begin's own eyewitness account, which will be made into a documentary to be seen on television sometime in the fall of 1978. Another book which tells this story is *Perfidy*, by America's own Ben Hecht. The Socialist-dominated Jewish Agency, which charges for almost all of its other publications, published and distributed without charge a book attempting to refute Mr. Hecht's *Perfidy*. It is today virtually impossible to find copies of Ben Hecht's book in our libraries because Leftist organizations all put a bounty on it.

Employing a vast public-relations organization, Socialists in the Jewish establishment had smeared Begin and his Zionist Revisionists, with their Irgun army, as fascists unworthy of consideration. But by 1977, after years of suffering under Socialist regimes, the people of Israel were no longer buying this smear of the anti-collectivist Right. I was in Israel as the results were tabulated. The Begin party drew even one-third of the total votes of the Histadrut, whose membership thereby declared against Socialism and Socialistic policies. As the election results were coming in, I watched a television monitor on the top floor of Bet Jabotinsky. First the television showed those of us at the Herut headquarters tallying votes. Then it switched to Histadrut, where Golda Meir proclaimed that Menachem Begin was not "all there," that he wasn't normal. She sat like a lump with her upper lip turned downward as she was asked to comment on the fact that approximately one-third of Labor was voting for Free Enterprise.

Upon leaving Bet Jabotinsky at 1:30 the morning of June 22nd, I reflected on the joy of witnessing firsthand the fall of a powerful Socialist Labor Government—something many of us thought we would not live to see in our lifetime. The people had not only rejected Socialism, they had seen through the hypocrisy of the Histadrut who flew red flags on May Day over their buildings, paraded in Cadillacs with red flags on the fenders, and lived in villas while Menachem Begin, the man they labeled a "capitalist," lived in Tel Aviv in a simple one-room flat on Rosenblum Street and year after year wore the same blue suit, shiny from repeated wear, on Holy Days at the Bet Jabotinsky Synagogue. That Saturday night I visited with the Prime Minister in his humble home. There was much to be done, and Menachem Began had waited a long time for his chance to do it.

I believe that this great victory for the Right in Israel is one from which American Conservatives can take hope. On February 10, 1978, I returned to Israel to attend the 14th World Conference of Herut and to celebrate our Jubilee. Upon arriving at Lod Airport, our Israeli taxi driver happily informed us that picking up shipments at the airport was no longer a hassle requiring hours of shuttling between bureaucrats for four or five signatures. It was now a matter of five to ten minutes and a single signature.

On February 12th, I visited Koor Chemical Industries in Tel Aviv. Koor did about $170 million in business last year. The peculiar thing about it and Israel's other major businesses is that the Histadrut Party still owns them—suggesting once more that Socialism is only a device for controlling a nation's assets. Now, however, the collectivist Histadrut Party is being required to divest itself of its holdings and sell out to private enterprise. This includes not only Koor but the giant construction conglomerate Solel Boneh. Were it not for the war in the Middle East the economic future of Israel under Free Enterprise could be described as one of the best in the world.

But the question still remains why Israelis were willing to let themselves be dominated by the Socialists for many years. The main reason, I believe, is that the majority of Israel's citizens or their parents had suffered anti-Semitic persecution. The Socialists sold them a false alternative, emphasizing that it was better to be alive with limited freedom in a Socialist Israel than be subjected to the constant threat of anti-Semitism and an uncertain future elsewhere. Too few remembered that Nazism was an acronym for National Socialism.

Once more the Jewish people have learned the hard way. But they *are* now rejecting Socialism and the conspirators back of it.●

EDUCATION'S ROLE IN IMPROVING DELIVERY OF SERVICES TO THE OLDER ADULT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. YOUNG of Florida. Mr. Speaker, as the author of the legislation which

created the House Select Committee on Aging and as one who represents a district which is the home of many older Americans, I continue my search for new thoughts and ideas as to how we can better care for America's older citizens.

The role of education in improving the delivery of services to the older adult is the subject of a paper by Dr. Marilyn McCall Wiles, a member of the Department of Educational Leadership at the school of education, Miami University of Ohio. Dr. Wiles, who received her Ed. D. from the Virginia Polytechnic Institute and State University in 1974, is highly qualified to write and teach in the field of education and her background in gerontology gives her special insight into the role education plays in this area. Her many professional experiences include a position as a Post Doctoral Associate at the Scripps Foundation Gerontology Center where her responsibilities included a program evaluation of master's level curriculum and instruction in gerontology with emphasis of lifelong learning and the adult learner. Dr. Wiles' research and work in educational positions have included assistant professor of education at Miami University of Ohio; Research Coordinator for Reading/Language Arts Improvement in the Multiunit School; Program Evaluation consultant for the Global Education Program at the Institute for Development of Educational Activities at Kettering, Ohio; Research Associate for the Department of Educational Media and Department of Educational Research and Design for the Borough of North York, Toronto, Ontario; and Preschool Co-Director of an English Program for Multi-Ethnic Mothers and Children for the Ministry of Immigration in Toronto.

Dr. Wiles' professional experience, professional affiliations, numerous publications, field services, university academic work and instruction, and professional papers and presentations qualify her to offer constructive suggestions in this area. I would like to share this interesting paper with my colleagues:

IMPROVING THE DELIVERY OF SERVICES TO THE OLDER ADULT: EDUCATION'S ROLE

OVERVIEW

Life may not be getting easier for all of us, but it is getting longer. If the age 55 and over is used as the chronological age at which a person approaches the later stage of life, in 1975 more than 42 million persons fell into this category. In fact, nearly 20 percent of the total U.S. population in 1975 was 55 years of age and older (Siegel, 1976). Although this percentage is large, gerontologists project further increases in this segment of the population.

The United States Bureau of the Census estimates that by the year 2037, the year the United States would reach zero growth at today's fertility levels, the population of older people in the United States could reach nearly 60 million, over twice the number of older people in 1970. Twenty million of those would be over 75. People over 60 would then represent about a fifth of the total population.

If demographic data are accurate predictors of social needs, then the lives of older people becomes a central issue in creating social policy to meet these needs. Currently, the United States is undergoing a reexamination of its social policy priorities. Apparently, there is growing concern by those involved in social planning to accommodate the increased needs of this growing older segment of society.

There has been a flourish of federal, state, and local agencies created to deliver services of all kinds to the old. These services vary from social, educational, and health related fields to transportation, recreation, and housing facilities. New concepts in living arrangements and health care facilities for the older adult are emerging. Multi purpose centers are being developed to provide the specialized programs and services which, hopefully, the older population needs.

The current interest in aging and the accompanying proliferation of programs and services are not without their problems. For those at the delivering end as well as for those receiving the services, problems are prevalent. The main purpose of this paper is to identify several factors which might be responsible for hindering the smooth delivery of needed services.

A secondary purpose of the paper is to develop a set of recommendations which might alleviate current weaknesses. Specifically, these recommendations are geared toward the field of education, and the role it can play in training specialists, retraining those currently involved, and teaching the rest of the younger population about aging.

FACTORS AFFECTING DELIVERY OF SERVICES

Social agencies are created to solve social problems. Although the process of aging, itself, is not necessarily a problem, its impact on the total society can be perceived as one. When this occurs, various programs are established with specified guidelines to facilitate and control the delivery of services and the financial allocation to that program. These guidelines in and of themselves, often negate the positive, or beneficial, effects of the program.

For example, the "red tape" and actual procedural steps which older persons need to complete before receiving benefits may be overwhelming to the recipient. Older cohorts of people differ greatly from younger cohorts. It is not surprising that they are less able to read, write, or fill out forms accurately. Transportation problems, poor health, and ignorance of proper bureaucratic channels to follow exacerbate the problems.

Added to this, the lack of adequate training and specialization, by those delivering the services, to the needs of older persons they serve, and the situation becomes more deleterious. It is vital at this critical point of the delivery that the recipient perceives positively the type of service or goods received.

In short, programs for older people often are developed by those without accurate insight into the social problems of the aging. Agency or program personnel need to be thoroughly familiar with and sensitive to the older person. Familiar stereotypes and popular myths about "old folks" can be damaging to the effectiveness of social programs. Those who have the face to face contact with the older person must be sufficiently trained to work with older people. It is at this level where programs maximize their effectiveness in reaching those who need their services.

ROLE OF EDUCATION

Training and retraining those individuals involved in programs servicing older people should become a high priority to those interested in implementing effective social programs for aging. Educators, themselves, need to become more sensitive to the needs of the older student.

There appear to be three general areas in which education can play a central role in facilitating the improvement of life satisfaction in old age:

(1) Training and retraining those involved in programs servicing older people.

(2) Providing educational programs for the older adult (Hiemstra, 1976).

(3) Developing appropriate curricula in public schools which familiarize the younger person with the process of human aging, as well as with the reality of what it means to be old in the United States today.

This preparation for future adaptation to aging would seem to be a significant role for schools as they attempt to provide individuals with the greatest potential for life adjustment.

GENERAL RECOMMENDATIONS

These three areas are currently gaining recognition as legitimate educational domains. Programs in gerontology are increasing in number (New York Times, 1978), lifelong or lifespan learning is a relatively new concept to educators; and the inclusion into the curricula of the public school sector topics on aging, are all indicative of the phenomenal growth of interest in the area.

Because of this, the following recommendations attempt to focus on ways in which education can continue to contribute to providing social services for old persons:

(1) Development of programs geared to inform the young about aging and the old.

(2) Familiarization of those educators currently teaching with the fundamental theories of aging.

(3) More collaboration between social gerontologists and educators in program development.

(4) Retraining of those educators teaching the adult and older adult learners.

(5) Development of educational materials on aging for training teachers and students at all levels.

(6) Social commitment to provide financial support for studies investigating the older adult as a learner.

(7) Establishment of model programs training those delivering services to the old.

(8) Recognition by the educational sector to the feasibility and legitimacy of the older person as a learner.

(9) Development of creative programs incorporating the older person into the training process themselves.

(10) Involvement of the older person at the "delivery" level of services.

(11) Training materials available for business and industry in order to teach their personnel about all aspects of aging (retirement, legal responsibilities, money management, etc.).

(12) Inclusion of older persons into the planning phase of program development.

(13) Additional federal, state, and private funds should be provided for training professionals both at the higher education level as well as on an in-service basis.

(14) All service programs for older people should contain funds earmarked for the training of personnel.

(15) Inclusion into preservice training programs for teachers information relevant to better understanding the process of aging.

CONCLUSIONS

The role of education in preparing individuals for the later stages of adulthood now should be clearer. Shifts in population are forcing new initiatives to occur in teaching older students. The concept of "student" is taking on many new characteristics. Individuals who work face-to-face with older persons are returning to school for better preparation and more accurate insight into working with this age group. Haphazard, hit-and-miss attempts at developing "expertise" in programs on aging are short-sighted and damaging to programs.

Concerted effort must begin to prepare adequately those presently delivering services to the older adult, and those who in the future will do so, with the skills and understandings necessary in making the delivery

more efficient and effective. While the interest level in aging is high and the concern for improving life after 55 immediate, the time is ripe for new initiatives to be started in preparing for our own life satisfaction in the later stages of life.

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RICHARD VOLPERT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 4, 1978

● Mr. WAXMAN. Mr. Speaker, we offer our praise to many fine citizens by memorializing their achievements in the CONGRESSIONAL RECORD, but it is not very often that we can record so long and distinguished and varied a lifetime of contributions to his profession and his community as those accomplished by Richard S. Volpert of Los Angeles. Jewish Federation Council of Greater Los Angeles will honor Richard Volpert at a dinner on June 3, 1978, and it is a great pleasure to ask the Members to join me in sharing this occasion with Mr. Volpert's countless friends.

Receiving his B.A. at Amherst College, Richard Volpert went on to earn a law degree at Columbia Law School, and received honors as a Stone scholar. He served as editor and chairman of the California State Bar Journal 1972–73 and on the Journal committee from 1970 to 1975; on the board of trustees of the Los Angeles County bar association 1968–70 and its real property section chairman 1974–75, and on the executive committee since 1963. He was editor and chairman of the Los Angeles Bar Journal 1965–67, and served on the Committee on the Administration of Justice, California State Bar Association from 1973 to 1976. Mr. Volpert was director of the Western Center on Law and Poverty 1971–75, and director of the Los Angeles Neighborhood Legal Services Society 1969–71. He has been a member of the board of councilors at the University of Southern California Law Center since 1976. He has been a trustee of the Los Angeles County Natural History Museum Foundation since 1974, secretary 1976–77, and vice president since 1977; president of the Amherst Club of Southern California 1972–73, vice president 1970–72, and a board member since 1958.

Richard Volpert's community involvements are equally impressive; he has been on the board of directors of the University of Judaism since 1973 and is chairman, Center on Contemporary Jewish Life. He has been honored with the University of Judaism merit award.

He has served on the Community Relations Committee, Jewish Federation-Council of Los Angeles since 1955; as chairman since 1977; vice chairman 1975–77 and has been chairman of both the commission on law and legislation as well as the joint committee on club discrimination. Mr. Volpert has been a board member of Valley Beth Shalom in Encino, Calif., since 1964. He was youth committee chairman, adult education committee chairman, vice president, temple activities; chairman of the board; has been chairman of the building committee since 1975. He was chairman of the Council on Jewish Life, Jewish Federation Council 1976–77.

Mr. Volpert served on the executive board of the Los Angeles chapter of the American Jewish Committee, chaired its civil rights and civil liberties committee and its social club discrimination committee. He was a member of the executive committee of the Anti-Defamation League of B'nai B'rith and has been a member of the Pacific Southwest Regional Board since 1964; vice president of the Pacific Southwest Region of the United Synagogues of America. He has been chairman of the Land Use Task Force of the Los Angeles Area Chamber of Commerce since 1973 and was a member of the executive committee of the Los Angeles Region Goals Council. His memberships include American Bar Association, Real Property Law and Local Government Law Sections; Los Angeles County Bar Association; University Club of Los Angeles, American Society of Planning Officials; Urban Land Institute, Central City Association; and fellow, American Bar Foundation.

One wonders how a single individual could have managed to hold so many active community posts, but Richard Volpert has, in addition, found the time to write and lecture on various aspects of California land use and real estate law.

Richard and his wife Marcia have four children: Barry, Sandy, Linda, and Nancy. I know that his family will join all of us in honoring this man who has contributed so greatly to his profession and to his community.●

SENATE—*Wednesday, April 5, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 9 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Reverend Robert Harold Schuller, D.D., founder and senior pastor, Garden Grove Community Church, Garden Grove, Calif., offered the following prayer:

This day, Lord, remind us that great people are ordinary persons who commit themselves to extraordinary goals. So, open our eyes with childlike astonishment to see the infinite possibilities all around us. Then, sharpen our focus on these God-inspired, energy-producing, mountain-moving, human-need-filling possibilities.

Now give us: The courage to make the right decision—before we can be sure of success; the faith to begin today to move ahead with our dream—not waiting to start until we have solved all the problems.

And we pledge, O Lord, that we shall welcome every problem as a challenge; we shall compromise as Your spirit leads us; but we shall never surrender to evil. We shall stand firm for the right—iron pillared persons—as solid as a steel peg hammered in frozen ground—immovable. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 5, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized, as in legislative session, for not to exceed 10 minutes.

HEW FUNDS MISSPENT

Mr. HARRY F. BYRD, JR. Mr. President, the Department of Health, Education, and Welfare has become so large, so unwieldy, so out of control, that billions of dollars of tax funds are being misspent each year.

Those figures are not the assertion of the Senator from Virginia. The Inspec-

tor General of HEW submitted a report this week, which report shows that between $6.5 billion and $7.5 billion was misspent through waste, mismanagement, and fraud during the past year.

Mr. President, in 1970, the total outlays for HEW, including social security payments, was $52 billion. For the current fiscal year the figure is $165 billion.

Leaving out social security and dealing with only the appropriate funds, or general revenue funds, of the Department of Health, Education, and Welfare, in 1970 those funds totaled $17 billion. For 1978 fiscal year, the current fiscal year, those funds totaled $55 billion.

In the upcoming budget which the Congress is now considering, HEW has requested $62 billion, an increase of 17 percent, or $7 billion.

Incidentally, that $7 billion increase being sought by HEW is almost the precise sum that HEW misspent last year.

Secretary Califano has admitted that the Department of Health, Education, and Welfare misspent, last year, through waste, mismanagement, and fraud, $7 billion. The Califano admission followed a report by the HEW Inspector General.

How much is $7 billion?

One example: The Federal income taxes paid by the 5 million residents of Virginia—the 12th most populous State in the Nation—total $3,500,000,000, exactly one-half of what HEW misspent last year.

Another example: The combined income taxes paid by the residents of 15 States equal the $7 billion HEW admits misspending through waste, mismanagement, and fraud last year. The 15 States are: Alaska, Delaware, Hawaii, Maine, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming.

Another example of how much is $7 billion: It is 50 percent greater than the total annual expenditures for the entire State of Virginia.

Another example: The amount misspent by HEW last year through waste, mismanagement, and fraud is equal to the total assessed value of all the real property—buildings, homes, land, et cetera—in the Virginia cities of Norfolk, Richmond, Roanoke, Lynchburg, and Charlottesville combined.

One final example of how much is $7 billion: It is equal to the total combined income taxes paid by 5 million households with an income of $15,000 each.

On a daily basis, the $7 billion misspent by HEW last year through waste, mismanagement, and fraud, equals $19 million. Yes, $19 million a day was what HEW misspent last year through waste, mismanagement, and fraud.

Mr. President, I ask unanimous consent to have printed at this point a table showing total outlays for fiscal years 1970–78, inclusive, of the Department of HEW.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, APPROPRIATED FUNDS AND TOTAL OUTLAYS, FISCAL YEARS 1970–78, INCLUSIVE

(Billions of dollars)

	Appropriated funds	Total outlays
1970	17	52
1971	21	62
1972	27	72
1973	31	82
1974	31	94
1975	37	112
1976	44	128
1977	49	148
1978	55	165

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of my time to the Senator from Kansas.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized, as in legislative session, for not to exceed 15 minutes.

CARTER IN AFRICA: A SORRY SAFARI

Mr. DOLE. Mr. President, whatever else President Carter may say about his recent visit to Africa, he cannot claim to have met with any notable success in resolving the two African problems of most concern to Americans today: Soviet interference in African affairs, and peaceful transition to stable governments in Rhodesia and Southwest Africa (Namibia).

In fact, if anything, the President's trip served only to further disillusion our traditional allies in Africa, encourage political factionalism, and did nothing to discourage Soviet adventurism on the continent. Upon his arrival in Nigeria, President Carter spoke idealistically in favor of "African solutions for African problems." But in the context of the Carter administration's policy toward Africa, the practical interpretation of this slogan seems to be: "Impose our own standards, timetables, and settlement formulas on African allies, but stand aside and offer nothing more than feeble objections when Soviet and Cuban forces advance their aggressive aims."

Monday's Washington Post carried an article by columnists Roland Evans and Robert Novak suggesting that "the United States is near a dead end in Africa." The Senator from Kansas would also suggest that the misguided policies of the Carter administration have threatened to isolate our Government from any effective influence on the series of rapid developments throughout Africa today. For the inconsistency and uncertainty of American policy has managed to confuse both our friends and adversaries alike.

SOVIET CHALLENGE IN AFRICA

Regrettably, the Soviet Union appears to have selected the African continent as a staging ground for a strategic showdown, to test the will of the United States, and of our leadership. So far, I fear we have failed the test.

During the past 2 years, the Soviet Union has steadily increased its contribution of arms, military advisers, and mercenary surrogates to African trouble spots. At each stage, we have turned our heads and refused to believe that anything more than temporary intrusion was involved. Congress must certainly share the blame for this silence. We refrained from "overreaction" when Cuban forces poured into Angola and Mozambique. President Carter's Ambassador to the United Nations suggested that the Soviet-financed mercenaries were "a stabilizing force" in African politics.

Early this year, as Soviet military advisers, fighter aircraft, and thousands of Cuban troops poured into Ethiopia, we passively accepted the Kremlin's explanation that they were "assisting" against "Somali aggression." Now, for those who are not yet convinced that the Soviet Union is actively interfering in the internal affairs of African nations, the report last weekend of new advances against the independence movement in Eritrea should clarify the situation. Rather than withdrawing military advisers and Cuban troops now that the Ethiopian-Somali conflict has waned, resources have simply been redirected against Eritrean rebels who challenge the Ethiopian Government's jurisdiction over northeastern Ethiopia. This is clearly a local conflict—an internal disagreement. And the Soviet-Cuban involvement is nothing short of meddlesome.

Will Soviet and Cuban forces decide next to inject themselves directly in internal conflicts within Rhodesia and Namibia? For the sake of peace in southern Africa, we hope not. But the prospect is not out of the question. Soviet-armed Rhodesian guerrillas are being trained right now just across the border in Angola and Zambia. If overt interference follows, our own lethargy is at least partly to blame.

I hasten to remind my colleagues in the Senate that accumulated gains of this type by the Soviet Union in Africa are just as significant as a Soviet lead in strategic weapons—a prospect we are trying desperately to prevent at this very time. Coupled with administration concessions on the SALT treaty now under negotiation, our submissions in Africa spell real trouble for future strategic balance between the Soviet Union and the United States.

ADMINISTRATION'S STUBBORNNESS IN SOUTHERN AFRICA

At the same time it abides Soviet adventurism in the horn of Africa, the Carter administration refuses to endorse and support the peaceful internal settlement of racial differences in Rhodesia. Surmounting tremendous racial and political difficulties, the white Rhodesian Government has reached agreement with moderate black leaders for transition to black majority rule by the end of this year. It is a settlement that calls for free elections and the principle of "one man-one vote" within 8 months.

But, heeding the objections of radical black guerrilla leaders and so-called frontline governments in the area, the Carter administration clings stubbornly to a settlement formula devised nearly 1 year ago.

The Senator from Kansas was joined by a dozen of his colleagues on March 7 in proposing a resolution urging American support and endorsement for the Rhodesian internal settlement. Instead, the State Department, on March 27, declared the settlement "illegal." Last Sunday evening, President Carter signed a joint communique with the Nigerian Government declaring that the Rhodesian settlement "does not change the illegal character of the present regime and is unacceptable." So, the tremendous progress already made toward a stable majority government in Rhodesia has been rejected by President Carter on the premise that Marxist-oriented elements must be guaranteed an influential role.

In similar fashion, the Carter administration has refused to abide by an internal settlement for the independence of Southwest Africa, insisting instead upon an administration-backed formula that caters to the demands of Marxist guerrilla forces. The President's rhetoric with respect to the futures of both Rhodesia and Southwest Africa favors external forces intent upon destroying reasonable internal settlements reached by moderate leaders. This is all the more confusing because the internal settlements appear more democratic and multiracial than any government the guerrillas might construct.

At the same time, our administration maintains unrelenting pressure upon the Government of South Africa to drastically revise its own political and social structure virtually overnight. It is indeed a cause for concern when a ranking official within a friendly African nation such as South Africa must say that "our task is to survive the Carter era." For "the Carter era" does not simply represent support for peaceful settlement of political and racial differences at the tip of Africa. Progress in that regard has been underway since before President Carter took office. Instead, "the Carter era" represents, to our traditional allies in southern Africa, an erratic period of American insensitivity to real gains and accomplishments. It represents stubborn adherence to outmoded timetables and unreasonable settlement formulas.

For all these reasons, Mr. President, the situation throughout the continent of Africa continues to reflect uncertainty and instability, with American influence on the wane and Soviet influence on the rise. President Carter's brief journey to the continent did little to improve the situation. Unless drastic changes are made in administration policy, the United States may indeed have reached a "dead end" in its efforts to promote democratic principles, and peaceful change throughout Africa.

I do not always agree with what I read on the editorial page of the Washington Post, but yesterday's commentary on "The President in Africa" reflected many of this Senator's own feelings about weaknesses in our African policy. In particular, it seemed appropriate to note that President Carter "holds Salisbury to lofty moral and political standards, while often appearing to wink at failings of the popular front."

Mr. President, I ask unanimous consent that the Washington Post editorial of April 4 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PRESIDENT IN AFRICA

Frankly, we liked the administration's Rhodesia/Zimbabwe policy better before the president dropped in on Nigeria. A month ago, for instance, soon after Ian Smith agreed to turn over power to an elected majority-rule government later this year, the administration was still complaining that he had not opened the door to the guerrillas sworn to destroy him. But there was, too, recognition that the agreement between Mr. Smith and "internal" black nationalists reflected "some progress . . . a step in the right direction"—as, of course, it did.

In Lagos, however, Mr. Carter seems to have succumbed to Nigeria's uncomplicated fervor for a Popular Front guerrilla victory. The final communiqué omitted any mention of progress in Salisbury, though a multiracial interim government now actually exists there. Rather, the communiqué (signed for Nigeria by its unelected military leader) pronounced the internal procedure "unacceptable as it does not guarantee a genuine transfer of power to the majority"—as though the guerrillas, who have refused to settle for the share of power they might expect to win in elections, will consummate "a genuine transfer of power to the majority" if they win by force of arms.

We understand that the administration seeks to draw internal and external forces together, the better to bring peace to Zimbabwe, preempt Cuban-Soviet intervention, and show South Africa that peaceable change works passably well. Those are worthy purposes. But Mr. Carter's pursuit of them can be painful. Virtually all his rhetoric favors the external people. He holds Salisbury to lofty moral and political standards, while often appearing to wink at failings of the Popular Front. He refuses to say the one thing that might most clear the air: that if the guerrillas reject a fair opportunity to come home while Salisbury moves to honest majority rule, the United States will go with Salisbury. His performance is all the more baffling when you consider that the internal settlement looks to be more democratic, moderate and multiracial than any government the guerrillas might construct.

Does the United States gain respect for itself and a hearing for its policies—among internal or external Rhodesians, in Nigeria or elsewhere in Africa—by conveying an impression that it will do practically anything to win liberationist credentials? We doubt it, and we think the president doubts it, too. Indeed, in Lagos he conspicuously did not do the easy, popular-in-Africa thing with respect to South Africa, choosing instead to affirm the United States' own, less militant policy. His hosts did not like it, and said so. But on their part, they withheld any real support for the American effort to limit Soviet-Cuban intervention in Africa. Such candor—and continued discussion—is what good friends, especially those trying to become better friends, owe each other. It should be applied to Rhodesia, too.

THE PLIGHT OF THE FARMERS

Mr. DOLE. Mr. President, today, at 11:30, the House and Senate conferees will convene to complete action on a farm bill.

I note with some amusement—I suppose that would be the appropriate word—in this morning's "farm journal," the Washington Post, rather harsh criticism of the farm bill. Yesterday, another "farm journal," the Washington Star, had an editorial aimed at America's farmers.

I never understood that the Washington Post and the Washington Star and the Wall Street Journal were spokesmen for the American farmer. But I do understand that those newspapers are read by many Senators and many Representatives of both parties, and they are very influential; and for that, of course, we respect their policies.

However, I suggest that the editorial writers might have a visit with some of the farmers. Many farmers are in town, not because they want to be, not because they can afford it, but because they are literally on the ropes, because they are looking to this Congress and this President to assist them, not with a welfare check but with some way to make a living.

I suggest, Mr. President, that the compromise reached by the conferees yesterday is such an agreement. It is a market-oriented program. It says to the American farmer, "You are not going to get paid for doing nothing." It says to the American farmer, "You must set aside some of your productive capacity if you are to qualify for a higher target price."

That is not a Government payment. That is not really understood by many American consumers. The theory is that the more land you set aside, the less wheat, corn, cotton, and grains you might produce, because we have great surpluses now and the market prices are very low because there is great pressure on the market and by reducing production you reduce that supply, you increase the price in the marketplace.

The Senator from Kansas must say that I was somewhat shocked to hear in the conference one of the conferees very bluntly state that he would rather the farmer got a check from the Government.

There is a sort of welfare mentality in this city.

The farmers do not want a check from the Government. The farmers like to receive their profit, if any, in the marketplace.

But here we are debating in our conference, the Members of the House of Representatives and Members of the Senate, on how much it is going to cost the American consumer, as we should, but there is a little deception going on because we are told that it comes out of the Treasury, it will not cost the American consumer, so it is all right to spend $2 billion or $3 billion for the American farmers by sending them a check for not planting or for not farming.

But farmers do not want a check for not farming. Farmers want to make a profit. They want to make a profit when they take their goods to market. They do not want to be on welfare. They do not want a Government check. They do not

like the welfare mentality that pervades this city.

So, Mr. President, I hope that President Carter, before making any decision on the farm bill, will look at this himself. There are all sorts of rumors about a veto, and those rumors were rampant last year in 1977 before we finished the 1977 Farm Act. We were told that if we raise prices 1 penny it would be vetoed. I simply suggest that the American farmers are important to our economy, they are important to the consumers. So I hope that before President Carter panics, before he listens to all the advisers running around town hanging crepe on the farm bill, he will take a look at it himself because it is a market-oriented program. It is supported by Democrats and Republicans. It has broad bipartisan support. It is supported by farm organizations and farmers, and frankly not very roundly criticized by some consumer groups.

But I conclude by suggesting that if we have reached a point in the country where we are going to satisfy America's farmers and deceive America's consumers by sending the farmers a check for not planting or for not farming, then we have reached a dead end in agriculture and the farmers I have spoken to from across this country, from almost every State in this Nation, do not want that. They want to produce. They want to make a profit. They want to pay their bills. They are consumers, also. They want to buy more goods.

So I hope that when we read these "farm journals," the Washington Post, the Evening Star, and the Wall Street Journal, we will keep in mind that not many of their readers are farmers and a lot of their readers are consumers and they have great influence, but I simply ask them to address the facts. The facts are that the Carter administration would rather have you get the money out of the Treasury and not out of the marketplace.

Mr. President, I yield back the remainder of my time.

THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, 1st session, Calendar No. 2, with the time to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from Utah (Mr. HATCH).

The clerk will report the treaty.

The assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st Session, the Panama Canal Treaty.

The Senate resumed consideration of the treaty.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time may be charged fully against both sides on the absence of a quorum, which I now suggest.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the moment of decision has finally arrived, and in a short while the Members of the Senate will come marching into the Chamber to vote on the question of whether the President shall have the power to give away the Panama Canal by a self-executing treaty. It will be one of the most important decisions this body will ever make.

My first inclination was to roll another wheelbarrow full of precedents into the Chamber in the hope that some Senators might be persuaded, at the 11th hour, to support our amendment. But what is the use of it? Two days ago the managers of this treaty were crowing about all of the fine legal precedents they had to support the theory that the President can snub his nose at Congress when he makes a treaty to transfer an entire American territory, lock, stock, and barrel, to a foreign government.

In response to the arguments of the Foreign Relations Committee, which seems to be little more than an arm of the State Department these days, I demonstrated that every paragraph, and practically every sentence of the committee's report on this issue was either false, misleading, or irrelevant. Yesterday we even showed that the concurrent power theory which the committee relies upon so heavily had been twisted and distorted beyond recognition. The author of that theory was Alexander Hamilton and his writings, which directly addressed the disposal-of-property power, showing beyond all doubt that Congress must authorize the disposal of American territory and property.

The distinguished manager of the treaty (Mr. CHURCH) answered me by saying, we shall respond to your criticisms. We shall prove that the constitutional text, the intent of the Framers, the judicial precedents, and prior treaty practice all support the claim that the President can give away the Panama Canal whether Congress agrees or not.

Three days passed. And what was the response offered by the committee to my analysis and summary of the committee report? Absolutely nothing. There basically was no response. The hundreds of so-called precedents which the committee had been recklessly throwing around this Chamber suddenly vanished into thin air.

When the dust settled, the committee came back with our old favorite, the spurious dictum from Holden against Joy, and three treaties—one with Japan where we returned captured territory that we did not even own, according to the House Committee on Armed Services, one with Honduras where we gave up two rock islands that we did not own because of disputed title, certainly distinguishable, and one with Nicaragua—a treaty not even cited in the original committee report—where we gave up rights to property that did not belong to the United States and which involved a lease. I even heard the distinguished Senator from Hawaii (Mr. MATSUNAGA) argue that the committee's position is supported by the fact we gave away some air strip to the Japanese.

As every Senator knows, these pathetic precedents do not, in any way, support the general proposition that the President may dispose of the entire American-owned Panama Canal Zone by a self-executing treaty. The truth of the matter is there are no precedents for this action, and everybody knows it.

But I am enough of a realist to know also that many Senators probably are not interested in some of the constitutional arguments, particularly when they run counter to the political decision they have made respecting this treaty. During the last 2 days, I would estimate that not more than a dozen Senators have even bothered to come over to the floor to hear the arguments. The Senate, it is said, is the world's greatest deliberative assembly, and I certainly agree with that, and yet it seems that it neither deliberates nor assembles with regard to one of the most monumental constitutional issues raised in our country's history.

Yesterday the senior Senator from Idaho (Mr. CHURCH), I think boasting of 22 years of seniority, criticized me for being too aggressive, too harsh with the Foreign Relations Committee, and suggested that because I was a freshman Senator that I should be more respectful. I certainly respect the Senator's seniority, but I shall insist that I as a U.S. Senator representing the great State of Utah and representing all of the people across this country have a right and a duty to oppose forcefully any breach of the Constitution—particularly when there is only a handful of Senators fighting to save it and particularly when after better than 6 months of looking into this question without hardly anyone in America knowing the importance of this question the Foreign Relations Committee with all of the constitutional expertise of the State Department, the Justice Department, the Foreign Relations Committee, et cetera, cannot come up with any precedents really that hold serious water.

Maybe my amendment will fail—not on its merits but because, I believe, some Senators are persuaded that if it passes, the House would oppose the transfer. I do not know that they would, and I think that consideration, which I consider to be a political consideration, is beside the point. We are here to defend the Constitution, not to defend it simply when it is politically convenient or expedient to do so.

No doubt some Senators believe that we can disregard the Constitution in this one instance, because a single breech will not hurt our Government. Perhaps they have persuaded themselves that the power to dispose of property is not such an important power anyway, and that we can afford to give it to the President. To those who may be thinking in these terms, I can only say they misunderstand what is at stake. We will be establishing a new precedent here, for the first time in American history, if we let the President get away with this. Who knows what

this will lead to 10 years from now, 50 years, a hundred years? You cannot bargain away a principle. It is either inviolate or it does not exist. As a lady cannot surrender only part of her chastity, the Congress cannot surrender only part of its sovereignty over the territory and property of the United States. It cannot surrender only a part of its power without a reduction in its coequal status under the separation of powers doctrine. We cannot remold our principles to suit the needs of the hour.

The present situation reminds me of the time when one of the greatest Senators ever to serve in this body, Robert A. Taft, opposed the Nuremburg trials, because they violated a basic principle of our Constitution. I remember too when he came out against President Truman's decision to send troops into Korea without a formal declaration of war by Congress. And a few years later, when a half million of our men were stumbling through the jungles of Vietnam, without a formal declaration of war, Robert Taft would surely have stood here at his desk and said "I told you so."

Mr. President, the great Senators of the past who have graced this Chamber were great, because they lived by their principles—men like Robert Taft, Daniel Webster, Henry Clay, John C. Calhoun, and Robert LaFollette. Their spirit will live forever, and they will always serve as an inspiration to us. But it is my sincere hope that today the Senate will rise to greatness and embrace our Constitution—not because it is politically expedient to do so, not because they think it will please the people back home, but because they love it and believe in it.

Yesterday one of the finest Senators in this body came over to the floor to speak against my amendment. I respect this Senator very much, because I believe that he is one of the most intelligent, hard-working Members of this body. I refer to my friend from New York, Mr. JAVITS. He is a dear friend, and he has been very kind to me, albeit I am a freshman Senator.

Frankly, Mr. President, I was a little surprised that he did this, that he came over yesterday. I say this because just a few years ago he wrote a book on the abuses of Presidential power, and I had thought that he would once again stand firm against Executive encroachment. In his book on "Who Makes War: The President Versus Congress," Senator JAVITS complained that Executive power has been increasingly abused in recent decades.

He wrote:

> Over the past ten years, we have been forced to confront the fact that constitutional process has eroded, that congressional responsibility has been abdicated, that unfettered Presidential power has been asserted and that it is time to call a halt.

The bitter experience of Vietnam, a war, as I mentioned yesterday, that was supported by artificial precedents supplied by the State Department, not unlike those offered in connection with the Panama Canal Treaty, led Senator JAVITS to introduce his war powers bill, cosponsored by Senators STENNIS, EAGLETON, BENTSEN, and more than 50 other Senators. Had I been a Member of the Senate at that time, I, too, would have cosponsored that bill because I share Senator JAVITS' conviction that Congress has a responsibility, as he himself has said:

> To make sure that the democratic process protects us from one-man decisionmaking" (p. 268).

Especially pertinent in this regard is Senator JAVITS' keen observation regarding the need of the full Congress to check the treaty power. As Senator JAVITS puts it:

> A national commitment does not automatically flow from the mutual security treaties to which the United States is signatory. These international agreements specify that they will be carried out in accordance with the "Constitutional processes" of the nations involved. The War Powers Act, for the first time, specifically defines Congressional concurrence as an element in the constitutional process. (Ibid).

So I commend the distinguished Senator from New York for his forthright statement pointing out the importance of defining these constitutional processes to include congressional concurrence. That is what we did in the War Powers Act, and that is what we are seeking to do in connection with this treaty. I deeply regret that he does not see that now, and it is a matter of great sadness and of some serious concern to me.

Then there are other Senators, I suppose, who believe that there is a higher value than our Constitution which must prevail. The end justifies the means. I know how the liberal mind works. The Panama Canal, they have suggested, is such a moral blight on the history of this great Nation that we must get rid of it at all costs—purge and cleanse ourselves so that once again we may be pure and kind and benevolent and the wonderful, generous liberals that we are. This, I believe, is the attitude of many Members of this body, and it is this attitude which is an obsequious attitude, which explains why every worthwhile amendment that has been offered to this treaty, including those which would clearly improve this treaty and protect our interests, has been beaten down, has been stonewalled, if you will, to borrow a term from the great Senator from Alabama.

But this is not thoughtful liberalism, this is mindless liberalism—the true liberal knows that if we really want to help the Panamanians, we will stay down there and work with them in a joint venture or make the canal the operation and pride of all the nations of this hemisphere. The true liberal knows that you do not promote liberalism by promoting the interests, and propping up the regime, of a tyrant like Omar Torrijos. A true liberal knows that if the United States falls, liberalism is dead in this world.

Above all, Mr. President, the true liberal knows that it is the Constitution which gives liberalism its greatest protection. All of the values that we share, as liberals and as conservatives—I consider both of those words basically meaningless, except for the fact that what used to be defined as a liberal is now defined as a conservative—owe their existence and their vitality to the Constitution. The Constitution provides the rules for politics, and we must not continue, as we have time and again in the past, to keep changing the rules in order to secure an immediate political victory.

Some Senators have been suggesting that they are now statesmen, because they are willing to stand up and support these treaties whether their constituents like it or not. The distinguished majority leader (Mr. ROBERT C. BYRD) has even been quoting Edmund Burke's speech to the electors of Bristol, asserting that he is going to vote for what he believes is in the best interests of his constituents rather than what they think is in their best interests. I say to the distinguished Senator, and those who may have similar thoughts, that neither Edmund Burke nor any of the founders of this Government ever believed that it is in the best interest of a nation to scuttle the constitution in order to achieve a political victory, or purge the nation's soul of guilt feelings.

The real statesman, Mr. President, is the man who places our Constitution above all other political considerations, whether those considerations have merit or not. Because the real statesman knows that without the Constitution—we are finished.

So I urge my colleagues to think this issue through carefully before they cast their vote today, and to keep in mind that it is the Constitution they are voting on, not the Panama Canal Treaty. When the canal is gone, the Constitution will still be here—and that is what this Nation will live with in the years ahead. Whether it is a strong and viable Constitution, or just an old piece of parchment, depends, in no small measure, on how we vote today.

Mr. President, I reserve the remainder of my time.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HATCH. I would be delighted to yield to my friend, the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. I thank the distinguished Senator from Utah.

Mr. President, this amendment offered by the distinguished Senator from Utah (Mr. HATCH) is unquestionably the most important amendment that will be offered to the Panama Canal Treaty because it seeks to preserve our constitutional processes; it seeks to assure that the Constitution will be followed in the matter of the disposition of property of the United States in the Panama Canal Zone.

Yesterday, in colloquy between the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Maryland (Mr. SARBANES), they sought to make it appear that this amendment would make of the treaty and the treaty approval process something of a hybrid instrument, indicating that they thought that the amendment would cause the treaty to have to receive a two-thirds vote in the Senate and then a majority vote in the House of Representatives.

Of course, they know full well that that is not correct. The amendment

would not send the treaty to the House of Representatives for action, for approval or disapproval; it would merely require that before the treaty is put into force and effect, Congress, as required by the Constitution, must enact legislation giving congressional approval to the transfer of property of the United States. So the treaty would continue to be acted on only by the Senate, and the provisions in the treaty having to do with disposition of property of the United States would merely be inchoate, of no force and effect, until life is breathed into those provisions by the action required by the Constitution of the United States, which is congressional approval, congressional authorization for the disposition of property of the United States.

The argument has been made against many amendments—and I might say that no amendments have been accepted by the leadership and the managers of the treaties except the two so-called leadership amendments, which fell far short of their stated goal, that is, providing for the proper defense of the canal after the year 2000. All other amendments have been rejected by the leadership and rejected by the managers of the treaties, usually on the ground that amendments would kill the treaties; that amendments, by changing the terms of the treaty, would necessitate a new plebiscite in Panama.

Why they thought a new plebiscite would be required in that dictatorial regime is something that I do not fully understand, because we know that in that one-man government, Dictator Torrijos would have no difficulty approving whatever amendments we add to the treaty.

But the leadership, the managers of the treaties, and the administration have beaten down every effort that a group of at least 32 Senators and sometimes as many as 42 Senators have sought to make in an effort to strengthen these treaties, to provide for greater defense rights by the United States of the canal and the Canal Zone, and to protect the interests of the American taxpayers. All of those amendments have been stricken down because, they say, it might not please the Panamanians.

That is a mighty poor excuse for beating down amendments that would protect our national interests and our national security, and the interests of the American taxpayer.

This amendment, saying that the treaties shall not go into effect until the disposal of the property of the United States in the Canal Zone has been authorized by congressional action, merely carries out the provisions of article IV, section 3, clause 2 of the Constitution. Also, Mr. President, it would promote the necessary and desirable comity that should exist between the two bodies, because already at least 235 Members of the House of Representatives, and perhaps more by this time, have sonsored a resolution calling upon the administration to see to it that this matter of disposition of American property is presented to the House for consideration as legislation. At least 235 Members of the House of Representatives feel that the Constitution requires that, and they have called on the administration to initiate legislation authorizing the disposition of this property. Would it not be the better part of wisdom, Mr. President, for the Senate to agree to this amendment to see that the constitutional processes of the United States are followed in the matter of the approval of this treaty?

As to the other amendments which have been defeated at the behest of the leadership, at the behest of the administration, and at the behest of the managers of the treaty, they have been amendments that they say would be unacceptable to the Panamanians. Well, this is one amendment that has nothing to do with action by the Panamanians, so I assume they will not bother to make that argument. This is something that the United States would be required to do to follow the Constitution. So we would be promoting comity between the two Houses; we would be respecting the provisions of article IV, section 3, clause 2 of the Constitution, which gives Congress the power to dispose of the property of the United States; and then, too, Mr. President, we would avoid a delay in the implementation of this treaty, because, just as sure as the Sun is going to rise tomorrow, litigation will be started against this treaty unless this amendment is adopted, on the grounds that the Constitution has not been followed in the matter of the disposition of property of the United States.

Other suits have been filed in the past on this question, but the courts have ruled that the suits had been premature, it ought to appear that it ought yet to be presented to the Congress, it ought to appear that the congressional action might yet take place. The treaty has not yet been ratified. Therefore, any action saying that the provisions of the Constitution have not been complied with would be premature. Also, that it is a matter of controversy between the two Houses, which the courts would not enter into.

Once a treaty is ratified by exchange of notes of ratification between the heads of the two governments, then it would be a fait accompli. The treaty would be in force and effect, except for the failure to observe the constitutional provision of getting legislative authorization for the transfer of property of the United States. Unquestionably, an action would lie in this regard.

So we can avoid the treaty being held up by litigation; we can avoid having the hopes and dreams of the Panamanians dashed when the court says that we have not acted as the Constitution requires in the matter of disposition of the property of the United States.

The distinguished Senator from Idaho (Mr. CHURCH) just the other day conceded, of course, and we will take his concession as being correct since we like to remove all sources of contention and argument, that the United States does own the property in the Canal Zone. That being true, before it can be disposed of, this section of the Constitution must be triggered and must be acted upon.

If we go through the formality of agreeing to a treaty and the President ratifies it by exchange of notes with dictator Torrijos, and then the Supreme Court says that we have not followed the Constitution in the matter of disposal of the property, think of the dashed hopes which will result in Central and South America.

As I understand, one of the reasons for this treaty is to give billions of dollars of property away as a good neighbor policy. I believe that is carrying good neighborliness much too far. If we purport to agree to the treaty and then the Supreme Court says that the disposition of the property is illegal because the Constitution has not been followed, the treaty having been placed in Panamanian hands and they having relied upon our assurances that the provisions of the Constitution have been complied with, we would have to jerk the treaty back. That would be much worse than defeating the treaties at this time. Once they feel that the treaties are in place and in force, and then to be told by the Supreme Court of the United States that they are not because the Constitution has not been followed, Senators can imagine the reaction of the Panamanian people to that.

So this ounce of prevention is worth a pound of cure. We have the opportunity now, by agreeing to this amendment, to require that before the treaty goes into force and effect—with no action by the Panamanians—the Congress, by a separate instrument, by a separate and different means, must authorize the disposition of this property.

So, Mr. President, agreeing to this amendment would assure that the constitutional processes of the United States are followed; that due recognition is given to the powers, the rights, and the privileges of the House of Representatives. Should we figuratively thumb our noses at the House and say, "No, we have the right, here in the Senate along with the President, to put this treaty into force and effect, and even though the Constitution says that the Congress has the power to dispose of property of the United States, we are going to disregard that and dare you to do something about it"?

Is that the proper attitude for us to take with regard to our colleagues in the House of Representatives? I say no. I believe the Senate will rue the day when we say to the House, "Because we have the power to disregard your plea that this matter be considered by the entire Congress, we disregard your plea that the Constitution be observed." We will rue the day that we say that to the House.

Every Senator, I feel, has legislation which he feels is in the national interest. How are these 235 House Members going to feel about legislation coming from the Senate to the House by the very people who have denied the House the right to exercise its constitutional right to pass on this matter along with the U.S. Senate?

Again I say, Mr. President, that does not take away one iota from the right that the Senate has to advise and consent with respect to treaties, nor does

it give the House any right to participate in the treatymaking power, which is reserved to the President with the advice and consent of the Senate.

The treaty, if the amendment is agreed to, would merely be a tentative approval of the entire transaction, subject to action by the entire Congress.

I call attention, Mr. President, to the fact that in the 1955 treaty, the treaty between the United States and Panama where property is conveyed, in three different places in article V as they seek to transfer property of the United States they put in this phrase: "subject to the enactment of legislation by the Congress."

Mr. President, that is exactly what this amendment provides in just a few extra words. The basic thrust of the amendment now pending is to say that this disposition of the property of the United States is subject to the enactment of legislation by the Congress. That is all it does.

Why we are straining at accepting this provision of the Constitution and doing honor to the rights and powers of the House seems to me to be seeking to arrogate to the President and the Senate a power that belongs to the entire Congress, which belongs to the people of the United States whose property is being disposed of, by depriving the people's representatives in the House of Representatives from having any say in this matter.

Now, Mr. President, why is the leadership, why are the managers of the treaty, why is the administration afraid of the House of Representatives? Are they frightened by this number of 235 House Members who have joined in this resolution? I do not feel that every one of these 235 House Members would vote against conveying the property of the United States to Panama. But I do believe that all 235 of these House Members want the rights of the House of Representatives to be respected by the Senate, to be respected by the administration, to be respected by the leadership of the Senate.

How is our leadership going to be able to negotiate with the House of Representatives when we have completely disregarded their rights, their prerogatives, under the Constitution? I do not believe that is conducive to comity. It is not conducive to settling this issue, because the courts will be the final arbiters; public opinion will be the next arbiter.

Have shortcuts been taken by the administration with regard to the approval of this treaty? Has it been handled as the Constitution requires? What will be the verdict of public opinion? If we can get a two-thirds majority here, in the Senate, on the treaty, why is it supposed that there would be any difficulty passing legislation—separate legislation; the treaty does not go to the House—which would require not two-thirds in the Senate, but a majority vote; not two-thirds in the House, but a mere majority vote?

Why is the administration fighting, and fighting hard, to prevent agreeing to this amendment, which merely puts in the treaty the very same provisions that were in the 1955 treaty with Panama respecting disposition of the property of the United States? Why should they fear following the Constitution? How hollow would the victory of the administration be if they do not follow the constitutional processes in obtaining the power and right to dispose of property of the United States?

Mr. President, could we, by treaty with Mexico, convey the property of the United States to Mexico by treaty, agreed to by the President and approved by the Senate, without the House of Representatives being brought in? I heard one of the Senators say on the floor recently that 97 percent of the property in his State was owned by the U.S. Government. If that be true and if the contention of the leadership and the managers of this bill be true, inasmuch as we acquired this vast area there in the Far West from Mexico by conquest and then by minuscule payment, if the President wanted to right that wrong—and they speak of righting this wrong with Panama—if the President wanted to right that wrong with Mexico and, by treaty, agree to transfer 97 percent of the property in one of the Far Western States to Mexico, do we say that the House of Representatives would not have any voice in that, that the President and the U.S. Senate could decide that matter? How ridiculous can you get?

Mr. President, there are four primary areas from which evidence can be drawn for an understanding of the function of the Congress in disposing of public property in relation to the function of the President, with the advice and consent of the Senate, to conclude treaties. The first and most important is the text of the Constitution itself. Second and of less importance is the legislative history of the Constitutional Convention of 1787 from which the intent of the Framers can be ascertained. Third is past treaty practice in which the power to conclude treaties has been exercised by the President, with the advice and consent of the Senate, and in connection with which the power of the Congress has been exercised to authorize public property disposals. Finally, there are the decisions of the various courts which comment on the scope of the power granted to Congress over the territory or property of the United States. Yesterday, I discussed at length the proper construction of the text of the Constitution. Today, I will review the three remaining primary sources of evidence supporting the conclusion that the power of Congress over public property is indeed plenary and exclusive.

Records of the Constitutional Convention of 1787 are rare, Mr. President, but what records are available do indicate that the Framers clearly intended to preclude the President, with the advice and consent of the Senate, from disposing of Government property by treaty alone. Such records of the Constitutional Convention as are preserved indicate that the Framers were seized throughout their deliberations by a desire not to permit the unilateral disposition of public lands by the President with the Senate. Frequently during the debates various devices were therefore discussed to prevent the Senate and the President from, as the matter was put by George Mason, "selling the country by means of treaties."

Ultimately, Mr. President, the Framers resolved this issue by adopting article IV, section 3, clause 2, thus limiting the power of the President acting with the Senate to make agreements with foreign powers disposing of the territory or public lands of the United States. This limitation on the treaty power was achieved by express grant of power to the Congress over the method or mode of public property disposal. This check on the treaty power was, apparently, not intended to extend to the mere resolution of boundary disputes by means of treaties of recognition, but the records of the convention do show that this limitation was intended to insure that territory or property actually and clearly belonging to the United States would not be handed over to a foreign power by a treaty of cession except under authority of the entire Congress. In other words, the President and the Senate were left free to recognize the title of another government to disputed territory or property, but the President and the Senate were deprived of the power to transfer title to undisputed public lands or property inasmuch as that power was given expressly to the full Congress.

Thus, Mr. President, very early in the debates at the Constitutional Convention during discussion on whether the Senate could share in originating revenue-raising bills, George Mason, in arguing against the inclusion of the Senate in that process, asserted that, already, "The Senate, by means of a treaty, might alienate territory without legislative sanction." Soon after Mason raised this point, Mr. President, the Framers referred the article IV progenitor to the Committee on Detail. This is reported in the records of the Federal Convention in volume II at page 321 and page 324. This progenitor provision granted to the legislature the power to dispose of public lands and would thus answer the objection raised by Mason by guaranteeing that no treaty of cession could be adopted except under authority or legislative sanction of the whole Congress. This provision was revised in the Committee on Detail and reported in its present form as it appears now in article IV of the text of the Constitution. The provision was debated and promptly adopted. (See 2 Farrand 466.)

Much later in the debates, Mr. President, during discussion of the treaty power, Madison moved to "except treaties of peace" from the two-thirds requirement for advice and consent. The Madison motion, for a time, was agreed to by unanimous consent. (See 2 Farrand 540.) Thereafter ensued a debate of matters centering on the advice and consent function of the Senate in considering treaties of peace. I am impressed by the fact that this entire ensuing discussion dealt only with treaties of peace (or treaties of recognition) and did not deal with treaties of cession. No discussion whatsoever was held regarding the proportion of votes for treaties of cession

since the Framers had presumably already addressed that problem by granting to Congress in article IV the power to authorize the disposal of undisputed territory or public property. Yet even if treaties of cession had been under discussion, the remarks made by the Framers in the Madison exception debate would in no way be dispositive of the present issue since all that was under discussion was the advice and consent role of the Senate in respect to a particular subject matter appropriate for international negotiation but not under discussion was the extent of the power of the Congress over that subject matter. Thus, when the advice and consent function was under discussion, and after the temporary adoption of the Madison exception, Williamson and Spaight moved that "no treaty of peace affecting territorial rights should be made without concurrence of two-thirds of the members of the Senate present." In short, Williamson and Spaight sought to exclude from the Madison exception regarding treaties of peace those treaties of peace which would affect territorial rights. Williamson and Spaight were simply seeking to recoup a part of the loss in the temporary adoption of the Madison exception by restoring the requirement of a two-thirds vote in those cases of treaties of peace in which disputed territory was at issue. In like fashion, Gerry, also speaking for a greater proportion of votes on "treaties of peace," said that here "the dearest interests will be at stake * * *. In treaties of peace also there is more danger of the extremities of the continent being sacrificed than on other occasions."

Again, the important point to note here is that these proposals advanced during the discussion of the advice and consent function, and within the context of the temporarily adopted Madison exception, were designed only to affect the vote required in the Senate in matters involving treaties of peace. The involvement and powers of the whole Congress were not at issue.

In short, in matters involving the settlement of boundary disputes which might arise in the case of treaties of peace when the claim of the country has not yet been made good and where title was still disputed, the Framers debated the restoration of the two-thirds vote requirement for granting advice and consent to ratification. These discussions evidenced a fear that boundary treaties might include a provision adjusting disputed boundaries in a fashion unfavorable to the United States. But the discussion did not touch on the question of the power to dispose of territory already clearly the property of the United States, nor did it touch upon the power to dispose of other property in which good title was vested in the United States. Those issues had been resolved already by the adoption of article IV. Thus, on the following day, when Sherman and Morris spoke "against leaving the rights, established by the Treaty of Peace with Great Britain to the Senate, and moved to annex a 'proviso that no such rights should be ceded without the sanction of the legislature,'" a clear reference was being made to boundary disputes and again still within the framework of the Madison exception. The Sherman suggestion (it was not voted upon) referred to the rights conferred on the United States by the settlement with Great Britain. These rights were, inter alia, unresolved claims to territory relinquished by Great Britain in favor of the United States, which claims would for many years remain disputed by other nations and would eventually be resolved by purchase and by treaties of recognition in the nature of treaties of peace; for example, the treaty with Spain of 1819. Thus, the Sherman motion did not address treaties of cession or the power of the Congress to dispose of public property. The entire matter was, in any event, resolved by striking the Madison exception so that treaties of peace, like all treaties, require the advice and consent of two-thirds of the members of the Senate present.

Now, Mr. President, throughout this discussion of the Madison exception of treaties of peace from the two-thirds requirement, the only matter under consideration was the performance of the Senate's own advice and consent function without a trace of a desire to curtail the already established congressional disposal function under article IV. The Attorney General's reliance in his opinion on the legislative history developed during the debate which centered on the Madison exception is, therefore, wholly erroneous. The Attorney General and the opponents of the pending amendment have failed to realize that the quotes they have plucked from the records of the Constitutional Convention were taken from the context of a debate dealing only with the vote requirement for the performance of the advice and consent function in the Senate with respect only to treaties of peace or treaties of recognition, hardly a debate on point with the present issue.

Finally, Mr. President, in reviewing the records of the Constitutional Convention, it remains to note that the decision of the Framers to deal with the congressional disposal power in article IV was entirely logical because article IV would be the article of the Constitution concerned with the territorial integrity of the nation and with the territorial arrangements between the states and the Federal Government within the proposed new Union. Article IV would, therefore, have seemed to the Framers to have been a sensible place for granting to Congress exclusive power to dispose of territory or property clearly belonging to the United States.

For example, article IV, section 3, deals with the admission of new States by the Congress into the Union as well as the manner in which States can be realined within the Union. Furthermore, the section states that nothing in the Constitution "shall be so construed as to prejudice any claims of the United States or any particular State." Obviously, then, in drafting the progenitor article IV for referral to the Committee on Detail, the framers recognized that they were dealing with the principal article of the Constitution respecting the established territorial and proprietary integrity of the national commonwealth. Equally obviously, they reserved for inclusion in that article the language conferring on Congress the exclusive authority to give up title to public lands vested in the United States and thus not properly subject to divestiture as merely disputed territory which might be surrendered by the mechanism of a treaty of peace in the nature of a treaty of recognition. Thus, when the disposal power was referred to committee, it was submitted in the following form: The legislature shall have power "to dispose of the unappropriated lands of the United States." (See 2 Farrand 321.) This original language obviously refers to lands not held by the individual States, but in which good title would vest in the United States and over which the Congress would be given exclusive authority. Since article IV had been adopted in its present form by the time of the debate of the treaty power, the power to dispose of territory or other property clearly belonging to the United States was not at issue. The matter had already been resolved by the adoption of article IV.

In this connection, it is singular that, during the discussion of "the legislature shall have power to dispose of * * * the territory * * *," no mention at all was made of any exception to the legislative power to permit dispositions to be made under the treaty power. Also notable is the fact that, during the debate of the treaty power, discussion centered only on treaties of peace which would involve disputed claims. No mention was made of treaties of cession by which undisputed lands belonging to the United States might be promised to be conveyed to a foreign sovereign. Since territorial matters were hotly debated throughout the convention, manifestly there was no intention that an exception would be made to permit actual disposition of the public lands without congressional authority by means of a treaty of cession. In fact, a careful reading of the debates of the Constitutional Convention is persuasive that article IV, section 3, clause 2 was intended to satisfy objections that the treaty power might be used to dispose of public lands, while at the same time preserving to the executive and the Senate the power to resolve without full legislative sanction the many then-pending boundary conflicts by means of treaties of peace or recognition.

In short, where a territorial claim was vague, the President and the Senate were left free to make adjustments by means of treaties of peace or treaties of recognition, but where the claim of the United States had been perfected, and it could be clearly demonstrated that the land involved was territory or other property belonging to the United States, then congressional authorization would be required before alienation by any means would be permissible.

This evident intent of the framers in adopting article IV, section 3, clause 2, has, until now, been consistently carried out in practice, and at no time whatsoever has territory or other property

clearly belonging to the United States been alienated by treaty alone, whereas on many occasions disputed claims have been adjusted by treaties of recognition or by treaties of peace, without specific congressional authority.

So, Mr. President, to confirm our understanding of the Constitution as its plain words evidence and as the intent of the framers implies, we ought next to examine past treaty practice to see how the intent of the framers and the requirements of the Constitution have been carried into effect consistently until this moment. In looking at past treaty practice, perhaps the best point of departure is the report of the Committee on Foreign Relations on the Panama Canal treaties which rather ingenuously provides at its pages 68 and 69 a list of treaties alleged to transfer territory or property belonging to the United States to other nations without congressional authorization. So let us look at this list of treaties provided by the Committee on Foreign Relations.

First, the committee lists the treaty between the United States and Spain of February 22, 1819. This treaty was a treaty whereby Spain ceded its Florida territory to the United States, and the United States recognized the title of Spain to Texas. Hence, the treaty has virtually nothing to do with the present issue inasmuch as it was a treaty of recognition or a boundary treaty insofar is the then-vague U.S. claims to territory west of the Florida territory, and insofar is it affected Florida, it was a treaty of cession from Spain to the United States. Nevertheless, congressional debates of the Spanish Treaty of 1819 included House consideration of two resolutions submitted by Congressman Henry Clay. The first resolution would have affirmed the exclusive power of the Congress to dispose of territory and property. The second expressed the view that, because of the exclusivity of the disposal power, the disputed lands west of the Florida territory (Texas) should not be acknowledged to belong to Spain without congressional authorization. Since a cession of U.S. territory was not involved nor was any title to U.S. property actually transferred, the Clay resolution was inappropriate because no American territory or property was ceded by the 1819 treaty and, moreover, even if a cession had occurred, the provisions of the treaty terms were in any event specifically authorized by the act of March 3, 1819 (3 Stat. 523). In arguing against the Clay resolutions, Representative Anderson of Kentucky repeatedly emphasized that the lands involved were never in America possession and, therefore, article IV was not triggered by the 1819 treaty, stating:

> There is certainly nothing which falls more aptly within the power to form treaties than the settlement of the limits of disputed or undefined territory.

He also argued that the treaty had already been approved in the most solemn manner by which it could be approved:

> It must be borne in mind, too, that this House has approved the treaty in the most solemn manner in which it can act . . . by the passage of a law . . . the forms of our government do not admit any further ratification than this treaty has received.

Here Representative ANDERSON was referring to the act of March 3, 1819. Indeed, similar legislation was again enacted by the Congress in the act of March 3, 1821 (3 Stat. 637).

Certainly, Mr. President, two statutes of the Congress authorizing the transaction, which in itself was merely a recognition of a boundary, ought to have been sufficient to our Senate Committee on Foreign Relations to permit them to perceive that the treaty with Spain of 1819 does nothing whatsoever to support their position and, in fact, supports rather strongly the contrary position. But this latest excursion in innovative interpretation of history and law is not uncharacteristic of the work of that committee.

Mr. President, the next treaty cited in the report of the Committee on Foreign Relations is the treaty between the United States and Great Britain of August 9, 1842, which is generally referred to as the Webster-Ashburton Treaty. Similar to the Webster-Ashburton Treaty is another treaty cited by the committee, the treaty between the United States and Great Britain of June 15, 1846, the Oregon Boundaries Treaty. Both treaties are pure treaties of recognition wherein each party recognizes the claim of the other party to the territory on the other side of the boundary between the parties. In other words, there is no cession of property inasmuch as both parties to the agreement merely acknowledge the title of the other party and thereby establish a settled boundary in an area in which only claims of title are made by either country. A classic example of this process is found in this Oregon Boundaries Treaty, and certainly Senators will remember the phrase, "54° 40′ or Fight!", which was used extensively by those seeking to grab as much territory in the Northwest as possible. In fact, the disputed area was resolved along a 49° latitude boundary, Great Britain recognizing the title of the United States below the 49° parallel and the United States recognizing the title of Great Britain above the 49° parallel.

Again, no cession of American territory was involved nor was any transfer of U.S. property accomplished by either this treaty of recognition or the similar Webster-Ashburton Treaty.

Incidentally, Mr. President, the distinction between these two types of treaties, treaties of cession and treaties of recognition, is well-established in international law. Crandall, in his definitive study, "Treaties, Their Making and Enforcement," states unequivocally:

> A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition.

But this distinction does not appear to be understood by the august committee on Foreign Relations because it next cites in its report three more boundary treaties, this time treaties between the United States and Mexico, those being the treaty of 1933, the treaty of 1963, and the treaty of 1970. None of these treaties involved public property and they, too, were classic treaties of recognition wherein boundary disputes or potential boundary disputes were resolved by one party recognizing the claims of the other party, and vice versa. Additionally, in each case, statutory enactments did authorize the change in status of lands which occurred, in the first instance as a result of the meanderings of the Rio Grande in its channel between Texas and Mexico. These statutes are, in the case of the treaty of 1933, the Rio Grande Rectification Act of 1935 (P.L. 74–286) and, by implication, the State and Justice Appropriations Act of 1937; in the case of the treaty of 1963, the American-Mexican Boundary Convention Act of 1964 (P.L. 88–300); and in the case of the treaty of 1970, the American-Mexican Boundary Treaty Act of 1972 (P.L. 92–549). Significantly also, prior to the first Mexican boundary treaty of 1933, the Congress had established by legislative act the International Boundary Commission, Mexico and United States, for the purpose of rectifying the boundary between the two countries as a result of the changes in course of the Rio Grande. Therefore, all three treaties had prior underlying congressional authorization in that they were each based on decisions of the International Boundary Commission previously established by act of Congress.

Moreover, the American-Mexican Boundary Convention Act of 1964 provides specific, statutory authorization for the "acquisition of all private lands required for transfer to Mexico." And again, the American-Mexican Boundary Treaty Act of 1972 authorizes the acquisition of "all lands or interest in lands required for transfer to Mexico." Also of interest is the fact that article I of the 1970 treaty, the most recent in the series, provides specifically that, "Once this treaty has come into force and the necessary legislation has been enacted for carrying it out * * *", a provision which clearly implies that no transfer could occur except with congressional approval. Since these treaties do not in the first place dispose of Federal property except in the sense that Congress authorized Federal acquisition of property for subsequent transfer to Mexico, since the disposals involved came about only pursuant to specific, statutory authorization, and since in any case the treaties involved a resolution of a disputed or potentially disputed boundary, they do not in any way support the position of the Committee on Foreign Relations or the opponents of the pending amendment.

Mr. President, the Committee on Foreign Relations next cites the treaty between the United States and Honduras of November 22, 1971, the Swan Islands Treaty. This treaty also provides no support whatsoever for the Foreign Relations Committee's position, and it is astonishing that it would be cited as a precedent for transferring U.S. property without congressional approval. This treaty was again a treaty of recognition designed to resolve the conflicting claims of the United States and Honduras to the Swan Islands. The U.S. claim was tenuous at best and was based on the Guano Act of 1856 which authorized the extraction of guano from the islands. The Honduran claim to the islands was clearly

superior and antedated the American claim by several centuries. Although the Swan Islands were thus briefly of interest to the United States in the mid-19th century, in recent times the only conceivable value of the islands to the United States is their current use as a weather and observation station. In the words of the Committee on Foreign Relations in its report on the Swan Islands Treaty:

> The Islands have no intrinsic value to the United States . . . the only United States interest in these Islands is the operation and maintenance of a meteorological and telecommunications facility and an air navigation beacon.

In the treaty, the United States recognized the superior claim of Honduras to the islands and, in turn, the Honduran Government recognized the claim of title made by the United States to the particular property and improvements necessary to the operation of the meteorological and telecommunications facility. Again, the Swan Islands Treaty was a treaty of recognition and not a treaty of cession.

The Committee on Foreign Relations as authority for its novel theory of concurrent power to dispose cites additionally the treaty between the United States and Japan, the reversion of the Ryukyus and Daito Islands. This treaty equally cannot be used as a precedent for a transfer of territory by treaty alone since this treaty grew out of article III of the 1951 Treaty of Peace with Japan by which the United States received the right to exercise powers of administration in the Ryukyus but by which Japan did not renounce its right, title, and claim to the Ryukyus. No property rights as a territorial owner ever arose in the United States and hence no territory belonging to the United States was by the later treaty ceded back to Japan. By the same token, the nonterritorial property transfers arguably effected by the Ryukyus treaty were, as is noted in the report of the Committee on Foreign Relations, made pursuant to authority granted by Congress in the Foreign Excess Property Disposal Act and related subsequent statutes (see particularly 40 U.S.C. sections 511 and 512). Thus, again, if the Ryukyus treaty is precedent of any sort, it is precedent for the proposition that property disposal must be authorized by Congress.

The final treaty cited by the Committee on Foreign Relations is the treaty between the United States and Panama of 1955, the Treaty of Mutual Understanding and Cooperation found at 6 U.S.T. 2283. This ironically is the same treaty cited in the report of the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary as the best possible historical evidence for the proposition that the power of Congress to dispose of territory or other property of the United States is exclusive. Frankly, I find it startling and truly astonishing that the treaty of 1955 would be cited to support the opposite contention.

This treaty of 1955 in its article V, the article which makes a major public property transfer from the United States to Panama, repeatedly uses the phrase, "subject to the enactment of legislation by the Congress." I believe that our negotiators insisted upon the use of this language so that as a matter of international law the Panamanians would be on notice of the fact that authorizing legislation was required before the transfers contemplated by article V could be completed. This fact is astutely ignored in the report of the Committee on Foreign Relations, which instead calls attention only to articles VI and VII which purport to transfer property to Panama without authorizing legislation. In fact, both articles VI and VII are, oddly enough, "boundary adjustments," one boundary adjustment involving the Colon Corridor leading to the city of Colon and the other adjustment involving a single pier extending into the waters in the vicinity of the city of Colon. Neither article VI nor article VII deals, therefore, with anything greater than a slight adjustment in the terms of the Boundary Convention of 1914 between the United States and Panama, and certainly neither article stands as a precedent for a cession of territory or property by treaty alone. Again here, the principles of treaties of recognition are paramount, but even so, and even though only a very slight amendment in a boundary convention was at issue, the Department of State specifically acknowledged in testimony before the Senate Committee on Foreign Relations that, in addition to article V, also articles VI and VII of the treaty of 1955 required authorizing legislation. Assistant Secretary of State Holland provided a memorandum to the Senate Committee on Foreign Relations which reads in pertinent part as follows:

> Articles V, VI, and VII of the Treaty . . . transfer of certain lands and improvements to Panama—authorizing legislation is required.

This memorandum was supplied to the Committee on Foreign Relations in response to the request of Senator Morse that the Department of State submit a memorandum of all legislation required to carry the treaty of 1955 into effect. The remarks of Senator Morse and the Department of State response are found in "Hearings on the Panama Canal treaties before the Senate Committee on Foreign Relations, executive F, 84th Congress, 1st Session" at pages 60–61.

Since authorizing legislation was subsequently enacted and since the property aspect of the treaty was expressly made subject to such enactment, then it ought to be plain as day that the treaty of 1955, contrary to the misleading implication of the report of the Committee on Foreign Relations, is perhaps the strongest possible historical precedent for the proposition that Congress alone can dispose of U.S. territory or property in Panama.

Interestingly, consistent past practice with respect to public property disposals in the Panama Canal Zone gives further support to the conclusion that a property transfer can validly only occur pursuant to exercise by the Congress of its power to dispose. Thus, in 1942, when the President concluded an executive agreement for the transfer of property, a statutory enactment actually accomplish the transfer. Moreover, at that time, the chairman of the Senate Committee on Foreign Relations, Senator Tom Connally, asserted emphatically:

> Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty. Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies. The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise.

Additionally, in 1932, the United States sought to build a new legation building on land within the Canal Zone. Since a legation must be on territory of the country to which the legation is accredited, the State Department drafted a bill by which Congress would authorize the Secretary of State to modify the line between Panama and the zone so as to permit the proposed legation to be built on "Panamanian territory." In other words, the Department of State recognized that a statute was required to effect the transfer. And again, in 1937, the act of July 10 authorized the Panama Railroad Company, an agency of the United States, to sell certain lands and release reversionary interest in those lands (50 Stat. 511, Public Law 75–54). Earlier the President himself was given authority in the Panama Canal Act of 1912 to exchange land with Panama, presumably along boundaries, if the land were thought to be no longer needed for the maintenance, operation, sanitation, or protection of the Panama Canal and the Canal Zone. (See 2 Canal Zone Code p. 2 and the Act of Congress of Aug. 24, 1912, 37 Stat. 605.)

So, Mr. President, in sum, it is crystal clear that each treaty cited by the Committee on Foreign Relations lends no support to the position of the committee and, viewing the matter generously, shows only the apparent hurried manner in which the report of the committee must have been written.

Confirming this latter observation is the decision of the committee also to cite in its report two Indian treaties which for a variety of reasons have virtually nothing to do with this important constitutional issue. The two treaties cited by the Committee on Foreign Relations are: First, the treaty with the Cherokee Nation of December 29, 1835, and second, the treaty with the Chippewa Indians of October 2, 1863.

The treaty with the Cherokee Nation of 1835 presumably came to the attention of the Committee on Foreign Relations in connection with its equally mis-

taken citation of dicta from Holden against Joy, a case which involved the same treaty. The inappositeness of the dicta from Holden, as well as the citation of the Cherokee Treaty of 1835, is underscored by the facts. These were recited by Prof. Raoul Berger to the Subcommittee on Separation of Powers as follows:

In May, 1828, and February, 1833, "the United States agreed to possess the Cherokees of seven million acres of land west of the Mississippi." It "was the policy of the United States to induce Indians . . . to surrender their lands and possessions to the United States and emigrate and settle in the territory provided for them in the treaties," so an exchange of land was provided. But a third treaty, that of December, 1835, proved necessary, whereby the Indians ceded their lands to the United States in consideration of $5,000,000 to be invested in the manner stipulated. The Indians considered that the prior treaties, confirmed by the new, did not contain a sufficient quantity of land, so the United States agreed to convey an additional tract in consideration of $500,000 to be deducted from the $5,000,000. This may be viewed either as a purchase and sale or an exchange: "the Cherokees were competent to make the sale to the United States and to purchase the lands agreed to be conveyed to them. . . ." And the transaction was authorized by the Act of 1830, which empowered the President to set aside land west of the Mississippi for the reception of such tribes as chose to emigrate, and to "exchange" such lands with any tribe. The 1830 Act served to ratify the Act of 1828, and "ratification is equivalent to original authority." "It is well settled that Congress may . . . "ratify . . . acts which it might have authorized" . . . and give the force of law to official action unauthorized when taken." Although the subsequent 1833 and 1835 treaties differed in some particulars from the authorization, the purpose was the same—"to induce the Indians . . . to emigrate and settle in the country long before set apart for that purpose."

Thus, the Cherokee Treaty of 1835 cited in the report of the Committee on Foreign Relations is a treaty which, if it stands for anything, stands as good precedent for the fact that public property may not be conveyed except under authority of Congress.

It remains to dispose of the second Indian treaty cited in the report of the Committee on Foreign Relations. This treaty with the Chippewas of 1863 is again a treaty apparently called to the attention of the Committee on Foreign Relations by a casual reading of the judicial authorities, in this instance Jones against Meehan, 175 U.S. 1 (1899), another case which has virtually nothing to do with the power of Congress to dispose. The treaty of 1863 with the Chippewas, which is discussed in detail in Jones against Meehan, was a typical treaty of reservation involving a grant from the Chippewas to the United States. The treaty had "set apart from the tract hereby ceded by the tribe a reservation of 640 acres" for an individual Indian. Thus, while this treaty is, as asserted in the report of the Committee on Foreign Relations, "an example of a treaty with an Indian tribe," it is hardly an example of a conveyance of property belonging to the United States to an Indian without prior authorization by act of Congress. In fact, the only conveyance by treaty to an individual Indian made in the treaty of 1863 is a conveyance from the Indian tribe direct to the individual Indian and not a conveyance from the United States.

Citation of the Chippewa Treaty of 1863 as precedent for disposal of U.S. property by treaty alone is a good example of the pitfalls of attempting to resolve a major constitutional issues by a cursory examination of the tortured course of the treaty relations between the United States and the Indian tribes prior to 1872. Mercifully, Congress brought the practice of dealing with the Indians by treaty to a halt in that year by enactment of the Indian Appropriations Act of 1872, which forbade further dealings with Indian tribes by treaties.

Now, Mr. President, this fact leads me to believe that perhaps we ought not to pay too much attention to these Indian treaties one way or another if Congress could, with the stroke of a pen, so to speak, cut out entirely the President's ability to deal with the Indian tribes by treaty and require him to deal with them in some other manner. Certainly, no act of Congress could abolish outright the constitutional power of the President to conclude true international treaties with the advice and consent of the Senate, and the fact that the ability of the President to deal with the Indian tribes by treaty was in fact abolished by act of Congress certainly ought to indicate that these many Indian treaties were not in the first place true treaties made within the scope of the President's powers under article II of the Constitution.

Moreover, Mr. President, the various Indian treaties reserved to the Indians a bewildering variety of types of interest in the lands reserved. But most important to this discussion is that, typically, Indian treaties reserved only the right to the use and occupation of territory already possessed by the Indians (hence, the use of the term "reservation"). Thus, the typical Indian treaty was not in any way a treaty of cession of territory from the United States to the Indians but rather a treaty by which the use only of territory already belonging to the United States was ceded from the Indians to the United States with the Indians reserving out of the grant a collective usufruct analogous to fee title over a given reserved portion.

In any event, regardless of the nature of the grant from, or acknowledgment of the reserved rights of, the Indian tribes or individual Indians, Indian treaties must themselves always be considered in light of the knowledge that from the very earliest days of European settlement in North America, Indians were regarded not as sovereign independent nations but as "wards of this Nation" or "in a state of pupilage" or "dependent political communities." Thus, for example, in recognition of this dependent political status, the United States always had in Indian lands, at a minimum, the right to exercise the sovereign power of eminent domain.

Past treaty practice, then, Mr. President, in exact contradiction to the impression sought to be created by the Committee on Foreign Relations, strongly supports the construction of the Constitution embodied in the pending amendment. The judicial authorities, in the main, also strongly support this construction. However, I must in this respect state candidly that my review of all of the cases cited to me by the many commentators and scholars who have studied this issue has led me to the conclusion that each case cited is in some fashion distinguishable from the main issue and that no case cited by either proponents or opponents of the pending amendment answers directly in a holding of the court the question, "Can the President, with the advice and consent of the Senate, by treaty alone, cause a disposal of U.S. territory or other property?"

The United States has been, in the main, an acquisitive, growing Nation and, therefore, it is not surprising that no court, until now, has been presented with a case or controversy turning on the exclusivity of the power of Congress to dispose of territory or property in relation to the power of the Executive, with the advice and consent of the Senate, to conclude treaties. In candor, it must be admitted that it is now a case of first impression primarily because heretofore there has been perhaps greater respect for the Constitution and additionally the United States has not been, until now, overly inclined to alienate its own territory or property in favor of foreign sovereigns. Nevertheless, several cases do merit discussion either because they tend to illuminate the plenary nature of the power granted to Congress under article IV, section 3, clause 2, or because they have been incorrectly cited as authority for the new theory of concurrent treaty power to dispose of public property.

CASES DEMONSTRATING THE EXCLUSIVITY OF THE POWER OF CONGRESS TO DISPOSE OF THE PUBLIC'S PROPERTY

The primary case showing the extent and exclusivity of the power of Congress to dispose of territory or other property of the United States in *Sioux Tribe of Indians* v. *United States*, 315 U.S. 317 (1942.) After noting that fact, however, I hasten to stress that Sioux Tribe does not hold that the power of Congress is exclusive in the specific context of a case involving the treaty power versus the congressional power. The information drawn from the decision in Sioux Tribe is nevertheless not to be considered mere dicta since the case itself did turn on the question whether the power of the President alone acting through executive agreement was concurrent with the congressional power to dispose. Thus, the holding in the case does serve to illustrate forcefully the point that the disposal power is an exclusive power of Congress, and the Court did state, rather emphatically, as part of its holding that "the Constitution places the authority to dispose of public lands exclusively in Congress."

In Sioux Tribe, the Supreme Court addressed the issue of whether Executive orders in 1875 and 1876 reserved a compensable interest in land to the Sioux Indian Tribe. The Court found "• • • that there was no express constitutional or statutory authorization for the conveyance of a compensable interest • • •

and that no implied congressional delegation of the power to do so can be spelled out from the evidence of congressional and executive understanding."

The Executive orders involved were found, as might be expected, to have reserved only use of the lands to the Sioux Tribe. The Court ruled that the interest retained by the Indians under the Executive orders could be terminated by the executive or by the Congress without any obligation on the part of the United States.

In the reasoning leading to its decision in that case, the court noted that a treaty or a statute could create a compensable interest in lands in the Indians if those lands were subsequently taken from them by the government. However, while the court did note that a statute would obviously be an expression of congressional will, the court specifically did not on the other hand imply that a treaty could convey public land without an express or implied congressional delegation of authority or without enactment of authorizing legislation to give effect to any proposed treaty terms suggesting a disposition of U.S. property. In fact, the court, to the contrary, implied the exact opposite.

If the lands reserved for the use of the Indians are reserved pursuant to a statute, it is obvious that Congress has given its consent to the disposal. When lands belonging to the United States are transferred by treaty or Executive order, the court reasoned that delegation of congressional authority must be found. The court stated further that such delegation of authority may be explicit or may "* * * be spelled out from long-continued congressional acquiescence in the executive practice."

The importance of the Sioux Tribe case, as related to the disposal of property by treaty, lies in the fact that the court seems to have stated rather clearly that lawful disposal by treaty or Executive order could be effected only if the court could find express or implied congressional delegation of the exclusive authority of Congress to dispose of property or territory belonging to the United States. I have been unable to find any such express or implied delegation of power by the Congress insofar as it relates to the disposal of land in the Canal Zone to Panama. The Panama Canal Act of 1912 only grants to the executive branch the authority to acquire or exchange land, not the power to dispose of it.

Moreover, congressional acquiescence with respect to past practice in the Canal Zone has permitted the executive only to make minor boundary adjustments without first obtaining express congressional authority. In any event, the boundary adjustments made have themselves tended to be in the nature of an "exchange" as already authorized by the Panama Canal Act of 1912. The holding in Sioux Tribe, then, does stand as a strong support for the contention that since no express or implied authority to dispose of territory or other property in the Canal Zone can be inferred from the past enactments of the Congress or from the past practice of the executive branch in transferring property in the Canal Zone, then specific statutory authority must now be obtained before any major property disposition to Panama can be legally accomplished.

In *Wisconsin Central R.R. Co.* v. *Price County*, 133 U.S. 496, the Court stated as part of the holding in the case that article IV "implies an exclusion of all other authority over property," thereby like Sioux Tribe also demonstrating the plenary and exclusive nature of the power of Congress to dispose of public lands or property. While it is true that Wisconsin Central involved the disposal power in the context of congressional power versus state power, nevertheless the case provides again strong evidence that the theory of concurrent disposal power is erroneous. Wisconsin Central is a characteristic of a long line of decisions which reflect the Court's obvious agreement with the general principle enunciated by Justice Story:

> The power of Congress over the public territory is clearly exclusive and universal.

I recognize that the principle enunciated by Story has not yet been applied in a case directly on point, but the principle has nevertheless been applied repeatedly, not in dicta, but in the holdings of many cases where the exclusivity of the power of Congress was essential to the decision.

CASES FROM WHICH DICTA IS DRAWN TO SUPPORT THE THEORY OF CONCURRENT TREATY POWER TO DISPOSE OF THE PUBLIC'S PROPERTY

Proponents of the concurrent treaty power theory have been unable to locate a single case in which the decision in the case turned on the issue of the existence of concurrent power in the President, or in the President with the Senate, to dispose of public property. Instead, we have seen cited a plethora of dicta drawn from cases not involving the treaty power versus the Congressional power to dispose and not even involving the question of the exclusivity of the congressional disposal power in any context.

For ease of review of these sources of dicta, the following is a list of the principal cases upon which the concurrent power theorists have mistakenly relied:

Jones v. *Meehan*, 175 U.S. 1 (1899).
U.S. v. *43 Gallons of Whiskey*, 93 U.S. 188 (1876).
Holden v. *Joy*, 17 Wall. (84 U.S.) 212 (1872).
Francis v. *Francis*, 203 U.S. 233, 239 (1906).
U.S. v. *Percheman*, 32 U.S. (7 Pet.) 511, 88–89 (1833).
Foster v. *Nielson*, 27 U.S. (2 Pet.) 253 (1829).
Geofroy v. *Riggs*, 133 U.S. 258 (1890).
Missouri v. *Holland*, 252 U.S. 416 (1920).
Asakura v. *Seattle*, 265 U.S. 322 (1924).
Reid v. *Covert*, 354 U.S. 1 (1957).
Santovicenza v. *Egan*, 284 U.S. 30 (1931).
Worcester v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832).

The Indian treaty cases, such as Jones against Meehan, supra, and above, typify a line of cases involving Indian land titles wherein a grant of title was made by the tribe to an individual as part of the terms of a treaty with the United States. A careless reading of these cases coupled with a careful extraction of dicta from them can give the erroneous impression that title to lands belonging to the United States can be transferred to an individual by treaty alone. Thus, proponents of the concurrent power theory, such as, for example, Dean Pollak, have quoted the following dicta from Jones:

> A good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe without an act of Congress.

At first blush, this dicta would seem to indicate that title to the territory or other property belonging to the United States can be transferred by treaty alone. Not so. In fact, this misleading dicta has nothing whatsoever to do with the power conferred on Congress by the people through article IV of the Constitution.

In Jones against Meehan, the treaty in question has "set apart from the tract hereby ceded [by the tribe] a reservation of 640 acres" for an individual Indian, and the issue in the case was what kind of title the Indian took. The court itself, recognizing that article IV was not a question in the case, quoted from an opinion of Attorney General Roger Taney:

> These reservations are excepted out of the grant made by the tribe [to the United States] and *did not therefore pass with it;* consequently, the title remains as it was before the treaty, that is to say lands reserved are still under the original Indian title. (Emphasis added.)

The court in Jones thus continued to hold that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant [by the tribe to an individual] of complete title in fee simple." I do not deem it necessary to go into the court's detailed discussion of the nature of the title reserved. e.g., was it legal or equitable, and other fine points of Indian land law arising from the fact that Indian lands were initially held in common. It should instead be sufficient to set out the court's quotation in Jones from *Doe* v. *Wilson*, 25 How. 457, 463–464 (1859):

> The Pottawatomie nation was the owner of the possessory right of the country ceded, and all the subjects of the nation were joint owners of it. The reservees took by the treaty, directly from the nation, the Indian title.

The fact that title "reserved" to individual Indians does not pass to the United States and thereafter back to the Indians in the many Indian treaty real property cases may be best understood from a close reading of *Francis* v. *Francis*, 203 U.S. 233, 238 (1906), which cites Jones for the proposition that when a treaty makes "a reservation of a specified number of sections of [Indian land], the treaty itself converts the reserved land into individual property." With this understanding, then, of Indian land law, in no fashion can Jones against Meehan or any other treaty reservation case be properly cited as having anything whatsoever to do with the power of Congress to dispose of U.S. property. Not one of these cases involves conveyance of property belonging to the United States.

Holden against Joy is another Indian treaty case which constitutes one of the pillars of the argument of the adminis-

tration in favor of the elusive, postulated power to convey public property by treaty alone. In truth, Holden does provide perhaps the best dicta which can be cited by proponents of the concurrent power theory inasmuch as it does contain strong language to the effect that a conveyance of property can be made by the President by treaty without congressional authorization. However, even those who have relied on the case admit that the language quoted is purely dicta and that the statement made had no bearing in the court's decision. Moreover, the cases cited by the court in Holden as authority for its regrettable ex cathedra utterance do not in any way give it support. These cases were each abstracted for the Subcommittee on Separation of Powers by Professor Berger in an appendix to his testimony. Having examined them each in turn, I now share Professor Berger's conclusion that half the cases cited by the court were "altogether irrelevant" and that the rest concerned "reserves" under which no title had passed to the United States and, hence, under which no title could be passed from the United States.

In any event, there is little point in belaboring the dicta in Holden against Joy since even the Attorney General has recognized it to be simply dicta and has stated that:

> The court conceded that the question was immaterial in the case because Congress had actually implemented and ratified that particular treaty.

In fact, when the court in Holden, speaking to the contention that the President and the Senate "could lawfully covenant that a patent should issue to convey lands which belong to the United States without the consent of Congress," stated that "a treaty may convey to a grantee good title to such lands without an act of Congress conferring it," it was making a statement that was wholly unnecessary to the decision reached because Congress had already authorized the conveyance involved, a fact recognized by the court. Unnecessary statements are rarely supported by thorough legal research, and the dicta in Holden is a perfect example of that fact. I also find in the repeated misleading citation of Holden a continuation of the double standard used by proponents of the alleged power to dispose of public property by treaty alone in that these proponents rely entirely on dicta running in their favor to make a shaky case for concurrent power but consistently reject as dicta the many judicial statements that congressional power to dispose is exclusive.

U.S. against Percheman was a private land grant case cited by the Attorney General and other administration spokesmen to show "the court held self-executing certain clauses of the Florida treaty with Spain which relate to the regulation of property rights in newly acquired territory." However, the so-called self-executing clauses in the Florida treaty involved the confirmation of individual property rights based on Spanish land grants. These property rights would have been affirmed as a matter of international law even absent the treaty clauses, and inasmuch as the property rights in question were the property rights of individuals, not the property rights of the United States, the entire case is, therefore, irrelevant to any discussion of the article IV power of Congress. The Percheman case is, in fact, closely analogous to the Indian treaty cases in that it essentially involved a reserve of private individual grants predating the treaty. Title did not pass to the United States and thereafter to the individuals. The fact that the treaty with Spain of 1819 of its own force confirmed the titles of pretreaty individual private landowners of land in the Florida territory ceded to the United States by Spain does not argue for the legality of a so-called self-executing treaty which would grant title to land already vested in the United States to new posttreaty individual owners.

Similar to Percheman, and equally often cited, is Foster against Neilson, a case which also turned on the validity of pretreaty land grant titles. The court in Foster erroneously thought that the treaty of 1819 required ratification and confirmation of the private titles "by the act of the legislature"; however, the court in Percheman discovered that the Spanish counterpart version of the treaty expressly dispensed with the requirement that the private titles be ratified by act of the legislature, a fact not known at the time of the decision in Foster.

In any event, both of these land grant cases are so far afield and have so little to do with the article IV power of Congress to dispose of U.S. lands as to warrant much less attention than that which has already been shown to them, here and elsewhere.

The administration witnesses also dwelled on Geofroy against Riggs as "strong authority" for the power of the President and Senate to conclude treaties regarding the subject matter within the ambit of the power of Congress. I have studied the case and I am not impressed. While, in some vague sense, Geofroy might be said to represent the principle that the treaty power can extend to the peripheries of congressional power, in fact, the case has not the slightest bearing on the effect of article IV respecting public property because the case has nothing to do either with the disposition of public property or with the regulation of public property. To reiterate, the holding in Geofroy was simply that a citizen of France could take land by descent from a citizen of the United States within the District of Columbia. Therefore, the reason for the repeated citation of this case by the proponents of the concurrent power theory remains a matter essentially baffling to me.

Oddly enough, the case does not even stand for the proposition that a treaty can supersede the provision of article I, section 8, clause 17, of the Constitution which confers on Congress the power of "exclusive legislation in all cases whatsoever" relating to the District of Columbia. Geofroy involves the treaty with France of 1853 which gave to Frenchmen the right of inheritance only in States "whose existing laws permit it." Thus, the court held in Geofroy that the District of Columbia was a State for purposes of the treaty and that, although an act of Congress on March 7, 1888, forbade the ownership of land in the District by aliens, since the act excepted the disposition of land "secured by existing treaty" (an exception which the court held included realty "acquired by inheritance"), the Frenchmen's rights were protected under the act by the provisions of the treaty of 1853. Thus, the treaty at issue in Geofroy does not itself pretend to override contrary local law and, additionally, Congress had consented to the application of the treaty terms to permit inheritance by Frenchmen by means of the express exception set forth in the act of March 7, 1888.

To summarize, Geofroy against Riggs has nothing to do with the power of Congress to dispose of U.S. territory or public property, but in the event it did, it could stand, if for anything, only for the proposition that the treaty power does not invade the power of Congress over the laws of the District of Columbia.

Finally, the administration and others have advanced Missouri against Holland in support of the proposition that a treaty can "empower Congress to enact legislation going beyond its specifically enumerated grants of power." Without becoming unduly concerned at this gross distortion of basic constitutional principles, perhaps it is best simply to state that Missouri against Holland had nothing to do with the disposition or regulation of U.S. territory and that the case involved a treaty with Great Britain for the protection of migratory birds. The court held that "wild birds are not in the possession of anyone and possession is the beginning of ownership"; hence, neither a State nor the United States could assert any property interest in them. Missouri against Holland can, therefore, be of no interest in any serious analysis of the congressional power to dispose of public property.

Mr. President, there are among the cases in the list I previously outlined a number of obviously irrelevant cases; therefore, in order not to unduly lengthen these remarks, I will simply observe that a mass of cases have been cited irresponsibly by administration spokesmen and opponents of the pending amendment in the ongoing debate of the nature of the power of Congress to dispose of public property of the United States. However, for illustration, I will give five examples of noteworthy irrelevance.

First, there is Asakura against Seattle. This fascinating decision turns on an ordinance of the city of Seattle restricting licenses to operate pawnshops to citizens of the United States. Its holding that citizens of Japan could not be denied the equal opportunity also to operate pawnshops does not appear to have any relevance to anything except possibly to the operation of pawnshops.

Next, there is Reid against Covert which was cited by Herbert Hansell, legal adviser to the Secretary of State, as authority for the power to dispose of public property by treaty. The case involves a trial by court martial of the wife of an Army sergeant convicted in England by

U.S. Army authorities for the murder of the sergeant. The court held that the Bill of Rights requires a jury trial after indictment. I do not understand why this case was cited.

In his testimony before the Subcommittee on Separation of Powers, Herbert Hansell also cited Santovicenza against Egan in support of the power to dispose by treaty. In Santovicenza, an Italian died in New York, leaving no heirs or next of kin. Italy claimed the property of the deceased under a "most favored nation" treaty clause. The court held that the treaty covered the disposition of the property of aliens dying within the territory of either signatory. Again, I am at a loss to explain why this case was ever cited even in the first instance.

Also cited to support the novel concurrent disposal power theory is Worcester against Georgia. Worcester, a white missionary, was convicted of residing within the Indian territory without a State license. The Supreme Court reversed the conviction. Astoundingly, this case has also been cited as having something to do with the power to dispose of public property; obviously, it does not.

Perhaps because of its intriguing style, U.S. against 43 Gallons of Whisky is also a case frequently cited by concurrent power theorists, but again the application of this case to the issue is tangential at best. The case, as might be expected, involves 43 gallons of whiskey, and it is a case essentially irrelevant to the issue or to the pending amendment.

To summarize the arguments I have made both today and yesterday, I emphasize, Mr. President, that the text of the Constitution itself indicates that the power of Congress to dispose of public property is an exclusive power which cannot be exercised concurrently by the President, with the advice and consent of the Senate, through the treatymaking power. Basic canons of construction dictate that express mention implies exclusivity and that the specific governs and limits the general. Construing properly the plain words of the Constitution thus leads to the final conclusion that the power of Congress to dispose is an exclusive power. This conclusion is bolstered by the history of the Constitutional Convention which shows that the issue of the treaty power versus the power to dispose was very much in the minds of the Framers. Article IV, section 3, clause 2 was adopted to answer in part the argument advanced early in the Convention debates that the Senate with the President could alienate public lands without the consent of the Congress. Past treaty practice in dealing with Panama regarding U.S. property in the Panama Canal Zone also provides strong evidence that no promised disposition of public property can be made to Panama, or to any foreign sovereign, by a treaty except "subject to the enactment of legislation by the Congress." Other treaties which have been cited as disposing of territory without congressional authorization are not treaties of cession but are rather treaties of recognition by which disputed claims to territory are adjusted and through which boundaries have been stabilized.

The judicial authorities are, in the main, inconclusive. However, those cases in which the extent of the power of Congress to dispose is controlling, notably Sioux Tribe of Indians against United States and Wisconsin Central R.R. Co. against Price County do hold that the power of Congress is an exclusive power. These holdings are consistent with Story's remarks in his famous commentaries on the Constitution of the United States:

> The power of Congress over the public territory is clearly exclusive and universal.

Virtually all other cases which have been cited by both sides provide dicta only and ought to be ignored.

Inasmuch as the weight of the evidence does, therefore, indicate that Congress has exclusive power to dispose of U.S. property in the Isthmus of Panama, if such disposition is deemed to be desirable, then a statute authorizing it is required or else the disposition will be void. Treaties, like statutes, can be declared unconstitutional. This point is borne out by the following testimony of Prof. Raoul Berger given before the Subcommittee on Separation of Powers:

> Professor BERGER. In my view any attempt of disposition without getting the concurrence of the Congress, including the House, would be void.
>
> Senator HATCH. That is a strong statement.
>
> Professor BERGER. If I am right, if there is no "concurrent jurisdiction" to dispose of property in the executive branch, if that power is exclusively in Congress, then the President oversteps his bounds. That is unconstitutional, and if it is unconstitutional, it is void.

Now, Mr. President, there remains one final matter to clear up before I conclude my remarks. Dean Louis Pollak, of the University of Pennsylvania Law School, has provided an extremely misleading memorandum which purports to support the theory that a property disposal can legally occur by operation of a treaty. As I pointed out yesterday, Dean Pollak's work is based on an erroneous understanding of the question at issue. In essence, Dean Pollak sets up the "strawman" that proponents of the pending amendment are arguing that a treaty cannot deal with the subject matter of public property disposal. That has never been the contention of the proponents of this amendment, and I hasten to add that no great abilities in legal scholarship are required to demolish rapidly any proposition that asserted the President with the Senate could not conclude a treaty which dealt with a disposal of U.S. public property. No, Mr. President, the issue is not the power of the President, with the advice and consent of the Senate, to make a treaty which contains subject matter related to a disposal of property. The issue is whether the disposal can be effected by treaty without congressional authorization or action.

But let us look at some of the means by which Dean Pollak knocks down this strawman position he has outlined for the proponents of the pending amendment.

First, Dean Pollak states that during the discussion of the Jay Treaty in the early history of our country, John Marshall in the Virginia legislature almost 2 centuries ago supported this brandnew concurrent power-to-dispose theory advanced by the Dean and others by saying—this is John Marshall talking in the Virginia legislature—that the Jay treaty did not in any way violate the Constitution even though others asserted it did because it dealt with matters relating to commerce whereas the Constitution had given power to regulate commerce to Congress. Marshall's position, according to Pollak, was that:

> A treaty is a completely valid and obligatory contract when negotiated by the President and ratified by him with the assent and advice of the Senate, as if sanctioned by the House of Representatives also, under a Constitution requiring such sanction.

Obviously, I do not in any way disagree with this position. Obviously, this is exactly what we are talking about when we emphasize the need for the adoption of the pending amendment. A treaty clearly can obligate the disposal of public property as a matter of international law, yet the disposal cannot legally occur as a matter of domestic law unless Congress sees fit to exercise its power to dispose. Until that power is exercised, any action purporting to transfer title is illegal, unconstitutional, and void. Thus, it is critical in the context of this proposed Panama Canal Treaty that Panama understand on the international plane the provision of our own Constitution here in the United States which forbids any actual transfer, notwithstanding what the treaty may say, without full congressional authorization and action by statute. This fact will remain even if the pending amendment is not adopted. But I digress. My point is that the use of the quotations from the debate of the Jay Treaty typifies the complete failure of Dean Pollak to understand what is at issue.

Pollak also quotes Story as support for the concurrent power theory; in fact, the best indications are that Story would strongly support the construction of the Constitution I find controlling. But Dean Pollak uses Story as a means of demolishing his strawman by quoting Story's acknowledgement of the clear fact that the treaty power is not limited by the legislative power in terms of the subject matter which may be addressed in treaties; that is, any subject matter which is proper for negotiation between sovereign nations; however, Dean Pollak does not explain that Story also expressed the view that the treaty power was limited in terms of the exercise of specific means by other express powers granted in the Constitution and limited additionally in terms of subject matter by the basic structure of the government.

Thus, Story stated that:

> A treaty to change the organization of the government . . . to deprive it of its constitutional powers, would be void.

Hence, as indicated by Professor Berger, Story would be in agreement that a treaty depriving the Congress of a constitutional power would be, at least insofar as it caused such deprivation, entirely void and inoperative. Story's

position, Dean Pollak to the contrary, does not stand in opposition to the position of the proponents of this amendment. In fact, Story's statement that "the power of Congress over the public territory is clearly exclusive and universal," coupled with his view that a treaty depriving a constitutional power would be void, gives clear evidence of his proper understanding of the Constitution and of Dean Pollak's wholesale failure to appreciate the question actually involved in this debate.

Again, Dean Pollak—and I might add also my distinguished colleague from Idaho, Senator CHURCH—uses a respected authority from the past as an agent of destruction of the strawman position outlined by the opponents of the pending amendment as the position of the proponents. Dean Pollak in this instance states that Calhoun, speaking as a Congressman, observed that:

> The grant of power to make treaties is couched in the most general terms.

He also quotes, but makes no comment on, Calhoun's statement that:

> Whatever limits are imposed on those general terms granting the power to make treaties ought to be the results of the construction of the instrument [the Constitution].

Calhoun's statement then, accords exactly with the position I have asserted since the beginning of this debate, namely, that the text of the Constitution itself is the best way to determine the limitations on the employment of treaties to accomplish particular results. In line with this thought, Calhoun further stated, and ironically this is even quoted in Dean Pollak's paper, that:

> Most certainly all grants of power under the Constitution must be controlled by that instrument; for, having their existence from it, they must of necessity assume that form which the Constitution has imposed.

He thus says, and this is extremely important, Mr. President:

> No treaty can alter the fabric of our government, nor can it do that which the Constitution has expressly forbade to be done; nor can it do that differently which is directed to be done in a given mode, all other modes prohibited.

Calhoun goes ahead immediately in this argument to cite as an example of a function directed to be accomplished in a given mode and prohibited to be done in all other modes, the power to commence war with another state. Thus, Calhoun understood well that the express grant of power to Congress to declare war specifies a given mode and thereby excludes all other modes, both by the rule of express mention and the rule that the specific governs the general. Please note, Mr. President, that the power to commence a war with another State is vested in the Congress in exactly the same terms as power to dispose of public property:

> Congress shall have power to declare war—Congress shall have power to dispose of territory or other property belonging to the United States.

In other words, since the mode is specified in both cases, and I might add in many other cases, all other modes not specified are excluded and a treaty made under the general treaty power may not propose to take of itself action in a mode different from that expressly and specifically set forth in the Constitution. This point was understood by Calhoun; I hope Senators will understand it today, Dean Pollak and a host of professors notwithstanding.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. ALLEN. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Hatch amendment.

This amendment goes to the heart of a key issue concerning this treaty—the right of the House of Representatives to act under its powers to dispose of U.S. property.

Article IV, section 3, clause 2 of the Constitution of the United States of America provides:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The framers of the Constitution have once again shown their wisdom and great foresight in requiring the Congress, not just the Senate, not just the House, and not just the President to dispose of U.S. territory.

Mr. President, I support this amendment for the following reasons:

First. The Constitution clearly says that the Congress has power to dispose of U.S. territory.

Second. The House of Representatives will have no vote on whether or not the United States should dispose of an $8 to $10 billion asset unless this amendment is passed.

Third. Prior practice in disposal of territory in Panama supports the proposition that disposal of U.S. territory requires approval by both Houses of Congress.

Fourth. The 1903 treaty was entered into because of powers granted by the Congress—the Spooner Act of 1902.

Fifth. Numerous legal scholars have found that congressional approval is required as regards the Panama Canal Treaty.

Sixth. Precedent for the President to dispose of U.S. territory through treaties will be set if the House is excluded as the executive branch proposes.

Mr. President, I wish to draw the Senators attention to the fact that many of this country's greatest legal scholars have testified that the Constitution requires both Houses of Congress to act to dispose of U.S. territory.

Raoul Berger, former professor at the Harvard Law School and a leading authority on American constitutional law, testified on this subject before the Subcommittee on Separation of Powers of the Committee on the Judiciary. His position is that no property belonging to the United States in the Isthmus of Panama can be transferred to Panama by treaty alone, but that article IV, section 3(2) of the Constitution requires authorization by the Congress. He went on to say that any treaty purporting to transfer such property would be void, even if ratified.

Professor Berger stated:

> I want to make clear that I am for the Panama Canal Treaty as a matter of personal judgment. I am not here in any way to discredit President Carter.

Professor Berger explained the Attorney General's and the State Department's position on this matter by saying:

> Long experience has led me to be skeptical of arguments by representatives of the executive branch when they testify with respect to a dispute between Congress and the President, for they are then merely attorneys for a client, the President.

Professor Berger summed up the importance of this issue by testifying—

> The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for concurrent jurisdiction of the President in the disposition of U.S. property. Acquiescence in such claims spells progressive attrition of congressional powers; it emboldens the executive to make ever more extravagant claims.

Mr. President, the Senate should insist on respect for constitutional boundaries to warn the Executive against assuming powers reserved for Congress. By doing this we will put foreign nations on notice that treaties for the disposal of U.S. territory must first have the approval of Congress.

Professor Berger went on to say:

> In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

That is exactly what this amendment proposes.

He concluded his testimony by indicating—

> Finally, if the President may not by Treaty "bypass" the power of the House to originate revenue—raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the territory and property of the United States.

Another attorney, Mr. George S. Leonard, with considerable background and experience in constitutional matters, also testified before the Senate Subcommittee on Separation of Powers of the Judiciary Committee on this point. He said:

> Actually, what we did find was that there have been many rulings by the Courts that such an authority does not exist and that the President's treaty power is limited whenever primary authority has been granted to another branch of Government by the Constitution.

Charles E. Rice, professor of law at the University of Notre Dame Law School, offered still another opinion before the Senate Subcommittee on Separation of Powers. He stated:

> Congress power in this area ought to be regarded as exclusive. The American people ought to be deprived of their territory and property only by action of that governmental body most responsive to public opinion. That body is the entire Congress and most especially the House of Representatives.

Mr. President, 235 Members of the House have gone on record in support of a House vote on the disposition of property in the Panama Canal Zone, over 54 percent of that body. The resolution introduced in the House calls for the House, as well as the Senate, to vote yes or no on the transfer of canal property.

I would like to read to the Senate a part of a letter I received from Congressman GEORGE HANSEN of Idaho. He says:

Well over 100 members of each political party are co-signers and both pro-treaty and anti-treaty people are included, all of whom see an issue at stake separate from and of even greater concern than the proposed transfer of the Panama Canal. It is so critical that many members are co-sponsors who normally would not become involved, such as Committee Chairmen and other members of party leadership on both sides.

Of course, the House will have to vote on the implementing legislation for these treaties, but that will be after the disposition has already been made. If the administration prevails and this amendment is not adopted, the House will only have the opportunity to vote after the fact, as the United States will already be committed by these treaties.

Mr. President, this amendment is a good amendment. It merely tries to get into the treaty what our Constitution already requires.

Even the treaty proponents cannot call this a killer amendment. As my distinguished colleague from Alabama (Mr. ALLEN) ably pointed out yesterday, this amendment requires absolutely no action or concession on the part of Panama. The only effect of this amendment is to uphold article IV, section 3, clause 2 of the Constitution of the United States and allow the Congress to vote on whether or not an $8 to $10 billion asset of the United States is surrendered.

Mr. President, this is an extremely important constitutional question facing us in the Senate now. Under the separation of powers doctrine, we have three coequal branches of Government. Each branch has specified duties under the Constitution and neither branch is to intrude on the authority of the other two.

The Constitution explicitly states that the Congress shall have the power to dispose of U.S. territory. It does not say that the President, under his treaty power, shall be able to dispose of U.S. territory. The Supreme Court has said time and time again that express mention signifies implied exclusion. That rule of law appears to me to be applicable here.

I urge my colleagues to think about the precedent being set here. Do we want the President, through his treaty power, to have the authority to dispose of U.S. territory without the consent of Congress? A vote against this amendment is a vote to increase the power of the executive at the expense of the Congress. Let us uphold our Constitution and support this amendment.

Mr. President, I ask unanimous consent that a list of cases supporting my position on this matter be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1. Wisconsin Cent. R. R. Co. v. Price County, 133 U.S. 496 (1890).

2. Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579 (1952).

3. 22 Op. Atty. Gen., 544, 545 (1899).

4. Osborne v. United States, 145 F. 2d 892 (9th Cir. 1944).

5. Sioux Tribe of Indians v. United States, 316 U.S. 317 (1942).

6. U.S. v. Nicoll, 27 Fed. Case 15879 (pp. 149–50).

7. The Cherokee Tobacco, 11 Wall. (78 U.S. 616, 620 (1871).

8. Emblen v. Lincoln Land Co., 184 U.S. 660 (1902).

9. Sierra Club v. Hickel, 433 F. 2d 24 (9 Cir. 1970) Aff'd 405 U.S. 727 (1972).

10. United States v. Fitzgerald, 40 U.S. 785 (1841).

11. Sere v. Pitot, 6 Cir. (10 U.S.) 332 (1910).

12. American Inc. Co. v. Canter, 1 Pet. (26 U.S.) 511 (1828).

Mr. THURMOND. I yield the floor, Mr. President.

Mr. HATCH. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. HATCH. I yield the time to the Senator from Maryland.

Mr. SARBANES. Mr. President, before the debate on this amendment concludes, there are a couple of points I wish to make. These points are addressed to assertions made in the opening statement of the distinguished Senator from Utah; assertions which I do not wish simply to leave in the RECORD as made, because they really do require correction. The first deals with his handling of the testimony of the Attorney General before the Committee on Foreign Relations.

I am going to read the statement that the Senator from Utah made in that regard then I am going to seek to place it in its correct perspective, and have printed in the RECORD an insert which I think will make the point clear.

The Senator from Utah said:

Significantly, the committee report makes no mention of the argument based on the Framers' intent that was propounded by the Attorney General when he testified before the Foreign Relations Committee. In his prepared statement to the committee on September 29, 1977, Attorney General Bell made reference to four separate events that occurred during the course of debate on the framing and adoption of the Constitution. He thought it significant, for example, that George Mason of Virginia had observed "that the Senate by means of a treaty might alienate territory, etc, without legislative sanction." Mason's actual words, as reported in Farrand, were that:

He was extremely earnest to take this [appropriation] power from the Senate, who he said could already sell the whole Country by means of Treaties. (Farrand, II, 297).

From this, Bell deduced that Mason's remark indicated that the Framers were supportive of the idea that the President should have the power to dispose of property by a self-executing treaty.

Now, what the Senator from Utah has done is set out the Attorney General's quotation from George Mason of Virginia "that the Senate by means of a treaty might alienate territory, et cetera, without legislative sanction."

The Senator from Utah then went on to say:

Mason's actual words as reported in Farrand were that—

He then quotes Mason and goes on to say:

From this—

Meaning the words that he quoted from Mason—

Bell deduced.

The fact is that Mason's actual words were exactly what the Attorney General said Mason's actual words were.

On the same page which the Senator from Utah cites for his quote from Mason appears the following report by Farrand of the records of the Federal Convention:

Colonel Mason did not say that a Treaty would repeal a law; but that the Senate by means of treaty might alienate territory, and so forth, without legislative sanction.

What the Attorney General said in his testimony before the Foreign Relations Committee on this very issue, in quoting Mason, followed exactly the reported quotation from Mason. Thus, the Attorney General in his testimony before the committee stated:

Thus Colonel Mason observed, "The Senate by means of a treaty might alienate territory, and so forth, without legislative sanction."

That is exactly the quotation that appears in Farrand at page 297—the same page from which the Senator from Utah quoted another statement by Mason and said, in commenting on the Attorney General's statement, those were the actual words of Mason.

In fairness to the Attorney General, I think it important that this point be made.

Mr. President, I ask unanimous consent that page 297 from the records of the Federal Convention of 1787, edited by Max Farrand, volume II, page 297, on which page the quotation from Colonel Mason cited by the Attorney General appears, as well as the quotation of the Senator from Utah, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE RECORDS OF THE FEDERAL CONVENTION OF 1787, EDITED BY MAX FARRAND, REVISED EDITION IN FOUR VOLUMES: VOLUME II—NEW HAVEN, YALE UNIVERSITY PRESS; LONDON, HUMPHREY WILFORD, OXFORD UNIVERSITY PRESS, 1937

Mr. Strong move(d) [7] to amend (the article so as to read—"Each House shall possess the right of originating all bills, except bills for raising money for the purposes of revenue, or for appropriating the same and for fixing the salaries of the officers of the Govt. which shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other cases") [8]

Col. Mason. 2ds. the motion. He was extremely earnest to take this power from the Senate, who he said could already sell the whole Country by means of Treaties.

Mr. Ghorum urged the amendments as of great importance. The Senate will first acquire the habit of preparing money bills, and then the practice will grow into an exclusive right of preparing them.

Mr. GOUVERNR. Morris opposed it as unnecessary and inconvenient.

Mr. WILLIAMSON. Some think this restriction on the Senate essential to liberty—others think it of no importance. Why should not the former be indulged, he was for an

[7] The Journal reports a previous motion, see above note 2.

[8] Revised from *Journal*.

efficient and stable Govt: but many would not strengthen the Senate if not restricted in the case of money bills. The friends of the Senate would therefore lose more than they would gain by refusing to gratify the other side. He moved to postpone the subject till the powers of the Senate should be gone over.

Mr. Rutlidge 2ds. the motion.

Mr. Mercer should hereafter be agst. returning to a reconsideration of this section. He contended, (alluding to Mr. Mason's observations) that the Senate ought not to have the power of treaties. This power belonged to the Executive department; adding that Treaties would not be final so as to alter the laws of the land, till ratified by legislative authority. This was the case of Treaties in Great Britain; particularly the late Treaty of Commerce with France.

Col. Mason did not say that a Treaty would repeal a law; but that the Senate by means of treaty might alienate territory &c. without legislative sanction.

Mr. SARBANES. Mr. President, I also want to address the Senator's treatment of a section of the committee report asserting that hundreds of self-executing treaties dealing with such subjects as foreign commerce, copyrights, patents, and postal services are valid.

I am now going to quote from the committee report, where it deals with the discussion of the concurrent powers for disposing of property, and the use of the treaty power in this regard. In addressing itself to the constitutional text, the committee report stated at pages 65 and 66 of the report, and I am now quoting:

First, the constitutional text gives no reason to assume that the power to dispose of property may be exercised only by statute, and not by treaty. The disposal-of-property clause is drafted in the same way as the provision conferring enumerated powers upon the Congress (article I, section 8): both say that Congress "shall have power. . . ." Where two substantively similar provisions of the Constitution are in their jurisdictional terms worded identically, and where one of those provisions has been construed as conferring concurrent power, it is not unreasonable to construe the other provision also as conferring concurrent power. It has long been established that article I, section 8 of the Constitution confers concurrent power—that the enumerated powers conferred upon the Congress therein may be exercised both by statute and by treaty. To hold that the enumerated powers are by implication excluded from the treaty power would be to hold that hundreds of self-executing treaties dealing with such subjects as foreign commerce, copyrights, patents, and postal services are invalid.

Now, the Senator from Utah quoted that section of the committee report in his statement. I might add that I think—and we have done that on the floor—that we could greatly develop this part of the report with respect to an analysis of the constitutional text to support the proposition which this section of the report supports. This development, in terms of a textual analysis of article IV and articles I and II of the Constitution and the relationship of the treaty power to the power of Congress has been done earlier in the course of debate on these treaties.

In any event, that section was quoted from the report by the Senator from Utah, including in particular this sentence:

To hold that the enumerated powers are by implication excluded from the treaty power would be to hold that hundreds of self-executing treaties dealing with such subjects as foreign commerce, copyrights, patents, and postal services are invalid.

Later in his statement, the Senator from Utah, in addressing this section of the committee report, states the following:

One of the so-called long established examples specifically mentioned by the committee are the hundreds of self-executing treaties dealing with postal services. What is the basis for this claim?

He then goes on to cite from Miller, to say that while there have been some treaties dealing with postal services, many such arrangements have not been done by treaty, and raises the point that there are not hundreds of treaties dealing with postal services. Of course, that is not the assertion that was made in the committee report.

The assertion in the committee report was that hundreds of self-executing treaties deal with such subjects as foreign commerce, copyrights, patents, and postal services. Yet, when the Senator from Utah deals with that aspect of the report, he speaks in terms of hundreds of self-executing treaties dealing with postal services. That was not the assertion that was made. The Senator obviously knew the assertion that was made, because he had quoted it himself not much earlier in the debate.

Mr. President, I have just taken a few moments to make these two points because in one instance it was asserted, in effect, that the Attorney General was not properly quoting Mason but merely drawing a deduction from a quotation, when, in fact, he was using a direct quotation; and in the other instance, because after quoting the committee report, which referred to hundreds of treaties, on a number of subjects one of those subject matters was picked out, and the assertion was made that there were not hundreds of treaties on that one subject.

I think it is important that the record be corrected with respect to those two flagrant errors, and I must state that only the limitations of time inhibit us from bringing forth other comparable examples to the Senate.

Mr. CHURCH. Mr. President, the Senator from Utah has spoken at length on behalf of his amendment. As I have listened to the Senator, however, I have often wondered whether he and I were addressing the same issue. The Senator has referred again and again to the impending threat of an unwarranted usurpation of power by the President. He has reminded us of attempts by a succession of Presidents to circumvent the participation of the Senate in foreign relations, and exhorted his colleagues to stand fast against further intrusions by the Executive. The Senator has thus attempted to frame the issue as one involving an assertion of executive power in derogation of that of the Senate. If this were the issue, as I have previously indicated, I would not hesitate to support the Senator. It is not, however.

What is at stake here is the scope of the treaty clause, a power shared by the President and the Senate. The Executive has made no claim that it may enter into agreements disposing of property rights of the United States without the advice and consent of the Senate. It has disavowed such a claim, and rightfully so. It is the Senator from Utah who argues for a limitation of the prerogative of the Senate to participate in foreign relations. He contends that where a power is expressly granted by the Constitution to the Congress, it is ipso facto removed from the scope of the treaty clause. I agree with the Senator that the manner in which the Senate resolves this question will have a profound and far-reaching effect. If the Senator's amendment is adopted, the powers of the Executive will not be diminished, since the Executive is not claiming for itself the power to dispose of property or to exercise any of the enumerated powers of Congress. What will be diminished is the prerogative of the Senate—and the Senate alone—to advise and consent to the conclusion of treaties. The essential premise of the Senator's amendment is that powers expressly granted to Congress may not be exercised under the treaty clause without concurrence of the House of Representatives. If the Senate accepts this premise, it will have acquiesced in a curtailment of its role in foreign affairs as drastic as anything heretofore attempted by any President.

THE "EXCLUSIVITY" OF CONGRESSIONAL POWER

The Senator from Utah has gone to considerable lengths to demonstrate that the power granted by article IV, section 2, clause 3 to dispose of property is an "exclusive" power. Numerous authorities are cited in support of this contention. Having established this fact, he then contends that proponents of the treaty are attempting to create an exception to this rule of exclusivity. This is a remarkable exercise in circumlocution. It serves to mask the fact that he is the one who is arguing for a vast exception to the universally accepted rule that the treaty clause encompasses all matters which are the proper subject of international agreement (*Asakura* v. *City of Seattle*, 265, U.S. 332 (1924)), and that there exists no precedent to support his position.

Without exception, the cases and other precedents cited by the Senator establish one of two points: First, that the States may not interfere with the power of the Federal Government to regulate Federal property; or second, that the Executive, acting alone, may not dispose of or regulate property of the United States. These points are not at issue. In this sense, the property disposal power can be said to be "exclusive."

Let us look closely at the authorities cited by the Senator from Utah.

First he cites Justice Story in his "Commentaries on the Constitution." The section of Story's commentary he cites volume II, section 1328, however, deals not with the exclusivity of the power of the Congress in relation to the treatymaking power, but rather in rela-

tion to the power of the States to regulate Federal territories. Indeed, in the same treatise Justice Story discusses the treatymaking power in relation to the enumerated powers of the Congress and notes that—

> The power "to make treaties" is—by the Constitution—general; and of course it embraces all sorts of treaties, for peace or war; for commerce or territory . . . and for any other purposes, which the policy or interests of independent sovereigns may dictate in their intercourse with each other. III J. Story, "Commentaries on the Constitution of the United States" (1843) 355.

Justice Story, in a letter dated April 17, 1938, responded to a request by Governor Everett of Massachusetts for his views in connection with the proposed treaty with Britain regarding the Maine boundary. Story quoted with approval a conversation he had had some years earlier with Chief Justice Marshall:

> He [Marshall] was unequivocally of the opinion, that the treaty-making power did extend to cases of cession of territory, though he would not undertake to say that it could extend to all cases. . .

By this limitation Marshall was obviously referring to the cession of the territory of the States. Certainly Justice Story cannot be cited as support for the argument that property rights cannot be transferred by treaty.

The Senator from Utah also cites an 1899 opinion of the Attorney General for the proposition that the power of Congress is exclusive. He fails to note that the opinion had to do with whether the executive could transfer public lands and public property in Puerto Rico to individuals. The Attorney General found that the executive could not do so without statutory authority. Clearly a statute was the exclusive means to dispose of property available in this situation, since treaties cannot be concluded with individuals.

Similarly the Senator's citation of an opinion of Attorney General Stone (34 op. Atty. Gen. 322–323) is not on point. This opinion addressed the question of whether patents could be disposed of to individuals by the executive alone. It was found that such disposals could not be effected without the consent of Congress. Again, the treaty power did not constitute an alternative to statutory authority inasmuch as treaties cannot be entered into with individuals but only with foreign nations.

The Senator then goes on to cite as authority for his position a series of cases involving attempts by States to regulate Federal property, including *Wisconsin Central R.R. Co.* v. *Price* 133 U.S. 496 (1890), *United States* v. *California*, 332 U.S. 19 (1947), *Gibson* v. *Chouteau*, 80 U.S. (13 Wall.) 92 (1872) and *Utah Power and Light Co.* v. *U.S.* 243 U.S. 389 (1916). Nothing in any of these cases is remotely related to the treatymaking power. Rather, all stand for the widely accepted proposition that the power of the Federal Government to legislate with respect to Federal territory is exclusive of such a power in the several States.

The one case cited by the Senator from Utah in support of his argument with respect to exclusivity which has anything to do with the treatymaking power is the case of *Sioux Tribe of Indians* v. *U.S.* 316 U.S. 317 (1942). As the Senator correctly noted, the Court stated that—

> Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to congressional delegation of its authority.

What the Senator fails to address is the Court's view, expressly recognized twice in that opinion—indeed on the same page of that opinion—as to the type of legislative action that could constitute such a "congressional delegation of its authority."

The Court stated unequivocally that Indians must be compensated for land which is granted to them "by the terms of a treaty or statute" 316 U.S. at page 326.

This is an extremely important point. Not only does the statement of the Court stand for the proposition that property rights of the United States may be transferred either by the terms of a treaty or by statute alternatively; it clearly recognizes what the Senator from Utah has attempted to obscure—that the Senate, in exercising its power to approve or disapprove to a treaty, is exercising a legislative function. Again this is not an issue of the power of the executive versus the power of the legislative branch. Rather, it is an issue derived from the attempt of the Senator from Utah and his colleagues to contend that the legislative authority may be exercised only in one manner—namely, by the passage of a statute by simple majority in both Houses of the Congress. In doing so he ignores the other mode of exercising legislative authority clearly and unequivocally established by the Constitution—namely, the power of the Senate by an extraordinary two-thirds majority to approve, or failing such a two-thirds majortiy, to disapprove, treaties submitted to this body—which upon ratification become the supreme law of the land by virtue of article VI of the Constitution.

The Senator from Utah attempts to extend vastly the scope of the precedents he has cited, which support only the simple proposition that the States and the Executive cannot dispose of property absent legislative authorization. He would have them support the proposition that the grant of express authority to Congress to dispose of property rights not only precludes the exercise of this authority by the States and the Executive, but removes this power—and by necessary implication all others granted to Congress—from the scope of the treaty clause.

The Senator offers no precedents in support of this long-abandoned reading of the Constitution, and in fact, none exists. As I will discuss later, ample precedents do exist in support of the opposite conclusion: that enumerated powers of Congress—including the power to dispose of property—may also be exercised under the treaty clause unless they are expressly limited to legislative action.

Despite, or perhaps because of, the lack of any applicable precedents, the Senator from Utah attempts to make his point by impugning the accuracy and integrity of the report of the Committee on Foreign Relations and by a tortured reading of the testimony of the Legal Adviser of the Department of State. The Senator, for example, implies that the committee's report distorts the conclusion reached in an 1899 opinion by the Attorney General. I am of course thoroughly familiar with the Committee Report, and I have read the quote from the Attorney General's opinion cited by the Senator. The Senator attempts to create a discrepancy where none exists. As I indicated earlier, the question presented to the Attorney General was whether the Executive, acting alone, could dispose of U.S. property in Puerto Rico. His answer, as the committee report notes, was in the negative. He noted, quite correctly that Congress was empowered to dispose of property rights. As the committee report states, the question of whether the President and the Senate may dispose of property rights under the treaty clause was not the issue presented to the Attorney General, since a treaty was not an option available on the facts of the case. I find the Senator's attack on the veracity of the committee's report both bewildering and regrettable; the opinion stands precisely for the proposition for which it was cited in the report.

I am equally mystified by the Senator's assertion that the Department of State somehow has been inconsistent and has "conceded" the point at issue. The State Department's position has been entirely consistent. On one occasion the Legal Adviser testified that article IV did not make "the power of Congress with respect to the disposition of property" exclusive. On another, he stated that article IV does not make "the legislative power the exclusive method to effect such disposition." On both occasions, Mr. Hansell unequivocally took the position that property rights could be disposed of under the treaty clause, as well as by the Congress. The Senator's attempt to wring an inconsistency and a concession from this slight variation in language reveals the poverty of his analysis.

THE CONSTITUTION DOES NOT PROHIBIT THE TRANSFER OF PROPERTY RIGHTS BY SELF-EXECUTING TREATY

The Senator from Utah notes, quite correctly, that the treaty power is not unlimited. It is well recognized that a treaty may not authorize what the Constitution prohibits, and the Senator correctly cites several cases in support of this proposition. But, as the Senator admits, the Constitution does not expressly prohibit the transfer of property of the United States. Nevertheless, the Senator "assumes" that the Constitution prohibits the conclusion of treaties on subjects within the enumerated powers of Congress.

With all due respect, the Senator's assumption cannot change the law. He cites no precedents in support of this asserted prohibition because there are

none. On the contrary, numerous treaties have been concluded on subjects within the express legislative power of Congress. We are all familiar with the many treaties of friendship, commerce, and navigation we have entered into with foreign nations. Yet under the theory of the Senator from Utah all these treaties would be invalid since article I, section 8, of the Constitution gives "the Congress" the power "to reguate Commerce with foreign nations."

For example, in the case of *Geofrey* v. *Riggs*, 133 U.S. 258 (1890), the court held that a treaty regulating rights of French citizens to acquire property in the District of Columbia was valid and effective, notwithstanding that article I, section 8, clause 17 of the Constitution grants "the Congress" exclusive legislative authority over the district. Indeed, this is one of the primary cases cited by the Senator in support of his view, and yet the holding of the case is clearly inconsistent with that view. The Supreme Court has never invalidated a treaty, or considered it to be anything less than the "supreme law of the land," on the grounds that it dealt with a subject within the express legislative jurisdiction of Congress.

In his remarks Monday, and again yesterday, the Senator contended that the treaty before us is not self-executing and thus requires implementing legislation. It is well established, as the Senator has stated, that certain obligations assumed by the United States under a treaty must be implemented by the passage of legislation. The Senator contends. however, that this is also the case where a treaty does not require the United States to perform a particular act but by its terms accomplishes that act. This statement of law is plainly erroneous. The leading case of *Foster* v. *Neilson*, 2 Pet (27 U.S.) 253, 312 (1829) which the Senator cited to support his proposition, establishes a quite different rule. There, the United States agreed that Spanish land grants "shall be ratified and confirmed." Justice Marshall held these words to be promissory in nature. They represented an undertaking to seek ratification by the legislature. Chief Justice Marshal distinguished language of this type from language which operates in the present. As exampe of the latter, he cites a statement that the grants in question "shall be valid" and "are hereby confirmed". If the latter language had been used, the treaty woud have been self-executing, according to Marshall.

All this case holds, then, is that when by its terms a treaty is made contingent on a subsequent legislative action, it is not self-executing. That is a far cry from the proposition for which it is cited. Indeed, in *U.S.* v. *Percheman*, 32 U.S. 51 (1833), Chief Justice Marshall concluded, after further examination of the Spanish and English texts, that the language of this treaty was in fact self-executing and did not require legislation to give it effect.

When we apply the teaching of these cases, it becomes obvious that the present treaty, insofar as it transfers property to Panama, is by its terms self-executing. Article XIII(2) states that—

> The United States of America transfers . . . all right, title and interest the United States may have.

This language speaks in the present. It does not constitute a promise to act in the future. It is manifestly the language of a self-executing treaty.

Let us contrast this with the language of article V of the 1955 treaty with Panama, which was implemented by legislation. That article states:

> The United States agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed.

It is clear that this stipulation for a conveyance was not self-executing. It is equally clear, by contrast, that article VI and VII of that same treaty were drafted in self-executing language and transferred the property they covered without further legislative action. Indeed, the fact that these articles transferred property rights by their own force was expressly recognized by the Congress in the statute passed to implement article V (71 U.S. Stat. 509 § 102(b)). The conveyance in article XIII of the present treaty is drafted in the same, unequivocal, self-executing language.

The Senator places great weight on Prof. Quincy Wright in his work "The Control of American Foreign Relations" (1922), quoting part of a sentence out of context. While it is correct that Wright draws a distinction between treaties creating obligations on private individuals and/or public authorities, he does so only as a general proposition. Moreover, his statement refers only to those treaties requiring the cession of territory. When he gets to the specific matter of treaties of cession, rather than for cession, Wright states:

> Treaties or arbitration awards may require a cession of territory. Such provisions affecting small tracts of territory in boundary settlements have been considered self-executing. The same view would probably be taken of a large cession if conditions were such that it could be considered constitutional.

This is precisely the opposite point of view from that for which the Senator cited Professor Wright.

The Senator from Utah also attempts to draw support from the Convention of 1815 with Great Britain. He contends that, as a result of the debate on that Convention, "Congress adopted the view that a treaty ceding territory is not self-executing and requires legislative implementation to be effective." In support of this assertion he cites the report of the managers on the part of the House. The managers of the Senate did not include any such statement in their report, but rather stated "that of the treaties made in pursuant of the Constitution, some may not, and others may call for legislative provisions to secure their execution" (27 Annals 159). On the issue directly involved, the House receded from its objection (29 Annals 1059). Thus the incident settled that treaties may be self-executing, although they deal with subjects within the enumerated powers of Congress. (2 Story 609).

The Senator's attempted reliance on a 1907 memorandum approved by the Secretary of State is equally misplaced. That memorandum merely recognizes that under the Constitution certain functions such as the appropriation of funds and the raising of revenues can only be accomplished by legislative action. These functions are "expressly confided"—that is, the Constitution by its terms expressly limits their performance—to the Congress. Thus, treaties cannot be self-implementing with respect to those functions. This is not true of the power to dispose of property, which by the terms of the Constitution is not expressly limited to the Congress.

The Senator also asserts that—

> In all previous agreements with Panama it would seem that all cessions of property belonging to the United States have been based on Congressional approval.

It may seem so to the Senator, but only because he chooses to ignore a number of instances in which property rights were transferred to Panama by self-executing treaty. Examples of these transfers were included in the committee's report.

Article II of the 1936 treaty of friendship and cooperation (10 Bevans 742) relinquished to Panama a prior grant of rights in perpetuity of the United States to use certain lands and waters outside the Canal Zone. This transfer was effected without implementing legislation or authorization by Congress. Article II of the treaty of 1950 ceded tracts of Canal Zone land adjoining the city of Colon to Panama. Again, no implementing legislation was called for by the treaty or enacted. As I indicated earlier, articles VI and VII of the treaty of 1955 transferred certain real property to Panama. Unlike article V of the same treaty, which by its terms was intended to be non-self-executing, articles VI and VII did not call for and were not implemented by statute. The Senator's history is thus very selective.

It is true that in 1932 and in 1942 congressional authorization was sought for executive agreements transferring property to Panama. It is also irrelevant to the present discussion that authority was sought, since the Executive has not contended that it may dispose of property outside the treaty process without the authorization of Congress. Senator Connally's remarks, which Senator HATCH cites, must be viewed in this context. It is significant that Senator Connally, as chairman of the Foreign Relations Committee, reported out the 1950 treaty. That treaty also transferred property rights to Panama. There was no suggestion in that report that implementing legislation was required to effectuate the property transfers made by that treaty.

Aside from the inadequacy of the Senator's legal analysis, I find particularly disturbing his attack on the report of the Committee on Foreign Relations, and his statement that "the Senate alleges that the committee's report fails to discuss the question of whether this treaty is self-implementing. The question of implementation has been raised only with respect to the transfer of property. The committee took testimony on this subject—the question of whether the

concurrence of both Houses of Congress was required for property transfers—from several witnesses, including the Attorney General and the legal adviser of the State Department, and that testimony is included in the committee's hearings.

The Senator devoted a great deal of time in his remarks yesterday and Monday to an attack on the committee report. He impugns the integrity of the committee's analysis of this issue, in an intemperate, and often peevish way. For example, the Senator finds the first sentence of the report, which reads "The Constitutional text gives no reason to assume that the power to dispose of property may be exercised only by statute, and not by treaty" to be "obviously irrelevant" since the question is whether property could be disposed of by self-executing treaty. Since the treaty before the committee was, by its terms, self-executing, this clearly is the type of treaty to which the report referred. How could the Senator believe that the committee was devoting a large segment of its report to an issue that no one has ever raised? Obviously the issue under discussion was the issue before us—the issue of the transfer of property rights by self-executing treaty. It is also clear that the quoted sentence is correct with respect to self-executing treaties, as the report itself demonstrates in some detail.

The Senator from Utah also dwelt at some length on the second and third sentences of the report, which note that power under articles I and IV is granted by identical language, that certain article I powers can admittedly be exercised by self-executing treaty, and that it is therefore not unreasonable to construe article IV as also conferring a concurrent power. The Senator labels this statement "false and misleading," but is unable to answer it. He contends that the logic of the report necessitates the conclusion that all enumerated powers of the Congress may be exercised by the President and the Senate under the treaty clause.

A bit later, however, he acknowledges that the report cites several examples of Congressional powers which may not be exercised by treaty. The report notes that the power to appropriate money or to impose taxes cannot be exercised by treaty because the Constitution specifically limits their exercise to action by both Houses. The Senator then argues that since the committee recognizes that these powers are exclusively legislative and since the courts have held that the property disposal power is "exclusive," the committee has therefore conceded that the property disposal power may not be exercised by treaty.

This contention reveals the most persistent fallacy of the Senator's entire argument. The disposal power has been held to be "exclusive"—exclusive of the powers of the states or of the Executive acting alone. No court has ever held that this power is exclusive of the treaty-making power; on the contrary, the courts have upheld the validity of several self-executing treaties which transferred property rights. Numerous treaties of this type have been concluded. The revenue and taxation powers, on the other hand, are limited by the terms of the constitution to statutory action. They have never been exercised solely by treaty. This distinction is elemental and obvious. It is amazing that the Senator finds it so difficult to understand.

Similarly, the report notes that the power to declare war, while not expressly limited to legislative action, has always been regarded as so limited. The Senator from Utah contends that the "legislative history of the territorial clause" indicates that this power is solely reserved for legislative action. To what history does the Senator refer? He has cited none. In fact, as I and other Senators have pointed out, the legislative history and judicial construction of this clause supports exactly the opposite conclusion.

INTENT OF THE FRAMERS

The Senator from Utah, in his remarks yesterday, failed to offer any evidence to support his claim that the framers of article IV intended to limit the scope of the treaty clause. His efforts were again limited to irrelevant or inaccurate attempts to disparage the committee report. Typical of these is his labeling of the committee's statement that the framers "rejected all proposals to limit the treaty power" as false because it creates the impression that the treaty power is absolute and unlimited. No such impression could be created in a reasonable mind, particularly since the committee report acknowledges that several limitations exist on the treaty power. The report merely states a fact: that proposals were made to limit the treaty power, and were rejected. The Senator is unable to challenge that fact.

The Senator's criticism of Attorney General Bell's testimony reveals a similar inattention to the facts. The Attorney General testified that Mr. Mason of Virginia had remarked that the treaty power extended to the disposition of property. Relying on the testimony of Professor Berger, the Senator from Utah points out that the cited remark was made before the debate on the property clause. Both the Senator and the Professor are apparently unaware that Mr. Mason made a similar remark in 1788 during the Virginia Convention. At that time, in the course of a discussion of the ability to alienate property by treaty, Mr. Mason stated that "The President and the Senate can make any treaty whatsoever." (3 Elliott 509.)

The Senator dismisses other arguments advanced by Attorney Bell on the basis that Professor Berger disagrees with these arguments. I suppose it must simplify the Senator's task considerably to accept without question the views of one scholar. I should point out, however, that a vast majority of Professor Berger's colleagues reject his view.

Several weeks ago, I introduced a statement by 15 eminent professors of constitutional law supporting the constitutional validity of transfer of property by self-executing treaty. Dean Louis Pollak of the University of Pennsylvania Law School has authored a detailed analysis, entered into the CONGRESSIONAL RECORD of January 30, 1978, which reaches a similar conclusion. In view of this weight of authority, the Senator's blind adherence to the views of one professor appears questionable.

Perhaps the most significant statement on this subject was made by President Washington in his message to Congress of March 30, 1796, (1 Messages and Papers of the Presidents 195). President Washington stated:

> Having been a member of the General Convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject; and from the first establishment of the Government to this moment my conduct has exemplified that opinion—that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every treaty so made and promulgated thenceforward became the law of the land.
>
> * * * * *
>
> There is also reason to believe that this construction agrees with the opinions entertained by the State conventions when they were deliberating on the Constitution, especially by those who objected to it . . . because in treaties respecting territorial and certain other rights and claims the concurrence of three-fourths of the whole number of the members of both Houses, respectively, was not made necessary.

President Washington's view accords with that of other framers of the Constitution who addressed this question. The Senator from Utah entertains a contrary view. I agree with George Washington.

JUDICIAL AUTHORITIES

Faced with a body of law which supports the authority of the President and the Senate to dispose of property by treaty, and with the absence of any case holding the contrary, the Senator from Utah finds little direct support for his position. He has again resorted to an attempt to disparage the committee report by raising meaningless distinctions.

He summarily dismisses the committee's citation of a number of cases suggesting that the Constitution does not forbid the transfer of property by treaty. The Senator from Utah charges that the committee avoids all mention of cases which hold that the Constitution forbids cessions of territory by a self-executing treaty. I can assure my colleague that, were there any cases so holding, they would have been considered by the committee. In fact, there are none.

The Senator from Utah cites the case of *Sioux Tribe of Indians* v. *U.S.*, 316 U.S. 317 (1942) as directly contrary to the committee's conclusion. That case did not involve the validity of a treaty. It held, rather, that the President, by Executive order, may not grant title to property of the United States. That holding, while manifestly correct, is irrelevant to the issue of transfer of property by treaty. It in no way supports the Senator's position. In fact, the Court states—on the very page quoted by the Senator from Utah—that, unlike the case before it, the plantiff Indians would have been entitled to compensation if land had been granted to them "by the terms of a treaty or statute" (316 U.S. at 326). The Court thus expressly recognized the concur-

rent nature of the property disposal power, the very proposition which the Senator so firmly resists.

I confess that I am unable to fathom the Senator's analysis of *U.S.* v. *43 Gallons of Whiskey*, 93 U.S. 108 (1876). The case is cited by the report in support of the proposition that precedents involving treaties with the Indian tribes are opposite since, as the Court held:

> The power to make treaties with the Indian tribes is . . . co-extensive with that to make treaties with foreign nations.

The Senator from Utah does not challenge this holding but rather engages in an irrelevant and largely inaccurate discussion of the case. Contrary to the Senator's assertion, the case does not involve the regulation of the sale of liquor by act of Congress but by self-executing treaty. Thus, the Court stated that—

> Congress has not done this but the Constitution declares a treaty to be the Supreme law of the land . . . [N]o legislative action is required to put the seventh Article into force. 93 U.S. at 197.

Despite the fact that article 1, section 8, clause 3 of the Constitution expressly grants the Congress the power to regulate commerce with the Indian tribes, the Court in 43 Gallons of Whiskey upheld the validity of a self-executing treaty on the same subject. The case thus supports the proposition that express legislative powers may be exercised under the treaty clause, and further undermines the Senator's theory of exclusivity.

Contrary to the Senator's suggestion, the validity of cases construing Indian treaties is no way impaired by the Indian Appropriation Act of 1871. That act incorporated all Indian lands as territory of the United States, and terminated the sovereignty of the tribes. The act, rather than nullifying the power of the President to make treaties with the tribes, as the Senator asserts, in fact terminated the capacity of the tribes to enter into treaties.

In the case of *Holden* v. *Joy* 84 U.S. 211 (1872) the Supreme Court states:

> . . . it is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to grantee a good title to such lands without an act of Congress conferring it.

This language obviously speaks precisely to the point at issue here. The Senator from Utah stated that this case is a precedent directly contrary to the committees position. I admire the Senator's tenacity in persevering despite such an unambiguous and dispositive statement by Supreme Court, but I must respectfully question his legal analysis.

The Senator states that the treaty at issue in Holden against Joy was authorized by prior act of Congress. This is flatly incorrect, as the Court noted at page 240 of its opinion:

> Attempt is made in argument to show that the . . . treaty was negotiated by force of the act of Congress, *but it is clear that the proposition cannot be sustained*. 80 U.S. at 240.

The Senator argues that the treaty in question did not involve a transfer of lands of the United States. Again, he is entirely mistaken. In the passage quoted above, the Court states the issue as whether the President and the Senate could "lawfully covenant that a patent should be issued to convey lands which belonged to the United States."

The Senator from Utah has made an equally tenacious and equally futile attempt to explain away the holding of *Jones* v. *Meehan*, 175 U.S. 1 (1899), where the Court states:

> The title to the strip of land in controversy having been granted *by the United States* to the elder chief *by the treaty itself* and having descended, upon his death . . . to his eldest son passed by the lease . . . to the plaintiffs for the term of the lease.

The Senator contends that no property of the United States was granted by the treaty, asserting that the Court's holding was based on a ruling of Attorney General Taney that such treaties passed no title from the United States. In fact, the Court explicitly rejected defendant's reliance on Taney's position, which was based on an earlier treaty, and reached the opposite conclusion (175 U.S. at 12). The plain words of its holding indicate that property of the United States was transferred. It is difficult to understand how the Senator from Utah can assert the contrary.

The Senator's frantic and unsuccessful attempts to distinguish cases approving the validity of the transfer of property by self-executing treaty, while unpersuasive, are understandable in view of his admission that, as the committee report notes:

> The Court has never struck down a treaty for disposing of government property.

The Senator explains this total lack of authority by informing us that no self-executing treaty has ever transferred property to a foreign state. If the Senator's position is based on this misapprehension, perhaps he and I can yet resolve our differences. There have been numerous self-executing treaties which ceded to foreign governments, including Panama, property or territory of the United States.

PRIOR TREATY PRACTICE

I have previously discussed Senator HATCH's contorted reading of the Indian treaties involved in *Holden* v. *Joy* and *Jones* v. *Meehan*. Try as he may, he is unable to avoid the plain holding of these cases on two points. The treaties at issue: First, conveyed land to which the United States had title, despite the fact that they also served to cede Indian land to the United States; and second, were self-executing and were not concluded pursuant to prior congressional authorization.

In addition to these Indian treaties, a number of self-executing treaties with foreign nations have ceded property of the United States.

The treaty with Spain of 1819 ceded the Floridas to the United States in exchange for a cession by the United States of its rights and claims to Texas. Article 3 of the treaty is specific:

> The United States hereby *cede* to His Catholic Majesty, all their rights, claims and pretensions to the Territories lying West and South of the above described line.

Congress acted twice to authorize the President to take possession of Florida upon surrender of its claim by Spain. Contrary to the Senator's assertion, nothing in the legislation contained an authorization of the cession of the claims to Texas. That cession was entirely self-executing.

The Senator is wholly inaccurate in characterizing the cession of claims to Texas as "at best the settlement of a boundary dispute." The debates in the House of Representatives show that many Members believed that the treaty indefensibly relinquished a valid right to sovereignty over Texas. President Monroe, in his Annual Message of December 7, 1819, characterized it in that fashion:

> For territory ceded by Spain other territory of great value, to which our claim was believed to be well founded, was ceded by the United States.

The treaties with Great Britain of 1842 and 1846 involved the relinquishment of claims to vast territories. These claims were considered to be very strong, as President Tyler said in his Message of August 11, 1842 (4 Richardson, Messages of the Presidents, 163).

> Both the United States and the States more immediately concerned have entertained no doubt of the validity of American title to all the territory which has been in dispute.

The Supreme Court expressly construed the treaty of 1842 as a cession in *Fort Leavenworth R.R. Co.* v. *Lowe*, 114 U.S. 525 at 541 (1855). The fact that the territory in question was subject to dispute is inconsequential. Nothing in article IV distinguishes between the disposition of disputed and undisputed territory.

THE MEXICAN TREATIES OF 1933, 1963, AND 1970

The Senator from Utah vainly attempts to distinguish these precedents by two irrelevant assertions: First, that the territory ceded to Mexico included land held under private title; and that second, Congress subsequently appropriated money to acquire title from these private owners. The Senator cannot contest the fact that these treaties ceded to Mexico territory of the United States, that is, territory over which the United States had sovereignty. This is clearly a disposal of territory within the meaning of article IV.

It was necessary for Congress to appropriate funds required to acquire the title of private holders whose property was within the territory transferred by the treaty. The transfer of territorial sovereignty was not implemented by legislation, however. This is established conclusively by the fact that each treaty entered into force prior to the passage of any legislation.

The Senator from Utah does not dispute that article IV of the Honduras Treaty of 1971 transferred property without congressional authorization. The treaty is unequivocal. Article IV provides:

> The Government of the United States of America transfers to the Government of Honduras as of the date this Treaty enters into force all land, buildings, equipment and other

real and personal property in the Swan Islands to which it holds title, except as agreed pursuant to Article II of this Treaty.

The Senator casts doubt upon this precedent by pointing out that the value of the property transferred was small and that the transfer was not opposed in the Senate. I am at a loss to understand what constitutional significance the Senator ascribes to these facts. The treaty was clearly self-executing. It clearly transferred property of the United States.

The Senator from Utah has understandable difficulty in attempting to distinguish the clear precedent presented by the Japanese Treaty of 1972. The Senator admits, as he must, that substantial property of the United States was transferred. Article 6 of the treaty transferred both real and personal property of the United States to Japan. Under article 3 of the treaty, the United States relinquished its jurisdictional and governmental rights over the islands, which were of indefinite duration.

Conceding that property was transferred, the Senator from Utah feebly suggests that it may have been authorized by prior statute. This suggestion is groundless. The treaty, by its terms, is self-executing. It was so regarded by both the Senate and the President.

The Senator notes that Japan retained residual sovereignty over the islands. This fact is of no importance, since, under the 1903 treaty, Panama also retained residual sovereignty over the Canal Zone.

The Senator from Utah's analysis of prior treaty practice with Panama has been discussed earlier. It is highly selective and ignores transfers by self-executing treaties in 1936 and 1950. His suggestion that self-implementing transfers accomplished in articles VI and VII of the 1955 treaty were in fact implemented by legislation is simply wrong. Section 102(b) of the act implementing the treaty clearly differentiated between property to be transferred pursuant to article V and the property which had already been conveyed by operation of article VI and VII of the treaty.

Throughout his remarks, the Senator from Utah has tried to support his case by attacking the report of the committee, rather than by citing applicable authorities in support of his position. I regret that he has chosen to conduct the debate on this level. Upon examination, the statements made in the report of the Committee on Foreign Relations, and the legal basis on which this treaty has been drafted, have been shown to be well founded. The attacks made on them by the Senator from Utah simply do not hold up.

First, the argument that the disposal power of the Congress is exclusive of the treatymaking power is without legal basis. By proving that the disposal power may not be exercised by the States or the President alone, the Senator proves nothing. None of the cases cited by the Senator deals with disposal by the President by and with the advice and consent of the Senate, that is, by means of a treaty. And that is what we are talking about.

Second, numerous cases hold clearly that the legislative power of Congress and the treatymaking power are normally concurrent powers. No attempt has been made to rebut these cases.

Third, four Supreme Court decisions support the view that article IV, section 3, clause 2 constitutes no limitation on the treatymaking power. The Senator fails to distinguish these cases. The only case advanced by the Senator, the Sioux Indian case, deals with Executive power and expressly recognizes that valid disposals of territory to Indian tribes can be made by treaty or by statute. There is no case which holds that U.S. territory or property cannot be disposed of by the treaty power.

(Mr. ZORINSKY assumed the chair.)

Mr. CHURCH. Fourth, 14 treaties concluded by the United States have transferred territory or property of the United States without the need of legislation to authorize the transfer. These treaties were self-executing. The courts have declared unequivocally that this practice is consistent with the constitution.

And finally, the best legal minds in the country express no doubt that the treaty power and the legislative power are concurrent when it comes to the power to transfer U.S. territory or property. The leading authorities on constitutional law and outstanding international law experts are all but unanimous in this view.

What we are talking about here is the treaty power, the President and the Senate acting together. It is a power that has worked well for nearly 200 years. It is a power which the framers deliberately chose not to vest in the House. The Senator from Utah maintains, nonetheless, that the Senate's prerogative must be shared by the House. This challenge to the constitutional role of the Senate must be turned back.

I urge the Senate to reject the amendment now before it.

Mr. President, I yield the remainder of my time to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Idaho (Mr. CHURCH), I am not sure I will need the remainder of the time but I appreciate his generosity.

Mr. President, pending before the Senate is an amendment which would forbid the entry into force of the Panama Canal Treaty—even if duly ratified and promulgated—until action is taken by the House of Representatives and Senate acting together to authorize the transfer of property in the Canal Zone.

A serious issue has been raised here. Supporters of this amendment contend that the Senate, in debating and acting upon the Panama Canal Treaty is, in effect, going through an empty exercise. It is contended that the treatymaking clause of our Constitution, found in article II, does not grant sufficient power to the Senate and President to enter into the treaty before us.

Article II. section 2, clause 2, says that the President—

Shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur. . . .

There is no ambiguity whatsoever about this provision, which is located, as one would expect it to be, in that article of the Constitution which enumerates, defines, and limits the powers of the executive department of our three-branch government. It is found there because the field of foreign affairs is one which is inherently and peculiarly within the province of the executive branch. That power, that authority in the field of foreign relations is a necessary one because the United States, as a sovereign nation and a greater power, must speak with one voice abroad, although at home we may have our differences as to what should be said.

As Mr. Justice Field stated in *Geofroy v. Riggs* (133 U.S. 258 at 267 (1890)):

The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument. . . .

Article II limits the treatymaking power of the President by making it conditional upon the consent of two-thirds of the Senate. This restraint is part of the careful system of checks and balances which marks the genius of our government.

No one could feel more strongly than I do that it is the duty and the responsibility of Congress to represent the people in the field of foreign affairs. I share the concern of those observers who have noted the concentration of power in the executive branch at different periods of our history.

The way to rectify this imbalance, however, is not to devise novel constitutional theories for asserting the role of the legislative branch. The Constitution itself provides the mechanism for restraint upon the executive branch in the field of foreign affairs, as well as in the field of domestic affairs. It clearly and specifically selects the Senate—and the Senate alone—as the proper legislative body to review and restrain Presidential agreements with foreign powers.

This is not the only restraint which the Constitution places upon the treaty power. Certain legislative prerogatives of Congress as a whole are, without a doubt, exclusive to Congress, and cannot be shared. Thus, "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." And, "all bills for raising revenue shall originate in the House of Representatives." These legislative powers are, by their terms, mandatory and exclusive. The Constitution has made them so. Therefore, treaties may neither impose taxes nor directly appropriate funds.

The so-called property clause of article IV, section 3, clause 2, which states that "The Congress shall have power to dispose of * * * property belonging to the United States" contains no language which excludes concurrent jurisdiction of the treaty power. It can be distinguished, on its face, from exclusive grants of legislative power such as the power to tax, which is an exclusive grant of legislative power; or to draw funds from the Treasury, which is an exclusive grant of legislative power.

I find this construction to be compelling. As noted by Prof. Raoul Berger,

a distinguished scholar who does not share my view of the concurrent nature of the treaty power over disposal of U.S. property and I quote from a memorandum of February 1978 from Professor Berger to Senator CLARK:

> The starting point of analysis must be the Constitution itself, not what others have said about it.

Mr. President, this is wise counsel. The place to start is with the Constitution. We must look to the document itself, and presume that each part is consistent with all the other parts, until and unless it is shown beyond all reasonable doubt that an exception is to be inferred, or that one clause limits or invalidates another.

By reading article II and article IV as consistent and concurrent grants of authority—on the one hand, to the President and Senate, on the other, to Congress acting as a whole—we maintain the integrity of both provisions. This should always be our goal, for I very much doubt that we can improve upon the design of the Founding Fathers.

Records available from the debates of the Constitutional Convention, as both Senator SARBANES and Senator CHURCH have accurately shown, lend great weight to this view. First of all, we know that article IV, which grants to Congress the power to dispose of U.S. property or territory, was adopted before the treaty-making clause of article II. The drafting history of the property clause shows no indication of any intent to restrict the scope of the treaty power, and no understanding on the part of the drafters—who went on to debate and adopt article II—that it was a limit on the treaty power.

Thus, during the discussion of the treaty power, the initial debate occurred on whether a majority of the Senate, or more, would be required to consent to treaties. Subsequent to the adoption of the two-thirds rule, the Convention adopted a motion by Mr. Madison which excepted treaties of peace from the two-thirds rule. An amendment was later proposed by Mr. Williamson and Mr. Spaight which would have reestablished the two-thirds rule for a treaty of peace "affecting territorial rights."

Finally, the original provision requiring a two-thirds vote for all treaties was restored.

If—as some would contend—the members of the Convention clearly understood and intended that article IV, which had already been adopted, pre-empted the treaty power with respect to disposition of property and territory, these suggestions never would have been made. Rather, it seems clear that when the Convention came to discuss and adopt the treaty clause, there was a continuing concern on the part of some Members on the very proposition that treaties could transfer property or territory.

Historical practice since the adoption of the Constitution points toward general acceptance of the concurrent power theory. The thesis advanced by proponents of the pending amendment—namely, that the treaty power is limited by legislative powers granted to Congress elsewhere in the Constitution, and specifically by article IV, section 3, clause 2 with respect to the disposition of property—has long been discarded, long ago been discarded. It was first debated in the Senate in 1795, when the Jay Treaty was before this body. Among the objections raised by the treaty was that it regulated commerce; that the power to regulate commerce was vested in the Congress, and that Congress had not been consulted. Who today would seriously argue that treaties requiring only the consent of the Senate may not regulate commerce between this country and other nations—and yet that is the proposition which the doctrine of exclusive legislative jurisdiction would lead us to adopt.

Now, one of the proponents of that theory, which is a constitutional anachronism, and which the proponents of the treaty here today are attempting to resuscitate and to revive, was Thomas Jefferson. But Jefferson's view was strongly resisted by no less a constitutional authority than John Marshall, later to be Secretary of State, later to be Chief Justice of the Supreme Court. According to Marshall, and I quote therefrom:

> Marshall's opinion was that a "treaty is as completely a valid and obligatory contract when negotiated by a President and ratified by him, with the assent and advice of the Senate, as if sanctioned by the House of Representatives also, under a constitution requiring such sanction"; and he admitted only that the powers of the House in reference to a treaty were limited to granting or refusing appropriations to carry it into effect.

Marshall's view has long been well accepted—in practice, and in the eyes of eminent constitutional scholars. In his "Commentaries on the Constitution of the United States," Chief Justice Story noted that—

> The power to make treaties is by the Constitution general: and of course it embraces all sorts of treaties, for peace or war; for commerce or territory, for alliance or succours; . . . and for any other purposes, which the policy or interests of independent sovereigns may dictate in their intercourse with each other.

So, Mr. President, each of these great men found explicit exceptions to the treaty power—such as the power to appropriate funds—and, while they did not always agree on what those exceptions were, they did agree that the simple grant of legislative power to Congress over a subject matter—such as commerce, or navigation, or disposition of property, or regulation of territories—did not exclude concurrent jurisdiction over the same subject matter by virtue of the treatymaking power. Such a view would, surely, have reduced the treaty power to a nullity, rendering the U.S. Government ineffectual in its dealings with foreign nations.

Perhaps the finest exposition of this view is that of John C. Calhoun, speaking as a Congressman some 25 years before he became Secretary of State:

> The grant of power to make treaties is couched in the most general terms. . . . This country is divided into many distinct sovereignties. Exact enumeration here is necessary to prevent the most dangerous consequences. The enumeration of legislative powers in the Constitution has relation then, not to the treaty-power, but to the powers of the State. In our relation to the rest of the world the case is reversed. Here the States disappear. Divided within, we present the exterior of undivided sovereignty. The wisdom of the Constitution appears conspicuous. . . . Whatever, then, concerns our foreign relations.

Let me repeat what John C. Calhoun said at that point:

> Whatever, then, concerns our foreign relations; whatever requires the consent of another nation, belongs to the treaty power; can only be regulated by it; and it is competent to regulate all such subjects; provided, and here are its true limits, such regulations are not inconsistent with the Constitution.

Calhoun noted here that a treaty could not alter our form of government, nor do what the Constitution expressly forbids, or "do that differently which is directed to be done in a given mode, and all other modes prohibited." As an example, he cites the mandatory and exclusive language of the Constitution regarding appropriation of funds.

Mr. THURMOND. Mr. President, I wonder if the distinguished Senator will yield?

Mr. ROBERT C. BYRD. Not at this point. I have not interrupted the statements of the opponents of the treaties, and I would prefer not to be interrupted at this point. I will be glad to yield later if I have time remaining.

Calhoun's explanation is incisive, complete, reasoned. It is more extensive than I quote here, and is to be found in volume 29 of the Annals of Congress of 1816, on page 530. Calhoun, while defending a broad interpretation of the treaty power—both in terms of the constitutional language, and in terms of practical necessity—finds limits upon that power. These are the limits found in the Constitution itself—express prohibitions, and directions to do a thing in a particular manner which manner also prohibits all other manners of achieving the same end. This is not the case with the disposition of property clause. where the exercise of such power is granted concurrently to the Congress, as well as to the President and Senate.

Mr. President, it would be a constitutional anachronism if the Senate were to decide that its constitutional authority to advise and consent to treaties pursuant to article II is insufficient to transfer U.S. property in the Canal Zone. I would even say that this would be an abject surrender by the Senate to a constitutional anachronism if we were to so decide.

I submit that not a single authoritative case, not a single holding of a higher Federal court, can be found to the contrary. At least I have not been able to find one.

Mr. President, I oppose the Hatch amendment because I believe that, with all due respect to the authors and the supporters of that amendment, it represents a misunderstanding of our Constitution.

We have heard it said that rejection of this amendment would create a precedent. To the contrary; its adoption would set a precedent—a precedent which would gravely impair the ability of the executive branch to conduct foreign affairs. Its adoption would undermine the constitutional authority of the Senate in

its treaty-making capacity. Its adoption would upset the system of checks and balances of our Government, because it stands for the proposition that, wherever the Congress may legislate, the President and Senate can not act by treaty. The adoption of this amendment would not strengthen, but weaken, the separation of powers doctrine—which is not an abstract theory, but a practical, working system which places certain responsibilities, derived directly from the Constitution, the organic document upon which this Republic rests, squarely on the shoulders of the U.S. Senate. Its adoption would inject the entire Congress into the treatymaking process—a result which, I submit, would not strengthen but would weaken the legislative branch in its control over international agreements.

Mr. President, our ship of state was set sail by men of great wisdom and vision. A mere puff of wind is no sound reason for charting a new course. By this token, a single emotional issue must not be allowed to overshadow a fundamental constitutional concept.

For the plain truth is this: History has already judged the argument put forth by this amendment, and history has found it lacking in merit. History's verdict was a sound verdict and a wise one.

As the debate has shown, there is no case or decision that can provide historical or judicial backbone to the amendment before us today.

In fact, the adoption of this amendment would indeed set a precedent which would gravely impair the ability of the executive branch to conduct foreign affairs. And, while it would chip away at the President's constitutional domain, it would also peel the bark from the Senate's own treatymaking capacity.

I do not believe the Senate wishes to surrender its historic rights and prerogatives, its responsibilities and duties. If we did so we would only weaken the basic framework of the institution we have been asked to serve.

In the course of history, if this amendment were to be adopted, the "yeas and nays" on the Panama Canal treaties—in my opinion—would deserve only a footnote. Only a footnote. The greater implication—and the dangerous one—would be our attempt to rewrite the Constitution.

I understand that 235 Members of the other body have petitioned the Senate to the effect that the House seeks a voice in a particular aspect of this treatymaking process. Well, Mr. President, it is a no-lose proposition to sign such a petition; but it is a no-win proposition to have to show down on these treaties. I talked with a Member of the House this morning who said, "I would be sick, it would make me sick if the amendment before the Senate were to be adopted."

The separation of powers doctrine is not an abstract theory, but a practical, proven, working system. As an anchor of our Constitution, it places certain responsibilities squarely on the shoulders of the U.S. Senate.

I do not believe that the Senate—on this day, or any day—will surrender this constitutional authority or abdicate our responsibility under the Constitution.

Mr. President, this amendment should be defeated. It would do grievous harm to these treaties, to the Constitution, and to the Senate of the United States. which we all serve.

Mr. President, the current president of the American Society of International Law, and eight past presidents of the society, have examined some of the major legal questions related to the Panama Canal treaties.

Among the issues considered by this distinguished group of international lawyers and professors of international law is the question of the constitutionality of the disposition of U.S. property interests by treaty.

These legal authorities have concluded that the President and the Senate have full power to dispose of U.S. property interests in the Canal Zone by treaty.

This viewpoint is the same as that of a group of 15 eminent legal scholars who addressed a letter to the Congress on this subject and concluded that the Constitution "unequivocally permits transfer by treaty of property belonging to the United States."

That letter was printed in the CONGRESSIONAL RECORD of March 23.

Now, to further support that position, we have a statement from this group of leading authorities on international law. They are in complete agreement: The President and the Senate have full power to dispose of U.S. property interests in the Canal Zone by treaty.

This statement was signed by Walter Sterling Surrey, who is the current president of the American Society of International Law, and by eight of his predecessors, acting in their individual capacities.

Mr. President, I believe that this statement, along with the earlier letter from the group of 15 leading legal scholars, provides strong and significant support for the sound institutional basis upon which we are proceeding—if the treaties are consented to by the requisite two-thirds of those Senators present and voting, as provided under article IV, section 3, the treaties will, of their own force, accomplish the transfer of property to Panama.

Mr. President, I ask unanimous consent that the statement and the list of distinguished signatories be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SURREY, KARASIK AND MORSE,
Washington, D.C., March 27, 1978.

Hon. ROBERT C. BYRD,
U.S. Senate, The Capitol,
Washington, D.C.

DEAR SENATOR BYRD: I am transmitting herewith the text of a Statement on legal aspects of the Panama Canal Treaties along with a list of past Presidents of the American Society of International Law who have joined me in signing the Statement. The signatories have signed in their individual capacities and not as representatives of the Society or the organizations with which they are currently affiliated.

You may release the Statement to the public in whole or in part as you see fit. Since the issue of the constitutionality of the disposition of U.S. property interests by treaty alone is involved in the current debate, I have excerpted on a separate page the signatories' conclusions on that matter.

Yours sincerely,

WALTER STERLING SURREY.

PANAMA CANAL STATEMENT SIGNATORIES

Present and Past Presidents of the American Society of International Law (Years of Office in Parenthesis) Signing in Their Individual Capacities:

Walter Sterling Surrey, Washington, D.C. (1976–date);

Professor R. R. Baxter, Harvard University Law School (1974–76);

William D. Rogers, Washington, D.C., (1972–74);

Professor Oscar Schachter, Columbia University Law School (1968–70);

John R. Stevenson, New York City (1966–68);

Professor Brunson MacChesney,* Northwestern University Law School (1964–66);

James N. Hyde, New York City (1963–64);

Arthur H. Dean, New York City (1961–62);

Judge Philip C. Jessup, International Court of Justice, retired (1954–55).

(Institutional affiliations shown for purposes of identification only)

STATEMENT

In the national debate concerning ratification of the Panama Canal Treaties, a series of essentially legal questions have arisen with respect to the terms of the proposed Treaties. The authors of this statement, a present and former Presidents of the American Society of International Law and professors of international law, acting in their individual capacities, believe these questions should be objectively addressed.

Under the Panama Canal Treaty, which will be in force until the year 2000, the United States will have the right to protect and defend the Canal from an armed attack or other actions which threaten its security, as well as the right to station, train, and move military forces within the Republic of Panama. Furthermore, since the United States will be charged with the primary responsibility to protect and defend the Canal, it will have unilateral power to decide what constitutes a threat to the security of the Canal requiring action.

Under the Neutrality Treaty, after the year 2000, United States rights to protect the Canal and its neutrality derive from Article IV which declares that the United States and Panama "agree to maintain the regime of neutrality established in the Treaty . . ." Some critics of the Treaties have expressed the view that this language does not adequately and unequivocally state United States rights to protect and defend the Canal. On October 14, 1977, following a meeting between President Carter and President Torrijos, both heads of government released a Statement of Understanding [the "Understanding"] addressing this issue.[1]

The language of the Understanding clearly affirms the right of each of the two countries to "defend the Canal against any threat

* Signed prior to his recent untimely death.

[1] The Statement of Understanding also dealt with the last sentence of Article VI(1) of the Neutrality Treaty providing that United States and Panamanian vessels of War and auxiliary vessels "will be entitled to transit the Canal expeditiously." The Understanding confirms that this language gives such vessels the right to pass through the Canal "as quickly as possible, without any impediment, with expedited treatment, and in the case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly." All discussion in this statement of the legal effect of the Statement of Understanding applies equally to this Treaty provision.

to the regime of neutrality," which entails "the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal." This language makes clear the United States unilateral right to act. The legal effect of this clarification could derive from an independent legal significance of the Understanding or, as now appears likely, from Senate action incorporating the language of the Understanding as amendments to Articles IV and VI of the Treaty.

Ambassador Linowitz stated at a White House briefing on October 14, 1977, when the Understanding was released, that "there has never been any misunderstanding between President Carter and General Torrijos as to the exact meaning of the language of the Treaties." The Understanding is a "statement which says this is what we [Presidents Carter and Torrijos] have both understood the treaties to mean . . ." Since both signatories issued the same Understanding, it constitutes a reaffirmance of the parties' intent.

This conclusion may be tested by examining the language of the Treaty itself. The United States and Panama have undertaken a joint obligation to maintain the regime of neutrality in the Treaty. At the same time only Panama shall "maintain military forces, defense sites and military installations" within Panama. Although some argue that this latter language means that the United States could never send troops to Panama, this reading is patently inconsistent with the joint obligations of the parties to preserve the neutrality of the Canal. In fact, the use of the verb "maintain" in Article V indicates that while United States forces are not to remain permanently in Panama, should they be needed to protect the Canal from armed attack or other threat they will have an unquestionable right to enter the country to fulfill Treaty duties.[2] This intent was merely confirmed in the Understanding provision that "any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama."

The Understanding issued by President Carter and General Torrijos is, in our judgment, a legally authoritative statement by the heads of government of the United States and Panama setting forth each party's confirmation of their intent as reflected in Articles IV and VI of the Neutrality Treaty. Under general principles of treaty law, the Understanding would be used by governments and by national and international tribunals in establishing the legally binding undertakings of the two nations.

Several other important legal questions have been raised about the Treaties. Each of these deserves succinct consideration.

1. Will the United States relinquish its sovereignty with respect to the Panama Canal Zone? Under the terms of the 1903 Treaty, the United States never acquired full and unqualified sovereignty over the Canal Zone. Titular sovereignty remained with Panama, and the United States merely obtained the right to act in the Canal Zone "as if" the United States were sovereign. Thus, never having acquired sovereignty over the Zone, the United States does not cede sovereignty to Panama.

2 Are the rights of the United States to protect the Canal and its neutrality limited by the United Nations Charter, the Charter of the Organization of American States, or the Inter-American Treaty of Reciprocal Assistance? None of these documents limits the United States right set down in the Treaties to use force to protect the Canal. The limitations they impose concern the purpose of such action and are designed to insure the territorial integrity and political independence of Panama against the threat or use of force, occupation or intervention. In other words, the United States could not detach any territory from Panama, or alter its government, and the long-term presence of United States forces could only be justified as a proportionate response to a continuing threat to the Canal.

3 What is the impact of the War Powers Resolution on Article IV of the proposed Neutrality Treaty with Panama, whereby the United States and Panama agree to maintain the regime of neutrality for the Canal? Since the language of the Understanding confirms that under Article IV the two countries shall act "in accordance with their respective constitutional processes," the War Powers Resolution will, therefore, as long as it is law, govern any United States action under Article IV. It follows that the determination of which provision of the War Powers Resolution will govern in a particular situation will depend on the specific nature of any future threat to the neutrality of the Canal.

4. Do the proposed Panama Canal Treaties provide adequate safeguards for the users of the Canal, including those from the United States, as to tolls and other matters? A comparison of user safeguards in the 1903 Treaty and those embodied in the Neutrality Treaty reveals not only that no significant user safeguard is withdrawn by the Neutrality Treaty but that in certain important aspects the interests of users are more fully protected under the proposed Treaty than they have been under its predecessor. These include guarantees that the Canal will remain secure and open, that rules and regulations be "just, equitable, *and reasonable*," and that tolls be "just, *reasonable*, equitable, and *consistent with the principles of international law*" (new protections italicized).

5. May the United States dispose of property interests belonging to the United States in the Canal Zone by treaty alone or does such disposal require legislation to authorize the transfer? The Constitution grants the President the power to make treaties by and with the advice and consent of the Senate, and these treaties become the supreme law of the land. The Constitution also empowers the Congress to dispose of property belonging to the United States. Nothing in the language of the two clauses limits the treaty power with respect to dispositions of property. Nor is the Congressional power to dispose of property exclusive. The propety clause, like most of the Article I clauses granting legislative powers, provides that "Congress shall have the power," without any qualification indicating exclusiveness against the treaty power. Furthermore, it is a well-settled rule that the treaty power extends to all areas within the legislative authority of Congress that are not expressly reserved by the Constitution to the exclusive jurisdiction of Congress. Substantial case law, the drafting history of the Constitution and the practice of several states support this proposition. Thus, the President and the Senate have full power to dispose of U.S. property interests in the Canal Zone by treaty without authorizing legislation.

The PRESIDING OFFICER. The Senator from Utah has 3½ minutes.

Mr. HATCH. Mr. President, I yield 1½ minutes of my time to the Senator from South Carolina to ask questions of the majority leader, and the final 2 minutes to the Senator from Massachusetts (Mr. BROOKE).

Mr. THURMOND. Mr. President, on March 4, 1975, I introduced Senate Resolution 97, with reference to which my question occurs.

The last paragraph of that resolution urges that—

> There be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution.

I realize that a man has a right to change his mind, but the distinguished and able Senator from West Virginia, the majority leader, was a cosponsor of that resolution. I just wonder what has caused him to change his mind since that time.

Mr. ROBERT C. BYRD. I am glad the Senator asked me that question. I welcome the opportunity to get my answer on record again. That same question was asked me a few days ago, and I am sorry the Senator was not here when I answered it.

I am delighted to say that I believe that at some point a wise man may change his mind. Or may not change it, but he at least keeps his mind open to new facts on which to base a considered judgment.

When I cosponsored that resolution, there were no treaties before this body. They were being negotiated. Today the treaties are before the Senate; there is a detailed report from the Committee on Foreign Relations; there is testimony from the Joint Chiefs of Staff supporting the treaties; there is testimony of other responsible people in this administration who have the duty of planning for the security interests of this country; and former president Gerald Ford supports the treaties.

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator's time has expired.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senator from Utah have 2 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I have the facts which are contained in these reports, in the testimony, which I did not have in 1975.

Mr. THURMOND. Madam President, the time the Senator is using is not coming out of this side, is it?

Mr. ROBERT C. BYRD. Madam President, I am answering the Senator's question.

I have the advantage, now, of current events, of the events that have transpired since I signed that resolution.

Madam President, the Supreme Court of the United States changes its position on constitutional issues. It rethinks, it reconsiders, it reverses itself. Why should not a Member of the U.S. Senate have the same right? Why should that right not be recognized and respected here—the same right to change one's mind? With additional facts, with the treaties now before us, and with the testimony reflecting the judgments of the Joint Chiefs of Staff, I think that every Senator should retain an open mind, reeval-

[2] The presence of forces any longer than appropriate for that purpose or for any other purpose would violate Article 2(4) of the United Nations Charter and Article 18 of the Charter of the Organization itself which actually incorporates the language of both Articles.

uate the case, reassess it. All those who were signatories of the 1975 resolution should reassess and reevaluate. They might come to the same conclusion that they did then. But this Senator reached a different conclusion—I feel for good and sufficient reason. I am delighted to answer the question.

Mr. THURMOND. Madam President, I can understand why a man has a right to change his mind, and he certainly does, but the facts which concern the Panama Canal are no different today than in 1975. Conditions in Panama have not changed. Especially the constitutional question raised by this amendment has not changed. Thirty-six Senators joined with me on that resolution, not only the able majority leader but others in this body today. Mr. President, I ask unanimous consent that this Senate Resolution No. 97 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. The time of the Senator has expired.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 97

Whereas United States diplomatic representatives are presently engaged in negotiations with representatives of the de facto Revolutionary Government of Panama, under the declared purpose to surrender to Panama, now or on some future date, United States sovereign rights and treaty obligations, as defined below, to maintain, operate, protect, and otherwise govern the United States-owned canal and its protective frame of the Canal Zone, herein designated as the "canal" and the "zone", respectively, situated within the Isthmus of Panama; and

Whereas title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were vested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Colombia, to wit:

(1) The Hay-Pauncefote Treaty of 1901 between the United States and Great Britain, under which the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for operation, regulation, and management of the canal; and

(2) The Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, by the terms of which the Republic of Panama granted full sovereign rights, power, and authority in perpetuity to the United States over the zone for the construction, maintenance, operation, sanitation, and protection of the canal to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

(3) The Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922, between the Republic of Colombia and the United States, under which the Republic of Colombia recognized that the title to the canal and the Panama Railroad is vested "entirely and absolutely" in the United States, which treaty granted important rights in the use of the canal and railroad to Colombia; and

Whereas the United States, in addition to having so acquired title to and ownership of the Canal Zone by constitutional means, purchased all privately owned land and property in the zone making it the most costly United States territorial possession; and

Whereas the United States since 1904 has continuously occupied and exercised sovereign control over the zone, constructed the canal, and, since 1914, for a period of sixty years, operated the canal in a highly efficient manner without interruption, under the terms of the above-mentioned treaties thereby honoring their obligations, at reasonable toll rates to the ships of all nations without discrimination; and

Whereas the long history of friendly and cooperative relations between the United States and the Republic of Panama are prone to deterioration by the dilution of any United States sovereignty or jurisdiction in the canal zone; and

Whereas from 1904 through June 30, 1974, the United States made a total investment in the canal; including defense, at a cost to the taxpayers of the United States if over $6,880,370,000; and

Whereas the investment of the United States in the canal includes the sacrifices of many thousands of United States citizens who have worked to construct the canal and keep it operating smoothly and efficiently for the last sixty years; and

Whereas Panama has, under the terms of the 1903 treaty and the 1936 and 1955 revisions thereof, been adequately compensated for the rights it granted to the United States, in such significantly beneficial manner that said compensation and correlated benefits have constituted a major portion of the economy of Panama giving it the highest per capita income in all of Central America; and

Whereas the canal is of vital and imperative importance to hemispheric defense and to the security of the United States and Panama; and

Whereas approximately 70 per centum of canal traffic either originates or terminates in United States ports, making the continued operation of the canal by the United States vital to its economy; and

Whereas the people of the United States, in various ways and means, have exhibited strong support for retention of full and undiluted jurisdiction over the canal and zone, and the Congress ought to insure the supremacy of the will of the people; and

Whereas the present negotiations under a February 7, 1974, statement of "principles of agreement" by United States Secretary of State Henry A. Kissinger and Panamanian Foreign Minister Juan A. Tack constitute a clear and present danger to the hemispheric security and the successful operation of the canal by the United States under its treaty obligations; and

Whereas the present treaty negotiations are being conducted by our diplomatic representatives under a cloak of unwarranted secrecy, thus withholding from our people and their representatives in Congress information vital to the security of the United States and its legitimate economic development; and

Whereas the United States House of Representatives, on February 2, 1960, adopted House Concurrent Resolution 459, Eighty-sixth Congress, reaffirming the sovereignty of the United States over the zone territory by the overwhelming vote of three hundred and eighty-two to twelve, thus demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty and jurisdiction over the canal and the zone; and

Whereas under article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives; and

Whereas the Congress of the United States is invested with constitutional responsibilities to provide for the common defense and general welfare of the United States, to regulate commerce with foreign nations, to raise and support armies and provide and maintain a Navy, to make all needful rules and regulations respecting the territory of the United States, and to make all laws necessary and proper for carrying into execution these and other powers, all of which denote that it is the solemn duty of Congress to safeguard the canal and zone: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

(2) there be no relinquishment or surrender of any presently vested United States sovereign right, power, or authority or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and

(3) there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution.

Mr. THURMOND. Senator GOLDWATER has been promised some time.

Mr. GOLDWATER. Madam President, I ask unanimous consent that my remarks appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. GOLDWATER. Madam President, I will make only brief closing remarks before the vote in summary of what I said yesterday.

First, I would remind my friends from States with the largest populations that under the theory presented by our State Department 68 Senators representing 34 States containing 60 million citizens can dominate 32 Senators representing 16 States containing 140 million citizens.

If a treaty itself can do the same things as Congress, this means 31 percent of the Nation can overrule the position of 69 percent of the people, without any opportunity for an expression of popular will.

Unless the House of Representatives is allowed to exercise its share of the enumerated powers given to Congress, we may see a new system evolved in America under which the minority controls the majority. This would be totally alien to the design of the framers in establishing a representative government under popular rule.

What are the implications of the novel theory that a treaty can exercise the same powers vested in Congress? If the treaty power is concurrent with the powers of Congress, what end will there be to evasion of the House of Representatives, the body closest to the people?

Congress can declare war. Does this mean a treaty alone, perhaps in the form of a defense alliance, can put the Nation in a war without any separate vote in the whole Congress?

Congress has power to provide for currency. Does this mean a treaty alone can declare the German mark the currency of the United States? Remember, the administration is already seriously considering the issuance of Government bonds in a foreign denomination.

Congress has power to regulate commerce. Does this mean a treaty can embargo all exports of tobacco? Can the Department of HEW carry its anti-smoking campaign far enough to outlaw the export of tobacco through an international health treaty?

Congress has power to establish courts and make exceptions to the appellate jurisdiction of the Supreme Court. Does this mean a treaty alone can set up international courts with jurisdiction over our citizens, a court which is to be free of review by our Supreme Court?

If a treaty can exercise concurrent powers with Congress, all of these results, absurd now, might happen in the future.

Where is the line drawn? Where will there be an end to the use of treaties to invade the power given to the whole Congress?

The precedent we are asked to set in the Panama Canal Treaty will continue to haunt us through the years. Even if one or two precedents for the transfer of property by treaty may have occurred, they are not of the dimension of the Panama Canal.

And surely the State Department is not contending that a handful of claimed precedents can make valid what the Constitution makes invalid. It is the Constitution that is at issue, not precedents.

If the Constitution requires action by the whole Congress to carry out a treaty which agrees to transfer property, then one or two dubious precedents cannot change the Constitution. Those precedents are wrong and should not be followed again.

Madam President, the Constitution is clear. The spokesmen, who argued and voted for the Constitution in the several State conventions on adopting it, said over and over that treaties would be limited by the express powers granted to Congress.

If we will study history and see what the framers intended, instead of arguing from the viewpoint of what our State Department sees as the theory most suitable to carry out the foreign policy of a 20th century President, we will see beyond doubt that the Constitution has always required the passage of legislation by Congress to execute a treaty agreeing to transfer property belonging to the United States.

Madam president, I urge that we approve the pending amendment.●

Mr. HATCH. How much time remains to the proponent of the amendment?

The PRESIDING OFFICER. Two minutes remain.

Mr. HATCH. Will the Senator allow me to proceed for 1 minute?

Mr. ROBERT C. BYRD. I did not mean to prevent the Senator from taking his time.

The PRESIDING OFFICER. The Senator from Massachusetts has been yielded 2 minutes.

Mr. BROOKE. Madam President, perhaps this debate on the Hatch amendment has been the longest on any amendment on the Panama Canal Treaty. I shall seek to balance it by making one of the shortest statements.

Mr. President, the Senator from Utah has made a strong case for the proposition that any disposition of U.S. property stemming from the canal treaties should only occur after the House of Representatives as well as the Senate has consented to such an action.

Proponents of this treaty have also made a case for the opposite view although their case is weaker than that of the Senator from Utah.

I, therefore, intend to support the pending amendment and urge its adoption. Aside from the arguments offered in its favor which I find acceptable, I am even more compelled to vote in favor of it because of my strong belief that there should be no "short cuts" in the decisionmaking process related to the Panama Canal treaties. The benefit of the doubt on this matter should clearly be given to a strict adherence to procedures. And this means that the House of Representatives, as an equal partner with the Senate in legislative matters, should assume the responsibility I believe the Constitution places upon it regarding the disposition of U.S. property.

I have heard the arguments of the opponents of this amendment. They argue time after time that the United States in other treaties acted differently. But here we have clear title to the property. There has been no dispute about that whatsoever. So I distinguish this case in Panama from other cases that have been alluded to by the opponents.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROOKE. Will the Senator yield a half minute?

Mr. HATCH. I ask unanimous consent that the Senator from Massachusetts be allowed to continue for a half minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. There can be no doubt that the House wants to exercise responsibility regarding this matter and I believe the Senate would be wrong in denying it that opportunity by voting against the pending amendment.

I thank my distinguished colleague from Utah for having offered this amendment. I think it is a sound amendment and should be adopted.

● Mr. HELMS. Mr. President, while the pending amendment offered by the distinguished Senator from Utah has been described as a so-called killer amendment, the leadership might well ponder the fact that, if it is indeed, a killer amendment, it is not because of the approval of the amendment calling for a vote of the House of Representatives on the disposal of the Canal Zone.

In fact, the defeat of the Hatch amendment could very well be the killer action.

I wonder, Mr. President, if the able and distinguished majority leader, and the able and distinguished minority leader, and the able and distingished floor manager of the Panama Canal Treaty, are aware of the actual feelings and convictions of some of the most important Members of the House of Representatives on this issue?

Have they taken into consideration exactly what will be the effect on those able and distinguished Members of the other body should the Senate in its wisdom—or lack of it—deliberately snub that body, and vote to deprive it of its constitutional prerogative in determining whether or not property and territory of the United States shall be disposed of to a foreign power?

On June 26, 1975, the House voted to approve what became known as the Snyder amendment—an amendment which added this language to the 1976 appropriations bill for the Departments of State, Justice, and Commerce, and the judiciary:

> None of the funds appropriated in this title shall be used for the purposes of negotiating the surrender or relinquishment of any U.S. rights in the Panama Canal Zone.

This amendment was softened later that year by a conference committee.

But, Mr. President, here is the point:

One of the major opponents of the Snyder amendment was a most distinguished Member of the House, the chairman of the Panama Canal Subcommittee of the House Merchant Marine and Fisheries Committee, the Honorable RALPH METCALFE of Illinois.

Many Members of Congress remember him as the fastest man in the world in the 100- and 200-yard dash events—an Olympic champion. Mr. METCALFE favors the new Panama Canal treaties.

Well, today Mr. METCALFE—and others in the House who feel as he does—must be intently awaiting the outcome of our vote on the Hatch amendment.

Let us look at what he said on the floor of the House in opposition to the Snyder amendment on June 26, 1975:

> I raise the constitutional question and point out that the Constitution says the President shall have the right to make a treaty, and that the Senate will ratify it, and the House will then have its own appropriate action to take. This is not a sense of the House resolution. What we are, in fact, doing right now is trying to make policy, and this is not the proper place for it. It is not the proper time for it. I think we are unjustly interfering in the negotiations that are taking place, and it is going to impair our relationship with other nations . . . Not only that, we do have, as this body, a right to determine what land will be given away. That is our prerogative, if there is any questions raised.

Mr. President, that is not all.

The chairman of the Panama Canal Subcommittee in the House, Mr. METCALFE, made a major speech on the Panama Canal Treaty issue on May 19, 1977, in which he set forth his views in favor of the projected new treaties.

Again, however, he dwelt at some length on the matter of the disposal of United States property in the Canal Zone.

I quote the paragraph with which he closed his remarks on this particular matter:

> The House, then, through its committees, including the Committee on Merchant Marine and Fisheries, of which I am a member, and the Panama Canal Subcommittee which I chair, intends to guard the constitutional prerogatives of the Congress.

Mr. President, the chairman of the Merchant Marine and Fisheries Committee of the House, the Honorable JOHN MURPHY of New York, has in recent

months testified before two Senate bodies considering the new treaties on the constitutional issue of the disposal of U.S. property. He has taken the identical view which Mr. METCALFE represents.

Mr. President, the chairman of what is probably the key House committee that will have to consider and report out the legislation necessary to implement the new treaties, has told the Senate Committee on Foreign Relations and the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, that the House must vote on the disposition of the Canal Zone.

Has the leadership taken into consideration the fact that by seeking to deny the House a vote on such disposition, it may very well be forcing the other body to take a position refusing to pass any implementing legislation at all?

Is the leadership aware that the two Democratic chairmen I have spoken of are in a position to refuse to even report out any implementing legislation?

Is the leadership aware that a bill incorporating the State Department's draft legislation for implementing the treaties has already been referred to the Merchant Marine and Fisheries Committee of the House in a joint referral.

Mr. President, a vote against the Hatch amendment may very well result in the death of the Panama Canal Treaty and the neutrality.

I shall vote for it. I should hope that Senators who are protreaty will demonstrate they are also in favor of the U.S. Constitution.●

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to a vote in relation to amendment No. 92 by the Senator from Utah.

Mr. CHURCH. Madam President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ZORINSKY (when his name was called). Madam President, I have a live pair with the Senator from Texas (Mr. BENTSEN). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Florida (Mr. CHILES) are absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) would vote "yea."

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 79 Ex.]

YEAS—58

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Morgan
Baker	Hatfield,	Moynihan
Bayh	Mark O.	Muskie
Bellmon	Hathaway	Nelson
Biden	Hayakawa	Pearson
Bumpers	Hodges	Pell
Burdick	Hollings	Percy
Byrd, Robert C.	Huddleston	Proxmire
Case	Humphrey	Randolph
Chafee	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Sparkman
Danforth	Long	Stafford
Durkin	Magnuson	Stevenson
Eagleton	Mathias	Weicker
Ford	McGovern	Williams
Glenn	McIntyre	

NAYS—37

Allen	Griffin	Packwood
Bartlett	Hansen	Roth
Brooke	Hatch	Schmitt
Byrd,	Hatfield,	Schweiker
Harry F., Jr.	Paul G.	Scott
Cannon	Heinz	Stennis
Curtis	Helms	Stevens
DeConcini	Johnston	Stone
Dole	Laxalt	Talmadge
Domenici	Lugar	Thurmond
Eastland	McClure	Tower
Garn	Melcher	Wallop
Goldwater	Nunn	Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Zorinsky, against.

NOT VOTING—4

Bentsen	Gravel
Chiles	Matsunaga

So the motion to lay amendment No. 92 on the table was agreed to.

Mr. SARBANES. Madam President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 91

The PRESIDING OFFICER. The question now recurs on the amendment by the Senator from Alabama (Mr. ALLEN), No. 91, which the clerk will state.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. Hatch and Mr. Helms, proposes an amendment numbered 91:

At the end of Article I, section 3, strike the period and insert a semicolon and insert the following: *"Provided, however,* That all citizens of the United States who are now employees of the Panama Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause.".

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Madam President, first, I ask unanimous consent that the name of the distinguished senior Senator from South Carolina (Mr. THURMOND) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Madam President, this amendment pending before the Senate was laid aside by unanimous consent in order that the distinguished Senator from Utah (Mr. HATCH) might offer an amendment, which was a most important amendment. It was an amendment that would have assured that the Constitution would be followed in the matter of authorizing the disposition of property of the United States. It provided that the provisions of article IV, section 3, clause 2 of the Constitution be observed.

That section provides that the Congress shall have the power to dispose of the property of the United States. It is conceded, Madam President, that the United States has title to the property in the Canal Zone. It would appear that to have that, in order properly and legally and constitutionally to dispose of this property owned by the United States of America, the provision of the Constitution should have been followed.

As a matter of fact, 235 House Members, at least, share that view because they are cosponsors of a resolution that called upon the administration to submit this question—not the treaty—to submit this question of disposing of property of the United States to legislative action by Congress, meaning, of course, the Senate and the House. The Senate has chosen, by tabling this amendment, to disregard this provision of the Constitution.

Madam President, I posed a question earlier today, before the vote, on the matter of the contention by the proponents of the treaty that the President of the United States can negotiate a treaty disposing of property of the United States and that such disposition would take effect on the approval of that treaty by a two-thirds vote of the Senate. To show how fallacious that contention would be, I posed a question which would be a necessary implication from holding that the President and the Senate can dispose of property of the United States without congressional action, with respect to property in Panama. By a necessary extension of that doctrine, any property of the United States could be given to a foreign power by treaty entered into between the President and that foreign power and approved in the form of a treaty by the Senate alone.

I pointed out that on the floor of the Senate, not too long ago, a Senator stated that 97 percent of the land in his State was owned by the U.S. Government. If the President and the Senate can give away the land in the Panama Canal Zone which belongs to the United States, could not the President, in a good neighbor gesture, wanting to right the wrong that took place when the United States took over a large portion of the Western States following the war with Mexico—took it over by conquest and then paid, I believe, a small amount of money in reparations for the land, at gun point—could not the President enter into a treaty giving away 97 percent of one of our Western States, which formerly was part of Mexico, and have it submitted to the Senate for approval in the form of a treaty? Of course not. Every man, woman, and child in that State would march on Washington, and rightly so.

Madam President, it is a necessary extension of this theory that the Senate, by tabling this amendment, has seen fit to adopt, if we can give away 500 square miles of U.S. property in the Panama Canal Zone, of inestimable value. A valuation of $10 billion has been placed on

this property—the canal and the Canal Zone—but even that figure would not compensate for giving away this property, this tremendous asset.

However, according to the administration, according to the leadership, according to the managers of the treaty, all it takes is a treaty entered into by the President, subsequent approval of that treaty by the Senate, completely disregarding the House of Representatives and its rights and prerogatives under the Constitution, opening the way for litigation with those citizens of the United States who might bring action to contest the validity of this disposition of property.

I am not saying that the treaty should be submitted to the House. That is not the question. The question is the requirement of the Constitution that the disposition of property of the United States must be authorized by act of Congress.

I pointed out several times the provision in the 1955 treaty with Panama, in which, on three separate occasions, where they make conveyance of property, they say "subject to the approval of Congress." But we are departing from that longtime policy, which the Constitution has recognized.

They say that times have changed. The constitutional provision has not changed.

I notice that someone has had a copy of Senate Resolution 97, of the last Congress, placed on the desk of each Senator. That was a resolution submitted in the last Congress by 37 Senators—enough to defeat a treaty—which stated the position of those Senators against a treaty giving away the canal and stating that if any such treaty were entered into before the property of the United States could be disposed of, there had to be express congressional action authorizing it. Eight Senators who some weeks ago voted for the Neutrality Treaty, or the Defense Treaty, were cosponsors of that resolution in the last Congress. Well, perhaps they changed their minds. Perhaps it is because it was in the administration of a President of another party. I do not know what caused them to change their minds.

I am not going to mention their names. The Senators know who they are, and any Senator who wants to see if his name is on the resolution can refer to the resolution, which is on the desk of each Senator. But the names of those eight Senators were on that resolution, saying that they would not be for a treaty giving the canal away and that if such a treaty were entered into before the property could be disposed of, there had to be congressional action. In other words, article IV, section 3, clause 2 of the Constitution would have to be followed.

I would have thought that all eight of those Senators would have voted for the Hatch amendment. It is understandable, Madam President, that Senators might change their minds on the advisability of giving away the canal.

I can understand that. It is entirely possible and frequently happens that Senators do change their mind on an issue. But what logic is there for changing their mind on their view of a constitutional question as to what action it takes to comply with the Constitution?

So these eight Senators who in 1975 said they would not be for such a treaty in 1978 voted for that treaty. I can understand that. But I cannot understand how they as attorneys, for the most part—possibly all eight—could have changed their views on their view of the constitutional issue.

So the Senate has decided that article IV, section 3, clause 2 of the Constitution, giving Congress power to dispose of property of the United States does not have to be followed, that the President negotiating the treaty and the Senate giving its advice and consent to the treaty can dispose of property of the United States without an act of Congress.

I say that issue should have been decided on the basis of following the Constitution, and I think that the victory of those who are pushing these treaties will be somewhat hollow if they win by force of might here in the Senate, force of an overwhelming majority in the Senate—I am hopeful not a two-thirds majority—but they can with this overwhelming majority defeat any amendments, no matter how good, no matter how much needed. They can direct the Members of the Senate monolithically to vote against amendments. So we see the leadership, we see the managers of the treaty, and we see the administration stonewalling against amendments no matter how good an amendment is.

These Senators who have said to the House of Representatives, "We are not going to follow this Constitution, we are not going to respect your rights and your prerogatives, we are going to handle this just like we want to because we have the votes here in the Senate and we are going to direct them how to vote," can do it. But I say that their victory is going to be a hollow victory and their victory at the bar of public opinion is going to be somewhat less attractive. Public opinion is of the view that a shortcut was taken on agreeing to these treaties, that the Constitution was ignored. Are they going to have the backing of public opinion in this country for the action that the Senate seems determined to take?

It disregards the necessary and desirable comity that should exist between the two bodies of Congress. It leaves the way open for litigation that would snatch defeat from the jaws of victory on the treaties because if the Supreme Court says the Constitution was not followed in disposing of this property, what value is the treaty? The property, the water, and the land, in effect constitute the treaty. So if the land and the water were illegally and unconstitutionally disposed of you have no treaty. So, by tabling this amendment you leave the treaty open for a legal attack, and you leave the treaty and its validity in a state of doubt. You leave the people of the United States confused as to whether proper procedures were used. You violate rules of comity between the two Houses. Why? Why be afraid of the House of Representatives? Why be afraid of the Senate on a majority vote question, which the legislation would be? I would take a majority vote in both Houses. If you can get a two-thirds vote for the treaty in the Senate is there any doubt that you could get a majority vote in the Senate for legislation authorizing the transfer of this property? Of course not.

The fact that 235 House Members, well over a majority of the Members of the House, have asked that this treaty not go into force until legislation has been enacted by Congress authorizing its disposition does not mean that all 235 of those Members of the House are going to vote against giving the canal away. That means they want their rights and their prerogatives respected, and I have not seen the Senate any less jealous of its rights and prerogatives.

Time was limited on the debate on the other amendment. But I feel, even though it has been stonewalled by the leadership, by the administration, and by the managers of the treaty, the enormity of the bad judgment of the leadership in this matter should be pointed out. I believe that the treaty could be put into force and effect earlier by agreeing to this amendment, removing all question of doubt as to the legality of the process, than by stonewalling against the amendment, disregarding, as I see it, the constitutional provision.

The argument has been made against other amendments. And, by the way, do you know how many amendments we adopted to these two treaties after 2 months of debate? Two. They were the leadership amendments, defective in several areas, as was pointed out here on the floor. They were adopted, because the leadership said "Adopt them," and the Senate adopted them. On all others, they have said "No." These amendments that the leadership proposed and got adopted are so good that they not only make the treaty a good treaty, or the treaties good treaties, they are so good that no further amendments are desired and no further amendments will be accepted. That is how highly vaunted these leadership amendments were.

I will not take the time of the Senate to point out the defects in the leadership amendments, but they did exist, they were pointed out here on the floor, but they were adopted.

I voted for the leadership amendments, because I hoped that possibly they offered some slight improvement over the provisions of the original treaty—mighty little, greatly defective, but possibly some better than the original treaty. But the Senate has acted, and we will move now to other amendments that seem necessary.

The argument has been made in the past as to many of these amendments that they would not please the Panamanians, they would not be accepted by the Panamanians and, therefore, we should not adopt them; that it might cause the calling of another plebiscite.

Well, if so, what is wrong with that, because we need a compact with the people of Panama rather than just with the dictatorial regime of dictator Torrijos?

But this amendment of the distinguished Senator from Utah (Mr. HATCH), of which I was a cosponsor. was not

something putting a burden on Panama or on Torrijos. It merely underscored the required constitutional process for agreeing to the transfer and disposition of property of the United States in the Canal Zone.

So what burden would that have placed on Torrijos? None whatsoever. So they could not make the argument that this amendment would have somehow adversely affected, cast doubt on, the dignity of the people of Panama and the dictatorial regime in Panama. This is merely saying that the United States shall follow the constitutional processes in disposing of this property.

Well, Mr. President, it does not take any argument to defeat constructive amendments that are offered here on the floor of the Senate. It does not take any argument on the part of the leadership, on the part of the managers of the treaty, to defeat amendments. All the managers of the treaties have to say, as Senators troop in to vote, and as the issue is: "Shall the amendment be tabled?"—all they have to say is, pass the word, "This is an 'aye' vote," and proceed to vote "aye," in many cases not even knowing what the amendment is, but knowing what the leadership vote is. That is all it takes.

So, Madam President, are we abdicating our role, the role that the U.S. Senate is supposed to have in our constitutional process? We are supposed to advise the President on this treaty he sent up here. We do not give that advice by writing a letter and saying, "Well, Mr. President, we believe the treaty is defective in a number of points and wish you would check into it and renegotiate this treaty."

We give that advice in the form of amendments to the treaty, in the form of shaping the treaty, by the amendment process.

It took the negotiators some 13 years to agree on this treaty. Can we be assured that after 13 years of negotiation they have come up with a letter-perfect treaty?

Well, the fact that they were revising it right down to the very last moment indicates it is not letter perfect, yet the Senate is asked to reject every amendment that is offered even to the extent of rejecting an amendment that merely called for following the Constitution.

Oh, very well, let us proceed to the pending amendment which, as I say, was the amendment that was pending and which was discussed somewhat prior to the putting in of the Hatch amendment, which was thought to have possibly some chance of being approved, especially in view of the fact that eight Senators who voted the treaty some weeks ago, the Neutrality Treaty, were coauthors of the resolution that said that before this property in Panama could be disposed of there should be legislative authorization, a statute passed by the House and Senate. But I was disappointed in what took place in that regard.

Now, this amendment to article I adds a new section at the end of section 3. It makes this statement:

Provided, however, That all citizens of the United States who are now employees of the Panama Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause.

Well, we lean over so far backward to see that we do not offend Panama or the Panamanian dictator, that we are unable to refrain from offending the House of Representatives, 235 of whose number have asked that a statute be passed before this treaty goes into effect—we do not mind offending the House, we do not mind offending the American taxpayer, we do not mind offending people who want to see the canal strongly defended, and now let us see if we do not mind seeing U.S. citizens, who are employees of the Panama Canal Company—we are going to see whether we mind offending them and whether we are going to approve kicking them out of their jobs down there with the Panama Canal Company.

The way this thing operates, Madam President, the canal is operated not by the U.S. Government as such but by an agency or commission of the United States, a U.S. commission called the Panama Canal Company.

Now, under the treaties, the Panama Canal Company will cease to exist and all of its assets will be transferred to the Panama Canal Commission, changing the word "Company" to "Commission." That is still going to be a U.S. commission, and all of the property that is under the control of the Panama Canal Company is transferred, starting with the year 2000, to Panama, but prior to that time it is transferred to the Panama Canal Commission. Just a change of name. But ultimately, the commission must transfer it to Panama, without lien and without debt.

However, the treaty provides that as to U.S. citizens working for the Panama Canal Company, when they start working for the Panama Canal Commission—and inquiry revealed the other day that there are now 2,065 U.S. citizens working for the Panama Canal Company—under the treaty, in 5 years the Panama Canal Commission is obligated to see to it that 20 percent of those, somewhat over 400, are no longer in the employ of the Panama Canal Commission. So, within 5 years from now, we have got to get rid, either by attrition, resignation, or whatever, of 400 U.S. citizens who are working for the Panama Canal Company and who would be transferred over to the Panama Canal Commission.

The distinguished Senator from Maryland (Mr. SARBANES) the other day—and I will take his figure as correct, though I think possibly it is a little high—said that 80 percent, already, of the employees of the Panama Canal Company are Panamanians, which would leave 2 percent who are non-Panamanians. So our 2,065 have got to be reduced by 20 percent in 5 years. It is right here in the treaty.

I thought, Madam President, that we were supposed to have control of the canal for the next 22 years. What kind of control is that? It is just rapidly weeding out employees who are citizens of the United States.

And that is not all, Madam President. The treaty says that the Panama Canal Commission has got to adopt a policy that generally—and I think the word "generally" would imply that there would be few exceptions—that generally, they have got to have a possibility that if a non-Panamanian is employed on the canal, it has got to be, because that person has some special skill that is not available in Panama.

How often do you think you would find somebody like that? Two or three a year? So no new Americans are going to be employed during this 22 years that we are supposed to have control of the canal. No Americans employed unless they have a special skill not available in Panama. The treaty says that shall be the general policy of the commission.

What kind of control is that? We already have 80 percent Panamanians, the 20 percent Americans that we have has to be reduced by 20 percent in 5 years, and no more new Americans can be employed unless they have a special skill not available in Panama. That is said to be the general policy which must be adopted by the commission.

Not only that, Madam President: This commission that is to run the canal—it takes over, I believe, immediately on the approval of the treaties and the ratification process and winning this litigation that is bound to ensue—then the commission operates the canal. It is still supposed to be an American commission. Do you know who the members of that commission are going to be? Well, they are going to have five Americans on the commission, and they are going to have four Panamanians—none of them approved by the Senate, and the treaty says Panama shall furnish the United States with a list of the four Panamanians, and they are to be appointed; no security check, no character check, no criminal record check; they are to be appointed, with none of them confirmed by the Senate.

Let us see about that. I do not know what the view of the five Americans is going to be. If there is one there who has some sort of bleeding heart with respect to Panama, and the fact that we mistreated them back in 1903, as has been stated here on the Senate floor, he might take the position of Panama right from the start; then you would have 5 to 4 favoring Panama and Panamanian interests. Well, so be it.

Then nothing is said, I do not believe—I could be wrong, but I do not believe anything is said about what is going to constitute a quorum for doing business of this commission. If they had the four Panamanians there and three Americans, they could transact business and the Panamanian interests would be taken care of, but not the U.S. interests. Everything is stacked in Panama's favor, even to the extent of freezing out all Americans who are now employed there.

Should we not be concerned about the American citizens who have worked on the Panama Canal? Are they not entitled to be considered? Why should we require that 400 of them be eliminated in 5 years? Why should we do that? I do not see any logic to it, myself.

So what does this amendment do? It is simple. It says:

Provided, however, That all citizens of the United States who are now employees of the Panama Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause.

Well, I do not see why the U.S. citizens cannot keep on doing their jobs. We talk about waiting 22 years; now are we waiting 22 years, when we already have 80 percent Panamanian employees and are going to get the rest of them? We are not waiting 22 years; we are operating that canal, if these treaties are agreed to and ratified, we are going to be operating that canal for the benefit of Panama—and Economic Minister Barletta, of Panama, says Panama is going to be drawing $100 million a year out of the operation. And, of course, Uncle Sam is the guarantor of the amount that Panama is going to get.

So the whole nature of the operation is going to be changed. The United States operates it as a nonprofit enterprise, altruistically for the benefit of the shipping for the entire world. We have not even paid for the canal yet. We still owe $319 million on it. That will be wiped out under the treaties and under the process of operation.

I am still wondering about the statement that we are going to keep the canal for 22 years. The treaty provides that starting in 1990 the administrator of the canal must be a Panamanian. That is jumping the gun by 10 years, it would seem to me. All the while, this U.S. commission, with five Americans on it and four Panamanians, is supposed to be operating the canal. But they will not have been approved by the Senate. We do not know who they will be. We will have no voice in who they might choose, whether they will be men of business judgment. This is a big business down there, operating the canal. There is no requirement there, no security check, no character check. That is the way it will be handled during this 22-year period before we actually withdraw our troops and turn the canal over to Panama entirely.

I submit, Madam President, that we are turning the canal over to Panama right away, if we are going to freeze out all Americans who are working there.

All this amendment would do, Madam President, is to give just a little bit of sense of security to the American citizens who are working for the Panama Canal Company. It lets them continue working there in their present positions until they reach retirement age, until they retire voluntarily, or until they are discharged for cause. Why can we not deal fairly with America and with American citizens? Let us wait the 22 years the treaty is supposed to provide before we kick all the Americans out from down there.

I understand there are Americans who have worked there for years and their sons are coming on, working there. It is a way of life for these people. They should not be penalized just because they are working on the Panama Canal, which is an American enterprise any way we look at it. They should not be penalized. Somebody has to do the work. Because they have chosen to go to the Canal Zone and to work for an American enterprise they should not be penalized by arranging for their early departure from their employment. That is what it would amount to.

What about others who want to become employees of the Panama Canal Commission? Unless they have a special skill not available to Panama, they need not apply. I would not be surprised to see signs on the employment office there at the Panama Canal Commission that "Americans need not apply" during this 22-year period, in which we are supposed to continue the control of the canal. What kind of control is that? "Americans need not apply." In fine print, there would be, "Unless you have some special skill not available in Panama."

We ought to be looking after our own people, to my way of thinking. Maybe that is old hat. Maybe that is old fashioned. Maybe we need to look after the whole world ahead of our own people, but I cannot bring myself to feel that way about it.

I hope the managers of the treaty will accept this amendment. I do not see why it would offend Panamanians. They already have 80 percent of the employees. This amendment says nothing about future employees. This would let them continue to have the policy of not hiring Americans in the future. But, Madam President, it just seems a little strange to me that an American commission, which is set up under this treaty, would be mandated under this treaty not to hire Americans. Is that reasonable? That is what the treaty says. I am not making it up.

Let us see what it says in article X, section 3, paragraph (a), reading from the wording of the treaty:

The United States of America shall establish an employment policy for the Panama Canal Commission—

That is the successor of the Panama Canal Company.

that shall generally limit—

And I use that word—

the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

Here is a U.S. commission at the employment office posting a sign, "Americans need not apply, unless you have a special skill not available in Panama."

What kind of policy is that for us to be accepting? Think of everybody, respect everybody's wishes, everybody's feelings, but the American taxpayer, the American citizen, the American who wants to see the canal defended in the best manner possible. Do not consider their wishes; consider the Panamanian wishes and the wishes of the Panamanian dictator and the dictatorial regime in Panama.

That is part of the trend in this country, Madam President. That is why I hate to see these treaties agreed to by the Senate. There is a trend underway in this country to give away our very substance, to retire from the obligations and responsibilities of being a great world power, to retreat every time we meet resistance, and to say, "Well, sabotage, this, that, and the other, we need the treaties."

(Mr. HART assumed the chair.)

Mr. ALLEN. I believe this vote on these treaties is going to be a test of our will to survive. If we give in here, what is next? Guantanamo. I do not believe the ink will be dry for very long before Mr. Castro asks for his part of the pie. That is, the surrender of our great naval base at Guantanamo.

Mr. President, as I say, this amendment does not seek to cancel this policy saying Americans cannot be employed. Another amendment will be offered at that point. What this does say is that these 2,065 American citizens who are employed by the Panama Canal Company, and who constitute only about 20 or 25 percent of the labor force down there, may be allowed to continue their employment.

Why should we add 2,000 people to the unemployment rolls? Let them work out their useful years working for the canal. I am sure they have a lot of sentiment attached to their work.

Do we consider them? Where are the labor unions in this fight? Why do they not speak up for employees down there? I assume they are members of labor organizations. Why do they not fight for the rights of their people?

I do not know what prevents them from doing that. I should think, if they were interested in their members, they would prevail upon some of their friends in the Senate to vote for an amendment of this sort.

I hope the leadership will accept the amendment. I do not see why the leadership would discriminate against American citizens who are employed by the canal. We talk about legislating against discrimination on account of age, race, or sex. Why do we not legislate against discrimination, because people are Americans?

That is what is involved here. We are discriminating against American citizens. We are saying that the American citizens who are employed there are on the way out and 20 percent of them have to hit the gate in 5 years, and no new ones can be employed unless they have a special skill. And we talk about nondiscrimination.

This is worse than discrimination that exists just as a course of dealings or a course of conduct out in business or industry or in the professions. That is just a practice that has grown up and taken place. In discrimination out in those areas of the private sector, there are no statutes—or, if that is not correct, there are few statutes—that would discriminate against them.

Why are we writing into a treaty that has the same force and effect, if properly agreed to, as our Constitution itself? Why are we writing into this sacred document provisions discriminating against American citizens? I am going to be waiting for an answer in just a few moments, because I am going to yield the floor.

I hope that the distinguished Senator from Idaho (Mr. CHURCH) might look with favor on this amendment. He is frequently on the floor talking about not discriminating against the aged, and I certainly agree with him on that point. He does not want to discriminate on account of race, and I agree with him on that point. He does not want discrimination because of sex. Why, then, should he want discrimination because people are Americans? That is the issue of this amendment.

Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. I want it to go live.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 8 Ex.]

Abourezk	Hansen	Moynihan
Allen	Hart	Muskie
Anderson	Haskell	Nelson
Baker	Hatch	Nunn
Bartlett	Hatfield,	Packwood
Bayh	Mark O.	Pearson
Bellmon	Hatfield,	Pell
Biden	Paul G.	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd,	Helms	Riegle
Harry F., Jr.	Hodges	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Humphrey	Schmitt
Chafee	Inouye	Schweiker
Church	Jackson	Scott
Clark	Javits	Sparkman
Cranston	Johnston	Stafford
Culver	Kennedy	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stevenson
DeConcini	Long	Stone
Dole	Lugar	Talmadge
Domenici	Magnuson	Thurmond
Durkin	Mathias	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Weicker
Ford	McGovern	Williams
Garn	McIntyre	Young
Glenn	Melcher	Zorinsky
Goldwater	Metzenbaum	
Griffin	Morgan	

The PRESIDING OFFICER (Mr. ANDERSON). A quorum is present.

Mr. SCOTT. Mr. President, I rise in support of the amendment by the distinguished Senator from Alabama and other Senators.

It merely provides that all citizens of the United States who are now employees of the Panama Canal Company be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause.

It seems reasonable that this amendment be adopted. On the surface it might appear that it would not be necessary to have an amendment such as this, but when you look at article X of the proposed treaty, you find that U.S. citizens are discriminated against.

Article X is entitled:

EMPLOYMENT WITH THE PANAMA CANAL COMMISSION

It states:

In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations.

This is putting the onus upon the United States to discriminate against its own citizens, because the United States, according to the proposed treaty, shall be operating the canal for the duration of the treaty.

Then we read, down in the second paragraph:

The regulations shall establish a system of preference—

It is not saying equality. It says:

The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission.

First they say that it is the United States that is going to establish the regulations, and then that the regulations shall establish a system of preference for Panamanians.

We hear so much about equality in this country, that we have to have freedom from any bias, because of sex, because of age, because of race, because of religion and then we have something here in a treaty where a new agency would be established, administered by the U.S. Government, that would be an agency of the United States, which would provide a preference for foreign nationals.

That is what the distinguished Senator from Alabama is attempting to eliminate, so that citizens of our country can continue to be employed.

In order to understand this fully, though, I believe we have to look further into article X:

The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established; for foreign enterprises under the law of the Republic of Panama.

I do not know what the law of the Republic of Panama is with regard to foreign enterprise, but in a sense this is a U.S. agency, and apparently the language is referring to it as the same as a foreign enterprise but it says in one place we have to have a preference for Panamanians and in another place that we have to comply with Panamanian law, even though it is an agency of the United States.

Then we look further at section 3(a):

The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

In other words, if you can find Panamanians to do the work, then you cannot have U.S. citizens doing the work. You cannot go outside Panama to recruit people, and I assume that would mean you could not get people from the United States if you can find those in Panama who can do the job during the period of this treaty.

We read further, under subsection (b):

The United States of America will establish training programs for Panamanian employees.

It does not say anything about any training programs for U.S. employees of the Canal Company, but we shall have programs to train Panamanians.

Then, under subsection (c):

Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

In other words, we are going to decrease the ratio of American employees and increase the ratio of Panamanian employees.

We look further down, to section 5:

The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty.

Periodic rotation. Well, somebody who is working on the locks of a canal, someone who is working for the Panama Canal Company, as it is now called, would be rotated every 5 years.

It does continue on and say that:

It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or non-recruitable skills.

This would be something that would have to be determined by the government body made up of both Americans and Panamanians; but the idea is that someone who is working there in something that is not recognized as being irreplaceable would have to be rotated every 5 years.

It might take an individual 5 years to learn to do his job well, and then he would be rotated, whereas if he is a Panamanian he would not be covered, because it says "non-Panamanian employees." If he is an American he would be covered; so, again, this is discrimination against Americans in the treaty that we have before us.

Then we go on to the paragraph numbered 7:

Persons employed by the Panama Canal Company or Canal Zone Government—

These are the names that presently apply to the Canal Zone. It says that these people who are employed by the present governing bodies of the Canal Zone—

prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pur-

suant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States.

Here it makes no distinction between Panamanians and American citizens. When we are talking about rights, then they include the Panamanians with the Americans, but when it is on the negative side, it is only the U.S. employees who are discriminated against.

In other appropriate jobs with the Government of the United States in accordance with the United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama.

Well, again, if they are Panamanians, we find them a job locally. If it is going to be a job with the U.S. Government, where will it be? It could be at the American Embassy. They have Panamanian employees at the American Embassy. We have a number of foreign aid programs in Panama. It is said that more foreign aid is given to the Republic of Panama by the United States on a per capita basis than any other country in the world. So apparently there are U.S. Government agencies which employ Panamanian citizens. But we would have foreign aid in Panama administered by Panamanians.

It is bad enough when it is administered by U.S. citizens, but Panamanians having control over the expenditure of American foreign aid funds for the benefit of their own country just seems to me to be indefensible.

For such persons who are not United States nationals, placement efforts will be confined to the United States Government activities located within the Republic of Panama.

Then we look down further and it says:

Employee unions shall have the right to affiliate with international labor organizations.

I do not believe that is true of American Civil Service employees here in the United States. Again we should make an exception to our domestic laws.

Then under numbered paragraph 10—and I think this is the most costly, by far, of any of the other provisions—it says:

The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them: (a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

The treaty would exist from the time of its ratification until the end of the century, as a general statement, but during that period of time, for a substantial period in it, employees would be entitled to early retirement.

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

Mr. President, it is my understanding or my recollection of the law with regard to early retirement that a person who is separated from his job involuntarily, without fault of his own, if he has worked for a minimum of 25 years, can be retired on an immediate annuity, with a reduction if he is under 60 years of age based upon his age. But this is an exceptional situation. It is not granted very often here in the United States.

However, this provision of the treaty says that we are determining that early retirement shall be available to anyone who is employed by the Panama Canal Company. We will provide appropriate early optional retirement. We will determine that conditions exist which invoke applicable American laws with regard to early retirement. So people could retire with 25 years' service, regardless of their age. They could retire with 20 years of service, if they reached the age of 55. This is my understanding of the present law.

The writers of this treaty are not satisfied even with this liberal provision, so they add another section, (b), and indicate that the United States will seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided by law.

Well, for the people in the executive branch of Government, as my colleagues know, the retirement is based on the average pay that the employee receives for the highest 3 years of his Government service. It is calculated on the basis of 1.5 percent for the first 5 years of his employment, 1¾ percent for the second 5 years, and 2 percent for the remainder of the time that he is employed. But this is not satisfactory to the people who have prepared this treaty. They would seek special legislation to provide more liberal benefits to, and calculation of, retirement annuities than is currently provided by law.

Mr. President, as Members of the Senate know, I am opposed to this entire treaty. I hope we will be able to gain just a few additional votes. Thirty-two Senators voted against the Neutrality Treaty. "Neutrality" has a good ring, but this is the Panama Canal Treaty. This is the giveaway treaty. We are talking about an American property giveaway and then paying somebody to take it. It does not have the same connotation as neutrality, but I believe the American people are sick and tired of giving away our national resources.

In this instance, we are talking about a Canal Zone with a replacement value of $9.8 billion. We would pay, between the time of ratification and the time of termination, somewhat over $2 billion to Panama as an incentive for them to accept this roughly $10 billion asset of the United States. To me, the whole treaty just does not make sense, especially so when we consider that it is a vital artery of commerce, something that was envisioned since it was learned that there was an isthmus, a narrow neck, between the two continents that would save, if a canal could be constructed, a great length of time that otherwise would be consumed in going around the continent of South America.

A member of my staff indicated that even now, consideration is being given to a pipeline across Nicaragua to save on the transportation of oil. Of course, if this treaty is adopted, the United States cannot participate in matters of that kind.

Mr. President, I hope that the amendment by the distinguished Senator from Alabama will be adopted, that citizens of the United States that are employed by the present Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, until they retire voluntarily, or until they are discharged for cause.

Mr. President, I yield the floor.

Mr. CHURCH. The amendment of the Senator from Alabama addresses article I of the treaty. In fact, it really should address article X of the treaty, the article dealing with employment with the Panama Canal Commission. During the course of the past 2 hours, every part of article X has been attacked by various Senators, but not one of them has described the purpose of that article. That purpose, Mr. President, is to establish a set of employment policies which will implement an effective and orderly transfer of the operations of the Panama Canal from the purely American control of the existing Panama Canal Company to purely Panamanian control when this treaty expires at the end of the century.

The mechanism for effecting that orderly transition is the Panama Canal Commission, which will operate the canal during the interim period. The commission will be controlled by a board of directors; the United States will hold five seats on that board and the Panamanians four. Thus, control of the commission will remain in American hands during the 22 years of the life of the treaty.

The distinguished Senator from Alabama asked whether it might be possible for the Panamanian minority on the board actually to transact business if all five American board members were not present. Thus, he asked whether it was possible, under certain circumstances, for the Panamanians to outvote the Americans.

These details concerning the actual rules of procedure by which the board would operate are not properly the subject matter of the treaty. Rather, they are properly the subject matter of the enabling legislation, which Congress later will consider, and which we already have before us. Section 206 from that proposed legislation deals with the subject of a quorum for the board of directors in the following language:

Subsection (c) of Section 63 of Title 2 of the Panama Canal Code would be amended to provide that a quorum for transaction of business of the Board of Directors of the Commission shall consist of a majority of the directors, of which a majority of those present are citizens of the United States.

That answers the argument that, somehow, the Panamanian membership of the board might outnumber the Americans for purposes of transacting the business of the Commission.

Given the purpose of article X, namely, to effect an orderly transition, I think it important to understand that at the present time about 80 percent of the employees of the Panama Canal Company are Panamanians. The Panamanian employees, for the most part, occupy the lower positions, those requiring the least skills and commanding the least pay. During recent years, our own Panama Canal Co. has recognized the injustice of operating a canal which is the principal asset of Panama without giving Panamanian citizens a fairer opportunity to participate in its actual operation.

So, long before those treaties came to the Senate, we were undertaking not only to employ larger numbers of Panamanians, but also to slowly work them into the more skilled positions so that they might have fair opportunity to earn a living within their own country.

These treaties in effect continue that policy. They do so on an established timetable which contemplates that the commission itself will go out of existence at the end of the century, at which time the Panamanians should be fully prepared to assume responsibility for operating the canal.

Now, the Senator from Alabama says that article X discriminates against American citizens, that somehow we are, in effect, putting an employment sign up which says, "Americans not wanted," unless special skills, not available in Panama, are required.

I suggest, Mr. President, that just the opposite is true. How could we possibly serve the interests of Americans working for the Panama Canal Commission if we retain them in all of the positions they now occupy, in their present numbers, from now until the end of the century and then, suddenly, terminate them?

Is the way to serve their interests to put them all out of work on the last day of the treaty and then attempt to fill those positions which require a high degree of professionalism and skill with Panamanians who are unprepared to assume these responsibilities and not capable of doing the work?

The Senator's argument, if one were really to accept it, is a prescription for chaos; and, certainly, a prescription that would work against the best interests of the American employees.

Now, given this general objective, let us turn to article X and see how the provisions of that article actually carry out our national purpose.

Remember now, it is the Panama Canal Commission, an agency of the Government of the United States, which will operate the canal during the interim period and employ all of those engaged in that work.

So, section 1 of article X reads:

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

Well, I do not know what exception anyone could take to that.

It is an American agency, the U.S. Government, that shall set the terms and conditions of employment, and our only responsibility is to inform the Government of Panama what our decisions might be.

Section 2:

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

All this section says is that to effect an orderly transition, the Commission will endeavor to fill vancanies, as they occur, with Panamanians who possess the necessary skills for the positions in question.

A natural and sensible proposal. That is the purpose of the interim period.

I find it hard to understand that the same Senators who were saying just 2 or 3 weeks ago that the Panamanians were quite incapable of operating the Panama Canal should now be the ones who are objecting to the very provisions which will make their training over the next 22 years possible, and which will enable them to fill these positions one by one as they qualify for them and as vacancies occur.

The second part of the section relates to our endeavor to insure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama. It does not represent a serious burden.

As I mentioned earlier, some 80 percent of the employees today are already Panamanians. Under the laws of Panama, either 80 percent or 85 percent of the employees of foreign enterprises operating in Panama are required to be Panamanian. The exact percentage depends upon the character of the position. For one type of employees we appear to have already reached these goals. For the other type, this establishes the goal of moving from 80 percent Panamanian to 85 percent, a goal consistent with our effort to move more Panamanians into positions of responsibility and to train and equip them to manage the operation of the canal.

Part (b) of section 2 reads:

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

Who could object to that? Certainly, no one honestly concerned about the well-being of American employees, because this provision says that the positions the commission shall establish shall not be of a lesser stature or be less favorable to the employee than the positions that now exist.

In other words, there will be no downgrading of positions, and this, obviously, is intended primarily to protect the interests of both American and Panamanian employees of the present canal company.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

Well, of course. The whole purpose of the enterprise is to effect an orderly transition over the next 22 years which will enable the Panamanians to take full charge as competently trained people, when the time comes to transfer the canal to Panamanian ownership.

Therefore, in pursuit of that objective, which obviously serves the interests of the United States since we do not want chaos in Panama when the transition finally takes place, we should follow a policy of filling vacancies with qualified Panamanians whenever possible.

Part (b) of section 3 reads:

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

Notice that all these policies are premised upon positions becoming available in the years ahead. Clearly, our negotiators were always mindful of the needs of American and Panamanian employees who presently occupy positions with the Panama Canal Company. But we shall endeavor, through the commission, to train Panamanian nationals to qualify them to assume positions as vacancies occur, consistent with our objective for an orderly transition over the next 22 years.

Subsection (c) of section 3 of article X reads:

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

Here, a goal is established—to move us toward a larger employment of Panamanians during the next 5 years. But the question is, what risk does this goal represent to present employees of the Panama Canal Company?

Figures given to me, which have been obtained the last few minutes, show that there are presently 3,354 American citizens working either for the Panama Canal Company or for the Government of the Panama Canal Zone. Of this number, 31 percent—1,042—are 50 years of age or over, and 14 percent are 55 years of age or over.

It is evident that within the next 5 years, in the normal course of attrition and retirement, we can effect the goal of increasing the employment of Panamanians as set forth in subsection (c) of section 3, without menacing the job of any American citizen. Thus, this provision should not be a source of worry for anyone concerned—and I am concerned, as we all should be—for the fair treatment of American employees.

Subsection (d) reads:

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

That simply says that the two governments will exchange information concerning job openings and the qualifications of Panamanians that might fill those vacancies—all consistent with our national purpose.

Section 4:

The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

Here, again, the provision is consistent with the objective. We will recognize the licenses issued under Panamanian law, provided that those licenses are sufficient to meet the requirements of the positions. If they are not sufficient, then, of course, additional requirements may be established by the commission.

Section 5:

The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty.

Here, again, the objective is to transfer the operation of the canal, step by step, into the hands of qualified Panamanians, under the general direction of the American controlled commission. A policy of rotation is consistent with that objective. But it should be remembered that this policy applies only to new employees hired after the treaty takes effect and the rotation requirement is not imposed upon present employees of the Panama Canal Company.

Section 6 reads:

With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

That is self-explanatory. It obviously works to protect the rights of both present employees and future employees, and I should think no Senator could take exception to it.

Section 7 reads:

Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States, in accordance with United States Civil Service regulations.

I think that is an exemplary provision. It says that in the event certain positions are eliminated by virtue of the treaty taking effect, any American citizen whose job is eliminated will have priority claim upon the Government of the United States for another job; every effort will be made to take care of any American whose job might be eliminated by virtue of the implementation of the treaty.

Then the section goes on to read:

For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama.

I heard this objected to as somehow being discriminatory. But obviously it is a reasonable provision. If jobs are eliminated that are now held by Panamanian citizens, then the Government of the United States undertakes to do its best to find them another position in Panama.

It would be unreasonable to require the United States to try to find positions in our civil service in the United States for Panamanian citizens. That should be apparent to everyone.

The section continues:

Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty.

What is wrong with that? Anyone who says that he is concerned about fairness for present employees obviously would want the Government of Panama to make such a commitment.

The section continues:

Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

Again that is a provision obviously designed to take care of employees whose positions might be eliminated and to establish a commitment by the Government of Panama to do its best to find them appropriate positions.

Section 8 of article X reads:

The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

That obviously is a provision that protects the interests of our own Government and at the same time assists the Republic of Panama in assuming its new responsibilities under the treaty.

Section 9(a) of article X reads:

The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

This merely means that the present right of employees to negotiate with the Panama Canal Co. will continue to be honored by the Panama Canal Commission, another provision obviously designed to accommodate the needs of the employees.

Section 10 of article X reads:

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

Now, here, Mr. President, our negotiators have taken a long step beyond what might normally be expected to insure that no injustice is done to any American employee who does not wish to remain in Panama for the period of the treaty.

Our negotiations have taken into consideration the fact that the rules of the game are being changed. They realized there are American citizens who went to the Panama Canal Zone expecting to work for the canal company all of their

lives. They realized those Americans might have expected that the United States would retain full authority and jurisdiction over the Canal Zone during their lifetimes and that these treaties are something they might not have anticipated. So, they calculated that the needs of these employees would be accounted for by a generous retirement program, including the right to early retirement. And section 10 of article 10 provides all that, even the extent of specifically stating that if it is necessary to change the law to especially accommodate these Americans then the United States shall do so.

(Mr. MOYNIHAN assumed the chair.)

Mr. CHURCH. I have not heard any Senator object to those provisions on the grounds that there was an adverse impact on American employees. I heard the Senator from Virginia complain that this was a special benefit in excess of the ordinary retirement benefits available to other employees of the Government. He seemed to switch ground. He started out by speaking ostensibly on behalf of the employees and ended up attacking this provision.

Clearly, it is fair to make special provisions for American citizens who went to Panama, expecting no change in the status quo, so that they will not be unjustly affected by the changes brought about by the new treaty.

So, Mr. President, I think that article X has been negotiated to provide a mechanism that will enable us to turn over the operation and control of the Panama Canal to the Panamanians at the end of the century, confident that we have prepared them to do the work, confident that the canal will then be competently managed and kept open as a neutral and peaceful waterway. All of which serves the manifest interests of the United States.

It is a sensible provision of the treaty and it has been well drafted to accomplish its purposes. On the other hand, the proposed amendment would in effect seek to incorporate in the treaty a guarantee that all United States citizen employees of the existing Panama Canal Company shall continue in their positions with its successor agency, the Panama Canal Commission.

The proposed amendment is both unnecessary and unworkable. Under the treaty, subject only to the general principles set forth therein, all of which I have now described and explained, the United States will retain authority over relations with employees. Thus. the benefits and guarantees to be provided commission employees are a matter within the legislative jurisdiction of the United States. If we are going to establish any other special provisions not addressed by the treaty, the way to do it is in the enabling legislation. The way not to do it, is to tie our hands by writing them into an international agreement as an amendment of this kind.

As matters now stand the United States is in a position to provide extensive protection to its employees. and the administration will propose to do so as indicated in the draft implementing legislation which has been provided to all Members of the Senate. Indeed, the treaty itself recognizes that existing employees should be encouraged to remain in the employ of the Commission and that, to the extent that the discontinuance or transfer of certain activities of the present company would affect their present jobs, persons displaced from their present positions will be placed in other U.S. Government jobs to the maximum extent feasible. Both the treaty and draft implementing legislation provide additional benefits and protections to employees, including an optional early retirement program and job placement assistance. The Congress will, of course, have continuing jurisdiction to legislate such additional benefits as it may deem appropriate.

Not only would it be inappropriate to make job guarantees for U.S. citizens a matter of international agreement; the specific guarantees set forth in the proposed amendment are unworkable. For example, certain activities performed by the present Panama Canal Company will be transferred to the Republic of Panama at the entry into force of the treaty. The proposed amendment, however, would appear to require that these employees remain with the Commission even though the Commission would have no work for them to do. Not only is such a scheme administratively wasteful; it could result in difficulties in meeting our commitment under article X(3)(c) to reduce the number of U.S. nationals currently employed by the company who will be employed in the future by the Commission. The transfers of functions contemplated by the treaty and normal attrition would allow us to readily meet this commitment without jeopardizing the present employees whatever.

In sum, the proposed amendment is unnecessary, administratively unworkable, and contrary to U.S. interests in maintaining maximum American legislative discretion over the management of the canal and employee relations.

On that basis, Mr. President, I strongly oppose this amendment, and I propose to move to table it. But I see that the distinguished Senator from Alabama is here on the floor and if he wishes to speak again for the amendment I would oblige him and withhold the motion until such time as he has completed his remarks.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I appreciate the indulgence of the distinguished Senator from Idaho.

Mr. President, I would rather not speak under the sufferance of the distinguished Senator from Idaho and, for that reason, I will temporarily withdraw my amendment when it will not be subject to the threat of tabling, and I do withdraw my amendment and ask for recognition in my own right.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. ALLEN. Mr. President, the distinguished Senator from Idaho, of course, has the right to move to table my amendment. He was very kind and courteous to offer to allow me to speak at this time with respect to the amendment, but I do not wish to speak at the sufferance of the distinguished Senator from Idaho even though that sufferance was very graciously and courteously accorded to me. So at the appropriate time I will reoffer my amendment and discuss the article and my proposed amendment at that time.

Mr. President, the distinguished Senator from Idaho, in discussing my amendment and in discussing the provisions of article X, stated that it had been alleged, I assume by the Senator from Alabama, that the provisions of the treaty discriminate against Americans, and the distinguished Senator from Idaho said quite the contrary, it does not discriminate against Americans. So let us examine the provisions of the treaty—and, by the way, the distinguished Senator from Idaho suggested that if we are dissatisfied with the provisions of the treaty we should not seek to amend the treaty, but we ought to try to amend the legislation that will follow the treaty.

Well, of course, the Senator must realize that as against the express provisions of the treaty you could not pass legislation. So the only way we can remove this discrimination is to address amendments to the provisions of the treaty, not some implementing legislation that may or may not be enacted or that may or may not be enacted as introduced.

So if we are going to try to change this discriminatory provision we have to address amendments to the treaty. The treaty is what has the discriminatory provisions in it, not the implementing legislation. So I assume then we are going to seriously consider the mechanism for seeking to rectify this discriminatory provision.

Now, if the Senate will accept the logic of the distinguished Senator from Idaho (Mr. CHURCH) in saying that these provisions do not discriminate against Americans and, on the contrary, they are there for their benefit, well, the Senate will accept anything. Let us see what the provisions say which we are trying to remedy:

> Within 5 years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company—

And all understand, I am sure, that the Panama Canal Company now operates the canal, which is to be succeeded by the Panama Canal Commission on the entry into force of these treaties, both are supposed to be agencies of the U.S. Government, but the Commission apparently is going to be operating for the benefit of Panama and Panamanians with respect to the employment of American citizens—

> Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

How does that help American citizens? How is that other than discriminatory against American citizens? You have a certain number—I cited earlier in the day the fact that the Panama Canal Company told me that they had 2,065 U.S. citizens working for the Panama Canal Company, and the figure a moment ago quoted by the distinguished Senator from Idaho was 2,084, a difference of some 19, but he pointed out there were for the Panama Canal Zone government and the Panama Canal Company 3,354 employees in all, so this would say, this treaty provision would say, taking the 3,354 as the number, 20 percent less than that must be the number of Americans employed 5 years from now. Well, that is 670—they have got to show the gate, so to speak, to 670 U.S. citizens. Does that operate in favor of American citizens? If 670 have to go in the next 5 years, how does that protect citizens of the United States?

Is that discriminatory or nondiscriminatory? It is quite obvious that it is discrimination against U.S. employees. That is written into the treaty.

They say, "Well, if you don't like what is in the treaty, don't amend the treaty—oh, no, don't do that—amend this legislation that may or may not be enacted."

As I say, you cannot put into an act something that is inconsistent with the provisions of a treaty. A treaty operates at a higher level. That is a contract that has been agreed to between two governments. Obviously unilateral action by Congress in enacting legislation could not vary the terms of the treaty.

So if we followed the advice of the distinguished Senator from Idaho, and waited until this supposed legislation comes along to try to protect the citizens of the United States, we would certainly be closing the barn door after the horse had escaped, after writing into the treaty a provision that we have got to get rid of 670 American employees in 5 years, and then try to rectify that by sticking an amendment on to some legislation that is said to be on its way. That does not seem to be operating in favor of U.S. citizens. For 670 have to go in 5 years.

All right; the distinguished Senator from Idaho took up every single section and every single paragraph of this lengthy article X, to explain it and to show how great this was for the U.S. employees. "Oh, it is fine; it is of great benefit."

The only thing in this whole article for the benefit of the U.S. employee is that he is encouraged to leave, and the distinguished Senator from Idaho was bragging on these great provisions that are in there; if he decides to leave early, if he decides to retire voluntarily, he gets all of these benefits. But nothing is done to encourage them to stay there.

"Oh," he says, "a great number"—I think he quoted 85 percent, or some such figure, are 55 or 60 years of age, and, therefore, they are going to be gone anyway, and this mandatory figure of 20 percent leaving in 5 years is not going to hurt anybody, because they are going to leave anyway.

Then why have it in there? And why would there be anything wrong with the pending amendment, which merely says, for the protection of the U.S. citizens who work for the Panama Canal Company, that they will be able to live out their employment with the company; they will be able to continue working until retirement age? From what the distinguished Senator from Idaho says, that is really nearby for a large percentage of the employees. They can stay on in their work until retirement age, or until they voluntarily retire, or until they are discharged for cause.

If attrition is going to get them anyway, why put a requirement in here that 20 percent have to go in 5 years? Mr. President, it would seem that this would be a most innocuous amendment, to allow U.S. citizens to continue working.

"Oh," he says, "they will want to transfer somewhere else; there won't be any work for them."

Well, there is work for them now. If there is not work for them now, they ought to discharge them. But they are working there now, and this provision would not go into effect until the treaty goes into effect; so if they have got some people down there they do not need, they could move them now and they would come out from under the protection of this amendment.

I do not believe they have any excess employees there. If so, they ought to make adjustments now. But why should not American citizens working for an American company, the Panama Canal Company, and being permitted to continue to work for the Panama Canal Commission, an American commission—why should they not be allowed to continue working? Why should Panama, during this 22-year period that we are supposed to retain control of the canal, not be satisfied with 80 percent of the employees, having added to that such vacancies in employment as might be caused by normal attrition?

Because they have another paragraph in this treaty—and all of this is done for the benefit of the U.S. citizen, according to the distinguished Senator from Idaho; it does not discriminate against him, it is in his favor, they would have us believe.

Let us look at this other paragraph. Right here in the treaty, where it ought to be amended, not by some legislation down the road:

The United States of America—

That is these United States, mandated to take action against U.S. ciizens. Let us see if that is right.

The United States of America—

Says the treaty—

shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

How does that help American citizens? They cannot even get a job with the Commission if some Panamanian has equivalent skills. A U.S. citizen can be employed only if he has not a special skill—and I do not know what that would be—a special skill that is not available among Panamanians. So that would just about close the door to employment of American citizens.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Who is to decide whether a Panamanian citizen up for consideration has the necessary skills?

Mr. ALLEN. The treaty does not say. I am sure the Commission would make the first determination, but if it is not satisfactory to the Panamanians, I am sure they would protest, if they were being mistreated under the provisions of the treaty.

Mr. CURTIS. What would happen if the Panamanians presented themselves and said, "We are qualified and we want to take over all of the top managerial positions"?

Mr. ALLEN. If there was a vacancy, and if one of these positions fell within this 20 percent who have to go in 5 years, if the Panamanians had that particular skill—and we know they contend they can do anything, they can perform any job with the Commission—they would have the right over the U.S. citizen.

What I object to is we have all sorts of laws forbidding discrimination because of age, sex, nationality, religion—all sorts of laws forbidding that—and yet our negotiators write into this treaty, and the leadership and the managers of the treaty seek to uphold, these provisions which not only do not prohibit discrimination against U.S. citizens, but provide for discrimination against U.S. citizens. That is what I cannot understand.

Mr. CURTIS. If the distinguished Senator will yield further, has there been anything about the management of the Panama Canal in the past which has disqualified the United States as operator of the canal insofar as the commerce of the whole world is concerned?

Mr. ALLEN. There has been no complaint whatsoever that I have ever heard of, and I assume no complaint by the Panamanians about Panamanians having jobs, because 80 percent of the jobs in the Panama Canal Company are held by Panamanians. Only 20 percent are U.S. citizens. The treaty tries to freeze them out. It does not add any additional jobs to the number. They are frozen in at the 3,345, or 2,065, depending upon which way we look at it, and no U.S. citizens will be added even though we are supposed to have control of the canal for 22 years.

What the Senator from Alabama does not understand is why a U.S. citizen could not go there at age 50 and work until age 65, well within this 22-year period. But, no, a U.S. citizen cannot get employment by the commission in the operation of the canal unless he has some special skill which the Panamanians do not have. The Senator knows the Panamanians will say they have all skills which are necessary for the operation of the canal. Possibly they do.

Mr. CURTIS. If my friend will yield further, I would like to point out that sometimes we fail to realize just how

much the United States has invested in time, attention, and management, as well as in terms of dollars in making this international canal, this waterway which joins the Atlantic and Pacific, available to the whole world.

Just last week I was reading concerning negotiations of the Clayton-Bulwar treaty 125 years ago, in 1853, or thereabouts. At that time there was discussion about an interocean canal in Central America. The negotiations in reference to that treaty were for the purpose of settling the claims of Great Britain and the United States which would make possible further planning, negotiations, and discussions on the part of the United States.

This is so diametrically opposed and different from the idle charge of colonialism.

A colonial power, when they take over another territory, removes the valuable resources. We have not taken any resources away from Panama. We have brought forth the greatest resource that that area of the world could have by providing a canal to serve the whole world, and also which has brought the highest per capita income to the citizens of Panama of any country in Central America. I thank my distinguished friend for yielding.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for his fine comments, and commenting on the Clayton-Bulwer Treaty between the United States and Great Britain. It did provide that in the event a canal should be built, it would be open to all nations, and it would serve for the benefits of the shipping of the entire world.

That is the way the United States has operated the Panama Canal. It has been operated on a nonprofit basis. Under these treaties, the United States, supposedly, for 22 years, will operate it for the benefit of Panama, and under which Panama will receive, according to the economics minister of Panama, some $100 million per year.

The whole nature of the operation is to change.

What I am objecting to in connection with this amendment is that the terms of the treaty discriminate against the U.S. citizens who are presently working for the canal. I say canal, meaning the Panama Canal Company, to be succeeded by the Panama Canal Commission. They are being discriminated against because 20 percent of them have to go in 5 years, and there will be no additions to this number of U.S. citizens who hold jobs working for the canal unless they have some special skill not had by Panamanians. It would be hard to figure what that particular skill would be. Obviously, there are some two, three, or four positions in the entire operation.

So they are going to fix it where there can be practically no new employees who are Americans, and the employees who are there have to be reduced in number by 20 percent in 5 years. That is said to be for the benefit of the employees.

As I said, if anybody will accept that logic, they will believe anything.

Let us read this provision about the employment of Americans at the canal.

The United States of America—

And this seems to be degrading to me, Mr. President, in talking about some of the amendments we have offered being unacceptable to Panama because they would serve to degrade them, they would be an offense against their national dignity. But here is the United States, as I see it, humiliated in this treaty by mandating that it shall put into effect a policy which discriminates against American citizens in obtaining employment with the Panama Canal Commission.

Let us see if that is a fair statement in the light of the actual provision.

The United States of America shall establish an employment policy—

What is it?

for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

The United States is mandated to put in that employment policy for the Panama Canal Commission.

How does that translate out? Why, it is just like saying the United States shall require the Panama Canal Commission to put up a sign at the employment office: "Under the Panama Canal Treaty, Americans—and I say that in the sense of a citizen of the United States—"Americans need not apply for employment with the Panama Canal Commission."

An agency of the U.S. Government not going to employ American citizens—how ridiculous can you get? A commission of the U.S. Government unable to employ American citizens. I do not know what the EEOC might think about that, I say to my distinguished friend from Nebraska, but it seems to me that that is a definite discrimination, written directly into this treaty, to require an agency of the U.S. Government to apply a policy of discriminating against American citizens. There it is. Read it yourself.

We are told, we do not offer an amendment to that; that will amend the treaty. Amend this bill that is going to come forward.

As I pointed out, a bill cannot change a provision of the treaty, as we all know.

We legislate against the private sector and, I believe, according to the rules of the Senate now, even Members of the Senate are mandated not to discriminate in employment in any way. The private sector is required not to discriminate because of race; not to discriminate because of nationality; not to discriminate because of religion, age, or sex, or any other reason.

(Mr. BAYH assumed the chair.)

Mr. ALLEN. If we found the Panama Commission discriminating against Panamanians, we would not like it. But it is all right for this treaty to discriminate against American citizens.

Those employees down there are members of national unions. I do not know why they have been abandoned by their unions. I have not heard the unions speak out against this discrimination against their members down there. I do not know whether it is part of a larger policy having to do with legislation pending before the Congress. But I have not received any letters from labor organizations protesting against this discrimination against the Panama Canal employees who, I understand, are unionized.

Why is this provision here? To ease out the American employee; a U.S. commission being required to discriminate against American employees. Well, it is not much of a U.S. commission if it is mandated to discriminate against American employees.

Oh, they say, it is all for the best interests of the employee. Well, it will cut his throat. I do not see how that can be helping him a great deal. That is what it does.

An American citizen of advanced age, such as was cited by the distinguished Senator from Idaho (Mr. CHURCH), might have a son or two sons who might want to follow their father in employment by the Panama Canal Commission. He might have a sentimental interest in that type of work. But unless he has some special skill, he need not drop by the employment office. The treaty says:

Nothing doing; you are an American citizen; therefore, you cannot have employment at the Panama Canal Commission unless you have a special skill.

Is that fair to American citizens? If we are talking about the year 2000, when Panama takes over the canal, fine; yes, let them do what they wish.

Mr. CHURCH says something about, well, it is better to do it this way than to let them go on down 22 years from now and get chopped off, everybody at one time. Well, he blows hot and cold. On the one hand, he says, if we cut them all off 22 years from now, it will cause chaos. Then his other statement, so inconsistent with that, is that attrition will solve the matter, anyhow.

On the one hand, he says all of them will be there, in effect, for 22 years, and when they are all terminated, it will cause chaos; on the other hand, he is saying, let attrition handle it. It will take care of it, anyhow. Which theory of the proponents are we supposed to believe?

I do not like the idea of mandating the departure of 20 percent of the employees. If attrition is 10 percent, fine. If it is 30 percent, all right. But do not mandate the separation of 20 percent of the American employees and do not set up an employment policy that mandates a U.S. agency to discriminate against Americans. That is what the treaty does.

What about the amendment? It is simple, but it does provide a little protection for American employees now employed at the canal:

Provided, however, that all citizens of the United States who are now employees of the Panama Canal Company—

That is the agency now in existence there—

shall be permitted to continue their positions with the Panama Canal Commission—

Indefinitely? Without any limitation? No. Listen to the limitation:

until they reach retirement age.

The distinguished Senator from Idaho (Mr. CHURCH) is saying that a large per-

centage—I think he said 85 percent— are over 55. If I am not mistaken, he said they are over 60. But at least about 85 percent of them were in their middle 50's or early 60's. So this would not cause any chaos there, it would seem.

It says, "until they reach retirement age or retire voluntarily or are discharged for cause."

Discharged for cause? He says some of them are going to be transferred over to the Government; therefore, there is no need for them there. Well, that is cause, if they do not have work for them. They can be discharged. But the idea of insisting on reducing the number by 20 percent in the face of the facts that would show that attrition would gradually remove every one of the employees except very young employees by the time this treaty ends—Mr. President, it seems to me that this is an amendment that should be accepted. Without this amendment, U.S. citizens who are employees of the canal are discriminated against and U.S. citizens who are not employees of the canal but who want to be are discriminated against. So, in this day and age—they say, oh, this is a different age from when this 1903 treaty was entered into. They obviously overlooked the 1955 treaty, which more or less ratified and confirmed what was done in 1903. They prefer to talk about the 1903 treaty.

(Mr. MOYNIHAN assumed the chair.)

Mr. ALLEN. Mr. President, as I was suggesting, they say we are in a new age now, different from the situation that existed back in 1903. No longer do we have colonialism around the world, according to the proponents of the treaty. A new day has dawned.

Well, I do not believe a new day has dawned to the extent that we are going to write into a treaty sections that do not prohibit discrimination, which is very properly the order of the day now, but which have sections that provide for discrimination.

The order of the day is to pass legislation forbidding discrimination, discrimination against those who are handicapped, discrimination because of sex, age, color, nationality, religion. By departing from that trend, Mr. President, this treaty provides for discrimination against American citizens.

That is one of the things I have pointed out throughout this entire debate, that these treaties do not try to avoid offending those who want to keep the Panama Canal, those who feel that the treaties do not provide adequate defense of the canal, those who feel that the canal is unfair to the American taxpayer.

We do not mind, according to the action of the Senate earlier, offending the House of Representatives by not allowing or not conditioning the going into force of this treaty upon an act of Congress authorizing the disposition of the property of the United States in the Panama Canal Zone. We do not mind offending Americans and, apparently, we do not mind offending the employees of the Panama Canal Commission who are American citizens. But we sure do mind the possibility of offending Panama.

Mr. President, this amendment would afford some measure of protection to American citizens who are employed in the work of the canal.

Later on, when we reach article VIII, an amendment will be offered that would eliminate the section providing that no American citizen can be employed unless he has a special skill the Panamanians do not have.

I am going to try to eliminate that, as well.

But this amendment that was pending and which I withdrew for tactical reasons to keep it from being tabled a moment ago and shutting off debate, all this amendment does—and it will be reoffered after sufficient debate has been had on the amendment— is that it gives some little measure of protection to American citizens working for the canal.

I do not believe the Senate wants to deprive these American citizens of this small measure of protection. Otherwise, any employee down there, any and every one of them, will be asking himself as they fill this quota of 670 to be separated, "Am I one of them? Will I be one of the 20 percent?"

Why cause that concern to the American citizens who are working for the canal?

The distinguished Senator from Idaho (Mr. CHURCH) says, "Well, attrition is going to take care of them."

Well, if attrition is going to take care of them, why does he need this section saying that 20 percent must go? Why have that Sword of Damocles over every one of the employees, wondering whether it is going to drop on him?

That is what we provide here. The Sword of Damocles suspended by a hair, hanging over the head of every American citizen employed by the canal. "Will I be one of the 20 percent that has to go?"

No one would know whether he would be one destined to go, or not.

The amendment that we have would provide that American citizens now employed, and it is just 20 percent of the whole labor force, an American citizen now employed with the canal can continue working until the retirement age, until voluntary retirement, or until discharged for cause.

I hope the Senate will agree to this amendment or, if the motion is made to table the amendment, I hope the Senate will vote against the motion to table.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Mr. President, I want to commend the distinguished Senator from Alabama for his part in the debate on these two Panama Canal Treaties. He has not only been most faithful in his attendance at the debate, but he has been studious and thorough and he has raised many very penetrating questions.

All of this is for the good of our country. We cannot arrive at the right answer to problems by just turning our back on the facts involved.

Many people fear for our country when they know that an important treaty is underway, that when amendments are offered little attention is paid to the debate, and the overpowering forces are brought in only to table the amendment without considering it on its merits.

Mr. President, such a course is not good legislating. It is not the symbol of statesmanship.

I commend the distinguished Senator from Alabama for raising this debate to a high level, for going into the facts and the propositions and the problems so that the Senate might know as well as the American public.

Mr. President, we cannot view this proposal to give up the Panama Canal as an isolated incident.

It is not just one action in which the United States, for some reason or other, believes it is good to give up something It is not surprising that utterances are of the whole world scene. It has to be viewed in the light of our foreign policy, in the light of our defense program. We cannot shut our eyes to the trend in the United States for us to retreat in South Korea. Everybody knows that is to back off and advance the cause of communism as a result.

We cannot separate this question of running away from a world responsibility to operate the Panama Canal from the proposal not to go ahead with the neutron bomb. We cannot separate this proposal from the decision not to have the B–1 bomber. This is all part and parcel of a worldwide retreat from responsibility which would encourage the forces of evil around the world.

Mr. President, it is not surprising that the American people feel very deeply on the question of the Panama Canal. It is not surprising that utterances are made that reveal a high state of emotion about this matter. It is not surprising that some of the rhetoric might exceed that which others approve at all times. But that is the fact.

Yesterday, I received in the mail a statement written by a distinguished American. He served in Congress for a long time. He held important positions in the House of Representatives. He comes from an old and distinguished family in the United States.

The writer of this article is now 90 years old. I refer to the Honorable Hamilton Fish, whose present address is 655 Park Avenue, New York, N.Y. 10021.

Mr. President, here is a gentleman who served his country as a soldier, served in the U.S. Congress, has been an avid student of American history all through the years, of American foreign policy, of our defense program. He is now in his 90th year. I am going to read what Mr. Fish says. He says,

A vote for the canal treaty aids and abets the Soviet Union and world communism.

Then he goes on to make his case:

Pro-treaty Senators may try to slice it and cover it up temporarily to deceive and fool our country. The American people however, are far too intelligent to be misrepresented or bamboozled by partisan politics or playing chicken with the Soviet Union, the very silent member of the Communist axis. By Election Day, the American people will know that the surrender of the canal to a pro-Communist dictator in Panama, a buddy of Castro, the catspaw of the Soviet Union, is playing into the hands and arms of the top Moscow Communists who hate

the United States and seek to destroy us, by their 400 nuclear armed submarines and more powerful nuclear weapons.

If pro-treaty Senators don't know this, then they should resign and not wait to be defeated. There is one main issue involved in the surrender of the canal in this nuclear age to a pro-Communist dictator and that is the security of the United States and the lives of the American people. This is totally a non-partisan issue as it involves the existence of the United States and the lives of over 200 million Americans.

It is not a contest of liberals against conservatives, but Americans who stand for our own security against appeasers, unilateral internationalists, one-worlders, peace at any price, and pacifists. I believe in the full freedom of speech for all appeasers and supporters of the canal treaty. But I would be derelict to my own experience and knowledge, as Chairman of the First Congressional Committee, to investigate Communist principles, plans, purposes and policies, to surround and destroy the United States, to remain silent. It would amount to a form of betrayal and near treason in this nuclear age.

Sixteen years ago it was different, when we forced the Soviet Union to take back from Cuba, the big nuclear weapons the Communists had deployed against us. Then we had a 5 to 1 nuclear superiority. Now the Soviet Union has a 2 to 1 superiority in almost every category of nuclear weapons and 5 to 1 in nuclear explosive power. In addition, they have 400 nuclear armed submarines against our 150 and over twice as many navy warships.

Some pro-treaty Senator may ask—why I am, at 90 years of age, so outspoken. The answer is crystal clear—because I love America, and because I know even if some pro-treaty Senators ignore or do not realize that Lenin, the only god of the Godless Communists, whom all of them worshipped, said: "You must encircle the United States and if they do not surrender, destroy them." This is the religious, policial and foreign policy of the Soviet Union. If we surrender the canal to a pro-Communist dictator in Panama, word will be flashed directly to the totally silent partner at Moscow, of the Panama-Cuban-Soviet axis. Before the ink is dry on the treaty, orders will be issued to the top Soviet navy admiral to start sending the beginning of a nuclear armada of submarines and missile ships to fortified bases in Cuba with instructions to make them the strongest submarine fortresses in the world.

Once the encirclement is completed, we will soon become a second-class nation unable to transport our troopships to Europe or Panama. This is only part of the tragic abomination and desolation involved in the Panama treaty which I pray to God will not be ratified. With 200 Soviet submarines based in supply harbors in Cuba, and nearby islands, the Communist armada would dominate not only the Caribbean and Gulf of Mexico, but every important harbor on our Atlantic and Pacific coasts.

The responsibility of aiding and abetting Communism, rests with the pro-treaty Senators who are hiding behind President Carter's appointees on the General Staff, who knew they were politically surrounded and were wise enough to follow sound, military tactics, to retreat in order to fight another day. Every Senator should realize if President Carter had not repudiated his public campaign promise that he opposed giving away the canal, partially or completely, the General Staff would have then agreed with him.

Let the pro-treaty Senators answer the public statement of four former Chiefs of Naval Operations (the highest most obtainable in the U.S. Navy) that declared "loss of the Panama Canal . . . would contribute to the encirclement of the U.S. by hostile naval forces and threaten our ability to survive". None of these men are appointees of President Carter.

Abraham Lincoln said: "To sin by silence when you should protest makes cowards of men". The American people are not cowards and have a right and a duty to protest when their own security is involved. Let the pro-treaty Senators publicly answer the statement of the four leading retired Admirals to 95 percent of our army, navy, air force and marine officers, also to 95 percent of the Veterans of Foreign Wars and 90 percent of the American Legionnaires.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I am happy to yield for a question.

Mr. CHAFEE. I have been listening carefully to this excellent statement that the Senator has been reading from the distinguished former Congressman from New York, Congressman Fish. But I wish to point out a couple of exceptions that I might take to his statement.

He refers to the four former Chiefs of Naval Operations. But, of course, first, I point out that the just previous Chief of Naval Operations has, of course, not remained silent. He has come forward in support of these treaties. That is Admiral Zumwalt.

But I think the key point I wish to make is that it is one thing for men who do not have the responsibility, who are retired, who are gone from the day-to-day problems that have to be solved and do not have the responsibility, to make statements. But the men who have the responsibility, namely, every single member of the Joint Chiefs, the heads of the Marine Corps, Army, Navy, and Air Force plus the chairman, have all come out in support of this treaty.

I just do not think we can overlook that.

Another point I wish to raise with the distinguished Senator's comments is that he sees this as a pattern, all tied in with withdrawal from South Korea, the retreat from South Vietnam, supposedly our giving up the neutron bomb, or possibly even getting out of Guantanamo Bay, or any of those movements.

I cannot speak for the remainder of Senators who are for this treaty, but certainly I in no way feel committed that by voting for this treaty, therefore, I am going to vote for withdrawal of forces from South Korea, for doing something about Guantanamo Bay, or getting rid of the neutron bomb. Nor has the President come down yet on a position on the neutron bomb.

But I just think it is incorrect to make a statement tying all these together in a package.

True, we got out of South Vietnam, but I do not think the Senator would say we should have stayed there under the circumstances, and there was the administration that both of us supported very strongly that provided for us getting out of South Vietnam.

So I say to the public, all who are listening, that those who are in favor of this treaty are in no way for a retreat from America's responsibilities around the world. We take each case on its own.

As for the neutron bomb, let us look at it when the time comes.

But by voting for this treaty we are not going to vote to give up the neutron bomb.

I thank the Senator, and I appreciate him giving me the opportunity to ask these questions and make this statement.

Mr. CURTIS. Mr. President, I thank my distinguished friend, and I say in reply that I do not question the motives, the intentions, or the patriotism of any Senator.

I do feel that regardless of our intentions or our position on any individual item in our defense program or foreign policy we cannot escape from giving attention to the overall effect of what is proposed here in our foreign policy and that we cannot separate them as much as we would like. It is part of what is taking place.

I respect my distinguished friend in his statement about the naval officers now on duty. I think it is a fact so well known that, in terms of the courtroom, we can take judicial notice of the principle that military men on duty are under wraps, they cannot be policymakers, they are by their very training committed to accepting whatever the policy is and making the best of it.

I think that it is true to a considerable extent that after these distinguished defenders of our country retire they no longer have a feeling that they are under wraps, and they are free to speak their beliefs.

Mr. President, continuing the statement of former Congressman Fish, and I am referring to it in full because I believe it is worthy of consideration:

Abraham Lincoln said: "To sin by silence when you should protest makes cowards of men". The American people are not cowards and have a right and a duty to protest when their own security is involved. Let the pro-treaty Senators publicly answer the statement of the four leading retired Admirals to 95 percent of our army, navy, air force and marine officers, also to 95 percent of the Veterans of Foreign Wars and 90 percent of the American Legionnaires, some of whom did not fight overseas, and hold the same views. If these four distinguished American Admirals are wrong, I will surrender my World War I decorations won on the battlefields of France.

He then goes on to say:

I am a life-long Republican and proud of it; after 25 years service in the Congress, ten years as ranking minority member of the House Foreign Affairs Committee and four years as ranking Republican member of the Rules Committee, and never defeated by a Democrat.

I have no right, except as an American, to advise Democrats how to vote, but many of them must sink or swim, survive or perish, on the canal issue, along with President Carter and his vanishing influence in the Democratic Party.

But I have a very definite right to urge all Republican Senators not to follow President Carter down the slippery and treacherous path from which there is no return, to aid and abet our Communist enemies in encircling and destroying our country and our people. If the canal treaty is ratified, God forbid, it will light such a flame of bitterness and anger, that it will not be extinguished until numerous Republican and Democratic pro-treaty Senators will be defeated by their own constituents who have been led astray by double talk and double

worded campaign oratory. They naturally are opposed to playing chicken with our Communist enemies who seek to liquidate the American people by encircling us if the Panama treaty is ratified.

The neutrality vote was nothing but a gesture, useless and meaningless. The final vote on the surrender of the canal, is an abject surrender to a pro-Communist dictator and his Communist allies. By Election Day, the American people will know the whole truth, and also what happens in Panama if the treaty is ratified.

I have just returned from a month's trip to Arizona and California where I only met one person who was for the canal treaties and she came from New York. But the Republicans in New York are 80 percent against the canal treaties and half of them are madder than aroused hornets and will not vote for any Republican protreaty Senators, appeasing or aiding our Communist enemies in spite of the big banks and some of the media. The Republican voters are already sharpening their political axes as they are naturally interested in their own security and survival.

I go on to quote Mr. Fish's words:

The political guillotine will fall of both Republican and Democratic pro-treaty Senators, who follow Carter into opening the way for our avowed enemies to encircle and liquidate the American people. All Americans have a right to protest for the right to survive and I gladly join with Democrats, Republicans, Liberals and Conservatives, in behalf of their rights to security against encirclement of themselves, the United States, our freedoms and human rights, against Communist dictatorships everywhere.

Pro-treaty Senators have written me that there are only 600 Communists in Panama. True or false, it makes no difference. Six hundred armed Communists seized the Kerensky Government in Russia in 1917. But these Senators fail to tell their constituents, that there are 300 Communist Cubans and 200 Communists from Russia, mostly KGB secret service spies, in Panama today.

If the treaty is ratified, God forbid, again and again, they will be replaced by thousands of Communists, including hundreds of army, navy, air force officers and engineers, from the Soviet Union and Cuba. Again, if I am wrong, I will regretfully give away my Croix deGuerre and Silver Star, won on the battlefields of France, fighting for freedom and democracy, just the opposite to the pro-Communist dictatorship in Panama. I hope that every Senator will read this final warning of the hornet's nest they are creating in their own states at the insistence of President Carter, with his 36 percent rating in the last Harris poll. Carter's popularity is still ebbing like the American dollar and his credibility for the ruinous inflation, the decline of the stockmarket and the loss of public confidence, does not make him a knight in shining political armor, to cause misguided Republican Senators to follow him down into the dismal swamp of dispair and defeat.

The only possible reason might be that they would be committing political suicide to help drive a few more nails into President Carter's political coffin if the treaty is ratified, which will obviously help elect Republicans throughout the nation.

I am not a prophet or the son of a prophet but even the Biblical prophets warned the existing government of its ruinous policies and used very strong words in their denunciation. It does not take much courage or strong guts, to tell the truth in trying to safeguard the nation and its survival.

The statement of President Carter to coerce Israel in order to provide a PLO homeland west of the Jordan River, within sight of Jerusalem, is like placing a Communist rattlesnake in your own backyard. That is precisely what President Carter is trying to do in Panama. This final warning to all patriotic Senators will be given extensive circulation in every state where there is an election of a pro-treaty Senator, no matter the cost. The American people are entitled to know the truth. If there is any unfounded statements, they will be omitted. The real issue is the truth and our own security and the survival of the American people.

That is the end of the statement of the Honorable Hamilton Fish, former Congressman, soldier and patriot, now 90 years of age.

(Mr. LEAHY assumed the chair.)

Mr. CURTIS. Mr. President, perhaps there are some who justifiably feel that the words I have just read of former Congressman Fish are a bit strong, that they are more critical than they ought to be. They may be correct.

The point is it is a viewpoint that is worthy of consideration. If honorable American people believe that our country is in danger by reason of this step proposed in reference to the Panama Canal, thank heavens we live in a country where they can speak out and say so.

I remind you of what I said at the beginning of my remarks, that Panama and the proposal for us to give away the canal is not an isolated incident. It is not in a vacuum, severed and apart from the rest of all the things around the world. It has to be viewed in the light of the retreat in South Korea; it has to be viewed in the light of how we became entangled in Vietnam; it has to be viewed in the light of our overanxiousness to unilaterally disarm; it has to be viewed in the light of the administration's position to not go forward with the B-1 bomber; it has to be viewed in the light of our Government's attitude toward important weapons such as the neutron bomb.

In that light it becomes a part of our foreign policy, a part of our global policy. Is it a retreat? The answer is obvious.

I also ask the question when have liberty and freedom been served by retreat? When has the world been assured of peace through appeasement? Are we to form our policy because a handful of radicals say "Boo, there is going to be trouble if you don't surrender the Panama Canal"? Or do we have a responsibility to look at the facts, to examine the record and see whether our operation of the Panama Canal has been honorable?

I have heard no argument to the contrary.

We should also examine the facts and find out if the United States has operated the Panama Canal for the benefit of the whole world. Have we kept true to our commitment that we would operate the Panama Canal at cost so the nations of the world could carry on their commerce?

Oh, the Panama Canal was not built by America as a moneymaking proposition. That canal was not built for the purpose of controlling the commerce of the world and saying, "This country can pass, another one cannot." It was built after decades of planning to serve the commerce of the world, to permit goods to flow from the Atlantic to the Pacific, from the Pacific to the Atlantic, and in time of need for us to transport our ships and troops through the canal in order that we could defend our own country.

So many Americans point with pride at the Cuban confrontation of a few years ago and the position America took, and the backdown on the part of the Communists. One of the reasons why that was successful was because of the great number of warships that passed through the Panama Canal.

Do you think if we surrendered this canal a decade or two from now we would have the same opportunity if a controversy arose with Cuba and with Russia? The answer is obvious.

I think that this treaty ought to go back to the negotiating table. We ought to go as far as we can in meeting just demands of the Panamanians.

It is very evident that the cost of government at all levels in every place has gone very high. That no doubt is true in reference to Panama. So, as one Senator, I would welcome an opportunity without surrendering the canal, to be more generous financially with Panama.

It is also very likely that we do not need all of the land in the Panama Canal Zone for the operation of the canal. Those of us who visited down there know that the population is growing, their industry and jobs are growing. They have built many buildings, and I am sure they can use a little more land. I, for one, would welcome a chance to give back to them any land that is not needed in connection with the canal or is not likely to be needed.

But on the question of surrendering the canal—and that is the issue we face in this treaty—we are faced with a question that involves our foreign policy, our defense policy, our responsibility as a leader in the world, our responsibility to all the other nations of the world to make it possible for the commerce to move through.

We owe a responsibility to continue a sound and efficient operation of that canal.

Oh, Mr. President, if there are reasons for giving up this canal, why can we not hear them in this debate? How would the commerce of the world be improved by our giving up this canal? How would the defense of our country be enhanced by giving up the canal? How would the thrust of world communism be restrained by our giving up the canal?

If there are such reasons, why are they hidden under a bushel? Mr. President, the mere charge that not to do it is colonialism does not stand up. We have been most generous with Panama. We have made Panama the most prosperous nation in Central America. The very presence of the canal there, with the maintenance by the United States, enhances their economy a great deal.

Mr. President, Americans have never had a desire to force their way of life on other people. Americans are not guilty of trying to bring converts to the American way of life by means of the sword. On the other hand, all through the centuries, Americans have felt that we should use our moral strength to protect liberty around the world. We seek individual liberty for ourselves and for all

mankind, because all men should have it. We should forever be an exponent of liberty.

If we are to enter into a treaty with Panama concerning the canal, in the interests of liberty we ought to insist that an election be held, and that the Panamanian citizens be allowed to choose a government of their choosing, not of ours but of their choosing, to negotiate for them.

Mr. President, General Torrijos was never elected head of the Panamanian Government. He seized control with a gun. The last elected president was banished. He cannot even come forth and express his opinion about this treaty. They have not had an election in that country since 1968. Oh, where oh where is the American principle of standing for human rights?

One of the most important rights is the right to vote. That is the right by which, when we exercise it, we can obtain other rights. It is through the vote that citizens can make their wishes known. If they have the right to vote, they can expect those who hold office to act responsibly. If they do not have the right to vote, how can they hold anybody responsible? How can they change their government when they disagree with the way it is being run?

I declare unto you that there is no right to vote in Panama. If you think I am in error, cite me the time when they have held an election in the last 10 years. There is no right to vote if you do not have any elections.

Mr. President, the issue of the Panama Canal is of interest to all the people of the world. It is especially of interest to all the nations that conduct commerce. It is of special significance to all people who have the privilege of enjoying liberty.

If we want to take a step in reference to the future of the Panama Canal, why do we not insist that they hold an election in Panama and elect a government that speaks for the people?

Oh, Mr. President, it will be argued that many governments not elected have entered into treaties, and they have been binding. I am not talking about the legalities of a document; I am talking about human liberty. Either we are for it or we are not. If we are not for human liberty, we should insist that those governments with which we deal be governments chosen by the people—unless, of course, they are hostile governments, and our dealings are motivated by a different reason.

Mr. President, I have had prepared and caused to be printed an amendment. It happens to be amendment No. 63. It provides that before this treaty takes effect, neither the treaty concerning permanent neutrality or the treaty concerning operation of the Panama Canal shall enter into effect until signed by a chief of state of the Republic of Panama who is duly elected by a public election, supervised by observers dispatched by the United Nations, and involving candidates of more than one party.

Oh, I know that will be branded as nonsense. It will be branded as butting into other people's affairs. Not at all. It does not provide that they shall elect somebody acceptable to us. All it provides is that before we deal with them, the people of Panama will have to choose someone. If that be heresy, it will have to be heresy, but I believe that that is a good American principle, that elections ought to be held, that citizens ought to have the right to choose their own leaders, that they ought to have the right to hold their leaders accountable; and if we are proposing to take this step of ratifying this treaty for the benefit of Panama, let us deal with a duly elected representative government of the people of Panama.

Mr. President, the statement seems unchallenged that Panama's Torrijos has spent a lot of money, that he spends more money than he takes in, that he has accumulated a lot of debts, and that it takes 40 percent of his budget to pay the interest on his debts, that he is desperate for funds. If he does not have any funds, how is he going to pay his creditors?

I make no charge of any dishonest, unworthy, or inappropriate action of any American bank or any other American corporation operating in Panama. But I say this, that the proponents of this treaty, especially those who served on the committee in charge, should come forth with a full disclosure of the Panamanian debts to American institutions; tell us how much is owed; when it is due; what the prospects of paying are, if the treaty is not ratified, and what are the prospects of paying those debts if the treaty is ratified.

I make no charge whatever, but I say this Senate and the American people are entitled to that information. If it comes out that American financial institutions do not have a stake in the ratification of this treaty, the American people ought to know it. If the reverse is true, they ought to know it. Whatever the facts are, they could act accordingly and they could better interpret this treaty and the efforts for it.

Mr. President, I wish to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. CURTIS. Are we under controlled time?

The PRESIDING OFFICER. We are not. There are no amendments pending. The Senator from Alabama withdrew the amendment which was previously pending.

Mr. CURTIS. Is there a rule of germanness so far as debate is concerned at this hour?

The PRESIDING OFFICER. The 3 hours under the Pastore rule have expired.

Mr. CURTIS. Mr. President, I shall then proceed to very briefly discuss another subject because it is timely. I expect to use no more than 4 or 5 minutes to do so. I know I have a right to do it, but I make that explanation in the interest of orderly debate and in seeking the indulgence of my colleagues.

The PRESIDING OFFICER. The Senator is recognized.

SOCIAL SECURITY FINANCING

Mr. CURTIS. Mr. President, this morning a subcommittee of the Committee on Finance opened hearings on social security finance. I wish to present to the Senate the statement I made at the opening of those hearings. There I said:

Mr. Chairman, the Congress is facing a real test. We must now answer to the people concerning the payment of their promised Social Security benefits. This is a concern, not only of the retired, but to those who will retire.

It is well that we consider a few of the facts that we are facing. The problems in Social Security financing were created by the Congress and the Congress must face up to those problems. It is unthinkable that the government's commitment to pay these benefits should be repudiated, lessened or paid with IOU's.

With the general funds of the government operating with a huge uncontrollable deficit, any form of paying benefits out of the general fund, including a tax credit or deduction for the payment of Social Security taxes would in reality be paying the beneficiaries with IOU's. I am sure that eventually it would convert the Social Security Retirement System into a welfare program.

The high Social Security taxes that some of our people are feeling now are not the result of the action taken in the latter part of 1977. These high Social Security taxes are the result of previous actions of the Congress.

The victims of an excessive Social Security tax are the middle-class people, and particularly those earners who are in the upper brackets of the middle-class. In my opinion, this is because the Congress, instead of spreading the tax burden evenly, has chosen to soak the more fortunate. Now with the growth of our economy, plus the ravages of inflation, this so-called more fortunate group becomes a great portion of the rank and file.

One of the basic evils which has been practiced in the past, has been to raise Social Security revenues by over-extending the covered wage base. At the present time, when the Social Security taxes are levied on earnings up to $17,700 per year, only one-sixth of the Social Security taxpayers have earnings in excess of this wage base. So when we raise needed revenue by levying only on one-sixth of the taxpayers, the burden becomes heavy and ruinous. This is further compounded by the factor of the built-in features in the law which bring about automatic increases in the wage base.

Another evil that has been perpetrated in our Social Security System has been the voting of increased benefits without providing for the revenue in any manner. In 1972 the Congress voted for a 20 percent increase in benefits without providing the necessary revenue. Much of the added revenue that the Congress voted in 1977 will go to reimburse the Social Security fund for this past unsound action. In other words, our people will have to pay added taxes, not for current and future benefits, but for past debts.

In the action taken on the Social Security tax in late 1977, the Congress could have provided for the deficit in the Social Security fund by levying a tax rate increase of one-half of one-percent on the earnings of each Social Security taxpayer. This failed on a roll call vote in the Senate and the Congress, once more, increased the covered wage base.

In considering Social Security financing, we should keep in mind that the benefit formula is very properly tilted in favor of the low income. This is right and I favor it. We should also keep in mind that the provision

in our tax law for the earned income credit, likewise very properly benefits the people of low income. We should not continue to raise revenue under the pretense that we are soaking the few, by increasing the covered wage base or adding to the burden of the employers.

The Congress has provided for a commission to study all of these problems and come up with a recommendation within two years. It is my hope that what is said at these hearings will be helpful to that commission. In the meantime, we should not sacrifice soundness in our efforts to get a quick answer.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SALUTE TO DEAN JAMES E. FOY

Mr. ALLEN. Mr. President, I wish to take this opportunity to salute and pay tribute to a remarkable Alabamian, Dr. James E. Foy, of Auburn University.

Dean Foy, who served as dean of students at Auburn University for 28 years, retired on March 31, 1978. Alumni, students and friends honored him on this notable occasion with a "celebrity roast."

Raised in Eufaula, Ala., Dean Foy worked his way through high school and college by working at a number of odd jobs. He received his undergraduate degree and master's degree from the University of Alabama and holds a Ph. D. from Michigan State University.

The recipient of numerous honors and awards, Dean Foy has remained active in civic work throughout his professional career. A member of the Auburn Rotary Club from 1950 to 1977, he served as chairman of the Auburn United Fund Drive; president of the Auburn PTA and Lee County PTA; chairman of the Alabama College Committee blood program.

He has been a prime mover in the blood donation program at Auburn. On one occasion, 4,373 pints of whole blood were donated at Auburn in a 3-day period. This was the second highest one-drive donation program in the world.

Dean Foy served four terms as regional vice president of the National Association of Student Personnel Administrators. He also served as president of the Alabama Council of Student Personnel Educators during 1971–72.

As dean of student affairs at Auburn University, Dean Foy was responsible for overseeing a professional staff of 30 persons plus support personnel. His responsibilities included student government activities, the Auburn Union Building, fraternities, campus organizations, student activities, men's discipline, religious life programs, and intramural and recreation activities.

I join Dean Foy's many friends and admirers in expressing gratitude for his extraordinary contributions to Auburn University. Of all his accomplishments, none ranks higher than the positive influence Dean Foy had on the lives of literally thousands of young people.

A patriotic citizen and outstanding educator, Dean Foy leaves behind a legacy of excellence and an admirable standard for those who will follow in his footsteps.

At this time, I extend my very best wishes to Dean Foy and Mrs. Foy as he retires from an illustrious career at Auburn University. I am confident the coming years of retirement will be filled with accomplishments and prosperity for Dean Foy and his family.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

AMENDMENT NO. 91

Mr. ALLEN. At this time, Mr. President, I call up my amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. HATCH, and Mr. HELMS, proposes amendment No. 91

At the end of Article I, section 3, strike the period and insert a semicolon and insert the following: "*Provided, however,* That all citizens of the United States who are now employees of the Panama Canal Company shall be permitted to continue their positions with the Panama Canal Commission until they reach retirement age, retire voluntarily, or are discharged for cause.".

Mr. ALLEN. Mr. President, this amendment has been fully discussed. It is an amendment that will prevent discrimination against the citizens of the United States who are employees of the Panama Canal Company. I believe that the amendment is needed to knock out the provisions of the treaty that do discriminate against U.S. citizens who are employees of the Panama Canal Company in that they require, over the next 5 years, a reduction of the number of U.S. citizens working for the canal company of 20 percent. In other words, it would be some 600 employees who are U.S. citizens who must be terminated within the next 5 years.

Another section of the same article, which will be addressed later, but which is analogous to this provision of the treaty, provides that the United States of America must establish an employment policy for the Panama Canal Commission, which succeeds the Panama Canal Company, that would provide that no U.S. citizen can be employed with the Panama Canal Commission unless he has skills that are not available among Panamanians. It definitely establishes an anti-American discrimination in the treaty. At a time when we legislate against discrimination of all sorts—discrimination as to race, religion, nationality, age, sex—why is it that in the treaty, we discriminate against American employees? I think that it is certainly unwise to mandate that an American commission, which the Panama Canal Commission will be, must establish this arbitrary policy discriminating against citizens of the United States.

The amendment merely provides that any person who is now employed by the Panama Canal Company can retain his employment with the Panama Canal Commission when the transfer is made and that he can continue working for the Commission until he retires of reaching the mandatory retirement age, or if he retires voluntarily, or if he is discharged for cause. So it does prevent the arbitrary discharge or the arbitrary termination of the employment of U.S. citizens who are presently employed on the canal.

I have no further argument to make. I have argued the matter at several different times. At this time, I am ready to vote on the amendment.

Mr. CHURCH. Mr. President, I thank the Senator very much for clearing the way for a vote on this amendment. He is quite right, the matter has been discussed at length.

I would hope that the Senate would lay the amendment on the table, but before making that motion, I wish to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, under the agreement which was reached some several days ago, as a matter of fact prior to the Easter nonlegislative period, the distinguished minority leader (Mr. BAKER) and the distinguished Senator from North Carolina (Mr. HELMS) and I, were authorized under that agreement and directed to meet at 3 o'clock p.m. today to determine, if possible, an earlier date than the date of April 26, which had been included as the latest date for a final vote on the treaty in the earlier unanimous-consent agreement.

Those three Senators have met and we had a very frank discussion, a congenial one, and I am about to propound the request which emanates from that meeting and from the discussions among Senators who were proponents and who were opponents of the treaty prior to the meeting.

But before promulgating the request, I want to express my personal gratitude to Senator HELMS and to Senator LAXALT.

Senator LAXALT has been one of the leaders in opposing the treaty. He has fought a very respectable, dignified and worthy battle thus far.

I also express my appreciation to the distinguished Senator from Alabama (Mr. ALLEN) who has proven himself, as always, to be a very resourceful and able protagonist or antagonist, whatever the situation may be in which he finds himself.

I express my own personal gratitude to the distinguished minority leader who has used his good influences on his side of the aisle with both the proponents and the opponents of the treaty in an effort to reach some kind of a preliminary agreement which we would propose to the Senate for its unanimous consent, hopefully.

But before I do that, I also express appreciation to the distinguished Senator from Idaho (Mr. CHURCH) and to the

distinguished Senator from Maryland (Mr. SARBANES) for the cooperation that they have demonstrated throughout in an effort to reach an agreement that will be acceptable to the Senate and one which will expedite the action in a reasonable fashion on the treaty.

Now, here is the request which I now make on behalf of myself and the distinguished minority leader, and I believe I can state with the approval of the distinguished Senator from North Carolina, and again, I want to express my gratitude.

I ask unanimous consent that with relation to the pending business before the Senate, Executive N, Calendar No. 2, of the 95th Congress, 1st session, the so-called Panama Canal Treaty, that the Senate complete its consideration of the treaty as in Committee of the Whole no later than the close of the session on Thursday, April 13.

Mr. HELMS. No, the 18th.

Mr. BAKER. This is the Committee of the Whole.

Mr. HELMS. I see.

Mr. ROBERT C. BYRD. And that amendments made as in the Committee of the Whole shall be considered as having been concurred in by the Senate and no further amendments to the treaty, debate, or motions with respect thereto, will be in order. Provided further, that the Senate proceed to the resolution of ratification on the Panama Canal Treaty when it resumes consideration of the treaty on Friday, April 14, 1978, and that the vote on the resolution of ratification on the Panama Canal Treaty occur at the hour of 6 p.m., on Tuesday, April 18, 1978.

Provided further, that at 12 noon on Friday, April 7, 1978, the Senator from Oklahoma (Mr. BARTLETT) be recognized to call up an amendment to article 13 of the Panama Canal Treaty, and that debate on the amendment be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Idaho (Mr. CHURCH).

Provided further, That at an hour no later than the hour of 10 a.m. on April 12, the distinguished Senator from Alaska (Mr. STEVENS) be recognized to call up an amendment to article XIV of the Panama Canal Treaty, and that debate on the Stevens amendment be limited to 3 hours to be equally divided and controlled, respectively, between the Senator from Alaska (Mr. STEVENS) and the Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER (Mr. NUNN). The Senator from Tennessee.

Mr. BAKER. Mr. President, reserving the right to object and I will not object, I wish to join the majority leader in expressing my appreciation to those principally involved in working out the details of this unanimous-consent request and participating in the negotiations that led up to it.

There have been times in the course of this debate when there was speculation in the press and on the floor that the debate might extend ad infinitum and, indeed, we might be faced with a filibuster.

We have not been faced with a filibuster, and I wish to express my gratitude and appreciation to the opponents of the treaty for conducting themselves, I believe, in a highly responsible way and in seeing there was detailed and appropriate debate and discussion of these issues, but without prolonging the debate or unduly delaying the exercise of the expression of the will of the Senate.

I would especially like to express my appreciation to the distinguished Senator from Nevada (Mr. LAXALT) who has acted in many ways as one of the leaders of the opposition, who has often expressed his desire to see this matter brought to a conclusion at an appropriate time; to the distinguished Senator from Alabama (Mr. ALLEN) who has clearly shown his willingness to consider the termination of this debate in an orderly way and who, indeed, was the first to suggest the procedure, I believe, that we are now following, and I think it has worked very well at this point; the Senator from North Carolina (Mr. HELMS) who has not only been an energetic opponent of the treaties, but a responsible adversary, and to whom I wish to express my appreciation not only for his good offices in bringing us to this point at our meeting at 3 o'clock today, but in his negotiations with Senators who are in opposition to the treaty in bringing this to the point where we could propose this request.

I know the Senator from North Carolina wanted to set this time for April 20 and that he, indeed, proposed that time in a meeting, and, for a variety of reasons that I will not elaborate on here, the convenience of a number of Senators would be greatly enhanced if we moved the time from the 20th to the 18th. I simply wish to acknowledge that it was an accommodation by the Senator from North Carolina and those for whom he spoke that his initial request for April 20 was revised to permit us to propound this request for April 18.

Mr. President, I express my appreciation to the distinguished Republican whip for agreeing that we proceed in this manner, notwithstanding that we had to provide for a special arrangement for him to call up his amendment to article XIV, which he kindly agreed for us to do. Otherwise, it would not have been possible to arrive at this agreement.

In a word, it is clear that a great number of Senators have put a great amount of work and effort, in an accommodating spirit, to bring us to this point. I think it sheds great credit on the entire Senate that we are in a position where it appears that we may be able to terminate the debate on this important, emotional, and volatile matter in an orderly and appropriate way, and I do not object. I join the majority leader in his request.

Mr. ROBERT C. BYRD. Before the Senator does that, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. I inadvertently failed to mention the fact, as the distinguished minority leader has pointed out, that the distinguished Senator from North Carolina (Mr. HELMS) advanced the date of the 20th and argued for it strongly. But in light of the fact that certain Senators would be inconvenienced greatly if we did not vote on the 18th, the Senator, in his usual understanding and cooperative fashion, agreed to go along with the 18th. I am glad the minority leader mentioned that.

Mr. ALLEN. Mr. President, reserving the right to object, I thank the distinguished majority leader and the distinguished minority leader for their characteristically generous and complimentary remarks about the Senator from Alabama.

I had not been advised of the shift from the 20th to the 18th. I will not raise any point as to that, if the distinguished Senator from North Carolina has agreed to it, as I understand he has.

I would like assurance on one thing. I think this is understood, but it has not been stated explicitly. It is understood that we will remain on a one-track system—that is, remain on the Panama Canal Treaty—unless by unanimous consent some emergency matter is set ahead of it.

Mr. ROBERT C. BYRD. If this order is entered into, the Senator has my assurance.

Mr. ALLEN. I thank the Senator. That would be by unanimous consent—any shifting?

Mr. ROBERT C. BYRD. It would be.

Mr. ALLEN. I am not quite sure from the propounding of the unanimous-consent request——

Mr. ROBERT C. BYRD. Permit me to amend that: Barring an unforeseen emergency, which I know the Senator will understand. I will have to qualify it.

Mr. ALLEN. Of course, if we used up a substantial portion of this intervening time, adjustment could be made in the ultimate time for voting. Is that correct?

Mr. ROBERT C. BYRD. The Senate could enter into a new——

Mr. ALLEN. For example, if the energy package or a similar emergency measure should be set before the Senate—the farm bill, for example—if that takes up any substantial amount of time, would that have the effect of moving the final vote backward, then?

Mr. ROBERT C. BYRD. I would want to say yes to the Senator. In either of those events, either of those two items, I would hope it would be taken up only by unanimous consent, in which case it would be up to the Senator. He would retain his rights to retain as the price of that consent that the time for the vote on the treaty be delayed by as much time.

Mr. ALLEN. It would not require unanimous consent to bring up such a matter.

Mr. ROBERT C. BYRD. I understand that, but I am saying that I hope that if either of those contingencies arises, I will seek to bring it up only by unanimous consent.

Mr. ALLEN. That is certainly all the assurance I need. I appreciate the attitude of the distinguished majority leader.

I have not seen a draft of the unanimous-consent request. I understood the distinguished majority leader to say that there would be no amendments in the Committee of the Whole after the 13th.

Mr. ROBERT C. BYRD. No amend-

ments to the treaty after the close of business on the 13th.

Mr. ALLEN. No amendments to the treaty. What about the time-honored custom of allowing amendments to be presented, though not debated, after the time for the vote? Would that be protected?

Mr. ROBERT C. BYRD. That would be followed, which would mean that we might have to go beyond midnight in order to accommodate Senators who have amendments that had not been called up prior to the close of business. We would just have to delay the close of business on Thursday.

Mr. ALLEN. What would be done then between the 13th and the 18th, a 5-day period? What would occupy the Senate then?

Mr. ROBERT C. BYRD. There are only 3 days the Senate normally would be in session—Friday, Monday, and Tuesday—out of those 5 days, and we would be on the resolution of ratification.

Mr. ALLEN. There is no limitation, then, on the number of amendments that could be offered to the resolution of ratification?

Mr. ROBERT C. BYRD. No. When we reach the hour of 6 p.m. on Tuesday, the 18th, if there are amendments to the resolution that have not been called up and Senators wish to call them up, they may do so, without debate.

Mr. ALLEN. I might comment that the managers of the treaty have been extremely accommodating when we get to the item of the resolution of ratification. They have been generous about allowing amendments to this resolution but not quite so generous in allowing amendments to the treaties. It would lead one to believe that possibly not too much store is set by the value of an amendment to the resolution of ratification, though it has been used to placate and to encourage the support of some Senators, I believe. Is that correct? [Laughter.]

I thank the Senator. I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator for not requiring an answer to that $64 question.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, I wonder if I might pose a question to the distinguished majority leader.

I have read very quickly the unanimous-consent request. I do not have any reason to delay the final vote. I understand that there may be as many as 19 amendments between the time this agreement is entered into and the 13th of April, which would be a week from tomorrow. Will there be some effort to make certain that everyone who has amendments that they deem to have some merit will have some time to debate those amendments? Once we are locked into a time agreement, someone can come along and take 3 days, and the other Senators might end up with 5 minutes.

The Senator from Kansas has four or five amendments, two of which I probably will call up; but I do not want to enter into some agreement and lose 2 days or 8 days, whether it is the 20th, the 26th, or the 18th, and find myself in a clump at the end, just offering an amendment and getting a vote on it.

Mr. ROBERT C. BYRD. I can appreciate the situation the Senator addresses, and conceivably it could arise. But let me assure the Senator—and I believe I can do this, with the two managers on this side of the aisle present—that every effort will be made, if desirable, to develop a sequence for amendments, a time to vote on them, or a time to vote in relation to them. I would be eager to work with the Senator from Kansas on that, because we have been put on notice that he has several amendments, and perhaps some arrangement can be worked out which will fully protect the Senator from Kansas.

Mr. DOLE. The Senator from Kansas would be willing to enter into very reasonable time agreements, just some opportunity to discuss a couple of reservations—that will come later—but a couple of amendments I hope to call up, possibly as early as next Monday.

I know that other Senators have amendments. There may be as many as 19 amendments. If we take an hour or hour and a half, we each will have an equal opportunity to discuss the amendments.

Second, once we are locked in, we lose what proper leverage we might have in getting up and down votes on our amendments. Once we agree that we are going to vote on the 18th, the 20th, or the 26th, we cannot properly suggest that we might discuss the amendment at length, unless we are offered an up and down vote, because we have fixed a time. Would there be any disposition on the part of the managers to protect up and down votes on amendments?

Mr. ROBERT C. BYRD. Mr. President, I first point out, I say to the distinguished Senator, that the agreement itself I do not think would be a factor in the decision of the managers, and I do not pretend to speak for them—they are going to speak for themselves—as to whether to utilize tabling motions or not. And I assume that there will be some amendments which will be voted on up or down. But this agreement would not waive the rights of Senators to move to table. But may I assure the Senator again that he has been very forthright and very forthcoming in his offering of amendments. He has not attempted to unduly delay action on those amendments. He has made his case, and he has been willing to let the Senate make its decision thereon, and I respect him for that. I am sure that the managers on this side will shortly address themselves to the problem and will want to work with him in protecting his rights to call up his amendments and have adequate time to debate them.

But as to the tabling motions, I would have to say that I do not believe it would be wise on this occasion to set a precedent to the effect that there will be no motions to table in order to get an agreement because if we do that once then future agreements can hold us to the same kind of requests which would be waiving the rights of Senators, and I hope the distinguished Senator will see the reasoning behind the statement I just made.

Mr. DOLE. Then, also, I understand under the unanimous-consent agreement the distinguished Senator from Oklahoma, Senator BARTLETT, will be recognized on Friday, April 7, to offer an amendment to article XIII. Offering that amendment to that article in no way prejudices any other Senator from offering an amendment at a later time to article XIII.

Mr. ROBERT C. BYRD. No.

Mr. DOLE. Finally, with reference to a point raised by the distinguished Senator from Alabama, the conference committee has agreed on an outstanding compromise to the farm legislation which we would like to bring to the floor maybe on Monday, and as one interested party we would hope that might be taken up. We would be willing to come in early so that it would not interfere with the Panama Canal Treaty debate. But there is that at any time, if we agree to this at least, to bring up emergency-type legislation.

Mr. ROBERT C. BYRD. Yes, I would hope we could have a time limit on the conference report, and I believe the distinguished Senator again has always been very helpful and cooperative in working out time agreements on legislation that comes out of the committees.

Mr. DOLE. I think the distinguished chairman, Senator TALMADGE, suggested a total of 2 hours.

Mr. ROBERT C. BYRD. If we can work out some kind of time agreement like that and come in early enough that it would not impinge on the rights of Senators and the desires of Senators in connection with the Panama Canal Treaty and if we can get an agreement like that, then there will be no problem.

Mr. BAKER. Mr. President, will the Senator yield to me on that point just for a minute?

Mr. DOLE. Yes.

Mr. BAKER. Consistently throughout this debate I indicated I would object to any procedure that would have the effect of putting us on a two-track system. Once or twice we have taken care of matters of extraordinary importance and, of course, the farm situation is a matter of extraordinary importance. So as far as I am concerned I would not object to an arrangement that would permit or limit the time in advance of turning to the consideration of the treaty on a particular day such as on next Monday.

I would very much hope we could get a fairly short time limitation on it and the 2 hours that the Senator from Georgia (Mr. TALMADGE) suggests sounds to me like an excellent time. So if we can get 2 hours, say, at the beginning of the day on Monday, that would not breach my commitment I made to other Senators that I would not agree to turning to other matters until we had finished with the consideration of the Panama Canal Treaty.

I thank the Senator for yielding.

Mr. DOLE. Mr. President, further reserving the right to object, the distinguished majority leader——

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to say this in addition, while conference reports are privileged matters and ordinarily would not require a time agreement and could be called up at any time, we are in executive session, so a conference report could not be called up in executive session, and both the minority leader and I would, I think, feel compelled to require unanimous-consent agreement on such matter before we consented to bring it up.

Mr. DOLE. Further, with reference to the amendment to article XIII—I guess I did not ask a complete question—that again would not preclude an amendment at a later time to article XI, or article X, or article XII?

Mr. ROBERT C. BYRD. No. Once we go through the amendments in sequence at the end, whatever the time is that is set forth in this agreement, at the end any Senator may go back and offer an amendment to any article, even though the time has expired, but he could get a vote on his amendment.

Mr. DOLE. And is it possible at this time to enter into some agreement that the Senator from Kansas might be recognized on Monday to call up amendment No. 10?

Mr. ROBERT C. BYRD. There is no problem. If the Senator would like me to do that in this request we could do so.

Mr. DOLE. To article XII.

Mr. ROBERT C. BYRD. To which article?

Mr. DOLE. No. Article XII, amendment No. 10.

Mr. ROBERT C. BYRD. On Monday?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. At no later than a certain hour?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. No later than 1 p.m. Monday?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I include that request.

Mr. ALLEN. Mr. President, reserving the right to object, if the distinguished Senator from Kansas is recognized as to article X, does that mean that if we are on article III we would leapfrog the intervening articles and go to article X and not go back to the other articles until we finish the last article?

Mr. ROBERT C. BYRD. No, it would not mean that at all. It would mean just for the purposes of that one order the Senator from Kansas would be recognized at no later than that hour to offer his amendment to article X. Upon the disposition of that amendment——

Mr. ALLEN. We go back to wherever we were; is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the Senator.

Mr. DOLE. The article XII amendment?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, reserving my right to object, I am sorry, I say to the majority leader, but will he go over that one more time for us westerners who think slow?

Mr. ROBERT C. BYRD. Does the Senator mean my response to Senator ALLEN?

Mr. DECONCINI. No. The time agreement just agreed to or about to be agreed to with the Senator from Kansas.

Mr. ROBERT C. BYRD. With respect to the Senator from Kansas, he would have an amendment to article X, I believe it is, and if the order is agreed to, regardless of what article we may be on next Monday, at no later than 1 p.m. the Senator from Kansas will be recognized to call up his amendmtnt to article X.

Mr. DOLE. Not article X. Amendment No. 10.

Mr. BAKER. Amendment No. 10.

Mr. CHURCH. Amendment No. 10.

Mr. ROBERT C. BYRD. Amendment No. 10 to article XII, and there shall be a time limitation on that amendment of 2 hours to be equally divided in accordance with the usual form. Upon the disposition of that amendment, then the Senate will automatically revert to the status quo.

Mr. DECONCINI. Where does the farm bill fit into this?

Mr. ROBERT C. BYRD. The farm bill does not fit in unless there is a conference report that comes back here with an agreement on it.

Mr. DECONCINI. Prior?

Mr. ROBERT C. BYRD. Yes, an agreement on a conference report.

Mr. DECONCINI. Yes.

Mr. ROBERT C. BYRD. Eventually, I guess, there will be a place to fit it in.

Mr. DECONCINI. I thank the majority leader.

Mr. ROBERT C. BYRD. But that will require unanimous consent.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators, and I especially again pay my tribute to Senators who have helped so much in bringing about this agreement.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I now move to table the amendment of the Senator from Alabama and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to make sure now that we did include the Senator from Kansas in the order and that there be a 2-hour time limitation on his amendment No. 10 to article XII no later than 1 p.m. next Monday.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Florida (Mr. CHILES) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

The result was announced—yeas 56, nays 36, as follows:

[Rollcall Vote No. 80 Ex.]

YEAS—56

Anderson	Hatfield, Paul G.	Morgan
Baker	Hathaway	Moynihan
Bayh	Hayakawa	Muskie
Bellmon	Heinz	Nelson
Bumpers	Hodges	Packwood
Byrd, Robert C.	Hollings	Pearson
Case	Huddleston	Pell
Chafee	Humphrey	Percy
Church	Inouye	Proxmire
Clark	Jackson	Ribicoff
Cranston	Javits	Riegle
Culver	Kennedy	Sarbanes
Danforth	Leahy	Sasser
Durkin	Long	Sparkman
Eagleton	Mathias	Stafford
Glenn	Matsunaga	Stevenson
Hart	McGovern	Weicker
Haskell	McIntyre	Williams
Hatfield, Mark O.	Metzenbaum	

NAYS—36

Allen	Garn	Roth
Bartlett	Goldwater	Schmitt
Brooke	Griffin	Schweiker
Burdick	Hansen	Scott
Byrd, Harry F., Jr.	Hatch	Stevens
Cannon	Helms	Stone
Curtis	Johnston	Talmadge
DeConcini	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eastland	Melcher	Zorinsky
Ford	Nunn	
	Randolph	

NOT VOTING—8

Abourezk	Chiles	Stennis
Bentsen	Gravel	Young
Biden	Magnuson	

So the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Vermont yield?

Mr. STAFFORD. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Vermont has the floor. Will Senators please take their seats?

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Sen-

ate is still not in order. The Senate will be in order.

The Senator from Vermont.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Vermont has yielded to me with the understanding that he not lose his right to the floor.

I merely take the floor at this time to ascertain whether or not there is another amendment to be called up and voted on today, so that the Senate may have that information.

I see no indication that there will be an amendment called up and voted on today; therefore, I take the liberty of announcing that there will be no more rollcall votes today.

COOPERATION WITH PANAMA

● Mr. PELL. Mr. President, from time to time during the debates on the proposed Panama Canal treaties, questions have arisen about the ability of Panama to operate the canal on its own and about Panama's desire to do what is necessary to keep the canal maintained and operating properly. Essentially, these concerns boil down to whether Panama really shares our judgment about the importance of the canal and whether Panama really intends or is able to cooperate fully with the United States in insuring the efficient and neutral operation of the canal.

In this connection, it may be helpful to look at some past examples of United States-Panamanian cooperation. While several specific cases could be cited, I would like to highlight one particular example that offers considerable encouragement regarding the future of the canal. The example I have in mind is the Gorgas Memorial Laboratory located at Balboa Heights in the Canal Zone.

I recently communicated with the present director of the laboratory, Dr. Abram S. Benenson, and I would like to share with my colleagues the following pertinent extract from Dr. Benenson's letter to me dated March 14, 1978:

The President of the Republic of Panama suggested in 1921 the establishment of a "Gorgas Institute" to commemorate Maj. General William Crawford Gorgas, the man who made it possible to build the canal without the tragic loss of human lives experienced by the French and who then served as Surgeon-General, U.S. Army, throughout World War I. Accordingly the Gorgas Memorial Institute of Tropical and Preventive Medicine was incorporated in the U.S. and, with offices in Washington, D.C., has provided to this date the policy and financial supervision over the activities of the Institute in Panama.

A functional laboratory in Panama was made possible by passage of H.R. 8128 by First Session, Seventieth Congress, which authorized a permanent appropriation of funds for the maintenance and operation "of a laboratory to be known as the Gorgas Memorial Laboratory." This bill was approved by President Coolidge on May 7, 1928. In April 1929, the Gorgas Memorial Laboratory began its operation in Panama City on land and in a building which had been donated by the Panamanian Government for this purpose. We now enter our 50th year of continuous research on tropical diseases carried out by American and Panamanian personnel, and have achieved the reputation of being one of the strongest research laboratories in Latin America.

For the first 20 years of its operation, the scientific personnel were American, supported by Panamanian technicians. With time, Panamanian scientists began to develop, some from our own technical personnel, some of whom were aided by the laboratory to obtain professional qualifications in the United States. Since 1947, Panamanian scientists have worked side by side with those from the United States. Today the laboratory has a professional staff of 27 of whom 10 are Panamanian nationals; of the nine research departments, four are headed by Panamanian scientists. Our administrative and supporting staff, totaling 106, are Panamanian; we function under Panamanian laws and the Panamanian Labor Code, save for special legislation exempting this laboratory and the non-Panamanian scientists from import duties and exempting the laboratory from those requirements of the Labor Code which involve union activity.

Since 1929 there have been five directors of the laboratory. My predecessor as director is a Panamanian who received his training in the United States during the 1940's, joined the laboratory and developed into one of the outstanding arbovirus experts of the world. His expertise was recognized by his selection in 1977 for the Richard Moreland Taylor Award in Arbovirology, the first non-US citizen and the first who did his work outside of the United States to receive this high honor.

I do think that the record of this organization shows that US and Panamanian personnel dedicated to a common goal will strive as partners toward that end, regardless whether the directorship is held by a Panamanian or a US national. Success is dependent on mutual respect and understanding of the differences in customs and traditions.

After having served as director for the past 10 months, I find myself increasingly enthusiastic over what this US-Panamanian group will accomplish. We have expanded our staff this past year, and are seeking additional funds to more fully exploit the opportunities. We have every reason to expect continued and increasing Panamanian participation over the next 50 years.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Does the Senator from Vermont have some morning business he wishes to transact?

Mr. STAFFORD. The Senator from Vermont does have business, including the introduction of a bill.

Mr. ROBERT C. BYRD. With the permission of the Senator, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 1 hour, with statements therein limited to 10 minutes?

Mr. STAFFORD. That is agreeable to me.

Mr. ROBERT C. BYRD. With statements therein limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1761—SPECIAL EDUCATION OF GIFTED AND TALENTED CHILDREN

Mr. STAFFORD. Mr. President, I am today submitting an amendment which would provide for a modest but significant expansion of Federal support in the special education of gifted and talented children. I take this action with the full knowledge that other very worthy proposals have been and will be offered; but I believe that this bill must be introduced if we are to examine fully the major options in this area before final legislative determinations are made.

The appropriateness of a responsible Federal involvement is well established. The basic Federal study of the education of perhaps our greatest resource, our gifted and talented children, occurred with publication of the "Marland Report" in 1972 (after former U.S. Commissioner of Education Sidney Marland). That report asserted that the most conservative estimate of the proportion of gifted and talented children within our Nation's school-age population is around 3 percent. It is clear that these childrens' needs are being neglected. A 1977 survey conducted for the U.S. Office of Gifted and Talented indicated that, of 32 States reporting, only two, California and North Carolina, serve a number of gifted and talented children equaling at least 3 percent of their school-age population. Thirty States reported appropriating a total of $56.23 million toward the special education of gifted and talented children in school year 1976–77. Yet eight States accounted for over 90 percent of this total appropriation. Clearly it is appropriate to promote a Federal catalytic function in this area.

It is not necessary for me to elaborate the case for a Federal program. That case was eloquently and thoroughly laid before us by my distinguished colleague and friend, perhaps the best friend as well that gifted and talented children have had in either House in recent years, Senator JACOB JAVITS. Let me applaud the Senator for the expansion of the Federal role which he proposes in his own bill. I agree with his basic purpose.

What distinguishes the bill I am introducing is that it would acknowledge and reinforce existing professional and administrative interaction between the special education of gifted and talented children and the special education of handicapped children. The advantages of doing so are:

Historically, special educators and administrators have perceived themselves as belonging to a profession committed to the education of all exceptional children, handicapped, and gifted.

Already 26 of the States take the combined (exceptional child) direction in their statutory and/or administrative approaches.

Such an approach avoids both the duplication of many existing delivery systems and the impossible task of creating wholly new delivery systems nationwide.

The U.S. Office for Gifted and Talented already is housed within and is under the jurisdiction of the U.S. Bureau for Education of the Handicapped.

There is substantial support throughout the Nation for maintaining and reinforcing in this session of the Congress the "combined systems" or "exceptional child" administrative approach.

The following national organizations have endorsed an expansion of the

Federal role which would reinforce the linking of special education delivery systems across the spectrum of exceptionality. This list includes both groups which are primarily advocates for the handicapped and those which are primarily advocates for the gifted.

American Coalition for Citizens with Disabilities.
Council of State Directors of Programs for the Gifted.
United Cerebral Palsy.
Mensa.
American Association for Gifted Children.
American Foundation for the Blind.
The Council for Exceptional Children.
National Association of State Directors of Special Education.
National Association of State Boards of Education.
National Association for Gifted Children.
American Association for the Advancement of Science.
Gallaudet College.
The Association for the Gifted.

State-level organizations favoring this approach include:

Michigan Association for the Gifted.
North Carolina Association for the Gifted.
California Association for the Gifted.
Iowa Association for the Gifted.
Minnesota Association for the Gifted.
Northeast Exchange for the Gifted and Talented (NJ, VT, RI, CT, NH).
Central Indiana Association for Gifted and Talented.
Missouri Association for the Gifted and Talented.
Minnesota Council for the Gifted and Talented.
Utah Parent Association for the Gifted and Talented.
Michigan Association for the Academically Talented.
Connecticut State Board of Education.
Idaho State Department of Education.
California State Department of Education.
Iowa State Department of Public Instruction.

The bill I am introducing is timely, because the Committee on Human Resources is now working on the reauthorization of the Elementary and Secondary Education Act. The committee's deliberations include the future of educational programs for the gifted and talented.

It is important that the future of those programs be as successful as possible. The bill I am introducing clearly indicates to the Commissioner of Education the need for further strengthening of and attention to the gifted and talented component within the Bureau of Education for the Handicapped. It provides for expanded Federal support, with funding authorization independent from that provided for handicapped programs.

It should be recalled that the first special education component within the U.S. Office of Education was the section on exceptional children and youth, established in 1931. The basic strength of this bill is that it builds upon this historic action and keeps all special education programs together administratively. This bill would maintain and expand the successful existing delivery systems.

This bill is in the form of an amendment to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1761

At the appropriate place in the bill insert:

SEC. . (a) The Education of the Handicapped Act is amended by adding at the end thereof the following new part:

Part H.—"SPECIAL PROGRAMS FOR GIFTED AND TALENTED CHILDREN"

"GRANTS TO STATE AND LOCAL EDUCATION AGENCIES"

"SEC. 671 (a). The Commissioner is authorized to make grants to state educational agencies in order to assist them in the planning, development, operation, and improvement of programs designed to meet the special educational needs of gifted and talented children and youth at the preschool, elementary and secondary school levels.

"(b) The Commissioner is authorized to make grants to local educational agencies and Indian tribes for the improvement of special educational programs for gifted and talented children. In making such grants the Commissioner shall give special consideration to applications which propose innovative and creative approaches to meeting the special educational needs of gifted and talented children and those which emphasize the identification and special education of economically disadvantaged, handicapped, American Indian and bilingual gifted and talented children.

"(c) No less than 25 percentum of the grants under (b) shall be made to local educational agencies which meet the eligibility criteria of section 103(a)(2) of [Title I] of the Elementary and Secondary Education Act of 1965.

"GRANTS FOR PERSONNEL DEVELOPMENT

"SEC. 672. (a) The Commissioner is authorized to make grants to state education agencies and institutions of higher education and other appropriate institutions or agencies to assist them (1) in providing preservice and inservice training of professional personnel to conduct training of teachers and other specialists in fields related to the education of gifted and talented children and youth; (2) in providing preservice and inservice training for personnel engaged or preparing to engage in employment as teachers of gifted and talented children and youth, as supervisors of such teachers, or other special personnel providing special services for the education of such children and youth.

"(b) The Commissioner is authorized, where appropriate, to combine a grant to an approved recipient under this section with a grant to an approved recipient under part D of this Act.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 673. (a) The Commissioner is authorized to make grants to State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related puposes and to conduct research, surveys or demonstrations, relating to education of gifted and talented children and youth, including the development and conduct of model programs designed to meet the special educational needs of such children and youth.

"(b) The Commissioner is authorized to make grants or contracts to public or private agencies, organizations, or institutions which together or singly shall constitute a clearinghouse to disseminate information about programs, services, resources, research, methodology, and media and materials for the special education of gifted and talented children and youth.

(c) The Commissioner is authorized, where appropriate, to combine a grant to an approved recipient under this section with a grant to an approved recipient under parts C and E of this Act.

"DEFINITION

"SEC. 674. For the purposes of this part, "gifted and talented" means children and, where applicable, youth, who are identified at the preschool, elementary or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability or in performing and visual arts, who by reason thereof, require special education services.

"AUTHORIZATION

"SEC. 675. For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for the fiscal year 1979, $35,000,000 for the fiscal year 1980, $45,000,000 for the fiscal year 1981, and $55,000,000 for the fiscal year 1982."

(b)(1) Section 402(b)(3)(B) of the Education Amendments of 1974 is repealed.

(2) Section 404 of the Education Amendments of 1974 is repealed.

S. 2838—FEDERAL JUDICIAL DISTRICTS IN ILLINOIS

Mr. PERCY. Mr. President, I am today introducing with my colleague, Senator STEVENSON, legislation to realine the Federal judicial districts in Illinois.

Illinois currently has three judicial districts: One covering the northern quarter of the State and two covering the eastern and western sections of the rest of the State. These latter two, the eastern district and the misnamed southern district, run counter to the natural east-west flow of commerce in Illinois and cause significant transportation difficulties for many attorneys, clients, and witnesses. In addition, some residents of the western division of the northern district have felt that they do not receive adequate Federal judicial service.

Because many Illinoisans were of the opinion that these problems arising from the alinement of our Federal judicial districts should be corrected, in 1975 I requested that a committee be organized to study the existing system and make recommendations for improvement. John R. Mackay, former president of the Illinois State Bar Association, agreed to chair the committee that was subsequently formed.

The Committee to Study Federal Judicial Districts in Illinois held public hearings in Rockford, East St. Louis, Chicago, Peoria, and Champaign-Urbana. The committee heard testimony from the 44 witnesses and amassed hundreds of pages of exhibits.

The committee presented its recommendations in April 1976. I forwarded copies of these recommendations to all Illinois Federal judges, U.S. attorneys, Federal marshals, and members of the Illinois congressional delegation, as well as other affected individuals. The legislation we are introducing today reflects the work of the committee and the comments of these other experts.

The major impact of this legislation is

to realine the existing eastern and southern districts into a central and a southern district with their common boundary running east to west. This will greatly reduce the cost and inconvenience now faced by many Illinoisans using the Federal court system, and it will bring together in each district areas and individuals with a more common identity and community of interest.

The bill also places the county of Kankakee within the northern district, rather than within the new central district. This will provide Kankakee residents with more convenient access to the Federal courts.

The only issue on which the members of the Committee to Study Federal Judicial Districts did not agree was how to resolve the isolation felt by some residents of the western division of the northern district. A majority of the committee believed that this area would best be served by the creation of a new district encompassing the existing western division and other contingent counties. However, several members of the committee as well as others who commented on the committee's recommendations opposed such a change.

Upon consideration, Senator STEVENSON and I have concluded that the needs of residents of the western division can be served through less drastic and more easily facilitated means. Specifically, in light of the growing caseload in the northern district and inclusion of three additional judgeships for this district in the omnibus judgeship bill passed by the House of Representatives, we anticipate that a judge could be appointed to the western division on a full time basis. Such an appointment is the perogative of the chief judge; however, I want to point out that it would resolve a longstanding concern.

It should be clearly understood that this proposal contemplates the addition of the new Illinois Federal district judgeships contained in the omnibus judgeship bill now pending before a House-Senate conference committee. We waited to introduce this legislation until it was clear that Illinoiis would have a sufficient number of judgeships to make the new district alinement workable.

Both the House and Senate versions of the omnibus bill provide for an additional judgeship for what is now the eastern district of Illinois. The Senate bill provides two additional judgeships for the northern district and the House bill, which was adopted when more recent data on caseloads was available, provides three. These new judgeships will make it possible for this proposed realinement to be effectuated.

As soon as the omnibus judgeship bill is enacted into law, we will introduce an amendment to the legislation we are proposing today. The amendment will provide for the assignment of the additional judgeship slated for the eastern district under the omnibus bill to the new central district. This will result in the assignment of three judges to the new central district and two judges to the new southern district.

Mr. President, in conclusion I want to once again express my very deep appreciation to the members of the Committee to Study Federal Judicial Districts in Illinois, the Illinois State Bar Association, and the many others who took time from their busy schedules to assist in this effort through their counsel and advice. I ask unanimous consent that a list of the members of the committee and those giving them administrative assistance be printed in the RECORD following Senator STEVENSON'S remarks, as well as the text of the bill.

Mr. STEVENSON. Mr. President, I am pleased to join with my colleague from Illinois, Senator PERCY, in introducing this legislation to revise the Federal judicial districts in the State of Illinois.

The present structure of districts in the State has remained unchanged since 1905. The character and development of the State have changed, however, and efficient utilization and administration of the Federal court system requires realinement of those outmoded boundaries.

The principal thrust of this legislation is to replace the existing eastern and southern districts with new central and southern districts which more accurately reflect the makeup of the State. The present configuration of the eastern district is illogical and awkward. Parts of the eastern district are located south of the southern district. Areas with no present or historical community of interest, such as Cario in the southernmost part of the State and Kankakee, more than 300 miles to the north, are linked together for purposes of the Federal courts; some participants in court proceedings thus must drive hundreds of miles to attend.

Further, the development of urban centers in the State has made the existing boundaries incongruous. For example, the current structure places the countries of Madison and St. Clair in separate districts, although both are essentially part of the East St. Louis metropolitan area. Service to central areas of the State, such as Danville and Champaign-Urbana, will undoubtedly be improved by the creation of a new, compact central district.

Finally, the new district lines realistically take into account the east-to-west flow of commerce in the State, across which the existing Federal districts cut.

The proposal embodied in this legislation arose out of the work of the ad hoc committee to study Federal judicial districts in Illinois, organized at the request of Senator PERCY. The committee's report, made public in April 1976, was the result of extensive hearings held around the State and incorporates the views of concerned jurists, bar associations, court officials, members of the bar, and citizens. The members of the committee, who served without compensation, deserve the gratitude of the people of Illinois for the service they have performed.

One of the findings of the committee was that the citizens of the western division of the northern district have not been receiving adequate service from the Federal courts. The present structure of the northern district, under which a judge sits only periodically in the western division, has resulted in substantial expense, delay, and inconvenience for those served by the court. Indeed, there is evidence that many parties otherwise entitled to the advantages a Federal court offers have been, out of practical necessity, forced to use the State courts. There is some sentiment in the State to split the northern district into two districts. But the administrative difficulties and expense attendant to that proposal would outweigh its anticipated benefits, and Senator PERCY and I agree that the problem can be solved by less drastic measures.

The only alteration proposed by this legislation for the northern district is, therefore, the inclusion in its boundaries of Kankakee County, which, considering its proximity to Chicago, should improve service to the citizens there. However, one workable solution to the longstanding problem in the western division would be the appointment of a judge to sit permanently in this division. Although judicial assignments are, of course, the perogative of the chief judge, I urge the establishment of such a permanent seat, which would be the simplest and least expensive solution to a situation which has plagued the western division for decades and would insure access to the Federal courts for the citizens of northwestern Illinois. The enactment of the omnibus judgeship bill, which includes additional judgeships for the northern district, should make this a feasible option.

The realinement of Federal judicial districts and the creation of new central and southern districts proposed in this legislation will establish a more sensible, convenient, and geographically accurate division of the State and will improve the service and accessibility of the Federal court system to the people of Illinois. I urge its prompt consideration.

There being no objection, the bill and list were ordered to be printed in the RECORD, as follows:

S. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 93 of title 28, United States Code, is amended to read as follows:

"§ 93. Illinois

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern districts of Illinois.

"NORTHERN DISTRICT

"(a) The Northern District comprises two divisions.

"(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will.

Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

Court for the Western Division shall be held at Freeport and Rockford.

"CENTRAL DISTRICT

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, Macon, Macoupin, Marshall, Ma-

son, McDonough, McLean, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Woodford, and Warren.

Court for the Central District shall be held at Peoria, Springfield, Danville, Rock Island, and Quincy.

"SOUTHERN DISTRICT

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

Court for the Southern District shall be held at Alton, East Saint Louis, and Benton, and Cairo."

SEC. 2. Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:
"Northern ---------- 13
"Central ---------- 2
"Southern ---------- 2".

COMMITTEE TO STUDY FEDERAL JUDICIAL DISTRICTS IN ILLINOIS

John R. Mackay, Chairman, Wheaton; Arthur T. Lennon, Vice-Chairman, Joliet; William F. Costigan, Bloomington; John M. Ferguson, Belleville; Sandor Korein, East St. Louis; Robert S. Hill, Benton; Durward J. Long, East Moline; Robert D. McKnelly, Kankakee; Bradner C. Riggs, Rockford; Raymond L. Terrell, Springfield; Robert L. Tucker, Chicago; Elmer Michael Walsh, Jr., Chicago; and Keven M. Forde, Chicago.

ADMINISTRATIVE ASSISTANTS TO THE COMMITTEE

Howard H. Braverman, Associate Executive Director and General Counsel of the Illinois State Bar Association.

Wiley W Edmondson, Special Counsel to tho Committee.

Richard M. Guerard, Special Counsel to the Committee.

Robert E. Graighead, Illinois State Bar Association.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. What is the pending business?

The PRESIDING OFFICER. The pending business is morning business of not to exceed 1 hour.

Mr. HELMS. I will seek the floor when we return to the treaty.

TAX REFORMS AND SOCIAL SECURITY TAXES

Mr. WALLOP. Mr. President, the Senate is quickly approaching the date when it will examine the President's tax package and perhaps reconsider the ill-conceived social security financing amendments that were so hastily adopted last year. The economic programs adopted by this Congress in the months ahead will shape the character of economic recovery for the next several years. We have the choice of continuing on a path that erodes free market incentives for business, or taking a course that allows incentives to reward and stimulate the most dynamic sector of our economy. That sector is small business, whether it is the store owner in Wyoming or a trucking company in New York.

Small business has been dealt a series of devastating blows by the Federal Government over the last few years. Inflation, social security tax increases, and the mounting cascade of Government paperwork all combine to cripple small business and destroy the hope of beginning a new enterprise. One of my constituents, June Addis, of Casper, Wyo., has been kind enough to share her views with me on this problem, and I believe that my colleagues would benefit from reading this letter as we approach the subject of tax reforms and social security taxes. Mr. President, I ask unanimous consent that Mrs. Addis' letter be entered in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CASPER, WYO., *February 12, 1978.*

Hon. Senators HANSEN AND WALLOP,
Wyoming,
Washington, D.C.

DEAR SENATORS: Recently a bankruptcy judge in Cheyenne said that the reason 95% of small businesses don't make it is that they have the mistaken idea that they can make a living off the income of that particular business. The American dream is fast becoming the American disillusionment. Six years ago we went into business for ourselves, not knowing what we were getting in to; we are still in business at this moment. My observations are this; the government is continually making it harder for a working person to make a living. We have to pay my husband a salary; we have to pay double social security. Why do we not have a choice? Why don't the government employees have to pay social security? We have to pay a fortune for advice from accountants and corporate tax lawyers; they advise us to buy life insurance so that when one of us has the misfortune to die, the one left can use the insurance money to pay taxes on whatever the IRS decides to evaluate our business at; however, without my husband, there is no business; it is too complex for me. However, we are advised that his patents can be arbitrarily evaluated, etc., etc., which will leave myself and two children broke and in debt. I notice in a recent U.S. News & World Report article that even life insurance can be taxed at death.

Well, what does this mean to us? We have the tendency not to care. I know personally a family that has been on relief now to the third generation, all healthy and able to work. They want for nothing. The government will bury them too, and the home they own will not be subject to estate and inheritance taxes. I grew up loving my country, but three years ago this changed. I am a conservative Republican who believes in hard work, or used to, but now when I look at the tax scale, I see the harder we work, the more stress my husband is subjected to, and the less we get to keep, so why bother? The only thing tax reform does is raise our accounting fees.

It is really a laugh; the U.S. so worried about "human rights" when right here, the government does not exist for the good of the individual, but I must exist to "feed" the government. It is fortunate for this country that some people still have pride because if we used our common sense, we would just all go on welfare. It is my opinion that estate tax and inheritance tax are corrupt to the core—completely unjust—subject an individual to extremely cruel and unusual punishment—and take unfair advantage of every human being in this country. We have been to three different attorneys and have received three different methods of wording our documents. We have no assurance whatsoever that any of our will is correct, our corporate charter worded correctly, etc.

Please send me the proper information from the House Ways and Means Committee or whoever is responsible for this technical jargon that forces citizens into court daily. It would seem to me that I have a right to know a correct way of doing things so that our property (which is worth very little in cash, but can be evaluated at whatever the IRS chooses) can pass on with as little tax as possible. This is truly "double taxation." It seems to me that the IRS and accountants and lawyers have a little game going on between them, and what one doesn't get from the working man, the other will—they'll get it whether we are dead or alive, too. I was never afraid to die until I disdiscovered what it would mean to my family who has the misfortune to survive me. We are told we can give to each other $3,000 per year as a gift, tax free. I wish we had $300 to give to each other.

When my children grow up, I hope they get a good-paying government job with all the benefits and security they all get with it. All they can inherit from us is pain and uncertainty.

Thank you for the job you are trying to do for people of Wyoming and this country. We really appreciate it.

Sincere thanks,

JUNE ADDIS.

P.S.: Just an afterthought—something is drastically wrong with the taxing system for the small businessman, what, I don't know. There must be an assumption on the part of those writing the tax laws that people who go into business for themselves have lots of cash when really, everyone we have ever known, including ourselves, have gone into debt and are constantly staying there. If the present trend continues, new ideas will not become manufactured; they will die on the drawing board.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are four measures on the calendar which have been cleared on both sides of the aisle. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 660, 661, 663, and 664.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRUST OF RESTRICTED LANDS ON THE UMATILLA INDIAN RESERVATION

The bill (H.R. 2540) pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–718), explaining the purposes of the measure.

There being no objection the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill, H.R. 2540, is to modify Federal law with respect to interstate

descent of interests in trust or restricted lands on the Umatilla Indian Reservation in Oregon in order to reduce the amount of land going out of Indian ownership.

BACKGROUND

Federal law, in general, regulates the inheritance or devise of interests in property held in trust by the United States for an individual Indian or held by such Indian in fee subject to a restriction by the United States against alienation. Under such law, the Secretary of the Interior is required, except as may otherwise be provided by Federal law or regulation, to apply the laws of the State in which such property is located.

Prior to 1969, the law of descent and distribution in Oregon provided that real property within the State would descend in equal shares to the children of the deceased, subject to the right of dower in a surviving spouse which consisted of only a life estate in one-half of all land the deceased owned at death. Thus, until 1969, the Secretary, in accordance with Oregon law, awarded dower rights to widows, and estates by courtesy to widowers, of Umatilla Indians who died intestate, possessed of interests in trust or restricted lands.

In 1969, Oregon State law was amended to provide that a surviving spouse would receive one-half of the net estate, including real property, of a person dying intestate. The application of this new law by the Secretary to the estate of Umatilla Indians dying intestate has resulted in trust lands passing out of Indian ownership in those cases where the decedent has left a non-Indian or non-tribal member as surviving spouse, who takes in fee the descendant's interest in the trust or restricted lands. In addition, the Umatilla Tribe is also very concerned that application of this new law will lead to increased checkerboard land ownership and fractionated heirship lands.

H.R. 2540 seeks to reduce the amount of land going out of Indian ownership on the Umatilla Reservation and to prevent the further checkerboarding of lands on the reservation.

H.R. 2540 provides that, notwithstanding Oregon State law, interests in trusts or restricted land of the estate of a Umatilla Indian, dying intestate, shall descend to the decedent's children and to the issue of any deceased child by right of representation. If no children survive the decedent, the interests would descend to other lineal descendants, again applying the rule of representation.

The bill also provides that the surviving spouse of a deceased Umatilla shall have a right to a life estate of an undivided one-half interest in the trust or restricted lands of the decedent. Should the deceased leave an approved will, making provision for the surviving spouse, the spouse would be entitled either to take the life estate or to take under the provisions of the will, but not both.

EXTENSION OF BENEFITS AND SERVICES TO THE PASCUA YAQUI INDIANS OF ARIZONA

The Senate proceeded to consider the bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, beginning with line 6, strike "such association in accordance with its constitution and by laws approved by the Secretary of the Interior" and insert "the Pascua Yaqui Tribe in accordance with section (e) of this Act";

On page 2, beginning with line 4, strike through and including line 12, and insert in lieu thereof the following:

States. For purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

On page 3, line 3, after "Indians" insert "and shall be held as Indian lands are held";

On page 3, beginning with line 5, insert the following:

Consent of the United States will be given to the exercise of criminal and civil jurisdiction by the State of Arizona pursuant to sections 1321, 1322, of title 25, United States Code: *Provided*, That the United States may effect a complete or partial retrocession within two years of enactment of this Act upon request of the Pascua Yaqui Tribe in consultation with the Governor of the State of Arizona: *Provided*, That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the United States, shall be affected by publication in the Federal Register which shall specify the jurisdiction retroceded and the effective date of retrocession.

On page 3, beginning with line 17, strike through and including line 23;

On page 3, line 24, strike "(c)" and insert "(d)";

On page 4, beginning with line 1, insert the following:

(e) Within one year from the date of enactment of this Act, the Pascua Yaqui Tribe shall adopt a constitution and bylaws or other organized governing documents and membership role. The Secretary of Interior shall review such documents to insure that they comply with the provisions of this Act.

The membership of the Pascua Yaqui Tribe shall consist of—

(1) (a) All present members of the Pascua Yaqui Association who apply for membership within one year from the date of enactment of this Act, pursuant to the membership criteria and procedures provided for in the official documents of the Pascua Yaqui Indian Tribe.

(b) The direct lineal descendants of any person hereafter on the official Pascua Yaqui tribal membership role.

(2) Persons of Pascua Yaqui blood who are citizens of the United States who have demonstrated a significant relationship with the Pascua Yaqui Tribe in their application for membership as provided for in the official governing documents to be adopted by the Pascua Yaqui Tribe under authority of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Pascua Yaqui Indian people who are members of the Pascua Yaqui Association, Incorporated, an Arizona corporation, or who hereafter become members of the Pascua Yaqui Tribe in accordance with section (e) of this Act, are recognized as, and declared to be, eligible, on and after the date of the enactment of this Act, for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States, or under any statute of the United States. For purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pasqua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

(b) The provisions of the Act of June 18, 1934 (48 Stat. 484), as amended, are extended to such members described in subsection (a).

(c) The Secretary of the Interior is directed, upon request of the Pascua Yaqui Association, Incorporated, an Arizona corporation, and without monetary consideration, to accept on behalf of the United States and in trust for the members described in subsection (a), the title to the real property conveyed by the United States to such association under the Act of October 8, 1964 (78 Stat. 1196), and such trust land shall be the reservation of such Pascua Yaqui Indians and shall be held as Indian lands are held.

Consent of the United States will be given to the exercise of criminal and civil jurisdiction by the State of Arizona pursuant to sections 1321, 1322, of title 25, United States Code: *Provided*, That the United States may effect a complete or partial retrocession within two years of enactment of this Act upon request of the Pascua Yaqui Tribe in consultation with the Governor of the State of Arizona: *Provided*, That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the United States, shall be effected by publication in the Federal Register which shall specify the jurisdiction retroceded and the effective date of retrocession.

(d) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

(e) Within one year from the date of enactment of this Act, the Pascua Yaqui Tribe shall adopt a constitution and bylaws or other organized governing documents and membership role. The Secretary of Interior shall review such documents to insure that they comply with the provisions of this Act.

The membership of the Pascua Yaqui Tribe shall consist of—

(1) (a) All present members of the Pascua Yaqui Association who apply for membership within one year from the date of enactment of this Act, pursuant to the membership criteria and procedures provided for in the official documents of the Pascua Yaqui Indian Tribe.

(b) The direct lineal descendants of any person hereafter on the official Pascua Yaqui tribal membership role.

(2) Persons of Pascua Yaqui blood who are citizens of the United States who have demonstrated a significant relationship with the Pascua Yaqui Tribe in their application for membership as provided for in the official governing documents to be adopted by the Pascua Yaqui Tribe under authority of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–719), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 1633 is to extend congressional recognition to the Pascua Yaqui Tribe of Indians in Arizona. This bill also directs the Secretary of the Interior to accept on behalf of the United States, and in trust for the members of the Pascua Yaqui Tribe, approximately 202 acres which were conveyed by the United States to the Pascua Yaqui Association by act of Congress in 1964. S.

1633 also repeals section (4) of the Act of October 8, 1964, which has prevented the Pascua Yaqui Indians from being eligible for certain benefits, services, and assistance provided to Indians because of their status as Indians.

BACKGROUND

The Yaqui Indians are descendants of the ancient Toltecs who ranged from what is now the city of Durango, north to southern Colorado, and west to California. The U.S. boundary line, determined by agreement with Mexico, divided the Indian territories occupied by Pimas, Papagos, Apaches, Yaquis, and other Indians. Between 1880 and 1910, thousands of Yaquis who fled Mexico to escape the Mexican landowners and dictatorial Mexican Government were accepted by the United States and given asylum in the Arizona territory. Many of the Yaquis settled near Tucson in what came to be known as the Pascua Village.

In 1964, the Federal Government conveyed 202 acres of Federal land near Tucson to the Pascua Yaqui Association, a formal governmental organization established at the request of Congress to manage the conveyed land. (Act of October 8, 1964, Private Law 88-350, 78 Stat. 1196). The express major purpose of this Association is to administer the lands granted to it for the collective use and benefit of all its tribal members.

However, section 4 of the Federal act which provided land to the Yaquis restricted them from receiving services and benefits under other Federal Indian laws. As a result, the Yaquis have been unable to participate in economic development or educational programs, and tribal members are denied access to available medical services on nearby Indian reservation. S. 1633 would make the Yaqui Indians eligible for all services provided to other Indians through any agency, including the Bureau of Indian Affairs and the Indian Health Service.

NEED

The introduction of S. 1633 coincided with the Secretary of the Interior's publication of proposed new Federal regulations that would establish procedures for governing the determination that an Indian group is a federally recognized tribe (42 Fed. Reg. 30647 (June 16, 1977)). While the Pascua Yaqui Tribe of Indians may meet many of the proposed criteria set out at section 54.7(c)(1)-(10), the Solicitor's Office of the Interior Department has indicated in an informal opinion that the Secretary would nevertheless be barred from recognizing the Pascua Yaqui Tribe. The basis for this position is section 4 of the Federal act (78 Stat. 1196) which transferred 202 acres of land to the Pascua Yaqui Indians. As mentioned earlier, this section renders Federal statutes that apply to Indians because of their status as Indians inapplicable to the Pascua Yaquis. Therefore, even if the proposed regulations were enacted, the Pascua Yaquis would be ineligible for administrative recognition.

Federal recognition would also assist the Pascua Yaqui Tribe of Indians in the development of their land in order to create a secure, permanent homeland where the living conditions of its members would be improved and tribal culture would be preserved. In pursuance of this goal, the Yaquis have attempted to improve the substandard and crowded housing conditions existent on their land.

Beginning in 1973, the tribal members formed their own construction company and built their own homes at the rate of one new home a month, the most recent being financed by the Farmers Home Administration. The construction work was subject to on site inspection by Federal inspectors to insure compliance with the Federal Minimum Property Standards (Department of Housing and Urban Development), "Minimum Property Standards," 4900.1, 1973 ed., volume 1, page 1.

However, in the spring of 1976, the Pima County building inspector "red tagged" the homes under construction because of alleged violations of the county building code. Despite an opinion from the Solicitor's Office which held that Pima County had no legal authority to enforce its building codes on the Federal reserved lands occupied by the Yaquis, Pima County refused to allow them to continue construction. Enactment of S. 1633 would place the Yaquis' land in trust and would relieve Pima County from enforcing its building codes on the Yaquis' land.

LAKE HERBERT G. WEST

The Senate proceeded to consider the bill (S. 1568) to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West, Senior," which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 1, line 9, strike "Senior,";

On page 2, line 4, strike the comma and "Senior";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake located behind the Lower Monumental Lock and Dam, Washington, a part of the project authorized by the Act of March 2, 1945 (Public Law 14, Seventy-ninth Congress, first session), in accordance with the plan submitted in House Document Numbered 704, Seventy-fifth Congress, third session, shall hereafter be known as Lake Herbert G. West, and any law, regulation, document, or record of the United States in which such lake is designated or referred to as "Lower Monumental Lake" or is referred to by any other name, shall be held to refer to such lake under and by the name of "Lake Herbert G. West".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-721), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2533, as reported, is to name the lake located behind Lower Monumental lock and dam, Washington, for Herbert G. West, a distinguished citizen of Walla Walla, Wash.

GENERAL STATEMENT

Herbert G. West served as executive vice president of the Inland Empire Waterways Association, predecessor of the Pacific Northwest Waterways Association, from 1934 to 1967. During that time, he was instrumental in the planning, implementation, and public acceptance of the system of Federal dams on the Columbia and Snake Rivers, which have resulted in bringing navigation 465 miles from the mouth of the Columbia to Lewiston, Idaho. These dams have also contributed millions of kilowatts of electrical power to the region as well as irrigation and recreational opportunities.

Mr. West was a locally, regionally, and nationally known leader. He served on the boards of several national water resources organizations, was mayor of Walla Walla, Wash., and was leader in many other fields of activity before his death in 1974.

CONTRACT DREDGING

The Senate proceeded to consider the bill (H.R. 7744) to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes, which has been reported from the Committee on Environment and Public Works with amendments as follows:

On page 2, line 21, after "fleet" insert "fully";

On page 2, line 21, after "operational," insert "as determined by the Secretary,";

On page 4, line 14, strike "or replacement";

On page 5, line 1, strike "or replacement";

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-722), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

The purpose of H.R. 7744, as reported, is to clarify national policy regarding the respective roles of the Army Corps of Engineers and private industry in fulfilling the national requirements on dredging of rivers and harbors. The bill also clarifies the procedure to be utilized in preparing the Government estimate of the cost of performing work for purposes of analyzing the reasonableness of a contractor's bid.

The committee agrees that principal reliance should continue to be placed on private industry in performing required Federal navigation dredging. A healthy dredging industry is necessary to ensure the economical and timely execution of the program. In its own effort to meet this goal, the corps has already instituted an industry capability program to determine the feasibility of increased reliance upon the private dredging contractors.

This legislation assures industry that work will be available if it builds modern, technologically advanced equipment. This bill should provide the necessary incentives for private industry to undertake the expenditure of large sums of money, particularly on new hopper dredges. This commitment may not occur without this legislation.

With regard to the clarification of cost estimating procedures, the committee agrees that when no Government plant is available to perform a job, it is appropriate to use an

estimate for a "well equipped contractor," and the committee therefore has agreed to include this provision in the bill.

COST OF LEGISLATION

Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510) requires publication in this report of the committee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency. Based on information from the Corps of Engineers, enactment of this legislation is not expected to result in any increased costs to the United States.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office.

Because no cost is to result no CBO report is included.

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I understand Senator STEVENS has morning business to conduct.

ALASKA D–2 LANDS ISSUE

Mr. STEVENS. Mr. President, as I have said in the past, one of the major issues which will face Congress this year is the Alaska d–2 lands issue. This issue deals with the final disposition of substantial acreage in Alaska as potential additions to the national parks, forests, wildlife refuges, and wild and scenic rivers systems. In the next few weeks, this issue will come more and more to the attention of this body, and I will try to provide information to all Senators regarding the many issues which must be decided in order to pass d–2 legislation.

In many ways, this issue addresses the duty of Congress to consult with and satisfy the needs of States which Federal legislation will affect. The d–2 bill will directly affect only one State, and Alaska's people are keenly aware of the implications of this legislation. As this develops in the Senate. I will provide this body with the reactions and concerns of Alaskans to the proposed d–2 legislation.

Recently the Alaska State Senate passed a resolution concerning the important d–2 land issue. This resolution focuses on legislation which is currently being considered in the House of Representatives. The Senate companion to the House bill is one of the proposals before the Senate Energy Committee. Amendments to H.R. 39 have been touted as satisfying concerns that Alaskans have voiced with regard to this legislation over the past year. These amendments, however, have not satisfied Alaskan concerns and much work must be conducted by the Senate to deal with these needs prior to the passage of d–2 legislation. The Senate of the State of Alaska recognizes this and has asked that this resolution be brought to the attention of the Congress. Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLVE NO. 1

Be it resolved by the Senate:

Whereas the Alaskan Native Claims Settlement Act of 1971, Section 17(d)(2), specified that the Secretary of the Interior may withdraw up to 80 million acres of Alaska federal land for possible addition to the national park, forest, wildlife refuge, and wild and scenic river systems; and

Whereas the U.S. Congress is addressing this issue during the current session; and

Whereas a careful inventory of the mineral potential of the land that may be included in a management category, which would foreclose mineral exploration and development, must be undertaken and completed; and

Whereas access for transportation, recreation, and utilities must be guaranteed in all preservation system designations in Alaska; and

Whereas, before there is a blanket designation of large areas of Alaska as wilderness, the traditional, careful environmental and economic impact study must be made on each wilderness proposal; and

Whereas large blocks of land with identifiable agricultural potential should be included in management systems which would allow for future agricultural development; and

Whereas any valid selections made by the state or Natives under the Statehood Act or the Alaska Native Claims Settlement Act should be honored; and

Whereas state management of resident game on federally owned land in Alaska must be guaranteed, as the state is in a better position to manage this game and such management was provided for under the Statehood Act; and

Whereas cooperative federal-state procedures or institutions should be established to make future recommendations or designations on policy, planning, and management of Alaska's federal and state land; and

Whereas, while it is recognized that there is an existing need for certain land in the State of Alaska to be classified in traditional preservation system categories, the areas under consideration are too large; and

Whereas municipalities in the state support the multiple-use concept, which provides a professionally thorough and unbiased analysis of land-use potential and compatibility of uses, giving appropriate weight to economic, social and environmental factors; and

Whereas municipalities in the state oppose any legislation that would create instant land-use classifications severely restricting land and resources without consideration for other land-use potential;

Be it resolved that the Alaska State Senate formally opposes the provisions of H.R. 39 as originally submitted, the recommended changes proposed by Secretary Andrus, and the committee substitute proposed by Congressman Seiberling, which will designate vast Alaska acreage in single-purpose use systems, precluding the opportunity to further evaluate these areas to satisfy national needs or the opportunity for state selections; and be it

Further resolved that the passage of this bill without (1) a careful mineral inventory and guaranteed access provisions; (2) traditional environmental and economic impact studies; (3) provisions for future agricultural development; (4) completion of the selection process by the state and Natives; (5) state game management as guaranteed under the Statehood Act; and (6) cooperative federal-state planning and development, would be against the best interests of the citizens of the state and nation alike; and be it

Further resolved that the Alaska State Senate urges the United States Congress to adopt a version of the Alaska National Interest Lands Act which will incorporate the desires and needs of Alaskan citizens, as expressed in this resolution.

Copies of this resolution shall be sent to the Honorable Jimmy Carter, President of the United States; the Honorable Henry M. Jackson, Chairman, Senate Energy and Natural Resources Committee, and all members of that committee; Representative Morris K. Udall, Chairman, House Interior and Insular Affairs Committee, and all members of that committee; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

SUSAN ALVARADO

Mr. STEVENS. Mr. President, since I have been the assistant minority leader, I have had the advantage of having the assistance here on the floor of the Senate of the first woman to serve as an assistant to the leadership on either side. Barbara O'Reilly, of the Gannett News Service, has just written an article concerning Susan Alvarado, who I really think is doing an excellent job for all Members of the Senate. I am delighted to see that the Gannett News Service has recognized what she is doing, and the fact that she is unique in her capacity here on the floor of the Senate.

Mr. President, I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUSAN ALVARADO

WASHINGTON.—Susan Alvarado is a backstage prompter, but she prompts U.S. Senators, not actors.

She stands in the rear of the Senate chamber, looking slightly out of place among the rows of polished mahogany desks and burnished leather chairs and sofas, with their for-men-only look.

But when the buzzer sounds and the Senators start barreling through the cloakroom doors to vote, she becomes an integral part of the production.

The questions come flying at her: What are we voting on? What amendment are we on? When do you expect the next vote? How are the conservatives voting on this one? What's been said on this so far?

She talks fast, shooting out facts.

Sometimes a senator isn't at all familiar with the item up for vote. It might be an issue that had nothing to do with his committee work or constituents' interests. His vote will be based entirely on what she says.

She is one of three staff members representing the Republican leadership on the Senate floor. She briefs Republicans only, gives them the minority leadership's position on each item and sometimes, when asked, she even gives advice on how they should vote.

She is the first woman to break into these powerful ranks, in either party.

"At first it was hard for the senators to get used to the fact that I'm a woman, especially the older senators," she said between sips of coffee in the Senate dining room one day recently. "But now I'd say 15 to 25 of them trust me. . . ."

It's easy to understand why some senators initially mistook her for a page.

She's 23, about five-feet-four, has dark, glossy hair in a contemporary cut and was wearing an outfit that resembled a uniform in an all-girls' Catholic high school—wool blazer over a white blouse with open collar, wool plaid skirt in a conservative length and bright and shiny penny loafers. (She in fact was a student in an all-girls' Catholic high school only six-and-a-half years ago.)

She looks like an advertisement for clean living, definitely not in the Elizabeth Ray mold.

It doesn't take long, however, to understand why she's in the job.

She's smart, thinks fast, talks fast, moves fast, takes control. Her mind seems to be in high gear, facts instantly recalled and assimilated, observations made, insights given. She brings complicated national issues into the conversation breezily, handles them comfortably, talks about their newest developments as if she's commenting on the weather.

Alvarado was catapulted into this job last year when she was named legislative assistant to the minority whip, Sen. Ted Stevens of Alaska. She went to work with two men, one 55, the other 35, elected by the 38 Republican senators to guide and advise them on the Senate floor. They work under the direction of Stevens and the minority leader, Sen. Howard Baker of Tennessee.

Many a congressional aide aspires to this position. She landed it after working as a staff aide in Stevens' office for only two years. When he was elected minority whip last year, he selected her from his office staff and from many outside applicants.

"When I got this new job," Stevens said, "I needed someone who didn't need to be told what to do. Susan had handled military matters for me during an important time. When we got involved in that long tax reform bill during the last Congress, she handled it.

"She's just good, that's all. She knows what she's doing. Her head's screwed on straight. She's doing an excellent job."

The fact that she's a woman didn't enter into his decision-making, he said. "I've got a lot of women doing jobs that other offices don't have women doing. It's performance that counts."

Her job as one of the Republican cogs on the Senate floor begins every morning in her plush office, just off a small Capitol rotunda with sparkling chandelier. It's an historic place where the Supreme Court helds its first meetings. She speed-reads the New York Times, Wall Street Journal, Washington Post, Washington Star, the Congressional Record and a few news magazines—and forgets little.

Late in the morning she walks down the hall and around the corner to the Senate chamber, where she remains from the start of the session to the finish, absorbing information from several sources, digesting it, then producing it quickly and coherently on demand.

She schedules assistant whips (Republican freshman senators), making sure one is on the floor at all times. Under Stevens' direction, she tells them when they should object to items brought up by Democrats for consideration.

Frequently, when floor debate requires it, she runs to a telephone in the cloakroom, calls a senator at his committee meeting or other business and suggests he come to the floor.

Lunch, if there is one, consists of graham crackers and raisins gulped during a lull in the session.

By the end of the day she's suffering from an information implosion. "By the time I get home to watch the 11 o'clock news, my brain has had it up to here," she said.

Her salary is $24,000—"a long way from the $9,000 I started at."

Alvarado originally applied for a job on Capitol Hill because she was interested in Alaskan issues, a result of having lived in Anchorage during her junior high school years. It was one stop in the life of an Air Force brat who was raised in such diverse places as Madrid, Spain, Dayton, Ohio, and Alexandria, Va.

When she circulated her resume to the offices of Alaska's two senators and one congressman, she was a recent graduate of Ohio State University (with a degree in political science after only three years) and had spent a year traveling in Europe, skiing in Colorado and teaching tennis for Washington-area country clubs. (She had been one of six starters on the Big Ten champion Ohio State women's tennis team.)

She attributes her fast job advancement partly to luck and timing, but also to ability and a drive to succeed that many women don't have.

"I think the reason for my success, for wanting this situation, for handling it, is the fact that I've participated in sports all my life," she said. "A lot of women have never competed, have never known what it was like wanting that next point, wanting to win, wanting to take it all." (She's still athletic, jogs a few miles three times a week, and plays tennis with Sen. Lowell Weicker, a formidable opponent, every Saturday.)

But the current challenges command priority over anything else in her life. "My close friends say, 'I hope you don't get to 30 and wonder, where did my 20s go?' But it's the price I have to pay for doing what I'm doing," she said.

When she does get a chance to socialize on weekends, she chooses to date men who don't work on Capitol Hill. "The last thing I want to talk about is politics." There's another reason for this, too: She wants to avoid romantic liaisons on the job. "In no way do I want to tarnish my professional image. And nothing would blur this (image) faster, everything going up in smoke. You have to draw your lines."

Alvarado, who has thoughts of going into politics someday herself, said she sees Senators in a different light now than when she started this job. She thinks less highly of some and has gained respect for others. "The people the press tends to think are able may not be the same ones the staff thinks are able."

And she sees them now as individuals. "Was I intimidated? Initially, yes. We tend to Deify them. They are the select few, the highest body in Congress. I still respect them as senators, but now I see them as men as well, as personalities."

She added, "I'm not intimidated by anybody anymore at this stage of the game."

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

PREVENTING MEDICINE WITH NATIONAL HEALTH INSURANCE

Mr. HELMS. Mr. President, the proposal to nationalize American health care continues to rest upon some of the most fascinating myths and inaccuracies. This should come as no surprise, since proponents of Federal control of the practice of medicine want to convince people that socialized medicine is better than free enterprise medicine, which with all its problems still provides Americans with the finest health care system in the world.

In this month's issue of the American Spectator, William Simon, former Secretary of the Treasury, undertakes an incisive examination of the many fallacies and factual distortions used to sell nationalized health insurance. Mr. Simon's analysis provides a needed dimension of realism to the debate over the merits of national health insurance and I commend it to the attention of my colleagues.

Mr. President, I ask unanimous consent that the following article entitled "Preventing Medicine" by William E. Simon be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PREVENTING MEDICINE

Although he remains relatively calm about welfare and unusually silent on the subject of education, Mr. Carter's ebullient HEW Secretary, since the moment of his appointment, has issued an incessant stream of complaints about the system of American health care.

"We perceive health care in America today," says Joseph Califano, "as a vast, sprawling, highly expensive, and virtually noncompetitive industry. . . . a unique system of economic relationships that are commanding, and controlling, an ever larger share of our nation's resources." That is the essence of Califano's complaint. And his solution? "National Health Insurance to protect all Americans from the crushing burden of medical expenses is essential."

Perhaps the first thing to note here, in both Califano's statement of the problem and his proposed solution, is the striking lack of logic. There is little competition in the health care industry, Califano charges. Therefore, nationalize it. But this is rather like saying that the way to solve the problem of the Imperial Presidency is to establish a Monarchy. The concept of the divine right of kings would do little to democratize the White House. Nor would the socialization of the health care industry, no matter what else it accomplished, increase competitiveness. Further, to imply that Americans now burdened with medical bills would be miraculously relieved of those burdens if their bills were first recycled through Washington is not only illogical, but downright dishonest.

True, there is a cost problem. In 1976, the national health care bill came to just under $140 billion, a difficult figure to come to grips with. But the answer, surely, is not massive federal intervention. As even the President's Council on Wage and Price Stability (COWPS) admitted in 1976, after years of avoiding the issue: "It is all too apparent that right now with current reimbursement programs and the ubiquitous and often conflicting morass of regulations, the Federal government, instead of being part of the solution, is part of the problem of rising health care costs."

Nor are the analyses which occasionally issue from Califano' own bailiwick much more reassuring. Hard and fast federal figures on the subject are difficult to come by, but according to one recent HEW estimate, a comprehensive "sperm-to-worm" program, such as that being proposed by Senator Edward Kennedy, could boost the nation's health care tab to $248.3 billion by 1980. Other proposals before Congress are little better. One, favored by the American Medical Association, could raise the nation's health care bill to $243.8 billion by 1980; a plan favored by the insurance industry would increase the cost to $234.5 billion.[1]

[1] The tendency for such federal programs to grow tremendously should not be overlooked. Medicaid was supposed to cost $200 million per year when it was proposed in 1966. By 1968 the annual cost had jumped to $1.9 billion. In fiscal year 1977 Medicaid cost $10.3 billion.

Logical? According to most measures and nearly every honest estimate, a federal takeover of the health care system would push prices up very near the outer limits of our ability to pay them. Partial federal intervention is now driving prices skyward, as COWPS points out; total federal intervention would accelerate the process. When the problem is discussed as the solution, we may be right in feeling that things are just a bit out of whack.

But logic seems to play no role in the discussion. Califano and his health-care planners simply skip around the figures, never taking them seriously, even when the government itself puts them out. Occasionally, when pinned down, they will acknowledge the figures, but argue that they are inaccurate. Such estimates cannot be accurate, they say, because they do not take into account the basic cost-cutting theories now espoused by the government.

One such theory involves the practice of preventive medicine, and runs this way: If financial barriers to access are eliminated on the primary level (doctors' offices, clinics, etc.) through a comprehensive health insurance program, then minor health problems will be arrested before they develop into major problems, thereby reducing the cost of treatment.

On the face of it, this is an attractive theory. But on reflection it makes little sense, for the vast majority of our health problems are not problems that early care can prevent. How many of us, when we think back over the past year, have been to see a doctor about a problem that an earlier visit would have prevented? In general, the answer is precious few. A cracked rib, an infected eye, an infected ear, bronchitis, viral afflictions of all kinds, a sprain, a strain, a fall, a broken arm, a broken leg—these ailments and others like them form the bulk of the problems that we take to our doctors. None of them would be prevented by early visits.

There are, of course, extremely effective preventive procedures. Hypertensive medication for high blood pressure comes to mind, as do certain methods of cancer screening. But cost alone is seldom the barrier which prevents us from seeking such treatment. On the whole, the diseases involved here are of such consequence that those fearful of being afflicted would not find a relatively modest doctor's fee in any way a cause for procrastination. True, there may be people both genuinely concerned and genuinely unable to pay. But they are already covered by Medicaid or Medicare. For those not so covered, with marginal medical budgets, there are thousands of free clinics. For the rest of us, the fact that we procrastinate springs from something infinitely more complex than a physician's fee, and abolition of that fee would make the prospect of a visit to the doctor no more seductive.

Human nature presents a profound problem for the proponents of preventive medicine. We cause most of our own basic health problems by eating too much, smoking too much, and drinking too much. We refuse to exercise, we drive our cars unsafely, and some of us won't even use seatbelts. All this, say preventive medicine proponents, is the result of our "life-styles." Change those lifestyles, and there would be far fewer health problems. All of which, of course, is true. But the advocates of preventive medicine run into trouble when they attempt to explain just how free medicine would effect a significant life-style change. Indeed, it might be argued that a government which encourages us to put total responsibility for our health into its hands could end by making us even less responsible for our own health. Some day, of course, they may have us all out at lunch hour, exercising in the parking lots to the tune of loudspeakers. But until then, if Califano actually believes that a socialized system would compel us to trot obligingly into our doctor's office so that he can tell us to stop smoking so that we can then go home and do so, his view of human nature is hopelessly muddled.

Nor does his view of the basic human condition seem much clearer. The most important preventive techniques are those that detect and prevent major medical problems. But to characterize such techniques as "money saving" is surely to miss an important point—we all die anyhow, and few of us die healthy. Save us from one thing, and we will eventually suffer from and die of another. And a great deal of money will be spent on us in the process. Consider: A man found to have operable prostate cancer at 40 may be saved to enjoy the benefits of a pacemaker at 65. Or a woman whose hypertensive problems are brought under control at relatively little expense at 60 may at 70 suffer from advanced senility and be placed in a nursing home. In each case, a great deal more money will be spent on such patients than would have been spent had the preventive techniques not succeeded.

This is as it should be, for that is what American medicine is all about. But here again, in the government's characterization of such techniques as "money saving," we run into one of those great reversals of logic. Such techniques by definition must cost, rather than save, money. The only real way to save money on that man with the prostate cancer is not to treat him at all. That, of course, is something no American doctor would think of doing. But, public statements about preventive techniques as money savers aside, there are hints that the idea has occurred to high HEW officials. In public, they continue to take the approved line on preventive medicine. In private, however, they are saying things that suggest a radical redefinition of the preventive concept, one which more nearly squares with logic but violates every precept of American medicine.

Recently, for instance, a storm briefly swirled through HEW when an internal memo was leaked to the press. The memo, from Robert Derzon, director of HEW's newly created Health Care Financing Administration, suggested that Califano consider a number of ways to bring costs under control. Among Derzon's suggestions: discourage the use of sophisticated medical technology; limit the supply of doctors; slap controls on doctors' fees; encourage welfare mothers to get abortions; and persuade the states to adopt "living wills" by threatening to withhold federal funds.[2]

Abortions would be beneficial, explained Derzon, because "every unwanted birth prevented saves about $1,000 annually in welfare payments and another $100 in Medicaid funds." Too many kids, costing too much? Simple. Abort them. Too many old people? "Over one-fifth of Medicare expenditures are for people in their last year of life," Derzon observes pointedly. The solution? Living wills, an approach which encourages oldsters to acquiesce in euthanasia. Neat. Not everyone quite appreciated the simple beauty of Derzon's approach, however. As Harry Schwartz of the *New Yok Times* pointed out, "Mr. Derzon likes euthanasia. . . ." Such a predilection on the part of the high HEW official who will probably be tapped to run any system of national health insurance is something less than reassuring.

Derzon, in typical bureaucratic fashion, has since denied meaning what he said. But as Schwartz points out, "what is irrefutable is that these and related ideas have recently been actively discussed at the highest policy levels of HEW."

Closely tied to the theory of preventive medicine is the assault on what Califano and the federal planners call "runaway medical technology." Right now their argument is that what needs controlling most are costs at the upper level. Give them the power to pay the total health care bill, they say, and they will hold down those costs by refusing to pay for certain procedures and types of treatment. But do we really want that? Most of us, when someone close becomes very sick, will seek out the very best treatment money can buy. To this end we shop for private insurance policies which guarantee that we will be able to pay for it—and if we do not have such insurance, we will go deeply in debt to pay for that treatment. But now the government is talking as though it intends to save us from those urges—whether we want saving or not by denying us certain kinds of services and treatment.

What would that mean? It might mean, for instance, that a child with a brain tumor would not have access to a sophisticated brain scanner that could pinpoint the tumor's location. It might mean that the hospital nearest to the heart attack victim would not have a cardiovascular unit. With the government firmly controlling the purse strings and determined not to pay for such equipment, it would not be purchased.

Increasingly, national health insurance proponents are depicting hospitals as luxury playgrounds for medical dilettantes, and breathtaking medical technologies as expensive toys for grownup boys. (One HEW expert, at a recent meeting in Washington, referred to some of the most important technological devices of the century as "whatsydutsy machines.") Get rid of all that frivolous technological stuff, the attitude seems to be. It just drives up costs, and if we all practice preventive medicine, we won't need it anyhow. What is seldom acknowledged is that hospital improvements and medical technology aim either to preserve life or to enhance its quality. When the time comes for each of us, we would probably prefer to have had our money spent in this manner. But, again, perhaps the unstated arguments is that the single best way to save money is to prevent life from lingering.

Here, as in so many other cases, Califano has things backwards. If he and his peers truly wanted to hold down costs and enhance the quality of care, they would start at the other end and attempt to eliminate services on the primary level. As any physician will tell you, this is where health care expenditures are truly wasted. As matters now stand, doctors are plagued by a horde of patients with self-treatable or nonexistent afflictions. There is the patient with the scratchy throat, the patient concerned with excessive or inadequate body hair, the patient who sometimes gets a funny feeling in his right shoulder, the patient who simply enjoys the attention of a physician and finds his office a satisfying social center. And as third-party payments increase—and with them the illusion of free medicine—so do such patients increase proportionately.

Califano, however, is working from the other end. He intends to encourage more utilization on the primary level by providing free and unlimited access to services, while at the same time limiting access at the upper level. With unlimited access, concludes a Rand Corporation study of National Health Insurance, treatment in doctors' offices would increase by 75 percent. This increase would take place precisely where it is needed least; and what's more, it would dramatically siphon off dollars essential to our care.

In effect, the Califano approach consists of taking resources from those who genuinely need them and distributing them among those who do not. If he were to take a similar approach to education, he might end by funding postgraduate courses for cafeteria help and janitors, while denying them to all

[2] A "living will" spells out the conditions under which a person would not want to continue living—e.g., dependence on a life-support system.

students with an I.Q. over 125. Were the same approach taken to welfare, able-bodied bachelors might be encouraged to go on relief, but disabled women with dependent children would be discouraged.

National Health Insurance is simply not the most effective way to guarantee the nation's good health, nor is its method of allocating the health care dollar either wise or just. Nor is its current rationale in any way logical. Health care costs are soaring, we are told. Therefore, we must institute a system that by the most conservative estimates could add $16 billion a year to those costs. If Califano and his colleagues really believe that, then they're bananas.

But they're not, of course. At least not all of them. Most of the HEW planners are simply doing their jobs. And this is especially true of Califano. He is a hired gun, and a good one, the quintessential Washington operator, totally loyal to whoever happens to be paying his fee. He has been told to pave the way for a system of National Health Insurance, and that is what he is doing. His method is an effective one. He looks for whatever apparent weakness appear in the present system and he shoots holes in them, and it is irrelevant whether or not his charges are untruthful or exaggerated. And because he does it well, it occurs to few that his facts are frequently either distorted or simply wrong. But they are.

Take his most basic assertion—health care costs are spiraling out of sight. Califano would have us believe that the increase in these costs is outstripping the increase in the costs of all other commodities. But this is not the case. In fact, according to the Consumer Price Index (CPI), medical costs over the past decade have not risen nearly as rapidly as the costs of many other essential services. According to an analysis of the CPI by the American Medical Association, the equivalent of a dollar's worth of medical care in 1967 costs $1.85 today. In comparison, insurance and finance charges which cost a dollar in 1967 have risen today to $1.97; legal expenses have risen to $2.00; and postal fees, under government supervision, have risen to $2.22.

Many other costs have also outstripped medical costs. A dollar's worth of auto repairs in 1967 now goes for $1.90; appliance repair has risen to $2.00; plumbing services are up to $2.10; house reshingling, $2.33. Then there are the consumer products—sugar, coffee, seafood, rib roasts, bacon, ham, tuna fish, potatoes, and, of course, electricity and everything connected with energy. Even a dollar's worth of blue jeans in 1967 goes for $1.90 today.

Consider, as well, the bite the Social Security tax is taking out of consumers' paychecks. From 1967 through 1977, the maximum Social Security tax increased approximately twice as much as health care costs over the same period. And with the massive new increases enacted by Congress—the members of which, incidentally, do not have to contribute—the sky's the limit.

Nor are comparative price-rises under the present system expected to be particularly dramatic, even though, federal programs permit millions of poor Americans to enjoy virtually limitless access to health care. According to a projection by Predicasts, Inc., expenditures for education since 1957 will have risen in 1990 by a yearly average of 8.2 percent. Welfare costs will have risen 11.1 percent over the same period, and health care costs will fall in the middle at 10.9 percent.

If this forecast is at all accurate, the situation seems much less alarming than Califano would have it. But Califano is not interested in figures that undermine his case, and he chooses his statistics carefully. Thus, whenever he complains about rising costs, he goes to the Social Security Administration's compilation of health care statistics for 1975 and 1976. These are two good years, for the statistics, if taken alone, do seem to demonstrate that health care costs are *the* major problem.

But what Califano and others who single out these two years do not discuss is that the size of the figures is due not so much to costs out of control as to costs under controls—the Nixon controls, that is, which remained in effect in the health care field a year after they were lifted in most others.

Thus in 1975, the first full post-control year, medical care costs as recorded on the CPI shot from 5.7 to 12.5 percent—certainly an alarming statistic when taken in isolation. But in 1974, the year in which the rest of the economy was freed from controls, the CPI for all items jumped from 4 to 9 percent, and in 1975 it climbed to 11 percent. In 1976, the third control-free year, the CPI for all items leveled off at 7.1 percent. In the same year, the second year in which health care costs were free from controls, the medical care component of the CPI dropped from 12.5 to 10.1 percent.

Economists call this phenomenon of post-control prices rising to their natural level a "bulge." The bulge is commonly thought to subside after two years. But in the case of the CPI for all items, it was a three-year process, while the figures for 1975 and 1976 cover only the first two years of the health care component bulge. Thus, the relevant comparisons would be between 1974 and 1975, and between 1975 and 1976. When one compares the figures year for year, as Califano does, the comparison between the cost of medicine and the cost of everything else must inevitably be distorted.

In fact, if one stretches the span out a bit the results are quite different. If, for instance, one averages the medical price rise between 1973 and 1976, and then compares that increase with the rise in costs of all other items, the rate of increase is almost exactly the same. All items on the CPI during that period rose 31.1 percent. Medical costs rose 31.5 percent. That means that since 1973, health care costs have risen at a rate less than one-half of one percent higher than all other items.

It is not quite fair, of course, to confine such an analysis to the 1973–1976 period. Between 1965 and 1973, for instance, health care costs rose 9.6 percent more rapidly than other costs. But these were the years of the great gathering together of federally insured patients, and that increase is directly attributable to federal programs. In any event, it is surely as fair to compare costs between 1973 and 1976 as it is to complain only about the price rises of 1975 and 1976, without acknowledging the effects of price controls.

Califano's tendency to overstate and to use statistics selectively is especially apparent in his frequent assaults on pharmaceuticals. Among all major industries, pharmaceuticals have been most successful at keeping prices down, and in terms of real dollars we are paying considerably less for our prescription drugs now than we were a decade ago. Between 1967 and 1977, according to the Social Security Administration, prices for all goods rose approximately 44 percent. During the same period, however, the price of prescription drugs rose just a bit less than 19 percent.

That figure is especially remarkable when you consider the effect of FDA regulations on the drug industry. During the mid-1960s, it cost approximately $1.5 million to develop a new drug and win federal approval to market it. Today, that cost has risen to an estimated $15 million. Yet in 1976, when other costs were rising 5.7 percent, drug prices rose only 3.9 percent.

Nevertheless, despite the figures, the prices of drug products are under almost constant attack in Washington. Senator Kennedy has called for (but not held) hearings on drug prices. The Naderites, in their sixties, with-it fashion, talk of "drug ripoffs." And Califano, in his peculiar rococo style, talks of "patent monopoly pots of gold at the end of the research rainbow."

In each of the areas discussed here—preventive medicine, the "drug ripoff," spiraling costs—the fashionable indictments of the present health care system collide with a collection of real-world facts. But these facts are seldom aired, for the men who set the terms of the national debate simply are not interested in hearing them. These men have been appointed to bring in a system of National Health Insurance. So the existing system is by definition bad, and anything at all is fair that might help to discredit it.

Their job is not an easy one, however. For one thing, the line shifts radically from year to year. Ten years back, when the economy was booming, we were told that although National Health Insurance would be expensive, it was necessary because many Americans were receiving unequal care. Then came Medicare and Medicaid, the problems of equity and access were alleviated, and we were told that, although we were all getting it, American medical care was shoddy and incompetently practiced; that we were not getting what we paid for; and that, although National Health Insurance would be expensive, it would enable the government to exercise control over the *quality* of care.

Now, however, the line has shifted again. It isn't quality we're worried about any longer. It's cost, pure and simple. Previously the approach was to try to convince us that National Health Insurance was affordable. Now we're being told that we cannot afford not to have it.

One wishes, before Califano nationalizes our system of medicine, that he would reassure us all by pointing to just one instance in which government intrusion into the private sector has resulted in a less expensive product—or for that matter, a product of higher quality. To my knowledge, that has never happened, and it would be highly unlikely to happen in the complex field of health care.

But perhaps we needn't worry. The first target date for National Health Insurance was late 1977. Then it was moved up to mid-1978. Now Califano is talking about early 1979. In the meantime, as the projected NHI cost estimates continue to soar, the American people, already afflicted by inflation and threatened by a huge new Social Security tax bite, may decide they simply do not want to foot the bill for a nationalized system of medicine. Besides, as most Americans who think about it have come to understand, we already *have* a comprehensive national health care system, created by the private sector. And in comparison to the systems of those nations—especially Great Britain—where medicine has been socialized, it doesn't look bad at all.

"SEXUAL APARTHEID" IN THE ARMED SERVICES

Mr. PROXMIRE. Mr. President, last month the Los Angeles Times printed an interesting editorial on women in the military, which concluded that—

To continue to exclude women from serving in combat units, simply because they are not men, would be a form of sexual apartheid that has no place in modern American society.

It is easy to point our finger at divisions in South African society but much more difficult to recognize and correct them in our own.

Women have been denied equal employment opportunity in the armed services for years through legal, adminis-

trative and traditional restrictions. At the same time this Nation has been cheated out of fine service by well qualified and highly motivated young women.

There are now bills in both Houses to remove some of the restrictions holding back women in the Armed Forces, and the Defense Department will send further legislation to the Congress later this year to repeal all legal restrictions.

I ask unanimous consent that the Los Angeles Times editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO PLACE FOR SEXUAL APARTHEID

It takes certain skills, both physical and mental, to pilot a jet fighter, serve aboard a destroyer or to drive an armored personnel carrier on the front lines of battle. Those who meet the demands of such jobs and are willing to serve in them, should have the opportunity to do so—regardless of whether they are men or women.

Such is the gist of a sensible Pentagon request to Congress to sweep away laws that prevent women from serving in combat aircraft and on fighting ships. Other combat assignments may be made administratively. The Pentagon wants a free hand in deciding when, where and how to deploy women personnel in military chores that they are now prevented from undertaking.

Its reasons are based on the best of all possible considerations affecting the armed forces—national security. While the opening of combat and combat-related jobs to women has profound nonmilitary implications, the Pentagon wants to expand the role of service women mainly because there simply will not be enough men available for military service in the next two decades if the nation is to maintain adequate force levels under the all-volunteer system.

The problem lies in the nation's declining birthrate, which, according to a Defense Department official, will result in a 15-percent decline in the number of 18-year-olds in the 1980s, and a 25-percent decline in the 1990s. Qualified women volunteers could fill the jobs, including those involving combat, that might otherwise have to remain vacant or be filled by men of lesser qualifications. To exclude women under such circumstances would result in an unnecessary risk to the national well-being.

The 108,000 women in the nation's 2.1 million-member armed forces are now making an important contribution to national defense. Through in-service administrative changes, they are already filling—in some cases more satisfactorily than are men—many jobs from which they had been excluded until recent years.

Their role can be expanded greatly, even if women continue to be barred from combat-type positions. A Rand Corp. study has found that by opening noncombat enlisted jobs that are now restricted to males, the proportion of women could be boosted from the present 5 percent to 33 percent of total strength, without affecting military performance.

And if women can fill noncombat jobs as well as or better than men, there is no reason why the women, if they can meet the demands, should not be allowed to serve in fighting units as well.

Many factors would have to be taken into account to sustain combat efficiency, and to make certain that women were subjected to no greater risks than those faced by their male comrades. But to continue to exclude women from serving in combat units, simply because they are not men, would be a form of sexual apartheid that has no place in modern American society.

GENOCIDE CONVENTION DOES NOT INTERFERE WITH FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, in the 30 years since the drafting of the Genocide Convention, the opponents of this treaty have raised several arguments against its passage.

The Genocide Convention is a treaty which would make the commission of genocide an international crime. One of the provisions of the treaty is that "direct and public incitement to commit genocide" is a punishable offense. The opponents of the treaty say that if the United States were to become a ratifying member of the Convention, this language would be an infringement on the guarantees in the Constitution concerning freedom of the press and freedom of speech. They seem to be arguing that Congress cannot ratify the Genocide Convention with this language in it, because the Constitution specifically states that Congress shall make no law which interferes with the freedom of the press or freedom of speech.

Mr. President, this argument is tenuous at best. It has long been held by the Supreme Court that speech which poses a "clear and present danger" to other people does not enjoy the protection of the first amendment. The most famous example of this was given by Justice Holmes, who said that in no way did the first amendment guarantee a person's right to cry "fire" in a crowded theater.

The Frohwerk case also clarified the Court's stand on first amendment freedoms. The Court said:

The first amendment, while prohibiting legislation against free speech as such, cannot have been, and obviously was not intended to give immunity for every possible use of language (Robertson v. Baldwin). We venture to believe that neither Hamilton nor Madison nor any other competent person, then or later, ever supposed that to make criminal the counseling of a murder within the jurisdiction of Congress would be an unconstitutional interference with free speech.

Furthermore, the Supreme Court, in Brandenburg against Ohio, stated clearly that while the first amendment does indeed cover all forms of advocacy, it does not cover incitement. In the language of the Court:

The constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

Clearly, incitement to commit genocide, which is incitement to commit mass murder, is not protected speech. We would in no way be interfering with the guarantees of the first amendment by adopting the Genocide Convention with the language prohibiting incitement to commit genocide. I urge the Senate to ratify the Genocide Convention as soon as possible.

Mr. PELL. Mr. President, I compliment the distinguished Senator from Wisconsin and support fully his efforts to achieve passage of the Genocide Convention. I think his efforts in this direction are great and I hope will be awarded with eventual success. I share every one of his thoughts in this regard.

ANN LANDERS: HAIR DYES DO NOT CAUSE CANCER

Mr. PROXMIRE. Mr. President, the Ann Landers newspaper column has millions of readers, and it is a good thing it does. The author—a bundle of vibrant dynamism and solid common sense named Eppie Lederer—gives out with more good advice on how to live a wholesome and happy life than anyone I know.

Recently she was asked a question that haunts Americans in every section of our country. It was this: Do hair dyes cause cancer?

Her answer was carefully researched, responsible and, as usual, on the button.

It was a resounding "No."

Mr. President, I ask unanimous consent that the column be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, Mar. 13, 1978]

CANCER FROM HAIR DYES? IT ISN'T LIKELY

DEAR ANN LANDERS: I have been reading a lot in the newspapers lately about the possibility of getting cancer from hair dyes. It is very upsetting.

Premature graying runs in our family. My mother and her sisters had snow-white hair when they were in their 40s. Some people may think it's pretty, but I think it adds 15 years to any woman's age—no matter how young her face is. I started to dye my hair when I was 35 and have been doing it for 27 years.

I keep reading about the experiments being done with rats. Every report I've seen says the rats are drinking the dye—and in enormous quantities. I don't want to drink it, I just want to put it on my head.

The only person I've heard mention this subject on the news is Walter Cronkite. He is like a second God in our house.

Walter Cronkite says the studies are "inconclusive." Someone else on that same broadcast said a woman would have to drink 25 bottles of hair dye every day of her life in order to get as much as the rats got.

A lot of people in this country trust you, Ann. Your opinion would mean a great deal to us and millions of others. Will you please tell us what you think—or is this potato too hot for you to handle? Scared—like so many others.

Dear Scared: No potato is too hot for me to handle if I have the backing of blue-ribbon experts. I've done a lot of digging into this hair-dye controversy because a great number of women have written to express concern, just as you have.

Dr. Edmund Klein, a most distinguished and world-renowned skin cancer specialist at the Rosewell Park Memorial Institute (New York's State Center for Treatment, Control, and Research and Cancer), had this to say:

"Many of my patients, including those who have a tendency to develop skin cancers, as well as those who have already developed skin cancers, have been dyeing their hair for decades. To the best of my knowledge, not one cancer has occurred in these patients that could be traced to hair dyes.

"The majority of chemical agents which cause skin cancer produce it at the site where it makes its first contact with the body—usually the skin, because its impact is strongest at that particular place.

"In my opinion, if hair dyes were a serious cause of cancer they would have produced skin cancers on the scalps, since these women

have a predisposition toward developing the disease. It is even less likely that hair dyes would cause cancer in the average individual who is not prone to developing skin cancer. Almost any agent can, under very unusual circumstances, cause cancer, but fortunately, these circumstances apply to less than one in a million.

"Statements that create scare and panic should be based on something more than inconclusive and possibly irrelevant studies."

Dr. Klein is only one of several authorities with whom I consulted. A past president of the New York Academy of Sciences described the rat studies as "poorly designed" and said, "They may or may not prove anything—even about rats." Not one single authority with whom I checked believed the rat studies have any validity whatsoever. I have been using hair dyes for more than 30 years and will continue to do so.

Mr. PROXMIRE. Mr. President, I yield the floor.

MILITARY ASSISTANCE TO TURKEY

Mr. PELL. Mr. President, I am deeply disturbed by the administration's decision to recommend to the Congress that the arms embargo against Turkey be lifted and that the amount of military and economic assistance to Turkey be increased over what was originally requested for fiscal year 1979. Let me state my reasons for coming to the conclusion that the administration's proposals will postpone the settlement process in Cyprus, poison our relations with Greece, and encourage Turkey in its apparent belief that it has all the trump cards in our bilateral and NATO relations.

First and most important of all, Turkey continues to occupy 40 percent of Cyprus which was invaded with the use of American arms in violation of the bilateral agreement made in accordance with American law governing the use of U.S.-supplied arms. When the Congress instituted the embargo against Turkey, it said that the embargo would remain in force until the President certifies that "substantial progress toward agreement has been made regarding military forces in Cyprus." I find it hard to believe that the administration could contend that any progress, much less "substantial" progress has been made. If anything, there has been regression, as a result of the Turkish colonization of the Famagusta suburb of Varosha. Moreover, Turkey has failed to come up with its long-promised proposal on a Cyprus settlement.

Second, there appears to be no guarantee that the administration decision, if approved by Congress, will satisfy Turkey so that our intelligence installations in that country could be reopened. According to this morning's Washington Post, Turkish Prime Minister Ecevit said that President Carter's decision would not be enough to get American intelligence-gathering installations going again. According to the Post he only said that lifting the embargo would be "a clear step toward positive developments." If this report is correct, the administration's desire to separate the Cyprus and military issues only serves to insure that no early progress will be made on either front.

Third, it is both distressing and puzzling that the administration is proposing an increase in aid to Turkey while aid to Greece and Cyprus would be decreased in comparison with fiscal year 1978. What kind of signal is that to send to Greece and Cyprus? Specifically, in fiscal year 1978 the President was authorized to sell Turkey $175 million in arms under the Foreign Military Sales credit program. This was an exception to the embargo in the hope that Turkey would be more forthcoming on the Cyprus issue. The administration originally asked for authority for another $175 million in FMS credit sales for Turkey in fiscal year 1979, but now he wants to add $50 million for a Security Supporting Assistance loan to help Turkey with its economic problems. In comparison, Greece in fiscal year 1978 is scheduled to receive a total of $175 million in military aid—the same as Turkey—of which $140 million would be in FMS credits, $33 million in Military Assistance program grants, and $2 million in grant training aid. For fiscal year 1979, the administration originally requested $122 million in FMS credit sales with the understanding that if a Defense Cooperation Agreement with Greece entered into force in fiscal year 1979, an additional $53 million in MAP and training grant aid would be provided. As part of the decision on Turkey, the administration appears to have dropped the whole idea of Defense Cooperation Agreements with both Turkey and Greece; and in light of the revised request for Turkish aid, it increased the request for FMS credit sales to Greece to $140 million, the same as last year, but with no other aid requested.

Thus, in comparison with fiscal year 1978, the total package for Greece will go down from $175 million to $140 million, while the one for Turkey will go up from $175 million to $225 million. In addition. Cyprus received $15 million in fiscal year 1978 in Security Supporting Assistance for refugee aid, while the administration's request for fiscal year 1979 remains unchanged at $5 million. Thus Turkey is rewarded, while Greece and Cyprus are penalized. The people of these two countries can only conclude that the United States is tilting toward Turkey at their expense.

Mr. President, in conclusion I would like to register my firm opposition to ending the arms embargo against Turkey as long as the Turks are using American weapons in violation of our bilateral agreement made in accordance with American law. In my view, the United States must not reward Turkish obstinacy. To do so would be to give the impression that it has been Turkish, not U.S. pressure that in the end has prevailed.

Mr. President, I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the very able Senator from Rhode Island for the statement which he has just made. He has been a leader on this issue in the Congress of the United States and in the Nation. He has had a longstanding commitment to the fostering of democracy in that area of the world and has carried that commitment forward in his actions here in the Senate of the United States.

The statement which he has just made reflects that continuing commitment and his sensitivity and extremely able leadership on this issue. It is a matter that may well be before the Congress in the not too distant future.

Earlier today, Senator EAGLETON and I joined with Congressman BRADEMAS and Congressman ROSENTHAL in a statement on this same issue.

Mr. President, I ask unanimous consent that that statement and the attachments thereto, which include statements by the President himself in 1976 on this very important issue, a statement by our present Secretary of State at an earlier time testifying on this matter, and an editorial which appeared in the New York Times on last Friday which discusses this issue in some detail, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATORS THOMAS F. EAGLETON AND PAUL S. SARBANES, REPRESENTATIVES JOHN BRADEMAS AND BENJAMIN S. ROSENTHAL

Because we feel it our obligation to uphold certain basic principles in the conduct of American foreign policy, we must oppose the Administration's attempt to end the arms embargo on Turkey.

We take this position for several reasons:

1. Such a policy would, if enacted, undermine the rule of law in the execution of our foreign policy.

2. It would raise serious doubts about the credibility of America's commitment to human rights.

3. It would call into question our national commitment to the control of U.S. arms sales abroad.

4. It would make far more difficult the achievement of a Cyprus settlement and a just resolution of the refugee problem.

5. It would encourage the further growth of anti-American forces in Greece.

6. It would make virtually impossible the normalization of relationships among Turkey, Greece and Cyprus and between each of them and the United States.

7. The attempt to obtain complete resumption of U.S. arms sales to Turkey despite the lack of any substantive progress toward a settlement on Cyprus means that President Carter has turned his back on promises made to the American people and to their representatives in Congress both during his campaign for the Presidency and after taking office.

It should be recalled that the embargo on U.S. arms sales to Turkey was voted by Congress after Turkey, in clear violation of American laws and bilateral agreements already in effect, used American weapons for offensive purposes in its August, 1974 invasion and occupation of Cyprus.

Provisions of both these laws—the Foreign Assistance Act and the Foreign Military Sales Act—required that further military aid to Turkey be terminated. The embargo was voted, therefore, not to enact new law but rather to insure that existing laws were enforced. The continuing occupation by Turkish forces, equipped with U.S.-supplied arms, of forty percent of Cyprus is a continuing violation of these laws.

Mr. Carter pledged on several occasions during his Presidential campaign that any normalization of our arms relationship with

Turkey would be linked with a settlement of the Cyprus problem. [Attached are two major policy statements on this subject issued by Mr. Carter as compiled in Presidential Campaign 1976 (Volume One, Part Two: Jimmy Carter), U.S. Government Printing Office, 1978.]

Over the past year, the President and members of his Administration have confirmed their commitment to these principles. In light of such clear and continuing assurances, both public and private, on this matter, we were deeply dismayed to learn that although Turkey has done nothing to promote a Cyprus settlement and although Turkish troops armed with American weapons still—in violation of American law—occupy forty percent of Cyprus, Congress is being asked to re-establish a full arms relationship with Turkey. This we cannot support.

As Members of Congress who have for some time been involved in this issue, we believe that effective use of the arms embargo represents the path most likely to lead to a Cyprus settlement. The effectiveness of the embargo has been undermined, however, by certain actions of the Administration.

As long-time supporters of NATO, we know that the strength of our southeastern European flank requires both Turkey *and* Greece to play active roles in the alliance. An Administration policy which prevents the full participation of both nations threatens serious long-term damage to our national security interests in that vital region.

And as adherents of restraint in the use of U.S. arms throughout the world, we believe, as Cyrus Vance did when he testified before Congress in July 1975 against the partial lifting of the embargo, that "this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts."

For all the reasons we have stated—reasons rooted in law and principle—we will work vigorously to prevent the Administration's retreat on this important issue.

We believe that a majority of our colleagues in Congress share our concerns and will act accordingly.

THE PRESIDENTIAL CAMPAIGN 1976

THE CYPRUS CONFLICT

For more than twenty years, Greece and Turkey together have held the southern flank of NATO and helped maintain the security of the Mediterranean. Both, as part of our joint alliance, have given base rights and other invaluable support to the United States. It is very much in our own national interest that our close relationship with both countries continue.

Unfortunately, their relations with each other have for many years been troubled by conflicts over Cyprus. Since the coup against Archbishop Makarios and the Turkish invasion of Cyprus over two years ago, these differences have become so serious as to threaten the security of NATO and the good relations of both countries with us.

It is a major U.S. interest that harmony in the alliance be restored. The Republican Administration has failed to deal with the situation in three respects: it has failed to exert its influence effectively to bring about a settlement in Cyprus during the five years before the Cyprus crisis; it failed, despite repeated warnings, to prevent the 1974 coup against Makarios engineered by the former military dictatorship in Athens; it failed to prevent of even to limit the Turkish invasion of Cyprus that followed. This administration therefore bears a large share of the responsibility for the dangerous deterioration in our relations with Greece and with Turkey.

We should now exert our influence in every feasible and constructive way to help Greece, Turkey and the Cypriots resolve their differences. Only if we are able to maintain the confidence of all three, however, can we hope to be listened to.

Any solution that is to endure must be a just one. It must protect the rights of both the Greek majority and the Turkish minority on the island, including the rights of those displaced from their homes by the Turkish invasion.

The United States cannot impose a solution. It can and must help; but only agreement among the three governments directly concerned can restore harmony and cooperation.

Secret and personal agreements are no substitute for a clear commitment to an early settlement which gives Cyprus its independence.

I feel most distressed that Mr. Kissinger's recent agreement with the Turkish government was not coupled with an agreement which promised more rapid progress toward a just solution for the Cyprus tragedy. In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue along the lines I have outlined above.

GREECE AND TURKEY

The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the eastern Mediterranean.

Despite repeated warnings, the administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The administration failed to prevent or even limit the Turkish invasion that followed. The administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

Today, more than two years later, no progress toward a negotiated solution of Cyprus has been made.

The lack of progress is disappointing and dangerous. Peace must be based upon the United Nations General Assembly Resolution 3212 of November 1, 1974, endorsed by Cyprus, Greece and Turkey, calling for among other things, the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish military should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish-Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

Greece and Turkey are and must remain our allies within NATO and neighbors at peace with each other within the community of nations.

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

STATEMENTS BY CYRUS VANCE

CYPRUS AND THE TURKISH ARMS EMBARGO

July 10, 1975, From statement before the House International Relations Committee (made jointly with George Ball)

That Turkey used the arms we provided in violation of the relevant American laws and of the express language of the bilateral agreement that governed their transfer is not in dispute. That issue has been settled by an opinion of the Comptroller General in unequivocal language.

The question now is: Should the Congress wipe out the penalties of violation, which, in express terms, would render Turkey ineligible for further American weapons until the Turkish government takes steps to purge itself by some serious move to settle its dispute with Greece and to remove its troops from Cyprus? To do so might dangerously undercut the conditions we have imposed on the use of all the arms we have provided up to this point under our various military aid and military sales programs.

. . . There is, it seems to us, grave danger that, in the highly political atmosphere that now prevails in Ankara, the Turkish Government would regard this measure (a partial lifting of the embargo) as a vindication of its past actions and as removing any pressure to make significant concessions toward a Cyprus settlement . . .

Finally, and in many ways this is the most important point, we are seriously concerned that this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts.

[From the New York Times, Mar. 31, 1978]

THE WAY BACK FROM CYPRUS

Since 1974, when Turkish troops, using American weapons, occupied two-fifths of the island of Cyprus, relations between Ankara and Washington have been sour. Congress has limited the flow of additional arms until Turkey pulled back its forces; successive Turkish Governments have refused to define their conditions for withdrawal under such pressure. Both the United States and Turkey will end up losers if no way can be found to break out of this bind. Turkey could point the way by revealing its proposals for a Cyprus settlement.

Turkey's invasion was scarcely unprovoked. The 18 percent Turkish minority on Cyprus had never been well treated by the Greek majority. And in July 1974, a coup brought to power a hard-line Greek-Cypriot faction that seemed likely to take even less account of Turkish-Cypriot rights. Although the insurgent regime lasted only a few days, that was long enough to precipitate Ankara's invasion.

Ankara has reacted to the limit on arms sales—$175 million this year—by sharply restricting American use of NATO facilities in Turkey. Under steady pressure from Greek-Americans, Congress has remained firm. But the Ford Administration strongly deplored the Congressional restrictions as harmful to NATO—and thus caused the Greek Government to curtail its military cooperation with NATO. The Carter Administration has tried to straddle the issue. It has continued discussions for a defense agreement that would substantially increase American military aid to Turkey. But it has implied that it would not conclude the agreement until there had been progress on Cyprus. Early this month, Secretary of State Vance was explicit: Washington would not move, he told Congress, until it had examined proposals for Cyprus

promised by Turkey's new Prime Minister Bulent Ecevit.

More intolerable "linkage," responded Mr. Ecevit—and this time from the Administration, not merely from Congress. He countered with reverse linkage: no Cyprus proposals until the heat is off. That message, and subsequent hints that Turkey might withdraw its half-million men from NATO's command and even sign a nonaggression pact with Moscow, caused a high-level American delegation to hurry to Ankara this week to attempt to set things right.

That won't be easy. Strong sentiment continues in Congress that Turkish concessions are necessary before normal military relations can resume. That sentiment is justified. Turkey broke United States law and violated the spirit of its alliance when it used American weapons to expel Greek Cypriots from their homes and farms. Having made its point, Ankara should now pull back. Greek Cypriots—and Greece—realize there can be no return to the old arrangements on Cyprus. They acknowledge that Turkish Cypriots should enjoy nearly complete autonomy, including a territorial zone of their own, but one proportionate to the size of the Turkish-Cypriot population.

There is every reason to believe that both Prime Minister Ecevit and the Turkish military leadership would like to pull back. Because the Turkish occupation force is the central issue in contention, the first moves must come from Ankara. Since the issue continues to be the most explosive one in Turkey's politics, such a move would be painful. But Mr. Ecevit is in a strong parliamentary position; unlike his predecessor, he does not depend upon ultranationalists for his majority.

Turkish dissociation from NATO would be costly to the United States. But it is the Turks who should calculate the benefits of full participation in NATO; it is they who face the risks of weakened ties to the West. Meanwhile, those who would support NATO by lifting the restrictions on arms to Turkey should remember that Cyprus is just as emotion-wrenching an issue in Greece. It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece.

Mr. SARBANES. Mr. President, as the Senator from Rhode Island has pointed out so ably, nothing has been done by Turkey, which currently occupies 40 percent of Cyprus as a result of its aggression in August of 1974, to remedy that situation.

That aggression was committed with the use of American weapons in contravention of American law and it was only because the Executive then failed to apply the existing law that the Congress was required to enact special legislation providing for an arms cutoff.

As the able Senator pointed out, that cutoff has not been a total one in recent years. In fact, last year Turkey received $175 million in FMS sales, an increase over the previous year of 40 percent.

Yet, despite this increase, Turkey has done nothing to remedy the tragic situation on Cyprus. They are in a position to remedy the situation, to correct an injustice, and bring back again a normal situation in that part of the Mediterranean. It is to that effort that the attention of the administration ought to be addressed and not to the Congress which is being called upon to lift completely the embargo and thus restore the military relationship with Turkey without a just resolution of the Cyprus conflict having been achieved.

Again, I want to thank the able Senator from Rhode Island and, in particular, to stress the leadership which he has exercised on this issue and many other issues of importance to our country.

He has been a very strong force in trying to bring about a principled American foreign policy consistent with the rule of law.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank my friend and colleague from Maryland.

I agree completely with his statement, which I had an opportunity to read, and I share the same thoughts with him on this subject.

I guess this is one of those cases where we can quote one good old Democrat, Al Smith, when he said, "Let's look at the record."

We can look at the record. We have a record of Turkish intransigence, a record of American law which would now be violated to reward this very same Turkish intransigence.

So I hope the administration will follow that old adage and look at its own record and American law and be guided accordingly.

COMMITTEE MEETINGS

(The following occurred earlier today:)

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Social Security Subcommittee of the Finance Committee be authorized to meet until 1 p.m. during the session of the Senate today to consider the social security financing proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Judiciary Committee be authorized to meet until 1 p.m. during the sessions of the Senate today, April 5, and tomorrow, April 6, to conduct hearings on the Justice Department authorization bill, which must be reported to the Senate by May 15 under the Budget Act, and for other committee business.

Mr. THURMOND. Madam President, reserving the right to object. and I do object. unless the words "and for other committee business" are stricken. If we confine it to the budget. the distinguished Senator from Massachusetts (Mr. KENNEDY) told me that would be satisfactory.

Mr. ROBERT C. BYRD. Very well.

Madam President. in light of that information. I so revise my request.

The PRESIDING OFFICER. Without objection. it is so ordered.

(Conclusion of proceedings which occurred earlier today.)

COMMUNIST EXPANSION IN AFRICA

Mr. THURMOND. Mr. President, the American people are viewing with alarm and concern the continued expansion of communism in Africa via military support from the Soviet Union and Cuba.

A succinct and hard-hitting editorial on this subject appeared in the March 28, 1978 issue of the Greenville News newspaper in Greenville, S.C.

Entitled the "'Dominoes' Are Falling in Africa" this editorial warns about the dangers of a weak and disjointed foreign policy.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"DOMINOES" ARE FALLING IN AFRICA

Use of raw force in Africa by Communist Cuba with heavy material support from the Soviet Union is aggression on a grand scale, but is dismissed by the United Nations and virtually unopposed by the United States. It is a very dangerous development for two reasons:

Africa—especially the southern African nations—are important because of strategic location and vast natural resources. Africa is the key to vital waterways, as well as the source of rare minerals which developed countries must have.

A test of strength between the free world and Communist bloc countries in Africa has an important—probably decisive—bearing upon the worldwide ideological and economic struggle between them.

Unfortunately events in Africa in the past few years demonstrate the moral weakness of the United States to resist Red aggression in the wake of the Vietnam disaster. The "dominoes" are falling in Africa as well as in Asia.

Failures to stop armed Cuban intervention in Angola and the Horn of Africa are major defeats for the United States and the entire free world. They open the probability of similar aggression in Rhodesia and South Africa—and in Latin America.

Source of the trouble is—as it always has been—the Soviet Union. Clearly the USSR is using detente as one of several devices to keep the United States and other western nations in a state of paralysis while it pursues its end aggressively.

The counter from this country should be obvious by now: Call off all negotiations and trade relations with the Kremlin and its allies until aggression by subversion, infiltration and intervention comes to a halt.

Some argue that policy would be too tough. They are wrong. The soft policy is unworkable.

THE ADMINISTRATION'S 5-YEAR SHIPBUILDING PLAN

Mr. THURMOND. Mr. President, the weak and risky defense policies evolving over the past year are once again evidenced in the totally inadequate 5-year Navy shipbuilding plan announced recently by the Defense Department.

This plan, which covers fiscal years 1979 through 1983, calls for building 70 new ships and modernizing 13 others at a cost of about $31 billion. This is about half the number of ships the Navy has sought. It is a blueprint for disaster when weighed against the real needs of the U.S. Navy and the threat posed by the Soviet Navy.

It contrasts sharply with the 5-year plan of the previous Ford administration for fiscal years 1978 through 1982. That plan provided for 157 new ships and 21 conversions and modernizations at a cost of $49 billion.

Former Chief of Naval Operations, Adm. Elmo Zumwalt, now retired, said the newly proposed 5-year plan "belongs in the funny papers."

Just a few years ago Navy leaders told Congress an 800-ship Navy was needed to protect the sealanes over which vital U.S. trade moved and meet with other Navy missions. Budgetary pressure over the past few years, mainly resulting from the antimilitary attitudes of the Vietnam War period, caused the Navy to fall back to a 600-ship fleet.

The new Carter administration proposal plan will barely keep the Navy at the 500-ship level. It fails to provide for a nuclear aircraft carrier which should be built in the next few years. It is a weak plan typical of current Defense Department attitudes of "let's do just enough to get by." This plan makes clear we are no longer going to have a defense second to none, but rather second to one.

The approach evidenced by this plan will lead us rapidly to a second-rate Navy. It ignores the highly respected Navy study which found a $8.8 billion annual spending rate up to the year 2000 necessary if the future fleet is based on the minimum acceptable risk. In other words, this level of spending falls well below what the Navy considers to be a minimum high-risk program.

It is ominous that this 5-year plan takes us to the early 1980's, the very period that Chairman of the Joint Chiefs George S. Brown warned would be a dangerous period for U.S. military forces.

He was mainly addressing the fact that our Minuteman missiles would be vulnerable to a Soviet first strike in the early or mid-1980's. This new Navy plan will only serve to further weaken our defense posture during this time frame.

Defense officials, when called to Congress to justify this plan, will likely testify it is "adequate" and recognizes our budget constraints. I believe the American people will support a defense posture of clear strength, not one of weakness which invites trouble. It fails to recognize the risks the same administration is taking by giving up U.S. control of the Panama Canal. A smaller U.S. Navy will desperately need sure and safe passage of the canal. Such passage will be necessary to shuttle our inadequate fleet back and forth between the Atlantic and Pacific Oceans to meet various contingencies.

As one Member of Congress, I shall propose and actively pursue efforts to provide higher levels of new ship construction as well as modernizations and conversions. I predict the Congress will not shirk its responsibility but will provide funds for a more realistic shipbuilding program.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:21 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed Senate Joint Resolution 124, to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week," without amendment.

The message also announced that, pursuant to Public Law 301 of the 78th Congress, the chairman of the Committee on Merchant Marine and Fisheries has appointed Mr. BIAGGI, Mr. ZEFERETTI, and Mr. MCCLOSKEY, Mr. MURPHY of New York, ex officio, to serve as members of the Board of Visitors to the U.S. Merchant Marine Academy, on the part of the House, for the year 1978.

The message further announced that the House has passed the bill (H.R. 6900) to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System, in which it requests the concurrence of the Senate.

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the bill (S. 938) for the relief of Ernesto Garcia, Jr., with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3996. An act for the relief of Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jim Kang, and Hee Son Kang;

H.R. 8449. An act for the relief of Lourdes Marie Hudson;

H.R. 11232. An act to authorize appropriations to carry out the Standard Reference Data Act; and

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3996. An act for the relief of Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jim Kang, and Hee Son Kang; to the Committee on the Judiciary;

H.R. 6900. An act to amend the National Trails System Act of 1978 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System; to the Committee on Energy and Natural Resources;

H.R. 8449. An act for the relief of Lourdes Marie Hudson; to the Committee on the Judiciary;

H.R. 11232. An act to authorize appropriations to carry out the Standard Reference Data Act; to the Committee on Commerce, Science, and Transportation; and

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

COMMUNICATIONS

The PRESIDING OFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3266. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the fiscal year 1977 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products; to the Committee on Appropriations.

EC–3267. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, three construction projects to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC–3268. A communication from the Vice President, Government Affairs, Consolidated Rail Corporation, transmitting, pursuant to law, the annual report of ConRail for 1977; to the Committee on Commerce, Science, and Transportation.

EC–3269. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the semiannual report on the effectiveness of the Civil Aviation Security Program; to the Committee on Commerce, Science, and Transportation.

EC–3270. A communication from the Under Secretary, Department of Energy, transmitting, pursuant to law, the annual report on the progress of the Energy Conservation Program for Consumer Projects Other Than Automobiles; to the Committee on Energy and Natural Resources.

EC–3271. A communication from the Chairman and Directors of the Tennessee Valley Authority, transmitting, pursuant to law, its forty-fourth annual report, covering the activities of the TVA during the fiscal year beginning October 1, 1976, and ending September 30, 1977; to the Committee on Environment and Public Works.

EC–3272. A communication from the comptroller General of the United States, transmitting, pursuant to law, a report entitled "Report on the Administration of the Get Set Day Care Program in Philadelphia, Pennsylvania," March 1978; to the Committee on Finance.

EC–3273. A secret communication from the ACIS Chairman, Interagency Working Group, United States Arms Control and Disarmament Agency, transmitting errata sheets for FY '79 ACIS, Set II; to the Committee on Foreign Relations.

EC–3274. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the development and utilization of light capital technology in the activities of the international financial institutions, April 3, 1978; to the Committee on Foreign Relations.

EC–3275. A communication from the Executive Secretary, National Mediation Board,

transmitting, pursuant to law, its annual report covering the period of March 12, 1977 through March 11, 1978; to the Committee on Governmental Affairs.

EC–3276. A communication from the Chair, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report regarding its compliance requirements of the Sunshine Act; to the Committee on Governmental Affairs.

EC–3277. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report regarding its compliance requirements of the Sunshine Act; to the Committee on Governmental Affairs.

EC–3278. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a proposed new system of records identification entitled "Personnel Exposed to Radiation From Atmospheric Nuclear Tests," dated March 21, 1978; to the Committee on Governmental Affairs.

EC–3279. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, a report regarding its compliance requirements Governmental Affairs.
of the Sunshine Act; to the Committee on

EC–3280. A communication from the Acting Chairman, the Renegotiation Board, transmitting, pursuant to law, a report regarding its compliance requirements of the Sunshine Act; to the Committee on Governmental Affairs.

EC–3281. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Municipal and Industrial Water Conservation—The Federal Government Could Do More," April 3, 1978; to the Committee on Governmental Affairs.

EC–3282. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status of the Air Force's Missile X Program," March 31, 1978; to the Committee on Governmental Affairs.

EC–3283. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Naval Shipyards—Better Definition of Mobilization Requirements and Improved Peacetime Operations Are Needed," March 31, 1978; to the Committee on Governmental Affairs.

EC–3284. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Substandard Indian Housing Increases Despite Federal Efforts—A Change is Needed," March 31, 1978; to the Committee on Governmental Affairs.

EC–3285. A communication from the Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report summarizing the activities of the Office of the Inspector General during the preceding calendar year; to the Committee on Governmental Affairs.

EC–3286. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of February 1978; to the Committee on Governmental Affairs.

EC–3287. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for Title I of the Elementary and Secondary Education Act for Grants to State Agencies for Programs to Meet the Special Educational Needs of Children in Institutions for Neglected or Delinquent Children; to the Committee on Human Resources.

EC–3288. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC–3289. A communication from the President, Inter-American Foundation, transmitting, pursuant to law, a report on the foundation's activities under the Freedom of Information Act in calendar year 1977; to the Committee on the Judiciary.

EC–3290. A communication from the Deputy Director, Office of Public and Consumer Affairs, Department of Transportation, transmitting, pursuant to law, a report on its administration of the Freedom of Information Act for 1977; to the Committee on the Judiciary.

EC–3291. A communication from the Controller, Boys' Clubs of America, transmitting, pursuant to law, an audited financial report for the year ending December 31, 1977; to the Committee on the Judiciary.

EC–3292. A communication from the Deputy Under Secretary (Acquisition Policy), Department of Defense, transmitting, pursuant to law, a report on Extraordinary Contractual Actions to Facilitate the National Defense for calendar year 1977; to the Committee on the Judiciary.

EC–3293. A communication from the President and National Executive Director, Girl Scouts of the United States of America, transmitting, pursuant to law, the twenty-eighth annual report; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM–575. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Finance:

"HOUSE JOINT RESOLUTION No. 61

"Whereas, the Special Joint Subcommittee of the House of Delegates and the Senate Finance Committees of the Virginia General Assembly has made a thorough study of all phases of the tobacco industry including bootlegging and the taxation of tobacco products; and

"Whereas, that Subcommittee concluded that the movement and sale of tobacco products from the low tax states of the south to the high tax states of the north has made the practice of bootlegging extremely profitable, and that organized crime has become rooted in this activity; and

"Whereas, it was also determined that such activity is the result of the large differential in cigarette taxes levied by the northern and southern states; and

"Whereas, the tobacco industry plays an important role in the economy of Virginia and many other southern states and such industry has little or no effect on the economy of northern states; and

"Whereas, it is within the best interests of the several states to tax this resource and commodity as each individual state deems reasonable and necessary; and

"Whereas, the states affected by the illegal movement of contraband cigarettes are initiating plans for greater cooperation to solve this problem collectively; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring*, That the Congress of the United States is hereby memorialized to refrain from enacting legislation to increase the federal taxes on tobacco products and in no way to prohibit states and political subdivisions thereof from taxing this commodity as they deem proper, but instead Congress should encourage those states having exorbitantly high taxes to restructure their rates at more reasonable levels; and be it

"*Resolved further*, That the Clerk of the House of Delegates is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this body."

POM–576. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, Recent events such as the planned march in Skokie, Ill., by the so-called American Nazi party evidences a trend toward Nazism in America; and

"Whereas, Nazism is, by its nature, an evil concept and contrary to the American democratic ideal; and

"Whereas, Nazism constitutes a threat and a danger to all people of whatever creed, race or ethnic origin; and

"Whereas, History has demonstrated that apathy fosters the growth of such evils as Nazism; now therefore, be it

"Resolved, That the Massachusetts senate urges the President of the United States and all in public office to use the influence of their offices to prevent the resurgence, growth and activities of the Nazi party in America and throughout the world; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the senate to the President of the United States, to the presiding officer of each branch of the congress and to each member thereof from the commonwealth."

POM–577. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Finance:

"RESOLUTION

"Whereas, Medicaid fraud costs millions of dollars in state and local tax money of the people of Massachusetts; and

"Whereas, The loss of this money makes the Medicaid program unable to provide health care to all who need it; and

"Whereas, The Attorney General has established a special division to fight Medicaid fraud; and

"Whereas, Such agencies in other states have brought in several times their cost in recovered money; and

"Whereas, A special federal grant has been made to the state of New York to support the office of the Medicaid special prosecutor; and

"Whereas, Representative James Scheuer (Democrat-New York), has introduced a bill, H.R. 4771, to provide such support to offices in all states; therefore be it

"Resolved, That the General Court of the Commonwealth of Massachusetts supports the passage of H.R. 4771; and be it further

"Resolved, That copies of these resolutions be sent by the Clerk of the House of Representatives to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM–578. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"*Resolved*, That the General Court of the Commonwealth of Massachusetts pursuant to Article V of the Constitution of the United States, hereby makes application to the Congress of the United States to call a convention for proposing the following amendment to the Constitution of the United States:

"No student shall be assigned to nor compelled to attend any particular public school on account of race, religion, color or national origin; and be it further

"*Resolved*, That this application shall constitute a continuing application in accordance with Article V of the Constitution of

the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V. If Congress proposes an amendment to the Constitution identical with that contained in this resolution before January 1, 1974, this application for a state application shall no longer be of any force or effect; and be it further

"*Resolved*, That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part, the General Court of the Commonwealth of Massachusetts interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM–579. A joint memorial adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL No. 1

"Whereas, With each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, The annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

"Whereas, Convinced that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under article V of the constitution of the United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary or on the application of the legislatures of two-thirds of the several states that the congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths of the several states; now, therefore,

"Be It Resolved by the Senate of the Fifty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the Congress of the United States is hereby memorialized to call a constitutional convention pursuant to article V of the constitution of the United States for the specific and exclusive purpose of proposing an amendment to the federal constitution prohibiting deficit spending except under conditions specified in such amendment.

"Be It Further Resolved, That this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

"Be It Further Resolved, That copies of this memorial be sent to the secretary of state and presiding officers of both houses of the legislatures of each of the several states in the union, the clerk of the United States house of representatives, the secretary of the United States senate, and to each member of the Colorado congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on the Judiciary:

Annual report of the Subcommittee on the Constitution, 1977 (Rept. No. 95–724).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. Res. 428. An original resolution to authorize reimbursement of U.S. Marshal Service for service of committee subpenas (Rept. No. 95–725).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Almeric L. Christian, of the Virgin Islands, to be a judge of the District Court of the Virgin Islands.

Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Joan F. Kessler, of Wisconsin, to U.S. attorney for the eastern district of Wisconsin.

(The nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JOHNSTON:

S. 2827. A bill for the relief of Mr. Bing Yu Cheng; to the Committee on the Judiciary.

By Mr. TALMADGE (by request):

S. 2828. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HATHAWAY:

S. 2829. A bill to establish a national system of regional development banks to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full-employment economy both in urban and rural America by providing loans for the establishment of small- and medium-size businesses and industries, and the expansion and improvement of such existing businesses and industries, and for the construction of low- and moderate-income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ABOUREZK:

S. 2830. A bill to provide for the protection of Government employees who disclose information of illegal or improper actions within the Government; to the Committee on Governmental Affairs.

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2831. A bill to authorize appropriations for fiscal years 1979 and 1980 to carry out the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

S. 2832. A bill to amend section 406 of the Fishery Conservation and Management Act of 1976 to extend the authorization for appropriations for fiscal years 1979 and 1980; to the Committee on Commerce, Science, and Transportation.

By Mr. ABOUREZK:

S. 2833. A bill to amend, improve, and clarify the Farmer-to-Consumer Direct Marketing Act of 1976; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ANDERSON:

S. 2834. A bill for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim; to the Committee on the Judiciary.

By Mr. PERCY:

S. 2835. A bill to amend the Export Import Bank Act of 1945 to provide an officer responsible for matters concerning or affecting manufacturers of solar technology equipment or other renewable energy technology equipment, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON (by request):

S. 2836. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DOLE:

S. 2837. A bill to amend the Internal Revenue Code of 1954 to provide a deduction from gross income for individuals of the amount of social security taxes paid during the tax year; to the Committee on Finance.

By Mr. PERCY (for himself and Mr. STEVENSON):

S. 2838. A bill to amend title 28, to change the judicial districts in the State of Illinois; to the Committee on the Judiciary.

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2839. A bill to authorize appropriations for the Coast Guard for fiscal years 1979 and 1980, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (by request):

S. 2828. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1978

● Mr. TALMADGE. Mr. President, I am introducing today, at the request of the administration, S. 2828, the proposed Veterans Disability Compensation and Survivor Benefits Act of 1978. I ask unanimous consent that the letter of transmittal and the text of the bill be printed in the RECORD at this point.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C., March 21, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, Unted States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes." It is respectfully requested that it be introduced and considered for enactment.

The measure to be cited as the "Veterans' Disability Compensation and Survivor Benefits Act of 1978," would accomplish the following purposes:

a. Increase the basic rates of monthly compensation payable to veterans for service-connected disabilities, as well as the additional amounts authorized for veterans with dependents;

b. Increase the monthly rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths were service connected;

c. Equalize the criteria for protecting disability ratings;

d. Create a new additional award for those surviving spouses entitled to DIC who are rendered housebound by reason of disabilities;

e. Reduce administrative costs associated with recomputations and collection of overpayments necessary when a child is retroactively added to a class of dependents entitled to survivors' benefits; and

f. Eliminate duplication of certain DIC payments.

The basic purpose of the disability compensation program (chapter 11, title 38, United States Code), throughout its history, has been to provide relief for the impaired earning capacity of veterans disabled as the result of their military service. The amount payable varies according to the degree of disability which, in turn, is required by the law (38 U.S.C. § 355) to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations. Additional compensation for dependents is payable to any veteran entitled to basic compensation for disability rated at not less than 50 percent.

Under chapter 13 of title 38, DIC payments are made to surviving spouses and certain parents and children of veterans who die of a service-connected cause. For surviving spouses, the monthly rates are geared to the military pay grade of the deceased veteran, ranging from $277 for the surviving spouse of an E–1, to $708 for the surviving spouse of an O–10. The applicable surviving spouse's rate is increased by $33 for each child of the veteran under age 18. An additional amount of $83 is payable where the surviving spouse is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

For children, where no surviving spouse is entitled, the monthly rates range from $140 for one child to $259 for three children (plus $52 for each additional child). In the case of certain children specified under 38 U.S.C. § 414(a) who are permanently incapable of self-support, the applicable basic rate is increased by $83 for each child. Under 38 U.S.C. § 414 (b) and (c), in cases wherein a surviving spouse is receiving benefits, monthly amounts of $140 and $71 are respectively paid separately to certain children of the veteran who are (1) permanently incapable of self-support, or (2) attending school between 18 and 23 years of age.

Title I of the draft bill relates to compensation payable to veterans for service-connected disabilities. Section 101 provides increases in the basic compensation rates of 5.8 percent. The additional amounts for dependents provided by 38 U.S.C. § 315 in cases of veterans with service-connected disabilities of at least 50 percent would also be increased approximately by 5.8 percent by section 102 of the measure.

Title II of the draft bill is concerned with rates of dependency and indemnity compensation (DIC) payable to the survivors of deceased veterans. Section 201 provides increases of 5.8 percent in the monthly benefits payable to surviving spouses. The new basic rates would range from $293 to $749, according to the pay grade of the deceased veteran. The additional amount for each child under 18 would be raised from $33 to $35; and the special rate for aid and attendance for a qualified surviving spouse would go from $83 to $88. Sections 202 and 203 would also increase children's DIC rates by approximately 5.8 percent.

The needs of the disabled have been regularly recognized in the face of changing economic conditions. Since July 1952, there have been 13 compensation rate increases with the latest having become effective October 1, 1977. The surviving spouses and children of veterans who die of service-connected causes have also received similar increases. The rates of DIC payable to them were last increased effective October 1, 1977.

It has been the policy of the Government to recommend Veterans' Administration benefit increases for disability compensation and DIC programs periodically in order to insure that our programs remain responsive to changing economic conditions. The Veterans' Administration supports increases designed to offset the decline in purchasing power due to inflation which are based on changes in the Consumer Price Index (CPI). The 5.8 percent increase proposal contained in this draft bill is considered an accurate projection at this time of the increase in the cost of living between October 1, 1977, the date benefits were last increased, and October 1, 1978, the effective date of the provisions of this bill if enacted. The estimated 5-year costs of this proposal are as follows:

[In millions]

Fiscal year:	Cost
1979	$305.4
1980	305.9
1981	306.3
1982	306.4
1983	306.2

Title III contains miscellaneous proposals designed to improve the compensation and survivors' benefits programs. The first would equalize the currently different criteria which must be met before disability ratings become "protected," i.e., cannot be reduced. Section 110 of title 38 provides that a rating of total disability which has been "continuously in force" for at least 20 years shall not thereafter be reduced, unless found to be fraudulently obtained. The "continuously in force" requirement means that there must be an award of benefits based on the rating. However, the same section provides that a less than total disability need only be rated at or above a given level for 20 years before such evaluation becomes protected, absent a showing of fraud. Continuity of evaluation is the only requirement. It sometimes happens that a veteran with a less than total rating will elect not to receive Veterans' Administration compensation, as when a retired serviceman declines to waive a portion of retirement pay in order to receive compensation. In such cases, this agency does not further monitor the individual's disability during this period of waiver, and the disability may be subject to improvement. The mere lapse of time should not operate to protect ratings which were based upon possibly obsolete clinical data, and section 301 of the draft bill would require the criteria of having an award continuously in force for 20 years before less than total ratings would become protected. It is projected that this proposal would effect minimal savings.

Surviving spouses in receipt of DIC who are in need of the regular aid and attendance of another person by reason of disability are entitled to an additional award under subsection 411(c) of title 38. The Veterans' Administration recognizes, however, that certain of these survivors, while not so infirm as to need constant aid and attendance, may be sufficiently disabled so as to incur considerable expenses beyond those of the average DIC recipient. We therefore propose in section 302 of the bill an award for those surviving spouses receiving DIC who are rendered permanently housebound by reason of disabilities but who do not qualify for the aid and attendance award, at an intermediate rate of one-half that of the aid and attendance award. Assuming an increase of 5.8 percent in the current rates effective October 1, 1978 (as per section 201 of the draft bill), the estimated 5-year costs of this proposal are as follows:

Fiscal year:	Cost
1979	$500,000
1980	550,000
1981	580,000
1982	620,000
1983	660,000

Sections 303 and 304 of the draft bill are designed to alleviate administrative burdens which can result when additional dependents are added to the class to which survivors' benefits are being paid. Where there is no surviving spouse eligible to receive DIC or death pension benefits, such benefits are payable to a veteran's children. The amounts payable depend upon the number of children, although to an extent the amounts per child decrease for each additional one (for example, the rate of DIC for one child under current law is $140, for two children $201, etc.). It happens on occasion that eligibility for an additional child is established after a veteran's other children have already been awarded such benefits. The entitlement of the additional child is often effective retroactively. A complication arises in that, while the total amount payable for the retroactive period is increased by reason of the additional child, the individual shares of each become less.

In such situations, an overpayment for the retroactive period results which must be remedied either by collection or withholding from some of the children to pay the others. Because the amounts involved in these adjustments are usually small and all the children are usually in the same family unit, the considerable administrative work generated serves little purpose.

Sections 303 and 304 would amend the law to pay in such cases the difference between the newly established entitlement and the amount already paid, without disturbing the previously paid amounts. This would not af-

fect the total paid to the family unit. If all the children are not in the same family unit, the child or children added by the new award would receive a somewhat lesser amount for the past period for which the other children have already been paid. These proposals would eliminate the administrative detail required in establishing and liquidating pertinent overpayments of DIC and death pension. There would be no additional cost as a result of their enactment.

The final new proposal in the draft bill, section 305, is designed to eliminate certain duplications of DIC payments which can occur under present law. Additional amounts are payable to a surviving spouse for each child below age 18, and these payments are discontinued upon the child's 18th birthday. Under subsection 414(c) of title 38, DIC also becomes payable to the children in such families once they attain age 18 if they are attending school, and can continue until they reach age 23 while they continue to attend. This entitlement becomes effective the first day of the month of their 18th birthdays. Hence, for the period from the first of that month until the birthday of the child, a dual award is being paid. Section 305 would eliminate this duplicate payment by reducing the child's award for the month of his or her birthday by the amount of the surviving spouse's additional award for the same month attributable to the child.

It is estimated that the yearly savings to be effected by section 305 would be approximately $50,000.

Section 306 of the draft bill provides that its provisions would become effective October 1, 1978.

Advice has been received from the Office of Management and Budget that there is no objection to the submission of the draft legislation and that its enactment would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1978".

TITLE I—VETERANS' DISABILITY COMPENSATION RATES

SEC. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$41" and inserting in lieu thereof "$43";

(2) by striking out in subsection (b) "$75" and inserting in lieu thereof "$79";

(3) by striking out in subsection (c) "$113" and inserting in lieu thereof "$120";

(4) by striking out in subsection (d) "$155" and inserting in lieu thereof "$164";

"(5) by striking out in subsection (e) "$216" and inserting in lieu thereof "$229";

(6) by striking out in subsection (f) "$272" and inserting in lieu thereof "$288";

(7) by striking out in subsection (g) "$322" and inserting in lieu thereof "$341";

(8) by striking out in subsection (h) "$373" and inserting in lieu thereof "$395";

(9) by striking out in subsection (i) "$419" and inserting in lieu thereof "$443";

(10) by striking out in subsection (j) "$754" and inserting in lieu thereof "798";

(11) by striking out in subsection (k) "$937" and "$1,312" each time they appear and inserting in lieu thereof "$991" and "$1,388", respectively;

(12) by striking out in subsection (l) "$937" and inserting in lieu thereof "$991";

(13) by striking out in subsection (m) "$1,032" and inserting in lieu thereof "$1,092";

(14) by striking out in subsection (n) "$1,172" and inserting in lieu thereof "$1,240";

(15) by striking out in subsections (o) and (p) "$1,312" each time it appears and inserting in lieu thereof "$1,388";

(16) by striking out in subsection (r) "$563" and inserting in lieu thereof "$596"; and

(17) by striking out in subsection (s) "$843" and inserting in lieu thereof "$892".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended—

(1) by striking out in subparagraph (A) "$46" and inserting in lieu thereof "$49";

(2) by striking out in subparagraph (B) "$77" and inserting in lieu thereof "$81";

(3) by striking out in subparagraph (C) "$98" and inserting in lieu thereof "$104";

(4) by striking out in subparagraph (D) "$120" and "$22" and inserting in lieu thereof "$127" and "$23", respectively;

(5) by striking out in subparagraph (E) "$30" and inserting in lieu thereof "$32";

(6) by striking out in subparagraph (F) "$52" and inserting in lieu thereof "$55";

(7) by striking out in subparagraph (G) "$77" and "$22" and inserting in lieu thereof "$81" and "$23", respectively;

(8) by striking out in subparagraph (H) "$37" and inserting in lieu thereof "$39";

(9) by striking out in subparagraph (I) "$83" and inserting in lieu thereof "$88"; and

(10) by striking out in subparagraph (J) "$70" and inserting in lieu thereof "$74".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION RATES

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade:	*Monthly rate*
E-1	$293
E-2	303
E-3	310
E-4	329
E-5	339
E-6	346
E-7	363
E-8	383
E-9	[1] 400
W-1	370
W-2	385
W-3	397
W-4	420
O-1	370
O-2	383
O-3	411
O-4	433
O-5	477
O-6	536
O-7	582
O-8	637
O-9	685
O-10	[2] 749

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $431.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $803.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $35 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $88 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

SEC. 202. Section 413 of title 38, United States Code, is amended as follows:

(1) by striking out "$140" in subclause (1) and inserting "$148" in lieu thereof;

(2) by striking out "$201" in subclause (2) and inserting "$213" in lieu thereof;

(3) by striking out "$259" in subclause (3) and inserting "$274" in lieu thereof; and

(4) by striking out "$259" and "$52" in subclause (4) and inserting in lieu thereof "$274" and "$55", respectively.

SEC. 203. Section 414 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$83" and inserting in lieu thereof "$88";

(2) by striking out in subsection (b) "$140" and inserting in lieu thereof "$148"; and

(3) by striking out in subsection (c) "$71" and inserting in lieu thereof "$75".

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 301. Section 110 of title 38, United States Code, is amended to read as follows:

"§ 110. Preservation of Disability Ratings

"A rating of total disability or permanent total disability which has been made for compensation, pension or insurance purposes under laws administered by the Veterans Administration, and which has been continuously in force for twenty or more years, shall not be reduced thereafter except upon a showing that such rating was based on fraud. A disability rating for compensation purposes under such laws which has been continuously in force at or above any evaluation for twenty or more years shall not thereafter be reduced below such evaluation, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes."

SEC. 302. Section 411 of title 38, United States Code, is amended by adding at the end thereof the following new subsection (d):

"(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $44 if the spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For purposes of this subsection, the requirement of "permanently housebound" will be met when the individual is substantially confined to his or her house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reason-

ably certain will remain throughout the individual's lifetime."

SEC. 303. Section 413 of title 38, United States Code, is amended by inserting "(a)" immediately before "Whenever", and by adding the following new subsection (b):

"(b) If dependency and indemnity compensation has been awarded to a veteran's child or children under this section, and the entitlement of an additional child is later established effective retroactively, the retroactive award payable to the additional child shall equal the difference between the total of the increased award for the retroactive period and the prior total award for that period."

SEC. 304. (a) Subchapter III of chapter 15, title 38, United States Code, is amended by adding the following new section 531 immediately before the subtitle "WARS BEFORE WORLD WAR I":

"§ 531. Retroactive entitlements of children of veterans of all periods of war

"For purposes of this subchapter and for purposes of the prior pension law in effect June 30, 1960, if pension has been awarded to a veteran's surviving child or children, and the entitlement of an additional child is later established effective retroactively, the retroactive award payable to the additional child shall equal the difference between the total of the increased award for the retroactive period and the prior total award for the same period."

(b) The table of sections at the beginning of such chapter 15 is amended by inserting the following after the title for subchapter III and before the subtitle "Wars Before World War I":

"531. Retroactive Entitlements of Children of Veterans of all Periods of War."

SEC. 305. Subsection 414(c) of title 38, United States Code, is amended by adding the following at the end thereof:

"However, if during the month in which such child reaches age 18 he or she is also being considered a child below age 18 for purposes of additional dependency and indemnity compensation for a surviving spouse under subsection 411(b) of this chapter, the amount of the child's award for that month will be reduced by an amount equal to the surviving spouse's additional award, for the same month, attributable to the child."

SEC. 306. The provisions of this Act shall become effective on October 1, 1978.●

By Mr. HATHAWAY:

S. 2829. A bill to establish a national system of regional development banks to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of small- and medium-size businesses and industries, and the expansion and improvement of such existing businesses and industries, and for the construction of low- and moderate-income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers; to the Committee on Banking, Housing, and Urban Affairs.

REGIONAL DEVELOPMENT ACT OF 1978

● Mr. HATHAWAY. Mr. President, the concept of a development bank to serve as a Federal lending institution of last resort has been embodied in bills introduced in Congress since the mid-1960's. The idea itself is in part a descendant of the Reconstruction Finance Corporation. The RFC was created in 1932 and, up until its abolition in the early 1950's, provided capital to the Federal agencies and State and local governments throughout the country and assisted financial institutions, business, and agricultural organizations.

Today's economic conditions are very different from those of 1932. Unemployment, although a problem in many areas, including Maine, is much less severe. Its effects are tempered by unemployment insurance and other social welfare programs. Business and bank failures are not a major problem affecting the economy. Economic growth has been upward for 2 years with total employment and income rising. A few areas of the country, some rural, some urban, are still distressed with high unemployment, stagnant income, and declining business activity. Inflation is also a problem which causes consumer uncertainty and business indecision. The capital markets are functioning to allocate large volumes of capital but with high interest rates and, at the moment, relatively low demand. Capital is available to enterprises, individuals, and governments who can afford the current level of interest and who have the necessary credentials of credit worthiness.

Despite these different circumstances, however, the concept of a development has remained alive, because the need is still there. Although the capital markets have not collapsed as they did during the Depression, the markets do not work well enough and leave many worthy borrowers without access to credit. Small communities, some large, older cities, and businesses in inner cities and rural areas are unable to obtain conventional financing at a reasonable price because of their size, lack of credit credentials, the condition of their physical plant, or their location. Unless something is done, many of the distressed areas of the country will face increasingly severe economic and social problems. The high rates of unemployment and physical decay in inner cities, the loss of sources of employment, and the lack of community facilities in many rural areas are conditions that a development bank could help remedy. A development bank would fulfill the capital needs of this group of borrowers.

Because of this need, there have been a number of bills to establish a development bank. In the 94th Congress, I introduced such a bill, S. 2938, the National Development Act of 1975, a bill to establish a National Development Bank to serve as a Federal lending institution of last resort.

I was pleased to see that President Carter has included such a proposal as part of his urban policy announced last week.

The bill I am introducing today, the Regional Development Act of 1978, is based substantially on the bill I sponsored in the last Congress, but with one major change. Instead of a single National Development Bank, this bill envisions an independent development bank in each of the 10 standard Federal administrative regions. Since such a bank would be dealing with State and local governments and with small businesses, a regional bank, with personnel who know the people and the problems of the varied areas of this country, would be much more sensitive to the varied needs than would a single bank headquartered in Washington.

The bill authorizes the creation of one independent capital development bank in each of the 10 standard Federal administrative regions. Each bank is governed by an unsalaried Board of Directors of 15 members, 11 appointed by the Governors of the States in the region and apportioned according to the relative population of the States (each State having at least one representative on the Board) and 4 appointed by the President of the United States with the advice and consent of the Senate. The Board will hire a president who will in turn hire and manage a professional staff of sufficient size to perform adequately all the functions of the Bank. The president, officers, and staff salaries will be competitive with those of private industry. The duties of the Board include the setting of general policies for the investments of the Bank and the selection of the president of the Bank.

Each Bank will be capitalized entirely by nonvoting stock purchased by the Secretary of the Treasury on application by the Board of Directors of the respective Banks. The amount of capitalization will be determined by a formula that takes into account the level of unemployment, the gross product per capita, and the capital situation of the region. In no case will any one Bank have a total capitalization in excess of $2 billion, nor will the Secretary subscribe more than $635 million to any one Bank in any single year. Each Bank is required to buy back the Secretary's stock at face value by the end of the 75th year of operation.

The Banks will have all the customary powers of private banks and corporations, as well as the authority to make direct loans, purchase capital stock in corporations, enter into grant-royalty agreements, and issue notes of indebtedness up to 20 times their paid-in capital. Each Bank is also authorized and directed to provide financial, legal and technical assistance to eligible applicants at reasonable rates and to undertake research and information gathering related to capital financing, economic development, and fiscal management.

The banks could issue direct loans on terms that reflect market conditions or provide loans at below market rates when the feasibility of the priority projects requires it. The banks, as a condition of financial assistance, could require that business and industrial borrowers provide a prescribed number of new job and job training opportunities in depressed urban and rural areas. In all cases of financial assistance, the banks could require that prevailing wage levels, particularly as these levels are established

by labor-management collective-bargaining agreements, apply to those employed in projects receiving financial assistance. In no case would the use of financial assistance by the banks be provided to runaway companies for the purpose of relocating business and industries to seek cheap labor in one area at the cost of lost job opportunities in another.

Provisions establishing the banks would include prohibitions against the bailout of companies, whether large or small, whose financial problems primarily stem from poor management. The bank would be required to give preference to small- and medium-size businesses and industrial borrowers in situations which require that a choice be made between such applicants and a large company. Additionally, when the bank receives a priority purpose financial assistance application from a large company, it can, if it deems it advisable, solicit applications from small- and medium-size borrowers, hold public hearings on the project, or take other steps designed to give small- and medium-size business and industry an opportunity to benefit from the resources of the bank to improve competition.

In addition to making direct loans to State and local governments to finance construction of public works and facilities, the bank would be empowered to fully guarantee obligations issued for this purpose by such borrowers. The bank's ability to provide guarantees would enable State and local governments, no matter how small, to obtain the equivalent of an AAA market rating resulting in the lowest borrowing cost possible under prevailing economic conditions.

All projects financed with its assistance comply as far as possible with existing district or regional economic development plans to assure that maximum benefits are derived from its investments. Projects financed by the bank could be required to conform to district development plans established under the auspices of the Economic Development Agency of the Department of Commerce or to similar plans produced by other groups. In addition, the staff of the banks would include experts in the field of development planning to coordinate the activities of the bank with local and regional planning groups and to provide assistance to areas lacking development plans. In this way, safeguards can be established and maintained against investments in projects which are contrary to the aims of development plans or against investments in business and industries which provide obsolete or low-market demand goods and services. By the same token, maximum utilization of area human and material resources will be assured.

Financial assistance for low- and moderate-family housing projects would be made available to public agencies and nonprofit and profitmaking groups. Organizations in any of the three categories could receive bank loans to finance the construction of such projects. Permanent mortgage lending to low- and moderate-income families for the purchase of such housing would be administered through local public or nonprofit agencies or groups established for this purpose. At the banks' option servicing of such loans could be undertaken by private residential mortgage lenders.

For the sake of achieving maximum efficiencies in housing produced with bank assistance and to allow it to provide housing at the lowest possible cost, the banks would be authorized to require that the most modern materials and construction techniques be utilized in such projects, regardless of the restrictions in local building codes, except as such restrictions apply to safety. This authorization would also apply to other types of construction financed with bank assistance. Moreover, the availability of financial assistance for housing from the banks would be predicated, when the banks deem it necessary, in construction of comprehensive housing projects which would include retail outlets and other commercial retail conveniences as well as community activity facilities such as day-care centers and recreational areas.

The banks would also require that such housing projects shelter a mix of moderate- as well as low-income families and that the families be permitted to retain their residences in rental dwellings when their income exceeds the levels which earlier had qualified them to have access to housing in these projects. In this way, the mistakes of the past which resulted in creation of new ghettos for the poor in areas isolated from communities amenities, can be avoided. To spur upward mobility and to give them a voice in the control of their neighborhoods, residents would be allowed full participation in the management of these housing projects.

The banks would be required to submit to annual audits by the General Accounting Office and to make annual reports of their financial conditions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Development Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

SECTION 1. (1) Tax and other financial sources currently available to State and local government are strained beyond their capacity to achieve sound and orderly development of the Nation's communities to accommodate our growing population. Adequate fundings at reasonable cost must be provided as soon as possible for a wide variety of public works and facilities, such as streets, water, sewers, schools, hospitals, airports, and recreation facilities together with facilities to reduce and eliminate air and water pollution in order that required social services and safeguards for the health and welfare of the population be made available.

(2) It is imperative that effective action be taken to combat alarming nationwide unemployment, particularly in those depressed urban and rural areas where the loss of industry and business has produced an unemployment crisis. This can best be done by helping to provide adequate loan funds at reasonable interest rates to finance public works and facilities, to establish small and medium size businesses and industries, and to provide such existing businesses and industries with loans necessary to expand or otherwise remain competitive and prosperous, so that employment opportunities providing adequate wages can be created and sustained.

(3) Every effort must be made to eliminate the Nation's housing crisis and achieve the National Housing Goal established by Congress, particularly as that goal applies to low- and moderate-income families who are most in need. Meeting this goal will constitute a major achievement, not only in terms of providing housing but in providing employment opportunities for a large segment of the population.

DEFINITIONS AND RULES OF CONSTRUCTION

SEC. 2. (1) The definitions and rules of construction set forth in this section apply for the purpose of this Act.

(2) The term "public facility" means the structures and equipment owned and operated by State and local governments to provide medical, social, educational, transportation, pollution control, and recreation services.

(3) The term "low- and moderate-income family housing" shall have the meaning given it under definitions made by the Secretary of Housing and Urban Development in establishing criteria by which families qualify for occupancy of dwellings supplied under the low- and moderate-income rental and homeownership programs of the National Housing Act.

(4) The term "depressed urban and rural areas" means those areas which may be designated without regard to political boundaries by the Secretary of Labor, the Secretary of Commerce, and the Director of the Office of Economic Opportunity, on the basis of the most recent appropriate annual statistics for the most recent available calendar year, as having a rate of unemployment of at least 6 per centum for the preceding calendar year, or a high rate of underemployed persons whose income does not exceed the level of poverty as that level has been established by the Department of Health, Education, and Welfare, or where pending loss of business or industry is expected to produce such conditions, or those areas characterized by substantial outmigration resulting from the lack of job opportunities, or those areas suffering from either conditions which in the judgment of the Board of Directors of the Bank qualify them for assistance under the provisions of this Act.

(5) The term "adequate wage" means a wage which shall not be lower than the highest of (A) the minimum wage under the Fair Labor Standards Act of 1939, (B) the minimum wage set by State and local governments, and (C) the prevailing rate of wages in the area for comparable work.

(6) The term "bank" means a Regional Development Bank established under section 3(a).

ESTABLISHMENT OF THE BANKS

SEC. 3. (a) There are created ten bodies corporate to be known as Regional Development Banks, which shall have succession until dissolved by Act of Congress. Each bank, which shall be instrumentalities of the United States Government, and which shall maintain such offices as may be neces-

sary and appropriate to conduct their business. Each bank will make and guarantee long-term loans at reasonable interest rates to State and local governments for public works and facilities, to individuals and corporations to establish new businesses and industries and to expand or otherwise improve existing businesses and industries, and to public agencies and private nonprofit and limited dividend corporations for the construction of low- and moderate-income housing, in order that vital public services may be provided, the health and welfare of our people will be safeguarded, and a full employment economy will be achieved. For the purposes of jurisdiction and venue, each bank shall be deemed a resident of any State in which it does business.

(b) No individual association, partnership, or corporation, except any of the banks, shall hereafter use the words "Regional Development Bank" as the name or part thereof under which it does business.

(c) One of the ten banks shall be located in and serve exclusively each of the ten standard Federal administrative regions as officially designated by the United States Office of Management and Budget (Circular Numbered A-46, Transmittal Memorandum Numbered 16, August 1976).

(d) The ten banks shall be denominated respectively as:

(1) the New England Regional Development Bank;

(2) the Middle Atlantic Regional Development Bank;

(3) the Central Regional Development Bank;

(4) the Southeast Regional Development Bank;

(5) the Midwest Regional Development Bank;

(6) the Southwest Regional Development Bank;

(7) the Plains Regional Development Bank;

(8) the Mountain Regional Development Bank;

(9) the Western Regional Development Bank; and

(10) the Northwest Regional Development Bank.

BOARD OF DIRECTORS AND MANAGEMENT

SEC. 4. (a) Each bank shall have a board of directors which shall consist of fifteen members to be appointed as follows:

(1) The Governor of each State in a region served by a bank shall appoint a number of board members to be determined by each State's proportion of the region's population, but in no case fewer than one appointment, such that the total of State appointments is eleven.

(2) The President of the United States, with the advice and consent of the Senate, shall appoint four directors to each bank.

(3) One director initially appointed pursuant to paragraph (2) shall be designated to serve until the end of the second year of the bank's operation, one director appointed pursuant to such paragraph shall be designated to serve until the end of the fourth year of the bank's operation, and two directors appointed to such paragraph shall be designated to serve until the end of the sixth year of the bank's operation. Vacancies occurring pursuant to this paragraph shall be filled by the President of the United States, with the advice and consent of the Senate, for terms of six years.

(4) Three directors initially appointed pursuant to paragraph (1) shall be designated to serve until the end of the second year of the bank's operation, four directors appointed pursuant to such paragraph shall be designated to serve until the end of the fourth year of the bank's operation, and four directors appointed pursuant to such paragraph shall be designated to serve until the end of the sixth year of the bank's operation. Vacancies occurring pursuant to this paragraph shall be filled by the Governor responsible for the appointment of the directorship so vacated, for terms of six years.

(5) Vacancies occurring as a result of illness, death, resignation, or otherwise shall be filled by the officer making the appointment of the directorship so vacated.

(b) Each board shall hold regular bimeetings at the call of the chairman. A majority of the members of each board shall constitute a quorum for the purpose of transacting business. Any vacancy or vacancies on the respective boards shall not affect their powers or duties.

(c) Each director shall be entitled to reimbursement for his or her actual and necessary expenses incurred in the performance of official duties. Each director shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which he or she is engaged in the actual performance of duties vested in the board.

(d) Any director who is an officer or employee of the United States shall serve without additional compensation for services as a director.

(e) The management of each bank shall be vested in the president of the bank, who shall be a nonvoting member of the board of directors. The president of the bank shall be subject to such policies as the board of directors shall from time to time prescribe. Except as otherwise provided by law, the board may delegate any of its functions to such officers and employees of the bank as it may designate, and may authorize such successive redelegations of such functions as it may deem necessary or appropriate.

INITIAL EXPENSES

SEC. 5. In order to facilitate the formation of the banks, the Secretary of the Treasury is authorized and directed to pay initial organizing and operating expenses of the banks. There is hereby authorized to be appropriated a sum not to exceed $3,000,000 for this purpose, no more than $500,000 of which is to be made available to any one bank.

CAPITALIZATION OF THE BANKS

SEC. 6. The Secretary of the Treasury is authorized to, and upon request of the respective boards may, purchase stock in amounts to be designated by the board up to a total of $2,000,000,000 for each bank, but in no event shall the Secretary of the Treasury purchase more than $650,000,000 of such stock for each bank in any single fiscal year.

CONFLICT OF INTEREST

SEC. 7. (1) No idrector, officer, attorney, agent, or employee of a bank shall in any manner, directly or indirectly, participate in the deliberations upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

(2) A bank shall not engage in political activities nor provide financing for or assist in any manner any project or facility involving political parties, nor shall the directors, officers, employees, or agents of a bank in any way use their connection with a bank for the purpose of influencing the outcome of any election.

BORROWING AUTHORITY

SEC. 8. (1) Each bank may issue notes, debentures, bonds, and other evidences of indebtedness in such amounts and on such terms and conditions as its Board of Directors may determine subject to the limitations prescribed in this Act.

(2) The aggregate outstanding indebtedness of each bank under this section at any time may not exceed twenty times the paid-in capital stock of the bank at that time.

(3) The obligations of a bank under this section shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guarantee shall be expressed on the face thereof.

(4) In the event that a bank is unable to pay upon demand, when due, any obligation under this section, the Secretary of the Treasury shall pay the amount thereof and thereupon to the extent of the amount so paid by the Secretary of the Treasury shall succeed to all the rights of the holder of the obligations.

PURCHASE OF ASSETS BY TREASURY

SEC. 9. The Secretary of the Treasury is authorized to purchase from a bank any asset of the bank at such price as may be agreed upon between the Secretary and the bank.

DISCOUNT BY FEDERAL RESERVE BANK

SEC. 10. (1) The several Federal Reserve banks are authorized to purchase or discount any note, debenture, bond or other obligation, secured or unsecured, held by a bank.

(2) Obligations of a bank are eligible for purchase by the Federal Reserve Open Market Committee.

(3) Obligations of a bank are eligible for purchase by any federally chartered or regulated commercial bank, savings and loan association, or mutual savings bank.

INVESTMENT STATUS OF OBLIGATION OF THE BANK

SEC. 11. All obligations issued by a bank shall be lawful investments for, and may be accepted as security for, all fiduciary, trust, and public funds the investment or deposit of which is under the authority or control of the United States or of any officer or officers thereof.

LOANS TO COMMERCE AND INDUSTRY

SEC. 12. Each bank may make or guarantee loans or purchase obligations to provide funds for the purchase of real and personal property and for working capital necessary for the location of new business and industry or the improvement of existing business and industry in depressed urban and rural areas as defined by section 3(4) of this Act: *Provided*, That—

(1) the borrowers agree to fill a specified number of job openings to be determined by the bank with people who, prior to such employment, were unemployed or underemployed;

(2) the borrowers agree to conduct training courses for a specified number of unemployed and underemployed persons to be determined by the bank with the result that these persons will, within a period of time to be determined by the bank, be employed full time by the borrower and receive adequate wages; or

(3) the borrowers agree to other requirements laid down by the bank to carry out the purposes of this Act.

LOANS FOR COMMUNITY DEVELOPMENT

SEC. 13. Each bank may make or guarantee loans or purchase obligations or guarantee the payment of principal and interest on obligations to finance capital expenditures for public works and community facilities, including facilities for education, health, social welfare, recreation, sewer and water systems, land for housing development, public transportation, and utilities, providing

that such facilities and projects extend direct and substantial benefits to urban slum and depressed rural areas, or provide other benefits specified by the bank to carry out the purposes of this Act.

LOANS FOR LOW- AND MODERATE-INCOME HOUSING PROJECTS

SEC. 14. Each bank may make or guarantee loans to appropriate public agencies, nonprofit cooperatives and corporations, limited dividend corporations, developers, contractors, subcontractors, and other persons to provide construction loans for housing projects designed to provide dwellings under the insured and guaranteed low- and moderate-income housing loan programs of the Department of Housing and Urban Development, the Veterans' Administration, and the Farmers Home Administration of the Department of Agriculture.

TECHNICAL AND OTHER ASSISTANCE

SEC. 15. (1) Each bank may provide to borrowers whatever assistance, technical or otherwise, it considers necessary to protect its investment and to carry out the purposes of this Act.

(2) To assure fulfilling the purposes of this Act, each bank shall direct an adequate number of staff members to seek out and confer with representatives of State and local governments, public agencies, nonprofit private organizations, companies, corporations, partnerships, and individuals, in order to provide information about the services furnished by the bank, to provide whatever assistance is necessary for utilization of such services, and to assist the recipients of such services in meeting other requirements laid down by the bank to carry out the purposes of this Act.

SECURITY REQUIRED

SEC. 16. The Board of Directors of each bank shall make whatever arrangement it considers adequate to secure loans made by the bank.

MATURITY OF LOANS

SEC. 17. Loans made by each bank to any State and local government, private corporation, company, or individual shall be for periods determined by the Board of Directors of the bank, bearing in mind that the maturity of such loans should, whenever possible coincide with the projected useful life of the facilities financed with such loans. However, the outstanding balance due on bank loans shall be refinanced through another lender whenever, in the judgement of the Board of Directors of the Bank, such refinancing is feasible on terms and conditions which the Board of Directors of the bank considers to be reasonable for the borrowers.

GUARANTEED LOANS

SEC. 18. Each bank may fully guarantee the entire interest and principal of any loan made by any bank, savings bank, trust company, building and loan or savings and loan association, insurance company, mortgage loan company, or credit union, provided that such loans are made to carry out the purposes of this Act and the effective interest rate for such loans is not more than 1½ per centum above the Federal Reserve discount rate.

DIRECT LOANS

SEC. 19. To carry out the purposes of this Act, each bank may make direct loans to State and local governments, public agencies, nonprofit private organizations, corporations, companies, partnerships, and individuals providing that the effective interest rate does not exceed 6 per centum per annum or the Federal Reserve discount rate, whichever is lower, or a lesser rate established by the Board of Directors of the Bank, provided that borrowers have presented evidence they are unable to obtain funds on reasonable terms from any other source to carry out the purposes of this Act.

TAXABLE STATUS

SEC. 20. Each bank, its property, its franchise, capital reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the Bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the Bank shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

AUDIT BY GENERAL ACCOUNTING OFFICE

SEC. 21. The General Accounting Office shall audit the financial transactions of each bank, and for this purpose shall have access to all its books, records, and accounts.

By Mr. ABOUREZK:

S. 2830. A bill to provide for the protection of Government employees who disclose information of illegal or improper actions within the Government; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE PROTECTION ACT OF 1978

● Mr. ABOUREZK. Mr. President, today I am introducing a bill which will insure that a small but much abused group in American society will be able to exercise its first amendment right to speak the truth without fear of reprisal. I am, of course, referring to whistleblowers. That term has been used to describe employees who disclose acts of governmental waste, abuse and corruption. Frustrated at every turn within the agency, ignored by peers and superiors, the whistleblower is driven to the Congress and the public with information revealing malfeasances, great or small, within the bureaucracy. These courageous employees provide invaluable assistance to both Congress and the public. For it is essential, in a democracy, that a free flow of ideas exist throughout all levels of society, in order to reach the chambers of those to whom the people have delegated the responsibility to make decisions—the consequences of which affect us all—the lawmakers.

In his famous essay "On Liberty," John Stuart Mill said that—

[To] discover to the World something about which it has been previously ignorant; to prove to it that it has been mistaken on some vital point of temporal or spiritual interest, is as important a service as a human being can render to his fellow creatures . . .

Whistleblowers render such service.

And they do so because they put their loyalty to their country and its people above loyalty to their agency.

Unfortunately, the reward for a whistleblower's adherance to high moral and ethical principles is often intense and traumatic harrassment by the employee's supervisors with the blessing of the agency. It should hardly be surprising that the bureaucracy metes out punishment for those who dare oppose it.

By acting alone, on the basis of their conscience, whistleblowers engage in a struggle against the basic tenets of life in the bureaucracy. They refuse to "go along with the team"; they "rock the boat"; and they firmly reject the philosophy that "to get along, you go along."

Many years ago Thoreau noted that—

The mass of men serve the state . . . not as men mainly, but as machines . . . There is no free exercise whatever of the judgment or of the senses . . . Others . . . rarely make any moral distinctions . . . A very few, as heroes, patriots, martyrs, reformers in the great sense, and men, serve the state with their consciences also, and so necessarily resist it for the most part; and they are commonly treated as enemies by it.

The same observation about society is apt today. Most people are indifferent to, or do not see the necessity for individual action which can create waves within the cozy and well-defined boundaries of their particular jobs in their bureaucracy.

Modern day society seems to be moving farther away from the notion that the value of the individual's contribution to the society is what makes the society as a collective, valuable. When an individual absolves himself of responsibility for his professional integrity there is not only a loss of the individual's self-esteem and self respect, but there is also encouragement for the bureaucracy to step into the vacuum and define individual values thereby exerting unacceptable control over the social order. Are we not more and more coming to accept a view of people not as individuals, but as fungible entities ready to be folded, spindled, and mutilated into appropriate slots?

For those who refuse to acquiesce to the ostrich head-in-the-sand posture, the consequences are swift and clear.

As in the case of Ernest Fitzgerald, the whistleblower who revealed the $2.5 billion cost overrun on the C–5A transport plane, they are summarily rejected and treated as pariahs. Commenting on the reasons why agency supervisors treat whistleblowers the way they do, Fitzgerald said:

What they did in punishing me was good, sound management practice. They were offering an object lesson to everyone else. They've got to make an example of people who get out of line. They teach it in business schools—communicating by deeds. They can say whistleblowing is wonderful as long as they show what happens to people who try it.

It is this method of publicly communicating the wrath of the bureaucracy which has also been applied to try to silence Frank Snepp and other potential dissenters. A former CIA analyst, Snepp spent months trying to go through "channels" within the Agency to express a dissenting point of view regarding the Agency's public pronouncements about the evacuation of Vietnam. The Agency channels led to blank walls. Doors were literally shut in his face. People refused to speak to him, and those who

did, lied to him. Yet he refused to be intimidated by these actions. He broke from the group, eschewed the boys-in-the locker room attitudes of the Agency and told the truth no one in the Agency wanted to hear, directly to the people.

As Fitzgerald and Snepp have learned firsthand, the person who stands apart from his bureaucratic colleagues and dares to tell the truth about governmental impropriety, faces a loss of livelihood, a smear of both personal and professional reputation, the economic hardship of expending hundreds of dollars to defend himself—to say nothing of the intense psychological pressures brought to bear in these situations.

In Fitzgerald's now classic case he simply told the truth at a congressional hearing when asked. The Department of Defense responded to this rather startling occurrence by publicly attacking his personal life, his mental and professional competence—attacks calculatedly designed to render him vulnerable and in great psychic pain. This formidable bureaucracy marshaled all its resources in attempting to snuff out the continuing criticisms of one man who told the truth.

Whistleblowing is not a new phenomenon. Martin Luther "blew the whistle" on the Catholic Church for its selling of indulgences and other actions which broke the Christian world apart during the late middle ages. In more recent times, William Jennings Bryan resigned in protest from his position as Secretary of State in Wilson's Cabinet when he found that Wilson's policies were leading the country into a war he felt was morally reprehensible. There have been scores of other less visible whistleblowers throughout history. What has happened to Fitzgerald and Snepp has happened to them all—they are deserted by the very people who in the end, gain from their acts of assertion and resistance to the yoke of unjust authority.

For, as Carl Jung writes:

[T]he larger a community is and the more the sum total of collective factors peculiar to every large community rests on conservative prejudicies detrimental to individuality, the more will the individual be morally and spiritually crushed, and, as a result, the one source of moral and spiritual progress for society is choked up . . .

He goes on to say that the repression of individuality eventually destroys morality: "The more the individual factors are blotted out, and with them morality, which rests entirely on the moral sense of the individual and the freedom necessary for this."

He finishes his analysis by concluding that "Without freedom there can be no morality."

It is for this very reason I am introducing this legislation today. All the talk about "post-Watergate morality" notwithstanding, I have not seen any concrete manifestations that individual rights are any more revered today institutionally than they were during the darkest of the Nixon days. There is no more freedom now to express dissent than there was then.

And despite President Carter's campaign rhetoric the Government is not yet treating whistleblowers with any more concern and sensitivity than prior administrations. Ernest Fitzgerald has had no relief from the Carter administration despite the President's having made his situation an issue prior to his election.

And is the Justice Department's prosecution of Frank Snepp a calculated effort to make him the example of what happens to someone who goes public in order to frighten the intelligence community into cowed silence?

The cumulative effect of the Government's continued persecution of whistleblowers is to chill, perhaps freeze the exercise of a Federal employee's first amendment rights. The spectacle of a colleague's career going down the drain, seeing him isolated, then finally watching his reputation being destroyed hardly encourages the free flow of dissenting ideas within an institution.

As a nation—as a government—we must reassert the importance of the rights of the individual in a real and tangible way. We must create procedures and practices within institutions through which dissent and free speech can be reaffirmed as principles basic to democratic government. We must reestablish the firm principle that the best government is one which encourages the free flow of ideas and treats dissenting views as an integral part of its deliberative process.

We in Congress have an affirmative duty to insure that whistle-blowers have a governmentwide uniform procedure through which they can express their dissent, and one through which they are protected and sheltered while doing so.

In fashioning such channels and remedies, we must be aware of the balancing process that goes on between Congress and the public's right to information and the need for agencies to make decisions in an orderly fashion. But order and efficiency in and of themselves must never become the basic values to which we look for guidance in fashioning such procedures.

The most important principle that these procedures be designed to uphold is that of freedom of expression—the exercise of the individual's first amendment rights within the bureaucracy. It is essential that the varieties of truth reach the marketplace where every person may have access to them. And the exercise of free speech is especially important for Federal employees who are in particularly knowledgeable positions with respect to issues which directly affect both the substance and procedures of governmental actions, and to which the populace as a whole is not privy.

And though the Supreme Court has adopted a balancing test with respect to public employee protections, it is not enough. It is unconscionable that when a Federal employee walks into a Government building and takes his place at a desk, he loses basic rights guaranteed him under the Constitution, and must go to court to reaffirm them in each particular case.

The bill I am introducing today is also an affirmative expression of the philosophy that the individual in government service has a unique responsibility: he is accountable to the people he serves—not to the bureaucracy. He may be misguided—he even may be wrong—but his good faith efforts to bring truth to the people must not be repressed by a hostile institutional environment.

In order to accomplish this, I have structured the bill to include as one of its focal points, an ombudsman structure for receiving complaints from both employees who are being retaliated against, and those employees who discover acts of illegality or impropriety within their particular agency. In either of these situations, the Office of Special Counsel is the first forum in which the dispute is aired if the situation cannot be resolved within an agency. The aggrieved party makes a complaint under oath at this office. The Special Counsel then has the authority and responsibility to make an investigation of the potential whistleblower situation described in the complaint. If, after a stated period of time (15 days), the Special Counsel concludes that there is no evidence to support the complaint, he advises the complainant of his determination. At this point, the complainant can appeal to the Merit Systems Protection Board for a hearing on the basis of the complaint.

If the Special Counsel finds evidence of a problem, he has another limited period of time in which to make a further investigation (30 days). At the time he begins either investigation, the Special Counsel is empowered to grant such relief as to assure that no action is taken against the complainant pending the outcome of the investigation. The Special Counsel may, at any time, change the relief as he sees fit.

The final determination of the Special Counsel is appealable to the Merit Systems Protection Board by either party, and from there to the appropriate Federal court.

Every Federal employee is covered. Unlike the administration's bill this one does not ignore the intelligence or security agency employees.

Mr. President, I ask unanimous consent that the text of the bill and an excellent article by Richard Reeves that appeared in the March 1, 1978 issue of Esquire magazine be printed in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 2830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employee Protection Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that:

(a) American citizens have a right to know how their government works in order to

understand and consider public issues in an enlightened manner, in order to be able to ascertain how Federal moneys are spent and in order to insure that the Federal bureaucracy, accountable to the citizenry, does not act in an illegal or improper fashion.

(b) Employees of the Government of the United States risk substantial damage to their careers, possible loss of their livelihoods, and other severe forms of reprisal if such employees disclose information to the Congress and the public about improper or illegal action within Federal agencies by employees of such agencies.

(c) Existing laws, rules, and regulations, and practices relating thereto, do not adequately define and protect the right of Federal employees to provide information to Congress, Federal agencies and the public and have detrimental effects on the employees, the Federal agencies, the Congressional oversight process, the public's right to know, and public policy as a whole.

(d) It is necessary that a program be established to inform and educate employees to impress upon each employee the responsibility to tell and act upon the truth and to exercise, without fear of reprisal, all rights guaranteed under the Constitution.

(e) It is necessary that Congress establish protections of such employee rights and establish effective remedies and sanctions to be applied in cases of denial or abuse of such rights.

SEC. 3. (a) Title 5, United States Code, is amended by adding after chapter 77 the following new chapter:

Chapter 78—PROTECTION OF EMPLOYEE RIGHTS

"Subchapter I—POLICY AND COVERAGE

"Sec.
"7801. Policy.
"7802. Definitions.

"Subchapter II—MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"7811. Merit Systems Protection Board; appointment of members.
"7812. Terms of office; filling vacancies; removal.
"7813. Powers and functions; authority of office.
"7814. Special Counsel; appointment and removal; responsibilities and authority.

Subchapter III—PROCEDURES INVOLVING PROHIBITED DISCIPLINARY ACTIONS

"7821. Prohibition of certain disciplinary action; exceptions.
"7822. Procedure upon complaint; investigation; powers of Special Counsel.

"Subchapter IV—APPEALS

"7831. Appeals to Merit Systems Protection Board.
"7832. Judicial review.

"Subchapter V—CLASSIFIED AND OTHER INFORMATION

"7841. Classified and other information, procedures.
"7842. Penalties.

"Subchapter VI—RELATED PROVISIONS

"7851. Participation in hearings.
"7852. Attorneys fees; costs; court appointment of attorneys.
"7853. Collection of amounts paid by United States.
"7854. Authority of law enforcement agencies.

"Subchapter I—POLICY AND COVERAGE

"§ 7801. Policy

"It is the policy of Congress that Federal employees should be encouraged to disclose, to the extent not expressly prohibited by statute, illegal or improper government actions.

"§ 7802. Definitions

"For the purpose of this chapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) the Executive Office of the President of the United States; and

"(D) the United States Postal Service and the Postal Rate Commission.

"(2) 'disciplinary action' means any direct or indirect form of discipline, penalty or threat including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, reduction-in-force, reduction-in-rank, fitness for duty examination, or withholding of work;

"(3) 'Board' means the Merit Systems Protection Board;

"(4) 'Special Counsel' means the head of the Office of Special Counsel of the Merit Systems Protection Board; and

"(5) 'employee' means an individual employed or holding office in any agency.

"Subchapter II—MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"§ 7811. Merit Systems Protection Board; appointment of members

"There is established, as an independent establishment of the executive branch of the Government of the United States, a Merit Systems Protection Board to be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, not more than 3 of whom may be adherents of the same political party and none of whom may hold another office or position in any branch or authority of the Government of the United States. No individual shall be appointed as a member who is not qualified to review information described in section 7821(b)(4) of this title. The President shall from time to time designate one of the members as the Chair of the Board. The Chair shall be the chief executive and administrative officer of the Board. The members shall from time to time appoint a Vice Chair.

"§ 7812. Term of office; filling vacancies; removal

"(a)(1) The term of office of each member of the Board is 5 years. A member may not be reappointed to any following term but may serve until the earlier of the thirtieth day following the expiration of such term or the day on which a successor has been appointed and qualified.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. The appointment is subject to subsection (a) of this section and section 7811 of this title, except that if less than one-half of the term for which the member was appointed is remaining at the time of the appointment, the member may be reappointed to a following term.

"(b) A member may be removed by the President, upon notice and hearing, only for misconduct, neglect of duty, or malfeasance in office.

"§ 7813. Powers and functions; authority of office

"(a) The Board shall, through the Office of Special Counsel, receive and investigate complaints made under oath from any person claiming that—

"(1) an employee is subject to a disciplinary action prohibited by section 7821 of this title: or

"(2) any employee or agency is engaged in any illegal or improper action.

"(b) The Board may—

"(1) appoint and fix the compensation of its officers and employees, and make such expenditures, as may be necessary to carry out its functions under this chapter;

"(2) prepare and publish in the Federal Register written rules for the conduct of its activities;

"(3) have an official seal which shall be judicially noticed; and

"(4) have its principal office in or near the District of Columbia and field offices in any other appropriate location.

"(c) All decisions of the Board with respect to the exercise of its duties and powers under the provisions of this chapter shall be made by a majority vote of the members of the Board present and voting. Three members shall constitute a quorum for the transaction of business under this chapter.

"(d) The Board shall establish and maintain a program to disseminate information to agencies and employees explaining the rights of employees to speak out without fear of harassment and educating such employees about the provisions of this chapter.

"(e) The Board shall establish an office for the counseling of any employee who questions the propriety or legality of any agency or employee action. No person shall disclose the identity of any employee who seeks such counseling. Any violation of the prohibition against such disclosure shall be punishable by a fine of not more than $5,000, or not more than one year in jail, or both.

"(f) The Board shall submit, not later than March 1 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this chapter during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of employees with respect to whom any penalties have been imposed under this chapter.

"(g) Any member of the Board, the Special Counsel, a hearing examiner appointed under section 3105 of this title, or any employee of the Board authorized by the Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place, administer oaths, take or order the taking of depositions, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the Special Counsel may petition any United States District Court for an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof. Witnesses shall be paid the same fee and mileage expenses that are paid witnesses in the courts of the United States.

"§ 7814. Special Counsel; appointment and removal; responsibilities and authority

"(a) There is in the Board the Office of Special Counsel. The Special Counsel shall be an attorney and individual qualified to review information described in section 7821(b)(4) of this title appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel may be removed by the President, upon notice and hearing, only for misconduct, neglect of duty, or malfeasance in office. The Special Counsel may not be reappointed to a following term but may continue to serve until the earlier of the thirtieth day following the expiration of such term or the day on which a successor is appointed and has qualified. Any individual appointed to fill a vacancy shall serve the

remainder of the term of the predecessor, except that if less than one-half of the term for which the individual was appointed is remaining at the time of the appointment, the individual may be reappointed to a following term.

"(b) The Special Counsel shall be the independent investigatory arm of the Board. The Special Counsel may take such actions as may be necessary to carry out the functions of the Special Counsel under this chapter including appointing, and fixing the compensation of, employees within the Office, and making expenditures, as may be necessary to carry out the functions of the Office.

"Subchapter III—Procedures Involving Prohibited Disciplinary Actions

"§ 7821. Prohibition of certain disciplinary action; exceptions

"(a) Disciplinary action shall not be taken against any employee for providing information to Congress, to any agency, or to the public concerning an action of any agency or any other employee which the employee reasonably believes to be illegal or improper.

"(b) Except as provided in subsection (c), subsection (a) shall not apply to the release of any information—

"(1) that is knowingly false or made with a reckless disregard for its truth or falsity;

"(2) from any personnel, medical, or similar files which, if disclosed, would constitute a clearly unwarranted invasion of privacy;

"(3) described in section 552b(c)(7) of this title;

"(4) specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs and in fact properly classified pursuant to such Executive Order; or

"(5) which is extremely prohibited by statute from being released.

"(c) Subsection (a) shall apply to an employee who provides information described in subsection (b) to—

"(1) the Congress, or

"(2) the Board, the Special Counsel, or any court of the United States under the procedures established under subchapter V of this chapter.

"§ 7822. Procedure upon complaint; investigation; powers of Special Counsel

"(a) If the Special Counsel receives a complaint under oath, or has reason to believe, that an employee—

"(1) has taken, or is about to take, any disciplinary action prohibited under section 7821 of this title, or

"(2) has engaged in, or is about to engage in, any illegal or improper action,

the Special Counsel shall within 15 days conduct such preliminary investigation of the matter as is appropriate. In conducting such investigation the Special Counsel shall not disclose the identity of the person filing the complaint.

"(b) (1) If, after a preliminary investigation under subsection (a), the Special Counsel determines that no further investigation, prosecution, or administrative action is warranted, the Special Counsel shall so notify, in writing, the complainant (and any employee, other than the complainant, who is subject to such prohibited disciplinary action) and the head of each agency involved of all information received, the results of the preliminary investigation with regard to each allegation of a prohibited disciplinary action under section 7821 of this title, or of illegal and improper activity, and the determination made by the Special Counsel under this paragraph.

"(2) If, after such preliminary investigation, the Special Counsel determines that further investigation is warranted, the Special Counsel shall so notify the complainant (and any employee, other than the complainant, who is subject to such prohibited disciplinary action) and the head of each agency involved and conduct such further investigation within 30 days.

"(c) If the Special Counsel determines after the completion of an investigation under subsection (b)(2) that an employee—

"(1) has taken, or attempted to take, any disciplinary action prohibited under section 8721 of this title, the Special Counsel may—

"(A) order restoration of an aggrieved employee to the status existing prior to such disciplinary action;

"(B) order the payment to the aggrieved employee of any actual damages caused by such disciplinary action;

"(C) take such actions as are provided under subsections (d) and (e); or

"(D) order any other remedy the Special Counsel determines appropriate to compensate fully the aggrieved employee, or

"(2) has engaged in, or attempted to engage in, any illegal or improper action, the Special Counsel—

"(A) shall refer any apparent criminal violation to the Attorney General,

"(B) may order such corrective actions and remedies as are appropriate, or

"(C) may take such actions as are provided under subsection (d) or (e).

The Special Counsel shall notify the head of each agency involved of any order issued or action taken under this subsection.

"(d) The head of the agency shall take the corrective action ordered by the Special Counsel under this section within 30 days after such order is issued. If the head of the agency fails to comply with the order of the Special Counsel, the Special Counsel shall certify such failure to the Comptroller General of the United States and no payment shall be made from the Treasury of the United States for services rendered by the head of the agency during the period beginning on the day after such 30-day period and ending on the day such action is taken.

"(e)(1) The Special Counsel may file with the Board disciplinary charges against any employee who has taken, or attempted to take, a disciplinary action prohibited under section 7821 of this title, or who engaged in, or attempted to engage in, any illegal or improper action.

"(2) Any employee with respect to whom a disciplinary charge has been filed under paragraph (1) shall be entitled to a hearing on the record before the Board or a hearing examiner appointed under section 3105 of this title. The final decision shall be made by the Board which may impose disciplinary action including removal, demotion, debarment from Federal employment for a period not exceeding five years, suspension, reprimand, or a civil penalty not to exceed $25,000.

"(f)(1) Upon a preliminary showing under subsection (a) that a disciplinary action prohibited under section 7821 of this title has been, or is about to be, taken, the Special Counsel may—

"(A) stay in whole or in part such disciplinary action, or

"(B) grant such other temporary relief as may be appropriate.

"(2) The Special Counsel may continue any stay or temporary relief granted under paragraph (1) during the period an investigation is being conducted under subsection (b)(2) and during the period an appeal is pending under section 7831 or 7832 of this title.

"(g) The Special Counsel shall maintain records of any investigation conducted under this section.

"(h) The Board and the Special Counsel may prescribe such regulations as may be necessary to carry out the purposes of this section.

"Subchapter IV—Appeals

"§ 7831. Appeals to Merit Systems Protection Board

"(a) Any employee or agency aggrieved by—

"(1) any determination of the Special Counsel under section 7822(b)(1) of this title that further investigation is not warranted, or

"(2) any determination, order, or action of the Special Counsel under section 7822(c) of this title (other than any action which results in the nonpayment of any compensation to the head of the agency for failure to comply with an order of the Special Counsel),

is entitled to appeal to the Board if such appeal is filed, in writing, within 15 days of the notice of the Special Counsel's action.

"(b) Within 30 days of the filing of the appeal under subsection (a), there shall be a hearing—

"(1) which shall be open to the public, unless the employee whose conduct is the subject of the hearing requests that it be closed,

"(2) which shall be conducted before one or more hearing examiners appointed under section 3105 of this title, and

"(3) at which each party shall be allowed to be represented by counsel, present evidence, and cross-examine witnesses.

"(c) Each party shall be entitled to a verbatim transcript of the hearing.

"(d) Within 30 days of the hearing, the hearing examiner or examiners shall issue a written decision stating the findings of fact and conclusions of law upon which each decision is based, and if more than one examiner conducts such hearing, a record of the votes of each. The hearing examiner or examiners may reverse, modify, or affirm a decision by the Special Counsel in accordance with the provisions of section 7822. Each decision by the hearing examiner or examiners shall be subject to review by the Board which shall make a final decision based on the record before the hearing examiner.

"§ 7832. Judicial review

"(a) Any party aggrieved by any final determination or order of the Board under section 7822(e) or 7831(d) of this title may institute, in the district court of the United States for the judicial district wherein such party resides, or such disciplinary action or illegal or improper activity occurred, or in the United States District Court for the District of Columbia, a civil action for the review of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under such sections. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

"Subchapter V—Classified and Other Information

"§ 7841. Classified and other information; procedures

"(a) Notwithstanding any other provision of any law, rule, or regulation, any person

may disclose to the Special Counsel, the Board, or any court of the United States information described in section 7821(b) of this title for use in any investigation, hearing, or proceeding conducted under the authority of this chapter.

"(b)(1) Any portion of any hearing or proceeding during which any information described in paragraph (1) is to be discussed or presented shall be closed to the public.

"(2) Any party directly involved in the hearing or proceeding, and the representatives of the party, may examine such information under the supervision of the Special Counsel, the Board, or the court and be present at the hearing or proceeding at which such information is presented and discussed.

"(3) A transcript of the hearing or proceeding shall be made but shall not be made available to the public.

"(c) The Special Counsel, the Board, and any court of the United States may designate employees qualified to review such information to examine the information and to be present at the hearing or proceeding.

"§ 7842. Penalties

"(a) No person shall disclose information described in section 7821(b) of this title in connection with any investigation, hearing, or proceeding conducted under the authority of this chapter to any person except as provided in section 7841 of this title.

"(b) Any violation of subsection (a) shall be punishable by a fine of $5,000, or not to exceed 5 years in jail or both.

"Subchapter VI—Related Provisions

"§ 7851. Participation in hearings

"(a) The complainant, officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this subchapter occurred or is threatened, or any person who has reasonable interest in the outcome of the complaint, may participate in any hearing conducted under section 7822 or 7831 of this title through submission of written data, views, or arguments and through oral presentation. Cross-examination is permitted both in writing and orally.

"(b) Employees called upon by any part of any Federal employee organization to participate in any phase of any administrative or judicial proceeding under section 7822, 7831, or 7832 of this title shall not suffer loss in leave or pay and shall be free from restraint, coercion, interference, intimidation or reprisal in or because of such participation. Any periods of time spent by employees participating in such preceedings shall be held and considered to be Federal employment for all purposes. Any employee participating in any administrative proceeding under section 7822 or 7831 of this title shall be reimbursed for travel expenses by the agency.

"§ 7852. Attorney fees; costs; court appointment of attorney

"(a) In any proceeding under section 7822, 7831, or 7832 of this title, any prevailing party (other than the Government of the United States or agency thereof) is entitled to recover costs reasonably incurred in connection with such proceeding, including attorneys fees, as determined by the Court, the Board, or the Special Counsel without regard to the nature of the remedy.

"(b) Upon application by a person filing a complaint under section 7822 with respect to a disciplinary action prohibited by section 7821, the Board shall furnish representation for such person regardless of financial need. Such representation shall be provided in a manner similar to the manner in which representation is provided under section 3006A of title 18, United States Code, and shall be acceptable to such person. Such representation shall be provided until the Special Counsel has completed the preliminary investigation under section 7822(a) of this title. If the Special Counsel makes a determination under section 7822(b)(2) of this title that further investigation is warranted, such legal counsel shall continue to represent the person throughout any administrative or judicial proceeding in connection with such complaint.

"§ 7853. Collection of amounts paid by the United States

"If the United States is held liable for monetary damages, or ordered to pay attorneys fees or litigation costs, as a result of an action under section 7822, 7831, or 7832 of this title, the United States shall have the right to recover the amount it paid in such damages, fees, and costs from any employee who has committed a willful and knowing violation of section 7821 in connection with which such damages, fees, and costs arose. The United States may institute an action in the district court of the United States in the judicial district in which such employee resides to recover such damages, fees, and costs resulting from such violation.

"§ 7854. Authority of law enforcement agencies

"This chapter shall not limit any authority conferred upon the Attorney General, the Comptroller General, the Federal Bureau of Investigation, or any other department or agency of government to investigate any matter.".

(b) Notwithstanding the provisions of sections 7811 and 7812 of title 5, United States Code, as added by subsection (a), of the members of the Merit Systems Protection Board first appointed, one shall be appointed for a term of 1 year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years.

(c) The table of sections for part III of title 5, United States Code, is amended by adding after the item relating to chapter 77 the following new item:

"78. Protection of Employee Rights_ 7801.".

(d)(1) Section 7501(c) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or a suspension or removal which is ordered by or applicable to the Merit Systems Protection Board under chapter 78 of this title".

(2) Section 7511(2) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: ", but does not include any action ordered by or appealable to the Merit Systems Protection Board under chapter 78 of this title".

(e)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(67) Members, Merit Systems Protection Board.".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

Sec. 4. Section 7521 of title 5, United States Code, is amended to read as follows:

"§ 7521. Removal

"(a) A hearing examiner appointed under section 3105 of this title may be removed by the agency for which he is employed only for good cause established and determined by the Merit Systems Protection Board under the procedure prescribed in subchapter I of this chapter.

"(b) A bearing examiner removed under subsection (a) shall be entitled to judicial review of such determination under section 7512 of this title.".

Sec. 5. The amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

[From Esquire, Mar. 1, 1978]

The Last Angry Men

(By Richard Reeves)

(Note.—I began a search for heroes—for men who stood up to the system. I wanted to find out why they did it, what they accomplished.)

"Hey, Dick," I asked my friend Richard Cohen, "whatever happened to that guy Hanrahan?"

"I don't know," he said.

"Did he go back to the *Post*?"

"No."

Cohen obviously did not want to talk about John Hanrahan. They had been friends, pretty close for a couple of years when they were ambitious young reporters covering Maryland politics together for *The Washington Post*. Cohen had gone on to become a cityside reporter and columnist. Hanrahan became assistant Maryland editor. They parted ways on October 1, 1975, when the Post's pressmen vandalized the paper's pressroom and went on strike. Cohen crossed the picket line and went to work. Hanrahan did not.

Nobody I knew at the Post seemed to want to talk about the strike in general or Hanrahan in particular. I began asking out of vague curiosity; I had never met the man. Friends just changed the subject, usually shifting their gaze to something on my left shoulder. What was going on? All I knew was that he was one of the reporters who had said that they could not stand by if management brought in strikebreakers to replace the pressmen—but a lot of reporters, some of whom worked at the beginning of the strike and some of whom didn't, had said the same thing. What I didn't find out until later was that Hanrahan was the only one who meant it. "Everyone here on both sides has something to be ashamed of," one friend said. "Everyone except Hanrahan." The strikebreakers came and he was the only reporter who gave up that kind of career because . . .

Because . . . why? Because of a principle? A thousand men and women can live with crossing a line—in this case a picket line—but one will not, no matter what the price. Maybe he was just a nut—before my friends at the Post turned away from the subject of Hanrahan, a couple mumbled something about his being "a little crazy." Maybe they all were, the angry ones: Curt Flood suing baseball; Ernest Fitzgerald blowing the whistle at the Pentagon; Frank Johnson taking on the whole state of Alabama for more than twenty years. There must be others, but the list is short—there are not many that brave in the land of the free.

The price, I thought, must be very high. It turned out to be higher than I had imagined. While I was looking for Flood, the little St. Louis outfielder who sued professional baseball over the reserve clause in 1969, a friend of his said: "Maybe you should leave him alone. Look, he took on something very big and it broke him." Being curious about John Hanrahan became a search for heroes—for men who stood up to the system. I wanted to find out why they did it, what happened to them, what they accomplished. What I found out seemed crushing at first; if you buck the system, you are almost inevitably going to be destroyed. The men I searched out lost jobs and friends, endured a frightening loneliness punctuated by death threats and bombings, three of their children ended up deeply disturbed and one a suicide. All of that came to seem almost, predestined; to keep the rest of us in line, established power had to make brutal examples of those who dared to challenge the order of things. In the end, though, it wasn't sad. Because some of us would not bend, the rest of us had the

small measure of freedom that came with the tiny chance that we might be the next to stand up.

John Hanrahan hardly looked like the one guy who would stand up. But he didn't look crazy, either. He was just a slight, bearded thirty-nine-year-old man who gave up a $30,000-a-year job near the top of his profession because he believed in something: unions. "No matter how imperfect they are," he said when we met, "unions are the only existing means workers have to get a fair shake from management. If I crossed that picket line, I would have tilted the balance slightly more in favor of management, and I couldn't do that."

It cost him. Hanrahan lives only a few blocks from me in Washington, but it's a different kind of neighborhood. His house cost him $17,500 four years ago in one of the most inflated real-estate markets in the country. Still, the mortgage, taxes and utilities cost $750 a month. He made less than $15,000 in 1977—half his 1975 earnings—from some free-lance writing and study projects for a union and a citizens' group auditing the military budget. There's no money now for the renovation he and his wife, Debby, began when he was at the *Post*. The walls and ceilings are exposed and blankets cover doorways and windows to keep in the heat.

"The money part is tough, but you just cut back," A. Ernest Fitzgerald told me. When the Air Force eliminated his job as deputy for management systems in 1969, he was making $31,000 a year. He made about $20,000 a year for the next four years while he sued to get his job back, essentially arguing that his dismissal was * * * testifying before Congress that cost overruns might reach $2 billion on Lockheed's C–5A transport aircraft. He simply believed in the first principle: telling the truth.

He proved that point in court and the Air Force was forced to give him back an office and a salary, but no work. They try to ignore him, but that's not always easy because Fitzgerald is a gregarious man who loves to play Alabama country boy. "Hi, Whitey," he called to a barely nodding man as we walked into one of the Pentagon's generals' messes. Who's that? "Hans Driessnack," Fitzgerald said. "He used to be my military assistant; he was also 'T–1,' one of the informants listed in the Office of Special Investigations reports when they were after me trying to prove I had a conflict of interest or was a homosexual or something." Driessnack was a colonel then. He is a major general now and budget director of the Air Force. Like almost everyone else involved in destroying Fitzgerald's career—including Defense Secretary Harold Brown, who was then the Secretary of the Air Force—Driessnack has since done very well for himself.

"I didn't get it at first," Fitzgerald said. "I had made more than thirty thousand dollars a year as a consultant before coming to the Air Force in 1965. My old clients wouldn't talk to me in 1970. Somebody finally told me that I was blacklisted in the defense business. They told me I should open a gas station if I wanted to work."

Blacklisting is in the frequent nightmares of Curt Flood. Money is, too, even though he insists that he put some away in his $100,000-a-year days as one of the finest center fielders in the recent history of the business that calls itself the Great American Pastime. He's forty now and he has not really worked for the past two years, not since spending $100,000 in legal fees and returning home from five tortured years in Europe. What he wants to work in is baseball—"C'mon, I'm just a jock"—but he is convinced that he is the last man baseball will ever touch. He was—and is reminded of it every day—the black man who sued professional baseball over its legalized slavery, the reserve clause. When his suit was filed in 1969, the clause totally bound each player to one team—the athlete could take what they offered him or leave the game.

Flood did leave in 1970, refusing a trade from the St. Louis Cardinals to the Philadelphia Phillies. He stated a rather basic principle then, one with more than a few echoes in American history: "I am a man, not a consignment of goods to be bought and sold."

The United States Supreme Court ruled two years later that that was true, unless you were a baseball player. He lost, but the Flood case did help set in motion a series of events that won those rights for other men, people like Reggie Jackson, who was able to sell his talents to the New York Yankees for $600,000 a year. But by that time Curt Flood was home, alone, in Alameda, California.

"Please, please, don't come out here," he said when I reached him by telephone. "Don't bring it all up again. Please. Do you know what I've been through? Do you know what it means to go against the grain in this country? Your neighbors hate you. Do you know what it's like to be called the little black son of a bitch who tried to destroy baseball, the American Pastime?'

We talked, and finally he agreed to meet me at a junior high school in Sacramento. A friend had asked him to speak at a Martin Luther King Day assembly. Most of the kids did not know who he was and asked the questions you'd expect: How many years did you play with the Cardinals? What was your lifetime batting average? How many homers did you it? How many World Series did you play in? What was the most money you made? Twelve. .293. Not many. Three, against Boston, New York and Detroit. A hundred and ten thousand dollars the last year. But a fourteen-year-old named Eddie Mejorado did know what Curt Flood had done. "What did the free agents give you? Do they write you to thank you, or call?"

"No," Flood said. "No one has called."

At that moment, he looked very alone and small. He is only five feet nine and his athletic stardom must have been classic overachievement. And he must often feel that way. When he talked about the owners of baseball, Flood said, "I suddenly realized that it was just me against nineteen multimillionaires." For a long time he looked into the straight vodka he was drinking, then said, "The first trial in New York lasted six weeks. No one showed up. Not one ballplayer came. My roommate didn't come. I roomed with Bob Gibson for ten years. Maybe I wouldn't have showed up either. I would have been afraid, too."

That isolation is a more fearsome price than the money. The Amish know exactly what they are doing when they "shun" a brother; so do the Russians when they make a comrade a "nonperson." Fitzgerald remembered the moment he returned to his office after testifying about the Lockheed cover-up. There were the beginnings of a small pile of call messages on his secretary's desk—each one a canceled invitation to a meeting, party or dinner. Hanrahan looked down at his shoes when he talked about one old friend, Carl Bernstein, turning and walking into a parking garage rather than bump into him on a street near the Post. Hanrahan had asked him for help during the strike, believing, like many reporters, that the Guild had saved Bernstein's job before Watergate and before he was a star. It works both ways, though—Debby Hanrahan carries sunglasses everywhere and puts them on when she sees acquaintances from the old days. "It triggers too many memories to see an old friend," her husband said. "It just hurts too much."

The lasting image of federal judge Frank Johnson that comes from the manuscript pages of the book Robert F. Kennedy, Jr. is writing about him is not one of a stern jurist ordering Montgomery, Alabama, to integrate or the police of Selma to allow a civil-rights march. It is one of Johnson, with armed U.S. marshals watching, playing golf at Maxwell Air Force Base, walking on the green, alone. Marshals have been guarding the fifty-nine-year-old judge for twenty-two years, since he gave Martin Luther King Jr. his first victory, ruling that a black woman named Rosa Parks could sit anywhere she wanted to on a Montgomery bus. That and a hundred locally unpopular decisions like it did not cost Frank Johnson any money. But it twice may have cost him appointment to the United States Supreme Court because of the livid opposition of the Alabama congressional delegation, and it may have cost him much more. His only son, Johnny, who was harassed in classrooms and on the street all through school, once said: "You have no idea what it's been like being Frank Johnson's son. . . . There has always been something to keep us on edge." A year after he said that, Johnny Johnson committed suicide in his father's guarded home.

Johnson does not like to talk about himself, but his friends explain him by pointing to a three-word answer he once gave when asked about principle: "Follow the law." He is a Republican and had never been involved in civil rights or anything like it when he was appointed a federal district court judge by President Eisenhower in 1955. He dealt with the cases that inevitably filled his docket in troubled times—eliminating the Alabama poll tax, abolishing the red-neck power of justices of the peace, reapportioning the state legislature, integrating the state police. And they hated him for it.

The troubles—and heroism, if it is that—come gradually, incrementally. Ernest Fitzgerald says that the people who think he is a hero, and the people who hate him, have forgotten that he did not exactly roar into a hearing room in the New Senate Office Building demanding that the government clean up waste in defense spending. He was asked directly, by Senator William Proxmire, about the accuracy of congressional reports that the C–5A was running $2 billion over Air Force cost estimates. Others lied; Fitzgerald waffled bureaucratically for a few sentences and concluded, "Your figure could be approximately right."

Hanrahan sure as hell never intended to take on The Washington Post all by himself. He was just another guy, a member of the Newspaper Guild who avoided the union's boring, internally politicized meetings, when the tangled history of confrontation between management and Local 6 of the Newspaper and Graphic Communications Union came to violence in 1975. After busting up the pressroom, more or less depending on which side's damage estimates one chose to believe, and beating up a foreman, the pressmen threw their picket line around the Post building. Almost in tears, Hanrahan called his boss and said, "I can't cross a picket line."

There was no easy decision for reporters, many of whom had always been pretty articulate in arguing cases for the downtrodden against capitalist oppressors. The Washington-Baltimore local of the Guild voted to honor the picket line along with fifteen hundred members of craft unions, while the Post unit voted to cross the line. More than five hundred Guild members went in and about three hundred stayed out, including fifty reporters and editors. Like most reporters, the ones who stayed out probably

had no great love for the Guild but were grateful for the wages and working conditions it had won in an industry where company benevolence was increasingly tested by the number of young people who wanted reporting jobs and were willing to do them for less than the people who had them, particularly at a glamour paper like the Post. Joseph Mastrangelo, a fifty-four-year-old writer in the paper's Style section, was haunted by scenes of soldiers tear-gassing strikers that he had seen as a child outside Boston. "I had to decide," Mastrangelo said, "between pulling my kids out of college and kicking myself the rest of my life." He did walk through the pickets, then ran—ran into a men's room and threw up.

Inside the building, Katharine Graham, the publisher, her executives and the approximately five hundred Guild members made their own intrepid, and successful, effort to get the newspaper out without the craft unions. There were, it turned out, at least a dozen nonunion pressmen in the building and a hundred executives secretly trained to run machinery over three years at Southern Production Program Inc. in Oklahoma City, a facility famous or notorious, in the newspaper business as Strikebreaker University. Ten weeks after the strike began, the *Post* announced its intention to hire permanent nonunion pressmen at less than six dollars an hour and assign them to nine-man crews, compared to the nine-dollar-an-hour and twelve-man crews of the union. The *Post*, in its own statements, was regaining control of its own property from thugs; in the language of organized labor, it was busting a union. For John Hanrahan, it was only a matter of time before he had to decide whether to keep his job or his resolve.

Fitzgerald knew that much on November 25, 1968, twelve days after he testified before Congress' Joint Economic Committee. He received a "notification of personnel action" that day stating that the earlier notification that he held Civil Service tenure was "a computer error"—the first and only error of its kind in Air Force history, according to later court testimony. What he did not know yet was that memoranda were already being prepared for Secretary Harold Brown on how to get rid of him. Or that a memo in the Secretary's office on the day of his truth telling was headed "Re: Fitzgerald spilling his guts" and included these recommendations: "Prepare bland responses . . . muzzling."

Fitzgerald, who was then forty-two years old, had struck deeper than he knew into the inner life of the fabled military-industrial complex. By exposing cost overruns, he was attacking the spectacularly high overhead charged by defense contractors. What that meant was angrily explained to him once by an Air Force general: "Look, Fitzgerald. I'm going to retire in a year or two and I'll become part of some contractor's overhead. If I cut overhead allowances, I'll be cutting my own throat."

He was going to be hit hard and the people doing it were going to laugh at newspaper puzzlement over why the Pentagon would make a martyr of him. "What they did was good, sound management practice," Fitzgerald told me nine years later in his impotent office. "They were offering an object lesson to everyone else. They've got to make an example of people who get out of line. They teach it in business schools—communicating by deeds. They can say whistle blowing is wonderful as long as they show what happens to people who try it.

Management called Curt Flood on October 8, 1969. The man on the phone was Jim Toomey, assistant to the general manager of the St. Louis Cardinals of the National League. "Curt, you've been traded to Philadelphia," he said. "You, McCarver, Hoerner and Byron Browne. For Richie Allen, Cookie Rojas and Jerry Johnson. Good luck, Curt." First he thought he would just retire—he was thirty-two and might have only two or three good years left—but on December 24, he decided to sue, sending a letter to baseball commissioner Bowie Kuhn that said: "I do not feel that I am a piece of property to be bought and sold irrespective of my wishes. . . ." Kuhn answered: "I certainly agree with you, that you, as a human being, are not a piece of property to be bought and sold. . . . However, I cannot see its application to the situation at hand."

He spent the summer of 1970, in his words, "bedding and boozing"—and watching his case and his career booted through the federal judiciary to the Supreme Court. It was destined to end up there because what Flood was challenging was baseball's unique exemption from U.S. antitrust laws, an exemption sanctioned in 1922 by the Supreme Court because baseball was, after all, America. In 1971, he made a sad thirteen-game comeback with the Washington Senators, but it was gone—he couldn't hit the high fast ball. Already starting each day with a beer and ending with vodka martinis, pained that people were watching him play badly, Flood disappeared; he fled to Majorca and bought part of a small bar and restaurant that he called the Rustic Inn. He was there on June 23, 1972—four days after it happened—when he read in The International Herald Tribune that he had lost in the Supreme Court; the score was 5–3. The bitterness sank in deeper: even the justices who voted against him attacked the reserve clause, but they said that Congress, not the Court, was responsible for remedying such an obvious injustice.

In Sacramento, after Flood talked to the students, the past seven years of his life were replayed. There were two television sportscasters waiting for him. Creighton Sanders of KXTV was first, repeating the old questions: "Aren't these big salaries ruining baseball? Aren't ballplayers really overpayed?" Aren't you trying to destroy the American way of life, you black son of a bitch?" Flood was polite, pointing out that baseball is making more money than ever and asking how much a Reggie Jackson or a Tom Seaver is worth when all those people are willing to pay to watch them. The second questioner was Bill Madlock, a twenty-seven-year-old black man who works for KCRA when he isn't hitting .302 and earning $200,000 a year with the San Francisco Giants. "Would you do it again?" "Are you blackballed from baseball?" "Would you like to get back in?" Yes. Yes. Yes.

Madlock, who is one of the beneficiaries of the reserve-clause modifications the Major League Baseball Players Association won in arbitration in the years after the Flood case, was almost in awe of Flood when we talked about him later: "You know, if it weren't for Curt Flood I wouldn't be living in that big house and getting a couple of thousand dollars for going to a banquet. . . . I grew up in Decatur, Illinois. I saw him play a lot. He was good. It's like a war. You send your best soldier out to scout and he doesn't come back. He's not there to celebrate the victory.

"He says he's doing fine. That's not true, is it?"

Something like that. Flood and I talked for a long day in the comfortable little town house he shares with an impressive woman and her two teen-age sons in Alameda, just across the Oakland line. Nice people. There is not too much of him there—a plaque of the 1968 All-Star team, one of five with C. Flood in CF; two very good portraits he painted, one of Lou Brock when they were young Cardinal teammates, the other of one of his five children, now with their mother, the woman he married twice. He said again that he was fine, that he owned a little property, that he'd like to get back to painting. He came home because it was home—his ninety-two-year-old mother lives nearby, his children are in Los Angeles, and in the local bars he frequents he is still treated, loved a little, as the hometown boy who made good. "What can you do?" he said. "You sit in Alameda and think about all the things you should have done."

"He's the most sensitive man you'll ever meet, he's like an exposed nerve," said Richard Carter, who helped Flood write a book in 1971. And the monolith that runs baseball had an unerring instinct for how to hurt Curt Flood. The owners and all their tame sportswriters said over and over again that it was Flood who was trying to hurt people, that this greedy little guy was trying to take baseball away from children of all ages. That got him—he is by nature almost embarrassingly anxious to make other people comfortable, to make sure the people with him aren't upset. When I asked him about being black, about whether that had anything to do with what he did, he thought awhile and said, "Being black is always having people being cautious about what they call you"—the thing about being black, he was saying, was that it made other people uncomfortable.

Institutions with interests to protect or secrets to keep are very good at whipping up pressures or building up public opinion against the individual by questioning his motives, credibility, sanity or sexual preferences. The isolation is usually enough, and if not, violence comes next: Frank Johnson's mother's house was bombed in 1967, and like a couple of the others, he receives death threats that come like Christmas cards. When Ernest Fitzgerald's C–5A testimony was publicly supported by a production controller named Henry Durham in the Marietta, Georgia, plant where Lockheed was constructing the big planes, signs began to appear around the town with two words: KILL DURHAM. Durham's job was eliminated and the mood got so rough in Marietta—the local paper began calling him a Public Enemy, an ignorant nod to Henrik Ibsen—that federal marshals were called into guard the former executive before he left town. The telephoned threat that finally did it was a promise to throw acid in his young daughter's face. Mrs. Durham, a religious woman, was removed as a Sunday-school teacher—a Christian penance that had been applied to Frank Johnson years earlier in Montgomery. When Nan Durham wrote about that to Billy Graham, asking for help and guidance, the evangelist's office sent her an envelope full of Bible pamphlets.

When I told that story to Gail Sheehy, the author of *Passengers*, she said, "Do you know why they really crucified Christ?" Why? "Because he was such an embarrassment to other men. They had to get him out of their sight, like the people you're writing about."

Henry Durham's sin was the same as the transgression of Ibsen's Dr. Thomas Stockmann, the public enemy who warned that the town baths were polluted. In American terms, Durham was not a team player. That was the charge jabbed at Fitzgerald when the new Nixon Administration decided to keep up the pressure first applied on the Air Force bureaucrat in the Johnson years. A confidential memo to Nixon's chief of staff, H. R. Haldeman, spelled out the reasoning:

"Fitzgerald is no doubt a top-notch cost expert, but he must be given very low marks in loyalty; and after all, loyalty is the name of the game. Only a basic no-goodnik would take his official business grievances so far from normal channels. We should let him bleed for a while at least. . . ."

That memo was written on January 20, 1970, by a Haldeman assistant named Alexander Butterfield. Within four years he was bleeding for disloyalty, having trouble getting work after he testified that President

Nixon was tape-recording Oval Office conversations.

There is a poster, the gift of a friend four years ago, in the bathroom of John Hanrahan's house. It's from Jamaica and states part of the lore of the Rastafari Brethren: "If every man, black and white, yellow and red, does not make significant steps in their personal lives toward the Freedom of Man, then they shall all suffer at the hands of their own reluctance."

Reluctance seems to be the code of the land. Newsmagazines trumpet a new individualism in the land, but it emerges as a very old egocentricity, a self-centeredness. When my father told me to be an individual, to "act like a man," he didn't mean going along, covering my ass. There are so few men, so many asses. Why?

One of the people with whom I wanted to talk about that was Charles Peters, the publisher and editor of the feisty little Washington Monthly. He's not the last one, and he has not faced crushing opposition, but he is unbending, an angry man. He has a message much like my father's, and if he did not have a magazine to spread the word, Peters would go door to door saying: "We need risk takers. . . . We need people who are willing to shed their institutional cocoons and stand or fall on the basis of their actual performance. . . . What we have is everybody protecting everybody else's feather bed. You do it because you want yours protected in return. That's why they had to protect the Lockheed secret and go after poor Ernie Fitzgerald."

Peters walked out of his feather bed in 1968, leaving a protected $25,800-a-year GS–18 job as director of evaluation of the Peace Corps to start his little magazine to slash at feather beds, usually with thoughtful exposés of the doings of the federal bureaucracy. Since then he has been paying himself $20,000 a year, keeping the magazine going by mortgaging and remortgaging his home. The rising Washington real-estate market has been his biggest backer and currently he's into the banks for $43,000.

Charlie Peters sees the energy of a nation going down the drain as people become more mobile and have to identify one another with badges—badges that are usually flashed in answer to the second question, "Who are you with?" "That's what's most depressing of all," he said, "the compulsion of men to seek their identities in the gaudier identity of someone or something they perceive to be greater than they are. . . . The classic example is the beautiful-girl problem at a New York cocktail party. If you want to get anything going, when she says hello you've got ten seconds to make your move before her eyes start wandering. You can hold her if you say you're with The New York Times, or Jimmy Carter, or Hitler."

If anyone is searching for other reasons to stick with the team, there's always "the wife and kids." That was laughed at by most of the people I found. John Hanrahan, who has four-year-old twins said he and his wife never even talked about giving in to the Post: "We know each other too well for that." Ernest Fitzgerald said: "I found out that families are the easy excuse. Families are usually stronger than the men."

There were a thousand reasons not to stand alone at The Washington Post, and I think I heard most of them: "It was very complicated" . . . "You don't understand—you have to put things in perspective" . . . "We have nothing in common with those cretins in the shop, and they make a good buck already" . . . "Because I knew that anyone who bucked management was never going anywhere around here" . . . "They're not so bad here. They're very good on the little things—Katharine Graham says hello on the elevator, she knows your name."

On February 15, 1976, the mailers' union accepted the Post's "final" offer—a "bad" offer, union leaders said, but the alternative was probably losing their jobs to strikebreakers—then the pressman and a few supporters like Hanrahan were left outside the building. There was a real attempt to persuade the assistant Maryland editor to come back. Some of it was infuriating: editors calling Debby Hanrahan and saying, "Look, tell John we'll forgive him." Some of it was tempting: Hanrahan's onetime boss, Barry Sussman, called and said, "John, you were right. But don't make a mistake now. Come back." In April, Donald Graham, the publisher's thirty-one-year-old son and the paper's assistant general manager, took Hanrahan to dinner, but they had trouble understanding each other. They shook hands and Donnie Graham said, "Good luck, John. I mean it." The termination letter came on June 20, 1976.

"Part of me said, 'Yeah, go back,' " Hanrahan said. "But I kept thinking that if this had happened someplace else, the Post would be denouncing it. They'd be saying, 'Okay, the union made a mistake, but there are principles involved here.' In my whole life I'd never been tested. I was a reporter, I could sit back in judgment of other people. Now there was a principle involved. . . . What happened seemed unfair to me. . . . I knew one person wasn't going to make a difference. But he can try. I tried."

Why? Why John Hanrahan? Or Fitzgerald or Flood? Frank Johnson? Their backgrounds were quite different and only Johnson's suggested that he was born and raised to be what he is today. The judge is a true son of "The Free State of Winston," Winston County, Alabama—stunningly rugged northern Alabama hill country that hid the fiercely independent mountain men who fought with the Union in the Civil War. Winston has not changed that much since a local named Curtis spent the ten years after the war tracking down the Confederate soldiers involved in the torturous deaths of his three brothers—he killed each of the surviving rebels. Beneath the robes he wears only occasionally on the bench. Judge Johnson is that kind of man even if his vision of justice is more modern. His wife stopped going to church with him because he would snarl "Bullshit" when the preacher went too piously far. He is rigid, certain in his convictions, among them that real men always drink their coffee black, smoke unfiltered cigarettes, chew good-tasting Red Man and stick with Schlitz, "the only decent beer for a man to drink."

John Hanrahan is from Fort Dodge, Iowa. He always wanted to be a newspaperman and began working for the local paper when he was a teenager. That work took him into the back shop and he put in time around presses and linotype machines—an experience, he found, that gave him a somewhat different attitude toward blue-collar workers than that of his colleagues at the Post. After earning a journalism degree at the University of Iowa, he went to the Davenport Daily Times as a sportswriter, eventually took off for Washington and worked his way up from The Montgomery County (Maryland) Sentinel to The Washington Star and, finally, the Post in 1968. The Davenport paper was nonunion, so he knew what it was to work for $90 a week when Guild papers were paying in the $150-to-$200 range. The people he worked with tended to describe him in the same way: solid, unusually diligent. He was no star and probably never would be, but a Post editor offered him the chance to carve out his own investigative beat on the metropolitan staff a couple of months before the strike began.

"Diligent" was a word I also heard a few times about Fitzgerald and Johnson—sometimes "too diligent" was used for both. The same could once have been said about Flood, who went a long way with what he jokingly calls "just this little body."

But "simple" was the word that fascinated me. It was as close as I could come to figuring them out, to understanding why they are heroes—and to me they are the real heroes of my time. They were not crusaders—Fitzgerald has become one, a frustrated one—they did not go forth looking for a battle, for dragons, arenas and crowds. They are different from Ralph Nader and Daniel Ellsberg, who are not simple men. I don't think Frank Johnson would have taken on the whole South unless the civil-rights cases were brought to his court, his home. Curt Flood may have wanted nothing more than to stay out of Philadelphia—he would not have been the first to feel that way. John Hanrahan never intended to give up a good job for a principle he had barely thought of over the years.

"John's everything he seems to be," said Elizabeth Becker, a *Post* reporter who worked with Hanrahan during the strike and then went back. "How many people can you say that of in a lifetime? John is a simple man, and I mean that in the best sense of the word. He is a clear man. He sees clearly."

In Ernest Fitzgerald's case, the Air Force's special investigation cleared him of conflicts of interest and interesting sexual behavior, but it did quote one informant as having said: "Mr. Fitzgerald was sincere and dedicated but things were either 'black or white,' 'right or wrong,' and usually his own ideas were the ones he considered right." Fitzgerald doesn't argue with that: "I didn't do anything I didn't do my whole life, only it was in public this time." And this time Fitzgerald's ideas were the ones that were right.

So what? So, as John Hanrahan said, they tried. Frank Johnson made a big difference in this country. The others doubt that they have. "Most people think I'm an ———," said Fitzgerald, who now owes $400,000 in the legal fees it took to get his job back with no work to do in it. "The main frustration is that it doesn't seem to do that much good. . . . Maybe there's a cumulative public impact. People may be getting an idea of how the defense industry really works."

Maybe. Maybe he's just one angry man—alone. Like Samuel Abelman, M.D. Dr. Abelman, the hero of Gerald Green's 1957 novel, *The Last Angry Man*. The foulmouthed old nut who was stuck in a Brooklyn slum cursing and curing a humanity he was sure wasn't worth the effort. I loved that book, loved Dr. Abelman. How did the young television hotshot from Greenwich describe the old doctor . . .

"The disappointments had been many, the moments of triumph too few, and his sixty-eight years had been, to a great extent, a succession of losing battles. Yet he was not a man to pity, or to shed tears over, or to offer charity. Far from having been beaten, he was ascendant . . . he was still in the race, conceding nothing, compromising nothing, challenging everything . . . cursing the crap artists who knew the arts of control.

"There aren't enough people left who get mad, plain mad. Not mad for a cause or a purpose, but generally mad at all the bitchery and fraud. We take fraud for granted. We accept it. We like it. We want to be had. That's where he was different. He knew he was being cheated and he didn't like it one tiny bit. . . . He was the last angry man."

No. Abelman was not the last. Neither is Fitzgerald. If he was, then who are the people who keep slipping Defense Department documents under his door? At home and in his Pentagon office Fitzgerald finds unmarked envelopes containing memoranda and calculations documenting big and small outrages in defense spending. As soon as he gets those papers and figures them out, they find their way into print—in Jack Anderson's column, in Charlie Peters' magazine. Part of

the cumulative effect. Some people in there care enough to get those things to Fitzgerald, and someday more people out there may care enough to do something about it all. That would be only fair, because men like Ernest Fitzgerald have done a lot for the rest of us. Power—the crap artists who know the arts of control—does have to take into account that anyone could be the next angry man. They can stomp on Ernie Fitzgerald, but because of him Henry Durham pops up to plague them. They can beat Curt Flood, but because of him they have to live with Reggie Jackson and a lot of talented kids they haven't heard of yet. Men like Flood and Fitzgerald did it for all for us and we scorn them, maybe because we're ashamed of ourselves. Maybe because we're too embarrassed to admit that they're what keep us going.

"Please," Debby Hanrahan said, "don't say that this is sad, that we're sad. John has never been happier. I've never been happier. He's a free man."

Yes, he is. After the last pickets from the pressmen's union finally gave up in March 1977, John Hanrahan walked into the Post Pub, the Washington Post's drinking place. A woman at the bar, a woman he did not know who took classified ads on the telephone, got up and hugged him. She began to cry and said: "John, someday you'll be able to tell your kids what you did. I don't know what the rest of us are going to say."●

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2831. A bill to authorize appropriations for fiscal years 1979 and 1980 to carry out the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself and my colleagues, Mr. MAGNUSON and Mr. PEARSON, a bill to authorize appropriations for fiscal years 1979 and 1980 to carry out the Marine Mammal Protection Act of 1972.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 114(a) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1384(a)), is amended by inserting immediately following the date "1978", the following language: $6,517,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for the fiscal year ending September 30, 1980,".

THE SECRETARY OF COMMERCE,
Washington, D.C., March 2, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill, "To authorize appropriations for fiscal year 1979 and 1980 to carry out the Marine Mammal Protection Act of 1972." together with a statement of purpose and need in support thereof.

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A–107.

We have been advised by the Office of Management and Budget that there would be no objection from the standpoint of the Administration's program to the submission of this legislation to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

JUANITA M. KREPS.

STATEMENT OF PURPOSE AND NEED

Section 114(a) of the Marine Mammal Protection Act is the general authorization for appropriations to carry out the functions assigned to the Department of Commerce to implement the Act. Funds for grants to the states and special research activities concerning commercial fishing methods and gear are separate authorizations.

Extension of section 114(a) is necessary in order for the Department to continue the vitally important marine mammal program currently underway. This program has resulted in a number of significant research and management accomplishments involving the complicated relationships of marine mammals and the other living resources of the oceans. Additionally, with legal challenges involving the implementation of the Act and the relationship between the harvest of tuna and the protection of porpoise, it is imperative that the Department continue its activities which are designed to seek a point of accommodation among all the competing interests.

This legislation would extend the authorization for fiscal year 1979 at the level included in the President's program of $6.517 million and for fiscal year 1980 for such sums as may be necessary to carry out the program.●

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2832. A bill to amend section 406 of the Fishery Conservation and Management Act of 1976 to extend the authorization for appropriations for fiscal years 1979 and 1980; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself, Mr. MAGNUSON, and Mr. PEARSON, a bill to amend section 406 of the Fishery Conservation and Management Act of 1976 to extend the authorization for appropriations for fiscal years 1979 and 1980.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by adding the following: "(5) $20,102,000 for the fiscal year ending September 30, 1979. (6) Such sums as may be necessary for the fiscal year ending September 30, 1980."

THE SECRETARY OF COMMERCE,
Washington, D.C., March 17, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To amend section 406 of the Fishery Conservation and Management Act of 1976 to extend the authorization for appropriations for fiscal years 1979 and 1980." together with a statement of purpose and need in support thereof.

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A–107.

We have been advised by the Office of Management and Budget that there would be no objection from the standpoint of the Administration's program to the submission of this legislation to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

C. L. HASLOM,
Acting Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

The Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801–1882) was enacted in April 1976. Primary responsibility for this legislation was placed with the Department of Commerce.

The authorization for appropriations to the Secretary under Section 406 of the Act expires September 30, 1978.

This draft legislation would extend the authorization for appropriations for fiscal year 1979 at the level included in the President's program of $20,102,000 and for fiscal year 1980 for such sums as may be necessary.●

By Mr. ABOUREZK:

S. 2833. A bill to amend, improve, and clarify the Farmer-to-Consumer Direct Marketing Act of 1976; to the Committee on Agriculture, Nutrition, and Forestry.

FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1978

● Mr. ABOUREZK. Mr. President, there has been considerable debate in the Congress in recent weeks about the nature and extent of the farm problem, its impact on the other sectors of the economy, and the proper measures that should be taken to solve it. The economic crisis confronting the farm sector is the result of deep-rooted and complex factors and, to be satisfactorily dealt with, must ultimately be treated with a comprehensive, as opposed to an ad hoc program. This does not mean, however, that there is not a need for measures that are less ambitious in scope. Anything that can be done to improve the cash flow problems of our farmers and ranchers should be pursued.

That is why Senator MCGOVERN and I are introducing the following bill to extend and broaden the Farmer-to-Consumer Direct Marketing Act of 1976. The authorization for this worthwhile and potentially significant program expires at the end of this fiscal year. The program's performance the past 2 years warrants its continuation and improvement, especially when one considers the contribution such a program can make to the improvement of the health of the agricultural economy.

The bill would essentially do two things: First, it would extend the Farmer-to-Consumer Direct Marketing Act for 3 years; second, it would authorize $3 million annually instead of the current $1.5 million. Additionally, there

is some minor clarifying language, the basic thrust of which is to clear up any confusion that may have previously existed as to the types of commodities that are to be covered by the act's provisions (all types) and the criteria to be used in allocating funds to the States.

The benefits that accrue from an efficient marketing structure which allows agricultural producers to sell their commodities directly to individual consumers (or groups that may "represent" them) are many and varied. A quick glance at the statistics reveals a trend of steadily rising food prices while, at the same time share of the American food dollar that goes to the farmer continues to shrink. One need go no further to establish the need for an effective direct marketing program. Last year, the farmer received less than 40 cents from every dollar spent on food in retail stores in this country. The farm/retail spread is widening, a development which benefits neither the farmer nor the consumer.

The original act stipulated that the program be implemented in a "manner calculated to lower the cost and increase the quality of food too . . . consumers while providing increased financial returns to the farmers." Mr. President, Senator McGOVERN and I believe that this is precisely the sort of thing that a sound national food and fiber policy ought to strive for and we are confident that our colleagues will agree. The costs of this direct marketing program are miniscule when compared to the returns that can be expected from it, making it very worthy of support.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 30001) is amended by striking out "Sec. 2. It is the" and inserting in lieu thereof "(b) It is, therefore, the"; and by striking out the section heading and inserting in lieu thereof the following:

"FINDING AND PURPOSE

"SEC. 2. (a) The Congress hereby finds that—

"(1) the present state of the farm economy of the United States is such that the family farmer is facing virtual economic extinction;

"(2) the current economic plight of the family farmer is the direct result of market and institutional forces which have combined to depress financial returns of the family farmer far below his costs of production;

"(3) the farm income situation is doubly serious for the family farmer inasmuch as the farmer's share of the consumer's food dollar has declined at the same time that food prices have been steadily increasing; and

"(4) it is essential to the best interest of American agriculture and the American economy in general to increase the farmer's share of the consumer's food dollar.".

SEC. 2. Section 3 of such Act (7 U.S.C. 30002) is amended by adding at the end thereof a new sentence as follows: "Such term shall be construed to apply to all types of agricultural commodities including livestock (whether on hoof or butchered).".

SEC. 3. Section 4 of such Act (7 U.S.C. 30003) is amended by striking out in the second sentence ", which shall be completed no later than one year following the date of enactment of this Act," and adding at the end of such section a new sentence as follows: "The initial survey shall cover a period which began no later than October 1, 1977; and an updated revision of the survey shall be published by the Secretary at least annually.".

SEC. 4. The second sentence of section 5 of such Act (7 U.S.C. 30004) is amended by striking out "as compared to other States" and inserting in lieu thereof a comma and the following: "the relative importance of agricultural production to that State, and the economic state of the farmers of that State as compared with other States".

SEC. 5. Section 7(b) of such Act (7 U.S.C. 30006 (b)) is amended by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and $3,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

Mr. ABOUREZK. Mr. President, for purposes of illustration of the changes that this bill would have on existing law, I ask unanimous consent to have printed in the RECORD a sample "Cordon Rule." Language to be deleted is shown in brackets [], and new matter to be inserted is shown in italics.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Public Law 94-463—Oct. 8, 1976]

PUBLIC LAW 94-463—94TH CONGRESS

An act to encourage the direct marketing of agricultural commodities from farmers to consumers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farmer-to-Consumer Direct Marketing Act of 1976".

[PURPOSE]

FINDINGS AND PURPOSE

SEC. 2. (a) *The Congress hereby finds that—*

(1) the present state of the farm economy of the United States is such that the family farmer is facing virtual economic extinction;

(2) the current economic plight of the family farmer is a direct result of market and institutional forces which have combined to depress financial returns of the family farmer far below his costs of production;

(3) the farm income situation is doubly serious for the family farmer inasmuch as the farmer's share of the consumer's food dollar has declined at the same time that food prices have been steadily increasing; and

(4) it is essential to the best interest of American agriculture and the American economy in general to increase the farmer's share of the consumer's food dollar.

[SEC. 2. It is the] (b) *It is, therefore, the* purpose of this Act to promote, through appropriate means and on an economically sustainable basis, the development and expansion of direct marketing of agricultural commodities from farmers to consumers. To accomplish this objective, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall initiate and coordinate a program designed to facilitate direct marketing from farmers to consumers for the mutual benefit of consumers and farmers.

DEFINITION

SEC. 3. For purposes of this Act, the term "direct marketing from farmers to consumers" shall mean the marketing of agricultural commodities at any marketplace (including, but not limited to, roadside stands, city markets, and vehicles used for house-to-house marketing of agricultural commodities) established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers' organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers. Such term shall be construed to *apply to all types of agricultural commodities including livestock (whether on hoof or butchered).*

SURVEY

SEC. 4. The Secretary shall provide, through the Economic Research Service of the United States Department of Agriculture, or whatever agency or agencies the Secretary considers appropriate, a continuing survey of existing methods of direct marketing from farmers to consumers in each State. The initial survey [, which shall be completed no later than one year following the date of enactment of this Act,] shall include the number of types of such marketing methods in existence, the volume of business conducted through each such marketing method, and the impact of such marketing methods upon financial returns to farmers (including their impact upon improving the economic viability of small farmers) and food quality and costs to consumers. *The initial survey shall cover a period which began no later than October 1, 1977; and an updated revision of the survey shall be published by the Secretary at least annually.*

DIRECT MARKETING ASSISTANCE WITHIN THE STATES

SEC. 5. (a) In order to promote the establishment and operation of direct marketing from farmers to consumers, the Secretary shall provide that funds appropriated to carry out this section be utilized by State departments of agriculture and the Extension Service of the United States Department of Agriculture for the purpose of conducting or facilitating activities which will initiate, encourage, develop, or coordinate methods of direct marketing from farmers to consumers within or among the States. Such funds shall be allocated to a State on the basis of the feasibility of direct marketing from farmers to consumers within that State [as compared to other States], *the relative importance of agricultural production to that State, and the economic state of the farmers of that State as compared with other States* and shall be allocated within a State to the State department of agriculture and to the Extension Service on the basis of the types of activities which are needed in the State and on the basis of which of these two agencies, or combination thereof, can best perform these activities. The activities shall include, but shall not be limited to—

(1) sponsoring conferences which are designed to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups) concerning the establishment and operation of direct marketing from farmers to consumers;

(2) compiling laws and regulations

relevant to the conduct of the various methods of such direct marketing within the State, formulating drafts of enabling legislation needed to facilitate such direct marketing, determining feasible locations for additional facilities for such direct marketing, and preparing and disseminating practical information on the establishment and operation of such direct marketing; and

(3) providing technical assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

(b) In the implementation of this section, the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

ANNUAL REPORT

SEC. 6. The Secretary shall periodically review the activities carried out under this Act and shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture and Forestry, United States Senate, within one year of the date of enactment of this Act, and annually thereafter, with respect to the effectiveness of this Act. The Secretary shall include in such report a State-by-State summary of the results of the survey conducted under this Act, and a summary of the activities and accomplishments of the Extension Service and the State departments of agriculture in the development of direct marketing from farmers to consumers during the previous year.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) For purposes of carrying out the provisions of sections 4 and 6, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 5, there is authorized to be appropriated $1,500,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978[.] *and $3,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.*

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977, and shall become effective October 1, 1976, or on the date of enactment of this Act, whichever is later.●

By Mr. PERCY:

S. 2835. A bill to amend the Export-Import Bank Act of 1945 to provide an officer responsible for matters concerning or affecting manufacturers of solar technology equipment or other renewable energy technology equipment, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT-IMPORT BANK ACT AMENDMENT

● Mr. PERCY. Mr. President, I am introducing today a bill which would amend the Export-Import Bank Act of 1945. This legislation directs the Board of Directors of the Export-Import Bank to employ an officer to promote the export of U.S., non-nuclear, renewable energy technology, consistent with the policies articulated in Section 501 of the Nuclear Non-Proliferation Act and Section 119 of the Foreign Assistance Act.

The officer's duties would include advising the President of the Bank on ways in which solar and other renewable energy technology can be exported using the Bank's facilities; disseminating information to appropriate manufacturers concerning the various export programs within the Bank; and acting as a liaison for these manufacturers between the Bank and the relevant departments and agencies in the government.

To assure the impact of the officer's work, the legislation would require that the Eximbank include his or her views in all statements to Congress required prior to finalizing agreements to finance the export of nuclear power plants. Furthermore, the Bank would be required to include a section in its semi-annual report detailing the Bank's performance in promoting exports of renewable energy technology equipment. Finally, the Board of Directors of the Bank would be obliged to consider the feasibility of renewable energy alternatives and views of the officer in any decision involving energy-related exports. I am very pleased that Congressman Long from Maryland is introducing this same legislation in the House today.

Promoting the use of solar technology in less developed countries and expanding its use at home have become major components of this nation's energy and foreign policies. Just 3 weeks ago, President Carter signed into law the Nuclear Non-Proliferation Act. It includes a section (501) detailing our intent to promote the development and application of nonnuclear renewable energy technologies in the Third World. In 1977, the Congress added Section 119 to the Foreign Assistance Act which spelled out our desire to help developing Nation's use small scale energy technology in rural areas. Assigning a special officer to the Export-Import Bank whose primary task would be to promote the export of these technologies is not only entirely consistent with the intention expressed in section 501 and section 119, but would also be an effective means of implementing these policy goals.

The Bank is a particularly important source of financing for nuclear technology exports. Since 1959, when the Bank first became involved with the exports of nuclear plants, it has underwritten, to some degree, all but two such plants around the world.

The Bank does not, however, have an equally impressive record in financing solar technology exports. To the contrary, there has been virtually no utilization of the Bank's resources to aid this growing and vital industry. In view of our national policy to promote renewable energy technology, it is appropriate that the Bank demonstrate an equal willingness to finance solar as well as nuclear exports.

A visible commitment by Eximbank to promote exports of renewable energy technologies could help our economy. As the industry expands to meet foreign demand, the unit cost of the technology should fall, making it a more attractive alternative for U.S. consumers. Furthermore, a growing export industry, supported by the Bank, could help reduce our high balance of trade deficit.

The creation of a special Eximbank officer to promote the export of renewable energy technology equipment is not unprecedented. The Bank's charter now includes a clause directing the Board of Directors to designate a Small Business officer of the Bank. Since the survival and economic health of our small businesses ranks among the top priorities of the Nation, Congress rightly concluded that it is appropriate that they be allotted a special champion in the Export-Import Bank. Solar industries also merit special consideration.

In order to make the transition to the post-petroleum age as smoothly and painlessly as possible, these industries should be given official encouragement to assure that they grow and prosper. Eximbank can play an important role in nurturing this growth by helping these industries to export. Moreover, the creation of this officer would not entail any significant increase in the Federal bureaucracy or any great expenditure.

Mr. President, now is the perfect time to adjust the energy exporting policies of the Eximbank and bring these policies more in line with stated national goals. The Bank charter expires on September 1, 1978, and must be renewed prior to then. This presents us with an excellent opportunity to assist U.S. industries to begin exporting to other nations through the creation of this officer. I urge my colleagues to join with me in support of this bill and assure its expeditious passage.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the 1961 Foreign Assistance Act as amended, the Board of Directors shall employ an officer of the Bank whose only duties shall be to advise the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of non-nuclear renewable energy resources, to disseminate information concerning export opportunities and the availability of Bank support for such activities, and to act as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies. The Bank shall include the views of such officer in any detailed statement to the Congress required by paragraph (3)(iii) of this subsection. The Board of Directors shall consider the feasibility of renewable energy al-

ternatives and the views of such officer in any decision involving energy-related exports."

(b) section 2(b)(1)(A) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the 1961 Foreign Assistance Act, as required by subparagraph (C) of this paragraph."

By Mr. CRANSTON (by request):

S. 2836. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 2836, a bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended. I ask unanimous consent that the letter of transmittal, the text of the bill, and the section-by-section analysis be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669), as amended, is further amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

VETERANS ADMINISTRATION,
Washington, D.C., March 27, 1978.

Hon. WALTER MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes.", with the request that it be introduced in order that it may be considered for enactment.

On October 22, 1975, the "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975" was enacted. This authorized the Veterans Administration to enter into special pay agreements with eligible physicians and dentists. Under the terms of these agreements, the physician or dentist would agree to serve in the Department of Medicine and Surgery for a specific number of years, in return for which he or she would receive additional salary. This legislation was considered necessary because the Department of Medicine and Surgery was unable to recruit and retain certain categories of physicians and dentists because of the disparity in pay between that authorized under title 38, United States Code, and that which the physician or dentist could earn in private practice or elsewhere in the U.S. Government. The authority of the Veterans Administration to enter into special pay agreements was limited to one year by P.L. 94–123. The "Veterans' Administration Physician and Dentist Pay Comparability Act of 1977" (P.L. 95–201) extended the authority to enter into special pay agreements through September 30, 1978.

The draft bill transmitted herewith will extend the authority of the Veterans Administration to enter into special pay agreements through September 30, 1979.

As previously mentioned, the purpose of the special pay legislation is to assist the VA Department of Medicine and Surgery in the recruitment and retention of qualified physicians and dentists. Since enactment of P.L. 94–123, the Department of Medicine and Surgery has been collecting data on the effectiveness of the special pay provisions. The data that has been collected to date indicates that the special pay legislation has had a positive impact. Because the recruitment and retention problems are somewhat alleviated by our ability to enter into special pay agreements, and pay additional remuneration, we believe it essential that the special authority be continued until an overall solution can be found for the problem of recruitment and retention of physicians and dentists in the Federal sector.

It is estimated that extension of the special pay authority from September 30, 1978, to September 30, 1979, would result in the following cost to the VA:

Fiscal year:	
1979	$3,942,000
1980	7,451,000
1981	6,631,000

Enactment of this bill would result in cost to the VA for only three years because P.L. 95–201 established a common cut-off date of September 30, 1981, after which special pay under title 38 is no longer authorized.

We were advised by the Office of Management and Budget that there is no objection to the submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.

SECTION-BY-SECTION ANALYSIS OF BILL

A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes.

This bill amends section 6(a)(2) of Public Law 94–123, as amended. Public Law 94–123 authorizes the Veterans Administration to enter into special pay agreements with certain physicians and dentists under which the physician or dentist agrees to serve in the Department of Medicine and Surgery for a specified number of years in return for additional remuneration. As enacted on October 22, 1975, the authority (contained in section 6(a)(2)) to enter into such special pay agreements terminated on October 11, 1976. Public Law 95–201 extended the authority to enter into the agreements until September 30, 1978. This draft bill further amends section 6(a)(2) by extending the authority to enter into the agreements until September 30, 1979.

This authority is necessary in order to recruit and retain qualified physicians and dentists in the Department of Medicine and Surgery.●

By Mr. DOLE:

S. 2837. A bill to amend the Internal Revenue Code of 1954 to provide a deduction from gross income for individuals of the amount of social security taxes paid during the tax year; to the Committee on Finance.

SOCIAL SECURITY TAX DEDUCTIONS

● Mr. DOLE. Mr. President, I am introducing today further legislation to provide tax relief from the ever mounting social security tax increases.

GENERAL REVENUE FINANCING

Last week, I introduced S. 2808, a bill which would grant a refundable 20 percent tax credit on the amount of social security taxes paid during the tax year. My proposal today would grant a deduction in lieu of a credit. This initiative, like S. 2808, avoids direct "general revenue" financing. It preserves the integrity of the social security trust fund system.

Mr. President, it is important that Congress have all the alternatives presented to it in arriving at the proper structure of a tax cut this year. Reducing every taxpayers gross income by the amount of his social security contribution proportionately grants tax relief based on the tax increases enacted.

The Senator from Kansas knows that public outrage over the social security tax increase has been tremendous. Many of the supporters of the social security tax increases in 1977 have become the loudest advocates of a tax rollback. It seems inconsistent that the concern over the soundness of the social security trust fund has so quickly dissipated.

COST

An across the board income reduction based on the amount of social security taxes paid would cost $13.3 billion in calendar year 1979. More than 78 percent of the relief would go to American families earning less than $30,000. It is important to remember that the social security taxes for an individual earning $10,000 will rise only $20 in 1980 over 1977. But for a individual earning $25,000 the social security taxes will rise $623 over the same period.

Mr. President, I did not support the Social Security Financing Amendments of 1977. However I support tax relief based on the social security tax liability. This proposal provides the sensible alternative to general revenue financing.

I ask unanimous consent that the accompanying chart and text of my bill be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 2837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF DEDUCTION FOR PAYMENT OF SOCIAL SECURITY TAXES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. SOCIAL SECURITY TAXES.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction the social security taxes paid with respect to the individual's wages and self-employment income for the taxable year.

"(b) SOCIAL SECURITY TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'social security taxes' means taxes imposed by sections 1401, 3101, 3201, or 3211 (but only to the extent attributable to the taxes imposed by section 3101).

"(2) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.—Any amount deducted from the wages of an employee of any State or political subdivision thereof—

"(A) which is paid by the State to the Federal government under an agreement under section 218 of the Social Security Act, and

"(B) which, under such agreement, is equivalent to the tax imposed by section 3101,

shall be treated as a tax imposed by section 3101 and paid by the employee.".

(b) DEDUCTION FROM GROSS INCOME.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(14) SOCIAL SECURITY TAXES.—the deduction allowed by section 221.".

(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(d) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Social security taxes.
"Sec. 222. Cross references.".

SECTION 2. EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1979.

A DEDUCTION OF SOCIAL SECURITY TAXES FOR CALENDAR YEAR 1979

[In billions, returns in millions]

1977 Income Level

	Returns	Reduction	Percentage distribution
Adjusted gross income:			
Less than $5,000	$4.1	$0.2	1.2
$5,000 to $10,000	14.0	1.1	8.3
$10,000 to $25,000	13.7	2.0	15.4
$15,000 to $20,000	11.3	3.1	23.6
$20,000 to $30,000	11.3	3.8	28.4
$30,000 to $50,000	3.9	2.3	17.0
$50,000 to $100,000	.9	.6	4.8
$100,000 and over	.2	.2	1.4
Total	59.4	13.3	100.0

Note: Details may not add to totals because of rounding.●

By Mr. PERCY (for himself and Mr. STEVENSON):

S. 2838. A bill to amend title 28, to change the judicial districts in the State of Illinois; to the Committee on the Judiciary.

(The remarks of Mr. PERCY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2839. A bill to authorize appropriations for the Coast Guard for fiscal years 1979 and 1980, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Department of Transportation, and on behalf of myself and my colleagues, Mr. MAGNUSON and Mr. PEARSON, a bill to authorize appropriations for the Coast Guard for fiscal years 1979 and 1980 and for other purposes.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are authorized to be appropriated for the United States Coast Guard for the fiscal years 1979 and 1980:

(1) For necessary expenses for the operation and maintenance of the Coast Guard including those relating to the Capehart housing debt reduction—for fiscal year 1979—$944,800,000 for fiscal year 1980—$962,000,000.

(2) For acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore establishments, vessels, aircraft, and pollution abatement including equipment and necessary administrative expenses relating thereto:

AIRCRAFT

for fiscal year 1979—$115,086,000
for fiscal year 1980—$115,086,000

VESSELS

for fiscal year 1979—$129,223,000
for fiscal year 1980—$129,223,000

SHORE AND OFFSHORE ESTABLISHMENTS, AIDS TO NAVIGATION, POLLUTION ABATEMENT, AND ADMINISTRATIVE EXPENSES

for fiscal year 1979—$34,899,000
for fiscal year 1980—$34,899,000

(3) For alteration or removal of railroad and highway bridges in order to eliminate obstructions of the navigation in the navigable waters of the United States:

for fiscal year 1979—$34,603,000
for fiscal year 1980—$22,600,000

(4) For necessary expenses for basic and applied scientific research, development, testing, or evaluation of programs and activities of the Coast Guard:

for fiscal year 1979—$20,000,000
for fiscal year 1980—$20,000,000

SEC. 2. The Coast Guard is authorized an end strength for active duty personnel of 38,420, for fiscal year 1979 and for fiscal year 1980, except that the ceiling shall not include members of the ready reserve called to active duty under the authority of section 764 of title 14, United States Code.

SEC. 3. Average military training student loads for the Coast Guard are authorized as follows:

(1) recruit and special training: Students = Student years
for fiscal year 1979—3862 students
for fiscal year 1980—3812 students
(2) flight training:
for fiscal year 1979—95 students
for fiscal year 1980—95 students
(3) professional training in military and civilian institutions:
for fiscal year 1979—436 students
for fiscal year 1980—452 students
(4) officer acquisition:
for fiscal year 1979—952 students
for fiscal year 1980—939 students.

SEC. 4. Section 30 of the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1479) is further amended by deleting all after the phrase "authorized to be appropriated" and inserting "$3,000,000 for fiscal year 1979."

SEC. 5. The Coast Guard is authorized to enter into long-term lease in excess of one fiscal year for the purpose of acquiring land on the Quillayute Indian Reservation in the State of Washington so that the Quillayute River Coast Guard Station may be relocated. The Coast Guard is also authorized to expand appropriated funds for the construction of fixed facilities and improvements on such land leased from the Quillayute Indians.

SEC. 6. The Coast Guard is authorized to enter into a long-term lease in excess of one fiscal year for its Aviation Training Center at Bates Field Mobile, Alabama and is authorized to expend appropriated funds on such land leased from the City of Mobile, Alabama for the purpose of constructing an addition to an existing fixed facility to house an aircraft training simulator and of making improvements to a sewage effluent system.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., Feb. 27, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: This letter transmits proposed legislation, "To authorize appropriations for the Coast Guard for fiscal years 1979 and 1980 and for other purposes".

The proposed bill contains the Coast Guard's request for authorization of appropriations, "end strength", and "student loads" for fiscal years 1979 and 1980 (sections 1–3). It also amends the Federal Boat Safety Act of 1971 to extend authorization for financial assistance to state boating programs (section 4). Finally, it provides authorization for the Coast Guard to enter into two specific long-term leases and to construct permanent facilities on the leased properties (sections 5 and 6).

In compliance with Congressional Budget and Impoundment Control Act of 1974 (P.L. 93–944, a request for authorization of appropriations for FY–1979 was submitted to Congress on March 25, 1977, as part of a legislative proposal which also requested authorization of appropriations for FY–1978. When the FY–1978 authorization bill was introduced and eventually enacted there were no references to the 1979 fiscal year requests. Since the FY–1979 request has not been acted upon, we are resubmitting it as part of the attached legislative proposal.

Section 1 through 4 of the legislative proposal are responsive to section 5 of P.L. 94–406 which requires authorization before funds may be appropriated to or for the use of the Coast Guard for operational expenditures, capital acquisition and construction, bridge alterations, or research and development.

For reasons of simplicity, individual items within each of the above categories have not been listed. However, the appropriate committees will be furnished detailed information identifying each item for which authorization of appropriations is requested. Furthermore, the Department will be prepared to supply any other information requested by the Congress.

Sections 2 and 3 of the bill respond to section 6(a) and 6(b) of P.L. 94–406 which require authorization of the Coast Guard's "end strength" and "average military training load" respectively.

Section 4 of the proposed legislation amends section 30 of the Federal Boat Safety

Act of 1971, as amended, to extend authorization of appropriations to be used for financial assistance to state boating programs in the form of matching grants. Federal grants under FBSA have been instrumental in encouraging states to adopt and expand safety programs for recreational vessels which have helped reduce the fatality rate in recreational boating activities. The objective of the grant program to provide seed money to encourage state action in boating safety has been generally successful. A phase-down of the grant authorization to $3,000,000 in FY–1979 and elimination of the grant program in FY–1980 is requested.

Section 5 of the bill authorizes the Coast Guard to enter into a long-term lease for land on the Quillayute Indian Reservation so that it may relocate and reconstruct the Coast Guard Quillayute River Station. The present Coast Guard Station, also on the Reservation, was built in 1931 and has so deteriorated that it must be replaced. Reconstruction on the present site is not acceptable to the Quillayute Indians, and since the continuing validity of the land use permit issued by the Department of the Interior in 1930 is subject to question, reconstruction on another site is the preferable alternative. The only other location which will meet operational requirements is also on the Quillayute Reservation, and the Quillayute Indians have tentatively agreed to lease it to the Coast Guard. Legislation is necessary to enable the Coast Guard to enter into a long-term lease and to build permanent facilities on the leased property.

Section 6 of the proposed bill authorizes the Coast Guard to enter into a long-term lease for a specific facility near Mobile, Alabama. The Coast Guard presently operates its Aviation Training Center on 232 acres of land at Bates Field, Mobile, Alabama. The land is leased to the Coast Guard for $1 per year. The current lease, negotiated in October 1966, expires on 30 June 1991 and carries an option for an additional twenty-five years renewal by the government upon the same terms and conditions, in short $25 for 25 years. Provisions of the Economy Act of June 30, 1932 (47 Stat. 412, as amended, 40 U.S.C. 278(a)) require specific legislation for permanent improvements to leased property. This legislation will authorize the construction of a flight simulator addition and improvements to a sewage effluent system on the leased property.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

BROCK ADAMS.●

ADDITIONAL COSPONSORS

S. 551

At the request of Mrs. HUMPHREY, her name was added as a cosponsor of S. 551, a bill to provide grants to States for the payment of compensation to victims of crime.

S. 784

At the request of Mr. SCHWEIKER, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 784, a bill to provide for the unbiased consideration of applicants to medical schools.

S. 1168

At the request of Mr. ABOUREZK, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1168, a bill to amend the Payments in Lieu of Taxes Act.

S. 1697

At the request of Mr. ANDERSON, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 1697, a bill to amend the Wild and Scenic Rivers Act by designating portions of the Upper Mississippi River in Minnesota as a component of the National Wild and Scenic Rivers System and for other purposes.

S. 2151

At the request of Mr. WILLIAMS, the Senator from New York (Mr. CASE) was added as a cosponsor of S. 2151, a bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes.

S. 2219

At the request of Mr. HATHAWAY, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2219, a bill to monitor the allocation of insulation.

S. 2369

At the request of Mr. ANDERSON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2369, a bill to provide Federal assistance for the control of Dutch elm disease.

S. 2487

At the request of Mr. CLARK, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2487, a bill to amend the Public Health Service Act to provide for greater emphasis on rural health care needs in health planning.

S. 2507

At the request of Mr. ANDERSON, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2507, a bill to authorize the Smithsonian to acquire the Museum of African Art, and for other purposes.

S. 2605

At the request of Mrs. HUMPHREY, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2605, the National Infant Screening Act of 1978.

S. 2645

At the request of Mr. WILLIAMS, the Senator from Washington (Mr. MAGNUSON) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2645, a bill to establish an Art Bank.

S. 2691

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PELL), the Senator from Maine (Mr. HATHAWAY), the Senator from New York (Mr. JAVITS), the Senator from Florida (Mr. STONE), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2691, a bill to provide for the furnishing of congregate housing services under the United States Housing Act of 1937.

S. 2730

At the request of Mr. WILLIAMS, the Senator from Iowa (Mr. CLARK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. CASE), the Senator from Alaska (Mr. GRAVEL), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2730, a bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowships.

S. 2731

At the request of Mr. PERCY, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2731, the Solar Global Market Survey Act.

S. 2733

At the request of Mr. MCINTYRE, the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 2733, the Small Business Energy Loan Act.

S. 2734

At the request of Mr. MCINTYRE, the Senator from Hawaii (Mr. MATSUNAGA), was added as a cosponsor of S. 2734, the Solar Energy Bank Act.

S. 2798

At the request of Mr. BROOKE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2798, the Homeowners Rehabilitation Assistance Act of 1978.

S. 2799

At the request of Mr. BROOKE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2799, the Public Housing Security Demonstration Act of 1978.

S. 2800

At the request of Mr. BROOKE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2800, the Housing Act of 1978.

SENATE JOINT RESOLUTION 111

At the request of Mr. GLENN, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 111, to authorize participation by the United States in parliamentary conferences with Japan.

SENATE JOINT RESOLUTION 118

At the request of Mr. JOHNSTON, the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. HODGES), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) were

added as cosponsors of Senate Joint Resolution 118, to declare an Emergency Medical Services Week.

SENATE RESOLUTION 414

At the request of Mr. PERCY, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Resolution 414, requesting the Architect of the Capitol to study the feasibility of installing a solar energy system in the new Hart Office Building.

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. GLENN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of Senate Concurrent Resolution 66, relating to disapproval of import relief to domestic producers of nuts, bolts, and large screws.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Concurrent Resolution 73, regarding the imposition of import fees on crude oil.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. CASE, the Senator from Rhode Island (Mr. PELL) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Concurrent Resolution 72, regarding efforts to counter international terrorism.

SENATE RESOLUTION 428—ORIGINAL RESOLUTION REPORTED TO AUTHORIZE REIMBURSEMENT OF U.S. MARSHAL SERVICE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution, which was placed on the calendar:

S. RES. 428

Resolved, That the Secretary of the Senate is authorized to pay out of funds appropriated to the Committee on the Judiciary, the sum of $1,777.00 to the United States Marshal for the District of Columbia as reimbursement for the mileage, witness fees and expenses of five (5) persons subpoenaed by the Committee, to testify at a hearing held by the Committee on the nomination of Robert F. Collins to be a United States District Court judge for the Eastern District of Louisiana.

AMENDMENTS SUBMITTED FOR PRINTING

ELEMENTARY AND SECONDARY EDUCATION EXTENSION—S. 1753

AMENDMENT NO. 1761

(Ordered to be printed and referred to the Committee on Human Resources.)

Mr. STAFFORD submitted an amendment intended to be proposed by him to the bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

(The remarks of Mr. STAFFORD when he submitted the amendment appear elsewhere in today's proceedings.)

DEPARTMENT OF STATE AUTHORIZATIONS—S. 2496

AMENDMENT NO. 1762

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2496) to authorize appropriations for the Department of State for fiscal years 1979, 1980, and for other purposes.

● Mr. HATHAWAY. Mr. President, the United States and Canada share the world's longest unprotected boundary—4,800 miles. Approximately 611 miles of this boundary are shared with the State of Maine.

In 1909, in an effort to deal with all the problems associated with a common border and to settle the use of boundary waters, the U.S. and Canada entered into the Boundary Water Treaty.

This treaty established a permanent binational body, the International Joint Commission, composed of six members—three Americans and three Canadians.

The Commission is responsible for: First, the approval of applications to use boundary waters; second, the investigation and study of border problems; and third, the implementation, when requested, of Commission orders and recommendations. It is not responsible for ocean boundaries.

Since 1912, when the first application was received for review, the Commission has developed a reputation as being one of the primary means for identifying solutions to difficult boundary problems. This reputation is based on a solid foundation of law and precedent and the Commission's successful record. Over the years, the Commission has received 61 applications and has had 45 problems referred to it by the two governments. The problems have become more varied and complex as the two governments have developed confidence in the Commission. In recent years, the Commission has been increasingly active in dealing with the growing problems of transboundary air and water pollution.

Under the treaty, the governments are required to pay all reasonable and necessary expenses of the Commission. The U.S. Secretariat receives funds through the Department of State budget to cover the cost of its activities. These activities include providing technical and administrative support to the U.S. commissioners and providing staff and administrative support through the Windsor regional office to implement the Great Lakes Water Quality Agreement. Also, funds are provided to the U.S. Geological Survey, Department of the Interior, to cover the cost of special and technical investigations principally for the maintenance of river gaging stations performed for the Commission. Since the regional office's opening in 1973, the cost of these activities has increased from $517,200 annually to an estimated $1.7 million in fiscal year 1978.

To cover the cost of its board activities, the Commission relies on each government to provide support. In the United States, the board chairman must obtain funds from his Federal agency to pay for the U.S. portion of the costs. In fiscal year 1976, these costs amounted to approximately $5 million. Since 1971, the Commission has been involved in 13 major studies. When completed they will cost the United States about $17 million.

On February 8, 1978, the General Accounting Office issued a report critical of the method the U.S. utilizes to fund the Commission's activities. To correct the problems which the United States now has in providing funds for the Joint Commission, the GAO specifically recommended that—

. . . the Secretary of State, with the concurrence of the Director of the Office of Management and Budget, should

Establish a separate fund to ensure that funds are readily available to promptly begin needed studies that had not yet been requested at the time the budget was prepared; and

Include direct funding of Commission board activities in the State Department budget submission to the Congress. In this regard, other agency budgets should no longer include separate funds for Commission studies.

Officials of all the agencies involved with the Joint Commission have agreed that a separate fund should be established to ensure that money is readily available to promptly begin work on necessary studies. However, most of the agencies do not agree that the activities of the commission's board should be directly funded through the State Department's budget.

Therefore, in response to the problems, pointed out by the GAO report, I am submitting an amendment to the State Department authorization bill (S. 2496) which will:

Create a separate fund within the State Department to finance the studies of the Joint Commission. Funds up to $800,000 would be annually authorized to be appropriated to carry out these investigations. These amounts shall remain available until expended.

Require the Secretary of State to submit a study to Congress by January 1, 1979 with respect to the desirability and feasibility of including all funds required for U.S. support of the Joint Commission in the budget of the Department of State.

I ask unanimous consent that this amendment and the Digest of the GAO report be printed in the RECORD at this point.

There being no objection, the amendment and digest were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1762

On page 6, line 10, insert the following new section:

IMPROVED FUNDING OF THE U.S.-CANADIAN INTERNATIONAL JOINT COMMISSION

Sec. 10. (a) There are authorized to be appropriated to the Department of State such sums as may be required annually, not to exceed $800,000 per fiscal year, for the purpose of enabling the International Joint Commission, United States and Canada, to promptly initiate investigations requested by the Government of the United States pursuant to Article IX of the treaty entitled the "Treaty between the United States and Great Britain relating to boundary waters between the United States and Canada", signed at Washington on January 11, 1909, for which funds have not otherwise been appropriated. Such funds may be made available by the Secretary of State to meet expenses, other than salaries, incurred by the United States section of the International Joint Commission, any United States agency, or any agency of any State of the United States, in connection with such investigations. Amounts ap-

propriated under this section are authorized to remain available until expended.

(b) The Secretary of State shall conduct a study of possible measures to improve the budgetary procedures of the United States with respect to support for the activities of the International Joint Commission of the United States and Canada. Such study shall consider, in particular, the desirability and feasibility of including all funds required for United States support of the Commission and its activities in the budget of the Department of State. Such study shall take into consideration the importance of the work of the International Joint Commission to United States-Canadian relations; the increasing responsibilities conferred upon the Commission by the Governments of the United States and Canada; the need for timely action by the Commission in response to the requirements of the two Governments; and the possible impacts on domestic programs of United States agencies of changes in procedures for the funding of activities performed by those agencies for or on behalf of the Commission.

(c) The Secretary shall transmit the study to the Congress, together with any recommendations which he may deem appropriate by January 1, 1979.

HOW THE UNITED STATES CAN AND SHOULD IMPROVE ITS FUNDING OF INTERNATIONAL JOINT COMMISSION ACTIVITIES

The International Joint Commission assists the United States and Canada in solving water use problems along their common border. Since 1912 the Commission has reviewed over 60 applications and made over 40 studies. As the two governments have developed confidence in the Commission, they have asked it to consider more complex problems. However, the Commission's ability to respond to these requests has been hampered because the United States lacks an effective method of funding the Commission's studies.

U.S. FUNDING PROBLEMS LESSEN COMMISSION'S ABILITY TO RESPOND TO REQUESTS AND DISPUTES AGENCY PROGRAMS

In one instance, the United States was unable to meet the requirements of the Boundary Waters Treaty and in other instances Commission studies were delayed and other agency programs were disrupted because of the U.S. mechanism to fund its portion.

The Boundary Waters Treaty requires that the United States and Canada provide enough financial support and resources for the Commission to perform any study requested by the two governments. The majority of U.S. funding, however, does not go directly to the Commission. Instead, the Commission performs its studies through specially created international boards which are usually composed equally of Canadian and U.S. members with cochairmen usually appointed from a Federal agency in each Government. These board cochairmen are then expected to find sufficient funds within their agencies to carry out the Commission studies.

In the United States, board chairmen frequently must fund Commission studies from money originally programmed for other related projects, or use funds from projects only indirectly related to the Commission studies. In other instances, U.S. board chairmen have delayed Commission studies until the Congress approved their agencies' supplemental appropriations. Here are some examples:

The United States could not meet its commitment under Boundary Waters Treaty to provide $25,000 for a study by the Commission's Air Pollution Advisory Board because the Environmental Protection Agency did not have the funds. As a result, the U.S. portion was not done. GAO did not determine the effect of this (See p. 6.)

The Great Lakes Levels Study took 11 years to complete. One phase of the study was held up one year because of difficulty in obtaining initial study funds. (See p. 7.)

The Environmental Protection Agency's followup on various water quality problems was disrupted because the Agency used over $100,000 from various water quality programs to fund the U.S. portion of the Commission's study of the Garrison Diversion. (See p. 8.)

Many important decisions regarding the use of boundary waters cannot be made until Commission studies are completed. Because delays in these decisions can drastically increase the cost of the project, the two governments have requested that recent studies be completed in 1 to 2 years. However, such studies generally cannot be funded that soon through the routine budget and appropriation process. (See p. 7.)

Another factor which affects the present U.S. funding mechanism is that State governments are requesting more involvement in Commission studies. Responding, the Commission has appointed more State personnel to its boards. However, the States do not have the funds to cover the cost of participation and are looking to the Commission and U.S. agencies for financial support. (See p. 11.)

Indirect funding has caused the true cost of the Commission studies to lose visibility. Since 1971, the Commission has been involved in 13 studies, which will cost the United States an estimated $17 million upon completion. Because some of these funds were obtained indirectly through other agencies, the Congress is not aware of the total cost of the studies or that funds justified in the agencies' budget submissions for various projects were used instead for Commission studies. (See p. 6.)

LIMITED RESOURCES PROVIDED TO U.S. SECRETARIAT

In addition, the Commission is hampered because U.S. staff and financial support have not kept pace with the increasing demands placed on the Commission and the U.S. Secretariat. This means that the U.S. Commissioners have not been provided the technical advice and administrative support they needed; and they have had to rely on the Canadian Secretariat for support. (See p. 18.)

An example of the impact of the limited staffing is the amount of duties assigned to the staff engineer. This job calls for involvement in almost all Commission functions—reviewing and evaluating various reports from technical and control boards, advising the U.S. Commissioners on the soundness of engineering data, and preparing the technical portions of Commission reports. Because there has been only one engineer at the U.S. Secretariat, however, he has frequently not been available to provide this assistance. Instead, the Commissioners have relied on the assistance of the Canadian Secretariat which has three engineers performing these functions. (See p. 18.)

Although the need for a larger U.S. Secretariat staff long has been recognized, in each of the last 5 years the Commission's requests for additional staff has been turned down. (See p. 20.)

None of the U.S. Secretariat requests for additional staff for 1974, 1975, 1976, and 1977 was filled. In its 1978 budget proposal the U.S. Secretariat requested six additional positions. Two were cut from the budget proposal by the Department of State before it was submitted to the Office of Management and Budget and two were cut afterwards. The other two positions were included in the budget submitted to the Congress and were approved. The U.S. Secretariat's 1979 budget proposal again requests the four positions previously denied. (See p. 20.)

RECOMMENDATIONS

To correct the problems the United States has in providing funds for International Joint Commission studies, the Secretary of State, with the concurrence of the Director of the Office of Management and Budget, should

Establish a separate fund to ensure that funds are readily available to promptly begin needed studies that had not yet been requested at the time the budget was prepared; and

Include direct funding of Commission board activities in the State Department budget submission to the Congress. In this regard, other agency budgets should no longer include separate funds for Commission studies. (See p. 13.)

AGENCY COMMENTS AND ACTIONS

Officials of all the agencies involved agree that a separate fund should be established to ensure that funds are readily available to promptly begin needed studies, and said they would work toward its establishment. (See p. 14.)

Most of the agencies did not agree on direct funding of Commission board activities, principally because they perceived no operational problems stemming from the present arrangements. But this report shows that problems have been experienced by agencies in obtaining funds for board activities and that direct funding for all Commission activities in the State Department budget is both needed and practical. (See p. 15.)

Officials of all the agencies involved agree that there was a need for an increased staffing level of the U.S. Secretariat. The 1979 State Department budget submission to the Congress includes four new positions for the U.S. Secretariat. If authorized by the Congress, those positions should alleviate some of the U.S. Secretariat's staffing problems. (See p. 22.) ●

PANAMA CANAL TREATIES—EX. N, 95–1

AMENDMENTS NOS. 93 THROUGH 97

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted five amendments intended to be proposed by him to the Panama Canal Treaty, Ex. N, 95–1.

AMENDMENT NO. 98

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to the Panama Canal Treaty, Ex. N, 95–1.

RESERVATIONS SUBMITTED FOR PRINTING

RESERVATIONS NOS. 9 AND 10

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted two reservations intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

RESERVATION NO. 11

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted a reservation intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

RESERVATION NO. 12

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted a reservation intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

(The remarks of Mr. BROOKE when he submitted the reservation appear elsewhere in today's proceedings.)

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. ABOUREZK. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks and Recreation.

The hearing is scheduled for Friday, April 28, 1978, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 88, a bill to enlarge the Sequoia National Park in the State of California by adding to such park the Mineral King Valley area, to provide for certain planning respecting the management of such addition, and for other purposes.

For further information regarding the hearing, you may wish to contact Mr. Tom Williams at 224–7145.

Those wishing to testify or who wish to submit a written statement for the record should write to the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

● Mr. HATHAWAY. Mr. President, I wish to announce that the Subcommittee on Alcoholism and Drug Abuse will hold a hearing to consider reauthorization of the Drug Abuse Office and Treatment Act of 1972 on Wednesday, April 19, 1978. Further, the subcommittee has scheduled a hearing on renewal of the Alcohol and Drug Abuse Education Act on Thursday, April 20, 1978. Both hearings will begin at 9:30 a.m. in room 4232, Dirksen.

Further information may be obtained from the subcommittee office at 119 D Street NE., Washington, D.C. 20510. Telephone (202) 224–8386.●

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

● Mr. SPARKMAN. Mr. President, I wish to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs, will hold a 1-day hearing, on April 13, 1978, on S. 2691, a bill introduced by Senator WILLIAMS, to provide for the furnishing of congregate housing services under the U.S. Housing Act of 1937.

The hearing will begin at 9 a.m. and will be held in room 4232, Dirksen Senate Office Building.

The subcommittee would welcome statements on the bill for inclusion in the hearing record.●

CIVIL SERVICE REFORM LEGISLATION

● Mr. RIBICOFF. Mr. President, on Thursday, April 6, the Committee on Governmental Affairs will begin hearings on S. 2640, the Civil Service Reform Act of 1978. The following is the schedule for the committee hearings as currently established:

April 6, 1978: James T. McIntyre, Jr., Director, Office of Management and Budget; Alan K. Campbell, Jule Sugarman, and Ersa H. Poston, U.S. Civil Service Commission.

April 7. 1978: David Cohen, president, Common Cause; panel of representatives from National Academy of Public Administration; Rocco Siciliano, Committee for Economic Development.

April 10, 1978: Ralph Nader, public citizen; Bertrand Harding, National Civil Service League; representatives from Disabled American Veterans, Veterans of Foreign Wars, and the American Legion.

April 12, 1978: Elmer Staats, Comptroller General of the United States; Dr. Jack Carlson, Chamber of Commerce of the United States; Vincent Connery, president, National Treasury Employees Union.

April 13, 1978: The Honorable Richard A. Snelling, Governor of Vermont; panel of representatives from: Federally Employed Women, Wheel, National Women's Political Caucus, and Coalition for Women's Appointments.

The hearings will be held each day in room 3302, Dirksen Senate Office Building. On April 6, the hearing will begin at 9:30 a.m. Thereafter, the hearing will begin at 10 a.m. I will announce additional days of hearings as the committee's schedule is set.●

ADDITIONAL STATEMENTS

PRESIDENT CARTER'S WELFARE REFORM PLAN

● Mr. CURTIS. Mr. President, attention has been focused recently on the Carter welfare reform plan and upon some of the problems which have been discovered in this legislation.

The National Welfare Fraud Association is made up of dedicated professionals in the field of controlling welfare fraud; it includes in its membership welfare fraud investigators, district attorneys' staff, and similar persons skilled in preventing and detecting welfare fraud. The past president of this organization, Mrs. Dorothy Forney, of Harrisburg, Pa., has established a nationwide reputation as an individual with demonstrated depth and expertise in this field and with a longstanding dedication to true welfare reform. I should like to request that a recent speech by Mrs. Forney on the subject of the Carter welfare reform proposal be printed in its entirety in the RECORD.

The speech follows:

CARTER'S WELFARE REFORM

Let's hope a closer look will be taken at the proposed panacea to all welfare problems offered by the Carter administration.

One could liken the silver platter fare to a paper house built on a statistical pyramid of cards: A slight breath of fresh air and down comes the model.

The plan, in light of analysis of cost, as it was presented to the American people, has all of the appearances of a statistical cover-up. Perhaps the most redeeming element of the plan for President Carter is that fiscal relief is planned politically for 1981 and therefore not to be realized until after the next election. The nation needs fiscal relief now—not in 1981.

The real cost of the program has yet to be uncovered or discovered. Several fallacies in the list of "Current Federal Expenditures and Offsets" must be thoroughly recognized and their full impact assessed. For example, an offset considered as a "fait accompli" is "wellhead Tax Revenues" of 1.3 billion dollars. This new tax is contained in the energy bill, and is another tax the middle class will shoulder directly through higher fuel costs. An offset of 3 billion dollars for Social Security is also included due to "more persons employed." However, if these are federal jobs, paid with taxes, does this not constitute a raid on the already seriously depleted Social Security Fund?

The administration refused to include $3.4 billion of expected tax benefits to nonrecipients of income supplements as a cost of the program. This is inefficient accountability for somewhere, somehow a replacement for the $3.4 billion must be found. Nor has the cost of the state supplement been included anywhere. In the first year, the States must pay 90% of their current costs; in the second year, only 60%, and in the third year just 30%. Thereafter, they will assume only 10% of the basic benefit. Will state taxes drop accordingly? And who, then, picks up the tab for the reduced state spending? Who will pay the taxes to pay the bill? None other than the already overburdened middle class working taxpayer. But perhaps by that time he will have become eligible for welfare himself, and we will reach that state long ago predicted of more persons taking from the government than contributing to it. At this point, we will be faced with New York City's fiscal collapse on a national scale, and inevitable socialization of the nation.

The lack of statistics is to be deplored. In a program of this magnitude, we are asked to accept dollar figures totally unsubstantiated by such things as the numbers of persons who will be added to the rolls, based on the expanded breadth of the program, when welfare costs will begin to de-escalate, and the effect on the public at large. A program purported to further include single persons, childless couples, and working intact families can only spell far higher costs. The numbers now carried only on state rolls and others not now carried anywhere, who will become a part of the program, have not been revealed, yet a stab has been made at costs which will undoubtedly be greater than set forth in the plan.

Another cost factor which has been totally ignored is the impact of additional millions of persons who will become eligible for Medicaid. The ominous portent here is the threat of National Health Insurance, covertly injected as a "proposal to be presented to Congress early next year." This only postpones the immediate need to reform another federal program out of control, with a solution not yet acceptable by many, yet one that is closely entwined with cash assistance.

Are we willing to take advice from the countries that have already been through this mill and are now trying to unwind the momentum? Or are we committed to indulging in the same trials and tribulations from which we will be unable to extricate ourselves fiscally?

A key alleged feature in the new welfare reform proposal is "Job Opportunities." The Federal government will be required to create 1.4 million public service jobs that "would pay the minimum wage or slightly above."

Upon closer examination, one must question the artificial creation of 1.4 million "new" jobs. The private sector has had difficulty filling millions of job openings appearing in daily and weekly newspapers regularly. If the unemployment figure blithely fed the public on a monthly basis were analyzed realistically, it would show probably a fraction of actually unemployed persons, according to Robert Snelling in an article in U.S. News and World Report in 1972.

Where have these jobs been up to this time? If a job needs doing, it is usually "created" by local governments or the states or private industry. The curtain is being drawn on the real significance of the artificial creation of jobs—this is merely a shift from one welfare program to another, and should not be couched in deceptive terms. Only the private sector can create real jobs.

If the administration intends to provide such jobs at "higher than minimum wages," how will it ever be possible for the private employers to fill the jobs now available? Government will be in direct competition for labor which should be available to private employers.

For example, in "The Jobs Component" of the President's plan, we find this statement: "Over two million low-income people are expected to participate in this employment and training program annually . . . includ-(ing) not only current welfare recipients but also many low-income people who are not currently eligible for welfare." And a further statement, "There will be no income or assets tests for determining eligibility (for government jobs)"—because "they may arbitrarily exclude people who both need and want to work."

In addition, "prevailing minimum wage" is open to various interpretations. Is it the Federal minimum wage, the minimum wage set by individual states within their borders—or does it mean the prevailing wage for certain jobs, which has been so costly to many areas?

Setting aside these negative elements, let us now examine other factors. In the President's proposal, the father with a small child in an intact family who declined a subsidized job under the family program would make them eligible in the "not expected to work" category if he leaves the family. Benefits to the family would be increased to $4,200 per year plus state supplements. He could then apply for benefits for himself as an individual and receive an additional $1,100 a year. Because the 1.4 million subsidized job slots are reserved for families, the father could not be offered or required to accept one and he would continue to receive $1,100 in cash benefits plus any state supplements. This is a real incentive to break up the family.

Despite President Carter's emphasis on strengthening family ties, the new plan would actually discriminate against marriage for the aged, blind or disabled; but the married and unmarried younger persons who are among the most able in our society would reap higher benefits. And, for the icing on the cake, if a married couple declined a job, total benefits would be denied; but if the couple were unmarried and receiving benefits as single individuals living together, half of the benefit would continue if one refused to work.

Most of the working poor and the lower spectrum of middle class workers have remained in jobs because they have had pride in supporting themselves and their families. The Carter plan is about to rob even these persons of their last shred of dignity. They may not have all of the comforts of life, they may find making ends meet difficult, yet they retain their self respect and self sufficiency. The Carter plan has already told them they are less than able to take care of themselves, and the stigma has begun.

High benefits characterize the plan, and the higher points of departure from the rolls will undoubtedly focus the attention of the nation's taxpayers more sharply on the "Program for Better Jobs and Income" than ever before on public welfare. Once the magnitude of the scope of coverage becomes evident, a backlash is inevitable. "Program for Better Jobs and Income" under the Carter plan is simply welfare by another name.

It is not difficult for anyone to recognize the deliberate attempts to federalize the welfare program. Ever so generously, the President in his plan gives the states the "option" to perform the "intake" function of the administration of cash assistance. There is no incentive offered to the states to accept that option. Since most employes would become federal employes under the plan, the unions will not object, and the states will be relieved of the entire responsibility except to pay their share of the cost to retain grants at present levels.

The Department of Health, Education, and Welfare estimates total federalization of the welfare system will reduce the number of employes required to administer the monster and result in greater efficiency. Perhaps a closer look at the recent SSI take-over is warranted. Five- and six-month delays are common. The error rate is even higher than the present welfare program. Fraud is evident but goes unchecked. Can HEW, therefore, assume another burden of more than 40 million people (cash grants to both AFDC and general assistance recipients, and food stamps) with any degree of efficiency with 50 percent less staff, as is proposed?

The estimated figures for the number of federal employes that will be required (a new layer of federal bureaucrats) is questionable. Even so, operating a dual system with both state and federal employes would be another administrative nightmare—and there is already an abundance of these without invitation to more.

The Carter plan is a direct challenge to the American taxpayers: Do we want local control, or do we want federalization and big-brotherism? Do we believe that 40 million citizens must have some kind of government prop, or do we prefer to believe we can be self-sufficient if government keeps its nose out of our business? Do we truly believe we can pay equal benefits nationwide, or are we certain that the states are able to decide what is best for them individually?

Not a word has been written in the proposal by the President concerning fraud, or punishment for cheating. Is the administration so convinced that honesty will return to a system which is so generous as to discourage work, break up families more than ever before, permit converting assets to costly household and personal items, remove any shred of fiscal responsibility that now exists, that it is willing to lay its integrity on the line in a plan which totally deceives the taxpayers of this nation? There is a kind of sophistry in espousing a welfare reform program that permits people with high assets, such as expensive cars, homes, and other personal effects, to live off the taxpayer and collect welfare as well.

To espouse "fewer people on welfare," when the plan will admit millions more; to set up government in direct competition with private employment; to gouge the middle class with more taxes for high-income people; to suggest that such a program is welfare reform is unconscionable.

President Carter's campaign promises included a very strong commitment to return government to local control. Among others on which he has retrenched, this is probably the greatest deception proposed so far.

The administration expressed dedication to human needs. This plan is probably the most discompassionate ever devised. It will remove the personal contact given by local jurisdictions to recipients in their hour of need to a mechanical approach which will result in the usual computer snarls that cannot be untangled for months.

To accept the premise that every state can be treated in the same way as every other state is to fail to recognize the vast differences in the people of our nation. They differ from state to state, even from county to county. A federal system attempting to administer from a single location in the nation is the most inhumane approach to the problem. We need instead to return to the local approach. Let the federal government provide the funds to the counties—but let the counties decide the rules. Everyone will be better served.

Several peripheral benefits have been completely overlooked in the Carter plan. A few years ago former Congresswoman Martha Griffiths (D-Mich.) spent a great deal of time and effort, as well as money, studying the administration of welfare in the nation. She found that some people benefited from as many as 11 different programs. This fact has not been considered in the Carter plan, and it must be assumed that multiple benefits in the form of housing subsidies, free meals, and others will continue. Nor have these costs been included in the projected cost for the new proposal.

One of the best solutions to the present welfare dilemma would be the training of highly skilled intake workers. It is the most important job in the system, yet it is the one with the least skilled employe. A recent GAO report backs this up. The job could be served best by a skilled social worker who has the true welfare of applicants and recipients at heart—one who would encourage job-search, self-reliance, and pride in self-improvement. Instead, our system is fraught with social workers who get the applicant after he has become a recipient, and then who must ensure continuance in the system or lose their own jobs.

The complexity of the proposed programs has not yet been fully realized. While the President complained in his presentation that the present system is complex, a few simple strokes of his pen could eradicate many of the stumbling blocks. But no President since the give-away began in 1933 has had the guts to do it. They believe it would be political suicide. The sooner one wakes up to the fact that it will be political suicide not to clean up, the better off all of America will be.●

FEDERAL BANKING AGENCY AUDIT ACT

● Mrs. HUMPHREY. Mr. President, for too long our bank regulatory agencies have escaped congressional auditing. At the present time, the Federal Reserve Board, the Office of the Comptroller of Currency, and the Federal Deposit Insurance Corporation are the only exceptions to a congressional audit by the General Accounting Office. Yet, their proper functioning is critical to the financial and economic well-being of the Nation.

I urge my colleagues to support H.R. 2176, the Federal Banking Agency Audit Act. Passage of this legislation is vital to improve the operating efficiency of the three agencies and to improve con-

gressional oversight of them. Last year, the operating expenses of these agencies totaled more than $900 million, but those expenditures were excluded from a congressional audit. The Governmental Affairs Committee has discovered significant problems in the operations of the Federal banking agencies. Congress does not now have the necessary means to insure that these agencies are appropriately expending funds and it needs to be able to do so. This bill will rectify that situation.

This bill is a prudent measure. It provides the GAO with access to all agency documents and materials necessary for authorized audits and requires the Comptroller to make reports to the Congress as often as practicable.

It does, however, recognize that the Federal Reserve Board must be able to independently conduct the Nation's monetary policy. Therefore, the monetary policy deliberations of the Fed are excluded from a GAO audit. But operations relating to bank supervision are rightfully included as subject matter for an audit. The Fed is a creature of Congress and its operations should be subject to close congressional scrutiny.

The bill has adequate safeguards to protect the confidentiality of bank and bank holding company reports and loan information. In addition, in only rare instances can the GAO disclose the identity of a bank, bank holding company, or the customers of either.

The authority given to the GAO by this bill is warranted and is adequately safeguarded. We cannot allow the operations of these agencies to remain isolated from proper congressional oversight. Swift enactment of this bill will more firmly establish the proper relationship between the Congress and the Federal banking agencies.●

THE RETIRED SENIOR VOLUNTEER PROGRAM

● Mr. GARN. Mr. President, the ACTION Agency which operates the retired senior volunteer program (RSVP) has proposed a 25 percent reduction in funding of the RSVP for fiscal year 1979. As the RSVP is one of the most cost-effective, worthwhile Federal programs in existence, I was shocked at the proposed reduction which if implemented would result in the loss of over 30,000 senior volunteers.

Since its beginning in 1971, RSVP programs throughout the Nation have met, if not surpassed, the guidelines established for this program. There are now over 40,000 volunteers aged 60 and over in 700 communities that are daily giving of their time. Every State in this Nation has nothing but praise for the RSVP program.

The uniqueness of this program and the irony of the proposed reduction is that the only cost for RSVP's is for local administration and meals and transportation for the volunteer. This means that the Federal payment for each volunteer is only about 40 cents an hour. RSVP also involves a significant 30 percent local match which assures local commitment and grassroots support. There is no other Federal program where we get so much for so little.

Of equal importance is the sense of usefulness that these volunteers feel. They know they are contributing to their community and are important members of society. They do not feel forgotten.

In my own State of Utah for example, there are over 1,800 volunteers working in hundreds of nonprofit organizations, hospitals, libraries, clubs, schools and nutritional centers. They work with the physically and mentally handicapped and read to the blind. They work with the low income and disadvantaged youth. And some volunteers, even though they know they will not get reimbursed for their expenses, transportation and meals, participate anyway. There is no end to the good they accomplish.

An important part of the Utah RSVP organization is the annual banquet where all volunteers are officially recognized for their tremendous contribution to their community and State. While Mayor of Salt Lake City, I had the opportunity to participate in these banquets where I was able to witness the various success stories of the volunteers and the genuine happiness they feel as productive members of society. It was evident that the RSVP program was one of the most important things in their lives.

Mr. President, as a fiscal conservative I believe in close scrutiny of Federal budgets and the elimination of waste. But the compelling success of this program coupled with its cost-effectiveness does not warrant a reduction in funding.●

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

● Mr. ANDERSON. Mr. President, as Senate author of S. 1728, the "Domestic Violence Prevention and Treatment Act" and as an original cosponsor of S. 2759, the "Domestic Violence Prevention and Services Act," I have been very pleased to work with the leadership and members of the National Coalition Against Domestic Violence. The coalition during hearings chaired by Senator ALAN CRANSTON on March 8 and by Congressman GEORGE MILLER on March 17 provided helpful, first-hand insights into the needs of battered women and their families, and how to best address them.

I request that the text of the coalition's statement be printed in the RECORD.

The text follows:

STATEMENT FROM THE NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

During these hearings you will hear the painful stories of women who have suffered great violence at the hands of those they love. You will hear the frustration, anger, and despair of victims, law enforcement officials, lawyers, and social workers as they tell of being overwhelmed by the extent and complexity of the problem of domestic violence. You will hear the personal feelings of what it is like to be beaten and the professional opinions of why it happens and how to respond to both the victim and the assailant. And then, you will make decisions on how the federal government should address these needs.

I am here to speak to you on behalf of the National Coalition Against Domestic Violence. We are representative of the more than 300 grass roots groups throughout the country currently providing shelter or other direct services to victims of abuse. Our members are from diverse racial, social and economic backgrounds. Most importantly, we are here to speak to you on behalf of all of the women who have found the courage to say: "Enough! We will not live our lives in fear and degradation. We will not raise our sons to be violators and our daughters to be victims. We will rescue ourselves and we will use what we have learned to help others who are trapped in the cycle of violence."

I want to say to you quite simply: We are here. We are the essential source of the great national outcry about battered women. We know our problems. We know our communities. If you want to help us, give us as much money as you can, as quickly and as directly as possible.

Administer the money in a way that gives us easy access to the decision makers. Write the guidelines so that we can understand them—we would be pleased to assist by participating in a peer review panel. Let us share with you what we have learned during the past several years.

From my experience, I believe that funding small community based programs which involve battered women in the decision making process is the most effective way to aid victims of domestic violence. These programs have enabled battered women to make basic changes in their lives quickly, effectively and at relatively little cost. As the Chairperson of the National Coalition, I am in close contact with these groups. Most of us began with little or no funding, administrative expertise, or established community support. Through the last few years, however, we have sheltered thousands of women and children, and established hot lines and support groups in most of the major cities as well as in many rural areas. We have provided the stepping stone for the battered woman to escape her world of isolation and violence.

Our communities have recognized both the sincerity and viability of our work. Established institutions and agencies are now turning to us for guidance as they begin to address the issue. Public response is being expressed through growing concern and commitment to meeting the needs of victims of domestic violence.

Our programs do meet these needs. Many of the women who have come to us are now back in the community offering shelter and support to other victims and their families. In the long run, these programs are self-sustaining due to significant community involvement and support. They represent an efficient use of resources.

Our programs work because we begin with a personal knowledge of the effect of violence. We know that battered women are almost always dependent upon someone else for their survival. It is common to describe them as passive, having no self-confidence and unable to set their own goals. I have known strong independent women who have been reduced to being unable to make a single phone call on their own behalf.

In order to break the cycle of violence, these women must first free themselves from their traditional dependency upon others for their economic, social and psychological well-being. Our programs, which rely upon the peer self-help model provide an effective alternative to tolerating violence.

I urge you to support legislation which gives top priority to funding community

based, direct service programs which rely upon the guidance of the victims of violence. I suggest that any research which is funded be directly grounded in these programs. Regional and national network and clearing houses for information are emerging. The National Coalition Against Domestic Violence represents a composite of these groups.

I urge that the work and concerns of these programs be recognized as legislative and other remedies are developed.

In considering where this money should be placed, I would like to express appreciation for the concerns raised by Representative Mikulski in her testimony. The National Coalition is concerned that this money not be splintered up and lost in a bureaucracy that is not easily understood by grass roots groups. We are concerned that funds reach local groups as directly as possible and in a way which enables these groups to determine for themselves how they can make the best use of this money. Nationally, we want a central coordination of information and decision making that is directly responsive to our needs and input. We will be happy to assist in determining the best way to address these concerns.

On behalf of the National Coalition, I want to express my appreciation for your concern. We look forward to working with you.●

THE NEUTRON BOMB

● Mr. HAYAKAWA. Mr. President, I cannot help noticing all the recent press attention that is once again being given to the so-called neutron bomb. For almost a year now, we have been periodically reading about how this weapon is a destroyer of people but not buildings. Hence the bomb has been described as a "people-killer," although almost all weapons of war back to stone clubs and bows and arrows are also "people-killers." After all, killing people is how we fight a war. So it is ironic that a less destructive weapon, designed to kill enemy soldiers while sparing civilian populations and cities where they live and work should come under such heated attack from those who want to diminish the horrors of war.

I am not satisfied with the arguments that are being used against the deployment of the neutron bomb. The principal opponent is the Soviet Union, and it appears that many officials in Western Europe and the United States have been listening to them. In my opinion, President Carter threw away an important bargaining chip when he ceased production of the B–1. Deciding against the deployment of the neutron bomb, without any concessions from the Soviet Union, is clearly not in the interests of this country. The neutron bomb is one of the most effective antitank weapons that we could have at our disposal. Its deployment would enhance deterrence by making the Soviets think long and hard about launching an attack against such formidable retaliation. In any case, the threat of neutron bomb production can be used to force some concessions from the Soviets on their new SS–20 nuclear missiles or possibly obtain withdrawal of some tank divisions.

Editorials in the March 30 New York Times and the April 5 Wall Street Journal point out many advantages of the neutron bomb. I submit these articles for the RECORD.

The articles follow:

[From The New York Times, March 30, 1978]

THE VIRTUES OF THE NEUTRON BOMB

Ever since the Carter Administration asked Congress last summer for funds to produce enhanced-radiation nuclear warheads, critics ranging from Soviet propagandists to Western cartoonists have had a field day attacking the so-called "neutron bomb." The archetypical capitalist weapon, Moscow has called it, a destroyer of people but not property. Grim forecasts of lingering radiation deaths have filled newspaper columns worldwide. Rarely have the relevant questions been asked: Is the neutron weapon really more terrible than other nuclear weapons? And, more important, would its deployment make nuclear war more likely?

The answer to both these questions is almost certainly "no." Hence, the NATO governments will probably decide within a few weeks to deploy this ground-launched tactical nuclear warhead whose modest blast and intense but circumscribed and short-lived radiation make it particularly effective against advancing tank armies. If the NATO partners reach that decision—and we think they should—the alliance could acquire a potent means to defend Western Europe against the contingency that its planners fear most: a breakthrough by massive Warsaw Pact tank forces that vastly outnumber NATO's. Neutron weapons in Western hands would significantly complicate Soviet tactical planning: If its tanks were to attack in mass, they would be highly vulnerable. If they were to disperse they would be easier targets for conventional precision-guided anti-tank weapons.

Faced with this prospect, Moscow has ceaselessly denounced the neutron warhead as a diabolic qualitative change in the arms race—and has threatened to deploy its own version unless NATO desists. The charge is hollow. Neutron warheads are pre-eminently defensive weapons, not useful offensively. NATO's strategy is—and would remain—defensive. Regrettably, nuclear weapons will play a considerable deterrent role in that strategy for the foreseeable future, since there is no likelihood that NATO will match the Warsaw Pact's conventional forces.

The evident effectiveness of neutron warheads is what bothers many West Europeans. Dutch parliamentarians recently resolved that NATO should not deploy them. They reason that because most of the tactical nuclear weapons now in NATO hands would be more destructive to surrounding territory than neutron warheads, NATO governments would be more reluctant to order their use. They fear a lowering of the nuclear threshold that would make the use of nuclear weapons more likely and raise the specter of retaliation, escalation and devastation.

Yet it is precisely because NATO's existing tactical nuclear weapons are less usable than neutron weapons that they are a less credible deterrent against the outbreak of conventional war. And since Soviet military doctrine calls for the early battlefield use of nuclear weapons in any case, the only certain barrier against nuclear escalation is preventing any war at all.

Nor is there reason to think that neutron warheads would be more inhumane than others. All nuclear weapons yield deadly radiation. Their effects vary, depending upon their size and their targets. But given the likely uses of neutron warheads, the number of persons who would be left to die slowly would be no greater than similar casualties from other nuclear weapons.

Neutron weapons will not reach NATO field forces until some two years after the allies decide on deployment. Given their defensive character, it is difficult to know why Moscow should be so worried. But if its expressed fears are genuine and not mere propaganda, it should offer something of value for NATO's agreement to suspend deployment. Pulling back some of its tank divisions, or scrapping the new SS–20 nuclear missiles that are targeted on Western Europe, would be good places to start.

[From the Wall Street Journal, Apr. 5, 1978]

A FRIGHTENING REPORT

The New York Times reports that President Carter has personally decided, against the advice of his Secretary of State, Secretary of Defense and National Security Adviser, to halt the development of the so-called neutron bomb. So far the White House officially says the final decision has not been made, but the report has to be described as frightening.

Not so much because of the weapon itself, though it would be a handy thing to have in the event of a Soviet tank attack in Europe. The truly scary thing, if the report proves to be true, is that the President has turned aside his top advisers and bought the arguments of the flaky left.

There are no serious arguments against the deployment of this weapon, properly called the enhanced radiation/reduced blast warhead. The only difference between the new warhead and the ones it would replace in Europe is that it would produce a smaller explosion, accomplishing the same military mission with less collateral damage. Nothing else would change, but a combination of anti-nuclear emotionalism, misleading press reporting and Soviet propaganda has turned the weapon into a cause celebre.

The salient technical points are as follows: The defense of Europe against the overwhelming Soviet land armies has long been predicated on the use of tactical nuclear weapons; some 7,000 nuclear warheads are already in place. At the low yields of tactical weapons, the chief lethal effect is nuclear radiation. The current warheads also produce large blast and thermal effects; the ER/RB warhead would reduce these effects, perhaps facilitating allied military operations and certainly saving a lot of property while the battle is being fought.

The arguments offered against the weapon are (1) it is inhumane to kill by radiation, as opposed to killing by blasts or burns, (2) nuclear weapons that might be used without blowing up the world increase the likelihood of nuclear war and (3) it annoys the Soviet Union. Whatever the merits of these arguments, they apply to the warheads already in place. If we accept the arguments, it follows not only that we should not deploy the ER/RB warhead, but that we should withdraw all present defense forces from Europe, relying on the strategic threat to blow up the world if the Soviet armies move.

There is the added complication of the political effects on the alliance if the President has decided or does decide to ban this warhead. When the controversy first arose, the U.S. took the position that the Europeans should decide whether it should be deployed on their territory. The Europeans would much prefer the U.S. to decide, and take the emotional and political heat. But the West German government pulled itself together, and now is asking for deployment. After getting them to take the heat, the reported de-

cision would pull the rug from under them. A fine display of American leadership.

It has been hard to understand the current administration on defense issues, and all the more so in recent weeks. The President is perfectly capable of making a hardline speech at Wake Forest, and the administration is even taking sensible and politically courageous actions to shore up the strategically dangerous rift with Turkey. At the same time, it is preparing to gut the Navy and offering disarmament proposals that rely on askng the International Atomic Energy Agency to verify how much nuclear material the Soviets are using in bombs.

A presidential decision against the "neutron bomb" would be an ominous turn in this curious chain of events. In that event, a message to get serious about defense would have to be delivered quickly to Mr. Carter with whatever means may be available. A loud resignation or two on the part of high military officials, for example, or on the part of the U.S. Senate, rejection of the second treaty on the Panama Canal.●

COMPENSATION FOR VICTIMS OF CRIME

● Mrs. HUMPHREY. Mr. President, today we are faced with a most disturbing trend in law enforcement. The Federal Government spends almost $8,000 annually to feed, clothe, house, and provide medical services, psychiatric care and other services to the incarcerated perpetrator of violent crime. Yet, the plight of the innocent victim has been almost entirely ignored by the Federal Government.

We have made strong efforts to make our Nation's streets safe, and our actions are laudable. But even those persons most optimistic about the success of these actions realize that violent crimes will haunt thousands of innocent, unsuspecting victims. From 1967 to 1976 alone, the violent crime rate increased by over 80 percent. Most often, it is the poor and the elderly who are the victims of violent crime.

More than 20 States have recognized the need to compensate victims of violent crime for the economic hardship they suffer. However, the funding of some State programs is running dangerously low, and some States may be forced to terminate their programs. These victim compensation programs only compensate the innocent and only where the victim has been physically injured or has died. The programs do not compensate victims for the loss of stolen property and they do not compensate victims when compensation would result in double recovery.

This Government is too great to ignore the innocent victim of violent crime. The Government and the courts have made an effort to protect the legitimate civil rights of criminal defendants. Indigent accused are provided with legal counsel and all necessary expertise, at the public's expense. The accused is also clothed by a full range of constitutional protections. I urge my colleagues to also protect the rights of innocent victims of crime.

Last year, the Victims of Crime Act of 1977 was introduced in the Senate. This legislation would authorize the Attorney General to make annual grants to qualifying State programs to compensate victims of Federal and State crimes. Compensation would be provided for reasonable expenses incurred by the innocent victim for medical, dental, and psychiatric services, for physical and occupational therapy, and the loss of earnings within specific limits. State participation is voluntary.

My own State of Minnesota has had an extremely good victims compensation program since 1974. To be eligible for compensation, the victim must immediately report the crime to a law enforcement agency and completely cooperate with that agency. The program is run by only five persons. In Minnesota's 1977 fiscal year, the Crime Victims Reparations Board awarded $232,000 to 158 persons. The average payment per claim was just over $1,400.

I urge my colleagues to give thorough and thoughtful consideration to the Victims of Crime Act. Passage of this bill would greatly assist States in operating crime victims compensation programs and would be the action of a compassionate Congress.●

PRESIDENT CARTER PROCLAIMS MAY 3 AS SUN DAY

● Mr. PERCY. Mr. President, I was very pleased to learn that on Monday, March 27, President Carter issued the proclamation requested by the Sun Day resolution which I introduced with a number of my colleagues on February 6 and we passed on March 14. The President proclaimed May 3 as Sun Day, and called upon the American people to observe that day with appropriate activities and ceremonies that will demonstrate the potential of solar energy.

The intent of Sun Day—to inform and excite the American public about the potential of solar energy—is, of course, entirely consistent with the President's commitment to solar energy. The President's public proclamation cannot help but encourage those now organizing Sun Day activities that their work is beneficial and important. The President's proclamation can also help generate the public support so necessary to Sun Day's success.

Mr. President, the Sun Day resolution has succeeded. But Sun Day itself approaches rapidly. It is my hope that Members of the Senate will play a very active role in preparation for the celebration. I urge every one of my colleagues to find out what events are planned in his or her State or district—Sun Day activities are planned in all 50 States—and to encourage his or her constituency to participate in those events. I urge every one of my colleagues to take part in at least one Sun Day event on or around May 3.

A successful Sun Day can do as much or more to head this country in the direction of a clean, economical, and safe resolution of our energy problems as any legislation. I hope every legislator feels a responsibility to work as hard for Sun Day as he or she would for a good piece of legislation.

Mr. President, I submit for the RECORD President Carter's Proclamation 4558.

The material follows:

SUN DAY, 1978

(By the President of the United States of America)

A PROCLAMATION

Today the need to develop and expand renewable energy sources that can provide heating, cooling and power for homes, farms and factories is greater than at any other time in our Nation's history. For this reason, Americans are seeking ways of using the sun as an inexhaustible source of clean energy.

The Federal government and private organizations are working on programs to improve solar technology and encourage greater use of this safe, environmentally acceptable energy source. Our success, however, will depend upon an informed and involved public.

In order to inform the general public, industry and labor about solar technologies and to demonstrate the sun's potential in meeting America's energy needs, the Ninety-fifth Congress has adopted a joint resolution (H.J. Res. 715) designating Wednesday, May 3, 1978, as Sun Day and calling upon the President to issue a proclamation calling for its appropriate observance.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim Wednesday, May 3, 1978, as Sun Day and call upon the American people to observe that day with appropriate activities and ceremonies that will demonstrate the potential of solar energy. I direct all appropriate Federal agencies to support this national observance.

In witness whereof, I have hereunto set my hand this 27th day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.●

FREDERICK MANFRED OF MINNESOTA

● Mr. ANDERSON. Mr. President, the State of Minnesota has a rich and varied literary tradition. Outstanding writers who either were born or resided in Minnesota include Saul Bellow, John Berryman, Theodore Blegen, Robert Bly, F. Scott Fitzgerald, Thomas Gifford, Judith Guest, Thelma Jones, Sinclair Lewis, Charles A. Lindbergh, Mary McCarthy, Sigurd Olson, Robert Pirsig, Ole Rolvaag, Carl Rowan, Harrison Salisbury, Charles Schulz, Alma Scott, Eric Sevareid, Abigail Van Buren, Thorstein Veblen, Robert Penn Warren, and numerous others equally luminous. Whether at a poetry reading in a rural community, or at a play on a distinguished Twin City stage, the written and spoken word is revered in Minnesota.

Southwestern Minnesota is privileged to be the home of a novelist whose work enjoys increasing national recognition. Frederick Manfred of Luverne, Minn., is a man whose rugged and imposing physical presence seems to suggest something of the carefully crafted characters in his "Siouxland."

Frederick Manfred's vivid "remembrance" of the past enriches all of us.

Fortunately, Manfred's literary gift is shared not only with his readers, but also with students and public who are eager to learn from him. To know Frederick Manfred is to appreciate the writer's discipline and literature's ageless value.

Freya, Marya, and Fred—Manfred's three children—share their family's talents and sensitivities. There is more to be heard from each of them. I know that my colleagues will enjoy reading the following vignette on Frederick Manfred published in the April 10, 1978, issue of People magazine:

It is false that the Great American Novel is unachievable. The truth, rather, is that it is being bitten off region by region. Before he died, Sinclair Lewis left behind the definitive evocation of Gopher Praire; William Faulkner's legacy was Yoknapatawpha County. Now a much underrecognized novelist, Frederick Manfred, 66, is rendering what he calls "Siouxland"—the harsh Calvinist region of the upper Midwest where Minnesota, South Dakota and Iowa join.

Typically, its literary archivist is a prophet not entirely honored in his own Siouxland. Around Manfred's native Doon, Iowa—it's called "Bonnie" in his 23rd and current book, "Green Earth"—a neighboring minister denounced the work from the pulpit, and several years ago, after numerous acts of vandalism, the Highway 75 sign announcing Doon, Hometown of Frederick Manfred was removed. A newspaper reviewer in nearby Sioux Center hailed "Green Earth" as "a great book, which not everyone should read . . . Even more than his loss of interest in his religion," the critic noted of Manfred, "his seeming fascination with sexuality has been disturbing to his people here."

The work would, at worst, be rated PG by contemporary standards, and Manfred comments, "God wouldn't have made sex so pleasant if it were just for procreation. Sex drive and creativity seem to go together," he adds, "into a great flowering of energy." Indeed, far from the repression of his youth (and separated from his wife of 34 years), Manfred has at least four novels under way. The only bounds he still imposes on himself are his 10x12x7-foot writing shed, where he begins work daily at 7 a.m. That is indeed something of a discipline, though, for the author is 6'9".

Perhaps his most close-to-the-bone portrait comes in the 721 pages (he sent his editor a first draft of 1,600 pages) of "Green Earth." "I took my first notes for this book while I was in college," he recalls. "I was 18. My mother died the previous summer, and I was lonesome for her, because I thought she, more than any other person, would have understood what I was trying to do." The central character is called Alfred ("Free") Alfredson, a gangling prairie farmer's son not dissimilar to the Frederick Manfred of half a century ago.

Back then, however, he answered to the name of Feike Feikema, the first of six sons born to God-fearing parents of Frisian (a North Sea island chain) stock. Even in adolescence his drift from strict Christian Reformed precepts disconcerted his elders. In high school, for instance, he was caught reading a forbidden copy of Thomas Hardy's "Tess of the D'Urbervilles." With some imagination he tried to explain away his transgression, saying that the book was "about how they milk cows in England. They didn't buy that," he recalls.

Feike attended Calvin College in Michigan, then bumped around the country playing basketball and newspapering. In 1940 he was stricken with what doctors diagnosed as terminal TB. Two years in a sanitarium brought physical recovery but left a psychic mark. "I felt, 'Look, buddy, you should have died, but you didn't,'" he remembers. "I came out of that a raging bull." He married journalist Maryanna Shorba, fathered three children and began writing with a velocity that resulted in a book every 18 months. None was ever sold to Hollywood, but two Indian frontier narratives, "Lord Grizzly" and "Scarlet Plume," became successful paperbacks. In 1952 he changed his name to Frederick Manfred, an anglicized approximation of his given name which, he says, few ever pronounced correctly anyway.

He now works out of a modest stone turretlike house perched on a bluff near Luverne, Minn. Below he sees the Rock River Valley and all three states of his Siouxland. Once each week he makes a 180-mile round trip to teach at the University of South Dakota, where he is writer-in-residence. A couple of times a year he cuts loose a little in New York City. He also visits, in Los Angeles, his daughter, Freya, 33, who has published two volumes of poetry and has just finished a novel. "She could be better than I am," he says, but he's hardly paralyzed by the thought. There's one work in progress that Manfred doesn't expect to publish until he is in his 80s or 90s. "It will be my Oedipus at Colonus work," he muses. "That's the one Sophocles wrote to prove he was still sound of mind, you know."

—ROSEMARY RAWSON.●

EDUCATION: A NATIONAL SECURITY ISSUE

● Mr. BROOKE. Mr. President, I take this opportunity to bring to the attention of my fellow Senators a recent speech by our distinguished colleague from Maryland, Senator CHARLES MATHIAS.

His remarks before the American School Counselor Association on the importance of education as a matter of national security are worthy of our attention. In particular, he makes a cogent case for better funding of several education programs largely neglected in the administration's fiscal 1979 budget request. And he has also made some thoughtful observations on the need for greater attention to the role of guidance and counseling in our Nation's schools. I urge my colleagues to read Senator MATHIAS' speech.

I submit the text of his speech for the RECORD.

The speech follows:

EDUCATION: A NATIONAL SECURITY ISSUE

I am delighted to be here today at this luncheon of the American School Counselor Association. Talking with you about education will be a real change of pace for me.

As you know, the Senate has been debating one issue—the Panama Canal treaties—ever since February 8 and it looks now as if that debate will go on at least until the end of next month. I don't think anyone would quarrel about the amount of time given to this debate. We must examine the issues affecting our national security at length to insure that all aspects of a question are explored fully and fairly before decisions are made.

But I cannot agree with those who say that the Panama Canal treaties are the most important business that has been, or will be, before the Senate in our lifetimes. In my view, there are other issues that lie closer to the heart of national security. One of them is education.

Long ago Aristotle identified the essential relationship between national security and education. I don't think the relationship has changed since Aristotle wrote:

"All those who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth."

I'm not going to waste time here preaching to the converted about the importance of education to our national security. But I do think it's important to state that connection.

It's especially important now because the competition for the taxpayer's dollar among federal programs is getting more and more intense, while the taxpayer is getting less and less happy about giving up his dollars.

Last year at this time, Louis Harris and Associates asked a group of taxpayers this question:

"As far as you (and your family) are concerned do you feel you have reached the breaking point on the amount of taxes you pay?"

The response was an anguished and overwhelming "yes." Seventy-two percent of those polled said they had reached the breaking point on taxes. Since then the situation has gotten worse. We may not actually have a taxpayers' revolt on our hands, but we're dangerously close to one.

Given these economic facts of life, no politician, from the President on down, is going to support extensive programs in any area unless they are clearly of urgent concern. That is why it is essential to highlight the relationship of education to national security and to assert education's ascendant importance on any list of national priorities.

Every spring, as you know, Congress looks over the President's budget recommendations and evaluates the spending priorities that the budget establishes. I take an active role in that process as a member of the Senate Appropriations Committee.

This year the President's budget lays down challenges in a number of areas. I, myself, am particularly interested in the President's proposed budget for education. I have studied it carefully and, frankly, I am disappointed in it. Admittedly, there are a few bright spots such as the $400 million concentration money for disadvantaged children recommended under Title I of the Elementary and Secondary Education Amendments.

But, on the whole, the President's approach seems timid and niggardly. Regrettably, this Administration is repeating a budgeting practice in educational programs that has become all too familiar. Statutes that have been carefully and thoughtfuly worked out in Congress; that have passed through all the dangers and difficulties of the legislative gauntlet; that have been signed with fanfare by the President and hailed as promising new departures, are left either unfunded or insufficiently funded when budget-time arrives.

For example, when the President signed the Career Education Incentive Act, he declared himself:

". . . Pleased to sign into law H.R. 7 which authorizes $325 million in federal grants over the next five years."

The President then described the limited role the federal government had previously had in sponsoring career education, and concluded by saying that:

"While expanding that role, H.R. 7 is designed to ensure that state and local education agencies take the lead in developing and coordinating better career education programs."

That was in December. In January, when the budget was delivered to the Congress, the President had not recommended any appro-

priation—not a single dollar—to support the Career Education Incentive Act. And, remember, Congress had authorized $50 million for its first year of operation.

What happened to that Act is not an isolated example of executive hatchet work. Let's take a look at programs for the physically and mentally handicapped.

In 1974 the late Senator Humphrey and I sponsored an amendment to P.L. 93-380 that provided the first federal funding to schools attempting to serve handicapped students. The amendment expressed federal determination to help shoulder the extra costs involved in education of the handicapped. It led us to the enactment in 1975 of P.L. 94-142, the Education of All Handicapped Children Act.

No group of people is more aware than you are of the importance of P.L. 94-142 to handicapped children, to their parents and teachers, and to the administrators of every school in this nation. We can all be proud that our country has made this revolutionary commitment to providing free, appropriate education for every child in America.

But here again, despite a generous spending authorization and a clear formula for applying federal funds, the Administration has failed to support this statute adequately in its budget.

P.L. 94-142 calls for reimbursing schools for 20 percent of their additional costs for teaching the handicapped in FY 1979. The Administration, however, recommended only enough money in its budget for a 12 percent reimbursement rate, which falls $400 million short of the amount authorized by the Congress.

I think this is unacceptable. The mandate of P.L. 94-142 is unique. It requires schools and individual teachers to give special attention to the handicapped—to search for them—to bring them into the system—and then to draw up individual educational programs for each child identified under the Law.

P.L. 94-142 is one of the most carefully drawn and specific federal statutes ever passed by Congress. A concept of this breadth is not susceptible to petty economies. Cutting corners here could have a devastating effect on the quality of the entire program.

You, of course, are acutely aware of the Administration's failure to request funds for Title III-D of P.L. 94-482, which calls for the design and coordination at the national, state and local level of new guidance and counseling approaches to help young people develop and adjust to our complex society. This is another glaring budget omission.

There are, in fact, too many troubling aspects of the President's education budget proposals for me to discuss them here. Let me just assure you that making education accessible to and effective for all Americans heads my list of national priorities.

Although this is only my second year on the Labor-HEW Subcommittee of the Appropriations Committee, I think I can gauge the temper of the Subcommittee well enough to predict that before we're through with it we'll breathe new life into the education budget. I certainly intend to press for full funding for the vital programs shortchanged by the Administration.

But while we in Congress grapple with the challenge of providing adequate funding for such crucial programs as P.L. 94-142 and Title III-D of P.L. 94-482, you in the guidance and counseling profession face substantial challenges of a different sort.

Your profession, since its beginning in the early part of this century, has been dedicated to the idea that each person has a unique set of talents which, if given a chance to bloom, would immeasurably enrich the community. That idea is basic to our democracy. But it does not always find expression in reality.

You face the singular challenge of translating that idea into human, everyday terms. You have been given the job of awakening students to their individual worth and of opening up to them the full range of opportunities within their grasp.

Guidance and counseling professionals are uniquely qualified to overcome obstacles in the path of educating the handicapped. In Maryland, counselors already are closely involved in designing courses and working with parents of the handicapped because their training fits them naturally to that role. They are also helping classroom teachers to give each handicapped child the scope his talents require.

Maryland's Department of Education last spring inaugurated an important new program focussed on the simple, but too often overlooked, goal of making public school graduates competent in the skills needed to cope successfully with our increasingly complex modern world. This program—Project Basic—relies heavily on guidance and counseling professionals to help each student master a curriculum specifically tailored to his chosen career options.

Educators in Maryland count on members of your profession to set the standards that will make career education effective. They also expect them to be consultants to classroom teachers so that students can find career guidance in the classroom as well as outside it.

Guidance counselors in the program will help teachers anticipate the problems attendant on growing up and identify incipient learning and discipline problems so that they can be headed off and handled professionally. I suppose you could call this preventive counseling.

Project Basic also gives guidance counselors new responsibilities for the training of classroom teachers in the techniques that can soften the effects of students personal conflicts.

I bring up this Maryland plan to underline the importance of funding Title III-D of P.L. 94-482. That Law, which would make funds available to programs such as Project Basic, is crucial to your profession and to American education. It will set up a new office in HEW to serve as a clearinghouse for new ideas in education and as a source of direction for the guidance and counseling profession. And it will give states and local districts the money they need to use their school counselors to the best advantage.

For instance, far too much of a counselor's time now is taken up in simple clerical work, in moving the mountains of paperwork required by federal bureaucracy. That is a waste of a great resource. The Title III-D money could be used by local districts to hire paraprofessionals to relieve the school counselors of the paperwork burden and to free them for the vital tasks they have been trained to handle.

I intend to recommend that the Labor-HEW Appropriations Subcommittee approve $4 million under Title III-D in the Spring Supplemental for Fiscal Year 1978 to create that office within the Office of Education to provide national leadership for the guidance and counseling professionals. I will also recommend that the Subcommittee approve $10 million for Fiscal Year 1979 so that there is enough money for state and local programs.

In closing, I would like to sound one note of warning and to make one special appeal to you.

First, the note of warning. I perceive a growing dichotomy between career counseling and family and personal counseling. These two aspects of counseling are not necessarily compatible or combinable.

Anyone with the detailed knowledge of the requirements of the market place that career counseling requires, probably has his hands full with just that, while family and personal counseling involve an entirely different range of techniques and knowledge.

I do not think we can reasonably expect one counselor to handle both types of counseling. I personally think family counseling is of paramount importance. The child who is going through the trauma of parents divorcing has a personal need that far transcends his career orientation. But, I would not want to see either form of counseling suffer because counselors were overburdened by the dual responsibility.

I hope that additional funds will lighten the counselors work load. But, ultimately only you can guard yourselves against being spread too thin.

Now for my personal appeal. For many years now, I have wrestled with the question of how to identify problem children before they get in trouble and land in the courts.

Back in 1973, when Elliot Richardson was Attorney General, I think we came pretty close to developing an early warning system on juvenile delinquency. I urged him to strengthen the relationship between HEW and the Law Enforcement Assistance Administration (LEAA) because HEW could devise programs in schools to detect the problem kids before they came to the courts.

Elliot Richardson, having been Secretary of HEW, understood the problem. But he resigned as Attorney General in protest to the Saturday Night Massacre. Had he not, family counseling would be far better off today than it is. That's one of the little-known casualties of the Saturday Night Massacre.

Another discouraging aspect to this is that the Coordinating Council on Juvenile Justice and Delinquency Prevention hasn't met since December 1976. The Attorney General, the Secretary of Labor and the Secretary of HEW, all sit on that council, but it doesn't do much good if meetings are never called.

Within the Title III-D money that I will request, I intend to specify that funds be earmarked for at least a demonstration project in support of family and personal planning, specifically designed to identify problem kids before they get into serious trouble. And I'm going to insist that the Coordinating Council meet to take a look at my proposal.

My special appeal is that you support me in this effort. It is important and long overdue.

TEMPORARY OPERATING AUTHORITY TO NEW INTERSTATE TRUCKERS

Mr. GLENN. Mr. President, I was quite pleased to read the GAO's report of February 24, 1978, that recommended significant change in the procedures followed by the Interstate Commerce Commission in granting temporary operating authority to new interstate truckers.

Last November, I met with Mr. William D. Hall of Cleveland, Ohio, president of the Minority Trucking-Transportation Development Corp. Mr. Hall is also president and owner of Industrial Transport and Warehouse of Cleveland. Also attending that meeting were other minority truckers and Representative MILLICENT FENWICK of New Jersey, long an eloquent and outspoken champion of liberalized entry procedures. We discussed at some length the difficulties that smaller concerns have

in gaining operating authority. This issue is not exclusively a problem faced by minority truckers, it is a major national issue that has substantial ramifications on shippers, consumers, as well as the existing licensed carriers. Any action in this area touches on the competitive balance in the transportation industry and thus has the potential for having great impact on prices, service, and profits. Ultimately, these factors exert enormous influence on inflation, employment, and productivity. If we could view our governmental regulatory processes from more of a macroeconomic perspective, then I believe that we would find it much easier to rationalize and simplify our regulatory bureaucracy.

It is from this perspective that I would like to comment upon the GAO report of February 24. The report does not deal directly with the issues of regulatory reform and trucking deregulation, but the issues that are touched upon have very significant ramifications upon this current congressional debate. As the report points out, the basic regulatory framework of the ICC in control of entry and service levels had as its goal a stable industry that serviced all areas. That goal is basically sound. However, times and circumstances have changed and it is surely appropriate for us now to reexamine the means that have been used to attempt to achieve those goals. Is the myriad of complex, restrictive rules, and regulations that have proliferated over the years at all consistent with today's macroeconomic needs? That is today's basic quesiton.

"Temporary authority" is a means by which the ICC has allowed for a certain amount of flexibility with respect to those seeking entry into the tightly regulated interstate trucking field. Temporary operating authority applications are intended to meet "immediate and urgent needs" for service "which reasonably cannot be met" by existing authorized truckers. A trucker, particularly a small trucker might seek such authority when there is a new or relocated plant, a desire to switch modes of transportation, new commodities requiring new modes of shipping and so on. Often, truckers will seek this type of authority so that they may operate while applications for permanent authority are pending. Thus it is a possible means of development and growth that also builds a track record that may, in effect, strengthen the case for obtaining permanent authority. Temporary authority may last up to 180 days and may be renewed continually pending disposition of the permanent authority application.

The GAO report concluded that not enough temporary authorities were granted by the ICC, that the procedures used in such determinations were not the best and that as a result, shippers and potential truckers often suffered very harsh economic consequences. As examples, the report cites cases of shippers who lost sales and customers or who were forced to use less satisfactory transportation. Specific reasons cited for these shippers' problems were that both law, policy and ICC procedure placed a stringent burden of proof upon an applicant for temporary authority while protest rights of authorized truckers were perhaps overly liberal. Again, I point out that the basic concept of an authorized carrier's right to protest is legitimate. There certainly is validity to concerns about the value of operating certificates, loss of business, and so on. However, what concerns me is the GAO determination that aggravating the ICC's problem of striking some reasonable balance between authorized carriers and the need for new entrants were vague and inconsistent procedures that often failed to spell out what and how much information was required to support new applicants. Furthermore, the report pointed out that protesters were not required to demonstrate how they would be able to meet the needs of shippers who were supporting temporary authority applications of potential new carriers. I would imagine that these problems might present particular burdensome impediments to the smaller applicant who does not have the resources for, or access to high powered, expensive legal talent.

However, in all fairness to the ICC and particularly to Chairman Dan O'Neal, these problems are not his creations. In fact, the GAO report failed to mention several of the significant new steps taken under the leadership of Mr. O'Neal. His June 2, 1977, task force has come up with 39 recommendations on improved motor carrier entry regulation, several of which demonstrate an awareness of these problems. Additionally, several rulemaking proceedings (Ex Parte Nos. 107 and 110) have been instituted with an eye toward increasing flexibility in the entry area. I particularly support the creation of the Small Business Assistance Office within the ICC and the Chairman's efforts to review ICC staff training and guidelines. Hopefully, these steps will remove some of the obstacles faced by smaller, less affluent truckers. The Chairman has also presented a plan to the Commission that would relax some of the restrictions on contract carriers who are presently limited to seven clients. I might add that due to the President's desire to reduce the size of the ICC, its Chairman does not yet enjoy the luxury of receiving new support from the new administration's own appointees. This is a situation that I hope will correct itself in the near future as the ICC stabilizes in size and the President infuses new blood into the Commision.

In conclusion, Mr. President, I feel that the GAO report although highly significant, has only scratched the surface of an issue that calls for national attention. That issue is, of course, a reexamination and reevaluation of our entire scheme of Federal transportation regulation. I know that hearings in the trucking area will begin in the near future and I will follow them very closely. Additionally, as a member of the Senate Government Affairs Committee, I intend to pursue the transportation-related aspects of our own regulatory reform study. As I said earlier, it is time to view our national transportation policy from a much more coordinated macro-economic perspective. I expect to be doing just that in the days ahead.●

AIRLINE PROFITS SOAR WITH LOWER FARES

● Mr. PERCY. Mr. President, opponents of airline regulatory reform in the past have stated that price competition, as envisioned under the proposed legislation, would only lead to lower profits, higher operating expenses, and business failures. Nothing could be further from the truth, as evidenced by the recent filing of American Airlines before the Civil Aeronautics Board to extend its "Super Saver" fare to all cities within its system.

In its filing, American said that the 35- to 45-percent discount offered by "Super Saver" fares "has been a tremendous success for the airline." American noted that, based on higher load factors brought about by these discount fares, it earned an additional $7 million in profits for the 6 months ending September 30, 1977. The airline also stated that its two prime competitors scored similar impressive gains. TWA, American said, projected an additional profit of $3.2 million through April 30, 1978, while United Airlines scored an additional gain of $5.5 million in profits in the second and third quarters of 1977.

Some of the statistics offered by American Airlines for all carriers offering the lower fares, are startling. For instance, in the New York to San Francisco market there was a 59.1-percent increase in traffic since the institution of the "Super Saver" fare, while operating profits for all carriers went up 57.7 percent. In the New York/Los Angeles market, coach traffic increased 37.4 percent while operating profits were up 72.1 percent; Philadelphia/Los Angeles traffic went up 29 percent and operating profits increased 107.3 percent; Boston/Los Angeles traffic jumped 26.1 percent while operating profits went up 89.2 percent; and Boston/San Francisco traffic increased only 4.6 percent, but operating profits went up 26.9 percent.

These impressive results indicate that if air fares are lowered, a large number of Americans who are now driving energy-inefficient automobiles will switch to the Nation's airlines. It is estimated that 85 percent intracity traffic in the United States is by automobile today. Fare flexibility, which would allow airlines to competitively price their services without Government approval, is one of the major features of the Air Transportation Regulatory Reform Act of 1978 (S. 2493), which will soon be on the Senate floor. Opponents of reform argue that the approval of these lower fares by the current Board indicates the current system should be left intact. However, future Boards may not be as proconsumer as the current Board and they may well reject future fare cuts. Let us write fare flexibility firmly into

the law. The success of the "Super Saver" fares should conclusively indicate that well-managed airlines have nothing to fear and a lot to gain from the greater pricing flexibility they are offered in S. 2493.

I commend American Airlines on their recent filings.●

NUMBER OF MINNESOTA WOMEN, CHILDREN LIVING IN POVERTY IS INCREASING

● Mrs. HUMPHREY. Mr. President, I would like to take this opportunity to share with my colleagues a recent article commenting on the significant increase in the proportion of Minnesota households headed by women who are single, widowed, or divorced. Current policies and antipoverty programs are not adequately addressing the close relationship between women and poverty. Welfare reform is urgently needed, particularly as it relates to women who may be trapped within the poverty cycle.

Mr. President, I submit for the RECORD this informative article, which appeared in the Minnesota Brainerd Daily Dispatch of March 15, 1978.

The article follows:

NUMBER OF MINNESOTA WOMEN, CHILDREN LIVING IN POVERTY IS INCREASING

MINNEAPOLIS.—Increasing numbers of women and children in Minnesota are living below the poverty line, according to a report issued Tuesday by the state's Council on the Economic Status of Women.

"No longer is poverty distributed throughout the population, but has instead become concentrated in female-headed households," saaid Rep. Linda Berglin, DFL-Minneapolis, who released the report.

She said that although all female-headed households are vulnerable to economic hardship, those composed of mothers with young children and of elderly women living alone are disproportionately represented at the low income level.

In 1975 almost a fourth of all Minnesota households were headed by women, the report said. In the last 15 years, there has been a significant increase in the proportion of women who are single, widowed or divorced.

Women who must support themselves are hindered by a lack of career training, a welfare system that does not break the poverty cycle and "women's work" that pays poorly, according to the report.

State policies and antipoverty programs have not addressed the close relationship between women and poverty, Ms. Berglin said.

Other findings of the report were as follows:

In Minnesota in 1969, census data showed the incidence of poverty to be 6.9 percent for families with male heads, 24 percent for families with female heads, 34 percent for families with female heads and children under 18, and 47.4 percent for families with female heads and children under age 6.

Census data for 1969 showed the incidence of poverty among black families with a female head was 44.1 percent, and among Hispanic families with a female head it was 42 percent.

The same data showed the incidence of poverty among people age 65 and above was 22.4 percent for men and 46.9 percent for women.

The increase in the number of female-headed households was partly because of rising divorce rates; more than 13,000 were recorded in Minnesota in 1975. And rising illegitimacy rates among teenagers contributed to the number of female-headed households with young children. In the state in 1975, almost one of 10 live births was out of wedlock and more than half of those were born to girls 19 and under.

The percent of children living with both parents has declined in recent years. It is now estimated that 162,000 Minnesota children live in single-parent households.

The combination of elderly women living alone and female-headed households with dependent children accounts for a substantial majority of people in Minnesota living at low income levels. Almost two-thirds of all households with incomes less than $5,000 per year are female-headed.●

ACCESS TO NATIONAL PARKS

● Mr. ANDERSON. Mr. President, the National Park Service is to be commended for its recent efforts to make our national parks more accessible to the nonambulatory and handicapped. Recently, the National Park Service published a booklet entitled "ACCESS: A Guide for Handicapped Visitors." This handbook describes each national park throughout the United States in terms of access ramps, doorway widths, road surface conditions and other pertinent information aimed at making visits by all people an enjoyable possibility.

Copies of this public service handbook are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The order number is 024–005–00691–5 and the price is $3.50.

Minnesota has three national parks: Grand Portage National Monument, Pipestone National Monument, and the Voyageurs National Park.

I ask that the full text of the descriptions of the three Minnesota parks be printed in the RECORD.

The text follows:

ACCESS TO NATIONAL PARKS

Grand Portage National Monument, Box 666, Grand Marais, Minnesota 55604, (218) 387–2788.

(This 9-mile Grand Portage was once a rendezvous point of traders and trappers. It was also a principal route for Indians, explorers, and missionaries into the Northwest.)

Authentic reconstructions, including the Great Hall, Kitchen and Canoe Warehouse, are accessible by ramps or short steps with handrails. Taped messages, displays, self-guiding folders and on-site interpretation are available for visitors. The steeply-rising, ½-mile (.8 km) Mount Rose Trail has steps and handrails. The Grand Portage Trail is 8½ miles (13.6 km) long.

Many points of interest are within 500 feet (150 m) of the paved parking area. A campground, picnic area and hotel accommodations are nearby.

The Grand Portage post of the Northwest Company has been reconstructed. Watch for uneven ground and irregular steps.

A small, temporary visitor center, up several steps from ground level, offers information, exhibits and audiovisual programs. The Great Hall, which is fully accessible, has exhibits and interpretive programs. A comfort station with fully accessible and equipped stalls is located 500 feet (150 m) from the visitor center.

The monument is off U.S. Highway 61, 36 miles northeast of Grand Marais, Minn.

Pipestone National Monument, P.O. Box 727, Pipestone, Minnesota 56164, (507) 825–5463.

(From this quarry Indians obtained materials for making peace pipes used in ceremonies. It is "Living History" area.)

The visitor center is accessible with all facilities on one floor. Restroom outside doors are 31 inches (78.74 cm) wide, booth doors, 23 inches (58.42 cm). Some of the panel exhibits in the visitor center contain objects which may be touched and felt. The Circle Trail and old quarry are paved and accessible, although steep in places.

Voyageurs National Park, P.O. Box 50, International Falls, Minnesota 56649, (218) 283–4492.

(Once the route of the French-Canadian voyageurs, beautiful northern lakes are surrounded by forest in this land where geology and history capture your imagination.)

Visitors should first stop at park headquarters on Highway 53, at the south edge of International Falls, for information about the park, lodgings and restroom facilities. The park boundary is 11 miles (17.71 km) from the park headquarters. The parking lot at the temporary headquarters is gravel surfaced, but designated parking spaces are near the building. Restroom entry doors are 33 inches (83.80 cm) wide and stall doors 29 inches (73.66 cm). Permanent headquarters, visitor center and other facilities are planned.●

IMPORT RELIEF FOR THE AMERICAN STEEL FASTENER INDUSTRY

● Mr. GLENN. Mr. President, competition from foreign imports is a very serious problem confronting our Nation. Of particular significance is the competition facing the American steel fastener industry. The International Trade Commission recently recommended that import relief be granted to the fastener industry to remedy the market penetration resulting from imports of steel fasteners.

My colleague from Pennsylvania, Mr. HEINZ, today presented testimony before the Senate Subcommittee on International Trade concerning this matter. I am pleased to associate myself with Senator HEINZ' comments, and I urge every Senator to review this testimony before voting on Senate Concurrent Resolution 66.

I submit the testimony for printing in the RECORD:

STATEMENT OF SENATOR JOHN HEINZ

Mr. Chairman, the hearing today on the President's decision to reject the International Trade Commission's recommendation for import relief for the domestic steel fastener industry is crucial. I firmly support the ITC's findings and I believe that the Administration's decision is a serious mistake both for the fastener industry and for our overall trade policy.

In enacting the Trade Act of 1974, it was the intent of Congress to design a series of safeguards and remedies for American industries which had been severely injured by foreign imports. Producers who believed their industry was being impacted by imports could petition the International Trade Commission for relief. The ITC's recommendations would then go to the President for review and final executive decision. In the current case the President has made his decision not to aid the industry and it is now up to Congress to overrule him.

On December 7, 1977, the International Trade Commission found in favor of the fastener industry's petition. The ITC concluded that the industry had suffered substantial injury from imports, and that the facts of the case clearly necessitated import relief.

Import penetration had increased from approximately 21% of the domestic market in 1969 to 45% in 1977, employment fell during the same period by 36% from 68,400 workers to 53,400, and the industry is currently operating at only 50% of capacity. My own state of Pennsylvania, which alone produces over one-half billion dollars worth of nuts, bolts and screws yearly, has 54 fastener plants employing over 7,000 workers. The state has been hard-hit by the flood of imports; thousands of Pennsylvania workers have lost their jobs.

But not only the American workers and producers in the steel fasteners industry have been injured. Our ability to respond in the event of a national emergency may have been severely impaired. Steel fasteners are such a vital and essential product that we cannot fail to maintain an adequate domestic source of supply. We cannot afford to become dependent on foreign supplies, and we must insure free access to an adequate supply of American fasteners.

In addition, the Treasury Department's recent imposition of reference prices for steel imports will aggravate the situation by effectively increasing input costs for the domestic steel producers who import raw materials. These producers, faced with competition in the domestic market from imported fasteners, cannot increase the price of their fasteners to reflect cost increases without adversely affecting their competitive position. If this continues, it could mean even more serious problems for an already severely injured industry. It is not the purpose of the Trade Act to come to the aid of industries only after they are dead. We must anticipate these problems and act promptly.

For these reasons, I believe that the President's decision to deny the import relief recommended by the ITC is a grave mistake. The arguments used by the Administration to justify its action—possible inflationary repercussions, possible protectionist retaliation by importing nations, and the number of jobs which could be lost in other industries—are weak and do not make a convincing case that the ITC's decision was misguided.

What particularly concerns me is the argument that we might face foreign retaliation. In my view this possibility is much less important than maintaining our firmness and credibility with our trading partners. We must keep in mind that our credibility and leverage in multi-lateral trade negotiations depends on our past record in enforcing the laws we have enacted, and on our willingness to stand firm in support of our principles. There is no doubt that our position is severely weakened when foreign nations realize that much of our trade legislation, including Section 201 of the Trade Act, remains a paper tiger. Every recommendation of the International Trade Commission on import relief since the Trade Act became law has been altered or rejected by the Administration with the single exception of specialty steel. So long as we send this kind of signal to our trading partners—that we don't intend to enforce our laws or act aggressively in support of our trade principles—we will make no progress in obtaining international agreement on the kinds of trading relationships we would like to see.

It is not my intention to make a plea for across the board protectionism. What is really needed, of course, is better adjustment procedures in all nations, but this takes time and planning. Until we reach that point, industries which are impacted by imports and which suffer through decreased profits, worker layoffs, and reduced plant capacities, must be assisted. It is precisely the purpose of Section 201 of the Trade Act to provide such industries with temporary relief and with the necessary room to recover and regain their health.

I believe that the particulars of the steel fasteners case demonstrate that the industry needs temporary relief from fastener imports, and it is our duty to provide that relief by overriding the President's decision. I urge the committee to support S. Con. Res. 66.●

SALT I COMPLIANCE

● Mr. CLARK. Mr. President, The New York Times recently repeated without any apparent independent confirmation a charge in another publication that the Soviet Union's submarine program is in flagrant violation of the SALT I Interim Agreement limiting strategic offensive arms.

Such a charge, if true, would immediately call into question the wisdom of continued SALT negotiations with the Soviet Union. In addition, such a violation might well serve as justification for abandoning unilaterally all limitations to which the United States is now studiously adhering.

I know of no responsible official who believes that the Soviet Union is operating more than the 62 modern ballistic submarines and 950 SLBM's allowed by the Interim Agreement.

The original article ("Soviet Submarines Violate Pact," Aviation Week and Space Technology, February 27, 1978) the Times piece ("Survey Sees U.S. Leading Soviet in 15 Weapons," The New York Times, March 6, 1978), are in error in several regards.

The Times reported:

> The authoritative weekly Aviation Week and Space Technology reported that the Russians were operating 64 ballistic-missile submarines in violation of the interim U.S.-Soviet agreement on offensive weapons, which binds both Governments pending completion of the treaty on limitation of strategic arms being negotiated in Geneva.
>
> The agreement, under which the Russians are permitted 62 boats with 950 launchers expired last October 3, but both sides agreed to conform to it until a new one is signed.

There are several inaccuracies which need to be addressed. In the first place, the Interim Agreement has not bound either Government since its expiration on October 3. The two sides declared their intention not to take any action inconsistent with provisions of the Interim Agreement and with the goals of SALT II provided that the other side exercises similar restraint. There is no binding commitment in the declarations of either side. Thus, either side could go beyond the Interim Agreement limitations without being "in violation," although such a move would disturb the other side deeply and jeopardize the whole arms limitation process.

Second, the Aviation Week article is confusing in its reference to the limitations on ballistic missile submarines. That confusion is continued in the Times article. The SALT I limitation is not on all ballistic missile submarines. It limits modern ballistic missile submarines. The Interim Agreement provides that the Soviets may have no more than 950 ballistic missile launchers on submarines (SLBM's), and no more than 62 modern ballistic submarines. This means that the submarines which are counted against the ceiling are the Yankee and Delta class submarines. All ballistic missiles on the older H-class submarines, or modern ballistic missiles on G-class submarines, are counted against the 950 missile ceiling, but the H-class itself is not counted against the 62-submarine limit.

Under the terms of the Interim Agreement and Protocol, any new ballistic missile submarines are counted against the ceiling only after they have begun sea trials. Since we are able to observe any Soviet submarines completed, but held back from sea trials, there is no reason to doubt that we can verify Soviet compliance with the submarine limitations.

The accuracy of the charge of Soviet violations was denied initially in a background briefing session for reporters held at the Department of State on February 28. On March 1, the State Department posted a statement refuting the allegation.

Also on March 1, the Director of the Arms Control and Disarmament Agency, the Honorable Paul C. Warnke, appeared before the Committeee on Foreign Relations in closed session to provide the latest information on SALT. I questioned him about the original article, and he said he would provide a full answer for the record. The Deputy Director of the Agency, the Honorable Spurgeon M. Keeny, Jr., said in his response to the committee on behalf of Mr. Warnke:

> We have no evidence that the Soviets have deployed any modern SLBM submarines beyond the 62 limit as of this date. Additional SLBM submarines are under construction but have not yet commenced sea trials.

I thought the record should be set straight in this matter, particularly in view of the recent executive branch report to the Committee on Foreign Relations on other allegations of Soviet cheating. That February 28 report, which was provided to the committee in unclassified form and made available to the press, addressed eight issues which we raised in regard to Soviet compliance and five issues which they raised in regard to our compliance, as well as six issues in regard to their compliance which we studied carefully, but did not raise with them.

I have read that report and have reviewed other materials, many of them classified, on compliance issues. I have reached the conclusion that we simply cannot justifiably conclude that the Soviet Union is acting in bad faith in regard to SALT compliance.

I will not argue with anyone who claims that the Soviet side has used ambiguities of the ABM Treaty and the Interim Agreement to possible advantage. Yet, there is no one who has been able to cite a clear-cut example of cheating by the Soviets.

The American Ambassador to the Standing Consultative Commission, which deals with compliance issues, Robert W. Buchheim, made this very important and generally unreported statement on Soviet compliance earlier this year to the Committee on Foreign Relations:

The United States has raised questions about a considerable number of activities that we have observed on the Soviet side that bear on the objectives or provisions of the ABM Treaty, and the Interim Agreement on Offensive Arms. These have been clarified and dealt with.

Those discussions of such subjects in the SCC have never included any charge by the U.S. side of Soviet violation of those agreements.

Ambassador Buchheim recently submitted a classified report to the committee covering the major compliance issues in detail. This report provides solid justification for his statement to the committee.

The evidence leads me to the conclusion that the Soviet Union is prepared to meet its obligations under SALT. The record should not disturb us. Instead, we should be reassured.●

IMPROVING FEDERAL REGULATIONS

● Mr. RIBICOFF. Mr. President, just before the recess, President Carter signed a new Executive order entitled "Improving Government Regulations." The order, which was issued on March 23, is intended to simplify and reduce the burden of Federal regulations.

The Executive order directs that regulations be written in plain language. It requires that consequences and alternatives be evaluated, and that there be ample time for public comment. It provides that departments and agencies review their regulations to eliminate those which are unnecessary. Under the order, an executive agency, the Office of Management and Budget, is assigned principal responsibility for review and approval of proposed changes in agency rules pursuant to the terms of the order.

Improving the quality and clarity of Government regulations is a task to which the President is personally committed. As he stated at the signing:

I will be personally involved in assuring that the Executive Order is carried out.

I commend the President for the issuance of this Executive order, and for his personal commitment to its implementation. I also commend the President for the way in which the order was proposed and considered. It was an open process. For the first time to my knowledge, a proposed Executive order was published in the Federal Register and the public was given an opportunity to make comments and suggestions. I understand that many citizens took advantage of that opportunity. I am confident that the final product was thereby benefited.

I fully support the basic objectives of the new order. I share the President's concern about the "gobbledygook of Federal regulations." Ours is a government of too many laws. In too many instances regulations are obsolete, conflicting, confusing, or obscure. I support President Carter's commitment to chop down the thicket of unnecessary Federal regulations. Writing new rules in plain, understandable English is an important step. Unnecessary rules ought to be eliminated.

The key issues addressed by the Executive order have been carefully studied by the Governmental Affairs Committee. That consideration was part of the committee's comprehensive examination of Federal regulation, conducted pursuant to Senate Resolution 71.

Volumes III and IV of our "Study on Federal Regulation," both published in July 1977, concern public participation in regulatory decisions and undue delay in Federal regulation, respectively. Those volumes contain over 50 specific recommendations, including the following:

A detailed "sunset" proposal for review of agency rules to eliminate or modify those which are unnecessary, inconsistent, or obscure;

Expanded opportunity for public comment on proposed agency actions;

More systematic efforts by agencies to inform the public of proposed action, and solicit their comments;

Improved procedures for handling citizen complaints;

Requirement by statute that deadlines be set for rulemaking procedures; and

Proposals aimed generally at improving agency management and planning.

The President's Executive order is entirely consistent with the letter and spirit of the recommendations contained in volumes III and IV of our study.

PRESERVING THE INDEPENDENT STATUS OF THE REGULATORY COMMISSIONS

All departments and agencies within the executive branch of the Government are subject to this order. But the President has wisely decided that the order should not apply to independent regulatory commissions. That exemption is contained in the order, and the President has notified 17 independent commissions of his decision. The President explained this exclusion as follows:

The independent regulatory agencies are not included in the Executive Order. Many of the heads of those agencies are here. The overwhelming response of almost everyone in the initial publication of the proposed Executive Order was that regulatory agencies should come under the Executive Order. I don't think that is necessary. I think their independence should be preserved.

Mr. President, I fully agree that the independent status of the regulatory commissions should be preserved, and that the application of the order to those agencies would have violated that status. In my opinion, the course the President has chosen to follow is both wise and proper.

This exclusion for the independent regulatory commissions is an important recognition of their special status vis-a-vis the executive branch. Never before has there been such an explicit and clear Presidential acknowledgement of that independent status, and the advantages that justify its preservation. This decision sets a significant precedent for the future and, as such, merits particular attention at this time.

As with other aspects of this order, the "independence" issue was the subject of public discussion before it was decided. When the proposed order was first published, the administration solicited public comment on the question of whether the suggested procedures could be applied to independent regulatory commissions. In a letter dated December 16, 1977, 12 of my Senate colleagues joined with me in responding to that question. The bipartisan letter was signed by the chairman and ranking minority members of six Senate committees and subcommittees—including the Committees on Governmental Affairs, Judiciary, Commerce, and Banking, and the Subcommittees on Administrative Practices and Separation of Powers.

Our letter indicated our complete agreement with the basic objectives of the proposed order. However, we expressed concern about the means the President proposed to use to achieve those objectives. In other words, could the President, on his own initiative, lawfully require the independent regulatory commissions to submit their rules for review and approval by the Office of Management and Budget? What legal authority supports that action?

After a careful review of the law relevant to those questions, we concluded:

It is our unqualified view that the answer is "no." The Executive Order cannot lawfully be applied to the independent regulatory commission.

That conclusion was grounded on two major findings.

First, we determined that the proposed action would violate the intent of Congress that the executive branch not control the rules these agencies issue. In that consideration, we consulted volume V of the Committee's Study on Federal Regulation, which contains a detailed discussion of the independent status of the regulatory commission. A principal finding of that study was that—

Freedom from Executive domination was . . . the prime motivating force for the creation by Congress of the independent regulatory commission. More than anything else, [those agencies] were intended to be independent of the White House.

The concept that these commissions ought to be somewhat isolated from direct control and supervision by the White House has an ongoing history of more than 90 years.

Second, we concluded that there was no inherent constitutional authority for the President to unilaterally impose these procedures on independent commissions. Further, we found that there was no express statutory basis for this proposed application. Absent that authority, the order could not be applied to the rulemaking processes of these agencies. Our conclusion was supported by landmark Supreme Court decisions. See *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952).

The President has requested that the independent regulatory commissions voluntarily comply—to the extent that it is "applicable and advisable"—with the terms of the order. In his letter to the independent commissions, President Carter suggested that these agencies, on their own initiative, establish review programs similar to those contained in the Executive order. I agree that the commissions ought to develop, as a high priority, procedures to modernize their regulations. Some agencies are already

involved in active efforts along those lines. The President also requested that, by June 30 of this year, the agencies submit a progress report on their efforts to Congress and the White House. I would assume that those who choose to do so will submit that report, without prior review, simultaneously to Congress and the President.

I believe that legislative action may be the best approach. I stand ready to work with the administration in any way I can to realize the laudible goals of the Executive order for the independent regulatory commissions as well as for executive branch agencies. I am confident that my colleagues, who signed the letter to the President, will join with me in that effort.

Mr. President, I submit for the RECORD our letter to the President, the Executive order as issued, the remarks of the President upon signing the Executive order, and the text of the President's letter to 17 independent regulatory commissions.

The material follows:

U.S. SENATE,
Washington, D.C. December 16, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We welcome the opportunity to comment on your draft Executive Order designed to improve government regulations. We applaud your decision to make this Order available in draft form to give the public a full opportunity to review and comment on it.

In asking for comments on the Order, you have specifically requested that comments respond to the question: "Should the procedures outlined in the Executive Order apply to the independent regulatory agencies"? Other issues are raised as well, but our comments will be restricted to this particular question.

It is our unqualified view that the answer is No. The Executive Order cannot lawfully be applied to the independent regulatory commissions. To do so would violate the intent of Congress that the Executive Branch not control the rules these agencies issue.

Essentially, the draft Executive Order is designed to do three things. First, it requires agencies to prepare a "regulatory analysis" for any regulation having a significant economic effect, analyzing all of the economic consequences of the proposed regulation and assessing all potential alternative approaches. Second, it requires agencies to undertake a periodic review of their existing regulations, to determine whether these regulations are meeting certain basic goals. Third, it requires agencies to prepare work plans and regulatory agendas for their significant regulatory activities and to provide additional notice to the public.

Under the Order, the OMB is assigned responsibility for reviewing agency compliance with these requirements. Agencies will be required to submit their new procedures to OMB by February 15, 1978, for OMB's approval. Regulations which have been prepared in violation of the Order's procedures could not be issued.

Mr. President, we agree completely with the basic objectives of the proposed Executive Order. Regulatory reform is a major goal of this Congress, and we would very much like to see these objectives achieved.

However, we have serious difficulty with the means used to accomplish these ends. In our opinion, the proposed Order cannot lawfully be applied to the independent regulatory commissions without an express statutory basis. At present no such basis exists.

Our opinion is based on a review of the judicial precedents and statutory law governing the independent regulatory agencies. We have also reviewed the opinion of the Justice Department dated July 22, 1977, which purports to support the Executive Order. A brief summary of our review may be helpful.

For the President to promulgate an Executive Order without a new Congressional statute, he must do so either (1) pursuant to an implied power derived from the Constitution, or (2) pursuant to a previous grant of statutory authority. In this case, we can find neither.

1. The only implied power upon which the President could conceivably rely—and in fact, the Attorney General's opinion does rely on it—is the responsibility of the President set forth in Article II, Section 3, of the Constitution: "to take care that the laws be faithfully executed." But there are a long line of Supreme Court cases, beginning with the 1838 decision in Kendall v. United States, and culminating in the famous steel seizure case (Youngstown Steel), which hold that the President cannot use this clause to impose new requirements where an express or implied Congressional authorization is lacking. The Youngstown Steel case in particular found that in situations where Congress has insulated an area from Presidential domination, the President has no such implied authority.

The history of the regulatory commissions is replete with efforts by Congress to insulate the commissions from Presidential domination. From the creation of the ICC in 1887, continuing through the creation of the FTC and the independent agencies of the New Deal, down to the new independent regulatory commissions created during the past few years, Congress has made it abundantly clear that these commissions are not subject to Presidential direction or control. Congress, and not the Executive, controls the guidelines for the independent regulatory agencies. Congress created these agencies. Congress provided for their organization. Congress adopted their statutory mandates. Congress controls their budgets and oversees their performance. Congress specifies agency procedures.

Congress has also determined that, in exercising the quasi-judicial and quasi-legislative authority which Congress had delegated to the agencies, agency actions shall not be subject to review or modification by either Congress or the Executive; only the courts may review final agency actions. And to ensure that the agencies will be able to act in a fully independent fashion, without fear of control or domination from the Executive, Congress has given agency members a set term, and provided that commissioners may be removed from office only for "inefficiency, malfeasance, or neglect of duty."

The Humphrey's Executor case, decided by the Supreme Court in 1935, established beyond question the constitutional ability of Congress to create agencies independent of Executive control. The Humphrey's Executor case dealt with a Presidential attempt to remove an FTC commissioner. The Court pointed out that aside from the appointment of commissioners, which Congress had given to the President, Congress had provided that the FTC was to be completely free of any Presidentially-imposed obligations. The Court said that the FTC is "a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any department of the government."

Then the Court went on to say:

"The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies. . . . Such a body cannot in any proper sense be characterized as an arm or an eye of the executive. Its duties are performed without executive leave and, in contemplation of the statute, must be free from executive control."

Thus, both law and tradition clearly demonstrate that the President is not free to act on his own initiative in setting procedures and requirements for the independent regulatory agencies. On the contrary, Congress by its actions has treated the independent agencies as "arms of Congress." Accordingly, this is an area which falls completely outside any implied Presidential authority under the Constitution (Youngstown Steel).

2. If there is no implied Constitutional authority, can Presidential power to act in this instance be derived from some express statutory authority? Again, we can find none.

As the foregoing has demonstrated, the statutory powers which Congress has granted the Executive in connection with the independent regulatory agencies are extremely limited. We know of only three Executive prerogatives which apply across-the-board to the independent regulatory commissions—(i) the power to make appointments to the commissions and to designate agency chairmen; (ii) the power to appraise agency budgets prior to submission to Congress (31 U.S.C. 2); and (iii) the power to subject commission staff to Federal civil service rules on hiring, ethics, and related personnel matters (5 U.S.C. 2102, 3101; 18 U.S.C. 208).

There is no way the proposed Executive Order, which governs agency procedures for developing and issuing regulations, can be said to fall within any of the three categories above. The Order does not concern budget preparation; nor does it concern the appointment authority; nor does it concern personnel standards and procedures.

We have reviewed previous Executive Orders to determine their applicability to the independent regulatory commissions. That review discloses only a single order with such coverage—the May 8, 1965, Order of President Johnson which sets ethical standards of conduct for all government employees, including employees of the regulatory agencies. That Order, however, was based on explicit statutory authority—namely, the statutes in the third category above, as well as the President's general power to delegate to Executive Branch officials (3 U.S.C. 301).

All of the other Executive Orders which we reviewed exempt independent regulatory commissions from their coverage. Executive Orders 11821 and 11949, issued by former President Ford two years ago, illustrate that pattern. Those Orders were designed to do the same thing which this proposed Order is designed to do—namely, require agencies to consider the costs and benefits of proposed regulatory agencies. The Executive Branch however, never sought to require compliance by the independent agencies. And the independent agencies did not implement the Orders. Executive Orders 11821 and 11949 thus constitute an important acknowledgement that the President's power does not extend to these agencies.

Absent either statutory authority or implied Constitutional authority, we conclude that the President would be acting without basis in law if the proposed Executive Order were applied to the independent regulatory commissions.

One final point merits emphasis. The opinion of the Attorney General suggests that the independent agencies are off limits as far as substantive requirements are concerned, but that the President can impose strictly procedural obligations on the agencies. We reject this view for two reasons.

First, there is nothing in either the statutes or the judicial precedents which makes such a distinction. Aside from the areas in

which specific statutory authority is granted, the courts have refused to allow Presidential control of the independent regulatory commissions. The courts make no distinction between substantive control and procedural control.

Second, such a distinction is almost impossible to draw. Procedures inevitably affect the substance of agency action; they cannot be divorced from substantive policies.

A reading of the proposed Executive Order makes this evident. The proposed Order on its face establishes substantive standards the independent regulatory agencies must meet when they issue any rule. For example—

The Order states that no independent regulatory agency may adopt regulations unless "the least burdensome of the acceptable alternatives has been chosen" (Sec. 3(d));

The Order requires that agencies consider the economic impact and costs and benefits of proposed regulations before they are issued, and that OMB review the criteria used by the agencies (Secs. 4 and 6);

The Order requires that agencies review existing regulations so that those that no longer meet statutory goals may be eliminated (Sec. 5).

This desire to influence the substantive content of the regulations clearly violates the intent of Congress. When Congress created the independent regulatory agencies, it prohibited Executive Branch Influence. The proposed Order undermines this. OMB would inevitably become involved in substantive questions. OMB could influence which regulations the independent regulatory agencies review and which they repeal or amend. OMB could influence the nature of the economic regulatory analysis and thus the content of the rules issued by the independent regulatory agencies. OMB could prohibit an independent regulatory agency from adopting the most effective regulation if there are other "acceptable alternatives" which would impose less burdens. OMB could assure action on some proposed regulations and reject all others by influencing the semi-annual agendas each agency must adopt.

In short, we can find no basis for making the distinction between an Executive Order which affects commission procedures and an Executive Order which affects substantive mandates. To do either, the Executive must come to Congress for a statute.

Mr. President, we hope these views will be helpful to you.

Sincerely,

——— ———.

Abe Ribicoff, Chairman, Committee on Governmental Affairs; James O. Eastland, Chairman, Committee on the Judiciary; Warren Magnuson, Chairman, Committee on Commerce; William Proxmire, Chairman, Committee on Banking, Housing, and Urban Affairs; James Abourezk, Chairman, Subcommittee on Administrative Practices and Procedures; James Allen, Chairman, Subcommittee on Separation of Powers; Charles Percy, Ranking Minority Member, Committee on Governmental Affairs; Strom Thurmond, Ranking Minority Member, Committee on the Judiciary; James B. Pearson, Ranking Minority Member, Committee on Commerce; Edward W. Brooke, Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs; Paul Laxalt, Ranking Minority Member, Subcommittee on Administrative Practices and Procedures; Orrin G. Hatch, Ranking Minority Member, Subcommittee on Separation of Powers; Jacob K. Javits, Ranking Minority Member, Committee on Human Resources.

IMPROVING GOVERNMENT REGULATIONS

As President of the United States of America, I direct each Executive Agency to adopt procedures to improve existing and future regulations.

Section 1. *Policy*. Regulations shall be as simple and clear as possible. They shall achieve legislative goals effectively and efficiently. They shall not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments.

To achieve these objectives, regulations shall be developed through a process which ensures that:

(a) the need for and purposes of the regulation are clearly established;

(b) heads of agencies and policy officials exercise effective oversight;

(c) opportunity exists for early participation and comment by other Federal agencies, State and local governments, businesses, organizations and individual members of the public;

(d) meaningful alternatives are considered and analyzed before the regulation is issued; and

(e) compliance costs, paperwork and other burdens on the public are minimized.

Sec. 2. Reform of the Process for Developing Significant Regulations. Agencies shall review and revise their procedures for developing regulations to be consistent with the policies of this Order and in a manner that minimizes paperwork.

Agencies' procedures should fit their own needs but, at a minimum, these procedures shall include the following:

(a) Semiannual Agenda of Regulations. To give the public adequate notice, agencies shall publish at least semiannually an agenda of significant regulations under development or review.

On the first Monday in October, each agency shall publish in the Federal Register a schedule showing the times during the coming fiscal year when the agency's semiannual agenda will be published. Supplements to the agenda may be published at other times during the year if necessary, but the semiannual agendas shall be as complete as possible. The head of each agency shall approve the agenda before it is published.

At a minimum each published agenda shall describe the regulations being considered by the agency, the need for and the legal basis for the action being taken, and the status of regulations previously listed on the agenda.

Each item on the agenda shall also include the name and telephone number of a knowledgeable agency official and, if possible, state whether or not a regulatory analysis will be required. The agenda shall also include existing regulations scheduled to be reviewed in accordance with Section 4 of this Order.

(b) Agency Head Oversight. Before an agency proceeds to develop significant new regulations, the agency head shall have reviewed the issues to be considered, the alternative approaches to be explored, a tentative plan for obtaining public comment, and target dates for completion of steps in the development of the regulation.

(c) Opportunity for Public Participation. Agencies shall give the public an early and meaningful opportunity to participate in the development of agency regulations. They shall consider a variety of ways to provide this opportunity, including (1) publishing an advance notice of proposed rulemaking; (2) holding open conferences or public hearings; (3) sending notices of proposed regulations to publications likely to be read by those affected; and (4) notifying interested parties directly.

Agencies shall give the public at least 60 days to comment on proposed significant regulations. In the few instances where agencies determine this is not possible, the regulation shall be accompanied by a brief statement of the reasons for a shorter time period.

(d) Approval of Significant Regulations. The head of each agency, or the designated official with statutory responsibility, shall approve significant regulations before they are published for public comment in the Federal Register. At a minimum, this official should determine that:

(1) the proposed regulation is needed;

(2) the direct and indirect effects of the regulation have been adequately considered;

(3) alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) public comments have been considered and an adequate response has been prepared;

(5) the regulation is written in plain English and is understandable to those who must comply with it;

(6) an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) the name, address and telephone number of a knowledgeable agency official is included in the publication; and

(8) a plan for evaluating the regulation after its issuance has been developed.

(e) Criteria for Determining Significant Regulations. Agencies shall establish criteria for identifying which regulations are significant. Agencies shall consider among other things: (1) the type and number of individuals, businesses, organizations, State and local governments affected; (2) the compliance and reporting requirements likely to be involved; (3) direct and indirect effects of the regulation including the effect on competition; and (4) the relationship of the regulations to those of other programs and agencies. Regulations that do not meet an agency's criteria for determining significance shall be accompanied by a statement to that effect at the time the regulation is proposed.

Sec. 3. Regulatory Analysis. Some of the regulations identified as significant may have major economic consequences for the general economy, for individual industries, geographical regions or levels of government. For these regulations, agencies shall prepare a regulatory analysis. Such an analysis shall involve a careful examination of alternative approaches early in the decisionmaking process.

The following requirements shall govern the preparation of regulatory analyses:

(a) Criteria. Agency heads shall establish criteria for determining which regulations require regulatory analyses. The criteria established shall:

(1) ensure that regulatory analyses are performed for all regulations which will result in (A) an annual affect on the economy of $100 million or more; or (b) a major increase in costs or prices for individual industries, levels of governments or geographic regions; and

(2) provide that in the agency head's discretion, regulatory analysis may be completed on any proposed regulation.

(b) Procedures. Agency heads shall establish procedures for developing the regulatory analysis and obtaining public comment.

(1) Each regulatory analysis shall contain a succinct statement of the problem; a description of the major alternative ways of dealing with the problem that were considered by the agency; an analysis of the economic consequences of each of these alternatives and a detailed explanation of the reasons for choosing one alternative over the others.

(2) Agencies shall include in their public notice of proposed rules an explanation of the regulatory approach that has been se-

lected or is favored and a short description of the other alternatives considered. A statement of how the public may obtain a copy of the draft regulatory analysis shall also be included.

(3) Agencies shall prepare a final regulatory analysis to be made available when the final regulations are published.

Regulatory analyses shall not be required in rulemaking proceedings pending at the time this Order is issued if an Economic Impact Statement has already been prepared in accordance with Executive Orders 11821 and 11949.

Sec. 4. Review of Existing Regulations. Agencies shall periodically review their existing regulations to determine whether they are achieving the policy goals of this Order. This review will follow the same procedural steps outlined for the development of new regulations.

In selecting regulations to be reviewed, agencies shall consider such criteria as:

(a) the continued need for the regulation;

(b) the type and number of complaints or suggestions received;

(c) the burdens imposed on those directly or indirectly affected by the regulations;

(d) the need to simplify or clarify language;

(e) the need to eliminate overlapping and duplicative regulations; and

(f) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulation.

Agencies shall develop their selection criteria and a listing of possible regulations for initial review. The criteria and listing shall be published for comment as required in Section 5. Subsequently, regulations selected for review shall be included in the semiannual agency agendas.

Sec. 5. Implementation.

(a) Each agency shall review its existing process for developing regulations and revise it as needed to comply with this Order. Within 60 days after the issuance of the Order, each agency shall prepare a draft report outlining (1) a brief description of its process for developing regulations and the changes that have been made to comply with this Order; (2) its proposed criteria for defining significant agency regulations; (3) its proposed criteria for identifying which regulations require regulatory analysis; and (4) its proposed criteria for selecting existing regulations to be reviewed and a list of regulations that the agency will consider for its initial review. This report shall be published in the Federal Register for public comment. A copy of this report shall be sent to the Office of Management and Budget.

(b) After receiving public comment, agencies shall submit their revised report to the Office of Management and Budget for approval before final publication in the Federal Register.

(c) The Office of Management and Budget shall assure the effective implementation of this Order. OMB shall report at least semiannually to the President on the effectiveness of the Order and agency compliance with its provisions. By May 1, 1980, OMB shall recommend to the President whether or not there is a continued need for the Order and any further steps or actions necessary to achieve its purposes.

Sec. 6. Coverage.

(a) As used in this Order, the term regulation means both rules and regulations issued by agencies including those which establish conditions for financial assistance. Closely related sets of regulations shall be considered together.

(b) This Order does not apply to:

(1) regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557);

(2) regulations issued with respect to a military or foreign affairs function of the United States;

(3) matters related to agency management or personnel;

(4) regulations related to Federal Government procurement;

(5) regulations issued by the independent regulatory agencies; or

(6) regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. In these cases, the agency shall publish in the Federal Register a statement of the reasons why it is impracticable or contrary to the public interest for the agency to follow the procedures of this Order. Such a statement shall include the name of the policy official responsible for this determination.

Sec. 7. This Order is intended to improve the quality of Executive Agency regulatory practices. It is not intended to create delay in the process or provide new grounds for judicial review. Nothing in this Order shall be considered to supersede existing statutory obligations governing rulemaking.

Sec. 8. Unless extended, this Executive Order expires on June 30, 1980.

JIMMY CARTER.

THE WHITE HOUSE, *March 23, 1978.*

REMARKS OF THE PRESIDENT UPON SIGNING OF EXECUTIVE ORDER TO IMPROVE GOVERNMENT RELATIONS

I think this is the first time in history that a Presidential Executive Order has been circulated for comment before it was issued, and the comments have been very constructive.

We have received some very careful and helpful comments from more than 350 people, and I think this is indicative of the interest that is shown in this particular action on my part.

This is also the first time that the Executive Branch, so far as I know, has attempted in a fundamental way to improve the government regulatory process by making regulations simpler, less burdensome, and by giving the public a chance to be involved in a critique of the effectiveness of regulations which quite often have the far-reaching effect of law and quite often are not as carefully considered as a legal act by the Congress.

Greater accountability will be built into the process in the future, since agency heads are required to publish semi-annually a list of significant regulations which they are considering or which they have under review, and because, again, of a greater opportunity for public involvement before the head of an agency makes a decision on a regulation.

We have also required in this Executive Order which I shall soon sign that agency heads reassess the effectiveness of existing regulations to determine not only the prospective need for regulation that is new, but the continuing of demonstrated need of existing ones.

When a regulation is determined to be required, we want it to be the least burdensome alternative among many that are considered. I want to be sure that the regulations, for a change, will be written in plain English that I can understand and that the head of the department can understand, and that the person who has written the regulation be identified by name. I want to have a lot of pride of authorship in the regulation and not shame when a regulation is indecipherable.

Another requirement in the Executive Order will be that the economic impact of regulations be assessed, whether or not they contribute to a burdensome and costly additional requirement on those who have to comply with the regulations.

In the major ones we want to be sure that they don't contribute to inflationary costs and that they are compatible with the overall economic policy of our country.

I will be personally involved in assuring that the Executive Order is carried out. And under me, the Office of Management and Budget will be working very closely with the heads of agencies and departments to insure that the spirit and the letter of the Executive Order is honored.

We want to make this a common effort. The independent regulatory agencies are not included in the Executive Order. Many of the heads of those agencies are here. The overwhelming response of almost everyone in the initial publication of the proposed Executive Order was that regulatory agencies should come under the Executive Order. I don't think that is necessary. I think their independence should be preserved. But to the extent that the Executive Order is applicable and advisable, I would certainly hope that the regulatory agencies would decide to implement them on your own initiative as a voluntary effort.

You might want to go even further in some instances than I have done in this Executive Order because this has to apply to literally dozens of agencies. And you might through your own actions focus more nearly on correcting a defect that exists within the ICC or the FEC or FTC or others.

I am very pleased that a common effort has brought this into being, and I am looking forward to the benefit for our entire country because of the cooperation that I expect.

I would now like to sign the Executive Order which I think will be a major step forward for the people of the United States, to make my job easier, make your job easier. I think everyone benefits by this one; nobody will suffer except people who sell typewriter ribbons and maybe some of the printers won't have as much to print. (Laughter)

THE WHITE HOUSE

The following is the text of the President's letter to heads of independent regulatory agencies. It is being sent to the heads of the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Reserve Board, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, and the Securities and Exchange Commission.

TEXT OF THE PRESIDENT'S LETTER

Today I issued an Executive Order to improve government regulations. This Order will open up new opportunities for public participation in the regulatory process, require regulations to be clearer and more understandable, and assure more effective oversight of the development of agency regulations.

I believe that this effort is one of the most important reform initiatives to be undertaken by my Administration. I have asked the members of the Cabinet and other agency heads to give personal priority and attention to implementing the Order. To be fully effective and achieve the full range of needed improvements, I believe that it would be useful for the independent regulatory commissions to initiate a voluntary effort to achieve similar procedural reforms.

As you know, public comment on whether or not to apply these procedures to inde-

pendent regulatory agencies was specifically sought in the November 18, 1977 notice in the Federal Register. The overwhelming response was that these agencies should adopt the provisions of the Order. The public is seeking a change. They are encouraging us to seek new approaches to the way in which government regulates. They point out that if regulations were simpler, less burdensome, and more clearly understandable, people would be better able to comply with them.

I believe that the new spirit of openness, simplicity and clarity advocated in this Executive Order responds to the public's concerns. I know that many important reforms are already underway in the independent agencies and I believe that the requirements of the Order complement these efforts. I am asking you as Chairman of your agency to initiate your own program to incorporate the provisions of the Order. In addition, it would be useful for you to report progress on your efforts to the Congress and to me by June 30, 1978. I look forward to reviewing these reports.

JIMMY CARTER.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 4, 1978.

In reply refer to: I-1045/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-28, concerning the Department of the Air Force's proposed Letter of Offer to Sudan for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $104.6 million and support costs of $12.4 million for a total estimated cost of $117.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78-28—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Democratic Republic of Sudan.

(ii) Total Estimated Value:

Major Defense Equipment*—$104.6 million.

Other—$12.4 million.

Total—$117.0 million.

(iii) Description of Articles or Services Offered: Ten (10) F-5E and two (2) F-5F air defense aircraft plus support equipment and spare parts.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: April 4, 1978.

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

THE OLDER AMERICANS ACT

● Mr. CLARK. Mr. President, Congress is in the process of reviewing programs authorized by the Older Americans Act, which expires this year. The act established a network of area agencies on aging that are responsible for planning, developing, and coordinating various types of social services for older people. The act also authorizes funding for these services, model projects, elderly nutrition programs, research and training activities, multidisciplinary centers on gerontology, and multipurpose senior centers.

These programs are crucial for rural States like my home State of Iowa, which has the third largest percentage of elderly people—over 12 percent—of all States. Older people, particularly those who reside in smaller communities that lack the whole array of services provided in metropolitan areas, have tremendous social, financial, and health needs that are addressed by Older Americans Act programs.

My visits to nutrition sites, my tours of senior centers, my trips on elderly transportation systems, and my experiences with other programs serving senior citizens all confirm the conviction that the Federal Government should continue its commitment to these fine programs.

However, now is the time to do some fine tuning on the Older Americans Act, to make it more effective and administratively efficient. Through field hearings on the problems of the rural elderly, I have come to know that Federal efforts often have been insensitive to the special character of rural communities and to the special needs of rural people. Like other Federal programs, the Older Americans Act programs could be improved to make them more relevant to older residents of small communities. I testified before the Senate Aging Subcommittee on this subject earlier this year.

Many of the recommendations I made to the Senate Aging Subcommittee were derived from conversations I have had and correspondence I have received from those who are directly involved in aging programs in the State of Iowa. Their "front-line" experience with the operation of Older Americans Act programs makes them true experts on this topic, and I value their advice highly.

Among those who wrote to me were Glenn Bowles of the Iowa Commission on the Aging, G. Richard Ambrosius of the Iowa Association of Area Agencies on Aging, several area agency on aging directors, who consulted with their area advisory councils and nutrition project councils, and others in the field of aging in Iowa.

I am certain that this correspondence on the subject of needed changes in the Older Americans Act would be useful to Members of the Senate in their deliberations on legislation to extend the act. Therefore, I ask that these letters and my testimony to the Senate Aging Subcommittee be printed in the RECORD.

The material follows:

TESTIMONY PRESENTED TO THE AGING SUBCOMMITTEE OF THE SENATE HUMAN RESOURCES COMMITTEE, FEBRUARY 3, 1978

Senator Eagleton, members of the Aging Subcommittee, thank you very much for providing me with this opportunity to express some thoughts on the Older Americans Act.

In just the past few years, we have watched the aging programs grow both in terms of funding and in their impact upon elderly Americans. The expiration of the Older Americans Act programs this year allows Congress to do some fine tuning with twin objectives: first, to better address the social, economic and health needs of senior citizens, and second, to reach an even greater proportion of this nation's elderly population.

I come to you today as an advocate for one large segment of our older population which I believe continues to lack sufficient access to Older Americans Act programs: the rural elderly. My concern for the needs of the rural elderly stems both from the fact that I represent a state with one of the largest proportions of senior citizens, and from my tenure on the Special Committee on Aging. A year ago, I chaired a series of hearings for the Aging Committee in which we explored the problems of elderly persons in rural areas. In those hearings, I learned about the value of multipurpose senior centers for small communities. At that time, Title V of the Older Americans Act, which authorizes federal funding for the development of senior centers, had just received its first appropriation. Although the program was just beginning, one of the hearing witnesses predicted that rural areas would encounter special problems because of the high cost of renovation in small communities.

Today, a couple of years hence, I must report that this prediction has unfortunately become reality. The restriction in the federal senior centers program limiting funding to "acquisition, alteration, or renovation" discriminates against rural America and the rural elderly who reside there. The reason for this is that rural communities simply do not have available structures that are suitable for conversion into multipurpose centers at a reasonable cost.

I've recently learned of communities in Iowa that have been forced to choose between equally undesirable alternatives: they can either spend huge sums of money—much of it locally raised—to renovate basically unsuitable buildings that will eventually be plagued with heating, pumbing and other problems, or they can abandon their plans. Rural Americans need and deserve another alternative.

I therefore want to urge you to modify Title V of the Older Americans Act to permit, under certain circumstances, federal funding for the construction of multipurpose senior centers. State aging agencies should be responsible for setting criteria for construction funds and for final approval of individual sites. These decisions should occur in consultation with area agencies on aging and their advisory councils.

Other modifications of the Older Americans Act are needed to make it more responsive to residents of small towns and rural areas. Several of these changes were cited in letters I've received from Iowa's aging directors, who I asked to advise me in preparation for this testimony. Three suggested improvements, which I hope Congress will adopt, are the following:

First, transportation services should become a higher priority in the Act, as these services can be directly translated into greater access for the rural elderly to nutrition programs, health screening and other activities.

Second, the time has come to establish a federal program that would encourage meals-on-wheels services throughout the country. Small town people would especially benefit from an expansion of home delivered meals services, since the only viable alternative is often nursing home care in larger communities, far from their homes.

Third, the Title VII nutrition program for the elderly should be restructured so that rural communities are better able to participate. Current policies and funding patterns lead to a centralization of nutrition sites in larger communities, leaving rural people behind.

STATE OF IOWA,
COMMISSION ON THE AGING,
Des Moines, Iowa, January 6, 1978.

SENATOR DICK CLARK,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CLARK: This is a follow-up to your letter of October 17, 1977 requesting information useful to the review of the Older Americans Act.

You expressed a particular interest in Senior Centers, transportation services, employment programs, and health services. The results of our area agency service priorities assessment would indicate the following results:

Priority 1—Transportation Services,

Priority 4—Senior Centers and Community Services,

Priority 7—Health and Other Services.

As you can see no mention is made for employment programs in this needs assessment.

We have enclosed for your use the distribution of existing FY78 expenditures in each of these service areas. We hope that this information will be useful in your review of the Older Americans Act.

Sincerely,

GLENN R. BOWLES,
Executive Director.

Enclosure.

PROJECTED EXPENDITURES BV SOCIAL SERVICE CATEGORY
FISCAL YEAR 1978

Rank—Social service category	Projected expenditures	Percent
1—Transportation service	$564,562	8
2—Congregate meals	3,901,767	56
3—Services to maintain independence—provided in the home	787,781	12
4—Services to maintain independence—provided in the community	451,112	7
5—Residential repair and renovation services	75,164	1
6—Leisure time activities	367,021	5
7—Other services and activities	460,822	6
8—Legal and counseling services	169,725	3
9—Information and referral services	179,266	3
10—Services to the institutionalized	0	0
Total	6,957,220	

Source: Annual area plan, fiscal year 1978, submitted by the area agencies on aging, exhibit A-10.

Note: For this analysis funds obtained under titles III, VI-A V, VII, and IX have been included in the projected expenditure

SOCIAL SERVICES PRIORITIES, STATE OF IOWA,
FISCAL YEAR 1978[1]

Rank—Social service category	Score
1—Transportation service	0.1065
2—Congregate meals	.1875
3—Services to maintain independence—provided in the home	.2722
4—Services to maintain independence—provided in the community	.4444
5—Residential repair and renovation services	.4490
6—Leisure time activities	.4900
7—Other services and activities	.6406
8—Legal and counseling services	.6453
9—Information and referral services	.8125
10—Services to the institutionalized	.0000

[1] Source: Annual area plan, fiscal year 1978, submitted by the area agencies on aging, exhibit A-10.

STATE OF IOWA,
COMMISSION ON THE AGING,
Des Moines, Iowa, January 17, 1978.

Hon. DICK CLARK,
U.S. Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR CLARK: As a yearling Executive Director of the State Agency on Aging in Iowa, I have several concerns with regard to the Older Americans Act of 1965, as amended, and I will relate them in this letter.

The structure of the Act is cumbersome and its arrangement could be improved. The Act does not clearly define the state agency control of the activities within a state. The type of state advisory and/or policy making unit required to advise the state agency is not clearly set forth. From a management point of view, the Act should be clear in its language not only as to what authority and responsibility the State Agency has but also, what an area agency's responsibilities and function are. The Congress should write the Act in such a manner to assign one agency as responsible and accountable for the administration of the aging program in a state, as well as at the national level. Within the Act, Titles are administrated under varying guidelines and it becomes confusing to have different standards for Titles within an Act, it is recommended that administrative requirements be standardized or that all Titles be combined into one.

I have a strong view that all of the funds provided for by the Act should be channeled through the established aging network. The Congress wisely established an aging organizational structure to administer the aging program and it is the designated tax supported agency which should administer these aging funds to get the maximum utilization of the tax dollar.

At present, Title IX, Senior Employment funds are allotted to the Department of Labor and hence allocated to national contractors and the aging administration. The contractors take a cut of the money for administration costs at the national and again at the state level—this takes away funds which could be used for employment of our needy senior citizens and evades the already established aging network. Also, the national contractors quite often rely upon the aging network to utilize a large percentage of their job allotments. Jobs for the elderly can best be administered through the Administration on Aging and should not be relegated to any other federal program.

In November, I completed a series of public hearings on aging legislation throughout the state and the comments received from the elderly audiences were varied but the themes which I heard most often were: 1) the need for more dollars for the low-income elderly person; 2) a need to cut the cost-gap between the medicare/medicaid allowances and the charges of the private institutions; 3) the high cost of living with the recurring problem of keeping up with inflation and the increase in costs of drugs/medicine, and 4) desire for senior centers. All of these concerns have money as the final need.

The "meals on wheels" legislative proposals should be consolidated within Title VII of the Older Americans Act, without setting up a separate administrative structure which would duplicate costs and possibly an unneeded separate program. Also, a requirement exists to have commodity food training for the aging nutrition program personnel right along with the school lunch training program.

We appreciate your help in ending mandatory retirement, reduction in energy costs for the elderly and raising the earnings limit placed on the social security recipient. An emphasis should be placed on an increase in multipurpose senior center funding and to begin the development of comprehensive health services programs for the elderly in the centers. We must strive to eliminate duplication in all human services for the elderly, the handicapped and the low-income at the federal and the state level—we have too many agencies who are performing the same or similar functions for these people in areas of transportation, home services, outreach and need assessments.

With regard to the rural elderly, their needs are similar to urban elderly except that transportation requirements are of higher priority. They have a greater need for community type senior centers to serve as a focal point for medical, food and information services.

I wish you the best during the New Year and be assured that I am privileged to work with an understanding Iowa Congressional delegation to strengthen a respectable, no-frill, aging program. At present I plan to be in Washington, D.C. on January 25–27, and March 7–10 and will make every effort to schedule a time to again visit your office.

Sincerely,

GLENN R. BOWLES,
Executive Director.

IOWA LAKES AREA,
AGENCY ON AGING,
Spencer, Iowa, March 3, 1978.

Senator DICK CLARK,
Russell Building,
Washington, D.C.

DEAR SENATOR CLARK: Since the Congress is considering the reauthorization of the Older Americans Act, the Iowa Association of Area Agencies on Aging wishes to provide input in the reauthorization process to insure that the end result is an organization that will facilitate a coordinated and effective service delivery system to the senior citizens of the United States. In fulfilling that effort, the Association has directed me to draft a letter to you in support of the administration of both Titles III and VII of the Older Americans Act by the Area Agency on Aging.

Since their inception in the State of Iowa, Area Agencies on Aging have been administering the nutrition projects within their planning and service areas. We firmly believe that this type of administration facilitates not only an efficient, but cost effective service delivery mechanism. The Older Americans Act states that "an Area Agency on Aging will provide for the establishment of a comprehensive and coordinated system of delivery of social services within the planning and service area." We do not believe this can be accomplished if federal regulations fragment that service delivery system. Within the State of Iowa, we believe that the common administration of all aging programs has been the key to facilitating an aging net-

work, and maximizing service delivery economy. The reason for the cost savings of this type of administration is simply that all aging programs funded, coordinated, and/or operated by an Area Agency on Aging are administered through one central office. This facilitates the cooperative use of a common secretarial pool, a common accounting system, and the ability to pool available resources to purchase necessary equipment, office supplies, and support materials. It further facilitates the day-to-day interchange of information between nutrition project personnel, services coordinators, and all other support personnel of the Area Agency on Aging. This organizational structure is the primary reason for Iowa's success in the development of a cooperative, efficient and effective service delivery system.

At the March 1 meeting of the Iowa Association of Area Agencies on Aging, the Directors unanimously endorsed the concept of administering both Titles III and VII of the Older Americans Act through the Area Agencies on Aging. We respectfully request that you also consider supportiing this type of administrative structure. Unless we combine and coordinate all aging programs in the United States, an effective aging network will never become reality, and fragmented service delivery systems will continue to limit the effectiveness of aging programs. A fragmented system is a detriment to the seniors that aging professionals are charged to serve.

If I can provide you with further information and/or documentation, please feel free to contact me at any time.

Very truly yours,

G. RICHARD AMBROSIUS,
Chairman, Iowa Association of Area Agencies on Aging.

AREA I AREA AGENCY ON AGING,
Calmar, Iowa, November 17, 1977.

Senator DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: Since the Older American Act of 1965 expires in 1978 and it is now being reviewed, I will try to give you some response to the senior citizens' needs and how they respond to the programs we now have in this rural area. Our first program was started in the spring of 1974 and others have been added since.

The Title VII Nutrition (congregate meals) program was the first stated in three low-income counties with four sites. This has increased to eight meal sites in five counties. The attendance has also increased from an average of less than 200 to over 450 per day. Not only is the hot meal needed for most of the participants, it also reduces that isolation and lonliness feeling that many have, especially those living alone. Also, meals are delivered to the homes of those unable to get out. This also has increased from less than 10% to over 20% of the total meals served. I feel extra funds should be made available but added to the Title VII funds since they work very well together.

During the summer of 1975, the rural transportation program was started. We are presently operating one van in each of the five counties, five days a week and soon will be operating a van for handicapped, one day per week in each of the five counties. Our goal for the first year of operation was to serve 1,500 unduplicated individuals. We actually served over 2,000. This program is expanding and more and more are riding. We have mostly 15-passenger vans and our daily average is 11 or better. Many of these riders are in their 80's, live alone and have no other means of transportation.

This year we will receive the first Title V senior center funds. Two centers applied and were approved. We have 37 centers in the five counties with only a couple owned by the seniors themselves. So many requirements are placed on the Title V funds that few centers want to ask for the small amounts of funds. There still is a great need for assistance.

Under the Title IX employment program, we have employed several low-income individuals. Our biggest problem here is finding someone qualified. Many seniors are just too proud to admit that they have incomes below the poverty guidelines. Those we have hired are working out fine and I hope the program continues.

The County Health Service has performed a limited service to the rural areas. Recently, some extra funds have been received and more help was hired to reach more people. Plans are underway to have more health screenings, blood pressures, etc., done at the congregate meal sites, thus reaching more of the people that perhaps can't afford to visit a doctor on a regular basis. If the seniors can be kept in their homes they are much happier and seem to enjoy life longer. A visit now and then may help towards this end.

Considering the Older American Act as a long-range program, it might be advisable to place all of the funds available under one title and let each State and Area Agency on that state sit down and decide how the money should be programmed. Each state has different need priorities. The Area Agencies have close ties to the people. Working together, they should come up with good programs and programs that will help reduce the isolation and loneliness of so many.

It is my hope that as the Older American Act is reviewed and rewritten, it will be simple enough to be understood, yet stated in such a way so the meaning of the act will not be interpreted otherwise.

The best of luck.

Sincerely,

GEORGE A. PFISTER,
Director,
Area I Agency on Aging.

IOWA LAKES
AREA AGENCY ON AGING,
Spencer, Iowa, January 13, 1978.

Senator DICK CLARK,
Senate Office Building, Washington, D.C.

DEAR SENATOR CLARK: Since the Older Americans Act expires during 1978 and reauthorization of the Act is being considered, Area Agencies throughout the United States are recommending proposed changes they would like to see made in the Act. The Iowa Lakes Area Agency on Aging has spent a great deal of time discussing proposed changes to the Act, which resulted in the enclosed Position Paper. It is stated in the Position Paper the Agency further endorses the recommendations made by the National Association of Area Agencies on Aging.

In Northwest Iowa, the priorities established in aging programs developed are controlled by an Advisory Council of 27 senior citizens from throughout the 9 county service area. At their January 10th meeting, the Advisory Council endorsed the enclosed Position Paper as their recommendations for reauthorization. It is of optimum importance that major changes be made during the reauthorization to insure the future development of a comprehensive service delivery system at the local level. The staff of the Area Agency on Aging have dedicated their lives to developing the foundation for a service delivery system, but are currently drowning in unmet needs.

Your thoughtful consideration of this Position Paper will be greatly appreciated. If you have any question or if I can be of any assistance to you, please do not hesitate to contact me.

Very truly yours,

G. RICHARD AMBROSIUS,
Executive Director.

[Position paper from Iowa Lakes Area Agency on Aging, Spencer, Iowa, Submitted January 3, 1978]

ON RECOMMENDATIONS ON THE OLDER AMERICANS ACT REAUTHORIZATION

(By G. Richard Ambrosius, Executive Director)

During 1978, the Congress of the United States will be considering the reauthorization of the Older Americans Act which expires this coming year. Our elected officials will be considering Amendments to the Older Americans Act, which will most effectively facilitate a comprehensive service delivery program to the senior citizens of the United States. This position paper is designed to express my comments and concerns relevant to the reauthorization of the Act.

The 1972 Amendments to the Older Americans Act which created the Area Agencies on Aging were designed to provide grass roots input at the local level to insure that programs and services developed truly met the needs of senior citizens. However, the administration of the 1972 Amendments to the Older Americans Act which were designed to meet grass roots needs have been aborted through the use of National contracting and funding to other agencies and organizations with aging funds. Upon examining the Older Americans Act, it also becomes obvious that many of the regulations generated by this Act are designed to facilitate the needs of urban elderly, and do not take into consideration the problems of serving senior citizens living in isolated rural areas. For the most part, I concur with the recommendations forwarded by the National Association of Area Agencies on Aging.

The Older Americans Act should specify that the primary role of the Administration on Aging, State units on Aging, and Area Agencies on Aging, is one of advocacy in the development of a comprehensive and coordinated service delivery system to serve older persons. In the fulfilling of this role in rural areas, there should be a realization that it is also necessary for an Area Agency on Aging in a rural area to first develop the service delivery system through the provision of direct services. In order to properly fulfill the advocacy role, consideration should also be given to increasing the appropriation levels in the areas of information and referral and outreach. If the primary role of the aging network is one of advocacy, it is extremely important that this role be recognized at the National level by establishing the Administration on Aging as an independent agency within the Department of Health, Education and Welfare (HEW) with the Commissioner on Aging reporting directly to the secretary of HEW.

The Area Agency on Aging should be the sole means of delivering programs funded under the Older Americans Act to senior citizens at the local level. In other words, all Titles funded under the Act should be administered through the aging network, rather than being skimmed off by National contractors as is presently the case under several Titles of the Act, specifically Title IX and model projects on Aging. If this is not done, the concept that State and Area Agencies are the focal point for coordinating and pooling both public and private resources on behalf of the nations elderly will not become reality.

It is my belief that programs such as Foster Grandparents and RSVP which received funding under the Act should also be returned to the aging network for program administration. This would guarantee the availability of these programs throughout the aging network, rather than being developed only in areas selected by Regional and State offices of Action.

In fact, it would seem logical that the Older Americans Act could be amended under one Title with formula grants going out to

State and Area Agencies on Aging and thus allowing seniors at the local level to determine program priorities in the utilization of aging funds. If the Area Agency on Aging is to become the focal point for the delivery of comprehensive and coordinated service systems, it is of optimum importance that they be provided funding commensurate with the responsibilities delegated. When a State unit on aging delegates authority to an Area Agency for administering and monitoring programs for which the State is receiving administrative funds, the State unit on aging should allocate a portion of those funds to Area Agencies so that they may adequately carry out the role which they are assigned.

Further, all Older Americans Act funds allocated to Area Agencies on Aging for the development and administration of Area Plans, as well as Social Services, should be on a 90/10 matching requirement of cash or in-kind contributions. It is unrealistic to believe that local units of governments will ever be able to absorb the programs being developed by the aging network. Therefore, the current requirement to limit funding cycles to 3 years is totally inappropriate.

Whereas, one of the primary roles of the Area Agency on Aging is in the planning, development, and coordination of programs and services, the Older Americans Act should provide for a minimum planning cycle of 2 years. This would not only facilitate long range planning and multiyear funding cycles, but would greatly reduce the administrative demands and staff workloads inherent with the submission of an Annual Plan.

Under Section 305(B) of the Act, the Administration on Aging can establish National priorities and apply a required percentage for funding of these priorities. While it is recognized that in most cases these priorities apply throughout the United States, the Act should provide for the determination of priorities on an Area Agency on Aging level through the utilization of Needs Assessment Surveys. Our Congressional leaders must realize that the priorities established through a program controlled by urban centers may not apply to the needs of the Nation's rural elderly.

In rural areas throughout the United States, the development of multipurpose senior citizens centers could have an immense impact on the development of a coordinated service delivery system. Therefore, a great deal of emphasis should be placed on expanded funding under Title V of the Older Americans Act to include mortgage insurance and annual interest grants under Sections 506 and 507, Part A, of Title V. Section 511 of Part B should also be reauthorized and amended to provide for the staffing and operating costs of multipurpose senior centers. In many cases, the development of an adequate staff in a multipurpose senior center could facilitate long range planning for center development and self sufficiency. I would further like to see the emphasis placed on locating multipurpose senior centers in the central city eliminated from consideration of funding under Title V. Although it may be true that the central city in urban areas has a large concentration of low income senior citizens, this same conclusion simply cannot be applied in rural areas. In fact, in many cases it may be necessary to provide funding for new construction on the fringe of a rural community to facilitate adequate parking. This is largely necessitated by the lack of public transportation in rural areas.

Under Title IX of the Older Americans Act which allows for the employment of low income senior citizens, the current income level is totally unrealistic. Title IX should be restructured to allow flexibility in determining participant eligibility, such as using a State by State cost of living index rather than a National income level.

Although not currently part of the Older Americans Act, I would strongly endorse the enactment of National Wheels on Meals legislation. I would further encourage Congress to enhance the efforts of Area Agencies on Aging to develop a comprehensive delivery system to meet the needs of the nations rural elderly by providing that the Meals on Wheels program be administtred through the State units on aging and Area Agencies on Aging. The coordination of the elderly nutrition programs can best be accomplished if Congress provides that the Meals on Wheels program be addressed in Area Plans.

Based on census projections, one can readily realize that the United States is an aging Nation. We must begin now to plan for a coordinated service system to serve our ever expanding elderly population, especially in rural areas. Because of the present allocation formula which makes funding available on a strictly population basis, rural areas are often unable to hire an adequate staff to facilitate cost effective program delivery. The Congress of the United States and the Administration on Aging need to take an ever expanded role in meeting the needs of our nation's rural elderly, which to date seem to have been ignored. Although a great deal of funding is appropriated by the Congress, the amount of money reaching rural areas is extremely limited. Through the elimination of National contracting, the funding of millions of dollars presently funneled into model projects and educational institutions to research and analyze seniors' problems, could be going to Area Agencies on Aging who know what the problems are but do not have adequate resources to meet identified needs.

Although I do not negate the need for research, it seems contradictory to constantly remind rural areas of the new problems that senors are facing when there are currently inadequate resources to meet the needs of universal problems, such as transportation and in-home services. In many cases, we may be studying our elderly population to death.

I again reiterate that I concur with the recommendations made by the National Association of Area Agencies on Aging on the Sections not covered in this position paper. These recommendations were forwarded to the aging network by Leon Harper, President of the Board, on December 15, 1977.

NORTH CENTRAL IOWA
AREA AGENCY ON AGING,
Mason City, Iowa, March 6, 1978.

Re Older Americans Act Position Paper.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: A special committee consisting of three representatives of the Nutrition Council, three representatives of the Area Advisory Council, the Nutrition Project Director, and the Area Agency Director met at Fort Dodge on February 7, 1978 to develop a Position Paper on the Older Americans Act which is up for renewal by Congress. Following is the report of this committee:

1. In general the committee is supportive of the present framework of the Aging network. They approve the Area Agency concept with Area Agencies having the close day to day contact with Seniors. The committee feels that any new legislation should leave the Aging network intact so it can continue to plan, implement, and fund services to Seniors. Any new legislation should continue to provide Seniors the opportunity to help determine the type, amount, and level of services provided.

2. The committee recommends that any new legislation stress and reinforce the idea that benefits and services to Seniors are not welfare benefits, and should not require any means tests.

3. That the present practice of allocating funds to the State and Area Agencies by Components (Titles) should continue. This allows Congress to emphasize those programs designed to provide services to meet present critical needs of Seniors and new ones as they develop.

4. While the State and local Area Agencies should have as much local self-determination as practicable, this committee is not supportive of the proposal that all Older American Act funds be given to the State in a block grant and the State Unit on Aging make the determination of how this money is to be allocated to the various Component (Titles) in the state.

5. In the objectives of the Act (Title I) the committee would like to see added this objective—now implied, but not clearly stated: There is a critical need for the kinds of supportive services in both rural and urban communities that will enable Seniors to remain in their own homes as long as possible.

6. The committee would like to see a new title or section added to new legislation to separately fund "In-Home Supportive Services." This should be additional new funds above the present funding rate and used to provide services such as Handiman, Chore, Homemaker Aid, Homemaker Health Aid, Friendly Visitors, Telephone Reassurance, Live-In and Home Companion Services. Again, the idea was stressed that no means test is to be applied.

7. The committee was very supportive of the present nutrition program and urged that it continue to receive funds at the present, or increased funding levels. The committee also recommended that additional funds be made available to the Area Agencies to—

a. Support more transportation to and from the meal sites.

b. Help support "meals on wheels" programs.

8. That Congress do something about the insurance problems of providing reasonably priced insurance coverage to—

a. Seniors providing transportation on a volunteer basis to meal sites, senior centers, etc.

b. To provide liability coverage to nonprofit groups that are supplying services to seniors.

c. Nonprofit groups that want to utilize able-bodied, trained, and qualified seniors above 60 to drive buses and provide services.

9. That the present low-income guidelines for the Title IX senior employment slots be eliminated or at least raised to some more realistic figure. Also that the present 20 hour limit per week of employment be waived in some cases. Congress should look into the possibility of waiving the FICA tax and unemployment insurance for senior workers employed under this program.

10. That the present Action programs for seniors be administered and funded through the Aging Network. This would insure close cooperation and identification of objective between the Action and Aging programs. Action programs are R.S.V.P., Foster Grandparents, and Senior Home Companion programs.

Sincerely,
DONALD A. RYERKERK,
Director, North Central Iowa Area Agency on Aging.

SOUTHERN IOWA COUNCIL OF GOVERNMENTS, AREA XIV AGENCY ON AGING,
Creston, Iowa, March 7, 1978.

SENATOR DICK CLARK,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CLARK: The Advisory Council and the Nutrition Project Council for the Area XIV Agency on Aging have discussed the reauthorization of the Older Americans Act and have directed me to communicate to you their recommendations:

1. The legislation should be reauthorized and funded with at least a 50 percent increase in Title III, a 25 percent increase in Title VII, and a 25 percent increase in Title V.

2. Categorical funding should be eliminated, allowing senior citizens at the local level to decide what the priorities are.

3. There should be one Title for all Older Americans Act programs to cut down on administrative costs.

4. Both Titles III and VII should be administered by the Area Agencies on Aging. This administrative structure has been very effective in Iowa.

5. The Title IX funds (senior jobs program) should all go through the aging network instead of to the national contractors.

6. Volunteer programs under Action should be returned to the Administration on Aging.

7. Multi-year planning and funding cycles should be established to provide for a more comprehensive planning process.

8. Provision of direct services should continue to be allowed especially in rural areas where it is necessary to assure an adequate supply of such services or to ensure the quality of the services provided.

9. The state allotment formula should be amended to include a factor for concentrations of elderly (percentage of elderly to total population), in addition to the number of state residents 60 years or over.

10. There needs to be a clear delineation of roles for the Area Agency, Grantee, State Unit, and Regional Unit. Advocacy should be a primary role for all of these agencies.

11. The Area Agency concept should be continued because it is vital to the development of comprehensive and coordinated community-based health and social service systems for older Americans which foster independent living.

We appreciate your active participation in legislation involving senior citizens and look to you for continued assistance.

Sincerely,

LOIS HOUSTON,
Director.

DUBUQUE AREA PROJECT CONCERN
FOR THE ELDERLY AND RETIRED, INC.,
Dubuque, Iowa, March 20, 1978.

HON. DICK CLARK,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: Since the reauthorization of the Older Americans Act is being considered by Congress this year, I would like to express some concerns that I have in this area.

For the past ten years, I have been working at Project Concern—an agency which was set up with the help of a Title III grant under the Older Americans Act for the purpose of providing needed services to the elderly of this area. I have been involved in the formation of the Area Agencies on Aging from the beginning—serving on the task force which made the preliminary plans for the formation of the local Area Agency and then serving on the Advisory Board of the merged Areas I and VIII Agency on Aging, and continuing on the Area VIII Agency on Aging Board after the "un-merger".

I would like to offer the following observations and suggestions regarding the future of the Older Americans Act:

(1) The Area Aging Agency network set up through the Iowa State Commission on Aging is a viable means of planning programs, channeling funds and monitoring services to the elderly throughout the area. Every effort should be made to safeguard and strengthen this network. To be truly effective and efficiently administered, all services to the elderly should be co-ordinated through these area agencies. All federal funding destined for services to the elderly should be funneled through this system. This would include all funding authorized under the Older Americans Act and also any funding coming from other sources for services to the elderly, such as from UMTA, Department of Labor, ACTION, etc. This would eliminate national contractors—and the problems entailed in that situation. Utilizing the Area Agency on Aging offices for all funding would ensure the equitable allocation of funds throughout the state and areas.

(2) Provision should be made in the guidelines of the various titles for more flexibility at the state and area level so that OAA funds may be allocated to fit the priority needs of a particular state or area rather than being rigidly locked into federally mandated specifics which may not best meet the most pressing needs of a given area.

(3) I would most strongly urge the placing of the Older American Volunteer Programs (currently in the ACTION Agency) back under the Administration on Aging. The thrust of the ACTION Agency under the new administration is not in line with the basic goals and objectives of the RSVP, FGP, and SCP programs. They need to be administered by an agency whose focus is on the needs of the elderly—otherwise I fear they will be either phased out or bent out of shape to such an extent that they will no longer be meeting the vital needs they now do.

(4) Another concern I have is that funding be made available under the Older Americans Act to provide alternatives to nursing home care for these elderly who need some help but do not need to become completely dependent—deprived of all opportunity for any significant decision-making in their own lives as happens upon institutionalization. This funding could be for a variety of home services and alternative care plans, including adult day care, adult foster home care, expanding of the Senior Companion Program, provision of home health aids and homemakers, etc. Provision should be made for doing pilot programs—as this is a new concept in services for the elderly. We are aware that funding is available for some home services through Title XX from Social Services. However, for all practical purposes, at least in this area, funding is non-existent as there is insufficient Title XX funding to provide adequately for existing programs, and absolutely none to start any new services, no matter how badly needed.

(5) I urge your assistance in anyway feasible in the planning for the 1981 White House Conference on Aging. Continuation of an adequately funded Older Americans Act is vital to the well-being of this rapidly expanding segment of our population—the 60+ group. Some general guidelines which I consider important for legislation in this area are:

Programs should be designed to preserve the independence of older persons as long as possible.

The goal should be to assist communities to set up structures whereby special needs of all citizens are met.

Enough flexibility should be allowed so that programs may meet priority needs in a given area.

The trend should be away from segregating the elderly as a group, and the focus on needs. For example, there may be a need for special transportation services for persons who for physical, psychological or economic reasons cannot be served adequately by existing public transportation. Some of these persons may be elderly. As a necessary step towards this age desegregation, however, we will need special aging programs for some time to take care of crisis situations existing now for many elderly. But there should be built in incentives for communities to seek to eliminate whatever is making it difficult for individuals to meet a basic need.

I commend you for your continuing concern for the wellbeing of elderly citizens.

Sincerely,

GENEVIEVE HEATHCOTE,
Executive Director.●

DEREGULATION COMPROMISE

● Mr. ANDERSON. Mr. President, I recently requested the Library of Congress to analyze the pending proposal of the Senate energy conferees on natural gas. My particular concern was the effect on price and supplies of natural gas to Minnesota.

The study shows that if the Senate enery conferees' proposal is enacted Minnesotans will pay an additional $1.26 billion over the next 7 years. The average homeowner will experience a price increase of 71 percent; the average business will experience an 85 percent price increase.

I have announced my opposition to the pending Senate proposal. Minnesotans should not be forced to turn over $1.26 billion to the oil and gas industry. An industry who cries for more incentives for exploration yet using their profits to buy such energy supply sources as Montgomery Ward.

At this time I ask that the full text of the study done by the Library of Congress be printed in the RECORD.

The material follows:

THE NATURAL GAS SITUATION IN MINNESOTA

In 1975, Minnesota consumed 320.3 billion cubic feet of natural gas. This gas was produced primarily in the United States, but a substantial part of the supply (13 percent) came from Canada. Of the domestic production, 44 percent came from Texas producing properties, 22 percent came from Kansas, 12 percent from Oklahoma, and 9 percent from New Mexico. Interestingly, none came from Louisiana, the largest interstate exporter of natural gas. This data comes from the Federal Energy Regulatory Commission.

The Northern Natural Gas Company (Minnesota division) was the major source of natural gas, and the source of virtually all domestic gas, supplying 90 percent of the total gas consumed in Minnesota in 1975. No natural gas was produced and marketed in Minnesota in that year—only sixteen other States in the United States have no gas production at all.

The Bureau of Mines (now also in DOE) listed 1975 consumption in Minnesota as slightly more, 331.2 billion cubic feet. This represents only 1.6 percent of the natural gas consumed in the United States in that year, but 28 percent of the energy consumed in Minnesota (see attached flow chart illustrating energy flows in Minnesota). Obviously, substantial increases in natural gas prices to Minnesota will have a significant impact on the Minnesota economy.

As the flow chart illustrates, the natural gas consumed in Minnesota went to four economic sectors, and quantities in Btus are listed on the chart. In billions of cubic feet, again using Bureau of Mines data, the 1975 consumption by sector was as follows:

Sector	Quantity of gas (Bcf)	Total value (millions)	Average dollars per Mcf	Number of consumers (thousands)	Average consumption (Mcf)	Total average 1975 bill
Residential	114	$179.5	$1.57	724.0	157.4	$247.90
Commercial	62	78.1	1.26	69.0	898.5	1,131.90
Industrial	101	84.1	.83	at 7.0	14,400.0	at 12,000.00
Electric utilities	23	12.4	.54	at .1		
Pipelines (fuel)	4	2.1	.52			
Others (municipal governments)	27	26.0	.96			
Total	331	382.2		at 800.0		

ESTIMATION OF IMPACTS OF ALTERNATE GAS PRICE POLICIES

In order to estimate the cost impacts on Minnesota of the adoption of one or another of the three leading proposals for natural gas price reform, I have employed the following methodology and made the following assumptions:

The Northern Natural Gas Company delivered virtually all domestically produced gas used in Minnesota in 1975, as the following table illustrates:

Gas delivered to Minnesota in 1975 by pipelines (billions of cubic feet)

Amount, pipeline, primary source, and percent from source:

287.6, Northern Natural Gas (Minn.), U.S. (Hugoton-Anadarko, 95 percent.

12.4, Great Lakes Gas Transmission, Canada, 96 percent.

7.2, Intercity Minnesota Pipelines, Ltd., Canada, 100 percent.

6.5, Midwestern Gas Transmission Co., Canada, 100 percent.

3.7, Great Plains Natural Gas Co., U.S. (Northern Natural), 67 percent.

2.7, Interstate Power Company, U.S. (Northern Natural), 100 percent.

Of the six pipelines serving Minnesota, all are virtually fully dependent on one source or the other, and all of those consumers who are dependent on U.S. supplies obtain those supplies directly or indirectly from Northern Natural Gas.

Hence this analysis has focused on the supplies delivered by Northern Natural Gas, and the annual average gas bills for residential and commercial customers projected in the final tables should be read as those likely to be incurred by consumers of domestic gas only, rather than Canadian gas. It is assumed that Canadian gas pricing policies will not be affected by the domestic gas pricing policies at issue for the purposes of this analysis.

The analysis next assumes that the level of total gas deliveries to Minnesota by Northern Natural will remain constant at about 288 billion cubic feet per year over the period. Obviously, there are factors which will affect the amount of gas consumed in Minnesota—conservation induced by higher prices and regulatory programs, industrial fuel switching prompted by higher natural gas prices or the imposition of incremental pricing, or changes in the prices of other fuels, for example—but the amounts of such changes are unpredictable in this time frame and without a massive fuel consumption model with data inputs not currently available. Moreover, predicting the changes in overall demand for natural gas is not essential for this effort because the focus is on the comparative impacts of the three gas pricing approaches at a given level of demand, and the variance in demand levels that might occur from one pricing approach to another is likely to be small. A critical assumption in concluding that the variance in demand levels experienced under the three pricing approaches is likely to be small is that a similar incremental pricing provision will be adopted under all three. Under the proposed Senate compromise, of course, the incremental pricing provision to be put into effect is unclear and would be delayed until some time after the provisions of the other two approaches would be in effect.

Predicting the analysis on a constant total supply of gas to Minnesota from Northern's domestic sources, the next step is to divide that supply between old gas and new gas. A fairly standard decline rate for gas production is ten percent per year. Thus, I have divided the gas supply into old and new gas, with old gas falling by one-tenth each year during the period, and the new gas contribution rising by the amount necessary to continue the same level of deliveries.

The next step in the analysis is to factor each of the components of the total supply, old gas and new gas, by the prevailing price during each year of the period.

Table 1 presents the old gas supply from 1978 through 1985 and multiplies it by an estimated old gas price for each year to reach a total cost of the old gas portion of total supply for each year during the period. The old gas prices are derived from information obtained from Northern Natural Gas that their current weighted average natural gas purchase cost is $.68. A 2-cents-per-year escalation in this old gas price per year is added because the lower-priced contracts are more recent; the weighted average price will gradually swing in the direction of the more recent contracts, and renewals of old, expired contracts will be made under any of the three approaches at from 52 cents to 54 cents per Mcf.

Tables 2, 3, and 4 present the hypothesized new gas supply from domestic sources necessary to maintain constant deliveries of 288 Bcf, factored by the likely new gas prices under the Senate-passed bill, House-passed bill, and Senate compromise, respectively. The price paths for new gas under tables 2 and 3 are derived from the Congressional Budget Office study of September 1977, for new gas deregulation and the Administration plan, respectively. The new gas deregulation price path has then been modified to accord with the Senate-passed bill by changing the price allowed in the first two years after enactment to the $2.50 stipulated in the bill as passed, from the $4.00 and $3.50 projected by CBO. Both of these earlier provisions would lead to "vintaging" of new gas prices, whereas the current Senate compromise explicitly rejects it. "Vintaging" means that the gas sold at each year's price would continue to be sold at that price in successive years rather than receiving higher later prices as they are put into effect. Under the Senate compromise, all new gas will be sold at the latest prevailing price. Therefore, tables 2 and 3 include vintaging; table 4 does not. The prices set for new gas under the Senate compromise are based on a formula of two parts: annual rises of 3.5 percent for the first four years and 4 percent for the next four years in the period, plus an annual rise equal to inflation.

This analysis presents all estimates in current dollars. Thus, only the first part of the new gas price formula is reflected in the price path shown on table 4. The CBO price projections were also constant dollar projections, and it is reasonable to assume that they would be affected by inflation to the same extent that inflation would cause the prices under the Senate Compromise to rise. Obviously, if for some reason gas prices under the House-passed bill (which are tied to the domestic oil mix to refiners) or under the Senate-passed bill (which are unregulated) failed to reflect inflation, the impacts of the Senate compromise with a built-in inflation index would be comparatively that much greater.

Tables 5, 6, and 7 add the computed cost of old gas (table 1) to the computed total cost of new gas (tables 2, 3, and 4) for each of the years in the period, and then subdivide the totals for each year by the amount of total gas supply to obtain the average price per Mcf that would be paid to producers by Minnesota consumers, under each of the three proposals.

Tables 8 and 9 finally take the computed producer cost per Mcf, add constant estimated transmission and distribution charges, and estimate natural gas bills for each year and for the entire period, for residential consumers in Minnesota and commercial customers in Minnesota, respectively. The constant factors for transmission and distribution are estimates based on perusal of American Gas Association rate service information, but, as constants, are not critical to the final comparison. The gas quantities used for consumption, 160 Mcf per year for a residential consumer and 900 Mcf per year for a commercial customer, are estimates which approximate recent experience.

There are numerous factors which must be taken into account in estimating the impacts of such measures on a national level which can reasonably be ignored here: the potentially different supply responses to different prices in the producing fields, the impacts on the intrastate market, the new gas definition, etc. While significant differences in these factors would be noted at the national level, the reflections of those differences in the gas prices paid by Minnesota consumers are probably minimal.

The period used for estimation in this analysis, 1978 through 1985, is somewhat "out of gear" with the timing of the Senate compromise, which has an April 1977 effective date for escalations (although not for actual prices paid, which become effective on enactment), and is adjusted monthly. This analysis is not amended to reflect either the effects of the final part of 1977 or the monthly adjustments. Since the first would tend to reduce the impacts of the compromise and the second would tend to increase them, and both are relatively minor in effect, they tend to cancel out.

In the one-year period after deregulation becomes effective under the compromise, January 1, 1985, an extension of the same trends of price and impact is assumed for Minnesota consumers because either the President or both Houses of Congress may extend the provisions of the compromise for two years after a six-month test period, and a marked jump from trends under it would

make it more likely that they would do so. In addition, the accuracy of any prediction of market forces at that point would be highly suspect; it would not be suitable merely to transpose the impacts and prices estimated for that year under the Senate-passed bill.

1. OLD GAS SUPPLY DECLINED BY 10 PERCENT PER YEAR AT OLD GAS PRICE

	Old gas supply (Bcf)	Old gas price	Total old gas cost (millions)
1978	259.2	$0.70	$181.4
1979	230.4	.72	165.9
1980	201.6	.74	149.2
1981	172.8	.76	131.3
1982	144.0	.78	112.3
1983	115.2	.80	92.2
1984	86.4	.82	70.8
1985	57.6	.84	48.3
Total			951.4

2. NEW GAS SUPPLY REQUIRED TO MAINTAIN CONSTANT DELIVERIES UNDER SENATE-PASSED BILL, ASSUMING VINTAGING

	Necessary new gas supply (Bcf)	Price per Mcf CBO estimate	Cost of year's addition to new gas supply (millions)	Total cost of new gas (millions)
1978	28.8	$2.50	$72.0	$72.0
1979	57.6	2.50	72.0	144.0
1980	86.4	3.17	91.3	235.3
1981	115.2	3.10	89.0	324.3
1982	144.0	3.00	86.4	410.7
1983	172.8	2.90	83.5	494.2
1984	201.6	2.80	80.6	574.8
1985	230.4	2.80	80.6	655.4
Total				2,910.7

3. NEW GAS SUPPLY REQUIRED TO MAINTAIN CONSTANT DELIVERIES UNDER HOUSE-PASSED VERSION, ASSUMING VINTAGING

	Necessary new gas supply (Bcf)	Price per Mcf CBO estimate	Cost of year's addition to new gas supply (millions)	Total cost of new gas (millions)
1978	28.8	$1.75	$50.4	$50.4
1979	57.6	1.80	51.8	102.2
1980	86.4	1.89	54.4	156.6
1981	115.2	1.95	56.2	212.8
1982	144.0	2.00	57.6	270.4
1983	172.8	2.05	59.0	329.4
1984	201.6	2.08	59.9	389.3
1985	230.4	2.08	59.9	449.2
Total				1,960.30

4. NEW GAS SUPPLY REQUIRED TO MAINTAIN CONSTANT DELIVERIES UNDER PROPOSED SENATE COMPROMISE, NO VINTAGING

	New gas supply (Bcf)	New gas price [1]	Total cost of new gas (millions)
1978	28.8	$1.75	$50.4
1979	57.6	1.81	104.3
1980	86.4	1.87	161.6
1981	115.2	1.94	223.5
1982	144.0	2.02	290.9
1983	172.8	2.09	361.2
1984	201.6	2.18	439.5
1985	230.4	2.27	523.0
Total			2,154.4

[1] 1978–81 rising 3.5 percent annually, 1982–85 rising 4 percent annually.

5. MINNESOTA'S ESTIMATED TOTAL AND PER-MCF COSTS UNDER THE SENATE-PASSED BILL

	Old gas cost (millions)	New gas cost (millions)	Total (millions)	Cost per Mcf
1978	$181.4	$72.0	$253.4	$0.88
1979	165.9	144.0	309.9	1.08
1980	149.2	235.3	384.5	1.34
1981	131.3	324.3	455.6	1.58
1982	112.3	410.7	523.0	1.82
1983	92.2	494.2	586.4	2.04
1984	70.8	574.8	645.6	2.24
1985	48.3	655.4	703.7	2.44
Total	951.4	2,910.7	3,862.1	1.67

6. MINNESOTA'S ESTIMATED TOTAL AND PER-MCF COSTS UNDER THE HOUSE-PASSED BILL

	Old gas cost (millions)	New gas cost (millions)	Total (millions)	Cost per Mcf
1978	$181.4	$50.4	$231.8	$0.80
1979	165.9	102.2	268.1	.93
1980	149.2	156.6	305.8	1.06
1981	131.3	212.8	344.1	1.19
1982	112.3	270.4	382.7	1.33
1983	92.2	329.4	421.6	1.46
1984	70.8	389.3	460.1	1.60
1985	48.3	449.2	497.5	1.72
Total	951.4	1,960.3	2,911.7	1.2

7. MINNESOTA'S ESTIMATED TOTAL AND PER-MCF COSTS UNDER THE PROPOSED SENATE COMPROMISE

	Old gas cost (millions)	New gas cost (millions)	Total gas cost (millions)	Cost per Mcf
1978	$181.4	$50.4	$231.8	$0.80
1979	165.9	104.3	270.2	.94
1980	149.2	161.6	310.8	1.08
1981	131.3	223.5	354.8	1.23
1982	112.3	290.9	403.2	1.40
1983	92.2	361.2	453.4	1.57
1984	70.8	439.5	510.3	1.77
1985	48.3	523.0	571.3	1.98
Total	951.4	2,154.4	3,105.8	1.35

8. ESTIMATE AVERAGE ANNUAL RESIDENTIAL GAS BILLS IN MINNESOTA UNDER THE 3 PROPOSALS, ASSUMING 160 MCF AVERAGE CONSUMPTION

[In dollars]

	Estimated charge for transmission and distribution	Total cost per Mcf to average residential customer: Senate passed	House passed	Senate compromise	Average annual bill: Senate passed	House passed	Senate compromise
1978	1.10	1.98	1.90	1.90	316.80	304.00	304.00
1979	1.10	2.18	2.03	2.04	348.80	324.80	326.40
1980	1.10	2.44	2.16	2.18	390.40	345.60	348.80
1981	1.10	2.68	2.29	2.33	428.80	366.40	372.80
1982	1.10	2.92	2.43	2.50	467.20	388.80	400.00
1983	1.10	3.14	2.56	2.67	502.40	409.60	427.20
1984	1.10	3.34	2.70	2.87	534.40	432.00	459.20
1985	1.10	3.54	2.82	3.08	566.40	451.20	492.80
Total					3,555.20	3,022.40	3,131.20
Average		2.77	2.36	2.45	444.40	377.80	391.40

9. ESTIMATED AVERAGE ANNUAL COMMERCIAL GAS BILLS IN MINNESOTA UNDER THE 3 PROPOSALS, ASSUMING 900 Mcf AVERAGE CONSUMPTION

[In dollars]

	Estimated charge for transmission and distribution	Total cost per Mcf to average commercial customer: Senate passed	House passed	Senate compromise	Average annual bill: Senate passed	House passed	Senate compromise
1978	0.80	1.68	1.60	1.60	1,512	1,440	1,440
1979	.80	1.88	1.73	1.74	1,692	1,557	1,566
1980	.80	2.14	1.86	1.88	1,926	1,674	1,692
1981	.80	2.38	1.99	2.03	2,142	1,791	1,827
1982	.80	2.62	2.13	2.20	2,358	1,917	1,980
1983	.80	2.84	2.26	2.37	2,556	2,034	2,133
1984	.80	3.04	2.40	2.57	2,736	2,160	2,313
1985	.80	3.24	2.52	2.78	2,916	2,268	2,502
Total					17,838	14,841	15,453
Average		2.47	2.06	2.15	2,229	1,855	1,931

RETIREMENT OF LYNN SEEBER FROM THE TENNESSEE VALLEY AUTHORITY

● Mr. BAKER. Mr. President, it was with great regret that I learned Monday of the retirement of Mr. Lynn Seeber, who has served with distinction as the general manager of the Tennessee Valley Authority for the past 8 years, during a period of difficult and often controversial environmental and energy issues. His position as the chief staff official of TVA charged him with the management of TVA's responses to these issues. He has handled that responsibility with intelligence and diligent effort.

The people of the entire Tennessee Valley owe Lynn tremendous gratitude for the service he has rendered in his years with TVA.

I ask that the announcement issued by the Tennessee Valley Authority be printed in the RECORD.

The announcement follows.

TVA GENERAL MANAGER ANNOUNCES RETIREMENT

R. Lynn Seeber, TVA General Manager since 1970, announced today he is leaving the agency May 17 after 26 years' service. Seeber said he has no immediate plans other than to "rest, perhaps travel some, and spend more time at the lake."

Seeber said he has been considering what he called his "early retirement" for some time, and had advised the Board of Directors of his plans several weeks ago. Seeber said he would be taking accumulated vacation time between now and May 17. Assistant General Manager H. H. Stroud, Jr., will be Acting General Manager in the interim.

Members of the Board expressed regret at Seeber's decision.

"Lynn Seeber's work in a tremendously difficult job has been outstanding," said Chairman Aubrey J. Wagner. "We have worked closely together for many years, and Lynn's service has been extremely valuable to the TVA Board, to TVA, and to the region we're in business to serve."

Director William L. Jenkins said he is "sorry to see TVA lose a person of Lynn's caliber. His intelligence, decisiveness and ability to work well with the Board and staff certainly will be missed."

"Lynn and I were colleagues in the Division of Law some 17 years ago," Director S. David Freeman said. "We have kept in touch from time to time through the years, and I had looked forward once again to a close

working relationship with him in the future. I consider Lynn a personal friend and am sorry he feels that he needs to 'recharge his batteries.'"

Seeber, a Clinton, Tennessee, native, was graduated from Clinton High School and obtained a B.S. degree in Business Administration, with a major in Industrial Management, from the University of Tennessee in 1949. He received a J.D. degree from the UT College of Law in 1951.

Seeber is a U.S. Army veteran, having served in the field artillery from 1946 to 1948, including an assignment in Japan.

He was employed by TVA in the Division of Law, where he worked primarily with the Division of Purchasing and the Division of Personnel. He served briefly as Director of Reservoir Properties before his appointment as Solicitor in the Division of Law in 1967.

In April 1969, Seeber became Assistant General Manager, and was designated by the TVA Board to become General Manager effective March 1, 1970. The position of General Manager is the top administrative post in TVA, with responsibility for carrying out the programs and policies determined by the Board.

Seeber is married to the former Julie Jennings of Clinton, and they live on Fort Loudoun Lake south of Knoxville.●

SECRETARY ANDRUS MAKES HIS STAND

● Mr. CHURCH. Mr. President, one of the best decisions that President Carter made after assuming office in January 1977, was to name Cecil Andrus Secretary of the Interior.

Like Teddy Roosevelt, Gifford Pinchot, and Aldo Leopold, Cece Andrus favors the careful management of our country's natural resources. As Governor of Idaho, he was not afraid to speak out when he saw the resources of our public lands being squandered or misused. As the Secretary of Interior he now has the authority to not only speak out, but to actually put an end to shortsighted and ill-considered resource policies.

The March issue of Reader's Digest contained an excellent article describing Secretary Andrus' efforts to "do what is right for all Americans." I ask that this article be printed in the RECORD.

The article follows:

SECRETARY ANDRUS MAKES HIS STAND

(By James Nathan Miller)

Despite opposition from an aroused band of special interests, President Carter's Interior Secretary is determined to do what is right for all Americans. At stake: trillions of dollars of land, water and minerals.

Fourteen months ago, when President Carter named Cecil Andrus Secretary of the Interior, Andrus glided through his confirmation hearings amid a chorus of hosannas. Today, many Interior watchers are privately calling him the President's worst Cabinet appointment. Others call him the best.

The reason for the disagreement is that Andrus is trying to pull off a coup that few of his predecessors have attempted and none has achieved. He's trying to wrest control of the Interior Department from the outside interests that have long run it by remote control. If he succeeds, it will be one of the major domestic achievements of the Carter Administration, with the most profound effects on the way the nation handles its public lands. To see what's involved, start with the action Andrus took a year ago February that brought an abrupt end to his Washington honeymoon: an investigation of the oil and gas industry.

In the Gulf of Mexico, the Interior Department leases offshore gas fields to private companies. The leasing companies are not supposed to hoard this gas in anticipation of future price rises. By law, they must show diligence in looking for the gas, and when they find it they must put it on the market expeditiously. If a company fails to produce gas within 5 years, the lease is forfeited—unless Interior's Geological Survey (GS) grants an extension of the lease. From 1973 through 1976, gas producers in the Gulf made 319 applications to the GS for such extensions. The agency granted all but four.

RUBBER STAMP

During this period, Congressional investigators showed that the GS merely rubber-stamped the companies' applications without investigation, and critics charged that as a result—even during last winter's natural-gas shortage—many companies were being allowed to withhold gas for speculative purposes. But the critics had no conclusive proof—the gas companies and the GS, claiming trade secrets were involved, refused to give out details, and Interior officials never got around to a serious investigation of the charges.

Then Andrus took office, and one of his first moves was to dispatch experts to the GS offices in Louisiana, where Gulf of Mexico records were kept. Two weeks later, he told reporters that his investigators had found that the GS had indeed failed to police the leases. He called for an in-depth investigation to determine whether gas was being willfully withheld and stated that if any evidence of criminal conduct were uncovered, he would turn it over to the Justice Department. And he stripped the GS of its exclusive authority to grant extensions to the leases by announcing that henceforth he himself would exercise that authority.

Since then, Andrus has fired the director of the GS, turned down two applications for lease extensions and, by threatening more such actions, forced a speed-up on 12 other leases. As this article goes to press, the number of non-producing fields has been reduced by 25 percent, and Andrus is continuing to order other companies to accelerate production.

Why was Andrus able, in a matter of days, to dig up facts that had gone undiscovered by his predecessors for years? This brings us to the question of who has been running the Interior Department.

RUINED DOMAIN

When Congress created the Department in 1849, it gave the agency the job of presiding over the Western lands that were steadily being absorbed into the nation. At first, the Department needed only two agencies to do this job: the Bureau of Indian Affairs and the General Land Office. But as the West was populated, the department began subdividing like an amoeba. Today it has some 16 specialized bureaus, services and administrations responsible for managing literally trillions of dollars worth of land, water and minerals. Its domain comprises 842,000 square miles—23 percent of the nation—and its 80,000 employes run everything from the Grand Coulee Dam to the Washington, D.C., park system, from Alaskan bird sanctuaries and Arizona grazing lands to the Statue of Liberty. The problem is that as each specialized department came into being, it fairly quickly fell under the domination of the specialized group it was supposed to oversee. To appreciate how this happened—and the devastating effect it has had on the public lands—consider the case of the Bureau of Land Management.

The biggest users of America's public domain are the 22,000 ranchers and businessmen who hold permits to graze cattle and sheep on the Interior Department's grazing land. Because of the size of the area involved (270,000 square miles, or an area a little bigger than Texas) and the ruinous effect that overgrazing had already had on the land, Congress in 1934 passed the Taylor Grazing Act, giving Interior authority to set strict limits on grazing.

But BLM's range managers quickly discovered that whenever they ordered a reduction in the number of cattle a rancher could graze, the rancher would complain to his Congressman, the Congressman would complain to BLM headquarters in Washington, and an order would soon come down to district headquarters to leave the rancher alone. Over the years, the agency gave up even trying to police the law.

The results are visible today from Wyoming to Oregon to the Mexico border. Vast areas of the bare, gullied, cactus-and-sagebrush "desert" through which you drive for hours on end are actually not desert at all. Before the sheep and cattlemen came, much of this territory was a sea of waving grass from horizon to horizon—and would be today if the BLM had done its job. But livestock have been allowed to nibble the grass to its roots and then to trample the roots to dust and mud. Stripped of their protective matting, these manmade deserts have become easy prey to erosion, and today—almost half a century after the Interior Department was given the authority to prevent overgrazing—they continue to lose millions of tons of topsoil to the rivers of the West. Overgrazing, in fact, is the most widespread cause of environmental damage in America.

"THE THREE R'S"

And so it went at Interior: outside influence ran through the department like sap through a tree. Just as the Geological Survey fell under the control of the oil men, and the BLM of the ranchers and coal miners, so did the Bureau of Mines become the mouthpiece of the mining industry and the Bureau of Reclamation a governmental arm of the dam-building lobby.

What about the man who presided over all of this, the Interior Secretary? In recent years, he has usually been a former Western governor specifically picked for the job because he knew how to get along with the ranchers, miners, oil men, etc. His job was to keep them happy, not to rock their boat. Says Monte Canfield, a former high official at the BLM who quit out of frustration in 1972 after trying to break the coal industry's stranglehold on the department's coal-leasing policies. "The only thing a conscientious Interior official could accomplish, if he had the guts, was to prevent some of the worst giveaways. It was impossible to change the basic policies that underlay those giveaways."

When Jimmy Carter named Andrus Secretary of the Interior, the interests that ran the department examined Andrus's resumé and concluded that he filled their specifications. He was a Westerner, tall, softspoken, likable. He was the governor of Idaho, and on the whole had got along well with development interests there. So Andrus went to Washington unopposed by the Western development lobbies and with the unanimous support of the national conservation lobbies.

It turned out that the conservationists had made the better guess. Andrus told me recently that he knew before coming to Washington of the Department's subservience to outside forces. Yet it wasn't until he took over the agency that he realized how bad the situation was. As soon as he found out, he made no secret of his outrage. He called it "the three R's—rape, ruin and run." He promised to end "the little fiefs that have divided Interior for years." The department, he said, was "a centipede, with each little pair of feet scuttling off in its own direction."

POWER AT THE TOP

Andrus's main weapon in the struggle to regain control of the centipede is the staff

with which he has surrounded himself. In a total rewriting of Interior's organization chart, he has taken all policy-making authority away from the heads of the "little fiefs" and centralized it at the very top of the pyramid, in the hands of the staff he himself has appointed. While his top people are a diverse collection—Easterners, Westerners, businessmen, conservationists, state and local politicians, old associates of Andrus, known as the "Idaho Mafia"—it's this very diversity that is their common theme. Andrus explains it simply: "The public lands belong to the backpackers and the ghetto dwellers as well as to the ranchers and miners. I haven't denied development interests their representation. I've simply extended it to others as well."

While that doesn't sound particularly extreme, at Interior it presents a revolution—and to the development interests it means Andrus has sold out to the environmentalist. Says Carl Bagge, president of the National Coal Association, "Every time I lift up a rock, I see a professional environmentalist." This "environmentalist-sellout" charge is the theme running through all the growing attacks on Andrus, and you'll probably be hearing it with increasing frequency in coming months.

What are the facts behind it? Of Andrus's 40 top appointments, a half dozen have gone to environmental activists. That's a half dozen more than before, and they have been given tasks never before entrusted to an environmentalist. One appointee, for instance, is now assigned the task that Monte Canfield said was impossible—revamping the department's basic coal-leasing policies to prevent giveaways to the coal industry.

Andrus himself defines his basic environmental credo this way: "If I'm faced with a decision of development with adequate safeguards for the environment, I'll come down on the side of development. If I'm faced with development without adequate safeguards, I'll come down on the side of the environment."

Here are some samples of this philosophy in practice:

In Indiana, rejecting conservationist claims that a nuclear plant would pollute the air and water of a national park, Andrus okayed the plant's construction.

In Utah, where conservationists insisted that a large coal-fired plant would foul the air of another national park, Andrus agreed and vetoed the plant's site.

In California, he enraged logging interests by backing a law that will add 48,000 acres of redwood forest to Redwood National Park.

In Alaska, he enraged conservationists by recommending that Eskimos be allowed limited hunting of the endangered bowhead whale.

ALIENATED INTERESTS

In sum, the change that seems to be coming over Interior is not that the environmentalists are taking control, but that they are being listened to. And while the developers are losing control, they clearly haven't lost it yet. Andrus's staff at the top is now setting policy, but this policy still has to be carried out by the same old bureaucracy in the field, with all its old alliances still intact. At least twice when Andrus has testified on Capitol Hill, he has found that he's been preceded by damaging (and incorrect) versions of his plans leaked to Congressmen by the BLM and Bureau of Reclamation. To appreciate how tough a battle he faces to end this sort of thing, look at the lobbies who oppose him—every one of which he has managed to alienate during his year in office:

Oil

In addition to pressuring the oil industry for more gas production, Andrus has backed a bill to give Interior stronger control of off-shore leasing, and has come out in favor of forcing the companies to get rid of their coal and uranium holdings.

Coal

Last year, Interior won a major victory when Congress passed an Andrus-backed law imposing strict environmental controls on strip-mining. Andrus is the first Interior Secretary to urge Congress to pass such a law.

Hard-rock minerals

Andrus wants to reform the ancient Federal Mining Act of 1872, which permits hard-rock miners to go onto federal lands without using environmental precautions and to keep both the claims they stake and the minerals they find without paying the government for them. Andrus wants environmental restrictions, strict leasing requirements and royalty payments imposed on hard-rock miners.

Water

Last March, Andrus called for "the end of the dam-building era in America." He then recommended changes in Western water policies long sacred to pork-barrel lobbyists and Western governors and Congressmen. (The power of the dredge-and-dam establishment can be judged by the fact that one of its main lobbies, the Water Resources Congress, boasts 93 Senators and Congressmen as its vice presidents.)

Farm land

Andrus has announced that he intends to enforce the Reclamation Act of 1902, which says that water from federal irrigation projects can go only to family-owned farms. Interior has allowed this law to be violated for half a century, with the result that today the Bureau of Reclamation is sluicing large amounts of subsidized water to farm land owned or controlled by such "family farmers" as the United Brands Co. and the Southern Pacific Land Co. Andrus's determination to enforce the law has outraged the whole agribusiness community—and along with it Washington's most powerful farm lobby, the American Farm Bureau Federation.

MIXED PROSPECTS

With groups like these shooting at him from all sides, Andrus's situation brings to mind General Custer at the Little Big Horn. What are his chances of winning the battle? There are two schools of thought on the subject. One says that Andrus has little chance of success, that there are too many laws and too many lobbies entrenched in Congress and in his own bureaucracy. The other view is that he may pull it off—*if* Jimmy Carter doesn't back down on him. According to this view, the lobbies appeared powerful in the past because no President since Theodore Roosevelt really dared to confront them. Carter *is* confronting them (all of Andrus's important changes are basically implementations of Carter campaign promises), and it's a mistake to judge this new ball game by the rules of the old game.

One thing is certain: if Andrus *does* win his fight, it will be a famous victory for those who really own these lands: the 217 million citizens of the United States.●

NOMINATION AND CONFIRMATION OF FEDERAL JUDGES

● Mr. GARN. Mr. President, there is growing concern in this body and throughout the country about the manner in which Federal judges are nominated and confirmed. In this regard, I believe the experience of Utah and the activities of the Utah congressional delegation will be of interest to our colleagues and others who are interested in the process of judicial selection.

Perhaps it would be naive to expect that the Utah formula would work in other States; certainly we could expect opposition to the Utah formula in other circumstances. But, in an important sense, the details of the Utah plan are not at issue. The principles are certainly at issue. Frankly, under different circumstances within the Utah delegation itself and if the political alinement between Capitol Hill and the White House were different, we probably would have devised a different plan. For example, the Utah plan was devised and executed by all members of the Utah delegation, Senators and Representatives, Republicans and Democrats. If the composition of the delegation had been different, the plan likely would have been different. For this reason, other States may or may not involve members from both Houses. And for this reason and others, other States may or may not wish to follow the Utah lead and learn from our experience.

However, it is my earnest hope that other Senators will adopt a system of merit selection that will raise the judicial nominating process above the politics-as-usual plane. The details of the Utah plan may not be important, but it is important that the principal parties were all committed to merit selection, that there was nonpartisan discussion about the best option, and that the members of the commission were selected according to their abilities and contribution which they can make to the selection process.

To demonstrate the close working relationship of the members of the delegation and the flexibility that characterized our discussions I can point to my own specific plan for a Utah judicial nominating commission which I put forth in November 1977. This was the first specific plan proposed for Utah. I recomended a 13-member commission to be comprised of 4 persons selected by the senior Senator, 4 by the junior Senator, 3 by the Utah bar, and 2 by the Governor. Of the four selected by the senior Senator, at least one would be a nonlawyer and one would represent a Utah law school; of the four selected by the junior Senator, at least one would be a nonlawyer and one would represent the Utah supreme court. At the time of this recommendation, I said:

I have been working on the idea of a selection or recommendation commission for most of the last year. I feel that appointments to the federal judiciary should be made totally on merit, without regard to political affiliation or political background. A commission established as I have proposed will have members representing lawyers and non-lawyers, Republicans and Democrats and Independents, judges, and academicians. I hope that we can move ahead promptly with the establishment of a commission and the appointment of commissioners. I, of course, am happy to receive additional recommendations on the nature and appointment of the selection panel.

My colleagues within the delegation took me at my word and made some excellent suggestions regarding the commission. After discussion and negotiation, we agreed on an 11-member commission, and that commission has already begun its search for the qualified candidates who will be recommended to

the President for his nomination to fill a current vacancy of the U.S. District Court for the District of Utah. This vacancy occurs, because of the recent death of Judge Willis W. Ritter.

The Utah Federal Judicial Nominating Commission's 11 members were chosen as follows: The Utah congressional delegation extended an invitation to the two deans of the Utah law schools, or their designees (we are fortunate to have had both deans accept the invitation); one member of the commission was chosen by the delegation from a list of three persons submitted by the Utah State Bar; the other eight members of the commission were elected jointly by the congressional delegation.

We have an excellent and highly distinguished panel. The commission has had its initial meeting and has selected Rex E. Lee, dean of the J. Reuben Clark Law School, as its chairman. The other members of the commission are: Daniel L. Berman, Salt Lake City attorney; Rex J. Hanson, Salt Lake City attorney and former president of the Utah State Bar; Robert H. Harmon, Salt Lake City businessman; Walter E. Oberer, dean of the Univerity of Utah College of Law; William D. Oswald, Salt Lake City attorney; Darrell G. Renstrom, Ogden attorney and chairman of the Utah State Senate Judiciary Committee; Alice Shearer, Salt Lake City civic leader; Belle Spafford, internationally known women's leader; and David W. Sorenson, a Logan attorney. The commission has eight lawyers and three nonlawyers. Two of the lawyers are deans of the State's law schools.

The Utah Federal Judicial Nominating Commission held its first meeting on March 18, 1978. It is now accepting applications from interested persons and recommendations from those who would like to bring qualified persons to the attention of the commission.

At its first meeting, the Utah congressional delegation provided the commission with the following documents:

One. The commission (or charge) to members of the commission;

Two. A "notice of vacancy on the U.S. District Court for the District of Utah" (a public notice to be issued by the commission);

Three. A list of instructions for the guidance of the commission;

Four. A proposed timetable;

Five. The "questionnaire for prospective nominees for U.S. district judge," and

Six. A cover letter for the questionnaire.

The commission was free to amend or discard some of this material and was bound by some of it. For example, the instructions were given to the commission by the delegation with the expectation that the instructions would be followed. In this manner, the commission will serve the delegation in the manner anticipated by the delegation when it established the commission and the applicants and others interested in the methods of judicial selection can be assured that judgment will be made on objective criteria for which notice has been given. On the other hand, the commission was given a degree of discretion and it discarded the recommended application form and is using one similar to an application recently used in Colorado.

We relied heavily on the supporting documents furnished by the Department of Justice to the circuit court nominating panels. Of course, appropriate changes were made.

The Utah commission will continue to accept applications until April 15, 1978. Their recommendations to the President will be made about May 15.

Mr. President, the Utah experience is showing that members of both major political parties can work together to help insure that the men and women who attain the Federal bench will be the best possible candidates—that they are endowed with the intellectual, temperamental, and moral traits that qualify them for their tremendous responsibilities—in which property, liberty, and even life itself may hang in the balance — and life tenure. I believe the Utah Federal Judicial Nominating Commission will serve as a model for merit commissions throughout the country. And, based on our present experience, it will make an excellent model.

I ask that the instructions provided by the Utah delegation to the commission be printed in the RECORD. These should prove of interest to many who are interested in merit selection.

The material follows:

To all members of the Utah Federal Judicial Selection Commission:

The following instructions are provided for the guidance of the Utah Federal Judicial Selection Commission. To obtain the highest quality in nominees for appointment to the United States District Court, it is important for the Commission to adhere to the following procedures and standards.

A. PROCEDURE

1. The Commission should hold an initial meeting for the purpose of discussing these procedures and standards, and of informing itself about the United States District Court, the nature of its business, and the Court's particular needs for certain backgrounds or expertise. The Chief Judge of the District Court should be invited to meet with the Commission to discuss these matters. Such other persons may be invited to discuss the business and needs of the Court as the Commission may desire.

2. Public notice of the vacancy on the United States District Court for the District of Utah should be given by the Chairperson of the Commission by transmitting a written notice to all bar publications, legal newspapers and other newspapers with substantial circulation in the State of Utah. The Commission may give such other publicity of the vacancy as it considers desirable. The notice should be in the form attached to these instructions.

3. The Commission should not limit its consideration to the names which come to it, but the Commission should also seek out names of likely judicial prospects by inquiries to lawyers, law professors, judges, and citizens. However, no member of this Commission should be considered for selection.

4. Each person to be considered by the Commission should be sent a copy of the questionnaire, with the covering letter (as shown in the attachment to these instructions) as well as a copy of the notice of vacancy. If a person does not return the questionnaire, fully completed, by the date specified in the covering letter, the Commission shall not consider that person.

5. The Chairperson shall preliminarily screen the completed questionnaires and recommend to the Commission those who are not sufficiently qualified to merit further consideration under the standards stated hereinafter. The Commission may adopt additional procedures for preliminary screening in order to identify qualified prospects. The Commission should make such inquiries and obtain such information as to persons who are to be considered further as it deems necessary to form a sound judgment whether, or to what extent, those persons meet the standards.

6. After the Chairperson's preliminary screening and such further screening as the Commission may undertake, the Commission shall decide upon those persons it desires to invite for personal interview. No person shall be placed on the list transmitted to the President without a personal interview participated in by a majority of the Commission.

7. The Commission may devise its own internal procedure for selecting the names to be transmitted to the President. But the following guidelines should be observed:

(a) Discussion among Commission members should be of sufficient duration to ensure that the relevant qualities of the qualified prospects are known and evaluated.

(b) Each person whose name is recommended to the President must be approved by not less than six (6) members of the Commission and no name shall be placed on the list for transmittal to the President unless a majority of Commission members deems the individual to be well qualified to be a federal district judge under the standards set forth hereinafter. Methods of voting and deciding on the names to be submitted shall be under procedures determined by the Commission.

(c) A list of the names, in alphabetical order, of the most qualified persons shall be submitted to the President. The list must contain the names of at least three (3) persons but shall not contain the names of more than five (5) persons, who a majority of the Commission members considers to be sufficiently well qualified to be a federal district judge.

8. The Commission's Report to the President shall be in writing over the signature of the Chairperson, and shall be transmitted to the Associate Attorney General, Room 5133, U.S. Department of Justice, Washington, D.C. 20530. The Report shall be mailed no later than May 15, 1978. A suggested timetable to enable the Commission to meet that deadline is attached. At the same time the Report is submitted to the President, a copy of the list of names submitted in the Report shall be forwarded to each member of the Utah Congressional delegation.

9. The Commission's Report to the President shall be accompanied by information which the Commission has assembled on each person recommended. A completed questionnaire on each person recommended shall be included with the Report.

10. All information, and its sources, concerning any prospective nominee shall be kept confidential by Commission members, except that the President, or his representative, may request and obtain from the Commission any information it has about any person on the list of recommended nominees. At the time the list of recommended nominees is transmitted to the President, the Commission, acting through the Chairperson, shall send a letter to each person who submitted a completed questionnaire informing that person whether he or she is on the recommended list. Commission members should not otherwise reveal to anyone, except as provided in Paragraph A8 hereinabove, the names of the persons recommended to the President. Formal announcement of the names recommended to the President by the Commission shall be made jointly by the Utah Congressional delegation.

11. Unless otherwise stated, any function assigned to the Commission may be performed by one or more of its members on behalf of the full Commission, if so directed by a majority of the Commission.

12. Thirty days after the submission of its Report to the President and transmission of letters to all prospective nominees for whom completed questionnaires were received by the Commission, the work of the Commission shall be deemed completed, the Commission shall be disbanded and the service of Commission members shall be concluded. However, all matters considered by the Commission shall remain confidential upon disbanding of the Commission except as otherwise set forth hereinabove.

B. STANDARDS

The Commission shall be guided by the following standards in evaluating qualifications of proposed nominees to be recommended to the President.

1. *Integrity and Good Character.* A proposed nominee must be, and must have a reputation for being, ethnical and honest (intellectually, professionally, and financially) and must be well regarded in the community as a person of integrity and good moral character.

2. *Sound Physical and Mental Health.* A proposed nominee must be physically and mentally capable of sustained work on difficult intellectual problems. The person must be free of physical, mental, or emotional difficulties which could impair such capability.

3. *Outstanding Legal Ability.* A proposed nominee must be a member in good standing, of the bar of the State of Utah and must have a demonstrated professional competence, which includes ability to deal with complicated legal problems, aptitude for legal scholarship and writing, familiarity with state and federal courts and their processes, and substantial experience in the law. The Commission should not confine its consideration to persons in any one type of legal work but should seek out and consider a wide range of prospects in all segments of the practicing bar, in government service (including local and state court judges) and on law school faculties. Whatever the background, an individual must have demonstrated industriousness and a high level of competence in the law and be well regarded professionally by other lawyers.

4. *Legal Experience.* Experience or particular relevance may have been acquired in the following areas: (a) substantial appellate experience as a lawyer or judge; (b) substantial trial court experience as a lawyer or judge; (c) substantial federal law mastery as demonstrated by teaching or by professional association with public or private offices dealing extensively with federal law; (d) substantial legal writing with relationship to federal law; (e) substantial experience in judicial education or law reform activity of a highly professional nature, with some correlation to federal matters. Generally, experience in at least two of these areas is required. In cases of substantial and outstanding service as a judge, experience in one of these areas would be sufficient.

5. *Judicial Temperament.* A proposed nominee must be, and must have a reputation for being, fair and impartial, open-minded, and even-tempered, and a qualified nominee must have the ability and temperament to work together with fellow judges, to be courteous and considerate of jurors, parties, witnesses, counsel, and court personnel, and also to work for long periods in relative isolation. The person should be free of biases against any class of persons or any religious or racial group.

6. *Disqualifying Factors.* The Commission shall eliminate from consideration any person who has been convicted of a felony or a misdemeanor other than a minor traffic violation or juvenile offense, who uses alcohol excessively, who uses narcotics, who has been guilty of professionally unethical conduct, or who is not a citizen of the United States. A person who has less than 15 years of legal experience or who is over 60 years of age should be considered only in unusual circumstances or whose qualifications are exceptionally meritorious.

7. *The Demands of District Court Judging.* In applying the aforementioned considerations, the Commission should be mindful of the nature of the position to be filled. The task of a district court judge in contemporary society is intellectually and physically demanding. The federal district courts carry very heavy caseloads. The duties of a district judge require long hours of presiding over trials and hearing oral argument on motions, and of reading large quantities of briefs, records, judicial opinions, scholarly articles and books. The job requires an analytical mind capable of dealing with masses of factual data and legal authorities.

A district judge must have the composure and ability to decisively make fair and legally sound rulings without prior preparation in issues which arise in the course of a trial. At the same time, since many decisions of a district judge are expressed in written opinions, which must be constructed with clarity and precision, good writing ability is also important.

A district judge comes into regular contact with lay persons as well as lawyers. Thus, the stature of and respect for the federal system of justice will be a function of the demeanor and fairness of a district judge. It is important that his or her patience, evenhandedness, and courtesy to all be constant and clear.

A judge is bound to apply the law objectively in deciding the controversies that come before him, but the law is not always clear in a particular case. A district judge, therefore, must sometimes formulate or shape legal rules. Thus, a person's general sense of values and outlook on society are significant factors for the Commission to take into consideration, as they will bear on the soundness of the decisions that person must make as a judge. A belief in the fundamental premises of the United States Constitution is essential. Since a judge is charged with doing "justice under law," a person's instincts for justice and injustice may properly infuse his decisions as a judge, and the Commission should consider these qualities. Finally, a quality of great importance is "wisdom," the product of an enlightened, intelligent mind, seasoned by experience.●

THE NATIONAL ACADEMY OF RECORDING ARTS AND SCIENCES

● Mr. CRANSTON. Mr. President, I call attention today to a distinguished nonprofit national organization, founded in the State of California, which has served over the years as a powerful and invaluable force in the recording field, the dominating segment of the entertainment industry. I refer to the National Academy of Recording Arts and Sciences (NARAS).

In 1977 the recording academy marked the centennial of the development of recorded sound by paying special tribute to Thomas Edison, America's great scientist and a pioneer in the development of the phonograph. This year the academy is itself celebrating a milestone, the completion of two decades of service and dedication to the advancement of the recording field. The occasion was recently observed by the presentation of the 20th annual "Grammy Awards Show" on February 23.

There is a common, inseparable bond between pioneers in recorded sound such as Thomas Edison and the recording academy. The academy devotes itself to preserving the artistic integrity of the recorded sound made possible by Edison's genius. His invention helped make possible a significant contribution to the world's culture and heralded what has emerged as a worldwide multibillion dollar recording industry, much of it based, I am proud to note, in my home State of California. The academy was established to advance the arts and sciences of recording.

The academy was born in 1957 because a small group of concerned individuals believed that the artistic creativity in producing records deserved as much recognition as the commercial success records may enjoy. It was formed by recording artists, composers, and other creative people to foster creative leadership for artistic, cultural, educational, and technical progress in the recording field and to recognize, encourage, and reward excellence.

The academy has grown from a mere handful of members to an organization which today is composed of more than 5,000 persons creatively involved in the field of recording and enrolled in one of the academy's seven chapters in major music centers in the United States. It is internationally known for its coveted Grammy Awards. The chief aims of the awards, conferred for outstanding artistic and technical achievements are to recognize excellence and to encourage even higher standards for creative and technical efforts, as well as to make the public aware of the cultural contributions of the recording industry.

Named for the old-fashioned gramophone, the Grammy, the most prestigious award in recording, is unique in several respects. It is the single award which is voted upon only by those who are directly and creatively involved in the producing of records. It is truly an award which is given to artists by their peers, who include singers, conductors, producers, songwriters and composers, engineers, musicians, arrangers, spoken word and comedy participants, and album cover art directors and writers of album notes.

Moreover, the Grammy Award is different from all others in that it is not only a music award. It honors accomplishments throughout the broad scope of recorded sound: Popular, including rock, folk, country, jazz, rhythm and blues, classical, ethnic and religious music, as well as the spoken word, including documentary, comedy, dramatic reading and children's records.

Grammy Award ceremonies have been held each year since 1959 and since 1971 they have been televised live on national networks. The "Grammy Awards Show" is now an annual, prime-time network special, telecast live and reaching an estimated international audience of 55 million viewers. It is today one of the most important and most anxiously awaited yearly events in the entertainment world.

While the recording academy may be best known for the Grammy Awards, it

engages in numerous other wide-ranging professional and educational activities which are vital to the advancement of recording.

The NARAS Institute, named for the academy's initials, is sponsored by the academy. It encourages, creates and implements recording and music courses in institutions of higher learning and has established grass roots programs aimed at familiarizing students and other interested individuals with the creative and commercial aspects of the recording field. The institute produces symposia, as do the individual chapters, that enable educators and recording executives to hold indepth discussions of subjects of mutual interest. The institute also examines a college's or university's program in the recording field upon request and offers accreditation to such programs meeting its criteria.

Another area of the academy's activities centers around its hall of fame, which was established in 1973 to honor recordings of lasting, historical, or qualitative achievements released before inception of the Grammy Awards in 1958. The hall of fame facility, to be constructed in Burbank, Calif., and scheduled to be opened to the public upon completion, will be an entertainment and educational attraction of national scope. It will house the hall of fame awards, related artifacts, recording and research libraries, and rare collections of recordings and record players. Unique exhibits and demonstrations will help to increase public awareness and appreciation of the recording field's vast creative and technological contributions to our American culture.

Because recordings so richly enhance our lives, the academy performs a role of critical importance in fostering the artistic and technical progress of the recording field. To this end, the academy's function and goal can be best summed up by its credo:

We, the National Academy of Recording Arts and Sciences, dedicate ourselves to the advancement and enlightenment of the recording industry. We pledge ourselves to foster creative leadership for artistic, cultural, educational, and technical progress; and to give formal recognition to high artistry and craftsmanship in the recording field. As artisans and spokesmen for our industry, we shall pursue the highest standards for our respective fields and strive together for the attainment of excellence overall.●

EX-NEW YORKERS FOR NEW YORK

● Mr. MOYNIHAN. Mr. President, I should like to call the attention of the Senate to a new and promising organization called "Ex-New Yorkers for New York." The impulse behind it is both simple and honorable: the "special passion," as Colman McCarthy termed it in Saturday's Washington Post, that practically everyone who has ever lived in New York feels for that great city. In the words of founder Anita Epstein, "We are determined to fight the 'drop dead, New York' syndrome" that is encountered in some quarters of late. The millions of ex-New Yorkers, and descendants of New Yorkers, now domiciled in every corner of the nation have long needed a unified voice on behalf of a single, central proposition: that, as I put it in a recent address to the White House Conference on Balanced Growth, "New York is the capital city of the Western world. . . . If New York City should go bankrupt, none of the other things we are talking about at this conference will matter. . . . Worse, it will be, and will be seen to be, a failure of democratic government of an altogether ominous degree."

Ex-New Yorkers assembled in this new organization are sending a loud and important message to the Nation: More people care about New York City than one might suppose; far more than only those who live there.

I shall submit Colman McCarthy's column for the RECORD at the conclusion of these remarks. I should also like to take this opportunity to salute Anita Epstein—who has devoted her considerable talents and a great deal of time to the formation of this group. Herself a refugee from foreign oppression, her tireless efforts on behalf of the city that gave her sanctuary—as it has for so many past and present Americans—bespeak a gratitude and dedication that is all too rare. I would like to congratulate her, and the many ex-New Yorkers who have joined, on the group's promising start. I would also like to alert other ex-New Yorkers to a forthcoming opportunity to join with her in an organizational meeting—and celebration of New York—on Wednesday evening, April 19, at 8 p.m. at Georgetown University's Copley Hall.

The article follows:

[From the Washington Post, Apr. 1, 1978]

EX-NEW YORKERS AND THEIR SPECIAL PASSION

(By Colman McCarthy)

In her whimsical poem "Valentine for New York," Phyllis McGinley wrote:

Tumultuous town, absurd and thunderful
I think you're wonderful . . .
I like you real. I love you when you're phony.
In other words, no matter where I gad about
You're what I'm mad about.

Despite poets, madness for New York by its gadding children has never been measurable. But it may soon be organized. Anita Epstein, a resourceful Silver Spring resident who spent most of her early years in Brooklyn after fleeing from Hitler's Europe, has formed Ex-New Yorkers for New York. It is a non-profit group that seeks, first, to rally the affection of the city's near and far-flung natives and, second, to make their voices heard in the current debate on New York's financial future. At the moment, Congress is considering legislation that would provide federal guarantees of $2 billion in long- and short-term securities. The current program of loans expires June 30. When one bill was introduced last week, its sponsor, Rep. William Moorhead (D-Pa.), said nervously that although his subcommittee would give quick approval, opposition in the full House and Senate was wide and strong.

Epstein wonders about that opposition. How can so many in Congress, she asks, fulminate against New York City when their own districts contain large numbers of ex-New Yorkers? She speaks of cities like Miami, Los Angeles, Washington, Chicago, Atlanta and others as almost suburbs of New York. New York University, she reports, has an out-of-town alumni list of 116,000. The figures are similar for the city's other major schools.

In the three months since founding her organization, Epstein has learned that "feelings for New York by ex-New Yorkers is not a just a nostalgia thing. These are people—from all five of the boroughs—who feel a profound sense of debt. They recall the total richness of their lives in New York. Maybe it was the $7.50 a semester at City College, or the ethnic neighborhoods and their bakeries and delis, the museums or even just the merry childhood days of stickball in the streets".

In organizing her membership group, Epstein says that "we are determined to fight the 'drop dead, New York' syndrome." The timing is opportune. Not only has New York not dropped over in urban deadness, but the evidence suggests that new life is returning. According to Senate testimony by Treasury Secretary W. Michael Blumenthal, "New York has made major progress to improve its financial condition. Indeed, every step that it pledged to take, in discussions before Congress in 1975, has been taken." Blumenthal was not offering mere boosterism; the current legislation—the Seasonal Loan Act—has produced a profit for the federal government of $30 million.

Epstein lacks hard figures on the exact number of ex-New Yorkers around the country. But she can document that New York is a truly national city. From 1974 through 1976, she says, 18 New York City museums lent works of art to 322 cities and towns in 46 states. Some 28 performing-arts groups from New York toured 501 cities in 46 states. More than 300 book publishers deal with sellers in every state. Those are some of the exports. Imports also tell a story. According to the Rubin Management Company, one of several New York office and apartment builders, its last venture—a $10 million apartment building in midtown Manhattan—meant buying ceramic tile from Alabama, air conditioning compressors from Wisconsin, gas ranges from Tennessee, steel from Pennsylvania and refrigerators from Kentucky.

In this newest go-round on New York's future, such business-oriented groups as the Association for a Better New York and the Coalition for New York appear to be better prepared to lobby for emergency help. Although Congress is accustomed to hearing from the powerful, sometimes it is more swayed by citizen groups like Ex-New Yorkers for New York. The latter catch fire by the combustions of emotion, pride and, in this case, roots. In the current membership drive (for $4.98, at Box 7, Silver Spring, Md. 20907), Epstein is finding that ex-New Yorkers tend to be effusive when sending in letters—telling her stories about the old neighborhoods and the old ways. Her goal now is to organize that effusiveness into a social force, and to make the case that more people than is realized have positive and passionate feelings about New York. To offer some support to New York is to offer full support to those feeling, all of them human and wholesome.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Are we now on the treaty?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, the remarks I am about to make have the purpose of setting the record straight, dating back to a rather lengthy discussion that occurred on this floor during the debate on the Neutrality Treaty.

I offer these remarks so that they will appear in the RECORD, and, therefore, be available to anyone who may want to reach the facts involved in a discourse by my good friend and able colleague, the distinguished Senator from Alaska (Mr. GRAVEL).

It was early in March, as I recall, Mr. President, that Senator GRAVEL spoke at some length on this floor relating to the world's total shipping tonnage, especially oil shipping tonnage, that, according to him, cannot transit the Panama Canal.

The able Senator stated that 44 percent of bulk cargo tonnage cannot use the Panama Canal.

At that time, Mr. President, in the friendliest sort of way, the Senator from North Carolina challenged the point the able Senator from Alaska was attempting to make, and there were others in this Chamber who similarly made comments in rebuttal to the Senator's point. Going into this matter at some length, as I say, I think the record should be set straight.

In his remarks, the able Senator from Alaska put the oil shipping tonnage at 76.5 percent, which he described as a "stunning figure." Then he went on to say that "37 percent of all the tankers cannot go through the Panama Canal but that 37 percent represents 76.5 percent of the tonnage of oil carriers in the world."

"We are here debating," the Senator exclaimed, "and literally ripping our guts out, ripping the national fabric with, I think, our false emotion over something that has changed on us and we are not even aware of the change."

The able Senator, on March 1, produced charts, which were placed around the Chamber, indicating a projection of figures meant to demonstrate that the Panama Canal is becoming more and more obsolete.

He cited as his source "a research house that handles brokerage for the world's maritime fleet * * * a charter company out of Oslo, a firm called Fearnley and Egers Chartering Co."

The distinguished Senator said his figures were developed in the last 30 days.

The Senator used as a basis for his argument President Johnson's Interoceanic Commission projections on transits and tonnage through the Panama Canal. He showed us that the projections were in error on transits but essentially correct when it came to tonnage.

From this the Senator concluded that tonnage is what counts, not ship transits through the canal, and he went on from there. Well, this Senator from North Carolina agrees with the Senator that it is tonnage that counts. But he insists that it is cargo tonnage specifically intended to transit the canal, not all the cargo afloat on the high seas going somewhere else.

Well, from this point on the distinguished Senator from Alaska took a course of argument that went farther and farther from the mark and, unfortunately for his cause, proved nothing.

He sought to support his cause—ratification of the treaties—by stating that the increasing capacity of world maritime tonnage construction demonstrates the rapidly increasing obsolescence of the Isthmian waterway.

Mr. President, let me respectfully explain the method followed by the distinguished Senator from Alaska and then show how he was wrong in his conclusions.

He said he wanted to show what has taken place from 1961 to the present regarding construction of bulk carriers in the world. I quote the Senator's formula in his own words:

> We count the vessels that are on the seas, we measure their weight and just ask ourselves how many of them could go through the Panama Canal.
>
> Then when we get a figure and percentage, we can determine the rate of obsolescence of the canal, and now it is 57 percent obsolete in world maritime terms.

Then, Mr. President, my distinguished colleague from Alaska gave in quick succession this set of figures and his conclusion. I am quoting the Senator again. I might say parenthetically, Mr. President, that he was using a chart at that point. He proceeded to say:

> I took one-third of what had happened, and I am pointing to this line of decline. In 1966, 89.59 percent of the world tonnage was able to use the canal.
>
> In 1977, 42.20 percent of the world tonnage was able to use the canal. In 1986, only projecting one-third of past experience, 29.24 percent of the tonnage will be able to use the canal. In the year 2000, 7.64 percent of the world tonnage will be able to use the canal.
>
> As a lay person—and I am not a great statistician—but, as a lay person, I would say if that projection, very conservatively made, would hold true, that by the time we, as we would say, "Give back the canal to the people of Panama," that we would give them back a sucked dry lemon.

Mr. President, the Senator from Alaska gave us the names of other sources, official and private, which would back up his figures. He cited the U.S. Maritime Administration, and "Drury of London," which he stated he visited.

The distinguished Senator said, when he had copies of his charts passed out on the floor, that there was a possibility that some of his colleagues might want to dispute his presentation. He said very sincerely, I am certain, these words:

> . . . I hope they will study it, because if I am presenting something which is in error it should be exposed. These data are very, very important to these deliberations. If these data are wrong I think I should be called on the carpet for that.

Well, I am not calling my good friend from Alaska on the carpet, but I do feel obliged, even at this late date, to set the RECORD straight.

In any case, a bit later on, my distinguished colleague, obviously completely convinced by the conclusion he drew from his statistics, declared:

> I really would encourage the national conservative community that has chosen to make this issue of Panama their cause celebre, and I challenge them, to dispute these figures because the computations are not difficult . . .
>
> To me, it is almost unbelievable, but once the figures are there, we have to just accept them.

Well, Mr. President, obviously some of our colleagues not only accepted the figures of the Senator from Alaska, but also his conclusion as to the indicated proof of the canal's growing obsolescence. The distinguished Senator from Idaho (Mr. CHURCH) declared:

> But no one, I think, could argue with the proposition that the figures themselves, if accurate, are stunning.

And Senator CHURCH went on to take to task those of us opposed to these treaties in the following words:

> Now, this has led the opponents of the treaty to say something I never expected to hear them say: "Let us not give this white elephant to the Panamanians; it would not be fair. Let us keep it for ourselves."

To which, Mr. President, the Senator from Alaska, who had presented the argument for the waterway's obsolescence, replied, "Maybe we could put it in the Smithsonian." And there was great laughter in the Chamber.

Mr. President, that is why the Senator from North Carolina is speaking this evening, at 5:30, not because any Senators are present or many people are in the galleries, and certainly not because the news media will cover this in any way, but just so there will be a record showing that the able Senator from Alaska (Mr. GRAVEL) missed his mark completely.

The Senator from North Carolina disputes the presentation of the Senator from Alaska. I suggest that what is "stunning," to use Senator GRAVEL'S words, is not only the set of figures which the Senator from Alaska presented to us, after chasing them down in Oslo, Norway, and London, England, and Washington, D.C. What is stunning is that any figures on maritime construction tonnage can be used in an erroneous formula that has no basis to lead U.S. Senators and the American people to believe that the Panama Canal is an obsolescent white elephant and that by the year 2000 it will be, as Senator GRAVEL characterized it, a "sucked dry lemon."

Maybe it is equally stunning that any of my distinguished colleagues could be impressed by such an argument.

With all due respect to my colleague I must say that the Senator's formula is just about as worthless as those of any alchemist who ever sought to turn lead into gold.

The able Senator is very concerned, and correctly so, that oil from his State of Alaska gets to the refineries in the

Lower 48 as rapidly as possible. Royalties to his State government are in inverse proportion to the costs involved in that delivery.

Suffice it to say at this point, Alaska would profit more if very large and ultra large cargo carriers—the oil carrying supertanker VLCC's and ULCC's—could transit the Panama Canal. Certainly the current method of lightering the Valdez VLCC's west of Panama and hauling the Alaskan oil through the canal in smaller tankers to gulf and east coast ports is more expensive and directly diminishes royalties to Alaska.

But I believe this Alaskan-oriented concern of the good Senator from that State has obscured his understanding of another fact of maritime shipping life namely, that except for Alaskan oil, only a very small portion of the world's oil passes through the Panama Canal.

Only a small percentage, Mr. President, of the world's shipping tonnage has any need to transit the Panama Canal, because of the simple facts of geography and economics.

The Senator from Alaska obviously overlooked one overwhelmingly important factor in determining what I believed to be his erroneous formula for calculating the obsolescence of the Panama Canal.

That factor, Mr. President, of course, is the matter of trade routes.

Inasmuch as the able Senator from Alaska admits that the majority of maritime shipping tonnage other than oil tankers can transit the Panama Canal, I shall, in my remarks in refutation of his argument that the canal is growing more and more obsolete, emphasize the circumstances of seaborne oil shipping tonnage.

Senator GRAVEL, to put it frankly, failed to take this matter of trade routes into consideration.

He is within the ball park on the figure of 76.5 percent of the world's tanker shipping tonnage that cannot transit the Panama Canal.

By the way, Mr. President, the Senator from North Carolina did not go to Oslo or to London for my material, but I just went right across the street to the Library of Congress and its Congressional Research Service, and I also checked with MARAD and the American Petroleum Institute right here in Washington, D.C., and I have in hand a copy of an oil route map which I will be glad to make available to any Senator who is sufficiently interested in studying the map.

As this map clearly demonstrates, the oil routes of the world simply do not utilize the Panama Canal. In fact, they do not even utilize the Suez Canal. Each route of seaborne oil movements is determined very simply by the location of a producing field at the point of origin and a refinery at the point of destination.

I do not need to point out to the distinguished occupant of the Chair that man did not decide where oil is to be found in this world. God put the oil in certain regions, and man has built refineries in certain places, and oil routes on the high seas follow the major routes as shown on a map from Exxon's spring, 1975 issue in its house organ, "Lamp."

The map was reprinted from the Oil and Gas Journal which is published in Tulsa, Okla., and I believe I am correct in saying that its data is from year's end 1974. I am delighted to have this map, which is available to any Senator who asked for it.

Mr. SARBANES. Mr. President, will the Senator yield for just a question?

Mr. HELMS. Yes.

Mr. SARBANES. I just want to know if the map contains the routes in 1975. The point the Senator is making is an interesting one.

Mr. HELMS. I am glad to furnish the map.

Mr. SARBANES. He did make reference to Suez. I want to get the date because obviously the Suez route was broken when the Suez Canal was closed, although that does not affect the thrust of the point he is trying to make with respect to the Panama Canal. If I could get the date it would be helpful because I think Suez as long as it was open was an important route for the movement of oil.

Mr. HELMS. The date is year end 1974.

Mr. SARBANES. Yes. All right.

I thank the Senator.

Mr. HELMS. I will be delighted if one of the pages will hand the Senator this map. He may find it of interest while I proceed.

I thank the Senator for his question.

As I believe the Senator will agree, this map is worth perhaps many thousands of words on this subject because an examination of the map provides a clear picture that the major oil sources, the Arabian Gulf, North and West Africa producing areas are on the other side of the world from the United States, so it is obvious that direct routes going east or west from that part of the globe do not require use of the Panama Canal. We do not see a single route on this map through that waterway, the Panama Canal, because the quantity through the canal is so small.

The oil people would like to use the Suez Canal, but it is not possible for the ULCC's and VLCC's to transit the Suez Canal when these vessels are loaded. Some of them can pass through in ballast, but not with a payload. At its narrowest, the Suez Canal is almost five times as wide as the Panama Canal locks, and, of course, the Suez has no locks whatever to restrict tanker size.

So, that was the source of my difficulty in understanding the point of the Senator from Alaska that day about a month ago, and that is the reason I found it strange that in the erroneous argument for the Panama Canal's obsolescence no mention was made of the Suez Canal having the similar inability to transit the supertankers.

I may be burdening the subject, Mr. President, but I ask the indulgence of Senators.

Venezuela once was the major source of U.S. imported crude. But as the route map shows clearly, that oil, too, does not need the Panama Canal to get to the United States.

Upon inquiry, the Maritime Administration informed me the major routes of the supertankers plying the high seas are the following. And I believe this pretty well conforms to the information contained in the map which I just shared with the able Senator from Maryland.

In any case, from the Arabian Gulf to the United Kingdom and the European Continent; from the Arabian Gulf to the East, Japan, and so forth; from the Arabian Gulf to the Caribbean and East Coast of South America; from West Africa to the same three destination areas above; and from the Mediterranean to Brazil, and so forth. North Africa is a source region.

The Caribbean to U.S. gulf coast is not now considered a major route.

Of course, the route from Alaska has only opened up in the past few months. While it might be considered to be becoming a major route, it in no way changes the oil flow routes elsewhere. It could begin to affect quantities coming to the States from elsewhere when North Slope production helps to meet our energy needs more adequately, but not the routes themselves.

The point is that, again, the major world routes traveled by the supertankers do not pass through the Panama Canal. So the entire exercise pertaining to the "stunning,"—and I use the word used by the able Senator from Alaska—76.5 percent of the world's oil shipping tonnage that cannot transit the canal simply has no bearing on the Panama Canal and its alleged obsolescence.

Alaskan oil shipping tonnage must be considered separately, but as long as North Slope oil is consumed exclusively by the United States, it will not make the slightest change in the routes plied by supertankers delivering from other sources to destinations outside the United States.

Mr. President, a second fact depicted on this route map of oil movements by sea is the quantity of oil carried to the various refinery destinations. Those quantities are indicated by the width of the route paths.

This tonnage, cargo tonnage—the actual amount of oil hauled—is what really matters.

Mr. President, I ask unanimous consent to have placed in the RECORD at this point a table which shows quantities of oil moved across the seas in thousands of barrels per day. The table gives substantially what the map demonstrates.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED MAIN SEABORNE OIL MOVEMENTS

To	North America: Western Europe	North America: East coast [1]	North America: West coast	Japan	Other Far East	South America: East coast [2]	South America: West coast	Africa [3]	Others	Total world
From—										
Middle East:										
Gulf	8,860	1,420	260	3,700	2,120	1,100	20	620	260	18,360
East Mediterranean [4]										
Africa:										
North	1,420	480	20	60	20	180			40	2,220
West	940	860	20	60		220		40		2,140
Latin America:										
Caribbean	440	3,560	60			60	20			4,140
West coast			60			20				80
Southeast Asia	20		400	[5] 880	120		120			1,540
Soviet bloc	960	40		20	40	200		20		1,280
Western Europe	240	100						40		380
Canada	20	80								100
China				160						160
Others [6]			120	40	20	20	20			220
Total world	12,900	6,540	940	4,920	2,320	1,800	180	720	300	30,620

[1] Includes Canada and imports into North America via transhipment terminals.
[2] Includes Caribbean Sea.
[3] Mostly South Africa.
[4] Includes shipments via Red Sea-Mediterranean pipeline.
[5] Includes 40,000 barrels per day from Australia.
[6] Includes Alaska and the United States, west coast.

Source: H. P. Drewry (shipping consultants) Ltd., London.

Mr. HELMS. A quick calculation tells us that less than one-third of the world's oil moved by sea even comes into the Western Hemisphere.

At the very outset, then, regardless of the total amount of oil-carrying tonnage plying the high seas or being built in the world's shipyards—and here is the basic error of the Senator from Alaska—more than two-thirds of the crude oil shipped is not even destined for the Americas.

Clearly, the Panama Canal is never going to be proved obsolescent by the formula used by the distinguished Senator from Alaska on this floor.

Mr. President, this table is "Estimated Main Seaborne Oil Movements," published on page 337 of the International Petroleum Encyclopedia for 1977, and it cites as its source H. P. Drewry (Shipping Consultants) Ltd., London.

The Senator from North Carolina assumes that this is the same firm the distinguished Senator from Alaska visited in making his two-continent search for oil tonnage statistics.

If Senators will look at the table they will see source areas listed vertically at the left, and destination areas listed horizontally across the top.

If we add the bottom line figures in the four coluumns for the East Coast and West Coast of both North America and South America, we come up with 9,460,000 barrels per day shipped to the Western Hemisphere.

The last vertical column on the right gives the world total seaborne oil movements as 30,620,000 barrels per day. Since not even 10 million barrels a day come into our hemisphere it is immediately seen that less than one-third of the world's total oil production comes to the Americas.

Mr. President, the percentage is only 30.9 percent.

We see, then, that practically 70 percent of the world's oil goes by direct routes to the Old World, and does not even come close to the Panama Canal.

Mr. President, neither the map nor the table indicates what percentage of the world's shipping cargos crude oil comprises.

However, I have determined it for the year 1974 from two sources furnished by the Library of Congress:

Statistical Yearbook, 1976, published by the United Nations Department of Economic and Social Affairs, sets forth on page 63 figures for total world commerce given in long tons of cargo unloaded annually. For 1974 the figure reported was 3,204,000,000 long tons.

B. P. Statistical Review of the World Industry, 1974, published by British Petroleum Co., Ltd., London, shows seaborne crude oil tonnage for 1974 to have been 1,655,800,000 metric tons. That converts to 1,629,307,200 long tons of crude oil.

Thus we see, Mr. President, that in 1974, crude oil carried on the high seas amounted to 50.85 percent of the world's maritime cargo total.

Over one-half of the ocean cargoes was crude oil.

This means that the 30.9 percent of the world's crude which we have determined was destined for the Americas is the equivalent of but 15.71 percent of the world's total commerce.

This demonstrates even more clearly, Mr. President, that the so-called "stunning" figure of 76.5 percent—the percentage of the oil shipping tonnage that cannot transit the Panama Canal postulated by the Senator from Alaska—has practically nothing to do with the realities of the Western Hemisphere and the Panama Canal.

The Senator from North Carolina now will take a moment to pinpoint what did come to the United States via that canal in 1974, the year for which our route map took its data. My source is volume 3 of "A Long Term Forecast of U.S. Waterborne Foreign Trade" published by Department of Commerce, Maritime Administration.

The United States is served by some 31 international trade routes. Basically, only two of these routes take crude oil through the Panama Canal. In 1974 only one of them did, route No. 17—identified as U.S. Atlantic, Gulf and Pacific/Indonesia, Malaysia, Singapore. In 1974 the United States imported a total of 11,733,846 long tons of crude petroleum via that route. At a conversion factor of 7.4 barrels per long ton of that gravity oil, it amounted to 86,830,460 barrels.

The American Petroleum Institute in its "Annual Statistical Review, Petroleum Industry Statistics, 1965–1974," citing the U.S. Bureau of Mines as its source, reported the figure of 3,477,000 barrels of foreign crude imported daily into the United States in 1974. That made for an annual total of 1,269,105,000 barrels that year.

Since we imported through the Panama Canal a maximum of 86,830,460 barrels via route No. 17, we find that only a maximum of 6.8 percent came into the United States via that waterway. I say maximum, because route No. 17 carries crude direct to our Pacific Coast where, I am told, the largest portion of it is unloaded for our Western refineries, before passing through the canal. I do not have the precise breakdown.

Therefore, considerably less than the 86.8 million barrels came on to our Gulf and East Coast refineries.

In any event, Mr. President, it is shown by these figures that at the very most, only 6.8 percent of the oil imported in 1974 could have come through the canal to the United States. The actual percentage is, of course, very much less.

Oil from abroad does come through the canal in some years via route No. 24—identified as U.S. Pacific/East Coast South America. However, at least since 1973 it has been much less than by way of route No. 17.

The Senator from North Carolina is not anxious to get into the projection business to the same degree as the distinguished Senator from Alaska. But he will quote the predicted figure for the year 2000 for both routes as forecast by the Maritime Administration in the study being quoted.

They project 30,893,248 long tons, or 228,610,035 barrels, will be imported via route No. 17, and 18,686 tons, or 138,276 barrels via route No. 24.

Such increasing figures, of course, do not in any way support the obsolescence of the Panama Canal by the year 2000 that my good friend the distinguished Senator from Alaska is predicting for us.

Mr. President, the Senator from North

Carolina believes that some other comparisons will help us see the error in the formula by which the Panama Canal is supposed to be proven obsolescent—and worthy only of a niche in the Smithsonian.

Let us look at the world's deepwater ports and their facilities.

First and foremost, the United States does not have a single deepwater port capable of receiving oil from the ULCC's and the VLCC's. MARAD considers a deepwater port to be a natural port capable of handling upward of 150,000 deadweight tons. That is further defined as summer deadweight.

Valdez, Alaska, of course, could qualify, but we all know it exports oil, and does not receive oil.

MARAD informs me that in the entire world there are only a total of 151 such ports. Of these, 118 can take oil, and 33 take dry bulk—grain and the like.

There are only 10 natural deepwater ports in the entire Western Hemisphere that can accept both VLCC's and ULCC's. These all take oil and are listed below:

Freeport, Bahamas; South Riding Point, Bahamas; Aruba, Netherlands West Indies; Curacao, Netherlands West Indies; Bonaire, Netherlands West Indies; Trinidad; St. Croix, Virgin Islands; Sao Sebastiao, Brazil; Point Tupper, Nova Scotia; and Come By Chance, Newfoundland.

On the very face of it, Mr. President, the bulk of the world's tankers—the majority of them—are not likely to be traveling to such a small number—a minority—of the ports capable of receiving their oil.

If we include Valdez as the 11th Western Hemisphere deepwater port, we find that of the 118 oil receiving deepwater ports around the globe, the entire New World has but 9.32 percent of all the deepwater ports in the world.

U.S. deepwater offshore ports that are to be built, such as the Louisiana offshore oil port—the so-called LOOP—are still in the offing.

But even when they are in operation, supertankers carrying oil from any likely source but Alaska still will not need to utilize the Panama Canal.

Mr. President, let us look at another fact of shipping life.

The Senator from North Carolina could quote numerous sources to show how for several years in the past, many, many tankers remained idle. The American Petroleum Institute informs me even as high as one-third of the tonnage has been idle. Again, the Senator from North Carolina wants to emphasize that cargo tonnage is what is important. If there is no cargo tonnage to be hauled, the supertankers' own tonnage counts for naught, whether they could transit the Panama Canal or not. Clearly, the Senator from Alaska made no provision for idle ship tonnage in his fallacious formula.

Mr. President, it seems that while in Oslo, the Senator from Alaska failed to pick up some very important figures from Fearnley & Eger's Chartering Co., Ltd. Or, if he got them, he subsequently failed to use them in his projections.

The Senator from North Carolina has discovered that figures from that firm have been utilized by the Organization for Economic Cooperation and Development—the OECD—to show the average deadweight tonnage of the world's existing fleet of vessels of various classes, and the average deadweight tonnage of vessels on order in those various classes.

Mr. President, the Fearnley & Eger statistics for vessels on order, show that, as of January 1 for each year, the trend from 1974 to 1977 has been just the opposite of that which the Senator from Alaska seems to believe is true—and would have us believe is true. Even though I believe I have shown his formula is irrelevant, it is important that we know the true trends.

The OECD published in Paris a study entitled "Maritime Transport, 1975, A Study by the Maritime Transport Committee." A subsequent volume with the same title was issued for the year 1976.

Mr. President, I have prepared a consolidated table from both volumes and I ask unanimous censent that it be printed in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AVERAGE SIZE OF SHIPS IN SERVICE AND ON ORDER, 1974-77

[In deadweight tons (metric)]

	Existing fleet as at—				Vessels on order as at—			
	Jan. 1, 1974	Jan. 1, 1975	Jan. 1, 1977	Jan. 1, 1977	Jan. 1, 1974	Jan. 1, 1975	Jan. 1, 1976	Jan. 1, 1977
Tankers over 10,000 dwt	64,400	74,700	84,600	94,200	171,400	165,900	150,200	137,200
Combination carriers	103,700	109,100	111,100	112,800	137,800	131,200	118,100	112,700
Dry bulk carriers	31,600	32,700	33,100	33,700	44,400	44,400	40,500	38,300
Other cargo carrying ships	7,300	7,300	7,400	7,500	9,600	14,200	14,900	15,600
All cargo ships	21,500	24,300	26,000	27,600	86,800	82,200	53,800	36,500

Source: Fearnley & Eger's Chartering Co. Ltd. "Review 1975," and Fearnley & Eger's Chartering Co. Ltd., "Review 1976."

Mr. HELMS. I have taken the figures for both existing fleet and vessels on order for 1974 from the earlier volume, and those for the years 1975, 1976, and 1977 from the latter volume. Somewhat different figures for 1975 and 1976 in the second publication in no way change the trends evidenced. More correct figures can be assumed to me available in the later volume.

Contrary to the trend proclaimed by the Senator from Alaska on the basis of vessel construction in earlier years, and later projected construction, precise construction figures for vessel tonnage paint a picture of decreasing tonnage on order in every class of vessel except those categorized as "Other Cargo Carrying Ships"—and those are all the much smaller ships.

The size trend in construction of tanker and other cargo vessels, Mr. President, is downward.

There is a renewed emphasis on smaller vessels for various economic reasons.

On page 67 of the 1975 OECD report there appears this paragraph:

The average size of various vessel types existing and on order is given on page 70. It is notable that the average size of vessels on order has declined steadily over the last three years for all three types of bulk carrier, with the lack of new orders for the largest size categories and the growing interest in product tankers and bulk carriers that can transit the Panama Canal.

Mr. President, let me repeat:

The growing interest in product tankers and bulk carriers that can transit the Panama Canal.

That does not sound like any deathknell or obsolescence is indicated, does it?

Mr. President, I also repeat that the figures given below are taken from Fearnley & Eger's Chartering Co., Ltd., of Oslo, the same source to which the distinguished Senator from Alaska credits much of the data behind his projections.

I will not read the tonnages of the existing world fleet since they were still going up somewhat by January 1, 1977.

I shall, however, read just the tonnages of the tankers on order over 10,000 dwt—deadweight tons—for each of the 4 years.

They were: 1974, 171,400; 1975, 165,900; 1976, 150,200; 1977, 137,200.

The Journal of Commerce for February 27 of this year touches on this trend in a page 1 article titled, "Shipbuilders Begin To See New Tanker Orders Ahead."

Mr. President, I ask unanimous consent to insert this article in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the Senator from North Carolina cannot resist making mention of what he considers an ironic development in view of the argument of the Senator from Alaska based on ship construction tonnage.

Business Week for March 6, 1978, in a timely article entitled, "Tankers Are Still in the Doldrums," reports that the Senator's Norweigian source—and now, indeed, my own, Fearnley and Eger—was forced to sell a 250,000-ton tanker only 4 years old to pay off a mortgage. The vessel, which cost some $30 million new, brought only $10 million—a true

reflection of the big tankers' recent doldrums.

Mr. President, I ask for unanimous consent to insert this article in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, the concept behind the tanker tonnage formula used by the Senator from Alaska, concerned as he is with quick delivery to the lower 48 States of Alaskan oil, is just not applicable.

Let me cite a couple of examples, both utilizing other forms of transportation, to demonstrate how it is not applicable.

First, one that is not a precise parallel, but easily understood: automobiles. Let us belabor the obvious for a moment.

While it is true that any car can be driven on Alaskan highways, the fact is that no car will be driven in Alaska if its owner never takes it to Alaska.

The Motor Vehicle Manufacturers Association informs me that in 1976, U.S. retail passenger car sales amounted to 8,611,000, and total import passenger car retail sales amounted to 1,498,000.

The National Automobile Dealers Association informs me that in Alaska there were only 11,886 new car registrations in 1976.

Now, Mr. President, if we divide 11,886 by the total of domestic and import auto sales namely, 10,109,000, we come up with a percentage for Alaska that is practically microscopic. To quote the Senator from Alaska:

> To me, it is almost unbelievable, but once the figures are there, we have to just accept them.

The exact percentage is 0.12 percent.

Little more than one-tenth of 1 percent.

Yet this is the same kind of reasoning—the same kind of figuring—the Senator from Alaska has been doing to lead us to believe the Panama Canal is worthless, or becoming so, since so many tons of the world's shipping, which never, never will go near the canal, cannot squeeze through that waterway.

Should we tear up Alaska's highways—or give them to the Russians—because 10,097,114 new 1976 cars—and similar number of 1977 and 1978 models—have not been bought and used by its residents or used by out-of-Staters on Alaska's roads?

I think not, Mr. President; the absurdity of it speaks for itself.

Even should Alaska's automobile density increase greatly, it will always remain but a small portion of that of the entire Nation, regardless of its proportion.

Cars that will never travel in Alaska are like tankers that never will go near the Panama Canal.

Mr. President, another comparison will also show the error of the Senator's rationale. My second example again utilizes Alaska as the setting, this time for airplanes—very large aircraft.

I am informed by the Federal Aviation Administration that there are 763 public and private airports in Alaska, including heliports and seaports: 543 are public; 220 are private.

Of this total, 37 airports are fully certified for air carrier operation.

Thirty more are certified for limited air carrier operation.

At once we can see that in Alaska every airport cannot handle a widebody aircraft. Or even an intermediate jet. Some will take the Boeing 747's and McDonnell Douglas DC–10's. Some cannot even take a 727 or DC–9.

Can all the fully certified 37 fields handle the 747's and DC–10's?

The FAA informs me that only Fairbanks and Anchorage handle those two types of very large passenger jet aircraft.

Kenai is used as an alternate for those airplanes. Ketchikan and Juneau could be used, but are not.

Mr. President, if we were to follow the logic of the Senator from Alaska regarding the proof of the Panama Canal's obsolesence being in the world shipping tonnage that it cannot handle, then we would have to declare obsolete some 758 public and private airports in Alaska. Widebody jets are here. More and more are being produced. The Senator from North Carolina does not, however, expect to hear his colleague demand that Alaskan runways and facilities be given to Russians.

The design utility of the airports and the design utility of the aircraft determine the availability of the one to the other. But that is not all. The market, the passenger, and freight potential come into play, as do a myriad of economic factors.

These kinds of factors, Mr. President, help to determine the seaborne oil and bulk cargo routes, just as they determine the airline routes.

Safety also plays a role.

The FAA does not allow four engine jets to land at National Airport in Washington, D.C.

Do we Senators who continually use National declare it obsolete? Certainly 747's and DC–10's could carry far more passengers in and out of the Nation's Capital if they could operate out of National.

The new European-built A–300 Airbus is having trouble at La Guardia Airport in New York City because of its weight. Its wheels are close together and concentrate that weight. Its impact on the runways is evidently excessive.

That does not make La Guardia obsolescent, even if the new Airbus should never use it for scheduled flights.

One FAA official made the offhand observation, without searching out the precise figure, that perhaps three-fourths of the airports in the United States cannot handle the 747's and DC–10's.

If we take that as an approximate figure, not one of them is made obsolete or can be shown to be on the road to obsolescence, by the inability of the huge jets to utilize it.

Mr. President, for a final example, let us look at the Panama Canal itself.

The Governor of the Canal Zone, Maj. Gen. Harold R. Parfitt, submitted a prepared statement when he testified before the Panama Canal Subcommittee of the House Merchant Marine and Fisheries Committee on July 25, 1977, in which he said:

> There is ample evidence that an absolute advantage to world trade exists that permits the Canal to retain its importance. There are today, for instance, almost 25,000 vessels of 1000 gross registered tons and over, out of an approximate world fleet of 27,000, that can transit the Panama Canal, and some 4,000 actually do use the Canal.

I repeat, Mr. President, General Parfitt's words, "and some 4,000 actually do use the canal."

In other words, 21,000 vessels over 1,000 gross registered tons that could transit the Panama Canal, simply do not do so.

Trade routes, Mr. President, determine the shipping through the canal—not the number of ships afloat or under construction.

Mr. President, in conclusion, it should be clear to the American people, and my colleagues—including, I hope, my colleague from Alaska—that the supercargo carriers and supertankers that cannot transit the Panama Canal, or those vessels whose owners or charterers choose not to use it, have no more bearing on that waterway than the cars that never will drive on Alaska's roads, or the big jets that cannot land at all of Alaska's airports, have on those particular roads or airports.

I thank the Chair and I yield the floor.

EXHIBIT 1

SHIPBUILDERS BEGIN TO SEE NEW TANKER ORDERS AHEAD

(By Craig Howard)

For the first time in almost five years, shipbuilders around the world are beginning to see firm signs of new tanker orders, shipping and banking sources claim.

The new orders involve product carriers, able to carry various grades of fuel and its derivatives, and crude oil carriers able to serve U.S. ports.

Already some signs of this new trend are evident. In past weeks, Socal has ordered two 120,000 dwt. tankers from Mitsubishi in Japan, while British-flag independent owner Ravi Tikoo announced last week that he had ordered one 87,000-tonner, with the option to build two more, from IHI, also in Japan.

Additionally, experts in the ship sale and purchase market report, Kuwait National Petroleum Co. is seeking to buy eight new or used product carriers in the 30,000 dwt. range.

This new demand not only reflects the fact that construction of these classes of tankers was neglected in the early part of the decade, when every shipowner was ordering supertankers, but also steadily growing U.S. import demand and increasing traffic in refined rather the crude oils.

SHORTAGES EMERGING

Thus, even though the world tanker fleet has in the region of 100 million tons of surplus tankers—largely VLCCs, shortages of products carriers and intermediate sized oilers are beginning to emerge.

The trend has been further bolstered by new anti-pollution and safety legislation around the world as well as the high price of fuels. Existing tankers in these ranges are not only too few, but also do not meet the latest government regulations and burn too much fuel.

Thus, Salim M. Lalani, vice president, specializing in shipping affairs, at the Bank of America told The Journal of Commerce: "We are seeing more interest in intermediate

sized tankers, especially for delivery after 1979."

Shipping sources pointed out that to have vessels ready for 1979 delivery, they would have to be ordered now or within the next few months.

It was also noted that the Socal and Tikoo orders were very specific. Normally, tankers of 120,000 dwt. would be considered too large for American ports but Socal is believed to have required that these ships be especially shallow-drafted so that they can carry full loads from the Arabian Gulf to the U.S. West Coast. Similarly, in announcing his latest order, Mr. Tikoo said that the ships were designed to trade between the Arabian Gulf and U.S. East coast ports.

Moreover, it is reported, new ships are being offered at bargain prices by shipbuilders begging for work. Maximum sized tankers for U.S. ports are being offered in Japan at an incredibly cheap $20–$23 million, and even less in such countries as Brazil and Korea.

The more complicated products tankers, though smaller but equipped with stainless steel cargo tanks, are commanding similar prices.

Moreover, it is reported, credit terms are good while shipowners have been able to specify delivery date ranges of as much as 18 months. Thus, should the expected demand for these vessels be delayed, owners have secured the right to delay the delivery of their new ships.

Another trend now being identified is that more and more interest in new buildings is being shown by buyers that have no shipping background—a reflection, some sources said, of the fact that many of today's shipowners cannot afford to maintain their present fleets, let alone take on new ships.

EXHIBIT 2

TANKERS ARE STILL IN THE DOLDRUMS

In London last week, the Intergovernmental Maritime Consultive Organization, a United Nations body, threw out a U.S. proposal that could have cut the world's 100 million tons of tanker surplus by roughly a third. Now tanker owners wonder how to pump new life into their depressed industry as the world oil market continues slack. With no immediate end to the tanker crisis in sight, owners, bankers, and, increasingly, governments are being forced to consider new ways to heal the ailing business. It is mainly foreign tankers that are affected, since U.S. flag tankers are under the protection of the Jones Act, and are owned by petroleum.

In Scandinavia, the Norwegian Shipowners' Assn. estimates that 60 Norwegian shipowners will have a cash deficit totaling $450 million this year, unless tanker rates improve. Some companies are already being forced by their banks to sell tankers. Swedish shipowner Malmros Rederi, reportedly under pressure from its bank, has put on the market a 372,000-ton tanker for which the company paid up to $55 million. Negotiations are under way to sell the ship to a Hong Kong company for $22.5 million.

In another case, the Norwegian company Fearnley & Eger sold a 250,000-ton tanker to France's Total Oil Group for $10 million. The deal came after the French export guarantee agency insisted that Fearnley sell the ship to pay an outstanding mortgage. When it was built four years ago, the tanker cost an estimated $30 million, and the recent sale has set a new low for tankers that size.

BANKERS' FEARS

The Fearnley sale has chilled the banking world because other banks now dread the day when they, too, may have to force tanker sales to recoup loans.

A major U.S. multinational bank estimates that $25 billion, some 40% of which is owed to private banks and 60% to governments, is a risk. Jim Davis, shipping director for the London merchant bank Kleinwort Benson, Ltd., wants Arab oil countries to chip in $5 billion to help. "If Arab nations want their investment in shipping to be profitable, an improvement in the tanker market must be generated," Davis says. So far, there has been little Arab response to the idea.

In Japan, where tanker owners estimate their losses will total $85 million this year, the government is helping by backing an "in-tanker stockpiling association" that would put surplus tanker bottoms to work by stockpiling oil for emergency use.

IDLING TANKERS FOR PROFIT

But perhaps the most controversial solution is a try for an owners' cooperative that would lay up enough idle tanker capacity to increase tanker rates. In Scandinavia, 23 independent tanker owners are forming a London-based group, International Tanker Services Ltd., the aim of which is the orderly marketing of 40 million tons of larger tanker capacity.

The owners already have about 17 million tons of supertankers in the proposed pool, but the plan is running into a good deal of opposition. "When I think of [the plan's] cartel qualities, I think it has very real difficulties," says Kleinwort's Davis.

The tanker picture, however, is not entirely bleak. Though a partial recovery in mid-1976 failed to last (BW—June 14, 1976), there are some experts who predict an enduring upturn in the tanker market by 1980.

Tormod Rafgard, general manager of Oslo-based International Association of Independent Tanker Owners, for example, sees some hope in an expected reduction in delivered new tankers this year to about 10 million tons, compared with 24 million tons in 1977. He also predicts scrapping of tankers this year at last year's brisk rate of 10 million tons, as well as a 10-percent hike in tanker demand, compared with last year's 6-percent increase. Says Rafgard, "There will be a reasonable tanker market by 1980."

But many see it taking longer. "I don't know anybody who expects a good tanker market before 1982 or 1983," says Andrew Carpenter, tanker director of H. P. Drewry Ltd., London shipping consultants. "Demand for oil has not increased, and there will be more demand for shorter-haul North Sea and Alaskan oil. The Suez is being expanded to take large ships. All this will dampen growth . . . and we will need two years of 10 percent growth before we get rid of the bulk of that surplus. I don't see more than 6 percent this year."

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION NO. 12

Mr. BROOKE. Mr. President, to date, the administration has been unable or unwilling to submit the implementing legislation related to the Panama Canal treaties formally to the Congress. I continue to be perplexed as to why this is the case.

Nevertheless, like many of my colleagues I have received what is purported to be the final draft of that legislation along with a detailed explanation of each of its sections. I use the term "purported" because State Department officials, in making this material available to me, stated that it might still be revised somewhat after, I repeat, after the OMB reviews it.

The State Department has had 7 months to draft the administration's proposals. Department spokesmen stated last fall to the Senate Foreign Relations Committee that the implementing legislation would be submitted to the Congress by late October or early November of 1977. And yet they are still awaiting OMB approval of the draft. In case other Members of the Congress have not been provided the latest draft, I ask unanimous consent that it and its explanation prepared by the State Department be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, when I first called attention to the dilatory way the administration was handling the implementing legislation at the beginning of our debate on the treaties, many of the proponents of the treaties stated that the implementing legislation had no bearing on the final Senate decision on the treaties. I differed with their view then and my reading of the draft legislation has done nothing to change my mind.

I will only mention one item today to indicate why I believe there is an important relationship between the proposed implementing legislation and the manner by which our decisions on the treaties are finalized.

The administration proposes in title II, section 202 of its draft that the payment of interest to the U.S. Treasury on the net direct investment of the United States in the canal be discontinued if the Panama Canal Treaty comes into effect. Currently, this payment is approximately $20 million per year. Comptroller General Staats estimates that discontinuance of this payment would result in a total loss to the Treasury of $505 million over the life of the treaty.

I believe that the Congress will and should insist that this payment continue. It will certainly be in our power to do so as we work our will on the implementing legislation, if the Panama Canal Treaty is ratified.

The decision to continue the interest payments will have an impact on the efforts to carry out the spirit and letter of the treaty. Its most evident impact will be to increase the size of the toll rate necessary to compensate for the added costs contemplated in the treaty. And a further increase in toll rates will bring about some reduction in traffic flow.

The latter point is especially significant in terms of Panamanian expectations as to financial benefits to be expected from the treaties. As is well known, Panama is to receive $0.30 per canal ton transiting the canal. Any reduction in traffic flow reduces the amount Panama will receive under this provision. In order to avoid any misunderstanding with Panama on this matter, it seems to me eminently reasonable, if the treaty

is ratified, to avoid an exchange of the instruments of ratification until such time as the implementing legislation has been enacted setting forth precisely what will be the situation regarding the interest payment to the Treasury.

Other demands on canal revenues imposed by congressional action on the implementing legislation, such as an instance that the added civil service retirement costs required by the treaty provisions—an estimated $7.5 million to $8.4 million per year—be paid for out of canal revenues, would have a similar effect on assumptions integral to the treaty. We should be very circumspect about allowing false expectations to flourish about the likely impact of mere ratification of the treaties.

In order to avoid the debilitating effects of unfulfilled Panamanian expectations, I have come to the conclusion that if the Panama Canal Treaty is ratified, the exchange of the instruments of ratification should not take place until enactment of the relevant implementing legislation. Therefore, I am today submitting a reservation to that effect. I believe it is a reasonable method of avoiding problems downstream that would seriously weaken the capacity of the United States and Panama to cooperate in the effective management of the canal over the next 22 years.

Mr. President, I send to the desk the reservation.

The PRESIDING OFFICER. The reservation will be received and printed, and will lie on the table.

EXHIBIT 1

A BILL TO IMPLEMENT THE PANAMA CANAL TREATY OF 1977 AND RELATED AGREEMENTS, AND FOR OTHER PURPOSES

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to provide legislation necessary to or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

SECTION 2. DEFINITIONS AND GENERAL PROVISIONS.

(a) As used in this Act, references to the Panama Canal Treaty of 1977 and related agreements mean the Panama Canal Treaty between the United States of America and the Republic of Panama signed September 7, 1977, and the agreements relating to and implementing that Treaty signed on the same date.

(b) The Canal Zone Code is hereby redesignated the Panama Canal Code.

(c) Except as otherwise provided in, or where inconsistent with, the provisions of this Act, the following words and phrases are amended as follows wherever they appear in the Panama Canal Code and other laws of the United States, unless in context the changes are clearly not intended, or unless such words and phrases refer to a time prior to the effective date of this Act, as defined in Section 502 (herein called "the effective date"):

(1) "Panama Canal Company" to read "Panama Canal Commission".

(2) "Company" to read "Commission" wherever the word "Company" has reference to the Panama Canal Company.

(3) "Canal Zone Government" to read "Panama Canal Commission".

(4) "Governor" or "Governor of the Canal Zone" to read " Panama Canal Commission" wherever the reference is to the Governor of the Canal Zone.

(5) "President" to read "Administrator" wherever the word "President" has reference to the president of the Panama Canal Company.

(6) "Government of the Canal Zone", or "Government", wherever the reference is to the Government of the Canal Zone, to read "United States of America".

(7) "Canal Zone waters" and "waters of the Canal Zone" to read "Panama Canal waters" and "waters of the Panama Canal", respectively.

(8) "Canal Zone Merit System" to read "Panama Canal Employment System".

(9) "Canal Zone Board of Appeals" to read "Panama Canal Board of Appeals".

(d) Reference to the Canal Zone in provisions of the Panama Canal Code or other laws of the United States which apply to transactions, occurrences, or status after (treaty effective date) shall be deemed to be to areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(e) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress proposed legislation which would—

(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty, and

(2) incorporate the remaining provisions of the Panama Canal Code into the United States Code, proposing any changes thereto considered advisable in light of the experience as of that time under that Treaty.

TITLE I—PANAMANIAN RELATIONS AND SECURITY MATTERS

SECTION 101. UNITED STATES-PANAMA JOINT COMMITTEES; SEA LEVEL CANAL STUDY

(a) The President shall appoint the representatives of the United States to the Joint Commission on the Environment to be established under paragraph 2 of Article VI of the Panama Canal Treaty of 1977, and to any joint committee or body with the Republic of Panama to study the possibility of a sea level canal in the Republic of Panama pursuant to Article XII of that Treaty.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the text of the study shall be transmitted by the President to the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express Congressional authorization after submission of the study by the President as provided in subsection (b).

(d) The President shall designate and the Secretary of State shall coordinate the participation of the representatives of the United States to the Consultative Committee between the United States and the Republic of Panama to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

SECTION 102. AUTHORITY OF THE AMBASSADOR

(1) The Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) The Administrator of the Panama Canal Commission shall not be subject to the direction or supervision of the United States Ambassador to the Republic of Panama, but the Administrator shall keep the Ambassador fully and currently informed with respect to all activities and operations of officers and employees of the Commission.

SECTION 103. SECURITY LEGISLATION

(a) Sections 34 and 35 of title 2 of the Panama Canal Code are repealed.

(b) Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. § 191), is amended by (1) striking the second paragraph of that section, and by (2) striking the term "the Canal Zone,".

(c) Section 2 of the Act of November 15, 1941 (50 U.S.C. § 191b), is repealed.

(d) Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. §195), is amended by striking the term "the Canal Zone and".

(e) Section 1 of the Act of August 9, 1954 (50 U.S.C. § 196), is amended by striking the term "including the Canal Zone,".

SECTION 104. ARMS EXPORT CONTROL

Section 38 of the Arms Export Control Act (22 U.S.C. § 2778) is amended by striking out subsection (d) thereof.

SECTION 105. PRIVILEGES AND IMMUNITIES

The Secretary of State shall from among persons recommended by the Panama Canal Commission determine, and shall maintain and from time to time furnish to the Government of the Republic of Panama, the list of those officials and other persons who shall enjoy the privileges and immunities accorded under Article VIII of the Panama Canal Treaty of 1977.

SECTION 106. TERMINATION OF CANAL ZONE GOVERNMENT; TRANSFERS OF RECORDS

(a) Sections 1, 2, 3, 31, 32, 33, 333, and 334 of title 2 and sections 5081–5092 of title 6 of the Panama Canal Code are repealed.

(b) The Panama Canal Commission, other agencies or departments, and United States courts in the Republic of Panama are authorized to transfer any of their records, or copies thereof, including records acquired from the Canal Zone Government or Panama Canal Company such as vital statistics records, to other agencies, departments or courts of the United States and, under the coordination and with the approval of the Ambassador, to the Government of the Republic of Panama.

TITLE II—PANAMA CANAL COMMISSION

CHAPTER 1. COMMISSION: FISCAL MATTER

SECTION 201.—(a) Section 61 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 61. Continuation, purposes, offices, and residence of the Commission. (a) For the purpose of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission is established as a body corporate and as an agency and instrumentality of the United States, and is declared to be the successor to the Panama Canal Company.

"(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for the use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish agencies or branch offices in such other places as it deems necessary or appropriate in the conduct of its business. Within the meaning of the laws of the United States relating to jurisdiction of venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia, and of the eastern judicial district of Louisiana."

(b) Subsection (a) of section 62 of title 2 of the Panama Canal Code is amended by substituting the words "Panama Canal Company" for "Company" and the words "Panama Canal Commission" for "Panama Canal Company".

SECTION 202.—(a) Subsection (e) of section 62 of title 2 of the Panama Canal Code is repealed.

(b) Subsection (f) of section 62 of title 2 of the Panama Canal Code is amended by substituting the words "compute its capital surplus account" for "account for its surplus", and by deleting the words "in determining the base for the interest payments required by subsection (e) of this section".

(c) Section 70 of title 2 of the Panama Canal Code is amended by deleting the words "in determining the base for interest payments required by section 62(e) of this title", and by inserting the term "including operating expenses and payments required by Article III(5) and Article XIII(4) (a), (b) and (c) of the Panama Canal Treaty of 1977," after the term "working capital requirements,".

(d) Section 72 of title 2 of the Panama Canal Code is amended by deleting the words "pursuant to section 62(e) of this title".

SECTION 203.—(a) Subsection (g) of section 62 of title 2 of the Panama Canal Code is amended to read as follows:

"(g) The Panama Canal Commission shall pay directly from Canal operating revenues to the Republic of Panama those payments required under pragraph 4 of Article XIII of the Panama Canal Treaty of 1977. In determining the adequacy of operating revenues for the purpose of payments to Panama under paragraph 4(c) of that Article, such operating revenues of a given fiscal period shall be reduced by all expenditures of that period including: (i) amounts paid or payable for operations and maintenance, inventory, goods, services and that portion of unfunded liabilities paid or currently payable; (ii) payments to Panama under paragraphs 4(a) and 4(b) of that Article and under paragraph 5 of Article III of the Treaty; (iii) amounts payable into a capital reserve account programmed to fund requirements for plant replacement, expansion and improvements; (iv) amounts payable into programmed reserve accounts established prior to the effective date of an increase in tolls for the purpose of matching revenues with expenses during the period projected for a given toll rate to remain in effect; and (v) the accumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of such expenditures of the Commission over operating revenues.

(b) Title I of the Act of November 27, 1973 (87 Stat 636) is amended by striking out the heading "Payment to the Republic of Panama" and all that follows under that heading.

SECTION 204.—Section 62 of title 2 of the Panama Canal Code is amended by adding a new subsection (h) reading as follows:

"(h) Payments by the Commission to the Republic of Panama for providing public services in accordance with paragraph (5) of Article III of the Panama Canal Treaty of 1977 shall be treated for all purposes as an operating cost of the Commission.

SECTION 205.—Subsection (a) of section 63 of title 2 of the Panama Canal Code is amended to read as follows:

"(a) A board of directors shall manage the affairs of the Panama Canal Commission. The President of the United States shall appoint the members of the board in accordance with paragraph 3 of Article III of the Panama Canal Treaty of 1977, and neither this chapter nor any other law prevents the appointment and service as a director, or as an officer of the Commission, of an officer or employee of the United States, or of a person who is not a national of the United States. Each director so appointed shall, subject to paragraph 3 of Artilce III of the Panama Canal Treaty of 1977, hold office at the pleasure of the President, and, before entering upon his duties, shall take an oath faithfully to discharge the duties of his office."

SECTION 206.—Subsection (c) of section 63 of title 2 of the Panama Canal Code is amended to read as follows:

"(c) The directors shall hold meetings as provided by the bylaws of the Panama Canal Commission. A quorum for the transaction of business shall consist of a majority of the directors of which a majority of those present are citizens of the United States."

SECTION 207.—Section 64 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 64. ADMINISTRATOR AND DEPUTY.—The President of the United States shall appoint the Administrator and Deputy Administrator of the Panama Canal Commission. The Administrator shall, subject to the direction and under the supervision of the Board, be the chief executive officer of the Commission. The Administrator and Deputy Administrator shall hold office at the pleasure of the President."

SECTION 208.—Paragraph (3) of subsection (a) of section 65 of ttile 2 of the Panama Canal Code is amended to read as follows:

"(3) Sue and be sued in its corporate name, except that—

"(A) its amenability to suit is limited by the immunities provided by Article VIII of the Panama Canal Treaty of 1977, and otherwise by law;

"(B) salaries or other moneys owed by the Commission to its employees shall not be subject to attachment, garnishment or similar process, except as otherwise expressly provided by the laws of the United States; and

"(C) it is exempt from any liability for prejudgment interest."

SECTION 209.—The opening clause of subsection (a) of section 66 of title 2 of the Panama Canal Code is amended to read as follows:

"(a) Subject to the Government Corporation Control Act (31 U.S.C., sec. 841 et seq.), and to the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission may:"

SECTION 210.—Sections 67 and 73 of title 2 of the Panama Canal Code are repealed. Section 68 of that title is amended to read as follows:

"SEC. 68.—ASSETS AND LIABILITIES.—(a) Property and other assets of the Panama Canal Company and of the Canal Zone Government which are not transferred to other United States Government agencies or to the Republic of Panama, or otherwise disposed of, shall be the property and assets of the Panama Canal Commission from and after the effective date, and except as otherwise provided by law, the Commission shall assume the liabilities of the Panama Canal Company and Canal Zone Government then outstanding.

"(b) The Commission may depreciate the Panama Canal, its complementary works, installations and equipment, and all other property and assets of the Commission, and may amortize over the life of the Panama Caanl Treaty of 1977 the right to use certain assets such as housing made available to the United States under that Treaty and related agreements.

"(c) The assets and liabilities referred to

in this section shall be deemed to have been accepted and assumed by the Commission without the necessity of any act on the part of the Commission except as otherwise stipulated by section 62 of this title."

SECTION 211.—(a) The introductory phrase to Section 1331 of title 2 of the Panama Canal Code is amended by striking out the word "President" and by inserting in lieu thereof the word "Commission".

(b) Paragraph (1) of section 1331 of title 2 of the Panama Canal Code is amended by striking out the words "harbors and other waters of the Canal Zone" and by inserting in lieu thereof the words "waters of the Panama Canal and areas adjacent thereto including the ports of Balboa and Cristobal".

(c) Paragraph (4) of section 1331 of title 2 of the Panama Canal Code is amended by striking out the words "waters of the Canal Zone" and by inserting in lieu thereof the words "waters of the Panama Canal and areas adjacent thereto including the ports of Balboa and Cristobal".

SECTION 212.—FUNDS AND ACCOUNTS.—(a) Section 231 of title 2 of the Panama Canal Code is repealed.

(b) Section 232 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 232.—FURNISHING OF SERVICES; REIMBURSEMENTS.

"(a) The Department of Defense shall reimburse the Panama Canal Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

"(b) Notwithstanding any other law, appropriations of the Department of Defense, or such other agency or agencies as may be designated for this purpose by the President, are made available for conducting educational and health care activities, including kindergartens and college, formerly carried out by the Canal Zone Government, and for providing the services related thereto. Amounts so expended for furnishing services to employees of other agencies and their dependents, less amounts payable by such persons, shall be fully reimbursible to the agency furnishing the services. The appropriations or funds of the agency bearing the cost of the compensation of the employee concerned are made available for such reimbursements. In addition, the appropriations or funds of agencies conducting operations in the Republic of Panama are made available for provisions of health care services to elderly or disabled persons who were eligible for such services prior to the effective date."

(c) Section 233 of title 2 of the Panama Canal Code is amended by striking the terms "Canal Zone Government or the Panama Canal Company" and by inserting in their place the term "Panama Canal Commission".

(d) Section 234 of title 2 of the Panama Canal Code is amended by striking the term "Canal Zone" and by inserting in its place the term "Panama Canal Commission".

(e) Section 235 of title 2 of the Panama Canal Code is amended by striking the term "Canal Zone Government and the Panama Canal Company" and by inserting in its place the term "Panama Canal Commission".

SECTION 213. PUBLIC PROPERTY AND PROCUREMENT

(a) Section 371 of title 2 of the Panama Canal Code is repealed.

(b) Section 372 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 372.—TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES.—(a) In the interest of economy and maximum efficiency in the utilization of Government property and facilities, there are authorized to be transferred between departments and agencies, with or without exchange of funds, all or so much of the facilities, buildings, structures, improvements, stock and equipment of their activities located in the Republic of Panama as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee. With respect to transfers without exchange of funds, transfers to or from the Panama Canal Commission are subject to section 62 of this title, as amended.

"(b) The Panama Canal Commission and other agencies of the United States may enter into cross-servicing agreements for the use of facilities, furnishing of services, or performance of functions."

CHAPTER 2. TOLLS

SECTION 230.—Section 411 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 411. PRESCRIPTION OF MEASUREMENT RULES AND TOLLS.—(a) The Panama Canal Commission may prescribe, and from time to time change:

"(1) the rules for the measurement of vessels for the Panama Canal; and

"(2) subject to section 412 of this title, the tolls that shall be levied for the use of the Canal.

"(b) The Commission shall give three months' notice, by publication in the Federal Register, of proposed changes in basic rules of measurement or in rates of tolls, during which period a public hearing shall be conducted. Changes in basic rules of measurement and changes in rates of tolls shall be subject to and shall take effect upon the approval of the President of the United States, whose action in such matters shall be final."

SECTION 231.—In order to insure that the rates of tolls in effect on the effective date are adequate to meet the requirements of section 412 of title 2 of the Panama Canal Code, as amended by section 232 of this Act, the Panama Canal Company is authorized, in advance of that date, to change the rates, effective on the effective date, such change to be subject to the approval of the President whose action in the matter shall be final. If and to the extent that time permits, the Company shall give three months' notice, by publication in the Federal Register, of such proposed changes in rates of tolls, during which period a public hearing shall be conducted. This section shall become effective upon the date of enactment of this Act.

SECTION 232.—BASES OF TOLLS.—(a) Subsection (b) of section 412 of title 2 of the Panama Canal Code is amended to read as follows:

"(b) Tolls shall be prescribed at rates calculated to cover as nearly as practicable all anticipated costs of maintaining and operating the Panama Canal, together with the facilities and appurtenances related thereto, including depreciation of assets, amortization of use rights, and the payments to Panama pursuant to paragraphs 4(a) and 4(b) of Article XIII of the Panama Canal Treaty of 1977. In determining the rates of tolls, there may also be taken into account unrecovered past costs, funding required to establish or maintain a capital reserve account programed to fund requirements for plant replacement, expansion, and improvements, and the necessity of establishing reserves for the purpose of matching revenues with expenses during the period projected for a given toll rate to remain in effect."

(b) Subsection (c) of section 412 of title 2 of the Panama Canal Code is amended to read as follows:

"(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls."

(c) Subsection (d) of section 412 of title 2 of the Panama Canal Code is amended by deleting the words "of articles XVIII and XIX of the convention between the United States and Panama concluded on November 18, 1903, and", by inserting a comma in place of the period at the end of the subsection, and by adding thereafter "and of Articles II, III, and VI of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977."

CHAPTER 3. CLAIMS

SECTION 260.—Chapter 11 of title 2 of the Panama Canal Code is amended as follows:

(a) The title of the chapter is amended to read, "Claims Arising from Operation of Canal."

(b) Section 271 of title 2 of the Panama Canal Code is repealed.

(c) The headings of subchapters I and II are deleted.

(d) Section 291 of title 2 of the Panama Canal Code is amended as follows:

(1) The period at the end of the first sentence is changed to a comma, and the following language is added: "unless it is established that the injury was not proximately caused by the negligence or fault of any of its officers or employees acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal."

(2) In the fourth sentence, the words "the side" are amended to read "any portion of the hull."

(e) Section 293 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 293.—MEASURE OF DAMAGES.

"(a) In determining the amount of the award of damages for injuries to a vessel for which the Panama Canal Commission is determined to be liable, there may be included:

"(1) actual or estimated cost of repairs;

"(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for only the time the vessel is actually undergoing repairs, on drydock or otherwise;

"(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire, for only the time the vessel is actually undergoing repairs, on drydock or otherwise; and

"(4) except as prohibited by subsection (b) of this section, or by any other provision of law, other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

"(b) Agent's fees or commissions, general average expenses, attorney's fees, bank commissions, port charges of other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed.

"(c) The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the use of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary."

(f) Section 294 of title 2 of the Panama Canal Code is amended by deleting the word "or" in paragraph (5), by renumbering the present paragraph (6) as paragraph (7), and by inserting a new paragraph (6) reading

as follows: "(6) time necessary for investigation of marine accidents; or".

(g) Section 296 of title 2 of the Panama Canal Code is amended by deleting the words "United States District Court for the District of the Canal Zone" in the first sentence and inserting in lieu thereof the words "United States District Court for the Eastern District of Louisiana".

(h) The present section 297 of title 2 of the Panama Canal Code is designated as subsection (a), and a new subsection (b) is added to read as follows:

"(b) Lack of knowledge on the part of the master, officers, crew or passengers that an accident giving rise to a claim under this chapter has occurred does not exclude noncompliance with the requirements of this section."

(i) A new section 298 of title 2 of the Panama Canal Code is added, to read as follows:

"SEC. 298.—TIME FOR PRESENTING CLAIM AND COMMENCING ACTION.—A claim against the Commission under this chapter shall be forever barred unless it is presented in writing to that agency within two years after such claim accrues or unless action is begun within one year after the date of mailing of notice of final decision on the claim by the Commission."

(j) A new section 299 of title 2 of the Panama Canal Code is added, to read as follows:

"SEC. 299.—BOARD OF LOCAL INSPECTORS.

"(a) There is established a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the Commission,—

"(1) the investigations called for by section 297 of this chapter; and

"(2) such other duties in matters of a marine character as it may be assigned by the Commission.

"(b) The Commission shall, by regulation, designate the members of the Board and establish procedures by which the Board carries out its functions.

"(c) In conducting the investigations provided for by subsection (a) of this section, members of the Board may summon witnesses, administer oaths and require the production of books and papers necessary thereto."

TITLE III—EMPLOYEES AND POSTAL MATTERS

CHAPTER 1. EMPLOYMENT SYSTEM

SECTION 301.—(a) Sections 101, 102, 122, 123, 147 and 154 of title 2 of the Panama Canal Code are repealed.

(b) Section 103 of title 2, of the Panama Canal Code is amended by striking the term "Canal Zone Government, Panama Canal Company" and inserting in lieu thereof the term "Panama Canal Commission", and by redesignating that section as section 122 of that title and code.

SECTION 302.—Section 141 of title 2 of the Panama Canal Code is amended as follows:

(a) The definition of the word "department" is amended to read as follows:

"'department' means (i) the Panama Canal Commission, and (ii) an executive agency (within the meaning of section 105 of title 5 of the United States Code) which makes an election under section 142(b) of this chapter;"

(b) The definition of the word "position" is amended to read as follows:

"'position' means those duties and responsibilities of a civilian nature under the jurisdiction of a department which are performed in the Republic of Panama."

SECTION 303.—Section 142 of title 2 of the Panama Canal Code is amended by redesignating subsection (b) thereof as subsection (c), and by striking the caption and subsection (a) thereof and inserting in their place the following:

"SECTION 142. PANAMA CANAL EMPLOYMENT SYSTEM.

"(a) The Panama Canal Commission shall conduct its wage and employment practices in accordance with a Panama Canal Employment System which shall be established in accordance with—

"(1) the principles established in the Panama Canal Treaty of 1977 and related agreements, and with the provisions of this chapter and other applicable law; and

"(2) regulations promulgated by, or under the authority of, the President in accordance with this chapter and taking into account any recommendation of the Panama Canal Commission.

"(b) The head of an executive agency other than the Panama Canal Commission may elect in whole or in part to have the Panama Canal Employment System made applicable to personnel of his agency in the Republic of Panama."

SECTION 304.—Notwithstanding other provisions of this chapter, the provisions of subchapter III of chapter 7 of title 2 of the Panama Canal Code establishing the Canal Zone Merit System, and the administrative regulations promulgated thereunder, shall continue in effect until such time as the Panama Canal Employment System has been established pursuant to section 303 of this Act.

SECTION 305.—Section 144 of title 2 of the Panama Canal Code is amended by deleting subsection (d) thereof. Section 146 is amended by deleting subsection (d) thereof. Section 146 is amended to read as follows:

"SEC. 146. RECRUITMENT AND RETENTION REMUNERATION.

(a) In addition to basic compensation, additional remuneration in such amounts as the head of the department concerned determines, may be paid as overseas recruitment and retention differentials to—

(1) persons employed by the Panama Canal Company, Canal Zone Government or a department in the Canal Zone prior to the effective date;

(2) persons thereafter recruited outside of Panama for a position in the republic of Panama; and

(3) Medical doctors employed by the Department of Defense or Panama Canal Commission if in the judgment of the head of the department concerned, the recruitment and retention of such employees is essential.

(b) Employees who fall into more than one of the three categories described in subsection (a) of this section may qualify for additional remuneration under only one of those categories.

(c) Additional remuneration prescribed under this section may not exceed by more than 25 percent the rate of basic compensation for the same or similar work performed in the continental United States by employees of the Government of the United States."

SECTION 306.—Title 2 of the Panma Canal Code is amended by adding a new section 147 to read as follows:

"SEC. 147.—TRANSFER OF FEDERAL EMPLOYEES TO PANAMA CANAL COMMISSION.—The head of any Federal agency, including the United States Postal Service, is authorized to enter into agreements for the transfer or detail of that agency's employees, serving under permanent appointment, to the Panama Canal Commission. Under regulations prescribed by the Civil Service Commission, any employee so transferred or detailed shall, upon completion of his tour of duty with the Commission, be entitled to reemployment with the agency from which he was transferred or detailed without loss of pay, seniority or other rights or benefits to which he would have been entitled had he remained on the rolls of that agency."

SECTION 307.—Section 149 of title 2 of the Panama Canal Code is amended to read as follows:

"SEC. 149.—MERIT AND OTHER EMPLOYMENT REQUIREMENTS

(a) Subject to this chapter, the President may, from time to time and taking into account any recommendation of the Panama Canal Commission, amend or modify the provisions of the Panama Canal Employment System, including provisions relating to selection for appointment, reappointment, reinstatement, re-employment, and retention, with respect to positions, employees, and individuals under consideration for appointment to positions, established by regulations under section 142 of this chapter.

"(b) The Panama Canal Employment System shall:

"(1) subject to and as limited by the Panama Canal Treaty of 1977 and related agreements, be based on the merit of the employee or individual and upon his qualifications and fitness to hold the position concerned;

"(2) conform generally to policies, principles, and standards for the competitive civil service of the Government of the United States; and

"(3) include provision for appropriate interchange, between the Panama Canal Employment System and the competitive civil service of the Government of the United States, of citizens of the United States employed by the Government of the United States.

SECTION 308.—Section 155 of title 2 of the Panama Canal Code is amended by redesignating subsection (b) thereof as subsection (c), and by inserting in lieu of subsection (a) therof the following:

"(a) The President shall issue regulations necessary and appropriate to carry out the provisions and accomplish the purposes of this subchapter and, in the event of any election under section 142(b), coordinate the policies and activities under this subchapter of the departments involved.

"(b) In order to assist in carrying out his coordination responsibility under subsection (a) and in implementing the provisions of the Panama Canal Treaty of 1977 and related agreements relating to recruitment, examination, determination of qualification standards and similar matters, the President may establish, as the successor to the Canal Zone Central Examining Office, an office which shall be an entity within the Panama Canal Commission."

SEC. 309. Subsection (a) of section 201 of title 2 of the Panama Canal Code is amended by deleting the words "Governor of the Canal Zone and President of the Panama Canal Company, or as Lieutenant Governor of the Canal Zone and Vice President of the Panama Canal Company," and inserting in lieu thereof the words "Administrator or Deputy Administrator of the Panama Canal Commission."

Chapter 2.—CONDITIONS OF EMPLOYMENT, PLACEMENT, AND RETIREMENT.

SEC. 321. Title 2 of the Panama Canal Code is amended by adding a new section 202 reading as follows:

"SEC. 202. TRANSFERRED EMPLOYEES. With respect to employees of the Panama Canal Company or Canal Zone Government who are transferred to employment with the Panama Canal Commission or other United States Government agencies in the Republic of Panama, the following terms and conditions of employment shall be generally no less favorable, from and after the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government immediately prior to that date:

Wage rates; tropical differential; premium

pay and night differential; reinstatement and restoration rights; injury and death compensation benefits; leave and travel, except as modified to provide equity with other employees within the agency to which the employee is transferred; transportation and repatriation benefits; group health and life insurance; reduction in force rights; an employee grievance system, and the right to appeal adverse and disciplinary actions as well as position classification actions; veteran's preference eligibility; holidays; saved pay provisions; and severence pay benefits."

SEC. 322. Title 2 of the Panama Canal Code is amended by adding a new section 203 reading as follows:

"SEC. 203. PLACEMENT. (a) A United States citizen who, immediately preceding the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977 was an employee of the Panama Canal Company or Canal Zone Government, who separates or is scheduled to separate on that date or anytime thereafter throughout the life of the Panama Canal Treaty of 1977 for any reason other than misconduct or delinquency, and who is not placed in another appropriate position with the United States Government in the Republic of Panama shall, upon the employee's request, be accorded appropriate placement to vacancies with the United States Government in the United States."

"(b) A United States citizen who, immediately preceding the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977 was an employee of an agency of the United States Government in the Canal Zone other than the Panama Canal Company or Canal Zone Government, whose position is eliminated as the result of implementing the Panama Canal Treaty of 1977, and who is not placed in another appropriate position with the United States Government in the Republic of Panama shall, upon the employee's request, be accorded the placement assistance provided for in subsection (a)."

"(c) The United States Civil Service Commission shall develop and administer a Federal Government-wide placement program for all eligible employees who request placement assistance under this section."

SEC. 323. Title 2 of the Panama Canal Code is amended by adding a new section 204 to read as follows:

"SEC. 204. EDUCATIONAL TRAVEL BENEFITS.— Dependents of United States citizen employees of the Panama Canal Commission who are eligible for educational travel benefits under regulations issued by the Commission shall be entitled to one round trip per year for undergraduate studies in the United States until they reach their 23rd birthday."

SEC. 324. ADJUSTMENT OF COMPENSATION.— United States citizen employees of the Panama Canal Commission shall be paid an allowance to offset the increased cost of living that may result from the withdrawal of the eligibility of such employees and their dependents to use military postal services, sales stores and exchanges five years after the date of entry into force of the Panama Canal Treaty of 1977. The amount of the additional compensation shall be determined by the Panama Canal Commission.

SEC. 325. EARLY RETIREMENT ELIGIBILITY. SEC. 8336 of title 5 of the United States Code is amended:

(1) by redesignating subsection (c) as subsection (c)(1) and adding the following new paragraph "(2) A law enforcement officer or firefighter employed by the Panama Canal Company or the Canal Zone Government immediately prior to the date of exchange of instruments of ratification or entry into force of the Panama Canal Treaty of 1977, who is separated from the service prior to January 1, 2000, and, upon separation, meets the age and service requirements in paragraph (1), or who is separated within 2 years prior to meeting the age and service requirements in paragraph (1) is entitled to an annuity."

(2) by redesignating subsection (h) as subsection (k) and inserting the following new subsections "(h), (i), and (j)"

"(h) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama, who is separated from the service prior to January 1, 2000—

(1) involuntarily, as a result of the implementation of the Panama Canal Treaty of 1977, except by removal for cause on charges of misconduct or delinquency, after completing 20 years of service;

(2) voluntarily after completing 25 years of service or after becoming age 50 and completing 20 years of service; or

(3) involuntarily, as a result of the implementation of the Panama Canal Treaty of 1977, except by removal for cause on charges of misconduct or delinquency, or voluntarily within 2 years prior to meeting the age and/or service requirements in paragraph (2) is entitled to an annuity if he—

(A) was employed by the Canal Zone Government or the Panama Canal Company immediately prior to the date of exchange of instruments of ratification or entry into force of the Panama Canal Treaty of 1977; and

(B) has been continuously employed by the Panama Canal Commission or by an Executive agency conducting operations in the Canal Zone or the Republic of Panama since the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977 or its entry into force."

"(i) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama, who is separated from the service as a result of the implementation of the Panama Canal Treaty of 1977, prior to January 1, 2000—involuntarily, except by removal for cause on charges of misconduct or delinquency—

"(1) after completing 20 years of service; or

"(2) within 2 years prior to meeting the age and/or service requirements in paragraph (2) of subsection (h) of this section is entitled to an annuity if he—

"(A) was employed in the Canal Zone by an Executive agency other than the Panama Canal Company or the Canal Zone Government immediately prior to the date of exchange of instruments of ratification or entry into force of the Panama Canal Treaty of 1977; and

"(B) has been continuously employed by the Panama Canal Commission or an Executive agency conducting operations in the Canal Zone or the Republic of Panama since the exchange of instruments of ratification of the Panama Canal Treaty of 1977 or its entry into force.

"(j) For the purpose of subsections (h) and (i) of this section, 'Executive agency' includes the Administrative Office of the United States Courts and the Smithsonian Institution."

SEC. 326. EARLY RETIREMENT COMPUTATION. Section 8339 of title 5 of the United States Code is amended—

(1) by inserting in subsection (f), immediately after "subsections (a)–(e)", the following: "and (n)";

(2) by inserting in subsection (i), immediately after "subsections (a)–(h)", the following: "and (n)";

(3) by inserting in subsections (j) and (k)(1), immediately after "subsections (a)–(i)" each time it appears, the following: "and (n)";

(4) by inserting in subsection (l), immediately after "subsections (a)–(k)", the following "and (n)";

(5) by inserting in subsection (m), immediately after "subsections (a)–(e)", the following "and (n)"; and

(6) by adding at the end thereof the following new subsections "(n), (o), and (p)":

"(n) The annuity of an employee retiring under this subchapter who was employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of the Panama Canal Treaty of 1977, who continues in employment with the Panama Canal Commission, or with another Executive agency in the Republic of Panama is computed with respect to the period of that service performed on a continuous basis after the entry into force of the Panama Canal Treaty of 1977 by multiplying—

(A) 2½ percent of the employee's average pay by so much of such service as does not exceed 20 years; plus,

(B) 2 percent of the employee's average pay multiplied by so much of such service as exceeds 20 years."

"(o) The annuity computed under subsection (n) of this section for an employee who was employed as a law enforcement officer or firefighter shall be increased by $8 for each full month of such service in the Republic of Panama after the entry into force of the Panama Canal Treaty of 1977. This increase in annuity shall not be paid with respect to service performed after completion of 20 years as a law enforcement officer or firefighter."

"(p) The annuity computed under this subchapter for an employee who was employed as a law enforcement officer or firefighter by the Panama Canal Company or the Canal Zone Government immediately prior to the date of exchange of instruments of ratification or entry into force of the Panama Canal Treaty of 1977, who does not qualify for retirement under section 8336(c) of this title shall be increased by $12 for each full month of such service, prior to the entry into force of the Panama Canal Treaty of 1977. This increase in annuity shall not be paid with respect to service performed after completion of 20 years as a law enforcement officer or firefighter."

SEC. 327. COURT, CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATING BOARD, AND RELATED EMPLOYEES.—For the purposes of sections 202, 203, and 204 of title 2 of the Panama Canal Code, as amended by sections 321, 322, and 323 of this Act, and sections 325–326 of this Act, the district judge, the clerk, the court reporter, and other employees of the United States District Court for the District of the Canal Zone, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants; the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manage, Central Examining Office, and their deputies and clerical assistants shall be treated the same as employees of the Panama Canal Commission.

SEC. 328. (a) Chapters 81 (Compensation for Work Injuries), 83 (Retirement), 87 (Life Insurance), and 89 (Health Insurance) of title 5 of the United States Code are inapplicable to persons who are not citizens of the United States, who are hired by the Panama Canal Commission after the effective date and who are covered by the Social Security System of the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) In section 8701 of title 5 of the United States Code, the definition of "employee" in subsection (a) is amended by revising paragraph (B) to read as follows:

"(B) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United

States, unless such person was an employee for the purpose of this chapter on the day before the effective date by virtue of service with a Federal agency in the Canal Zone.

(c) In section 8901 of title 5 of the United States Code, the definition of employee in subsection (1) is amended by revising paragraph (ii) to read as follows:

"(ii) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States unless such person was an employee for the purpose of this chapter on the day before the effective date by virtue of service with a Federal agency in the Canal Zone."

SEC. 329. NON-U.S. CITIZEN RETIREMENT UNDER SPECIAL TREATY PROVISIONS.—(a) Under such regulations as the President may prescribe, there shall be paid to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement Fund under section 8334(a)(2) of title 5 of the United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in that System for each person who is separated from employment with the Panama Canal Company, the Canal Zone Government, or the Panama Canal Commission, as the result of the implementation of the Panama Canal Treaty of 1977 and related agreements, and becomes employed under the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program, provided such person—

(1) has been credited with at least five years of Federal service under the United States Civil Service Retirement System;

(2) is not eligible for an immediate retirement annuity, and does not elect a deferred annuity under the United States Civil Service Retirement System; and

(3) elects to withdraw the entire amount of his contributions to the United States Civil Service Retirement System and transfer it to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

(b) The sums of money made available under subsection (a) shall not exceed, in any case, the amount of the employee contribution withdrawn from the fund and paid over to the Panamanian Social Security System.

(c) (1) Pursuant to Paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President of the United States, or his designee, is authorized to pay out of the general funds of the United States Treasury, in accordance with such regulations as the President or his designee may prescribe, such sums of money as may be necessary to purchase, or to supplement the purchase of, a retirement equity in the Social Security System of the Republic of Panama for the benefit of each employee of the United States Forces in the Republic of Panama—

(A) who is not a citizen of the United States of America;

(B) who was employed prior to and is employed upon the effective date of the Panama Canal Treaty of 1977 by an instrumentality of the United States Government in the Republic of Panama (including, in the case of employment prior to such date, the former Canal Zone);

(C) who, for any period of his or her employment with that instrumentality of the United States Government prior to the effective date of the Panama Canal Treaty of 1977 was not covered, on account of such employment, by the Civil Service Retirement System of the United States of America or another retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) whose period of employment referred to in subparagraph (C) above was of such a nature that he or she would have been covered at that time by the Social Security System of the Republic of Panama had such law been applicable.

(2) The retirement equity referred to in subpragraph (c)(1) above will cover retroactively, from the effective date of the Panama Canal Treaty of 1977, all periods of employment of such persons with United States Government instrumentalities in the Republic of Panama (including the former Canal Zone) during which such persons were not covered by the Civil Service Retirement System of the United States of America or any other retirement system poviding benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama and during which such persons' employment was of such a nature that he or she would have been covered by the Social Security System of the Republic of Panama had such law been applicable.

SEC. 330. (a) Section 6322(a) of title 5 of the United States Code is amended by deleting the words "the Canal Zone or", by inserting a comma in place of the period after "the Trust Territory of the Pacific Islands" at the end of the same sentence, and by adding thereafter "or the Republic of Panama."

(b) Subchapter III of Chapter 59 of title 5 of the United States Code, pertaining to Overseas Differentials and Allowances, is inapplicable to employees assigned to work in the Republic of Panama for the Panama Canal Commission or an executive agency which makes an election under section 142(b) of title 2 of the Panama Canal Code.

(c) References to the Canal Zone in the following sections of title 5 of the United States Code shall henceforth be deemed to refer to areas in the Republic of Panama used or regulated by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements:

(1) section 5595(a)(2)(iii);

(2) section 5724a(a); and

(3) section 8102(b).

(d) Section 1(b) of the Act of April 14, 1966 (20 U.S.C. § 903(c)) and section 6(a) of the Act of July 17, 1959 (20 U.S.C. § 904(a)(2)) are inapplicable to teachers who are employed by the Canal Zone Government school system immediately prior to the effective date and are transferred to the Department of Defense Overseas Dependent School System.

Chapter 3.—POSTAL MATTERS

SEC. 341. POSTAL SERVICE. (a) The postal service established and governed by chapter 73 of title 2 of the Panama Canal Code shall be discontinued upon the effective date.

(b) The provisions of chapter 73 relating to postal-savings deposits, postal-savings certificates, postal money orders, and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

(c) The Panama Canal Commission shall take possession of and administer the funds of the postal service and shall assume its obligations. The Commission and the United States Postal Service are authorized to enter into agreements for the transfer of funds or property and the assumption of administrative rights or responsibilities, with respect to the outstanding obligations of the postal service.

(d) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Panama Canal Commission is authorized and directed to furnish personnel, records and other services to said military post offices to assure wherever appropriate the proper distribution, rerouting, or return of said mail.

(e)(1) The words, "Except as provided in the Canal Zone Code, the", in the second sentence of section 403(a) of title 39 of the United States Code are revised to read, "The";

(2) The words "each post office in the Canal Zone postal service," in section 3402(a) of title 39 of the United States Code are revised to read "each military post office of the United States Forces in the Republic of Panama" and section 3402(b) of title 39 of the United States Code is deleted;

(3) Section 3682(b)(5) of title 39 of the United States Code is amended by striking the words "the Canal Zone and"; and

(4) Section 3401(b) of title 39 of the United States Code is amended by inserting the word "or" before the words "the Virgin Islands" and by striking the words "or the Canal Zone."

TITLE IV—COURTS AND RELATED FUNCTIONS

SEC. 401. CONTINUATION OF CODE AND OTHER LAWS.

(a) Except as otherwise provided in this Act, the provisions of the Panama Canal Code, as amended, and other laws applicable in the Canal Zone prior to the entry into force of the Canal Zone prior to the entry into force of the Panama Canal Treaty of 1977 by virtue of the territorial jurisdiction of the United States in the Canal Zone shall continue in force only for the purpose of the exercise of the authority vested in the United States by that Treaty and related agreements.

(b) None of the provisions or laws referred to in subsection (a) shall henceforth be construed as regulating, or providing authority to regulate, any matter as to which the United States may not exercise jurisdiction under the Panama Canal Treaty of 1977 and related agreements.

SEC. 402. JURISDICTION DURING TREATY TRANSITION PERIOD. (a) The Congress of the United States finds that Article XI of the Panama Canal Treaty of 1977 prescribes certain special provisions governing the jurisdiction of the United States in the Republic of Panama during a transition period of thirty months beginning upon the date the Panama Canal Treaty of 1977 enters into force.

(b) Notwithstanding inconsistent provisions of the Panama Canal Code or any other law, the jurisdiction of the district court and magistrates' courts established pursuant to title 3 of the Panama Canal Code shall be limited as provided by Article XI of the Panama Canal Treaty of 1977.

(c) For the purposes of the exercise of the aforesaid jurisdiction, the terms "United States citizen employees," "members of the United States Forces," "civilian component," and "dependents" shall be construed as they are defined in the Panama Canal Treaty of 1977 and related agreements. Similarly, the term "areas and installations made available for the use of the United States" shall be construed to mean (1) the Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of that Treaty, (2) the Ports of Balboa and Cristobal described in Annex B to that Agreement, and (3) the Defense Sites and Areas of Military Coordination described in Annex A to the Agreement in Implementation of Article IV of that Treaty.

SEC. 403. DIVISIONS AND TERMS OF DISTRICT COURT. (a) The United States District Court for the District of the Canal Zone is authorized to conduct its affairs at such places within the areas made available for the use of the United States under the Panama Canal Treaty of 1977 and related agreements, and at such times, as the district judge may designate by rule or order.

(b) Sections 2 and 3 of title 3 of the Panama Canal Code are repealed.

SEC. 404. TERM OF CERTAIN OFFICES. Notwithstanding the provisions of sections 5, 41, 45 and 82 of title 3 of the Panama Canal Code, the term of office of a district judge, magistrate, United States attorney or United States marshal appointed after the date of enactment of this Act shall extend for a period of 30 months beyond the date the Panama Canal Treaty of 1977 enters into force, and be subject to such extension of time as may be provided for disposition of pending cases by agreement between the United States and the Republic of Panama pursuant to the last sentence of paragraph 7 of Article XI of the Panama Canal Treaty of 1977.

SEC. 405. RESIDENCE REQUIREMENTS. Sections 5(d), 7(d), 41(d), and 45(d) of title 3 of the Panama Canal Code, the second sentence of section 42 of that title, and the second sentence of section 82(c) of that title, which require that certain court officials reside in the Canal Zone, are repleaed.

SEC. 406. (a) Section 6 of title 3 of the Panama Canal Code is amended to read as follows:

"SEC. 6. SPECIAL DISTRICT JUDGE. The chief judge of the judicial circuit of which the district court is a part may designate and assign a special district judge, to act when necessary:

(1) during the absence of the district judge;

(2) during the district judge's disability or disqualification, because of sickness or otherwise, to discharge his duties, or

(3) when the office of district judge is vacant.

(b) Each such designation and assignment by the chief judge shall be made in accordance with chapter 13 of title 28 of the United States Code, which shall be deemed to apply for such purposes.

SEC. 407. MAGISTRATES' COURTS. (a) The two magistrates' courts established pursuant to the date upon which the Panama Canal Treaty of 1977 enters into force shall continue in operation for 30 months from that date unless discontinued during that period as otherwise provided by this section.

(b) During the period referred to in subsection (a), one or both magistrates' courts, together with the positions of magistrate and constable corresponding thereto, may be abolished by the President or his designee if in his judgment the workload is insufficient to warrant continuance of either or both courts. If one of the courts is so abolished, the remaining magistrate's court shall exercise the jurisdiction that otherwise would have been exercised by the abolished court and shall take custody of and administer all its records.

(c) If both magistrates' courts are abolished pursuant to subsection (b), the following provisions shall thereafter apply:

(1) The district court shall exercise the jurisdiction of the magistrates' courts.

(2) All records of the magistrates' courts shall be deemed records of the district court.

(3) A criminal action that otherwise would have come within the original jurisdiction of the magistrates' courts shall be instituted in the district court by a complaint executed pursuant to section 3701 of title 6 of the Panama Canal Code, and the law and rules applicable in the district court shall thereafter apply. All other criminal actions shall be instituted in the district court by the filing in each case of an information pursuant to chapter 213 of title 6 of the Panama Canal Code.

(4) The requirement of and procedures for preliminary examinations under section 172 of title 3 and sections 3801–3806 of title 6 of the Panama Canal Code shall not apply.

SEC. 408. Section 543 of title 3 of the Panama Canal Code is amended to read as follows:

"SEC. 543. OATH. Before receiving a certificate the applicant shall take and subscribe in court an appropriate oath prescribed by the district judge."

SEC. 409. TRANSITION AUTHORITY. Except as expressly provided to the contrary in this Act, in any other statute, in the Panama Canal Treaty of 1977 and related agreements, or by executive order, any authority necessary to the exercise during the transition period of the rights and responsibilities of the United States specified in Article XI of the Panama Canal Treaty of 1977 shall be vested in the Panama Canal Commission.

SEC. 410. SPECIAL IMMIGRANTS. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) relating to the definition of special immigrant, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by inserting after subparagraph (D) the following new subparagraphs:

"(E) an immigrant who is an employee of the Panama Canal Company or Canal Zone Government, who is resident in the Canal Zone on the date of the exchange of instruments of ratification of the Panama Canal Treaty of 1977, and who has performed faithful service for one year, or more, and his accompanying spouse and children; or,

"(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who prior to the date of entry into force of the Panama Canal Treaty of 1977 has been honorably retired from United States Government employment in the Canal Zone (or former Canal Zone) with a total of fifteen years, or more, of faithful service or (ii) who, on the date of entry into force of the Panama Canal Treaty of 1977, has been faithfully employed by the United States Government in the Canal Zone (or former Canal Zone) for fifteen years or more and who subsequently is honorably retired from such employment."

(b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relating to waivers of conditions of inadmissability to the United States, is amended by adding after paragraph (8) the following new paragraph:

"(9) The provisions of paragraphs (7) and (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraphs (E) or (F) of section 101 (a)(27)."

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. HEALTH DIRECTOR; HOSPITALS. (a) In chapter 57 of title 5 of the Panama Canal Code, references to "hospitals", to the "Health Bureau", and to the "health director", shall be deemed to be, respectively, to the hospitals operated by the United States in the Republic of Panama after the effective date, to the organizational unit operating such hospitals, and to the senior official in charge of such hospitals.

(b) In section 4784 of title 6, section 2 of title 7, and sections 32, 35–38 of title 8 of the Panama Canal Code, references to the health director shall be deemed to be to the senior official in charge of the hospitals operated by the United States in the Republic of Panama after the effective date.

SEC. 502. DISINTERMENT, TRANSPORTATION, AND REINTERMENT OF REMAINS. (a) In accordance with reservation 3(B) to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, adopted on March 16, 1978, appropriations are made available to reimburse those agencies referred to in subsection (c) of this section, for—

(1) the costs incurred for disinterring the remains of United States citizens from Mount Hope Cemetery in the Canal Zone and transporting them to and reinterring them in Corozal Cemetery in the Canal Zone, before the date of entry into force of the aforementioned treaty; and

(2) the costs incurred for disinterring and transporting to the United States, not later than thirty months after the date of entry into force of the aforementioned treaty, if the next-of-kin so requests, any remains of United States citizens interred in Mount Hope or Corozal Cemeteries, for reinterment at places designated by the next of-kin, including national cemeteries where authorized.

(b) The costs referred to in subsection (a)(2) of this section include those incurred for disinterment, preparation, cremation, transportation, and reinterment, but do not include those incurred for caskets, urns, funeral home services, vaults, plots or crypts, which shall be borne by the next-of-kin.

(c) Except as hereafter provided in this subsection, the Panama Canal Company, the Panama Canal Commission or such other agency as the President may designate shall disinter, transport and reinter, or arrange for the reinterment of, the remains of United States citizens referred to in subsections (a)(1) and (a)(2) of this section. The Panama Canal Company shall not disinter the remains of any United States citizen interred in Mount Hope Cemetery in the Canal Zone whose next-of-kin notifies the Company in writing, not later than three months after the date of exchange of the instruments of ratification of the aforementioned treaty, that such remains should not be disinterred.

SEC. 503. EFFECTIVE DATE. Except as otherwise provided in sections 231, 321, 322, 325, 404 and 502 of this Act, the provisions of this Act, shall take effect on ——.

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

This draft legislation would implement several aspects of the responsibilities and role of the United States under the Panama Canal Treaty of 1977 and related agreements. It includes the establishment of the Panama Canal Commission as a corporate agency of the United States to operate the Canal as a self-sustaining entity. It would provide regimes for the Commission's tolls, employees and fiscal management, modify existing law to comport with the jurisdiction of the United States during the 30-month transition period under Article XI of the Treaty, and cover other matters relating to implementation of the new relationship between the United States and the Republic of Panama.

Section 2. Definitions and General Provisions.—

The Bill would amend or repeal various provisions of the Canal Zone Code (redesignated as the "Panama Canal Code") and other laws necessary or desirable to implement the new treaty and related agreements. However, most of the Panama Canal Code, consisting of eight titles published in three volumes, would remain in force for purposes of the jurisdiction of the United States during the 30-month transition period following the entry into force of the Treaty six months after exchange of instruments of ratification (Article XI of the Treaty). It is provided, in Section 2 of the Bill, that before the end of the transition period, other follow-up legislation would continue or amend provisions needed for the rest of the Treaty period taking into account experience during the

transition period, would repeal provisions applicable only during the transition period, and would incorporate the remainder of the Panama Canal Code into the United States Code.

Section 2 also provides definitions which would amend certain proper names appearing in the present Canal Zone Code and other laws of the United States. The term "Panama Canal Commission" is substituted for the terms "Panama Canal Company," "Canal Zone Government," and "Governor of the Canal Zone" for purposes of applying existing law after the Treaty enters into force, unless other parts of this Bill provide otherwise. This will permit the new Panama Canal Commission to assume those existing authorities (1) of the present Panama Canal Company and (2) of the Canal Zone Government which the U.S. will exercise under the Treaty.

The term "Government of the Canal Zone", however, would be replaced by the term "United States of America". Unlike "Canal Zone Government" which is the name of a governmental unit, "Government of the Canal Zone" is the generic term for the local governmental authority in the present Canal Zone. To the extent that this authority could be exercised under the Treaty, it will inhere in the United States. Finally, insofar as laws of the United States which refer to the Canal Zone apply to events occurring after the effective date of the new Treaty, the phrase "Canal Zone" is redefined to refer to areas and installations used or regulated by the United States pursuant to the Treaty.

TITLE I—PANAMANIAN RELATIONS AND SECURITY MATTERS

Section 101. United States-Panama Joint Committees; Sea Level Canal Study.—

Subsection (a) provides that the President shall appoint the U.S. representatives to two of the joint committees with Panama provided in the Treaty, namely, the Joint Commission on the Environment and any joint committee subsequently designated to study the possibility of a sea-level canal in Panama. With respect to such a sea-level canal study, subsection (b) requires that the study be transmitted to the Congress and subsection (c) precludes construction of a sea-level canal by the United States in Panama unless expressly authorized by Congress after submission of such a study.

Subsection (d) would require the President to designate and the Secretary of State to coordinate the participation of the U.S. representatives to the Consultative Committee to be established under Article III(7) of the Panama Canal Treaty. As provided in the Treaty, this Committee would provide a diplomatic forum for discussion and advice on issues of primary importance; general tolls policy, policies to increase Panamanian participation in the Canal's operation, and international policies on matters concerning the Canal. It is contemplated that other affected Federal agencies will participate in this consultative process under the coordination of the Secretary of State.

Section 102. Authority of the Ambassador.—

Section 102 provides that the United States Ambassador to the Republic of Panama has full responsibility for coordinating the transfer of functions which are assumed by the Republic of Panama under the Treaty. The Administrator of the Panama Canal Commission is exempted from the direction and supervision of the Ambassador, but is required to keep the Ambassador informed of all activities and operations of the Commission. Under existing law (22 U.S.C. § 2680a) the United States Area Military Commander in Panama is similarly exempted from the direction and supervision of the Ambassador.

Section 103. Security Legislation.—

Sections 34 and 35 of title 2 of the Canal Zone Code which deal, respectively, with the authority of the President and of the Governor of the Canal Zone over certain military activities within the Canal Zone, would be repealed by Section 102(a) of the Bill to reflect the termination of the Canal Zone and of the office of the Governor. After the effective date of the Treaty, authority over the U.S. forces in Panama will be exercised in accordance with the normal chain of command.

Subsections (b) through (e) would make inapplicable, as no longer appropriate after the loss of territorial jurisdiction, certain provisions of title 50 of the United States Code concerning the regulation or seizure of foreign vessels in time of national emergency. Repeal of these provisions merely reflects the termination of the Canal Zone and does not impair the authority of the U.S. under Article IV of the Treaty to protect and defend the Canal.

Section 104. Arms Export Control.—

This section would repeal section 38(d) of foreign vessels in time of national emerthe licensing requirements of that Act applicable in the Canal Zone. This licensing authority would no longer be within U.S. jurisdiction under the Treaty.

Section 105. Privileges and Immunities.—

Article VIII of the new Treaty authorizes the United States to designate up to twenty officials of the Panama Canal Commission who, with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. This section would vest in the Secretary of State the authority to make such designation from among persons recommended by the Panama Canal Commission, and to furnish a list to Panama as required by the Treaty.

Section 106. Termination of Canal Zone Government; Transfer of Records.—

The provisions that would be repealed by this section would be inappropriate under the new Treaty arrangements. Sections 1, 2, and 3 of title 2 of the Canal Zone Code concern the designation of the Canal Zone, the acquisition of land to be made part of the Canal Zone in addition to the 1903 grant, and the creation of towns and subdivisions in the Canal Zone. Section 31 establishes the Canal Zone Government and states its functions, section 32 provides for the appointment of the Governor, and section 33 states his powers and duties. Sections 333 and 334 authorize the Governor of the Canal Zone to issue and revoke property licenses within and without Canal Zone town sites.

Sections 5081 through 5092 of title 6 of the present Canal Zone Code provide authority to the Canal Zone Government to extradite persons to the Republic of Panama. With the termination of the Canal Zone Government, these sections would be repealed.

Subsection (b) authorizes the transfer of records, or their copies, including those of the Canal Zone Government, Canal Zone courts and Panama Canal Company, to other U.S. agencies and courts. Under the coordination and with the approval of the U.S. Ambassador to Panama, needed records or copies could also be transferred to the Republic of Panama for the purpose of carrying out their jurisdiction or functions under the Treaty.

TITLE II—PANAMA CANAL COMMISSION AND OTHER AGENCIES

Chapter 1—Commission; Fiscal Matters

This chapter relates principally to the organization of the Panama Canal Commission, its financial management, and its functions and authorities. The Commission would be established as the successor to the Panama Canal Company, would assume the assets and liabilities of the Company, and would be subject to most of the statutory provisions which now govern the Company, including its powers as a government corporation and is authority to borrow funds up to a fixed ceiling from the Treasury. In addition to the provisions of this chapter, the transition is effected to a large extent by the definitions in section 2 of the bill, which provide that references in the Canal Zone Code (redesignated as the "Panama Canal Code") to the "Panama Canal Company" would be amended to read the "Panama Canal Commission".

Section 201. Establishment; Purposes; Location of Offices.—

Subsection (a) of this section would amend section 61 of title 2 of the Canal Zone Code which presently states the purposes, and establishes the offices and residence of the Panama Canal Company. As revised by this section, the Panama Canal Commission is substituted for the Panama Canal Company and declared to be the successor to the Company. References to the civil government of the Canal Zone are deleted, as are references to the Canal Zone as a geographical area. The Commission would be a resident of the eastern judicial district of Louisiana rather than the Canal Zone, as well as the District of Columbia, for the purpose of federal laws relating to jurisdiction or venue in civil actions. Subsection (b) provides a conforming amendment to section 62(a) of the Canal Zone Code, which would have the effect of continuing the U.S. direct investment in the present Panama Canal Company on the books of the new Commission.

Section 202. Payment of Interest to U.S. Treasury; Repeal of Requirement.—

Subsection (e) of section 62 of title 2 of the Canal Zone Code, which requires the present Panama Canal Commission to pay into the United States Treasury interest on the net direct investment of the United States in the Canal, would be repealed by section 202(a) of this bill. The elimination of the interest obigation has been recommended in order to balance the policy objectives of keeping the Commission self-sustaining and avoiding an uneconomic increase in tolls. The conforming amendments in subsections (b), (c), and (d) of section 202 delete other references to the payment of interest. Subsection (b) also clarifies that the surplus referred to in section 62(f) is a "capital surplus account", a means for accounting for undistributed earnings accumulated to date, and not the type of annual operating surplus from which Panama would receive an additional payment under Article XIII(4)(c) of the Treaty.

Dividends to U.S. Treasury.—Subsection (c) of section 202 would amend section 70 of title 2 of the Canal Zone Code, which requires the present Panama Canal Company to pay any operating surplus into the U.S. Treasury, by indicating that the phrase "working capital requirements" includes operating expenses and payments to Panama under the Treaty. This amendment will require the Commission to pay as dividends to the Treasury any surplus not required to be paid to Panama under Article XIII (4)(c) of the Treaty.

Section 203. Expenditures and Payments to Panama.—

Subsection (g) of section 62 of title 2 of the Panama Canal Code would be amended to authorize and direct the new Commission to pay, directly to Panama from Canal operating revenues, the payments required under paragraph 4 of Article XIII of the Treaty. At present, annuity payments to Panama are made through a special State Department appropriation which is repealed by Section 203(b). (The Panama Canal Company reim-

burses the United States Treasury for $519,000 of the total annuity of $2.3 million paid by the Department of State.)

The amended subsection (g) would also provide a method for determining whether the Canal operating revenues in any year produce a surplus sufficient to pay all or part of the contingent $10 million, payable under Article XIII(4)(c) of the Treaty from any excess of Canal operating revenues over expenditures of the Commission. Revenues of a given fiscal period would first be reduced by all expenditures of that period including: (i) amounts paid or payable for operations and maintenance, inventory, goods, services and that portion of unfunded liabilities paid or currently payable; (ii) payments to Panama under paragraphs 4(a) and 4(b) of Article XIII and paragraph 5 of Article III; (iii) amounts payable into a capital reserve account established to fund plant replacement, expansion, and improvements; (iv) amounts payable into reserve accounts established in order to match revenues and expenses during the projected period of a given toll rate; and (v) amounts necessary to recover past deficits.

This formula is intended to insure that the contingent payment to Panama will be made only after all costs of operating the Canal have been met.

Section 204. Public Service Payments to Panama.—

At present, the Panama Canal Company is required to treat as an operating cost the net costs of operation of the Canal Zone Government. A new subsection (h) added to section 62 of title 2 of the Panama Canal Code would similarly require the Panama Canal Commission to treat as an operating cost payments to Panama for providing certain public services in the Canal operating areas and housing areas (police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection) as required by paragraph 5 of Article III of the Treaty. The Treaty fixes the amount of this payment at $10 million annually, and provides that every three years the costs involved in furnishing the services are to be re-examined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

Section 205. Board of Directors of Commission.—

Subsection (a) of section 63 of title 2 of the Panama Canal Code, concerning the Board of Directors of the Panama Canal Commission, would be amended to conform to the new Treaty provision. Article III of the Treaty provides that the Board will have nine members, four of whom are Panamanians and five of whom are nationals of the United States. Under this revised subsection, all members of the Board would be appointed by the President of the United States and hold office at his pleasure, except as limited by Article III(3)(b) of the Treaty.

Section 206. Quorum of Board of Directors.—

Subsection (c) of section 63 of title 2 of the Panama Canal Code would be amended to provide that a quorum for transaction of business of the Board of Directors of the Commission shall consist of a majority of the directors of which a majority of those present are citizens of the United States. The present provision states that a majority constitutes a quorum. The proposed new statement of a quorum would assure that for the transaction of business the United States members would retain their majority.

Section 207. Administrator and Deputy.—

Section 64 of title 2 of the Canal Zone Code, which provides that the Governor of the Canal Zone shall serve, ex officio, as president of the Panama Canal Company, would be amended to reflect the fact that the office of the Governor would be discontinued by section 105 of the bill. The amended section provides that the Administrator and the Deputy Administrator will be appointed by the President of the United States. The new Treaty provides that the Administrator be a United States national until 1990 and that he be a Panamanian national thereafter. The Deputy would be a Panamanian national until 1990 and a United States national thereafter.

Section 208. Suits against Commission.—

Section 65 of title 2 of the present Canal Zone Code states the general powers of the Panama Canal Commission and this amendment to paragraph (3) of subsection (a) restates the sue-and-be-sued clause so as to provide that the amenability of the Commission to suit is limited by the immunities provided by Article VIII of the Treaty or otherwise by law. Article VIII of the Treaty provides that the Commission as an agency of the United States Government is immune from the jurisdiction of the Republic of Panama. The suability of the Commission would also be limited by a provision that the Commission, under the general rule applicable to judgments against the United States Government, is exempt from any liability for prejudgment interest. Monies owed by the Commission to its employees are protected against attachment or garnishment except as otherwise provided by law.

Section 209. Applicability of Government Corporation Control Act.—

Section 66 of title 2 of the present Canal Zone Code, which states the specific powers of the Panama Canal Company, would be amended to provide that the exercise of such powers would be subject to the new Treaty and related agreements, which limit activities and functions of the new Panama Canal Commission. Thus, the enumerated power in the present section 66 may be exercised only to the extent permitted under the Treaty.

Section 210. Commission Property and Assets; Depreciation and Amortization.—

This section would repeal sections 67, 68, and 73 of the present Canal Zone Code which reflect the transfer of assets and functions from the former Panama Railroad Company to the Panama Canal Company. These provisions would have no further relevance under the Treaty.

A new section 68 would be added to the Panama Canal Code, providing that the Commission, as successor to the Canal agencies, would take over the assets and liabilities of the Panama Canal Company, and those of the Canal Zone Government that have not been transferred to other U.S. agencies or to Panama or otherwise disposed of. The assets and liabilities would be deemed to have been accepted and assumed by the Commission under subsection (c) without the necessity of any act on its part. Subsection (b) of the new section 68 would permit the Commission to depreciate the assets to which it would succeed, in particular the Canal and its complementary works, installations, and equipment. The Commission could also amortize its right to use certain assets made available under the Treaty, in particular the employee housing that Panama will make available for use by the Commission under the Treaty.

Borrowing Authority.—No special provision is needed to continue with the Commission the present borrowing authority of the Panama Canal Company under section 71 of title 2 of the Canal Zone Code. This is accomplished by section 2 of the bill which amends the term "Panama Canal Company" to read "Panama Canal Commission".

Section 211. Regulations Regarding Navigation, Passage and Pilotage.—

Section 1331 of title 2 of the redesignated Panama Canal Code would be amended to preserve the basic authority of the United States to prescribe regulations governing the navigation of the waters of the Panama Canal and areas adjacent thereto including the ports of Balboa and Cristobal, the passage and control of vessels through the Panama Canal or any part thereof including the locks and approaches thereto, and pilotage in the Canal or the approaches thereof through adjacent waters. Under this restatement of present law, the U.S. would exercise its regulatory authority in accordance with provisions of the new Treaty and related agreements.

Section 212. Furnishing of Services; Reimbursement.—

Section 231 of title 2 of the Canal Zone Code would be repealed because it refers to funds of the Canal Zone Government, which is being discontinued. Section 232 would be amended to continue the arrangement under which the Panama Canal Commission would be reimbursed for amounts expended by the Commission in maintaining defense facilities in stand-by condition for the Department of Defense.

It is contemplated that the schools and health care facilities now operated by the Canal Zone Government will be operated by the Department of Defense since the Panama Canal Commission is not authorized by the new Treaty to continue these facilities. The amended section 232 would make the appropriations of the Department of Defense (or any other agency that might be designated by the President to perform the functions) available for conducting such educational and health care activities, including kindergartens and college which are now part of the Canal Zone Government system. The amounts expended by the agency furnishing services to employees of other agencies and their dependents, less amounts payable by such persons, would be fully reimbursable, as at present. The funds of agencies of the United States in Panama, including the new Panama Canal Commission, would be made available for such reimbursements related to their employees and dependents. The agencies also would be authorized to pay for health care services provided to certain elderly or disabled persons, primarily disability relief recipients, Civil Service annuitants who retired prior to 1970, and a relatively few elderly persons receiving domiciliary care at Corozal Hospital. This provision would recognize the moral responsibility of the United States to continue past practices in this regard.

Section 213. Public Property and Procurement; Transfers and Cross Servicing.—

This section would repeal section 371 of title 2 of the present Canal Zone Code which refers to the acquisition of equipment, buildings, and structures by the Canal Zone Government, which is being discontinued under the new Treaty. This section would also amend section 372 of title 2 of the Canal Zone Code, by deleting material concerning the Canal Zone Government and continuing existing provisions for transfers of property and facilities between departments and agencies that would be located in Panama. The Panama Canal Commission and other agencies would also be expressly authorized to enter into cross-servicing agreements for the use of facilities, furnishing of services, or performance of functions.

Chapter 2—Tolls

This chapter amends the present provisions applicable to the determination of tolls charged for vessels transiting the Panama Canal, in order to conform to the requirements under the new Treaty.

Section 230. Measurement Rules; Changes in Rates.—

This section would amend section 411 of title 2 of the present Canal Zone Code concerning the prescription of measurement rules and tolls. The present provisions would remain the same except that, in irder to pro-

vide a more timely response to changing economic conditions, the required period for notice of proposed changes would be reduced from six months to three months.

Section 231. Setting of Rates Under New Treaty.—

This section would recognize the fact that the increased financial obligations of the Commission imposed by the annuity provisions of the new Treaty would begin on the effective date of the Treaty and that increased rates of tolls should be put into effect on that same date so that revenues will be sufficient to meet these obligations. This section would take effect on the date of enactment of this legislation and would authorize the present Panama Canal Company to review and change the rates of tolls, as necessary, effective on the Treaty effective date. The changes would be subject to the approval of the President. The section would require that, if and to the extent that time permits, the Panama Canal Company would give three months' notice and conduct a public hearing in the usual manner.

Section 232. Bases of Tolls.—

This section would amend the tolls formula in subsection (b) of section 412 of title 2 of the Canal Zone Code. Section 232 is intended to assure that tolls will be set at a level sufficient to provide for the operation of the Canal on a self-sustaining basis.

Tolls would continue to be prescribed at rates calculated to cover, as nearly as practicable, all anticipated costs of maintaining and operating the Canal, together with the facilities and appurtenances related thereto, including depreciation of assets, amortization of use rights, and payments to Panama pursuant to paragraphs 4(a) and 4(b) of Article XIII and paragraph 5 of Article III of the new Treaty. Paragraph 4(a) provides for payment to Panama of 30 cents per Panama Canal net ton for each vessel transiting the Canal for which tolls are charged, with a periodic adjustment for inflation (based on changes in the United States wholesale price index for total manufactured goods during biennial periods).

Paragraph 4(b) provides a fixed annuity of $10 million to be paid to Panama out of Canal operating revenues. Paragraph 4(c) of Article XIII requires an additional annual amount of up to $10 million to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission, including the amounts paid to Panama pursuant to paragraphs 4(a) and 4(b). The payment under paragraph 4(c), to be made only if earned, is not included in the tolls formula.

In determining the rate of tolls, the Commission may also take into account unrecovered past costs, capital requirements, and the necessity of matching revenues with expenses during the projected period of a given toll rate.

Subsection (c) of section 412 of title 2 would be amended to require vessels operated by the United States, including warships and other military vessels, to pay direct tolls for transiting the Canal. The present law provides that if the President does not require such vessels to pay tolls (and he has not so required), the tolls shall nevertheless be computed and the amounts thereof offset against the obligations of the Panama Canal Company to the United States Treasury. This, in effect, has resulted in the indirect payment of tolls for United States vessels by the Treasury. The proposed legislation would convert the present system of computing toll credits and offsetting them against payments to the Treasury to a system of direct payment of tolls by U.S. vessels.

Subsection (d) of section 412 of title 2 of the Canal Zone Code which provides that the levy of tolls is subject to the provision of cetrain treaties, would be amended to delete the reference to the 1903 Treaty with Panama, which is abrogated by the new Treaty, and to include appropriate references to the new Neutrality Treaty. The provision implementing the 1914 treaty with Colombia prescribing free passage of the Canal for Colombian war ships would be continued.

Chapter 3—Claims

Section 260. Measure of Damages; Time for Filing; Board of Local Inspectors.—

This section would make a number of changes in chapter 11 of title 2 of the present Canal Zone Code dealing with claims for injuries to persons or property. Section 271 of title 2 of the Canal Zone Code would be repealed because it deals with the authority of the Governor in claims arising from civil government. The civil government functions would terminate on the Treaty effective date. The Panama Canal Commission would have its own authority to settle claims after that date.

Section 291 of title 2 of the Canal Zone Code, relating to claims for injuries to vessels in the locks of the Canal, would be amended to include the element of negligence as a condition of the liability of the Commission, as is the case in section 292 concerning injuries outside the locks. In cases under section 291, as revised, the Commission would have the burden of showing its freedom from negligence. A clarifying amendment to section 291 would also be made by substituting the words "any portion of the hull" for the words "the side."

Section 293 of title 2 of the Canal Zone Code, dealing with the types of damages recoverable from the Commission in vessel accident claims, would be revised to confirm the long-standing administrative construction of those damage provisions, that was affected by a court decision in 1973 concerning liability for charter hire, expenses for maintenance of the vessel, and wages of the crew, for the time the vessel is undergoing repairs. Subsection (b) would be amended specifically to cover other questions that have arisen with reference to general average expenses, attorneys' fees, bank commissions and port charges.

Section 294 of title 2 of the Canal Zone Code, specifying delays for which the Panama Canal Commission would not be responsible would be amended by the addition of a new item, time necessary for investigation of marine accidents, which was previously covered by administrative regulation.

Section 296 of title 2 of the Canal Zone Code would be amended by providing that actions on vessel accident claims against the Commission would be brought in the United States District Court for the Eastern District of Louisiana rather than the court in the Canal Zone, since on the Treaty effective date the local court would lose jurisdiction over new civil cases.

Section 297 of title 2 of the Canal Zone Code requires that, prior to the departure of a vessel involved in an accident or injury giving rise to claim, an investigation by the competent authorities has been completed and the basis for the claim has been laid before the Panama Canal Company. This section would be amended to state expressly that lack of knowledge that an accident giving rise to a claim has occurred does not excuse noncompliance with the requirements.

A new section 298 would be added to title 2 of the redesignated Panama Canal Code establishing a statute of limitations, patterned after that contained in the Federal Tort Claims Act, for vessel accident suits against the Panama Canal Commission. A claim would be required to be presented in writing within two years and action brought within one year after notice of final decision on the claim by the Commission. This new provision would probably reduce the number of actions that have to be filed on claims under negotiation, and should be beneficial in terms of time and expense both to the Commission and to claimants in view of the distance between the Canal and the court in Louisiana.

A new section 299 would be added to title 2 of the Canal Zone Code establishing a board of local inspectors, comprised of officials of the Panama Canal Commission, which would conduct the investigation of vessel accidents. At the present time the board is part of the Canal Zone Government, which would be discontinued on the effective date of the Treaty.

TITLE III—EMPLOYEES AND POSTAL MATTERS

Chapter 1—Employment Systems

This chapter would redesignate the present Canal Zone Merit System as the Panama Canal Employment System, and provide for a number of changes consistent with the requirements and purposes of the Panama Canal Treaty of 1977. Many existing provisions would be continued through the definitional change in sections 2 and 302 of the Bill.

Section 301. Repealers and Changes in Canal Zone Code.—

This section would repeal sections 101, 102, 122, 123, 147 and 154 of title 2 of the present Canal Zone Code, and redesignate section 103 as section 122. Section 101 concerns appointment and compensation of employees of the Canal Zone Government, which is being discontinued pursuant to the Treaty. Section 102 provides an exemption from certain laws relating to dual compensation for "teachers in the public schools of the Canal Zone" who are also employed in night schools or vocation schools or programs. The provisions are not considered applicable to the circumstances that would obtain under the new Treaty. Former section 103, concerning deduction from compensation of amounts due from employees for supplies or services, would be redesignated as section 122.

Section 123 concerning hours of work for telegraph operators and train dispatchers is inconsistent with other law and in any event would no longer be needed because under the new Treaty Panama would undertake operation of the railroad. Section 147 authorizes designation of positions which for security reasons must be occupied by a citizen of the United States. Under the new Treaty arrangements this provision would no longer be appropriate. Section 154 requiring training programs to be applied uniformly to employees regardless of citizenship would be inconsistent with the provisions of the Treaty concerning increased employment and training of Panamanians.

Section 302. Definitions.—

Section 141 of title 2 of the redesignated Panama Canal Code defines terms for the purpose of the wage and employment practices provisions of the Code. The definitions of "department" and "position" are revised to delete references to the Canal Zone. The term "department" is also redefined to mean (1) the Panama Canal Commission, and (2) an executive agency which makes an election under the revised section 142(b) (see, analysis to section 303). The term "executive agency" has the same meaning as in 5 U.S.C. § 105.

Section 303. Panama Canal Employment System.—

Section 142(a) of title 2 of the present Canal Zone Code prescribes the general standards governing the system of wage and employment practices governing the Panama Canal Company, the Canal Zone Government and all other U.S. agencies in the present Canal Zone. In place of this general Canal Zone system, section 142(a) would be revised and divided into two parts. First, subsection (a) would require the Panama Canal Com-

mission to conduct its wage and employment practices in accordance with the Panama Canal Employment System. The latter system, like the present Canal Zone Merit System, would be established in accordance with applicable Treaty requirements, provisions of law, including in particular section 149 of title 2 of the Panama Canal Code (see, analysis to section 307), and regulations promulgated by or under the authority of the President. The views and recommendations of the Panama Canal Commission with respect to any proposed regulation would have to be sought and taken into account. This would give the Commission a voice in the formulation of applicable employment standards, particularly those affected by the Panama Canal Treaty of 1977.

Subsection (b) would give other executive agencies (as defined in 5 U.S.C. § 105) in Panama which have their present employment practices governed by the Canal Zone Merit System, the option of electing in whole or in part either to continue under the Panama Canal Employment System, or to adopt their own employment system, e.g., the system otherwise applicable to the agency's employees worldwide.

Section 304. Continuation of Canal Zone Merit System.—

This section would continue the Canal Zone Merit System beyond the Treaty effective date if necesary and until such time as the Panama Canal Employment System is established under section 303 of this Bill. This will permit both continuity and an orderly transition in employment practices.

Section 305. Overseas Recruitment and Retention.—

Section 144 of title 2 of the redesignated Panama Canal Code, concerning compensation, is amended by deletion of subsection (d) which establishes a ceiling of 25% on the additional compensation authorized by section 146. Section 146 is then revised to conform to the new Treaty provisions concerning additional remuneration that may be paid as overseas recruitment and retention differentials (a) to persons already employed on the Treaty effective date, and (b) to persons thereafter recruited outside of Panama for a position in Panama. Section 146 is also revised to provide for the possibility of granting additional remuneration in the form of an overseas recruitment and retention differential to medical doctors employed by the Department of Defense and Panama Canal Commission. The present section authorizes a tax allowance intended to equalize the take-home basic compensation of United States citizens and non-United States citizens and an overseas "tropical" differential, with an overall ceiling of 25%. The proposed revision would allow payment in such amounts as the head of the agency concerned determined should be paid as overseas recruitment and retention differentials. Without this authority to pay incentive differentials, the Panama Canal Commission, as well as other United States Government agencies in the Republic of Panama, might have difficulty in recruiting and retaining both United States and non-United States citizens, particularly in certain critical skills, which are necessary for the continued effective operation of the Canal and essential support activities.

Section 306. Transfer of Federal Employees to Commission.—

This section would authorize heads of federal agencies to enter into agreements to transfer or detail their employees to the new Panama Canal Commission for periods of up to five years. Affected employees would be entitled to reempolyment with their original agencies without loss of those pay, seniority or rights or benefits to which they would have been entitled had they remained with such agencies. This provision would help implement Article X(5) of the Treaty, which requires the United States to rotate, with certain exceptions, at a maximum of five-year periods, U.S. citizens and other non-Panamanians hired after the Treaty effective date.

Section 307. Merit and Other Employment Requirements.—

This would amend section 149 of title 2 of the redesignated Panama Canal Code, relating to the merit standard and other employment system requirements. Subsection (a) would authorize the President by regulation to amend or modify the Panama Canal Employment System consistent with section 142(a) as amended by section 303 of this Bill. As in the latter section, the views and recommendations of the new Panama Canal Commission would have to be sought and taken into account.

Subsection (b) combines the subsections (b) and (c) of the present section 149, and makes revisions required by the Treaty. In particular, the merit standard for personnel decisions would be limited by the requirements in Article X of the Treaty establishing certain preferences for Panamanians. Apart from such limitations, however, the merit standard would continue to apply. As with the present Canal Zone Merit System, the Panama Canal Employment System would be required to conform generally to policies, principles and standards established under the Civil Service Act, and could provide for interchange of U.S. citizen employees between this employment system and the competitive civil service.

Section 308. Regulations; Examining Office.—

This section would amend section 155 of title 2 of the present Canal Zone Code, which now authorizes the President to coordinate and promulgate regulations concerning the employment practices of departments and agencies in the Canal Zone. As amended, the section would require interagency coordination only in the event that an executive agency other than the Panama Canal Commission elected to participate in the Panama Canal Employment System under section 142(b) as revised by section 303 of this Bill.

Subsection (b) as amended would authorize the President to establish, in conjunction with the Panama Canal Employment System, a central examining office like the one presently in the Canal Zone. However, such an office would be required to be a part of the Panama Canal Commission and to perform functions relating to recruitment, examination and determination of qualification standards in accordance with the Panama Canal Treaty and related agreements, particularly Article X of the Treaty.

Section 309. Compensation of Military, Naval or Public Health Service Personnel Serving Commission.—Section 201 of title 2 of the Canal Zone Code concerns the compensation of persons in the military, naval or public health services who serve with the Canal Zone Government or Panama Canal Company. The proposed amendment would delete references to the Governor of the Canal Zone and President of the Panama Canal Company and to the Lieutenant Governor of the Canal Zone and Vice President of the Panama Canal Company and substitute references to the Administrator and Deputy Administrator of the Panama Canal Commission.

Chapter 2—Conditions of Employment, Placement, and Retirement

This chapter prescribes special provisions relating to present employees of the Panama Canal Company, Canal Zone Government and other agencies in the Canal Zone, and relating to employees who, under the Treaty and related agreements, are to receive rights or benefits under the Social Security System of the Republic of Panama.

Section 321. Transferred Employees.—This section would add a new section 202 to title 2 of the Canal Zone Code, requiring that, pursuant to Article X(2)(b) of the Treaty, specified terms and conditions of employment applicable to employees of the Canal Zone Government and the Panama Canal Company who are transferred to employment with the Panama Canal Commission be generally no less favorable than those applied to them prior to the Treaty. This protection would also be extended to employees transferred to other U.S. agencies in Panama.

Section 322. Placement.—This section would add a new section 203 of title 2 of the Canal Zone Code, according appropriate placement assistance including priority placement to vacancies with the United States Government in the United States, for United States citizen employees of the Canal Zone Government and Panama Canal Company who on or any time after the Treaty effective date separate from employment for any reason other than misconduct or delinquency and are not placed in other appropriate positions with the United States Government in Panama. Subsection (b) extends the placement assistance contained in subsection (a) to employees of other U.S. agencies in Panama whose positions are eliminated as a result of implementation of the Treaty. Subsection (c) directs the Civil Service Commission to develop and administer a placement program for all eligible employees who request assistance.

Section 323. Educational Travel Benefits.—This section would add a new section 204 to title 2 of the Canal Zone Code, which would entitle dependents of United States citizen employees of the Panama Canal Commission who are eligible for educational travel benefits, to one round trip each year for undergraduate studies in the U.S. until they reach their 23rd birthday. This benefit to employees is fair and is important to Canal management because it provides incentives for employees to stay in their jobs under the new Treaty arrangements.

Section 324. Adjustment of Compensation for Loss of Benefits.—

The privilege granted by the Treaty to United States citizen employees of the Panama Canal Commission to use the military postal services, sales stores, and exchanges will terminate in five years. Because the loss of these privileges is expected to result in an increased cost of living for the employees, this section would provide that they shall be paid offsetting additional compensation when that occurs.

Sections 325 and 326. Early Retirement Eligibility; Computation.—

Employees of the Panama Canal Company, Canal Zone Government, Panama Canal Commission and any Executive agency in the Canal Zone, who are involuntarily separated or scheduled to be separated as a result of implementation of the Treaty will be eligible to retire if they have 18 years service and are 48 years old. Persons employed by the Panama Canal Company or the Canal Zone Government prior to the exchange of instruments of ratification of the Treaty or prior to its effective date, including such employees who are transferred to the Panama Canal Commission or an Executive agency in the Republic of Panama, and who have at least 18 years of service and are 48 years old or who have 23 years of service at any age elect to voluntarily retire if they do not wish to continue Federal employment in the Republic of Panama. There will be no reduction in the computation of the annuity because of the age at which an employee retires.

Employees of the Panama Canal Company or Canal Zone Government who continue employment with the new Panama Canal Commission or other Executive agency in the Republic of Panama will have their an-

nuity computed at 2½% for each full year they continue in such employment after the effective date of the Treaty up to a maximum of 20 years.

Law enforcement officers and firefighters with at least 18 years of service as law enforcement officers or firefighters and who are at least 48 years of age when separated will have their annuities computed at 2½% for each year of such service (up to 20 years). Employees who separate prior to completing 18 years of law enforcement or fire service and reaching 48 years of age will have their annuities increased by $12 for each month of law enforcement or fire service (not to exceed 20 years) prior to the effective date of the Treaty. Law enforcement officers and firefighters will receive an additional annuity of $8 for each month of such service after the entry into force of the Treaty until they have served a total of 20 years as law enforcement officers or firefighters.

Section 327. Employees of Related Organizations.—

This section is necessary to extend to the court and related employees mentioned in this section the same benefits that the preceding sections would provide for Panama Canal Commission employees. The court and related employees have always been so treated in matters such as these and the policy should continue. Under the Treaty, the court and related functions would be discontinued after the 30-month transitional period.

Section 328. Applicability of Benefits to Non-citizens.—

This section would effect technical amendments to conform certain provisions of personnel law to the new Treaty provisions concerning non-United States citizen employees of the Panama Canal Commission hired after the Treaty effective date who would be covered by the social security system of the Republic of Panama. See, Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977. The amendments would make inapplicable to such persons the provisions of title 5 of the United States Code dealing with compensation for work injuries, retirement, life insurance, and health insurance. Coverage under such provisions would continue for non-United States citizen federal employees who had such coverage immediately prior to Treaty effective date.

Section 329. Non-U.S. Citizen Retirement.—

Subsections (a) and (b) relate to persons separated from employment with the present Canal agencies or the Panama Canal Commission, as a result of the implementation of the new Treaty and related agreements, who become employed under the Social Security System of the Republic of Panama through the transfer of a function or activity or through a job placement assistance program. This provision would implement Article VIII(3) of the Agreement in Implementation of Article III of the Panama Canal Treaty, and would apply regardless of the employee's nationality. In the cases specified in this section, the United States would pay matching funds to the social security system of Panama to aid in the purchase of a retirement equity in the Panama system. The matching funds would come from the United States Civil Service Retirement Fund.

Subsection (c) would implement the requirements of paragraph 2 to Annex C of the Agreement in Implementation of Article IV of the Panama Canal Treaty. That provision requires that non-U.S. citizen employees not covered by the Civil Service Retirement System, and employees paid by nonappropriated fund instrumentalities, be covered by the Panamanian social security system with contributions from U.S. employer agencies. It also requires the United States to request legislation to pay each such employee a retirement similar to that of the Panamanian social security system. Subsection (c) implements these requirements by authorizing the purchase of a retirement equity or supplement for such employees under the Panamanian social security system. The provision will serve to provide retirements to nonappropriated fund employees working at Department of Defense installations (e.g., cafeteria and hospital workers), pursuant to the Treaty. As understood during the Treaty negotiations, the provision would apply retroactively to cover service prior to the Treaty effective date.

Section 330. Technical Amendments.—

This section would make technical amendments necessary to continue the present applicability of provisions concerning leave for jury service, severance pay, relocation expenses and workmen's compensation of federal employees, and to continue the inapplicability of the general law pertaining to overseas differentials and allowances.

Chapter 3—Postal Matters

Section 341. Postal Service.—

This section would provide for the discontinuance of the Canal Zone postal service, as required by the Treaty, but would authorize the Panama Canal Commission to pay outstanding postal savings and money orders and otherwise to handle the liquidation of the service. Since it can be anticipated that mail from the United States and elsewhere will continue to be addressed to the Canal Zone for an indefinite period until the military postal services and the Panama postal service become fully used by senders of mail, the section would provide a procedure intended to assist, to the extent practicable, in the proper routing and distribution of such mail through the military post offices. Subsection (e) contains technical amendments necessary to reflect the discontinuance of U.S. postal service in the Canal Zone.

TITLE IV—COURTS AND RELATED FUNCTIONS

Section 401. Continuation of Code and Other Laws.—

This general provision would expressly continue existing law, including large portions of the redesignated Panama Canal Code, for the purpose of preserving the authority that is to be retained by the United States during the 30-month transitional period provided in Article XI of the Treaty. However, this continuation of laws could not be construed as regulating, or providing authority to regulate, matters as to which the United States may not exercise jurisdiction under the Treaty.

Section 402. Jurisdiction during Transition Period.—

This section, after stating a finding that the Treaty prescribes special provisions governing the jurisdiction of the United States during a 30-month transition period, would limit the jurisdiction of the United States courts in Panama as provided by Article XI of the Treaty. Subsection (c) incorporates Treaty definitions of certain terms used in Article XI relating to the jurisdiction of the United States during the transition period.

Section 403. Division and Terms of District Court.—

This section would recognize changed circumstances under the Treaty by repealing provisions establishing geographical subdivisions of the district court within which the court must hold terms. The court would be authorized to designate its places and times for holding terms.

Section 404. Term of Certain Offices.—

This section would reduce the terms of office of the district judge (eight years), United States Attorney (eight years), United States Marshal (eight years), and magistrate (four years), to the period ending thirty-six months after the exchange of instruments of ratification, in the case of any appointment made after enactment of this Bill. The courts and court personnel would no longer function after the 30-month transition period.

Section 405. Residence Requirements.—

This section would repeal present requirements that a district judge, clerk of the court, United States Attorney, Assistant United States Marshal, magistrate and constable shall reside in the Canal Zone.

Section 406. Special District Judge.—

This section would authorize the chief judge of the appropriate judicial district to designate and assign a special district judge to act during the absence, disability or disqualification of the district judge, or when the office of district judge is vacant. At present the President is authorized to appoint a special district judge under similar circumstances, but not in the case where there is merely a vacancy. Experience has shown the need for provision for designation of a special judge whenever the position is vacant, and vesting this authority in the chief judge of the judicial circuit would conform to present practice both in the Canal Zone and in the United States.

Section 407. Magistrates' Courts.—

At the present time there are two magistrates' courts and a district court in the Canal Zone. Under the new Treaty, the courts will continue for only a 30-month transition period, and their jurisdiction will be greatly limited by Article XI of the Treaty. All civil jurisdiction would be gone except for cases pending on the Treaty effective date. Criminal jurisdiction would be reduced to pending cases, and for the most part, to offenses committed by United States citizen personnel. Because it may develop that the workload may be reduced to such a point that it would be feasible to discontinue one of both magistrates' courts, this section would authorize the President or his designee to do so, leaving the district court to exercise all jurisdiction if both magistrates' courts were abolished.

Section 408. Oath.—

This section would supersede a provision of the Canal Zone Code prescribing the text of the oath to be taken by an applicant to the bar of the district court. The prescribed text would no longer be appropriate in some respects and the revised section would authorize the district judge to prescribe an appropriate oath.

Section 409. Transition Authority.—

For the purpose of exercising the authority of the United States under Article XI during the transition period, this section provides that such authority, except as provided in this Bill, other laws, the Treaty or by executive order, shall be vested in the Panama Canal Commission.

Section 410. Special Immigrants.—

This section would permit the immigration into the United States of certain non-United States citizen employees of the United States Government in the Canal Zone. Section 410 would extend special immigrant status to Panama Canal Company and Canal Zone Government employees residing in the Canal Zone on the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977 who have performed faithful service for one year or more, and to employees of the United States Government in the Canal Zone who have 15 years or more of faithful service and are honorably retired prior to the date of entry into force of the Treaty, or who have been faithful employees for 15 years or more on that date and who subsequently retire honorably. Subsection (b) would exempt special immigrants admitted under this section from certain requirements of present law relating to physical health and proof that the immigrant would not become a public charge.

This proposal arises from a desire to provide retired employees and employees pres-

ently living under U.S. jurisdiction in the Canal Zone with an opportunity to immigrate to the United States if they so choose. Many of these persons have been historically affiliated with the United States presence and have not become fully assimilated into Panamanian society. The bulk of those eligible for immigration will be persons retired from their employment with the United States Government.

TITLE V—MISCELLANEOUS PROVISIONS

Section 501. Health Director; Hospitals.—This section would make technical amendments to various provisions of the present Canal Zone Code which now make references to the hospitals, health bureau, and health director of the Canal Zone Government. Since the Canal Zone Government would be discontinued and the health care facilities would be operated by an agency other than the Panama Canal Commission, the references are clarified to fit the new situation. The various provisions concern hospitalization of the mentally ill, autopsies, disposition of bodies, and litigation involving pre-marital examinations. There would probably be little application of these provisions after the Treaty effective date, but there is a potential application in connection with pending cases during the transition period.

Section 502. Disinterment, Transportation, and Reinterment of Remains.—

This section would make appropriations available to the Panama Canal Company, Panama Canal Commission, and other designated United States Government agencies for the costs incurred for the disinterment, transportation, and reinterment of United States citizens buried at Mount Hope and Corozal Cemeteries. The purpose of this section is to implement the reservation to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal which authorizes the expenditure of funds for the removal, transportation, and reinterment of the remains of these United States citizens.

Section 503. Effective Date.—

Certain provisions of the Bill including section 231 concerning the advance establishment of new rates of tolls; sections 321, 322 and 325 concerning rights to benefits, priority placement and retirement annuities of present employees of the Panama Canal Company and Canal Zone Government; section 404 concerning the terms of offices of certain court personnel appointed after the date of enactment of this Bill, become effective on a date other than the general effective date of the Bill. The latter date cannot be presently specified in advance of Senate approval of the Treaties, and the exchange of instruments of ratification.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. BAKER. Mr. President, I have listened with great care to the remarks of the Senator from Massachusetts, and I am sympathetic to his point of view. As a matter of fact, it will come as no surprise to the Senator from Massachusetts to know, as my friend and colleague from North Carolina (Mr. HELMS), who is also on the floor, knows, that early on in this debate on the treaties, and in part as a result of the concern of the Senator from North Carolina and others as well, I insisted that the administration advise us, the Members of the Senate, of the nature of the implementing legislation that would accompany these treaties.

After a great deal of effort and a number of contacts and exchanges of letters, proposals for implementing legislation were submitted. I am aware, of course, that we cannot be sure that this is the final and last form of that legislation, as the Senator from Massachusetts points out. But it was a step forward, and I am pleased with we were able to get at least that far.

I would also think it may be unprecedented, that is, the business of the administration submitting the implementing legislation in advance of the consideration of the treaties by the Senate. I am doubly pleased, though, that it occurred, because when I am queried by many, and by some Members of the other body, as to whether the House has a role in this matter or not, my answer is always:

Of course, the House has a role, because there are a thousand details, no doubt, which must be attended to by legislation, certainly by a package of implementing legislation.

So I reiterate, I have listened with great interest to the description of the reservation the Senator from Massachusetts will propose to condition or posit the ratification documents on the enactment of legislation. It is a matter which deserves the serious consideration of the Senate. I think the Senator from Massachusetts has done a service to this body by bringing this matter to us in this way, and I assure him I will give it the most serious consideration.

Mr. BROOKE. I thank the distinguished minority leader. I have discussed with him in the past, he will recall, my serious concern about the lack of implementing legislation. We could conceivably pass the treaties and then, as has been pointed out by the distinguished minority leader, the House in exercising its responsibility and the Senate exercising its responsibility, could drastictically change the implementing legislation or maybe refuse to pass it. If passage did not occur for some time we would be in an embarrassing position. Therefore, since the very beginning I have been calling for a final draft of proposed implementing legislation. We were assured last fall that we would get that implementing legislation.

Then later on down the road, I was told that the reason we were not going to get the implementing legislation was because the House did not want to consider action on it at this time.

That is not our concern. That is the concern of the House of Representatives. I cannot conceive of why the House did not want to even look at it at that time. At some time in the near future it may have to take action on implementing legislation or the treaties are not going to be worth very much. Obviously, we would not have necessary appropriations for one thing, which would be essential, or any of the other items which would be contained in the implementing legislation.

Then a little further down the road the administration said:

Well, we will send you the proposed implementing legislation, but it will be subject to revision. We do not stand on it as we will send it up to you.

Well, it is not very reassuring, for the administration to say, "We are just going to send you something which is sort of a model but it can be changed, and drastically changed."

Finally, and still further down the road, we received this package, which I am now introducing into the RECORD, of what they will likely propose, but with the caveat, still, that it is subject to revision by OMB.

Presumably, this is the last word of the State Department and the administration on the subject. I do not think, now that there is a unanimous-consent agreement to vote on the second Panama Canal Treaty, as I understand it, on the 18th of April, that they will go any further than they have gone. Therefore, I felt compelled to introduce this reservation at this time.

I am pleased that the minority leader has taken the floor and voiced his opinion about it and will give very serious consideration to it. I think this is a very important matter which must be resolved and should be resolved prior to a vote on ratification of the second treaty. I am grateful, as I have said, that the minority leader feels this way. I urge my other colleagues to look closely at this reservation, because I think it certainly merits their consideration. I believe it could help us avoid great troubles downstream. I do not want to forecast great troubles, but I would think this would be one way of avoiding great troubles later on. I hope Senators will take this matter seriously. Again I thank the distinguished minority leader.

Mr. HELMS. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. HELMS. I, too, commend the able and distinguished Senator from Massachusetts. As the distinguished minority leader has indicated, he and I have discussed this subject on many occasions. He has been pressing the administration for some sort of information. I shall support the Senator's reservation with enthusiasm, because it is the very least we can do.

Statements have been made on this floor repeatedly that this giveaway, If I may characterize it as such, of the Panama Canal will not cost the people of the United States anything. The Senator has just pulled one thread from the fabric, the $20 million a year interest which will be lost for 22 years, or whatever.

Mr. BROOKE. And there are many other threads which can be pulled.

Mr. HELMS. Exactly. This was discussed at great length in the Armed Services Committee when Governor Parfitt appeared. I questioned him at great length. I had hoped that somewhere along the line Senators would be willing to go back and review that testimony.

The truth is, as the Senator has eloquently stated, that this proposition will, indeed, cost the people of the United States a lot of money.

I commend the Senator. I offer him my assistance in trying to promote support for his reservation.

Mr. BROOKE. Mr. President, I express my gratitude to the distinguished Senator from North Carolina. I am well aware of his very lengthy questioning

in the Armed Services Committee on this point. I think we, and the American people, have been misled as to what the cost of this is going to be. I have heard people say, "Give them the canal, but do not make us pay for it." The answer has always been, "We are not paying anything. We are not going to pay a dime. It is not going to cost us a dime."

Well, it is going to cost us far more than a dime. I think at least we ought to make the American people fully aware as to what the cost will be, to the best of our ability. The Senator has well described the interest payments issue as pulling just one thread from the fabric. There are many other threads which, in the remaining days as this debate moves along, we will bring forth to show, as best we can, exactly what the potential cost will be to the American taxpayer. If the passage of the treaty is what we want to do, that is one thing, but at least we ought to know what the cost of our decisions to do so will be.

For one, I do not want to be voting on any treaty and subsequently having thrown back at me the false statement that I had said it would not cost a penny, especially if the cost proved to be $1 billion, or conceivably more than that.

I again thank the Senator from North Carolina who did the hard questioning. I think too many of our colleagues did not read the exchange, did not read the answers.

In one of the early debates on the floor which I had with the Foreign Relations Committee personally, with Senator JAVITS, for example, he admitted that there were going to be some costs to this. He said the record was complete and then changed this statement and said the record was replete. I remember it, because it was quite different.

But they did not have all the facts. They, themselves, at the time on their hearings, believed that there should be proposed implementing legislation to review. I think they believed at that time that they would get it before ratification. The fact is we still do not have it. Therefore, the necessity of filing this reservation.

Again I thank my colleague from North Carolina, and I thank my distinguished minority leader for joining with me.

Mr. SARBANES. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. SARBANES. I do not think it was ever the expectation of members of the committee that we would have implementing legislation in the sense of having it enacted as that would mean the Congress working its own will.

I supported, and I think it makes a contribution, that the administration should submit if not the absolute and final version, something that is so far along the path in terms of what their ideas are, in terms of what the implementing legislation should contain, that we are able to see the structure that they at least are anticipating.

Obviously, we, the Congress, can go on, with respect to the implementing legislation, and do as we choose with it. We could completely change it.

The final package of the administration has no signficance in terms of being what will happen other than giving us the best reading we can obtain on what the administration's views are as to what the shape of the legislation should be.

Mr. BROOKE. And which is important.

Mr. SARBANES. I concede it is important. I think the last submission which has just come to us, even though there is the caveat of further final OMB clearance, in my view I receive as representing the considered judgment of the administration as to what should be in the legislation and, therefore, providing us with a basis to which to react in terms of making our own judgments as we look at it in terms of how that affects or may affect the treaty, or how we may want to change the implementing legislation.

In the committee we supported the effort to obtain that submission. I do not think that was coupled with a notion that the submission would actually be passed by the Congress. After all, the Congress has wide-ranging responsibilities to deal with some matters in extended detail.

Mr. BROOKE. I thank my colleague. Like many others in this body, I have not had the opportunity to commend him for the very fine job he has been doing throughout the debate.

Mr. SARBANES. I appreciate the Senator's comment.

Mr. BROOKE. I certainly realize that we would have the opportunity to change any proposed implementing legislation that the administration would send to the Congress. On the other hand, that is the administration's view, that is the administration's decision, that is the administration's proposal. That is what we will work on. That will be our working paper, though obviously, we will be able to amend, delete, or whatever we choose to do in both Houses of the Congress and it will end in some kind of conference on it, I am sure.

Still, the caveat, to me, is a very significant one. It is subject to revision. The administration is not saying, "This is what you are really going to get in the final proposal. You might get something different from that in the final proposal." I think it is important to note this.

I also would like, frankly, as I have indicated, to see us have the enactment of the implementing legislation prior to exchange of the instruments of ratification. I think that is important. But we differ on that and I do not think this is the time to engage in a lengthy debate on that subject.

At any rate, I do feel compelled now to introduce this reservation. I think not only the opponents of the treaties, because I think it goes beyond that, but I hope the proponents as well as the opponents, will look carefully at the reservation and its significance, both to us and to Panama. I feel that without introducing it, I would be remiss and I think the Senate would be denied an opportunity to work its will on a very significant part of this entire issue.

I thank my distinguished colleague from Maryland.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW AND RESUMING CONSIDERATION OF PANAMA CANAL TREATY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer, the following Senators be recognized each for not to exceed 15 minutes, Senators BELLMON, SCHMITT, and PAUL G. HATFIELD, after which the Senate will resume consideration of the treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HARRY FLOOD BYRD, JR., be recognized for not to exceed 15 minutes at the conclusion of the three orders previously entered for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean, Mr. President, that the Senate would resume consideration of the treaty circa 12 o'clock noon tomorrow.

Mr. President, I yield the floor.

RECESS TO 11 A.M. TOMORROW

Mr. SARBANES. Mr. President, in accordance with the order previously entered, I move that the Senate, in executive session, stand in recess until the hour of 11 a.m. tomorrow morning.

The motion was agreed to; and, at 6:15 p.m., the Senate, in executive session, recessed until tomorrow, Thursday, April 6, 1978, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate, April 5, 1978:

DEPARTMENT OF DEFENSE

Gen. David C. Jones, U.S. Air Force, to be Chairman of the Joint Chiefs of Staff, serving in the grade of general, pursuant to title 10, United States Code, section 142.

Adm. Thomas Bibb Hayward, U.S. Navy, to be Chief of Naval Operations, pursuant to title 10, United States Code, section 5081.

Gen. Lew Allen, Jr., U.S. Air Force, to be Chief of Staff of the U.S. Air Force, pursuant to title 10, United States Code, section 8034.

HOUSE OF REPRESENTATIVES—*Wednesday, April 5, 1978*

The House met at 3 o'clock p.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, for I am with you; be not dismayed, for I am your God; I will strengthen you; yea, I will help you.—Isaiah 41: 10.

Eternal Father, we stand before You in the quiet of this moment knowing that You are with us and feeling deep within us that we cannot live without You. You have made us for Yourself and our hearts are restless until they find rest in You. Grant unto us a vivid sense of Your vital presence that we may know who we are and where we are going. May we glorify You in our daily lives and so keep our minds stayed on You that we may enter into the peace which passes all human understanding.

Unto You do we commit these leaders of our people and all who make up the citizenry of our beloved country that justice, peace, and good will may come to new life in our world for the good of the human race and the glory of Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5981. An act to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services;

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2779. An act to authorize additional appropriations for the work incentive program established by title IV of the Social Security Act; and

S.J. Res. 102. Joint resolution American Indian Religious Freedom.

PARLIAMENTARY INQUIRY

Mr. DENT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DENT. Mr. Speaker, I would like to ask unanimous consent to speak for 1 minute and to revise and extend my remarks, but before doing so, I would like to ask the Chair a question as a matter of information.

Mr. Speaker, I would like to ask unanimous consent to exceed the 300-word limit in order to convey to the House today the message which I have on a very important incident which just occurred this morning and yesterday.

The SPEAKER. The Chair would like to ask the gentleman whether he has an estimate from the Government Printing Office.

Mr. DENT. No, Mr. Speaker, I have no estimate because we are permitted 300 words in a 1-minute speech. This is just a few words over the 300-word limit.

The SPEAKER. The Chair will state that the gentleman's remarks will appear in the RECORD, but not prior to the legislative business.

Mr. DENT. Yes, Mr. Speaker. I will not read it all.

The SPEAKER. Does the gentleman understand that his remarks will appear in the RECORD, but not during the 1-minute portion of the RECORD?

Mr. DENT. They will appear in the RECORD?

The SPEAKER. They will appear in the RECORD.

Mr. DENT. All right. I thank the Chair.

EMERGENCY AGRICULTURAL ACT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I rise to express my opposition to the multibillion-dollar consumer ripoff, the so-called Emergency Agricultural Act, which was approved by the House-Senate conferees yesterday.

According to the Congressional Budget Office, this massive giveaway will add 2 percent to the consumers' food bill. The proposal will cost an additional $3 billion over the administration's new land diversion implemented last week.

Mr. Speaker, I submit that we have heard enough from this small but vocal special interest group. Now is the time to listen to the voices of the vast majority of Americans, the consumers and taxpayers who will be forced to pay for this giveaway. The time has come to begin to stabilize our farm prices rather than just "give away the store" to this special interest group. With the threat of double-digit inflation, and a worsening economy, we must stand up and reject this irrational proposal.

Why do we embark on this program when we do not know the effects of the questionable 4-year program we enacted last year? Why must we pamper people who are intentionally plowing under their crops in order to force the consumer to pay higher prices? Why are we paying farmers not to grow when the threat of hunger grows in the world daily? Why cannot we stand up and address the real, grim economic facts, and reject the latest demands of this special interest group?

The members of the conference committee may tout their disastrous decision in their home States and districts; but, the majority of members, who represent consuming areas, have yet to decide the issue. I will strenuously oppose this conference report. I urge my colleagues to join me. Finally, I urge the President to reject and veto this legislation if it should reach his desk.

I trust he has the conviction to make good his word to reverse our growing inflation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Prior to making an announcement, the Chair would like to make inquiry of the gentleman from New York (Mr. HANLEY), in view of the fact that the Chair observes that the gentleman from New York is consulting with Members from the other side of the aisle, as to how long he thinks it will take to conclude consideration of the Postal Act of 1978 bill.

Can the gentleman enlighten the Chair?

Mr. HANLEY. Mr. Speaker, I would hope very much that we could conclude deliberation and vote on the measure by 6:30 p.m. There is but one controversial amendment—that is, the Simon amendment. I do not believe that the other amendments are going to take that much time. So, it would be the hope of the committee that we can resolve this matter and call for a vote at approximately 6:30 p.m.

The SPEAKER. Does the minority concur with the statement made by the gentleman from New York (Mr. HANLEY)?

Mr. DERWINSKI. Mr. Speaker, as we all know from the differences that occasionally crop up with the House minority leadership that the minority does not always think the way the majority does.

I would say that I believe my dear friend the gentleman from New York (Mr. HANLEY) is being a little over-optimistic because I think we will have amendments coming out of the woodwork all afternoon. I honestly believe that the bill will have to spill over until tomorrow unless the gentleman wants to keep us here until 10 o'clock tonight or later.

The SPEAKER. It would be the suggestion of the Chair that unless the House can complete the legislation by say 7 o'clock, or shortly thereafter, that the Committee will rise at that time.

Mr. HANLEY. Mr. Speaker, if I might add to what I just said, we will work diligently toward that 6:30 to 7 o'clock target. I would request that if we do require a little more time to complete our deliberations on the matter instead of spilling over into the following day, I would hope that we can do that.

I might point out that it is 10 minutes after 3 o'clock now and that we have had already 2 previous days on this bill. I believe that the consensus of most of the Members is that they would rather hang around here for another few hours, if necessary, so as to finish this matter today.

Mr. DERWINSKI. Mr. Speaker, in an effort to be helpful, may I respectfully remind the Members of the House that in most cases I will be carrying the banner of our beloved administration.

The SPEAKER. The Chair will announce that the leadership will take a look at the situation around 7 o'clock, and if at that time we conclude that we can complete action on the bill by 8 o'clock we will do so, but the Chair has no intention of continuing until 10 o'clock so that the Committee would rise between 7 and 8 o'clock this evening and then we would continue with the bill as the first thing on the agenda for tomorrow.

Mr. HANLEY. Mr. Speaker, that is fair enough.

POSTAL SERVICE ACT OF 1977

Mr. HANLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7700) to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. HANLEY).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 4, answered "present" 2, not voting 42, as follows:

[Roll No. 191]

YEAS—386

Abdnor	D'Amours	Heckler
Addabbo	Daniel, Dan	Hefner
Akaka	Daniel, R. W.	Heftel
Alexander	Danielson	Hightower
Allen	Davis	Hillis
Ammerman	Delaney	Holland
Anderson, Calif.	Dellums	Hollenbeck
	Dent	Holt
Anderson, Ill.	Derrick	Holtzman
Andrews, N.C.	Derwinski	Horton
Andrews, N. Dak.	Devine	Howard
	Dickinson	Hubbard
Annunzio	Dicks	Huckaby
Applegate	Dingell	Hughes
Archer	Dodd	Hyde
Armstrong	Dornan	Ichord
Ashbrook	Downey	Ireland
Ashley	Drinan	Jacobs
AuCoin	Duncan, Oreg.	Jeffords
Badham	Duncan, Tenn.	Jenkins
Bafalis	Early	Jenrette
Baldus	Eckhardt	Johnson, Calif.
Barnard	Edgar	Johnson, Colo.
Baucus	Edwards, Ala.	Jones, N.C.
Bauman	Edwards, Calif.	Jones, Okla.
Beard, R.I.	Edwards, Okla.	Jones, Tenn.
Beard, Tenn.	Eilberg	Jordan
Bedell	Emery	Kastenmeier
Beilenson	English	Kazen
Benjamin	Erlenborn	Kelly
Bennett	Evans, Colo.	Kemp
Bevill	Evans, Del.	Ketchum
Bingham	Evans, Ga.	Keys
Blanchard	Evans, Ind.	Kildee
Boggs	Fary	Kindness
Boland	Fascell	Kostmayer
Bolling	Fenwick	Krebs
Bonior	Findley	LaFalce
Bonker	Fish	Lagomarsino
Bowen	Fisher	Latta
Brademas	Fithian	Le Fante
Breaux	Flippo	Leach
Breckinridge	Florio	Lederer
Brinkley	Flowers	Leggett
Brodhead	Flynt	Lent
Brooks	Foley	Levitas
Broomfield	Ford, Mich.	Livingston
Brown, Calif.	Ford, Tenn.	Lloyd, Calif.
Brown, Mich.	Forsythe	Lloyd, Tenn.
Brown, Ohio	Fountain	Long, Md.
Broyhill	Fowler	Lott
Buchanan	Fraser	Lujan
Burke, Fla.	Frenzel	Luken
Burke, Mass.	Frey	Lundine
Burleson, Tex.	Fuqua	McClory
Burlison, Mo.	Gammage	McCloskey
Burton, John	Garcia	McCormack
Burton, Phillip	Gaydos	McDade
Butler	Gephardt	McDonald
Byron	Giaimo	McEwen
Caputo	Gibbons	McFall
Carney	Gilman	McHugh
Carr	Ginn	McKay
Carter	Glickman	Madigan
Cavanaugh	Goldwater	Maguire
Chisholm	Gonzalez	Mahon
Clausen, Don H.	Goodling	Mann
	Gore	Markey
Clawson, Del	Gradison	Marks
Cleveland	Grassley	Marriott
Cochran	Green	Martin
Cohen	Gudger	Mattox
Coleman	Guyer	Mazzoli
Collins, Ill.	Hagedorn	Metcalfe
Conable	Hall	Meyner
Conte	Hamilton	Mikulski
Conyers	Hammer-schmidt	Mikva
Corcoran		Milford
Corman	Hanley	Miller, Calif.
Cornell	Hannaford	Miller, Ohio
Cornwell	Hansen	Mineta
Cotter	Harkin	Minish
Coughlin	Harrington	Mitchell, N.Y.
Crane	Harris	Moffett
Cunningham	Hawkins	Mollohan
Montgomery	Risenhoover	Stokes
Moore	Roberts	Stratton
Moorhead, Calif.	Robinson	Studds
	Roe	Stump
Moorhead, Pa.	Rogers	Symms
Moss	Roncalio	Taylor
Mottl	Rooney	Thompson
Murphy, Ill.	Rose	Thone
Murphy, Pa.	Rosenthal	Traxler
Murtha	Rostenkowski	Treen
Myers, Gary	Rousselot	Trible
Myers, John	Roybal	Tsongas
Myers, Michael	Rudd	Ullman
Natcher	Ruppe	Van Deerlin
Neal	Russo	Vander Jagt
Nedzi	Ryan	Vento
Nichols	Santini	Volkmer
Nix	Sarasin	Waggonner
Nolan	Satterfield	Walgren
Nowak	Sawyer	Walker
Oberstar	Scheuer	Walsh
Obey	Schroeder	Wampler
Ottinger	Schulze	Watkins
Panetta	Sebelius	Weaver
Patten	Seiberling	Weiss
Patterson	Sharp	Whalen
Pattison	Shipley	White
Pease	Shuster	Whitehurst
Pepper	Sikes	Whitten
Perkins	Simon	Wilson, C. H.
Pettis	Sisk	Wilson, Tex.
Pickle	Skelton	Winn
Pike	Skubitz	Wirth
Poage	Slack	Wolff
Preyer	Smith, Iowa	Wright
Price	Smith, Nebr.	Wydler
Pritchard	Snyder	Wylie
Pursell	Spence	Yates
Quayle	St Germain	Yatron
Quie	Staggers	Young, Alaska
Quillen	Stangeland	Young, Fla.
Railsback	Stanton	Young, Tex.
Rangel	Stark	Zablocki
Regula	Steed	Zeferetti
Rhodes	Steers	
Rinaldo	Stockman	

NAYS—4

Collins, Tex.	Mitchell, Md.
Ertel	Wilson, Bob

ANSWERED "PRESENT"—2

de la Garza	Marlenee

NOT VOTING—42

Ambro	Lehman	Rodino
Aspin	Long, La.	Runnels
Biaggi	McKinney	Solarz
Blouin	Mathis	Spellman
Burgener	Meeds	Steiger
Burke, Calif.	Michel	Teague
Cederberg	Moakley	Thornton
Chappell	Murphy, N.Y.	Tucker
Clay	O'Brien	Udall
Diggs	Oakar	Vanik
Flood	Pressler	Waxman
Harsha	Rahall	Whitley
Kasten	Reuss	Wiggins
Krueger	Richmond	Young, Mo.

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7700, with Mr. PATTISON of New York in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, March 21, 1978, pending was an amendment in the nature of a substitute offered by the gentleman from New York (Mr. HANLEY), which is being read by sections as an original bill for the purpose of amendment, of which section 2 had been considered as having been read, and pending was an amendment to section 2 offered by the gentleman from Illinois (Mr. SIMON).

AMENDMENT OFFERED BY MR. ALLEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SIMON

Mr. ALLEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ALLEN as a substitute for the amendment offered by Mr. SIMON: On page 4, line 2, after the word "recover", insert the following: "amounts sufficient to insure that rates for zone-rated parcels are not established at such levels below cost as would have the effect of undercutting the rates of, or which discriminate against, enterprises in the private sector furnishing similar or comparable services and engaged in the delivery of mail matter other than letters, and".

Mr. ALLEN. Mr. Chairman, when this matter was before us about a week ago, and immediately before the committee rose, the gentleman from Pennsylvania (Mr. NIX) was prepared at that time to offer a substitute to the Simon amendment, and he was good enough to furnish me with a copy of it. I read it very carefully. It seemed to me that his purpose was laudable, but he used the words that the rates should not be discriminative. I was not sure exactly how that might be interpreted by the courts. So I rewrote it so that what we are saying is that there would be equity and fairness between the Postal Service and the private sector of the economy. It would insure that rates for zone-rated parcels are not established at such levels below cost as would have the effect of undercutting the rates of, or which discriminate against, enterprises in the private sector furnishing similar or comparable services and engaged in the delivery of mail matter other than letters.

It seems to me that what we want to do is to be fair.

If we want to maintain our parcel post service in the Postal Department, we will not or should not adopt any amendment which could be interpreted as the committee has interpreted the Simon amendment, in effect, to be that the rate would automatically have to go up some 68 percent for parcel post.

Mr. Chairman, I was not at the hearings, but I have the letter here from Messrs. NIX, HANLEY, CHARLES H. WILSON, and DERWINSKI, in which they said as follows:

Parcel post is the people's way to mail packages. A recent survey by Michigan State University showed that while only 3 percent of United Parcel's shipments were household-to-household, 44 percent of parcel post packages are mailed from one household to another—more than 135 million packages a year, compared to UPS's 27 million. Yet the Simon amendment would require the people to pay parcel post rate increases of about 67 percent more per package.

Parcel post cannot survive such drastic rate hikes. In the past decade, parcel post has plummeted from nearly 1 billion pieces a year to about 300 million, and the decline continues. This revenue loss affects other classes of mail by piling inflexible institutional costs onto them, particularly first-class mail. Further rate increases only make the problem worse.

Based on that, I sought to draw an amendment which would strike a balance between the competing interests here, the public service and the private sector of the economy.

Mr. Chairman, I have a letter here from Mr. Andrew Biemiller, who is director of the Department of Legislation of the AFL–CIO, and let me read just one paragraph. He said:

Similarly we oppose an amendment by Representative Simon to eliminate the subsidy for parcel post contained in H.R. 7700. This amendment, by allowing the United Parcel Service (UPS) to capture all of the remaining profitable parcel post business, would leave to the Postal Service only the unprofitable suburban and rural parcel post and drive up consumer costs as well by requiring new rate increases. In the process, several thousand postal jobs would be wiped out. We understand that Chairman Nix will offer a substitute for the Simon amendment and we support the Nix amendment.

As it turned out, Mr. Chairman, Mr. NIX has decided not to offer his amendment but, instead, to consider mine. How he votes I do not know, but I have sought to accomplish what I understood was the purpose of the Nix amendment, and that was to protect the Postal Service from being ravished and put in a position where it absolutely could not compete at all and maintain its service except by high subsidies or by permitting it to dip into the money from first-class mail and so subsidize the parcel post rates.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. ALLEN) has expired.

(By unanimous consent, Mr. ALLEN was allowed to proceed for 1 additional minute.)

Mr. ALLEN. Under my amendment, the Post Office Department will not be permitted to dip into the till from the collection of first-class postage in order to reduce rates for parcel post to the extent that they would so undercut the rates of the private sector of the economy that it would drive United Parcel out of business. I want to be fair to both sides, and I believe this amendment strikes a fair and equitable balance.

I urge the adoption of this substitute amendment to the Simon amendment.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

(On request of Mr. DERWINSKI and by unanimous consent Mr. ALLEN was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield for a question?

Mr. ALLEN. I will be delighted to yield.

Mr. DERWINSKI. The gentleman has properly expressed his interest in the effect of this legislative process, and in so doing he has explained that originally this was the Hanley amendment; then it was a Nix substitute, and now an Allen substitute.

So, in the history of the American lexicon, we will now have HANLEY to NIX to ALLEN in place of Tinkers to Evers to Chance. But, the gentleman from Tennessee has properly explained the very complicated problem relating to parcel post rates. There will be a number of other Members addressing the subject, and I hope the Members of the House would give the gentleman and us their attention so that we could unravel this gigantic crossfire that has besieged the Members.

I commend the gentleman for his efforts to help postal users this afternoon.

Mr. ALLEN. I thank the gentleman.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my colleagues of the House, my colleague from Tennessee (Mr. ALLEN) has attempted to work out a compromise, and it could be that the courts would interpret it in such a way that it is a reasonable compromise, but no one knows. And so, I would hope that this House would reject the Allen compromise and accept the language of my amendment, which keeps the phrase, "direct and indirect costs," which the courts have interpreted and where we know where we stand.

Let me point out that while it sounds very appealing, it says:

. . . zone-rated parcels are not established at such levels below cost as would have the effect of undercutting the rates of, or which discriminate against, enterprises in the private sector . . .

Here, we are talking about several thousand—not just UPS and Greyhound and Trailways and a few that provide services—we are talking about several thousands of businesses. We are talking about a massive business of accumulating rates and determining what is the fact.

Then, it says:

. . . furnishing similar or comparable services . . .

Now, what are similar or comparable services? Well, who knows what the court might say. The court might very well say that a business that is in the private sector that is delivering packages is not similar or comparable if it does not have 40,000 outlets, as the Postal Service does.

The other point that I would mention to the Members, that I hope they keep in mind, is that the 3-year provision is kept in the law under the Allen compromise. That 3-year provision is that they do not attribute cost of buildings, vehicles, or anything that goes over the 3-year period. Obviously, these are cost factors that ought to be attributed to parcel post.

So that there is no misunderstnding and so that the Members understand the effect of this amendment and my amendment and what the bill does—let me state that the bill does basically two things. No. 1, it changes some of the structure of the Postal Service, and we all know it needs a change in structure.

The second thing it does is that it increases the subsidy for the Postal Service. I favor an increase in the subsidy for first class, second class, third class, for books, magazines, newspapers, and, as I say, for first-class mail, because these are "idea" things and that traditionally is what the Postal Service has done, that is the old Post Office Department. But in 1913 the Post Office started delivering packages with a mandate that they had to pay their own way. That has been stated again and again by Congress through the years. Now, as I say, I am not opposed to a subsidy. We have a subsidy now and I favor a continuation

of the subsidy, but I also think the status quo is a desirable thing, and I think you have to know that if you give too much leeway to the leaders of the Postal Service—and we have a new Postmaster General, and I hope he is better than his predecessor was—but the leaders of the Postal Service have done everything they can to skew rates to be competitive. There is no political philosophy, no philosophy of any kind in their running of the Postal Service. They have the philosophy of a bulldozer. They just move in and try to push out everyone who gets in their way.

So I point this out to my colleagues who have not had the chance to look at the rate structure. Since 1970 when the Postal Service came into existence we have had an increase in the cost of living of 54 percent. We have had an increase in parcel post rates of 28 percent. We have had an increase in third-class mail of 95 percent. We have had an increase in second-class mail of 129 percent, and we have had an increase in first-class mail of 117 percent.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, there has been a lot of misinformation put out, and I think that the people who put it out have genuinely believed in what they put out, but I have seen where the rural mail carriers say, "You won't be able to pick up packages anymore," if my amendment is adopted. And of course it has nothing to do with that. As I say, I favor a strong and healthy parcel post service. I want the parcel post service to continue, but I do not want to be using tax money to put people out of jobs who are now working in the private sector. I also do not want tax money to put businesses out of business who are now paying taxes. I do not see any sense to that. We are talking about a subsidy and a substantial subsidy to parcel post if we continue on the basis of the Postal Service record of the past and probably the cost the next fiscal year for parcel post service alone will be about a $159 million subsidy, to put people out of work. I do not believe that is a wise use of the taxpayers' money.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join in strong support of the gentleman from Illinois (Mr. SIMON) in what he has said. I think this is one of the most basic issues that we have before us, particularly as it regards the postal system, because what it means is that the Post Office is going to have to divide their costs fairly if we take the Simon plan.

Unless we accept Simon it is going to mean that first-class mail costs will go up very substantially to cover the loss cost of parcel post. Because we certainly will have to subsidize parcel post losses so then first-class mail will have to go up. Is that a correct understanding of what is going to happen?

Mr. SIMON. If the gentleman will yield, one of two things has to happen, either you impose an additional burden on the first-class mail and other classes of mail or you take it from the pockets of the taxpayers. It is either one way or another, the gentleman is correct.

Mr. COLLINS of Texas. But under the present system we will be spending too much for parcel post in the cities and too much for parcel post in the rural areas and too much for parcel post wherever a parcel is delivered.

But under SIMON's plan we are going to have a competitive system that will provide rates on a fair valuation where all will be treated fairly. In that way I think we will find that the parcel post will again become more aggressive. I really anticipate that once fair rates go into effect, we are going to find better service, a more efficient parcel post service and, heaven knows, it is going to mean that the United Parcel Service will get a fair shake in being able to compete on even terms.

I thank the gentleman for yielding.

Mr. HANLEY. Mr. Chairman, I move to strike the last word.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 7700, the Postal Service Reform Act, and ask unanimous consent that I be allowed to revise and extend my remarks.

When the U.S. Postal Service was reorganized in 1970, it was hoped that the result would be, in the words of the House Post Office Committee report:

> Improved service, stabilized postal rates, enormously improved productivity and efficiency achieved through modernization and mechanization, and exceptionally capable management brought about in part by separating postal management from a direct relationship with the Presidential administration and partisan politics.

Unfortunately, as we all know, the reality has fallen far short of the expectation.

In 1971, total U.S. Postal Service costs were $9.2 billion. For fiscal year 1978, these costs are expected to escalate to $17 billion. In the meantime, while costs have been going up, the U.S. Postal Service management, which is presently not answerable to the Congress or the President. has repeatedly attempted to cut back on services as a way of avoiding some of these dramatic cost increases.

Two examples of such attempted service cutbacks come immediately to mind. First, in 1976, after the Government Accounting Office (GAO) stated that more than $100 million could be saved by eliminating some 12,000 small post offices, the USPS began taking steps to close many of these mostly rural facilities. Although such closings would have had a profound effect on the American public, the Congress was not able to act then, because of the almost autonomous nature of the current Postal Service system. It was thus left to the courts to step in and put an end to this massive insensitivity on the part of USPS management to the local service needs of many of our communities.

A second example of unwarranted service cutbacks occurred last year when the USPS proposed to terminate 6-day postal delivery. The USPS management in Washington came to this ill-conceived decision without ever studying the impact of such a service cutback on rural residents; without knowing how this action would affect rural customers forced to travel many miles to the nearest post office to get their Saturday mail; and without the slightest concern for the potential impact upon commerce of 3-day weekends without any postal delivery. The planned service reduction was shelved only after the House adopted a nonbinding resolution in opposition to its implementation by an overwhelming vote of 377 to 9.

Callous disregard for the public interest is unfortunate in private corporations which try to improve their balance sheets by cutting services. It is intolerable in an entity, such as the Postal Service, which has as its charter service to the American people and which receives nearly a billion dollars per year in Federal subsidies to provide such services.

I have long been concerned by the seeming lack of responsiveness to these continuing problems. Thus, last fall I asked Bob Malson of the White House staff to join me for 2 days of hearings in northwest Iowa so that I could be better aware of the problems facing the Postal Service today. Mr. Malson serves as President Carter's adviser on postal matters in his capacity as a member of the domestic policy staff, and he graciously accepted my invitation.

We talked to postal clerks, letter carriers, postmasters, typical postal customers, and large-scale local customers such as hometown newspaper editors and publishers. We visited rural post offices where in one case we found the local postmaster still hard at work long after he should have been home to dinner; the work had to get done and there was no one else to do it. We found conscientious postal employees at all levels who are frustrated with the current situation, because they know that service is deteriorating and that they are the ones who must face the people every day. These are people who are trying to make the system work, and they are continually handcuffed from above.

In one case, we were told at a hearing that a local postmaster was not empowered to issue a press release to the local newspaper directing people to use a full address and zip code when mailing items, not "city" as was the custom. After some time, he was still awaiting approval from somewhere up above in the bureaucratic chain of command. And people were still mailing their letters to "city" causing an inordinate delay in delivery, since the mail is sorted in another town.

The 2 days of hearings were a very revealing experience for me, and I am sure that Mr. Malson appreciated the chance to get out among the postal people in a rural area. I came away with the belief that there are, indeed, some very serious problems in the Postal Service, but that they are not located out in the field. Rather, they emanate from the glossy, corporate headquarters on

L'Enfant Plaza where the bureaucratic barons reside.

Before I visited with our postal employees in the field, I had a chance to educate myself as to how things are done at the Postal Service headquarters by dropping in unannounced. It seemed to me that I should find out firsthand what problems confronted the people there. I have made a regular practice of such impromptu visits to Federal agencies, for I have found them to be an excellent way to get out among the people who are carrying out Government programs.

Of all the departments I have ever visited, I have never seen one where the problem of keeping people at their desks was so bad that a sign-in, sign-out book at the front entrance was required. I was told by a top official that this policy was introduced, because of a problem of keeping people at their desks for a full 8-hour day. Extra long coffee breaks and early departure times as well as other personnel problems were discussed openly and freely with me by workers during my 5-hour visit. Indeed, I was so concerned that I broke my standing policy of not talking with top management during these visits and brought my findings to the attention of the Deputy Postmaster General right there on the spot.

Today, as we consider H.R. 7700, I think of that sign-out book and of that postmaster in Aurelia, Iowa, still busy while his wife kept dinner warm at 8 p.m. Most likely, the forms he was filling out ended up on a desk in L'Enfant Plaza to be dealt with by someone who needs to be checked up on so that we are assured he is working an 8-hour day. And, as a Congressman who votes on the appropriations that pay his salary, there is not a thing I can do about it. That is why we need this bill.

I believe that the Congress has a responsibility to determine which mail delivery services are in the public interest and at what level of quality they are to be maintained. It then has an obligation to provide funding that is sufficient to insure the maintenance of these services without facilitating an atmosphere which encourages wasteful spending and without providing an unwarranted disadvantage to private sector package delivery services.

In my view, what is desperately needed at the U.S. Postal Service is the reestablishment of an ethos of accountability at the top management level. The current situation of subsidy without accountability is a grave disservice to the American people.

I have found that the buck does not stop anywhere at the Postal Service; it only comes back postage due.

H.R. 7700 would insure that Postal Service management will be responsible for their policies and their expenditures by restoring congressional control over their operations. It will insure that the top management of the Postal Service understands that it must provide certain services and that if such services are not forthcoming, that it will answer to the people's representatives—the Congress and the President.

Mr. HANLEY. Mr. Chairman, I rise in support of the Allen amendment and, again, in opposition to the Simon amendment. If the intent of the gentleman from Illinois (Mr. SIMON) is what he expressed it to be, that intent is contained in the language of the amendment offered by the gentleman from Tennessee (Mr. ALLEN). Actually the amendment is not necesary, because that intent is already expressed in the language of this bill.

As I stated on the floor a few days ago, we have treated UPS very, very fairly in this matter, and this was the decision of postal rate experts from around this country, that the private sector was not only being treated equally but quite well as a result of the language of the bill. We have even offered, mind you, to strike that part of the section related to parcel post, but that was not acceptable to the author of that amendment.

Mr. SIMON. Mr. Chairman, will the gentleman yield on that point?

Mr. HANLEY. I will be glad to yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

My colleague from Illinois (Mr. DERWINSKI) did suggest here a little while ago that we could strike certain portions to delete that reference to parcel post, but he did not want to insert the key words that the two appellate court decisions are based on, the words "direct indirect costs," and I think that is a key that we have to have and that my amendment provides.

Mr. HANLEY. The key is this, that we have talked about the original language, the original law. We are willing to do that. We are willing to strike that portion of the section and revert back to original law from the standpoint of parcel post, but that was not acceptable.

Let me remind the Members that this amendment was not considered nor offered in subcommittee or full committee, so what we are doing here is invading a highly technical area related to postal rates. With due respect, there is not a Member of this Chamber who is equipped to do that. The Postal Rate Commission, who are an objective body working outside of the U.S. Postal Service, has the position and the responsibility to recover as much money as possible from users of the mail. They disagree with the language of the Simon amendment. They support the language of this bill. The U.S. Postal Service, of course, disapproves of the language of the Simon amendment.

What we are doing here, incidentally, should this measure pass, is conceivably we are going to shoot parcel post rates up by 65 percent. There is a segment of America that wants to assure that they have accessible to them a dual parcel delivery system. Rural areas of America that are not happy with the service provided by United Parcel Service want to assure the continuation of parcel post delivery by the U.S. Postal Service. They plead with us to maintain that delivery system. United Parcel Service now enjoys about 70 percent of the volume of parcel post business in America.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

I think it is interesting to show the figures of what has happened to parcel post delivery in the last 25 years. The gentleman from Texas (Mr. COLLINS) made reference to the horrible things that have been happening to UPS, and will happen unless the Simon amendment is adopted. If we go back 25 years, the U.S. Postal Service or the Old Post Office Department was delivering over 1 billion packages a year. United Parcel Service delivered 7 million packages. At the end of 1977 the Postal Service has dropped down to about 250 million packages a year, and United Parcel Service is over 1 billion packages a year.

I think this is an extremely important figure that this body has to understand and to realize that the UPS has been growing and growing. They are not going to be discriminated against by the bill the way it is, but the Postal Service will definitely be discriminated against by the amendment of the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, will my colleague, the gentleman from New York, yield?

Mr. HANLEY. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, just to counteract what my distinguished colleague, the gentleman from California, said, I think it should be pointed out that starting in 1968 we had so-called priority mail.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HANLEY was allowed to proceed for an additional 3 minutes.)

Mr. SIMON. Mr. Chairman, we started with something called priority mail, so that in 1968 we had an upswing in people who paid extra for the delivery of these packages. If we add that on to the parcel post, we come up with some very different kinds of figures.

I would add, this does not include third-class packages. It does not include books. The Post Office actually delivers over a billion packages a year.

Mr. HANLEY. Mr. Chairman, I want to advise the gentleman that priority mail is not parcel post. I want to clarify that.

The Allen amendment, I reiterate, does exactly what is the expressed intent of the gentleman from Illinois (Mr. SIMON). We are saying that it is already in the language of the bill, but we are saying, "Look, you cannot use any of these dollars in a manner that is going to provide unfair competition for your counterpart industry in the private sector." It is as plain as that; so I urge that we support the Allen amendment. It is fair. It is equitable. It does justice to all who

want to preserve the dual parcel system in America.

As I said the other day, perhaps in the not-too-distant future we should get out of the parcel business altogether and have it become a regulated industry, but we are not yet at that point.

Mr. Chairman, again I appeal that we support the Allen amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Allen substitute amendment.

Mr. Chairman, can we put the chart on the majority side, because that is where I have the most converting to do?

Mr. Chairman, the parcel post section of this bill has generated considerable controversy which in turn has produced so-called compromises and counter-compromises. We now are at the point where we are forcing Members into a 1-on-1 situation. We are asking them to choose up sides and determine, without benefit of proper background, how to protect private enterprise's stake in the parcel post business without disrupting the status quo.

None of the various parcel post proposals will produce a Solomon-like decision satisfactory to all sides of this highly complicated issue. Given that state of affairs, commonsense dictates that we refrain from further tampering and retain what currently is the law on parcel post. It is workable and it certainly has not imposed any economic hardships on the United Parcel Service.

Under existing law, United Parcel Service has expanded nationwide and has beaten the Postal Service in head-to-head competition for the parcel post business. United Parcel Service is a top-notch organization which is providing the public with a service it obviously prefers to that offered by the Postal Service. For the United Parcel Service, its dramatic increase in volume has been a continuing success story for the last 25 years. Unfortunately, the same claim cannot be made for the Postal Service.

In 1952, the old Post Office Department was handling more than 1 billion packages. In the same calendar year, United Parcel Service volume was 7 million packages. Ten years later, the Post Office's volume in parcels had decreased to 800 million—while United Parcel Service was handling 117 million packages. By 1976, the Postal Service's volume had shrunk to 338 million packages, while United Parcel Service was handling 977 million packages.

Obviously, the continuing gains made by United Parcel Service are a tribute to an excellent operation. It has demonstrated that it can operate effectively under the existing legislative ground rules.

The Simon amendment, by writing into law a requirement for parcel post increases, is legislative overkill and anti-consumer. It has been estimated the amendment would increase Postal Service rates by upward to 67 percent. It also should be noted that parcel post rates will be increased about 25 percent when the Postal Rate Commission issues its decision next month in the current postal rate case.

It is an established fact that when rates go up, volume declines. Loss of volume ultimately is reflected in lower revenues and increased public-funding requirements.

Ths is not the time to indiscriminately tamper with a section of law which clearly has not jeopardized private enterprise parcel post operations.

(By unanimous consent, Mr. DERWINSKI was allowed to proceed for an additional 5 minutes.)

To place in context the pending Simon amendment, it is necessary to review the events leading up to the enactment of H.R. 8603 of the 94th Congress.

That bill, as it was reported by the committee, would have substantially increased public-service appropriations based on a formula involving delivery addresses.

Under the public-service appropriation that existed at that time—the same $920 million—this appropriation was used by the Postal Service to reduce the overall revenue requirement and so reduce rates to some extent for all classes of mail. It was the policy at that time to allot approximately 10 percent of the public-service appropriation to offset parcel post rates. At the insistence of the United Parcel Service for some difinitive protection against unfair competition when the public-service appropriation was increased, the committee bill included language which kept parcel post benefits at the same level by prohibiting a reduction of more than 10 percent in parcel post rates as a result of the newly appropriated funds.

As H.R. 8603 finally developed, however, the initial public service money formula was scrapped and a two-shot appropriation of $500 million each was authorized to help the Postal Service eliminate its operating indebtedness.

At the same time, however, the 10 percent restriction on the use of appropriated public-service funds to offset parcel post rates remained in the bill, and so it was applied to the $920 million as well as the additional $1 billion. This 10-percent language remains in the current law.

As H.R. 7700 was originally written and introduced, it imposed two ratemaking requirements on parcel post. First, it denied any benefit whatsoever from the public service appropriations authorized in the bill. And second, it would have required that parcel post recover any attributable cost associated with that class of mail; any direct or indirect cost which is the consequence of providing services for parcel post; and a fair share of other costs.

The sponsors of H.R. 7700, upon reflection, felt this was too severe a penalty on parcel post and revised the language as it now exists in the Hanley substitute and the reported H.R. 7700.

The bill now requires that parcel post rates recover the attributable costs of that class of mail plus a fair share of all other postal costs, but at the same time allowing not more than 7 percent of public service appropriations to be used to offset parcel post rates. Also, under the Hanley bill, the 60-percent ceiling on attributable costs will not be applicable to parcel post.

The Simon amendment would limit the use of any public service appropriations to reduce the rates of parcel post and would establish a separate rate formula for determining parcel post rates.

By requiring that parcel post rates shall recover "any direct or indirect cost which is a consequence of providing services for zone rated parcels", the Simon amendment could cause an increase of parcel post rates as much as 30 percent because of the court interpretation of that phrase. The Simon amendment would permit no leeway or judgmental factors in assigning long-range costs to parcel post.

Mr. DERWINSKI. Mr. Chairman, let me say that by the time I finish I expect that even the gentleman from Illinois (Mr. SIMON) can concur with the Allen amendment and then the whole issue will be solved and the world will go on.

Let me first point out to the Members that there are two separate items we have to keep in mind. We have to keep in mind the present economic relationship between the United Parcel Service and the Postal Service. If we look at the chart, and I set it there especially to get the attention of the majority, since that is where the power in this body is, we note that starting in 1952, with one exception between 1955 and 1956, the Parcel Post Service has had a decline in volume. Without exception since 1952 the United Parcel Service has had an increase in volume. At the present time, the United Parcel Service is carrying over three times the volume of parcels carried by the Postal Service.

Now, the only point of this is that under the present law, the present relationship between the two obviously has not been at all detrimental to the United Parcel Service, but the Simon amendment is not just protecting that status. The Simon amendment is what I would politely refer to as an overkill. The practical effect of the Simon amendment will be to force parcel post rates up, possibly as high as 65 percent.

May I remind the House, incidentally, that come mid-June, parcel post rates are going up 25 percent under the pending rate case. Whenever that happens, the officials in the United Parcel Service, being brilliant businessmen, frankly, much better administrators than we seem to be at the Post Office these days, they go to the ICC and they get a rate increase.

They always keep their rates just a touch below the parcel post rates, but they do get the rate increase, so the customer is the one who gets it in the neck. Because of the basically superior service provided by United Parcel Service, with these constant rate adjustments they get more and more of the business.

What does this mean? This means, first of all, that you and I as caretakers of the Federal budget are going to be called upon year after year to add to the postal subsidy because of the growing disparity in volume between the

business of United Parcel and that of the Postal Service.

Second, it means that not the mass mailer, not the manufacturer, not the shipper, and not the wholesaler but, rather, grandma and grandpa and individual families, members who mail parcels back and forth are the ones who will be at the mercy of what is going to be left of the Postal Service.

If we adopt the Simon amendment, we will add to what is really an economic imbalance in favor of United Parcel.

Let me turn now for a moment to my side of the aisle. On my side of the aisle the Members all worship that vague thing called "free enterprise." But that is not free enterprise. That is approaching a monopoly, and we all know as free-enterprisers that the worst thing in the world for a consumer is a monopoly. The facts of life are that unless we maintain a fair balance so that parcel post can be competitive, it is the consumer who is going to suffer from our mismanagement of this situation.

The real solution would be—and this is the one we tried to develop—to eliminate this parcel post issue and return to the present law. But our friends with United Parcel seem to have the horses, and they do not want to compromise at this point. If we really want to do things right, we will either accept the Allen amendment or, if that cannot be worked out, defeat the Simon amendment. Then we will be working under the present law, and this trend which is clearly visible will continue, because in head-on competition United Parcel does a much better job than the Postal Service.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, the distinguished gentleman from Illinois (Mr. DERWINSKI) has a most impressive chart he has shown us, and I have been looking at it.

I am wondering why the business has gone to the United Parcel Service and why the business has gone away from the Post Office.

Mr. DERWINSKI. That is true for two reasons. There have been periods when the post office has been guilty of unimaginative salesmanship, and they just have not done the job in competing for the business of the volume mailer.

Second, they still, as we all know, have substantial bugs in their bulk mail system and have lost a few customers because of the malfunctioning of equipment. They are going to have to do a better job of service and a little better job of promotion to get those customers back, if they ever do get them back.

Mr. COLLINS of Texas. Mr. Chairman, just to go back a bit, I have had many people in my community who have said over and over that United Parcel Service gives better service than parcel post. Does the gentleman agree with that?

Mr. DERWINSKI. Yes, I agree, but we are not talking about service now. We are talking about a much more complicated economic situation.

Let me remind the gentleman of what will happen. This is the effect of the Simon amendment: If we adopt the Simon amendment, parcel post rates will go up approximately 65 percent. At that point United Parcel will apply for a similar rate increase, so the consumer will be getting it on both sides.

Then what happens? Then we are reduced to the point, if this trend continues, where the individual mailer is the one who has to seek recourse to what is left of the Postal Service's parcel post operation.

Then we must appreciate the fact that parcel post service is nationwide, but the service of United Parcel Service is much more selective, and, therefore, certain individual mailers will be basically excluded from the availability of that service.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my friend, the gentleman from Illinois, who is, I presume, conceding at this point.

Mr. SIMON. Mr. Chairman, let me assure the gentleman that his assumption is not accurate, despite his powerful oratory.

I believe several things should be called to the attention of the House: No. 1, the 65-percent figure that the gentleman has averred is a great imaginative, creative figure that someone has pulled out of thin air.

Mr. DERWINSKI. Mr. Chairman, I assure the gentleman it is a practical calculation.

Mr. SIMON. Incidentally, in terms of increases, I think my colleague from Illinois will vouch for this, our parcel post increases that are now requested from the Postal Rate Commission in May, first class goes up from 13 cents to 16 cents, and yet they are asking for decreases in 11 of 16 categories in parcel post.

The gentleman's graph, it is a very fine looking graph. The only thing is that it is inaccurate. The gentleman has USPS parcels there and, if you have USPS parcels by parcel post alone, then that would be accurate. But you forget priority mail, you forget books, you forget third-class packages. And, in fact, the Postal Service handles about 1.3 billion packages a year and will continue to do so.

Mr. DERWINSKI. But the gentleman must recognize that we are dealing with comparative packages here. Now the gentleman is getting into another facet of Postal Service, which they are mandated to have, which is not in the area served by our friends in United Parcel Service.

Mr. SIMON. I would simply suggest that these graphs give a very distorted view to our colleagues here in the House, because they suggest that when you say USPS parcels that means all parcels. In fact, it means parcel post alone.

Mr. DERWINSKI. Let me point out that, if you would follow our suggestion that we defeat the Simon amendment, and then we will follow through with another amendment to produce the status quo, you have solved the crossfire that has developed between our friends in the postal unions and our friends in the teamster union, because this thing has become too much of a battle to serve anybody's purposes. In the meantime, you have had obivous distortions of financial positions. But, more important, you have had a continued distortion of the place of the Postal Service serving our consumers and, more important, our relationship as Members of Congress to the budget of the Postal Service. Just remember that, if this amendment is passed, you automatically add to the postal deficit. If you add to the postal deficit, we have to somehow make up for it. We have to make up for it through the budget process, through the appropriation process.

Mr. TAYLOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I listened to my distinguished colleague from Illinois and viewed the chart in which he points out the demise of the parcel post and the increase in the UPS, it came to my mind that I would like to share something with the Members.

As I was home over the Easter recess, talking with one of the postmasters in a fourth-class post office in my district, a little one room post office which has two lightbulbs hanging in it, he said that one day he looked up and a big automobile drove up, one that would be termed in the energy bill before the Congress as a gas guzzler. The gentleman came in. His shoes were shined, his pants were creased, and he announced that he was with the U.S. Postal Service, with the Energy Conservation Department. And then he asked him how many lightbulbs he had in the post office. And the postmaster pointed out two, one in front and one in back. And he said, "Do you burn them both all the time?" And the postmaster said, "No, we turn one off in the back, except when the rural mail carrier is in the office." He said, "We just keep the one on."

The man said, "That is good." He said, "Look, sign this form that you will keep the one lightbulb off except when the rural mail carrier is in the office."

This is a true story.

He said, "As part of the program, the Postal Service will be sending you some lightbulbs. We have some used lightbulbs we will be utilizing, and you will be receiving some of them." And in about a week he got them.

And guess how they arrived. By UPS.

I wonder if that has anything to do with this chart.

Mr. Chairman, I rise in opposition to the Allen amendment and in support of the Simon amendment and to appeal on behalf of fairness to an important segment of the free enterprise system, American taxpayers and American consumers, the private institutions that have established an outstanding record of service in parcel deliveries to millions of American consumers and businesses. It would be unfair to permit a subsidized Federal agency to use taxpayers money to unfairly compete with these private companies.

The amendment offered by the gentleman from Illinois (Mr. SIMON) is not an

attempt to inflict harm upon the postal service in their endeavor to perform their duty of delivery of all classes of mail. It simply mandates that parcel post rates be so established that they will carry a reasonable portion of the attributal cost of the expense of the postal service.

In this bill, which I supported in Committee, we provide for generous Federal subsidy to guarantee quality mail delivery to all Americans but it would be grossly unfair if the Congress allowed that subsidy to be used to underwrite losses occuring, because of predatory pricing in competition with private carriers who serve well.

The Simon amendment is fair. Fair to the taxpayers who will ultimately foot the bill for losses incurred by underpricing; fair to the companies and their employees who strive to perform superior service; and fair to the millions of customers who have come to depend upon the service that is rendered by these companies within the framework of the free enterprise system.

Mr. Chairman, I urge adoption of the Simon amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman and I, too, have been concerned and have tried to keep up with this amendment, what it is, and how it is going to affect, of course, the rural areas.

The gentleman from Missouri (Mr. TAYLOR) and I both represent some of those rural areas.

What bothers me is if we continue on with that chart right there and we continue on as we have been, the gentleman knows what is going on in rural Missouri with a declining population and the use of post offices and, perhaps, the loss of post offices.

Considering all those factors, how are the people out there going to get a package delivered from granddaughter to grandma or from son to mama? How are we going to get that done?

Mr. TAYLOR. I think it will continue to be done by parcel post.

Mr. VOLKMER. My question then is, Is it true—because I am not on the committee; I listen here and I hear one person say that if we have the Simon amendment, rates are going to go up 65 percent, and maybe that is exaggerated, as the gentleman from Illinois on this side says; but undoubtedly, as I look at it from the point of view of what has been the present law, they have to go up if we attribute indirect and direct costs to them—is that true?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. TAYLOR was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield further?

Mr. TAYLOR. I yield to the gentleman from Missouri.

Mr. VOLKMER. To continue, Mr. Chairman, I ask the gentleman, Is that correct, that those rates will go up?

Mr. TAYLOR. They will go up some, yes. I would assume that they would go up some. However, I think Mr. SIMON's figures on that are probably much more accurate than the 65-percent figure that some Members have talked about in speaking in opposition to the Simon amendment.

No one can tell how much. On the other hand, we have this 65-percent figure. I would seriously doubt that the 65-percent figure is correct.

Mr. VOLKMER. If the gentleman will yield further, Mr. Chairman, if the figure is correct, it scares me a litle bit; and I think it scares the gentleman.

The second thing that bothers me is that, as the gentleman knows, UPS does provide rapid delivery. There is no question about that.

The question is, Whose services or whose goods do they deliver?

Mr. TAYLOR. Mr. Chairman, I did not hear the gentleman.

Mr. VOLKMER. Whose goods do they deliver?

Mr. TAYLOR. UPS?

Mr. VOLKMER. Yes.

Mr. TAYLOR. They will deliver anybody's goods, the goods of anybody who wishes to ship with them.

I live in about as small a town as anybody in this Chamber. We get UPS on a daily basis, and it is good.

Mr. VOLKMER. Does the gentleman get it at his place of business?

Mr. TAYLOR. At my place of business; and when we are closed at night, they bring it to my house, ring the doorbell, and put it on the porch. It is pretty good service.

Mr. VOLKMER. I want to ask the gentleman this question: I do not know whether the gentleman explored this or not, but I have, and it bothers me.

If the gentleman is in this small town, with 100 or 200 or 300 people in it, and he does not have anything but a post office and a gas station or a general store with a gas station and a post office in the town, the gentleman knows how it is and UPS does not make a regular run there, how does somebody in that town get hold of UPS?

Mr. TAYLOR. As far as I know, UPS will make a run anywhere in Missouri where they have a parcel to deliver.

Mr. VOLKMER. How does somebody in that town get a parcel out of that town by UPS?

Mr. TAYLOR. They would have to go to some point where there is provision for the service and place it there, or they could go to a nearby town where they maintain a facility.

I do not know how to get anything out of the post office anymore. They are closed sometimes for 2 hours right in the middle of the day. Sometimes it is very hard to make contact with them.

Mr. VOLKMER. My problem is that at least there is a post office there right now.

Mr. TAYLOR. Right now.

Mr. VOLKMER. I do not want to see that post office go.

Mr. TAYLOR. No, I do not want to see that post office go either.

Mr. VOLKMER. Because if it does go, I do not have any way to get that birthday package from grandma to granddaughter or vice-versa.

Mr. TAYLOR. The Simon amendment does not abolish parcel post.

Parcel post will continue to serve this country, and I think it will be there to serve the country. But, I do not believe that we can subsidize parcel post disportionally at the expense of the taxpayers, as will be entailed in this large subsidy that is contained within this bill, which I support.

Mr. VOLKMER. I would like to finish up with one more observation. This is just trying to find out what is actually going on.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(On request of Mr. DERWINSKI and by unanimous consent Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. I asked the UPS people before the break for some information. They came in and showed me how they delivered to the small towns of my district, and I appreciate that. But, I also asked them to furnish me with the pickups they made in those same small towns. On that same day when they made over 100 deliveries, they made a total of 3 pickups.

Mr. TAYLOR. I would assume that would be correct.

Mr. VOLKMER. What bothers me is that they do not have any buildings, they do not have any offices. They have no way except that a person can call collect to either Earth City near St. Louis, or call to Decatur, Ill., to put in a call for a pickup. This bothers me.

Mr. TAYLOR. I would say to my friend from Missouri that it is not the intent of the Simon amendment to close down parcel post. I think it would be viable. I think that if they would do a little bit better job, they might reverse the trend, but they are not doing it. That is the reason they are using UPS.

Mr. VOLKMER. I am afraid there would be more emphasis on closing those rural post offices.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from California.

Mr. RYAN. I appreciate my friend and colleague yielding to me on that point, because it confuses me. As a member of the committee, a very new member serving just this year, I listened to all this debate in subcommittee, in full committee, and now on the floor, with regard to what is really the basic issue. The interesting thing is that I do not represent a rural area. I represent the suburban San Francisco area, where there are enough houses so that there will always be some kind of postal service, either from the public sector such as the Postal Service, or the private sector such as UPS or whatever.

I came in today not quite sure of all this, but in listening to the debate on the floor, I hear the gentleman support-

ing the Simon amendment, and I wonder why, really, because the basic and fundamental issue I have seen in my 1 year on that committee is, I think underlying all this debate on the Simon amendment and other matters I have seen in committee and subcommittee, there is the question of how will rural America survive as far as the Postal Service is concerned?

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(On request of Mr. RYAN and by unanimous consent Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. RYAN. Basically, it is going to have to be whether or not this Congress and this House votes for subsidies to take care of those folks out there in the areas the gentleman just preceding me talked about, having to do with areas where there is not enough population to warrant the regular kind of cost to price.

If the Simon amendment does not do what others have said it will do—destroy the Postal Service—certainly it is moving in that direction, because what it says is that it is moving toward the U.S. Postal Service more and more to maintain those rural post offices that exist, that are less and less cost effective as there is less and less business. I am going to vote against the Simon amendment reluctantly, because I have a great many UPS employees in my district who have been ringing the phone off the hook saying, "Vote for it," but I am convinced that it is in the best interests of this country and the cost element today that the U.S. Postal Service maintain itself in a relatively healthy condition, or we are going to have to pay a great deal of money on a cost effective basis to keep a few parcel post offices going out in the country.

Mr. TAYLOR. I appreciate my colleague's interest for us country folks. I hear a lot said about the cost of operating rural post offices, but I think that if the gentleman does a little research on a per capita basis, he will probably find that the per capita cost of serving patrons in the San Francisco area are a great deal higher than they are in the small post offices of this country.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I notice the gentleman from Missouri is trying to defend the indefensible Simon amendment, but in so doing the gentleman took occasion to mention, albeit somewhat facetiously, that the post offices in his area were closed for some hours during the middle of the day.

Mr. TAYLOR. Yes.

Mr. DERWINSKI. Is that called a Missouri siesta?

Mr. TAYLOR. Yes. We enjoy it.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(On request of Mr. SIMON, and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I heard my colleague was suggesting that my amendment was going to do harm to the rural post offices. I asked some of my colleagues some time ago to join me to go to the Federal court and get the judge to mandate against closing the rural post offices. If I thought this was going to do one bit of damage to the rural post offices, I would certainly not propose it. I believe it will not do any bit of damage to the rural post offices.

Mr. TAYLOR. The gentleman is absolutely correct.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Maryland.

Mr. BAUMAN. Based on the 13 rural and suburban counties in Maryland I represent, I believe the worst thing that has happened to rural post offices in my area has been the management by the U.S. post office system.

Mr. TAYLOR. I think that is correct. The regulations handed down from the Postal Service that are not in line with the problems in the rural post offices do the damage. We need more autonomy in the rural post offices, from the Postal Service, so the postmasters and postal employees can be enabled to more efficiently deal with and deliver the mail, and when that is done we will see the rural post office return to the good and efficient service they have been able to provide before.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I address these inquiries to the gentleman from Illinois (Mr. SIMON) who is responsible for this amendment.

Over the past few weeks, I have received several disturbing phone calls and a number of letters from my rural postmasters and rural letter carriers alleging that if the Simon amendment is adopted this would result in all sorts of dire consequences to the U.S. Postal Service parcel post business.

Among other claims made, they argued:

First. Parcel post rates will rise dramatically, upwards of 60 percent, even with the increased subsidy provided for by H.R. 7700.

Second. That, consequently, parcel post business will decline to the point where there will be numerous layoffs affecting mostly letter carriers with littlest seniority and temporary hires.

Third. That, United Parcel Service, frequently does not deliver parcels into rural areas relying instead on the U.S. Postal Service to deliver parcels into rural areas originally commissioned to be handled by United Parcel Service.

Could my friend from Illinois address himself to each of these concerns?

Mr. SIMON. Mr. Chairman, if the gentleman will yield, on the first question, on the rise in rates, I do not know where those figures come from. There is no substance to those whatsoever.

Second, that parcel post business will decline to the point where there will be numerous layoffs affecting mostly letter carriers with the littlest seniority and temporary hires, I would point out—and this chart does not reflect somehow the realities—that if we look at 1976 we will see there were 338,000 parcel post deliveries alone. In 1977 that went up to 887,000. So that chart does not reflect their reality.

I am sure parcel post is delivering packages. They will continue to be a very healthy part of the postal operation.

And the third part, that the United Parcel Service frequently does not deliver parcels into rural areas, my understanding is that delivery in 49 of the 50 States is made, Alaska being the exception.

I am not here fighting a battle for the Teamsters Union or Postal Union or any other business, but simply to get equity and the philosophy into this thing. Where we start as a nation, the United Parcel Service is one of the several thousands of services delivering parcels, and I do not think there is any reason to use Government funds to put them out of business.

Mr. GILMAN. I appreciate the gentleman's clarification of these issues.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the distinguished gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, with all due respect to my friend, the gentleman from New York, I would suggest asking the gentleman from Illinois (Mr. SIMON) to answer those questions would be like asking Jimmy Carter if peanuts are healthy.

The constituents who wrote to the gentleman sound like people who have the real feel for this situation. So I would urge the gentleman to listen to his constituents and not to the siren song of the gentleman from Illinois (Mr. SIMON).

Mr. GILMAN. I welcome the remarks by the gentleman from Illinois and will certainly give due consideration to my constituent's views.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I will be happy to yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. On the point that was just raised, let us be honest about it, I received 20 telegrams from my postmasters who said to vote for the bill just like it is and for the amendments of the gentleman from New York (Mr. HANLEY) and the others only. I called them and they did not know a thing about it. They did not know that there had been many changes in the bill. They did not know that there had been negotiations with the White House. They did not know that there were changes in the printed bill that are no longer changes that represent the position of the gentleman on the other side. So I do not believe that they really know what is best for us or what is best about it so I believe we ought not to legislate on this measure in that sort of a manner.

Mr. GILMAN. I thank the gentleman from Ohio for his pertinent remarks. Mr. Chairman, I would ask the gentleman from New York (Mr. HANLEY) if he would address himself to those same inquiries that I presented to the gentleman from Illinois (Mr. SIMON) so that we may have a balanced view on this issue.

Mr. HANLEY. Mr. Chairman, if the gentleman will yield, let me say that the proposed 65 percent increase in the cost of parcel post delivery happens to come from the Winter decision in 1973, so it is a documented estimate, it is not a figure that was just pulled out of the air. Further, I would join in with the eloquence of the gentleman from Illinois (Mr. DERWINSKI) in reminding us that once parcel post rates go up by 65 percent then the private sector will come in with their rate commissions and ask for an increase, and that increase will be just short of the U.S. Postal Service parcel post increase of 65 percent.

So, if you are concerned about inflation and if you are concerned about the consumers, then you had better bear that in mind.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Simon amendment. This important amendment would prohibit the Postal Service from engaging in unfair pricing against private parcel carriers.

As presently drafted, H.R. 7700 would place private parcel carriers at a competitive disadvantage. Funds from taxpayers that would otherwise go to subsidize first-, second-, and third-class mail could instead be used to subsidize parcel post. This would have a disastrous impact on our Nation's parcel carriers.

The Simon amendment would correct this inequity. It would maintain the existing ratemaking framework for parcel post. It would keep the present law with its requirement that direct and indirect costs be included in setting parcel post rates.

I believe that we should continue to preserve fair competition in this area. We should not allow money that properly should be used to subsidize other classes of mail to be used to subsidize parcel post. Such subsidization would fly in the face of our free enterprise system and severely damage our small parcel carriers.

I urge a vote for fair competition. I urge a vote for the Simon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. ALLEN) as a substitute for the amendment offered by the gentleman from Illinois (Mr. SIMON).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 26, noes 37.

RECORDED VOTE

Mr. HANLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 147, noes 257, not voting 30, as follows:

[Roll No. 192]

AYES—147

Addabbo	Bevill	Carney
Akaka	Bingham	Cavanaugh
Allen	Blanchard	Clay
Ambro	Blouin	Conyers
Ammerman	Bonker	Corman
Andrews, N. Dak.	Breckinridge	Cunningham
	Brinkley	Danielson
Applegate	Brodhead	de la Garza
Baldus	Brooks	Dellums
Barnard	Brown, Calif.	Derwinski
Bedell	Burke, Mass.	Dicks
Beilenson	Burton, John	Duncan, Oreg.
Bennett	Burton, Phillip	Early
Eckhardt	Kildee	Rinaldo
Edwards, Calif.	Kindness	Roe
Edwards, Okla.	Leggett	Rogers
Eilberg	Levitas	Rooney
English	McCormack	Roybal
Ertel	McDade	Ryan
Evans, Colo.	McFall	Scheuer
Fisher	Maguire	Sebelius
Florio	Marks	Seiberling
Flowers	Marriott	Sikes
Foley	Mikulski	Smith, Iowa
Ford, Mich.	Mikva	Smith, Nebr.
Ford, Tenn.	Miller, Calif.	St Germain
Fountain	Mineta	Staggers
Fowler	Minish	Stark
Garcia	Mitchell, Md.	Steed
Gaydos	Moffett	Stokes
Gibbons	Moorhead, Pa.	Stratton
Ginn	Moss	Thompson
Gonzalez	Mottl	Traxler
Goodling	Murphy, Pa.	Vanik
Gore	Natcher	Vento
Hanley	Nedzi	Volkmer
Harkin	Nichols	Walsh
Harris	Nix	Watkins
Hightower	Nolan	Weaver
Holland	Oakar	Weiss
Holtzman	Oberstar	White
Horton	Ottinger	Wilson, C. H.
Hubbard	Patten	Winn
Hughes	Patterson	Wolff
Jenkins	Pepper	Wright
Johnson, Calif.	Perkins	Yatron
Jones, Okla.	Pickle	Young, Fla.
Jones, Tenn.	Poage	Young, Tex.
Kastenmeier	Pritchard	
Kazen	Rangel	

NOES—257

Abdnor	Derrick	Jordan
Anderson, Calif.	Devine	Kelly
	Dickinson	Kemp
Anderson, Ill.	Dingell	Ketchum
Andrews, N.C.	Dodd	Keys
Annunzio	Dornan	Kostmayer
Archer	Downey	Krebs
Armstrong	Drinan	LaFalce
Ashbrook	Duncan, Tenn.	Lagomarsino
Ashley	Edgar	Latta
AuCoin	Edwards, Ala.	Le Fante
Badham	Emery	Leach
Bafalis	Erlenborn	Lederer
Baucus	Evans, Del.	Lent
Bauman	Evans, Ga.	Livingston
Beard, R.I.	Evans, Ind.	Lloyd, Calif.
Beard, Tenn.	Fary	Lloyd, Tenn.
Benjamin	Fascell	Long, Md.
Biaggi	Fenwick	Lott
Boggs	Findley	Lujan
Boland	Fish	Luken
Bolling	Fithian	Lundine
Bonior	Flippo	McClory
Bowen	Flynt	McCloskey
Brademas	Forsythe	McDonald
Breaux	Fraser	McEwen
Broomfield	Frenzel	McHugh
Brown, Mich.	Frey	McKay
Brown, Ohio	Fuqua	Madigan
Broyhill	Gammage	Mahon
Buchanan	Giaimo	Mann
Burgener	Gilman	Markey
Burke, Fla.	Glickman	Marlenee
Burleson, Tex.	Goldwater	Martin
Burlison, Mo.	Gradison	Mathis
Butler	Grassley	Mattox
Byron	Green	Mazzoli
Caputo	Gudger	Metcalfe
Carr	Guyer	Meyner
Carter	Hagedorn	Milford
Cederberg	Hall	Miller, Ohio
Chisholm	Hamilton	Mitchell, N.Y.
Clausen, Don H.	Hammer-schmidt	Moakley
		Mollohan
Clawson, Del	Hannaford	Montgomery
Cleveland	Hansen	Moore
Cochran	Harrington	Moorhead, Calif.
Cohen	Harsha	
Coleman	Hawkins	Murphy, Ill.
Collins, Ill.	Heckler	Murtha
Collins, Tex.	Hefner	Myers, Gary
Conable	Heftel	Myers, John
Conte	Hillis	Myers, Michael
Corcoran	Hollenbeck	Neal
Cornell	Holt	Nowak
Cornwell	Howard	Obey
Cotter	Huckaby	Panetta
Coughlin	Hyde	Pattison
Crane	Ichord	Pease
D'Amours	Ireland	Pettis
Daniel, Dan	Jacobs	Pike
Daniel, R. W.	Jeffords	Preyer
Davis	Jenrette	Price
Delaney	Johnson, Colo.	Pursell
Dent	Jones, N.C.	Quayle
Quie	Sharp	Ullman
Quillen	Shipley	Van Deerlin
Railsback	Shuster	Vander Jagt
Regula	Simon	Waggonner
Rhodes	Sisk	Walgren
Risenhoover	Skelton	Walker
Roberts	Skubitz	Wampler
Robinson	Slack	Waxman
Roncalio	Snyder	Whalen
Rose	Spence	Whitehurst
Rosenthal	Stangeland	Whitten
Rostenkowski	Stanton	Wiggins
Rousselot	Steers	Wilson, Bob
Rudd	Stockman	Wilson, Tex.
Ruppe	Studds	Wirth
Russo	Stump	Wydler
Santini	Symms	Wylie
Sarasin	Taylor	Yates
Satterfield	Thone	Young, Alaska
Sawyer	Treen	Young, Mo.
Schroeder	Trible	Zablocki
Schulze	Tsongas	Zeferetti

NOT VOTING—30

Alexander	Long, La.	Rodino
Aspin	McKinney	Runnels
Burke, Calif.	Meeds	Solarz
Chappell	Michel	Spellman
Diggs	Murphy, N.Y.	Steiger
Flood	O'Brien	Teague
Gephardt	Pressler	Thornton
Kasten	Rahall	Tucker
Krueger	Reuss	Udall
Lehman	Richmond	Whitley

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Murphy of New York against.

Mr. Krueger for, with Mr. Solarz against.

Mr. Richmond for, with Mrs. Burke of California against.

Mr. Flood for. with Mr. Whitley against.

Mr. Chappell for, with Mr. Runnels against.

Mr. Udall for, with Mr. Kasten against.

Mr. Rahall for, with Mr. Michel against.

Mr. O'Brien for, with Mr. Diggs against.

Messrs. ZEFERETTI, DUNCAN of Tennessee, and FRENZEL, and Mrs. HECKLER changed their vote from "aye" to "no."

Messrs. ECKHARDT, McCORMACK, AMBRO, WOLFF, MARKS, HUGHES, MARRIOTT, and WALSH changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge adoption of the Simon amendment. This amendment will prevent postal management from setting destructively rates for parcel post.

I use the term "destruction" advisedly, because no private business can withstand a rate war launched by a Government agency that has unlimited funds to reduce service charges.

The subsidy appropriations to the Postal Service contained in this bill are three times greater than the total revenue that is derived from parcel post.

It would not take a very large diversion of these funds to parcel post to make the position of private companies untenable.

Postal management has said publicly that rates are the basic element of competition for package volume.

We cannot expect that they will resist the temptation that we place before them in this bill.

The Simon amendment would insure that postal management does not succumb to the temptation of competing with private enterprise through rate subsidies.

There is no dwelling, business, mine, ranch, or human habitation of any kind that does not get package pickup and delivery service from private package delivery systems.

These private companies will service the most remote locations and make delivery directly to the consignee.

These companies represent a national asset that we cannot afford to lose through unwise legislation.

I urge my colleagues to support the Simon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The question was taken.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 292, noes 112, not voting 30, as follows:

[Roll No. 193]

AYES—292

Abdnor	Cotter	Hammer-schmidt
Addabbo	Coughlin	Hannaford
Anderson, Calif.	Crane	Hansen
Anderson, Ill.	Cunningham	Harris
Andrews, N.C.	D'Amours	Harsha
Andrews, N. Dak.	Davis	Hawkins
Annunzio	de la Garza	Heckler
Archer	Delaney	Heftel
Armstrong	Dent	Hillis
Ashbrook	Derrick	Hollenbeck
Ashley	Devine	Holt
AuCoin	Dickinson	Howard
Badham	Dicks	Hubbard
Bafalis	Dingell	Huckaby
Baldus	Dodd	Hughes
Baucus	Downey	Hyde
Bauman	Drinan	Ichord
Beard, Tenn.	Edgar	Ireland
Benjamin	Edwards, Ala.	Jacobs
Bennett	Emery	Jeffords
Biaggi	Erlenborn	Jenkins
Blouin	Ertel	Jenrette
Boggs	Evans, Del.	Johnson, Colo.
Boland	Evans, Ga.	Jones, N.C.
Bolling	Evans, Ind.	Jones, Okla.
Bonior	Fary	Jones, Tenn.
Bonker	Fascell	Jordan
Bowen	Fenwick	Kelly
Brademas	Findley	Kemp
Breaux	Fish	Ketchum
Broomfield	Fisher	Keys
Brown, Mich.	Fithian	Kindness
Brown, Ohio	Flippo	Kostmayer
Broyhill	Florio	Krebs
Buchanan	Flynt	LaFalce
Burgener	Foley	Lagomarsino
Burke, Fla.	Ford, Tenn.	Latta
Burleson, Tex.	Forsythe	Le Fante
Burlison, Mo.	Fowler	Leach
Caputo	Fraser	Lederer
Carr	Frenzel	Leggett
Carter	Frey	Lent
Cederberg	Fuqua	Levitas
Chisholm	Gammage	Livingston
Clausen, Don H.	Gephardt	Lloyd, Calif.
Clawson, Del	Giaimo	Lloyd, Tenn.
Cleveland	Gibbons	Long, Md.
Cochran	Gilman	Lott
Cohen	Glickman	Lujan
Coleman	Goldwater	Luken
Collins, Ill.	Goodling	Lundine
Collins, Tex.	Gradison	McClory
Conable	Grassley	McCloskey
Conte	Green	McCormack
Corcoran	Gudger	McDonald
Cornell	Guyer	McEwen
	Hagedorn	McHugh
	Hall	McKay
	Hamilton	
Madigan	Preyer	Stangeland
Mahon	Price	Stanton
Mann	Pritchard	Stark
Markey	Pursell	Steed
Marks	Quayle	Steers
Marlenee	Quie	Stockman
Marriott	Quillen	Stokes
Martin	Railsback	Stratton
Mathis	Rangel	Studds
Mattox	Regula	Stump
Mazzoli	Rhodes	Symms
Metcalfe	Rinaldo	Taylor
Meyner	Risenhoover	Thone
Milford	Roberts	Treen
Miller, Ohio	Roe	Trible
Minish	Roncalio	Tsongas
Mitchell, Md.	Rose	Ullman
Mitchell, N.Y.	Rosenthal	Vander Jagt
Montgomery	Rostenkowski	Vanik
Moore	Rousselot	Waggonner
Moorhead, Calif.	Rudd	Walgren
	Ruppe	Walker
Murphy, Ill.	Russo	Walsh
Murphy, Pa.	Santini	Waxman
Murtha	Sarasin	Whalen
Myers, Gary	Satterfield	White
Myers, John	Sawyer	Whitehurst
Myers, Michael	Scheuer	Wiggins
Neal	Schroeder	Wilson, Bob
Nix	Schulze	Wilson, Tex.
Nowak	Sharp	Winn
O'Brien	Shipley	Wirth
Obey	Shuster	Wolff
Panetta	Sikes	Wylie
Patterson	Simon	Yates
Pattison	Sisk	Yatron
Pease	Skelton	Young, Fla.
Pettis	Slack	Young, Mo.
Pike	Snyder	Zablocki
Poage	Spence	Zeferetti

NOES—112

Akaka	Ellberg	Nichols
Allen	English	Nolan
Ambro	Evans, Colo.	Oakar
Ammerman	Flowers	Oberstar
Applegate	Ford, Mich.	Ottinger
Barnard	Fountain	Patten
Bedell	Garcia	Pepper
Beilenson	Gaydos	Perkins
Bevill	Ginn	Pickle
Bingham	Gonzalez	Robinson
Blanchard	Gore	Rogers
Breckinridge	Hanley	Rooney
Brinkley	Harkin	Roybal
Brodhead	Harrington	Ryan
Brooks	Hefner	Sebelius
Brown, Calif.	Hightower	Seiberling
Burke, Mass.	Holland	Skubitz
Burton, John	Holtzman	Smith, Iowa
Burton, Phillip	Horton	Smith, Nebr.
Butler	Johnson, Calif.	St Germain
Byron	Kastenmeier	Staggers
Carney	Kazen	Thompson
Cavanaugh	Kildee	Traxler
Clay	McDade	Van Deerlin
Conyers	McFall	Vento
Corman	Maguire	Volkmer
Cornwell	Mikulski	Wampler
Daniel, Dan	Mikva	Watkins
Daniel, R. W.	Miller, Calif.	Weaver
Danielson	Mineta	Weiss
Dellums	Moakley	Whitten
Derwinski	Moffett	Wilson, C. H.
Duncan, Oreg.	Mollohan	Wright
Duncan, Tenn.	Moorhead, Pa.	Wydler
Early	Moss	Young, Alaska
Eckhardt	Mottl	Young, Tex.
Edwards, Calif.	Natcher	
Edwards, Okla.	Nedzi	

NOT VOTING—30

Alexander	Lehman	Rodino
Aspin	Long, La.	Runnels
Beard, R.I.	McKinney	Solarz
Burke, Calif.	Meeds	Spellman
Chappell	Michel	Steiger
Diggs	Murphy, N.Y.	Teague
Dornan	Pressler	Thornton
Flood	Rahall	Tucker
Kasten	Reuss	Udall
Krueger	Richmond	Whitley

The Clerk announced the following pairs:

On this vote:

Mr. Whitley for, with Mr. Udall against.

Mrs. Burke of California for, with Mr. Richmond against.

Mr. Runnels for, with Mr. Solarz against.

Mr. Chappell for, with Mr. Teague against.

Mr. Murphy of New York for, with Mr. Rahall against.

Mr. Kasten for, with Mr. Flood against.

Mr. Dornan for, with Mr. Beard of Rhode Island against.

Mr. ALLEN changed his vote from "present" to "no."

Ms. HOLTZMAN and Messrs. WHITTEN, AKAKA, EDWARDS of Oklahoma, BROWN of California, and MOAKLEY changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DERWINSKI. Mr. Chairman, I rise to strike the requisite number of words.

Instead of an ovation from the Members, I would rather have a few votes.

Mr. Chairman, this is going to be an important address. May I have order?

The CHAIRMAN. The Committee will be in order. The gentleman from Illinois is about to make an important address.

Mr. DERWINSKI. Mr. Chairman, after that last amendment, one from which we can draw many lessons.

Let me point out to the Members what I think is the unfortunate mood on the floor. Basically, the Members of the House are anti-Postal Service. I personally think that is an unfortunate situation, because when we kick around the U.S. Postal Service, we are kicking around the only entity of the kind that we have. Right or wrong, good or bad, the U.S. Postal Service is the one thing we have serving that sector of public interest. It is never going to be so good a service that we are going to get commendable letters from constituents. All we ever get from constituents are complaints.

In turn, under this new law we cannot appoint rural letter carriers; we can no longer appoint postmasters; we cannot wheel and deal with the Postal Service and place a unit right in town where the mayor wants it; and we are helpless, so we are frustrated. In the last 6 or 7 years the Postal Service has had an anticongressional attitude. They felt they do not need the Congress, so their legislative liaison work has been nonexistent and, of course, in a rather stupid fashion they even did away with the tradition of the dedication of new post offices, so we could not appear before 500 or 600 of our townspeople and say, "I helped get this building." I could give the Members a list of other grievances. We add them all up together, and we find that the U.S. Postal Service has fewer friends in the House than any entity of the Federal Government.

Then we bring this bill to the floor, and what do we do? We quite logically look for any excuse to beat the heck out of the Postal Service. The trouble is that at that stage we get engaged in what is really not good politics, not good legislation. It is just frustration with an entity that we are unhappy with. But the facts of life are that we will never be happy with it. The sheer volume of the Postal Service is such that it is never going to come anywhere near perfection.

When we get the other building problems they have, the problem of serving a huge country, the problem of use of the mails by so many business entities, the deadlines that have to be met, if just one-tenth of 1 percent of the mail goes astray every day, that is 200,000 pieces, we have complaints. So it is impossible for the Post Office to have much of an image, but, by the same token, I would urge our colleagues, those Members who are here and those watching TV in the Rayburn Building, just to remember that we are not helping the situation by voting for every one of these amendments that come out of the woodwork presuming to cure the ailments of the Postal Service.

Now, this amendment we just had was a classic case of better lobbying work done by the group supporting it. The result, I suppose, was inevitable.

There are a few more amendments floating around that would be a disservice to the public service we want the Postal Service to render. I could look ahead to some that inject us back into ratemaking, inject us back into adjusting salaries, inject us back into adjusting service standards, things that you and I as Members of Congress messed up when we had that authority of the Postal Service. So I would like to suggest that rather than instinctively supporting any amendment that sounds like it is anti-Postal Service, please listen to the debate carefully, rise to the great levels of objectivity that I know this House is capable of and occasionally remember that even the poor forlorn Members who serve on the Postal Committee do have some words of wisdom or some words of practicality that might deserve your vote.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my fellow-suffering Member of the committee.

Mr. HANLEY. Mr. Chairman, I want to commend the gentleman from Illinois on the gentleman's eloquence and these words of wisdom. I hope so much that everybody listens to them, for what the gentleman has said is so responsible. This committee has worked so diligently over the course of the last 2 or 3 years in and effort to put this together.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. HANLEY, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. HANLEY. Mr. Chairman, if the gentleman will yield further, this committee has worked diligently over the course of the last 2 or 3 years in an effort to put together additional legislation, a piece of legislation that is totally responsible, a piece of legislation that is embraced by virtually every knowledgeable entity in the country. We hope and plead for your support. We do not want to have the 96th Congress have to take up this issue again. We plead with you to place your confidence in us. We are not giving you a bum steer. Everything we have in this measure was well deliberated, well thought out, and it is the collective thinking of an awful lot of people in and out of Government.

Again I commend the gentleman from Illinois on this excellent speech.

Mr. DERWINSKI. Mr. Chairman, I also wish to remind the Members that occasionally I am going to be supporting the administration position. I hope that is an asset.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the statesman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the Ambassador from the U.N.

Mr. Chairman, one thing I am constrained to point out, from what my colleague said, many of us not members of the committee wonder what is going on.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, the report before us, and the bill before us, has been rejected, whatever was reported out of the committee last fall; who is cutting the deal, I do not know.

Mr. DERWINSKI. There was no deal.

Mr. ASHBROOK. We have a report that is not even germane to the bill before us and then we are supposed to accept something that was determined after the committee itself met. How can we have respect for the Post Office and Civil Service Committee?

Mr. DERWINSKI. We have to have respect for our hard work.

Mr. Chairman, may I also point out that the White House belatedly discovered there was a Postal Service problem, so to accommodate the White House certain adjustments were made. Those that were not accepted I am still supporting, so we are going to try to eventually get to the point we have legislation acceptable to the postal patrons, who after all are constituents and also to those of us who want a fiscally responsible Postal Service.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman from Illinois (Mr. DERWINSKI) has made a very good statement. It is unfortunate that the Members were not all here to hear the statement he made on the Simon amendment.

I am afraid that next year or 2 years down the road we are going to get a repeat of the action that the Democratic caucus took this morning when we suddenly found to our horror that we have done something which our constituents find very objectionable, in this case parcel post rates are going to go sky high. Then we will be back in here with a new bill to provide some sort of subsidy because of the action we just took today on the Simon amendment.

Mr. DERWINSKI. Mr. Chairman, with all due respect to the gentleman from Ohio (Mr. SEIBERLING) I may say that I think, even in its sad state of condition, the Postal Service is holding up better than the Democratic caucus.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: In the Hanley-Wilson substitute, on page 16 strike lines 7 through 19 and insert in lieu thereof:

(d) Section 3628 of title 39, United States Code is amended to read as follows:

"SEC. 3628. APPELLATE REVIEW.—A decision pursuant to section 3624 of this subchapter of the Postal Rate Commission may be appealable to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by any interested person. The court shall review the decision, in accordance with section 706 of title 5 and chapter 158 and section 2112 of title 28. The court shall make the matter a preferred cause and shall expedite judgment in every way."

The CHAIRMAN (during the reading). The Chair will advise the gentlewoman from Colorado (Mrs. SCHROEDER) that the amendment she has offered is to a portion of the bill that has not yet been read. Therefore, the amendment is not in order at this time.

Mrs. SCHROEDER. I thank the Chair.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: In the Hanley-Wilson substitute, strike the language from page 1, line 3 through page 5, line 4, and insert in lieu thereof the following:

RATES AND CLASSES

SEC. 2. (a) Section 3621 of title 39, United States Code, is amended by striking out its first sentence and inserting in lieu thereof the following:

"The Postal Rate Commission shall establish rates of postage and fees for postal services in accordance with this chapter."

(b) Paragraph (a) of section 3622 of title 39, United States Code, is amended to read as follows:

"(a) From time to time the Postal Service shall request the Postal Rate Commission to render a decision on changes in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title."; and

(c) Subsection (b) of section 3622 of title 39, United States Code, is amended by striking the world "recommended", and subsection (b)(3) of this section is amended to read as follows:

"The requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type (including the costs caused by variability with volume, and all of the costs caused by the collection, transportation, processing, storing, and delivery of each class of mail or type of mail service), plus that portion of all other postal costs reasonably assignable to such class or type."; and

(d) Section 3626(a)(1) of title 39, United States Code, is amended by inserting before

the semicolon at the end thereof a comma and the following: "except that for the purposes of the former sections designated in this subsection, those attributable costs which exceed 50 percent of total attributable costs shall be reasonably assigned to all classes of mail;"; and

On page 5, line 5, strike the designation "(d)" and insert in lieu thereof "(e)"; and

On page 5, strike line 22 and insert in lieu thereof "60 percent of the postal costs attributable to mail of such class or kind"; and

On page 6, line 3, strike the designation "(e)" and insert in lieu thereof "(f)".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I do not believe we have been supplied a copy of that amendment.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, the amendment was printed in the RECORD. I have copies of the amendment at the desk, and I took copies to the desk when we had this amendment before us on the floor at a previous time.

Mr. ROUSSELOT. Mr. Chairman, that was at least a week ago.

Mrs. SCHROEDER. Perhaps it was. I have many more copies over here, if the gentleman wants to have one.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentlewoman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I recall, out of the haze of early Saturday morning television, an Abbott and Costello routine, where Costello is dividing up a pile of money between them, and he goes, "One for you and one for me, two and one-two for me, three and one-two-three for me," and so on.

The U.S. Postal Service, acting on the advice and consent of no one, save a couple of anonymous postal bureaucrats, has engineered a similar procedure for divvying up some billions of dollars in mail revenues.

First a little history. The Postal Reorganization Act of 1970, among its many worthy and quickly forgotten goals, provided that revenues from each class of mail should be sufficient to recover its attributable costs and make some contribution toward institutional or fixed costs.

Even though Federal regulatory agencies have little difficulty among the industries or utilities they regulate determining which costs are attributable and which are institutional (often called fixed or overhead costs) and identifying the bulk of costs as attributable, the Postal Service has never quite gotten the hang of it. They define attributable costs as those that fluctuate with mail volume—for example, the costs of hiring a cubic foot of airplane space to ship a bag of first class mail, and institutional costs as those that supposedly remain constant regardless of mail volume—for example, the cost of a letter carrier delivering mail on a route. As a result, they are unable to identify more than about half of their costs as related to the amount of mail they move, although private businesses may have little problem attributing upwards of 100 percent of costs to a particular product or service. They have to. If they did not they would not know where they were making profits and probably run themselves out of business.

Before you ask why there is a distinction between attributable costs and institutional costs I will tell you. Institutional costs are also attributable costs, but they are attributed under a separate formula, one that works to the distinct disadvantage of first-class users and to the distinct advantage of second- and fourth-class users. If more institutional costs were treated as attributable costs—wherein costs are divided up on a mail volume basis instead of the Alice in Wonderland formula that is used—then second- and fourth-class users would be paying their fair share of postal costs. But we do not want that to happen. Heaven help us if we required Time-Life, Playboy, and Reader's Digest to pay their fair share of delivering their products.

The significance of the Postal Service's information gap becomes apparent when you understand how they assign costs, and how the assignment of costs affects rates.

The revenues from each class of mail are supposed to be sufficient to pay for the costs attributed to that class of mail. However, only about half the Postal Service's total costs—$9 billion out of $17 billion—are attributed. The other $8 billion is recovered under a formula that would make the Internal Revenue Service green with envy. The Postal Service has found its true calling: Not delivering mail, but spinning out dissembling formulas which transform it into a rogue tax collector. The costs of the facilities and operations the Postal Service classifies as institutional are not divided up proportionately among the classes of mail processed by these operations and facilities. Get any such foolish notions out of your head.

Rather, the Postal Service has developed a wonderful scheme whereby first-class mail users are allowed to shoulder institutional costs that ought to be borne by other classes. Using vague language in the Postal Reorganization Act of 1970 as a smokescreen, specifically 39 U.S.C. 3622, the Postal Service has construed the factors they are to use in determining what proportion of the institutional costs are to be paid by which mail classes in such a way that first class gets the lion's share.

One factor is the "social value" of the mail. The Postal folks have decided People magazine has social value and a letter from your Aunt Eleanor in Minnesota has social value. So second class pays less and first class pays more. Another is the "privacy" factor. A record from the Record Club of America is not protected by the fourth amendment. Aunt Eleanor's letter is. So fourth class pays less and first class more. Are you getting the picture? Heads first class loses, tails second and fourth class win.

Finally, the Postal Service concocted something called the Inverse Elasticity Rule which is not even vaguely mentioned in the statute. This "rule" means that since first class, they say, has the most inelastic demand of all the mail classes, it can bear a greater share of the institutional costs than the other mail classes, than if such costs were simply apportioned on a mail volume basis. Once when the Standard Oil cartel monopolized the country's oil supplies it used the same sort of rule.

Some postal watchers charge that first-class mail users are being dunned because they make up the only group of mail customers without a strong, organized Washington lobby. The Postal Service finds it much more convenient to tax first class users to pay the institutional costs incurred by second and fourth classes—both of which can field a crack commando squad of lawyers, lobbyists, and media wizards at the first whisper of a rate increase. If Ralph Nader ever missed his calling it was when he overlooked postal ratemaking as the subject of a public interest crusade.

The courts have not been entirely unmindful of the Postal Service's shenanigans. Federal courts have described the Postal Service's ratemaking methods as "cloudy," "unreliable," and "discriminatory." Hence the reason for H.R. 7700. The bill was written in part to override recent court decisions which overturned postal rate decisions and called for increasing attributable costs to be fairly apportioned among all mail classes.

Administrative Law Judge Seymour Wenner, in his famous 1974 ratemaking decision overturning the Postal Service's request for a 10-cent first-class mail rate, held that only 8.5 cents of the 10-cent rate was needed to recover attributable costs and institutional costs apportioned to first class on a volume basis. The remaining 1.5 cents, he found, was an "unauthorized subsidy" used to pay for the costs of the other mail classes. Lest 1.5 cents not appear significant to you, it translated into $259 million a year. "The Postal Service," Wenner concluded, "has become a tax-collecting agency, collecting money from first class mailers to distribute to other favored classes."

My best guess is that of today's 13-cent rate 3 cents is the illegal subsidy for the other mail classes.

In an Aesopian nutshell, first-class mail users—mostly small business people, professionals, and just everyday folks who pay their bills, and send greeting cards and personal letters via first-class mail—are the golden geese who lay the golden eggs that subsidize the second and fourth mail classes. H.R. 7700 plans to step up the production of golden eggs by wringing even more rate increases out of the golden first-class-mail geese.

Figures normally have a numbing effect in Washington, a city where billions of dollars are tossed about with boring regularity. But, we need to haul a few numbers in here to get some idea of what kind of money we are talking about. In fiscal year 1979, the Postal Service will

have about $18 billion in costs. Every 10 percent in costs that can be foisted off on first-class-mail users, is $1.8 billion other classes do not have to pay.

Which brings us to the subject of caps. A cap is the device which H.R. 7700 uses to keep attributable costs down and institutional costs up. Mirrors might do just as well, but magicians work with mirrors, not lawyers. Lawyers work with laws, regulations, definitions, and distinctions. Let us say, for purposes of argument, that the Postal Service's attributable costs are actually 95 percent and institutional costs are 5 percent. But we cannot have that, because the result would be that 95 percent of postal costs would be fairly apportioned among the mail classes, and only 5 percent would be unfairly apportioned.

So we bring in caps—H.R. 7700's cap says that a maximum of 60 percent of postal costs can be attributable, but no more, and a minimum of 40 percent will be institutional.

Why do we need caps at all? Well, the present law, the Postal Reorganization Act of 1970 does not specify any particular ratio of attributable costs to institutional costs, and the courts, of late, have begun shining their flashlights on the sweetheart deal the postal folks have developed.

So here comes H.R. 7700 to the rescue to write into law a guarantee that attributable costs will never be defined by anyone—the Postal Service or the courts—to exceed 60 percent of all postal costs.

If you have followed this discussion so far you can count yourself among the very few Americans who have any idea of what the Postal Service, the Postal Rate Commission, and the droves of big mail lobbyists, have been up to in the past few years. You also should have some inkling of why the first-class-mail rate keeps rising, as well as postal costs in general, with no crest in sight.

All of the foregoing is by way of explanation to my amendment to H.R. 7700 to require that each class of mail bear all the direct costs attributable to it, including costs that do not necessarily fluctuate with the volume.

You have probably heard a little bit about it already—it is going to shut down the labor press, it is going to cost jobs, it is going to drive small rural newspapers out of business, it is going to cause volcanoes in Indiana, and so on.

Smoke shovelling. That is what is going on. The big, corporate mailers want to continue to tax first class users to pay for their mailings—but they can not go public with that kind of a proposition. Through the gauzy "social value" of such publications one can too easily detect a nice market value: A 50-percent increase in advertising revenues in the past couple years, gross revenue increases (20 percent) which overshadow revenue increases among other media, such as radio (12 percent), television (12 percent), and newspapers (12 percent), and a whole raft of new periodicals retailing at $1.25 to $1.75 an issue. As a magazine published recently said, "We've learned that the reader is willing to pay for his magazine if he wants it." And indeed they do. At the same time the mail rate for an average magazine has gone up 2 or 3 cents the average price of ABC-audited magazines has risen from 63 to 96 cents.

So the corporate have developed some fictive hostages, spread scare stories among the postal unions and the small periodicals around the country, told them all that the Schroeder amendment is worse than the plague. Gotten them all excited. I should have expected it. Three years ago I offered a similar amendment and was accused of trying to take free mail privileges from the blind.

What the big mailer lobbyists, lawyers, and media wizards forgot to mention is that the same, the very same protective language excluding small periodicals from any rise in attributable costs that is in H.R. 7700 is in my amendment. So if they damn my amendment they are damning their own bill, H.R. 7700. Both proposals exclude the first 250,000 issues of any edition of any periodical from paying more than 60 percent cap on attributable cost payments by nonprofit mail.

The second point to keep in mind is that fairly apportioning attributable costs in no way affects Congress authority to provide general revenue subsidies to any class or subclass of mail. But Congress ought to make that kind of decision rather than nameless bureaucrats deep within the Postal Service taxing first-class-mail users. There are real issues here involving the promotion of a diversity of thought and opinion in this Nation which are not being satisfied by having the little magazine, the labor periodical, or the church which is not big enough or has not been able to obtain a mailing permit (and consequently, using first class) paying an indirect subsidy to its collosal brothers. We had a revolution over the stamp tax that England placed on the colonies to support its own "social value." This is much the same issue.

Mr. CORCORAN of Illinois. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois.

Mr. CORCORAN of Illinois. I thank the gentlewoman for yielding.

Mr. Chairman, in the gentlewoman's discussion of her amendment, does the gentlewoman make a distinction between small and large publications, so far as their circulation is concerned? Could the gentlewoman tell us what that definition is?

Mrs. SCHROEDER. I use the same one that is in H.R. 7700, which is known as the famous Solarz amendment, and it is a quarter of a million.

Mr. CORCORAN of Illinois. I thank the gentlewoman.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

With due respect to my very dear friend, the gentlewoman from Colorado (Mrs. SCHROEDER), a member of the committee, the matter of postal rates is an extremely complex subject which the experts really have a very, very difficult time in establishing appropriate formulas for.

Mr. Chairman, the gentlewoman from Colorado (Mrs. SCHROEDER) is a member of the committee. The gentlewoman did not offer this amendment in subcommittee, nor did she offer it in the full committee. We did not have the opportunity to consider it at all, so I believe that it would be less than responsible legislation to take a position on this amendment here on the floor of the House. With due respect to each of us, and some of us have spent a great deal of time on the matter of postal rates, none of us are equipped to make judgment with respect to the credibility or appropriateness of this amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I am delighted to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think it is also fair to say that we really did not consider the whole substitute we are amending now in the subcommittee or in the full committee and that that came up later.

I think that the gentleman has been fully aware of my position on this in that I have been involved in a court decision on it.

I have presented this amendment at prior times. We talked about it informally and all sorts of things, and I said I probably would offer the same amendment. This amendment has been floating around, I think, for at least 2 years, as the gentleman knows. Therefore, I do not think it is any great surprise. It is not as though it really just came in on a great white cloud of smoke.

Mr. HANLEY. Mr. Chairman, the gentlewoman will recall that the last time the overture was made, it really did not get very far.

Again, Mr. Chairman, I think that the gentlewoman will agree with me that this is an extremely complex subject. I think, for instance, that to ask the Members of this body to vote yes or no on such a terribly complicated subject would be awfully unfair.

The ratemaking language in the bill has not changed at all; and again, I do feel, I say to the gentlewoman from Colorado (Mrs. SCHROEDER), that if she really felt that strongly about it, she should have moved with an amendment either in subcommittee or in the full committee, in fairness to the committee.

Mrs. SCHROEDER. If the gentleman will yield further, Mr. Chairman, I think that he is 100-percent correct in saying that ratemaking is probably one of the most complex areas.

I think the gentleman will also agree that whenever the courts have reviewed what the current Postal Rate Commission has done, they have overturned it. They have not had any power to be able to do much about it; but nevertheless, they really felt that the Rate Commission has been doing it incorrectly.

That is one of the reasons I feel this amendment is so important: that the courts themselves have been saying ratemaking has been done incorrectly by the Postal Rate Commission. I feel very strongly, therefore, that we, as legislators, need to take a look at that.

I am not taking away the ratemaking decision power from the Postal Rate Commission. I am basically talking about how we require the Postal Service

keep the books so that we have some idea of how we are assigning the rates. That has been the main issue confronting the courts.

I do not think this is all that complex. Yet, it is hard for Members to understand, if they are not on the committee and have not spent hours and hours in reading court decisions on this matter. I realize that some people look at this amendment rather cross eyed and say, "What in the world are you talking about?" However, it is important, and I think attributing costs to each class of mail was clearly the intent of the 1970 act. I think this accounting is the intent of the Simon amendment, which involved the same thing, how we attribute the cost of the different classifications as we assign the rates.

I think we need some guidance because we are going to be asked to vote the money for the Postal Service. That is why I offer this amendment. It has been offered before. It follows the court decisions, and has certainly been discussed for some time.

Mr. HANLEY. Mr. Chairman, the gentlewoman made reference to the Simon amendment in the same framework as her own amendment. In that respect, I can only say that this House, in its previous action, made a very serious mistake in approving the Simon amendment. This House, if it moved in the direction of supporting the amendment of the gentlewoman from Colorado, would compound the error which this House has already made today.

Therefore, Mr. Chairman, without belaboring the subject any longer, I am going to ask that the House vote against the Schroeder amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I would like to point out, Mr. Chairman, that as has been properly noted and by, I believe, the position taken by the sponsor of the amendment, there is tremendous complexity in the ratemaking provisions.

Mr. Chairman, the effect of this amendment includes giving the Postal Rate Commission jurisdiction in an area that should logically remain within the jurisdiction of the Postal Service and its Board of Governors.

We have to give the administrators of the Postal Service some flexibility. If we get to the point where they have no control whatsoever over allocating either direct or indirect costs, we will have people operating a $18 billion business without any of the management flexibility they would need and want to have in such a situation.

The Postal Service has repeatedly attempted to define properly its rate adjustment procedure. I think they will get to it eventually with our cooperation, not by overimposing—as this amendment would—a rate dictation in areas where more properly management decisions should be made. So, I think on that basis alone, one of good management, we should reject this amendment.

Ever since enactment of the Postal Reorganization Act, there have been differences of opinion as to what should be defined as "attributable" costs.

In the second postal rate case the administrative law judge for the Postal Rate Commission recommended a rate schedule which attributed 70.6 percent of total costs. The practical effect of the recommendation would have been a sharp increase in rates for all classes of mail, except first class. In turning down that recommendation the Commission recognized attributing an additional 3 billion in costs would have resulted in sharp decreases in volume for other classes of mail and in the process undercut the basic purpose for allocating postal costs.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield.

Mrs. SCHROEDER. Would not the gentleman consider attributing the cost to each class of mail good management?

Mr. DERWINSKI. Yes; but if the gentlewoman would keep in mind that this has been a traditional application of rates, and quite logically so, if we are going to approach this rate structure in this bill it really is not going to be an area where, by this piecemeal amendment fashion, we would be providing a real solution. I think the gentlewoman's amendment would really complicate rather than clarify things. Ratemaking headaches are inherent in the Postal Service.

I point out, for example, this provision as I understand it would mandate the Commission to do the impossible, which is to insure that a particular class of mail assigned to it has the exact amount of all the costs involved. We just cannot do it. We have to have a management decision with their basic responsibility.

Mrs. SCHROEDER. I think the gentleman is correct in that what this bill does is continue with the practice that they have had. The only problem is, the courts have said that they have been doing it incorrectly, that they could assign many more of the costs that were assignable. The amendment does not demand that they assign costs that they cannot attribute. It just says that those costs that are attributable should be attributed, and those that are not should not.

I think the gentleman knows some of the horror stories, such as the one that bulk mail centers were all paid for with first-class money, and so forth. Clearly, those were not properly attributed.

Mr. DERWINSKI. I also understand the horror stories of courts stepping into areas where they have absolutely no knowledge. Do we want the courts to play God in setting postal rates? The courts ought to stay away from the structure and let the Postal Service work out the long-range problems. The idea of basing an amendment on the direction the court indicates the Postal Service should go scarces me to death.

Mrs. SCHROEDER. I think basically what the court was saying, though, was that the post office should be held accountable, to have the same kind of bookkeeping procedures private companies do, that private industry does. I think that really does make for good government. We have to foot the bill, and we do not even know what we are footing the bill for.

I think we got into that problem when they started closing post offices and threatening to shut down Saturday delivery. They had all sorts of cost assignments. We did not know because of this mystical, wonderful way they kept the books. It was like a shell game. They bury it under a shell and it appears under another.

Mr. DERWINSKI. It is not a shell game. It is not a mystery, but when we have the contrast of huge city offices and small rural post offices, transportation complications, the shift from rail to air, all those things the Postal Service has to live through, we have to have management flexibility as to attribution of cost, or else we put them in a bind from which we would have nothing but periodic rate adjustments and chaos.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mr. SCHROEDER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 6, immediately after line 7, add the following new subsection:

(f)(1) subchapter V of chapter 36 of title 39, United States Code, as enacted by the Postal Reorganization Act, is amended by adding at the end thereof the following new section:

"3636. One cent postage rate for postal and post cards or modernized equivalent thereof.

"Notwithstanding any provision of this title or of any other law, the rate of postage for each single modernized postal card and for each portion of a double modernized postal card, including the cost of manufacture, and for each modernized post card and the initial portion of each modernized double post card is 1 cent until otherwise provided by law. For the purposes of the preceding sentence a modernized postal card is a card supplied by the Postal Service with a postage stamp printed or impressed on it for the transmission of messages, orders, notices and other communications, either printed or written in pencil or ink or the modernized equivalent thereof.".

(2) The table of sections of subchapter V of chapter 36 of title 39, United States Code, as enacted by the Postal Reorganization Act, is amended by adding at the end thereof the following new item:

"3686. One cent postage rate for postal and post cards or modernized equivalent thereof.".

Mr. GONZALEZ (during the reading). Mr. Chairman, I ask unanimous consent that my amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Chairman, I know that the tendency has been in the past to kind of laugh at this amendment, but I do not offer it in a spirit of levity. I offer it in the most serious way I can offer it, and I certainly do intend to do so.

If the Members had listened to that first and prefatory heading of the amend-

ment, what they would have realized is that this is an effort to bring the equivalent of the established and noble penny post card back, or as I use the word, the modern equivalent thereto, because there is no question that with the technological ability that exists in our country there is a modern equivalent thereto that would afford the constitutional promise of 1789 of a real postal service for the citizenry to communicate—and maybe even perhaps with their Congressmen.

It is very interesting to see the history that reflects the experience with the penny post card. The penny post card existed for a number of years, year after year, and then temporarily in November of 1917, wartime, the rate went up to 2 cents. But then the rate was returned back to the penny in July of 1919, after the war, and it remained a penny for 33 years, until 1952, when it jumped to 3 cents. In the 1960's the rate for a post card went up 2 more cents, and by 1975 it was 9 cents, an 80-percent increase from the previous decade.

The wording of my amendment is of such a nature that it should provide flexibility for a postal administration to live up to the promise of the constitutional enactment, so that one of the promises of the American Government would be kept and would be honored, which would be to provide a real system of communication delivery by mail or, as I say, the modern equivalent.

I think that this would do more than anything else to regenerate the postal service. I offer it in all seriousness. I know that the arguments have been made it may cost prohibitive factors, but this is an argument that has been made against every single thing. I am afraid that if the philosophy that prevailed in 1970 in the Congress were to have prevailed in 1789, we would have never had the proviso that we do have in the Constitution.

Mr. DERWINSKI. Mr. Chairman, most reluctantly I rise to oppose the amendment.

My dear friend, the gentleman from Texas, knows I am never facetious, but if I were I would first commend the gentleman for the way he stated the history of the 1-cent card in relation to World War I, because I did not realize that he had served in that particular national effort and remembered the episode so clearly.

Could we roll back the price of milk to 1917?

Mr. GONZALEZ. Mr. Chairman, if the gentleman from Illinois will yield, first, contrary to whatever gave rise to the notion of my distinguished colleague, namely, that I would date back to World War I, I would have the gentleman know I was born about that time, so that it is not any personal memory I have but the history as actually reported.

As to comparing the penny post card to rolling back the milk prices or the bread prices or anything of that kind, we are talking about a very different matter.

It is one which perhaps with a little bit of investigation and study might be susceptible of a congressional program that would restore depression level prices for milk because I do remember the depression. I know that I could buy a quart of milk, for instance, for not too much more than 7 or 8 cents. I know that I could get a loaf of bread for a nickel. In fact in some places on the west side of San Antonio two for a nickel. But that is by no means to say you have a corresponding situation in the postal delivery system because there you have had these great technological developments, they are computerized and they have electronic systems that can handle this type of product that we are talking about but in no way as when you are talking about a product such as milk or wheat.

Mr. DERWINSKI. I am sure that the gentleman from Texas (Mr. GONZALEZ) knows that if his amendment were to be adopted that there would be a deluge of penny postal cards rolling across the U.S. Nation.

Mr. GONZALEZ. There would be jubilation all over the land.

Mr. DERWINSKI. I am sure there would not be when you consider that manpower is 86 percent of the cost of the postal service, and there would be such a stream of mail composed of penny postcards coming through the post offices that it would be difficult to operate under the burden unless further manpower costs were incurred.

Mr. GONZALEZ. The gentleman must surely recognize the inconsistency in his arguments between what the gentleman is saying now and what the gentleman said in the case of the Simon amendment.

My contention is if you really want to justify the main postal service then this type of approach, in particular this kind of universal service to the American citizens will not only serve to keep the service but to revive it and fortify it and rather than distress we will have, as I say, jubilation because the American citizens for once will be certain that the Congress is really aware of their plight.

Mr. DERWINSKI. I might further point out to the gentleman that his constitutents would be writing to him on these 1 penny postcards saying, "Please, Mr. GONZALEZ, balance the Federal budget." But the gentleman's amendment would further contribute to the deficit.

Mr. GONZALEZ. On the contrary, as I have pointed out, the Postal Service management has the kind of ability to handle this situation through their new technologies and electronic systems so that they could make it possible that there would not be these difficulties.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I think that we must realize that this is a more serious matter than the kind of attention we have been giving to it. For instance, there is more to be considered here than just the penny postal cards that the individual might see fit to send out, because this could very heavily involve all of the utility billings that go out because 80 percent of the mail is business mail.

So I repeat that this is a very serious matter. I would hope we take this legislation seriously and not burden ourselves with an amendment of this type.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield further, there is a provision in my amendment that would take care of that which would exempt billings of this type and business correspondence.

Mr. DERWINSKI. Mr. Chairman, I urge the rejection of the amendment.

Mr. HANLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, most reluctantly I rise in opposition to the amendment because I have the greatest respect for the author of the amendment the gentleman from Texas (Mr. GONZALEZ) who has in so many instances been my mentor in this House. However, Mr. Chairman, the problem here relates to finances. We initially asked for 15 percent in this legislation.

We had a great deal of trouble with that, and we had to cut it back to $800 million, and that is even a little bit difficult to accomplish.

The effect of the gentleman's amendment would suggest that we would probably have to tack on another several million dollars to the cost of this legislation. I would certainly endorse the generation of communications between all people, but in recognition of the fiscal plight of the agency and the obligation already incurred by the taxpayers, I find it very difficult to deem this appropriate at this time. As the gentleman from California (Mr. CHARLES H. WILSON) has already said, we open up the gate to the utilities companies that would use the 1-penny postcard for billing, in many instances the sending out of $600 to $800 bills. So I respectfully ask that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2?

Mr. ASHBROOK. Mr. Chairman, I have an amendment at the desk that would come at the end of section 2, that would establish a new section 3, and I would ask if it is in order at this time.

The CHAIRMAN. It is, if there are no further perfecting amendments to section 2.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: On page 4 of the Hanley-Wilson substitute, strike lines 24 and 25.

Mrs. SCHROEDER. Mr. Chairman, my amendment does the following.

First, it eliminates from H.R. 7700 the provisions which will redefine attributable costs; it dumps the provision which says that attributable costs are only those which vary over volume in less than 3 years. This new definition is quite similar in nature to the Postal Service presentation in the 10-cent stamp case which was roundly lambasted by the

courts. If history is any lesson, this new definition could cause postal service attributable costs, now about 60 percent, to be reduced to 45 to 49 percent. This provision can cause an unnecessary additional rate increase for first class mail. We would be harking back to the dark ages of postal ratemaking—at least until the courts got ahold of it.

Second, this amendment dumps from H.R. 7700 the new "noncost" attribution factors designed to sock first class mail with most residual costs. One of these new factors is especially invidious—the "inverse elasticity rule"—or as it is worded in the bill "the relative demand for each class or subclass of mail or type of mail service." Just keep in mind that the only class of mail for which the claim is made that there is no "relative demand" is first class mail; this provision would require the Postal Rate Commission to charge extra for first class because it is monopolized. The courts have gnashed their teeth on this one, too.

Third, my amendment would require each class of mail to bear all costs incurred—not those incurred in less than 3-years, not those simply related to volume. The courts have said this is what the law is now, anyway.

Fourth, my amendment protects nonprofit mailers from paying attributable costs which exceed 60 percent. H.R. 7700 has the same cap for this mail. In addition, the amendment requires, as the bill, that costs over 60 percent on the first 250,000 of certain periodicals shall not be charged to such mail.

First class mail is the reason for the existence of the Postal Service. The over 50 billion pieces of first class mail the Postal Service processes each year dwarf any other mail class. Even third class—what we call junk mail—is only about 16 billion pieces, or one-third of first class volume.

First class mail dwarfs the volume of second class mail, at 5.5 billion pieces, and the volume of parcel post, at a piddling 330 million pieces.

The odd thing about H.R. 7700 is that it will skewer up the rates of first and third class mail—classes of mail which, respectively, pay all or most of their ways and the classes of mail which pay for most of the jobs at the Postal Service—in a desperate attempt to keep an ever dwindling volume of second class and parcel post mail at the Postal Service.

H.R. 7700 proposes an increase in the cross postal rate subsidy, from first class to parcel post. It ignores the fact that when this cross subsidy results in higher first class postal rates it could easily cause a reduction in first class volume. Even a one-half of 1 percent drop in first class mail volume would cause about the same volume, revenues, and job losses as shutting down parcel post entirely.

H.R. 7700 also proposes that first class give additional subsidy to regular second class. Second class regular mail volume is dropping by 10 percent per year—a drop not caused, as the advocates of H.R. 7700 would have you believe, by high postal costs, but caused primarily by large second class mailers finding alternative delivery systems.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment. I can only repeat with respect to this amendment the same opposition that I offered in the previous instance, that again we are dealing with a very complicated subject, far too complicated to be considered on the floor of the House.

Again, the gentlewoman from Colorado (Mrs. SCHROEDER) as a member of the committee, did not offer this amendment either in subcommittee or full committee, and I believe that it would be an imposition to ask Members of this body to make judgment on such a highly complex issue without having anything in the way of sufficient background. I respectfully ask that the amendment be defeated.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

I share the point made by the gentleman from New York (Mr. HANLEY) and also emphasize my opposition to the amendment. I would point out to the Members of the House that this amendment would have an automatic impact on every mail user in every class of mail, which means that it would cause an almost complete revolution in the utilization of the U.S. Postal Service.

I think at this point in this kind of fashion it should not be accepted by the House. It is something that deserves attention, but it is something that cannot be done in this limited bill before us.

The CHAIRMAN. The questions is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: On page 4, line 3, of the Hanley-Wilson substitute after the word "privacy" insert "intrusion on privacy,".

Mrs. SCHROEDER. Mr. Chairman, this also is a fairly simple amendment. I understand that the committees position is going to be that this is another "no-no" because I did not tell them about this before. I think this has clearly been discussed many times before and I only remind them that the entire substitute we are now amending was not discussed until we got to the floor, so I do not think we can say my single amendment is more technical than the whole substitute. I also remind the committee we were asked not to offer a lot of amendments so we could hold a quorum and report the bill.

Let me state what this amendment does. In essence, if we look at the ratemaking procedures that we are requiring in the bill, right now we are saying that it is OK to charge more for first-class mail because we who use it are guaranteed privacy. That is fine. I have no problem with that.

The only thing I ask is that we also consider when we are making rates what we charge for people who are invading our privacy. I think many of us have been concerned about junk mail and the fact that your home is your castle. I think it is a little upsetting that the rate structure allows mail can be sent to people who do not want it at a much cheaper rate than the rate for people who have solicited it or want it. So it seems to me only fair to submit the inverse portion of the Privacy Act into the ratemaking procedure. That's what this amendment does.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

I do not believe that the Government should become a censor in the matter of what you should or should not receive in the mail. Again, this amendment was not offered, either in the subcommittee or in the full committee. Without belaboring the issue, I ask that it be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 6, immediately following through line 7, insert the following new section:

CONGRESSIONAL REVIEW OF RATE, FEE, AND CLASSIFICATION DECISIONS

SEC. 3. (a) Section 3624 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Any fiscal decision of the Commission under this section shall take effect—

"(A) the Commission delivers a copy of such final decision to the Senate and to the House of Representatives; and

"(B) before the close of the 60-day period which begins on the day on which the copies of such final decision are delivered to the Senate and to the House of Representatives, the Congress does not adopt a concurrent resolution of disapproval.

"(2) The 60-day period referred to in paragraph (1) of this subsection shall be computed by excluding—

"(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(B) any Saturday and Sunday, not excluded under subparagraph (A) of this paragraph, when either House is not in session.

"(3) For purposes of this subsection, the term 'concurrent resolution of disapproval' means only a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the taking effect of the final decision transmitted to the Congress by the Postal Rate Commission on _____', the blank space therein being filled with the day and year.".

(b) Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be appropriated to the Postal Service each fiscal year such sums as may be necessary to offset any reduction in the estimated revenues of the Postal Service which results from the adoption of a concurrent resolution by

the Congress under section 3624(e) of this title.".

(c) Section 3641(e) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "In any case in which the Congress adopts a concurrent resolution under section 3624(e) of this title, any such temporary change shall cease to be effective not later than 30 days after the date of the adoption of such concurrent resolution.".

Redesignate the following sections accordingly.

Mr. ASHBROOK (during the reading). Mr. Chairman, inasmuch as the language of my amendment is in the original bill, H.R. 7700, and before all the Members, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, there are certain advantages to this amendment of mine. In the first place, we are not going to be able to hear on the other side what we have heard in the consideration of this bill, that the committee should not be burdened with this type of an amendment or an amendment of this type should have been offered in the committee, or an amendment of this type should have been offered in the subcommittee, as I just noted in my unanimous consent request, my amendment is the precise language that is in the original bill, H.R. 7700, that was reported out of the committee last November; so it is not something that is just being offered on the spur of the moment. It is not proposed after listening to the debate, and I have listened to the entire debate. It is not what is called the usual Ashbrook amendment, which comes at 10 o'clock at night when we are tired and wondering what is going on.

What is before us in this particular case is the language of the committee. It is the language precisely that they have in the report that I have before me. I would refer to pages 7 and 8. The committee itself in voting out H.R. 7700 said the following at the bottom of the page:

> The decisions of the Postal Rate Commission shall be final, but we do believe that some review of this regulatory agency's decisions should be established.

Note that, "we do believe." That is the key.

Again let me point out that is their language.

On page 8 of the report, at the top of the page, this is what they say:

> The . . . Act was designed to continue that function but the committee believes it can best be accomplished if Congress reviews rate decisions.

The last sentence in the next paragraph reads as follows:

> But, should a Commission decision prove so unacceptable to the public that it should not become effective, or should other reasons justify denying a postal rate increase, the legislation recommended by the committee will provide an opportunity to act.

Let me repeat some of those statements of our Committee on Post Office and Civil Service, as contained in the report. This is not my language; it is in the report This is what it says:

> . . . we do believe that some review of this regulatory agency's decisions should be established . . . it can best be accomplished if Congress reviews rate decisions.

That is the second quotation.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, is the point the gentleman is trying to make that his amendment was originally in the language of the bill, and that deals with the fact that Congress should conduct a review of postal rate decisions?

Mr. ASHBROOK. Mr. Chairman, my ability to inform and the gentleman's ability to perceive are right on target.

Mr. JOHN L. BURTON. This has nothing to do with postal rates to South Vietnam, for instance?

Mr. ASHBROOK. No. And there is nothing in here on abortion, there is nothing on right to work, and there is nothing on union payment of dues. This is a straight amendment I am offering—not even my own language.

Mr. JOHN L. BURTON. But it is the gentleman's point that this amendment was in the language of the bill, as he originally pointed out, and that the arguments in support of it deal with statements in the committee report, and as I understand it, he believes the Congress ought to review Postal Commission rates?

Mr. ASHBROOK. Yes. That is something that was evidently the position of the committee in November, but it is not now its position.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman. I thought the thrust of his argument was that this is something that was in the bill as originally passed out of committee, and that there were findings that Congress should review it. I am glad that the gentleman and I are on target.

Mr. ASHBROOK. I would only make one other point, and that is this: I think that on April 5, this should still be our position if it was our position last November.

Mr. JOHN L. BURTON. I understand the gentleman's argument.

Mr. ASHBROOK. If my friend, the gentleman from California, will follow me on that last point, if it was good in November it is still good on April 5 and it should be the position of the entire committee. It was the original position of the legislative committee.

Mr. JOHN L. BURTON. Mr. Chairman, when the gentleman speaks of November, is he talking about the election of President Carter or is he talking about the language in the bill which his amendment would restore?

Mr. ASHBROOK. I am talking about the language that was before us in November. Unfortunately for the gentleman, I am not speaking of that other matter. Mr. Carter is lucky he is not before us this November.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, before the gentleman from California (Mr. JOHN L. BURTON) follows the gentleman blindly, will he please advise the gentleman from California that there is nothing in the amendment that would end the smog or the water pollution in the San Francisco Bay area?

Mr. ASHBROOK. I will do that, and I will also assure him there is no foreign aid in the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, if the gentleman will yield further, I might say that that is not what the gentleman was talking about, and I understand that.

Mr. ASHBROOK. No. There has been such a show of allegiance that the gentleman freightens me.

Mr. JOHN L. BURTON. As I understand it, the gentleman said that the original bill, H.R. 7700, that was passed last November deals with congressional review, and as I understand it, the gentleman's statement refers to review of Postal Commission rates. I am sure he was not talking about water pollution in the San Francisco area.

Mr. ASHBROOK. No. Mr. Chairman, if I may recapture my time, I have been around here for 18 years now, and I get the feeling that this committee is going to rise pretty soon.

Mr. JOHN L. BURTON. I certainly hope so.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(On request of Mr. JOHN L. BURTON and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, with that lucid description of what the position of the committee used to be but evidently is not now, I simply would urge the entire House to justify the committee's original perception and give consideration to the fact that Congress should have some review of rate decisions. I urge the Members to support my amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, let me ask the gentleman, is his amendment not very similar to other amendments that we have offered and had adopted to numerous bills on the floor, those amendments relating to congressional vetoes?

Mr. ASHBROOK. The gentleman is correct. I think this involves the Congress more in the process. This is something that supposedly was part of the reform in this body, providing more oversight by Congress and insight on foreign policy. This relates to what the Congress does obviously with the Postal Service. It is certainly in keeping with the trend in this body.

Mr. Chairman, I do not know what agreement was made to take this language out, but I do think that we ought to put it back in.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I must agree with the gentleman from Ohio that this is one of the four agreements we made with the administration, in trying to perfect the bill in a manner in which it would be more acceptable to them. There was very strong feeling in the committee that there should be congressional veto of postal rate increases, but I think that at the time we adopted that position we had failed to recognize a serious responsibility which we would have to assume in having the veto of rate increases. If we were to exercise that authority and to veto any rate increase which the Rate Commission might adopt, we would have to assume the responsibility of appropriating a sufficient amount of money to make up for that vetoed rate increase. Therefore, I would want us to understand what we are doing. I just wonder if we will assume the financial responsibility if we are given the opportunity to veto postal rates.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, my colleague knows that in the report I referred to, it says:

The adoption of such a concurrent resolution—

The one to which the gentleman referred to of rescinding or negating a rate increase—

will be deemed to authorize the appropriations of funds sufficient to make up losses incurred because of the disapproval . . .

That alone would seem to prevent this Congress of the very thought of ever taking an irresponsible action. I think that was the responsible part of this particular proposal, and I would assume that that would be our responsibility.

Mr. CHARLES H. WILSON of California. As I indicated, I am not sure that there would be any strong opposition to the gentleman's amendment. I must assume the position of opposing the negotiations to bring this important legislation to the floor of the House. I am obligated to vote against the gentleman's amendment.

Mr. HANLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the language of the gentleman's amendment happens to be my own language in the original bill. I felt very strongly about it. I felt that this would have been a good procedure. Hindsight had it, however, that, in recognition of the conceivable cost factor and the probable reluctance of the Congress to bite the bullet with regard to the necessary add-on, from the standpoint of funding, then I say that it would probably be more appropriate to strike that language; and I agreed to do so reluctantly. As the Members know—and I said this earlier in this debate—essentially we had hoped very much that we could have sustained the original 15-percent language. We could not do that. We had to practically halve it, bringing it down to $800 million, to assure, hopefully, the traditional quality and scope of the Postal Service, and, hopefully, negate the probability of the rate hikes subsequent to the one which we will be confronted with about June 1. So unfortunately the cost factor associated with this provision, I believe, made it prohibitive. As much as I would like to have had the original language prevail, and as much as I would like to be able to support the gentleman's amendment, which would have the effect of restoring it, unfortunately, because of the fiscal consideration, I have to oppose the amendment.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the chairman a question on a not directly related subject, but since the new section 13 in H.R. 7700 extends the book rate to books sent to or from libraries, schools, colleges and universities, is it the intention of the committee to include all libraries, schools, colleges and universities, regardless of type of ownership, whether public or private?

Mr. HANLEY. Yes. That is the intent of the committee. That is the language of the bill.

Mr. COUGHLIN. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I would say to my colleague from New York and my colleague from California, both of whom are good friends, that those of us who have been involved in the legislative process know that at certain times we do have to make decisions. I think that the way the gentleman has described his actions I understand and appreciate your position. It is a very honorable one and I in no way criticize your decision to delete this section from your substitute bill.

However, I think there is still a substantial reason that the Congress ought to have some input in this particular area, rates.

I realize that the gentlemen will vote the other way, but I just want to say, in listening to the remarks of my friends that I have very great respect for the way that their arguments have been presented.

Mr. HANLEY. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to point out that we have had a historic vote here on the so-called Simon amendment. Since then, things have been quiet on the floor. We have even treated some subjects lightly, but this is an interesting, deadly serious subject, which the gentleman from Ohio (Mr. ASHBROOK) has raised.

Mr. Chairman, I direct the gentleman's attention, if I may, to page 54 of the committee report. The gentleman will note that in the last three paragraphs on page 54 are the minority views that I wrote at the time against what was then the Hanley amendment, which is now the Ashbrook amendment.

The issue is very simply this, that under this amendment, the Congress, if it exercises veto power over rates, would have to automatically authorize the shortfall of funds.

There is a pending rate case, that will add about $2 billion to postal revenues. Therefore, just using this figure, if the gentleman's provision was applied, it would automatically be authorizing $2 billion. Normally, the gentleman from Ohio (Mr. ASHBROOK) is not one to engage in that kind of spending.

That is under present figures. The next rate increase two or three years from now, if the gentleman's amendment were in the law and would apply, would probably be in the vicinity of $3 billion.

Mr. Chairman, if the gentleman is really serious—and this is what my minority views said—if he were really serious about a congressional veto, he ought to provide for an item veto because the sheer size of postal rate increases is going to be such that the veto provision is not workable.

The reason it is not workable is that the automatic authorization it triggered would be too complicated and too costly for Congress to absorb at that time.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would say to my colleague that he is certainly right as to my particular viewpoint. He is also certainly right with respect to the problems I address.

However, if my friend were committed to taking $2 billion from foreign aid and using that $2 billion in foreign aid to help support the Postal Service, it would certainly help keep down the price of postage stamps.

Mr. DERWINSKI. The gentleman knows that if it were added to his amendment, the shortfall would not come from the so-called foreign aid program in that event; but even that would not apply because we are changing the name of the agency. It is no longer going to be called "foreign aid." It is going to be called "international development."

Therefore, the gentleman's amendment would be automatically obsolete. If Congress wants to control rates, which it does not want to do, it should also then handle the wage negotiations with the postal union, which Congress does not want to do.

Mr. ASHBROOK. That is my next amendment.

Mr. DERWINSKI. Mr. Chairman, I am sure the gentleman would be willing to withdraw his amendment. If not, I would ask the House to vote it down.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak to something that came up earlier in this quiet time, as it has been so well described.

We really must do something about the filth and pornography that is sent unasked for, through the mail, to children.

Somewhere in the Postal Service there has to be some process which allows people to protect their children from the kind of filth that one of my constituents sent me, a most hideous kind of pornography, one of the most hideous that I have ever seen. I can hardly say how indignant it made me to find out that this child of 12 years was receiving this through the mail.

Mr. Chairman, it seems to me that if people are going to send sexually charged material through the mail unsolicited, they ought to be under a penalty if it is sent to children under 18 years of age.

We cannot just say that we will not have censorship. Of course, we should not have censorship; but we should have some penalty when unsolicited filthy stuff comes into homes addressed to children.

Mrs. SCHROEDER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I compliment the gentlewoman from New Jersey (Mrs. FENWICK).

I think there should be great concern when unsolicited mail comes to people's homes.

I really do feel that one's home is a private area. We should not be subjected to unsolicited phone calls or unsolicited mail. To think that that is our cheapest form of mail offends me very much.

Mrs. FENWICK. It is terrible that any of this should be so.

Not only did this family receive this filth directed to their 12-year-old child, but another woman wrote me when filth had been directed to her aged parents, who had never seen such stuff before in their lives.

Mrs. SCHROEDER. I compliment the gentlewoman on her concern.

Mr. HANLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield.

Mr. HANLEY. Mr. Chairman, I too share the gentlewoman's great concern about this problem. This committee has dealt with it in the past. Unfortunately, because of a constitutional problem, the best we could do was the invocation of the provision whereby that person who receives that first piece of mail should automatically notify his or her postmaster. There is a form that the person fills out, and that should terminate any further flow of mail from that particular source. We would like very much to come up with something far more stringent than that. However, the efforts in the past to do this have been prevented by court decisions.

Mrs. FENWICK. I see.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield.

Mr. ASHBROOK. I just want to say for the RECORD that I notice about four Members came onto the floor in the last couple of minutes. I hope they do not think that my amendment has anything to do with allowing pornography.

Mr. DERWINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Let me point out that we have struggled with this. The problem is what one might call the tolerant attitudes of the courts, which have interpreted efforts to control the flow of pornographic mail as being censorship. The present law is working reasonably well. If someone interprets mail that reaches his home as being offensive, he then delivers that to the post office. That person may insist that his name be removed from the mailing list. If further mailing occurs, then the violation occurs.

Mrs. FENWICK. This particular case was so bad that when I sent it to the post office, they have sent it to the Justice Department for prosecution.

Mr. DERWINSKI. The Justice Department and post office have done all they can. Our problem, basically, has been with lenient court decisions.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present.

The Chair announces that a regular quorum call will now commence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 194]

Alexander	Hightower	Roncalio
Andrews, N.C.	Kasten	Rosenthal
Archer	Kemp	Runnels
Aspin	Krueger	Russo
Beard, R.I.	Leggett	Scheuer
Bedell	Lehman	Seiberling
Blanchard	Long, La.	Shipley
Burke, Calif.	Lundine	Sisk
Cavanaugh	McKinney	Solarz
Chappell	Mathis	Spellman
Cochran	Meeds	Staggers
Conyers	Michel	Steiger
Diggs	Mikva	Stokes
Drinan	Miller, Calif.	Teague
Duncan, Oreg.	Moss	Thornton
Eckhardt	Murphy, N.Y.	Tsongas
Edwards, Calif.	Patten	Tucker
Fish	Pease	Udall
Flood	Pressler	Whitley
Flynt	Reuss	Young, Alaska
Fraser	Richmond	
Fuqua	Rodino	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PATTISON of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 7700, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 370 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 218, not voting 36, as follows:

[Roll No. 195]

AYES—180

Abdnor	Fowler	Moorhead, Calif.
Alexander	Frey	Mottl
Allen	Fuqua	Myers, John
Ambro	Gammage	Natcher
Ammerman	Ginn	Neal
Andrews, N.C.	Glickman	Nichols
Archer	Gonzalez	Nolan
Ashbrook	Gore	Oakar
AuCoin	Grassley	Oberstar
Badham	Guyer	Panetta
Bafalis	Hagedorn	Patterson
Barnard	Hall	Pettis
Baucus	Hammer-schmidt	Pickle
Bauman	Hannaford	Pursell
Benjamin	Hansen	Quayle
Biaggi	Harkin	Quie
Blouin	Hefner	Quillen
Boggs	Hightower	Risenhoover
Bonker	Hillis	Robinson
Breaux	Holt	Roe
Brinkley	Howard	Rogers
Broomfield	Hubbard	Rose
Buchanan	Huckaby	Rousselot
Burke, Fla.	Hughes	Rudd
Burke, Mass.	Hyde	Santini
Burleson, Tex.	Ireland	Sarasin
Burton, John	Jacobs	Satterfield
Caputo	Jenkins	Sawyer
Clawson, Del	Jones, Okla.	Schroeder
Cleveland	Kazen	Schulze
Cohen	Kemp	Sharp
Coleman	Ketchum	Shuster
Collins, Tex.	Keys	Skelton
Coughlin	Kindness	Skubitz
Crane	Kostmayer	Smith, Iowa
Cunningham	Krebs	Smith, Nebr.
D'Amours	Lagomarsino	Snyder
Daniel, Dan	Latta	Spence
Daniel, R. W.	Lent	Stangeland
Davis	Levitas	Steers
de la Garza	Livingston	Stockman
Devine	Lloyd, Calif.	Studds
Dickinson	Lloyd, Tenn.	Symms
Dicks	Long, La.	Thone
Dodd	Long, Md.	Trible
Dornan	Lujan	Ullman
Duncan, Tenn.	Luken	Vander Jagt
Edwards, Ala.	McCormack	Vento
Edwards, Okla.	McDade	Waggonner
Emery	McDonald	Watkins
English	Maguire	White
Erlenborn	Mann	Whitehurst
Ertel	Marriott	Whitten
Evans, Del.	Martin	Wilson, Bob
Evans, Ga.	Mathis	Wolff
Evans, Ind.	Mikulski	Wydler
Findley	Miller, Ohio	Wylie
Fithian	Minish	Young, Alaska
Florio	Moffett	Young, Fla.
Foley	Moore	
Fountain		

NOES—218

Addabbo	Boland	Cavanaugh
Akaka	Bolling	Cederberg
Anderson, Calif.	Bonior	Chisholm
Andrews, N. Dak.	Bowen	Clausen, Don H.
Annunzio	Brademas	Clay
Applegate	Brodhead	Collins, Ill.
Armstrong	Brooks	Conable
Ashley	Brown, Calif.	Conte
Baldus	Brown, Mich.	Conyers
Beard, R.I.	Brown, Ohio	Corcoran
Beard, Tenn.	Broyhill	Corman
Bedell	Burgener	Cornell
Beilenson	Burlison, Mo.	Cornwell
Bennett	Burton, Phillip	Cotter
Bevill	Butler	Danielson
Bingham	Byron	Delaney
Blanchard	Carney	Dellums
	Carr	Dent
	Carter	

Derrick	Kastenmeier	Rahall
Derwinski	Kelly	Railsback
Dingell	Kildee	Rangel
Downey	LaFalce	Regula
Drinan	Le Fante	Reuss
Duncan, Oreg.	Leach	Rhodes
Early	Lederer	Rinaldo
Eckhardt	Lehman	Roncalio
Edgar	Lott	Rooney
Edwards, Calif.	Lundine	Rosenthal
Eilberg	McClory	Rostenkowski
Evans, Colo.	McCloskey	Roybal
Fary	McEwen	Ruppe
Fascell	McFall	Russo
Fenwick	McHugh	Ryan
Fish	McKay	Scheuer
Fisher	Madigan	Sebelius
Flippo	Mahon	Seiberling
Flowers	Markey	Shipley
Ford, Mich.	Marks	Sikes
Ford, Tenn.	Marlenee	Simon
Forsythe	Mattox	Slack
Fraser	Mazzoli	St Germain
Frenzel	Metcalfe	Stanton
Garcia	Meyner	Stark
Gaydos	Mikva	Steed
Gephardt	Milford	Stokes
Giaimo	Miller, Calif.	Stratton
Gibbons	Mineta	Taylor
Gilman	Mitchell, Md.	Thompson
Goldwater	Mitchell, N.Y.	Traxler
Goodling	Moakley	Treen
Gradison	Mollohan	Van Deerlin
Green	Montgomery	Vanik
Gudger	Moorhead, Pa.	Volkmer
Hamilton	Murphy, Ill.	Walgren
Hanley	Murphy, Pa.	Walker
Harrington	Murtha	Walsh
Harris	Myers, Gary	Wampler
Harsha	Myers, Michael	Waxman
Hawkins	Nedzi	Weaver
Heckler	Nix	Weiss
Heftel	Nowak	Whalen
Holland	O'Brien	Wiggins
Hollenbeck	Obey	Wilson, C. H.
Holtzman	Ottinger	Wilson, Tex.
Horton	Pattison	Winn
Ichord	Pease	Wirth
Jeffords	Pepper	Yates
Jenrette	Perkins	Yatron
Johnson, Calif.	Pike	Young, Mo.
Johnson, Colo.	Poage	Young, Tex.
Jones, N.C.	Preyer	Zablocki
Jones, Tenn.	Price	Zeferetti
Jordan	Pritchard	

NOT VOTING—36

Anderson, Ill.	McKinney	Solarz
Aspin	Meeds	Spellman
Breckinridge	Michel	Staggers
Burke, Calif.	Moss	Steiger
Chappell	Murphy, N.Y.	Stump
Cochran	Patten	Teague
Diggs	Pressler	Thornton
Flood	Richmond	Tsongas
Flynt	Roberts	Tucker
Kasten	Rodino	Udall
Krueger	Runnels	Whitley
Leggett	Sisk	Wright

Mr. PURSELL changed his vote from "no" to "aye."

Mr. CONTE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS TO UNITED STATES POSTAL SERVICE

SEC. 3. (a) Section 2401(b)(1) of title 39, United States Code, is amended by substituting the word "is" for the words "the following amounts:" and inserting in lieu thereof "for each of the fiscal years 1972 through 1984 the sum of $920,000,000.".

(b) Section 2401(d) of title 39, United States Code, is amended to read as follows:

"(d) There is authorized to be appropriated to the Postal Service for each of the fiscal years 1979, 1980, and 1981 the sum of $800,000,000.".

(c) Subsections "(e)" and "(f)" of section 2401 of title 39, United States Code, are repealed.

(d) Subsections "(g)", "(h)", and "(i)" of section 2401 of title 39, United States Code, are redesignated as subsections "(e)", "(f)", and "(g)".

(e) Section 2401(f) of title 39, United States Code, as redesignated by this Act, is amended by striking out the second sentence.

(f) Section 2401(g) of title 39, United States Code, as redesignated by this Act, is amended by striking out the numeral "10" and inserting in lieu thereof the numeral "7", and by striking out the words "subsection (b) and (d) of".

(g) Section 2401(b)(2) of title 39, United States Code, is amended by striking out "(G)".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

● Mr. AMMERMAN. Mr. Chairman, the bill which the House is considering today, H.R. 7700, is very important legislation for everyone. Since enactment of the Postal Reorganization Act of 1970, our citizens have experienced reduced postal service and higher postal rates.

Within the past 8 years, our citizens have been forced to pay three substantial rate increases. In addition to large borrowings, the Postal Service has also received $5.5 billion in public service appropriations and $1.2 billion in supplemental appropriations. Postal costs have spiraled from $9.2 billion in 1971 to an estimated $17 billion in 1978, a rate of increase surpassing the general rate of inflation.

In spite of this increased spending, the Postal Service has not been able to maintain adequate service. In my own congressional district in rural Pennsylvania this reduction in service has appeared in several instances.

Some of the post offices in small towns in my district were closed by the Postal Service. These post offices were important in giving the residents of the town a sense of identity. When the residents wrote to me about the closings, I asked the Postal Service to reconsider their actions. The replies I received informed my constituents that if they wanted to retain their identity, they could simply add the name of their former post office to their new address. Such a curt reply indicates the lack of consideration and understanding which Postal Service bureaucrats in Washington have for residents of small towns.

Several of my rural constituents have contacted me concerning the elimination of mail delivery to their residences. One elderly couple must walk a mile to get their mail from a neighbor's house where the postman leaves it. Another elderly constituent contacted me about the removal of a collection box in her block. Since she is disabled, she cannot walk or drive to the local post office to mail her letters. The Postal Service refused to honor my request that the collection box be replaced.

Rural residents have also been adversely affected by the reduction in hours at their small post offices. Farmers, businessmen, and factory employees who work hard during the day cannot find the time now to mail their letters and parcels or to purchase stamps. Surely the Postal Service can attain a greater level of efficiency and, at the same time, maintain sufficient hours to permit working Americans to get to their local post office.

Since I have been a Member of Congress, I have favored programs which would encourage people to work and discourage them from continuously receiving welfare benefits. However, several cases have recently come to my attention in which the Postal Service seems to be pursuing the opposite course. Instead of providing work to employees who have become partially disabled, the Postal Service tries to force them into an early retirement. I, for one, cannot condone a practice which would force retirement on a 35-year-old family man who wants to continue working.

Perhaps the most significant "accomplishment" of the independent postal corporation during its 7 years of operation has been slower delivery. In my own experience, a letter which was sent from my Washington, D.C., office to my district office in State College, Pa., arrived 5 days later after being postmarked in West Virginia. It is little wonder that businesses have increasingly resorted to private means of delivery in order to move their correspondence in a timely fashion.

H.R. 7700 would provide a much greater degree of congressional control, which hopefully will enable us to prevent many of these abuses in postal service and rates. It would abolish the Postal Service Board of Governors and require that the appointment of the Postmaster General be made by the President with confirmation by the Senate. This would restore to Congress the control it once exercised over the leadership of the Postal Service.

One of the most important items contained in H.R. 7700 is the congressional veto power over any proposed rate adjustments and changes in nationwide service policies. This would restore to the citizens of this country a voice in the decisions which affect them. An example of the need for this reform occurred last year when the Postal Service recommended ending Saturday delivery of mail. The vote of the House of Representatives on September 26, 1977, in favor of a concurrent resolution calling for the continuance of Saturday delivery echoed the loud public outcry.

A vote for H.R. 7700 will also help to improve the customer service which is so desperately needed in this country today. This bill provides an increased authorization for public service appropriations and expansion of the research and development programs. I hope that the Postal Service will adopt new and better methods of moving the mail so that it will provide the kind of service our citizens deserve.

Another important provision contained in H.R. 7700 was taken from H.R. 6350, which I cosponsored. H.R. 7700 now stipulates that local postal employees and local qualified citizens who are not

postal employees be given preference for appointment as postmasters before a nonresident postal employee is appointed to the job. Recently a well-qualified postal employee who had resided in a small community for many years was refused a promotion to postmaster in favor of a nonresident postal employee. In many communities, the postmaster is the major representative of the U.S. Government. I believe that those who occupy such leadership positions should be selected from within the community whenever possible.

H.R. 7700 contains within it many other measures which will be of assistance to my constituents. It would assist small newspapers by making the postal rate equal to the "attributable costs" of the class of mail and by providing that the editorial as opposed to the advertising content of a newspaper would be transported at a constant bulk rate—the rate for the advertising proportion would increase with the distance it was to be transported. This provision would overturn a recent Postal Rate Commission decision requiring that both editorial and advertising content be charged the distance-variable rate. It is designed to encourage the dissemination of publications with significant news, literary, and other unpaid advertising content.

The bill would also assist schools by allowing them to return books at a lower library rate rather than the special fourth-class book rate. In addition, section 13 of H.R. 7700 would permit any nonprofit organization to mail books and other educational materials at the library rate.

In sum, H.R. 7700 provides for many necessary changes in the present postal operation and restores to Congress much needed authority over its operation. I urge a vote in favor of it.●

● Mrs. COLLINS of Illinois. Mr. Chairman, I support the amendment and rise to dispel what may be some confusion about the so-called public service aspects of this bill.

The bill would give the Postal Service additional funding to preserve service to the public.

That is the one true public service element in the bill.

The bill does something else that has nothing to do with public service—it eliminates the cost-based rate system that is in current law.

It makes it possible for managers of the Postal Service to use approximately half of total postal revenue to subsidize one class of mail to the detriment of another.

There is no public service reason why the Congress should grant to postal management this vast power to distribute billions of dollars of postal costs to users of the service based on unspecific criteria in the bill.

Current law limits the latitude postal managers have to place cost burdens on the individual classes of mail—rates have to approximate costs.

If the House is going to give this unusually broad discretionary power to postal managers, then it must at least preserve cost recovery for the one class of mail service where there is substantial private competition.

I am in favor of enhancing public service in mail delivery, but I strongly oppose changes that remove cost accountability from postal management with no good reason.

The amendment is necessary to insure that the Postal Service does not turn its multibillion-dollar pool of discretionary funds against private competitors.

I urge support of the amendment—a vote for fiscal responsibility in the Postal Service.●

● Mr. OTTINGER. Mr. Chairman, I want to take this opportunity to express my support for H.R. 7700, the Postal Service Act of 1978.

In an effort to deal with the problems of rising rates and deteriorating service, I introduced legislation in the 94th Congress to restore mail delivery to its former status as a public service operated entirely by the Federal Government. I did not believe then—and I do not believe now—that Americans should have to tolerate the burdens of higher rates and service cutbacks. Of particular concern to me are persons of low- and moderate-income and the elderly for whom increased rates and reduced service would pose special hardships and serve to further isolate these people from the world at large.

Last summer, after reviewing H.R. 7700, which was introduced by Representatives JAMES M. HANLEY and CHARLES H. WILSON, I agreed to cosponsor this legislation which seeks to achieve the same goals as my bill.

First and foremost, H.R. 7700 eliminates the "break-even" concept and increases the public service appropriations to the Postal Service for the next 3 years. By increasing the Federal Government's contribution to the operation of the Postal Service, the bill also reinstates the historic and primary purpose of the Postal Service—to provide service first.

The Postal Service Act of 1978, with the substitute amendments developed by the committee and the administration, also gives Congress and the President greater input in the development of postal policy and in postal operations. It requires that the Postmaster General be appointed by the President for a 4-year term which coincides with that of the President. While it retains the Board of Governors, the revised bill gives the Board oversight powers, but removes its policymaking duties.

The compromise bill also provides that either the House or the Senate can disapprove proposed changes in nationwide service policies. This provision would give Congress the opportunity to veto a proposed change like curtailment of Saturday mail delivery.

I strongly support H.R. 7700 and urge my colleagues to adopt it without debilitating amendments. The changes contained in the Postal Service Act of 1978 are long overdue and will help restore the waning public confidence in our national mail delivery system.●

Mr. BEDELL. Mr. Chairman, I rise in support of H.R. 7700, the Postal Service Reform Act, and ask unanimous consent that I be allowed to revise and extend my remarks.

When the U.S. Postal Service was reorganized in 1970, it was hoped that the result would be, in the words of the House Post Office Committee report, "improved service, stabilized postal rates, enormously improved productivity and efficiency achieved through modernization and mechanization, and exceptionally capable management brought about in part by separating postal management from a direct relationship with the Presidential administration and partisan politics." Unfortunately, as we all know, the reality has fallen far short of the expectation.

In 1971, total U.S. Postal Service costs were $9.2 billion. For fiscal year 1978, these costs are expected to escalate to $17 billion. In the meantime, while costs have been going up, the U.S. Postal Service management, which is presently not answerable to the Congress or the President, has repeatedly attempted to cut back on services as a way of avoiding some of these dramatic cost increases.

Two examples of such attempted service cutbacks come immediately to mind. First, in 1976, after the Government Accounting Office (GAO) stated that more than $100 million could be saved by eliminating some 12,000 small post offices, the USPS began taking steps to close many of these mostly rural facilities. Although such closings would have had a profound effect on the American public, the Congress was not able to act then because of the almost autonomous nature of the current Postal Service system. It was thus left to the courts to step in and put an end to this massive insensitivity on the part of USPS management to the local service needs of many of our communities.

A second example of unwarranted service cutbacks occurred last year when the USPS proposed to terminate 6-day postal delivery. The USPS management in Washington came to this ill-conceived decision without ever studying the impact of such a service cutback on rural residents; without knowing how this action would affect rural customers forced to travel many miles to the nearest post office to get their Saturday mail; and without the slightest concern for the potential impact upon commerce of 3-day weekends without any postal delivery. The planned service reduction was shelved only after the House adopted a nonbinding resolution in opposition to its implementation by an overwhelming vote of 377 to 9.

Callous disregard for the public interest is unfortunate in private corporations which try to improve their balance sheets by cutting services. It is intolerable in an entity, such as the Postal Service, which has as its charter service to the American people and which receives nearly $1 billion per year in Federal subsidies to provide such services.

I have long been concerned by the seeming lack of responsiveness to these continuing problems. Thus, last fall I asked Bob Malson of the White House staff to join me for 2 days of hearings in

northwest Iowa so that I could be better aware of the problems facing the Postal Service today. Mr. Malson serves as President Carter's adviser on postal matters in his capacity as a member of the domestic policy staff, and he graciously accepted my invitation.

We talked to postal clerks, letter carriers, postmasters, typical postal customers, and large-scale local customers such as hometown newspaper editors and publishers. We visited rural post offices where in one case we found the local postmaster still hard at work long after he should have been home to dinner; the work had to get done and there was no one else to do it. We found conscientious postal employees at all levels who are frustrated with the current situation because they know that service is deteriorating and that they are the ones who must face the people every day. These are people who are trying to make the system work, and they are continually handcuffed from above.

In one case, we were told at a hearing that a local postmaster was not empowered to issue a press release to the local newspaper directing people to use a full address and zip code when mailing items, not "city" as was the custom. After some time, he was still awaiting approval from somewhere up above in the bureaucratic chain of command. And people were still mailing their letters to "city" causing an inordinate delay in delivery, since the mail is sorted in another town.

The 2 days of hearings were a very revealing experience for me, and I am sure that Mr. Malson appreciated the chance to get out among the postal people in a rural area. I came away with the belief that there are indeed some very serious problems in the Postal Service, but that they are not located out in the field. Rather, they emanate from the glossy, corporate headquarters on L'Enfant Plaza where the bureaucratic barons reside.

Before I visited with our postal employees in the field, I had a chance to educate myself as to how things are done at the Postal Service headquarters by dropping in unannounced. It seemed to me that I should find out first hand what problems confronted the people there. I have made a regular practice of such impromptu visits to Federal agencies, for I have found them to be an excellent way to get out among the people who are carrying out Government programs.

Of all the departments I have ever visited, I have never seen one where the problem of keeping people at their desks was so bad that a sign-in, sign-out book at the front entrance was required. I was told by a top official that this policy was introduced because of a problem of keeping people at their desks for a full 8-hour day. Extra long coffee breaks and early departure times as well as other personnel problems were discussed openly and freely with me by workers during my 5-hour visit.

Indeed, I was so concerned that I broke my standing policy of not talking with top management during these visits and brought my findings to the attention of the Deputy Postmaster General right there on the spot.

Today, as we consider H.R. 7700, I think of that sign-out book and of that postmaster in Aurelia, Iowa, still busy while his wife kept dinner warm at 8 p.m. Most likely, the forms he was filling out ended up on a desk in L'Enfant Plaza to be dealt with by someone who needs to be checked up on so that we are assured he is working an 8-hour day. And, as a Congressman who votes on the appropriations that pay his salary, there is not a thing I can do about it. That's why we need this bill.

I believe that the Congress has a responsibility to determine which mail delivery services are in the public interest and at what level of quality they are to be maintained. It then has an obligation to provide funding that is sufficient to insure the maintenance of these services without facilitating an atmosphere which encourages wasteful spending and without providing an unwarranted disadvantage to private sector package delivery services.

In my view, what is desperately needed at the U.S. Postal Service is the reestablishment of an ethos of accountability at the top management level. The current situation of subsidy without accountability is a grave disservice to the American people.

I have found that the buck doesn't stop anywhere at the Postal Service; it only comes back postage due.

H.R. 7700 would insure that Postal Service management will be responsible for their policies and their expenditures by restoring congressional control over their operations. It will insure that the top management of the Postal Service understands that it must provide certain services and that if such services are not forthcoming, that it will answer to the people's representatives—the Congress and the President.

● Mr. ALEXANDER. Mr. Chairman, while the public outcry for reform of the U.S. Postal Service may have diminished, a close examination of USPS operations indicates that one of the problems continuing to plague this agency is that of poor management.

The bill before us today seeks to remedy that problem. However, it fails in one major respect. H.R. 7700 provides for an increase in the public service subsidy for the Postal Service, an increase with no strings attached.

I believe one way to cure the management ills of the Postal Service is to make that agency and its top managers totally accountable to the Congress and to the American people. Such accountability can be accomplished through annual or biennial authorization and appropriation of the Postal Service budget.

In fiscal year 1977, the Postal Service reported a deficit of over $688 million. continuing a trend of deficits since postal reorganization in 1970. Such deficits will continue until USPS is made to answer for its management decisions.

Mr. Chairman, I do not oppose a subsidy for the Postal Service. But I do oppose a subsidy that gives top postal management little or no incentive to increase efficiency and productivity.

Until such time as Postal Service accountability is restored, I am constrained to oppose postal reform legislation.●

● Mr. SIKES. Mr. Chairman, I support H.R. 7700, which is designed to resolve major problems which have developed and have remained unsolved since the enactment of the Postal Reorganization Act of 1970. It was generally believed that postal reorganization would result in improved service, stabilized postal rates, improved productivity, and efficiency achieved through modernization and mechanization. Unfortunately, this goal has not been achieved. Since the enactment of that law 7 years ago, experience has demonstrated that the actual achievements of postal reorganization have fallen far short of expectations. This conclusion is supported by postal managers, supervisors, postmasters, business leaders, union leaders and large mail users. The high level of service promised has not been achieved.

Despite three substantial rate increases in 5 years, supplemental appropriations of $1.2 billion, and large borrowings to meet operating expenses, the Postal Service, at the end of fiscal year 1977, had a deficit of $1.2 billion. The Postal Service's equity of $1.7 billion in 1971 plummeted to minus $429 million by the end of 1976. The bulk mail system, costing nearly $1 billion and originally estimated to earn a return investment in excess of 30 percent, now may earn a return of only 3 percent. The future of the bulk mail system remains very doubtful. Postal productivity has slightly improved—fewer employees are handling more mail—but since postal costs have increased from $9.2 billion in 1971 to approximately $17 billion in 1978, dollar efficiency—piece of mail handled per dollar spent—has declined sharply. Future productivity improvements will be more difficult because the productivity gains offered by new mechanization are limited.

Three areas which have presented the most difficult and continuing problems since postal reorganization are:

First, maintaining a nationwide postal system which provides adequate service to the American people and, from a financial standpoint, achieves a fair balance between the costs paid by mail users and the costs paid by taxpayers;

Second, postal rate policy, which has been construed by judicial and administrative bodies in a manner which, if left uncorrected, will cause reductions in postal services, loss of jobs, and either higher postal rates or greater appropriations (or both); and

Third, the role and function of the Board of Governors of the Postal Service and the independent status of the Postmaster General have proven to be deficient.

The purpose of the bill before us today is to correct these inequities and hopefully restore public confidence in the Postal Service. I believe H.R. 7700 will return to Congress and the people of this

country a needed measure of control over a service which directly affects every American.●

● Ms. MIKULSKI. Mr. Chairman, I would like to take this opportunity to join Congressman MURPHY in supporting section 11 of H.R. 7700, which enables vessels of U.S. registry to have the first opportunity to bid on a competitive basis for the transportation of U.S. mail. I wish to applaud Congressman WILSON of California, for his insight into this question and for his having offered this language in subcommittee.

Section 11 of this bill offers flexibility to the Postal Service in regards to the vessels used to ship international surface mail. I fully support the use of U.S. registered ships for the carrying of U.S. mail abroad. I do not feel that the U.S. Postal Service, which receives sizable annual appropriations from Congress, should be in the business of subsidizing foreign-flagged vessels. By giving business to foreign-flagged ships, we would be indirectly increasing the unemployment rate in the maritime industry. I give my full support to section 11 of H.R. 7700 and urge my colleagues to do the same.●

● Mr. KASTEN. Mr. Chairman, I wish to state for the record my opposition to the amendment offered by the gentleman from Tennessee to the bill H.R. 7700, the Postal Act of 1978.

Its adoption would be a clear signal to private investors that they should not attempt to enter a business in competition with their Government.

At the present time, only parcel post of all the mail services has any significant competition from private business. If we fail to preserve a fair competitive climate for package delivery, we will be telling private investors to avoid risking mail competition.

We have seen the benefits that evolve from requiring parcel post to recover its costs. Today we have private package delivery systems that do a better job than parcel post—and at a competitive cost. But, we do not have similar competition for other classes of mail service, because we have not insisted that other classes of mail charge rates that reflect the costs of service.

If we are ever to get private enterprise into a healthy competition with the Postal Service for the delivery of mail, we must at least maintain fair competition for parcel post.

Private enterprise with its profit incentive can do a more efficient job than a Government agency that does not have to worry about costs and profitability.

In contrast, the amendment offered by the gentleman from Illinois (Mr. SIMON) will signal American business that competition is welcome—and once the investment is made Congress will not change the rules of the game and destroy their business.

I urge my colleagues to reject the Allen substitute amendment which is a regressive rejection of private competition. Then I urge the House to support the Simon amendment for parcel post cost recovery.●

● Mr. JENRETTE. Mr. Chairman, in the spring of 1976 it came to my attention that the U.S. Postal Service was considering closing certain small, rural postal facilities throughout the United States. Although the Postal Service did not pursue those particular closings, the residents of the Sixth Congressional District have contacted me time and again since then to protest other proposed reductions in service.

In some instances the proposed reductions were consolidations of routes, or the elimination of routes altogether. Another time there was the possibility that Saturday delivery would cease.

I have opposed all of these proposed curtailments in service. The South Carolina Sixth Congressional District is one of the largest rural districts on the east coast; I have often described it as being so rural that we don't get the Saturday night "Grand Ole Opry" until Tuesday. You can imagine how important efficient Postal Service is to these 10 rural counties.

We have debated Postal Service reform in this Congress and in the previous Congresses, but it cannot be emphasized enough that in many of these communities the Postal Service literally serves as a link to the rest of the State and the country.

We must not forget that in many small towns, the Postal Service employees are the only Federal Government employees in that area, and the local residents observe these postal employees to be a living, breathing return on their hard-earned tax dollar. Continued postal service to the small businesses that we have worked to hard to bring to these areas is a must.

And, of course, for urban and rural areas alike, citizens have a right to good service.

Unfortunately, since the implementation of the 1970 Postal Reorganization Act, the total operating costs of the Postal Service have escalated to the projected tune of $17 billion in this fiscal year.

It is my firm belief that the only way out of this fiasco is H.R. 7700 which will provide congressional oversight for Postal Rate Commission decisions on rates and fees, set guidelines for costs that can be calculated into rates and abolition of the Board of Governors. I strongly support the concept of appointments of the Postmaster General by the President with the advice and consent of the Senate. The public service appropriations authorized by this bill will allow us to keep small post offices open and maintain 6-day delivery.

Let us return the Postal Service to the people by voting for passage of H.R. 7700 and emphasize the word "service" as a true display of our postal system.●

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PATTISON of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 7700) to amend title 399, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 7700, which was under consideration today.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11302, AUTHORIZING APPROPRIATIONS FOR ENVIRONMENTAL, RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS FOR FISCAL YEAR 1979

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1040), on the resolution (H. Res. 1112) providing for consideration of the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11662, PROVIDING FOR ESTABLISHMENT OF LOWELL NATIONAL HISTORICAL PARK

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1041), on the resolution (H. Res. 1113) providing for consideration of the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10899, PROVIDING FOR FEDERAL REGULATION OF PARTICIPATION BY FOREIGN BANKS

Mr. BOLLING, from the Committee on Rules, submitted a report (Rept. No. 95–1042), on the resolution (H. Res. 1114) providing for consideration of the bill (H.R. 10899), to provide for Federal regulation of participation by foreign banks in domestic financial markets, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 9179, AMENDING FOREIGN ASSISTANCE ACT OF 1961

Mr. BINGHAM submitted the following conference report and statement on the bill (H.R. 9179) to amend certain pro-

visions of the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation:

CONFERENCE REPORT (H. REPT. NO. 95-1043)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9179) to amend certain provisions of the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1978'.

"PURPOSE AND POLICY

"SEC. 2. Section 231 of the Foreign Assistance Act of 1961 is amended—

"(1) by inserting after the first undesignated paragraph the following new undesignated paragraph:

" 'The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

" '(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

" '(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $520 or less in 1975 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $1,000 or more in 1975 United States dollars.';

(2) by amending subsection (e) to read as follows:

"(e) to the maximum degree possible consistent with its purposes—

"(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

"(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;";

(3) in subsection (m), by striking out the period at the end thereof and inserting in lieu thereof "; and ";

(4) by adding at the end thereof the following new subsection:

"(n) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States."; and

(5) by striking out subsections (f) and (l), and redesignating subsections (g), (h), (i), (j), (k), (m), and (n) as subsections (f), (g), (h), (i), (j), (k), and (l), respectively.

INVESTMENT INSURANCE AND OTHER PROGRAMS

SEC. 3. Section 234 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a)(2), by striking out all after "total project financing" and inserting in lieu thereof a period;

(2) in subsection (a)(3) and subsection (b), by striking out "total face amount" each place it appears and inserting in lieu thereof "maximum contingent liability";

(3) by striking out paragraphs (4) through (7) of subsection (a);

(4) in subsection (c), by adding the following new sentence at the end of the first paragraph: "Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.";

(5) by striking out the last paragraph of subsection (c) and inserting in lieu thereof the following:

"No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.";

(6) in the first sentence of subsection (d), by striking out all after "private investors" and inserting in lieu thereof a comma and the following: "except that—

"(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

"(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000."; and

(7) in paragraph (1) of subsection (f) by striking out the period at the end thereof and inserting in lieu thereof the following: "; except that (A) such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms, and (B) the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act.".

ISSUING AUTHORITY

SEC. 4. Section 235 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a)(2), by striking out ", of which guaranties of credit union investment shall not exceed $1,250,000"; and

(2) in subsection (a)(4), by striking out "December 31, 1977" and inserting in lieu thereof "September 30, 1981".

GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM

SEC. 5. Section 237(f) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting before the period at the end of the first sentence a comma and the following: "except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets"; and

(2) by inserting before the period at the end of the second sentence a comma and the following: "except that such limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties".

ACTS OF BRIBERY

SEC. 6. Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(l)(1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

"(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.".

GENERAL PROVISIONS AND POWERS

SEC. 7. Section 239 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (b), by striking out the second paragraph thereof;

(2) in subsection (d), by inserting after "section 231(c)" in the parenthetical the following: "or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)"; and

(3) by adding at the end thereof the following new subsections:

"(i) In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.

"(j) The Corporation shall not provide any insurance, reinsurance, guaranty, loan, or other financial support authorized by section 234 for any new or significantly expanded project involving the exploration for or the mining of or other extraction of copper if such new or expanded production of copper is planned to begin before January 1, 1981, and the Corporation shall not support any such project which would begin production after such date if the project will cause injury to the primary United States copper industry.

"(k) The Corporation may not provide any insurance, reinsurance, guaranty, financing, or other financial support authorized by section 234 for any project to establish or expand production or processing of palm oil, sugar, or citrus crops for export.".

HUMAN RIGHTS

SEC. 8. Section 239 of the Foreign Assistance Act of 1961, as amended by section 7 of this Act, is further amended by adding at the end thereof the following new subsection:

"(l) The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observances of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.".

SMALL BUSINESS DEVELOPMENT

SEC. 9. The Foreign Assistance Act of 1961 is amended by inserting after section 239 the following new section:

"SEC. 240. SMALL BUSINESS DEVELOPMENT.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 per cent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234.".

REPORTS

SEC. 10. Section 240A of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 240A. REPORTS TO THE CONGRESS.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 239(i), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(1); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

"(b) Not later than September 30, 1980, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any reinsurance arrangements the Corporation has made with private insurance companies, multilateral organizations and institutions, or other entities.".

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
JONATHAN BINGHAM,
STEPHEN J. SOLARZ,
JOHN J. CAVANAUGH,
WM. BROOMFIELD,
PAUL FINDLEY,
CHARLES W. WHALEN, Jr.,
Managers on the Part of the House.

JOHN SPARKMAN,
DICK CLARK,
J. R. BIDEN, Jr.,
CLIFFORD P. CASE,
JACOB K. JAVITS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEVELOPMENT GUIDELINES

The House bill added a new provision to the policy statement in section 231 of the Foreign Assistance Act of 1961 listing factors the Overseas Private Investment Corporation (OPIC) must take into consideration in evaluating projects.

The Senate amendment rearranged the policy statement so as to place the development policy first and to stress OPIC's development purposes.

The conference committee adopted the Senate provision, but noted that the factors in the House bill, which are listed below, are the type of factors which should be considered in evaluating the development impact of projects:

"The ratio of capital to employment and the net impact on local employment and productivity; the transfer to local employees of basic business knowledge and skills; stimulation of local enterprise to supply or to process the output of the project; its effects on the supply and distribution of basic foodstuffs and other goods necessary to meet the basic human needs of the population; its effects on the lives of the poor, their access to their economy, and their capacity to participate in the development of their countries; its contribution to host government revenues; its effect on the foreign exchange position of the host country; its effects on the degree of concentration of the ownership of land and other productive resources; its effects on the decentralization of economic activity and the flow of resources into small towns and rural areas; its effects on the environment; and the proposed social benefits to be offered in the community in which the project is located."

The House bill required OPIC to maintain a Development Impact Profile on each project and to submit annually to Congress a report summarizing the development impact of its activities.

The Senate amendment required OPIC to include in its annual report an assessment of the economic and social impact of its operations.

The conference committee adopted the House provision, with an amendment. As amended, the provision would require OPIC to prepare and maintain for each investment project a development impact profile consisting of data appropriate to measure the projected actual effects of such project on development, and each annual report is to include an assessment, based on the development impact profiles, of the economic and social development impact and benefits of such projects and of the extent to which the operations of OPIC complement or are compatible with the development assistance programs of the U.S. and other donors. The criteria for judging the projects are to be developed in consultation with the Agency for International Development.

The conference committee believes that OPIC should have the flexibility to adapt its project analysis profile and monitoring in accordance with the following factors: the size of the investor, the size of the project, whether or not the investor controls the project, and the relative importance of special factors in the decision to support the project. OPIC and the Committee on Foreign Relations and the Committee on International Relations will develop, through experience and through consultation with investors and others concerned, more precise standards by which to assess the developmental impact of projects.

The House bill required OPIC to give preferential consideration to projects in less developed countries with per capita incomes of $520 or less, and to restrict its activities in less developed countries with per capita incomes of $1000 or more in 1975 dollars.

The Senate amendment required OPIC to give preference to projects in the poorest developing countries as defined by the International Development Association.

The conference committee adopted the House provision. This provision will enact into law OPIC's current policy of restricting its programs in countries with per capita incomes of over $1000 in 1975 dollars. It is understood, however, that there will be certain categories of exceptions which may be approved by the OPIC Board of Directors or certain individual exceptions, such as projects with a unique developmental impact, determined on a case-by-case basis by the OPIC Board. Among OPIC's present categories of exceptions are small business and cooperative projects and mineral and energy projects. It is expected that OPIC will keep the Senate Foreign Relations Committee and the House International Relations Committee appraised of significant changes in this policy.

SMALL BUSINESS

The House bill provided that at least 50% of OPIC's insurance, reinsurance, guaranties, financing, or other financial support be provided to U.S. small business (as defined by the Small Business Administration).

The Senate amendment provided that OPIC give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects sponsored by or involving small business.

The conference committee adopted a modified version of the House provision, (a) limiting OPIC's direct loan authority to only U.S. small business or cooperatives; (b) requiring OPIC, to the maximum degree possible consistent with its purposes, to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving U.S. small business and to increase the proportion of projects sponsored by or significantly involving U.S. small business to at least 30% of all projects insured, reinsured, or guaranteed by OPIC; and (c) authorizing OPIC to allocate up to 50% of its annual net income, after making suitable provision for transfers and reserves, to assist and facilitate the development of projects by small business, coperatives, and other small U.S. investors. Such programs of assistance to small business development can be carried out without regard to the statutory provision that OPIC conduct its operations on a self-sustaining basis. The definition of small business is a company which is below the "Fortune 1000", as described in both the House and Senate Committee reports on this bill.

U.S. EMPLOYMENT

The House bill prohibited OPIC from supporting a project which would result in a significant reduction in U.S. employment.

The Senate amendment contained no comparable provision.

The conference committee adopted the House provision.

MINERALS

The Senate amendment placed an annual ceiling of $4 million on direct financing by OPIC of ore or non-fuel mineral projects and $200,000 on surveys for such minerals.

The House bill contained no comparable provision.

The conference committee adopted the Senate provision.

PRIVATIZATION

The House bill terminated the mandate to transfer the OPIC insurance program to the private sector and prohibited OPIC from engaging in a general program of direct underwriting of insurance jointly with private insurance companies.

The Senate amendment terminated the mandate to transfer the OPIC programs to the private sector but authorized OPIC to make risk-sharing arrangements with the private sector.

The conference committee adopted the House provision.

AUTHORITY

The House bill extended OPIC's operating authority for insurance and guaranty programs through September 30, 1980.

The Senate bill extended OPIC's operating authority for insurance and guaranty programs through September 30, 1981.

The conference committee adopted the Senate provision.

BRIBERY

The House bill denied payments of claims to any OPIC-insured investor convicted of having or found by a Federal agency to have engaged in bribery of a foreign official in relation to an OPIC-insured project, whether or not the action of the foreign government resulting in a loss to the OPIC-insured investor was caused by such bribery. This provision would have supplemented general Federal anti-bribery legislation, such as the Federal Corrupt Practices Act of 1977. The proposed denial of claims was additional to any penalties imposed under general Federal anti-bribery legislation, and a finding or conviction of bribery under such general legislation was to have been the basis for the denial of claims by OPIC.

The Senate amendment was identical to the House in its definition of bribery, the penalty to be imposed by OPIC, and the basis for imposing such a penalty, but differed from the House provision in that it terminated the requirement that OPIC deny claims to investors found to have bribed foreign officials in connection with an OPIC project at such time as general Federal anti-bribery legislation should come into effect.

The Foreign Corrupt Practices Act of 1977 (the general Federal anti-bribery legislation contemplated by the Senate amendment) was enacted into law December 19, 1977. The effect was to supplement the House bribery provision, but to supersede and cancel the Senate provision. The conference committee, therefore, was presented with a House provision and an inoperative Senate provision.

The conference committee adopted substitute language similar to the House provision. Under the substitute, denial of claims applies only where bribery is a "preponderant cause" of a loss. The conferees agreed that the act of bribery must be a very weighty, although not an exclusive, part of the determination by the host country to take action with results in a loss to the U.S. investor.

The substitute, however, also directs OPIC to adopt regulations under which an investor's eligibility for new OPIC support may be suspended for up to five years after conviction for bribery under the Foreign Corrupt Practices Act of 1977 with respect to an OPIC-supported project. It is the expectation and understanding of the conference committee that these regulations will provide for a cutoff of future participation in OPIC programs of persons convicted of bribery with respect to a project assisted by OPIC in all except the most compelling cases in which such a cutoff would impinge upon the national interest. OPIC may, however, include provisions modifying or reducing the period of suspension from eligibility.

COPPER

The House bill prohibited OPIC from supporting any project involving the exploration, mining, or other extraction of copper, except that this prohibition would not apply to any contract entered into by OPIC prior to the enactment of this Act.

The Senate amendment contained no comparable provision.

The conference committee adopted the House provision, with an amendment providing that OPIC (a) shall not support any new project, or any modification of an existing project which will result in a significant expansion of production, involving the exploration for or the mining of copper if such production is to commence prior to January 1, 1981, and (b) shall not support such a project which would commence production after that date if it will cause injury to the primary U.S. copper industry.

PALM OIL, SUGAR, CITRUS

The House bill prohibited OPIC from supporting any project to establish or expand production or processing of palm oil, sugar, or citrus for export.

The Senate amendment contained no comparable provision.

The conference committee adopted the House provision. The conference committee noted that the sponsor of the provision stated that export means export to the United States.

HUMAN RIGHTS

The House bill required OPIC, in consultation with the Secretary of State, to take into account observance by a country of human rights and fundamental freedoms and the impact OPIC programs have on human rights. The House bill also required that the annual report discuss projects concerning which human rights violations have been considered. In addition, the House bill made section 116 of the Foreign Assistance Act (prohibiting assistance to countries which violate human rights) applicable to OPIC's programs.

The Senate amendment contained no comparable provision.

The conference committee adopted the House provision, with an amendment clarifying that the exception to the prohibition, set forth in section 116, applies when it is determined that a project will directly benefit the needy people in the country in which the project is located and adding a second exception permitting OPIC activities if the President determines that such activities are in the national security interest of the United States.

CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
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CHARLES H. PERCY,
Managers on the Part of the Senate.

NLRB ALINES ITSELF WITH SOVIET SHIPPING COMPANY IN DISREGARDING CARGO PREFERENCE LAWS

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. DENT. Mr. Speaker, we have a situation developing that ought to be analyzed by this House very seriously.

There are 398 new buses coming into the United States, purchased through the Department of Transportation. These foreign buses are being transported on Russian ships.

Under the law, 50 percent of those buses are supposed to be shipped in American bottoms. American shipping companies have bid for this business. However, the entire shipping contract was awarded to a Russian company. On the 24th of March, while a group of unions were preparing to peacefully picket the Russian ships they received notice that an injunction would be sought against the picketing. The injunction was sought at the request of a Russian citizen traveling on that ship.

Mr. Speaker, we have a situation here where a Federal agency—the National Labor Relations Board no less—is serving as an agent of the U.S.S.R. and taking legal actions against American workers. Has this Government of ours gone completely crazy? Permit me to tell the whole sad story.

It appears that the National Labor Relations Board has alined itself with a Soviet shipping company seeking to suppress a peaceful protest of American seamen who wanted to bring to the attention of the public the matter of 398 West German-built buses, bought with American taxpayer funds, and contracted to be transported on Soviet vessels.

Before plans could be made to arrange for the demonstration, the NLRB advised the NMU Port agent in Houston that charges had been filed against various unions. This was done on behalf of a Russian citizen. Can you imagine an American ship getting that treatment in a Russian port?

Since when has the NLRB become an international board?

Billions of dollars are being spent, not only for buses made in foreign countries, but subsidized Russian ships are reported to be bringing cargo to the United States at prices less than the cost of American production of the same goods.

Mr. Speaker, allow me to present all the facts concerning this NLRB outrage.

In 1976 the Urban Mass Transit Administration of the Department of Transportation signed a contract with the Metro Systems of 11 American cities who in turn contracted with American General to deliver 398 buses to these 11 cities. The Federal Government was to pay 100 percent of the construction and delivery costs of these buses.

These buses are of a particular type and are referred to as "articulated" buses, approximately sixty feet in length

and by design are able to maneuver around sharp turns.

This type of bus was not being constructed in the United States and allegedly no U.S. company would tool up to manufacture this small number. Because of this, American General contracted with a German company by the name of "M.A.N." to construct the 398 buses.

At the time the contract was signed in 1976, either because of misinterpretation or total disregard, the cargo preference requirements for the use of American-flag vessels was not applied. When this came to the attention of the Maritime Administration they attempted to have the Urban Mass Transit Administration apply cargo preference but with no success. (In November of 1977 the Maritime Administration issued new rules that would without question bring any future contracts of this nature, under the cargo preference requirements.)

In February of 1978 the first 25 of these buses were loaded aboard a Russian-flag vessel. A New York based foreign freight forwarder by the name of Rhoner Gherig made the transportation arrangements. The rate of shipment was approximately $4,500 per bus. This special rate had not been filed with the Federal Maritime Commission thereby violating U.S. shipping law. This violation, while the amount is uncertain, requires a fine be imposed upon the Russians. This fine could range from a minimum of $2,000 or $1,000 per day for each day the bill of lading covering these buses was in effect—approximately 30 days. When these buses were loaded the Russian's "all automobile rate" was calculated to be approximately $11,800 per bus.

Another aspect of the violation of not filing a special rate on time is that the Federal Maritime Commission could require that the shipper—it is unknown at this time whether the shipper is American General or M.A.N.—be required to pay to the Russians the difference between the special rate and the rate in existence at that time—the $11,800.

When the Russian vessel bid for and received the shipment of the first 25 buses, an American flag vessel had bid in at a rate of $6,700 per bus. If we can assume that the penalties on the Russians and the penalties on the shipper will be imposed, we will have the situation whereby the Russians will receive in excess of $5,000 per bus over what it would have cost to ship on the American flag vessel.

Within a week of the delivery of the first 25 buses another 25 buses were placed on another Russian flag vessel. In an effort to highlight the unfairness of using taxpayers' dollars to promote the Russian merchant marine, who have launched an all-out assault against our American flag merchant marine, a number of citizens in Houston, Tex., and some members of the National Maritime Union began consideration of bringing this outrage to the attention of the American public when the Russian vessel arrived in Houston on March 26. Before plans could be formulated on a course of action, the National Labor Relations Board on March 24 called and later delivered a telegram to the NMU Port agent—Kirby-Smith McDowell in Houston, Tex.—informing him that charges had been filed against the United Automobile, Aerospace, Agricultural Implement Workers of America; the National Marine Engineers Beneficial Association, AFL–CIO; the United Steelworkers of America; and the National Maritime Union of America, by the Shippers Stevedoring Co. and the Baltic Ship Co., alleging violations of the law "regarding picketing anticipated at the Port of Houston on March 26, 1978."

On Monday, March 27, an attorney from the NLRB contacted the NMU Port agent in Houston and advised him that if he would bring a signed letter to the NLRB offices stating:

That he will not picket the ship or cause any disturbance in any regard such as this, we are willing to forego these charges.

This action on the part of the NLRB raises many questions. The most overriding is, how can a foreign company (namely the Baltic Shipping Co. which is owned by the Russian Government with its address in Leningrad, U.S.S.R.) first of all, get special status with the NLRB, and secondly, why did it receive such prompt and unusual considerations?

On or about March 29 the NLRB Regional Director issued the complaint against the National Maritime Union arising out of its public demonstration charging them with violating 8(b) 4(b) of the National Labor Relations Act, as amended.

Shortly thereafter the NLRB obtained an order to show cause from a District Court Judge in Houston requiring the NMU to be in court on April 10, 1978 at 7:30 a.m., at which time NLRB will seek an injunction against any further activities by the NMU which is directed at the shipment of German buses on Russian ships.

Why is the Board pushing this matter when there are two Supreme Court cases in 1974 which holds specifically that it is not even arguable that the NLRB has jurisdiction over demonstrations aimed at foreign flag ships manned with foreign seamen?

Even though the union has a very strong standing and will probably win their case in court why do they have to be subjected to this type of harrassment?

Why is the NLRB stepping in on the side of the Russian Government to block peaceful protests?

Mr. Speaker, to further document this case I submit for the record a copy of a telegram sent to me and a press release issued by the National Maritime Union.

[Telegram]

APRIL 4, 1978.

National Maritime Union request immediate investigation of utter disregard of congressional acts and policy set fort in 46 U.S.C. 112 (d) and 1241 (b) (1) by Department of Transportation in the case of 398 West German-built buses, bought with taxpayer funds and contracted to be carried here on Soviet vessels. Should American taxpayers subsidize Soviet denial of human rights and the furnishing of arms to movements throughout the world seeking to undermine our national security? Also feel investigation of whether NLRB action in seeking injunction against peaceful demonstration by union is warranted in view of clear and unequivocal decisions of U.S. Supreme Court in *Windward Shipping* v. *ARA* 415 U.S. 104 and *ARA* v. *Mobile Steamship* 419 U.S. 215 that board is without jurisdiction over foreign flag vessels with foreign crews.

SHANNON J. WALL,
President, National Maritime Union of America, AFL–CIO
NEW YORK, N.Y.

APRIL 4, 1978.

President Shannon Wall, head of the 35,000 member National Maritime Union, today asked President Carter to curb the pro-Soviet bias of the National Labor Relations Board. In a statement released here, Wall charged that the Board has arranged itself along side a Soviet shipping company which seeks to suppress a protest demonstration of American seamen against our Government's disregard of cargo preference laws which resulted in U.S. taxpayer dollars helping to support the Soviet Union which has engaged in shipping arms and fomenting revolution around the world.

Wall's statement follows:

The National Labor Relations Board has apparently taken a lead from the Russians in whose clenches freedom of speech is unknown and has added the force of the U.S. Government in seeking the aid of the Courts in trampling on the First Amendment to the Constitution.

We greatly deplore the actions of the Board in arranging itself on the side of a Russian shipping company which seeks to suppress a protest demonstration of American seamen and taxpayers against the Government's disregard of cargo preference laws which resulted in U.S. taxpayer dollars helping to support the Soviet Union which is engaged in shipping our arms and fomenting revolution around the world.

Our union is being ordered to appear in Court to show cause why and injunction should not be granted which would prohibit in the future any peaceful demonstrations because of the possibility that other American unions when informed of the total disregard of the law by an agency of our Government might also add their voices to the protest.

We are outraged that an agency of our Government, the NLRB, would lend its prestige to a foreign nation in suppressing the right of peaceful demonstration and protest against the failure of the Department of Transportation to heed the Congressional policy of shipping 50 percent of government cargoes in U.S. flag vessels.

NMU and its sister unions were aroused when it was learned that Russian ships were being used to transport to the U.S. some 398 buses built in West Germany with federal funds.

The Houston demonstration was held to call attention to the actions of the officials in Washington who granted a lucrative shipping contract to the Russians in complete disregard of the cargo preference laws at a time when U.S. flag ships are hurting for cargo.

We were further shocked when an Attorney from the National Labor Relations Board contacted the NMU Agent in Houston and advised him that if he would bring a signed letter to the Board office in Houston stating that he would not picket the ship the NLRB would be willing to forego any charges.

This action on the part of the NLRB raises many questions, the most overriding of which, how can a company, the Baltic Shipping Company, which is an admitted in-

strument of the Russian Government, receive such prompt and unusual consideration?

We call on President Carter to remind the NLRB that it is an agency of the U.S. Government, not Russian, and we ask the President to investigate the apparent pro-Soviet bias shown by the Houston area NLRB.

"WRONG-WAY CORRIGAN" CHAIRS TAC

(Mr. MILFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, as a child I remember the daring feat performed by a man known as "Wrong-Way Corrigan." He departed New York in a single engine airplane, bound for San Francisco, and flew the wrong way to Europe.

The House Subcommittee on Aviation, under the Committee on Public Works and Transportation, has been working for the past several weeks on the so-called deregulation bill (H.R. 11145, the Air Service Improvement Act of 1978). This bill like Wrong-Way Corrigan, has been going the other way.

This is a very complex bill and many of its provisions are quite controversial. During subcommittee markup, it has been amended extensively.

Many persons have called or written me during the past 2 years. They were interested in the various features found in this bill or in features that they wanted added to the bill or in features that they wanted deleted from the bill. In every case, I listened carefully to their position. No one has ever been turned away from our office.

Last week, I was shocked and dismayed to read in several Texas newspapers a vicious and personal attack against me by the new chairman of the Texas Aeronautics Commission. Later, I received in the mail a copy of a news release, issued by that State agency, entitled "TAC Chairman Blasts Congressional Action." I shall include a complete copy of this news release in the RECORD.

My shock stemmed from the fact that no one in the Texas Aeronautics Commission had ever contacted my office with any expressed concern at all for any interest in H.R. 11145. My dismay was brought about by the fact that the charges in the chairman's "blast" were totally false. Again, like Wrong-Way Corrigan, the chairman of the TAC has it absolutely backwards.

The news release falsely stated that the Aviation Subcommittee had voted to "outlaw State regulation of the commuter airline industry within the State's borders."

The subcommittee has taken no action whatsoever that would outlaw State regulation of commuter airline industry within a State's borders.

The Texas Aeronautics Commission chairman may be referring to an amendment that I introduced which would guarantee the continuation of present State control of the commuter airline industry within the State's borders and would prevent dual CAB and State controls over commercial air carriers that operate both interstate and intrastate.

H.R. 11145 originally contained a provision that would subject commercial air carriers operating in both the intrastate and interstate realms to a dual bureaucratic control. In other words, the State agency would control the carrier for intrastate operations and the CAB would control it for interstate operations over the same routes.

My amendment removed the dual bureaucratic controls and retained the present law that gives the State control of the commuter airline industry when operating within the State borders. The CAB would control carriers that are operating interstate.

Therefore, the Texas Aeronautics Commission news release reported the amendment absolutely backwards.

Mr. Speaker, the real tragedy in this matter is the lack of communications between these two branches of Government. The Aviation Subcommittee has held hearings for several weeks in both the 94th and 95th Congress. Each of the members of that subcommittee has spent untold hours discussing the various provisions with any interested aviation party.

Yet, there are no records in either the subcommittee files or in my office files of any communications from the Texas Aeronautics Commission, its chairman, the Governor of Texas, or any State agency on the subject of State control of intrastate air carriers. Had there been even a simple postcard inquiry, the Texas Aeronautics Commission would have immediately learned that the majority on the Aviation Subcommittee, including myself, would favor keeping the same provisions in law for controlling intrastate air carriers that are now on the books.

So that any interested party might have the complete information at hand, I would now like to include in the RECORD a copy of the Texas Aeronautics Commission press release, and a copy of the amendment that was adopted by the Aviation Subcommittee.

Mr. Speaker, from all appearances we have a new chairman of the TAC who would become the modern day Wrong-Way Corrigan.

TAC CHAIRMAN BLASTS CONGRESSIONAL ACTION

Chairman David A. Witts of the Texas Aeronautics Commission today sharply criticized a Congressional subcommittee's recent decision by a 12 to 11 vote to outlaw state regulation of the commuter airline industry within the state's borders and of intrastate airlines should they be granted authority by the Civil Aeronautics Board to provide any interstate service.

"This action by the House Aviation Subcommittee on H.R. 11145 totally negates state regulation's outstanding record of consumer service and low fares, and is in direct contradiction to deregulation's goal of a less restrictive regulatory environment," Witts observed.

"The last thing this country needs is more federal interference with people's lives and businesses. Without instruction from Washington, private business in Texas has built a commuter airline industry that is unmatched anywhere in the world for convenience, low costs and safety. At a time when the federally regulated carriers were cutting schedules, raising fares and gulping subsidies, the commuter carriers were establishing themselves as profitable businesses, contributing vastly to the public convenience. Now, suddenly and without request from anywhere, Washington wants to take our people away from all this," said Witts.

"The absurdity," Witts claimed, "is that the existing airline regulatory system in states like Texas, California and Florida has served as the effective yardstick for comparison purposes with federally authorized rates and services. Now, rather than reward these states for innovative regulation, their regulatory framework would be demolished by this action of the subcommittee."

"The real tragedy," Witts observed, "is that the movement in the subcommittee was led by none other than a Texas Congressman—Dale Milford of Dallas.

"Perhaps over this Congressional Easter recess, Mr. Milford and the other Texas Congressmen can return home to learn that last year 2,971,026 Texans were traveling on the intrastate network regulated by the Texas Aeronautics Commission and were saving $9,028,473 while flying on Southwest Airlines alone. Looking at Mr. Milford's hometown of Dallas, we note that TAC carriers last year brought 1,632,882 passengers in and out of Love Field and 361,858 in and out of Dallas/Fort Worth Airport," Mr. Witts said. "Surely these constituents would not like to see their air transportation network totally destroyed," he added.

"That Texas cannot rely on the CAB's regulatory policies is best exemplified by the fact that of the 55 cities in Texas that were receiving service from CAB carriers in 1948, only 20 of those cities retain CAB service today. Of the 29 Texas cities now served by TAC carriers, 17 of these are offered no CAB service at all," Witts pointed out.

"The CAB carriers have no interest in serving commuter traffic. They do not have the equipment or the logistics to properly or profitably provide commuter transportation. It is for that reason that they have deliberately abandoned air service on a continuing basis to the medium and small towns and are busy seeking only long haul routes which are profitable for their large equipment and large cargo of government subsidy," Witts asserted.

"Why," Witts asked, "should the people of any state be forced to abandon cheap and convenient local air service and return to the time-tested and time-proven failure of the heavy hand of federal government regulation? It is very ironic indeed that in this very year when the CAB carriers have awakened to the axiom that low fares and greater frequently produce more volume which produces more revenue and more jobs, and in the first year when many CAB carriers are showing their first profits in years, declaring dividends, and buying new equipment, the public is suddenly called upon to return to the dark ages.

"Where," Witts asked, "is the grass roots demand for further bureaucratic overreaction in Washington? To my knowledge, not one single voice was raised requesting that the federal government intervene in the successful, profitable and very convenient services furnished to commuting passengers by airlines operating within the boundaries of a single state.

"Texas does not need unnecessary bungling, unwarranted interference and undesired encroachment from Washington.

"The air transportation network that the subcommittee's action would destroy is one that presently provides local intrastate service from Mr. Milford's hometown and mine, Dallas, to Abilene, Austin, Corpus Christi, El Paso, Harlingen, Houston, Lubbock, Midland/Odessa and San Antonio, as well as connect-

ing traffic through Dallas/Fort Worth from Brownwood, College Station, Greenville, Killeen, Longview, Lufkin, Nacogdoches, Paris, Temple, Tyler, Waco and Wichita Falls," Witts observed. "We are proud of this network and must preserve it.

"The Texas Aeronautics Commission cannot endorse any legislative action which curtails legitimate state regulatory authority in the name of simplifying procedures," said Witts. "Nor will we tolerate further federal restrictions, regulations, and red tape."

Mr. Witts concluded his remarks by suggesting that full House committee markup on the bill following the Easter Recess could reverse the subcommittee's action on federal preemption if a tough grassroots campaign is waged in the next few weeks with letters to the Congressional delegation reminding the federal lawmakers that state and local interests are best represented by state and local government bodies.

AMENDMENT TO H.R. 11145

Page 4, line 21 to page 5, line 21, substitute the following:

(a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

Page 6, after line 8, insert the following:

(d) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, amended or terminated as provided under this title.

STATEMENT OF SENATORS THOMAS F. EAGLETON AND PAUL S. SARBANES AND REPRESENTATIVES JOHN BRADEMAS, BENJAMIN S. ROSENTHAL, AND MARIO BIAGGI IN OPPOSITION TO ENDING THE ARMS EMBARGO ON TURKEY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, earlier today, our distinguished colleagues in the other body, the senior Senator from Missouri, the Honorable THOMAS F. EAGLETON and the junior Senator from Maryland, the Honorable PAUL S. SARBANES and our distinguished colleagues in the House of Representatives, the Honorable BENJAMIN S. ROSENTHAL, the Honorable MARIO BIAGGI, of New York, and I held a news conference at which we set forth our position on an important issue that will now face this Congress.

I take this time, Mr. Speaker, to explain that position.

Mr. Speaker, because we feel it our obligation to uphold certain basic principles in the conduct of American foreign policy, we must oppose the administration's attempt to end the arms embargo on Turkey.

Mr. Speaker, we take this position for several reasons:

First. Such a policy would, if enacted, undermine the rule of law in the execution of our foreign policy;

Second. It would raise serious doubts about the credibility of America's commitment to human rights;

Third. It would call into question our national commitment to the control of U.S. arms sales abroad;

Fourth. It would make far more difficult the achievement of a Cyprus settlement and a just resolution of the refugee problem;

Fifth. It would encourage the further growth of anti-American forces in Greece.

Sixth. It would make virtually impossible the normalization of relationships among Turkey, Greece, and Cyprus and between each of them and the United States.

Seventh. The attempt to obtain complete resumption of U.S. arms sales to Turkey despite the lack of any substantive progress toward a settlement on Cyprus means that President Carter has turned his back on promises made to the American people and to their representatives in Congress both during his campaign for the Presidency and after taking office.

It should be recalled that the embargo on U.S. arms sales to Turkey was voted by Congress after Turkey, in clear violation of American laws and bilateral agreements already in effect, used American weapons for offensive purposes in its August 1974 invasion and occupation of Cyprus.

Mr. Speaker, provisions of both these laws—the Foreign Assistance Act and the Foreign Military Sales Act—required that further military aid to Turkey be terminated. The embargo was voted, therefore, not to enact new law but rather to insure that existing laws were enforced. The continuing occupation by Turkish forces, equipped with U.S.-supplied arms, of 40 percent of Cyprus is a continuing violation of these laws.

Mr. Carter pledged on several occasions during his Presidential campaign that any normalization of our arms relationship with Turkey would be linked with a settlement of the Cyprus problem. See attachment I for two major policy statements on this subject issued by Mr. Carter as compiled in "Presidential Campaign 1976" (vol.. 1, part 2: Jimmy Carter), U.S. Government Printing Office, 1978.)

Over the past year, Mr. Speaker, the President and members of his administration have confirmed their commitment to these principles. In light of such clear and continuing assurances, both public and private, on this matter, we were deeply dismayed to learn that although Turkey has done nothing to promote a Cyprus settlement and although Turkish troops armed with American weapons still—in violation of American law—occupy 40 percent of Cyprus, Congress is being asked to reestablish a full arms relationship with Turkey. This we cannot support.

Mr. Speaker, as Members of Congress who have for some time been involved in this issue, we believe that effective use of the arms embargo represents the path most likely to lead to a Cyprus settlement. The effectiveness of the embargo has been undermined, however, by certain actions of the administration.

As longtime supporters of NATO, we know that the strength of our southeastern European flank requires both Turkey and Greece to play active roles in the alliance. An administration policy which prevents the full participation of both nations threatens serious long-term damage to our national security interests in that vital region.

And as adherents of restraint in the use of U.S. arms throughout the world, we believe, as Cyrus Vance did when he testified before Congress in July 1975 against the partial lifting of the embargo, that "this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts." (See attachment II for excerpt from statement by Cyrus Vance in testimony on this subject, "Suspension of Prohibitions Against Military Assistance to Turkey: Hearing Before the Committee on International Relations," 94th Cong., 1st sess., July 10, 1975, U.S. Government Printing Office, 1975.)

Mr. Speaker, for all the reasons we have stated—reasons rooted in law and principle—we will work vigorously to prevent the administration's retreat on this important issue.

We believe that a majority of our colleagues in Congress share our concerns and will act accordingly.

ATTACHMENT I

THE PRESIDENTIAL CAMPAIGN, 1976—JIMMY CARTER

THE CYPRUS CONFLICT

For more than twenty years, Greece and Turkey together have held the southern flank of NATO and helped maintain the security of the Mediterranean. Both, as part of our joint alliance, have given base rights and other invaluable support to the United States. It is very much in our own national interest that our close relationship with both countries continue.

Unfortunately, their relations with each other have for many years been troubled by conflicts over Cyprus. Since the coup against Archbishop Makarios and the Turkish invasion of Cyprus over two years ago, these differences have become so serious as to threaten the security of NATO and the good relations of both countries with us.

It is a major U.S. interest that harmony in the alliance be restored. The Republican Administration has failed to deal with the situation in three respects: it has failed to exert its influence effectively to bring about a settlement in Cyprus during the five years before the Cyprus crisis; it failed, despite repeated warnings, to prevent the 1974 coup against Makarios engineered by the former military dictatorship in Athens; it failed to prevent or even to limit the Turkish invasion of Cyprus that followed. This administration therefore bears a large share of the responsibility for the dangerous deterioration in our relations with Greece and with Turkey.

We should now exert our influence in every feasible and constructive way to help Greece, Turkey and the Cypriots resolve their differences. Only if we are able to maintain the confidence of all three, however, can we hope to be listened to.

Any solution that is to endure must be a just one. It must protect the rights of both the Greek majority and the Turkish minority on the island, including the rights of those

displaced from their homes by the Turkish invasion.

The United States cannot impose a solution. It can and must help; but only agreement among the three governments directly concerned can restore harmony and cooperation.

Secret and personal agreements are no substitute for a clear commitment to an early settlement which gives Cyprus its independence.

I feel most distressed that Mr. Kissinger's recent agreement with the Turkish government was not coupled with an agreement which promised more rapid progress toward a just solution for the Cyprus tragedy. In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue along the lines I have outlined above.

GREECE AND TURKEY

The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the eastern Mediterranean.

Despite repeated warnings, the administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The administration failed to prevent or even limit the Turkish invasion that followed. The administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

Today, more than two years later, no progress toward a negotiated solution of Cyprus has been made.

The lack of progress is disappointing and dangerous. Peace must be based upon the United Nations General Assembly Resolution 3212 of November 1, 1974, endorsed by Cyprus, Greece and Turkey, calling for, among other things, the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish military should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish-Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

Greece and Turkey are and must remain our allies within NATO and neighbors at peace with each other within the community of nations.

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

ATTACHMENT II

SUSPENSION OF PROHIBITIONS AGAINST MILITARY ASSISTANCE TO TURKEY

(Hearing before the Committee on International Relations, House of Representatives, July 10, 1975)

STATEMENT BY CYRUS VANCE: CYPRUS AND THE TURKISH ARMS EMBARGO

That Turkey used the arms we provided in violation of the relevant American laws and of the express language of the bilateral agreement that governed their transfer is not in dispute. That issue has been settled by an opinion of the Comptroller General in unequivocal language.

The question now is: Should the Congress wipe out the penalties of violation, which, in express terms, would render Turkey ineligible for further American weapons until the Turkish government takes steps to purge itself by some serious move to settle its dispute with Greece and to remove its troops from Cyprus? To do so might dangerously undercut the conditions we have imposed on the use of all the arms we have provided up to this point under our various military aid and military sales programs.

. . . There is, it seems to us, grave danger that, in the highly political atmosphere that now prevails in Ankara, the Turkish Government would regard this measure (a partial lifting of the embargo) as a vindication of its past actions and as removing any pressure to make significant concessions toward a Cyprus settlement . . .

Finally, and in many ways this is the most important point, we are seriously concerned that this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts.

REMARKS ON HUMAN RIGHTS LEGISLATION BY CONGRESSMAN YOUNG OF FLORIDA

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Florida. Mr. Speaker, notwithstanding the many, many statements being made in behalf of human rights throughout the world, the truth is that our actual program of implementing human rights protections is inconsistent. There is no question that American tax dollars are or will soon be reaching countries like Vietnam, Uganda, and Cuba, yet the State Department's country reports on human rights do not even contain reports on these countries. The reason for this situation is that these countries are receiving our tax dollars indirectly through multilateral institutions such as the World Bank and the United Nations.

While we can exert control over our direct aid programs, we have no such control in the international financial institutions although these same institutions are continuing to receive larger shares of our foreign aid program every year. For example, this year the administration is requesting a 93 percent increase over the fiscal year 1978 appropriation for the International Development Association (IDA). For the Inter-American Development Bank the increase is 90 percent and for the World Bank the increase is 75 percent.

Last year I tried to close the door to American tax dollars going indirectly through these multilateral institutions to such gross human rights violators as Uganda, Vietnam, Cambodia, and Laos. While the House supported me with a vote of 295 to 115, the President went all out to stop my efforts and succeeded in having my language removed from the foreign aid bill during the conference committee's deliberations.

The main argument used against my language was that the Congress should not try to dictate to the international banks that their charters could not permit this or that and that I should not attempt to politicize the international banks. So now I wish to suggest another approach in our effort to resolve this problem. There are tools available to us which are certainly compatible with the charters of the international banks. The tools I propose to use are the charters themselves.

I am introducing today a resolution requiring that the President direct the U.S. Governor to each of the international financial institutions to initiate the necessary action to introduce and seek approval of an amendment to each of the charters of the international financial institutions requiring that these institutions establish human rights standards that will be considered in connection with each loan application. This bill would insure that the institutions consider more than just economic factors when working on a loan application. Human rights would be made an integral and routine part of the consideration process. I am not dictating any particular criteria as it would be up to each institution to propose and adopt the standards. Rather, I am attempting to eliminate the present double standard system followed by the administration and these international institutions.

H.R. 11908

A bill to require that an amendment be proposed by the United States to the Articles of Agreement for each of the international financial institutions in which the United States participates which would require the establishment of human rights standards to be considered in connection with each application for assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) the President has declared the protection of basic human rights to be fundamental to the foreign relations policies of the United States;

(2) international financial institutions regularly provide assistance to countries which violate basic human rights; and

(3) the United States contributes the largest share of the resources of the international financial institutions.

SEC. 2. (a) The President shall direct the United States Governor of the International Monetary Fund, the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the Inter-American Development Bank, the United States Governor of the International Development Association, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institution which would require that institution to establish human rights standards to be considered in connection with each application for assistance.

(b) The President shall take all appropriate actions to gain formal acceptance of such an amendment by each such institution and, not later than three months after the date of enactment of this Act and semiannually thereafter, shall report to the Con-

gress on the actions taken and results achieved.

MISGUIDED EFFORTS OF THE ADMINISTRATION TO CUT RETIRED SENIOR VOLUNTEER PROGRAM FUNDS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. SCHULZE. Mr. Speaker, I am constantly amazed at the misguided efforts of the administration to selectively reduce Federal spending. (A laudable objective, if approached in a rational manner.) President Carter's ACTION Director is cutting $4.7 million from the retired senior volunteer program, one of ACTION'S most viable and successful operations.

It seems incredible that the administration would take such a step when we have just recognized our senior citizens as America's great untapped human resource. Presently, there are over a quarter of a million willing volunteers in the retired senior volunteer program who are contributing their time, skill, and wisdom to their communities. However, if the administration has its way, funds for RSVP will be cut by 23 percent and in effect turn its back on the senior citizens of America.

The rationale for this reduction is incomprehensible. ACTION Director Brown believes that RSVP serves only members of the upper and middle classes and not the poverty groups for which the program was intended. Just a cursory glance at the projects in which the members of RSVP participate prove these allegations unfounded. In the Fifth District of Pennsylvania 1,300 volunteers give their time and effort to: public libraries, schools, schools for the handicapped, the Red Cross, county homes, the Heart Association.

Mr. Speaker, the list goes on, and wherever a volunteer is needed a member of RSVP appears. The benefits for the community are twofold. Desperately needed volunteer hours are provided, over 170,000 volunteer hours in Delaware County, Pa., last year, and the senior citizen, retired from his or her life's work, becomes an asset to the community.

Federal funds provide the staff for coordination of the volunteer work, and more importantly, provides transportation for the volunteers to and from their work. The consequence of a reduction in funding means an arithmetic reduction in transportation and the number of projects. However, a cutback also results in a geometric reduction in the number of volunteers. By reducing the size of the program RSVP loses the momentum which is vital to its continuation. Without this momentum the future of RSVP is certainly in jeopardy.

RSVP is, by any analysis, a successful program, benefiting hundreds of thousands of people. Success such as this should be encouraged and stimulated by more funds, rather than become a victim of misguided fiscal restraint. It is my hope that Congress will not only reinstate funding for RSVP but offer this program our continued support in the future. Men and women who want to continue to be contributing members of the communities they helped build deserve no less.

A VIGIL FOR FREEDOM

(Mr. STEERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEERS. Mr. Speaker, I am proud to join today my distinguished colleague from Michigan (Mr. BRODHEAD) and many other of my colleagues in participating in "a vigil for freedom." While this vigil is certainly an important effort, I would like to point out to my colleagues that a vigil for freedom has been held in front of the Soviet Embassy every day for the last 8 years in order to demonstrate to the Soviets and the rest of the world that Americans are concerned about the human rights of individuals behind the Iron Curtain.

Many of my constituents have participated in this vigil which has gone on regardless of the weather or cold stares from Soviet security personnel. I think that we should take heart from this example of determination and continue to work on this serious problem.

Today, I would like to focus my remarks on the plight of Isaac Zlotver, an elderly Soviet engineer who is dying of cancer in Sverdlosk. I would like to thank all my colleagues who have joined me in trying to help Mr. Zlotver in the past, but I would like to further remind them that little has changed. We have written Soviet authorities several times, but to no avail.

Isaac Zlotver continues his quest for emigration. In spite of his poor health and the attitude of the Soviet Government, this dying man refuses to give up. I would like to present the following appeal by Isaac Zlotver's children for the release of their father:

On July 17, 1977, our mother Dina Zlotver died.

She died in Sverdlovsk in the Soviet Union.

But she wanted to live in Israel with her children and grandchild.

For the last three years, both she and our father, Isaac, have been suffering from cancer. Yet, the responsible authorities have refused and refused and refused again to give them permission to leave. There was no reason to refuse this permission. They were in possession of no secrets and both were ailing.

Now, our father is alone. His beloved wife, Dina, our mother, is dead.

We, his children, are far away in Israel and he has no one to care for him in his sickness.

Do the Soviet authorities want him to die alone, separated from his own near and dear ones? They have no reason to keep him.

We beg you to use whatever influence you can to persuade the Soviet authorities to let him go immediately.

Do not let our father Isaac Zlotver, die alone in Sverdlovsk.

(Signed: Luba Zlotver Bar Menahem, Vladimir Zlotver.)

I would like to close by urging my colleagues to continue work in behalf of Isaac Zlotver as well as other individuals seeking emigration from the U.S.S.R. as guaranteed by the Helsinki Declaration.

STOCK MARKET RISES ON NEWS OF RECOMMENDED CUT IN SOCIAL SECURITY TAX

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I just take this opportunity to inform the House that as a result of the action taken by the Democratic Caucus today recommending a cut in the social security tax, which is the first bit of good news the business sector of this Nation has had for a long time, the stock market took an increase today of 7.7. Now let us hope that we follow through and give them some more encouraging news before the year is over.

TRIBUTE TO LATE HONORABLE ALFRED SANTANGELO

The SPEAKER pro tempore (Mr. MONTGOMERY). Under a previous order of the House, the gentleman from New York (Mr. BIAGGI) is recognized for 60 minutes.

Mr. BIAGGI. Mr. Speaker, on March 30, 1978, our Nation lost a great American. The Congress lost a former colleague who served New York and our country in the House of Representatives from 1957 to 1963. New York City lost a native son, who became one of its most notable leaders. Bronx County lost a community father. Italian-Americans lost a brother. And I lost a colleague in service, who was my good friend.

For Alfred E. Santangelo, Democrat, who served New York's former 18th Congressional District, but who was foremost a very devoted family man and active member of St. Lucy's Church, Bronx, N.Y., had gone to an eternal reward. Let us take this time in tribute to observe the person of Fred Santangelo, witness his achievements, and give our fondest wishes to those he loved and who contributed so much to his life.

Fred Santangelo was an outgoing man of large posture. When he appeared in public, a crowd usually formed around him. And you could readily spot Fred in the center. He would be speaking to his people, giving them words of advice and encouragement. He was so comfortable there. For he wanted to help his people. And they looked to him for solutions. He was gifted with talents to provide for them. They would listen intently, and bid him well. He would smile, give them a personal touch, and move on to still another gathering.

Fred Santangelo looked to the heart and soul of an individual. Each man had the right to be someone, and the right to have a means to achieve that place. He would gather and use whatever resources he could to guarantee those rights. He was known as a crusader for human rights. He was indeed a champion of

human rights. He was the voice for the rights of Italo-Americans.

Fred Santangelo could discern the needs of his people. He would identify their causes, and take up the mantle of leadership. He did not waiver in pursuit of a goal. He did not compromise his work to achieve it. And he never flinched in the face of opposition. It only made a struggle more meaningful and more worthwhile.

And Fred Santangelo had compassion. He was sensitive and caring, while appearing strong and aggressive. He had to be hard of purpose because he felt very deeply. And he would always give of himself in a measure equal to the challenge.

Yes, Fred Santangelo touched very many people. His life was replete with distributions. He had assumed many positions of honor, and was accorded the praise of his fellow men and women many times over. Fred Santangelo made his mark, and so successfully, in life.

Alfred Edward Santangelo was born on June 4, 1972, in the heart of New York City, on the east side of the Borough of Manhattan, the product of proud hard working immigrant parents who made this Nation so great, and who aspired for their young. He attended New York City public schools, and went on to graduate from Curtis High School in 1929.

Continuing as a model-product of New York education, Fred Santangelo was to graduate from the City College of New York in 1935, to go on to graduation from Columbia University School of Law in 1938, and admission to the New York State bar and the practice of law in the following year. Fred was a trial attorney in all the courts.

Also a member of the Federal bar, Fred Santangelo was admitted to practice in the southern, eastern, and western districts, as well as before the circuit court of appeals, second district, and the Supreme Court of the United States.

He became an assistant district attorney in Manhattan. The year was 1945, and he was assigned to the homicide bureau. He later acknowledged that this work made him at once hardened to life, and showed him the role he was later to assume as proponent of those who were troubled and in need.

Fred Santangelo first chose politics as his avenue of accomplishment. Public service, now as an official, welcomed him. The New York State Senate received him in 1947. It was the beginning of two terms of service at the State Capitol, Albany, N.Y., the second term ending in 1956.

During that time, Fred was instrumental in achieving important legislative victories as the ranking member of the Committee on Labor and Industry. Fred also had a special concern for our youth, which he was able to capably demonstrate as a member of the Temporary State Commission on Youth and Delinquency, and locally, as a member of the Grand Street Boys Association. Further, he was a member of the Joint Legislative Committee on Labor and Industrial Conditions, as well as the Statewide Building Codes Committee.

Just some of the numerous honors, showing the importance and scope of the accolades thrust upon him, include: the Interfaith Award; the Lido Civic Award; the ESCA Award; the Service-in-Congress Award from the Italian-American Federation, and the Columbian Society Award of the New York City Department of Correction.

Alfred E. Santangelo arrived formally on the national scene in 1957 as a Member of the 85th Congress from New York's 18th Congressional District. He was to serve in the 86th and the 87th Congresses.

He is still remembered for his work on the House Appropriations Committee, wherein he strived to eliminate wasteful spending. He brought an urban constituency view to the Agriculture Subcommittee. Also recalled were his special efforts on behalf of the municipal government of the District of Columbia as a member of the District Subcommittee. In a gesture of particular recognition and appreciation, the District's commissioners presented him with a testimonial tribute. Working to advance the school lunch program was also an area of his great interest.

Fred Santangelo overcame a residency-challenge lawsuit in 1962 to bid for the leadership of Manhattan as borough president. Such was the way of this tireless fighter. His congressional district changed. And then Fred sought to continue his national service in still another arena closer to where his heart was. But it was not to be for Fred Santangelo. An incumbent prevailed. But Fred moved on to another and true mission in his life, a pure and active defense of civil liberties.

For, it was politics that led Fred Santangelo to champion Italo-American rights. And he was an outstanding Italo-American leader in this ongoing crusade which he held so dear. He became the president of the Italian-American Anti-Defamation League. The league's name was later changed to Americans of Italian descent. This organization, through the personal efforts of Fred Santangelo, was a dominant force in the lobbying efforts for Italo-American civil rights. It was an organization numbering close to 35,000 strong in membership.

It was also during this same time that Fred Santangelo maintained a thriving law practice. Significantly, he was to build a reputation as also a legal representative who, in the course of his work, did not charge needy and destitute clients.

Fred Santangelo also served as the President of the Italian-American Democratic Organizations of the State of New York. The Elks and the Knights of Columbus called him a brother. The East Harlem Citizens Committee and Harlem House enjoyed his sincere interest and expertise in their affairs. Within the political ranks, he gave his talents and leadership abilities to local organizations, which included the Affiliated Young Democrats, and also participated as a Delegate in Democratic State and Judicial Conventions.

We know that the memory of Fred Santangelo will live on in the hearts of all the people he cared about. We can take comfort in the fact that his legacy is preserved in the numerous opportunities and good works that he was personally responsible for.

We appreciate that his spirit survives within his loving family. His devoted and very sweet wife, Betty, was the jewel of his life. We trust that God will shower her with His love and the strength to carry on as Fred would want her to. His four daughters and his son were so dear to him. Their pride should be so special in having shared so much of his life. His children's families were also a source of great joy to him. He was so fond of them. The grandchildren gave him many happy moments.

To all of them, Mary Jo and Michael Nocero, and their daughters, Mary Beth, Meg and Amy; Eileen and Gene Hult, and their sons, Gene and Fred; Betty Jane, Patricia, and Charles Santangelo, we extend our warmest wishes that they will enjoy happiness and prosperity as Fred Santangelo would have wanted.

May he be blessed and rest in peace. His work is done.

At this point in the RECORD I wish to insert the tributes prepared by my colleagues Mr. GIAIMO, Mr. SLACK, Mr. DELANEY, Mr. CORMAN, Mr. ANNUNZIO, Mr. MAZZOLI, Mr. LEDERER, and Mr. DENT.

I also wish permission to revise and extend remarks and include extraneous matters and that Members have 5 Legislative days for remarks.

The following is a tribute to Fred Santangelo written by his children, and presented by his son, Charles, during the funeral mass at St. Lucy's Church, April 3, 1978:

We are gathered here today in a celebration of life—the celebration of the life of Fred Santangelo. The tremendous outpouring of love during the past few days—and as I can see, today as well—is clear testimony that Freddy touched the lives of many people in his 65 years. In each of us, he continues to live.

Fred was a man who, despite a disability in his leg, fearlessly marched ahead. We take for granted our abilities to walk and move with ease but that was something he could never take for granted. His disability was something which drove him forward and made him demand more of himself. It was because he expected so much from himself, that he in turn, expected as much from others.

In these last few years especially, most of us were unaware of the daily physical pain that he endured. That was because he rarely spoke about it. He kept it to himself as something with which he had to live.

Fred was a man who lived the message of Christ. His great concern for helping others was evident throughout his life. While he seldom spoke of his feelings and love for others, his actions showed how much he was willing to do to help his fellow man. He freely gave of himself and expected little in return. He continued to live in all those to whom he gave. His generosity and unselfishness are symbols of the Christian love to which we can aspire.

Fred emerged from his career in politics and law with honor and distinction—the legacy of which we are all extremely proud. Fairness and integrity, the credo of AID, the Americans of Italian Descent, was also his own personal credo.

Fred was a family man. His devotion to and love for his children and wife are blessings for which we are all grateful.

Most of all, Fred was a man who loved

Betty Santangelo. The last time my sister Betty Jane spoke to Dad he told her how wonderful a woman Betty was and how much in love he was with her. And she deserves these words. She deserves there words because she gave him confidence and loved him, and gave him the strength to become what he wanted to become. The man she helped him to be is the man to whom we express our undying gratitude.

Today is a day of sadness for those who are left behind. Fred touched us in ways which are special to each one of us. And while it hurts to not have him here, we know that he has found a peace that we cannot find on earth.

We are left with a message of hope and inspiration by the character of his life. His strength, energy and love are things which we will all carry with us. His memory is not only one of goodness—he leaves us with the message to strive on, and to use our own suffering as a source of strength to become better people. It is up to us to try to do justice to the gift of life with which we are blessed. In this sense, we are gathered here today in the celebration of life. Thank you, Dad. We love you.

FREDDY SANTANGELO

We called him Freddy, out of love, admiration and respect. Freddy Santangelo was a great human being. He chose to lighten the travail on earth of all those who sought his help for one reason or another. No chore was too small or too difficult for him to tackle. He gave of his time freely and without thought of compensation. We who loved and knew him were constantly touched by and in awe of his noble spirit.

He was one of the few great Italian American leaders whom we could trust and believe implicitly. As President of the Americans of Italian Descent Inc., Freddy Santangelo had a profound effect on raising the consciousness of Italian-Americans to their rich and noble heritage. He played a large part in sensitizing the public to the vast contributions made for the good and welfare of the United States by the people of his own ethnic group. We will never forget Freddy Santangelo. The work he started will go on and we are determined that through us, his "noble" spirit will live on forever.

Dr. JOSEPH F. VALLETUTTI,
Executive Director,
Americans of Italian Descent.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER per tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I was saddened to hear of the death of our former colleague, my friend Congressman Alfred Santangelo last week at the age of 66. Freddie served three terms in the House but his was such a colorful character and career that memories of him outlasted his years of service in this body.

In those years between 1957 and 1962, New York Members in the House were able to spend more time in their district than those of us serving today and the streets of New York City were perfect fodder for Fred Santangelo's unique humor and insights. His people were the people who lived and worked in the Nation's largest city, and he identified with them perfectly.

He had been born in Manhattan in 1912 and though he managed to work himself through City College and Columbia Law School, he never forgot his ties with the working families from which he came.

Freddie was a natural for the political process, and he served variously as an assistant district attorney and a State senator before deciding to run for Congress in 1956.

His ties with the political process did not end with the end of his House service however. He played an important role as a delegate to the New York Constitutional Convention which updated our state constitution in 1967. He was a superb lawyer, and he practiced his profession throughout his lifetime with enthusiasm and respect for our system of laws.

He served as an outstanding Member of the House, an important and active member of the Appropriations Committee, respected and admired. His energy and efforts on behalf of progressive legislation was boundless.

Fred will long be remembered for his untiring efforts for the protection of the civil rights of all. He was especially proud of his Italian heritage and stood tall, strong, and in the forefront in the fight against those who would defame or try to degrade the great and honorable heritage of most Italian Americans.

On a personal note, Fred was extremely kind as well as generous with his time and advice to me when I joined this body in 1961 as a freshman. We have remained friends through the years.

If we can judge a man by his friends and those who respected him, Fred Santangelo died a very rich man because the friendships he maintained over a long and active lifetime were, for him, the very best of riches. He will be sorely missed by all who knew him well. Our prayers are with him and his lovely wife and children.

Mr. BIAGGI. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I join my colleagues in marking, with personal sorrow, the passing of a friend and former colleague, Alfred Santangelo.

I had the privilege of working with this fine Representative during his tenure of service in the Congress from New York's 10th District. We both held seats on the Appropriations Committee. He served with distinction on the Agriculture, District of Columbia and Labor-Health, Education, and Welfare Subcommittees.

In addition to common legislative interests, we also shared a common heritage. Alfred Santangelo labored long and lovingly to perpetuate the good name of those who immigrated to these shores from Italy—and on behalf of their descendants. His pride in his own ethnic background was a source of personal strength to him and certainly an inspiration to me and to others.

Although he will be remembered for his public actions, his friends will also remember his great personal kindness. I knew him to be a devoted family man and understand that two of his five children are here today in this Chamber. At this time, I would like to extend my deepest condolences to Patricia and Charles Santangelo, who are here with us today, and to the entire Santangelo family on the untimely passing of a great man and a good friend, Alfred Santangelo.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I join with my colleagues in expressing my sorrow at the untimely passing of a very close and very dear friend. It was my privilege to serve on the Committee on Appropriations with "Fred," as we called him, Santangelo. It was also my privilege to visit him in his home, to know his brothers and sisters and his immediate family. Also on one occasion he visited my home in Mississippi. Of all of the people I have known I have known no one who kept a better spirit and a better attitude toward the people as a whole than did Alfred E. Santangelo.

He was a man possessed of real intelligence, a splendid background and was a man of determination and independence. He exemplified the very best, in my opinion, that we expect of a Congressman.

His service on the Committee on Appropriations was not only in line with his own beliefs but at many times it was courageous.

We traveled in many sections of the world. Always Fred was in a good spirit. He was always a good representative of our country. As my colleagues have pointed out, he has reflected great credit upon his fine heritage.

To his immediate family I express my deepest sorrow at the loss of a very dear friend but one who has left his mark on the Congress, one which his family can be proud of and his friends are proud of too.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I am happy to yield to my colleague, the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise to pay tribute to a former Member of the House, Alfred E. Santangelo, who passed away last Thursday. A lifelong New Yorker, Mr. Santangelo represented the former 18th Congressional District, which included the area north of the present boundaries of the 18th Congressional District I now represent.

Mr. Santangelo is known to all of us as a man who championed the cause of Italian-American rights and who worked to cut waste in Federal spending. To his family, friends, and constituents he will be remembered for the warm and gregarious person he was, and thus he will be missed by many of us.

Mr. Speaker, I, too, extend my sincerest condolences to his family.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank

the distinguished gentleman from New York very much.

I rise in sadness and in sad surprise, because until I heard a few minutes ago that this great American had passed on on March 30, I was totally unaware of this very sad fact. Since Congressman Santangelo's last year in the House was my first year in the House, I have very vivid recollections of a most amiable, always courteous, and very, very generous man. As a freshman, I remember that those who were exceptionally kind and went out of their way to be nice as standing out and probably will imperishably stand out in my mind as long as I live.

Congressman Santangelo is certainly one of those foremost in my memory. He was not only very kind and very considerate, but in those days freshmen had very different status than what we consider freshmen to have today, which is, I think, an improvement; so that when Congressman Santangelo took notice of this brand new freshman, I, for one, was the recipient of his very generous attention. It helped me very much and then I became aware of the effect that the respect of the Members had for this very wonderful Congressman. He stands out as vividly as anything you want in my mind today.

Mr. Speaker, I join my colleague, the distinguished gentleman from New York, who very properly has set aside this special order, in conveying my condolences and my prayers for the family and survivors, that the good Lord will strengthen them in their ability to overcome this great and very sad loss.

Mr. Speaker, I thank the gentleman from New York again.

● Mr. RODINO. Mr. Speaker, I was deeply saddened this past week to learn of the death of a former colleague and good friend, Alfred Santangelo. For 5 years, as a Member of the House of Representatives, Congressman Santangelo served his Bronx constituents and the Nation very well, and in the process became one of the most beloved Members of Congress, known for his compassion and charm.

Mr. Speaker, it was my distinct privilege to work with Congressman Santangelo in his efforts to combat discrimination against Americans of Italian descent. An outstanding statesman and courageous spokesman for equal rights, Alfred Santangelo was a credit to the House. Yet, his primary devotion was always to his faith and to his family.

Mr. Speaker, I want to join my colleagues in special tribute to Alfred Santangelo, a good friend who will be long remembered.●

● Mr. O'NEILL. Mr. Speaker, I rise to pay tribute to a former colleague and a distinguished American, Alfred E. Santangelo, who died last Thursday, March 30.

Congressman Santangelo came to Congress after an outstanding career as an assistant district attorney and a New York State senator.

In the three terms our late colleague served in this House, between 1957 and 1962, he became greatly respected and admired for his robust and friendly nature and for his tireless efforts to control Government spending.

From his seat on the Appropriations Committee, Congressman Santangelo worked hard to eliminate waste from military contracts. As a member of the District of Columbia Committee, he carefully oversaw the operations of the municipal government. Indeed, as a tribute to his numerous contributions, the Commissioners of the District presented him with a special testimonial.

Perhaps most of all, Congressman Santangelo will be remembered as a great champion of Italian-American causes. As president of the Italian Federation of Italian-American Organizations, he fought courageously for Italian-American civil rights; and pursuing these concerns as a lawyer, he would often not charge needy or indigent clients.

The country has lost an outstanding American of integrity and of great conviction. And this man, who gave so much of himself for others, will be dearly missed.

I know I speak for the entire House in extending my sincere condolences to his wife, Betty, and to their five children.●

● Mr. SLACK. Mr. Speaker, I learned with a sense of personal loss of the death of our former colleague, Alfred Santangelo of New York. He was one of my early friends in the House, particularly during my first years of service on the Appropriations Committee, where I found his previous experience both extremely helpful and generously given.

He was a man whose attributes were such that a friendship could be easily formed and long maintained. He was considerate and careful in his judgments. He had the talent required to follow the path of moderation to reach worthwhile objectives. He was clear and concise in the statement of his convictions, but aware of the effectiveness of a touch of humor upon occasion. Mindful of the needs and interests of his constituents at home, he was equally conscious of the national and international problems requiring solutions through action in Congress.

My association with Alfred Santangelo will be numbered among the truly enjoyable and productive experiences I have encountered during my service in the House of Representatives.●

● Mr. GIAIMO. Mr. Speaker, for those of us whose memories of the House go back some 20 years, the sad news last week was the passing of Alfred Santangelo. Fred came out of the Bronx, fighting, for three terms, ending in 1962, as one of the scrappiest "watchdogs" in Congress.

I felt a strong bond with him, back in the early 1960's, when he was endeavoring to blast the waste out of military contracts as well as render the fat out of the District of Columbia budget. Today I try my best to follow in the large footsteps of Fred Santangelo as I toil on the Defense and District Appropriations Subcommittees.

All Italian-Americans owe a large debt to Fred for his valiant and vigorous crusading in the cause of their civil rights. As president of the American-Italian Antidefamation League, Fred worked tirelessly to wipe out many of the derogatory stereotypes about people of Italian descent that had plagued him as a boy growing up on the sidewalks of the tough East Side of New York.

Fred was a capable, courageous legislator who might have been with us until this Congress, but in 1962 he was gerrymandered completely out of his district, New York's old 18th.

None daunted, he plunged back into his law practice in Manhattan, took on all worthy clients regardless of their means, and forgot to send bills to the poorest. I will always remember Fred Santangelo as a big, fearless man whose lionheart was made of gold. Arrivederci to a great Congressman.●

● Mr. DELANEY. Mr. Speaker, we were all saddened on March 30 to learn of the death of our friend and former colleague from New York, Alfred Santangelo.

A New Yorker all his life, Mr. Santangelo was an able spokesman for the needs of the people of the 10th Congressional District which he served so well from 1957 through 1962.

A master parliamentarian, Mr. Santangelo had a knack for getting along with other Members without sacrificing the well-being of his constituents. His instinct for the right course of action was an invaluable aid to his colleagues, especially those from the New York delegation.

We have missed Al in the Congress these past 16 years. Now all New Yorkers will miss him as well.

His record of unstinting service will certainly remain forever untarnished by time.●

● Mr. CORMAN. Mr. Speaker, I was deeply saddened to learn of the sudden death, March 30, of our former and distinguished colleague, Alfred Santangelo, and wish to join in this tribute to him.

Although Fred and I served together only in the 87th Congress, his legislative skills and accomplishments provided this freshman valuable future guidance in the areas of appropriations and advancing human rights. Fred fought the tough battles on the Appropriations Committee to trim budgetary waste, particularly in military spending, and championed the causes and legitimate civil rights of Italian-Americans across this Nation. He stood in the forefront for Italian-Americans and his outstanding, dedicated service was recognized when he received the Interfaith Award and Service in Congress Award from the Italian-American Federation. His active community service and strong religious affiliation will not be forgotten by those who knew him well.

His deep concern for human rights extended well beyond his congressional service. As a lawyer, Fred aided the needy by giving time and wise counsel without monetary gain, but rather for the personal gratification of knowing he had tried to assist those who could otherwise not afford legal advice.

Along with his long hours and hard work as a public servant, Fred was a devoted family man. His wife, Betty, and their five children bear the heavy burden of grief and sorrow, yet must carry fore-

most in their minds and hearts the memories of Fred's devotedness to them. His son and daughter will leave here today knowing that their father was an admired and respected legislator, and well-known crusader for human rights. Fred will be greatly missed and long remembered by all who served with him in his community and in Congress.

I offer my deepest sympathy to the Santangelo family and honor Fred as a man of courage and outstanding statesman.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join my distinguished colleague, Honorable MARIO BIAGGI of the 10th District of New York, in paying tribute to the Honorable Alfred Santangelo, who represented the people of the 18th District of New York, located in New York City, during the 85th through the 87th Congresses.

While I did not serve in the Congress with Congressman Santangelo, having come to the Congress myself in the 89th Congress, I had the pleasure of meeting him during the 89th Congress on one of his many visits to the city of Washington. From 1964 to this date, I had occasion to meet with Congressman Santangelo on many civic problems in which he was so keenly interested.

Al Santangelo began his career of leadership in New York as an assistant district attorney in 1945, and went on to become a New York State Senator during the years 1947–50 and 1953–56. He served as a member of the Committee on Labor and Industry, a member of the Temporary State Commission on Youth and Delinquency, also on the Joint Legislative Committee on Labor and Industrial Conditions, and on the Statewide Building Codes Commission.

When he arrived in the U.S. Congress in 1957, Al Santangelo served on the important House Appropriations Committee, and his outstanding dedication to high standards was an inspiration to his friends and fellow citizens. His record of excellence and creative accomplishment was most commendable.

Mrs. Annunzio and I extend our deepest sympathy to his wife, Betty, and to his daughters, Mary Jo, Eileen, Betty Jane, and Patricia, and to his son Charles.●

● Mr. MAZZOLI. Mr. Speaker, although I did not have the honor and pleasure of serving in Congress with our distinguished former colleague, the Honorable Alfred Santangelo, I share with this Congress a sadness at his sudden death last week.

He was a man of courage and honor and his efforts in Congress will long be remembered.

As a member of the House Appropriations Committee, he spent much energy, though not always successful for it was not fashionable at the time, in cutting waste from military contracts.

And, he was known as the congressional watchdog of the municipal government of the District of Columbia. For these services, he was awarded a testimonial by the District of Columbia Commissioner.

Because of his exemplary work and courageous efforts in Congress, our Nation is a better place in which to live. His work will be his legacy to America.

I extend to his friends and family my sincere sympathy on former Congressman Santangelo's untimely death. Their loss will be shared by all.●

● Mr. LEDERER. Mr. Speaker, today I join my colleagues of the House in paying tribute to one of the finest men to serve in the distinguished body.

Alfred Santangelo served in the Congress from 1957 to 1973. His death on March 30 is an untimely loss to not only his family and loved ones but the entire Nation. In his service on the Appropriations Committee he became a champion of human rights and fought for the downtrodden. Representing a highly urban area of New York he had many diverse interests to deal with. Nevertheless, his heart and humanity prevailed in all he stood and fought for.

All Americans who believe in freedom and the rights of men have suffered a deep loss. Congressman Santangelo's wife, Betty, and his five children will have the memory and respect of the Nation this man left with them and with us.●

● Mr. STRATTON. Mr. Speaker, I want to join in expressing my sorrow at the news that our former colleague, Fred Santangelo, died suddenly and prematurely the other day.

Fred Santangelo was a capable Member and I was pleased to be able to serve with him when I first came to this House in 1959. He was an effective and popular Member, and only left the House as a result of redistricting.

During his service here Congressman Santangelo led the fight to put an end to slurs against the integrity of Americans of Italian descent. It was a fight that needed to be made. Fred Santangelo's fight has made headway since he started it. Those slurs have largely stopped. Americans of Italian descent have moved into important positions of great respect. For that result we salute Alfred Santangelo, our departed friend.●

● Mr. DENT. Mr. Speaker, I join with my fellow Members of Congress to express my sympathy and wishes to his family in the passing of our former associate and Member of this body, Fred Santangelo.

I had the privilege to know his kindness and consideration as did many other freshman Members who came here in the mid and late sixties. I had an opportunity to associate with him here and travel with him on more than one occasion.

Many of us wait too long to say what we should have at an earlier date.

I learned from my parents long ago to be a friend a man must qualify by the treatment he gives as well as the treatment that he receives.

All of us have detractors but in the end all respect those who have earned it.

To his family I say that they must understand that many of those who have come first are the first to go.

My respect and wishes to his family. May he finally rest in peace for that is the supreme goal of all human beings.●

ONLY ONE RIGHT DECISION ON NEUTRON BOMB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, reports that the President has decided to scuttle plans for development of the neutron bomb are, indeed, distressing. At a time when Soviet-American relations are on fragile ground, the President's decision must carefully consider our position in the face of an untrustworthy Warsaw Pact Alliance.

We've heard the arguments that the neutron warhead is inhumane because it kills people and leaves property relatively unscathed. We've heard the contention that deployment of this weapon would only add to our existing nuclear overkill capabilities—and set back diplomatic efforts to achieve disarmament among the world's powers. We've heard the critics of this undertaking cite an increased danger of nuclear war. And, of course, there are the complaints that N-bomb development is economically unsound.

A rational, calculated evaluation by the President of enhanced radiation technology will convince him that deployment is the only sensible course of action.

To those who find it immoral to deploy a weapon which kills people and leaves buildings intact, I ask if it is any more moral to kill the same people and demolish those very buildings? That is like comparing the moral values of the spear to those of the catapult, or the bow-and-arrow to the cannon. The neutron bomb actually restricts blast and fire damage to a small area—a radius of 200 yards or so—as opposed to existing hydrogen bombs which have effects that far exceed the range of the confined neutrons.

Discussion of an escalating arms race is founded on misinformation. Consistent with NATO policy, development of the neutron bomb would be a defensive tactical weapon. It will, if anything, serve as an essential deterrent to nuclear arms buildup.

Experts in the area of military diplomatic strategy assure us that the danger of nuclear war will, by no means, be enhanced by development of the N-bomb. The consequenses are simply too severe. And neutron warheads are actually more economically feasible than comparable H-bombs. The neutron bomb requires a smaller amount of the expensive, hard-to-obtain nuclear material needed to trigger a detonation.

Have we not been sold short enough already? Research and development of our B–1 has been cancelled by the President. It appears from the SALT talks that our cruise missiles are being negotiated away in exchange for a letter from Mr. Brezhnev, promising that the Soviet

Backfire Bomber will not be used against us. Meanwhile, the U.S.S.R. continues to build its armaments—involving itself in foreign military affairs, as the world community is observing in Africa and elsewhere. All this adds up to a muddle-minded administration policy of unilateral disarmament.

Mr. Speaker, in the interest of our national defense; in the interest of NATO security; and in the interest of peace in Europe, we must deploy the neutron bomb.●

UNITED STATES FURNISH HUMANITARIAN ASSISTANCE TO LAOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McCLOSKEY) is recognized for 15 minutes.

Mr. McCLOSKEY. Mr. Speaker, I rise today to ask the administration to order, under the authority of laws previously enacted by Congress, immediate U.S. humanitarian assistance to the people of one of the most unfortunate countries in the world, Laos.

Laos faces a serious food crisis at a time when the United States has a food surplus. It is clear that unless we share this food surplus with Laos, as our present law permits, a number of Laotians face death by starvation during the balance of this year.

Laos, like Cambodia, suffers today primarily because, during the long struggle in Vietnam, Laos furnished convenient supply routes for the North Vietnamese effort in South Vietnam.

The United States was never at war with Laos, but we, like the North Vietnamese, used Laos and Laotians in attempting to win the war in Vietnam.

In 1962, Laos was a small land-locked and mountainous country situated between Vietnam, Cambodia, Thailand, and China.

Then, and now, only five towns exceeded 5,000 in population; and the great bulk of the population of approximately 2½ million people live in over 99,000 widely scattered small villages of from 5 to 50 huts in size. Eigthy-five percent of the people engaged in subsistence agriculture, either of the slash-and-burn type practiced by the mountain tribesmen such as the Meos, or in lowland rice paddy farming in the river valleys pursued by the ethnic Lao and others. Then and now, roads are few and far between, and most of these are impassable during the rainy season.

Even before the major escalation of U.S. bombing of Laos in 1969, Laotians were among the poorest people in the world, with a per capita income estimated in 1968 at about $70. Because of this primitive economy, Laos had the highest infant mortality rate in the world. Fifteen percent of the children died in infancy, according to a 1968 health survey by the Tom Dooley Foundation, and more than half of them died in childhood. The average life span of a Laotian was, and is, only about 30 years. If these are any people on earth whose grinding poverty calls for humanitarian assistance, it is the people of Laos.

But in spite of $3.2 million in U.S. military and economic assistance to Laos over two decades, the lives of the Laotian people have not been improved. U.S. aid went primarily to fund a war in Laos which continued virtually without stop from 1959 to 1973. Laos emerged from that war with its economy devastated and its society shattered. The living conditions of the Laotian people today are, if anything, even worse than they were before U.S. assistance began to flow into the country.

Since the end of the war, moreover, the misfortune of Laos has been multiplied by the scourge of drought, which struck during the 1977 crop season, particularly in the southern provinces of the country. In the two major agricultural provinces of Kammouane and Savannakhet, there was so little rain that the United Nations Development Programme estimated that 67 percent and 80 percent of the lowland rice was lost, respectively, as well as 65 percent and 95 percent of the upland rice. The United Nations mission which visited these drought-plagued areas in July 1977 reported:

> The Mission was able to observe from a tour of the districts of Nhommalath in the province of Khammouane and Hphousim in the province of Savannakhet that the rice fields for the most part were not yet ploughed nor would it be possible for them to be ploughed in the immediate future due to the hardness and dryness of the soil (cracks were visible); and that the few seed beds which remained and which in many cases had been replanted for the second or third time were very sparse. In all the regions visited the aspect of the fields in characteristic of drought conditions and invasions of insects (locusts, caterpillars) have occurred in some place as also the growth of mushrooms.

In other provinces of Laos, the loss of paddy was estimated to be about 15 to 20 percent. A UNDP report completed last December concluded that, even if food rations are reduced to an absolute minimum of 12 kilograms per person per month, Laos must import 112,975 tons of food in order to ward off starvation during the spring and summer of 1978. Due to the primitive road system which is impassable in the rainy season, food must arrive during April and absolutely no later than May. Laos must obtain this food on an emergency basis from external donors, and even if other countries respond with food shipments, the food gap cannot be closed without U.S. help.

U.S. State Department relations with the Government of Laos have been thorny since the Pathet Lao takeover of the government in December 1975. Practically the only friendly discussions that have taken place with the Laotian Government have been between the House Select Committee on Missing in Action in Southeast Asia, chaired by SONNY MONTGOMERY, Democrat of Mississippi, and Laotian representatives in Vientiane and New York.

The United Nations Development Programme directed by our former colleague from New York, Brad Morse, has been trying to obtain food assistance for Laos. A number of church groups, farm organizations, voluntary and humanitarian groups, and the United Auto Workers, recently called upon the President to give emergency food aid to both Vietnam and Laos, pointing to the terrible drought conditions in both countries. They emphasized that the situation in Laos is "particularly severe." A number of U.S. private and voluntary organizations have expressed interest in extending title II, Public Law 480 programs to Laos. They urged a "general and timely U.S. response, through both bilateral and multilateral channels," to prevent a terrible famine in Laos. Senator Humphrey, shortly before his death, was joined by 17 Members of the Senate in requesting emergency food aid to Laos.

Unfortunately, however, the Department of State has been displaying an attitude of hardnosed diplomacy on a government-to-government basis rather than an attitude of humanitarian generosity to the Laotian people. In a form letter which began "Dear Concerned American" and which was sent out to citizens who wrote urging emergency food shipments to Vietnam and Laos, the Department conceded the food situation in Laos was becoming "increasingly severe." It concluded that a "major shortage exists, which Laos' purchases and foreign donations have not so far made up." But the Department's humanitarian concern for the people of Laos was clearly subordinated to poliitcal considerations. "The decision requires a careful analysis of a number of considerations," the letter said, "including the state of our relations with Loas." While it is true that relations between the United States and Laos are not warm or close (the United States has not yet sent an ambassador to that country, choosing instead to keep its representation in Vientiane at the level of Chargé d'Affaires) it is difficult to accept the Department's position that U.S. response to the threat of starvation should be dependent on the state of diplomatic relations with Laos. The United States should not be in the position of even appearing to make humanitarian responses secondary to political considerations.

The same "Dear Concerned American" letter said that the decision would require "close consultation with Congress."

My remarks today are intended to constitute part of that consultation; I hope a majority of my colleagues will join in similar communications to the Secretary of State and President Carter.

Existing legislation, however, makes it clear that Congress has authorized the President to act to provide relief to those who are the victims of disaster. Section 491 of Public Law 95–88, provides:

> The Congress, recognizing that prompt U.S. assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the peoples of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

The law further provides that the President is authorized to "furnish as-

sistance to any foreign country or international organization on such terms and condition as he may determine, for international disaster relief and rehabilitation."

This legislative authority could not be stronger or more precise. It is a mandate to respond quickly and with the necessary means to meet disasters, both natural and manmade. And it clearly stands above prohibitions on other types of aid to any country elsewhere in the law.

All authorities agree that Laos has suffered a disaster in the recent drought which has crippled its agricultural production and leaves it with a major food shortage. To aid the victims of the drought even where we may disagree with foreign government's policies has been a bright spot in the history for American humanitarian principles.

As Senator Humphrey and his colleagues pointed out in their letter of December 23, 1977, to President Carter:

> Some $60 million in U.S. food assistance was sent to Soviet Russia during the period 1921–1923, fully a decade before the establishment of diplomatic relations with the Soviet government.
>
> Post World War II food assistance was provided in large amounts to our former enemies in Germany, Italy and Japan, as well as to Yugoslavia, Poland, Czechoslovakia and other countries through the United Nations program, 72 percent of which was funded by the United States.
>
> President Kennedy, in 1962, offered food assistance to mainland China, despite continuing political hostility between the two nations.
>
> More recently we have sent food to Nigeria and Bangla-Desh despite political differences with their respective governments.

I think also that, beyond the normal moral obligation which a country with our abundance of food has to help people suffering from need because of disaster, the United States has an additional moral obligation to help Laos. That obligation stems from the fact that the military operations which the United States carried out in Laos for many years played a major part in causing the food shortage now faced by Laos.

During the nearly 10 years of U.S. air war in Laos, American planes dropped more than 2 million tons of explosives on the small country. Although much of the bombing was directed at the nonproductive Ho Chi Minh Trail area, a terrible and intensive bombardment was also directed against Pathet Lao-controlled areas of northern Laos. A Senate staff report said that this bombardment was intended "to destroy the social and economic infrastructure of the Pathet Lao/LPPF-held areas." Between 1964 and 1969, some 600,000 people fled from the bombs. In the next 3 years, an additional 700,000 people left their homes. Over half of the people of Laos were displaced because of the war.

Perhaps the most intensively bombed area of northern Laos was the Plain of Jars, one of the most beautiful and economically productive areas in the country. It had a cool climate, rich and well-watered soil, and abundant natural resources. Its 50,000 people made their living from vegetables and rice cultivation in the valleys and raising livestock on the hills. After 1960, the Communist-led Pathet Lao, in alliance with neutralist forces commanded by former paratroop Capt. Kong Le, took control of most of the plain. The United States, which had previously been supporting the ineffective Royal Lao Government Army, supported a secret army of Meo tribesmen, led by Gen. Van Pao, but under the direction of Central Intelligence Agency officers. This secret army operated from a military base southwest of the Plain of Jars.

When the alliance between the Pathet Lao and the neutralist Kong Le began to disintegrate in 1963 and the neutralists split into two opposing groups, open warfare broke out on the plain. The Pathet Lao, helped by one part of the neutralists, drove Kong Le and his allies off the plain in May 1964. It was then that the United States began secretly bombing the Plain of Jars. Bombing sorties increased from half a dozen a day in 1964 to dozens and finally hundreds each day in 1969. By 1968, the bombing had increased to the point where no organized life was possible in the villages. People abandoned their homes to live on the edge of the villages and then moved into the forests. In 1969, American jets came nearly every day and bombed the villages of the plain, destroying everything. As George Chapelier, the Belgian United Nations adviser who studied the Plain of Jars on the basis of extensive refugee interviews, described it:

> Nothing was left standing. The villagers lived in trenches and holes or in caves. They only farmed at night. All of the interlocutors, without any exception, had his village completely destroyed. In the last phase, bombings were aimed at the systematic destruction of the material basis of the civilian society. Harvests burned down and rice became scarce, portage became more and more frequent. . . .

Later, after the population of the Plain had been evacuated by the CIA-supported right-wing army, a number of the refugees were interviewed by U.S. Information Service personnel. Ninety-seven percent had witnessed bombing; 95 percent had seen their own villages bombed; 75 percent had seen their own houses destroyed. Eighty percent of the victims of the bombing, according to the refugees interviewed, were villagers, while only 20 percent were Pathet Lao soldiers.

Now, more than 4 years after the end of the war in Laos, foreigners, including Quakers and Mennonite representatives stationed in Laos, have been permitted to visit the Plain of Jars once more. A report on a visit to the Plain last November has been written by Murray and Linda Hiebert, representing the Mennonite Central Committee in Vientiane; which gives detailed information on the impact of the bombing on the postwar economy of the Plain of Jars, and I have appended their report at the conclusion of these remarks.

Progress toward economic reconstruction in the evacuated areas has been slow and painful. The returning peasants lack farming tools and have had to dig irrigation canals and clear fields by hand or with small, inadequate handtools. There is a shortage of draft animals, with an estimated 65,000 beef cattle, 50,000 water buffalo and 18,000 horses killed by the bombing. Peasants have had to harness themselves to buffalo plows in some places in order to till the fields. The irrigation network in the Plain of Jars was destroyed by bombing, and some rice fields have dried up because bombing caused a landslide in 1971 which collapsed a concrete irrigation dam. The landslide caused the river to change its course, and villagers had to abandon wet rice farming and take up mountain cultivation several kilometers away. As a result of the destruction of the irrigation network, 135,710 hectares of cultivatable land are still facing drought.

In addition to these obstacles, the returning population faces the constant threat of unexploded ordnance, which have already killed 267 and seriously injured 343 more in the province since the end of the war. Because of this aftermath of the bombing some 92,000 hectares of agricultural land in the province have not yet been cleared for agricultural production.

The Plain of Jars and Xieng Khuoang Province had been self-sufficient in rice before the war. Now, however, the area can only grow enough rice for half the year because of the land still uncultivated. And this year, because of the extreme drought conditions which have affected all of Laos, the rice harvest will be sufficient to feed its population for only 3 months, even if rations are cut to 12 kilograms per person per month.

The Plain of Jars is, of course, the area of Laos which has been hardest hit by American bombing, but it is beyond dispute that the air war against Laos has left that portion of the country economically prostrate and the natural disaster of drought has been compounded by the aftermath of the bombing. There is no honor in a denial by the U.S. Government of its responsibility to alleviate the suffering caused by our bombing in Laos. If we fail to lend a hand now by offering to give a small amount of our grain surplus, generations of Laotians will understandably inherit bitter feelings toward the United States. Laos is a small and powerless country and there would seem to be no diplomatic reason why the United States should not act with its historic compassion for human beings who face starvation, anywhere in the world, and under whatever kind of government—even one with whom we may disagree.

With the bankruptcy of one of our major U.S. shipping lines (Pacific Far East Lines), with the tremendous agricultural surpluses which even today bring farmers here to the Capitol asking for assistance, it seems almost inconceivable that the State Department clings to a consideration of "the state of our relations with Laos" as an excuse for denying humanitarian assistance to the people of Laos.

Mr. Speaker, I hope the President and Secretary of State will heed this request for humanitarian aid. Let us put

our surplus food to use in alleviating hunger, let us put our merchant ships to work carrying that food, and let us reexamine our national sense of responsibility and compassion to assist a people who have been badly hurt by the technological firepower which we have used to devastate their countryside.

The report follows:

REPORT OF VISIT TO XIENG KHOUANG PROVINCE

(By Murray and Linda Hiebert, Mennonite Central Committee, Nov. 25, 1977)

INTRODUCTION

In its first major attempt to show westerners the suffering and destruction of the war in Laos, the government invited 15 representatives of international organizations to visit Xieng Khouang province in northeastern Laos from November 16 through 19. Included in the delegation were representatives of the UNHCR, UNICEF, WHO, FAO, the International Red Cross, Save the Children Fund (U.K.), AFSC, MCC and a journalist from the Far Eastern Economic Review. The representatives of AFSC and MCC were the first Americans to visit Xieng Khouang since it was liberated in 1970. Travelling more than 200 kilometers by road, the delegation visited the town of Phong Savan (the new provincial capital), Muang Pek District (the Plain of Jars), the town of Xieng Khouang (30 kilometers southeast of Phong Savan), and Muang Kham District (60 kilometers northeast of the provincial capital).

HISTORICAL BACKGROUND

Xieng Khouang province with its 7,600 square miles of rugged mountains, rolling hills, thick forests and fertile valleys, is one of the richest, most beautiful areas in Laos. The first settlers to the region, the Lao Phouen, are believed to have migrated from China in the first century A.D. and to have carved the large, stone recepticles for which the central plateau region derives its name, the Plain of Jars. By the mid-20th century the province's multi-ethnic population of 150,000 had achieved a prosperous rural economy based primarily on rice and vegetable cultivation in the valleys and livestock rearing on the hills. Xieng Khouang's extensive network of roads and trails leading from northern Viet-nam to the Mekong River valley made the province an area of fierce competion between traders and foreign armies for centuries.

From the departure of the French in 1954 until the alliance of the neutralist Kong Le and Lao Patriotic Front (L.P.F.) forces, the province was controlled by a series of pro-American governments in Vientiane. Peginning in 1960, however, the area constantly changed hands between the L.P.F. and the CIA-backed Meo army of General Vang Pao based in Long Chieng in the southwestern part of the province. In 1964 the U.S. began secretly bombing the area and within the next five years organized village became impossible. The goal of the air war, according to a Senate report, was "to destroy the social and economic infrastructure of the Pathet Lao /L.P.F./ held areas." According to some U.S. estimates 75,000 tons of bombs were dropped on the province; local Lao authorities, however, estimate two tons per person, or about 300,000 tons total. 50,000 refugees were forced to abandon the region, many of them in 1969 when Vang Pao's troops briefly recaptured parts of the province.

SUFFERING AND DESTRUCTION

Before the war, 42-year-old Chit Kham, his wife and 3 daughters farmed a hectare of land in Ban Na Mun, not far from the Muang Kham district headquarters. Their family wasn't as well-off as some of the other 42 families in the village, but they always managed to find enough to eat. Then just before Christmas, 1964, Chit Kham told us, American T-28s began strafing his village. Gradually the fire-power was stepped up in an attempt to force the villagers to move to areas controlled by the "Vientiane-side". Eventually two-thirds of the district's population moved to Long Chieng and Vientiane province; the others clung to their land living in caves on the mountains and trenches in the forest. They worked their paddy fields at night by moonlight.

During a concerted air attack in the winter of 1968, the women and children of the village sought refuge in the district hospital in the Tam Phou cave. Almost without emotion Chit Kham described how for two days F-105 planes rocketed the entrance before finally striking the shelter killing all 137 occupants. For several days the cave was too hot for him to remove the bodies of his wife and young daughters. After losing his family and friends, Chit Kham abandoned his farm and joined the village militia. When asked by one of the Americans what the U.S. might do to win back the respect of the Lao, Chit Kham responded, "Help heal the wounds of war. So many lives were lost. We want those lives back which were lost."

No one was untouched by the bombing. Everyone from provincial officials to the staff in the guesthouse had a story of personal loss and suffering. Mr. Yong Yia, the Lao Suong (Meo) vice-chairman of the province told us 8,083 civilians were killed, 3,764 people maimed, 11,345 children orphaned and 2,567 women widowed. Although only 50,000 people are counted as refugees, virtually everyone in the province was displaced by the decade of war.

Approaching from the south in a C-123 transport plane over the rolling hills and green savannahs of the central plateau, we saw thousands of gapping bomb craters dotting the landscape. We counted 15 craters alone on the hill outside the newly-constructed "December 2nd Hotel" in the heart of Phong Savan. In Xieng Khouang town, shells of several two-story buildings overgrown with brush and weeds stood along the main street betraying the previous prosperity of the former provincial capital. A tall, lonely Buddha stood amid the rubble of the former Wat Phya pagoda. According to province tabulations 353 villages were razed, 17,742 houses, 1,761 Buddhist pagodas and 172 Christian churches destroyed during the bombing.

Travel today is slow and arduous even in 4-wheel drive Chinese and Russian jeeps. The dirt roads are rutted and pot-holed. Not one bridge survived; our vehicles had to ford scores of rivers and streams. 30-foot craters, burned tree skeletons, empty bomb casings and a few rusting truck frames lined the roads. Fifteen years ago the 30 kilometer trip from Phong Savan to the town of Xieng Khouang took half an hour by taxi; today it still takes 2½ hours for a jeep or transport truck to cover the distance. The province's roads are virtually impassable during the annual 5-month monsoon rains.

RETURNING AND REBUILDING

Since 1973 the people of Xieng Khouang have returned from the mountains and forests to rebuild their shattered lives. 45,000 have returned from the refugee camps to the south since 1975, many with help from the UNHCR. Although a visitor sees much reconstruction activity, progress is slow due to the lack of materials and tools.

In the town of Xieng Khouang the villagers covered the ruins of a former Catholic church with a straw roof and converted it into temporary district hospital. The town's students study in the morning while completing their thatched school buildings in the afternoon. Teams worked on the roads and bridges of routes 6 and 7 using mostly their hands for digging dirt and ratan baskets for carrying stones. Others were digging irrigation canals and clearing abandoned fields with a few small hand tools.

Thirty thousand people have returned to rebuild Phong Savan during the past 4 years. But still today the town's dirt runway, small plywood government office and guesthouse, few dozen scattered straw-thatched and rough wooden houses, and a kilometer of paved road remind a visitor more of a small rural village than a provincial headquarters. Fuel-driven generators provide electricity to the town for only three hours every night.

UNEXPLODED ORDNANCE

Unexploded ordnance is the number one problem facing Xieng Khouang's population of 105,000 people today. Since 1937, 267 civilians have died and 343 been seriously injured from bombs and mines while attempting to reclaim their fields and construction sites. This year alone 17 people have been killed and 25 maimed.

The most numerous and dangerous munitions buried in the soil of the province are "guava bombs", or what the Lao call "bombies", which are scattered over a wide radius when a CBU-24B "mother bomb", dropped from an airplane, opens just before impact. The tennis-ball size bomblets containing explosives and steel pellets, detonate when struck by a farmer's hoe or kicked by a passerby. Another weapon seriously hampering reconstruction is a small, green, leaf-like mine dropped from airplanes which detonates under 5 pounds of pressure resulting in the loss of a hand or foot. Ninety-two thousand five hundred hectares of the province's land have yet to be cleared of unexploded ordnance.

Buon Pheng, a 40-year-old civil servant, was gardening near the Muang Kham district headquarters on 21 October when his hoe struck a "bombie". He was thrown several meters and received serious pellet wounds to his face, chest and arms. The students and teachers, who have been building classrooms and dormitories to house the new Muang Kham District secondary school, followed the bulldozer as it cleared the land gingerly gathering up the bomblets and placing them in a leaf-lined hole at a far corner of the school yard. Even now as the building nears completion, members of our delegation stumbled across previously undetected "bombies".

AGRICULTURE

Besides unexploded munitions, the problems facing the people of Xieng Khouang today are the lack of draught animals and farming tools, ruined fields and collapsed irrigation systems. According to province estimated 1,445,000 hectares of forests, 148,-834 hectares of industrial crops (cotton, coffee, tea) and 1,288 hectares of rice paddies were destroyed by the bombing. Another 64,-529 beef cattle, 17,553 horses and 87,161 pigs died in the 5-year onslaught. 50,676 of the province's waterbuffalo were killed. Lacking draught animals, groups of 6 to 8 peasants in some areas harness themselves in front of buffalo plows to till their fields. (We saw only two tractors during our stay).

In all 234 of the province's irrigation dams and 56 canals were destroyed by the war. In 1971 severe bombing of the mountain route 6 north of Ban Na Du in Muang Kham district created an avalanche of sand and rocks collapsing the 40-foot concrete dam providing water for 260 hectares of rice paddies. Today the village's concrete irrigation canals stand empty; its rice fields lie cracked and dry. The landslide changed the course of the river forcing the villagers to abandon wet rice farming for mountain cultivation several kilometers away.

As a result of the destruction of irrigation systems, 135,710 hectares of cultivable land in the province still face chronic drought. Since the return of peace, farmers in this formerly rice self-sufficient region have only been able to produce enough rice for six months per year, the balance having to be provided by the state. This year, however, the deficit has been exasperated by a severe drought sweeping southeast Asia. Province officials estimate that the rice presently being harvested will only be enough for 3 months even if rationed at 12 kilograms per person per month. The most seriously affected drought area, we were told, is Muang Het near the border with northern Viet-nam. Double-cropping has so far been hampered by the lack of rice seeds for the shorter, cooler winter season.

Small steps are being taken in Xieng Khouang toward agricultural cooperativization. In contrast to Vientiane where most farming is still done by family units, we saw many mutual aid teams working together in harvesting, transporting and milling rice. Often groups of soldiers were in the fields helping the peasants. In the past houses in Lao villages were scattered randomly; today in Xieng Khouang they are being rebuilt in neat rows in small groups of 30–40 households so that the peasants are able to help each other farm, reclaim old fields, build houses, dig irrigation canals, look after their children and take care of the old people. The bombing destruction which was supposedly to prevent socialist cooperativization, ironically has now facilitated and speeded up the process.

Fifty-five-year-old Buon My and 409 other refugees returned in April, 1975 to their native village of Vieng Kham on the outskirts of Phong Savan. Before the war the village had hundreds of head of livestock and vast privately-owned paddy fields. Having lost everything when they fled the bombing in 1969, the returnees are now pooling their labor and meager resources to reclaim their fields and rebuild their houses. The village's 24 new waterbuffalo, 10 of which were provided in a joint MCC–AFSC project, are shared communally. Work on the village's fields is paid in rice on the basis of work points. Members of the commune, however, sell chickens, fruit and vegetables raised on private plots to supplement their family income. Despite the hardships of rebuilding, Buon My said he had no regrets in returning. In the refugee camps in Vientiane he had worked as a day-laborer carpenter and had often felt exploited by the whims of his employers in the neighboring permanent villages. Much of the aid destined for the refugees, Buon My told us, had been siphoned off by government officials. "At Vieng Kham my health is better, I'm happier and our livelihood is gradually improving."

ECONOMY

Like most of rural Laos, the economy of Xieng Khouang functions basically at a subsistence and barter level. Essentials like rice, canned milk, clothing, household utensils and school supplies are available through cooperative and state shops in more adequate stocks for the population than in government stores in Vientiane. Apart from some locally produced cloth and cooking utensils produced from downed aircraft, most of the items are commodity aid from Viet-nam, China and some European countries. Despite Laos' movement toward socialism, consumer items like cloth, hair clips, cigarettes and soap are still sold in private shops in most major towns, primarily by private Vietnamese entrepreneurs who came to Laos several decades ago (as civil servants during French colonialism or refugees from the First Indochina War).

Not having access to trade with Thailand across the Mekong River as in the capital and with only civil servants and soldiers receiving cash salaries, the black market seemingly doesn't function in Xieng Khouang. As a result the prices in the state shops and private stalls of Phong Savan are almost identical. Despite the difficulty of transport three days over rugged roads from either Hanoi or Vientiane, most prices in Phong Savan are only a fraction of those in the open markets of Vientiane. Meat, for example, sells for 250 kip per kilo compared to 1,000 kip in Vientiane's markets, canned milk 120 kip a can compared to 400 kip and soap 50 kip per cake compared to 350. The price of cloth and clothing, however, is about the same in both provinces.

HEALTH

The physical and chemical consequences of the war are still affecting the health of the Xieng Khouang people. Doctors reported seeing a number of cases of nerve disorders, skin diseases and congenital deformities in newborn and still-born babies. 49 babies were deformed and another 205 people became blind or deaf as a result of the bombing. 24 hospitals in the province were destroyed forcing patients to seek medical care in the caves in the mountains.

With materials from a UNHCR, UNICEF and the Swiss Red Cross, the people have completed construction of 10 of the 39 "tasseng" (sub-district) hospitals needed to decentralize health care in the province. Medicines and equipment, however, are still in very short supply. The 8 thatch and mud wall buildings which make up the Muang Kham district hospital complex give only minimal protection against the severe cold of Xieng Khouang's winters. The staff, comprised of 2 assistant doctors and 20 nurses, hurried from building to building wrapped in woolen scarves, sweaters and white cotton coats. They serve a population of about 20,000 people, half of whom have been vaccinated against cholera, tetanus and diphtheria. Today the region's major health problems are malaria and diarrhea in the rainy season and chest infections during the winter months.

Public health and preventative medicine are major components of the reconstruction process. In the Vieng Kham refugee resettlement village, each household has built a latrine, the village has dug and lined a deep well for drinking water instead of using a nearby stream, and livestock are kept in a shelter outside the village instead of under the stilted houses as is traditional in Laos. Vieng Kham was cleaner and neater than most villages near Vientiane and the people, although poorly clad, looked quite healthy.

Like the other villages we visited, Vieng Kham has a health worker trained for 4 months. She is responsible for Vaccinating the villagers, treating minor illnesses, and delivering babies. She refers serious problems to the district or province hospital. Movement of patients from Vieng Kham to a hospital is much easier than from many other villages in Xieng Khouang. The nurse at Ban Na Du told us that if a person becomes seriously ill the villagers have to carry the patient 4 kilometers across rice paddy fields to the main road and wait for transportation the remaining 10 kilometers to the district hospital.

EDUCATION

Today the students and teachers of Xieng Khouang are rebuilding the 179 schools destroyed during the war. In Phong Savan, the province established an orphanage/boarding school for 150 ethnic minority children, ranging in ages from 15 to 20 years, who either lost their parents in the fighting or come from very poor families. The day we visited one group of children were busily roofing a new dormitory while others were leveling the floors of several classrooms. (In the schools, hospitals, markets and government offices we visited, the various Lao ethnic groups seem to have achieved much greater social integration than in Vientiane).

The 3-year, provincial teachers' college had to move several times during the bombing. Now it has been relocated in Phong Savan with an enrollment of 316 students who are perparing for elementary school teaching. (Secondary school teachers are trained in Vieng Sai, Luang Prabang and Vientiane). Tuition and room and board is provided by the state although the students participate in growing their own food. Construction of the buildings was completed in early November, but like the Muang Kham secondary school and the ethnic minorities orphanage, opening of the school year was delayed due to the lack of teaching materials, laboratory equipment, textbooks and paper supplies.

FOREIGN ASSISTANCE

The delegation visited refugees who returned on UNHCR planes, hospitals built with UNHCR materials and equipped with UNICEF and Red Cross supplies and schools stocked by UNICEF. We also saw waterbuffalo provided by AFSC and MCC and sweaters supplied by the Quakers and Save the Children Fund. Compared to the need, however, this aid seemed terribly inadequate. The barely passable roads, the lack of vehicles (we probably didn't see more than a dozen jeeps), the gasoline shortage (fuel has to be trucked down the difficult route from Viet-nam or flown in from Vientiane), the lack of housing accommodations (the delegation displaced villagers from their homes during our visit to Muang Kham), and the real danger that members of our delegation would be injured by unexploded ordnance, demonstrated to us why efficient project feed-back is difficult and the number of visitors limited. Nevertheless the aid which we saw from international organizations was highly valued and put to optimum use.

In terms of bi-lateral aid, we saw none of the thousands of Soviet advisors and technicians alleged to be in Phong Savan by Vientiane's western diplomatic community. Apart from some jeeps and trucks, a few old aircraft, some commodities in the state shops and a few small cement warehouses in Phong Savan, Soviet aid in rebuilding the province seemed minimal. Province officials also told us that the idea of Phong Savan becoming the new national capital, a rumored Soviet aid project, was not a serious option. Chinese aid to the province seemed limited to supplies in the government stores and a handful of jeeps.

The only foreign presence we saw during our stay were Vietnamese workers rebuilding the roads and bridges along route 6 and 7, digging an irrigation canal near Phong Savan, and transporting supplies from Vietnam. The work teams, comprised of both men and women wearing green uniforms and some soldiers with gold stars on their helmets, were working almost without tools using their hands to dig and wooven baskets to carry dirt. Contrary to western press reports which make much of the Vietnamese military presence in Laos as a threat to Thailand, the soldiers were unarmed. The Vietnamese seemed to work in separate teams and live in separate barracks without attempting to integrate with the Lao population. Our Lao guides said the Vietnamese workers were paid in rice and kip. A Vietnamese "Nghia Trang Liet Si" (martyr's cemetery) half way between the towns of Phong Savan and Xieng Khouang suggested that many Vietnamese had died in the province during the war while supporting the L.P.F.

FUTURE ASSISTANCE PROJECTS

During the last working session, Mr. Yong Yia, the vice-chairman of the province listed several different projects which will require foreign assistance. Specific details of these projects are to be worked out with the responsible government ministries in Vien-

tiane. Those marked with an "*" are projects in which MCC could possibly participate.

*1. Materials to construct 6 medium-size irrigation dams including cement, steel reinforcing rods and bulldozers.

2. 15 mobile saw mills for building construction.

3. Transport: (a) 14 trucks to transport goods to remote villages, (b) materials and equipment to construct roads to refugee resettlement villages.

*4. Tractors to assist in agricultural production.

*5. Waterpumps for irrigation and double-cropping.

*6. Seeds: (a) 20 tons of rice seed for a second crop in the cooler, shorter winter growing season, (b) 30 tons of peanuts, (c) 30 tons of mung beans, (d) 30 tons of maize, (e) 1 ton of potatoes for experimentation, (f) 3 tons of wheat for experimentation, (g) other vegetable and "salad" seeds.

*7. Medicines for vaccinating and treating animals.

8. Pesticides and insecticides.

9. Materials to aid the people: (a) 15,000 sheets of tin roofing for houses, (b) rice for 42,000 returning refugees and people affected by this year's drought, (*c) small agricultural tools, (*d) clothing, (*e) material goods for 11,500 orphans.

10. Rice mills.

11. Construction and teaching materials for 39 schools—one for each "tasseng" (subdistrict) in the province. (UNICEF is presently assisting with printing 1.6 million textbooks and teachers' manuals for the whole country).

12. Construction materials for 39 community halls or meetinghouses.

13. Building materials, medical equipment and supplies for 29 "tasseng" hospitals. (UNHCR has already assisted with building materials for 10 new hospitals in Xieng Khouang; UNICEF has agreed to equip 3,000 village, 400 "tasseng" and 90 district-level dispensaries in the whole country).

14. Supplies to construct a water system in Phong Savan city.

15. Materials to construct 200 village wells for clean drinking water.

16. Funds for re-forestation. The province is interested in eucalyptus trees, but welcomes other suggestions.

*17. The provincial authorities would welcome ideas on ways to clear unexploded bombs and mines. (They agreed to accept some pitchforks from AFSC and MCC to experiment using these instead of hoes, the sharp impact of which often causes bomblets to explode. They were also interested in the small tractor with a shield to protect the driver developed by MCC in Quang Ngai to clear fields of M–79 grenades. The central government, we were told, would have to approve any involvement of foreign detonation technicians. The authorities seemed to feel quite strongly that if sophisticated American technology planted these bombs and mines in their soil, certainly equally sophisticated technology must be available to remove them again now).

*18. The vice-chairman of the province requested the international organizations to make a special appeal to the Carter administration to come heal the wounds of war in Laos, especially in Xieng Khouang.●

TALL TALK BUT SHORT STICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of Alabama. Mr. Speaker, President Carter sounded tough the other day at Wake Forest University when he said the United States will not allow any other nation to gain military superiority over us—but his actions have suggested the opposite.

And when it comes to the important subject of protecting this Nation and its worldwide interests—action, not empty rhetoric, is the only thing that our Communist adversaries understand.

I and many of my colleagues on our Defense Appropriations Subcommittee greeted President Carter's firm statement on a strong defense with mixed reaction. We are a bit like the old mule—we want to be shown before we believe it. We are skeptical because this same President has, in effect done away with our B–1 bomber, has cut back on Navy shipbuilding production, has supported the giveaway of the Panama Canal, has supported strategic arms limitation agreements that appear to be to our disadvantage and now it is reported that he is uncertain about future production of the neutron bomb.

This does not sound like a strong military defense policy to me. One wonders just where the Carter administration is leading this country.

It is well accepted among most that the best way to deal with the Russians is from a position of strength. Yet the defense budget President Carter has submitted to us this year and last year left a lot to be desired. He has failed to put the MX intercontinental ballistic missile into full-scale development, he has cut tactical aircraft programs, such as the F–14 and others; he has terminated the advance medium STOL transport, he has terminated the advance armed personnel carrier, he has cut military training, and he has cut personnel strength in Active and Reserve Forces.

And as far as the Russian attitude is concerned, we have only to look at the Horn of Africa to see how serious the Soviets are about seeking world peace. Their Cuban stand-ins in Ethiopia are fooling no one and Cuban involvement is growing rather than decreasing in that troubled area. At the same time, Soviet military strength continues to grow despite their overtures to the contrary.

Now, production of the so-called neutron bomb is in doubt due to President Carter's indecision. The term "bomb" applied to this program is misleading. Actually, the program should be called enhanced radiation artillery. These enhanced radiation artillery shells would penetrate with radiation rather than with heat and blast. In addition, this product of modern technology would actually limit its effect to the general target area without doing unnecessary damage to surrounding civilian populations. This has got to be one of the greatest technological advancements in military weapons in a generation.

Development of enhanced radiation artillery was prompted by the ability of the Russian tanks and other weapons to withstand tremendous force. Therefore, radiation is the most effective means of stopping Soviet aggression in the event conventional weapons are not sufficient. If we do not go forward with the development of the neutron bomb, some answer still must be found to counter the Soviet threat.

It is my hope that we in Congress will not compound his error, if President Carter sells the United States short on defense.●

A VIEW OF AMERICA'S DEFENSES FROM THE SHORES OF MONTANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

● Mr. BAUCUS. Mr. Speaker, I would like to say a few words today about our national defense.

I believe in a strong America. Our strength comes from our people and our free political system, from a healthy and vibrant economy, and from our military forces. To prevent war and to keep ourselves strong, we cannot neglect any of these components of power.

No one should ever doubt our ability to do whatever is necessary to defend our country and our vital interests throughout the world. If we have to, we can successfully use our powerful and flexible military forces. But we also have other means of influencing the course of events—our economic power, our advanced technology, the proud example of our democracy and skillful diplomacy.

Preserving our national security requires a comprehensive, well-conceived national strategy which controls ruinous inflation and eliminates wasteful unemployment, which improves the health and well-being of our people, and which supports a strong and capable defense posture. Since all of these important efforts require money—taxpayers' dollars—we in Congress have to be sure that Government spending goes where it will do the most good.

As a member of the Appropriations Committee, I am constantly besieged by the special pleaders for funds for pet programs. There are always "good" reasons to fund these programs. But, if we are to hold down Federal spending and impose better management, we simply cannot fund everything we might like.

The hardest choices come at the margin, just as a family is often torn between putting money into new clothes or more insurance, or between buying a new car or a larger house. Beyond a certain point, it is very difficult to know whether an extra billion dollars should go for a few more tanks and planes, or for schools and hospitals, or for reclamation and power projects. In fact, there are never any "extra" dollars, so the real question is what are the best balance of programs to help our Nation as a whole.

Since the defense budget accounts for one-fourth of the Federal budget, it deserves close congressional scrutiny. Although the many examples of cost overruns and duplicative programs and excess personnel are not unique to the Pentagon, wasteful military spending can quickly climb into the billions before it is discovered and corrected.

My rule of thumb, for both domestic and defense programs, is to support what is necessary, but to urge restraint and efficiency, and to demand that programs deliver what they promise.

Consequently, for example, I opposed building the B–1 bomber because these enormously costly planes (over $100 million each) are not needed now, and are not as good as small and fast cruise missiles for standing up to potential Soviet air defenses a decade from now.

The nearly $30 billion pricetag for the B–1 would have been an enormous drain on our budget, squeezing out funds from other more important domestic and military programs. For the cost of a single B–1, for example, we could have a hundred cruise missiles, 125 modern tanks, or half a dozen fighter planes for the Navy or Air Force. Or, if we chose to put some of that money into domestic areas, each B–1 would finance 1,000 rural health clinics for an entire year or daily family-style hot meals for 160,000 senior citizens for a similar period.

I have on occasion cast a protest vote against soaring military budgets, as a way of sending a signal that I believe we can do a better job of eliminating waste and inefficiency. Since 55 cents of every defense dollar goes for personnel costs—rather than for new weapons, regular operations, or research—I am not sure that we are really getting our money's worth in the $120 billion budget.

We hear a lot about Soviet military programs, which necessarily deserve our special attention and concern. But the total picture, balancing each side's advantages and disadvantages, is not nearly so gloomy for the United States as you might have thought. One startling fact, according to the CIA, is that Soviet and U.S. defense spending over the past decade have been almost exactly equal; but while the Russian budget grew at a steady 3 percent last year, the United States spent $150 billion and used up vast quantities of weapons in the Vietnam war.

Most analysts say that the Russians are currently spending more each year on military activities than the United States. One explanation is that they have about twice as many men in uniform as we do—with many deployed along the hostile Chinese border and as occupation forces in some of the Eastern European satellite countries. Higher spending is by no means a sure indicator of strength or efficiency. For example, the Russians spend several times more than we do on agriculture but still can't produce enough food for their own people. Yet 80 percent of Montana's grain is exported in foreign countries.

Nevertheless, we have to guard against any fundamental change in the strategic balance which might threaten the United States. Thus far, we are doing what is necessary, both in current capabilities and in research to counter potential future threats. Our military commanders have assured the Congress that we are still sufficiently strong today to deter war, and that we offset Soviet advantages in numbers of soldiers and certain types of weapons with our own advantages in better quality and more deadly accuracy.

Patriotic Americans have no reason to belittle or apologize for our military forces. We have a modern, potent, flexible, reliable mix of weapons that could obliterate any enemy who foolishly dared to attack us first.

As a Montanan, I am proud of Malmstrom Air Force Base which houses our first line of defense—our Minuteman intercontinental ballistic missiles. Though these ICBM's are not as large as some Soviet missiles, they are much more accurate and therefore more effective. I have visited Malmstrom and am convinced that the awesome power of these missiles is a vital contribution to preserving peace.

The United States made a wise decision two decades ago to build a triple threat defense of ICBM's, submarine-launched missiles and manned bombers. The Soviet Union, to this day, still relies primarily on ICBM's. She has few long-range bombers and only a handful of missile-carrying submarines regularly at sea. Our so-called triad of forces protects us against a disarming enemy attack because our submarines would be hidden in the open ocean and an attack against our ICBM's would be detected in time to scramble our bombers. Even if the Soviet Union improves its missiles to the extent we fear possible over the next decade and then springs a surprise attack on us, we should still have between 4,500 and 8,000 nuclear warheads for devastating retaliation. Against those odds, no sane Soviet leader would decide for war.

Today we lead the U.S.S.R. in numbers of deliverable nuclear warheads, 9,000 to 4,500. Our advanced technology and greater accuracy means that we have 60 percent more capability to destroy specially hardened targets like missile silos. As I learned while visiting Malmstrom, we also have a much better and more flexible command and control system.

We can preserve our strength in the future. But instead of a costly yet winnable race—for either the Soviet Union or the United States—to gain real strategic superiority, I believe we have to work toward mutual agreements to limit and ultimately reduce our atomic arsenals. A solid and verifiable SALT agreement can enhance our security and reduce the danger of war.

As a nation with global interests, we must also maintain conventional military forces and several key alliances. The most important, of course, is NATO, where we have joined with our European partners in order to build a common defense against the huge Soviet Army. I support NATO and especially President Carter's initiatives to improve the alliance's nonnuclear fighting power and to have the member countries pay more for their own defense. We have close ties and commitments to other nations as well, but the greatest challenge is in Europe and the need to preserve the military balance there is the key determinant of our overall defense posture.

Once again, despite steady improvements in Soviet forces in Europe, the United States with its allies maintain a strong deterrent capability.

Our Navy's greatest threat is not the Soviet fleet, but its own internal problems and inefficiencies. U.S. ships are larger and more capable than their Soviet counterparts, and the Soviet navy is predicted to shrink slightly over the next decade while the U.S. Navy will grow substantially. But high costs, reluctant shipyards, late deliveries and other management problems have slowed our buildup. Over 100 new ships have already been funded by the Congress but have not yet been completed. This proves that merely pouring money into military programs does not guarantee improved capability.

America is a strong nation with many different means besides naked military power to persuade and influence others. Our economy provides the heartbeat to much of the world's commerce; our products are usually on the leading edge of technology; our democratic system is the beacon light for repressed people. These strengths mean that we do not have to try to be policemen to the world.

Accordingly, our Army, Navy, Air Force, and Marine Corps do not have to be so large as to garrison the globe. But they do need the size and capability, and the modern, reliable weapons to fight and win when our national leadership decides that military force is necessary. To do their job, our people in uniform deserve good training, dependable equipment, talented leadership, and fully adequate pay and compensation. With the high morale and dedication only a free people can have, Americans are much tougher and better than our likely adversaries.

These facts persuade me that we are on a sound and steady course in our defense policy. We do not need any crash programs of vastly increased spending. We must work closely with our allies so that they can carry their part of the defense burden. And we should never throw money recklessly into unjustified programs simply to prove we can spend it.

An adequate defense costs money, a lot of money. Precisely for that reason, the Congress wants to be sure that every hard-earned tax dollar is wisely spent, not for luxuries but for the genuine necessities of power. I am willing to support those huge sums for defense, but I insist that we get real muscle for our money and that we eliminate those programs which don't really add to our strength because they are too costly, unreliable or unnecessary.

In the long run, however, our true national security rests on much more than just defense. We must never forget that, while weapons may deter war, it takes positive cooperation and mutual understanding to create lasting peace. Our greatest challenge is to couple a strong defense with a wise and just foreign policy.●

TUITION TAX CREDITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 15 minutes.

Mr. AuCOIN. Mr. Speaker, Congress has split into two camps over the issue of providing financial assistance to middle-income families in their fight against rapidly escalating higher education expenses. The debate has not revolved around whether middle-income families should receive assistance—I believe we are all in agreement on that point—but rather, on what form that assistance should take.

One group, supported by the administration, favors extending the eligibility for existing grant and loan programs to middle-income families.

However, many Members, myself included, believe that a tax credit is the best means of providing middle-income families with the financial assistance necessary for them to meet ever-rising education costs. We feel that Government-sponsored assistance programs are right and proper for those persons who demonstrate a lack of financial resources, but that a tax credit should be provided to those families who, except for the present tax structure, would have the necessary financial resources to pay for their children's education expenses.

Various bills providing a tuition tax credit have been introduced, and have gathered the support of a large number of Members, both in the House and Senate. The bills also have come in for some criticism.

Some would provide a tax credit for elementary and secondary, as well as postsecondary education expenses, which would lead to the further fragmentation and stratification of elementary and secondary education, and, indirectly, of our society. Others are so wide ranging in their approach that they may provide financial assistance to families that really don't need assistance.

Today I am introducing legislation that is intended as a compromise approach to providing a tax credit for education expenses. My bill provides a nonrefundable tax credit for one-half of education expenses up to a maximum of $750. The tax credit is provided for postsecondary education expenses only, for elementary and secondary education, and for postsecondary education are necessarily separate, and must be dealt with separately.

The compromise feature of my bill is its attempt to complement existing grant and loan programs with a tax credit, instead of forcing the two to compete against each other as is the case under present tuition tax credit proposals.

The tax credit is targeted at a clearly defined income range—between $9,000 and $40,000 of adjusted gross income—and encourages the use of grants for those families whose tax liability is not sufficient to make them eligible for a credit. Essentially, my legislation attempts to address four different income situations.

Below the $9,000 income level, the average student is eligible for the full amount of a basic grant to be used to offset the cost of a postsecondary education. These students, therefore, will have their education costs paid through traditional government-sponsored grants, and have no need for a tax credit.

Between $9,000 and $15,000, the amount of basic grant a student receives diminishes as his family's income increases. Correspondingly in my bill, the amount of tax credit he is eligible for begins to rise, according to a formula that says the amount of educational expenses that may be taken into account for the purpose of receiving a tax credit shall be reduced by one-half of the amount of basic grant received. This section was added to insure that no one would receive financial assistance greater than the amount of the full basic grant, but that students receiving lesser grant amounts would be able to supplement them with limited tax credits.

Between $15,000 and $30,000, a student will be eligible for the full amount of the credit; $15,000 is the income level at which the average student is no longer eligible for any amount of basic grant, and $30,000 is the income level at which assets begin to be sufficient to cover education costs.

Between $30,000 and $40,000, the credit is reduced by 1 percent for every $100 the family earns over $30,000. This is an attempt to insure that a stark line is not drawn between those families eligible for the credit and those not eligible; for example, a full credit for a family earning $30,000, and no credit for a family earning $30,001.

My figures may not be perfect. However, I believe the bill is on target and can serve as the basis of a sound compromise on the crucial issue of financing the higher education aspirations of American youth. I urge my colleagues' support of this measure.

Mr. Speaker, I ask unanimous consent that the bill be printed in the RECORD at this time.

H.R. 11910

A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid for educational expenses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by adding at the end thereof the following new section:

"SEC. 44C. EDUCATIONAL EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of educational expenses paid by the taxpayer during the taxable year to one or more eligible educational institutions for the education of the taxpayer, the spouse of the taxpayer, or any dependent with respect to whom the taxpayer is entitled to an exemption for the taxable year under section 151(e).

"(b) LIMITATIONS WITH RESPECT TO EDUCATIONAL EXPENSES TAKEN INTO ACCOUNT FOR EACH STUDENT.—

"(1) AMOUNT PER INDIVIDUAL.—The amount of educational expenses which may be taken into account under subsection (a) for the taxable year with respect to the education of any one individual shall not exceed the lesser of—

"(A) an amount equal to 50 percent of the educational expenses which are paid during such year with respect to such individual, or

"(B) $750.

"(2) REDUCTION OF EDUCATIONAL EXPENSES TAKEN INTO ACCOUNT FOR RECIPIENTS OF BASIC EDUCATIONAL OPPORTUNITY GRANTS.—The amount of educational expenses which may be taken into account under subparagraph (A) or (B) of paragraph (1) (whichever is applicable) with respect to the education of any individual for the taxable year shall be reduced by an amount equal to ½ of the amount of any basic educational opportunity grant under section 411 of the Higher Education Act of 1965 received by such individual for such year.

"(c) LIMITATIONS WITH RESPECT TO TAXPAYER CLAIMING CREDIT.—

"(1) PROBATION OF CREDIT.—In the case of an individual whose educational expenses are paid by more than one taxpayer during a taxable year, the amount of credit allowable to any such taxpayer under subsection (a) for such year shall be an amount which bears the same ratio to—

"(A) the aggregate amount of credit allowable under subsection (a) (after the application of subsection (b)) with respect to educational expenses of such individual paid during such taxable year, as

"(B) the amount of the educational expenses of such individual paid by the taxpayer during such taxable year bears to the aggregate amount of educational expenses of such individual paid by all individuals (to whom credit under this section is allowable for such expenses of such individual) during such taxable year.

"(2) ADJUSTED GROSS INCOME LIMITATIONS.—

"(A) LIMITATION ON MINIMUM AMOUNT.—If the adjusted gross income of the taxpayer for the taxable year is less than $9,000, no amount shall be allowed as a credit under subsection (a) to such taxpayer for such year.

"(B) LIMITATION ON MAXIMUM AMOUNT.—If the adjusted gross income of the taxpayer for the taxable year exceeds—

"(i) $20,000 in the case of a single individual,

"(ii) $30,000 in the case of a joint return made under section 6013, or

"(iii) $15,000 in the case of a married individual (determined under section 143) filing a separate return,

the amount of credit which would (but for this paragraph) be allowable under this section to the taxpayer for such year (hereinafter in this paragraph referred to as the 'base amount') shall be reduced by an amount equal to 1 percent of the base amount for each $100 of the excess of the adjusted gross income of the taxpayer over $20,000, $30,000, or $15,000, as the case may be.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible education institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar ex-

penses shall be determined under regulations prescribed by the Secretary.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a vocational school.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means any institution described in section 1202(a) or 491(b) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school, as defined in section 195(2) of the Vocational Education Act of 1963.

"(e) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amounts which (but for this paragraph) would be taken into account under subsection (a) as educational expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amount received by such individual during such period as—

"(A) a scholarship or fellowship grant which under section 117 is not includible in gross income, and

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38 of the United States Code.

"(2) GRADUATE, NONCREDIT AND RECREATIONAL, ETC., COURSES.—Amounts paid for educational expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses are attributable to any course of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school and are not attributable to any graduate program of such individual.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section or other provision of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(4) FULL-TIME STUDENT.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses with respect to any individual (which, but for this paragraph, would be taken into account under subsection (a)) unless such individual, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an eligible educational institution.

"(5) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for the spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with the spouse under section 6013 for the taxable year.

"(f) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any amount of educational expenses if credit for such amount is allowed under subsection (a). The preceding sentence shall not apply to any taxpayer who, under regulations prescribed by the Secretary, elects not to apply this section for the taxable year."

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44B the following:

"Sec. 44C. Educational expenses.".

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(10) section 44C (relating to educational expenses)."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof ", 44B, and 44C".

(c) The amendments made by this section shall apply to educational expenses paid after December 31, 1977, in taxable years ending after such date.

DEATH IN TRANSIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, every day, every community in this country is threatened by deadly materials in transit. The movement of explosive, toxic, and noxious materials represents a clear and present danger, and all too little is being done to protect the public from the consequences. No one I have been able to contact in Government has been able even to estimate the size of this traffic in deadly cargo. Up until 1975, there was not even any effort to coordinate Federal regulations covering the transportation of hazardous materials. Even now, almost nothing has been done to assure that these materials are moved safely, or that emergency personnel always know what the cargo is, or how to deal with an accidental release of a toxic load.

As matters now stand, once an accident has taken place, emergency personnel who are lucky enough to be able to identify a hazardous load—which means finding shipping documents or being able to see a warning placard, if there is one left, or if you can get close enough to see it—even then, unless they know what to do, there is no Federal agency that can give information on how to handle the situation. In such cases emergency personnel have only the dubious recourse of being able to telephone an emergency center here in Washington that is operated by the Manufacturing Chemists Association.

It is a sad commentary that the Acting Chairman of the National Transportation Safety Board finds it heartening to learn that one railroad—one, mind you—requires its train conductors to carry aboard information on the nature of toxic and explosive materials and how to deal with them in the case of accident. What about all the other railroads? Is there no requirement that their crews know something about what to do in case their deadly loads leak or burn or get released in an accident? No, there is not. What is worse, there is no sign that Federal authorities think it is necessary for this kind of vital information to be ready at hand. Yet it is clear that almost nobody knows about that single national emergency center, operated by the Manufacturing Chemists Association. It would seem logical that the carriers would feel some sense of responsibility, if not to their own personnel, then at least to the communities they move through.

Last year there were 7,800 train derailments. Already this year derailments have caused the release of hazardous anhydrous ammonia at Pensacola, Fla.; the explosion of a carload of 33,000 pounds of liquefied petroleum gas—LPG—at Waverly, Tenn., resulting in the death of a dozen people and numerous injuries; there were eight deaths from a chlorine cloud released by a derailed car at Youngstown, Fla., and it was only by God's grace that a derailment in Arkansas last week did not result in disaster. Nor is that all. It is not unusual, not even uncommon, for whole towns to be evacuated after an accident involving a truck or train accident where deadly cargo is released.

And yet in the face of this there is no comprehensive Federal effort to even assure that all firefighters know something about the materials they may have to confront. As far as I am able to determine, the Federal Government does not even know what firefighting methods and materials are best suited for dealing with explosions of compressed gas, or fires that threaten such explosions. The Department of Commerce is supposed to be working up information on this; meanwhile, we have a situation in which an accident can leave a fire department with no knowledge of what a cargo may be, let alone how to deal with it. And it is clear that all too few emergency crews even have the equipment they would need to deal with a hazardous cargo.

What do you do when a cloud of chlorine is created by an accident? Usually, you pray for wind to disperse it. You follow the cloud around, and tell people to get out of the way. That is, unless you know how to neutralize it, and have the means to do so.

But we are doing nothing to assure that emergency personnel even know what cargoes they are facing, let alone how to combat emergencies involving toxic and explosive agents.

We are doing nothing to see that emergency personnel are equipped to deal with the hazards they must confront.

Indeed, the Transportation Safety Board thinks it grand that one single railroad makes any effort at all just to have information aboard, regarding ways to deal with hazardous materials on board.

What Federal effort there is in this field is passive—a passive effort to provide a little information here and there; a passive effort to develop a safety program; a passive effort to persuade carriers that they have a little responsibility.

And yet death rides the rails and the roads every day, and catastrophic accidents are a continuous possibility.

If we suppose that the chlorine cloud in Florida had instead been in the southwest of Washington, where the Department of Transportation sits—that might have galvanized some effective Federal action. As it is, though, the accident was elsewhere, and Federal inaction is the order of the day.

This Government has a clear responsibility. The Department of Transportation ought to initiate action on an urgent basis—action to see that regulation of toxic and hazardous shipments is uniform and adequate; action to see that shippers understand their responsibility; action to see that the modes and methods of transportation are indeed safe; action to see that everyone involved with movement of these materials understands what they are, what they can do, and what to do in case of an accident.

The Department, of course, is preoccupied with problems of the transportation industry. It acts more like a trade association than an agency of Government.

The Secretary could change this, if he would, and I have written a letter urging that he act at once to confront the problems of hazardous cargo—before, and not after, another disaster.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 30, 1978.

Hon. BROCK ADAMS,
Secretary of Transportation, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: There is abundant evidence that the Federal government is failing to meet its responsibility for the safe handling of toxic materials in transit.

Hazardous and even deadly materials are routinely transported by rail, even though there is a common problem with car derailments. In a typical year, there will be 7,700 rail car derailments. This year already two such incidents have caused deaths among people who happened to be in the vicinity of a deadly cargo spilled by derailed cars. Luckily, in more fortunate cases (as with the Arkansas derailment on Tuesday of this week) people have been evacuated in time to avoid death or injury from deadly materials spilled from derailed cars. These miracles are only too rare.

The record with trucks is no better. Wrecked or overturned trucks have frequently caused deaths or injuries from exposure to toxic materials; whole towns have even been evacuated as a result of truck accidents involving toxic loads. And that is not all: there are records of cases in which trucks mistakenly picked up materials as deadly as polychlorinated byphenyls (PCB's); there have been incidents in which faulty containers on trucks leaked their deadly contents, causing injury and death. Drivers and the public, alike, are not infrequently the victims of these hazardous loads.

The extent of damage and death caused by hazardous cargoes can only be estimated. No real effort has been made to even organize the Federal administration of safety programs, save for the establishment of the Materials Transportation Bureau, an administrative act by one of your predecessors.

Toxic and explosive substances are regularly moved through densely populated areas, and it seems a miracle that major disasters have been prevented. But the advent of LNG tankers is a reminder that dangerous materials are ever-present, and that the Texas City disaster could easily happen again.

Hazardous cargoes are regularly moved through San Antonio, as in other cities. The citizens of all cities are threatened by accidents involving these loads, no matter by what mode they may move: pipeline, truck, ship, barge, plane or rail. Incidents involving such cargoes seem commonplace.

In view of the threat, I believe that your Department has a clear responsibility to provide genuine leadership to effectively coordinate such safety programs as now exist to recommend steps to more effectively regulate the shipment and handling of toxic materials, and to strengthen your existing enforcement efforts.

I would much prefer seeing your Department discharge this prime responsibility, rather than expending its efforts on behalf of rail and other shipping interests that are quite capable of seeing to their own financial health. I certainly understand that you may have political ambitions of your own. Notwithstanding this, however, I believe that if DOT worked more as a public advocate than private lobby organization all of us might rest easier.

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

EFT-CREDIT CARD FIELD HEARINGS A SUCCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, rarely in my experience has a bill been subject to as much diverse scrutiny as H.R. 8753, the Consumer Credit Protection Act amendments. Nearly 100 witnesses have now testified before the Consumer Affairs Subcommittee, which I chair, and the result is a valuable range of opinion which will be instrumental in passing the best consumer protection legislation that we can.

During the recent congressional recess, for example, the subcommittee heard from a total of 28 witnesses in Columbus, Ohio, and St. Paul, Minn. Along with my distinguished colleagues CHALMERS WYLIE, of Ohio, and BRUCE VENTO, of Minnesota, I visited these two fine communities and had the opportunity to learn first hand of the problems consumers are having with electronic banking (EFT) and credit cards. Judging from the well-prepared and informative testimony and from the large turnouts of concerned citizens, I can safely state that these hearings were successful and enlightening.

But after hearing this testimony I am only more convinced that American consumers deserve and want the kind of safeguards in EFT and credit cards that H.R. 8753 offers. From consumers, senior citizens, labor, and many other groups and individuals affected by consumer legislation, I have learned that there is no such thing as too much protection when it comes to a consumer's finances. And right now there just is not enough protection to prevent some of the incidents I have heard about—consumers losing thousands of dollars in an EFT transaction or plagued by unsolicited credit cards or unable to decipher credit card finance charges and billing statements.

I should also point out that we heard a great deal of testimony from representatives of financial institutions and retailers in these cities. And I am extremely pleased that the Independent Bankers Association of America and the Independent Bankers Association of Minnesota endorsed the principles of H.R. 8753. It is heartening to see this concern for the consumer coming from such an enlightened bankers group.

But I must wonder why other banks which have opposed this legislation can not adopt the attitude of Mr. Harold W. Greenwood, president of Midwest Federal Savings and Loan in Minneapolis when he testified that—

We, in the financial business, have a responsibility to develop our services with our customers in mind. In truth, if we don't they won't be our customers for very long.

As I have contended before, the benefits of consumer protection will be reaped by both consumers and financial institutions. H.R. 8753 does not put an end to EFT development, but rather it is just the beginning. It will give consumers, retailers, and banks guidelines which will clearly set forth their individual responsibilities. Otherwise, we will continue to hear about the elderly lady whose EFT card was stolen and used to the tune of $350 before the bank notified her that her account was overdrawn—as we heard about in Columbus. And otherwise we will continue to hear about the school teacher who received an unsolicited credit card in the mail even after his wife told the company that they did not want that card—as we heard about in St. Paul.

Mr. Speaker, after 2 years of investigation into electronic banking and credit cards, I believe more firmly than ever that H.R. 8753 is a vitally important bill. The problems we have uncovered in the mammoth credit card industry and the potential for disaster in the emerging EFT technology warrant strong and reasonable consumer protection.●

CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, on March 22 I announced that I was drafting legislation which would provide straightforward price competition in the market for the checking account dollars of American consumers. This would be accomplished by eliminating the prohibition against the payment of interest by all depository institutions on checking accounts and by allowing federally chartered savings and loans and credit unions to have the additional authority of offering checking accounts. Today I am introducing that bill and I want to take this opportunity to explain the provisions of this legislation.

Section 1 repeals section 19(i) of the Federal Reserve Act. That provision was enacted in 1933 to prohibit the payment of interest on checking-demand-accounts by commercial banks. Its repeal will allow commercial banks to pay interest on those accounts.

Section 2 repeals section 2 of Public Law 93–100 which restated the prohibition contained in section 19(i) of the Federal Reserve Act but exempted depository institutions in New England which offered NOW accounts. Repeal of that provision of the statutes is needed to clear the way for interest-paying checking accounts by all depository institutions.

Section 3 repeals the first sentence of section 18(g) of the Federal Deposit Insurance Act. This is the companion to section 19(i) of the Federal Reserve Act and extended the prohibition on paying interest on checking accounts to State nonmember banks. Its repeal will allow nonmember banks to offer interest-paying checking accounts if their State laws permit such activities.

Section 4 amends the Home Owners Loan Act and the Federal Home Loan Bank Act to give federally chartered savings and loans the authority to offer checking accounts and to require sterile reserves for such deposits.

Section 5 amends the Federal Credit Union Act to give federally chartered credit unions the additional responsibility of offering checking accounts and to require sterile reserves for such accounts.

The reserve requirement provisions in sections 4 and 5 will provide equity between depository institutions which offer checking accounts since all institutions (commercial banks, Federal savings and loans, and Federal credit unions) would be required to maintain reserves against such deposits. The amount of reserves required would be set by the Federal Reserve Board for member banks, the Federal Home Loan Bank Board for Federal savings and loans, and the National Credit Union Administration. The Home Loan Bank Board and the Administrator would be required to consult with the Board of Governors of the Federal Reserve prior to setting their reserve requirements. This will assure that the Federal Reserve has the information it needs to develop monetary policy.

The interst rate which could be paid on checking accounts would be determined by the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administrator for their respective institutions. Thus, the rates could be the same for all or they could be different for each type of institution, depending on the decision of each regulatory agency.

This bill would not preclude depository institutions from opening other forms of accounts such as NOW accounts or share drafts but rather bestows on all depository institutions authority to offer interest paying checking accounts. The marketplace will ultimately determine what accounts are most favored by consumers.●

ART BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I have introduced together with my distinguished colleagues, Representatives FRANK THOMPSON, Jr., of New Jersey and JAMES M. JEFFORDS of Vermont, a bill (H.R. 11840) to establish an Art Bank which can encourage art and artists in the United States through the purchase of works of art for display in Federal offices and public buildings.

I should here note, Mr. Speaker, that the Government of Canada established in 1972 an Art Bank for the purchase of works of artists in Canada. Since that time, over 7,000 works by 900 different artists have been acquired by the Canadian Art Bank at a cost of $1 million a year for display in Government offices.

Mr. Speaker, the Art Bank in Canada has been most successful and has created interest in this country as an imaginative way for the Government to support the visual arts. The establishment of an Art Bank in the National Foundation on the Arts and the Humanities could be a significant new approach through which the Federal Government can appropriately encourage artists in our country.

The bill I have introduced would provide for an Art Bank within the National Foundation on the Arts and the Humanities, headed by a Director who would select juries of artists and art experts to purchase the works of art.

For many artists, the Art Bank would represent an oppcrtunity for recognition. It would give artists the chance to earn money from their own work, and, for many, it could be the first taste of professional status.

Works of art purchased for the Art Bank would be selected for their high quality but the Art Bank would be mindful to encourage little-known but talented artists in all the States. The juries of artists and art experts would be drawn from around the country and would, in selecting works for the Art Bank, visit artists' studios and art galleries throughout the United States.

The works of art comprising the Art Bank would be made available for display in public and private agencies and organizations. Federal offices could borrow works from the Art Bank without charge.

State and local governments, nonprofit institutions, and private organizations could rent works from the Art Bank for public display.

The legislation would allow artists to repurchase their work from the Art Bank for a price not less than the acquisition of the work nor more than the original purchase plus half of any increase in the value of the work.

Public auctions could also be held for renewal of the Art Bank collection. Through such sales, as well as rental fees, the Art Bank would be able to recover a large part of its investment.

Not more than $25,000 could be expended for the work of any one artist per year.

This bill to establish an Art Bank provides for a 3-year authorization or $2 million in fiscal year 1979, $3 million in fiscal year 1980, and $4 million in fiscal fiscal 1981. Not more than $250,000 each year could be used for administering the program.

Mr. Speaker, the Art Bank would provide an important opportunity to support the artists of this country and to expand the artistic richness of our culture to more people.

Mr. Speaker, at this point, I insert the text of the bill (H.R. 11840) introduced yesterday.

H.R. 11840

A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to authorize the purchase and display of works of art, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The National Art Bank Act."

SEC. 2. It is the purpose of this Act to assist and encourage artistic creation through the purchase and display of works of art, to beautify public places by increasing the availability of works of art for exhibition, and to foster appreciation and understanding of art by making it more accessible to the public.

SEC. 2. (a) The National Foundation on the Arts and the Humanities Act of 1965 is amended by redesignating section 14, and all references thereto, as section 15 and by inserting after section 13, the following new section:

"ART BANK"

SEC. 14. (a) There is established, within the National Foundation on the Arts and the Humanities, an Art Bank, which shall be headed by a Director.

"(b)(1) The Director of the Art Bank shall be appointed by the President, by and with the advice of the Senate, and shall serve at the pleasure of the President.

"(2) The Director shall consult with the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, and with the Federal Council on the Arts and Humanities with respect to the activities of the Art Bank.

"(c) The Director of the Art Bank shall—

"(1) appoint periodically on a rotating basis ad hoc juries of practicing artists and art experts widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts for the purpose of assisting in the selection of visual works of art;

"(2) select visual works of art for the Art Bank with the assistance of juries and enter into agreements to purchase at fair market value or lease such works directly from artists or from art dealers, which purchase agreements shall include the right of artists to repurchase their works after a reasonable time at a price not less than the cost of acquisition plus 50 percent of any increase in the fair market value of such works;

"(3) provide for the safe and secure storage, transportation, and insurance of such works;

"(4) make such works available on loan to Federal facilities;

"(5) make such works available on loan to museums, and by lease to State and local governments, non-profit institutions, and private corporations, which shall provide for the public display and adequate security of such works;

"(6) sponsor exhibitions of works from the Art Bank;

"(7) select periodically works from the Art Bank for sale;

"(8) encourage and provide technical assistance to State and local governments and non-profit institutions for the establishment of art banks, and

"(9) promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

"(d) Members of juries appointed pursuant to subsection (c)(1) of this section who are not regular full time employees of the United States shall receive, while serving on such juries, compensation at a rate equal to an amount fixed by the Chairman of the National Endowment for the Arts but not to exceed $125 a day including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government services are allowed expenses under section 5103(b) of title 5, United States Code.

"(e)(1) In selecting works of art for purchase under subsection (c)(2) of this section, the Director shall consider—

"(A) the quality of such works;

"(B) the need to encourage artists who are not well known to the public; and

"(C) the need to encourage artists from all sections of the United States.

"(2) Not more than $25,000 may be expended for the work of any one artist in any one fiscal year.

"(f) Notwithstanding any other provision of law, amounts received by the National Endowment for the Arts from the sale or lease of works from the Art Bank under subsection (c) of this section may be used through the establishment of a revolving fund approved by the Secretary of the Treasury in the fiscal year of which such amounts are received and for succeeding fiscal years to carry out the provisions of this section.

"(g) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, and $4,000,000 for fiscal year 1981. Not more than $250,000 of the amounts appropriated in any fiscal year may be used for administrative costs."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"(141) Director, Art Bank, National Foundation on the Arts and the Humanities.●

THE NEW MICROWAVE LANDING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MILFORD) is recognized for 5 minutes.

● Mr. MILFORD. Mr. Speaker, few Members are aware of the internecine battle and vicious propaganda campaign being waged against U.S. institutions involved in the international microwave landing system (MLS) standard selection. The time is at hand for us to bring some truth and perspective to what has become a political football.

The easiest thing in the world for one to do is criticize. Adverse criticism takes little knowledge and even less intelligence. The most difficult of all tasks is to argue sensibly with an absurdity. Knowledgeable people know that this is the basis for the many allegations that have been lodged against the U.S. MLS program development process.

As chairman of the Transportation, Aviation and Weather Subcommittee I have remained—and I have instructed my staff to remain—aloof from the political aspects of this technical process so as to avoid interference with the International Civil Aviation Organization (ICAO) international selection process.

We can now no longer do that. In doing so in the past, we have left the field wide open for certain U.S. special interests, a lobbyist for an English electronics company, and the British Government to attack the core of U.S. integrity.

In a coordinated effort, the lobbyists and special interest groups have directly or indirectly tried to discredit the FAA, Lincoln Laboratory, NASA, Cornell Aeronautics Laboratory (CALSPAN), the Central Assessment Group (a body of international experts), the All Weather Operations Panel (AWOP) committee of the International Civil Aviation Organization (ICAO), American manufacturers, and my subcommittee.

The British are determined to force a rejected system upon ICAO. Some American manufacturers want to continue to sell off-brand instrument landing systems to both the military and the civil sectors. Each of these special interest groups will win as long as they can simply delay the ICAO decision. Others in and out of Congress are pursuing a vendetta against the FAA, with little concern or understanding of the consequences that may occur by delaying the development of this instrument landing system.

The United States has spent 10 years and about $100 million in a program development process to determine the best technical basis for a new landing system. The United States has an urgent need to develop this new system for domestic use in solving our airport noise problem and our crowded airport problem. My subcommittee has thoroughly monitored the whole process.

Independent laboratories such as Calspan (Cornell Aeronautics Laboratory) have tested and verified the findings of FAA, the industry, Lincoln Laboratory, and the Royal Aeronautics Establishment with regards to the much heralded multipath problem comparison between the United States and British system. Because the British do not like the results, they contend that these people are "devious and incompetent."

Contrary to a continuous accusation, my subcommittee has never found a withholding of technical information or lack of a candid technical representation by FAA, Lincoln Lab or other U.S. participants. However, on occasion the FAA has been less than totally candid with political policies which has fueled the controversy.

At the request of my subcommittee, reputable independent investigators have been conducting an ongoing review of the highly advertised multipath issue. To date they have found nothing significantly inconsistent with the published technical findings of the FAA, Lincoln Laboratory, Calspan, Royal Aeronautics Establishment and the Subcommittee on Transportation, Aviation and Weather.

The challenge of the integrity and competence of our industry, the U.S. Government agencies, independent laboratories, reputable professionals, and my subcommittee has degraded into an alley fight.

I reluctantly have to join this fray and my subcommittee stands ready with deep substantive investigation to refute these unwarranted attacks so that we, as a Nation, can get on with our international counterparts to arrive at a proper conclusion.

The special interests, the personal vendettas, the publicity seekers, must not be allowed to prevail against the established and proven orderly development process governed by laws of physics. I submit that the whole U.S. technical process is, and has been, above board, in the open, and by and large in keeping with the character and objectivity that we hold dear.

ICAO has been accepted as the international body to resolve the technical matters between nations and we earnestly call on them to make a rational decision and to ignore the politics and infighting not germane to the technical determination of an international microwave landing system.●

COALITION FOR HUMAN RIGHTS AND COALITION FOR A NEW FOREIGN AND MILITARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 30 minutes.

(Mr. HARKIN asked and was given permission to revise and extend his remarks, and include extraneous matter.)

Mr. HARKIN. Mr. Speaker, I want to share with the Members of Congress my views on the administration's proposed security assistance program for fiscal year 1979, particularly in regard to the high levels of military aid which have been requested for governments which continue to violate the human rights of their citizens. In support of my views, I would submit 13 brief reports prepared by myself and by members of the Coalition on Human Rights and the Coalition for a New Foreign and Military Policy.

These 13 reports encompass the following countries and the following groups which helped to prepare the reports:

Bangladesh: Clergy and laity concerned;

Bolivia: The Washington Office on Latin America;

Dominican Republic: The Washington Office on Latin America;

Haiti: Office of Haitian Refugee Concerns, National Council of Churches;

Indonesia: Clergy and Laity Concerned;

Iran: U.S. People's Committee on Iran;

Morocco: Eqbal Ahmed and Stuart Schaar, Transnational Institute;

Nicaragua: The Washington Office on Latin America;

Paraguay: The Washington Office on Latin America;

Philippines: Friends of the Filipino People;

South Korea: Americans for Democratic Action and The North American Coalition for Human Rights in Korea;

Thailand: The Union of Democratic Thais; and

Tunisia: Eqbal Ahmed and Stuart Schaar, Transnational Institute.

Mr. Speaker, the information on these 13 countries and the reports accompanying them analyze the human rights reports recently released by the State Department. I believe that Members of Congress should consider making substantial cuts in military aid to these governments, in accordance with the intent of sections 502B and 660 of the Foreign Assistance Act. These reports, I believe, provide the rationale for such actions.

An effective U.S. human rights policy, in my opinion, should restrict severely U.S. military and financial aid to repressive governments. U.S. arms should not be used to repress basic liberties. I believe the record shows that U.S. military and financial contributions to repressive regimes historically have tended to strengthen military sectors and discourage democratic opposition forces.

I am gratified that during the past year President Carter, building on legislation adopted by Congress, has made significant strides in developing a new U.S. stance on human rights. Concern for human rights is now stated to be fundamental to U.S. foreign policy; the administration is recognized in many parts of the world for what is has done. Our embassy officials now meet routinely with the democratic opposition in many countries ruled by military dictatorships. Through quiet diplomacy, these officials have sought to improve the treatment of political prisoners, and in some cases, to seek their release. Elections have been encouraged. And in a few cases, these initiatives have been backed up by aid cuts or withdrawal of support in the international financial institutions.

Actions by both the administration and the Congress have led to developments which enhance the possibilities for greater respect for human rights. In Nicaragua for example, popular forces believe that the United States has eased its decades-long support of the Somoza family and have therefore felt encouraged in moving into more direct opposition to that archaic regime. In Chile, the democratic forces have been bolstered by the administration's refusal to grant legitimacy to the recent "referendum" endorsing the military government.

I believe that these are precisely the kinds of developments that can occur if the proper human rights policy is pursued. Openings in political systems which allow increased popular participation, greater freedom of the press, and more equitable distribution of economic and social benefits, are the best guarantees of the political stability which we all desire in today's turbulent world.

Congress has understood this point for several years, as indicated by passage of key human rights amendments and by such aid cutoffs or reductions as those to Chile, Argentina, and the Philippines.

The State Department has submitted its version of the human rights situation in many countries. The Department's Office of Human Rights and Humanitarian Affairs is to be commended for making vast improvements over reports submitted last year. However, serious shortcomings remain in this year's reports which I have analyzed in some depth in the critiques on 13 countries. According to information available, there is a tendency to underestimate the numbers of political prisoners and the frequency of torture and other cruel punishment. In addition, there is a tendency to equate superficial changes or promises of change with significant change itself, a mistake that can damage U.S. credibility on these matters.

We believe that a reduction or termination of military aid and sales to all 13 of these countries is justified. In particular, we believe that the continuation of military deliveries to and military training for the National Guard of Nicaragua encourages the Somoza government in its refusal to restore true democratic rule and end its continuing violations of basic human rights.

Similarly, the provision of military aid in all forms to the Marcos government in the Philippines lends legitimacy to the fraudulent elections scheduled for April 2 this year. I believe that the egregious situation in Iran calls for an immediate ban on FMS cash sales and commercial sales of weapons to Iran, particularly those now used so frequently in repressing nonviolent protest. Indonesia has been identified as a major human rights violator, and—like Morocco—is involved in using U.S. arms in an illegal war of annexation against a small neighboring territory.

I recognize that section 502B provides an exception which permits security assistance to governments which grossly violate human rights if "extraordinary circumstances" and conditions which involve the "national interest" are established. After a careful review of the Congressional Presentation Document on security assistance, it is my judgment that with respect to proposed Third-World recipients—with the possible exception of the Middle East and South Korea—the administration does not even try to make these arguments. Security assistance to countries like Indonesia, Thailand, Morocco, and Nicaragua are justified on the most flimsy and tenuous grounds.

Mr. Speaker, the Carter administration's emphasis on human rights, together with Congress mandate that U.S. aid be cut off to governments which engage in gross and systematic violations of human rights, has been among the most positive and popular developments in U.S. foreign policy. However, the administration's recently announced security assistance program for fiscal year 1979 shows very few changes in the level of support being given by the United States to repressive governments, and in fact shows some very disturbing increases.

This raises the question whether the U.S. commitment to promote respect for human rights can be sustained in the years ahead without substantial changes in overall U.S. security policy. The first security assistance program written entirely by the Carter administration continues in many cases to justify military aid and arms sales on overriding principles of national security that are so broad and diffuse that U.S. support for human rights can amount to little more than a series of statements of concern.

In too many cases, military aid to a country is justified on its size, its population, its geographic location, its resources, et cetera. The aid is supposed to cement a friendly relationship with the present government, which will be of strategic importance to the United States. But in such cases, no argument is made that either the present government is challenged by an external power or that any changes in government would be inimical to U.S. interests.

The unstated implication seems to be that by giving or selling arms, the United States will have greater influence with the present government. But what real substantial national security objectives will be achieved by granting security assistance are not stated. This is most probably because the State Department has none that will withstand public and congressional scrutiny. But in the meantime, the United States, through such aid relationships, commits itself in fact to supporting suppression of opposition to the recipient government—the very opposite of a real human rights policy.

Though the proposed programs (which include Foreign Military Sales for cash and credit, Military Education and Training grants, and military assistance programs), make some cuts in both grants and sales to selected human rights violators, in no case will these cuts cause immediate major reductions in actual deliveries of arms. Furthermore, several of the worst human rights violators will continue to receive huge amounts of arms from the United States. Among these cases is Iran, which receives no grant aid, credits or training, but is allowed to purchase staggering amounts of arms and material for cash, despite its flagrant violations of human rights.

EAST ASIA

The proposed fiscal year 1979 FMS credit programs and the military training programs remain virtually unchanged for the Philippines, South Korea, Thailand and Indonesia, despite the fact that systematic and widespread violations of human rights continue to be documented:

[In millions of dollars]

	Fiscal year 1978		Fiscal year 1979	
	(1)	(2)	(1)	(2)
South Korea	1.5	275.0	2.0	275.0
Philippines	0.7	18.5	0.7	18.5
Thailand	1.0	29.5	0.9	30.0
Indonesia	3.1	40.0	2.5	40.0

[1] Training.
[2] Credits.

Moreover, projected levels of arms sales for cash concluded on a government-to-government basis show no trend toward serious cuts at all (the particularly large figure for Indonesia in fiscal year 1978 represents a 1-year modernization and standardization program; the overall trend is more accurately reflected in the fiscal year 1977 to fiscal year 1979 increase):

[In millions of dollars]

	Fiscal year 1977	Fiscal year 1978	Fiscal year 1979
South Korea	654.0	700.0	975.0
Philippines	58.0	50.0	50.0
Thailand	103.8	40.0	75.0
Indonesia	5.8	125.0	15.0

The justification of U.S. military aid in each case rests on U.S. commitments which should be reevaluated in the light of the human rights performance of each government and on the basis of a more critical evaluation of U.S. security interests. In the Philippines, for example, President Marcos has ruled under martial law since 1972, and a wide variety of sources has documented extensive and continuing human rights violations. The Pentagon continues to argue for military assistance in order to maintain and renegotiate U.S. base rights in that country. These bases, however, are important only to maintain an ability to intervene directly with troops, ships, and airplanes in East and Southeast Asia. After the war in Indochina, it is not possible to justify maintaining such a capability for intervention, and the bases should be phased out and military aid sharply reduced.

Another justification offered for military assistance to the Philippines is to help it "meet its own defense needs." But in the Arms Control Impact Statement, it says:

> The Philippines is neither perceived as a threat by other countries (in Southeast Asia nor threatened by them.

One is therefore forced to conclude that the defense capability sought is to be directed against the Philippine people who seek a restoration of democracy.

The justification offered by the administration to Congress for military aid to Indonesia is typical of those that should be rejected out of hand by Congress because they say nothing. No one can disagree that Indonesia is large in size and population and that important international waterways pass it by. However, the administration makes no mention of any external threat to Indonesia, nor does it suggest that the withholding of security assistance would provoke any Indonesian response that would jeopardize vital U.S. interests.

In the face of the brutal military occupation of East Timor and continued massive human rights violations by the Indonesian Government, the administration offers no argument that would warrant Indonesia being exempted from human rights legislation calling for the termination of military aid.

LATIN AMERICA

There have been cuts in both credits and training grants for several nations. Most notably, there are no requests for any security assistance to Argentina, Brazil, Guatemala, and El Salvador. All of these countries rejected U.S. aid last year after being criticized for human rights violations; Congress went on to order a halt to all aid to Argentina for fiscal year 1979 as well. However, because of items already purchased but not delivered, and because of unspent credits "in the pipeline," arms are still flowing to those governments from the United States. Last year, after refusing U.S. credits, Argentina was still able to buy $14.4 million in equipment (not including commercial sales); Brazil, $14.3 million, Guatemala, $6.9 million, and El Salvador, $0.3 million.

Other countries targeted this year for military assistance cutbacks still have enough unexpended credits and undelivered grants to last for many more years. As of September 1977, for example, Bolivia still had $31.8 million left of this money, and Haiti had $0.6 million. Though military education and training figures show reductions in training grants to several Latin American nations, the apparent reductions are in most cases due to changed accounting procedures, and the number of students trained often remains the same.

The case of Nicaragua shows both the promise and failure of the Carter human rights policy. Last year, the administration withheld some military and economic aid. This, coupled with pronouncements of concern by State Department officials in Washington and Managua, gave encouragement to democratic forces opposing the Somoza dictatorship. And in this year's military aid requests, it refrained from requesting any military credits.

Despite these very promising moves, Nicaragua will still be able to obtain U.S. weapons with almost $2 million in "pipeline" money from previous years. Recent deliveries to the Nicaraguan internal security forces—the National Guard—include 2,000 M–16 rifles, "Huey" helicopters, and armored cars.

The administration also proposes to continue to train members of the Nicaraguan National Guard, which functions as Nicaraguan's army and national police at the same time. Throughout last year and to this day the National Guard is routinely called in to suppress civilian protests against the Somoza regime, and has been implicated in almost every documented case of human rights violations in that country. Despite this record, the administration says in its presentation to Congress: "Our training program (to Nicaragua) is also intended to promote respect for human rights * * *"

Note should also be made of the administration's justification of military aid to the Dominican Republic. "During the past 10 years the Dominican Republic has enjoyed an exceptional period of economic growth and widening political freedom. The United States has sought to encourage these trends by a policy of constructive and friendly relations, including economic and security assistance." But as the report in this packet on the Dominican Republic clearly demonstrates, the Dominican military continues to operate detention centers with harsh treatment meted out to political prisoners; it intervened in the last Presidential election and already appears to be intervening in the one scheduled for this year.

Congress should act by closing loopholes in the foreign aid legislation to insure that Latin American governments or any others cannot use U.S. aid for the repression of their own people. An important precedent in this regard was set last year when Congress prohibited military training for Argentina on the grounds that the military was acting as a police force in a martial law situation. Better public monitoring of the use of military aid would also contribute to accomplishing this. Furthermore, Congress should act to shut down the pipelines of unexpended credits and undelivered grants to these governments, and to prevent the replacement of government sales with private commercial sales, especially police equipment that is used in direct repression.

NORTH AFRICA

Nearly two-thirds of the FMS credits and one-third of the training grants requested for this region will go to Morocco. This means that credit assistance to Morocco will have grown by 50 percent and training grants (and the number of personnel trained) will have doubled in the period since fiscal year 1977—a period during which Morocco has increasingly pursued an aggressive military effort to annex the western Sahara and has shifted its military purchases toward counter-insurgency equipment for that purpose.

Morocco's action in the western Sahara is, at best, of questionable legality. And in light of the increasingly effective resistance by the guerilla movement there (the State Department* itself sees the Polisario as a more and more effective political force for self-determination in the region) and thus the growing likelihood of a major guerilla war and possible conflict with Algeria, U.S. policy should be to restrain Moroccan military expansion rather than to assist it. Certainly there is no justification for rewriting military agreements with Morocco (as the administration has planned) to allow U.S. arms to be used outside of Morocco's borders, nor for selling Morocco specialized counter-insurgency equipment such as Bronco airplanes and Cobra helicopter gunships.

Another $10 million in FMS credit and $1.2 million for training are requested for Tunisia in fiscal year 1979. The training program there also doubled from fiscal year 1977 to fiscal year 1978, and continues at a high level. As recent events have demonstrated, U.S. arms and training are more likely to be used against internal opposition than to meet a hypothetical external attack.

The fiscal year 1979 security assistance proposals also provide the first military in the form of military training to Chad, Mali, and Upper Volta. The United States should not express its political support for such nations by establishing close ties with the military of these societies, thus strengthening the military's internal political standing. U.S. support for the extremely repressive regimes of

*See Appendix B, Congressional Representatives Document on Security Assistance, fiscal year 1979.

Latin America began in precisely this fashion.

IRAN

The Shah of Iran purchased (under the FMS cash sales program) $5.8 billion in arms in fiscal year 1977, $3.0 billion in fiscal year 1978, and will be eligible for a proposed $2.6 billion in fiscal year 1979. These purchases include some of the most sophisticated material available: fighter planes, guided missles, and destroyers. But they also include small arms and training for the SAVAK (Secret Police) and Iranian army units involved in repressing internal opposition to the Shah's rule. Recent purchases of this type include 356,293 gas masks and 11,554 CS-type tear gas grenades.

The Shah's flagrant disregard for human rights should, under existing U.S. policy, warrant the termination or substantial reduction of such massive arms sales, and particularly of those forms of equipment designed for use in internal repression. In its fiscal year 1979 Congressional Presentation Document on Security Assistance, the administration admits that Iran's "arms requirements * * * exceed those strictly necessary for making its borders unattractive to aggression or for maintaining internal stability." However, the administration goes on to justify arms sales to Iran as essential "to the maintenance of peace in the Persian Gulf, by fostering in Iran a sense of confidence in its security."

Thus, it is clear that the Carter administration intends to continue the effort to build Iran into a minor superpower—a process begun when the Shah was brought to power in a CIA-sponsored coup in 1954. The result of the massive arms sales to Iran, however, has been greater regional instability with neighboring States (Iraq, Saudi Arabia, and Kuwait), hastening to match Iran's purchases both quantitatively and qualitatively with their own build-ups. More than that, the continuing sales of advanced weapons systems which require the presence of huge numbers of American technicians (up to 50,000 by the 1980's, according to the Senate Foreign Relations Committee), more deeply implicate the United States in support of one of the world's most repressive and militaristic regimes.

BANGLADESH

The State Department report correctly states that Bangladesh is ruled by a martial law administration, currently headed by Maj. Gen. Ziaur ("Zia") Rahman, who in April 1977 assumed the office of president by replacing a civilian figurehead. However, press reports and Amnesty International's 1977 Annual Report, and a recently released report of an April 1977 Amnesty International mission to Bangladesh, reveal a far more serious picture of human rights violations than the one painted by the State Department report.

Integrity of the Person.—The report notes that "some physical abuse of ordinary prisoners does take place." It neglects to mention, however, the unprecedented Dacca jail incident of June 22, 1977, in which rampaging guards attacked inmates. According to the Far Eastern Economic Review (August 26, 1977), "over 3,000 prisoners out of a total of 5,000 (through Dacca Central Jail's official capacity is 2,900) were found to have fallen victim to the violence." Nor does the report mention Amnesty's cable to Zia in February 1977, expressing deep concern about the safety and health of opposition leader Sirijul Alam Khan because "according to reliable reports, during his prolonged interrogation he had been deprived of food, drink, and sleep." In its mission report, Amnesty International states:

> By reason of gross overcrowding in all the prisons, the treatment of the prisoners borders on conditions that are inhuman.

The State Department report estimates that Bangladesh now has "up to 2,000" political prisoners, and says that Zia's government has arrested "more than 100 political figures." Further, it states that as many as 6,000 political prisoners jailed by former governments have been released. Although we have no statistical evidence, we suspect this figure is somewhat inflated, and that some of those released were later rearrested. Amnesty, in its 1977 Annual Report, makes a much higher estimate of the year-end total number of prisoners—10,000 to 15,000, the majority of whom "are held on charges punishable under emergency regulations and martial law, mostly, however, without being tried." Recent releases of political prisoners have been nullified by fresh arrests, so that in a foreword to its Mission Report, Amnesty International states that as of January 31, 1978, "There is no ground to revise the estimates of the numbers of political prisoners made in this report."

Press reports at the end of the year indicate that the figure may have risen even higher in the wake of the abortive October mutiny by the rank-and-file of the armed forces. The Manchester Guardian (November 29, 1977) reported "mass arrests" of government opponents, and the London Economist (December 24, 1977) reported that:

> The number of political prisoners has soared; one western source puts it at 65,000.

In discussing mass executions in the wake of the October mutiny, the State Department quotes the Bangladesh Government's officially announced figure of 37 executions, adding vaguely, "We believe there may have been others." It says the 37 were "found guilty" by military tribunals. The Washington Post (February 10, 1978) revealed that on January 19—two weeks before the release of the human rights report—the State Department received a cable from the U.S. Embassy in Dacca stating, "As has been reported in several channels, our best estimate, drawn from sources available to the embassy as a whole, is that 217 military personnel were executed in the aftermath" of the coup attempt and that "we think it is possible that 30–34 of these may have been executed prior to the formalization of the military courts."

The report asserts that civil courts "have jurisdiction in most cases." However, Amnesty states in its annual report:

> Throughout the year, there was mounting concern about the continued application of martial law and the use of martial law tribunals to try both civilians and the military. Martial law courts have very wide jurisdiction—they can try offenses under martial law but also offenses "punishable under any other law."

The State Department admits that martial law courts often meet in secret and that the right to legal counsel is denied.

Respect for Civil and Political Liberties.—The report concedes that in Bangladesh freedom of assembly is "restricted," freedom of speech and the press are "curtailed" and "strikes are banned." The report notes that the regime "has permitted a number of political parties to engage in limited Government-approved activities after Government review of their backgrounds." The JSD (Socialist Nationalist Party), described by the Manchester Guardian (November 29, 1977) as "the country's main opposition party" remains banned, along with other parties of which the Government does not approve.

The report also refers to "an overwhelmingly positive vote" won by Zia in a referendum last May. Zia's claimed 98 percent of the vote would be indeed extraordinary in a democratic election. The Nation (December 17, 1977) reports, "Voters were given the choice of publicly placing a marble in either a black box or a box displaying Zia's face." The London Economist (December 24, 1977) reported "tales of official ballot box stuffing." Zia announced on December 15 that he is forming his own political "front," which may be a prelude to elections. Under the circumstances of martial law and the banning of major opposition, however, elections can provide little more than the facade of democracy.

Economic Rights and the Fulfillment of Vital Needs.—Though the poor of Bangladesh have benefitted from recent good harvests, Zia's economic policies have failed to address their basic needs. A September 1977 USAID-commissioned study on land tenure reveals widening disparities in the countryside, where 48 percent of the families are now "functionally landless" while less than 10 percent of rural families own more than half the cultivable land.

We note with irony the fact that the State Department begin this section of its report by stating that the "most basic responsibility of government" is the "maintenance of public order." The report praises Zia for extending "control throughout the country" and "bringing discipline to the Armed Forces." But Zia's repressive tactics have not brought stability. The Nation (December 17, 1977) reports, "In the words of one source in Washington, D.C.—a source with access to classified cable traffic—'the uprising (of October) has shaken the government like nothing before.' "

BOLIVIA

In early February 1978, WOLA received information that the last of the political prisoners in Bolivia had been released. This step by the government of President Banzer continues the process begun last November when general elections for July 1978 were announced, followed shortly by two amnesties for political prisoners and exiles. These devel-

opments herald greatly enhanced prospects for a return to democratic rule and greater respect for human rights in Bolivia. However, the government that must administer this process of transition is the same one that has so cruelly oppressed the Bolivia people in recent years. Whether the shifts now taking place represent a fundamental shift in policy, as the State Department may want too eagerly to believe, or merely a momentary response to international and internal popular pressure, can only be assessed after the July election.

The amnesty for political prisoners and exiles.—The dynamics surrounding the December/January amnesties provide a good example of the State Department's anxiousness to misread current developments. The report overestimates the extent of the first amnesty, which allowed only a few exiles to return and released a few political prisoners. The Bolivian Permanent Assembly on Human Rights, in fact, declared that the first amnesty was "so limited that it does not deserve the name of amnesty." The initial move sparked a nationwide hunger strike with more than 1,200 participants, which led the government to view the situation as so volatile and out of control that a total amnesty was granted. The report mentions the hunger strike, but fails to explain its motivation.

Participation in the political process.—The move toward elections has been accompanied by a general loosening of restrictions on political parties and trade unions, as noted by the State Department. However, not noted is the widespread concern expressed by the Permanent Assembly and other organizations inside and outside Bolivia that expectations raised by the success of the hunger strike and other concessions by the government will not be fulfilled by the Banzer regime. This skepticism was underscored by Banzer's remark that "the general amnesty will not leave the enemies of Bolivia unpunished." Past practice of the regime also contributes to this concern. Arbitrary arrest, illegal imprisonment, murder, and exile of opponents were characteristic of the Banzer government from 1971–77. And contrary to the assertion of the State Department report, torture and cruel mistreatment of prisoners beyond the initial interrogation period have been reported, including two cases cited by Amnesty International in its 1977 report. Furthermore, the "postarrest, predetention" period has been reported to last as long as 1 year, during which torture is frequently practiced.

Cooperation with Chilean Security Forces.—A particularly alarming omission in the State Department report concerns reports of cooperation between Chilean and Bolivian security forces. Bolivian troops continue to occupy the main mining regions of the country after putting down a series of strikes in the summer of 1976. Reporters have been barred from the area, according to Amnesty International. At the time of the occupation, many miners and union leaders were arrested, among them 50 who were exiled to Chile, where they were given the choice of imprisonment or further exile to the south of Chile under virtual house arrest.

DOMINICAN REPUBLIC

The most serious fault of the State Department's report on the Dominican Republic is its uncritical and undetailed use of generalizations, which result in a glossing over of the reality of the human rights situation in that country today. The report suggests a country with a "constitutional democracy," a recent history of "substantial reduction in incidents of military and police repression", and so on. However, the 1977 Annual Report by Amnesty International, a document to which the State Department refers but once, paints an entirely different picture. Amnesty found that the Dominican Government still seeks to achieve political stability by murder and assassination and that the situation in terms of arbitrary arrest and prison conditions remains serious. According to the Amnesty document:

> Moreover, precise, detailed and consistent information reaching Amnesty International indicates that practices amounting to serious violations of human rights are still going on: the arbitrary arrest, kidnapping and assassination of the regime's political opponents; the removal of certain political prisoners to isolation in provincial jails and military forts; deplorable prison conditions, ill-treatment and police brutality inflicted on many detainees; . . . and the continued detention of prisoners once their sentences expire.

Cruel, Inhuman or Degrading Treatment or Punishment.—Disregarding numerous examples of the cruel and inhuman treatment visited upon peasants, trade union leaders and others, the report correctly refers to the "disturbances" in La Victoria prison in October 1977. But it does so as if the prisoners were responsible for some crime, when in fact their "discontent" involved organized protest such as hunger strikes and smuggling letters out of prison to protest extremely cruel beatings of prisoners, intolerable food, and homosexual attacks by prisoners specifically planted in the La Victoria group to abuse and terrorize. The fact that President Balaguer does "not condone" such practices in a prison controlled by the military implies that his government either cannot control the military or cannot redress it. Since the purpose of this State Department report is to measure the advisability of sending military assistance to the Dominican Republic, which includes the military in charge of this particular prison, then the occurrence of such incidents should be evidence that aid should not be sent. Furthermore, the reports note that the government announced in February of 1977 its intention to build new prisons is irrelevant to the fact of cruel treatment of prisoners in October of that year.

Freedom to Participate in the Political Process.—The State Department claims that the Dominican Republic has a political system with "over a dozen political parties . . . officially recognized and freely active although the 1974 elections were marred by some incidents of military intervention on behalf of the President's re-election." On this point, the State Department demolishes its own argument. Official recognition means little and political parties are not really free if the military acts against them during an election. Harassment of opposition forces has not ceased, despite Balaguer's claim to have ordered the military to remain neutral. In the fall of 1977, as preelection campaigning for 1978 was beginning, a local headquarters of the social democratic opposition party PRD was burned to the ground and a PRD official, Samuelo Santana Melo, was murdered.

Amnesty International 1977 Report.—The report admits that Amnesty was critical of human rights practices in the Dominican Republic in 1977. It goes on to cite "regrets" by Balaguer, his "signing" of the American Human Rights Convention, and his "agreement" to invite Amnesty to visit the country, an invitation which was later rescinded. In other words, the State Department accepts Balaguer's verbal promises rather than looking at actual evidence as a means of countering the Amnesty report. Balaguer is playing the game of endorsing the campaign for human rights in order to whitewash the actual violations.

Fulfillment of Vital Needs.—In a report on human rights practices, it is somewhat duplicitous for the State Department to praise the fact that the government operates such good works as hospitals, maternity homes, mental asylums, etc., without indicating what kind of care goes on there, good or poor. This section of the report is then concluded with the admission that "corruption" and "political favoritism" have "diverted resources from the poor." Such favoritism in a small country necessarily implicates the government, but no details or examples are given. One instance which illustrates the point very well involves the extremely inhumane treatment experienced by 10,000 Haitian cane cutters in the town of Haina in September, 1977. These workers were forced to remain outside in an open field for two weeks without food, shelter, or fresh water, bedding or blankets while awaiting transportation back to Haiti from their jobs with Azucarera Hakna, a government-owned and operated industry.

Security Assistance.—The fiscal year 1979 assistance request includes $500,000 in foreign military sales financing, $5,000 in military assistance, and $525,000 for military training. On the basis of the evidence, not on rhetoric and promises, human rights violations in the Dominican Republic are considerable, consistent, and gross. Therefore, no security assistance should be approved for that country.

HAITI

The State Department report on Haiti represents a blatantly self-serving attempt to obscure the continuation of human rights violations by the Duvalier regime. Among the few clear statements in the report are "organized political opposition is not permitted" and "Haiti is a one-party authoritarian state and the President has tenure for life." Much of the remainder of the report consists of generalized statements of improvement

based either on flagrant misrepresentation or outright omission of facts that have been presented to the State Department by our office and by others.

Perhaps the most telling omission is the report's total failure to note the fact that more than 2,700 Haitians have fled their country since 1972 seeking political asylum in the United States from the political repression and economic misery which are the hallmarks of the current government. The mistreatment afforded these refugees by U.S. agencies would fill several reports in itself, but it is little compared to the situation from which they flee. The most recent boat of refugees arrived in November 1977, indicating that the situation remains serious, and the absence of any mention of the problem in the report can only be construed as a deliberate attempt to mislead.

Torture, Cruel Treatment, Arbitrary Arrests, and Fair Trials.—The report leaves the impression that on these issues, a bad situation is getting better. But a close reading of the "improvements" leaves one wondering, is it a matter of appearance, or of reality? "Torture," the report says, "does not appear to be practiced or condoned at present." "Stricter controls over the behavior of prison guards' conduct has apparently been instituted," and the infamous Fort Dimanche prison is "reportedly" being replaced by a modern facility, etc.

But even more instructive in the glossing over of such problems is the experience of the 11 opponents of the government exiled in 1977, to whom the State Department makes several references. Several of these men had been abroad and had returned under the "national reconciliation" program begun by Duvalier in 1972. The report notes the reconciliation program but does not point out that these men were rearrested, held without charges upon their return. All 11 then became part of a group of 105 who were released in September 1977, and according to the State Department, were "presented to the press and the diplomatic corps at the time of their release." Not reported is the fact that the 11 who were to be exiled had been withdrawn from their cells the previous March and given 6 months of intensive medical treatment to prepare them for international inspection. Despite this precaution by the Haitian government all 11 were hospitalized again in Jamaica within a week of their release, an event which was covered widely in the Jamaican press.

These omissions might be excusable on the basis of poor information gathering were it not for the fact that extensive written testimony by 4 of the 11 (among them Marc Romulus, Claude Bernard Craan and Marc Antoine Marsan) was presented by our office to the State Department Human Rights Office and to the Haitian Desk at a conference in November 1977 and that the Haitian Desk Officer met personally with these men in January 1978. The man presented documentation not only of their own torture but of the torture of others, and described ongoing epidemics of tuberculosis and malnutrition in the prisons. In addition, they presented a list of 150 individuals who had died in prison—only those they had first-hand knowledge of—between 1969 and 1977, a list which included three cases of refugees seeking asylum in the United States, only to be deported back to Haiti, jailed, and allowed to die.

A final note. In seeking to prove that justice is more available now than before, the State Department says that criminal trials held (for the first time in years) in 1976 and 1977 resulted in a number of acquittals. Ironically enough, these acquittals were of public officials accused of exactly the corruption which the report describes as "endemic."

Freedom of Expression and of the Press.—Somehow the State Department manages to assert that freedom of expression is "growing" while at the same time reporting that "participation in the political process is severely restricted," "opposition political parties and political organizations are forbidden," and "the few labor unions which exist have been permitted little room to maneuver." The report does note the almost-fatal beating of a Baptist minister and newspaper editor and states that there are "still restrictions on freedom of the press." Not noted are a series of threats received by another editor of the only remaining independent newspaper (La Petit Samedi Soir)—or the fact that the Inter American Press Association in its August 1977 report listed Haiti not as "restricted" but as "deprived of this freedom."

Freedom of Movement.—This section of the report is totally inaccurate in stating that movement is "unrestricted except for security reasons near border areas." As described by the September exiles and as is known by anyone who ventures outside the capital, all Haitians must register with the local "Chief of Section" whenever they travel from one town to another. Failure to do so results in imprisonment in the district jail. Military checkpoints are also highly visible along roads in the interior.

INDONESIA AND EAST TIMOR

Once again the State Department unabashedly accepts the views of the Indonesian Government on the question of human rights, while playing down or ignoring completely documentation presented to the Fraser Subcommittee, in the international press, in Amnesty International's exhaustive study, and in resolutions by the United Nations and the International Labor Organization. Skillfully, the report omits crucial comment on "resettlement camps" and release conditions for political prisoners, forced labor, and the new category K for "diehard" prisoners—all of which have been mentioned in Indonesian Government communiques. At the same time, the report glosses over the East Timor situation (see p. 3 of this critique), torture, prison conditions, judicial procedures, corruption, economic deterioration, and recent crackdowns on students and the press.

Torture.—In contrast to the State Department's claim that there is no evidence of systematic torture, Amnesty reports that commandants in several prisons "themselves encourage cruelty or permit officers to torture prisoners." Further, Amnesty states that it is common for long-term prisoners "to be subjected to renewed interrogations" during which systematic torture is used.

Prison Conditions.—Recent visits to several prisons by international journalists confirm longstanding claims by other sources that disease is rife, forced labor required, food inadequate, and physical conditions exceptionally harsh. (Asahi Shimbun of Japan, De Telegraf of the Netherlands, Asian Wall Street Journal, Far Eastern Economic Review, NBC Nightly News, Washington Post, Newsweek.) For example, all eyewitness accounts of the 1500 Buru Island releases (Dec. 20, 1977) report that most prisoners suffered from tuberculosis and other serious diseases. The State Department flippantly excuses these inhumane conditions on the grounds that Indonesia is "a poor country."

Forced Labor for Untried Prisoners.—In 1976, and again in 1977, the Committee of Exports of the ILO admonished Indonesia for violating convention 29 through forcing prisoners to perform "forced or compulsory labor." Amnesty reports that "most untried political prisoners can be made to work in mines, on plantations, in fisheries, and on building and works projects." Some projects are State-run, others are run by "private companies with whom local commanders have a financial arrangement whereby they are paid a regular sum for each drafted prisoner," with only small sums going to the prisoners themselves. Significantly, the State Department omits comment on forced labor.

Release Plan.—As the Indonesian Government has stated on several occasions, there are two methods of release for untried prisoners: conditional direct release and the "transmigration" release. Both have serious flaws which were left unexplained by the State Department.

The "direct release" method is rife with "catch-22" conditions; for example the family and community must be willing to accept a prisoner, when in fact many prisoners have lost outside contact during their protracted detention. John Dancey of NBC–TV News explained another "catch" in reporting on the Buru Island releases:

> They must find work within one year, or be returned to so-called "resettlement" camps, many of them on the island of Buru. But for the first six months of their release, they will be under house arrest, required to report to four separate parole officers a week. That, and Indonesia's 20 percent unemployment rate, insure that many prisoners being released will soon be right back on Buru, rejoining the prisoners still there.

As many as 10,000 untried prisoners are not even eligible for this plan, having been placed in a new category K ("diehards") by the Security and Order Command (Kopkamtib), which administers "psychotests" to determine the "fitness" of prisoners to be released.

The "release through resettlement"—that is, transmigration to labor camps—is a voluntary procedure according to the Indoneisian Government. Yet at a recent conference of Christian leaders

the Government contradicted itself by stating that all prisoners "who fulfill the conditions and are mentally and physically strong" will be sent to resettlement areas; the ill and women will be sent directly to their homes. (New Life Consultation Report, Kender, Indonesia, October 3–6, 1977.) Given the conditions in current camps (see Amnesty's Indonesia Report), one can hardly expect that the 16 newly established camps are anything but forced labor camps and do not represent freedom for untried prisoners, as claimed by the State Department. It should be noted that according to the Indonesian Embassy in Washington, 909 new prisoners were arrested in 1976 and 1977.

Fair Trials.—Whether one accepts the Indonesian Government figure of 30,000 political prisoners (as does the State Department) or Amnesty's figures of 55,000 to 100,000, the longevity of detention without trial—12 years—substantiates by itself a consistent pattern of gross violation of human rights. Political prisoner trials are rare and are considered by most international lawyers to be a sham. According to Amnesty, not 1 prisoner out of 800 tried since 1965 has been found innocent, and most receive the death penalty or long-term sentences Early in 1977, the Government claimed it had tried 800 of the 2,000 prisoners it intends to try. In November of the same year the same figure appeared in an Indonesian Embassy letter to the State Department—thus no trials were held in 1977.

Political and Civil Rights.—The "limited" democracy described by the State Department is really a slick term for no criticism of the Government by any party or group. Eight hundred members of the Moslem Party were arrested during the 1977 elections; more recently several hundred students were arrested after making demands for the ouster of President Suharto on grounds of corruption, economic mismanagement, and the growing gap between rich and poor. The Indonesian press, once touted as the freest in Southeast Asia, has been recently muzzled; 65 percent of the newspaper circulation in Jakarta was wiped out, according to the Far Eastern Economic Review of February 3, 1978. Supposedly most newspapers have been allowed to reopen, but the threat of further punitive measures makes it unlikely that criticism will be as open as before.

EAST TIMOR

The State Department's brief comments on East Timor (incorporated into the Indonesia report) are hypocritical, contradictory, and baseless. Most glaringly, the State Department continues to accept the so-called annexation of East Timor into Indonesia, despite its statement that a "valid act of self-determination" has not occurred. Presumably, the State Department is relying heavily on the Indonesian Government for its information, for international organizations and journalists have been barred from freely inspecting the territory.

Security of the Person—Reports of Genocide.—Two recent eyewitness accounts verify that occupying Indonesian troops are continuing their genocidal policies. A Catholic priest writes in a letter smuggled out of East Timor: "The barbarities, the cruelties, the theft, the firing squads without justification are now part of every-day life . . . insecurity is total and terror of being arrested is our daily bread . . . hundreds of people are dying every day . . . Fretilin (the independence movement) troops who surrender are shot dead; for them there are no jails." (Nation Review, Sydney, January 12–18, 1978.)

Denis Recihle, a Paris Match correspondent, provides a similar report after sneaking into East Timor in September 1977. The Indonesians are "systematically wiping out" the population of villages known or suspected to be Fretilin villages. He estimates that "at least 70,000 to 80,000" East Timorese have been killed since early 1976. Both these accounts verify earlier reports from an Indonesian Catholic relief agency and from East Timorese refugees in Portugal interviewed by Australian and Dutch press and parliamentarians.

With evidence of this nature from credible sources, it is outrageous that the State Department continues to assert that "most of the human losses in East Timor appear to have occurred prior to Indonesia's intervention."

Statements by International Organizations.—The State Department's policy on East Timor has been to label its annexation by Indonesia a fait accompli. This directly contravenes the U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples, the U.N. Covenants on Human Rights, and four U.N. resolutions since December 1975 calling for self-determination in East Timor. The State Department has at least repeatedly stated that the Indonesian Government should allow the International Committee of the Red Cross—ICRC—complete access to East Timor. Indonesia's refusal to allow such access has been criticized by Amnesty International.

Direct U.S. Complicity in the East Timor War.—State Department testimony to the Fraser Subcommittee—June 28, 1977—stated that Indonesian troops invading East Timor are "armed (with) roughly 90 percent our equipment." One official also stated, "My guess is that we knew they could not have conducted a substantial operation without the use of our weapons."

IRAN

The picture of the Iranian Government offered by the State Department is one of a dynamic government modernizing the country but besieged by opposition from the far left and far right. The report acknowledges that torture and cruel and degrading treatment were frequent in the past, but argues that these abuses are now all but absent and that major reforms are about to become effective in the judicial and prison systems. In sum, according to the State Department, the Iranian Government is becoming a mildly authoritarian one-party state with vigorous internal debate on domestic policy, but with a few extremist opponents who have only themselves to blame for not participating in the domestic political consensus.

In its discussion of human rights in Iran, the State Department makes reference to most of the claims of the major nongovernmental human rights organizations: Amnesty International, International Commission of Jurists, and the International League for Human Rights. But it often takes statements out of context and robs them of their narrative thrust.

The report is very cleverly written. But what it conveys is a complete misrepresentation of the Iranian situation. Three major facts must be considered if the human rights situation is to be understood. First, the opposition is not limited to "the entrenched landowners and conservative religious leaders (on the right) and . . . the far left." Jerome Shestack, president of the International League, commenting on a similar claim in last year's report, wrote to Secretary of State Cyrus Vance:

> The list of political prisoners in our possession indicate that those in opposition to the regime include writers, scientists, students, religious leaders and workers. It is also evident that the widespread discontent in Iran arises not only from the repressive policies of the government, but also from the failure of those very (economic and social) reforms said to "have benefitted the majority of the population."

Liz Thurgood of the Manchester Guardian also pointed to the breadth of the nonviolent opposition: "The dissident movement, although now cowed (by repeated crackdowns) has become a force that cannot be easily ignored. The various factions are openly supporting each other. The remnants of old political parties have drafted a joint letter calling for a 'national alliance' and the rebel writers have openly backed both the lawyers and the students." (Washington Post, November 29, 1977.)

Second, since the Shah's visit to Washington in November, 1977, there has been a serious escalation of violence by police against peaceful demonstrations and gatherings in Iran. The report makes a cursory reference to police dispersal of recent demonstrations, but downplays the violence used by both SAVAK and government-coordinated provocateurs. Press reports described the use of clubs, brass knuckles and chains in an attack on a peaceful meeting at Aryamehr University in November 1977. (International Herald Tribune, November 23, 1977.)

On November 21, 1977, a peaceful meeting of religious persons at Karavansarai-i Sangi, a small village outside of Tehran, was broken up by 12 busloads of SAVAK commandos and security police; many were arrested or wounded, including the religious leader Ayatollah Sadeghi. (Washington Post, November 24, 1977.) In January, police inflicted a heavy death toll by firing into a peaceful religious demonstration in Qom. (Washington Post, January 20, 1978.) In February, police again attempted to control disturbances in Tabriz, by firing on demonstrators, using British and American made tanks. (Washington Post, March 4, 1978.) At least 100 civilians were reportedly killed.

Finally, the most glaring omission in the State Department report is its failure to discuss the role of SAVAK in suppressing dissent. It quite correctly notes that:

Iranian law combines in one organization—SAVAK (the State organization for Security and Intelligence)—the duties of both the police and the examining magistrate.

The report then basically confines itself to a discussion of SAVAK's magistrate duties. While important, those are not the activities that make SAVAK the main instrument of oppression in Iran.

The November 1976 Amnesty Briefing Paper on Iran makes the point very clearly:

The suppression of political opposition is carried out by SAVAK with extreme ruthlessness using a system of informers which permeates all levels of Iranian society and which has created an atmosphere of fear remarked on by visitors to Iran . . .

The International League in a June 17, 1977, letter to the Shah protested the surveillance by SAVAK of university teachers, students, and intellectuals. Amnesty also in 1976 pointed to the continued surveillance and harassment of former political prisoners by SAVAK, as well as the fact that they are "unable to obtain employment without the permission of SAVAK and this permission is rarely granted." And it is SAVAK agents who have attacked peaceful demonstrators in recent months.

In sum, the Iranian Government is opposed by people broadly representative of all strata of Iranian society. SAVAK, the Iranian secret police systematically discourage opposition by a system of informants, by intimidation, and by mob attacks. In recent months, the Iranian Government has not hesitated to disperse ruthlessly peaceful nonviolent protest, protest which ironically has been much inspired by the human rights policies of the Carter administration.

Torture.—The State Department argues that torture is being gradually eliminated and states it "does not believe torture has been used recently. Recent testimony by Amnesty International and a series of media reports, however, make it clear that allegations of torture continue to be received outside Iran. Meanwhile, inside the country there is a strong belief that "severe beatings and torture" are inflicted by lower level police or government agents, even though this may be less systematic than in the past. (Washington Post, March 4, 1978.)

Denial of a Fair Public Trial.—The State Department is cautiously optimistic about meaningful reform of the Iranian Code of Military Procedure by which most political detainees are tried. British barrister Brian Wrobel undertook a lengthy examination of the recent changes for Amnesty International and concludes that even with these changes the procedures "were such as to deny defendants any possibility of a fair trial."

For example:

First. The military judges who are the triers of fact see the entire prosecution file before the trial, and often advise the prosecution whether its case is adequate.

Second. The prosecution is not required to prove its case. No witnesses are called by the prosecution and therefore there can be no cross-examination. The material in the file is accepted by the court without proof. The trial proceedings, therefore, consist mainly of speeches.

Third. No legal advice is permitted during lengthy pretrial detention.

Fourth. Government-authorized defense counsel is not permitted to meet freely with defendants. (Amnesty International, February 28, 1978)

Political and Civil Liberties.—In a December 7, 1977, letter to U.N. Secretary General Kurt Waldheim, 30 Iranian writers, lawyers, physicians, and journalists commented on the state of political freedom in Iran:

All the proof and manifestation of constant and open violations of fundamental rights of the Iranian nations continue to remain with us: personal despotism, lack of representative power, lack of an impartial judiciary independent of the executive, and finally, lack of real freedom of expression and assembly, especially when concerned with political matters.

MOROCCO

The State Department report on Morocco describes a fairly open society with a pluralistic party system, a functioning trade union movement, freedom of the press and religion, and so forth, all in all a not-inaccurate picture. But in describing King Hassan's government in its dealing with a small but consistently growing radical socialist movement, the report obscures a very serious situation both by overt omission and by minimizing severe problems and maximizing small changes.

It is true that several opposition parties have seen more than 15 years of repression against them partially lifted in return for support for government, particularly in its war in the former Spanish Sahara. But the political groupings which remain outside this consensus are now experiencing an intensified repression. The new radicals, generally known as the Frontistes, are Marxists who favor the establishment of a republic and openly support self-determination in the Sahara. According to Amnesty International's October 1977 briefing on Morocco, upwards of 300 Frontistes were arrested in June 1977. It is against the treatment of formations like the Frontistes that the State Department's claim of a "strengthening of democratic institutions" must be judged.

Torture.—The report states that since the early 1970's overt police terror against political detainees has abated and that upper echelons of the government do not condone the use of violence against prisoners. Yet, since at least 1962–63, Moroccan police have employed torture against political prisoners, and the practice is so widespread that it is taken for granted as a major risk of opposition politics. Commenting on reports of torture received by Amnesty, the October report concludes:

The consistency of these reports indicates that torture is routine security police practice during the interrogation of political detainees. It is inflicted mainly to terrify and humiliate the detainees, but also to extract confessions and gain information about their political activities and associates.

In making its conclusion that torture has abated, the State Department report ignored the Amnesty International Annual 1977 report that stated:

Persistent rumors suggest that a number of detainees (from the June, 1977 arrests) may have died as a result of torture during interrogation by security police.

A very serious concern is the State Department's treatment of Amnesty's report that 14 persons had died under torture and that others had been disabled when detained in the early 1970's. The State Department says it cannot verify these allegations and that Amnesty's information was gained from King Hassan's opponents who have much to gain from "discrediting the government." It should be noted that Amnesty is cited frequently in other country reports as an authoritative source. And in addition, Amnesty International was sufficiently confident of its conclusions to organize an international campaign in the fall of 1977 to demand an inquiry into the behavior of the Moroccan police. But the charge is even more reprehensible because it implies that the only credible source of information on torture is the government that is doing the torturing.

Arbitrary Arrest and Denial of a Fair Public Trial.—The State Department says that "persons detained since 1971 for antigovernment activities have been tried in open court." This assertion about open trials overlooks several key points. First, not everyone arrested for political reasons gets any kind of a trial; everyone in the political milieu of Rabat and Casablanca knows of the existence of special services in the police which have the power to act without judicial restraints. People disappear, legal records never exist, and the Ministry of Justice can quite plausibly deny a person was ever detained.

Second, prisoners have been held incommunicado for months and even years before appearing in court, a flagrant violation of article 82 of the Code of Penal Procedure. According to Amnesty International's October, 1977 Briefing,

Probably at any given time in Morocco, several hundred people are being held, in police detention centers, incommunicado and without proper legal procedures having been followed.

Finally, the assertion masks the fact that 240 political prisoners in Casablanca alone had to wage a series of hunger strikes and other protests in order to win the right to a trial; it was a 2½ week hunger strike in late 1976 that finally led to a second round of political trials which were held in early 1977.

As for this second round of trials, the State Department notes Amnesty's contention that at these trials the defendants' right to testify, to be presented with the charges against them, and to have unimpeded right to counsel were denied. In fact, according to Amnesty International's 1977 Report, the trials were worse than even this characterization suggests; the defendants were actually removed from the courtroom for protesting the above with silence, and were convicted of conspiring to overthrow the government with violence on the eviden-

tiary basis of the possession of pamphlets, typewriters and a printing press.

Freedom To Participate in the Political Process.—The State Department concludes that:

> There is considerable opportunity for participation of diverse groups in the political process.

While true, as we have shown above; people who hold certain political beliefs and oppose Moroccan foreign policy continue to be ruthlessly repressed. In addition, the report glosses over problems associated with the June elections. Amnesty summed it up this way:

> The government controlled the election procedure. Some areas were allowed to campaign freely; in other areas opposition members were intimidated and even arrested.

This included members of the two major opposition parties, which support the government's policy in the Sahara.

NICARAGUA

The State Department report on Nicaragua acknowledges that the past 3 years of martial law under the Somoza regime have been characterized by systematic and gross violations of human rights, including the brutal torture of political prisoners, the mass executions of hundreds of peasants, mass arbitrary detentions, and the denial of all political and civil liberties. However, the report attempts to show that the situation has improved since the beginning of 1977 and in particular since the lifting of martial law in September 1977, despite convincing evidence to the contrary. Furthermore, the report fails to reflect the key role of the U.S.—trained and equipped Nicaraguan National Guard (a combination army and national police force), in the perpetration of past and present human rights violations. The continuing role of the National Guard has been amply demonstrated by its killing of dozens of unarmed protesters, including infants, children and housewives, in the wake of the assassination of opposition leader Pedro Joaquin Chamorro in January, 1978.

Torture.—The report inexplicably says there have been "few reports of torture or beating of detainees or prisoners in 1977", although accounts of torture and brutality, including death under torture, are documented weekly in Nicaraguan newspapers and in (mostly unsuccessful) efforts by victims to obtain legal redress. Among cases which have occurred since the lifting of martial law are Silvia Amador deMcEwan, a middle-aged woman burned with cigarettes; Fr. Jose Luis Sandoval, a priest beaten and kept without food; Dr. Juan Ignacio Guitierrez; Prof. Tomas Perez Perez; and four peasant leaders who were tortured in January, 1978.

Arbitrary Arrest and Detention.—Contrary to the State Department's assertion, detainees continue to be held for prolonged periods without charges, and often incommunicado. On December 22, 1977, a National Guard mechanic named Rene Espinosa executed an affidavit in which he attested to having seen more than 77 unacknowledged, uncharged prisoners in the previous several weeks. He identified 26 of these prisoners by name; some of them had been detained for more than 2 years. Espinosa also identified six secret National Guard detention centers throughout the country, and attested that he had witnessed the brutal and sadistic torture of a peasant by the National Guard since the lifting of martial law.

The report notes the guilty verdicts handed to 110 people by the Nicaraguan Extraordinary Council (a military tribunal) in Ferbruary 1977. Not reported is the fact that these people had been held without charges for up to 6 months, tortured frequently, and then charged and convicted on the basis of information obtained during their interrogation.

Respect for Civil and Political Liberties.—Again, the report attempts to show that the lifting of martial law has had a major impact on civil and political freedoms. Yet the many Nicaraguans who attempt to use constitutional channels for determining the whereabouts of disappeared family members consistently receive no answer. Regular unconstitutional searches of private homes continue throughout the country, as do the arbitrary arrests. The rights of freedom of assembly and of expression continue to be systematically denied; in December 1977, several peaceful demonstrations organized by church and women's groups to protest the disappearance of campesinos and the censorship of TV and radio were violently broken up by the National Guard. Yet the report states that the government has "placed no impediment on recent outdoor rallies by opposition political groups."

The State Department does note correctly a major unfettering of the printed media, while noting that major restrictions remain on television and radio. Left unmentioned is the fact that the radio plays a particularly important role for the masses of people in a country with a high rural and illiterate population. Thus the loosening of media restrictions does little for the sectors of the population who suffer the most from the policies of the government. Radio stations are regularly shut down for short periods of time; the telephones of the Catholic bishops, the opposition newspaper La Prensa, and members of the political opposition are frequently disconnected by the National Guard.

The National Guard.—The U.S. Marines created the National Guard nearly five decades ago. Since that time the United States has trained more Nicaraguan Guardsmen than any other military or police forces in the hemisphere, on a per capita basis. Since its creation the National Guard has been used in design and effect to keep the Somoza family in power and prevent the development of any democratic or popular opposition: the Somozas have no power base in the country other than the National Guard. Almost every single human rights violation reported from Nicaragua has been attributed to the National Guard. Perhaps the best known example of National Guard tactics came in the 1975–77 period when hundreds of peasants in the northeast were executed in what the State Department describes as an uninvestigated series of incidents. The Guard's efforts also resulted in the destruction of the social structure of the rural communities of the area, as adult literacy instructors, catechists, and other church and community leaders were executed. The State Department has prudently decided not to request FMS credits for Nicaragua for fiscal year 1979; however, further training money for the National Guard is requested. This request cannot be justified in the face of the ongoing and systematic role that the National Guard plays in the violations of human rights in Nicaragua.

PARAGUAY

The State Department report, in its discussion of torture and other violations of the person, denial of due process, and so forth, is based on more factual reporting from the field than previous U.S. Government analyses of human rights. Further, the State Department's policy of "quiet diplomacy" has been skillfully carried out in Paraguay, and deserves support. General Stroessner can no longer say, as he did a few years ago, that the U.S. Ambassador "is another member of my cabinet." However, there is a certain imbalance in the reporting, and an excessive optimism which is not justified in view of the Paraguayan Government's longstanding policy of alternating sharp waves of terror with periods of amelioration. The detention of 19 Christian labor leaders in December 1977 appears to have been the beginning of a new wave of repression, which seriously escalated in January and continued into February. A return to the amelioration policy is predicted, but there remain no grounds for optimism about a steady improvement in the human rights picture.

In general, the report tends to cite cosmetic changes and vague promises as indexes of improvement, while continuing and deeper problems are only briefly mentioned. A case in point involves negotiations over a possible visit by the Inter-American Commission on Human Rights, which have been going on for over a year with evasive promises and long silences on the part of the Government. The State Department says that the Government has "agreed" to the visit; in fact, an invitation has been extended but there has been no agreement on dates or terms for the visit. Until this happens it is incorrect to say the Government has "agreed" to the visit. Further, the report states that political prisoners are being transferred to a separate facility to remove them from local police custody; however, this only removes prisoners provisionally from the hands of local police and they are transferred back at will for renewed interrogation or for special punishment. A final example: the report notes a Government promise to remove a prohibition against note-taking by lawyers in prison. This was one of the least serious obstacles to adequate legal defense, in comparison, for example, to others mentioned by the report: an acute shortage of judges, crowded court calendars, and a denial of

private interviews between attorneys and clients.

Genocide Against Indigenous People.—Referring to Indian policy, the report says that "charges of genocide against Paraguay appear to be false," goes on to acknowledge grounds for "charges of negligence", and sums up the policy as one of "protection and gradual assimilation." A current study by Kansas University anthropologist Robert Smith is cited against the genocide charges. However, Smith's work actually says that Ache Indians are being killed at a greater rate than U.S. soldiers were killed in World War II. Whether this is a calculated policy or the indirect result of "negligence" and "protection" is debatable. Clearly, "ethnocide" is a more correct term than "genocide," as "gradual assimilation" is a code word for the complete destruction of an independent Indian culture.

Freedom of Religion.—In a similar fashion, the report absolves Paraguay of "religious discrimination." This may be correct by the traditional definition of religious discrimination—one is persecuted for being a Protestant, a Jew, et cetera. However, in Paraguay the distinction is one between those whose religion is passive and pietistic and those who apply Christian principles to everyday life and social concerns. One section of the Department of Investigation—Secret Police—is dedicated exclusively to the persecution of activist Christian groups. "Quietism" or "activism" in one's religious life has become the new standard for religious persecution by the government.

Corruption and Economic Rights.—The report inexplicably fails to note the role of corruption in maintaining the Stroessner regime. This omission affects the whole report, since patronage and favoritism stand beside political terror as supporting pillars of the regime. Those whom the government can't buy, it terrorizes, and those whom it can't terrorize it surrounds with people who have already been bought. The omission is most serious in the section dealing with economic rights. Overseas aid is said to have been directed at projects which will "be of direct benefit to the poor:" since most Paraguayans are poor that leaves a lot of room for favoritism. When land titlements, credit, health services, and even admission to public high school are decided on the basis of political loyalties, to omit this factor is to misrepresent the situation. The dependence of most Paraguayans on direct graft and indirect favoritism also affects every civil freedom, for a large network of "pyragues" (informers) has been created—some paid, others volunteering information in return for privileged treatment. Even the lifting of the state of emergency would not lead to a restoration of freedom of expression as long as the network of informers is used openly and with impunity.

Freedom of Travel.—There are few outright misstatements in the report, but one in particular must be challenged: the assertion that there are "no restrictions on movement within the country, providing an individual has a valid ID card." In fact, large areas of the interior and several important urban zones are classified as military and off limits. In addition, major highways are scattered with check-points where would-be travellers are effectively deterred from passing by the threat of arbitrary interrogation and detention.

PHILIPPINES

The Department of State is to be credited for recognizing the Philippines as a serious violator of human rights and for noting that "no real steps have yet been taken toward the restoration of democratic government or the elimination of the more severe intrusions on human rights." Beyond this observation, however, the report is characterized by alarming omissions, understatements and inaccuracies that place the reliability and usefulness of the report in serious question. Furthermore, the continuation of the security assistance program at levels unchanged from last year's leave an unacceptable gap between the administration's human rights rhetoric and its practice in foreign aid programs.

Torture.—The report accepts documentation of torture by Amnesty International, the International Commission of Jurists and the Association of Major Religious Superiors in the Philippines (AMRSP). Yet it concludes that "there is evidence that the frequency of the practices cited in these reports is on the decline." Recent studies by investigative teams of the Anti-Martial Law Coalition and Friends of the Filipino People headed by Ramsey Clark, and and a second 1977 report by the AMRSP, conclude, however, that torture and the use of "safehouses" continue unabated. It may be argued that the Philippine Government has become more selective in its use of torture, but no investigations confirm a decline in the practice. The 88 military men cited by Amnesty in 1976 in torture complaints have yet to be investigated or brought to trial.

Abduction and Assassination.—To avoid criticism of human rights practices, the government has turned to kidnapping and murder as an alternative to imprisonment in dealing with dissent. However, letters from religious people in the Philippines to FFP and testimony presented to the Fraser Subcommittee on February 16, 1978, by Maryknoll Associate Father James Travis, implicate the civilian home defense forces and secret military "U-2" teams in these killings. But the best documented of these murder squads is the Loose Command. Loose Command teams are made up of gangsters recruited from prison to kill three political dissidents designated by the military, in return for a commutation of sentences. AMRSP's 1977 report lists dozens of abductions by the military, with the most recent killing a widely respected worker with the Christian Conference of Asia named Jessica Sales, being confirmed by the National Council of Churches of the Philippines on January 29, 1978. This tactic presents investigators with an apparent decline in evidence of torture and makes human rights studies more difficult. The State Department report says nothing of this practice, the most alarming of continuing human rights abuses.

Political Prisoners.—Only by relying exclusively on official Philippine Government "release" figures can the State Department conclude that only 500 people remain in custody as political prisoners. The AMRSP reports that only 17 of the supposed 1,000 prisoners released with great fanfare in the summer of 1977 actually left prison. The State Department's low figure also ignores the frequent process of rearrest and what the AMRSP notes as the increasing practice of reclassifying political prisoners as criminal cases and transferring them to different provincial prisons. Even Amnesty's 1977 estimate of "at least 2,000" political prisoners held on "suspicion of subversion" is a low estimate.

Fulfilling Vital Needs.—The report's section on basic needs is riddled with fallacies. For example, the report states that there have been "modest improvements in the health status of the population." Yet it does not note that, after Bangladesh, the Philippines is the most critically undernourished nation in Asia (80 percent of the people), and health care receives only a miniscule 3.6 percent of the national budget. The report's assertion that land reform is progressing ignores its limited scope even on paper; in December 1977 Rand and U.S. AID experts acknowledged the plan's failure as well. Finally, the report cites support for the Marcos regime by the Trade Union Congress of the Philippines as proof that labor is benefiting under martial law. Yet most workers still earn less than the promised 75 cents a day minimum wage, and have no right to strike. To use such a Marcos-controlled organization as the TUCP as evidence of "labor support" represents either a grossly deficient investigation or a deliberate attempt to mislead.

Political and Civil Liberties.—The State Department in many cases had reported accurately the different activities of the Marcos government which abridge freedom of expression, press, association, and assembly. But the report makes false generalizations about the state of political freedom in the Philippines.

It states that the Government "has not actively abridged freedom of assembly and association, even for many of its outspoken critics." In fact, proclamations issued in the early days of martial law and still in effect, prohibit assembly for political purposes. On some occasions, the Government has permitted the opposition to assemble. But in all cases, the Government has chosen where and when and has been ready to suppress ruthlessly any demonstration or gathering which it did not want. Most recently riot police brutally dispersed an AMRSP sponsored "Dialogue on Human Rights" held at St. Theresa's College in Manila.

A related falsehood is contained in the statement:

> Political parties while not outlawed (except for one of two Communist Parties) have been inactive and have effectively disappeared.

They did not disappear. They were repressed. Many of their major leaders were imprisoned and remain in prison. The Philippine House and Senate were dissolved. The opposition press has been banned and political assembly prohibited. In sum, those normal political activities vital to the operation of political parties have been interdicted by police authority.

And only by employing the narrowest definition of religion can the State Department claim that religious freedom "is generally respected." It may be true that people are not abused for privately held ideas, but when church members have applied their faith in a social context, the government response has ranged from intimidation to assassination. The best documented case in 1977 was the torture and murder of Purificacion Pedro in a bathroom in Bataan Provincial Hospital.

The State Department, though cautious, gives too much credence to this year's scheduled April 2d elections for an interim national assembly. It does not, for instance, report that most martial law provisions will not be lifted. In particular, the opposition made resumption of a free press a condition for its participation in the election. Marcos refused. Marcos also will be able to appoint about one-seventh of the assembly members. And finally, Marcos will not have to respect any of the decisions made by the assembly; he can dissolve it at will.

SOUTH KOREA

The State Department report accepts the "threat from the North" as being the normal context for judging the human rights situation in South Korea. While some of this threat is real, much of it is contrived and used as a reason for the continuation of the repressive Yushin Constitution of 1972. With this type of rhetoric, the State Department appears to be making a case for the continuation of the martial law state. A much clearer analysis of North and South Korean relationships is needed; no reference appears to the future of reunification talks and this is a critical omission in the State Department's framing of human rights issues.

The Integrity of the Person.—The report takes comfort in the fact that torture and degrading treatment have lessened in the past year. Our information, however, shows that more subtle forms of punishment have been substituted for outright torture. Currently, sleep deprivation is being used, as are beatings with instruments that leave no marks. Frequent changes of location for political prisoners makes it difficult for families and friends to be certain of their well-being. In most instances, families are granted once-monthly 5-minute visits with prisoners, under close monitoring. Even though medical treatment is available, prisoners requiring surgical care have expressed fear that they will be allowed to die on the operating table. In this connection, many observers in and out of Korea fear for the life of former Presidential candidate Kim Taechung, who, the State Department report notes, was recently transferred from prison to the Seoul National University Hospital for care.

Political and Civil Liberties.—The report cites improvements which were noted in the closing weeks of 1977; yet serious violations of political and civil rights were occurring at that very time. Item: The Myongdong prisoners whose release is celebrated by the report were rearrested.

Many prominent civic and religious leaders issued the Myongdong declaration on March 1, 1976, demanding greater political and religious freedom; many were arrested and some sentenced to up to 5 years in prison.

Item: Journalist Lee Yong-hui was arrested and held in connection with the publication of two books. His publisher, Paek Nak-chong, and a member of the publisher's board, Pak Kwan-sun, were also taken in for questioning. Item: Father Michael Bransfield, a Maryknoll priest with many years service in Korea, was called in by the KCIA and questioned for a total of 21 hours over a 2-day period about a book he wrote for use in training laborers.

The State Department report says that "fewer than 150" prisoners are still incarcerated for political reasons; our information from sources close to the Myongdong prisoners suggests that 238 is a more accurate figure. We believe that this figure is accurate.

A final example demonstrates the cleverness of the current regime and the assistance rendered to its image by the State Department. The report cites the release of a number of prisoners who signed a "carefully worded statement of regret," and implies that church leaders helped negotiate the wording of that statement. In point of fact, some artful maneuvering by the Korean authorities left each prisoner with the impression that all his coprisoners were signing the document. Each prisoner was approached separately, and in the absence of knowing the larger scheme, some did sign. But as soon as church leaders comprehended the plan, cooperation was halted. Yet the State Department leaves the impression that the church went along in toto, a conclusion we emphatically reject.

The Korean Central Intelligence Agency.—The State Department acknowledges,

> Since early 1977, the government has, for the most part, avoided court trials, formal arrest, or long-term detention. Instead, in the face of potential challenge—especially from students—security forces have stepped up surveillance to frustrate efforts to mount significant demonstrations and undertake other political activities.

This is true, and clearly KCIA tactics like these are the primary means to stifle opposition. But the report is misleading because it so understates the scope, breadth and type of KCIA activities directed at political opposition. First, it must be remembered that the KCIA uses thousands, if not tens of thousands, of employees, agents, and informants. Knowledgeable observers point to its infiltration of every segment of South Korean society.

An atmosphere of fear and intimidation prevails because it is reasonable to believe that someone in your church, labor union, school, plant, business, perhaps even in your family, is a KCIA informant. KCIA infiltration has extended to the major opposition party. Some top opposition leaders have been bought off by the Park government; the KCIA routinely pays opposition members to spy on other members of the party.

Once you become politically active in the opposition in South Korea, you must expect that all your daily activities—even those which are nonpolitical—will meet with interference; this harassment often extends to other family members and relatives. Leading political dissidents and their spouses are tailed 24 hours a day and a 24-hour watch is kept on their homes. The church, a source of much opposition, also has been infiltrated. KCIA agents monitor church service attendance and record what is said.

The reach of the KCIA is so great that those who are now released from political detention are unable to find jobs, and protesting students find themselves kicked out of school. These are powerful deterrents to political criticism of the government.

Economic Rights as Human Rights.—At the heart of Korea's human right problems is the economic growth strategy of the country, a strategy which requires the repression and manipulation of labor (through government controlled "trade unions" and a ban on strikes) and the tight control of free political expression (as described above). The absence of full human rights is neither arbitrary nor coincidental; it is the product of the choice to have an export-oriented economy which leaves internal needs unmet.

The State Department accepts World Bank per capita GNP statistics as an indicator of the general economic well-being of the people. To the contrary, we see the current growth strategy as one which is creating a wider and wider between rich and poor and not a balanced distribution of income. Real income (which includes inflation as a factor) may be rising on paper; in people's daily lives, economic insecurity is far-reaching and the future does not look much better.

THAILAND

Contrary to the assertion of improvement in Thailand's human rights situation made in the State Department report, the new regime of Prime Minister (and General) Kriangsak has not substantially altered the structure or substance of repression. Although certain symbolic gestures in the area of press freedom have encouraged opponents of the regime to speak openly, violations of human rights continue, particularly the blatant misuse of police power in rural areas.

Integrity of the Person.—Not all arbitrary detention or mistreatment of prisoners, deaths, and disappearances, and so forth, at the hands of the police are for directly political reasons. In some cases, police abuses arise from personal feuds or in the context of police protection of gambling dens, narcotics smuggling, or

prostitution. However, Thai police also possess the legal authority under martial law decree 22 to arrest Thai citizens for "endangering society" and hold them for 30 days. As the State Department report points out, six of the categories of offenses under this article are for criminal activities and three for political activities (instigating confusion, advocating political systems other than those headed by the King, and labor strikes). The State Department says that about 800 people remain detained under decree 22, with fewer than 100 held on political charges. While we do not have precise figures, estimates provided by human rights groups in Thailand suggest that the total number held is in the thousands with far more than 100 being held for political reasons.

More important than the precise statistics, however, is the fact that this decree and others give police the legal authority to detain people arbitrarily, an authority which they take free advantage of. Detainees often disappear completely or are murdered, as was the case with 13 young people arrested in November 1977 in central Thailand. One case reported by human rights activists involved a woman who disappeared late in 1977; her crime appeared to be that her husband (who has also disappeared) had led a demonstration against the governor in 1975. More recently—February 16, 1978—three human rights activists who were investigating the disappearance of five villagers in the south were also arrested. Their names are Buntan Chindawan, 21; Chaiwat Yawapongsiri, 25; and Sukon Vankajaiyun, 25.

The cases cited are only the tip of an iceberg. As human rights activists in Thailand acknowledge, misuse of authority by local authorities is a familiar pattern in Thailand; however, the scope, number, and geographical range of such incidents increased dramatically during the regime of Prime Minister Thanin, 1967–77, and has not decreased under the new military regime.

Cruel, Inhuman or Degrading Treatment or Punishment.—By stating that charges of mistreatment of students following the October 1976 coup have not been substantiated, the State Department ignores all those held under decree 22, for whom mistreatment is common. The report also takes as the truth the government's assertion that only 40 students were killed at the time; eyewitnesses and journalists place the figure at between 100–400. We received a report that 109 detainees under decree 22 are being held 20 to a room in rooms 4 by 6 meters in size. 54 of these 109 are held on the "endangering society" charge.

Invasion of the Home.—The report states,

> To our knowledge the privacy of the home is generally respected by the Thai government. Search warrants are required under Thai law.

However, the government has clearly made enormous exceptions; under section 20 of the Communist Supression Act of 1969, police and the military are allowed to search or arrest any suspect "without * * * warrant any time or any place" within "communist-infested" areas. 37 of Thailand's 72 provinces have been declared "communist-infested".

Civil and Political Liberties.—The new regime has left in place all the legal structures of the previous one: martial law decrees, article 27 of the present constitution which gives absolute power to the prime minister to carry out any action he considers necessary for the national security, article 21 of the anti-Communist laws, and so forth. The State Department acknowledges restrictions on free assembly and union activity, but ignores important restrictions on the press. The press that exists is clearly less restricted than before; however, 13 newspapers and magazines closed by the Thanin government have not been permitted to reopen. Most of these were left-oriented or Chinese language publications.

In its review of the "political process," the State Department ignores completely the continuation of restrictions on students. As a group, students have represented a significant force in Thai history in antidictatorial agitation, and have suffered some of the most brutal repression. But now their abiilty to act politically is severely and specifically restricted: no student organizations are allowed, and discussion groups of any kind are discouraged; on campus, teachers and students are actively recruited to spy on each other; and politically inclined students have been expelled from university dormitories.

Freedom of Movement.—The report states that the only restrictions on travel in Thailand are on "entry into rural areas used by communist insurgents." Yet the 1 a.m. to dawn curfew in Bangkok remains in effect. Furthermore, forced travel is itself a restriction on the freedom of movement, and in November 1977 alone 2,500 people were evacuated from "sensitive" villages in Betong province in the south and placed in "strategic" hamlets reminiscent of forced relocation programs in Vietnam (Nation, November 11, 1977).

TUNISIA

As with the report on Morocco, the State Department's report on human rights in Tunisia attempts to show an improving situation when in fact the opposite is true. Although it is not within the time frame of the report, the violently repressed nationwide general strike of January 28, 1978, confirms that the general tendency is toward increasing levels of internal conflict, a tendency that predicts a continuing deterioration of the human rights situation.

In terms of basic human rights, that is, the freedom from the threat of torture, inhuman treatment or arbitrary arrest, the situation in Tunisia is mild, but also clearly worsening. The use of torture to prepare show trials, to instill fear in the opposition, and to stem growing dissidence is becoming commonplace and has been confirmed by recent reports of groups such as Amnesty International. The State Department's report itself effectively belies the claim that the Tunisian Government is "working to maintain" a democratic system. For example, is a government that is "working to maintain" democracy also one that, as the report notes, is "discouraging, through its control of the paper supply, the preparation and circulation of printed material not conforming to government policy"? Or is it one which "usually denies permission to hold public political meetings critical of the party or established institutions"? Or is it one which does not harass political activists only if they "confine themselves to verbal expression of their views in private"?

Torture and Cruel, Inhuman or Degrading Treatment or Punishment.—The report states that torture and cruel mistreatment of prisoners have been frequently alleged but that the U.S. Government has no evidence to confirm these allegations. Amnesty International sections in France, however, reported several cases of torture following a wave of arrests in March, 1977. A report from the Swiss Human Rights League, which sent observers to the trials following these arrests, concluded that "the use of torture is widespread and systematic" and listed seven different kinds of torture practiced on the prisoners in that case. Moritz Leuenberger, a member of the Zurich Bar who also attended the trials, likewise reported eight methods of torture used and cited the following remark by the judge in the case when prisoners attempted to show him marks of torture on their bodies:

> You did not confess and that means you were not tortured. Anyone tortured always confesses.

Arbitrary Arrest or Imprisonment.—This section elevates bureaucratic doubletalk to new heights. In general the report asserts that the Tunisian Constitution guarantees a wide range of political, religious and individual rights, and that the Tunisian Government generally respects the Constitution. The section on arbitrary arrest and imprisonment confines itself to a single, authoritative-sounding statement: "All persons presently imprisoned are accused of, or have been convicted of, committing some act proscribed by Tunisian law." Left unreported is the fact that what the Constitution says and what the laws say are very different matters, and that no judicial authority exists in Tunisia with the power to rule on the constitutionality of laws—even if they contradict the Constitution.

So, the Constitution guarantees the right of association, but the law says any new grouping must receive prior approval from the Ministry of the Interior before functioning. The Constitution guarantees freedom of movement, but the law gives the Prime Minister the power to withhold passports for foreign travel if the exit might be "harmful to the good reputation of Tunisia." The Constitution guarantees freedom of expression but the 1975 press law makes "offending the President of the Republic or any member of the Government" punishable by 5 years in jail. Writing or stating anything defamatory to any public official is punishable by 3 years. Possession of tracts or any foreign publication deemed harmful to public order is punishable by up to 5 years.

Attitude of the Government toward being investigated.—The report states that the Tunisian Government's invitation to members of the League for the Rights of Man to investigate prison conditions "illustrates Tunisia's encouraging policy in this regard." The facts lead to other conclusions. The league's investigation was prompted by requests from the wives of the March 1977 arrested prisoners for an investigation into their allegations of torture. Neither the Minister of the Interior nor the judge in the case would allow league doctors to interview the prisoners, so there could be no firsthand determination of what had happened. From interviews with the lawyers and from attending court sessions, the league was able to report what had already been in the foreign press—that a number of prisoners publicly denounced being tortured during interrogation and said they had been subjected to various psychological and physical stresses from which they still suffered. The league concluded its August 12, 1977, report by saying that:

The attitude of the public power in this matter . . . leaves a legitimate suspicion (that torture and violence were employed), and by denouncing the uncooperativeness of the government.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UDALL (at the request of Mr. WRIGHT), for an indefinite period, on account of medical reasons.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. PRESSLER (at the request of Mr. RHODES), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. MCCLOSKEY, for 15 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

The following Members (at the request of Mr. BONIOR) and to revise and extend their remarks and include extraneous matter:

Mr. BAUCUS, for 10 minutes, today.
Ms. MIKULSKI, for 5 minutes, today.
Mr. AUCOIN, for 15 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. DENT, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. MILFORD, for 5 minutes, today.
Mr. HARKIN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. WINN.
Mr. MCKINNEY.
Mr. DERWINSKI in two instances.
Mr. BROOMFIELD.
Mr. MCCLOSKEY.
Mr. ROBINSON.
Mr. MARKS in two instances.
Mr. CORCORAN of Illinois.
Mr. STEERS.
Mr. MCCLORY.
Mr. EMERY.
Mrs. SMITH of Nebraska.
Mr. WHALEN.
Mrs. FENWICK.
Mr. GOLDWATER in two instances.
Mr. DORNAN in three instances.
Mr. YOUNG of Florida.
Mr. HAGEDORN in two instances.
Mr. ABDNOR in three instances.
Mr. FORSYTHE.
Mr. KASTEN.
Mr. GILMAN.
Mr. COHEN.
Mr. LAGOMARSINO in two instances.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. FISHER in 10 instances.
Mr. ADDABBO in two instances.
Mr. JACOBS
Ms. KEYS in two instances.
Mr. MAZZOLI in three instances.
Mr. VENTO.
Mr. D'AMOURS.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. GAYDOS.
Mr. WALGREN.
Mr. STOKES.
Mr. ULLMAN in two instances.
Mr. HAMILTON in two instances.
Mr. EDGAR.
Mr. MOAKLEY.
Mr. SIMON.
Mr. UDALL.
Mr. KRUEGER.
Mr. BINGHAM.
Mr. MITCHELL of Maryland.
Mr. FRASER.
Mr. ROGERS in five instances.
Mr. PEASE.
Mr. ROONEY.
Mr. RISENHOOVER.
Mr. BEARD of Rhode Island in two instances.
Mr. AUCOIN.
Mr. STARK.
Mr. BRINKLEY.
Mr. MCDONALD.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services; to the Committee on Government Operations;

S. 1267. An act to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents; to the Committee on House Administration;

S. 2779. An act to authorize additional appropriations for the work incentive program establish by title IV of the Social Security Act; to the Committee on Education and Labor; and

S.J. Res. 102. Joint resolution. American Indian Religious Freedom; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 124. Joint resolution to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week."

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2960. An act to authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia;

H.R. 5981. An act to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act; and

H.R. 8358. An act to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications.

ADJOURNMENT

Mr. HARKIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Thursday, April 6, 1978, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3775. A letter from the Deputy Secretary of Defense, transmitting notice of approval of annual compensation rates exceeding $45,000 from Federal funds for various officers and employees of Federal contract research centers, pursuant to section 407(b) of Public Law 91–121; to the Committee on Armed Services.

3776. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for a Department of Defense Military Retirement and Disability Fund, and for other purposes; to the Committee on Armed Services.

3777. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of defense equipment to the Democratic Republic of Sudan (transmittal No. 78–28), pursuant to section 813 of Public Law 94–106, as amended (91 Stat. 337); to the Committee on Armed Services.

3778. A letter from the Assistant Secretary of the Interior, transmitting drafts of three proposed temporary water service contracts between the United States and the Westlands Water District, California, for the second half of 1978, pursuant to section 3 of Public Law 95–46; to the Committee on Interior and Insular Affairs.

3779. A letter from the vice president for Government Affairs, Consolidated Rail Corporation, transmitting the Corporation's annual report for calendar year 1977, pursuant to section 301(h) of the Regional Rail Reorganization Act of 1973, as amended (90 Stat. 106); to the Committee on Interstate and Foreign Commerce.

3780. A letter from the Comptroller General of the United States, transmitting a report on opportunities for conserving municipal and industrial water supplies (CED–78–66, April 3, 1978); jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

3781. A letter from the Comptroller General of the United States, transmitting a report on the need for the Occupational Safety and Health Administration to do a better job of directing Federal and State industrial hygienists' inspections (HRD–77–143, April 5, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

3782. A letter from the Comptroller General of the United States, transmitting a report on the need for integration of the population and development assistance programs of the Agency for International Development in order to influence fertility through social and economic change in developing countries (ID–78–6, April 5, 1978); jointly, to the Committees on Government Operations, and International Relations.

3783. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to regulate the compensation and paid leave of certain officers and employees in the Foreign Service, and for other purposes; jointly, to the Committees on International Relations, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 1920. A bill to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale; with amendment (Rept. No. 95–1038). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4030. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the stock which certain private foundations may hold in certain public utilities without being subject to the excise tax on excess business holdings; with amendment (Rept. No. 95–1039). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House resolution 1112. Resolution providing for the consideration of H.R. 11302. A bill to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes (Rept. No. 95–1040). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1113. Resolution providing for the consideration of H.R. 11662. A bill to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes (Rept. No. 95–1041). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1114. Resolution providing for the consideration of H.R. 10899. A bill to provide for Federal regulation of participation by foreign banks in domestic financial markets (Rept. No. 95–1042). Referred to the House Calendar.

Mr. BINGHAM: Committee of conference. Conference report on H.R. 9179 (Rept. No. 95–1043). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HARRINGTON (for himself, Mr. WINN, Mr. BONKER, Mr. PEASE, Mr. NIX, and Mr. GILMAN):

H.R. 11877. A bill to authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act; to the Committee on International Relations.

By Mr. BURKE of Massachusetts (for himself and Mr. HARKIN):

H.R. 11878. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 11879. A bill to establish a U.S. Health Service to provide high quality health care and to overcome the deficiencies in the present system of health care delivery; jointly, to the Committees on Armed Services, Banking, Finance, and Urban Affairs, the District of Columbia, Education and Labor, Interstate and Foreign Commerce, the Judiciary, Post Office and Civil Service, Veterans' Affairs, and Ways and Means.

By Mr. FRENZEL:

H.R. 11880. A bill to amend section 4941 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself, Mr. RUSSO, Mrs. HECKLER, Mr. GUYER, Mr. BAFALIS, and Mr. BLOUIN):

H.R. 11881. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. HAGEDORN (for himself and Mr. BEARD of Tennessee):

H.R. 11882. A bill to limit the authority of the Secretary of Agriculture to restrict or prohibit the use of nitrites or nitrates as preservatives in meat products for a period of 2 years, and for other purposes; to the Committee on Agriculture.

By Mr. KRUEGER:

H.R. 11883. A bill to provide financial assistance for school construction to local educational agencies educating large numbers of immigrant children; to the Committee on Education and Labor.

By Mr. MAZZOLI:

H.R. 11884. A bill to amend the Federal Election Campaign Act of 1971 to provide for financing of general election campaigns for the House of Representatives; to the Committee on House Administration.

By Mr. MOFFETT (for himself, Mr. EILBERG, Mr. LUKEN, Mr. MITCHELL of Maryland, Mr. DOWNEY, Mr. MOAKLEY, Mr. OTTINGER, Mr. EDGAR, Ms. HOLTZMAN, Mr. WEISS, Mr. DRINAN, Mr. BONIOR, Mr. PANETTA, Ms. SPELLMAN, Mr. HARRINGTON, Mr. BEDELL, Mr. PATTERSON of California, and Mr. SIMON):

H.R. 11885. A bill to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY (for himself, Mr. WYLIE, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mr. TEAGUE, Mr. BRINKLEY, Mr. HEFNER, Mr. HALL, Mr. EDGAR, and Mr. GUYER):

H.R. 11886. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors; to the Committee on Veterans' Affairs.

H.R. 11887. A bill to amend title 38, United States Code, to increase the rates of dependency and indemnity compensation for parents, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 11888. A bill to amend title 38, United States Code, to change the minimum disability rating a veteran must have in order to receive additional compensation for dependents from 50 percent to 40 percent; to the Committee on Veterans' Affairs.

H.R. 11889. A bill to amend title 38, United States Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor; to the Committee on Veterans' Affairs.

H.R. 11890. A bill to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability; to the Committee on Veterans' Affairs.

H.R. 11891. A bill to amend title 38, United States Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans; to the Committee on Veterans' Affairs.

By Mr. NOLAN:

H.R. 11892. A bill to amend the Internal Revenue Code of 1954 to allow handicapped individuals a deduction for certain transportation expenses; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. ERTEL, and Mr. SEIBERLING):

H.R. 11893. A bill to provide that daylight saving time shall be observed in any State for 60 days after the President declares an energy emergency to exist within that State, to permit the President to extend such period after reviewing reports submitted by the Secretary of Transportation, and to permit certain daytime broadcast stations to operate before local sunrise; to the Committee on Interstate and Foreign Commerce.

By Mr. RISENHOOVER:

H.R. 11894. A bill to amend certain laws relating to the Osage Tribe of Oklahoma and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROE (for himself, Mr. WRIGHT, Mr. BOB WILSON, Mr. CONTE, Mr. MOORHEAD of Pennsylvania, Mr. NEDZI, Mr. KAZEN, Mr. HARRINGTON, Mr. DELLUMS, Mr. METCALFE, Mr. WON PAT, Mr. KREBS, Mr. MAGUIRE, Mr.

MILLER of California, Mr. ZEFERETTI, Mr. AMMERMAN, Mr. HEFTEL, Mr. HOLLENBECK, and Mr. KILDEE):

H.R. 11895. A bill to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976; to the Committee on Public Works and Transportation.

By Mr. ST GERMAIN:

H.R. 11896. A bill to amend the Federal Reserve Act to eliminate the prohibition on the payment of interest on demand deposits and to allow federally chartered savings and loan associations and credit unions to offer demand deposits and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. SIMON (for himself, Mr. VENTO, Mr. FARY, Mr. MURPHY of Pennsylvania, Mrs. SPELLMAN, Mr. GILMAN, Ms. MIKULSKI, Mr. RICHMOND, Ms. OAKAR, Mr. CONTE, and Mr. ERTEL):

H.R. 11897. A bill to establish a national system of financing child and maternal health care and a system of protection against catastrophic health care costs, and to improve and expand health care for the elderly; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. SKELTON:

H.R. 11898. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. STARK (for himself, and Mr. MILLER of California):

H.R. 11899. A bill to provide financial assistance to dependent students; to the Committee on Ways and Means.

By Mr. STEERS (for himself, Mr. MOFFETT, Mr. MOAKLEY, Mr. GOLDWATER, Mrs. HOLT, Mr. LAGOMARSINO, Mr. EILBERG, Mr. HARRINGTON, Mr. HUGHES, Mrs. SPELLMAN, Mr. VENTO, Mr. DOWNEY, Mr. LENT, Mr. STOCKMAN, Mr. MARKS, Ms. MIKULSKI, Mr. LONG of Maryland, Mr. BYRON, Mr. WHITEHURST, Mr. OTTINGER, Mr. WEISS, Mr. PATTERSON of California, Mr. BEDELL, Mr. STARK, and Mr. YOUNG of Missouri):

H.R. 11900. A bill to amend the Consumer Product Safety Act to provide that electrical wiring systems shall be considered to be consumer products for purposes of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. TRIBLE:

H.R. 11901. A bill to amend title 5, United States Code, to correct inequities in the determination of rates of basic pay in conversions to the General Schedule of employees and positions subject to prevailing rate pay schedules; to the Committee on Post Office and Civil Service.

By Mr. TRIBLE (for himself, Mr. ANDERSON of Illinois, Mr. McEWEN, and Mr. FREY):

H.R. 11902. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. PEPPER, Mr. RICHMOND, Mrs. LLOYD of Tennessee, Mr. PATTISON of New York, Mr. MOAKLEY, Mr. LUNDINE, Mr. LEHMAN, Ms. HOLTZMAN, Mr. ERTEL, Mr. OTTINGER, Mr. CARNEY, Mr. VAN DEERLIN, Mr. EILBERG, Mr. MAZZOLI, Mrs. COLLINS of Illinois, Ms. MIKULSKI, Mr. KILDEE, and Mr. BEILENSON):

H.R. 11903. A bill to provide employment programs for middle-aged and older workers; to the Committee on Education and Labor.

By Mr. WHITEHURST (for himself, Mr. COLEMAN, Mr. ROBERT W. DANIEL, Jr., Mr. DORNAN, Mr. DRINAN, Mr. GLICKMAN, Mr. HAGEDORN, Ms. HOLTZMAN, Mr. ICHORD, Mr. McHUGH, Mr. OTTINGER, and Mr. QUIE):

H.R. 11904. A bill to amend the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself, Mr. DUNCAN of Tennessee, Mr. EVANS of Delaware, Mr. LAGOMARSINO, Mr. McDADE, and Mr. SANTINI):

H.R. 11905. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 11906. A bill to amend the Immigration and Nationality Act relating to the immigation to the United States of graduates of foreign medical schools; to the Committee on the Judiciary.

H.R. 11907. A bill to amend the antitrust laws to provide that the refusal of nonprofit blood banks and of hospitals and physicians to obtain blood and blood plasma from other blood banks shall not be deemed to be acts in restraint of trade, and for other purposes; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.R. 11908. A bill to require that an amendment be proposed by the United States to the Articles of Agreement for each of the international financial institutions in which the United States participates which would require the establishment of human rights standards to be considered in connection with each application for assistance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. AKAKA (for himself and Mr. HEFTEL):

H.R. 11909. A bill directing the Administrator of General Services to convey certain property to the State of Hawaii; to the Committee on Government Operations.

By Mr. AUCOIN:

H.R. 11910. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid for educational expenses; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 11911. A bill to provide for the installation of telecommunications devices for the deaf in agencies of Federal, State, and local governments, in offices of Members of Congress, and in other locations; jointly to the Committees on Government Operations, and House Administration.

By Mr. HANSEN:

H.R. 11912. A bill to authorize and direct the Secretary of the Treasury to mint and issue gold coins to be known as Jeffersons, Hamiltons, Madisons, and Franklins; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. LAGOMARSINO:

H.R. 11913. A bill to amend the Social Security Act and the Internal Revenue Code of 1954, to strengthen the financing of the social security system, to improve the treatment of women through the establishment of a working spouse's benefits and to eliminate gender-based discrimination, to increase and ultimately repeal the earnings limitation, and for other purposes; to the Committee on Ways and Means.

By Mr. TUCKER:

H.R. 11914. A bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis; to the Committee on Ways and Means.

By Mr. WHITE:

H.R. 11915. A bill to authorize the Secretary of Housing and Urban Development to enter into annual contributions contracts with respect to housing located in a certain area in Odessa, Tex.; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. VENTO (for himself, Mr. FRASER, Mr. OBERSTAR, Mr. FRENZEL, Mr. QUIE, Mr. NOLAN, Mr. HAGEDORN, Mr. LEVITAS, Mr. AUCOIN, Ms. MIKULSKI, and Mr. DUNCAN of Oregon):

H.J. Res. 825. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, and Mr. BUCHANAN):

H. Con. Res. 549. Concurrent resolution praising the U.S. delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe for its efforts on behalf of human rights, and urging the President to continue to express U.S. opposition to repressive actions and to violations of basic human rights which are contrary to the Helsinki Accords; to the Committee on International Relations.

By Mr. KEMP (for himself, Mrs. HOLT, Mr. TSONGAS, Mr. FRENZEL, Mr. EDGAR, Mr. HARRINGTON, and Ms. HOLTZMAN):

H. Con. Res. 550. Concurrent resolution urging the Canadian Government to reassess its policy of permitting the killing of newborn harp seals; to the Committee on International Relations.

By Mr. MAGUIRE (for himself, Mrs. BURKE of California, Mrs. CHISHOLM, Mr. CLAY, Mr. DELLUMS, Mr. DOWNEY, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. MARKEY, Mr. MITCHELL of Maryland, Mr. PATTERSON of California, Mr. RANGEL, Mr. ROSENTHAL, Mr. STOKES, and Mr. WEISS):

H. Con. Res. 551. Concurrent resolution to disapprove the determination of the President denying import relief under the Trade Act of 1974 to the U.S. high-carbon ferrochromium industry; to the Committee on Ways and Means.

By Mr. MITCHELL of Maryland:

H. Con. Res. 552. Concurrent resolution to provide special recognition in April 1978, to the National Fair Housing Law, title VIII of the 1968 Civil Rights Act; to the Committee on Post Office and Civil Service.

By Mr. ICHORD (for himself, Mr. CUNNINGHAM, Mr. WYDLER, Mr. BEVILL, Mr. KINDNESS, Mr. DORNAN, Mr. BADHAM, Mr. BOB WILSON, Mr. EDWARDS of Oklahoma, Mr. YOUNG of Florida, Mr. DUNCAN of Tennessee, Mr. TREEN, Mr. McDONALD, Mr. LAGOMARSINO, Mr. DAN DANIEL, Mr. WHITE, Mr. WINN, Mr. ASHBROOK, Mrs. HOLT, Mr. KELLY, Mr. CHAPPELL, Mr. HAGEDORN, Mr. KEMP, Mr. WHITEHURST, and Mr. YOUNG of Alaska):

H. Res. 1115. Resolution expressing the sense of the House that the President should exercise his authority to suspend the ban on the importation of Rhodesian chrome and ferrochrome; to the Committee on International Relations.

By Mr. TUCKER (for himself, Mr. LEACH, Mr. GAYDOS, Mr. CARNEY, Mr. WAXMAN, Mr. MOAKLEY, Mr. BURGENER, Mr. MAZZOLI, Mr. STOCKMAN, Mr. ROE, and Mr. YOUNG of Missouri):

H. Res. 1116. Resolution expressing the sense of the House of Representatives that the study provided for by section 4(d) of the International Investment Survey Act of 1976 be completed not later than December 31, 1978; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

359. By the SPEAKER: Memorial of the legislature of the State of Idaho, relative to the proposed transfer of the Soil Conservation Service from the Department of Agriculture; to the Committee on Agriculture.

360. Also, memorial of the Legislature of the State of Idaho, relative to regional development; to the Committee on Banking, Finance, and Urban Affairs.

361. Also, memorial of the Legislature of the State of Colorado, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States prohibiting deficit spending except under certain conditions; to the Committee on the Judiciary.

362. Also, memorial of the Legislature of the State of Idaho, relative to development of domestic energy sources; jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KAZEN:

H.R. 11916. A bill for the relief of Raul Lopez Maldonado; to the Committee on the Judiciary.

By Mr. NOLAN:

H.R. 11917. A bill for the relief of Yang Soo Ko; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.R. 11918. A bill for the relief of Janette Angela Davis; to the Committee on the Judiciary.

By Mr. PRITCHARD:

H.R. 11919. A bill for the relief of Jeanette Marie Poulin; to the Committee on the Judiciary.

By Mr. RICHMOND:

H.R. 11920. A bill for the relief of Gladys Venicia Cruz-Sanchez; to the Committee on the Judiciary.

By Mr. TRAXLER:

H.R. 11921. A bill for the relief of Emerenciano S. Sarabia, M.D.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

438. Mr. QUILLEN presented a petition of Miss Myrtle M. Masters, Erwin, Tenn., relative to repeal of the withholding tax law; which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10899

By Mr. AuCOIN:

Page 16, line 10, strike out "May 1, 1976" and insert in lieu thereof "the date of enactment of this Act".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the Congressional Record of March 10, 1978 (page 6390).

H.R. 10700. February 1, 1978. Judiciary. Amends the Administrative Procedure Act to require Federal agencies to prepare and publish in the Federal Register an economic impact analysis of all proposed and final rules subject to the provisions of the Act.

H.R. 10701. February 1, 1978. Judiciary. Authorizes the Administrator of the Law Enforcement Assistance Administration to provide grants and technical assistance to certain units of local government having populations of at least 250,000 for the establishment and operation of programs designed to identify and expedite the prosecution of career criminal offenders. Sets forth requirements for grant applications and limits on payments to any single local government.

H.R. 10702. February 1, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pension, aid-and-attendance allowance, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 10703. February 1, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pension, aid-and-attendance allowance, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 10704. February 1, 1978. Interstate and Foreign Commerce. Authorizes appropriations to States, beginning in fiscal year 1979, for services and research projects under Title V (Maternal and Child Health and Crippled Children's Services) of the Social Security Act.

Sets forth requirements for State plans providing maternal and child health and crippled children's services.

Establishes in the Department of Health, Education, and Welfare, the Office of Maternal and Child Health Services. Creates the National Advisory Council on Maternal and Child Health Care Programs.

H.R. 10705. February 1, 1978. Ways and Means. Amends the Social Security Act to authorize the garnishment of salaries payable by the Federal Government for the enforcement of court-ordered payments in addition to garnishment for alimony and child support payments presently authorized.

H.R. 10706. February 1, 1978. Judiciary. Transfers Polk and Tyler Counties from the southern district of the U.S. District Court for Texas to the eastern district.

Establishes the Lufkin division of the eastern district.

H.R. 10707. February 1, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10708. February 1, 1978. Judiciary. Confers jurisdiction on the U.S. District Court of South Carolina for claims filed by five individuals.

H.R. 10709. February 1, 1978. Judiciary. Deems a certain period to be creditable service for purposes of civil service retirement for a certain individual. States that any deductions shall be considered to have been made for such period.

H.R. 10710. February 1, 1978. Judiciary. Sets a formula for the computation for payment of a lump sum to a certain individual for mother's insurance benefits under the Social Security Act.

H.R. 10711. February 2, 1978. Agriculture; Education and Labor; Ways and Means. Revises the programs of Aid to Families With Dependent Children (AFDC) and Supplemental Security Income (SSI) of the Social Security Act, the Food Stamp Act of 1977, and the Internal Revenue Code to revise the method of determining the amount of assistance payments, to coordinate the administration of such benefit plans, and to encourage employment and stimulate the growth of employment opportunities.

H.R. 10712. February 2, 1978. Public Works and Transportation. Designates the Federal Office Building, located at 200 Fourth Southwest, Huron, South Dakota, as the "Hubert H. Humphrey Building."

H.R. 10713. February 2, 1978. Small Business. Amends the Small Business Investment Act of 1958 to change limitations on the amount of small business investment company securities that the Small Business Administration may purchase.

Permits small business investment companies to invest funds in specified savings accounts.

Amends the Small Business Act to institute procedures which will insure that small business concerns owned and controlled by socially and economically disadvantaged individuals are given the maximum practicable opportunity to participate in public procurement, construction, and service contracts.

H.R. 10714. February 2, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations.

H.R. 10715. February 2, 1978. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to determine the structural stability of the Buckeye Lake Dam and levee, Ohio.

H.R. 10716. February 2, 1978. Agriculture; Ways and Means. Amends the Agricultural Act of 1949 to establish price supports for corn, upland cotton, milk, soybeans, wheat, wool and mohair.

Amends the Internal Revenue Code to limit deductions attributable to the trade or business of farming for any taxpayer whose nonfarm adjusted gross income exceeds a specified amount, and who does not elect to compute his income on the accrual method of accounting.

Establishes grant, loan, marketing, research, education, training, and demonstration programs to help preserve and encourage small land moderate-sized family farming enterprises.

Establishes a Food Price Review Board to monitor food price increases.

H.R. 10717. February 2, 1978. Interstate and Foreign Commerce. Amends the Securities Act of 1930 and the Investment Company Act of 1940 to set forth provisions relating to investment in small business concerns.

H.R. 10718. February 2, 1978. Education and Labor. Directs the Secretary of Labor, under the Comprehensive Employment and Training Act of 1973, to establish a minimum of 50 Multipurpose Service Centers for displaced homemakers. States that such Centers shall provide specified services, including: (1) job counseling; (2) job training and job placement; (3) health education and counseling; (4) financial management; and (5) outreach information with respect to assistance programs.

Directs the Secretary to prepare a study of the feasibility of including homemakers in all Federal and State unemployment benefit programs.

H.R. 10719. February 2, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 10720. February 2, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 10721. February 2, 1978. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to make a lump-sum bonus payment to each qualified World War II veteran, or their survivors, equal to the sum of (1) $5 times the number of days of active duty performed by the veteran outside the continental United States; and (2) $4 times the number of days of active duty performed by the veteran within the continental United States.

Requires applications for such payment to be filed within three years of enactment of this Act.

H.R. 10722. February 2, 1978. International Relations. Amends the Export Administration Act of 1969 to prohibit the export to South Africa of aircraft and aircraft parts, helicopters and helicopter parts, and non-military arms.

Establishes a procedure for Congressional veto of Presidential authorization of exports to South Africa under such Act.

H.R. 10723. February 2, 1978. Agriculture. Amends the Consolidated Farm and Rural Development Act to permit insured loans of up to $1,000,000 to farm owners and operators for refinancing existing indebtedness incurred between January 1, 1973, and December 31, 1977.

H.R. 10724. February 2, 1978. Agriculture. Amends the Consolidated Farm and Rural Development Act to permit insured loans of up to $1,000,000 to farm owners and operators for refinancing existing indebtedness incurred between January 1, 1973, and December 31, 1977.

H.R. 10725. February 2, 1978. Judiciary. Confers jurisdiction upon Federal district courts to enforce a State child custody order against a parent who, in violation of such order, took the child to another State.

H.R. 10726. February 2, 1978. Veterans' Affairs. Increases the amount of a home loan which may be guaranteed by the Veterans' Administration.

H.R. 10727. February 8, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment under the supplementary medical insurance program for foot care involving the cutting and removal of corns, warts, and calluses and the trimming of club nails.

H.R. 10728. February 2, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pension, aid-and-attendance allowance, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 10729. February 2, 1978. Merchant Marine and Fisheries. Authorizes appropriations in specified amounts to the Department of Commerce for specified maritime-related expenses for fiscal year 1979.

H.R. 10730. February 2, 1978. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to authorize appropriations to carry out the purposes of this Act during fiscal years 1979, 1980, and 1981.

H.R. 10731. February 2, 1978. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to authorize appropriations to carry out the purposes of this Act during fiscal years 1979, 1980, and 1981.

H.R. 10732. February 2, 1978. Agriculture. Amends the Fishery Conservation and Management Act of 1976 to authorize appropriations to carry out this Act during fiscal years 1979, 1980, and 1981.

H.R. 10733. February 2, 1978. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to authorize appropriations to carry out this Act during fiscal years 1979, 1980, and 1981.

H.R. 10734. February 2, 1978. Banking, Finance, and Urban Affairs. Creates a Solar Energy Development Bank to make long-term, low-interest loans to encourage the use of solar energy in commercial and residential dwellings. Establishes a Solar Energy Fund in the Treasury of the United States to finance the activities of the Bank.

H.R. 10735. February 2, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit Federal payments for abortion under such Title except when necessary to prevent the death of the mother.

H.R. 10736. February 2, 1978. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Comissioner of Education to make grants to, and enter into contracts with, institutions of higher education to offer projects to encourage economically disadvantaged students to pursue undergraduate and graduate training in the biomedical sciences.

Sets forth the activities such projects must provide and the criteria applicants must meet in order to be eligible for assistance under this program.

H.R. 10737. February 2, 1978. Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

H.R. 10738. February 2, 1978. Ways and Means: Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to allow unlimited home health visits, to eliminate prior hospitalization as a requirement for receiving home health care under part A (Hospital Insurance Benefits for the Aged and Disabled) of such Title, and to eliminate confinement to home as a requirement for receiving such care under part B (Supplementary Medical Insurance Benefits for the Aged and Disabled) of such Title.

H.R. 10739. February 2, 1978. Agriculture; Ways and Means. Amends the Agricultural Act of 1949 to establish price supports for corn, upland cotton, milk, soybeans, wheat, wool and mohair.

Amends the Internal Revenue Code to limit deductions attributable to the trade or business of farming for any taxpayer whose nonfarm adjusted gross income exceeds a specified amount, and who does not elect to compute his income on the annual accrual method of accounting.

Establishes grant, loan, marketing, research, education, training, and demonstration programs to help preserve and encourage small and moderate-sized family farming enterprises.

Establishes a Food Price Review Board to monitor food price increases.

H.R. 10740. February 2, 1978. Judiciary. Declares that any physician, registered nurse, or aircraft employee who, in good faith and with a reasonable belief that immediate medical attention is necessary, renders emergency care to an injured or ill person aboard an aircraft within the special aircraft jurisdiction of the United States shall not be liable for any civil damages as a result of any act or omission by such individual in rendering such care, except for any act or omission amounting to gross negligence or willful or wanton misconduct.

H.R. 10741. February 2, 1978. Banking, Finance, and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities. Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 10742. February 2, 1978. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to require that orders of approval made by the Interstate Commerce Commission for combination and consolidation transactions which may adversely affect railroad employees be made in consultation with, and be reviewable by, the Secretary of Labor.

H.R. 10743. February 2, 1978. Post Office and Civil Service. Designates February 12th, Lincoln's birthday, as a legal public holiday.

H.R. 10744. February 2, 1978. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 10745. February 2, 1978. Ways and Means. Permits a taxpayer, who has received cash payments under the Agricultural Act of 1949 in 1978 for crop disaster losses sustained in 1977, to elect to include such payments in his 1977 income, if he establishes that, under his practice, income from the lost crops would have been reported in his 1977 income.

H.R. 10746. February 2, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 10747. February 2, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require the labels on packages containing perishable or semiperishable food to disclose, in addition to other information required under law, the packing date and last sale date of the food.

H.R. 10748. February 2, 1978. Ways and Means. Amends the Social Security Act to authorize the garnishment of salaries payable by the Federal Government for the enforcement of court-ordered payments to or on behalf of an employee's or official's spouse, former spouse, or children (in ad-

dition to garnishment for alimony and child support payments presently authorized).

H.R. 10749. February 2, 1978. Government Operations. Sets forth policies, methods, and criteria for the acquisition of property and services by any agency of the United States Government. Describes procedures for contracts, contract payments, and contract settlements. Permits agency heads to delegate authority to acquire property and services, with specified exceptions.

H.R. 10750. February 2, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10751. February 6, 1978. Interstate and Foreign Commerce. Establishes a National Academy of Medicine to train doctors at no cost to the student. Requires each student to sign a written agreement to serve as a commissioned officer of the Regular Corps of the Public Health Service upon graduation and after completion of residency and internship for a period of six years for general practitioners and nine years for specialists.

H.R. 10752. February 6, 1978. Judiciary. Makes additional immigrant visas available for immigrants from foreign countries which meet criteria set forth in this Act.

H.R. 10753. February 6, 1978. Interior and Insular Affairs; Merchant Marine and Fisheries. States that, notwithstanding any Indian treaty, laws and regulations of a State prohibiting or restricting the taking or sale of steelhead trout for commercial purposes shall apply to Indians and Indian tribes in the same manner and to the same extent as such laws and regulations apply to other persons.

H.R. 10754. February 6, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act and the Internal Revenue Code to finance the payment of benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 10755. February 6, 1978. Ways and Means. Amends the Internal Revenue Code to remove the sales price limitation on the exclusion of residential sales gains by the elderly. Provides for the payment of interest on excess taxes withheld from individual wages. Excludes the first $100 in interest or dividends on withdrawable savings deposits and debt securities. Provides for annual cost-of-living adjustments to personal exemptions and the individual income tax rates. Allows an individual income tax credit for a portion of the educational expenses of the taxpayer, his spouse, and any dependents.

H.R. 10756. February 6, 1978. Appropriations. Rescinds budget authority in the amount of $10,055,000, for the Federal Home Loan Bank Revolving Fund (H. Doc. 95–285), pursuant to the Impoundment Control Act of 1974.

H.R. 10757. February 6, 1978. Appropriations. Rescinds the budget authority proposed in House Document 95–285 concerning contributions to international organizations and conferences for international peacekeeping activities, under the Impoundment Control Act of 1974.

H.R. 10758. February 6, 1978. Appropriations. Rescinds the budget authority proposed in House Document 95–285 concerning military assistance, under the Impoundment Control Act of 1974.

H.R. 10759. February 6, 1978. Interstate and Foreign Commerce; Ways and Means. Establishes a program of health care services for children which includes diagnosis, treatment, and health maintenance services. Establishes such a program for women which provides health care to women during pregnancy through a period of 12 weeks after termination of pregnancy.

Amends the Internal Revenue Code to establish a tax credit for medical costs above the amount covered by medical insurance. Repeals the medical expenses deduction.

Amends title XVIII (medicare) of the Social Security Act to include the provision of specified services under such program.

H.R. 10760. February 6, 1978. Interior and Insular Affairs; Education and Labor. Authorizes the Secretary of the Interior to acquire specified lands for addition to the Redwood National Park, California. Authorizes the Secretary to implement a program to rehabilitate areas within and upstream of the park which are contributing sedimentation due to past road and logging activity.

Establishes a program of assistance for employees of logging or related woods industries whose employment is affected by the provisions of this act.

H.R. 10761. February 6, 1978. Public Works and Transportation. Amends the Interstate Commerce Act to exempt from the motor vehicle provisions of such act motor vehicles used exclusively for the transportation of members of religious organizations.

H.R. 10762. February 6, 1978. Education and Labor. Authorizes the Commissioner of Education to provide financial assistance to assist in the development of the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota—Twin Cities.

Authorizes up to $5,000,000 to be appropriated for such purpose.

H.R. 10763. February 6, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals to elect either an income tax deduction for 100 percent of the social security taxes paid, or a tax credit for 15 percent.

H.R. 10764. February 6, 1978. Agriculture. Prohibits the Secretary of Agriculture, for a 2-year period, from issuing any order or regulation: (1) restricting the use of nitrites or nitrates as preservatives in meat products beyond a specified degree; or (2) requiring labeling on meat products concerning nitrites or nitrates in addition to the requirements already in effect.

H.R. 10765. February 6, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 through 1981 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grains loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 10766. February 6, 1978. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to deduct all current expenditures for plants and facilities which are otherwise chargeable to capital account and which are certified as being required by Federal law and as not significantly increasing the plant's or facility's value or productivity.

H.R. 10767. February 6, 1978. Ways and Means. Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 10768. February 6, 1978. Agriculture. Directs the Secretary of Agriculture, acting through the Agricultural Stabilization and Conservation Service and the Commodity Credit Corporation, to make incentive payments to any qualified dairyman with respect to: (1) any dairy cow which such person markets and delivers for slaughter; and (2) any bred dairy heifer or dairy cow exported.

H.R. 10769. February 6, 1978. Agriculture. Amends the Rural Electrification Act of 1936 to redefine "telephone service" as any telecommunication service for the transmission of voice, data, sounds, signals, pictures, writing, or signs of any kind by wire, radio, light, or other electromagnetic systems, including (1) all lines, facilities, or systems used in the rendition of such service and (2) community antenna and cable television facilities. Excludes from "telephone service" message telegram service and radio broadcasting services or facilities.

H.R. 10770. February 6, 1978. Banking, Finance, and Urban Affairs. Amends the United States Housing Act of 1937 to authorize the Secretary of Housing and Urban Development to make assistance payments for the purpose of aiding any lower-income family in making rental payments with respect to real property on which is located a mobile home owned by such family and utilized by such family as its principal place of residence.

H.R. 10771. February 6, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to require State plans for Medicaid to include a Child Health Assurance Program for the early, periodic screening of physical and mental defects in children under the age of 21 who are members of families eligible for Medicaid or Aid to Families with Dependent Children.

Establishes the National Commission on Preventive Health.

H.R. 10772. February 6, 1978. Post Office and Civil Service. Prohibits the mailing of any business solicitation which resembles a bill or statement of account.

H.R. 10773. February 6, 1978. Post Office and Civil Service. Prohibits the mailing of any business solicitation which resembles a bill or statement of account.

H.R. 10774. February 6, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pensions, aid-and-attendance allowances, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added benefits is applied for or received.

H.R. 10775. February 6, 1978. House Administration. Amends the Woodrow Wilson Memorial Act of 1968 to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution.

Establishes the Hubert H. Humphrey Fellowship Trust Fund in the Treasury.

H.R. 10776. February 6, 1978. House Administration. Amends the Woodrow Wilson Memorial Act of 1968 to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution.

Establishes the Hubert H. Humphrey Fellowship Trust Fund in the Treasury.

H.R. 10777. February 6, 1978. House Administration. Amends the Woodrow Wilson Memorial Act of 1968 to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution.

Establishes the Hubert H. Humphrey Fellowship Trust Fund in the Treasury.

H.R. 10778. February 6, 1978. Banking, Finance, and Urban Affairs. Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions.

H.R. 10779. February 6, 1978. Banking, Finance and Urban Affairs. Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions.

H.R. 10780. February 6, 1978. Agriculture. Amends the Agricultural Act of 1949 with respect to price support loans in the producer storage program for wheat and feed grains: (1) to require a minimum cost of storage payment to producers; and (2) to set a ceiling on the interest rate for such loans.

H.R. 10781. February 6, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grains loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 10782. February 6, 1978. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational research or service programs; and (2) assistance in carrying out such programs.

Authorizes a 5-year comprehensive grant to a university qualifying as an urban grant university and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, urban grant university applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 10783. February 6, 1978. Judiciary. Amends the Clayton Act to entitle indirect purchasers to sue for treble damages and actual damages when injured in their business or property by reason of any action forbidden in the antitrust laws.

H.R. 10784. February 6, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent on income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 10785. February 6, 1978. Interior and Insular Affairs. Authorizes appropriations for the Nuclear Regulatory Commission for fiscal years 1979 and 1980.

H.R. 10786. February 6, 1978. Interior and Insular Affairs. Amends the fiscal year 1978 appropriations authorization for the Nuclear Regulatory Commission by increasing from $22,090,000 to $24,790,000 the amount authorized for nuclear materials safety and safeguards.

H.R. 10787. February 6, 1978. Interior and Insular Affairs. Authorizes funds to be appropriated for activities and programs administered through the Bureau of Land Management, pursuant to the Federal Land Policy and Management Act of 1976.

H.R. 10788. February 6, 1978. Judiciary. Directs the Secretary of the Treasury to pay a sum to be determined at the Secretary's discretion, but not to exceed a specified amount, in whole or partial indemnification of a certain corporation's claims against the United States.

H.R. 10789. February 6, 1978. Judiciary. Declares a certain individual to be a returning resident alien, under the Immigration and Nationality Act.

H.R. 10790. February 6, 1978. Judiciary. Declares two individuals to be lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10791. February 7, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, to the surviving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 10792. February 7, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 10793. February 7, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 10794. February 7, 1978. Ways and Means. Amends title II (old-age, survivors, and disability insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such title and under the medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 10795. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income, thereby providing the deduction to individuals who do not itemize.

H.R. 10796. February 7, 1978. Judiciary. Requires any Federal agency receiving a petition to issue, amend, or repeal any rule administered by the agency to grant or deny such petition within 120 days. Permits any person to enforce this Act by civil suit in any United States court of appeals. Requires agencies to promulgate timetables which shall be subject to a one-house veto in Congress, for general classes of proceedings begun by petition.

H.R. 10797. February 7, 1978. Education and Labor. Authorizes the Commissioner of Education to provide financial assistance for the development of the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota-Twin Cities.

Authorizes up to $5,000,000 to be appropriated for such purpose.

H.R. 10798. February 7, 1978. Education and Labor. Amends the Higher Education Act of 1965 with regard to college library assistance to (1) revise the basic grant standards pertaining to the maximum amount available and matching funds; (2) define the circumstances exempting an applicant from making the assurances required for funds by such Act; (3) redefine institutions to be given priority for supplemental grants; and (4) redefine matching fund requirements for special purpose grants.

H.R. 10799. February 7, 1978. Post Office and Civil Service. Permits the bulk mailing of qualified pledge reminders by nonprofit organizations at third-class rates.

H.R. 10800. February 7, 1978. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provide for the deportation from the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 10801. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that private foundations file annual reports with the Secretary of the Treasury. Requires certain information that is currently included in such reports to be included in the tax returns of foundations and that the returns to be made available to the public in the same manner that such reports are currently.

H.R. 10802. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a deduction of up to $1,500 for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 10803. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a deduction of up to $1,500 for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 10804. February 7, 1978. International Relations; Judiciary; Public Works and Transportation. Requires the President to identify acts of terrorism which affect United States citizens or facilities, persons or groups performing such acts, countries aiding such terrorists, and unsafe airports. Requires the President to impose sanctions upon such countries and against unsafe airports. Establishes criminal penalties for specified terrorist acts. Establishes within the Executive Office of the President a Council to Combat Terrorism.

H.R. 10805. February 7, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duty on nitro cellulose.

H.R. 10806. February 7, 1978. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 10807. February 7, 1978. Judiciary. Prohibits commerce in contraband cigarettes and defines "contraband cigarettes."

Subjects dealers in cigarettes to such reporting requirements as the Secretary of the Treasury may prescribe.

H.R. 10808. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a credit against income tax for specified percentages of social security taxes paid by an employee. Makes the earned income credit permanent.

H.R. 10809. February 7, 1978. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles owned by individuals from the highway motor vehicle excise tax.

H.R. 10810. February 7, 1978. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to exclude from farm labor contractor registration requirements any farmer, processor, canner, ginner, packing shed operator, or nurseryman who engages personally or through agents in migrant labor contracting on behalf of a farmer whose farm is located within 25 miles and who receives no monetary consideration (other than reimbursement of actual expenses incurred) for engaging in such activity.

H.R. 10811. February 7, 1978. Science and Technology. Authorizes appropriations in specified amounts out of the Airport and Airway Trust Fund for specified aviation research, development, and demonstration projects for fiscal year 1979.

H.R. 10812. February 7, 1978. Science and Technology. Authorizes appropriations to carry out the Standard Reference Data Act during fiscal years 1979–1981.

H.R. 10813. February 7, 1978. Interstate and Foreign Commerce. Amends Title VIII (Nurse Training) of the Public Health Service Act to extend for the two fiscal years, through fiscal year 1980, the program of financial assistance for nurse training.

H.R. 10814. February 7, 1978. Education and Labor. Establishes a second career program, administered by the Secretary of La-

bor, to redress the pattern of discrimination against workers over 40 and assist such workers in finding careers. Establishes an Institute on Age and Employment to develop a formal plan on how to utilize workers over 40 most effectively.

H.R. 10815. February 7, 1978. Judiciary. Grants the Court of Claims jurisdiction to render judgments against the United States upon claims for losses other than lost profits sustained by producers, processors, manufacturers, distributors, dealers, or other persons resulting from the ban on apparel, fabric yarn, or fiber containing Tris phosphate.

H.R. 10816. February 7, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 10817. February 7, 1978. Rules. Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering extending funding for such program.

H.R. 10818. February 7, 1978. Rules. Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering extending funding for such program.

H.R. 10819. February 7, 1978. Interstate and Foreign Commerce. Amends the Consumer Product Safety Act to extend the authorization of appropriations contained in such Act.

Authorizes the Consumer Product Safety Commission to develop consumer product safety standards on its own without an invitation to entities outside the Commission if the Commission finds that it is in the public interest to do so. Sets forth guidelines to determine when it is in the public interest to develop standards.

H.R. 10820. February 7, 1978. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 10821. February 7, 1978. Judiciary. Provides, through actions filed in the Court of Claims, for United States compensation for losses sustained as a result of the nationalization, expropriation, or other uncompensated seizure by Panama of property owned directly or indirectly by United States citizens. Directs that such compensation be paid out of funds appropriated for assistance to Panama.

H.R. 10822. February 7, 1978. Merchant Marine and Fisheries. Amends the Marine Resources and Engineering Development Act of 1966 to redesignate Title II of the Act as the National Sea Grant College Program.

Authorizes appropriations to carry out the purposes of the Program for fiscal years 1979 and 1980.

Authorizes the Secretary of Commerce to accept funds from Federal departments and agencies to pay for certain contracts and grants relating to the Program.

Amends the Sea Grant Program Improvement Act of 1976 to authorize appropriations to carry out the purposes of the Act during fiscal years 1978, 1979, and 1980.

H.R. 10823. February 7, 1978. Merchant Marine and Fisheries. Amends the National Advisory Committee on Oceans and Atmosphere Act of 1977 to (1) establish expiration dates for the terms of office of the original appointees of the Committee, and (2) authorize appropriations to carry out the purposes of this Act during fiscal year 1979.

H.R. 10824. February 7, 1978. Judiciary; Post Office and Civil Service. Classifies all deputy United States marshals holding nonsupervisory or non-specialist positions at GS-5 through GS-11. Classifies marshals in supervising or specialist positions at GS-12 through GS-14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal. Sets the salary level of the Director of the United States Marshals Service at level V of the Executive Schedule. States that the Director shall set the salary levels of non-law enforcement employees of the Service.

H.R. 10825. February 7, 1978. Merchant Marine and Fisheries; Public Works and Transportation. Authorizes the Secretary of Commerce to make annual grants to assist States in carrying out public shoreline erosion management measures in the Great Lakes region.

H.R. 10826. February 7, 1978. Education and Labor: Interstate and Foreign Commerce; Judiciary. Authorizes the Secretary of Health, Education, and Welfare, acting through the Director of the National Institute of Mental Health, to: (1) establish a grant program to support projects which develop methods for the identification, prevention, and treatment of domestic violence; and (2) review existing State laws, practices, and policies relating to domestic violence.

H.R. 10827. February 7, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to two individuals in full settlement of their claims against the United States.

H.R. 10828. February 7, 1978. Judiciary. Declares a certain individual to be lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10829. February 8, 1978. Small Business. Simplifies Government contracting procedures with respect to small businesses.

Establishes Government contract arbitration panels within the Small Business Administration.

Directs Federal agencies to take the apparent low responsive bidder's small business concern subcontracting plan into account in determining the responsibility of such bidder for the award of such contract.

Assigns an employee of the Small Business Administration to each Federal agency.

Establishes the Small Business Procurement Advisory Committee.

H.R. 10830. February 8, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 10831. February 8, 1978. Judiciary. Authorizes the appropriation of such sums as may be necessary to carry out the Civil Rights Act of 1957.

Amends such Act with respect to: (1) the compensation of Civil Rights Commission members, (2) the deadline for a report by the Commission to the Congress on violations of civil rights, (3) the establishment of advisory committees to the Commission, and (4) vacancies on the Commission.

Amends such Act to require the Commission (1) to study age and handicap discrimination, (2) to review related Federal law and policies, and (3) to serve as a clearinghouse for information regarding such discrimination.

H.R. 10832. February 8, 1978. Ways and Means. Amends the Internal Revenue Code to provide a limited tax credit to persons age 65 or over for the real property taxes, or for 25 percent of the rent, they pay for their principal residences.

H.R. 10833. February 8, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and maintains the 1981 level for succeeding years.

H.R. 10834. February 8, 1978. Agriculture. Amends the Agricultural Act of 1949, for the 1978 through 1981 crops of wheat and feed grains, to remove the current ceiling of 60-percent-of-the-potential-harvest from the formula for the amount of disaster payments which an agricultural producer can receive for a crop loss.

H.R. 10835. February 8, 1978. Judiciary. Prohibits use or supply of false documentation, false information, or birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information or documentation for purposes of securing a State or local government document containing an element of identification.

Proscribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document wtih intent to secure false official identification.

H.R. 10836. February 8, 1978. Judiciary. Sets forth procedures for Federal constitutional conventions with respect to: (1) applications, (2) calling, (3) delegates, (4) convening, (5) operation, (6) Congressional approval, and (7) ratification.

H.R. 10837. February 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $1 of their income tax liability to be used for reducing the public debt of the United States.

H.R. 10838. February 8, 1978. Public Works and Transportation. Names the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West".

H.R. 10839. February 8, 1978. Interstate and Foreign Commerce. Establishes the National Institutes of Health Care Research under the Public Health Service Act. Establishes in the Institutes: (1) the National Institute for Health Policy Research; (2) the National Institute for Health Statistics and Epidemiology; and (3) the National Center for the Evaluation of Medical Technology (the Center). Establishes in the Center a National Council for the Evaluation of Medical Technologies. Extends and revises assistance programs for health services research and health statistics.

H.R. 10840. February 8, 1978. Veterans' Affairs. Provides that the Veterans' Administration will not deny home loan financing to certain veterans solely because the property is located in an area identified by a Federal agency as the area which is most adversely affected by the noise from the operation of nearby civilian or military airports.

H.R. 10841. February 8, 1978. Banking, Finance and Urban Affairs. Amends the National Housing Act to prohibit the denial of assistance under the Federal Housing Administration mortgage insurance programs solely because the housing is located

in an area subject to a high noise level resulting from the operation of a nearby airport.

H.R. 10842. February 8, 1978. International Relations. Amends the Foreign Assistance Act of 1961 to require that appropriations for the United Nations for any fiscal year be reduced by an amount equal to the product of the United States contribution to the United Nations for the preceding year and the proportion which the aggregate budget of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights for such fiscal year bears to the budget of the United Nations for such fiscal year.

H.R. 10843. February 8, 1978. Public Works and Transportation. Authorizes the use of Federal-aid highway funds for the construction or reconstruction of interstate or intrastate access spurs crossing the Mississippi River to scenic, historical, recreational, or archeological features on the other side of the river from the Great River Road. Stipulates that such access spurs shall be the most direct feasible route and shall not include the construction of bridges across the Mississippi River.

H.R. 10844. February 8, 1978. Banking, Finance and Urban Affairs. Amends the United States housing Act of 1937 to permit a State, county, or municipal public housing agency to assist owners or prospective owners of rental property in the construction of substantial rehabilitation housing for lower-income families pursuant to its annual contribution contract with the Secretary of Housing and Urban Development.

Expands the role of local public housing agencies in the administration and management of dwelling units for which assistance payments are to be made.

H.R. 10845. February 8, 1978. Interstate and Foreign Commerce. Amends Title VIII (Nurse Training) of the Public Health Service Act to extend through fiscal year 1980 the program of financial assistance for nurse training.

H.R. 10846. Febrcary 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain small businesses to compute taxable income under the cash method and without regard to inventories. Increases the corporate surtax exemption and reduces the corporate tax rates. Provides for limited recognition of the gain from the sale or exchange of a sole proprietorship prior to the age of 55, and nonrecognition after age 55. Allows the rapid amortization of expenses of a business for property acquired to put the business in compliance with Federal law and which does not have any economic usefulness to the business.

H.R. 10847. February 8, 1978. Judiciary. Grants a Federal charter to the Gold Star Wives of America.

H.R. 10848. February 8, 1978. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received diasbility insurance benefits under Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act or supplemental security income benefits as a disabled individual within five years of his most recent application for supplementary security income benefits.

H.R. 10849. February 8, 1978. Interstate and Foreign Commerce. Permits possession of betelnut for personal use, but not for commercial distribution, by residents of Guam, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

H.R. 10850. February 8, 1976. Interstate and Foreign Commerce; Judiciary. Establishes within each Federal agency an independent Office of Consumer Counsel to represent the interests of consumers within and before the agency of which it is a part. Requires the Consumer Counsels to encourage consumer research and distribute consumer information.

Establishes the office of Assistant Attorney General for Consumer Protection and Advocacy within the Department of Justice to coordinate the various Offices of Consumer Counsel and to represent the interests of consumers in the courts.

H.R. 10851. February 8, 1978. Ways and Means. Amends the Internal Revenue Code to replace the corporate income tax rates with a graduated, five-tier rate schedule, imposing the uppermost (48 percent) marginal rate upon income in excess of $100,000.

H.R. 10852. February 8, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors physical examinations, and related routine laboratory tests.

H.R. 10853. February 8, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 10854. February 8, 1978. Education and Labor. Amends the Higher Education Act of 1965 to establish a $250 minimum basic educational opportunity grant for college students whose adjusted family income does not exceed $25,000.

Sets forth new guidelines for determining the assets of independent students for purposes of eligibility for basic educational opportunity grants.

Revises certain provisions regarding Federal payments to reduce student loan interest costs under such Act, including raising the maximum allowable adjusted family income requirement to $40,000.

H.R. 10855. February 8, 1978. Education and Labor. Amends the Higher Education Act of 1965 to establish a $250 minimum basic educational opportunity grant for college students whose adjusted family income does not exceed $25,000.

Sets forth new guidelines for determining the assets of independent students for purposes of eligibility for basic educational opportunity grants.

Revises certain provisions regarding Federal payments to reduce student loan interest costs under such Act, including raising the maximum allowable adjusted family income requirement to $40,000.

H.R. 10856. February 8, 1978. District of Columbia; Public Works and Transportation. Establishes the Washington Metropolitan Region Study Commission to determine whether it would be advisable for the District of Columbia, the Commonwealth of Virginia, and the State of Maryland to enter into an interstate compact to establish a single intergovernmental authority to coordinate, finance, and manage the provision of mass transportation, air quality control, water, solid waste disposal, and sewer services in the Washington metropolitan region.

H.R. 10857. February 8, 1978. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require that contracts and agreements respecting any consumer credit transactions subject to such Act be written in clear and understandable language.

H.R. 10858. February 8, 1978. Armed Services. Grants additional dental care benefits to dependents of active duty members of the uniformed services.

H.R. 10859. February 8, 1978. Science and Technology. Establishes a national materials policy for the United States.

Establishes a National Materials and Resources Policy Board to implement such policy and to make recommendations for the maximum effective use of limited resources.

Establishes a Commission on Materials Research and Operations to review such recommendations, and to coordinate and support the establishment of programs, which will implement the national materials policy.

H.R. 10860. February 8, 1978. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 10861. February 8, 1978. Post Office and Civil Service. Prohibits any Federal employee from coercing any individual for the purpose of interfering with the right of such individual to disclose any illegal or otherwise improper Government action to the Review Board on Improper Government Actions, established by this act, and from taking any adverse personnel action against such individual in retaliation. Requires the Board to investigate any such disclosure and, in the event further investigation or action is warranted, to notify the person, the head of the agency in which such person is employed, and, if appropriate, the Attorney General and/or the Comptroller General.

H.R. 10862. February 8, 1978. Judiciary. Permits a certain individual to be admitted to the United States for permanent residence if such individual is found to be otherwise admissible under the provisions of the Immigration and Nationality Act.

H.R. 10863. February 8, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 10864. February 8, 1978. Merchant Marine and Fisheries. Authorizes a certain vessel to be operated as a passenger-carrying vessel.

H.R. 10865. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations ranging from a 14-percent rate on the first $25,000 of income to a 48-percent rate on income in excess of $100,000,000.

H.R. 10866. February 9, 1978. Ways and Means. Amends the Tax Reform Act of 1976 to delay its provisions affecting the exclusion of sick pay until taxable years beginning after December 31, 1977.

H.R. 10867. February 9, 1978. Interstate and Foreign Commerce. Amends the Federal Power Act and the Natural Gas Act to provide procedures for the establishment and review of fuel adjustment clauses.

H.R. 10868. February 9, 1978. Judiciary. Provides for the appointment of a special prosecutor to prosecute alleged violations of Federal law by specified present or former Federal officials, including the President, Vice President, Members of Congress, judges, or persons in the Executive schedule.

Directs the Attorney General to promulgate rules and regulations requiring any officer or employee of the Department of Justice to disqualify himself from participation in a particular investigation or prosecution if participation may result in a conflict of interest or appearance thereof.

H.R. 10869. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide that State and local government retirement systems shall be tax exempt or-

ganizations. Exempts those systems from the reporting requirements pertaining to deferred compensation. Treats all such systems as qualified pension plans under the Code.

H.R. 10870. February 9, 1978. Judiciary. Requires any Federal agency receiving a petition to issue, amend, or repeal any rule administered by the agency to grant or deny such petition within 120 days. Permits any person to enforce this Act by civil suit in any United States court of appeals. Requires agencies to promulgate timetables for general classes of proceedings begun by petition.

H.R. 10871. February 9, 1978. Judiciary. Authorizes the Law Enforcement Assistance Administration to make grants to each State to pay for up to half the cost of correctional facility construction or improvement projects.

Directs the LEAA to promulgate rules to carry out this Act, including grant criteria based at least in part upon present conditions in a State's facilities.

H.R. 10872. February 9, 1978. Ways and Means. Requires that general cost-of-living increases in benefit payments under any Federal assistance program be disregarded in determining an individual's income for purposes of eligibility under Titles IV (Aid to Families with Dependent Children), XVI (Supplemental Security Income for the Aged, Blind, and Disabled), and XIX (Medicaid) of the Social Security Act; Title 38 (Veterans' Benefits) of the United States Code; the food stamp program, the Housing Act of 1957; or any Federal or federally-assisted program which conditions eligibility upon the income or resources of the applicant.

H.R. 10873. February 9, 1978. Interstate and Foreign Commerce. Amends Title VIII (Nurse Training) of the Public Health Service Act to extend through fiscal year 1980 the program of financial assistance for nurse training.

H.R. 10874. February 9, 1978. Ways and Means. Reduces the annual meat importation quota by the amount by which actual imports during the preceding calendar year exceeded the quota for that year.

H.R. 10875. February 9, 1978. Ways and Means. Revises the formula for imposition of the meat importation quota to impose such limitation when the meat imports for a calendar quarter are estimated to exceed the quota amounts.

H.R. 10876. February 9, 1978. Ways and Means. Includes within the annual meat importation quotas, meat imported into foreign trade zones and insular possessions for processing before importation into the United States.

H.R. 10877. February 9, 1978. Public Works and Transportation. Authorizes air carriers holding a certificate to engage in foreign air transportation to carry domestic traffic between points in the United States on flights operated in foreign air transportation. Stipulates that such authority shall be limited to one round trip flight per day in each city-pair market unless otherwise authorized by the Civil Aeronautics Board.

H.R. 10878. February 9, 1978. Merchant Marine and Fisheries. Amends the Fisherman's Protective Act of 1967 to extend for three years the program furnishing insurance for losses incurred through the seizure of fishing vessels by foreign governments.

H.R. 10879. February 9, 1978. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to authorize appropriations for the National Institute of Building Sciences.

H.R. 10880. February 9, 1978. Veterans' Affairs. Sets increased flat rates for veterans non-service-connected disability pensions, aid-and-attendance allowances, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 10881. February 9, 1978. Government Operations. States that the costs of goods manufactured in the United States and required for public use shall not be deemed unreasonable under the Buy American Act unless the price of such goods is more than ten percent higher than like foreign-made goods.

H.R. 10882. February 9, 1978. Merchant Marine and Fisheries. Authorizes appropriations to carry out wildlife conservation programs on military reservations and public lands through fiscal year 1981.

H.R. 10883. February 9, 1978. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to authorize appropriations to carry out the purposes of this Act during fiscal years 1979, 1980, and 1981.

H.R. 10884. February 9, 1978. Merchant Marine and Fisheries. Amends the Environmental Quality Improvement Act of 1970 to authorize the appropriation of $3,000,000 annually for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1979, 1980, and 1981.

H.R. 10885. February 9, 1978. Agriculture. Renames the Department of Agriculture the Department of Agriculture and Rural Development.

Establishes a Federal Rural Development Council to develop and implement a comprehensive strategy to assist the Secretary of Agriculture and Rural Development in the coordination of a nationwide rural development plan.

Amends the Consolidated Farm and Rural Development Act to increase the annual aggregate ceiling on rural development grants.

H.R. 10886. February 9, 1978. Education and Labor. Amends the Higher Education Act of 1965 to change the date after which States establishing an interest subsidy program for guaranteed student loans may receive advances to reserves for making insurance payments under the State guaranteed loan program.

H.R. 10887. February 9, 1978. Interstate and Foreign Commerce. Establishes a schedule of national solid waste product charges for products manufactured for consumption in the United States. Establishes an Environmental Quality Assistance Fund to assist municipal solid waste management activities.

H.R. 10888. February 9, 1978. Interior and Insular Affairs. Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands. Sets standards for mineral exploration.

H.R. 10889. February 9, 1978. Education and Labor.

Amends the Elementary and Secondary Education Act of 1965 regarding (1) State handicapped children programs; (2) local educational agency basic grant applications; (3) amount, eligibility, and payment of such grants; (4) withholding for noncompliance; (5) State plans and local educational agency applications for library and learning resources assistance; (6) guidance and counseling programs; (7) educational support programs; and (8) local leadership programs.

Amends the Bilingual Education Act with regard to State administration and multi-year grant applications.

Amends the Education Amendments of 1974 with respect to reading improvement programs.

Amends the Emergency School Aid Act regarding (1) time limits for funding applications; and (2) information required by such applications.

H.R. 10890. February 9, 1978. Education and Labor.

Amends the Elementary and Secondary Education Act of 1965 to extend the authority of the Commissioner of Education to make certain grants under that Act and to revise certain administrative procedures and assistance formulas regarding Federal assistance to local and State educational agencies. Amends the Indian Education Act and the Special Projects Act to extend certain educational programs.

H.R. 10891. February 9, 1978. Education and Labor.

Amends Title I of the Elementary and Secondary Education Act of 1965 to (1) reorganize the structure of such Title; (2) establish funds distribution guidelines for local educational agencies; (3) direct the Commission of Education to develop a Policy Manual for implementing Title I programs; (4) provide exemptions from certain program requirements; (5) revise State and local application requirements; (6) authorize compliance agreements as an enforcement procedure; and (7) provide for advance determination by the Commissioner or the State that certain programs correctly meet the requirements for an exemption from the excess costs and comparability provisions of such Title.

H.R. 10892. February 9, 1978. Education and Labor. Amends the General Education Provisions Act to establish within the National Center for Education Statistics a unit to review and coordinate Federal education information and data acquisition activities and to limit the collection of unnecessary or redundant information.

Establishes procedures and duties for such unit including the development of (1) standard education-related definitions; and (2) an automated data indexing system.

Authorizes Federal grants to State educational agencies for the development and improvement of computer data systems.

Establishes a Federal Education Data Acquisition Council to advise with respect to the development and coordination of Federal information and data acquisition activities.

H.R. 10893. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 10894. February 9, 1978. Ways and Means. Revises the quotas on the importation of beef. Requires the Secretary of Agriculture to determine the domestic production quantity of beef each quarter in order that the import quota may be determined. Directs the Secretary to establish a system for the equitable distribution of such quota among importers.

Amends the Tariff Schedules of the United States to increase the customs duties on beef whenever domestic production is too low to trigger the imposition of import quotas.

H.R. 10895. February 9, 1978. Science and Technology. Establishes the National Alcohol Fuels Commission to study the use of alcohol as an alternative fuel source.

H.R. 10896. February 9, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to end, after fiscal year 1978, capitation grants to schools of medicine and osteopathy.

Increases authorization of appropriations during fiscal years 1979 and 1980 for: (1) family medicine departments in medical schools; (2) health education centers; (3) fellowships in general medicine; (4) edu-

cational assistance; (5) medical and other such schools in financial distress; and (6) certain scholarships.

H.R. 10897. February 9, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act: (1) to change the percent of positions in primary care medical residency training programs in medical schools in order for such schools to be eligible for capitation grants; (2) to change the program of collecting data on the health professions; and (3) to authorize appropriations through fiscal year 1980 to carry out the program to collect data on the health professions.

H.R. 10898. February 9, 1978. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.

H.R. 10899. February 9, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to regulate the establishment, operation, and control of bank branches in the United States by foreign banks.

Authorizes the Comptroller of the Currency, the Federal Reserve Board, and the Secretary of the Treasury to administer the provisions of this Act.

H.R. 10900. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for one-half of the first $600 in education expenses paid for each of the taxpayer's dependents, his spouse and himself.

H.R. 10901. February 9, 1978. Agriculture. Amends the Commodity Exchange Act to declare unlawful any commodity option transaction not expressly permitted under the rules and regulations of the Commodity Futures Trading Commission.

H.R. 10902. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent of income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 10903. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent on income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 10904. February 9, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls to a telephone subscriber who has notified the telephone company that he does not wish to receive such calls.

H.R. 10905. February 9, 1978. Merchant Marine and Fisheries. Directs the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, to establish a comprehensive program for the study, monitoring, and assessment of polar living marine resources and the marine environment of the Arctic and Southern Oceans.

H.R. 10906. February 9, 1978. Banking, Finance and Urban Affairs; International Relations. Authorizes the President to enter into an agreement with Mexico to establish a United States-Mexico Joint Development Bank to make economic development loans to Mexico in order to alleviate illegal immigration. Sets forth the powers, authorized capital, rights, and structure of such Bank.

H.R. 10907. February 9, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 10908. February 9, 1978. Interstate and Foreign Commerce. Extends authorizations under the Public Health Service Act: (1) for the prevention of heart, lung, and blood disease programs; (2) for cancer prevention programs; (3) for National Research Service Awards; and (4) for assistance to medical libraries.

H.R. 10909. February 9, 1978. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to promulgate national standards for clinical laboratories.

Establishes procedures for determining reasonable costs and charges for clinical laboratory services provided under the Medicare and Medicaid programs of the Social Security Act.

H.R. 10910. February 14, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to permit States to provide medical assistance to dependent children meeting certain age requirements.

H.R. 10911. February 14, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative stamp honoring General Casimir Pulaski.

H.R. 10912. February 14, 1978. Agriculture. Amends the Agricultural Act of 1970 to require export sales reports on any contract entered into by a foreign subsidiary or affiliate of an exporter obliged to make such reports on its own contracts, when the subsidiary's, or affiliated contract involves the exportation from the United States of a substantial quantity of specified agricultural commodities.

H.R. 10913. February 14, 1978. Judiciary; Ways and Means. Authorizes a $543,000,000 appropriation for reimbursing States for expenditures made with respect to services provided by such States under specified titles of the Social Security Act.

Sets forth procedures and time limitations for making claims for reimbursement and maximum amounts which a State may receive for providing services under the Social Security Act.

H.R. 10914. February 14, 1978. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate a segment of the Pere Marquette River, Michigan, as a component of the National Wild and Scenic Rivers System.

H.R. 10915. February 14, 1978. Merchant Marine and Fisheries. Establishes the Fish and Wildlife Fund to assist the States in developing fish and wildlife resource management plans, and implementing the nongame fish and wildlife conservation programs included therein.

Amends the Internal Revenue Code of 1954 to impose an excise tax on specified camping equipment and wild bird supplies.

States that the Fund shall consist of an amount equal to all revenues accruing each fiscal year from such tax.

H.R. 10916. February 14, 1978. Education and Labor; Government Operations. Directs the General Accounting Office to create a Jobs Protection Study Task Force to report on the policies of the executive branch, including those with regard to foreign trade, illegal aliens, environmental protection and government paperwork, which are costing citizens employment in the private sector and to suggest specific alternative policies which will provide protection of private employment.

H.R. 10917. February 14, 1978. Judiciary. Establishes a uniform body of law governing liability for damages arising from the takeoff, flight, or landing of aircraft, such law to supersede State, territorial, District of Columbia, admiralty, maritime, or other law.

Details the substantive provisions of aviation liability law. Sets forth, among other procedural rules, separate, exclusive Federal court jurisdiction guidelines.

H.R. 10918. February 14, 1978. Judiciary. Directs that United States attorneys be appointed and subject to removal by the Attorney General rather than the President.

Eliminates set terms for United States attorneys.

H.R. 10919. February 14, 1978. Merchant Marine and Fisheries. Authorizes the Secretary of the Interior to (1) make grants to any State for the development of comprehensive fish and wildlife resources management plans, and (2) make grants to States having approved nongame fish and wildlife conservation programs for the implementation of such programs.

Directs the Secretary to prescribe by regulation standards to provide that management plans developed by States under this Act result in the conservation of fish and wildlife.

H.R. 10920. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow a credit against an individual's income tax in an amount equal to 50 percent of the sum of the amounts paid by him to educational institutions as tuition (though no more than $500 for any single individual) for the attendance of the taxpayer, the taxpayer's spouse, or any of his dependents with respect to whom he is entitled to a personal exemption.

H.R. 10921. February 14, 1978. Appropriations; Armed Services. Amends the Department of Defense Appropriations Act, 1978, to repeal the provision of such Act which prohibits the payment of lodging expenses for individuals away from their post of duty on official business when adequate government quarters are available but are not occupied by such individual.

H.R. 10922. February 14, 1978. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to exclude specified categories of employers and employees from the requirement of registering as farm labor contractors.

H.R. 10923. February 14, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to permit payment for eye care, eyeglasses, hearing aids (and related examinations), dental care and dentures under the supplementary medical insurance program.

H.R. 10924. February 14, 1978. Public Works and Transportation. Directs the Secretary of Transportation to enter into a contract with each State for payment of 100 percent of the costs of repairing highways and surface rails of urban mass transportation systems (other than railroads) which were damaged as a result of the winter weather of 1977–1978.

H.R. 10925. February 14, 1978. Post Office and Civil Service. Gives Department of Energy (DOE) couriers and security inspectors the same civil service retirement benefits as law enforcement officers and firefighters. Defines "couriers" as any DOE employee who provides security during shipment of nuclear weapons components and strategic quantities of special nuclear materials. Defines "security inspector" as any DOE employee who protects nuclear weapons components and strategic quantities of special nuclear materials.

H.R. 10926. February 14, 1978. Government Operations. Amends the Buy American Act to permit the purchase of a foreign-made product only if the price of such product is the lowest bidded after such price is multiplied by a factor determined by the Secretary of the Treasury which shall reflect the loss to the economy of the United States of such foreign purchase, including lost Federal, State, and local tax revenues and increased unemployment which may result. Prohibits the awarding of any contract to any foreign country which involves a national security item or a transfer or delay of technological advancement in the United States.

H.R. 10927. February 14, 1978. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported

meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 10928. February 14, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to apply the adulteration and misbranding provisions of such Act to hair dyes.

H.R. 10929. February 14, 1978. Armed Services. Authorizes appropriations for fiscal year 1979 for weapons procurement by the armed forces. Establishes the authorized strength levels of each of the military departments and the level for civilian personnel positions within the Department of Defense. Sets forth the authorized average military training student load for each of the armed forces. Authorizes appropriations for fiscal year 1979 for programs of the Defense Civil Preparedness Agency.

H.R. 10930. February 14, 1978. Education and labor. Amends the General Education Provisions Act to establish within the National Center for Education Statistics a unit to review and coordinate Federal education information and data acquisition activities and to limit the collection of unnecessary or redundant information.

Establishes procedures and duties for such unit including the development of (1) standard education-related definitions; and (2) an automated data indexing system.

Authorizes Federal grants to State educational agencies for the development and improvement of computer data systems.

Establishes a Federal Education Data Acquisition Council to advise with respect to the development and coordination of Federal information and data acquisition activities.

H.R. 10931. February 14, 1978. Education and Labor. Amends Title I of the Elementary and Secondary Education Act of 1965 to (1) reorganize the structure of such Title; (2) establish fund distribution guidelines for local educational agencies; (3) direct the Commissioner of Education to develop a Policy Manual for implementing Title I programs; (4) provide exemptions from certain program requirements; (5) revise State and local application requirements; (6) authorize compliance agreements as an enforcement procedure; and (7) provide for advance determination by the Commissioner or the State that certain programs correctly meet the requirements for an exemption from the excess costs and comparability provisions of such Title.

H.R. 10932. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow limited tax credits during 1978–82 for new business property placed, and new employees hired, in high unemployment urban areas.

H.R. 10933. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 10934. February 14, 1978. Judiciary. Amends the Speedy Trial Act of 1974 to extend indefinitely the authorization for appropriations for the experimental pretrial service agencies created thereunder.

H.R. 10935. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles owned by individuals from the highway motor vehicle excise tax.

H.R. 10936. February 14, 1978. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to repeal requirements relative to filing copies of summary employee benefit plan descriptions with the Secretary of Labor.

Directs the Secretary to make every effort to minimize reporting requirements for plans with 25 or fewer participants.

Revises requirements for annual statements to employee benefit plan beneficiaries.

Provides for small business representation on the Advisory Council on Employee Welfare and Pension Benefit Plans.

Revises guidelines for fiduciaries investing employee benefit plan funds.

H.R. 10937. February 14, 1978. Government Operations. Authorizes the Administrator of General Services to make payments to local governments based on the amount of tax-exempt public and foreign lands within the boundaries of such governmental units.

H.R. 10938. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 10939. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 10940. February 14, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for FICA and self-employment social security taxes.

H.R. 10941. February 14, 1978. Judiciary. Declares five individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10942. February 15, 1978. Judiciary. Makes it unlawful for a parent to kidnap his minor child.

H.R. 10943. February 15, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 10944. February 15, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 10945. February 15, 1978. Judiciary. Grants the consent of Congress to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 10946. February 15, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from three to ten years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 10947. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to increase the income tax credit for expenses for household and dependent care services necessary for gainful employment from 20 percent to 50 percent of the allowable expenses.

H.R. 10948. February 15, 1978. House Administration. Requires the President pro tempore of the Senate and the Speaker of the House of Representatives to install telecommunication devices to enable deaf persons and persons with speech impairments to engage in toll-free communications with Members of Congress.

H.R. 10949. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for an amount, not to exceed $250, equal to 50 percent of the expenses paid or incurred by a speech- or hearing-impaired individual for the use of toll telephone services by means of teletypewriters.

H.R. 10950. February 15, 1978. Ways and Means; Education and Labor; Agriculture. Directs the Secretary of Health, Education, and Welfare to establish, under the Social Security Act, a cash assistance program to supplement the earned income of families and individuals. Increases the earned income credit against income tax. Repeals specified public assistance programs including Supplemental Security Income and Aid to Families with Dependent Children of the Social Security Act.

Establishes an employment and training opportunities program under the Comprehensive Employment and Training Act of 1973.

Establishes a preschool education program under the Social Security Act.

H.R. 10951. February 15, 1978. Interstate and Foreign Commerce; Ways and Means. Requires all gasoline stations, within three years of the passage of this Act, to sell a mixture of gasoline and alcohol in the same manner as they sell gasoline. Imposes a civil penalty for violations of such requirement. Amends the Internal Revenue Code to allow rapid amortization of facilities producing alcohol for use as a fuel in motor vehicles. Amends the Clean Air Act with respect to the authority of the Environmental Protection Agency to regulate the use of alcohol as a fuel additive.

H.R. 10952. February 15, 1978. International Relations. Amends the Food for Peace Act of 1966 to permit the Commodity Credit Corporation to finance export sales of agricultural commodities on credit terms in excess of three, but not more than ten years.

H.R. 10953. February 15, 1978. Judiciary. Amends the Administrative Procedure Act to require Federal agencies to prepare and publish in the Federal Register an economic impact analysis of all proposed and final rules subject to the provisions of the Act.

H.R. 10954. February 15, 1978. Public Works and Transportation. Directs the Secretary of Transportation to enter into a contract with each State for payment of 100 percent of the costs of repairing highways and surface rails of urban mass transportation systems (other than railroads) which were damaged as a result of the winter weather of 1977–1978.

H.R. 10955. February 15, 1978. Education

and Labor. Amends the Labor Management Relations Act to allow the President, in the event of a national emergency labor dispute, to direct the National Labor Relations Board to obtain managements' latest offer and place it directly before employees for approval by secret ballot.

Deems such offer binding upon all parties upon approval by a majority of the employees.

H.R. 10956. February 15, 1978. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to permit a State, county, or municipal public housing agency to assist owners or prospective owners of rental property in the construction or substantial rehabilitation of housing for lower-income families pursuant to its annual contribution contract with the Secretary of Housing and Urban Development.

Expands the role of local public housing agencies in the administration and management of dwelling units for which assistance payments are to be made.

H.R. 10957. February 15, 1978. Agriculture; International Relations. Authorizes the President to establish an International Emergency Food Reserve in this country and to negotiate international agreements with other countries to develop an international system of food reserves for humanitarian food relief.

H.R. 10958. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to provide the totally and permanently disabled the same tax exclusion of gain on the sale of a principal residence that is presently provided individuals who have attained the age of 65.

H.R. 10959. February 15, 1978. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to require States applying for assistance under such Act to establish and implement standards of educational proficiency applicable to public school students.

Establishes the National Commission on Basic Education and directs it to (1) establish such standards; and (2) review and approve or disapprove State plans implementing such standards.

Authorizes the Commissioner of Education to financially assist States in preparing such educational standards plans.

Directs the Commissioner to make such proficiency examinations directly available to public school students in districts where such proficiency plans are not in effect.

H.R. 10960. February 15, 1978. Interstate and Foreign Commerce.

Amends the Federal Power Act and the Natural Gas Act to provide procedures for the establishment and review of fuel adjustment clauses. Extends the scope of the prohibition against interlocking directorates among utilities, natural gas companies, and related firms.

H.R. 10961. February 15, 1978. Armed Services. Grants survivor benefits to dependents of present or former members of the armed forces who die before becoming entitled to retired pay for non-regular service.

H.R. 10962. February 15, 1978. International Relations. Amends the Board for International Broadcasting Act of 1973 to prohibit assistance to Radio Free Europe or Radio Liberty if any Communist country is permitted to use such broadcast facilities.

H.R. 10963. February 15, 1978. International Relations. Amends the Board for International Broadcasting Act of 1973 to prohibit assistance to Radio Free Europe or Radio Liberty if any Communist country is permitted to use such broadcast facilities.

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H.R. 10965. February 15, 1978. Judiciary. Codifies and enacts the Interstate Commerce Act as subtitle IV of title 49, United States Code, "Transportation."

H.R. 10966. February 15, 1978. Armed Services. Authorizes the Secretary of the Army to establish an Army Reserve career interest program for persons between the ages of fourteen and eighteen.

H.R. 10967. February 15, 1978. Post Office and Civil Service. Designates the last week in October of each year as "National Cooperative Housing Week."

H.R. 10968. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 10969. February 15, 1978. Science and Technology. Authorizes appropriations to the Department of Energy for specified energy research and development, and related projects.

H.R. 10970. February 15, 1978. Interior and Insular Affairs. Establishes the Lowell National Cultural Park in Massachusetts, to commemorate the first planned industrial city in the United States.

H.R. 10971. February 15, 1978. Interior and Insular Affairs. Establishes the Lowell National Cultural Park in Massachusetts, to commemorate the first planned industrial city in the United States.

H.R. 10972. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to increase the retirement income credit for the elderly and the adjusted gross income limitation applicable to a credit.

H.R. 10973. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals aged 62 and over a refundable income tax credit for increases in real property taxes and utility bills.

H.R. 10974. February 15, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 10975. February 15, 1978. Banking, Fnance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to authorize Federal savings and loan associations to make and invest in graduated payment mortgages and reverse annuity mortgages.

H.R. 10976. February 15, 1978. Education and Labor. Authorizes the Commissioner of Education to provide financial assistance to assist in the development of the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota — Twin Cities.

Authorizes up to $5,000,000 to be appropriated for such purpose.

H.R. 10977. February 15, 1978. Agriculture. Amends the Federal Meat Inspection Act to require that the package or container of any imported meat or meat product capable of use as human food be labeled in such a way as to inform consumers that such product was imported.

H.R. 10978. February 15, 1978. Agriculture. Amends the Federal Meat Inspection Act to require that the package or container of any imported meat or meat product capable of use as human food be labeled in such a way as to inform consumers that such product was imported.

H.R. 10979. February 15, 1978. Public Works and Transportation. Directs the Secretary of Transportation to enter into a contract with each State for payment of 100 percent of the costs of repairing highways and surface rails of urban mass transportation systems (other than railroads) which were damaged as a result of the winter weather of 1977–1978.

H.R. 10980. February 15, 1978. Public Works and Transportation. Directs the Secretary of Transportation to enter into a contract with each State for payment of 100 percent of the costs of repairing highways and surface rails of urban mass transportation systems (other than railroads) which were damaged as a result of the winter weather of 1977–1978.

H.R. 10981. February 15, 1978. Agriculture. Directs the Secretary of Agriculture to establish the price supports for each crop year in regard to any crop of corn, cotton, peanuts, rice, tobacco, wheat, barley, oats, rye, grain sorghums, soybeans, sugar, wool, mohair, milk, and honey at 100 percent of parity, except in any case in which producers disapprove any marketing quota for any crop involved.

H.R. 10982. February 15, 1978. Appropriations. Rescinds budget authority in the amount of $40,200,000 for military assistance; $10,055,000 for the Federal Home Loan Bank Board Revolving Fund; and $5,000,000 for international peacekeeping activities; (H. Doc. 95–285), pursuant to the Impoundment Control Act of 1974.

H.R. 10983. February 15, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 10984. February 15, 1978. Interior and Insular Affairs. Establishes the Friendship Hill National Historic Site, in Pennsylvania, to commemorate the Jeffersonian Period of American history.

H.R. 10985. February 15, 1978. Public Works and Transportation. Directs the Secretary of Transportation to reimburse the Federal share of the cost of construction of a new toll bridge across the Ohio River at Huntington, West Virginia, in accordance with a specified formula. Designates such bridge to be a part of the Federal-aid primary system.

H.R. 10986. February 15, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to invalidate agreements preventing the broadcast of a professional sports game, by means of television, at the same time and in the same area in which the game is to be played if all tickets to such game have been sold 72 hours before gametime.

H.R. 10987. February 15, 1978. Interstate and Foreign Commerce. Amends the Communciations Act of 1934 to invalidate agreements preventing the broadcast of a professional sports game, by means of television, at the same time and in the same area in which the game is to be played if all tickets to such game have been sold 72 hours before gametime.

H.R. 10988. February 15, 1978. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to inventory and inspect all dams in the United States. Directs the Secretary to notify the Governor of the State involved of any hazardous condition which is discovered.

Requires the Secretary to furnish assistance and training for the establishment of dam safety programs.

Authorizes the establishment of a Dam Safety Review Board to review dam safety and inspection procedures and standards.

Directs the Secretary to study dam inspection techniques. Authorizes appropriations through fiscal year 1982 to carry out this Act.

H.R. 10989. February 15, 1978. Post Office and Civil Service. Allows any Federal employee to be granted up to five days' leave without loss of pay to attend a funeral of an immediate relative.

H.R. 10990. February 15, 1978. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 10991. February 15, 1978. Judiciary. Adds the town of Hempstead to the places where the United States District Court for the Eastern District of New York shall be held.

H.R. 10992. February 15, 1978. Veterans' Affairs. Revises the list of specified categories excluded from the determination of annual income for veterans benefit payment purposes.

Sets increased flat rates for veterans' nonservice connected disability provisions, aid-and-attendance allowances and survivors' benefits.

Provides for cost-of-living adjustments in such pension and benefit rates based upon annual adjustments in Social Security benefits.

Terminates automatic 25 percent per year increases in certain veterans and survivors pensions for persons age 78 or older.

H.R. 10993. February 15, 1978. Judiciary. Details examination, treatment, and release procedures for persons acquitted of violent crimes due to insanity at the time of the offense.

Establishes within each judicial district a Commitment Review Committee to (1) review treatment of persons committed pursuant to this Act and (2) recommend treatment for such persons where they lack capacity to consent to treatment and any of specified treatments, including electroconvulsive therapy and behavior modification, have been prescribed by the treatment facility.

H.R. 10994. February 16, 1978. Education and Labor. Amends the Older Americans Act of 1965 to direct the Commissioner on Aging to establish a special grant program to enable States to establish community long-term care initiatives designed to assess the needs of chronically ill or disabled older persons for services and to assist in the efficient operation of a comprehensive and coordinated system for the delivery of services to older persons.

H.R. 10995. February 16, 1978. Education and Labor. Amends the Older Americans Act of 1965 to direct the Commissioner on Aging to establish a special grant program to enable States to establish community long-term care initiatives designed to assess the needs of chronically ill or disabled older persons for services and to assist in the efficient operation of a comprehensive and coordinated system for the delivery of services to older persons.

H.R. 10996. February 16, 1978. Public Works and Transportation. Permits the Governor of any State with jurisdiction to establish a disaster area Recovery Planning Council to contract the performance of Council functions to any Federal agency, State agency, or private nonprofit organization receiving Federal funds, which has economic development functions.

H.R. 10997. February 16, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 10998. February 16, 1978. House Administration; Government Operations. Requires the President and Vice-President to adequately record all their official acts and to maintain all such records which shall be taken into the custody of the Archivist of the United States upon the termination of their terms of office. Prohibits the destruction of such records by such persons unless they have determined that such records are of no historical, administrative, or evidentiary value, obtained prior approval of the Archivist, and published in the Federal Record 60 days prior to such disposal an intent to make such disposal.

H.R. 10999. February 16, 1978. Banking, Finance and Urban Affairs. Amends the Interstate Land Sales Full Disclosure Act to revise certain disclosure requirements, to extend the power of the Secretary of Housing and Urban Development to enforce this Act, to increase penalties for violations of this Act, to create the right of attorney generals to sue as parens patriae, and to insure the provision of basic services promised by a developer of a subdivision.

Directs the Secretary to appoint an Administrator of Interstate Land Sales.

H.R. 11000. February 16, 1978. Education and Labor. Authorizes appropriations to be used by the Commissioner of Education to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center in Pekin, Illinois.

EXTENSIONS OF REMARKS

A VALUABLE TUITION CREDIT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MAZZOLI. Mr. Speaker, George F. Will, in a column that appeared in the Washington Post on March 26, 1978, presented a cogent case for tuition tax credit.

Mr. Will cites this concept as an example of mature conservatism, using government positively to nurture institutions and values worth conserving.

I commend his words to the attention of my colleagues:

A VALUABLE TUITION CREDIT

(By George F. Will)

The proposal to allow families to subtract from their taxes half of what they pay in tuitions, up to $500 per student, has provoked predictable hostility from the public-education lobby. Although most of the bill's benefits will accrue to parents paying tuition to public institutions, private institutions also will benefit. And like any protected, subsidized, semi-monopoly, public education fears nothing so much as competition. But the ferocious criticism of this bill suggests that it stirs passions more complicated than avarice.

But Albert Shanker, head of a teachers union, opposes the bill because he thinks it will produce "a huge exodus from the public schools." He probably is wrong; he certainly is an unconvincing advocate of public schools.

His argument implies that public schools are so despised that, given the opportunity, people will abandon them, so people must not be given the opportunity. But if dissatisfaction with public schools is as intense as Shanker implies, it is imperative that public policy nurture alternatives.

The New Republic notes that only five of the 20 largest school systems have white majorities, and argues that the tuition-credit bill would encourage white "flight." But regarding the manifest and manifold difficulties of public schools, The New Republic's attitude is part of the problem. Increasingly, public schools do not educate adequately, they do not even maintain proper order, because they are burdened with the tasks of achieving various social goals (such as an integrated society). Such tasks are not only extraneous to, but incompatible with, the schools proper educational mission.

The Washington Post says the bill would "change fundamentally the balance between (the private) and the public schools" at the primary and secondary level. What "balance" is that? Public schools today have 90 percent of all pupils at that level.

The Post says the bill would do "incalculable" damage by serving "ethnic and social separatism," thereby damaging the sense of "community" that holds this "heterogeneous country together." But private schools often have more heterogeneous student populations than neighborhood public schools do. There is no evidence that the country will come apart if there is more pluralism in primary and secondary schooling. And there are abundant reasons why it should not be government policy to homogenize children.

One of the tuition bill's virtues—that a tax credit involves no administrative burden—is, in the eyes of some detractors, one of the bill's vices. The bill would allow families, during the difficult years when they have not reached their peak earnings but bear maximum education expenses, to keep a bit more of their own money, to be used for education.

This offends people who believe that, whatever else a social policy aims to achieve (such as improved education), it must be redistributionist, involving government-administered transfers of taxed wealth. The assumption is that dollars that do not pass through Washington cannot possibly achieve intelligent social goals.

President Carter's counterproposal is a routine bureaucratic reflex. He would enlarge existing federal grant and loan programs. The bill he opposes is particularly important as a paradigm for policies that will nourish the mediating institutions that stand between the individual and the megastructures of modern government.

In a monograph published by the American Enterprise Institute ("To Empower People: The Role of Mediating Structures in Public Policy"), Peter Berger and John Neuhaus argue that a theme of public policy should be "empowerment." The tuition-credit bill would empower people of modest means to make choices the affluent can make.

By opposing the bill, Carter has sided with the most egregious megastructure, the Department of Health, Education, and Welfare. He has sided with people in government who have a general animus against voluntary associations because such associations are alternatives to the state as providers of services.

Finally, he has given comfort to those everywhere who call to mind Bertrand Russell's description of Beatrice Webb, the British Fabian who "was deeply religious without belonging to any recognized brand of orthodoxy, though as a Socialist she preferred the Church of England because it was a state institution."●

AMERICAN TAX DOLLARS SUPPORT FOREIGN STEEL INTERESTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

Wednesday, April 5, 1978

● Mr. GAYDOS. Mr. Speaker, yesterday I touched briefly on the use of Federal funds, supplied by American taxpayers, to support foreign steel interests by buying their products for domestic construction projects.

I pointed out legislation has been proposed to correct this situation: S. 2318 in the other body and H.R. 9247 and H.R. 9248 in the House. These measures would require State and local public agencies extend a reasonable preference to American-made materials in return for Federal money to fund their projects. In turn, a preference for American-made steel would moderate steel imports.

I cited some examples furnished by Mr. Bruce E. Davis of Bethlehem Steel Corp. where Federal funds were used to finance State construction projects to the detriment of the State's economy, the national economy, the domestic steel industry, and the American steelworker. Financial savings realized from the lack of a domestic preference policy on the part of the State resulted in a substantial loss of wages, employment, purchasing power and tax revenue not solely to the State directly involved in the project but to steel supplying States as well.

For example, steel plates, structural shapes, reinforcing bars, pipes, and highway accessories are among the basic building materials used in State highway projects and these items are a major product manufactured in Middle Atlantic States. Yet, in 1977, according to Mr. Davis, nearly 1 of every 5 tons—20 percent—of such steel products used in State highway projects was of foreign origin.

That, I believe, is a misemployment of American tax dollars resulting in the unemployment of American workers. The proposed legislation I mentioned earlier would insure that a substantial portion of steel construction products for domestic projects would be produced and fabricated in the United States by domestic employees.

Mr. Davis found the procurement policies of the Federal Urban Mass Transportation Administration (UMTA) particularly nettlesome. He rightly pointed out that mass transit projects should provide a growing market for domestic steel mill products and he noted outlays for such projects are estimated to increase 15 percent between 1977 and 1979, from $2 billion to $2.3 billion.

Proposed highway and mass transit legislation, Mr. Davis continued, would change Federal cost sharing formulas to provide a uniform 90-percent Federal share for all highway and mass transit projects substituted for interstate projects and a uniform 80-percent Federal share of all other projects.

But, Mr. Davis notes, under present UMTA policy no preference may be accorded to domestic materials by UMTA grantees. This, he feels, conflicts with the Federal procurement policy of extending a preference to American-made material under the provisions of the Buy American Act, despite that act's inadequacies. It also conflicts with the policy of a sister agency, the Federal Highway Administration (FHA), which permits States to extend the preference if the State has such a law or regulation.

UMTAs no-domestic-preference policy actually forces grantees to avoid their own State laws and regulations in instances where there is a preference granted for American-made material.

Mr. Davis again cites examples where the policy has proven detrimental to American industry and American workers.

Example 1. In 1977 Bethlehem Steel Corp. lost a chance to furnish nearly 3,700 tons of steel rails to the Massachusetts Bay Transportation Authority (MBTA) because of UMTA's no preference policy. The low bidder submitted an offer of $1,194,663; Bethlehem Steel bid $34,435 more, a difference of 3 percent.

UMTA was informed by the low bidder that 3,647 tons of steel would be foreign made; Bethlehem Steel would have produced it at its Lackawanna, N.Y., plant. But, in accordance with UMTA's external operating manual, dated August 1972, Mr. Davis said, the MBTA's invitation for bids provided: The specifications or other bidding documents shall contain no limitation on the use of foreign—sources of material, equipment or supplies.

MBTA was compelled to award the contract to the low bidder and more than 3,600 tons of steel rails, foreign steel rails, will go into its project. Had Bethlehem Steel Corp. been given the contract it would have meant 45 jobs with an approximate payroll of $660,000 at the Lackawanna plant.

Metropolitan Atlanta Rapid Transit Authority (MARTA) have awarded projects to Japanese firms producing or fabricating steel because of the same UMTA nonpreference policy.

Mr. Speaker, again I say this is a misuse of Federal tax dollars that Congress must correct. Every industrialized nation in the world is taking action to protect its own industries and its own economy. It is time the U.S. Government takes a similar action in defense of its own citizens. If it does not, who will? ●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Ms. KEYS. Mr. Speaker, on Wednesday, March 22, 1978, I was unavoidably absent from the House for rollcall vote No. 180, passage of H.R. 9518, Shipping Act Amendments of 1978. Had I been present, I would have voted "yea." ●

OUR NATION'S BRIDGES

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. WALGREN. Mr. Speaker, on Monday, March 6, 1978, Chairman Jim Flaherty of the Allegheny County Board of Commissioners presented the following testimony before the Senate Subcommittee on Environment and Public Works on behalf of the National Association of Counties.

The tesimony emphasizes the need for the Federal Government to expand its actions for our Nation's bridges. Mr. Flaherty also points out that bridge repair does not start with construction but with years of planning. Commissioner Flaherty concludes that both time and money are being wasted by further delay in action.

I urge my colleagues to consider this testimony when considering increased funding for the special bridge replacement program:

TESTIMONY OF JIM FLAHERTY, CHAIRMAN, ALLEGHENY COUNTY BOARD OF COMMISSIONERS, TESTIFYING ON BEHALF OF NATIONAL ASSOCIATION OF COUNTIES BEFORE SENATE SUBCOMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Good morning. I am Jim Flaherty, Chairman of the Board of Commissioners, Allegheny County, Pennsylvania. I am here, this morning, on behalf of the National Association of Counties to address the special bridge replacement and rehabilitation program sections of S. 2440, the Highway Improvement Act of 1978.

I understand your time constraints, so I am providing information beyond that contained in this statement which I ask to also be made part of the record.

Let me, then, in the brief time available, address as directly as possible the need for greatly expanded federal action for our nation's bridges.

I hope you will pardon me for using my home county of Allegheny in Pennsylvania as an example occasionally but it is the nation's 10th largest county with 1.5 million residents and includes the City of Pittsburgh.

It has over 1,700 bridges, most of which are a state responsibility.

Bridges play a major role in our nation's commerce. In my home county trucks are the primary method of transporting finished steel products (e.g., ingots, sheets, bars, coils, plates, etc.) to the rest of the United States. 417,000 tons of materials must cross one or more of the major river bridges in Allegheny County every day.

The problem is not merely that bridges deteriorate and must be closed and replaced or rehabilitated. Long before a closing, commerce is disrupted when bridge traffic is curtailed by the imposition of weight limitations. All over the United States, our commerce is hurt by bridges in many different stages of disrepair. It makes no difference to the gross national product if steel shipments are delayed or reduced because bridges cannot carry the products which are produced by them. It makes no difference if farm products in Iowa or other parts of the country, Wisconsin—which are among the leading States in deficient bridges—if those farm products cannot cross a bridge because

the bridge is too narrow to accommodate modern combines and other heavy industrial farm equipment or if the trucks crossing that bridge have to be reduced to half a load and have to make several trips in order to get their produce back and forth to market.

The consumers in this country will share the final bill for the disruptions and the delay caused by either structural deficicency or functional obsolescence.

The statistics paint a startling picture. Three fourths of our nation's bridges were constructed prior to 1935.

In 1977, 39,000 bridges on the federal aid system were in need or repair or replacement.

In 1977, 66,500 off-system bridges were in need of repair or replacement.

That was a total of 105,500 bridges that needed help nationwide.

In 1977, $12.4 billion was needed alone for on-system bridges. Another $10.6 billion is needed for off-system bridges.

As of 1977, that was a total need of $23 billion.

A startling development has taken place. In less than a year, that figure has now risen from $23 billion to $25.1 billion. There has been an increase of almost 10 percent in the amount of money needed to correct this problem in less than a year. That is not because bridges in a year have gone bad. It is merely because an increasing awareness of this problem has prompted more inspections in depth which are revealing higher costs.

In my own county, we have increased the funding from a period of eight years preceding when I took office, shortly over two years ago. My county spent a million and a half dollars total during those six years for bridge repairs and special rehabilitation. In 1976 alone, we spent $10 million for inspection, painting and repairing.

Such inspection increase is now turning up in the increased costs that we face. It is a problem which won't go away. If the Federal Government makes more money available for inspection these figures will increase because we will find out that the costs that we are seeing are based on superficial inspections because of the lack of funds to do proper inspections.

Let's look for a moment behind the gross statistics to try to understand why our nation faces a bridge crisis.

The cost to inspect a bridge in Allegheny County, ranges from $40,000 to $60,000. Project that cost over ¼ of the 105,000 bridges nationwide in need of repair and we are in need of $1 billion for inspection alone. Add to that huge engineering costs and construction costs that are escalating rapidly every day we delay and it soon becomes clear why the current federal funding total of $180 million, and even the Administration's proposal of $450 million, fall far short of our country's needs. If all we hoped for from Congress were the resources merely to inspect our bridges, the current funding levels and that proposed by the Administration, would still be far short of needs.

But our needs go far beyond inspection.

That is just a preliminary step. The costs of repair and replacement make the need for adequate funds all the more pressing.

And at this point we should address the question that must be faced in any such discussion: Why federal funds? Granted our bridges are in need of aid, why can't the local and state governments meet these needs on their own?

As we have seen, the national funding need is in the tens of billions of dollars. Given such a huge dollar amount, the federal government's greater revenue raising powers—compared to individual state and local powers—argues in favor of federal aid. Indeed, this is the classic case of an appropriate federal-local partnership: national resources made available to help localities meet their urgent needs.

Consider my home county—Allegheny County, Pennsylvania. Our total debt has reached over $370 million. This accounts for $35 million each year out of our budget, which is approximately 45 percent of our county's total tax revenues. Our income—not counting aid from other levels of government—is totally dependent on the real estate tax. Too many real estate taxpayers are senior citizens and/or on fixed incomes unable to increase earnings to respond to increased real estate taxes.

Again, compared to the federal government's greater resources, our limited property tax, and Pennsylvania's fixed rate income tax offer little hope to raise the necessary funds.

The bridge crisis varies in intensity from state to state, and county to county. While some states and counties are better off finnacially than others, there is not a neat match between the needy bridge areas and the financially solvent areas.

A look at the eight states with the highest percentage of deficient bridges reveals the diversity of the problem:

Iowa, 39 percent deficient.
New York, 36 percent deficient.
New Mexico, 35 percent deficient.
Kentucky, 32 percent deficient.
Louisiana, 31 percent deficient.
Wisconsin, 30 percent deficient.
Tennessee, 29 percent deficient.
Pennsylvania, 29 percent deficient.

If we leave the repair and rebuilding of our local bridges to local and state government, we will, in effect, be consigning the resolution of the crisis to pot luck. At best, one would say it would be a questionable policy to entrust the life and safety of so many citizens and future commerce of the greatest country in the world to chance when a solution is at hand.

We have examined S. 2440, and find three encouraging signs. The first is that federal aid would no longer be limited to bridge replacement, but would include bridge rehabilitation also. We favor that.

The second is that the matching formula will be increased to 80 percent from the present 75 percent.

The third encouraging sign is the provision for funding well beyond the current level. This step is indeed commendable. However, in calling for $450 million per year, the bill as written falls far short. $450 million would be just about enough to solve the bridge problems of Allegheny County, Pennsylvania. But, I don't think that would satisfy the other 66 counties in my state nor would it satisfy the 7 states whose bridge problems are even more severe than mine.

If the rate of $450 million per year at the proposed matching formula of 80 percent, however, is maintained, it will take 41 years to repair and replace just the known defective bridges today. And that does not account for those which are presently defective but not known because of inadequate inspection funds at local levels, nor those which will become defective during the next 41 years, including, of course, any bridge under construction right now which only has an average life of 35 to 40 years to start with.

A truly "national" bridge program that will preserve and protect life, safety and commerce would more effectively be funded at the $2 billion per year level. Although that is a lot of money to a county or state budget, that would only be 4/10 of a percent of President Carter's proposed fiscal 1979 budget.

And I admit, it's still a lot of money, but the priority is necessary and justifiable.

Additionally, we propose the following items for inclusion in a national bridge program:

A matching formula in which the federal government shares 90 percent of bridge costs.

Federal spending to be determined jointly by state and local officials.

An accelerated research and development program.

Authority for the secretary of Transportation to waive requirements of highway law to deal with non-major projects.

Improved enforcement policies and actions to prevent overloading of bridges.

If there is a problem on distribution of funds, I would support the recommendation of the National Association of County Engineers that funds should be allocated based on lineal lane feet of bridges for three years only; after three years, these funds should be allocated based on the lineal lane feet of deficient bridges as determined by proper engineering inspection. In this way we can better assure that expenditures for bridge repair are tied to current, accurate assessment of needs.

Finally, realistic bridge funding of $2 billion must be given a higher priority in the formulation of our national transportation policy. The risks of putting off a solution to the bridge problems to the next generation are too great. It is true that closing these bridges can save lives, but the damage to commerce would be disastrous and makes that an unacceptable alternative.

Realistic bridge funding of $2 billion will also provide laudable, permanent public works projects at a time when construction employment stimulations are badly needed. Moreover, it would provide the American steel industry, which is suffering from a depressed market, with a domestic market to become more productive and increase employment of steelworkers, as well.

In conclusion, let me say this—if there were no bridge crisis in this country—and there is—

Congress could not pick a better subject to fund or a better area to develop—than bridges. The funding of $2 billion per year will provide consumers nationwide with lower prices, will stimulate badly sagging construction jobs, steel jobs, will preserve and encourage commerce in those areas and will conserve energy by preventing gasoline being used for costly and gas wasting detours.●

REPRESENTATIVE HENRY REUSS POINTS OUT INFLATION SOLUTIONS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. SIMON. Mr. Speaker, over the Easter recess, I was going through CONGRESSIONAL RECORDS and came across the excellent statement by our colleague, Representative HENRY REUSS, about a program to both lower unemployment and to lower inflation.

There are certain aspects in his suggestions with which I would differ, but fundamentally, he suggests a sound approach. My strong feeling is that Congress and the administration have to develop a much more vigorous anti-inflation program if we are to get hold of this evil in our midst.

The Reuss program appears in the March 21 CONGRESSIONAL RECORD, beginning on page H2287, and I would en-

courage my colleagues and the staffs in the House and Senate to get the CONGRESSIONAL RECORD for that date and examine the Reuss plan in some detail. I hope my friends in the administration will do the same.●

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for March 29, 1978, into the CONGRESSIONAL RECORD:

LESSONS OF THE COAL STRIKE

At a time when most labor disputes are quickly resolved, the coal strike is a stark reminder of the damage that a single union and industry can inflict on society. More than most Americans, Hoosiers have suffered hardship. As I have talked about the strike with hundreds of Ninth District residents, I have thought about what our experience can teach us.

One lesson is that we must diversify our sources of energy. An oil embargo in 1973 and a coal strike in 1978 should teach us that we must develop as many different sources of energy as possible. We must also have the ability to shift quickly from one fuel to another and to transfer power from one region of the country to another. The national power system is vulnerable to crisis. More flexibility must be built into it.

The strike also confirms that a sharp decline in presidential authority has taken place in the past few years. The coal operators initially defied President Carter when he called for negotiations at the White House and the miners rejected a contract when he urged them to accept. The President's ability to get the miners back to work will undoubtedly affect the public perception of his strength as a leader. My judgment is that his standing in Indiana has slipped. He has conveyed neither a sense of personal involvement in the issue nor an image of a man who is wrestling with a national crisis. When the people want government to do something—anything—to resolve a crisis, the political price of inaction is high. From another perspective, the President's detachment in handling the strike may appear in a different light. He was reluctant to intervene until both sides were exhausted and ready for compromise. He believed that a negotiated settlement would be preferable to one imposed by the government. He wanted to give collective bargaining every chance to succeed.

It is encouraging that the strike may be settled by negotiation and not by government intervention. But it is apparent that Congress must begin to search for more effective tools to deal with breakdowns in the collective bargaining process. The Taft-Hartley Act depends too much on the cooperation of a labor force that may be alienated. Government seizure is a vote of "no confidence" in the private enterprise system, and as such it raises the specter of nationalization. Binding abritration is unacceptable to both labor and management. An adequate legislative solution will not come easily, but failure to find it carries risks.

The strike teaches us other things, too. It has shown that there is widespread disrespect for the law. Taft-Hartley was invoked amid open speculation that the miners would not obey it, and they did not. Other groups, I suspect, will not be blind to the fact that the miners flouted the law with impunity.

All of us feel uneasy that we have become so dependent on the miner. Many Hoosiers have asked me how a handful of workers could bring the country to the brink of economic disaster. The strike shows that, despite our technological brilliance, the economy still turns by the muscle of men who work in the cold, and dirt, and the darkness of the mines.

Another lesson is that we do not know enough about the miner or his work. He is a tough, fiercely independent man who lives in a world that most of us do not understand. He is in the forefront of America's most dangerous occupation. Deaths and injuries in American coal fields are twice as frequent as in the British coal industry and five times as frequent as in other American workplaces. He is proud of his work, but his productivity has slipped 50% in the last decade. His union is fragmented and poorly led. For him, collective bargaining is a gamble.

Notwithstanding our ignorance of the miner's ways, coal industry troubles must be identified and attacked. Good labor relations in the coal industry depend on it. Wildcat strikes and chronic absenteeism must be curtailed, efforts must be made to reduce safety hazards in the mines, and productivity must be increased. If these problems are not addressed, then coal strikes will continue to plague us for many years to come.

The strike has dealt our anti-inflation policy a heavy blow, making the government seem powerless in its efforts to break the wage-price spiral. The need for a settlement was so desperate that the inflationary aspects of the rejected contract were scarcely discussed. The strike is a good example of how our concern for inflation yields to the hard realities of other considerations—in this case, the need to get coal production going.

On the positive side, it should be observed that the strike has lasted more than 100 days without causing irreparable damage to the economy. Certain states—Indiana, for one—were hit especially hard, but nationwide the economy held up fairly well. This suggests that the economy overall is vital and vibrant. It also suggests that there is wisdom in shifting to other sources of energy, in relying on strip-mined western coal, in increasing non-union coal production and in improving interconnections among electric utilities.●

THE PORTLAND CANAL GIVEAWAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MAZZOLI. Mr. Speaker, while our colleagues in the Senate have whiled away these early days of spring discussing the so-called Panama Canal "giveaway," a more insidious giveaway has been hatched in Kentucky: The Portland Canal Giveaway.

Fortunately, a staunch band of patriots have risen to this cause and forestalled this affront to our country's dignity and security.

The following article from the Louisville Times of March 20 will serve to alert my colleagues of the danger:

PORTLAND CANAL GIVEAWAY

"It's a gigantic undertaking, but somebody's got to go to the mat for that canal."

That's Jim Burke talking, and he's talking about a "dastardly deed—the giveaway of the Portland Canal."

Burke and a few of his buddies from the Highland Veterans of Foreign Wars Post balked when they were asked to sign a petition against the Panama Canal treaties before Congress. "We don't like to sign anything," he explains. "Makes it easier for the bill collectors to track us down."

They got to thinking about the canal adjacent to Louisville, and assigned cohort Joe Mitchell ("the only one of us who can read") to do a little research.

"Panama's a little far from home, besides, I never met a Panamanian I didn't like," says Burke. "And Joe found that the Portland Canal carries more tonnage than the other canal does. We decided we'd better save it."

Their efforts were made public at the St. Patrick's Day Parade with a float—well, actually a decorated truck—representing the Committee to Restore and Appreciate Portland. "Make of that acronym what you will," he says. Five hundred bumper stickers saying, "Save the Portland Canal," were painted, and promptly snapped up.

"The canal is our main line of defense in case Indiana wants to attack," Burke says. "There may be a challenge from Shively as well, and we need to make sure that the Belle of Louisville gets the first call through the canal if there's immediate danger."

The scheme is, of course, a bit of tomfoolery on the parts of some yellow-dog Irish Democrats who want, among other things, to put Ronald Reagan in his place.

"We want to get Gene Snyder (an opponent of the Panama treaties) in on it, too," Burke says. "Portland isn't in the 4th Congressional District, but we know for a fact that water from the 4th Congressional District flows through the canal."

He claims the support of Rep. Ron Mazzoli, whose 3rd District includes Portland, and says he's worked on Sen. Wendell Ford.

Burke, a former Democratic organization chairman now working for the state Department of Labor, vows a continuation of the campaign—perhaps at the Irish Heritage Weekend celebration this summer.

"We're doing this for the good Irish folks of Portland. They didn't buy it, and they didn't pay for it, but they probably built it. And you know, all us Irish stick together . . . except in taverns." ●

GOLDEN GIRLS OF NATIVITY BVM HIGH SCHOOL CAPTURE CLASS A BASKETBALL CHAMPIONSHIP

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. YATRON. Mr. Speaker, on Saturday, March 18, at the Hershey Park Arena, the Golden Girls of Nativity BVM High School defeated the Johnsonburg Area High School Rams and captured the PIAA Class A girls' State basketball championship.

The Golden Girls finished their 34–1 season with a 46–41 victory over the Rams. A special congratulation was certainly earned by the team, the coaches, and the fans of the Golden Girls whose dedication and drive made their team No. 1.

I wish to pay a special tribute to the members of the team: Erin Boran, Megan Brennan, Brenda Campion, Mary Ann Devlin, Debbie Grapsy, Karen

Grapsy, Michelle Horan, Beth Ann Lechleitner, Bridget O'Connor, Mary Ann O'Connor, Trish Piel, Barbara Williams, Sue Yalsovec, and their coaches, Rev. Stephen Mako and Madge Snyder.

I know the entire Pennsylvania delegation would agree that the Nativity BVM High School Golden Girls' outstanding accomplishment should be brought to the attention of this body and I am honored that I have the opportunity to do so.●

AN IMPORTANT STATEMENT—NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BIAGGI. Mr. Speaker, the March 18 edition of the Cleveland Plain Dealer printed a letter by the Cleveland chapter of the Irish National Caucus to Prime Minister Jack Lynch denouncing him for his recent attack on the Caucus and the 104-member ad hoc congressional committee for Irish Affairs which I chair.

Their views are consistent with hundreds of other letters, calls, and telegams I have received from irate Irish Americans who were most disturbed over the tenor of the Lynch attack. As has been stated on numerous occasion, the ad hoc committee has as its main objective to advance the constructive role which the United States can and should play in bringing peace and justice to Ireland.

I wish to insert this particular letter into the RECORD because of its detailed nature and its many observations. I commend its author, Mr. Paul Finnin, and hope that my colleagues will take the time to read it carefully:

U.S. IRISH GROUP CHALLENGES LYNCH

I am in receipt of your statements issued to Congressman Mario Biaggi and the 87-member Congressional Committee on Irish affairs.

The Irish National Caucus, which you so freely condemned, was founded with the purpose of uniting the various groups and individuals who have voiced their concern over the situation in Northern Ireland so they can help contribute to a permanent peace there.

The caucus is an exclusively American-based organization and has no foreign principal. It does not support any group in Ireland and does not send any money to Ireland—all funds remain in the United States.

It is also totally opposed to the use of violence to achieve political objectives in Ireland—all forms of violence, whether they be British or Irish, state or civilian. I and many others are deeply concerned because of the violence and profess our horror and revulsion with the death and destruction taking place in Ireland.

If you have any evidence to support your charges, then you owe it to all concerned . . . to produce such evidence.

Any support given to the Irish National Caucus by Mr. Biaggi and his committee was given on the basis of the caucus' principles and their own knowledge and understanding of and concern for the situation in Ireland. Mr. Biaggi and his colleagues on this committee are highly respected and able lawmakers and are dedicated in their support of the rule of law and the protection of human rights. Their concern over events in Northern Ireland reflects the legitimate concern of millions of American citizens for an end to the violence and the establishment of a just system.

Mr. Lynch, I am sure you are well aware of the consequences of your unsubstantiated remarks concerning Irish-American involvement and the great disservice you have done to Mr. Biaggi and the members of his committee.

Those people whom you saw fit to applaud, such as Sen. Kennedy, have in the past been subjected to the same kind of abuse and condemnation by the Irish and British governments that you now level at Mr. Biaggi. Sen. Kennedy's perceptive opinions condemning British policies and the inability of British justice to deal fairly and impartially with events in Northern Ireland are a matter of public record. Such blatantly unjust policies have been the root cause of much of the violence.

Mr. Kennedy repeatedly called for an end to the injustice for Britain to implement the basic reforms promised in countless British "initiatives and for the orderly withdrawal of British troops. Recognizing the Republic's rightful role, he supported unification as the ultimate goal for Ireland. Mr. Kennedy made it perfectly clear that he was totally opposed to violence and repeatedly called for an end to the terror. He condemned the violence of the Protestant extremist organizations, the British troops and the IRA. Still, he was bitterly denounced.

How right and just these statements were has been proved since. Mr. Kennedy was right then, and Mr. Biaggi is justified in speaking out now.

I would remind you, Mr. Lynch, that after internment without charge or trial was introduced in Northern Ireland, the then British prime minister, Edward Heath, told you, in effect, to stop meddling and mind your own business. Since then, the Irish government has been repeatedly rebuked by Britain, which maintains that the problem of Northern Ireland is an internal affair.

It is obvious that anyone who dares talk about Irish unity, or for that matter anyone who has a different point of view from the British one, will be accused of supporting IRA violence.

By what act of God or nature has the British govenment been given a special skill in governing over other people? Upon what success that the British have had in other countries where they have been involved do you base your hope for a British settlement?

Their record of failure in Ireland is clearly defined. All the so-called "British initiatives" have been failures. What we see today in Ireland is the result of one of these solutions, the 1922 partition. Partition sowed the seeds that have brought so much misery and suffering these past 60 years.

In the 1960s, the Catholics found it increasingly hard to bear their minority status, their lack of representation, and discrimination in jobs and housing. Finally, in peaceful protest and with legitimate demands, they urged Britain to implement the needed reforms.

What was Britain's solution but further oppression of the minority by such acts as internment without warrant, charge or trial? These policies further alienated the minority and have directly resulted in the death and destruction we have seen since.

All of Britain's "initiatives" have been more whitewash than substance. Job discrimination, which was a central grievance of the civil rights groups, hasn't changed, according to a government-sponsored Fair Employment Agency report, published several weeks ago.

The report said the number of unemployed Catholics was 2½ times greater than the total of unemployed Protestants—keeping in mind that Catholics represent approximately one-third of Northern Ireland's population—and that Catholics were under-represented in the main areas of employment, like engineering, banking and business services. In shipbuilding and marine engineering industries, very important in Ulster, the total of Catholics was 4.8 percent, while Protestants made up 89.5 percent, the rest being of unstated religion.

Back in the 60s, Mr. Lynch, in your first term in office, you said, viewing the situation in the North, that you would not stand idly by. But what significant initiatives were taken as your government continued to view the worsening situation in the North and Britain's inability to formulate any specific policy in Northern Ireland?

I am painfully aware of the Republic's sensitive position, specifically the danger of importing the violence from the North. But it is no longer valid to say that we should keep silent for fear of worse violence.

As you said, Mr. Lynch, "It would be a great mistake to believe that peace can be achieved simply by the elimination of violence. The sort of trouble we have seen in the North has occurred there now in almost every decade for the past 60 years. Each time, the situation has been stabilized, but each time the solution has been temporary."

That has been the case because we have failed to pursue the democratic solution which will abolish the cause of violence for good. We should leave no doubt in anyone's mind that the only solution to Ireland's problem is a united Irish democracy.

In your speeches, you have asked the British government "to declare their interest in the unity of Ireland." Doesn't the fact that she has not done so indicate to you that she has no such interest, and that her countless so-called initiatives and talk of power sharing and devolved government are simply further "temporary solutions" that will continue to frustrate the cause of Irish unity, bringing suffering to a future generation?

Would not an effective, impartial mediator, be it the United Nations or some other appropriate European or international institution, be the answer in bringing *all* sides together at the conference table to work out solutions to the problems? Could not Congressman Biaggi and his committee, as well as Sens. Kennedy and Moynihan, House Speaker O'Neill, and the many other concerned leaders in America who have offered their help persuade Britain and all others involved to to have such a conference?

You must be aware that your loose, slanderous remarks about concerned Americans only helps to alienate them. By your statements, you contribute to the success of British propaganda in this country.

The British public could conceivably force its government tomorrow to wash its hands of the whole situation and dump it right on your door-step, and who could blame or condemn Britain if she did? Certainly she has well established her image in this country as the "honest broker" who is trying everything to bring the "mad dog" race together. England left us once before with a civil war and she can do so again.

Congressman Biaggi, like many others, believed in your courage and straightforwardness in calling for a declaration of intent from Britain to withdraw her troops from Ireland. However, in your letter, you saw fit to mislead him into believing he had made a mistake in understanding you. I quote from your letter: "I should perhaps first of all make it clear that at no stage in my radio interview was I asked or did I offer views about the withdrawal of British troops from Ireland. I did reiterate my view that the British government should indicate its in-

terest in the bringing together of all the people . . ."

If Mr. Biaggi was confused by your statement of government policy, so too were numerous others, and understandably so, in view of your vague remarks.

In your statements to Mr. Biaggi and others, you made reference to the Fianna Fail policy statement of October 1975. Why you did not enclose this statement is puzzling, since it is your government's clearest statement. To quote from it: "Fianna Fail calls on the British government to . . . encourage the unity of Ireland by agreement, in independence and in harmonious relationship between the two islands, and to this end to declare Britain's commitment to implement an ordered withdrawal from her involvement in the six counties of Northern Ireland."

Finally, Mr. Lynch, we all condemn and deplore the violence. But if we really want to stop it, we must realize that protests against it and the use of oppressive military force to contain it will not be enough to end it. Until a political solution which is just and acceptable to all is implemented, we cannot hope to abolish the cause of violence for good.

While one can be hypocritical and selective in condemning those who may contribute to violence, the gravest responsibility must rest with those who have the power to implement policies which will insure peace and justice but who choose to continue policies which breed violence.●

CHIEF OF POLICE HONORED

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MARKS. Mr. Speaker, while back in my northwestern Pennsylvania district last week, I had the pleasure of joining in testimonial for the recently retired chief of police in Meadville, John "Jack" Holt.

Because I was so taken with the tremendous outpouring for this gentleman, I wanted to share with my colleagues a few thoughts about Jack Holt and what endeared him to so many people.

His father was a railroad detective who was shot to death in the line of duty in the thirties. Jack was left to assist a widowed mother in raising a large family. In 1938 while in his twenties, Jack Holt became a patrolman on the Meadville Police Department and in his nearly 40 years service rose through the ranks as a highly respected officer and chief of police.

As I sat at the testimonial and heard many people extoll the virtues of the chief, I was reminded that he was respected by people in so many walks of life because he was a little unusual. Unusual in the respect that he was a police officer 24 hours a day every day he served on the force. He was a stern officer but had plenty of compassion and balanced those attributes into an evenhandedness that seemed to please all. There were people in the audience of 500 who could testify that just the right action at the right time guided many troubled youth into a lifetime of usefulness.

I am told also by his colleagues that Chief Holt had not only the respect of his community, but the respect of his men who held a testimonial of their own for the retiring chief to show their appreciation.

On the last day of his long service to the people of Meadville, Chief Holt walked a beat on a Sunday night in January, the same one that he walked when he went on duty in 1938.

He has left a mark on his community that will be remembered by all and I wish him good health and happiness in a long retirement.●

SETTING THE RECORD STRAIGHT ON ALASKA LANDS LEGISLATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. YOUNG of Alaska. Mr. Speaker, last month, my colleague from Arizona (Mr. UDALL) printed in the RECORD a letter he had received from a member of the Fairbanks North Star Borough assembly, Fairbanks, Alaska. This letter written on official stationery, expressed strong support for H.R. 39, the Alaska National Interest Lands Act. Because the letter was written on official stationery, many Members may have gotten the impression that the borough assembly supported this bill.

I would like to correct the RECORD on this point. The enclosed letter and resolution from the borough assembly clearly spell out the assembly's position on this legislation. I request that they be printed in the RECORD so that all Members can be aware of that position.

Text of letter and resolution follow:

FAIRBANKS NORTH STAR BOROUGH,
Fairbanks, Alaska, March 21, 1978.

Hon. DON YOUNG,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR REPRESENTATIVE YOUNG: It has come to my attention that a member of the Fairbanks North Star Borough Assembly, Mr. Kevin Harun, has written a letter opposing the Meeds amendments to members of the Interior and Insular Affairs Committee. Because Mr. Harun sent the letter on official stationery, some felt his communication to be a statement of the Borough Assembly's views.

This is not the case. The Assembly has taken no action concerning the Meeds amendments; the only statement it has made on public lands policy is the enclosed resolution, which strongly supports the concept of multiple use and local participation in decision making. We feel too little is known about vast areas in Alaska for classification at this time.

Although Mr. Harun's views may be those of many of his constituents, they do not necessarily reflect a majority opinion within the Fairbanks North Star Borough, and they do not represent the position of the Borough Assembly or Administration. We regret that he unintentionally gave the impression that he spoke for the Borough.

Sincerely yours,

KAREN PARR,
Presiding Officer, FNSB Assembly

RESOLUTION NO. 78-6—A RESOLUTION STATING THE PHILOSOPHY OF THE FAIRBANKS NORTH STAR BOROUGH ASSEMBLY REGARDING PUBLIC LAND MANAGEMENT

Whereas, the United States Congress and the State of Alaska are presently considering public land management legislation which may dramatically affect the economic future of Interior Alaska, and

Whereas, legislation such as HR 39 takes a "dominant use approach" for lands which have not been sufficiently investigated to determine their energy and mineral potential, and

Whereas, the multiple use concept for public lands provides a greater opportunity for resource investigation and the necessary coordination and local input, and

Whereas, the Fairbanks North Star Borough Assembly has previously by Resolution No. 77-5 indicated its concerns that national interest designations not prevent the sound development of Alaska's mineral resources which are needed by all Americans, and

Whereas, it is essential that State and Federal officials hear from local governments affected by public lands legislation:

Now, therefore, be it resolved by the Assembly of the Fairbanks North Star Borough that they call upon the State of Alaska and the Congress to provide in public lands legislation for the maximum local coordination and input in the public land management decision making. In addition, in cases such as the lands presently being considered national interest by HR 39 a multiple use concept be applied since too little is known of the resource potential of such lands; and

Be it further resolved, that a permanent system be developed to provide for cooperative Federal, State, and local management of Alaska's public lands.

Passed and approved this 26th day of January, 1978.●

NEED FOR IMMEDIATE TAX CUT

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mrs. SMITH of Nebraska. Mr. Speaker, last year, the Internal Revenue Service reported Americans paid $16.7 billion more in taxes than they spent on the three basic necessities of food, clothing, and housing.

To make this fact more understandable, on the average, each of us—every man, woman, and child—paid some $2,200 in taxes while spending a total of $2,100 on food, clothing, and shelter, a difference of almost $100 per person.

These statistics alone show the immediate need for a tax cut now. Not a month from now, not 6 months from now, or a year from now. This tax cut must be coupled with a leveling off in Federal Government spending.

The Tax Relief Act of 1977 that I have sponsored along with 145 of my colleagues offers an average 33-percent-across-the-board tax cut over a 3-year period.

When fully effective, the Tax Relief Act would reduce the tax burden of a family of four earning $8,000 by 90 percent. It would reduce the burden for a family of four making $10,000 by nearly 50 percent and for a family of four making $15,000, the reduction would be 38 percent.

With this tax cut, each of us would have an opportunity to spend more money our own way. It will increase take-home pay, stimulate consumer spending, increase the incentive to save, invest, and produce, and generally expand the economy.

In addition to helping each individual, the Tax Relief Act would reduce the corporate tax rate by 3 percentage points and increase the corporate surtax exemption to $100,000 to help the small business get expansion capital.

This total package of tax reductions is not a new approach, just a needed one.

In the early 1920's, the Government reduced taxes and the economy boomed. In the early 1960's, a similar reduction in taxes produced real investment growth at the highest rate in modern history with the lowest growth rate for inflation.

The Internal Revenue Service recently released data showing the tax burden imposed on all Americans by a liberal Congress has risen by 144 percent over the last 10 years.

One noted economist has projected that with the passage of this Tax Relief Act, the gross national product would be expanded by $43 billion and there would be a creation of some 1.2 million new jobs in less than 2 years.

A reduction of the tax rate on small businesses will have the same type of effect. Today, many small businesses must pay 48 percent of all earnings above $50,000 to the Government—more than double the already high tax rate on earnings below $50,000.

This tax jump is a disincentive to firms that might otherwise expand and provide jobs for the unemployed.

In America today, we are taxing work, growth, investment, savings, and productivity, while subsidizing nonwork, consumption, welfare, and debt.

You can help by making your wishes known to the administration and the liberally oriented Congress that we need this tax cut and we need a leveling off of Government spending.

This leveling off of spending can easily include defeat of an 82-percent increase in foreign aid, proposed by the administration $1 billion bail-out program for New York City; and the proposed increase in energy taxes.●

FORUM SHOPPING BY THE GOVERNMENT RESPONSIBILITIES TO PRIVATE PERSONS IN THE CASE OF THE RECENT REDWOOD PARK BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. McCLOSKEY. Mr. Speaker, on March 14 the House agreed to the conference report on the Redwood Park bill. The conference resolved the judicial jurisdiction question by designating the U.S. district court, rather than the Court of Claims, as the court of jurisdiction in determining just compensation for lands acquired by the park expansion.

The U.S. district court was chosen because it could offer two advantages to the Federal Government over the Court of Claims. First, the Federal Government may initiate proceedings before the district court and, second, the Federal Government may deposit all or a portion of the estimated amount of just compensation with the district court and thereby stop the running of interest on the deposited amounts.

The President has now signed this bill into law and it would seem fair that the Federal Government move forward quickly, both to initiate proceedings and to deposit those amounts which the Government honestly estimates as just compensation. This is a fairly unique situation where the Government has forum shopped in a pending eminent domain proceeding and has written a law to serve the Government's best interests, procedural as well as substantive.

Under these circumstances the Government should bend over backward to be fair to the citizens and property owners whose protection under the fifth amendment should at least extend to a swift and fair judgment and the opportunity to reinvest their assets to the benefit of themselves and the individuals dependent upon them for a livelihood.●

SUSAN MARIE MEHUREN WINS MAINE VOICE OF DEMOCRACY CONTEST

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. EMERY. Mr. Speaker, since 1958 the Veterans of Foreign Wars has been associated with the Voice of Democracy scholarship program which has attracked over 4½ million participants.

This year, some quarter of a million high school students competed to win the speaking contest in their respective States. This year's theme was "My Responsibility to America."

It is my pleasure to inform you that the winner of the Maine State contest this year was Miss Susan Marie Mehuren, a student at Cony High School in Augusta, Maine. Susan is in the 11th grade and plans a career in the medical field.

It is with great pleasure that I submit Susan's contest-winning speech for the RECORD, and wish her well in her future endeavors:

To be born a citizen of a nation as great and prosperous as America is a privilege I must not take for granted. Although I did nothing to obtain my citizenship, I must keep in mind the men and women who struggled to make this country what it is today.

Their dedication and sense of responsibility have given me the rights and privileges of which I freely partake. Mindful of this, I see my responsibility in preserving America and her values for the generations of tomorrow.

Nowhere on earth is the democratic way seen more clearly. As an American citizen, I have the right to aid in electing the President and other government leaders, who in turn, mold and shape the destiny of these United States.

The right to vote is not only a privilege, but a responsibility. I must follow the campaign of each candidate, weigh his values and opinions, and evaluate his ability and competency to meet the needs of the nation. I must complete this responsibility by voting for the candidate whom I believe will best fill his position.

Once he is in office, I must continue to support this leader with prayer that God will grant wisdom to cope with the nation's problems.

As a citizen of America, I have a responsibility to be alert and aware of my country's problems, its relationships with other world powers, and its internal progress. This responsibility may be fulfilled in acquainting myself with the happenings and activities of the nation through the news media; whether by television, radio, or articles found in magazines, and daily papers.

I must also set an example for younger generations. They must be made to realize that a privilege walks hand-in-hand with responsibility. They must observe by my actions that loyalty and support to America are of utmost importance.

My responsibility to America also involves upholding the laws of the land, and making sure that my rights as an individual do not infringe or encroach upon the rights of my fellow citizen. If upon indulging in my God-given rights of "life, liberty, and the pursuit of happiness," I remember that each and every person also possesses these same rights, then my obligation to this nation's society will be fulfilled.

In conclusion, when I look back to the founding and establishing of this free nation, may I also look beyond the small scope of my life to the future of America, and be willing to fulfill all of my responsibilities to keep her a truly great nation.●

MASSACHUSETTS CITIZENS JOIN TOGETHER TO FIGHT GREAT BLIZZARD OF 1978

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MOAKLEY. Mr. Speaker, I would like to take a few minutes of my colleagues' time to make them aware of the tremendous effort undertaken by both public servants and Massachusetts citizens alike during the legendary "Boston Blizzard of 1978."

The old maxim that it often takes a disaster the likes of Boston's recent blizzard to bring out the best in people was once again proved true. Everywhere in the city, from South Boston to Roslindale, from the north end to Roxbury, people pitched in to help each other out of a tight situation. Everywhere, there occurred small events which gave testimony to the basic neighborliness of Boston's inhabitants. Hopefully, the good works, neighborliness, and friendly faces exhibited during the storm will be more remembered than the drifts of snow, tidal waves, and gale force winds which plagued the city from February 6 through 8 of 1978.

In the 2 months that have elapsed since the storm's occurrence, much has been said about the efforts of both the government and the general public in combating the effects of the storm. From my perspective, never have I seen a finer example of intergovernmental support and cooperation of emergency relief. The city of Boston, the Commonwealth of Massachusetts, the Federal Disaster As-

sistance Administration, and countless numbers of community agencies and groups all deserve to be commended on the role they played during Boston's unfolding drama. I would especially like to commend the Honorable John Snedeker, commissioner of the Metropolitan District Commission, and his assistants, Jerry Allen, Shawn Foley, and Maureen O'Malley. Their assistance in the organization, communications network, and liaison effort undertaken by all branches of government was of inestimable value.

The entire relief effort was of mammoth proportions. Everyone involved in the entire operation should be commended for never losing sight of the fact that it was the individual that mattered in the scope of the operation.

Thank you.●

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for April 5, 1978, into the CONGRESSIONAL RECORD:

INFLATION: THE PERSISTENT CHALLENGE

Inflation has become the nation's chief economic problem. National surveys indicate that inflation, rather than unemployment, has the most people worried. According to the results of my annual questionnaire, Ninth District residents believe that inflation should be the first concern of policymakers.

Aside from inflation, the economic skies are bright. On the domestic scene, joblessness has dropped to 6.1%, corporate profits are improving, capital spending is perking up and interest rates this year have moved sideways or down. Our international economic prospects are better with the help of some slackening of oil imports, an evening up of growth rates among the United States and its trading partners, a firming up of the dollar against most major currencies and a solid outlook for farm exports. Worsening inflation is the only fly in the ointment.

Inflation may very well be the most difficult of our economic challenges. The administration's mild anti-inflation program is not succeeding. Most witnesses at congressional hearings suggest that inflation is likely to accelerate from its basic 6% rate. To make matters worse, inflationary pressures are squeezing us from many sides. The dollar's recent decline has increased the price of imported goods and caused the OPTC nations to threaten another rise in oil prices. Food prices have edged up due to bad weather and snarled transportation. The coal settlement will further boost the Consumer Price Index and the outcome of other labor negotiations may tend to do the same. Finally, the government itself has been promoting inflation—not intentionally, perhaps, but prices are moving steadily up as a result of various federal spending, trade and regulatory measures.

Until recently, government officials argued that unemployment and inflation were equally important problems. However, with the jobs picture improving many policymakers are shifting their posture on the issue. Pressure is building for the President and the Congress to curb rising prices. The President's top advisors have called upon him to accept the idea that inflation has replaced joblessness as the principal economic worry. One advisor warns that without additional action the nation will soon face a significant acceleration of price increases.

Many experts stress that we do not know how to control inflation effectively. I do not disagree with these experts, but I think we must recognize that inflation may often be more a result of political expediency than of ignorance. The government must confront the narrow demands of many small but powerful constituencies. In responding to those demands, the government sometimes gives long-term wage and price stability a lesser priority than it should have. The desire to hold down inflation may not count for much when a specific case is being considered. All of us hate inflation, but we want someone else to pay the price of stopping it. The major stumbling block on the road to lower rates of inflation may not be ignorance or ineffective tools, but rather a political inability to take the right action at the right time.

The two traditional approaches to the inflation problem simply have not worked. One emphasizes increased growth and investment while the other favors restrictive policies applied long enough to wring inflation out of the economy. Obviously, other approaches must be tried. I have great interest in granting tax relief for wage and price restraint. It may be imprudent to provide such relief before subjecting it to much wider discussion and examination, but the momentum of inflation is so great that the proposal should be taken seriously.

Other steps can be taken as well. The government must become much more serious about its own inflationary actions. It may be advisable to have an annual government report on programs which have raised or lowered prices. Perhaps we should set a target this year of no new federal impact on price levels. The government should aim to reduce the federal deficit and should use a wide variety of employment programs to help achieve full employment without inflation. It should also intensify efforts to win labor and business support for voluntary wage and price restraint. Finally, a number of specific steps must be considered, such as reducing the federal pay raise scheduled to take effect this fall, containing costs in those industries where price increases have been very rapid, expanding the timber harvest on federal lands to hold lumber prices down, increasing industry competition to lower charges for goods and services, and urging state and local governments to cut sales and property taxes.

These ideas will not be popular, but there is no easy way to fight inflation. If we do not work together to reduce the rates of inflation in all sectors of the economy, price increases could become so rapid that much harsher measures would be necessary in the future.●

THE NCAA BASKETBALL PLAYOFFS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MAZZOLI. Mr. Speaker, as a resident of the Commonwealth of Kentucky and as an alumnus of the University of Notre Dame and the University of Louisville Law School, this year's NCAA basketball playoffs were the most enjoyable in memory.

Coach Joe Hall's Kentucky Wildcats added another glorious chapter to the thick volume of basketball triumphs compiled by the late Coach Adolph Rupp. To Joe, to his team, and to the University of Kentucky, I extend congratulations, hosannas and cheers on being No. 1.

Coach Digger Phelps' Notre Dame Fighting Irish, a talented group of roundballers, go to the final four—the pinnacle of collegiate basketball—for the first time in the long and distinguished history of Notre Dame.

Digger is a youthful, dynamic and insightful coach who has led the Irish to its greatest basketball season ever. All of us—whether for-real alumni or subway alumni—join in giving Digger, a "Cheer Cheer for Old Notre Dame."

Coach Denny Crum's Louisville Cardinals—featuring several talented players from the Louisville area—had an outstanding season, winning the Metro Conference crown and going to the NCAA regionals. Coach Crum and his players brought credit to the city of Louisville and to the Commonwealth of Kentucky. We are proud as punch of the Cardinals.

My hat is off to these gentlemen and their players. As we say back home: They done good.●

THE DIASPORA INSTITUTE ON MOUNT ZION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. STEERS. Mr. Speaker, Rabbi Herzel Kranz of the Silver Spring Jewish Center, a member of the executive of the Diaspora Institute, the only Jewish educational institution sharing Mount Zion with various Christian religious orders, announces the celebration of its first decade of achievements on God's mountain.

A number of members of the House and Senate have had the opportunity to visit on Mount Zion and have witnessed the breathtaking panorama overlooking the Old City of Jerusalem.

This year, Israel is expecting a record number of tourists, over 1 million, the majority of them Christians. Compared to her population, this represents a ratio of 1 to 4: and many of these visitors will come to Mount Zion.

Most visitors to Jerusalem have been to Mount Zion, which is holy to the three major religions; King David's Tomb holy to Jews and Moslems, the room of the last supper holy to Christians.

Rabbi Dr. Mordecai Goldstein, an American citizen, is the founder and dean of the Diaspora Institute. He was privileged to lead the Diaspora Institute in its growth right from after the Six-Day war of 1967 until today. Many young men, some with drug-related problems, approached Rabbi Goldstein for guidance and wanted him to establish a center in Israel for the English-speaking youth who were seeking guidance and were discovering that Israel had no facilities for them. Israel, a poor, newborn nation under constant threats of war from its neighbors, did not have any programs to handle the problems and questions of these thousands of uninvited visitors

from the richest and most powerful nation in the world. But Rabbi Goldstein saw the need, nevertheless, to reach out to the unguided youth from North America, and the Diaspora Institute was born.

Mount Zion had been neglected and in ruins for hundreds of years; yet contained dozens of chambers and rooms dating back to the Crusader era. The Diaspora Institute's study hall, which was renovated in 1973, was used by medieval rabbis in the 15th century. When the school started and students first entered it, it was obvious that no maintenance or repairs had been done since the 15th century, if not longer. But contractors were able to renovate the crusader's castle, while preserving the architectural beauty and style of these ancient rooms.

There are over 100 such rooms on Mount Zion, which the Diaspora Institute has successfully renovated and converted to use as classrooms, dormitory rooms and recreation halls. Each room is a story in itself, of past and present life.

But what is more unique at the Diaspora Institute is the life and rebirth found among the students; the youth from America and other English speaking countries who found meaning and spirituality within the walls of our Institute.

On Mount Zion itself, a building fund is now being organized for a completely new project which will cost $3.6 million. In the Hebrew tradition, there are always 36 righteous individuals in the world, and the Institute is seeking 36 sponsors to contribute $100,000.

One tradition deserves special mention. According to the Curator of Mount Zion, there is a Masonic room, of which the President of Diaspora Institute, Dr. S. Z. Kahane, former director general of the Religious Ministry, is the chairman. Ten years ago, Dr. Kahane asked the students to revive an ancient custom which dates back to the days of Solomon, and may have been the inspiration for the first Masonic order. During the reign of King Solomon seventy bullocks were sacrificed as peace offerings, one for each nation in the world. This ritual was dedicated as an expression of peace and understanding for all the nations of the world.

Each year, on the feast of Tabernacles, the consuls of all the nations are invited to Mount Zion to the World Peace Ceremony, and 70 candles are lit by the guests in place of the 70 sacrifices. Two years ago a special room was dedicated as the World Peace Center, where the annual ceremony is held. The room is adjacent to the Mount Zion Masonic room, thus symbolizing the spirit of justice, brotherhood, peace, unity, and understanding that started with King Solomon and has continued to this day on Mount Zion.

At the recent convention of the World Executive of the United Zionist Revisionist-Herut party, the assembly passed a resolution presented by the 50th session of the education department of the Herut movement, which read as follows:

On this day, 11 Adar 5738, in Tel Aviv we unanimously express our feelings of approval and gratitude to the Diaspora Institute of Mt. Zion, Jerusalem, for their outstanding work in rehabilitating and educating the youth of Israel and the Diaspora!

I take this opportunity to wish the Diaspora Institute continued success in its most worthwhile endeavor. It is certainly a most unique institution in a very unique place.●

STUDENT LOAN DEFAULTS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. CORCORAN of Illinois. Mr. Speaker, the Carter administration in its Middle Income Student Assistance Act (H.R. 11472) has proposed an expansion of the guaranteed student program, which presently underwrites loans and subsidizes interest costs to students. The present amount for this program is $540 million. The Carter proposal would increase this amount by $327 million which would provide an estimated 260,000 new loans.

This is part of the Carter administration's attempt to sidetrack the tuition tax credit plan which has received much support in both Houses of Congress and throughout the country from parents and students who must meet the increasing cost of education.

It is important for Members of Congress to ask if we really need the guaranteed student loan program expanded to the level of $867 million. Have we forgotten the recent scandals connected with student loan defaults? Do we want to invite more student loan defaults by increasing the money for this program? Should we really expand a program which has resulted in waste and excessive costs to the taxpayers?

The Chicago Tribune pointed out the default problem in a recent editorial "Collecting Student Loans" (February 8, 1978). I urge my colleagues to pause and think about this problem before they vote to expand this loan program:

[From the Chicago Tribune, Feb. 8, 1978]

COLLECTING STUDENT LOANS

As could be expected, government loans to finance further education have been followed by the headache of trying to collect repayment from reluctant debtors. This is proving as true of the state as it is of the federal government.

The Illinois State Scholarship Commission has had more than $31 million in loans to 16,842 persons referred to it by lenders invoking the state guarantee on these otherwise unsecured loans. The delinquency rate on National Direct Student Loans was 13.5 per cent in 1976 and rising. These federal loans have turned sour in such numbers that collecting them has become big business for the First National Bank and American National Bank of Chicago. [The big banks devote some computer capacity underutilized at night to their student loan collection efforts.] The University of California turned over $186,000 debtors to the American National Bank in a single transaction.

The $31 million that the Illinois State Scholarship Commission is looking for is owed in part by outright defaulters and in part by people the lenders cannot find. The defaulters, according to a Scholarship Commission source, "generally can pay but refuse." When HEW in Washington recently matched its own payroll against lists of debtors it found a substantial number of well paid deadbeats right in its own offices.

That there should be some bad loans is inevitable. But there is no obvious reason why student loan delinquency should run far ahead of the general consumer loan delinquency rate of around 2 per cent. Presumably these student loan debtors are something of an elite group, in both intelligence and earning power. Many of them could readily repay if they wanted to. No doubt many let their obligation slide because of a not unreasonable expectation that government would be too indifferent or too inefficient to make much effort to collect.

Fortunately, they are being taught otherwise. Hundreds of the state-guaranteed loans are being prepared for prosecution. When the big banks turn their computers on lists of defaulters, the delinquency rate falls sharply. American National cut the rate for one university from 18 per cent to 11 per cent. "There's a heck of a lot of money there that must be collected," a bank official said. "Universities are finding out they really don't know how to do it because it's not their business. They come to us because it is our business."

Sic 'em.●

BILL BROWN, DEDICATED PUBLIC OFFICIAL

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. PATTERSON of California. Mr. Speaker, the people of the city of Los Alamitos, Calif., which is located in the western part of my congressional district, join me in extending our deepest gratitude to their mayor, William S. Brown, who has announced his retirement from city government effective April 11. Our thanks go to Bill Brown for his tireless and unselfish contributions to the public good during a course of 28 years in public life working with local and county governments.

Mayor Brown served on the Los Alamitos city council from 1960–62 and from 1964 until his retirement. During that time he also served Los Alamitos in many other civic capacities. Bill served as chairman of the committee which incorporated Los Alamitos in 1960. He is a past director and president of the Los Alamitos Chamber of Commerce, director of the Los Alamitos Youth Center, Inc., and is the current director and legislative committee chairman of the California Governor's Human Resources Committee. He is also a member and director of several boards of the Orange County government.

Bill is not only a public servant. He has for many years worked in private enterprise as a registered professional industrial engineer and he served on the Apollo project as a supervising engineer. His dedication to the American space mission won him recognition as NASA's Man of the Year in Industry in 1970.

Mr. Speaker, Bill Brown is an outstanding public citizen, a loyal American, and a good friend of the people. His participation in local government will be missed by the residents of Los Alamitos,

but fortunately for all of us, his leadership and guidance have helped shape good government in California.●

AFRICA: THE NEED FOR A FIRM U.S. POLICY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BROOMFIELD. Mr. Speaker, the rapid spread of Soviet-Cuban military power in Africa has become increasingly alarming—the movement of men and military equipment in this area of the world is simply too important to be ignored by the Congress and the American public. What is now required is a firm and consistent response by our Government to this aggressive and destabilizing Soviet-Cuban power play on the African continent.

I commend to my colleagues the following cogent comments by Dr. Fred C. Ikle, former Director of the U.S. Arms Control and Disarmament Agency, in relation to this particular matter:

EVALUATING THE CARTER POLICIES TOWARD AFRICA

What is now happening in Africa ought to be of grave concern to all Americans. The massive military intervention by the Soviet Union and its Cuban hirelings is not just some small power play in a distant corner of the world.

The Soviet military might that has been built up in the Horn of Africa threatens vitally important sea lanes—the routes through which the United States and Western Europe get most of their oil. And the imposition of Cuban forces and Soviet-backed police systems in one African state after another can choke off the West's access to essential raw materials.

Through the stranglehold that the Soviet-Cuban forces are acquiring at the entrance to the Red Sea, our friends in the Middle East can be pressured or some day attacked. Both Israel and Egypt are, in effect, becoming encircled from the South by these Soviet advances. Moscow's persistent role as a spoiler of each and every effort to bring peace to the Middle East will thus become even more powerful.

We must not ignore the broader political and moral implications of the Soviet-Cuban intervention in Africa. It sets back the cause of racial justice, human rights, and national independence. The totalitarian Marxist regimes that are being imposed by Soviet arms and Cuban mercenaries in many African states—against the wishes of the majority—will deprive the people of the freedoms and dignity they have just won.

Moscow stirs up one African ethnic group against another to foment internecine warfare. It is with Soviet arms and Cuban help that Africans are killing Africans in Angola. Yet, when the Soviet weapons and Cubans moved in, some people in the United States argued that this intervention was "provoked" by previous Western support for non-Marxist groups, and that if we only kept out, all would end well. But today, a year and a half later, the Cubans are still in Angola, fighting blacks, to preserve a totalitarian regime lacking popular support.

In the war between Ethiopia and Somalia, the Western powers have been mere spectators, while Moscow first armed the Somalis, providing them with the means to invade Ethiopia, then implanted its military establishment in Ethiopia to gain control of that more populous and larger country. Now the present government in Somalia is bound to become the target of heightened Cuban and Soviet designs to regain control over that country as well.

Over the past eight months, Moscow has rushed over $1 billion in arms to Ethiopia—more than twice what the United States provided over a quarter century. And it is with Soviet arms that the brutal regimes of Uganda, Equatorial Guinea, Mozambique, and Guinea are decimating ethnic and religious groups. In many of these countries, at the behest of the Kremlin, efficient Prussian police experts from East Germany are provding the most modern tools for totalitarian suppression.

Now the Southern part of Africa is threatened by increasing Soviet-Cuban intervention. The large Cuban forces in Ethiopia are not being withdrawn to Cuba (although Somalia has pulled back its forces). Indeed, Ethiopia could serve as a staging base to attack the black majority in Rhodesia and prevent it from developing a democratic nation through a peaceful solution with the white minority.

The Carter Administration appears to be unable or unwilling to cope with this challenge. In fact, Carter's policies are making a bad situation worse, as demonstrated by the following examples:

Recently, as the Soviet military build-up in the Horn of Africa rose dramatically, the President and other Administration officials suggested that Moscow's action might jeopardize SALT. But before Moscow was able to ponder what this could mean, the Carter Administration got so frightened by its own boldness that it quickly explained SALT should not be linked to Soviet behavior in Africa. This flipflop starkly revealed the weakness of the Carter arms policy. The Administration, because it had unilaterally curtailed our strategic arms programs, now fears a breakdown of SALT far more than the Russians. Such weakness bodes ill, not only for progress in arms control negotiations but also for America's position throughout the world.

The Carter Administration's policy toward Cuba gave the green light to Fidel Castro's military intervention throughout Africa.

While Castro kept sending his mercenaries to Africa, paid for through the steady Soviet subsidy to Cuba, the Administration continued to negotiate for normal diplomatic relations with Havana.

President Carter established a diplomatic mission in Havana and permitted Castro to open a mission in Washington.

The Administration encouraged the pilgrimage to Cuba of private trade missions and—incredibly—sent Commerce Department officials to Havana just recently, at the very moment when tens of thousands of Cubans moved into Ethiopia.

When Soviet pilots were transferred to Cuba to free Cuban pilots for intervention in Africa, the State Department hastened to explain that this was not inconsistent with the Kennedy-Khrushchev agreement which had ended the Cuban missile crisis. Thus, the Kremlin did not even have to invent excuses, the Carter Administration furnished them.

It was part of the same thinking in the Administration that led Carter's Ambassador to the United Nations to call the Cuban mercenaries in Africa a "stabilizing" force.

In Rhodesia, the white minority government has at last made clear its readiness to move into a one-man-one-vote democracy and a new constitution under which the vast black majority can assume control of the country through an evolutionary process and free elections. The arrangement provides guarantees for the white minority—mostly of a temporary nature—which can help assure a peaceful transition to black rule with an integrated white minority. Of course, it is to be expected that over time this compromise will require adjustments. But instead of building on this welcome and promising development, instead of helping the blacks and whites in Rhodesia to work together peacefully toward a state of full equality, instead of bending every effort to encourage a Western democratic order with a government friendly toward the United States—all objectives that might now be within our grasp—what does the Carter Administration do? It abets and encourages a small minority among the blacks:

That does not wish peace between blacks and whites but bloodshed;

That is unwilling to compete in free elections, fearing that a vast majority of blacks would reject them;

That does not wish to build a democratic state, friendly to the United States, but a Marxist totalitarian dictatorship beholden to the Soviet Union.

What lessons will other countries learn from Carter's policy in Africa? The friends of the United States get punished by Washington, the foes get our solicitous support. Those who seek to establish true democracy and racial harmony, the Carter Administration undermines; those who practice totalitarianism and preach racial warfare, the Carter people constantly encourage.

We must change our policy.

We must make it difficult and costly for Fidel Castro to maintain and expand his occupation forces in Africa. To this end, the Administration must speak and act with conviction. The Carter Administration should cease putting down welcome mats for Castro's "stabilizing" forces. Specifically we should:

Stop negotiating with Havana for normal diplomatic relations and trade.

Close down our mission in Havana and the Cuban mission in Washington.

Lend effective support through technical, economic and military assistance to those Africans who oppose the Cuban forces. (Some will argue that almost any American effort to help those who oppose the Cuban mercenaries would risk dragging us into "another Vietnam." But instead of feeling paralyzed by the fear of repeating the past, we should realize that it is Castro who has his men fighting all over Africa, not the United States. It is Castro, rather, who might meet his "Vietnam," providing the Africans opposing him are not denied all assistance.)

In Rhodesia (Zimbabwe) we must encourage and help the moderate black majority to move toward a true democracy with full racial equality. The Soviets vigorously back those who oppose the peaceful, democratic solution—with arms, money and all kinds of covert support. The Carter Administration, however, not only refuses to help the pro-western black majority, but denounces it in the United Nations and gives the Soviet-supported totalitarian Marxists a veto over the future political order in Rhodesia. This upside-down policy must be reversed.●

SALUTE TO SAFETY RECORD

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. WINN. Mr. Speaker, today I would like to pay tribute to an outstanding group of my constituents who were recently recognized for their safety record.

On March 15, the Graves Truck Line of Kansas City, Kans., was honored as the grand prize winner in the 1977 Fleet Safety Contest sponsored by the Common Carrier Conference-Irregular Route which is an affiliate of the American Trucking Associations.

The award was presented to Mr. Ronald Williams, director of safety for Graves, at the 30th annual meeting of the conference, which represents nearly 500 irregular-route motor carriers throughout the United States.

Graves was an unanimous winner and was selected based on the following factors: its accident ratio per 1 million miles; effectiveness of driver training; maintenance of equipment; participation in safety programs and organization and safety incentive programs; enforcement of the 55-mile-per-hour speed limit; and overall contribution to highway safety.

I would like to point out that the company's trucks logged 9,837,053 miles in 1977 with an accident frequency ratio of 2.13 per 1 million miles. This is far below the average for the industry.

Mr. Speaker, I would like my colleagues to join me in congratulating this fine Kansas trucking company and its general manager, Mr. Kenneth E. Wallace, for their dedication to highway safety. They have set an example for all of us.●

NO PRESENT BLUEFISH CRISIS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. FORSYTHE. Mr. Speaker, during the last several weeks I have been contacted by a large number of people expressing concern about rumors of the possibility of expansion of the present commercial fishery for bluefish. Such an expansion could have a major adverse impact on this important resource.

As a Representative of a New Jersey coastal area and as ranking member of the House Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation and the Environment I quite naturally had an immediate interest in determining the basis for these rumors. I have thoroughly investigated the matter and have found that, while no problem exists presently, the potential for a future problem has prompted the Mid-Atlantic Fisheries Management Council to begin developing a bluefish management plan.

In the belief that other Members of the House of Representatives may have also been contacted by constituents sharing the same concern over this potential threat to the bluefish, I would like to insert in the RECORD a copy of my detailed discussion of this issue.

THE BLUEFISH INDUSTRY

In recent weeks there have been several reports of an expanded commercial fishery for bluefish. It has been rumored that the Japanese and certain African interests have contracted with U.S. fishermen for the purchase of large quantities of bluefish. This is a matter of urgent concern to recreational fishermen and to the recreational fishing industry which depends on the bluefish resource for a substantial part of its income. The purpose of this paper is to examine the present bluefish fishery and to explore the possibilities of an expansion of the commercial fishery.

In 1977, it is estimated that commercial fishermen harvested approximately ten million pounds of bluefish. Recreational fishermen harvested an additional 128 million pounds. These figures represent a moderate increase from the harvest levels which prevailed in the 1965–1970 period. During that time the commercial harvest was estimated to be between four and five million pounds and the recreational harvest approximated 90 million pounds. According to scientists at the National Marine Fisheries Service and representatives of the Mid-Atlantic Fisheries Management Council, the current level of harvest does not appear to be affecting the abundance of bluefish. It can, therefore, be concluded that the current fishing effort is below the maximum sustainable yield of bluefish, is at the maximum sustainable yield, or has exceeded the maximum sustainable yield for such a short period of time as to not adversely affect the stock. It is generally believed, however, that bluefish stocks are not in trouble biologically, and that the current level of harvest is below the MSY for the species. However, a concentrated effort by the Atlantic purse seine fleet to harvest bluefish could seriously affect the existing stocks.

The question, therefore, becomes whether there is any intention on the part of the U.S. commercial fleet to expand its bluefish harvest. It has been alleged that in 1977 a commercial fishing vessel operating out of Cape May, N.J., engaged in an experimental harvest for bluefish and sold his product to the Japanese or to certain African interests. It is further alleged that this and other vessels intend to enter the bluefish fishery in the near future. With respect to the 1977 activity of the Cape May vessel, this vessel harvested approximately 44,000–46,000 pounds of bluefish. According to the vessel owner and the purchaser, the harvested fish was marketed within the United States. Thus far in 1978, the Cape May vessel has not participated in the bluefish fishery.

According to representatives of the Mid-Atlantic Fisheries Management Council and the National Marine Fisheries Service, there is no evidence of an increase in the commercial bluefish fishery in 1978. It should be noted, however, that one commercial fisherman has expressed an interest in harvesting a small amount of bluefish and transporting it to Japan to test market availability. To date, this fisherman has harvested no bluefish.

It has also been alleged that certain processors have entered into contracts, or are about to enter into contracts, with foreign interests for the sale of bluefish. According to the processors involved, they have not entered into any such contracts nor have they been contacted with respect to any such contracts.

Assuming the U.S. fleet desires to enter the bluefish fishery, it should be noted that the market would have to be an overseas one. The reason for this is that the U.S. bluefish market is extremely supply sensitive. Any sudden increase in the supply of bluefish has, in the past, resulted in a substantial reduction of the dockside price of bluefish. This market pattern has effectively eliminated any profitability from a substantial increase in the harvest of bluefish. There is no evidence of any change in this pattern.

Industry experts believe that the Japanese market, if it exists, will be a fresh fish market. This will necessitate the air transport of any bluefish harvested by the U.S. fleet. According to the two firms which transport 100 percent of the bluefin tuna harvested off the U.S. shores to Japan for the fresh fish market, there are no outstanding contracts, or negotiations for contracts, for the transport of bluefish from the United States to Japan.

If a foreign market for bluefish exists, the question becomes the capability of the U.S. fleet to supply that market in the short term. In 1978, there are four purse seiners participating in the bluefish fishery. These vessels have a net with a 4½ inch mesh. The ideal mesh size for purse seining bluefish is 2 inches. For these vessels to participate in the bluefish fishery efficiently, the existing nets will have to be replaced with a smaller mesh net. The availability of this netting is in question. Representatives of the U.S. tuna industry have suggested that to secure a large supply of new netting it may be necessary to order it from Panama or Japan. To procure the netting from these sources would take four to six months. It has been alleged that a certain domestic net manufacturer is making purse seines for bluefish. According to the manufacturer, he has never made purse seine and has no contracts to do so.

It should be noted, however, that representatives of the National Marine Fisheries Service believe that the industry could modify nets currently in use in other fisheries. Representatives of the Mid-Atlantic Fisheries Management Council, on the other hand, express some reservations about the availability of suitable netting, although they expressed the view that such netting may be available.

The consensus of opinion of representatives of the Mid-Atlantic Fisheries Management Council, the National Marine Fisheries Service, the commercial fishermen, and the recreational fishermen is that there is no present indication of any increase in commercial fishing for bluefish. However, there is the potential that such an increase could occur and could adversely impact the bluefish fishery. In view of this, the Mid-Atlantic Fisheries Management Council has decided to develop a Fishery Management Plan for bluefish. The Council anticipates that it can complete its action within three to four months. After that, the plan will be reviewed by the Secretary of Commerce.

The current situation appears to be one of preventing a problem from occurring rather than responding to an existing crisis. However, it is extremely important that bluefish not suffer the same fate as too many other species have been overfished before any protective measures were adopted. The development of a management plan for this fishery will prevent this from occurring.●

MERLE HICKEY DAY

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MARKS. Mr. Speaker, an event is upcoming in Hermitage, Pa., this weekend that I feel deserves to be brought to the attention of my colleagues. I believe it can best be described by quoting from an article in the April 1 edition of the Sharon, Pa., Herald, authored by Ray Swanson, the sports editor:

BASEBALL, HOTDOGS, APPLE PIE AND MERLE HICKEY DAY

With all due respects to the chefs, these tasty morsels will provide a large part of the

"menu" at the Merle Hickey testimonial banquet on Saturday, April 8th.

Hickey, District 2 Little League Administrator will be honored that evening by friends, Little League Associates and sports-minded fans of Mercer County.

It is a fitting tribute for the 60 year old ex-letter carrier who has devoted a great portion of his later years to the betterment and continuation of a Little League program for thousands of youngsters, not only in this area but across the United States.

It's a labor of love for Hickey who has been associated with Little League since 1959 when Patrick, oldest of the Hickey children, became involved in Hickory Little League as a player.

After serving as manager of various Hickory teams, he was named District 25 administrator in 1965 by Little League Headquarters in Williamsport, Pa. His territory was Butler, Clarion and Venango Counties. In 1966, Merle was appointed District 2 Administrator which encompasses Mercer and Lawrence Counties. He has held that position to the present.

"I love Little League baseball", he said "I believe it's the finest baseball program in the world for children in this age group. It keeps me active and makes me a part of the community. I believe Little League Baseball helps mould our youngsters into becoming better citizens of our community. But perhaps the best reason is that it helps me right here", he said with a twinkle in his eye while pointing to his heart.

Mr. Speaker, these remarks just scratch the surface of Merle Hickey's background and his accomplishments. However, my bringing these remarks to the attention of my colleagues permits me to do honor to a gentleman who deserves commendation from everyone for his tireless work on behalf of young people throughout western Pennsylvania.

Although my schedule does not allow me to be in Hermitage this weekend, Merle knows that he has my admiration for his years of community service and that he and his family have my very best wishes for the future.●

SIXTIETH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE DAY

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. DELANEY. Mr. Speaker, while we were away from Congress the past week an event of great importance, and a reason for much celebration, took place. Saturday, March 25, marked the 60th anniversary of the day in 1918 when the freedom loving people of Byelorussia threw off the fetters of Russian imperialism and established their independent Republic. Unfortunately, the rebirth of this proud and ancient state after centuries of tsarist domination was tragically short lived.

The Byelorussian people are one of the oldest ethnic groups now under the Soviet yoke of oppression. They have been living in their homeland, which extends from Poland's eastern borders to within sight of Moscow, since before the ninth century began. Byelorussia served as a cultural and artistic center for all of Eastern Europe. The Byelorussians introduced the ideas and works of the Renaissance into the eastern areas. And they were the third ethnic group in Europe to have a Bible printed in their native tongue.

The Byelorussian people lived peacefully until the turn of the 16th century; by then Russia's military might had increased too much and eventually forced Byelorussia under the rule of the autocratic Tsars. There were several anti-Russian uprisings over the years, most notably in 1830 and from 1863–187C. The great national hero, Kastus Kalinouski, among many others, died on Russian gallows for his insistence in the fight for Byelorussian independence.

At last, in 1918, after the last Romanov Tsar had been overthrown, they saw their chance for freedom and on March 25 the All-Byelorussian Congress issued its Declaration of Independence, stating in part:

. . . Today we, the Rada of the Byelorussian National Republic, cast off from our country the last chains of political servitude that had been imposed by Russian Tsarism upon our free and independent land. From now on, the Byelorussian National Republic is to be a free and independent power . . .

Their independence received immediate de jure recognition from over a dozen states, and Byelorussian legations and consulates were set up in a number of foreign capitals. But Moscow, by then Bolshevik, quickly stepped in and snuffed out the infant republic.

Moscow's efforts over the years to destroy the national spirit of the Byelorussians have met with dismal failure. Even now they continue to resist vigorously. There is minimal membership in the Communist Party despite the many advantages afforded a member, and the farm workers continually resist authority on the collective and state farms.

Mr. Speaker, I am confident that our fellow Americans of Byelorussian descent celebrated this latest anniversary most joyously and I commend them for their spirit and conviction. I also extend my best wishes to their brothers and sisters now in Byelorussia, and remind them that their plight has not been forgotten.●

ATF REGULATIONS WILL HELP IN ENFORCEMENT OF GUN LAWS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. McCLORY. Mr. Speaker, I wish to take this opportunity to commend the Bureau of Alcohol, Tobacco and Firearms on their recently issued proposed firearms regulations. Many of their proposals are long overdue.

For some time I have felt that if we could trace the flow of firearms across the country more effectively we would be able to identify that point at which a diversion of weapons was made from the legal to the illegal market. This view was reinforced through the results of the CUE program through which ATF was able to identify a large portion of the weapons used in crimes as having come from States with little or no gun laws.

If equipped to locate the last dealer who handled a weapon after it left the manufacturer, law enforcement officials are able to perform their duties more effectively. As an example of the assistance which this type of information can make in an investigation of a crime I need only cite the case of Arthur Bremmer, the man who attempted to assassinate former Governor Wallace. The weapon which Bremmer used was located shortly after he shot George Wallace. By referring to the serial number this weapon was traced from the manufacturer to the wholesaler to the retailer and the retailer provided officials with the name and description of the party who had purchased the gun. This whole process took 9 minutes and 12 seconds.

Surely no Member of Congress would object to an investigation on the part of the Department of the Treasury which, in possession of a weapon, is seeking to find the owner and possible perpetrator of a crime.

And, contrary to fears being expressed by some people, no access to names of individual buyers will be available to ATF unless they are in possession of the weapon itself and can thereby trace it to the last known dealer to obtain the name of the owner. There is no danger of gun confiscation under current law and these regulations are completely unrelated to any concept of confiscation.

Mr. Speaker, another of ATF's proposed regulations would provide that all weapons manufactured hereafter would carry a unique serial number. The first 3 numbers of a 14-digit figure would identify the importer or manufacturer of a weapon, the 4th and 5th figures will be the last 2 digits in a production or importation year, the 6th and 7th characters shall identify the firearm model and the 8th through 14th numbers shall be serialized numerals of the model that is produced or imported during a production or importation year. This system will do much to alleviate the problems law enforcement officials throughout the United States currently face when the same number appears on more than one weapon.

Mr. Speaker, I wholeheartedly support the ATF's proposed regulations as an effective method of crime control and hope that the majority of the Members of this House will also convey their support of this program to the Bureau of Alcohol, Tobacco and Firearms.●

TRIBUTE TO POLICE OFFICER HOWARD SKILLINGS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. VENTO. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

TRIBUTE TO POLICE OFFICER HOWARD SKILLINGS

(By Congressman BRUCE VENTO, Minnesota)

"Something there is that doesn't like a wall/That wants it down," is a famous line from Robert Frost's poem, "Mending Wall." Frost could have been writing about Howard Skillings, a police officer in Saint Paul, Minnesota.

Officer Skillings spent his life tearing down the walls that divide people, including the wall that traditionally separates the police and the communities they serve.

He used his role as a police officer to strive for the development of a community united in both purpose and soul. He was especially interested in the problems of young people and devoted much of his time, both on and off duty, to helping them.

Mr. Skillings did his work quietly. He did not seek awards or accolades. Yet his efforts did not go unrecognized. In 1974, the International Association of Chiefs of Police named him the nation's top policeman. It was a recognition of his work, his understanding, and his sensitivity to the need to incorporate youth into the community if there are going to be true and lasting community bonds.

Mr. Skillings death last week is a great loss to his family and friends, to the neighborhoods where he worked, and to the entire Saint Paul community which he served.●

GOING PUBLIC WITH LOVE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. JACOBS. Mr. Speaker, the strong think before they speak but do not fear to speak.

It can only help from time to time to stop and reflect on what life is all about.

Mr. Sam Graves has done a nice job in this regard.

Two articles follow:

[From the Indianapolis Star, Mar. 8, 1978]

GOING PUBLIC WITH LOVE

(By Thomas R. Keating)

This story is for all those skeptics who say there are no romantics in the world today.

As exhibit No. 1, there is Sam Graves.

Sam is the news director at WIFE radio. Before that he worked as a reporter for WIRE and for the Indiana attorney general's office.

While appearing in a Footlite musical about a year ago, he met a young lady named Lynette Chittenden, who is a former Pacemate for the Indiana Pacers. Sam first asked her for a date while they were appearing together onstage.

"We were part of a group scene in this play," Lynette said. "We were supposed to provide background dialogue, and Sam took this occasion to ask me out. I knew then he was going to be a little different."

After dating for a year, Sam decided to ask Lynette to marry him. But, being afflicted with this romantic nature, a simple, straightforward proposal didn't seem enough, so he thought long and hard before coming up with a unique and rather expensive approach.

First, he wrote a somewhat poetical and philosophical message to his intended, spelling out just what he thought it was that made her special.

The message was intensely personal and in the last few sentences he really let it all out. The proposal contained the kind of emotions most men would not put down on paper, let alone go public with.

But Sam took this letter, along with a picture of him and Lynette to the Saturday Evening Post, where he purchased a quarter page of space and directed that his proposal of marriage be run in the March issue.

Sam wouldn't discuss the cost, but a usual quarter-page ad in the Saturday Evening Post runs $845.

This done, he waited until the magazine was printed, secured an early edition and reserved a table for two at La Tour Restaurant.

With prearranged care, restaurant manager Mike Isop approached the table that night with a copy of the magazine and asked if Sam would care to read an article inside.

Sam obliged, pretended to scan the contents and then handed the magazine, open to page 110, to Lynette.

A newspaper photographer was standing by to capture her reaction on film. Waiters, chefs and kitchen workers also hung around to see what would happen.

"I was stunned," Lynette said, "and at first I didn't say anything. But how can you refuse an offer presented like that? Of course, I said yes.

"I can't wait to see what he comes up with for the wedding."

DEAR LYNETTE: We live in a world of so many relative values, so many shades of gray, in terms of philosophy or morality, that it seemingly is increasingly difficult for a man to point to anything with certainty.

Only rarely does a relationship develop which is so honest, so overwhelming, so wonderful that one can know, without question, that it is right. That it is the best. That it is true.

If I were to place a value on life's joys, the second greatest joy would be that of just knowing that I love you. And that you love me.

How can I tell you how incredible it is that I know something as important as this without reservation? Without question?

But, if I were to single out the greatest joy a relationship could give me, it would be the singular joy of marrying you.

I will promise to love you faithfully for the rest of my life.

And to love you selflessly. Totally. Honestly. Unreservedly. Just you. Always.

Lynette, let me love you with my soul, adore you with my mind, kiss you with my heart. Forever.

Will you marry me? Soon?

SAMMY.●

DR. JAMES R. TANNER—DISTINGUISHED EDUCATOR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. STOKES. Mr. Speaker, I rise on this occasion to bring to your attention and to the attention of my colleagues in the House, one of Cleveland, Ohio's, most distinguished educators. For 18 years, Dr. James R. Tanner, deputy superintendent of the Cleveland public school system, has been deeply involved in the education and welfare of our community. Mr. Speaker, I am certain that my colleagues from the Nation's large urban centers are keenly aware of the myriad of problems facing city public schools. Controversy over desegregation, educational standards, and the ever-present financial crisis are a constant challenge to school administrators. Mr. Speaker, Dr. Tanner has met these challenges head on and performed his duties in the Cleveland public school system with distinction and a deep sense of commitment.

Prior to his career in Cleveland, Dr. Tanner taught in the Portsmouth, Ohio, public school system. He received his undergraduate degree from Wilberforce University and Ohio University, and has done graduate work at the University of Chicago, Columbia University, Case Western Reserve, and Cleveland State University. In 1960, Dr. Tanner came to Cleveland. His first position involved the Addison Junior High School enrollment area where he was the chief home and school visitor. Since then, he has held several important and influential posts including educational planner for the Greater Cleveland Youth Service Planning Committee, directing coordinator for the school program for community action for youth, administrative assistant to the superintendent of the Cleveland public schools, assistant superintendent of continuing education and special projects, and assistant superintendent of curriculum and instruction.

Mr. Speaker, in addition to his busy schedule in the superintendent's office, Dr. Tanner is a member of numerous professional and civic organizations.

They are:

Association for Supervision and Curriculum Development.

American Association of School Administrators.

Ohio Education Television Network Commission. By appointment of the Governor.

Phi Delta Kappa, Professional Fraternity.

Alpha Phi Alpha, Social Fraternity.

Rotary Club of Cleveland.

Wilberforce University Aulmni Association President, Cleveland Chapter National Vice President.

Cleveland Guidance Center, Board of Trustees, Vice-President.

Natural Science Museum of Cleveland, Advisory Committee.

Booth Memorial Hospital, Advisory Council.

Cleveland Automobile Club, Corporate Member.

Case Western Reserve University, Board of Overseers.

Citizens League, Member.

St. James A.M.E. Church, Member Trustee.

The Hiram House, Board Member.

Great Plains National Instructional Television Library, Board Member.

He is also a consultant to the U.S. Office of Education.

On Sunday, April 30, 1978, friends and colleagues of Dr. Tanner are sponsoring a scholarship testimonial banquet in his honor. Mr. Speaker, in light of this auspicious occasion, I would like to take this opportunity to ask that my colleagues join me in saluting Dr. Tanner. His dedicated service and commitment to excellence has benefited thousands of citizens in my city. I am certain that I speak for them when I express my admiration and gratitude for his leadership. We hope that he will continue his outstanding work in Cleveland for many years to come.●

TIM COONROD WINS OREGON VOICE OF DEMOCRACY CONTEST

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ULLMAN. Mr. Speaker, I am sure that you are familiar with the Voice of

Democracy contest sponsored annually by the Veterans of Foreign Wars. This essay competition challenges high school students to put their understandings and hopes for the future of our democratic traditions into words and provides a forum for the wider dissemination of their views.

This year, the theme of the contest, "My Responsibility to America," inspired some outstanding essays, and I am proud to share with my colleagues the winning entry from Oregon, written by Tim Coonrod of Albany:

TIM COONROD WINS OREGON VOICE OF DEMOCRACY CONTEST

"Ask not what your Country can do for you, but what you can do for your country." When John F. Kennedy spoke these immortal words over a decade ago, he expressed a principal idea that has held our country together as a democratic nation for over two hundred years.

He talked of a two-way relationship between a body of people and a government that was created specifically for that body. He spoke of responsibility; responsibility as a contributing member of American Society and a vital part of its government.

But what are these responsibilities? What can I do as an American Citizen to make my country a better place in which to live? How can I change, shape, and direct its policies in the future?

In order to discern these responsibilities, we must realize the importance of American Freedom! Freedom which allows us to develop our own individual character regardless of any dissenting political beliefs.

Freedom is a right, but responsibility soon follows this right. To be without responsibility is to be without independence.

However, we live in a nation where Freedom has become more than just a preconceived, philosophical concept, we breathe the air of a land where independence is a reality, a vital part of every man, woman and child's life.

We therefore, as Free American Citizens, have obligations to our country, obligations that must be met in order to assure that our Government remains a government of the people, by the people and for the people. These responsibilities are significant not only to the growth of the country, but to the growth of the individual as well.

These responsibilities can be divided into four major areas. The first is analysis. In a country that depends heavily on individual involvement, it is important that each person be able to tell what's going on in the world around him. But a knowledge of political events and happenings is not enough. To be able to function as a responsible member of American Society, one must be able to analyze political events.

This would include weighing any advantages against the possible disadvantages, considering the physical and psychological impact on personal and local areas of interest, and making a rational stand on the issue based on considerations involved.

However, once a person makes a stand on an issue, he becomes involved in another aspect of responsibility; criticism.

Criticism is an action that naturally follows careful analysis of an issue. It is a vital part of free-world democracy and can be a check on governmental actions.

By voicing my opinions in the form of constructive criticism, I may be able to help change a part of a prospective ordinance or law for the better.

If enough people voice their criticisms, it is quite possible that the ordinance, when formulated in its entirety might fit the needs and goals of the community better than it would have in the first place.

But, if no people speak up and criticize a certain action or issue, legislators will become lazy, putting out laws that they feel will fit the needs of the people, but oftentimes as the people know, don't!

The third aspect of my responsibility is support. After I make a stand, and voice my criticism, all benefits to be gained will be lost if I do not support that stand. If I want something changed, I must be able to bring up reasons that will back up my criticisms. I must stick with these reasons until either affirmative action is taken or a response has been made that will satisfy my misgivings.

A lack of support on my part will only serve to weaken my arguments. However, if I support my stand every inch of the way the criticism I have made will stand out. Other people may relate to my gripes and in turn express their opinions on the matter.

As more and more people come to my support my original argument will be accentuated. With this accentuation there is a greater possibility for action than there was previously.

The fourth and final area of my responsibility to America is active involvement. This is the most important aspect of my responsibilities as it combines and unites the previous three.

By becoming actively involved in local, state or federal government, I can do more than just complain about situations I would like to see changed, I could take positive action against it! Not enough people realize the important responsibility of becoming involved in the governmental affairs of our country.

If more people became active by injecting their ideas into the system, there would be a lot less problems to deal with.

Analysis, criticism, support and active involvement. These are four of the most important responsibilities, I have to America. By following these responsibilities, I am insuring the individual freedom of others which will follow after me, and they by fulfilling these same responsibilities, will in turn secure freedom for the others, that follow them, and America will live forever in a continued state of liberty.●

"MEXICO, THE THIRD WORLD AND THE LAW OF THE SEA"

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. EDGAR. Mr. Speaker, Members are aware that the Third United Nations Conference on the Law of the Sea will begin its seventh working session in late March in Geneva. A variety of explanations have been offered as to why the giant Conference has not been able to make more progress in the 4½ years since it was first convened.

One of my constituents, Dr. John J. Logue of Villanova University, believes that what the Conference needs is a bolder, more imaginative approach to the great work it is undertaking. I believe that Members may be interested in examining the text of a lecture on "Mexico, the Third World and the Law of the Sea" which Dr. Logue gave at the Law School of the National University of Mexico last December. It was subsequently published in the December issue of WORI Report, the publication of the World Order Research Institute, of which Dr. Logue is Director.

The lecture follows:

MEXICO, THE THIRD WORLD AND THE LAW OF THE SEA *

(By John J. Logue)

A PRECIOUS OPPORTUNITY TO ADVANCE THE NEW INTERNATIONAL ECONOMIC ORDER

Cremos que la piedra fundamental del nuevo derecho del mar debe ser el principio de que los oceanos y sus recursos son el patrimonio commun de la humanidad para agudar a la familia humana a virir junta en paz y armonia—from the Barba Negra Appeal, 22 August, 1976.

It is a great honor and pleasure to speak on the law of the sea at the Law School of the National University of Mexico. I am very impressed by your beautiful university and by your beautiful capital city. They confirm the impression of your country with which I came, i.e. that Mexico is a vigorous and vital nation which is striving valiantly not only to meet its urgent internal problems, but also to play an important role in the world community as well. This is especially true in the vital public policy area we are discussing this morning, the law of the sea. For Mexico is playing a leading role in the valiant effort of the giant Law of the Sea Conference to write a new law of the sea, a law of the sea which not only protects the marine environment and reconciles the many competing uses of the oceans, but one which, at the same time, is a major force in building the new international economic and political order which the world so desperately needs.

The central thing I want to say to you this morning is that I hope that in the months before the coming Geneva session of the Conference, Mexico and the other nations of Latin America will rethink their position on what I believe to be the most important question before the Conference, though not the one that is receiving the most attention at the present time. That most important question is, "What is to happen to the immensely valuable offshore mineral resources?" In my judgment, a wise solution to that problem would make it easy to solve the problem which has stalled the Conference for more than two years, the problem of the International Seabed Authority.

I hope that the delegates to the Spring 1977 Session of the Law of the Sea Conference will consider adopting as their motto the inspiring words of your great President, Jose Lopez Portillo, in his September 1st "State of the Nation" Report. In that Report he said, "The golden rule in human and international relations means treating others as we would wish to be treated." With you, I would like to consider how that noble philosophy should be applied to the law of the sea. How, for example, would Mexico or my own country, the United States, like to be treated if we were landlocked or geographically disadvantaged states, and the question under discussion was the distribution of trillions of dollars of ocean resources within 200 miles of shore, almost all of which was traditionally regarded as "common property" or as "no one's property?" What would we think of a treaty which gave us none, or only a tiny share of those thirty trillion dollars?

In my own view, the coming law of the sea treaty should provide for some sharing of the immense wealth within 200 miles of shore. I assume, just as everyone does, that there will be a 200-mile economic zone. But I do not assume that there should be a 200-mile exclusive economic zone (EEZ). As you will see, my focus will be almost entirely on the mineral wealth within the economic zone. I shall urge that a substantial part of

* This lecture was delivered at the Law School of the National University of Mexico on December 6, 1977. Dr. Logue subsequently edited the manuscript.

that mineral wealth should be shared with the rest of the human family.

Let me stress that the minerals within 200 miles of shore are immensely valuable, that the oil and gas within 200 miles of shore are estimated to be worth at least thirty trillion dollars, i.e. thirty thousand billion dollars. Let me emphasize that the proposed 200-mile economic zone contains the overwhelming proportion of presently exploitable ocean wealth. And the third point I want to make I have already touched on. Let me repeat that almost all of this wealth within 200 miles of shore was traditionally regarded as common property, res communis or as no one's property, res nullius. We are talking about the most valuable part of the oceans. We are talking about the cream of what was traditionally regarded as the common property of mankind. We are talking about an area which, if we had followed the advice of Dr. Arvid Pardo of Malta, the father of the Law of the Sea Conference, would, in its major part, be regarded as "the common heritage of mankind."

I have a most difficult task this morning. I am going to try to persuade you, first, that sharing a substantial portion of that offshore wealth would be in the interest of the human family as a whole, and second, that such sharing would be in the interest of the Third World. To persuade you of the truth of these two propositions will not be easy. However, it will be infinitely easier than to secure your agreement to my third proposition. My third proposition is that treaty articles providing for sharing within 200 miles of shore would be in the interest of the Latin American nations and of Mexico in particular.

At this point I am sure that some of you will be thinking: "This man is not serious!" And others of you will be thinking, "This man is from La Mancha and not, as he professes, from the United States!" It will not surprise me if that is your reaction. Indeed, as I rode to your campus this morning, it struck me that I might have a better chance of surviving in the Mexico City bull ring than I would have of coming out of this lecture hall alive! For I knew I would—as I am—be waving a red flag at you. And the red flag that I am waving is the central proposition of my lecture, i.e. that in the interest of the Third World and the human family, Mexico and other Latin American states should contribute some of the mineral wealth off their shores to a World Common Heritage Fund. That Fund would be used most of all to aid Third World development. But it would also be used to protect the ocean environment and to assist, in at least some measure, the expenses of the United Nations.

Let me hasten to add that I believe wealthy coastal states should contribute a much larger share of their offshore revenues to the world community than Mexico should. Personally, I favor the so-called Barba Negra Formula. According to that formula, each coastal state would contribute between 1 and 20 percent of its offshore (i.e. between 12 & 200) mineral revenues to the Fund. The size of the contribution would depend on the per capita Gross National Product of the nation in question. Thus nations such as the United States or Norway or Australia or Canada would contribute 20 percent of their revenues. India would contribute 1 percent and Mexico between 2 and 3 percent. Most Third World nations would get more from the Fund's five billion a year than they would contribute to it.

Yes, I am going to try to persuade you young men and young women of Mexico that if your great country would embrace this idea of sharing, Mexico could and, I believe, would change the course of world history very quickly and very positively. Yes, a Mexican decision to back the sharing of offshore revenues would make a major contribution, not only to the building of a just and equitable law of the sea treaty, but a major contribution to the building of peace, justice and a new international economic and political order.

Central to my argument is the proposition that Mexico and the very talented Mexican delegation are in a key position to influence the Law of the Sea Conference in a positive and creative direction. They are also in a key position to influence what is the most important group in the Conference, i.e. the Latin American Group. For the Latin American nations have been the earliest and strongest advocates of the EEZ. Yes, Mexico has great prestige in the Law of the Sea Conference and great influence with the more than 100 Third World countries in the Conference. The Mexican Revolution and the passion for justice which inspired it—have been a great inspiration for Third World countries. Those countries understand that the achievement of national independence does not mean very much unless that independence is combined with social and economic justice and human dignity. In a word, the Conference has and will continue to pay close attention to what Mexico says and to the positions that Mexico takes on critical issues.

There is another and very important reason why a Mexican move toward sharing would have a great effect on the Conference. It is very simple: Mexico is one of the greatest gainers from the exclusive economic zone. Indeed, there are only eight nations in the entire world which gain more "ocean real estate," i.e. more nautical square miles of ocean resources, than Mexico. What is more, it is clear that Mexico's 831,500-mile economic zone really has a great deal in the way of resources. That cannot be said of every country with a very large economic zone.

Needless to say, many Third World countries *do* favor sharing within the economic zone, e.g. those in the 51-member Group of Landlocked and Geographically Disadvantaged States. It is not difficult to demonstrate that it is in the interest of those nations to have as much ocean wealth as possible going into the Common Heritage Fund, whether from offshore mineral deposits or from those in the deep ocean. However, if a Third World nation with a long coastline began to call for sharing of offshore resources that would be something else. That nation would gain the attention and respect of every nation in the Conference.

But let me get back to my proposition that sharing within the economic zone would be a wonderful thing for the human family as a whole. Suppose, for example, that the Law of the Sea Conference had followed the advice which Ambassador Pardo gave the UN General Assembly in 1967. If it had, there would be available now, in 1977, some twenty billion dollars a year from ocean mineral resources for international purposes. Twenty billion dollars a year is a very large sum. It could be a major source of funding for development, for the fight against hunger and diesase and poverty, the fight to build peace and to save the endangered ecological system of our planet. Instead of depending on the charity of rich nations for development assistance, Third World countries would have a large and dependable sources of revenue in the World Common Heritage Fund.

Pardo's twenty billion dollars a year is at least sixty times the amount of annual common heritage revenues we can expect from the giveaway treaty now before the Conference. That treaty, the Informal Composite Negotiating Text (ICNT), may give the world as much as $300 million dollars a year in 1987, ten years from now. That 300 million dollars a year can do next to nothing for the six billion people who will be living on this planet in 1987.

Just think of that! The ICNT may give the world 300 million dollars a year in 1987. But in 1978, if the ICNT is adopted, the Conference will be giving the coastal states clear title to thirty trillion dollars of ocean resources, i.e. one hundred thousand times as much value as the 300 million dollars the world community may get from the ICNT in 1987. And most of that wealth, which once was common property, will be given to a very few coastal states.

Yes, I think it is not so difficult to demonstrate that a strong ocean authority with substantial funding, funding that must come largely from the economic zone, can make a mighty contribution to bringing peace and prosperity to the human family.

But what about my second proposition, i.e. that sharing within the economic zone would be a good thing for the Third World? In my view that proposition is also not difficult to demonstrate. Indeed, it is very easy to demonstrate that it is the rich countries which gain the most from the EEZ. I have a chart here entitled, "Who Gets What From the ICNT?" It was put together by James Bridgman of the Ocean Education Project for a recent colloquium on "Peace, Justice and the Law of the Sea" held at Villanova University under the auspices of the World Order Research Institute.

This chart indicates that ten nations—only ten nations—get more than half of all the EEZ areas of all the nations in the world. Those ten nations get 53 percent of all the EEZ's in the world. The remaining 150 or so nations get only 47 percent of this immensely valuable portion of the oceans. Remember, this was "common property!"

How unfair, how unjust can you get? Is this the golden rule? Is this justice?

What can we say about these ten very fortunate nations? The most striking thing we can say is that six of them are rich nations, rich, developed nations. And those six rich, developed nations get 36 percent of all the EEZ's in the world. Indeed, they get more than all the EEZ's of all 110 developing nations. Those six rich, developed nations are not only six of the top ten gainers from the EEZ. They are six of the top seven gainers from the EEZ. Only one developing nation—Indonesia—is among the first seven gainers from the EEZ.

Let me give you two striking examples of the inequities inherent in the EEZ. Zaire, larger than Mexico, has an economic zone of only 300 square miles. (Mexico's is 831,500 square miles.) That is all: 300 square miles. That is an area smaller than Mexico City! At the other extreme is the small island nation of Mauritius. Though Mauritius too is smaller than Mexico City its zone is 345,000 square miles, the 17th largest economic zone in the world.

The general point I am making was very well stated by Dr. Pardo in a lecture on "Justice and the Oceans" at my university just six weeks ago. That all-day colloquium was held to honor the tenth anniversary of his historic "Common Heritage" address in the United Nations General Assembly. In his Villanova lecture Dr. Pardo called the resource zone in the ICNT "a monumental grab for riches, unprecedented in world history." He said that as a result of that grab, "the rich get richer, the poor remain poor and the landlocked countries which, with few exceptions, are the poorest of the poor, become poorer."

The Latin American nations want to help the Third World. They want to help the human family. And obviously offshore sharing would help immensely. But why should the Latin countries make even the modest contribution I have suggested? After all, they are developing countries. My answer is that it is the only way to shame the rich nations into making the much larger contribution that they should make. For the rich nations really would prefer to keep all that money.

It would take imagination and courage for Mexico to change its position on the eco-

nomic zone and to propose sharing, graduated sharing, within the zone. I am sure that there would be strong opposition not only in Mexico, but in other Latin American states as well. But if Mexico did take that bold and statesmanlike course of action, it would, in my judgment, transform the Conference and insure that instead of being one more triumph for nationalism, one more victory for the rich nations, the Conference would be a mighty step toward peace and toward justice, two things in which Mexico so passionately believes.

Since I am urging change, radical change, in Mexican policy, I will conclude my lecture by saying something about change and human psychology. Every once in a while a country or an individual does something very daring, something very unexpected and something very constructive. And because of that action the world is better off. It is a creative moment. Yes, every once in a while a nation or an individual—instead of persisting in a traditional path or a traditional position—takes a bold, new initiative. And that bold, new initiative transforms the problem and permits a new dialogue, a genuine human dialogue to take place where no real dialogue was possible before.

When Charles de Gaulle decided to get out of Algeria we had such a creative moment. We had similar creative moments when John Kennedy proposed a treaty to stop the testing of nuclear weapons, when Richard Nixon and Chairman Mao decided to meet in Peking, when President Carter and President Torrijos decided to sign a new treaty on the Panama Canal. Just last month we witnessed the bold and courageous initiative of President Sadat, an initiative which is radically changing the nature of the Middle East problem and, it is to be hoped, making possible a just and lasting peace in that troubled part of the world.

A Mexican initiative could make that kind of a difference in the Law of the Sea Conference!

Well, I have waved my red flag at you. But instead of charging at me you have been very attentive. I really appreciate it. I have tried hard to appeal to your heads. But even more I have tried to appeal to your hearts. When I think of Mexico I think of a very talented people. But I also think of Mexico as a country with a very large heart and a very great passion for justice. That is why I hope that Mexico will take this bold and creative initiative. If she does the Third World—and the whole human family—will be in her debt.●

POLITICAL HISTORY OF REUBIN ASKEW

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. YOUNG of Florida. Mr. Speaker, at a time when the news is once again filled with negative items about some public figures, it is refreshing to read an occasional positive column about one of our colleagues' political life. Such a column appeared in yesterday's Washington Star in which columnists Jack Germond and Jules Witcover recount a portion of the remarkable political history of my good friend, Reubin Askew, Governor of the State of Florida. Reubin and I served for many years together in the Florida Senate. In spite of the fact that we were members of different political parties, we became close personal friends.

We both left the State senate in 1970, when he was elected Governor and I to Congress. Since that time, we have maintained our friendship, and while not always agreeing on every issue, we have worked closely together for the State of Florida just as we did in the senate. It is always good to see a public official receive recognition for the manner in which he conducts his political career and I am particularly proud to see such a deserving public servant and good friend receive the recognition accorded by Messrs. Germond and Witcover. Mr. Speaker, I submit the column by Mr. Germond and Mr. Witcover for the attention of my colleagues:

REUBIN ASKEW'S UNDENTED POPULARITY DIDN'T COME FROM DODGING ISSUES

TALLAHASSEE, FLA.—Reubin Askew is one of the rare cases in American politics—the politician more sought than seeking, the public official more effective than ambitious. At 49 he is finishing eight years as governor of Florida—he is ineligible to seek another term—still remarkably popular with his constituents and almost universally respected within the political community.

A new opinion survey distributed by Gannett News Service this week shows 60 percent of Florida's voters think he has done an excellent or good job, only 5 percent a poor one. Moreover, when the 1,013 respondents in the pool were asked what they liked about Reubin Askew, almost one in five replied that he was "honest," an extraordinary response.

Like someone else we all know, Askew has always been a conspicuously moral public figure. His reputation as a non-smoking, non-drinking Sunday school teacher has been a source of endless fascination for the press, particularly in Florida, where there is a long history of politicians who have been anything but shy about bellying up to the trough. But unlike Jimmy Carter, Askew has not had to endure the accusation that his reputation for morality is hypocritically inconsistent with a penchant for playing political hardball.

Comparisons between Carter and Askew have always been inevitable. They were both elected to governorships in 1970 as members—along with Dale Bumpers of Arkansas and John West of South Carolina—of a media-celebrated class of "New South" state leaders. Askew became the keynote speaker at the Democratic Convention two years later and his name was immediately thrust into the speculation about who would appear on the party's national ticket.

But Askew never wanted to play. He turned aside feelers about the vice presidency, and he refused to show any of the ambition that sent Carter out on the road after the presidency in 1974, the year in which Askew was elected for a second term with 61 percent of the vote. And the more reluctantly Askew behaved as a national figure, the more sought after and mused over he became.

His remarkable popularity in the state has not been simply a product, however, of an ability to avoid controversial issues. He ran originally on a platform calling for extensive corporate tax reform, then pushed through an initiative to achieve it. In 1972 he opposed a referendum against school busing and although it passed in a runaway, Askew came away unscathed, credited by most accounts with sincerity of conviction if a misguided view.

And in these final days of his stewardship, Reubin Askew is again running against the political tide across the South by taking a firm stand against Florida's offering tax incentives to new industry as a way to diversify its economy—and to compete successfully with neighboring Georgia, Alabama and South Carolina in doing so.

The pressure on Askew on this issue is particularly intense because the last recession hit Florida much harder than most of the country. The unemployment rate ran above 11 percent overall and 25 percent in the construction industry in a state whose economy had come to rely on boom growth. But although he is willing to concede a need "to take a more aggressive posture" in seeking more manufacturing, he is determined that Florida will not become "an industrial state."

"It would," he says with the gleam of the true believer in his eye, "cease to be Florida."

The granting of moratoria on local property taxes, the most popular device for luring industry to the South, repels Askew for two reasons. First, he says, it violates the principles of "equity and fairness" because it gives the newcomers an advantage over industry already established in the state. And second, Askew complains, diminishing the tax base of local government without providing some revenue source in return amounts to irresponsibly mortgaging the future. "What do you say to local governments that are elected 10 years from now?" he asks rhetorically.

Askew is convinced that Florida's location and its special environment are enough in themselves, along with a vigorous selling job by state government, to attract enough new manufacturers. "We want to make the state competitive," he says, "but we don't want to handcuff the future."

Whatever the merits of the argument, what is intriguing is that Reubin Askew is ending his career as governor as he began it—running against the trend of the moment while maintaining an extraordinary political popularity.●

ARIZONA'S VOICE OF DEMOCRACY WINNER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. UDALL. Mr. Speaker, Elizabeth Young Chu Pedro of Sierra Vista, Ariz., is the Arizona winner of the Voice of Democracy Contest sponsored by the Veterans of Foreign Wars. I would like to present her winning speech:

MY RESPONSIBILITY TO AMERICA

America has developed its potentials immeasureably. It has surpassed the greatest hopes and expectations of our founding fathers. With each generation, America has progressed and flourished. I believe that there is a challenge issued to each new generation. The challenge to preserve and perpetuate America's achievements. My responsibility to America is to actively, positively meet that challenge and succeed. As the future of America, I must realize the extent of this responsibility and know how to accomplish it.

First, I am responsible to uphold our democratic principles, because democracy has been the core of America's success. Democracy built and maintained America. It has provided its citizens with the freedom to expand without limits, to be creative, to be productive, and to prosper. I feel that our present system of government is essential to perpetuate this growth. Therefore,

I must strive to insure the preservation of the democratic principles.

Second, I am responsible to never abuse the privileges America offers. I believe that each privilege is accompanied by the responsibility to use it wisely. We all must never forget the values of freedom, equality, and individuality. We, the people of America, must never abuse the rights that make America great.

Third, I am responsible to be worthy facing the future challenge. I may be one among many millions, but I am still a part of the great American force. I should expand myself as an individual. I must increase my awareness level and develop into a person that would benefit America.

Mountains are moved a stone at a time and if I am to preserve and strengthen America, the best beginning is with myself.

Maintaining our democratic principles, realizing the values of my privileges and using it wisely, and improving the quality of self; these are the three elements that make up the mass of my responsibility to America. With these three components, I am confident that America will progress in the future.

In conclusion, I feel overwhelming pride in realizing that I am to be a part of that progress. I forsee a promising future for America that can only be derived from its glorious, inspiring past, and it is my responsibility to make that vision a reality. ●

TERRORISM PAYS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. HAGEDORN. Mr. Speaker, to those wondering about the future of international terrorism, the following finding of a study done for the Rand Corp. by Brian Jenkins, Janera Johnson, and David Ronfeldt might prove enlightening. On the basis of analyzing 77 international hostage situations that occurred between 1968 and 1975, the authors conclude:

Rough estimates as to the payoffs and risk involved in kidnapping indicate that the terrorist tactic of seizing hostages for bargaining or publicity purposes is far from being irrational, mindless, ineffective, or necessarily perilous. There is almost an 80% chance that all members of the kidnapping team will escape death or capture, whether or not they successfully seize hostages. Once they make explicit ransom demands, there is a close to even chance that all or some of those demands will be granted and virtually a 100% probability of achieving worldwide or at least national publicity.

Until civilized society is able to alter the cost-benefit equation that the Rand study demonstrates exists, it does not seem likely that levels of international terrorism will be reduced. Following are the remarks of Col. R. D. Heinl, Jr., U.S. Marine Corps (Ret.) on the subject of this study in the Detroit News:

TERRORISM PAYS, RAND STUDY SHOWS

(By Robert D. Heinl, Jr.)

WASHINGTON.—International terrorists who set out to seize or kidnap hostages enjoy a 90% chance of success and a 77% chance of escaping any punishment whatsoever, let alone death, whether or not they otherwise succeed.

The above are among the findings of a Rand Corporation study dealing with transnational terrorism, in which today the seizure of hostages appears to be the dominant mode.

Only bombing, more often used in acts of internal terror, equals kidnaping as a terrorist method. Students of the subject distinguish bombing as "disruptive terror," from seizure of hostages, which is termed "coercive terror."

Prepared by Brian Jenkins, an eminent authority on international violence, the study deals with 77 transnational hostage incidents that took place between 1968 and the end of 1975.

U.S. diplomats and other U.S. representatives abroad have proven to be the most popular targets of kidnapers, figuring in nearly 40% of all international hostage incidents between 1971 and 1977. Thirty U.S. officials were seized or kidnaped; six were murdered. In all, during the 1968 to 1975 period, some 250 persons lost their lives in terrorist episodes.

But U.S. representatives weren't the only targets. Terrorists also captured foreign diplomats, corporate executives, missionaries, and tourists. Their motive was thus to heighten the drama of the episode, insuring maximum publicity and increasing their leverage by placing human life in the balance.

Jenkins confirms what has been widely asserted among theorists of terrorism: that the release of terrorists already imprisoned was the principal demand in two thirds of the cases studied. It is this statistical fact which forms the basis for recurrent proposals that a mandatory death penalty holds out major possibilities for curbing transnational terrorism.

Reinforcing the above, the Rand Corporation determined that, in the cases of terrorists caught and tried, the average sentence has been only 18 months imprisonment.

Of 267 international terrorists captured since 1970, less than 50% were still behind bars by the end of 1975. The eight Palestinian "Black September" members who in March 1973 murdered our ambassador and his deputy in Khartoum were sentenced to life imprisonment, then deported from the Sudan to Egypt, where they are reportedly living comfortably under "house arrest."

Among other findings of the study are the following:

No-concession policies toward those holding hostages don't appear to have deterred kidnapings. Anti-terrorist campaigns that attack the organization and catch perpetrators were concluded to hold more promise.

Each episode enjoys at least a 40% chance that all or some terrorist demand will be met, with a 36% chance that every demand will be accepted.

When terrorists ask only for safe passage elsewhere for themselves or others, including prisoners, they have an 86% chance of success.

Even if every demand is rejected, based on these 77 cases, terrorists enjoy a 60% chance of escape by accepting safe passage elsewhere or by surrendering to a sympathetic foreign government such as Algeria, South Yemen, Iraq, or Libya, which in the past have served as terrorist sanctuaries.

On the general premise that terrorism is, above all, theater, the Rand study credits kidnapers with 100% probability of gaining major publicity.

"The record suggests," Jenkins concluded, "that seizing hostages for bargaining or publicity is far from being irrational, mindless, ineffective, or necessarily perilous." ●

DR. EASYSCORE'S OPPONENTS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. DORNAN. Mr. Speaker, on March 16, I read into the CONGRESSIONAL RECORD an article which appeared in the Los Angeles Times and which exposed the activities of the insidious drug-pusher doctors, the "Dr. Easyscores," as they are termed by their addict patients.

In that article, the Times reporters revealed that, although less than 1 percent of California doctors are involved in writing prescriptions for anyone who can pay the fee, they account for about 90 percent of the illegal supply of pharmaceutical drugs on the street.

I am happy to report to my colleagues that the State of California, in part because of this expose, has taken the first steps toward wiping out this practice. The State has created a statewide strike force whose goal is the elimination of the practices of dope doctors.

I ask that the Los Angeles Times article giving the details of this strike force and its first operations be reprinted in the RECORD. I am certain that my colleagues here join me in wishing them quick and thorough success and in congratulating the fine report job done by the Times.

The article follows:

STATE OPENS DRIVE AGAINST DRUG-PUSHING PHYSICIANS

(By Mike Goodman and George Reasons)

SACRAMENTO.—Creation of a statewide strike force to put "every dope-pushing doctor in California out of business" was announced Tuesday by officials of the state medical board and the state Department of Consumer Affairs.

The strike force, comprising about two dozen agents, began operations Tuesday by temporary restraining orders to ban five doctors accused of drug trafficking from practicing.

An arrest warrant charging manslaughter was issued against a sixth doctor whose patient had taken an overdose, and action to suspend or revoke the licenses of seven pharmacies was announced.

The state's war against drug-pusher doctors sprang from a Times series 10 days ago which detailed the scope of the problem and the state's failures in dealing with it.

The Times' series disclosed that hundreds of doctors have become the main illegal suppliers of dangerous drugs to thousands of young people across the state.

Richard Spohn, director of the Department of Consumer Affairs, called The Times' series a "high public service" during a capitol press conference.

Spohn said the campaign, called "Operation DOPE" will continue "until every one of the dope-pusher doctors in California is out of business."

He estimated their number at 200 to 1,000 and said they probably supply 90 percent of the dangerous pills on the street.

"When our field people observe a doctor or pharmacist violating the drug control laws, they will either arrest them on the spot or secure a warrant for their arrest the same day," Spohn said.

"In case this does not dampen the vicious

greed of the pusher, a court order will be sought immediately to restrain him or her from practicing," he added.

He said the Brown Administration also is sponsoring legislation to speed up further the licensing-disciplining process.

Robert Rowland, executive secretary of the state Board of Medical Quality Assurance said, "We only see the tip of this iceberg."

"I don't think there is a community in this state that is immune from the over-prescribing, pill-pushing physician," Rowland said.

Spohn urged organized medicine to "assist in weeding from its ranks those who have so abused their professional charge. If their identity is known and shielded, that is a conspiracy and (is) destructive."

"There is a certain code of protection" among doctors, Spohn added.

He said one of the medical board's top priorities this year is legislation—the so-called "snitch bill"—requiring doctors to report illegal and unprofessional acts.

Such legislation, however, is expected to face heavy opposition by organized medicine.

Florence Stroud, president of the Board of Medical Quality Assurance, said the state is determined to rid California of dope-pusher doctors "who hid behind their medical licenses" in "blatant disregard of their Hippocratic oath."

Doctors are "actually making junkies, creating all kinds of illnesses," she said. "We cannot condone it." ●

A DOWRY FOR NIGERIA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I am most disturbed over President Carter's recent remarks concerning the situation in Rhodesia. It seems that the President has abandoned those who seek a stable biracial regime inside Rhodesia in favor of those guerrillas on the outside who wish to resort to violence and bloodshed.

I urge my colleagues to read the following editorial in the Washington Star which examines the administration's current Africa policy.

The editorial follows:

A DOWRY FOR NIGERIA

You may think it odd that the latest American for "a genuine transfer of power to the majority" in Rhodesia issued from Nigeria, a nation ruled by its army for the past dozen years.

But that is not the greatest oddity. If one looked more deeply into the status of democracy in Africa, it would emerge that Nigeria is so deeply riven by tribal and religious factionalism that military rule could easily continue there long after blacks and whites compose their differences inside Rhodesia.

So the use of Nigeria, during President Carter's state visit, as a platform for reiterating our strange Rhodesian policy must be explained otherwise than by the host country's solicitude for democratic elections.

Nigeria, it so happens, is very large, very influential in African councils, and—this is probably the most important single factor—the world's seventh largest oil producer. Nigeria is, then, a country to be on good terms with; and since the U.S. took an unenthusiastic view of the bloody suppression of Biafran separatism 10 years ago, relations have not been at their best.

With relations obviously under repair, the question is this: At what cost to political principle, good sense and vital strategic interests will Nigeria's friendship be purchased? The delivery of Rhodesia to a guerrilla takeover? Possibly. Until last week, it was difficult to divine the official U.S. attitude toward the recent "internal" agreement in Rhodesia, which looks to substantial transfer of power from Prime Minister Ian Smith to black moderates. U.S. pronouncements on that subject were tissues of contradiction and hesitancy. Glimmerings of sympathy vied with dark warnings that the new regime would be attacked and dismantled by the Nkomo-Mugabe guerrilla forces, the so-called Patriotic Front, who are armed and backed by the Soviet Union and China.

But as President Carter's state visit to Nigeria neared, blunt talk of the "illegality" of the Rhodesia government intensified, notwithstanding the impending internal transfer of power. President Carter, it seems, had to have something for the Nigerians, and the sacrificial offering seems to be one internal solution of Rhodesia, well scorched.

The U.S. position on the "illegality" of the Rhodesian government needs a closer look, incidentally. It rests not on the traditional Wilsonian conception of "self-determination," but on the notion that Great Britain retains a ghostly "sovereignty" in Rhodesia even though she has exerted no control there since 1965 when Rhodesia ceased to be a British crown colony. Yet the hostility to the recent "internal" settlement between Mr. Smith's secessionist white regime has been sharper in Washington than in London because U.S. policy in Southern Africa is largely the extension of UN Ambassador Andrew Young's personal sympathy for the guerrilla leaders and their "front-line" patrons. It leads to the oddity that the U.S. is more of a stickler for stale colonialist assertions about Rhodesian sovereignty than the former colonial power itself.

To a dangerous degree, and indeed to the neglect of other important considerations, U.S. policy on Rhodesia remains the exclusive hobby-horse of one official, Ambassador Young, who for domestic political reasons exercises great influence with President Carter. "Seldom," as Mr. Julian Amery recently observed, "can any president have given such a hostage to fortune as in (Mr. Young's) appointment. It is difficult to imagine any circumstances in which Mr. Young could be dismissed without alienating the black vote in America and black opinion worldwide." Like Mr. Young, like his African policy. That is about the size of it.

Having chosen Nigeria as the chief object of American courtship in Africa, and shrinking from outright endorsement of Nigeria's extremist views on South Africa, the U.S. seems to be offering, as dowry, hostility to an internal settlement in Rhodesia. The policy is perverse and pusillanimous. President Carter, with the Nigerian despot Gen. Olusegun Obesanjo listening with approval, said the U.S. "will move as quickly as possible to call together the parties who are in dispute in (Rhodesia)." But the dispute "in" Rhodesia is largely at an end. The remaining dispute is between those who seek a stable biracial regime inside the country and the guerrilla leaders who swear to overthrow it from the outside. It is one-sided as well, since the call has gone out to Messrs. Nkomo and Mugabe to come home and enter the internal process. To call for negotiation between the two is, in effect, to side with those who avow total hostility to the internal settlement and would probably install a uniracial regime in Rhodesia under Russian influence.

This policy not only sacrifices political negotiation to military force, and principle to expediency; it importantly advances the ultimate Soviet design of controlling the politics, ports and mineral resources of Southern Africa. In that respect, it could be an expensive policy. It may for a time win friends in Lagos and Lusaka. We cannot imagine that it will win the U.S. the respect of anyone else, anywhere. ●

GEORGE WILL ON SADAT'S HARD LINE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BINGHAM. Mr. Speaker, the 4 months since President Anwar Sadat's visit to Israel have been very disappointing to those who had hoped for a speedy resolution of the 30-year Arab-Israeli conflict. Events have demonstrated that it is far easier for a head of state to journey to an "enemy" capital than it is for two nations to reconcile those differences which have resulted in five wars in three decades. This should not really surprise us. Despite the excitement and joy surrounding the Sadat visit, the fact remained that Egypt and Israel had fought five wars and that in the most recent conflagration, just 4 years prior to the Sadat visit, 2,000 Israelis and 7,000 Egyptians had died in the Sinai. Only the naive or very idealistic could have expected instant peace to follow 30 years of war.

Nevertheless there has been an unfortunate tendency in the administration and among the media to assess blame for the snail-like progress of the negotiations. Most of the blame has been laid at the door of Prime Minister Begin and the Israeli Government. The most common charge made against the Government of Israel is that it did not reciprocate the Sadat gesture of coming to Jerusalem. This overlooks the fact it was not Israel that denied Egypt recognition for 30 years; nor was it Israel that repeatedly threatened Egypt with physical destruction. But leaving aside the fact that Sadat's concession to Israel was the right to exist, a right Israel never denied Egypt and a right that in any other case would be considered a "given," it is simply not fair to say that Israel did not respond to President Sadat's initiative. Israel conceded sovereignty of the Sinai to Egypt asking only that she be allowed to maintain a security presence of 1 percent of the peninsula. Israel has proposed self-rule for the Palestinian Arabs of the West Bank of the Jordan, asking only that Israel remain responsible for the security of that area and that all arrangements be reviewed after a 5-year period. The Israeli West Bank proposal would permit more Palestinian Arab autonomy than has ever existed at any time.

It is thus patently unfair to charge that the Israelis are responsible for the current logjam in the negotiations. It must be recalled that it was Sadat who abruptly ended the January talks in Jerusalem. It is Sadat who has refused to offer a counterproposal to the Israeli proposal. It is Sadat who continues to insist that Israel capitulate to the main longstanding Arab demands. Sadat even

demands that Israel withdraw from its own capital, Jerusalem, despite that city's current accessiblity to all people.

Sadat is to be commended for his bold visit to Israel, but he ought to understand that appreciation for such a visit does not entail Israeli acceptance of the entire Arab political agenda.

In a recent Newsweek column, George Will contends that Israel has been forthcoming in the recent negotiations and criticizes the administration for allowing the Arabs to "nourish the hope that the U.S. will extort from Israel what they have been unable to win in battle and are unwilling to discuss in negotiations." Mr. Will's incisive analysis of the situation deserves a wide readership.

Mr. Will's comment follows:

THE REAL "OBSTACLES" TO PEACE

The Carter Administration has focused its moral microscope on the Middle East and decided that Israel, which for 30 years has sought negotiations with its neighbors, and has received from them four wars, is an obstacle to peace. The Administration has been erratic, but consistently wrong. It was wrong to put the misnamed "Palestinian issue" at the top of the agenda, wrong to try to install the Soviets as peacemakers, wrong to court the extremists, Syria and the Palestine Liberation Organization, and wrong to press for a "comprehensive" peace process that would give maximum leverage to extremists at the negotiating table. By branding Menachem Begin an obstacle to peace, the Administration now has rewarded the intransigence of Egypt's Sadat and Jordan's Hussein, and has nourished their hope that the U.S. will extort from Israel what they have been unable to win in battle and are unwilling to discuss in negotiations.

THE PALESTINE MANDATE

The Administration says the burden is on Israel to bribe Sadat back to the negotiating table. But Israel has put on that table a proposal for concessions in the Sinai more sweeping than any previous Israeli Government ever proposed. Sadat, who has no standing to negotiate about anything *but* the Sinai, refuses to negotiate until Israel makes concessions about the West Bank. Unwilling to admit that Sadat's intransigence is the *only* obstacle to negotiations about the Sinai, the Administration calls Israel intransigent about the West Bank. But Hussein is the *only* obstacle to West Bank negotiations. There also is confusion about the legal status of the West Bank, the way U.N. Resolution 242 applies to it, and Israel's right to police it. Eugene Rostow, Yale law professor and former Under Secretary of State, says:

"The West Bank and the Gaza Strip [unlike the Sinai] are not recognized territories of any sovereign state. They are parts of the Palestine Mandate, an area which until 1946 included Jordan, Israel, and the territories in dispute between them. . . . The mandate is a continuing trust of an international character, like the mandate for German Southwest Africa, now called Namibia. The continued vitality of the Palestine Mandate as a trust is confirmed by Article 80 of the U.N. Charter and the most recent advisory opinion of the International Court of Justice in the Namibia case.

"The territory of the mandate *is* Palestine, and those who have the right to live there are 'Palestinians'—Christian, Muslim, and Jewish alike. Jordan held the West Bank as the military occupant between 1948 and 1967 after a war of aggression. Although Jordan sought to annex the West Bank in 1951, only two countries recognized that annexation. None of the other Arab states has recognized Jordanian sovereignty there. Israel's claim to the area under the mandate is at least as good as that of Jordan; some experts consider it to be better, because Israel occupied the area in 1967 after a war of self-defense. I myself transmitted the Israeli message to Hussein in 1967, promising him immunity if he did not join the Six Day War. If he had stayed out of the war, he would hold the West Bank and Old Jerusalem today."

Israel has never tried to annex the West Bank. For demographic reasons it could not do so and remain a Jewish state. And the Administration is simply wrong in saying Israel's West Bank settlements are "illegal." The mandate is an international trust for the benefit of Jewish as well as Arab inhabitants of Palestine, and Israelis have a right to settle there until Israel and Jordan negotiate disposition of the territory.

A PROBLEMATIC CONCEPT

Resolution 242 *anticipates* negotiations between the only states concerned, Israel and Jordan, and *requires* changes in the 1967 lines to provide "secure and recognized" borders. Sadat says, as Arabs always have, that 242 requires Israel to retreat to the 1967 lines. But 242 was painstakingly negotiated for five months in 1967, and Sadat's interpretation is inconsistent with the interpretation shared by all members of the Security Council that passed it. Sadat's policy amounts to asserting Jordanian sovereignty in the West Bank, which the U.S. has refused to do for 27 years. As Rostow says, "As a matter of justice and political judgment, Resolution 242 does not demand that Jerusalem be split again, and sealed with machine guns, nor does it drive Israel back to live in a coastal strip 10 miles wide whose outlines were fixed by nothing more rational than the battles of the first Arab-Israeli war in 1948."

Begin's opening proposal for negotiations calls for self-rule for West Bank Arabs, continuing Israeli responsibility for security, and review of all matters after five years. The Administration praised Begin's proposal in December but disdains it in March. Not surprisingly, Hussein refuses to negotiate. He has noticed that Sadat, who also refuses, is liked at the White House, and Begin, who longs to negotiate, is not liked.

Actually, Begin's West Bank proposal jeopardizes Israel's security because it does not even make self-rule (a problematic concept in any case) contingent upon border revisions that correct the irrational lines left by the 1949 armistice. Under Begin's proposals, sooner or later self-rule probably would produce a vote for complete independence; if Israel resisted, there would be violence and uproar; if Israel agreed, the entity would separate along Israel's 1967 borders, which are indefensible. Anyway, neither Hussein nor Israel wants an independent state there. Jordan has no legal right to the West Bank, and its behavior as the military occupant (its desecrations included paving roads with Jewish tombstones) vitiated its moral claims. But perhaps Israel and Jordan can negotiate *modifications* of the 1967 lines and the right of Jews to live in the modified West Bank entity, *loosely* associated with Jordan and linked economically with Israel. Until Hussein will negotiate, Israel must govern the West Bank.

"APPREHENSION AND TURMOIL"

Until 1967, the West Bank was like southern Lebanon, a source of terrorism. Today the Administraton believes Israel is unreasonably determined to police the West Bank. The Administration should read the note Secretary of State Robert Lansing delivered to the Mexican envoy in Washington on June 20, 1916: "Bandits have been permitted to roam at will through the territory contiguous to the United States . . . has been thrown into a state of constant apprehension and turmoil because of frequent and sudden incursions . . . It is unreasonable to expect the United States to withdraw its forces from Mexican territory . . . when their presence is the only check upon further bandit outrages."

When Hussein negotiates, Sadat will have to stop savoring his press clippings and start living up to them. Until Hussein negotiates, and to convince him that he must, the Administration should stop pressuring America's ally of shared values. In case the Administration can't spot it, it is the small democracy.●

THE MISSOURI BASIN PROGRAM AND THE COMMITMENT TO SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ABDNOR. Mr. Speaker, the following correspondence with the Department of the Interior pertains to the irrigation features of the Pick-Sloan Missouri Basin program, which was authorized in the Flood Control Act of 1944.

This correspondence highlights the discrepancy between the commitment which was made to my State in return for the tremendous acreage of land we sacrificed and the degree to which that commitment has been fulfilled:

NOVEMBER 2, 1977.

Hon. GUY R. MARTIN,
Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C.

DEAR ASSISTANT SECRETARY MARTIN: I would very much appreciate it if you would furnish a comprehensive tabulation of (a) the amount of water and power allocated to irrigation under the Missouri Basin Program, (b) the number of acres envisioned to be irrigated when the project was authorized in the Flood Control Act of 1944, (c) where these acreages are located, and (d) which of these acreages have actually been developed for irrigation by the Federal Government, pursuant to the Pick-Sloan Plan.

If possible, I would also like to have a tabulation of irrigation which has been developed in the Missouri River Basin by non-Federal interests.

Thank you.

Sincerely,

JAMES ABDNOR,
Member of Congress.

UNTED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION,
Washington, D.C., December 23, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: This is in response to your inquiry of November 2 concerning the Pick-Sloan Missouri River Basin Program as it relates to water and power allocated to irrigation; the number of acres envisioned to be irrigated when the project was authorized by the Flood Control Act of 1944; and the acreage actually developed by the Federal Government.

The non-Federal developed irrigated acreage is the best estimate from data available in our office.

The enclosed tabulations provide the information requested in your letter.

Sincerely,

/s/ DANIEL P. BEARD,
Deputy Assistant Secretary for Land and Water Resources.

Enclosures.

TABLE I.—CURRENT PICK-SLOAN MISSOURI RIVER BASIN PROGRAM

State	Acres to receive water		Irrigation water allocation (1,000 acre-ft)	Irrigation		Percent of land developed
	Full	Supplemental		Energy (1,000 kWh)	Ultimate peak demand (kilowatts)	
North Dakota	1,077,300	----------	2,670	305,800	178,600	1.3
South Dakota	570,600	66,100	1,090	3,0,800	170,200	13.0
Montana	516,300	274,400	780	37,200	21,050	10.0
Wyoming	304,700	71,600	280	33,400	10,800	20.0
Colorado	101,300	1,700	250	----------	----------	----------
Nebraska	989,400	19,900	2,250	47,380	30,300	7.7
Kansas	193,300	150	480	5,823	5,250	50.0

TABLE II

Acreage totals envisioned to be irrigated when P–S MRBP was authorized in the Flood Control Act of 1944

	(1)	(2)
Yellowstone River Basin: (Wyo.-Mont.)	509,560	204,500
Upper Missouri River Basin: (Above Ft. Peck-Hunt)	460,900	208,700
Upper Missouri River Basin: (Ft. Peck to Sioux City)	2,292,900	-------
Niobrara, Platte and Kansas River Basins	1,284,060	21,804
Total envisioned acreages	4,547,420	435,004

[1] Acres to receive full supply.
[2] Acres to receive supplemental water.

TABLE III

Private (non-Federal) irrigated acreages—1975

State	Acres
Montana	1,850,000
Wyoming	510,000
North Dakota	120,000
South Dakota	173,000
Total	2,653,000

FEBRUARY 15, 1978.

Mr. DANIEL P. BEARD,
Assistant Secretary for Land and Water Resources, Department of the Interior, Bureau of Reclamation, Washington, D.C.

DEAR MR. BEARD: The information forwarded with your letter of December 23, 1977, was sincerely appreciated. I hope that it has or will come to the attention of all the appropriate officials in the Administration so that they might be aware of the magnitude of the Federal Government's outstanding commitments under the Missouri Basin Program.

It would, of course, also be interesting to have a personal statement from each of these officials with reference to their personal position as to whether these commitments should be reneged upon. For the present, however, I will settle for responses to the following quesions raised by the information you supplied:

TABLE I

(1) "Current Pick-Sloan Missouri River Basin Program"—What determines the "current" program? Was it not specifically authorized in 1944? Has any portion of it been deauthorized?

(2) How were the state acreage totals determined?

(3) What acreages are included in the 570,600 acres to receive full water service in S.D. and the 66,100 to receive supplemental water?

(4) Why do the state irrigation water allocation totals not appear to correspond directly to the number of acres to be irrigated (e.g., Wyoming—280,000 af to irrigate 304,700 acres and supplement 71,600 and Colorado—250,000 af to irrigate only 101,300 acres and supplement 1,700)? How were the water allocations derived?

(5) What acreages are included in the 13% of the South Dakota land which is identified as having been developed?

(6) Could you provide a listing of the acreages of each of the seven states for Pick-Sloan Missouri River Basin reservoir facilities?

TABLE II

(1) Why do the acreage totals (4,547,420 acres to receive full supply and 435,004 acres to receive supplemental water) differ from the totals derived by adding these columns in Table I?

(2) In the reference to "Ft. Peck-Hunt" under "(2) Upper Missouri River Basin" we are unfamiliar with "Hunt". To what does it refer?

(3) Why are there no acres listed to receive supplemental water from Ft. Peck to Sioux City when in Table I, South Dakota is listed to receive supplemental water for 66,100 acres?

(4) How were the acreage totals listed in Table II derived and how were specific acreages to be irrigated identified?

TABLE III

How were these acreages determined? Can you furnish a breakdown of acreages irrigated in each of these states from ground water as compared to surface supplies? Why were Colorado, Nebraska, and Kansas omitted from this table? Could you furnish similar information for them?

A copy of your letter and the enclosures are enclosed for your convenience. Thank you for your prompt consideration.

Sincerely,

JAMES ABDNOR,
Member of Congress.

UNITED STATES DEPARTMENT
OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., March 14, 1978.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: This is in response to your letter of February 15 to Deputy Assistant Secretary Daniel P. Beard enumerating several questions about information previously provided to you regarding irrigated acreages in the Pick-Sloan Missouri River Basin Program.

The enclosed responses are in the order of the questions submitted and will supplement the information provided in tables I, II, and III of Mr. Beard's December 23, 1977, letter to you.

Sincerely yours,

CLIFFORD I. BARRETT,
(For R. KEITH HIGGINSON,
Commissioner).

TABLE I

1. For presentation in Table I, acreage totals envisioned to be irrigated under the Flood Control Act of 1944 have been altered since that date to acreages included in the "current" program. Adjustments include: (1) private irrigation development of some of the units, (2) determination of low benefit-cost ratios on some units, (3) inclusion of some units not originally included under the act, and (4) preclusion of development of some units by environmental concerns. No units included in the 1944 act have been "deauthorized." However, Public Law 88-442 requires further action by the Congress before future units can be constructed.

2. State acreage totals were determined by adding the acreages of the individual units included in the "current" Pick-Sloan Missouri Basin Program.

3. The following acreages are included in the totals for South Dakota:

Unit	Irrigation acreages	
	Full	Supplemental
Oahe (initial)	190,000	------
Oahe (future)	305,000	------
Fort Thompson	5,900	------
Grass Rope	4,100	------
Greenwood	3,500	------
Iron Nation	1,700	------
LaRoche	1,800	------
Pollock-Herreid	15,000	------
Rousseau	2,200	------
Tower	1,400	------
Yankton	1,590	------
Wagner	19,500	------
Belle Fourche Pumping	4,600	------
Angostura	12,100	------
Pine Ridge	6,900	------
Belle Fourche (Keyhole)	-------	57,200
Rapid Valley	-------	8,900
	[1] 575,340	66,100

[1] Note the slight change in the total for full service irrigation acreage, due to an arithmetic error in the original submission. Please make the change in Table I of the original submission. Note also that this correction reduces the percent of land developed for South Dakota from 13 to 12.2.

4. Irrigation water requirements per acre vary widely from unit to unit because they are based on such variables as: (1) average annual precipitation, (2) length of growing season, (3) cropping patterns, (4) soil composition and permeability, and (5) type of irrigation systems utilized. The water allocations listed in Table I are not official allocations, but are made by applying the appropriate per acre water requirements to the acreage of each unit and then summarizing them by States.

5. The following acreages in South Dakota are identified as having been developed:

Unit	Full acres	Supplemental acres
Angostura	12,100	------
Rapid Valley	------	8,900
Bell Fourche (Keyhole)	------	57,200

6. The following is a list of acreages of each of the seven States for Pick-Sloan Missouri Basin Program reservoir facilities.

These totals include both Bureau of Reclamation and Corps of Engineers facilities:

PICK-SLOAN FACILITIES ACREAGE TOTALS, DECEMBER 1976

	Total acreage
Colorado	7,229
Kansas	76,242
Montana	723,174
Nebraska	83,898
North Dakota	648,869
South Dakota	536,875
Wyoming	110,240
Total (rounded)	2,187,000

TABLE II

1. The acreages listed in Table II are those envisioned in the 1944 act while those listed in Table I are adjusted as indicated in the answer to question No. 1, Table I.

2. The reference to "Ft. Peck-Hunt" is a typographical error. It should be "Ft. Peck-Mont."

3. Table II shows acreage totals originally envisioned under the Flood Control Act of 1944. Those acreage totals have been revised to the totals shown in Table I due to the reasons listed under the answer to question No. 1, Table I. As originally envisioned, no acreages to receive supplemental water were anticipated in the Ft. Peck to Sioux City area.

4. The acreage totals listed in Table II were taken from Senate Document No. 191, dated April 1944. That document also lists acreages for individual units comprising the totals. Note that the following basin should have been included in the original submission. Please include the following with Table II in the original submission, bringing total envisioned acreages to 4,760,400 full supply and 446,304 to supplemental water:

(5) Minor Western Tributaries, full supply, 212,986; supplemental water, 11,300.

TABLE III

The private irrigated acreages listed by State in Table III were obtained from State publications. The information needed to fully identify ground-water and surface-water supply sources for those acreages is lacking at the present time. Also, information was not available on the privately irrigated acreages for the States of Colorado, Kansas, and Nebraska at the time of the original submission. However, we have since located information with which to make estimates of the acreages in these States. The totals include acreages only for those areas of the States listed within the Pick-Sloan Missouri River Basin program boundaries. Please add the following States and acreages to Table III of the original submission:

PRIVATE (NON-FEDERAL) IRRIGATED ACREAGES

State:	Acres
Colorado	1,192,000
Nebraska	5,064,000
Kansas	2,940,000

EXODUS, 1978

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. DORNAN. Mr. Speaker, what the United Nations Declaration on Human Rights calls "the freedom to leave," the freedom to emigrate from one place or country to another has undergone a particularly rough time of it in this so-called age of "détente." Like liberty itself, the freedom of exodus has been beset by its natural enemies, by ignorance and superstitution; by lust of conquest and by love of ease; by the strong man's craving for power and the poor man's craving for food.

The Hebrew people are not the only fellowship within our world community to suffer the infirmities of slavery, but they have been and continue to be victimized the longest. In recent days, the Soviet Union has provided further illustration to its systematic insensitivity to the needs, aspirations, and dignity of its own citizens, and of Jews in particular. The Conference of Jewish Activists in Van Nuys, Calif., continues to address itself to this, fighting on behalf of this era's greatest example of civil repression. A statement released by the CJA concerning the March 8 incident in which 23 Soviet women were arrested for voicing their beliefs is concise, but it is eloquent. I request that it be included in the RECORD, and I urge my colleagues to reflect on it. I ask them to consider whether or not all of us are doing enough to convince the Soviet authorities that the continued repression of the rights of its citizens is not worth its while. I ask them to consider whether or not by relative inaction, too many of us are standing in the way of the next great exodus of our time.

The statement follows:

EXODUS, 1978

On March 8, 1978, twenty-three Soviet women, so-called "dissidents," made an appeal to the women of the world and, specifically, to Queen Elizabeth II of England, and to the First Lady of the United States of America, Rosalynn Carter, to aid them in their attempts to emigrate to Israel. When they tried to demonstrate peacefully in Moscow, they were brutally suppressed and arrested by Soviet authorities.

These women, representative of a far greater number of Soviet citizens, Jewish and non-Jewish, have been refused the right to know the reason why visas have not been issued to them. They have been denied the right to emigrate, and as a result of their requests to emigrate have been denied the right to work in the Soviet Union. Their only "crime" is their sincere desire to join their families and to raise their children in the Jewish tradition in the State of Israel.

They were brave enough to place their lives in jeopardy, and we, women of the Conference of Jewish Activists, have vowed a hunger strike to show our solidarity with them and to aid in bringing their plight to the attention of the world.

This great country was built by emigrés fleeing from persecution and injustice in their native lands. Our first leaders devoted themselves to the protection of basic human rights and not just to Realpolitik. Our present leader, President Jimmy Carter, on assuming office, pledged himself to fight for human rights throughout the world. We now call upon him to fulfill that pledge, to reestablish the United States of America as champion of the oppressed, and to break his silence on behalf of Soviet Jews and all people of the Soviet Union who wish to emigrate! ●

POLITICAL PRISONERS IN CUBA

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mrs. FENWICK. Mr. Speaker, in June 1976 the Inter-American Commission on Human Rights issued its fifth report on human rights in Cuba since 1962. In compiling and issuing the documented report, the Commission was responding to a great number of allegations which had been made against the Cuban Government just since 1970, the date of the Commissions last report.

The Commission noted that it had—

. . . continued (since 1970) to receive communications from persons and agencies complaining of numerous specific cases of violations of the right set forth in the American Declaration of the Rights and Duties of Man (Bogota 1948). In addition, it has received other reports, which, together with the extensive documentation in the Commission's files, support the assumption that, in the last 5 years, such violations are far from decreasing, and arbitrary and excessively strict procedures continue, particularly in the treatment of political prisoners, with complete disregard for the dignity of human beings.

The statements contained in the Commission's report depict a most unhappy life in Cuban prisons. A group of political prisoners from Boniato Prison in Oriente province wrote in 1974 that they had been totally cut off from their family and friends for 2 years and confined in small, unsanitary rooms—

. . . without sun, without light, in constant semidarkness, almost blind and strictly prohibited from receiving medical assistance of any kind or any medicaments, we are being submitted to the most inhumane and heartless plan of physical annihilation and biological experimentation ever known in the history of the Western World. Russian, Czech and Cuban communist doctors direct this Extermination and Experimentation Plan.

Details of these allegations can be found in the Commission report and are a sad story, indeed. As if these deprivations were not enough torture, the prisoners conclude by saying that—

We have been beaten in a savage and brutal manner, heads, faces and arms have been broken by sticks and iron bars, systematically, cell by cell.

The Commission also devoted a section of its report to the treatment of women in Cuban prisons. The treament of women political prisoners, however, is no better than that accorded men. The report concludes that:

Female political prisoners in Cuba continue to be submitted to cruel, inhuman, and degrading treatment, and are victims of a prison regime which is incompatible with their sex, and in which they are treated extremely harshly, without regard to their age, state of health, marital status, or pregnant or postpartum condition.

The conditions described by the Inter-American Commission have been noticed by other international organizations, too. In March 1977, the International Rescue Committee, in an appeal for Cuban prisoners, said:

But what is most appalling in the case of Cuba's prisoners is the unconscionable length of incarceration those opposed to the government have to suffer. To them applies, as we pointed out in an earlier statement, what Andrei D. Sakharov said in his appeal for the prisoners of the Soviet Union: "Do what you can, at least for some of the prisoners—the women, the old people, those who are ill, those who have been tried more than once. . ."

Mr. Speaker, I have been greatly disturbed by these reports about Cuban prisoners of conscience and I hope our

own Government will take Dr. Sakharov's words to heart in any pursuit of a new relationship with Cuba.●

SOUTH DAKOTA WATER PROJECT FUNDING

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

Mr. ABDNOR. Mr. Speaker, yesterday I appeared before the House Appropriations Committee, Subcommittee on Public Works, to request fiscal year 1979 funding for projects in South Dakota.

Following is the text of my statement to the subcommittee:

STATEMENT OF THE HONORABLE JAMES ABDNOR TO THE PUBLIC WORKS APPROPRIATIONS SUBCOMMITTEE, APRIL 4, 1978

Mr. Chairman and members of the Subcommittee, $20 million for construction of the Oahe Unit, initial stage, as authorized in the Flood Control Act of 1944 and reauthorized in 1968—that is what would have been required to maintain the construction schedule for this project. I wish it were in the President's Budget and that I could ask you to recommend that it be appropriated.

The potential annual economic benefits of the Oahe Unit to South Dakota—estimated to equal the entire budget of the state's government—have not been diminished by the criticism. Political realities prevent them from being realized, though, and there is no point in discussing this dilemma further here.

I've mentioned the $20 million figure because it highlights how little we actually are asking. In lieu of funding for continued construction of the Oahe Unit we are seeking initiation of studies which may lead to other projects which can muster the necessary local support required for completion. Essentially, we are trying to pick up the pieces as best we can and salvage something of the commitment which was made to us in the Flood Control Act of 1944.

For the record I would like to reiterate that South Dakota relinquished in excess of 500,000 taxable acres in order to provide flood control, hydropower, and navigation benefits to other states. In return we were to receive assistance to develop our irrigation potentials.

The Federal Government has yet to live up to that commitment, and I am submitting for the hearing file recent correspondence with the Department of the Interior which documents how great the disparity remains today between what we were promised and what we have actually received.

With that background, I urge the Subcommittee to recommend funding for construction on two relatively small projects in South Dakota, for two studies to investigate potential irrigation developments, and for two studies of water supply problems in my state.

The projects for which construction funds are requested are the Pollock-Herreid irrigation unit and a streambank stabilization project on the Missouri River near Elk Point. The irrigation studies are those proposed by the Lower James and the Oahe conservancy sub-district boards.

POLLACK-HERREID UNIT

For the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program I respectfully request that $500,000 be appropriated for fiscal year 1979. The Administration has limited its Budget request for this project to $250,000 to complete the definite plan report and the draft environmental impact statement.

I urge that an additional $250,000 be provided to initiate the design and specification work, in order to maintain the most optimal schedule on this 15,000-acre project. In view of the apparent loss of the 190,000-acre Oahe Unit, it seems to us that the most expeditious development of the Pollock-Herreid Unit is little to ask.

LOWER JAMES APPRAISAL STUDY

Although the Administration budgeted no money for this study, Secretary Andrus said in response to written questions on this hearing record that they "support and encourage" a study of the potential for a diversion to the Lower James Conservancy Sub-District for irrigation and rural and municipal water supply purposes.

The Bureau of Reclamation has indicated a capability of $200,000 under its general investigations authorities to initiate this study in fiscal year 1979. Completion is estimated to require four years and about $1 million, and I urge that the full capabilities of the Bureau be funded so that the necessary information can be compiled as rapidly as possible.

One further note in this regard—you undoubtedly will receive testimony from others that the Bureau should be precluded from studying the possible use of the Blunt Reservoir in conjunction with the supply works for the Lower James diversion project. The justification given will be that the Blunt Reservoir is located within the Oahe Conservancy Sub-District, rather than the Lower James Sub-District, and there is local opposition.

I would not object to directing the Bureau to emphasize other potential diversion schemes in their studies, but it seems to me it would be poor public policy to ask that a study be done in such a way as to ignore certain important facts. Local opposition should be noted in the study, and certainly it will be noted if and when any potential project is brought before Congress for authorization. At the very least, though, information on the costs and other ramifications of the Blunt Reservoir supply works should be available as a point of reference for comparison with other diversion plans.

Again, I respectfully urge that $200,000 be made available to initiate appraisal investigations into the proposed Lower James diversion unit of the Pick-Sloan Missouri Basin Program.

OAHE LAKE-SIDE IRRIGATION STUDY

One of the major objections which has resulted in stoppage of the Oahe Unit is the lengthy canal system required to deliver water to the service area. The Oahe Conservancy Sub-District Board believes irrigation potentials in closer proximity to the water source, Lake Oahe, have not been adequately investigated. I agree and support their proposed study of irrigation potentials in the six counties adjacent to the lake.

The Administration has budgeted no money for this study, and the Bureau of Reclamation has indicated it has no additional capabilities. They have no capabilities at least in part, though, because they have committed most of the personnel which had been assigned to the Oahe Unit to projects in other states. In our view it is bad enough to lose the Oahe Unit, but then to be told that as a result the Bureau cannot help identify possible alternative projects is even worse.

There seems to be some recognition upon the part of officials of the Department that they failed to give adequate attention to the water development needs of South Dakota. They have agreed to try to deal with their personnel problems and to contract out for the necessary work to the degree possible, so that this study can go forward. I urge that an appropriate level of funding be provided. The Oahe Board will appear before you later and address this study in more detail.

WATER SUPPLY STUDIES—EASTERN AND WESTERN SOUTH DAKOTA

The Corps of Engineers has capabilities totalling $600,000 to study the water supply distribution and purification needs of my State. $250,000 would be used for investigations in the eastern half of South Dakota (authorized by the House Public Works and Transportation Commitee on September 23, 1976, Docket No. 2084). $350,000 could be devoted to similar studies covering the western region of the State (Docket No. 2064, September 23, 1976).

These funds should be provided. Year in and year out there is no more serious and urgent problem facing my constituency than obtaining and maintaining a sufficient supply of good quality water. Indeed, numerous communities are using supplies which do not meet Federal quality standards. Others have come perilously close to running out of water altogether, and many facilities have had to haul water on a continuing basis.

The Corps should assist the ongoing studies of potential solutions to these problems in any way possible. Their investigations should be coordinated with and compliment the following studies in particular: (a) the municipal supply studies under the auspices of the Bureau of Reclamation, (b) the WEB pipeline study, (c) the Chamberlain-to-Sioux Falls pipeline study, (d) the West River Aqueduct study funded by the Old West Regional Commission (OWRC), (e) the study, also funded by OWRC, of possible multipurpose benefits associated with the proposed Gregory County hydroelectric power dam, and (f) any local initiative to investigate construction of a rural water system.

Funding has not been sought previously for these studies because of the large number of related studies which are already underway or have been completed. There has also been concern that the Corps has concentrated too much on flood control and not enough on rural and municipal water supplies—even to the extent of maintaining they were unable to participate in implementation of single purpose water supply projects.

The Corps' deliberations on the Northeast Water Supply System (NEWS) have determined there may be a Federal interest in implementation of such projects, however, and I am now requesting funding for the studies authorized for my State, based on the assumptions that (a) the Corps can participate in implementation as well as study and (b) these studies will not impede but rather compliment other studies. The Corps should place particular emphasis in these studies on possible means of financing the needed developments.

Again, I urge an appropriation of $600,000 for these Corps of Engineer water supply studies.

STREAMBANK EROSION CONTROL

Finally, under Section 32 of the Water Resources Development Act of 1974, as amended, I respectfully request that $2,264,000 be provided to establish a streambank stabilization site at approximate mile 755.5 on the South Dakota side of the Missouri River, near Elk Point, South Dakota. The necessary funds should also be supplied to do the Cedar County Park site on the Nebraska side (approximate river mile 798.5). These sites have been accorded priority for

fiscal year 1979 funding by the Missouri River Bank Stabilization Association and, I believe, are within the capabilities of the Corps.

I regret that my request of the Subcommittee seems to be rather long on study and rather short on implementation of needed water development projects. Given the present circumstances, however, there is little choice. With the exceptions of the Pollock-Herreid Unit and bank stabilization work, we must go back to the drawing boards to even begin to get a project to the implementation stage. Yet, water development retains the highest priority among South Dakotans. Given the repeated ravages of drought, the uncertainty of water supplies, and the realities of poor quality water, we really have little choice. (I am furnishing for the hearing record copies of Senate Concurrent Resolution No. 15, passed by the South Dakota Legislature, and editorials from our state's two largest newspapers, all expressing our great interest in water development.)

With the loss of the Oahe Unit we have been temporarily stymied, but we hope not stopped, in our quest to realize the great water resource development benefits which beckon and tantalize us in the four huge dams and reservoirs on the Missouri River in my state. Your favorable consideration of these requests for fiscal year 1979 funding will help us get back on the track toward a better future—and in South Dakota, believe me, that means development of our water resources.

Mr. Chairman and members of the Subcommittee, thank you.●

ANOTHER VIEW OF THE SINO-JAPANESE WAR

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ADDABBO. Mr. Speaker, a member of my constituency, Paul K. T. Sih, a vice president for international studies and education and the director of the Center for Asian Studies, at St. John's University of Jamaica, N.Y., has written a book entitled Nationalist China during the Sino-Japanese War. 1937–45.

In response to the book Madame Chiang Kai-shek has written him a letter with a review highly praising the volume. It states further that it represents an effort to redress an imbalance that has been often unfavorable in the eyes of Madame Chiang.

I include the letter from Madame Chiang, along with a short synopsis of the book by Mr. Sih, into the RECORD:

It would be temerity, if not otiosity, to say that one volume of collected writings on the Sino-Japanese War 1937–1945 would be sufficient to cover all phases of that period from the searing scars and incalculable damage Japan inflicted upon China politically, militarily, socially, culturally, industrially and economically to the loss of the millions of innocent lives due directly or indirectly to this savage war. Very few in the Free World realized then what the aftermath impact of the loss of mainland China would have on the future of the world at large because of the total passing of Pax Britannica, beginning with World War II, and the ever diminishing influence of the United States after World War II, which is so patent that official Washington readily and repeatedly professes.

During those war years we, as well as those who were genuinely sympathetic or pseudo-sympathetic to China's war effort against aggression, tended to relate to or depict only the heroic aspects of the war vis-a-vis the devastating trauma and epochal challenge that confronted out people. Their ability to cope and improvise to survive and carry on under the most trying, hazardous and tragic conditions was undoubtedly ingenuity, with characteristics of hardiness of the highest order. But in portraying the heroic, there was a very human foible to marvel and admire a bevelled and slanted view of the whole closing off the mind to the misery, dislocation and disorientation of the emotional, psychosomatic being as an individual and to the person's relationship with his family, so very paramount in our mores and tradition. Translated into everyday life, it spelled insecurity, degradation of morality, agony and sudden death. In short the uprooting of a way of life that is antithetical to normality.

For the Government, it was faced with an unprecedented situation of raging ferocity and enveloping magnitude, unknown to China throughout her history. Invasions in China's history in comparison were more gradual, for they did not affect and involve so many people in so many areas. Refuge and enough time could always be had to evade the "eye" of the storm. It was much more difficult to avoid the path of an onslaught with the advent of intensive destructive fire power and the various means of efficacious delivery. In every sense, China's ship of destiny was sailing in uncharted waters, given the fact that no two experiences were entirely analogous, let alone the reality of contending with an extremely efficient and aggressive war machine, notably Japan, one of the Big Four Powers of that day.

Having lost all her seaports and having much of her coastline blockaded, China fought with démodé equipment and meagre back-up industrial capabilities. Her plight was not only exacerbated by the fact that in themselves most of the resources capable of meeting her war needs were woefully limited. It must also be borne in mind that the peculiar circumstances then extant was the accumulated bane of civil wars, warlordism, extraterritoriality, foreign infringement upon her sovereignty, and the preceding long tenure of general decadence and political somnolence under the Manchus. Only with the establishment of the National Government were we on the road to becoming a nation-state. I emphasize the word "becoming."

Improvisations and ingenuity in themselves, helpful as they may be, were logistically not enough, which prompted Western military experts to predict that our war of resistance would be finished—"kaput"—in three months. We managed not only to survive but tied down over 1,300,000 Japanese troops in the China War Theater who would surely have been used against the U.S., Great Britain and Russia. In this sense, both knew better than the mindless to belittle China's war effort.

Pearl Harbor, the fall of the vaunted impregnable fortress Singapore, the sinking of the dreadnaughts Prince of Wales and the Repulse in short order, and the successive fall of the Philippines, Malaya, the Indonesia Archipelago and much of Micronesia in Japan's grand sweep of expansionism and feat of arms stunned and bewildered the Allied World. Overnight, the Superior critical Colonel Blimp syndrome changed. I am recalling the above background in order to bring into better focus the fact how wrong experts can be in assessments of others as well as of themselves.

This book, edited by Dr. Paul K. T. Sih, is both felicitous and important. It is felicitous in that it performs a much needed service of giving serious scholars of the present and of the future a definitive, saliently comprehensive view of the herculean task that confronted the Chinese people and Government during the critical years—a view that was either muted or seldom given accurately by writers of the West for reasons best known to themselves. It is important because it is guileless. But ironically those who pettily cavilled or carped with a jaundiced eye unwittingly paid tribute to our national effort and the National Government, for people with acuity were able to compare contradictions as well as to read between the lines. The patriotism of our people and the unfailing total effort and uncompromising corporate will and leadership in every echelon of the Government, barring the Quislings, all worked and labored in our resistance against Japanese aggression.

I have only admiration for the Chinese professors and scholars who participated in this compilation. They contributed their knowledge and understanding to this important symposium with much success, based on accounts of official documents and of those who were actual participants of project and events, not on guesswork or fantasy. For theirs were the most telling accounts predicated either upon U.S. and Russian published sources by the respective governments or upon writings by objective third party sources. I should think that this "URSTOFF" would obviate any further queries of their impeccability. As to any doubts cast, they came from the realm of deliberative SPECULATION. They were effectively and amply refuted by others as well as by Professor Liang in his "Further Observations." Therefore I shall not dwell on them. As all the idle gossip and overzealous speculations have been put to rest, we for our part do not condone evanescent rumors, persiflage and hearsays, which are unworthy of schoars when they some to contend with solid facts.●

RECOGNIZING THE CONTRIBUTIONS OF GEN. THADDEUS KOSCIUSZKO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. GILMAN. Mr. Speaker, I would like to join my colleagues in supporting the resolution offered by Mr. MINISH and Mr. ANNUNZIO commemorating and recognizing the contributions of Thaddeus Kosciuszko. House Concurrent Resolution 359 seeks recognition of the contributions of this noble patriot from Poland by encouraging the Federal Government and State governments to mark the "Kosciuszko military sites" and to bring attention to the military engineering talents that the general shared with the American Continental Army during our revolution for freedom.

It is not very often that a Congressman has the opportunity to lay claim to any contributions of a "real life hero." But in the case of General Kosciuszko, I have the privilege of representing constituents who live in the towns where Kosciuszko visited and lived, and have the privilege of representing West Point, a military institution which the general fortified and where he formed lifelong

friendships. The town of Newburgh and the Military Academy at West Point represent some of the work and aspirations of General Kosciuszko.

He came to America in August of 1776 and left a legacy of loyalty and dedication. General Kosciuszko has become a symbol of the generosity and friendship that the Polish are known for. He was one of America's earliest and most dedicated friends, wholeheartedly contributing his engineering and military knowledge.

Missions that he sought and accomplished included the fortification of the Delaware River, building of the West Point fortifications, and eventually, General Kosciuszko went on to engineer the victory at Saratoga.

As is the case in the instances of real life heroes, Kosciuszko was a private and serious man who was deeply dedicated to the ideals of freedom and liberty. He returned to his native land to assist the Polish people in obtaining their freedom. His bravery and commitment in this fight, however, proved futile, and Kosciuszko died in Switzerland in 1817.

What we have learned from General Kosciuszko surely merits recognition. Both material and spiritual legacies are ours, and it is fitting that the Government should honor this brave Polish patriot. His generous and willing spirit enabled the Americans to manage victories during the War for Independence, and without the leadership and expertise that General Kosciuszko offered, these battle victories may not have been possible.

Let us join together in honoring this general by adopting House Concurrent Resolution 359 which recognizes his significant contributions to our Nation and to the world. This man's accomplishments are even more relevant today as we recognize the contributions of all of the ethnic groups that make up our great Nation and the reawakening of their ethnic pride.●

IN HONOR OF DR. FLOSSIE DEDMOND

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. MITCHELL of Maryland. Mr. Speaker, on Friday, April 7, 1978, I will join many of the citizens of Baltimore at a testimonial dinner honoring Dr. Flossie Dedmond. Dr. Dedmond is widely known in Baltimore as an outstanding college administrator and educator, and I am proud to call her my friend. She retired on September 1, 1977, after 31 years of continuous service to Coppin State College in Baltimore, where she was serving as dean of the division of arts and sciences at her retirement.

Dr. Dedmond's contribution to higher education included, in addition to her 31 years of service to Coppin State College, outstanding service as registrar, Allen University, Columbia, S.C.; dean of women, Knoxville College, Knoxville, Tenn.; English and drama professor, Benedict College, Columbia, S.C.; and assistant registrar, Morgan State University, Baltimore, Md. Dr. Dedmond's total years of service to developing and shaping young minds at black colleges throughout America amounts to over 41 years, which will always remain as a benchmark for those of us who believe that the children are our future.

Although her primary occupation was in higher education, Dr. Dedmond's unswerving commitment to black youth prompted her to put forth a herculean effort on their behalf through participation in countless numbers of local, State, and national organizations. It was through the Alpha Kappa Alpha Sorority, Inc., that Dr. Dedmond played a major role as one of the incorporators of the Cleveland Job Corps Center, Cleveland, Ohio, a $4.5 million enterprise funded by the Federal Government, which is the only job corps center in the country managed by a women's organization.

The tribute in Dr. Dedmond's honor by hundreds of friends and admirers is testament to the outstanding and particularly unselfish accomplishments of Dr. Dedmond. Such a tribute is truly deserving and long overdue. However, I am convinced that, before the cheers have ceased to ring, Dr. Flossie Dedmond, a life member of the NAACP and the National Council of Negro Women, will have marked even further on her pilgrimage on behalf of black youth, providing a powerful beacon in the midst of despair.●

PROTECT, NOURISH, AND PRESERVE OUR YOUNG

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BEARD of Rhode Island. Mr. Speaker, tragedy struck Rhode Island in the death of an 18-month-old infant, Shawn Waite. If his North Burial Ground tombstone could talk, it would tell of a collapse of our protection system. The history of the child's existence leaves a gnawing feeling in the social conscience of those who had the courage to read the Providence Evening Bulletin article on Thursday, March 23, 1978, by Stephen P. Morin.

Shawn Waite's life and death command us as a society to examine our conscience, develop answers, and implement programs to protect, nourish, and preserve our young. Child advocacy is paramount, if our Nation is to be an example of an enlightened democratic civilization. Our care must be demonstrated by legislative action. Newspaper headlines across the country reflect that this incident is not an isolated case. As you read the following, I know that you will share in my indignation and resolve to improve the quality of life for children.

THE STATE FAILS TO SAVE A SUFFERING CHILD

(By Stephen P. Morin)

PROVIDENCE.—It was to have been 18-month-old Shawn Waite's first Saturday night stay with his mother in eight months.

And Barbara Tiexeira, Shawn's foster mother since he was taken from his home because of suspected child abuse, was worried.

It was late in the afternoon of last Oct. 8 when Mrs. Teixeira arrived at the Waite apartment on Harrison Street.

She felt something was wrong.

She knocked on the outside door and a friend tooted a car horn. There was no answer.

She tried to look into windows, but the shades were drawn. She banged on the door again. The car's horn blared.

Finally, the door cracked open. Shawn's mother, Rose Waite, appeared "What do you want?" she asked.

"I want to say good night to Shawn," Mrs. Teixeira said. "Can I see him?"

Shawn was carried to the cluttered living room. He seemed lethargic. His face appeared swollen and his eyes looked red from crying. But he managed a faint smile when he saw his foster mother.

Mrs. Teixeira smelled beer on Shawn's breath.

"You been giving him beer?" she asked.

Rose Waite nodded. Yes.

Shawn wrapped his tiny arm around Mrs. Teixeira's neck. He put his head on her shoulder.

When she asked him to "kiss mum," Shawn turned toward his mother. He stared at her with heavy, almond eyes. And then he kissed Mrs. Teixeira on the cheek.

When it was time for Mrs. Teixeira to go, Shawn didn't want to leave her arms. He cried. He kicked. He dug his tiny fingernails into her skin.

Rose Waite had to pin Shawn between her knees to keep him from clawing his way back to his foster mother.

Mrs. Teixeira closed the door behind her. It was difficult.

"I didn't want to leave him there. Almost every night for eight months he had slept with us. He was like my own and I didn't feel right about leaving him with Rose."

Four hours later, Shawn Waite was dead.

Shawn would have celebrated his second birthday today.

He loved orange Popsicles, chocolate chip cookies and Saturday morning TV cartoons.

THERE WAS A DARKER SIDE

And although he could barely walk, Mrs. Teixeira—the woman who knew him best—sensed he would accomplish great things.

But there was a darker side to Shawn Waite's short life. It was one twisted by the fear and violence of child abuse.

He cowered when adults raised their voices. His mother's appearance sent shudders through his body and he would scream uncontrollably.

Police have charged Shawn's mother and natural father with his murder.

Some police say they wish they could charge the system, too. They blame Child Welfare Services—entrusted with Shawn's protection for eight months—with being more concerned with paperwork based on guesses than with the youngster's fate.

The system didn't beat him, police admit. But they feel it just stood by, like an uncaring spectator watching a murder.

"The system just gobbled him up and spit him out—dead," said a craggy-faced, veteran police detective. He was almost moved to tears at the sight of Shawn's beaten body lying in the morgue at St. Joseph's Hospital.

"What do they care? I got a call the day after Shawn died. The guy says he's Shawn's

court guardian. I was so mad all I could say was 'Where the hell were you?' "

Nearly all of Shawn's 18 months was a struggle.

Hospital records show that during his life, he suffered at least five broken ribs.

His left forearm was fractured.

He had a broken thigh.

The roof of his mouth had been left raw with second-degree burns.

During different examinations, doctors found extensive bruises on his back, legs and arms.

"FAILURE TO THRIVE" NOTED

One doctor asked why Shawn had such a "profuse, yellowish-white" bruise on his back. His mother replied she had been trying to relieve chest congestion.

A month later, doctors saw another back bruise. This one was shaped like a hand.

At 14 weeks, Shawn weighed 11 pounds, 7 ounces. At 28 weeks, he weighed 11 pounds, 3 ounces. The doctors noted, euphemistically, Shawn's "failure to thrive."

On Feb. 4, 1977, Rhode Island Hospital staffers first suspected Shawn was a child-abuse victim. They saw he was suffering from dehydration. One of his legs was bruised and swollen; his mother said he had slipped between crib railings.

Besides finding other bruises, doctors observed that 10-month-old Shawn was the height of a baby seven months old and the weight of one three months old.

The hospital called the protective unit of the Child Welfare Services Division of the Department of Social and Rehabilitative Services.

Shawn was admitted to the hospital and a 72-hour "hold" was ordered, preventing his mother and natural father, Robert L. Lewis, from taking him home.

A social worker talked to doctors. He looked at Shawn's bruises. He gave the Family Court a report three days later asking it to remove Shawn from the custody of his parents.

COURT APPOINTED GUARDIAN

Judge Jacob J. Alprin appointed a court guardian for Shawn on Feb. 8, 1977.

Two days later, he received the formal Child Welfare petition. He continued the case to Feb. 17, when another judge Carmine R. DiPetrillo, put Shawn in the temporary custody of the state.

DiPetrillo ordered that visits from Shawn's parents be supervised and permitted only at the discretion of Child Welfare.

On May 12, he continued the state's custody of Shawn. He ordered Mrs. Waite to attend child-abuse classes conducted by Parents Anonymous.

So far, the wheels of the system were running smoothy for Shawn Waite. It seemed possible that his hellish past would become just a bleary memory.

Barbara Teixeira recalls Shawn's arrival at her comfortable, second-floor apartment on Hamilton Street, a stone's throw from Narragansett Electric Co.'s massive brick headquarters.

It was Feb. 7, 1977, and she was going to be his foster mother.

"He looked so scared," she remembered. "His clothes were all ripped. And he was so skinny I almost cried."

It wasn't long before Shawn fattened up on Teixeira family food and love.

He became more outgoing. He learned to smile, hug and even laugh. Within weeks, Mrs. Teixeira recalled, he became a "very happy baby."

Shawn loved to tease his foster sister. He'd mumble his babyish version of a dirty word or phrase when she wasn't looking, and when she turned to scold him, he'd lower his head, shake it and smile.

When she started to leave, he'd grin and spit out the word again.

His favorite game was "kiss mum." When Mrs. Teixeira said those words, Shawn would toddle over and smack her on the cheeks with his lips. Then he'd laugh.

HE BECAME AN EMBRYO AGAIN

There were times when Shawn didn't laugh.

When people got angry, he'd hunch his shoulders, tuck his arms over his chest and draw up his knees. He became an embryo again, protecting himself from the bumps of a cruel world.

If a sharp word was aimed at him, Shawn would duck away. Sometimes he'd cry. Sometimes he'd just hide.

One of his biggest fears was seeing his mother. When she came to visit him at Mrs. Teixeira's house, he'd often become detached and hypnotic.

He'd stare at nothing for long periods of time as if no one else was there.

Judge DiPetrillo's May 12 order increased the number of hours Rose Waite could come in contact with Shawn.

On June 30, the judge again increased her visiting time. She could now take Shawn for a full day without supervision.

His order was based on a report submitted by Shawn's social worker, Dennie Grenier, which noted that Mrs. Waite was regularly attending her counseling sessions.

Grenier's report did not say if Mrs. Waite was making progress during the session. He didn't know. That information is regarded as confidential between counselor and patient.

The report also expressed Child Welfare's underlying philosophy: a child should have as much contact as possible with his real family, even if they have been suspected of abusing him.

Mrs. Teixeira worried.

After just an afternoon with his parents, the boy would return with bruises. He would limp. His lip would be cut and swollen.

Rose Waite said Shawn cut his lip when he bumped into a table. Another time, she said the bruises on his head and back were from a fall down the front steps.

She had a hard time explaining a large blue-white bruise on his lower back two months before he died. Like the mark doctors had noted several months before, the bruise was in the shape of a hand.

SOCIAL WORKER DID NOT COME

Mrs. Teixeira called Grenier. She asked him to come over and check Shawn.

Shawn's social worker didn't come.

The painful mark lasted almost a week. Just about every day Mrs. Teixeira called Grenier. She said he still refused to examine Shawn.

"It got to the point where I felt Dennis thought I was a real pain in the neck," said Mrs. Teixeira. "I was just trying to show my concern."

In the eight months Shawn was entrusted to Child Welfare Services, Grenier visited only three times, said Mrs. Teixeira. (The agency estimated Grenier made "eight or nine" visits.)

All the while, he was writing reports to Family Court urging that Shawn's mother be allowed more time with their son.

Grenier refused to be interviewed.

On Sept. 29, Family Court Judge John K. Najarian—acting on the recommendation of Child Welfare—allowed Rose Waite custody of Shawn during weekends.

The decision was made with a "view of full-time placement with the mother" in about a month, court records state.

And it was made on the basis of a Child Welfare report that claimed Shawn's father—the primary suspected abuser—was no longer living with Mrs. Waite.

At about 10:30 in the morning of Oct. 8, Mrs. Waite came to the Teixeira home to pick up Shawn for his first weekend overnight stay in eight months.

Mrs. Teixeira wasn't there. Her daughter, Barbara Lee, tried to hand Shawn over to his mother.

HE DID NOT WANT TO GO

But he didn't want to go. He screamed and scratched her back and neck as she pulled him toward his mother.

"He was all right until he saw his mother," Barbara Lee told police. "He started crying when he saw her. He cries all the time when he sees his mother."

When she returned from a visit with her sister, Mrs. Teixeira began worrying. She wanted to make sure Shawn was okay.

Between 4:30 and 5 that afternoon, she hugged Shawn in Mrs. Waite's living room. He seemed tired and scared. But there was nothing she could do.

It was the last time she saw Shawn Waite alive.

"There is nothing we could have done to prevent Shawn Waite's death," insisted Margaret M. McDonald, the director of Child Welfare's protective services unit.

"You have to realize the torment our social workers go through when they lose one of their children. They suffer. And they begin to question themselves and their abilities. It's not easy," she said.

In 1977, her agency handled some 200 cases of child abuse. Five youngsters—including Shawn Waite—were killed. That was a record number for Rhode Island.

Mrs. McDonald refused to talk about Shawn's case.

"I'm not going to sit here and second-guess one of my social workers," she said.

But John J. Affleck, director of the Department of Social and Rehabilitative Services, said Grenier based his reports and recommendations to Family Court on "professional judgment and experience."

"He did not go flying blind," Affleck insisted.

Affleck said, "More than nine times out of 10 you gotta be right in these cases. Unfortunately, in this particular one, we made the wrong decision."

However, he said that "even with hindsight, I find nothing that would compel me to say that the plan prescribed for Shawn's reintroduction into the family was not appropriate."

Affleck said the belief that Shawn's father was not part of the household was "quite a contributing factor" in Child Welfare's decision to allow Rose Waite to have Shawn for an entire weekend.

Affleck said he didn't know why Grenier didn't immediately check the injuries reported by Shawn's foster mother.

He said he also wasn't fully aware of what first-hand information Grenier used in making out reports and recommendations to the Family Court.

Chief Judge Edward P. Gallogly of Family Court insisted that those reports provided the basis for the actions taken by the court.

He said the court "exercised caution" in the Waite case, but noted there is no mechanism by which it could check the accuracy of reports from Child Welfare.

"There is nothing the court could have done," he said.

Barbara Teixeira insisted she be allowed to see Shawn's body.

Police told her there was a large cut under his chin and that the right side of his face was a massive bruise. She wanted to see for herself.

Before sunrise the morning after Shawn's death, she was taken to the state morgue.

HE LOOKED SO SAD

Her foster child lay on a table. A white sheet stretched from his feet to his waist.

"His face was purple," she said. "He looked so sad."

When she left, an autopsy was done. Medical examiners said Shawn died of liver damage, apparently caused by repeated blows to the abdomen and back.

His parents said the injuries were caused when they tried to revive him after he stopped breathing.

Shawn was buried Oct. 13 in the North Burial Ground. The next day, his parents were charged with murder.

Mrs. Teixeira bought a marker for Shawn's grave. It is a simple white cross, purchased at local discount store.

"I remember sitting on the porch last summer and watching him in the back seat of his mother's car trying to get out," she said.

"We could hear his screaming even when the car had turned the corner. I gotta live with that."

Tears welled in her eyes as she gazed at a color picture of Shawn propped on her coffee table. He was smiling.●

NEED FOR CIVIL DEFENSE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BRINKLEY. Mr. Speaker, maintaining a strong civil defense program at the Federal, State, and local level is essential to the preservation of American lives in communities throughout our Nation. The prompt and efficient response of our local civil defense teams greatly increases the number of lives saved during natural disasters and other life-threatening emergencies. Natural disaster response capability provides an important spillover benefit. For only by protecting the lives and property of our citizens in peacetime disasters can we hope to protect them in the event of a nuclear holocaust.

The Houston County Civil Defense Unit of Warner Robins and Perry, Ga., has been justly recognized as a model of disaster response for the country. I submit for the RECORD and commend to the attention of my colleagues a Warner Robins Daily Sun article on this group's outstanding community service.

[From the Warner Robins (Ga.) Daily Sun, Mar. 17, 1978]

CIVIL DEFENSE—FIRST SQUAD TO ARRIVE, LAST TO LEAVE

(By Pamela Nault)

Not only is the Houston County Civil Defense (HCCD) one of the first rescue units to answer every fire call in the county, but they are also the last to leave the scene.

HCCD's mission is "to be prepared to meet the needs of distressed persons in any nuclear or natural disaster or emergency situation."

To be prepared, planning, training and many activities of prime importance must be undertaken ahead of time to protect life and property in time of emergency.

To be a member of the rescue squad, a person must be at least 18 years old, of good moral character, have no felony conviction within a 10-year period, and have a valid Georgia driver's license.

They also must have completed a 14-hour light duty rescue course as taught by a certified rescue instructor and a standard 14-hour American Red Cross First Aid Course.

"As a rescue squad member, they are authorized then to work only under the direction and supervision of a local civil defense director, his designee or state civil defense," said Ed Wagnon, director of the HCCD.

Besides Wagnon, other HCCD full-time members are Deputy Director Bob Sapp; Capt. Charles Oswalt, unit chaplain; Sgt. Bill Powell; Sgt. Verna Kirkham, and secretary Becky Kulcsar.

The HCCD also has 40 volunteer members.

"We are authorized for 50 volunteers and are seeking 10 more to fill the quota of members," said Wagnon.

Approximately 70 percent of the volunteers are men and 30 percent are women.

"We encourage participation by women," said Wagnon. "They are especially helpful in the consoling role of the civil defense. We consider it an advantage having a chaplain in our unit as well as five husband and wife teams."

The unit is equipped with two rescue trucks, another rescue vehicle and a 2½ ton truck for carrying generating equipment.

They also have two john boats, a 19-foot ski barge, a jeep and additional trailers for generating equipment.

"All rescue vehicles have first aid equipment on board," said Wagnon. "We act as first aid back-ups for victims of the county fires as well as treat the fire fighters for minor injuries and smoke inhalation. In an emergency situation we also contact the hospitals for ambulance service."

But fires are only a part of their rescue mission. They play an important role in natural disaster incidents.

They have a mutual pact with other Georgia counties and the state civil defense whereby they assist in disasters throughout the state.

In a vast area, the counties will work together to find lost people on land and in the water.

The HCCD assisted in the Ft. Valley tornado that occurred in February, 1975, and they were also dispatched to the Toccoa Falls dam break that killed 39 last November.

"Additional forces are usually called for in natural disaster situations," added Wagnon. "The state civil defense considers the HCCD one of the best in the state, so we are often called to assist in statewide incidents."

The HCCD has a similar working relationship with the disaster preparedness office at Robins AFB.

Because of the variety of missions the HCCD workers participate in, training is continuous. All the members must be state certified every two years.

"They attend training classes every month," he said. "Learning weather watching and tracking, radiological definition, first aid and training in all types of rescue techniques and equipment is all a part of their training."

The HCCD is headquartered at 700 Watson Boulevard in the City Hall Complex with an additional unit in Perry.

With the exception of one rescue vehicle stationed at headquarters, the remaining vehicles are kept at the Houston County Sheriff's Department.

"At least a two-man team responds to every call," said Wagnon.

The HCCD is prepared for action 24 hours a day, everyday.●

THE PRESIDENT IN AFRICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Washington Post.

The editorial follows:

[From the Washington Post, Apr. 4, 1978]

THE PRESIDENT IN AFRICA

Frankly, we liked the administration's Rhodesia/Zimbabwe policy better before the president dropped in on Nigeria. A month ago, for instance, soon after Ian Smith agreed to turn over power to an elected majority-rule government later this year, the administration was still complaining that he had not opened the door to the guerrillas sworn to destroy him. But there was, too, recognition that the agreement between Mr. Smith and "international black nationalists reflected "some progress . . . a step in the right direction"—as, of course, it did.

In Lagos, however, Mr. Carter seems to have subscribed to Nigeria's uncomplicated fervor for a Popular Front guerrilla victory. The final communiqué omitted any mention of progress in Salisbury, though multiracial interim government now actually exists here. Rather, the communiqué (signed for Nigeria its unelected military leader) pronounced the initial procedure "unacceptable as it does not guarantee a genuine transfer of power to the majority"—as though the guerrillas, who have refused to settle for the share of power they might expect to win in elections, will consummate "a genuine transfer of power to the majority" if they win by force of arms.

We understand that the administration seeks to sew internal and external forces together, the better to bring peace to Zimbabwe, preempt Cuban-Soviet intervention, and show South Africa that peaceable change works passably well. Those the worthy purposes. But Mr. Carter's pursuit of them can be painful. Virtually all his rhetoric favors the external people. He holds Salisbury to lofty moral and political standards, while often appearing to wink at failings of the Popular Front. He refuses to say the one thing that might most clear the air: that if the guerrillas reject a fair opportunity to come home while Salisbury moves to honest majority rule, the United States will go with Salisbury. His performance is all the more baffling when you consider that the internal settlement looks to be more democratic, moderate and multiracial than any government the guerrillas might construct.

Does the United States gain respect for itself and a hearing for its policies—among internal or external Rhodesians, in Nigeria or elsewhere in Africa—by conveying an impression that it will do practically anything to win liberationist credentials? We doubt it, and we think the president doubts it, too. Indeed, in Lagos he conspicuously did not do the easy, popular-in-Africa thing with respect to South Africa, choosing instead to affirm the United States' own, less militant policy. His hosts did not like it, and said so. But on their part, they withheld any real support for the American effort to limit Soviet-Cuban intervention in Africa. Such candor—and continued discussion—is what good friends, especially those trying to become better friends, owe each other. It should be applied to Rhodesia, too.●

WHAT AMERICA COULD—AND SHOULD—DO IN AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. McDONALD. Mr. Speaker, our African policy is in shambles. The U.S.S.R. together with its hired mercenaries from Cuba, are winning the continent hands down due to American timidity, ineptitude and our love affair with the African terrorists. Smith Hempstone, in a recent article that appeared in the Richmond Times-Dispatch of March 31, 1978, suggested some concrete things America can and should do without risking an American soldier. All of his suggestions make sense. President Carter appears to simply lack the will to do what is necessary. He had better wake up soon to the fact that what is going on in Africa is not a march to Selma, it is a struggle for control of a continent with its rich raw materials and the strategic waterways it controls. There will be no second prize, either Marxism triumphs or the Free World triumphs. At the moment, the scales are weighted heavily on the side of the Marxists. The column follows:

WHAT AMERICA COULD—AND SHOULD—DO IN AFRICA

(By Smith Hempstone)

WASHINGTON.—President Carter is scheduled to make a major speech on African policy tomorrow in the Nigerian capital of Lagos.

It ought to be one of his shorter speeches, since his administration has no African policy other than one of capitulation in the face of Russo-Cuban pressure.

The nearly 15 months Carter has been in office have been disastrous ones for the West's African friends, black and white. That they have not been even worse is due less to American policy than to the efforts of less timorous powers such as France, Morocco and Saudi Arabia, which have gone to the aid of hard-pressed moderate regimes in Zaire, Chad and Somalia.

The United States has refused to support the creation of moderate multiracial regimes in Rhodesia (Zimbabwe) and Southwest Africa (Namibia). We have stood by while U.S. advisers have been chucked out of Ethiopia by a bloodthirsty neo-Marxist regime that has inflicted a reign of terror on its own people. We have wrung our hands while 13,000 Cuban troops have swept the Somalis out of the Ogaden.

It is not much of a record. And unless there is a marked turnabout in American policy—which nobody expects Carter to announce in Lagos tomorrow—worse is yet to come.

The pattern of Russo-Cuban intervention in Africa is clear, and one need not be a prophet to predict what is going to happen in the remainder of 1978 if Andrew Young continues to call the shots (all of them blanks) for Washington.

With the Ogaden subdued, the Russians and their Cuban surrogates will crush the rebellion in Eritrea, the northern province Ethiopia unilaterally annexed 16 years ago. Only the presence of a token French force—and perhaps not that—will prevent Ethiopian annexation of newly independent Djibouti terminal of the railway linking Addis Ababa with the Red Sea.

With the eastern horn of Africa neatly locked into the Soviet orbit, Moscow and Havana can be expected to zero in on an even richer prize: mineral-rich southern Africa, with controls the sea lanes around the Cape of Good Hope.

There will be an intensification of the Marxist-backed guerrilla war against the multiracial regime established in Rhodesia March 21. Similarly, an increase in the flow of Russian arms and money to communist-supported insurgents in Namibia can be anticipated. By the end of the year, fighting may well have spilled over into South Africa.

There are a number of things the United States could do to stem this tide of communist aggression in Africa, steps that would not require the commitment of a single American soldier or the expenditure of large sums of money.

The United States could—and should—immediately lift the economic embargo against Rhodesia and announce that we will extend diplomatic recognition as soon as elections are held there on a democratic basis. This would encourage the new multiracial Rhodesian regime, curb the tide of white flight and put pressure on the guerrilla leaders to participate in the settlement.

The United States, for the same reason, could—and should—assert that it will support the creation of a similar multiracial regime in Southwest Africa (Namibia), one that would neither surrender power to the guerrillas nor exclude them from the political process once they laid down their arms.

Meanwhile, to tie down the 13,000 Cuban troops in Ethiopia, the United States could—and should—give the friends of the Somalis (the Sudanese and the Saudis) the green light to support the insurgents in Eritrea and the Ogaden.

To keep the 25,000 Cubans in Angola out of mischief in Rhodesia and Namibia, the United States could—and should—give some under-the-table financial support to Jonas Savimbi's pro-Western UNITA guerrillas, who already control about a third of that Marxist country.

Neither the Russians nor the Cubans are 10 feet tall. Their successes in Africa have been due less to their valor, cleverness and efficiency than to the weakness and stupidity of American policy. We have been handing the continent to them on a silver platter.

The United States has the means to stem and eventually roll back the communist tide in Africa. What has been (and remains) lacking is the vision and the will to do so.

One would like to think that Carter, in tomorrow's Lagos speech, will tell the world America is prepared once again to act like the great power it is, that we will neither abandon our African friends nor abdicate our responsibility to oppose the expansion of communist tyranny on the continent.

But largely because the president for domestic political reasons dares not face a confrontation on Africa policy with Andy Young, there is virtually no chance this will happen.

And that's too bad for Africa. And for America. ●

FOUR DAYS IN HOUSTON

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. FRASER. Mr. Speaker, the National Women's Conference in Houston was an historic occasion. Many Americans participated in the preceding State conferences as well as the national conference.

These conferences were highly visible and, because they were pioneering, controversial. We are still interested in the reactions of those who attended the conferences. For that reason, I would like to insert in the RECORD an article by Suzanne Crowley from the winter, 1978, issue of the Civil Rights Digest, as follows:

"FOUR DAYS IN HOUSTON"

The crowd at the Park Overlook just outside downtown Houston was expectant. Rain threatened, but enthusiasm grew. Finally, off in the distance the swarm of joggers in blue T-shirts appeared against the backdrop of still-green grass. Led by three young women—black, white, and Chicana—the group circled around to join those waiting to run the last mile into Houston. Cheers went up, and the chanting reached a crescendo: E-R-A, NOW! The three torch bearers, their fellow runners, the crowd, and the assembled celebrities began a triumphal march into Houston.

The rain began, but there was no thought of turning back. The march assumed a campaign air; reporters and photographers surrounded the leaders, and TV crews were swept backward as they filmed the scene. Exultant, the marchers caught sight of the crowd waiting at the convention center. A roar went up as the torch was handed to those on the podium, and the crowd joined with Susan B. Anthony, niece of the great suffragist, as she repeated her aunt's famous words: "Failure is impossible!"

It's a long way from Seneca Falls, N.Y., site of the first national meeting devoted to the cause of women's rights, to Houston, Texas, site of the 1977 National Women's Conference. Over 2,000 women participated in the relay that brought the torch from New York to Houston, a distance of 2,610 miles. Countless hundreds of thousands of women have participated in the struggle for women's equality in the 125 years since that first convention. The blue T-shirts worn by the relay runners bore a slogan that stood for all of them—"American Women on the Move"—and the Houston meeting was designed to demonstrate that those were not empty words.

It was 3 years earlier, in January of 1975, when President Gerald Ford created the National Commission on the Observance of International Women's Year. That same month, Congress passed a law initally proposed by Rep. Bella Abzug calling for a national women's conference to be attended by delegates elected at 56 State and territorial meetings. The conference was to be organized by the IWY Commission in part to:

(1) recognize the contribution of women to the development of our country;

(2) assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) assess the role of women in economic, social, cultural, and political development;

(4) assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations by which such barriers can be removed.

It became quickly apparent that the IWY

Commission's work would not proceed without controversy. The Commission made clear its support of the Equal Rights Amendment from the beginning. Accusations that the Commission was lobbying in violation of Federal law led Comptroller General Elmer Staats to rule that Commission activities to promote understanding of the impact of ERA were perfectly legal. Opponents of the ideas advanced in the Commission's 1976 report, "To Form a More Perfect Union," took another tack and eventually focused on the State meetings.

The meeting began quietly enough. The first one was held in snowy Vermont on February 26, 1977, and hundreds more came than conference organizers anticipated. Many were attending their first meeting concerned with women's rights. The discussion was positive, and organizers felt the meetings could develop into arenas that would involve women hitherto inactive in the women's rights cause. The sponsorship of the Federal government lent an aura of respectability that no private group could attain on its own.

Organizers in other States did as Vermont did, and sought out as wide a spectrum of women's organizations as possible. The meetings were open to the public, women and men. Most took place in spring and early summer. Naturally, differences of opinion arose, but it was not until the beginning of July that confrontation politics began to dominate the proceedings.

Many observers believe the Utah meeting was a turning point. Utah organizers reached out to groups of every political and religious persuasion. To their surprise, 12,000 Mormon women registered at the State conference, which attracted a total of 14,000 people. An anti-ERA delegation was elected, and the success of the conservatives sparked efforts elsewhere.

Barbara Smith, general president of the Relief Society of the Mormon Church, told a Honolulu newspaper, "After we had our Utah convention, we began to encourage women all over the country to get actively involved in their State conventions." Smith says she wanted women to participate out of their "concerns as citizens and not as part of their church responsibility." But Don LeFevre, a spokesperson for the church, told a New York Times reporter that the Relief Society encouraged its members to "vote for correct principles." The principles were supplied to members in the form of Mormon Church position papers on ERA, abortion, and other issues, according to LeFevre, "in case they had any questions."

Some had hoped that the Utah meetings would provide an opportunity for real dialogue on women's problems. Such an opportunity did not materialize, although Jan L. Tyler, a Mormon supporter of ERA and former teacher at Brigham Young University, thought some barriers had fallen: "A lot of them are beginning to transcend their own conditions and say that there are other women in the world who find themselves in circumstances very different from mine."

The Mormon role raised anew the knotty problem of politics and religion. Clearly, in a State that is overwhelmingly Mormon, but where polls indicate 52 percent of the population supports ERA, a lot of soul-searching is going on.

During the Houston meeting, the elected Utah delegation issued a press release objecting to characterization of their church hierarchy as a radical right-wing group. The appointed at-large delegates who were pro-ERA supported the concern of the first group, noting, "We sympathize with the delegation's resentment at being labeled 'radicals.' As at-large delegates, we ourselves have been so labeled in our own State. . . . We encourage the assembled body to continue to accord the Utah delegation the courtesy and attention they deserve."

While little dialogue occurred at the Utah meeting, the elected delegation did study IWY's proposed National Plan of Action and decided to support parts of it. But in other States, anti-IWY forces rejected the proposed plan wholesale, and State meetings saw acrimonious floor fights between conservatives and liberals. In Mississippi, the Ku Klux Klan claimed credit for the election of an anti-IWY group that included five men and no blacks. In Alabama, 22 of 24 delegates were white. In all, a total of 10 States elected delegations that opposed most of the goals of the IWY Commission.

The law governing the national conference specified that it be composed of:

(1) representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and

(2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

Challenges were filed to State delegations whose membership did not reflect these categories, as well as by conservatives who complained of election irregularities in State meetings. All challenges were rejected by the Commission, which noted that the only ground for challenges was election fraud, despite the clear congressional intent that balance be achieved. However, the Commission issued a statement noting its concern:

". . . over the unrepresentative composition of several State delegations; a result of apparent right-wing control that contradicts the spirit of the law calling for a delegate balance at the National Conference according to racial, ethnic, religious, and age and income groups."

The Commission blamed:

". . . a concentrated effort by right-wing groups to discredit International Women's Year through factually inaccurate misrepresentations in the press, and to pack State meetings with people hostile to the legislation's goal of equality for women. . . ."

The statement concluded:

"The IWY Commission is empowered to balance the national delegate body according to the groupings mentioned in PL 94–167 through the appointment of delegates-at-large. We will do that. But we wish here to record our outrage on the basis of fairness to the citizens of particular States that their delegations, regardless of question of viewpoint, do not represent the true demographic balance of those States."

Following the State meetings, press interest in the National Women's Conference soared. Columnists of all persuasions began taking note of what they predicted would be a showdown in Houston. The meeting was transformed from a get-together many thought would be routine to a show of strength for the women's movement and the conservative opposition. Originally, many women's rights groups gave the meeting second priority, fearing it would drain energy from ratification of ERA and the struggle to preserve abortion funding for women on welfare. But after the conservatives began to organize, women's groups rallied to prevent what they perceived to be a possible disaster in the making.

One result was the organization of the "pro-plan" caucus. The main item of business at the conference was to be adoption of the National Plan of Action to be forwarded to the President and the Congress. The IWY Commission had developed a proposed plan from the recommendations submitted by State meetings and from its own staff work. The pro-plan caucus was designed to build a coalition on the floor in support of the IWY recommendations.

The multiracial, multiethnic caucus was convened by 11 delegates from 10 States. Its statement of purpose, issued in advance of the meeting, declared: "Pro-plan delegates believe that the plan is a basic, workable document which summarizes what government and other institutions in our society must do to provide full equality for women."

In anticipation of "delaying tactics designed to defeat the will of the majority" many pro-plan people "in the interests of moving the agenda and passing the entire plan, decided to forego attempts to strengthen or alter specific [proposals]."

The caucus organizing efforts, funded by donations, included contracting every delegate thought to be sympathetic to the plan, making the caucus's existence known to the press, and soliciting the support of women's groups. A system of floor captains and monitors was set up to deal with the conference itself, and plans were made to hold at least one major meeting of delegates prior to the plenary sessions.

Preconference activities by those opposed to the plan included the above-mentioned mobilization for State meetings, as well as attempts to gain media attention for alleged IWY abuse of Federal funds and for views opposing the plan proposals. Senator Jesse Helms of North Carolina held an ad hoc hearing at which anti-plan witnesses expressed their views. He inserted his account of the hearing in the Congressional Record, and it was widely reprinted.

A Citizens Review Committee for IWY issued news memos on IWY spending, the conduct of State meetings, and the content of the plan itself. Lawsuits were filed, chiefly in Illinois, challenging alleged lobbying activities of IWY on behalf of ERA and Federal funds for abortions. The last suit was dismissed December 13 for lack of evidence.

Leaflets were distributed, including a typical one titled "Federal Festival for Female Radicals," which summarized the viewpoint of the Citizens Forum of Fort Worth, Texas, as follows:

"Our Nation is not embroiled primarily in a battle of the sexes, but a battle of philosophies—between those who hold the pro-family biblical values upon which our Nation was founded, and those who embrace the humanist/feminist philosophy."

Elsewhere, the conference majority was described as embracing the "ERA/abortion/lesbian philosophy."

With the lines thus drawn, the National Women's Conference opened amidst some trepidation. The first and major snafu of the weekend, however, occurred not on the floor, but when hundreds of women appeared on Friday to check into their hotel rooms. The rooms, and the hotels, were simply not prepared for the deluge.

In what has since been called "one of the American hotel industry's biggest-ever gaffes," people waited in lines for hours and hours—some past midnight. Hotel lobbies were jammed with luggage that could not be moved without room assignments, and the scene began to resemble a disaster headquarters. A mood was established—well-expressed on the front of a souvenir T-shirt: "I survived the National Women's Conference."

No description of the setting for the conference would be complete without mention of the press corps, which numbered over 1,300, included network television and radio, local media, daily newspapers, the feminist press, photographers, and freelancers. Gavel to gavel coverage was provided by Houston's

educational TV channel and by KPFT–FM. Special editions of Breakthrough, a Houston alternative paper, served as the conference daily newspaper. Press arrangements for floor passes were modeled on those used for national political conventions—the only comparable standard. The intense media interest, although somewhat eclipsed by Middle East developments, added to the general air of excitement and anticipation.

The conference opened Saturday morning with speeches and ceremonies. First Lady Riosalynn Carter, Betty Ford, Lady Bird Johnson, Houston Mayor Fred Hofheinz, Congresswoman Barbara Jordan, IWY Commissioners Gloria Scott, Maya Angelou, and Liz Carpenter, and presiding officer Bella Abzug all participated. A stirring presentation of the Seneca Falls torch that arrived in Houston the day before added the requisite pageantry.

It seemed, once the assembly had finally gathered, quite safe to predict, as did Bella Abzug in her speech:

"After this weekend, the whole Nation will know that the women's movement is not any one organization or set of ideas or particular lifestyle. It is millions of women deciding individually and together that we determined to move history forward.

"The women's movement has become an indestructible part of American life. . . . It is all of us here and all of the women out there who say the time for equal rights has come."

Keynoter Barbara Jordan added:

"At a time when this country is drifting, if it is not shifting, to the right, civil rights and affirmative action efforts are lagging. . . . This is the time for foot soldiers, not kamikaze pilots. . . .

"The Congress approved $5 million with its congratulations, but if we do nothing here productive, constructive, or healing, we will have wasted much more than money. We will have wasted, lost, negated an opportunity to do something for ourselves and for generations which are not here.

"Not making a difference is a cost we cannot afford."

The afternoon session began with remarks by Jill Ruckelhaus, former presiding officer of the IWY Commission, and Judy Carter, the President's daughter-in-law, who has become en effective speaker on behalf of the benefits to be derived for homemakers from passage of ERA. Finally, midway through the afternoon, consideraion of the National Plan of Action began.

The 26 planks in the plan began with arts and humanities and ended with a proposed Federal women's department. The question was quickly called on the first item, and the resolution passed overwhelmingly on a standing vote—the counting method employed throughout the weekend. Battered women, business, and child abuse came next, and then child care. One delegate linked Federal funding for the latter to the development of Hitler youth camps, but the majority was unimpressed. It became quickly clear that pro-plan delegates had the situation well in hand, and their confidence increased.

After passage of the resolution on credit, the first emotional high point occurred with the introduction of a substitute resolution on disabled women. In the pro-plan caucus meeting for all delegates held Friday night, it had been agreed a substitute would be supported on the floor after a moving plea was made by a disabled delegate for stronger, more specific language. The substitute, written by the disabled women's caucus, passed with nearly unanimous support in an impressive display of discipline by pro-plan forces. On that high note, the conference recessed for dinner, aware that a long, grueling night session lay ahead.

The evening session began with remarks by Congresswoman Margaret Heckler, Assistant Secretary of State Patsy Mink, and Helvi Sipila, Assistant Secretary-General for Social Development and Humanitarian Affairs of the United Nations. Attention then turned to consideration of the resolution on education. Amendments were offered to eliminate race along with sex stereotyping, to include nonracist along with nonsexist counseling, and to encourage the development of women's studies. The resolution passed as amended.

The resolutions on elective and appointive office and on employment passed as originally written, making way for consideration of ERA—which, as it became quickly apparent, was one of the delegates' prime concerns. The resolution's introduction was met with a deafening standing ovation as delegates shouted pro-ERA slogans in a mass floor demonstration. An attempt to hinge endorsement of ERA on its ratification within the 7-year period currently provided failed. The delegates, who were most likely split on the wisdom of extending the ratification period, refused to be distracted by what they perceived to be an effort by ERA opponents to divide them.

A substitute resolution opposing ERA was ruled out of order by the chair as incomplete; resubmitted in writing at least twice, it still ended with an incomplete sentence. While the proceedings halted during the resubmissions, the New York delegation revved up for passage of the resolution by singing "The Sidewalks of New York." They were ruled out of order by presiding officer Bella Abzug.

Finally, the vote was taken, and the demonstration that followed passage of the resolution somehow managed to surpass the one greeting its introduction; all that was missing in the hoopla was the proverbial brass band. Wisconsin and California took their State standards and paraded round the hall as the rest of the delegates and the gallery shouted "three more States" in unison and ended with a rousing rendition of "God Bless America."

Well-satisfied with their night's work, the pro-plan delegates voted to recess until Sunday noon, when an even longer 8-hour plenary was scheduled. Antiplan delegates, outmaneuvered and outvoted on the floor, could look forward to the press coverage of the pro-family rally held on the outskirts of Houston during the Saturday afternoon session.

The "pro-family" rally, conceived to counter the IWY meeting, drew anywhere from 12,000 to 20,000 people, depending on whose figures are used. It included speeches by Phyllis Schlafly, vocal ERA opponent and long-time conservative, and Clay Smothers, a black Texas legislator who once supported George Wallace.

Smothers declared, "I want the right to segregate my family from these misfits and perverts." Schlafly asserted, "American women do not want ERA, abortion, lesbian rights, and they do not want child care in the hands of government." Both received fervent support from the nearly all-white, mainly female audience.

Not surprisingly, the anti-IWY show of strength had little effect on conference participants. Sunday they picked up where they had left off, listening first to Commissioners Carmen Votaw and Cecilia Preciado Burciaga and then to anthropologist Margaret Mead. The next resolutions, on health, homemakers, insurance, international affairs, and media, passed without incident.

Then came the introduction of the resolution on minorities. Many delegates waited expectantly; they knew a substitute written by the minority caucus was in the offing. (The pro-plan caucus had agreed to support the substitute after minority delegates objected in the caucus meeting to the brief resolution submitted by IWY. Discussion then centered on whether to try to improve each plank by integrating the concerns of minority women or to amend the minorities resolution alone. Given time constraints, the latter proved to be the more practical course, if the less satisfactory one.)

Maxine Waters, a black delegate from California, began reading:

"Minority women share with all women the experience of sexism as a barrier to their full rights of citizenship. Every recommendation in this Plan of Action shall be understood as applying equally and fully to minority women. But institutionalized bias based on race, language, culture, and/or ethnic origin or governance of territories or localities has led to the additional oppression and exclusion of minority women and to the conditions of poverty from which they disproportionately suffer. . . ."

Waters went on to list the most pressing problems—involuntary sterilization; monolingual education and services; high infant and maternal mortality; bias against minority children; low-paying jobs and poor housing; culturally biased testing; affirmative action and special admissions; bias in insurance; and failure to cross-tabulate data by both race and sex.

In turn, a spokesperson for each caucus within the minority coalition rose to read the sections on American Indian and Native Alaskan women, on Asian and Pacific women, on Hispanic women, on Puerto Rican women, and on black women. As Coretta Scott King finished the last section and moved the adoption of the substitute, the delegates cheered and gave her a standing ovation.

The yes vote was overwhelming and included many women opposed to other parts of the plan. A snake dance broke out on the floor as delegates embraced each other and sang "We Shall Overcome." While support for ERA was loud, the reaction to this resolution seemed more heartfelt and more spontaneous. The delegates had won a victory of their own making, and the unity displayed on the floor must forever put to rest any doubt that women of all backgrounds share the goal of women's equality.

When the commotion died down, the assembly went on to pass the offender resolution and the resolution on older women as amended from the floor. The majority then supported an amendment to the rape resolution that was troublesome to many. The original proposed that the past sexual history of a victim be introduced in court only after a judge had decided it was relevant out of the presence of the jury and the public. The amendment would prohibit the introduction of such evidence in any case, a provision that many believe is probably unconstitutional.

The meeting then took up the reproductive freedom proposal, otherwise known as the abortion resolution. The chair, Anne Saunier, who performed heroically throughout the session, called for equal time for pro and con debate.

The resolution began simply: "We support the U.S. Supreme Court decisions which guarantee reproductive freedom to women." It went on to support Medicaid funds for abortion, oppose involuntary sterilization, and support sex education and family planning services.

Debate on this issue is always difficult and the conference was no exception. One antiabortion delegate acknowledged that "many of you here, although there is a serious divergence of opinion, are devoted mothers and

love your children as much as I love mine." But she believed that embryos and fetuses were entitled to the same rights as born children. For her, and for those who believe that fetuses before viability are not the same as human beings or that women have the right to decide the issue for themselves, there simply is no compromise.

Emotions ran high, and when the resolution passed easily, the anti-abortion delegates began to sing, "All we are saying/is give life a chance." Others responded by chanting, "choice, choice, choice!" For them, the issue was also life—the lives of women lost in illegal abortions or in childbirth where abortions were unavailable. Thus polarized, the struggle on this issue will undoubtedly continue.

After amending the resolution on rural women to include an investiagtion of the Louisiana sugar cane plantation system and to include concerns of each minority group in any programs developed for rural women, the conference moved to the sexual preference plank. The debate took place on two levels: whether endorsement of civil rights for lesbians was appropriate for the conference, or whether it was appropriate at all. One delegate called the issue an "albatross on the neck of the feminist movement" and a hindrance to passage of ERA. Another voiced the opinion that homosexuality was against God's will.

But the majority supported the position taken by Ellie Smeal, president of NOW, who said that "human rights are indivisible . . . when we march together for equality, we will march as heterosexuals and homosexuals, as minority women and majority women, as rich and poor—we will all go forward together as full human beings."

In a dramatic turnabout, author Betty Friedan stated, "I have been known to oppose this issue within the women's movement . . . but ERA will do nothing for homosexuals." Frieden went on, "Therefore we must protect lesbians' civil rights . . . let us waste no further time and pass this resolution."

The question was called and the pro-plan caucus majority held. Supporters of the resolution in the gallery let loose balloons and began a victory celebration. They stopped long enough to say in unison to the delegates, "Thank you, sisters!" before adjourning for a press conference outside the hall.

Passage of the proposal on statistics left one resolution on the agenda for the day—welfare and poverty. Again, a substitute supported by the pro-plan caucus was adopted. It was more detailed and comprehensive than the original and called for strengthening a variety of programs. It opposed the Carter Administration's welfare reform bill on the grounds that training and better jobs now provided by the Comprehensive Employment and Training Act, as well as food stamps, would be eliminated and that recipients would be required to "work off" their grants.

With one remaining resolution—on a Federal women's department—to be considered the next day, along with implementation and new business, the meeting recessed with a great sense of accomplishment. Not only had disaster in the form of chaos or confrontation been averted, but a positive feeling of forward movement and revitalization had been achieved. Pro-plan delegates, at least, awaited the final session in a relaxed mood.

Perhaps things got too relaxed. On Monday morning, for the first time, the plenary session appeared disorganized and undisciplined. The agenda was rearranged without much explanation and the women's department resolution was delayed. Delegates became restless. The department was the one issue on which pro-plan forces were divided, and now that the other business was over with, its opponents were ready to vote as they saw fit. Many believed a women's department would isolate women's concerns when the goal had been to integrate them into all levels of government.

Finally, delegate pressure forced the issue to the floor, and the department was voted down. A resolution passed setting up a continuations committee to provide for the convening of a second national conference. Indiana State Senator Joan Gubbins led a walkout of the anti-plan delegates, chanting "rubber stamp, rubber stamp." It appeared adjournment was in order, and it was so moved. Delegates joined in a closing round of song, and the National Women's Conference was over.

While the conference plenaries were clearly the main arena, they were not the only show in town that weekend. Conference organizers also provided a running series of briefings from the top by prominent women government officials. A film festival ran continuously; a large exhibit area contained booths displaying the wares of government agencies, trade unions, women's and professional organizations, and a host of other sundry groups. Panels on women and the arts were available; a potpourri of activities went on in an area called "Seneca Falls South," including entertainment on the Seneca Falls Stage. Skills clinics were conducted with such titles as "Legal Remedies to Employment Discrimination" and "Marriage, Separation, and Divorce."

An international lounge provided an opportunity to meet foreign guests invited to the conference by the State Department. It was impossible to take it all in.

Will the National Women's Conference have lasting impact? If so, what will it be?

By July 1978, President Carter is required to submit to Congress his recommendations for action based on the National Plan of Action as adopted in Houston. His response to the plan will be closely watched by women's groups and all those involved in the conference.

In the meantime, anti-plan forces are, in a way, pleased with the results of the meeting. They believe the inclusions of abortion and lesbian rights will be the death knell for the Equal Rights Amendment.

Many others are not so sure. They believe the conference must be viewed as a setback for conservatives. Despite dire predictions, things went well. The agenda was completed with a minimal amount of wrangling; lots of enthusiasm was generated for ERA and other battles; and strict adherence to parliamentary procedure blunted charges that the conduct of the debate was unfair.

Further, it is not clear how cohesive the anti-plan group really is. Phyllis Schlafly and her Eagle Forum organization advocate positions on a wide variety of issues—opposing both ERA and the Panama Canal treaty, for example. The Eagle Forum is allied with other conservative groups whose positions may alienate the rank and file in the anti-IWY movement. Senator Gubbins told the press that the anti-plan's minority report implies abolition of the Federal minimum wage. Few Americans of any persuasion would discard minimum wage. While the right appears to be growing, it is more likely that with the increased polarization on key issues, both sides have become more organized and have gained more visibility.

Pro-plan forces, on the other hand, have much to be pleased with. They not only survived, they prospered. New unity was forged among various organizations and groups of women. For the first time, they all met under one roof and, facing a common enemy, they cooperated as never before. The plan they adopted is the stuff of which coalitions are made, and organizing has already begun.

The Women's Conference Network, organized by the American Association of University Women, includes over 40 groups. The Network plans to draft legislation on the plan and mobilizes for its adoption in Congress.

What chance of success does the plan have? Despite the enthusiasm of its supporters, it may face rough going. It could use refinement and correction, to be sure, but the real problem lies in its enactment. In a time of fiscal retrenchment and ideological hostility to further efforts to overcome sex and race discrimination, new measures to gain equality will face determined opposition. The plan, after all, is just a document, in some respects much like a political party platform or a set of campaign promises. It will require a strong constituency to assure its fulfillment.

For better or worse, "the feminist issue has become part of the national political debate," according to author Lucy Komisar. "Proponents and opponents of women's rights have taken their places in the general alignment of Right and Left." This development requires new sophistication, greater resources, and even more determined organizing in the years ahead. Houston may well be seen as a watershed in this process. ●

CONGRESSMAN ROBERT DUNCAN'S VIEWS ON ARMS EMBARGO AGAINST TURKEY

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ULLMAN. Mr. Speaker, with this morning's papers carrying reports of an impending confrontation between Congress and the administration over President Carter's proposal to lift the arms embargo against Turkey, I firmly believe that we must look upon this as an opportunity to assess the performance of this embargo in influencing progress toward a just settlement of the dispute on the island of Cyprus. Second, we must weigh this performance against the implications of the embargo's role in the deterioration of U.S. and the NATO alliance's security interests in the eastern Mediterranean.

On March 30, shortly before the press announced the administration's intent to ask for a change in this policy, my colleague from the State of Oregon, Representative ROBERT DUNCAN, addressed these issues before a gathering of the World Affairs Council of Oregon. As Congress and the public turn their attention to this subject, I would commend Representative DUNCAN's remarks for your consideration:

SPEECH BY CONGRESSMAN ROBERT B. DUNCAN

Many months, indeed a couple of years ago, the World Affairs Council was kind enough to invite me to speak. At that time the problem of the Panama Canal existed, but simmered on a back burner as do so many while our cooks are busy with those boiling over on the front of the stove. I had just returned from a visit to Panama, arranged not only because of my Appropriations Committee responsibility for financing the Canal opera-

tions and the government of the Zone, but also because I still remembered the conflict and riots and deaths of the 1960's. Vietnam was not yet just a painful memory. The thought of past opportunities lost in Panama, in Asia, in the Middle East and elsewhere, together with the apprehension of the potential for trouble still to come in the Isthmus, made it imperative that I inform myself as best I could, and that required a trip to Panama.

Similar concern, again coupled with Appropriations Committee responsibilities, for the almost unnoticed negotiations with respect to the future status of the Trust Territories of the Pacific, led me to sandwich in a visit to Guam, Saipan, Truk and Ponape a year ago in December. The future of vast areas of the Central and Western Pacific, stained with the blood of American soldiers and sailors and marines from Kwajalein to Iwo Jima, is at stake.

The American people scarcely know that there is a new U.S. Commonwealth of the Northern Marianas, and the executive branch of our government has not yet, to my knowledge, devised a clear and united policy, nor scarcely defined U.S. objectives. In the meantime, I have formed close friendships with the leadership of Micronesia, an affection for their people, a love of their widely scattered and still sparsely populated tiny islands, and believe I can be increasingly helpful in focusing attention, fostering discussion and in formulating solutions before any crisis arises.

Today our attention is centered, as it has been off and on since 1948, on the massive, intractable, world-threatening problem of Israel. Thirty years of papering over the huge cracks of recurring crisis (some erupting into war and some averted to another time), without ever coming to grips with the Palestinian problem and permitting it to fester through and into three generations, has resulted in the boil bursting into world-wide terrorism, and world-wide economic inflation and crises. It has also resulted in an Israel that has survived and will survive, but an Israel whose massive military might cannot stop the murder of its people but can exact revenge on the guilty and innocent alike in neighboring Lebanon. The secure borders that Israel and the world so much desire cannot be achieved with land and fortifications. The only secure border is one with friends living on both sides. Friendship begets friendship. And the chance offered by Sadat's visit to and reception by Israel, must not be lost but must be revived. Israel must be as quick to rise to the challenge of peace as it is to respond to the challenge of force.

I say this without the benefit of having been to the Middle East, either to Israel or the Arab nations, and with full recognition of the resulting limitations on my knowledge and understanding.

Likewise, I address myself to the problem of Cyprus without the advantage of first-hand knowledge, with only a visit to some of the NATO countries, including Greece but not Turkey, to aid me.

I speak also as one with the responsibility to participate in these great war-and-peace issues, but also as one (like all of us), overwhelmed day-by-day with constituent problems such as VA hosiptals, Bull Runs, dry docks at Swan Island, Amtrak, highways, jobs, and health care—and all the myriad of problems that make it easy to forget troubled, obscure corners of the world. All of us must set priorities, and we must go beyond setting them on the basis of the next deadline.

Indeed, the problem for this Administration, it seems to me, is to establish an order of prioriteis and to pace its efforts. Foreign policy is not simply a matter of objectives; it is also a matter of strategy. And "strategy" is the crucial linkage between an overall conception, a set of objectives, and specific policies. Politics, either domestic or foreign, Capitol Hill or City Hall, is a "performing art." As such, the President is charged with performance of his constitutional responsibilities in foreign affairs.

Some issues of considerable importance in the long run—such as arms sales, nuclear proliferation, human rights, the Arab-Israeli conflict, and Southern Africa—afford bleak prospects of success in the short run, and they might actually be made worse by unilateral American initiatives without careful attention to the requirements of a sound strategy.

American policy in the eastern Mediterranean and, in particular, American strategy in dealing with Greece, Turkey, and Cyprus is a particularly good example of responding to events without a clear rationale, or even assurances that particular initiatives would serve U.S. foreign policy goals, or indeed the interests of Greece, Turkey or Cyprus. The problems of this region are partly more complex, partly more local, and partly more traditional than many popular explanations will admit. Many of these issues will simply outlive us all. But the presence of both superpowers—the Soviet Union and the United States—in the Eastern Mediterranean, the volatile nature of conflict in this region, and the impact of this problem on NATO, make this discussion today pertinent even though for the moment Cyprus is not the World's No. 1 crisis.

First, the present reality in Cyprus is that the traditional emnity between the ethnic Turkish and ethnic Greek Cypriots can be measured in centuries of fear, distrust and bitterness that encompasses the mother countries and assumes greater proportions than fear of the Soviet Union. This strife might remain confined to the Island itself and be strictly a local concern if it were not for the fact that Greek Cypriot agitation for "enosis," for union with Greece, is as longstanding as the opposition of the Turkist Cypriot minority. The eruption of intercommunal fighting developed soon after Cyprus was granted independence in 1960, and had threatened to draw Turkey and Greece into a direct confrontation, in 1964 and 1967, when Turkey had to be restrained from intervening militarily to protect the Turkish Cypriot minority.

In 1974, a coup, apparently stimulated or supported by the then government of Greece, deposed Makarios and established a regime headed by the Greek Cypriot terrorist Sampson, who had a reputation for violence against Turkish Cypriots and a passion for enosis. Turkish forces promptly invaded the Island, citing treaty obligations to uphold the integrity and independent status of Cyprus as well as to protect the Turkish Cypriot community. The initial action was probably justifiable under the international law and the treaty; subsequent invasions are difficult to justify.

Subsequently, Makarios returned, but has now passed on and both Greece and Turkey have elected new governments, but the wounds have not healed. Despite recent Turkish troop reductions, approximately 40% of the Island is still under Turkish military control, and about one-third of the population, both Greek and Turkish Cypriots, can be considered refugees.

There has been substantial economic disruption, including extensive damage to the industrial and agricultural sectors; a cessation of tourism; dislocated development plans; charges and denials of violations of international law, human rights, and religious persecution; and discrimination against minorities in both Greece and Turkey. This increased bitterness and hardening of attitudes between the two communities intertwines and, in some ways, obscures the political issues dividing Cyprus.

The central issue in any solution of the political situation is that of power-sharing between the two ethnic communities. Believing that the Greek Cypriots have never renounced the principle of enosis, the Turkish minority charges the majority with discrimination in virtually all areas, particularly in the courts and in employment. They feel they could never obtain security in a unitary state and advocate a federation in which they would have autonomy over their own affairs, including education and religion, the courts, police, public works, and economy. Foreign affairs and national defense would be the responsibility of the federal government. They have never accepted the principle of majority rule.

The Greek Cypriots, on the other hand, consider the Turkish Cypriots to be unreasonable obstructionists. They have rejected the concept of federation, and argue that separate local administrations in Cyprus under a federal system would result in wasteful and confusing duplication. More importantly, they consider federation to be the first stage toward partition.

Other issues include the withdrawal of Turkish forces, disarmament of both sides, and the resettlement and relief of the refugees.

American policy must follow the best interests of the United States. American citizens of whatever ethnic origin must keep this as the touchstone of their contribution to the solution of these foreign policy issues. To the extent political pressures build up in the United States to force action or inaction on behalf of perceived national interests of one country or another—be it Greece, Turkey, Israel, Korea, Taiwan or any other—it becomes more difficult to keep the best interests of the United States in mind. And while I firmly believe that the long run best interests of the U.S., Greece, and Turkey are parallel, it is obvious that in the short term that is not so.

The more foreign policy consists of disconnected bits and pieces, as our policy on Cyprus has been, the greater becomes the weight and leverage of ethnic, economic, or ideological pressure groups, and the greater the need for political skill and determination to pursue a strategy that is in the best interests of the United States.

I understand the reasons for the great ethnic outpouring of support in this country—be it for Greece, Israel, the Republic of China, Cuba or whatever country. Quite naturally there is a feeling of support for one's homeland and animosity toward those who threaten it. I would feel the same if the British were to attack Edinburgh today as the Greeks feel about the Turkish invasion of Cyprus. But Americans of Jewish, Greek, Cuban, Chinese, or Scottish origin are Americans first and of foreign extraction second.

Both Greece and Turkey are old friends and important allies. American aid to Greece and Turkey turned back the Communists in the late 1940's and early 1950's and kept both in the free world. But so far our policy has alienated both, and the continued hostility has weakened the U.S. position in the Eastern Mediterranean and resulted in the virtual collapse of the southern flank of NATO.

Because of its location in the Eastern Mediterranean, Greece is able to provide facilities on the Greek mainland and on the Island of Crete which strengthen the strategic capabilities of the United States and NATO forces that operate in the area. Greek facilities help guard the Aegean Sea approach to the Mediterranean, provide important communication links between NATO and U.S. military forces.

provide staging areas and supply depots for U.S. air and naval forces, and permit surveillance and monitoring of the activities of the Soviet Union's military forces in the Eastern Mediterranean area. Today Greece has withdrawn from the NATO military alliance, and maintains an affiliation similar to that of France. Our fleet no longer has a home port in Greece. Indeed when I last checked, we had only a small military contingent at the airport at Athens. We still, however, can get repairs, and our ships visit freely.

Because of its physical proximity to the Soviet Union, and its control over the straits which govern passage into the Mediterranean from the Black Sea, Turkey has been a valued member of NATO as well as an important ally of the United States. It has the biggest military establishment in NATO with the exception of the United States, with more troops, I am informed, than West Germany.

The military facilities which Turkey has made available to the United States in the past have permitted the establishment of useful intelligence-collecting posts, which have enabled the United States to keep track of Soviet air and naval activities, missile and nuclear weapons tests, and general military activities along the southern flank of NATO and in the Middle East. These bases and this information were very important in the last Arab-Israeli conflict, and the source of our information about the pending airlift of Soviet troops which we were able to head off.

When the U.S. Congress voted against military assistance and sales to Turkey in 1975 (without my vote, however), the Turkish government suspended operations of these bases pending renegotiation of the defense cooperation agreement. This accord was signed in 1976, but the Congress has delayed completing action on the agreement. Meanwhile the capability of the Turkish armed forces to perform their NATO defense missions is jeopardized, as they are without badly needed replacement parts and the ability to modernize.

This congressional attempt to pressure the Turkish government to accept a Cyprus solution through the suspension of U.S. military aid both humiliated this strategically-placed ally and placed them in a posiition of great danger. I did not support this move; I do not support it today. I believe that it has been counter-productive and has increased Turkish reluctance to make concessions on Cyprus. I see no evidence that it has helped the Greek Cypriots and believe that it has weakened both the United States and NATO. The congressional policy has also reinforced growing Turkish doubts about the value of the American alliance. They see a lack of purpose and clarity in American policy, an occasional inability to distinquish between friends and enemies, and an alarming fickleness.

The newspaper on March 28th carried a Turkish announcement of a re-evaluation of its ties to NATO and its relationship with the United States. Turkish Premier Ecevit has also announced his intention to visit the Soviet Union in June to discuss, and possibly sign, a non-aggression pact with Moscow. Many of the pamphlets, newspapers, and letters I receive from the various Greek-American interest groups cite this as evidence that the Turks, unlike the Greeks, are temporary allies and should not be trusted. But Greek and Turkish cooperation with the United States takes on different connotations extending beyond Cyprus when connected with U.S. security objectives, policies, and programs in the Middle East. For example, when this country mounted massive resupply missions to Israel from our east coast in 1973 both Greece and Turkey took a neutral stance and made it known that they did not want their military facilities used in this effort. Only Portugal's permission to use the Azores, and our ability to use aerial refueling tankers across the Mediterranean, enabled our supplies to get through. This continuing impasse is one of the reasons a base on Diego Garcia is necessary.

The point is that U.S. strategy must be viewed in this wider and geographically-widened arena. Our interests overlap, in some ways, with those of other members of the NATO alliance; in other ways they are broader. In this case they were distinct, almost conflicting. The Greek withdrawal from NATO and the Turkish closure of U.S. bases signify that the United States should realize that each of these nations will continue to pursue its own national interests as they see fit, and we should not expect them to do otherwise. Underscored by our experience in the 1973 Middle East war is the recognition of ongoing vulnerability of American-base operating privileges to the vagaries of domestic politics of the host countries and their governments. Greece and Turkey are, nonetheless, still important security assets as the United States, hopefully, pursues its interests in that area.

While Greek attitudes and anxieties must be recognized, other ways must be sought to reassure the Greeks without penalizing the collective security interests of NATO and the interests and objectives of the United States. This is a time for the national interest in security to overcome the less cogent or valid considerations that have led to a futile and dangerous U.S. policy.

The fact that progress in the Cyprus negotiations is linked to arms sales agreements by some members of the public and some members of the U.S. Congress, points out the weakness of the case-by-case approach to foreign affairs advanced by the Administration. As long as the arms sales policy is not integrated into an overall strategy aimed at coping with the causes of conflict, there will always be reasons for granting exceptions to the very admirable and strict guidelines.

The dilemma is much akin to that of the promise to make human rights the keystone of our foreign policy.

If the United States is too selective about which countries to denounce, it risks becoming hypocritical—for instance, if it singles out only its foes and spares its friends. If it pursues the cause everywhere, in almost crusading manner, that is likely to be a highly self-destructive, isolating ordeal. But if the policy becomes merely verbal, it will be a splendid demonstration of impotence.

The summit talks between the Turkish and Greek Premiers, Mr. Ecevit and Mr. Karmanlis, in Switzerland this month showed signs that these two nations may be able to resolve some of their differences, including the causes of grief and friction on Cyprus. We should look upon these talks with cautious optimism. The most significant thing so far is that they are talking.

The policy of this Administration is undoubtedly still in the making but very close to presentation to the Congress. Deputy Secretary of State Christopher is in Ankara now. There are no details from the State Department, but the talks undoubtedly cover a wide range of issues including the Defense Cooperation Agreements and renewed military assistance.

I expect this Administration to reach, just as its predecessor did, the conclusion that the congressional embargo was a mistake and to recommend approval of the Defense Cooperation Agreements with both Greece and Turkey, and resume military assistance to Turkey as to Greece. It will be difficult because of the domestic policies. But so is Panama difficult. In my judgment, just as the Panama treaties are needed so is a new approach to Greece and Turkey. I see no other way of being useful in helping the Cypriots settle the problems of Cyprus, restore the vitality of NATO, and enable the United States to maintain a strong position in the Eastern Mediterranean.●

THE GREAT BLIZZARD AND THE ARMED SERVICES

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. BEARD of Rhode Island. Mr. Speaker, the recordbreaking blizzard that struck the State of Rhode Island on February 6 and 7, 1978, the most severe in our history, created distress, suffering and dislocation that have never been equalled in Rhode Island's 342-year history.

The people of Rhode Island will long remember the swift dispatch of members of the U.S. Army Engineers, the National Guard units of Rhode Island and Massachusetts and the naval construction battalions with heavy equipment to help our stricken cities and towns recover from the onslaught of the tremendous storm.

In particular, Mr. Speaker, I must mention the young men of the Army from Georgia, Louisiana, and Virginia who were transported from their mild climates into bitter cold and mountainous snows. The people of Rhode Island join me in expressing admiration for these soldiers who worked so hard to alleviate the terrible conditions of those trying days. They joined our own valiant guardsmen and together they performed truly heroic deeds that will long be remembered by Rhode Islanders.

Mr. Speaker, the General Assembly of the State of Rhode Island has unanimously passed a resolution in praise of all the members of the Armed Forces who rushed to our aid and I would like to see their efforts memorialized by the insertion of this legislation in the CONGRESSIONAL RECORD:

RESOLUTION

Expressing sincere gratitude and highest praise to United States Army and Rhode Island National Guard units for their assistance in the blizzard of February 6-7, 1978

Whereas, The most severe blizzard in the history of Rhode Island struck the state on February 6 and 7, 1978, causing thousands of citizens to be stranded in vehicles on the highways, forcing some to seek refuge in any shelter at hand, and isolating others in their homes or places of employment; and

Whereas, The units of the United States Army and the Rhode Island National Guard rendered invaluable emergency assistance by clearing highways, providing land and air transportation for emergencies, rescuing persons in distress, delivering food and medical supplies; and by countless untold heroic and selfless acts helped the state to recover from this disaster; now, therefore, be it

Resolved, That the General Assembly of the State of Rhode Island and Providence Plantations expresses its sincere gratitude and highest praise to the following United States Army Units:

The 36th Engineers Battalion, Fort Benning, Georgia,

The 7th Engineers Battalion, Fort Polk, Louisiana,

The 3rd Engineers Battalion, Fort Stewart, Georgia,

The 11th Engineers Battalion, Fort Belvoir, Virginia,

The NM Construction Battalion 62, Gulfport, Mississippi, and

The 483rd Engineers Battalion, Army Reserve, New Bedford, Massachusetts;

to the following Headquarters and Headquarters Detachments of the Rhode Island Army Reserve National Guard:

Troop D (Air) 1st Squadron 26th Cavalry,
The 243rd Engineers Battalion Team AD,
The 861st Engineers Company (Light Equipment),
The 1118th Engineers Company (Dump Truck),
The 110th Public Affairs Detachment (Field Services),
The 43rd Military Police Brigade,
The 118th Military Police Battalion,
The 1043rd Medical Detachment,
The 119th Military Police Company,
The 1111th Military Police Company,
The 243rd Military Police Battalion,
The 115th Military Police Company,
The 169th Military Police Company,
Batteries B and C of the 1st Battalion (155T) 103rd Field Artillery, and
Batteries A, B, and C and the Service Battery of the 2nd Battalion (155T) 103rd Field Artillery;

and to the following Rhode Island Air National Guard units:

The 143rd Tactical Airlift Group
The 102nd Tactical Control Squadron
The 281st Combat Communications Group; and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the aforementioned units.●

BYELORUSSIAN INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ADDABBO. Mr. Speaker, on March 25, Congress and others throughout the world observed the 60th anniversary of the independence of the Byelorussian Democratic Republic. I am pleased to join with my colleagues in commerating this important event. Only 2 years after our own Bicentennial Year, it is appropriate that we consider the precious nature of freedom and the millions of people who live in captive nations.

Just 10 months after Byelorussia announced its independence, on March 25, 1918, the people of that nation were deprived of their liberty as the result of a Bolshevik expansionism. Each year, Americans of Byelorussian descent and their neighbors all over the world stop to remember the historic event which led to the brief period of freedom for Byelorussians and the subsequent enslavement of those courageous people.

The Soviet Union has adopted a most unfortunate policy of spiritual and cultural genocide against the people. They have tried to stamp out the hope for freedom, but it is too strong to be extinguished. The Soviet Union have been unsuccessful because there is moral support from the free world.

The participation of Congress in these ceremonies is a reminder that freedom once obtained must be retained with every bit of energy at our command.

That is the lesson for Americans as we express our sympathies and support for the people of Byelorussia.

Without objection, I wish to include a letter to me from John Kosiak, president of the Byelorussian Congress Committee of America:

BYELORUSSIAN CONGRESS COMMITTEE OF AMERICA,
QUEENS, N.Y., *March 3, 1978.*

The Honorable JOSEPH P. ADDABBO,
The U.S. House of Representatives,
Washington, D.C.

DEAR SIR: March, 1978 will be of great significance for American citizens of Byelorussian descent. This will be the 60th anniversary of the proclamation of independence from the Byelorussian Democratic Republic. In occupied Byelorussia, this national observance is not allowed by the Soviet Russian Government.

The following events took place in Byelorussia 60 years ago. On December 15, 1917 the First All-Byelorussian Congress assembled in Mensk. It consisted of 1,872 representatives, elected by the people of all ethnographical territories of Byelorussia. Bolshevik-Russian delegates were in a small minority and were not able to influence the Congressional decisions. After the Congress had chosen independence for the Byelorussian State, the Soviet Russian Army dispersed this national representation.

However, on March 25, 1918 the Council of this Congress proclaimed the independence of the Byelorussian Democratic Republic. A new Byelorussian Government organized the administration in the country and started the formation of military forces, schools, cultural activity, and the revitalizaton of economy devastated by the war.

Ignoring the right of self-determination of nations, Soviet Russia created a fictitious state, the Byelorussian Soviet Socialist Republic (BSSR) on January 1, 1919 and invaded Byelorussia with its own Red Army, and subsequently conquered most of Byelorussia. Concluding a peace treaty with Poland in Riga in 1921, the Moscow Government, without representatives from the BSSR, divided the territory of Byelorussia as follows: the BSSR was alloted a territory of six counties of the Mensk District only, with a population of approximately 1.2 million. Poland was given approximately 100,000 sq. km. of Byelorussia with a population of about 4.0 million. Approximately 250,000 sq. km. of Byelorussian territory with a population of over 9.0 million was annexed directly to the Russian SFSR. In this way the Soviet Russian Government brutally suppressed the aims of the Byelorussian people for independence, and turned them into a colonial people of Soviet Russian empire. Membership of the BSSR in the USSR, created by Moscow Government in 1922, is a mere formality used for propaganda purposes, especially abroad.

All policy of the Soviet Russian Government toward Byelorussia was directed to exploitation of its natural resources and population. At the same time Russia tried to destroy all ethnic and cultural distinctions of Byelorussia. It strove to assimilate Byelorussians transforming them into unified Soviet Russian nations.

Soviet Russian Government, during 60 years of domination, has accomplished a great destruction of the national Byelorussian heritage. Starting in 1927 thousands of Byelorussian intelligentsia were annihilated. The main segment of Byelorussian peasantry, about 2 million, were shot or deported to the concentration camps of Siberia at the time of collectivization of agriculture. Waves of mass terror passed through Byelorussia. They annihilated a new, growing, nationally conscious generation. After World War 2, Russian detachments of political police, called "Smersh", investigated the entire population of Byelorussia. They annihilated around one million "unreliable" Byelorussians.

In reality, the Soviet Russian Government uses a policy of genocide toward the Byelorussian nation. Presently it is intensifying change of city population in Byelorussia into Russian, by sending many Russians there for permanent settlement. Simultaneously, many Byelorussians, mostly educated youth, are transferred to Siberia and other ethnic territories of the USSR.

All important positions in the USSR are held by Russians. To create a misleading impression, some Byelorussian communists are kept in the exposed places, however, without any policy making power.

The Russian language was introduced in the BSSR for use by the government, cultural institutions and schools. Only a small part of the rural schools is allowed to use the Byelorussian language.

85% of the newspapers published in BSSR are in Russian, and only some 10% in Byelorussian. The same relationship exists for magazine and literary books. All scientific and technical literature in the BSSR is printed in Russian only.

In BSSR, the schools, institutions, farms (colkhozes), museums, libraries, cities, streets, etc., are named in honor of Russian communist and tsarist dignitaries, writers, etc.

Russians in Byelorussia are the ruling part of the population. They represent Byelorussia before foreigners, giving the false impression that Byelorussians are the same as Russians. Those Russians are organizing in the entire Byelorussia their own clubs, choirs, folklore entertainments, pushing aside Byelorussian ethnic culture.

Buildings in the BSSR are erected in typical Russian pseudo-classical style. But ancient Byelorussian buildings and monuments of independent style of architecture are destroyed.

The eastern part of Byelorussia, with cities of Smalensk, Bransk, Roslaul, Nevel, etc., annexed to the Russian SFSR, is treated as an eternal part of Russia. Nothing of Byelorussian is allowed in this part.

Despite the huge devastations and severe oppression by Russian Government, the Byelorussian people are preserving their own national character. Byelorussians fought for their independence during World War 1. During World War 2, the Second All-Byelorussian Congress convened in Mensk on June 27, 1944. This Congress annulled all ties of Byelorussia with Russia, and approved a proclamation of independence for Byelorussian Democratic Republic, according to the declaration of 1918. The Byelorussian National Guard fought for the liberation and independence of Byelorussia.

The new Constitution of the USSR, approved in 1977, has changed nothing in the formal and real situation of Byelorussia. The new national anthem of the USSR, approved in 1977, accentuated openly the conqueror's character for the Great Russian nation in the USSR.

We are sure that in the future, when a favorable situation will appear, Byelorussians will fight again with arms in hand for their liberation from Soviet Russian colonialism.

Very respectfully yours,

JOHN KOSIAK,
President.
MICHAEL SIENKO,
Secretary.●

RURAL DEVELOPMENT CONFERENCE

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. RISENHOOVER. Mr. Speaker, during the district work period, I sponsored a conference on rural development

in Eastern Oklahoma. It was a stimulating session most ably reported by the Muskogee Daily Phoenix.

There were many viable and visionary proposals advanced during the conference. Particularly impressive was a suggestion by Mr. Jimmy Leake, an aggressive and far-sighted entrepreneur and civic leader from Muskogee. Mr. Leake cited our national electrical grid and the interstate highway system as great national achievements. He suggests that Congress explore a similar network of water systems and sewerage disposal systems. He sees this need as America's next great public works undertaking—a commendable suggestion.

I ask unanimous consent to reprint an article from the Phoenix, written by two able reporters, Ray Crow and Jim East, which tells about other parts of the conference.

The article follows:

RURAL LEADERS URGED TO FIGHT URBAN TREND

(By Ray Crow and Jim East)

WESTERN HILLS LODGE.—Congressmen who represent more than half of Oklahoma's rural counties urged leaders of those areas Thursday to band together to reverse a federal spending trend aimed at large urban cities.

The near 200 people attending the first day of a rural development conference at this state lodge also heard federal administrators and an agricultural economics professor in addition to the talks by U.S. Representative Ted Risenhoover and U.S. Representative Wes Watkins.

Risenhoover, who represents the 17-county Second Congressional District, is sponsoring the two-day conference that was highlighted by his and Watkins' remarks during the day and a talk by the co-chairman of the Ozarks Regional Commission at a Thursday night banquet.

Pat Danner, co-chairman of the federal commission, said prospects are good for Oklahoma and the five-state region she oversees. However, Danner qualified her remarks somewhat.

"What has been a poor and declining region has turned around and now stands on the verge of rather certain dramatic growth," said the rural Missouri native.

"But the region faces some short-term problems associated with these new prospects and some longer term, fundamental threats to development," she added.

"The most obvious long-term issues are an adequate water supply, a swell as an adequate energy supply."

The Ozarks Regional Commission is one of the many federal agencies represented at the conference, and is instrumental in several ongoing eastern Oklahoma water development projects.

While Danner spoke on familiar subjects, it was Watkins and Risenhoover who seemed to set the tone.

Watkins, who represents the Third Congressional District, lashed out at President Carter's new urban policy, which appears on the surface to be aimed at the large metropolitan areas facing migration of their population to the Southwest.

"It barely touched rural America," the Ada Democrat said about the urban policy.

"You might ask why? It is because their (big cities) voice is like a 30-30 and ours is like buckshot," Watkins said.

"But now we realize that if we join together we can get that voice of a 30-30 and make them listen to our needs," he added.

Risenhoover later echoed those remarks saying similar rural development conferences are being held across the country and additional ones will be held in Oklahoma.

"We're trying to organize these small cities into a lobbying organization and we've found a lot of interest from the people we've contacted," Risenhoover said.

It was Risenhoover who opened the conference with a call "to make the rural part of our country more livable." The Tahlequah Democrat also reviewed his legislative achievements and goals.

He said making rural areas more livable would solve the problem of urban overcrowding and "other complexities of city life.

"Our system of government was not designed to deal with the problems of the highly concentrated urban areas," he said.

"If we enrich these eastern Oklahoma hills, if we clean the salt out of the Arkansas River and gain the blessing of clean water from that source, if we fix the bridges and attract the capital, we will see our children settling near our homes to raise their families," he said.

The proposed diversion of salt from the Arkansas River has become a major stated goal of the congressman and U.S. Senator Henry Bellmon of Oklahoma.

The theme of his address Thursday was the moving away of young Oklahomans to cities to find jobs and the need to provide opportunities nearer home.

"Our greatest reward—if we do things right—is that we will stop the migration of children and grandchildren away from our homes. We will stabilize our economy and thus we will have a more firm structure of family life in our society."

Oklahoma State University agricultural economist Dr. Luther Tweeten followed Risenhoover with a systematic review of rural development problems a lesson in economics and a series of policy suggestions.

Tweeten said federal policy on rural development is "severely fragmented" and also criticized President Jimmy Carter's urban policy proposals.

The proposals have been described in national reports as a consolidation of existing programs already aimed at large urbanized areas.

"The idea that cities are the most important is not correct," Tweeten said. "Rural areas can make a case their problems are more severe."

The only part of the Carter proposal which is attractive for rural areas is a willingness to allow them to draw from a development bank which would serve the cities, Tweeten said.

He displayed figures which indicated rural areas have greater poverty, unemployment, underemployment and substandard housing than urban areas.

But government expenditures are less per person in rural than in urban areas.

He said government expenditures should not be based upon unemployment figures, "a very biased measure.

"We need to adopt a new formula, just to get fair treatment."

Unemployment figures are not much different for rural and urban areas, he said, but underemployment is radically worse in rural areas.

Underemployment, where "the discouraged worker" is not working to his potential because of lack of opportunity or other reasons, is estimated at 25 per cent in rural areas, compared to 17.8 per cent in urban areas, Tweeten said.

Tweeten said the government subsidizes high-cost living locations and encourages land speculation which hurts the farmer.

A capital gains tax break encourages land speculation, he said. Subsidizing utility services for rural areas also encourages demand for rural land.

He recommended persons be allowed to move where they like, but don't subsidize them.

He also said the government needs to "press forward" with development of cheaper energy and should develop a new formula for fund allocation based upon underemployment.●

CYPRIOT SELF-DETERMINATION AND THE TURKISH ARMS EMBARGO

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. D'AMOURS. Mr. Speaker, I would like to express my opposition to President Carter's request that Congress totally lift the U.S. arms embargo against Turkey without first receiving a public commitment from Turkey to move toward a resolution of the Cyprus problem.

The President has reportedly received "private assurances" that if we lift the embargo, Turkey will then yield on Cyprus. I submit that this policy of relying on diplomacy by "private assurances" and secret agreements has already proven to be a complete failure.

In October of 1975 Congress partially eased the embargo against Turkey. Despite the subsequent sale of several hundred million dollars of weapons to Turkey, and despite the private assurances given to Henry Kissinger that progress on Cyprus would result, there has been no effort by the Turkish Government to withdraw from its occupation of Cyprus or to restore the right of self-determination to all the people of that country.

Mr. Speaker, President Carter's willingness to lift the embargo before receiving from Turkey a firm public commitment to yield on Cyprus comes as a particular disappointment when contrasted with his position on Cyprus and on Greek-Turkish relations as expressed in the 1976 presidential campaign. I submit for the RECORD the text of two of Mr. Carter's campaign position papers on these issues:

THE CYPRUS CONFLICT

For more than twenty years, Greece and Turkey together have held the southern flank of NATO and helped maintain the security of the Mediterranean. Both, as part of our joint alliance, have given base rights and other invaluable support to the United States. It is very much in our own national interest that our close relationship with both countries continue.

Unfortunately, their relations with each other have for many years been troubled by conflicts over Cyprus. Since the coup against Archbishop Makarios and the Turkish invasion of Cyprus over two years ago, these differences have become so serious as to threaten the security of NATO and the good relations of both countries with us.

It is a major U.S. interest that harmony in the alliance be restored. The Republican Administration has failed to deal with the situation in three respects: it has failed to exert its influence effectively to bring about a settlement in Cyprus during the five years before the Cyprus crisis; it failed, despite repeated warnings, to prevent the 1974 coup against Makarios engineered by the former military dictatorship in Athens; it failed to prevent or even to limit the Turkish invasion of Cyprus that followed. This administration therefore bears a large share of the responsibility for the dangerous deterioration in our relations with Greece and with Turkey.

We should now exert our influence in every feasible and constructive way to help Greece, Turkey and the Cypriots resolve their differences. Only if we are able to maintain the confidence of all three, however, can we hope to be listened to.

Any solution that is to endure must be a just one. It must protect the rights of both the Greek majority and the Turkish minority on the island, including the rights of those displaced from their homes by the Turkish invasion.

The United States cannot impose a solution. It can and must help; but only agreement among the three governments directly concerned can restore harmony and cooperation.

Secret and personal agreements are no substitute for a clear commitment to an early settlement which gives Cyprus its independence.

I feel most distressed that Mr. Kissinger's recent agreement with the Turkish government was not coupled with an agreement which promised more rapid progress toward a just solution for the Cyprus tragedy. In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue along the lines I have outlined above.

GREECE AND TURKEY

The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the eastern Mediterranean.

Despite repeated warnings, the administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The administration failed to prevent or even limit the Turkish invasion that followed. The administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

Today, more than two years later, no progress toward a negotiated solution of Cyprus has been made.

The lack of progress is disappointing and dangerous. Peace must be based upon the United National General Assembly Resolution 3212 of November 1, 1974, endorsed by Cyprus, Greece and Turkey, calling for, among other things, the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish military should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish-Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

Greece and Turkey are and must remain our allies within NATO and neighbors at peace with each other within the community of nations.

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

I would also like to submit for my colleagues' benefit the text of a resolution which was unanimously endorsed and adopted by 44 Greek organizations from around the Nation at a conference held in Washington, D.C. on March 12, 1978. I think this resolution very clearly spells out why a resumption of arms sales to Turkey at this time would pose a serious threat to the Greek population on Cyprus.

The resolution follows:

RESOLUTION

Whereas, Turkey violated the Foreign Military Sales & Foreign Assistance Acts of 1961 by the illegal use of U.S.-supplied arms for its massive invasion and occupation of Cyprus; and

Whereas, Turkey continues to violate these acts by its continued illegal military occupation of Cyprus with 30,000 Turkish troops armed with U.S.-supplied arms and equipment including over 300 U.S.-supplied tanks; and

Whereas U.N. Resolution 3212, passed unanimously on November 1, 1974, calls for the removal of all foreign troops, the safe return of all refugees to their homes, and the restoration of the independence, sovereignty and territorial integrity of the Republic of Cyprus, and has been endorsed by this Administration as well as the previous Administration; and

Whereas, Turkey has refused to comply with U.N. Resolution 3212 and subsequent U.N. General Assembly and Security Council Resolutions; and

Whereas, Turkey violated the U.N. Charter, Chapter I, Article II, Paragraph 3 which states that all members—

"Shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered",

and Chapter I, Article II, Paragraph 4, which states that—

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purpose of the U.N."; and

Whereas, Turkey is in violation of the fundamental principles of the NATO Charter, as expressed in the Preamble which states:

"The parties of this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments.

"They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

"They seek to promote stability and well-being in the North Atlantic area.",

and Article I, which states:

"The parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations"; and

Whereas, the Turkish invasion of Cyprus resulted in over 4500 dead, 2100 missing in action and 200,000 Greek Cypriots made homeless in their own country; and

Whereas, the illegal occupation of Cyprus is supported by Turkey at an estimated cost of $3 billion, and we as American taxpayers refuse to subsidize the illegal occupation of Cyprus; and

Whereas, the Commission on Human Rights of the Council of Europe has found Turkey guilty of violating seven articles of the European Convention on Human Rights, including systematic killings of civilians, rape, massive looting, deportation, torture, and other acts against noncombatants as reported in the *London Sunday Times* (January 23, 1977); and

Whereas, Turkey has refused to cooperate with the International Red Cross and other international agencies in determining the fate of 2100 Greek Cypriots, most of them civilians, and a reported 8 American citizens, missing since the July 1974 Turkish invasion and occupation of Cyprus; and

Whereas, Turkey has forcibly expelled over 18,000 Greek-Cypriot inhabitants from their homes in the occupied zone, violating ceasefire agreements and international laws pertaining to the rights of civilians and noncombatants in occupied territories; and

Whereas, at the same time, Turkey has engaged in a systematic illegal colonization policy by settling an estimated 25,000 Turkish nationals from its mainland in the lands and homes of the displaced Greek Cypriots, contrary to the same international laws and U.N. Resolution 3395 (Paragraph 6) and continues to violate U.S. statutory provisions which prohibit such colonization (Public Law 94-329, Sec. 403); and

Whereas, Turkey has most recently threatened to colonize the Varosha section of Famagusta; and

Whereas, in Turkey, the present Turkish Government, as have previous ones, continues to violate the human rights of its minority citizens—ethnic, cultural and religious, including Arabs, Armenians, Georgians, Greeks, Kurds and Lazis, and others, by abridging or denying their rights as defined in articles 37 and 41 of the Lausanne Treaty, the United Nations Declaration of Human Rights, and the Helsinki Agreements of 1975; and

Whereas, the Turkish federal and local governments have continued to harass, restrict and intervene in the affairs of both the Greek and Armenian Orthodox Churches and Patriarchates in Istanbul, contrary to the Lausanne Treaty, the United Nations Declaration of Human Rights, and the concept of religious freedom; and

Whereas, a 100 page report prepared for the United Nations Educational, Social and Cultural Organization (UNESCO) documents the methodical and widespread looting and vandalism of Greek Churches in the occupied north of Cyprus; and

Whereas, arms transfers to Turkey from the United States would be directly contrary to the policy of providing no assistance to a country which engages in the violation of internationally recognized human rights (Public Law 94-329. Section 502B);

Therefore, be it resolved there should be no further aid or arms transfers to Turkey of whatever nature until there is an agreed settlement on Cyprus and Turkey is in compliance with our laws (the U.S. Foreign Assistance and Military Sales Acts), the NATO Charter, and the unanimous U.N. Resolution 3212 endorsed by President Carter.●

TUITION TAX CREDIT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. STARK. Mr. Speaker, in recent weeks we have faced a controversy over proposals. H.R. 9332 and S. 2142, to extend a tuition tax credit to families with children in private elementary and secondary schools. These measures would also extend this credit to college students, as higher education costs have climbed skyward in recent years.

I would like to say at the outset that I sympathize with the aims of these proposals and fully realize what it costs to send a child to school. I cannot, however, support these proposals because they fail to recognize that the financial burdens of educating a child are not solely confined to private schools, for all parents must make annual expenditures for books, supplies, clothing, and so forth, none of which have been left untouched by the ravages of inflation. In short, it costs money to send a child to school, regardless of the type of school he or she attends.

My basic complaint with the pending legislation is that they make a distinction between parents with children in private schools and parents with children in school anywhere. There are approximately 5.3 million children enrolled in private elementary and secondary schools and about 44 million children in public schools. I question whether we can, in good conscience, say to the parents of children in public schools, "No, you don't need a tax credit!" while giving one to the private schoolchildren.

Another major drawback with the Packwood-Moynihan proposal is that it raises serious constitutional questions, as it would extend Federal aid, in the form of the tax credit, to schools which are affiliated with religious organizations. We have all been subjected to an intense lobbying effort on the part of organizations representing private schools. These organizations cross all religious lines, and admittedly it is quite tough to disagree with a person wearing black, but in this case we must. Simple equity dictates that we cannot discriminate with a credit of this nature.

My answer to this dilemma is quite simple. If we accept the premise that all parents must pay the costs of educating their children and I think that we can agree on this and if we also concur that a tax credit is the means by which we should aid families; then we should also agree that this assistance should go to all families on an equal basis.

Today, GEORGE MILLER, Senator WILLIAM HATHAWAY, and myself are introducing the "Education Fiscal Assistance Act of 1978." This bill proposes that a $100 refundable tax credit be given for every dependent child that is enrolled in a public or private elementary secondary, post-secondary, and graduate program. In addition, this credit will be available for children that are attending a certified preschool education program such as Head Start.

This measure has four major advantages over the Packwood-Moynihan legislation. First, it will benefit some 60 million people rather than the 16 million located in private, elementary, and secondary schools and in college. Second, our legislation meets the test of constitutionality by extending the tax credit regardless of the type of school that a child attends. Third, this legislation will serve as an incentive for parents to keep their children in school, finally, and most importantly it is a far more equitable tax policy.

Admittedly, $100 is not a large sum, but it does at least purchase a new outfit for the children, some extra supplies, whatever. For some families even a little help can mean the difference between giving their children an adequate educational opportunity and failure. We all know that educational costs have risen. Just today a report was released which projected college tuition fees to rise 6 percent in the next year, so this legislation is needed.

I would hope that my colleagues see that this legislation will allow them to face their constituents with a clear conscience that they have supported something that will help everyone trying to raise a family, and not just the select few who happen to attend private schools. This legislation will result in tax expenditures of roughly the same magnitude as the major proposals that have been offered, and is eminently more fair.●

THE STEPCHILD THAT WAS SIMI

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. GOLDWATER. Mr. Speaker, hardly a day goes by that newspaper reports do not tell us about the plight of our communities, and the decay of our neighborhoods. We are regaled by reports of cities in crisis; even the President recently saw fit to make a major address on this subject. But to those who are concerned about this problem, I would say they should read about a place in the 20th Congressional District of California that I am proud to represent: Simi Valley, Calif. This city, under dynamic leadership with an interested citizenry, has undergone an amazing transformation in the last several years. The editor of a Ventura County newspaper, the Star-Free Press, tells about the transformation in the following article, and I would like to share it with my colleagues:

THE STEPCHILD THAT WAS SIMI

(By Julius Glus)

A part of any editor's responsibility is to keep abreast of his area's development, so I hit the road one rainy day recently to get better acquainted with the City of Simi Valley. Things have been happening so swiftly there—it's now Ventura County's second largest city with population at 74,000 plus—that my conception of the area was far outdated.

Among the most dynamic of governmental executives I've ever met is Richard Malcolm, city manager of Simi Valley. He is so personally involved in the many aspects of civic planning and administration, and so enthusiastic about what has already happened, that he seizes upon the opportunity to expound almost nonstop to any willing listener such as I, who counted it time well spent.

When the growth exploded by 15,000 homes, most of them built prior to the city's incorporation in 1969, Simi Valley had a lot of detractors on the outside. They said the planning was woefully inadequate, the residential tracts too tacky, drainage and sewage facilities lacking, and so on. It was described as a near disaster area where the homes were dealt off to underfinanced young families that couldn't afford to keep them and ultimately skipped out without paying their utility bills, thus permitting the tract owners to advantageously sell the properties two or three times over.

Some of what was being said was fact, as the solid citizens of Simi Valley were well aware. The consequence of this growth splurge and accompanying problems was that some people lost their sense of pride in the city, a condition that caused deep concern among the few who had confidence in the valley's future.

Enter City Manager Malcolm, whose background in municipal administration included service in Claremont and San Marino, two of the southland's gem cities, before he went off to Sacramento to help in the Reagan regime.

The first order of business upon arrival in 1974 was to restore community pride by fostering increased citizen involvement and by his own administrative performance—and the extent to which the Malcolm management team has succeeded at this date is worthy of textbook treatment.

There are wide thoroughfares in the City of Simi Valley now, and many are lined with young trees and decorative plantings, some of them provided by service organization volunteers. A new public service center, adjacent to the city's water treatment facility, is a handsome 19,000-square-foot complex nestled in what looks like a park at the west end. A new civic and cultural center is rising on the other side of the expansive city limits, a 42-acre development that will ultimately embrace a principal municipal building, public library, and county, state and federal service offices, with an adjacent 20 acres being devoted to a community park.

In the residential areas, recent rains proved the drainage and sewer service problems have been almost totally resolved. The measure of citizen involvement is at peak level, thanks to a Neighborhood Council program begun shortly after Simi Valley's incorporation in 1969. The Neighborhood Council is a recognized component of the city government, and its advice on various problems or for improvement of city government services is never taken lightly by the elected five-man City Council, of which Ginger Gherardi is the new mayor, or by Manager Malcolm. "This is how we have decentralized our government," he said, "—by keeping the ball in the people's court and let them knock it around."

Residential construction has slowed in the past year ($7 million in new construction permits were issued for the first two months of 1978), affording opportunity for the city administration to catch its breath. One important new project to the East is the Indian Hills development of handsome homesites on a championship golf course to be built by the Park and Recreation District, an entity separate from the city government. There are Chumash Indian caves in the hills, and the recreational development will open them to public view.

Malcolm is especially proud of the police department. With a federal grant exceeding $500,000 over a three-year period, an extensive Neighbors Against Burglary program was launched by the department and is paying off in a reduced crime rate. As a measure of the department's efficiency in law enforcement, he notes that .44 percent of all crimes reported are cleared by arrests.

And the City of Simi Valley intends to be more than a "bedroom" for those who work in the San Fernando Valley and Los Angeles. Malcolm and his colleagues have launched a comprehensive program for commercial and industrial development with the opening of an industrial park on the West side. They foresee from 600 to 1,000 job opportunities there, some of them opening up this year. Commercial construction continues apace for neighborhood shopping centers, office complexes and various service businesses—all part of the greater job base that Malcolm visualizes to minimize commuting and to make for a healthier local economic environment.

There is another factor that distinguishes Simi Valley: It is one of the largest cities in the nation without a general fund property tax. Malcolm has been able thus far to carry out his program with state subventions, principally from sales tax income, and with grants-in-aid that his staff pursues energetically in Sacramento and Washington. All told there are more than 30 capital improvement projects in the current city budget, entailing outlay of $12 million. That this work is being done without a general tax rate comes pretty close to being a fiscal miracle.

No wonder the International City Management Association has singled out the City of Simi Valley for its "outstanding governmental innovations." No wonder the American Society of Public Administration has cited its "outstanding achievements." No wonder U.S. News & World Report has named it as one of the top 10 cities in the nation where rich and promising urban development will occur. No wonder the American Institute of Planners has hailed it for "addressing successful planning and management techniques." And no wonder the Ladies Home Journal recently called it "one of the 15 best suburbs in the United States."

The City of Simi Valley, once a stepchild that Ventura County hid in a corner, has shed its awkward adolescence and is headed for a prideful, meaningful destiny. Go see for yourself.●

THE DANGER OF NOT HAVING A NEUTRON BOMB

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ROBINSON. Mr. Speaker, both as a member of the House Defense Appropriations Subcommittee and as a member of the House Permanent Select Committee on Intelligence, I am deeply alarmed by reports that the President may decide against production of a neutron bomb, more appropriately described as the enhanced radiation/reduced blast warhead.

Today's editorial from the Richmond Times-Dispatch notes:

The President's decision would deprive the United States of an effective defensive weapon without exacting a sacrifice or promise of any kind from the Soviet Union. Such a decision would be contrary to the advice of the President's highest defense and foreign affairs experts—Secretary of Defense Harold Brown, Secretary of State Cyrus R. Vance and National Security Adviser Zbigniew—who believe that development of the neutron bomb is essential to the security of the United States and of its European NATO allies.

Today's Wall Street Journal editorial commentary also notes:

The truly scary thing, if the report proves to be true, is that the President has . . . bought the arguments of the flaky left.

I request the inclusion of these editorials at this point in my remarks for the further information of colleagues:

[From the Richmond Times Dispatch, Apr. 5, 1978]

SLINGSHOTS, PERHAPS?

Soviet Leader Leonid Brezhnev and his colleagues in the Kremlin must find it exhilarating to listen to the news from Washington. Since Jimmy Carter moved into the White House, they have heard one cheering report after another: of the appointment of an advocate of unilateral disadmanent as the chief American SALT negotiator, of a presidential decision to promote a Panama Canal treaty that—originally, at least—provided inadequately for American defense interests, of a presidential decision to scrap plans for the B–1 bomber and of a presidential effort to stunt the Navy. Now the wires are crackling with unconfirmed reports that President Carter has reversed an earlier decision and will abandon plans to produce a neutron bomb.

Soviet leaders should be especially thrilled by this latest report, for they have been the neutron bomb's chief critics. Naturally. It would make an awesomely potent addition to the Western democracies arsenal; and Soviet technology at the moment, is incapable of matching or offsetting it. A presidential decision against development of the bomb would give Russia time to develop one of their own.

But while the Russians should be overjoyed by Mr. Carter's reported decision, the American people should be outraged and horrified. The president's decision would deprive the United States of an effective defensive weapon without exacting a sacrifice or promise of any kind from the Soviet Union. Such a decision would be contrary to the advice of the president's highest defense and foreign affairs experts—Secretary of Defense Harold Brown, Secretary of State Cyrus R. Vance and National Security Adviser Zbigniew Brzezinski—who believe that development of the neutron bomb is essential to the security of the United States and of its European NATO allies. NATO leaders share this belief. The bomb, after all, has been intended for use primarily as a defensive weapon to thwart a Soviet tank attack against NATO countries.

So why has Mr. Carter decided to forgo development of the weapon? One reason, according to unidentified officials quoted in news stories, is that the president feels that production of the weapon would violate "some deeply held convictions." And Mr. Carter reportedly was influenced by the views of Andrew Young, American ambassador to the United Nations.

All this is profoundly disturbing. It is frightening that Mr. Carter may allow his "convictions," no matter how admirable they might be, to blind him to the deadly reality of the threat of communist aggression, to the fact that the Soviet Union is an amoral adversary who would not hesitate to decapitate anyone who dared turn the other cheek. It is frightening that Mr. Carter would place more value on the advice of Andrew Young, a preacher and former congressman whose knowledge of defense and foreign affairs intricacies is even more limited than his diplomatic skill, than on the advice of acknowledged defense and foreign affairs experts.

One wonders what President Carter is willing to do, if anything, to counter the Soviet threat. What weapons would his convictions allow him to view as morally acceptable? Slingshots, perhaps?

[From the Wall Street Journal, Apr. 5, 1978]

A FRIGHTENING REPORT

The New York Times reports that President Carter has personally decided, against the advice of his Secretary of State, Secretary of Defense and National Security Adviser, to halt the development of the so-called neutron bomb. So far the White House officially says the final decision has not been made, but the report has to be described as frightening.

Not so much because of the weapon itself, though it would be a handy thing to have in the event of a Soviet tank attack in Europe. The truly scary thing, if the report proves to be true, is that the President has turned aside his top advisers and bought the arguments of the flaky left.

There are no serious arguments against the deployment of this weapon, properly called the enhanced radiation/reduced blast warhead. The only difference between the new warhead and the ones it would replace in Europe is that it would produce a smaller explosion, accomplishing the same military mission with less collateral damage. Nothing else would change, but a combination of anti-nuclear emotionalism, misleading press reporting and Soviet propaganda has turned the weapon into a cause celebre.

The salient technical points are as follows: The defense of Europe against the overwhelming Soviet land armies has long been predicated on the use of tactical nuclear weapons; some 7,000 nuclear warheads are already in place. At the low yields of tactical weapons, the chief lethal effect is nuclear radiation. The current warheads also produce large blast and thermal effects; the ER/RB warhead would reduce these effects, perhaps facilitating allied military operations and certainly saving a lot of property while the battle is being fought.

The arguments offered against the weapon are (1) it is inhumane to kill by radiation, as opposed to killing by blasts or burns, (2) nuclear weapons that might be used without blowing up the world increase the likelihood of nuclear war and (3) it annoys the Soviet Union. Whatever the merits of these arguments, they apply to the warheads already in place. If we accept the arguments, it follows not only that we should not deploy the ER/RB warhead, but that we should withdraw all present defense forces from Europe, relying on the strategic threat to blow up the world if the Soviet armies move.

There is the added complication of the political effects on the alliance if the President has decided or does decide to ban this warhead. When the controversy first arose, the U.S. took the position that the Europeans should decide whether it should be deployed on their territory. The Europeans would much prefer the U.S. to decide, and take the emotional and political heat. But the West German government pulled itself together, and now is asking for deployment. After getting them to take the heat, the reported decision would pull the rug from under them. A fine display of American leadership.

It has been hard to understand the current administration on defense issues, and all the more so in recent weeks. The President is perfectly capable of making a hard-line speech at Wake Forest, and the administration is even taking sensible and politically courageous actions to shore up the strategically dangerous rift with Turkey. At the same time, it is preparing to gut the Navy and offering disarmament proposals that rely on asking the International Atomic Energy Agency to verify how much nuclear material the Soviets are using in bombs.

A presidential decision against the "neutron bomb" would be an ominous turn in this curious chain of events. In that event, a message to get serious about defense would have to be delivered quickly to Mr. Carter with whatever means may be available. A loud resignation or two on the part of high military officials, for example, or on the part of the U.S. Senate, rejection of the second treaty on the Panama Canal.●

NEUTRON BOMB DEVELOPMENT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. HAGEDORN. Mr. Speaker, with the debate continuing in this country on the merits of deploying the so-called neutron bomb in several European NATO countries, I believe that the following articles from the European press

may be of interest. As the Frankfurter Allgemeine summarizes:

The introduction of the neutron weapon would provide the West with an advantage over the Soviet Union which it so far has not had. The fact that the weapon could neutralize the three-fold and nearly four-fold superiority of the Soviet Union in combat tanks would be a serious disadvantage to the Soviet Union—albeit only so long as it prepared for an attack on Western Europe. It is useless in an offensive capacity for threatening the Soviet Union.

The full text of these articles:

[From the Frankfurt Frankfurter Allgemeine, Feb. 24, 1978]

ALLIES OPENLY SUPPORT NEUTRON WEAPON

The Federal Government would prefer not to say anything about procuring the neutron weapon because of SPD resistance, if it could still get the weapon from the U.S. President and Congress. Some other European governments, too, would prefer having their fur coat washed without getting it wet. They fear a quarrel with the leftist parties. But the latter are not afraid of the nuclear arms debate. They have succeeded in creating considerable confusion about the neutron weapon.

Egon Bahr, the SPD manager, and later on the SPD congress in Hamburg expressed resistance to the neutron weapon being deployed in the Federal Republic. Many reservations remind you of those which were expressed 20 years ago when tactical nuclear weapons were introduced in NATO. As during the earlier "atom death" campaign, the Soviets again are trying to exploit the confusion and hinder the introduction of the neutron weapon in the West with sinister threats. The text of Brezhnev's letter addressed to Western and neutral governments seems to leave it open as to whether the Soviet Union possesses the weapon already or whether it is being developed.

What is involved? First of all. The neutron weapon is neither completely different from existing nuclear weapons, nor is it a miracle weapon which would eliminate all Western nuclear defense difficulties. It is a modern but not fundamentally "new" nuclear weapon. Therefore it does not bring up basically new ethical-moral or security policy problems. They are all old acquaintances. The neutron weapon, if at all, takes the edge off of some older nuclear defense problems. That facilitates a decision on its introduction.

It is a matter of a new technology. It is more correct to describe the neutron weapons as weapons with "increased radiation and decreased pressure." These are warheads for combat weapons such as the "Lance" missile (range 80 kilometers) and the 203 and 155 mm howitzers of the barrel artillery. Like all nuclear arms the neutron warheads also produce pressure, heat, and electromagnetic waves. However, individual proportions of these three effects have been changed. The new warheads are no longer based on the nuclear fission principle. These are not hydrogen arms. It was possible to increase the radiation component 10 times that of the pressure and heat waves. In other words: In order to achieve equally strong neutron radiation, only one-tenth of the earlier pressure and heat waves must be produced. Secondary radiation in the whirled-up "dirt" can be reduced considerably at the same time.

So the undesired side effects of such a combat weapon will be considerably curtailed. The area and temporal effect of the weapon will be strongly concentrated. Ensuing damage can be further reduced through the choice of the point of explosion. If a weapon with 1 kiloton of TNT (with the same neutron radiation as 10 kilotons produced earlier) is detonated about 800 meters over the ground, the heat wave will no longer create damage on the surface. And yet all tanks within a periphery of 700 meters from the point of explosion would become inoperable. Their crews would be dead although most tanks would have resisted the pressure and heat from the explosion. This is the point at which Egon Bahr concluded that the invention is morally "perverse."

Sensitivity, however, fails to take into account the military-technical and moral-political facts. It is not a matter of preserving material values, be it tanks or houses, at the expense of human lives. On the contrary, it is matter of limiting the effect of arms only to the attacking enemy sitting in tanks, while simultaneously sparing the civilian population and one's own armed forces in the combat area.

One of the properties of neutron radiation is that it penetrates steel armor with relative ease while penetrating sand, rocks, and earth rather poorly and it abates rapidly. Entrenched infantry and civilians in cellars are relatively protected. Tank crews in particular are not. This is why the new weapon is particularly suited for defense against entire tank units. It is a significant reinforcement of antitank defenses.

Limiting the effect to a circle with a radius of 600 meters already indicates that the explosive charge must be accurately guided. It requires good technology. It requires rapid and exact reconnaissance, fast communications facilities, an accelerated decisionmaking procedure, and accurate means of delivery. It is obvious to conclude that barrel artillery is a better means of delivery than a ballistic missile such as the "Lance."

But what will become of the "threshold"? This is an important argument. What is meant is the inhibition in the process of political decision on the first use of nuclear weapons for the purpose of stabilizing a conventional defense which has begun to waver dangerously. Inherent in the first use is the risk that the aggressor will ignore this last warning signal of the defender and proceed to let his assault escalate into mutual nuclear warfare. This extreme risk of nuclear defense is inevitable. Its uncertainty constitutes the respect-commanding core of the whole deterrence idea. In the interest of peace it should remain an insoluble secret, too.

In the debate on the "threshold" prior to the first use it is often overlooked that the "height of the threshold" is not only determined by the diminution and "sanitation" of the nuclear weapons but also by the expenditure for conventional defense. The measures which the allies initiated last year toward enhancing their capabilities in conventional defense in manifold ways are greater in expenditure, quantity, and significance than the modernization of the nuclear battlefield weapons which everybody is discussing now. This NATO improvement program is hardly noted. Yet, only in concert with all means of defense is it possible to ascertain whether the modernization of part of the tactical nuclear weapons lowers or raises the "threshold."

The "threshold" is a dubious term anyway. It detracts from the main concern. In regard to deterrence it is not so important what the defender thinks about his own decisions and how he makes them. The primary emphasis is on the way in which the attacker perceives it and how he responds to it. The "height of the threshold" of the defender is security-politically interesting only insofar as it would keep up the inhibitory threshold of the attacker prior to an attack.

That pertains to all weapons, not only nuclear weapons. Their different effect, like that of all weapons, depends on the fact that they can really be used. The real possibility of using nuclear weapons is a constituent element of their political effect in peace time. Nuclear weapons which are considered "political weapons" because their operative application seems "unthinkable," unlikely, or even impossible, will lose their deterrent effect accordingly.

This is the old problem of the nuclear weapons "credibility." Since the threat of "massive retaliation" has been considered doubtful, there exists the need for usable medium, small, and eventually smallest "clean" nuclear arms. They have been developed over the years. In this process of a quarter of a century the neutron weapons represent a further step in the old direction. [paragraph continues]

The possibility of limiting undesired side effects makes nuclear arms militarily accessible. This was often termed as "lowering the threshold." It is contradicted by the fact that the credibility of its deterrence is growing together with the likeliness of its use. Simultaneously the likelihood of having to use the nuclear weapon which has become more usable is being curtailed.

A third argument against the neutron weapon applies to the "balance." It is said that a "strategic balance" exists between the great powers. As a principle of the framework of the East-West relationship it makes regional variations in some parts of the world tolerable. Attempts to eliminate regional imbalances are superfluous or even harmful because they would disturb "detente policy" in Europe. For example, this is why the "new weapon" should not be introduced. Instead an attempt should be made to introduce this renunciation in the Vienna forces negotiations as a bargaining tool.

In this train of thought the neutron weapon is regarded as a disturbance in current arms control negotiations. Both assumptions, however, are not applicable. The strategic balance of the superpowers has not at all made regional imbalances more tolerable or depreciated them. Rather it may be said that it was the very mutual strategic neutralization of the nuclear great powers which made it possible for Moscow to activate regional imbalances (in Africa, on the oceans, in the Middle East). Soviet conventional armament in Europe serves the same end. It proceeds under the protection of the strategic balance with the United States, as it were. It is intended to torpedo this balance regionally. It is extremely doubtful whether it will be possible at all to establish a realistic arms control formula in the Vienna forces negotiations, perhaps as an equation between the withdrawal of certain quantities of Soviet tank units from central Europe beyond the Soviet western border and the renunciation of the stationing of neutron weapons or even their production. At the moment it looks more as though the Soviet Union wants to retain its tank units and to dissuade the West of the strongest defense weapon against them through anti-nuclear propaganda. Even if Moscow were respective to a trade of such magnitude, it remains very questionable whether the West should offer such a deal at all. The renunication of the weapon would be final, whereas the withdrawal of the tanks would be reversible within a few days.

But above all, attention must be devoted to a fundamental political asymmetry of tanks and the neutron weapon. The introduction of the neutron weapon would provide the West with an advantage over the Soviet Union which it so far has not had. The fact that the new weapon could neutralize the threefold and nearly fourfold superiority of the Soviet Union in combat tanks would be a serious disadvantage to the Soviet Union—albeit only for as long as it prepared for an attack on Western Europe. It is useless in an offensive capacity for threatening the Soviet Union. Defense weapons such as mines or defense weapons against airplanes, tanks, and submarines cannot at all produce a military or political imbalance even if a state were to stockpile weapons such as mines or defense weapons

can only correct imbalances. They stabilize a situation—there is nothing more they can do. The neutron weapon—in that respect comparable to the cruise missile—enhances the defense capability of the West without altering its offensive strength.

It is therefore desirable that the Federal Government and one other alliance partners make up their minds to promote, openly and audibly in Washington, the replacement of the old nuclear warheads for the alliance's battlefield weapons with the new neutron warheads.

[From the London Financial Times, Feb. 3, 1978]

(By Malcolm Rutherford)

THE SOVIET VETO OVER NATO ARMAMENTS

The Soviet Union may be about to achieve a major propaganda victory. President Brezhnev has made known his displeasure—most recently in letters to NATO heads of government—that the Western alliance is considering the introduction of the neutron bomb. President Carter has not helped by saying that the United States will deploy the weapon only if the Europeans request it to do so. In other words, there is no American leadership; nor is there much sign of a disposition among the European allies to make the request. Mr. Brezhnev seems to be winning.

This apparent readiness to allow the Soviet Union what amounts to a right of veto over Western armaments decisions deserves closer examination. It is not as if introduction of the neutron bomb would infringe either the spirit or the letter of any existing armaments agreements. Its deployment would be merely part of a process—also engaged in by the Warsaw Pact—of improving and modernizing tactical nuclear weapons. This is an area in which NATO once enjoyed a clear superiority which, over the years has been steadily eroded by the Warsaw Pact's own military build-up.

The neutron bomb achieves its effect by radiation rather than blast. It is therefore sometimes described as the weapon which kills people while leaving buildings and infrastructure intact. It is conveniently forgotten by those—like Mr. Brezhnev—who appear to prefer the good old-fashioned nuclear systems that exist to destroy both people and infrastructure. Arguments that the neutron bomb is somehow more inhumane thus do not stand up.

There are, moreover, particular circumstances in which the neutron bomb would be the best possible weapon for NATO to have. For example, the Warsaw Pact enjoys considerable superiority in central Europe in the number of its tanks. A conventional (that is, non-nuclear) Soviet attack would rely heavily on concentrated tank formations. It is already NATO doctrine that if such an attack could not be halted by conventional means, the alliance would resort to its tactical nuclear arsenal. Yet existing tactical nuclear weapons destroy indiscriminately and this in an area—central Europe—which has a high density of population. They would inflict widespread collateral damage. The neutron bomb would have the purpose of checking tank advances while keeping collateral damage to minimum.

CREDIBILITY

It is said, too, that the very process of refining or improving nuclear weapons makes their use more likely. I would prefer to put that statement another way: It increases their credibility. If the potential aggressor believes that the weapons will be used, he may well think twice about attacking. That is the paradox of deterrence. Enhanced credibility makes the use of nuclear weapons not more likely, but less.

Two final arguments against the neutron bomb need to be countered. The first is that if NATO does deploy it, the Warsaw Pact will in time do the same. The answer to that is: So what? There is a particular purpose for which NATO needs the weapon. It would not diminish Western security one jot if the Russians were also to develop it since NATO is not contemplating attacking Eastern Europe with large formations of tanks. NATO is, we should remember, a defensive alliance.

The second argument concerns arms control, and therefore ought to be taken more seriously. It is said that the neutron bomb ought to be used as a bargaining counter in order to extract armaments reductions from the Warsaw Pact. That is an idea which is worth considering further. Yet the fact remains that you will not extract concessions with a bargaining counter that nobody believes you are going to deploy in the first place. The decision to deploy must come first. At present the alliance seems simply to be giving way to Mr. Brezhnev.

The imminent departure of Herr Georg Leber from the West German Defense Ministry is a cause for regret in many ways. Herr Leber, backed by Chancellor Schmidt, had become the unquestioned leader of European NATO. It was he who stood up to the Americans when necessary, and who backed them when he thought that they were right. He presided over great improvements in the West German Armed Forces. Yet although he was conscious that his country made the greatest European contribution to the alliance, he did not press that fact too far. He did not seek, to use the once fashionable phrase, bi-gemony with the United States.

There is no obvious successor to him in German politics, Chancellor Schmidt himself is deeply involved in defence matters, but he cannot do the job alone. Nor is there any obvious successor to him as the European leader of the alliance. Inevitably, at least until a German replacement grows to the job, some of the burden will fall on Mr. Fred Mulley, the British defence secretary. One hopes that he can bear it.

GERMAN CONCERN

Herr Leber is also going at a time when German-American relations in the defence field are not good. The mutual suspicions are not, in fact, confined to military questions; there is a general lack of rapport between President Carter and Herr Schmidt which bodes ill for the future of Western cooperation. But for the moment it is defence that is uppermost as a point of dispute.

The principal West German concern is the second Strategic Arms Limitation Treaty (SALT 2) which the Americans may conclude with the Russians in the course of this year. As Herr Schmidt has himself put it, the Germans are worried that "strategic arms limitations confined to the United States and the Soviet Union will inevitably impair the security of the West European members of the alliance vis-a-vis Soviet military superiority in Europe if we do not succeed in removing the disparities of military power in Europe parallel to the SALT negotiations."

There is now virtually no chance of any such parallel achievement; there simply isn't time for it. The SALT negotiations are too advanced while the negotiations on conventional East-West force cuts in central Europe (known as MBFR) have scarcely got off the ground, in spite of four years of talking. What upsets Herr Schmidt and the Germans, however, is that even if MBFR were making some progress, there would still be a whole area of weaponry uncovered by either negotiation. This situation overwhelmingly favours the Soviet Union.

SALT is about strategic weapons, defined as weapons possessed by the superpowers capable of striking at each other's heartland. MBFR is basically about ground forces, though tactical nuclear weapons have been mentioned. Yet there is now a whole range of weapons deployed by the Soviet Union which are not classified as strategic in SALT, but which are targeted at Western Europe and which therefore must certainly be considered as strategic by the Europeans.

These weapons include the Backfire and Fencer aircraft, and the recently deployed SS–20 ballistic missile. (They are variously described as Euro-strategic or continental—as distinct from intercontinental—strategic). They are of concern not only to the Germans. Britain, for example, has to face up to the fact that unless it does something about it, it will become vulnerable to a Soviet air attack, perhaps only with conventional weapons, in a way that had long been dismissed as out of the question. There is also the possibility that the Soviet Union is achieving the wherewithal to fight a limited liability war in Europe: That means that it could strike at Europe without its own heartland necessarily being endangered.

And that is not all. Not only is the Soviet Union extending its strategic capacity in an area not covered by any form of arms control negotiations; it now seems certain the best American response to this new-found Soviet strength—namely the Cruise missile—will be included in SALT 2. The point was very well put by Dr. Manfred Woerner, the Bonn opposition spokesman on defence, at the annual international conference organized by the Wehrkunde Publishing House in Munich last week-end. The Soviet Union, he said, had succeeded in ensuring that the one medium-range weapon that is definitely on the SALT agenda is the Western Cruise. It was the more striking that General Haig, the supreme allied commander Europe, who sat through the entire conference, made not the slightest effort to contradict him.

It is true that the limitations on Cruise in SALT 2 will probably be confined to a three year protocol. They will restrict deployment rather than development, and they will apply to the general technology. But the Germans for one are worried, and the Americans have yet to come up with any convincing re-assurance.

Finally, to stay on defence, there is another problem for the British, and it will be interesting to see whether it surfaces before the general election. Assuming that the next government runs anything like a full term, it will almost certainly have to take a decision on the successor—if there is to be one—to the Polaris strategic nuclear deterrent. The present force cannot survive much beyond the early 1990s, and perhaps not even reliably till then. Given the long leadtime necessary to produce a replacement, that means that a decision will have to be taken within the next two or three years.

PUBLIC DEBATE

Dr. David Owen, who is very much a supporter of the deterrent, is beginning to back into the subject at the Foreign Office, though he is well aware he has the Labour Party to contend with. There has also long been an interdepartmental committee looking at the possibility of British, or European, Cruise missiles. But the public debate seems to be missing. Not least, it would be worth finding out what the rest of Europe would like Britain to do. For there is, after all, the alternative of putting the resources into improving our conventional forces.●

PROVIDING ASSISTANCE FOR EDUCATION OF IMMIGRANT CHILDREN

HON. ROBERT (BOB) KRUEGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. KRUEGER. Mr. Speaker, today I am introducing a bill designed to provide

assistance to school districts across the country which must provide free public education to substantial numbers of immigrant children from Mexico. These students usually reside in school districts which are already hard pressed to meet the educational needs of their normal school populations and, in fact, many of these school districts are among the least wealthy in the Nation.

My legislation would provide a one-time payment of $1,000 per immigrant student to school districts meeting one of two eligibility standards. Most districts qualifying for aid would fall into the first category, that of school districts in which 7 percent or more of the total student population consists of immigrant children, provided that such children are at least 20 in number. A limited number of school districts would qualify under an alternate formula, which would grant $1,000 per immigrant student to a school district in which immigrant children constituted at least 4 percent but not more than 7 percent of the total student population, provided that at least 20 immigrant students are in attendance. However, these latter school districts must have taxable wealths considerably below the State average, indicating that the local tax base could not otherwise absorb the expense of constructing or acquiring facilities for the education of immigrant children.

This legislation would benefit school districts in Texas, Arizona, New Mexico, and California, four States which educate the largest number of Mexican immigrant children. I have researched the situation in Texas, and find that 51,348 immigrant students were enrolled in our schools as of January 1977. This figure represents almost 2 percent of the entire Texas student population. Furthermore, the task of educating these students is not spread evenly throughout the State; the relatively poorer school districts closest to the border are most heavily impacted by the migration of Mexican school-age nationals. One such district has more than 5,000 such students, and a tax base only one-half of the State average. Another of the affected districts has a tax base less than one-sixth of the State average. Clearly, Federal assistance is necessary if these districts are to meet the educational needs of additional students without reducing the quality of education offered to the entire student population.

When this difficulty first appeared, local, State and Federal officials met to determine whether Federal assistance might be available under any existing statute. They decided that existing law provided no statutory authority for assistance of this nature, although some present programs could help these students in ways other than the construction of facilities. The need for additional space, however, is the most pressing concern of the school districts involved, and Congress must provide the necessary legislation to fulfill this need. A recent precedent for similar Federal action occurred in the case of Indochinese refugees, whose educational needs were addressed by the Congress in the form of special legislation. The school districts which would benefit from enactment of my legislation are faced with economic difficulties more severe than those schools impacted by the Indochinese refugees, and the number of immigrant children is even greater in the districts covered by my bill than in most school districts benefiting from Indochinese refugee assistance.

The school districts impacted by Mexican immigrant students are not responsible for the unfortunate situation in which they find themselves. The influx of school-age immigrants is a product of a larger national policy which has resulted in thousands of Mexican nationals entering this country both legally and illegally, in pursuit of greater personal and economic opportunities. Therefore, I believe it is entirely appropriate for the Congress to grant this one-time extension of Federal assistance. Free public education in Texas has already been granted to citizens and legal residents, and to illegal immigrants affected by the Federal court decision in the Silva case. A broadening of the educational franchise is in the best national interest, and will provide us with a better-educated and more socially mobile population in years to come. However, I urge my colleagues in the House to pass this bill to insure that we provide the infrastructure necessary to achieve our goal of an accessible and quality public education for all those who seek it.

The text of my bill follows:

H.R. 11883

A bill to provide financial assistance for school construction to local educational agencies educating large numbers of immigrant children

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Educational Assistance for Immigrant Children Act of 1978".

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "construction" means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefore; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (C) remodeling or alteration (including the acquisition, installation, modernization or replacement of equipment) of existing structures; or (D) a combination of any two or more of the foregoing.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "secondary school" means a day or residential school which provides secondary education as determined under State law.

(5) The term "free public education" means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(6) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "immigrant child" means a child born of parents who have emigrated from the Republic of Mexico and are not citizens of the United States (other than a child in a family which is in the United States for the purpose of representing another government in a diplomatic or similar capacity) and who is provided free public education by a local educational agency of a State.

(8) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes; but such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public;

(9) the term "State" includes the several States of the union and the District of Columbia; and

(10) the term "State educational agency" means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PUBLIC EDUCATION ENTITLEMENT FOR IMMIGRANT CHILDREN

SEC. 3. (a) The Secretary of Commerce shall, in accordance with the provisions of this Act, make a grant to each eligible local educational agency for the construction of school facilities in order to assist such agencies in providing education to immigrant children.

(b) The amount of the grant to which a local educational agency is entitled under this Act shall be equal to the number of immigrant children aged 5 to 17, inclusive, who are in average daily attendance at the schools of that agency and for whom that agency provided free public education during the school year 1977–78 multiplied by $1,000.

(c)(1) A local educational agency shall be eligible to receive a grant under this Act if—

(A) the number of immigrant children in average daily attendance during such school year at the schools of that agency is equal to or greater than 20 and is equal to 7 per centum or more of all children aged 5 to 17, inclusive, who are in average daily attendance at such school during each year; or

(B) the number of immigrant children in average daily attendance during such school year at the schools of that agency is equal to or greater than 20 and is equal to 4 or more per centum, but less than 7 per centum, of all children aged 5 to 17, inclusive, who are in average daily attendance at such school during each year, *Provided:* That the taxable wealth of such agency as measured by the State is equal to or less than one-half of the average taxable wealth for all such agencies located in that State, as measured by the State.

(2) No immigrant child may be counted for the purpose of this Act by any local educational agency unless—

(A) the parents of such child reside within the school district of such agency,

(B) the guardian of such child resides within the school district of such agency,

(C) the individual having lawful control of the immigrant child resides within the school district of such agency, or

(D) such child resides within the school district of such agency.

(d) Determinations with respect to the number of immigrant children by the Secre-

tary under this section shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimation, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(e) Notwithstanding the other provisions of this Act a local educational agency shall not be eligible for a grant under this Act if the Secretary determines that the amount of entitlement under subsection (b) is not adequate to provide such agency with any meaningful assistance in the education of immigrant children.

(f) there are authorized to be appropriated not to exceed $40,000,000 for grants pursuant to this Act.

FUND ALLOCATION IN CASE OF DEFICIENCY

SEC. 4. If the sum appropriated for grants under this Act is not sufficient to pay in full the total amount which local educational agencies are entitled to receive under this Act, the entitlements of such local educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such entitlements within the limits of the amount so appropriated.

APPLICATION

SEC. 5. (a) No local educational agency shall be entitled to any grant under this Act unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall:

(1) provide that the grant made under this Act will be used for the construction of school facilities to be administered by such agency;

(2) provide assurances that the application will be submitted to the appropriate State educational agency for comment;

(3) provide that such fiscal control and fund accounting procedures will be established as may be determined by the Secretary to be necessary to insure the proper disposal of, and accounting for, Federal funds paid to the agency under this Act; and

(4) provide for the furnishing of such other information and reports as the Secretary may reasonably require to perfom his functions under this Act.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a local educational agency except after reasonable notice and opportunity for hearing to such agency.

PAYMENTS

SEC. 6. The Secretary shall pay to each local educational agency having an application approved under this Act the amount which that agency is entitled to receive under this Act.

PENALTY FOR NONCOMPLIANCE

SEC. 7. Whenever the Secretary finds, after a reasonable notice and opportunity for hearing to the local educational agency, that there is a failure on the part of such agency to meet the requirements of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under this Act until he or she is satisfied that there is no longer any such failure to comply. Until he or she is so satisfied no further payment shall be made to the local educational agency under this Act.

TERMINATION

SEC. 8. The provisions of this Act shall terminate on October 1, 1979.●

PANAMA CANAL: SOVIET LINE AGAINST U.S. PRESENCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. DORNAN. Mr. Speaker, one of the vital angles in the current efforts to give away the U.S. Panama Canal is the long Soviet record of attempting to wrest it from United States control. Unfortunately, this aspect of the problem has been generally glossed over by many advocates of its surrender.

As is well known by our best strategists, the Caribbean Sea-Gulf of Mexico area forms the crucial danger zone of the Western Hemisphere—the soft underbelly, as it were. The Panama Canal is the critical point in that area and pivotal to its control by any nation. The Communist takeover of Cuba in 1959 was only the first step in the Soviet Union's plan to control the Caribbean-gulf area and the Canal Zone.

In reading about the debates in the Senate since February and in the proposed Panama Canal Treaties, it is obvious that many Senators have been brainwashed or seduced by Executive largesse to such an extent that they have become quislings in the plan to transform the Caribbean and Gulf into Red lakes.

Mr. Speaker, because of its timeliness, an article about the Soviet line on Panama by Professor Emeritus Albert Parry of Colgate University, an authority on Russian civilization, follows as part of my remarks. I believe that it illustrates quite clearly the threat to the canal and Caribbean and the gulf posed by the Soviet Union.

THE SOVIET LINE ON PANAMA

How does Moscow view the Panama Canal question?

The Kremlin has long denounced America's control over the "Big Ditch." In its parlance the Panama Canal Zone is a "colonialist enclave" and a symbol of "bondage" under American "imperialists." Nothing done in Washington is likely to change this attitude.

Soviet editorial writers claim the Carter Administration is not at all "liberal" and deserves neither credit nor praise for whatever rights it appears to grant Panama. Last Aug. 16, *Izvestia* approvingly quoted the Communists of Panama that "the U.S.A. was compelled to give in as the result of the struggle of the entire Panamanian people, of the unity of the worldwide anti-imperialist forces and of broad international solidarity." On Sept. 8, G. Vasilyev, *Pravda's* correspondent in Washington, cabled his newspaper that the new agreements were not at all what they pretended to be: "In these new treaties, the unjust and unequal premises vis-a-vis the little Latin American country are preserved."

For years and decades, the official Soviet Russian view of the American construction, ownership and maintenance of the Canal has been permeated with indignation—and prophecy of our eventual downfall in the Zone. Volume II of the massive *Istoriya Diplomatii* (History of Diplomacy) by V. M. Khvostov, issued by the State Publishing House of Political Literature in Moscow in 1963, presents the 1903 treaty and subsequent building of the Canal as sheer robbery and shameless exploitation by North Americans, exceeding even such "juicy fruits of imperialist diplomacy" as Imperial Germany's contract for the Baghdad Railroad and Imperial Russia's deal to create the Chinese Eastern Railroad (in Manchuria).

Intrigue and agitation against American possession of the Canal have marked the Soviet Russian policy ever since Lenin. Through the 1920's and 30's and even in the early phase of World War II, Moscow kept up its barrage against "American imperialism."

The Nazi invasion in June 1941 halted or at least lessened such outbursts. Stalin wanted our lend-lease. His propaganda and subversion agents clearly had orders to go easy on the United States.

But with World War II over and the Cold War on, Red hounds were let loose with a fresh vigor. By the mid-1940's, the Communists of Panama had a grip on that country's trade union of the government employees, the Sociedad Panamena de Trabajadores al Servicio Estado. The Union's real boss was Panama's leading Communist, Cristobal L. Segundo, president of the People's Party. This union belonged to the Latin American Labor Federation, a "property" of Lombardo Toledano, a Mexican under Kremlin orders.

In 1947, another faithful servant of the Moscow policy, the Brazilian Communist chief Luis Carlos Prestes, telegraphed Panama's National Assembly his congratulations on its "historic decision for the defense of national sovereignty . . . against exploitation by American monopolies." All this because the government of the Republic of Panama had just rejected the United States request for 14 more military bases to be leased on Panamanian soil.

In 1950, in Vladivostok, a book by one Georgy Nikitin was issued by a Soviet state publishing house wherein the Yankees were roundly denounced because the Panama Canal "is a gate, through which America reaches out with her tentacles to all the seas in the world, to all the shores not belonging to her." Nikitin said he had been a seaman on a Soviet freighter that passed through the Canal on the eve of the Korean War. In his book he reported: "In the area of the Panama Canal, as nowhere else before, we Soviet seamen saw the feverish American preparations for a new war." American warships and "whole caravans of vessels laden with arms and munitions" were being "openly taken through the Canal into the waters not owned by the United States."

In 1952, as the Soviets were completing the Volga-Don Canal, Moscow propagandists boasted that it took Soviet engineers and laborers only three and a half years to do their job, a mere fraction of the time that had gone into the Panama Canal. On June 14, 1952, *Literaturnaya Gazeta* jeered at the United States' digging record compared "with our canals that are being built at our Bolshevik tempo." On July 13, *Izvestia* chided the United States for taking "thirty-three years, from 1881 to 1914," to build the Panama Canal. (The construction phase actually was 10 years: it took seven years to dig; and the Americans did not have slave labor or the 1950 Russian equipment, much of it made in the USA.).

Stalin died in 1953, but the anti-American rage and plotting continued. In 1954, some 2,000 tons of arms reached Guatemalan Reds from Czechoslovakia via Poland. Sec'y of State John Foster Dulles said one objective of that shipment was a Red build-up close to the Panama Canal.

This danger faded in June 1954, when Guatemalans, with decisive aid from the Central Intelligence Agency, overthrew the Communist regime of President Jacobo Arbenz Guzman. He fled to Czechoslovakia.

Under Nikita Khrushchev, the old Stalinist line persisted. In February 1955, the new edition of the "Great Soviet Encyclopedia" castigated American "warmongers" for using the Panama Canal as a tool "serving their

aims of strengthening their strategic and economic control over the countries of Latin America and preparing their aggression in other lands."

In 1956, the Suez Canal crisis provided one more opportunity to step up the Soviet hue and cry about the Panama Canal. *Literaturnaya Gazeta* of Aug. 11, 1956, compared "racist" American treatment of Panamanians to the British "oppression" at Suez.

On Oct. 6, 1956, *Izvestia* printed, prominently, a poem by Carlos Augusto Leon, a Venezuelan, proclaiming:

Latin America cannot take her eyes off Egypt.
For the Panama Canal, a link in the same chain,
Has cut deep under her ribs and now challenges freedom
As it imprisons humans, forests and prairies.
But the bell of time chimes over us, too.
The banner of Suez is our banner also!

Soviet ships appeared in numbers in the Caribbean, from January 1957, to the spring and trouble brewed at once. The Soviet Government did not like strict American search measures and other precautions at the Panama Canal. Formal protests complained of:

Too lengthy and thorough a search by the Canal's American authorities "of all living and working quarters, including an inspection of the crews' personal effects."

Excessively minute measuring and photographing of all the machinery, equipment and quarters of the Soviet ships.

Halting the ships at one point after another all along the Canal, with needlessly long waits at each stop.

Denial of shore leave for the Soviet crews wishing to visit Balboa.

Forbidding the crewmen to stay on their own decks during their off-hours.

Stationing American guards all over the Soviet ships during the passage; practically overrunning the ships with those watchful, suspicious Yanks.

In the late 1950's, the Soviets also wailed that the then anti-Communist government of the Republic of Panama would not recognize Moscow. In 1959, *Pravda's* special correspondent V. Poliakovsky flew in and with much teeth-gnashing wrote about the thorough U.S. control.

The atmosphere was different five years later when, in January 1964, Poliakovsky returned on his second visit. Then there was a lot of joyous hand-clapping in his cables. Anti-American riots had burned and ruined so much! En route from the airport, "along both sides of the road, traces of real-to-goodness battles are to be seen, (especially) the charred building of the United States Information Center (and) Yanqui Go Home signs."

"And here is the Canal Zone," he wrote. "On my visit five years ago Americans would not let me in. At that time a husky American policeman on a motorcycle barred my way. But now the road is open. We do not see Americans anywhere around. It looks as if the hurricane of the people's wrath had chased them into the barracks."

All through the 1960's, in one seemingly innocent guise or another, as newspapermen, trade representatives, academic visitors or what-not, Soviet agents tried to gain their foothold in Panama, and often succeeded. In 1964, a favorite joke in Latin America posed this question: "Is it true that Communist agents are responsible for the Panamanian riots?" The answer: "No, it isn't so. I have just returned from Panama, so I ought to know. I asked Soviet representatives about it, and they told me, no, it isn't true. And I know at least 100 Soviet representatives in Panama!"

Even in 1978, a well-used vantage point from which Soviet agents have done their spying and scheming in the Canal Zone has been neighboring Colombia. For a time the Soviet ambassador in Bogota was Nikolai Belous, who had previously been ousted from Argentina where, as a KGB agent, he did his professional best to incite and take part in a huge street riot.

Moscow has muted its propaganda during debate over the canal treaties, but as late as May 25, 1977, Gennady Zafesov warned in Pravda that many Americans do not want to give up the Canal. But, he added, "attempts in Washington to shunt the canal problem into a blind alley are doomed."

—Prof. Albert Parry

(EDITOR'S NOTE: The author is professor emeritus of Russian civilization and language at Colgate Univ. His latest book is "Terrorism: From Robespierre to Arafat.")●

SUPPORT FOR WATER DEVELOPMENT IN SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. ABDNOR. Mr. Speaker, elsewhere in today's RECORD are my remarks to the Appropriations Committee on fiscal year 1979 funding for water projects in my State.

The widespread support for water development in South Dakota is evidenced in editorials from our two largest newspapers and in Senate Concurrent Resolution 15, passed by the legislature:

[From the Rapid City Journal, Mar. 9, 1978]

FEDS SHOULD FUND STUDY OF MISSOURI WATER USE

In the wake of one of the worst winters in history, spring flooding is now a distinct possibility.

That flooding will not have the serious consequences it once did thanks to the Missouri River dams in South Dakota.

Flooding along the Missouri both in South Dakota and downstream used to be almost an annual occurrence. Now it is rare.

South Dakota gave up 500,000 acres of land to create the impoundments which contain spring runoff.

While South Dakota has realized some of the benefits of the flood control aspects of the Missouri River dams and has access to a relatively small percentage of the hydroelectric power they generate, it has yet to realize all the tradeoffs it was promised for relinquishing its land.

The Oahe Irrigation Project, a key element of the tradeoff, has become embroiled in controversy. As a result, the Carter administration has cut off federal funding for the project. In view of the growing tide of opposition to the irrigation project, the cutoff of funds is somewhat understandable.

But irrigation is only one of the benefits of Missouri River water to which South Dakotans should have access. The need for water for domestic and industrial use must also be addressed.

The initial step toward that objective requires feasibility studies for which the state does not have sufficient fiscal resources.

The Department of Interior has announced that funds appropriated for the Oahe project but unused for that purpose cannot be used to study alternatives. That decision should be reversed.

If it isn't, Congress should appropriate funds for studies to determine how Missouri River water feasibly can be provided for domestic and industrial use in South Dakota.

The contribution of the Missouri River dams to flood control and hydroelectric generation is considerable. South Dakota has yet to benefit from those dams in proportion to its contribution of valuable land which made them possible.

It's time for the federal government to live up to its long-time commitment.

STAKE IN WATER

South Dakota can take little encouragement from hints of what's to come in the new water policy the Carter administration is expected to unveil later this month.

Secretary of the Interior Cecil Andrus in a memorandum to President Carter recently proposed that states be required to pay 10 percent of the cost immediately to obtain federal aid for a water resource project, such as a municipal water system.

In Andrus' view, states would be less inclined to request federal aid for marginal projects if they were required to pay part of the cost immediately. And he said the federal government "should support those projects first where the state will provide 10 percent" if Congress refused to pass such legislation.

The Secretary also recommended that the federal government appropriate $40 million to states over the next two years to develop master plans for water resources. States would then negotiate with the Water Resources Council on minimum standards for the planning process by the end of this year. Andrus is chairman of the council.

The federal government is in a better position to bankroll projects which it has mandated than the cities or states. Whether some projects are marginal depends on the point of view.

The 10 percent down idea also ignores the contributions South Dakota has made in giving up half a million acres of Missouri River bottomland for the four dams. The Oahe Irrigation Projects, for which Carter denied funding, was one of the tradeoffs promised to South Dakota by previous Democratic and Republican administrations over a span of nearly 30 years.

South Dakota, attempting to sort out its options after loss of Oahe funding, cannot afford another two year delay in the bureaucracy while developing a master plan for water resources. The opportunities for the federal bureaucracy to delay a state's master plan while resolving what's to follow the Oahe Irrigation project, for instance, appear endless.

South Dakota's immediate challenge is to come up with its own comprehensive plan to gain beneficial use of Missouri River water by farmers who want it for irrigation and other use and by cities and towns for municipal consumption. Such a plan would consist of many parts.

As for a replacement for the Oahe Irrigation Project, Sen. George McGovern said recently the state must come up with a single recommendation. The federal government won't sponsor studies to show the alternatives. Saving the nearly completed Oahe pumping plant, Pierre canal and the proposed Blunt Reservoir to supply water to projects other than Oahe should be the foundation of that single recommendation.

South Dakota and all the West will have to take a careful look at the policies which Andrus and his council will recommend. The West's chance for further development of its land and water resources is at stake.

SENATE CONCURRENT RESOLUTION NO. 15

A concurrent resolution, Memorializing the Congress of the need for assistance in development of water resources in South Dakota and citing legislative interest in conducting necessary studies to evaluate areas of water development potential enjoying public acceptance and support

Whereas, the Pick-Sloan Missouri Basin Flood Control Act of 1944 authorized the conservation, control, and beneficial use of the flood waters of the Missouri River; and

Whereas, that plan provided for the construction of dams on the Missouri River in South Dakota; and

Whereas, the water impounded by said dams inundated 509,000 acres of South Dakota agricultural land; and

Whereas, persons outside the state's borders receive a majority of the flood control and electrical power benefits resulting from said dam construction and South Dakota land loss; and

Whereas, the Pick-Sloan Missouri Basin Flood Control Act of 1944 also provided for construction of a multi-purpose water development project in South Dakota known as the Oahe Unit, which was authorized by Congress in 1968 and was designed to serve irrigation water needs in the Dakota Lake Plain, municipal and industrial water needs in the development area, fish and wildlife conservation and development, and expanded recreational opportunities; and

Whereas, the authorizing legislation allocated a portion of the power revenues from electrical power sales to defray the costs of water development in South Dakota as partial compensation for the sacrifice of land in South Dakota to the said dams and reservoirs; and

Whereas, the Oahe Conservancy Sub-District, acting through its Board of Directors, holding a contract with the United States for construction of Oahe Unit, has conducted hearings within the project area and has concluded that the authorized Oahe Unit is unacceptable to the Sub-District; and

Whereas, the Oahe Conservancy Sub-District Board of Directors has adopted a resolution requesting the Congress to deauthorize Oahe Unit feeling such action was necessary to clear the way for acceptable water development, to request no further funding for the project and to request funding and support for (1) development of riverside irrigation in counties bordering the Missouri River served by closed pipeline systems, (2) development of pipeline delivery systems to meet municipal and rural domestic water needs and (3) development of a voluntary watershed program on the James River Basin; and

Whereas, resolution of the issue is necessary for South Dakota to develop a program of flexible and desirable water resource use; and

Whereas, the Lower James Conservancy Sub-District has requested a modification of Oahe Unit; and

Whereas, the federal government is considering, as an option for replacement of direct water development projects, block grants to states; and

Whereas, the South Dakota Oahe Unit task force has been created to continuously monitor and examine the Oahe Unit as outlined in the construction schedule of the Bureau of Reclamation, to report annually to the Legislature on the progress of the project, and where appropriate, pursue or assist in pursuing modification and improvement in the project in the areas of: canalside irrigation; soil preservation; channelization; public access to project data; municipal, rural and industrial water supply; beneficial economic and environmental purposes; and wildlife mitigation and enhancement; and

Whereas, the South Dakota Oahe Unit task force has gone on record requesting the Bureau of Reclamation and the Fish and Wildlife Service to eliminate the list of landowners for wildlife mitigation in the Revised Wildlife Plan and to notify the individuals involved; and

Whereas, the South Dakota Oahe Unit task force has recommended to the South Dakota Legislature that, before any further construction of Oahe Unit and before deauthorization of Oahe Unit, the Bureau of Reclamation with the cooperation of the South Dakota department of natural resources development study the feasibility of canalside irrigation in Hughes County and Sully County, and study the feasibility of irrigation pumping directly from Lake Oahe as compared with the feasibility of supplying water to Missouri riverside irrigation areas through the Pierre Canal and Blunt Reservoir, and that the Bureau of Reclamation conduct an appraisal study of the Lower James Conservancy Sub-District proposal for modification of Oahe Unit, including alternate sites for the pumping station and water delivery system; and the Oahe Unit task force further recommended that the Legislature direct the task force to begin negotiations with the federal government for a block grant or share of power generation revenues to offset the loss of 509,000 acres inundated in South Dakota by the Missouri River impoundments:

Now, therefore, be it resolved, by the Senate of the Fifty-third Legislature of the state of South Dakota, the House of Representatives concurring therein, that the Legislature of the state of South Dakota does hereby memorialize and urge the Congress of the United States and the United States Department of the Interior to assist in development of water resources in South Dakota by allocating resources to cooperate with the South Dakota department of natural resources development, in consultation with the Department of Agriculture, Department of Environmental Protection, State Planning Agency, and the Department of Game, Fish and Parks, in study of alternate water development projects in South Dakota, including but not limited to those requested by the recommendations for modifications and alternatives made by the Oahe Conservancy Sub-District Board of Directors; by the Lower James Conservancy Sub-District proposal for modification of Oahe Unit; by the WEB Water Development Association proposal; and by the Oahe Unit task force; and

Be it further resolved, that the Legislature requests the United States Department of the Interior to immediately commence such study work in cooperation with the South Dakota department of natural resources development, the conservancy sub-districts involved, and the Oahe Unit task force, in consultation with the Department of Agriculture, Department of Environmental Protection, State Planning Agency, and the Department of Game, Fish and Parks, using unobligated fiscal year 1977 carryover construction funds where appropriate; and

Be it further resolved, that the Oahe Unit task force further assist in evaluation of other alternate water development project proposals as such proposals are offered to the extent of its fiscal and time constraints; and

Be it further resolved, that the Legislature requests the United States Department of the Interior to eliminate the list of identified potential wildlife mitigation lands contained in the proposed Oahe Unit Revised Wildlife Plan and to notify the landowners involved of the elimination of such list; and

Be it further resolved, that the Legislature of South Dakota asks Congress to refrain from any action to deauthorize Oahe Unit until analysis of such alternate water development projects is completed, or an acceptable cash settlement in the form of a block grant or a percentage of the annual power generated revenues from the facilities operating within the state on the Missouri River, has been negotiated by a team consisting of the Oahe task force and the South Dakota congressional delegation, provided that the authorized Oahe plan to develop irrigation in Brown and Spink Counties is not completed nor endorsed for completion; and

Be it further resolved, that the Secretary of the Senate is hereby directed to forward copies of this resolution to the presiding officers of the United States Senate and House of Representatives, the members of the South Dakota Congressional Delegation, the Secretary of the United States Department of the Interior, the Governor of South Dakota, the Oahe Unit task force, and the President of the United States.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 6, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 7

9:00 a.m.

Armed Services

Arms Control Subcommittee

To hold closed hearings on the alleged Soviet ICBM threat, particularly as it affects U.S. ICBM forces.

S-407, Capitol

Banking, Housing, and Urban Affairs

To resume mark up of S. 2065, 2470, and 2546, bills to protect consumers' rights and to provide remedies in electronic fund transfer systems.

5302 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.

1202 Dirksen Building

9:30 a.m.

Armed Services

Tactical Aircraft Subcommittee

To continue hearings on S. 2571, FY 79 authorizations for military procurement.

224 Russell Building

Environment and Public Works

Water Resources Subcommittee

To hold hearings on S. 2701 and 2704, bills to promote a more adequate and responsive national program of water research and development.

4200 Dirksen Building

Judiciary

To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.

2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on S. 2520, FY 79 authorizations for the Export-Import Bank.

5302 Dirksen Building

Budget
To continue mark up of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold hearings jointly with the Human Resources Subcommittee on Education, Arts, and the Humanities on proposed FY 79–80 authorizations for the National Sea Grant College program.
235 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2541, authorizing funds for FY 79–82 for certain highway safety programs.
5110 Dirksen Building

Governmental Affairs
To continue hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for March.
1224 Dirksen Building

Select Indian Affairs
To hold hearings on S. 857, to provide Federal financial assistance to Hawaiian natives, and on S. 859, proposing extension of the Indian Self-Determination and Education Assistance Act to native Hawaiians.
318 Russell Building

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of Revenue Sharing, and New York City Seasonal Financing Fund, Department of the Treasury.
1318 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2410, to amend certain sections of the Public Health Service Act relative to health planning and health resources development and S. 2579, to establish a President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.
Until 1:00 p.m. 4232 Dirksen Building

2:00 p.m.
Budget
To continue markup of proposed first concurrent resolution setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

2:15 p.m.
Armed Services
Research and Development Subcommittee
To resume hearings on S. 2571, FY 79 authorizations for military procurement.
224 Russell Building

APRIL 10

8:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings in S. 2824, FY 79 authorizations for programs under the National Child Nutrition Act.
324 Russell Building

9:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of S. 2065, 2470, and 2546, bills to protect consumers' rights and to provide remedies in electronic fund transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 74, to amend P.L. 94–565 so as to include payments for lands on which certain semiactive or inactive military installations are located.
3110 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings in S. 571, to provide for direct enforcement action by HUD in discriminatory housing practices.
2228 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 50, the Full Employment and Balanced Growth Act.
1202 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Aviation Administration.
1224 Dirksen Building

Armed Services
Intelligence Subcommittee
To meet in closed session to receive a briefing from CIA officials on Soviet and Cuban influence in Africa.
212 Russell Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings in FY 79 authorizations for the strategic petroleum reserve.
3110 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the problems of serious juvenile crimes.
424 Russell Building

Select Ethics
To resume closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 12:30 p.m. S–402, Capitol

Select Indian Affairs
To hold oversight hearings on the current status of the reorganization of the Bureau of Indian Affairs.
5110 Dirksen Building

10:30 a.m.
*Health Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2549, FY 79 authorization for the National Science Foundation.
Until 12:30 p.m. 4232 Dirksen Building

1:30 p.m.
Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 5:00 p.m. S–407, Capitol

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Urban Mass Transportation Administration.
1318 Dirksen Building

APRIL 11

8:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To continue hearings on S. 2824, FY 79 authorizations for programs under the National Child Nutrition Act.
324 Russell Building

9:00 a.m.
*Human Resources
Health and Scientific Research Subcommittee
To resume hearings on S. 2755, proposed comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed building prospectuses for the Nuclear Regulatory Commission and a Los Angeles FBI field structure.
4200 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1753, authorizing funds through FY 83 for the Elementary and Secondary Education Act.
EF–100, Capitol

Judiciary
Constitution Subcommittee
To hold hearings on proposed reforms of the Speedy Trial Act (P.L. 93–619).
318 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Judiciary
To hold hearings on the nominations of Ellen B. Burns, to be U.S. district judge for the district of Connecticut; Gustave Diamond, to be U.S. district judge for the western district of Pennsylvania; Robert W. Sweet, to be U.S. district judge for the southern district of New York; and Donald E. Ziegler, to be U.S. district judge for the western district of Pennsylvania.
S–126, Capitol

Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 12:30 p.m. S–407, Capitol

1:30 p.m.
Select Ethics
To continue closed hearings concerning alleged attempts by representatives of the Republic of Korea to improperly influence Members and employees of the Senate.
Until 5:00 p.m. S–407, Capitol

APRIL 12

8:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To resume oversight hearings on the women and infant children feeding program (WIC), and the child care food program.
324 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 2755, proposed Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
*Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building
Environmental and Public Works
Transportation Subcommittee
To mark up proposed Federal aid highway legislation.
4200 Dirksen Building
10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building
Commerce, Science and Transportation
To hold hearings on proposed FY 79 authorizations for the U.S. Coast Guard.
235 Russell Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 242, 1812, 2606, and 2310, bills to amend the Federal land reclamation laws.
3110 Dirksen Building
Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the problems of serious juvenile crimes.
424 Russell Building
Rules and Administration
To hold hearings on S. 1029, to authorize construction for museum support facilities for the Smithsonian Institution, and to consider other legislative matters.
301 Russell Building
Select Indian Affairs
To resume oversight hearings on the current status of the reorganization of the Bureau of Indian Affairs.
1202 Dirksen Building
2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building

APRIL 13

9:00 a.m.
*Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on S. 2691, the Congregate Housing Services Act.
4232 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume markup of S. 50, the Full Employment and Balanced Growth Act.
155 Russell Building
9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the Rail Service Act (P.L. 94-210).
318 Russell Building
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To hold hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy
Room to be announced
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93-205).
4200 Dirksen Building
9:45 a.m.
Judiciary
To hold hearings on the nominations of Donald W. Banner, of Illinois, to be Commissioner of Patents and Trademarks; Daniel M. Friedman, of the District of Columbia, to be Chief Judge for the U.S. Court of Claims; and Harold H. Greene, of the District of Columbia, to be U.S. District Judge.
2228 Dirksen Building
10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Board for International Broadcasting, International Communications Agency, and on supplemented appropriations for FY 78.
S-146, Capitol
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on S. 2520, FY 79 authorizations for the Export-Import Bank.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
3112 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To continue hearings on S. 242, 1812, 2310, and 2606, bills to amend the Federal and reclamation laws.
3110 Dirksen Building
Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

APRIL 14

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1896, FY 79 authorizations for the Hazardous Materials Transportation Act.
235 Russell Building
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up S. 2527, proposed FY 79 authorizations for NASA.
1202 Dirksen Building
Judiciary
Improvements in Judiciary Machinery
To hold hearings on S. 2253, to encourage prompt, informal, and inexpensive resolutions of civil cases by use of arbitration in U.S. district courts.
4232 Dirksen Building
Select Small Business
To hold hearings on the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration.
424 Russell Building
9:30 a.m.
Judiciary.
Environment and Public Works
Resource Protection Subcommittee
To continue oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93-205).
4200 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the operation of the witness protection program under the Organized Crime Control Act (P.L. 91-452).
S-126, Capitol
10:00 a.m.
Appropriations
HUD Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To continue hearings on S. 2962, proposed FY 79 authorizations for the Department of Energy.
6226 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 2692, FY 79 authorizations for the Department of Enregy.
3110 Dirksen Building
Governmental Affairs
To resume hearings on S. 991, to create a separate Cabinet-level Department of Education.
3302 Dirksen Building

APRIL 17

9:00 a.m.
Energy and Natural Resources
To hold hearings on S. 2821 authorizing funds to the Government of Guam to construct certain public facilities, and S. 2822, to provide for the rehabilitation and resettlement of Bikini Atoll.
3110 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2090 and S. 2081 proposing an extension of certain programs of the Economic Opportunity Act.
4332 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013 to require the additional labeling of explosive materials for the purpose of identification and detection.
Room to be announced
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building
9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume markup of proposed Federal aid highway legislation.
4200 Dirksen Building
Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building
10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on H.R. 9370 and S. 2582, to provide for the development of agriculture in the United States.
235 Russell Building
Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building
Environment and Public Works.
Environmental Pollution Subcommittee
To hold hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessment Act.
6226 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of State, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 18

9:00 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2090 and S. 2081, proposing an extension of certain programs of the Economic Opportunity Act.
4232 Dirksen Building

9:30 a.m.
*Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2549, proposed FY 79 authorizations for the National Science Foundation; S. 2416, to extend through FY 81 the program of assistance for nurse training; and S. 2474, to extend through FY 83 the Public Health Service Act.
1318 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To meet in closed session with Secretary of State Vance to discuss foreign policy.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 2096, Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographical placement of electric funds transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.
Room to be announced

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
Room to be announced

Energy and Natural Resources
Energy Research and Development Subcommittee
To mark up S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
5110 Dirksen Building

Select Small Business
To resume hearings on S. 2259, to expand and revise procedures for insuring small business participation in Government procurement activities.
424 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for International Organizations and Conferences, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 19

9:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To consider proposed water resources legislation.
4200 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on the coordination of Federal programs to combat drug abuse.
4232 Dirksen Building

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
424 Russell Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Justice, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096 the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on the status of proposed construction of a Federal Interstate Highway near Memphis, Tennessee.
4200 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Rules and Administration
To resume hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs, and to consider other legislative and administrative business.
301 Russell Building

APRIL 20

9:00 a.m.
Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on the Drug Abuse Education Act (P.L. 91-527).
4232 Dirksen Building

Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 2390, the Citizens' Access to the Courts Act.
6226 Dirksen Building

9:30 a.m.
Appropriations
Agricultural Subcommittee
To resume hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1224 Dirksen Building

Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Judiciary
To hold oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1313 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Attorney General Bell on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electric funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
S-126, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume markup of S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgement of a Federal relationship.
318 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee

To continue hearings on budget estimates for FY 79 for the Department of Justice.
S–146, Capitol

APRIL 21

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To consider proposed resources protection legislation.
4200 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To resume markup of S. 1753, authorizing funds through FY 83 for the Elementary and Secondary Education Act.
155 Russell Building
Human Resources
Handicapped Subcommittee
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
154 Russell Building
Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S–146, Capitol
Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building
Select Indian Affairs
To resume hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessments Act.
457 Russell Building

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building
Environment and Public Works
Nuclear Regulation Subcommittee
To consider proposed nuclear regulation legislation.
4200 Dirksen Building

9:30 a.m.
Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building
Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S–146, Capitol
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearings on FY 79 authorizations for the Fishery Conservation and Management Act (P.L. 94–265).
235 Russell Building
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95–87).
6226 Dirksen Building
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates or FY 79 for the Department of commerce, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed highway legislation.
4200 Dirksen Building
Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building
Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S–146, Capitol
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building
Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building
Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building
Veterans' Affairs
To mark up S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; and H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II.
412 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S–146, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building

Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94–265).
235 Russell Building

Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Rules and Administration
To resume hearings on S. Res. 1166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building

Select Indian Affairs
To hold hearings on S. 2358 and 2588, to declare that the U.S. hold in trust for the Pueblo tribes of Zia and Santa Ana respectively, certain public domain lands.
6226 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 27

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environmental and Public Works
Resource Protection
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
To hold hearings on S. 1382, to establish criteria for the imposition of the sentence of death.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S–146, Capitol

Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94–265).
6226 Dirksen Building

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S–146, Capitol

APRIL 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
235 Russell Building

Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1314, to provide that State and Federal prisoners may petition Federal courts in a writ of habeas corpus.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S–146, Capitol

Banking, Housing, and Urban Affairs
To mark up proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

MAY 1

9:30 a.m.
Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

MAY 3

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

MAY 5

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:30 a.m.
Veterans' Affairs
To resume mark up of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; and H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue mark up of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 8

9:30 a.m.
Human Resources
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.
5302 Dirksen Building

CANCELLATIONS

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 21

9:30 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1314, to provide that State and Federal prisoners may petition the Federal courts in a writ of habeas corpus.
2228 Dirksen Building

SENATE—*Thursday, April 6, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 11 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. JOHN GLENN, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, Lord of all creation, we thank Thee for Thy faithfulness through the changing seasons, and especially for the resurrection of springtime. We thank Thee for the world which Thou hast given us for our home—for buds and blossoms, bubbling brooks and cascading streams, for gentle rains and singing winds, for the warmth of the Sun, for starlit nights and the lyric notes of the birds, and for all of nature which proclaims Thy glory.

Create in us an inner beauty and grace in harmony with all that is beautiful and good and true in the world about us. May the same spirit which created the heavens and the Earth be in us to save us from falsehood and guide us to the truth. Be with the President and all in authority in this land. Draw together all the nations of the Earth in the bonds of brotherhood and the service of Thy kingdom.

In the name of Him who is the Light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 6, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN GLENN, a Senator from the State of Ohio, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. GLENN thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Legislative Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the distinguished minority leader and I have 10 minutes each before the special orders today. I do this at the special request of the distinguished minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished minority leader such time out of my 10 minutes as he may desire.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I thank the distinguished majority leader.

The reason for my request of the majority leader this morning was to accommodate the two distinguished Senators from Utah and the Senator from Idaho on certain matters they wish to discuss.

I see the distinguished Senator from New Mexico on the floor and I understand he has a special order this morning. I would inquire before I yield my time if this procedure causes an inconvenience to him; that is, that these remarks might go in advance of his special order time?

Mr. SCHMITT. How much time do the Senators request? I am in the midst of a markup in the Banking Committee and came over specifically——

I will wait.

Mr. BAKER. I thank the Senator from New Mexico.

I yield to the distinguished Senator from Utah.

Mr. ROBERT C. BYRD. Mr. President, before the distinguished Senator from Utah begins, and on my time, which I have yielded to the distinguished minority leader, I wonder if we can get this agreement?

Mr. BAKER. Yes.

Mr. President, we are prepared to proceed.

TIME-LIMITATION AGREEMENT—H.R. 6782

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, April 10, at 9 a.m., the Senate proceed to the consideration of the conference report on the farm bill, H.R. 6782, that there be a 2-hour limitation overall, to be equally divided between Mr. TALMADGE and Mr. MUSKIE, and that the vote occur on the adoption of the conference report at 11 a.m.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, earlier today when the agreement on the agriculture conference report, H.R. 6782, was made, part of the agreement was that after 2 hours debate a vote occur on the conference report at 11 a.m. I understand that this might have the effect of precluding any appropriate motions or a point of order if one would lie against the conference report, and this was not the intent of the parties involved.

I understand this has been cleared with the minority. I, therefore, ask unanimous consent that the agreement be modified to allow any appropriate motions or points of order, even though the agreement provides for a vote to occur on the conference report at 11 a.m., April 10, 1978.

I further ask unanimous consent that no votes relative to the conference report occur before the hour of 11 a.m. on Monday, April 10, 1978.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Conclusion of later proceeding.)

The text of the agreement is as follows:

Ordered, That on Monday, April 10, 1978, at the hour of 9 a.m., the Senate proceed to the consideration of the conference report on H.R. 6782, the so-called Farm Amendments of 1978, and the time for debate on the conference report be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Georgia (Mr. TALMADGE) and the Senator from Maine (Mr. MUSKIE).

Ordered further, That the vote on the adoption of the conference report shall occur at 11 a.m., April 10, 1978: *Provided, however,* That no appropriate motions or points of order be precluded by this order and that no votes relative to the conference report occur before the hour of 11 a.m., Monday, April 10, 1978.

ORDER OF BUSINESS

Mr. GARN. I thank the distinguished minority leader and I thank the Senator for yielding.

Mr. BAKER. Will the Senator withhold for just a moment?

I am told now that on calendar items the Senator inquired about just a moment ago, we are prepared to proceed with the request for unanimous consent for a time limitation on these items.

Mr. ROBERT C. BYRD. Very well.

TIME-LIMITATION AGREEMENT—S. 1476

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 638, S. 1476, a bill for the relief of the estate of Harry Eugene Walker, deceased, formerly of Anniston, Ala., is called up and made the pending business, there be a 2-hour time limit thereon, to be equally divided between Mr. SPARKMAN and Mr. WALLOP, and that any motions, amendments, and so forth, in respect thereto, come out of the 2 hours.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1476 (Order No. 638), a bill for the relief of the estate of

Harry Eugene Walker, deceased, formerly of Anniston, Alabama, time for debate on this bill shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Alabama (Mr. SPARKMAN) and the Senator from Wyoming (Mr. WALLOP): *Provided*, That time on any amendment, debatable motion, appeal, or point of order which might be submitted or on which the Chair entertains debate shall come out of the 2 hours on the bill: *Provided further*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1566

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 643, S. 1566, a bill to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information is called up and made the pending business before the Senate, there be a time limitation of 2 hours thereon, to be equally divided between Mr. KENNEDY and Mr. THURMOND; that there be 1 hour on any amendment, 30 minutes on any debatable motion or appeal, 20 minutes on any point of order, if submitted to the Senate, and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1566 (Order No. 643), a bill to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information, time for debate on amendments shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; time for debate on any debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and time for debate on any point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from South Carolina (Mr. THURMOND): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. BAKER. I thank the majority leader and I thank the Senator from Utah for forbearing.

DR. ERNEST L. WILKINSON

Mr. GARN. I thank the leadership for yielding their time so that my junior colleague from Utah and the distinguished junior Senator from Idaho will be able to take a few minutes to pay tribute to a great citizen of the State of Utah who passed away this morning at the age of 78, Dr. Ernest L. Wilkinson, formerly a very distinguished lawyer here in the city of Washington, who spent a great deal of his legal life working with the Indians, representing them in the courts of this country.

He left that distinguished law practice here in Washington to return to his State of Utah to become president of Brigham Young University, to build it from what was a relatively small college to a great educational institution, which is now the largest parochial university in the United States, within excess of 25,000 students.

His mark on education, as well as the legal profession, will be longfelt not only in the State of Utah, but throughout the United States.

In addition to the marks he has made in two different fields, both education and the law, he had a great impact on the State of Utah, its growth and development, was well respected throughout the entire State as a great leader.

Beyond those accomplishments, he was a very close personal friend of mine and had been for a long time.

He also entered into the world of politics as the Republican nominee for the U.S. Senate in 1964, was not successful, but in addition to his accomplishments in education and the law, he made a great impact on the politics in our State, and particularly, he was a great leader within the Republican Party in the State of Utah.

I will take no more time, other than to express my sympathies to his family, to express my deepest sympathy to all of his friends within the State, and thanks for a life that has contributed much, again, not only to my State, but to the entire country.

At this time I am happy to yield to my distinguished colleague from Utah (Mr. HATCH).

Mr. HATCH. I thank my distinguished friend and colleague, the senior Senator from Utah.

Mr. President, I rise at this time to pay additional tribute to this great man, Ernest L. Wilkinson.

I had the privilege just this past Sunday of visiting President Wilkinson in his condominium apartment out in Salt Lake City. He was chipper. He was exciting to be with. He was still working with every fervor that has been demonstrated in his lifetime, all his life long, and it was a great privilege to have spent an hour or so with him out there last Sunday.

President Wilkinson, of course, was a senior partner in Wilkinson, Cragun & Barker, in Washington, D.C. He was a great lawyer. He received his doctor of laws, which is beyond the normal juris doctor degree. He taught law. He became president of Brigham Young University, after winning the largest Indian claims case ever filed against the Federal Government.

When he became president of Brigham Young University, he built that university into the largest private university in the world today, and he did so through force of intellect, will, might, and just plain, good, dogged hard work. That university is world renowned in many respects as a result of the great leadership of President Wilkinson.

He was a very religious man, very devoted to his faith, the Church of Jesus Christ of Latter Day Saints, commonly called the Mormon Church. He was an exemplar of that faith all over the world and was well respected as somebody who was above reproach, as somebody who lived the very best of lives.

His wife, Alice, has been a great companion to him all through their lives. The members of his family are all successful in their own right. Each has turned out to be outstanding, and they are great friends of both Senator GARN and me.

I think one of the saddest defeats of President Wilkinson's life was in not winning the Republican nomination for the U.S. Senate in 1964. Even so, he has always fought for good, sound fiscal politics and good, sound principles.

He had a delightful sense of humor and was one of the most humorous and knowledgeable people I have ever known. He was generous with his wealth, which was considerable and great, and he helped countless causes and countless people.

I should like to pay special tribute to him here today, because President Wilkinson was one of the first backers I had as I filed in 1976, on the last day for filing, in what was considered then an impossible campaign—impossible for me to win—for a seat in the U.S. Senate, representing the State of Utah. His faith in me had never waivered. He has supported me in every way he could.

I received countless letters from him. When he felt I made a mistake, he would write to me and explain why he thought I made a mistake. But, for the most part, he was very pleased that I tried to live up to the things about which we chatted a few years ago when we were considering this great Senate race.

I have deep sympathy for his wife and his family, all of whom are exceptional people. I know that in their hearts they have to be very comforted because they believe in the life hereafter. They believe that President Wilkinson has gone on to great rewards, as do I. They know that his life has been one of the most productive in the history of this country; that wherever he has been, whatever he has said, whatever he has done, it has

been performed earnestly, as only Ernest L. Wilkinson could do.

I might mention to all those who are liberals of the country today that they had better watch out, because the conservatives now have up there an advocate, one of the best advocates who has ever graced the world, fighting for us.

Mr. President, in late 1951 Ernest L. Wilkinson, a Harvard-trained lawyer of strict Mormon heritage, was thrust into the public limelight of national prominence with the acquisition of a $32 million fee determination for the Ute Indian Tribe. It was believed to be the largest settlement of its kind in U.S. history.

That same year Wilkinson was appointed by the Board of Trustees of Brigham Young University as president of that school. His prominence continued to grow through the growth and development of that world-famous religious institution.

At 2:30 o'clock this morning (Mountain Standard Time), Ernest L. Wilkinson died of a cardiac arrest.

Dr. Wilkinson was noted nationwide for his dedication to constitutional principles. He championed the free-enterprise system, limited government, and abundance of personal freedom and individual responsibility. He served as president of Brigham Young University for 20 years from 1951 to 1971. He later resigned that position to assume a major role in the establishing of the J. Reuben Clark Law School at BYU which opened in 1973.

In January 1972 Dr. Wilkinson was appointed director of the BYU centennial history project and editor of the centennial history of that institution. The history of the school in four volumes was published in 1975.

Since his retirement as BYU president, Dr. Wilkinson has been active in Republican Party politics in Utah and was a Republican National Committeeman. In 1964 Dr. Wilkinson briefly interrupted his tenure as BYU president to oppose Democrat Frank Moss for his U.S. Senate seat, a seat, Mr. President, which I later won. After that unsuccessful attempt, Dr. Wilkinson was reappointed president of BYU which position he retained for 7 more years.

On November 12, 1976, Dr. Wilkinson was presented the Horatio Alger Award. He was a graduate of the Provo, Utah-based university of which he later became president. He graduated in 1921 and then attended George Washington University Law School in Washington, D.C., where he graduated summa cum laude in 1926. The following year he received a doctor of juridical science from Harvard University.

Dr. Wilkinson began his practice as an associate of the Honorable Charles Evans Hughes, who later became Chief Justice of the U.S. Supreme Court. He was admitted to the Washington, D.C., bar in 1926, the Utah bar in 1927, the New York bar in 1928, and held a professorship in law at the New Jersey Law School 1927 to 1933.

While in the East, he served as president of the Manhattan-Queen's Branch of the Church of Jesus Christ of Latter-day Saints, bishop of the Queen's Ward, and then was a member of the Washington Stake Presidency.

The famous Ute Indian Tribe case with which I started this eulogy, Mr. President, could use further explanation. The suit lasted some 16 years against the U.S. Government and resulted in one of the largest single judgments ever rendered against the United States—$24 million. Other judgments in the same case brought the total to the final figure of nearly $32 million.

One of the highest tributes ever paid to Dr. Wilkinson was given by Seth Richardson, a former Assistant U.S. Attorney General in charge of defending the United States against the Indian tribal claims. He said he had practiced law for nearly 50 years and had never seen anything like the Wilkinson Indian Case. It almost "staggered our imagination. I never saw anything like it in my life. To me the amount of service rendered here would be almost impossible for the normal mind to grasp."

I was very close to Dr. Wilkinson. He was one of my most influential and strongest supporters in my candidacy for the U.S. Senate. I will miss him. Utah has lost a great citizen and so have these United States.

I conclude by paying my deep-felt respect to a great friend, a great patriot, a great religious man, a great father, a great president, and just an all-around great person.

I yield the remainder of my time to the distinguished Senator from Idaho (Mr. McCLURE).

Mr. McCLURE. I thank the Senator from Utah for yielding.

Mr. President, I am proud to join my colleagues from Utah this morning. It may be said that Ernest Wilkinson is dead—but he lives on in the lives of thousands of people he touched during a long and productive life. His life and example influenced tens of thousands of students during the years of his active leadership and countless thousands of others.

His devotion to his church and its teachings was unshakeable and was a constant example to those around him and those who saw from a distance. For Ernest Wilkinson was a symbol—an unassailable rock, a rock upon which the turbulent seas broke but could not move, a rock around which swirled the angry currents of social and political unrest, a rock that pounded and shaped the great university he headed and the students it served.

Ernest Wilkinson stirred the emotions and moved men, he brought confidence and hope to many, but no one ever accused him of being placid or complacent. He was a fighter for those things he knew to be right and an implacable foe of those trends which he felt were destroying our country and our people. He lived triumphantly, not quietly. Our land is better because he lived. We will miss him.

I join my colleagues in expressing sympathy to his family and to the many friends who will note his passing, but a passing that was a triumph in the same way that he lived.

SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BELLMON) is recognized, as in legislative session, for not to exceed 15 minutes.

THE POLITICS OF REGIONALISM

Mr. BELLMON. Mr. President, I recently read an article in the February 6, 1978, issue of U.S. News & World Report entitled "Frostbelt vs. Sunbelt—War for Defense Funds." Its tone as well as its misleading analysis closely parallels that of earlier articles in the National Journal on June 26, 1976, and July 2, 1977, entitled "Federal Spending: The North's Loss Is the Sunbelt's Gain" and "A Year Later, the Frostbelt Strikes Back." Eagerly anticipating conflict, which is the stuff of news stories, the authors of these articles appear quite ready to deal with what is termed "The Second War Between the States." Unfortunately, the analysis is often faulty and the national policy implications of the internecine warfare which some appear to anticipate would be serious. I hope that all Members of Congress think carefully about the consequences of regionalism as the basis for public policy before being drawn into legislative alliances which may yield very little economic benefit at an enormous cost to federalism in the substantive areas where it most counts.

In October of 1977, the Library of Congress completed a large study entitled "Selected Essays on Patterns of Regional Change: The Changes, the Federal Role, and the Federal Response." It was requested by myself and Senators BENTSEN, BAKER, BUMPERS, HATFIELD, CHILES, HART, BARTLETT, DOMENICI, and NUNN. Copies have been distributed to all Senators and to many Members of the House of Representatives, and depository copies have been placed in libraries throughout the country. This excellent study was performed by 22 of the Library's specialists, and it examines in considerable depth some 20 different substantive areas affected by regional shifts in population and resources. Its findings repudiate the validity of trying to explain the ebb and flow of regional life on the basis of the distribution of Federal funds. Yet that simple assertion is the foundation of current political efforts to form coalitions which would redress supposed inequities in the formulas which distribute Federal funds.

Since the Library of Congress study is almost 700 pages in length and contains many detailed tables and charts, I will take this opportunity to summarize briefly some of its major findings for the convenience of Members of the Senate.

Considering population changes, all four of this country's major census regions experienced population growth from 1950 to 1975 but at declining rates, with the greatest growth occurring during the 1950–60 period. According to the CRS study, the Western region of the country made the most significant gain during the period with a population

increase of 44.2 percent, though it still had, in 1975, the smallest percent of the total population of the United States (17.8 percent). Population in the South increased by 44.2 percent, and the South continued to rank first with 31.9 percent of the total U.S. population in 1975, up from 31.2 percent in 1950. The North Central region ranked third with a population increase of 29.6 percent, and 27.1 percent of the total U.S. population in 1975, down from 29.4 percent in 1950. The Northeast region ranked fourth with a 25.3-percent population increase and 23.2 percent of the total U.S. population in 1975, down from 26.1 percent in 1950. During the period studied, the North Central region was the only region to experience net outmigration; its population would have been 1.7 million larger if net outmigration had not occurred. The CRS study concludes:

The changes in migration taking place are the cumulative result of a number of diverse factors. Economic incentives play a large role in the relocation decisions made by both people and business. The economies of the South and West offered new opportunities for business during the period covered. In the South, for example, such factors as wage levels, availability of labor, level of unionization, proximity to new and growing markets and availability of energy sources played a part in decisions by firms to relocate or start up there. Growth of economic opportunities coupled with lower costs of living and a feeling on the part of some that the area offered a "higher quality of life" encouraged migration into the area. Lack of these opportunities, real or perceived, helped account for net outmigration and the lower rates of growth in the Northeast and North Central regions.

An important point to remember from the study, contrary to the impression generated by the magazine articles previously mentioned, is that no region experienced a population decline between 1950 and 1975.

The study reveals that total nonagricultural employment from 1950 to 1975 grew at an annual average rate of 1 percent in the Northeast, 1.6 percent in the north-central region, 3 percent in the South, and 3.5 percent in the West. Once again, it is important to note that all regions grew in the absolute number of jobs available. The different rates of employment growth in the four census regions produced a gradual but steady shift of the center of employment opportunities from the northeast and north-central regions to the South and West. In 1950, 32 out of every 100 jobs were located in the northeast region; in 1975 25 out of 100 were located there. For the north-central region slightly more than 31 jobs out of every 100 in the United States were located in this region in 1950; in 1975 nearly 28 out of every 100 still remained. The South increased from 24 jobs out of every 100 jobs in 1950 to more than 30 out of every 100 in 1975. Similarly, the number of jobs in the West increased from more than 12 out of every 100 to more than 17. However, even with these employment shifts, the northeastern and north-central regions combined still accounted for more than one-half of all employed individuals in 1975. The CRS study notes that it is impossible, using the BLS data, to differentiate location from relocation (migration) of firms, with the differing employment effects of both. The study points out that—

If location is the primary phenomenon, then job loss in any given region basically is due to the "death" of old firms which have become inefficient or which have suffered from declines in the demand for their product; job gains, on the other hand, are primarily due to the "birth" of new firms which may or may not be producing products similar to those of the firms which ceased production. If relocation is the primary phenomenon, then firms have been migrating from one region to another and job gain in one region is due to job loss in another.

The available evidence on this issue, according to the CRS study, is a November 1976 study by C. L. Jusenius and L. C. Ledebur, entitled "A Myth in the Making: The Southern Economic Challenge and the Northern Economic Decline," published by the Office of Economic Research of the Economic Development Administration, U.S. Department of Commerce. That report states:

Migration of firms has played a minor role in the changing employment situations of the Northern Industrial Tier and the Sunbelt-South. Over the past few years, the primary cause of declining employment in the North has been the "death" or closure of existing firms. In the South, the primary cause of increasing employment has been the expansion of existing firms.

The CRS analysis of differentials in wage rates between regions suggests that these differentials do not appear to be a satisfactorily complete explanation for regional employment shifts. Because of large variations between States in the same region, it appears necessary to determine the influence of wages on employment shifts—if any—at the State level.

On the matter of union organization, the CRS study reports no significant changes in the relative rates of unionization within major regions of the United States over the last 20 years. It concludes:

The South continues to be consistently below the national rate of unionization, as well as below the other three regions. For the total United States the proportion of unionized nonagricultural employees has declined from 33.7 percent in 1953 to 29.9 percent in 1974, even though total union membership has increased. Only in the Northeast has the unionized proportion of the work force increased, going from 34.2 percent in 1953 to 37.8 percent in 1974. All other regions experienced a decline in the proportion of the work force unionized. In the South the proportion of unionized workers declined from 18.7 percent in 1953 to 17.6 percent in 1974. In the North Central region it declined from 37.4 percent to 34.2 percent, and in the West from 36.3 percent to 31.4 percent.

The CRS study concludes that, while the South offers the most potential for expansion of union membership, negative social attitudes toward unions in the South have not changed, making the difficulty of organization greater. State "right to work" laws are viewed by the CRS study as more symbolic of social attitudes than they are actual barriers to union organization.

The record of the past 25 years indicates that income differences between regions have been narrowing. The income of the northeastern, north-central and western regions have been growing, but the South has been gaining at a faster pace. Since 1950, per capita income in the South has grown from 74 percent of the national average to 88 percent of the national average. The Northeast still remains the highest per capita income region even though it experienced a relative decline. Its per capita income fell from 112 percent of the national average in 1950 to 106 percent of the national average in 1975. Per capita income in the West showed a relative decline, from 107 percent of the national average in 1950 to 102 percent of the national average in 1975. The north-central region only showed a small change during this period, from 103 percent of the national average in 1950 to 101 percent of the national average in 1975. As a single index of the economic vitality of the four census regions, per capital income indicates that the Northeast still leads all other regions, while the South remains the poorest region. The north-central and western regions presently are just slightly above the national average per capita income.

Considering the impact of transportation systems upon economic differences between the regions, the CRS study notes that—

The distribution of transportation facilities for all types of transportation except waterways is almost evenly distributed throughout the United States. The combination of Federal economic regulations, subsidies, and aid programs has enhanced mobility throughout the country. The highway, airport, and airway construction programs have brought the regions of the Nation together. It seems quite likely that because the Nations' transportation facilities are extensively developed, transportation factors presently have marginal or neutral effect on regional shifts in population and business activity.

On the matter of education attainment and achievement, the CRS study found that the few measures available in most instances indicate that the Northeast, Middle Atlantic, and Pacific subregions over the last 25 years have ranked consistently above the national average. The East North Central and West North Central subregions have usually, but not always, been above the national average, while the South Atlantic, East South Central and West South Central subregions have usually fallen below the national average in attainment and achievement. The study points out that, in recent years, the Federal Government has been providing only about 7 percent of the financial resources for elementary and secondary education and 15 percent of those for higher education. Its role, therefore, has been subordinate to that of State and local governments in determining the

level of resources devoted to education in the States. The study points out that—

Factors which do influence this level—other than the simply indefinable factor of "interest in education"—include the level of personal income; the size of the school-aged or college-aged population in relation to the total population; the overall level of State and local expenditures; and the relative success of teachers and other educational staff in achieving higher salary levels in recent years.

The analysis of metropolitan and nonmetropolitan trends provided by the CRS study points out that, during the past 25 years, the population concentrated in metropolitan areas has steadily increased, going from 56 percent of the total U.S. population in 1950 to 73 percent in 1974. However, the rate of population increase in recent years in metropolitan areas has slowed considerably. Between 1950 and 1960 the rate of increase was 34 percent, while between 1960 and 1970 it was 21 percent. Recent date for the 1970's show a reversal of older, longstanding trends in metropolitan and nonmetropolitan areas. The CRS study notes.

What has emerged is a pronounced reduction in the rate of growth of both large and small metropolitan areas, the beginning of absolute population decline in an increasing number of metropolitan areas, and revived population growth in nonmetropolitan areas.

Regional trend analysis shows that in the Northeastern States and in the North Central States the population residing in the largest metropolitan areas declined absolutely during the early 1970's, and the average annual percent change of the population residing in the smaller metropolitan areas dropped tc less than half of its 1960–70 rate. In the Western region the average annual percent change of the population in large metropolitan areas during the early 1970's was about one-fifth of the rate during the 1960's while the average annual percent change of the population in smaller metropolitan areas increased slightly. In the South, the region with the most rapidly increasing population residing in large metropolitan areas, the growth was six-tenths of the 1960–70 rate; but this population was, nevertheless, growing more rapidly than that of the smaller metropolitan areas.

The nonmetropolitan population in every region of the country, according to the CRS study, grew at a faster rate during the 1970's than it had during the 1960's. It grew more rapidly than the population of large metropolitan areas in every region except the South, where the population of the large metropolitan areas was the most rapidly growing. In the Northeast nonmetropolitan growth proceeded at a rate six-tenths greater than that of the 1960's; in the Southern States the average annual percent change in the nonmetropolitan population during the 1970's was more than four times the rate during the 1960's; and in the North Central States and in the Western States it was more than double the earlier rate. The implications of these changes for rural development may be significant.

On the matter of energy consumption, the CRS study reports that the total U.S. energy consumption during the period 1960 to 1972 grew at an average annual rate of 4.1 percent. The Southern region had the highest level of per capita consumption of energy both in 1960 and 1972, while the Northeast had the lowest. The North Central States ranked second and the West third. The higher consumption of energy in the South is related to energy use in the industrial sector; the concentration of refinery and petrochemical industries in the West South Central subregion gives rise to unusually high energy consumption, since the petrochemical industry is highly energy-intensive.

In terms of agriculture the study revealed that since the period of 1961–63 there had not been a major change in the regional distribution of the Nation's cash receipts from the marketing of crops and livestock. The only region which appeared to decline in a steady and significant manner was the Appalachian region. The percentage of the total land base in farms declined in all production regions between 1959 and 1974, with the Appalachian and Southeast regions experiencing the greatest percentage declines.

To ascertain trends in federal defense expenditures, three data series were investigated: military prime contracts in excess of $10,000, military payrolls and the number and cost of defense installations located in each State. In the South and West, all three series show that by the mid-1970's, Federal defense spending was higher and a greater proportion of total U.S. expenditures for this purpose was spent in these two regions than in the early 1950's. The Northeast and North Central regions, on the other hand, showed a corresponding decline in the relative proportion of total defense expenditures for the nation as a whole. Only with respect to military prime contract awards is there evidence of a trend or a definite regional shift away from the Northern States toward the Southern and Western States. Furthermore, the data on prime contracts by state do not provide any direct indication as to the State in which the actual production work is done. These data do not reflect the distribution of a very substantial amount of material and component fabrication and other subcontract work that may be done outside the state where final asembly or delivery takes place.

The pattern of Federal grants to State and local governments has shifted considerably over the past 25 years. In 1950, the northeastern states were receiving the lowest per capita grants. By 1974, however, they had become the prime grant receivers, supplanting the Western States, the highest per capita grant receivers until then. Per capita grants in the West averaged $20 while those in the Northeast averaged $10. The South ranked second averaging $16 per capita and the North Central ranked third averaging $14 per capita. By the late sixties, per capita grants in the Northeast were no longer the lowest; and, by 1974, per capita grants to this region were the highest, $236. The West fell to second place, receiving $241 per capita, the South ranked third, receiving $218 per capita, and the North Central ranked fourth, a place that it has held since 1968, receiving $197 per capita.

The CRS report concludes:

"Wide variation exists in per capita grant outlays among the States and regions for a number of reasons. Among these are the use of formula allocation factors not related to population, matching and maintenance of effort requirements, and application requirements. It is questionable as to whether regional biases exist in Federal programs. A bias can be said to exist in some Federal programs only to the extent that certain types of States—those, for example, that are low-income, sparsely populated or highly urbanized—are concentrated in one sector of the country.

The CRS study reports that income transfer payments as a whole appear to be fairly evenly distributed among the regions. Spending for retirement programs is likewise fairly evenly distributed among the regions and seems to follow the people, that is, where there are large numbers of retirees, there is a high amount of Federal spending for retirement programs. On the other hand, there is a wider variation for spending for welfare. The evidence suggests that it is not Federal policy which determines total welfare spending, but that spending is a function of the States willingness and ability to spend their dollars on the poor. The evidence also suggests that welfare spending follows the poor. States with the highest amounts of poverty spend the most money on welfare.

Public works outlays, according to the study, varied in each region from 1965 through 1975, but there was no change in the ranking of the regions. The South ranked first in the distribution of funds at the beginning and end of the 10-year period. The North Central region ranked second, the West third, and the Northeast fourth. One reason for this ranking is that the criteria for public works projects include income level, and the South has the lowest per capita income while the Northeast remains the region with the highest per capita income.

The study indicates that there is general agreement that Federal regional development programs have not been outstandingly successful in reducing interregional disparities in per capita income and employment rates. In part, this is because regional development programs have funded countercyclical projects heavily while allocating only modest amounts of money to long-term structural economic programs.

Rural development activities by the Federal Government are largely oriented toward the South because rural development funds are allocated on the basis of rural population and rural income, with large, low-income rural populations receiving the most benefit. The approach to rural development embodied in the

Rural Development Act has never been fully implemented, according to the CRS study. It also asserts that implementation has been made difficult, because of the different positions taken over the years by Congress and the administration on policies affecting rural development.

The study points out that, in the case of outdoor recreation, two trends related to expanded environmental consciousness are developing. The first is the desire for more recreational areas which are relatively unaltered from their natural condition. The second trend is the effort to secure open space and recreational lands close to centers of population. Federal policy encouraging the development of recreational areas for citizens in the various regions of the country should take into account the available natural resources of the region and the demands for outdoor recreation which predominate in the region. The study indicates that any attempt to force a parity of Federal funding between regions will have to fly in the face of obvious and significant differences between regions. The West, for example, happens to have most of the lands administered by the Bureau of Land Management, the Forest Service, and the National Park Service. The demand for open spaces and recreational lands near urban centers means that we can expect increased recreational pressures on the national forests in the East and the Southeast between now and the year 2000.

According to the CRS, regional needs for water resource projects are substantially different. The West is the site of most of the country's arid and semiarid lands, so it has been the recipient of most funds for irrigation development. Reclamation programs in the West have been the consequence of national policy to open western lands to settlement. The large expenditures of the Corps of Engineers in the South are a result of the extensive flood control and waterways problems in that region. The Northeast has been more concerned with municipal and industrial water supply needs, and many assoicated projects are funded from non-Federal sources. In general, the north-central region is somewhat less flood-prone than the South and has less need for extensive irrigation works than the West. The CRS study makes it clear that water supply in much of the Sunbelt operates as a factor inhibiting growth. The West, in particular, is exhausting its nonrenewable groundwater at a rate which will cause significant reductions in total groundwater availability by the year 2000. By contrast, the entire eastern third of the Nation has a relatively good water supply outlook to the year 2000. The Nation's ability to cope with water resource problems is presently hampered by a number of problems, which are more social, political and legal than they are technological.

Tax incentives to firms which locate in economically depressed regions are sometimes suggested. The CRS study notes that these proposed incentives include special investment tax credits, rapid amortization, special employment tax credits, liberal averaging provisions for net operating losses, and expanded deductions for wages and salaries. The study concludes:

It is extremely questionable whether these incentives would be effective. Studies of similar tax incentives at the State and local levels uniformly conclude that tax differentials have an insignificant impact on where firms locate. Furthermore, according to statistics published by the Internal Revenue Service, a large proportion of businesses lack sufficient tax liability to avail themselves of any tax benefits which might be made available under the proposals.

Mr. President, another recent study entitled "Changing Patterns of Federal Aid to State and Local Governments, 1969–75" was released on December 20, 1977. This study was performed by the General Accounting Office, independently of the CRS effort. It, too, shatters the simplistic picture of "Snowbelt–Sunbelt" dynamics which have dominated the popular media. That study summarizes the factors influencing the flow of Federal aid as follows:

The formulas which determine the allocation of most aid and which usually consider—

1. population,
2. income levels, and
3. the number of people to benefit from a particular program.

The resources of State and local governments, which determine the funds available to match Federal contributions and are determined by—

1. income levels, and
2. State and local taxation rates.

State and local spending priorities and policies toward eligibility.

The discretion of Federal authorities in making project grants and categorical grants and in approving State plans.

The GAO report concludes:

Regional differences in aid distribution are decreasing, both on a per capita basis and in comparison to tax contributions. This convergence is occurring at the same time that population is shifting away from the denser northeastern States and toward the sparser southwestern States. Incomes also are growing slowly in the richer regions—New England, the Pacific, and the Middle Atlantic and East North Central States—and rising rapidly in the poorer States of the South and the West North Central and Mountain regions.

Those regions in a relative economic decline are gaining relatively in Federal aid. Thus, the complex formulas and other factors which determine the flow of aid do seem responsive to changing conditions. The recent recession had a more acute impact in the Northeast, and more public assistance flowed to that region. Whether these trends will continue, given the pressure of high and rising taxes and the growth of welfare spending in the Northwest, remains to be seen.

Mr. President, the CRS and GAO studies both provide solid evidence that there is no systematic bias in deliberate favor of some regions at the expense of others. What they show is that different Federal programs happen to favor somewhat different regions at a given point in time, and usually for quite good reasons. As the CRS study points out:

Federal programs are aimed at solving problems, not specifically helping particular regions. However, Federal efforts under some programs are concentrated in some regions. For example, any Federal efforts to alleviate urban problems are going to be focused in the Northeastern and North Central States since these regions have the highest concentration of older, larger metropolitan areas. Federal efforts to promote the irrigation of arid lands are going to be concentrated in the West, and efforts to alleviate rural poverty are going to favor the South.

The simplistic notion that Federal taxation and program funding policies favor the fastest growing parts of the Nation at the expense of those regions now declining is the fundamental yet faulty observation of the popular reports referred to previously. As the GAO report indicates:

. . . much of the data included in the magazine reports is misleading. Procurement dollars were assigned to the prime contractors' States, but since subcontracts are frequently awarded in other States, this money is difficult to trace. Likewise hard to pin down are corporate taxes, which are paid by corporation headquarters—frequently in the Northeast—but which may stem from income earned by subsidiaries in other regions and are ultimately paid by consumers and shareholders across the country.

Aware that these important data limitations should not be allowed to mislead the casual reader, the CRS study, in striking contrast to popular accounts, notes:

No sweeping generalizations about the status of one region versus another have been made. The data contained in the essays is neither extensive enough nor comparable enough to serve as the basis for a scorecard which totals regional "gains" or "losses". It is even questionable if such an approach is valid or appropriate.

Furthermore, Mr. President, the goal of much Federal assistance policy is not to return funds to the States equally or in proportion to tax contributions. The Federal role is to insure that taxation policies affect individuals equitably and that Federal expenditures are made in response to the need for these expenditures. Were we to pursue singlemindedly the goal of balancing, on a State-by-State basis, Federal tax receipts with Federal expenditures, the net effect would be to repudiate Federalism. While there are those of us who would welcome a stronger State role in the determination of social and economic policy and programs, I doubt if we wish to decentralize national defense and a host of other Federal efforts which safeguard and unify the Nation.

The outcry of some about the negative effects of the shift of resources from the "Frostbelt" to the "Sunbelt," based as it has been upon fundamentally misleading evidence, has been shrill and beligerent. It presumes that present trends will continue to some point of absolute diminution of the "Frostbelt." If that were to happen, Mr. President, it would truly be the occasion of a rare event in human affairs; seldom do trends continue for long without some abatement or even change in direction. In fact, as the GAO report points out, there is al-

ready some evidence that the distribution formulas which have been blamed for the trends are now beginning to work in favor of the Northeast. It needs to be stressed that many in the South and West are not in favor of totally indiscriminate growth, since that would appear to be linked to many of the most difficult problems faced by our older, and more populous, regions. It also should be pointed out that there are some natural limitations to population growth, among them water supply.

The States are not passive agents in the business of Federal grants. There is much evidence that States do exercise their role in a widely varying manner, thus creating deliberately disparities between States in the levels of Federal aid received. As the GAO report indicates:

State and local governments must be not only able but also willing to spend funds in areas designated for Federal matching, if they are to receive these grants. The States must formulate the programs, determine eligibility for benefits, and set the level of payments. These vary widely among the States. For example, the families of unemployed fathers are eligible for AFDC in some States, ineligible in others. Maximum monthly payments for a family of four under this program in 1974 ranged from $60 in Mississippi to $403 in Wisconsin. Thus, the discretion of State officials influences the flow of grants, and in turn, the availability of matching funds affects State and local spending priorities.

Those who would rest their hopes for regional economic salvation in redirected Federal spending should heed the warning of the CRS study:

. . . there is no clear agreement on what economic effects Federal spending has on a region beyond the initial outlay. In addition, because of data inadequacies, it is not always clear if the outlays supposedly spent on an area actually did go to that area.

Quite apart from the actions of the Federal Government, decisions by individuals and institutions to shift from one region to another are influenced by such factors as prevailing community attitudes toward business, perceived "quality of life" advantages and disadvantages, climatic preferences, the simple desire for change and mobility, proximity to friends and relatives, and the life. In fact, it is difficult to imagine Americans tolerating a government which would not allow maximum freedom of mobility to individuals. The dynamics of regional change may go far beyond the Federal influence.

It also needs to be stated that regional analyses are necessarily based upon arbitrary definitions or regions. The CRS study uses, for the most part, census regions. Other analyses follow other schemes. Whatever definition of a region is employed, it is important to note that the States which form that region differ from one another in important ways, and may not, therefore be served by a type of political organization which places regional interests first.

Now there are those who would have the Nation locate its military installations only in certain regions, so as to support the regional economy. Surely most Americans would agree that considerations of cost effectiveness, mission effectiveness, and strategic wisdom should rank far above any region's demand for parity. We must not let the frantic efforts of a few force us in the direction of dangerous concentrations of military installations.

It is difficult to predict just how far the essentially parochial interests which underlie regionalism in the political arena will carry us. It is easy to imagine a barrage of preferential formula changes which would fundamentally alter, and perhaps destroy, the intent of many Federal programs. It is easy to imagine attack and counterattack in a war of regions, with each seeking its own selfish interests at the expense of national unity. That is the vision of the future which the popular press has given us. It is not necessary to wait to discover what effects such regional conflict can produce; they are available for our inspection today in such countries as Ireland and Canada. Regionalism could contribute a great deal to a potential future state of neofeudalism.

I prefer to hope that Members of the Senate will choose to move with some caution and restraint in the matter of changes in Federal formulas. If we wish to accentuate the amount of public cynicism with Government today, we could do no better than to twist Federal programs away from their original problem-solving purposes into concealed regional aid programs, without ever publicly making that choice. The design of Federal programs is too important a matter to be left to the political expediency of the moment.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized, as in legislative session, for not to exceed 15 minutes.

STATE OF THE STATE AND THE UNION REPORT ON NEW MEXICO

Mr. SCHMITT. Mr. President, activities by this Senator during the two major recesses of the 95th Congress during the first quarter of 1978 have further clarified New Mexican opinion on most current issues. Unfortunately, these opinions are largely negative. A sample of four:

First. Inflation and taxes are too high and are eating the life out of the productive potential of New Mexicans.

Second. Inflation is rapidly compounding the inadequacy and unfairness of retirement and income security systems for those who truly cannot provide for themselves.

Third. Unnecessary bureaucratic regulation, a discriminatory minimum wage law, excessive business taxes, and excessive welfare are stifling opportunity for the young and for small and minority business.

Fourth. The Panama Canal treaties are not in the best interest of this hemisphere, and in his zeal to have them ratified, the President has compromised his integrity.

The great dominance of negative opinions is in itself a serious psychological factor of concern to otherwise optimistic New Mexicans. The potential for economic growth in New Mexico is very high. Energy production, housing construction, ranching, retail sales, relocation, and job inquiries all give justification to this potential. However, no one can deny the depressing effect of the growing regulatory and financial interference of the Federal Government, and the feeling of impotence to protect against that interference.

Nowhere is the desire to "keep the Federal Government off our backs" stronger than among the young, environmentally conscious developers of solar energy systems. This new generation of believers in individual initiative is getting their first good look at the negative effect of excessive Government.

THE PRINCIPAL NEW MEXICO ISSUES

Beyond the inhibiting effect of the Federal Government on economic development, one of the big issues among many New Mexicans is that of nuclear waste.

Generally, New Mexicans want to determine for themselves whether or not such waste is disposed of permanently in their State. The chances are good that a majority will agree to dispose of it provided it is understood to be safe. On the other hand, they also question both the Government's competence in the handling of this issue and its major emphasis on disposal of waste in salt beds rather than looking at other alternatives, especially the consideration of this "waste" as a "resource" for present and future generations.

The environmental and resource conscious New Mexican feels that almost all "waste" is merely an undiscovered "resource." The separation of nuclear waste into useful elements and isotopes is not only more philosophically pleasing than disposal, but is consistent with a growing awareness of the long-term limitations on the provisions and environmental systems of this spaceship Earth.

AMONG NATIONAL ISSUES

The weakness of our agricultural and energy economies ranks near the top of the list of national issues of great concern to New Mexicans.

Agriculture is one of the mainstays of the New Mexico economy. The spirit of independence, initiative, and willingness to take risk that characterizes the New Mexican personality is deeply rooted in the farming and ranching community. Like most other sections of the country, many cultures, including Indian, Hispanic, European, and American, have contributed to this personality.

Most farmers and ranchers in New Mexico are still keeping their heads above water by dint of hard work and financial commonsense. Others, as elsewhere in the Nation, have overextended themselves and are in serious trouble. In all cases,

because of Federal interference, regulation, and marketing incompetence there is no margin for error left in the agricultural economy for individual farmers and ranchers.

Superimposed on everything is the inescapable fact that only about 25 percent of the retail cost of agricultural commodities is the price the farmer and rancher get for their product. That 25 percent, in most cases, is not sufficient to make up the cost of production, much less provide the farmers or ranchers with a reasonable reward for their labor, their investment, and their contribution to our society.

Even though to a large degree the agricultural industry created its own problems by allowing Government to destroy its free market economy, the problem is critical enough to require some temporary emergencies assistance. However, unless the Government also moves to re-create a free market economy and to encourage the development of new foreign and domestic markets, the agricultural situation will only get worse.

If things do get worse, the risks we run are many. They include the destruction of the small- and medium-sized farmers and ranchers and the jobs and businesses dependent upon them; the loss of control over our own agricultural destiny as foreign interests buy up American farms and ranches; the loss of our surplus production capacity which is now our major export resource in the battle to balance our international finances; a rapid increase in consumer prices which, added to inflation, will further weaken our domestic economy; the loss of agribusiness activity combined with the new round of inflation could well precipitate another major recession.

The energy and agricultural economies are closely tied together in three major ways. First, agricultural exports are the only immediate means we have of rapidly reducing the economic impact of large and costly imports of foreign oil.

Second, the rising cost of energy, largely because of foreign control of most production, is the major reason the farmer and rancher cannot make up production costs through sales.

Third, energy crops and the use of marginal agricultural land to collect solar energy are the major new markets for the agricultural industry.

The complete lack of a reasonable short- and mid-term national energy policy based on production and efficiency rather than regulation and taxes is continually aggravating the adverse effects of these ties between agriculture and energy.

WITH RESPECT TO INTERNATIONAL ISSUES

New Mexicans' present major concerns on the international scene are twofold: First, there is a strong feeling that we can no longer assume superior military strength in our relations with the Soviet Union.

Second, there is an even stronger feeling that the President's leadership in foreign affairs lacks coherency, perspective and commonsense.

The net effect of these two concerns is to create the fear that the United States, and with it, free institutions, will cease to be a relevant factor in world affairs, particularly the affairs of the developing world. New Mexico's historical and cultural ties with Latin America make its citizens acutely aware that the events in Africa must be assumed to be a likely prelude to events in Latin America. Our current African policies of indecision, encouragement of Soviet and Cuban ambitions, and ignorance of the importance of natural resources are not lost on New Mexico's Latin American friends as they look to future world relationships.

SOLAR ENERGY

Mr. SCHMITT. Mr. President, much attention is being given today to funding solar energy projects, using solar heating as an energy conservation measure and encouraging more use of solar energy in day-to-day use. My own State of New Mexico is blessed with a high percentage of sunlight days each year which makes it an ideal location for solar heating installations. Indeed many homes and businesses have either added solar heating or are building new buildings which provide for solar heating. Recently I visited the United Southwest National Bank of Santa Fe, N. Mex., and saw their impressive solar heating system. Their cost savings in heating gas bills was an excellent example of energy savings and reduced operating expenses.

The letter to the shareholders of the bank delineates the heating costs for the last quarter of 1977. I ask unanimous consent to print that letter in the RECORD at this point, as an example of the contribution that solar heating can make.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED SOUTHWEST,
NATIONAL BANK OF SANTA FE,
Santa Fe, N. Mex., January 20, 1978.

DEAR SHAREOWNER: As we begin our fifth year in business we have the advantage of looking at the past four years as well as the future with some historical perspective.

At this time it is apparent that our decision to build a solar energy plant was a correct one. Our gas costs for the last three months of 1977 were as follows: October $7.16, November $11.97 and December $11.56. Our total financial assets as of December 31, 1977 stood at $16,688,581.03, up 23% from the previous year. As you can readily see, we have never had greater financial resources. Our resources are increasing ahead of our long-range plans, although they always need prudent and dedicated management.

I must emphasize that we have never had a stronger and more dedicated staff. It is our aim to bring together all of our bank's assets, administrative, physical and financial, to better and more successfully meet all of the banking needs of our customers.

The Board of Directors has declared a 25¢ per share annual dividend payable on January 23, 1978. Your dividend check accompanies this letter. The Board has also elected to pay a 5% stock dividend and this must, of course, be voted on at our annual meeting January 29, 1978. Please make every effort to attend.

We always welcome suggestions or ideas from our shareowners and customers on ways in which we may better serve their needs. Please do not hesitate to call your suggestions to my attention.

Hasta la vista.

Sincerely yours,

DONALD J. ORTIZ,
President.

THE NEUTRON BOMB

Mr. SCHMITT. Mr. President, this past week while my distinguished colleagues and I were home for a working recess, an editorial in favor of neutron bomb production appeared in the New York Times.

Subsequently, other comments, editorial and otherwise, have been made in favor of that production, not in favor of ever using the neutron bomb but in favor of its production, as one of the mainstays of not only our Defense Establishment but also of our foreign policy.

The March 30 editorial emphasized that the neutron bomb would be used primarily as a defensive weapon and would be NATO's only effective defense against an initial, massive conventional attack by the Soviet Union and the Warsaw Pact nations upon our European NATO allies. In this context, the neutron bomb becomes a partial equalizer to the massive Soviet build-up in Eastern Europe, that has been proceeding under the guise of détente.

The announcement in the New York Times of April 4 and the Washington Post of April 5 that the President has decided to cancel production of the neutron bomb is startling. What is most surprising about this decision—if in fact it is a decision—is that it came at the same time that West Germany has endorsed this new weapon for obvious reasons related to their own defense. The present shells are neither effective against the modernized Soviet tank nor serve as an adequate deterrent to a Soviet invasion of Western Europe, or the threat of such an invasion which can be as important to our future as a full invasion.

The New York Times editorial emphasizes that the primary value of the neutron bomb is its deterrent value. As such, it would require major changes in Soviet military strategy, and hopefully, reduce the possibility of war.

According to the New York Times, the only argument against deployment of the neutron bomb would be if the Soviets agreed to cutbacks in their own offensive military buildup such as pulling back some of their tank divisions and other equipment or scrapping the new SS–20 missiles that are aimed right at the heart of Western Europe. It would be a mistake to include the neutron bomb in any other aspect of arms control negotiations.

At this point, Mr. President, I ask unanimous consent that the March 30, 1978 editorial from the New York Times, "The Virtues of the Neutron Bomb" be placed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE VIRTUES OF THE NEUTRON BOMB

Ever since the Carter Administration asked Congress last summer for funds to produce enhanced-radiation nuclear warheads, critics ranging from Soviet propagandists to Western cartoonists have had a field day attacking the so-called "neutron bomb." The archetypical capitalist weapon, Moscow has called it, a destroyer of people but not property. Grim forecasts of lingering radiation deaths have filled newspaper columns worldwide. Rarely have the relevant questions been asked: Is the neutron weapon really more terrible than other nuclear weapons? And, more important, would its deployment make nuclear war more likely?

The answer to both these questions is almost certainly "no." Hence, the NATO governments will probably decide within a few weeks to deploy this ground-launched tactical nuclear warhead whose modest blast and intense but circumscribed and short-lived radiation make it particularly effective against advancing tank armies. If the NATO partners reach that decision—and we think they should—the alliance could acquire a potent means to defend Western Europe against the contingency that its planners fear most: a breakthrough by massive Warsaw Pact tank forces that vastly outnumber NATO's. Neutron weapons in Western hands would significantly complicate Soviet tactical planning: If its tanks were to attack in mass, they would be highly vulnerable. If they were to disperse they would be easier targets for conventional precision-guided anti-tank weapons.

Faced with this prospect, Moscow has ceaselessly denounced the neutron warhead as a diabolic qualitative change in the arms race—and has threatened to deploy its own version unless NATO desists. The charge is hollow. Neutron warheads are pre-eminently defensive weapons, not useful offensively. NATO's strategy is—and would remain—defensive. Regrettably, nuclear weapons will play a considerable deterrent role in that strategy for the foreseeable future, since there is no likelihood that NATO will match the Warsaw Pact's conventional forces.

The evident effectiveness of neutron warheads is what bothers many West Europeans. Dutch parliamentarians recently resolved that NATO should not deploy them. They reason that because most of the tactical nuclear weapons now in NATO hands would be more destructive to surrounding territory than neutron warheads, NATO governments would be more reluctant to order their use. They fear a lowering of the nuclear threshold that would make the use of nuclear weapons more likely and raise the specter of retaliation, escalation and devastation.

Yet it is precisely because NATO's existing tactical nuclear weapons are less usable than neutron weapons that they are a less credible deterrent against the outbreak of conventional war. And since Soviet military doctrine calls for the early battlefield use of nuclear weapons in any case, the only certain barrier against nuclear escalation is preventing any war at all.

Nor is there reason to think that neutron warheads would be more inhumane than others. All nuclear weapons yield deadly radiation. Their effects vary, depending upon their size and their targets. But given the likely uses of neutron warheads, the number of persons who would be left to die slowly would be no greater than similar casualties from other nuclear weapons.

Neutron weapons will not reach NATO field forces until some two years after the allies decide on deployment. Given their defensive character, it is difficult to know why Moscow should be so worried. But if its expressed fears are genuine and not mere propaganda, it should offer something of value for NATO's agreement to suspend deployment. Pulling back some of its tank divisions, or scrapping the new SS–20 nuclear missiles that are targeted on Western Europe, would be good places to start.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, what is the order of business at this time?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. MARK O. HATFIELD) is recognized, as in legislative session, for not to exceed 15 minutes.

ATROCITIES IN UGANDA

Mr. MARK O. HATFIELD. I thank the Chair.

Mr. President, in my continuing desire to speak to the atrocities in Uganda, and in response to President Amin's invitation to Senator WEICKER and me to visit his troubled nation, today I seek to persuade others of our colleagues to join us in an indictment of the world's most brutal regime.

It is not my intent to further sensationalize the ugly reality of life and death in Uganda. But it is precisely the existing degree of terror that necessitates our taking steps toward disassociating American Government and business with Idi Amin's ability to maintain his hold on power. It is difficult for those of us who have known nothing other than freedom and justice to fathom the institutionalized nightmare of Uganda.

Today as businessmen are testifying before the House International Relations African Subcommittee on why we should continue trade with Uganda, it is of paramount importance that we raise the consciousness of Americans with a brief overview of the Amin atrocities. We must not deny ourselves the truth no matter what the pressures to continue the awful silence.

The people of Uganda live in fear. Reports come forth daily of alleged disappearances, arrests, torture, and brutal killings carried out by members of Amin's killer squads. And yet, much of the international community continues to view this professed admirer of Adolf Hitler in a comical light. Whether madman or comic, the fact is that the world community has chosen not to take his reign of terror seriously. Of the many authoritarian regimes scattered throughout the world, nowhere is there such blatant disregard for the sanctity of human life. Nowhere is demagoguery and genocide enjoying such elevated status. Adi Imin's government is in a class by itself and our silence implicates everyone of us.

At the time Idi Amin overthrew the Government of Uganda he was widely received as a popular hero of modest ambition. But at his first press conference, President Amin gave the world its initial exposure to his curious brand of deception by boasting that the coup that had thrust him into power had been bloodless. And it was a relatively bloodless entrance for a few days. Thereafter the slaughter began in earnest. During the second year, Uganda's Chief Justice was hauled out of court and decapitated, a former interior minister was abducted and dismembered and the rector of the university was murdered. The army was the first institution to fall victim to Amin's wrath.

When Amin successfully took hold of power the army was dominated by soldiers from the Acholi and Lango tribes. Former President Milton Obote had been a Lango as had many other Ugandan officials. "In the year that followed, approximately two-thirds of the soldiers from these tribes were slaughtered." [1]

The people of Uganda have been denied the services of its most able and dedicated citizens. They are forced to live with an economy which has deteriorated to the point where the most fundamental goods are available only to Amin's military personnel. It is said that "more of Uganda's professional talent live out of the country than in it." Literally thousands of lawyers, doctors, teachers, students, priests, and bishops have either been forced into exile or slaughtered mercilessly at the hands of Amin and his henchmen. A brain drain of unprecedented proportion plagues this struggling nation.

Amin and his soldiers are constantly reminding the population that it does not pay to be educated. He cites himself and his illiterate vice president as examples of success without having gone to school. Makerere University, once the pride of east Africa, has become a perversion of higher education. Students have been shot and removed in trucks. The murder of the university's vice chancellor and members of the teaching staff has prompted most of the university's former faculty and administration to flee the country.

Amin has been particularly severe with Christians in Uganda. As recently as last November reports cited a new purge of Christians, with as many as 20 killed and 400 arrested in a single month. He has banned 27 religious organizations, including the Baptist and Seventh Day Adventist Churches, and the Salvation Army. Archbishop Janani Luwum, of the Anglican Church, died in custody the day following his arrest after writing a letter also signed by the bishops in Uganda, asking only that the brain drain and the killing of innocent individuals stop. Typically, the government issued a statement reporting that he had died in an automobile accident; but it is well known that he was murdered. The then minister of health, Henry Kyemba, told me earlier this week that he viewed the bullet-riddled body.

It has been said that it is more accurate to attribute the violence which reigns in Uganda to anarchy than to Amin's planning. In Makindye Prison, a death camp outside of Kampala, there are two rooms that strike fear in the

[1] Melady, Thomas, Personal Conversation, April 6, 1978.

hearts of Ugandans at their mention. The Singapore room is symbolic of the fact that former Ugandan President Obote was in Singapore at the time Amin led the coup that hoisted him to power. The Dar-es-Salaam room is named for the capital of Tanzania where President Obote now lives in exile. Untold thousands of Ugandans have been savagedly murdered in these and other rooms and cells throughout the country by Idi Amin's mercenaries.

In his book, "Idi Amin Dada: Hitler in Africa," Dr. Thomas Melady, the last American Ambassador to Uganda, gives a description of the violent methods used to punish those who are perceived as threatening Idi Amin's reign:

While the numbers have not reached the proportions of the pogrom against the Jewish people in Nazi Germany, tales of atrocities and mass killings in Uganda are no less cruel. In 1975 and 1976, some of the most harrowing testimonies were given to the International Commission of Jurists about the . . . atrocities. A businessman who had been detained in Naguru prison told how one or two prisoners were called out after a shooting had occurred. The prisoners were given a car axle and told to beat the dead man's head to a pulp. Then the prisoners were ordered to lie down in the blood and gore of the dead person. One prisoner told how he was put in charge of the jobs of other prisoners. "I had to give little jobs to the prisoners as well as smashing heads and loading bodies: things like cleaning the blood from the vehicles, supervising picking up eyes, teeth, and broken parts of heads, and making sure the blood was covered with dirt. We used to make a small hole for the eyes, teeth and broken skulls and cover it up." This same man had been told by guards at the prison that things used to be worse.

"They used to slash the prisoners' bellies open with machetes and put their hands in and pull out the intestines."

Another prisoner described how one hundred girls were arrested for wearing miniskirts. The girls' heads were shaven and one was singled out and gang raped.

In December 1974, a Ugandan schoolmaster fled the country with a harrowing tale to tell. He was arrested and imprisoned at Makindge (Mack-kin-dee) in Kampala. During the night he and seven other men were given hammers and led to a cell with twenty-seven people. Some of them had broken limbs, others were bleeding from wounds. The soldiers then ordered the prisoners to kill the men in the cell. "We started hitting them on the heads with the hammers and all of them were killed."

No doubt some of the atrocities committed in Uganda have been the result of lack of discipline in Uganda's army and police, but there is ample evidence directly implicating Amin to the murder of thousands. The State Research Bureau, which has been held responsible for a large proportion of the Government's genocidal practices—including many in which mutilation and cannabalism have been alleged—is directly under Amin's command. A robbery suspect's decree in 1972, providing the pretext for as many as 10,000 executions, was issued by Amin himself. Moreover, there are countless allegations that Amin ordered several particular killings himself. He is well known for his skillful manipulation of these events to his advantage, a favorite ploy is to stage investigative reports that inevitably conclude his innocence. Indeed, within the last week he offered to appoint an investigative commission to report on alleged violations of human rights. This and Amin's recent declarations of 1978 being a year of love and peace are a characteristically theatrical reaction to the stark truth that he is critically vulnerable to the income he derives from coffee exports to the industrialized world. The threat of a boycott is clearly a frightening prospect for Idi Amin. Even in the cases where it cannot be shown that Amin is directly linked to certain atrocities, there is no denying his responsibility for the monster he has created.

Every time I meet with Ugandan citizens in exile, especially religious leaders and former Government officials, I have been struck by the sharp contrast between the gentle nature of these people and the ferocious nature of Amin. It stands as the clearest example of the division between good and evil. These men and women are anxious to return to their country and rebuild what was once a prosperous and thriving nation. In concluding my remarks, I would like to once again quote Thomas Melady:

It was only a short time ago that a man from Munich was carrying out atrocities in Germany. The world in 1936, 1937 and 1938 watched and hoped that the brutal tyrant, Hitler, would change. Some Americans went there in 1938 and returned praising his government Even though their expenses were paid for by Hitler, not many then questioned their praise. Hitler engaged a public relations firm to "tell the story."

Now we have a new Hitler—and his name is Idi Amin. He, too, has invited Americans to tour Uganda and, of course, he pays the bills. Some have returned to praise him.[2]

The most conservative estimate of the number of Ugandans which have been murdered is 100,000. Those who have fled Uganda will live with images of horror for the rest of their lives. They tell of bodies floating in the Nile River, of bones scattered in the forests and hanging from the trees. The once magnificent beauty of the country has been defiled by the bloody rule of Idi Amin. The tyranny continues, and with each death and torture the regime slips further into the depths of hell. The evil practiced by Amin and those associated with him in these endless crimes breeds more and more evil. The cancer continues to grow at obscene proportions.[3]

Mr. President, public support for a boycott of Ugandan coffee has been strong. My office has already received many letters and calls expressing support for this initiative and requesting information on what brand names contain Ugandan coffee. There can be only one appropriate course for this powerful Nation committed to the furthering of human rights around the world. We must act for those who are unable to act; the Ugandan people await our decision. I received word on Tuesday that our interest has been conveyed to the Ugandan people over Voice of America and BBC. In fact, this is the reason Amin has responded with his invitation to us. Let us not plunge them into further despair by inaction.

[2] Melady, Thomas, Testimony before the House International Relations Committee, February 22, 1978.

[3] Melady, *op. cit.*

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) is recognized, as in legislative session, for not to exceed 15 minutes.

THE WASTE OF TAX FUNDS AT HEW

Mr. HARRY F. BYRD, JR. Mr. President, the Department of Health, Education, and Welfare has become so large, so unwieldy, and so out of control that billions of dollars of tax funds are being wasted.

Just this week, the Inspector General of HEW reported that last year approximately $7 billion was misspent by HEW through waste, mismanagement, and fraud. That figure is $7 billion, not $7 million.

Most of us find it difficult to comprehend billions of dollars. Most certainly the Senator from Virginia finds it difficult to comprehend. I notice the present Presiding Officer is the able and distinguished Senator from Ohio (Mr. GLENN). The amount of money which the Inspector General of HEW says was misspent by that one Department last year, $7 billion, is almost exactly the total amount all of the people of Ohio paid in Federal income taxes to our Government.

To the Senator from Virginia, it is not only astonishing and startling but appalling that a department of Government misspent, through waste, mismanagement, and fraud, $7 billion.

All the taxpayers of Virginia—and Virginia is a State of 5 million persons, the 12th most populous in the Union—pay in Federal income taxes approximately $3.5 billion a year. The Department of HEW misspent, through waste, mismanagement and fraud, almost exactly twice all of the Federal income taxes paid into the Treasury by the people of Virginia.

Mr. President, the Congress of the United States certainly must take firm action in regard to this misuse of American tax funds. The Department of HEW is seeking, in the new budget, an increase in appropriated funds to that Department of $7 billion for the upcoming year. That represents an increase of 13 percent. The amount of funds appropriated in the current budget is $55 billion. HEW is seeking, in the new budget, the sum of $62 billion.

I think it would be irresponsible for Congress to permit an increase in funds to that agency when $7 billion was misspent through waste, mismanagement, and fraud.

Secretary Califano has spent a great deal of time attempting to tell each State how it should handle its educational matters and what it should do about its schools and colleges. He has been attempting to tell the individuals of this country what they should do in regard to their personal habits.

It seems to me that Mr. Califano would be rendering a more important service to the people of our Nation if he would devote his time to eliminating from HEW the waste, the mismanagement, and the fraud which the Inspec-

tor General of that Department has formally stated occurred last year, to the amount of $7 billion.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

THE PANAMA CANAL TREATY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, 1st session, Calendar No. 2, which will be stated by title.

The second assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st session, the Panama Canal Treaty.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the Senator from North Carolina correct in his understanding that we are now on article I?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 17

Mr. HELMS. I thank the Chair.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 17:

In paragraph 1(b) of article I, immediately after "March 2, 1936," insert "except for the first sentence of Article X thereof,".

Mr. HELMS. Mr. President, the amendment I have just sent to the desk simply lets stand, without termination, one sentence from article X of the 1936 Treaty of Friendship and Cooperation with Panama:

In case of an international conflagration or the existence of any threat of aggressions which would endanger the security of the Republic of Panama or the neutrality or security of the Panama Canal, the Governments of the United States of America and the Republic of Panama will take such measures of prevention and defense as they may consider necessary for the protection of their common interests.

This provision, standing alone, allows independent action by each party.

Article X in its entirety consists of only two sentences.

The second one, which I have not incorporated into my amendment because it refers to territory over which we will no longer have jurisdiction reads as follows:

Any measures, in safeguarding such interests, which it shall appear essential to one Government to take, and which may affect the territory under the jurisdiction of the other Government, will be the subject of consultation between the two Governments.

This second sentence likewise shows the right of United States to act in defense of the Canal Zone. It also indicates there will be consultation between both governments when action by one government would affect the territory under the other government's control.

However, letters of understanding between the two governments made it clear that in an emergency, the United States could act independently without consulting with the Government of Panama. My amendment retains this power.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD at this point in my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

(The Secretary of State to the Panamanian Minister)

DEPARTMENT OF STATE,
Washington, February 1, 1939.

The Hon. Señor Dr. DON AUGUSTO S. BOYD,
Minister of Panama.

SIR: I have the honor to refer to the General Treaty signed between the United States of America and the Republic of Panama on March 2, 1936 and to the record of the proceedings of the negotiations leading to this accord. As you may recall, on several occasions during the course of the negotiations, it was found necessary to discuss and to reach a mutual understanding as to the interpretation to be placed upon certain draft provisions eventually incorporated in the signed treaty. These discussions and understandings were, after each meeting, embodied in the duly attested typewritten record of the proceedings of the treaty negotiations.

It seems possible that, following the favorable report at the close of the last session of Congress by the Committee on Foreign Relations of the United States Senate on the General Treaty and accompanying Conventions, the individual members of the Senate in their consideration during the current session of Congress of the Treaty and Conventions, may ask for clarification as to the precise meaning of certain important provisions of the General Treaty which affect the security and neutrality of the Panama Canal. With a view to anticipating these inquiries, and in the hope of avoiding further delay on this account in the consideration of the General Treaty of March 2, 1936, it has seemed to my Government advisable to set forth in an exchange of notes between our two Governments the substance of some of these abovementioned understandings as mutually reached. I should be grateful, accordingly, if you would inform me whether your Government shares the understanding of my Government upon the points which follow in subsequent paragraphs.

1. In connection with the declared willingness of both the Government of the United States of America and the Government of the Republic of Panama to cooperate for the purpose of insuring the full and perpetual enjoyment of the benefits of all kinds which the Canal should afford them (Article I of the General Treaty of March 2, 1936) the word "maintenance" as applied to the Canal shall be construed as permitting expansion and new construction when these are undertaken by the Government of the United States of America in accordance with the said Treaty.

2. The holding of maneuvers or exercises by the armed forces of the United States of America in territory adjacent to the Canal Zone is an essential measure of preparedness for the protection of the neutrality of the Panama Canal, and when said maneuvers or exercises should take place, the parties shall follow the procedures set forth in the records of the proceedings of the negotiations of the General Treaty of March 2, 1936, which proceedings were held on March 2, 1936.

3. As set forth in the records of the proceedings of the negotiations of the General Treaty of March 2, 1936, which proceedings were held on March 16, 1935, in the event of an emergency so sudden as to make action of a preventive character imperative to safeguard the neutrality or security of the Panama Canal, and if by reason of such emergency it would be impossible to consult with the Government of Panama as provided in Article X of said Treaty, the Government of the United States of America need not delay action to meet this emergency pending consultation, although it will make every effort in the event that such consultation has not been effected prior to taking action to consult as soon as it may be possible with the Panamanian Government.

Accept, Sir, the renewed assurances of my highest consideration.

CORDELL HULL.

The Panamanian Minister to the Secretary of State

[Translation]

LEGATION OF PANAMA,
Washington, D.C., February 1, 1939.

His Excellency CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.

MR. SECRETARY: I have the honor to refer to Your Excellency's valued communication of today's date with respect to the General Treaty signed between the Governments of the Republic of Panama and of the United States of America March 2, 1936 and to the proceedings of the meetings held by the Commissioners of Panama and of the United States of America during the negotiations which preceded the signature of the said Treaty. Your Excellency invites my attention to the fact that during the course of the negotiations and after discussion a mutual agreement was reached with regard to the interpretation to be given to certain provisions which eventually were incorporated in the Treaty. Your Excellency states that these discussions and understandings were, after each meeting, embodied in the typewritten records of the proceedings.

You then give as your opinion that in view of the favorable report presented at the close of the last session of Congress by the Committee on Foreign Relations of the Senate of the United States of America on the General Treaty and the various accompanying Conventions, some members of the Senate, during the debates with respect to the General Treaty and the Conventions in the present session of Congress may ask for clarification as to the meaning of certain provisions of the General Treaty affecting the security and neutrality of the Panama Canal. With a view to anticipating such a eventuality, and of avoiding new delays in the consideration of the General Treaty of March 2, 1936, Your Excellency states that it seems advisable to your Government to effect an exchange of notes with my Government for the purpose of reiterating the interpretation given to certain points in the proceedings.

I take pleasure in informing Your Excellency that I have been authorized by my Government to effect this exchange of notes and to clarify the points propounded by Your Excellency, and which, for greater clarity, are set forth in the English language as follows:

[For text, see numbered paragraphs.]

I avail myself of this occasion to renew to Your Excellency the assurances of my most distinguished consideration.

AUGUSTO S. BOYD,
Minister.

The Secretary of State to the Panamanian Ambassador

DEPARTMENT OF STATE,
Washington, July 25, 1939.

His Excellency Señor Dr. DON AUGUSTO S. BOYD,
Ambassador of Panama.

EXCELLENCY: I understand from the debate in the Senate of the United States yesterday on the treaties signed with Panama, March 2, 1936, that the question was raised as to whether the Assembly of Panama had the notes and minutes of the treaty negotiations before it at the time the treaties were considered and ratified by that body.

I shall thank you to advise me definitely as to whether the notes and minutes of the negotiations were before the Assembly of Panama and were thoroughly understood and considered by the Assembly in connection with its ratification of the aforesaid treaties.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL.

The Panamanian Ambassador to the Secretary of State

EMBAJADA DE PANAMA,
Washington, July 25, 1939.

His Excellency CORDELL HULL,
Secretary of State.

EXCELLENCY: I am in receipt of Your Excellency's note of this date in which you state that you understand from the debate in the Senate of the United States yesterday on the Treaties with Panama signed March 2, 1936, that the question was raised whether the Assembly of Panama had the notes and minutes of the treaty negotiations before it at the time the treaties were considered and ratified by that body.

I think that the best answer I may give to Your Excellency is to transcribe textually, in translation, law No. 37 of 1936 which was passed by our Assembly on the twenty-fourth of December, 1936, and which reads as follows:

THE NATIONAL ASSEMBLY OF PANAMA

Decrees

Only article: there are hereby approved and ratified in all their parts the General Treaty, the Radio Communications Convention, the Convention on the Transfer of the stations of La Palma and Puerto Obaldía and the Convention on the Trans-Isthmian Highway, signed in the city of Washington, March 2, 1936, by plenipotentiaries of the Governments of the Republic of Panama and of the United States of America, which is done taking into account the Minutes and the Exchanges of Notes signed on the same date and which contain interpretations and explanations of certain important aspects of the General Treaty and of the Conventions aforementioned.

From the law quoted above Your Excellency will observe that the minutes and the notes were before the Assembly and were considered and understood by it at the same time that the Assembly ratified the Treaty and Conventions above mentioned.

Accept, Excellency, the sentiments of my highest consideration.

AUGUSTO S. BOYD.

Mr. HELMS. Mr. President, this is the concept I believe we must perpetuate in the new treaties if we truly are to be able to defend the Panama Canal. To date it is not so incorporated. To do so is the purpose of my amendment.

Mr. President, proponents of the new treaty will probably say that this is already taken care of by article IV of the Neutrality Treaty, or if not by that article, certainly by the leadership amendment which incorporated the Carter-Torrijos statement, or, if not by that amendment, then most certainly by the so-called DeConcini reservation.

I must respond in the negative to that.

Many Senators feel article IV is vague. That, indeed, was the leadership's rationale for adding the Carter-Torrijos statement. Indeed, it was the very rationale for that statement in the first place because of congressional objections. But many Senators consider the Carter-Torrijos language equally vague.

The pending amendment would eliminate any such vagueness. As an amendment, there would also be no doubt as to its acceptance by Panama if that country ratifies this treaty. It has been shown here by other Senators that Panama pays no heed to reservations. If Panama means what we are supposed to believe Panama means in the Carter-Torrijos statement, certainly Panama would need no new plebiscite to demonstrate acceptance by my amendment. My amendment only states clearly what I maintain is still not firmly established anywhere in either of the two new treaties.

On the other hand, there actually may be some detrimental effect as a result of the DeConcini reservation, now cited in the amended Neutrality Treaty's resolution of ratification as a "condition":

Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

That condition has a number of shortcomings when compared with what my amendment would achieve.

Mr. President, let me repeat the pertinent language of the DeConcini condition:

. . . If the Canal is closed, or its operations interfered with, the United States of America . . . shall . . . independently have the right . . . to reopen the Canal or restore the operations of the Canal, as the case may be.

Mr. President, not "will take," as in the 1936 language I wish to retain, but "shall have the right to * * * take."

Not to take "measures of prevention and defense," as in the 1936 language I wish to retain, but only to take steps of restoration—"to reopen the Canal or restore the operations of the Canal."

Not "in case of an international conflagration or the existence of any threat of aggression," as in the 1936 language I wish to retain, but only in either of the two specific cases where the Canal has actually been closed or its operations have actually been interfered with.

Not "measures of prevention" against "any threat * * * which would endanger the * * * security of the Panama Canal," as in the 1936 language I wish to retain, but only measures after that security had already been violated.

Not "measures of prevention and defense" against "any threat * * * which would endanger the security of the Republic of Panama," as in the 1936 language I wish to retain, but only measures regarding the canal—and, indeed, those enabled only after the damage has been already done.

Mr. President, these are the shortcomings of the DeConcini conditions when compared with the sentence from article X of the 1936 Treaty which I believe for the best interests of both the United States of America and the Republic of Panama, should be permanently retained in force.

Mr. President, while article IV of the Neutrality Treaty and the Carter-Torrijos statement now adopted as an amendment are only vague, the DeConcini reservation or condition may actually be taken as a limiting stipulation restricting United States right to action only to that which may be needed after the canal is actually closed, or its operations actually interfered with.

Mr. President, let me state unequivocally, the Panama Canal might readily be kept open, efficient, neutral, secure, and accessible—to quote the oft-repeated phraseology of the State Department—by Fidel Castro or Leonid Brezhnev.

But I do not think the American people or this Senate would take much consolation in that fact.

We certainly put an entirely different connotation on the word "security" in regards to the Panama Canal than on the word "secure." Security denotes our best interests.

The 1936 language which I wish to retain is unequivocal about the security, both of the Republic of Panama and the Panama Canal, and any threat to their security. Therefore, the language I wish to retain encompasses any action necessary in advance of actual damage to, interference with, or closing of, the Panama Canal.

Any vagueness or possible restrictions on U.S. action are immediately and totally removed by the retention of this single sentence from the 1936 treaty with Panama. This language is certainly not inconsistent with what we have been led to believe by the President of the United States, Mr. Carter, the Department of State, and the leadership in this body, that these are the purposes of article IV of the Neutrality Treaty and the Carter-Torrijos statement now adopted as the leadership amendment to that treaty.

This amendment would simply make those purposes crystal clear and beyond any peradventure, absolute, understandable, believable.

Mr. President, let me address in somewhat more detail the concept of independent, unilateral action by the United States.

Other than that right being expressed in the limited and, I fear, that the word is used correctly, limiting, DeConcini condition, in no place in either treaty is the United States clearly given the right to act independently regarding the canal in the matter of its defense and security.

Article IV of the basic Panama Canal Treaty which is now under consideration

does not unmistakably give the United States any such right. Further, that article specifies the establishment of a so-called Combined Board whose members:

> Shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal, and with planning for actions to be taken in concert for that purpose.

I emphasize the word "all" as I read that article because I want to emphasize that it refers to all matters of protection and defense.

Article IV of the treaty we are now considering speaks still further of "cooperative efforts" and "combined military exercises."

A major purpose in maintaining in force the provision from article X of the 1936 treaty, which this amendment proposes to retain, is to unmistakably give the United States the power to act independently. And unlike the independence achieved by the DeConcini condition to act too late, the power to act independently in advance of any actual damage to or interference with the canal and its operations.

Mr. President, it is noteworthy that the language I wish to retain permanently in force beyond the year 2000 would clearly proclaim our right, indeed, our obligation to defend the Republic of Panama.

This language demonstrates the kind of alliance we currently maintain with other nations, as in NATO, with our support pledged to our allies.

The 1936 treaty terminated the provisions of article I of the 1903 treaty which had obligated us to guarantee Panama's independence, because Panama felt it could insure its own independence from its neighbor Colombia from which she had seceded. That same 1936 treaty, however, enunciated the language of article X I wish to retain.

No one on earth today could claim with a straight face that Panama could defend herself adequately against the overwhelming might of the Soviet Union or even against the forces of Communist Cuba, now battle tested in Africa.

It is the understanding of the Senator from North Carolina from testimony before Senate committees that only some 2,000 of Panama's 8,000 man Guardia Nacional are actually trained as soldiers. The majority of that force are policemen.

Those 2,000, or the entire 8,000, would be no match for Castro's battle-hardened expeditionary forces.

Mr. President, an ounce of prevention is worth a pound of cure.

I am not asking for anything new in my amendment.

I am not offering new language drafted to achieve my purpose.

Unlike any amendment or reservation offered to date, mine seeks only to continue in force but a single sentence from the three treaties of 1903, 1936, and 1955 now in effect with the Republic of Panama, regarding the Panama Canal.

That single sentence confirms what Panama's Maximum Leader, Omar Torrijos has already proclaimed.

He stated in a speech to his people on October 20, 1977, before the plebiscite that the treaties placed Panama under the protective umbrella of the United States.

Let me quote him:

> We will maintain the force necessary to insure peaceful coexistence, but if we are attacked by superior forces, the United States is obligated to come to our defense. And when I said that we remain under protective umbrella, I say it without shame.

No plebiscite would be needed by Panama because of retention of this sentence as part of the Panama Canal Treaty.

Again, I must refer to the DeConcini condition or reservation.

What have we acomplished by it?

What have we gained by it?

We have only gained the right—assuming Panama will agree to this condition—to move unilaterally after a hostile force has already closed the canal or has actually interfered with its operations.

I submit, this is not must of a right.

It certainly is not sufficient for us to be only able to close the barn door after the horse is stolen.

The American people certainly demand much more.

At the very least, we should demand the right to prevent the canal's closing or any interference with its operations.

That is just what the continuation in force of one sentence from the existing treaties will do. One sentence assures us the right to act unilaterally in advance, to forestall any actual damage to or interference with the canal.

The pending amendment proclaims that we have determined to defend Panama—to keep her free and independent, safe from Soviet domination by Moscow or from Communist domination by Havana, or from any other threat of aggression.

The American people know that as custodian of the canal after the year 2000 Panama must remain free and independent. Her liberty and independence will be as vital to the United States as the thrust we will confer upon her if these treaties are ratified.

Panama could be conquered by a hostile force overnight in this day of sudden Communist takeovers. Czechoslovakia, we must remember, woke up to Communist rule one day without a shot having been fired. Its leader simply went out a window to his death and the Communists were in control.

It could happen in Panama, unless we signify our determination to prevent it happening.

Pilots of the Soviet Union's Air Force fly their MIG's daily over Caribbean waters. Castro would like nothing better than to use his African Expeditionary Forces to take Panama for his masters in the Kremlin.

Mr. President, I urge the adoption of the amendment.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. President, the first observation I want to make is that it is an interesting exercise in treaty-making or, for that matter any sort of contract making when you come along when a new agreement is being negotiated and you go back to a previous agreement and pick out a sentence that you want out of the previous agreement and then say, "Well, now let us put this into the new agreement."

I would like to negotiate contracts being able to do them that way. I think I would be able to write some pretty good contracts, but I am afraid I would not have any parties willing to agree to the contracts so you would not have two people to strike a bargain and to make an agreement.

As to the 1936 treaty in article X—and that was agreed to between the parties—the agreement that they made was a total agreement contained in full in article X. The agreement thus was not an agreement to the first sentence of article X and ignoring the second sentence of article X. The agreement was to article X in its entirety; article X was a total provision and in fact the second sentence to it, which the distinguished Senator from North Carolina would leave out of his proposal or out of his arrangement, specifically by its own terms refers to measures that might be taken pursuant to the first sentence. So, in effect, you had two sentences intertwined and that constituted the agreement that the parties had made.

So you cannot really come along and take but one of the two sentences and say, "Well, that has been previously agreed to by the parties and there has been no change in the language; we are simply quoting it directly and, therefore, it ought to be agreed to now." What about the other sentence which was an integral part of the agreement and which required consultation between the parties before we were free to take action.

That is the first point.

The second point is, of course, when you negotiate a new agreement its purpose is to replace the previous agreements. That is what you are seeking to accomplish. You are not seeking to carry forward the previous agreements. If you were doing that you would not have needed to negotiate a new agreement.

So, you have to look at the provisions of the new agreement and make your judgment on the basis of the new agreement.

Beyond those two reasons: first that, you cannot, once you have negotiated a new agreement, then come along and try to go back and pull out of a past agreement certain provisions and say, "Well, that language had been previously agreed to by the parties, and therefore it ought still to be acceptable to everyone; hence we are going to insert it into the new agreement." You cannot write agreements that way. The new agreement replaces the old agreement, that is why you make a new agreement.

Second, even if one were going to reach back for prior provisions, you certainly could not reach back and take but one sentence out of an article composed of two sentences when both of those sentences were interrelated one with the other and affected one another, and take one of them and leave the other one and then say, "Well, is there any chance of

acceptability or agreement to it by the other party?"

You obviously cannot make contracts or reach agreements in that fashion.

Third, the agreement that was before us, a few weeks ago and that has now been approved by the Senate, by a vote of 68 to 32, the Treaty on the Permanent Neutrality and Operation of the Panama Canal, dealt with this matter in article IV thereof. That article was amended on the floor of the Senate pursuant to an amendment sponsored by the majority leader, Senator ROBERT C. BYRD, and the minority leader, Senator BAKER, and cosponsored by 78 or 79 Members of this body. Article IV of the Neutrality Treaty as originally submitted provided:

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

Of course, that basic provision recognized the termination of other treaties entered into by the parties because the two treaties that are before us are creating a new legal arrangement and a new legal framework for the relationship between the United States and Panama.

Now, the amendment that was added was designed to provide some additional clarity to article IV, partly in response to some questions that had arisen over differences of interpretation which had been brought out in the course of the hearings of the Senate Committee on Foreign Relations. That amendment with respect to article IV was inserted at the end of article IV, which I have just read and provides:

A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

"Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama."

Mr. President, let me just repeat from that amendment some of its very important provisions. This amendment deals with article IV of the Neutrality Treaty in which the United States and the Republic of Panama agree to maintain the regime of neutrality established in the Neutrality Treaty, so that the canal shall remain permanently neutral notwithstanding the termination of any other treaties. The leadership amendment states that the correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the canal against any threat to the regime of neutrality and, consequently, shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal.

That provision makes it very clear that it is each—I emphasize each—of the two countries which, in accordance with their respective constitutional processes, shall defend the canal against any threat—I emphasize any threat—to the regime of neutrality, and shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal.

Of course, the second part of the amendment went on to make it quite clear that this does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any U.S. action will be directed at insuring that the canal will remain open, secure, and accessible and it shall never be directed against the territorial integrity or political independence of Panama.

Now, Mr. President, the provision in the Neutrality Treaty provides to the United States the right to take action against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal, and gives to us, I submit, all of the authority that we need in order to protect our interests with respect to a secure, accessible and neutral canal.

To go back to the 1936 treaty and seek to pull out of it one sentence of an article, leaving the other sentence behind, when the two parties 42 years ago reached an agreement that encompassed both sentences is, in my opinion, not the way to go about treaty-making or arriving at agreements or contracts.

I also think it is important to underscore that the Neutrality Treaty, which was approved by the Senate on the 16th of March by a vote of 68 to 32, and in which the language I have been quoting is contained, that the Neutrality Treaty takes effect simultaneously with the Panama Canal Treaty which we are now considering.

The Panama Canal Treaty, if approved by this body, and the Neutrality Treaty would enter into force simultaneously six calendar months from the date of the exchange of the instruments of ratification. So the provisions that are contained in the Neutrality Treaty concerning the authority of the two countries, each separately, to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal take effect simultaneously with the Panama Canal Treaty. There have been some suggestion and some reports that seemed to imply that the permanent neutrality treaty takes effect only after the end of the century, and that the Panama Canal Treaty, which we are now considering, governs the entire situation between now and the end of the century. That is not correct. The Panama Canal Treaty which we are now considering is more relevant to many aspects of the relationship over the rest of the century. At the end of the century Panama will assume the full responsibility of operating and maintaining the canal, but both treaties take effect simultaneously, and the provisions of the Neutrality Treaty which I have quoted, which provide this right to take action to maintain the neutrality of the canal, the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal, come into effect simultaneously with the Panama Canal Treaty.

Both treaties, except as their provisions may specifically otherwise provide—there are some provisions in the Neutrality Treaty that take effect at the end of the century, a few limited ones, but the balance of the provisions of the Neutrality Treaty, most of its provisions, as well as the provisions of the Panama Canal Treaty, would take effect simultaneously, and that would be 6 calendar months from the date of the exchange of the instruments of ratification. So the authority which we would have, as I have quoted it, would be effective as of that date.

I submit to the Members of the Senate that in fact the provisions of the Neutrality Treaty, as amended with the leadership amendment that was adopted by an overwhelming margin in this body—there were only a handful of dissenting votes—better protects our ability to act to maintain the neutrality of the Panama Canal than the full provisions of article X of the 1936 treaty. I realize the Senator from North Carolina is taking one sentence and not the other sentence out of article X of the 1936 treaty, but, as I indicated at the outset, that is an incredible way to go about negotiating a contract or trying to reach an agreement. The fact of the matter is that the provisions of the Neutrality Treaty with respect to our right to take action are better than the entire group of provisions that were contained in article X of the 1936 treaty.

The amendment that I referred to, that was made to article IV of the Neutrality Treaty, was adopted in this body by a vote of 84 to 5. That, I think, represented clearly the judgment of the overwhelming preponderance of the Members of the Senate that that amendment was desirable, and that it strengthened the treaty. I submit that our interests are fully protected under those provisions, and therefore that the amendment offered by the distinguished Senator from North Carolina should be rejected.

Mr. HELMS. Mr. President, I have listened with great interest to my friend from Maryland, who is most persuasive but not sufficiently so. As a matter of fact, he has just used precisely the same

arguments that I predicted he would in my preliminary remarks.

Some times during the debate on these treaties on this floor, Mr. President, I have thought about a fine old gentleman in my hometown of Monroe, N.C., named Mose Hawkins, who when I was a boy, was the handyman at one of the local businesses. Mose was hard of hearing, and on Christmas some of us who worked there took up enough money to buy Mose a hearing aid, the first one I'd ever seen.

We presented it with some ceremony. He put it on, and we showed him how to turn up the gain.

He listened and his eyes rolled, but he said nothing. We were accustomed to Mose having a classic comment about almost everything that occurred; but in this instance he said nothing. Finally someone asked, "Well, Mose, doesn't it help your hearing?"

He said, "Yes, sir, it helps my hearing, but it don't help my understanding none."

I have heard the Senator from Maryland, but I must say in all friendliness that he has not helped my understanding all that much.

The Senator mentioned at the outset that this amendment is novel approach to contract writing or treaty writing. I do not think it is all that novel, because, as I said to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) a moment ago, if he were preparing to give away his newspaper or his apple orchards down in Virginia, and was paying someone to take them, I doubt that he would expect to have a great deal of difficulty persuading the beneficiary of his generosity accepting a contract satisfactory to Senator BYRD. What bewilders the Senator from North Carolina is that almost every action taken on this floor since the debate first began has been designed to satisfy the dictator Torrijos; and I find myself wondering constantly why that should be. Is there no concern for the American people?

Proponents of these treaties are not proposing to give the Panama Canal to the Panamanian people; they are proposing to turn it over to a Marxist dictatorship. Not only that, they are proposing to commit an enormous amount of American taxpayers' dollars to operating the canal and various other extraordinarily expensive items that we do not even know about yet.

I was very much impressed, late yesterday evening, that the distinguished Senator from Massachusetts (Mr. BROOKE) spoke at some length about his concerns that, even now, Congress does not know how much of the taxpayers' money the Carter administration proposes to give away. Certainly the American people do not know; and I rather doubt that very many Americans truly understand that the cost of giving away the Panama Canal could run as high as or perhaps higher than $3 billion between now and the year 2000, not counting the replacement value of the canal and its facilities.

Now, the distinguished Senator from Maryland fell back on article IV of the Neutrality Treaty, just as I had predicted that he would in my opening comments. In doing so, I think he failed to make clear that that article IV of the Neutrality Treaty is so vague that along came the leadership with an amendment to try to straighten it up a little bit. Then came the DeConcini condition, which sounds very good, but which, in the judgment of many of us, failed to do the job, well intended as it was.

(Mr. MELCHER assumed the chair.)

Mr. HELMS. All the Senator from North Carolina is saying, and all he is proposing in this amendment, Mr. President, is that we nail down our right to defend and protect this canal prior to its being shut down, prior to its being destroyed, prior to the occurrence of violence. Frankly, I do not see anything wrong with that. I think that is the minimum of what we ought to expect in terms of our rights under this treaty if we are going to charge the American taxpayer with the responsibility of financing the operation and expense of the canal. I do not see anything unusual about picking up one of two sentences out of an article in the 1936 treaty.

I respect my colleague from Maryland. Of course, we differ on this. I anticipate the amendment will not be approved, but I do feel that a record should be made as to whether Senators even care about the rights of the American people. I believe that is a vital question in the closing days of this debate as we give away the Panama Canal—whether Senators really care about U.S. rights in this matter. I look around this Chamber and I see six Senators, including the distinguished occupant of the chair.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. HELMS. I am delighted to yield to my able friend from Virginia.

Mr. HARRY F. BYRD, JR. I want to say to the distinguished Senator from North Carolina that I hope this amendment will be approved. I concur in the view of the Senator from North Carolina that it is not likely to be acted upon favorably by the Senate. The Senate has voted down virtually every substantive amendment which has been offered.

That was not my real purpose in asking the Senator to yield.

The Senator from North Carolina mentioned that the cost to the American taxpayer, if these treaties are approved, will probably exceed $3 billion.

That is an interesting figure. I just looked up the tax records and the records show that all of the Federal income taxpayers in the State of North Carolina pay slightly less than that amount into the Federal Treasury.

Another way of putting it is that the cost to the American taxpayer will be equal to all of the Federal income taxes paid by all of the people of North Carolina, a State of more than 5 million population and about the 10th or 11th most populous State in our Union.

It seems to me that dramatizes just how large a figure $3 billion is.

Mr. HELMS. I thank the distinguished Senator. Of course, he has pinpointed an aspect of these treaties which ought to be more clearly understood by the people of this country. The Opinion Research Corporation of Princeton, N.J., about 2 or 3 weeks ago reported that about 72 percent of the people in this country were opposed to these treaties. Of course, there are the Gallup poll and other polls saying it is much closer than that, and some even saying that a majority of the people favor the treaties.

I do not believe those polls were taken in the State of Virginia or the State of North Carolina. Be that as it may, I wonder what any poll would show if the American people truly understood how much it is going to cost them in dollars and cents. The able Senator from Virginia has made that point graphically clear, and I appreciate it.

Mr. HARRY F. BYRD, JR. In addition to the costs mentioned by the Senator from North Carolina, the amount of property now owned by the American people in Panama, according to the Panama Canal Company, has a replacement value of almost $10 billion. That property is owned collectively by all of the American people. Yet we propose, by enactment of these treaties, to give away all of our military bases, all of our port facilities, and all of the many pieces of property which the American people own in Panama.

Another thing we are doing, if the Senate approves both of these new Panama Canal treaties, is we are assuming the obligation and the responsibility to defend the canal, but we are giving away the tools with which to accomplish that purpose.

Mr. HELMS. The able Senator is exactly right.

Mr. HARRY F. BYRD, JR. The ramifications of these new treaties are far greater than appear on the surface. The proponents say, "There is nothing to worry about because we reserve the right to ourselves to defend the canal." But in reserving to ourselves that right, and assuming that obligation, we deny ourselves the use of the military bases which are necessary if we are going to properly and adequately defend that great international waterway.

Mr. HELMS. I thank the Senator for his helpful comments. He will recall that he and I met with Governor Parfitt, the present Governor of the Canal Zone, who appeared before the Armed Services Committee. We went into some detail at that time as to the projected costs of this proposed giveaway of our Panama Canal. There were expressions of amazement around the committee table as his testimony proceeded.

I remember Senator CANNON asking a number of relevant questions about it. Although Senator CANNON voted for the Neutrality Treaty, I was nonetheless grateful that he raised many relevant questions about this aspect of the treaties.

Mr. President, I would like to ask for the yeas and nays on the amendment, but I suspect we will need more Senators than are present to achieve a sufficient second.

Nonetheless, let me go through the parliamentary exercise and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. SARBANES. Will the Senator defer his request for a quorum?

Mr. HELMS. Certainly.

Mr. SARBANES. If I may speak briefly to his amendment, we might then be able to obtain the yeas and nays. I will make a motion with respect to his amendment at that time.

Mr. President, I want to mention again the amendment which was added by a vote of 84 to 5, the amendment offered by the majority leader (Mr. ROBERT C. BYRD) and the minority leader (Mr. BAKER), which provides to us and to Panama, to each country, the right to defend the canal against any threat to the regime of neutrality, and the right to act against any aggression or threat directed against the canal.

So it provides the right to anticipate a danger, not merely to respond to an event that has occurred, because it gives us the right to act against any threat directed against the canal. Therefore, the point which the Senator from North Carolina was raising is fully addressed in the amendment which this body has adopted and which is now part of the Neutrality Treaty.

Second, in the course of the statement, there was reference to the fact that, under the Panama Canal Treaty which we are now considering, concerning protection and defense of the canal, the United States and Panama, through a combined board, will consult and cooperate on all matters pertaining to the protection and defense of the canal. Emphasis was placed on the word "all" matters pertaining to the protection and defense of the canal. A greater emphasis should have been placed on the words "consult and cooperate," because, as the Panama Canal Treaty makes very clear, the United States of America shall have primary responsibility to protect and defend the canal, and the combined board, which is a consultation device between the two countries, is an effort to coordinate policies.

It does not undercut or weaken our prime responsibility. In fact, in the very same paragraph in which the provision is made to facilitate the participation and cooperation of both parties, both the United States and Panama, in protecting and defending the canal, by this combined board through consultation it is provided:

> Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the Armed Forces of the United States or the Republic of Panama.

So the identity or lines of authority of our Armed Forces are maintained and our position as the one with the prime responsibility to protect and defend the canal is maintained. This means that we have the right to station, train, and move military forces as described in the agreement implementing this article in order to carry out that responsibility.

So the real emphasis here should not be on the word, "all," but on the word, "consult," coupled with the fact that our right to act and the identity of our lines of authority are maintained. That is the position in which the U.S. Armed Forces will be during the period of time in which they will be present pursuant to the Panama Canal Treaty.

Mr. ROBERT C. BYRD. Will the Senator yield so the Senator from North Carolina may ask for the yeas and nays at this time?

Mr. SARBANES. I yield.

Mr. HELMS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I am prepared to move if the Senator from North Carolina is.

Mr. HELMS. I wonder if we could have an agreement to accommodate the Senators who are downtown at a meeting? It would be satisfactory for me to vote now, but I would like to accommodate them.

Mr. SARBANES. Yes.

Mr. ROBERT C. BYRD. May we suggest voting at 1:50? Then, in the meantime, we could possibly set this aside and go to another matter.

Mr. HELMS. Yes, that is entirely satisfactory to me. Whatever will accommodate our colleagues.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur in relation to the amendment at 1:50 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will note that the yeas and nays were ordered on the amendment.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. SARBANES. Mr. President, if it is in order, I move now to lay the amendment on the table and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, may I make this suggestion, that the Senator from Maryland be recognized at 1:50 to make a motion to table?

The PRESIDING OFFICER. Is there objection? The Chair hears none.

It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the motion to table, which will be made at 1:50 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. HELMS addressed the Senate in connection with the introduction of a bill at this point. His remarks appear in today's RECORD under Statements on Bills Introduced.)

Mr. HARRY F. BYRD, JR. Mr. President, as the Senate continues debate on the proposed new Panama Canal Treaties—this being the 32d day—I thought I would review the major arguments for and against the treaties and see if any have been disproven.

One of the major objections to relinquishing U.S. control over the Panama Canal is that the canal is in important defense and economic asset of the United States.

This was one of the first and most persistent objections of those who oppose surrending control of the canal to Panama.

The White House and the State Department sought to offset this argument by denigrating the economic and military importance of the canal.

In a factsheet put out by the White House last July it was asserted that the Panama Canal no longer has an important strategic role because the United States has a two-ocean Navy and because our aircraft carriers are unable to transit the canal.

In recent months, however, the White House and the State Department have stopped using this argument because it has been disproven. The canal is extremely important to the national security interests of the United States.

In testimony before the Senate, members of the Joint Chiefs stated categorically that the canal was extremely important militarily.

With our Navy down to half its size of 10 years ago, with less than 500 ships, the canal has gained renewed military importance. In any military crisis there will be a need to transfer significant naval assets from one ocean to the other. On the words of Gen. V. H. Krulak, USMC (Retired):

> It is only because of the . . . [Panama Canal] . . . that we are able to risk having what amounts to a bare-bones, one-ocean Navy.

The canal has also been shown to be economically important and the State Department itself now predicts an increase in canal traffic in the years between now and 2000.

When the argument of the declining importance of the canal ran into trouble the Carter administration changed its tack.

Admitting that the canal was important, the new argument was that use is more important than ownership and that we will have greater assurance of free access to the canal if we turn the canal over to Panama.

Opponents of the treaties have no quarrel with the statement that use is more important than ownership. However, opponents of the treaties do take issue with the assertion that the canal would be more secure in the hands of Panama with the U.S. military presence removed.

Even if eliminating a U.S. presence would reduce somewhat the threat of

sabotage to the canal, at the same time it would significantly increase the vulnerability of the canal.

Without U.S. military bases, and without the protective buffer of the Canal Zone, the canal will be much more vulnerable to sabotage or attack.

In the words of Adm. Thomas H. Moorer, former Chairman of the Joint Chiefs and, as such, our senior military officer, we would be divesting ourselves of all the tools necessary to adequately defend the canal.

Another matter which has been of great concern to opponents of the treaties has been their expected cost.

Secretary of State Vance and other administration officials have stated that the proposed canal treaties would not be costly and would not require any congressional appropriations.

Secretary Vance in testimony before the Senate Foreign Relations Committee on September 26, 1977 stated flatly that "the treaties require no new appropriations, nor do they add to the burdens of the American taxpayers."

President Carter echoed this statement on December 28, 1977 when he said: "We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it."

These statements, however, were clearly inaccurate.

The canal treaties will require appropriated funds for the relocation of U.S. military forces (an estimated $42.9 million) and for the payment of early options retirement for U.S. employees who will be displaced from their jobs (estimated by Governor Parfitt of the Panama Canal Company to be at least $165 million).

In addition, the canal treaties may require substantial appropriations to meet other obligations depending on future economic trends and depending on how one interprets certain provisions of the treaties.

Under article XIII of the Panama Canal Treaty the United States is obligated to turn over the canal to Panama in the year 2000 "free of liens or debts."

One logical interpretation of this provision of the treaty is that the United States would be required to make up any deficits incurred by the proposed Panama Canal Commission which had not been settled by the year 2000.

Gov. Harold R. Parfitt, Governor of the Canal Zone and President of the Panama Canal Company, agreed with this interpretation in recent testimony before the Senate Armed Services Committee stating that it was "possible or even probable" that such a payment would be required.

This interpretation has been disputed by the State Department, but the issue remains clouded.

Should Governor Parfitt's interpretation—and that of many others—prevail, then there is no way of telling how much this could cost the American taxpayer.

Nor is this the end of the potential costs of the treaties.

There may be an additional U.S. liability of up to $220 million, which also hinges on how one interprets a part of the Panama Canal Treaty.

Article XIII of that treaty provides for a $10 million annual payment to Panama from the effective date of the treaty until the year 2000. This amount is supposed to come out of surplus revenues.

The question becomes: What happens if there is no surplus, or if the surplus is less than $10 million?

If this happens in one year, then the obligation to Panama carries forward to a subsequent year. But what if we come right up to the year 2000, and there remain sums unpaid to Panama under the $10 million a year provision, because of insufficient surpluses?

Elmer Staats, the Comptroller General of the United States, answered that question during testimony before the Senate Armed Services Committee. He said:

> Under our interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama of over $200 million could be required at termination of the treaty.

Mr. SARBANES. Will the Senator yield on that point?

Mr. HARRY F. BYRD, JR. Yes, I am glad to.

Mr. SARBANES. I had an exchange much earlier in the debate with another Senator concerning the quotation of Comptroller General Staats which the Senator from Virginia just made and which is taken, I believe, from the summary of the Armed Services Committee.

There is a problem here with respect to the use of the word "our" rather than the use of the word "one."

In the testimony that Comptroller General Staats gave, as it appears in the hearings, the word is "one," not "our." In other words, Comptroller General Staats does not put it forward as his view but as a view. At the time he states that it was "one view," and subsequently there has been that misprint to "our view" and that has created some confusion on this issue.

I concede that Comptroller General Staats said that there was an interpretation—one interpretation—but he did not made it his interpretation.

Mr. HARRY F. BYRD, JR. I think the committee, in listening to the Comptroller General, clearly got the impression that it was his own view.

If there is an error in the transcript, in saying "our interpretation," and it should have been "one interpretation," I do not think that is a significant error; because I believe the Comptroller General was conveying the impression to the committee that this would be an appropriate interpretation of the treaties.

Nevertheless, it is a point that is of considerable importance, it seems to the Senator from Virginia. Vast sums of American tax dollars are involved.

The State Department, of course, disagrees with the above interpretation. Nevertheless, it is a wide difference of opinion.

Mr. SARBANES. I do think it is a point that should be addressed. The only point I wanted to make is this: On page 379 of the hearings of the Committee on Armed Services, of which the very able Senator is a distinguished member, Comptroller General Staats says "under one interpretation," and in the summary report of the committee, that has been written as "under our interpretation."

I do not think he took it as his interpretation. He said there were some ambiguities. He said that under one interpretation there could possibly be this cost. He then noted that the State Department said they hold a different interpretation.

Further on, he said:

> One approach to that would be to make certain that State's interpretation is clearly understood. We believe that it should be spelled out in implementing legislation.

This is Comptroller General Staats talking.

I just wanted to address that one point, because it has come up before.

Mr. HARRY F. BYRD, JR. I thank the Senator from Maryland. I believe it is appropriate that the Senator from Maryland make clear the view he places on it.

Mr. President, I will repeat the answer of Comptroller General Staats:

> Under our interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama of over $200 million could be required at termination of the treaty.

The State Department, however, disagrees with this interpretation and maintains that under those conditions nothing would be owed to Panama.

This is not an insignificant difference of opinion and it is all the more disturbing since the Senate has heard testimony that the Panamanians interpret this provision of the treaty to mean that the money would be owed to them. To quote Senator MCINTYRE:

> The Panamanians have let it be known to Senators that should they not receive any surplus payments by the year 2000, the U.S. Government would be obligated to a 220 million dollar lumpsum payment.

Still another cost to the American taxpayer may result if these treaties are ratified.

There is no provision in the Neutrality Treaty that Panama will adequately maintain the canal and related facilities. The State Department apparently assumes that enlightened self-interest will force Panama to maintain the canal but there is no way to be sure that future Panamanian Governments will not defer needed maintenance in order to spend additional funds on more visible and politically popular social programs.

Should that occur, the United States would be forced into the awkward choice between allowing a needed facility to deteriorate or offering to assist Panama economically in order to free Panamanian resources for needed canal maintenance.

One can envision the Panamanians using such leverage to their economic advantage. The reasonably natural thing for them to do, as a matter of fact.

Yet another treaty-related cost to the taxpayer, which also would require appropriation of funds, would be foreign aid payments to Panama.

The Carter administration, outside the terms of the treaties, has pledged its best effort to secure from the Congress approval for additional U.S. assistance in the amount of $345 million to build

up Panamanian military forces and strengthen that nation's faltering economy.

This aid promise would be in addition to existing U.S. aid programs to Panama, a country which already has received more foreign aid per capita from the American taxpayers than any other nation.

Mr. President, I think that is worth emphasizing. The Republic of Panama already has received, through the years, more foreign aid per capita from the American taxpayers than any other nation.

In fact, as a result of the U.S. presence in Panama, Panama has the highest per capita income of any country in Central America and has the fourth highest in all of Latin America, in which there are 18 countries. So Panama has fared quite well by American presence in Panama.

Looking at all these firm and contingent costs of the treaties which I have enumerated, I believe the conclusion is inescapable that these agreements represent a burden upon the taxpayers of the United States—and very likely a substantial burden.

To these already substantial costs must be added the value of the canal assets themselves.

These facilities, now owned by the United States, which would be transferred to Panama, include military bases, airfields, port facilities, marine fuel storage facilities, ship repair facilities, and public service improvements such as roads and services.

According to figures submitted by the Panama Canal Company these facilities now have a book value of nearly $1 billion and a replacement value of $9.8 billion.

Clearly, these treaties are expensive and will continue to be a burden in the years ahead.

One final objection which treaty opponents have put forward is that the proposed treaties were hastily drafted and are ambiguous and imprecise.

We have seen clear evidence that Panamanian officials have taken a different interpretation from that of the Carter administration on several important parts of the two treaties.

The differences were so glaring, in fact, Omar Torrijos returned to Washington where he and President Carter issued an unsigned clarifying statement intended to put to rest any misunderstanding.

This unsigned statement has now been made a part of the Neutrality Treaty by Senate action but still confusion remaining.

There is documented evidence that Panamanian leaders continue to interpret the treaties and the subsequent Carter-Torrijos understanding differently than their American counterparts.

In a speech before the Senate on March 6, the distinguished Senator from Michigan (Mr. GRIFFIN) demonstrated clearly the continuing differences in interpretation between Panamanian officials and the Carter administration on important defense matters.

The Carter administration is telling the American people that the United States will have the unfettered right to defend the canal against any threat even after the year 2000.

However, as Senator GRIFFIN has amply demonstrated, Panamanian spokesmen continue to assert that the United States can defend the canal after the year 2000 only if requested to do so by Panama or when such action is agreed to by Panama.

Clearly, conflicting interpretations still exist on this and other important parts of the treaties.

I believe it would be ill-advised for the United States to agree to treaties which are so ambiguous.

One purpose of the new treaties is to create more friendly relations between the United States and Panama but with the ambiguity of the treaties it seems to this Senator that the treaties could very well have a reverse effect, that with the ambiguities which exist there could be continuing conflict as to just what various sections of the various treaties actually mean.

If the Republic of Panama is not now friendly to the United States, it certainly should be. As I mentioned earlier, that fine little country of 1.7 million persons has received more foreign aid per capita than any other nation in the world. The United States has supplied foreign aid over a long period of years to more than 100 different countries, but Panama has received from the American taxpayers in foreign aid more dollars on a per capita basis than any other country in the world.

So I say that the United States has been fair and has been tremendously helpful to Panama through the years. The Panama Canal has been good for the United States, it has been good for the world, and it has been good for Panama. And because of American presence in Panama and because of the way that the United States has handled the Panama Canal operations over a long period of time, through two World Wars, through the Korean war, and through the Vietnam war, kept the canal operating during all of that time, Panama has benefited tremendously from all of that, and as a result Panama has the highest per capita income of any Central American nation and the fourth highest of all of the 18 Latin American countries.

In summary, I believe that the major objections of treaty opponents have well stood the test of extended Senate debate:

The canal has been proven to be militarily and economically important to the United States.

Logic dictates that the canal is less vulnerable with U.S. military forces present than without them.

The treaties will require the appropriation of tax moneys and could, in fact, require additional appropriations in future years if the canal operation were to run a deficit.

Lastly, the treaties continue to be interpreted differently in Panama than they are interpreted by the United States.

I believe that these objections are more than sufficient to warrant a vote against these treaties.

I do not oppose, Mr. President, any change in the existing treaty with Panama. I do not oppose any change in the treaty of 1903. I am willing to recognize that a major revision in that treaty relationship could serve the best interests of both countries.

But I am not convinced that the treaties now before the Senate for ratification meet that criteria. Panama is to receive great benefit from the treaties. The United States, on the other hand, is on the giving end of every aspect of these treaties. We are giving away property, we are giving away bases, we are giving away rights, that we have had through the years, and for that we get a promise that Panama will keep the canal open.

These treaties have serious flaws, and I believe that they are so serious as to make the treaties totally unacceptable.

The pending treaty should be defeated and then, if President Carter wishes, new treaties could be negotiated, taking into consideration the justified concerns of the American people.

Mr. President, I have a table citing cost estimates to the American taxpayer resulting from the proposed Panama Canal treaties.

I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COSTS TO THE AMERICAN TAXPAYER AND CONSUMER RESULTING FROM PROPOSED PANAMA CANAL TREATIES

Certain costs:	
Replacement cost of facilities	$9,800M
Military relocation costs	43M
Early retirement costs for canal employees	165M
Foregone interest payments to U.S. Treasury	440M
	10,448M
Potential costs:	
Contingent surplus payments to Panama	220M
Additional foreign aid	345M
Canal operating deficits	[1] 1,160M
Consumer costs resulting from toll increases	[2] 1,200M
	2,925M
Total of certain and potential costs	13,373M

[1] Senate Armed Services Committee estimate of potential deficit based on a cumulative toll increase of 75 percent (estimated to produce maximum revenue).

[2] Senate Armed Services Committee estimate of potential increased cost of treaties to be borne by U.S. consumers.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I say to the very able Senator from Virginia that I have listened to his very thoughtful statement. There is not sufficient time now before the scheduled vote to respond to each of his points so I shall simply make two comments.

One is to say to the very able Senator from Virginia that, while we are on different sides of the issue, I do very much respect the thoughtfulness with which he puts forward his position and his concerns. Secondly, he made the point that logic dictates that we are in a better posi-

tion to protect the canal with our troops being present than without them. Of course, our troops will be present until the end of the century under the treaties before us.

Furthermore, I think another important consideration in judging our position is whether we will be operating in a hostile environment or a friendly environment. We ought never to lose sight of the fact that the nature of our relationship with the Republic of Panama and with the people of Panama is very important to our ability to use the canal in a peaceful and constructive way. And if we can arrive at treaty arrangements which are satisfactory to both parties, protect our interests, and develop a relationship of mutual respect and friendship between the two countries, I submit that this will be the most constructive and the most positive way to insure our continued use of this canal, which is fundamentally what we want. The canal does not have much value if you cannot use it.

The value of the canal is in its use, and if we can insure and maximize our opportunity to use it under circumstances in which we have a friendly environment and a positive relationship, we should seize that opportunity. It is my strong view that this is what these treaties provide.

But I do want to say I respect the thoughtfulness with which the Senator advances the arguments on the other side.

The PRESIDING OFFICER. The hour of 1:50 having arrived, under the previous order, the Senator from Maryland is recognized to offer a motion to table the pending amendment.

Mr. SARBANES. Mr. President, I move to table the pending amendment offered by the Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. Under the previous order, the yeas and nays having been ordered, the question is on agreeing to the motion of the Senator from Maryland to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. SASSER assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. PAUL G. HATFIELD), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The result was announced—yeas 54, nays 33, as follows:

[Rollcall Vote No. 81 Ex.]

YEAS—54

Anderson	Hatfield,	Muskie
Bayh	Mark O.	Nelson
Bellmon	Hathaway	Nunn
Bentsen	Heinz	Pell
Biden	Hollings	Percy
Byrd, Robert C.	Huddleston	Proxmire
Case	Humphrey	Ribicoff
Chafee	Inouye	Riegle
Chiles	Jackson	Sarbanes
Church	Javits	Sasser
Cranston	Kennedy	Sparkman
Culver	Leahy	Stafford
Danforth	Long	Stevenson
Durkin	Mathias	Stone
Eagleton	Matsunaga	Talmadge
Ford	McGovern	Wallop
Glenn	McIntyre	Williams
Hart	Metzenbaum	
Haskell	Moynihan	

NAYS—33

Allen	Griffin	Roth
Bartlett	Hansen	Schmitt
Burdick	Helms	Schweiker
Byrd,	Hodges	Scott
Harry F., Jr.	Johnston	Stennis
Cannon	Laxalt	Stevens
Curtis	Lugar	Thurmond
DeConcini	McClure	Tower
Domenici	Melcher	Young
Eastland	Morgan	Zorinsky
Garn	Packwood	
Goldwater	Randolph	

NOT VOTING—13

Abourezk	Dole	Hayakawa
Baker	Gravel	Magnuson
Brooke	Hatch	Pearson
Bumpers	Hatfield,	Weicker
Clark	Paul G.	

So the motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE NEUTRON BOMB

Mr. MELCHER. Mr. President, there are some public comments that the President's decision on the production of the enhanced radiation weapon—a nuclear weapon called the neutron bomb—will somehow become linked to the Panama Canal treaties. As one who opposes the ratification of the treaties, and as one who also opposes the production and distribution of this new nuclear weapon, I believe it is appropriate to respond to the column on the neutron bomb in last Friday's Washington Post written by the always astute political reporters Rowland Evans and Robert Novak.

Evans and Novak assert "President Carter may soon announce the start of production of the neutron * * * *"—an assertion that I hope is inaccurate.

The writers termed the discussion of this nuclear weapon " 'a debate of enormous ignorance' * * * kept alive by Soviet propaganda." They may judge that my opposition to the neutron bomb is due to "enormous ignorance," but I shall repeat my declaration in the Senate of last July.

It is a nuclear weapon not now a part of the nuclear armaments of ourselves, our allies, or anyone else. Producing it for ourselves and our allies sets the stage for other nations to match that nuclear armament with a like weapon.

Granted that the other nuclear powers of the world do not now possess the capability for production of this enhanced radiation weapon, if we produce it other nuclear powers will soon scramble to add it in their arsenals. Failing to do that, in time of war if we should use it against an enemy, it could only mean that the enemy would retaliate with whatever nuclear weapons they possess. That is not "Soviet propaganda" nor anyone else's propaganda. That is the fact of war. It is described as a defensive weapon, which is exactly how each nuclear power describes its nuclear arsenal—a deterrent possessed by each nuclear country to deter attack by any other nation.

In my judgment, if the United States or our NATO allies used the neutron it would be the start of nuclear warfare. The only prudent position for the United States is to use our knowledge of the neutron as a pawn in our SALT discussions with Russia to lead to a sane approach for reduction of nuclear weapons, with proper safeguards for inspection and enforcement.

Evans and Novak speculate that President Carter overruled military advisers by not ordering the immediate production of this nuclear weapon. If that is the case, I believe President Carter has rendered the proper judgment for the United States and the world, and I hope the President continues to overrule military advisers who recommend that it should be produced.

It is not for the military to make the decision on the production, distribution, or use of nuclear warheads. That decision should only be made by representatives of the people here and throughout the world.

Most humbly I, as one U.S. Senator, say "No." But in a broader sense, as one of the temporary inhabitants of this planet we call Earth, I say "No" to broadening the threat of nuclear devastation for all human, animal, and plant-life that would result if nuclear war were unleashed on our lives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I commend the distinguished Senator from Montana. I would also like to emphasize what he has already said, the fact that the neutron bomb cannot be and should not be considered by any political analyst as somehow being a quid pro quo or a factor in the Panama Canal debate.

It seems that everything from the weather to the condition of potholes in Washington, D.C., somehow gets wrapped into the Panama Canal debate.

The Senator from Montana and I are on opposite sides on the Panama Canal treaties. We are on exactly the same side on the question of the neutron bomb.

The thought of nuclear war—well, in many ways it is unthinkable and that is perhaps one of the reasons we have gotten so far down the path toward making nuclear war impossible. There was a time

when we all realized that only divine intervention could destroy the world, that only the divinity had the power to destroy the whole world. Unfortunately, Mr. President, we have reached the ability within ourselves, within our own lifetime, for mankind to destroy itself.

We know that between the United States and the Soviet Union we have the power to destroy the world many, many times over.

We also know that should we ever unleash that genie, should we ever unleash the dogs of nuclear war, then they will never be harnessed again. If we ever went to global nuclear war, none of us would be able to stand here afterward and decide who was right and who was wrong; neither our country, the Soviet Union, nor any other country would survive that. I share the concern of the Senator from Montana, that the neutron bomb itself is just one step which makes it easier and easier to lower the threshold of nuclear war. If that threshold is crossed, then neither my children nor anybody else's children will see their way into the next century, the century in which, under all other rights, they should spend the majority of their lives.

Mr. President, I yield back the floor.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

The PRESIDING OFFICER. Are there further amendments to article I? If not, the clerk will read article II.

The legislative clerk read as follows:

ARTICLE II

RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

THE ENHANCED RADIATION/ REDUCED BLAST WARHEAD

Mr. DOLE. Mr. President, once again we read in recent press reports and other information available that President Carter continues to add to the growing sense of frustration of the American people. Reports that the President will announce soon his decision not to place the enhanced radiation/reduced blast warhead into production is an addition to the long list of administration unilateral concessions.

The present administration seems to maintain that this is a time for concession and retreat around the globe—concession in Cuba, Panama, China, and in the SALT negotiations; retreat in Africa, South Korea, and Western Europe, and the list goes on. Mr. President, I believe only the restraining hand of Congress has prevented a wholesale reversal in the international image that brought this country respect and authority in the last three decades.

It seems to me, Mr. President, we are on a matter now that certainly is highly important to the American people. There is a difference of opinion among my colleagues on the treaty issue and I certainly have never questioned the motives, intent, or positions—maybe the positions, but not the reasons for those positions.

But it seems to me that perhaps as we debate the Panama Canal treaties we might also want to review and perhaps offer assistance, support, or whatever, to the President of the United States as he tries to come to grips with this very important decision on whether or not to place the enhanced radiation/reduced blast warhead into production.

THE NEUTRON BOMB

Mr. President, this matter has been the subject of debate many times. Proponents, and opponents have made their arguments to the point that confusion has been the only result.

One of the central issues facing us today is: who is going to be deterred—the United States or the Soviet Union?

The popular argument against the neutron warhead is that we should not develop nuclear weapons that we can use; rather, that we should keep these weapons at such a destruction level in blast and heat effects that there would be great reluctance in the actual use of these weapons.

Mr. President, the Senator from Kansas believes both the proponents and opponents of the neutron bomb can agree on the basic premise that we hope we will never have to use any nuclear weapons. However, where the opponents seem to seek a deterrence of the United States, I and many of my distinguished colleagues seek a deterrence of the Soviet Union and the Warsaw Pact Nations. Mr. President, I firmly believe that if we deter ourselves, we greatly encourage the very holocaust we seek to avoid, and the use of weapons which we hope never to use.

Very simply, Mr. President, if we do not have functional weapons—that is, weapons we can use—we do not have deterrence; and if we do not have deterrence, then we become extremely vulnerable without the use of functional weapons.

THE NEUTRON BOMB MYTH

Mr. President, as has been pointed out many times, the neutron bomb differs from the ones it would replace in Europe in that it would produce a smaller explosion, accomplishing exactly the same military mission with less collateral damage. It is unfortunate that Communist propaganda and misleading press reports have created a totally misleading picture of this important defense weapon.

Mr. President, I would like to briefly explain the importance and necessity of the weapon for our allies in Europe. Currently, the defense of Europe against the ever-increasing Soviet land armies has long been dependent on the use of tactical nuclear weapons. These are weapons that produce large blasts and thermal effects; the so-called neutron bomb would reduce these effects and also reduce the massive destruction of property.

UNILATERAL ARMS LIMITATION

Mr. President, in an address before the General Assembly of the United Nations, on October 4, 1977, President Carter eloquently spoke of working toward further reductions and limitations of weapons for a world truly free of nuclear weapons. The President also said the United States was willing to go as far as possible, consistent with our security interest, in limiting and reducing our nuclear weapons.

Mr. President, I commend and join the President in such hopes for world peace. However, I find it difficult to understand how world peace can be achieved if the United States continues to be the only one working toward this goal. I would readily subscribe to the notion of limiting and reducing nuclear weapons worldwide but until the Soviet Union begins to match our long list of defense concessions, I believe it is not in the best interest of this country and that of our allies to cancel yet another major weapon system.

ADVICE IGNORED

Mr. President, it appears that the President, on his own, has decided to ignore the overwhelming support and advice on continuing the neutron bomb project. He has apparently chosen to act contrary to the advice of his Secretary of State, Secretary of Defense, the National Security Adviser, the leadership in the Senate, and our allies in Europe. Mr. President, I would strongly suggest that President Carter has forgotten the pledge he made recently concerning working and consulting closely with Members of Congress and others on all issues, and in particular issues of major importance.

A MESSAGE TO THE PRESIDENT

Mr. President, if the President has made the decision to cancel the production of the enhanced radiation weapons, I join many of my distinguished colleagues in urging him to reconsider his decision.

It seems to me that in an effort to encourage the President to look at all sides of this very volatile argument—there is no question about that—we might also hear the voices of some who support the Panama Canal treaties but who have strong reservations about cancellation of the production of the enhanced radiation weapons. I believe that the most meaningful message the President could receive would be from some of my distinguished colleagues and the Senate leadership who recently voted for the first Panama Canal Treaty, under the intense lobbying and pressure from the administration, but who are now criticizing the President for his proposed action on the neutron bomb.

Mr. President, I submit that the will of the American people is unquestionably clear and that the President should act accordingly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the Panama Canal Treaty.

Mr. ROBERT C. BYRD. Mr. President, I hope that the respective cloakrooms will call Senators to tell them that if no amendments are called up in the relatively immediate future, the Chair will be asked to proceed on to article III.

How much time have we spent on this present quorum call?

The PRESIDING OFFICER. Fifteen minutes.

Mr. ROBERT C. BYRD. Fifteen minutes on a quorum call. I think we have been in a state of the absence of a quorum for longer, though, if I recall, so I hope that Senators will call up their amendments in view of the fact that we will vote on the treaty on the 18th and we will go out as the Committee of the Whole and go on to the Resolution of Ratification on the Friday preceding that Tuesday. Senators will want to have ample time to call up their amendments to all of the articles, and for the protection of Senators who might be caught at the last minute desiring to call up amendments and no time remaining for debate, I hope that Senators who do have amendments at this point can come to the floor and call them up so as to make it equitable, fair, and just on all Senators.

The PRESIDING OFFICER. The Chair is advised that there have been two 15-minute quorum calls.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum hoping that the cloakrooms will help us to get a Senator on the floor with an amendment to article II if there be such an amendment and if not, the Chair, I presume in due time, will proceed to article III.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARTICLE III

CANAL OPERATION AND MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President, may we proceed to article III and have the clerk state it?

The PRESIDING OFFICER. The clerk will state article III.

The assistant legislative clerk proceeded to read article III.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the article be dispensed with so that Senators may proceed to call up amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Article III is as follows:

ARTICLE III

CANAL OPERATION AND MANAGEMENT

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

(b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such a request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States dollars ($10,000,000) per annum for the foregoing services. It is agreed that every three years from the date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting, the cost of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal services, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation. In view of both Parties' special interest in the continuity and efficiency of the Canal operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendations shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at birth management levels

of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid Commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management, operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 18

Mr. ALLEN. I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 18:

Amend article III, paragraph 3(a) by adding at the end thereof the following sentence "All of such members shall be confirmed by the United States Senate before entering upon the performance of their duties as such member."

Mr. ALLEN. Mr. President, I have been absent from the Chamber for the last 45 or 50 minutes. I had been asked to address a large group of young people from all over the country. I might state that I found them somewhat more receptive to my views with respect to these treaties than have been the majority of the Members of the U.S. Senate. They looked with considerably more favor on the amendments that I have been offering than have the Members of the Senate who have, with great regularity, been voting against my amendments and amendments offered by other Senators, irrespective of their merits.

I would have thought that there being a number of amendments at the desk, other Senators would have availed themselves of that opportunity of calling up their amendments to be acted upon here in the Senate.

(Mr. HUDDLESTON assumed the chair.)

Mr. ALLEN. Be that as it may, the leadership has consistently insisted that these treaties be rubberstamped by the Senate. They have called upon the big majority of the Senators they have here in the Senate to vote down, without exception, the amendments offered by Senators who wished to strengthen these treaties or in the alternative to defeat them and, in doing so, Mr. President, I feel that the leadership and the majority of the Senate, who are following the leadership, are causing the Senate to abdicate its great constitutional role of advising the President with respect to treaties that are submitted to the Senate for advice and consent or in the alternative advice and nonassent.

In that regard, Mr. President, I believe we are making a grave mistake in failing to shape these treaties to provide for the strongest and best possible defense by the United States of the canal and the Canal Zone; that we are refusing to give adequate protection to the American taxpayer, and we are content to leave the taxpayer in the unenviable position not only of giving the canal away but to pay hundreds of millions of dollars to the Panamanians for taking the canal off our hands.

These omissions or defects or shortcomings of the treaties could be—not just as to the treaty already approved—eliminated or greatly improved. But does the leadership advise the Members of the Senate to vote their convictions, to pay little or no heed to what they say are the views of the Panamanians with respects to amendments, and be interested only in making better treaties of these treaties providing for a more adequate defense of the canal after the year 2000, to protect the American taxpayer?

These treaties, it is said, have been under negotiations for almost 13 years. Very little headway was made until the last 6 months, I believe, of the treaty negotiations when Mr. Linowitz was added as a negotiator, and I believe, under some obscure or possible little-used provision, he did not have to have Senate confirmation. He could have a 6-month appointment and avoid the requirement of Senate confirmation.

Well, the report is, Mr. President, that things moved very rapidly in the last few days of that 6-month period of Mr. Linowitz's tenure in office, and they threw together a treaty that was so full of defects and omissions and lack of safeguards for the American people, so ambiguous, that both leaders, the majority leader and the minority leader, said as to the Neutrality Treaty or the defense treaty, starting in effect with the year 2000, that it could not be passed in the Senate because it did not provide adequate defense rights to the United States for the defense of the canal after the year 2000.

So they hit on the idea of taking this memoradum entered into between the President and the dictator that gave their construction of what the defense rights of the United States were.

They did not bother to sign the agreement, and when Mr. Torrijos went back to Panama he said that this did not give the United States any rights. It just gave the United States a duty to defend the canal when and if he called on us to do so. That was greatly different from the interpretation we placed on that. Notwithstanding that, the leadership amendment merely lifted this memorandum up, which is not a new provision, new words, it merely is a construction of the words that were already in the treaty.

The memorandum became the leadership amendment, and it fell far short of providing adequate defense of the canal. When we offered amendments to strengthen our defense rights, they were turned down, and the highest vote that those who offered such amendments were able to receive was 42 votes, on an amendment which I offered that would have forbidden the Panamanian Government to call into Panama troops from foreign nations who might possibly confront our own troops there. That provision was especially needed for the next 22 years, since, under the Defense Treaty, Panama is not allowed to bring in any troops starting with the year 2000. Why would they need foreign troops now in Panama, other than U.S. troops, when the United States is there to defend the canal? Why would they need the right to bring in more troops from foreign countries into Panama, when they will not have that right at all when they will be defending the canal on their own, starting in the year 2000?

All these efforts to perfect these treaties have failed, and I am wondering when we are going to reach the point—I guess on the 18th, or the 13th, I guess, is the last day we can offer amendments to the treaty; the rest of the time will be on the resolution of ratification and possible reservations thereto—I am wondering when those of us who are going to continue to try to improve the treaties are going to get the message that they are not going to allow any amendments, no matter how good.

The distinguished senior manager of the bill (Mr. CHURCH) was very frank in his attitude that they are not going to accept any amendments. The distinguished majority leader (Mr. ROBERT C. BYRD) said on television a couple of weeks ago that he was going to keep an open mind on amendments; but thus far his mind has not opened up far enough to allow the admission of even one amendment, no matter how good it was or is. He even voted against—as did a number of Senators who, in 1975, cosponsored a resolution saying we would not give up the canal and saying that if any such treaty was presented to the Senate before it could become effective, Congress would have to approve the disposition of our property. That was completely ignored in the vote; eight Senators who voted for the Neutrality Treaty had said, by joining in this resolution, that they would not support a Panama Canal Treaty, and then proceeded to do it; and then as to the provision for congressional action, those same eight Senators who voted for the treaty were on this resolution that provided for a congressional act before the treaty could go into effect. All that was disregarded.

I do not quarrel with a Senator who changes his mind on an issue; but to change your mind on what the Constitution says, and what the meaning of a constitutional provision is? There seems very little reason to change your view on a constitutional issue; but that is what we are facing.

Coming now, Mr. President, to this specific amendment: I must say it seems quite logical to me, and quite necessary in the proper operation of the canal during this 22-year interim period, to pro-

vide something about the approval of these members of the Panama Canal Commission by the U.S. Senate. Right now, the Panama Canal is being operated by what is called the Panama Canal Company, and I am going to give the names of the people who operate the the Panama Canal Company. Everything the Panama Canal Company has is going to be transferred over to the Panama Canal Commission, which will operate the canal for the next 22 years—operate it under the policy, however, of not hiring Americans to work on the canal, but under a policy requiring a rapid reduction of the number of Americans who are now working on the canal—operating it not for the benefit of the United States, but for the benefit of Panama, in that Panama is going to receive her approximately $100 million and the United States a great big fat zero: Not even interest on the $319 million that is still owed to the Treasury on the original construction cost of the canal; we are not even going to be getting any interest on that.

So even though, as I see it, they are mandated during the 22 years to put into effect an anti-American employment policy—think of that. Talk about how we humiliated Panama back in 1903. Talk about humiliation: This American-Panama Canal Commission is mandated to reduce the number of American employees of the canal—and there are about 3,000 of them—to show the gate to 20 percent of them, about 670, and they are mandated to employ no more from now on unless the ones that they employ have some special skill that is not available in Panama. That might be four or five or six jobs, because they say the Panamanians can operate it right now. I guess there might not be any that would lack special skills. So we cannot employ any Americans, and if this treaty is adopted, of those who are already employed, 20 percent have to go in 5 years.

So whom are we writing this treaty for? Where were our negotiators when this treaty was written? Were they in the next room? It does not look like they were at the negotiating table, to allow a provision like this to come into the treaty. Where were the labor unions that were supposed to represent the best interests of those employees down there? I understand all of them are organized; where are the labor unions, in sticking up for their members?

Where is the Senate leadership? They are rejecting these amendments; that is where they are. Where is the administration? Why, they are rejecting these amendments; that is where they are.

Suppose the reverse of this situation had been true. Suppose we had said, "Well, for the next 22 years, since we are not going to deliver the canal to you outright for 22 years, we are just going to operate it for your benefit, we won't even siphon anything off, everything goes to you, and we guarantee you against there being any debt against the canal when you take over"—if we had said to the Panamanian negotiators, "OK, you are going to get the canal in 22 years if the Senate approves this treaty, and they do not require the House to act on the issue; you are going to get it in 22 years, but in the meantime the United States is going to operate the canal, and these 80 percent of the employees that are Panamanian are going to have to go, because America is going to operate the canal for the next 22 years. The Panamanians are going to have to be phased out."

That would not have sounded too unreasonable to me, if it said that we have the operation, control, and ownership of the canal for the next 22 years. Why would they not want to put U.S. citizens into the jobs? But we do not do that; we do just the opposite of that.

We say:

> Yes, we are going to turn the canal over to you in 22 years, but in the meantime we are going to turn it over to you during this 22 years, because you already have 80 percent of the employees. We are going to fix it where, in pretty rapid fashion, you are going to get it all. And it will not take 22 years to do it. In the first place, we are going to freeze employment against United States citizens. There will be no more of them. Put up a sign that Americans need not to apply, that there are no jobs for Americans during this 22 years, and, thereafter also, of course.

So we freeze American citizens out of their jobs. We bar their sons from obtaining employment. As there is attrition among employees, they will be replaced by Panamanians. That is during these 22 years that we are supposed to control, operate, and own the canal. They are strange doings, Mr. President, strange negotiations.

So we are going to turn the canal over to an American commission. We are going to tell the Panama Canal Company, "All right, transfer all the assets to the Panama Canal Commission."

Who are we going to name to the Commission? It is an American Commission, so who will they name to the Commission?

In the first place, they have an administrator of the canal and a deputy or assistant administrator. Until the year 1990 the administrator will be an American and the deputy administrator will be a Panamanian. But in 1990 the roles reverse and Panama will get the administrator and we will get the deputy administrator. It will all be controlled by this Commission.

Let us look at it. Who is on the Commission? Well, it does not say. It does not provide any qualifications for the members. It does not say they have to be qualified electors, men or women of good character, ability, or loyalty. They are just named. Nine of them are named. Five must be nationals of the United States; four must be nationals of Panama.

How do we go about choosing the Panamanian four? Well, they are chosen from a list of four submitted by Panama. There is no requirement for lack of criminal record. There is no requirement for honesty. There is no requirement for integrity. There is no requirement for ability. Just name them. Is there any control over whether they are qualified to serve in this important capacity? Not a bit. Not a bit.

It appears they could get people from Panama under indictment for drug trafficking, and, I guess, if they are inmates of prisons. There is nothing said. They just have to be Panamanian nationals, that is all. The United States has absolutely no voice in who is chosen or the manner of people who are chosen.

There will be five Americans and four Panamanians on a U.S. commission.

Mr. President, the Senate of the United States has to approve every commission that is issued to an officer in the armed services of the United States. If a man is promoted from second lieutenant to first lieutenant, he has to be approved by the Senate of the United States.

Not one word is said about the Senate of the United States approving these nine commissioners.

What could be wrong with requiring just a little bit of check on these nine commissioners, whether they be Americans or whether they be Panamanians? Why should the leadership, why should the administration, why should the managers of this treaty, object to Senate confirmation of these nine commissioners? That is all this amendment provides. But I predict that the leadership is going to turn thumbs down on it and say, "No, we cannot take this amendment. It is too good an amendment. We cannot take it. It will improve this treaty. We want to guard against that by all means."

Mr. President, in the past I have seen the Senate turn down constructive amendments.

We do see an interesting situation here where constructive amendments by any standard you might choose to use, Mr. President, are rejected by the leadership. So what is the system now? What is the system now on approving those who go to make up the Panama Canal Company, which will be succeeded by the Panama Canal Commission?

They have an unusual arrangement. I think it might be interesting to Members of the Senate, who I am sure have not bothered to check into this, or very few have, if any. Who makes up the Board of the Panama Canal Company? This might be interesting for the record. Are they approved by the U.S. Senate?

Mr. President, I ask unanimous consent that when I have completed reading from this list of the members of the Board it be printed in full in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. The members of the Panama Canal Company do not happen to be people who are outside the public service. They already hold jobs with the Government and this is an added duty that is placed on them. Nothing is said about the qualifications of these members of the to-be-formed commission. Nothing is said about that at all. I assume that they could make sure that the interests of the large financial institutions that have a heavy stake in this treaty because of the $100 million a year coming from Panama, which would just about service the external debt of Panama—it is about $1.5 billion, and $100 million a year would just about service that debt. I think if this amendment

fails, I shall offer an amendment saying that no employee or former employee of any of the big international banks can be members of this commission. I think that would be a constructive amendment.

Let us see who is on there now:

Clifford L. Alexander, Chairman, Secretary of the Army. He has to be confirmed by the U.S. Senate;

Lucy Wilson Benson, Under Secretary of State for Security Assistance. She has to be confirmed by the U.S. Senate;

Richard N. Cooper, Undersecretary of State for Economic Affairs. He has to be confirmed by the U.S. Senate;

Charles R. Ford, Deputy Assistant Secretary of the Army for Civil Works. He is acting. He has not yet been confirmed, but his position, when he becomes actual Secretary, does require confirmation. As of today, he has not been confirmed, but his position, that gives him possible ex-officio rights—I am not sure—does require confirmation by the Senate;

David E. McGiffert, Assistant Secretary of Defense for International Security Affairs. He has to be approved by the U.S. Senate;

Ersa H. Poston, Commissioner of the Civil Service Commission, has to be approved by the U.S. Senate;

Admiral Owen W. Siler, Commandant, U.S. Coast Guard, has to be approved by the U.S. Senate;

Anthony M. Solomon, Undersecretary of the Treasury for Monetary Affairs. He has to be approved by the U.S. Senate;

Terence Todman, Assistant Secretary of State for Inter-American Affairs. He has to be approved by the U.S. Senate;

Harold R. Parfitt, Governor of the Canal Zone, (ex-officio). He has to be approved by the U.S. Senate.

So, Mr. President, this treaty radically changes the method of choice of these members of the Commission: four Panamanians without any security check, without any character check, without any loyalty check. They are just named from a list of four furnished by the Government of Panama. I trust the dictator's brother will not be on that list. I hope we could have assurance from the leadership that that would not take place.

What does the amendment do? The amendment merely provides that these members of the Commission shall be approved by the U.S. Senate. If every second lieutenant moving up to first lieutenant has to be approved by the Senate, why should not these important positions have to be approved by the Senate? It is a great big omission.

Generally, Mr. President, when you have a statutory position created, you have in that statute some qualification for the person who is to qualify for that job. Even a Senator has to have a certain age requirement and have been a citizen of the United States for a certain length of time, and be a resident of the State from which he is elected. There is not one single requirement of these commissioners; not one.

Oh, they say, we are going to provide legislation covering that; just give us a few weeks and that will be straightened out. The time to straighten it out is when you have the treaty under consideration, because you cannot, by legislative act, vary the provisions of a treaty. A treaty is something that is entered into between two or more entities or persons. One party to a treaty cannot amend it after it has been entered into. Our only chance to amend it is right now, before the resolution of ratification is passed in the Senate.

If we want to beef up this commission, we ought to provide some sort of qualification for these people. Would you put on the Commission people who are not qualified to serve, know nothing about the canal, come down from the outer parts of Panama, maybe never having seen the Panama Canal? That does not seem to me to be the right way to handle this.

Mr. President, that is all this amendment would do, put into motion a similar system to what exists at the present time. Every one of the members of the Panama Canal Company Board of Directors occupies a position that requires confirmation by the Senate, so why should this successor company be any less qualified or any less checked upon?

Mr. SARBANES. Will the Senator yield on that?

Mr. ALLEN. I am about to finish my remarks. Then I shall be glad to yield the floor.

We know, Mr. President, that confirmation by the Senate is not any guarantee that unqualified people will not be named. We know that. That is not peculiar to this administration or the last administration. I dare say every administration in our history has appointed unqualified people to positions, even though Senate confirmation is required. Lots of times, Senate confirmation is a pro forma affair, I note to my chagrin, and doubtless, due to my own participation on occasion.

But that does not provide a sure guarantee that we are going to get qualified people on this commission. But it would allow us to weed out people without character, people with criminal records, people with no patriotism, people who may have led riots.

We have no control whatsoever. Panama nominates them. The United States names them. That is the procedure. There is no check on them, no security check. They could be some of the very ones they say are hovering around down there ready to blow up the canal. We do not know.

Let us be sensible about this and put in some little check, not much, but a little bit of check. It would allow the Senate to run a security check on a nominee. I say that with respect to American appointees as well as Panamanian designees.

Mr. President, I do not feel this is an unreasonable amendment. I am hoping the leadership will accept the amendment.

I might say, Mr. President, as to this innocuous amendment, an amendment that though innocuous has a constructive end and a constructive goal, how could it be objected to by the administration? Do they want to leave this big gap in the treaty? Do they want to fill that commission with unqualified people?

This does not say who the American members are going to be appointed by.

This so-called American committee is going to have four Panamanians on it, five Americans, none of them confirmed, mandated to an anti-American employment policy.

Some American Commission, I say, Mr. President. And this is the Commission to which the treaty entrusts the operation, management, and control of the vital and important Panama Canal.

We would not turn the management of a Main Street grocery store over to nine people without checking on them a little bit and here we turn a $10 billion operation—I use that figure because it has been stated that that is the replacement cost of the Panama Canal and its facilities—we turn a $10 billion operation over to people who may have no qualifications whatsoever for their job.

Especially is that true of the four Panamanians that we know nothing about. Those names will be furnished us by dictator Torrijos, I assume.

I believe this amendment is going to be a test of whether the administration is going to stonewall against all amendments to this treaty, just as they have stonewalled against all amendments to the other treaty.

I might say, Mr. President, that on the other treaty they exhibited such arguments as, "Oh, well, we have got to respect Panama's sovereignty. We can't do anything to interfere with their dignity. We can't insult these people down there."

But this, Mr. President, is where this treaty provides for giving property of a valuation of $10 billion to Panama and then providing some few measures, some few conditions, some limitations upon the liability of the American taxpayer, upon the Panamanians for accepting this gift.

So how could we possibly be said to be impugning their dignity or interfering and casting aspersions upon their sovereignty? How can that be said? How can that argument be made against this constructive amendment?

Mr. President, I am hopeful that the amendment will be agreed to. I would hope that the leadership, the managers of the treaty, would accept the amendment or give some valid reason why they would object to these people being approved by the U.S. Senate.

That is the issue, Mr. President. I yield the floor.

EXHIBIT 1

BOARD OF PANAMA CANAL COMPANY

Clifford L. Alexander (Chairman), Secretary of Army.

Lucy Wilson Benson, Undersecretary of State for Security Assistance, Science and Technology.

Richard N. Cooper, Undersecretary of State for Economic Affairs.

Charles R. Ford, Deputy Assistant Secretary of the Army for Civil Works (Acting)—not yet confirmed as of 4/6/78.

David E. McGiffert, Assistant Secretary of Defense for International Security Affairs.

Ersa H. Poston, Commissioner of Civil Service Commission.

Adm. Owen W. Siler, Commandant, U.S. Coast Guard.

Anthony M. Solomon, Undersecretary of the Treasury for Monetary Affairs.

Terence Todman, Assistant Secretary of State for Inter-American Affairs.

Harold R. Parfitt, Governor of Canal Zone (ex officio).

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, as I have listened to the Senator from Alabama here this afternoon, it has occurred to me that of all the amendments that have been offered to this treaty over the last nearly 2½ months of debate that we have been wrestling around with this subject, if there is any one of them that may be the most mischievous and frivolous, this ought to get the prize.

If the Senator from Alabama can convince the Senate that a nine-member board that was designed to permit each country to have some voice in the supervision of the Panama Canal Commission should be modified in such a way that the U.S. Senate can reject the appointments that are submitted to that board by Panama, I think we would probably be successful the next time Alabama plays Notre Dame in convincing Notre Dame that they ought to let the Alabama coach decide which Notre Dame players are permitted on the field. It makes almost as much sense.

The whole purpose of what our negotiators have arranged, in terms of this 5-to-4 board, which gives the United States a clear majority automatically. We can outvote the four Panamanians on any issue. I assume we would have enough intelligence to pick five members of that Board who would not be cajoled into something against the interests of this country by the kind of people the Senator from Alabama is talking about.

He is going on the presumption that the Government of Panama may have some vested interest in putting a criminal on that Board to represent their country or someone who wants to sabotage the canal.

Why that would be the case is completely beyond my comprehension since Panama, from here on out, if we ratify these treaties, will have an even greater interest than they have in the past in the successful operation of that canal.

But why anyone supposes that the five American members on that Board, who have, clearly, a majority, would permit themselves to be bamboozled, intimidated, and overruled by the four Panamanians, should this unlikely occurrence take place and we get unqualified people named in Panama, is beyond my comprehension.

Of course, the whole purpose in giving Panama the opportunity to recommend four members to the board is so that we will have some input as to their thinking on issues that affect the canal.

The whole purpose of this treaty, I assume, is to try to bring about a better atmosphere in Panama among the people of that country as to the operation of this canal, which cuts across the center of their country, some 10 miles in width.

As a matter of fact, under the present supervision of the canal—and it is supervised by the Canal Company—we also have a board named by the President of the United States, presumably the same as the board that is going to be created under the treaty. The appointment of none of those people is confirmed by the Senate. So far as I know, there never has been any consideration that those members have to be approved by the Senate of the United States.

So one has to ask why we are changing an arrangement that has worked pretty well with regard to the handling of the board; why it is now suddenly necessary to pass judgment in the Senate on these nine people who are going to serve on the board.

I say this to my colleagues in the Senate: I do not see how this amendment can be construed as anything other than an insult to the national independence and the sovereignty of the people of Panama. Why do we think that it enhances the stature of the United States to treat other people in the condescending way that this amendment has in mind?

Panama is not a very big country, but it is a proud country. It is proud of its sovereignty and its independence. I do not see how any reasonable person could seriously suggest that before they can be represented on this joint board, in which they already have given us the majority vote on a 5-to-4 basis, they should surrender their own right to decide which of their citizens should occupy their four designated places on this board.

Mr. President, there is another real danger that I see in this amendment. It is one that has concerned me a great deal from the beginning of this debate on February 8. It is this: If we were to adopt this amendment offered by the distinguished Senator from Alabama, we would create the opportunity here for at least four more filibusters on this Panama Canal issue, which already has been almost beaten to death. Here we are, having started the debate in the Senate on February 8, still debating it on into April, with the final vote not slated before the 18th of April. We have spent almost 2½ months on this one issue.

I am sure the impression must go out to the people of this country, as they listen to this debate day after day, week after week, month after month, that this is the most important issue before the United States in the year 1978. So far as I am concerned, if I were asked to compile a list of the 10 most important problems facing the American people today, I certainly would not put the Panama Canal on that list.

Nothing we do here in terms of the transfer of this canal is going to take place before the year 2000, in any event. Even in the year 1978, this canal is too small to handle our big ships. We cannot send our big oil tankers through there. We cannot send our major military vessels through the canal. As a matter of fact, only about 4 percent or 5 percent of all American shipping ever will go through the Panama Canal; and doubtless by the year 2000, it will be even more obsolete for a major part of our shipping.

Beyond all that, there is nothing in this treaty that denies us access to that canal for whatever time we want to use it. Quite to the contrary, we have guaranteed access by treaty—not only to the use of that canal from here on out, but also, by the actions of the U.S. Senate, we now have made clear that we have the right to use our military forces, if necessary, to see that the canal remains open permanently.

So I think that during the last 2½ months we have blown this issue up out of all proportion to its real significance to the American people. One of the costs of this prolonged debate, and the reason why I am going into this, is that I think the Senator is setting the stage here for four more filibusters, when we have to pass judgment on the moral character of four Panamanians who will be suggested for service on this board.

One of the reasons why I go into this is that I think we have paid an enormous cost in backing up all kinds of important problems on which we have taken no action in the Senate this year. We have taken no action to speak of on the problems of unemployment that face this country. Once in a while there is a passing reference to the fact that there are 7 million, 8 million, or 9 million Americans who cannot find a job. But we really do not do anything about it. We talk about it as a problem, but then we keep debating the Panama Canal.

We talk about the rising problem of inflation that worries every family in this country, and we wring our hands about the fact that the President has not done better in dealing with the problems of inflation, but we do not do anything. We go on talking about the Panama Canal, as though that is the most crucial problem facing the country.

The President told us months ago—more than a year ago—that we had an energy crisis in this country that was so serious that, in order to address it properly, it would take a commitment that is the moral equivalent of war; but we have not done anything about energy. We act as though the question of who is going to serve on the Panama Canal Board is a lot more important than the question of whether our energy supply is going to be dealt with.

I wonder what our fellow citizens out across the country think about our scale of values and about our judgment and our sense of priorities when, day after day, this debate drones on about the future of that ditch across the center of Panama, and meanwhile nothing is done on energy, nothing is done about jobs, nothing is done about inflation.

Fifteen years ago, we had a report presented to this country on the crisis in the cities, in which we were told that the major cities in this country were deteriorating to the point where they represented a threat to the security of our entire society. Very little progress has been made in addressing that problem. I hear very little discussion on the floor of the Senate about the crisis of the cities. There may be a certain amount of handwringing about it, but nothing is done to deal with the problem.

Over the last few months, the Capitol has been overrun by concerned farmers. The only reason they have gotten anywhere is that they have not been sidetracked by the Panama Canal debate.

They have stayed here and gone to our offices. Many of them have told me that they think the problems of the American farmer are just as important as the question about who is going to have the technical, legal control of the Panama Canal in the year 2000. Many of them will say they are going to be broke before the end of 1978 if we do not do something. They cannot wait until the year 2000.

These farm people have been successful in getting the ears of Members of Congress because they have been willing to stay here and talk with us, even at a time when we are absorbed with this discussion over the Panama Canal.

I could go on with a great many other issues we have not addressed, which are backed up behind this seemingly endless discussion on the Panama Canal. Nothing is done on the question of labor reform; nothing is done on the question of tax reform. There is no real attention to the problems of the reform of our tax structure.

Near the end of the last session we hastily—and, in my judgment, ill-advisedly—increased social security taxes. Now I read that we are considering undoing that and perhaps looking at the President's proposed tax reduction bill as an offset.

In any event, all these problems are backed up behind the deliberations on the Panama Canal. Now the Senator from Alabama wants the Senate to have four more filibusters, I presume, on the moral and ethical and intellectual qualifications of the four Panamanian members on this advisory board—the nine-member board. I suggest that by the time we got through that, we probably never would get to any of these problems—inflation, jobs, energy, the cities, the farm crisis. We are going to spend the remainder of the year just talking about which Panamanian is most qualified to serve on this board.

Mr. President, in my judgment, this amendment is a frivolous and mischievous proposal. I have a high enough regard for the intelligence of the Senator from Alabama to believe that he understands that the amendment cannot possibly be considered seriously by the Senate of the United States, and it is simply one more effort in a long series of efforts to keep us preoccupied with the problems of Panama, rather than getting on to the real issues of concern to the country.

So I have no doubt that the amendment will be rejected. I hope it will be rejected.

It can only be construed as one more insult to this little country of Panama that has been abused so much already on the floor of the U.S. Senate.

Let me just say before I yield the floor that I had assumed that the principal reason for this treaty that we are now debating is to improve relationships between the United States and Panama. Otherwise, I do not see any point in the treaty. We might just as well stay with the 1903 treaty, if it were not for the fact that we are sensitive to the fact that there is great and growing opposition in Panama to having a major part of their territory legally controlled by a foreign power, and so recognizing that over the last 13 years we have laboriously and painfully negotiated a process under which by the year 2000 we can relinquish control of the canal and at long last turn it over to the country in whose territory it lies, almost 100 years after the first treaty was negotiated in 1903. I would hate to see us undo what little good will may be left in this exercise, and I am afraid we have already undone much of the good will that the treaty could have brought about in Panama by further encumbering this treaty with an insulting amendment of this kind.

Mr. President, I yield the floor.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I am somewhat intrigued by the remarks of the distinguished Senator from South Dakota when he said that you would think that this Panama Canal Treaty is the most important issue pending in the Senate at this time. Of course, it is the pending question. The pending question is the amendment of the Senator from Alabama. There is no other question pending at this time other than the amendment of the Senator from Alabama.

And the choice of bringing up the Panama Canal Treaty some 2 months ago, as the distinguished Senator pointed out, was not the choice of those 32 Senators who have been seeking to improve these treaties or in the alternative to defeat them. I daresay that not one single one of those 32 Senators who voted against the Neutrality Treaty, so-called, requested the leadership to bring up these treaties, not one.

The choice was made by the leadership, and I might say the joint leadership. The choice was made by the joint leadership, but when you speak of the joint leadership, the biggest portion of that leadership, of course, is the majority leadership, and the minority leadership, more or less, goes along for the ride because the decision is made by the majority leadership. But the joint leadership and the administration evidently thought the Panama Canal treaties were the most important issue. It is the administration and the leadership that placed top priority on these treaties, not these 32 who sought to strengthen the treaties or, as I say, in the alternative, to kill them. So the choice was not made by any of those 32. We had no power. We have no control over the flow of legislation. The leadership said they wanted to bring this measure up the first or second day. The Senator from Alabama said there would be no filibuster, and there has been no filibuster.

And as to the first treaty, a reasonable time was agreed upon to vote; and as to the second treaty, a reasonable time was agreed upon in which to vote.

The distinguished Senator said we are keeping important legislation from coming up, and he mentioned the energy bill. If the Senator had been here yesterday and heard the colloquy between the Senator from Alabama and the majority leader, it was agreed that if any emergency legislation came into position to be acted upon by the Senate this matter could be laid aside to take up such matter, and the farm bill was mentioned. The distinguished Senator was talking about the farmer saying that the farmers' problems ought to be set ahead of the Panama Canal Treaty, and I agree with that. I am told an agreement has been reached, or is being reached, to bring the farm bill up tomorrow under a time limitation.

So, the consideration of this treaty at this time was not decided upon by anybody other than the leadership and the administration.

To charge those who are seeking to strengthen these treaties with improperly bringing up a matter that ought to have been brought up later, if ever, is certainly somewhat unfair, it seems to the Senator from Alabama, because the leadership brought it up and we merely acquiesced in the decision of the leadership. No effort was made to prevent it from coming up. I assume that the matter could have been delayed in being brought up.

If any emergency issue comes before the Senate this matter can be set aside and that matter can be considered. But the energy package is not ready for consideration by the Senate as the distinguished Senator well knows. They have been tied up for 6 months or more, and there is no great sign of progress. I am persuaded to believe even if they did come out with something it would not be worth a row of pins.

It has been whittled down so there is practically nothing in it and what is there, it seems to me, is not in the best interest of our country. About all we have remaining is the tax proposal on wellhead tax on oil. So do not worry too much about that. It is not going to solve our energy problem and nobody expects it to.

The distinguished Senator was talking about four more filibusters. In the first place, there has not been one filibuster and I was wondering how in the world the Senator was talking about four more filibusters with respect to the treaty. Lo and behold, he is talking about four alleged filibusters on these four Panamanian nominees.

The four Panamanian nominees under the amendment of the Senator from Alabama would have to be confirmed by the Senate, but the distinguished Senator did not say anything about the five Americans who are also going to have to be confirmed, and the Senator overlooks the fact that this is not a Panamanian commission. We are not requiring, or the amendment does not require, confirmation of Panamanians to a Panamanian commission. It requires Senate confirmation of appointments of Panamanians and Americans to an American commission.

Why, it is a great departure, Mr. President, from custom to allow foreigners to be on an American commission. Is it unreasonable to expect some little character check, some little ability check by the Senate? It would be a casual enough check, I daresay, if the past is any precedent for the present or the future. It

would not be much more than a casual check. So I do not see that the Panamanians could feel insulted. If they do not want to serve, if they do not want to stand some little scrutiny by the Senate, ask Mr. Torrijos not to put the name on the list. I daresay he can find 4 Panamanians or 400 Panamanians or 4,000 Panamanians who would stand the scrutiny of the U.S. Senate.

So we are not talking about confirming Panamanians to a Panamanian commission. I assume that would be unacceptable. But how could they object as a condition precedent to going on an American commission and have the U.S. Senate take a look at their qualifications, their character, and their ability?

As I pointed out, it is not more than is done at present with the Board of Directors of the Panama Canal Company. These people, apparently in an ex officio capacity, serve on this Panama Canal Company Board. But the positions they hold that entitle them to service on the Board are Senate confirmation positions. So what objection could they have to following precedent?

As I say, if a second lieutenant on promotion to first lieutenant has to get the approval of the U.S. Senate, why should not the managers of a $10 billion business enterprise be confirmed by the U.S. Senate? The same rule for Americans as for Panamanians. Do not ask to serve if you do not want to. Do not ask to serve if you are not willing to have your record scrutinized by the Senate. How could that be an imposition on Panama? It could not be.

It just gets back to the original question: Is the leadership going to stonewall against all amendments as they have done for the last 2 months?

(Mr. KENNEDY assumed the chair.)

Mr. ALLEN. They have not allowed a single amendment. Talk about this time that is spent, if the leadership had been willing to accept four, five, or six amendments to this treaty—even, I dare say, three amendments—we could get an early vote on the treaty. But all they will agree to are reservations, feeling that they impose no barrier to acceptance by the Panamanians; that they do not have the weight and effect of amendments.

The DeConcini reservation was offered first as an amendment, and it was stonewalled against and defeated.

Mr. President, how do Senators who do not bother to stay on the floor, find out what amendment is pending, what the argument is? Why, they go to the managers of the treaty and they say, "What kind of vote is this? Is this an 'aye' vote or a 'no' vote?"

When they are advised as to what kind of a vote this is, they will proceed to vote.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. ALLEN. Yes.

Mr. SARBANES. They also go to the Senator from Alabama, I have been privileged to observe, and are, therefore, able to obtain from both the managers of the bill and the Senator from Alabama or some of his colleagues on the opposing side their view or perspective on the particular matter that is pending before the body.

Mr. ALLEN. That may well be. Just because that is true does not change the fact that Senators are not here to listen to the debate. I notice that some 57 apparently get advice from the managers of the treaty and only about 37 get advice from the Senator from Alabama, I will say.

Mr. SARBANES. Well, the Senator from Maryland obviously does not want to draw any conclusions as to why some Members seem willing to take the advice and counsel of the managers of the bill and other Members seem willing to take the advice and counsel of the Senator from Alabama with respect to various issues.

Mr. ALLEN. Yes.

Mr. SARBANES. Hopefully their willingness to take advice runs to the merits of the advice being proffered.

Mr. ALLEN. No, I rather think not. I think it runs to the fact that they are committed to the policy of the leadership to stonewall against all amendments, to seek to force the Senate to rubberstamp these treaties. That is what is involved. So the distinguished managers of the bill do have apparent control of anywhere from 57 on up to 68 Senators who vote at their behest. That does not have bearing on the value of the amendment no matter how good it is, because it is going to be stonewalled against, based on the past experience.

I am looking forward to the time when those in the leadership who said they have an open mind on amendments will allow their minds to open up wide enough to allow the entry of a constructive amendment, and I submit that the amendment pending is a constructive amendment that merely provides for U.S. Senate confirmation of the nine members of the Panama Canal Commission, whether they be Americans or they be Panamanians. The same thing is provided for all members no matter what their nationality.

Inasmuch as they are now required to be appointed, subject to Senate confirmation——

Mr. SARBANES. Mr. President, will the Senator yield on that point? That is not correct. Now the Senator has just made the assertion that the members of the Board of the Panama Canal Company are now required to be appointed subject to Senate confirmation.

Mr. ALLEN. I just read it off to the Senator.

Mr. SARBANES. I know the Senator read it off, and that is the point I seek to address. It so happens——

Mr. ALLEN. Wait until the Senator's turn to address that.

Mr. SARBANES. But the Senator ought not to make a bald assertion that is not supportable.

Mr. ALLEN. I will read the support, if the Senator will please allow me to continue holding the floor.

Mr. SARBANES. Mr. President, if the Senator will yield I would save him some time.

Mr. ALLEN. I am not going to yield, no, sir. I am going to answer the Senator's assertion that the members of the Panama Canal Company are not approved by the U.S. Senate.

Mr. SARBANES. Are not required to be approved. It so happens the present members all hold other offices for which they were confirmed.

Mr. ALLEN. I have stated as much and read them off.

Mr. SARBANES. For those other offices they are confirmed.

Mr. ALLEN. If the Senator will kindly allow me to finish with my statement, I will be glad to yield the floor to him. I hope he will not insist on speaking when he does not have the right to the floor.

Mr. SARBANES. I certainly would not do that, I say to the Senator.

Mr. ALLEN. Sir?

Mr. SARBANES. I certainly will not do that.

Mr. ALLEN. I am glad to hear that since the Senator does not have the floor.

I certainly made that statement in giving this list. If the Senator did not hear me I feel constrained then to read off the list, and I have stated that these apparently are—they hold these positions ex officio as a result of their appointment to other positions. I have read them off, and I am going to read it again because apparently the Senator from Maryland did not hear or did not understand what the Senator from Alabama was reading.

This is a list of the Board of the Panama Canal Company, the present operator of the canal, which is to be succeeded by the Panama Canal Commission, at which time all of these American appointees lose their positions. Let us see how many of them there are. There are 10.

They get the gate, like the Americans employed down in the Canal Zone.

These are the members of the Board of the Panama Canal Company:

Clifford L. Alexander, chairman, Secretary of the Army. The Secretary of the Army has to be confirmed by the Senate.

Lucy Wilson Benson, Under Secretary of State for Security Assistance, Science and Technology—another Senate confirmation position.

Richard N. Cooper, Under Secretary of State for Economic Affairs, a position that requires Senate confirmation.

Charles R. Ford, Deputy Assistant Secretary of the Army for Civil Works, actng, not yet confirmed.

Here is one that has not yet been confirmed, not because his position does not require confirmation, but because he has just been named as acting; his nomination has not yet been sent up to the Senate, but he is acting in that capacity. He is also on the Board of the Panama Canal Company.

I read on:

David E. McGiffert, Assistant Secretary of Defense for International Security Affairs. That is a position which requires Senate confirmation.

Ersa H. Poston, Commissioner of the Civil Service Commission. That position requires Senate confirmation.

Admiral Owen W. Siler, Commandant, U.S. Coast Guard. The position requires Senate confirmation.

Anthony M. Solomon, Under Secretary

of the Treasury for Monetary Affairs, a position requiring Senate confirmation.

Terence Todman, Assistant Secretary of State for Inter-American Affairs, a position requiring Senate confirmation.

Harold R. Parfitt, Governor of the Canal Zone, ex officio, who has to be confirmed by the U.S. Senate.

So all the members of the Panama Canal Company except one, who is just in an acting capacity, hold positions that require confirmation by the U.S. Senate. But no such requirement is made for the nine Commissioners to be named on the approval of this treaty. The only requirement is that five be Americans and four be Panamanians: No standard of ability, no standard of character, no standard of experience, no standard of anything except to be an American in five cases and a Panamanian in four cases.

Since this is an American Commission and not a Panamanian Commission, and since we are supposed to operate the canal for another 22 years, why would there be any objection to a Panamanian or an American serving on an American Commission being confirmed by the U.S. Senate? That is all this amendment would provide.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I think it is probably one indication of the fact that we are getting into the closing days of the debate that the able Senator from Alabama, who ordinarily, I think, seeks to sharpen and clarify issues, is in this case beclouding and obfuscating the issue.

The distinguished Senator has read a list of the present members of the Panama Canal Commission.

Mr. ALLEN. Company.

Mr. SARBANES. Company, I stand corrected. The Board of Directors of the Panama Canal Company. And he has asserted, on the basis of that reading, that members of the Board are required to be confirmed by the Senate.

Now, that is not correct. It so happens that all of the current members of the Board are Government officials who have had to be confirmed by the Senate because of their other Government positions. But the members of the Board of Directors of the Panama Canal Company do not now have to be confirmed by the Senate. For example, at the end of fiscal year 1976, there were 12 members of the Board of Directors of the Panama Canal Company, 9 of them private citizens who passed through no Senate confirmation. Three of the members had been confirmed by the Senate, not because they were members of the Board of Directors of the Panama Canal Company, but because of other positions which they held in the Government. One was, for instance, the Assistant Secretary of State for Inter-American Affairs, just as the current Assistant Secretary of State for Inter-American Affairs is a member of this Board. To become the Assistant Secretary of State for Inter-American Affairs requires Senate confirmation; but to be a member of the Board of Directors of the Panama Canal Company does not require Senate confirmation.

So with respect to the list which the Senator read—and, of course, even he concedes that one of the members of the Board of Directors of the Panama Canal Company has not yet had Senate confirmation for his other Government position—and the only reason he was able to say with respect to the others that they had Senate confirmation was because they had other positions in the Government that require it. Private citizens could just as easily have been appointed under the law and served as members of the Board of Directors of the Panama Canal Company without any Senate confirmation. So it is important to understand that there is no present requirement that members of the Board of Directors of the Panama Canal Company be confirmed by the U.S. Senate, and that only as recently as the 1976 fiscal year, 9 of the 12 members of the Board at that time were private citizens, with no Senate confirmation whatever.

Second, I think it is some indication that we are into the closing days of the debate, that perhaps some of the sensibilities that we ought to reflect are being overlooked. It has been charged, in the course of arguing this amendment, that Panama will appoint people to this body with criminal record, or under indictment. It was even asserted at one point that they could be in prison.

I suggest that we ought to accord to Panama and its people the same respect we would expect them to accord to us. In fact, I would suggest that the name of Great Britain or France or some large country's name should be substituted, if such an argument is to be made, to see whether one would make the same assertion in such case, or whether it is simply a case of picking on a small country.

What would we say if the assertion were being made, on the part of the Panamanians, with respect to the sort of people we would place on a commission of this sort, if they were to assert, "Well, you know, the Americans are going to pick people under indictment, people who could be in prison, or people without any moral character"? Just stop and think about that for a moment. I think the same respect that we would think they should accord to us we should accord to them.

Finally, Mr. President, this is a bad amendment because, on those matters of which we retain jurisdiction and can change by statute—and that would clearly apply to the five American members of the new Commission—we should not seek to place those matters into a treaty with another country, which would mean we could only change it through treaty change, when we can control the matter entirely by statute.

I will say to the Senator from Alabama it is my intention to take that approach toward amendments which may be offered, which seek to take a subject matter over which we can exercise control by statute and to place it in the treaty we are making with another country. Why should we do that, if we are really concerned about maintaining the maximum amount of control in our own hands? Why should we lose our control by statute where we can do it this way next year and if, 3 or 4 years from now, we decide we want to do it some other way, we can do it in some other way; if we want to add a requirement, we can add a requirement; if we want to take away a requirement, we can take away a requirement. When we have that kind of control, why should we take that subject matter, put it into a treaty with another nation, and give them some control over a matter which is otherwise completely within our own discretion? It defies commonsense, it defies logic, and, most important of all, it runs counter to what is in our best interest.

For those reasons, amongst others, Mr. President, I oppose this amendment because I think it is a bad amendment. In other words, I do not oppose it to stonewall it. I do not oppose it, as the Senator earlier in the debate once asserted, either because it is frivolous or it goes to the heart of the matter. I think those were the two reasons he said were being brought forth. I responded then as I respond now, that, no, I oppose these amendments because they are harmful amendments. Contrary to the assertion that they are constructive amendments, they are, in fact, harmful amendments.

For that reason, this amendment ought to be rejected by the Senate.

Mr. ALLEN. Mr. President, I do not know why the distinguished Senator from Maryland, whom I admire and respect so much, who has done such a great job having managed the consideration of the treaties before the Senate, would have misconstrued what I said about who the Panamanians might appoint to this commission.

I stated there was no check on them. It might appear that they could appoint people who had criminal records, who were under indictment, who were not people of good character. It is to ward against that possibility, not that certainty. But if there be no possibility of that sort, then I do not see why the distinguished Senator would object to a provision that all of the members of the commission would need Senate confirmation. It imposes no additional burden on the Panamanians. There is nothing different from what is imposed upon the Americans.

The same statements could be made as to both, that they both would be confirmed by the Senate. Nothing is added. Nothing is placed on the Panamanians which is not also placed on the American members on the board.

On the matter of the confirmation of the present members of the board of the Panama Canal Company, I made that implicitly clear. I read the list of the members of the present commission, and I read the position that they had in the government service. I did not state, as the distinguished Senator seemed to imply, that it was necessary, because of their position on the Board of the Panama Canal Company, that they had to be confirmed. I did not read the list once but I read it twice, giving the exact positions of the present members of the Panama Canal Company Board. I did not state that their position on the Board required Senate confirmation, but I did state that the positions they hold, through which,

ex officio, apparently, they serve on the Board, did require Senate confirmation.

Mr. SARBANES. Will the Senator yield at that point?

Mr. ALLEN. Yes. Although I did not bother the Senator, I will be glad to yield.

Mr. SARBANES. I do want to try to clarify this particular point. It is my understanding that the only person who serves on the Board of the Panama Canal Company ex officio is the Governor. The other members that the Senator has read are not there ex officio. They were simply placed there. They happen to hold other positions requiring confirmation. Generally over the history of the Panama Canal Company, most of the members of the board of directors have been private persons who have never received Senate confirmation.

Mr. ALLEN. I thank the Senator for that amount of clarification. All I am stating is that these people occupy these positions that require confirmation by the Senate. The fact that they also hold these other positions does not make incorrect my statement that they do hold positions that require confirmation by the Senate.

I will say the fact that we have not found any amendments that are constructive enough to be accepted by the leadership certainly would indicate that the best efforts of some 30 Senators to provide constructive amendments have been in vain. I guess there is always a difference of opinion as to what is a constructive amendment. I feel this is a constructive amendment. I feel that the members of a board which is running a $10 billion business ought to be confirmed by the U.S. Senate. I have drawn as a parallel the fact that a second lieutenant in the army on his promotion to first lieutenant has to receive confirmation from the U.S. Senate. Why not a member of a board running a $10 billion business? Should we not know that he knows something about canal operations? Should he know something about business operations? Should it not be known that he has no conflict of interest?

I am satisfied that some of the big international banks are going to want to be represented on this board.

Maybe Senators do not know but under the present arrangement for an annuity Panama receives some $2.3 million from the United States. Do Senators think that goes to Panama? That goes to a New York bank. My authority for that is a representative of the U.S. Treasury testifying before the Committee on the Separation of Powers. So New York banks get the $2.3 million that the United States pays to Panama now, and they hand it out where they think it will do the most good, I will say. Senators can imagine where that would be.

I would imagine that the same system is going to apply when Panama starts getting $100 million a year, as Minister of Economics Barletta said Panama would be getting. That is my authority for that statement.

These people are going to be handling hundreds of millions of dollars a year in tolls. Should we know who they are; what they are; what they stand for, and what their background is?

I believe that is essential. I believe that makes good sense.

Mr. HELMS. Will the Senator yield?

Mr. ALLEN. I am glad to yield.

Mr. HELMS. I might add parenthetically that relevant to this is the fact that Ambassador Linowitz, who is a member of the executive committee of one of those New York banks the Senator is referring to, was given a sort of backdoor appointment to be our negotiator for these treaties. He never appeared before the Senate to be asked any questions. I regretted that. So I commend the Senator on his amendment.

Mr. ALLEN. I thank the Senator. It is quite obvious that the amendment has logic behind it.

Do you know the main reason this amendment is going to be defeated? It runs counter to the leadership policy of stonewalling against all amendments. That is why.

It runs contrary to the leadership's requirement that this treaty be rubberstamped, I say to the distinguished Senator from Massachusetts (Mr. KENNEDY), who is so ably presiding over the Senate at this time.

The PRESIDING OFFICER. And unable to speak for himself.

Mr. SARBANES. Unfortunately.

The PRESIDING OFFICER. The Senator from Maryland, I am sure, will respond for me.

Mr. ALLEN. Members of the Senate are being asked to abdicate our position of shaping these treaties and come up with a treaty that makes the most sense, that protects the interests of the American people, that would assure the most efficient operation of the canal. I believe this would be a helpful and a constructive safeguard to assuring that we do have a competent commission to run this $10 billion enterprise now owned by the United States, but soon to be owned by Panama.

I yield the floor.

Mr. JAVITS and Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, the pros and cons of this amendment have been debated at length. There is no reason to protract the argument any further. For that reason, I move to lay the amendment on the table.

Mr. THURMOND and Mr. JAVITS addressed the Chair.

Mr. THURMOND. Mr. President, I should like about 3 minutes, if the Senator will withhold that motion.

Mr. CHURCH. I withhold the motion, but before yielding to the Senator from South Carolina, I yield first to the Senator from New York.

UNANIMOUS-CONSENT AGREEMENT

Mr. JAVITS. Mr. President, I ask unanimous consent that, immediately after the vote on Senator CHURCH's motion, Senator SPARKMAN may be recognized to call up a conference report, as in legislative session, on H.R. 9179, and that action on that may be completed.

I might say, in explaining it to the Senate, that Senator SPARKMAN has been here twice today. The reason for my request is simply to facilitate things for him. We are ready to accept a 20-minute time limitation on debate, 10 minutes to a side, which I request, together with the unanimous-consent request I just made.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield further, or is he yielding the floor?

Mr. CHURCH. The Senator from South Carolina, I understand, has a short statement he wishes to make in support of the pending amendment, after which I shall move to lay the amendment on the table.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the unprinted Allen amendment.

Paragraph 3 of the treaty sets up the Panama Canal Commission as the U.S. Government agency that will run and operate the canal. It calls for the appointment of nine members to the Board to supervise the Commission, five of whom shall be American nationals and four of whom shall be Panamanian nationals.

Senator ALLEN's amendment requires that these nine members shall be confirmed by the Senate prior to assuming their duties.

I am sure the administration will be opposed to this amendment. They even found a way to keep the Senate from confirming one of the chief negotiators who negotiated this giveaway treaty. I am sure the administration has no intention of allowing the Senate to have any choice in determining whether or not the members of this Board are qualified to run the canal.

This is a good amendment. We are talking here about the Board which will operate, maintain, and set tolls for the canal. Four of these individuals will be Panamanian. I cannot see how any U.S. Senator would be opposed to requiring these people to face Senate confirmation.

Decisions made by this Board will determine whether or not the canal will remain self-sustaining. Nothing in this treaty requires these people to meet any standard of competence, honesty, or integrity. I think it is only right that we here in the Senate should be able to say yes or no to any individual nominated to be a member of this Board. However, I am sure the leadership will do as they have done on all previous meritorious amendments and stonewall it. It is too bad that well-meaning people cannot improve a treaty which is so poorly negotiated, so poorly written, and so heavily favorable to Panama.

I urge my colleagues to at least allow the Senate to have some say in who will run this canal, if these treaties are ratified, before we give it completely to Panama in the year 2000.

I thank the distinguished Senator.

Mr. CHURCH. Mr. President, I move to lay on the table the amendment.

Mr. SARBANES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Washington (Mr. MAGNUSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The result was announced—yeas 53, nays 25, as follows:

[Rollcall Vote No. 82 Ex.]

YEAS—53

Anderson	Hathaway	Muskie
Bellmon	Heinz	Nelson
Bentsen	Hodges	Nunn
Burdick	Hollings	Packwood
Byrd, Robert C.	Huddleston	Pell
Case	Humphrey	Percy
Chiles	Inouye	Proxmire
Church	Jackson	Ribicoff
Cranston	Javits	Riegle
Culver	Kennedy	Sarbanes
Danforth	Leahy	Sasser
DeConcini	Long	Sparkman
Domenici	Mathias	Stafford
Durkin	Matsunaga	Stevenson
Glenn	McGovern	Wallop
Hart	McIntyre	Williams
Haskell	Metzenbaum	
Hatfield, Mark O.	Morgan	
	Moynihan	

NAYS—25

Allen	Helms	Schweiker
Bartlett	Johnston	Scott
Byrd, Harry F., Jr.	Laxalt	Stennis
Curtis	Lugar	Stevens
Eastland	McClure	Stone
Ford	Melcher	Thurmond
Garn	Randolph	Young
Hansen	Roth	Zorinsky
	Schmitt	

NOT VOTING—22

Abourezk	Biden	Cannon
Baker	Brooke	Chafee
Bayh	Bumpers	Clark
Dole	Hatch	Pearson
Eagleton	Hatfield, Paul G.	Talmadge
Goldwater	Hayakawa	Tower
Gravel	Magnuson	Weicker
Griffin		

So the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I inquire at this time as to whether or not it is anticipated that a rollcall vote will be requested on the conference report.

Mr. JAVITS. Mr. Presdent, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I am satisfied to have a voice vote.

Mr. ROBERT C. BYRD. Is there any Senator who feels constrained to ask for the yeas and nays on the OPIC conference report?

I see no such indication, and I suppose I can assure Senators that there will be no rollcall vote on this conference report. The time limitation is 20 minutes.

Mr. JAVITS. That is correct.

The PRESIDING OFFICER (Mr. MOYNIHAN). Pursuant to the previous order, the Senator from Alabama (Mr. SPARKMAN) is recognized, as in legislative session, to call up a conference report.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1978—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on H.R. 9179 and, as in legislative session, ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MOYNIHAN). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9179) to amend certain provisions of the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 5, 1978.)

The PRESIDING OFFICER. The time on the conference report is limited to 20 minutes, equally divided.

Who yields time?

Mr. SPARKMAN. Mr. President, the Senate conferees are satisfied with the outcome of the conference on Overseas Private Investment Corporation Amendments Act of 1978. The conference report on H.R. 9179 provides a detailed explanation of the recommendations of the committee of conference. I shall highlight briefly the major differences that were agreed on in conference.

The conferees agreed to:

A set of criteria that should guide OPIC in determining the development impact of its projects. OPIC would inform Congress annually of the overall development impact of its programs;

Require OPIC to use its loan funds only for small business and to undertake to increase the small businesses proportion of its total insurance portfolio;

Prohibit OPIC from supporting projects which would result in significant reduction in U.S. employment;

Limit OPIC's annual direct financing of ore or nonfuel mineral projects to $4 million and $200,000 for surveys;

Terminate the privatization mandate of previous legislation;

Extend OPIC's authority through September 30, 1981;

A provision for the denial of claims for expropriation losses where bribery is a "preponderant" cause of the loss;

Restrict OPIC from supporting any new or significantly expanded copper projects until 1981, and after 1981 if such projects will cause injury to the primary U.S. copper industry;

Prohibit OPIC from supporting projects relating to the production of palm oil, sugar, or citrus for export; and

A human rights provision to make U.S. policy consistent throughout our foreign assistance programs.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I join the distinguished chairman of the Committee on Foreign Relations in support of the conference report. As the original author of the legislation authorizing OPIC, it is especially gratifying that OPIC has successfully withstood the test of time.

The measure, as it came out of conference, deals effectively with many of the concerns raised in the course of the hearings and passage of the Senate and the House bills.

From my point of view, the important element in this legislation is that small business in the United States is given a much bigger role in the OPIC program. OPIC has agreed to allocate up to 50 percent of its annual net income, after making suitable provision for transfers and reserves, to assert and facilitate the development of projects by small business, cooperatives, and other small U.S. investors. OPIC has basically undertaken to set up an Outreach program to bring small business into the export and foreign investment business, where it would be eligible for benefits under the OPIC program. The applications by small business have in the past been relatively slim, which has limited the participation of small business in OPIC programs—not through any desire of OPIC, but simply because no applications were made on behalf of small business.

We have also insured that the possibility of harm to the U.S. economy in terms of lost employment is, in my opinion, practically eliminated, and that OPIC will benefit U.S. exports to the maximum.

Mr. President, a wonderful fight was waged by Congressman SOLARZ in the other body on the question of bribery, and we very satisfactorily worked out our differences so that the penalty which is contained in this conference report will only be levied when the act of bribery actually represents the preponderant cause of the claim. Under the bribery language passed by the House of Representatives, the penalty usually has been imposed whether or not the bribery was a cause in any way of the loss precipitating the claim.

Finally, there was a deep concern about a House amendment dealing with the financing or insuring of copper ventures, and again we compromised our differences so that mining ventures for minerals of importance to the United States, where there might be some copper even in insignificant amounts would not be deprived eligibility for the OPIC program. We also said that we will not support through OPIC any new or significantly expanded projects involving the exploration for copper, we also provided that after 1981, which is the operative period of this legislation, we will not support such a project if it would "cause injury to the primary U.S. copper industry." That seemed too agreeable to both the copper producers and labor in the copper fields.

So I think we have done everything which anyone could expect in this matter.

Finally, our dear and beloved and late departed comrade, and I call him that because that is what he was, Hubert Humphrey, had prepared a letter in support of OPIC's continuation which he wished to send to the House Members when the matter was to have come up. And Senator MURIEL HUMPHREY has very graciously allowed me to insert that letter into the RECORD in memorium to Senator Hubert Humphrey as he very much sustained this point of view, and I ask unanimous consent to print that letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., January 9, 1978.

DEAR MEMBER: I want to share with you my concern over the position of the AFL-CIO in opposition to extending the authorization for the Overseas Private Investment Corporation. It is understandable that many Members of the House are evidently troubled by Labor's contention that OPIC's insurance and limited financing for U.S. investment in developing countries cost American jobs.

As you know, I have devoted much of my life to assuring and expanding job opportunities for all Americans, from service on the Labor Committee, beginning in 1949, to the current Humphrey-Hawkins bill. You may be sure I would not support a program that causes the loss of American jobs.

It is a rare occasion that I differ with my friends in the AFL-CIO. However, in this case I believe their concerns are mistaken. On balance, OPIC's operations are in our national interest: they produce additional jobs and result in few, if any, job losses; they help provide new sources of needed raw materials; and they are helpful to the developing countries—all at no cost to the taxpayer. Long experience with development and employment problems, as well as the detailed review of OPIC conducted this year by the Carter Administraton and by both the Senate Foreign Relations Committee and the House International Relations Committee, led me to this conclusion.

True, the U.S. steel, electronic, textile and other industries have problems from foreign competition—problems that require public and private solution. But OPIC is not the source of those problems. Terminating OPIC will not, in my judgment, save or restore a single American job. On the contrary, economic development in the less developed countries is essential to the long-term health of U.S. agriculture and industry. Their growing markets mean jobs for Americans. We export more goods and services to these countries than to all of Western Europe, Eastern Europe, the Soviet Union and the People's Republic of China combined. Moreover, the access to critical materials that OPIC facilities helps preserve and create American jobs, and this will be increasingly true in the future.

So, as a friend of labor, I ask you to support the continuation of OPIC, as the Senate did by a better than six to one margin.

Sincerely,

HUBERT H. HUMPHREY.

Mr. JAVITS. Finally, Mr. President, I wish to pay, if I may—and it may sound a little strange but it is true—a tribute to Senator CHURCH for his conduct in this matter, which is very characteristic of him and which I think really brings out the best in a legislator. He had very deep and sincere objections to this bill. He fought very hard against it when the matter was up before the Senate and in committee. Having felt that the majority really wanted this and having seen that we really stood by all the things we had promised during our conference with the House, he did not, as he easily could have, tangle this thing up in a web which would have deferred it for a very long time. He has not asked me to do this. Perhaps he is a little surprised I am saying this. But I think his conduct is the finest display of not only the talent but the spirit of this body and of the legislators in it, and I pay my tribute to him.

Mr. CHURCH. Mr. President, I thank the distinguished Senator from New York and my good friend, Senator JAVITS, for his generous remarks.

By now, my colleagues are familiar with my views on the Overseas Private Investment Corporation. Therefore I will be brief in reiterating my reasons for opposing the extension of OPIC's authorization and for declining to sign the conference report on S. 1771.

Thorough investigations by the Senate Foreign Relations Committee have shown that OPIC simply does not fulfill the purposes for which it was created. Its contribution to economic development in the Third World is, at best, marginal. Endless attempts to modify OPIC and to find a new justification for its existence each time the program is up for reauthorization are ample testimony to the fact that it has not lived up to its original mandate.

More importantly, I simply cannot any longer support a program which induces American corporations to invest their capital abroad rather than at home, thereby depriving American workers of jobs that are so badly needed. Our long hoped for domestic economic recovery is faltering. Millions of Americans are still out of work and our balance of trade is showing the largest deficit in our history. The Congress should be legislating measures that stimulate the export of American products, not programs like OPIC, which lead to the export of American capital and American jobs.

I therefore strongly oppose the reauthorization of OPIC, and want to make it a matter of record that I shall cast my vote against this bill.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, will the Senator yield 1 minute?

Mr. SPARKMAN. I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I should also like to join with my colleague in commending Senator CHURCH. I knew the depth of his feeling but he conducted himself, as Senator JAVITS has indicated, in the highest traditions of the Senate. He forcefully expressed his views. I think as a result of his expressing those views over a period of time, we have given much more careful consideration to this matter.

I have served in the past as ranking member of the subcommittee of which Senator CHURCH was chairman and benefited from his views and was cautioned by his observations to probe much deeper into this matter.

I do agree with Senator JAVITS that emphasis on small business and getting small business into export is essential, and small businesses are the ones who are less able to afford to take the extraordinary risk of expropriation or war, or whatever it might be.

So to the extent that OPIC is designed to further our national interests and strengthen the participation of small businesses as well as all major businesses in doing business overseas, all of which activity strengthens our dollar, creates jobs here at home and enhances America's role in world trade, I certainly wish to do everything I can to encourage it and I believe this piece of legislation as drafted now does that.

I thank my distinguished colleague.

Mr. SPARKMAN. Mr. President, I have no further requests for time. I am willing to yield back my time.

Mr. JAVITS. I yield back my time.

Mr. SPARKMAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. All time having been yielded back, the question is on the adoption of the conference report.

The conference report was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the conference report was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair, on behalf of the Vice President, appoints the Senator from Louisiana (Mr. JOHNSTON) as a Congressional Adviser to the Seventh Session of the Third United Nations Conference on the Law of the Sea, to be held in Geneva, Switzerland, March 28-May 12, 1978.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. ROBERT C. BYRD. Mr. President, would the Chair, for the convenience of the Senate, state the agreement with respect to the Bartlett amendment that will be offered on tomorrow?

The PRESIDING OFFICER. The Executive Calendar states that at 12 noon on Friday, April 7, 1978, the Senator from Oklahoma (Mr. BARTLETT) be recognized to call up an amendment to article XIII of the Panama Canal Treaty, and that debate on the amendment be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Idaho (Mr. CHURCH).

Mr. ROBERT C. BYRD. I thank the Chair.

Then, Mr. President, it is correct, is it not, to state that even though there are 3 hours available to both sides for debate on the amendment by Mr. BARTLETT, the vote on the Bartlett amendment may very well occur prior to the expiration of those 3 hours if part of the time is yielded back by either or both sides; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So Senators are on notice then that a vote could occur in relation to the amendment at some point between 12 o'clock noon and 3 p.m. tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, on February 8 of this year the Senate went into executive session to consider the first of the two Panama Canal treaties. This has been a new and historic experience for many of us. We have been able to consider these treaties in great detail, with every Senator being given the opportunity to question and to explore every facet of the documents before us. In the truest sense of the word, I think that has been and continues to be, even though I must say that many things that have been said, have been said, have been said, have been said and have been said, but even though there has been much repetition and redundancy, I believe it has been a great debate. I believe that each of my distinguished colleagues, no matter what his position may be or may have been on the matter before us, can take great pride in the fairness and, as a general rule, I think the reasonableness of the debate and the manner in which the debate has been conducted.

The procedures that have enabled the Senate to work its will have been well demonstrated by the Senate in the weeks since February 8.

I hope that I speak for every Member of the Senate when I express the gratitude of myself and the Senate to National Public Radio's Linda Wertheimer, who has made a historic achievement in helping many of our fellow citizens to follow this debate and to understand what is happening here on the floor of the Senate. For the first time in the history of the Senate, since 1789— and during the first 5 years of the Senate's history, the Senate met behind closed doors; of course, there was no radio, because they did not have radio back in those days, but even the doors were closed. But now, for the first time in history, live broadcasts have been made from the Senate floor.

National Public Radio has been able to provide coverage of Senate debates and action with sensitivity, with professionalism, with accuracy, and with great understanding. When I have listened from time to time in the evenings, as I know my friend from Hawaii has— my lovable, gentle friend, my friend who is always so cooperative and helpful, SPARK MATSUNAGA—to the condensation of the debates that had occurred during the day, I know my friend from Alabama (Mr. ALLEN) would agree, although we have been on opposite sides of the debate, that that condensation at 9:30, which runs for an hour, which selects the highlights of the day and gives an accurate description of the development of that day, the rollcall votes—it goes behind the rollcall votes and analyzes them, and Linda has done a great job in this respect—has, I think, enlarged the understanding on the part of the American people not only as to the contents of the treaties, as to the history of the 1903 treaty, and as to the implications of either rejection or ratification of the treaties, but also I believe that it has enhanced, or I want to think it has enhanced, the Senate in the opinions of the American people as they have listened to the debate and as they have listened to this excellent analysis of what has transpired.

I have a feeling that the Senate has enhanced its understanding with the American people by virtue of this audio transmission of the debates, and I think this is in no small degree due to the intelligence and the devotion to duty of a fine journalist and commentator, Linda Wertheimer. The people of the United States, who have been given such an excellent opportunity to hear their Government at work—to hear it at work; when they visit the gallery they see it at work, but through national Public Radio they have heard the Senate at work, and they owe Linda Wertheimer a debt of gratitude. Quietly and modestly, she has given them a guided tour of the U.S. Senate in historic action.

Mr. MATSUNAGA. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. In just a moment.

On Tuesday, April 4, the Washington Post published a brief article about Mrs. Wertheimer and the extraordinary job she has done. I am sure that Senators have read the article, but I believe that it ought to be preserved in that great document, the CONGRESSIONAL RECORD, and I would hope that Senators who have not read it will read it. I think it is worthy of being placed in the RECORD, and I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIVE FROM THE SENATE GALLERY, IT'S LINDA WERTHEIMER

(By William Gildea)

Sen. Orrin Hatch (R-Utah) is delivering a 90-page speech on the Senate floor against the Panama Canal treaty.

Gallery visitors come and go. Reporters come and go. Senators come and go. Even Sen. Paul Sarbanes (D-Md.), who is minding the store for the pro-treaty forces, is relieved by Sen. Donald Riegle (D-Mich.).

Practically the only person to endure is . . . Linda Wertheimer. And she doesn't simply endure, she seems to thrive as the debate reaches its 28th day.

"I've heard more of the debate than the senators have, I'm sure of that," she says.

Seated in the front row of the gallery, Wertheimer yesterday welcomed National Public Radio listeners as the historic broadcasts from the Senate chamber resumed. This is the first time a Senate debate has been broadcast live.

She came on after a switch from the Rayburn building, where NPR's Nina Totenberg had been broadcasting the beginning of the Tongsun Park public hearings. Wertheimer quickly caught her listeners up on what Hatch was saying.

People are listening to the debate by the millions; an estimated 14 to 15 million had heard part of it up through the vote on the first treaty last month. And the number of Wertheimer fans continues to swell.

She tells this story. One day, while her sister was visiting the dean's office at New Mexico State, where she is studying, the dean had his radio turned on.

"That sounds like my sister," said Wertheimer's sister.

"That's Linda Wertheimer," said the dean, a Wertheimer fan.

"Then it is my sister."

Wertheimer smiles. "I guess the dean was a little astounded," she says.

Other listeners with a special significance for her have offered congratulations on her coverage. Janet Murrow, Edward R. Murrow's widow and a member of the NPR board, sent her a complimentary letter. The same day Pauline Frederick came into the NPR offices on M street and congratulated her. Ed Murrow on radio and later Pauline Frederick reporting on television from the United Nations were Wertheimer's heroes when she was growing up in Carlsbad, N.M.

She listened to radio as a youth because there was no television signal in Carlsbad. She says when she was about 15—she's 35 now—a TV tower was finally put up. But one cold day it iced over and toppled to the ground, leaving Carlsbad without television a while longer.

She went east to college, to Wellesley, and through an exchange program involving the school, got a job after graduation in 1965 with the BBC in London, as a production assistant. From there, she moved to WCBS radio in New York, as a producer. Nine years ago, she married Fred Wertheimer, a vice president of Common Cause, and moved to Washington.

In 1971, finally, she got on the air—with NPR.

Looking back, she says it's probably just as well it took a while. "Age makes your voice richer," she says, "so when you turn 30 you're in better shape than when you're 23."

Her reporting from inside the Senate chamber not only has been a broadcasting first but also her most taxing assignment by far. She's been on the air almost 200 hours, some days from 10 a.m. to 7:30 p.m.

At the end of the live broadcast, she jumps into a car driven by her engineer and is taken to the M Street studio, where she hurriedly prepares an hour-long wrapup which she co-anchors with Robert Siegel starting at 9:30. One cluttered office has a piece of paper stuck to the door inscribed "Canal Zone Room."

To survive this ordeal, she's gone into a kind of training. "It takes not just endurance but concentration," she says. "I eat high-protein breakfasts. Steaks, chicken. During the day I take breaks for five or 10 minutes every once in a while. I live off slices of pound cake and Coca-Cola. I bake angel food cakes with lots of eggs."

But because political reporting is what she's always wanted to do, she hasn't tired of the routine. "It's a fortuity for me," she says. "I suppose there are those who would find it a torment."

There is repetition—"When some senators take up certain themes you feel you could deliver the speech yourself." And the broadcasts have lengthened the debates because senators have wanted to explain things for the listening audience. "Once, a 'secret session' was proposed," she says, "and Birch Bayh went into a long discussion of what that meant, so people wouldn't think it was a coverup."

But she thinks the broadcasts have made the issues clearer to a wide audience.

The broadcasts also apparently have made an impression on at least two television networks. Wertheimer says she's had "a couple feelers. I wouldn't like not to take a step were it there to be taken," she says, but she's happy where she is.

Yesterday, when she passed back to Totenberg at the Park hearings, Hatch was still talking. Last night she would have the pleasure of boiling him down to one hour for the wrapup show.

Mr. ROBERT C. BYRD. Now I yield to my friend from Hawaii.

Mr. MATSUNAGA. I thank the distinguished majority leader for yielding, and I most wholeheartedly agree with our distinguished leader that National Public Radio has done a great service for the American people and for this country, in that it has brought to the people of America the proceedings in the Senate, something which had never been done before.

I can state from my own experience in going to Chicago to speak to a group, for example, a business executives group, that nearly every one of them, out of the 160 who were present at that meeting, told me that they have their radios tuned in all day, and many of them commented that—

You should do this with all other bills as well, so that we would know what goes on in that great body of yours.

I think, really, that respect for this body has been elevated by the fact that National Public Radio has taken the proceedings of the Senate to the people, and I will say this, too: I agree wholeheartedly, again, with the distinguished majority leader that the commentators over that public radio have done an excellent job. When not on the floor, I have my own little radio tuned in to National Public Radio in my office; on my way to work and whenever I have an errand in town or am traveling in my car I have my radio in my car tuned in to National Public Radio, and I must say they have done an excellent job.

Of course, that speaks highly for them to continue to do so, and I think we ought to consider favorably any request to broadcast any proceedings in this body.

I might say also, as a freshman Member, that never did I really fully appreciate the term applied to this body as "the greatest deliberative body in the world" until I came here and until I participated in the debate, especially on the Panama Canal treaties.

Over in the House of Representatives, in which I served for 14 years, they have what is known as a "5-minute rule," and I could never really satisfy myself that I had said all I wanted to say in the 5 minutes. Of course, we could put into the RECORD what we had not enough time to say. But here, in the greatest deliberative body in the world, we have the great Senator from Alabama, for example, saying one thing, saying another thing, and saying the first thing again, and saying the second thing again——

Mr. ROBERT C. BYRD. And saying it well.

Mr. MATSUNAGA. And saying it extremely well, and doing it to the point that he convinces perhaps 32 other Members of the Senate, and this is certainly a great body, wherein I now fully appreciate why they refer to the Senate of the United States as the greatest deliberative body in the world, and I rise to concur again with the distinguished majority leader on the great service that National Public Radio has performed in not only letting the people of this great country of ours know the facts of the issues involved in the Panama Canal treaties, but also in elevating the status of the Senate in the eyes of the people it represents.

I thank the distinguished majority leader for yielding.

Mr. ALLEN. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I commend the distinguished majority leader for his statements. Throughout this entire debate I have sought on many occasions, not privately with the Senator but here on the floor, to get him to agree with positions I have taken with respect to the treaties. I have had very little success in that area. But now I find myself in complete agreement with the distinguished majority leader with respect to the role played by National Public Radio. I commend him for his fine complimentary references to Miss Linda Wertheimer and the fine job that this medium has done in carrying these debates for the very first time to the American people.

I have read in the press that the audience of the National Public Radio has been increased by some 500 percent as a result of the radio carrying these debates. So the people are interested in what is going on in this branch of their Government. They feel that a great public service is being rendered to the people by these debates being carried on the radio.

I recall quite well, and the distinguished Senator and I both serve on the Rules Committee which must make the decision about carrying debates on radio or television, that I expressed the opinion, as the distinguished Senator recalls, that I would not have favored the commercial media being given the opportunity to carry these debates. I felt that they would carry what they wanted to carry. They would do the editing and present whatever picture they wanted to present to the American people. But public radio has pretty well carried this debate from gavel to gavel. In this way, the American people have been given an opportunity to determine which position they approve with respect to the treaties.

I believe public radio has given the opposition to the treaties, those who have sought to improve and strengthen the treaties or, in the alternative, to defeat them, a valuable opportunity to carry our case to the American people. Very definitely it has not been carried by the standard media of print or electronics. There has been an almost complete blackout of news coverage, which is the way of the national media—to take its position, its view on an issue, and flood the American people with information supporting their view but to give practically no coverage to those who have a position different from the media.

I hope the distinguished majority leader will take the initiative in providing coverage of other outstanding issues, important issues. I know it would get somewhat monotonous to the American people if all debates were carried.

I believe the Senate has put its best foot forward, figuratively speaking, in the conduct of these debates. There have been very few periods of quorum calls and delay. As a general rule, Senators have been ready, willing, and anxious to go forward with the debate.

I believe a great contribution has been made to the public debate on these issues, whichever way they go. I feel a great service has been rendered. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alabama. I yield to the Senator from Louisiana.

AMENDMENT NO. 99

Mr. LONG. Mr. President, I have prepared a condition which I believe this treaty should contain, which would assure to the United States that in negotiating for a new canal it would have the right to negotiate with any nation, starting with Mexico, and including Colombia. I have discussed this with the managers of the treaty and they have indicated that they would be willing to agree to this condition.

I discussed it with various legal authorities to see whether it was necessary that this provision be an amendment, whether it had to be a reservation, or whether it had to be a condition. I am told that in view of the fact that the treaty says that unless the parties agree, neither of them can negotiate with another country about constructing another canal, that all it requires is a condition, whereby the parties, in the exchange of documents, agree to waive this provision. So the treaty contemplates it.

That being the case, this condition is

all that is necessary for the parties to agree at the time of the exchange of documents to waive that provision of paragraph 2, article XII. I send the amendment to the desk, Mr. President, and ask that it be printed on behalf of myself and Senators NUNN, DECONCINI, TALMADGE, and CANNON.

The PRESIDING OFFICER. The amendment to the Resolution of Ratification will be received and printed, and will lie on the desk.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. So that Senators, the listening public, and the press will understand, the Senator has sent to the desk an amendment to the resolution of ratification which he intends to call up at such time as the Senate reaches the resolution of ratification. That amendment constitutes a condition to the resolution of ratification. Is that correct?

Mr. LONG. Yes.

Mr. THURMOND. If the distinguished Senator will yield, personally I strongly favor the provision the Senator is offering. I am just wondering if it should be made a part of the treaty as an amendment to the treaty.

Mr. LONG. As I understand, the United States and Panama can agree any time to waive this provision. That is all that is necessary. It would be just like saying there is no real need of passing a constitutional amendment if we can achieve the same thing with an act of Congress. All we really need is what I have introduced. Therefore, I see no point in requiring Panama to vote on it, though they can. The Government of Panama can agree to waive that provision. It says in the treaty they can waive it.

Mr. THURMOND. Yes, if both countries agree. Suppose Panama does not agree and we would take the notion that we would want to build one elsewhere?

Mr. LONG. Then we do not exchange the documents and do not consummate the treaty.

Mr. ROBERT C. BYRD. I compliment the Senator from Louisiana on the approach he has taken. It is effective. I dare say this will probably get a lot of support. I realize the goal the Senator seeks to achieve in this legislative way. I think it is a much better approach than to attempt to amend the treaty. It will achieve the same goal. For the reasons the Senator has so eloquently stated, I feel inclined at this point to support him.

Mr. LONG. As far as this is concerned, all I seek is to simply get the results. I want the United States to have the privilege of negotiating with any country in Latin America about a new treaty. I think we need that leverage.

Mr. ROBERT C. BYRD. Exactly.

Mr. LONG. I know the representatives of the United States wanted the provision in the treaty that would say the United States and Panama would not negotiate with anyone else. They think that is a good provision. I do not think so. I have tried to make that clear in my views. My impression is that the managers of the treaty would be willing to accept this condition which I have sent to the desk. If they do, I am advised that will solve the problem, and I believe it does. It is a simple proposition. It says that unless the parties agree otherwise that you cannot negotiate with other countries, it is simply agreed that you can.

Mr. MATSUNAGA. Will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. MATSUNAGA. I commend the Senator from Louisiana for offering his condition to the resolution of ratification. This is the proper approach, as the distinguished majority leader has stated.

Article XII, paragraph 2 of the treaty itself, as the Senator from Louisiana knows, already provides for the waiver. But the condition which the Senator from Louisiana offers will make crystal clear that article XII, paragraph 2, means what it says. I shall join the Senator from Louisiana in voting for approval of his amendment.

Mr. LONG. I thank the Senator.

I yield to the Senator from Alabama.

Mr. ALLEN. I thank the Senator. I believe my question would constitute a comment and I shall wait until the Senator yields the floor, then I shall ask for the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator get the floor and yield it to me?

Mr. LONG. I yield the floor.

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from West Virginia.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as Mr. ALLEN yields the floor, if no other Senator present wishes to seek the floor in his own right, I ask unanimous consent that there be a period for the transaction of routine morning business, not to exceed beyond 30 minutes, with statements therein limited to 10 minutes, as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. ALLEN. Mr. President, I am, of course, interested in the reservation offered by the distinguished Senator from Louisiana. Looking at the cosponsorship of the reservation, I see the distinguished Senator from Louisiana, the distinguished Senator from Georgia (Mr. NUNN), the distinguished Senator from Arizona (Mr. DECONCINI), the distinguished Senator from Georgia (Mr. TALMADGE), and the distinguished Senator from Nevada (Mr. CANNON)—all great Senators, all my close personal friends. All of them, I think, possibly with the exception of Mr. TALMADGE, might be called the great reservationists, because I believe I have seen most of these names, except maybe that of the Senator from Louisiana and the Senator from Georgia, on other reservations.

I would have hoped that an effort would be made to agree to an amendment carrying out these same provisions. But there seems to be a great fear among some Senators of amendments to the treaty. Yet the distinguished Senator from Louisiana said that this takes an agreement between two parties, and, really, that is all that an amendment would take. But it looks like the agreement has been made that the distinguished majority leader is going to support this reservation. It is pretty easy to get a reservation adopted, but it is awfully hard to get an amendment adopted. I assure the distinguished Senators that an amendment carrying out this same provision will be offered. I hope that the reservationists, who are on this reservation, would seek a little higher level of amendment; that is, an amendment to the treaty. If they want this provision, in the best possible language and best possible effect, then they would vote for it as an amendment to the treaty.

I do hope that the distinguished Senator from Louisiana, inasmuch as he has advocated this principle, and I commend him for it—I think it is certainly right to knock out this provision that prevents us—as a matter of fact, I have heretofore offered an amendment on the floor striking this provision out. But I did not get much support, because it was an amendment to the treaty.

Of course, when we get down to reservations, they are a dime a dozen, Mr. President. They can be obtained quite easily. But the test is going to come when those who say they stand for this principle are going to have an opportunity to vote for an amendment that will really mean something. Such an amendment will be offered between now and the 13th, or certainly on the 13th. It will be debated and the Senate will be given an opportunity to do something that will really amount to a real amendment of the agreement.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. Mr. President, let nobody be under any illusions. The condition that the distinguished Senator from Louisiana wishes to add to the resolution of ratification will result in precisely what the Senator seeks to achieve. It will be just as effective, just as effective as would an amendment to the treaty. I must say to those in the Senate who are bound and determined to get an amendment into the treaty, some kind of an amendment. I do not care; you could take 10 of their amendments and they still would not vote for the treaty. They still would not vote for the treaty. I respect them. They are against the treaties and they will kill them one way or the other if they can do it.

So let us not be fooled by all of the preachment about amendments, amendments, the leadership is stonewalling, the leadership is stonewalling. May I say to my friend from Alabama, I heard him today in his eloquent manner as I listened to public radio.

Mr. ALLEN. I have not had the privilege of listening to public radio.

Mr. ROBERT C. BYRD. In my office I have had the privilege of listening to national public radio. He wondered why Senators came to the floor and voted against amendments when they have not been here to listen to the arguments. Well, with national public radio, we can be in our offices off the floor and we can hear every word and hear it clearly. We can get the inflection on each word more precisely than we can if we sit here on this floor. With all the noise of other Senators around us talking and whispering and the noise of pages running here and there, noises from the gallery, noises from the rear corners of the room, we cannot always hear precisely what is being said by the distinguished Senator from Alabama in his eloquent, forceful, persuasive way. But to sit in our offices, we can hear every word, and we can turn up the radio louder, or we can turn it down.

We can call the attention of our constituents who are listening, who are visiting in our offices, we can say, "That is Senator ALLEN speaking on the amendment." And we can sit there with our constituents and listen together. Then, when the rollcall comes, we can march into the Chamber, and we do not have to come to the managers of the bill. We do not have to go to Senator ALLEN and find out what it is all about, because we come with full knowledge of what it is all about.

So, may I assure my friend from Alabama that his cogent arguments have been heard, they have been weighed. And just because, on occasion, we are not sitting here watching the Senator, enraptured by his eloquence, we are still in our offices listening to that inimitable medium of National Public Radio conveying the voice, the stentorian voice of the Senator from Alabama, all over the country. And it is even being translated into Spanish to the people in Panama.

Mr. ALLEN. Just as are the Senator's remarks now.

Mr. MATHIAS. Will the Senator yield?

Mr. ALLEN. I believe I have the floor. I do not want to interrupt the distinguished majority leader. He is making quite an oration here.

Mr. MATHIAS. I just wanted to embroider on his theme for 1 second.

Mr. ALLEN. When he has ceased interrogating me, then I shall yield to the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President, I have never imposed on the distinguished Senator from Alabama. His courtesy and charitableness to the leadership are so well known as not to be necessary to mention.

I enjoy hearing his flailing of the leadership. He lays the heavy wood on the leadership. He takes the leadership out behind the woodshed. It reminds me of when I was a boy.

I was speaking to someone on my staff today about getting a paddling. The only paddling I ever got was for throwing a spitball—and I got a paddling. I should have had it. It did me good.

So the distinguished Senator from Alabama, in all good humor, gives the leadership a little paddling every day. Every day, and it does us good.

Mr. ALLEN. I might say to the distinguished Senator from West Virginia, if he will excuse me, I have the floor and I wish to respond.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Piecemeal.

I would say that just as the Lord loves those whom He chasteneth, so the Senator from Alabama loves the leadership, whom he sometimes, as the Senator says, chasteneth.

So it is no indication that the Senator from Alabama does not love the distinguished majority leader and the distinguished minority leader when he does talk about the leadership stonewalling these amendments and demanding that the Senate rubberstamp these treaties, because he thinks the facts bear out that contention of the Senator from Alabama.

Mr. ROBERT C. BYRD. I am sure the Senator would not attempt to misrepresent what the facts are and he does believe that. But Preston County, W. Va., is a great buckwheat-growing country and I have never seen a buckwheat cake so thin it did not have two sides.

So, there are two sides to this business about the leadership stonewalling and the leadership rubberstamping.

But sometimes I even listen to the Senator and I head for the door. The public radio is on. I am getting a blow-by-blow account from the floor. Sometimes when the distinguished Senator from Alabama starts laying the hickory to the leadership, I put my coat on and I head for the door. I think that I will just go in and sit and listen to the Senator as he takes me out behind the woodshed. Then I think, well, it is all in a day's work and I take my coat off and I go back and sit down.

Mr. ALLEN. I thank the Senator for his charitable nature. But I think the Senator would concede the Senator from Alabama has discussed the leadership as much in his presence here on the floor as he has while the distinguished majority leader was listening to the debate on public radio. He has not refrained from expressing his opinion about the leadership's position even though the leaders were here.

Mr. ROBERT C. BYRD. No. But when the leaders are here, the Senator from Alabama says it with a smile.

Mr. ALLEN. Well, says it with the same smile when the Senator has gone.

Mr. MATSUNAGA. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. MATSUNAGA. I thank the distinguished Senator for yielding.

Mr. ALLEN. I thank the distinguished majority leader for the very friendly exchange.

Mr. MATSUNAGA. Mr. President, I was not at all surprised to hear the Senator from Alabama say that he has not heard public radio, because he has been on the giving end of it right throughout.

I, for one, and I am sure even the distinguished majority leader, will volunteer to take his place for a while, while he goes into an office and turns on public radio.

I have already stated to the Senator from Alabama that when I spoke to a distinguished group of business executives in Chicago, I came back, and inasmuch as the Senator from Alabama sits at a desk adjoining mine, I said to him, "You know, I spoke before a business executive group and one of them told me that he listened to the radio all day long and his hero is JIM ALLEN."

I said, "Oh, are you opposed to the treaties?"

He said, "No, I am for the treaties."

I could not figure that one out, until today I cannot figure it out, why the hero is one who opposes the treaties and this fellow told me he was for the treaties.

I thought I might throw that out on the floor and maybe the Senator from Alabama can give an answer tomorrow.

Mr. ALLEN. Maybe if we keep on talking we can convince him. That is what we are hoping to do, just like we hope we can convince the distinguished Senator from Hawaii (Mr. MATSUNAGA).

I might say, I am privileged to sit at the distinguished Senator's right hand.

Mr. MATSUNAGA. That is correct.

Mr. ALLEN. I am at his right hand and I enjoy that seat with my distinguished friend.

Mr. MATSUNAGA. And I sit at his left. I suppose I am further to the left than he is to the right, so that makes some sense.

I thank the distinguished Senator for yielding.

Mr. ALLEN. I thank the distinguished Senator from Hawaii.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado (Mr. HASKELL).

Mr. HASKELL. I thank the Chair.

I understand we are now in morning business, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. If the Senator will yield, is there a time limit on statements in morning hour?

Mr. HASKELL. What is the Senator's request?

Mr. STEVENS. I asked if there was a time limit.

The PRESIDING OFFICER. The period shall not exceed 30 minutes, and statements therein shall not exceed 10 minutes.

Mr. STEVENS. I thank the Chair and I thank the Senator from Colorado.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which

were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 11:03 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2540. An act pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation;

H.R. 2960. An act to authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia;

H.R. 5981. An act to amend the American Folklife Preservation Act to extend the authorization of appropriations contained in such Act;

H.R. 8358. An act to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications; and

S.J. Res. 124. A joint resolution to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 6, 1978, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 124. A joint resolution to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week."

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3294. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report of approvals of the annual compensation of any officer or employee of a Federal contract Research Center (FCRC) in excess of $45,000 from federal funds; to the Committee on Armed Services.

EC–3295. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for a Department of Defense Military Retirement and Disability Fund, and for other purposes; to the Committee on Armed Services.

EC–3296. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Sudan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3297. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, six construction projects to be undertaken by the U.S. Army Reserve; to the Committee on Armed Services.

EC–3298. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to provide loan guarantees for the assistance of the City of New York; to the Committee on Banking, Housing, and Urban Affairs.

EC–3299. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Should Amtrak Develop High-Speed Corridor Service Outside the Northeast?", April 5, 1978; to the Committee on Commerce, Science, and Transportation.

EC–3300. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, proposed drafts of three temporary water service contracts between the United States and the Westlands Water District for the second half of 1978; to the Committee on Energy and Natural Resources.

EC–3301. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a quarterly report for the period of October through December 1977 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; to the Committee on Energy and Natural Resources.

EC–3302. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Seventh Annual Report on the Special Bridge Replacement Program; to the Committee on Environment and Public Works.

EC–3303. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to regulate the compensation and paid leave of certain officers and employees of the Foreign Service, and for other purposes; to the Committee on Foreign Relations.

EC–3304. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Should Emergency Assistance for Needy Families be Continued? If So, Program Improvements Are Needed," April 5, 1978; to the Committee on Governmental Affairs.

EC–3305. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Third Party Funding Agreements: No Longer Appropriate for Serving the Handicapped Through the Vocational Rehabilitation Program," April 4, 1978; to the Committee on Governmental Affairs.

EC–3306. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled, "Sporadic Workplace Inspections for Lethal and Other Serious Health Hazards," April 5, 1978; to the Committee on Governmental Affairs.

EC–3307. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Reducing Population Growth Through Social and Economic Change in Developing Countries—A New Direction for U.S. Assistance," April 5, 1978; to the Committee on Governmental Affairs.

EC–3308. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Potential For Deepwater Port Development in the United States," April 5, 1978; to the Committee on Governmental Affairs.

EC–3309. A communication from the Associate Director, General Accounting Office, reporting, pursuant to law, a revision of declassification and classification information which was incorrectly printed on the covers of three classified reports sent to the Congress by GAO; to the Committee on Governmental Affairs.

EC–3310. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the development and implementation of State programs for youth camp safety and health; to the Committee on Human Resources.

EC–3311. A communication from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Seminole judgment funds in Dockets 73 and 151 before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–3312. A communication from the Deputy Assistant Secretary, Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Creek judgment funds awarded in Docket 275 before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–3313. A communication from the Counsel to the Pacific Tropical Botanical Garden, transmitting, pursuant to law, a report of audit for the period from January 1, 1977 through December 31, 1977; to the Committee on the Judiciary.

EC–3314. A communication from the Executive Director, National Capital Planning Commission, transmitting, pursuant to law, a report pursuant to the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC–3315. A communication from the Executive Director, Headquarters Civil Air Patrol, Department of the Air Force, transmitting, pursuant to law, the Civil Air Patrol Report for calendar year 1977; to the Committee on the Judiciary.

PETITIONS PRESENTED

● Mr. PELL. Mr. President, I present three resolutions recently adopted by the house of representatives of the General Assembly of Rhode Island. I ask unanimous consent that they be printed in the RECORD and appropriately referred.

There being no objection, the resolutions were ordered to be printed in the RECORD and appropriately referred, as follows:

POM–580. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Finance:

"RESOLUTION

"Resolved, That the Members of the Congress of the United States from Rhode Island be and they hereby are respectfully requested to support senate bill no. 142, known as the tuition tax credit act of 1977; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the members of congress from Rhode Island."

POM–581. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, The Republic of China and its people have constituted one of the most trusted friends and allies of the government and people of the United States since the Republic of China was founded in 1912; and

"Whereas, The existence and continued freedom and prosperity of the free Republic of China are rights to which the inde-

pendent and brave people of that republic are entitled; and

"Whereas, The Republic of China stands as a substantial factor in the free world's constant effort to maintain world peace through moral suasion and appropriate readiness; now, therefore, be it

"Resolved, That the house of representatives of the State of Rhode Island and Providence Plantations commends the United States Government for maintaining its continuous and historic policy of support for the freedom and security of the Republic of China and its couageous, industrious people; and be it further

"Resolved, That the house of representatives of the State of Rhode Island and Providence Plantations conveys to President Jimmy Carter and the Congress of the United States the commendation of Rhode Island to our national government for the support accorded the Republic of China; and be it further

"Resolved, That the secretary of state be and he is hereby respectfully requested to transmit duly certified copies of this resolution to the members of congress from Rhode Island."

POM–582. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Governmental Affairs:

"RESOLUTION

"Resolved, That the house of representatives of the state of Rhode Island and Providence Plantations hereby memorializes the congress of the United States to provide for the monthly mailing of the consumer price index, at no charge, to senior citizens and any other social security beneficiaries; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the congress of the United States from Rhode Island." ●

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2424. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein (Rept. No. 95–726).

H.J. Res. 578. A joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week" (Rept. No. 95–727).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATCH (for himself, Mr. WILLIAMS, Mr. HAYAKAWA, and Mr. GARN):

S. 2840. A bill to provide for an evaluation of Federal Motor Vehicle Safety Standard 121 and to provide for a suspension for a period not to exceed fifteen months of any part of the standard which relates to any antilock braking requirement; to the Committee on Commerce, Science, and Transportation.

By Mr. ANDERSON:

S. 2841. A bill for the relief of Yang Soo Ko; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2842. A bill to name the Veterans' Administration Hospital located at 1901 S. First Street, Temple, Texas, the "Olin E. Teague Veterans' Hospital"; to the Committee on Veterans' Affairs.

By Mr. HELMS:

S. 2843. A bill to provide for the issuance of gold medallions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS (for himself and Mr. STEVENS):

S. 2844. A bill to temporarily extend certain special pay provisions pertaining to physicians and dentists of the Veterans' Administration; to the Committee on Veterans' Affairs.

S. 2845. A bill to temporarily extend certain special pay provisions pertaining to medical officers of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Mr. SPARKMAN (by request):

S. 2846. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. JOHNSTON:

S. 2847. A bill to modify the tariff schedules with regard to certain articles used in carnivals and parades; to the Committee on Finance.

S. 2848. A bill to authorize the Secretary of the Interior to render assistance to the State of Louisiana to restore Fort St. Jean Baptiste de Natchitoches, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2849. A bill to amend the Merchant Marine Act, 1920, in order to provide that the coastwise laws shall extend to the Virgin Islands with respect to the transportation of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON:

S. 2850. A bill to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes; to the Committee on Human Resources.

By Mr. MATHIAS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. STAFFORD, Mr. CRANSTON, Mr. JAVITS, Mr. MOYNIHAN, Mr. HEINZ, Mr. CASE, Mr. MORGAN, Mr. CHAFEE, Mr. MCCLURE):

S. 2851. A bill to amend the Public Buildings Act of 1959 in order to restore the Pension Building in Washington, D.C., to house the Museum of Building Arts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MATSUNAGA:

S. 2852. A bill for the relief of Wen Hwei Hsu; to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2853. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 2854. A bill to amend certain provisions of titles 18 and 28 of the United States Code relating to jurisdiction over certain Indian country; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2855. A bill to reaffirm and restate the national housing goal; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL (for himself, Mr. KENNEDY, and Mr. WILLIAMS):

S.J. Res. 125. A joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. WILLIAMS, Mr. HAYAKAWA, and Mr. GARN):

S. 2840. A bill to provide for an evaluation of Federal Motor Vehicle Safety Standard 121 and to provide for a suspension for a period not to exceed 15 months of any part of the standard which relates to any antilock braking requirement; to the Committee on Commerce, Science, and Transportation.

MOTOR VEHICLE SAFETY STANDARD 121

● Mr. HATCH. Mr. President, I am pleased to introduce a bill to provide for an evaluation of Federal Motor Vehicle Safety Standard 121 and to provide for a suspension of that standard which relates to antilock braking requirements. This measure which is essentially the same as H.R. 10562 introduced by Mr. MARRIOTT would require the Secretary of Transportation to conduct an evaluation of this standard placing particular emphasis on the practicality and safety of motor vehicles equipped with this antilock braking device.

Mr. President, I am pleased to see that the National Highway Transportation Safety Administration has placed a moratorium on the 121 system as it affects schoolbuses. It is indeed a comforting thought to know that our schoolchildren, for the time being, will not have to be subjected to the kinds of risks that this system has shown in the past. Just how long this system will be kept off of schoolbuses is not predictable. However, if this legislation is passed, we may rest assured that the standard will be suspended until such time as we are sure through competent evaluations, case studies and scientific tests of the reliability of this braking system. Why, Mr. President, should we allow anyone who operates a truck to be compelled to use a system that has been responsible for so many deaths. While we cannot place the total blame at the present time solely on the 121 braking systems, we do know for a fact that there are presently lawsuits pending in which this system was implicated. The 121 system has been implicated in at least 20 deaths and dozens of accidents around the country, 14 of those deaths in my own State of Utah.

A tragic accident occurred last August in Salt Lake City where four teenagers were killed and another injured due to the inability of a semitruck equipped with the 121 system to stop. The jury acquitted the truckdriver involved in the accident and its findings along with testimony given at the hearing, put at least part of the blame for the accident on the rig's antilock system, and implicated NHTSA, which put the law into effect. This is just one example of the kinds of accidents that have occurred all over our country involving this braking system. Paccar, Inc. has filed a lawsuit claiming that the Government perpetuated the system on the industry and is responsible for any failures. Why must these accidents and lawsuits persist? Why can we not find the true worth of this braking system, if there is any, before more lives are needlessly wasted?

And what, Mr. President, has NHTSA done about all of this? The culmination of their actions has been the moratorium of the standard on schoolbuses for which I personally am very grateful. However, if the standard is conceivably unsafe for use on schoolbuses, is it any more safe on trucks using the same roads? Are not the schoolbuses subjected to a risk while there are trucks

on the highway with potentially unsafe methods for retardation and stability. Their antithetic ways must stop while peoples lives hang in the balance.

NHTSA administrator, Joan Claybrook, contends that the majority of truck drivers want antilock. This statement is unfounded and simply not true. Let us look at some of the facts. NHTSA should be the first to admit that Paccar, Inc., the huge manufacturer of tractor-trailer rigs, Peterbilt and Kenworth, is opposed to antilock because of the suit which enjoins NHTSA in five antilock brake accidents. In mid-December organized groups of over 200 people marched through Salt Lake City protesting antilock. In addition. Congressmen were presented with a petition, signed by 1,500 truck drivers, calling for an end to antilock.

Listen to what the truck manufacturers themselves have said. Farrell Krall, staff engineer of Safety Research at NHTSA said,

International Harvester is the world's largest manufacturer of air brake vehicles and it is the official position of International Harvester Corporation that the computerized brake systems should be suspended.

Mr. John Riccardo, chairman of the board, Chrysler Corp., stated,

Many of us fought for reason and common sense in the establishment of heavy duty truck braking standards. Did the industry get common sense or nonsense in Standard 121 for heavy-duty trucks, a standard that adds hundreds of dollars to the price of a truck, with no offsetting benefits in lives saved on the highway.

Mr. President, I believe that even if the majority of truckers and truck manufacturers were in favor of this standard, which they are not, that we should not allow highway deaths to continue at this very moment because of the failure of the 121 antilock computer. It has been said that computers are only as good as the people that program them. Maybe this is one case where we should take a long hard look at finding a new program.

In conclusion, Mr. President, if we cannot get the DOT and NHTSA to respond to the pleas of truck drivers, truck manufacturers, families of bereaved loved ones and citizens alike. then we must take action in Congress to curtail the use of this problem-riddled system until it can be further analyzed. The 121 system is not failsafe. We have seen this through the myriad of accidents implicating this braking mechanism. It is time for us to act now before further tragedies occur. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD and urge that the Senate act as efficaciously as possible to pass this measure.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Transportation shall conduct an evaluation of the adequacy and appropriateness of Federal Motor Vehicle Safety Standard 121 (49 C.F.R. 571.121) with particular attention to whether the antilock braking requirement is practicable, meets the needs of motor vehicle safety, is stated in objective terms, and is a performance standard. Such an evaluation shall specifically include a determination of appropriateness, including: (1) any provision relating to the lock-up of wheels, (2) antilock systems available for use to meet any braking requirement, and (3) tests and test procedures. In addition, the evaluation shall determine the reliability of the components of any system being used, or capable of being used, in motor vehicles equipped with air brake systems to meet such requirement. The evaluation shall also consider other methods which could be used by any motor vehicle to obtain vehicle retardation and stability. In carrying out such evaluation, the Secretary of Transportation shall take into consideration the expertise and advice of other Federal agencies, State agencies, manufacturers of air brake systems, operators of vehicles equipped with air brake systems, and other interested parties. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress which sets forth the findings of the evaluation together with any recommendations, including but not limited to recommendations for the need to continue, to further suspend, or to repeal such standard or any part thereof.

(b) During the period beginning on the date of enactment of this Act and ending on the last day of the third month which begins after the date of the submission by the Secretary of the report pursuant to subsection (a) (both dates inclusive), any antilock braking requirement set forth in Federal Motors Vehicle Safety Standard 121 shall be suspended.●

By Mr. BENTSEN:

S. 2842. A bill to name the Veterans' Administration Hospital located at 1901 South First Street, Temple, Tex., the "OLIN E. TEAGUE Veterans' Hospital"; to the Committee on Veterans' Affairs.

OLIN E. TEAGUE VETERANS' HOSPITAL

● Mr. BENTSEN. Mr. President, today I introduce a bill to name the Veterans' Administration Hospital in Temple, Tex., the "OLIN E. TEAGUE Veterans' Hospital." As we all know, "TIGER" TEAGUE has announced he will be leaving the House at the completion of his current term. I do not need to remind anyone in this Chamber of the outstanding record this man has compiled in and out of Congress.

His list of achievements are too numerous to outline here. Perhaps the clearest way to characterize TIGER TEAGUE's career is to say that he always rises to the occasion.

He has always been willing to serve in whatever capacity.

When we were at war he was a hero. When our veterans were returning to civilian life—he drafted the programs to help them. When we sought to conquer space—he showed us how it could be done.

His work is the real monument to OLIN TEAGUE; anything we do will be insignificant in comparison. But I think it is important that we try nevertheless.

I believe the renaming of this hospital will be a good beginning, especially in light of Chairman TEAGUE's close association with the Temple VA Hospital. It was there that he began the personal struggle, which has brought about his retirement. For the young OLIN TEAGUE spent 2 years at this hospital recovering from his severe World War II combat injuries. There again the strength and courage, which he has shown throughout his life, allowed him to overcome his injuries and enter the U.S. House of Representatives.

I know many of my colleagues join me in thanking OLIN TEAGUE for his service to his country. His counsel and leadership will be sorely missed.●

By Mr. HELMS:

S. 2843. A bill to provide for the issuance of gold medallions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOLD MEDALLION ACT OF 1978

Mr. HELMS. Mr. President, as in legislative session, I am introducing a bill today to authorize the production of 1-ounces of gold in bullion coins such as to require their production and sale if the United States decides to sell some of its gold reserves.

The Department of Commerce reports that in 1977, approximately 1.5 million ounces of gold in bullion coins such as Krugerrands, Austrian 100 kronen, and Mexican 50 peso coins were imported into the United States last year. That is the equivalent of about a quarter of a billion dollars in imports.

At the same time, we hear increased discussion of the sale of U.S. gold stocks for one purpose or another. I personally oppose such sales, because I believe that these gold stocks have great strategic and economic importance.

Most recently Arthur Burns, former head of the Federal Reserve System has advocated mobilizing U.S. gold reserves to aid the dollar. It would be far more helpful to the dollar, of course, if the President would work on balancing the Federal budget. It would be more helpful to the dollar if the Federal Reserve System would slow down the growth of the money supply.

A sale of gold in today's world would soak up dollars the same way that a sale of federally owned mineral rights, or federally owned stockpiles of any other commodity would. It would not solve the monetary problems. Basically, monetary policy changes are needed to solve monetary problems.

I believe, however, that even those who favor the sales of some of our gold stocks would favor sales in a manner that will do more than just dispose of the gold. I think that potential revenues should be maximized; that reliance on foreign sources of bullion coin imports should be reduced; that the American public's demand for U.S. gold medallions be met; that the American public be given an opportunity to buy small quantities of "their" American gold stocks, instead of allowing foreign and international banks and gold dealers to buy it up.

DETAILS OF ACT

Before discussing the "pros" and "cons" of this legislation let us first discuss the specifics of the bill.

The bill is entitled the "Gold Medallion Act of 1978" and would require that, if gold is sold from U.S. stocks, the first 1.5 million ounces be sold in the form of 1-ounce and ½ ounce gold medallions. In other words, a sale in the first year after enactment of this legislation that totaled

1.5 million ounces or more would result in the production and sale of at least 1.5 million ounces of gold in the form of medallions. A sale of gold less than 1.5 million ounces in the first year in which gold was sold after enactment of this bill, would require that the entire amount be sold in the form of gold medallions. The bill is permissive in that it would allow the Treasury to sell more than 1.5 million ounces as medallions. In subsequent years in which there were gold sales, the volume of medallions would be adjusted up or down to reflect demand.

The 1-ounce medallion would have a representation of the head of the Statue of Freedom atop the Capitol dome, and it would have the word "Freedom" inscribed on it. The medallions would also carry the words "United States of America," "One ounce fine gold," and be marked with the year in which they were manufactured.

The ½-ounce medallion would have a commemorative representation symbolizing the rights of individuals and carry the words "Human Rights," "United States of America," "One-half ounce fine gold," and be marked with the year in which it was manufactured.

The reverse of both medallions would carry likenesses of the Great Seal of the United States.

The medallions would be manufactured out of the most prevalent form of gold possessed by the Federal Government, an alloy of 90 percent gold and 10 percent copper. This means that, in terms of weight, the medallions would weigh a little over the marked weight, because they will contain the stated amount of pure gold, plus other metal to increase durability.

Former Secretary of the Treasury, William E. Simon, stated on one occasion that much of the U.S. gold stocks is not "of deliverable quality." In other words, most of the ingots in our reserves are not pure gold or "0.999 fine" gold. As a result, if the Treasury wanted to sell gold, it could call on the bulk of its stocks for the 0.900 fine gold for the production of medallions.

In international and traditional sales of gold on the bullion markets, the "deliverable" gold is 0.966 fine to 0.999 fine. It contains only one to four parts per thousands of impurities at most. Officials of the Bureau of the Mint who control 266,000,000 ounces of our gold reserves report that 73 percent or 195.7 million ounces is "coin gold," in the range of 0.900 fine.

WHY NOT A U.S. GOLD COIN?

Some persons with whom I have discussed this bill have asked why I would not propose the production of a $100 gold piece, or something with a monetary value. The reason, of course, is that the gold price fluctuates from day to day, and that the gold coin itself would probably increase in value as the dollar depreciates. For example, the silver coins produced before 1966 in this Nation are now worth several times their face value. But, if someone attempted to pay taxes to the Internal Revenue Service in those old coins, they would be accepted as legal tender at their face value and not their market prices.

This kind of confusion should not be encouraged. In other words, if the United States put out a coin with a marked face value, it would be construed by some that the United States was again relating its monetary system to gold. That, as most of us know, is far from the case. In fact, under present policies of heavy deficit spending, and rapid money creation, a stable relationship of dollars to gold would be impossible.

What I propose is a nonmonetary medallion, one that would not have any government imprimatur implying that it is a form of money. It would be a souvenir to some. It would be a form of investment to some. It would be a piece of jewelry to some. When sold abroad, it would be a source of foreign exchange.

COMPETITION WITH FOREIGN COINS

Experts in this area tell me that the production of such a medallion would compete directly with such "bullion coins" as the South African Krugerrand, the Mexican gold peso, the Austrian gold Krona, and the Russian gold "Chervonetz." Bullion coins of this nature are sold in the world market in the amount of $750 million per year. I am told that production and sale of a U.S. gold medallion would be able to make great inroads into that market.

Last October, the Congress passed and the President signed a bill which makes enforceable in the courts contracts denominated in gold, or in dollars related to gold. My office has received numerous requests for information on this new freedom and I understand that some gold clause contracts have been executed calling for payment in Krugerrands. I think that people in this country would prefer to utilize something like a 1-ounce or perhaps a ½-ounce U.S. medallion for such transactions. In this regard, U.S. gold medallion production would meet a commercial need.

THE MESSAGE OF THE MEDALS

Production of the Freedom Medallion and the Human Rights Medallion would reinforce the great message our Nation should give to the world. More and more people recognize the importance of human rights and the struggle for individual freedoms. In this period of world tensions, an attractive, substantive representation of these important principles would do much to reaffirm faith in America, both domestically and internationally.

There is also the matter of added Federal revenues generated by the sale of these medallions. Some have estimated that there would be a minimum of $10 million over the bullion price generated by the sale of 1.5 million ounces of gold in the form of medallions rather than in bullion bars. I think that there is reason to believe that the profit realized would be considerably higher.

My bill also provides that the Secretary of the Treasury sell some of the medallions produced in high-quality sets for collectors. The bill authorizes him to reserve an appropriate amount of the gold to be sold to be made into special sets and it is to be expected that these sets would be sold at a premium. This would result, of course, in added profits to the Federal Government because of the desirability of such quality sets to collectors and others.

Of interest is the fact that the Bureau of the Mint sells medallions, and proof sets of coins to millions of Americans each year and has the expertise to market a premium item. They have a mailing list of 2.5 million Americans who desire to be notified when items like proof sets of new coins are offered.

The bill does not specify how many collector medallions will be offered or how they would be priced, although it does stress that the production and sales be related to the market for such an item.

The price mechanism for the bulk of the medallions was a topic to which I gave considerable thought. I came to the conclusion that the bill should carry no specific marketing instructions.

Because of the mushrooming market in the United States for gold and gold "bullion coins," there are many American experts that have skills which rival those of dealers in the old London and Zurich markets.

I checked with many of these people and went over a number of proposed sales methods which will be considered and should be discussed. First, there was a proposal to sell medallion in a way similar to that used to sell the bicentennial coins. As many in Congress recall, the "Proof," and "Uncirculated" bicentennial coins were sold at sky-high prices and the profits were to go to finance bicentennial operations. The pricing techniques totally ignored the real world, and as a result, the Treasury Department still has rooms full of them.

Ideally, these new medallions would be sold at market-related prices. If however, the Government arbitrarily set a price, it would most likely be either above the market price—in which case, all the medallions would not be sold—or it would be below the market price—in which case more would be demanded than were available. In addition, a price above the market price would result in a "surplus" which would give critics of the medallion reason to say that the program was a failure because people didn't buy the medallions. Similarly, an artificially low price would indicate that the Government did not derive the revenues it should from the medallions.

Finally, a set price over a period of time would appear to link the dollar and gold. The Treasury Department would certainly cringe at that thought.

As many Americans know, Krugerrands, containing 1 ounce of gold, are available at many places at a price which is set daily, a few percentage points above the free market bullion price of gold. This pricing alternative may be available, and I hope the Treasury Department and the General Services Administration explores it. It could provide a good way of maximizing the revenues from the medallion sales, although the sophisticated system required for daily price changes might pose some problems to this form of sale.

A better alternative might be an auction system. Officials of the General Services Administration have sold materials at public auction for many years, including gold bullion in 1975. An auction

system was held successfully during the disposal of the "Carson City" silver dollars. At that time, bids were solicited and the coins sold. Because of technical requirements in the legislation authorizing that sale, the auctions of the silver dollars may not have provided maximum revenues to the Federal Government or been conducted at least cost to the Government.

In part, it is because of this historical experience that I have not included any specific details in my proposed legislation. I hope that the Treasury officials, officials of the Bureau of the Mint, officials of General Services Administration, and the public will offer their suggestions on other possible methods. I hope, too, that subsequent to passage of this bill, consultation will be made with Congress on specific methods of sale.

The important aspect of such sales is that the medallions be made available to the largest number of people and that they be sold at a market-related price. One specific suggestion which would seem to meet these goals would be a program of several auctions, at each of which a large number of medallions would be offered for sale. Bids would be solicited well in advance of the auction, opened in secrecy, and would require a check for the amount bid. On the day of the auction, it would be announced that a price had been determined at or above which enough bids sufficient to sell all the medallions made available were received on that day. This method is called a Dutch auction or common price auction, and has the virtue of encouraging high bids, thus potentially increasing the average bid plus total revenues. In addition it provides that everyone pays the same price. If bids are to be solicited from the public at large, this system seems to have certain advantages because it allows those who bid high, to be assured of purchasing a medallion. It does not result in the charging of an artificially high price to some few successful bidders.

The sales of the medallions should be left to the experts in this area. They must be trusted with the technical details of this matter and they must be trusted with the techniques used in producing the medallions. I hope that the Treasury's Bureau of the Mint would minimize unnecessary costs and produce medallions as inexpensively as possible.

I understand that the Eisenhower $1 coin cost somewhere around 5 cents to manufacture. The cupro-nickel "sandwich" metal of that coin is far harder to utilize than the gold we have in Fort Knox. That seems very cheap, but, on the other hand, the Bureau of the Mint can also provide processing entailing extremely delicate care, expensive packaging, and time-consuming polishing for special medals. It is conceivable that costs per item of this kind of treatment could run up to $25 each. Such overhead when considering great numbers of coins would be prohibitive and I hope the production costs would be kept closer to the 5 cents, plus perhaps the requisite added security costs.

An important consideration in drafting this legislation was my desire to limit unnecessary details that would add to the difficulty in passage.

The designs chosen for the two medallions are, I believe, two that everyone can support without hesitation. The symbolic representations of "Freedom" and "Human Rights" convey a message all Americans would wish to see on a medallion produced by the Federal Government.

I am aware, of course, of the controversy concerning the legislation which would provide for a new, small, $1 coin. I would hope that such controversy would not delay passage of this bill and subsequent possible production of the medallions.

Some added aspects of the bill and its merits should be considered now in an effort to move the debate ahead.

Of great interest whenever the topic of gold is brought up is the ongoing campaign of the past several administrations to "demonetize gold." Last year, the Treasury Department endorsed my bill to legalize gold clause contracts pointing out that the bill deserved support because, "substantial steps have been taken toward a further reduction of the international monetary role of gold, and * * * gold should be treated like any other commodity."

Along these lines of argument, we should regard any gold medallion just as we would a silver medallion, or a copper one. It can no more threaten the campaign to "demonetize gold" than the new law legalizing gold clause contracts and treating gold like any other commodity for purposes of denominating or indexing financial obligations.

The medallion would carry no fixed dollar value and would not be legal tender. And in order to have an impact on the effort to "demonetize gold," one would have to assume that the medallion be used in transactions instead of U.S. dollars.

But there is little likelihood that the medallion would be so used. If two parties to a transaction used medallions, it would mean that they came to the conclusion that U.S. dollars were somehow less desirable than medallions. It would mean that the parties to the transactions perceived the medallions to be better for their purposes than dollars. Of course they would have their choice of many other substitutes, such as foreign currencies, but no one would even consider gold medallions or any other substitute unless he felt that the U.S. dollar is not a good medium of exchange. It would mean that the parties involved thought that the "costs" of doing business in U.S. dollars were greater than the "costs" of doing business in another medium of exchange.

There is no reason to believe that this would be the case. The President has reassured us as recently as March 2. He said:

I have spent a lot of time studying about the American dollar, its value in international monetary markets, the causes for recent deterioration as it relates to other major currencies. Over a long period of time . . . the dollar will remain in good shape.

The "demonetization" of any alternative medium of exchange is of course dependent on the relative attractiveness of the other media.

America has traditionally had a money system that was not threatened by competition from any other medium of exchange and I favor a monetary system that has that strength.

NO COMPETITION WITH PRIVATE SECTOR

In offering this legislation, my intent is the production of a U.S. gold medallion that would provide competition with foreign produced "bullion coins." On the other hand, I am confident that the Freedom Medallion and The Human Rights Medallion will not compete with gold pieces privately produced in the United States. Gold producers and dealers I have consulted inform me that they have little concern about any potentially adverse effect the medallion might have on their industries. U.S. gold production goes primarily into jewelry and industrial uses. In addition, most of the collectible gold items produced in the United States are sold without a direct link to the price of bullion. The chief attraction of these items is their rarity, a consideration that would be far more difficult to make when very large numbers of medallions are involved.

BEST TO KEEP U.S. GOLD

Finally, there are those who would say that the production of gold medallions makes it "easier" to sell our vital gold stocks. That, of course, is not my intention. I favor maintaining our gold stores; my bill provides only that if U.S. gold stocks are sold, they should be sold in a form and in such manner as to allow the average American to purchase some of the stocks, to maximize the revenues the Federal Government might derive, and reduce the drain on foreign exchange.

Finally, I hope that the Federal Reserve Board, the Department of the Treasury, and other Federal agencies that might be concerned with this bill will provide me with their counsel and will work with me to expedite passage.

Mr. President, I will soon ask my colleagues in the Senate to join me in sponsoring this bill. I understand my good friend, Representative STEVE SYMMS of Idaho, has introduced a similar bill in the House of Representative and he, too, will seek cosponsors in that body.

Mr. President, I ask unanimous consent that the bill, entitled the "Gold Medallion Act of 1978," be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gold Medallion Act of 1978".

SEC. 2. (a) (1) Upon a determination by the Secretary of the Treasury (hereinafter referred to as the "Secretary") that it is in the national interest to sell gold, the Secretary shall offer all or part of such gold for sale to the public in accordance with this Act in the form of gold medallions, of two sizes, one of which shall contain one ounce of 0.999 fine gold but shall be manufactured from 0.999 fine gold, and one such medallion shall contain one-half ounce of 0.999 fine

gold but shall be manufactured from 0.900 fine gold.

(2) the one-ounce medallion shall have on its face the likeness of the Statue of Freedom atop the dome of the Capitol Building, surrounded by laurel leaves. The word "freedom" shall be inscribed above the likeness, and the words "one ounce fine gold" shall be inscribed in the remaining area inside the edge of the medallion. The obverse of the one-ounce medallion shall have a representation of the Great Seal of the United States, and be inscribed with the words "United States of America" and the numerals of the year the medallion is produced inside the edge of the medallion.

(3) The one-half-ounce medallion shall have on its face, an appropriate design symbolizing the rights of individuals, the words "human rights" and the words "one-half ounce fine gold". The obverse shall have a representation of the Great Seal of the United States and be inscribed with the words "United States of America" and the numerals of the year in which the medallion is produced.

(b) If the Secretary determines that less than 1.5 million ounces of gold is to be sold in any fiscal year after the date of enactment of this Act, all such gold shall be sold in the form of the medallions described in subsection (a).

(c) If the Secretary determines that more than 1.5 million ounces of gold are to be sold in any such year, that part of the excess gold which is not struck into medallions shall be sold in such a manner as the Secretary deems appropriate.

SEC. 3. (a) The medallions shall be produced in the first year of production in the ratio of 2 one-half ounce medallions for each one ounce medallion to be struck. In subsequent years, that ratio shall be adjusted to meet anticipated demand.

(b) Notwithstanding any other provisions of this Act the number of medallions to be produced and sold in succeeding years in which sales of gold are held, shall be adjusted to meet anticipated demand.

SEC. 4. (a) Upon the determination referred to in Section 2, the Secretary shall announce such determination, together with the total quantity medallions to be sold, and the date or dates on which the sale or sales will be held. For the purpose of carrying out any such sale, the Secretary shall enter into such arrangements with the Administrator of General Services as may be appropriate.

(b) Such arrangements for the sale of medallions shall be made so as to encourage broad public participation.

(c) Such rules and regulations as may be appropriate in carrying out functions under this section are hereby authorized.

SEC. 5. The Secretary shall direct the Bureau of the Mint to reserve out of the gold to be struck into the medallions under this Act a quantity determined, on the basis of orders or surveys, by such Bureau to be sufficient to meet the need for premium quality medallions at a fair, market-related price.

SEC. 6. Notwithstanding any other provisions of this Act, the authority contained herein shall expire five years after the date of enactment of this Act.

By Mr. MATHIAS (for himself and Mr. STEVENS):

S. 2844. A bill to temporarily extend certain special pay provisions pertaining to physicians and dentists of the Veterans' Administration; to the Committee on Veterans Affairs.

S. 2845. A bill to temporarily extend certain special pay provisions pertaining to medical officers of the uniformed services, and for other purposes; to the Committee on Armed Services.

● Mr. MATHIAS. Mr. President, today I am introducing on behalf of the Senator from Alaska, Mr. STEVENS, and myself, two bills which will provide for the extension of comparability pay authority for medical and dental personnel within the uniformed services and the Veterans' Administration.

Due to a medical and dental personnel recruitment and retention problem, based on pay discrepancies between the public and private sectors, Congress originally approved temporary comparability pay authority for the uniformed services in 1974—Public Law 93–274—and for the Veterans' Administration in 1975—Public Law 94–123. There is good evidence that these bonus pay systems have effectively alleviated the recruitment and retention problem within these branches of the Federal Government. The Federal Personnel Management Project Option Paper No. 6 of October 14, 1977, in discussing the Federal medical and dental personnel pay problem, notes that:

With reports of recruitment and rentention up in the Uniformed Service and the Veterans' Administration, there is little doubt that the bonuses (Variable Incentive Pay) have been successful. They have enabled the agencies to accomplish their missions during these years of physician shortages, before the Federal scholarship programs begin producing large numbers of service-obligated physicians for Government positions.

OMB and GAO reports indicate that the supply problem may be temporary—with surpluses possible in the 1980's. Thus an extension of temporary bonus authorities may be appropriate. To continue them indefinitely, however, would perpetuate a stopgap remedy with its inequities among pay systems and its adverse effects on morale, career plans, and long-term programs. Also, such action would ignore the mood of the Congress for a permanent solution.

It has been generally accepted that a long-term comprehensive solution to the recruitment/retention problem for all Federal physicians and dentists is in order. However, until such a solution can be devised, we must insure that temporary pay authority is available. It is a matter of simple equity.●

By Mr. SPARKMAN (by request):

S. 2846. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

● Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 to authorize security assistance programs for fiscal year 1979 and 1980.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point together with a letter from the Secretary of State dated March 21, 1978, and a section-by-section analysis of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance Act of 1978".

CONTINGENCY FUND

SEC. 2. Section 451(a) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1978 not to exceed $5,000,000" and inserting in lieu thereof "for the fiscal year 1979 not to exceed $5,000,000".

INTERNATIONAL NARCOTICS CONTROL

SEC. 3. Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$39,000,000 for the fiscal year 1978", and inserting in lieu thereof "$40,000,000 for the fiscal year 1979".

MILITARY ASSISTANCE

SEC. 4. (a) Section 504(a)(1) of the Foreign Assistance Act of 1961, relating to authorization, is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $133,500,000 for the fiscal year 1979. Not more than the following amounts of funds available to carry out this chapter may be allocated and made availble for assistance to each of the following countries for the fiscal year 1979:

Country	*Amount*
Portugal	$27,900,000
Spain	41,000,000
Jordan	45,000,000
Philippines	18,100,000

The amount specified in this paragraph for military assistance to any such country for the fiscal year 1979 may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.".

(b) Section 516(a) of the Foreign Assistance Act of 1961, relating to termination of authority, is amended by inserting immediately before the period at the end thereof a comma and "and until September 30, 1981, to the extent necessary to carry out obligations incurred under this chapter with respect to Greece, Indonesia and Thailand between October 1, 1977 and September 30, 1978".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 5. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$270,000,000 for the fiscal year 1978" and inserting in lieu thereof "$90,000,000 for the fiscal year 1979".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 6. Section 515 of the Foreign Assistance Act of 1961 is amended as follows:

(1) in subsection (b)(1)—

(A) by striking out "the fiscal year 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(B) by striking out "Brazil" and inserting in lieu thereof "Greece, Turkey, Indonesia, Thailand"; and

(2) in subsection (f), by striking out "1976" and inserting in lieu thereof "1977, except that the President may assign an aggregate total of not to exceed eight additional defense attaches to such countries in order to perform security assistance management functions under this subsection".

SECURITY SUPPORTING ASSISTANCE

SEC. 7. Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 532. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1979 not to exceed $1,854,400,000. Amounts appropriated under this section are authorized to remain available until expended.".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 8. Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$31,000,000 for the fiscal year 1978" and inserting in lieu thereof "$32,100,000 for the fiscal year 1979".

RENEGOTIATION ACT OF 1951

SEC. 9. Section 22 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(c) Contracts for the procurement of defense articles and defense services heretofore or hereafter entered into pursuant to this section or predecessor provisions of law shall be exempt from the provisions of the Renegotiation Act of 1951, as amended.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 10. Section 31 of the Arms Export Control Act is amended—

(1) in subsection (a), by striking out "$677,000,000 for the fiscal year 1978" and inserting in lieu thereof "$672,500,000 for the fiscal year 1979";

(2) in subsection (b), by striking out "$2,102,350,000 for the fiscal year 1978" and inserting in lieu thereof of "$2,067,500,000 for the fiscal year 1979";

(3) in subsection (c), by striking out "the fiscal year 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(4) in subsection (d), by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

ASSISTANCE AND SALES TO GREECE AND TURKEY

SEC. 11. (a) In addition to any amounts authorized to be appropriated by any amendment made by this Act which may be available for such purpose, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1979 to carry out international agreements relating to defense cooperation with Greece and Turkey.

(b) No funds appropriated under this section may be obligated or expended to carry out any agreement described in subsection (a) until legislation has been enacted approving such agreement.

(c) Section 620(x) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1978" each place it appears and inserting in lieu thereof "for the fiscal year 1979".

MISCELLANEOUS PROVISIONS

SEC. 12. Authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 as contained in provisions of law amended by this Act (other than section 31(d) of the Arms Export Control Act) shall not be affected by enactment of this Act.

SEC. 13. There are authorized to be appropriated for the fiscal year 1980 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1979 are authorized by this Act.

THE SECRETARY OF STATE,
Washington, D.C., March 22, 1978.

HON. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: On behalf of the Executive Branch, I hereby transmit a bill to authorize security assistance programs for fiscal years 1979 and 1980. Through these programs, the United States assists friendly and allied nations to cope with political and economic crises and to acquire and maintain the capability to defend themselves. This is essential to the attainment of our own foreign policy goals in an increasingly interdependent world.

The bill will authorize both military and economic forms of security assistance, with nearly seventy percent of the funds requested intended for supporting assistance, the economic portion of our security assistance program. Of this economic component, a preponderance of the funds will be directed toward support of the Middle East peace process. A sizable portion of the funds requested for military programs will enable us to continue security cooperation with those countries where the United States maintains overseas bases or important military facilities. Additionally, the bill authorizes funds needed for programs in the field of international narcotics control.

The military programs proposed in this legislation have been formulated in a manner consistent with President Carter's commitment to restrain conventional arms transfers. At the same time, however, these programs make clear that the United States will continue to utilize conventional arms transfers to promote our own security and the security of our close friends. The security assistance programs proposed in this legislation represent a reduction from our requests of previous years.

In formulating these programs, we have taken into account the human rights practices in each of the proposed recipient countries. We are committed to a continuing effort to promote the advancement of and respect for internationally-recognized human rights.

Through the security assistance program for FY 1979 we are demonstrating the continuity of the U.S. commitment to help provide Israel with its essential security needs. This longstanding American commitment has been a major factor in ensuring that Israel has the means to defend itself and the confidence to engage in meaningful negotiations with its Arab neighbors aimed at a lasting peace. At the same time, the proposed programs for Israel's Arab neighbors make it clear that the United States supports the economic well-being and development of these countries and a peaceful settlement of the problems that plague the troubled Middle East.

The enclosed bill was drafted prior to the foreign assistance legislation proposed by Senator Humphrey which has been recently introduced (S. 2420). The Executive Branch is currently reviewing this legislation. Transmittal of this authorization request is not intended to indicate a position on any aspect of S. 2420.

I know that the Congress shares our concerns that conventional arms transfers be restrained and that our friends and allies receive the support necessary for them to meet their legitimate defensive needs. We are firmly committed to close and continuing consultation with the Congress in the implementation of our security assistance program and of arms transfer policies and practices.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

I urge early passage of the enclosed legislation.

Sincerely,

CYRUS VANCE.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

I. INTRODUCTION

The proposed International Security Assistance Act of 1978 (hereinafter referred to as "the Bill" amends the Foreign Assistance Act of 1961 (hereinafter referred to as "the FAA"), and the Arms Export Control Act (hereinafter referred to as "the AECA") in order to authorize appropriations to carry out international security assistance programs for the fiscal year 1979. The Bill also contains authorizations for certain economic assistance programs and, in accordance with the Congressional Budget Act of 1974, requests authorizations for the fiscal year 1980.

II. PROVISIONS OF THE BILL

Section 1. Short Title.

This section provides that the Bill may be cited as the "International Security Assistance Act of 1978."

Section 2. Contingency Fund.

This section amends section 451(a) of the FAA to authorize appropriations of not to exceed $5,000,000 for the fiscal year 1979 for contingency fund purposes.

Section 3. International Narcotics Control.

This section amends section 482 of the FAA to authorize appropriations of not to exceed $40,000,000 for the fiscal year 1979 for the international narcotics control program.

Section 4. Military Assistance.

This section consists of two subsections, as follows:

(a) This subsection amends section 504(a)(1) of the FAA to authorize appropriations of not to exceed $133,500,000 for carrying out military assistance programs in the fiscal year 1979. The amount of assistance which may be provided is specified with respect to each of the four countries designated. (Military assistance for Greece and Turkey in the fiscal year 1979 is authorized by section 11 of the Bill, subject to approval of the defense cooperation agreements with those countries.) These allocations may be increased by not more than 10 percent if deemed necessary for the purposes of the chapter. With respect to the four designated countries, the amended section 504(a)(1) constitutes the specific authorization required by section 516(a) of the FAA. It is estimated that approximately $48,500,000 of the appropriated funds will be used to pay administrative and related expenses. The military assistance program is made up of new budget authority plus reimbursements. In addition, reappropriations and recoupments are traditionally made available to the military assistance account in appropriations legislation. The total fiscal year 1979 military assistance program of $180,500,000 will require the appropriation of $133,500,000. The amount requested includes funds to reimburse the Department of Defense for the cost of overseas management of security assistance programs as required by section 515 of the FAA.

(b) This subsection amends section 516(a) of the FAA to provide that the military assistance authorities of the FAA shall remain available until September 30, 1981 in order to carry out obligations incurred under the military assistance chapter of the FAA with respect to Greece, Indonesia and Thailand between October 1, 1977 and September 30, 1978.

Section 5. Stockpiling of Defense Articles for Foreign Countries.

This section amends section 514(b)(2) of the FAA to establish a ceiling of $90,000,000 on the aggregate value of additions made in fiscal year 1979 to overseas stockpiles of defense articles (other than in NATO countries) which are to be designated as war reserve stocks for allied or other foreign forces. The United States retains title to stocks so designated. Section 514(a) prohibits their transfer to a foreign country except under authority of the FAA or the AECA, and within the limitations and funds available under those Acts.

Section 6. International Military Assistance and Sales Program Management.

This section amends section 515 of the

FAA and consists of four paragraphs, as follows:

(1) This paragraph amends section 515(b) (1) to authorize assignment of more than six military personnel to perform security assistance management functions in Portugal, Spain, Jordan, the Philippines (i.e. those countries for which military assistance in the fiscal year 1979 is authorized by section 504(a) (1) of the FAA, as amended by section 4 of the Bill), Greece, Turkey, Indonesia, and Thailand. (Such groups in Korea, Panama, Morocco, Iran, Kuwait, and Saudi Arabia will continue to be authorized by section 515(b) (1).) Indonesia and Thailand are countries for which undelivered MAP remains from previous fiscal years. Greece, as well as Turkey, would receive security assistance under the defense cooperation agreements with those countries, once those agreements enter into force. Six military personnel will be assigned to Brazil under the authority of section 515(c) in fiscal year 1979, and for that reason that country has been dropped from section 515(b) (1).

(2) This paragraph amends section 515(f) to provide that the number of defense attaches performing securities assistance management functions in a country under that subsection may not exceed the number of defense attaches authorized for assignment to that country on December 31, 1977. The amended section 515(f) would further permit the President to assign up to eight additional defense attaches worldwide to perform security assistance management functions under section 515(f).

Section 7. Security Supporting Assistance.

This section amends section 532 of the FAA to authorize appropriations of not to exceed $1,854,400,000 for the fiscal year 1979 for assistance to friendly countries and international organizations to support or promote economic or political stability.

Section 8. International Military Education and Training.

This section amends section 542 of the FAA to authorize appropriations of not to exceed $32,100,000 for the fiscal year 1979 for the purpose of furnishing military education and training to military and related civilian personnel of foreign countries.

Section 9. Renegotiation Act of 1961.

This section adds a new subsection (c) to section 22 of the Arms Export Control Act, relating to procurement for sales under that Act, in order to make clear that contracts entered into under that section or its predecessor provisions for procurement of defense articles and defense services for sale to foreign countries and international organizations under the Act are exempt from the provisions of the Renegotiation Act of 1951, as amended. This amendment would overrule a recent decision by the Renegotiation Board that the scope of its authority extends to FMS contracts.

Section 10. Foreign Military Sales Authorization and Aggregate Ceiling.

This section contains four paragraphs, each amending section 31 of the AECA, as follows:

(1) This paragraph amends section 31(a) to authorize appropriations of not to exceed $672,500,000 for fiscal year 1979 for the purpose of carrying out foreign military sales credit and guaranty programs under the AECA.

(2) This paragraph amends section 31(b) to establish a ceiling of $2,067,500,000 for fiscal year 1979 on the aggregate total of credits extended, and the principal amount of loans guaranteed, pursuant to the AECA, and to allocate not less than $1,000,000,000 of that aggregate total to Israel.

(3) This paragraph amends section 31(c), relating to terms and conditions governing repayment by Israel of financing extended pursuant to the AECA, to make that subsection applicable to such financing extended in fiscal year 1979.

(4) This paragraph amends section 31(d) relating to the ceiling on the aggregate acquisition cost of excess defense articles sold under the Act or granted under the Foreign Assistance Act of 1961, as amended, to increase that ceiling from $100,000,000 to $150,000,000.

Section 11. Assistance and Sales to Greece and Turkey.

This section consists of three subsections, as follows:

(a) This subsection authorizes the appropriation of such sums as may be necessary in order to carry out defense cooperation agreements with Greece and Turkey in the fiscal year 1979. Military assistance for Greece and Turkey in the fiscal year 1979 is authorized under this section rather than under section 504(a) of the FAA, as amended by section 4(a) of the Bill. Amounts appropriated pursuant to this subsection would be in addition to such amounts as might otherwise be made available under the FAA or AECA for these purposes in the fiscal year 1979.

(b) This subsection conditions the obligation or expenditure of funds appropriated under this section upon the enactment of legislation approving the defense cooperation agreement in question.

(c) This subsection amends section 620(x) of the FAA to authorize FMS sales and financing to Turkey of up to $175,000,000 in defense articles and services which the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of NATO.

MISCELLANEOUS PROVISIONS

Section 12. This section provides that authorizations and limitations applicable to the fiscal year 1978 by provisions of law amended by the Bill will not be affected by enactment of the Bill. This is to take into account the possibility that the Bill will become law prior to the end of the fiscal year 1978.

Section 13. This section authorizes appropriations for the fiscal year 1980 of such sums as may be necessary to carry out programs and activities for which fiscal year 1979 appropriations are authorized by the Bill. This section is necessary in order to comply with the Congressional Budget Act of 1974.●

By Mr. JOHNSTON:

S. 2848. A bill to authorize the Secretary of the Interior to render assistance to the State of Louisiana to restore Fort St. Jean Baptiste de Natchitoches, and for other purposes; to the Committee on Energy and Natural Resources.

FORT ST. JEAN BAPTISTE DE NATCHITOCHES

● Mr. JOHNSTON. Mr. President, today I am introducing a bill to reconstruct Fort St. Jean Baptiste de Natchitoches, on the banks of the Cane River in Natchitoches, La.

Fort St. Jean Baptiste was one of the earliest strategic outposts of French Louisiana. Founded in 1716 by Sieur Charles Claude Dustisne, this Fort prevented the Spaniards in Mexico from advancing into Frence territory. When the territory was ceded to Spain following France's defeat by England in the French and Indian War in 1762, Fort St. Jean Baptiste served as a vital communications link in the vast Spanish colonial empire. The fort remained in service until shortly after the Louisiana Purchase in 1803 when it was abandoned by the United States after completion of nearby Fort Claiborne.

My bill will provide Federal technical and financial assistance for land acquisition and reconstruction of the fort. A proposal has already been developed by the Louisiana State Parks and Recreation Commission to rebuild Fort St. Jean Baptiste using plans drawn in 1733 by the French architect-engineer Ignace Francois Broutin. Careful research in the archives of France and Spain was undertaken on Colonial construction methods in Louisiana and I believe an authentic reconstruction can be accomplished which will recapture the setting and spirit of this important part of our past. Unfortunately, Louisiana's limited State parks budget has prevented the State from financing this project. But, with initial Federal help, I believe the project can be completed and then turned over to the State for operation and maintenance.

Similar projects have been undertaken in various parts of the United States and Canada and each of these reconstructed forts has proved to be a major tourist attraction. A few examples include Fort Caroline at Jacksonville, Fla.; James Fort at the Jamestown Festival Park in Virginia; Fort Michilimackinac in Michigan and Fort Harrod at Harrodsburg, Ky. Fort St. Jean Baptiste de Natchitoches can be rebuilt using the same methods and this reconstruction will bring alive an important area in Louisiana's colonial history, serving as an example of Louisiana frontier settlements as well as being an important demostration of log fort construction techniques.●

By Mr. EAGLETON:

S. 2850. A bill to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes; to the Committee on Human Resources.

OLDER AMERICANS ACT OF 1978

● Mr. EAGLETON. Mr. President, at the beginning of this decade, the Older Americans Act consisted largely of a program of grants to the States, under which about $15 million was distributed among the States, four territories, Puerto Rico, and the District of Columbia. Although the funding level was hardly adequate, the act established for the first time a Federal social service program exclusively for the elderly. Perhaps the most significant accomplishment of the 1965 act was to set forth the goals that all older Americans are entitled to: First, an adequate income in retirement; second, the best possible physical and mental health; third, suitable housing; fourth, full restorative services; fifth, pursuit of meaningful activity; sixth, efficient community services; and seventh, freedom, independence, and the free exercise of individual initiative in planning and managing their own lives. These lofty goals remain a part of the act today.

In addition to establishing the above objectives, three grant programs were established: Community social service projects, research and demonstration projects, and training in the field of aging.

In 1969, the community service program was expanded and a program of areawide model projects for testing new

and varied approaches for providing social services was established. A new program for senior volunteers was initiated.

1972 brought a major new element to the Older Americans Act with the authorization of the nutrition program for the elderly. This program now receives the largest share of funding of any of the Older Americans Act programs.

1973 also marked significant changes in the act. The community services program was significantly restructured to place emphasis on planning, advocacy, pooling of existing resources, and the initiation of new services in behalf of the elderly rather than on direct service delivery. In fact, area agencies on aging were specifically prohibited from providing direct services except as a provider of last resort.

In addition, the 1973 amendments authorized grants, mortgage insurance and interest subsidy grants for the acquisition, alteration or renovation of facilities to serve as multipurpose senior centers.

This briefly summarizes the evolution of the act. No significant legislative changes have been made in the programs authorized under the Older Americans Act since 1973.

In addition to looking at the authorizing legislation, let us also briefly review the funding history of the act. In 1966, the total appropriation under the Older Americans Act was $7.5 million. That has now grown to almost $500 million in the present fiscal year.

Despite greatly expanded authorizations and a 60-fold increase in funding, we must ask ourselves how well has all of this met the lofty goals established in 1965?

I submit, not very well. That is not to say that no progress has been made. Quite the contrary.

The nutrition program currently provides about 630,000 daily meals in 1,200 projects.

The older workers employment program provides part-time jobs for some 47,500 elderly.

An estimated 11 million individual services are provided annually through the community services program.

A network of over 600 State and local area agencies have been established.

The Administration on Aging and the programs it administers have served as a focal point for Federal support for the elderly. But its impact on the lives of the elderly population has been limited.

Never before has there been so great a need to focus on the overall picture of Federal support for the elderly, and to look to see how the Older Americans Act and its programs can best serve as a catalyst for a concerted Federal effort to improve the health and well-being of the elderly. In the past 10 years, Federal spending for the elderly has risen from about one-fifth of the Federal budget to approximately one-third. This is largely attributable to the vast population increase of those aged 65 and older. In 1950, the aged 65 and older population comprised roughly 8 percent of our total population. According to demographic projections, this percentage will increase to about 13 in the year 2000.

Let us look briefly at other major Federal programs significantly impacting on the lives of the elderly. Obviously, the largest of these would be medicare, now funded at $8 billion. It is interesting to note that medicare and medicaid were enacted at the same time as the original Older Americans Act. Yet medicare far outstrips—about 12 to 1—the total appropriations for the Older Americans Act.

In addition to the major medicare program, there are six other health care programs for the elderly in 2 executive departments and 1 independent agency; 9 employment programs in 1 executive department and 2 independent agencies; 10 housing programs in 2 executive departments; 4 transportation programs; 11 social services programs—including those authorized under the Older Americans Act—in 2 executive departments and 2 independent agencies; and 6 training and research programs. This list does not entirely exhaust the special emphasis programs for the elderly and clearly does not take into account the many general purpose programs which impact on the lives of our senior citizens.

If we are to make a meaningful contribution to realizing the goals stated in title I of the Older Americans Act, I believe it is necessary, as a first step, to provide meaningful coordination of the programs now authorized under the Older Americans Act. The legislation which I am proposing today seeks to consolidate the service programs under the Older Americans Act into a single authority, and mandates coordination with other programs within the Federal Government which serve the elderly population. In my view, the creation of such a coordinated network of services is the only way in which we can establish a meaningful alternative care program assisting the elderly to remain in their own homes. Further, unless we can insure joint planning and coordination at all levels of government—Federal, State, and local—we can never maximize the use of the funds under the Older Americans Act.

Mr. President, I would like to summarize some of the major provisions contained in the proposed legislation:

Title I of the bill I am proposing today amends the existing Older Americans Act in the following ways:

Establishes a Counselor to the President on Aging.

Early in his administration, President Carter created the position of Counselor to the President on Aging. This important White House staff position necessarily involves the counselor—who ably represents the interests of the aged in daily meetings and discussions within the highest levels of our Government. I firmly believe that this kind of access to those in policymaking positions will provide elderly citizens valuable dividends in years to come. I commend the President for his initiative in creating such a position on the White House staff and it is my belief that this staff position should be made a permanent position within every administration.

In light of this new statutorily mandated position of Counselor to the President, I recommend that the authority for the Federal Council on Aging be deleted. In 1973, Congress established the 15-member Federal Council on Aging and mandated a number of specific studies—all of which have been successfully completed. Without question, the Federal Council has performed its functions in a commendable manner, but in my opinion the Council's main funtion—reviewing and commenting on the efforts of the administration and Congress to effectively provide services to the elderly—can best be served by other existing agencies or committees. Beginning in 1973, a nationwide network of aging organizations has developed, extending from the Administration on Aging, to the State offices on aging, the area agencies on aging, local aging commissions, and the community-based senior centers. The various national organizations such as AARP/NRTA, NCOA, NCSC, Farmer's Union, and so forth have become effective advocates of the interests of senior citizens. The decennial White House Conferences on Aging have focused national attention on the evolving concerns and problems of our older population. In addition, the National Institute on Aging and the several congressional committees that have oversight responsibilities on aging programs provide valuable insight on the needs of the aged. In my opinion, all of these above-named resources provide an adequate "watch dog" and sounding board for those of us in Congress and in the administration.

Another change in this title provides a guarantee that no participant in the programs covered under this act will have their Federal public assistance programs adversely affected because of benefits received from this act. This will prevent, for example, a title V participant from being dropped from the medicaid or food stamps programs because of the salary received under this title.

Consolidation of service programs under the act.

Amendments to title III consolidate the existing titles III, V, and VII into one title with a single authorization of $750 million and $850 million respectively for fiscal years 1979 and 1980. The purpose of this consolidation is to insure that coordination and cooperation among the various programs contained under the umbrella of the Older Americans Act is achieved. The 1973 Older Americans Act amendments created an extensive network of State and area agencies on aging throughout the country. The legislation I am proposing will give them the responsibility to coordinate all aging programs on the local level. It is my belief that all Older American Act programs should be implemented through this central network so that a focal point for services to the elderly can be established in each community in order to insure a proper coordination of services.

In an effort to reduce the burdens of paperwork, the bill establishes a 2-year planning under this title. This will elim-

inate the unending planning which results from annual planning requirements.

In addition, the bill proposes to increase the minimum amount of money a State may receive from the Federal Government to administer their State plan from the present $200,000 to $250,000. The State administration match is increased from 25 percent to 33⅓ percent. I believe it is desirable to increase State responsibility for these programs.

A major new provision of the bill requires that at least 50 percent of an area agency on aging's allotment be spent in one of the following ways: First, in the delivery of one specific social service; second, on nutrition services; or third, on a particular segment of the elderly population. The remaining allotment can be used in any proportion on as many or as few programs as necessary to meet the additional needs of the elderly living in a particular community. I am proposing this change because I believe we need to target more of the social service money in order to insure that the funds under this act make a major contribution in one area rather than to continue the existing "nickel and dime" approach we use for a wide variety of programs. Although I am not wedded to this targeting concept, I do believe it has some merit, and is worth exploring. Let me emphasize that the priorities within a given community would be made within that community to best suit the particular needs of the elderly living in the area.

TITLE IV, TRAINING, RESEARCH, AND SECRETARIAL PROGRAMS

The only major change in this title is that model projects is now included under this title. I consider title III a purely service title and in my opinion, since model projects is a demonstration program, it is more appropriately continued in title IV of this act.

Redesignates existing title IX as title V, Community Service Employment for Older Americans.

This has proved to be a very valuable and successful jobs program for unemployed low-income persons 55 years of age or older. The record shows that the national contractors have done a commendable job in implementing this program on the local level. Only recently have the State agencies been given title V jobs slots to fill and it is my expectation that they will be as successful in program management as the national contractors.

The bill I am proposing makes two major changes in the present law. It raises the local match from the present 10 percent to 20 percent.

Second, it clearly mandates coordination and cooperation between national contractors and State agencies on aging within the State. In addition, it establishes a review process whereby the Secretary of Labor, on his own initiative, or upon receipt of a complaint from the State and/or National contractors on how title V jobs have been distributed within the State, shall hold review hearings in an attempt to insure equitable job placement across a given State. I propose this change because both State agencies and national contractors have been concerned that coordination between the two groups is inadequate in some cases.

Title II of the bill authorizes the President to call a White House Conference on Aging in 1981, in order to develop recommendations for further research and action in the field of aging.

Title III of the bill requires the U.S. Civil Rights Commission to undertake a study of discrimination based on race and ethnic background in any federally assisted program which affects older people. This study shall be submitted to Congress and to the President no later than 18 months after the enactment of this act.●

By Mr. MATHIAS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. STAFFORD, Mr. CRANSTON, Mr. JAVITS, Mr. MOYNIHAN, Mr. HEINZ, Mr. CASE, Mr. MORGAN, Mr. CHAFEE, and Mr. MCCLURE):

S. 2851. A bill to amend the Public Buildings Act of 1959 in order to restore the Pension Building in Washington, D.C., to house the Museum of Building Arts, and for other purposes; to the Committee on Environment and Public Works.

A MUSEUM OF THE BUILDING ARTS

● Mr. MATHIAS. Mr. President, the buildings, parks, and monuments of America tell us a great deal about the history of our civilization. They mirror the mood, ideals, and technology of the times in which they were created, and they stand in tribute to the genius and industry of the American worker.

Many foreign countries have recognized the contributions of their native building arts and sciences by establishing national museums to display and trace the history of their man-made environment. Yet our Nation, which has been extraordinarily creative in this area, lacks a proper showcase for the magnificient achievements Americans have made in such fields as civil engineering, architecture, building trades and crafts, landscape architecture, city planning, and urban design.

The bill I am introducing today on behalf of several of my colleagues would create such a Museum of the Building Arts and locate it in an appropriately striking architectural landmark here in Washington, the Pension Building.

This handsome red brick building on Judiciary Square, was constructed between 1882 and 1887 to house the U.S. Pension Office and to serve as a memorial to the Civil War. Designed by an Army engineer, Gen. Montgomery C. Meigs, the building features an interior court four-stories high, enclosed by four tiers of galleries for office space, with natural lighting from clerestroy windows. This magnificient court has been the scene of nine inaugural balls, including one of those for President Carter. This interior court and the surrounding ground level gallery would provide an excellent space for the exhibit of the tools, products, and completed works of the building arts, trades, and professions.

The building encompasses approximately 150,000 square feet of usable space. This is more than sufficient for the proposed exhibitions, library, archives, and forum activities. In fact, about 25,000 square feet of office space on the fourth floor may be available for rental to organizations concerned with the building arts.

The Museum of the Building Arts would have three major purposes:

To hold exhibitions;

To sponsor forums; and

To maintain library and archives.

Exhibitions would be both permanent and temporary. The interior courtyard would serve as the primary display space for the tools of the trade and its products. These might include working demonstrations of brick laying, carpentry, electrical wiring, plumbing, and mechanical engineering. Cranes, jackhammers, trowels, and specialized tools for such arts as woodworking, plastering, stone carving, and the like could also be displayed there.

The early building crafts and techniques which are rapidly being lost, such as those used in the birch bark "long house" or the Iroquois, might also be displayed. The lawn surrounding the Pension Building would also be available for display purposes which would attract visitors to the museum.

Although some artifacts, tools, buildings, and structures might be acquired by the museum, we foresee the museum organizing temporary exhibitions with loaned materials wherever possible. Not only would the museum be a testament to the past achievements of American planning and building, it would also present examples of new technology in such important areas as energy conservation. In fact, it has been suggested that it would sponsor periodic expositions on the state of the building arts and sciences to show the best that the American building industry is capable of producing. Such exhibits could be expected to attract international attention and promote technology exchange.

The museum would sponsor forums intended to expand public awareness of both the nature and contribution of planning and building to American civilization. The planning and building forum would be an information clearinghouse that would direct visitors and scholars to original source material. Again, the museum would not necessarily house such materials, nor would it conduct further research in those areas. There are several existing public and private organizations better equipped to do that job. Rather, it would direct inquiries to the proper repository in such subject areas as architecture, urban design, city and regional planning, engineering, and landscape architecture. The clearinghouse would also provide information on legislation and regulations pertaining to these fields, and on research and new technology.

The education and extension programs of the museum would reach out to the Nation's schools, universities, and citizenry. Sample curricula, readers, building games, and the like would be developed for a range of age groups. The purpose would be to inform our citizens,

particularly our youth, of the nature of the various disciplines involved in building arts and sciences and the contributions they made and continue to make. This might serve as an adjunct to career counseling in schools so that students could be better informed of the careers in the building arts they might pursue.

Lastly, the library and archives would be the repository of specialized books, catalogs, pamphlets, plans, drawings, and the like which are not now available in any central location. In addition, it would serve as a referral center to the buildings of other libraries and museums. Such an arrangement is eminently sensible in that it avoids costly duplication of services and library resources. Such a comprehensive referral service is not now available.

The museum would assist people holding important architectural, engineering and design plans, drawings, and photographs to find a proper repository for them. The museum itself would be a collector of last resort.

It would prepare recommended standards for the preservation and cataloging of such documents as well as an inventory of existing documents and their location. This is one of the most basic needs of the many professions associated with the building arts and sciences.

Mr. President, the concept for a Museum of the Building Arts has been germinating for some time now. A committee of eminent citizens has worked long and hard to bring this museum into being and has been instrumental in securing official endorsement for this proposal from a number of important organizations involved in the building arts. I ask unanimous consent that a listing of those official endorsements as well as the names of the board of directors and Committee for a National Museum of the Building Arts, Inc., appear at this point in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

THE COMMITTEE FOR A NATIONAL MUSEUM OF THE BUILDING ARTS, INC.

BOARD OF DIRECTORS

Cynthia R. Field, President.
Chloethiel Woodard Smith, Vice President.
Herbert M. Franklin, Secretary/Counsel.
Beverly Willis.
James W. Rouse.
Wolf Von Eckardt, Program Director.

THE COMMITTEE

James Biddle, Albert Bush-Brown, Carl W. Condit, James Marston Fitch, Arthur J. Fox, Jr., R. Buckminster Fuller, Robert A. Georgine, Frederick Gutheim, Philip Hammer, Blake Hughes, Bates Lowry, William Marlin. Mrs. Eric Mendelsohn, Martin Meyerson, Dan E. Morgenroth, Howard E. Paine, Flaxie M. Pinkett, Adolf K. Placzek, Kevin Roche, William L. Slayton, Marietta Tree, David A. Wallace, Bernard Weissbourd, William L. C. Wheaton.

OFFICIAL ENDORSEMENTS

AFL–CIO, Building and Construction Trades Department.
American Institute of Architects.
American Institute of Planners.
Associated General Contractors of America.
Association for Preservation Technology.
National Association of Housing and Redevelopment Officials.
Society for Industrial Archeology.
Society of Architectural Historians.
The Victorian Society in America.
Washington Building Congress.

Mr. MATHIAS. Mr. President, this Museum presents us with numerous opportunities. It could be a catalyst for innovative cooperation in the entire building industry. It will certainly serve as an educational body to inform students and the general public about the history and current state of the art of planning and building. And it will bring together in a forum both American and international visitors and scholars. All of these activities will make it a working museum in the best sense of the word. It will stand as an inspiring tribute to American genius and industry.●

● Mr. MORGAN. Mr. President, today I am very pleased to join with the distinguished Senator from Maryland, Mr. MATHIAS, and a number of other Senators, including the distinguished chairman of the Committee on Environment and Public Works, on which I previously served, in support of legislation to create a National Museum of the Building Arts.

The Museum of the Building Arts would provide a showcase for some of the creative areas in which Americans have long excelled—architecture, engineering and construction.

It is envisioned as a living museum—one which not only memorializes and documents our architectural past, but which also provides a forum for continuing public education and exchange in such areas as environmental problem-solving, and planning and design for energy-efficient, healthful and enjoyable urban living. This museum can become an exciting focal point for a widespread effort which helps us appreciate and preserve our past, while building for a better future.

The museum would utilize the existing Pension Building, an imposing structure of considerable architectural and historical interest. A Federal building constructed between 1882 and 1887, the Pension Building originally provided work-space for 1,500 employees of the U.S. Pension Office. Inspired by the Renaissance Palazzo Farnese in Rome, the design of the building probably represented a real step forward in terms of creating a pleasant and comfortable work-environment, which also inspired the pride of public employees.

The inner court, with four tiers of galleries and 76-feet high marble Corinthian columns is nothing short of magnificent. It is ideally suited to gallery display space.

I urge my colleagues to visit the Pension Building and to examine our proposal for its use as a museum of the building arts. I am confident that additional support will then be forthcoming to make this proposal a reality.●

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2853. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Commerce, Science, and Transportation.

A TELEVISION STATION FOR NEW JERSEY

● Mr. WILLIAMS. Mr. President, today I am introducing a bill to require that each State be assigned at least one commercial VHF television station.

The Communications Act of 1934 requires the Federal Communications Commission to distribute broadcast licenses among the several States and communities in a fair, efficient, and equitable manner. Despite this requirement, New Jersey, the most densely populated, the most industrialized, and the eighth most populous State in the Nation does not have a major television station. The only other State in this situation is Delaware. While New York City has seven VHF stations, and Philadelphia has four, Newark has none at all.

This inequity has had a substantial impact on New Jersey businesses and consumers alike. It has affected the political awareness of New Jerseyites, who, despite their high national ranking in terms of level of education and income, rank last in the Nation in their knowledge of local public affairs. This is directly attributable to the lack of local television news coverage.

In an effort to improve this situation, the New Jersey Coalition for Fair Broadcasting was formed in 1972. I am pleased to have served as one of the coalition's cochairmen since its founding. We have pursued several courses of action—before the FCC, in the courts, and in Congress—to secure adequate television coverage for our State.

In 1974, the coalition petitioned the FCC to look into the need for better local television service. In 1976, the Commission finally recognized that New Jersey was not receiving its share of local news coverage. It said, in part:

> New Jersey's television needs and its overall circumstances constitute a special case warranting unique and responsive action by the Commission. It appears that New Jersey's 7.4 million people receive less than the daily, detailed local television news and public affairs coverage enjoyed by viewers in other parts of the country. The Commission believes the time has come for more substantive, positive long-term steps.

The steps that the Commission decided to take several months later, however, were timid indeed. It refused to reassign a VHF station to New Jersey. It would not change the license of an existing station to dual community status. It would not even require New York and Philadelphia stations to establish studios in New Jersey.

Instead, the Commission merely accepted the minimal voluntary commitments by New York and Philadelphia stations to increase their New Jersey coverage. With that, the proceeding was closed.

The coalition has monitored the effects of the stations' commitments, and preliminary results are now available. We have found no significant change in coverage of our State. Indeed, some stations have actually reduced their coverage. Despite the fact that New Jerseyans make up fully one-third of the stations' audience, only 9 to 18 percent of their

local news coverage is devoted to New Jersey.

These findings make it clear that the FCC's decision has been ineffective. We, in the coalition, will remind the Commission of this fact when the licenses for these stations come up for renewal. In addition, we will pursue all the other remedies available to us in the Commission and in the courts.

Today, I join Senator CASE and most of the New Jersey House delegation in bringing our case to Congress. The bill we are introducing today would require that each State have at least one commercial VHF television station.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of Senator CASE's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

● Mr. CASE. Mr. President, Senator HARRISON A. WILLIAMS and I are introducing legislation today to amend the Communications Act of 1934 to provide each State with at least one VHF television station. New Jersey and Delaware are the only two States in the country without a VHF television station. This bill is designed to end the unfair and discriminatory situation that New Jerseyites have been saddled with by the Federal Communications Commission and the television broadcast media since 1961.

We have petitioned the FCC time and time again to come up with an effective remedy for the lack of New Jersey news coverage as well as other New Jersey programing. The FCC has agreed that New Jersey's news coverage is inadequate by the only "remedy" it has offered is to encourage the stations in New York and Philadelphia to come up with their own voluntary plans for improving New Jersey coverage. This has been tried before and it simply does not work. Voluntary commitments on the part of many television stations in New York City and Philadelphia are not carried out.

This situation in which New Jersey finds itself becomes less and less tolerable. An informed citizenry is essential to the solution of the many social, economic, and political problems New Jersey faces.

New Jersey is the eighth most populated State in the country, the most densely populated, the most industrialized, and the third highest State in per capita income. Newark, New Jersey's largest city, is the largest city in the country without a VHF station. New Jersey viewers constitute over 30 percent of the audience for the New York and Philadelphia VHF stations. Reallocation of a VHF license to New Jersey is the sole prerogative of the Federal Communications Commission. Our bill would require the FCC to license a VHF station in every State.

The bill is being introduced in the House by Congressman MAGUIRE and Congresswoman MILLICENT FENWICK and 11 other Members of the House delegation.

EXHIBIT 1

S. 2853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Communications Act of 1934 is amended by adding after subsection (b) the following new subsection:

"(c) (1) The Commission shall distribute licenses for very high frequency commercial television stations in such manner that there shall be located within each of the several States at least one such station for which a license has been granted by the Commission.

"(2) With respect to each State in which no very high frequency commercial television station was located before the date of enactment of this subsection, the Commission shall designate, within six months after such date, those frequencies which would be suitable for reassignment to a station to be located in such State. For purposes of the preceding sentence, a frequency shall be deemed suitable for reassignment if the broadcasts on such frequency by any station for which a license might be granted as a result of the enactment of this subsection would not interfere with the broadcasts of any other station (except for any station broadcasting on the frequency designated for reassignment).

"(3) The Commission shall determine the fair market value of any station broadcasting on a frequency which is designated under paragraph (2) as suitable for reassignment after providing the owner of such station with an opportunity for a hearing.

"(4) Any license granted during the five-year period beginning on the date of the enactment of this subsection for any very high frequency commercial television station located within any State in which no such station was located before the date of the enactment of this subsection shall be subject to the following conditions:

"(A) The primary broadcasting facilities of such station shall be located as near to the geographic or population center of the State as the Commission deems practicable.

"(B) The licensee shall pay to any person owning a station which broadcasted on the frequency reassigned to such licensee the fair market value of such station (as determined under paragraph (3) of this subsection).

"(5) After the end of the five-year period beginning on the date of the enactment of this subsection, the Commission may not reassign any frequency solely for the purpose of enabling the Commission to carry out paragraph (1) of this subsection.

"(6) For purposes of this subsection—

"(A) a station shall be considered to be located within a State if its primary broadcasting facilities and its community of license are located within such State; and

"(B) the term 'very high frequency commercial television station' means a television station which operates as a commercial station on a broadcast band between 30 and 300 megahertz.". ●

By Mr. DECONCINI:

S. 2854. A bill to amend certain provisions of titles 18 and 28 of the United States Code relating to jurisdiction over certain Indian country; to the Committee on the Judiciary.

● Mr. DECONCINI. Mr. President, today I am introducing legislation to grant the State of Arizona criminal and civil jurisdiction within the town of Parker, Ariz., on the Colorado River Indian Reservation. Parker is a town of 2,000 residents, the majority of whom are non-Indian, located on 1 square mile in the northern portion of the reservation. The reservation was established by Congress in 1865. (13 Stat. 559). The town was established by the Secretary of the Interior pursuant to the act of April 30, 1908. The townsite was surveyed and most lots sold by 1910. In 1939 the Congress enacted a statute to allow the Secretary of the Interior to auction off the remaining lots. Today, one-third of the town lots remain under tribal control, while two-thirds are owned by non-Indian residents of the town. Parker was incorporated as a township in Yuma County, Ariz. in 1948.

None of the enabling legislation establishing Parker expressed an intention that the lands sold be withdrawn from the reservation, nor did the State of Arizona assume jurisdiction over Indian reservations within its boundaries pursuant to Public Law 280. As a consequence, Parker remains subject to the complicated patchwork of Federal, State, and tribal jurisdiction that exists under the current statutes and caselaw regarding Indian country.

This situation is exacerbated by the reluctance of the U.S. attorney to devote the already overburdened resources of his office to functions essentially those of a county prosecutor for the reservations. A recent GAO report details the extent to which the U.S. attorneys' offices across the United States are overworked and understaffed. Cases arising in Parker coming under Federal jurisdiction rarely are able to be processed as expeditiously as those falling within the jurisdiction of Yuma County. This naturally engenders increased friction and misunderstanding between non-Indian residents and members of the tribes.

Under existing law (as recently modified by Oliphant against the Suquamish Indian Tribe, et al.), the following situations result in either the State, Federal, or tribal courts assuming jurisdiction for a violation occurring in Parker:

A crime committed by an Indian against another Indian or against a non-Indian is tried by the tribal court if a misdemeanor or by the Federal court if a crime under the Major Crimes or Administrative Crimes Acts, and tribal or Federal law applies;

A crime committed by a non-Indian against an Indian is tried by a Federal court and Federal law applies;

A crime committed by a non-Indian against a non-Indian is tried by the State court and State law applies.

Until the recent decision in Oliphant there was an additional factor aggravating the relationship between the town residents and tribal members—the confusion as to who would have jurisdiction over criminal cases arising in the town. Had the tribes assumed jurisdiction over the town, the non-Indian residents of Parker would have been subject to a legal system in which they could have participated neither as jurors nor as electors or members of the legislative body. However, the Supreme Court ruled in Oliphant that the quasi-sovereign na-

ture of tribal governments did not encompass criminal jurisdiction over non-Indians in Indian country.

While this decision resolved some of the difficulties of the residents of Parker, others remain. Police protection is inadequate because of the procedural and jurisdictional confusion I have described, and because of friction between tribal and city law enforcement officers. Inequities result from the application of different law depending on the race of the victim and offender. Parker has no method of enforcing town ordinances against residents who are Indians, or members of the tribe while they are in town.

Mr. President, while it would be inaccurate to state that this unfortunate situation has been the sole cause of degenerating relations between the tribes and residents of Parker, it has been the major cause of injustice to both residents and tribal members. It is, however, an inveterate situation that will only be cured by an act of Congress such as I am introducing today.

This bill would allow the State of Arizona to assume criminal and civil jurisdiction within the town boundaries by amending Public Law 280. [18 U.S.C. 1162; 28 U.S.C. 1360]

Under the provisions of Public Law 280, other incidents of tribal sovereignty will not be affected by State assumption of jurisdiction. 18 U.S.C. 1162(b) and 28 U.S.C. 1360(b) state:

(a) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, bank, or community that is held in trust by the United States or is subject to restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

Further, the grant of jurisdiction to the State under this bill will apply only within the incorporated townsite of Parker, Ariz., and not to any tribal lands outside the town limits. The bill would not affect tribal ownership of the town lots still held by the tribe, or the status of land within the town as reservation land. The legislation would allow all persons accused of an offense within the town to be tried by a court or jury composed of county residents, both Indian and non-Indian. The bill would settle the question of jurisdiction and insure that Indian and non-Indian residents of the town will be guaranteed effective police protection. Finally, the bill would standardize the law applicable to all residents of Parker.

Mr. President, the situation in Parker, Ariz., is highly unusual. The Congress, by the act of April 30, 1908, and Public Law 276, 76th Congress, established the town of Parker for open settlement by all citizens.

The legislation I am introducing today more accurately reflects the intentions of those acts of Congress by giving the town of Parker a jurisdictional status undifferentiated from that of other towns in the State. I ask that this bill be referred to the proper committee and expeditiously acted upon by my colleagues.●

By Mr. PROXMIRE:

S. 2855. A bill to reaffirm and restate the national housing goal; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. PROXMIRE when he introduced the bill appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 310

At the request of Mr. MATSUNAGA, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 310, a bill for the reimbursement of licensed practical nursing services under the medicare and medicaid programs.

S. 835

At the request of Mr. CHURCH, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 835, a bill to provide a program of income tax counseling for elderly individuals.

S. 2287

At the request of Mr. BURDICK, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2287, a bill to authorize grants for programs of geriatric medicine in U.S. medical schools.

S. 2405

At the request of Mr. LUGAR, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2405, a bill to authorize an intermediate term Commodity Credit Corporation credit program for the purpose of financing the sale and export of agricultural commodities produced in the United States.

S. 2600

At the request of Mr. RANDOLPH, the Senator from Delaware (Mr. BIDEN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2600, the Rehabilitation Amendments of 1978.

S. 2691

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. LUGAR) and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 2691, a bill to provide for the furnishing of congregate housing services under the U.S. Housing Act of 1937.

S. 2721

At the request of Mr. MCCLURE, the Senator from Oregon (Mr. HATFIELD) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2721, a bill to amend section 803 of Public Law 90-284 to allow educational institutions to determine housing policies.

S. 2731

At the request of Mr. PERCY, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2731, the Solar Global Market Survey Act.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 29, to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as National Family Week.

SENATE JOINT RESOLUTION 70

At the request of Mr. RANDOLPH, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 70, authorizing the President to proclaim the third week of July 1977, 1978, and 1979, as "National Architectural Barrier Awareness Week."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from Michigan (Mr. RIEGLE), the Senator from New York (Mr. JAVITS), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of Senate Concurrent Resolution 73, a resolution regarding the imposition of import fees on crude oil.

SENATE CONCURRENT RESOLUTION 75—SUBMISSION OF A CONCURRENT RESOLUTION PRAISING THE U.S. DELEGATION TO THE BELGRADE CONFERENCE

Mr. PELL (for himself and Mr. CASE) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 75

Whereas the Belgrade meeting of the Conference on Security and Cooperation in Europe has now concluded;

Whereas H. Con. Res. 249, adopted June 15, 1977, urged that the Belgrade meeting include the presentation and thorough discussion of all violations of the Helsinki Accords;

Whereas the United States delegation to the Belgrade meeting displayed great determination and resourcefulness in forthrightly expressing the concern of the Congress and people of the United States over specific violations of the human rights provisions of the Helsinki Accords by some of the signatory states, including the Soviet Union and some Eastern European countries; and

Whereas violations of the human rights guaranteed under the Helsinki Accords continue in some signatory states:

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe is accorded the gratitude of the Congress for its determination and vigor in demanding a thorough review of compliance with the human rights provisions of the Helsinki Accords by the signatory states and for its success in obtaining such a review which brought into the spotlight of world opinion those abuses which were of greatest concern to the Congress and people of the United States.

SEC. 2. The Congress urges the President and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to repressive actions and to violations of basic human rights which are contrary to the Helsinki Accords.

SEC. 3. The Congress urges the President and other appropriate executive branch officials to use every feasible bilateral contact to emphasize to the Soviet Union and other Eastern European countries that the solemn

commitments given by such countries call for their observance of human rights.

● Mr. PELL. Mr. President, the conference to review compliance with the final act of the 1975 Helsinki Conference on Security and Cooperation in Europe recently concluded in Belgrade, Yugoslavia. A major objective of the United States in that conference was to insure that a thorough review was conducted of compliance and noncompliance with the human rights provisions of the Helsinki accord.

As Cochairman of the Commission on Security and Cooperation in Europe, I visited Belgrade last November and participated in the Conference as vice chairman of the American delegation. In that capacity, I had an opportunity to observe firsthand the truly excellent work that the members of our delegation were doing to insure that the question of human rights was fully discussed. In particular, the head of our delegation, Justice Arthur Goldberg, deserves the highest praise for the leadership he exercised and for his diplomatic skill in insuring that the East's failure to live up to the Helsinki accord's provisions on human rights was forthrightly documented and discussed.

In this connection, I would like to comment briefly on the concern that has arisen about the nature of the concluding document that was approved at the Belgrade Conference. Some people have criticized the "blandness" of that document. In fact, however, it was a singular achievement that the document said as much as it did in view of the fact that it had to be adopted by "consensus," meaning that the Soviet Union and its allies had a veto power over any language with which they disagreed. It was largely through the efforts of the American delegation that the conference adopted a document that was free of platitudes and misleading statements about the degree of implementation of the Helsinki accord.

Despite initial Soviet objections, the concluding document clearly recognized that differences arose during the Conference about the degree of implementation of the Helsinki accord's provisions. The concluding document also affirmed that implementation of the provisions of the Helsinki accord is essential for the development of the process of détente.

These, I submit, are important points.

In summing up the results of the Belgrade Conference, the major accomplishment—for which our delegation was largely responsible—was to establish human rights on the East-West agenda once and for all. The fact that the Soviets and their main Eastern European allies found it necessary to respond on human rights questions is clear evidence that even they implicitly acknowledge that these questions can no longer be swept under the rug of quiet diplomacy.

Mr. President, in view of the fine performance of our delegation at the Belgrade Conference, I and the distinguished senior Senator from New Jersey, who is also a member of the Commission on Security and Cooperation in Europe, are today submitting a concurrent resolution, House Concurrent Resolution delegation at Belgrade. An identical resolution, House Concurrent Resolution 549, was introduced yesterday in the House of Representatives.●

AMENDMENTS SUBMITTED FOR PRINTING

PUBLIC ASSISTANCE AMENDMENTS OF 1977—H.R. 7200

AMENDMENT NO. 1763

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself, Mr. MARK O. HATFIELD, Mr. HOLLINGS, Mr. NUNN, Mr. DOMENICI, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 7200) to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and for other purposes.

LABOR LAW REFORM ACT OF 1978

AMENDMENT NO. 1764

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

PANAMA CANAL TREATIES, EX. N, 95–1

AMENDMENT NO. 99

(Ordered to be printed and to lie on the table.)

Mr. LONG (for himself, Mr. NUNN, Mr. DECONCINI, Mr. TALMADGE, and Mr. CANNON) submitted an amendment intended to be proposed by them, jointly, to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

(The remark of Mr. LONG when he submitted the amendment appear elsewhere in today's proceedings.)

NOTICES OF HEARINGS

VISIT BY MEMBERS OF THE ASSEMBLY OF WESTERN EUROPEAN UNION

Mr. STEVENSON. Mr. President, during the week of April 9, about 25 members of the Committee on Scientific, Technological, and Aerospace Questions of the Assembly of Western European Union will be in the United States to meet with officials of the Government and of the private sector to discuss issues of mutual interest. These gentlemen are members of their national parliaments. On the afternoon of April 12, from 2:30 to 4, in room S–207 of the Capitol, the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Transportation will meet with that committee. All Senators are invited to attend this meeting and will be most welcome.

ADDITIONAL STATEMENTS

VIETNAM VETERANS

● Mr. HATHAWAY. Mr. President, the Maine Legislature recently passed a joint resolution which outlines the problems which many Vietnam veterans still face years after the Vietnam war has ended. These veterans are especially frustrated with the bureaucracy of the Veterans' Administration. Some of these veterans, many of them disabled and out of work, have waited, literally, years to receive the benefits they have been promised and rightfully deserve. The resolution passed by the Maine Legislature urges the President, Congress and the Veterans' Administration to accelerate and improve the services for Maine veterans.

During the last 2 weeks, the Washington Star has carried an excellent series of articles by Donia Mills about Vietnam veterans. It tells in detail and depth the tremendous difficulties that many Vietnam veterans have had in readjusting to civilian life. America must not forget the great sacrifices these veterans have made for their country simply because the Vietnam war turned out to be ill-advised and unpopular. These veterans deserve an effective and compassionate government.

At this time, I ask that the joint resolution and Washington Star articles be printed in the RECORD.

The material follows:

VIETNAM VETS: IS HELP COMING 10 YEARS TOO LATE

(By Donia Mills)

For half a million survivors of the Vietnam war, scattered today throughout the country, the return to a normal life has not come easily.

For some it will never come at all.

Ten years since the peak war action of the Tet offensive, and five years since the withdrawal of American ground troops, government officials still have not dealt with the social, moral and psychological damage suffered by the men who fought the most controversial foreign war in the nation's history.

There is shockingly little detailed data on the depth of the problem, but authorities estimate that one in five of the 2½ million soldiers who fought in Vietnam still suffer some effects of postwar maladjustment.

Statistics also show that:

450,000 Vietnam-era veterans are jobless.

125,000 are incarcerated in state and federal prisons.

750,000 ex-soldiers are stigmatized by less-than-honorable discharges.

497,000 soldiers left the service with mental or physical disabilities, and 10,000 of them are still hospitalized in Veterans Administration facilities three years after the end of the war.

Fewer than one-fifth of those eligible for VA vocational rehabilitation had taken advantage of the program by the end of last year.

Now, five years after the last man came home, the Veterans Administration finally has commissioned a comprehensive study of this troubled minority.

"I guess you could say this is all happening 10 years too late," said Max Cleland, the severely disabled Vietnam veteran who became VA Administrator last year.

"On the other hand, maybe this is exactly the right time to act. Now, in 1978, we've been through several years of preliminary sifting and we're finally down to the veterans with the real hard-core problems. Now it may

be easier to identify them and tailor programs to fit their particular needs."

In addition, it appears that the House Veterans Affairs Committee this year may finally approve a readjustment counseling program that was so badly needed a decade ago. Similar proposals have been defeated three times over the last five years.

And last month the Carter administration, no doubt pressured by a recent burst of publicity surrounding the 10th anniversary of the Tet offensive, initiated its own mini-survey of the situation.

In a directive issued by the president's domestic affairs adviser, Stuart Eizenstat, officials at the VA and departments of Labor, Justice, Defense and Health, Education and Welfare were given two months to come up with their own appraisals of the problem.

Frank Raines, the member of Eizenstat's staff assigned specifically to veterans affairs, was quick to suggest in a recent interview that the review is designed as a fulfillment of Carter's campaign promises to veterans rather than as an expression of unusual concern.

"The White House feels no more concern over veterans right now than over other areas," Raines said. "We spend a lot of money on vets—about $20 billion a year. Our main concern is that the money is being properly utilized. But there is no crisis in veterans programs at this time."

Veterans from older generations frequently gripe that the men who fought in Southeast Asia should not be singled out for special attention. War is hell, they say, whether the battleground is the fields of Shiloh, the beaches of Normandy or the rice paddies of Vietnam.

But most serious scholars of the Vietnam war and its political impact vehemently disagree.

In "The Forgotten Warrior Research Project," a three-year study funded by the Disabled American Veterans Association, John Wilson, a Cleveland State University psychologist, draws the following profile of the Vietnam soldier and the conflicts he encountered.

Typically, he was a high school graduate who entered the service believing that military duty was a proper and patriotic obligation.

After a period of basic training designed to equip him for killing and survival, Wilson maintains, the soldier was flown into enemy territory where he soon encountered a number of factors that raised serious questions in his mind.

The guerrilla nature of the war, a lack of confidence in his superiors, the difficulty of recognizing the enemy, the apparent lack of South Vietnamese military and civilian commitment to victory, coupled with widespread signs of political and economic corruption, the fixed limits on his own tour of duty, the seemingly meaningless deaths of his friends—all these factors combined to cast the young soldier into deep ethical and spiritual conflict.

The final conflict occurred when the men discovered they were up against still another divided front when they returned home.

In place of victory parades these soldiers were greeted by apathy from one faction, who suggested they somehow hadn't done their jobs well enough, and by angry anti-war demonstrations from the other, who told them they were dopes to have taken on the job in the first place.

"Psychologically, the veteran was in an untenable position," Cleland says. "The war ended with no answers. The validity of his sacrifice was not there. He was forced to provide the answers for himself. This challenge was unique in U.S. history—the malaise, the sense of being a sucker.

"We all faced it. Most guys handled it okay. We should keep emphasizing the fact that 80 percent readjusted fine."

Among the 20 percent who didn't, the VA's Cleland conceded, the psychological impact often continued on through the years "like a series of secondary explosions."

Too many still bear the compound and inextricably linked effects of depression, alienation, divorce and other family troubles, drug and alcohol dependency, unemployment and run-ins with the law.

The feelings of neglect and inequity and exploitation that stung then have continued to fester in the hearts and minds of veteran activists who refuse to let the issue die.

"The whole situation is atrocious," says Rusty Lindley, a former Green Beret captain who has become an outspoken advocate for down-and-out ex-GIs.

"The guys who went to college got degrees and good jobs. The guys who went to Canada got amnesty. But the guys who went to Vietnam—they've never yet gotten their share of the American dream they were told to go fight for."

In the seven years he has spent in Washington pestering political bureaucrats for legislative reforms, Lindley says, he has watched three different administrations pour billions of dollars into meaningless programs with no attempt to follow through.

"Society has succeeded in dehumanizing the veteran the way the military dehumanized the enemy in Vietnam," he goes on. "Now the government's attitude seems to be, 'Let's pity the poor vet as a new kind of social problem, let's appease the crazed dope fiend-psychopathic-sniper-rapist-mass murderers by throwing them multi-million-dollar programs scraped off the bottom of some welfare bill.'

"Well, these guys don't want deadend public service jobs where you sweep streets and then end up out of work again after a year. And they don't want pity, and they don't want to stand in welfare lines or go whimpering to the VA. They want careers. They want a chance to prove themselves in good jobs at home the way they proved themselves under the gun in Vietnam."

Most authorities agree that a significant part of the problem for many veterans is their generalized disenchantment with Uncle Sam, their rejection of any more involvement with a government that sent them to Vietnam in the first place, whether it involves going to a VA hospital or registering with a state employment office.

Theoretically, the older veterans claim, the soldier returning from Vietnam was in good shape, dollarwise—better shape than any previous generation.

On separation from military service he received from the VA a 71-page booklet detailing the multitude of benefits for which he was eligible; 45 months of educational payments under the GI bill, free medical care, free vocational rehabilitation training, plus additional cash compensation if he was disabled, low-cost loans and life insurance, and numerous federal veterans-preference laws that required he be given priority in job counseling, referrals and hiring.

While the majority of all veterans have taken advantage of at least a portion of their benefits, for many others the system short-circuited somewhere along the line and let them down.

Men who needed personal guidance and encouragement received instead booklets and form letters written in gobbledygook, or instructions from VA counselors that seemed to lead them through mazes of redtape only to terminate in Catch-22 barriers.

Those least able to maneuver through the minefields of application procedure were unfortunately the very men who needed support the most—the poor, undereducated and minority GIs who bore a disproportionate share of actual battle in Vietnam because they could neither afford nor qualify for the middle-class haven of college deferments.

One of the more persistent critics of the VA over the years has been Bobby Muller, a former Marine lieutenant who was transformed from a track star into a paraplegic in 1969, when he caught an enemy bullet in his spine on a hilltop near Con Thien.

He spent the next year in the notorious Bronx VA hospital that was described as a "medical slum" in a 1970 Life Magazine expose, and his sense of outrage has not dimmed much over the years.

Muller paused one day recently during an all-day siege of congressmen's offices, pulling his wheelchair over to a quiet corner of the Longworth Building to explain his latest mission.

"Would you like to know our biggest problem?" Muller asked a reporter. "It's a lack of statistical proof that there's really a problem. Incredible as it seems, the VA has never bothered to evaluate the billions of dollars worth of programs they run, and so nobody has any idea how effective or ineffective they may be."

Details become muddled, but the basic outline is clear: the Vietnam veteran has not been deliberately neglected so much as simply set on a back burner with low priority, in budget after budget, year after year, all the way down the line.

Max Cleland, the man occupying the VA hot seat at present, is an accomplished politician in an arena where politics is the name of the game.

Cleland was also an athletic star and academic achiever in his home town of Lithonia, Ga., before an errant grenade blew off his right arm and both legs in a bizarre non-combat accident at Khe Sanh.

Being a triple amputee did not keep him out of commission for very long.

At 34 he had already served two terms in the Georgia Senate, run unsuccessfully for lieutenant governor, and worked a year for the Senate Veterans Affairs Committee before Carter appointed him last spring to head the federal government's second largest bureaucracy.

Ranking only behind the Department of Defense in number of employees, the VA annually administers a $20 billion multi-benefit program for 30 million veterans and their dependents.

But only 8 million of these served during the May 1964–August 1975 period officially designated as the Vietnam Era, and only 2½ million experienced actual duty in Southeast Asia.

This means that while the Vietnam veteran's readjustment difficulties may be more immediate, he is in the minority, and lacks the lobbying influence of his older World War II counterparts.

"What the VA system does is pit the older veterans against the younger veterans for a limited pot," says lawyer Stuart Feldman, an indefatigable lobbyist for veterans affairs. "And any agency naturally has to go with its majority constituency."

This generation, Feldman adds, is united under the powerful brotherhood of such old-guard organizations as the American Legion and Veterans of Foreign Wars, and is naturally more concerned with maintaining hospital care and pensions than with supporting the needs of young veterans whom they tend to identify with the dissident, long-haired generation.

Cleland readily admits that the VA has fallen behind where Vietnam veterans are concerned, but he insists that he has put things on the right track with the research project just commissioned.

"This will not be just another study, but the first really thorough analysis ever done of the Vietnam veteran in all his dimensions," Cleland said in a recent interview.

"What we're really doing is picking up and continuing an independent study begun three years ago by the Center for Policy Research in New York. This means we'll be able to wind up the first phase in about a year and a half, and should be able to

give Congress the data they want. After another six months, we can begin to use the collected information to make our readjustment counseling program more effective."

Cleland's sharpest critics contend that his political ambitions have kept him from taking a hard and potentially unpopular stand for Vietnam veterans against the status quo.

But the entire issue is too complex and contentious for simple analyses.

The fact is that veterans affairs are under the domain of so many different political entities that any one can always legitimately pass the buck and the blame for inaction onto another.

The VA says it can't set up programs if they aren't funded by Congress, and Congress has to play ball with the Office of Management and Budget, which is guided by the administration.

When two congressmen recently attempted to put some teeth in the administration's ongoing interagency review of Vietnam veterans by requesting that a $200 million contingency fund be set aside to cover whatever proposals might come out of the study, the request was voted down 14-4 by the House Budget Committee. In the same session, its members voted favorably on a $931 million bill for VA pension reform.

The House Veterans Affairs committee is swayed by the powerful old-guard veterans organizations, accuses the VA of failing to come up with the studies needed to justify expenses and lays the blame for unemployment squarely with the Labor Department, which can always point to the Civil Service Commission's recent proposal to do away with veterans preference in hiring.

"You can't look at these issues in isolation," cautions one longtime Capitol Hill observer of veterans affairs. "It's hard for the politicians in Washington to put over programs if the sentiments aren't with them back home in their constituencies.

"And Vietnam was simply never a war that American civilians felt they had any stake in. There was never the question of choosing between guns and butter, the way people had to do in World War II. During Vietnam we had guns and butter too."

At the same time, the man continued, legislators have come under increasing pressure from rival segments of society, such as women and minorities, who have developed a level of organization and lobbying power far beyond that of the Vietnam veterans.

"Instead of scoring a big victory and coming home all in one body like the World War II soldiers, the Vietnam soldiers came home singly, each when his 13 months was up, in a mood of defeat. And that's where they still are today—isolated and alone."

JOBS: A BLIND ALLEY FOR MANY VIETNAM VETERANS

(By Donia Mills)

By 9 o'clock most Monday mornings, the reception area of the local Veterans Assistance Center on North Capitol Street is already crowded with men whose search for jobs has led them mainly down blind alleys and one-way streets.

A photograph of President Carter seated by a fireplace smiles down at them from a handbill posted on the bulletin board, underscored by his "fireside chat" statement of Feb. 3, 1977:

"The top priority in our job training programs will go to young veterans of the Vietnam war."

In this context, it is a bitter reminder of the gap that exists between the rhetoric and the reality on the issue of veterans' unemployment.

Many veterans of all ages were angered, if hardly surprised, earlier this month when the President proposed a 10-year limit on the long-standing policy of "veterans preference" as part of a general overhaul of the Civil Service Commission.

Because of the lengthy winding-down of the war, most of the men who actually saw combat in Southeast Asia will soon be past their 10-year limit and will no longer receive preference points on Civil Service tests as veterans have since the 1940s.

According to Labor Department statistics for the last quarter, about 450,000 Vietnam era veterans aged 20–34 are unemployed, and an additional 100,000 veterans over 34 are also out of work.

Roland Mora, appointed last year as deputy assistant secretary of Labor for veterans employment, thinks the actual figures are much higher. Based on personal observations, he estimates that for every veteran actively seeking work, two have given up in frustration.

Despite a 1972 federal law requiring state employment service personnel to give priority to veterans in job counseling and referral, Labor statistics show that fewer than one in five veteran applicants was placed in jobs, and only one in 20 received any counseling.

The Labor Department itself is far behind many other agencies. In 1976 only 0.8 percent of Labor's employees were Vietnam veterans, compared with 6 percent of the Treasury Department's, 5 percent of Justice's and 8.7 percent of the Civil Service Commission's.

Stan Williams, a counselor at the District's Veterans Assistance Center, ticks off a long list of obstacles facing jobseekers he sees, many of whom are undereducated, minority members who did much of the dirty work in the war and were hardest hit by the recession when they came home.

"Most of these guys graduated from high school and went right into the service, which means they come out and hit the job market with no experience to their credit," Williams explained.

Military experience, he added, usually counts for nothing with a civilian employer, which can mean a demoralizing step backward for a man who has mastered a specialty and enjoyed some job responsibility in the service.

"And to those looking for trades, the unions are extremely tough to get into," he said. "They have very few openings."

The jobs listed in the voluminous computerized job-bank books reveal more frustrations. Except for menial jobs such as porters' and diswashers', most listings require at least 12 months of job experience.

Williams said the entries are updated daily, but men who have been through the process tell a different story.

"You start looking through the book and some of those jobs are three years old," one unsuccessful job hunter said bitterly.

The greatest foes of veterans preference would seem to be women and minorities, two groups that also claim that they deserve special consideration.

Most observers feel that the gains now being made by women and minority employees are losses for the veterans.

While the veterans community here was initially encouraged by the $1.3 billion jobs-for-vets programs announced with great fanfare by the administration a year ago, spokesmen for most veterans organizations now charge that the plans were poorly conceived and have been inadequately administered.

Putting it simply, they feel the president was throwing the veterans a bone to appease the growling that arose over his controversial amnesty decision announced just a few days earlier.

The administration in an attempt to alleviate the veterans unemployment last spring proposed three programs funded through Labor's Comprehensive Employment and Training Act (CETA):

One provision expanded the already existing Public Service Employment program, designed to provide unemployment people with temporary jobs in public and non-profit agencies, using CETA funds to pay their salaries.

A projected 250,000, one-year jobs, 35 percent of the total new jobs created, were earmarked for disabled and Vietnam era veterans.

Mora has acknowledged that the current level of veteran hiring under the program is only 28 percent, however. "I think this is pretty much where we're going to end up," he said.

A second program, the Disabled Veteran Outreach Program, provided for the hiring of 2,000 men to be placed in local branches of state employment offices where they would help develop jobs for other disabled veterans. The program was to provide jobs for 40,000 by the end of 1978, according to Labor.

Mora said this program is his favorite and repeatedly described it as "successful," though no one at Labor has been able to document how many disabled veterans have actually been placed.

But Ron Drach, employment director of the Disabled American Veterans, which did some spot monitoring on its own, said the group found several instances in which disabled veterans were prevented from counseling other veterans because they had been assigned by their office managers to do routine clerical jobs or to fill in elsewhere.

In addition, Drach said, many veterans in the program have discovered large discrepancies between the salaries they were promised and what they actually were paid.

For example, in Virginia, which has 44 disabled veteran counseling positions funded at $10,000 each, workers were paid between $7,000 and $8,000.

A spokesman for the Virginia State Employment Service explained that the remaining balance of the $10,000 was held out by the central office for "benefits and expenses," which included travel money for workers going out into the community on projects.

But because of a "communication breakdown" in the early months of the program, the spokesman added, local managers were not informed that there was travel money available. As a result, the veterans' activities were curtailed for a while.

"To tell you the truth, we've experienced a lot of turnover in this program," the spokesman said. "Because of the low salary scale, a lot of the DVOP counselors leave when a better job comes along. Then of course, we have to start all over again training someone new."

The third and most ambitious of the job programs is Help Through Industry Retraining and Employment (HIRE), a cooperative venture of government and private industry. The program is funded by $140 million in CETA funds used to reimburse companies for providing on-the-job training that would lead to permanent employment.

Disabled and Vietnam era veterans were to receive top priority in placement.

HIRE also has had a spotty record during its first year, largely because the program was originally aimed at large firms that represented only 1 percent of the nation's employers.

Last November when only two companies had signed up after four months, the guidelines were altered to encourage smaller companies to participate. The program is now picking up momentum, according to Charles Collins of the National Alliance of Businessmen (NAB), the marketing agent for the program.

But only $20.7 million of the original $140 million has been contracted out so far. The most recent Labor figures indicate that only 220 veterans have actually gone to work under HIRE.

A second, voluntary part of HIRE has fared somewhat better, according to NAB

officials, who report that 20,000 veterans have been hired in private industry under a non-reimbursable provision that spares employers the governmental red tape of the reimbursable plan.

But because the 20,000 veterans represent only one-fifth of the original goal set for September 1978, the figure hardly indicates extra effort above and beyond normal hiring patterns.

To date, three local firms have signed HIRE job-training contracts: Southern Railroad, Interstate Van Lines and Peoples Drug Stores.

A closer look confirms what most veterans advocates have been claiming: When good opportunities come along, they are snapped up immediately.

Interstate's president and founder, Arthur Morrissette, said the HIRE trainees will be paid the program's minimum of $3.50 per hour, which is Interstate's normal starting salary anyway. The company will be reimbursed for half the training costs through CETA.

Morrissette acknowledged that he had learned about the HIRE program at a time that happened to coincide with his need for new employees. He said that his major concern was finding good workers, not hiring veterans.

FOR MANY VIETNAM VETS, EDUCATION AID CAN BE A CATCH-22

(By Donia Mills)

Like many young veterans who returned from the war in Vietnam in the late 1960s, Steve Anderson found himself in a Catch-22 bind shortly after he enrolled in college on the GI Bill.

It provides a flat cash supplement for 45 months following separation from active service. But the payments from the VA, which netted a full-time, single student $175 a month in 1969, were not enough to cover Anderson's books, tuition, and living expenses, so he had to work part time.

This cut down on his course load and further reduced his payments.

"I had to make a choice," he says simply "So I ended up quitting for a couple of years to work full time. I had to live."

He took courses intermittently after that. But at present, employed full-time by the VA as an education liaison officer and studying part-time at the University of Maryland, Anderson is still about two years away from a degree.

Cost-of-living increases passed by Congress over the years have raised the current benefit level to a record 311 monthly for single veterans, with graduated payments for those supporting dependents. But at the same time, inflation has driven tuition, books and living expenses to record levels.

And now, because of the 10-year limiting date attached to VA benefits, Anderson's time will run out in December before he has a chance to use the entire 45 months he is entitled to.

"Congress," he said, "had many opportunities to make the bill effective so the veteran could go to school when and where he wanted, back during the years when there were huge numbers of guys who could have used a little extra help, but they dragged their feet and watered down every proposal that came along." He said these opinions are his own, and not the official VA position.

"The VA says that more Vietnam era vets have taken advantage of their benefits than vets of any other war—over 60 percent," he said. "But that only tells us how many enrolled initially. How many were actually able to hang in there long enough to get any good from it? There's no way of knowing."

Last year when a revision of the GI Bill was up for congressional consideration, veterans' advocates lobbied hard for administrative changes they thought would make the regulations more effective for certain groups of veterans.

For example, evidence was presented that indicated many were unable to use their benefits in the Midwestern and Eastern states because of high tuition costs.

Under the GI bill of World War II, the VA paid tuition directly to the schools, whatever the level might be, and an additional cash supplement to the veteran.

When that system led to such abuses as greatly inflated tuition fees at some institutions, Congress adopted the present procedure of paying a flat sum to the veteran.

Today, veterans living in Western and Southern states rich in low- or no-cost public colleges are at a distinct advantage. For instance, a Pennsylvania resident attending Temple University, which is public, finds that education expenses take 57 percent of his total yearly benefits, compared with 15 percent for a student attending a California State University campus.

The equitable-payment proposal was hotly debated before the House Veterans Affairs Committee but was ultimately defeated in favor of an across-the-board benefits increase of 6.6 percent, supplemented by a system of loans.

Congress also passed severely reduced versions of a measure that would have extended the limit for vets who still had a portion of their entitled benefits after the 10-year cutoff date.

Congress also passed another version that would have permitted accelerated payments for vets who wished to use up their benefits in half the time at twice the rate of payment. This would have been especially helpful, it was argued, for a man who simply wished to learn a marketable skill in a short expensive, vocational program.

"The problem is now, the prime time for most of these guys has passed," Anderson said. "The average vet is 30 years old and has a family to support.

"I'm beginning to think that the ones who haven't gotten a start by this time are pretty hard core, and it's going to take a hell of a lot more to bring them back into the mainstream than most people realize—I mean knocking on doors and holding their hands and practically carrying them through the education process."

In terms of education, the hardest of the hard core are the 20 percent of Vietnam era veterans who had not completed high school when they entered the service.

James Finley Jr. is a good example: His government didn't teach him to read or write very well, but they found that he was a whiz when it came to shooting a gun.

Finley came home from Vietnam with an honorable discharge that listed pistol expert, rifle expert and firearms instructor among his accomplishments. Unfortunately for him, civilian employers were more interested in the reading and writing.

Now he's enrolled in Veterans Upward Bound, a high school equivalency course administered by Prince Georges Community College and paid for by federal Comprehensive Educational Training Act funds. He and 44 classmates in the same boat attend classes five days a week in a training center in the basement of a motel.

They receive weekly stipends of about $78 for full-time attendance in five subjects: reading, social studies, mathematics, English and science. If they can pass their tests by the end of 24 weeks, they receive a high-school equivalency certificate.

When they miss a day, they don't get paid.

"The people in this country, they act like we're so almighty lucky to be getting that check from the government every month," Finley says bitterly. "But do they ever think what we put on the line to be getting that money today?"

These are the men with disadvantaged backgrounds who bore a disproportionate share of Vietnam combat duties and casualties because of a draft law that allowed college deferments for those who could afford it.

Ten years later, to no one's great surprise, the same men are bearing a disproportionate share of the unemployment and social problems. They share a growing feeling of hostility toward an inscrutable system that seems to block them at every turn.

"One thing I know for sure, this country don't want to hear about no Vietnam veteran," spoke up a man from the back of the room. "We lost the war, and they're still holding it against us."

"Yeah," grumbled another man, a former Army rifleman who has had trouble working because of a nervous disability from the war. "Then you walk into a 7-Eleven, and there's some Vietnamese guy working behind the counter telling you, 'Hey, you can't put that newspaper under your arm like that, you got to put it here in the bag,' all that stuff. Man! Who is he to be telling me what to do? We go over there and fight to save those people. Now they come over here and get our jobs."

The men were enthusiastic about the high school equivalency program and the personal interest the director, "Doc" Alfred Simons, has taken in them. But several had horror stories about the red tape at the VA: Records lost, checks delayed, counselors who all left for the weekend by 2 p.m. on a Friday, or GS-2 clerks who "run you around in circles like a chicken with its head cut off" while sipping coffee and chatting among themselves.

"It's hard to concentrate on the lesson when you're sitting there worried about things like the man going to come around for the rent check the first of the month, and where am I going to get it this time?" the man with the nervous disability said.

"You know, President Carter, he says he wants to help the veteran. Well, one day I'd just like to sit down man to man and talk with him. Like, maybe go to Sunday School and just sit down next to him and ask him what's really happening. I'd like to see if he can really do anything for guys like me."

Veterans are faring somewhat better at the Rockville Campus of Montgomery College, where their class schedules, grade point average and VA status are neatly computerized and can be called up at the drop of a switch by student-veteran counselors trained to steer through red tape.

Rick Bannerman, Ruth Ralston and Sandra Detmer say their main function is to keep the paperwork moving.

"When a guy comes in saying that the VA lost his check," Bannerman said, "chances are about 95 percent that the mixup is because he's failed to re-register himself or some such technical oversight. Believe me, Rick Bannerman's checks never get lost! Working in this office, it has become very real to me that the VA does things their way and you have to conform to them, not the other way around.

"It really freaks some of these vets out who couldn't wait to get discharged and get away from all the military red tape. They figure, 'Ugh, now the VA is going to control my life for 10 more years!' I think some of them come in here for counseling expecting to find us all dressed out in our fatigues."

Some veterans, the counselors say, get caught in a bind because of the three months of processing between the time they enroll and the time their benefit checks start arriving. This new policy replaced pre-payment last year after the VA had $1 billion in "overpayments" during 1976 to students who had dropped out of classes.

It is the financially strapped student of 1977–78 who is now suffering from that little fiasco, Bannerman says.

"Sometimes," he said, "by the time a guy is all certified and his checks start arriving, he's had to drop part of his course load and take on a job to support himself in the interim, which means the benefit figure changes and we've got to start the whole thing all over again."

Many of the 700-odd veterans enrolled at Montgomery College find they have to work full-time to "afford" their GI benefits, the counselors add.

"It would be no problem to get by on the GI bill alone if you had a Podunk cost of living," says Detmer, who has sole support of her 5-year-old son. "But in Montgomery County, it's just about impossible. I live in a subsidized housing apartment in Gaithersburg, where they just raised the rent to $234 for us 'low-income' people. Two-thirds of my income goes for the rent."

But Sandra Detmer isn't complaining. In fact, hearing some of the stories about the readjustment struggles of the vets returning from Southeast Asia, she confesses that sometimes she feels a little guilty about drawing the same benefits as the combat veterans, even though her 18-month Vietnam era assignment was in a telecommunications office at the Pentagon.

"I know it's a good deal for me," she says. "Sometimes I wonder what I did to earn it."

DISABLED VIET VETS: AFTER COPING, THEN WHAT?

(By Donia Mills)

Larry Roffee insists there is nothing to it, the elaborate maneuvering to get from his wheelchair into his car, a Jaguar he bought a couple of years ago and had specially modified with hand controls.

Relying solely on his muscular arms, Roffee positions the chair next to the car and hoists himself into the driver's seat, manually dragging his dead-weight legs in after, one at a time.

Then he folds up the wheelchair, hoists himself over onto the passenger side, slides the driver's seat forward so he can reach over and drag the wheelchair into the back seat, slides back the driver's seat, hoists himself back into it again, and is ready to go.

"It's worse on my passengers than on me," Roffee says with a droll, Dennis-the-Menace grin. "They have to stand out in the rain or whatever till I finish going through the whole bit."

Currently working as executive director of the Paralyzed Veterans of America, based in Bethesda, Roffee was a 22-year-old Army artillery lieutenant when a bullet smashed into his spine during the invasion of Cambodia in 1970.

Paralyzed from the waist down, he spent the next two years in hospitals, first in Vietnam, then at a supported base in Japan, then more military and VA hospitals back in the States.

"It takes a while to accept it," he said "The doctors never really tell you that you're never going to walk again. They don't say either yes or no, really. They just tell you that you're young and strong and you can overcome a lot of obstacles.

"I think it was five or six months after I was wounded, one day during a rehabilitation session, when it finally dawned on me—hey, this is it, for the rest of my life.

"After that, it's just a matter of adapting and coping. I decided long ago that being bitter gets you nowhere. The most important thing is to get involved in something so you can keep your mind off your disability and hang onto the notion of your own self-worth.

"When you come right down to it, the good old-fashioned American work ethic is usually the best therapy."

Like many other disabled Vietnam veterans who have come to Washington to work on behalf of their fellow veterans, Roffee makes a great effort to create an image of a handicapped person who is capable and industrious on the job.

At the same time, he stresses that much remains to be done to bring the half-million men who left the service with mental or physical disabilities back into the mainstream of American life.

The Veterans Administration has some basic statistics: They can tell, for example, that as of last September over 497,000 disabled veterans, rated on a severity scale from 10 to 100 percent, were receiving compensation payments averaging $175 a month.

Thanks to improvements in medical technology, coupled with the fast and efficient rescue work of helicopter medivac teams in combat zones, severely wounded men in Vietnam stood twice as good a chance of survival as their World War II and Korean predecessors.

About 30,000 veterans are still considered 100 percent disabled five years after the end of the fighting. Because it was a booby-trap sort of war, more soldiers than might have been expected, 12,500, lost their lower limbs or use of them.

In terms of material compensation, the government has provided well for severely disabled veterans. Those with amputated limbs, paralysis, or loss of bodily functions that require them to have full-time custodial care receive nearly $1,900 a month, tax free, from the VA.

"That sounds like a lot, doesn't it?" Larry Roffee smiles, and then adds in a briefly wistful tone: "You wanna trade?"

What the VA cannot tell with much certainty is what becomes of these men after they are taught to cope with the basic needs of daily life—wheelchair travel, showering and dressing techniques and bowel and bladder care for paraplegics—and released from VA hospitals to start their lives over again as best they can within their own families and communities.

Most disabled veterans qualify for the VA's free vocational rehabilitation program under which the government will pay all expenses for whatever educational curriculum the veteran may choose, with no reduction in the regular compensation payments.

But a disturbingly small number of eligible veterans, only about one in five, have ever entered a vocational rehabilitation program as of last year.

And since the VA has not done followup studies on the use of benefits, there is no way to tell how many men may have completed rehabilitation and been able to parlay it successfully into a job.

"The VA did wonders for me," said John Fales, a former Marine captain who came home from the war totally blind. "But there's always room for improvement.

"For a guy who's got a disability, sometimes the difference is made by the GS–1 who answers the phone and is rude or unhelpful. You can have all the fantastic programs and facilities in the world, but somebody has to help you find out about them."

Fales lost one eye in 1967 when a mortar exploded in his face at Con Thien. The other eye deteriorated from side effects of malaria pills.

Now working as employment director for the Blinded Veterans of America, he demonstrated his virtuosity one day not long ago by escorting a reporter to lunch, leading the way to his favorite midtown restaurant through a formidable obstacle course of construction debris, traffic and lunch hour crowds.

"The big thing is breaking down attitudinal boundaries, the stereotypes of what a handicapped person can and can't do," he said.

Fales agreed with other veteran spokesmen that substantial discrimination against disabled people exists in the private sector and that the Labor Department should be doing more to enforce the affirmative action provisions already on the books.

Roffee and Fales both said that informal surveys indicated only 13 percent of their organizations' members were working. Estimates of unemployment among disabled veterans place the rate at 30–50 percent.

"You can give a person all the medical attention in the world," says Ron Drach, employment director of the Disabled American Veterans, "and all the training and education in the world, but unless you have a job, what good is it to get back on your feet? What has the VA really done for you?"

Bobby Muller, another paraplegic who has been a tireless veteran activist since his return from Vietnam, puts it more bluntly.

"The most neglected area of the VA is rehabilitation of the severely disabled," Muller says. "How the hell do you explain the fact that over 80 percent of these guys are shut-ins, even though they have absolutely nothing to lose by taking vocational rehabilitation?

"The VA may have the technical facilities to physically rehabilitate a man, but there is no follow-through, no attempt to motivate and give him confidence.

"The attitude is. 'Here, son—take your check and go home.' That's much easier, just give a guy a government check for $1,900, a month. That kind of money makes it hard to get sympathy on your side. People look at you funny when you go around pitching a fit about being neglected."

VA administrator Max Cleland, himself a triple amputee, admitted in a recent interview that a year-long study of the vocational rehabilitation service showed the entire system was badly in need of upgrading.

"The way it works now, we rehabilitate a man but then we have to turn him over to the Labor Department to find him a job," Cleland said.

"What I want to do is ask Congress to give us the authority to do the whole thing—from picking the guy up out of the hospital bed to finding him a job and then doing a followup check six months later."

Cleland suggested, however, that the incentive to work might not be too great for a severely disabled man, considering the generosity of the VA payments.

"It's quite possible to live very well indeed without ever hitting a lick," he said.

But the key issue, Muller insists, is one of emotional and social adjustments rather than mere physical maintenance.

"These guys lives are human tragedies because they have no sense of accomplishment, without a meaningful occupation. Wouldn't you expect the goal of a rehabilitation program to put you back as close as possible to the place you were before, to restore your original sense of identity and worth?"

Drach said that the DAV had been discouraged by the Labor Department's failure to implement effectively a Disabled Veterans Outreach Program (DVOP) which the administration gave a rah-rah sendoff last spring.

Under this plan, 2,000 disabled veterans were hired and placed in state employment offices around the country and were supposed to develop job opportunities for 40,000 additional disabled veterans.

But DVOP workers report that they've been hindered by lack of support from both the private sector and Labor agencies that are supposed to enforce affirmative action programs for hiring the disabled.

AFTER ESCAPES IN VIETNAM, MENTAL DISABILITY: "TOO FLIPPED OUT OR TRANQUILIZED"

(By Donia Mills)

I died in the Ashau Valley
Five years ago—a short timer.
My life since has been in hell.
Hell is here on earth. There is some
Joy in hell, but only to make
The pain seem harsher and more real . . .
I am told that everyone has his disability,
And that mine is a
Loss of survival instinct as I lie
Transported into a world of
Distortions and poor decoding.
There is no use in fighting. I am
Doomed to exist and writhe in
The scalding lie of life.

Five more years have passed now since the poet, a former Marine corporal from Bethesda, took control over his mutinous mind long enough to put down those lines.

Today, at 28, the former Marine remains one of the hidden casualties of the Vietnam conflict, a 100 percent mentally disabled veteran whose wounds are not visible to the casual observer.

VA statistics on the Vietnam era, which extended officially from August 1964 to May 1975, reveal that more than 92,000 men left the service with diagnosed psychiatric disabilities. The figures for physical disabilities ran to more than 400,000.

In 1976, three years after U.S. ground troops left Southeast Asia, 19,000 ex-soldiers like the Marine from Bethesda were 100 percent disabled.

More than 6,000 of them remained in VA hospitals that year, outnumbering by two to one the general medical and surgical patients hospitalized.

The former Marine—let's call him Pete Meyer—considers himself one of the lucky ones because he has been able to leave the hospital and live independently with encouragement from his family and friends.

Nevertheless, after $20,000 worth of private psychiatric treatment, in addition to free VA care, his mental condition is still diagnosed as "chronic undifferentiated schizophrenia."

His psychotic symptoms are controllable only by heavy doses of two tranquilizers he must take morning and evening to maintain a facsimile of a "normal" life.

No doctor can tell him when or if he will ever be the way he was before the war.

Meyer joined the Marines in August 1967, fresh out of Walter Johnson High School and a comfortable middle-class home. Old friends describe him as alternately bookish and zany in those days, with a wide range of interests (from Future Teachers of America to folksinging and model rocket club) and a flair for the dramatic that won him a lead part in his senior class play, "You Can't Take It With You."

College would have seemed the obvious choice for Meyer, except he wasn't quite ready to plunge into school again, and his parents agreed that if he joined the service, he could always go to school afterward on the GI bill.

And so he went "gung-ho" into boot camp at Parris Island, followed by more training at Camp Lejeune and jungle training in California.

He reached Vietnam in the spring of 1968, sent over in a batch of replacements for a 3rd Marine Division platoon that had just been wiped out in the Tet offensive.

Meyer speaks cooly, in a tone of quizzical amusement, about the events of the following 13 months, as if he were telling someone else's story.

"Most of the time we went out on 28-day operations. At times, we were getting shot at every day. I ended up on what they called a 'permanent point squad.' That meant we were always the first guys through the bush.

"In the year I was there, out of 14 guys, only two of us in the original bunch lasted the whole time. The rest were either killed or wounded and sent home.

"But I kind of liked the point squad, because you got certain benefits. Like, you would get six hours' sleep instead of four. You just get so tired in war—eating one meal a day, going a month at a time without a shower or a change of clothes, staying awake all night on watch, or when you do sleep, just rolling up in your poncho and sleeping on the ground.

"I stayed so tired and hungry and worn down the whole time I was there I just did what I was told. I was too tired to question anything."

Meyer got the nickname "Crazy Pete" when he volunteered to be radio operator. Everybody knew the antenna sticking up behind his ear was an easy target for the enemy.

After a couple of months in the bush, his weight was down to 125 pounds and he was carrying nearly 100 pounds of gear: an M–16 automatic rifle, 18 extra 18-round magazines of ammunition, a .45-caliber pistol, a light anti-tank weapon, a shotgun with 25 rounds, eight grenades and an incendiary grenade to destroy his radio if he were captured, plus the 30-pound radio and a few spare flares.

Soon he had another nickname—"The Next Man"—because in skirmish after skirmish, with his buddies going down all around him, Meyer somehow came through without a scratch.

"It got to be a real thing after a while. Everybody just knew I was going to take a hit next time around. I never did. I guess the worst time I can remember was in the Ashau Valley, when we went up Hill 1375—they were named after their altitude—and we had a new squad leader who couldn't read a map.

"We were all marching in single file and the first two guys went around a bend and got disintegrated from the waist up by land mines they had rigged in trees by the path.

"The third guy was shot in the side. The fourth guy was blinded by shrapnel. I was the fifth one in line and I wasn t touched.

"I helped wrap up the bodies of the guys that got blown to pieces, so the units that were following behind wouldn't have to see them. Then we called up some artillery support and napalmed the enemy position.

"The funny thing about fighting over there was I never saw a live enemy soldier—except one time. Just saw a lot of dead ones."

It was about three months before his time was up, Meyer recalls, during a really rough campaign when nobody in his unit was getting more than 45 minutes of sleep at a stretch, that he started to hear the voices of his dead friends.

"I'd be standing watch and I'd hear the voice of a guy who had been a close buddy in the squad calling my name out behind me. I'd turn around and say, 'What?' But of course there was nothing there.

"At that point, I'd been called Crazy Pete so long, I figured it had really happened. So after that, I just tried to stay real busy, to stay up near the front where things were happening. I didn't hear the voices unless things got slow."

Near the end of his tour, when Crazy Pete actually volunteered to spend another year in Vietnam, his superiors knew it was time to send him home.

Still revved up for combat, he reported to his new stateside assignment. They had made him a file clerk in the company office at Camp Lejune, and for the first time the Marines had handed Meyer something he just could not swallow.

He had returned to a different country from the one he had left a year before. When he went home on weekend passes, his friends were into the anti-war movement and the drug scene.

Within a few weeks, he had become just as gung-ho about wanting his country out of the war as he had been to get into it the year before.

Back at Lejeune, he say, he couldn't stand being stuck in an office with a bunch of know-nothing "boots" just out of basic training. He felt he had served his country honorably, and now they were playing around with him.

Meyer swears he had never before taken drugs, not even marijuana back in Vietnam where the weed grew so wild the troops sometimes used it for camouflage.

But after he got home, the way he figures it, he used drugs to "medicate" himself against the frustrations and conflicts he felt over the war.

"I started out sniffing typewriter correction fluid," he recalled. "Then I moved on to speed and began smoking pot. Then it was hashish, and finally acid. Also I started trying to put together a kind of underground newspaper at Lejeune, but counter-intelligence caught me and threatened to throw me in the brig if I didn't cut it out."

Eventually, the combination of drugs and anti-war involvement got Meyer an early discharge for medical reasons, an honorable discharge to go along with the Silver Star and Navy Cross he had won for his combat duty.

He spent the next couple of years flipped out on drugs, hallucinations, and aimlessly wandering around Europe and North America. A botched suicide attempt—he didn't take quite enough Valium to do the job—led to the first of several periods of hospitalization.

"But all the hospital does is prevent you from killing yourself and keep you on your medication," Meyer says. "The best way is to live in the real world and get good counseling."

Meyer has been off acid and heavy drugs since 1973, and now lives alone in a one-bedroom apartment near his parents' home, controlling his psychosis with a powerful 400-milligram dosage of Thorazine each day.

Rated at a 100-percent disability level by the VA, he gets a monthly compensation of $754.

For six years he enrolled in courses at Montgomery College, trying at least to salvage the college education he had always planned to get on the GI bill.

"But after all that time, I only ended up with 50 credits. I'd go along fine and make straight A's during the semester, but the pressure of the finals would make me flip out again right before the exams and then I'd hole up and be a recluse for several months before I could get up the nerve to register again."

Weekly sessions with a private psychiatrist and a therapy group, paid for by his parents' insurance, help Meyer to overcome the occasional attacks of anxiety that still plague him.

"On my next disability review the VA will probably downgrade me to 70 percent because I'm working," he says. "They'll take away some of the compensation, even though my take-home is only about $300 a month. But I don't care. I really enjoy working. For so many years, I was either too flipped out or too tranquilized to do much of anything."

Nine years ago, when Pete Meyer and thousands of other American youths were struggling alone with the demons of memory and conscience that have come to be known as "Post-Vietnam Snydrome," some of the more progressive Veterans Administration doctors here were trying to convince their recalcitrant colleagues of the need for a "transitional readjustment program" to provide counseling for returning veterans and their families.

But emotions about the controversial war itself were still so strong that the proposal became a victim of politics.

Despite a significant mental health pattern that was developing among Vietnam soldiers—they suffered the lowest rate of battlefield breakdowns of any war, but a high incidence after returning to civilian society—versions of the plan were defeated three times by congressional committees in the early and mid-'70s.

Now, says Dr. Charles Stenger of the VA's mental health division, the fourth revision, called the readjustment professional counseling bill, is pending before Congress.

The problem is, you look like idiots seven or eight years later, still trying to get something like this through," Stenger said. "At this point, of course, the effect will be more one of repair than of prevention, as we initially designed it. We took care not to tag the program as 'psychological,' in order to avoid that kind of stigma in the men's minds."

VETS EXPLAIN THE PATH FROM VIETNAM TO PRISON

(By Donia Mills)

The Monday night meeting of the Prison Organization for Veterans Affairs (POVA) was called to order, more or less, in an olive drab classroom at Lorton Reformatory where the day's lesson in prepositions and conjunctions was still scrawled across the blackboard.

A dozen men in jeans, Army fatigue jackets and knit skullcaps squeezed themselves into desk-top chairs, waiting for the discussion to begin.

Of 126 veterans at Lorton, 87 were in Vietnam. A visitor at the meeting asked a handful of Vietnam veterans if they thought there was a connection between the time they had served over there and their current confinement at Lorton.

So they were each thinking back, trying to come up with something that would make some kind of sense.

"When a brother comes back home after fighting for his country and he can't find a job, that turns a man around," said Sammy Paige.

"And when a brother gets messed up on drugs, that turns a man around. When they come back sometimes, they're not the same man they were when they left."

"The average guy came out of that war not caring about nothing," added Carl Strong a former infantryman drafted at 18: "I know me, I was just so young and wild, young and wild.

I think they should have planned some special training for the ground troops. I came home and I wasn't trained for anything."

Strong said he got an honorable discharge in 1970 although he did a lot of "bucking"—refusing to follow orders—in Vietnam.

"People was giving me orders that was going to get me killed. I could see that very clearly. Guys that followed orders was dead within a month. So when I was told to do something that looked wrong, I just didn't do it."

The pattern persisted after his return, Strong added.

"I guess you could say deep down inside I was still rebelling against the boss' orders," he said. "I tried a little of everything—messenger, porter, moving company. I even worked at the post office a while."

Sooner or later, his efforts failed. Strong just couldn't hold a job. In 1976 he held up a Safeway Store and was sentenced to 7 to 25 years for armed robbery.

"I served two tours in Vietnam," Henry Carter said. "I hear people say now, man, you was a fool to go over there. But while I was there, I never heard any of that. It's only since I been out on the street I learned any different.

"If you want to know what I think . . . I think the U.S. government used Vietnam as a testing ground to show the Communist world what they could do if they wanted to, which was kill a whole lot of people."

"Ha," Carter added as an after-thought. "Then I come back and they put me in the penitentiary."

He was a good soldier the six years he served, Carter insists proudly. He was a machine operator in the Corps of Engineers, building roads along landing zones where a soldier had to check for mines every step of the way.

"I was an E–5. That doesn't mean anything today. Nobody recognizes military training out in the civilian world."

"Yeah," Carl Clark spoke up. "I came back well trained as a steam distribution engineer, but no employer here would trust me on the job. I mean, I ran a 150-pound pressure boiler over there. That thing was so powerful no building in Washington would have one because if anything happened, it would blow the whole place sky high."

As with a great number of the men now serving time in prison, Carter's downfall was drugs.

"Now, during the first tour, that was 1968–69, I never saw anything but marijuana. But the second time, 1970, the heroin was everywhere. Just about everybody was into it. I started smoking it a lot."

The smokable "smack" that flooded Vietnam during the early '70s was very pure and dirt-cheap, compared with stateside prices.

Back home and stationed at Fort Story, Va., Carter soon realized he was in over his head. His drug habit was eating up all his military pay, and to supplement it, he turned to robbery.

"At first I didn't seek medical help in the military because they just looked down on you," he said. "Once you tried to get help for drugs you were a marked man. After that, they wouldn't leave you alone.

"Once, I did go into de-tox for 11 days. That just got the monkey off my back. I felt they should have put me in a good drug program. They talked about 'drug amnesty,' but it was no real amnesty. The attitude of the military was not to help addicts, just get rid of them."

On his first robbery arrest, Carter was put on probation. He violated the probation and was subsequently found guilty on a burglary charge and sentenced to 9 to 27 years.

Carter pleaded innocent at the time, and after two years at Lorton, still claims he is innocent. His case is being appealed.

"They sure didn't consider I'd paid any dues at all with those six years in the service, did they?" he said quietly. "In the sentence that judge didn't go light on me at all. I got a wife and two children. I also got nine years. I don't see much hope she's still going to be around by the time I get out of here."

The lawyers and veterans groups who volunteer legal aid to incarcerated veterans seem to think there are very strong connections between poverty, Vietnam, drugs and prison for men like these.

In one government-sponsored survey of men returning from Vietnam in 1971, a year when both heroin use and troop reductions were at their height, more than three-fourths of the respondents reported that drugs could be had for the asking right in their own units, any time of the day or night.

Nearly half the men admitted they had tried narcotics during their tour of duty, saying they sought out the euphoric effects of drugs for reasons including boredom, homesickness, depression, insomnia and fear.

About one in five was addicted to heroin while in Vietnam.

Half of them still had their habits at the time of their return, though follow-up studies indicated a high rate of remission within a few months supporting the notion that it was the nature of the war, and not the men, that was to blame.

"Over there, that stuff was as plentiful as cigarettes," explained Bobby Williams, a 37-year-old inmate who serves as a liaison between the prison office and the veterans group.

"A lot of guys over there used drugs to cope with the reality of what they were doing. Some of them were being ordered to shoot women and children, to fire into a building, and maybe they don't really know what's inside it.

"I mean, you look around here, these guys might have done some bad things in their lives, but everybody here has got some human standards."

The POVA program at Lorton, believed to be the first such organization in the country, was begun about four years ago to assist all veteran inmates with VA benefits and various legal matters, including appeals for upgrading of the less-than-honorable military discharges many are saddled with.

June Willenz, a director of the American Veterans Committee who has counseled several Lorton prisoners about their so-called "bad paper" discharges, sees a vicious circle of poverty, ignorance, substandard military behavior, less-than-honorable discharges, joblessness and crime at work in the men's lives.

"A lot of people," she said, "want to dismiss this group as society's losers, the guys who would have gotten in trouble anyway, war or no war. And yes, that may be the case with some of them. But those with the most disadvantaged backgrounds are the ones who most often ended up getting drafted and put in the front lines, and it's a mistake to assume that the uneducated can do all right in combat, if nothing else.

"With many of these men, their lives had simply not prepared them for the kind of discipline required in the Army. Believe it or not, having some degree of education does help an individual in adjustment to military life."

With the help of volunteer counsel, six inmates so far have succeeded in getting their discharges upgraded, and 12 more are currently awaiting a decision from military review boards.

POVA Secretary John Long explained that the organization also attemps to line up housing and job opportunities for veterans prior to their prison release date but admits that this effort is usually rough going.

"Most of the landlords are not receptive," he said ruefully. "Also, we help the men file job applications, starting with teaching them how to fill out the forms properly. But that's also kind of hit-and-miss. Jobs are hard enough for a free man out on the streets to find, let alone a prison inmate."

A number of the men take courses offered in Lorton's education center by Howard and the University of the District of Columbia and paid for by the GI bill.

Carl Strong recalled, with a little amusement, the hassles he went through trying to go to school on the GI bill in between his job troubles and his troubles with the law.

"I bought a car and started studying TV repair at Columbia Tech, but I went six months before the VA sent my first check. I was dependent on those checks. By the time it would arrive each month, I owed it all back.

"Then I decided to change to a different course of study. But that stopped the checks again till they got the paperwork all changed. So I had to sell the car. Now the school was in Arlington, and I lived in the District and didn't have my car to get there."

It was about that time he robbed the Safeway.

"I guess I was just frustrated. It wasn't so much needing the money, really. Everything was going wrong and I didn't know what to do."

Now Strong is enrolled in University of D.C. courses at Lorton, but he's perturbed again because he wants to go to Lincoln Technical Institute if he can get out of Lorton before his 10-year benefits limit is up. The VA has told him there is a regulation that says a veteran can't change schools or programs more than three times or else he loses his remaining benefits.

The veterans said that their tuition and book expenses are deducted by the prison office from their monthly benefit checks and that they are allowed to send the rest home to their families or keep it in the bank as a nest egg to help them get a start after their release.

ARE "BAD PAPER" VETERANS THE "ULTIMATE SCAPEGOATS OF WAR"?

(By Donia Mills)

In January 1977 when President Carter made amnesty for Vietnam draft evaders a top priority, it was a real blow to the 750,000 ex-soldiers who had left the service bearing the stigma of less than honorable discharges.

The number of these so-called "bad paper" discharges had escalated steadily over the decade of the war. By 1975 the pre-war norm of 5 percent had climbed to 11.2 percent.

Only about 1 in 10 of these men, however, were court- martialed for serious offenses and given bad conduct or fully dishonorable discharges.

The majority received simple administrative discharges labeled "general" or "undesirable," offered to errant GIs by the service as a quick alternative to the extended ordeal of a court-martial.

The offenses ranged from charges of AWOL and insubordination to such behavioral aberrations as homosexual tendencies, smoking marijuana and a catch-all category called "personality disorders."

All those with discharges below the "general" level became ineligible for VA benefits. In addition, any man with a less than honorable discharge stood a good chance of being discriminated against by employers who would view him as a bad risk.

Statistics show that while blacks accounted for only 12 percent of the military population, they received one-quarter of all less than honorable discharges.

And recent surveys of veterans in prison revealed that nearly half had left the service with bad paper.

As several veterans activists have suggested, Carter's amnesty decision made this group feel like "the ultimate scapegoats of the war"—getting punished by the military for exactly the same behavior they saw their collegiate and draft-dodging peers getting away with in civilian life.

But two months later, the president seemed to be giving the scapegoats their due when he announced a special discharge review program under which veterans could apply to have their discharges upgraded.

One of the first in line to apply for an upgrade a year ago was Mike Sarkin, a former Army electronics technician who went AWOL following his return from Vietnam and received an undesirable discharge in 1971.

Sarkin had joined the Army young and gung-ho in 1966. Two years later, at the age of 21, he had already attained the rank of staff sergeant and successfully completed a tour of duty as an instructor at Fort Monmouth, N.J.

He promptly re-enlisted and spent a year in Vietnam with a unit that was operating, repairing and defending a radio and TV facility on a hilltop near Pleiku, in the central highlands, under frequent Viet Cong fire.

"I think I re-enlisted just to go over there," Sarkin said dryly the other day, describing the unhappy nine years that followed his four-year military career.

"It sounded at the time like a real John Wayne thing to do—and of course, I figured if my country was doing it, it had to be right."

Sarkin says he changed his mind about the war during the Tet offensive, watching innocent civilians get blown apart just walking down the street.

"The worst thing about it was the way we were conducting the war," he recalled. "It was more like a diplomatic war—the government was sending us over there to get shot at, but then making us ask permission before we could shoot back."

Like many soldiers who held up during their tour in Southeast Asia, Sarkin had a delayed psychological reaction after he returned home.

During his absence, his four-year marriage to his high school sweetheart had disintegrated, and the antiwar movement was in full swing all around him.

"My friends who were in college looked at me like, 'Oh there's Mike Sarkin, the killer.' I went around a couple of months trying to defend the war—but in 1969, that was about as dangerous as actually being in Nam."

Sent back to Fort Monmouth for the remainder of his tour, Sarkin balked at returning to the classroom.

"You know, when you get back from Nam you have a funny attitude," he reflected. "Like, all right goddammit, I went over and I did the job and I came back alive . . . now, the next time you tell me to do something, there better be a good reason for it."

Sarkin told his superiors he had no desire to teach any classes that were Vietnam-bound—an attitude his superiors refused to accept.

"I requested an early discharge, but they denied it," Sarkin continued. "So I took what you might call the chicken way out. I knew I would get an undesirable discharge if I accumulated 150 days of AWOL. I didn't really go anywhere— I just didn't report for duty.

"Eventually they transferred me to Fort Dix, were they had set up a special processing unit for guys who just wanted to check out, whatever it took. It was sort of an AWOL factory—we used to sit around the barracks at night counting off our days."

Sarkin said the men with undesirable discharges were told they could be eligible for VA educational benefits, but his application was denied by the VA the following year, and he began working in a series of menial electrician's jobs.

"After you've been a television engineer, installing light switches in apartment houses isn't too challenging," he said.

Last spring, he applied under Carter's special program, which looked like his last remaining hope to study electronic engineering under the GI bill.

Because he met several of the program's criteria—he had more than 24 months of honorable service previous to his behavior problem—the panel of review judges voted unanimously to upgrade his discharge to fully honorable.

By the end of the summer he had received his eligibility notice from VA and enrolled in Essex Community College near Baltimore.

Told to expect his first VA check on Oct. 1, Sarkin began attending classes and in the same burst of optimism, married on Oct. 7 a woman he had been dating for some time.

The very next day, he was crushed to learn that Carter had capitulated to Congressional hawks and signed Public Law 95–126, a Senate bill that held up payment of VA benefits to all 16,000 veterans with newly upgraded discharges.

Viewing the president's program as a "giveaway," Congress was demanding a second complete review of each individual case, to determine whether it would have met traditional military standards for upgrading.

Despite a clause affording 180 days of provisional payments to anyone who was already enrolled in school and receiving benefits before the bill's passage, Sarkin says he has yet to receive a penny from the Baltimore VA office—only administrative errors, delays, misinformation, and outright neglect.

The VA has also failed to explain to him satisfactorily why he can't receive benefits based on his first, honorable tour of duty.

"My wife has been marvelous about supporting me so I can keep going to classes until the VA comes through," he said. "But I know my mother-in-law looks at me and thinks, when is this freeloader going to start paying his own way?"

Another blow struck earlier this month when Sarkin's wife underwent emergency surgery and suffered ensuing complications which will keep her convalescing for a while.

Now, added to the overriding strain of personal worry, is Sarkin's discouraging realization that he will have to quit school within a month if he doesn't get his VA benefits.

"The whole system has been quite arbitrary," says David Addlestone, director of a military discharge review project set up by the American Civil Liberties Union to study cases like Sarkin's.

"Our position is that there are serious legal processing problems involved in the way many of these discharges were handled. Every case we've taken to court, we've ultimately won upgrades for. But the military still hasn't published any fixed set of standards applicable to review procedures.

"An Army officer once admitted to me that the decisions of the review board members are about 5 percent logic, 15 percent emotion and 80 percent gut reaction."

In January 1977 the ACLU and 21 veterans organizations won an out of court settlement against the military discharge review boards, insisting that "statements of findings and reasons" be written and made publicly available on each case reviewed.

And in a case sponsored by the ACLU, settled in U.S. District Court here in February, the Army agreed to review and probably upgrade 50,000 personality-based general discharges that Army officials admitted might have been misprocessed between 1958 and 1975.

Civil libertarians are still badgering the Defense Department for "published uniform standards," but the kind of 1-2-3 list they're asking for is simply not practical, according to Col. William E. Weber, current president of the Army Discharge Review Board.

"The ACLU people want precedent and judicial procedure, and it's not possible," Weber said. "We deal with intangibles, just like a civil court of law.

"The way the review board operates, each of the five members is a judge, and collectively, they're a jury. And how do you weigh a factor like family problems—do you assign it a numerical factor of 5? Of 10?"

Weber said the review board's workload has increased 1,000 percent over the past four years, partly because of the president's special program and the subsequent Congressional order to review again all the cases upgraded under the program.

At the same time, he asserted, the "almost unbelievable amount of discussion" generated on the subject of discharge review over the past few years really concerns a tiny and "insignificant" number of Vietnam veterans—less than 1 percent.

"Any program being administered by humans is going to have mistakes made," he said. "And during a time of trauma, the incidence of mistakes might escalate slightly. But there is nothing at all that supports the

idea that because some discharges were unfair, all are automatically unfair."

He compared the difference between an honorable and "general" discharge to the distinction between a A and a C on a report card.

"What the general discharge says is, 'this individual served adequately, but held something back.' We don't have a cum laude discharge to distinguish the really superior soldier. So until we stop giving A's and B's and C's in civilian life, I imagine we will keep giving general discharges."

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT, THE ADMINISTRATOR OF VETERANS AFFAIRS FOR THE UNITED STATES, THE MAINE CONGRESSIONAL DELEGATION, THE GOVERNOR, AND THE DIRECTOR OF THE MAINE BUREAU OF VETERANS SERVICES CONCERNING THE CURRENT HARDSHIPS FACED BY MAINE VETERANS

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Eighth Legislative Session assembled, most respectfully present and petition the President of the United States, the Administrator of Veterans Affairs for the United States, the Maine Congressional Delegation, the Governor of the State of Maine and the Director of the Maine Bureau of Veterans Services as follows:

Whereas, many veterans in Maine, especially disabled Vietnam-era veterans, face continuing hardships and discrimination in employment; and

Whereas, many veterans attempting to attend institutions of higher education, including the University of Maine or the vocational-technical institutes, face great hardships when financial aid promised by the United States Veterans Administration is delayed for weeks; and

Whereas, these delays severely affect their abilities to sustain basic necessities, such as food, housing, transportation and school supplies; and

Whereas, continuing public attitudes about the Vietnam War and the veterans of that war often result in employment discrimination; and

Whereas, there is a lack of communication between many Vietnam-era veterans and the United States Veterans Administration; and

Whereas, the foregoing and other factors produce severe demoralization and a sense of frustration on the part of many Maine citizens who are Vietnam-era veterans; now, therefore, be it

Resolved: That we, your Memorialists, respectfully urge that these difficulties and hardships should not be allowed to continue; and be it further

Resolved: That we respectfully urge and encourage the President of the United States and the Administrator of Veterans Affairs for the United States to make additional efforts to effectively serve Maine Vietnam veterans; and be it further

Resolved: That we respectfully request each member of the Maine Congressional Delegation to support these federal efforts; and be it further

Resolved: That we encourage the Governor and the Maine Bureau of Veterans Services to make every effort to alleviate any delay in administering the benefit programs for Vietnam-era veterans; and be it further

Resolved: That we further encourage the Governor and the Maine Bureau of Veterans Services to provide active assistance in discouraging discrimination in employment and educational opportunities for Vietnam-era veterans; and be it further

Resolved: That we further encourage the Governor and the Maine Bureau of Veterans Services to provide active assistance in discouraging discrimination in employment and educational opportunities for Vietnam-era veterans; and be it further

Resolved: That we recognize that there is a need for a strong advocate for individual veterans; and be it further

Resolved: That suitable copies of this resolution be transmitted immediately to the Honorable Jimmy Carter, President of the United States, to Max Cleland, Administrator of Veterans Affairs for the United States, to each member of the Maine Congressional Delegation, to the Honorable James B. Longley, Governor of the State of Maine and to the Honorable Robert R. Washburn, Director of the Bureau of Veterans Service.●

GOVERNOR WALLICH ON EXPORT PROMOTION

● Mr. JAVITS. Mr. President, last year the United States had a deficit in its balance of trade of $27 billion. The $45 billion in oil imports, although heavily contributing to the deficit, should not mask another contributing factor, the inability of the United States to increase the market share of its exports to cover adequately its large import bill.

Recently suggestions have been put forward that the United States should increase the subsidization of its exports in order to compete effectively in third markets with the exports of other countries which actively subsidize their exports through tax rebates, long-term cheap loans, and other forms of governmental assistance.

Competitive subsidization is not the answer; it provides that ineffective allocation of resources. Export promotion, which brings the Government into the picture as a facilitator of trade is, however, the answer.

Dr. Henry Wallich, who is a member of the Board of Governors of the Federal Reserve System with primary responsibilities in the international area, analyzes the issue in a recent article entitled "Say 'No' to Export Subsidization" that appeared in the Journal of Commerce of April 3, 1978. Drawing on his long experience in international economics, Governor Wallich differentiates between the subsidization and the promotion of exports and calls on the United States to adopt policies that support a strong export promotion program.

Governor Wallich's message should be heeded by not only those of us in the Congress but also by the administration. Without such an appreciation, which must extend into the areas of tax and investment policy as well as trade policy, the United States cannot mount a sufficiently vigorous effort to promote and facilitate exports. Unless we deliver a clear and unambiguous signal of our interest in promoting U.S. exports, the foreign exchange markets will continue to be skeptical about the seriousness of our concern about the trade deficit.

Mr. President, I commend this article to my colleagues and ask to have it printed in the RECORD.

The article follows:

[From the Journal of Commerce, Apr. 3, 1978]

SAY "NO" TO EXPORT SUBSIDIZATION

(By Henry C. Wallich)

U.S. exports have been expanding with painful slowness. This has been one of the principal causes of our large trade deficit. The domestic economy meanwhile has moved quite vigorously, and has pulled in imports at a growth rate of over 20 percent last year.

This situation has brought calls for action to stimulate exports. The United States could step up Export-Import Bank lending. It could continue, instead of dismantling as is now proposed, tax incentives to exports such as Domestic International Sales Corporations (DISCs). Various forms of export promotion are possible, such as intensified information programs at home and abroad to overcome the glacial disinterest of most American businesses in foreign markets.

SOME SEE NO NEED

On the other side, it has been argued that under a system of floating exchange rates, there is no need for export promotion. If U.S. exports are not sufficiently competitive, the dollar will go down and make them so. Indeed, successful stimulation of particular exports could be counterproductive: as more is exported of some products, the dollar will tend to go up and will choke off other exports. I shall examine some of these propositions.

To begin with, we need to obtain a fix on the present state of competitiveness of American exports in the world. Two tests usually are applied: the "real exchange rate" and export shares. The real exchange rate seeks to adjust exchange rates for inflation at home and abroad. This can be done by adjusting the effective, i.e., tradeweighted, exchange rate by the difference between inflation at home and the average inflation, similarly weighted, of a group of foreign countries. Alternatively, the same calculation can be made bilaterally, i.e., between pairs of countries. The results indicate to what extent the rise or fall of a currency has been offset by a fall or rise in prices.

WHICH INDEX TO USE?

The results of these calculations often depend on what index of prices is uses—retail prices, wholesale prices, wholesale prices of manufactures, unit export prices, unit labor costs, total unit costs, etc. Some indexes suffer from the fact that the prices they measure are not very closely related to exports. Others may mislead for the opposite reason—they measure prices that are principally determined abroad and thus not representative of the prices that exporters would have to charge in order to earn an adequate profit. The choice of a base year from which price increases and decreases are measured also makes a difference. Nobody can tell in what year prices were "right" or "competitive." Nevertheless, the results, carefully interpreted, can be informative. A judicious examination of the real exchange rate of the dollar suggests that pricewise American goods have not lost competitiveness and may indeed have picked up some during the sharp break in the dollar since last fall.

A second test of competitiveness looks at market shares of exports. This test takes into account not only prices, but all other elements of competitiveness, such as quality, delivery dates, service, credit and marketing. The U.S. share in world markets of manufactured products has been declining for many years. It was 25.3 percent in 1960, 21.3 percent in 1970, and reached a low of 19.1 percent in 1972. It recovered to 21.2 percent in 1975, but by the first two quarters of 1977 dropped again to 20.0 percent. Market share, however, is only a very partial test of competitiveness. For instance, the United States might be holding its own in every single country to which it exported, and might still be losing market share worldwide. That would happen if our principal customers grew more slowy than others. In fact, the United States has been selling principally to relatively slow growing countries and areas such as Canada and Latin America. Japan's share, on the other hand, has been

helped because Japan has been selling to relatively fast growing countries such as those of Southeast Asia and the United States itself.

Likewise, competitiveness as such would not help a great deal if a country happens to be selling goods the demand for which expands little as world income grows. This, however, does not seem to be the case of the United States. Capital goods are our principal export. While demand for them is cyclically sensitive, it tends to grow at a good rate as the world economy expands.

NEEDS CLOSER LOOK

Given these moderately positive conclusions about the competitiveness of U.S. exports, the case for export promotion needs to be examined further. Outright subsidization of exports, clearly, amounts to an inverse kind of protectionism. It causes a less than optimal use of resources, in that people no longer buy where things are truly cheapest and sell where they are truly cheap-expensive. Subsidies cause goods that are not truly cheap to outcompete goods that are. The difference between subsidies and tariffs simply is that tariffs make people buy expensive domestic goods instead of cheap foreign goods, while subsidies make them prefer expensive foreign goods to cheaper domestic. Subsidies would make international trade too large, just as tariffs make it too small. One instance where the fruits of overly aggressive export promotion are already in sight is the purchase by a U.S. airline of the European built and promoted Airbus, while U.S. made planes are sold to foreign airlines on terms easier than U.S. lines could get when they buy the same planes.

It is often argued that by skillfully subsidizing a few selected exports a substantial increase in foreign sales could be achieved. Downward pressure on the dollar from the trade deficit could thus be reduced at seemingly little cost. The exports to be selected would be those enjoying a high price elasticity abroad. But this is a game that more than one country can play. Countries would then be subsidizing each other's imports, by subsidizing their own exports. So long as only one country plays the game or plays it harder than the rest, more exports mean more jobs and a stronger currency. But the jobs gained by export subsidization in fact are not cheap, but costly. The subsidizing country gets the jobs, but the foreigner gets the goods. If the government wants to give something away, why not create jobs and give the goods produced away at home?

Yet, when all is said and done, the fact remains that the United States has a large trade deficit and that some other industrial countries are powerfully promoting, perhaps subsidizing, their exports. Under these circumstances, how far should the United States go in meeting this kind of "competition"?

A NATURAL HANDICAP

It must be remembered that, in the field of exports, the United States starts with a natural handicap. Our domestic market is large, individual foreign markets are small. It does not pay most American producers to adjust and adapt to foreign requirements when they have the biggest opportunity of all in front of their door. Exports, instead of being the fairhaired boy as they are for German industry, are the stepchild of American business As a result, numerous market imperfections continue to prevail—opportunities not seen, financing arrangements not integrated, sales organizations not properly oriented, products not designed for export.

It is appropriate, and in no way conflicting with economic theory, for government to do what can be done to overcome these market imperfections. There is much that can be done without outright subsidizing, including in the area of export financing. The objective should be to do what a well-functioning market would do. This argues for official export credit, for instance, to the extent that credit facilities that are available domestically are not available for export financing. It does not mean that our official facilities should "meet foreign competition" no matter what sort of a giveaway that competition offers to finance. But it does mean that when other countries are using their tax system to promote exports, for instance through rebates of the Value Added Tax, the United States should act with due deliberation in dismantling its own analogous devices such as "DISC." It does mean that we should enlist the internationally unmatched power of our capital market to generate long-term capital to support that kind of export financing. It means directing the attention of business, in every possible way, to the opportunities that the decline of the dollar has opened up abroad, and to help business exploit them. In short, export promotion yes, export subsidization no.●

FEDERAL MINE INSPECTORS PRAISED

● Mr. WILLIAMS. Mr. President, on Tuesday, April 4, 1978, a disaster occurred at a coal mine near Dante, Va., which took the lives of five men. According to information currently available, miners were in the process of developing a mine entry into an abandoned area for the purpose of providing drainage, when they encountered bad air. One of the men working in the mine ran to the surface to seek assistance.

Coincidentally, at that time, Mine Safety and Health Administration (MSHA) district manager, Ray G. Ross, MSHA subervisory mining engineer, Frank C. Mann, and MSHA subdistrict manager, Willis D. Ison, arrived at the scene for a routine observation of the progress in developing the entry.

With bravery and dedication to duty which characterizes the members of our Federal mine inspection force, Ross, Mann, and Ison immediately entered the mine shaft to aid in the rescue of the miners. Some miners were rescued, and Ross and Mann were able to escape to safety. Tragically, Ison did not. He died during his rescue efforts.

Mr. President, this tragic incident reminds us once again that in addition to our miners, mine inspectors also face daily dangers in the course of performing their duties.

Willis Ison's actions were in the highest level of dedication to duty. His courage and heroism serves as a reminder to us all that every day, the officials of our Federal Government are called upon to sometimes put their lives on the line in protecting our citizens.

Willis Ison's bravery rose far above a mere dedication to duty. Fellow human beings were in peril, and Ison, demonstrating extraordinary humanity and concern for his fellow man, could not stand by.

Mr. President, in this day when our Federal employees are constantly being criticized for not adequately doing their jobs, the courage and bravery, the dedication of men and women like Willis Ison deserves the praise of the Congress and the gratitude of our Nation.●

AN ASSESSMENT OF PRESIDENT CARTER

● Mr. GOLDWATER. Mr. President, Jimmy Carter is certainly not the first President who has ever misled or lied to the American people. However, he does have the distinction of being the first President in the history of the Republic to proclaim publicly that he would never tell a lie or mislead the American people. You may remember that during his campaign for the White House he urged his audiences to watch their television sets and listen to their radios to see if they could detect anything of a misleading nature in his performance as President.

In view of all this, Mr. President, it is interesting to find an article in a recent issue of Penthouse magazine entitled "The First Hundred Lies of Jimmy Carter." Because of its extensive documentation and its general interest, I submit the Penthouse article for the RECORD.

The article follows:

CARTERGATE V: THE FIRST HUNDRED LIES OF JIMMY CARTER

(By Craig S. Karpel)

Jimmy Carter is a liar. The president of the United States is a habitual, compulsive teller of untruths who, throughout his campaign and administration, has woven a tangled web of false and misleading statements.

On November 30, 1976, Carter aides presented the president-elect with a 120-page memorandum of his promises as a candidate—a compilation known in the White House as "Promises, Promises." It is divided into fifty-two categories, beginning with "Unemployment and Job Creation" and concluding with "Nuclear Proliferation." Each category contains from two to thirteen statements, many of which include several promises, ranging in scope from "supporting the repair of existing nine-foot-deep lock and Dam 26 on the Mississippi River but opposing replacement with a new larger twelve-foot lock" to "supporting efforts of the U.N. and other bodies to attract world attention to the denial of freedom."

The 100 lies that follow do not include campaign promises that are simply as yet unfulfilled. No president who has been in office for only a year could be expected to have made good on all his commitments. In compiling this list of lies, we have limited ourselves to instances in which Carter, as candidate or president, has misstated facts, made misleading statements, or violated specific commitments. (Entries whose first word ends with "-ing" are quoted from the memorandum entitled "Campaign Promises.")

Jimmy Carter isn't the first president in American history to tell a fish story. But he is the first president in American history to insist publicly that he will never tell a lie or make a misleading statement. Whenever he made these two commitments, he prevailed upon his audience to judge his performance strictly. "Watch the television," he told students at Bethune-Cookman College in Daytona Beach, Fla., on October 29, 1975, "listen to the radio; if you ever see me do any of those things, don't support me. Because I would not be worthy to be president of this country."

Is Jimmy Carter, by the standard that he himself set, worthy to be president of this country? Take a look at his first hundred lies, violations of promises, and misleading statements and decide.

1. "I am an engineer and a nuclear physicist" (Athens, Ga., 5–4–74).

A nuclear physicist is ordinarily considered to be someone who has earned a Ph.D. in the field. Carter doesn't even have a Master's.

2. "Increasing federal expenditures to local school systems whose wealth and tax bases are inadequate" (announcement speech, 12–12–74).

Carter threatened to veto a bill that would grant educational aid to communities with large numbers of federal employees.

3. "Scheduling public interrogation sessions to allow full bodies of the Congress to question cabinet members" (announcement speech, 12–12–74).

No such public-interrogation sessions have been scheduled or planned.

4. "When I left office (as governor of Georgia), our state surplus was almost $200 million" (Carter's autobiography, Why Not the Best?)

The highest surplus Georgia has ever run was $135.6 million in fiscal 1973. Between fiscal 1970, the year in which Carter became governor, and fiscal 1975, the year in which he left office, the state's surplus dropped from $103.4 million to $42.9 million.

5. "Having mandatory improvements in building insulation" (energy speech, 7–11–75).

The provisions for improving building insulation in Carter's energy plan are not mandatory.

6. "Developing standby (oil) rationing procedures" (energy speech, 7–11–75).

Carter's energy plan contains no provision for rationing, standby or otherwise, of any form of energy.

7. "I will never betray the confidence that any of you has in me" (Daytona Beach, Fla., 10–29–75).

Speaking before the National Urban League's conference in Washington on July 24, 1977, executive director Vernon E. Jordan said, "Why, then, are black people disenchanted with the administration they elected? And why do so many black people feel that their hopes and their needs have been betrayed? . . . The sad fact is that the administration is not living up to the first commandment of politics—to help those who helped you."

8. "Moslems should have access to all their holy places in Jerusalem" (campaign speech, November 1975).

Moslems from all countries already had complete access—indeed, they controlled access—to the two mosques that are on the site of the ancient Jewish temple and are holy to Islam.

9. "Yielding part of the governing of the Panama Canal Zone to Panama" (Louisville, Ky., 11–23–75).

Carter's treaty does not yield part of the governing of the Canal Zone to Panama, it yields all of it.

10. "Not favoring relinquishing actual control of the Panama Canal; retaining actual political control" (Louisville, Ky., 11–23–75).

Carter's Panama Canal Treaty relinquishes actual and political control of the Panama Canal.

11. "Never supporting nations which stand for principles with which their people violently disagree, and which are completely antithetical to our principles" (Louisville, Ky., 11–23–75).

The Carter administration's foreign-aid request included support for such nations as Argentina, whose dictatorship condones, and participates in, a campaign of murder and kidnapping against opponents of the regime, especially Jews; Nicaragua, which has been under martial law since 1974; Brazil, whose dictator expelled an opopsition leader from parliament for criticizing the government's treatment of political prisoners; Thailand, whose democratically elected government was overthrown by the military in 1976; Indonesia, whose military government admits to holding 31,000 political prisoners; the Philippines, which has been under martial law since 1972 and whose dictator admits to holding 50,000 political prisoners without trial; and South Korea, which has been under martial law since 1972 and whose dictator forced through a constitution that the International Commission of Jurists calls "one of the most authoritarian instruments presently known in the annals of national constitutions, including the constitutions of Communist nations."

12. "I achieved welfare reform by opening up 136 day-care centers for the retarded and using welfare mothers to staff them. Instead of being on welfare, those thousands of women now have jobs and self-respect. You should see them bathing and feeding the retarded children. They're the best workers we have in the state government" (New York Times magazine, 12–14–75).

Taking Carter's recommendation that we should see Georgia's welfare mothers bathing and feeding the retarded children is made difficult by the fact that there is no such program.

13. "I support the overwhelming position of the National Governors' Conference to limit deregulation of natural gas to that small portion (less than 5 percent) of production not under existing contracts" (campaign advertisement, Des Moines Register, 1–16–76).

The National Governors' Conference had adopted no such position. A few weeks after the advertisement, the proposal was put to the conference—and rejected.

14. "I support legal prohibitions against ownership of competing types of energy, oil and coal, for example" (campaign advertisement, Des Moines Register, 1–16–76).

Carter's energy plan contains no such prohibitions.

15. "If the CIA ever makes a mistake, I'll be the one, as president, to call a press conference . . ." (Manchester, N.H., 2–11–76).

In February 1977, Carter learned that the Washington Post was planning to publish a story revealing possibly illegal CIA payments to foreign heads of state. Far from calling a press conference or giving an explanation to the public, he summoned the publisher of the Post to inform him that he was "distressed" about the impact of the story and preferred that it be delayed or not published at all.

16. ". . . and I'll tell you and the American people who violated the law . . ." (Manchester, N.H., 2–11–76).

After the Post went ahead and printed the story and reporters asked the White House whether such payments were illegal, Jody Powell replied, "It is the administration's policy not to comment on—either to confirm or deny—any stories concerning alleged covert activities."

17. ". . . this is the punishment I recommend . . ." (Manchester, N.H., 2–11–76).

Carter recommended no punishment of CIA officials for the payments to heads of state.

18. ". . . this is the corrective action that needs to be taken . . ." (Manchester, N.H., 2–11–76).

At no time as president did Carter indicate that corrective action needed to be taken with regard to CIA payments to foreign heads of state.

19. ". . . and I promise it won't happen again" (Manchester, N.H., 2–11–76).

Not having admitted that the payments had been made, Carter did not promise that they wouldn't be made in the future.

20. "I have served on international bodies, such as The Trilateral Commission, which makes recommendations on some of these problems" (Chicago, Ill., 3–15–76).

The plural "bodies" makes this statement a lie; otherwise, it would be merely misleading. Carter belongs to only one organization that might be called an "international body"—The Trilateral Commission (see no. 68). But strictly speaking, being a member of an unofficial organization like The Trilateral Commission no more amounts to "serving on an international body" than being a member of, say, the International Society of Krishna Consciousness.

21. "Our [foreign] policies should be shaped with the participation of Congress, from the outset, on a bipartisan basis" (Chicago, Ill., 3–15–76).

Carter got around the law requiring that sales of military equipment to foreign countries be approved by Congress by arranging for Lockheed and G.E. to rebuild 200 of Egypt's Soviet-made MiG-21 fighter-bombers without even notifying legislators. Carter quadrupled the amount of U.S. aid to be channeled through international financial institutions, such as the World Bank, thereby evading congressional country-by-country review of funds for such human-rights violators as the Philippines, Chile, Uruguay, and Argentina.

22. "But we must not . . . recognize the existence of brutal terrorists who masquerade as [PLO] representatives in the world forum" (New York, N.Y., 4–1–76).

Last October, at a reception held by the Syrian delegation to the U.N., U.S. ambassador Andrew Young met with the Palestine Liberation Organization's representative to that world forum, Farouk Kaddoumi, who has said that "this Zionist ghetto of Israel must be destroyed."

23. "I will reduce the White House staff by 30 percent—and you can depend on it" (campaign speech).

Carter has reduced the presidential staff from 2,197 to 1,810, a cut of 17.6 percent. Of the total reductions, 150 were transferred to a new Central Administrative Unit within the White House establishment, and other employees were shifted to other executive branch agencies. Less than 150 represent dismissals of jobholders. The actual cut is thus less than 6.8 percent.

24. "I was put on the [local library] board because I checked out more books than anyone else in the county. My library card is number five in Sumter County. For I remember that I started reading books as an isolated country boy when I was very young" (Cleveland, Ohio, 4–8–76).

Carter indeed holds card number five at the Blackshear Lake Regional Library in Americus, Ga., Sumter County's seat, but it's not because he started reading books when he was very young. Nor was he, as he implied, the fifth person to borrow books from the library, which began lending them forty-four years before Jimmy Carter was born. Cards specially numbered one through twelve were issued to all the members of the library board in 1962, when Carter was an isolated country boy of thirty-seven.

25. "Never using unemployment as a tool to fight inflation" (economy position paper, 4–22–76).

In 1975 Carter was promising unemployment of 1 to 2 percent. Shortly after the inauguration, it was announced that the first-year goal would be 7 percent. At the moment, keeping one out of every fourteen working people out of a job is Carter's primary tool for fighting inflation.

26. "Proposing a plan to assist Lebanese who are in danger to emigrate to this country" (Philadelphia, Pa. 4–23–76).

As president, Carter has proposed no such plan, despite a PLO massacre of Christian villagers in southern Lebanon.

27. "Making no change to decrease the mortgage deduction; any change would increase the deduction" (Wall Street Journal, 4–26–76).

Carter's income tax revision proposals decrease the home mortgage interest income tax deduction.

28. "Never trying to force Israel to give up the Golan Heights" (telegram to American Jewish Press Association, 5–26–76).

Carter's Mideastern policy has been directed toward forcing Israel to give up the Golan, from which the Syrians bombarded Israeli settlements in the Galilee from 1948 until 1967.

29. "I will always keep a watchful eye on your industry to insure that it is not unreasonably prejudiced by unrestrained competition" (letter to Howard D. Samuel, then vice-president of Amalgamated Clothing and Textile Workers Union, spring 1976).

Carter supported a provision allowing apparel imports to rise by 6 percent a year. Some 500,000 members of the Amalgamated Clothing and Textile Workers and the International Ladies Garment Workers conducted a one-day work stoppage last year in a fruitless attempt to get Carter to cut the allowable increase in half.

30. "I see a government that does not spy on its citizens" (Cincinnati, Ohio, 5–27–76).

The Carter administration drafted S. 1566, which is a bill authorizing the wiretapping of Americans who, without any evidence that they have committed a crime, "collect or transmit information" in a manner that is considered harmful to the national security.

31. ". . . but respects your dignity and your privacy . . ." (Cincinnati, Ohio, 5–27–76).

Within weeks of the inauguration, the Carter administration asked Congress to block implementation of newly enacted privacy protections for bank and tax records even before they went into effect.

32. ". . . and your right to be let alone" (Cincinnati, Ohio, 5–27–76).

Carter proposed a corps of children who would go from door to door to inspect compliance with energy-and-water-conservation measures, including checking the level of water in our toilets.

33. "Just staying within the letter of the law will never be enough for a Carter campaign or a Carter administration" (Christian Science Monitor, 12–13–74).

As is evident from Carter's handling of the Lance and Helms affairs, not staying within the letter of the law is enough for a Carter administration.

34. "Giving Israel whatever military and economic aid that is necessary" (6–6–76).

Carter has canceled the sale of concussion bombs to Israel, reneging on a signed agreement by the Ford administration.

35. "We must never again keep secret the evaluation of our foreign policy from the Congress and the American people. They should never again be misled about our options, commitments . . ." (campaign position paper: "Jimmy Carter on the CIA").

As revealed by Tad Szulc in the January 1978 Penthouse, Carter has misled the American people, through contradictory announcements and press leaks, about our options and commitments in the Horn of Africa, where the United States has entered into a bizarre de facto alliance with Communist China and Saudi Arabia to support Somalia in its war against Soviet-backed Ethiopia.

36. ". . . I want to say that there have been far too many . . . diplomatic sleights of hand [in U.S. Mideast policy]" (6–6–76).

There is no better example of a diplomatic sleight of hand than the remark made by Secretary of State Vance on his trip to the Middle East last year. He said that the United States would recognize a PLO delegation at the Geneva conference if the PLO would indicate its willingness to accept Israel's existence by endorsing U.N. resolution 242, which calls for security for all states in the region. The trickery arises out of the fact that Article 19 of the terrorist organization's charter claims that "the establishment of the state of Israel [is] entirely illegal, regardless of the passage of time" and is, according to Article 20, "deemed null and void." Thus the PLO's position is that Israel is not a state and is therefore not entitled to security under Resolution 242. Therefore, even if the PLO were to endorse 242, it would not be indicating its acceptance of Israel.

37. "Final borders between Israel and her neighbors should be determined in direct negotiations between the parties . . . " (6–6–76).

As president, Carter has pressed for a reconvening of the Geneva conference, which would include the United States and the Soviet Union—neither of which is a neighbor of Israel, Egypt, Jordan, Syria, or Lebanon—at the bargaininng table.

38. ". . . . and they should not be imposed from outside" (6–6–76).

Before making a trip to London in May 1977, Carter told three European journalists, as reported by The New Republic's John Osborne, "I would not hesitate if I saw clearly a fair and equitable solution [of the Mideastern crisis] to use the full strength of our own country and its persuasive powers to bring those nations to an agreement."

39. "Reducing present defense expenditures by about $5 to $7 billion annually" (platform presentation, 6–10–6).

Defense expenditures for fiscal 1977, the last year of Ford, were $110.2 billion. For fiscal 1978, Carter requested $120.4 billion—an increase of $10.2 billion.

40. "Appointing qualified women early in the administration and in substantial numbers" (statement to 51.3 Percent Committee, 6–13–76).

President Ford computed that 14 percent of his appointees were women. Carter has made 367 presidential appointments. A grand total of forty-five are women—12 percent.

41. "Controlling inflation through the following measures: . . . Standby wage and price controls" (platform presentation, 6–16–76).

As president, Carter has not supported standby wage or price controls.

42. "Enforcing rigidly the antitrust laws in energy-related matters" (platform presentation, 6–16–76).

The Justice Department antitrust investigation of possible anticompetitive conduct by oil companies operating in the Persian Gulf area is civil rather than criminal. Similarly, its investigation of the possibility of price fixing in intrastate natural gas is civil, not criminal. In a succesful civil-antitrust action, there is no punishment for having broken the law—just a court order prohibiting the illegal activity in the future.

43. "Placing the importation of oil under government authority in order to ensure strict purchasing controls and the auctioning of purchase orders" (platform presentation, 6–16–76).

Carter's energy plan contains no such provisions.

44. "We sold or gave away bilions of dollars of arms last year, mostly to developing nations . . . Sometimes we try to justify this unsavory business on the cynical ground that by rationing out the means of violence we can somehow control the world's violence" (New York, N.Y., 6–23–76).

Among Carter's more unsavory arms deals with developing nations is his proposed $1.5 billion sale of sixty advanced F–15 fighter-bombers to Saudi Arabia, opposed by the Federal Arms Control and Disarmament Agency.

45. "Reducing the number of bases in the Panama Canal Zone, and possibly reducing the military forces the United States has there" (New York Times, 6–24–76).

Carter's treaty does not "reduce" the number of bases or military forces in the Canal Zone; it eliminates all of them.

46. "Moving immediately toward using economic political pressure [on] South Africa to encourage the independence [of] Namibia . . ." (New York Times, 6–24–76).

Carter has made no such move, immediately or subsequently.

47. "Removing welfare burden from cities, with welfare costs being paid by the federal and state governments" (urban policy speech, 6–29–76).

"Mayors and governors have long been demanding complete federal takeover of welfare, but the basic [Carter] plan contains virtually no such relief."—New York Times, 7–28–77.

48. "Increasing the portion of transportation money available for public mass transportation" (urban policy speech, 6–29–76).

Carter's energy plan contains no provisions increasing funding of mass transportation.

49. "Keeping the price of domestic oil below the price of OPEC oil" (Deregulation of Natural Gas Statement, Pre-Convention Issues, Statement No. 57).

Carter's energy plan raises the price of domestic oil to the price fixed by the organization of petroleum-exporting countries through a wellhead tax, which would increase along with the OPEC price.

50. "Making public all requests for government consideration by private or corporate interests, and making decisions on those requests only on the basis of merit" (Code of Ethics, Pre-Convention Issues, Statement No. 71).

According to columnist William Safire, the Sugar Users Group—a corporate interest group run by a vice-president of Atlanta-based Coca-Cola, the world's largest buyer of sugar—came to Carter and asked that instead of a tariff on imported sugar, which would have paid money into the U.S. Treasury but resulted in a higher sugar cost to Coca-Cola, the president propose a federal subsidy to processors, which would force the taxpayers to pay $240 million to keep the price of sugar low to Coca-Cola. Without making public their request, Carter did as the Sugar Users Group asked. It took an act of Congress to force Carter to raise sugar duties.

51. "Making mandatory financial disclosure for the president, vice-president, and all those appointed to major policymaking positions in the administration. The disclosure must include financial holdings, where assets are invested and where interests exists [sic] other than investments, in order to insure that no conflict with public interest exist [sic]" (Code of Ethics, Pre-Convention Issues, Statement No. 71).

Carter did not disclose the fact that he has a stock portfolio in a branch of Merrill, Lynch, Pierce, Fenner, and Smith in Columbus, Ga. What's more, the White House press office has refused to disclose the stocks in the portfolio.

52. "Opposing S. 1" (Senate Bill No. 1 Pre-Convention Statement No. 82).

Carter supported the original version of S. 1437, the federal criminal code revision legislation known as "Son of S. 1," which retained the anti-bill-of-rights thrust of the measure supported by Nixon and Ford.

53. "Preferring a more progressive plan to increase gradually the maximum amount of earnings subject to the Social Security tax (rather than increasing the Social Security contribution rate)" (Social Security Statement, Pre-Convention, No. 83).

As President, Carter proposed that the Social Security contribution rate go up by 25 percent in 1985 and by .75 percent in 1990.

54. "Not making any substantive changes in our tax law, or proposing any as president, until at least a full year of very careful analysis has passed" (New York, N.Y., 7-22-76).

Carter's energy plan, which was issued four months after he became president, proposed that numerous substantive changes be made in our tax law, including the gas-guzzler tax and the wellhead tax on crude oil. Last October, after less than nine months as president, Carter proposed approximately 1,000 substantive changes in our tax law.

55. "Limiting wage increases for federal employees to a reasonable figure, so as to encourage the private sector to restrain wage and price demands" (press briefing, 7-28-76).

Here are some examples of Carter's limitation of wage increases for federal employees in his own office: the salary of Joseph Aragon, special assistant, has been raised from $26,000 to $51,000; that of James Fallows, chief speech writer, $20,000 to $45,000, that of Annie Tate, associate assistant for congressional liaison, $30,000 to $42,000; that of Frances Voorde, director of scheduling, $30,000 to $42,500; that of Jerome Doolittle, $20,000 to $34,000; that of Griffin Smith, Jr., $20,000 to $36,000; that of Elizabeth Rainwater, deputy assistant for research, $12,000 to $42,500.

56. "In the county where I am, we don't have a doctor, we don't have a dentist, we don't have a pharmacist, we don't have a registered nurse" (Beverly Hills, Calif., 8-2-76).

Carter Farms, Inc., Carter's family corporation, farms 2,000 acres, all in Sumter County, Ga., where Plains is located. There are 25 physicians, 8 dentists, 14 pharmacists, and 115 registered nurses in Sumter County.

57. "Basing every decision as president on strengthening the family" (Manchester, N.H., 8-3-76).

Carter's welfare plan would weaken the family by requiring mothers with children more than six years old to accept a job at the minimum wage.

58. "Keeping Congress informed on any issue involving national security" (New York Times, 8-22-76).

See no. 21.

59. "What did these vetoes [by President Ford] accomplish? Did they save us from wasteful, reckless spending, as the administration would like us to believe? I think not" (Los Angeles, Calif., 8-23-76).

Carter has issued Ford-style threats to veto bills that would expand spending for farm price supports, water projects, and educational aid to communities with large numbers of federal employees.

60. "I do not favor a blanket amnesty; but for those who violated Selective Service laws, I intend to grant a blanket pardon" (Seattle, Wash., 8-24-76).

Carter's pardon did not apply to the entire Vietnam War. It covered only offenses committed between August 4, 1964—the Gulf of Tonkin incident—and March 28, 1973, the suspension of the draft. U.S. troops were first sent to Vietnam in 1960. From 1960 through 1964 there were 1,371 prosecutions for violations of the Selective Service laws, resulting in 1,055 convictions.

61. "Minimizing government secrecy . . ." (speech before American Bar Association, 8-31-76).

Last April a task force within the Energy Research and Development Agency completed a study which showed that, if the price of natural gas were allowed to rise to $2.25 per thousand cubic feet, the U.S. would have forty-five years' supply (at current levels of consumption). Were the price allowed to go to between $2.50 and $3.00, it would be economical to tap supplies of geo-pressured methane, which would be sufficient for 1,000 to 2,500 years. Carter's position was that gas should be priced at no more than $1.75, based on his false claim that higher prices would not release increased supplies, and that we are therefore entering a battle zone of "permanent energy shortage," through which he proposes to lead us as commander-in-chief in "the moral equivalent of war."

Because the study threatened to reveal that his no-man's-land is potentially a garden of delights, the task force was disbanded and its report suppressed.

62. "As a political candidate, I owe special interests nothing" (Warm Springs, Ga., 9-6-76).

The Trilateral Commission, to which Carter owes his nomination and which includes representatives of Coca-Cola, Hewlett-Packard, Chase Manhattan Bank, Petro-Canada, Wells Fargo Bank, Texas Instruments, Sears, Fiat, Rolls-Royce, Sony, Toyota, and Fuji Bank, is at least as much of a special interest group as, say, the Association of Philippine Coconut Desiccators.

63. "I find it unacceptable that we have, in effect, condoned the efforts of some Arab countries to tell American businesses that in order to trade with one country or one company, that they must observe restrictions based on race or religion. These so-called Arab boycotts violated our basic standards of freedom and morality, and they must be stopped—period" (Washington, D.C., 9-8-76).

This passage contains two misleading statements and a violated commitment. First, not "some" but all Arab countries participate in the boycott of Israel. Second, the Arab boycott does not include just restrictions based on race or religion, as Carter implied. Its most important restrictions prohibit trade with any American company that does business in Israel or uses Israeli components in its products.

Finally, under the regulations issued by the Carter administration, the Arab boycott has been stopped—but not "period."

When the administration announced its regulations to enforce the new law, Senator Proxmire, one of the original proponents of an effective antiboycott measure, charged that sections of the administration's rules appeared to "violate" Congress's intent by including loopholes enabling American business to continue complying with the Arab boycott.

64. "We must supply Israel unequivocally and in the full amount necessary in economic and military aid so Israel can pursue peace from a position of strength and be protected against any foreseeable attack" (Jewish New Year's message, 9-14-76).

Carter's original policy review memorandum recommending severe restrictions on arms sales excepted only Japan, Australia, New Zealand, and the members of NATO. It was only under strong congressional pressure that Carter backed down and exempted Israel.

65. "Removing loopholes and shelters for the wealthy" (Economic Issues Statement Post-Convention, No. 133).

On March 8, 1977 a group of oilmen met with Carter, requesting exemption of intangible drilling costs from the "minimum tax"—the tax they're supposed to pay after they've avoided all other federal taxes. They got their $40 million loophole the very day that Carter announced his energy program.

66. "Having the federal government enter on behalf of consumers into negotiations with OPEC, thereby removing such negotiations from the sole control of OPEC and the big oil companies" (Energy Reorganization Statement, 9-21-76).

When reminded of this promise at a press conference, Carter said that he has "no such plans at present."

67. "There is no reason to think these [Maverick] missiles will increase security and stability in the Middle East. . . . No administration which was sensitive to the climate in the Middle East would let the sale [to Saudi Arabia] go forward" (9-30-76).

Carter is letting the sale of Maverick air-to-ground missiles to Saudi Arabia go forward.

68. "I believe my strongest quality would be my natural inclination . . . to derive my political support and basic attitudes directly from the people rather than through powerful intermediaries" (Reader's Digest, October 1976).

As described in Cartergate I, II, and III in the November 1977, December 1977, and January 1978 issues of Penthouse, since mid-1973 Carter has derived his political support and basic attitudes through the powerful intermediaries of The Trilateral Commission.

69. "I'll do everything I can, as president, to stop the boycott of American business by the Arab countries. It is not a matter of diplomacy with me; it is a matter of morality" (second presidential TV debate, San Francisco, Calif., 10-6-76).

When antiboycott legislation came before the Senate, Carter sent the nation's chief diplomat to testify in favor of weaker provisions, on the grounds that the administration was successfully using diplomacy to convince the Arabs to moderate their boycott of 450 U.S. companies (including Ford, Motorola, RCA, Revlon, Xerox, and Zenith) doing business with Israel. "The members of this committee should be aware," said Secretary of State Cyrus Vance, "that diplomatic efforts . . . have brought about some encouraging changes in this area of concern. I am happy to report that during my visit to Saudi Arabia, its leaders informed us that Saudi Arabia will accept positive certifications of origin."

All "positive certifications of origin" means is that Arabia will no longer demand from U.S. exporters a certificate that goods didn't originate in Israel—they'll accept one that reads that the goods did originate somewhere else, which is simply a cleaner way of saying the same thing. Not only did Carter make the boycott a matter of diplomacy, but also the purpose of that diplomacy was to suggest to the Arabs ways of putting a respectable face on their refusal to deal with companies that deal with Israel.

70. "Never attempting, through appointments to the FCC or through other actions, to censor the television, news, or other information media" (TV Guide, 10-9-76).

Carter's try at squelching the Washington Post's story about CIA payments to foreign heads of state [see no. 15] was an attempt at censorship. The original version of the federal criminal-code revision bill, "Son of S. 1," which the Carter administration supported, contained provisions to make it possible for a judge to slap a gag order on a reporter covering a trial even if the order were subsequently ruled illegal. This would make it a crime to publish government information that had not been made available officially to the press, and make it a crime for a reporter—or anyone else, for that matter—to write (or speak) a true statement that caused economic loss to a public official, his "family, friend, or business associates," which a jury thought was "improper."

71. "Enforcing strictly laws against public officials who break laws" (speech before American Bar Association, 8-31-76). "Eliminating the double standard of justice that favors 'big shot' criminals" (Detroit, Mich., 10-15-76).

Carter personally authorized the Justice Department's plea bargain with former CIA Director Richard Helms, who lied to a Senate committee in denying that the agency had funneled money to opponents of the late president of Chile, Salvador Allende. Helms was not prosecuted for perjury but allowed to plead "no contest" to misdemeanor charges, for which he was sentenced to a $2,000 fine. The head of the committee, Senator Church, commented, "I thought there was to be an end to the double standard of justice for the big shots."

72. "Opposing the sale of arms to Egypt that could be used in a strike against Israel" (St. Louis, Mo., 3-31-76).

On July 26, 1977, Carter informed Congress

that he wished to sell Egypt the following items:

Fourteen C–130 Hercules military transports for ferrying troops and supplies, valued at $180 million.

Twelve pilotless, reconnaissance drone aircraft worth $30 million.

Six sophisticated reconnaissance cameras for aircraft already owned by Egypt, costing $7 million.

All of these weapons could be used in a strike against Israel.

73. "Aid should not be used in a carrot and stick fashion. . . . Israel must feel secure in the support that it expects from America in order to take the necessary risks for peace" (letter to Jewish Telegraphic Agency, 10–18–76).

In an interview aired on the Canadian Television network on October 2, 1977, Zbigniew Brzezinski, Carter's national-security adviser, was asked whether "there is some indication, sir, that the United States is going to be hard on Israel, perhaps harder than previous administrations have been." Brzezinski replied: "The United States has a direct interest in the outcome of the Middle Eastern conflict. . . . And, therefore, the United States has a legitimate right to exercise its own leverage, peaceful, and constructive, to obtain a settlement."

74. "I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital" (letter to governors of natural gas-producing states, 10–19–76).

Carter's energy plan did not call for deregulating the price of any natural gas.

75. "Sending an emissary to Lebanon on a fact-finding mission within one month of inauguration" (statement on Lebanon, 10–23–76).

Carter has sent no emissary.

76. "Vice-President Mondale will be my top staff person" (Plains, Ga., 12–13–76).

Hamilton Jordan is Carter's top staff person.

77. "All [my] common stock is being sold, consisting of 100 shares of Rich's, Inc., and 956 shares of Advance Investors" (Americus, Ga., 1–4–77).

Carter has not sold the stocks contained in his portfolio at the Columbus, Ga., branch of Merrill, Lynch.

78. "Further steps are needed to insure that former government officials cannot use their personal contacts gained in public service for private benefit" (Americus, Ga., 1–4–77).

The president's son Jeff and Jeff's wife, Annette, solicited bids from publishers for a book of photographs of the Carter family in the White House, doing so in a letter that hinted that Carter himself would write the foreword. Presumably, such a book would continue to earn royalties for the Carter family after the president's term expires.

79. "We will move this year a step forward toward our ultimate goal—the elimination of all nuclear weapons from this earth" (inaugural address, Washington, D.C., 1–20–77).

Carter had indicated that he favors a step toward an entirely new generation of nuclear weapons—the development of the neutron bomb, which minimizes damage to property and maximizes damage to people.

80. "All federal judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspects or influence."

Carter forced the resignation of U.S. Attorney for New Jersey Jonathan Goldstein, a registered Republican, so that he could be replaced by a Democrat. These are his judicial appointments so far: federal judges—thirty-one Democrats, no Republicans. U.S. attorneys—fifty-five Democrats, 1 Republican.

81. "This is the first major indication of a permanent energy shortage" (Pittsburgh, Pa., 1–30–77).

There is no energy shortage now and no possibility of a permanent energy shortage. The illusion of a shortage has been created by the Arab production cutbacks, which the Carter administration had done nothing to oppose, and by federal regulatory policies that makes it disadvantageous for oil companies to drill for oil in the United States.

82. "My intention has always been, as expressed many times during my own political campaign, that natural gas should be deregulated for a limited period of time, on a test basis—I would say for a four-year period of time" (Pittsburgh, Pa., 1–30–77).

On January 16, 1976, in an ad in the Des Moines Register, Carter said, "I support legal restrictions to allow a 'reasonable profit' on oil and natural gas rather than allowing prices to be set without restriction." But he told an astonishing series of lies and flip-flops: he came out in his campaign statement against deregulation; then, after ten days in office, he claimed that he had always come out for deregulation; and three months later he announced an energy plan that continues regulation.

83. "Whenever a regulation is issued, it will carry its author's name" (TV "fireside chat," 2–2–77).

Federal regulations do not have "authors." As John Snow, then head of the National Highway Traffic Safety Administration, said: "I don't want to be difficult, but you take that regulation we put out the other day on anthropomorphic test dummies. There must have been twenty or thirty lawyers and engineers who worked on it. Does he want all of them to sign it?"

84. "Recently, Secretary of State Vance took a trip to the Middle East . . . to explore some common ground for future permanent peace there, so that Israel might have defensible borders so that the peace commitments would never be violated and that there could be a sense of security about this young country in the future" (Washington, D.C. 3–7–77).

Carter's notorious "defensible borders" statement was jumped on by commentators as a "gaffe" and an "inconsistency." Carter characterized it more accurately two days later when, restating that he would tolerate only "minor adjustments" in Israel's 1948 borders, he dismissed his statement about defensible borders as "semantics." Its semantic purpose was to imply that the cease-fire lines of 1948 could be defended by Israel against the laser-guided tanks and surface-to-surface missiles of three decades later. In reality, Vance told all the Middle East leaders that the Carter administration wants Israel to go back to its 1948 border, which passes within twelve and one half miles of Tel Aviv, cuts through downtown Jerusalem, and surrounds the rest of the city on three sides.

85. "I can guarantee you that when you fill out your income-tax form for 1977, it will be much simpler. There is no doubt about it. If I don't do that, I will have broken my word of honor, and I don't intend to break it" (Washington, D.C., 3–25–77).

Form 1040 for 1977 has exactly the same number of lines as Form 1040 for 1976: sixty-six. The only difference between the 1976 and 1977 forms is the order of the items. There has been no simplification. In fact, because total income, taxes, and credits are no longer summarized on the first page, it is arguable that the 1977 form is more complex.

86. "The United States will not be the first supplier to introduce into a region newly developed advanced weapons systems which would create a new or significantly higher combat capability" (Washington, D.C., 5–19–77).

The Beirut newsmagazine Events noted that "in what seemed to be a breach of his own policy guidelinees, Carter asked Congress to approve the sale to Iran of seven of these highly sophisticated flying radar systems [the newly developed, advanced Boeing E–3A airborne warning-and-control system (AWACS)], which consist of Boeing 707 jet aircraft packed with electronics, each with a mushroomlike radar scanner sprouting from the rear of the fuselage."

87. "U.S. arms sales abroad in fiscal 1977 total $9.9 billion" (message to Congress).

According to the Pentagon, the actual figure is $11.3 billion.

88. "We desired to set the precedent of having the president's income tax reviewed" (Deputy Press Secretary Rex Granum, Washington, D.C., 6–8–77).

Granum's press briefing came on the afternoon of the day that Newsday, the Long Island newspaper, reported that Carter's 1975 income taxes were being audited. After reporters refused to believe the White House, Carter's press aides admitted the IRS, not the president, had initiated the audit.

89. "H.R. 5262 would require us to vote against any loan to a country where human rights were being violated" (letter to Sen. Hubert Humphrey, Congressional Record, 6–14–77).

The bill Carter was opposing contained an amendment by Representative Badillo of New York that would not have required the U.S. representative to such institutions as the World Bank to vote against "any" loan to a country where human rights were being violated. The amendment applied only to "any country which engages in gross [emphasis added] violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, and including the providing of refuge to individuals committing acts of international terrorism, such as the hijacking of an aircraft." Moreover, if such a loan "is directed specifically to programs which serve the basic human needs of the citizens of such country," the Badillo amendment would have allowed the U.S. representative to vote for the loan. In the wake of Carter pressure against the bill, the amendment was deleted.

90. "We ought not to evolve a complicated position in a sensitive area, like the Middle East, in secret and then spring it on people or negotiate privately" (ABC–TV interview, Plains, Ga., 8–10–77).

The joint U.S.-Soviet communique on the Middle East, which recognized "the legitimate rights of the Palestine people"—the PLO code phrase for the destruction of Israel—was negotiated secretly between Secretary of State Cyrus Vance, National Security Adviser Zbigniew Brzezinski, and Soviet Ambassador to the U.S. Anatoly Dobrynin. Carter staff chief Hamilton Jordan first learned of the statement's existence by hearing about it on the radio on Saturday night, October 1. Stuart Eizenstat, Carter's chief adviser on domestic affairs, first read about it in the newspapers. Vice-President Walter Mondale was unaware of the statement until after it had been released.

91. "At almost all times, Bert Lance had more than enough on deposit in other accounts to cover his overdraft" (Washington, D.C., 8–23–77).

While he was running for governor of Georgia in 1974, Lance's campaign accounts at Calhoun National Bank, which he headed, were overdrawn by as much as $228,151. His personal overdrafts rose as high as $110,000, and those of nine relatives soared as high as $450,000. At no time did Lance have more than $110,000 on deposit at the bank.

92. "There has been no evidence of either illegalities or unethical conduct [by Bert Lance] . . ." (Washington, D.C., 8–23–77).

Federal bank examiners and the comptroller of the currency reported that Lance had violated laws prohibiting loans of more than $5,000 from a bank to any officer of that bank and requiring reports to the directors of the Calhoun National Bank and National Bank of Georgia on his loans and outside business interests.

93. ". . . and no conduct that was contrary to the normal practices that exist in the banking circles in our country" (Washington, D.C., 8–23–77).

"He's certainly in the extreme minority," a Virginia banker told the New York Times about Bert Lance. A Detroit banker said: "Of the 14,000 banks in the U.S., I don't think you'll find one-half of 1 percent have a Bert Lance."

94. "Guaranteeing adequate price supports on a parity level which assures farmers a reasonable return based on their cost of production" (Iowa agriculture speech, 8–25–76).

Carter has threatened to veto such legislation, and farmers have brought tractor convoys to Washington and state capitals to dramatize their inability to make ends meet.

95. "Disputes that have existed for 2,000 years [in the Middle East] can't be resolved in one peace conference (interview in Jerusalem Post, 9–12–77).

The dispute between Israel and the Arabs dates only from the 1920s, when officials of the British Mandate in Palestine encouraged anti-Jewish agitation in an attempt to drive Jewish settlers out of the country so that the Middle East could be turned into a collection of weak Arab ministates, dependent on England. In 1919 the Emir Faisal, king of the Hedjaz in what is now Saudi Arabia and leader of the Arab revolt against the Turks in World War I, signed an agreement with Dr. Chaim Wezmann, head of the Zionist Organization, supporting the establishment of Israel.

96. "The attorney general has not consulted me nor given me any advice on the Helms question" (Washington, D.C., 9–29–77).

Shortly after it was disclosed that the Justice Department had entered into a deal with former CIA Director Richard Helms not to prosecute him for perjury for telling a Senate committee that his agency had not participated in the overthrow of the democratically elected Allende in Chile, Attorney General Bell said he had met with Carter in the Oval Office on July 25, 1977, and had told him that there was a prosecutable case against Helms. Bell said that "the president authorized us to determine the feasibility and possibility" of plea-bargaining with Helms.

97. "We must face an unpleasant fact about energy prices. They are going up, whether we pass an energy program or not, as fuel becomes scarcer and more expensive to produce" (Washington, D.C., 11–8–77).

Prices are not automatically "going up"—they are being deliberately, extortionately, raised by the Arab-dominated OPEC cartel. These countries are not raising the oil price because "fuel becomes scarcer and more expensive to produce." The cost of lifting a barrel of oil in the Middle East—including recapture of the investment in exploration and drilling plus a 20 percent profit on that investment—comes to a grand total of ten to twenty cents. Yet the Arabs charge us nearly thirteen dollars for that barrel. Carter is telling a half-truth on one point: prices will go up whether we pass his energy program or not—because it contains not a single provision for moderating the price-setting power of OPEC.

98. "I don't intend to break a single promise. I'm giving you my word of honor" (Manchester, N.H., 2–10–76).

99. "I will never make a misleading statement" (Daytona Beach, Fla., 10–29–75).

100. "I will never tell a lie" (Daytona Beach, Fla., 10–29–75).●

SEVERE SENTENCES AGAINST UKRAINIAN HELSINKI WATCHERS

● Mr. PELL. Mr. President, last Wednesday, on March 29, 1978, the Soviet authorities sentenced both Mykola Matusevych and Myroslav Marynovych, founding members of the Ukrainian Helsinki watch group, to stiff penalties: seven years in labor camp and 5 years of internal exile for "anti-Soviet agitation." Marynovych and Matusevych have already spent 11 months in total isolation since they were arrested on April 23, 1977.

Their isolation continued even during the trial—neither family nor friends were admitted to the courtroom in the village of Vasilkiv near Kiev. As a mark of protest at the illegality of the proceedings, Matusevych refused to testify and therefore was taken from the courtroom.

Mykola Matusevych, a Kiev resident, was prevented from completing his education because of his political views and was once jailed for 5 days for taking part in traditional Christmas caroling. He has also been dismissed from work several times for defending political prisoners and has supported himself by working at odd jobs.

Myroslav Marynovych, an electrical engineer by profession, comes from the village of Kalynivka in the Kiev region. Reportedly, he was thrice dismissed from jobs for associating with dissidents and for expressing nonconformist views. Most recently, he was employed as an editor at a publishing house.

The fate of Marynovych and Matusevych has long been of concern to Soviet dissidents such as General Pyotr Grigorenko. He feared that the Soviet authorities would deal with their case with particular severity due to their relative youth—Matusevych is 31 and Marynovych is 28—and because they are natives of the Western Ukraine, an area from which activists are always treated with special harshness.

Partly because rumors were circulated that the two men had been released, their case has received little attention in the West. I protest in the strongest terms this blatant violation of the Helsinki accords which the sentences of Mykola Matusevych and Myroslav Marynovych represent.●

A LIBERTY TREE GROWS ON CAPITOL HILL

● Mr. MATHIAS. Mr. President, there is now growing on the U.S. Capitol grounds a direct descendant of our last living link with the American Revolution, the Liberty Tree which stands on the St. John's College campus in Annapolis. A sapling from that historic tree was planted here at the Capitol on Monday, March 27.

The Liberty Tree symbolizes the determination of our ancestors to establish here a country dedicated to freedom. Maryland's Sons of Liberty were in the vanguard of the independence movement that created the United States of America, and they met during the revolution beneath the Liberty Tree that still flourishes on the St. John's campus.

The Liberty Tree descendant we planted along Library Drive on the Capitol grounds will stand to remind visitors of that treasured heritage.

We were privileged to have many distinguished guests attend the ceremony. Among those present were:

Mrs. Curtis Wilson, president of the Caritas Society of St. John's College;

Mr. William B. Dunham, vice president of St. John's College;

Mr. Leonard C. Crewe, Jr., president of the Council of the Maryland Historical Society;

The Hon. Fred Schwengel, president, U.S. Capitol Historical Society;

The Misses Leland Giovanelli and Roberta Rusch, representing the students of St. John's College;

Mr. Arthur Kungle, acting field director of the Liberty Tree Project;

Mr. Paul Pincus, landscape architect and horticulturist, Office of the Architect of the Capitol.

Mr. President, so that my colleagues may fully appreciate the Liberty Tree, its importance in American history, and the unique significance of the planting of its descendant on the U.S. Capitol grounds, I submit for the RECORD the brief remarks made at the planting ceremony.

The remarks follow:

A SYMBOL OF LIBERTY

(Remarks by Mrs. Curtis Wilson)

A tree which grows anywhere in the world is a wonderful thing, but when the tree is a tree which symbolizes liberty, and when that tree flourishes and grows green despite its four centuries, and when it promises to outlive all of us who stand here today, then that is a tree to be hailed as a tree of very great omen and as a most propitious sign for the future.

In presenting to you an offspring of Maryland's Liberty Tree, Senator Mathias, I would like to say that I think of all the places a Liberty Tree might choose to grow, the most fitting place is the one from which this seedling comes—St. John's College, where those authors who have had so much to do with liberty as we know it are read: Locke, Madison, Hamilton, and the classical Greek authors who helped shape what those men thought and wrote in preparing a great Constitution.

The tree of liberty can grow only where there are trees of knowledge, and only in a grove where it can be nourished and strengthened by the laws of the land. It is with an especial sense of fitness that we in Caritas present to you a seedling of St. John's Liberty Tree for planting on the Capitol grounds. We hope that the men and women who some day walk under its branches will cherish and preserve liberty with the same keen devotion which distinguished those independent patriots who met two centuries ago under the parent tree to work for the founding of a new nation.

KEEPING ALIVE THE ROOTS OF THE AMERICAN REVOLUTION

(By CHARLES MCC. MATHIAS, JR.)

We are happy that St. John's College has made this day possible, and that all of you could be here for this Maryland Day cere-

mony. We particularly welcome the President of the Council of the Maryland Historical Society, Mr. Leonard C. Crewe, Jr.; the very distinguished President of the U.S. Capitol Historical Society, Congressman Fred Schwengle; and Mrs. Curtis Wilson, President of the Caritas Society of St. John's.

This is a slightly delayed celebration of the 344th anniversary of the founding of Maryland, a day that we are proud to remember. We're sorry that it isn't a bright sparkling spring day, but maybe that's appropriate.

This morning the Potomac River, which is within sight here, is flowing under the bridges of Washington, and that water now flowing under the bridges within a day or two will be washing around St. Clement's Island in the Potomac. That's the spot where the Ark and Dove cast anchor 344 years ago, and the first settlers stepped ashore and founded the colony of Maryland. Perhaps they landed on a day like this . . . a little overcast, a bit chilly, the ground soaked with rain, but with the first touch of green in the grass, with the buds in the trees just beginning to swell. If so, it was a day of promise, a day in which you could see that the earth was going to spring forth and be fruitful.

It was also a day of tremendous symbolism, because it was a day in which Maryland would be like nature itself, about to blossom, and to be fruitful. Then, this is an appropriate day to meet here to celebrate Maryland Day.

The Liberty Tree itself is a tulip poplar, one of the most important American trees. Mr. Pincus, who is responsible for all of these trees at the Capitol, will know that the tulip poplar is one of the great American trees. It's an enormously important tree, but, despite its name, it really isn't a poplar, rather, it's a relative of the magnolia. We've called it the tulip poplar for years, and it's a great source, not only of beauty and shade, but of lumber; so, like Maryland itself, it's utilitarian as well as beautiful.

This particular tree is a seedling of the Liberty Tree, and not everybody knows any more what is historically significant about the Liberty Tree. Today's commemoration has a national as well as a state significance because a Liberty Tree was chosen in almost every town and village of America at the time of the American Revolution to be the place where the Sons of Liberty could meet, and where patriotic fervor for the Revolution could be generated. The Liberty Tree on St. John's campus in Annapolis is the last living Liberty Tree in America, the last living link with the American Revolution. It is quite appropriate, then, that we bring this seedling from that tree, which budded and blossomed during the American Revolution, and plant it here on the grounds of the United States Capitol.

The Liberty Tree in Annapolis has been the scene not only of the stirring events of the Revolution, but of many sentimental reunions and revivals. In 1824 for example, Lafayette, one of the last veterans of the American Revolution, came back to America and was greeted under the Liberty Tree.

The Tree itself has had many vicissitudes. It was thought to be dying, and at one point some of the students at St. John's let off a charge of dynamite in a hollow of the trunk. Many people feared that was its end; but, paradoxically, that was its remedy and its restorative. It experienced a new burst of vitality and growth and has lasted to our own time.

During 1976 the Liberty Tree was the scene of one of the important Maryland celebrations of the Bicentennial, so, it has a great deal of significance for Marylanders and all Americans. Here, on the Capitol grounds this descendant of the Liberty Tree will be a symbol of what liberty has meant in America, a living presence to watch over us, to be a reminder of the kind of responsibilities that we have for the future. We hope that it will grow, that it will flourish, that 344 years in the future people can come and look at a great towering giant and contemplate the rich and noble history it represents.

We thank Mr. Pincus and his staff very much for making all of these arrangements, and we particularly thank him for the tender nursing care that he's going to give to this tree until it's able to take care of itself.

And now we have sunshine, a promising sign for our purpose.

As a memento of this occasion, we want to present the Caritas Society a certificate which marks this occasion. We also have here a record of the pedigree of this tree, a registration certificate which shows that it is in fact a descendant of the Liberty Tree. We'll keep this here at the Capitol as permanent proof that this really is a pedigreed descendant of the Liberty Tree in Annapolis, Maryland.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that 4 such notifications were received on April 5, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 5, 1978.

MR. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 5, 1978.

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The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

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ERNEST GRAVES,
Lieutenant Genera, USA.●

SUBSIDIZATION OF FOREIGN-OWNED COPPER MINES

● Mr. GOLDWATER. Mr. President, the depressed world copper market is having an extremely distressing effect in my State of Arizona. Already, unemployment is running high in this industry and unless the situation improves, still more thousands of American copper miners will be put out of work.

In light of this, Mr. President, the citizens of my State were surprised and outraged to read recent news accounts describing how the International Monetary

Fund has loaned over $300 million to the government of Zambia to keep open two copper mines in that country. I am sure I do not need to remind the Members of this body that the U.S. Government is the largest single contributor to the International Monetary Fund. So what we have here is the ridiculous situation whereby American taxpayers' money is being used to subsidize foreign-owned mines so that they can continue producing copper and further depress the world copper market. In turn, the action can only spell more unemployment in this country.

American copper companies, responding to the depressed market situation, have been forced to shut down some of their operations and curtail both production and employment. Why the copper mines in Zambia should be rendered immune from the world market and propped up by money supplied through the U.S. taxpayers is difficult to understand. I suggest that our Government officials might instruct the U.S. members of the IMF executive directors to take appropriate action in the best interest of the American economy.●

BYELORUSSIAN INDEPENDENCE

● Mr. RIBICOFF. Mr. President, I join my colleagues in commemorating the 60th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic. Unfortunately, Byelorussia shared the experience of its neighboring nations which also gained their independence at this time. The guarantees of free elections and basic human rights were soon eliminated by the forcible domination of the Soviet Union. Yet this independence, however short lived, will be long remembered by Americans of Byelorussian descent.

On this anniversary it is important for us to express our continued support for the valiant struggle of the Byelorussian people to again achieve their national identity. They deserve support for maintaining their culture in the face of harsh oppression. And today Americans of all backgrounds join with those of Byelorussian heritage in recognizing the inspiration provided by these proud people. We all share their hope that one day soon they will know the freedoms that are the inherent rights of all men.●

THE DIVING DOLLAR

● Mr. JAVITS. Mr. President, I submit an article for the RECORD from the New York Post, written by David Rockefeller, chairman of the board, Chase Manhattan Bank, entitled "The Diving Dollar."

The article follows:

THE DIVING DOLLAR

Anyone lately who has even casually priced a Japanese television set or a German automobile knows what has been happening to the U.S. dollar. In only a year the value of our currency has declined approximately 21 per cent against the Japanese yen, 17 per cent against the West German mark and a staggering 28 per cent against the Swiss franc.

A Swiss watch which in the U.S. cost $100 last year, could cost $128 today, simply because of the exchange rate changes. Furthermore, some goods produced in the U.S. go up in price as competing foreign merchandise becomes more expensive.

A currency is basically as strong as the economy of the country that issues it, and the American economy is the strongest in the world. Why, then, has the dollar, the world's leading currency, fallen so sharply in relation to many other currencies?

The dollar's decline is a signal—and a desperately important one. The international money market is trying to tell us something. It is sending us an urgent message.

The market is telling us to stop frittering around and adopt a meaningful energy policy, and it is asking for some assurance that American policymakers understand the very real dangers of inflation.

The market is increasingly raising the question of whether the U.S. has coherent and sound monetary and fiscal policies.

Apart from these general concerns, the specific and immediate cause of the dollar's decline is no mystery. Two years ago we had a trade surplus; today, we have a very large and growing trade deficit.

Oil, of course, is central to our $30 billion trade deficit. Today, the U.S. must import half of its oil and last year our bill for imported oil was $45 billion, about 30 per cent of total imports of all goods.

Five years ago, the bill was only $8 billion. While other industrialized nations are even more dependent on imported energy, they have shown—at least in the eyes of foreign exchange markets—a good deal more resolve to contain oil imports.

What the world sees is that we have done very little to promote energy conservation, very little to promote new energy production or develop our vast coal resources. We have failed even to repeal the price controls and other regulations which serve to penalize the development of new energy sources.

Even if we acted today, our continued delay has already guaranteed another period of rising energy imports. Output from the Alaskan North Slope will postpone the rise for a year or two but the pipeline alone cannot keep up with our increasing needs over a longer period.

Yet oil isn't the only culprit. There are other factors which have substantially contributed to our trade deficit. Some of our goods have become less competitive, particularly compared with Japan's.

More abundant food harvests in many parts of the world have lessened the demand for our agricultural exports and, most significantly, slower-paced economic growth in most of the world over the past two years has weakened the demand for our exports.

The mammoth numbers which characterize our trade deficit are hardly lost on foreign markets. Yet there is another less visible, but equally decisive, factor contributing to the dollar's descent.

The market seems to doubt the depth of the U.S. commitment to control inflation, and there is growing concern that the supply of dollars is out of control.

To many foreign observers, the growing deficit in the U.S. budget looms as ominously as our trade deficit. Those U.S. policymakers who, until recently, avowed that our economic policies can completely ignore the plight of the dollar did not contribute international confidence in our greenback.

What, then, can we do to reassure a skeptical world market about the underlying strength of the dollar? First, we must take the necessary steps to bring the U.S. trade deficit under control. Again, energy policy is a central factor.

We need to speed up the development of our coal resources. We need a solid program of research and development for alternative energy prices which reward energy production rather than energy consumption.

We will also have to convince the money markets that we understand inflation and mean business about controlling it here at home. We need to reaffirm our commitment to stay within some stern monetary growth targets.

We need to find some way to discourage inflationary wage increases. And we need to reduce the size of our government deficit. In short, we need to convince the world that we have informed and sure-footed monetary and fiscal policies.

Restoring confidence in the dollar is essentially a matter of fashioning clearly defined, long-run policies to deal with long-run problems. There are short-run policy questions as well that cannot be ignored: When and how should our government intervene in the market to support the dollar?

In other words, when should we seek to influence the exchange rate by buying and selling our currency in exchange for other currencies?

There is no single principle that provides an unequivocal answer to this question. Any attempt to defend a rate that the private market thinks unreasonable will be unsuccessful, and hence inadvisable, no matter what the judgment of the authorities may be.

At certain times, however, intervention does have a significant and long lasting effect on market sentiment, and this is sufficient argument for rejecting the notion that the authorities should adopt a completely "handsoff" policy.

I believe the intervention strategy that the U.S. has employed in recent months has been generally appropriate, though in my judgment it was slow in being adopted. We intervened effectively in concert with foreign central banks to control the disorderly markets of early January, but we have not attempted to prevent the subsequent gradual downward drift of the dollar.

Given market perceptions, the amount of intervention that would have been required to prevent this downward drift was too large to be sustainable over time.

In my opinion, the dollar has been oversold and, today, is significantly undervalued with respect to many foreign currencies. By the end of the year, I expect we shall see a stronger dollar as the market reaches a more balanced judgment and sheds its present alarmist psychology.

Until it does, however, our intervention policy must aim only at controlling the rate at which the dollar changes. Moreover, it is important that our own intervention strategy be effectively coordinated with that of other major central banks.

A somewhat stronger intervention policy will be warranted when we are able to make substantial progress in dealing with the root causes of the dollar's weakness.

In arranging for the additional foreign exchange resources which would be required for more active intervention, the critical question is whether the method of acquiring these funds would itself encourage a further shift out of dollars that would not otherise have occurred.

Regardless of the funding mechanism, intervention is, at best, a palliative which in no way deals with the underlying problems—the need to reduce inflation, adopt a far-reaching energy program, and control our balance-of-payments deficit.

A British economist once pointed out in a discussion of inflation that it is impossible to keep the bathtub from running over without turning off the tap.

I am convinced there is no serious weakness in the dollar that a coherent and courageous energy policy and clear-eyed monetary and fiscal policies won't cure. Such policies must be adopted promptly to assure a stable and productive U.S. and world economy.●

PAUL GREEN

● Mr. MORGAN. Mr. President, Paul Green, the "father" of outdoor drama, was presented the first North Caroliniana Society Award at a recent dinner in Chapel Hill honoring the playwright, teacher, and humanitarian on the occasion of his 84th birthday, March 17. The award recognizes Green's "distinguished service in the promotion, enhancement, production, and preservation of the literature of his native State."

A native of my own Harnett County, N.C., Paul Green became famous just prior to World War I as the ambidextrous pitcher for the Lillington Cats professional baseball team. Leaving the University of North Carolina at Chapel Hill as a freshman in 1917, Green enlisted in the army and saw service in World War I in Belgium and France. Once back at Carolina, his love for folk drama grew in "Proff" Frederick Koch's famous playwriting class which included Thomas Wolfe and Green's future wife, Elizabeth Lay. He drew international recognition in 1927 when his play, In Abraham's Bosom, the story of a black man in North Carolina in the early 1900's, won the Pulitzer Prize for Drama. Green's presidency of the National Theater Conference in 1940–42 earned the commendation of President Roosevelt, who had attended the 1937 opening of the first outdoor drama, the Lost Colony, waterside at Fort Raleigh in Manteo. With this production, and some 15 following, Green has established the symphonic drama as a new art form in American culture, has proclaimed his belief in the democratic ideal of the common man, and has brought local history alive for millions in great ampitheaters across America. In addition, for 50 years he has encouraged the development of a native black theater, helping to lay the ground for the black actor today as a dignified spokesman for his cultural heritage.

At the University of North Carolina, Paul Green has been a professor in the departments of philosophy, dramatic art, and radio, television, and motion pictures. The new dramatic arts building under construction on campus will be named the Paul Green Theater.

The State, national, and international honors awarded to Paul Green are too numerous to list more than a sample. Besides the Pulitzer Prize for Drama, he has won three Freedoms Foundation Medals for his outdoor dramas, the Theta Alpha Phi Medallion of Honor from the American Educational Theatre Association, North Carolina's Frank Porter Graham Civil Liberties Award and Distinguished Citizen Award, and honorary doctorates from eight colleges and universities, including his alma mater at Chapel Hill. In addition, Green has been a delegate to international conferences for UNESCO in Paris and for the performing arts in Greece, as well as holding presidencies and advisory positions for various theater boards and academies.

Paul and Elizabeth Green celebrated their 15th anniversary in July of 1972, and they live today in a rambling farmhouse outside Chapel Hill, a house which still overflows with the visits of the children and grandchildren.

Another great North Carolinian, Jonathan Daniels, recently had this to say about Paul Green:

> The heroes he has brought to life on multiple stages compose the company which composed America, lacking only the figure of Paul Green himself. Yet inevitably he is in them all, wearing the costumes of courtier, ship captain, pioneer with a coon tail hanging from his cap, banjo player, Indian, writer and defender of the rights of man. Yet in all he is still the Harnett County plowboy opening the furrows of a nation's faith and a world's hopes. Sometimes he appears on Old Lystra Road, more often in a galloping Cadillac between the Raleigh Tavern and the Alamo. He is durable man or perpetual playboy, play writer, play actor. Recently he was a ticket-holding spectator in the theater of Dionysus in Athens, as he has been at the dramas of Russia and Japan. Off stage he has been concerned for justice and happiness. No man in trouble was too small for his concern. No theatre has ever been big enough for the appreciation given his plays. Tough and tender, durable man and child forever, it requires both the heart and mind even to begin the applause this saint and pagan, farmer and philosopher deserves. He is the natural man with tousled pompadour in the stars.

On his 84th birthday March 17, Paul Green's family, friends, and admirers will sit down for supper in Chapel Hill, to applaud him with hearts and minds. I hope to be among them.●

THE INLAND WATERWAYS AND THE ARMY CORPS OF ENGINEERS

● Mr. DOMENICI. Mr. President, the Army Corps of Engineers provides fertile ground. Once the barge industry plants the seed of a new navigation project, it will soon grow luxuriantly under the forced feeding of the corps.

If any of my colleagues doubt this symbiotic relationship between the Corps of Engineers and the barge industry, lay those doubts to rest. The corps has developed vast and extravagant plans for new inland navigation projects, projects that would push taxpayer-subsidized barge canals ever deeper into our Nation.

In an effort to identify just what was in the works, I recently asked the corps to prepare a list of waterway studies underway, as well as to identify those projects intended for initiation over the coming decade. The corps has identified some $2.7 billion in new projects for the next decade, spending that is over and above the cost for construction of projects already underway and the cost for the operating and maintaining projects now in existence.

What will go forward? I cannot say. But I would doubt that very much of this work is likely to move forward until the big barge owners are paying a reasonable fee that relates the costs of the program.

Mr. President, I ask that these lists from the corps be printed in the RECORD. (Attachments 1–4.)

Mr. President, the corps is not the only group involved in the identification of new projects. The American Transportation Advisory Council recently made a study of the financial needs of transportation over the next decade. The council found that inland water transportation could be expected to require some $900,000,000 yearly in costs over the next decade. That is Corps of Engineers spending—it does not involve Coast Guard, Maritime Administration, or other such sources of subsidies to the inland barge industry. ATAC explained:

> The inland waterways system is largely in place. Therefore, major future needs involve construction and maintenance of certain individual projects to eliminate bottlenecks and provide more uniform capacity within major segments of the system. These construction costs are estimated at approximately $480 million per year during the next 10-year period. It is also estimated that maintenance and operation costs will average about $420 million per year during the same period of time.

Will this be a wise investment? We will never know under the current situation. Nor will we know under any flat fuel charge. We will never know until the beneficiaries begin to pay, based on the costs, so that they will have to work with the public in justifying new projects, not just making up wish lists in corporate board rooms.

I also ask that an ATAC list of "Navigation Structures Which Will be Transportation Constraints by 1990" be printed in the RECORD.

The material follows:

INLAND NAVIGATION

Question. What is the total sum budgeted in FY 1979 for the inland waterways serving shallow draft cargo vessels, and how is it divided between construction, surveys and engineering? How do each of these sums compare with FY 1978?

Answer. The Surveys, Advance Engineering and Design, and Construction projects included in the Fiscal Year 1979 budget, and the total sums for each category in FY 1978 and FY 1979 are as follows:

[In thousands of dollars; fiscal years]

	1978 appropriation	1979 budget
SURVEY		
St. Francis River, navigation, Arkansas	25	46
Sacramento Valley, navigation, California	70	0
Appalachicola River below Jim Woodruff, Fla	35	66
Saline River and tributaries, Illinois	100	0
Big Sandy River, W. Va., Ky., and Va	50	76
Green and Barren Rivers, Ky	110	170
Louisville Harbor, Ky	20	0
Lower Cumberland River, Ky. and Tenn	96	75
Bayou Manchac and Amite, La	28	0
Berwick lock, Louisiana	100	100
Great Lakes—Hudson River Waterway, N.Y	100	35
Ohio port development, Ohio	70	0
Sabine River, navigation, Texas	50	0
Monongahela-Youghiogheny River Basin, W. Va., Md., Pa. (navigation portion)	56	424
National Waterway Study	1,200	1,200
Total, surveys	2,110	2,192
Phase I stage of advance engineering and design: Gallipolis locks and dam, Ohio and West Virginia	0	340
Total (phase I)	0	340
Advance Engineering and design: Gallipolis locks and dam, Ohio and West Virginia (phase I)	1,400	0
Yazoo River, navigation, Mississippi	100	200
Total, AE & D	1,500	200
CONSTRUCTION		
Tennessee-Tombigbee Waterway, Ala. and Miss	172,000	142,750
McClellan-Kerr Arkansas River navigation system, navigation locks and dams, Arkansas and Oklahoma	5,000	2,500
Quachita and Black Rivers, Ark. and La	9,300	11,000
Kaskaskia River, navigation, Illinois	5,300	4,200

	1978 appropriation	1979 budget
Lock and dam 53 (temporary lock), Illinois and Kentucky	4,637	0
Smithland locks and dam, Illinois and Kentucky	21,000	16,400
Cannelton locks and dam, Indiana and Kentucky	323	200
Newburgh locks and dam, Indiana and Kentucky	1,800	700
Uniontown locks and dam, Indiana and Kentucky	2,000	700
Mermantau River, La	0	1,330
Overton-Red River Waterway (lower 31 miles only), Louisiana	2,000	2,200
Red River Waterway, Mississippi River to Shreveport, La., Ark., Okla., and Tex	28,000	40,000
Mississippi River, regulation works between Ohio and Missouri River, Ill. and Mo	3,000	3,300
Willow Island locks and dam, Ohio and West Virginia	1,400	0
Missouri River, Sioux City to mouth, Iowa, Missouri, Kansas, and Nebraska	4,300	2,900
GIWW—Chocolate Bayou, Tex	500	1,602
Yazoo River, Belzoni Bridge, Miss	1,000	2,500
Total, construction	261,560	232,282

Question. Please provide a breakdown on operation and maintenance for navigation for both FY 1978 and for the FY 1979 budget on significant segments of the inland waterway system, including the Alabama, Allegheny, Arkansas, Black Warrior and Tombigbee, Columbia, Kentucky, Mississippi, Missouri, Monongahela, Ohio, and Tennessee Rivers, as well as the Illinois and the Intracoastal Waterways.

Answer. A breakdown of navigation operation and maintenance for FY 1978 and FY 1979 for specific segments of the inland waterways systems and the intracoastal waterways is as follows:

[Fiscal years]

Inland waterway	1978 appropriation	1979 budget request
Alabama-Coosa Rivers	$3,401,000	$2,893,000
Allegheny River	1,992,000	2,956,000
Apalachicola, Chattahoochee, and Flint Rivers	4,919,000	3,928,000
Arkansas River	15,693,000	16,158,000
Atchafalaya River	1,324,000	3,350,000
Atlantic Intracoastal Waterway	9,807,000	9,501,000
Black Warrior and Tombigbee Rivers	7,635,000	6,385,000
Columbia and Snake River (shallow-draft portion)	2,889,000	2,797,000
Cumberland River	2,797,000	3,256,000
Green and Barren River	603,000	773,000
Gulf Intracoastal Waterway	19,730,000	23,234,000
Illinois Waterway	13,150,000	12,456,000
Intracoastal Waterway, Caloosahatchee to Anclote River	1,450,000	330,000
Intracoastal Waterway, Jacksonville to Miami	1,940,000	1,220,000
Kanawha River	3,250,000	2,920,000
Kaskaskia River	1,115,000	1,035,000
Kentucky River	1,896,000	2,025,000
Long Island Intracoastal Waterway		474,000
Lower Mississippi River	15,395,000	15,013,000
Upper Mississippi River	50,581,000	43,131,000
Missouri River	13,244,000	13,884,000
Monongahela River	5,586,000	4,306,000
New Jersey Intracoastal Waterway	637,000	674,000
Ohio River	21,452,000	29,445,000
Ouachita and Black River	3,107,000	2,213,000
Pearl River	212,000	90,000
Red River	900,000	990,000
Tennessee River	3,505,000	3,965,000
Tennessee-Tombigbee	500,000	1,000,000
White River	601,000	1,260,000
Willamette River	99,000	169,000
All other inland waterways	21,245,000	19,363,000
Total	230,655,000	231,204,000

Corps of Engineers inland navigation projects operational status attained after 1 January 1967

Total Federal cost ($000) October 1977 price levels)

Project:	
Alabama-Coosa River	178,400
McClellan-Kerr Arkansas River Navigation System	1,310,188
John Hollis Bankhead Lock and Dam, Black Warrior and Tombigbee River	49,600
Calcasieu River Salt Water Barrier, Calcasieu River	4,197
Cordell Hull Dam and Reservoir, Cumberland River	78,100
Freshwater Bayou Lock, Freshwater Bayou Channel	7,141
Kaskaskia River Navigation	129,500
Opekiska Lock and Dam, Monongahela River	25,200
Hannibal Locks and Dam, Ohio River	87,500
Willow Island Locks and Dam, Ohio River	75,700
Belleville Locks and Dam, Ohio River	62,200
Racine Locks and Dam, Ohio River	65,900
Cannelton Locks and Dam, Ohio River	97,900
Newburgh Locks and Dam, Ohio River	106,000
Uniontown Locks and Dam, Ohio River	99,400
Temporary Lock 52, Ohio River	10,100
Jonesville Lock and Dam, Ouachita/Black Rivers	44,100
Columbia Lock and Dam, Ouachita/Black Rivers	33,400

Corps of engineers inland navigation projects under construction

(Total estimated Federal cost ($000) October 1977 price levels)

Project:	
Bayou La Fourche and La Fourche Jump Waterway	8,530
Mississippi River Regulation Works between Ohio and Missouri Rivers [1]	154,600
Missouri River, Sioux City to Mouth [2]	438,000
Smithland Locks and Dam, Ohio River	251,000
Temporary Lock 53, Ohio River	37,200
Felsenthal Lock and Dam, Ouachita/Black Rivers	64,000
Calion Locks and Dam, Ouachita/Black Rivers	49,500
Red River Waterway, Shreveport to Mississippi River	995,000
Tennessee-Tombigbee Waterway	1,410,000
Wallisville Lake, Trinity River	28,800

Corps of Engineers inland navigation projects authorized for construction, work not initiated

(January 20, 1978, list)

(Total estimated Federal cost ($000) October 1977 price levels)

Project:	
Big and Little Sallisaw Creek Navigation, Arkansas River Basin	1,600
Coosa River Channel, Montgomery to Gadsden	520,000
Gulf Intracoastal Waterway, St. Marks to Tampa	199,000
Gulf Intracoastal Waterway, St. Petit Anse, Tigre and Carlin Bayous	3,000
Gulf Intracoastal Waterway, Rigolets Lock	14,235
Gulf Intracoastal Waterway, Seabrook Lock	22,890
Gulf Intracoastal Waterway, Vermilon Lock	22,300
Illinois Waterway Duplicate Locks	838,000
Kansas River Navigation	5,400
Mound City Locks and Dam, Ohio River [3]	297,000
Red River Waterway, Shreveport to Daingerfield, Texas	364,000
Trinity River	2,311,000
Yazoo River	140,000

[1] Training works improvements.
[2] Project essentially complete.
[3] Undergoing reevaluation.

INLAND WATERWAY PROJECTS AVAILABLE FOR CONSTRUCTION, 1979-88

Status[1]—Project name and state	Current total Federal cost (thousands)	Fiscal year available for construction	Estimated construction time in years	Structure (S) or dredging (D)	Replacement[2]
SOUTH ATLANTIC-GULF REGION					
UP—Coosa River Channel, Montgomery to Gadsden, Ala	$520,000	1986	10	S	
NA—William Bacon Oliver lock, Alabama	65,888	1988	6	S	R
OHIO REGION					
UP—Gallipolis lock and dam, lock replacement (phase I)[3]	159,000	1981	7	S	R
NA—Dam No. 2, Monongahela River, Pa	19,000	1985	5	S	R
PP—Grays Landing lock and dam, Pennsylvania[3]	64,200	1982	5	S	R
PP—Point Marion lock, Pennsylvania[3]	41,800	1983	5	S	R
NA—Lock and dam No. 3, Monongahela River, Pennsylvania	99,000	1983	7	S	R
NA—Montgomery lock and dam, Pennsylvania	252,000	1986	9	S	R
NA—Lock No. 4, Monongahela River, Pa	50,600	1984	8	S	R
UPPER MISSISSIPPI REGION					
PP—Illinois Waterway duplicate locks, Illinois	838,000	1984	17	S	R
LOWER MISSISSIPPI REGION					
AC—Vermilion lock, Louisiana[3]	22,300	1979	3	S	R
UP—Yazoo River, Miss	140,000	1986	5	S & D	
AP—Petit Anse, Tigre and Carlin, La	3,000	1984	1	D	
MISSOURI REGION					
PC—Kansas River navigation, Kansas[3]	5,400	1980	2	D	
ARKANSAS-WHITE-RED REGION					
PN—Red River waterway, Shreveport, La., to Daingerfield, Tex.	364,000	1986	8	S & D	
UP—Big and Little Sallisaw Creeks, Okla	1,600	1981	1	D	

Footnotes on following page.

[1] Status codes: UP—Available for continuation of planning in fiscal year 1979; NA—Unauthorized; PP—Planning partially funded but not available for planning funding in fiscal year 1979; AC—Available for initiation of construction in fiscal year 1979; PN—Planning not yet funded and not available for planning funding in fiscal year 1979; AP—Available for initiation of planning in fiscal year 1979; FC—Planning completely funded but not available for new construction start in fiscal year 1979.

[2] Replacement projects indicated by "R". All replacement projects on this list involve a change from the original structure. None are replacement in kind.

[3] Project is within Corps $7,500,000,000 water resource investment program, 1979–83.

The indicated year available for construction and number of years to construct generally assumes favorable conditions concerning funding for all projects and processing of reports for projects not yet authorized. Projects whose status shows they are not available for funding in Fiscal Year 1979 have current problems ranging from local cooperation not being available in the budget year to design delays. These projects are included in the listing because there is still a possibility of resolving the problem so that construction could start in the year indicated.

The following projects were on the previous list of "Projects Authorized for Construction, Work Not Initiated" sent to you with our letter of 20 January 1978, but do not appear on the enclosed list because construction is not programmed within the next ten years:

Gulf Intracoastal Waterway, St. Marks to Tampa, Florida; Mound City Locks and Dam, Ohio River; and Trinity River (navigation portion), Texas.

Projects on the inclosed list and not on the 20 January list are either not authorized or authorized for Phase I planning only.

Two other projects which appear on the 20 January list of "Work Not Initiated"; Gulf Intracoastal Waterway, Rigolets Lock and Seabrook Lock, Louisiana; are not included in the enclosed list. These two navigation structures are part of the over-all Lake Pontchartrain hurricane flood protection project and will provide navigation around hurricane barriers to be built across existing channels. We listed these segments separately because it would be confusing to show the over-all hurricane flood control project on a list of inland waterways. No work has started on Rigolets or Seabrook Locks, so the 20 January list shows them as "Work Not Initiated". The over-all project for Lake Pontchartrain is under construction, but work has been temporarily halted due to an injunction. The commitment of capital investment to the Lake Pontchartrain project applies to all elements of the project and, therefore, Seabrook and Rigolets Locks are outside the criterion of the inclosed list.

You will note that Locks and Dam 26 also does not appear on this list. Construction funds were appropriated for this project and land acquisition had begun prior to the decision to seek clarification of the project authorization. Therefore, when the authorization is clarified, we intend to request funds for this project through the budget process as a continuing construction project.

Q. Please provide a list of the inland navigation surveys presently authorized, including the rehabilitation authorities, list those on which work has been funded, with the estimated cost of construction of each such project.

A. Listed below are the 39 presently authorized active inland navigation surveys. All but two of them have been previously funded. The Beaver-Mahoning River Canalization survey and the Lake Erie to Eastern Seaboard survey have not been initiated. Estimates of project construction costs that may ultimately result from these studies are not available because none of the surveys has progressed to the recommendations stage with one exception. The Wabash River Navigation report, presently under review by the Board of Engineers for Rivers and Harbors, recommends no Federal project.

Following the list of surveys, there is provided a list of 5 active inland navigation replacement/rehabilitation studies with very preliminary estimates of cost for the works being considered.

ACTIVE AUTHORIZED SURVEYS

* Monongahela-Youghiogheny River Basin, W. Va., Md., Pa. (navigation portion).
* Big Sandy River, W. Va., Ky., Md.
* Green and Barren River, Ky.
Ohio Port Development, Ohio.
Louisville Harbor, Ky.
Wabash River Navigation, Ind., Ill.
Saline River, Ill.
Beaver-Mahoning River canalization, Pa., Ohio.
* Lower Cumberland River, Ky., Tenn.
Ohio River (12-foot channel).
Mississippi River (12-foot channel).
Illinois Waterway (12-foot channel).
Mississippi River Year-Round Navigation.
Lake Erie to Eastern Seaboard, N.Y.
Central Oklahoma Project, Okla.
Sabine River Navigation, Tex.
* St. Francis River Navigation, Ark.
White River Navigation, Ark.
* Berwick Lock, La.
Catahouda-Charenton Area, La.
Ouchita River Basin, Ark. (extension of existing project).
Mississippi River, Baton Rouge, La., to Cario, Ill. (40-foot channel).
Arkansas River, Tulsa to Wichita, Kan.
Grand River & Tribs. Okla., Kan.
Verdigris River, Okla., Kan.
Poteau River, Okla., Ark.
Colorado River & Tribs., Tex.
Brazos River & Tribs., Tex.
Neches River & Tribs., Tex.
Bonneville Navigation Lock portion of the Columbia R. & Tribs Study, Id.
Sacramento Valley Navigation, Calif.
Southcentral Region, Alaska.
Missouri River, S.D., Neb., Mont.
* Apalachicola River below Jim Woodruff, Fla.
Pearl River, Miss.
Black Warrior Tombigbee Waterway, Ala.
* Great Lakes-Hudson River Wtwy, N.H.
IWW Inter-Coastal Wtwy, Ft. Pierce to Miami, Fla.
Okeechobee Wtwy, Fla.

Inland navigation replacement (rehabilitation studies under 1909 R&H Act authority

(Eastern project construction cost in millions)

Study name:	
Monongahela River Locks 2, 3, & 4	169
Allegheny River Locks	NA
Upper Ohio River Locks	530
Winfield Lock & Dam, Kanawha River	111–136
Ohio River, Cumberland to Mouth	268–390

* Included in FY 1979 Budget.

NEW NAVIGATION PROJECTS UNDER STUDY [1]

[Costs in thousands of dollars]

Study name	October 1977 price levels: Study cost	Funds to date	Balance to complete
1. Apalachicola River below Jim Woodruff, Fla	482.0	300.0	182.0
2. Pearl River, Miss	370.0	189.0	181.0
3. Monongahela-Youghiogheny River Basin, W. Va., Pa. (navigation portion)	600.0	56.0	544.0
4. Big Sandy River Basin, W. Va., Ky	1,105.0	385.0	720.0
5. Ohio port development, Ohio	310.0	169.0	141.0
6. Green River, Ky	675.0	401.4	273.6
7. Louisville Harbor, Ky	240.0	90.0	150.0
8. Potential major replacements, Ohio River system:			
(a) Monongahela River locks 2, 3, 4	NA	429.0	NA
(b) Allegheny River locks	300.0	61.0	239.0
(c) Upper Ohio River locks	700.0	318.5	381.5
(d) Winfield lock and dam	NA	400.0	NA
(e) Ohio River, Cumberland to mouth	800.0	275.0	525.0
9. Gallipolis lock and dam [2]	2,000.0	1,660.0	340.0
10. Central Oklahoma project, Oklahoma	157.2	156.35	.85
11. Sabine River, navigation, Texas	3,180.0	50.0	3,130.0
12. Trinity River and tributaries, Texas [2]	6,129.0	5,971.0	118.0
13. St. Francis River, navigation, Arkansas	440.0	25.0	415.0
14. White River, navigation, Arkansas	483.5	442.0	41.5
15. Berwick lock, Louisiana	320.0	147.0	173.0
16. Catahoula-Charenton area, Louisiana	130.0	130.0	0
17. Vermilion lock, Louisiana [2]	675.0	675.0	0
18. Lock and dam 26, Illinois and Missouri	11,084.0	11,084.0	0
19. Bonneville navigation lock portion of the Columbia River and tributaries study	425.0	425.0	0
20. Sacramento Valley navigation, California	620.0	386.0	234.0
21. Black Warrior-Tombigbee Waterway, Alabama	215.0	215.0	0

[1] The term "new" does not include a modification to existing Federal or non-Federal projects within their current physical limits except for major replacements. The proposed project must be one that extends limits of an existing project or a new project complete within itself. A "project under study" is limited to those studies underway with carryover or fiscal year 1978 appropriations. It also includes any study that is a new start in fiscal year 1978 even if actual work is not yet started. Studies are limited to those in preauthorization or legal phase I categories. Although some studies may include inland harbors, no specific inland harbor study has been included. Inland harbors have not been included in the list as they do not extend limits of navigation projects, and are constructed primarily with non-Federal funds. Studies are also restricted to inland navigation, including the intracoastal waterway.

[2] Phase I A.E. & D.

ATAC LIST

ESTIMATE OF NAVIGATION STRUCTURES WHICH WILL BE TRANSPORTATION CONSTRAINTS BY 1990 [1]

Assuming no action is taken, the following are three general categories of 1990 future navigation constraints. These are very severe constraints (future traffic growth completely blocked); severe constraints (tows subject to delays exceeding ten hours at the lock); serious constraints (tows subjects to delays of two to ten hours at the lock).

	Estimated Federal cost (1976 prices)
Category one (very severe constraints:	
Locks and Dam 26 (Mississippi River)	$391,000,000
Lockport Lock (Illinois River) *	--
Inner Harbor Navigation Canal Lock (Gulf Intracoastal Waterway)—St. Bernard parish site. (Mississippi River-Gulf Outlet)	273,000,000
Vermilion Lock (Gulf Intracoastal Waterway)	13,100,000
Brandon Road (Illinois River) *	—

[1] This assessment was developed by an outside independent consultant for another Federal Agency and should not be construed as an official or unofficial U.S. Army Corps of Engineers' prognosis.

Category two (severe constraints):	
Winfield Lock (Kanawha River)	Not avail.
Gray's Land Lock (Monongahela River)	59, 800, 000
Point Marion Lock (Monongahela River)	38, 900, 000
Lock #3 (Monongahela River)	92, 100, 000
Lock #4 (Monongahela River)	46, 900,000
Dresden Island Lock (Illinois River)*	—
Marseilles Lock (Illinois River)*	—
Starved Rock Lock (Illinois River)*	—
Category three (serious constraints):	
Peoria Lock (Illionis River)*	—
Le Grange Lock (Illinois River)*	—
Algiers Lock (Gulf Intracoastal Waterway) (Oct. 1976 prices)	18, 000, 000
Harvey Lock (Gulf Intracoastal Waterway) (Oct. 1976 prices)	22, 000, 000

*For entire Illinois Duplicate Lock program, total estimated cost is $781,300,000 of which $769,000,000 is the estimated Federal cost. Includes: Dresden Island Marseilles, Starved Rock, Peoria, La Grange, Brandon Road and Lockport.

This listing is subject to the following assumptions:

Double locking without a switchboat or helper boat will not be allowed when a lock becomes congested.

Total traffic will increase by about 50 percent between now and 1990.

Traffic patterns will not change radically over the next 15 years.

Each lock is looked at independently of all others, e.g. a particular lock's traffic is not constrained by an inability to pass through a constraint elsewhere in the system. Smithland Locks on the Ohio River will open for navigation in 1978.

In addition, due to hazardous conditions, Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia should be included. Estimated Federal cost would be $143,000,000 (October 1976 prices).●

THE 1978 NRTA-AARP LEGISLATIVE PRIORITIES

● Mr. CHURCH. Mr. President, older Americans have won numerous impressive legislative victories in recent years. One important reason is that they are better organized. National aging organizations and their affiliates have helped to sensitize lawmakers at the Federal, State, and local levels about the challenges and problems of older Americans.

These activities have been translated into important legislation for the elderly, including medicare, the Older Americans Act, the Age Discrimination in Employment Act, several social security increases, a national nutrition program, two White House Conferences on Aging, and others.

Much of the direction for these legislative initiatives have originated from national organizations, such as the National Retired Teachers Association-American Association of Retired Persons.

Each year the NRTA–AARP Legislative Council meets to chart out the legislative objectives for its members.

This year the legislative council developed a comprehensive program in areas of direct concern to older Americans: Income, health care, economic policy, housing, transportation, crime, the Older Americans Act, and others.

I am pleased that the council has adopted in principle a number of measures I am advancing on behalf of the elderly, including more frequent cost-of-living adjustments for social security beneficiaries during periods of rapid inflation and expanded tax counseling assistance for older taxpayers.

This legislative program should be of interest to all Members of the Senate.

Mr. President, I ask that a summary of "The 1978 NRTA–AARP Legislative Priorities" be printed in the RECORD.

The summary follows:

THE 1978 NRTA–AARP LEGISLATIVE PRIORITIES

INCOME

The broad range of public transfer programs should be structured and related so as to assure that a person's standard of living achieved prior to retirement will be maintained. The present structure of income maintenance programs fosters a high degree of dependency among elderly recipients. This degree of dependency should not be perpetuated since, in the future, the elderly segment of the population will increase dramatically in proportion to the workers on whom they will be dependent. Our income maintenance system should thus be structured to encourage revenue-generating employment rather than dependency.

Social security

It is time to begin the process of restructuring the Social Security system. It is confronted with serious financial problems—problems that result from economic, demographic, and structural factors to which the 1977 social security financing bill was not the best response.

The Social Security system should be insulated from the adverse consequences of high rates of inflation and unemployment and sound financial planning should be made possible through a limited use of general revenues to fund a portion of the cost of automation benefit adjustments and to replace payroll tax revenue lost as a result of high rates of unemployment.

Disincentives to gain employment which the system contains should be replaced by incentives to remain in the labor force. Therefore, the Social Security earnings limitation should be repeated for persons over the age of 65. For persons who do not elect to receive their benefits at age 65 because they are still working, their benefits should be increased actuarially when they do finally apply for them.

The formula used to compute future benefits should be less heavily weighted and more proportional than the present one and should replace not less than 60 percent of a worker's average monthly indexed earnings.

Social Security benefits should be adjusted more frequently for cost-of-living purposes and, in making such adjustments, a separate index should be used that accurately measures the impact of inflation on the typical market basket of goods and services consumed by the elderly.

Other programs

Any legislative attempt to reform or unify the complex structure of welfare programs should not erase or erode the substantial gains we have already made through the operation of the Supplemental Security Income (SSI), Food Stamp and other underlying support programs. Unless the impact of such reform on the elderly poor can be demonstrated to be positive, the Associations cannot endorse proposals to abolish the SSI and Food Stamp programs and replace them with an entirely new structure.

Combined benefits payable from federal means-tested programs, such as SSI, should not be less than the officially defined poverty level.

The Federal Government should encourage states to supplement federal benefit levels by sharing a significant portion of the costs involved in supplementation.

Elderly participation in the Food Stamp program should be increased by improving outreach efforts and by providing better coordination with other income assistance programs, such as SSI, in certifying eligibility.

The veterans' pension program should be reformed to eliminate benefit inequities, to provide a more adequate level of cash assistance (which should be subject to automatic cost-of-living adjustments), and to permit better coordination with other income support programs.

Improvements should be made and inequities remedied in the railroad and civil service retirement systems, within the limits of available resources.

Regulation Q, which places limits on rates of interest payable on savings by banks and savings and loan associations, should be repealed. The Federal Government should issue inflation-proof bonds.

TAXATION

The computation of the tax credit for the elderly should be simplified and the amount of income allowed to be taken into account for the purposes of computing the credit should be substantially increased and cost-indexed. The adjusted gross income phase-out feature of the credit should be substantially liberalized and the differential treatment of eligible persons under age 65 and those 65 and over should be eliminated.

Pending reform of the tax credit for the elderly, taxpayers age 65 and over who were adversely affected by the 1976 changeover should be given the option of using the former provisions of the retirement income credit.

The temporary, rebatable earned income tax credit should be made permanent and available to individual workers and families without children.

If a credit is proposed to replace the $35 general tax credit and $750 deduction for personal exemptions, taxpayers should be permitted to choose whichever of these tax mechanisms would benefit them most. The double taxation of dividend income should be eliminated.

The Federal Government should promote the training of older volunteers to provide tax preparation assistance for elderly taxpayers; these volunteers should be reimbursed for out-of-pocket expenses.

OLDER WORKER JOBS

Although the age 65 and over segment of our population has been growing throughout the century, the labor force participation by the elderly has been steadily declining. These two trends—the demographic trend and the labor force participation trend—pose a serious national problem as relatively fewer workers are called upon to support a larger number of older and retired persons.

Our Associations have consistently urged that public and private policy barriers to continued employment of older persons, such as mandatory retirement and age discrimination in employment practices, be abolished. This approach, coupled with tax incentives and employment training and retraining programs, targeted for elderly workers, should increase their labor force activity.

If continued participation in the labor force is encouraged, we can reasonably expect a number of desirable results. The Gross National Product would be larger than it otherwise would be and additional tax revenues would be generated. The elderly would have increased protection against in-

flation, their degree of dependence on government programs for total income would be lessened, and they would be better able to maintain a more adequate standard of living.

Any upper age limit in the Age Discrimination in Employment Act of 1967 (ADEA) for protection against forced retirement should be eliminated. Furthermore, the provisions of ADEA should be strengthened and more adequate funding provided to promote vigorous enforcement of the law.

The Older American Community Service Employment Program under Title IX of the Older Americans Act is the primary older worker employment project. It provides jobs exclusively for low-income unemployed or underemployed older persons on a part-time basis. Our Associations believe the Title IX program should be greatly expanded to reach more older workers.

HEALTH CARE

Cost controls

Our Associations' immediate aim in the health care area is the establishment of ceilings to contain the excessively rising costs of all significant health care items. An excessive rate of inflation in the health sector will have increasingly serious consequences. It will cause the financial viability of the Medicare program to be seriously impaired and more elderly persons, even with Medicare protection, will be priced out of the health care market and denied access to needed care. Prospects for any significant expansion of Medicare/Medicaid protection will diminish and the goal of national health insurance will become increasingly remote.

For the short-term, we recommend that ceilings be placed on the annual rate of increases in physician fees, hospital charges, and payments to providers for services covered by governmental and private insurers.

As a long-term solution, we support the development of prospective payment systems for institutions and negotiated fee schedule procedures for physicians rather than cost reimbursement systems presently used.

Our health care delivery system should be completely restructured to de-emphasize the heavy reliance on institutionalization.

Medicare and medicaid

Pending enactment of the Kennedy-Corman Health Security Act or a similar comprehensive national health plan, which is supported by our Associations, we are in favor of restructuring and expanding the Medicare and Medicaid programs. The following are priority items for Medicare improvement:

A catastrophic protection feature should be added to Medicare.

Out-of-institution drugs should be covered under Medicare or some other program.

A long-term care services program should be developed to provide complete and coordinated health care.

Home health care eligibility under Medicare should be liberalized and clarified.

Pharmaceuticals

Our Associations recognize that Americans pay the highest prescription drug prices in the world due to the lack of effective price competition, patent monopolies, and other drug industry practices. To facilitate an outpatient drug benefit for the elderly and for all Americans, we recommend:

Consolidation of all federally funded drug programs in a single administrative unit, with the power to negotiate drug prices with manufacturers, set reimbursement payments to providers, and grant licenses on patented products when necessary.

Federal and state generic drug substitution and prescription price posting laws should be enacted.

Publication of a national formulary and a national compendium of prescription drugs.

Changes in drug laws should maintain current quality, safety and efficacy requirements and limit drug manufacturers' promotional sampling activities.

Universal use of generic drugs and elimination of brand names.

Consumers and the elderly must be represented on boards of any federally funded drug program.

Long-term care

Our Associations continue to urge development of a national policy embracing all aspects of long-term care, the continuity and range of services in and out of institutional facilities, and the training of qualified staff.

The scope of Medicare home health benefits should be expanded by removing the word "skilled" and allowing reimbursement for preventive and medically necessary home health services.

The three-day hospital stay required should be eliminated for extended care benefits under Part A of Medicare.

Health planning

The National Health Planning and Resources Development Act of 1974 created a network of health system agencies to promote area-wide and state planning for health services, manpower and facilities. The Act must be renewed in 1978. Our Associations strongly support its goals and feel that important amendments should be made to strengthen existing provisions which attempt to correct the maldistribution of facilities and manpower, substitute out-patient and less-intensive forms of care for inpatient hospital care, and encourage the conversion or elimination of unneeded and underutilized services and facilities.

In addition, health system agency staff should include individuals with knowledge of and skills in community organization, educational development, public health and prevention activities. Agency governing boards should consist of a specified proportion of elected officials to assure public accountability and specific funding should be designated for the education of the public and elected officials as to the goals and purposes of health planning.

ECONOMIC POLICY

The Associations believe that the present, elevated rates of inflation are most threatening to the living standards of the elderly. Inflation rates of six percent and higher rapidly erode the purchasing power of fixed retirement income. The Associations believe that strong measures should be taken by the Administration which will bring the rate of inflation down to not more than three percent a year.

High rates of unemployment also place a heavy burden on individual workers and on the nation more generally. It is estimated that high unemployment rates may have already cost the economy $500 billion in lost economic production since 1974. It is our view that such losses cannot be permitted to continue indefinitely.

The Federal Government has the responsibility to promote full employment and price stability. Our Associations do not believe that the only policies available to the Federal Government to reduce unemployment must necessarily generate higher rates of inflation. In addition, we believe that the goals of high employment and price stability are not mutually exclusive goals, but are two goals to be pursued by various means.

Serious attempts must be made to balance the federal budget as soon as economic conditions permit. Although the connection between deficit spending and inflation is imperfectly understood, it is clear that such spending is associated with higher rates of inflation. The federal budget must be balanced over the longer period of the business cycle.

The Federal Government should deregulate the numerous sectors of the economy which are federally regulated, wherever such deregulation would enhance competition and promote lower prices.

The Federal Reserve System should maintain its politically independent status and should control the rate of monetary growth to avoid inflation. The rate of growth of the money supply should be consistent with the growth of the economy and should be sufficient to permit noninflationary economic expansion.

OLDER AMERICANS ACT

The present structure of state and area agencies on aging should continue to be relied upon as the mechanism to coordinate and stimulate local resources for the provision of services.

NRTA-AARP support an extension of the Title VII Nutrition for the Elderly Program beyond the current funding levels to reach many more older Americans. In particular, new monies should be appropriated to permit state and area agencies to expand home-delivered meal services to the large population of homebound elderly, where appropriate. The balance between congregate and home-delivered meals should depend on relative need as determind by area agencies in consultation with Title VII administrators under approved state and area plans.

Legal services under the Older Americans Act should be expanded to permit state agencies to plan for legal services for low-income elderly at reasonable cost.

The Retired Senior Volunteers, Foster Grandparents and Senior Companions Programs should be returned to the Administration on Aging from ACTION.

CONSUMER AFFAIRS

Vigorous action should be taken to protect older persons against deceptive practices in the sale and dispensing of consumer goods which have a high incidence of use among the elderly. An Office of Consumer Representation should be established to represent consumer interests before federal agencies, Congress and the courts.

In computerizing banking procedures under Electronic Funds Transfer (EFT) Systems, consumers should be protected against abuse of the system and guaranteed such rights as confidentiality, accountability, (to include protections against personal loss) and freedom to choose.

Federal minimum standards for no-fault automobile insurance covering bodily injury should be established and each state should be required to conform within a given period of time; insurers should be required to offer exclusions for benefits actually received under Medicare, and for wage loss prospects.

CRIME

NRTA-AARP believe that the Law Enforcement Assistance Administration should increase its funding of projects aimed at reducing crimes against the elderly. In all cases where crime statistics are collected, NRTA-AARP urge more detailed reporting, including age of victim, so that more accurate information on crimes against the elderly is available.

Federal assistance should be provided to encourage states to provide adequate indemnification for victims of crime. A new federal criminal code should be enacted that eliminates inconsistencies in present law and strengthens the federal criminal justice system.

EDUCATION AND TRAINING

Continuing education for all adults, including those in their later years, should be

a government priority. The opportunity to acquire new skills and knowledge is essential if older Americans are to cope with our rapidly changing society, qualify for reemployment, and remain active in their communities. The Older Americans Act should be amended to identify education as an essential service for all older persons.

HOUSING

NRTA-AARP encourage HUD and the Administration on Aging to cooperate in evaluating the impact and effectiveness of government programs, such as homemaker/home health aide, home maintenance, nutrition, transportation and other related programs and services which would enable the elderly to remain independent in a residence of their own choosing.

The Section 202 Housing for the Elderly and Handicapped direct-loan program should be expanded to preserve it as the major mechanism for nonprofit sponsor participation in the production of housing units for older persons. Set-asides under the Section 8 rental subsidy program should continue to be available for use with Section 202 Housing for the Elderly and Handicapped.

A study of reverse mortgage concept should be undertaken by the appropriate federal agency as a means of enabling older persons to remain in their own homes.

TRANSPORTATION

Special transportation subsystems should be developed and/or expanded especially in non-urban areas and existing transportation resources should be more effectively used.

Adequate transportation, where necessary, should be required as an integral part of federally-funded programs for the elderly to enable them to obtain program benefits.●

THE TRIB CEASED PUBLICATION

● Mr. GARN. Mr. President, the Trib, the latest entry into New York City's daily newspaper business ceased publication yesterday. The Trib has only been publishing for 3 months and it apparently fell victim to a number of problems, including bad weather, lack of advertising, distribution problems, and—allegedly—antitrust activities by some of its competitors.

The Trib was a grand experiment and I am sorry to see it fail. Some of this body's ablest friends and colleagues were involved in the New York venture and if the paper had succeeded I believe the New York City community and the newspaper industry would have been well rewarded.

The paper was edited by Leonard Saffir who had worked for our former colleague, Jim Buckley. Jim sat on the board of directors, and any board that has James Buckley sitting on it has a man of impeccable dignity, courage, and intelligence. Among the Trib's contributors was Bill Gavin, another very able staff man who had worked with Senator Buckley. I wish the staff and management of the Trib much success in their future endeavors and I expect that any group with the talent and ingenuity of the Trib workers will continue to make significant contributions in writing, publishing, government, and other areas.

I will include at the end of my remarks a recent column—Trib, March 14, 1978—by Bill Gavin which presents one of the most thought-provoking and revelant arguments about the morality of abortion that I have seen. One of the serious difficulties with the present debate over abortion is that the proponents of abortion speak as though they have a monopoly on the market for constitutionally permissible moral argument. They reach this conclusion by the simple expedient of claiming that right-to-life arguments are constitutionally impermissible since they are founded in religious dogma and, therefore, violate either the establishment clause of the first amendment or the free exercise clause of the first amendment or what has become known as the doctrine of separation of church and state. These three principles are surely some of the most vital cornerstones of this Republic, but it is unfortunate—no, it is tragic—that so many people who are otherwise reasonable about public affairs are taking a position that excludes all but atheists, or at least secularists, from the public debate. This position simply labels as "impermissible" any moral view grounded in religious—particularly Christian—tradition and for which its adherents seek legal sanction and enforcement.

Bill Gavin's column entitled "Freedom of Choice in 1860" goes directly to the heart of the problem by comparing slavery and abortion, and the religious and moral views that surround both. The column is so well done that it will speak for itself, but before inserting it let me remind this body that the Supreme Court's abortion decisions of 5 years ago (Roe against Wade and Doe against Bolton) have been called the "Dred Scott decisions of the twentieth century." The Gavin column makes the analogy horribly clear:

[From the Trib., Mar. 14, 1978]

FREEDOM OF CHOICE IN 1860

WASHINGTON (June 6, 1860).—Abraham Lincoln, nominee of the Republic Party for the presidency, today announced his support of slavery on demand.

"I'm for freedom of choice so far as slavery is concerned," Lincoln said. "I think slavery is an issue that should be decided between the slaveowner and his individual conscience. Personally, I am opposed to slavery but I do not wish to impose my religious views on others."

Lincoln's announcement brought quick reactions from pro-slavery and anti-slavery groups.

"I welcome Mr. Lincoln's courageous stand for freedom of choice," said Mrs. Florence Bagget, head of National Organization of Wives of Slaveowners (NOWS). "The Constitution says nothing against owning slaves and we have a right to own them."

"Lincoln has made a dreadful error," said the Rev. George T. Duncan, spokesman for anti-slavery groups. "Slavery is against God's law and is evil. It should be abolished. No man has the right to own another human being."

When told of Duncan's remarks, Lincoln's press aide said. "But that's just the point. No one can say for sure if a slave is a human being. Some people think the Bible says they are human. Some think the Bible says they are not. It's a question scientists, theologians and philosophers have long debated. It's really a question of when personhood begins and no one knows that."

Anti-slavery groups say that slaves are fully human and deserve protection of the law. Pro-slavery groups say this is a question best left to the individual conscience.

In a related development, Mrs. Bagget of NOWS says her group will seek to have the federal government buy slaves for poor white trash who cannot now afford them.

"We have two laws in this country," she said, "one for the rich and one for the poor. The well-to-do can afford slaves but the poor cannot. Denying slaves to the poor is cruel and heartless. Anyone who wants a slave should be able to have one. I think it is time that Americans spoke out against the imposition of one set of religious doctrines over others. When anti-slavery groups lobby for a law to overturn slavery and when they oppose federal funding of slavery, they are infringing on my First Amendment rights."

When told of a planned march on Washington by anti-slavery forces, Mrs. Bagget said:

"If the poor are not given federally funded slaves, they will get them some other way. You will have a situation where a poor person will have to go to a back alley and hit someone over the head and force him into slavery. The anti-slavery forces will have this on their conscience if they don't stop their shrill, bigoted cries against a practice that is every person's right. All we ask is freedom over someone else's body."

Political observers here say that Lincoln realizes his decision means he may lose the anti-slavery vote in November's election.

One observer put it this way: "Abe has a problem. He's been telling anti-slavery groups how much he hates slavery and they thought he was on their side. But what he doesn't tell them is that he can's afford to offend the powerful slave-owning groups. So he is going to stay with this argument for the rest of the campaign. He is opposed to slavery but he doesn't want to impose his religious views on others. Some of Lincoln's people think he can get part of the anti-slavery vote back by promising something else for the religious groups involved. Maybe he'll try to help their schools or something. But you have to hand it to Abe. He's shrewd. He knows he has all the enlightened newpapers on his side on this one and the pro-slavery women's groups as well."

In a related development, five slaves were flogged into unconsciousness yesterday, on a plantation in Virginia. Anti-slavery groups picketing in protest on the plantation grounds were arrested for trespassing.●

HEW HAS LOST $7 BILLION

● Mr. CURTIS. Mr. President, tax reformers have been expressing concern about the Congress lack of efficiency in the raising of revenues. One of their targets is capital gains, which they want taxed as ordinary income. According to the reformers, the capital gains preference is a loophole through which $6.9 billion in Federal tax revenues slipped in 1977, a contention which, as I pointed out in my speech on March 9, is challenged by a recent study by Data Resources, Inc. According to DRI, and most economists in the country, closing this so-called loophole would result in a loss of Federal revenues. Nevertheless, we continue to hear crying over these "lost" revenues of $6.9 billion.

This week a real loss of revenues occurred, and I have not noticed any of my tax reform friends crying over them. HEW Secretary Califano announced that his Department lost between $6.3

billion and $7.4 billion in fiscal year 1977 because of fraud, abuse, and other errors. It seems to me, Mr. President, that it is better for Congress to lose the revenues by leaving them in the hands of the people than for the Congress to raise revenues in order that the bureaucrats downtown can lose them. The problem with this Government is not the efficiency with which revenues are raised, but the efficiency with which they are dispensed. As many economists have pointed out, during inflationary periods, a tax on capital gains is the same as expropriating people's assets. Why in the world should the Congress slap on a $6.9 billion capital levy just so the bureaucrats downtown can lose it in "fraud, abuse, and other errors"? The tax reformers would do the country much more service if they were to concentrate on the efficiency with which the people's tax dollars are spent. I ask that the article reporting the losses be printed in the RECORD.

The article follows:

SIX BILLION DOLLARS IS MISSPENT BY HEW

WASHINGTON, April 3 (AP)—The Department of Health, Education and Welfare misspent $6.3 billion to $7.4 billion in the fiscal year 1977 because of waste, fraud and abuse, the Office of Inspector General said today.

That amounts to approximately 5 cents for each dollar authorized in the fiscal year ending last Sept. 30, for which the department's outlay was $148 billion.

Most of the misspent funds were lost to waste and mismanagement, not fraud and abuse, the office said in an annual report to Congress and to Secretary Joseph A. Califano, Jr.

Mr. Califano said the estimates were "rough and incomplete." He went on, "In some instances they may be too low; in other instances too high."

He said $4 billion was spent unnecessarily in health care programs, including Medicare and Medicaid payments for unnecessary surgery, hospital stays and X-rays.

The report said that slightly more than $1 billion was siphoned off by fraud and abuse, or 14 percent of all the funds misspent. Mr. Califano said the fraud and abuse were "chiefly in Medicaid, Aid to Families with Dependent Children and the Students Financial Assistance programs."

He said the $4 billion spent unnecessarily on health care helped pay for "the portion of hospital charges attributable to excessive hospital beds and losses due to the failure to collect payments from other medical insurance available to Medicaid recipients."

Mr. Califano said that, with fraud and abuse added, the amount misspent in Medicare and Medicaid totaled $4.5 billion to $4.9 billion.

This underscores the importance of the Carter Administration's proposed bill to contain hospital costs, which is tied up in Congress, he said.

Mr. Califano noted that the Administration's major welfare reform bill, which is also moving slowly through Congress, "would consolidate all cash assistance programs on a single computer system to reduce fraud, abuse and error." ●

MILITARY ASSISTANCE TO TURKEY

● Mr. MOYNIHAN. Mr. President, Senators EAGLETON and SARBANES and Congressmen BRADEMAS and ROSENTHAL yesterday issued a joint statement concerning the intentions of the administration to resume substantial military assistance to Turkey. This is a matter with a detailed political and legislative history. It is, moreover, a matter which had been addressed by our President when he sought that office in 1976. As we know, the nub of the matter is this: Shall we resume substantial arms sales to Turkey without an adequate measure of diplomatic progress on Cyprus? Surely we know that this has been a difficult issue for the United States in that we share an alliance relationship with both Greece and Turkey as, indeed, they do with each other.

In calling attention to the important role Senators EAGLETON and SARBANES and Congressmen BRADEMAS and ROSENTHAL have played in this matter, I wish to associate myself with one especially important point of their joint statement. It is a point which speaks directly to the integrity of American foreign policy and to the integrity of the commitment our party has made to the people of the United States. As a candidate, President Carter had said:

He stressed, in addition, that the United States must be prepared to work with others "to insure the independence, territorial integrity, and sovereignty of Cyprus." It is a simple matter and the President said it well when he was a candidate in 1976;

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue.

A President who understands the fundamental importance of human rights—which are surely under assault today on the Island of Cyprus—must surely understand the need for constancy and candor in the conduct of our foreign relations. The apparent retreat from a solemn commitment, as evidenced in the administration's plan regarding arms shipments to Turkey, is disturbing. It will inevitably undermine the confidence we must have in the pledges of our Government and the pledges of our President. I congratulate my colleagues for the leadership they have shown in this matter, and I know that both Houses of Congress will continue to have the benefit of their counsel on this matter as events unfold.●

FTC WORKSHOP FOR WOMEN

Mr. PERCY. Mr. President, the Chicago regional office of the Federal Trade Commission recently presented a workshop for professional women entitled "Our Turn: An FTC Workshop for Women" in Chicago.

This is the second in a series of workshops sponsored by the FTC as part of its efforts to educate business representatives and consumers about their rights and responsibilities under the laws administered by the FTC.

I commend the FTC for its fine series of workshops and also, in this instance, for its efforts to bring together women in the Midwest from Government and the private sector to examine the services the Commission can provide to women in their professional lives.

Mr. President, I ask unanimous consent that the following report about the workshop compiled by Catherine Kinsella of the FTC Chicago regional office be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

OUR TURN: AN FTC WORKSHOP FOR WOMEN

The Chicago Regional Office of the Federal Trade Commission presented OUR TURN: an FTC Workshop for Women in Chicago, Illinois, at the Continental Plaza Hotel on February 2, 1978. The one-day workshop was designed to bring together women from the FTC staff with women from corporations, small businesses, trade associations, consumer groups, and academia from the greater Midwest. The workshop examined the role of the Commission and the advisory services it can provide professional women. The day's agenda was designed to give an overview of the ways the Commission can assist business representatives and consumers to function most effectively in the marketplace.

The speakers from the Commission's regional offices and Washington, D.C. headquarters made presentations and led discussions on the substantive areas of FTC regulation. Speakers from industry and the consumer movement contributed their thoughts on the effectiveness of the Commission's regulatory efforts.

A majority of the women who attended the workshop were professionals from industries that are regulated by the Commission: manufacturing companies, retailing establishments, advertising and public relations agencies, marketing and management firms, and financial institutions. Most of these women were involved in the marketing, distribution, advertising or consumer affairs fields of their organizations. Other workshop attendees were representatives from consumer organizations who provided a "consumer prospective" in the discussions. Additionally, women were invited from the regional offices of the Small Business Administration, Department of Commerce, Consumer Product Safety Commission, and Food and Drug Administration to represent their respective agencies in the workshop discussions.

Commissioner Elizabeth Hanford Dole addressed the workshop attendees concerning the position of women as professionals in today's society. After her presentation, Commissioner Dole responded to questions from the audience.

Sue Halverson, an attorney with the Chicago Regional Office, presented an overview of the organization and function of the Commission's Bureau of Consumer Protection; and, Linda Blumkin, an Assistant Director of the Bureau of Competition, presented an overview of the organization and function of the Bureau of Competition. They discussed the laws administered by each bureau, the case handling procedures followed in each bureau, and the regional officers' role in the work of each bureau. Following their presentations, the women responded to questions from the floor.

The afternoon session was opened with brief remarks from Helen Scott, an attorney-advisor to the Commission's Chairman Michael Pertschuck. The workshop program then continued with a panel presentation: by Sharon Devine, an attorney with the Cleveland Regional Office, discussed national advertising; Benita Sakin, an attorney with the Chicago Regional Office, spoke about marketing practices and warranties; Larraine Holbrooke, an attorney-advisor with Commissioner Clanton's office, covered rulemaking proceedings; and, Wendy Kaufman, a consumer protection specialist from the Los Angeles Regional Office, dealt with credit practices.

Following this panel presentation, each panelist conducted a workshop on her subject area for an hour. Each workshop was held in a separate room adjacent to the main meeting room. The workshops presented an opportunity for the attendees to meet with the panelists and ask questions concerning or express opinions regarding the areas discussed on the panel.

The final panel of the day was on "Business, the Consumer and the FTC." The panel was moderated by Stephanie Kanwit, the former Director of the FTC Chicago Regional Office. The panel members were: Eileen Burns, an attorney from Motorola, Inc., representing business; Bonnie Wilson, a consumer consultant from Consumer Coalition, representing consumers; and, Peggy Summers, an attorney from the Chicago Regional Office, representing the Commission. Each panel member made a short presentation on those issues that she felt most deserve the attention of the other groups represented on the panel. The panel then responded to questions from the floor.

Concluding remarks for the workshop were given by the Executive Director of the Commission, Margery Waxman Smith. In her remarks, she reviewed the reason for and benefits of workshops such as this one in Chicago.

The women's workshop that was held in Chicago was a learning experience for the FTC staff members as well as the other professional women who attended. The response from the participants concerning the workshop was very positive. Workshops such as the one that was held in Chicago are valuable educational and informational instruments as they offer the opportunity for Commission personnel, industry representatives, and consumer leaders to meet one another and relate on an individual basis.

The Chicago Regional Office of the Federal Trade Commission intends to continue its efforts through projects such as this workshop to advise other groups of business and consumer representatives of their rights and responsibilities under the laws administered by the Commission.

NELSON ROCKEFELLER

Mr. PERCY. Mr. President, in the late 1950's, I received a telephone call from Nelson Rockefeller asking if I would serve on the Rockefeller brothers overall study project committee. He estimated that it would take about 6 months but he wanted the committee to look ahead to the future, at least two decades ahead, and forecast what problems America will face and what solutions could be offered to them.

I joined the project together with a few other Americans from various phases of American life, and 3 years later we wound up our studies, publishing a report "Prospects for America."

Service on that Rockefeller brothers study project changed the course of my life. It led directly to my proposing to President Eisenhower the appointment of a National Goals Commission, which he did in his address to a joint session of Congress in January 1959, to the subsequent appointment of the Republican Committee on Program and Progress that I chaired in 1959, and my appointment as platform chairman of the Republican National Convention in 1960 and my subsequent entry into public life.

Nelson Rockefeller has had a remarkable influence on a great many Americans and though his political philosophy has always been subject to controversy, a large part of the controversy came from a misunderstanding of what he actually stood for.

For instance, I have heard Senator GOLDWATER indicate that he generally concurred with the positions taken by Nelson Rockefeller on vital matters dealing with national security and foreign policy.

I ask unanimous consent that an article by Tom Braden in the Washington Post and an article by Mr. Carey Winfrey from the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post]

A FAREWELL SALUTE TO ROCKY

(By Tom Braden)

A familiar figure in American politics for the last 20 years bowed out last week, and hardly anybody paid attention.

Nelson Rockefeller got less notice when he announced his decision (after four terms as a governor, three presidential compaigns and a brief career as vice president) than he got back in 1954 when reporters began to guess out loud whether he might run for mayor of New York City.

Rockefeller has been my friend since long before that year, so you may discount to whatever extent you wish my opinion that he was the best thing the Republicans had going for them since Wendell Willkie.

And you may laugh at that. But if you're old enough to remember that Willkie gave Franklin Roosevelt a good race, you may also remember that he was a Republican in the Teddy Roosevelt tradition, an activist, mildly infected with the reform spirit, a strong believer in capitalism on the assumption that it should be and could be both responsible and creative.

Unlike Willkie's, Rockefeller's political career began during the era of anti-communism and so he had to worry about whether innovation might be labeled as "pink." But considering that he launched himself at the height of McCarthyism and that he did so as a Republican, he handled admirably the problems of individual rights and civil liberties that McCarthy posed.

Still, the persistent notion that he was a secret left-winger dogged Rockefeller throughout his career. True, it led to his finest hour: that great speech in San Francisco made over the rude and raucous jeers of the Goldwater delegates at the Republican convention of 1964. But he spoke as a loser.

I don't think Rockefeller ever figured out why the conservative wing of his party hated him so, even after a careful reading of the polls convinced him that he himself ought to become a conservative. And even after he ran two consecutive New York gubernatorial races as though he were Mr. Conservative.

That was not so false a pose as people thought at the time. Rockefeller really is a conservative. But his conservatism is tinged by the sophistication of civil libertarianism. Were some of the artists he admired communists? They were, nevertheless, good artists. And touched also by his almost fervid belief that capitalism ought to be an active, expanding force, and that only as such does it scatter benefits to society.

It says a lot about the Republican Party from the days of the Birch Society to the days of the New Right that a belief in civil liberties (or maybe in artists) and a conviction that capitalism is innovative should be regarded as too much to swallow.

Rockefeller was too open-minded for the zealots who followed Goldwater. He actually saw some good in examining other people's ideas. And he was too human for the ice-cold Nixon crowd. He permitted himself, perhaps too often, to be a man instead of a politician.

That, of course, is one reason he never reached the top. He probably could have beaten John Kennedy in 1960. At least Kennedy always thought so. But Rockefeller fell in love. And he might have beaten Goldwater in 1964, but on the eve of the California primary he reminded everybody of the love affair by becoming a father.

Indeed, many of the mistakes Rockefeller made in New York were mistakes of the heart. He wanted to do too much, too quickly, for too many. On the other hand, nobody will ever say about Nixon that his mistakes were of the heart.

So I think the Republican Party will miss Rockefeller. He stirred it up; he infuriated it—and therefore he helped to keep it alive.

[From the New York Times, Mar. 9, 1978]

ROCKEFELLER, OUT OF POLITICS, FOCUSES ON ART AND HIS FAMILY

(By Carey Winfrey)

On a clear day, from his unpretentious office on the 56th floor of Rockefeller Center's tallest building, Nelson A. Rockefeller can see his life with considerable detachment. There, in a philosophical mood on a recent afternoon, the former Vice President sipped a cup of tea, ate an Oreo cookie, reflected about his current activities and laced his conversation with intimations of mortality.

"I'm at the stage in life where nothing bothers me," he said at the start of a 90-minute interview that marked his emergence from more than a year's inaccessibility to the press.

Earlier this week Mr. Rockefeller disclosed that he had signed a contract with Alfred A. Knopf, the publishers, to produce five books about his personal art collection. He will also reproduce 100 works of art from his collection each year for sale to the public.

"I haven't got time at this point to start some little business except something that I love, like this," he said.

NO 30-YEAR PROJECTS

When it was suggested that such enterprises hardly seemed to accord with his past energy and interests, he siad: "If something comes along I'm not averse to moving, but it can't be a 30-year project at my age." (He will be 70 years old in July.)

As he has done through spokesmen many times since leaving office in January 1977, Mr. Rockefeller disclaimed anything more than a bystander's interest in politics. "I won't talk to anybody," he said, smacking his

pen on the table for emphasis. "I don't talk to them, don't talk to anybody. Don't see 'em.

"You're either in it or out of it and you really can't do both. So I got out. And that's nationally, locally, statewide. There's no sight worse, in my opinion, than some person who has been active slowly petering out or trying to maintain a position of influence or power."

More than once Mr. Rockefeller suggested that political impotence, not lack of interest, was responsible for his not participating in politics.

After insisting that there was "no foreseeable circumstance" that could involve him in politics again, Mr. Rockefeller leaned across his small, round table and said: "It doesn't take long to size up a situation, and I think one of the most important things in life is to be able to know when you can do something about it and do it or know you can't do anything about it and don't try."

But he added that such avowals did not preclude him from speaking out on issues, such as energy, that interested him, or even from taking on special assignments from the President. A few weeks ago he did some private lobbying for Mr. Carter's Panama Canal treaties.

A DELICATE BUSINESS

"I just called seven Senators," he said, "talked to them and reported back to the President on the phone. I have a way of working with people where I never try to put them on the spot. I'd rather just talk to them—this is a delicate business, this political business—so all I try to do is find out what they're thinking, what their problems are, and try to think of what answers are the logical answers to their problems."

He said that a September meeting with the President following Mr. Rockefeller's Senate testimony in support of a pet project—a $100 billion Government corporation to finance high-risk energy ventures—led to the Panama Canal telephone calls.

Asked how he thought Mr. Carter had handled his first year as President, Mr. Rockefeller said: "Well, that's the nice thing about being out of politics, you don't have to try to appraise politicians."

He said that "we've got a lot of problems in the country," of which energy is foremost, because "that's related to the dollar, to unemployment and to the coal prices—they're all interrelated."

REGRET OVER STALLED BILL

Mr. Rockefeller expressed dismay over the fact that the high-risk energy corporation bill had stalled in the House of Representatives and that the White House was not supporting it. As for another pet project—he developed it with Arthur Taylor, the former president of CBS—to attract Middle East oil money to venture capital investments, that, too, is apparently stalled.

"Nothing's come of it," he said of the proposal, called Sara-Band. "It may never come to anything."

He added that "there's a shortage in the Western world of venture capital," that "Middle East money has to flow back into the rest of the world" even though "their tradition is not to invest in" high-risk initiatives.

Again he struck a plaintive note: "You can have ideas but unless the ideas click and make sense to all concerned, they remain just ideas."

Since he returned to private life, Mr. Rockefeller and his wife have made two trips to the Middle East. A year ago they spent two weeks visiting Egypt, Jordan, Saudi Arabia, Israel and Syria. Last October he accepted an invitation from the Shah of Iran, an old friend, to dedicate a new art museum there.

It was simply tourism, Mr. Rockefeller said. "It's just because my wife likes to travel, and I've always liked to travel," he added. "She meets interesting people at dinners, talks to them about a place, and so off we go."

Next month they will spend three weeks touring Turkey, Afghanistan and India.

In addition to traveling, Mr. Rockefeller said, he spent most of the last year taking care of family business, insuring an "orderly transition from one generation to the next generation."

That included putting his son Steven and his friends Henry A. Kissinger and Nancy Hanks on the board of the Rockefeller Brothers Fund, one of the major philanthrophies established by the family. He said that the dust kicked up that action and by the decision to reduce the funds assets through capital grants had largely settled.

"All I wanted to do was to see that we've got an efficient, effective structure to carry out responsibilities, whatever the responsibilities are," he said.

With family matters under control, he has devoted 80 percent of his time in the last three months to his new art ventures. "Art has been a major factor in my life, my joy and distraction, my balance under the pressures of political life," he declared.

FASCINATION OF THE ART BUSINESS

"It may be hard to believe that somebody who's dealt with a scale of things that I have can be interested in publishing art books and making reproductions and going through the problems of how you sell them, how you price them, how you distribute them," he said, "but those are interesting problems to me, relating to things I'm fascinated with."

Mr. Rockefeller looked fit, though the cadence of his speech was slower than usual and he sounded more reflective. He said that he spent most weekday-nights at his Fifth Avenue duplex with Mrs. Rockefeller and went to Pocantico Hills, the Rockefeller estate in Westchester County, on weekends.

Asked how Mrs. Rockefeller spent her time, these days, he said, "Very happily." How does she spend her time? "Walking the dogs."

And while he dismissed rumors of bitterness over being dumped from President Gerald R. Ford's ticket in 1976, the manner of the move obviously still rankled.

"It was so absurd," he said, "President Ford had no more chance of getting the Southern delegates. . . . Reagan had them locked up."

Then why did he not fight? "I could have," Mr. Rockefeller conceded. "I've been a reasonably good in-fighter," he said with a smile and a wink, "a reasonably good operator."

But, he added, "I went down there to support the President, cause him no problems, to create an atmosphere of tranquillity and harmony in the White House."

Mr. Rockefeller said that while he had made mistakes, he had no regrets. He conceded, though, that if he had to go through the 1971 revolt at the Attica prison again, he would have overruled Russell G. Oswald, chairman of the State Board of Correction, when Mr. Oswald halted a police attempt to retake the prison without weapons on the first day of the siege.

As for the ultimate assault, which cost the lives of 11 correctional employees and 32 inmates, he said he would not have done anything differently. "At that point, they had no choice," he said.

He also maintained that he would not have acceded to requests by prisoners and by a committee of observers that he come to Attica in person. "If I'd gone in, either as a hostage or not, then they'd have demanded Nixon."

Though he still thinks he would have been President had he become a Democrat, he asserted he had no regrets about not having switched parties. He would have felt awkward as a Democrat, he said because, as he once told President Harry S. Truman, "I would rather pull a group forward than hold a group back—that's my nature."

Mr. Rockefeller protested that reports of his disappointment at not attaining his goal of the Presidency ("I think if I'd been nominated I would have been elected, but that's idle speculation") had been exaggerated.

"I have no emotional involvement," he insisted, "so there's no problem. I'm very grateful for the opportunities I've had in life, and I've had an exciting life, a wonderful, thrilling life with a whole range of interesting experiences, and am continuing to do so.

"Most people think that what I say sometimes is too simple and therefore it can't be true and there must be another motive or another reason. But I really am rather simple, and I can get interested in anything that's creative."

NAVAL FORCE PLANNING STUDY

Mr. TOWER. Mr. President, over the past 2 weeks significant developments have taken place with regard to the future role of American naval power. In submitting the proposed Federal budget for fiscal year 1979, President Carter did not forward to the Congress the 5-year navy shipbuilding plan which is required by law. Instead, the Secretary of Defense explained to the Committee on Armed Services that a naval force planning study was being conducted by the Secretary of the Navy in connection with the so-called Presidential review memorandum 10, and that he and the President would await the results of this study before recommending future levels of Navy ship construction.

On March 23, the Secretary of the Navy and the Chief of Naval Operations appeared before our committee in closed session and presented this long-awaited study, entitled "Sea Plan 2000." The study group's executive director, Dr. F. J. West, Jr., also testified on the purposes and findings of this extensive effort.

On the afternoon of the following day, March 24, after our hearings had been concluded, the Secretary of Defense forwarded the administration's approved 5-year shipbuilding plan to the Congress. This new plan represents a dramatic departure from the shipbuilding program supported by the previous administration, reducing the number of new ships from 157 to 70.

With an average construction rate of only 14 ships per year, this revised plan portends reductions in our future naval force levels that will inevitably require a redefinition of U.S. maritime strategy.

I would stress to my colleagues that the President of the United States has made a decision that, if sustained, will fundamentally alter the role of American sea power in the world of the late 1980's and beyond. In so doing, he has flatly rejected the recommendations of his Secretary of the Navy and the Chief

of Naval Operations, and he has chosen to ignore the findings of the comprehensive study undertaken at his explicit direction last year.

In reviewing the impact of the President's decision on our future national security, Congress must consider the uses of naval forces and the international setting in which these forces may be called upon to operate.

Historically, naval forces have served to control the seas and to influence events on land through their capability to project power ashore. In practice, they serve our national security objectives in three ways, as identified in the sea plan 2000 study:

First. The maintenance of stability by forward deployed forces.

Second. The containment of crises by offering wide latitude in the application or demonstration of force in regions where stability may be threatened or lost.

Third. The deterrence of global war.

In planning our future Navy, it is essential to recognize that forces required for crisis management are no less important than those required for war. Indeed, it is the failure to contain a regional crisis that represents today the most serious threat to world peace. As one example, the ultimate consequence of one set of uncontrolled crises might be a conflict with Soviet and Warsaw Pact forces in Europe. In this case, however, we will weaken our ability to deter such a conflict if we narrowly structure our forces on scenarios we assume to be predictable involving a war on the central front.

Ours will continue to be an uncertain and turbulent world. We must be prepared to deal with Soviet attempts to exploit the political opportunities of strategic nuclear parity. To this end, we must plan forces that will give us the flexibility to respond to crises which may be spawned by increased Soviet adventurism or other regional conflicts affecting U.S. interests. It is our preparedness to deal with such unpredictable crises that will determine whether they shall be contained or whether they will grow to conflicts involving higher levels of force. This preparedness will continue to require a forward based naval strategy that cements the relationships we must maintain with our overseas allies. Without sufficient numbers of ships, however, we will be unable to sustain the forward strategy, thereby limiting our ability to maintain stability and contain crises wherever they might occur.

Notably, in over 200 crises since 1945 in which the United States was involved, U.S. Navy and Marine Forces were deliberately employed in 177 cases, while U.S. land-based air or ground forces above were demonstrated in fewer than 90 cases.

The Sea Plan 2000 study also contains a detailed analysis of naval forces in a conventional worldwide war. This would involve, first, defense on the sea lines of communication; second, reinforcement of our allies; third, applying pressure against the Soviets through offensive naval operations; and fourth, providing the vital hedge against the range of uncertainties of global war.

Though worldwide conventional war is improbable, we must recognize that if it were to occur, it would most likely evolve from a series of events which would gradually undermine stability and fracture the cohesion of the Western alliances. Accordingly, the role of naval forces in deterring global war must also first be assessed in terms of the containment of crises and the maintenance of stability. Again, we cannot ignore the validity of these functions in sizing our future naval forces. Nor can we assume that a navy structured about specific missions in selective war scenarios will be adequate to deal with circumstances that may require a measured and timely response if the escalation of hostility is to be avoided.

The irony of this administration's shipbuilding plan is its total incompatibility with our NATO commitments. While advertising the fiscal year 1979 defense budget as a "NATO budget," the administration has set the stage for a future naval force structure that will be clearly inadequate to sustain the bonds of the alliance.

The lowest option of the force alternatives examined by the Sea Plan 2000 study, option 1, is described in the study as a "high risk option with a low degree of flexibility, with minimum capability across the range of naval tasks." It would provide for the construction of only about 18 ships per year and would result in a Navy of approximately 439 active ships, which is 20 ships less than present strength.

Option 2 would be based on 3 percent real growth in ship construction funds and would provide about 24 new ships per year. This plan would result in a Navy of 535 ships which would maintain selective superiority over the Soviets and result in a minimum acceptable level of risk.

Option 3, containing 4 percent real growth in funding, would offer lower risks based on a strength of 585 ships and an average construction rate of about 27 ships per year. It would be more likely to insure all-around maritime superiority over the Soviet Union.

The Chief of Naval Operations, Admiral Holloway, has testified before the Armed Services Committee that the lowest option would "require this country to alter its national strategy from a forward strategy to something less than that."

It is thus astonishing that the President of the United States has recommended a shipbuilding program that is less even than the reduced force levels of option 1. If his plan is approved and implemented, I submit that our resultant and inevitable retreat from a forward naval strategy would make it impossible for us to retain the confidence of our allies around the world.

Thus the irony: The administration lays claim to proposing a NATO-oriented defense budget with certain marginal improvements focused on the central front, and then proceeds to issue plans which would redefine the American Naval strategy—a strategy vital to the stability of those regions off the northern and southern NATO flanks, where the Soviets are more likely to initiate provocative political or military actions.

Mr. President, I believe that the Congress faces no more serious challenge this year than that of flatly rejecting the administration's proposed shipbuilding plan. We cannot permit the imposition of arbitrary fiscal constraints to alter the very character of our national security program. Neither can we permit past and current difficulties in our ship construction process to determine the long-term naval strategy we will support in concert with our allies. There are complex contractual and managerial problems in shipbuilding which the Department of Defense must expeditiously solve. Congress, however, cannot allow such problems to impose reductions in the naval forces upon which our forward strategy is based.

The Committee on Armed Services will be undertaking a thorough study of our future requirements for naval forces and will carefully review the President's recommended reductions in ship construction. To some of us, however, it is already apparent that the demands of national strategy and naval preparedness have been given little attention by this administration in planning the future of the U.S. Navy.

Mr. President, I ask unanimous consent that excerpts from the unclassified version of the Sea Plan 2000 Executive Summary be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SEA PLAN 2000: NAVAL FORCE PLANNING STUDY

INTRODUCTION

Sea Plan 2000 explores the rationale for general purpose naval forces. It addresses two sets of questions. First, what can a policymaker expect of naval forces? How do they contribute to U.S. interests? What is the connection between naval missions and U.S. national security objectives? Second, how capable are our naval forces of carrying out their missions? In assessing naval capabilities, three time frames were used: 1978, the late 1980s, and the 1990s.

The difficulty of naval planning

It can take up to ten years for a new ship to go through the planning process, be authorized by Congress and built before it is introduced into the fleet. Further, ships remain in the fleet for 20 to 30 years unless they undergo service life extension programs in lieu of new procurement, in which case another ten years can be added to their useful service life. The naval forces serving this Administration exist today in the fleet or are already under construction. The ships that are procured—or not procured—will affect the latitude available to policymakers and thus American security interests decades hence. Force elements with shorter lead times or shorter lifetimes can be planned to accommodate a specific scenario or an immediately pressing problem. But a near-term planning horizon is inappropriate for naval forces.

For a variety of reasons it is necessary now to develop long range naval plans: this Administration is interested in and has a sense of responsibility with regard to the

future; even in the near term, U.S. longer range policy planning has an important politico-military impact on allies, on potential aggressors and on the U.S. public; and finally, there is, in a real sense, a continuity between the present and the future. Recognizing these realities this Administration has directed that a study be undertaken of U.S. naval posture for the year 2000 and beyond. It is to that directive that this study responds. It does so by relating naval forces to national security objectives on the one hand and to military capabilities on the other.

SEA PLAN 2000, through a series of policy and feasibility analyses, seeks to provide the policymaker with a framework for understanding the utility of naval forces. With this framework in hand, program decisions regarding the size and structure of the Navy can be made with more confidence and surety.

Past uses of naval forces

The traditional naval functions of control of the seas and projection of power ashore have in the past included a broad range of actual missions. Judging from historical use, a primary mission, or "business," of naval force is the projection of American influence in situations where military means are appropriate. A second "business" is emerging, where the past is not prologue: that of countering Soviet influence which seriously threatens U.S. interest. A third "business" of naval forces is in support of land forces in a major war. Table A illustrates some past uses of naval forces in those businesses.

TABLE A: HOW U.S. NAVAL FORCES HAVE BEEN USED

Projecting influence

Reassuring friends and allies (6th/7th Fleets).
Lebanon (1958).
Vietnam (Linebacker, etc).
Jordanian crisis (1970).
Indo-Pakistani war (1971).
Resupply of Israel (1973).
Mayaguez (1975).

Countering Soviet projection

Cuban missile crisis (1962).
Cienfuegos (1970).
Mideast war (1973).

Supporting land-based ground power

World War II: Battle of the North Atlantic/Pacific.
Korea (1950–53): Inchon.
Vietnam (supply lines, etc.).

The point is that, given past uses of naval forces and the uncertainty of the future environment, naval planning should focus upon capabilities, not scenarios, and upon a range of measures, not a dominant force sizing criterion.

There is no reason to believe that in the future the basic American security objectives will be substantially modified. A primary goal is the deterrence of nuclear threats or war against the U.S. and its allies. This study addresses the relationship between general purpose naval forces and three primary national security objectives:

The maintenance of stability. Routine forward deployments are intended to reassure allies and strategic friends. Further, this use of naval forces serves to deter crises and constrain potential Soviet adventurism.

The containment of crises. Critical to this is the ability to deal not only with low order crises, but also with those where the Soviets may choose to challenge U.S. capability and resolve.

The deterrence of major war. The main elements of naval contribution to this deterrence include: a survivable SSBN force; protection for any SLOC in support of land campaigns; supporting allies, even if in proximity to the USSR; the capability to operate in forward areas and increase the risks for Soviet naval forces and capabilities; the capability to open a second front, especially in the Pacific, and possessing sufficient combat potential to hedge against the uncertainty of where and how a war of this magnitude would occur.

During the course of this study, a series of measures of naval capabilities were identified. They should enable the policymaker to judge the worth of naval forces as measured against those three basic U.S. security objectives. The measures take into account the past uses, or "businesses" of naval forces. They are shown in Table B.

TABLE B: POLICY-RELATED MEASURES OF NAVAL CAPABILITIES

Maintain stability

Forward deployment.
Perceptions of naval power.

Contain crises

Capability to affect outcome ashore.
Superiority at sea versus Soviets.

Deter global war

Protection of sea lanes.
Reinforce allies.
Pressure upon the Soviets.
Hedges against uncertainties.

THE INTERNATIONAL ENVIRONMENT

In evaluating the worth of naval forces in meeting national security objectives, it was necessary to determine the environment in which they would operate.

Overall, the trends do not indicate that the world will be more receptive toward American interests. The awesome American economic and military power which undergirded the stability of the democratic West in the first two decades after World War II has waned. The dollar is frequently under pressure on world money markets. The tragedy of Southeast Asia raised questions about the extent of U.S. military power, wisdom and foreign policy consensus.

The Soviet Union has emerged as the world's second superpower whose international influence is basically derived from its steady and determined increase in nuclear and conventional military power, to which it continues to devote an unprecedented level of resources despite the inadequacies of its economic structure.

The most certain aspect of the environment will be its uncertainty and volatility. There is no reason to believe that ethnic or national rivalries or irredentist claims, many of which predate this country's existence, will be amicably resolved in the next 20–30 years. The acquisition by Third World nations of sophisticated military capability (including nuclear technology) is not encouraging. Nor is the expanding world population and increasing demand on scarce resources needed for survival and national development

As the world has become more interdependent, the distinction between U.S. "vital" interests and "peripheral" interests has blurred. The period when the U.S. was self-sufficient in natural resources and protected by a 3,000 mile wide moat has long since past. Its economic, political and military interests are, for better or for worse, intimately related to what happens elsewhere in the world. What happens in one region affects another. The West may choose to ignore Soviet or other disruptive actions on other continents; but the consequences of those actions cannot be avoided.

The military capabilities of nations in areas where the West has both vital and peripheral interests are growing. As regards naval forces alone, antiship precision-guided munitions (PGM's) are in the hands of 30 nations, excluding the NATO and the Warsaw Pact. The main threat, the USSR, continues its steady naval growth in terms of blue water (at-sea sustainability) capabilities, ocean surveillance, and antiship missile improvements. The projections are that, over the next two decades, the Soviets will largely increase their nuclear attack submarine fleet, greatly improve their naval air strike force and deploy more aircraft carriers.

In doctrinal terms, the Soviets have been a sea-denial force whose maritime strategy centered around checking the nuclear-delivery potential of the carrier and the SSBN. Increasing Soviet involvement in crises worldwide, however, indicates that their doctrine accommodates to ambitions and capabilities. Today Soviet maritime strategy includes the concept of force projection, although not in mirror-image fashion to U.S. projection capabilities.

While the Soviets are manifesting a more ambitious worldwide involvement, the U.S. is no longer able to offset Soviet adventurism by reliance on nuclear superiority.

The central national security problem for the future will be effectively to control Soviet expansion of influence, hopefully without engaging in hostilities. To accomplish this will require a mix of political, economic and military means, one important portion of which will be our naval capabilities.

The future will not be more secure for U.S. interests than the past.

BASIC STUDY FINDINGS AND TRENDS

What does the future promise in terms of U.S. naval capabilities? Basically, in terms of technology U.S. naval capabilities should improve relative to the projected threat. Naval science is dependent upon areas of expertise—microelectronics. computers, nuclear physics, etc.—where the United States holds considerable relative advantages over potential adversaries. Several points deserve mention.

World environment and military capabilities

Given an unstable world environment extending well into the future, the U.S. will require a variety of military capabilities. Trends indicate the world environment will not be more stable or more secure for U.S. interests in the future than in the past. The U.S. will face adversaries overseas, great and small; the U.S. must keep secure links to overseas allies (NATO, Japan, and others) and secure access to resources (e.g., Persian Gulf oil). The U.S. will require substantial military capabilities to maintain stability, contain crises and deter worldwide war. Because uncertainty increases as we look further into the future, military capabilities must be balanced and flexible to deal with a range of possible world environments. Primary among these capabilities will be versatile naval forces, the centerpiece of which will continue to be carriers because they contribute heavily both to control of the seas in high threat areas and to the outcome of battles ashore.

Aside from force projection, other naval missions of high priority will involve the projection of U.S. influence to reassure friends and allies and counter Soviet influence projection, the latter likely to be a growing threat.

Soviet missile threat

Soviet missiles, launched from either bombers, submarines or surface combatants, are a principal threat to U.S. surface forces operating either during a serious crisis such as the 1973 Mideast War or during a major war. The Soviets currently have about 100 submarines and surface ships equipped with antiship missiles. These forces and antiship missile equipped Backfire bombers are projected to increase substantially in this period.

U.S. naval forces must be able to cope successfully with that threat. National security is based on a forward strategy which links the U.S. with allies on both flanks of the Soviet Union. Contrary to popular opinion, properly employed carrier task forces are not highly vulnerable. They can, of course, be damaged. But they are not easy to put out of action and are even more difficult to sink.

Technology has not made U.S. surface forces the horse cavalry of the 1980s. This trend is due to a combination of fighter aircraft protection, area and point antimissile defenses (especially the new AEGIS air defenses system), electronic warfare plus cover and deception tactics.

Major warfighting capabilities

While a worldwide war is extremely unlikely, the massive Soviet buildup of strategic, theater nuclear and general purpose forces will require a high level of U.S. preparedness.

Antisubmarine warfare/SLOC defense

In antisubmarine warfare (ASW), systems of proven capability are entering the fleet today. The analysis in this study indicates the defense of SLOCs (sea lanes of communication), especially in the North Atlantic, appears to be improving markedly. This is in part due to the new ASW systems.

Further, SLOC protection is aided by allied naval capabilities to operate offensively in a major war, thereby forcing the Soviets to allocate to defense a substantial portion of their forces.

Exerting pressure on the Soviets

Naval forces may have unique capabilities for assisting the flanks of NATO.

Forward strike operations may prove highly valuable in tying down large Soviet forces which might otherwise be employed.

The threat of opening a second front would help relieve pressure against the SLOC, complicate Soviet planning and give the Soviets pause before the initiation of hostilities. The policy worthy of such operations probably resides more in their effects upon Soviet behavior in crises and upon the equilibrium of the worldwide power balance than in their employment in the remote possibility of a global war.

In any major war, the destruction of the Soviet fleet and denial to the Soviets of access to any ocean is a basic objective. This requires the close coordination of surface, submarine and sea-based air assets in an aggressive naval campaign. The ability to achieve this objective has a significant impact on the attainment of other important objectives, e.g., maintenance of important SLOCs and support for allies.

Thus, naval capabilities, in conjunction with allies and land-based air, provide for the maintenance of maritime superiority in relation to the most powerful potential adversary, the Soviet Union— a fleet which can prevail over Soviet naval forces in the key strategic areas of the world. Forward naval operations can have a decisive effect on the outcome of a land war in Europe by ensuring firmness of NATO flank states; relieving pressure on the SLOCs; ensuring reinforcement and stiffening the will to resist various NATO states; face the Soviets with the real possibility of truly unacceptable losses.

DEALING WITH CRISES

Most likely, however, serious military challenges to U.S. interests will come not in the industrialized heartland of the West but in other geographic areas where, despite U.S. preference, military force and violence are frequently the primary means of resolving policy disputes.

Should the U.S. draw down its forward deployments, this could leave the USSR as the dominant naval power in the vacated region. As the Soviets perfect their V/STOL carriers, their ability to influence events ashore, psychologically as well as physically, will increase. It can be expected they will use this influence and gradually shed their image of a reactive navy and an autarkic, continental power.

CRITICALITY OF FLEET SIZE

Even with favorable technological trends, the overall fleet size is threatening to decline below the threshold of critical mass necessary for the containment of serious crises and the retention of flexible options for the deterrence of major war. Numbers are important. U.S. naval forward deployments are stretched taut. Further reduction in U.S. capital ships, when contrasted with the growing numbers of Soviet antiship missile combatants, is a matter for concern.

As part of the deterrent to a major war, the credibility of naval force options to reinforce allies on the Soviet flanks or to hem in Soviet naval forces again depends upon massing sufficient numbers.

Major reductions in carrier levels, the heart of U.S. naval capabilities, will reduce the ability of a President to respond rapidly to crises. Further, reduction of forward deployment posture is liable to have high political costs.

CHOICES FOR THE FUTURE

The costs, on the other hand, to maintain a balanced naval capability, one which can project U.S. influence, counter Soviet influence and, if required, fight and prevail in worldwide war, can be met within a 3 percent real budgetary growth. New technologies will affect the naval capabilities on both sides but there is no basis to conclude that in balance they adversely affect U.S. interests. To the contrary, the potential of the cruise missile, V/STOL, AEGIS, etc., if vigorously pursued, should open new opportunities for retaining U.S. dominance of the seas.

SUMMARY

So, for naval force planning, the future offers both an opportunity and a challenge. The opportunity relates to the positive trends in technology. The challenge relates to the negative trends in the numerical size and the mission flexibility of the fleet. The issue is how to exploit the promise of technology and to procure the numbers of platforms at an affordable cost.

SECURITY OBJECTIVES AND NAVAL MISSIONS: A SUMMARY

Naval forces contribute to national security objectives across a broad spectrum of missions. Prominent among them are:

TABLE C: *Objectives and missions*

Security objective	Naval mission
Maintenance of stability	Forward deployments
Containment of crises	Calibrated use of force against the shore Superiority at sea in a crisis setting
Deterrence of a global war	SLOC defense Reinforcement of allies Pressure upon the Soviets Hedge against uncertainties of the distant future

No priority among the missions is advocated. The maintenance of stability, the containment of crises and the deterrence of global war are as tightly interwoven as are the international politics and economics of today's world. It is imperative that the U.S. neither lost control of events at the crisis level nor give the appearance of losing control. The unraveling of stability just prior to World War I is an example of the consequences when nations lost control of events. The flexibility of U.S. naval forces enables the President to contain crises outside the Eurasian land mass which threaten to shatter the international equilibrium. And, so far as Europe itself is concerned, clearly the area of first importance to U.S. interests, the ability to support allies separated by a vast ocean remains of vital importance.

That other nations believe the U.S. has appropriate controlled power, with a will to use it if required, is equally important. World War II stemmed from small aggressions which the West had neither the will nor the capability to resist. In the final analysis this led to a major world war, an experience we would repeat at our own peril.

In order not to neglect any of the seven missions set forth in this section, all three major options for a long term naval force goal presented in the next section keep a balance among their force types.

TABLE D.—*Illustrative alternative force levels*

Type	Option 1 1 percent	Option 2 3 percent	Option 3 4 percent
CV[1]	10	12	14
AEGIS ship	10	24	28
Cruiser/Destroyer	74	100	114
Frigate	136	152	158
SSN	80	94	98
SSBN	25	25	25
Amphibious ships	52	66	78
UNREP ships	38	46	55
Support ships	49	60	61
Total ships	474	579	631
MSC/NRF	−35	−44	−46
Total active ships	439	535	585

[1] CV levels do not include a carrier in SLEP. (Service Life Extension Program.) Thus, total carriers would be 11, 13, and 15 in the three options.

FORCE/FUNDING OPTIONS

Sea Plan 2000 suggests that a policymaker should have in mind a long-term plan for naval forces—their direction and purpose—before becoming immersed in program and shipbuilding details. This report tries to develop the framework for such a plan. U.S. naval force capabilities are exam-

ined in terms of their contribution toward three basic national security goals: maintenance of stability; containment of crises; and deterrence of war.

To assess the naval missions explained in the preceding section, the quantitative and operational analyses of the study used a naval force assumed to have 3% real growth in the mid-80s and mid-90s time frames. This starting point stemmed from President Carter's decision that the overall resources for national security required about 3% a year real growth, given the trends in the threat. Two other force levels are also evaluated: a decremented force of little or no real growth; and an incremented force of about 4% per year real growth. These force options are shown in Table D. This study concentrated upon the capabilities of naval forces to carry out different missions. The column on type of ships is not intended to substitute for specific program tradeoffs: i.e., for CV one can substitute CVV, or VSS, etc.; for SSNs, the 637 class or a SSN-X may be preferable for a given amount of dollars to more 688s, etc.

These options represent long term planning goals. All three options keep a balance among their force elements. None advocates a sudden, radical force change. The situation with naval forces and new technologies is analogous to the maintenance of a trust fund for one's heirs. A balanced portfolio provides the optimum insurance against uncertainty. Blue chip stocks that have demonstrated a good return on investment are not divested without the reasonable certainty of a better investment. New issues are sampled as possible blue chips of the future (new technologies). The most exciting technologies relate not so much to platforms as to weapon systems. AEGIS-type antimissile defenses and electronic warfare show special promise in the near term.

ASSESSMENT OF SEA PLAN 2000 FORCE ALTERNATIVES

Option 1 is judged to be a high risk option with a low degree of flexibility, with minimal capability across the range of naval tasks.

Option 2 hovers at the threshold of naval capability across the spectrum of possible uses, given the risks associated with technical and tactical uncertainties.

Option 3 provides a high degree of versatility in the form of a wider range of military and political actions at a moderate increase in cost over Option 2.

THIS TABLE ILLUSTRATES THE MAGNITUDE OF THE SHIPBUILDING PROGRAM FOR EACH OF THE OPTIONS THROUGH THE YEAR 2000

Option	1	2	3
Average annual SCN dollar costs in constant FT79 dollars	[1] $6.29	[1] $8.8	[1] $9.5
Total number of new construction ships in program	290	395	447

[1] Billions.

Dealing with SCN at 3 percent real growth has certain problems as well as benefits. Obviously, such a funding profile would be considerably smaller in the near term and would, due to compound growth, increase in the outyears. To maintain a stable shipbuilding industry and interim military capabilities, however, a smoother growth could be desirable. It was assumed that programming action by SCN experts within the Navy and OSD could smooth shipbuilding and overall top line costs to achieve a reasonable 3 percent real growth budgetary target.

OIL SHALE AND S. 419, THE FEDERAL OIL SHALE COMMERCIALIZATION TEST ACT

Mr. HASKELL. Mr. President, today I would like to bring to the attention of the Senate a matter which is of considerable concern to me, to the people of Colorado, and, I believe, to all the people of this Nation. The matter is oil shale, a national resource of enormous potential, and what should be done about determining once and for all whether it can contribute to our dwindling supplies of domestic fuel.

Oil shale is a sedimentary rock containing a complex hydrocarbon known as kerogen. The kerogen can be heated to produce a product similar to crude oil. It is found throughout the world, however some of the largest known deposits are located in a three-State area comprised of western Colorado, eastern Utah, and southwestern Wyoming. It is estimated that there is as much as 2 trillion barrels of oil locked in these deposits. Of this amount, it is judged that some 600 billion barrels of oil are contained in high medium grade shale. This is a figure which is nearly double the known oil reserves of the entire Middle East. Clearly, oil shale is a resource worthy of our serious attention as we attempt to solve our energy crisis, and, more particularly, our liquid fuel supply crunch.

The history of oil shale is replete with examples of "false starts" and unfulfilled promises dating from the 1860's. Despite multiple periods of widespread optimism, this Nation has yet to build its first commercial oil shale plant, or, indeed, even a facility which could test the commercial potential of oil shale. It is my belief that this situation should change.

To accomplish this change, I introduced a bill on January 24, 1977, entitled the Federal Oil Shale Commercialization Test Act, S. 419. The purpose of this bill is to answer the social, environmental, and economic questions which surround oil shale. Qualified experts in both Government and industry have estimated that oil shale can be produced at a price of $10 per barrel. Equally qualified experts, also in Government and industry, have estimated that it will cost $30 per barrel to make oil shale economic. There is a similar divergence of opinion regarding the environmental effects of an oil shale industry.

Some say that the environmental problems have been solved. Others claim that substantial environmental damage would result. S. 419 is structured to answer these questions. If the program contemplated by S. 419 is carried out, the environmental and economic information will be available to all. Everyone concerned will then be in a position to make his own informed judgment as to the future of oil shale. Moreover, if one or more of the technologies tested proves to be environmentally and economically viable, the patents will be available to all interested companies. Thus, if the program does result in demonstrating viability of oil shale, American industry will be in a position to proceed to actual commercialization.

I have chaired five hearings on this bill both in Washington and in Colorado, where the vast majority of the very rich shale deposits occur. We have received testimony from representatives of the oil shale industry, the environmental community, labor, independent oil shale experts, and the administration. It is the opinion, or lack thereof, of this last group, the administration, which I would like to address in detail today.

Representatives of this administration's energy agencies have been given two opportunities to testify on S. 419. In April 1977, representatives of the Energy Research and Development Administration opposed the bill on the grounds that the President's policy of permitting the oil shale industry to receive the world price for a barrel of shale oil was an adequate incentive to development. They also opposed the bill because it would establish what is known as a "GOCO" operation, in which the Federal Government would pay private companies to build oil shale facilities of sufficient size to test the commercial viability of oil shale technologies. The administration is apparently philosophically opposed to GOCO's.

On February 16, of this year, a second representative of the administration, this time from the Department of Energy, testified on S. 419 in Golden, Colo. On at least four occasions during the course of his testimony, this spokesman expressed the support of the Department of Energy for the concept of S. 419.

Encouraged by this apparent change in attitude, I invited the Department of Energy to send witnesses to a final day of hearings which was to be held today. The Department witnesses were requested to address themselves to two questions: First, S. 419 itself; and second, the nature and extent of the various activities within the Department relating to oil shale and how these activities interrelate to constitute a national policy for oil shale.

Yesterday, the day before the hearing, I received a copy of the DOE testimony to be presented the following day. I will ask that a copy of this proposed testimony be reprinted in the RECORD at the conclusion of my remarks. This statement was so totally inadequate with respect to my request that I determined to cancel the hearings and no longer seek the testimony of the administration with respect to this bill. I think that the proposed testimony speaks for itself, but I would like to briefly examine its inadequacies.

The administration's comments on S. 419 are limited to a short section of the six-page draft statement. In that short section, it states that, in spite of the supportive testimony in favor of the bill given 6 weeks ago, the administration reverts to the position taken a year ago. S. 419 is opposed because of GOCO arrangement "may be perceived as a threat to the free enterprise activity we are trying to motivate."

In a letter dated March 30, 1978, sent to Senator JACKSON, the chairman of the Committee on Energy and Natural Resources, the Office of Management and Budget indicates that the administration opposes the bill for the same reasons as were presented by ERDA and the Department of the Interior in 1977.

The major reason given by ERDA for opposing S. 419 was a belief that no subsidy is needed for oil shale.

The claim that the world price is sufficient is hardly worth the dignity of a reply. If such were the case, where is our oil shale industry? It is simply not enough to sit back and claim that the world price of oil will suffice when the oil shale industry says this is not so and when there is not a single effort underway to test the commercial potential of an above-ground oil retorting technology.

A few indicative comments by representatives of the industry which is expected to make such an investment on the basis of a promise of world oil price might be of interest to the Senate.

The Union Oil Co. of California has stated:

In view of foregoing, what is needed is both financial assistance and governmental relief. Commercialization of shale oil will be realized when some or all of the above obstacles are removed and the government provides a clear cut incentive for first generation commerical demonstration plants.

Alphonzo Bell, of Bell Petroleum Co., stated:

We think that government incentives for first state commercialization programs are, therefore, essential.

John A. Whitcombe, of TOSCO Corp., stated:

The Colony project economics, although satisfactory for a second generation plant, are at best marginal for a pioneer plant in a new industry, and the economic dilemma facing oil shale development is how to get past the pioneering stage so that a favorable, second plant economic climate can be achieved. One way is through incentives provided by the Federal Government.

Regarding the second reason for opposing S. 419, it occurs to me that if GOCO arrangements are a threat to the free enterprise system, this Nation has made some serious errors in the past 35 years in creating the Manhattan project, the Apollo project, and the successful Federal effort to create a substitute for natural rubber during World War II. As a matter of fact, the Congress, in one of its first major attempts to remedy the energy crisis, the Federal Nonnuclear Energy Research and Development Act of 1974, stated that it found that "The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects."

What has industry had to say about this "threat" to the basic economic fabric of our society? Dr. Robert H. Linquist, representing the Standard Oil Company of California, stated:

100 percent Federal funding and management of the experiment seems to us the practical way to get started.

M. G. Fryback, of the Sunoco Energy Development Co., stated:

It is Sunedco's view that such modular demonstration should be a joint industry/government sponsored program in order that both industry and government can arrive to the implications (sic.) both economically and environmentally, of the development of a commercial shale industry.

Mr. G. Blaine Miller, president of Rio Blanco Oil Shale Co., a general partnership of Gulf Oil Corp. and Standard Oil Co. of Indiana, stated:

In conclusion, I would like to reiterate that we do support the major provisions of Senate Bill 419, with the suggested modifications, that it will be useful in providing some of the badly needed answers about the surface retorting technology.

Apparently the representatives of the U.S. oil shale industry do not "perceive" the threat to the free enterprise system that the Department of Energy is so fearful will be perceived.

Finally, I think it is ironic, and perhaps indicative, that in response to my request to describe the Department's overall oil shale programs, the only program the Department chose to address in its statement is the plan submitted by the Navy in January 1977, to do predevelopment work on the naval oil shale reserves. The Department's budgetary request for this laudable effort is only $1.3 million, in spite of the fact that the cost of implementing the program in fiscal year 1979 is estimated at $24,000,000. I have recommended to the Committee on Energy and Natural Resources that this figure be increased dramatically.

We have a liquid fuel supply problem in this country that is of such magnitude that it is hardly comprehensible. We rely on imported oil for 50 percent of our needs and the resulting bill amounts to over $45 billion per year. The resulting economic havoc being created both here and in the nations of the free world is appalling. We need an oil shale test program. We need it to signal to the rest of the world, to OPEC as well as our allies in Europe and Asia that we are serious. And we need it to find out if oil shale is a viable alternative to imported oil.

As the Members of this body know, I do not quarrel with those who emphasize solar energy or the multiple opportunities for conservation. I have actively supported these options in the past and will do so in the future. But, Mr. President, conservation will not fly an airplane, and if we expect to have any planes flying 20 years from now, we had better begin exploring just how we propose to accomplish that expectation.

It is my intention to ask the Committee on Energy and Natural Resources to consider my bill in the very near future. I hope and trust that my colleagues on that committee will join me in reporting it favorably to the Senate. When this occurs, I hope that all of you will look favorably on this potential contribution to the solution of the energy crisis.

I ask unanimous consent that the proposed statement of Hon. George S. McIsaac, Assistant Secretary for Resource Application, Department of Energy, before the Subcommittee on Energy Production and Supply and letter of March 30, 1978, from OMB to Senator JACKSON be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF GEORGE S. MCISAAC

I am George S. McIsaac, Assistant Secretary of Energy for Resource Applications. I am present to represent the Department of Energy in response to your letter of March 14, 1978. We applaud the intent of your Bill S. 419, to test the commercial, environmental, and social viability of emerging oil shale technologies.

Your Bill properly recognizes that environmental uncertainties and societal concerns are important impediments to oil shale operations. We agree on the need for early construction of full scale modules to test emerging technologies and obtain factual data with regard to environmental effects of these technologies. Such large scale tests will also give us valuable experience in dealing with the socioeconomic impact of oil shale development.

Early construction of commercial scale modules is a necessity to resolve these uncertainties. Your Bill is one option for achieving this end. As Dr. Gouse and Mr. Willis have earlier testified on S. 419, we do not agree that the GOCO arrangement is the best means of achieving our common goal.

I want to add emphasis to Dr. Gouse's remarks in his testimony of one year ago on the disadvantages of the GOCO arrangement. In particular, it lacks the impetus for efficient management, cost cutting, technological improvement, and may be perceived as a threat to the free enterprise activity we are trying to motivate. Government operations governed by procedure, regulation and law are not as efficient as our oil shale operations are going to have to be competitive.

Under the Department of Energy Organization Act, the Department was assigned responsibility for certain public lands in Colorado and Utah. These have been set-aside as Naval Oil Shale Reserve Nos. 1, 2, and 3. In contrast to the Naval Petroleum Reserves which will reach a peak production rate of 260,000 barrels of oil per day in 1980–81 and then begin a normal decline after two or three years, the recoverable reserves from the Naval Oil Shales Reserves could sustain a production rate of 250,000 barrels of oil per day for over 50 years. This is based on inplace resources of 26 billion barrels and estimated recoverable reserves of over 5 billion barrels.

These Reserves were set-aside to provide a source of fuel to meet the needs of national defense in the event of an emergency. The law provides for the exploration and development of the Shale Reserves in the same manner as the Petroleum Reserves.

However, no production other than for research purposes is authorized. To implement this directive, a predevelopment plan was formulated for exploring and assessing the potential of Shale Reserves Nos. 1 and 3. This pre-development plan was submitted to the House and Senate Committees on Armed Services for consultation. No objections were received and the plan is now being implemented. A pre-development plan for Shale Reserve No. 2 has been approved by the Attorney General and is being sent to the Armed Services Committees for review.

The Pre-Development Program includes environmental studies and engineering analysis necessary to ascertain the optimum procedures for developing the Naval Oil Shale Reserves and the evaluation of the environmental impacts which may be associated with any such development.

I want to emphasize that this is not a hardware plan. This plan will include preliminary conceptual design of facilities, a Final Environmental Impact Statement addressing implementation of the development plan; and economic, supply and scheduling

information necessary to support the recommended course of action.

The major activities required to accomplish this program are as follows:

Determine extent, thickness, and grade of specific oil shale beds, as well as chemical (e.g., trace elements) and physical (rock mechanics) properties. Evaluate oil and gas potential (involving exploration drilling and seismic work).

Determine location, quality and quantity of the hydrologic elements (precipitation, surface water, subsurface water).

Inventory existing environmental parameters: types and quantity of vegetation, birds and other animals, air quality and climatology.

Select retorting systems and potential upgrading schemes compatible with resource characteristics and shale oil transportation systems.

Assess the socioeconomic impacts of potential development and methods to mitigate the associated impacts, including preparation of environmental impact statements for selected production alternatives.

Develop environmental protection and mitigation plans considering development activities and those associated with production, such as mining and retorting.

Determine electrical utility requirements and the optimum means of meeting those requirements.

In order to implement the many tasks described in the Pre-Development Plan, the Office of Naval Petroleum and Oil Shale Reserves has proposed utilizing a Management Support and Systems Engineering Contractor who will execute the Pre-Development Plan under the direction of the Office of Naval Petroleum and Oil Shale Reserves.

The major tasks to be performed in Fiscal Years 1978 and 1979 include: a corehole program at Naval Oil Shale Reserve No. 1 to evaluate the quality and quantity of the oil shale and study the subsurface hydrology; a geologic study at Naval Oil Shale Reserve No. 2, and, the preparation of a Project Management Plan required for detailed management of the Pre-Development Program.

As currently envisioned, the Naval Oil Shale Reserve Pre-Development Program does not call for any research or development activities or the commercial demonstration of technologies by the Office of Naval Petroleum and Oil Shale Reserves. In formulating this program it was considered that the Office of Naval Petroleum and Oil Shale Reserves would draw on other Department of Energy and industry programs for that effort. The availability of this data is essential to the evaluation of technologies and ultimate selection of a production mode for follow-on programs. Thus any such information which would be available would be evaluated for its applicability to the Pre-Development Program.

Mr. Chairman, this concludes my remarks. Captain Nelson and I will be happy to answer questions.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 30, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of March 20, 1978, for the views of this Office on S. 419, a bill "To test the commercial, environmental, and social viability of various oil shale technologies, and for other purposes."

In testimony before your Committee last year, a representative of the Energy Research and Development Administration (ERDA) explained the ERDA rationale for not supporting S. 419. The Department of the Interior, in an April 28, 1977 report to your Committee, also recommended that S. 419 not be enacted. We concur with the views expressed by ERDA and the Department of the Interior and, accordingly, recommend against enactment of S. 419.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

S. 2855—NATIONAL HOUSING GOAL

Mr. PROXMIRE. Mr. President, I am introducing today a bill to extend and revise our national housing goals. The bill would reaffirm and give new substance to the goal of "a decent home in a suitable living environment for every American family," first stated in the Housing Act of 1949, and first quantified in the Housing Act of 1968. This legislation is needed at this time because the 1968 goals covered the decade which is now ending, and will expire in June of this year.

The measure I am introducing would provide for: First, the establishment of quantitative objectives for housing construction and rehabilitation in the United States over the next 5 years—1979–83; second, the setting of specific goals for Federal housing assistance programs during the same period; and third, the identification of other housing-related goals which must be achieved if we are to assure every American family the opportunity to secure decent shelter at reasonable cost. The bill which amends title XVI of the Housing Act of 1968, would also significantly revise the content of the report on housing goals now presented to the Congress each year by the President.

The bill I am submitting today provides for production objectives and assistance goals, but does not enumerate them.

I felt it advisable that the committee determine the appropriate goals after hearing what the housing experts say.

Next week the committee will hear from HUD Secretary Harris, from the CBO and from other organizations which have examined housing requirements and the need for housing assistance in the United States. After that hearing, I believe the committee and I will be in a much better position to judge what our total construction and rehabilitation requirements will be over the next 5 years, and what goals should be set for Federal housing assistance programs.

Accordingly, I anticipate that the amendment I am offering today will be reported as part of the 1978 housing bill, and will contain quantitative targets for housing production and housing assistance during the 5 years, 1979–83.

The basic purpose of this housing goals legislation is to secure better planning and greater accountability—not increased spending. Sound planning for housing requires quantified goals. A measurable goal provides a clear guideline for action and a clear indicator of progress.

HISTORY OF GOALS LEGISLATION

The need for a quantified housing goal to support the general declaration made in 1949 was clearly recognized during the urban unrest of the 1960's. In 1967, three prestigious groups threw their support behind the idea. A conference on housing goals attended by 50 important national organizations, including the American Bankers Association, the American Institute of Architects, the Edison Electric Institute, the Mortgage Bankers Association, the National Associations of Homebuilders, Manufacturers, Realtors, and Housing and Redevelopment Officials, the Conference of Mayors, and National League of Cities, and representatives of labor unions, public interest groups, industrial corporations, and the President's Committee on Urban Housing, recommended that the numerical housing goals should be established for the Nation.

Two Presidential advisory groups, the National Commission on Urban Problems headed by former Senator Paul H. Douglas, and the President's Committee on Urban Housing, chaired by industrialist Edgar F. Kaiser endorsed the same principle. The Kaiser committee recommended that the United States adopt a goal of producing at least 26 million new and rehabilitated housing units, during the following decade, including 6 million for low- and moderate-income families. On the basis of these recommendations, and studies conducted by HUD, President Johnson proposed that the Nation commit itself to this goal.

When these findings were presented to the Senate and House Banking Committees during the legislative deliberations the following year, both bodies acted to include housing goals in the new housing bill. I personally introduced the provision that was included in the Senate Bill, and helped develop the language that was finally included in the act agreed to by the Senate and House conferees.

THE RECORD 1969–78

The 1968 Housing Act set the Nation the goal of producing 26 million new and rehabilitated units, 6 million of them to be produced for low- and moderate-income families, during the decade 1969–78. With that decade now almost over, it's time to review the record, and to look ahead.

According to figures compiled by HUD, U.S. housing production, including newly constructed and rehabilitated units, and mobile homes, totaled 21.4 million units during the decade 1969–78, or 82 percent of the production goals established in 1968. The record reveals that production goals were exceeded in the first half of the decade, but fell well below planned levels in the years following the Nixon moratorium in Federal housing programs. Deficits in housing production in each of the last 5 years have cost the Nation some 5 million housing units and close to 10 million jobs, and undoubtedly have contributed to the spiraling costs of rental and sales housing, and general inflation. The record also reveals that

only mobile home production achieved the level projected, (although it should be noted that mobile homes were not specifically included as part of the goals until the second report was issued in April 1970).

While total housing production in the United States came reasonably close to achieving required levels over the last decade, goals for Federal housing assistance were practically ignored. The record shows that, instead of the 6 million units assisted housing proposed as the goal, only 2.7 million units were constructed or rehabilitated under Federal housing programs. Only in the first 2 years of the decade, 1969–70, were subsidized housing goals achieved. As a result, the record shows that only 45 percent of the housing goal for lower income families was actually achieved.

In short, the record shows that we did not quite achieve our national housing production goal for the period 1969–78, and that we failed miserably, particularly after 1973, in actually providing lower income Americans with the housing assistance that was intended by the Housing Act of 1968. The record also shows that we made very little progress toward stimulating housing rehabilitation through Federal housing programs—and the record suggests that our effort to achieve housing goals did not take into account adequately changes that have taken place during the decade: The rapid increase in population in some areas and the declines in others, changes in the types of households and living styles; the escalation of shelter costs in relation to annual price increases. These changes clearly affect both requirements for the production of housing and the need for housing assistance.

WHY HAVE HOUSING GOALS?

What use then are housing goals? Why bother to legislate them? The compelling answers, I believe, are the same as they were when the Congress, and the Kaiser and Doublas commissions, and the 50-odd national organizations representing industry, labor and public interests, determined that housing goals are necessary. To assure adequate housing production, and the availability of the resources needed to product housing, particularly the capital required, the Nation needs a policy for housing production. To provide for the basic shelter needs of those who cannot afford housing through the marketplace, the Nation needs programs of housing assistance, and goals for directing these programs.

Legislating housing goals serves a number of purposes. It focuses our attention regularly on a subject that affects, in a very basic way, all Americans; it requires us to think systematically about policies and programs to satisfy basic shelter needs; it permits us to plan for contingencies and for special needs; and it provides a means for monitoring achievement or the lack of progress.

ALLEGED DEFICIENCIES IN THE 1968 GOALS

It has been said by some critics that, while goals are generally useful, the 1968 housing goals had certain deficiencies:

"Ten year goals," it said, "are too long-range to be operational, and annual targets are too rigid, and fail to allow for sudden changes in conditions."

"The goals mixed what the Government could control: Federal assistance—with what it couldn't: the forces of supply and demand that operate in the free market, and are relatively insensitive to government programs and policies."

"The goals failed to come to terms with the fact that housing priorities cannot be dealt with separately from other priorities, and with the necessity for considering national objectives in terms of their opportunity costs or potential tradeoffs."

"The goals were oriented toward new construction, and failed not only to consider the potential adverse impact of new construction on the existing housing stock, but failed to consider investment in rehabilitation as an alternative to investment in a new unit. (The goals assumed that few substandard housing units that were occupied in 1968 could be rehabilitated; consequently, it was estimated that all of the 6 million housing deprived families would have to be housed in newly constructed units.")

"The goals did not adequately identify the housing needs that require Federal assistance, or probable changes in those needs over time.

"The goals did not adequately take into account the differences that exist among local housing markets, or likely changes in those markets over time."

Not all of these criticisms are valid: Congress did not intend to establish rigid annual housing goals, but, instead, provided for annual reassessments that would take into account changing conditions. Nor did the 1968 goals fail to consider the need for rehabilitation. The initial goals provided that 2 of the 6 million federally assisted units were to be rehabilitated units, and in addition, identified a need for 2 million privately rehabilitated units.

Some of the criticisms, however, should be taken into account in any revision of the goals. In addition, there is valuable new information available from the annual housing survey conducted by HUD and the Census Bureau which should be used in setting new goals. This information provides a basis for improving our understanding of the changing character of the housing stock, the potential for rehabilitation activity, the changing nature of housing needs, and the differences between local housing markets.

IMPROVEMENTS ON 1968 GOALS

The legislation I am offering would, I believe, significantly improve the earlier statement of goals contained in the 1968 Housing Act:

First. It would broaden the formulation of housing goals beyond production objectives to include housing and neighborhood quality, equal opportunity, home ownership, and reasonable cost.

Second. It would distinguish between goals for Federal housing assistance programs and policies to support national housing production targets.

Third. It would require establishment of interim goals and targets over a 5-year, rather than a 10-year period. This would permit new goals to be considered when the 1980 census data becomes available.

Fourth. It would provide for an annual reassessment of housing conditions requirements and needs, by regions and areas, as well as for the Nation as a whole.

Fifth. It would make use of annual census information to provide a more detailed analysis of changes in the housing stock over time, and provide a basis for determining the role that rehabilitation can play in achieving decent housing for all.

Sixth. It would require consideration, annually, of the resource requirements to meet housing goals, and include the potential impacts of national monetary and fiscal policies on housing production targets and assistance goals.

The new legislation would also change requirements for reporting on housing goals. Under the new bill, a 5-year housing goals plan would be required instead of a plan covering 10 years, and annual reports to the Congress would be required in January, rather than in February so that Congress will have them earlier in the legislative session. The 5-year plan would include a statement of housing production policy designed to support construction and rehabilitation targets and a Federal housing assistance plan for meeting the housing assistance goals established by the statute. Under the bill, the administration would be called upon to prepare a more detailed assessment of the availability of resources required for housing, particularly mortgage credit, and additional information about the costs of housing assistance programs, their location, and recipients, benefited. The new reporting requirements would also encourage the development of new indicators for measuring progress toward achieving housing related goals.

Mr. President, I ask unanimous consent that the bill to establish national housing goals be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title XVI of the Housing Act of 1968 is amended by striking out sections 1601, 1602, and 1603 and inserting in lieu thereof the following:

"REAFFIRMATION OF GOAL

"SEC. 1601. (a) The Congress reaffirms that the Nation's housing goal, established in the Housing Act of 1949, is to realize, as soon as feasible, 'a decent home and a suitable living environment for every American family'.

"(b) The Congress further declares that achievement of the national housing goal requires—

"(1) an adequate supply of housing that is free from defects which threaten health or safety;

"(2) stability in the annual volume of home construction and housing rehabilitation, commensurate with national housing needs;

"(3) neighborhoods that provide needed services and are free from blighting influences;

"(4) assurance of an equal opportunity to secure housing in a location of one's choice, regardless of race, creed, sex, physical condition or other personal characteristics;

"(5) provision of homeownership opportunities to the maximum extent possible; and

"(6) access to decent housing at a cost which is not excessive in relation to family income.

"FINDINGS

"SEC. 1602. (a) The Congress finds that realization of the Nation's goal will require the production of ____ million additional housing units (including mobile homes) in the United States during the five year period beginning with 1979, of which ____ million units will be required to replace unsuitable units which are now occupied by lower income families.

"(b) The Congress further finds that at least ____ million existing housing units in the United States require major rehabilitation in order to eliminate deficiencies which jeopardize the health and safety of persons residing in them. Approximately ____ million of the units requiring rehabilitation are lower income households.

"(c) The Congress also finds that continuing deterioration of existing housing and neighborhoods seriously inhibits progress toward achieving the national housing goal, and makes necessary a substantially expanded effort to preserve and improve the quality of the existing stock of houses and community facilities and to reduce the rate of losses from the housing stock.

"(d) The Congress further finds that many American families still face difficult barriers in securing housing of their choice, and that there is, accordingly a need to increase the effectiveness of programs designed to promote fair housing opportunities.

"(e) The Congress also finds that sharp fluctuations in the production and rehabilitation of housing have resulted in serious housing shortages and increases in housing prices and rents, and have contributed significantly to the problems of unemployment and inflation which confront the nation.

"(f) The Congress finds that approximately ____ million American families are burdened with excessive shelter costs, and that this number has been increasing in recent years. Increased housing prices and interest rates have also significantly reduced homeownership opportunities.

"(g) The Congress further finds that the increased cost of housing jeopardizes achievement of the national housing goal, and makes necessary an expanded effort by Government and the private sector to provide a supply of housing that will satisfy the goal of a decent home in a suitable neighborhood at a price that every American family can afford.

"(h) The Congress also finds that the movement of people, business, and industry within the nation may result in persistent shortages of housing in some areas and oversupply in others, and make necessary policies and programs which are structured to resolve the particular problems of local housing markets.

"REPORT ON HOUSING PRODUCTION POLICY AND ASSISTANCE PLAN

"SEC. 1603. (a) Not later than December 15, 1978, the President shall transmit a report to the Congress setting forth the following:

"(1) A Housing Production Policy for realizing the addition of ____ million new housing units and the rehabilitation of ____ million existing units, including federally-assisted units, consistent with the goal of stabilizing building industry activity over the five year period beginning with 1979. The Housing Production Policy shall include annual production and rehabilitation targets; an assessment of the availability of the resources required to expand, upgrade, and preserve the stock of housing, including lumber and other building materials, land and labor, together with estimates of the supply of mortgage credit under alternative assumptions regarding anticipated monetary conditions and fiscal policies, and such legislative or administrative recommendations determined to be necessary for the efficient operation of the nation's housing markets and the achievement of production targets.

"(2) A Federal Housing Assistance Plan to provide for the production of ____ million new federally-assisted housing units and the rehabilitation of ____ million federally-assisted existing units during the five fiscal years beginning on October 1, 1978. The Federal Housing Assistance Plan shall specify interim assistance goals for each fiscal year, including the projected number, cost, and general location of new, rehabilitated or other housing units to be assisted under each Federal housing assistance program together with pertinent data describing the types of households to be benefited and housng needs to be satisfied.

"(3) An agenda for achieving the goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs referred to in section 1602.".

(b) Such title is amended by adding at the end thereof the following:

"REPORT OF GOALS

"SEC. 1604. On January 20, 1979, and on each succeeding year through 1983, the President shall transmit to the Congress a Report on Housing Goals which—

"(1) reviews the progress made in achieving the Housing production objectives during the preceding year, and in the event that proposed targets are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources, referred to in section 1603(a)(1)(B);

"(3) establishes new interim targets for housing production and rehabilitation, and specifies Federal programs and policies to be impelmented or recommended in order to achieve the 5 year objectives, and if proposed targets are determined not to be consistent with the achievement of the 5 year goals, or if policies or programs required to achieve the goals are determined not to be implemented, the report shall provide a detailed explanation of the reasons for the determination;

"(4) reviews the program levels achieved under the Housing Assistance Plan, and in the event of a failure to achieve the annual assistance goals, explains the reasons for the failure;

"(5) updates estimates of the housing needs of lower income families, analyzing these needs, in so far as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(6) revises interim housing assistance goals for the current year, including the projected number, cost and general location of housing units to be assisted under each Federal housing Program, and the types of households to be benefited and housing needs to be satisfied, and if the proposed targets are determined not to be consistent with the achievement of the 5 year goals, or if policies or programs required to achieve the goals are determined not to be implemented, the report shall provide a detailed explanation of the reasons for the determination;

"(7) reviews the progress made in achieving the goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(8) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(9) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

PROPOSED ARMS SALE

Mr. PROXMIRE. Mr. President, I will introduce a resolution of disapproval against the administration's proposed package of transfers of advanced aircraft to Egypt, Israel, and Saudi Arabia as soon as the formal notification comes to the Congress. There is a showdown coming on this issue. Some are arguing that the sale should be approved as a single package. Others recommend spliting off the Saudi and even the Egyptian sale for a separate vote—though the administration threatens to allow the entire package to dissolve if that happens. And still others contend that the sale should be postponed to consider other alternatives, or to reflect on the implications of this sale for a Middle East peace.

Mr. President, I believe all of these courses of action are far less meritorious than one simple, logical choice—disallow the entire package. No sales to either the Arab States or to Israel.

There are four reasons why disapproval is the best alternative.

First, the package deal threatens the security of Israel.

Second, it threatens the security of Egypt and Saudi Arabia.

Third, it endangers the American economy and the economic stability of the entire world by encouraging the idea that we will swap arms for oil.

Fourth, the sale of major defense equipment to three adversaries in the Middle East will only serve to increase the appetite for more and more sophisticated weaponry. We are creating a self-fulfilling prophecy. More arms will lead to greater threats, which require more arms. We have the chance now to cut off this surge. Rejecting the package will confirm the President's arms transfer policy of last May. The President and State Department then could and should bring diplomatic pressure to bear through every channel available to us on France, Germany, and Britain to keep their own planes out of the Middle East.

Turning to the paramount question which concerns all of us in the Middle East.

This sale represents a direct threat to the security of Israel. For the first time the Arab States would have a first line highly sophisticated fighter—the best in the world—to strike deep into Israel. The expanded range of the F–15 and its increased radar capability could be a potent weapon against Israel aircraft and facilities in any future war. Non-transfer agreements seldom are binding during hostilities. They only look good during peacetime.

This sale also represents a direct threat to the security of Egypt and

Saudi Arabia. In the Saudi case, Israeli fears over the use of the F–15's may well result in a preemptive strike during the early days of any hostility. It could well bring the Saudis actively into a war with ground troops and equipment and full financial resources.

Mr. President, so far we have rightly insisted with our relations with other countries that oil should be produced and priced only through market forces and the need to preserve international economic stability. Now, for the first time, we say that an arms transfer is essential to keep oil flowing and its price stable. We should slam the gate on this certain path to economic catastrophe and world conflict.

The end result of this will be a heightened arms race, more anxiety, more instability, and the almost certain prospect of another turn of the upward regional arms spiral in a few months.

How did the administration get into this incredible tangle?

Basically, it did it by rushing to carry out three commitments it had inherited. Two of these were fairly specific promises to provide advanced warplanes—the F–15's and 16's—to Israel and Saudi Arabia, and a much vaguer general promise to Egypt to make up somewhat for its loss of Soviet spare parts and new planes. So long as all three commitments were outstanding, they could be left unfulfilled by telling each party that planes for him would mean planes to the others.

Now there is no denying that the administration had come under some heavy pressures to break up this useful balance—and we in Congress have no small share of the blame for these pressures. First, soon after President Carter's inauguration Israel made the additional F–15's and F–16's, which it believed had been promised for accepting the last Sinai Agreement, a test of the new administration's attitudes toward it. Following that, President Sadat's dramatic visit to Jerusalem make a substantial gesture of recognition and support for him seem urgent.

Finally, anxiety had been building up for a long time over relations with Saudi Arabia when the President made his trip there. Here is where we in Congress have a lot to answer for. First is our outrageous failure to get moving on an energy program. This has further delayed the day when we can begin to reduce our dependence on foreign oil. Next is our carefree contribution to inflation—the spending spree on which we have joined the administration in this session. This has driven up inflation so fast through spending which we could control if we had the will, that there is no room to accommodate external causes of inflation—like foreign oil prices—which we cannot control. So it is no surprise that President Carter went to Saudi Arabia with the helpless feeling that the strength of our economy and the stability of the dollar would depend critically on Saudi Arabia for a very long time. And, of course, in addition to this was the need to keep Saudi Arabia's agreemnt or at least acquiescence on Sadat's negotiations with Israel.

What about Israel's security if we turn this package down? As things stand now, Israel has clear air superiority and will have it for the foreseeable future. "But," others will argue, "the Saudis will buy advanced planes elsewhere." The most advanced plane from another source that the Saudis are likely to buy is the French F–1. I asked the Congressional Research Service to look into this, and I have a statement from them that even if Saudi Arabia were to acquire 60 F–1's, Israel's air superiority would still be safely ahead of the resources of any Arab country or combination of countries. Without going into classified information, this is because of Israel's superb pilots and its air defense, early warning, and radar systems, which are as advanced as any in the world and far superior to anything of this kind the Arabs have. This assessment of current and projected Israeli superiority is agreed to by our top military leaders.

Mr. President, once this package is seen as unnecessary to the security of Israel, it becomes a clear and horrifying example of the misuse of arms transfers in our relations with other countries. Just for starters, the price tags on this package—about $4.8 billion—are going to complete the gutting of Carter's arms sales policy by making it virtually impossible to get a fiscal year 1979 level lower than 1978. Even worse than that is the unthinking way we transfer arms. No longer is there even the pretense of any relevance to our view of a country's need for the arms we make available. We transfer arms to create general good will in the government of another country, as disguised rent for bases or intelligence facilities, to help our balance of payments, as a hospitable gesture when a foreign leader comes here, or as a sort of box-of-candy-for-the-host when our President visits another country. Now with this deal, we allow arms transfer to become a part of major economic relations.

To do the Saudis credit, it is we who seem to be doing most of the talking about arms for oil. In the past Saudi decisions on oil prices and production, with the single exception of the 1973 embargo, seem to me to have been based on economic assessments of their impact on the economies of consumers from whom Saudi Arabia buys its technology and equipment, and of the relative value to Saudi Arabia of oil in the ground as compared to investments of oil income. I disagree with many of these decisions, and they are often distorted or changed by OPEC, but they seem clearly to be made basically on economic grounds. So far, there is no evidence whatever that Saudi Arabia will retaliate on the United States through her oil if we do not provide the F–15's. It is the ultimate in folly for the administration to encourage that kind of thinking by telling Congress and the American people scare stories and to imply threats by Saudi Arabia which that country has never made.

Mr. President, no one questions that we have special and important relations with each of the intended recipients of these warplanes. The search for peace in the Middle East is a common theme in those relations, but our relationship with each country has its own special and separate importance as well. Israel has a unique, unchallenged, and special place in the hearts of all Americans and a special bond of blood and faith with millions of American citizen. Saudi Arabia is a major economic power, now a principal source of oil, a leader of the developing world, a consumer of American skills and technology for more than half a century and a religious center for hundreds of millions of people across the globe. Egypt is the intellectual and political center of that same religion and the largest and most important Arab nation as well as a power and leader in Africa.

Mr. President, no package can express or encompass all these relations; so long as Israel is secure, no renewal of the arms race can lead to peace between these nations. I hope that Congress will reject the package entirely. We must have the courage to disapprove it and turn this country away from the misuse of arms transfers—those so-called symbols of friendship—which kill.

Mr. President, I ask unanimous consent that certain newspaper articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 11, 1978]

CARTER CAUTIONED BY HOUSE GROUP ON JETS FOR ARABS

(By Bernard Gwertzman)

WASHINGTON, March 10.—A majority of the members of a key House committee told President Carter today that they opposed his decision to link the sale of advanced planes to Israel to similar sales to Saudi Arabia and Egypt.

In what Israel's supporters on Capitol Hill described as a major signal to the Carter Administration, 21 of the 37 members of the House International Relations Committee sent a letter to Mr. Carter only hours before the President met with Defense Minister Ezer Weizman of Israel, who also has been urging the Administration to reconsider its "package" approach to military sales to the Middle East.

Earlier, 12 of the 16 members of the Senate Foreign Relations Committee had indicated unhappiness with the projected sale of 60 advnaced F–15 fighters to Saudi Arabia.

PLANE SALES NOT DISCUSSED

Mr. Weizman said at a late afternoon news conference that Mr. Carter had restated a commitment to Israel's security.

Appearing pleased by the talks, the Israeli defense chief said the Israeli objection to the plane "package" had not come up during the meeting.

Mr. Weizman sought to leave an impression that he was unruffled by differences between Israel and the United States over a number of issues, including the controversy over Israeli settlements in occupied Arab territory and conflicting interpretations of United Nations Security Council Resolution 242, which the United States views as obligating Israel to withdraw from at least part of all the four areas occupied in the 1967 war.

The impact of the letter from the International Relations Committee was to demonstrate that Israel had enough supporters in Congress to assure the adoption of resolutions in key committees in both houses of resolutions opposing sales and to at least force a bitter debate on the Senate and

House floors on the projected $4.8 billion package sale announced last month.

But Administration officials asserted this afternoon that the number of signers of the letter was not in itself decisive since the debate over the projected sales has not yet formally begun and many of the signers had not had a chance yet to hear the Administration's position in detail on behalf of the package.

"I think a rejection of the sale to Saudi Arabia would be a total disaster to this country," one State Department official said today, noting the close ties this country had with the rich oil-producing country. "I am sure that members of Congress will take all that into account when and if the time comes to vote."

CONGRESS HAS 30 DAYS TO ACT

The Administration has said it would notify Congress formally of the projected sales shortly after the Easter recess. Once Congress gets official notification, it has 30 days to block a military sale. It takes majority votes in both Houses to stop a sale; otherwise it goes through.

Representative Stephen J. Solarz, Democrat of Brooklyn, and an organizer of today's letter, said "It's a signal to the President that his arms sales proposals are in serious trouble and in particular, the sales to Saudi Arabia. It's a shot across the bow."

The organizers of the letter were Israeli backers: Mr. Solarz; Jonathan B. Bingham, Democrat of the Bronx; Benjamin S. Rosenthal, Democrat of Queens, and Edward J. Derwinski, Republican of Illinois.

The Administration has announced plans to sell 60 F–15's to Saudi Arabia, 50 F–5E's to Egypt and 75 F–16's and 15 F–15's to Israel.

Secretary of State Cyrus R. Vance has insisted on Capitol Hill that the three aspects are part of an inseparable "package" and that if Congress blocked one piece, the Administration would withdraw the rest.

In other words, if Israel's supporters blocked the Saudi sale, as they have threatened, the Administration would withdraw its offer to sell planes to Israel.

REASONS FOR OPPOSITION GIVEN

The letter from the 21 Congressmen said, "We are opposed to such an approach" and listed the following reasons:

Under law, each arms sale should be considered separately and not linked.

Under the 1975 agreement with Israel accompanying the 1975 Sinai accord, the United States pledged to supply advanced planes to Israel without any linkage to other sales.

The sale to Saudi Arabia "will have a destabilizing impact" on the military balance in the Middle East and for the first time involve Saudi Arabia in Israel's strategic map, "raising tensions and increasing the likelihood of Saudi involvement in any future Arab-Israel conflict."

The letter also criticized the Administration for cutting back on Israel's request by 50 percent. Israel had originally sought 150 F–16's and 25 F–15's.

"In view of the above concerns," it said "we respectfully urge a re-evaluation of these proposed sales before formal notification to the Congress."

Mr. Carter, Mr. Vance and Defense Secretary Harold Brown have insisted that the package maintains the military balance in the Middle East and that the sales to the Saudis and Egyptians are important for political reasons—to show the American support for the Arabs.

As part of the effort to gain a friendly reception for the Saudi deal, the United States Ambassador to Saudi Arabia, John West, briefed some staff members of the Senate yesterday and told them that the Saudis viewed the sale of the 60 F–15's as a test of American friendship.

A participant in the meeting related that Mr. West had said it was his opinion that if the sale was blocked, the Saudis might not continue to oppose price increases by the Organization of Petroleum Exporting Countries.

At his news conference, Mr. Weizman repeated the Israeli view that an agreement with Egypt on Sinai was possible. Israeli officials have stated their willingness to negotiate a separate deal with Egypt if there is no progress in efforts to broaden the negotiations for a comprehensive agreement in the Middle East.

A major obstacle to the agreement, however, has been Israel's insistence on retaining settlements in northeast Sinai for security reasons.

Mr. Weizman said the settlements issue had to be discussed further with the Egyptians and that it was negotiable.

The Israeli official did not disclose how much progress he had made in talks here on Israel's defense requests for the next decade, said to total more than $10 billion. He said he would have further discussions with Defense Secretary Brown over the weekend.

Mr. Weizman will be in Washington next week during the visit of Prime Minister Menachem Begin and Foreign Minister Moshe Dayan.

[From the Washington Post, Feb. 16, 1978]

EXPERTS SAY SALES WOULD NOT ALTER MIDEAST BALANCE OF POWER

(By George C. Wilson)

Air war specialists said yesterday that the warplanes President Carter wants to send to the Mideast would not alter the balance of power there.

Israel, they said, would still have by far the most powerful air force in the area. Its fighters could knock down anything Egypt could put in the sky.

Although Saudi Arabia would get 60 F15s under the Carter proposal, its planes would not start arriving until late 1981.

In contrast, Israel already has about a dozen F15s flying and will get 25 more even if the new aircraft package is blocked by Congress. Israel also has such older but still lethal U.S. warplanes as the F4E Phantom and the A4 Skyhawk.

Under the Carter deal. Israel would get 15 more F15s, for a total of 40, plus 75 F16 fighter bombers.

Not only does Israel have more and better planes today than any of its most likely opponents in another Mideast war, the exports said, but it has the latest in weaponry to go aboard them. Highly skilled pilots are another Israeli advantage.

Egypt, under Carter's proposal, would receive 50 F5E fighter bombers. Specialists do not consider these planes a match for the F4E or the F15, which Israel already has, nor the F16, which Israel has been promised.

The F5E could be knocked out of the sky by an F15 before it had a chance to fire any of its weapons. The F15 can detect enemy aircraft and shoot them down at a longer range than can the F5E.

The F15's more powerful radar outreaches the F5E's, while its Sparrow missiles outrange the F5E's Sidewinder missiles. An Egyptian pilot flying an F5E could be hit by a Sparrow before he got within range of his opponent, according to the experts.

To be more specific, pilots consider the Sidewinder a close-in weapon deadly from about three miles or less behind an enemy aircraft, while the Sparrow is lethal from about 10 miles out, although the maximum ranges are longer for both.

Taking a more alarmed view of the proposed aircraft sales, the American Israel Public Affairs Committee, in a memo circulated yesterday, quoted a magazine report that the F5Es fought F14s and F15s "to a deadly draw" in U.S. Air Force war games. "The F5E in Egyptian hands would, therefore, constitute a serious challenge to Israel's air force," the committee said.

However, sources familiar with the Air Force tests said they did not represent the kind of air war Egypt and Israel would wage and did not include the less-sophisticated weapons Egypt would carry on its F5Es.

The newest Sidewinder missile—one Egypt is not expected to get—can outmaneuver its predecessors. It does not have to be aimed at the enemy's tailpipe. This Sidewinder, the AIM–9L, was used in the Air Force tests.

The Sidewinder homes in on the heat of the enemy plane's engine, flying up the tailpipe and exploding. The longer-range Sparrow homes in on radar beams bounced off the enemy plane by its pursuer.

Even though the experts consider the F5E no match for either the F15 or the F16, they stress that the highly maneuverable fighter would acquit itself well in defending Egypt where pilots could be guided to enemy planes by radar operators on the ground.

During the Vietnam war, the Pentagon fought the F5E against the Soviet Mig 21 in a paper battle aided by computers. That "TAC-Avenger" study concluded that the F5E could beat the Mig 21 when the F5E was under ground control. The F5E lost its edge when it flew beyond ground controllers, the study found.

Thus, from a home-defense standpoint, Egyptian President Anwar Sadat would be better off with the F5E than with the Mig 21 he was getting from the Soviets before relations cooled. The F5E also can carry bombs and rockets to support ground troops.

Defense intelligence sources estimate that Israel now has 160 percent of the military strength it had just before winning the Yom Kippur War of 1973. They estimate that Egypt is still at about 80 to 90 percent of its prewar strength, and Syria at 100 percent.

Shipping 50 F5Es to Egypt, and 25 more F15s and 75 F16s to Israel, would not change those relative percentages, defense officials said.

As for the 60 F15s for Saudi Arabia, some Israeli supporters contend these planes could end up in Egypt or be flown by mercenaries against Israel. Administration officials insist they will put conditions on the proposed sale to keep this from happening.

Air Force Gen. George S. Brown, chairman of the Joint Chiefs of Staff and a former air commander, has said that "I don't think anyone in their right mind would try and fly an F5 against either" the F15 or the F16.

The F5 has a combat radius of between 250 and 300 miles, compared with between 600 and 900 miles for the F15 and the F16, depending on how much extra fuel and what kinds of weapons are carried and the altitude of the flights.

[From the Chicago Tribune Feb. 15, 1978]

BACKGROUND ON JETS

WASHINGTON.—The F–16 and F–15 warplanes that President Carter wants to sell to Israel, but not to Egypt, have much longer combat ranges than the F–5Es proposed for sale to Egypt.

The Israelis also would have bombing capabilities with the F–16 that the administration proposes selling in Israel, but not to Egypt or Saudi Arabia.

Here is a sketch of the three planes:

F–15 Eagle: Proposed for sale to Israel and Saudi Arabia, it is for dog-fights rather than bombing. It has an operations radius of 900 miles when carrying extra fuel, meaning it can fly 1,800 miles round trip.

F–16: Proposed for sale only to Israel, it is used for both bombing and aerial combat. It has a combat radius of more than 500 miles, according to Air Force figures. However, sources say the plane has an operating radius of 600 to 800 miles, depending on

whether it is on a bombing mission or in aerial combat.

F-5E: Proposed for sale only to Egypt, it is principally a fighter. It can be used in attack missions. The plane has a combat radius of 250 miles for bombing and 300 miles for aerial combat.

EGYPTIAN PLANS CHARGED

He charged that the Egyptians have plans to send 5,000 troops to Somalia before the end of this month. He said that there is "confirmed evidence originating from many sources" that Egyptians are already fighting with the Somalis. [Egypt has denied this claim.]

Colonel Mengistu placed the Somali troops in Ethiopa at more than 70,000. He said they have 250 tanks, 350 armored vehicles, and 40 fighter planes. He said Somali forces had made futile attempts to attack the Ethiopian port of Assab by using missile-carrying gunboats.

The chairman added that Ethiopia has "no aim other than expelling the invading forces from her territory."

INVASION THREAT DENIED

He said speculation that Ethiopia might invade Somalia was inspired by Somalia and was "like someone shouting for help while he is actually doing the beating."

This cry was made by the Somalis because "they want to internationalize the situation."

The chairman disclosed that there is a structure in the Ethiopian Government called the Congress of the Provisional Government, consisting of 80 persons, and that this body, which contains no Soviets or Cubans, makes the major decisions.

On the vital question of the province of Eritrea, which has been trying to secede from Ethiopia, Colonel Mengistu spoke of a nine-point peace plan under which negotiations with the Eritreans were attempted. But he said the Eritreans thought the Ethiopians were showing signs of weakness.

He said Ethiopia would "continue our effort for a peaceful solution" in Eritrea. But he added, "if necessary the war will continue for generations to come. . . . The territorial integrity of Ethiopia will never be a subject of negotiation."

AN UNEQUIVOCAL "NO" ON THE NEUTRON BOMB

Mr. PROXMIRE. Mr. President, it is hard to find a major paper today that has not told the President how wrong he is to consider stopping research on the neutron bomb.

Well, here is one Senator who hopes he will decide against going ahead with the neutron bomb, for the simple reason that this weapon lowers the nuclear threshold—that is, it makes the nightmare of a nuclear war more likely. It is hard to imagine a development more terrible for all the people of this planet than that catastrophe.

The arguments for continued neutron bomb research are indeed very impressive. To begin with, just consider the authorities on the side of going ahead:

The Secretary of Defense, the Secretary of State, the Joint Chiefs of Staff, and outside voices of very considerable wisdom such as the New York Times and the Washington Post, which have previously been unsure about going ahead with research on the neutron bomb, or have actively opposed it but have now come down foursquare for going ahead.

Are the opponents of the President right? Is there an overwhelming case for deployment of the neutron bomb?

Well, they do have certain arguments that are logic and prudent. There is no disputing the fact that Soviet tanks outnumber U.S. tanks in Central Europe or that these tanks pose a direct threat to NATO defenses. It is this very fact which has led the United States to greatly enhance its NATO anti-tank capability. We now have quantities of crew operated anti-tank missiles on the ground, plus anti-tank missiles on helicopters, and new anti-tank tactics. In addition, we have deployed the tank-killing A-10 to the European theater. Therefore, the Soviet tank threat has not gone unrecognized, and the neutron bomb is not the only alternative.

But is it the best alternative? Is it more efficient than any other combination of anti-tank weaponry? This question has several answers. It is a more efficient weapon in the sense that its lethal range is far greater than any other anti-tank device. And its destructive pattern is less than the deployed nuclear weapons now in Europe. Collateral damage would be far less using a neutron bomb than the current generation of tactical nuclear weapons.

The issue of collateral damage is of great importance to the Europeans. After all, their countries will feel the effects of any U.S. nuclear explosion. If the price of stopping a Soviet Bloc offensive is the destruction of Europe, then there are many European leaders who pause before blindly accepting that military strategy.

Mr. President, it will be noted that there is a presumption underlying this discussion. The presumption is that when or if the Soviets attack through Europe, one recourse will be the use of the neutron bomb.

What is the usefulness of the neutron bomb after deterrence has failed? Let us for a moment grant that the neutron bomb may have a deterrent effect on the Russians—that they may perceive that to invade Europe and face the likely response from NATO of a neutron bomb counterattack would be militarily unsuccessful. If deterrence works in practice as well as theory, the neutron bomb may be a significant addition. But what if deterrence fails? What if the Soviets invade anyway and the United States responds with a neutron bomb counterattack? It is unthinkable that the Russian response could be anything but a nuclear retaliation. At that point, all bets are off.

Or, the Russians might perceive that the United States is placing so much reliance on the neutron bomb that their opening attack must itself be nuclear.

There is a third option of course—a conventional battle during which the nuclear weapons on both sides are deliberately held out of the fighting, each side fearing that first use will escalate into uncontrollable warfare. What good is the neutron bomb then?

The point I am making here is that it it not all that cut and dried that the neutron bomb will either increase deterrence or reduce the use of nuclear weapons during an attack. In fact, there are legitimate arguments to be considered that the neutron bomb may lower the barriers to nuclear warfare and may increase the chance that U.S. planners or Soviet planners will automatically assume they must go nuclear at the first sign of conventional weakness.

Mr. President, if the neutron bomb is such a clear-cut advantage, then why have months and months gone by without the unanimous endorsement of the bomb by our European allies? Only after constant suggestions, both private and public, did the German Government give a statement in support of the neutron bomb. Surely, the passage of time indicates a degree of reservation among many NATO allies that must be based on factors less obvious than the proponents claim that the neutron bomb will protect Europe from Warsaw Pact invasion.

The real danger in the neutron bomb debate has gone unnoticed, Mr. President. It is the artificial creation of an atmosphere of fear, distrust and opposition to this administration's arms control proposals. If the postponement or turndown of the neutron bomb is marshalled into a rallying point for opposition to arms control, then the SALT treaty and other bilateral initiatives with the Soviet Union may be the victims of that debate.

IMPLEMENTING LEGISLATION IMPORTANT TO GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the objections which opponents of the Genocide Convention have raised is that Senate ratification of the treaty would subject American citizens to trial in foreign countries. This is a very important objection, and one which should be most carefully considered by the Senate. However, as was established during the hearings held on the Genocide Convention by the Foreign Relations Committee, there are no longer any grounds for such a concern.

I do not believe that U.S. participation in the Convention would subject citizens to that danger. But to be absolutely certain of this, the treaty as it now stands has attached to it certain understandings, one of which deals specifically with this issue. Understanding Number 3 states that—

Nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

Further safeguards are set forth in the implementing legislation, and Understanding Number 4 declares that—

The United States Government will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted.

The implementing legislation directly states that Congress and the Secretary of State in negotiating extradition treaties shall reserve for the United States the right to refuse extradition of a U.S. national to another country for the commission of genocide.

The terms of the Genocide Convention

are very clear regarding the extradition issue. Article VII states that—

> The Contracting Parties pledge themselves in such cases (involving genocide) to grant extradition in accordance with their laws and treaties in force.

As the Members of this body all know, the Senate must give its approval, by a two-thirds vote, to every extradition treaty into which the country enters. Accordingly, even after ratification of the Genocide Convention, the Senate could still act through the extradition treaties to further insure that the Constitutional rights of all Americans would be protected.

As a matter of fact, the treaty would actually give us stronger grounds to request the return of American nationals Under existing international law, Americans can be tried in any country, and of couse, this country cannot insist on their return. However, by ratifying this treaty and approving the implementing language, we would be making genocide a Federal crime here, and would thus be providing the grounds on which we would be able to request the return of an American citizen accused of genocide abroad.

The safeguards of American rights which are continued in the convention, our attached understandings, and the implementing legislation are extensive and effective. Clearly, the benefits of this treaty merit its ratification by the Senate as soon as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATSUNAGA). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer on tomorrow, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes and Mr. MORGAN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that either of the two Senators may speak before the other, whichever is convenient to the two Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the aforementioned Senators there be a period for the transaction of routine morning business, as in legislative session, tomorrow until the hour of 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, at the hour of 12 o'clock noon morning business is to be closed and the Senate will resume its consideration of the treaty; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. At that time, under the order previously entered, Mr. BARTLETT will be recognized to call up his amendment on which there is a time limitation of not to exceed 3 hours for debate; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, a rollcall vote will occur in relation to that amendment at some point during the afternoon and no later than the hour of 3 p.m.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the sessions of the Senate on Tuesday, April 11; Wednesday, April 12; and Thursday, April 13, to consider the military procurement authorization bill and the military construction authorization bill, both of which must be reported to the Senate by May 15 under the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate on Tuesday, April 11, to hear the testimony of Attorney General Griffin Bell in connection with the Justice Department authorization bill, which must be reported to the Senate by May 15 under the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the nominations calendar, beginning with the Department of State, has been cleared with the other side. May I ask the distinguished acting Republican leader if that is correct?

Mr. STEVENS. Yes, it has. The distinguished majority leader is correct, Mr. President.

Mr. ROBERT C. BYRD. I thank the distinguished Republican whip.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. ROBERT C. BYRD. Mr. President, the Senate is again on the treaty at this point, is it not?

The PRESIDING OFFICER. The Senator is correct.

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nominations on the calendar beginning with the Department of State, beginning with Calendar Order No. 105 and going through the bottom of page 2 and through page 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Alfred L. Atherton, Jr., of Florida, to be Ambassador at Large.

The PRESIDING OFFICER. Without objections, the nomination is considered and confirmed.

The legislative clerk read the nomination of Harold H. Saunders, of Virginia, to be an Assistant Secretary of State.

The PRESIDING OFFICER. Without objections, the nomination is considered and confirmed.

The legislative clerk read the nomination of Robert L. Yost, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

The PRESIDING OFFICER. Without objections, the nomination is considered and confirmed.

U.S. ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL AND EDUCATIONAL AFFAIRS

The legislative clerk read the nomination of Olin C. Robison, of Vermont, to be a member of the U.S. Advisory Commission on International Communication, Cultural and Educational Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The legislative clerk read the nomination of Almeric L. Christian, of the Vir-

gin Islands, to be a judge of the district court of the Virgin Islands.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Joan F. Kessler, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to title 14, section 194(a) of the United States Code, appoints the Senator from Connecticut (Mr. RIBICOFF) to the Board of Visitors to the U.S. Coast Guard Academy, and the Chair announces on behalf of the Chairman of the Committee on Commerce, Science, and Transportation his appointments of the Senator from Washington (Mr. MAGNUSON) and the Senator from Alaska (Mr. STEVENS) as members of the same Board of Visitors.

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors to the U.S. Military Academy: the Senator from Louisiana (Mr. JOHNSTON) (Appropriations), the Senator from New York (Mr. MOYNIHAN) (At-Large), the Senator from Utah (Mr. GARN) (Armed Services), and the Senator from Oregon (Mr. HATFIELD) (Appropriations).

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to title 46, section 1126(c) of the United States Code, appoints the Senator from New Hampshire (Mr. DURKIN) to the Board of Visitors to the U.S. Merchant Marine Academy, and the Chair announces on behalf of the Chairman of the Committee on Commerce, Science, and Transportation his appointments of the Senator from Hawaii (Mr. INOUYE) and the Senator from Alaska (Mr. STEVENS) as members of the same Board of Visitors.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate, in executive session stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and, at 6:28 p.m., the Senate, in executive session, recessed until tomorrow, Friday, April 7, 1978, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 1978:

APPALACHIAN REGIONAL COMMISSION

William E. Albers, of the District of Columbia, to the Alternate Federal Cochairman of the Appalachian Regional Commission, vice George G. Seibels, Jr., resigned.

IN THE COAST GUARD

The following regular officer of the Permanent Commissioned Teaching Staff of the U.S. Coast Guard for promotion to the grade of captain:

Robert L. DeMichiell

The following officers of the U.S. Coast Guard Reserve for promotion to the grades indicated:

Captain

James A. Esposito
Robert A. Kuehnl
John T. Andrews

Commander

John B. Schempf
Terry N. Seaman
Robert N. Ross, Jr.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. Ranald Trevor Adams, Jr., [redacted], U.S. Air Force.

IN THE ARMY

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. John Randolph Phipps, [redacted]

Brig. Gen. Wayne Marvin McDaniels, [redacted]

Brig. Gen. Carl Douglas Wallace, [redacted]

To be brigadier general

Col. Junior Henry Burkhead, [redacted].
Col. Billy Gene Wellman, [redacted].

IN THE NAVY

The following-named officer for appointment to the grade of rear admiral while serving as Assistant Chief of Naval Personnel for Human Resource Management, in accordance with title 10, United States Code, section 5767(c):

Rear Adm. Fran McKee, U.S. Navy.

IN THE MARINE CORPS

Col. Margaret A. Brewer for appointment to the grade of brigadier general in the U.S. Marine Corps, while serving as Director of Information, U.S. Marine Corps, in accordance with the provisions of title 10, U.S. Code, section 5767(c).

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Bennie, James, Jr., [redacted].
Bynum, James L., [redacted].
Corcoran, James C., [redacted].
Diaz, Roberto, [redacted].
Dunham, Theo K., [redacted].
Glod, Stanley V., [redacted].
Haught, James E., [redacted].
Hefner, Robert L., [redacted].
Hemken, Daryl D., [redacted].
Hogan, Max R., [redacted].
Hraha, Francis M., [redacted].
Jones, Robert G., [redacted].
Kelley, Albert C., Jr., [redacted].
Krinke, Gordon C., [redacted].
Roche, Neil J., [redacted].
Smith, Harry E., Jr., [redacted].
Turner, Joseph E., [redacted].

ARMY NURSE CORPS

To be colonel

Benefiel, Mary M., [redacted].
Dick, Grover C., [redacted].
Doboy, Emma M., [redacted].
Flaherty, Agnes E., [redacted].
Hickman, Joan J., [redacted].
Jekones, Ann E., [redacted].
Morisset, Carlyn, [redacted].
Motherway, Frances, [redacted].
Succow, Shirley, [redacted].
Wilson, Dorothy, [redacted].

DENTAL CORPS

To be colonel

Busch, Albert I., [redacted].
Carter, Bruce H., [redacted].
Flohr, Victor R., [redacted].
Hodge, Joseph, [redacted].
Kelley, Brown W., Jr., [redacted].
Kiernan, Harry D., [redacted].
Mann, Charles S., [redacted].
Michaux, Macon C., [redacted].
Schwartz, Julius P., [redacted].
Skelly, Daniel A., [redacted].
Strader, Robert J., [redacted].

MEDICAL CORPS

To be colonel

Amadeo, Jose H., [redacted].
Bobadilla, Rodolfo L., [redacted].
Carey, Michael E., [redacted].
Forrest, Robert L., [redacted].
Jones, Charles H., [redacted].
Miyazawa, Kunio, [redacted].
Silverblatt, Charles W., [redacted].
Thomas, James H., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Dumont, Roland R., [redacted].
Hann, William D., [redacted].

Johnson, Ronald R., XXX-XX-XXXX.
Jones, Donald L., XXX-XX-XXXX.
Nowak, Maryan L., XXX-XX-XXXX.
Pennington, James A., XXX-XX-XXXX.
Sarcione, Edward J., XXX-XX-XXXX.
Yoshimori, James S., XXX-XX-XXXX.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Feldman, Harold, XXX-XX-XXXX.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3367 and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Allain, Kent D., XXX-XX-XXXX.
Allen, Richard F., XXX-XX-XXXX.
Allen, Williard T., Jr., XXX-XX-XXXX.
Apostle, Basil N., XXX-XX-XXXX.
Aubuchon, James M., XXX-XX-XXXX.
Back, Marvin G., XXX-XX-XXXX.
Bagley, Donald M., Jr., XXX-XX-XXXX.
Biscomb, William M., XXX-XX-XXXX.
Bodenheimer, Jerry M., XXX-XX-XXXX.
Bohannon, Robert L., XXX-XX-XXXX.
Bruce, George F., XXX-XX-XXXX.
Bullis, Lawrence H., XXX-XX-XXXX.
Burdge, Mervyn L., XXX-XX-XXXX.
Burton, William P. XXX-XX-XXXX.
Carlson, James S., XXX-XX-....
Chegar, Richard D., XXX-XX-XXXX.
Clark, John D., XXX-XX-XXXX.
Coyne, Lawrence J., XXX-XX-XXXX.
Domico, William D., XXX-XX-XXXX.
Douglas, Rodney B., XXX-XX-XXXX.
Doyle, Hayward, Jr., XXX-XX-XXXX.
Drane, Hal T., XXX-XX-XXXX.
Druda, Edwin J., XXX-XX-XXXX.
Ford, Clarence V., Jr. XXX-XX-....
Furr, Edward, XXX-XX-XXXX.
Gantt, John B., XXX-XX-XXXX.
Gantt, Richard A., XXX-XX-XXXX.
Gewet, Francis B., XXX-XX-XXXX.
Gibbons, Richard B., XXX-XX-XXXX.
Gonzales, Rodolfo, Jr., XXX-XX-XXXX.
Gorbea-Frontera, R., XXX-XX-XXXX.
Griffith, Robert G., Jr., XXX-XX-XXXX.
Gunderman, George L., XXX-XX-XXXX.
Hager, Thomas C., XXX-XX-XXXX.
Hermann, Gideon, XXX-XX-XXXX.
Hindman, Robert F., XXX-XX-XXXX.
Hoffman, William M., XXX-XX-XXXX.
Hopkins, Cecil R., Jr., XXX-XX-XXXX.
Howe, Charles B., XXX-XX-XXXX.
Irving, John W., XXX-XX-XXXX.
James, Richard H., XXX-XX-XXXX.
Jones, Jack B., XXX-XX-XXXX.
Jones, Martin A., XXX-XX-XXXX.
Kesselring, James A., XXX-XX-XXXX.
Kolenda, David W., XXX-XX-XXXX.
Kopcha, Paul J., XXX-XX-XXXX.
Kulas, James F., XXX-XX-XXXX.
Lovell, Carmon S., XXX-XX-XXXX.
MacDonald, Bruce, XXX-XX-XXXX.
Martin, Kenneth K., XXX-XX-XXXX.
Maynard, Donald A., XXX-XX-XXXX.
McCafferty, William J., XXX-XX-XXXX.
McCluskey, Lawrence H., XXX-XX-XXXX.
Morris, Kenneth E., XXX-XX-XXXX.
Mulcahy, Terrence D., XXX-XX-XXXX.
Newman, Ronald H., XXX-XX-XXXX.
Nixon, Jack B., XXX-XX-XXXX.
Norey, Eugene R., XXX-XX-XXXX.
Olson, Paul S., XXX-XX-XXXX.
Porch, Eben O., III, XXX-XX-XXXX.
Pore, Stanley C., Jr., XXX-XX-XXXX.
Rainey, John W., XXX-XX-XXXX.
Recher, Ronald R., XXX-XX-XXXX.
Reisbeck, William F., XXX-XX-XXXX.
Riccio, Vincent, XXX-XX-XXXX.
Robel, Gilbert E., XXX-XX-XXXX.
Rodriguez, Ramirez, Edgar, XXX-XX-XXXX.
Simmonds, Donald L., XXX-XX-XXXX.
Slade, George, XXX-XX-XXXX.
Slaton, James W., Jr., XXX-XX-XXXX.
Smith, Stanley B., Jr., XXX-XX-XXXX.
Swetz, Alexander, Jr., XXX-XX-XXXX.
Taylor, Guy R., Jr., XXX-XX-XXXX.
Thompson, Llewellyn E., II, XXX-XX-XXXX.
Walgreen, John A., XXX-XX-XXXX.
Wells, Albert L., XXX-XX-XXXX.
West, Norvel P., XXX-XX-XXXX.
White, Gerald J., XXX-XX-XXXX.
Wilshire, Roy L., XXX-XX-XXXX.

CHAPLAIN

To be lieutenant colonel

Miller, Ronald D., XXX-XX-XXXX.
Molnar, Peter A., XXX-XX-XXXX.
Poage, Bennett D., XXX-XX-XXXX.
Sanders, Paul R., XXX-XX-XXXX.

ARMY NURSE CORPS

To be lieutenant colonel

Alston, Ruby C., XXX-XX-XXXX.
Blake, Louise E., XXX-XX-XXXX.
Gibbs, Margaret D., XXX-XX-XXXX.
Roberts, Frances, XXX-XX-XXXX.
Toibin, Colum, XXX-XX-XXXX.
Waterman, June E., XXX-XX-XXXX.

DENTAL CORPS

To be lieutenant colonel

Bakland, Leif K., XXX-XX-XXXX.
Dedeaux, Paul J., XXX-XX-XXXX.
Gorman, Raymond S., XXX-XX-XXXX.
Graffeo, Charles J., XXX-XX-XXXX.
Henry, Clay A., XXX-XX-XXXX.
Masselink, William J., XXX-XX-XXXX.
Newkirk, Robert W., XXX-XX-XXXX.
Pearson, Harold, Jr., XXX-XX-XXXX.
Turner, Nicolas A., XXX-XX-XXXX.

MEDICAL CORPS

To be lieutenant colonel

Ajans, Zaki A., XXX-XX-XXXX.
Baumann, John A., XXX-XX-XXXX.
Butz, Roger H., XXX-XX-XXXX.
Curtright, Lewis, XXX-XX-XXXX.
Faller, William, XXX-XX-XXXX.
Geist, Richard E., XXX-XX-XXXX.
Mark, Eugene J., XXX-XX-XXXX.
Passmore, James A., XXX-XX-XXXX.
Ridenhour, Clarence E., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bonner, Marvin E., XXX-XX-XXXX.
Brooks, William S., XXX-XX-XXXX.
Crain, Alvin W., XXX-XX-XXXX.
Detwiler, Clarence J., XXX-XX-XXXX.
Hollowell, Edward E., XXX-XX-XXXX.
Kittrell, Herbert O., XXX-XX-XXXX.
Loudis, Rocco A., XXX-XX-XXXX.
McBryde, Johnny P., XXX-XX-XXXX.
Moran, John J., XXX-XX-XXXX.
Paulson, Robert L., XXX-XX-XXXX.
Penaloza, Joseph M., XXX-XX-XXXX.
Robb, Thomas, XXX-XX-XXXX.
Robinson, Jesse R., XXX-XX-XXXX.
Stringfellow, Thomas L., XXX-XX-XXXX.
Vanderbilt, Samuel J., XXX-XX-XXXX.
Volante, William, Jr., XXX-XX-XXXX.
Wynder, Charles A., Sr., XXX-XX-XXXX.
Zuehlke, Frank R., XXX-XX-XXXX.

The following-named officers for appointment in the Reserve of the Army of the United States, under the provision of title 10, U.S.C., sections 591, 593, and 594:

ARMY PROMOTION LIST

To be colonel

May, Joseph G., XXX-XX-XXXX.
Perkins, Andrew D., Jr., XXX-XX-XXXX.

MEDICAL CORPS

To be colonel

MacPherson, Donald J., XXX-XX-XXXX.

DENTAL CORPS

To be lieutenant colonel

Allen, Robert J., XXX-XX-XXXX.
Flynn, Harry E., XXX-XX-XXXX.
McNeal, Donald R., XXX-XX-XXXX.

MEDICAL CORPS

To be lieutenant colonel

Altuzarra, Luis F., XXX-XX-XXXX.
DeWitt, James E., XXX-XX-XXXX.
Poliakoff, Claude S., XXX-XX-XXXX.
Schroeder, Vernon R., XXX-XX-XXXX.
Verhey, Joseph W., XXX-XX-XXXX.
Whaun, June M., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Latteri, Joseph A., XXX-XX-XXXX.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bakken, Suzanne G., XXX-XX-XXXX.

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Caldwell, Eston R., Jr., XXX-XX-XXXX.
Debellis, Joseph A., XXX-XX-XXXX.
Eldred, Wilfred J., XXX-XX-XXXX.
Franklin, Lawrence C., XXX-XX-XXXX.
Kehoe, John E., XXX-XX-XXXX.
McGuire, Arthur M., XXX-XX-XXXX.
Puls, Jerry L., XXX-XX-XXXX.
Rice, Lee E., XXX-XX-XXXX.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Baird, Douglas A., XXX-XX-XXXX.
Baker, Donovan J., XXX-XX-XXXX.
Burton, Donovan L., XXX-XX-XXXX.
Cole, John C., XXX-XX-XXXX.
Colwell, Richard J., XXX-XX-XXXX.
Day, Richard K., XXX-XX-XXXX.
Deyo, Donald J., XXX-XX-XXXX.
Farrell, Carl G., XXX-XX-XXXX.
Freeman, John E., XXX-XX-XXXX.
Gerke, George L., XXX-XX-XXXX.
Hall, Russell C., XXX-XX-XXXX.
Hickey, James C., XXX-XX-XXXX.
Holleger, Bayard, XXX-XX-XXXX.
Huddleston, Charles R., XXX-XX-XXXX.
Hyatt, Ronald W., XXX-XX-XXXX.
Kinon, Marion H., XXX-XX-XXXX.
Kone, Charles H., XXX-XX-XXXX.
Mann, Dean D., XXX-XX-XXXX.
Matthews, John W., XXX-XX-XXXX.
Mazzone, Thomas W., XXX-XX-XXXX.
Myers, Oliver W., XXX-XX-XXXX.
Nau, James J., XXX-XX-XXXX.
Nutt, Harold W., XXX-XX-XXXX.
Peterson, Leslie L., XXX-XX-XXXX.
Rebeor, William G., XXX-XX-XXXX.
Schober, Frank J., Jr., XXX-XX-XXXX.
Sullivan, Gilbert J., XXX-XX-XXXX.
Tripp, Howard S., XXX-XX-XXXX.
Valentine, Robert G., XXX-XX-XXXX.
Wallace, Raymond R., XXX-XX-XXXX.
Wiest, Raymond E., XXX-XX-XXXX.
Wilson, Harlan Y., Jr. XXX-XX-XXXX.
Yearout, James L., XXX-XX-XXXX.
Zimmerman, Donald A., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

To be colonel

Frye, Ronald S., XXX-XX-XXXX.

ARMY PROMOTION LIST

To be lieutenant colonel

Alm, Dennis C., XXX-XX-XXXX.
Barton, Billie R., XXX-XX-XXXX.
Berry, James R., XXX-XX-XXXX.
Biondi, Philip J., XXX-XX-XXXX.
Bishop, Ralph L., XXX-XX-XXXX.
Boatman, Howard, XXX-XX-XXXX.
Bradshaw, Philip L., XXX-XX-XXXX.
Brill, Joseph N., XXX-XX-XXXX.
Brock, Clifton H., Jr., XXX-XX-XXXX.
Broome, James C., XXX-XX-XXXX.
Cantrell, Jerry L., XXX-XX-XXXX.
Carte, Dale W., XXX-XX-XXXX.
Caruth, Paul S., Jr., XXX-XX-XXXX.
Casto, Eldridge R., Jr., XXX-XX-XXXX.
Cheek, Forrest H., Jr., XXX-XX-XXXX.
Collins, William W., XXX-XX-XXXX.
Cseri, John M., XXX-XX-XXXX.
Curnow, Lester S., XXX-XX-XXXX.

Decker, John C., xxx-xx-xxxx.
Downs, Charles A., xxx-xx-xxxx.
Duclos, John J., xxx-xx-xxxx.
Faulkner, John J., xxx-xx-xxxx.
Filiault, Edgar D., xxx-xx-xxxx.
Grabowski, Walter J., xxx-xx-xxxx.
Haley, Alvin J., xxx-xx-xxxx.
Haslam, Terry M., xxx-xx-xxxx.
Hill, Howard D., III, xxx-xx-xxxx.
Husby, Paul W., xxx-xx-xxxx.
Hutt, William V., xxx-xx-xxxx.
Jackson, Robert L., xxx-xx-xxxx.
Kallenbach, Richard F., xxx-xx-xxxx.
Keeton, Jerry M., xxx-xx-xxxx.
Korechis, Paul H., xxx-xx-xxxx.
Kuhn, James W., xxx-xx-xxxx.
Ledet, Jerry P., xxx-xx-xxxx.
Lee, Harry J., Jr., xxx-xx-xxxx.
Lemay, Francis J., xxx-xx-xxxx.
Lemieux, Raymond J., xxx-xx-xxxx.
Litschke, Jerome C., xxx-xx-xxxx.
Loftus, John T., xxx-xx-xxxx.
Lyater, Ronald L., xxx-xx-xxxx.
Lynn, Donald W., xxx-xx-xxxx.
Mader, Francis J., xxx-xx-xxxx.
Madison, Charles D., xxx-xx-xxxx.
Martin, James R., xxx-xx-xxxx.
Martin, John E., xxx-xx-xxxx.
Martin, Marion C., xxx-xx-xxxx.
Matteson, Gerald R., xxx-xx-xxxx.
McKee, Howard B., xxx-xx-xxxx.
McKenney, John B., xxx-xx-xxxx.
McKnight, John T., xxx-xx-xxxx.
Mercuro, Peter T., xxx-xx-xxxx.
Miranda, Louis N. H. M., xxx-xx-xxxx.
Moore, Tebbs S., xxx-xx-xxxx.
Moss, Bruce E., xxx-xx-xxxx.
Mullenix, George C., xxx-xx-xxxx.
Mullin, Mark B., xxx-xx-xxxx.
Murphree, Carl E., Jr., xxx-xx-xxxx.
Neal, John N., xxx-xx-xxxx.
Norman, Carl S., xxx-xx-xxxx.
Parker, Joseph M., xxx-xx-xxxx.
Pearce, Kay B., xxx-xx-xxxx.
Pieraldi, Luis F., xxx-xx-xxxx.
Preacher, Richard B., xxx-xx-xxxx.
Raper, Francis E., xxx-xx-xxxx.
Riess, Jack D., xxx-xx-xxxx.
Ritchey, Howard N., xxx-xx-xxxx.
Rupple, Harry D., xxx-xx-xxxx.
Rutledge, Charles O., xxx-xx-xxxx.
Ryan, Paul T., xxx-xx-xxxx.
Sammon, Eugene E., Jr., xxx-xx-xxxx.
Schmidt, Richard K., xxx-xx-xxxx.
Sentman, Robert L., xxx-xx-xxxx.
Shearin, James M., Jr., xxx-xx-xxxx.
Shunatona, Baptiste B., Jr., xxx-xx-xxxx.
Slyter, Damon E., xxx-xx-xxxx.
Smith, Vernal J., xxx-xx-xxxx.
Strickland, Robert D., xxx-xx-xxxx.
Sullivan, John S., xxx-xx-xxxx.
Tack, Thomas N., xxx-xx-xxxx.
Tucker, Terry G., xxx-xx-xxxx.
Walker, Wallace L., xxx-xx-xxxx.
Ward, John R., xxx-xx-xxxx.
Wedinger, Robert H., xxx-xx-xxxx.
Wilson, Bobby D., xxx-xx-xxxx.
Wootten, Charles W., xxx-xx-xxxx.
Wright, John R., xxx-xx-xxxx.

CHAPLAIN

To be lieutenant colonel

Bundenthal, Theodore K., xxx-xx-xxxx.
Kelin, Daniel A., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Marshall, Kenneth, xxx-xx-xxxx.
Morrison, Alvin S., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Barnes, Warren M., xxx-xx-xxxx.
Bartol, Carl R., xxx-xx-xxxx.
Brown, Dwight H., xxx-xx-xxxx.
Chan, Wallace L., xxx-xx-xxxx.
Evans, James T. xxx-xx-xxxx.
Howshar, Edward G., xxx-xx-xxxx.
Jones, Clarence L., Jr., xxx-xx-xxxx.
Maras, Zvonimir I., xxx-xx-xxxx.
Miller, James A., xxx-xx-xxxx.
Nault, Burton A., xxx-xx-xxxx.
Peterson, Ralph E., xxx-xx-xxxx.
Petteruti, Joseph L., xxx-xx-xxxx.
Rozanski, Tohmas I., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Krumhaus, Paul A., xxx-xx-xxxx.
Matsubu, John M., xxx-xx-xxxx.
Richardson, Eugene L., xxx-xx-xxxx.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of commander in the various staff corps, as indicated, pursuant to title 10, United States Code, sections 5773 and 5793 (Medical Corps), subject to qualification therefor as provided by law:

MEDICAL CORPS

Ascarelli, Emanuel D.*
Balsam, Marion J.*
Barbier, George H.*
Benedict, Joseph C.
Bernhardi, Louis A., II.*
Broadhead, Daniel D.*
Chesson, Ralph R.
Clubb, Robert J.*
Connors, Paul J.
Emarine, Charles W.*
Fajardo, Jesus E.
Humphries, Thomas J.*
Juels, Charles W.*
Larsen, Mark A.
Moore, Vernon J., Jr.
Nutt, Richard L.
Rathburn, Lawrence A.*
Reyes, Antonio F.*
Rodis, Steven L.
Schrantz, William F.*
Settle, Charles S.*
Shantinath, Kangavkar.
Syverud, James C.*
Thomas, Frank A.
Wilson, David B., Jr.
Yauch, John A.*

SUPPLY CORPS

Adelgren, Paul W.
Andrews, Ernest L., Jr.
Atkinson, Larry R.
Auerbach, Eugene E.
Baldwin, Seth W., II.**
Bano, Edward J., Jr.
Bartel, Joseph R.**
Biggins, James A.
Blondin, Peter W.
Boalick, Howard R.
Bradley, James S.
Burnham, John K.*
Butler, Joel L.
Cangalosi, Davis S.**
Carroll, John P.*
Cole, Chester B.
Cook, Kendall R.*
Correll, Charles D.
Crocker, William.**
Dahm, Eugene E.*
Danner, Glenn R.*
Davis, Fredric C.*
Deane, Thomas J., Jr.
Dieterle, Edward R.*
Driskell, James, D. III
Eadie, Paul W.
Earhart, Terry L.
Endzel, Edward W.*
Evans, George A.
Fisher, Gary C.
Flint, Ralph Q.
Foster, Donald G.
Frassato, Robert C.*
Frieberg, Leonard S., Jr.
Galligan, David R.**
Gallion, Robert Z.*
Gee, Charles D.**
Geroe, Marvin K.
Grant, Robert D.*
Grichel, Dietmar F.
Groves, William D.**
Habermann, William F**
Hagerty, William O.
Hanson, Harold C.
Harrington, Phillip H.*
Hawthorne, Richard L.
Hering, Joseph F.
Hickman, Donald E.
Hildebrand, Jarold R.
Hogan Brian T.*
Holland, Donald L.
Hooker, James S.**
Hundelt, George R.
Hyman, William M.
James, William D.**
Kaufman, James D.*
Kerr, Harold L., Jr.
Kizer, John L.
Kosch, Charles A.*
Krehely, Donald E.*
Lafianza, Bernard J.
Lebel, Robert F., Jr.**
Leeper, James E., Jr.
Lenga, James R.
Leon, Albert*
Lewis, James J.
Lutz, Gerald G.**
Macaulay, Charles P.
MacMurray, Michael M.
Mastrandrea, Gary A.**
McDermott, John E.
McGraa, John R., III
Meneely, Frank T.**
Mitchell, John W.
Monroe, James L., D.*
Monson, Jon P.**
Moore, Thomas J.
Moran, Thomas A.*
Morgan, George P., Jr.*
Morris, John G.
Musgrave, Alvin W., Jr.
Nichols, Clifford J.
Oberle, Michael J.
Oehrlein, William P.
Olio, John F
Owens, Joseph F.
Owens, Robert K.**
Paine, John S.**
Parks, Leonard C.*
Parrott, Ralph C.
Parsons, Donald S., Jr.**
Peiffer, Robert H.
Perry, James H., Jr.
Pinskey, Carl W.
Ponder, Joseph E.
Price, Robert F.*
Rasmussen, Kenneth H.
Rasmussen, Paul D.*
Ringberg, David A.
Ruble, David R.
Sapera, Leonard J.*
Schiel, William A., Jr.
Schultz, Robert A.
Scott, William C.
Sewell, John B.
Shannon, William N.
Shields, Edward J.
Siburt, Forrest N., Jr.
Smith, Charles E.
Smith, Richard M.
Standish, John A.*
Stocker, Vernon D.
Stone, Charles W., Jr.
Sulek, Kenneth J.
Summers, John H.
Sussman, Richard M.
Szalapski, Jeffrey P.*
Terwilliger, Bruce K., Jr.
Thomas, Gary L.
Treanor, Richard C.
Ullman, Robert C.
Vincent, Leonard, Jr.
Wagner, Gregory L.**
Waldron, Andrew J., Jr.
Wallace, William W.
Wells, Paul D.
West, Karl P.
Williams, Richard H.
Williams, Robert J.*
Wootten, John F.*
Yaney, Donald L.

CHAPLAIN CORPS

Anderson, Kevin L.
Bartholomew, Carroll E.
Bergsma, Herbert L.
Bruggeman, John A.**
Collins, John M., III *
Cook, Elmer D.
Coughlin, Conall R.
Dorr, Charles E.
Dunks, Max E.*
Fiorino, Alfred L.
Flick, Carl W.
Fuller, Ivan R.*
Gates, Edwin A.*
Germano, Vincent F.
Gill, Francis
Goode, James G.*
Haskell, Peter C.
Jones, Harry T.
Kirstein, James F.
Knight, Norvell E.
Krulak, Victor H., Jr.**
Kuhn, Thomas W.
Lovejoy, Bradford
Luebke, Robert B., Jr.
Matthias, Robert W.
McCloskey, Joseph W.
McCoy, Charles J.
McMahon, Gerard T.
Mellett, Robert C.*
Moffitt, Robert G.
Munenzler, Leroy E., Jr.*
Murray, Edward K.
Noble, Charles C., Jr.
Nobles, Bryant R., Jr.
Page, David G.*
Rafnel, William G.
Read, Gordon A.
Richards, Gerald T.*
Riley, Robert J.
Rogers, Theodore J.
Roy, Raymond A.*
Smith, Jerry R.
Snow, Edward E.
Stewart, Lisle E.
Treibel, Albert R.
Van Frank, Charles P., Jr.
Winnenberg, John O.

CIVIL ENGINEER CORPS

Andrews, Richard E.
Bare, James C.
Beuby, Stephen C.
Bookhardt, Edward L., Jr.*
Crane, Thomas C.
Dillman, Robert P.
Edmiston, Robert C.
Everett, Ernest J.
Glenn, Danny E
Griffith, Harry G.
Hansen, Robert E.**
Harris, William F.**
Hathaway, James L.
Heine, Richard F., Jr.
Hull, David N.
Kelley, Kenneth C.
Larsen, Laurits M.*
Leap, Joseph B.*
McCullagh, Paul W.**
Mehlhorn, Peter F.*
O'Connell, Brian J.*
Pearson, Rufus J., III
Renzetti, Joseph L.
Robertson, William E., Jr.*
Rohrbach, Richard M.
Rumbold, William W., Jr.
Shaw, Arthur R.
Sheaffer, Donald R.
Smith, Homer F., II
Smith, Ray A.
Stewart, Allen J.*
Stewart, Stephen E.
Truesdell, Richard C.*
Wood, James A.*
Zimmermann, Gerard A.*

MEDICAL SERVICE CORPS

Anderson, Francis G.
Beckner, William M.*
Bond, James C.
Carroll, Jake R.**
Clarke, Norman B.
Coan, Richard M.*
Cunningham, Robert S., II*
Curran, Patrick M.
Doll, Richard E.*
Ferris, William A.
Fingerett, Sheldon N.
Funaro, Joseph F.
Furr, Paul A.*
Gannon, John H.*
Gibson, Richard S.
Gillespie, Franklin D.
Gooch, Roy L.*
Green, Charles M.
Gregoire, Harvey G.
Hartman, Carl H.
Hutchins, Charles W., Jr.
Kozik, John R.*
Lane, Norman E.
Newell, Richard L.*
Payton, Richard A.
Peterson, Robert V.*
Rosplock, Jerome D.
Self, William L.**
Shaughnessy, Mary K.
Thomsen, Paul D.*

JUDGE ADVOCATE GENERAL'S CORPS

Armstrong, Arthur, J., Jr.
Boasberg, Robert, Jr.
Bohaboy, Howard D.
Brown, Michael A.
Burke, Charles R.*

Footnotes at end of article.

Cohen, William D.
Cromwell, James H.
Dalton, William H.**
Davey, James A. G., Jr.*
Derocher, Frederic G.
Durham, Joe B.
Edington, Donald E.
Erickson, John F.
Furdock, Ronald M.
Gall, William D.
Gerszewski, Melfred T.
Gormley, Patricia M.
Hosken, Edward W., Jr.
Kauffman, Robert K.*
Keating, Timothy D.
Landen, Walter J.**
Manning, Edward F.
McLeran, Robert H.*
Norgaard, Kenneth R.
Rowe, Larry R.
Sinor, Morris L.
Turner, Patrick C.

NURSE CORPS

Ancelard, Madeline M.*
Armstrong, Kathryn A.
Armstrong, Susanne R.
Arnold, Mary A.*
Brennahan, Joan C.*
Campen, Kathryn E.
Cote, Clarence W.*
Dunn, Glenda G.
Foreman, Evelyn N.**
Geraghty, Rosemary B.
Glass, Joan E.
Langley, Ann
Leadford, Bonnie A.
Lee, Elaine E.
Loughney, Juel A. M.
McKown, Frances C.
Medina, Elida D.
Monger, Kristen A. P.
Muszynski, Elizabeth F.**
Odom, Helen A.**
Ricardi, Jean C.
Riddell, June E.
Ridenhour, Barbara A.
Sheehan, Lona W.*
Simler, Monica
Smith, Joann H.
Speckmann, Elissa M. A.
Tolar, Sara C.
Triplett, Audrain M.
Troseth, Marie P.
Wildeboer, Henrietta M.
Witherow, Mary A.
Wray, Fay
Zuber, Frances E.

The following-named woman lieutenant commander of the U.S. Navy for permanent promotion to the grade of commander in the Supply Corps, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law:

Judd, Paula M.

IN THE NAVY

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, section 5769, subject to qualification therefor as provided by law:

Ables, Kenneth C., III
Abshier, Randall O.
Acton, Randall L., Jr.
Adams, Bruce C.
Adams, James L.**
Adams, William E.
Adamson, John C.*
Addison, Christopher L.
Adler, Gary A.*
Ahlstrand, Donald C.
Akin, Michael A.
Albertolli, William R.*
Alexander, George E., Jr.*
Alexander, Michael W.
Allee, Robert G.*
Allen, Dannie H.*
Allen, John W.*
Allen, Mark E.
Allison, Harry K.
Almgren, Malcolm*
Alpeter, William C.
Ammerman, Larry R.
Amos, Barry M.
Amtower, James F., Jr.*
Amundson, Robert J.
Anderson, Christopher C.
Anderson, David W.
Anderson, Dennis J.
Anderson, George E.
Anderson, John F., Jr.*
Anderson, Jonathan L.
Anderson, Leroy
Anderton, James D.
Antoine, Eddie P., III
App, Kenneth G.
Arbiter, Jerome L.
Arends, Stephen R.
Arlett, Stephen M.*
Arnott, Ralph E.
Ashford, James H.
Atchison, Donald L.*
Athow, Lewis K.
Auriemma, John C
Avery, Klurge C., Jr.
Axtell, Robert D.
Ayres, Ronald R.
Babington, David C.**
Bacon, William B.
Bagaglio, Mario J., Jr.
Bailey, Robert C.**
Baird, W. Dean, Jr.
Baker, Norman E.
Baker, Robert L.
Balhorn, Carl D.*
Ballard, David L.
Banks, Richard A.
Bankston, Victor J.
Bannat, Edward G.
Baratko, Robert E.
Barber, Christopher T.
Barber, James W.**
Barber, Robert J.
Barker, Frank E., Jr.
Barnes, George W., III*
Barnes, John R.
Barrett, Michael D.
Barry, Brian J.
Barton, James D.*
Baskerville, James E.
Bass, George L.
Batdorf, Richard E.
Bates, Charles K.*
Bathgate, John C.
Battell, James J., Jr.
Bauer, Carl T.
Bauman Ronald B.*
Baxla, Robert E.
Beakley, James E.*
Beam, Alan R.*
Beason, Nathan H.
Beauchesne, Charles L.
Beaugureau, Denis F.
Beck, Arthur T., Jr.
Becker, John J., Jr.*
Beckwith, Donald C.
Beduhn, Jerry R.
Bell, James M.
Bell, John F.*
Bell, Stuart W.
Bell, William A.*
Bellemer, Gordon A.
Benner, Stuart C.*
Bennett, Albert E., Jr.
Bennett, Richard W.*
Bentz, John R.
Bergner, Jon C.*
Bergo, Dennis M.
Bethea, William D., III
Bever, Jerry D.
Bevers, Richard E.
Beyer, Carl W.*
Bianco, Bernard M.
Bicknell, Robert S.
Biddles, Henry N.*
Bieda, George E.
Bielik, John P.
Bierbower, William B.*
Bilski, Anthony
Bishop, Grover C.
Bishop, Kenneth R.*
Bishop, Peter B,*
Bixler, Kenneth G.
Blackburn, William R.*
Blackwell, William A.*
Blake, Frank J.*
Blanchard, James J.
Blatt, Norman W.*
Blaue, John W.
Bleecker, James M.
Blessing, Peter E.
Blomquist, James H.*
Bloyer, Stanley F.
Bluethman, John D.
Board, George R.**
Bogle, William T. R.*
Bohannon, Edward L.
Bohn, Michael K.
Boland, James A.
Bolt, Billy F.
Bolton, Peter K.
Bonnett, David E.
Booker, Royston T.
Boorom, Robert F.**
Booth, David H.
Boroweic, Richard R.*
Bosley, Dale E.*
Bostic, Larry W.
Boswell, Charles M.*
Bouchoux, Donald R.
Bower, Duane B.*
Bower, Phillip W.
Boykin, William S., Jr.*
Boylan, Harold G., Jr.*
Boyle, David W.*
Boynton, Robert W.
Braden, Richard F.
Bradley, John E., Jr.*
Brady, Donald R.*
Brady, Mark L.
Brady, Michael F.*
Branan, Phillip H.
Branch, Malcolm P.
Brandon, William R.
Brasher, Stephen J.
Bratsch, Roger D., Jr.**
Braun, Gerald P.
Braunstein, Wayne J.
Breeden, George L., II*
Bremhorst, Joseph H.
Brennon, Roy L., Jr.*
Brewer, Roger D.
Briggs, Steven E.
Bright, David L.*
Brigman, Charles E.
Brink, Gale D.
Brodie, Glenn T.
Brooks, Randolph M.
Brophy, James M., III
Brotherton, James D.*
Brown, Fred D.
Brown, Gregory C.
Brown, James M.*
Brown, Paul R.
Brown, Richard M., III*
Brown, Robert E.
Brown, Robert E.*
Brown, Ronald F.
Brown, Thomas J., Jr.
Broyles, Ned A.
Bruce, Robert G.*
Brunet, Gerard J.
Bryant, Stanley W.
Bub, Frank L.
Bucelato, John C.
Buelow, John P.
Bugarin, Temotio E., Jr.
Bulger, Richard L.
Bulkeley, Peter W.*
Burbage, Charles T.
Burdick, William F., Jr.
Burin, James M.*
Burks, John S.*
Burnham, Johnny W., Jr.
Burns, Joseph D.
Burns, Richard J.*
Burr, Richard H.
Busby, John C., III*
Busching, William
Bushnell, Gregory A.
Butler, Charles T., III
Butterworth, William J., Jr.
Buttina, Richard A.
Buzhardt, Harry O., Jr.*
Byles, Robert W.
Callaham, Thomas E.
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Callan, Patrick F.
Campbell, Craig V.
Campbell, Fred P.
Campbell, Jon R.
Campbell, Robert S.*
Campbell, Victor H., III
Cannady, Charles R.*
Capansky, Mark A.
Caparelli, Richard F.
Carde, Freeland H., III*
Carden, Carl E.
Carey, Wayne T.
Carlson, Charles R.
Carlson, Robert S.*
Carlson, William G.
Carmichael, Hubert M., Jr.
Carpenter, Harold F.*
Carpowich, David J.
Carrig, Michael F.
Carroll, Dennis J.*
Carroll, James C.*
Carter, Dennis C.
Carter, John C.
Carter, John M.
Carter, Lynn, II*
Cassidy, John A., Jr.
Castle, William M.
Cavaiola, Lawrence J.
Cavender, John B., III
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Chalfan, Richard D.
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Chaloupka, Allan B.*
Chamberlain, Carl W., Jr.
Charuhas, Richard B.*
Chase, Dudley H.
Check, Martin L.
Cheney, Martin J.
Chepenik, Stanley B.
Chesire, John R.*
Chiarolanza, Michael J.
Childers, Richard D.
Chisholm, Christopher I.*
Christenson, Ronald J.
Christian, Richard L.
Church, Albert T., III
Cima, William M.
Clabaugh, Cecil A.*
Clapsadl, Michael R.
Clark, James S.*
Clark, Michael B.
Clark, Philip S., Jr.*
Clark, Robert A.
Cleverdon, Thomas F.
Coane, Casey W.
Coates, Robert V., Jr.*
Cobb, William W., Jr.*
Cobel, Melvin A.*
Cochran, Larry L.
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Cohlmeyer, Chris H.*
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Comer, Thomas A.*
Conley, Edward G.*
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Conner, Harry M.
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Consaul, Harry P., III
Conway, Joseph V., Jr.*
Cook, Larry W.*
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Cooper, Roger S.*
Corn, Richard III
Corsey, John W., Jr.
Costarino, F. Thomas
Cote, Daniel N.
Cottle, Joseph A., Jr.
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Culbertson, James L., III*
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Glass, Dennis W.
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Glutting, Joseph C.*
Gmeiner, Rocklin E., Jr.
Good, Paul A.*
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Gore, Charles F.
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Gottschalk, Glenn F.*
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Gray, Robert K.*
Greenberger, David.*
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Hale, Ronald E.
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Hallett, Michael T.
Halliday, Howard J., Jr.
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Hamburg, James W.
Hamilton, Jerry A.*
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Hammar, Jonathan A.
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Hardcasteltaylor, Michael
Hardekopf, James D.
Hardin, Larry K.*
Hargrove, Harry L., III*
Harkey, James P.
Harkness, George C.
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Harlow, Louis F., Jr.*
Harris, George C., Jr.*
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Hassell, Thomas J.*
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Hay, Donald R.*
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Hellrung, Jeffrey M.
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Heuring, Joel N.
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Hickman, John E., Jr.
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Higgins, James B.
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Hightower, Terrance L.
Hill, Carl C., III*
Hillard, John R.*
Hine, Jonathan T., Jr.
Hinman, David A.
Hinman, Harry T., III
Hinsman, Donald E.*
Hintz, Edward J., Jr.*
Hirt, Keith A.
Hitchcock, James R.
Hodgson, David A.*
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Hoeller, Bruce M.
Hoener, James H.
Hoffman, Herbert S., III*
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Hofwolt, Gerald L.*
Hogan, John P.*
Hogan, Walton L., Jr.*
Holder, Gordon S.
Holdt, Bruce E.
Holihan, Robert G., Jr.*
Holland, Barry S.
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Hollenbeck, Bernard G., Jr.*
Holliday, Thomas B.*
Hollis, John R.
Hollis, Michael K.
Holmes, Richard T.*
Honour, Craig G.*
Hoople, Douglas D.
Horan, John G.
Hornback, James L.
Horne, George M.
Horne, Kenneth A.*
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Horsley, James B.
Horton, John W.
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Houston, Sam K., Jr.*
Howd, Robert F.
Howell, Ralph M.*
Hoxie, Andrew B.
Huber, Elbert W., Jr.*
Hudson, Frank W., Jr.
Huff, Roger P.*
Huffman, Robert L.
Hughes, Roger N.*
Hull, Gerald W.
Hulstrand, Victor S.*
Hunt, Conway L.
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Hurley, William D.
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Hutchins, John G.*
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Huth, Douglas P.
Hyde, Richard W., Jr.*
Hydinger, John P.*
Ihli, Carl B., Jr.*
Ikerd, Gail E.
Imphong, Thomas M.
Ingalls, Bryan W.*
Jacoby, Lowell E.
James, Lloyd E.
Jamison, Philip C.
Janeczek, Joseph J., Jr.
Janov, Bernard *
Jarrell, John A.
Jarrott, William M.
Jarvis, James L.*
Jenkins, Gerald W.
Jenners, Joseph A.
Jensen, Franklin J., Jr.
Johannsen, Michael K.
Johnson, Edward E.
Johnson, Gary F.
Johnson, Gregory G.
Johnson, John M.
Johnson, John M.*
Johnson, Jon R.
Johnson, Paul F.*
Johnson, Paul O.
Johnson, Stephen I.
Johnson, Wade C.
Johnston, Richard M.
Jones, David L.
Jones, Gregory B.
Jones, James D.
Jones, Michael A.
Jones, Stephen K.*
Jordan, Joseph E., Jr.
Joslin, Charles L., III
Jaurin, David S.
Judnich, Francis A.
Jung, Frederick E.
Jupin, Harry A.
Jurand, George W.
Kail, Karl A., IV *
Kalb, Richard W.
Kaler, Herbert C.
Kane, John E., Jr.*
Kane, William J.*
Karon, Stuart C.
Karrer, Allan E.
Karver, Walter R.*
Kavale, Joseph J.*
Kavanagh, Gary L.
Keating, William J., Jr.
Keef, Mark B.*
Keelean, Michael R.
Keithly, John L.*
Keller, Gary R.
Keller, John C., Jr.*
Keller, Joseph F.
Kellett, Raymond A., Jr.*
Kelly, James B.
Kelly, Richard A.
Kengla, Donald C.
Kennedy, John J., Jr.
Kennedy, John P.*
Kennedy, Richard A.
Kennish, James R.
Keresey, James K.
Kevan, Mark R.*
Khinoo, Leroy A.*
Kibler, Rex W.
Kiffer, James C.*
Kilmer, Milo J., II
Kimball, David P.*
Kimener, Michael J.
Kirk, Douglas C.
Kirkland, Richard G.
Kjellander, Jon P.
Kline, Roger P.
Klosterman, Robert C.
Knapp, John C.*
Knapp, Larry R.*
Knapp, Roland B.
Knuth, Dean L.
Koch, Frederick R.
Koehler, David A.*
Koehler, Richard E.*
Kolarcik, Kenneth E.*
Kolarov, George W.
Kolman, Jerry D.
Komich, Frederick R.
Kopinitz, Seigmond G.
Korba, Michael J.
Kosich, John L.*
Kozinsky, Edward J.
Kraatz, William H.
Kracke, William F.
Krafft, Frederick W., Jr.
Kral, Theodore C.
Kramer, Dennis A.
Krause, Alan L.
Kressel, Herbert J.
Kriz, Edward D.
Kroll, James T.*
Krulis, Richard P.*
Krumbholz, Karl O.*
Kumpan, Joseph, Jr.
Kuntz, Robert A.
Kyriss, Stephen E.*
Ladouce, Ralph J.*
Lagow, Michael L.
Lakari, Robert E.
Lalli, Louis P.
Lambert, John P.
Landon, Philip C.*
Landua, James R.
Lane, Daniel R.
Lang, Norman W.
Lantrip, Bobby B.*
Lapaille, John R.
Laplant, Michael *
Lario, Joseph T.*
Larock, Francis J.*
Larson, Vernon J.*
Latham, James W.
Lattig, Glenn D.
Lauermann, Michael M.
Laven, Theodore M.
Lawler, Thomas P.
Lawlor, John C. Jr.*
Lawson, Dale B.
Layl, Jerry N.*
Laz, William J. Jr.
Leclaire, Robert J.
Lee, David M.*
Leibundguth, Peter D.
Leitzel, Robert L.
Leitzke, James H.
Lester, Roderick B.
Letter, John N.
Lewis, John M. II.
Lewis, Richard R.
Lewis, Robert G.*
Liebe, William C.
Lieberman, Stephen L.
Lieurance, John R.
Lilly, Dale R.
Linbeager, Alan G.*
Lindsey, Charles M.**
Lines, David F.
Lipinski, John B.*
Litsinger, Nelson H.
Little, Douglas B.*
Lloyd, Thomas D.
Lockrem, Richard J.
Lockyer, William K.
Loeffler, Stephen R.*
Logan, Robert J.
Logan, William J.
Long, Milton R., Jr.*
Longardt, Michael G.*
Lonquist, Aaron D.*
Lopez, Delio, Jr.
Lounge, John M.
Lucca, Duane O.
Lukens, Larry A.
Lundquist, Carl I.*
Lusk, Larry A.
Luthman, Joseph J.
Lutman, Richard K.
Lux, John A., Jr.
Lyford, Lawrence E.
Lyle, John M.
Lynn, Freddie L., Jr.
Lynn, Warren D.
Lyons, Edward A.
Lysaker, Jack T.*
Mackey, Jesse M., Jr.
Mackin, John J.*
Mackin, Patrick C.
Madel, Robert W.*
Magyar, David J.
Maher, Dennis E.
Mahoney, Dennis P.
Mahumed, Karl A.*
Maiden, Jesse J.*
Maillefert, Christopher W.
Major, Denny K.
Mallett, Paul D.
Malmborg, Charles L.*
Malone, Michael J.
Maloof, James M.
Mann, Edward F., Jr.*
Manni, Kenneth L.
Manning, James R.*
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Mantei, Robert W.
Markley, Stephen A.
Marksbury, Johnsten L.
Markwell, Gregory A.
Marquart, Phillip G., III
Marquis, Richard L.
Marsh, James G.*
Marshall, Harold E.
Marshall, John K., II*
Martin, Kenneth W.*
Martin, Thomas J.*
Martin, William C.
Marvil, Stephen P.*
Masden, Ward B., Jr.*
Mathison, Neil G.
Matthew, Henry F.
Matthews, William C.*
Maxwell, Peter N.
Mayes, Larry J.
McAdoo, Richard A.*
McCaffery, Francis, J.*
McCauley, William C.
McClain, Calvin P., Jr.
McCleskey, Franklin D.
McClung, Roger W.
McClure, Robert J.*
McCluskey, Richard J.
McCollough, James M.
McCowan, Kenneth E.*
McCrory, Kenneth L.
McCullom, Hugh J.
McCune, Michael O.
McCurry, Robert A.
McDonough, Edward C.*
McDow, William L.
McEwen, Gary B.
McFarland, Thomas B.

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McKinney, Arlie B., III
McKinney, Dana B.
McLaughlin, William T.*
McLemore, Robert S.
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McMaster, Timothy R.*
McMullen, Keith W.*
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Meade, Martin C.*
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Merrow, Richard A.
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Moeller, Robert L., Jr.
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O'Hora, James R.
Older, Clinton D.*
O'Leary, Cornelius F.*
Oliver, Timothy W.
Olson, Michael D.
O'Neil, John E., Jr.
O'Neil, Michael W.*
O'Neil, Patrick W.
O'Osterman, Carl H.
Orr, William D.
O'Shiro, Neal H.*
Overbeck, Gregg R.
Overheim, David C.
Owen, Donald G.
Owen, Robert D.
Owendoff, Robert S.*
Owens, Richard L.**
Paddenburg, John A., Jr.
Paddock, James R.
Padgett, John B., III
Padgett, Phil B., II*
Panchura, Michael J., Jr.*
Papenhausen, David W.*
Parda, Nelson R.*
Parker, Charles V.
Parker, Jimmy W.*
Parks, William H., Jr.
Parr, John M.
Parsons, Hugh P.
Pascoe, Donald B.*
Patterson, Donald J., Jr.
Patterson, John B.
Patterson, Paul L.
Patterson, Thomas L.
Pattison, Pat H.
Patton, John C.*
Pavlock, August T.
Pawlowski, Stanley W.
Payne, Richard E.*
Pear, Willard F.*
Pearson, James A.*
Pearson, Ronald S.*
Pease, Kenedell M., Jr.*
Peck, David L.
Peck, Robert L.
Pegden, Burl R.*
Peloquin, Peter J.*
Perrault, Michael E.*
Perry, William S.*
Pesar, James A.
Peterson, Craig A.
Peterson, James C.
Peterson, Walter H.*
Petrocelli, Eugene D.
Petruska, Andrew M., III
Phillips, Charles D.
Pickavance, William W., Jr.*
Pierman, David C.*
Pike, Gerald A.
Pillion, Thomas J., Jr.
Pitman, Ronald J.
Plank, George E.
Plowman, Michael J.
Plummer, Rudy E.
Plunkett, Albert A.
Plyler, Conrad A., Jr.
Ponessa, Alfred E.*
Pool, James A.
Porter, James R.
Porter, Joel*
Post, Howard A.*
Powell, Darrell R.*
Powell, David L.
Powell, John T., Jr.*
Prevost, John J.
Prewett, John R.*
Price, John D.
Priscilla, Ronald J.*
Proses, William A.
Pruett, William G.
Punches, Jeffrey N.*
Purnell, Richard H.*
Putnam, Frank W.*
Quennoz, Stephen M.
Rachor, Robert L., Jr.
Rafter, Charles J.
Rainsberger, David B.
Ralston, Gary G.
Randall, Barry T.
Rank, Joseph S.
Ray, David C.
Raynes, Gerald E.
Reading, Leslie J.
Recame, Bartholomew, Jr.
Rector, Jack B., Jr.
Redditt, Richard W.
Refo, Ian B.
Regan, Joseph M., Jr.
Regener, Donald F.
Reglein, Thomas A.
Reid, James A.
Reif, Gordon C., Jr.
Reinhard, William H. III
Reinheimer, Richard*
Renfree, Peter R.
Renzelman, Ralph F., Jr.
Resavage, Roy D.
Reynerson, Donald M.
Reynolds, Gary A.
Rhine, Loran E.
Rhoades, Richard J.
Rhodes, George S.
Rhodes, Gregory K.
Ribaudo, Nicholas R.*
Rice, Arleigh H., Jr.*
Richards, Nicholas L.
Richards, Richard N.
Richardson, Arthur L., II *
Richardson, Frederick K.
Richardson, Harmond B., III*
Richardson, Paul F.*
Richman, John P.*
Rickman, Gary L.*
Riddile, Andrew S.
Riegel, Michael G.
Riera, Robert E. Jr.
Ries Stephen H.*
Rieve Robert M.*
Riffer William J.*
Riffle Donald L.*
Riley Benjamin P., III
Riley, David G.
Riley, Stephen E.
Rinn, Paul X.
Riordan, Stephen J., Jr.
Rios, Trinidad, Jr.
Rioux, Michael F.
Rish, Edward C.*
Ristorcelli, Charles T.*
Ritzert, Bernard U., Jr.
Robbins, Edward F.
Robbins, Richard A.
Robbins, Spencer E., II*
Roberds, Darryel L.*
Roberts, John D., Jr.
Roberts, William S.
Robertson, Michael D.*
Robinson, Edward S. Jr.*
Robinson, Michael D.*
Rodman, Wright N.*
Roeder, John A.
Rogers, Herman A.
Rogers, Michael W.*
Rogers, Thomas W.
Roosa, Roger K.
Roper, Daniel C.
Rose, John M.*
Rosenberg, Jeremy C.
Rossbach, Christopher, H.
Rossiter, William K.
Rotzler, Frederic
Rouse, Fred L.*
Rowe, Richard R.
Rowley, Dennis J.*
Ruch, William L., III*
Rucker, Joseph T.*
Rudolph, Dieter K.
Ruskosky, Gale A.
Russell, Donald F.*
Russell, Houston R., Jr.
Ruth, Michael A.*
Rutledge, Wesley N.
Sabadie, Patrick A.*
Sablowski, Michael R.
Salm, Paul R.
Samms, Floyd T., Jr.
Sams, John L.
Sanborn, David L.
Sanders, William H., Jr.
Sandoz, Patrick A.*
Sands, Jack H., Jr.*
Sandweg, Robert F.
Santoro, Michael A.*
Saraniero, Michael A.
Sauntry, Thomas F.
Sautter, Frederick R., Jr.*
Savory, John R.
Scanlon, Edward C., Jr.
Schadegg, Lawrence M.
Schaefer, Charles A.
Schantz, Curtiss W., Jr.*
Schaubel, Raymond C.
Schenck, Robert V.
Scherf, Paul H., Jr.
Schiffelbian, Alexander L.
Schill, Jerome E.
Schmersal, Christopher J., III
Schmitt, Robert L.
Schmidt, Robert S.
Schneider, Daniel H.*
Schneider, Jeremy T.
Schramm, Donald A.
Schreiber, Robert A.*
Schuhl, James C.
Schwarzenbach, William V.
Schwier, Edward G.
Sciabarra, Joseph P.*
Scott, Dwight F.
Scott, Lawrence W.
Scott, Richard F.*
Sears, Robert J.
Shafer, Kenneth W.,
Shaffar, James L.
Sharer, Kevin W.
Shaut, Earl W.
Shaw, William R.
Shelton, Thomas L.
Sherrange, Daniel T.
Shields, Joseph C.**
Shook, Richard M.*
Shores, Leonard M. Jr.
Shotts, William E.
Shoudy, Peter N.
Showers, Michael J.*
Shullo, Philip F. Jr.*
Shultz, John W., III
Shuster, Don B., Jr.
Sidner, Robert W. Jr.*
Sieja, Donald S.
Siemon, Douglas H.
Sigler, Daniel A.
Sikes, Joseph K.*
Siler, Virgil R.
Sim, Richard W.
Simmons, David F.*
Simmons, Edward J.
Simms, Allan J.
Simpson, Rogert G.
Simril, Robert T.
Sisley, William R., Jr.
Sjostrom, Nils A.
Skaw, Larry R.
Skiles, Rolland W.
Slaght, Kenneth D.
Slattery, Michael G.*
Slebos, Christian G.*
Slein, Michael J.*
Sloan, Andrew K.*
Slocum, Walter S.
Slocum, Winfield S., IV
Small, Warren E.
Smith, Donald E.*
Smith, Donald W.
Smith, Edward A., Jr.*
Smith, Gordon C., II*
Smith, Gordon K.*
Smith, Jack R.*
Smith, John V., Jr.
Smith, Kenneth L.
Smith, Michael T.
Smith, Peter R.*
Smith, Stephen E.*
Smith, Steven C.
Smith, Thomas H., Jr.
Smith, William H.*
Smith, William M.
Smyth, Paul T.
Snoddy, Donald E.
Solberg, James L.
Solin, John J.
Solymossy, Joseph M.*
Soo, Robert L.
Sottile, George V.
South, Brian J.
Southgate, Gregg V.*
Southworth, David M.*
Souza, Philip E., III
Sowa, Edward S., Jr.*
Spaeth, Warren T., Jr.*
Spahr, Bradley W.
Spahr, Otto W., III
Speed, William G., Jr.*
Spenser, Kenneth V.
Spillman, James C.
Spires, Nelson L.
Spolarich, Martin M., Jr.
Sprey Douglas*
Stahl, Lawrence O.
Staley, Miles M.*
Stample, Lawrence E., Jr.
Stanek, Francis J.*
Stanga, Robert D., Jr.
Stansel, Michael J.
Stark, Rodney, L.
Starnes, William H.*
Startt, Thomas L.*
Statskey, Paul R.*
Stebbings, Stuart K.
Stecher, Brian E.
Steere, David C.*
Stehle, Charles D.*
Steidle, Craig E.*
Stein, Eric A.*
Steshko, William N. Jr.
Steussy, James M.*
Stevens, James D.
Stevens, William E.*
Stewart, Gordon G.
Stewart, Robert E.
Stewart, Wilton R.
Stieglitz, William H.
Stine, Emmett W., Jr.
Stoll, Ralph H.
Storm, Gary A.*
Story, Alfred D.
Stow, Richard L.
Strausbaugh, Wayne L.*
Strauss, John H.
Strawn, Gary W.*
Strickland, Edward, IV
Strother, Dennis E.*
Stubblefield, Gary L.
Stubbs, Gary W.
Stutzman, Gary D.*
Suberly, Roy H., Jr.
Suhr, James W.
Suldo, Michael R.
Sullivan, Edward J., Jr.*
Sullivan, Joseph E.*
Sutton, Harry W.
Sutton, William G.
Swafford, Thomas L.
Swanson, James E.
Sweatt, William M., Jr.*
Swift, David A.
Sykes, William G.
Taggart, John L., Jr.
Tamulevich, Carl J.*
Tande, Ludvig K.
Tauscher, John F., III
Taylor, Norman R.*
Taylor, Richard F.*
Taylor, Russell M., II
Tea, Max R.*
Teetz, William R.
Tempel, Billie L.
Terrell, Lyndon T.
Thacker, Richard L.
Thacker, Vester I., Jr.
Thomas, George G.
Thomas, H. Clay, III*
Thomas, Jon M.
Thomas, Raymond E.
Thompson, Charles D.
Thompson, Gary R.*
Thomsen, Leon F.
Thorkilson, Howard N.
Thorsen, Timothy L.
Tillotson, Kenneth D.*
Timberlake, William A.
Tippett, Donald D.
Tippett, Terry L.*
Tirrell, William B.*
Tkach, Michael J.*
Todd, James M.*
Todd, William T.
Tolhurst, Robert A., Jr.
Tollefson, Michael R.*
Tomlinson, Jack E.*
Trainor, William G.
Traughber, Thomas P.
Trethewey, Thomas G.
Tripp, Robert E.*
Trudell, Thomas A.*
Tuck, William D., II*
Tulchin, Benjamin D.
Tull, Carl A.
Turner, Archie A., III
Turner, Douglas K.
Turunen, Robert L.
Tyler, Henry D.*
Uhlenkott, Gary W.*
Umbarger, Ray M.
Urmston, John D., Jr.
Utegaard, Thomas E.
Vanasdlen, David L.*
Vanderberg, Mark T.
Vandevender, John A.
Vanhorn, Gary R.
Vanvlack, Charles H.
Vice, Larry W.*

Footnotes at end of article.

Vincelette, Paul L.
Vinson, Robert K.*
Violette, Richard G.
Vivoli, John B.
Vosseler, Paul K. A.
Vosseteig, Craig E.
Vtipil, Donald S.*
Wade, Jack M.
Waldbeesser, Terry W.
Walker, Ronnie E.
Walker, William L.
Wall, John R.*
Wallace, David W.*
Wallace, Donald S.*
Wallace, James Y., III
Wallace, Richard T.
Walsh, Neil P.*
Walters, Lynford S., III
Wanner, Terry S.
Warburton, Frederick T., Jr.*
Ward, Clement H.
Warren, David F.
Warren, John W.
Wassel, Ronald A.*
Waterman, Bradford B., III*
Waters, Lance A.
Watson, Anthony J.
Watson, Jerry C.*
Watters, Paul A.
Watts, Harry F., Jr.*
Weber, Charles L., Jr.*
Weber, Ronald B.
Webster, Donald R.
Weigand, Karl R., Jr.*
Weisberg, Neal W.
Weiss, Donald A.*
Weiss, Douglas L.
Weller, Ronald E.
Wells, Eugene A.*
Wells, Robert R.
Westray, Richard H.
Whaley, Glenn R.
Wheat, Luther W.*
Whitco, Denis J.*
White, James B.
White, Robert D.
White, Thomas W.*
Whiteway, Roger N.
Whiting, Geoffrey A.
Whitney, David M.
Whiton, Harry W.*
Wicklander, Edwin R., Jr.*
Wight, Terry M.
Wilcox, Ronald J.
Wilde, Michael K.
Wildermuth, Ronald E.
Wilhelm, Richard J.
Williams, John C.
Williams, John F.
Williams, Kenneth L.*
Williams, Pharis E.
Williams, Robert J.
Williams, Robert R.*
Williamson, Paul B.
Wilson, George M.
Wilson, Herbert M.
Wilson, Jay R.
Wilson, Robert L., Jr.
Wilson, Samuel E., III
Wilson, Thomas R.
Wilt, Thornton W., Jr.*
Wiltzius, Lawrence N., Jr.*
Winchell, Donald L., Jr.
Windeguth, Richard B.
Wolfe, Charles D.
Wood, Bruce K.
Wood, Gregory J.*
Wood, Scott A.*
Woodman, William D.*
Woods, Bennett R., Jr.
Wooley, Millard J.
Woolston, Peter C.*
Woomer, Charles W., III
Wooten, Charles E.
Wray, Donald M.*
Wright, Gary E.*
Wright, Jay L.*
Wright, John T.*
Wright, Sherman E., Jr.*
Wright, Thomas B., Jr.
Wright, William E., Jr.
Wyatt, Randall E.*
Wyckoff, William W., II
Wynne, Harold B.*
Yankolonis, Barry L.*
Yatras, Dennis A.
Young, James A.*
Young, William K.
Yount, George R.
Zavadil, John L.*
Ziemer, Robert T.
Zinser, Harry J.
Zorbach, Gregory M.
Zuniga, Fred J.
Zweerink, James E.

The following-named women lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Abruzzo, Dianne M.
Anderson, Mary F.
Brown, Cecilia M.*
Butler, Shannon R.
Cook, Kathleen C.*
Cowan, Patricia A.
Donnelly, Rachelle A.
Engelhardt, Sandra L.
Ford, Carolyn S.
Funkhouser, Lenore M.
Gauthier, Elaine A.
Hatch, Marilyn J.*
Herbst, Michael A.
Holloway, Kathleen G.
Katschke, Mary L.*
Krohne, Kathleen A.
Lloyd, Connie L.
Manning, Lorraine F.
Matheson, Eleanor S.*
Matthews, Victoria S.
McAuley, Janet M.
McCasland, Mary A.
McGalin, Janice G.
Morrison, Elizabeth L.
Perry, Janet M.
Pinkney, Sandra L.
Pope, Diane J.*
Rosenthal, Nikki L.
Stevens, Marjory M.
Stewart, Jane L.
Tate, Betty J.
Winters, Margaret L.
Youngstrom, Judith J.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy for temporary promotion to the grade of commander in the staff corps, pursuant to title 10, United States Code, section 5793, subject to qualification therefor as provided by law:

DENTAL CORPS

Anderson, Joseph H.
Arnold, James D.
Burkey, Richard W.
Butler, Lee M.
Campbell, Larry G.
Cochran, Michael A.
Davis, Melvin L.
Eckstein, Robert E.
Ferguson, Charles D.
Fleming, James G.
Funk, Edward A.
Gartner, Richard R., Jr.
Gear, Robert D.
Glass, Ernest G.
Grantham, Gary B.
Harring, Ronald F.
House, Ronald C.
Hwang, William S.
Johnson, Jerry K.
Jones, Harold L.
Keller, John J.
Krueger, Frederic
Lauth, Dennis W.
Matheson, John D.
Mellonig, James T.
Nettelhorst, Ralph E.
Neuner, Robert F.
Tooker, Darrell T.
Tremann, Charles F.
Vosskuhler, Robert J.

The following named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the various staff corps as indicated, pursuant to title 10, United States Code, sections 5793 (Medical and Dental Corps) and 5773 (other staff corps), subject to qualification therefor as provided by law:

MEDICAL CORPS

Allen, Hoyt E.
Berryhill, Richard E.
Clayton, Robert M., Jr.
Davis, John M.
Ebbeling, William L.
Florey, James B.
Gerrie, Marshall J., Jr.
Gessler, James A.
Gillespie, Cameron A.
Gilliard, Lawrence M.
Hedges, John C.
Hofmann, Robert F.
Howard, Douglas C.
Hutton, Patrick M. J.
Knapp, Foster A.
Kopp, James R.
Lapenta, Michael J.
McBride, Jeffrey P.
McNichols, Kennard D.
Meyer, Vern E.
Ober, Vincent H., Jr.
Page, William R.
Reader, August L., III
Robb, Geoffrey L.
Schneider, Jonathan A.
Sessions, William H.
Snyder, David A.
Sutphin, John E., Jr.
Tate, Emmett L.
Vilches, Napoleon O.
Wagner, Glenn N.
Werner, Kurt E.
Williams, John H.

SUPPLY CORPS

Aaronson, Brian D.
Allen, Randall C.*
Andrew, Michael R.
Bailey, John R.**
Basso, Joseph M.
Benecke, Jay R. O.*
Boas, Raymond A.*
Bobulinski, Robert A.
Bogard, James M.
Bohm, Dwight K.
Bonna, Ralph A.
Brown, Phil J.
Carbone, James, Jr.
Cohen, Jay M.
Coker, Norman L.
Cole, Anthony L.
Conner, James R.*
Culver, Joseph E.*
Cunningham, Lawrence M.*
Dashiell, Robert G.*
Davenport, Bill T., Jr.*
Derrico, Michael T.*
Dorries, Robert A.*
Drum, Eugene R.*
Dunn, Christopher A.*
Dupree, Daniel M.
Durnan, Robert E.
Ewing, Richard A.**
Forde, Duane L.
Forney, Robert A.
Gannon, Thomas C.
Gedney, John W.
Gernentz, Thomas J.
Gilbert, Robert R.
Gonick, Timothy J.*
Gould, Jeffrey P.
Graf, Albert J. III*
Gray, David B.
Griffin, Roland L.
Griswold, Raymond B.
Guyer, Dean C.
Hargrave, Bevard E.
Harris, John W.
Harris, Robert E.
Hayes, Edward F., Jr.*
Hayward, Daniel S.
Helgerson, Philip A.
Herbst, Howard P.
Hetherington, Jerry F.
Hickman, William A.*
Hill, Ronald L.
Hofmann, Arnold R.
Hooth, Michael D.
Horstman, Donald M.**
Huban, George H., Jr.*
Janssen, Clark J.*
Johnson, Delmont S.*
Johnson, Ronald T.
Jones, Joseph M., Jr.
Kalapos, Michael L.
Karns, Larry N.
Kelley, Joseph P.*
Kelly, Thomas A.*
Kesselring, Steven D.*
Kimball, Daniel W.*
Kline, Jack C.*
Knight, Robert C., Jr.*
Krupp, Robert J.*
Landerkin, Edward J.
Leonard, Robert P.
Lewis, Albert M.*
Lippert, Keith W.
Maguire, Benedict J.
Malone, John M.*
Matthews, John C.
McKeithan, Timothy S.
McNutt, Jerry W.*
McWherter, Marvin E.
Meeker, Richard S.
Mercogliano, Anthony
Miller, Michael J.*
Minton, David S.
Morrisey, Daniel P.
Moser, Daniel E., Jr.*
Moser, Paul D.
Neeb, John G.*
Oberman, Marvin D.*
O'Neal, Floyd W.**
Owens, James D.*
Palanuk, Joseph L.
Parry, Dennis S.
Pearce, Richard L.*
Petersen, Gary R.
Pingel, Richard D.
Poole, Francis X.*
Pretulak, Ronald T.*
Qualls, David W.*
Rawlings, David G.
Reed, Ernest T.
Richmond, Robert H.*
Rieve, Roy C.
Rivers, Charles S., Jr.*
Roach, Leonard T.
Roper, Darcy W., III
Rutledge, Michael R.
Schaedel, John G.
Schildwachter, Martin J.*
Schmitt, Michael K.
Shepherd, Robert M., Jr.*
Smith, Stephan L.
Stewart, Edmund H., Jr.
Straight, Ronald L.,*
Taylor, Charles F., Jr.*
Theiss, Girard P.*
Twomey, Kevin M.
Vanauken, Pierce R., Jr.
Vellis, John D., II *
Verbic, Alan R.
Waldrop, Charles P.
Ward, Paul D.
Wurzel, Thomas E.
Woodward, George G., Jr.
Zawadzki, Raymond S.
Zeiler, Robert W., III*

CHAPLAIN CORPS

Craycraft, John D.
Fitzgerald, John L.**
Flick, Richard H.
Gilbert, Leroy
Halley, Michael D.**
Hill, Robert S., Jr.
Kemper, John E.**
Manning, Robert J.*
Mattie, Richard M.
Sharpe, Jack L.
Smith, Victor H.

CIVIL ENGINEER CORPS

Allen, Charles E.
Bechard, Thomas P.
Britt, William B.
Bruckner, William L., Jr.
Burns, Dennis R. J.*
Collins, John P.
Corsano, Arthur
Cosgrove, Donald M.
Delker, James L.
Dempsey, John G.*
Dempsey, Richard M.
Devescovi, Daniel J.*
Duke, Jonathan B.
Ellis, Howard D.*
Faunce, John R.
Givens, Larry R.*
Guild, Christopher J.*
Gunn, Thomas E.*
Hagge, Thomas M.**
Hein, Gary W.
Holen, Douglas J.
Huguelet, Thomas L.
Johnson, James K.
Kaleba, Frank J.
Kannegieser, Andrew A.*
Keith, Donald R.**
Kovalcik, James P.*
Martz, Stephen J.
McNeil, Oscar N., Jr.
Messick, Frederick S., Jr.*
Neibert, Jerry S.
Penell, Joseph C.*
Pollard, Charles H., Jr.
Pringle, Alec T.
Puncke, Frederick D., Jr.
Rampe, Thomas R.*
Reichmuth, William E., III
Rispoli, James A.
Saltoun, Sammy*
Schramer, Mathias C., III*
Shultz, Robert L.
Sims, John G., III
Spencer, John E.
Stevens, David L.*
Szutenbach, Lawrence**
Tanner, Thomas J.
Tzavaras, George N.
Vogel, Kenneth*

DENTAL CORPS

Andrews, Paul A.
Bamberger, Lawrence J.
Barna, Gerard J.
Berude, John A.
Breuleux, Philip S.
Caron, John V.
Cave, Robert S.
Creal, Albert F.
Currier, James L.
Delany, Gael M.
Dembinski, Thomas H., II**
Dizinno, William J.
Dziurdzik, Richard F.
Faull, Thomas W.
Fitzharris, Tim P.
Flatley, James P.
Freeman, George W.**
Goode, Robert K.
Hadley, Raymond B.
Harrison, Vernon P.
Hempel, Ronald P.
Hermann, Donald W.
Hey, Ernest G. A.
Judkins, James T.
Kippa, Terry L.
Kuhel, Raymond F.
Kvaska, Gregory J.
Lane, Jeff A.
Larson, Mark P.
Lockwood, Jeffrey L.
Lutskus, Joseph H.
Marshall, Edward C.
Mason, John D.
Massler, Charles F.
McCall, Robert W.**
Mitchell, Douglas E.
Mullen, Michael P.
Nelson, Gregory G.
Quintero, George
Ralls, Stephen A.
Roahen, James O.
Root, Douglas A.
Rounsaville, George A.
Schindles, Bruce W.
Simpson, James W.
Spillman, Kent J.
Walton, Martin L., III
Watto, Terrence L.

Footnotes at end of article.

Weaver, Carl C.
Weeda, Lawrence W.
Westover, Bruce E.
Whitehouse, Michael J.
Zambon, Joseph J.

JUDGE ADVOCATE GENERAL'S CORPS

Abbate, Guy R., Jr.
Babington, William R., Jr.
Barrett, Danny P.*
Beachy, Ronald J.
Beall, Bradley S.
Bowman, Marion E.
Brown, Richard S.*
Carroll, Steven J.**
Clifford, William J.
Dombroski, John E.**
Drukker, William R.**
Finch, Milton D.
Fortino, Paul T.
Froman, Floyd D.
Grant, William F., Jr.
Hill, Donal M.*
Hinckley, Robert C.
Kusiak, Patrick J.*
Mandsager, Dennis L.
McCall, Thomas W. L., Jr.**
McCracken, Joseph B.
McPartlin, Paul E.
Mitchell, Thomas W. Jr.
Monteith, Richard A.
Morrison, Thomas A.
O'Connor, Phillip P., Jr.**
Ottie, Frederick N.**
Reeber, Christopher J.*
Scully, John J.
Seiders, Marlin D., Jr.*
Showalter, John S.**
Smith, Ronald S.
Stonier, James J.**
Thompson, Paul B.*
Trask, Gordon W., II

MEDICAL SERVICE CORPS

Adams, Robert W.**
Aliff, William R.**
Apgar, Richard R.
Baker, Charles W.**
Baltimore, Daniel L.
Beach, Larry L.
Beasley, William J.
Benson, Milton J.**
Bolton, Herbert T.
Boyce, Richard**
Brennan, Edward C.
Casper, Arthur W., Jr.
Chapman, Raymond N., Jr.*
Christiansen, Richard A.
Collins, Jimmy R.**
Contreras, Thomas J., Jr.
Davis, Leslie A.**
Debell, Robert M.
Delviks, Uldis A.*
Ehrhardt, Douglas A.
Farnham, John B.**
Flor, William J.
Foro, Bradley R.**
Fraser, Llewellyn M.**
Ganz, Neal R.,
Gentry, Murray, Jr.*
Gerhard, John C., III**
Gibson, Robert W., Jr.
Gordon, Charles V., Jr.**
Greenfield, Donald E.**
Grisham, Onis H.**
Gross, Elizabeth S.**
Grout, Edward J., Jr.
Harris, William B.**
Helley, John A.**
Henderson, Charles, III
Hilderbrand, Richard L.
Kelley, David B.
Kelley, John P.
Knight, James D.**
Kubal, John L.**
Lambert, William J., Jr.*
Land Clarence E.**
Lane, Coy B.**
Lindsay, Richard J.**
Masterson, Francis W. Jr.**
McClintock, Thomas W., Jr.**
McKee, Roland E.**
McKenzie, Darrel D.
Monaghan, William P.
Mueller, Eric J., II
Mullins, Frank A., Jr.**
Ollenburg, Walter A.
Pakowski, Lawrence F.**
Parkansky, Ralph E.
Patee, Jerry C.
Petersen, Henrik V.**
Phillips, Harold E.
Pointer, Charles H., IV
Power, Danny E.
Prucino, Joseph F.**
Rand, Bruce P.
Renner, Vernon M.
Rittmeyer, Terry L.**
Roy, Robert T.**
Russnogle, Robert L.*
Ryder, Richard G.**
Sandall, Vernon P.**
Shibley, David R.**
Simmons, Larry O.**
Skurja, Michael, Jr.*
Sparks, Buddy T.**
Stefanyshyn, Andrew A.**
Waddington, Gregory.**
Walker, James R.
Welch, Richard R.**
Williamson, Robert L.**
Wilson, Don D.**
Wood, Charles M.
Zeman, Gary H.

NURSE CORPS

Anderson, Sandra V.
Ault, Sally B.
Beduhn, Michele A.
Biffar, Irene M.
Bloodworth, Maritha O.
Brake, Barbara D.
Cisneros, Thomas L.**
Craft, Donna L.
Cronin, Dorothy R.**
Dahlgren, Sarah S.
Deprima, Alicia G.
Edgar, Marilyn A.
Elliott, Iris A.
Feris, Michael L.
Figgins, David E.
Foster, Barbara J.*
Fuller, Gae M.**
Goetz, Mary E.
Gotch, Sandra A.**
Grant, Kristina M.
Hall, Mary K.*
Haskins, Carol C.**
Hess, Catherine P.
Hyatt, Carol S.
Jackson, Donna J.
James, Eva N.
Johnson, Joe H.
Jones, James E.**
Karrat, Victoria J.
Lanterman, Gail A.
Lewis, Shirley D.
Lukey, Frankie.**
McLaurin, Elizabeth A.**
Morris, Louise M.
Norton, Suzanne M.
Pattinson, Judith A.**
Peck, Edith D.
Peterson, Carol A.
Prather, Caren J.
Rowell, Margaret E.
Scheve, Lawrence G.
Smith, Kate I.
Snow, Sandra A.
Snyder, Gilbert C.
Spillane, Susan J.
Sturrock, John R.
Taylor, Mary N.
Thomas, Barbara J.**
Thomason, Janice K.
Underwood, Earma J.
Vonrump, David C.
Wooldridge, Robert T.

IN THE NAVY

The following-named ensigns of the U.S. Navy for permanent promotions to the grade of lieutenant (junior grade) in the line and staff corps, pursuant to title 10, United States Code, section 5788a, subject to qualification therefor as provided by law:

LINE

Amelon, Richard R.
Ament, Joseph W.
Ament, Marion D.
Anthes, Ernest S.
Antony, Edward T.
Archer, Paul L.
Atkins, Thomas B.
Atwood, Daniel L.
Baker, James M.
Banus, Markham D.
Barber, Nelson W.
Bary, Charlene A.
Baughman, Lynn D.
Bayma, Benjamin A., Jr.
Beatty, Florence E.
Beersdorf, Jerry W.
Beimborn, Susan M.
Benavidez, Ralph L., Jr.
Bender, Gregory L.
Beres, Dennis P.
Bewley, John M.
Black, Margaret A.
Blevins, Jerry L.
Bloom, John M.
Bloomer, James W., II
Boschert, Gregory H.
Boswell, James H.
Braisted, Stanley W.
Briley, Jo
Broadway, Michael W.
Brown, Janice R.
Brown, Robert C.
Bubula, Richard A.
Buck, Caryl E.
Burger, Rolf J.
Burgess, Leslie A.
Bushong, Anne L.
Butler, John D.
Cable, Larrie G.
Caddell, Marvin R.
Callier, Robert D.
Cameron, Wallace R., Jr.
Carlson, Craig D.
Carpenter, Edward J.
Carpenter, Timothy E.
Cassias, Jeffrey B.
Chaloupka, Joy L.
Clark, Frank N.
Clary, Michael D.
Cloyd, James D.
Cole, Walter B.
Coles, Bryan D.
Comer, Kenneth W.
Comi, Patrick M.
Cooke, Terrence A.,
Coullard, Mary V.
Coulter, Stephanie L.
Cowley, Kevin J.
Cowley, Robert E., III
Crawford, Billie E.
Crocker, Michael D.
Crow, David L.
Crowe, Richard C.
Cuaderes, Ricardo A.
Culver, David R.
Culver, Walter C.
Currier, Charles R.
Curry, Kenneth W.
Dalton, Jerry W.
Davidson, Gary R.
Davis, William T., Jr.
Day, Margaret E.
Debs, Brian T.
Denis, David A.
Denton, James S.
Devane, Benjamin L.
Deyke, Thomas M.
Dickason, Clarence W., Jr.
Dillow, Robert G.
Dilmore, William D., Jr.
Ditewig, William T.
Dixie, Wilmer B.
Douglas, Rex R.
Downing, Julie A.
Duncan, James L.
Duncan, Ralph E.
Dupaul, Gilbert A.
Dyer, Lawrence C.
Edwards, Kenneth R.
Egbert, Jean L.
Evans, John D.
Ewing, Ronald J.
Farver, Mary
Fellows, Larry A.
Fenzl, David P.
Ferris, Joyce M.
Field, John G.
Flammang, Harold J., Jr.
Flynn, John E.
Foley, Patrick J.
Fonnesbeck, Robert W.
Ford, William A.
Foster, John I., III
Foureman, Ariadna R.
Fowler, Harold E., Jr.
Fricton, Robert K.
Fursman, Thomas M.
Gahran, Brian H.
Gates, Gregory F.
Genereux, Donald E.
Gertz, Dwight L.
Giesey, William C.
Gilchrist, Lorri P.
Gillespie, Richard D.
Gilliland, Manuel A.
Gilmore, James R.
Gilson, Robert L.
Gimma, Joseph A., Jr.
Gladden, Riley J.
Graf, Joseph G.
Graham, Sheila A.
Grant, Michael C.
Granucci, Richard A.
Grause, Jerome E., Jr.
Graves, William B.
Green, Norman K., Jr.
Guenther, Siegfried
Gullick, Jerry W.
Guth, James D.
Haas, James E.
Haas, Robert C.
Haefner, Gregory G.
Hagin, James M.
Hales, Randolph F.
Hambrock, Paul E.
Hanrahan, John M., Jr
Hansen, Cindy A.
Hardy, Thomas E.
Harrell, Ronald R., Jr.
Harris, Ernest A., Jr.
Hayden, Ernest N.
Hays, Charles E.
Heard, Maurice E., III
Heffley, John M.
Helsell, Peter F.
Henry, Candyce S.
Hessey, John H. V.
Hillier, David G.
Hirabayashi, Donna M.
Holloway, Stanley J.
Holmes, Douglass M.
Hopkins, Arni T.
Howard, Andrew J.
Hutcheson, Chester J., III
Jackson, Andrew E.
Jaap, Joseph B.
Jagoe, Donald A.
Jahnke, Larry D.
Jenkins, Robert E.
Johnson, Darrell J.
Johnson, Douglas A.
Johnson, Kirk E.
Johnson, Ralph B.
Johnson, Richard A.
Johnson, Warren H.
Johnson, William W.
Jones, James O.
Jones, Richard L.
Jones, Ronald E.
Jones, Steven A.
Jones, Thomas D.
Kaeser, Dana S.
Keeley, James J.
Keene, Donald L.
Kelly, Scott H.
Kent, Tycho L.
Knapp, David A.
Kruschke, Dale E.
Kruse, Marcia A.
Kuehnle, Donald W.
Labaw, Richard A., Jr.
Landis, Kerry D.
Langford, John D., Jr.
Langley, Conrad A., Jr.
Larrabee, Robert A., Jr.
Larson, Kathleen E.
Larue, James W.
Lavigne, Barry A.
Lawrence, Ronald J.
Leghart, Martin J., Sr.
Leighty, Melinda J.
Levedahl, William K.
Lindamood, Edgar V.
Lisak, Keith S.
Lisota, Gary
Liss, Stanley M.
Locke, Rodney M.
Luoma, Stephen R.
Lutes, Frank A.
Luther, Ronald J.
Lynch, Anne Manion, Mark M.
Marks, Harry E.
Martin, Clifton C., Jr.
Martin, Edwin H., Jr.
Martin, Richard L., Jr.
Masden, Joseph T.
Matheny, Leonard R.
Mathison, Robert C.
Maurer, Michael L.
Maybaum, Susan C.
Mayhue, Frank M., III
McCannel, Gregory J.
McCauley, Karen L.
McClelland, Roger C.
McEwan, Llewellyn P.
McHugh, Robert J.
Menocal, Serafin G.
Messersmith, Roger J.
Metskas, Michael A.
Meyers, Michael J.
Miller, Donald R., Jr.
Miller, James J.
Miller, James R.
Miller, Michael C.
Miller, Ronad I.
Mills, James G.
Mingle, Leo L.
Mitchell, Michael P.
Morris, Joel L.
Morse, Ronal B.
Mosley, Harold, Jr.
Moss, Alice M.
Mueller, Robert D.
Murphy, Vincent L., Jr
Naumann, James W.
Neal, Thomas S.
Neff, James R.
Nelson, Howard K.
Newton, Wayne J.
Niland, John F., Jr.
Noonan, Ruth S.
Nowakowski, Michael P.
Oker, William R.
Olson, Carl D.
Opiz, Martin E.
Orouke, John T.
O'Shaughnessy, John L.
Paha, Edmund J.
Pannell, Thomas B.
Pappanfus, Patrick A.
Patterson, Robert F.
Paulewicz, Frank W., Jr.
Peyronel, Sharon A.
Phillips, Stephen W.
Pierce, Burt W.
Plato, Gayle J.
Plouse, Henry S.
Poulos, Terrence P.
Pratt, David L.
Pritchard, Nolie D., Jr.
Provenzano, Joseph G.
Pryjmak, Peter G.
Rantanen, Robert W.
Redmon, Danny R.
Rhinesmith, Gary R.
Ricketts, Steven D.
Rider, Maradee
Rindler, Mark S.
Rix, William H.
Robinson, William R.
Rocreleau, Karen D.
Rosenberg, Joan R.
Rossi, Thomas J.
Sales, Christopher A.
Sampson, Thomas N., II
Saunders, Charles C.
Schoultz, Robert P.
Schueneman, Frederick W.
Scott, David A.
Sharp, Michael A.
Sheffield, James W.
Sindlinger, William J.
Singer, Donald R.
Single, John M.
Sipe, Alan M.
Skurla, Dale G.
Smedberg, Richard A.
Smith, Billie L.
Smith, Norman K., II
Smith, Pamela A.
Sneed, Brandon M.
Sokolowski, John A.
Sondergaard, John M.
Spatafore, Gene A.
Stanley, William B.

*Ad Interim. Recess 16 December 1977 thru 19 January 1978.

**Interim. Recess 10 February thru 21 February 1978.

Starzy, Virginia L.
Stephenson, Richard D.
Stpierre, Larry
Streeter, Paul J.
Sullivan, Mark P.
Tesch, Thomas G.
Thompson, Judy H.
Thorn, David J.
Tillotson, Robert N.
Todd, James A.
Tournier, Johanne L.
Towne, James B.
Tracy, Robert E., Jr.
Trasoras, Edward C.
Turner, Dick W.
Uhal, Howard T.
Uhlig, Phillip C.
Vanderford, William D.
Vanduyne, George S., Jr.
Vannatter, Richard P.
Vittitoe, Barbara J.
Vollimer, Leo W., Jr.
Vonk, Martin J.
Walter, Ainslie B.
Watson, Judith A.
Wedoff, Steven D.
Weimer, John C.
Wells, William A.
West, Robert T.
White, Donald D.
Whyms, Michael L.
Wicks, James H., Jr.
Wiggers, Raymond P., Jr.
Wilken, Dennis R.
Wilson, Joseph D.
Withrow, John F.
Whittenberg, Charles F.
Worst, Terry J.
Wydler, Nancy K.
Yantis, Kathleen M.
Yeager, Merle E.
Zambrano, Steven P.
Zebrowski, Christine A.

SUPPLY CORPS

Apple, Chris L.
Appelquist, James S.
Ballard, Susan W.
Benson, Nanette E.
Bente, John T.
Bristow, William D.
Brooks, Stephen B.
Brown, Gregory A.
Burns, Shirley J.
Corbitt, John C.
Dixon, Jeffery A.
Easton, Gregory B.
Fargo, Keith B.
Finney, Thomas G.
Flanagan, Patrick J.
Graham, John M.
Quion, Stephen W.
Hartman, Douglas M.
Hendrickson, Robert C., III
Hess, Donald W.
Higgins, Guy M., Jr.
Holcomb, Carl D.
Huntress, Diana E.
Johnson, Michael D.
Kiggins, Richard A.
Kokosinski, Mark E.
Maguire, William J.
McGarrett, William J.
Mondiek, David A.
Morgan, Everett M.
Munson, Timothy O.
O'Connor, Vincent T.
Oller, Arthur G.
Russell, Robert M.
Ryan, John F., Jr.
Siebenschuh, Frederick R.
Simcich, Michael A.
Sperry, Charles K.
Stanton, Marjorie J.
Stephens, Thomas L.
Stroupe, John B.
Townsend, Paul J., III
Westlake, Edward L.
Winstead, William G.
Tomlin, Henry B., III
Watson, Peter W.
Williams, John A., Jr.

CIVIL ENGINEER CORPS

Bertsche, Arnold E.
Curd, Andrew T.
Knudson, Danel F., Jr.
Ross, Steven R.
Carver, Gary F.
Frey, Kenneth P.
Ludwig, Kurt J.
Titus, George H.

MEDICAL SERVICE CORPS

Bosshard, Nancy L.
Gregory, Gary D.
Stein, Cynthia A.
Williams, Peter N.
Dillingham, Joe G.
Hart, Gene D.
Walsh, Richard J.

NURSE CORPS

Butzow, Robert E.
Felix, Kate G.
Pasbrig, Catherine P.
Dixon, John A.
Kelly, Marie E.
Rusnak, Diane L.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotions to the grade of lieutenant in the line and staff corps, pursuant to title 10, United States Code, section 5769 and 5773, subject to qualification therefor as provided by law:

LINE

Jury, Jayson L.
McBarnette, Curtis W.
Lumsden, John C., Jr.
Skjoldager, Jack O.

SUPPLY CORPS

Foster, Robert L.

IN THE NAVY

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Ronald L. Aasland
Carl H. Abelein
Thomas S. Abernethy
John J. Aclin, Jr.
Vance H. Adams
Jack B. Adolph
Donald W. Aiken, Jr.
John M. Alford III
Thomas S. Algeo
Joseph A. Alvite
John M. Amicarella
James K. Andersen
John P. Anderson
Richard D. Anderson
Steven P. Anderson
Joseph T. Arcano, Jr.
Gregory F. Atchison
Brett D. Ayotte
David A. Babcock
Robert E. Backus, Jr.
Steven W. Bacon
Bernard T. Boetzel
Alan T. Baker
David A. Balestrieri
George R. Ball
Ramon A. Baltera, Jr.
Richard R. Barth
Steven R. Bartie
Michael S. Basford
Kenneth C. Bates
Dale R. Batey
Charles G. Batt III
Howard S. Bayes, Jr.
Bradford H. Baylor
Daniel V. Bearss
William J. Beary, Jr.
Frank J. Behm
Charles B. Behrend
Charles W. Bell, Jr.
Vincent A. Bellezza
David G. Bennett
Keith L. Bennett
Thomas A. Bennett
John R. Benson
Dominick P. Berenato
Dirk E. Berry
Vance D. Berry, Jr.
Donald C. Beverlin
Glen R. Beyer
Corey D. Bickmore
George H. Billy
James F. Bland
Robley J. Blandford
James T. Bly
Richard J. Boehme, Jr.
Mark Stephen Boensel
Joel E. Bohlmann
Donald J. Boland
Bruce S. Bole
Thomas H. Bond
Damian J. Bonvouloir
Willard R. Bonwit, Jr.
Richard W. Borchardt
Norman B. Boster, Jr.
Charles C. Bourbouardez, Jr.
James E. Bowdoin
Kenneth D. Bowersox
John H. Bowling III
Raymond W. Bracy
Shaun G. Bradley
Stephen M. Bradley
Donald R. Brady
Philip P. Brady, Jr.
Stephen K. Brady
Leroy Bramlett
Bob A. Brauer
Philip C. Brennan
Dwight R. Brewer, II
Frederick T. Brink
Joseph C. Britain
Mark C. Broome
David A. Brown
David P. Brown
James W. Brown
Walter W. Brown II
Ronald W. Brownley
David W. Bruce
David G. Bruckwicki
Donald P. Brutzman
Barton D. Buechner
Otto P. Bulich
Mark F. Bunting
William L. Burger
Gregg M. Burgess
Christopher C. Burgin
William R. Burke
Scott H. Burns
Martin E. Bushika
David H. Buss
Craig R. Butcher
James L. Butler
Fred A. Butterfield III
James T. Byers
Eric R. Caldwell
Timothy P. Callahan
Alexander Callas
John L. Canaday
Daniel E. Cannan
Paul C. Carlson
Jeffrey D. Carpenter
John R. Carpenter
James M. Carr III
Bruce W. Carter
John S. Casey III
Anthony M. Cato
David L. Cawthra
Nelson M. Cayabyab
Richard E. Cellon
Russell M. Chang
Richard A. Chapman
Joseph D. Chartrand
Lon E. Chase
Gerald Chasko
James L. Cheever
Kevin R. Cheezum
Jack A. Chrisensen
David W. Christie
Louis R. Cirelli, Jr.
James P. Clager
Welling S. Clark
Michael R. Clendening
Jeffrey L. Clites
Robert J. Cloutier
Christopher J. Cobb
John P. Coffey
John T. Coffey
Darrell L. Cofsky
John E. Cohoon, Jr.
Kenneth C. Colby, Jr.
Charles N. Cone III
Earl M. Connally
Daniel R. Cook
William A. Cook
John G. Cooke
Stewart A. Copeland
Stephen J. Cornwell
Ralph R. Costanzo
Daniel J. Costello
John M. Costello
Jeff H. Cover
Craig H. Cowen
Daniel L. Cox
Clinton H. Cragg
Peter S. Craig
Stanley B. Crair
John E. Cramer
Bernard J. Cramp
James R. Cranford III
Terry Crawford
Michael D. Crisp
Thomas D. Crowley
Michael J. Crum
Andrew J. Cuca
Timothy J. Curry
John E. Curtis
Stephen P. Curtis
Jeffrey L. Daisher
Richard N. Daniel
Scott S. Darling
Christopher J. Davidson
Charles F. Dawson
John P. Day
Jay A. DeLoach
Charles R. Dedrickson II
James J. DeGree
Norman G. Dellinger
Lee D. Delony
Christopher J. DeMarche
George J. DeMarco
Jeffrey K. Dickman
William M. Dietzler
Craig M. Diffie
Donald G. Diggs
Vincent di Girolamo
Michael J. Dinn
Robert S. Dirickson
Loren C. Divers
Kevin C. Donlon
Murray S. Donovan
William Dooley
Barth W. Doroshuk
Timothy J. Dowding
Stephen B. Dowell, Jr.
Vachel P. Dowler
Martin A. Drake
Rickey L. Dubberly
Lee J. Ducharme
Thomas J. Dudley
Mack D. Duett
William E. Duggan
Michael J. Duncan
William M. Dunkin
Matthew G. Duranske
Michael A. Durnan
John D. Dwyer
Walter L. Easton
Scott R. Eckert
Kenneth J. Eckman
Jeffrey L. Eggleston
John F. Ehlers
Thomas D. Eldridge
Matthew P. Elias
Robert J. Engel
Dean A. Engelhardt
William P. Ervin
Rudolph N. Escher, Jr.
Corey D. Eskew
Gary J. Evans
Jefferson M. Ewin
David E. Eyler
Thomas M. Fabiani
Robert J. Fallon
Daniel R. Fanelli
Faris T. Farwell, Jr.
James W. Fee, Jr.
Robert P. Ferencsik
Mark E. Ferguson III
Jack E. Fernandez, Jr.
Stephen D. Ferree
Michael O. Fifer
James A. Fiorelli
Marcus J. Fisk
Joseph G. Fitzgerald
Donald D. Fitzsimmons
Kenneth E. Fladager II
Glenn Flanagan
Peter S. Flynn
Glenn A. Fogg
James K. Foley
Eric C. Forbes
Emmet D. Forbis
Jeffrey L. Fowler
Mark I. Fox
Padraic K. Fox
Michael C. Fralen
Donald S. Free
Anderson B. Funke
Alexander M. Fylak
James D. Gafford
Jeffrey L. Gagne
Stephen M. Gahan
Peter C. Gallati
Michael J. Galpin
Lawrence F. Galvin
Lee A. Gard
John G. Gardiner
Joseph A. Gattuso, Jr.
Bruce P. Gearey
John P. Gerety
Robert W. Gillett
George W. Giltzow
William J. Girrier
Ty J. Glasgow
Charles H. Goddard
Don W. Gold
Timothy P. Golden
Joel Gonzales
Alfred H. Gonzalez, Jr.
Clark B. Goodlett
Robert O. Goodman, Jr.
Timothy E. Goodwin
Gary L. Gordon
Russell J. Gordon
John T. Goree
Frederick A. Graf
Douglas D. Grau
Kenneth L. Greene
Cabell E. Greenwood
Arthur C. Griffin
Thomas L. Grodek
Christopher J. Grogan
Victor G. Guillory
Robert B. Gulley II
Michael J. Gurny
Robert H. Guy, Jr.
David E. Guza
Walter C. Haberland
Kenneth J. Halek
Henry D. Hall
Prentiss J. Hall
Don P. Hamblen
Earl K. Hamilton
Alan W. Hammond
David J. Hampshire
Allan R. Hanckel, Jr.
John A. Hancock
Cecil E. D. Haney
Timothy R. Hanley
William H. Hanna
Kevin M. Hannan
Norman T. Hansen
Jackson L. Hanson
Hugh M. Hardaway, Jr.
Timothy C. Hardin
Cale T. Haren
Michael H. Haring
Larry A. Harper
Thomas J. Harper
Harry B. Harris, Jr.
Charles M. Hartfelder
Chris G. Hartman
Christopher C. Hassler
Charles ... Hautau
John R. Hawk III
Lawrence M. Hayden
Kenneth G. Heffernan
Charles C. Hefren
David W. Heintzman
John G. Hemry
Edward S. Henkler
James W. Herbig
Gary K. Herrault
William P. Hession
Richard J. Hiel
Frederick A. Hilder, Jr.
Stephen E. Hinks
Alexander B. Hnarakis
Scott E. Hoffman
Michael J. Holden
Daniel P. Holloway, Jr.
John B. Hollyer
Stephen J. Holman
Timothy D. Holman
Daniel L. Holoubek
Richard A. Holzknecht
Mark W. Honeck
Stephen M. Hopkins
Mark E. Hoppe
Stephen R. Howell
Mark A. Hubal
Michael E. Huber
John A. Hueseman
James W. Hughes
Gordon K. Hunegs
Francis A. Hunt, Jr.
Charles B. Hunter, Jr.
Joseph E. Hynes II
David G. Ireland
Glen R. Ives
Stephen B. Jacoby
Mark W. James
Philip A. Jaquith
David G. Jenkins

Carl J. Jensen III
Christopher H. Jensen
Herbert G. Jensen, Jr.
Richard E. Jesmonth
Michael R. Johnson
Michael R. Johnston
Thomas A. Johnston
Charles W. Jones
James A. Jones, Jr.
Stephen E. Jones
Gregory A. Jubert
Randolph T. Kahn
Eric A. Kalisky
Michael L. Kalnoske
Edward F. Kamradt
James L. Kantner
Roger E. Kaplan
Andrew T. Karakos
Gerard L. Katilius
John V. Kauffman
Eddy D. Kee
Elton M. M. Kelley
Raymond P. Kempisty
Neil F. Kennedy
George W. Kersten
Daniel T. Keuhlen
William J. Kihn II
Lanny L. King
Marvin E. King
Steven D. Kinney
Brian E. Kirk
Frank A. Klepacki, Jr.
Leo L. Klikier
Stephen B. Kloppmann
John P. Klose
Jeffrey C. Knauer
Bobby L. Knight
Dennis L. Koehl
John K. Koljesky
Greogry C. Kolodziejczak
Alvin F. Kolpacke
Leif H. Konrad III
Stephen J. Koronka
James R. Koslow
George M. Koucheravy
John R. Kovalcik
Allan S. Kowadla
Michael J. Kozlarek
William H. Kramer
Warren S. Krull
Donald J. Ksiazek
John M. Kulesz
Donald A. Kuntz
John M. Kurowski
Jon B. Kutler
Henry J. Kuzma
Raymond R. Kwong
Stanley J. Labak
Wayne D. Lachowicz
John F. Lademan
Duane M. Lafont
Christopher J. Lagemann
William E. Landay III
Scott A. Langdon
William H. Larimore, Jr.
Scott L. Laser
Stephen B. Latta
David T. Lauriat
Thomas A. Lauzon
Kenneth M. Law
Charles T. Lawson
Michael S. Lax
Garv R. Leaman
Michael P. Leary
Horace M. Leavitt III
Rand D. LeBouvier
Charles J. Leidig, Jr
Daryl A. Lengel
Wayne W. Leong
Todd S. Lesh
William Levis
Michael C. Lewis
Kevin G. Liddy
Craig A. Lile
Sale T. Lilly III
Carl E. Lindstrand
Mark V. Lindstrom
John R. Link
James F. Lippard, Jr.
Bryan K. Livingston
James G. Loeffler
Gregory R. Long
Bruce A. Lord
Charles R. Love
Ronald M. Lovelace
Gary W. Lovgren
Richard S. Lowell
Frederick W. Lucci
Fafael V. Luvano II
Scott W. Lutterloh
Joseph M. Lynch
Kevin E. Lynch
Paul K. Lynch
Carl F. Lyon
John W. Lyver IV
William F. McAlpine
Jeffrey T. McCabe
Robert L. McCabe, Jr.
Michael E. McCaffrey
William D. McCain III
James P. McCann IV
James W. McClean
James R. McClelland
Sean K. McCloskey
Brian J. McCormack
Patrick J. McCormick
John F. McCourt
Michael H. McCrabb
Larry S. McCracken
Daniel D. McCready
Thomas F. McElwee
Michael A. McEntee
Glenn A. McGarvey
Michael B. McGee
Timothy J. McGee
Kevin G. McGhee
James T. McInerney
William O. McKeag
Scott A. McKee
Thomas L. McKeon
Duncan G. McLean
Thomas D. McLeod
Thomas M. McMahon
Robert L. McMasters
Thomas G. McNamee
Robert D. McNaughton
Ronald J. McNeal
Michael J. McNish
Michael J. Makowicz
Michael G. Malinick
Stephen E. Maloney
Gregory A. Mankey
Paul B. Mansfield
Mark C. Manthey
Guido A. Manzo
Bryon F. Marchant
John M. Marrinucci
Gregory J. Martin
John W. Martin, Jr.
Joseph R. Martin
Paul W. Martin
Tony G. Martin
William R. Martin, Jr.
Ricardo Martinez
Charles W. Martoglio
Dean R. Marzetta
Randall A. Masters
Michael G. Matacz
Peter F. Mathews
John M. Mathre
Christopher W. May
Floyd J. Meadows
David J. Mercer
Aris P. Metrakos
Douglas R. Meyer
John E. Miesner
Charles A. Miller III
Leon E. Miller
Mark C. Miller
Scot A. Miller
Thomas H. Miller, Jr.
Ray C. Milton
Steven R. Minnis
Raymond M. Miskowski
Lawrence D. Mizak
Arthur S. Mobley, Jr.
Richard A. Mohler
Paul E. Monaghan
Mark D. Mooney
Richard J. Mooney
Michael M. Moore
Daniel J. Mori
David W. Moris
David B. Morrison
Thomas W. Morse
Drew R. Mulhare
Mark A. Munson
Robert J. Myers
Mark S. Nault
Elmer J. Nelson, Jr.
Eric K. Nelson
Larry D. Newby
John F. Newcomb
Christopher T. Nichols
Charles G. Nickell
Frederick M. Nielsen
Andrew M. Nienhaus
David E. Nix
Kiel L. Norris
Morris L. Norton
Robert E. Novak, Jr.
Alfred S. J. Nugent III
Herbert J. Nyberg
Brent J. Obenour
Eugene T. O'Brien
Thomas O. O'Bryant, Jr.
John M. O'Dwyer
Daniel M. O'Keefe
James E. Oldham
Stephen M. Olechnowicz
Everett H. Oliver II
James D. Oliver III
Kevin R. Olsen
Larry B. Olsen
John A. O'Neil III
John C. Orzalli
George M. Oslovar
Dennis S. Otoshi
Donald K. Owen
John E. Painter
Steven S. Painter
Matthew S. Pasztalaniec
Stephen J. Paternoster
Michael G. Patton
Richard A. Paulsen
William B. Pearce, Jr.
Gregory W. Peet
Steven E. Petersen
John S. Peterson
Joseph C. Peterson, Jr.
Mark H. Peterson
Steven W. Petri
David L. Philman
Paul M. Pietsch
Renaldo P. Pili
John G. Plencner
Barry J. Pochron
Steven G. Podawiltz
James L. Pointer
Richard J. Polek
William M. Poole, Jr.
Dennis M. Popiela
Arthur R. Porcelli, Jr.
Christopher L. Powers
David E. Price
Larry D. Price
Lester L. Price
Dennis M. Pricolo
Lloyd O. Prince, Jr.
Bruce N. Proctor
Scott M. Provow
Henry L. Pruitt, Jr.
Anthony J. Quatroche
Patrick J. Quigley
Jerome P. Rakel, Jr.
Matthew G. Rausch
Kevin C. Rawson
Douglas A. Ray
Morrison W. Ray
Herman P. Reddick, Jr
Pfunandre C. Redvict
Edward P Reid
Dennis J. Reilly
James T. Reilly
James M. Rennie
Thomas R. Rentz
Robert E. Richards, Jr.
Robert J. Richards
Benjamin E. Richter
Luther H. Ridenhour, Jr.
David B. Rigdon
Ronald W. Robbins
David M. Roberts
Mark J. Roberts
Walter T. Robinson, Jr
Warren T. Robinson
Albert Robredo
Brian M. Roby
Brian G. Rochon
H. Scott Rodgers
Philip L. Rodgers, Jr.
David J. D. Rodriguez
Kenneth P. Roey
John G. Rogers
John H. Rogers
John L. Rogitz
Robert R. Romaine, Jr
Gerard D. Roncolato
James F. Root, Jr.
John S. Rosa
Timothy N. Rose
Eric R. Rosenlof
Michael R. Ross
Paul P. Ross
Robert M. Ross
Vincent S. Rossitto
Sietze J. Rotton
Richard T. Roustio
Thomas G. Rubenstein
John C. Rudder
Paul J. Russo
Michael S. Ruth
Kevin P. Ryan
Patrick W. Ryan
Robert W. Ryan
Michael R. Saddler
Ramon R. Saenz, Jr.
Michael J. Sagness
Gus Sambrano, Jr.
Philip E. Sanchez
Christopher M. Sattler
Mitchell K. Sauls
Craig R. Savant
Ralph P. Scaffidi
John J. Scarpulla
Richard E. Schiefen
James E. Schlagheck
Robert P. Schmermund
Joseph E. Schmitz
Donald R. Schneider
Duane D. Schoon
Douglas L. Schultz
David F. Schuman
Robert L. Schwaneke
Ralph K. Schwartzbeck
James D. Scola
Jonathan E. Sears
Darryl M. Secord
Howard C. Seeger, Jr.
Chad A. Seizert
Steven C. Sellner
John H. Semcken III
Daniel D. Serfass
Christopher A. Serio
Chester J. Seto
Anthony D. Shaddix
Frederick J. Sheehan, Jr.
Earnest L. Sheldon, Jr.
Marc Sherman
Michael Shinego
Robert H. Shinskie
Michael R. Shumaker
Anthony A. Shutt
Garry N. Simpson
John P. Skogsberg
Christopher D. Slack
James F. Small, Jr.
Richard H. Small
Danny J. Smith
Michael W. Smith
William W. Soer
Mark D. Soha
Charles A. Sotomayor
Robert S. Sowell
Timothy P. Sprague
Scott L. Stafford
John D. Stalnaker
Steven J. Stamos
Joseph T. Stanik
Dirk L. Stanley
Timothy J. Stark
Floyd L. Steed, Jr.
Charles O. Stephenson
Robert J. Stolle
Robert S. Stoner
John D. Storvick
Alex R. Stowe, Jr.
Mark C. Strasser
Robert M. Stuart II
John B. Sturges III
David M. Surgent
Paul K. Susalla
Steven H. Sutton
Jerry C. Swartz
Edward P. Szeligowski, Jr.
Kimber J. Tageson
Shawn R. Tallant
Wade C. Tallman
Sam J. Tangredi
William J. Terry, Jr.
George R. Tuefel
Bradley G. Thomann
Larry B. Thompson
William C. Throne
Kurt W. Tidd
Barry M. Tilden
Richard A. Tillman
William G. Timme
Robert J. Tobey
Maurice B. Tose
Todd D. Tracy
Benjamin M. Trapnell
Tom C. Trudell
Lance N. Tucker
Robert U. Tuohy III
George D. Tyree
Ronald J. Uglow
Donald L. Urouidez
Martin R. Valenstein
Darrell Y. Van Hutten
Henry P. Van Oss
Hall G. Van Vlack IV
Donald E. Vance II
James E. VanDerKamp, Jr.
Edgar Vaughan IV
Jordan A. Vause
Robert A. Vogt
Frederick G. Von Ahn
George M. Wadzita
Frank K. Waindle
Kenneth E. Waldie
John P. Wallace
Kenneth M. Wallace, Jr.
Lester A. Wallace
Thomas L. Walston III
Kevin R. Walter
Kenneth T. Wammack
Michael E. Warner
James P. Warren
Roger D. Watkins
John H. Watters
Aaron D. Watts
Francis M. Webster III
John R. Webster II
John A. Weidner
Claude S. Weiller
Daniel G. Weiner
Rodger L. Welch
Charles G. Wendt
Robert J. Westberg, Jr.
John H. N. Whatley
Glen H. Wheless
Kevin E. White
Thomas W. Whitehouse, Jr.
Larry E. Whitmeyer
Buck Wicklund
Paul A. Wiedorn
Jacob P. Wilkins
Jonathan E. Will
Alden G. Williams
David A. Williams
Melvin G. Williams, Jr.
Christopher S. Willson
Bradley T. Wilson
David S. Wilson
Anthony L. Winns
Philip A. Winters
Arnett J. Wise
Patrick A. Witt
Charles S. D. Witten
Christopher M. Wode
Lewis J. Wolfrom
Daryl L. Wood
Terray E. Wood
Glen O. Woods
Harry M. Woods
John L. Woodward, Jr.
Keith L. Wray
Richard B. Wren
Robert J. Wuestner
Edward M. Wynne
Richard J. Yasky, Jr.
William E. Yeager, Jr.
John F. Young
Orrin W. Young
Michael J. Yurina
Robert M. Zalaskus
Stanley N. Zehner
Brice E. Zimmerman

The following-named Navy enlisted scientific education program candidate to be a permanent ensign in the line of the Navy, subject to the qualifications therefor as provided by law:

James Robert Kirk

The following-named temporary Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Clarence W. Creighton

The following-named Navy enlisted candidates to be appointed permanent Chief Warrant Officers, W–2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Virginia B. Ciborowski

Suzanne Morgan

The following-named Navy enlisted candidates to be appointed temporary ensigns in the U.S. Navy, for limited duty, for temporary service, in the classification indicated,

subject to the qualifications therefore as provided by law:

John L. Farmer, Electronics-Surface.
James W. Tyner, Administration.

The following-named Navy enlisted candidates to be appointed temporary Chief Warrant Officers, W–2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

James L. Harris. Donald E. Lins.
Philip A. Jaquith. Frederic P. Pokrant.

The following-named (U.S. Navy officers) to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Seth E. Anderson, Jr., MC, USN.
Cdr Walter W. Huurman, MC, USN.
Cdr Joseph L. Izzo, MC, USN.
Cdr Peter T. Kirchner, MC, USN.
Cdr Robert B. Lewis, MC, USN.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr David L. Tagge, DC, USN.

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Igor Z. Drobocky, MC, USN.
Cdr Henry J. Fisk, Jr., MC, USN.
Cdr Carl W. Huff, MC, USN.
Cdr Lee J. Melton, III, MC, USN.
Cdr Roscoe F. Suitor, MC, USN.

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Ralph E. Beyersdorf, DC, USN.
Cdr Russell J. Stratton, DC, USN.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the line in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr John M. Ringelberg, USN.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 6, 1978:

DEPARTMENT OF STATE

Alfred L. Atherton, Jr., of Florida, a Foreign Service officer of the class of Career Minister, to be Ambassador at Large.

Harold H. Saunders, of Virginia, to be an Assistant Secretary of State.

Robert L. Yost, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL AND EDUCATIONAL AFFAIRS

Olin C. Robison, of Vermont, to be a member of the U.S. Advisory Commission on International Communication, Cultural and Educational Affairs for a term of 1 year.

DEPARTMENT OF JUSTICE

Joan F. Kessler, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Almeric L. Christian, of the Virgin Islands, to be a judge of the district court of the Virgin Islands for a term of 8 years.

Paul a Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning Kathleen Bruguivre Anderson, to be a Foreign Service officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Marvin A. McCallister, to be a Consular Officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 23, 1978.

HOUSE OF REPRESENTATIVES—*Thursday, April 6, 1978*

The House met at 11 o'clock a.m.

Rabbi Dov Bidnick, Sky Lake Synagogue, North Miami Beach, Fla., offered the following prayer:

Universal Father, Supreme Author of Liberty, who grants salvation unto nations, courage and strength to governments:

טוב להודות . .

Tov L'Hodos L'Hashem.

It is good to give thanks unto the Lord. Help us unite all the citizens of our Republic by a bond of genuine brotherhood. May we never forget that freedom is indivisible; that the world cannot long endure half free and half slave. Inspire us to raise our voices fearlessly in behalf of our fellow man regardless of race, color, or creed. Teach us to be concerned with the welfare of each other. We pray Thee to bless, protect, and watch over the Members of this esteemed body and all of the constituted officials of our Government. Grant them wisdom and understanding in order to lead our Nation in righteousness and truth. Strengthen the warm bond of understanding which unites America and Israel and all freedom-loving nations that search for peace. Sanctify our love of country and devotion to the American way of life and let all nations resolve to toil for peace, for us and all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2540. An act pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7744. An act to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1568. An act to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West"; and

S. 1633. An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

RABBI DOV BIDNICK

(Mr. LEHMAN asked and was given permission to address the House for 1 minute.)

Mr. LEHMAN. Mr. Speaker, Rabbi Dov Bidnick is the spiritual leader of Sky Lake Synagogue in North Miami Beach, Fla. He is a graduate of Johns Hopkins University, was ordained at the Ner Israel Rabbinical College in Baltimore in 1963, and received his masters degree in education from the Ferkauf Graduate School of Yeshiva University in 1974. He is married to the former Judi Levin of Harrisburg, Pa., and they have three sons.

Rabbi Bidnick is in the forefront of community activities involving not only the Jewish community, but the community in general. He is a lecturer and educator for the Central Agency for Jewish Education's Judaica High School as well as having taught for the Hebrew Academy. He is the educational director of Hineni of Florida's Leadership Training Seminar. He was formerly the principal of the Hillel Community Day School of North Miami Beach.

Rabbi Bidnick is one of the founders of the Torah Academy of South Florida and serves on the Human Resources Committee of the city of North Miami Beach. In addition, he hosts a radio program, "Judaism Speaks," and serves on the boards of the Mesivta High School, the Hebrew Academy, and the National Conference of Synagogue Youth.

For many years Rabbi Bidnick has been involved with those national and local organizations that have helped him to best dedicate his life to helping people.

NEUTRON BOMB MUST BE DEVELOPED

(Mr. COUGHLIN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, at the recent meeting of the Inter-Parliamentary Union—representing more than 80 nations around the world—the Soviet Union conducted a strong campaign to condemn production and deployment of the neutron bomb.

In the Political, Security and Disarmament Committee, of which I was a member, the United States succeeded in amending the Soviet resolution to also include the Soviet SS–20 nuclear missile —a weapon 2,000 times more destructive than the neutron bomb. Both are newly developed weapons; both are mobile, tactical weapons.

This amendment so unnerved the Soviets that they ended up voting against their own resolution. They took the position that either the SS–20 did not exist or, if it did, it was not a weapon.

Yet, not only our allies but a majority of Third World nations supported our position as one of being evenhanded.

Now the administration has apparently made the unilateral decision to defer the neutron bomb with nothing in return. This is dealing from weakness not strength.

The record will show that I have never been a militarist, but I confess I am concerned.

The Soviets continue to arm at an escalating rate.

But we have unilaterally deferred the neutron bomb, canceled the B–1 bomber, and cut back our shipbuilding program.

We are creating a dangerous imbalance in Korea and are apparently in the process of handing Africa to the Soviets.

The Carter administration's easy accommodation of the Soviet Union—based on naive hope rather than on hard history—is even more disturbing when you contrast this to the tough line it takes with our allies of long standing. Little wonder that our friends in the Middle East, Africa, and South America squirm uneasily, unable to take us at our word, when we apply bully tactics to them while permitting the Soviets to bamboozle us into concessions so blatantly advantageous to Moscow.

President Carter, his national security adviser and the State Department application of unseemly pressure on Prime Minister Menachem Begin and the Israeli Government, perhaps, is the most glaring example of why our friends are so unsure of what it means to be our allies rather than our ideological foes.

All this presages the crucial SALT talks. My recent meeting with our SALT negotiators only served to emphasize that the talks are geared to the limitation of numbers of strategic missile launchers. Ignored will be numbers of missiles, numbers of warheads, and the monumental megatonnage of Soviet warheads.

Mr. Speaker, I am scared.

POSTAL SERVICE ACT OF 1977

Mr. HANLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7700) to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 1, answered "present" 3, not voting 44, as follows:

[Roll No. 196]

YEAS—386

Abdnor	Clausen, Don H.	Foley
Addabbo	Clawson, Del	Ford, Tenn.
Akaka	Clay	Forsythe
Alexander	Cleveland	Fountain
Allen	Cohen	Fowler
Ammerman	Coleman	Fraser
Anderson, Calif.	Collins, Ill.	Frenzel
Andrews, N.C.	Collins, Tex.	Frey
Andrews, N. Dak.	Conable	Fuqua
Annunzio	Conte	Garcia
Applegate	Conyers	Gaydos
Archer	Corcoran	Gephardt
Armstrong	Corman	Giaimo
Ashley	Cornell	Gibbons
AuCoin	Cotter	Gilman
Badham	Coughlin	Ginn
Bafalis	Crane	Glickman
Baldus	Cunningham	Goldwater
Barnard	D'Amours	Gonzalez
Baucus	Daniel, Dan	Goodling
Bauman	Daniel, R. W.	Gore
Beard, R.I.	Danielson	Gradison
Bedell	Davis	Grassley
Beilenson	de la Garza	Green
Benjamin	Delaney	Gudger
Bennett	Dellums	Guyer
Bevill	Dent	Hagedorn
Biaggi	Derrick	Hall
Bingham	Derwinski	Hamilton
Blanchard	Devine	Hammer-schmidt
Blouin	Dickinson	Hanley
Boggs	Dicks	Hannaford
Boland	Dodd	Hansen
Bolling	Dornan	Harkin
Bonior	Downey	Harrington
Bonker	Drinan	Harris
Bowen	Duncan, Oreg.	Harsha
Breaux	Duncan, Tenn.	Hawkins
Breckinridge	Early	Heckler
Brinkley	Eckhardt	Hefner
Brodhead	Edgar	Heftel
Brooks	Edwards, Ala.	Hightower
Broomfield	Edwards, Calif.	Hillis
Brown, Mich.	Edwards, Okla.	Holland
Brown, Ohio	Eilberg	Hollenbeck
Broyhill	Emery	Holt
Buchanan	English	Holtzman
Burgener	Erlenborn	Horton
Burke, Fla.	Ertel	Howard
Burke, Mass.	Evans, Colo.	Hubbard
Burleson, Tex.	Evans, Del.	Huckaby
Burlison, Mo.	Evans, Ga.	Hughes
Burton, John	Evans, Ind.	Ichord
Burton, Phillip	Fary	Ireland
Butler	Fascell	Jacobs
Byron	Fenwick	Jeffords
Caputo	Findley	Jenkins
Carney	Fish	Jenrette
Carr	Fisher	Johnson, Calif.
Carter	Fithian	Johnson, Colo.
Cavanaugh	Flippo	Jones, N.C.
Cederberg	Florio	Jones, Okla.
	Flowers	Jones, Tenn.
Jordan	Murphy, Ill.	Shuster
Kastenmeier	Murphy, N.Y.	Sikes
Kazen	Murphy, Pa.	Simon
Kelly	Murtha	Sisk
Kemp	Myers, Gary	Skelton
Ketchum	Myers, John	Skubitz
Keys	Myers, Michael	Slack
Kildee	Natcher	Smith, Iowa
Kindness	Neal	Smith, Nebr.
Kostmayer	Nedzi	Snyder
Krebs	Nix	Solarz
Lagomarsino	Nolan	Spence
Latta	Nowak	St Germain
Le Fante	O'Brien	Staggers
Leach	Oakar	Stangeland
Lederer	Oberstar	Stanton
Leggett	Obey	Stark
Lehman	Ottinger	Steers
Lent	Panetta	Stockman
Levitas	Patten	Stokes
Livingston	Patterson	Stratton
Lloyd, Calif.	Pattison	Studds
Lloyd, Tenn.	Pease	Stump
Long, La.	Pepper	Symms
Long, Md.	Perkins	Taylor
Lott	Pettis	Thone
Lujan	Pickle	Traxler
McClory	Pike	Treen
McCloskey	Poage	Trible
McCormack	Pressler	Tsongas
McDade	Preyer	Ullman
McDonald	Price	Van Deerlin
McEwen	Pritchard	Vander Jagt
McHugh	Pursell	Vanik
McKay	Quayle	Vento
Madigan	Quie	Volkmer
Maguire	Quillen	Waggonner
Mahon	Rahall	Walgren
Mann	Railsback	Walker
Markey	Rangel	Walsh
Marks	Regula	Wampler
Marriott	Reuss	Watkins
Martin	Rhodes	Waxman
Mathis	Rinaldo	Weaver
Mattox	Risenhoover	Weiss
Mazzoli	Robinson	Whalen
Meeds	Roe	White
Metcalfe	Rogers	Whitehurst
Meyner	Rooney	Whitten
Michel	Rose	Wilson, Bob
Mikulski	Rosenthal	Wilson, C. H.
Mikva	Rousselot	Wilson, Tex.
Miller, Calif.	Roybal	Winn
Miller, Ohio	Rudd	Wirth
Mineta	Ruppe	Wolff
Minish	Russo	Wright
Mitchell, N.Y.	Ryan	Wydler
Moakley	Sarasin	Wylie
Moffett	Satterfield	Yates
Mollohan	Sawyer	Yatron
Montgomery	Scheuer	Young, Alaska
Moore	Schroeder	Young, Mo.
Moorhead, Calif.	Schulze	Young, Tex.
Moorhead, Pa.	Sebelius	Zablocki
Moss	Seiberling	Zeferetti
Mottl	Sharp	
	Shipley	

NAYS—1

Mitchell, Md.

ANSWERED "PRESENT"—3

LaFalce	Lundine	Nichols

NOT VOTING—44

Ambro	Flynt	Rostenkowski
Anderson, Ill.	Ford, Mich.	Runnels
Ashbrook	Gammage	Santini
Aspin	Hyde	Spellman
Beard, Tenn.	Kasten	Steed
Brademas	Krueger	Steiger
Brown, Calif.	Luken	Teague
Burke, Calif.	McFall	Thompson
Chappell	McKinney	Thornton
Chisholm	Marlenee	Tucker
Cochran	Milford	Udall
Cornwell	Richmond	Whitley
Diggs	Roberts	Wiggins
Dingell	Rodino	Young, Fla.
Flood	Roncalio	

Mr. HORTON changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further

consideration of the bill, H.R. 7700, with Mr. PATTISON of New York in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on yesterday, Wednesday, April 5, 1978, pending was an amendment in the nature of a substitute offered by the gentleman from New York (Mr. HANLEY), which is being read by sections as an original bill for the purpose of amendment, of which section 3 had been considered as having been read.

Are there any amendments to section 3?

AMENDMENT OFFERED BY MR. CORCORAN OF ILLINOIS

Mr. CORCORAN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORCORAN of Illinois: Page 6, strike out line 10 and all that follows through line 20 and insert in lieu thereof the following:

SEC. 3. (a) Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) As reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, there are authorized to be appropriated to the Postal Service, for each of the fiscal years ending September 30, 1979, through September 30, 1984, an amount equal to $920,000,000 plus the amount by which the sum of all proposed expenditures of public service funds, as detailed by function under paragraph (2), exceeds $920,000,000.

"(2) It shall not be in order in either the House of Representatives or the Senate to consider any bill, or amendment thereto, appropriating funds authorized under paragraph (1) of this subsection unless the Postmaster General submits to the Congress no later than February 1 of each year a report detailing by function the expenditure of public service funds during the immediately preceding fiscal year and the proposed expenditure of public service funds, by function, for the fiscal year beginning in the year of the submission of such report.

"(3) Expenditures which may be made by the Postal Service from funds appropriated under paragraph (1) of this subsection shall be limited to expenditures for public service functions identified by the Postmaster General in the report submitted under paragraph (2) of this subsection.

"(4) The provisions of paragraph (2) of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.".

Page 6, strike out line 21 and insert in lieu thereof "(b) Subsections (d), (e), and (f) of section 2401 of".

And redesignate the following subsections accordingly.

Page 6, strike out line 25 and insert in lieu thereof "subsections '(d)', '(e)', and '(f)'.".

Page 7, line 1, strike out "(f)" and insert in lieu thereof "(e)".

Page 7, line 4, strike out "(g)" and insert in lieu thereof "(f)".

Page 7, line 10, by striking out "G" and inserting in lieu thereof "(G)" and by striking out the period at the end thereof and inserting in lieu thereof "and by striking out 'percentage'.".

Mr. CORCORAN of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, inasmuch as the remaining language of the amendment is boilerplate language having to do with any reporting requirements of an agency of the Federal Government.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CORCORAN of Illinois. Mr. Chairman, yesterday during our consideration of H.R. 7700 we took action on an amendment referred to as the Simon amendment, and that amendment deals very directly with one of the overall objectives of my amendment. For purposes of further discussion and further illumination as to the impact of my amendment, I would like to yield to the gentleman from Illinois (Mr. SIMON) for a few comments.

Mr. SIMON. Mr. Chairman, I thank the gentleman for yielding.

I just want to indicate very briefly to the Members that I concur with my colleague, the gentleman from Illinois (Mr. CORCORAN). I think this provides another way in which we can find out what is happening and have a little better poll of really what is happening in the Postal Service. I think this a good, constructive amendment.

Mr. CORCORAN of Illinois. Mr. Chairman, I thank the gentleman.

I might say, in connection with the amendment offered by the gentleman from Illinois (Mr. SIMON), that those of us who supported that amendment believe very strongly that to the extent possible we ought to be able to encourage the private enterprise distribution of packages, as well as other items of mail, and when we reach that point where it is difficult under the private enterprise system to provide the distribution of parcels all over the United States, it seems to me the public subsidy would not be desirable but indeed something that is needed as a matter of social policy. That is something that I believe we would want to support. That is one more reason why I offer the pending amendment.

Mr. Chairman, I offer this amendment as a constructive improvement for H.R. 7700 in order to return both public accountability and fiscal accountability for the U.S. Postal Service to the Congress of the United States.

My involvement with this amendment started last year during the public hearings of our Subcommittee on Postal Operations and Services. It was during the testimony of Mr. W. Bowman Cutter, the Executive Associate Director for Budget of the Office of Management and Budget, representing the Carter administration, that I asked our staff to begin work on an amendment which would change the proposed subsidy formula in H.R. 7700 as introduced. The Members will recall that the legislation as introduced provided for a 15-percent subsidy over the prior operating budget of the Postal Service.

The Carter administration representative testified that this approach was an open invitation for the Postal Service to spend extensively in 1 year in order to receive more tax dollars in future years, and I agree with that assessment. Thus, under my direction, our staff went back to the 1958 Postal Act to find a better means of providing tax dollars to the present U.S. Postal Service.

Mr. Chairman, during the work of our committee on this bill, I have talked with many, many people regarding H.R. 7700, and I offer this amendment in order to assist in passage of the bill, because everyone connected with the Postal Service is in favor of the concept contained in H.R. 7700. Whether one talks to people involved with local postal management, letter carriers, postal clerks, or customers like you and me, everyone wants to improve the service and the practical operations of the Postal Service. I believe H.R. 7700 is a good vehicle for doing just that. It is a vehicle for recognizing that what began in 1971 with the quasi-independent U.S. Postal Service was in part a mistake. The Postal Service is not now, nor will it ever be, fully sustainable on a break-even, let alone profitmaking basis. In order to perform all its services, some portion of its revenues must come from the Public Treasury.

The question addressed by my pending amendment is: How much of postal revenues should be derived from postal rates, and how much from the taxpayer? The answer, my friends, is neither in the stars nor in the bill before us; the answer is: we do not know. As incredible as it may be, we simply do not know with any precision what the public subsidy to the Postal Service should be. During the course of the hearings and markup of H.R. 7700, I wrote a letter dated October 4, 1977 to then-Postmaster General Benjamin Bailar to ask him as the chief executive officer of the U.S. Postal Service to identify the public service costs of his agency. Although I never received a formal reply to my letter, I was told informally that these public service costs could not be accounted and itemized.

Mr. Chairman, I know of no organization on Earth that cannot be subjected to an accounting analysis which would identify, trace, and then allocate its various costs by function. The U.S. Postal Service is no exception. I do not believe we in Congress should continue the present subsidy without establishing a procedure for such an accounting; nor do I believe we should vote another tax dollar for additional public subsidies without it.

My amendment will give us a means of getting that information beginning with fiscal year 1979. It provides that by February 1 of each year, the Postmaster General must submit a report to Congress detailing by function the expendi-

ture of public service funds during the immediately preceding fiscal year, and the proposed expenditure of public funds, by function, for the fiscal year beginning in the year of the submission of such report. The amendment further stipulates that it would not be in order for either House of Congress to consider any appropriation bill for the Postal Service unless this report has been submitted to us. Mr. Chairman, I offer this amendment, because I think it provides us the kind of legislative oversight of the Postal Service which is needed. Furthermore, I offer it in the spirit of compromise to break the current subsidy impasse between the sponsors of the bill and the Carter administration. This amendment is clearly consistent with the philosophy of H.R. 7700 to return service as the guiding standard to the U.S. Postal Service. The legislation before us accomplishes this by regaining for Congress a measure of control over postal policy decisions. To the policy controls contained in this legislation, my amendment would add the necessary fiscal accountability in order to make the Postal Service again responsive to the people of this country.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(By unanimous consent, Mr. CORCORAN of Illinois was allowed to proceed for 5 additional minutes).

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Iowa.

Mr. LEACH. First, Mr. Chairman, I would like to say that I do not think there is a member of the committee who has played a more constructive role than the gentleman from Illinois (Mr. CORCORAN), and I am particularly impressed with the approach he has outlined.

Could he tell the Members what the public service functions are that his amendment addresses?

Mr. CORCORAN of Illinois. Mr. Chairman, I thank the gentleman for his kind remarks.

I might point out that in 1976, in the attempt to solve the financial problems that the Postal Service was then in, Congress took two actions which are relevant. First, it required that a Commission on Postal Service be created and submit a report in the spring of 1977, which was done.

In that report the Commission points out that there are many public service aspects to the services and to the programs of the Postal Service. It itemizes several different public service functions, such as the delivery of mail to remote and sparsely populated areas, the universal 6-day delivery, door delivery, and the location of post offices in urban areas from the standpoint of what is convenient to the customer, not just from the standpoint of what would be most economical in terms of distribution of the mail. Therefore, there are many public service functions that the Post Office performs.

The purpose of my amendment is to give the Congress, for the first time, an itemization of what those public service functions are and what their costs are. Today we have a situation where the Postal Service, ever since 1971, has automatically received a contribution to its budget of $920 million, with no accounting whatsoever as to where that money goes. My amendment would provide a continuation of that $920 million, and at the same time provide that any additional public service subsidies that would have to come to the Postal Service in order to perform its functions in providing services to every American would come from the Treasury; but the money for that financing would come only after, as a precondition for that subsidy, the Postal Service came forward to the Congress with an itemization of what those public service functions are and of what their costs will be.

Mr. LEACH. I thank the gentleman, and I hope the amendment will be adopted.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I want to commend the gentleman from Illinois (Mr. CORCORAN) for the interest he has taken in this particular area.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. CHARLES H. WILSON of California and by unanimous consent, Mr. CORCORAN of Illinois was allowed to proceed for 2 additional minutes.)

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN of Illinois. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I had hoped that we could work out something where specific amounts could have been delegated for various public service functions.

What the gentleman has done with his amendment, is that he has offered an open-ended amendment that could cost us an amount much greater than the $800 million that is included in the public service subsidy which we are adding in this bill.

However, Mr. Chairman, I think there is merit to the principle that the gentleman has, but I personally would have to object to the amendment based on the fact that it is open-ended and does not include specific amounts for each of the public services.

Mr. CORCORAN of Illinois. Mr. Chairman, let me respond to the gentleman by saying that I think that at the staff level there was an attempt made to try to come to some working understanding as to what would be an acceptable compromise on the amendment, with the spelling out of the various public service functions; and perhaps there has been some communication problem in keeping everyone informed. However, I think that that has been attempted.

I would say further that I think that there was a coincidence in the breaking off of those discussions at the time at which the gentleman from New York (Mr. HANLEY) began working with people downtown at 1600 Pennsylvania Avenue, which I can certainly understand.

With respect to the open-ended character of my amendment, I do not think that it is open-ended as far as the purpose and as far as the control that would be given to Congress in order to determine how much money we would give to the Postal Service in each future year are concerned. As a matter of fact, as the gentleman, I am sure, knows, tomorrow the subcommittee of the Committee on Appropriations, which handles the review of the budget for the Postal Service, is holding hearings.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent Mr. CORCORAN of Illinois was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN of Illinois. Our effort has been to work with the staff and with the members of the subcommittee to try to encourage the efforts of extracting from the Postal Service exactly what the costs will be for each of these areas. Now, whether or not the amount turns out to be the $80 million increase over the present $920 million subsidy that the Carter administration wants, or the $800 million that is provided in the bill as it now stands, I think this is something we should only decide after we know the purposes for which that money is going to be spent. At this point, I do not think we have any clear, factual, statistical itemization of where either the $920 million will go or where the suggested $80 million would go or where the proposed $800 million would go. For these reasons, among others, we need the pending amendment.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the amendment offered by the gentleman from Illinois since it is a constructive and meaningful effort to improve this legislation.

It is quite obvious there is widespread opposition to the subsidy in this bill. The White House wants no part of it, and there are many Members who share that same view.

The substantial increases proposed in this bill have nothing to do with improving the delivery of mail. What my friend and colleague from Illinois is attempting to do is to require the Postal Service to spell out and detail how it uses the public service subsidy. It would make the Postal Service more accountable to Congress for the amount of money it receives each year.

This is a very worthwhile amendment which should be adopted.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

It is with complete sincerity that I say I find it very difficult to oppose my good friend from Illinois, in recognition of his substantive contribution to H.R. 7700. He has put a great deal of time and effort into this measure. Unfortunately, we happen to have this difference of opinion on it. I had the occasion to chat with

him several times during the course of our committee deliberations, and unfortunately could not resolve that impasse. I would far rather find myself in a position here of supporting the gentleman because of my great respect for him.

But candidly, we have a real problem with the amendment. The gentleman made reference to the commission study. Well, the commission ultimately concluded that there is no way that we can accurately define public service costs. I believe that we have met the problem stated by the gentleman in having scratched the 15 percent authorization and substituting for it with the fixed figure of $800 million.

I am terribly apprehensive about what truly is an open-ended authorization. The language of the amendment provides the prerogative for the Postal Service to establish itself what are public service costs and affix a dollar figure to it and come back with that figure whatever it might be. I do not believe it is the intent of this body to assign to that agency this prerogative. We have a periodic authorization process as a part of the language of the measure. And that is going to assure that accountability for every expenditure that the agency has to make. There is not any question about it.

Mr. CORCORAN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Illinois.

Mr. CORCORAN of Illinois. Mr. Chairman, I thank our chairman for yielding.

Let me just emphasize that it is not the intention of this amendment and I do not believe that it is a provision which would have the effect of giving a blank check to the U.S. Postal Service. Quite the contrary. I think under present practice, by giving the U.S. Postal Service an automatic $920 million subsidy and then going through the practice every year where when they find out they do not have enough money to pay their bills, they go through the charade of "maybe" increasing the rates and "maybe" cutting out Saturday deliveries and "maybe" cutting out some small post offices to try to force the Congress at the end of the year, as was done in 1976, to come up with additional appropriations. I believe the procedure provided in the amendment would be that we give the agency authority to come up with a recommendation but we retain for the Congress the authority to appropriate the funds necessary to pay for these public service functions.

Mr. HANLEY. We are not providing $800 million per se to the agency. We are authorizing a figure that conceivably could rise to $800 million subject to the authorization process.

The gentleman has alluded to the possibility of various service cutbacks. We provide for that in the bill in that any universal service cutback would be subject to review and possible veto by either House, so we provide for that.

The language of the bill as written is very emphatic in that the agency is charged with the responsibility of providing the traditional scope and quality of postal service within this total limitation. The agency is also, as the gentleman knows, required to come up to the Post Office and Civil Service Committee each year with a budget review process for a colloquy on it and during the course of that we have the opportunity to question any expenditure that the agency might have made or might intend to make in the next fiscal year. We provide in H.R. 7700 for congressional review of any capital expenditure in excess of $9 million.

The CHAIRMAN. The time of the gentleman from New York (Mr. HANLEY) has expired.

(By unanimous consent, Mr. HANLEY was allowed to proceed for an additional 2 minutes.)

Mr. HANLEY. So we have built into the language of this bill so many restrictions to assure that the Congress has an excellent handle on every expenditure that the agency makes.

The gentleman will recall a great deal of talk about the Alexander amendment in 1976 and a great deal of support for the Alexander amendment. We have met the intent of the Alexander amendment in the language of this bill.

So again I feel badly that I have to oppose the gentleman from Illinois. I hope that he understands my position. I hope very much that the House will see fit to defeat the amendment offered by the gentleman from Illinois (Mr. CORCORAN).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CORCORAN).

The question was taken; and on a division (demanded by Mr. CORCORAN of Illinois) there were—ayes 19, noes 19.

RECORDED VOTE

Mr. CORCORAN of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 189, not voting 42, as follows:

[Roll No. 197]

AYES—203

Abdnor	Coleman	Gibbons
Ambro	Collins, Tex.	Gilman
Andrews, N.C.	Conable	Glickman
Archer	Conte	Goldwater
Armstrong	Corcoran	Goodling
Ashley	Coughlin	Gore
Badham	Crane	Gradison
Bafalis	Cunningham	Grassley
Baucus	D'Amours	Gudger
Bauman	Daniel, Dan	Guyer
Beard, Tenn.	Daniel, R. W.	Hagedorn
Bedell	Davis	Hall
Benjamin	de la Garza	Hammer-schmidt
Bennett	Derwinski	
Blanchard	Devine	Hansen
Boland	Dickinson	Harsha
Bowen	Dicks	Heckler
Breckinridge	Dornan	Heftel
Brinkley	Drinan	Hillis
Brooks	Duncan, Tenn.	Holt
Broomfield	Edwards, Ala.	Horton
Brown, Mich.	Edwards, Okla.	Hubbard
Brown, Ohio	Emery	Ichord
Broyhill	English	Jeffords
Buchanan	Erlenborn	Johnson, Colo.
Burke, Fla.	Evans, Del.	Jones, Tenn.
Burleson, Tex.	Fenwick	Kelly
Butler	Findley	Kemp
Byron	Fish	Ketchum
Caputo	Flowers	Kildee
Carr	Forsythe	Kindness
Carter	Fountain	Lagomarsino
Clausen, Don H.	Frenzel	Latta
	Frey	Leach
Clawson, Del	Gammage	Lehman
Cleveland	Gephardt	Lent
Cohen	Giaimo	Livingston
Lloyd, Calif.	Murphy, Pa.	Shuster
Long, Md.	Myers, Gary	Simon
Lott	Myers, John	Smith, Nebr.
Lujan	Natcher	Snyder
McClory	Nedzi	Spence
McCloskey	Nichols	Stangeland
McCormack	O'Brien	Stanton
McDade	Pettis	Stark
McDonald	Pickle	Stockman
McEwen	Poage	Stratton
McKay	Pressler	Studds
Maguire	Pritchard	Symms
Mahon	Pursell	Taylor
Mann	Quayle	Thone
Markey	Quie	Treen
Marks	Quillen	Trible
Marlenee	Railsback	Vander Jagt
Marriott	Regula	Walgren
Martin	Rhodes	Walker
Mathis	Robinson	Walsh
Mattox	Rogers	Wampler
Mazzoli	Rousselot	Watkins
Michel	Rudd	White
Mikva	Russo	Whitehurst
Miller, Ohio	Sarasin	Whitten
Mitchell, N.Y.	Satterfield	Wilson, Bob
Moffett	Sawyer	Winn
Montgomery	Scheuer	Wydler
Moore	Schroeder	Wylie
Moorhead, Calif.	Schulze	Yates
	Sebelius	Young, Alaska
Mottl	Sharp	

NOES—189

Addabbo	Foley	Nix
Akaka	Ford, Tenn.	Nolan
Allen	Fowler	Nowak
Ammerman	Fraser	Oakar
Anderson, Calif.	Fuqua	Oberstar
	Garcia	Obey
Andrews, N. Dak.	Gaydos	Ottinger
	Ginn	Panetta
Annunzio	Gonzalez	Patten
Applegate	Green	Patterson
AuCoin	Hamilton	Pattison
Baldus	Hanley	Pease
Barnard	Hannaford	Pepper
Beard, R.I.	Harkin	Perkins
Beilenson	Harrington	Pike
Bevill	Harris	Preyer
Biaggi	Hawkins	Price
Bingham	Hefner	Rahall
Blouin	Hightower	Rangel
Boggs	Holland	Reuss
Bolling	Hollenbeck	Rinaldo
Bonior	Holtzman	Risenhoover
Bonker	Howard	Roe
Breaux	Huckaby	Rooney
Brodhead	Hughes	Rose
Brown, Calif.	Ireland	Rosenthal
Burgener	Jacobs	Roybal
Burke, Mass.	Jenkins	Ryan
Burlison, Mo.	Jenrette	Santini
Burton, John	Johnson, Calif.	Seiberling
Burton, Phillip	Jones, N.C.	Shipley
Carney	Jones, Okla.	Sikes
Cavanaugh	Jordan	Skelton
Chisholm	Kastenmeier	Skubitz
Clay	Kazen	Slack
Collins, Ill.	Keys	Smith, Iowa
Conyers	Kostmayer	Solarz
Corman	Krebs	St Germain
Cornell	LaFalce	Staggers
Cornwell	Le Fante	Steed
Cotter	Lederer	Steers
Danielson	Leggett	Stokes
Delaney	Levitas	Stump
Dellums	Lloyd, Tenn.	Traxler
Dent	Long, La.	Tsongas
Derrick	Lundine	Van Deerlin
Dodd	McFall	Vanik
Downey	McHugh	Vento
Duncan, Oreg.	Meeds	Volkmer
Early	Metcalfe	Waxman
Eckhardt	Meyner	Weaver
Edgar	Mikulski	Weiss
Edwards, Calif.	Miller, Calif.	Whalen
Eilberg	Mineta	Wilson, C. H.
Ertel	Minish	Wilson, Tex.
Evans, Colo.	Mitchell, Md.	Wirth
Evans, Ga.	Moakley	Wolff
Evans, Ind.	Mollohan	Wright
Fary	Moorhead, Pa.	Yatron
Fascell	Murphy, Ill.	Young, Mo.
Fisher	Murphy, N.Y.	Young, Tex.
Fithian	Murtha	Zablocki
Flippo	Myers, Michael	Zeferetti
Florio	Neal	

NOT VOTING—42

Alexander	Ashbrook	Brademas
Anderson, Ill.	Aspin	Burke, Calif.

Cederberg	McKinney	Spellman
Chappell	Madigan	Steiger
Cochran	Milford	Teague
Diggs	Moss	Thompson
Dingell	Richmond	Thornton
Flood	Roberts	Tucker
Flynt	Rodino	Udall
Ford, Mich.	Roncalio	Ullman
Hyde	Rostenkowski	Waggonner
Kasten	Runnels	Whitley
Krueger	Ruppe	Wiggins
Luken	Sisk	Young, Fla.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Teague against.

Mr. Young of Florida for, with Mrs. Spellman against.

Mr. Chappell for, with Mr. Krueger against.

Mr. Hyde for, with Mrs. Burke of California against.

Mr. Kasten for, with Mr. Richmond against.

Mr. Ashbrook for, with Mr. Whitley against.

Mr. Cederberg for, with Mr. Udall against.

Mr. Cochran of Mississippi for, with Mr. Flood against.

Mr. Thompson for, with Mr. Ruppe against.

Messrs. RHODES, DE LA GARZA, D'AMOURS, ASHLEY, DICKS, LLOYD of California, BAUCUS, WALGREN, and McCORMACK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

POSTAL RATE COMMISSION BUDGETS

SEC. 4. Section 3604(d) of title 39, United States Code, is amended to read as follows:

"(d) The Commission shall prepare and submit to the President an annual budget of the expenses of the Commission. The President shall include the budget of the Commission, with his recommendations but without revision, as a separate item in the budget required by section 11 of title 31 to be transmitted to the Congress.".

The CHAIRMAN. Are there amendments to section 4? If not, the Clerk will read.

The Clerk read as follows:

SIZE AND WEIGHT LIMITS

SEC. 5. (a) Section 3682 of title 39, United States Code, is amended to read as follows:

"§ 3682. Size and weight limits

"(a) The maximum size of mail, other than letter mail, is 100 inches, in girth and length combined, and the maximum weight is 70 pounds.

"(b) The Postal Service may establish size and weight limits for letter mail in the same manner prescribed for changes in the mail classification schedule under subchapter II of this chapter.".

(b) The amendment made by subsection (a) of this section shall not become effective until the zone rate for a parcel measuring over 84 inches in length and girth combined is at least equal to the rate for a 25-pound parcel addressed to the same zone.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

LEGAL REPRESENTATION

SEC. 6. (a) Section 409(d) of title 39, United States Code, is amended to read as follows:

"(d)(1) Except as provided in paragraph (2) of this subsection, the Attorney General shall furnish the Postal Service, under section 411 of this title, any legal representation the Postal Service may require. With the prior consent of the Attorney General, the Postal Service may represent itself through its attorneys or through attorneys whose services may be obtained by contract.

"(2) The Postal Service may represent itself without obtaining the consent of the Attorney General in litigation arising under chapter 36 of this title through its attorneys or through attorneys whose services are obtained by contract.".

(b)(1) Subchapter I of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3605. Legal representation

"The Commission may represent itself without obtaining the consent of the Attorney General in litigation arising under chapter 36 of this title through its attorneys or through attorneys whose services are obtained by contract.".

(2) The table of sections for subchapter I of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3605. Legal representation.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I believe the gentleman from Illinois (Mr. DERWINSKI) has an amendment.

Mr. CHARLES H. WILSON of California. Mr. Chairman, is the amendment to section 5 or section 6?

Mr. DERWINSKI. If the gentleman will yield, my amendment is to section 6.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I just asked unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point, so that the gentleman could offer his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I would like to inquire whether there are amendments at the desk to section 5?

The CHAIRMAN. The chair will state that the Clerk has read section 5.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I understand that; but if we go on to section 6, that preempts the possibility of offering an amendment to section 5.

The CHAIRMAN. The Chair will state that the Clerk has already read section 5. We are now on section 6.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California that section 6 be considered as read, printed in the RECORD, and open to amendment at any point?

There was no objection.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI: On page 8, beginning in line 12, strike out section 6, headed "Legal Representation", in its entirety and redesignate the succeeding sections accordingly.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I will ask the gentleman if this is the amendment that would strike out the section on legal representation?

Mr. DERWINSKI. Yes.

Mr. CHARLES H. WILSON of California. If the gentleman will yield further, may I say to the gentleman that the only reason this is in the bill is that this is the one thing we did for the Postal Service. I think the gentleman has a good amendment. The administration has proposed this. I know the gentleman is representing the administration here on the floor. I personally will accept the amendment.

Mr. DERWINSKI. In that case, Mr. Chairman, as I understand the situation, my distinguished friend, the gentleman from California (Mr. CHARLES H. WILSON) has properly advised the House that this is the administration's amendment; and as a loyal—temporary, at least—spokesman for the administration, I am pleased to offer it, and I gather I have the support from a number of the Members.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. HANLEY. I thank the gentleman for yielding, and I want to commend the gentleman on his wisdom in offering this amendment. It is a great amendment. It is in line with what the gentleman from Illinois (Mr. DERWINSKI) usually has to offer, and this Committee is delighted to accept it.

Mr. DERWINSKI. Mr. Chairman, I do want the record to show, though, I am not a complete rubberstamp for the administration. I have very strong views about our Middle East and Cyprus policies.

Mr. Chairman, the purpose of my amendment is to strike from the bill section 6 which would permit the Postal Service to represent itself in litigation of matters arising out of postal rates and classification without prior consultation or consent of the Attorney General. The

effect of my amendment is to retain the existing law in title 39, United States Code, under which the Department of Justice furnishes the Postal Service such legal services as it may require.

The Department of Justice strongly opposes the language contained in H.R. 7700 and the Hanley substitute as an unjustified dilution of the traditional principle of maintaining central litigating control of Government legal matters within the Department of Justice.

By striking section 6 from the bill, the Attorney General's direction and control of litigation would be preserved.

Complaints about the fragmented legal affairs of the Government began in 1790, but it was not until 1870 when the Congress, concerned with the need to centralize control over Government litigation, created the Department of Justice, specifying that the Attorney General would supervise the conduct and proceedings of all "attorneys and counselors employed in any cases or business in which the United States may be concerned."

There are several reasons why centralized control of the Government's litigation is important.

First, the Government must take uniform legal positions, not only because uniformity is expected by both the bench and the bar, but also because the legal affairs of the agencies and departments must be conducted with some degree of predictability and certainty.

Second, lower court litigation must be governed in such a way that it can be better handled if it reaches the Supreme Court.

Third, the Government must be in the position to choose cases which put the Government's position in the best possible light.

And a fourth reason for centralized control and for supporting my amendment is that the President has directed the Office of Management and Budget's Reorganization Project to review the Federal Government's system for providing legal advice and representation to the various departments, agencies, and regulatory commissions. This report is expected to be presented to the Congress this summer and should contain the administration's answer to the question of how best to conduct the Government's legal business.

Therefore, the provisions of section 6 contained in the Hanley substitute are premature and unwise and should be set aside.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

The amendment was agreed to.

Mr. CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ORGANIZATION OF THE POSTAL SERVICE

SEC. 7. (a) Chapter 2 of title 39, United States Code, is amended to read as follows:

"Chapter 2.—ORGANIZATION

"§ 201. United States Postal Service

"There is established, as an independent establishment of the executive branch of the Government of the United States, the United States Postal Service.

"§ 202. Board of Governors

"(a) The Board of Governors of the Postal Service shall be composed of 9 Governors appointed by the President, by and with the advice and consent of the Senate. Not more than 5 Governors may be adherents of the same political party. The President shall designate the Chairman from among the Governors serving on the Board. The Governors shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service, and may be removed only for cause. Each Governor shall receive a salary of $10,000 a year plus $300 a day for not more than 30 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 30 days.

"(b) The terms of the 9 Governors shall be 9 years, except that the terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

"(c) The Governors are authorized and directed to establish procedures for the continuing review of postal operations, finances, and practices. The Governors shall retain the services of such officers and employees as they deem necessary to carry out the purposes of this subsection, and the officers and employees so appointed shall have complete access to all postal data, information, and operations. Such officers and employees shall be responsible solely to the Governors, and may not be under any jurisdiction or control of the Postmaster General or the Postal Service. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

"(d) Vacancies in the Board, as long as there are sufficient members to form a quorum, shall not impair the powers of the Board under this title. The Board shall act upon majority vote of those members who are present, and any 6 members present shall constitute a quorum for the transaction of business by the Board. No officer or employee of the United States may serve concurrently as a Governor. A Governor may hold any other office or employment not inconsistent or in conflict with his duties, responsibilities, and powers as an officer of the Government of the United States in the Postal Service.

"§ 203. Postmaster General

"The chief executive officer of the Postal Service is the Postmaster General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall serve for a term of 4 years, which shall coincide with the term of office of the President. A Postmaster General appointed to fill a vacancy shall serve for the remainder of the term to which his predecessor was appointed. A Postmaster General may continue to serve after his term expires until his successor has qualified.

"§ 204. Deputy Postmaster General

"The deputy chief executive officer of the Postal Service is the Deputy Postmaster General, who shall be appointed by, and serve at the pleasure of, the Postmaster General.

"§ 205. Assistant Postmasters General; General Counsel; Judicial Officer

"There shall be within the Postal Service a General Counsel, such number of Assistant Postmasters General as the Postmaster General shall consider appropriate, and a Judicial Officer. The General Counsel, the Assistant Postmasters General, and the Judicial Officer shall be appointed by, and serve at the pleasure of, the Postmaster General. The Judicial Officer shall perform such quasi-judicial duties, not inconsistent with chapter 36 of this title, as the Postmaster General may designate. The Judicial Officer shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Postmaster General.

"§ 206. General authority of Postmaster General

"The Postmaster General shall direct and control the expenditures and review the practices and policies of the Postal Service and perform other functions and duties prescribed by this title.

"§ 207. Seal.

"The seal of the Postal Service shall be filed by the Postmaster General in the Office of the Secretary of State, judicially noticed, affixed to all commissions of officers of the Postal Service, and used to authenticate records of the Postal Service.

"§ 208. Reservation of powers

"Congress reserves the power to alter, amend, or repeal any or all of the sections of this title, but no such alteration, amendment, or repeal shall impair the obligation of any contract made by the Postal Service under any power conferred by this title.".

(b) The table of sections for chapter 2 of title 39, United States Code is amended to read as follows:

"Sec.
"201. United States Postal Service.
"202. Board of Governors.
"203. Postmaster General.
"204. Deputy Postmaster General.
"205. Assistant Postmasters General; General Counsel; Judicial Officer.
"206. General authority of Postmaster General.
"207. Seal.
"208. Reservation of powers.".

(c) (1) Section 402 of title 39, United States Code, is repealed.

(2) The item relating to section 402 in the table of sections for chapter 4 of title 39, United States Code, is amended by striking out "Delegation of authority" and inserting in lieu thereof "Repealed".

(d) Section 1011 of title 39, United States Code, is amended by striking out the word "Board" and inserting in lieu thereof the words "Postmaster General".

(e) Section 2402 of title 39, United States Code, is amended to read as follows:

"§ 2402. Annual report

"The Postmaster General shall submit to the President and the Congres an annual report on the conditions and operations of the Postal Service.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. CORCORAN OF ILLINOIS

Mr. CORCORAN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORCORAN of Illinois: Page 9, strike out line 15 and all that follows through line 15 on page 14 and

insert in lieu thereof the following: Sec. 7 (a)(1) Section 202 of title 39, United States Code, is amended to read as follows:

"§ 202. Postmaster General

"The chief executive officer of the Postal Service is the Postmaster General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall serve for a term of four years, which shall coincide with the term of office of the President. A Postmaster General appointed to fill a vancancy shall serve for the remainder of the term to which his predecessor was appointed. A Postmaster General may continue to serve after his term expires until his successor has qualified.".

(2) The table of sections for chapter 2 of title 39, United States Code, is amended by striking out the item relating to section 202 and inserting in lieu thereof the following new item:

"202. Postmaster General.".

(b)(1) Section 203 of title 39, United States Code, is amended to read as follows:

"§ 203. Deputy Postmaster General

"The deputy chief executive officer of the Postal Service is the Deputy Postmaster General, who shall be appointed by, and serve at the pleasure of, the Postmaster General.".

(2) The table of sections for chapter 2 of title 39, United States Code, is amended by striking out the item relating to section 203 and inserting in lieu thereof the following new item:

"203. Deputy Postmaster General.".

(c)(1) Section 205 of title 39, United States Code, is amended to read as follows:

"§ 205. General authority of Postmaster General

"The Postmaster General shall direct and control the expenditures and review the practices and policies of the Postal Service and perform other functions and duties prescribed by this title.".

(2) The table of sections for chapter 2 of title 39, United States Code, is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

"205. General authority of Postmaster General.".

(d)(1)(A) Section 102 of title 39, United States Code is amended to read as follows:

"§ 101. Definition

"As used in this title, 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(B) The table of sections for chapter 1 of title 39, United States Code, is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new item:

"102. Definition.".

(2) Section 204 of title 39, United States Code, is amended by striking out "Board" and inserting in lieu thereof "Postmaster General".

(3) Section 207 of title 39, United States Code, is amended by striking out "Board" and inserting in lieu thereof "Postmaster General".

(4)(A) Title 39, United States Code, is amended by striking out section 402.

(B) The table of sections for chapter 4 of title 39, United States Code, is amended by striking out the item relating to section 402.

(5) Section 1001(d) of title 39, United States Code, is amended by striking out "of the Board or".

(6) Section 1002(a) of title 39, United States Code, is amended by striking out "Governor or".

(7) Section 1011 of title 39, United States Code, is amended by striking out "Board" and inserting in lieu thereof "Postmaster General".

And redesignate the following paragraphs accordingly.

Mr. CORCORAN of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I am very pleased to accept this amendment on this side.

I think it is a good amendment. Is this the one which abolishes the Board of Governors?

Mr. CORCORAN of Illinois. That is correct, and I thank the gentleman for his support.

Mr. Chairman, the reason I offer this amendment is that the function of the Board of Governors will no longer be necessary with the passage of H.R. 7700.

As reported out of committee, H.R. 7700 eliminated the Board of Governors, and I would like to see that provision reinstated. The question of whether or not there should be a Board of Governors seems to me to be a simple one. I am sure all of my colleagues join me in supporting the elimination of unnecessary bureaucracy, and my amendment will do just that.

The Board of Governors, in Mr. HANLEY's amendment, would be appointed by and responsibe to the President, and would serve an advisory and oversight function for the Postmaster General.

However, the Postmaster General is also an appointee of the President and is directly responsible to him, so I fail to see the necessity of the Board of Governors. The Postmaster General is capable of performing the duties of the Board of Governors, and will presumably be privy to the same policy decisions of the President as will the Board of Governors. In addition, the Postmaster General will be free to seek advice from any quarter that might be helpful. Thus, I feel that we are simply encouraging the proliferation of unnecessary bureaucracy that can only serve to duplicate the functions of the Postmaster General and offer an additional shield against assigning responsibility for the operation and policies of the Postal Service.

Furthermore the revised bill not only authorizes an unnecessary layer of bureaucracy, but authorizes unlimited staff and unlimited funds with which this Board can operate. Thus, it is essentially an authorization to permit uncontrolled growth in the Board of Governor's office.

Inasmuch as the Postmaster General is directly responsible to the President and capable of performing the duties of the Board, I see no reason why the House of Representatives should authorize the continuance of the Board of Governors, let alone unlimited staff and funds to work with. I urge my colleagues to support this amendment.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this really is not that Earth-shaking an amendment since it applies to a handful of people, the nine people on the Board of Governors. However, there is a very practical consideration here; and again, I reluctantly am in a position where I am addressing myself especially to the majority side of the aisle because, as the majority understands, its man is in the White House.

The facts of life are that the Postal Service is not a political asset to anyone. The Postal Service is a political liability since so many people complain about the delays and problems in the service provided by the Postal Service.

When you remove the Board of Governors, you then remove the buffer between an irate public and the President. To be quite honest, if I were here being partisan, I would want to support this amendment. I do not think that, of all the problems the President of the United States has, he should have to be again saddled with the label of being the man who is misdirecting the Postal Service each time someone is frustrated with the Postal Service.

The President of the United States is not the man who is misdirecting the mail in Amarillo, Tex., or Miami, Fla., or wherever else it is being misdirected. I think that under the new management we have in the Postal Service, the Board of Governors has served a practical function. It has kept the political problem away from the Postal Service and, quite frankly, I say to the gentlemen on the other side of the aisle that this is the kind of amendment that they should have passed in 1973 and 1974. In 1978, I do not think this is a practical amendment for the majority to be supporting.

If the majority wants its President, with all the problems he has with energy, the Middle East, the Horn of Africa, the economy, social security, farm parity—if the majority also wants to put in his hands the hot potato of the Postal Service, fine, but if you want to keep the President at a proper distance from the complaints concerning the Postal Service, which he cannot solve and which he cannot control, then I think the majority should keep this Board of Governors.

If the majority wants to be practical in a political sense, it should protect its President by retaining the Board of Governors.

Mr. CHARLES H. WILSON of California. Will the gentleman yield?

Mr. DERWINSKI. I yield.

Mr. CHARLES H. WILSON of California. Will the gentleman please tell me one thing the Board of Governors has done since the Postal Service has been in effect—one positive thing that they have done which would give us justification for keeping the Board of Governors?

Mr. DERWINSKI. They have set the general policy of the Postal Service. They have followed, of course, the law under requirements as it relates to the rate requests submitted to the Rate Commission. In other words, they fulfill the obligations they have under the law.

Mr. CHARLES H. WILSON of California. Have they not really just done what the Postmaster General told them to do?

Mr. DERWINSKI. Yes, but positively. They have been cooperating with the Postmaster General. They have not been an adversary group. But the point I am trying to make is this: Under this bill, we provide for Presidential appointment of the Postmaster General to coincide with the term of office of the President. This comes close to putting the direct spotlight of responsibility on the President. Now, if we remove the Board of Governors the President—the White House—has this extra headache. The practicality of the present law is that the President cannot be blamed for any malfunction of the Postal Service.

At the risk of sounding like a pessimist, and I really am not, I would advise the ladies and gentlemen of the House that the Postal Service will never be acceptable to the public. The public expects perfection. The Postal Service will never reach it. No President will ever be able to get the post office functioning perfectly. The Lord himself would probably fail if he tried it. As a result, we are moving back to the point where there is an implication of political control, Presidential control of the post office. This is not good politics; it is not good management.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CORCORAN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

POSTAL RATES AND MAIL CLASSIFICATION DECISIONS

SEC. 8. (a)(1) Section 3623(a) of title 39, United States Code, is amended by striking out "make a recommended" and inserting in lieu thereof "render a".

(2) Section 3623(b) of title 39, United States Code, is amended—

(A) by striking out "submit" the first place it appears therein and inserting in lieu thereof "render";

(B) by striking out "submit to the Governors" and inserting in lieu thereof "render"; and

(C) by striking out "recommended".

(3) Section 3623(c) of title 39, United States Code, is amended by striking out "make a recommended" and inserting in lieu thereof "render a".

(b)(1) The heading for section 3624 of title 39, United States Code, is amended by striking out "Recommended decisions" and inserting in lieu thereof "Decisions".

(2) Section 3624(a) of title 39, United States Code, is amended by striking out "recommended" and inserting in lieu thereof "render".

(3) Section 3624(c)(1) of title 39, United States Code, is amended—

(A) by striking out "recommended" the first place it appears therein;

(B) by striking out "transmit its recommended" and inserting in lieu thereof "render its"; and

(C) by striking out "to the Governors under subsection (d) of this section".

(4) Section 3624(d) of title 39, United States Code, is amended to read as follows:

"(d) The Commission shall determine the date or dates on which the new rates, fees, mail classification schedule, and changes in the schedule shall become effective. The decisions of the Commission shall be final.".

(c)(1) Title 39, United States Code, is amended by striking out section 3625.

(2) The matter describing section 3624 and section 3625 in the table of sections for subchapter II of chapter 36 of title 39, United States Code, is amended to read as follows:

"3624. Decisions of Commission.
"3625. Repealed.".

(d)(1) The first sentence of section 3628 of title 39, United States Code, is amended—

(A) by striking out "decision of the Governors to approve, allow under protest, or modify the recommended"; and

(B) by inserting "under section 3624(c) of this title" immediately after "Postal Rate Commission".

(2) The second sentence of section 3628 of title 39, United States Code, is amended by striking out "and the Governors".

(3) The last sentence of section 3628 of title 39, United States Code, is amended by striking out "or Governors".

(e)(1) Section 3641(a) of title 39, United States Code, is amended—

(A) by striking out "transmit a recommended" and inserting in lieu thereof "render a"; and

(B) by striking out "to the Governors".

(2) Section 3641(d) of title 39, United States Code, is amended—

(A) by striking out "transmits its recommended" and inserting in lieu thereof "renders its";

(B) by striking out "to the Governors under section 3624(d) of this title"; and

(C) by striking out "Governors" and inserting in lieu thereof "Commission".

(3) The first sentence of section 3641(e) of title 39, United States Code, is amended—

(A) by striking out "transmit to the Governors" and inserting in lieu thereof "render a decision"; and

(B) by striking out "recommended".

(4) The second sentence of section 3641(e) of title 39, United States Code, is amended by striking out "transmitted its recommended decision to the Governors" and inserting in lieu thereof "rendered its decision."

(f) Section 3684 of title 39, United States Code, is amended by striking out "Governors" and inserting in lieu thereof "Postmaster General".

(g) Section 5206(c) of title 39, United States Code, is amended by striking out "Board" each place it appears therein and inserting in lieu thereof "Postmaster General".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 8? There being none, the Clerk will read.

The Clerk read as follows:

POST OFFICE CLOSINGS AND CONSOLIDATIONS

SEC. 9. (a) Section 404(b)(1) of the title 39, United States Code, is amended by adding at the end thereof the following new sentence: "The Postal Service shall conduct a hearing relating to a proposed closing or consolidation during the 60-day period in the area which would be affected by a proposed closings or consolidation.".

(b) Section 404(b)(2)(A) of title 39, United States Code, is amended by inserting after the word "effect" a comma and the words "including social effect,".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 9? There being none, the Clerk will read.

The Clerk read as follows:

SURPLUS AND EXCESS PROPERTY

SEC. 10. (a) Section 410(b)(4) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new paragraph:

"(F) chapter 10 (relating to management and disposal of Government property), except that the provisions of such chapter shall apply only to property held by the Postal Service at the time of its establishment by section 201 of this title, as enacted by section 2 of the Act of August 12, 1970, Public Law 91–375; and".

(b) Section 401(5) of title 39, United States Code, is amended by inserting before "to acquire" the following: "subject to the provisions of section 410(b)(4)(F) of this title,".

Mr. CHARLES H. WILSON OF California (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 10? There being none, the Clerk will read.

The Clerk read as follows:

REVIEW OF PROPOSED CAPITAL INVESTMENT

SEC. 11. (a) Chapter 20 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 20.11 Review of proposed capital investments

(a) The Postal Service may not carry out any capital investment project having a total estimated cost exceeding $9,000,000 unless the Postal Service, before commencing such project, transmits a report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives. Such report shall contain a detailed description of the project involved, together with a justification for such project.

"(b) The Committee on Governmental affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives, upon receiving any report from the Postal Service under subsection (a) of this section, shall review the project involved and conduct such hearings with respect to such project as each committee considers necessary. Each committee shall transmit recommendations to the

Postal Service with respect to such project no later than 4 months after receiving a report under subsection (a) of this section.

"(c) The Postal Service may not commence any capital investment project with respect to which a report has been transmitted by the Postal Service under subsection (a) of this section until the Postal Service has received recommendations with respect to such project from the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives under subsection (b) of this section. The Postal Service shall take such recommendations into account in making its final determination with respect to carrying out the project involved.

"(d) For purposes of this section, the term 'capital investment project' means any project the cost of which is not properly chargeable, under generally accepted accounting principles, as an expense of operation and maintenance.".

(b) The table of sections for chapter 20 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"20.11. Review of proposed capita investments.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 11? There being none, the Clerk will read.

The Clerk read as follows:

TRANSPORATION OF MAIL BY VESSEL

SEC. 12. (a) Section 5605 of title 39, United States Code, is amended to read as follows:

"§ 5605. Transportation of mail on United States vessels

"(a) The Postal Service shall contract for the use of vessels of United States registry to originate any international sea transportation of mail of the United States in any case in which the common carrier which operates or controls such vessel is engaged in the provision of regular transportation services to the destination specified by the Postal Service. The Postal Service shall not be required to enter into any such contract if no such vessels are available at the time the Postal Service seeks to arrange for the transportation of such mail.

"(b) Any rate charged for the sea transportation of mail of the United States under subsection (a) of this section shall comply with the provisions of the Shipping Act, 1916, as amended. Any such rate shall not be less than the sum of—

"(1) the fully distributed costs of common carriers; and

"(2) a fair and reasonable profit.

"(c) In any case in which 2 or more common carriers seek to enter into a contract offered by the Postal Service under subsection (a) of this section, the Postal Service shall award such contract by competitive bidding. The duration of any such contract may not exceed 1 year.

"(d) The Postal Service shall not give any preference to any common carrier upon the basis of length, height, or width of cargo containers. No advertisement or invitation to bid for the carriage of mail may specify carriage of mail in containers of any specified length, height, or width.

"(e) For purposes of this section, 'common carrier' means any common carrier, other than any ferry boat running on regular routes, engaged in the transportation by water of passengers or property between the United States (or any of its districts, territories, or possessions) and any foreign country, whether in the import or export trade, except that a cargo boat commonly referred to as an ocean tramp shall not be considered to be a common carrier.".

(b) The table of sections for chapter 56 of title 39, United States Code, is amended by striking out the item relating to section 5605 and inserting in lieu thereof the following new item:

"5605. Transportation of mail on United States vessels.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 12? There being none, the Clerk will read.

The Clerk read as follows:

RATES FOR BOOKS, FILMS, AND OTHER MATERIALS

SEC. 13. (a) Section 3683(b) of title 39, United States Code, is amended to read as follows:

"(b) Notwithstanding any other provision of this title, any—

"(1) book (including any book published or otherwise issued as a supplement to any other book) which—

"(A) consists exclusively of reading matter, schloarly bibliography, or reading matter with incidental blank spaces for notations; and

"(B) contains no advertising, other than incidental announcements of books;

"(2) 16 millimeter film, narrow-width film, film strips, transparencies for projection, slides, or micro film;

"(3) sound recording;

"(4) museum materials, specimens, or collections;

"(5) scientific or mathematical kit, instrument, or other device;

"(6) teaching aid, guide, map, or other interpretative material for use in conjunction with any item specified in paragraph (1) through paragraph (5); and

"(7) catalog or similar publication which contains a listing of any item specified in paragraph (1) through paragraph (6);

may be mailed at the rates currently in effect for mail matter specified in former section 4554(b)(1) of this title in any case in which any such item is mailed to or from any institution, organization, or association specified in subparagraph (A) or subparagraph (B) of former section 4554(b)(1) of this title or to or from any school, college, university, or library.".

(b) The catchline for section 3683 of chapter 36 of title 39, United States Code, is amended to read as follows:

"§ 3683. Uniform rates for publications, films, and other materials".

(c) The table of sections for subchapter V of chapter 36 of title 39, United States Code, is amended by striking out the item relating to section 3683 and inserting in lieu theref the following new item:

"3683. Uniform rates for publications, films, and other materials.".

Mr. HANLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 13? There being none, the Clerk will read.

The Clerk read as follows:

SEC. 14. (a) Section 3661 of title 39, United States Code, is amended to read as follows:

"§ 3661. Changes in postal services

"(a) When the Postal Service determines that there should be a change in the level or types of postal services, and such a change would have nationwide or substantially nationwide impact, a detailed statement of the proposed change, including estimates of impact upon the public, business mail users, service levels, postal finances, and postal employment shall be submitted to the Congress in accordance with this section.

"(b) No proposed change in the level of postal services shall become effective unless during the period of the first 60 calendar days of continuous session of the Congress (after the date on which the Postal Service transmits to the House of Representatives and to the Senate a document setting forth the text of the detailed statement of the proposed change) neither House adopts a postal service resolution referred to in subsection (e)(2) of this section.

"(c) Any document described in subsection (b) of this section shall be immediately referred in the House of Representatives to the Committee on Post Office and Civil Service and in the Senate to the Committee on Government Affairs.

"(d) For purposes of subsection (b) of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(e)(1) The provisions of this section are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of postal service resolutions described in paragraph (2) of this subsection, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For purposes of this subsection, the term 'postal service resolution' refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the change in the level or type of postal services described in the document which is transmitted to the Congress pursuant to subsection (b) of this section; and

"(B) which is reported from the Committee on Post Office and Civil Service of the House of Representatives or the Committee on Governmental Affairs of the Senate, not later than 45 days after the date on which the document described in subsection (b) of this section relating to such change is transmitted to the Congress.

"(3) Any resolution upon being reported shall immediately be placed on the appropriate calendar.

"(4)(A) A motion in the House of Representatives to proceed to the consideration of any postal service resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in

order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on any postal service resolution shall be limited to not more than 6 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any postal service resolution or to move to reconsider the vote by which any postal service resolution is agreed to or disagreed to.

"(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any postal service resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(D) All appeals from the decisions of the Chair relating to the Application of the Rules of the House of Representatives to the procedure relating to any postal service resolution shall be decided without debate.

"(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any postal service resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

"(f)(1) For the purpose of this section, a change in the level or types of postal services includes—

"(A) a change in the number of days each week mail is delivered over letter carrier, rural, and star routes;

"(B) a change in the number of days each week and hours each day post offices are open to the public to transact business;

"(C) an increase in the periods of time used as the standard for the timely delivery of mail matter as of September 1, 1977;

"(D) a change in the standards which would further restrict the eligibility to receive mail by letter carrier, rural, or star route delivery; and

"(E) changes in other nationwide or substantially nationwide levels and types of postal services which have been provided to the public generally.

"(2) For purposes of this section, a nationwide or substantially nationwide change in service includes any such change which would have e ect in more than one geographic or administrative region established by the Postal Service.".

(b) The subchapter heading appearing immediately above section 3661 of title 39, United States Code, is amended to read as follows:

"SUBCHAPTER IV.—CHANGES IN POSTAL SERVICES AND RATE AND SERVICE COMPLAINTS".

(c) The catchline appearing at the beginning of chapter 36 of title 39, United States Code, is amended by striking out the matter relating to subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV.—CHANGES IN POSTAL SERVICES AND RATE AND SERVICE COMPLAINTS

"3661. Changes in postal services.
"3662. Rate and service compalints.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 14? There being none, the Clerk will read.

The Clerk read as follows:

SEC. 15. (a) Subchapter I of chapter 36 of title 39. United States Code, is amended by adding the following new section:

"§ 3606. Public disclosure of costs and subsidies

"(a) The Postal Rate Commission shall, by regulation, create procedures by which the public shall be apprised of the attributable cost and institutional cost of each class or subclass of mail or type of postal service, the costs actually paid by users and the subsidies which benefit such class or subclass of mail service.

"(b) For the purposes of this section—

"(1) 'attributable cost' means those costs which vary with the volume of the class or subclass of mail or type of postal service over a period of not more than 3 years;

"(2) 'institutional cost' means those costs apportioned by section 3622(b) of this title minus the proportionate share of such costs which are attributable costs apportioned under section 3622(b)(2) by operation of section 3622(b)(1); and

"(3) 'subsidies' means the attributable costs plus the institutional costs minus the actual rate or fee paid by the mailer, and may be further broken down by the Commission into subsidies paid by other mail classes and subsidies paid out of appropriations, whether statutorily or administratively assigned.

"(c) The information, provided under regulations of the Commission by this section, shall be posted in all post offices, shall be required as an appendix to the notices required under section 3685 of this title, and shall otherwise be made available to the public for examination. The information shall be stated in a manner which is readily understandable, including breakdowns in cents and fractions of cents as to the average costs and subsidies of individual pieces of mail within a class or subclass.".

(b) The table of sections for subchapter I of chapter 36 of title 39, United States Code, is amended by inserting at the end thereof the following new item:

"§ 3606. Public disclosure of costs and subsidies.".

Mr. HANLEY. Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 15? There being none, the Clerk will read.

The Clerk read as follows:

POSTAL EXECUTIVE SALARIES

SEC. 16. (a) Section 1003(a) of title 39, United States Code, is amended by striking out the third sentence and inserting in lieu thereof the following: "Except as provided in subsection (b) of this section, no officer or employee shall be paid compensation at a rate in excess of the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.".

(b) Section 1003 of title 39, United States Code, is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) The maximum rate of compensation—

"(1) for the Postmaster General shall not exceed the rate of basic pay then currently in effect for level I of the Executive Schedule of section 5312 of title 5;

"(2) for the Deputy Postmaster General shall not exceed the rate of basic pay then currently in effect for level II of the Executive Schedule of section 5312 of title 5;

"(3) for not more than 6 Assistant Postmasters General, shall not exceed the rate of basic pay then currently in effect for level III of the Executive Schedule of section 5314 of title 5;

"(4) for the General Counsel, for the Chief Postal Inspector, and for not more than 5 regional Postmasters General, shall not exceed the rate of basic pay then currently in effect for level IV of the Executive Schedule of section 5315 of title 5; and

"(5) for not more than 10 other positions (as determined by the Postmaster General) shall not exceed the rate of basic pay then currently in effect for level V of the Executive Schedule of section 5316 of title 5.".

(c)(1) Except as provided in paragraph (2) of this subsection, any officer or employee of the Postal Service serving on the date of the enactment of this Act whose rate of compensation would, but for this paragraph, be reduced by reason of the limitations contained in section 1003 (a) or (b) of title 39, United States Code, as amended by this Act, may continue to receive compensation at the rate in effect on such date so long as such officer or employee continues without a break in service of more than 3 days to perform the duties of the position occupied on such date.

(2) A person employed by contract under section 1001(c) of title 39, United States Code, whose compensation would otherwise be reduced by reason of section 1003 of title 39, United States Code, as amended by this Act, may continue to receive compensation at the rate prescribed in the contract until term of employment in the contract expires. No contract under such section 1001(c) may be made, extended, or renewed at a rate of compensation in excess of the rates of basic pay prescribed under section 1003 of title 39, as amended by this Act.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 16? There being none, the Clerk will read.

The Clerk read as follows:

SEC. 17. Section 1001(b) of title 39, United States Code, is amended—

(1) by striking out "Officers" and inserting in lieu thereof the following: "(1) Subject to the provisions of paragraph (2) and (3) of this subsection, officers"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In making any appointment to the position of postmaster at any post office, the Postal Service shall give preference to—

"(A) an eligible employee in the post office where the vacancy occurs who has resided within the delivery area of that post office or within the city or town where the post office is located for not less than 1 year; or

"(B) an equally qualified individual who has resided within the delivery area of that post office, or within the city or town where the post office is located for not less than 1 year;

over any individual who has not resided within the delivery area of that post office or the city or town where the post office is located, for at least 1 year.

"(3) The Postal Service shall publish in the Federal Register the qualifications for appointments under this subsection. Such qualifications shall not limit consideration to individuals who are employees of the Postal Service. The Postal Service shall provide adequate notice for a period of at least 30 days to postal patrons at the post office where

a vacany occurs that any individual may apply for the position of postmaster under this subsection, and such notice shall include basic requirements, qualifications standards, and an explanation of selection procedures.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 17? There being none, the Clerk will read.

The Clerk read as follows:

RESEARCH AND DEVELOPMENT

SEC. 18. (a) Section 403(b) of title 39, United States Code, is amended by—

(1) striking out the period at the end of paragraph (3), and inserting in lieu thereof a semicolon; and

(2) adding the following new paragraph:

"(4) to develop and maintain a program of research and development to ensure a modern system of postal equipment and facilities. Beginning in fiscal year 1982, the annual expenditures of the research and development program shall be not less than 1 percent of total postal expenditures.".

(b) The Postal Service shall undertake a study of the feasibility and desirability of the Postal Service establishing a system for the electronic transmission of mail matter. The Postal Service shall report its findings and recommendations to the President and the Congress not later than December 31, 1979.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 18 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: Page 34, after line 13, insert the following new sections and redesignate the subsequent sections accordingly:

PRIVATE CARRIAGE OF LETTERS

SEC. 18. (a) Chapter 6 of title 39, United States Code, is amended by striking out sections 601 and 602 and by redesignating section 603 through section 606 as section 601 through section 604, respectively.

(b) The table of sections for chapter 6 of title 39, United States Code, is amended to read as follows:

"Sec.
"601. Searches authorized.
"602. Seizing and detaining letters.
"603. Searching vessels for letters.
"604. Disposition of seized mail.".

SEC. 19. (a)(1) Chapter 83 of title 18, United States Code, is amended by striking out sections 1694, 1695, 1696, and 1697.

(2) The table of sections for chapter 83 of title 18, United States Code, is amended by striking out the items relating to sections 1694, 1695, 1696, and 1697.

(b) Section 1698 of title 18, United States Code, is amended by inserting "(other than letters or packages carried by private express)" after "cargo".

(c) Section 1699 of title 18, United States Code, is amended by inserting "except where carried by private express and" after "nearest post office," and after "under my power of control,".

Mr. ROUSSELOT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. CHARLES H. WILSON of California. Mr. Chairman, reserving the right to object, may I ask the gentleman what section this amendment is in?

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, this amendment relates to first class mail.

Mr. CHARLES H. WILSON of California. But what section is it in?

Mr. ROUSSELOT. This provides for a new section.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, this amendment would repeal the private express statutes and open up first-class mail to competition from the private sector.

The amendment I am offering today is not unfamiliar to Members of this body. During debate on H.R. 8603, the so-called Postal Reorganization Act Amendments of 1975, my distinguished colleague on the Post Office and Civil Service Committee, JIM HANLEY, a primary sponsor of H.R. 7700, opposed my amendment, saying:

Give this Postal Service a little time. We have the finest Postal Service in the world . . .

My amendment was defeated, Mr. HANLEY's bill (H.R. 8603) passed, and here we are again—trying to make the Postal Reorganization Act of 1970 work.

That will not happen. H.R. 7700 is not the answer to the serious problems facing the U.S. Postal Service. However, I believe that the repeal of the private express statutes, bringing an end to the postal monopoly for first-class mail would introduce the stimulus of private competition into the nearly moribund body of the U.S. Postal Service.

Mr. Chairman, it is ironic that if we do not repeal the private express statutes today, modern technology will end the postal monopoly of first-class mail in a very few years without a fight. According to a study done by the Postal Service itself, the volume of first-class mail has been steadily reduced by industry and Government use of electronic mail, sometimes referred to as EFTS, or electronic funds transfer system.

It has been estimated that by 1985 over 40 percent of all first-class mail will be sent by electronic message. As my colleague, JIM HANLEY, well knows because he chairs the subcommittee which has held hearings on this question, 15 percent of all social security checks are already being electronically transferred directly to the recipient's bank. The postal study further reveals that by 1985, nearly 60 percent of all transactional first-class mail, the most highly profitable mail to the U.S. Postal Service, will be sent outside the postal system. This statistic is important because transactional mail contains the lucrative computerized and presorted billings and advertising flyers which are sent at the first of the month.

During hearings held before the Subcommittee on Postal Operations on April 6, 1977, Dr. Louis T. Rader, Chairman of the U.S. Postal Service Support Panel, Committee on Telecommunications, National Research Council, testified that the Support Panel has "reservations about the ability of the U.S. Postal Service to meet the Nation's need for a complete mail service in the future." I think this is an important comment because, historically, Americans have found faster and more efficient ways of transferring their messages. Thus, the postal monopoly on first-class mail will be eliminated in a kind of "natural selection," because private industry cannot afford the luxury of an inefficient, overly expensive postal system.

I urge my colleagues to consider the elimination of the postal monopoly of first-class mail. We have only to recognize what the alternatives will be—ever-increasing Federal subsidies, skyrocketing postal rates, and rapidly deteriorating service.

The statutory first-class postal monopoly has no economic justification. As John Haldi writes in the American Enterprise Institute study on the postal monopoly:

The monopoly is no longer an important source of government revenue and in no way promotes better or cheaper mail service. In fact, it probably impedes the development of better systems for delivering written communications.

Support for the repeal of the private express statutes is essential to any serious attempt to reform the Postal Service and save it from a bloody and expensive death.

Repealing the private express statutes is not the new and radical proposal some Members may believe it to be. The U.S. Department of Justice, in a January 1977, study, stated that—

Since their inception, the express laws and the postal monopoly have been a matter of some public policy concern.

The Justice Department study goes on to assert that—

There is little, if any, evidence that the Postal Service is in actuality a "natural monopoly," i.e., that its operations demonstrate pervasive declining average costs per unit of production to scale . . .

USPS is not a natural monopoly—if it were, it would not need the protection of the private express statutes, for over time, any competition would be inexorably vanquished by virtue of the laws of economics.

Mr. Chairman, it is obvious, therefore, that the private express statutes continue to exist simply to protect a large, inefficient, costly bureaucracy. Some in the postal unions oppose this amend-

ment because they rightly fear the competition which would occur with private enterprise should the repeal take place. The United Parcel Service experience has conclusively proven that it is possible, if not easy, to attract customers away from the U.S. Postal Service and take reasonable profits.

The U.S. Postal Service would eventually benefit from competition with private enterprise, as the telephone industry experience has indicated, and the American public would receive a broader—and cheaper—range of services.

It is time to make the Postal Service competitive with private enterprise. It is time to have tax revenues from private postal corporations coming into the Federal Treasury rather than billions going out to support an organization which has no pressure or reason to operate economically and efficiently.

I urge my colleagues to vote yes for the repeal of the private express statutes.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment. I would be less than candid if I did not say that I have some reservations about the Postal Service's interpretation of the private express statutes, but responsibly I have to remind the Members that the private express statutes are the heart of the U.S. Postal Service, and without it we cannot expect that agency to deliver universally with universal rates.

It is the intent of this committee immediately after the disposition of H.R. 7700 to move in the direction of hearings on the private express statutes to allow the opportunity for various entities who have complaints about it to come forth and cite their complaints. I have talked with a number of people who, in my judgment, provide pretty good arguments with respect to waiver, and I have assured the groups that have come to me that I will make a very honest effort to hear them out and then let the committee decide what it should do from the standpoint of waiver.

With due respect to my very dear friend, the gentleman from California (Mr. ROUSSELOT), it would be highly irresponsible at this point in time to move in the direction of carving the heart out of the Postal Service by eliminating the private express statute. If we do that, we might just as well have the agency fold up its tent, because there is no way that it could really function.

I would ask that the gentleman would be patient with the committee for a bit, give us the opportunity to run through this set of hearings and then let us collectively make a judgment with respect to whatever changes we would deem to be appropriate with respect to the private express statute.

The gentleman from California knows and I know that our dear friend, the gentleman from Mississippi, Mr. TRENT LOTT, has some serious reservations about numerous aspects of the statute.

I can only repeat what I say that I think we should be opposed to trying to make a judgment on this all-important facet of the Postal Service here and now on this floor. Let us be patient. Let us get into the hearing process and let us sit as a committee and determine what best suits the national interest now from the standpoint of the private express statute.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

Second, I appreciate the gentleman's commitment, as I know the gentleman has made in the past, to make sure that the committee has full and total hearings on this subject and has a wider range than we have already had of people testifying on this subject. I am very appreciative of that and hope we can do it soon.

Now, as to the argument that it takes the heart and soul out of the postal office, I find that very difficult to believe, when the main argument against repealing the private express statute, or the monopolistic control the post office has, is that it would be the remote areas that would be hurt, that the major metropolitan areas already have private delivery systems in the private sector already operating very efficiently, in many cases at less cost than the post office itself.

Therefore, the gentleman's concern for the remote areas, I think, is a correct one, but most of those areas are served by rural route carriers. I support that route system and would want to make sure that those numbers of people serviced by that system is continued and would pledge my support to make sure that it is, so that the very remote rural areas would be continued to be supported.

Mr. Chairman, this amendment does nothing to do damage to those, because many of them are either contracted and actually those people that make that kind of delivery service already are people that are private contractors.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HANLEY was allowed to proceed for an additional 3 minutes.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, it is hard for me to understand why the gentleman is raising the argument, which I have not heard before, that the heart is being carved out of the Postal System. Does the gentleman mean that the only thing holding up the Post Office is their monopoly on first-class mail? That is incredible.

Mr. HANLEY. The gentleman will agree, we have a nationwide distribution system that has to be maintained if the traditional scope of service is to be provided. Now, I would be delighted to take the franchise for the District of Columbia.

Mr. ROUSSELOT. Well, the gentleman has got it.

Mr. HANLEY. And we would serve it very well, or Pasadena, Calif., for that matter. I will take the franchise and I will deliver it. I will provide a good quality of service at a figure less than what the Postal Service provides; but I will be somewhat reluctant to assume the same responsibility or the same franchise with sparsely populated areas of this great country.

That is what it is all about. So if we are going to maintain a universal service and if we are going to maintain a universal rate structure so that that person in rural America does not have to pay $6 to get a letter delivered, then we must maintain the private express statutes.

Without belaboring the subject any further, let me say I do respect the gentleman's effort. However, once again I prevail upon him to be patient with us. He is a part of this committee. I suggest he let us conduct the hearings to which I have alluded and then let us sit down and make collective and responsible judgments as to which direction we should move with respect to the private express statute.

Mr. Chairman, again I respectfully ask the House to defeat the gentleman's amendment.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I would like to conclude by saying that the gentleman from New York (Mr. HANLEY) and I had a long discussion when there was some talk in the Post Office Department about eliminating Saturday delivery service. The gentleman said to me—and, I think, quite properly—that if in fact they did that, there might be an even better reason to repeal the private express statute. So far the Post Office Department has not done that, although they are thinking seriously about doing it.

I also remember the arguments the gentleman made—and very properly—as to why we should repeal the private express statute if that occurred.

Mr. Chairman, I am saying there are more than enough reasons already existent to take that action, and I urge my colleagues to support this amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, if the Postal Service were to lose large segments of its large first-class mail revenue, it would be left with only two options: a sharp increase in rates, or a request to Congress for a massive increase in subsidies.

It also seems likely repeal of the private express statutes would result in nonuniform first-class rates.

There are also other considerations involved. A Government operated national postal system makes it easier to enforce the laws governing the sanctity and security of the mail. Who would be responsible for forwarding of mail between areas served by different private mail organizations? There also is the question of international mail which is subject to international mail agreements.

Repeal of the private express statutes conceivably could serve some members of the business community, but it could not meet the needs of the larger business community and the general mail-using public.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. ROUSSELOT) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 18?

AMENDMENT OFFERED BY MR. CORCORAN OF ILLINOIS

Mr. CORCORAN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORCORAN of Illinois: Page 34, line 22, strike out "1982" and insert in lieu thereof "1981".

Page 35, lines 4 and 5, strike out "December 31, 1979" and insert in lieu thereof "September 30, 1979".

Mr. CORCORAN of Illinois. Mr. Chairman, the effect of this amendment is to speed up the time period contained in the bill for requiring a feasibility study of electronic communications and the earmarking of research and development funds for such purposes. The amendment does not change the language of this section of the bill except to change the dates involved from fiscal year 1982 to fiscal year 1981 and December 31, 1979 to September 30, 1979.

I offer this amendment because we must accelerate the serious attention of the Postal Service to electronic communications. Private industry spends money on research and development in order to beat the competition. The Postal Service, with its monopoly on first-class mail, doesn't make the necessary commitment to research and development to keep abreast of new developments in the rapidly expanding field of electronic communications.

Both in the 1977 report of the Commission on Postal Service and in response to my questions of the Chairman of that Commission, Mr. Gaylord Freeman, the evidence of Postal Service inattention to this field is very disturbing. Unless the Postal Service comes of age in this regard, there won't be much first-class business left for the Postal Service. Congress must mandate quick action, and I urge my colleagues to support this amendment.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, as I understand it, all the gentleman's amendment does is to change the effective date of the transfer program in the research and development section; is that correct?

Mr. CORCORAN of Illinois. It does; it shortens it one year.

Mr. CHARLES H. WILSON of California. Mr. Chairman, this is a good amendment, and we are happy to accept it.

Mr. CORCORAN of Illinois. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I have no objection, but I do have, I suppose a parliamentary inquiry.

This is the third amendment the gentleman is having adopted. Will we now start calling this the Corcoran bill?

Mr. CORCORAN of Illinois. I do not believe that was a parliamentary inquiry Mr. Chairman.

The CHAIRMAN. The Chair agrees with the gentleman from Illinois.

Mr. CORCORAN of Illinois. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CORCORAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUCKABY: Page 34, strike out line 13 and all that follows through line 5 on page 35.

Redesignate the subseqeunt sections accordingly.

Mr. HUCKABY. Mr. Chairman, the purpose of this amendment is to delete entirely the section in the bill entitled, "Research and Development." I offer this for several reasons. First of all, I think it is an extremely poor management technique for us to legislate an amount of money that the Post Office must spend for research and development. We are saying here that by 1981—now—we must spend $180 million, which is estimated to be 1 percent of the entire postal expenditures, and that it must go into research and development. This is extremely poor management policy.

Now, most of the emphasis here would probably be directed toward electronic media. I submit to this legislative body that the research and development that has been done, and should be done in the future in electronic communications, should be undertaken by companies such as A.T. & T., IBM, RCA—private enterprise participation instead of Government involvement in this area. If the potential is there, private enterprise will develop these facilities, and the Government can, at that time, acquire such transmission facilities.

In addition to that, the administration pointed out that they thought this was very foolish, and would lead to excessive Government waste by mandating such a tremendous increase in the research and development budget. With those comments, I urge that the House adopt the amendment.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I rise in opposition to the amendment. I will not take the full time.

I just want to say that one of the principal criticisms that we have had in our committees, both Mr. HANLEY's subcommittee and my own subcommittee, is the failure of the Postal Service to proceed with a reasonable research and development program. Everyone else in industry has a certain percentage of their budgets allotted for research and development. The Postal Service has just not followed suit, and as a result this is one of the problems we have had with the management of the Postal Service. They have bad equipment, faulty equipment in use, and that is why this is an extremely important section.

As far as the electronic transfer of mail is concerned, there is nothing in the section that interferes with the rights of A.T. & T. and anyone else to pursue the research and development work on electronic transfer. This does not provide that there is going to be any Government interference in the private sector in so far as electronic transfer is concerned.

The Postal Service is looking forward to the loss of a great deal of business as a result of their failure to proceed with a reasonable research and development program and to get into the electronic transfer field themselves. It is conceivable that if they do get into electronic transfer themselves, they would be using the systems from private industry to implement whatever program they have. I think we need this research and development section in here, and I hope we vote the amendment down.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield.

Mr. HUCKABY. The gentleman must agree that if my amendment is adopted, there will still be a research and devolopment budget: What I am proposing is that we not mandate the expenditure of $180 million by 1981, and more each and every year thereafter. There is no limit to this.

Mr. CHARLES H. WILSON of California. They have not been doing anything, and that is why we felt we had to have some guidelines for them. They have not done such a good job of keeping up with modern technology. That is why they are not able to compete as well with the United Parcel Service. That is the reason they have had so many problems. We are trying to help them along. We feel they have to develop a good R. & D. pro-

gram and that is the whole purpose of this bill, and I would hope we would retain this section.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we are getting near the end of the bill and I hope this is the last time the Members have to put up with my comments, but again I point out that the position I take is consistent with that recommended by the White House. I read to the Members from the letter by Mr. Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy, when he was analyzing in the letter to Chairman NIX the White House view on this bill. I quote Mr. Eisenstat's comments on this particular section:

> The section currently specifies that certain services are to be continued and that 2 percent of the postal budget ($320 million for FY '79) must be used for research and development. The Postal Service has $59 million budgeted for R&D for FY '79. To increase that budget allocation five times without the benefit of specific projects or programs can only result in waste, inefficiency and questionable practices.

I should add, since the bill has been revised to cover 1 percent, it would be $160 million, but the logic of the Eisenstat and the White House position still prevails.

The gentleman from Louisiana pointed out there is no point to dictating a precise item of this nature to management. The new Postmaster General in just the few weeks he has been in charge has indicated a great interest in research and development and indicated he would do everything possible to bring the Post Office into the modern age.

I think this amendment is superfluous. The principle the gentleman from Louisiana makes is a sound one. His point is that this is a management decision. This is not the kind of thing that should be dictated in legislation. It is a fine thing to add in a report, it is a fine thing to give this advice to the Postal Service, but I support the gentleman from Louisiana in his efforts to take this precise language out of the bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my distinguished colleague and friend, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, really all my colleague, the gentleman from Louisiana, has done is to eliminate the mandate to spend money in a given way. The authority to do this would remain under present law. Am I not correct, I ask my colleagues?

Mr. HUCKABY. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, so we will just eliminate the part of this bill that mandates that money be spent?

Mr. HUCKABY. That is correct. They are now spending approximately one-third of what this mandates.

Mr. ROUSSELOT. As a member of the Budget Committee, I say to my colleague this is an excellent amendment, because we have so many mandates in the whole budgetary process, it would be a relief not to have another one added. I compliment the gentleman on his amendment.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

If we were to single out any one reason why this institution is in the trouble it is in, we would have to relate to its shortcomings from the standpoint of R. & D. If any entity or any industry in the private sector ever tried to survive in the atmosphere of the U.S. Postal Service with respect to R. & D., they would have gone bankrupt many, many years ago. It is for this same reason that we have to go to the taxpayers today and ask for this additional subsidy.

I would remind the Members that this industry remains 87 percent labor intensive, far higher than anything else in our American economy. So what we are saying is this. I would remind the Members further that private industry invests between 2 percent to 5 percent of its budget to keep abreast of the times, to stay with it and keep on top, so they can fight off competition and be ahead. Unfortunately this agency has dribbled and dribbled, and it was only a few years ago, less than 10 years ago, that they did anything at all in the way of research and development.

We are trying to negate the necessity of pumping more and more millions of dollars of the taxpayers' money into this agency in an effort to bring it into the 20th century from the standpoint of sophisticated technology.

I would suggest that we compare our postal system with that of any other country in the modern world and we will find that essentially ours is a horse and buggy system. That is the rut that we are trying to get this agency out of.

I respectfully ask that the gentleman's amendment be defeated.

Mr. CORCORAN of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, ordinarily as a matter of philosophy, I would agree wholeheartedly with the remarks made by the gentleman from Louisiana (Mr. HUCKABY). The problem, however, is that the Postal Service is different. It is different in this respect, the Postal Service has a monopoly on first class mail and, as a result, the Postal Service has never had to engage in the kind of research and development that is needed in order to beat the competition that private business organizations have to consider or soon find themselves out of business.

The reason we became involved in our committee in the requirement that a certain percentage of the funds be earmarked was because of the failure of the Postal Service to modernize in this respect. First of all, there would be a feasibility study and then, subsequently, the earmarking of the funds for the research and development, if justified. I believe we have to recognize that if we are going to encourage the Postal Service to continue with the distribution of parcel post and the other mail that we assign to them through the actions of Congress then this legislative direction is needed. This is needed because the management has not been responsive to the importance of the development of electronic communications. And because of the present monopoly for first class mail they have not been forced to keep up with competition. Thus the need for our action. The primary focus of this section is to recognize that unless the Postal Service engages in a good research and development program, with the changes that are taking place in electronic communications we are going to lose much of the business mail which now constitutes 80 percent of the first class mail service. If that happens then the cost of the subsidy to the taxpayers of our country will be far beyond anything that is contemplated now because the very existence of the U.S. Postal Service will be threatened. There will be very little mail left it to deliver; it will have been siphoned off because of technological changes ignored by the Postal Service.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I do not believe that many of us can disagree with what the gentleman has just said about the failure of the Postal Service to do a satisfactory job of research and development, especially in allocating funds transferred for such purposes that really have been required of them. The problem is that this bill mandates that they spend 1 percent. Presently that refers to some $16 or $17 billion, so that it mandates the expenditure of $170 million.

My point, is, which I believe is also the point raised by the gentleman from Louisiana (Mr. HUCKABY) why do we have to put into this legislation a mandated amount? We are sending a message, I am sure, from here today so I do not believe it is necessary to mandate that amount.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield but I do not have control of the time.

Mr. CORCORAN of Illinois. I yield to the gentleman.

Mr. HANLEY. Mr. Chairman, it really stems from the negligence on the part of the agency to offer a program. They have had it on a voluntary basis throughout the years but have never adopted it, so it becomes necessary for us to provide the agency with this direction. That is unfortunate but necessary.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Louisiana.

Mr. HUCKABY. All we are doing is going out and forcing them to spend the money, but they will have the same set of managers there, and they have got to implement it if they want to do it. They

now have the authority to go ahead and spend the money on research and development and implement a program and spend the money but you will have the same people doing it, only mandating them to use the money.

Mr. CORCORAN of Illinois. The trouble is that with the passage of the legislation back in 1970 there was a change in the guiding philosophy of the Postal Service. Then the idea was that we were going down the road that would put the Postal Service on a profitmaking basis, or at least on a break-even basis. At the some time we required the Postal Service to perform the same service functions always given it—universal delivery of the mails and parcel post at reasonable rates.

I think most people now recognize that was, at least in part, a mistake. Some part of the budget of the Postal Service must come from the U.S. Treasury. And at the same time that we regain control over the management and the major policy decisions of the Postal Service, I think the requirements of this section are indeed justified.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

How are we to sit here in an ivory tower and determine that in 1981 the amount is $180 million? Do we have $50 million, or are we $50 million short? That is no way to run a business.

Mr. CORCORAN of Illinois. First, I think we must recognize that the section the gentleman is eliminating with his amendment does not trigger in the requirement that the expenditure take place until the feasibility study is made, and only on the condition that the feasibility study shows it would be a worthwhile expenditure of public funds.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

The gentleman has given as his reason for opposing this amendment that the Post Office, the Postal Service, has a monopoly on first-class mail. Is the mandating of a certain amount of R. & D. limited to first-class mail? Of course not, and so the R. & D. can be done, R. & D. on trucks in finding a better truck to handle the mail for them. It will not accomplish the purpose. The amendment should be supported.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word. I think the author of the amendment has raised a valid point. Believing in the legislative system, I think we should have debate on it. My concern, however, is if we accept the amendment in its entirety, which is the only way it is before us, are we going to imply to the Post Office that we want no R. & D., or would it not be better to possibly revise the amendment and say we want R. & D., but not specify the dollars and leave that as a management decision?

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

What the gentleman outlines is an existing situation. We have an R. & D. program today, and under my amendment it will continue.

Mr. CUNNINGHAM. I appreciate that, and I would like to hear somebody else confirm that so I am sure we are all saying the same thing, because here I understand that this is, you might say, a postal reform act, and I would not want to be guilty of striking research and development as a proper motivation for an efficient Postal Service.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

I think the issue is not whether there will be an R. & D. program; there obviously will be. The issue is the precise mandated figure. It could well be that under Postmaster General Bolger they will go far beyond the figure contained in the 1-percent figure now in the bill. That rightfully should be a management decision. As Mr. Eisenstat's letter clearly pointed out, we do not dictate the spending until they have the proper plans and the steps in hand to carry them out. So I think that the amendment is practical, and practicality does not preclude any interference with R. & D. I think I could advise the Members accurately that the new Postmaster General is R. & D. conscious.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

In fiscal year 1979, $59 million is budgeted for R. & D.

Mr. CUNNINGHAM. I thank the gentleman, and I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 18?

Mr. GIAIMO. Mr. Chairman, I move to strike the last word. I rise in opposition to this legislation.

Mr. Chairman, I am opposed to the committee amendment. I am opposed to the bill.

This is a bad proposal. It guarantees increased and continued taxpayer subsidies, primarily to business mailers, and Federal bailout of inefficient postal management.

The authorization for appropriation of $800 million additional for fiscal years 1979, 1980, and 1981—a total of $2.4 billion right there—is only part of the story. This proposal would also cut out of the existing law those provisions that look toward a steadily declining public-service postal subsidy. It would fix the existing public-service subsidy at $920 million each year. This action would eliminate the existing schedule which reduces the $920 million to $460 million by fiscal year 1984 and requires a plan for further reduction after 1984.

Add up just the obvious long-range costs of this bill: A $2.4 billion cost for the overt increase in subsidy plus $1.4 billion added cost from striking the reduction schedule—a total of $3.8 billion.

What are going to be the effects of such a proposal?

All incentives for sound management of the Postal Service are destroyed. What postal management is going to take a hard line on costs if a handout from the Federal Treasury is assured? How can postal management insist on reasonable labor contract terms if all parties know that Uncle Sam is standing ready to ante up more cash? In what way are the consequences of management action—or inactions—to be brought home to those responsible if those consequences are merely transferred to the Treasury and the general taxpayer?

This proposal strikes at the heart of the concept that those who use the mails should pay for the mails. That was the whole point of the Postal Reorganization Act of 1970. That act provided an extended period for adjusting to its financial consequence—at least 12 years—and Congress has already granted a further phasing-in period for certain classes of mailers. If this proposal is enacted, we can say goodby to hopes for an efficient, effective, and financially responsible postal service. We can say goodby to hopes that business mail users will pay the costs of the service they demand, knowing that the taxpayer will subsidize them.

Mr. Chairman, this proposal by itself is not a "spending bill." It is an authorization for subsequent appropriation. Thus, the impact of this bill on the budget is not finally determined by our action today. Appropriation of these funds—if they should be authorized—is not mandatory in any sense. We should insist that every dollar actually appropriated in the future under this ill-conceived authorization be intensively scrutinized.

I can say in all candor that I would be more reassured about this point if I thought that we would have the courage to take a good hard look at postal requirements through the appropriations process.

One final word about our budget problems. Members are certainly aware of the multitude of contingencies that we are going to have to face in connection with the 1979 budget. The House Budget Committee is presently working up the first budget resolution for fiscal year 1979. I

can inform Members that we are going to face an unending series of tough choices. Even if this ill-conceived proposition is enacted, I shall continue to insist that Congress act responsibly when the real budget problem ultimately arises—that is the appropriations to fund this bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EFFECT ON COLLECTIVE BARGAINING AGREEMENTS

SEC. 19. Nothing in this Act shall be construed to affect—

(1) any collective bargaining agreement entered into by the United States Postal Service which is in effect on the effective date of this Act;

(2) the authority of the United States Postal Service under chapter 12 of title 39, United States Code, to engage in collective bargaining with respect to any collective bargaining agreement into which the United States Postal Service may enter; or

(3) any obligations entered into by the Postal Service in any future collective bargaining agreement.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 19 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 19?

AMENDMENTS OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES H. WILSON of California: On page 35, after line 18, insert the following new section 20:

"SEC. 20. Section 404(a) of title 39, United States Code, is amended by adding the following new paragraph:

"'(10) to negotiate, notwithstanding any other provision of this title, the rates of postage applicable to mail matter formerly entered at rates under former section 4556 of title 39, United States Code, when the Postal Service determines that the volume of mail of one or more mailers justifies a negotiated contract rate, or the needs of the Postal Service require such negotiated rates.'"

And redesignate the following sections accordingly.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CHARLES H. WILSON of California. Mr. Chairman, this amendment is designed to improve the efficiency of the Postal Service by giving the Postmaster General some leeway in the manner in which he handles transportation and delivers mail. In the private sector, although transportation rates are established by the Interstate Commerce Commission, the overwhelming majority of actual rates for rail transportation are made on the basis of negotiations between the railroads and the customers of the railroads.

In Great Britain, for some time now, the Postmaster General has had the authority to contract when the volume of a particular mailer justifies the situation. The Postmaster General of the United States does not have that authority under existing law, and as a result, regardless of how advantageous it might be to the Postal Service and mail users generally to have a contract, it cannot be done.

This amendment would simply provide the Postmaster General with some contracting authority, so that when the volume of mail of a particular mailer or groups of mailers justify such an arrangement. it could be undertaken.

We have been looking for ways to improve the Postal Service and insure that mail volume continues at a satisfactory level. I think this approach would help, and I would hope that the gentleman from New York (Mr. HANLEY) and the gentleman from Illinois (Mr. DERWINSKI) would agree it is an addition to the bill which would be helpful.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, as I understand the gentleman's amendment, and the gentleman had the courtesy to send it over earlier, that it permits the Postal Service to negotiate based on volume for a better contract which would produce the volume they pursue.

Mr. CHARLES H. WILSON of California. That is right.

Mr. DERWINSKI. In other words, it gives them that management tool or business tool.

Mr. CHARLES H. WILSON of California. That is right.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to my colleague from California.

Mr. ROUSSELOT. Mr. Chairman, does this affect rural delivery?

Mr. CHARLES H. WILSON of California. It should help rural delivery.

Mr. ROUSSELOT. I mean, does it help particularly in the renegotiation of the contract?

Mr. CHARLES H. WILSON of California. No; it has no effect on that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CHARLES H. WILSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LOTT

Mr. LOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOTT:

On page 35 immediately following line 18 insert a new section 20, to read as follows:

SEC. 20. (a) section 601 of title 39, United States Code, is amended to read as follows:

"§ 601. Items not letters; letters carried out of the mail

"(a) As used in this chapter and in sections 1693 through 1699 of title 18, the term "letter" shall not include the following:

"(1) telegrams;

"(2) newspapers, periodicals, books, catalogs, directories, microfilms and other microfilms, magnetic tapes and other similar materials;

"(3) checks, drafts, promissory notes, stock certificates, bonds, securities, other negotiable and non-negotiable financial instruments, insurance policies, and title policies when shipped to, from, or between financial institutions;

"(4) abstracts of title, mortgages, deeds, leases, articles of incorporation, papers filed in lawsuits for formal quasi-judicial proceedings, and orders of court;

"(5) letters being sent in bulk to or from storage or to destruction;

"(6) letters being sent in bulk from a printer or other supplier to his customer;

"(7) written or printed matter enclosed with cargo or merchandise, including invoices, circulars, advertising, labels, instructions, and messages printed on the merchandise or container;

"(8) data processing materials, including electromechanical or electronic processing materials and all other types of materials that are ready for data processing or for conversion into a form ready for data processing, and the output of data processing when sent back from the processing center to the location originating the data processing materials;

"(9) any business communications between business organizations which are members of an affiliated group if transmission is completed within 12 hours or by noon of the addressee's next business day; and,

"(10) any means of communication which, as of January 1, 1977, was not in existence or was not generally considered to be a letter.

"(b) A letter may be carried out of the mails when—

"(1) it is enclosed in an envelope;

"(2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;

"(3) the envelope is properly addressed;

"(4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;

"(5) any stamps on the envelope are canceled in ink by the sender; and

"(6) the date of the letter, of its transmission or receipt by the carrier is endorsed on the envelope in ink.

"(c) Notwithstanding the provisions of subsection (b), the sending or carrying of letters outside the mails is permissible if if they are sent by or addressed to the individual carrying them or if they are sent by or addressed to an officer of employee of a carrier, including an officer or employee of an affiliate or subsidiary of a carrier, on the current business of such carrier.

"(d) The Postal Service may permit the carriage of letters, other than letters falling within the exceptions provided in subsections (b) an (c) above, outside the mails

upon a determination that such carriage is consistent with the public interest.".

(b) The analysis for chapter 6 of title 39, United States Code, is amended by striking out

"601. Letters carried out of the mail."

and inserting in lieu thereof:

"601. Items not letters; letters carried out of the mail.".

On page 34 line 15 strike "SEC. 20" and insert "SEC. 21".

Mr. LOTT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. LOTT. Mr. Chairman, the purpose of this amendment would give the responsibility of defining first-class mail back to Congress by codifying the present regulations with minor changes. Let me emphasize that this amendment does not seek in any way to repeal the private express statutes. Furthermore, the amendment responds to a specific recommendation made by the Commission on Postal Service after its 6-month study of the U.S. Postal Service, and I quote:

The Commission recommends that Congress enact legislation defining the scope of the private express statutes. The legislation should respond to the need of businesses for expedited delivery of extremely time-sensitive matter and to the public interest in maintaining a nationwide postal system. It is this Commission's view that exclusions from the private express statutes should be based not merely on the content of mail, but also in recognition of service requirements which the Postal Service is not prepared to meet.

The Postal Service's interpretation of the private express statutes has justifiably aroused a great deal of rancor within the business community. There are a number of reasons for this concern:

First. The most recent interpretation of a "letter" has included intracompany communications and data processing materials.

Second. Statutes are so unclear and unwieldy that compliance is difficult at best. Recent interpretations have lumped everything from IBM cards to engraved tombstones under the same heading requiring the item to be placed in an individually addressed envelope, sealed, and stamped.

Third. Present requirements are wasteful and inflationary. Thousands of manhours are lost annually when interoffice communications and data processing materials qualifying as so-called "letters" must be segregated then addressed, sealed, and stamped.

Fourth. The Postal Service's capricious interpretation of the law and the penalties that await violation require businesses to have a "lawyer" in every shipping room to determine whether such items as data disks or bills of lading qualify as "letters" and are subject to the postal "tax."

Fifth. Finally, the Postal Service cannot provide rapid and reliable service such as same-day or overnight delivery. Companies are therefore forced to seek a more costly alternative for delivery of vital correspondence. The effect has been to pass these additional costs to the consumer.

It is clear that something can and should be done.

My amendment will not repeal the private express statutes. Nor will it open the door to "cream-skimming" or unduly affect the level of Postal Service revenues.

It will codify—with some modification—what generally are the current Postal Service regulations relating to the private carriage of mail. It will prevent arbitrary and whimsical changes by the Postal Service and place in the hands of Congress the authority for determining the extent and pervasiveness of the Government's mail monopoly.

The term "letter" is not defined under existing law. Therefore, the Postal Service has regulated what may or may not be carried outside the mail. This singular authority is justifiable cause for concern.

Recently testimony before the Commission on Postal Service charged that Postal Service interpretations have expanded the scope of the law to include items that should not be considered "letters." For example, the transmission of data processing materials and correspondence between companies with a subsidiary or affiliate relationship have been included by the Postal Service under the broad "letter" umbrella. The effect, according to the testimony, has been to increase costs and to reduce efficiency.

In the final analysis, the Postal Service—as the title implies—has been created to serve the best interest of the American people. When a significant portion of our society feels that these interests are being violated, it is time for the Congress to take corrective action.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I am delighted to yield to the chairman of the subcommittee.

Mr. HANLEY. Mr. Chairman, I thank the gentleman for yielding.

I have given a great deal of thought to the gentleman's amendment. The gentleman and I have chatted about it, we have chatted with the gentleman from California (Mr. ROUSSELOT) on a similar subject matter, and I have committed myself to hearings shortly after the disposition of this bill.

Hindsight has it that I see no great harm in our accepting this amendment at this time, and I think in this way that perhaps we may be transmitting a message with respect to what the outcome of a committee deliberation might be on the subject matter.

So, Mr. Chairman, after due consideration I am prepared to accept the gentleman's amendment.

Mr. LOTT. Mr. Chairman, I certainly appreciate the gentleman's decision.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this amendment will give Congress responsibility for codifying, with some modifications, existing Postal Service regulations relating to letter mail. The term "letter" is not defined under existing law. As a result, the Postal Service has regulated what may or may not be carried outside of the mail.

The Commission on Postal Service recommended Congress enact legislation defining the scope of the private express statutes. The Lott amendment does not seek in any way to repeal the private express statutes.

The most recent interpretation of a "letter" has included intracompany communications and data processing materials.

Under the Lott amendment, any business communications between business organizations which are members of an affiliated group would not be considered "letter" material, if transmission was completed within 12 hours, or by noon of the addressee's next business day.

The business community has expressed concern about the Postal Services' broadening interpretation of a "letter." If the Postal Service cannot provide the rapid, dependable service required by the business community, it should not prohibit others from doing so unless penalty postage is paid.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I think the subject matter that has been brought up here is extremely important and very relevant. In my opinion, it is probably a wise decision to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. LOTT).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 20. The provisions of this Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

● Mrs. MEYNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Mississippi (Mr. LOTT) and I urge the House to join me in approving this important amendment.

In April 1977, the President and the Congress received, pursuant to Public Law 94–421, the report of the Commission on Postal Service. That report included the following recommendation:

. . . that Congress enact legislation defining the scope of private express statutes. The legislation should respond to the need of business for expedited delivery of extremely time-sensitive matter and to the public interest of maintaining a nationwide postal system. It is the Commission's view that exclusions from the private express statutes should be based not merely on the content of mail, but also in recognition of service requirements which the Postal Service is not prepared to meet.

Mr. Chairman, I can think of no service requirement that the Postal Service is less equipped to meet than same-day delivery. For this reason, I am pleased that the gentleman has chosen this forum to correct an existing inequity and to respond to the recommendation of the Commission.

Current law allows the Postal Service to define "letter" for the purpose of the private express statutes. The result has been that postal patrons who opt to send certain material by private carrier pay not only that carrier's fees, but a penalty fee to the Postal Service as well. The argument regarding the validity of the Postal Service's power to define "letter" for these purposes would be different if it were capable of providing those same services. But, in light of that inability, the existing power is unacceptable. I am pleased to have this opportunity to support an amendment to correct this inequity.

The amendment before the House is of particular concern to the real estate industry. It is largely in response to mail that I have received on this issue that I rise in support of the amendment. As many of us have heard in recent weeks, the real estate industry often depends on the delivery of time-sensitive materials. The inability of the Postal Service to meet this need through same-day delivery precludes realtors from utilizing the Postal Service in this regard. Nonetheless, they face a situation where the Postal Service can define these time-sensitive, multiple listing service materials as "letters" within the meaning of the private express statutes. The result, Mr. Speaker, is that realtors will pay not only the cost of the courier, but a penalty fee to the Postal Service as well. This occurs, despite the fact that the local post office will never handle this material.

It is for these reasons that I rise in support of the amendment and urge my colleagues to do so as well. Much of today's debate has centered around the role of private industry in competition with and as a supplement to the services of the Postal Service. I support H.R. 7700 because I believe that this legislation recognizes the service aspect of mail delivery. That service to the public is enhanced by private industry. I am unwilling to allow the Postal Service to become the vehicle by which we hinder private enterprise. In the immediate case, we know that private industry can best meet the needs of the community. I urge my colleagues to recognize that need and to lend their support and encouragement to the private sector.●

The CHAIRMAN. Are there further amendments? If not, the question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. HANLEY) as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. PATTISON of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7700) to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes, pursuant to House Resolution 1078, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. HANLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 11, not voting 39, as follows:

[Roll No. 198]

YEAS—384

Abdnor	Butler	Ertel
Addabbo	Byron	Evans, Colo.
Akaka	Caputo	Evans, Del.
Alexander	Carney	Evans, Ga.
Allen	Carr	Evans, Ind.
Ambro	Carter	Fary
Ammerman	Cavanaugh	Fascell
Anderson, Calif.	Chisholm	Fenwick
Anderson, Ill.	Clausen, Don H.	Findley
Andrews, N.C.	Clawson, Del	Fish
Andrews, N. Dak.	Clay	Fisher
Annunzio	Cleveland	Fithian
Applegate	Cohen	Flippo
Armstrong	Coleman	Florio
Ashley	Collins, Ill.	Flowers
AuCoin	Conable	Foley
Badham	Conte	Ford, Mich.
Bafalis	Conyers	Ford, Tenn.
Baldus	Corcoran	Forsythe
Barnard	Cornell	Fountain
Baucus	Cornwell	Fowler
Bauman	Cotter	Fraser
Beard, R.I.	Coughlin	Frenzel
Beard, Tenn.	Crane	Frey
Bedell	Cunningham	Fuqua
Beilenson	D'Amours	Gammage
Benjamin	Daniel, Dan	Garcia
Bennett	Daniel, R. W.	Gephardt
Bevill	Danielson	Gibbons
Bingham	Davis	Gilman
Blanchard	de la Garza	Ginn
Blouin	Delaney	Glickman
Boggs	Dellums	Goldwater
Boland	Dent	Gonzalez
Bonior	Derrick	Goodling
Bonker	Derwinski	Gore
Bowen	Devine	Grassley
Breaux	Dickinson	Green
Breckinridge	Dicks	Gudger
Brinkley	Dingell	Guyer
Brodhead	Dodd	Hagedorn
Brooks	Dornan	Hall
Broomfield	Downey	Hamilton
Brown, Calif.	Drinan	Hammer-schmidt
Brown, Mich.	Duncan, Oreg.	Hanley
Brown, Ohio	Duncan, Tenn.	Hannaford
Broyhill	Early	Hansen
Buchanan	Eckhardt	Harkin
Burgener	Edgar	Harrington
Burke, Fla.	Edwards, Ala.	Harris
Burke, Mass.	Edwards, Calif.	Harsha
Burleson, Tex.	Eilberg	Hawkins
Burton, John	Emery	Heckler
Burton, Phillip	English	Hefner
	Erlenborn	Heftel
Hightower	Michel	Ryan
Hillis	Mikulski	Santini
Holland	Mikva	Sarasin
Hollenbeck	Miller, Calif.	Satterfield
Holt	Miller, Ohio	Sawyer
Holtzman	Mineta	Schulze
Horton	Minish	Sebelius
Howard	Mitchell, Md.	Seiberling
Hubbard	Mitchell, N.Y.	Sharp
Huckaby	Moakley	Shipley
Hughes	Moffett	Shuster
Hyde	Mollohan	Simon
Ichord	Montgomery	Sisk
Ireland	Moore	Skelton
Jeffords	Moorhead, Calif.	Skubitz
Jenkins	Moorhead, Pa.	Slack
Jenrette	Moss	Smith, Iowa
Johnson, Calif.	Murphy, Ill.	Smith, Nebr.
Johnson, Colo.	Murphy, N.Y.	Snyder
Jones, N.C.	Murphy, Pa.	Solarz
Jones, Okla.	Murtha	Spence
Jones, Tenn.	Myers, Gary	St Germain
Jordan	Myers, John	Stangeland
Kasten	Myers, Michael	Stanton
Kastenmeier	Natcher	Stark
Kazen	Neal	Steed
Kemp	Nedzi	Steers
Ketchum	Nichols	Stockman
Keys	Nix	Stokes
Kildee	Nolan	Stratton
Kindness	Nowak	Studds
Kostmayer	O'Brien	Stump
Krebs	Oakar	Symms
LaFalce	Oberstar	Taylor
Lagomarsino	Obey	Thone
Latta	Ottinger	Traxler
Le Fante	Panetta	Treen
Leach	Patten	Trible
Lederer	Patterson	Tsongas
Leggett	Pattison	Van Deerlin
Lehman	Pease	Vander Jagt
Lent	Perkins	Vanik
Levitas	Pettis	Vento
Livingston	Pickle	Volkmer
Lloyd, Calif.	Pike	Walgren
Lloyd, Tenn.	Poage	Walker
Long, La.	Pressler	Walsh
Long, Md.	Preyer	Wampler
Lott	Price	Watkins
Lujan	Pritchard	Waxman
Lundine	Pursell	Weaver
McClory	Quayle	Weiss
McCloskey	Quie	Whalen
McCormack	Quillen	White
McDade	Railsback	Whitehurst
McEwen	Rangel	Whitten
McFall	Regula	Wiggins
McHugh	Reuss	Wilson, Bob
McKay	Rhodes	Wilson, C. H.
Madigan	Rinaldo	Wilson, Tex.
Maguire	Risenhoover	Winn
Mahon	Robinson	Wirth
Mann	Roe	Wolff
Markey	Rogers	Wright
Marks	Roncalio	Wydler
Marlenee	Rooney	Wylie
Marriott	Rose	Yates
Martin	Rosenthal	Yatron
Mathis	Rostenkowski	Young, Alaska
Mattox	Rousselot	Young, Mo.
Mazzoli	Rudd	Young, Tex.
Meeds	Ruppe	Zablocki
Metcalfe	Russo	Zeferetti
Meyner		

NAYS—11

Bolling	Gradison	Mottl
Burlison, Mo.	Jacobs	Schroeder
Collins, Tex.	Kelly	Staggers
Giaimo	McDonald	

NOT VOTING—39

Archer	Flynt	Scheuer
Ashbrook	Gaydos	Sikes
Aspin	Krueger	Spellman
Biaggi	Luken	Steiger
Brademas	McKinney	Teague
Burke, Calif.	Milford	Thompson
Cederberg	Pepper	Thornton
Chappell	Rahall	Tucker
Cochran	Richmond	Udall
Corman	Roberts	Ullman
Diggs	Rodino	Waggonner
Edwards, Okla.	Roybal	Whitley
Flood	Runnels	Young, Fla.

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Archer.

Mr. Runnels with Mr. McKinney.

Mr. Biaggi with Mr. Steiger.
Mr. Teague with Mr. Young of Florida.
Mr. Luken with Mr. Aspin.
Mr. Thompson with Mr. Flynt.
Mrs. Burke of California with Mr. Ashbrook.
Mr. Chappell with Mr. Brademas.
Mr. Krueger with Mr. Cederberg.
Mr. Richmond with Mr. Cochran of Mississippi.
Mr. Flood with Mr. Diggs.
Mr. Whitley with Mr. Edwards of Oklahoma.
Mr. Corman with Mr. Gaydos.
Mr. Roybal with Mr. Milford.
Mr. Pepper with Mr. Sikes.
Mr. Rahall with Mr. Thornton.
Mr. Roberts with Mr. Tucker.
Mr. Udall with Mr. Scheuer.
Mr. Waggonner with Mr. Ullman.

Ms. KEYS changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An Act to amend title 39, United States Code, to ensure the continuation of public services performed by the United States Postal Service, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CHANGES IN SECTION NUMBERS, CROSS REFERENCES AND OTHER TECHNICAL AND CONFORMING CORRECTIONS IN ENGROSSMENT OF H.R. 7700

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the clerk, in the engrossment of the bill (H.R. 7700) be authorized and directed to make such changes in section numbers, cross references, and other technical and conforming corrections as may be required to reflect the actions of the House.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill, H.R. 7700, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RE-REFERRAL OF H.R. 11757 TO COMMITTEE ON EDUCATION AND LABOR

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill, H.R. 11757, and that the bill be re-referred to the Committee on Education and Labor.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INTERNATIONAL BANKING ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1114 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1114

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON). Pending that, I yield myself such time as I may consume.

Mr. Speaker, this rule is an open rule providing for 1 hour of general debate. It was controversial in the Committee on Rules. The vote bringing it out was 6 to 5. However, I am not aware that there is going to be a major effort to fight the rule. The controversy has to do with section 5 of the bill itself, and there will be an adequate opportunity under this rule for people to deal with that particular problem. I, therefore, reserve the remainder of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1114 is a 1-hour, open rule providing for the consideration of the bill H.R. 10899, the International Banking Act of 1978. This rule narrowly passed the Rules Committee yesterday by a vote of 6 to 5. Despite my own reservations about the committee amendment to section 5 of the bill, dealing with domestic and foreign interstate branching, I voted for this rule because I thought the House should have the opportunity to work its will.

This legislation was reported from the Banking, Finance and Urban Affairs Committee by a vote of 46 to 0 on February 23 of this year. A nearly identical bill passed the House in the last Congress by a voice vote. I think there is overwhelming bipartisan agreement on the need for further regulation of foreign banks operating in this country. The House Republican Policy Committee, on Tuesday, April 4, issued a statement in support of passage of H.R. 10899, stating in part, and I quote:

> The Federal government needs the umbrella of jurisdiction provided by this bill to monitor these foreign-owned banking operations.

The greatest source of controversy regarding this bill, at least as evidenced in the Rules Committee discussion yesterday, is the committee amendment to section 5 which would require States to permit domestic banks to branch in their States if they wanted to host foreign branches. I think most of you have received a couple of "Dear Colleague" letters from the gentleman from Illinois (Mr. ANNUNZIO) in which he has stated that this amendment, if adopted, would "cause chaos in the banking industry and would have the effect of allowing New York State, because it is the major money center, to have all the foreign banks in this country." The gentleman from Illinois will be leading the fight to defeat that committee amendment, and, if it is defeated, the bill will revert to the language in the subcommittee-passed bill which leaves the question of foreign branch banking up to the individual States.

I have received a letter from the Commissioner of Banks and Trust Companies in Illinois, the Honorable William C. Harris, in which he stated, and I quote:

> The net effect of H.R. 10899 would be to require foreign branches to choose a one-state limitation. Under this condition, foreign branches would undoubtedly locate in New York or California to the exclusion of other states that now, or in the future, desire such financial development.

Commissioner Harris further points cut in his letter that, and again I quote:

> We need foreign branches in Illinois to support Midwest industries engaged in international commerce and to increase Illinois' role in international banking matters. Our domestic banking needs are being adequately filled by our own domestic banks. We certainly don't need interstate branching from New York, for example, for that purpose. No other State is anxious to have out-of-state domestic banks branching into its area.

As further evidence that other States are just as opposed to the committee amendment to section 5 I call the attention of my colleagues to the letters placed in the CONGRESSIONAL RECORD of April 3 by the gentleman from Florida (Mr. PEPPER) and the gentleman from Massachusetts (Mr. MOAKLEY), at pages 8488–8495. Our colleagues have inserted letters from Bank Commissioners representing 28 different States, all in opposition to the section 5 amendment.

Mr. Speaker, I support this rule but did want to alert my colleagues to the controversy surrounding the section 5 amendment which was adopted in full committee by a vote of 25 to 18. Making foreign bank branching in the States conditional on their permitting domestic bank branching from other States does raise serious implications for the future of the banking industry in our respective States. I urge my colleagues to consider this matter very carefully before casting their votes on the committee amend-

ment. In the meantime, I urge adoption of the rule so we can proceed to the consideration of the International Banking Act of 1978.

Mr. Speaker, I have no requests for time, and I reserve the remainder of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. St GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10899, with Mr. NOLAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation has been under discussion for several years by the Banking Committee. The FINE Study analysis of foreign banking operations and discussions between Members of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, and bank officials produced evidence that legislation to regulate foreign banks operating in the United States was needed. In April 1976, we introduced a bill to provide Federal, as well as State, regulation for foreign bank branches and agencies, thus putting them on an equal footing in competing with domestic banks in the United States.

This bill was reported from the subcommittee in May 1976 by a vote of 14 to 1 and was reported by the Full Committee with a vote of 29 to 3. It passed the House on July 29, 1976 by a voice vote. Because the Senate was unable to act on the legislation, the bill was reintroduced on May 23, 1977 and hearings were held last July.

During subcommittee action on the bill in October, it became apparent that there were strong and differing opinions on the issue of the national interest versus States' rights. Accordingly, compromise amendments to these sections were offered during the full committee markup of the bill and were accepted. The compromise amendment to section 5 was adopted by a vote of 30 to 16.

In its present form, the bill provides for some Federal regulation of foreign banking activities in the United States and will assure more equal treatment for foreign banks chartered in the United States than has been the case to the present time. A brief description of its provisions will indicate the ways in which the bill accomplishes these objectives.

Section 1 provides the necessary definitions of foreign bank operations and sections 2 and 3 authorize waivers in the National Bank Act and the Edge Act to permit foreigners to serve on boards of directors of these institutions. Section 4 provides for chartering of Federal branches and agencies by the Comptroller and defines their powers. Currently the only provisions for operation of these types of offices by foreign banks are in State laws. Thus, this section provides foreign banks the choice of a regulatory option—a choice available to domestic depository institutions.

Section 5 deals with one of the more controversial issues of the bill—the question of interstate branching. Currently foreign banks can have branches in more than one State and many foreign banks do accept deposits in two or three States. U.S. banks—even those with loan production offices, Edge Act subsidiaries and finance and other affiliates—cannot accept deposits outside their home State unless they were grandfathered under the 1956 Bank Holding Company Act. In the spirit of that act the bill grandfathers multi-State branches of foreign banks, but prohibits the establishment of new branches outside the home State unless, in the case of Federal branches, national banks are allowed to engage in interstate branching, or in the case of State chartered branches, State legislatures enact laws permitting interstate branching by domestic nonmember banks.

The home State of a foreign bank is defined as a State in which it accepts deposits. The intent of the legislation is to restrict the acceptance of domestic deposits to one State without restricting the establishment of agency operations in more than one State.

The bill also provides deposit insurance for branches of foreign banks for the first time. Federal branches are required to obtain FDIC coverage and coverage is mandatory for State chartered branches in States which require that banks operating under their laws be federally insured. Again, only domestic deposits are at issue here and they alone are subject to the insurance provision.

Section 7 authorizes the Federal Reserve Board to impose reserve requirements on federally chartered foreign bank banches and agencies in the same manner and to the same extent as if these offices were members banks. The provisions also extend discount and borrowing privileges to branches, agencies and commercial lending companies. There is a recognition, however, that these offices differ in some important respects from domestic banking operations and the Board is directed to take these differences into account both while setting reserve requirements and accommodating requests for discounts and advances. The Federal Reserve Board, after consultation with State authorities, may set reserve ratios for branches and agencies chartered by the States.

The committee believes that it is necessary to give the Federal Government some overall authority over foreign banks while at the same time preserving a strong role for the states in regulating State chartered foreign banks in this country. The absence of a reserve requirement gives foreign banks a competitive edge over domestic banks and has the additional disadvantage that domestic monetary policy has less influence on the lending activities of foreign banks than those of domestic banks. Almost 18 percent of all commercial and industrial loans by banks in the United States are made by foreign banks. The absence of a direct influence on these activities by the Federal Reserve may undermine the effectiveness of monetary policy. Moreover, the sizable shifts of funds to and from foreign sources to branches and agencies of foreign banks has an important effect on the dollar exchange rate. This additional and very important concern makes it necessary to give the Federal Reserve some overall authority in this area.

Section 8 of the bill extends the restrictions on nonbanking activities of the Bank Holding Company Act of 1956 to foreign bank branches, agencies, and commercial lending companies. It makes clear, however, that these restrictions do not apply to the banking and nonbanking operations of foreign banks outside the United States and following previous legislative precedent the bill provides for permanent grandfathering of existing nonbanking activities in the United States, including the securities affiliates of foreign banks.

Section 9 expresses the legislative intent to provide parity of treatment between domestic and foreign banks and to "foster participation by foreign interests in international financial markets in the United States. * * *" The Secretary of the Treasury is authorized to set guidelines to assist those responsible for chartering foreign banks in processing applications.

Mr. Chairman, H.R. 10899 is needed to provide a more rational regulatory structure for foreign banks operating in the United States. Foreign banks have grown rapidly and with assets of $93 billion at yearend 1977 are now a significant portion of the U.S. banking market. Their activities require better coordination between State and Federal regulators than is currently provided under present law. Their impact on the economy and their significance in U.S. credit and foreign exchange markets requires that they be subject to the influence of Federal Reserve monetary policy.

Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, this is a vitally important bill. I want to give the utmost praise to the subcommittee chair-

man, the gentleman from Rhode Island (Mr. ST GERMAIN), and the ranking minority member, the gentleman from California (Mr. ROUSSELOT), as well as the members of the subcommittee, for crafting a truly workable piece of legislation.

We have let the matter of foreign banks in the United States go unattended for too long. It is time that we acted. We did act in the last session. We acted affirmatively, but for reasons of closing deadlines the other body was not able to act on the matter. I have as close to an assurance as one is able to obtain that the legislation we vote out of this body this afternoon will receive prompt attention in the other body.

The chairman of the subcommittee has fully outlined the provisions of the bill. Let me, however, state why it is important that we act.

As matters stand now, a large proportion of the deposits in this country, specifically those deposits contained in foreign banks doing business in the United States, is utterly beyond the control of our monetary authorities. If we are interested in fighting inflation and if we are interested in getting the dollar off its back, it is necessary that we pass the bill before us, because it gives power to act to the monetary authorities.

As the law now stands, a depositor in a foreign bank is at the mercy of economic circumstances which may cause a foreign bank to go under. Our bill would remedy that by providing an FDIC-like guarantee to the individual depositor.

As the law now stands, a foreign bank may do in this country what since 1933 no domestic bank has been allowed to do, and that is to commingle commercial banking and investment banking matters.

In days and years to come, we may want to take a look at this provision, but meanwhile, that is the law. So our bill, as appropriately grandfathered, forbids the future mingling by foreign as well as domestic banks of commission and investment banking features.

The fourth major thing that the bill does is to measurably assimilate the branching functions of foreign banks in this country with what happens to American banks.

By and large, a bank in this country cannot branch interstate. Indeed, in many a State there are very severe limitations on whether it can even branch within the State. But now the power of the foreign bank doing business within our shores to branch is unlimited.

The bill as it emerged from the subcommittee of the gentleman from Rhode Island (Mr. ST GERMAIN) contained a provision which I thought was the ultimate in good sense. It said that where the State of destination, where the State in which a branch is sought, through its properly constituted banking authority, says, "Yes, we will allow a branch to come in," that, I thought, seemed a sensible approach.

The distinguished gentleman from Rhode Island had a slightly different view. And I say "slightly different," because I do not think this is really of the essence. To him, he preferred an arrangement whereby it would take an act of the legislature of the receiving State before a branch could be set up. The matter was before the full committee. By a narrow margin, I think of some four votes, the amendment was adopted. Thus, in the bill before us, the mere acquiescence of the banking authorities of the receiving State is not enough; it takes something vastly more heavy, more powerful—namely, an act of the legislature of the receiving State—to permit a branch to be set up.

Ordinarily, my rapport and agreement with the chairman of the Banking Subcommittee, the gentleman from Rhode Island (Mr. ST GERMAIN), is close to perfection. In this, however, I felt that the work of his subcommittee—the language adopted by the proposition put forth by the gentleman from Illinois (Mr. ANNUNZIO)—was the better view.

And thus, when the vote comes on the so-called committee amendment of section 5, I will vote against the committee amendment, thus reinstating what I think is the rule of reason of the subcommittee bill, namely, that where the banking authorities of the State of reception say, "Yes, let the branch come in," then the branch may do so.

The House will work its will on that, and naturally I hope it will work its will in favor of the subcommittee's original version, and not accept the committee amendment. But I say that with full knowledge that the gentleman from Rhode Island (Mr. ST GERMAIN), and others, will put up a well-reasoned argument to the contrary.

But the purpose of this body is to consider well-reasoned arguments and pick the better one. For that reason, I have confidence that the bill that emerges from this Chamber this afternoon will be a good one, that it will go to the other body, that they will act expeditiously on it, that in conference we can iron out any differences, and then present the country something that it so desperately needs, a bill that for the first time regulates that vast amount of banking done in our country by foreign banks.

They should be welcomed in our country. We want to welcome them. But let the general principle be that they should be treated the same as American banks, no better and no worse.

So I hope that our debate this afternoon will not be overlengthy. I hope we will hit a meeting point. I hope we can vote on this amendment to section 5 with reason and understanding, and that the result will be a bill of which all can be proud.

I point out—and this will surprise many—that the Committee on Banking, Finance, and Urban Affairs is capable of acting with unanimity, and here the vote in favor of the bill before us was 46 to nothing. I hope that the vote on the floor this afternoon will express an almost equal unanimity. I hope the bill will be slightly perfected along the lines I have described. And, once again, I want to congratulate the leadership on the subcommittee, and all the members of the subcommittee, for 3 years of hard work which has brought to this floor something worthy to be remembered.

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the product of the full committee markup of the "International Banking Act" is a bill which could ultimately achieve, to the extent that it can be achieved, the worthy goal of equality of treatment between domestic and foreign banking institutions. To the extent that this bill still contains any defects, these defects result from lack of understanding of the real differences between domestic and foreign banks—differences which will not and cannot be eliminated as a result of this legislation.

For the most part, foreign banks do business in this country for the same reason that the large U.S. banks do business abroad—to serve the international banking needs of the large multinational corporations which are the backbone of their business at home. Those foreign banks which operate "branches" in this country generally conduct a strictly "wholesale" business; foreign banks which do a "retail" banking business and which accept deposits from individual customers, are almost invariably organized as "subsidiaries." This means that they are separately chartered and capitalized entities which are subject to the supervision, regulation, and insurance provisions which apply to State-chartered domestic banks. There presently is not provision for the Federal chartering of foreign banks, disparity of treatment which will be remedied by this bill.

The differences between the nature of the business conducted by most foreign banks, as contrasted with that of most domestic banks, have two major consequences as far as this bill is concerned. First, these differences might create interest on the part of State officials who are involved in the efforts of a State to attract industry and commerce, including the bank superintendent of a given State, in chartering one or more foreign banks for the convenience of foreign firms which may be planning to locate in that State. For these State officials, any restriction on the right of a State to charter foreign banks will be viewed as a Federal action which will seriously restrict their ability to promote economic growth and development. By requiring foreign banks which enter the United States to declare a "home" State and to confine branching to that State alone, unless the States in question also permit branching by domestic banks, section 5 of this bill will insure that future foreign banking activity will be confined to New York, California, and Illinois, the States which already have the lion's share of foreign banking, and will deny to other States which want to attract a foreign bank the opportunity to do so.

The wholesale nature of the business conducted by foreign banks accounts for the desire of approximately 30 States to retain the option to charter foreign banks in order to promote economic growth and employment, without necessarily permitting domestic banks to conduct retail operations in their respective States. Why should a State not be per-

mitted to charter a wholesale bank from Brazil without having to charter all of the retail banks in New York? I have no quarrel with the right of States which do not believe that foreign banks will be helpful to their economies to refuse to charter such banks, but the present section 5 enforces this restrictive policy on all but the major international banking states.

The second major defect in this bill is the provision in section 6 of a mandatory deposit insurance program for foreign banks. As noted above, foreign banks almost never take deposits from retail customers unless the banks are organized as subsidiaries, in which case they are eligible for Federal deposit insurance on the same basis as domestic banks. However, section 6 could have the perverse effect of encouraging foreign banks to expand their domestic deposit taking activity, since they will be paying mandatory deposit insurance premiums.

Chairman George A. LeMaistre, of the Federal Deposit Insurance Corporation, during his testimony on this bill, described the mandatory insurance provisions of section 6 as "unnecessary * * * onerous and impractical." The FDIC also pointed out that,

> In the event of the insolvency of a foreign bank, it is possible that assets could be easily and quickly shifted from the U.S. branch and out of U.S. jurisdiction, while deposits could be shifted to the U.S. branch.

The FDIC has consistently told the committee that it would prefer its own voluntary deposit insurance program for foreign banks to the more complex mandatory program provided by the present section 6.

There have been several noteworthy improvements in this bill since it was first introduced. Section 7, as amended by the Brown amendment, provides the Federal Reserve with the oversight authority which it needs with respect to foreign banks but maintains the regulatory and supervisory authority which is properly exercised by State bank supervisors under the "dual banking" system. Section 8, as amended by the Hanley amendment, provides for the "grandfathering" of securities affiliates of foreign banks, in fairness not only to the affiliates but also to the regional stock exchanges which are heavily dependent on the business of securities affiliates of foreign banks. In the event that abuses develop, the Federal Reserve Board will be empowered to terminate such activities. Finally, section 9, as amended by the Grassley amendment, provides that the Secretary of the Treasury, in setting guidelines for the operation of foreign banks, which in turn may serve as guidelines for State chartering authorities, shall "take into account the treatment by foreign governments of financial institutions domiciled in the United States which do business in their respective countries." It is our belief that this provision will give the administration additional flexibility which it can use to promote the objective that all countries shall extend equal treatment to their domestic and foreign banks.

It is hoped that when the amendment process is completed, the desirable features of this legislation will be retained and that the deficiencies will be corrected, so that the final product will be a truly equitable and workable International Banking Act.

Mr. Chairman, I now yield 3 minutes to the gentleman from Ohio (Mr. STANTON), our distinguished ranking member.

Mr. STANTON. Mr. Chairman, I rise in support of H.R. 10899, the International Banking Act of 1978.

It represents a balanced and equitable approach to a neglected area of our Nation's financial community. There is, at present, no Federal regulation of the activities of foreign banks in this country.

Foreign bank activities in the United States are regulated by State governments. I should add that these State governments are quite capable and competent in their regulation of our banking institution. However, inasmuch as foreign banks may carry on their activities in more than one State, those State governments are unable to affect the operations of foreign banks in other States. Thus, a regulatory gap exists between our domestic banks and those foreign banks which operate within the United States. This bill will provide the Federal framework for foreign banks operating in the United States so that a foreign bank will have the option of selecting a State or Federal charter.

Foreign banks are not subject to many of the basic Federal laws that are applicable to U.S. banks. For instance, foreign banks operating in the United States are not subject to the Glass-Steagall Act; they are not required to maintain FDIC insurance; they are not required to maintain reserves with our Federal reserve system; and they are not subject to any restrictions on interstate branching. H.R. 10899 is designed to remove the regulatory gap and to equalize the competitive advantages which heretofore have existed in favor of the foreign banks.

H.R. 10899 is designed to continue the open-door policy which has been maintained toward the operation of foreign banking and foreign investment in the United States. It provides a minimum amount of Federal regulation without imposing any unfair restrictions on the operations of foreign banks. Except where other more broad national interests are concerned, it provides for equality of treatment with U.S. banks.

The activities of foreign banks in the United States have continued to expand so that now total assets of foreign banks are about $75 billion and the commercial loans extended to domestic borrowers by U.S. offices of foreign banks amount to approximately $23 billion as of March 1977. There are approximately 96 foreign banks with over 200 facilities in the United States. We have serious need for this legislation.

In closing, Mr. Chairman, H.R. 10899 represents a reasonable approach to a most complex and difficult issue. This bill is a product of much compromise and accommodation by all parties concerned. I urge the support of our colleagues in passage of this legislation.

Mr. ST GERMAIN. Mr. Chairman, I have no further requests for time at this point.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to our distinguished colleague, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I thank the gentleman from California (Mr. ROUSSELOT) for yielding me this time to explain my position with reference to this bill.

Mr. Chairman, this is a good bill and should be passed with a couple of refinements, which I will try to make a little later on.

When the National Bank Act of 1863 was passed, opponents, State bank regulators, made the same arguments which we will hear today, that we did not need a National Bank Act.

But Abraham Lincoln, who was the President, took a different view, and we have our dual banking system as we know it today. Back at the turn of the century the dual banking system had its greatest impetus. State chartering worked well for satisfying the needs of rural America.

In providing for a system of national banks, it was decided to keep State-chartered banks in place, and thus our dual banking system began in 1863 when the United States was increasing in influence in world banking.

Some foreign countries decided that they would establish banks through the State charter vehicle. As a matter of fact, some foreign banks had chartered branches through State banks even before 1863. So, the dual banking system as we know it is well grounded, is here to stay, and no one would want it otherwise.

No one worried about foreign banks being outside the Federal Reserve System, I might say, when it was created in 1913. Their monetary operations in the United States were relatively insignificant, but in my first term in Congress, in 1967, then Chairman Wright Patman sounded the first alarm. Now, no one paid any attention to him or to William McChesney Martin, who was the Chairman of the Federal Reserve Board, because foreign bank operations in the United States were still, 100 years after the National Bank Act, relatively insignificant, although foreign bank assets had reached a total of about $6 billion to $7 billion.

As Senator Dirksen once said, you add a billion here and a billion there, and it soon adds up to some real money. Well, by 1973 it had added up to some real money. By that time, Dr. Arthur Burns, then Chairman of the Federal Reserve Board, sounded a louder alarm about foreign bank operations in the United States that had now reached $18 billion. Last year, foreign bank assets were conservatively estimated at $70 billion in the United States. Now, the Federal Reserve Board estimates that foreign bank assets in the United States are in the neighborhood of $93 billion. Now, we have added up to some real money, as Senator Dirksen would say—from $6 billion to $7 billion 10 years ago to more than $93 billion today.

So, Wright Patman knew a few things back in 1967 when he was attempting to sound the alarm. The reason foreign banks have been able to expand more rapidly than U.S.-based banks is because we have passed laws giving them a decided competitive edge over U.S. banks. We have done something that no other country in the world permits; that is, to allow a foreign bank to operate in our country outside the influence and supervision of the National Government. No other country in the world does that.

Japan, for example, has been most aggressive in beating us out of world markets, both commercially and financially. The Bank of Tokyo, with over $5 billion in assets in the United States alone, is the second largest bank in the whole State of California. Now, opponents of this bill, if there be any, will say that in bringing the State-chartered foreign banks under Federal control, a bank which is chartered under the State of California such as the Bank of Tokyo, should be treated as a State-chartered bank in Mississippi or Iowa or Nebraska or Ohio. But, the Government of Japan, on the other hand, has a much more restrictive attitude toward U.S. banks operating in Japan than they do toward their own national banks. So, it makes no sense to me that we allow this decided competitive edge.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio (Mr. WYLIE).

So foreign banks do have a competitive advantage over U.S. banks which we do not enjoy in other countries and which puts our own national banks at a distinct competitive disadvantage. To me this is the issue. They have a competitive disadvantage because foreign banks can State charter and operate across interstate lines. And I will get into this a little bit more when we get into the amendment stage later on, but there is no question in my mind that we need to have this bill today. I will have a couple of amendments which I think will refine the bill and make it even better, but we must change the law as it is today before it is too late, when we may wake up and find it is too late.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I rise today merely to congratulate the chairman of the subcommittee for his hard work and perseverance and dedication. As the ranking Democrat on the subcommittee I have had the opportunity to sit next to the gentleman and I know the long hours that he has placed in trying to come to the floor with a bill with which the majority of the Members would be satisfied.

There has been some discussion today about the fact that in the subcommittee we adopted my amendment to section 5 and that in the full committee my section 5 was amended. I will talk on that later.

But to me it is a healthy sign when a committee of this Congress can disagree and then vote out a bill 46 to 0. That is where we are at today.

So I want to congratulate the chairman of the subcommittee, the gentleman from Rhode Island (Mr. ST GERMAIN), for all of the hard work and effort he has made, and especially I want to congratulate the chairman of the full committee (Mr. REUSS) for the leadership that he has shown and displayed since becoming chairman of the full committee.

I do hope as we go on to mark up the bill under the 5-minute rule that the Members in their wisdom will do what is right for the American people.

● Mr. GRASSLEY. Mr. Chairman, I rise in support of the committee amendment to section 9, an amendment which I offered during the full committee markup and which was agreed to by a voice vote. My amendment is addressed to the second sentence in section 9(a), which reads:

> It is the purpose of this Act to establish a basic statutory framework which, giving due consideration to the structure of our domestic monetary mechanisms and out national interests, will, to the extent practical, allow foreign banking institutions to have the same rights, duties, and privileges and be subject to the same limitations, restrictions, or conditions as our domestic banking institutions.

It has been pointed out that the Federal chartering alternative will attract few international banks, so the standard I have quoted might be considered unimportant, except for the next sentence:

> It is the intent of the Congress that this Act shall establish a pattern for equitable treatment which State regulators may adopt in their regulation of foreign banking institutions.

I do not wish to quarrel with the principles of equity and national treatment as general principles, but my language recognizes that in some instances these principles can best be promoted in the long run by giving the administration the flexibility to apply the principle of reciprocity rather than that of national treatment in instances where the government of a country whose bank proposes to operate in the United States imposes greater restrictions against U.S. banks operating in a given country than it imposes against its domestic banks. We should not expect foreign governments to extend favored treatment to U.S. financial institutions, but we should expect our financial institutions to be treated the same way that domestic institutions are treated.

There are a number of specific cases which prompt me to offer this amendment. For example, the February 6, 1978, edition of Business Week contained an article on page 54 entitled "Japan—Foreign Banks Chafe at Official Controls." The article stated that Japan places foreign—"Gaijin"—banks in a special category. According to the article:

> To foreign bankers, Tokyo's stringent controls smack more of an insecure developing nation than an industrial giant. Gaijin banks are, for example, prohibited from seeking savings deposits. They are also subject to quotas on loans, "administrative guidance" on the amounts they can fund through local markets, limits on the foreign exchange they can bring in, and controls on currency swaps.
>
> The Finance Ministry will not even countenance such routine procedures as the issuance of bonds or debentures. "We cannot incorporate here," says B of A's Mulkern, "and we cannot buy into any Japanese bank. They blanch at the Ministry of Finance when you raise such concepts."
>
> PULLING OUT?
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> For Americans, such restrictions are doubly rankling. For one thing, the aggressively expanding overseas branches of Japanese competitors, such as Fuji Bank, are free to engage in a full range of financial activities in the U.S. Says one U.S. official in Tokyo: "I don't think they're going to relax the controls on foreign banks until they are forced to, and the only way is if the U.S. starts applying reciprocal treatment to foreign banks in the U.S."

Examples of other inequities are provided in a May 1976 Committee Print entitled "International Banking: A Supplement to a Compendium of Papers Prepared for the FINE Study." Chapter 4, of part II, entitled "Foreign Banking Laws and Regulations Governing Overseas Operations of U.S. Banks" is particularly instructive.

In conclusion, I believe my amendment recognizes the fact that there are instances in which inequities exist which are more likely to be corrected if our administration is given the flexibility to adjust our policies to take account of the policies of other countries. This is the policy which some of our States, most notably New York, now apply, and there is no reason why the Federal Government should be locked into a position in favor of "national treatment" when such treatment is not warranted in all cases.●

Mr. ST GERMAIN. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, in the interest of speedy legislation we have no further requests for time, and we yield back the balance of our time.

The CHAIRMAN. All time having expired, the Clerk will read.

The Clerk read as follows:

H.R. 10899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1978".

(b) For the purposes of this Act—

(1) "agency" means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency" means an agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that has the power to engage in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act, the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia;

(11) the terms "bank", "bank holding company", "company", "control", and "subsidiary" as used in this Act shall have the same meanings assigned to those terms in the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" as used in this Act shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

(12) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied.

DIRECTORS OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

EDGE CORPORATIONS

SEC. 3. (a) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(b) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, any foreign bank or any bank organized under the laws of the United States, any State of the United States, or the District of Columbia, the controlling interest in which is owned by a foreign bank, group of foreign banks, or institution organized under the laws of a foreign country which owns or controls a foreign bank may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section. For the purposes of the preceding sentence of this paragraph the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section 2 of the Bank Holding Company Act of 1956, and the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1977.".

FEDERAL BRANCHES AND AGENCIES

SEC. 4. (a) Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish a Federal branch or agency in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. Except as otherwise specifically provided in this Act or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year; (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the parent bank, and if the parent bank has more than one Federal branch or agency the accounts of all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal agency shall not be required to become an insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not receive deposits or exercise fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g)(1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6(a) of this Act, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State bank.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

(4) Subject to such conditions and requirements as may be prescribed by the Comptroller, each foreign bank shall hold in each State in which it has a Federal branch or agency, assets of such types and in such amount as the Comptroller may prescribe by general or specific regulation or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest. In determining compliance with any such prescribed asset requirements, the Comptroller shall give credit to (A) assets required to be maintained pursuant to paragraphs (1) and (2) of this subsection, (B)

reserves required to be maintained pursuant to section 7(a) of this Act, and (C) assets pledged, and surety bonds payable, to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits. The Comptroller may prescribe different asset requirements for branches or agencies in different States, in order to ensure competitive equality of Federal branches and agencies with State branches and agencies and domestic banks in those States.

(h) A foreign bank with a Federal branch or agency operating in any State may (1) with the prior approval of the Comptroller establish and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity of hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, deny such opportunity for hearing if he determines such denial to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

(j)(1) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of any foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

(2) In any receivership proceeding ordered pursuant to this subsection (j), whenever there has been paid to each and every depositor and creditor of such foreign bank whose claim or claims shall have been proved or allowed, the full amount of such claims arising out of transactions had by them with any branch or agency of such foreign bank located in any State of the United States, except (1) claims that would not represent an enforceable legal obligation against such branch or agency if such branch or agency were a separate legal entity, and (2) amounts due and other liabilities to other offices or branches or agencies of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign bank, and all expenses of the receivership, the Comptroller or the Federal Deposit Insurance Corporation, where the Corporation has been appointed receiver of the foreign bank, shall turn over the remainder, if any, of the assets and proceeds of such foreign bank to the head office of such foreign bank, or to the duly appointed domiciliary liquidator or receiver of such foreign bank.

INTERSTATE BANKING OPERATIONS

SEC. 5. (a) No foreign bank may operate a branch, agency, commercial lending company subsidiary, or subsidiary bank outside its home State unless (1) in the case of a State branch, agency or commercial lending company, it is approved by the regulatory authority of the State in which such State branch, agency, or commercial lending company is to be operated, (2) in the case of a Federal branch or agency, its operation is expressly permitted by the State in which it is to be operated, and (3) in the case of a bank, its acquisition would be permissible under section 3 of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State.

(b) For the purposes of this section, the home State of a foreign bank—

(1) which has no branch or subsidiary bank in the United States, but which has an agency or commercial lending company in one or more States, is whichever of such States is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System.

(2) which has a branch or subsidiary bank in one State only, is that State.

(3) which has a branch or subsidiary bank in more than one State, is whichever of such State is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System. An initial election under this subsection shall be made by means of a written declaration filed with the Board of Governors of the Federal Reserve System not more than one year after the date of enactment of this Act by the foreign bank concerned. After the home State of a foreign bank has been determined pursuant to this subsection, it may be changed only by the Board of Governors of the Federal Reserve System, either upon the application of the bank, or upon its own motion, for cause shown. Any foreign bank that does not maintain a branch, agency, or commercial lending company subsidiary, or that is not a bank holding company or a subsidiary thereof on the date of enactment of this Act, shall have its home State deemed to be the State in which it establishes its initial branch, agency, commercial lending company subsidiary, or bank subsidiary (including any commercial lending company subsidiary or bank subsidiary acquired by a company of which it is a subsidiary) in the United States.

INSURANCE OF DEPOSITS

SEC. 6. (a) No foreign bank may establish or operate a Federal branch unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act.

(b) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act.

(c)(1) The Federal Deposit Insurance Act (12 U.S.C. 1811–1832) is amended as set forth hereinafter in this subsection, in which section numbers not otherwise identified refer to sections of that Act.

(2) Section 3(h) is amended by inserting "(including a foreign bank having an insured branch)" immediately after "(h) The term 'insured bank' means any bank."

(3) Section 3(j) is amended by inserting "or of a branch of a foreign bank" immediately before the period at the end thereof.

(4) Section 3(m) is amended (A) by changing "(m) The" to read "(m)(1) Subject to the provisions of paragraph (2) of this subsection, the", and (B) by adding at the end thereof the following new paragraph:

"(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or

"(iii) an individual, partnership, corporaton, trust, or other legally cognizable entity which is determined by the Board in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act;

and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.".

(5) Section 3(q) is amended to read as follows:

"(q) The term 'appropriate Federal banking agency' shall mean—

"(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank), and

"(B) in the case of any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1977 to any branch or agency of a foreign bank, and

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank) or a foreign bank having an insured branch.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution.".

(6) Section 3 is amended by adding at the end thereof the following new subsections:

"(r) The terms 'foreign bank' and 'Federal branch' shall be construed consistently with the usage of such terms in the International Banking Act of 1977.

"(s) The term 'insured branch' means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of this Act.".

(7) Section 5 is amended (A) by changing "SEC. 5." to read "SEC. 5. (a)" and (B) by adding at the end thereof the following new subsections:

"(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and approval by the Board of Directors, may become an insured branch. Before approving

any such application, the Board of Directors shall give consideration to—

"(1) the financial history and condition of the bank,

"(2) the adequacy of its capital structure,

"(3) its future earnings prospects,

"(4) the general character of its management, including but not limited to the management of the branch proposed to be insured,

"(5) the convenience and needs of the community to be served by the branch,

"(6) whether or not its corporate powers, insofar as they will be exercised through the proposed insured branch, are consistent with the purposes of this Act, and

"(7) the probable adequacy and reliability of information supplied and to be supplied by the bank to the Corporation to enable it to carry out its functions under this Act.

"(c)(1) Before any branch of a foreign bank becomes an insured branch, the bank shall deliver to the Corporation or as the Corporation may direct a surety bond, a pledge of assets, or both, in such amounts and of such types as the Corporation may require or approve, for the purpose set forth in paragraph (4) of this subsection.

"(2) After any branch of a foreign bank becomes an insured branch, the bank shall maintain on deposit with the Corporation, or as the Corporation may direct, surety bonds or assets or both, in such amounts and of such types as shall be determined from time to time in accordance with such regulations as the Board of Directors may prescribe. Such regulations may impose differing requirements on the basis of any factors which in the judgment of the Board of Directors are reasonably related to the purpose set forth in paragraph (4).

"(3) The Corporation may require of any given bank larger deposits of bonds and assets than required under paragraph (2) of this subsection if, in the judgment of the Corporation, the situation of that bank or any branch thereof is or becomes such that the deposits of bonds and assets otherwise required under this section would not adequately fulfill the purpose set forth in paragraph (4). The imposition of any such additional requirements may be without notice or opportunity for hearing, but the Corporation shall afford an opportunity to any such bank to apply for a reduction or removal of any such additional requirements so imposed.

"(4) The purpose of the surety bonds and pledges of assets required under this subsection is to provide protection to the deposit insurance fund against the risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets, and personnel are in large part outside the jurisdiction of the United States. In the implementation of its authority under this subsection, however, the Corporation shall endeavor to avoid imposing requirements on such banks which would unnecessarily place them at a competitive disadvantage in relation to domestically incorporated banks.

"(5) In the case of any failure or threatened failure of a foreign bank to comply with any requirement imposed under this subsection (c), the Corporation, in addition to all other administrative and judicial remedies, may apply to any United States district court, or United States court of any territory, within the jurisdiction of which any branch of the bank is located, for an injunction to compel such bank and any officer, employee, or agent thereof, or any other person having custody or control of any of its assets, to deliver to the Corporation such assets as may be necessary to meet such requirement, and to take any other action necessary to vest the Corporation with control of assets so delivered. If the court shall determine that there has been any such failure or threatened failure to comply with any such requirement, it shall be the duty of the court to issue such injunction. The propriety of the requirement may be litigated only as provided in chapter 7 of title 5 of the United States Code, and may not be made an issue in an action for an injunction under this paragraph.".

(8) The first sentence of section 7(a)(1) is amended by inserting "and each foreign bank having an insured branch which is not a Federal branch" immediately before "shall make to the Corporation".

(9) The first sentence of section 7(a)(3) is amended (A) by inserting "and each foreign bank having an insured branch (other than a Federal branch)" immediately before "shall make to the Corporation" and (B) by inserting ", each foreign bank having an insured branch which is a Federal branch," immediately before "and each insured district".

(10) Section 7(a) is amended by adding at the end thereof the following new paragraph:

"(7) In respect of any report required or authorized be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.".

(11) Section 7(b) is amended (A) by changing "(4) A bank's assessment base" to read "(4)(A) Except as provided in subparagraph (B) of this paragraph, a bank's assessment base" and (B) by adding at the end thereof the following new subparagraph:

"(B) in determining the assessment base and assessment base additions and deductions of a foreign bank having an insured branch, such adjustments shall be made as the Board of Directors may by regulation prescribe in order to provide equitable treatment for domestic and foreign banks.".

(12) Section 7(j)(1) is amended (A) by changing "(j)(1) Whenever" to read "(j)(1)(A) Except as provided in subparagraph (B) of this paragraph, whenever", and (B) by adding at the end thereof the following new subparagraph:

"(B) The Board of Directors may by regulation exempt from the reporting requirements of subparagraph (A) of this paragraph any transaction in the stock of a foreign bank to the extent that the making of any such report would be prohibited by the laws of the country of domicile of the foreign bank in effect at the time such bank makes its application under section 5(b) of this Act, or rendered impracticable by the customs and usages of such country, but the Board of Directors shall weigh the existence of any such prohibition or impracticability in connection with its consideration of the factors enumerated in sections 5(b)(4) and 5(b)(7).".

(13) Section 7(j)(2) is amended by changing "(2) Whenever" to read "(2)(A) Except as provided in subparagraph (B) of this paragraph, whenever" and by adding at the end thereof the following new subparagraphs:

"(B) The requirements of subparagraph (A) of this paragraph shall not apply in the case of a loan secured by the stock of a foreign bank if the lending bank is a foreign bank under the laws of whose domicile the report otherwise required by subparagraph (A) would be prohibited.

"(C) No foreign bank under the laws of whose domicile a report in compliance with subparagraph (A) of this paragraph would be prohibited in the case of a loan to acquire the stock of an insured bank which is not a foreign bank may make, acquire, or retain any such loan. Each report of condition filed under subsection (a) by any foreign bank to which this subparagraph applies shall contain either a statement of the amount of each loan made, retained, or acquired by the foreign bank in violation of this subparagraph during the period from the date it became an insured bank or the date of its last report of condition, whichever is later, to the date of the report of condition, or a statement that no such loans were made and no such loans were outstanding during such period.".

(14) The first sentence of section 8(a) is amended by inserting ", a foreign bank having an insured branch which is a Federal branch, a foreign bank having an insured branch in any State in which State-chartered banks are required to be insured," immediately after "(except a national member bank").

(15) Section 8 is amended by adding at the end thereof the following new subsection:

"Except as otherwise specifically provided in this section, the provisions of this section shall be applied to foreign banks in accordance with this subsection.

"(2) An act or practice outside the United States on the part of a foreign bank or any officer, director, employee, or agent thereof may not constitute the basis for any action by an officer or agency of the United States under this section, unless—

"(A) such officer or agency alleges a belief that such act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any one or more States which, in and of itself, would constitute an appropriate basis for action by a Federal officer or agency under this section; or

"(B) the alleged act or practice is one which, if proven, would, in the judgment of the Board of Directors, adversely affect the insurance risk assumed by the Corporation.

"(3) In any case in which any action or proceeding is brought pursuant to an allegation under paragraph (2) of this subsection for the suspension or removal of any officer, director, or other person associated with a foreign bank, and such person fails to appear promptly as a party to such action or proceeding and to comply with any effective order or judgment therein, any failure by the foreign bank to secure his removal from any office he holds in such bank and from any further participation in its affairs shall, in and of itself, constitute grounds for termination of the insurance of the deposits in any branch of the bank.

"(4) Where the venue of any judicial or administrative proceeding under this section is to be determined by reference to the location of the home office of a bank, the venue of such a proceeding with respect to a foreign bank having one or more branches in not more than one judicial district or other relevant jurisdiction shall be within such jurisdiction. Where such a bank has branches in more than one such jurisdiction, the venue shall be in the jurisdiction within which the branch or branches involved in the proceeding are located, and if there are more than one such jurisdictions, the venue shall be proper in any such jurisdiction in which the proceeding is brought or to which it may appropriately be transferred.

"(5) Any service required or authorized to be made on a foreign bank may be made on any branch located within any State, but if such service is in connection with an action or proceeding involving one or more branches located in any State, service shall be made on at least one branch so involved.".

(16) The first sentence of section 10(b) is amended (A) by inserting "any insured branch of a foreign bank, any branch of a foreign bank making application to become an insured bank," immediately after "(except a District bank)", and (B) by inserting "or branch" before the comma after "any closed insured bank".

(17) The third sentence of section 10(b) is amended by inserting ", and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act shall be required as a condition to the insurance of any deposits" immediately before the period at the end thereof.

(18) Section 11(c) is amended by inserting ", insured Federal branch of a foreign bank," immediately before "or insured District bank,".

(19) The first sentence of section 11(e) is amended by inserting "or any insured branch (other than a Federal branch) of a foreign bank" immediately before "shall have been closed".

(20) The second sentence of section 11(e) is amended by changing "such insured State bank," to read "such insured State bank or insured branch of a foreign bank,".

(21) Section 11(f) is amended by inserting "or insured branch of a foreign bank" immediately before "shall be closed".

(22) The first sentence of section 11(g) is amended by inserting ", insured branch of a foreign bank," immediately before "or District bank,".

(23) The third sentence of section 11(g) is amended by changing "In the case of any closed insured bank," to read "In the case of any closed insured bank or closed insured branch of a foreign bank,".

(24) Section 12(a) is amended by inserting ", branch of a foreign bank," immediately after "a closed national bank".

(25) Section 13 is amended by adding at the end thereof the following new subsection:

"(g) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen a closed insured bank or to avert the closing of an insured bank may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the insurance fund which the exercise of such powers would entail.".

(26) Section 18(c) is amended by adding at the end thereof the following new paragraph:

"(11) The provisions of this subsection do not apply to any merger transaction involving a foreign bank if no party to the transaction is principally engaged in business in the United States.".

(27) Section 18(d) is amended by inserting the following new sentence immediately after the first sentence thereof: "No foreign bank may move any insured branch from one location to another without such consent.".

(28) The first sentence in section 18(g) is amended by inserting "and in insured branches of foreign banks" immediately after "in insured nonmember banks".

(29) Section 18(j) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any foreign bank having an insured branch with respect to dealings between such bank and any affiliate thereof which is principally engaged in business outside the United States, and with respect to any dealings involving such bank to which the provisions of this subsection apply, the Board of Governors of the Federal Reserve System may make such exemptions or exceptions as it determines to be reasonable and appropriate in the light of the different organizational structure or character of business conducted by such bank or any branch, agency, subsidiary, or affiliate thereof.".

(30) Section 21 is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.".

(31) The first sentence of section 25(a) is amended by inserting "insured branch of a foreign bank," immediately after "No insured bank,".

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a)(1) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any other ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(2) A Federal branch or Federal agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any Federal branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such Federal branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1977. In exercising any such powers with respect to any such Federal branch or agency each Federal Reserve bank shall give due regard to account balances being maintained by such Federal branch or agency with such Reserve bank and the proportion of any such Federal branch or agency's assets being held as reserves under section 7 of the International Banking Act of 1977. For the purposes of this paragraph, the terms 'Federal branch,' 'Federal agency,' 'foreign bank,' and 'commercial lending company' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1977.".

(6) Each branch or agency of a foreign bank, other than a Federal branch or agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to the provision requiring reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 324) to the same extent and in the same manner as if the branch, agency, or commercial lending company were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

NONBANKING ACTIVITIES

SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not by reason of this subsection be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.

(b) After December 31, 1985, no foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date unless authorized by subsection (c) of this section or by the Board of Governors of the Federal Reserve System under section 4 of the Bank Holding Company Act of 1956.

(c) After December 31, 1985, notwithstanding the prohibitions of subsection (b) of this section, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on December 3, 1974 (or on a date subsequent to December 3, 1974, in the case of activities carried on as the result of the direct or indirect acquisition, pursuant to a binding written contract entered into on or before December 3, 1974, of another company engaged in such activities at the time of acquisition) and may retain direct or indirect ownership or control of any voting shares of any nonbanking company that it (1) owned, controlled, or held with power to vote on December 3, 1974 (or on a date subsequent to December 3, 1974, if acquired by a written contract entered into on or before such date) and (2) that does not engage in any activities other than those in which such foreign bank, company, or affiliate may engage by virtue of this subsection or section 4 of the Bank Holding Company Act of 1956; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines, having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. Notwithstanding any exercise of the authority conferred upon the Board by this subsection (c), in the case of any such foreign bank or company that engages directly or indirectly through an affiliate in the business of un-

derwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, such foreign bank or company may continue to engage in such business in the United States to the extent not prohibited for national banks by paragraph Seven of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) and, in addition, may continue to engage in the United States in the business of underwriting and distributing securities to the extent necessary to participate in customary and usual syndicate activities in the United States by the managing underwriters or other underwriters on behalf of all syndicate members in connection with underwritings of such securities so long as the individual selling and distribution activities of any such foreign bank or company (whether direct or indirect through an affiliate) in connection with any such underwriting are confined to jurisdictions other than the United States. Nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after December 3, 1974, of any interest in or the assets of a going concern engaged in such activties. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of control of shares in any company carrying on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as a "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, or section 105 of the Bank Holding Company Act Amendments of 1970, except that any such branch, agency or commercial lending company subsidiary shall be deemed a "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c)(1), 4(c)(2), 4(c)(3), and 4(c)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(1), (2), (3), and (4)) to any foreign bank or other company to which subsection (a) applies.

(e) Section 2(h) of the Bank Holding Company Act of 1956 is amended (1) by striking out "(h) The" and inserting in lieu thereof "(h)(1) Except as provided by paragraph (2), the", (2) by striking out the proviso, and (3) by inserting at the end thereof the following:

"(2) The prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares of any subsidiary of such company principally engaged in activities incidental to the business of the parent) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such company (A) may engage in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this Act and under regulations or orders issued by the Board under this Act, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 4(c)(8) or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such company on terms more favorable than those afforded similar borrowers in the United States.

"(3) For purposes of this subsection, (A) a bank holding company may not in any case be considered to be 'principally engaged in the banking business outside the United States' if its principal banking subsidiary is located in the United States; and (B) 'domestic' means located in the United States or organized under the laws of the United States or any State thereof."

GUIDELINES FOR FOREIGN BANK OPERATIONS

SEC. 9. (a) The Secretary of the Treasury in issuing guidelines under this section, and the Federal regulatory agencies in the administration of this Act, shall seek to achieve a parity of treatment for foreign banks, branches, agencies, and commercial lending companies relative to their domestic counterparts. It is the purpose of this Act to establish a basic statutory framework which, giving due consideration to the structure of our domestic monetary mechanisms and our national interests, will, to the extent practical, allow foreign banking institutions to have the same rights, duties, and privileges and be subject to the same limitations, restrictions, or conditions as our domestic banking institutions. It is the intent of the Congress that this Act shall establish a pattern for equitable treatment which State regulators may adopt in their regulation of foreign banking institutions.

(b) The Secretary of the Treasury shall issue guidelines with respect to the banking operations of foreign banks, companies, and individuals in the United States, in order to assist Federal and State banking agencies in acting on applications by such foreign banks, companies, and individuals to establish branches or agencies of foreign banks in any State or to acquire interests in banks, corporations organized under sections 25 or 25 (a) of the Federal Reserve Act, or commercial lending companies organized under State law.

(c) Whenever the Comptroller of the Currency receives an application to establish a national bank that will be controlled by a foreign company or group of foreign companies, or a Federal branch or agency of a foreign bank, he shall send a copy to the Secretary of State, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the bank supervisory authority of the State where the bank, branch, or agency is to be located. He shall wait thirty days for such officials to submit their views before acting on the application.

(d) Whenever a State bank supervisory authority receives an application to establish a branch or agency of a foreign bank or to organize a bank or a commercial lending company that will be controlled by a foreign company or group of foreign companies, he shall transmit a copy of such application to the Secretary of the Treasury, the Secretary of State, and the Board of Governors of the Federal Reserve System, and shall allow a thirty-day period within which their views and recommendations may be submitted.

(e) Whenever the Board of Governors of the Federal Reserve System receives an application from a foreign company or group of foreign companies for approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or receives an application from a foreign bank under section 25 or 25 (a) of the Federal Reserve Act and whenever the responsible Federal banking agency under the Bank Merger Act (12 U.S.C. 1828 (c)) receives an application under that Act involving a bank that is controlled by a foreign company or group of foreign companies, it shall transmit a copy of such application to the Secretary of the Treasury and the Secretary of State and allow a thirty-day period within which their views and recommendations may be submitted.

(f)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

(2) Notwithstanding any other provision of law, no application for a branch or agency under this Act shall be approved by the Comptroller and no application referred to in subsection (c), (d), or (e) of this section shall be approved by the Comptroller, the Board of Governors of the Federal Reserve System, or a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.

REPRESENTATIVE OFFICES

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraphs:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any branch, agency, and any commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, as those terms are defined in the International Banking Act of 1977, in the same manner as they apply to an insured bank, and for that purpose the appropriate Federal banking agency shall be the Comptroller of the Currency with respect to a Federal branch or agency of a foreign bank and the Board of Governors of the Federal Reserve System with respect to a branch, agency, or commercial lending company subsidiary operating pursuant to State law.

"(5) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this

section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1977 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 12. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following: "(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations,".

REGULATION AND ENFORCEMENT

SEC. 13. (a) The Comptroller and the Board are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this Act or any amendment made by this Act may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency as defined in that Act.

(c) In the case of any provision of the Federal Reserve Act to which a foreign bank or branch thereof is subject under this Act, and which is made applicable to nonmember insured banks by the Federal Deposit Insurance Act, whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision, the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 14, strike out lines 2 through 15 and insert in lieu thereof the following:

SEC. 5. (a) Except as provided by subsection (b)—

(1) No foreign bank may directly or indirectly operate a Federal branch outside its home State unless the State is one in which it could operate a branch if it were a national bank located in its home State.

(2) No foreign bank may directly or indirectly operate a State branch outside its home State unless—

(A) the statute laws of the State in which such branch is to be located specifically authorize a State bank organized under the laws of such foreign bank's home State to establish or operate such branch, by language to that effect and not merely by implication, and

(B) the State branch is approved by the bank regulatory authority of the State in which such branch or agency is to be located.

(3) No foreign bank or company of which it is a subsidiary may directly or indirectly acquire any voting shares of, interest in, or substantially all of the assets of a commercial lending company located outside of its home State unless—

(A) the statute laws of the State in which such company is to be located specifically authorize a State bank organized under the laws of such foreign bank's home State to acquire any such company, by language to that effect and not merely by implication, and

(B) the acquisition is approved by the bank regulatory authority of the State in which such commercial lending company is to be located.

(4) No foreign bank may directly or indirectly acquire any voting shares of, interest in, or substantially all of the assets of a bank located outside of its home State unless such acquisition would be permissible under section 3 of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AMENDMENT OFFERED BY MR. WYLIE TO THE COMMITTEE AMENDMENT

Mr. WYLIE. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE to the committee amendment: Page 14, strike out line 16 and all that follows thereafter through page 16, line 3, and insert in lieu thereof the following:

SEC. 5. (a) Except as provided by subsection (b), no foreign bank may operate a branch, agency, commercial lending company subsidiary, or bank subsidiary outside its home State unless (1) in the case of a Federal or State branch, the State is one in which it could operate a branch if it were a national bank located in its home State, (2) in the case of a State branch, agency, or commercial lending company, it is approved by the regulatory authority of the State in which such State branch, agency, or commercial lending company is to be operated, and (3) in the case of Federal branch or agency, its operation is not prohibited by the State in which it is to be operated, and (4) in the case of a bank, its acquisition would be permissible under section 3 of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State.

Mr. WYLIE. Mr. Chairman, this amendment would restore the language of section 5 which was passed by the 94th Congress.

As I stated earlier, I think it is necessary because this makes it unmistakably clear that foreign banks cannot engage in business in more than one State without being subjected to Federal rules and regulations which govern U.S. banks.

The St Germain amendment would permit State legislatures to enact laws permitting State chartered banks to branch interstate or across State lines and thus permit branches of foreign banks to do so as well.

Again we are comparing apples and oranges when we compare State banks and foreign banks because foreign banks are so much larger in their operations than most State banks that it seems to me that by dragging foreign banks through the State bank loophole does not make any sense. Only a few State banks would want to use this law or operate under it because they would not have the resources to operate interstate.

As I mentioned a little earlier the U.S. banks are at a competitive disadvantage at the present time because they are prohibited from engaging in interstate operations by the McFadden Act, but U.S. banks are also required to maintain reserves as fixed by the Federal Reserve Board. That will be addressed in section 3 a little later on. U.S. banks are required to put up reserves to guard against bank failures like those that were experienced in the 1930's.

Further, foreign banks are not required to have Federal deposit insurance. That also will be addressed a little later on.

It seems to me that if through this means which allows State legislatures to say that a foreign bank can branch interstate between two States, that we are getting away from the principle purpose of this bill, and that is to provide equity and parity with U.S. national banks operating in the United States.

So, Mr. Chairman, I would suggest an aye vote on my amendment which, as I say, was passed by this House in the 94th Congress. It is clean, not ambiguous and does not involve State legislatures which may be unconstitutional.

My amendment allows the Federal Reserve to regulate the operations of foreign banks coming into the United States. I think in this time of national economic emergency that we need to act in the national interest and give the Federal Reserve Board the final say and the final authority as to whether a foreign branch would be allowed to branch interstate. The Fed should, as I say, have say over foreign branches. They should be brought under the umbrella of the Federal Reserve Board as far as monetary policy is concerned. I think that allowing the State legislatures to make this determination puts our foreign bank operation further into politics, from which we are about to extract them, I hope. I would urge an aye vote on my amendment.

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words. I rise to oppose the amendment offered by my distinguished friend, the gentleman from Ohio (Mr. WYLIE). His

amendment is much more restrictive than the St Germain amendment. There has already been enough controversy on this particular section, so that as a matter of saving time I want to inform the Members of the House that I oppose the Wylie amendment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to my distinguished chairman, the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

I associate myself with the remarks of the gentleman from Illinois (Mr. ANNUNZIO). I think that the amendment offered by the gentleman from Ohio (Mr. WYLIE), while well intended, has long since been overtaken by events. The great weight of authority of the bank regulatory agencies of the several States feels that there should be this slight differentiation in the case of foreign banks, and that it would create unnecessary chaos to accept the amendment. I, therefore, hope that the Wylie amendment will be voted down.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I will be happy to yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

I would like to ask the distinguished chairman what he means that my amendment has been taken over by events. The chairman supported this section in the bill when it passed in the 94th Congress. Does not the distinguished chairman think that by passing my amendment, which provides that State legislatures can provide for interstate branching of foreign banks, only serves to confuse the issue before us today, whereas my amendment makes it quite plain and quite clear that that determination would be left up to the Federal Reserve Board? It seems to me that is where we wanted to come out, at least in the 94th Congress.

Mr. REUSS. Mr. Chairman, will the gentleman yield so that I can respond to my friend, the gentleman from Ohio?

Mr. ANNUNZIO. I yield to the distinguished gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

Consistency, it has been said, is the hobgoblin of little minds; while I would be the first to say that 3 years ago, I voted for a bill which contained language substantially like that now proffered by the gentleman from Ohio, all the members of our committee have undergone a course of advanced higher education since then. We have heard from the rank and file of the regulatory apparatus throughout the country, and in my view, in order to get a bill which will pass and a bill which will be fair to the foreign banks and not lead to retaliation against our own banks when they do business overseas, for those reasons I think that the amendment now offered, in April of 1978, is an amendment whose time has passed. If we are really interested in getting to the important portions of this bill, the portions which give the monetary authorities the power to see that rampant inflation does not come about through the uncontrolled presence in this country of foreign banks, we would do best to recognize that our attention was a little diverted 3 years ago, and that we can improve what we then produced. This is precisely why the gentleman from Illinois (Mr. ANNUNZIO) and I, and I think many others, simply cannot go along with the gentleman's amendment, although historically he is on his usual splendidly sound ground.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to my distinguished colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I think basically this amendment by my very distinguished colleague, the gentleman from Ohio, is unnecessary. The gentleman assumes that the regulatory agencies in each State are doing nothing or they are just standing there letting foreign banks run all over domestic banks. That is not true. We have heard extensively from the State regulatory authorities.

I think the gentleman believes that all wisdom resides in the Federal Reserve Board, and we have certainly found that is not always true.

The gentleman also assumes that domestic banks cannot have offices in other States if they are not chartered in other States. That is also false. A lot of banks maintain limited offices in other States, for purposes other than taking deposits but which tend to generate deposits.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ANNUNZIO was allowed to proceed for 1 additional minute.)

Mr. ANNUNZIO. Mr. Chairman, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I conclude that although the gentleman from Ohio usually takes very meritorious positions, this is just basically an unnecessary amendment, because no showing has been made that additional Federal Reserve authority is needed. The Fed is being granted substantial additional powers under this bill without this amendment, and I believe these powers are more than adequate to do the job that is required. I support the position of my colleague, the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I thank the gentleman from California and I yield back the balance of my time.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

It has been said that inconsistency is a feminine characteristic, but I think there are principles and it seems to me that one of the principles we ought to stick to is reciprocity, mutuality. I do not know and I do not think anybody in this Chamber knows of a single American bank operating abroad that is allowed to have privileges not accorded to local banks; but I think we all know there are American banks required in foreign countries to do things we do not require of foreign banks here.

Every one of us realizes that control by the States is splendid in all things affecting local matters; but certainly the different banking authorities in the 50 States are of changing and inconstant and varied competence. I think it is wise to have foreign banks operating under our Federal Reserve Board controls which are common to all our own banks.

It seems to me, Mr. Chairman, we are constantly in America expected to be the only grownups in the world. We have to allow foreign banks and institutions from other countries privileges not accorded to our own. The time has come when we have to admit that we are all in this world together. There is no reason to give special standing or privileges to foreign banks.

This bill now provides that foreign banks are grandfathered in forever. I hope eventually to introduce an amendment that will stop grandfathering after a certain period of time. Our own banks are not allowed to deal in securities. Maybe a lot of foreign banks in New York and Chicago and California are happy with this, but that does not mean it is good for the country. If we found it necessary to separate securities from banking in general, why should we grandfather in foreign banks and allow them to do it in perpetuity? It seems to me there should be a limit.

Mr. WYLIE. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I submit to the chairman that this is not a "foolish" inconsistency, that there comes a time when consistency is meritorious.

I would also suggest we are looking to the States collectively. Ninety-seven percent of all the foreign banking operations in the United States are centered in four cities: New York, Chicago, Los Angeles, and San Francisco—four cities located in three States.

We are now talking about an amendment which would permit the bank regulators in Iowa, in Louisiana, in Connecticut, in Mississippi, in Tennessee, and, yes, in Ohio determine whether a foreign bank should operate in the United States.

It just seems to me that my amendment has more validity today than it ever had before, because in the 2 years since we were on the House floor in the 94th Congress on this matter there have been billions of dollars more in assets brought into this country by foreign branch banks than were here 2 years ago, in 1976, when this bill was on the floor. As I said earlier, those assets have increased substantially over the $48 billion estimated then.

I think that those operations ought to be brought under the aegis of the Federal Reserve Board, not that the Board is all powerful and all knowing, but we did set up a Federal Reserve System to establish monetary policy in this country, and the members of the Board cannot do that when one-fifth of all the banking operations in the United States is conducted by foreign banks.

Mr. Chairman, I urge an aye vote on my amendment, and I thank the gentlewoman from New Jersey (Mrs. FENWICK) for yielding and for her excellent support.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for his remarks.

Mr. STANTON. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I thank the gentlewoman for yielding.

What we have here, for those Members who have been listening to the debate, is two different approaches to the committee bill. We have, of course, the approach of the amendment offered by the gentleman from Ohio (Mr. WYLIE), which I oppose. One approach to this subject matter is that of the Federal Reserve Board. Then we have the approach of the gentleman from Illinois (Mr. ANNUNZIO) and State regulators on this subject.

Mr. Chairman, in reality what the majority of the committee came out with is the committee amendment authored by the gentleman from Rhode Island (Mr. ST GERMAIN), which is a compromise between both approaches, and in fairness to all concerned I think the committee bill is good. Therefore, I ask for a "no" vote on the amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my distinguished committee chairman has reminded us of an adage that "consistency is the hobgoblin of small minds." There is also another saying I remember, an even older adage, that "Consistency, thou art a jewel."

I think the argument that our distinguished chairman made previously in support of the position now taken by the gentleman from Ohio (Mr. WYLIE) is far more persuasive than the argument he made today against the amendment offered by the gentleman from Ohio (Mr. WYLIE). Admittedly, the gentleman from Rhode Island (Mr. ST GERMAIN), in the interest of getting the bill passed, agreed to a compromise. I am not going to ask him to respond to this, but I would bet if we could look into his mind and perceive what he would say if he said what is really on his mind, we would find that he prefers the Wylie language over the language that he felt compelled to agree to in the compromise bill.

I say this because he started out with one purpose in mind. That was to stop this practice of giving foreign banks preferential treatment over the national banks of the United States.

If we believe that foreign banks should have an advantage competitively over the national banks of our own country, then we will vote down the Wylie amendment. If, on the other hand, we think they should have to meet the exact same regulations and restrictions that must be met by our national banks, then we will vote for the Wylie amendment.

Mr. Chairman, I for one am going to vote for the Wylie amendment.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman very much for his eloquent and articulate support. I think there might be—and the gentleman is a very excellent lawyer—a constitutional question. Of course, we are not supposed to decide that here on the floor of the House, but this might create a so-called interstate compact arrangement which would be unconstitutional, of course, under the Constitution of the United States, in that two legislatures can get together and make an arrangement for interstate branching.

Has the gentleman thought about that? Maybe I am bringing up something that I have had an opportunity to think on more than the gentleman has. But that question occurred to me.

Mr. ALLEN. Mr. Chairman, I will say to the gentleman, in all candor, I have not thought of that. But I do know this: I know that a State banking examiner does not have access to the same information that the Federal Reserve and the Federal bank examiners have. That is one of the reasons that the distinguished member of the subcommittee started out on the course that he did, in that he wants all banks, foreign and domestic and national, to be properly regulated, without discrimination.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find myself in a very difficult position here, in that I have to get up and disagree with some very dear friends, for whom I have such high respect, on both sides of this issue. However, in all truth, I am basically and primarily seeking a piece of legislation that will effectively produce equality and parity of treatment. I am seeking legislation that will insure the continued existence of the many small independent banks around this country. I am concerned, deeply concerned, about another point: If one of these foreign banks is established, let us say in New York, and it is supervised and regulated by the New York State banking authorities, but also establishes another branch, a full banking facility, in another State, how in God's name does the New York bank supervisor regulate and supervise that other branch? It just cannot be done. You are going to have a bank operating in different States, with full banking privileges to make automobile loans, farm loans, loans on your TV sets, accept deposits, sell certificates of deposit, and yet be regulated by two separate banking authorities—one not knowing what the other is doing. That bothers me. And I am not raising an imaginary specter when I make the statement that I do. I am talking about real situations.

In yesterday's Wall Street Journal, a story appeared to the effect that the Bank of Hong Kong is purchasing Marine Midland Bank in New York, one of the largest banks in the country. Once that holding company purchases Marine Midland, the Bank of Hong Kong, if the committee amendment does not prevail, can then go into each and every State of the Union, operate a full banking facility in competition with our domestic banks, the big ones, but particularly the small ones. The Bank of Hong Kong has very adequate capital. Marine Midland is buckling under to the Bank of Hong Kong because they need capital, an infusion of capital that they cannot acquire on the equity market today.

They are not the only bank in that position. According to the bank analysts, there are 20 other major foreign banks shopping around for acquisitions.

Mr. Chairman, I say to my colleagues that we have a very dangerous situation existing here, and the potential is enormous. Today the foreign banks in this country control $96 billion in assets. That is not small potatoes. For that reason, we want to grant equality of treatment for domestic and foreign banks; but this Member cannot see why we should give an advantage to the foreign banks. We want them functioning. We want them to help our economy, but we do not want them to ruin our economy. That is why we want the Federal Reserve to be able to set reserve requirements and examinations so that those banks compete on an equal, sound, and fair basis with our domestic banks.

Mr. Chairman, as I say, I have very dear friends for whom I have the highest respect on both sides of this issue.

I have been working with the gentleman from Ohio (Mr. WYLIE) on this matter for many years now. I would like to support his amendment. However, I feel that I might have a little difficulty in so doing were the Annunzio amendment then to be offered.

The compromise I offered in the full committee, I feel, will protect the interests that have to be protected. It will give equal treatment to foreign banks, and it will take care of the problems I foresee if the committee amendment is not sustained.

Therefore, Mr. Chairman, with reluctance, I cannot support my dear colleague, the gentleman from Ohio (Mr. WYLIE).

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. ST GERMAIN) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. ST GERMAIN was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

I must say that I agree with everything the gentleman has said. We have worked together very hard and very diligently on this bill. We have traveled in Europe and have talked to central bank officials all over Europe about this matter. We are trying to come out at the same place, but would not the gentleman agree that my amendment tightens up foreign bank operations in the United States even more than does the amendment which was reported out of committee?

Mr. ST GERMAIN. There is no doubt that it is a stronger amendment.

Mr. WYLIE. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I just want to say that I appreciate the gentleman's bringing up the Hong Kong Bank. However, that has nothing to do with this amendment. That is addressed to the whole bill, perhaps; but that bank is regulated by the Federal Reserve Board right now as the gentleman well knows, under the Bank Holding Company Act.

Mr. ST GERMAIN. I beg to differ.

Mr. ROUSSELOT. It has nothing to do with this amendment.

Mr. ST GERMAIN. Yes, it does.

Mr. ROUSSELOT. I feel that to drag this issue into the subject of this particular amendment confuses the issue. That is my humble judgment.

Mr. ST GERMAIN. Mr. Chairman, I say to the gentleman that in a few minutes when we debate section 5, I will read a letter that I have from the chairman of the Federal Reserve Board. Although it does not name the Hong Kong Bank, it illustrates that that is what can happen under these circumstances.

If the Bank of Hong Kong purchases the Marine Midland Bank, there is nothing in the Annunzio amendment to prevent it from also establishing branches in every State of this Nation.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BROWN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Michigan. Mr. Chairman, I do not think that the debate we have had really gets to the crux of the problem.

Most of us—in fact, I think I could say that all of us—the 46 members of the Committee on Banking, Finance, and Urban Affairs agreed that legislation was needed and is needed. That is why we reported this bill out by a 46 to 0 vote.

If legislation is needed, it seems to me that it is very unwise for us to adopt amendments which could very likely lead to the defeat of the legislation that we all agree is needed.

Mr. Chairman, the gentleman from Ohio (Mr. WYLIE) is offering this amendment. He intends to offer an amendment to section 7 also, I believe. What he would do by these two amendments is to return the legislation, for all intents and purposes, right back where it was when it was introduced, at which time it was a pure Federal Reserve Board measure, in which condition, I will assure the Members, it did not have the chance of the proverbial snowball of getting through the Congress.

And yet, the Fed is most desirous of having legislation. Now, we can argue the relative merits of the dual banking system until we are blue in the face. The fact remains that we do have a dual banking system, and it is popular, and we are not going to change it if we tried. If we do not reflect that dual banking system in this legislation, we are not going to get the legislation.

I commend all of my friends over at the Federal Reserve Board for all their efforts to try to get their bill, but their bill is not going to pass this Congress.

Now, how do banks get to branch interstate, if they wish to branch interstate? First of all, the chartering State would have to agree that a bank chartered in that State could branch elsewhere. Secondly, the recipient State, the State to which the bank would branch, would have to agree to receive that bank, or a branch of that bank. So, it seems to me that unless Members do not want States to have any rights with respect to this matter, they should not adopt the Wylie amendment, and probably need not adopt the St Germain committee amendment; although I probably am inclined to support it because I thought we had an understanding when the bill came out of committee that we would leave it pretty much as we reported it out of committee.

Not only that, my friends and colleagues, the Wylie amendment is not sound in the first place under our dual banking system. Second, if Members want to make sure that they do not get legislation, or take a step that is counterproductive to what Mr. WYLIE and the Fed are trying to accomplish—if they do not want to do these things, then they should vote down the Wylie amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE) to the committee amendment.

Mr. WYLIE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announced that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. WYLIE) for a recorded vote.

A recorded vote was refused.

Mr. WYLIE. Mr. Chairman, on that I demand a division.

On a division (demanded by Mr. WYLIE) there were—ayes 13, noes 35.

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the committee amendment to section 5.

Mr. Chairman, the Congress is often criticized for legislating after the fact, or in more common terms, locking the barn door after the horse has run away. If we adopt the committee amendment to section 5, we will be locking the barn door before we even buy the horse.

The committee amendment to section 5 is an extremely complicated one, but also a highly important amendment. Every Member of this body should realize, however, that his vote on section 5 could forever affect the economic climate of their own individual State. By voting in favor of the committee amendment to section 5, it may well mean that your State will never have the opportunity to have foreign banks. The prospects of foreign banks in your State might not be appealing at this time, but with more and more States seeking ways to increase foreign trade it may well be that at some point in the future your State would want to encourage foreign banks to locate there so as to facilitate foreign trade without bringing undue competitive advantage to domestic banks. Your State will never have the opportunity for foreign banking if you support the committee amendment to section 5.

Very simply, the committee amendment says that a foreign bank may operate in only a single State unless the State where that foreign bank seeks to open additional branches, and as the State where the main office of the foreign bank is located are agreeable to allow reciprocal branching not only of State banks, but also of foreign banks.

Let me cite an example of how that would work. Suppose that the State of Iowa wanted to increase its export of agricultural products to Germany and Iowa determines that it would facilitate the trade by having a branch of a German bank operate in Iowa. This bank would not accept deposits or in any other way compete for the consumer business of other Iowa banks; its sole function may well be to handle trade matters. The main office of the German bank is in New York City and under the committee amendment to section 5, the only way that bank could open a branch in Iowa would be for the State of Iowa to agree to allow New York State domestic banks to branch into Iowa and for New York State to allow Iowa banks to branch into New York. That would mean that one of the giant New York banks could move into Iowa and siphon off all of the banking business in that State.

You can easily see that the State of Iowa, trying to increase foreign trade and helping citizens to improve their economic conditions, would have to virtually sell its banking soul in order to accomplish that goal.

Every Member of this body is vitally concerned about the weakness of the dollar abroad. One of the main reasons for that weakness is our large deficit balance of payments. Each month that deficit sets new records. As long as we continue such deficits, we will never see the dollar return to its position of greatness as an international currency.

One of the best ways to reduce the trade deficit is not only to decrease imports, but to expand the export of U.S.-produced goods and services. I know of no better way to facilitate exporting than to allow foreign banking to expand in this country. If a small manufacturer wanted to export his product where would he turn to learn about overseas markets, international financing, and

the other problems that go hand in hand with exporting? A foreign bank could easily perform that function without in any way taking away the business of an American bank which normally does not possess such information.

The foreign bank could provide market information, plant locations, shipping assistance and, of course, capital. Since these foreign banks would be fully taxed by our Government, we would not be losing at that end of the scale.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

(By unanimous consent, Mr. ANNUNZIO was allowed to proceed for 5 additional minutes.)

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I thank the gentleman for yielding.

I want to associate myself with the Annunzio proposition that the committee amendment be voted down and the subcommittee language thus automatically restored.

What that would do is very simple: The Annunzio language would insure that if any one of the 47 States which are not now favored with the presence of a foreign bank, in the judgment of its duly constituted banking authorities, wants to have a foreign branch, it may do so. That is a slightly different rule from that which we have for domestic banks, but this, in the considered judgment of those zealous guardians of the principle of dual banking, the State regulatory authorities, is an adequate workout.

So I think on the merits, in order to prevent the monopolization by foreign banks, with their life-giving, deposit-receiving and asset-lending powers, and in order to prevent a monopoly from arising in just a few cities and States, the point of the gentleman from Illinois (Mr. ANNUNZIO) is well taken.

I would say one more thing. I do not think the issue involved in this amendment is one between the white hats and the black hats. I think the position espoused by our distinguished subcommittee chairman, the gentleman from Rhode Island (Mr. ST GERMAIN), has much to be said for it. I happened to vote against it in the full committee. Normally when I take my lickings in the full committee, I go along with that position on the floor.

Here, however, I have a distinct feeling in my bones that if we want to get a bill through the Congress, that bill must have in it language that is substantially similar to that advocated by the gentleman from Illinois (Mr. ANNUNZIO).

Thus, Mr. Chairman, I hope we will go along and vote down the committee amendment and automatically reinstate the language contained on page 14.

Mr. Chairman, I thank the gentleman for yielding.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the distinguished gentleman from Oregon (Mr. AUCOIN).

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding. I wish to associate myself with the remarks he has made.

I particularly appreciate the gentleman making the linkage between his position and that of the need in this country to overcome our record quarterly trade deficits and the instruments that foreign banks can provide for doing precisely that, that is, stimulating export activity in this country. He also makes the unassailable point when he says that many States would like to have an opportunity to have foreign banking activities, and those States may be off the "beaten path" in terms of being a major population center. Oregon happens to be one of them.

Mr. Chairman, I want my colleagues to know that as this committee amendment is written, it is so restrictive that in the State of Oregon, which is progressively trying to increase foreign trade, we would have the spectacle of at least one branch divestiture on the part of some foreign banks that are already doing business today. I just think, for all of the reasons that the gentleman from Illinois has mentioned, plus the tightness of the language of the committee amendment, that my colleagues should defeat that committee amendment.

Mr. ANNUNZIO. The subcommittee agreed to my amendment which would leave the question of foreign banks operating in more than one State up to each individual State. Under my amendment using the Iowa situation, that State would merely have to determine whether or not it wanted foreign banks, and if it did it would not have to also allow interstate branching of domestic banks.

In short, my amendment is a State's rights amendment, and allows each State to determine for itself whether or not that State wants foreign banking. What my amendment does not do is to tell each State that the Congress sets down virtually insurmountable conditions that you will have to meet before you can have foreign banking.

We have all had this experience. We have all talked about Big Brother. We have all talked about Government interference in the States.

I submit, Mr. Chairman, that that is not what Congress should tell the States. And I further submit that that is not what Congress wants to tell the States.

Let us take a closer look at foreign banking in this country. The majority of foreign banking in this country is presently centered in three States: New York, Illinois, and California. Because New York is the country's leading money market nearly all foreign branches operating in this country have an operation in New York. There are 59 foreign branches in New York City while Chicago has 29 foreign branches, most of which also operate in New York. California has a large number of foreign banks but because of technical legalities in the State law they cannot be classified as branches. There are also a handful of foreign branches in other States such as Massachusetts, Oregon, and Washington.

A few years ago the State of Illinois decided it would be advantageous to have foreign branches and we permitted foreign branches to have a single location in our Chicago Loop area and nowhere else. These branches are serving a useful purpose for our citizens, are active in stimulating international trade and investment for our area, and in enlarging our State's role as an international financial center. Other States are showing an interest in the opportunity to attract foreign branch banking. But if the International Banking Act becomes law as now written Illinois and other States would find it impractical or impossible under Federal law to permit any of the many foreign banks operating branches in New York to establish branches in the cities which are able to compete for international business.

Under the committee amendment in order to get another branch of that bank operating in New York, Illinois would have to submit to a tie-in arrangement that would let New York send us its domestic banks to take business, profits and capital out of our State.

It will be argued that the purpose of the committee amendment is to give domestic banks the same privileges as foreign banks, that is to branch across State lines.

We have no evidence that most domestic banks are interested in interstate branching. In fact, most banks oppose such interstate banking and that is the reason why Congress has enacted legislation to prohibit such interstate banking for domestic banks. However, the very banks that do not want interstate bank branching for themselves find nothing wrong with allowing foreign banks to operate in more than one State in our country. Our domestic banks do not feel threatened by the foreign banks, which for the most part are highly specialized financial institutions, and do not compete for public deposits.

Most of you have received letters, telegrams or phone calls from your State bank supervisor urging you to vote against the committee amendment and to support the Annunzio position. Many of you may have also received similar communications from your Governor's office since both the Conference of State Bank Supervisors and the Association of Governors support my position on this legislation. Both of these groups feel that the States should have the opportunity to decide for themselves about foreign banking, and I agree.

I have received copies of letters from 27 State banking commissioners urging their members to support my position on section 5. All of these letters were published in Monday's CONGRESSIONAL RECORD, and they make it clear that the question of foreign bank branching should be decided by the individual States.

If you share my belief that the States should decide for themselves on this issue then you should vote against the committee amendment. If, however, you feel that your State banking officials are not competent enough to handle the question of foreign banking in your

State then you should vote for the committee amendment.

Now let us examine the so-called unfair competitive advantage of foreign banks that opponents of my amendment claim would result from the multi-State presence of foreign bank branches. The multi-State locations of foreign bank branches, as I have said, are principally confined to New York and Chicago, although a handful are in other States like Massachusetts, Oregon, and Washington. In Illinois the 29 foreign bank branches are confined to single locations in our downtown loop area, which preclude them from effectively competing for Illinois retail deposits. They are primarily in upper levels of office buildings, handling a wholesale, international type of banking business.

Well, what about our domestic banks? The subcommittee hearing record contains 13 articles that appeared during 1975–76 in the American Banker, a leading financial newspaper. These articles deal with only 13 of our large domestic banks.

What these articles show is that these 13 banks alone have some 1,483 offices which in fact generally conduct a banking type business in some 43 States, outside the State in which they are headquartered. This includes Edge Act corporations, organizations handling international banking matters for domestic banks; loan production offices which solicit loans throughout the country and do everything but actually finalize these loans, and subsidiary banks and bank-related businesses which are grandfathered or otherwise exempted under the Bank Holding Company Act. Although these domestic interstate activities may not be deposit-taking in a technical sense, as a practical matter they take deposit business away from local banks and service it in their home State. Of these 13 banks, 12 though their out-of-State subsidiaries engage in interstate consumer and sales finance, and in mortgage banking activities; 10 in leasing activities; 9 in selling and reinsuring credit-related insurance; 8 are in factoring; 6 are in investment management advisory services, and in real estate advisory services; 5 are providing venture capital to small businesses, and handling computer services; 2 provide trust services and market traveler's checks. At least 1 of these 13 banks also provide credit card services, travel services, and underwrite insurance.

There is very little competition between local banks and foreign bank branches which concentrate principally on wholesale international banking. As a matter of fact, there is far more interstate domestic banking through these 13 banks alone than is engaged in through the interstate activities of a relatively small number of foreign bank branches with their multi-State presence confined principally to New York and Chicago. And those who want the tie-in arrangement imposed by section 5(a) of this bill, either wittingly or unwittingly, are saying that they want to legislate the already dominant position of New York in both the foreign banking and the domestic banking field and make into a full-scale monopoly in the international banking field. That will not be tolerated by the citizens of my State, and it should not be tolerated by yours.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

(By unanimous consent, Mr. ANNUNZIO was allowed to proceed for 2 additional minutes.)

Mr. ANNUNZIO. Mr. Chairman, the Members have read the RECORD of the past 2 days. I have placed in the RECORD letters that I have received from all of the various banking commissioners who support this legislation, and they are from the following States: Arkansas, California, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, Wyoming, and my own State of Illinois.

I am not prepared to stand in this well this afternoon and to say to my colleagues that the banking commissioners in all of these States know nothing about regulations, are incompetent in regulating State banks. I take the well this afternoon to point out to you the things that I have mentioned.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

In reciting all of these States, the gentleman is referring to letters he has received from the financial institution supervisors of those States; is that not correct?

Mr. ANNUNZIO. The bank supervisors of each State.

Mr. BROWN of Michigan. The gentleman is not suggesting that those States permit chartered institutions to branch interstate?

Mr. ANNUNZIO. No.

Mr. BROWN of Michigan. I wanted to make that clear.

Mr. ANNUNZIO. That is absolutely right.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I will be glad to yield to my distinguished colleague, the gentleman from California, one of the most knowledgeable members of the Banking Committee.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. ANNUNZIO was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. As I was about to say, Mr. Chairman, the National Governors Association, has supported the position of the gentleman in the well, as those of us on the subcommittee did; and we regret that the full committee, by a very narrow margin, changed the language of the gentleman from Illinois.

Mr. Chairman, I would urge my colleagues to support the gentleman from Illinois (Mr. ANNUNZIO) in his effort to return to the language which the subcommittee voted out, which would continue to permit the State supervisory authorities to control this issue, although in this bill there are some new powers granted to the Federal Reserve to enable it to set reserves in cooperation and consultation with the State bank supervisors and to monitor the activities of foreign banks doing business in this country.

Mr. Chairman, I support the statement of my colleague, the gentleman from Illinois (Mr. ANNUNZIO), who has made a continual effort to be well informed on these issues of banking which affect the entire Nation.

Mr. ANNUNZIO. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. ROUSSELOT).

I want to conclude. Mr. Chairman, if the Members share my belief that the States should decide for themselves on this issue, then they should vote against the committee amendment. If, however, they feel that their State banking officials are not competent enough to handle the question of foreign banking in their State, then they should vote for the committee amendment.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that we are debating in a tempest in a teapot sort of way.

The so-called St Germain amendment, the amendment of the gentleman from Rhode Island (Mr. ST GERMAIN), basically says that both the home and recipient State have to agree to permit interstate branching and that if it is done for foreign banks, it has to be done for their domestically chartered banks.

The gentleman from Illinois (Mr. ANNUNZIO) says that we should not have that kind of provision because it is terrible, and so forth.

Let us look at this in a practical way. Let us say that a foreign bank decides to establish a branch in the State of New York and does it with a State charter. What is to stop the State of New York from saying, "If you want a charter in this State, you have to agree that you will not, nor will your parent, branch elsewhere, and if you do, you forfeit your charter in the State of New York"?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, may I say to the gentleman in the well that I will make a small wager that they will never do that.

Mr. BROWN Michigan. They will never do which? I am not quite sure. I said a couple of things.

Mr. FASCELL. Either one.

Mr. BROWN of Michigan. In any case, Mr. Chairman, what I am saying is that the State, both the parent State, the father State, the home State, as well as the recipient State, under present law, pretty much have control of the situation.

In the situation which the gentleman from Illinois (Mr. ANNUNZIO) has been referring to, where the State of New York might refuse to permit a branch to go into Iowa, the State of New York can do it now by merely saying, "You will

forfeit your charter in the State of New York if you attempt or if your parent attempts to branch into another State."

I doubt very much that in order to get a branch in the State of Iowa, that a foreign bank is going to want to give up its charter in New York.

Consequently, Mr. Chairman, it just seems to me that we are doing an awful lot of debating about a relatively insignificant thing if we recognize that States can, if they wish to, act responsibly and can, in effect, do that which the St Germain amendment would propose to do and not do that which the gentleman from Illinois (Mr. ANNUNZIO) would have them do in the absence of the St Germain amendment.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to associate myself with the eloquent statement made by the distinguished gentleman from Illinois (Mr. ANNUNZIO). That is the opinion, almost unanimously, of the banks of my State. It is the opinion of 14 of the 15 members of the Florida delegation, regardless of party, expressed in a letter to the chairman of the rules committee. It is also the strong opinion of the commissioner of banking of our State.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I am absolutely amazed to hear the gentleman say that. In the litany of the States, our State of Ohio supervisor of banks is all for this, but on the other hand, there is not a bank that I know of in the State of Ohio—and I know many of the bankers in the gentleman's State of Florida—that definitely do not want this legislation. The State supervisors want to control and to bring under their jurisdiction foreign banks, but the gentleman should check his facts.

The National Bank of Miami does not want, necessarily, the Bank of Tokyo coming down there. They are not asking for it to come unless there is fair competition. But, I think it is clear to state that the Federal Reserve Board is totally against this.

Mr. PEPPER. May I say to the gentleman that only a few moments ago I discussed this matter with a representative of the Florida Bankers Association, and he authorized me to say that this morning he had had a conference with the president of the Florida Bankers Association; that he has also been in contact with the national representatives insofar as Federal regulation regarding banking was concerned, and that all of them including, in his opinion, almost unanimously the banks of Florida, were opposed to section 5.

I will tell the gentleman why. I have a lettter here in my hand from our State banking commission, and it is dated March 31, 1978. It says:

As you are aware, H.R. 10899 would limit our ability to realize Florida's full potential in this area, because of the restrictive nature of section 5.

As of January 1, 1978, Florida law allowed foreign banks to establish agencies and representative offices in Florida. Already the Department has approved four applications and have two pending applications.

There is a foreign bank from Tel Aviv; another one from Tel Aviv; another from Toronto, and another from London that have already been approved for existence in Miami, and two others—one from Brazil and another one from London—pending for consideration.

Our hope is that we will be able to establish in Florida international financial connections that will further the economic interests of our State, and our legislature wants to be free to authorize foreign banks to establish agencies or branches in the State of Florida upon conditions that may be imposed by the legislature and the banking authorities of our State. We do not want to be denied the right to do that, as section 5 would so provide.

That is the reason that our people are almost unanimously opposed to section 5. I want to associate myself with the distinguished gentleman from Illinois, who made a very strong statement to that effect; furthermore, the subcommittee of the distinguished Committee on Banking, Finance and Urban Affairs, chaired by my able friend from Pennsylvania, also took the same position, as does the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

So it would seem to me that we and our Florida people are in good company when we want to associate ourselves with the distinguished gentleman from Illinois (Mr. ANNUNZIO).

Mr. STANTON. Mr. Chairman, if the gentleman will yield further just so I can clarify for the record, I certainly want to thank the gentleman for clarifying for the record. I appreciate his clarifying for the record and I just wonder what is wrong with the Ohio banks.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, when the gentleman gave the list I thought he said that applications for agencies were established.

Mr. PEPPER. Yes.

Mr. STANTON. He stated that agencies are permitted to do everything including giving advice and helping on international transactions.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(On request of Mr. ST GERMAIN, and by unanimous consent, Mr. PEPPER was allowed to proceed for 2 additional minutes.)

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield further so I may finish my question, agencies can do everything except or other than accept deposits, so they can give advice, help on international transactions, and lend money for that purpose. It seems to me from what the gentleman read he stated that we allowed agencies to establish, and certainly the gentleman understands that the bill as it stands before us with the committee amendment permits agencies to establish.

Mr. PEPPER. May I respond to my friend, we so far by legislative action of the Florida Legislature have authorized only agencies and representatives to be established. Of those, four have already been approved and two are pending. However our chamber of commerce people and our banks and those who are interested in the matter want to preserve the right of our State legislature to authorize branches if they choose to do so, and under the old language which the committee amendment would displace, the local authorities were granted control over the matter of admitting branches and allowing the authority of those branches. We do not want to be denied the right to authorize those.

Mr. ST GERMAIN. May I ask the gentleman one other question? Is he in favor of interstate branching of our domestic banks? In other words, would he be in favor of the Citibank, the Chase Manhattan, the Bank of America establishing a branch bank in Florida?

Mr. PEPPER. No. One of the reasons I object to section 5 is that today if our legislature in Florida authorizes the branches to be established of a foreign bank, we can do so only, if that foreign bank had a branch in New York, upon our accepting a branch of a New York bank along with the foreign branch, and why should we take the burden of that branch so we could have a foreign bank?

Mr. ST GERMAIN. In other words he is saying we should allow the foreign bank to branch but not the State branch.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from Rhode Island has worked very hard and we can all understand his position. The gentleman is right that Florida does not allow branch banking, and I do not know that they will ever get around to branch banking. It is a very sensitive subject in our State and has been ever since I have been there.

So we go the bank holding company route. We do not go the branch bank route. But the experience of Florida with foreign bank agencies has moderated the opinion and thinking both in the industry and in the legislature about foreign banking. When they started the agency route they were not too sure. Now they have some experience with foreign bank agency route they have lost some of that doubt.

What we are saying now is just do not shut the door on the possibility of branches for foreign banks. We are not sure we are going the foreign branch bank route. But our experience in Florida so far has been favorable with respect to foreign bank agencies. We would like to have it open in the future to maybe think about foreign branch banking under whatever conditions the legislature might seek to impose. In those States where by legislation they already have branch banking, that is a different kind of problem.

Frankly, it is the first time I have heard the argument raised by the gentleman from Oregon (Mr. AUCOIN) that in those cases where the branch banks exist that this legislation, in some way, would adversely affect them. I am not competent to speak on that subject, but I think that is an important issue.

Mr. ST GERMAIN. The gentleman from Oregon (Mr. AuCoin) was not referring to branches within the State, he was referring to the fact that some of the banks in Oregon, foreign banks there, are also established in other States and therefore they are branches but not intrastate but interstate.

Mr. FASCELL. I understood the gentleman to say that the committee amendment as now written would affect that situation adversely.

Mr. AuCOIN. Mr. Chairman, if the gentleman will yield, what we have in the State of Oregon is a situation in which some foreign banks that are chartered in other States, but have branches in Oregon, would actually find themselves, under the restrictive language of the committee amendment, having to divest themselves of branches in Oregon.

Mr. FASCELL. So that raises the other side of that issue which we are addressing which says if a bank now exists in another State and wants to set up a branch in a different State, they come within the restrictions of section 5. That is what the fuss is all about, and that is the reason we are against it.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the report accompanying this legislation it is said that the bill has two principal policy objectives. The first objective is to provide a system of Federal regulation of foreign banking activities.

With the defeat of the Wylie amendment, there may be some question as to whether we have adequately provided for Federal regulation. But certainly if we have State regulators whose experience in America has been limited only to regulating banks which are located within their State, they are not trained to regulate banks which are multi-State banks, and how does the State of Iowa pass a law that governs a bank whose home State is in New York or Germany?

However, we decided, in full committee, not to go as rigidly as that but to seek a compromise. The distinguished chairman of the subcommittee, the gentleman from Rhode Island (Mr. St Germain) did not take the extreme view of one side or the extreme view of the distinguished gentleman from Illinois (Mr. Annunzio) on the other side, but sought a middle ground the result of which was that the Committee on Banking, Finance and Urban Affairs could report a bill to this floor by a vote of 46 to nothing—which is no mean feat for our committee which handles some controversial legislation.

The second objective, and I think that this is very important, is to provide, to the extent possible or appropriate, equal treatment for foreign and domestic banks operating in the United States. If you adopt the Annunzio amendment you are not giving equal treatment to foreign and domestic banks. You are saying that foreign banks can branch nationwide in 50 States whereas U.S. banks are limited to 1 State of the United States and that just is not fair treatment.

So if we want to stick to the objective that we are not going to put foreign banks at a disadvantage in competing with U.S. banks, but we also are not going to give them an advantage, I suggest we support the compromise offered by the gentleman from Rhode Island (Mr. St Germain).

Finally, those of us who are concerned about our small banks, who believe that small banks should continue in existence, should recognize that if we have nationwide banking by foreign banks, there is going to be tremendous pressure from the banking system to permit nationwide banking by U.S. banks, and this is going to be the demise of the small local neighborhood bank. I seriously question whether this is what this Congress wants to do.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. GREEN TO THE COMMITTEE AMENDMENT

Mr. GREEN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Green to the committee amendment: On page 16, line 10, strike "May 1, 1978" and insert in lieu thereof "May 23, 1977."

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I will be very happy to accept the amendment. We have no objection.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

I hate to dim all the happiness, but I would envisage an "Oklahoma land rush" situation under the gentleman's amendment. Therefore, I must regretfully oppose the gentleman's amendment and hope that we will go with the pure and pristine Annunzio language.

Mr. GREEN. Mr. Chairman, the purpose of this amendment is very simple. On the basis of action in the subcommittee in which the gentleman from Rhode Island (Mr. St Germain) accepted an amendment which would move the effective date to May 23, 1977, some additional branches were opened to various banks. The effect of my amendment is simply to restore that May 23, 1977, date, which was accidentally moved back during the deliberations of the full committee.

The CHAIRMAN. The Chair wishes to announce that the amendment offered by the gentleman from New York (Mr. Green) is technically an amendment to the second committee amendment which is not before the committee at this time. Therefore, it can be offered at the appropriate time, when the next committee amendment has been reported.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words. I want to say that I stand before the Members with some regret because I thought, frankly, when we voted in the full committee that we could come to the floor as a committee and be united. This has not occurred, and with regret I have to oppose some of my very distinguished and respected colleagues.

However, I would like to clarify a few points. No. 1, the legislation, the committee amendment, in no way affects agencies as they are now functioning. The restriction of interstate branching in the compromise amendment would not restrict further interstate operations by foreign bank agencies. As I stated earlier to the distinguished gentleman from Florida, agencies do not accept deposits and, therefore, they operate very much as Edge Act corporations and loan production offices. There is no need to restrict their activities. They can perform all the functions of a bank but for the fact that they cannot take in deposits.

With respect to the State bank supervisors, the gentleman from Pennsylvania (Mr. Moorhead) made a very important point, and that is that the supervisors and their staffs over the years have built up expertise to handle the banks within their jurisdiction. However, they have not and are not equipped to examine branches outside their own States—and there would be no way for them to know what the real status of these institutions is. In addition, the State of New York, the State of Illinois, and the State of California have large supervisory agencies.

They are quite efficient; however, unfortunately, in many of the States the State supervisory agency, no matter what its title, is woefully inadequate.

I look at a Member who sits before me. I spent some time in Texas. With all due deference to the great State of Texas, they could not regulate the bank in Carrizo Springs which was a $12-million institution—the Mexican champion came over, took over and bled it dry. If we allow that fellow, unfortunately, with the staff and equipment he has down there to take on the foreign banks, I am a little concerned about what would happen, and I mean that very seriously.

Now, what would happen if the compromise is not agreed to and adopted? No. 1, we put the stamp of approval on interstate branching by foreign banks. It has been said here repeatedly today we do not allow our domestic banks to branch into States. Why is it we allow foriegn banks to branch into the States? My compromise amendment contains language that states that in the event that our domestic banks are allowed to branch into State, automatically the foreign banks would be accorded the same privilege. We are not treating them any differently than we do our State banks in the committee amendment.

Certainly, if the compromise is not adopted, we are opening the door for a further drive by the foreigners to contol a significant portion of our domestic economy. We create a futher impetus for retail banking by foreign banks. Remember, these foreign banks when they come in participate in consumer and commercial lending. They accept domestic deposits. They are looking for big CD's. As a consequence, we are seeing a decline in the share that our domestic banks are getting.

The CHAIRMAN. The time of the gentleman from Rhode Island has expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for an additional 3 minutes.)

Mr. ST GERMAIN. Mr. Chairman, this means that the foreign banks will be competing with our banks, our savings and loans, our credit unions, all our financial institutions, for car loans, home mortgage loans, farm loans, television set loans, and everything else. I predict that unless the compromise amendment is agreed to, there will be a further erosion, if not a complete repeal, of the McFadden Act; that is the act that prohibits interstate branching by our domestic banks.

The minute we open the door and allow the big banks and the big money centers to branch into the States and to go into every State, we have spelled the beginning of the end of the small independent banker in this country. I do not care how we slice it, that is bound to come. Once that happens, then our dual banking system goes down the drain, because all of it will be by the big national banks. We will not any longer have the local banker who knows what the needs of his community are to rely upon.

They will accept the deposits of the farm towns and bring the money to the big city and lend it to overseas ventures. That is the kind of banking we will have.

Just yesterday in the Wall Street Journal—and I mentioned this earlier—it was announced that the Hong Kong Bank is acquiring Marine Midland.

Marine Midland is short of capital, and we know what that means. They are not able to sell their stock, and they are not doing all that well on deposits.

All right. Once this occurs, if this is approved by the State Banking Commission of New York and by the Federal Reserve Board, then the Hong Kong Bank could establish branches, if our compromise is defeated, in every State in the Union.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. Mr. Chairman, I would like to read a short letter first, and then I will yield to the gentleman from Illinois.

Mr. Chairman, I have a letter dated April 6, 1978, addressed to me from the Chairman of the Board of the Federal Reserve System.

Mr. Chairman, the letter reads as follows:

BOARD OF GOVERNORS, OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C. April 6, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Board of Governors of the Federal Reserve System has strongly supported passage of the International Banking Act of 1978. I wish to make clear my personal support of this legislation. The dramatic growth of foreign banks operating in the U.S. makes it vitally important to act promptly to establish a national policy over such operations and to create a Federal regulatory role.

One of the key provisions in the bill as reported out of the House Banking Committee would prohibit future multi-state branching by foreign banks. I can appreciate that many States are interested in having foreign bank offices within their borders. There are serious questions of equity, however, if foreign banks, unlike domestic banks, are to be permitted to establish deposit-taking branches outside their home States. It should also be noted that foreign banks can buy control of a domestic bank and still establish branches on a multi-state basis. These are significant competitive advantages favoring foreign banks which would be appropriately addressed by the provisions of the bill as reported by the Committee. The Board believes that in keeping with the principle of national treatment the banking laws should be applied in a uniform manner to both domestic and foreign banks.

I hope that the House will bear in mind the issue of competitive equality when it considers the International Banking Act.

Sincerely,

BILL.

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. ST GERMAIN) has expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for 1 additional minute.)

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I am happy to yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I thank the gentleman for yielding.

Will the gentleman please explain, if everything he is saying is true, why all these banking commissioners and governors that I mentioned from various States are in favor of my position on this bill?

Mr. ST GERMAIN. Mr. Chairman, I cannot speak for them, particularly when, as I said, the compromise amendment would allow agencies. The agencies could make loans and could give commercial advice. They could also help in international transactions. They could do everything other than accept deposits.

Mr. ANNUNZIO. Mr. Chairman, I appreciate the gentleman's frank answer. In other words, he is not able to tell me why they support my position.

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. ST GERMAIN) has again expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. ST GERMAIN was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I am happy to yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I do not quite follow the gentleman's recitation that the Hong Kong Bank-Marine Midland situation is exactly parallel or fits perfectly four-square with what we are talking about here.

The charter of the Marine Midland Bank does not change by the acquisition of 51 percent of the stock by a foreign bank. It is still a domestically chartered bank, and it does not fit the situation of direct branches and affiliates of foreign banks that we are talking about here.

Mr. Chairman, if we want to talk about the Hong Kong-Marine Midland situation, we can do that, but let us not clutter up the issue here today with that matter.

Mr. ANNUNZIO. Mr. Chairman, let me point out that I have read the letter from the Fed, from Chairman Miller, and let me repeat what he pointed out:

It should also be noted that foreign banks can buy control of a domestic bank—and 51 percent is control—and still establish branches on a multistate basis.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the committee amendment.

Mr. Chairman, an often overlooked fact in the current debate on this legislation is that in no other country in the world are foreign banks permitted to operate outside the influence and supervision of the national government of the country involved. The bill we are now considering, H.R. 10899, was intended to provide Federal supervision of foreign banks in the United States. Because the operations of these banks affect national policies, those who are opposed to this amendment have raised objections which do not address this problem. They argue for States rights and the dual banking system without recognizing that foreign banking institutions in the United States have the potential for economic influence which greatly transcends the economic powers of the 8,000 or so State banks which serve our local communities.

Opponents of the legislation ignore the fact that there are already 55 foreign banks with operations in more than one State in the United States, that there is no coordination of regulation and supervision of their activities and that they pose a substantial competitive threat to even some of our larger national banks. The assets worldwide of the 113 foreign banks in the United States are in fact larger than all the domestic assets of U.S. banks, well in excess of $1 trillion. A foreign bank can decide to double or triple its assets in a given year, a possibility which would be out of the question for any domestic banking institution.

Another argument which has been made against the bill involves the issue of reciprocity. Opponents making this argument say that if we impose stronger regulations on foreign banks, U.S. banks overseas might suffer additional restrictions on their operations. This, I think, is a false argument and one which can be easily proved wrong. In August 1975, I was one of the members of the Subcommittee on Financial Institlutions Supervision, Regulation, and Insurance who traveled to Europe and met with central bankers in the United Kingdom, France, West Germany, and Switzerland. We found that all the central banks we visited require that foreign banks, including U.S. banks, meet reserve requirements on deposits in their national currencies. The United Kingdom, France, and Switzerland do not impose reserve requirements on deposits denominated in other currencies, including dollars. West Germany, however, puts reserve requirements on all liabilities and the Bank of Japan does as well. In no other major country does the national government

allow foreign banks to operate outside the regulatory framework necessary to control domestic money and credit markets.

In some of the countries we visited there is a greater degree of regulatory freedom for foreign banks than in others. The German and French authorities do examine foreign banks while the British and Swiss authorities do not. In Switzerland banks are not examined because of the bank secrecy laws. In the United Kingdom there is less surveillance currently but Bank of England officials told us that should the sterling business of foreign banks increase, a greater degree of surveillance would be required.

In all the countries we visited foreign banks are subject to the same exchange and capital controls as are domestic banks. Most countries also require that foreign banks meet certain liquidity ratios. In Switzerland, foreign banks are subject to the same lending restrictions as are domestic banks, and in Germany, they are subject to the same investment restrictions as are domestic banks.

There are few stated restrictions on entry for foreign banks in these European countries, however Switzerland has a strict requirement for reciprocity and will not allow U.S. banks with a home office in a State of the United States to establish branches if Swiss banks cannot operate in that State. The Bank of England requires that foreign banks employ authorized dealers in foreign exchange and the pool of available personnel may limit entry or expansion of operations. The Bank of England also tends to discourage entry by smaller banks. We discovered, for example, that one fairly sizable U.S. bank, the Pittsburgh National Bank, had not been allowed to establish a branch in London and had opened a branch in Paris instead.

In Japan, foreign banks are subject to more restrictive regulation than are domestic banks, especially with respect to limits on capital inflows. The Central Bank of Japan also imposes reserve requirements, interest rate limits and exchange controls on foreign banks and prohibits them from engaging in trust activities and securities underwriting.

Comparing the assets of Japanese banks in the United States with U.S. banks in Japan, at year end 1975, Japanese banks had $20 billion of assets here, while U.S. banks had only $10 billion of assets in Japan.

As this description of the treatment of foreign banks in other countries indicates, not only are foreign banks regulated by national authorities in those countries, they are regulated on the same basis as domestic banks. No other country in the world gives foreign banks privileges greater than those given their own domestic banks. I see no reason why the United States should be in the unique position of providing a givewaway for foreign banks at the expense of our own banking system.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. What the gentleman has just said would be just terrific if other countries had a dual banking system. But the other countries do not have a dual banking system. We believe in the legitimacy of State government in this country because we believe it has a very rational and positive function. One of the functions of the State governments today is the regulating of State institutions. Most foreign banks have been regulated—and I say regulated very well in my own State—by the State regulators. So the gentleman can stand up and say no other country will allow a bank from our country to be chartered any other way than going through the central bank. So what? That is because there is no dual banking system.

Mr. Chairman, the issue is whether you support the dual banking system or whether you are against it.

If there are those who want the Federal Reserve Board to regulate the State banking systems of this country, they should vote for this committee amendment because they are helping to erode and destroy a very fine dual banking system if they vote for this committee amendment.

Mr. Chairman, I would now like to read from a communication from the National Governors Association because I think it has stated it much better than has the new chairman of the Federal Reserve Board. I read as follows:

> As reported out of the House Banking Committee last month, the International Banking Act of 1978 contains provisions in Section 5 that would deny nearly all States the opportunity to invite into their receptive area a foreign bank branch that happened to be also operating in another State.

Mr. Chairman, if the Members believe in the concept of freedom of choice of each State which has an appointed regulator, they have the option to vote "no" on the committee amendment. We would then return to the position of the gentleman from Illinois (Mr. ANNUNZIO), which was the original position taken at the subcommittee markup.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be delighted to yield to my distinguished colleague, the gentleman from Ohio, who, unfortunately, refused to yield to me.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

I am sorry that I did not see him standing before. If he had said something, I would have heard him and I would have yielded. However, I do appreciate his yielding.

Mr. ROUSSELOT. Mr. Chairman, I now yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, as I mentioned a little earlier, the same arguments were made against the National Banking Act which created our national bank system back in 1863.

Mr. ROUSSELOT. Mr. Chairman, the gentleman cannot carry me back to that time because I was not here then. We are not arguing that today.

Mr. WYLIE. Abraham Lincoln thought our national bank system was pretty good.

Mr. Chairman, I think our U.S. banks are particularly vulnerable today because of the decline of the American dollar vis-a-vis the yen, vis-a-vis the deutsche mark, and vis-a-vis the Swiss franc.

I think it is one thing for the U.S. banks to compete where all the players are all dealing the cards, but I think it is another situation where the Federal Government deals foreign banks competing in the United States all the aces first. That is what happens. There is not competitive parity between foreign banks operating in the United States through State chartering and U.S. national banks. That is why this bill is here.

Mr. ROUSSELOT. That is why I favor the concept of requiring that the Treasury, under this bill, have the responsibility to make sure that competitive equity is maintained.

That is another part of this bill, as the gentleman well knows. Therefore, if he support, as many of us do, the concept of dual banking and its viability, he will support the Annunzio position, which is the position of the State regulators of this country. I say that many of those States compete very aggressively all over the world in exporting products and importing products; and second, the Association of Governors supports the Annunzio position.

Therefore, when we get to this vote, I would suggest that those Members who support that position vote "no" on the committee amendment and return to the Annunzio position, which was originally voted out of the subcommittee.

Mr. WYLIE. If the gentleman would yield further, Mr. Chairman, would the gentleman admit that the foreign branch banks operating in the United States operate at a competitive disadvantage with our U.S. banks?

Mr. ROUSSELOT. No; I do not believe that that is true in the States of California, Illinois, and New York, especially in view of the extensive interstate operations, short of taking deposits, but which generate deposits, in which domestic banks can engage.

If the gentleman's State does not wish to have foreign banks, all his State has to do is to have its bank supervisor say, "No charter."

Mr. WYLIE. No. We cannot branch interstate.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

I shall not take 5 minutes. Two minutes will be more than sufficient.

Mr. Chairman, I was handed the letter that was received by the gentleman from Rhode Island (Mr. ST GERMAIN), which he read rather hurriedly.

I would just like to repeat for the careful consideration of the Members these sentences:

> The Board of Governors of the Federal Reserve system has strongly supported passage of the International Banking Act of 1978.

Mr. Chairman, that is the one that was voted out of our committee unanimously.

It winds up by saying:

The Board believes that in keeping with the principle of national treatment, the banking laws should be applied in a uniform manner to both domestic and foreign banks.

With respect to the State banks to which my distinguished friend from California referred, if a State bank belongs to the Federal Reserve System—and most of the large ones do—it would be subject to exactly the same kind of regulation from the Federal Reserve Board that the foreign banks would. I just think that we should not be giving foreign banks a competitive advantage over American banks. I think, for the protection of the depositors in this country, they should be subject to the same regulations and supervision.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield.

Mr. ANNUNZIO. Is that the same letter that says something about the Hong Kong Bank and the Midland Bank? I want to suggest to the gentleman from Tennessee that the members of the Federal Reserve Board have a good case of the Hong Kong flu, because none of the rhetoric in that letter is true. The foreign banks are subject to the regulation and control of the State regulators.

Mr. ALLEN. But they are not subject to national supervision, and that is the only kind of supervision that can be effective when we are dealing with international banks which are billions of dollars in size.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ST GERMAIN. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the committee amendment was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 16, line 4, insert the following:

(b) Unless its authority to do so is lawfully revoked otherwise than pursuant to this section, a foreign bank may continue to operate, outside its home State, any branch, agency, or commercial lending company subsidiary, or bank subsidiary whose operation was lawfully commenced, or whose establishment had been approved by the appropriate State authority, prior to May 1, 1976.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Michigan. Mr. Chairman, in view of the action just taken, and having stricken the first part of the committee amendment, this second committee amendment really has no significance.

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry. Does the gentleman wish to debate the amendment?

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Michigan (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Michigan. Mr. Chairman, I have not had a chance to check this out very carefully, but as I recall the second committee amendment, the committee amendment that has just been read is a grandfather's clause of sorts to the first committee amendment. Inasmuch as the first committee amendment has failed, the adoption of the second committee amendment would make no sense at all. Therefore, I would urge a no vote on the committee amendment.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, in view of what the gentleman from Michigan (Mr. BROWN) has just said, I have to concur. Therefore, I do oppose the committee amendment, the second committee amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

The CHAIRMAN. The Clerk will report the next committee amendment.

COMMITTEE AMENDMENTS

The Clerk read as follows:

Committee amendment: Page 16, line 11, strike out "(b)" and insert in lieu thereof "(c)".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 30, line 5, strike out "be" and insert in lieu thereof "have been".

Mr. ST GERMAIN. Mr. Chairman, I recommend the adoption of the committee amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 32, strike line 14 and all that follows through line 7 on page 35, and insert in lieu thereof the following:

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a)(1)(A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of subsection 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulations or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any branch or agency, or (except as provided in paragraph (3) of this subsection) any commercial lending company controlled by one or more foreign banks or one or more foreign companies that control a foreign bank, any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(3) A commercial lending company shall be subject to this subsection only if it is controlled (A) by a foreign bank that has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) by a group of foreign banks that, in the aggregate, have total worldwide consolidated bank assets in excess of $1,000,000,000; (C) by a foreign company that owns or controls a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (D) by a group of foreign companies that own or control a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank, and any commercial lending company in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch, agency, or commercial lending company is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1977. In exercising any such powers with respect to any such branch, agency, or commercial lending company, each Federal Reserve bank shall give due regard to account balances being maintained by such branch, agency, or commercial lending company with such Reserve bank and the proportion of any such branch, agency, or commercial lending company's assets being held as reserves under section 7 of the International Banking Act of 1977. For the purposes of this paragraph, the terms 'branch,' 'agency,' 'foreign bank,' and 'commercial lending company' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1977."

(c)(1) The applicable State banking authorities when requested by the Federal Reserve shall submit to the Board a copy of any examination report made by the applicable State bank supervisory authority on

each branch or agency of a foreign bank established or operating pursuant to State law and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank. The Board is authorized to require submission of additional information regarding the examination reports submitted under this subsection.

(2) Each branch or agency of a foreign bank, other than a Federal branch or agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to paragraph 20 and the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 335 and 324) to the same extent and in the same manner as if the branch, agency, or commercial lending company were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) On or before two (2) years after enactment of this Act, the Board after consultation with the appropriate State bank supervisory authorities shall report to the Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives and the Committee on Banking, Housing and Urban Affairs of the U.S. Senate its recommendations with respect to the implementation of this Act, including any recommended requirement such as limitations on loans to affiliates or capital adequacy requirements which should be imposed on banks covered by this Act to assure the safety and soundness of such banking operations.

Mr. BROWN of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENT OFFERED BY MR. WYLIE AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. WYLIE. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE as a substitute for the committee amendment:

Page 35, strike out line 8 and all that follows thereafter through page 39, line 20, and insert in lieu thereof the following:

SEC. 7. (a) (1) Except as provided in paragraphs (2) and (3) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every branch and agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank in the same manner and to the same extent as if the branch, agency, or commercial lending company were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any other ratio, not more than 22 per centum, for any obligation of any such branch, agency, or commercial lending company that the Board may deem reasonable to effectuate monetary policy objectives, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on branches, agencies, and commercial lending companies in such graduated manner as it deems reasonable and appropriate.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(3) A commercial lending company shall be subject to this subsection only if it is controlled (A) by a foreign bank that has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) by a group of foreign banks that, in the aggregate, have total worldwide consolidated bank assets in excess of $1,000,000,000; (C) by a foreign company that owns or controls a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (D) by a group of foreign companies that own or control a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank, and any commercial lending company in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch, agency, or commercial lending company is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1977. In exercising any such powers with respect to any such branch, agency, or commercial lending company each Federal Reserve bank shall give due regard to account balances being maintained by such branch, agency, or commercial lending company with such Reserve bank and the proportion of any such branch, agency, or commercial lending company's assets being held as reserves under section 7 of the International Banking Act of 1977. For the purposes of this paragraph, the terms 'branch,' 'foreign bank,' and 'commercial lending company' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1977."

(c) Each branch or agency of a foreign bank, other than a Federal branch or agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to (1) paragraphs 7, 8 and 20 and the reporting requirements of paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C., 325, 326, 335, and 324). (2) subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248 (a)), and (3) paragraph (5) of section 21 of the Federal Reserve Act (12 U.S.C. 483), to the same extent and in the same manner as if the branch, agency, of commercial lending company were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248 (a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) Each branch or agency of a foreign bank established or operating pursuant to State law and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall also be subject to such other duties, restrictions, conditions, limitations, or civil penalties or liabilities applicable under the Federal Reserve Act to a State member bank, which the Board, by regulation or order, determines appropriate to insure the safety and soundness of banking operations, or to maintain competitive equality with State member banks, or to otherwise carry out the purposes of this Act except that (1) the Board may make such exemptions or exceptions from such duties, restrictions, conditions, limitations, or civil penalties or liabilities that it deems to be reasonable and appropriate in light of the different organizational structure or character of business conducted by such branches, agencies or commercial lending companies, and (2) any limitation or restriction based on the capital stock and surplus of a member bank shall be deemed to refer, as applied to a branch or agency, to the dollar equivalent of the capital stock and surplus of its parent foreign bank, and if the parent foreign bank has more than one branch or agency the accounts of all such branches and agencies, including Federal branches and agencies, shall be aggregated in determining compliance with the limitation or restriction.

(e) No foreign bank may, after the date of enactment of this Act, establish any branch or agency pursuant to State law and no foreign bank, group of foreign banks, or one or more foreign companies that control a foreign bank may acquire control of a commercial lending company without first obtaining approval of the Board of Governors of the Federal Reserve System. Whenever the Board receives an application from any such foreign bank, group of foreign banks, or foreign companies to establish a branch or agency, or to control a commercial lending company, the Board shall send a copy to the Secretary of State, the Secretary of the Treasury and the bank supervisory authority of the State where the branch or agency or commercial lending company is to be located and shall allow thirty days within which their views and recommendations may be submitted. In acting any such application, the Board shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank, group of foreign banks, or one or more foreign companies and the branch, agency or commercial lending company concerned, and in convenience and needs of the community to be served.

Mr. WYLIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WYLIE. Mr. Chairman, I offer this amendment to section 7 in clarification. The amendment which was adopted by

the committee says that reserve requirements will be set after consultation and cooperation with State authorities. Now, it seems to me as if this amendment is incomplete. For example, who has the final decisionmaking authority as far as reserve making requirements? Does the State have the right to withhold its decision over an extended period of time and thereby defeat the purpose of the amendment? Who determines the adequacy or the degree of consultation and cooperation?

It just seems to me as if we are inviting a whole host of legal questions with the committee amendment the way it is. So I have asked that the language be restored to the bill which was voted out by this House in the last Congress. It is much more precise. It is much more clear. It gives the Federal Reserve Board the right to establish reserve requirements.

I think, in view of the ambiguity and uncertainty of the committee language which we have now before us, that it really in effect is not enforceable. It is not an enforceable mechanism in that I say there is no indication as to who has the final decisionmaking authority.

Because of these legal problems and the ultimate difficulty in attempting to prove who has the power in this instance, I would suggest that we should go back, even now, after we have approved the present arrangement to allow dual chartering by the States, that the banks which are chartered through a State chartering arrangement ought to have their reserves fixed by the Federal Reserve.

If the Federal Reserve Board is to control monetary policy it seems to me as if it should have to have this authority. I just think that the language in the bill as we presently find it is not clear, and with this ambiguity it seems to me as if we might come to an impasse. I just do not know what the phrase "consultation and cooperation" means. I would therefore hope that in the interest of clarity and trying to set some standard or some direction in this regard we go back to the bill which was passed by this House in the last session of Congress, the 94th Congress.

Mr. REUSS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. WYLIE).

Mr. Chairman, once again this amendment comes from one of the most industrious, intelligent, and hardworking members of our committee, and I regret having to oppose it. But, really, the language is so carefully crafted in the committee bill before us that the so-called committee amendment I believe ought to stand.

The gentleman from Ohio (Mr. WYLIE) is apparently disturbed because of our effort to meld the dual banking system to allow the matter of regulation basically to the State regulatory authorities, with some residual surveillance by the Federal Reserve, and then to lodge the vital power of money creation and reserve requirements in the only body in which it can be lodged, the Federal Reserve Board System.

Now, true, the statement says, and I am quoting from the committee amendment, that the Federal Reserve Board would impose reserve requirements "after consultation and in cooperation with the State bank supervisory authorities."

That is in there because we want to give the State supervisory authorities their day in court. But subsequent language makes it doubly clear, and the report on page 12 makes it trebly clear, and here again I read from the report:

> If the cooperation on the part of the State banking authorities were not forthcoming in any instance, that would in no way diminish the power conferred on the Board to impose reasonable reserve requirements, or the legal obligation imposed on the branches, agencies, and commercial lending companies to comply therewith.

So the net of it is that there has been fashioned here a reasonable compromise whereby the ultimate money creation power is in the only place where it can be, in the Federal Reserve Board, but we allow the State regulatory authorities to put in their advice, their input.

I think it is a good compromise.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I am happy to yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I wish to join our chairman, the gentleman from Wisconsin (Mr. REUSS) in opposition to this amendment. The only thing I could add to what the gentleman has already said—and the gentleman has clearly stated that this is compromise language—is that there also is language now in the committee bill giving us the opportunity for the Fed to see how the foreign banks are acting under this legislation, and we further ask them within 2 years to make a report back to Congress as to how things are working out.

So for that added reason, along with what the gentleman has just said, I would rise in opposition to the amendment and hope that we can stick with the committee bill. I believe it is a good compromise and was the principal creation of the primary sponsor, the gentleman from Michigan (Mr. BROWN).

Mr. REUSS. That is an important addition, and I thank the gentleman from Ohio (Mr. STANTON) for mentioning it.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I now yield to the master artificer, the compromiser, the craftsman who put this all together, the gentleman from Michigan (Mr. BROWN) who I trust will speak in favor of it.

Mr. BROWN of Michigan. I thank the gentleman for yielding. I intended to get my own time, but maybe it is not necessary to take it.

I would like to take this opportunity, however, to urge the gentleman from Ohio (Mr. WYLIE) to withdraw the amendment. I think that it does constitute a good compromise. I think that a very bad vote on his amendment would jeopardize possibly the retention in the bill of the Fed to the extent that it is presently involved. I think that involvement is necessary. Under the bill and under section 7 the Fed has the umbrella superintendency, the ability to monitor. Two things are done by section 7. First, the Federal Reserve Board is the authority, the ultimate authority, to set reserve requirements even with regard to State-chartered branch affiliates of foreign banks.

Secondly, the Federal Reserve Board under the law has access to State bank examination reports when it requests them. That gives the Fed an opportunity to monitor State-chartered operations.

Finally, the Fed has under this section the reserve authority, and the authority to monitor and to examine State bank examination reports. If this is not enough, the Fed can come in any time in 2 years and say, we need additional authority if we are going to perform our proper function with respect to the financial institutions, financial system, and monetary policy of this Nation. I think it would be an easy compromise and should be supported.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYLIE, and by unanimous consent, Mr. REUSS was allowed to proceed for 3 additional minutes.)

Mr. REUSS. I would say to the gentleman from Michigan (Mr. BROWN) who has just spoken that I agree with every word that he has said. I think this is the most important section of the entire bill.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I will be glad to yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank the gentleman for yielding. I agree with the gentleman that this is the most important section of the entire bill, but the words "consultation and cooperation," I would submit from the report of the record, and I read on page 48, had two different interpretations by two different members of our committee. The distinguished chairman, the gentleman from Wisconsin (Mr. REUSS) said:

> But on balance I come out in favor of the Brown proposal which in essence says, leave it to the state regulators, for better or worse, with our dual banking system. We have them. But on the nationally vital issue of whether the national government through the Federal Reserve can properly regulate the money supply by the power to impose reserve requirements there; make that a power.

On the other hand, the gentleman from Illinois (Mr. ANNUNZIO) said:

> I think the amendment presents a strong balance between the role of the Federal Reserve System and the State bank supervisors in regulating foreign banks. It calls for consultation and cooperation between the Fed and the States, and I know that the gentleman is sincere in using the phrase "consultation and cooperation."

Which does it mean? There are two very different interpretations by two very distinguished and learned gentlemen of our committee.

Mr. REUSS. If I may respond to the

gentleman, it is my view that there is not an iota of difference between what the gentleman from Illinois (Mr. ANNUNZIO) is saying in the record and what I was saying, although my words may lack that precision and artistry to which I should have aspired. What I was saying was that in regulatory matters, let the State regulators have their first go at it, but in money creation matters, in reserve requirement matters, there the Federal Reserve shall be supreme, doing, of course, the courtesy of consulting with the State regulators who might have an idea or two which would appeal to the Federal Reserve. I do not think there is any inconsistency there.

Mr. WYLIE. If the gentleman will yield further, does the gentleman think the States can veto the reserve requirements that might be set by the Federal Reserve Board?

Mr. REUSS. No, I do not.

Mr. WYLIE. So the consultation and operation would not mean anything.

Mr. REUSS. On the other hand, I think a State regulator who comes before the Fed and says, "Gentlemen, you are proceeding wrong in this matter; you should do this business of setting reserve requirements for foreign banks slightly differently from what your regulation published in the Federal Register said you were going to do"—I think if his words were persuasive, the seven middle-aged and elderly gentlemen on the Federal Reserve Board might pay some attention to it, and that is precisely what is wanted. That is what consultation is.

Mr. WYLIE. Mr. Chairman, I think if nothing else, we have clarified the record.

Mr. REUSS. Mr. Chairman, I thank the gentleman for his constructive service.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say very briefly that in the language of the Brown amendment it states:

The Board—

The Federal Reserve Board—

is authorized to require submission of additional information regarding the examination of reports submitted under the subsection.

I think that covers the concern that my good colleague, the gentleman from Ohio, has.

Mr. Chairman, I rise in opposition to the Wylie amendment to section 7 and in support of the present Brown language. The Brown amendment adopted by the full committee attempted to strike a fair compromise between the demands of the Federal Reserve for additional examination and regulatory authority and the desire of State banking authorities to continue to supervise foreign banks.

To date, the Federal Reserve has utterly failed to demonstrate the need for any authority beyond that which is provided by the committee amendment. The committee amendment would give the Federal Reserve 2 years to make its case for an additional grant of authority, and this is more than fair in view of the failure of the Fed to prove its point over the years during which it has sought full regulatory authority over domestic banks as well before it lowered its sights to obtaining authority over State-chartered foreign banks.

The committee amendment also establishes a procedure whereby the Fed would consult with the State bank supervisors concerning the setting of reserves for State-chartered foreign banks. It is my hope and expectation that the parties involved in these consultations will do their utmost to make the process work, so that the dual banking system can be preserved, as Congress intends it to be.

In my judgment, the committee amendment is fair and workable, and I urge my colleagues to retain it intact.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words. I shall be very brief.

Had the committee wished to provide that the setting of reserve requirements was a joint effort, that there could be a veto, the words, "The Federal Reserve Board will set reserve requirements with the approval of the State agency."

We do not say that. We say cooperation and consultation and, after all, insofar as legislative history is concerned and insofar as the committee is concerned, it is in the committee report and the report says that the ultimate authority in setting reserve requirements is the Federal Reserve Board.

Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE) as a substitute for the committee amendment.

The amendment offered as a substitute for the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 42, line 2, strike "Notwithstanding" and all thereafter through and including "United States."

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the remaining committee amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The remaining committee amendments are as follows:

Committee amendments: Strike the date "December 3, 1974", wherever it appears in section 8 and insert in lieu thereof "May 23, 1977". On page 39, line 20, immediately before the period insert the following: ", but the Secretary of the Treasury is authorized and directed to take into account the treatment by foreign governments of financial institutions domiciled in the United States which do business in their respective countries".

On page 45, line 2, insert "or" after "regulations".

Mr. CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

TECHNICAL AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical amendment offered by Mr. ST GERMAIN: On page 5, line 24, and wherever else it appears, strike out "International Banking Act of 1977" and insert in lieu thereof "International Banking Act of 1978".

Mr. ST GERMAIN. Mr. Chairman, this is a very momentous and controversial amendemnt. I hope the gentleman will agree to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. WRIGHT) having assumed the chair, Mr. NOLAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets, pursuant to House Resolution 1114, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ST GERMAIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 2, answered "present" 1, not voting 64, as follows:

[Roll No. 199]

YEAS—367

Abdnor	Andrews, N. Dak.	Baldus
Akaka	Annunzio	Barnard
Alexander	Applegate	Baucus
Allen	Archer	Bauman
Ambro	Armstrong	Beard, R.I.
Ammerman	Ashley	Beard, Tenn.
Anderson, Calif.	AuCoin	Bedell
Anderson, Ill.	Badham	Beilenson
Andrews, N.C.	Bafalis	Benjamin
		Bennett

Bevill	Garcia	Michel
Biaggi	Gaydos	Mikulski
Bingham	Gephardt	Mikva
Blanchard	Giaimo	Miller, Calif.
Blouin	Gibbons	Miller, Ohio
Boggs	Gilman	Mineta
Boland	Ginn	Minish
Bolling	Goldwater	Mitchell, Md.
Bonior	Gonzalez	Mitchell, N.Y.
Bonker	Goodling	Moakley
Bowen	Gore	Moffett
Brademas	Gradison	Mollohan
Breaux	Grassley	Montgomery
Brinkley	Green	Moore
Brodhead	Guyer	Moorhead, Calif.
Brooks	Hagedorn	
Brown, Calif.	Hall	Moorhead, Pa.
Brown, Mich.	Hamilton	Moss
Brown, Ohio	Hammer-schmidt	Motti
Broyhill		Murphy, Ill.
Buchanan	Hanley	Murphy, N.Y.
Burgener	Hannaford	Murphy, Pa.
Burke, Fla.	Hansen	Murtha
Burke, Mass.	Harkin	Myers, John
Burleson, Tex.	Harrington	Myers, Michael
Burlison, Mo.	Harris	Natcher
Burton, John	Harsha	Neal
Burton, Phillip	Hawkins	Nedzi
Butler	Heckler	Nichols
Byron	Hefner	Nolan
Caputo	Heftel	Nowak
Carney	Hightower	Oakar
Carr	Hillis	Oberstar
Carter	Hollenbeck	Obey
Cavanaugh	Holt	Ottinger
Clausen, Don H.	Holtzman	Panetta
	Horton	Patten
Clawson, Del	Howard	Patterson
Cleveland	Hubbard	Pattison
Coleman	Huckaby	Pease
Collins, Ill.	Hughes	Pepper
Conable	Hyde	Perkins
Conte	Ichord	Pettis
Conyers	Ireland	Pickle
Corcoran	Jacobs	Pike
Corman	Jeffords	Poage
Cornell	Jenkins	Pressler
Cornwell	Jenrette	Preyer
Cotter	Johnson, Calif.	Price
Coughlin	Johnson, Colo.	Pritchard
Crane	Jones, N.C.	Pursell
D'Amours	Jones, Okla.	Quayle
Daniel, Dan	Jones, Tenn.	Railsback
Daniel, R. W.	Jordan	Regula
Danielson	Kasten	Reuss
Davis	Kastenmeier	Rinaldo
de la Garza	Kelly	Risenhoover
Delaney	Keys	Robinson
Dellums	Kildee	Roe
Derrick	Kindness	Rogers
Derwinski	Kostmayer	Roncalio
Devine	Krebs	Rooney
Dickinson	LaFalce	Rose
Dicks	Lagomarsino	Rosenthal
Dingell	Latta	Rostenkowski
Dornan	Le Fante	Rousselot
Downey	Leach	Roybal
Drinan	Lederer	Rudd
Duncan, Oreg.	Lehman	Ruppe
Duncan, Tenn.	Lent	Russo
Early	Levitas	Sarasin
Eckhardt	Livingston	Satterfield
Edgar	Lloyd, Calif.	Sawyer
Edwards, Ala.	Lloyd, Tenn.	Scheuer
Edwards, Calif.	Long, La.	Schroeder
Edwards, Okla.	Long, Md.	Schulze
Emery	Lott	Sebelius
English	Lujan	Seiberling
Erlenborn	Lundine	Sharp
Ertel	McClory	Shipley
Evans, Colo.	McCloskey	Shuster
Evans, Del.	McCormack	Simon
Evans, Ga.	McDade	Sisk
Evans, Ind.	McDonald	Skelton
Fary	McEwen	Skubitz
Fascell	McFall	Slack
Fenwick	McHugh	Smith, Nebr.
Findley	McKay	Snyder
Fish	Madigan	Solarz
Fisher	Maguire	Spence
Fithian	Mahon	St Germain
Flippo	Mann	Staggers
Florio	Markey	Stangeland
Flowers	Marks	Stanton
Foley	Marlenee	Stark
Ford, Mich.	Marriott	Steed
Ford, Tenn.	Martin	Steers
Forsythe	Mathis	Stockman
Fountain	Mattox	Stokes
Fowler	Mazzoli	Stratton
Fraser	Meeds	Studds
Frenzel	Metcalfe	Stump
Frey	Meyner	Symms
Thone	Walgren	Wilson, Tex.
Traxler	Walker	Winn
Treen	Walsh	Wirth
Trible	Wampler	Wright
Tsongas	Watkins	Wydler
Ullman	Waxman	Wylie
Vander Jagt	Weaver	Yates
Vanik	Whalen	Yatron
Vento	Whitehurst	Young, Mo.
Volkmer	Wiggins	Young, Tex.
Waggonner	Wilson, Bob	Zablocki

NAYS—2

Glickman Myers, Gary

ANSWERED "PRESENT" 1

O'Brien

NOT VOTING—64

Addabbo	Gudger	Sikes
Ashbrook	Holland	Smith, Iowa
Aspin	Kazen	Spellman
Breckinridge	Kemp	Steiger
Broomfield	Ketchum	Taylor
Burke, Calif.	Krueger	Teague
Cederberg	Leggett	Thompson
Chappell	Luken	Thornton
Chisholm	McKinney	Tucker
Clay	Milford	Udall
Cochran	Nix	Van Deerlin
Cohen	Quie	Weiss
Collins, Tex.	Quillen	White
Cunningham	Rahall	Whitley
Dent	Rangel	Whitten
Diggs	Rhodes	Wilson, C. H.
Dodd	Richmond	Wolff
Eilberg	Roberts	Young, Alaska
Flood	Rodino	Young, Fla.
Flynt	Runnels	Zeferetti
Fuqua	Ryan	
Gammage	Santini	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. McKinney.
Mr. Thompson with Mr. Steiger.
Mr. Zeferetti with Mr. Young of Florida.
Mrs. Spellman with Mr. Aspin.
Mr. Runnels with Mr. Cochran of Mississippi.
Mr. Teague with Mr. Diggs.
Mr. Luken with Mr. Sikes.
Mrs. Burke of California with Mr. Thornton.
Mr. Chappell with Mr. Tucker.
Mr. Krueger with Mr. Ashbrook.
Mr. Richmond with Mr. Collins of Texas.
Mr. Flood with Mr. Quie.
Mr. Whitley with Mr. Ketchum.
Mr. Rahall with Mr. Quillen.
Mr. Roberts with Mr. Broomfield.
Mr. Udall with Mr. Taylor.
Mrs. Chisholm with Mr. Cunningham.
Mr. Wolff with Mr. Kemp.
Mr. Charles H. Wilson of California with Mr. Young of Alaska.
Mr. Breckinridge with Mr. Cederberg.
Mr. Clay with Mr. Dent.
Mr. Dodd with Mr. Cohen.
Mr. Eilberg with Mr. Flynt.
Mr. Fuqua with Mr. Whitten.
Mr. Santini with Mr. Ryan.
Mr. Nix with Mr. Smith of Iowa.
Mr. Van Deerlin with Mr. Milford.
Mr. Weiss with Mr. Leggett.
Mr. White with Mr. Kazen.
Mr. Rangel with Mr. Holland.
Mr. Gammage with Mr. Gudger.

Mr. GLICKMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill H.R. 10899, just passed.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until 5 o'clock tomorrow to file a report on H.R. 39, the Alaskan National Lands Conservation Act, even if the House is not then in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Ohio can tell us if this matter has been cleared with the minority and with the gentleman from Alaska (Mr. YOUNG).

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, the request has been cleared as a result of the request of the gentleman from Alaska (Mr. YOUNG) to have 1 more day for the minority to file its views. I said that I would agree to that provided we could get this request approved.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM FOR WEEK OF APRIL 10, 1978

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the acting majority leader the program for the balance of this week and the program scheduled for next week.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to my friend, the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, this completes the program for this week.

The program for the week of April 10 is as follows:

On Monday the House will meet at noon, and there are no bills for the District of Columbia.

There will be six bills to be considered under suspension of the rules, but the votes on the suspension bills will be postponed until the end of all suspensions. The bills to be considered under the suspension of the rules are:

H.R. 10730, Marine Mammal Protection Act authorizations, 1979–81;

H.R. 10878, Fishermen's Protective Act insurance program extension;

H.R. 10882, Public Lands Conservation program authorizations, 1979–81;

H.R. 10732, Fishery Conservation and Management Act authorizations, 1979;

H.R. 10884, Office of Environmental Quality authorizations, 1979–81; and

H.R. 11445, SBA programs amendments and authorizations.

On Tuesday, the House will again meet at noon and consider five bills under suspension of the rules, and again votes will be postponed on those until the end of all suspensions. The bills under suspension of the rules are:

H.R. 8099, water rights for Ak-Chin Indians;

H.R. 7101, Riverside County, Calif., land claims amendments;

H.R. 2497, restore Federal recognition of four Oklahoma Indian tribes;

H.R. 11092, increase authorizations for Navajo-Hopi Indians relocation; and

H.J. Res. 767, Education Day, U.S.A.

We will also consider H.R. 11662, establish Lowell National Historical Park, under an open rule with 1 hour of debate.

On Wednesday the House will meet at 3 p.m. and will first consider the conference report on the bill H.R. 6782, Emergency Agricultural Act of 1978, subject of course to a rule being granted.

Then we will consider H.R. 1, Ethics in Government Act, also subject to a rule being granted.

On Thursday the House will meet at 11 a.m. and consider H.R. 11003, White House authorizations, subject to a rule being granted; and

H.R. 11302, EPA authorizations for the fiscal year 1979, under an open rule with 1 hour of debate.

On Friday the House will meet at 11 a.m. and consider the bill H.R. 3161, basic workweek of Federal firefighters, under an open rule with 1 hour of debate; and

H.R. 3787, Zuni Indians Court of Claims case, subject to a rule being granted.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. MICHEL. Mr. Speaker, I have two questions of the acting majority leader.

No. 1, with respect to the business scheduled for Wednesday, H.R. 1, Ethics in Government Act, when this bill was reported last November the committee left title I blank with the intention that the committee of the gentleman from North Carolina (Mr. PREYER) would wed their congressional ethics package to this bill. Is that the intention of the other side? I realize that then this would require action by the Rules Committee. Would the gentleman respond to that?

Mr. ROSTENKOWSKI. It is my understanding that there are four bills dealing in ethics presently pending and it will be up to the Rules Committee to decide whether they will combine all four or send them to the floor individually.

It is my understanding that decision will be made the early part of next week in the Rules Committee.

Mr. MICHEL. I thank the gentleman from Illinois.

Finally, in view of the two bills scheduled for Friday, is there a possibility that the same thing next week might happen as happened this week?

Mr. ROSTENKOWSKI. Of course we again have the problem of the committees needing to meet, and certainly the leadership would like very much to have the House in session so that committees can meet to report authorizing legislation. We, of course, hope that we will have a calendar on Friday next and we are scheduling toward that end.

Mr. MICHEL. I thank the gentleman from Illinois.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. I wonder, does he know the numbers of the bills that are to be inserted or folded in or somehow merged into H.R. 1?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I certainly would like to make that information available in the RECORD if the gentleman would like. At the present time I do not have the information.

Mr. ROUSSELOT. The gentleman will then attempt to insert the numbers of those bills in the RECORD?

Mr. ROSTENKOWSKI. That is correct.

Mr. Speaker, I ask unanimous consent that the numbers of those bills which may be considered in the Committee on Rules be inserted for the edification of the Members of the House at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(The information follows:)

H.R. 6954, part I (Committee on Post Office and Civil Service); H.R. 6954, part II (Committee on Armed Services); H.R. 1 (Committee on the Judiciary); and H.R. 7401 or H.R. 11941 (Select Committee on Ethics).

Mr. DERWINSKI. Mr. Speaker, if the gentleman will yield, I have listened very carefully to what the gentleman from Illinois (Mr. ROSTENKOWSKI) had to say about the possibility of next Friday's session, and I say that the sooner we have the facts for our schedules as to the possibility of a Friday session, the better it will be.

I would merely wish to advise the distinguished minority leader so that he may advise the acting majority leader that one of the bills that has been scheduled for next Friday involves the basic workweek of Federal firefighters, which is vehemently opposed by the administration. So that I would suggest that if you would wish to ease the pressure down there on 16th Street that you can drop that one from the calendar.

Mr. ROSTENKOWSKI. I thank the gentleman from Illinois (Mr. DERWINSKI) for his observation.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ADJOURNMENT TO MONDAY, APRIL 10, 1978

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISCHARGING COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1075 AND RE-REFERRAL TO THE SELECT COMMITTEE ON INTELLIGENCE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of House Resolution 1075 and that the resolution be re-referred to the Select Committee on Intelligence.

(Mr. PRICE asked and was given permission to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, House Resolution 1075 was received in this committee on March 21, 1978, and brought to the attention of the appropriate staff member on the morning of March 23, 1978, although the resolution was introduced on March 14, 1978.

Under the House Rules the committee is allowed 7 legislative days from the date of introduction to report on the resolution. Under that rule, the final day to report was April 4—the date following the return from the Eastern district work period. Accordingly, the committee did not have the full 7-day period to work on the resolution since it was not printed by the Government Printing Office as a priority matter, and, thus, the request for re-referral at this date.

Aside the foregoing, upon consideration of the resolution it was determined that the substance was basically of an intelligence nature and, therefore, the resolution would have been more properly referred to the Select Committee on Intelligence. That matter was brought to the attention of the select committee on April 5 and the General Counsel asked that House Resolution 1075 be referred to the select committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, APRIL 6, 1978, OR MIDNIGHT APRIL 7, 1968, TO FILE A CONFERENCE REPORT ON H.R. 6782, EMERGENCY AGRICULTURAL ACT OF 1978

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, April 6, 1978, or until midnight tomorrow, Friday, April 7, 1978, in which to file a conference report to accompany the bill H.R. 6782, the Emergency Agricultural Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Washington (Mr. FOLEY) give us an idea of what the rule accompanying this legislation will be?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, as the gentleman from California I am sure knows, this particular conference report is probably subject to a point of order, and quite clearly subject to a point of order, in that it violates section 303 of the Budget Act.

Mr. ROUSSELOT. Yes, I am aware of that.

Mr. FOLEY. So that the reference to this legislation that the acting majority leader read to the Members is, of course, subject to having a rule being granted. It is my intention to ask the Committee on Rules to grant a waiver on the conference report to make it eligible for consideration next Wednesday.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, suppose the chairman of the Committee on the Budget feels that the waiver should not be granted, then what?

Mr. FOLEY. That is a matter for the Committee on Rules to determine.

Mr. ROUSSELOT. The legislation involves just a slight amount of sloshing over the budget, in fact, a rather substantial wave.

Mr. FOLEY. All I can tell the gentleman is that the resolution is a question of what waivers are to be granted on this bill by the members of the Committee on Rules and, in addition to that, any rule must, of course, receive the approval of the Members of the House before the matter can be considered.

Mr. ROUSSELOT. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SOUTH AFRICA MUZZLES POET

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, earlier this year internationally renowned writer and academician, Ezekial Mphahlele, was denied a teaching post at the University of the North in Turfloop by the South African Government.

Professor Mphahlele and his family had returned to South Africa after some 20 years in exile because the university council at the University of the North had unanimously approved his application for a teaching post. Upon resigning his teaching post at the University of Pennsylvania last year and moving back to South Africa, Professor Mphahlele, who was nominated for the Nobel Prize in literature in 1969, was suddenly told by South African authorities that he could not teach. No reason was given.

This case illustrates the moral bankruptcy of South Africa's policy of separate development of African controlled homelands. The University of the North is located in Lebowa, a so-called African controlled homeland. Yet the white South African Government stepped in and canceled Professor Mphahlele's teaching invitation.

Moreover, Professor Mphahlele is still under a banning order in South Africa; he cannot be quoted and his books, like "Down Second Avenue" and "The Wanderers," cannot be read. He simply does not exist in the eyes of the South African Government.

I urge my colleagues to join me in lodging protests with the South African Government over its attempt to silence Professor Mphahlele.

H.R. 10899, INTERNATIONAL BANKING ACT

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I supported the committee positioned on the IBB bill just approved.

I believe that all banks operating in this country should operate under essentially the same ground rules.

For that reason I believe that foreign banks should not be permitted to branch across State lines, since no domestic bank enjoys that privilege.

I believe that foreign banks should not have the right to exercise nonbanking powers such as acting as stockbrokers, since domestic banks cannot do so. There is a case for permitting those banks now having such powers to continue exercising them, but there is no reason to otherwise permit foreign banks to conduct business that is not open to our own citizen-owned banks.

We need not shun foreign banks, and this bill does not do so. At the same time we need not grant special favors to foreign banks, particularly when our own banks may be discriminated against by other countries.

This country is plainly an attractive market for foreign banking institutions, and their holdings here are growing apace. This bill does not place any undue restrictions on that growth; it does not close any doors. All it does is to establish a reasonable and fair set of ground rules under which all banks, of whatever origin, would operate.

I am a believer in competition, and believe that it creates economic and business efficiency. We would be foolish, though, in the name of competition, to allow the continuation of a situation in which we restrain our own banking institutions, but allow others to move ahead.

I support the committee position—it is equitable, it is sensible, and it is timely.

THE 1978 ACREAGE LIMITATION REPEAL ACT

(Mr. STUMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUMP. Mr. Speaker, today I am introducing the 1978 Acreage Limitation Repeal Act. This effort will once and for all put to rest the problem that we have been experiencing regarding the limitation that has been placed on the amount of water that a person might receive from Federal reclamation projects. Purely and simply, it is a comprehensive bill to repeal the 160-acre limitation and remove the residency requirement.

This obsolete law, enacted in 1902, has at best been very loosely enforced. We like to analogize this to the State legislator who discovered an obsolete State law which says that "more carriages" must pull over to the side of the road when they approach within 100 yards of any horse or horse-drawn vehicle. Now this State law had not been enforced for over 75 years. The legislator brought this obsolete law before a committee of the State legislature. The committee rather than deciding to repeal this obsolete law elected to increase the distance that the "motor carriages" had to pull over from 100 to 500 yards.

Mr. Speaker, we have the same situation as it relates to the acreage limitations of the 1902 and subsequent acts. Some are suggesting that we increase the limitation from 160 acres to some other "magic" number. We, however, are dealing with an obsolete law that has been loosely enforced. While the original purpose was meritorious, it has long since become obsolete.

As presently interpreted by the courts, the 1902 Reclamation Act will limit farm income, abuse private property rights, set up a Government-run lottery for land, dictate to whom one can sell, sanction a philosophy of land redistribution, limit farmers to some arbitrary farm operational size, and destroy the free enterprise incentive. As Senator WALLOP so succinctly said on March 10, 1978:

> The problems with the present excess land laws are many. One hundred sixty acres is no longer an economical farm unit for virtually all lands within reclamation projects. Variations in productive potential of various lands are ignored in all but a few isolated instances. Residency requirements

are unduly strict. The limitations apply equally to those receiving only a supplemental supply of water, as well as those who are totally dependent on water from Federal reclamation projects. Many irrigators are now being denied the benefit of payout contracts which they entered into in good faith. Their Government has breached its faith.

While the social experimenter flippantly tried to give the opposite impression, the family farm is not an obsolete concept. It is the rule. Corporate farming is the exception. The 160-acre limitation, together with the residency rule, the Interior Department would like to impose is tantamount to expropriation by the Government of private property.

This bill allows continued control of ownership in reclamation areas, but would not place a limit on the size of farming operations. I believe it was not the intent of the 1902 reclamation law to limit farm income by controlling the business end of the operation.

Mr. Speaker, the time has come to do away with this outdated difficult to enforce, and unnecessary law. My bill will do just that. In short it will provide reasonable restrictions in return for the use of the public investment.

CONGRESSMAN JACK KEMP TESTIFIES BEFORE THE WAYS AND MEANS COMMITTEE AS TO WHY CONGRESS SHOULD DUPLICATE PRESIDENT KENNEDY'S TAX CUTS FROM THE EARLY SIXTIES

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, I would like to comment on why I believe the Congress should adopt across the board, permanent tax rate reductions similar to those proposed by President Kennedy 15 years ago in lieu of President Carter's proposal. Reducing tax rates would do more to create jobs, expand economic output, increase aftertax incentives to workers and investors, and produce greater tax equity and efficiency than any other action the Congress or the administration have proposed.

THE KENNEDY TAX CUTS

Let me start off by reviewing the Kennedy program. As you may remember, President Kennedy announced the proposed tax cuts in his economic report in January 1963. In that report he made the following statement:

> The main block to full employment is an unrealistically heavy burden of taxation. The time has come to remove it.

I believe that those words are as true today as they were in 1963, and perhaps even more so, given the current state of the economy.

The Kennedy program consisted of two main elements: A reduction of all individual income tax rates by an average of about 25 percent; from 20 to 14 percent at the bottom and from 91 to 70 percent at the top, and a reduction in the corporate tax rate from 52 to 48 percent. This package became law in 1964.

We now remember the years 1964 through 1967 as the most prosperous in recent times, and the statistics bear out this belief: The unemployment rate for all workers fell from 6.7 percent in 1961 to 3.8 percent in 1967. The unemployment rate for black Americans fell from 12.4 percent in 1961 to 7.4 percent in 1967, and the unemployment rate for black males over 20 years old fell from 11.7 to 4.3 percent over the same period—a dramatic improvement. Real gross national product increased by 74 percent between 1962 and 1969, and prices throughout the period were relatively stable, with consumer prices going up less than 3 percent during most of the 1960's.

Since 1969 the Congress has passed four tax reductions, most recently just last year. Yet these tax cuts have failed to have the same effect as the Kennedy tax cuts. Indeed, rather than paying less taxes as the result of these tax cuts most Americans are paying much more of their income in taxes than they were 10 years ago.

Why has this happened?

I believe there are two reasons primarily:

First, none of the tax cuts since 1964 have reduced the high marginal tax rates. The rates themselves are exactly where they were after the Kennedy cuts. More recent tax cuts have emphasized changes in the personal exemption and standard deduction and implementation of a tax credit, which primarily benefit those in lower-income brackets, rather than across-the-board rate reductions. Unfortunately, we have now reached the point where those with low incomes are paying almost none of the taxes. According to recent data 94 percent of all individual income taxes are paid by families with incomes above $10,000. This means the tax burden has been shifted upward onto those with middle and upper incomes and that progressivity has been increased.

Second, inflation has been allowed to reach unacceptable levels, due to vast increases in Government spending, debt, and the money supply. This has pushed people up into higher tax brackets and increased both their effective and marginal tax rates.

The marginal tax rate, because it is the tax rate applied to each additional dollar that is earned, is the tax rate which has the most influence on economic decisions. As marginal tax rates increase the tradeoffs between work and leisure, investment and consumption are reduced. This is called the substitution effect. In other words, high marginal tax rates reduce the cost of foregoing additional income, whether through investment or work, and taking more leisure or buying more consumption goods. Consequently, an increase in marginal tax rates will produce less work and less investment, to the point where a 100-percent marginal tax rate will eliminate all work and investment.

Today in the United States marginal tax rates go from 14 percent on incomes above $2,200 for a single person up to 70 percent on incomes above $102,200. Thus as one's income rises, whether through inflation, real growth in the economy, or through hard work and entrepreneurial skill the tax system takes progressively more out of each additional dollar earned. To see what this is doing to incentive, imagine what it would be like if we had a tax system which taxed 10 percent of your income on Monday, 20 percent on Tuesday, 30 percent on Wednesday, and so on until you are taxed 70 percent on Sunday, should you work so long. At what point would you decide it is no longer worth while to work? Obviously, a few people would choose to work regardless, but the majority of people would choose leisure over work sometime around Wednesday or Thursday.

By contrast, imagine a tax system which works the opposite way, and taxes you 70 percent on Monday, 60 percent on Tuesday, and so on. Obviously, were someone to work all 7 days in each case the exact same amount of revenue would be raised. But in the first case incentive is suppressed while in the second case it is stimulated. In the second case there will be a very strong incentive to continue work through Friday, Saturday, and Sunday, when more of the fruits of one's labor can be retained.

It seems obvious to me that not only would there be greater economic growth under the second system, but the Government would raise more revenue as well.

Of course, I am not necessarily advocating such a tax system, I am merely pointing out that we are paying a heavy price for extreme progressivity in terms of lost economic output.

TAX RATES AND TAX REVENUES

I have alluded to the fact that high marginal tax rates may reduce Government revenues below what would be collected at a lower tax rate. This notion stems from the commonsense observation that there are always two tax rates which will raise the same given amount of tax revenue: A high tax rate on a small productive base and a low tax rate on a large productive base.

I believe that tax rates in the United States are presently so unnecessarily high that they are discouraging work and production to a large extent, thereby shrinking the potential economic base. Furthermore, these tax rates have led to growth of a large subterranean economy, in which people work and produce outside the tax economy, and bias investment into tax shelters, such as municipal bonds, which reduce the potential tax base.

Recent estimates by Prof. Peter Gutmann put the size of the subterranean economy at $200 billion per year. Since much of this output results from people attempting to avoid taxes, we can assume that it would return to the conventional economy if tax rates were

lower. This would lead to an increase in the tax base.

As to tax shelters, one can see what a powerful motivation there is to put one's money into municipal bonds, rather than some other kind of investment, from the following table showing after tax yields to people in New York, which appeared in an advertisement for municipal bonds:

FOR NEW YORK CITY RESIDENTS

[In percent]

Joint return taxable income	Federal New York City and New York State taxes	A tax exempt rate of			
		6.25 percent	6.50 percent	6.75 percent	7 percent
		Is approximately equivalent to a taxable rate of			
$16,000 to $20,000	38	10.08	10.48	10.88	11.29
$20,000 to $24,000	42	10.78	11.21	11.63	12.07
$24,000 to $28,000	48	12.01	12.50	12.98	13.46
$28,000 to $32,000	51	12.75	13.26	13.77	14.28
$32,000 to $36,000	53	13.29	13.82	14.36	14.89
$36,000 to $40,000	56	14.20	14.77	15.34	15.90
$40,000 to $44,000	58	14.88	15.47	16.07	16.66
$44,000 to $52,000	60	15.62	16.25	16.87	17.50
$52,000 to $64,000	62	16.45	17.10	17.76	18.42
$64,000 to $76,000	64	17.36	18.05	18.75	19.44
$76,000 to $88,000	66	18.38	19.11	19.85	20.58
$88,000 to $100,000	68	19.53	20.31	21.09	21.87
$100,000 to $200,000	69	20.16	20.96	21.77	22.58
Over $200,000	76	26.04	27.08	28.12	29.16

FOR NEW YORK STATE RESIDENTS

[In percent]

Joint return taxable income	Federal and New York State taxes	A tax exempt rate of			
		6.25 percent	6.50 percent	6.75 percent	7 percent
		Is approximately equivalent to a taxable rate of			
$16,000 to $20,000	36	9.76	10.15	10.54	10.93
$20,000 to $24,000	41	10.59	11.01	11.44	11.86
$24,000 to $28,000	45	11.36	11.81	12.27	12.72
$28,000 to $32,000	48	12.01	12.50	12.98	13.46
$32,000 to $36,000	51	12.75	13.26	13.77	14.28
$36,000 to $40,000	53	13.28	13.82	14.36	14.89
$40,000 to $44,000	56	14.20	14.77	15.34	15.90
$44,000 to $52,000	57	14.58	15.11	15.69	16.27
$52,000 to $64,000	60	15.62	16.25	16.87	17.50
$64,000 to $76,000	62	16.44	17.10	17.76	18.42
$76,000 to $88,000	64	17.36	18.05	18.75	19.44
$88,000 to $100,000	66	18.38	19.11	19.85	20.58
$100,000 to $200,000	68	19.58	20.31	21.09	21.87
Over $200,000	74	24.03	25.00	25.96	26.92

Thus, if we had considerably lower marginal tax rates, money would flow out of municipal bonds and tax shelters and into tax-producing investments automatically. This point was emphasized by Treasury Secretary Andrew Mellon in his book, "Taxation: The People's Business":

> The history of taxation shows that taxes which are inherently excessive are not paid. The high rates inevitably put pressure upon the taxpayer to withdraw his capital from productive business and invest it in tax-exempt securities or to find other lawful methods of avoiding the realization of taxable income. The result is that the sources of taxation are drying up; wealth is failing to carry its share of the tax burden; and capital is being diverted into channels which yield neither revenue to the Government nor profit to the people.

More recently, the same point was made in a somewhat different way by Mr. Andrew Knight, editor of "The Economist," in an article for the New York Times about taxes in Great Britain. He writes:

> Just for the record, I am being paid a pittance by the New York Times for this article. Why did I not chisel The Times for more? Because 83 percent of the money will already go in taxes to pay for other people's false teeth and spectacles, so why bother? I refuse all freelance, including lucrative television work, for the same reason. On a gross annual salary of about $45,000 my marginal tax rate is 83 percent. Still, I'm lucky. A friend of mine who has built one of Britain's most successful businesses pays 98 percent: This is because the dividends on his shares in the business are regarded as "unearned."

TAXES AND THE WEDGE

More importantly, we must realize that all taxes constitute a wedge between effort and reward. Thus workers do not work for gross wages but for net wages, and employers will make employment decisions based upon the total cost of hiring a new worker, which may be more than twice the worker's net wages. Thus whenever tax rates are reduced it reduces the wedge and simultaneously increases aftertax wages for workers and the cost of employment to employers. This is why tax rate reductions are such a powerful tool for reducing unemployment and increasing productivity.

Take, for example, a single worker in New York State earning $13,000 per year. On each additional dollar he earns the following taxes will be paid: 29 percent Federal income tax, 9 percent State income tax, and 12.1 percent social security tax (worker and employer combined), for a total of 50.1 percent tax. This means there is a 50-percent wedge between total wages and aftertax wages. And it means that his employer will have to pay this worker $2 in order to give him $1 of additional income.

Since anything which increases costs to employers goes into the wedge one can see that all business taxes and regulations also increase the wedge and reduce employment. Consequently, a reduction in taxes, whether on individuals or businesses, and a reduction in Government regulations will lead to the creation of more jobs.

WHEN TAX RATES WENT DOWN AND REVENUES WENT UP

The test of this theory that a reduction in tax rates can lead to greater revenues through an expansion of the economic base and the tax base came during the Kennedy administration. As the following table demonstrates, revenues were predicted to go down but actually went up:

FEDERAL REVENUE GAINS FROM TAX RATE REDUCTION, 1963-68

[In billions of dollars]

	1963	1964	1965	1966	1967	1968	Tota
U.S. Treasury estimated revenue losses	−2.4	−5.2	−13.3	−20	−23.7	−24.4	−$89
Actual revenue gains	+7.0	+6.0	+4.0	+14.0	+19.0	+4.0	+54
Difference in estimates							143

Recently, Prof. Walter Heller, who was Chairman of the Council of Economic Advisors under Kennedy, was asked to comment on these figures during testimony before the Joint Economic Committee. He replied:

> What happened to the tax cut in 1965 is difficult to pin down but insofar as we are able to isolate it, it did seem to have a tremendously stimulative effect, a multipled effect on the economy. It was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within one year the revenues into the Federal Treasury were already above what they had been before the tax cut . . . Did it pay for itself in increased revenues? I think the evidence is very strong that it did.

Furthermore, examination of the tax returns after the Kennedy tax cuts shows that tax revenues from the rich increased substantially, despite the reduction in the highest marginal rate from 91 to 70 percent:

Percent of Federal Income Tax Revenues Paid By Individuals With Incomes Above $100,000

Year:	Percent
1963	5.1
1964	6.3
1965	7.6
1966	7.5
1967	8.5
1968	9.2

THE EFFECT OF INFLATION

All the beneficial effects of the Kennedy tax cuts were eventually dissipated by inflation, which pushed individuals up into higher tax brackets and led to the overtaxation of capital gains and corporate profits. The following table shows how Federal taxes—both income and social security—have affected a family of four earning the median income over the past decade, taking into account changes in the tax law:

Changes in taxes and disposable income for a family of four earning the median income, 1967–77

	1967	1977
Income (current dollars)	$8,400	[1] $17,000
Real Income (1967 dollars)	$8,400	$9,366
Personal exemption	$2,400	$3,000
Standard deduction	$1,240	$3,200
Taxable income	$4,760	$10,800
Federal income tax	$764	$1,822
Social security tax	$174	$965
Total Federal tax	$938	$2,787
Disposable income	$7,462	$14,213
Real disposable income	$7,462	$6,579
Effective tax rate	11.2%	16.4%
Marginal tax rate	19%	22%
Increase in tax	——	197%
Increase in real income	——	—12%

[1] Approximate.

(NOTE.—Between 1967 and 1977 the Consumer Price Index increased 81.5%.)

As one can see, both the effective tax rate and the marginal tax rate have been increased.

Some may say to this: Well, it is only proper that if one's income doubles one ought to pay more taxes.

But here it is only the nominal income which has increased. Since the Consumer Price Index has gone up more than 80 percent, a family with the median income does not have twice the purchasing power it had in 1967. In fact, because the increase in taxes is real, the real disposable income of a family with the median income has gone down 2 percent, despite all the tax cuts Congress has implemented. This fact is confirmed by Department of Labor statistics which earnings have been virtually unchanged for 10 years, even though nominal wages have increased substantially:

	1967	1976
Gross average weekly earnings (current dollars)	$101.84	$176.29
Gross average weekly earnings (1967 dollars)	101.84	103.40
Spendable average weekly earnings, worker with no dependents (current dollars)	83.38	143.90
Spendable average weekly earnings, worker with no dependents (1967 dollars)	83.38	84.40
Spendable average weekly earnings, worker with 3 dependents (current dollars)	90.86	156.50
Spendable average weekly earnings, worker with 3 dependents (1967 dollars)	90.86	91.79

Source: Bureau of Labor Statistics.

If one projects this trend into the future, assuming a modest 6-percent inflation rate, with incomes rising at the same amount for a family presently earning the median income, the results are startling.

Year	1978	1979	1980	1981
Adjusted gross income in 1978 dollars	$17,000	$17,000	$17,000	$17,000
Adjusted gross income in current dollars	17,000	18,020	19,101	20,248
Federal income tax	1,822	2,042	2,311	2,586
Marginal tax rate (percent)	(22)	(22)	(25)	(25)
Social security tax	1,028	1,105	1,171	1,346
Total taxes	2,850	3,147	3,482	3,932
Disposable income	14,150	14,873	15,619	16,316
Real disposable income	14,150	13,853	13,518	13,068
Increase in nominal income over 1978 (percent)		6	12.4	19.1
Increase in taxes over 1978		10.4	22.2	38.0
Increase in disposable income over 1978		5.1	10.4	15.3
Increase in real disposable income over 1978		−2.1	−4.5	−7.6

THE CARTER PLAN

The Carter tax plan will do virtually nothing to correct this situation because he leaves the tax rates virtually intact while increasing progressively through elimination of the personal exemption and substitution of a tax credit. The following table from the Joint Economic Committee's report for 1978 illustrates how marginal tax rates for many taxpayers will increase under the Carter plan:

MARGINAL TAX RATES, JOINT RETURNS, AFTER RATE REDUCTION AND CHANGEOVER TO $240 CREDIT

Current taxable income [1]	Marginal rate		Family of 2		Family of 4	
	Present law	Tax proposal	Taxable income after loss of $1,500 exemption	Marginal rate	Taxable income after loss of $3,000 exemption	Margin rate
0 to 500	14	12	1,500 to 2,000	[2] 14	3,000 to 3,500	[2] 17
500 to 1,000	14	12	2,000 to 2,500	[2] 16	3,500 to 4,000	[2] 17
1,000 to 2,000	15	14	2,500 to 3,500	16/17	4,000 to 5,000	[2] 18
2,000 to 3,000	16	16	3,500 to 4,500	17/18	5,000 to 6,000	[2] 18
3,000 to 4,000	17	17	4,500 to 5,500	[2] 18	6,000 to 7,000	[3] 18
4,000 to 8,000	19	18	5,500 to 9,500	[3] 18/19	7,000 to 11,000	[3] 18/19
8,000 to 12,000	22	19	9,500 to 13,500	19/20	11,000 to 15,000	19/20
12,000 to 16,000	25	20	13,500 to 17,500	20/23	15,000 to 19,000	20/23
16,000 to 20,000	28	23	17,500 to 21,500	23/27	19,000 to 23,000	23/27
20,000 to 24,000	32	27	21,500 to 25,500	27/32	23,000 to 27,000	[3] 27/32
24,000 to 28,000	36	32	25,500 to 29,500	[3] 32/36	27,000 to 31,000	[3] 32/36
28,000 to 32,000	39	36	29,500 to 33,500	[3] 36/39	31,000 to 35,000	[3] 36/39
32,000 to 36,000	42	39	33,500 to 37,500	[3] 39/42	35,000 to 39,000	[3] 39/42
36,000 to 40,000	45	42	37,500 to 41,500	42/44	39,000 to 43,000	42/44
40,000 to 44,000	48	44	41,500 to 45,500	[3] 44/48	43,000 to 47,000	[3] 40/48
44,000 to 48,000	50	48	45,500 to 49,500	48	47,000 to 51,000	48
48,000 to 52,000	50	48	49,500 to 53,500	[3] 48/51	51,500 to 55,000	[3] 48/51
52,000 to 54,000	53	51	53,500 to 55,500	51	55,000 to 57,000	51
54,000 to 62,000	53	51	55,500 to 63,500	51	57,000 to 65,000	[3] 51/54
62,000 to 64,000	53	51	63,500 to 65,500	[3] 51/54	65,000 to 67,000	[3] 54
64,000 to 76,000	55	54	65,500 to 77,500	[3] 54/57	67,000 to 79,000	[3] 54/57
76,000 to 88,000	58	57	77,500 to 89,500	57	79,000 to 91,000	[3] 57/60
88,000 to 90,000	60	57	89,500 to 91,500	[3] 57/60	91,000 to 93,000	[3] 60
90,000 to 100,000	60	60	91,500 to 101,500	[3] 60	93,000 to 103,000	[3] 60
100,000 to 110,000	62	60	101,500 to 111,500	[3] 60/62	103,000 to 113,000	[3] 60/62
110,000 to 120,000	62	62	111,500 to 121,500	[3] 62	113,000 to 123,000	[3] 62
120,000 to 130,000	64	62	121,500 to 131,500	[3] 62/64	123,000 to 133,000	[3] 62/64
130,000 to 140,000	64	64	131,500 to 141,500	[3] 64	133,000 to 143,000	[3] 64
140,000 to 150,000	66	64	141,500 to 151,500	64/65	143,000 to 153,000	64/65
150,000 to 160,000	66	65	151,500 to 161,500	65	153,000 to 163,000	65
160,000 to 175,000	68	65	161,500 to 176,500	65/66	163,000 to 178,000	65/66
175,000 to 180,000	68	65	176,500 to 181,500	66	178,000 to 183,000	66
180,000 to 200,000	69	66	181,500 to 201,500	66/68	183,000 to 203,000	66/68
200,000 and over	70	68	201,500 and over	68	203,000 and over	68

[1] The zero bracket is not shown in this table. To include the zero bracket, increase all taxable incomes shown by $3,200.

[2] The $240 credit eliminates tax for returns with total taxable income falling in this bracket.

[3] Brackets in which many taxpayers could experience either no reduction, or an increase, in marginal rates.

Earlier I mentioned the substitution effect, which says that as tax rates go up the tradeoffs between work and leisure, savings, and consumption go down. To this economists will sometimes reply that there is an opposite effect at work: The so-called incomes effect, which says that as taxes go up and disposable income goes down people must work and invest more to maintain the same level of disposable income. Thus economists can say the following things about taxes in general:

First. If average tax rates and marginal tax rates go up or down simultaneously, it is impossible to determine the effect on incentive, because the incomes effect and the substitution effect are operating in opposite directions.

Second. If the average tax rate goes up while marginal tax rates stay the same, work effort will increase, due to the incomes effect.

Third. If average tax rates remain constant while marginal tax rates go down, incentive will increase due to the substitution effect.

Fourth. If average tax rates go down and marginal tax rates go up, incentive will be reduced, since the incomes effect and the substitution effect are operating in the same direction (negatively).

Fifth. If average tax rates go up and marginal tax rates go down incentive will be increased, since, once again, the incomes effect and the substitution effect are operating in the same direction (positively).

With this model in mind, it seems clear that President Carter's program fits No. 4. He is going to lower average tax rates and increase marginal tax rates simultaneously through his plan to eliminate the personal exemption—which will increase taxable income—while reducing tax liability through a tax credit. Consequently, there is no doubt whatsoever that the President's plan will reduce incentive and work effort.

I should also note that an increase in marginal tax rates will increase the tax bias against savings and investment. At a marginal tax rate of 25 percent; for example, an investor would require a before-tax return of 13.33 percent to get an after-tax yield of 10 percent. If his marginal rate bracket goes up to 50 percent he will require a before-tax yield of 15 percent, or conversely if the before-tax yield remains at 13.33 percent his after-tax yield will fall to 6.66 percent.

Incidentally, inflation acts as a tax on after-tax returns in exactly the same way. If your after-tax return is 6 percent and there has been 6 percent inflation, your real return is zero. If your before-tax return is 6 percent, there is 6 percent inflation, and you then pay taxes, the return becomes negative. Thus virtually every person in this country holding bonds today are getting negative returns on their investment.

The resulting reduction in savings and capital formation ultimately reduces jobs and economic growth.

THE KEMP-ROTH PLAN

By contrast, the Kemp-Roth Tax Reduction Act seeks to increase incentive and capital formation by reducing marginal tax rates. This legislation would do the following:

First. Reduce all individual income tax rates by an average of 30 percent across the board. This will reduce the highest marginal rate from 70 to 50 percent and the lowest tax rate from 14 to 8 percent over 3 years.

Second. Reduce the corporate income tax rate from 48 to 45 percent over 3 years.

Third. Increase the corporate surtax exemption from $50,000 to $100,000 to help small business.

This program attempts to duplicate as closely as possible President Kennedy's program from 15 years ago, and I expect similar results.

I have had the Kemp-Roth bill analyzed econometrically and the results are very positive.

Of course, there are serious problems with such econometric forecasts, since they are heavily weighted toward changes in demand, rather than supply, and because they are limited to estimating only a small number of the factors which influence economic output.

As Dr. Paul Craig Roberts recently wrote:

> Everyone has heard of supply and demand except the builders of econometric models, who apparently have heard only of demand. As a result the models cannot take into account two additional reasons why people produce: for income and for profit. Since they cannot simulate supply side effects, they cannot show the impact that alternative policies have on these two powerful economic motives.
>
> A correct model would show the relationships between quantities of productive inputs and their prices. However, the models upon which economic policy depends only relate numbers of people employed to levels of spending. Thus, the models show that a tax rebate and a personal income tax rate reduction stimulate GNP and employment by stimulating spending. But they cannot show that only a rate reduction also stimulates production by increasing the after-tax rewards to work and investment.

Nevertheless, Chase Econometrics, one of the leading economic forecasting companies, predicts the following positive effects of the Kemp-Roth proposal:

CHASE ECONOMETRICS FORECAST, YEARLY CHANGES

	1978	1979	1980	1981	1982
Unemployment rate (percent):					
Kemp-Roth	5.94	5.41	4.75	4.13	3.97
No change	6.10	6.00	5.97	5.86	5.75
Increase in GNP (percent):					
Kemp-Roth	10.5	10.5	10.6	10.6	9.9
No change	10.0	9.5	9.2	9.2	9.1
Increase in gross private investment (percent):					
Kemp-Roth	10.9	11.0	13.2	15.5	11.5
No change	9.9	8.3	9.0	11.5	10.0
Increase in disposable personal income (percent):					
Kemp-Roth	11.7	10.7	11.1	9.2	9.2
No change	10.5	9.0	8.9	7.9	8.2
Increase in corporate aftertax profits (percent):					
Kemp-Roth	9.8	11.0	12.6	13.3	11.5
No change	7.0	7.2	7.3	8.4	9.5
Savings rate (percent):					
Kemp-Roth	6.6	6.8	7.5	7.0	6.9
No change	6.0	5.7	5.7	5.2	5.1
Capacity utilization rate (percent):					
Kemp-Roth	84.5	86.0	87.6	88.3	87.4
No change	83.8	83.9	83.6	83.3	82.9
Consumer price index (percent):					
Kemp-Roth	6.2	6.4	6.4	6.6	6.8
No change	6.2	6.3	6.1	6.0	5.8
Federal budget deficit (billions):					
Kemp-Roth	$68.6	$79.1	$89.8	$70.1	$64.6
No change	56.2	54.2	51.9	36.9	31.8
Difference	12.4	24.9	37.9	33.2	32.8
Federal deficit as a percentage of GNP:					
Kemp-Roth	3.3	3.4	3.5	2.5	2.1
No change	2.7	2.4	2.1	1.4	1.1
Personal savings (billions):					
Kemp-Roth	$96.8	$110.6	$134.9	$137.6	$148.9
No change	87.0	89.4	98.7	96.2	101.5
Difference	9.8	21.2	36.2	41.4	47.4
Increase in net fixed investment:					
Kemp-Roth (billions)	$88.0	$95.0	$112.0	$141.0	$161.0
No change (billions)	$86.0	$88.0	$93.0	$109.0	$121.0
Percent change	2.3	8.0	20.4	29.4	34.7

COMPOUND ANNUAL GROWTH RATES, 1978–87

Indicator	Kemp-Roth	No change
Gross national product	9.61	8.87
GNP (1972 dollars)	3.38	3.25
Index of industrial production (total)	4.16	3.85
Index of industrial production (manufacturing)	4.26	3.92
Gross private investment	10.96	9.34
Fixed investment	11.19	9.57
Nonresidential	12.26	10.38
Structures	13.32	10.03
Equipment	11.67	10.58
Residential	8.60	7.55
Personal income	9.28	8.50
Disposable personal income	9.12	8.14
Corporate profits before tax	9.56	7.89
Corporate profits after tax	9.86	7.86
Unemployment rate	−3.40	−1.57
Savings rate	.24	−1.72
Implicit GNP deflator	6.03	5.44
Consumer price index	6.31	5.54
Wholesale price index	5.78	5.32
Federal Government receipts	9.27	9.08
Transfer payments	8.32	8.36
Individual income tax receipts	8.32	9.04
Corporate income tax receipts	8.45	7.33
Social security taxes	10.98	10.12
Transfers for unemployment compensation	.82	2.36
State and local government receipts	10.12	9.77

An analysis by Norman B. Ture, Inc. shows similar positive results:

[Dollar amounts in constant 1977 dollars]

Major economic magnitudes	1978	1980	1982	1987
Employment (thousands of full-time equivalent employees)	2,080	4,240	4,540	5,320
Annual wage rate	$920	$1,110	$1,210	$1,530
Grsss national product (billions):				
Total	170	260	295	395
Business sector	139	219	249	327

[Dollar amounts in constant 1977 dollars]

Major economic magnitudes	1978	1980	1982	1987
Capital outlays (billions):				
Gross	91	184	246	134
Net	91	168	205	57
Consumption (billions)	79	76	49	261
Federal tax revenues (billions):				
Initial impact	(27)	(81)	(91)	(109)
Net of feedback	1	(40)	(43)	(43)
Net revenue (loss) gain per additional full-time equivalent employee (dollars par employee)	480	(9, 430)	(9, 470)	(8, 080)

The reason why we get these kinds of economic magnitudes is that marginal incentive is massively increased. Consider a person in the 70-percent tax bracket. At present he retains 30 cents out of each additional dollar he earns. Under the Kemp-Roth proposal he would retain 50 cents, or an increase of 66 percent in aftertax return. The following table estimates this increase in marginal incentive for each tax bracket under the Kemp-Roth proposal. As one can see, although the rates are reduced more in the lower brackets the increase in incentive is greatest in the upper brackets, where the greatest expansion of output would occur:

Increase in marginal incentive resulting from Kemp-Roth proposal:

[In percent]

Present marginal tax bracket	Under Kemp-Roth proposal	Percent rate reduction	Percent increase in aftertax reward
70	50	28	66
69	49	29	65
68	48	29	63
66	47	29	56
64	46	29	50
62	44	29	47
60	42	29	45
55	40	27	33
50	37	26	26
45	36	20	16
40	35	12	8
38	33	13	8
36	31	14	8
34	29	15	8
31	27	16	8
29	24	17	8
27	21	22	8
25	19	24	8
24	17	25	8
21	15	28	8
19	13	31	7
17	11	35	7
16	10	37	7
15	9	40	7
14	8	43	7

Some people may look at these figures and conclude that this proposal is aimed at the rich, because it increases their incentive the most, despite the fact that tax rates are reduced most in the lower brackets. I reply to this by saying that we cannot help the poor of this country by punishing the rich. In fact, the tax code ought not to be used for any purpose other than raising revenue.

I would also argue that a reduction in high marginal tax rates will increase the total amount of taxes paid by the rich, because they have a greater capability to reduce or expand their economic activities in response to changes in tax rates than do those with lower incomes. In this respect, my goal is to tax the rich as much as possible. Earlier I noted that tax revenues from the rich went up after the Kennedy tax cuts. The same thing happened in the 1920's, when the highest tax rate was reduced to 25 percent. At the time President Calvin Coolidge said:

> I agree completely with those who wish to relieve the small taxpayer by getting the largest possible contribution from people with large incomes. But if the rates on large incomes are so high that they disappear, the small taxpayer will be left to bear the entire burden. If, on the other hand, the rates are placed where they will produce the most revenue from large incomes, then the small taxpayer will be relieved.

CONCLUSION

In conclusion I will only say this: The tax proposal I am making is not a cure-all for the economy. But a reduction in marginal tax rates is the first step if we are to have economic growth without inflation.

I would also recommend that this committee take a hard look at capital gains, which are presently overtaxed to the point where those with capital gains are getting negative rates of return, according to a recent study by the National Bureau of Economic Research. And according to a study done for the Securities Industry Association by Data Resources, Inc., an elimination of all taxes on capital gains would increase Federal revenues by $38 billion in 4 years.

It should be kept in mind that whenever the marginal tax rate on income is reduced the effective tax rate on capital gains is automatically reduced, since the tax on capital gains is half the ordinary rate. Thus the Kemp-Roth proposal would reduce the highest tax rate on capital gains from 35 to 25 percent. Ultimately, however, I would like to see no taxes at all on capital gains, since I believe that it would do more to increase entrepreneurial activity and create investment and jobs than anything else we could do.

To close I will quote former Ways and Means Committee Chairman Wilbur Mills, who said during the debate on the Kennedy tax bill:

> Many believe we can spend our way to prosperity. On the other hand, I am firmly convinced that if Congress adopts a tax reduction and revision bill of the type which is before this body today, we can also achieve this more prosperous economy by loosening the constraints which the present Federal tax system imposes on our free enterprise system. These tax reductions will bring about a higher level of economic activity, fuller use of our manpower, more intensive and prosperous use of our plant and equipment, and with the increase in wages, salaries, profits, consumption and investment, there will be increases in Federal tax revenues.

DEATH IN TRANSIT—II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, back in 1970 the House unanimously enacted a bill to improve railroad safety. This was the most far reaching rail safety bill since the turn of the century, and it was enacted because of a tremendous increase in the number of rail accidents during the 1960's. In fact, during the 5 years prior to enactment of the law, rail accidents increased by a total of 60 percent.

The Rail Safety Act of 1970 gave the Department of Transportation all the powers it needed to establish new safety regulations and to levy penalties against railroads that failed to comply.

Today, 8 years after enactment of that statute, we still have an appalling number of railroad accidents. The number of derailments has not declined at all—indeed we have an average of 7,700 derailments a year.

The lethal potential of these accidents is on the rise, because railroads are using far bigger cars than they did in earlier years, so that loads of toxic or explosive materials present an ever-increasing degree of danger.

As far back as 1969 the National Transportation Safety Board has issued recommendations designed to make tank cars safer, so as to reduce the hazard of leaks or explosions resulting from rail accidents.

The Board unfortunately can only make recommendations. It is up to the Department of Transportation, acting through the Federal Railroad Administration, to issue and enforce new safety standards.

Back in 1969 the Transportation Safety Board recommended that tank cars be equipped with shields at the head end, in order to reduce the danger of puncture or explosion from accidents.

This recommendation was repeated in 1972, 1974, 1975, and is still being repeated today. The Federal Railroad Administration has yet to act, except for writing responses that say the recommendations are too expensive and too complicated to be worthwhile.

The National Transportation Safety Board has likewise repeatedly recommended that improved types of couplers be used on cars, to prevent the occurrence of car over and underride, during a derailment. This again is a recommendation meant to reduce the hazard of leaks of toxic or flammable or explosive materials. Again, the Department of Transportation has failed to act.

Finally this year the National Transportation Safety Board has put on a kind of seminar, to demonstrate through an actual car modification, just how simple and quick it would be to produce safer tank cars.

The Department of Transportation and its Railroad Administration don't really need to be shown how simple it would be to promote safety; they already know it. The fact is that they are just not interested.

The reason is that the Department of Transportation sees its mission as fostering the interests of the carriers, not acting in behalf of the general public.

The Department of Transportation spends its energies on finding ways and means to rationalize the structure of the rail industry, as they put it, in order to guarantee the financial health of that industry.

The Department likewise spends its time promoting high freight rates, even though these same rates drive traffic away from the railroads and eventually leave them weaker than ever before. The

Department buys, hook, line, and sinker, railroad arguments that they need to maximize their profits in the short run, charge all the traffic will bear, and thus commit longrun suicide. It matters not to the Department that the only theory of ratemaking the railroads have ever followed consistently is one that deprives them of traffic, because they make themselves uncompetitive; it matters not that the railroads put their profits into real estate and other speculations, instead of back into improvements, and then cry poverty; it matters not that incompetence and near-criminal mismanagement plagues the industry. No, the Department of Transportation sees itself as a steward of the industry, not a guarantor of the overall public interest.

It is no wonder that the National Transportation Safety Board's recommendations are not acted upon. Rail management does not want to act on these matters, and so neither does the friendly Department of Transportation.

It seems a miracle that there have not been more deaths resulting from rail accidents involving loads of toxic or flammable or explosive materials.

In 1971 there were 80 trains derailed, with loads of hazardous materials; in 1975 there were 186 derailments involving deadly loads. Train crews suffer death and injury; people who are living near or passing by tracks are injured, killed or evacuated to prevent injury or death. In 1973, 30,000 people had to leave their homes because of rail accidents involving lethal materials.

With this number of accidents, it is a sheer miracle that there have not been more deaths.

The experience this year suggests that the luck may be running out. Twenty innocent people have been incinerated or gassed to death in just two accidents, thousands have been evacuated, and no one knows how many were injured in one degree or another. Property losses remain to be reckoned.

In every one of the nearly 200 derailments we can expect this year, in which there will be toxic loads or flammable or explosive loads, there is the potential for disaster.

And yet, for 9 years the Department of Transportation has resisted issuing regulations to require simple safety improvements.

Mr. Adams should redesign the departmental logo, to change it from a stylized wheel to a skull and crossbones. Does he care about death in transit? The record does not show that whatever concern he may have has yet to be translated into any action.

That is why we have the sad and incredible scene of the National Transportation Safety Board patiently demonstrating, step by step, just how easy it really would be to make the rail movement of deadly cargoes safer. Meanwhile, death rides the rails in thousands of tanker cars.

INTRODUCTION OF ANTITERRORIST LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ANDERSON) is recognized for 5 minutes.

Mr. ANDERSON of California. Mr. Speaker, I am pleased to be introducing this afternoon legislation which should strike a major blow against terrorism in this country. Those criminals who use explosives to intimidate, maim, and kill, will not like it at all. On the other hand, I look forward to receiving the support of all those interested in preserving life and property.

Several months ago, I attended a demonstration presented by the Bureau of Alcohol, Tobacco, and Firearms at Fort MacArthur in San Pedro, Calif. They showed me a method by which the materials in a bomb, after detonation, could be traced to the last legal owner. This can be done simply by mixing in with the explosive material, small color-coded plastic taggants that will survive the blast.

This bill being introduced today, will phase in, over the next 3 years, provisions prohibiting the manufacture, distribution, and importation of explosive materials that do not contain identification taggants.

Remember the terrible incident in New York's La Guardia Airport at the end of 1975. Ten people were killed, seventy were injured, and more than $1 million worth of damage was caused. The Bureau of Alcohol, Tobacco, and Firearms, alone, has spent over 1,800 man-days of investigative time searching for the criminals, with no results. The reason is; any clues the bombers may have left were destroyed with the explosion. According to ATF. and I quote-

> It is believed that taggants in this case would have provided immediate investigative leads, reduction in man-hours, and more immediate direction to the violators.

The amount of criminal bombings in this country is on the rise. There were 11.8 percent more bombings in 1977 than the previous year. It is important that we be able to track down the explosive that was used, and my bill will enable us to do that. But wouldn't it be more helpful if we could detect the presence of the bomb before it goes off, taking with it lives and property?

We will soon be able to do this, with the introduction to the explosive materials of a vapor, undetectable to humans, but easily recognized with inexpensive detection devices. This legislation I am introducing will phase in requirements that explosive materials manufactured, distributed, or imported contain predetonation taggants.

As chairman of the House Aviation Subcommittee, I feel a special need for this legislation, as I know the problems of airport and airplane security. These were painfully evidenced by the La Guardia incident. The people of this nation are concerned about crime and terrorism. I feel certain that my colleagues, the people's representatives in Congress, share my feelings for this need. I invite your support, and solicit your cosponsorship of this important legislation.

SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 15 minutes.

● Mr. WIRTH. Mr. Speaker, it is difficult enough to get the Congress to deal with a major issue quickly, and conventional wisdom has it that once Congress acts on an issue; it's principally impossible to get it to reconsider.

Last year, in an effort to avert the predicted bankruptcy of the social security system, Congress enacted stiff new payroll taxes that will affect nearly every working American. Under the provisions of this legislation, by 1985 75 percent of all taxpayers would be paying more in social security than in general income taxes. Only 57 Members, including myself, voted to send those regressive taxes back for rewriting; but now there is movement that is defying the conventional wisdom. Barely 4 months after those tax increases were voted, it appears that a majority in the Congress will support a rollback in social security taxes in a form similar in part to a bill that five of us have offered. Clearly something has happened.

But before going into a discussion of the merits and drawbacks of our proposal, I think it would be helpful to outline how we have gotten where we are, and reach an understanding of the problem. It seems to me that this is the only way we can find a cure that is not worse than the disease.

Our social security system has three component programs: Old-age and survivors' insurance (OASI), which is the original social security program, disability insurance (DI), which was added in the 1950's to cover layoffs caused by a job-related disability, and hospital insurance, or medicare (HI) which was added in the 1960's.

The two newer programs have placed an enormous burden on the social security trust fund. Disability Insurance coverage has grown from 1.7 million persons in 1965 to over 4.5 million persons today and payments under the program have risen from $1.5 billion to $11.1 billion during the same period. Hospital insurance payments have gone from $2.6 billion to $15.2 billion during the last decade. Further, these two programs, while sensible social policy, bear little, if any, resemblance to the basic income insurance purpose of social security. Yet they were added to the social security trust fund.

It is easy to say that this is the cause of the system's present problems: Too many benefits have been added to an already overstrained system. But that is not the only answer. The current high unemployment rate—hovering around 7 percent for the past 2 years—and the general inflationary spiral that continues to drive up the costs of housing, food, utilities, consumer goods and especially health care, are also tied to the current crisis in social security. In fact, the complexity of the situation can best be illustrated by noting that when the last social security financing legislation was passed in 1973, the economic and actuarial predictions which formed the foundation of that legislation said that, based on long-range wage and price rise estimates, and projected unemployment and birth sta-

tistics, the social security trust fund was sound for both the short and long term.

Obviously, those predictions were inaccurate, and our current situation makes any prediction for social security difficult at best. Although decreases in inflation and unemployment are predicted, those problems will continue to plague us, and I am not convinced that our job training and employment programs are sufficient to get enough people into the work force. Our economic programs, now so dependent on foreign market fluctuations, are equally unpredictable, and the administration has not yet settled on a discernible anti-inflation program.

In the meantime, the ratio of working people to retired people moves steadily closer to 1 to 1, and the American wage earner will be forced increasingly, under the present system, to carry more of the burden of financing our retirement system.

The options for dealing with this growing problem are chiefly three: Reducing benefits, raising taxes, or finding alternative methods of financing.

Reducing benefits is not a viable option. It is not fair to those who have paid into the system in expectation of certain benefits, especially given the current rates of unemployment and inflation.

Raising taxes, as the recent congressional action shows, is similarly problematic. The payroll tax is severely regressive, hitting low- and middle-income wage earners and small businesses the hardest. Moreover, it is a stopgap solution; it addresses none of the previously mentioned structural problems which are the major cause of the trust fund's difficulties.

The third option, shifting some of the financing burden off the trust fund onto general funds, is now being explored and is gaining momentum daily. The growing popularity of this route results from its ability to solve both the financial and structural problems of social security.

The proposal which four of my colleagues and I introduced 2 months ago was the first of several financing programs now being examined; the others are variations on the same theme. All would, to a greater or lesser degree, remove the disability and hospital insurance programs from the social security trust fund and finance them instead from general funds.

Our proposal which would shift both programs in their entiretv, would reduce the current social security payroll tax by one-third, return the system to its original purpose as a retirement income program, and even under the most conservative estimates, insure its solvency well into the next century. In net cost, it would differ only slightly from the income tax cut/reform package currently being offered by the administration—and that is where its real significance lies. We have proposed that our program for a social security tax cut be substituted for the President's general tax reduction.

More than the administration program, ours will have a greater—and more favorable—impact on the rate of inflation, particularly by breaking the wage/price spiral. A reduction in social security taxes would directly reduce business costs, thus dampening the need for price increases. At the same time, it will increase the take-home pay of wage earners, thereby decreasing demands for inflationary wag increases. A recent Congressional Budget Office report stated that the shift in DI and HI financing would reduce the rate of inflation by at least a full percentage point a year.

Our proposal would also help to reduce the rate of unemployment. Currently, if a business is considering hiring new workers, it is often cheaper to pay overtime, or to invest in new machinery, than it is to pay the higher rates of taxation. This is primarily because of the increased base against which social security taxes are assessed, one of the biggest faults in the system. By rolling back the payroll tax to its 1974–75 level, employers would at least not be discouraged from adding new employees.

Further, our proposal is certainly more equitable than a general income tax cut. We propose to lower the regressive payroll tax, and maintain the philosophy that Government based on income rather than payroll taxes is fairer and more progressive. The social security tax does not rise in direct relation to income; it is levied on the first dollar of income, no matter how much that income may be. Consequently, a reduction in the payroll tax would do more for the cause of progressive taxation than any of the reforms the President has proposed, and would carry more reform than the elimination of the so-called three martini lunch.

Finally, by subjecting the HI and DI benefit programs to the appropriations process, our proposal would force better oversight and assure more efficient administration of these increasingly large and costly Federal programs.

For years, general revenue financing has been resisted because of the fear that access to general revenues would encourage interest group pressure for increased benefits.

Or the argument is made that shifting DI and HI to general revenues is a first step toward a means test for these programs. Clearly these arguments must and can be dealt with effectively, particularly as soon as a majority of Congress begins to look carefully at the present system and what it portends.

Our proposal is not a cure-all. But it is a much needed step, and one long overdue. And momentum for our approach is gathering. From our original band of 57, we now have endorsement of an approach similar to ones from the Democratic Caucus and the Joint Economic Committee. The Committee on Ways and Means is holding hearings, and the Budget Committee will include at least part of our recommendation in its budget targets. I have spoken with Treasury Secretary Blumenthal, Economic Adviser Charles Schultz, and Chief Domestic Adviser Stuart Eizenstat; and Speaker "TIP" O'NEILL reportedly has told the President that the Congress appears ready to move.

The conventional wisdom suggests that Congress will not alter a bill once it has been passed. But it looks to me like we have another chance to change the traditional way of doing business in Congress, by rolling back the social security tax passed last year.●

EXPLANATION OF VANIK TUITION TAX CREDIT LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, on March 22, I introduced H.R. 11776, the Tuition Tax Credit Act of 1978. The Ways and Means Committee will be marking up this legislation on Monday, April 10, and Tuesday, April 11. For the information of interested parties, a summary of this legislation follows:

EXPLANATION OF TUITION TAX CREDIT ACT OF 1978

(Introduced by Mr. Vanik, March 22, 1978)

This bill provides a Federal income tax credit for tuition paid to elementary and secondary schools which are privately operated and to post-secondary vocational schools and colleges. When fully implemented, the bill would allow a taxpayer to claim a credit equal to 50 percent of tuition paid for himself, his spouse, and each of his dependents who are full-time students, with a maximum credit of $100 per student at the elementary and secondary level and a maximum credit of $250 per student at the post-secondary level.

The credit would be phased in in three stages. It would become effective August 1, 1978. For 1978, taxpayers would be allowed a maximum credit of $50 for elementary and secondary school students and $100 for post-secondary students for education furnished between August 1 and December 31, 1978. In calendar 1979, the maximum credits would increase to $100 at the elementary and secondary level and $150 at the post-secondary level. In calendar 1980, the maximum post-secondary credit would increase to $250.

The credit would be available only with respect to tuition paid for individuals who are full-time students during any four calendar months of a calendar year. No credit would be allowed for part-time students, for graduate study, for education below the first grade level, or for attendance at a kindergarten or nursery.

The credit could be claimed only for tuition paid by the taxpayer for enrollment or attendance at an eligible institution. It would not apply to amounts paid for books, supplies, equipment, or personal living or family expenses.

In order to qualify as an eligible educational institution, elementary and secondary schools must be nonprofit, private schools which do not discriminate on the basis of race and which are accredited or approved under State law or meet State compulsory school attendance requirements. Tuition paid for special education for physically and mentally handicapped individuals would be eligible for the credit if the special education is a substitute for public elementary or secondary education.

The bill would require that tuition expenses taken into account for the credit be reduced by certain tax-free scholarships, fellowships and other nontaxable educational assistance. This offset rule would pro-rate tax-free educational awards between tuition and other expenses which are ineligible for the credit, except when an award must be used only for tuition.

No credit would be allowed to a taxpayer who is claimed as a dependent by any other person. In addition, no other tax deduction or tax credit (for example, the business expense deduction or child care credit) would be allowed with respect to any amount paid for tuition, except to the extent that the total tuition payment exceeds the amount neces-

sary to claim the maximum tuition credit allowable under the bill.

Reductions in individuals' Federal income tax liability attributable to tuition tax credits would not be permitted to be taken into account in determining their eligibility for, or the amount of their or other individuals' benefits or assistance under, any Federally funded educational assistance program.

The bill would provide for expedited judicial consideration of the constitutionality of any of its provisions.

The bill would take effect August 1, 1978, with respect to amounts paid on or after that date for education furnished on or after that date. It would terminate with respect to any taxable year beginning after December 31, 1980.

REVENUE ESTIMATE OF H.R. 11776

[In millions]

Fiscal year	Elementary and secondary	Post-secondary	Total
1978	$11	$22	$33
1979	285	523	808
1980	461	821	1,282
1981	394	1,008	1,402

OBSERVATIONS OF A LOW LEVEL PENETRATION FLIGHT ON BOARD A SAC B–52H

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LLOYD) is recognized for 5 minutes.

● Mr. LLOYD of California. Mr. Speaker, Time correspondent Jerry Hannifin recently flew as observer on board a SAC B–52H in a low-level penetration flight to targets in the spectacular terrain of Arizona's Painted Desert. These are his observations which, I think, are both thought-provoking and worthy of presentation:

Actually, it was a simulated flight over the Soviet Union . . . a 98 hour mission, including an hour and 50 minutes at very low level, hugging the nap of the desert ridges and mountains, where the U.S. Air Force has programmed a combat avionics network duplicating features of the Soviet's latest warning, intercept and surface-to-air missile systems, designed to hit fast-moving targets as low as 150 feet. The flight, commanded by Major William O. McCabe of the 77th Squadron, 28th Bomb Wing (H), of Ellsworth AFB, South Dakota, was high scorer on the range that day, successfully evading and jamming the "Soviet's" electronic net.

The "RN", the radar navigator of the 17-year old B–52H set his radio altimeter for 400 feet over the pine-forest floor of a rocky ridge of Arizona's Great Painted Desert, and we began an hour and 50 minute, low-level penetration run to lay nine nuclear weapons on simulated targets. A number of the targets were behind several ridges and mountains—remote terrain at altitudes well above the prescribed flight penetration level of the B–52H.

Mesquite, Yucca and pink, cactus-studded desert, streaked in austere beauty beneath the 185-foot wings of McCabe's camouflaged aircraft as we entered the PEPC, the primary entry control point, for penetration.

Lurking in unidentified installations on the desert peaks on the track ahead was an array of simulated Soviet radar warning and SAM (Surface-to-Air Missile) sites. Many of them are crewed by skilled young women of the USAF.

"Entering target grid. It's the power plant first," crackled in the earphones. That was the "RN", Capt. Vaughn Nun. In major McCabe's tightly disciplined ship, everybody has only initials for a name.

"Rog, and ECM is coming up," said the veteran electronic countermeasures (ECM) operator. That was Maj. Ross Myers, electronic warfare specialist in command of a floor-to-ceiling panel of cathode ray tubes, digital read-outs, and pulsing, flickering lights. Myers' hands moved across the big panel pushing switches and turning dials so swiftly that his nomex-gloved fingers literally blurred in the observer's vision.

Below his ECM avionics compartment in the aircraft's belly "RN" Nun, and "N," meaning navigator 1st Lt. Richard Johnston, were sharing their own aircraft control yoke, a sausage-like toggle on a small platform, peering at green and red cathode tube displays of their own. Their panel displayed both "FLIR" and low level TV, and radar pictures of the swiftly moving terrain ahead and around the B–52H. Nun and Johnston could "see" outside electronically almost as well as aircraft commander McCabe and "CO," co-pilot Capt. Nicholas Hinch on the flight deck upstairs. Using that toggle, the "RN" could control the aircraft for precision adjustments in attitude at moment of bomb release.

Almost instantly, the "Soviet" surveillance and warning radar, called "Face-Plate"—the system the Soviets installed around Hanoi, matching the USSR's internal system, sited around their own landmass—began "painting" our aircraft. The USSR's borders are lined with more than 8,000 of these early warning radars. As "Face-Plate" snagged us in its net, another, high-pitched whine sounded in the crew's headsets—the dreaded "Fansong" of a Soviet surface-to-air missile newly modified for low-level kills. The "Soviets" had "locked-on" to us, electronically, and a missile was homing on our B–52H, a new missile that can kill at 150-foot flight levels; the giant old B–52H lurched and the wings bent like a buzzard's as McCabe rammed the big ship to still lower altitude behind a ridge of the Kaibab Plateau.

Portrayed electronically on the "Rivet Ace" cathode tube in front of "ECM" Myers was the wavy radar signature of the simulated Soviet radar, pinning us down for an electronic "kill." The "SAM" battery had locked on to us, but the skills honed by "ECM" Myers over North VietNam enabled him to successfully pick a combination of our own counter avionic signals ("smart noise") to jam the "Soviets" on the ground. One day soon, the ECM's problem will include spoofing Soviet "look-down" radar or infra-red tracking by satellite.

McCabe's modified B–52H, originally designed for other wars and at other times at 50,000-foot altitudes, was totally engaged now in the most realistic possible simulation of a war mission.

The B–52H's long wings flexed again, rising and falling at 400 MPH with the contours to the eroded desert below. In McCabe's hands, that aircraft was moving to target in a fashion no bomber pilot ever dreamed of when the B–52H's were designed two decades and a half ago. It boggles the civilian mind that a combat machine conceived so long ago, even with fancy new avionics and fan engines, can perform such a mission, absorb so much punishment—and still be the main foreseeable penetrating bomber element in the U.S. defense Triad through the 1980's and beyond.

"I've got 385 miles an hour ground speed," came the sharply edged voice of the "RN" Nun. "You are a little east of target. That's okay. Missile away! Counting. Weapon detonation in five seconds. One, two, three, four, five. . . ."

McCabe's crew delivered nine such "weapons"—SRAM's, the supersonic, short-range attack missiles—and gravity fall bombs, employing the B–52H's "synchronous" (all avionics systems) capabilities under control of "RN" Nun.

The scores were awaiting us back at Ellsworth, including bulls' eye hits that required the popping of a number of champagne corks. There was a special quiet toast to aircraft commander McCabe, "ECM" Myers, "RN" Nun, and "N", navigator Johnston.

The stress of low-level penetration flight is severe, demanding an extremely high level of crew coordination, with emphasis on precision timing. "We practice and practice," said McCabe. The keen edge of efficiency and high morale of his crew proved the results.

At a time when the Soviets are building new weapons (seven new missile systems for a total of 13 in the last 12 years), and producing the TU–26 "Backfire" intercontinental bomber—the Soviets "B–1"—in unlimited quantities, the U.S. only at great peril can live in a gossamer dream that the crewed, air-breather weapons we can deploy—represent an effective hedge in the strategic balance of the future. The Soviets have just informed the U.S. that they want all U.S. cruise missile carrying B–52's and FB–111's distinctively marked for purposes of strategic verification. The U.S. has agreed, under proposed new terms of SALT.

There was an urgent message for the observer on that 1.8 hour penetration flight over the craggy Arizona terrain just east of the Grand Canyon: the U.S. has patched up its fine old war bird B–52's to make tactical bombers out of strategic systems, pretending that they are "B–1 Bomber" equivalents, and they are not.

Instead of arguing the politics and merits of the current B–1 Bomber, ordered stillborn by the President, the U.S.' best engineers urgently should be designing a new, manned bomber for the Triad—something like a "B–2" or even a "B–3"—to match the highly motivated and dedicated young men and women of the U.S. Bomber Forces. The message is etched on armor plating: the U.S. and the Soviets are in strategic balance today, but tomorrow the U.S. may be behind.●

EXPLANATION OF ABSENCE ON VOTE FOR H.R. 7700, POSTAL SERVICE REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I was in attendance at a meeting of great importance which delayed my arrival on the floor until after the close of the vote on this important legislation. Had I been present, I would have voted "aye."●

PROPOSED BED REDUCTION IN VA HOSPITALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 5 minutes.

● Mr. GIAIMO. Mr. Speaker, a number of our colleagues have expressed concern about the reduction in the number of operating beds in VA hospitals in 1978 and 1979 proposed in the President's budget. Some are urging that additional funding be provided for the VA medical program to keep the beds in operation. Because of this widespread concern, I would like to share a different perspective with my colleagues.

It seems to me that the ability to reduce beds in VA hospitals represents a success story for which the Congress and the Veterans' Administration can justly take credit.

From fiscal year 1968 to fiscal year 1978, VA hospital beds have been reduced from 112,000 to 91,000, almost a 20 percent decrease. Over the same period, the number of patients treated increased from 762,426 to 1,273,694, an increase of over 67 percent.

In fiscal year 1979, with 2,000 fewer hospital beds than it operated in fiscal year 1978, the VA anticipates it will care for over 10,000 additional patients.

From fiscal year 1968 to fiscal year 1977, the average length of stay of a patient in a VA hospital declined from 55 days to 24 days. By fiscal year 1979, the VA estimates that the length of stay will further decline to less than 22 days.

The funding for VA medical care will increase $355 million in fiscal year 1979 over the fiscal year 1978 appropriation, including proposed pay supplementals for fiscal year 1978. When the 6 percent pay raise anticipated by the President for Federal employees in fiscal year 1979 is included, the total increase will be about $560 million, or 11 percent over fiscal year 1978, a rate which permits real growth.

The almost amazing pattern of treating many more patients in fewer beds is primarily a consequence of the substantial increase in medical staff in VA hospitals and the expanded use of outpatient treatment facilities. The budget request for fiscal year 1979 continues this trend toward improved staffing by requesting funds for the equivalent of 1,200 additional health workers.

Most of the bed reductions are in hospitals with below average occupancy rates and thus will not have any deleterious effects on the quality of patient care in hospitals. In most hospitals, reducing the bed level will make additional space available for other activities—laboratory, X-ray, research—which have grown at a rapid pace in recent years. The bed reduction will make the operation of hospitals more efficient without reducing the number of veterans receiving treatment.

I would remind my colleagues that the age and geographic distribution of the veterans population and the concepts of medical treatment do not remain static. As veterans increase in age and move about the country, the bed requirements in particular areas change. As the methods of treatment become more sophisticated, many ailments which earlier required lengthy periods of hospitalization can now be treated in much less time or even treated on an out-patient basis, without hospitalization. Again, bed needs change. Because of such demographic factors and treatment concepts, the VA must adjust its bed levels in various areas. While total hospital beds are being reduced, nursing home beds and outpatient facilities are being increased. These changes are necessary and inevitable in an efficient medical care system.

Overall, the VA is today operating a significantly more efficient hospital system than it did a decade ago. The fiscal year 1979 budget, in my view, continues the movement toward excellence.●

THE POSTAL ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, I feel that the House of Representatives has just passed a most worthwhile bill—one that is designed to improve both the operations and service of the U.S. Postal Service.

Seven years ago, Congress embarked on an experiment designed to make the Postal Service a self-sustaining operation. The general feeling at the time was that an independent Postal Service would mean increased efficiency, and improved service to millions of American homes and businesses.

Unfortunately, this innovative program has failed to live up to its expectations.

In the 7 years that this experiment has been carried out, we have experienced a steady decline in the level of quality of mail service. Promises of better service have given way to outrageous proposals to close hundreds of small post offices, and to eliminate Saturday mail deliveries. Promises of stabilized postage rates have been replaced by postage rate increases which threaten to price many Americans right out of the mail system.

America needs mail services that is reliable, not infrequent and expensive. A totally independent Postal Service, in my opinion, is not capable of providing the level of service which the American public wants and deserves.

Equally troublesome to me is the way the Postal Service has drifted away from its basic goals in recent years. Mail continues to be a vital link in our communication system. However, I honestly believe that the Postal Service has lost sight of the fact that it is primarily a service, not a moneymaking operation. The Postal Service has charged forward with one plan after another to cut costs, often in total disregard of the real needs of the public. The balance between fiscal constraints and legitimate service needs has become enormously onesided, with the American people constantly coming out on the short end.

Let me just give you one brief example which occurred in my congressional district.

Three years ago, the Postal Service announced its plans to close the mail processing facility in Toms River and consolidate it with a new facility being built near Trenton.

In making that shortsighted decision, the Postal Service totally ignored a number of basic facts. First, Ocean County, which includes Toms River, is one of the fastest growing counties in the entire Nation. There is no question but that the county will need its own mail processing facility in the future.

Second, a county referendum was conducted in 1976, and the residents voted overwhelmingly in favor of keeping the processing center open.

Third, the Special Commission on Postal Service, which Congress established last year to review the Postal Service, visited the Toms River facility, and three of the four Commission members subsequently recommended that it be kept open.

Do you think that the Postal Service gave any consideration to these facts? Of course not. It is difficult to influence Postal Service policy when there is no public accountability. Since public funds will be necessary to maintain mail service, the public must be assured of a role in setting policy. H.R. 7700, with its many reforms, will do just that. It will insure that the Postal Service is once again accountable to the public.

Accountability guarantees better service to all classes of mail users, whether they are large commercial operations or individuals using the mails for private communications. Accountability also means that workable procedures designed to promote more efficient handling and delivery of the mail will result. Perhaps this will permit us to get back to the real reason why we have a postal system in the first place—to serve the business and personal communication needs of us all in a reasonable and economical fashion.

ANNOUNCEMENT BY CONGRESSMAN BURKE THAT HE WILL NOT SEEK REELECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

● Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to announce that I will not seek reelection to the U.S. Congress. I make this announcement after sincere and deep consideration of whether or not I can be an effective Congressman during the next 2 years.

As my colleagues know, I have maintained one of the highest attendance records in the U.S. Congress during the 20 years that I have served. With the exception of periods of hospitalization or deaths in my family, I have not absented myself from committee or the House floor. I believe that this is the caliber of service the constituency is fully entitled to.

Of recent date some problems have arisen. They place doubt in my mind that I can continue to render that type of service. Therefore I announce at this point in time that I shall not seek reelection. I do so at this date with the understanding that nomination papers will be available on April 12, and this announcement will give all potential candidates a period of 5 months to campaign for the office of U.S. Congressman from the 11th District of Massachusetts.

I am very grateful to the constituents of my congressional district for having elected and reelected me on 10 occasions. On four of those occasions they honored me by giving me the highest

percentage of votes of any Member of the U.S. Congress.

I will cntinue to carry out the balance of my term with a full application of my responsibilities. I enjoyed serving here in Congress during the terms of six Presidents. It has been an experience I will always remember.

I have always believed in the philosophy, "Leave while the music is playing." I have made this decision after consultation with Mrs. Burke, my friends, my colleagues in government, and my staff.●

BANK CARD FRAUD COSTS CONSUMERS MILLIONS OF DOLLARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, if a consumer's electronic bank card was stolen today and used to withdraw $1,000 from his account, tomorrow his bank could very well refuse to accept any liability for the theft. In short, he would be out $1,000 with no way of recouping the loss.

As the Subcommittee on Consumer Affairs moves toward markup of H.R. 8753, the Consumer Credit Protection Act amendments, I am compelled to speak out again on the dangers of electronic fraud and embezzlement that is costing consumers millions of dollars each year. The liability for loss of an EFT card and its unauthorized use is left entirely to the whim of the financial institution issuing the card. Under the provisions of H.R. 8753, a $50 liability, such as with credit cards, will give the consumer much-needed protection in this area.

An article in the March 26 New York Times points to the increase in EFT theft and pegs the loss figure to consumers at $2.5 million. More and more consumers are finding that, as they are enticed into electronic banking by bank advertising and the proliferation of automated teller machines (ATM), they are getting an electronic shock along with their electronic transfer.

Consider these cases highlighted by the article in the New York Times. A maid steals her employer's card from the mail and uses it to withdraw $3,000 over three months before the owner catches on. A man is waved away from an activated ATM by someone he takes to be a bank employee who subsequently withdraws $1,000 from the man's account. And in Philadelphia, a man is assaulted by robbers after completing an EFT transaction, his card is taken and used to steal $400 from his account.

Now I do not know how the banks in question resolved the liabilitv in these instances, but I do know that there are now no regulations governing a uniform liability of loss standard in electronic transactions. H.R. 8753 will provide that. This bill will also prohibit the mailing of unsolicited bank cards, thereby decreasing the chances of it being intercepted and used for three months before suspicions are aroused, as in the above case. It would also require that consumers receive a written receipt with each EFT or each electronic bill payment to protect them from any claim of nonpayment or computer error.

Mr. Speaker, consumers have a responsibility to care for their EFT cards and to use them properly and safely. But this is an emerging technology and unlike a simple check identified by signature, an electronic transfer is just that—electronic—and the machine does not know who is pushing the buttons. If your check is stolen, your signature forged and the check paid, the bank is liable. Indeed, in testimony we heard at a recent hearing in Columbus, Ohio, the senior vice president of BancOhio admitted that check cashing today is safer than an electronic transfer. I do not see how we can progress toward electronic finance systems until the consumer is assured of certain safeguards he is accustomed to. With H.R. 8753 the consumer will have this protection.

Consumers must be educated to the precautions in EFTS, but it should not be their responsibility alone. I am pleased that a number of bankers have supported the liability provisions in H.R. 8753, for it is not my intention to put an end to the development of electronic fund systems, but merely to see that consumers are protected from losing a week's pay or even a life's savings. Incidentally, the March 26 New York Times article was submitted for the record by Mr. Harold W. Greenwood, president of Midwest Savings and Loan Association of Minneapolis, in his testimony before the subcommittee last week in St. Paul, Minn. Mr. Greenwood is one of many financial leaders who recognize their responsibility to consumers and he endorsed the provisions prohibiting the mailing of unsolicited debit cards and establishing a $50 liability of loss limit.

Mr. Speaker, the Subcommittee on Consumer Affairs intends to begin markup sessions on this bill before the month is out. It is my hope that we can pass this legislation during this Congress so that consumers will have the protections they need and electronic transfer systems can operate with a minimum of danger to the consumer's personal finances.●

A STUDY OF THE CONSTITUTIONALITY OF THE CONGRESSIONAL VETO

(Mr. HAMILTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HAMILTON. Mr. Speaker, Dr. Murray P. Dry, a professor of political science at Middlebury College in Middlebury, Vt., is currently serving in my office as an American Political Science Association congressional fellow. Because Dr. Dry is an expert in American constitutional law, I asked him to prepare a study of the constitutionality of the congressional veto. His discussion is a valuable contribution and is remarkable for its comprehensiveness and depth. I commend Dr. Dry's study to my colleagues with the request that its conclusions be fully and carefully considered:

THE CONGRESSIONAL VETO, THE CONSTITUTION, AND ADMINISTRATIVE OVERSIGHT

INTRODUCTION

Recently Congress has made increasing use of a relatively new device for overseeing the administration of government. The congressional veto, also known as the legislative veto, is a provision enacted into law which permits Congress to disapprove of a proposed action or regulation of the executive branch or of any administrative agency of the federal government. The review mechanism takes many forms. It may require active approval or it may simply permit disapproval. It may also permit the termination of a specially delegated power. In all cases, however, this congressional review and veto mechanism permits the active or passive disapproval or termination of an executive or administrative action or regulation without having to override an executive veto a second time. The President participates in the passing of the original act, but not in the subsequent congressional resolution.

The congressional veto was first attached to the Executive Reorganization Act of 1932, and it has been attached to many of the subsequent executive reorganization acts. It was also attached to the War Powers Act of 1973, the Congressional Budget and Impoundment Control Act of 1974, and the Federal Election Campaign Act of 1974, to name three prominent examples. The Congressional Research Service has compiled a digest of 297 congressional review provisions in 198 statutes for the period from 1932 to 1975. These include statutes requiring the advance submission of proposals as well as veto provisions. Another CRS study found that 63 veto resolutions were passed and became effective during the years 1960 to 1975. Of that number, 44 were passed in 1975 alone. Furthermore, 40 of the 63 involved budget resolutions. The most recent edition of "Jefferson's Manual for the House of Representatives" lists 51 different current statutes which contain a congressional veto provision.

During the last two sessions of Congress the House Committee on the Judiciary and the Committee on Rules have had under consideration bills that would extend the reach of the congressional veto to cover all agency regulations. In 1976 such a bill failed by only two votes to pass the House under a suspension of the rules, which requires a two-thirds vote. In 1977, Representative Elliot Levitas and other Members of Congress offered HR 959, the Administrative Rulemaking Reform Act. The bill is currently before the same two committees.

This study examines the constitutional issues surrounding the congressional veto and the merits of H.R. 959. The major constitutional issues involve the general principle of the separation of powers, the specific constitutional requirement that all bills and resolutions that require the concurrence of both Houses of Congress (except for adjournment resolutions) be presented to the President, and the principle of bicameralism (as related to one-house vetoes). I argue that none of these objections justifies the conclusion that the Congressional veto is unconstitutional. On the merits, the strongest arguments against an across-the-board veto assert that Congress does not have the time, the staff, or the expertise to do the job that would be required of it. The Congressional Budget Office estimates that the increased time and staff required by the Administrative Rulemaking Reform Act would be minimal. As for the expertise involved, the critics overemphasize the differences between the skills needed for enacting laws and those needed for overseeing the resulting rules and regulations. The real dangers of over-

burdening members of Congress and transforming congressional offices into bureaucracies can be avoided by a selective use of the veto. The CBO study predicted that only 100 bills would be reviewed each year. The strongest argument for the veto, which I find persuasive, is that, considering the extent of congressional delegation to the executive branch and to other administrative agencies, without this additional form of oversight Congress may lose much of its capacity for effective control of government.

What is the basis for Congress' exercise of this form of review of the administration of Government?

The doctrine of the separation of powers contains, by design, a certain ambiguity regarding the respective powers of the legislative and executive branches of government. The most famous statements of the doctrine, which influenced the American founders and framers of our Constitution, are found in the writings of Locke and Montesquieu. At the outset, the preponderance of governmental power lies with the lawmaking branch. Only after the legislative powers are vested in a plural body (which is not always in being) and the executive powers are placed in a monarch (who also must approve of all legislation and who possesses the power of the sword) does the separation of powers favor executive government. Our constitutional framers revised the separation of powers enough to reconcile the executive's powers with a republican form of government. The executive veto was qualified, the power to declare war was vested in Congress, and there was no explicit statement regarding the prerogatives of the executive. The executive's independence was established by the mode of election, the qualified veto, and the power of appointment, but certainly this did not establish his constitutional supremacy.

The constitutional and political situation at the time of the founding in fact suggested congressional supremacy. This accounts for the expressions of concern, in the Federalist Papers and in other writings, about legislative tyranny. However, Madison, Hamilton and Jefferson anticipated that at some later time the growth of the national government would necessarily shift the balance of power from Congress to the President. While this increase in presidential power is not inconsistent with the Constitution, neither does it change the fact of Congress' "de jure" supremacy. Most of the increases in presidential power have resulted from congressional authorization or inaction. For example, Hamilton's defense of President Washington's Neutrality Declaration in 1793 argued that the executive's duty to see that the laws be faithfully executed included treaty interpretations. However, Hamilton acknowledged that Congress could, if it wanted to, contravene the Neutrality Declaration with a declaration of belligerancy or war.[1]

The constitutional separation of powers between Congress and the President may understandably lead to presidential government, but it rarely supports the contention that an act of Congress has infringed on executive power. Only two examples come to mind. The President, as commander in chief, must have control of the armed forces when a war is declared, and the executive's appointment power has been interpreted to include the power of removal, with certain exceptions to be discussed later. The only Supreme Court decisions that have invalidated legislation as infringing on executive power have involved the appointment power. In this respect our constitutional practice has supported our constitutional theory that in a republican form of government, the legislative branch has a "de jure" primacy, if not supremacy, in its relations with the executive branch.

The Supreme Court affirmed this view in *McCulloch* v. *Maryland*, when it interpreted the powers of Congress broadly. After distinguishing between a prolix legal code and a constitution, Justice Marshall proceeded to develop the doctrine of inherent, or implied, powers, which simply means that only the most general powers are actually enumerated, and many other derivative powers are implied. Then comes the concluding "necessary and proper" clause: "To make all laws which shall be necessary and proper for carrying into executive the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." This obviously authorizes the establishment of executive departments, the lower federal courts, and territorial governments, but it likewise authorizes actions necessary to oversee executive branch operations.

While the oversight power of Congress is seldom challenged directly, the congressional veto power is another matter. H. Lee Watson's argument against the congressional veto starts by narrowly defining the powers of Congress:

"The basic function of Congress is to legislate. Normally, Congress has no further role after it considers and passes on a bill or votes whether to override in the event of a presidential veto. Insofar as Congress engages in activities pursuant to this rule, it is acting within what will be referred to in this Comment as the legislative process.

"Congress steps outside of the legislative process when it passes and acts according to a statute authorizing later action by resolution or committee vote, thereby retaining jurisdiction over the subject matter of legislation. Such a statute creates a new role for Congress, ambiguously situated between the legislative and executive functions."[2]

Watson cites Congress' participation in impeachment, appointments, and treaties as examples of extra-legislative functions. He even regarded the first congressional request for information and a report, from the Secretary of the Treasury in 1789, as extra-legislative. The separation of powers doctrine, by purporting to divide all government activities into three distinct and exclusive functions, permits Watson to argue that anything that is not clearly legislative is therefore executive. Since we have a republican form of government, one could more persuasively use the same kind of argument to reduce the powers of the President.

A better view of the powers of Congress was presented by Woodrow Wilson, in his "Congressional Government" written in 1885:

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eye and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. The informing function of Congress should be preferred even to its legislative function. The argument is not only that discussed and interrogated administration is the only pure and efficient administration, but, more than that, that the only really self-governing people is that people which discusses and interrogates its administration.[3]

Writing again in 1908, with the example of Teddy Roosevelt before him, Wilson saw that "the president is at liberty, both in law and conscience, to be as big a man as he can." But he did not reassess the constitutional powers of Congress. He went on to write: "His (the President's) capacity will set the limit; and if Congress be overborne by him, it will be no fault of the makers of the Constitution—it will be from no lack of constitutional powers on its part, but only because the President has the nation behind him, and Congress has not. He has no means of compelling Congress except through public opinion."[4] The veto is different from the congressional power of investigation, but each power provides Congress with a capacity for effective administrative oversight.

We conclude this general discussion of Congress' powers by noting that the Congressional veto is a device which permits the legislative branch of our national government to inform itself concerning programs and policies that it establishes, but whose execution is entrusted to others. We turn now to the major constitutional objections that have been raised against it.

Does the congressional veto contravene the presentation clause of the Constitution?

The strongest constitutional argument against the congressional veto rests on the last paragraph of article I, section 7, clause 3:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same bill shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

In the Federal Convention, James Madison argued for the inclusion of this language, "observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes, etc.".[5] Robert W. Ginnane, in his article "The Control of Federal Administration by Congressional Resolutions and Committees," cited this statement in support of the conclusion that, except for adjournment, "policymaking decisions of Congress (must) be submitted to the President."[6] In light of the reason Madison gave, Ginnane's conclusion does not follow. It all depends on whether the subsequent disapproval power is regarded as wholly independent legislation.

The Senate Judiciary Committee concluded otherwise when, on February 12, 1896, the Senate directed it to report "whether concurrent resolutions generally are required to be submitted to the President of the United States." The Committee's conclusion, which is cited in "Hind's Precedents of the House of Representatives" as the authoritative statement, was:

"We conclude this branch of the subject by deciding the general question submitted to us, to wit, 'whether concurrent resolutions are required to be submitted to the President of the United States,' must depend not upon their mere form, but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for his approval; otherwise they need not be. In other words, we hold that the clause in the Constitution which declares that every order, resolution, or vote must be presented to the President to 'which the concurrence of the Senate and House of

Footnotes at end of article.

Representatives may be necessary,' refers to the necessity occasioned by the requirement of the other provisions of the Constitution, whereby every exercise of the 'legislative powers' involves the concurrence of the two Houses; and every resolution not so requiring such concurrent action, to wit, not involving the exercise of legislative powers, need not be presented to the President. In brief, the nature of the substance of the resolution, and not its form, controls the question of its disposition." [7]

Whether or not the resolution is an act of legislative power seems consistent with Madison's concern that all genuine legislation be presented to the President. Ginnane's interpretation of the Senate decision of 1897 is different: "This the committee assumed, as of 1897, that concurrent resolutions were appropriate only in matters which were the exclusive concern of the two Houses—such as printing, joint rules, and expressing the sense of Congress upon a given subject." But Ginnane's narrow formulation does not explain why use of the congressional veto, as an oversight device enacted into law, must be regarded as the equivalent of legislation itself.

The publication of Ginnane's article in 1953 caused the then Justice and former Attorney General Robert H. Jackson to make public for the first time an important presidential legal opinion on the congressional veto provision in the Lend Lease Act of 1941. The law conferred special authority on the President to sell, transfer, exchange, lease, or otherwise dispose of certain defense articles for countries deemed vital to the defense of the United States. Then it set the following limits:

". . . after June 30, 1943, or after the passage of a concurrent resolution of the two Houses before June 30, 1943, which declares that the powers conferred by or pursuant to subsection (a) are no longer necessary to promote the defense of the United States, neither the President nor the head of any department or agency shall exercise any of the powers conferred by or pursuant to subsection (a)." [8]

Jackson reported that the Secretary of State regarded the termination provision as "not damaging to the essential principles of the bill and designed to meet criticism from the opposition that the Bill gave too much power to the Executive." [9] Roosevelt regarded the provision as unconstitutional, but he could not say so openly because it would have undermined his congressional support. The bill's opponents agreed with Roosevelt on the constitutional question, and for that reason argued against the entire measure. Roosevelt's supporters argued that the measure was both constitutional and that it provided a sufficient check on the executive.

Roosevelt instructed Jackson to have a memorandum drafted for him to submit to the Attorney General expressing his opinion that the measure was unconstitutional. Jackson recounts how he had this done, and, also at the President's instruction, how he kept it among his personal papers, making it known only in 1953 after Ginnane's article was published. The memorandum argued that the concurrent resolution terminating the delegated power was a repeal of legislation by unconstitutional means, since it avoided the presidential veto. Jackson regarded this as a "debatable point," formulating the issue as follows:

"The question on which my doubts were not fully satisfied never bothered the President in the least. It seemed to me to depend on whether the provision was to be considered as a reservation or limitation by which granted power would expire or terminate on the contingency of a concurrent resolution or was to be regarded as authorizing a repeal by concurrent resolution." [10]

The issue cannot be stated more clearly and fairly than that. With such alternatives to choose from, we may reasonably conclude that the Supreme Court should, at the very least, avoid ruling against Congress. When we consider the purpose of the enumerated powers, including the necessary and proper clause, and the character and purpose of the power involved, we should come to the same conclusion that the distinguished constitutional scholar Edward S. Corwin came to in his book, "The President: Office and Powers":

"As we have seen, moreover, it is generally agreed that the maximum that the legislature may not delegate its power signified at the very least that the legislature may not abdicate its powers. Yet how, in view of the scope that legislative delegations take nowadays, is the line between delegation and abdication to be maintained? Only, I urge, by rendering the delegated powers recoverable without the consent of the delegate; and for this purpose the concurrent resolution seems to be an available mechanism, and the only one." [11]

Does the congressional veto infringe upon executive power?

If the Congressional veto does not contravene the presentation clause, it might nonetheless infringe upon the executive power reserved to the President. This is a difficult argument to make, since the Constitution's enumeration of executive powers is sparse. It includes the power of appointment and the power of commander in chief. We shall consider two arguments, one that urges severe limits on legislative delegation, and another that uses a Supreme Court decision to interpret legislative power narrowly and executive power broadly.

The delegation question has its origins in John Locke's principle that the "legislature may not delegate its power," since that power is itself delegated by the people. The Supreme Court's interpretation, which Corwin drew on, is that Congress must delegate power with clear standards and that it must be able to recover the power. The last time the Court struck down laws for delegating power without sufficient standards was in 1935.

A House report on a congressional veto resolution for the Executive Reorganization Act of 1939 found it "difficult to believe that the effectiveness of action legislative in character . . . may not be conditioned on a vote of the two legislative bodies of the Congress." [12] But Ginnane's answer was: "It is one thing for a statute to provide that, after Congress and the President have both performed their legislative roles, the application of a statute may be further conditioned upon an executive officer's finding of fact or upon a favorable vote of interested persons, and it is another thing for Congress to reserve to itself, excluding the President, the power of further determining the application of a statute. It is a non sequitur to say that, since a statute can delegate a power to someone, not bound by the procedure prescribed in the Constitution for Congress' exercise of the power, it can therefore 'delegate' the power to Congress free of constitutional restrictions on the manner of its exercise." [13] Without any consideration of the necessary and proper clause, and more generally, what it means to have a republican form of government, Ginnane denies that Congress has the power to qualify delegations of power so that it might take a critical look at what is proposed in its name. The congressional power is, after all, only a power to deny, actively or passively, what the executive branch proposes to do.

Another critic of the congressional veto, Professor Antonin Scalia, formerly with the Justice Department, made the following argument against the review provision of the Executive Reorganization Act of 1977:

"Congress must either delegate to the president the authority to reorganize the Executive Branch, subject to their updoing his work through the normal process of legislation, or else they must themselves adopt such reorganization through the constitutionally prescribed legislative process. . . . In creating a form of governmental action which lies somewhere between these two acknowledged constitutional forms, the present bill evades the deterrent and the restraint which they contain, and this substantially reduces the people's control over their government." [14]

This is a peculiar formulation. If anything, the people's control over their government is enhanced by the adoption of qualified delegation devices. As Corwin said, "Congress being free not to delegate power, is free to do so on certain stipulated conditions. . . . Why then, should not one condition be that the delegation shall continue only as long as the two houses are of opinion that it is working beneficially?" [15] Put another way, Scalia imposes rigid rules for a functional separation of powers which should be rejected for two reasons: first, there is no constitutional necessity for them; and second, they lead not just to presidential government, but to congressional incapacity.

The Supreme Court decision which has been cited to support the limited view of Congressional powers is *Springer* v. *Philippine Islands*. The court held that the separation of powers provisions of the Philippine Constitution, patterned after the American, were violated by a law which gave the legislative officers the power to vote the stock which elected the directors and managing agents of corporations created by the legislature. While the holding was based on the appointment power, here taking the form of voting shares of stock to appoint the officers, this dictum has been cited by opponents of the Congressional veto:

"It may be stated, then, as a general rule inherent in the American constitutional system, that, unless otherwise expressly provided or incidental to the powers conferred, the legislature cannot exercise either executive or judicial power; the executive cannot exercise either legislative or judicial power; the judiciary cannot exercise either executive or legislative power. The existence in the various constitutions of occasional provisions expressly giving to one of the departments powers which their nature otherwise would fall within the general scope of the authority of another department emphasizes, rather than casts doubt upon, the generally inviolate character of this basic rule." [16]

This rigid statement of the separation of powers, which is not in the Constitution, drew a dissent from Justices Holmes and Brandeis:

"It does not seem to need argument to show that however we may disguise it by veiling words we do not and cannot carry out the distinction between legislative and executive action with mathematical precision and divide the branches into watertight compartments, were it ever so desirable to do so, which I am far from believing that it is, or that the Constitution requires." [17]

While it is true, as Ginnane pointed out, that Springer "has never been qualified by the Supreme Court or by the lower federal courts," [18] it applies only to the narrow holding regarding appointments, not to the obiter dicta regarding the separation of powers. For example, in *Humphrey's Executor* v. *United States*, decided in 1935, the Supreme Court upheld the law establishing the Federal Trade Commission, including the part which insulated the commissioners from the President by giving them fixed terms and limit-

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ing their prior removal for cause only. In qualifying the earlier *Myers* v. *United States* decision, which upheld the President's right to remove a postmaster at his discretion, the court distinguished executive officers from "quasi-legislative, quasi-judicial" officers:

"The commission is to be non-partisan; and it must, from the very nature of its duties, act with entire impartiality. It is charged with the enforcement of no policy except the policy of the law. Its duties are neither political nor executive, but predominantly quasi-judicial and quasi-legislative." [19]

Any separation of powers argument that would deny to Congress the power to supervise the administration of government after this decision is of doubtful validity. Certainly the incursion into the executive's claimed field of administration effected by the Humphrey's decision is far more significant than the Congressional veto. The President at least has a chance to veto the legislation that contains veto provisions. He has no control over regulations promulgated by independent regulatory agencies.

The Supreme Court's lengthy per curiam opinion in *Buckley* v. *Valeo*, which upheld parts of the Federal Election Campaign Act of 1974 and overturned other parts, including the original mode of appointing the commissioners, did not explicitly reach the congressional veto provision which is still in the law, but it did lend support to its validity. The original commission was to be appointed partly by the President, with the concurrence of both houses, partly by the President pro tem of the Senate, and partly by the Speaker of the House. The constitutional difficulty arose from article II, section 2, clause 2:

"(The President) shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public ministers and Consuls, Judges of the Supreme Court and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such interior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments."

After citing Springer on the narrow point that "the legislature of the Philippine Islands could not provide for legislative appointments to executive agencies," the Court cited *United States* v. *Germaine* on the appointments clause: "That all persons who can be said to hold an office established under the Constitution were intended to be included within one of the other of these modes of appointment, there can be little doubt." [20]

The only offices that are excluded are those which provide information to Congress, such that Congress might just as well have delegated the powers to one of its committees. The Court's holding on this point was that "These provisions of the act, vesting in the Commission primary responsibility for conducting civil litigation in the Courts of the United States for vindicating public rights, violate Article II, clause 2, section 2 of the Constitution. Such functions may be discharged only by persons who are "Officers of the United States" within the language of that section."

The Court noted the law's provisions for review and disapproval of the FEC's proposed rules and regulations, but it refused to discuss the question in light of its holding. However, when it dismissed the contention that the field of elections made this law a special case, the court said: "But Congress has plenary authority in all areas in which it has substantive legislative jurisdiction . . . so long as the exercise of that authority does not offend some other constitutional restriction." This suggests that Congress' power to exercise oversight of administration is as strong in one substantive field as in another. We shall return to this point.

Justice White, who concurred in the per curiam opinion on the matter of the appointment of the commissioners, did discuss the congressional veto:

"Under section 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by non-action. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulations may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses." [21]

In a footnote following this passage, White wrote: "Surely the challengers to the provision for congressional disapproval do not mean to suggest that the FEC's regulations must become effective despite the disapproval of one House or the other. Disapproval nullifies the suggested regulation and prevents the occurrence of any change in the law. The regulation is void. Nothing remains on which the veto power could operate. It is as though a bill passed in one House and failed in another." White goes on to indicate under what circumstances he would find the congressional veto unconstitutional:

"I would be much more concerned if Congress purported to usurp the functions of law enforcement, to control the outcome of particular adjudications, or to pre-empt the President's appointment power; but in light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has passed over his veto. It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses. But here no action of either House is required for the agency rule to go into effect and the veto power of the President does not appear to be implicated." [22]

In addition to the Buckley case, the Supreme Court let stand, on January 9, 1978, a decision of the Court of Claims, on May 18, 1977, which upheld the one-house veto provisions of the Federal Salary Act of 1967. The Court of Claims was careful to limit itself to the context in which the one-House veto was attacked. This case and the companion cases involved the power of Congress to regulate the pay of Members of Congress, judges, and members of the executive branch:

"Article I, section 1 endows Congress with the broadest reach of power in this instance, so long as executive functions are not infringed and presidential veto rights not compromised, because the subject of the one House veto, the salaries of judges and congressmen and other government officers, is at the center of the congressional sphere. On this foundation, the necessary and proper clause authorizes Congress to choose, first, to delegate the initial power to make proposals to the President, and, then, to select for itself the appropriate method for checking and monitoring the President's action." [23]

After citing McCulloch v. Maryland on the necessary and proper clause, and the district court's decision upholding the one-house veto against the objections of an individual Congressman in Pressler v. Simon, the court stated this general principle: "Where there has been no violation of separation of powers principles or of any specific provision of the Constitution, the necessary and proper clause can authorize a given method of obtaining a desired result, as well as ground a substantive provision (as in McCulloch)." [24]

Certainly no specific provision is violated by the congressional veto, whether it affects salaries or any other subject within Congress' jurisdiction. Furthermore, since the Buckley Court said that Congress' power is plenary in all areas in which it has substantive legislative jurisdiction, this undermines any suggestion that the veto, having been upheld in one area, might still be invalidated in another.

Does the one-House veto violate the Constitution's bicameralism?

The Congressional veto provisions, with very few exceptions, involve one or both houses. The bicameralism principle, if it is used as a guide, would seem to require the approval of both houses for a proposed regulation or action to take effect. Bicameralism would not necessarily favor concurrent over simple resolutions, however. It would depend on whether the veto resolution required approval, or simply permitted disapproval. For example, if a regulation is proposed by the President, or one of his political appointees, bicameralism would suggest either a required concurrent resolution or a possible simple resolution of disapproval. In those two cases, both houses would have to be in agreement, either actively or passively, for the proposal to take effect. To require a concurrent resolution of disapproval, or to permit a simple resolution of approval, would mean that such an action could go ahead without the agreement of both houses. Congressional practice confirms this reasoning only partly. For example, CRS figures on procedures involving the Senate and House as entities show 127 approval or disapproval resolutions, classified a follows: [25]

Concurrent resolutions of disapproval	34
Concurrent resolutions of approval	16
Simple resolutions of disapproval	53
Simple resolutions of approval	0
Concurrent resolutions terminating activity prior to scheduled time	8
Concurrent resolutions approving, contravening or rescinding executive proposals	6
Miscellaneous resolutions	10

From these figures we may conclude that the principle of bicameralism is followed in most cases, and in the most significant category where it is not followed—in the 34 cases in which a concurrent resolution of disapproval is provided for—the presumption is with the President and the burden of responsibility is with Congress to disallow the specific exercise of a previously delegated power.

A few examples of legislation fitting the different veto devices illustrate the reason for the diversity. Consider the War Powers Act of 1973 and the Congressional Budget and Impoundment Control Act of 1974. The War Powers Act directed the President, once he committed American forces to combat in the absence of a declaration of war or any other specific statute, to report to Congress within forty-eight hours, and to terminate the hostilities within sixty days, at most ninety, in the absence of explicit congressional support. In addition, Congress could, by a concurrent resolution, terminate hostilities immediately. The Congressional Budget and Impoundment Control Act includes two forms of congressional veto for the two different forms of presidential impoundment. For the more drastic rescission, the President reports to Congress and a concurrent resolution of approval must be passed within forty-five days, or the budget authority must be made available for obligation. For deferral, the President makes the same report, and the budget authority

Footnotes at end of article.

must be made available for obligation if either house passes an "impoundment resolution" disapproving the proposed deferral at any time after receipt of the special message. In these cases, the subject matter dictated that the burden of proof lay with the President. The Arms Export Control Act of 1976 puts the burden on Congress to disallow a proposed sale. For example, under section 211 of this act, the President transmits to Congress notice of his intention to sell arms to foreign countries and Congress has the power to disapprove the sale by a concurrent resolution, which must be passed within thirty days of formal notification. This provision might be said to violate the bicameralism principle, since one house might disapprove of the sale and be unable to persuade the other house to disapprove. But both houses had to agree to the law initially, and the subject matter suggests that Congress rightly intended to place the major responsibility with the President.

In conclusion, Congress' assignment of veto desires to legislation has reflected a sober consideration of the kind of power involved as well as the principle of bicameralism. Where bicameralism is departed from, the departure is due either to the importance of the subject matter for presidential or—in a small number of cases—congressional consideration.

Congressional disapproval of regulations of commissions and agencies not appointed by the President

While many congressional veto provisions can be likened to "reverse legislation" where the President is asked to propose and Congress may dispose, we did not regard bicameralism as dictating any specific veto form, although there was no instance of a one-house approval provision. One critic, Watson, has questioned whether a congressional veto would be appropriate in those circumstances where the President does not control submission of the proposed regulations. Following a strict view of reverse legislation would lead to the days, or the budget authority must be made available for obligation. For deferral, the President makes the same report, and the budget authority must be made available for obligation if either house passes an "impoundment resolution" disapproving the proposed deferral at any time after receipt of the special message.

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Congressional disapproval of suspension of deportation orders by the Attorney General in immigration cases

Congress has never limited itself to legislation in the strict sense. Private bills, which outnumber public laws, are defined by as "bills for the relief of private parties, bills granting pensions, bills removing political disabilities and bills for the survey of rivers and harbors." [26] A *Harvard Law Review* Note in 1966 stated that in fact only two kinds of private bills—bills dealing with relationships between individuals and the government—are passed those dealings with claims against the United States and claims by the government against individuals, and those excepting individuals from certain immigration and naturalization requirements.[27] Congress has the power, under article I, section 8, clause 4, to pass naturalization laws. With that power and under the necessary and proper clause, it has taken a special interest in the administration of immigration statutes.

The only congressional veto provision that is currently before the courts involves immigration law. It requires separate consideration because the veto provision permits Congress to act in particular cases involving individuals. In this way it is similar to a private bill. The resolutions come up on the legislative calendar in the same manner. Recalling Justice White's statement of concern about Congress' use of the veto to control the outcome of particular adjudications we must give this veto our special attention.

The Immigration and Naturalization Act of 1952 authorizes the Attorney General to suspend deportation of an alien and adjust his status to "lawfully admitted for permanent residence" where the person has been in the country for seven years and proves he is of good moral character and that his deportation would result in extreme hardship to himself or his immediate family, if a member of that family is a citizen or a lawfully admitted alien. Section 244 (c)(1) requires the Attorney General to submit a statement of every proposed case for suspension of deportation to Congress. Section 244 (c)(2) permits either the House or the Senate to pass a resolution of disapproval of the proposed suspension, in which case the deportation takes place.

In the case before the Ninth Circuit, petitioner Chadha was a student in this country under non-immigrant status. After finishing his studies and after being here for seven years, he petitioned for a suspension of deportation and for permanent residency, alleging that as an Asian he was not welcome in Kenya, where he was born, and that the United Kingdom could not give him an employment voucher for at least a year. On these facts, an Immigration Judge found that Chadha met the requirements for a suspension, and, on his recommendation, the Attorney General recommended it. The House Subcommittee on Immigration and Naturalization reviewed 340 such cases and reported to the House, recommending disapproval of the proposed suspension in Chadha's case and five others. The subcommittee reported to the House that these six cases did not meet the requirements of "extreme hardship" established in the law, and Congress voted the disapproval resolution. Chadha is suing on the grounds that the one-house veto is unconstitutional. The opposing party, the Immigration and Naturalization Service, agrees wiht Chadha on the constitutional issue, raising some doubt as to the existence of a true case or controversy. Due to the importance of the issue, Congress has been permitted to file amici curiae briefs.

Since the congressional veto only nullifies the proposed suspension, it is not punishment in the constitutional sense. Congress is simply withdrawing a proposed benefit, or exemption from the law, on the grounds that it was improperly applied by the Attorney General. We have already noted Congress' authority in naturalization and immigration cases. As further confirmation of the extensiveness of that authority, we should take note of a remark of Madison's in the Federal Convention. Objecting to a motion to attach a fourteen year citizenship requirement for election to the Senate, Madison said it was improper not only for its illiberality, but also "because it will put it out of the power of the National legislature even by special acts of naturalization to confer the full rank of citizens on meritorious strangers and because it will discourage the most desirable class of people from emigrating to the United States." [28]

We conclude that the congressional veto in the immigration law, notwithstanding its affecting individual cases, does violate the Constitution's separation of powers doctrine or bill of attainder clause.

The case for the congressional veto: The Administrative Rulemaking Reform Act

It is not sufficient to dispose of the constitutional objections to the congressional veto. Equally important is our obligation to explain what we propose to do and why we regard it as desirable. Specifically, while approximately fifty current statutes contain congressional veto provisions, Congress does not have adequate means of overseeing the numerous administrative regulations that are promulgated each year. Congressman Levitas indicated that he intends to offer congressional veto amendments to many of the regulatory statutes coming up for reauthorization this year if his bill or some similar measure is not passed. Since I agree with him that the piecemeal approach is inferior to the single, comprehensive bill, I wish to describe the leading features of HR 959 and the reasons given for passing such a bill, as stated in the report on the bill's predecessor in 1976. In addition, I wish to comment on the Senate's view of the congressional veto and the recent study sponsored by the Administrative Conference which opposes an across-the-board veto.

H.R. 959: What does it do?

The term "rule" in the title of the bill refers to "an agency statement of general applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency." The provisions for disapproval or reconsideration of rules do not affect any internal rules, regarding organization, practice, procedure, etc.

After a rule is promulgated and the agency transmits a copy of it to both houses, Congress has 90 days to vote a concurrent resolution of disapproval; otherwise, the rule goes into effect. However, if within 60 days one house has voted a concurrent resolution of disapproval, and if that resolution is not disapproved by the other house within 30 days, then the rule is disapproved. Thus if one house acts promptly, the other house's inaction implies tacit consent to the disapproval resolution. If after 60 days no committee has reported a resolution to the parent house, the rule goes into effect immediately.

Either house may pass a simple resolution directing reconsideration of a rule. If a reconsideration resolution is passed within 90 days after the rule was promulgated, the rule does not go into effect. The agency must reconsider the rule within 60 days and either repromulgate it or withdraw it. If repromulgated, the rule is subject to congressional review, but if the agency takes no action, the rule lapses. The 90-day period is reduced to 60 days if, after that time, no committee has reported a reconsideration resolution. Rules that have been in effect more than 90 days are subject to reconsideration resolutions but the agency has 180 days to repromulgate them.

Both disapproval and reconsideration resolutions are referred to the appropriate standing committees having oversight and legislative responsibility. If the committee has not reported out a resolution within 45 days, or 90 days in the case of reconsideration of rules in existence more than 90 days, then a resolution discharging the committee from further consideration is in order. If one house reports out a disapproval resolution which is referred to the other house, and the appropriate committee of that House does not report out the resolution within 15 days, a motion to discharge is in order. The motion to discharge must be supported by ⅓ the house involved, and it is highly privileged in the House and privileged in the Senate. Time for debate is limited to one hour and no amendments are in order. When the committee has reported or been discharged from further consideration of the resolution, it is in order to move to consider the resolution. The debate is limited to two hours, divided equally among those favoring and those opposing the resolution.

The report on the predecessor to H.R. 959: House committee assessment of H.R. 12048 in the 94th Congress

The Judiciary Committee supported the predecessor to H.R. 959 in 1976, with but one dissent. The report cited Professors Nathaniel E. Gonzansky and Frank P. Samford, of Emory University Law School, to the following effect:

"This seems to be a simple proposal for preventing abuses of the administrative process. It does not seek to strip the agencies of power but, rather, implicitly recognizes that a modern government would find it very difficult to operate without administrative agencies exercising discretionary authority. Instead, it provides for a modest congressional input into the process. A House of Congress could not on its own amend, modify, or mandate administrative rules; it could only veto a rule and, that, only by means of a resolution passed by the full House or Senate. One would not anticipate that this power would be exercised frequently, although the possibility of its exercise would operate to constrain the agencies in certain instances. If one believes that administrators should be subject to some control by elected officials, this influence can only be regarded as salutary." [29]

The report also quotes from Professor Kenneth Culp Davis' Administrative Law treatise:

"Perhaps the most significant twentieth century change in the fundamentals of the legal system has been the tremendous growth of discretionary power. And the prospect is, for better or for worse, that discretionary power will continue to grow. The three main reasons for the continued increase of discretion are that (1) our governments—federal, state and local—are likely to go on undertaking tasks for the execution of which no one is able to prepare advance rules, (2) even when we have capacity to formulate rules discretion is often desirable for individual justice, and (3) in this country we have developed a habit of allowing discretionary power to grow which far exceeds what is necessary and which is much less controlled than it should be.

"What we need to do is to work on the third reason. We should reject the extravagant version of the rule of law in favor of a milder version that can be much more effective in protecting the interests of justice.

"We should try to eliminate unnecessary discretion. We should adopt a sound meaning of the rules of law—that discretionary power should be eliminated or controlled without undue sacrifice of other values that we may deem important." [30]

Congressman John Seiberling dissented, expressing the view that the existing powers of congressional oversight were sufficient. He suggested that the enactment of this reform would give committee chairmen too much power, would lead to advance submission of proposed rules, thus permitting intimidation of the agencies and departments, and finally, that too much of Congress' time would be taken up on oversight of administrative rules:

"If this bill is enacted into law, Congress is going to have to spend an inordinate amount of time just reviewing regulations, especially in light of the bill's provision enabling 20 percent of either body (87 members of the House and 20 members of the Senate) to require a floor vote. The majority reported that between January and September 1975 there were 10,245 proposed rules. This bill could end up forcing several hundred votes every year, even if only 5 percent of the proposed regulations were opposed by 20 percent of the members. Our time can in most cases be better spent in other endeavors." [31]

Representative Seiberling's objections merit careful consideration because he points to a serious potential problem: overloading Congress with more work than it can handle properly. I believe, however, that the benefits of the added oversight mechanism far outweigh the cost of additional work. First, the very number of proposed regulations every year is precisely why the Judiciary Committee, and nearly two-thirds of the full House, concluded that the traditional modes of congressional oversight of administration are no longer sufficient. As for the added influence of committee chairmen, that seems to be a necessary consequence of strengthening Congress' review powers. Furthermore, this proposal would broaden oversight power within both houses since it would give the authorizing committees jurisdiction over the proposed regulations within their fields of legislation, thereby supplementing the power of Congress to cut agency budgets. As for the time required for the congressional review, the Congressional Budget Office estimated that only 100 agency regulations would be reviewed each year. The CBO study also estimated that only three additional committee staff members would be necessary in each house.

Senate report on congressional oversight of regulatory agencies

In 1977 the Senate Government Operations Committee conducted a study of congressional oversight of regulatory agencies as part of its comprehensive study of federal regulation. The seven pages devoted to the congressional veto concluded with the following recommendation:

"Although the legislative veto may be appropriate in limited situations, the Congress should reject an across-the-board use of the legislative veto for regulatory agency rules. Congress should also refrain from routinely adding a legislative veto provision to regulatory agency statutes." [32]

The following reasons for that conclusion were given: the veto may increase delay in the regulatory process, increase uncertainty in the regulated industries and increase pressure on Congress, diminish the usefulness of agency records, encourage the agencies to decrease rulemaking and increase adjudication, and have an adverse impact on entire regulatory programs.

The delay in promulgation of regulations of 60 days under the expedited procedure, which is likely to occur in the large majority of cases, is a necessary price for congressional oversight. In any case, since some agencies already take many months to promulgate regulations the added time may be less important. The prospect of delay may also force the agencies to speed up their internal processing of regulations. It is also unlikely that the agencies will turn to adjudication where regulations are concerned. Rulemaking is more efficient, and Congress can legislatively require rulemaking in the appropriate cases if necessary. Senator Sam Nunn, who dissented from the Committee Report, expressed his position as follows:

"The basic issue, I think we all agree, is accountability. Federal agencies and independent regulatory commissions participate in the making of public policy decisions through their rulemaking powers. They, in turn, must be held responsible for those decisions. It is entirely proper for Congress to insure that rules and regulations correspond with its intentions. A way of providing for that kind of accountability is through a legislative veto that would enable the Congress—or either House of the Congress—to reject rules and regulations which go beyond what Congress intended.

A legislative veto may not be the perfect answer to the problems which have been spawned by the proliferation of agencies and regulatory commissions, but while Congress searches for the perfect solution the legislative veto can be a useful and helpful corrective." [33]

The report of the Administrative Conference of the United States

Professors Harold Bruff and Ernest Gellhorn examined five agency programs that were subject to the congressional veto from 1972 to 1977 for the Administrative Conference of the United States. Their report was published in the "Harvard Law Review" last May. Comparing congressional oversight with the veto to oversight without it, the authors said: "The principal difference is the negotiating process between congressional committee staffs and agencies, which seldom occurs in the absence of a veto provision." [34] Later, they contrasted the sporadic review that takes place under authorization renewal and appropriation hearings with review under a congressional veto scheme, which is "specifically and narrowly focused on the substance of proposed rules." "Thus the veto, unlike any of the traditional oversight techniques, permits regular and systematic examination of the substantive de-

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tails of an agency's program." Finally, the negotiations between congressional oversight committees and agencies are described as "a highly efficient review technique in the sense that they resolve policy differences between the agency and the committees relatively quickly and without destroying the coherence of the resulting rule as an item veto might." The authors contend that, notwithstanding this efficiency, the one "critical feature" is the involvement of the congressional committees and staff "deeply in the rulemaking process." [35]

These passages could be cited by supporters of the congressional veto without comment. As Professor Davis and Senator Nunn have pointed out, the increase in delegation of governmental responsibility to the departments and agencies requires a device to permit the elected legislative branch to exercise systematic oversight of administration.

The authors seem to regard the administration of government as a science with a method and procedure altogether different from that part of government, often called politics, that is responsible for establishing objectives, providing for means of accomplishing those objectives, and whose agents are accountable to the people through elections. They regard rulemaking as distinctly a matter of "administration," as opposed to "politics". They begin by asking: "To what extent is rulemaking a normative or political process which is brought closer to the people's representatives by the legislative veto, and to what extent is it an expert or rational process that should not be subject to political influences?" [36] Later in the article, they answer their own question: "Members of Congress are unaccustomed, and the institution is ill-equipped, to make a restrained and judicious examination of a rule's subservience to statutory purposes." [37]

The most significant objection raised by these authors questions the capacity of Congress, especially as contrasted to the administrative agencies own notice and comment provisions for examining proposed new rules. The response to this objection is that the assumption of such a clear qualitative distinction between "politics" and "administration is false and that the increase in delegation necessitates added devices of congressional review. Congress is both a national legislature and a representative assembly. As a lawmaking body it must be able to review the many important rules and regulations that are promulgated in the name of legislation it enacts. The sheer complexity of government requires that it "farm out" many important questions to the departments and agencies. Certainly a well trained, highly qualified, and permanent civil service can administer programs in a way that an elective legislature cannot begin to, but it is not the intent of the congressional veto to replace the current administrators with congressional committees and staffs. As long as important judgments are made on matters affecting national policy—and administrative rules certainly do this—administrators cannot claim immunity from effective oversight in the name of the expertise of science.

The second objection raised by the authors is that the notice and comment proceedings of administrative hearings are more democratic and open than the congressional review provisions would be. After acknowledging that public participation in agency hearings did not abate after congressional review was enacted, they nevertheless suggest that "public participation before the agencies in programs subject to the veto might eventually shift its emphasis from reasoned debate over policy to a showing of political strength meant to impress both the agency and Congress." Not only will the participation be less rational but it will not be open and fewer will have access. "Not all interested parties have the resources both to participate in the public comment proceedings and to lobby the committees effectively in the review process. Those groups having greater resources or prior influence with congressional committees have an additional chance to affect agency action not available to those without such resources or influence." [38]

Certainly most individuals do not have the time, money, or inclination to lobby intensely over a long period of time for or against proposed government regulations. The interested parties find it worthwhile to organize themselves in a manner that permits them to make their case to officials having governmental responsibility. Why should this be any different whether or not we have the congressional veto provisions of H.R. 959? If anything, individual citizens will probably correspond more with their Congressman than with an agency. And granting that most sustained representation of informed opinion takes place by organized interest groups, the authors' objection to the veto comes down to this: they prefer the quasi-judicial character of the administrative hearing and fear anything that might compete with it or give Congress an additional source of oversight. They seem to prefer the adjudication of disputes regarding the best regulations by administrative judges to any form of political participation and influence by popularly elected, and hence politically responsible, legislators. But the consequence of their view would be congressional abdication in favor of the quasi-judicial procedures and determinations of administrative proceedings. The congressional veto is not intended to eliminate what we have, but to supplement it with a device that permits Congress to oversee what is promulgated in its name. It forces Congress to keep itself informed about administration in a systematic fashion.

The last objection is that congressional review, as it considers the relation between the intention of the law and the regulation, infringes on judicial review. Bruff and Gellhorn note: "It is fundamental that the courts, not Congress, have the ultimate responsibility to interpret the law. To the extent that congressional review of rules duplicates the function of the courts, it does not seem a wise use of congressional time. Moreover, Congress is ill-equipped, both by inclination and competence, to determine its own former intent with the care and restraint customary in judicial review." [39]

This is the second time the authors referred to Congress as ill-equipped. Judicial review is in no way threatened by the congressional review of rulemaking powers that has been delegated to administrative agencies. Courts deal in particular cases and controversies with particular interested parties. They do not go about expounding on statutes, regulations, and the Constitution merely because there is an interesting question. A recent illustration of the limited character of judicial review comes from the debate on whether the Panama Canal treaties need the concurrent resolution of both Houses before they can become effective. This question concerns the relationship between the treaty making power and the power to dispose of the territory or other property belonging to the United States. The court wisely decided to leave that question to Congress. James Madison, the father of our Constitution, let it be known in the very first Congress that he thought each branch had an obligation to attempt to interpret its powers in accordance with the Constitution. He was not arguing against the ultimate authority of the Supreme Court, in a proper case or controversy, to interpret the Constitution, as such a question arose. Congress would do well to give more thought to both the constitutionality and the wisdom of contemplated actions. That could only assist both the courts and the administrative agencies.

Conclusion

In conclusion, I think it is fair to say that passing a congressional review provision such as HR 959 will give Congress more responsibility. That necessarily means giving congressional committees and their staffs more responsibility. Critics have suggested that our committees are not large enough to represent a national constituency, that the chairmen, who often control the staffs, are thereby given too much power, that the chairmen are all of one party, and that the congressional staffs already are too large and powerful. In response, I say that the primary question is whether or not we want Congress to be able to inform itself about the operations of American government so that it may be in a position to take informed action to secure governmental adherence to congressional intent. Furthermore, the added oversight device will necessarily broaden oversight power within each House by giving the authorizing committees additional responsibility. And the additions to committee staff, as estimated by the CBO, are but three members per house. The critics of this proposal appear to be critics of Congress, or at least skeptics of Congress' ability. The supporters of this proposal think that Congress is capable of assuming the governmental responsibilities that our founders gave to the national lawmakers.

FOOTNOTES

[1] The letters of "Pacificus" are in J. C. Hamilton, ed., The Works of Alexander Hamilton, 7 vols. (New York: Joint Library Committee of Congress, 1850–51) vol. 7.

[2] "Congress Steps Out: A Look at Congressional Control of the Executive," in 63 "California Law Review" 983, July 1975, pp. 991–2.

[3] (Riverside Press: Cambridge, Mass., 1885) p. 303.

[4] "Constitutional Government in the United States" (Columbia University Press: New York; 1921), pp. 70–1.

[5] Max Farrand, ed., "Records of the Federal Convention" (Yale University Press; New Haven: 1966) vol. II, p. 103 (August 15).

[6] 66 "Harvard Law Review" 569 (February 1953), p. 573.

[7] From Report No. 1335, 54th Congress, 2nd session, (1897), p. 8; quoted in Hinds' "Precedents," section 3483.

[8] 55 Stat. 32, (1941); quoted in Robert H. Jackson, "A Presidential Legal Opinion," in 66 "Harvard Law Review" 1353 (1953).

[9] *Ibid.*, p. 1354.

[10] *Ibid.*, p. 1355.

[11] 4th revised edition, (New York University Press: New York; 1957), p. 130.

[12] Quoted in Ginnane, *op. cit.* (see note 6), p. 595.

[13] *Ibid.*

[14] Testimony before House Committee on Government Operations, subcommittee on Legislation and National Security, March 1, 1977.

[15] Corwin, *op. cit.* (note 11) p. 130.

[16] 277 US 189, 201–2. (1928)

[17] *Ibid.*, p. 211.

[18] Ginnane, *op. cit.* (see note 6) p. 605.

[19] 295 US 602, 624 (1935)

[20] Buckley v Valeo, 46 L Ed 2d 659, 748 (1976), citing United States v. Germaine, 99 US 508, 509–10 (1879).

[21] *Ibid.*, p. 839.

[22] *Ibid.*

[23] Atkins et al. v. The United States, No. 41–76, decided May 18, 1977, p. 54.

[24] *Ibid.*, p. 54.

[25] Clark F. Norton, Congressional Review, Deferral and Disapproval of Executive Actions: A Summary and Inventory of Statutory Authority, CRS study 76–88 G, April 30, 1976, see table II, p. 11.

[26] 33 Stat. 611 (1905) 44 USC section 189 (1934).
[27] "Private Bills in Congress," in 79 "Harvard Law Review," 1684 (1966).
[28] Farrand, *op. cit.*, vol. II, p. 236 (August 9).
[29] Rept. No. 94–1014 Part 1, 94th Congress, 2d session, p. 9.
[30] *Ibid.*, p. 11.
[31] *Ibid.*, p. 30.
[32] "Study on Federal Regulation," vol. II, "Congressional Oversight of Regulatory Agencies," Doc. No. 95–26, 95th Congress, 1st session, February 1977, p. 122.
[33] *Ibid.*, p. 141.
[34] "Congressional Control of Administrative Regulations: A Study of Legislative Vetoes," in 90 Harvard Law Review 1369 (1977), p. 1420.
[35] *Ibid.*, pp. 1423, 1433.
[36] *Ibid.*, p. 1377.
[37] *Ibid.*, p. 1419.
[38] *Ibid.*, p. 1414.
[39] *Ibid.*, p. 1429.●

OMB AGREES TO COLLECT AND PROVIDE INFORMATION ON HOW FEDERAL FUNDS ARE DISTRIBUTED

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. FASCELL. Mr. Speaker, I am happy to advise my colleagues that the Office of Management and Budget has agreed to collect and disclose additional information on how the Federal Government spends its money.

Under the new Federal policy, Congress and the public will be advised of all details on the computer formulas and statistical assumptions used in distributing funds under major formula grant programs.

Involved are 90 programs totaling more than $52 billion this fiscal year. The new procedures will be applied initially to 13 of the largest such programs, which account for almost 90 percent of the total. Depending on the success of the initial effort, the procedures may be expanded later to other programs.

In addition, the initial effort will include four programs that are not among the 90—general revenue sharing; local public works; antirecession financial assistance; and EPA construction grants for wastewater treatment works.

The information to be released will include a summary of the formula for persons interested in a general description of the allocation process, and a complex description, using the mathematical formulas and symbols, for committee staffs, researchers, and others interested in full details.

By using this information, congressional committees, scholars, and other interested parties will be able to duplicate the formula for any of the programs and thereby assess the results. It will be possible to determine whether the results of the formula implementation correspond with congressional intent, and to experiment with alternative data elements to try to improve such results.

The overall goal is to assure that the billions of dollars distributed every year under Federal formula grant programs are spent as wisely as possible.

Typically, these programs include a formula under which administrators are directed to obligate available funds. The trouble is that in implementing such a program, the administrator must decide exactly which statistics will be used. In some cases, subjective decisions are made. Too often, funds may be distributed in ways not intended or foreseen by Congress.

Needy applicants—States, cities, or other recipients—may be penalized and relatively undeserving ones rewarded, because of the way the statistics that are selected and the computerized formulas work out. Last year, an arbitrary decision by the Commerce Department resulted in the exclusion of thousands of smaller communities from the $4 billion public works jobs program. We did not know that these towns had been left out until it was too late.

Under the new procedure, OMB will collect from each agency the information on formulas and make it available to Congress. In addition, we will be advised of the name of a person in the agency who may be contacted for access to the computer program for any formula.

We will also be kept informed of any changes or revisions which are made in the formula data. I am hopeful that this information will enable Congress to keep closer watch over what happens to these billions of dollars in Federal expenditures.

In seeking this new procedure, I have worked closely with the Honorable JACK BROOKS, chairman of the House Committee on Government Operations. We will be monitoring its success to determine areas where improvement is needed, and where it should be expanded.

The 13-formula grant programs selected for initial inclusion under the new system are: Agricultural food distribution; national school lunch program; title I (ESEA) aid for educationally deprived children; Federal impact educational aid; vocational education-basic grants to the States; basic support for rehabilitation services and facilities; social services for low income and public assistance; medicaid; State public assistance maintenance; community development block grants/entitlement grants; law enforcement assistance for improving and strengthening law enforcement; comprehensive employment and training programs; and highway research, planning, and construction.

I would like to include at this point correspondence with OMB and a sample statement (title I aid) giving further details of this agreement:

WASHINGTON, D.C.,
December 14, 1977.

Hon. DANTE B. FASCELL,
House of Representatives,
Washington, D.C.

DEAR MR. FASCELL: This letter and the enclosed material are in response to our earlier discussion regarding H.R. 8458, a bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance.

In our discussion we agreed that OMB would make selected formula information available without the need for legislation. I have enclosed as a sample a discussion of the formula for the distribution of Title I funds under the Elementary and Secondary Education Act of 1965 as amended. The discussion includes both a summary of the formula for readers interested in a general description of the allocation process, and a relatively complex description, using the mathematical formulas and symbols, for readers who are interested in the detail.

The reason for preparing the sample is to suggest it as the way to show this kind of information for other programs. If you think it is a useful approach, we will attempt to gather this kind of information for other major formula grant programs after our staff has completed preparation of the 1979 Budget. If you have suggested improvements to our proposed format, I suggest that our staffs meet to discuss them.

The enclosed sample statement would be distributed to the agencies, and they would be asked to prepare similar statements for other major formula grant programs. According to the 1977 Catalog of Federal Domestic Assistance, 13 of 90 formula programs accounted for almost 90% of formula grant obligations in 1976. Our initial efforts to develop detailed information would cover only these major programs. After reviewing the usefulness of the information derived from this initial exercise, a decision could be made on whether or not to generate the information for the smaller formula grant programs.

Regarding congressional access to agency formula data, we would identify in each paper the name of a person to contact for additional information. This would assist the Congress in getting access to additional information.

We share your concerns regarding the formula and data elements for Federal programs. As the enclosed illustration indicates, the formulas can be very complex and frequently must apply to thousands of communities throughout the nation. They are complex largely because legislation makes them so. We would hope that providing better information on the formulas and the data needed to administer them would make it possible to minimize any inequities associated with the administration of these programs.

Sincerely,

W. BOWMAN CUTTER,
Executive Associate Director for Budget.

WASHINGTON, D.C.,
February 28, 1978.

Mr. OSCAR JOHNSON,
Office of Congressman Dante Fascell,
House of Representatives,
Washington, D.C.

DEAR OSCAR: In our meeting last Thursday you requested a listing of the 90 formula grant programs we had identified, and the 13 large ones that we planned to describe.

Enclosed is a copy of the computer listing of formula grant programs from the 1977 Catalog of Federal Domestic Assistance, as updated November 1977. We included all formula grants with obligations of $500 million or more for 1976, the most recent completed year for which catalog information is available. I have circled the 13 programs we would describe. In addition to these 13, we would include four other programs not included in the Catalog that are quite large: general revenue sharing, local public works, anti-recession financial assistance, and Environmental Protection Agency construction grants for wastewater treatment works. This would make a total of 17 grant formulas.

Before proceeding to collect the information from the agencies, please call and let me know if we are in agreement on these seventeen programs.

Sincerely,

LAWRENCE W. HUSH,
Fiscal Economist.

WASHINGTON, D.C.,
March 9, 1978.

MR. W. BOWMAN CUTTER,
Executive Associate Director for Budget, Office of Management and Budget, Executive Office of the President, Washington, D.C.

DEAR MR. CUTTER: Thank you for the listing of Federal formula grant programs, and the programs selected for inclusion in an initial attempt to compile information on data and assumptions used in implementing such programs.

I believe the programs selected offer a good starting point, and urge that you proceed to gather the information which will be made available to members of Congress.

Thank you for your assistance in this matter.

Sincerely,

DANTE E. FASCELL,
Member of Congress.

MEMORANDUM

MARCH 29, 1978.

To Deputy Associate Directors.
From Bowman W. Cutter.
Subject: Description of Grant Formulas for Congressman Fascell.

In recent years the grant funds distributed by formula to State and local governments has increased substantially and at the same time the formulas and their data elements have become increasingly difficult to understand. General descriptions of the formulas are usually available, but they are not helpful for the individual interested in the details of determining the allocation to a particular community, or in determining the quality of the data elements.

In response to this problem, Congressman Fascell last summer proposed a bill, H.R. 8458, requiring OMB to maintain and provide centrally the details of the formulas, data elements and computer programs, and keep this material current and available for the Congress.

I discussed this with Mr. Fascell, and we agreed that it would be easier for OMB to collect some of this information for the Congress informally, without the need for legislation. After this was done, we could determine whether any additional information was needed, and if so, whether OMB should collect it centrally or assist the Congress in getting the information directly from the agencies.

We have identified 17 major formula grant programs to be included in our initial review, and one or more of them is in your division. The programs are shown in Attachment A.

I am requesting that you ask the agency to prepare a statement describing the formula, the variables, computer information, and an example of the distribution of funds to an individual State or community. In addition, the agency should include the name of a person we or the Congress can contact in order to get more information.

We have included a prototype of the kind of statement we need, using the formula for Title I of the Elementary and Secondary Education Act as amended. Please have the agency follow the prototype as closely as possible, including the six major headings. A crucial part of the paper is the inclusion of an example, using the formulas and data to show how a particular State's or community's allocation was determined, as was done for Polk County (Des Moines SMSA), Iowa in the prototype. Try to pick a State or community that does not have special criteria, such as maxima or minima.

Please have them prepare the statement so that it can be immediately submitted to the Congress, without any changes by OMB.

The document should be submitted to your budget examiner, by April 30, 1978. If you have any questions, please call Larry Hush (395-5153), the person coordinating the effort at OMB.

ATTACHMENT A

MAJOR FORMULA GRANTS [1]

[Dollars in thousands]

Program title	Program No.	1976	1977 estimate	1978 estimate
Food distribution	10.550	$666,233	$648,977	$627,227
National school lunch program	10.555	1,687,590	1,660,000	1,815,000
Educationally deprived children—local educational agencies	13.428	1,625,357	1,721,120	1,926,727
School assistance in federally affected areas maintenence and operations	13,478	754,000	768,000	37,0000
Vocational education—basic grants to States	13.493	565,048	784,763	437,427
Rehabilitation services and facilities—basic support	13.624	900,309	740,309	760,472
Social services for low-income and public assistance	13.642	2,484,800	2,469,984	2,401,300
Medical assistance program	13.714	10,677,638	10,229,318	11,816,000
Public assistance—maintenance assistance—State aid	13.808	7,328,225	6,213,300	6,657,000
Community development block grants/entitlement grants	14.218	2,470,511	2,831,433	2,812,300
Law enforcement assistance—improving and strengthening law enforcement	16.502	548,311	349,961	283,566
Comprehensive employment and training programs	17.232	5,902,852	6,256,581	8,346,000
Highway research, planning, and construction	20,205	6,156,659	7,634,495	7,545,000
Construction grants for wastewater treatment works	66.418	4,947,446	6,600,000	5,590,000
General revenue sharing	(2)	6,354,780	6,654,780	6,854,924
Antirecession financial assistance	(2)		1,699,187	1,572,330
Local public works	(2)		5,985,333	12,127

[1] From the Catalog of Federal Domestic Assistance, 1977 Update.
[2] Not applicable.

Note: The financial data for programs with catalog numbers are obligations from the 1977 Catalog of Federal Domestic Assistance, 1977 Update. Financial data for other programs are obligations from the Budget appendix, 1978 and 1979.

DISTRIBUTION OF FUNDS UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 [1] NOVEMBER 1977

I. INTRODUCTION

Title I of the Elementary and Secondary Education Act (ESEA) of 1965 provides funds to local school authorities for the establishment of special programs to help educationally deprived children. The law requires that local school authorities assess the special needs of their educationally deprived children and that they design programs to meet those needs with Title I funds.

The local authorities submit applications that are reviewed by State educational agencies. Programs that are approved are then monitored and evaluated by the State agencies. Because of the emphasis on local response to individual needs, a great variety of programs are funded with Title I aid. Most of the assistance is concentrated on improving basic skills such as reading, writing, and arithmetic. School districts, however, also fund science and social science programs, cultural activities and other programs designed to meet the health, psychological, and nutritional needs of educationally deprived children.

Annual appropriations under Title I increased from about $1.0 billion in 1966 to about $2.3 billion in 1978. About 6 million children were served by Title I programs in 1974 when annual appropriations were about $1.8 billion or about $300 per child.

The four sections that follow are: Summary of the Formulas, Data Elements, The Variables and Formulas, and Person to Contact for Additional Information.

II. SUMMARY OF THE FORMULAS

There are two basic variables in the formulas: one is the number of eligible children in each county, and the other is the payment per child. These variables are derived from several other variables, as described in Section IV, and are multiplied together to get the maximum authorization for each county.

The number of eligible children is determined primarily by the number of children aged 5–17 under the poverty line, data that are available only every ten years from the census. In addition, the formula includes the number of children aged 5–17 in families that receive AFDC payments in excess of the poverty level for a nonfarm family of four. This is included as another indicator of educationally disadvantaged children. Also included are data for some other categories of children, such as those in foster homes.

The payment per child under Title I is determined primarily by using 40% of current expenditures per pupil (CEPP) in the State. This item is 40% of the total Federal, State, and local government expenditures for elementary and secondary education, excluding funds under Titles I, II and III of the ESEA, divided by pupil attendance. Upper and lower limits are set on the payment per child to prevent some States from receiving excessively high or low payments. The upper limit cannot be larger than 48% of the national current expenditures per pupil, and the lower limit cannot be less than 32% of the national current expenditures per pupil.

As a final step in the allocation of funds, each county is guaranteed that it will not receive less than 85% of its prior year allocation.

The formulas yield authorizations for counties. Since enactment of ESEA, the sum of all these authorizations has exceeded the total appropriations. In 1978 for example, the total authorization for counties and State administration was about $4.4 billion, while only about $1.9 billion was available. There is therefore a ratable reduction process, described in Section IV, to reduce the total authorizations to the level of appropriations. The authorization for each county is reduced by the same ratio, except that the allocation cannot be less than 85% of the prior year allocation.

All items in the formula are prescribed specifically by law, with the exception of the variable for number of children aged 5–17 in

[1] This paper, which was prepared by staff of the Office of Management and Budget, is based primarily on a draft paper prepared by the Federal Committee on Statistical Methodology, entitled "Report of the Subcomittee on Statistics for Allocation of Funds."

families that receive AFDC payments in excess of the poverty level for a nonfarm family of four Under the legislation, these AFDC payments would have to be adjusted for size of family, farm or nonfarm, sex of head of family, and other criteria. The burden of adjusting AFDC payments for all these criteria would be overwhelming, and it has been simplified to use only the weighted average of the nonfarm family of four. This simplification was done after agreement with the Congress.

III. THE DATA ELEMENTS

This section discusses the major data elements in the allocation formula. All elements are listed below in Section IV with the formulas. Some, such as "previous year's allocation", are self-explanatory and therefore need no discussion.

1. Number of children in families receiving AFDC payments in excess of the poverty line for a family of four persons (A_{ij}).

The poverty measure used in the allocation formula was originally developed by Mollie Orshansky of the Social Security Administration in 1964 and was, with revisions, officially adopted in 1969 by the Office of Management and Budget as the Federal Government's official statistical measure of poverty. The measure is built around the Department of Agriculture's economy food plan of 1961 and the national average ratio of family food expenditures to total family after-tax income as measured in the 1955 Household Food Consumption Survey. It consists of 124 separate poverty cutoffs, differentiating families by size, number of children, age and sex of head, and farm or nonfarm residence. The cutoffs are updated annually by changes in the Consumer Price Index. The weighted average poverty cutoff for a nonfarm family of four in 1975 was $5,500. According to the Census Bureau's report based on the June 1977 Current Population Survey, in 1975 there were approximately 25.9 million persons, or 12 percent of the population, poor by this definition.[2] This variable in the formula is the number of children aged 5–17 in families receiving monthly AFDC payments of $458.33 ($5,500 per year) or more in October 1976. There is no attempt to adjust this monthly amount by size of family, nonfarm families, or other category. If this were done, the burden of collecting the information by these separate characteristics, for more than 3,000 counties, would be overwhelming.

The data are collected by the Social Security Administration for State agencies administering child welfare and public assistance programs, and the instructions to the State agencies specify, "no sampling or estimating is to be used. . . ."

2. Poverty population (P_{ij}).

This item is the number of children aged 5–17 in poor families as defined in the 1970 Census of Population. It remains unchanged until there is another census. A brief discussion of the poverty meaure is found in item 1, above.

3. Other eligible population (O_{ij}).

This item includes youth in the county who are delinquent, in correctional institutions, neglected, or in foster homes supported by public funds. It includes both in-State and out-of-state children by the county in which the child attends schools. The data for youth who are delinquent, in correctional institutions or neglected are collected by the Division of Education of the Disadvantaged, Office of Education, Department of Health, Education and Welfare. The data for youth in foster homes supported by public funds are collected by the Social Security Administration with the AFDC data in item 1, above.

4. Eligible population in State operated institutions (S_i).

This variable was added to the original formula for the Elementary and Secondary Education Act in order to provide educational funds to the State for children aged 5–17 in the state operated institutions for the handicapped. In 1967, delinquent and neglected children in institutions were added as well as special programs for children of migratory agricultural workers. In 1971 children in adult correctional institutions were added to those eligible to be counted in State agency programs.

5. Per pupil expenditure for nation (N).

This variable is total Federal, State, and local government current expenditures for elementary and secondary education, excluding funds from Titles I, II, and III of the Elementary and Secondary Education Act, divided by the number of pupils attending classes. In the calculations for the 1978 allocations, 1974–1975 school year expenditures were used and equaled $1,299 per pupil. This variable is used to set the minimum and maximum payment per child. For the 1978 allocations, fifteen (15) States used the minimum (32 percent of the national figure), and five (5) States used the maximum (48 percent of the national figure).

6. Per pupil expenditure for each State (Q_i).

This variable is the Federal, State and local government current funds spent in the State for elementary and secondary education, excluding Titles I, II, and III of the Elementary and Secondary Education Act, divided by the number of pupils attending school. For 1978 allocations, data for school years 1974–75 are used. Forty percent (40 percent) of this expenditure is the payment per pupil in the formula, except where this payment is less than the national minimum or exceeds the national maximum.

7. Authorization for children in State operated institutions (Cf).

This variable is the product of the State current expenditures per pupil (CEPP) times the number of eligible children in each agency in state operated institutions, with the legislated constraint that no agency's allocation can ever decrease. The allocation to each State, therefore, is not simply the product of the number of eligible children in each State times the CEPP. For example, if the number of children in Agency A decreases by the same amount that the number of children in Agency B increases, the allocation for the State does not remain the same. The allocation for Agency A remains the same—the legislation specifies that it cannot be reduced—and the allocation for Agency B increases, because it has more children. The allocation for the State therefore increases, even though the number of eligible children is unchanged.

In the actual example that follows, for Polk County, Iowa, we do not have readily available the data for each State agency. The final allocation ($_mEC_{lm}$) therefore is shown but not derived.

8. Total funding available (T).

This is the enacted appropriation for that part of Title I of the Elementary and Secondary Education Act for local education agencies, children in State operated institutions, and State Administration. It has never been as high as the sum of the formula generated authorizations for all counties and States, requiring that the allotment for each county be reduced according to the ratable reduction formulas described in Section IV below.

9. County "floor" percent (F_c).

This is set at 85 percent, and means the county will not receive less than 85 percent of their previous year's allocation. A drop in funding below this level might seriously disrupt local financial planning, even though the decrease in the number of eligible children or the State expenditures per pupil may warrant a lower allocation. For the 1978 allocations, all States were above the floor, although nine counties in five States received only 85 percent of their 1977 allocation.

10. Ratio for eligible AFDC population, currently set at 0.67 for all counties.

This ratio is less than one in order to decrease the weight of the AFDC variable. The variable depends largely on the payment level set by States, and tends to favor those States with high AFDC levels and penalize States with low AFDC levels. From 1965 to 1972 this variable was not weighted and 1974 education grants came to depend largely on the AFDC population, penalizing southern States with low AFDC payments and rewarding States with high payments such as California, New Jersey, and New York. Congress decided that this was an effect they did not intend and, therefore, decreased the weight of this variable in the 1974 Amendments to the Elementary and Secondary Education Act.

11. Ratio for administrative costs, currently set at .01 for all counties (R_B).

Legislation allows State administrative costs for this program to be 1% of the sums of the allocation to counties and to the State for children in State operated institutions. The only exceptions to this are for States that would receive less than the minimum of $150,000 under the formula. (See below)

12. Minimum Administration allowance for State (B).

This minimum is set at $150,000 by law, and is the minimum allowance for administering the program even for States with relatively few eligible children. This covers the cost of such items as distributing the funds below the county level, maintaining adequate financial accounting systems, and ensuring compliance with other Federal or State regulations related to Title I programs. For the 1978 allocations, sixteen (16) States received the minimum of $150,000.

IV. THE VARIABLES AND FORMULAS

The following formulas and variables describe the current authorizations and allocation procedures, with an example for clarification. The example is Polk County (Des Moines SMSA), Iowa which had a population of 314,000 in 1970, including the entire city of Des Moines with a population of 201,000. Polk County was chosen because it was neither very large nor very small, did not use maxima or minima, and did not have any variables whose values were zero (many counties have zero for the AFDC variable). These criteria, however, probably apply to hundreds of other communities that could also have been picked as examples.

Defined as follows:

Subscripts:

i—Denotes State within U.S.

j—Denotes county within State.

l—Denotes number of iterations in the ratable reduction (see equation (7) below).

m—Denotes State agencies with institutions caring for eligible children.

Independent variables: See table on next page.

Data for parameters for Polk County (Des Moines SMSA), Iowa for 1978 Allocations.

Parameters:

F_c: County "floor" percent, 85 percent.

R_A: Ratio for eligible AFDC, population, currently set at 0.67 for all counties, .67 percent.

R_B: Ratio for administrative costs, currently set at 0.01 for all counties, .01 percent.

R_O: Ratio for eligible other population, currently set at 1.0 for all counties, 1.0 percent.

R_P: Ratio for poverty population, currently set at 1.0 for all counties, 1.0 percent.

[2] For additional information on the poverty measure, see U.S. Department of Health, Education, and Welfare, The Measure of Poverty. A Report to Congress as Mandated by the Education Amendments of 1974 (Washington, D.C.: U.S. Government Printing Office, 1976).

ALLOCATIONS FOR FISCAL YEAR 1978 UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Independent variable		Data for example: Polk County (Des Moines, SMSB) Iowa	Time period for data	How frequently are data revised?	Source of data
Symbol	Description				
A_{ij}	Children in families receiving AFDC payments in excess of the poverty line for a nonfarm family of 4.	459 children	Oct. 1, 1976	Annually	Social Security Administration, Division of Research and Statistics, Family Assistance Studies Staff.
B	Minimum administration allowance per State	$150,000	Not available	Not available	Legislation.
H_{im}	Previous year's authorization for children in State-operated institutions by agency.	$1,181,020 for entire State.	Fiscal year 1977	Annually	HEW: National Center for Education Statistics.
L_{ij}	Previous year's allotment for grants to local education agencies.	$1, 241, 370	do	do	Do.
N	Per pupil expenditure for Nation	$1, 299	1974–75 school year	do	Do.
O_{ij}	Other eligible population, such as children residing in institutions for neglected and delinquent children and children in foster homes.	347 children	October 1976	do	HEW, OE, Division of Education of the Disadvantaged and HEW: Social Security Administration, Division of Research and Statistics, Family, Assistance Studies Staff.
P_{ij}	Poverty children	5, 455 children	1970	Decennially	Decennial Census of Population.
Q_{ij}	Per pupil expenditure for State	$1, 204	1974–75 school year	Annually	HEW: National Center for Education Statistics.
S_{im}	Eligible population in State-operated institutions	2, 019 children	October 1976	do	HEW, OE: Division of Education for the Disadvantaged.
T	Total funding available for counties and State administrative costs for the Nation.	$1, 927, 774, 751 (obligations).	Fiscal year 1978	do	Annual appropriations.

Dependent variables:

E_{ij}: Total number of eligible children.

D_i: Per pupil expenditure for State authorization formula.

G_{ij}: Authorization for grants to local education agencies.

C_i: Authorization for children in State operated institutions, such as mentally retarded, delinquent, etc. This item is fully funded and is not part of the ratable reduction in formulas (6) and (7) below.

U_{i1}: Allocation for administration.

V_i: Authorization for State administration.

W_i: Reduction ratio for the nation.

X_{ij1}: Intermediate allocation amount used to compute Y_{ij1}.

Y_{ij1}: Allocation for grants to local education agency.

The formulas describing the allocation procedure follow, along with the data used in the examples for Polk County, Iowa. In these formulas, MEDIAN merely means that the median value in brackets is used, and MAXIMUM means the largest value in brackets is used.

(1) *Eligible children:*

$E_{ij} = R_P P_{ij} + R_A A_{ij} + R_O O_{ij}$
$= (1.0)(5,455) + (.67)(459) + (1.0)(347)$
$= 5,455 + 306 + 347$
$= 6,108$ children

(2) *Expenditures per pupil:*

D_i = Median [.32N, .4Q_i, .48N]
= Median [(.32) ($1.299), (.4) ($1.204), (.48) ($1.299)]
= Median [$415.68, $481.47, $623.52]
= $481.47

(3) *Maximum authorization per county:*

G_{ij} = Maximum [($F_C L_{ij}$), ($E_{ij} D_{ij}$)]
= Maximum [(.85) ($1,241,370), (6,108) ($481.47)]
= Maximum [($1,055,164), ($2,940,818.76)]
= $2,940,818.76

(4) Maximum authorization for children in State operated institutions:

$$C_{im} = \text{Maximum } [(S_{im} D_i), (H_{im})]$$
$$\sum_m C_i = \$1,190,167$$

(For explanation, see item 8, page 9, above).

(5) Maximum authorization for State administration:

$$V_i = \text{Maximum } [B_i, R_B (C_i + \sum_j G_{ij})]$$
$$= \text{Maximum } [(\$150,000), (0.01)(\$1,190,167 + \$37,677,824)]$$
$$= \text{Maximum } [(\$150,000), (0.01)(\$38,867,991)]$$
$$= \$338,679.91$$

Title I has never been fully funded, and the sum of these authorizations for all counties and State administration has exceeded the funds allocated for them. The following ratable reduction procedure is then followed:

(6) First ratable reduction:

$$W_i = T / \left(\sum_i \sum_j G_{ij} + \sum_i V_i \right)$$

$$X_{ij1} = W_i G_{ij}$$

$$Y_{ij1} = \text{Maximum } [F_C L_{ij}, X_{ij1}]$$

$$U_{i1} = \text{Maximum } [B_i, R_B (C_i + {}_j Y_{ij1})]$$

If:

$$\sum_i \sum_j Y_{ij1} + \sum_i V_{i1} > T$$

The ratable reduction continues as follows:

(7) Second and subsequent ratable reductions:

For 1=2,3, ..., k

$$W_1 = T / \left(\sum_i \sum_j Y_{ij1-1} + U_{i1-1} \right)$$

$$X_{ij1} = W_1 Y_{ij1-1}$$

$$Y_{ij1} = \text{Maximum } [F_C L_{ij}, X_{ij1}]$$

$$U_{i1} = \text{Maximum } \left[B_i, R_B \left(C_i + \sum_j Y_{ij1} \right) \right]$$

This is repeated until on the kth iteration:

$$\sum_i \sum_j Y_{ijk} + \sum_i V_{ik} = T$$

For 1978, the actual allocations are 44.59% of the maximum authorizations, except for those counties that would receive less than the minimum allocation by applying this percentage. Those counties receive 85% of the prior year allocation, which is the minimum allocation shown in equation (3).

After the ratable reductions, final 1978 allocations are: $1,311,240.46 to Polk County for grants to local education agencies; $1,190,167 to Iowa for children in State operated institutions; and $178,270 to Iowa for State administration.

For school districts that are not coterminous with counties, funds must be distributed among the school districts. Children living in school attendance areas that have an incidence of poverty as high or higher than the district wide average are eligible for Title I services. The exact distribution is delegated to the State Education Departments, very loosely monitored by the Office of Education (OE). When Title I was first enacted, the OE attempted to oversee the distributions within the counties more carefully, but found that States had many different systems for this subcounty distribution and that detailed monitoring was very burdensome and unnecessary. For this reason it is now left primarily to the States.

V. COMPUTER RELATED INFORMATION

1. In what language are the programs written? COBOL.

2. What type of computer is used? IBM 370.

3. Characteristics of data tape or tapes:

(a) Are they 7 or 9 track tapes? 9.

(b) Is the parity even or odd? Odd.

(c) What is the logical record length? 133.

(d) What is the blocking factor? 3990.

(e) What is the density of the tape? 1600 BPI.

(f) Is the code BCD or EBCDIC? BCD.

(g) Does the tape contain standard labels or no labels? Standard labels.

4. Can the programs and data tapes be made available to the Congress? Yes.

These are already provided to the Congressional Research Service, Library of Congress.

5. Are record layouts available? Yes.

Are descriptions of the codes used available? No codes are used.

6. Is documentation of the program available? Yes. If not, are program listings available?

7. Please provide other information needed to read the tapes and understand the computer programs used with the tapes. No additional information is needed.

VI. PERSON TO CONTACT FOR ADDITIONAL INFORMATION

For additional information on the allocations formula, contact:

Mr. Forrest Harrison, National Center for Education Statistics, Room 3059 D, 400 Maryland Avenue SW., Washington, D.C. 20202; 245–8715.●

THE U.S. HEALTH SERVICE—H.R. 11879

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DELLUMS. Mr. Speaker, it is time we took the profit out of health care and made the provision of health services our first priority. Today, more Americans are consumers of health services than ever before while at the same time the cost of visiting a physician has dramatically increased, more so than any other consumer service.

The administration continues to delay its proposed legislation on comprehensive health care by creating offices in every department to advise him, by setting up advisory committees that have no power, by holding hearings around the country that will not be listened to, and finally by apparently giving the project to his White House staff. Unfortunately all the proposals of the past have been merely financing schemes that merely pump

more Federal dollars into an already bankrupt and ineffective system of health care delivery. I am afraid President Carter's will be no better.

The solution to the crisis in health care in this country must go much further than financing, it must speak to the maldistribution of health manpower, the unequal access to services, the unreliable quality of care and the lack of public control over health care. No matter how much we guarantee the payment of services to the people, it is of little comfort to them if there is no one around to provide the service.

It is interesting to note that a recent Harris poll showed that 39 percent of the American people would support a national health service where everyone would get free medical care paid for out of taxes where the doctor and other health workers would be on salary to the Government and where hospitals would be managed by the Government. This is what I propose with the additional that the service would be run by locally elected health boards composed of users and providers of health care.

I introduced this bill, H.R. 11879, not because I think the country is prepared to enact it today or tomorrow or even next year. But because it opens up a critically important debate in this country. Hopefully it will force everyone to discuss all the various alternatives. For I believe that when the people realize that this is an option, they will demand its enactment.

At this time I would like to insert into the RECORD a summary of the legislation and other related materials:

QUESTIONS AND ANSWERS ON THE HEALTH SERVICE ACT

While high quality health care is a right of all people, this is not the current reality in the United States. Unequal access to care, excessive costs, geographical imbalances, and the deterioration of social, environmental, and occupational conditions beset Americans today. This Act creates a United States Health Service to overcome these deficiencies and implements the right to quality health care.

The United States Health Service will provide to all individuals, without charge and without discrimination of any kind, comprehensive health care and supplementary services delivered by salaried health workers and emphasizing the maintenance of health as well as the treatment of illness. Representative and democratic governance will be established through community boards mandated to provide primary health care services and chosen in community wide elections. District boards will oversee general hospitals and be selected by the community boards. Regional boards will oversee specialized care facilities and health team schools and be selected by district boards. Lastly, the National Health Board will provide overall planning and guidance and be selected by the regional boards, with approval by the President.

Health workers will have fair compensation, secure employment, and opportunities for career advancement and for full and equal participation in governance. There will be local, regional and national planning and funding to establish health care facilities so as to overcome shortages, especially for inner-city and rural populations. The Service will be financed through progressive taxation of individuals and payroll taxes on the employers, with these funds distributed on a capitation basis, supplemented by allocations for special health care needs.

WHY A HEALTH SERVICE?

Growing numbers of Americans realize that the present health care system, based on the private delivery of health care and financed on a fee-for-service basis, is unable to meet the health care needs of this country. One response has been to propose some form of national health insurance. However, no insurance plan will guarantee that health care services are available to everyone, improve the quality of current services, or hold down costs.

Instead of propping up an inadequate system with complex payment mechanisms and ineffective quality reviews, the Health Service Act will establish a health care delivery system that provides comprehensive health services to all Americans and is accountable to those it serves. This will be a publicly-controlled and operated health service employing health workers who will directly serve the public. Any scheme short of this can, at best, only ameliorate the ailments of the present health care system.

WHAT IS THE UNITED STATES HEALTH SERVICE?

The United States Health Service is an independent federal agency that is democratically-controlled to deliver health care in communities throughout the United States.

WHO CAN USE THE HEALTH SERVICE?

Any individual, while within the territory of the United States, will be able to receive services.

WHAT SERVICES WILL BE PROVIDED?

The United States Health Service will provide, without charge, a full range of medical, dental, and mental health services, as well as occupational, home health, and health education services. Drugs and medical equipment will be furnished without charge. Environmental inspections and monitoring services will also be conducted.

These services will be provided through facilities established and maintained oy the Service. Except in emergencies, it will not pay for services provided elsewhere. Three years after it begins full operation, it will not be possible for private practitioners (who charge their patients a fee) to use the facilities of the United States Health Service.

HOW WILL PHYSICIANS AND OTHER HEALTH WORKERS BE COMPENSATED?

All health workers will receive salaries commensurate with their job requirements and experience. Workers can receive increases in salary and be certified for job advancement through recognition of successful performance and through enhancement of their skills.

WHAT WILL BE THE STRUCTURE OF THE UNITED STATES HEALTH SERVICE?

The Health Service will be set up as a four-tier system—the community, district, region, and national level. The base of the system is the "community," a geographic area with a population of between 25,000 and 50,000 (less in rural areas or in other special circumstances). In each community, primary health care services-general outpatient medical care, emergency services, mental health services—will be provided through community health centers, physicians' offices, laboratories, pharmacies, and other facilities. Nursing homes, multiservice centers for the handicapped, and mental health facilities also will be established and operated so as to promote the integration of persons using these facilities into the community.

Several communities will be joined together to form a "district" with a population of between 100,000 and 500,000. Each district will have a general hospital.

Several districts will be joined to form a "region" with a population of between 500,000 and 3,000,000 (more if necessary to enclose an entire metropolitan area). Each region will have a medical center providing highly specialized medical services and a health team school where all health workers will receive their education.

HOW WILL THOSE WHO USE THE SERVICES OF THE UNITED STATES HEALTH SERVICE, AND THOSE WHO WORK FOR IT, RUN IT?

Community health boards chosen in community wide elections by residents and health workers will plan the delivery of primary and preventive health services, hire community health workers, and assume overall responsibility for all community health services. District health boards, appointed by the community health boards in the district (with each community appointing three members) will oversee the district general hospital. Regional health boards, appointed by the district health boards in the region, will oversee the regional medical center and health team schools, and assist community and district boards in performing their duties. Lastly, the National Health Board, appointed by the regional health boards with the approval of the President, will carry out overall planning and budgeting and establish guidelines for the provision of health services by all health boards.

Two-thirds of the members of each board will be representatives of the users of the Service; one-third will be representatives of those who work in the health facilities operated by the Service.

All health facilities will be managed by the workers in them on a democratic basis. Each health board, in consultation with the workers, will develop a plan for democratic decisionmaking within each facility, including the equal participation of health workers at all skill levels. Health workers can also bargain collectively with the health boards on wages, benefits, and working conditions.

WHAT SPECIAL RIGHTS AND GUARANTEES WILL HEALTH SERVICE USERS HAVE?

A Bill of Health Rights incorporated into the legislation guarantees users of the United States Health Service access to all its services, to their choice of health workers and facility, to information and explanations in their primary language about their health status and any treatment or procedure, and to advocacy and legal assistance. Specific protections are included for women and residents of health care institutions to ensure rights associated with their special situations and health needs.

HOW WILL THE QUALITY OF HEALTH CARE BE ASSURED?

In contrast to the present medical licensing system, this Act calls for continuing review and assessment of the competency of health care providers, with oversight by representatives who use those services as well as those who provide them. The National Health Board will establish national guidelines for area health boards in training, hiring, and certifying health workers.

The ultimate safeguard of quality is the control of service delivery by health boards accountable to those who use the Service and those who work in it, able to draw for advice and technical support upon all the professional expertise employed by the United States Health Service.

WILL THIS BILL PROVIDE OCCUPATIONAL HEALTH SERVICES?

Unlike any of the current health insurance proposals, this bill will provide extensive occupational health services. Screening, diagnosis, treatment, and education for the detection and prevention of occupational hazards and diseases will be provided in community health facilities. Workers will participate in the occupational health programs

in their community and work-places through elected community occupational safety and health action councils, which will perform monitoring and other functions to protect the safety and health of workers. Workers in each workplace will have the right to establish workplace occupational safety and health committees which will perform monitoring and other functions to protect the safety and health of workers.

HOW WILL THIS BILL ADDRESS THE PRESENT MALDISTRIBUTION OF HEALTH WORKERS AND FUNDS?

Operating funds will be allocated to regions, districts, and communities on a per capita basis, so that all areas will have funds proportionate to their populations. This will allow presently underserved areas, especially those where low income and minority persons live, and many rural areas, to overcome their present serious shortages of physicians, other health workers, and health facilities. Special funds, amounting to 2% of all operating funds, will be allocated to communities where low income persons live, to help them alleviate their special burden of health problems.

The present maldistribution of health workers will be dealt with by requiring that graduates of health team schools serve in underserved areas for at least a period equal to the duration of their education but not to exceed two years, and by requiring that health boards not hire particular types of health workers if they have substantially greater numbers of them while other areas have substantially less.

HOW WILL USERS OF THE SERVICE BE PROTECTED FROM FAILURE OF HEALTH BOARDS TO PERFORM THEIR DUTIES?

Members of health boards will be accountable to the people who chose them. If they fail to meet the health needs of their areas, or neglect their duties, members of community health boards can be removed from office through a recall election. Members of other boards can be removed from office by two-thirds vote of the body that appointed them.

Regional boards will be empowered to investigate complaints regarding the actions of the community or district boards. In the event they determine that there has been mismanagement of funds or other failure or misconduct, they can suspend or restrict the board, appoint a trustee to take over its affairs, and hold a new election for a community board or see that a new district board is appointed. The National Health Board will perform similar oversight of regional boards.

HOW WILL THE EDUCATION OF HEALTH WORKERS BE CONDUCTED UNDER THIS BILL?

Health workers will receive their education from the Service in health team schools organized by regional health boards. They will begin their education by sharing classroom and clinical experiences in a restructured educational process. Curriculum design will maximize the studies undertaken in common by students preparing for the various types of health work and will emphasize the social basis of health. As students progress, their studies will branch out and extend into the various categories of health-related skills and knowledge.

Admission policies will emphasize previous health-related work experience and encourage the entrance of students who reflect the composition of the region's population. No tuition will be charged, and there will be stipends for living and educational expenses. (Outstanding health education loans will be paid by the Service for those accepting employment under the Service.) Each health team school will be governed by representatives of the region's residents and the staff and students of the school.

HOW WILL HEALTH RESEARCH BE CONDUCTED UNDER THIS BILL?

The Service will be mandated to conduct an extensive program of health and health care research. The first priority will be on the prevention and correction of the leading causes of illness and death, including environmental, occupational, and social factors. Research will be performed, to the maximum extent possible, under the auspices of community and district health boards, to ensure it is responsive to the health needs of people in their communities and workplaces.

HOW WILL THE SERVICE BE FINANCED?

In spite of the expansion of services, the cost of operating the Service will be less than the cost of the present health care system. The elimination of administrative costs associated with the insurance industry and its complex billing procedures, the expected decrease in unnecessary hospitalization and treatment from the elimination of fee-for-service medical practice, and the elimination of excessive fees and profits are estimated to reduce the total cost by at least 20 percent.

Funds to run the Service will come from a Health Service Trust Fund containing receipts from a special health service tax on individuals and employers and from general Federal revenues. The individual health service tax will rise with increasing income. Low and middle income individuals having less than about $6,000 taxable income will pay only 1 percent (equivalent to the Medicare payroll tax now in force, but repealed when the Service begins providing health services). Higher income individuals will pay substantially higher taxes, employers will pay a payroll tax equivalent to the current cost of health fringe benefits, and general revenues will contribute the amount now spent by Federal, State, and local governments on health services (Federal payment of these will be a form of additional revenue sharing to States and localities.)

Funds will be distributed to regions, districts, and communities on a uniform per capita basis, with special funds allocated to communities and districts for the care of persons over 65 years of age, persons confined to full-time residential institutions, low income persons, rural areas, and to meet special environmental, occupational, and other health needs of particular regions.

The division of funds between the district and community levels will be determined by the district boards, but with the consent of a majority of the community boards in each district. Similar procedures will be followed in dividing funds between the regional and district levels and the National and regional levels. Thus all health boards will have an equal role in determining the allocation of funds.

HOW WILL THE TRANSITION FROM THE PRESENT SYSTEM TO THE NEW HEALTH SERVICE BE MADE?

Immediately after this law is enacted, the President will appoint an Interim National Health Board broadly representative of the American people, to oversee the start of the transition process. It will draw the regional boundary lines and appoint an interim regional health board for each region. These boards in turn will draw boundaries for districts and communities and will then conduct elections for the members of community health boards. The boundaries drawn by these interim boards can be modified by the permanent boards once they are established, using a procedure in which residents of the affected areas will participate.

Once community health boards are elected, they will begin identifying sites for health facilities, acquiring buildings, and hiring health workers, and they will appoint the members of district health boards. Each board in turn, as it is appointed, will begin preparing to carry out its assigned responsibilities.

Two years after the bill is enacted, the National Health Board will begin functioning, and the delivery of health services will start two years later. All the health-care-related functions now carried out under the direction of the Secretary of Health, Education, and Welfare will then be transferred to the Service. Every two years thereafter, there will be elections for members of community health boards and subsequent appointments of new members of the district, regional and national boards.

In cases where particular boards are not ready, at the end of the four-year start-up period, to assume responsibility for the full delivery of services, these will be provided in neighboring areas or through private practitioners reimbursed under current Medicare arrangements. These temporary measures will remain in effect for up to three additional years.

The educational programs will be fully operating four years after the start-up of services.

SECTION-BY-SECTION SUMMARY

TITLE I—ESTABLISHMENT AND OPERATION OF THE UNITED STATES HEALTH SERVICE

Initial operation

Sec. 101—Establishment of the Service. There is established an independent establishment of the executive branch to be known as the United States Health Service. The authority of the Service shall be exercised by the health boards set up under this Act.

Sec. 102—Appointment of Interim National Health Board. No later than 30 days after the enactment of this Act, the President shall appoint 21 individuals over 18 years of age, broadly representative of the Nation's population, and no more than 7 of whom have been health workers within the preceding 2 years, to serve as members of the Interim National Health Board.

Sec. 103—Powers and duties of the Interim National Health Board. Members of the Interim National Health Board shall take whatever steps are necessary to establish the Service. They shall serve as the National Health Board of the Service until the National Health Board holds its first meeting, establish boundaries of health care delivery regions, select and provide assistance to interim regional health boards, and coordinate the initial election of community health boards.

Sec. 104—Authorization. There are authorized to be appropriated to the Service $4 billion to establish the Service.

Organization of area health boards

Sec. 111—Establishment of health care delivery regions. No later than six months after the appointment of members of the Interim National Health Board, the Board shall establish health care delivery regions throughout the United States. Each health care delivery region shall be a contiguous geographic area having a population of not less than 500,000 and not more than 3 million, except that the population may be less than 500,000 if this would facilitate the delivery of health care services or the effective governance of the program, and it may be greater than 3 million if the region includes a standard metropolitan statistical area. The boundaries of such regions shall consider economic and geographic barriers to the receipt of health care in nonmetropolitan areas. At least 60 days prior to the establishment of a boundary, the Interim National Health Board shall provide for a public hearing regarding such boundary.

Sec. 112—Appointment of interim regional health boards. No later than 60 days after the establishment of health care delivery re-

gions, the Interim National Health Board shall appoint an interim regional health board for each region. Each interim regional health board shall be composed of 9 members over 18 years of age, broadly representative of the region's population, and no more than 3 of whom have been health workers within the preceding 2 years. Each interim regional health board shall establish the boundaries of health care delivery districts and communities in its region and conduct elections for voting members of community health boards in its region.

Sec. 113—Establishment of health care delivery districts and health care delivery communities. No later than six months after its appointment, each interim regional health board shall establish health care delivery districts and communities throughout its region. Each region shall be divided into three or more districts, each of which shall be a contiguous geographic area having a population of not less than 100,000 or more than 500,000, except that a district may have a population of less than 100,000 if this would facilitate the delivery of health care of the effective governance of the program.

Each district shall be divided into three or more communities, each of which shall be a contiguous geographic area whose residents have a commonality of interest, language, and ethnic and racial composition and whose population is not less than 25,000 or more than 50,000, except that a community may have a population of less than 25,000 if this would facilitate the delivery of health care or the effective governance of the program.

At least 60 days prior to the establishment of a boundary, the interim regional health board shall provide for a public hearing regarding such boundary.

Sec. 114—Election of community health boards. The Interim National Health Board shall arrange with State and local governments for the initial election of user members to be held on a date not later than 9 months after the appointment of the interim regional health boards. For each board there shall be 6 user members, plus one user member for each 5,000 residents in the community in excess of 30,000. For each board there shall be 3 worker members, plus one for each 10,000 residents in the community in excess of 30,000. The Interim National Health Board shall establish procedures for nomination and election of these health board members following the criteria outlined in this Act. The interim regional health boards shall conduct and supervise the nominations and elections of community health board members.

The initial meeting of each community health board shall be held not later than 30 days after the election.

Sec. 115—Appointment of district health boards. Not later than 60 days after its initial meeting, each community health board shall appoint two users residing in the community to serve as user members of its respective district board. The worker members of each board shall appoint a community health worker to serve as a worker member of its respective district board. The district health workers shall appoint a district health worker to serve on the district health board, following procedures outlined in the legislation. The initial meeting of the district health board shall be not later than 30 days after such appointment.

Sec. 116—Appointment of regional health boards. Not later than 60 days after its initial meeting, the user members of the district health board shall appoint two users to serve as user members of its respective regional health board. The worker members of the district health board shall appoint a district health worker as a worker member of its respective regional health board. The regional health workers shall elect a regional health worker to serve on the regional health board. The initial meeting of the regional health board shall be not later than 30 days after such appointment.

Sec. 117—Appointment of the National Health Board. Each region shall be assigned to one of three groupings of regions, each having (to the extent possible) an equal number and balanced geographic distribution. Each board for a region in the first two groups shall appoint a user to service as a user member and the National Health Board; the others shall appoint a worker member. These names shall be submitted to the President who shall have 10 days in which to approve or disapprove the nominations.

Sec. 118—Subsequent election and appointment of members of health boards. The next election for members of the community health boards shall be held in conjunction with each election of Members of the U.S. House of Representatives that occurs after the effective date of health services. The term of service (of all members of health boards) will be four years with staggered terms, half of the members being elected every two years. Such elections and subsequent appointments of members of district and regional boards and the National Health Board shall conform to the requirements of sections 114, 115, 116, and 117, respectively.

Sec. 119—Modification of the boundaries of health care delivery areas. No later than 2 years after each decennial national census, and at any other time it deems necessary, the National Health Board shall review the appropriateness of the boundaries of each region and may modify the boundaries if there has been a substantial population shift and if the modification is approved by a referendum of the residents whose regional identification would be changed. At least 60 days before the modification, a public hearing shall be held.

No later than 2 years after each decennial national census, upon receipt of a petition signed by not less than 15% of the registered voters in an area, and at other appropriate times, each regional board shall review the boundaries of the districts and communities in its region. A regional board may, after review and public hearings, modify a boundary if there has been a substantial population shift or the change would better carry out the purposes of this Act, and if the change is approved by a referendum of those affected by it.

General provisions regarding health boards

Sec. 122—Membership of health boards. Each health board shall be composed of (1) members elected or appointed in accordance with the preceding sections, (2) one member appointed, in the case of a community board, by the community occupational safety and health action council established in section 412 and, in the case of a regional board, by the regional occupational safety and health action council established in section 413, (3) such voting user members as are necessary to ensure that the user members of the board approximate the population of the area by race, sex, income level and language and (4) such nonvoting associate members as the members determine to be necessary to provide representation of State, territorial, and local government, of segments having special health needs of the population and, in the case of the Interim National Health Board and the National Health Board, to help carry out this Act.

A recall election shall be held for any member of a community health board no later than 60 days after presentation to the regional health board of a petition signed by at least 15% of the registered voters (or health workers as appropriate) in the community requesting recall of the member. Members of district, regional, and the interim regional boards, and the National Board, may be recalled from office by the vote of ⅔ of the health board which appointed such members.

No individual may serve as a member of any board for more than 4 consecutive years, exclusive of any time that may be served to fill a vacancy. A vacancy caused by the death, resignation, or removal of a member shall be filled within 60 days by the same process which placed the original member on the board.

Sec. 123—Meeting and records of health boards. The members of each health board shall elect a chairperson and vice chairperson from among their members. The chairperson shall be responsible for convening meetings, including upon written request of any two members, and for carrying out other duties as the board may assign. Minutes of meetings of the board and its committees shall be available to the public, and all such meetings shall be open to the public.

Each health board may establish committees and advisory groups, and appoint to them such individuals as they find necessary to carry out their duties. Members of health boards shall receive per diem or salary payments plus reimbursement for necessary expenses.

Sec. 124—Procedures for establishment of national guidelines and standards. The National Health Board shall establish such guidelines and standards as will facilitate implementation of this Act. It encourages innovation and experimentation in achieving its objectives. At least 90 days before establishing a guideline or standard, it shall submit such guidelines or standards to all regional health boards for their review and comment. The National Health Board shall assist members of area health boards in using and implementing such guidelines and standards.

Sec. 125—Assistance to area health board members. Each regional board shall provide orientation, education, and technical assistance to district and community boards to insure that they are prepared to perform their duties.

TITLE II—DELIVERY OF HEALTH CARE AND SUPPLEMENTAL SERVICES

This title specifies the health care and supplemental services, and the administrative arrangements for delivering such services

Patients' rights in health care delivery

Sec. 201—Basic health rights. The Service, in delivering health care services, shall ensure that every individual is given basic health rights. These include the right to receive high quality health care and supplemental services without charge and without discrimination; to be treated with dignity and respect; to choose health workers and to be responsible for facilities in which to receive service, to have access to one's health records; to have information translated into the individual's primary language; to receive a full explanation of all questions related to health care; to refuse any health care service, when the refusal does not directly endanger the health of others; to have counselling and assistance on health matters; to be accompanied and visited at any time by a friend or relative of the individual choice, to the extent feasible; in the event of terminal illness, to die with dignity and to be allowed to die at home; and to have access to a complaint system and to legal assistance to enforce these rights.

Sec. 202—Right to paid leave to receive health care services. Each employee is entitled to one hour per 35-hour work week of paid leave to receive health care services.

Eligibility for, nature of, and scope of services provided by the service

Sec. 211—Eligibility for services. All individuals while within the United States are

eligible to receive health care and supplemental service under this Act.

Sec. 212—Entitlement to services. On or after the effective date of health services, the Service shall provide users with all health care and supplemental services described in section 213 which are necessary for the promotion and enhancement of health, the prevention of disease, the treatment of illness, and rehabilitation following injury, disability or disease. These services do not include personal comfort or cosmetic services, unless the health board providing the services determines they are needed for health-related reasons.

Sec. 213—Provision of health care and supplemental services. The Service shall provide the following health care services in or through facilities established by the Service: promotion of health and well-being through health education programs; prevention of illness, injury, and death through education and advocacy addressed to the social, occupational and environmental causes of ill health through preventive services; diagnosis and treatment of illness and injury, including inpatient and outpatient service, mental health, occupational health, dental care, long-term care, and home health services; rehabilitation of the sick and disabled; and provision of drugs and therapeutic devices, appliances and equipment. The Service shall provide supplemental services of transportation and ambulance service to health facilities, child care services, homemaking and home health services, and counseling and social service assistance. The Service shall conduct environmental and preventive functions now performed by State and local health departments. The Service shall provide reimbursement for the cost of emergency health care services provided in facilities or by persons outside the Service, when immediate medical attention is required and it is impractical for the individual to receive care from the Service.

Health care facilities and delivery of health care services

Sec. 221—Establishment of health care facilities and distribution of delivery of health care and other services. Each community board shall establish facilities in its community to deliver (1) comprehensive primary medical and dental care, immunization, nutrition and screening services; children's health services; obstetrical and gynecological services; family planning and contraceptive services; pregnancy and abortion counseling and services; vision and hearing testing; provision of eyeglasses and other visual aids and hearing aids; 24-hour emergency medical services, provision of pharmaceuticals and medical equipment, mental health services, home health services, and occupational safety and health services; (2) specialized inpatient and outpatient health care services when these can be most effectively provided in a community setting; (3) supportive services and facilities for the physically or mentally handicapped, mentally ill, infirm and chronically ill to promote their integration and functioning within the community, and (4) community oriented health measures to focus community activities on the promotion of health and prevention of illness and injury and to make all residents aware of their ability to use the health services.

Each district board shall establish in its district a general hospital to provide inpatient health care services, as well as such other facilities as will promote the effective delivery of health care in its district.

Each regional board shall (1) establish a regional medical facility providing highly specialized health care services, and (2) provide health care services for individuals whose health care needs cannot be met by community or district boards because of occupational or other factors including migratory agricultural workers and those confined to correctional institutions.

Each area health board shall also provide health education, the maintenance of personal health records, referral services to facilities outside the area, assistance to individuals with language or cultural, differences or educational handicaps in utilizing the services, information on health rights, guidelines, and standards, information on grievance mechanisms and legal services, and environmental health inspection and monitoring services.

Each area health board shall hire appropriate health workers (including administrative personnel) to ensure that its facilities provide the services mandated for the board. Each area health board shall utilize, wherever possible, existing health facilities including health centers, clinics, hospitals, nursing homes, and medical laboratories.

If a community or district board fails to provide the necessary health care and supplemental services on the effective date of health services, its respective regional board shall take whatever steps are necessary to ensure that such services are available to individuals in the area. This may include appointment of a trustee or trustee committee under section 402, requiring the community or district board in an adjacent area to provide such services on a temporary basis, or (until three years after the effective date of health services) providing reimbursement provision of specified services using procedures in effect just before the effective date of health services under title XVIII of the Social Security Act (Medicare).

Sec. 222—Operation and inspection of health care facilities. Each health board shall establish policies and organizational plans for each facility it has established. In establishing, implementing, and modifying such policies and plans, it shall seek the fullest possible participation of health workers in the facility and individuals using the facility by the workers in the facility. These policies and plans shall provide for (1) the management of the facility through decisionmaking mechanisms which provide full and equal participation of all health workers employed in the facility, (2) the elimination of domination by health professionals, and (3) regular accountability of the health workers to the board which established the facility.

On and after three years after the effective date of health services, a health board may not permit a health facility it has established to be used for the private delivery of inpatient or outpatient services. No individual employed by a health board may engage in the private delivery of health care. ("Private delivery" means the delivery of services for which there is remuneration from any source other than the Health Service Trust Fund established in section 511.)

Each health board shall ensure that any facility which provides substantial inpatient service for individuals who are within it for continuous periods of 30 days or longer is cleaned and well-heated, cooled, and ventilated, adequately staffed, provides comfortable quarters for inpatients, provides opportunities for creative activity and recreation, establishes a review committee, informs an inpatient of all decisions involving the inpatient's health, and permits participation in such decisions. It shall not censor or harass communication of an inpatient, confiscate personal property, deny social and sexual life, require that the inpatient work, pay an inpatient less than the minimum wage, physically restrain an inpatient, other than one convicted of a crime, involuntarily for more than 72 hours without determination by the facility's review committee that such restraint is necessary, or take punitive or discriminatory action without approval of the facility's review committee. Annually, the inpatients of each such facility shall elect, from among themselves and any representatives of an interested user association, a review committee of at least 3 members.

Quality care shall be assured by regular inspections of the health care facilities. The results will be reported to the public.

Sec. 223—Provision of health services relating to reproduction and childbearing. To the maximum extent possible area health boards shall provide the following services: complete information on contraception and provision of a contraceptive device or medication of the individual's choosing; complete and effective evaluation and treatment of venereal diseases and diseases of the reproductive organs; complete information and counseling with respect to the individual's conception of children with genetically induced anomalies; complete and effective pregnancy testing; prenatal services; safe, comfortable and convenient abortion services; counseling by women in conjunction with the provision of all gynecologic, female contraceptive and abortion services.

The services will be delivered only upon request, without personal harassment, with complete confidentiality and without prior approval by anyone other than the individual receiving the services. An individual may be accompanied by a person of the individual's choice during the provision of the services described above to the extent this would not significantly increase the medical risk to the individual.

No area health board may perform a treatment or procedure (other than to preserve the patient's life) which could reasonably be expected to affect the individual's capacity to reproduce children unless the individual has again given voluntary consent to the treatment or procedure after being given full information on the effect of the treatment or procedure and on possible alternative treatments at least 30 days before beginning the treatment; and the individual, after the 30 day waiting period, has given written consent. Exceptions to this are the voluntary sterilization following the delivery of a child if written consent has been given 30 days prior to the anticipated delivery date, or during emergency surgery within the 30 day waiting period.

Before a mastectomy is performed, an area health board shall provide the woman with complete information on the range of medical options available and the side effects of each option and she shall give voluntary written consent to such procedures.

An area health board shall permit a woman to deliver her infant in her home, be accompanied during labor and delivery by whomever she chooses, use the position she chooses, care for her infant at her bedside, and feed her infant according to the method she desires, so long as these do not increase the medical risk to herself or her infant.

TITLE III—HEALTH LABOR FORCE

Job categories and certification

Sec. 301—Effect of State Law. Notwithstanding any law of a State or political subdivision to the contrary, the service shall be the sole judge of the qualifications of its employees.

Sec. 302—Qualifications of Health Workers.—Each area health board shall establish procedures which ensure that work classified under a job category is performed by a health worker who is certified as competent to perform the work and authorized to perform the work by the area health board which employs the worker. Each area health board shall provide for the periodic review and assessment of the competency of

its employees, and shall provide opportunities for health workers to be certified for more advanced job categories, each regional board shall provide periodic review and assessment of the performance of health workers in their region. The National Health Board shall provide the same for regional health workers.

Sec. 303—Establishment of Job Categories and Certification Standards.—The National Health Board shall establish guidelines for the classification, certification, and employment of health workers by job category that will ensure that health workers have demonstrated the necessary competency, expand the roles of health workers by enabling them to participate in health care delivery to the maximum extent consistent with their skills and permit alternative approaches to healing. In establishing these guidelines, the National Health Board shall provide for sufficient flexibility to permit regional boards most effectively to meet the health needs of their regions, and for sufficient uniformity to permit mobility of health workers among the regions as well as require exchange of health workers between districts. The National Health Board shall periodically evaluate the job categories and certification practices and make whatever modifications it deems necessary.

For job categories not requiring advanced specialty training, each regional board shall establish certification standards for its region which specify the fuctions performed by a health worker employed in a job category, the skills required to perform this work, the initial and continuing training, experience, and performance required, and the curriculum which a health worker must follow in a health team school. Each area health board within the region shall apply such standards to all health workers it employs.

The National Health Board shall establish standards for job categories involving highly specialized skills and requiring advanced specialty training. Area health boards shall apply such standards to all health workers employed by them in such job categories.

All such standards shall periodically be reviewed and modified as appropriate.

Education of health workers

Sec. 311—Health team schools. Each regional board shall establish a health team school to provide initial and continuing education in health care delivery for all health workers. Each school shall be functioning not later than four years after the effective date of health services, unless the National Health Board approves an alternate plan. A regional board, in consultation with its district and community boards, may decide that conducting particular educational programs in its school would be inefficient or inappropriate, and it may collaborate with one or more adjacent regional boards in conducting joint programs.

Schools shall be funded exclusively by the Service, shall not charge tuition, and shall provide students with allowances for living expenses. The National Health Board shall establish guidelines for operating health team schools such that the activities of each school shall be designed to meet the health needs of the region it serves, the number of students enrolled in each educational program shall be based on the needs of the region, and education for different job categories shall be integrated so as to permit health workers to receive successively higher levels of education. Each school's admissions, curriculum, faculty hiring, and governance policies shall be established with the fullest possible participation of community boards, health workers, staff, and students. Schools may not use low-income or minority individuals, women, or those in mental or penal institutions for experiments and demonstrations in numbers that are disproportionate to their population in the region.

Each regional board shall establish admissions policies for its school which emphasize previous health-related work experience, minimize the use of academic criteria other than those that are significantly related to future work performance, give preference to segments of the population now under represented among health workers, seek a student body that approximates the regions population by race, sex, family income, and language, and require the applicant to agree to perform health care service in accordance with Sec. 312.

Each regional board shall establish curriculum policies for its schools that give priority in study and field work to the leading causes of illness and death in the region (including especially environmental and social factors), provide all students with a common initial sequence of courses and then offer progressively more specialized studies, emphasize work-study experience in all types of health care facilities in the region, and facilitate the development of skills in decisionmaking and problem assessment by all health workers.

Each regional board shall establish faculty hiring procedures that seek a faculty that approximates the population of the region, and shall establish a governance plan for the school which gives signi cant decisionmaking powers to staff and students.

Sec. 312—Service requirement. No individual may be enrolled in a health team school unless the individual agrees to perform service as an employee of the Service after graduation, for a period of time equal to the period of enrollment but not to exceed two years and for an area health board with the highest priority. For graduates of a health team school in a particular job category, the priority ranking for hiring is as follows: (1) the region, or a district or a community in the region, in which the school is located, if there is a health worker shortage in that job category; (2) any other region, district or community having such a shortage; and (3) any other area. A health worker shortage is defined to exist if an area has a ratio of the number of health workers in that job category to the number of residents which is less than two-thirds of the average of that ratio in the Nation, and the area health board has plans and a budget which call for hiring such an individual. The National Health board shall assist in matching the locational preferences of graduates with the needs of the area health boards in the area. Any individual who refuses to fulfill his service obligation shall be required to repay to the Service an amount determined in accordance with a formula stated in this Act.

Sec. 313—Payment for certain educational loans. For individuals who have incurred educational loans prior to the enactment of this legislation and who agree to work for the U.S. Health Service, the Service agrees to assume payment of their educational loans in accordance with this section.

Employment and labor-management relations within the service

Sec. 321—Employment, transfer, promotion, and receipt of fees. Health boards shall hire, classify, and fix the compensation and benefits of their employees, in accordance with this Act and guidelines established by the National Health Board. There shall be employment and promotion in the Service in the same manner as is provided under the Federal civil service system. opportunities for career advancement, encouragement of health workers to use up to ten percent of their work time for continuing education without loss of pay, and full protection of employees' rights to a fair hearing on adverse actions.

Health boards shall give preference in hiring to those employed, or self-employed, as health workers before enactment of this Act. The National Health Board shall ensure that all such individuals may find employment within the Service. Employees of the Service shall be eligible for promotion or transfer to any position in the Service for which they are qualified. Each regional health board shall have a job placement service to assist health workers in its region in attaining the maximum degree of career promotion opportunities and to insure continued improvement of health care services.

A district or community board may not hire an individual to fill a position in a job category if the ratio of health workers in that category to residents in the district or community is greater than four-thirds of such ratio for the region, and if there is a district or community within the region which is a health worker shortage area.

An employee of the Service may not receive a fee or prerequisite from anyone other than the Service for duties performed by virtue of such employment.

Sec. 322—Solicitation and use of recommendations. An area health board may solicit, accept, and consider, and any other individual or organization may furnish, a statement about an individual under consideration for employment. The statement must be furnished upon request of the board and can only be an evaluation of the individual's qualifications for employment. No other statement or recommendation with respect to an individual under consideration for employment may be made or considered.

Sec. 323—Applicability of laws relating to Federal employees. The provisions of chapter 75 of title 5, United States Code (relating to adverse actions against employees), subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work injuries), and chapter 83 of title 5, United States Code (relating to civil service retirement) shall apply to employees of the Service (except in some cases for the personal staff of health board members), unless these are inconsistent with provisions of negotiated collective bargaining agreements or with procedures established by the Service and approved by the Civil Service Commission.

Compensation, benefits, and other terms and conditions of employment in effect before the effective date of health services for health workers employed by the Federal Government shall apply to employees of the Service until changed by the Service in accordance with this Act. No variation of fringe benefits shall result in benefits which are less favorable to employees of the Service than benefits in effect for employees of the Federal Government on the effective date of health services.

Sec. 324—Applicability of Federal labor-management relations law. The provisions of the National Labor Relations Act shall apply to the Service and its employees, except that (1) supervisory employees shall be included, (2) professional and unprofessional employees shall not be treated separately and (3) emergency provisions shall apply to regions.

Sec. 324—Defense of certain malpractice and negligence suits. No malpractice suit may be brought against an employee of the Service while acting within the scope of the employee's employment. The remedy in such cases shall be in civil action brought against the United States.

TITLE IV—OTHER FUNCTIONS OF HEALTH BOARDS

Advocacy, grievance procedures, and trusteeships

Sec. 401—Advocacy and legal services program. Each area health board shall establish a program of health advocacy to ensure the full realization of patients' rights. Such program shall include the employment of health

advocates in health care facilities and measures to correct any infraction of such rights.

The National Health Board shall establish a health rights legal service program to ensure that patients and health workers receive, free of charge, high quality legal services for problems related to health care. The health rights program shall include the establishment of a legal services office in each region, and the establishment of such offices in communities and districts that have inadequate legal services. This program may be carried out directly or, in each instance, by contract with the National Legal Services Corporation or members of the private bar.

Sec. 402—Grievance procedures and trusteeships. Any user, health worker, or user association having an interest in health care may commence a grievance proceeding before a regional board, and a regional board may commence such a proceeding before itself, because of an alleged violation of this Act by a district or community board. Any user, health worker, or user association may commence a grievance proceeding before the National Health Board because of an alleged violation of this Act by a regional board, and the National Health Board may commence such a proceeding before itself.

The National Health Board shall review by appeal, by any party or on its own initiative, an adverse decision by a regional board.

Whenever a grievance proceeding is commenced there shall be a public hearing if the grievance is supported by a suitable petition or before setting aside an election or transferring any function of a board. If a grievance concerns the conduct of a election of a community board, ad it is determined that the election was not conducted in compliance with this Act, or that there had been systematic failure of the user members of such community board to approximate the population of the community, by race, sex, language, or income level, the election shall be set aside and a new one held within 60 days after the date of the determination. If a new election is held because of a determination that portions of the population have not been represented, the election shall be conducted in a way that will facilitate such representation.

For grievances having to do with other matters, if it is determined that a health board has failed to comply with this Act, a new election or appointment within 60 days may be required. If it is determined that a community or district board has failed to comply with this Act, functions of such board may be transferred to the respective regional board until a new election or appointment is carried out. If a regional board has failed to comply with this Act, functions of this board may be transferred to the National Health Board until a new regional board is appointed.

Any party to a grievance proceeding may bring suit in the United States district court for the judicial district in which such proceeding was brought.

Occupational safety and health programs

Sec. 411—Functions of the National Health Board. On and after the effective date of health services, the National Health Board shall oversee an occupational safety and health program conducted at the regional level and shall participate in establishing and administering occupational safety and health standards under the Occupational Safety and Health Act of 1970, which is amended to transfer this area of authority from the Secretary of Health, Education, and Welfare to the National Health Board.

Sec. 412—Community occupational safety and health activities. A community occupational safety and health action council shall be established in each community, as follows: With the assistance of the community board, employees of each workplace in the community having 500 or more employees shall elect one member for each 500 employees; employees of workplaces having less than 500 employees shall vote in community-wide elections for a number of members equal to the number of such employees divided by 500 (rounded to the next highest whole number). Each such council shall appoint one individual to serve as a member of its community board: appoint one individual to serve as a member of the regional occupational safety and health action council for its region; advise the community board on, and oversee occupational safety and health programs in the community; facilitate the establishment and operation of workplace safety and health committees; and assist employees with respect to inspections of their workplaces.

Sec. 413—Regional occupational safety and health programs. Each regional board shall establish an occupational safety and health program for its region using, to the maximum extent feasible, facilities and resources of the community boards in its region. This program should include increasing the ability of employees to monitor safety and health conditions in, and assist in inspections of, their workplaces; facilitating communication among workers employed in similar industries in the region and unions regarding occupational hazards; conducting biologic screening of employees; monitoring the environment to identify hazards; and analyzing employment-related injuries and illnesses in the region.

Each regional occupational safety and health action council shall appoint one individual to serve as a member of its regional board, and shall advise its regional board and the National Health Board on occupational safety and health matters.

Sec. 414—Workplace health facilities. The employer in each workplace having 25 or more employees shall maintain a health facility in or near the workplace for occupational and emergency health care for employees. These facilities shall be organized according to National Health Board guidelines to provide services that meet the needs of the employees. They will be operated by the community board or the employer, with the cost in either case borne by the employer.

Sec. 415—Employee rights relating to occupational safety and health. Employees in each workplace having 25 or more employees shall have the right to establish workplace occupational safety and health committees. Members of these committees (not to exceed one for every 100 employees or fraction thereof) may, without loss of pay, spend 8 hours of each month on occupational safety and health matters and may accompany inspectors during inspections of their workplaces. Employees have the right, without loss of pay, to monitor safety and health conditions in their workplaces and to remove themselves from the site of any hazard until it has been eliminated. Employers shall furnish their employees with safety equipment and clothing. Employees or their representatives shall have the right to inspect all medical records kept by their employer on the condition of their health. Employers shall provide their employees with copies of reports and data on conditions affecting their health and safety and with timely notification of the presence of any dangerous materials or conditions.

Health and health care delivery research

Sec. 421—Principles and guidelines for research. On and after the effective date of health services, the Service shall conduct a program of research on health and health care delivery. Within two years thereafter, the research program shall conform to these principles: (1) to the maximum extent possible, research shall be performed under the direction of, and in association with community, district and regional boards; (2) area health boards must review and approve any research conducted in their facilities; (3) priority in health research shall be given to the prevention and correction of the leading causes of illness and death; (4) priority in health care delivery research shall be given to the improvement of ambulatory and primary health care; (5) no research shall be conducted using human subjects until all useful animal research has been undertaken; and (6) no research shall be conducted on humans without written consent of the individual or while involuntarily confined.

Sec. 422—Establishment of institutes. The National Health Board shall establish a National Institute of Epidemiology, a National Institute of Evaluative Clinical Research, a National Institute of Health Care Services, a National Institute of Pharmacy and Medical Supply, and a National Institute of Sociology of Health and Health Care, each with specified functions.

Health planning, distribution of drugs and other medical supplies, and miscellaneous functions

Sec. 431—Health planning and budgeting. Each area health board shall collect data on the delivery of health care in its area and shall transmit this data and their evaluation of it to the respective regional board, in the case of a district or community board, or to the National Health Board, in the case of a regional board, and to residents of the area. Each regional board shall coordinate the planning and administration of health care services, health worker education, and research in its region. The National Health Board shall formulate a national health plan and budget, in consutation with the regional boards, to provide guidance to area health boards.

Sec. 432—Distribution of drugs and other medical supplies. The National Health Board shall prepare and disseminate to area health boards a National Pharmacy and Medical Supply Formulary which will list drugs and medical supplies and give, for each item, standards of quality, medical conditions for which it is certified effective, and other appropriate information. At regular intervals the Board shall update the Formulary and publish a price list for items in the Formulary.

Each regional board shall establish a program for the purchase and distribution of drugs and other medical supplies for use by the health facilities in its region. This program will provide for the purchase of each item by competitive bidding or based on the price listed by the National Health Board, and it will provide for the distribution of drugs under their generic names.

Sec. 433—Miscellaneous functions of the National Health Board. The National Board shall, at the end of each calendar year, publish a report describing the operations of the Service during the preceding fiscal year and surveying the future health needs of the Nation and plans the Board has to meet these needs.

The National Health Board shall publish and disseminate to area health boards, for use by users, a comprehensive dictionary of terms used in health care records and services.

TITLE V—FINANCING OF THE SERVICE

Health service taxes

Sec. 510—Individual income and employer taxes. The Internal Revenue Code of 1954 is amended by adding a new part on health service taxes. These taxes are imposed on the taxable income of every individual, estate, and trust, increasing their tax liability in accordance with a table included in the Act, and on employers an excise tax of 4.5% of the wages paid by him. These taxes apply to taxable years including and after the effective date of health services.

Sec. 502—Other changes in the Internal Revenue Code of 1954. The Internal Revenue Code of 1954 is amended to delete any income exclusion for contributions to health plans providing health care and supplemental services that are provided under this Act; to deny deductions of payments for health care services provided under this Act; to deny deductions for contributions to medical and hospital facilities; and to repeal Medicare taxes. These amendments apply to taxable years including and after the effective date of health services.

Sec. 503—Existing employer-employee health benefit plans. No contractual or other nonstatutory obligation of an employer to pay or provide health services to his employees or others shall apply after the effective date of health services, to the extent such services are provided under this Act.

Sec. 504—Workers compensation program. No worker's compensation program shall pay for or provide health services after the effective date of health services, to the extent such services are available under this act.

Health Service Trust Fund

Sec. 511—Establishment of Health Service Trust Fund. There is created on the books of the United States Treasury a trust fund to be known as the Health Service Trust Fund. Funds received from health services taxes shall be appropriated to the Trust Fund.

Sec. 512—Transfer of funds to the Health Service Trust Fund. On the effective date of health services, all of the assets and liabilities of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund are transferred to the Health Service Trust Fund. In addition to the funds received from health service taxes, there is also appropriated to the Trust Fund a contribution from general revenues equal to 40 percent of the funds received from health service taxes.

Sec. 513—Administration of Health Service Trust Fund. The Trust Fund shall be administered by a Board of Trustees, composed of the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Chairperson of the National Health Board, according to the accepted standards for such federal trust funds. The Secretary of the Treasury shall pay from time to time from the Trust Fund such amounts as the National Health Board certifies are necessary to provide health care and supplemental services under this Act.

Preparation of plans and budgets

Sec. 521—Determination of fund availability. The National Health Board shall, not later than January 1 of each year, initially fix the maximum amount of funds which may be obligated during the fiscal year beginning on October 1 of such year. Such amount may not exceed the lesser of 140 percent of the expected net receipts from health service taxes, or the amount spent during the previous year adjusted to reflect changes in the cost of living and scope and cost of services. The National Health Board may obligate less funds, if it determines that the cost of providing services has lessened, or additional funds if necessary because of an epidemic or other unexpected occurrence.

Sec. 522—Preparation of area plans and budgets. Each community board shall, by January 1 of each year, submit to its respective district board a plan and budget for the fiscal year beginning October 1. Each district board, in consultation with its community boards, shall, by February 1, submit to its respective regional board a plan and budget for the fiscal year beginning October 1. Each regional board, in consultation with its district boards, shall, by March 1, submit to the National Board a plan and budget for the fiscal year beginning October 1. In preparing these budgets, each area health board shall specify its operating, prevention, capital, and research expenses for the coming fiscal year and for the five-year period beginning with that fiscal year.

Allocation and distribution of funds

Sec. 531—National budget. The National Health Board shall, as soon after April 1 as practicable, transmit to the regional boards a national health budget for the fiscal year beginning October 1. It shall divide the total funds available into funds for ordinary operating, preventive health, capital, and research expenses, all divided into funds for use by the National Health Board and funds for the regions, and funds for special operating expenses as described in section 534. Funds for ordinary operating preventive health measures and research expenses are allocated to regions in proportion to their populations. During the first ten fiscal years, priority in capital funds shall be given to areas lacking adequate health care facilities. The budget shall be adopted upon approval by a majority of the regional boards.

Sec. 532—Regional budgets. Each regional board shall, as soon as practicable after adoption of the national health budget, transmit a regional budget to each district board in its region. This budget shall be adopted upon approval by a majority of the district boards. Funds for ordinary operating, prevention and research expenses shall be allocated to each district in proportion to population.

Sec. 533—District budgets. Each district board shall, as soon as practicable after adoption of the respective regional health budget, transmit a district budget to each community board in its district. This budget shall be adopted upon approval by a majority of the community boards. Funds for ordinary operating, prevention and research expenses shall be allocated to each community in proportion to population.

Sec. 534—Special operating expense fund. A fund for special operating expenses shall be incorporated into each budget prepared by the National Health Board. Special operating expenses include the costs of care and treatment of users 65 years of age and over, care and treatment of persons confined to full-time residential care institutions, special health needs of low-income individuals, special health needs of residents of rural areas, special health needs arising from environmental or occupational health problems, special needs from unexpected occurrences, and the conduct of environmental inspection and monitoring services.

The special operating expense fund is allocated as follows: Funds for the additional expenses associated with senior citizens, and with persons confined to residential care institutions, are allocated to districts and communities and consist of basic capitation amounts multiplied, respectively, by the number of senior citizens and number of residents in such institutions, in the respective areas. The National Health Board shall determine the basic capitation amounts.

Funds for the needs of low-income residents are allocated to communities in proportion to the number of residents having incomes below the poverty level. (The total of these funds shall be no less than 2 percent of the ordinary operating expenses.) Funds for special environmental and occupational health needs are allocated by the National Board to regional boards in accordance with its determination of such needs. (The total of these funds shall be no greater than one-half percent of the ordinary operating expenses.) Funds for unexpected occurrences shall be retained by the National Board and allocated by them. (These funds shall be no greater than one-half percent of the ordinary operating expenses.) Funds for environmental inspection and monitoring services shall be allocated to the area health boards performing such services.

Sec. 535—Distribution of funds. Funds shall be distributed by the National Health Board from the Trust Fund. No health board may request or receive funds from any other source. Area health boards may retain funds received from the National Health Board for two years after receipt of funds; after this period, unexpended funds must be returned to the National Health Board for deposit in the Trust Fund.

Sec. 536—Annual statement, records, and audits. Each area health board shall prepare annually and transmit to the National Health Board a statement that accurately shows the financial operations of the board and its facilities. The National Health Board and the Comptroller General of the United States shall, for auditing purposes, have access to all records and documents of the Service.

General provisions

Sec. 541—Issuance of obligations. The National Health Board is authorized to borrow money and to issue and sell such obligations as it determines are necessary to carry out this Act, but only in such amounts as are specified in appropriation Acts. The aggregate amounts of obligations at one time shall not exceed $10 billion. The National Health Board may pledge the assets of the Trust Fund and pledge and use its revenues to pay principal and interest on obligations. The service shall abide by the general rules and procedures for the issuance of obligations followed by agencies of the Federal Government. Obligations issued by the Service shall be obligations of the United States Government and payment is fully guaranteed by the Government.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601—Effective date of health services. The effective date of health services under this Act is January 1 of the fourth calendar year after the year in which this Act is enacted.

Sec. 602—Repeal of provisions. Effective on the date of health services, portions of the Public Health Service Act, the Social Security Act, and other acts relating to the provision of health care services and the conduct of health and health care research are repealed. Portions of the Public Health Service Act relating to health worker education remain in effect until four years after the effective date of health services.

Not later than 3 years after the date of enactment of this Act, the President shall prepare, in consultation with the National Health Board, and transmit to Congress legislation to repeal or amend additional provisions of law that are inconsistent with the purposes of this Act. Such legislation shall include transfers of such authority of the Secretary of Health, Education, and Welfare, relating to standard-setting, regulation, and licensing, as the President determines, after consultation with the National Health Board to be appropriate.

Not later than one year after the effective date of health services, the National Health Board shall report to the President and to the Congress on how the Service is carrying out the purposes of the programs which have been repealed.●

UNITED STATES RELATIONS WITH THE GERMAN DEMOCRATIC REPUBLIC

(Mr. HAMILTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HAMILTON. Mr. Speaker, on Thursday, February 23, I had the pleas-

ure of talking with David B. Bolen, U.S. Ambassador to the German Democratic Republic (GDR), often known as East Germany.

Ambassador Bolen gave me a succinct and perceptive analysis of the political, economic, and social situation in the German Democratic Republic while also clearly outlining our current policy toward the GDR and continued close Soviet-East German relations. I was most interested in Ambassador Bolen's observations about the various policy options available to us with potential to improve significantly our political, economic, and cultural relations with the GDR.

While Ambassador Bolen was here in the United States he participated in the second annual series of John Sherman Cooper distinguished lectures at the University of Kentucky. Senator Cooper preceeded Ambassador Bolen as the first U.S. Ambassador to the German Democratic Republic. I recently received a copy of Ambassador Bolen's lectures and I want to share it with my colleagues. I think my colleagues and others will be interested in the Ambassador's comments on the prospects and potential of full normalization of relations with the GDR. I applaud the Ambassador's educational efforts to help increase our general understanding of the GDR and to suggest some of the policy options we should consider and debate in order to understand the potential of improving relations.

Ambassador Bolen's lecture follows:

US–GDR Relations in a Rapidly Changing World

(Remarks by David B. Bolen)

President Singletary, Ambassador Cooper, Director Davis, distinguished guests—and fellow students in the art of diplomacy.

It is a great privilege and honor for me to participate in the second annual series of John Sherman Cooper distinguished lectures. This occasion represents a great honor for me, particularly since this lecture series is named after my distinguished predecessor. Senator Cooper served our country with distinction as the first United States Ambassador to the German Democratic Republic.

Senator Cooper's service as Ambassador to the German Democratic Republic reflects his reputation for moral concern and practical action in the realm of human affairs. His has been a voice of reason over the years in support of liberty, human dignity, social justice and peaceful settlement of international conflicts. I congratulate the Patterson School of Diplomacy and International Commerce for instituting this lecture series in the name of this outstanding son of Kentucky.

In carrying out my mission as the second American Ambassador to the German Democratic Republic, it will be my purpose to build on his distinguished record.

I am also pleased to have this opportunity to participate in this lecture series because the focus of the Patterson School's activities is on our youth. Many of your graduates will be responsible for United States security and welfare in years to come. They will be responsible for forging a durable structure of international relationships to promote world peace and prosperity. They will face the challenge of bringing out the creative possibilities of an increasingly pluralistic, interdependent and rapidly changing world. I therefore welcome this opportunity to review our perceptions on the developing relations with the German Democratic Republic in the context of this world of rapid change.

My diplomatic career has seen profound transformation in the world's political structure and a revolution of rising expectation. President Carter recently noted that we live in a "rapidly changing world, a world in which the universal desire for freedom and a better life is being expressed more strongly, and in more ways than ever before—a world in which political awakening, economic independence and technological progress have created new demands on the foreign policy of our people."

Today the world community involves more than 160 independent countries. This world community includes 130-odd developing countries which have changed the character of international affairs. It is a world characterized by population explosion which places tremendous stress and strain on economic development resources. It is a world in which eighty percent of the population will be living in Africa, Asia and Latin American by the end of this century. It is a world of increasing interaction between existing social systems and national values and traditions. It is a world in which a single ideological or revolutionary model is fading.

The world today cannot be fully understood by focusing primarily on East-West competition in Europe. This competition is continuing. But it is conceivable that in years to come the chief security concerns of the United States may not evolve around this East-West confrontation at all. Rather, the chief area of potential conflict will be where East-West interests clash in the developing countries.

One of the priorities of the Carter Administration is to help shape a wider and more cooperative world community. Such a world system should include that one-third of mankind which lives under communism. The German Democratic Republic is one of the most important communist states. Full normalization of relations with the German Democratic Republic would facilitate the assimilation of this country into the fabric of global cooperation.

The German Democratic Republic is a country of central importance to peace and security in Europe. It is the western-most extension of Soviet power and influence. It is a member of the Warsaw Pact. There are some twenty Soviet divisions in the GDR. The GDR shares a common border with our NATO ally, the Federal Republic of Germany.

The German Democratic Republic has a GNP of $70 billion. Its per capita GNP of $4,000 exceeds that of the Soviet Union or any other Eastern European country. It ranks ninth in the world in industrial production. It has a rich reservoir of scientific and technological manpower. The GDR economy is oriented toward the Soviet Union and other East European members of the Council for Economic Mutual Assistance. Like all industrialized countries, it is increasingly dependent on the third world for raw materials and markets.

The German Democratic Republic experienced a long period of isolation from the main Western channels of diplomatic intercourse following its proclamation as a separate state in 1949. This isolation reflected opposing alliances, differing ideologies and a general atmosphere of mistrust which characterized east-west relations during the cold war era. Western perceptions of the GDR were shaped by the rigid controls exercised by the GDR in its internal affairs, particularly following the uprising of GDR workers on June 17, 1953, and the erection of the Berlin Wall on August 13, 1961.

Although the GDR continued to place severe limitations on free speech and travel, improvements in the external political and psychological climate following the Quadripartite Agreement on Berlin and the agreements between the FRG and the GDR and its eastern neighbors facilitated the recognition of the GDR by the leading western nations. Finally, on September 4, 1974, the United States and the German Democratic Republic agreed to establish diplomatic relations, a move which we considered to be in our best interest for a number of reasons.

Our principal interests in the German Democratic Republic revolve around security concerns. These security concerns relate to the GDR's close and "irrevocable" relations with the Soviet Union, the nature of relations between the Federal Republic of Germany and the German Democratic Republic, and the behavior of the GDR in and around Berlin. We have an interest in human rights improvement and detente which we see as mutually-reinforcing concepts. We want a good atmosphere for the protection of the rights and property of American citizens. We also want the GDR to play a constructive role internationally and to look upon the United States as a reliable supplier of agricultural and industrial products.

Therefore, in conducting our relations with the GDR and its allies, we hope:

To go beyond arms limitation to actual reductions of military forces and armaments.

To go beyond uninhibited competition in the third world by developing more stable and equitable North-South relations and by encouraging a general pattern of restraint and cooperation.

To look beyond the postwar division of Europe to encourage more normal relations between governments and peoples of western Europe.

To gain acceptance that discussion of particular human rights matters, defined and agreed in the Helsinki Final Act sections on principles and human contacts, are a legitimate part of bilateral and multilateral diplomacy. This would presuppose both a GDR willingness to engage in discussions with the United States on these matters and a conscious effort to move in the direction of greater, more positive compliance to specific Helsinki provisions.

Now the central purpose of GDR foreign policy is to create and secure the most favorable international condition for the development of a communist society at home. This means the GDR will:

Maintain a firm and invariable alliance with the Soviet Union and other communist countries.

Strengthen the Warsaw Pact.

Define and use detente in ways that will advance GDR objectives.

Seek to develop and maintain multifarious and stable cooperation with all nations, while promoting, where possible, the politcal, social and economic goals of communism.

And, finally, to increase its influence in the third world by posing as an ally of national liberation movements.

The GDR society and its foreign policy goals make it quite clear that both cooperative and competitive elements will be present in our relations for some time to come. The competitive elements stem from historical forces, philosophical pressures, geopolitcal considerations, divergent political systems and different values. At the same time, we have overlapping interests which constitute a basis for enlarging cooperation and regulating the competitive aspects of our relations.

The GDR at all levels has expressed a profound interest in developing closer cooperation with the United States. This is probably important to the GDR for two reasons: First, stronger US–GDR ties would enhance the GDR's status in Europe and elsewhere. Secondly, the GDR leaders may believe that the development of cooperation with the United States will bring it benefits in trade and technology and, through selected ex-

changes, lead to a better understanding of the United States.

In the conduct of our relations through bilateral, multilateral, and other channels we seek to engage the GDR on a wide range of issues, including: Disarmament, inter-German Affairs, Africa, Middle East, North-South dialogue, human rights, humanitarian cases, trade development, cultural and scientific exchanges, consular convention and claims.

The GDR shares the view of most East Europeans that good US-Soviet relations are a key factor in sustaining the process of detente which they see as important in maintaining a good atmosphere for the conduct of bilateral relations with the United States. The most important single aspect of Soviet-American relations is the strategic arms limitation negotiations. In these negotiations with the Soviet Union, an effort is being made the stabilize the military competition, to begin a downward turn to more sensible levels, and to slow down the introduction of new less-stable military technologies. We hope these negotiations will succeed this year; if so, they will contribute to US security and improve the climate in which our relations with the GDR can better develop.

A successful SALT negotiation could also enhance prospects for other arms control problems. We have made it clear that we favor effective measures which bring about arms limitation and disarmament based on the principle of undiminished security, a principle that is essential to success in the Vienna talks on mutual and balanced force reductions in Central Europe. The GDR views with satisfaction the progress which has been made in negotiations on a comprehensive ban on nuclear explosions. As you know, the Administration is working with vigor to halt the proliferation of nuclear weapons. The GDR's participation in the international nuclear fuel cycle evaluation organizing conference is evidence of its concern and willingness to cooperate on non-proliferation.

We must continue efforts to enhance U.S. security through negotiations on disarmament and arms control; at the same time we must maintain NATO's relative military strength and promote western European unity as the keystone of our foreign policy. Success in arms control and disarmament negotiations would obviously free resources to meet the growing human needs in both developed and developing countries and thus facilitate the construction of a more durable structure of global cooperation.

Our efforts to promote a system of global cooperation and regulate competition also includes diplomatic action and political negotiations.

Let me stress here that Central Europe remains the most crucial area of potential conflict. The German question has been the focus of much East-West conflict during the post-World War II period. Soviet and GDR activities in and around Berlin have an important bearing on worldwide peace, security and cooperation. Relations between the two German states also affect the broader East-West agenda and our efforts to go beyond the postwar division of Europe to promote greater mutual trust and cooperation.

I am pleased to note that Central Europe has been relatively stable since the Four-Power Agreement on Berlin in 1971. The 1972 basic treaty between the Federal Republic of Germany and the German Democratic Republic made a significant contribution toward political detente in Europe. Under this treaty both states recognized each other's borders; they acknowledged each other's internal and external sovereignty. A number of negotiations are under way calling for practical cooperation in a number of specific fields. We continue to encourage peaceful cooperation between them and believe the normalization process will continue. We have also made it absolutely clear to the Soviets and the GDR that the United States and its allies will continue to reject activities that bring into question four-power rights and responsibilities for Berlin.

In addition to West Germany, the GDR has been making a concerted effort to improve its bilateral relations with other Western European countries and Japan. Generally these relations are less than five years old. In a relatively short period, there has been a step-by-step development of relations between the GDR and Western Europe and Japan. This includes some state visits, political consultations at the Foreign Minister level, parliamentary delegations, visits of religious and trade union groups, trade expansion, cultural exchanges and cooperation in science and technology.

Detente in Europe is a necessary but not a sufficient condition for the construction of a durable structure of world peace and cooperation. Detente must be reciprocal and comprehensive. I believe the GDR recognizes that North-South issues are important and potentially explosive. Current conflicts in Africa and the Middle East could threaten East-West detente and international peace.

In Africa, the GDR has not been helpful or sympathetic to allied efforts to bring about a peaceful transfer to majority rule in Rhodesia and Namibia through negotiated settlement. It has consistently backed Soviet and Cuban activities that have served to increase the level of tension in other parts of the Continent.

In the Middle East, the GDR generally hews to the Soviet line. It supports the radical Arab states, demands complete Israeli withdrawal from occupied Arab territory and is wary of the peacemaking efforts of President Sadat and Prime Minister Begin, although it has so far refrained from attacking President Sadat.

For our part, we have endeavored to convince the GDR that peaceful settlements of the current problems in the Middle East, the Horn of Africa and Southern Africa would free energy and resources for more humane purposes.

As a global power, the United States is also interested in a more just international economic system in order to meet human needs. Clearly the GDR cannot isolate itself from global economic trends in view of its heavy dependence on foreign trade. As an industrial country short of raw materials, it will show increasing interest in markets and sources of supply in the third and fourth worlds. I believe it would be desirable to encourage the GDR to play a more constructive role in meeting the economic and social aspirations of the developing countries. Cooperation on North-South economic issues in pursuit of common interests could also be beneficial to East-West relations in addition to fulfilling social and economic rights.

In the conduct of our relations with the GDR we have explained that human rights in general are a central component of American foreign policy. The GDR, like other communist states, tends to see our espousal of human rights as interference in internal affairs. It is concerned about the impact of the policy on internal developments. We have explained that our human rights policy is not directed at any particular country but applies to all countries, including the United States. Also, no state which has signed the United Nations Charter or the Helsinki Final Act can argue that its behavior toward its own citizens is a matter within its exclusive jurisdiction. We have stressed that the Administration's human rights policy is consistent with fundamental American values and reflects the transformation that has occurred in American society.

As a member of a minority group in the United States, it is my hope that the GDR will understand that the commitment of Americans to human rights is a strong moral and political force that must be taken into account in carrying out our foreign as well as domestic policies. I have no reason to doubt that we can carry on a dialogue with the GDR on human rights in the spirit of cooperation and understanding rather than as a matter of ideological confrontation.

Despite earlier promises of cooperation by the GDR, many of the humanitarian cases involving American citizens and their relatives in the GDR remain unresolved. GDR action on these divided family, marriage and emergency visitation cases would have a positive impact in creating a better climate for the conduct of bilateral relations and I hope, therefore, that the GDR will respond favorably in present and future cases of this type.

Let me turn now to the cultural exchanges between the United States and the GDR which are expanding. Here it is important to note that the population of the GDR is probably the best informed among the peoples of East Europe about events in the outside world because (a) as much as 80 percent of the territory of the GDR clearly receives not only radio broadcasts from across the border but three channels of television as well, and (b) about ten million West Germans visit relatives annually in the GDR or travel as tourists. In our conversations in all parts of the GDR, with workers, artists, scientists and even officials, we experience a great interest, hunger and appreciation for American society and culture.

In 1975, a US-GDR exchange agreement was negotiated under which some five academicians annually from both countries conduct research for periods of three to four months in the social and natural sciences. It is a mark of progress that in the new agreement the number of exchanges was doubled.

In March I will open the first official cultural program we have arranged with the GDR—an exhibit of some 300 photographs by the famous American artist Paul Strand. It will be on display at a Berlin museum for six weeks. In May we are planning two projects taking place concurrently: A week of American films covering some four decades of motion picture art, and an exhibit of industrial design, which will also include a seminar conducted by five American professors of design technique.

Later this year, in October, the United States will have its first official musical presentation in the German Democratic Republic when the distinguished Composers String Quartet will perform a series of concerts throughout the country. This Quartet, known throughout Europe for its performance of contemporary American chamber music, will give concerts not only in Berlin but in five other cities as well.

These programs represent the first cultural attractions arranged officially between our two governments and suggest some willingness by the GDR to have its citizens experience at first hand some of the cultural accomplishments of our country. I might add also that the GDR has arranged other events through commercial channels, such as two concerts by the Duke Ellington Orchestra, led by his son Mercer. At the Ellington concert last November in Dresden, I was pleased to witness the enthusiasm of the young people for the Ellington music, which exceeded anything in my experience.

An outstanding cultural event will take place this year in the United States, which has great cultural and symbolic importance to our bilateral relations with the GDR. It is a magnificent collection of paintings, porcelain, jewelry and armor from the Dresden

museums that will open the new wing of the National Gallery of Art in our Nation's Capital.

After three months, the exhibition will move on to the Metropolitan Museum of Art in New York; early in 1979 the exhibition will move to the fine arts museums in San Francisco, thereby allowing Americans on both coasts to view what GDR officials point out is the largest collection of art they have ever sent abroad to any country. I have seen these wonderful objects of art in Dresden and can assure you of their beauty and artistic value.

The expansion and balancing of its bilateral trade is probably an important GDR objective in developing its bilateral relations with the United States. There are indications that its officials believe that enormous possibilities exist that would be beneficial to the GDR. Given the GDR's current economic situation, it has a keen interest, for example, in importing western technology, expanding credits from our banks and increasing exports to the United States.

The United States has a very substantial trade surplus with the GDR, in excess of $300 million. This is helpful to our balance of payments and creates jobs for American citizens. Agricultural exports alone exceed $360 million annually and play a major role in our trade.

It is of some significance to note that the GDR is probably the world's most advanced country in coal gasification technology, which offers a potential for easing our energy problem.

The GDR desires more balanced growth in trade with the United States. This will be difficult to achieve given the lack of most-favored nation tariff treatment—a status that the GDR has not been able to achieve under the Jackson-Vanik Amendment because of its restrictive emigration policies.

The GDR is taking steps to develop the American market in the hope of eventually receiving MFN treatment to enhance its competitive position. The GDR took the initiative in establishing the US–GDR trade and economic councils, which involve twenty major U.S. corporations. It has also sought to expand U.S. business contacts by mounting technical seminars in the United States and by opening an office in New York representing the WMW machine tool works.

The United States has taken a number of steps to expand trade with the German Democratic Republic. We participate in the world-famous Leipzig Fair with government-sponsored exhibits and business development offices. We encourage private trade promotion efforts at Leipzig. We sponsor technical sales seminars, maintain a commercial library, provide counseling services and other assistance.

Our efforts to increase economic cooperation with the GDR also include a Fisheries Agreement signed in 1976. Negotiations are underway for a parcel post agreement. We have held talks on patents. Our National Academy of Science and the GDR Academy of Sciences have exchanged drafts for an agreement which appears imminent.

All these activities have helped promote mutual understanding and cooperation that serve our mutual interests.

Discussions are underway on a number of other steps that would create a better framework for bilateral cooperation and the normalization of our relations with the GDR. We are still in the process of negotiating a consular convention, an agreement that will be important to the protection of Americans traveling in the GDR. While showing some responsiveness to our suggestions for moving forward on property claims arising from nationalization and other seizures, the GDR has been far less forthcoming in meeting its obligations to the victims of Nazism.

These are the principal elements of our relations with the GDR from the perspective of a changing world.

In conclusion, ladies and gentlemen, I hope you will carry the following thoughts with you:

Ours is a world of rapid change, competing ideals, conflicting ideologies and abiding issues.

It is a world in which mutual trust does not yet exist. As a people and as a nation we must remain strong at home, united in purpose, and strengthen cooperation with our allies in support of mutual security and our fundamental values.

It is an interdependent world in which peace and progress are indivisible.

Our world of growing interdependence calls for creative and innovative approaches in using overlapping interests to enlarge areas of cooperation and to regulate competition in Europe, the Middle East, Africa, and other areas where East-West interests may clash.

It is a world in which East and West should demonstrate more compassion for the poor and dispossessed—those who, through no fault of their own, are exposed to daily suffering and struggling to survive in the less-developed world.

A healthy world requires that we cooperate with our allies and potential adversaries in limiting arms and making progress on disarmament, for there is no realistic alternative to peaceful coexistence.

The GDR is part of this rapidly-changing world, with a heightened interest in developing better bilateral relations with the United States. It remains our purpose to improve the framework for the conduct of our relations with the GDR, recognizing differences in ideologies and social systems and taking into account that detente must be both reciprocal and comprehensive.

Again, it has been a pleasure for me to make this special trip from East Germany to participate in this lecture series in the name of Kentucky's most renowned native son—Senator John Sherman Cooper. As a diplomat of today, I am confident that the distinguished John Sherman Cooper Lectures will make a contribution toward building a wider and more cooperative world community for our diplomats of tomorrow.

Thank you.●

CONFERENCE REPORT ON H.R. 6782

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion:

CONFERENCE REPORT (H. REPT. NO. 95–1044)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Emergency Agricultural Act of 1978".

TITLE I—PRICE SUPPORT FOR PRODUCERS SETTING ASIDE ACREAGE FOR THE 1978 CROPS OF WHEAT, FEED GRAINS, AND UPLAND COTTON

SEC. 101. This title may be cited as the "Flexible Parity Act of 1978".

SEC. 102. Effective only with respect to the 1978 crops, title I of the Agricultural Act of 1949 is amended by adding at the end thereof new sections 112 through 115 as follows:

"1978 WHEAT LOAN RATE AND TARGET PRICES

"SEC. 112. Notwithstanding any other provision of this Act—

"(a) The Secretary shall make loans and purchases on the 1978 crop of wheat available only to producers participating in the 1978 wheat program at a level not less than $2.55 per bushel.

"(b) The established price for the 1978 crop of wheat shall be at a level related to the amount of cropland that the producers on a farm voluntarily elect to set aside from production. If the acreage the producers voluntarily set aside is—

"(1) 20 percent, the established price shall be $3.50 per bushel;

"(2) 35 percent, the established price shall be $4.25 per bushel;

"(3) 50 percent, the established price shall be $5.04 per bushel.

"1978 FEED GRAIN LOAN RATES AND TARGET PRICES

"SEC. 113. Notwithstanding any other provision of this Act—

"(a) The Secretary shall make loans and purchases on the 1978 crop of feed grains available only to producers participating in the 1978 feed grain program. Loans and purchases on the 1978 crop of corn shall be at a level not less than $2.25 per bushel, and loans and purchases on the 1978 crop of other feed grains shall be at such levels as provided in section 105A(a)(2) of this Act.

"(b) The established price for the 1978 crop of corn shall be at a level related to the amount of cropland that the producers on a farm voluntarily elect to set aside from production. If the acreage the producers voluntarily set aside is—

"(1) 10 percent, the established price shall be $2.40 per bushel;

"(2) 35 percent, the established price shall be $3.05 per bushel;

"(3) 50 percent, the established price shall be $3.45 per bushel.

"(c) The established prices for grain sorghums and, if designated by the Secretary, barley shall be at such levels as the Secretary determines fair and reasonable in relation to the established prices for corn under subsection (b) of this section.

"1978 UPLAND COTTON LOAN RATE AND TARGET PRICES

"SEC. 114. Notwithstanding any other provision of this Act—

"(a) The Secretary shall make available to producers loans on the 1978 crop of upland cotton at a level not less than 48 cents per pound.

"(b) The established price for the 1978 crop of upland cotton shall be 60 cents per pound, or at a level related to the amount of cropland that the producers on a farm voluntarily elect to set aside from production. If the acreage the producers voluntarily set aside is—

"(1) 35 percent, the established price shall be 72 cents per pound;

"(2) 50 percent, the established price shall be 84 cents per pound.

"1978 UPLAND COTTON AND FEED GRAIN DIVERSION PROGRAMS

"SEC. 115. Notwithstanding any other provision of law, for any diversion program formulated and administered by the Secretary for the 1978 crop of upland cotton under section 103(f)(11)(B) of this Act and the

1978 crop of corn, grain sorghums, and barley under section 105A(f)(2) of this Act, payments shall be made to producers on a farm only if the sum of the acreage of the commodity planted for harvest in 1978 and the diverted acreage for the commodity does not exceed the acreage of the commodity planted for harvest in 1977. An acreage of cropland will be considered as planted for harvest in 1977 if a producer on a farm was prevented from planting because of drought, flood, or other natural disaster or other condition beyond the control of the producer. In no event shall any producer be compensated under a diversion program as provided in this Act for any cropland included in a set-aside.".

SEC. 103. The provisions of sections 112, 113, and 114 of the Agricultural Act of 1949, as added by section 102 of this Act shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, may elect after September 30, 1978, to receive payments as computed under the Agricultural Act of 1949, as amended by this Act.

TITLE II—AGRICULTURAL COMMODITIES UTILIZATION PROGRAM

SEC. 201. Title I of the Agricultural Act of 1949 is amended by adding at the end thereof a new section 116 as follows:

"AGRICULTURAL COMMODITIES UTILIZATION PROGRAM

"SEC. 116. Notwithstanding any other provision of this Act—

"(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this title to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

"(b)(1) During any year in which there is no set-aside or diversion of acreage under this title, the Secretary may formulate and administer a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

"(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

"(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(5) The provisions of this subsection shall become effective October 1, 1978.".

TITLE III—INCREASE IN THE BORROWING AUTHORITY OF THE COMMODITY CREDIT CORPORATION

SEC. 301. (a) Section 4(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(i)) is amended by striking out "$14,500,000,000" and inserting in lieu thereof "$25,000,000,000".

(b) Section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4), is amended by striking out "$14,500,000,000" and inserting in lieu thereof "$25,000,000,000".

(c) The increase in the borrowing authority of the Commodity Credit Corporation made by this section shall be effective only to the extent provided in appropriation Acts.

(d) The provisions of this section shall become effective October 1, 1978.

TITLE IV—RAISIN MARKETING ORDERS

SEC. 401. (a) Effective October 1, 1978, section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) inserting ", raisins," after "apples,"; and

(2) inserting ", raisins," after "with respect to almonds".

(b) Within a period of sixty days following the second anniversary of the implementation of this section, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that shall describe in detail how this section has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amendment of the Senate, amend the title to read as follows: "An Act to provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes."

And the Senate agree to the same.

THOMAS S. FOLEY,
W. R. POAGE,
E DE LA GARZA,
WALTER B. JONES,
ED JONES,
DAWSON MATHIS,
DAVID R. BOWEN,
CHARLES ROSE,
WM. C. WAMPLER,
KEITH G. SEBELIUS,
JAMES P. JOHNSON,
W. HENSON MOORE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE S. MCGOVERN,
JAMES B. ALLEN,
WALTER HUDDLESTON,
ROBERT DOLE,
MILTON R. YOUNG,
CARL T. CURTIS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text. The committee of conference recommends a substitute for both the House bill and the Senate amendment.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

(1) RAISIN MARKETING ORDERS

Except for technical and conforming changes, title VI of the *Senate* amendment is identical to the text of the *House* bill.

The *Conference* substitute adopts the *House* provision with the technical and conforming changes made by the *Senate* amendment.

(2) SHORT TITLE

The first section of the *Senate* amendment provides that the bill may be cited as the "Emergency Agricultural Act of 1978".

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(3) ADDIIIONAL SET-ASIDE PROGRAMS FOR THE 1978 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND SOYBEANS

Title I of the *Senate* amendment requires the Secretary of Agriculture to formulate additional set-aside programs for the 1978 crop year under which producers electing to participate would be paid for diverting cropland from the production of wheat, feed grains (corn, grain sorghums, and barley), upland cotton, and soybeans. The additional set-aside programs authorized by title I include provisions under which—

(a) The program must be designed with payment rates to achieve a level of participation that will result in an average market price of not less than (i) $3.50 per bushel in the case of wheat; (ii) $2.50 per bushel in the case of corn (and an equivalent price for grain sorghums and barley); (iii) 60 cents per pound in the case of upland cotton; and (iv) $6.00 per bushel in the case of soybeans;

(b) Payments would be made to producers on a farm who—in addition to making any required set-aside of acreage for the commodity under existing law, and to the extent prescribed by the Secretary—elect to set aside and devote to approved conservation uses an acreage of cropland on the farm in accordance with contracts entered into by the Secretary with the producers;

(c) The payments for a farm would be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the productivity of the acreage to be set aside under the program, the extent of the cropland to be set aside under the program, and (in the case of wheat, feed grains, and upland cotton) the total acreage of cropland set aside from the production of the commodity;

(d) The total acreage of additional cropland set aside from the production of the commodity would be the amount necessary to adjust the total national acreage of the commodity to desirable goals, as determined by the Secretary. However, the rates of diversion payment must be estabilshed by the Secretary at such level as will together with the Secretary's exercise of his authority under any other program authorized by law, achieve the purposes of the additional set-aside programs and assure the total additional set-aside of not less than 31 million

acres of cropland (15 million acres for wheat, 10 million acres for feed grains, 3 million acres for upland cotton, and 3 million acres for soybeans);

(e) The Secretary must limit the total acreage to be set aside under the program in any county or local community so as not to affect adversely the economy of the county or local community;

(f) Producers may devote the additional set-aside acreage to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary after consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of the wildlife food plots and habitats and an additional payment if the producer agrees to permit, without other compensation, access to the general public to all or a portion of the farm (as the Secretary may prescribe) for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations;

(g) As a condition of eligibility for participating in the program for wheat, feed grains, or upland cotton, producers must set aside any acreage of cropland required to be set aside for the respective commodity under other provisions of law;

(h) The Secretary must provide adequate safeguards to protect the interests of tenants and sharecroppers;

(i) The payment limitation provisions of the Food and Agriculture Act of 1977 would not be applicable to the program;

(j) Producers desiring to participate in the program must file a contract to do so by a date established by the Secretary. The contract may be modified or terminated by the mutual agreement of the Secretary and the producer, if the Secretary determines it necessary due to an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities;

(k) Fifty percent of any payment to producers for setting aside cropland under the additional set-aside program would be made in advance of determination of performance;

(l) The Secretary may make partial payments to producers who do not comply fully with the terms and conditions of the program;

(m) The Secretary may issue such regulations as he determines necessary to carry out the provisions of the programs. With regard to acreage planted to the commodity for which payment is made, the Secretary is to administer the program in such a manner as to permit the use of the additional set-aside acreage for haying, grazing, clipping, or wildlife food plots and habitat. However, no producer may devote any acreage set aside under the program to the production of Irish potatoes; and

(n) The Secretary shall carry out the program through the Commodity Credit Corporation.

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provisions. The *Conferees* note that the concept of voluntary paid set-aside programs contained in the *Senate* amendment has been adopted as part of recently-announced administration initiatives under the Food and Agriculture Act of 1977 (which are described in a Department of Agriculture Issue Briefing Paper dated April 3, 1978, and set forth below). Under those initiatives, there will be paid diversion programs for feed grains and cotton.

Producers who participate in the feed grain set-aside program may divert additional acreage equal to 10 percent of the acres planted to the crops in 1978 and receive a payment of 20 cents per bushel for corn (or 12 cents per bushel for grain sorghums or barley) on the normal production from the planted acres. In order to receive diversion payments on corn, barley, or grain sorghums, the producers' 1978 plantings cannot exceed their 1977 plantings or the normal crop acreage for the farm, and the diverted acreage must be devoted to an approved conservation use.

Producers may divert acreage equal to 10 percent of the acres planted to upland cotton in 1978 and receive a payment of 2 cents per pound on the normal production from the planted acres. In order to receive a diversion payment, the producers' 1978 upland cotton plantings (plus the diverted cotton acreage) cannot exceed their 1977 plantings, and the diverted acreage must be devoted to an approved conservation use.

Producers in the paid diversion programs would receive one-half of their payments at the time of signup.

Producers electing to participate in the flexible parity program for feed grains or upland cotton, as adopted by the committee of conference, may elect to divert an additional 10 percent of their feed grain or upland cotton cropland in order to receive payments under the paid diversion programs included in the administration initiatives. In this regard, the *Conference* substitute provides that feed grain and cotton producers who participate in any paid diversion program may not receive payments for cropland included in a set-aside program. (See the discussion of the *Conference* substitute in items (7) and (9) of this statement.)

The text of the Department of Agriculture's April 3, 1978, briefing paper on the administration initiatives reads as follows:

[Issue Briefing Paper, U.S. Department of Agriculture]

APRIL 3, 1978.

NEW FEATURES OF FEDERAL FARM PROGRAMS

BACKGROUND

The world has harvested two consecutive large crops. U.S. farmers have harvested three.

Declining commodity prices and farm incomes in 1977 were the result of large worldwide supplies of grains, oilseeds, and fibers and an increasingly large proportion of stocks accumulated in the United States. Liquidation of the domestic cattle herd because of unprofitable feeding and poor pasture conditions caused by drought also took their toll.

Realized net farm income in 1977 declined to $20 billion—in real terms, equivalent to 1971. The result of this overall situation was severe cash-flow and debt-repayment problems for many farmers. The severity of these problems varied greatly by commodity and by region of the country.

Realized net farm income for the first half of 1978 is at an annual rate of $23 billion, or about $3 billion higher than last year. Foreign demand for the major crops points to a record volume of agricultural exports in the current marketing year.

RECENT MARKET DEVELOPMENTS

Most commodity prices have shown appreciable increases in recent months from earlier lows:

Wheat at Kansas City from $2.30 last June to $3.20 now;

Corn at Chicago from the fall low of $1.80 to $2.43;

Cotton at Memphis from 48 cents at the turn of the year to 56 cents;

Soybeans at Chicago from $5.50 in October to near $7.00;

Rice from $6.87 at mid-year to $11.40 in February;

Choice steers at Omaha from $37 last spring to over $50;

Hogs from $36 last April to $48 now.

Even though commodity prices have shown these increases because of the farmer-held reserve, improved export markets (particularly for oilseeds), increased livestock returns, and some improvement in general economic conditions, some farmers still are experiencing severe problems.

ADMINISTRATION INITIATIVES

On March 29, 1978, the Vice President and the Secretary of Agriculture announced nine major actions with the objectives of dealing with these problems, further strengthening farm income, and continuing the steady growth in agriculture:

1. *To ensure better crop prices and thwart runaway food price inflation* caused by the weather, the farmer-owned reserve is being expanded and the terms liberalized. Grain placed in reserve will not be subject to interest charges after the first year. The reserve programs will be used to remove excess 1978-crop production.

2. *To take excess 1977-crop corn and grain sorghum off the market,* both crops can be put into the reserve program starting May 1.

3. *To ensure that the United States can meet its food aid commitments* in times of short supply and *to support market prices,* the government will purchase wheat in the market to build an emergency reserve of 220 million bushels, including wheat accumulated from CCC loan forfeitures.

4. *To adjust wheat production downward,* producers who participate in the 20 percent set-aside may graze out their wheat or harvest hay on up to 40 percent or 50 acres (whichever is larger) of the total acreage of barley, corn, grain sorghum, upland cotton, and wheat intended for harvest in 1978, and receive a payment of 50 cents a bushel or the wheat deficiency payment rate, whichever is higher.

5. *To bring feed grain production in line with potential demand,* producers who participate in the feed grain set-aside may divert additional acreage equal to 10 percent of acres planted to the crop and receive a payment of 20 cents per bushel for corn or 12 cents per bushel for sorghum or barley on the normal production from planted acres.

6. *To adjust cotton production* down, producers may divert acreage equal to 10 percent of the acres planted in return for a payment of 2 cents per pound on the normal production from the planted acres.

7. *To balance soybean loans with competing crops,* the loan for 1978-crop soybeans is being established at $4.50 a bushel, up $1.00 per bushel over the 1977 loan.

8. *To compensate for increases in costs,* loan and target prices for 1978-crop rice will be increased, according to law. Preliminary data indicates a loan of $6.40 per cwt. and a target price of $8.53 per cwt. There will not be a set-aside program for the 1978 crop.

9. *To improve credit access for farmers and ranchers* with serious debt-repayment problems, we are urging the Congress to pass our proposals for an Economic Emergency Loan Program.

IMPACT OF INITIATIVES

The reserve gives producers the opportunity to hold their crops off the market at low cost to await higher market prices, protect consumers and livestock producers against severe price increases in the event of a poor harvest, and ensure our credibility as a reliable supplier of farm products.

The diversion and grazing payments will:

Provide additional economic incentives for participation in the farm programs;

Give immediate cash assistance and potentially provide crop producers a $3–4 billion increase in net returns;

Strengthen market prices by bringing supplies into better balance with demand; and

Conserve energy and natural resources, while providing an accessible land reserve for use when needed.

GRAZING AND HAY PROGRAM

Section 1004 of the Food and Agriculture Act of 1977 authorizes the Secretary to administer a special wheat acreage grazing and hay program.

A producer who decides to participate must designate the specific acreage on the farm that is to be used for grazing or hay (cut immature for green chop, hay or silage). Acreage included in this program must be in addition to set-aside acres and be within the normal crop acres of the farm.

The payment rate will be at least 50 cents a bushel or the deficiency payment rate, whichever is greater. The total payment will be determined by multiplying the established farm wheat yield, times the number of acres in the program, times the payment rate.

Producers will receive a 25 cent per bushel payment at signup.

This initiative is expected to result in an additional 1 to 1.5 million acres being grazed or hayed, with a 30–50 million bushel reduction in 1978 production from current estimates.

Wheat prices will likely be slightly higher (3–5 cents) and net budget outlays will be slightly lower because of a reduction in deficiency payments and loan and inventory outlays.

FEED GRAIN DIVERSION PROGRAM

Section 502 of the Food and Agriculture Act of 1977 authorizes the Secretary to make land diversion payments to producers to adjust the national acreage of feed grains to desirable goals.

The 10 percent voluntary land diversion program for feed grains is in addition to the 10 percent set-aside for feed grains.

To receive diversion payments, producers' 1978 plantings cannot exceed 1977 plantings for each of the crops, or exceed the normal crop acres for the farm. The diverted land must also be put into an approved conservation use.

The payment rates for the voluntary diversion of feed grains are: 20 cents per bushel for corn and 12 cents per bushel for barley and grain sorghum. The payment will be determined by multiplying the payment rate, times the established crop yields for the farm, times the 1978 acres planted for harvest.

At signup, producers will receive an advance payment of 10 cents per bushel for corn or 6 cents per bushel for sorghum or barley.

Estimates are that 10 million acres will be placed in set-aside or land diversion. Approximately 7 million acres will be corn, 1.5 to 2 million acres will be grain sorghum, and 1 to 1.5 million acres will be barley. Six of the 10 million acres will be in set-aside; four will be in land diversion.

The impact of this diversion program will be to reduce feed grains by 5 to 7 million acres from current estimates with a 4–6 million acre reduction in corn and a 1 to 2 million acre reduction in soybeans.

Feed grain stocks are expected to be reduced about 335 to 450 million bushels (corn equivalent) over current estimates. Diversion payments for this program will likely total about $625 million: $540 million for corn, $50 million for grain sorghum, and $35 million for barley.

Corn prices for 1978 are expected to strengthen 15–25 cents a bushel from current estimates, with increases to other feed grains in relation to corn.

Net government outlays are expected to be minimal because of a reduction in deficiency payments and loans and inventory outlays.

COTTON DIVERSION PROGRAM

Section 602 of the Food and Agriculture Act of 1977 authorizes the Secretary to implement a paid diversion program for 1978-crop upland cotton.

Participants would divert cropland equal to 10 percent of the 1978 planted cotton acreage and also limit 1978 cotton plantings to not more than 1977 cotton plantings.[1] The payment will be determined by multiplying the 2 cents per pound rate times the farm yield times the cotton acreage planted for harvest.

Producers will receive a 1 cent per pound advance at signup.

The impact of this program will be for planted acreage to be reduced 500,000 to 1 million acres from current estimates with no diversion.

Farm prices will likely increase about 3 cents per pound, and net returns would be increased $50–60 million. Consumer prices of goods made from cotton will be slightly higher as a result of the slightly higher cotton prices. For example, the price of a $15 cotton shirt would go up about 9 cents.

Diversion payments will likely total $100 million, and be offset by a reduction in deficiency payments and loan and inventory costs.

EXAMPLES OF PAYMENTS

For Wheat:

Assumptions: A farmer has 1,000 acres of wheat planted and decides to graze out 400 acres. The farmer's normal crop acreage (NCA) is 1,500 acres. The farm yield on wheat is 30 bushels per acre.

Example:

	In acres
Harvest for grain	600
Grazed out	400
Required set-aside (20 percent × acres planted for 1978 harvest)	120
Balance to other NCA crops	380
Total	1,500

The payment for the 400 acres grazed out is: 30 × 50 cents/bu.=$15.00 × 400=$6,000.

For Feed Grains:

Assumptions: A farmer has a normal crop acreage (NCA) of 400 acres. He decides to plant 100 acres of corn this year. His 1977 planted corn acreage was 105 acres. His farm yield for corn is 100 bushels per acre.

Remember that 1978 planted acreage cannot exceed 1977 planted acreage in order to obtain the diversion payment

Example:

[In acres]

Corn planting intentions for 1978	100
Required set-aside (10 percent)	10
Voluntary diversion (10 percent)	10
Acreage that can be planted to other crops	280
Total	400

The payment in this example is 20 cents/bu. × 100 (acre yield) × 100 acres=$2,000.

For Cotton:

Assumption: A farmer has a normal crop acreage (NCA) of 500 acres. He is planting 100 acres of cotton this year. His 1977 planted cotton acreage was 100 acres. His farm yield for cotton is 500 pounds per acre.

Remember that 1978 planted acreage cannot exceed 1977 planted acreage in order to obtain the diversion payment [1]

Example:

[In acres]

Cotton planting intentions for 1978	100
Required set-aside	0
Voluntary diversion (10 percent)	10
Acreage that can be planted to other crops	390
Total	500

[1] See the change made in this provision described in Department of Agriculture Press Release dated April 6, 1978, which is set forth below.

The payment in this example is 2 cents/pound × 500 (acre yield) × 100 acres=$1,000.

[News, U.S. Department of Agriculture]

1978 UPLAND COTTON PROGRAM VOLUNTARY ACREAGE DIVERSION PROVISION REVISED

WASHINGTON, April 6.—Secretary of Agriculture Bob Bergland today announced a change in the 1978 upland cotton voluntary diversion program which provides that participants' 1978 cotton planted acreage plus diverted cotton acreage may not exceed their 1977 acreage planted to cotton. The program had allowed a producer's 1978 cotton plantings to be equal to 1977 cotton plantings.

To be eligible for program benefits, the producer must divert an acreage of cropland equal to 10 percent of the 1978 planted acreage. The 10 percent diversion plus the acreage for harvest cannot exceed the 1977 planted acreage.

Secretary Bergland said the action was taken in order to better assure a reduction in 1978 cotton plantings. With the diversion, U.S. Department of Agriculture officials expect about 12 million acres to be planted to upland cotton.

Eligible persons will be paid 2 cents per pound times the farm payment yield times the cotton acreage planted for harvest. Producers will receive 1 cent per pound advance at signup.

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(4) 1978 WHEAT LOAN RATE

(a) Title I of the *Senate* amendment increases the minimum loan rate for the 1978 crop of wheat to $2.85 per bushel (previously announced at $2.25; it will be $2.35 if the average market price during the 1977 marketing year is more than 105 percent of the loan level of $2.25).

(b) Title II of the *Senate* amendment (which may be cited as the "Flexible Parity Act of 1978") also increases the minimum loan rate for the 1978 crop of wheat to $2.85 per bushel.

The *House* bill contains no comparable provision.

The *Conference* substitute provides that loans on the 1978 crop of wheat may be made available only to producers participating in the 1978 wheat program, and increases the minimum loan rate for the 1978 crop of wheat to $2.55 per bushel.

The *Conference* substitute provides that title I thereof, which establishes loan rates and target prices for the 1978 crops of wheat, feed grains, and upland" cotton and contains new provisions governing diversion programs, may be cited as the "Flexible Parity Act of 1978".

The *Conference* substitute provides that the increases in the loan levels and target prices for wheat, feed grains, and upland cotton contained in title I (described in this item and items (5) through (9) of this statement) will become effective October 1, 1978. However, any producers who receive loans and payments the 1978 crop of any of the commodities prior to October 1, 1978 (computed in accordance with existing law), may elect after September 30, 1978, to receive loans and payments as computed under the *Conference* substitute. Producers making such election will retain the loans and payments they have received and be eligible for any additional amount they are entitled to under the *Conference* substitute.

(5) 1978 WHEAT TARGET PRICE

(a) Title I of the *Senate* amendment increases the target price for the 1978 crop of wheat to $3 55 per bushel (now $3.00; it will be $3.05 if the 1978 crop of wheat is 1.8 billion bushels or less).

(b) Title II of the *Senate* amendment provides different graduated target prices for

the 1978 crop of wheat based on the amount of acreage a producer voluntarily sets aside as follows:

Percent of set-aside:	Target price
20	$3.00
25	3.25
30	3.50
35	4.00
40	4.25
45	4.50
50	5.04

The *House* bill contains no comparable provisions.

The *Conference* substitute provides graduated target prices in three steps based on the amount of cropland a producer voluntarily sets aside as follows:

Percent of set-aside:	Target price
20	$3.50
35	4.25
50	5.04

The *Conference* substitute provides that all producers of wheat, feed grains, and upland cotton will be eligible to participate in the flexible parity program contained in title I thereof. Those producers who have already planted the commodity and do not have sufficient acreage of other cropland to set aside may set aside and devote to conserving uses a portion of their acreage already planted to the commodity. The target price that is applicable to the amount of land being set-aside shall be used in computing any disaster payments payable to the producer under the 1978 wheat, feed grain, and upland cotton programs.

The *Conferees* sought to clarify the requirement in existing law that acreage set aside from the production of wheat, feed grains, and upland cotton be devoted to conserving uses. It was noted by the *Conferees* that overflow river bottom land cannot be easily established in cover crops and that Johnson grass control in some situations calls for summer fallow practices. In these situations, the enforcement of the conserving practices requirement of law would be inappropriate.

The Department of Agriculture notes that the Food and Agriculture Act of 1977 provides that "the set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion", and that Departmental regulations provide that set-aside acreage must be devoted to approved cover crops.

However, the regulations further provide that State ASC committees may recommend, subject to approval by the Deputy Administrator of the Agricultural Stabilization and Conservation Service, other cover or practices that will effectively protect the set-aside acreage from wind and water erosion. (The Deputy Administrator's office does not approve alternative practices unless the State ASC committee recommends it.)

The State ASC committees have in the past recommended, with the concurrence of the State conservationists, numerous alternative practices that may be performed on set-aside acreage. Approval has been given to varied practices recommended by State ASC committees that accomplish the conservation objective and resolve problems peculiar to certain areas of a State.

(6) 1978 FEED GRAIN LOAN RATES

(a) Title I of the *Senate* amendment increases the minimum loan rate for the 1978 crop of corn to $2.25 per bushel (now $2.00).

(b) Title II of the *Senate* amendment increases the minimum loan rate for the 1978 crop of corn to $2.40 per bushel.

The *House* bill contains no comparable provisions.

The *Conference* substitute (1) provides that loans on the 1978 crop of feed grains may be made available only to producers participating in the 1978 feed grain program, (2) increases the minimum loan rate for the 1978 crop of corn to $2.25 per bushel, and (3) increases the minimum loan rates for the 1978 crop of other feed grains in accordance with section 105A(a)(2) of the Agricultural Act of 1949. (Section 105A(a)(2) provides that (1) the loan levels for the 1977 through 1981 crops of barley, oats, and rye shall be such levels as the Secretary of Agriculture determines are fair and reasonable in relation to the levels that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 401(b) of the Agricultural Act of 1949, and (2) the loan levels for the 1977 through 1981 crops of grain sorghums shall be such levels as the Secretary determines are fair and reasonable in relation to the levels that loans are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.)

(7) 1978 FEED GRAIN TARGET PRICES

(a) Title I of the *Senate* amendment increases the target price for the 1978 crop of corn to $2.50 per bushel (now $2.10).

(b) Title II of the *Senate* amendment provides different graduated target prices for the 1978 crop of corn based on the amount of acreage a producer voluntarily sets aside as follows:

Percent of set-aside:	Target price
10	$2.10
25	2.45
20	2.25
30	2.65
35	2.85
40	3.05
45	3.25
50	3.45

The *House* bill contains no comparable provisions.

The *Conference* substitute provides graduated target prices in three steps based on the amount of cropland a producer voluntarily sets aside as follows:

Percent of set-aside:	Target price
10	$2.40
35	3.05
50	3.45

The *Conference* substitute provides for a graduated system of target prices for the 1978 crop of grain sorghums and barley at such levels as the Secretary determines fair and reasonable in relation to the target prices established for the 1978 crop of corn.

The *Conference* substitute provides that for any paid diversion program established under existing law for corn, grain sorghums, and barley in 1978, diversion payments will be made to producers only if the total of their acreage planted to the commodity for harvest and their diverted acres in 1978 does not exceed their acreage planted to the commodity for harvest in 1977. In this regard, acreage will be considered as having been planted for harvest in 1977 if a producer was prevented from planting the acreage because of drought, flood, or other natural disaster or other condition beyond his control.

The *Conference* substitute provides that no producer will be compensated under a paid diversion program for cropland included in a set-aside program.

(8) 1978 UPLAND COTTON LOAN RATE

(a) Title I of the *Senate* amendment increases the minimum loan rate for the 1978 crop of upland cotton to 50 cents per pound (now 44 cents).

(b) Title II of the *Senate* amendment also increases the minimum loan rate for the 1978 crop of upland cotton to 50 cents per pound.

The *House* bill contains no comparable provision.

The *Conference* substitute increases the minimum loan rate for the 1978 crop of upland cotton to 48 cents per pound.

(9) 1978 UPLAND COTTON TARGET PRICE

(a) Title I of the *Senate* amendment increases the target price for the 1978 crop of upland cotton to 70 cents per pound (now 52 cents).

(b) Title II of the *Senate* amendment provides for different graduated target prices for the 1978 crop of upland cotton based on the amount of acreage a producer voluntarily sets aside from production as follows:

Percent of set-aside:	Target price
20	$.54
25	.59
30	.64
35	.69
40	.74
45	.79
50	.84

The *House* bill contains no comparable provisions.

The *Conference* substitute increases the target price for the 1978 crop of upland cotton to 60 cents per pound, and provides two additional levels of target prices based on the amount of acreage a producer voluntarily sets aside as follows:

Percent of set-aside:	Target price
35	$0.72
50	.84

The *Conference* substitute provides that for any paid diversion program established under existing law for upland cotton in 1978, diversion payments will be made to producers only if the total of their acreage planted to upland cotton for harvest and their diverted acres in 1978 does not exceed their acreage planted to upland cotton for harvest in 1977. In this regard, acreage will be considered as having been planted for harvest in 1977 if a producer was prevented from planting the acreage because of drought, flood or other natural disaster or other condition beyond his control.

The *Conference* substitute provides that no producer will be compensated under a paid diversion program for cropland included in a set-aside program.

(10) GRAZING AND HAYING UNDER THE 1978 SET-ASIDE PROGRAMS

(a) Title I of the *Senate* amendment provides that—with respect to the required set-aside of wheat acreage under existing law—the Secretary must permit the production of hay thereon in any area where a natural disaster or other condition beyond the control of the producer has depleted stocks of feed in order that the stocks may be replenished.

(b) Title II of the *Senate* amendment requires that the Secretary permit grazing and hay production on acreage set aside under the 1978 set-aside programs for wheat, feed grains, and upland cotton. (NOTE: Title I of the *Senate* amendment requires that the Secretary administer the additional set-aside programs in such manner as to permit the use of the additional set-aside acreage for haying, grazing, clipping, or wildlife food plots and habitat.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provisions.

(11) NORMAL TILLAGE OPERATIONS ON 1978 WHEAT SET-ASIDE ACREAGE

Title II of the *Senate* amendment requires that the Secretary permit normal tillage

practices on land set aside under the 1978 wheat set-aside program as if such acreage had not been set aside.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(12) AGRICULTURAL COMMODITIES UTILIZATION PROGRAM

(a) Title I of the *Senate* amendment authorizes the Secretary of Agriculture to permit the production of set-aside or diverted acreage of commodities to be converted into gasohol.

(b) Title I also authorizes the Secretary to provide incentive payments to producers to set a portion of their acreage for the production of commodities to be converted into gasohol when no set-aside or land diversion program is in effect. The incentive payments would be at the level necessary to obtain sufficient participation in the program to ensure an adequate supply of agricultural commodities for gasohol manufacture. Appropriations would be required to carry out the program. (No producer may participate in the incentive program unless he agrees to produce for gasohol purposes a quantity of the commodity equal to not less than 15 percent of the farm acreage allotment or farm base acreage for such commodity).

The *House* bill contains no comparable provision.

The *Conference* substitute provides that the Secretary of Agriculture may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into gasohol *if* the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

The *Conference* substitute provides, effective October 1, 1978, that the Secretary—during any year in which there is no set-aside or diversion of acreage—may make incentive payments to producers who, subject to such terms and conditions as the Secretary may prescribe, devote a portion of their acreage to the production of commodities to be converted into gasohol *if* the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

The *Conference* substitute provides that the payments are to be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for gasohol manufacture. Appropriations would be required to implement the program.

(13) EXTENDED LOAN PROGRAM TRIGGER PRICES

Title III of the *Senate* amendment changes—for a one-year period beginning on the date of enactment of the bill—the release prices under the producer storage program for wheat and feed grains.

(a) The price at which producers may redeem commodities under the producer storage program is changed from a price not less than 140 percent nor more than 160 percent of the then current price support level for wheat or such appropriate level for feed grains, as determined by the Secretary of Agriculture, to a price determined by the Secretary not less than the current parity price for the commodity.

(b) The price at which the Secretary may require producers to repay loans is changed from not less than 175 percent of the then current level of price support for wheat, or such appropriate level as the Secretary determines for feed grains, to not less than 105 percent of the current parity price for the commodity involved.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(14) PRICES AT WHICH COMMODITY CREDIT CORPORATION STOCKS MAY BE RELEASED

Title III of the Senate amendment also changes—for a one-year period beginning on the date of enactment of the bill—the minimum price level at which the Commodity Credit Corporation may sell any of its grain stocks.

(a) The minimum price level at which the Commodity Credit Corporation may sell any of its stocks of wheat or feed grains when the producer storage program is in effect is changed from 150 percent of the then current level of price support to the party price for such commodity.

(b) The minimum price level at which the Commodity Credit Corporation may sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye is increased from 115 percent of the current national average loan rate for the commodity to the current parity price for the commodity involved. (This minimum price level applies to wheat and feed grains when the producer storage program for the respective commodity is not in effect.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(15) INCREASE IN THE BORROWING AUTHORITY OF THE COMMODITY CREDIT CORPORATION

Title IV of the *Senate* amendment increases the borrowing authority of the Commodity Credit Corporation from $14.5 billion to $25 billion, effective October 1, 1978. The increase would be effective only to the extent provided in appropriation Acts.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) FARMERS HOME ADMINISTRATION REAL ESTATE AND OPERATING LOANS—ELIGIBILITY AND LOAN LIMITS

Title V of the *Senate* amendment—

(a) expands eligibility for farm real estate and operating loans under the Consolidated Farm and Rural Development Act to include family farm corporations and partnerships;

(b) increases the lending limits for such loans (i) from $50,000 in the case of farm operating loans to $100,000 for loans insured by the Secretary of Agriculture, and to $200,000 for loans guaranteed by the Secretary, and (ii) from $100,000 in the case of farm real estate loans to $200,000 for loans insured by the Secretary, and to $300,000 for loans guaranteed by the Secretary;

(c) with respect to farm real estate loans, deletes the current total real estate indebtedness limitation of $225,000 and authorizes the Secretary to establish limitations for such loans on an annual basis; and

(d) for both farm real estate and operating loans, deletes the provision requiring that the county committee certify the maximum amount of loan that may be made.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

The *Conferees* note that both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry have reported bills containing provisions almost identical to the *Senate* provision and that the bills are to be acted on in the near future.

(17) MEAT IMPORT LABELING

Title VII of the *Senate* amendment requires that imported meat and meat food products be labeled as being "imported" or "imported in part", as the case may be, except when the country of origin is specified on the container or package. Any person, other than the ultimate consumer, who divides imported meat or meat food products into pieces or breaks a package or container containing imported meat or meat food products must label each piece, or its package or container, as "imported" or "imported in part", except when the country of origin is specified on the package or container. A product that results from a blend of imported and domestic meat may be labeled "contains imported meat".

The Secretary of Agriculture would assess fees on imported meat and meat food products to cover the costs of the labeling requirement. States that carry out mandatory meat inspection programs would be reimbursed for expenses incurred in enforcing the labeling requirement.

Any exporter that fails to pay an assessment will have his export privilege revoked.

Title VII would become effective 180 days after its enactment.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(18) COMMODITY LOANS

Title VIII of the *Senate* amendment requires the Secretary of Agriculture to guarantee loans made by commercial lending institutions to producers of nonperishable "specified" commodities for which a loan program is authorized. The amount of any guaranteed loan cannot exceed an amount determined by multiplying the quantity of the commodity by the loan level established for the commodity for the year involved. The term of the loan would be that agreed upon by the lender and the producer-borrower, but not in excess of 36 months. The interest rate could not exceed the commercial rate in the area.

Title VIII also authorizes the Secretary to make direct loans, through the facilities of the Commodity Credit Corporation, in amounts not less than the amounts prescribed for guaranteed loans and at the same rates of interest. There would be no maximum term specified for direct loans.

The Secretary would be required, whenever practicable, to use the loan guarantee program in providing an initial loan to any commodity producer.

No loan could be made by the Secretary to a producer of a commodity unless the producer had satisfied any prior loan on that commodity that had been guaranteed by the Secretary or unless the proceeds of the loan were to be used to satisfy the prior loan.

Both direct and guaranteed loans would be nonrecourse and would require no security other than the commodity involved. The Secretary could adjust the loan level for any "specified" commodity on the basis of the grade, type, staple, or quality of the commodity.

The Secretary would be required to establish mandatory release prices at which specified percentages of the quantity of the commodity under loan must be released for sale. Release prices would be established prior to the start of the marketing year for each commodity and would be established as percentages of the loan level for the commodity, plus carrying charges.

The Secretary could call the loans on any commodity if the Secretary determined that the domestic and foreign markets for that commodity were unstable because insufficient quantities of that commodity were being offered for sale, but only when the market price equaled or exceeded the release price for the commodity. Loans would be

called chronologically, oldest to newest. Loans could not be called if that action would cause the price of the commodity to fall below the then current loan level. No new loan, nor renewal or extension of an existing loan, could be made on a quantity of a commodity if that quantity of a commodity had been ordered released or the loan had been called.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(19) TITLE OF THE BILL

The title of the *House* bill is "An Act to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion."

The *Senate* amendment changes the title to "An Act to provide emergency assistance to producers of wheat, feed grains, upland cotton, and soybeans, and for other purposes."

The *Conference* substitute provides that the bill may be cited as "An Act to provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes."

THOMAS S. FOLEY,
W. R. POAGE,
E DE LA GARZA,
WALTER B. JONES,
ED JONES,
DAWSON MATHIS,
DAVID R. BOWEN,
CHARLES ROSE,
WM. C. WAMPLER,
KEITH G. SEBELIUS,
JAMES P. JOHNSON,
W. HENSON MOORE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE S. MCGOVERN,
JAMES B. ALLEN,
WALTER HUDDLESTON,
ROBERT DOLE,
MILTON R. YOUNG,
CARL T. CURTIS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

Mr. YOUNG of Florida (at the request of Mr. RHODES), for today and the balance of the week, on account of illness in the family.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KASTEN) and to revise and extend his remarks and include extraneous matter:)

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. BARNARD) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANDERSON of California, for 5 minutes, today.

Mr. WIRTH, for 15 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. LLOYD of California, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. GIAIMO, for 5 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. CORNELL, for 30 minutes, on April 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMILTON, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,889.

Mr. FASCELL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,396.

Mr. HAMILTON, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $821.25.

Mr. DELLUMS, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,971.

(The following Members (at the request of Mr. KASTEN), and to include extraneous matter:)

Mrs. HOLT.
Mr. COHEN.
Mr. MITCHELL of New York.
Mr. HAGEDORN in two instances.
Mr. WHITEHURST.
Mr. DORNAN in four instances.
Mr. GOODLING in two instances.
Mr. LAGOMARSINO in two instances.
Mr. GILMAN.
Mr. SARASIN in four instances.
Mr. DERWINSKI in two instances.
Mr. TAYLOR.
Mr. LENT in two instances.
Mr. SMITH of Nebraska.
Mr. WHALEN.
Mr. HANSEN in four instances.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. BRODHEAD.
Mr. PICKLE in 10 instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. HAMILTON in two instances.
Mr. SIMON.
Mr. FISHER.
Mr. GAYDOS.
Mr. EDWARDS of California.
Mr. FARY.
Mr. VANIK.
Mr. WEISS.
Mr. LEDERER.
Mr. MAGUIRE.
Mr. NOLAN.
Mr. STARK.
Mr. EILBERG.
Mr. TEAGUE.
Mr. HUBBARD.
Mr. MURPHY of New York.
Mr. HAWKINS.
Mr. JACOBS.
Mr. ERTEL.
Mr. ROE.
Mr. OTTINGER.
Mr. NEAL.
Mr. LAFALCE.
Mr. CONYERS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1568. An act to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West"; to the Committee on Public Works and Transportation.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2540. An act pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2960. To authorize the Secretary of the Interior to memorialize the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia;

H.R. 5981. To amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act; and

H.R. 8358. To amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Monday, April 10, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3784. A letter from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting the Council's 1978 annual report, pursuant to section 148(c) of the Elementary and Secondary Education Act of 1965, as amended; to the Committee on Education and Labor.

3785. A letter from the Deputy Assistant Secretary of the Interior, transmitting a proposed plan for the use and distribution of Creek judgment funds awarded in docket 275 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

3786. A letter from the Secretary of State, transmitting a report of apparent violations of use restrictions involving defense articles furnished to Israel by the United States under the foreign military sales program, pursuant to section 3(c) of the Arms Export Control Act; to the Committee on International Relations.

3787. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of unauthorized transfers of U.S.-origin military equipment, pursuant to section 3(e) of the Arms Export Control Act; to the Committee on International Relations.

3788. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of July 31, 1977, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

3789. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting the audit report of the Garden for calendar year 1977, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

3790. A letter from the Executive Director, Military Chaplains Association of the U.S.A., transmitting the audit report of the organization for calendar year 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

3791. A letter from the Secretary of the Army, transmitting a Corps of Engineers report on the Colorado River and tributaries, Texas, in partial response to a resolution of the House Committee on Public Works adopted July 29, 1971; to the Committee on Public Works and Transportation.

3792. A letter from the Secretary of the Army, transmitting a Corps of Engineers interim report on water supply for the Duluth-Cloquet-Superior area, Minnesota, in partial response to section 102 of the River and Harbor Act of 1966; to the Committee on Public Works and Transportation.

3793. A letter from the Comptroller General of the United States, transmitting the third annual report on the activities of Amtrak, pursuant to 45 U.S.C. 644 (supp. V 1975) (CED-78-67, April 5, 1978); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

3794. A letter from the Comptroller General of the United States, transmitting a report on the problems in operating the Emergency Assistance Program (HRD-78-65, April 5, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

3795. A letter from the Comptroller General of the United States, transmitting a joint report of the Mid-Atlantic Intergovernmental Audit Forum on the Get Set day care program in Philadelphia, Pa.; jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY. Committee of conference. Conference report on H.R. 6782 (Rept. No. 95-1044). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina:

H.R. 11922. A bill to amend the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Education and Labor.

By Mr. ARCHER:

H.R. 11923. A bill to amend the Internal Revenue Code of 1954 to provide for automatic inflation adjustments in the income tax; to the Committee on Ways and Means.

By Mr. BEDELL (for himself, Mr. BRECKINRIDGE, Mr. PATTERSON of California, Mr. MILLER of California, and Mr. SIMON):

H.R. 11924. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. BEILENSON (for himself, Mr. GAMMAGE, Mr. WALGREN, Mr. PRITCHARD, Mr. BEARD of Rhode Island, Mr. MCCLOSKEY, Mr. JENRETTE, Mr. AKAKA, Mr. EDWARDS of California, Mr. GORE, Mr. CONYERS, Mr. OTTINGER, Ms. KEYS, Mr. SIMON, Mr. BEDELL, Mr. PATTERSON of California, Mr. WIRTH, Mr. HUGHES, Mr. PATTISON of New York, Mr. ROSENTHAL, Mr. KASTENMEIER, Mr. BONIOR, Mr. FRASER, Mr. WEISS, and Mr. LAFALCE):

H.R. 11925. A bill to promote public health and welfare by preventing unwanted conceptions and reducing the need for abortions among all women, especially teenagers, through improved and expanded family planning services and population research activities by the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BEILENSON (for himself, Mr. MARKEY, Mr. MOFFETT, Mr. WAXMAN, Mr. DELLUMS, Mr. PURSELL, Mr. BONKER, Mrs. BURKE of California, Mr. PRICE, Mr. BLANCHARD, Mr. JOHN L. BURTON, Mr. GARCIA, Mr. SEIBERLING, Mr. FLORIO, Mr. MAGUIRE, Mr. MINETA, Mr. MIKVA, Mr. FRENZEL, Mr. UDALL, Mr. LEACH, Mr. EDGAR, and Mr. THOMPSON):

H.R. 11926. A bill to promote public health and welfare by preventing unwanted conceptions and reducing the need for abortions among all women, especially teenagers, through improved and expanded family planning services and population research activities by the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Mr. ADDABBO, Mr. CARTER, Mr. EILBERG, Mr. EMERY, Mr. EVANS of Georgia, Mr. FARY, Mr. GUYER, Mr. HOLLENBECK, Mr. KETCHUM, Mrs. LLOYD of Tennessee, Mr. LOTT, Mr. MOAKLEY, Mr. ROE, Mr. VENTO, Mr. WALKER, Mr. ZEFERETTI, and Mr. MCDADE):

H.R. 11927. A bill to amend the Buy American Act to increase the incentives for the purchase of domestic articles, materials, and supplies with regard to Federal and federally funded procurements; to the Committee on Government Operations.

By Mr. CRANE (for himself, Mr. BADHAM, Mr. DORNAN, Mr. KEMP, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LENT, Mr. MARRIOTT, Mr. MCDONALD, Mr. ROUSSELOT, Mr. SPENCE, and Mr. BOB WILSON):

H.R. 11928. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources without the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. HAGEDORN (for himself and Mr. GOODLING):

H.R. 11929. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. HILLIS:

H.R. 11930. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the town of Galveston, Ind., for airport purposes; to the Committee on Public Works and Transportation.

By Mr. HILLIS (for himself, Mr. KEMP and Mr. CRANE):

H.R. 11931. A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to treat certain federally required nonproductive expenditures as not chargeable to capital account and as currently deductible; to the Committee on Ways and Means.

By Mr. HILLIS (for himself and Mr. RAILSBACK):

H.R. 11932. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, dentures, eyeglasses, and hearing aids among the benefits provided by the insurance program established by part B of such title, and for other purposes; jointly to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LLOYD of California (for himself, Mr. AMMERMAN, Mr. BROYHILL, Mr. GUYER, Mr. JENRETTE, Ms. MIKULSKI, Mr. RAILSBACK, Mr. STOKES, Mr. WATKINS, and Mr. WEISS):

H.R. 11933. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LLOYD of California (for himself, Mr. CAPUTO, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. DAN DANIEL, Mr. DORNAN, Mr. GUYER, Mr. HANNAFORD, Mr. KETCHUM, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MITCHELL of Maryland, Mr. PATTERSON of California, Mr. PEASE, Mr. RANGEL, Mr. RICHMOND, Mr. RYAN, Mr. STOKES, Mr. WATKINS, Mr. WHITEHURST, Mr. WINN, Mr. YATRON, and Mr. YOUNG of Florida):

H.R. 11934. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of individuals who have attained the age of 62 $3,000 of interest received during any taxable year; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 11935. A bill to amend the Export-Import Bank Act of 1945 to provide an officer responsible for matters concerning or affecting manufacturers of solar technology equipment or other renewable energy technology equipment, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MAGUIRE (for himself, Mr. HUGHES, Mr. HOWARD, Mr. THOMPSON, Mrs. FENWICK, Mr. ROE, Mr. HOLLENBECK, Mr. RODINO, Mr. MINISH, Mr. RINALDO, Mrs. MEYNER, Mr. LE FANTE, and Mr. PATTEN):

H.R. 11936. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ANNUNZIO, Mr. EILBERG, Mr. FARY, Mrs. FENWICK, Mr. FLORIO, Mr. GONZALEZ, Mr. HANLEY, Mr. HARRINGTON, Mr. HOLLENBECK, Ms. HOLTZMAN, Mr. HUBBARD, Mr. HYDE, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. PATTEN, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. ST GERMAIN, Mr. SIMON, Mrs. SPELLMAN, and Mr. VENTO):

H.R. 11937. A bill to revise the Interstate Land Sales Full Disclosure Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MITCHELL of New York (for himself, Mr. KETCHUM, Mr. NEAL, Mr. MCDONALD, Mr. LEGGETT, Mr. LOTT, Mr. WALSH, Mr. TRIBLE, Mr. MANN, Mr. WHITEHURST, Mr. JENRETTE, Mr. HALL, Mr. EDWARDS of Oklahoma, Mr. BOB WILSON, Mr. ROSE, Mr. SPENCE, and Mr. CORCORAN of Illinois):

H.R. 11938. A bill to amend the Federal Civil Defense Act of 1950 to authorize appropriations for the purposes of such act for fiscal years 1979 through 1985; to the Committee on Armed Services.

By Mr. O'BRIEN (for himself and Mr. GREEN):

H.R. 11939. A bill to amend the Rehabilitation Act of 1973 to improve the formula for State allotments under part B of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. PICKLE:

H.R. 11940. A bill to provide that the antitrust laws shall apply to any joint agreement by or among professional baseball club owners for the telecasting of professional baseball clubs' contests if such telecasting interferes with certain intercollegiate or interscholastic football contests; to the Committee on the Judiciary.

By Mr. PREYER:

H.R. 11941. A bill to provide for complete financial disclosure by Members of the House of Representatives, Senators, officers of either House of Congress, candidates for Congress, and certain individuals employed by Members, Senators, officers or committees of either House of Congress; to the Select Committee on Ethics.

By Mr. RODINO (for himself, Mr. BROOKS, Mr. SEIBERLING, Miss JORDAN, Mr. HUGHES, Mr. MCCLORY, and Mr. COHEN):

H.R. 11942. A bill to restore effective enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 11943. A bill to authorize and direct the Secretary of the Army to dredge Sheepshead Bay, Brooklyn, N.Y.; to the Committee on Public Works and Transportation.

By Mr. STUMP:

H.R. 11944. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Interior and Insular Affairs.

By Mr. WHITEHURST:

H.R. 11945. A bill to authorize the Secretary of the Army to return 10 paintings to the Navy of the Federal Republic of Germany; to the Committee on Armed Services.

By Mr. ANDERSON of California:

H.R. 11946. A bill to amend chapter 40 of title 18, United States Code, to require the addition of taggants to explosive materials for the purpose of identification and detection of such materials; to the Committee on the Judiciary.

By Mr. BYRON:

H.R. 11947. A bill to amend the Internal Revenue Code to provide renters with a credit against income tax; to the Committee on Ways and Means.

By Mr. KELLY (for himself, Ms. KEYS, and Mr. BURGENER):

H.R. 11948. A bill to amend the Internal Revenue Code of 1954 to provide that greenhouses are eligible for the investment tax credit; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. CONTE, Mr. EMERY, Mr. KILDEE, Mr. PEPPER, Mr. RINALDO, Mr. ROE, and Mr. RYAN):

H.R. 11949. A bill to amend the Internal Revenue Code of 1954 to encourage the targeting of manufacturing related investments in labor surplus areas by providing, with respect to property placed in service in such area, and additional depreciation deduction and an additional investment tax credit, and by providing, with respect to real property located in such areas, an additional deduction for State and local real property taxes; to the Committee on Ways and Means.

By Mr. LUJAN (for himself and Mr. RUNNELS):

H.R. 11950. A bill to expand the licensing and related regulatory authority of the Nuclear Regulatory Commission for certain specified activities, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. OTTINGER:

H.R. 11951. A bill to amend the Communications Act of 1934 to provide criteria and procedures for the renewal of broadcast station licenses, increase the ability of the public to participate in the regulatory proceedings of the Federal Communication Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BAUCUS:

H.J. Res. 826. Joint resolution to authorize and request the President to issue a proclamation designating Sunday, September 24, 1978, as "National Good Neighbor Day"; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of New York (for himself, Mr. PATTERSON of California, Mr. CLAY, Mr. LAGOMARSINO, Mr. FLOOD, Mr. HYDE, Mr. LLOYD of California, Mr. GUYER, and Mr. ROE):

H.J. Res. 827. Joint resolution memorializing Dr. Mahlon Loomis; to the Committee on Post Office and Civil Service.

By Mr. BOWEN (for himself and Mr. FREY):

H. Con. Res. 553. Concurrent resolution expressing the sense of the Congress that an Energy Conservation Impact Statement shall be prepared before any law is passed, any agency regulation or rulemaking is promulgated, or any executive order is issued; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Mr. AMBRO, Mr. BEARD of Rhode Island, Mr. BOLAND, Mrs. CHISHOLM, Mr. COHEN, Mr. DRINAN, Mr. EARLY, Mr. FARY, Mr. GILMAN, Mr. HARRINGTON, Mr. MOAKLEY, Mr. RANGEL, Mr. RICHMOND, Mr. WALGREN, and Mr. WEISS):

H. Res. 1117. Resolution directing the Committee on International Relations to conduct hearings to determine the nature and extent of any U.S. involvement in the hostilities in northern Ireland; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MCEWEN:

H.R. 11952. A bill to provide for the striking of National Medals by the Lake Placid 1980 Olympic Winter Games, Inc., in commemoration of the XIII Olympic Winter Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OTTINGER:

H.R. 11953. A bill for the relief of Lunette Joyce Clarke; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 11954. A bill for the relief of Rodolphe H. Ellert-Beck; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

GOVERNOR LONGLEY RETIRES

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. COHEN. Mr. Speaker, last Friday Gov. James B. Longley of Maine announced that he would not seek reelection to a second term in office. In doing so, Governor Longley, who is the Nation's only independent Governor, lived up to the pledge he made in 1974 that he would serve only one term.

lar in Maine, and he had been urged by many to continue in public service. In

Governor Longley is extremely popu-

resisting this pressure and choosing to return to private life, the Governor showed exceptional courage and conviction.

It has been my pleasure to work closely with Governor Longley on issues of importance to the people of Maine, most especially on the critical Maine Indian land claim situation. I want to join the people of my State in saluting Governor Longley and in offering him my best wishes for happiness and success in private life.

Mr. Speaker, I insert in the RECORD a number of Maine newspaper articles and editorials on the Governor's decision:

[From the Bangor Daily News, Apr. 1, 1978]

LONGLEY WON'T RUN—GOVERNOR CITES ONE-TERM PLEDGE

(By Peter Slocum)

AUGUSTA.—Gov. James B. Longley, who was elected four years ago promising to return to his million-dollar insurance business after one term, declared Friday, "I will keep my word to the people of Maine."

The long-time Democrat, who was elected as an independent, thus ended speculation that he would try for another term or for the U.S. Senate. He is the only independent governor in the nation.

Longley, 53, did not finally make up his mind until midday Friday, according to sources close to the governor. And even then, the question nagged at him just before he went in to tell his staff and Cabinet.

"In the final analysis, in pondering my own decision relative to seeking re-election, I kept reaching the same inescapable conclusion . . . that nothing we have accomplished in this term would be as important and long-lasting as a clear demonstration to the people of Maine that this governor continued to keep his word," Longley said in concluding his three-page statement of withdrawal.

The governor, an emotional and hard-driving man who grew up in poor surroundings in Lewiston and made himself into a millionaire insurance man, left the State House with his bodyguard early Friday after-

noon just before the statement was distributed to reporters.

Aides said he would refuse all comment on his decision until next Wednesday's cabinet meeting.

Longley won election in a three way race in 1974 with just under 40 percent of the vote. His popularity grew during his term, however, and most politicians believe he would have won a second term easily.

His popularity seemed to increase as he engaged in a series of running battles with the Legislature, the teachers union and other traditional heavyweights on the political scene.

The Longley administration, under a banner of fiscal conservatism, has held down state hiring, cut back on capital construction projects and preached, unavailingly, cutbacks in school spending at the local level.

Longley saw a $36 million tax hike pass over his veto in 1975, and then persuaded the Legislature to enact about $20 million in tax cuts this year.

Six candidates—three Democrats and three Republicans—are in the race to replace Longley, and a number of independents have announced plans to enter the race. The parties will select their candidates in a June 13 primary. The independents must file petition signatures by that date to qualify for the November ballot.

Longley openly considered breaking his word about running again for governor or for higher office, and kept speculation boiling himself by asking his supporters for advice. He sent a questionnaire to members of "Longley's Legion," his 1974 citizen's, campaign organization.

And the governor said his decision not to run came "despite overwhelming and mighty heartwarming expressions of support by thousands of Maine citizens who have again volunteered their time and their money for a campaign for this independent governor for reelection or other political office."

Longley got inspired to run for governor in the first place when the Maine Management and Cost Survey report he turned in to Gov. Kenneth Curtis, a Democrat, was largely ignored. The survey team was made up of leading businessmen dedicated to streamlining government. Longley headed the group and fashioned a political springboard out of the illfated report.

"This mission has not been completed. I will not quit," he said, announcing his candidacy June 7, 1974.

Three years and ten months later, the announcement apparently signaling an end to Longley's brief political career came just three days before the Monday filing deadline. It leaves a number of major unfinished matters on his gubernatorial agenda.

He has not made a decision on the hotly debated Dickey Lincoln hydroelectric project in the St. John River valley, and his withdrawal may reduce his influence over the project. While the Army Corps of Engineers, the project sponsor, has never violated the wishes of a sitting governor, the Corps may not feel bound by the decision of an outgoing governor.

And the Indian land claims dispute, with two-thirds of Maine's territory hanging in the balance, is far from resolved. Longley has campaigned vigorously against proposals to settle the suit out of court, but the final decision on whether to seek a court battle has not yet been made.

Longley pledged to be a fulltime governor through his final day in office, and asked his cabinet to stay to the end as well, said press secretary Ralph Lowe.

The cabinet members all rose as one to applaud Longley after he read the full statement to them. Some members of the inner circle staff were in tears after being told of the decision, aides said.

Longley was under intense pressure to go back on his promise and run again, particularly from friends and supporters in the business community.

The Bangor Daily News, the only paper to endorse him four years ago, urged him to run again in an editorial several weeks ago.

"As a citizen I say, 'Run again'," one close Longley friend told a reporter this week just after a private chat with the governor, "As a friend I say, " 'Go home'."

In his statement, Longley said that making the decision "has to be one of the most difficult decisions, if not the most difficult decision of my life to date."

AIDE SAYS GOVERNOR GUIDED BY HIS WORD

Jimmy A. McGregor: "The thing he wanted to be, more than anything else, is what he told the people of Maine he would be. He said he would be the hardest working governor he possibly could; he said that he would try to control the cost of state government; and he said that he would only seek one term."

(By John S. Day)

WASHINGTON.—Governor Longley is said to have only one advisor, James B. Longley.

There is one man in his administration, though, who is closer to the governor than others.

He is not a Cabinet member. He attracts virtually no publicity.

Jimmy A. McGregor has been with Longley from the beginning. The Alabama-born former UPI reporter managed Longley's improbable 1974 election victory. He has worn a number of hats in the administration.

The press usually describes him as Longley's "chief aide."

McGregor talked about the governor's decision not to run for reelection in a telephone interview.

"He weighed all of the considerations up until the last minute, but the big thing turned out to be his word. He gave his word not to seek more than one term in 1974 and he wanted to keep it," said McGregor.

"He has always tried to do this. I think a look at the record has shown that he has done it."

McGregor indicated that Longley had discussed the re-election question with him and other key aides during the last few days.

There had been strong hints to a number of persons during recent months that Longley would not run. The governor had suggested that in off-the-record conversations with NEWS Maine Editor Kent Ward and in a background briefing with the NEWS editorial board earlier this week.

Each time, though, the governor stopped just short of declaring that he had made a final decision.

According to McGregor, Longley broke the news to his immediate staff at 1:15 p.m. The Cabinet was informed at 1:30 p.m., shortly before the release of a three-page statement announcing the governor's intention not to file for re-election.

"I think that the staff was supportive of whatever decision he felt comfortable with. The staff realized it was a very personal decision with the governor. I don't think anybody tried to encourage him to do anything except what he thought he ought to do," the aide continued.

There were two major considerations which hung over the decision not to seek re-election, the Maine Indian land-claim case and the Dickey-Lincoln hydroelectric project.

Longley has taken a strong position in opposition to settlement proposals from the White House which would compel 14 major landowners to transfer 300,000 acres to the Indians. He is expected to announce his decision on Dickey-Lincoln in the near future.

Longley's position on that project is crucial, since the Carter administration has indicated it would not build the dams over the opposition of governors.

Longley is said to be leaning against Dickey-Lincoln. McGregor insisted "he does not have a closed mind on the project."

"Those considerations were weighed," said McGregor.

"He was concerned about whether he could be effective on those two issues if he did not run again.

"In the end, he decided that he could be just as effective, or more effective on those issues as a non-candidate."

McGregor offered his personal assessment of Longley as governor.

"He genuinely tried to do what he said he would do. He took his lumps and criticism. He made decisions which were not always politically astute, perhaps, but the overriding thing, more than anything else, was that he wanted to be what he told the people of Maine he would be."

"He said that he would be the hardest working governor that he could be; he said he would try to control the cost of government; and he said that he would only seek one term.

"I personally feel he has kept all those commitments. I sort of stand in awe of him from that standpoint," McGregor stated.

He said that Longley took office during a difficult period for the state.

"We came in just after the Great Society period in which government tried to do everything for everybody. The money had come from Washington almost like a never ending well to start up all sorts of exciting and innovative programs.

McGregor said that for a lot of governors, not only Longley, "this was the period in which the well dried up."

"There were some very tough decisions to be made. There was no way to make popular decisions on them. Everyone wants fiscal responsibility, which is fine, until you happen to cut one of their programs," he said.

"I think Maine sort of came of age. The state is in fairly good shape now. That in itself is an accomplishment."

McGregor summed up his assessment this way:

"These things would try anybody. I personally think that Longley handled this period with extreme maturity.

"I think he handled it well."

[From the Bangor Daily News, April 1, 1978]

THE GOVERNOR'S WAY

Gov. James Bernard Longley announced Friday that he will not seek a second term—a decision that elicits mixed feelings of disappointment and overwhelming respect.

For those of us who have consistently felt that this man is unique in Maine politics, Gov. Longley did not let us down.

He was, and remains, a man of his word.

It is ironic that the quality in Jim Longley that drew us and thousands of other Maine people to him, his integrity, was the prime reason that he will now step out of the political arena.

He told us he would not run for a second term, and he will not—this despite the important state issues that still demand his personal attention.

He could have rationalized his position, but he didn't. He had ample justification to stay on, but he won't.

Gov. James Longley knew that he had given something unusual to the people of Maine. He restored our faith in government and in the men who govern, and only he could have taken that away.

[From the Maine Telegram, Apr. 2, 1978]

GOV. JAMES B. LONGLEY

Gov. James B. Longley's decision not to seek re-election—or any other elective office this year—will remove from public life one of the most extraordinary political figures in Maine history.

As a comparative unknown, James Longley came almost from nowhere to win the gov-

ernorship in 1974. As an independent candidate with no formal organizational support he succeeded in capturing the attention of an electorate which had become increasingly disenchanted with what it perceived to be "politicians" in both major parties.

James Longley's candidacy obviously met a public need at a time in the post Watergate period. He turned the pledge to bring hardheaded business practices to government in an effort to hold down the growth of state spending into a potent political force known as "Longley's Legion."

Once in office, the Longley administration lived up to its promises. The growth of state government spending was curbed and this year—reversing an historical trend—the state approved its first major tax cuts in memory.

Often irascible, occasionally petty, James Longley nonetheless brought the first new perspective to state government in more than 30 years by questioning policies and procedures that had become accepted facts of governmental life.

While the crowning achievement of the Longley four years may be the tax cuts approved in the last legislative session, the legacy of his splendid judicial appointments—based neither on political affiliation nor personal friendship—may be even more enduring. He set a standard of excellence which should become a benchmark for all future governors.

It will take time, perhaps years, to gauge the full impact of James Longley's four years in office. But it seems immediately apparent that he will be remembered as one of the most remarkable public figures in Maine's history.●

AMBASSADOR GOLDBERG PRESENTS LEV SHAPIRO HUMAN RIGHTS CASE TO THE BELGRADE CONFERENCE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. LENT. Mr. Speaker, I would like to inform my colleagues of a further development in the never-ending struggle against the cruel oppression the Soviet Union is inflicting upon its citizens of Jewish faith.

During the Belgrade Conference on the Helsinki Accords, I wrote Ambassador Arthur J. Goldberg asking him as chief of the U.S. delegation to the conference to add the case of Lev Shapiro to the long list of those Soviet citizens whose human rights are being denied—in direct violation of the Helsinki Accords. Like so many of his countrymen, Lev Shapiro is being denied permission to emigrate to Israel with his wife and child.

I am gratified at the prompt response of the Ambassador, who informed me that he brought Lev Shapiro's case to the attention of the Soviet representatives at Belgrade as soon as he received my letter. The Ambassador's report on the Soviet reaction is most informative. Ambassador Goldberg writes:

As is customary with them, they refused to comment on the case, and presumably have forwarded my representation to Moscow.

Such has been the practice of the Soviet leaders. In fact, the Russians refused even so much as to consider the question of violation of human rights in the final report of the Belgrade Conference.

Mr. Speaker, the Soviets have attempted, consistently, to keep a curtain of silence around their brutal suppression of human rights. But we must continue our efforts to insure that such a policy will never succeed. We must do whatever we can to bring to public attention the Soviets' flagrant denial of the basic human freedoms. We must continue to insist that the Soviets live up to the terms of the Helsinki Accords, to which they agreed nearly 3 years ago. Through such efforts we can provide some measure of encouragement to those courageous Soviet citizens who continue to risk everything, including their lives, for the freedom to practice the religion of their choice in the country of their choice. I am confident that eventually we will prevail in this struggle.

It is with that spirit, Mr. Speaker, that I submit this report to the attention of my colleagues.●

TRIBUTE TO REGINALD DAVIES

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. MITCHELL of New York. Mr. Speaker, on Friday, April 14, 1978, it will be my privilege to participate in an area's tribute to one of its most dedicated, sincere, and conscientious citizens and public officials, Reginald Davies.

Mr. Davies—Reg to one and all—will be saluted by the community at large for a distinguished record of service in a range of positions from the local to national level.

I have had an unusually good vantage point from which to observe this truly fine man in action because he has been a valued member of my district staff since I was first elected to Congress in 1972. More about this in a moment.

My purpose in bringing the Reg Davies story to the attention of my colleagues is to provide further documentation to a basic theory on the greatness of America. That theory is that our people—diverse in background, patriotic in purpose, generous of heart, and humble in spirit—are the Nation's greatest asset. Reg Davies is a case in point.

He is a man of the soil, a farmer. A man of faith active in his church. A civic leader actively involved in a number of community betterment organizations. A family man who knows and shares love. An individual who earned the respect of his neighbors and won their support to represent them in the council of government.

A quick glance at his record tells it all. Town councilman. Town supervisor. County legislator. Congressional assistant. To each of these positions he gave his all. And recognition followed outstanding performance. Chairman of the county legislature's important Ways and Means Committee. Chairman of Public Works. Chairman of finance and insurance. Majority leader.

For me and for our 31st Congressional District, he is a valued source of counsel. A man on the spot who is able to sense the moods, feelings, and needs of the people and translate them effectively so that I might be in a position to be both responsive and responsible in addressing them.

But good friend and coworker Reg is so much more than a Government employee and public servant.

He is a volunteer fireman. A Rotarian. A Mason. Member of the Sauquoit Valley Chamber of Commerce, Oneida County Cooperative Extension, National Holstein Association, and many, many other organizations.

The Willowvale Methodist Church and the Ziyara Temple of the Utica Shrine are enriched by Reg's membership and active participation.

What impressive credentials! What a distinguished record.

Reg Davies is a modest man, but an individual who has every right to stand tall and hold his head high as he looks to the future. In his way he has contributed so much to making today better than we might have hoped for and tomorrow even more promising as we face the challenges ahead.

I welcome the opportunity to be in the chorus singing the praises of this hard-working, decent, honest, and loyal American.●

BROADCAST LICENSE RENEWAL REFORM

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. OTTINGER. Mr. Speaker, I am today introducing the "Broadcast License Renewal Act," which is a revised version of legislation I introduced in the 94th Congress as H.R. 15168. The purpose of this bill is to require the Federal Communications Commission to adopt specific standards of performance for those seeking renewal of their broadcast licenses.

It is high time that the FCC adopted some specific standards by which the public interest can be protected, and by which there can be assurance of adequate service of public need. This is needed for protection of both the broadcasters and the public.

The bill provides for license expiration if a licensee substantially alters his format on a permanent basis, although allowing for up to 9 months of experimental format change. It requires the FCC to adopt rules for license renewal determinations, including quantitative standards requiring not less than 15 percent of programing be devoted to informational program service, such as news, public affairs and the like; for ascertainment

procedures; for cross-ownership limitation; and for equal employment opportunity procedures.

These are a few of the highlights of the bill, which would provide for implementation of some of the changes raised in the 1971 case of *Citizens Communication Center* v. *F.C.C.* (447 F. 2d 1201). In a circuit court decision in that United Church of Christ case, Justice Warren Burger wrote:

A broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise, it is burdened by enforceable public obligations. A newspaper can be operated at the whim or caprice of its owners; a broadcast station cannot. After nearly five decades of operation the broadcast industry does not seem to have grasped the simple fact that a broadcast license is a public trust subject to termination for breach of duty.

I commend this legislation to the attention of my colleagues, and hope that many of them will join me in cosponsoring it. It is particularly relevant at the present time as the Subcommittee on Communications prepares its revised Communications Act.●

DISMAY ON NEGATIVE AND RETROGRESSIVE SENATE VOTE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. MURPHY of New York. Mr. Speaker, the action of the Senate yesterday in rejecting an amendment to the Panama Canal Treaty that would have recognized the constitutional role of the Congress in disposing of the property of the United States provided in the treaty, should be a matter of profound concern to every Member of the House and of the Senate as well. The action flies in the face of the plain provision of article IV, section 3, clause 2 of the Constitution and the uniform practice of this Government from the earliest days of the Republic. It represents a radical departure from the theory of the Constitution establishing a balance of power between the three branches of the Government. It is especially in derogation of the role of the House of Representatives in the structure of Government in that Senate concurrence in the action of the Executive is substituted for enactment of legislation by the House and the Senate as the Constitution requires.

The denial to the House of the opportunity to exercise its constitutional authority will bring into question the legal effect of the treaty, inasmuch as the Supreme Court has repeatedly found that a treaty, like any other law, is invalid to the extent that it violates any provision of the Constitution.

The language of the Constitution is plain and unambiguous in committing to the Congress the authority to dispose of property of the United States. The action of the Senate in arrogating this power to the President and the Senate should not and cannot be accepted by this body.

The wisdom of the Senate vote in refusing to recognize the legitimate role of the Congress must be questioned when it is recognized that the vote adopts a constitutional interpretation which has been advocated by the Executive and which has historically been opposed by the Congress from the First Congress.

Whether or not a vote of the House of Representatives can be taken with respect to the congressional property disposal power before the Senate disposes of the Panama Canal Treaty of 1977, it remains of paramount importance that House Members sign discharge petition No. 6, relative to House Concurrent Resolution 347. The discharge petition is the most expeditious means of bringing the resolution to this floor and allowing all Members to express a position on a matter that vitally affects the powers of which we are trustees.●

CONGRESSIONAL SALUTE TO THE PEOPLE OF BYELORUSSIA IN COMMEMORATION OF THE 60TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF THE BYELORUSSIAN DEMOCRATIC REPUBLIC

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. ROE. Mr. Speaker. This year the people of Byelorussia solemnly observe the 60th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic which was signed in Miensk, the capitol of Byelorussia, on March 25, 1918. In commemoration of this most historic event, it is indeed significant and appropriate that we join with all Americans of Byelorussian heritage in saluting the people of Byelorussia in recognition of their valiant struggle for the preservation of their own national character and the restoration of the right to exercise self-determination to national independence and sovereignty.

As a Nation comprised of all nationalities from all corners of the globe, we are ever mindful and vigilant to the critical need to hold on to the traditions and cultures of all peoples throughout the world and their outstanding contributions to mankind. America is indeed fortunate to have had the benefit of the cultural inheritance and historical achievements of the Byelorussian people.

Mr. Speaker, on this anniversary observance of this historic agreement of the Byelorussian people, we here in the House can reaffirm our support of humanitarian ideals in our quest for a communion among all peoples of the world to achieve quality of life that will permit the widest possible expression of cultural and national heritage so important to mandkind's purpose and objectives in attaining a rich and lasting peace throughout the world.

There is a continuing need for concerted action in mustering world opinion as a viable force in achieving universal understanding and agreement on basic human rights principles to eliminate government controls that dominate the personal freedoms of the individual to live and worship in the land of his or her choice and stifle the independence and sovereignty of a nation of people.

On March 25, 1918 the Byelorussian people achieved national independence and regained the freedoms which had been lost to the czarist Russia at the end of the 18th century. This national sovereignty, however, was short-lived and the Byelorussian people continue their valiant struggle to again achieve their national identity as a sovereign state free from the forces of communistic domination and control.

Mr. Speaker, on behalf of the people of my congressional district and the State of New Jersey, I join in this annual observance of our Byelorussian heritage and trust that it will help to reassure those people whose human rights are held captive not only behind the Iron Curtain of the Soviet Union but throughout the world that through world opinion we can attain international understanding and agreement that will eliminate the oppression of people and restore "human rights" and the people's rights of self-determination to national and political independence in the so-called captive nations of the world.●

CLEANLINESS, AT A PRICE—ENVIRONMENT AND THE DOLLAR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial which appeared in the Washington Post, April 5, 1978.

CLEANLINESS, AT A PRICE

To reduce environmental pollution, this country spent $35 billion in 1976. That, you will agree, is an impressive sum of money. It means that, out of every $100 that Americans spent for all kinds of goods and services that year, $2.03 went into pollution abatement and control. It bought things like improved sewage-treatment plants, antipollution equipment for automobiles, and scrubbers to purify the stack gases of coal-fired power plants. These expenditures are now large enough to affect the development of the national economy.

Congress generally treats the environmental legislation as, essentially, a moral issue. That, in our judgment, is the correct view of it. Pollution affects people's health and comfort. It affects aesthetic values and the pleasure that people are able to take in their surroundings. But to say that is not a license to ignore the costs, which have been rising steadily. The Commerce Department has been tracking these figures, and publishing them periodically in its Survey of Current Business. They nearly doubled from 1972 to 1976.

Within the past decade, American economic productivity has suddenly begun to grow much less rapidly than before. Productivity means, in effect, the amount that a worker produces in an hour. If it doesn't go up, neither does the standard of living. Why is it no longer rising as fast as it used to? There is now a good deal of evidence that part of the explanation is the large and rising investment in pollution abatement. Edward F. Denison of the Brookings Institution has developed a statistical method of breaking a nation's economic growth rate down into its basic sources. Mr. Denison, writing in the Survey of Current Business, offers an illuminating explanation of what's happening.

He identifies three changes that have contributed to the slowdown in the productivity trend recently. The most important of the three is the amount of money being invested in environmental protection. Another is the growing array of programs to protect the health and safety of people in their jobs. The third—far less welcome—is the increase in crime. Here Mr. Denison is speaking particularly of the types of crime that afflict business operations—holdups, shoplifting and other thefts of merchandise, embezzlement. Those three disparate factors have one crucial characteristic in common: They all tend to reduce economic output.

All three grew slowly in the late 1960s but, Mr. Denison found, they accelerated in the 1970s. They do not constitute a complete answer to the mystery of American productivity and why it no longer increases as fast as it used to. But by 1975 they had reached a scale at which, taken together, they would have offset about one-fifth of the traditional rate of rise in the productivity of an hour's labor.

Is that a reason for abandoning the environmental protections that have been written into the law over the past decade? Clearly not. But there is a certain danger. This country, in its high-flying way, might try to avoid the choice. It would not be uncharacteristic of Americans to keep pressing Congress for more environmental protections in the style of the 1970s, while pressing President Carter for faster economic growth at the rate of the early 1960s. In fact, something very much like that is going on right now. The warning that the statisticians are offering, in their intricate arithmetical way, is that those two purposes don't fit together.●

CUBA'S MILITARY COMMUNISM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. GOODLING. Mr. Speaker, I fear that what has recently happened in the Horn of Africa is merely the prelude to a longer and bloodier conflict. The Cuban troops that were so essential to the Ethiopian victory in the Ogaden region are becoming a finely tuned fighting force and now, heady with victory, they are moving north to the province of Eritrea to continue their "war of liberation."

I am sure my colleagues are as concerned as I am about a protracted battle in the Horn, which will threaten our influence in one of the most strategically important areas in the world. And we cannot, I will argue, rely on Cuban or Soviet restraint in this matter and it is to this question of moderation that I wish to address myself.

In a recent article for Encounter magazine (reprinted and abridged in the Christian Science Monitor, March 17, 1978) Prof. Hugh Thomas discusses the essentially military character of the Cuban regime. What Thomas calls Cuba's "military communism" is manifest in their huge investment in Africa, which is dependent upon the Soviet Union for its policy formulation and logistical support. For confirmation of Thomas' thesis I direct my colleagues' attention to a speech delivered by our neighbor, Dr. Castro:

It is admirable how the sons of our people were able to march to such a far off place and fight there as if they had been fighting in their own country.

Admirable, indeed. This Cuban army should be viewed for what it is: The functional arm of a new imperialism, whose "combatants are making efforts to intensify their combat" and who, according to Castro, gain "inspiration" from each victory. What Mussolini said of his fascism can now be said of Castro's "military communism": (It) sees in the imperialistic spirit a manifestation of its vitality." What is not manifest in Dr. Castro's address is any concept of restraint and since "(p)hysical space is no longer anything for our revolution" we may ask what area in Africa can be safe from his "internationalist fighters?"

No, moderation and restraint are not characteristics of Castro's intentions, indeed, I believe his speech makes clear that what Professor Thomas says is true, "(Cuba) is unique in the Communist world for her capacity for war, not for her humanism * * *" and that she is well suited to the role of "spearhead of insurrection in Africa." ●

PROTECTING HIGH SCHOOL ATHLETIC PROGRAMS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. PICKLE. Mr. Speaker, today I am introducing a bill to amend the antitrust laws concerning the televising on certain dates of professional baseball games. Because of the extended major league baseball season, last fall we had a situation where a major league playoff game and a World Series game were televised on Friday nights.

This is exactly the situation we sought to avoid when Congress passed the law preventing television broadcasts of professional football games on Friday night. We did this to protect high school athletic programs throughout the country where interscholastic football games are scheduled for Friday nights.

When we passed this law, we did not foresee this possible conflict with major league baseball but I think we must now amend the law to prevent these baseball conflicts on Friday night. My bill would simply amend the present law by including "any professional baseball game on any Friday after 6 o'clock post meridiem" during the period of the second Friday in September to the second Saturday in December. And television agreements of these games would lose their antitrust exemption.

Mr. Speaker, I think we must take this action to insure that high school football games will not have to compete with major league playoffs or the World Series. If enacted, these playoffs games would simply be scheduled around Friday night. I do not think this is too much to ask to protect the major revenue source for high school athletic programs.

I have already discussed this problem with Baseball Commissioner Bowie Kuhn and I feel he is sincerely sympathetic to the problems of high school sports. However, he has not yet been able to suggest a permanent solution. I believe this bill would provide that solution and I think that this issue is important enough to ask my colleagues to give it their consideration and their support.●

FOCUS: HOPE

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. BRODHEAD. Mr. Speaker, it is estimated that between 400 to 500 million people around the world suffer from malnutrition, making hunger one of the most serious problems facing mankind. This fact is largely obscured from us, because we are fortunate enough to live in a country where food is abundant.

A group of about 50 adults and high school students in my district are finding out for themselves about hunger and at the same time helping to solve the problem.

These concerned people—part of an interdenominational effort in the Detroit area directed against hunger—will be fasting from 7 p.m. this Friday, April 7 until 7 p.m. Saturday, April 8 at the North Congregational Church in Southfield, Mich. The purposes of the fast are: First, to raise funds to assist in alleviating hunger; second, to increase public awareness about hunger and malnutrition.

Sponsors of the event have made pledges of financial contributions based upon the number of hours for which participants fast. These contributions will be forwarded to Focus: Hope, Detroit's food prescription program for women and children, and to organizations that provide food assistance overseas. I will be speaking to the fasting group on Saturday afternoon. Other speakers and some films have also been scheduled as part of an effort to educate people on various aspects of the world hunger problem.

Mr. Speaker, I commend the fine people who have given of their time to make this fast successful. I hope it will result in a rededication of our efforts to eliminate hunger from the Earth.●

NEUTRON WEAPONS AND ARMS CONTROL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. CONYERS. Mr. Speaker, a leak to the New York Times over last weekend concerning an imminent decision by the President to forgo further development and production of neutron weapons has set off a classic rearguard action by defenders of neutron weapons in and out of the Department of Defense. The arms lobby has pulled out all stops in an all-out effort to turn the President around to approving further neutron weapons' development.

I am hopeful that when the dust falls the President will show his determination to put a stop to this new weapons system. The production of nuclear weapons is, in the final analysis, incompatible with the President's strivings to curb nuclear arms proliferation worldwide and this Nation's and the world's profound responsibility to begin the process of arms control.

It is, however, disheartening to follow this week's semipublic debate on neutron weapons appearing on the front pages of every major newspaper and realize that the news media have permitted the proponents of these weapons to define the issues to suit their position while blacking out almost entirely the contrary arguments. To paraphrase a famous statement, neutron weapons are too important for the fate of mankind to leave to the decision of journalists and editors.

There has been a great deal of license in the media in reporting what neutron weapons do and why they are needed. Far more emphasis has been given to the drama of the bureaucratic infighting over the neutron weapons that has taken place between the White House and the Defense Department than has been paid to the meaning of these weapons for present and future generations.

There really are three major issues involving the neutron weapons system.

First. Are these weapons necessary for national security and the defense of Western Europe? Emphatically, no. We do not need them to maintain the strategic balance of terror vis-a-vis the Russians. There already exists tens of thousands of credible nuclear warheads and missiles poised and pointed at one another. Nor do we need them to mount a credible deterrent on the battlefields of Europe to ward off Russian and Warsaw Pact tanks. We already have an estimated 200,000 highly sophisticated precision antitank weapons that, in the 1973 Arab-Israeli conflict, proved very effective against the most modern tanks of both sides. Additional improvements have already been made to withstand an adversary's tank assault.

Second. Should not neutron weapons be used as bargaining chips in any future arms control negotiations with the Russians? Unfortunately, history has shown repeatedly that virtually all weapons once regarded as bargaining chips eventually found their way into the arsenals of war. The Soviets obviously have the capability of producing their own neutron-type weapons at a future date should they feel the need to. If anything, as Dr. Egon Bahr, the West German leader, pointed out, "détente requires steps of reduction of armaments or its limitation and not steps for strengthening armaments or introduction of new systems, which will create new instabilities."

Third. Are not neutron weapons less harmful to civilians than the larger nuclear weapons? Dr. George Kistiakowsky, professor emiritus of Harvard University, former science adviser to President Eisenhower, and one of the original group of scientists who worked on this country's earliest nuclear technology at Los Alamos, has studied this issue, and shows beyond a reasonable doubt that neutron weapons will have a terrible and destructive impact on human beings. A forthcoming article of his presents these findings: In addition to the deaths of combatants within a mile radius of the theater of weapons' use, neutron weapons will cause all types of cancers in human beings close by the battlefields and incalculable genetic effects.

I am hopeful that the President will continue on his course and ultimately disapprove continuation of neutron weapons development and production. Next month the United Nations holds a special session on disarmament. Can we not show the world that this country has made a serious effort to put a stop to the arms race and that we are inviting all other nations to join us in reaching a comprehensive agreement to limit, if not eliminate, new nuclear weapons production? Should this fail, we, of course, have on the drawing boards such ominous weapons. But what if we succeed in taking the first step in the direction of genuine arms control and disarmament? We might then be able to regain control over our destinies.●

WCBS–TV OPPOSES CARTER CUTBACKS IN THE F–14 PURCHASE PROGRAM

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. LENT. Mr. Speaker, one of the most important defense issues facing this Congress is the decision on future production of the F–14 fighter plane, built by the Grumman Corp. of Bethpage, N.Y. President Carter has proposed a drastic cutback in purchases of the F–14, which, if carried out, could seriously affect the capability of the U.S. Navy to defend its carrier force. Recently, WCBS–TV, Channel 2 in New York City, carried an editorial which cogently summed up the reasons why Congress should deny the President's request and continue funding for the full F–14 purchase program.

Mr. Speaker, I commend to the attention of my colleagues the WCBS–TV editorial as presented by the station's director of editorials, Peter Kohler:

Out in Bethpage, Long Island, Grumman builds the F–14, perhaps the world's most advanced fighter plane. But if the Carter Administration has its way, Grumman will be building fewer F–14s, and thousands of aerospace workers on Long Island may be looking for work.

At issue is the defense of the Navy's carrier force. The F–14 was designed to provide sophisticated defenses for carriers, through its ability to fire potent missiles at the most advanced aircraft in the Soviet arsenal. But the big drawback with the F–14 is cost, now over $20 million a copy.

The Carter Administration wants to sharply cut the Navy's orders for F–14s, and instead buy the F–18, a cheaper and more maneuverable aircraft. But, some Navy brass contend, the F–18 is really no bargain, because it couldn't mount the strong defense provided for carriers by the F–14.

With strong arguments being made for either plane, the decision is a tough one. But because the F–14 has proven its capabilities and effectiveness, and because of its importance to this region's economy, we hope that the New York congressional delegation is effective in restoring funds for the full F–14 program.

The F–14 program is not just makework for the local economy. And, of course, the decision to forge ahead with it should not be made merely on local political considerations. But the military case for the F–14 is a strong one. It is a good, proven plane. Congressmen from this region have every reason to fight for the F–14, and hope they succeed.●

ALIEN WELFARE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

○ Mr. DERWINSKI. Mr. Speaker, Chicago's WBBM Radio 78 has a highly respected editorial policy. Their editorial of March 23, discusses an issue that has been boiling here in Congress, the alien question. I insert this spirited editorial for the Members' attention:

ALIEN WELFARE

Most of us are familiar with the problems of illegal aliens in this country. But what may not be familiar are some of the difficulties with newly arrived legal aliens—difficulty they endure and cause.

Four government agencies recently released information about the problems. The trouble starts when the new aliens arrive in the United States only to find their American sponsors who have promised to provide for their needs have bailed out on them, leaving them stranded with no means of support and many barriers to overcome.

Senator Charles Percy of Illinois introduced legislation to nip that problem in the bud. It would make the American's affidavit of support legally binding so that if the sponsor reneged on his responsibility and the alien became a public charge the government could recover the money.

That gives a clue to the second problem. Through loopholes in the present law, thousands of legal aliens receive Supplemental Security Income, SSI. According to the Government Accounting Office, aliens with less than five years' residency in five states, including Illinois, collected over $72 million

in SSI payments. And most of the aliens go on the dole within a year of their arrival in this country. To combat this, Percy has proposed a 5-year residency requirement before most aliens could apply for welfare.

These are legal aliens, remember. And we're talking about loopholes in the law, not illegalities. But it's abuse nonetheless—to and by the aliens. And it should be stopped before it spreads further.

That's our opinion. We'd welcome a reply.●

TRIBUTE TO DR. SAMUEL O. GRIMM AND RUTH ENGLE BENDER

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. ERTEL. Mr. Speaker, on Saturday, April 8, 1978, the friends of Dr. Samuel O. Grimm and Ruth Engle Bender will host an appreciation dinner for these two distinguished educators in recognition of their outstanding contributions to Lebanon Valley College in Annville, Pa.

I would like to share with the Members of this House a description of their very impressive accomplishments:

DR. SAMUEL O. GRIMM

Dr. Samuel O. Grimm, professor emeritus of physics at Lebanon Valley College, first joined the faculty in 1912, assumed emeritus status in 1970, but can still be found in the physics laboratory every day. Having first attended Millersville State Normal School, Dr. Grimm enrolled as a sophomore in Lebanon Valley College, graduating in 1912 with a major in biology.

His first job was that of principal of the Lebanon Valley Academy in which were enrolled students pursuing a curriculum of high school studies. In 1913 he was asked to teach college physics in addition to his academy duties. At that time physics was not a well-defined field, and only one course was then offered at LVC. Dr. Grimm spent the next three summers at Columbia University, studying with the eminent physicists, Robert A. Milliken and E. H. Armstrong. In 1915 he became professor of both physics and education. He served where he was needed. In 1920 he was appointed registrar of the college. By then physics had grown from one course to a department.

Over the years, he taught 26 different courses in physics, ten in mathematics, nine in education, four in history, two in psychology, in addition to instructing in geography, astronomy, surveying, and mechanical drawing. He was also, at different times, treasurer of the college, business manager, superintendent of buildings and grounds, and secretary and treasurer of the Board of Trustees. In recognition of his myriad accomplishments and services the college awarded him the honorary doctor of science degree in 1942.

Dr. Grimm and his wife Maude produced four sons who majored in physics at Lebanon Valley College. Three of them today are electrical engineers and one holds a position with the U.S. Weather Service, Washington, D.C. Dr. and Mrs. Grimm are active in church and community life. He has served in the local school board, taught Sunday School, and is a Rotarian and a Mason. The Grimms have ten grandchildren and ten great grandchildren.

RUTH ENGLE BENDER

Mrs. Ruth Engle Bender, professor emeritus of music education at Lebanon Valley College, first joined the faculty in 1918, served until 1922, at which time she went to New York for a period of two years. There she further studied piano, worked as an accompanist for the Noyes Ballet Company and was invited to give a recital on WOR radio when radio was in its infancy. In 1924, responding to the request of LVC President Gossard, who visited her in New York, she returned to the college to assume the position of Director of the Conservatory. She has been with the college since that time, assuming emeritus status in 1970 but continuing to teach part-time and to instruct private pupils.

A 1915 graduate of Lebanon Valley College, Mrs. Bender studied at the famed Oberlin Conservatory for a year and went on to graduate from the New England Conservatory, having studied violin and organ as well as receiving a thorough education in music theory and piano performance.

It was through her efforts that the Lebanon Valley College department of music became accredited and assumed a curriculum which would lead to a B.S. in music education. In the spring of 1932, four students graduated from LVC with a B.S. degree in public school music. Its course was approved by the state. This marked a turning point for the college which now offers the B.A. in music, the B.A. in sacred music and the B.S. in music education, and which now enjoys the reputation for having one of the largest, best equipped and best staffed departments of music in the east.

It is impossible to assess the full impact of Ruth Engle Bender on Lebanon Valley College. She made the pivotal decisions which brought stability to the music department. She has been a brilliant performer, accomplished accompanist, a superlative teacher with uncompromisingly high standards. She has been an ambassador from the college to the community. At the same time, the wife of the late Professor Andrew Bender was a devoted wife and mother of two children who now enjoys seven grandchildren and five great grandchildren.●

THE FUTURE OF FEDERAL RETIREMENT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. FISHER. Mr. Speaker, I wish to call to the attention of my fellow Members, a timely document that we and our colleagues in the other Chamber have just received from the National Association of Retired Federal Employees. The document is a summary report of a 1-day symposium on "The Future of Federal Retirement" sponsored by the Association in January.

The symposium brought together leading social security and public and private pension experts in an effort to explore the feasibility of integration of public retirement systems with social security. The summary report highlights a number of the salient issues and problems with which executive agencies must deal in the course of their 2-year study mandated by the social security financing law, Public Law 95–216. I think it important that all of my colleagues review this brief but important report, in order to achieve a better understanding of the complex and controversial discussion surrounding the principle of universal social security coverage.

I believe that NARFE is to be commended for having sponsored this important symposium, and for making the report available to the Congress, Executive branch officials, the press, and concerned organizations.●

STEELWORKERS BACK "BUY AMERICAN" CHANGES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. GAYDOS. Mr. Speaker, on two recent occasions I have inserted into the RECORD statements supporting the amending of the Buy American Act as we know it. These amendments have been proposed to safeguard the interests of our country, its economy, its domestic industries, and its workers.

I have cited examples which graphically demonstrate how the U. S. Government uses its taxpayers' dollars for the benefit of foreign steel producers at the expense of the American steel industry and its steelworkers. These examples were incorporated as part of the written testimony submitted to the Senate Subcommittee on Federal Spending Practices and Open Government during its hearing last week in Pittsburgh.

Today, I call my colleagues' attention to some observations made by Mr. Lloyd McBride, president of the United Steelworkers of America, during his appearance before that same subcommittee.

In his testimony, Mr. McBride astutely pointed out that "buy national" policies are not unique today. Indeed, they may sometimes be essential to a country's national and economic security. He mentioned some governments use a multitude of means to protect their industries, workers, and tax base and warned if the United States does not act to protect itself and its citizens, no one else will.

Individual nations, Mr. McBride declared, must seek to develop an industrial base which, so far as possible, will meet its defense needs while allowing it to maintain economic freedom. In circumstances where national security is at stake, he said a government should not use price as the sole determinant in selecting a contractor for a project.

Congress, the labor leader reminded, enacted the "Buy American Act" in 1933 to stimulate the economy and reduce unemployment during a great depression. Federal agencies were directed to buy domestic products when possible, provided they were available at reasonable cost and of reasonable quality.

However, Mr. McBride pointed out, the act does not define "reasonable cost," "reasonable quality" or what constitutes "materials of national origin." Consequently, the vague guidelines of the 1933 law became even more obscured through the varying interpretations of one administration after another.

This lack of definition is to be cor-

rected in S. 2318 and its companion House bills, H.R. 9247 and 9248.

Furthermore, Mr. McBride correctly suggests the awarding of a contract to a foreign low bidder does not necessarily guarantee a financial savings to our Federal Government. Public revenues, he emphasizes, not only pays for the item bought under the contract with a foreign producer but also for the domestic unemployment that might result from the award of that contract. He contends, and rightly so, that it is unrealistic to ignore domestic unemployment costs in determining Government procurement policies.

For example, Mr. McBride testified that over the past 3 years more than 90,000 steelworkers have been certified for trade adjustment assistance because of the adverse impact foreign steel imports have had on the domestic industry.

In 1977, he reported, steel imports hit a record high of more than 19 million tons and during the last 6 months of the year more than 20,000 steelworkers lost their jobs. The procurement of foreign steel, including that permitted under the policies of our Federal Government, is a factor in those alarming figures, Mr. McBride believes. He observes:

It is ironic and counterproductive, when at a time of economic stimulation government expenditures stimulate foreign economies and create jobs for foreign workers.

The president of the steelworkers said it is expected Federal expenditures for State projects in fiscal 1979 will top $18 billion. Many of the scheduled projects are high labor intensive and will require substantial quantities of steel. This means, he pointed out, a great many jobs will be at stake when the contracts for those projects are awarded.

Mr. McBride concluded:

In the interest of a full employment economy; of a system adequately reflecting the true cost of procurement and of a concern for our national security, we urge passage of S. 2318.●

APPOINTMENT OF QUALIFIED WOMEN AND MINORITY INDIVIDUALS AS FEDERAL JUDGES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. EDWARDS of California. Mr. Speaker, House and Senate conferees will soon begin work on the omnibus judgeship bill (H.R. 7843), which will authorize the creation of approximately 119 new Federal district court judgeships and 35 new Federal court of appeals judgeships. These additions will enlarge the Federal judiciary by 30 percent.

Enactment of the omnibus judgeship bill will also give President Carter and the Senate the opportunity to end the apparent pattern of discrimination against women and minority individuals in the appointment of Federal judges.

In an effort to encourage the President to correct the serious underrepresentation of women and minorities on the Federal bench, I introduced in committee an amendment which became section 7 of the judgeship bill passed by the House. The provision reads as follows:

THE CONGRESS—

"(1) takes notice of the fact that only 1 per centum of Federal judges are women and only 4 per centum are blacks; and

"(2) recommends that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due consideration to qualified women, blacks, Hispanics, and other minority individuals."

Our Nation and Government, which are committed to "equal justice under law," cannot tolerate discrimination or even the appearance of discrimination against women and minority individuals in the selection of Federal judges. Full public confidence and trust in the Federal judiciary cannot be expected as long as there appears to be sex discrimination and race discrimination in the selection of Federal judges.

By retaining the House language recommending that due consideration be given to qualified women and minority individuals, the conferees have the opportunity to express clearly their intent that the problem of discrimination in judicial appointments receive Presidential attention.

The issue of qualified women having been excluded from the Federal bench and from the judicial selection process is discussed in the following article by Susan Ness in the March 26 Washington Post:

A SEXIST SELECTION PROCESS KEEPS QUALIFIED WOMEN OFF THE BENCH

(By Susan Ness)

One of the last white male bastions, the federal judiciary, boasting only 1.1 percent women and 4 percent blacks, is on the brink of the largest expansion in its history. The omnibus judgeship bill now awaiting action by the House-Senate conferees would create 145 to 150 new judgeships, thus increasing the size of the federal judiciary by more than 25 percent. Women and minorities will fill a significant number of these new positions only if the president and members of the Senate change the present selection process to provide equal access for these traditionally ignored groups.

The Marston affair, which recently focused public attention on the selection process for federal judges and U.S. attorneys, did not, however, reveal the devastating impact that process has had on the appointment of women.

Even when compared with other traditionally male-dominated occupations, the federal judiciary—the upholder of equal rights in the United States—is at the bottom of the heap. The percentage of women construction workers (6.4 percent), welders and flame cutters (6.3 percent), and even female locomotive engineers (2.1 percent), exceeds the 1.1 percent of federal judges who are women.

The paucity of women federal judges is shocking:

No woman has ever served on the Supreme Court.

Only 12 women have ever served on the federal bench in its almost 200-year history.

Only two women have ever been appointed to the U.S. Court of Appeals.

Only one out of the 97 authorized Court of Appeals judgeships is now held by a woman.

Only six of the 525 authorized federal judgeships are now held by women.

Against this background, candidate Jimmy Carter assured women's groups at the 1976 Democratic national convention that he would appoint more women to the federal bench. How has he performed? During his first 14 months in office, President Carter made 38 nominations for federal judgeships; only two were women. Of his 10 appointments to the U.S. Court of Appeals, not one was a woman. Yet Labor Department statistics show that more than 41,000, or 9 percent, of the attorneys practicing in the United States today are women.

Why is it important to have more women on the bench? Basic fairness demands it. It is a disgrace for a nation which prides itself on equality to have only males deciding the critical legal issues of our day. An all-male Supreme Court decided in *Geduldig v. Aiello* that excluding pregnancy-related conditions from coverage under disability insurance, while including coverage of prostate-related conditions, is not discriminatory. An all-female Supreme Court would never have reached that decision.

Do we lack women attorneys qualified to be judges? Gov. Jerry Brown of California dispelled that myth by appointing 42 women to state judgeships. One of those women, Rose Elizabeth Bird, was selected to be chief justice of the California Supreme Court.

Not a lack of qualified women, but the method of judicial selection, has preserved the federal bench as a male domain. That process, complex and decentralized, is encumbered with many of the same barriers which blocked women during Carter's search for cabinet and sub-cabinet appointees:

Selection criteria tend to favor men.

A double standard prevails in applying the selection criteria.

Primarily men—the "old boy network"—make the selections.

Certain selection criteria have the effect of barring women from the judiciary. A Justice Department guideline disqualifies, except in unusual circumstances, qualified candidates who have practiced law for less than 15 years. Since women and minorities have only recently gained access to legal training in significant numbers, the "15-year rule" works to exclude women. Had the 15-year rule been applied in California, the present chief justice of that state's supreme court would not now occupy the bench.

A double standard in the application of selection criteria is another major obstacle in the path of would-be women jurists. For example, all seven of the women and minority members who have been nominated to federal judgeships by the Carter administration have had previous judicial experience. But only 35 percent of the white made district court nominees and 28 percent of the circuit court appointees had such experience.

The highest hurdle for women, however, is the overwhelming predominance of men in the judicial selection process. Although the Constitution gives the president the power to appoint federal judges with the advice and consent of the Senate, the political reality of the appointments process, as Attorney General Griffin Bell recently acknowledged, is that "the Senate nominates and the president confirms."

The senators, who until the appointment of Muriel Humphrey constituted an all-male club, make their selections based on a variety of factors. Many senators treat judicial appointments as political patronage—a way of rewarding campaign contributors, former elected officials and loyal staff.

Research by Susan Tolchin, director of the Washington Institute for Women in Politics, indicates that some senators have considered it politically necessary to recommend a black or a member of a particular ethnic or reli-

gious group for a judgeship, but until very recently no one has perceived a simiar political need to satisfy women's groups.

At the behest of the president, a growing number of senators have set up selection panels to screen candidates for U.S. district court judgeships and to forward the names of the top five applicants either to the senator or to the White House for final selection. Passage of the omnibus judgeship bill will undoubtedly prompt more senators to create such panels. Attorney General Bell's recent praise for these panels, however, may be premature.

Selection panels may not look like patronage, but almost all the 15 panels established to date have merely institutionalized the old-boy network which senators previously relied upon to make judicial nominations. Even though women are a majority of the population, and the panels purport to reflect a state's diversity, 78.3 percent of these panels' members are male. Of the attorneys on the panel, 92.4 percent are men. No panel is chaired by a woman. No bar association recommended a woman attorney to fill a slot on any of the panels.

With so few women, and even fewer female attorneys represented it is no wonder that hardly any panels have recommended women for judicial appointments.

For example, Sen. Jacob Javits' six-member judicial selection panel, set up 8 years ago, has no women. Sen. Daniel Patrick Moynihan's recently established 10-member panel includes only one woman—a nonlawyer. Not surprisingly, the first five out of six vacancies on the district court in New York were filled by men. This despite the fact that New York has one of the highest concentrations of women attorneys in the country as well as a very active women's bar.

By executive order last year, President Carter created nominating commissions to screen candidates for U.S. appeals court judgeships. These panels made up largely of early campaign supporters, include lawyers and non-lawyers alike. Although the Carter administration speaks of seeking for qualified women and minorities to appoint to the bench, it did not require its handpicked panels to search out members of these groups for consideration. None of Carter's initial 10 panels is chaired by a woman. And while 73 percent of the male panelists are lawyers, only 36 percent of the women panel members are attorneys.

One way of significantly increasing the chances for qualified women and minorities to be appointed would be for the Carter administration, which is currently revising its executive order seting up the nominating panels, to include a requirement for searching out candidates from groups traditionally overlooked in the selection process.

Even after an individual has been selected by either a senator, or the White House as a potential jurist, the male-dominated screening process continues. The name is sent to the 14-member American Bar Association Committee on the Federal Judiciary. Although not affiliated with the federal government, this group nonetheless has been given the power to evaluate the legal qualifications of all designees. The committee, which takes great pride in having reviewed more than 1,000 individuals over a 25-year period, lost its all-male status only recently when a woman was appointed by the president of the ABA.

In 1977, the Carter administration called upon the National Bar Association, a black group, to review the qualifications of judicial candidates. Apparently no one at the White House has thought to ask a women's bar group or a legal panel of representatives from women's rights organizations to conduct similar reviews.

Thus, we see a combination of restrictive criteria, apparent double standards and the male-dominated selection process perpetuating an essentially white male judiciary. The omnibus judgeship bill gives the administration and the Senate an unparalleled opportunity to redress this imbalance.

Women's groups, such as the National Women's Political Caucus, and other public interest groups are vigorously lobbying on these appointments. They are acutely aware that these lifetime appointees will be making law on civil rights and women's rights issues for years to come.

LEV ELBERT: A STUDY IN COURAGE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

Mr. EILBERG. Mr. Speaker, as part of our continuing participation in the vigil for freedom for Soviet Jewry, I call to the attention of my colleagues the plight of Lev Elbert and his wife, Inna, two courageous Soviet Jewish activists in Kiev.

Since 1976, the Elberts have been denied permission to emigrate to Israel. Their exit permits have been denied on the grounds that Lev Elbert had access to "secret information" while he was in the army.

But in fact, Elbert served as a private in the Soviet Army, in a construction battalion which built a swimming pool. At no point did he have access to classified material; nor did he receive a security clearance.

Just to demonstrate how brave the Elberts are in standing up to the Soviet Government, let us look at the type of harassment they have endured:

In February 1977, they were among six Jews in Kiev who took part in a demonstration at the Ukrainian Supreme Soviet to demand that written reasons be given for all denials of exit visas.

No untoward incidents occurred at that time. However, in April 1977, Inna, a physician, was beaten up twice in one day by attackers who threatened that if she persisted with her application for emigration she coud expect more trouble. When the police were summoned by a passerby, Inna reported: "They merely went through the motions of looking at their identity cards and took no further action."

Undaunted, her husband several days later, was one of seven in Kiev who embarked on a five-day hunger strike to protest their continued refusals.

In a recent appeal, Lev wrote:

"My constant and thoroughly motivated complaints and applications to the authorities stating how ludicrous my refusal was, has been of no avail. I ask you to intercede on behalf of my family with the Soviet Government, which as signatory to the Helsinki Agreement, should allow us the undeniable human right to choose the country to live in, and enable us to reunite with our relatives in Israel."

And from Israel, Inna's brother, Dr. Alexander Mizrukhim, wrote:

"I appeal to all who are not indifferent to human rights and the fate of separated families of Soviet Jews.

"* * * They are now in very dangerous position. They are constantly persecuted by the KGB * * * The only 'anti-Soviet activity' of my sister and her husband has been the strong desire to go to Israel, the desire to reunify our family. * * *

"We have applied to all Soviet authorities, but in vain. Now I ask the Soviet government: What worth are the words in the Helsinki Agreement?

"I appeal to the people and government of the United States—the country of great democracy. I request help to reunite our family in Israel, our homeland—the day to which is so long and painful for Soviet Jews."

Mr. Speaker, I submit this record of Lev and Inna Elbert's plight as a testimony to our commitment to continue working on behalf of Soviet Jews denied their rights to free emigration.

SOVIETS REFUSE EMIGRATION TO TWO AMERICAN CITIZENS SINCE 1945

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. FARY. Mr. Speaker, I would like to bring to the attention of my fellow colleagues one of the most tragic stories of family separation that has ever been brought to my attention. I am speaking of the plight of John Jodwalis and his sister, Lorraine Jodwalis Vaicekauskiene. They are American citizens who have been virtual prisoners of the Soviet Union since 1945.

John and Lorraine Jodwalis were born in Chicago in the 1920's, and on July 5, 1930, they and three older brothers and sisters accompanied their mother on a visit to her native Lithuania. At that time, Lithuania was an independent nation. The Jodwalis' only intended to stay for 3 years but the Depression here in the United States compelled their father, who had remained in Chicago, to urge them to stay in Lithuania a little longer and he would send them money.

As Europe moved closer to war with Nazi Germany, the three older children came back to the United States to contribute to the war effort, while John, Lorraine, and their mother stayed behind in Lithuania and were trapped there as fighting broke out between German and Russian troops.

In 1941, the Russians drove the Germans out of Lithuania, but the Red army remained and later annexed Lithuania to the Soviet Union.

At age 18, John was drafted into the Soviet Army but he refused induction on the grounds that he was an American citizen and would join the American Army in the war effort. For this, he was arrested, along with his sister, and sentenced to life imprisonment at hard labor in Siberia, with John being sent to the infamous Vorkuta gold mines mentioned in Alexander Solzhenitsyn's Gulag Archipelago.

They stayed in Siberia for 11 years, until their case was reviewed by the new government of Nikita Khrushchev. They were released and permitted to return to Lithuania, but were given Soviet internal passports, which made them Soviet citizens. Therefore, their status as Soviet citizens thwarted all attempts to have them repatriated to the United States.

Their predicament is that they are

both American and Soviet citizens. Since they are classifed as a Soviet citizen, they must apply for an emigration visa from the Soviet authorities if they are to return to America.

They have submitted emigration requests every year for the past 20 years but the Soviets have rejected every request the Jodwalis' have made, without even having the decency to explain why. Efforts by the Jodwalis family and the State Department to have them returned to the United States go back as far as 1945, but their efforts have been frustrated by a capricious Soviet bureaucracy.

In March of 1977, Secretary of State Cyrus Vance visited Moscow and presented Soviet officials with a list of 366 persons for whom the United States is seeking emigration permits. John, Lorraine and the children they have raised in Lithuania are among them.

However, no appeals made on the Jodwalis' behalf have been successful as we have still not received a favorable response from Soviet authorities.

I should like to point out that under Soviet law and the human rights provisions of the Helsinki agreement, which the Soviet Union signed, John and Lorraine have the right to emigrate and be reunited with their family here in America.

Soviet officials are quick to point out that they will not allow emigration for citizens who have worked in the defense industry and who have had access to sensitive state secrets. John Jodwalis is a tool and diemaker in Kaunus, Lithuania and Lorraine is a medical records clerk at a health institution and as such, pose no danger to Soviet security.

Mr. Speaker, I feel the Jodwalis case is one of the saddest examples of family separation that I can ever recall and furthermore, feel that the Soviet response to our efforts have been less than in the spirit of the Helsinki accords, of which the Soviets are signatories. Therefore, I ask my distinguished colleagues to join me in requesting that the President and the Secretary of State use their influence to expedite the return of John Jodwalis and Lorraine Jodwalis Vaicekuaskiene, both American citizens, to the United States to be reunited with the family they haven't seen in 48 years.●

ALFRED SANTANGELO

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1978

● Mr. OTTINGER. Mr. Speaker, I would like to take this opportunity to join with my colleagues in expressing deepest sympathy to the family of our late colleague, Alfred Santangelo. Al served the people of New York's 10th Congressional District well during his tenure in the House and personally helped me a great deal in my 1970 bid for the Senate. He has left his mark on the Congress and will be sorely missed.●

INFLATION: THE PERSISTENT CHALLENGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for April 5, 1978 into the CONGRESSIONAL RECORD:

INFLATION: THE PERSISTENT CHALLENGE

Inflation has become the nation's chief economic problem. National surveys indicate that inflation, rather than unemployment, has the most people worried. According to the results of my annual questionnaire, Ninth District residents believe that inflation should be the first concern of policymakers.

Aside from inflation, the economic skies are bright. On the domestic scene, joblessness has dropped to 6.1%, corporate profits are improving, capital spending is perking up and interest rates this year have moved sideways or down. Our international economic prospects are better with the help of some slackening of oil imports, an evening up of growth rates among the United States and its trading partners, a firming up of the dollar against most major currencies and a solid outlook for farm exports. Worsening inflation is the only fly in the ointment.

Inflation may very well be the most difficult of our economic challenges. The administration's mild anti-inflation program is not succeeding. Most witnesses at congressional hearings suggest that inflation is likely to accelerate from its basic 6% rate. To make matters worse, inflationary pressures are squeezing us from many sides. The dollar's recent decline has increased the price of imported goods and caused the OPEC nations to threaten another rise in oil prices. Food prices have edged up due to bad weather and snarled transportation. The coal settlement will further boost the Consumer Price Index and the outcome of other labor negotiations may tend to do the same. Finally, the government itself has been promoting inflation—not intentionally, perhaps, but prices are moving steadily up as a result of various federal spending, trade and regulatory measures.

Until recently, government officials argued that unemployment and inflation were equally important problems. However, with the jobs picture improving many policymakers are shifting their posture on the issue. Pressure is building for the President and the Congress to curb rising prices. The President's top advisors have called upon him to accept the idea that inflation has replaced joblessness as the principal economic worry. One advisor warns that without additional action the nation will soon face a significant acceleration of price increases.

Many experts stress that we do not know how to control inflation effectively. I do not disagree with these experts, but I think we must recognize that inflation may often be more a result of political expediency than of ignorance. The government must confront the narrow demands of many small but powerful constituencies. In responding to those demands, the government sometimes gives long-term wage and price stability a lesser priority than it should have. The desire to hold down inflation may not count for much when a specific case is being considered. All of us hate inflation, but we want someone else to pay the price of stopping it. The major stumbling block on the road to lower rates of inflation may not be ignorance or ineffective tools, but rather a political inability to take the right action at the right time.

The two traditional approaches to the inflation problem simply have not worked. One emphasizes increased growth and investment while the other favors restrictive policies applied long enough to wring inflation out of the economy. Obviously, other approaches must be tried. I have great interest in granting tax relief for wage and price restraint. It may be imprudent to provide such relief before subjecting it to much wider discussion and examination, but the momentum of inflation is so great that the proposal should be taken seriously.

Other steps can be taken as well. The government must become much more serious about its own inflationary actions. It may be advisable to have an annual government report on programs which have raised or lowered prices. Perhaps we should set a target this year of no new federal impact on price levels. The government should aim to reduce the federal deficit and should use a wide variety of employment programs to help achieve full employment without inflation. It should also intensify efforts to win labor and business support for voluntary wage and price restraint. Finally, a number of specific steps must be considered, such as reducing the federal pay raise scheduled to take effect this fall, containing costs in those industries where price increases have been very rapid, expanding the timber harvest on federal lands to hold lumber prices down, increasing industry competition to lower charges for goods and services, and urging state and local governments to cut sales and property taxes.

These ideas will not be popular, but there is no easy way to fight inflation. If we do not work together to reduce the rates of inflation in all sectors of the economy, price increases could become so rapid that much harsher measures would be necessary in the future.●

ELITE EMPLOYEE GROUP

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. HAGEDORN. Mr. Speaker, for those curious about the growing resentment toward Federal employees among the general public, the following chart might provide a clue. Nearly one in every five Government workers earns $30,000 or more yearly, with nearly 32,000 Federal workers earning more than $40,000 per year. How many among us believe that we are getting our money's worth out of Government? How many of these employees could earn half their salary in the private sector?

FIFTEEN ELITE AGENCIES

These agencies outrank all other large federal organizations in share of highly paid employees—

Percentage of workers paid more than $30,000 a year

Nuclear Regulatory Commission	45.8
National Science Foundation	39.7
National Aeronautics and Space Administration	38.4
U.S. Information Agency	27.8
State Department	25.8
General Accounting Office	24.0
National Labor Relations Board	23.8
Federal Trade Commission	23.7
Securities and Exchange Commission	22.6
Transportation Department	20.9
Federal Reserve Board	20.7
Federal Communications Commission	19.6
Interstate Commerce Commission	19.3
Federal Home Loan Bank Board	18.4
Commerce Department	18.2

(NOTE.—Agencies with 1,000 or more full-time employees.)

Basic data U.S. Civil Service Commission.●

THE FUTURE HUSTLE

HON. JOHN J. LaFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. LaFALCE. Mr. Speaker, in these times of advanced, computerized economic forecasting, every congressional office is literally deluged by highly statistical analyses of the future course of the economy. This flood usually reaches its high point immediately after the submission of the administration's budget requests for the coming fiscal year. The present time is such a period of cascading economic forecasts.

The most bewildering aspects about these predictions, besides their virtual incomprehensibility, are their stubborn refusal to agree and their uncanny ability to mislead. Despite their complex and highly sophisticated computers, their ingenious models and their unparalleled statistical methodologies, one is left with the nagging suspicion that the ancient and medieval soothsayers, who foretold events on the basis of the stars, the entrails of birds, and the patterns of cards, could easily rival the modern forecaster. I would like to share with my colleagues a possible explanation of this embarrassing phenomenon entitled "The Future Hustle" by James Henry, which appeared in the New Republic on February 4, 1978:

THE FUTURE HUSTLE

(By James Henry)

Economic forecasting is one of the hottest fields in the US economy, along with law, medicine, evangelical religion, astrology and pornography. In some ways it resembles these other industries. It has the pretension to technical rigor of legal analysis, the therapeutic swank of medicine, the irrational claims to authority of evangelical religion and astrology and, alas, pornography's insatiable audience of subscribers. Like these other services, economic forecasting thrives on human weakness, and acquires a stake in the vices it proposes to cure. In a stable, growing economy with full employment and steady prices, there is not much need for the economic forecaster's art. Uncertainty is what puts bread on his table, and the increase in economic uncertainty over the past decade explains much of the rising demand for economic forecasting. But this uncertainty is itself partly the result of bad policies based on poor economic forecasts. In the past few years economic forecasting has joined law and medicine and similar mysterious arts to form a corner of the modern economy where Say's law actually works: supply creates its own demand, and the forecasters grow richer as their forecasts do worse.

The leader of the economic forecasting industry is a company called Data Resources, Inc. DRI was founded in 1968 by Otto Eckstein, a Harvard professor and former member of the Council of Economic Advisors under Lyndon Johnson. Eckstein is a fairly orthodox Keynesian and until age 40 he was a fairly typical academic economist. Now he is rich. DRI's revenues have grown more than 30 percent each year for the past 10 years, even during the severe 1974–75 bust. Sales reached two million dollars in 1977. Profits have grown even faster. The company went public in November 1976; Professor Eckstein owns about 10 percent of it now. DRI's clients include two-thirds of the nation's 100 largest manufacturing firms, 32 of the top 50 banks, nine of the top 25 insurance companies, two dozen federal agencies, several state agencies and a growing number of foreign buyers. DRI has two principal competitors in the economic forecasting field: Chase Econometrics, a spin-off of the Chase Manhattan Bank, and a "non-profit" organization affiliated with the Wharton School of Finance at the University of Pennsylvania. They have enjoyed similar, if not quite equivalent, success.

What are these businesses and government agencies getting for their money? Eckstein and his competitors are selling exactly what prophets, seers, diviners, oracles, soothsayers, haruspices and geomancers have sold throughout the ages: a vision of the future. To make this product claim convincing requires a gimmick, something to create the necessary air of mystery and to explain why the prophet can see what ordinary mortals cannot. The economic forecasters' gimmick is the computer. Inside the computer is a "model" of the world economy in the form of a series of mathematical equations. The claim is that these equations permit the computer to take information about the present and divine patterns in it that the ordinary eye cannot see. These patterns then are used to predict the future. Each forecaster has his own model, which he naturally claims is the best. Lawrence Klein of Wharton, who has been selling predictions for five years longer than Eckstein, believes that at least 50 equations are necessary for a respectable model. DRI's model has 900 equations, but there is one in Canada that has 1500.

Earlier forecasters had different gimmicks. The ancient Chinese used I Ching hexagrams to predict harvests and pestilence. The Hebrew prophets occasionally made economic predictions, but they usually worked gratuitously, supported by charitable contributions. Probably the oldest antecedents of our modern private forecasters were the Greek chresmologists of the 6th century BC, itinerant salesmen who consulted the oracles and then sold their insights to kings and mere citizens. Since then there has been a long line of palmisters, necromancers, numerologists and other varieties of diviners-for-profit. Merlin and Nostradamus were the most celebrated practitioners of these arts. The astronomers Tycho Brahe and John Kepler both cast individual horoscopes for rather high fees in the 16th century to supplement their meager incomes as serious scientists; Kepler felt ashamed of this sideline, which he described as "scarcely more respectable than begging."

Prophets enjoy the great advantage that correct predictions tend to be remembered long after incorrect ones have been forgotten. Guicciardini, the Italian historian, remarked in 1592, "How happy are the astrologers, who are believed if they tell one truth to a hundred lies, while other people lose all credit if they tell one lie to a hundred truths." It is remembered, for example, that in 1651 the English astrologer William Lilly correctly forecast both the great plague of 1655 and the great fire of London in 1666. But this was trivial; Nostradamus had predicted both events in a book published in 1577 in Amsterdam, while Tycho Brahe is said to have predicted them in 1563, when only 17 years old. But such accuracy was not always highly rewarded, any more than inaccuracy was always punished. William Lilly was hauled before a Parliamentary inquiry after his prophecies about the plague and the fire had come true. In 1634 the Lady Eleanor Davies was sent to prison for "the assumption of the gift of prophecy," because she had correctly predicted the death of her husband, the Lord Chief Justice of England, in 1626, and—thus encouraged—had set about predicting the deaths of other important people.

Many diviners, however, have been able to live quite comfortably from their practices, especially in times of social crisis. This ap pears to be a second vital ingredient in the persistence of these arts: private forecasting is parasitic on chaos and insecurity. It is most in demand when, objectively, the future is least predictable. Regular procedures for receiving oracles from Delphi and Dodona emerged in the fifth century BC, just as Greece came under increased military pressures. The most important Hebrew prophets turned up when Israel was most threatened by its enemies. The burgeoning demand for astrologers peeked during the Puritan Revolution of the 1640s, which also saw the worst economic disruption of that century in England. The coincidence of bad times and rampant prophecy supports Condorcet's observation that prophecy is important not so much because of what it tells us about the future, but because of what it tells us about the present. This coincidence also helps to account for the deep ambivalence that the public has always shown toward its prophets, tolerating and even worshipping them up to a point, beyond which it begins to throw stones and set stakes.

The pre-computer economic forecasters did not compile an impressive record. Thomas Malthus, the early 19th century British economist, predicted that population growth would outrun agricultural productivity on a worldwide basis within a century. Irving Fisher, an otherwise distinguished Yale economist, will never escape the ignominy attached to his declaration on October 15, 1929, that "Stock prices have reached a permanently high plateau." During World War II US government economists, strongly influenced by a simplistic version of Keynesian theory, issued a consensus forecast of a serious postwar depression. Today's forecasters have dissociated themselves from these bloopers by the adoption of sophisticated statistical methods and computer technology. The modern forecaster squats over his model like the Delphic Pythia, inhales its spirits, then speaks of the mysteries revealed, frequently in an obscure patois.

This new model-based forecasting procedure was made possible by several changes on the "supply side," including the government's accumulation and publication of vast amounts of macroeconomic data, the improvement of computers and statistics, and the proliferation of professional economists. Most of the pioneering work on modelling was completed in the 1940s and 1950s. By the Kennedy years there were already a half-dozen models with 50 or more equations. But until the middle 1960s all the models were developed and operated by the government, academic institutions, and non-profit foundations. The lucrative private forecasting industry had its origins not in any new technical achievements by its founders, but in their ability to find new markets for old achievements, usually not their own. They passed the word that elaborate models, under the guidance of suitable experts, were now prepared to unveil the future to ordinary businessmen and public officials. Or rather, they hinted and titillated and enticed, with a kind of utopian enthusiasm, never really promising—for that would be unscientific (as well as illegal).

Thus the success of private economic forecasting depends on the government in three vital ways. First, the government supplies for free all the raw data about the economy that get fed into the models. Second, since government actions can affect the modern economy in so many different ways, uncertainty about government intentions and their potential effect creates much of the demand for economic forecasts. Finally, the government itself is one of the forecasters' best clients, with the endearing habit of paying many times over (through different agencies) for access to the same model, which is spewing back predictions based on information the government itself supplied.

Can computer models really divine the future, or do they represent just another of the superstitions that litter history? The record is very mixed. In the 1960s until 1968,

the models were very successful. In 1966, for example, Wharton's model predicted that the Gross National Product in 1967 would be $794 billion, which turned out to be precisely correct. But the growth of the U.S. economy in the 1960s was remarkably stable, so it was deceptively easy for models to perform well. From early 1961 to late 1969 the economy went through 106 months of prosperity, the longest such period ever recorded in U.S. history. So it is not very surprising the models built in the 1960s all performed rather well in the 1960s, even though theories about how the economy works were very different from one another. It is usually not difficult to forecast the *continuation* of a trend, even without any reference at all to economic theory. For instance, a fine way to predict next year's GNP—between turning points, that is—is simply to continue the pattern reflected in the GNP for previous years, even though this method is almost entirely devoid of any *explanatory* value.

Of course if a prediction works, who cares why it works? Starting in the sixth century BC the Babylonians became very adept at calculating the timing of astronomical events such as lunar eclipses and the appearance of the new moon. They achieved this merely by accumulating a long time series of observations and then deciphering the regularities, without—to our knowledge—ever thinking about why these regularities existed (other than the caprices of the Sky-God). The Greeks of the same period, in contrast could scarcely predict a sunrise, and yet were filled with fruitful speculations about the structure of the universe.

Our modern economic forecasters would have us believe that they have successfully merged the Babylonian and Greek methodologies. They credited their predictive successes of the 1960s to theoretical sophistication. They did not advertise that simple, theory-free models were just as accurate in those economically stable times. Professor Klein of Wharton wrote in 1971 that further improvements in prediction would come about only with the adoption of even "larger more realistic, and more complicated" models. But as the 1960s drew to a close, predictions by the large models began to err. It turns out they don't do much better in times of instability than "naive," theory-free, very simple projections.

And the 1970s have been very unstable. Already there have been two worldwide recessions in less than a decade, including the highest and most persistent unemployment and inflation since Pearl Harbor, a decline in real stock prices nearly as large as the one that occurred in 1929–31 and about three times as much fluctuation in real GNP growth as in the 1960s. This instability is widely attributed to an extraordinary combination of shocks delivered to the system by the Vietnam War, the oil cartel, grain shortages and the rich afterlife of Dr. Arthur Burns. Unquestionably so, but history is an inevitable series of accidents. A prophet who cannot deal with the accidents of history is not much use.

The econometric models of the 1970s, however sophisticated, are just not theoretically equipped to deal with the discontinuities in expectations and lags introduced by a weird combination of excess demand in some markets and excess supply in others. The relative stability of the 1960s was a poor practice field.

By now there have been several technical evaluations of model performance in the 1970s published in academic journals and circulated in university communities. These papers offer rich material for criticism, weakened by a somewhat narrow perspective and a reluctance to declare out loud that the Emperor is without clothes. Here is what they show.

To begin with, accuracy of forecasts depends more on when they are made than how. In the 1970s all the major models had serious troubles. Median forecasting errors for variables like GNP, unemployment, and inflation were nearly three times as high on average between 1970 and 1977 as they were in the mid-1960s. Even after the 1973 oil embargo became known to Chase, DRI, Wharton and the Commerce Department, their median year-ahead forecast of inflation for 1974 was off by nearly 50 percent. They all also completely missed the absolute decline in real GNP that occurred in the first quarter of 1975, which may have contributed to the Ford administration's slowness to recognize that a serious recession was in the offing. None of the major models did much better than any of the others. During periods of economic recovery, forecasting errors declined sharply. But as we said, there is no trick to prediction during such periods.

In fact, the computer models have done no better in the 1970s than have economists simply playing their own hunches. Since 1968 the American Statistical Association and the National Bureau of Economic Research have conducted quarterly surveys of 60 to 80 economists, who give their predictions for a dozen economic variables over the next six quarters. From 1970 to 1977, the error levels for the ASA-NBER panel forecasts were virtually indistinguishable from those of Chase, DRI, or Wharton, for each variable and for every forecast period. For the prediction of unemployment changes, inflation and real GNP, the uncomputerized economists did somewhat better than DRI's computer model. It is true that some of these economists were heavily influenced in their own predictions by published figures from econometric models. In May 1977, for example, 13 of 41 members of the panel said that an econometric model was the "most important" source of their forecasts. But the others—a majority—relied mainly on informal theories of their own. One New York forecaster is said to base his predictions on changes in the price of the chemical carborundum. And in fact a 1975 study reported that those panel members who had used informal models had consistently better forecasts of both inflation and unemployment than those panel members who had depended on the econometric models. Of course "judgmental" forecasters are often wrong, too. The point is merely that very different forecasting methods often yield very similar results.

The computer model builders have replied to criticism by saying that their magic cannot be expected to work in the hands of others (an old favorite among high priests, geomancers, etc.). Klein of Wharton has written, "The outsiders . . . have done violence to the models . . . Large scale models are such complicated and delicate mechanisms that they require very careful handling by people who fully understand them."

The model-builders also point out that only with a enormous model can you analyze "contingencies," complex changes in economic policy. For example, a forecast of aggregate GNP will not be of much help to a steel firm interested in inventory control; it wants to know how aggregate demand will be distributed across the economy and what effect it will have on steel requirements, competitors' prices, and so on. Or a policy change which includes new investment tax credits, personal income tax surcharges, a public employment program and new government loans for mortgages may be very difficult to trace through without the use of simulations on a large model. But the steel industry must have been forecasting its own inventory requirements before the big computer models came along. How much predictive accuracy has it gained by placing itself in a large model of the entire economy? Unfortunately there is almost no evidence on this question as yet. But we may well wonder how these large models can do so poorly on the national aggregates, and yet get the particulars right.

As for national policy analysis, no one can deny that it is difficult and uncertain in the absence of a large model. The trouble is that it is also difficult and uncertain in the *presence* of a large model. The different assumptions about the effects of policy options built into various "conditional forecasting" models produce very different results when the computers are asked about, say, the effect of changes in government spending or monetary policy. Of course this is just what anyone familiar with the long debate over monetarism would expect.

The history of divination is a history of technology, from the divining rod and the Delphic tripod to the astrolabe, the crystal ball and the computer. A large econometric model is not really much different in this respect. The claim frequently is made that it replaces the mortal forecaster with an immortal reservoir of scientific wisdom. But in truth there has been no such replacement. It is the models that suffer the high mortality rates, and even while they live they serve as *vox angelici* for their ventriloquial builders.

Nor is this situation likely to change. I should probably refuse out of principle to indulge in any forecasts of my own, but the temptation is obviously an overwhelming human frailty. Let me therefore boldly predict that improvements in forecasting technology already have reached the point of diminishing returns. This prediction assumes that the future is most drastically affected by rare events, political decisions and psychological changes that are supremely difficult to account for. It also assumes the continued weakness of economic theory. Forecasting accuracy will continue to depend almost entirely on what phase the economy is in when the forecast is made. At any particular time, each kind of economic system is probably subject to its own irreducible minimum of uncertainty. We are probably near the limits of our ability to forecast the future of advanced capitalism, and that ability is not very high.●

REALISM IN RHODESIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. DERWINSKI. Mr. Speaker, in the last few days two former British Prime Ministers representing both parties have stated that the people of Rhodesia ought to be allowed to settle their own affairs without dictation from external forces.

In a speech reported in the Sunday Telegraph (of London) for April 2, 1978, the former Labor Prime Minister, Sir Harold Wilson, stated:

> It is not for Britain to decide, still less, with great respect, for the New York Office of the American Ambassador to the United Nations. It is for the Rhodesian people to give their verdict on acceptability.

In an important article published in the Daily Telegraph for April 3, 1978, Sir Alec Douglas-Home (now Lord Home of the Hirsel) who has served many years as foreign minister as well as Prime Minister of Britain also said that any settlement based on the "Six Principles" should be recognized by Britain.

I should like to insert this article in the RECORD at this time for the information of our colleagues.

The article follows:

REALISM IN RHODESIA

(By Lord Home of the Hirsel)

It is seldom that national bankruptcy facilitates a political settlement, or brings a war to an end, but it may bring off the double in Rhodesia.

It has without question brought Mr. Smith to settle with Bishop Muzorewa, Mr. Sithole and Chief Chirau much earlier than he would otherwise have done; while the fact that the economic state of Zambia is even more parlous must be making Mr. Nkomo wonder whether his paymaster, President Kaunda, will continue to foot the bill for the guerrilla fighters.

Particular to Rhodesia are sanctions, and to Zambia the collapse in the price of copper, while common to both are the cost of the fighting and the world-wide depression. Mozambique, too, is in a bad way. These economic pressures are unlikely to relent.

Mr. Smith has at long last conceded that his rearguard action against African majority rule has to come to an early end. He has played his cards over the years with considerable skill, always hoping that if he delayed and delayed "something would turn up to save him from the ultimate decision; but now facing as he does "the reality of the world we live in" he has thrown the weight of his authority into compromise.

He has had a real slice of luck in finding in Bishop Muzorewa a man of peace, who is convinced that the future of Rhodesia lies in co-ooperation between the Europeans and the Africans.

Muzorewa's transition from missionary to politician is an intriguing story. In a continent of violence he has made a public stand for order and evolutionary change. His witness of those principles has found a response among the African population of Rhodesia for they are naturally a peaceful and neighbourly people.

If there were to be a referendum as to who should be the first African Prime Minister of the Zimbabwe, the bishop would surely collect the great majority of the votes.

His colleague, Mr. Sithole, is more political than Muzorewa, and that his calculations are for the longer term is shown by the fact that he has formed a political party which has drawn support away from the bishop. But he is a realist, and is a powerful advocate of coalition, and of the new arrangements for the transition from white to black rule. He has brains, is a skilled administrator and is doing more than any other to sell the new constitution as an acceptable basis for independence.

Chief Chirau personifies the African establishment. He is *persona grata* with Africans and Europeans alike. In terms of votes he will not command the numbers, but his influence is real and it will tell in times of strain.

This quartet should be able to pull together and act through the transitional year and beyond. There is the negative inducement to do so, for if they do not succeed they would all be liquidated by whoever took over the power.

The other personality whose role in Rhodesia's future is still uncertain is Mr. Nkomo. He has a history. In 1961 he agreed with the British Government in London to a constitution for Southern Rhodesia, but when he returned to Salisbury he went back on his word.

It was a settlement which had great merit, and if it had been adopted the Africans would by now be in a majority or near-majority in the Rhodesian Parliament. As it was, all constitution-making went back into the melting-pot and was the subject of bitter wrangling between British and Rhodesian politicians.

Does Mr. Nkomo wish to redeem the error and join once again in a negotiated settlement?

In 1971 he came out of prison to see me and he insisted that the only course was to overthrow the European Government of Mr. Smith by force.

Two years ago in London he repeated his conclusion with even greater emphasis and conviction. I argued that such a policy was sterile and could bring nothing but misery to the Africans, but he was adamant.

Since then he has raised his army of guerrillas who are paid by President Kaunda and armed by the Soviet Union.

A clever, ambitious and forceful man (he stems from the Matabele) he will find it very difficult to change direction. Should he decide to do so he would greatly strengthen the coalition and would help (the Russians permitting) to end the war.

It is hard to see how Mr. Smith and his colleagues can do more than leave the door open for him. This they have done, but it is unlikely that they will feel able to make concessions to buy him into the partnership.

The other main actor on this stage is, of course, the British Government. When Mr. Harold Wilson took the question of Rhodesia to the United Nations (wrongly, in my view), the British Parliament was given the task of negotiating a settlement on which independence could be granted."

Successive Governments took as the test of acceptability Six Principles to which any Government would have to conform.

Do the present proposals of Mr. Smith and the bishop come within these terms? The answer so far is "Yes."

They include: majority rule by next year; a common voters' roll; safeguards for the minority against discriminatory changes in the Constitution; reserved seats to be held by the Europeans in Parliament; action against racial discrimination; a Declaration of Human Rights and changes in the Land Tenure Acts.

These are all objectives for which Britain has been working for years. Why, then, has the British Government given the coalition such a grudging reception?

The reason is partly political. Just as Mr. Smith could not bear dealing with Mr. Wilson, Socialist Ministers in Britain cannot bring themselves to look with approval on anything to which Mr. Smith is a party. As Mr. Smith was wrong then, so are they now.

There are still some outstanding questions: the organization of internal and external security is one, but there is no reason to believe that the coalition will not solve them. It should be encouraged.

One obstacle to support by the British Government is that it and the Americans have hatched a "plan," and although large chunks of it have been by-passed (including the presence of a British Commissioner, and United Nations troops) Dr. Owen and Mr. Andrew Young have not had the flexibility to adapt themselves to a new situation until late in the day.

They have given more weight to opinion outside Rhodesia than to that inside the country. The motive is creditable—to stop the war by persuading Mr. Nkomo to cooperate, and to gain international recognition for Zimbabwe. But neither of these desirable ends is necessarily in Britain's hands.

What, then, if Mr. Nkomo accepts Russian money to carry on the fight, or if the Security Council, in spite of the merits of the settlement, refuses United Nations recognition? Both these are possible. It is then that the British Parliament will have to assert its authority and its responsibility.

Provided that the new Constitution is consistent with the Six Principles, which it is virtually certain to be, Parliament should pass an Act to confer legality on Zimbabwe in its relations with the British Crown, and treat her thereafter as a State independent in her own right.●

WHITE HOUSE STAFF AUTHORIZATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. GILMAN. Mr. Speaker, earlier this week the House successfully challenged H.R. 11003, the White House Authorization bill. The White House had attempted to stampede this bill through the House of Representatives by coaxing the House leadership into riskily undertaking to suspend the normal rules of operation for the House while considering this measure. This maneuvering by the leadership, if successful, would have deprived Members of the House the opportunity to fully debate this legislation and to test the merits of its several provisions through the offering of perfecting amendments. Fortunately, a bipartisan coalition joined with me to prevent this kind of steamrollering.

During the floor fight on H.R. 11003, (H 2423–2424) I excerpted several paragraphs from a recent national journal article of April 1, 1978, by Dom Bonafede entitled, "The 'Lean White House' Has a Fat Staff Authorization in the Works."

Since this matter may soon be before the House once again, I commend this informative article to my colleagues and request that it be set forth in full at this point in the RECORD:

THE "LEAN WHITE HOUSE" HAS A FAT STAFF AUTHORIZATION IN THE WORKS

(By Dom Bonafede)

Proposed legislation awaiting House action would allow President Carter the most expensive White House staff in history.

An authorization bill (H.R. 11003), unanimously approved March 16 by voice vote by the House Post Office and Civil Service Committee, would let the President almost double the number of executive level and supergrade aides on his personal White House Office staff from 55 to 100. Occupants of such senior positions receive annual salaries ranging from $42,500 to $57,500.

Similar top-level staff increases for four other units of the Executive Office of the President (EOP), along with those of the White House Office, would cost $8.6 million the first year alone, if fully implemented.

The following table represents a projection of the estimated costs for increased White House staffing under H.R. 11003, if all the slots are filled.

WHITE HOUSE STAFF COSTS

[In millions]

	Fiscal years				
	1979	1980	1981	1982	1983
Current projection	$29.5	$31.6	$34.0	$36.4	$39.1
Staff increase	8.6	8.8	9.1	9.3	9.6
Total	38.1	40.4	43.1	45.7	48.7

Source: Congressional Budget Office.

Other provisions in the measure, some of which are unprecedented, would grant:

Virtually open-ended authority to the White House to hire an unlimited number of consultants and borrow "detailees" from other federal agencies;

Assistance and services for the wives of the President and Vice President, the first time they have been included in legislation dealing with White House personnel authorization;

Increases in executive level and supergrade employees for the Office of the Vice President from eight to 11. Domestic Policy Staff from 13 to 24. Office of Administration from five to 10 and Executive Residence staff from none to three;

Authority for an unlimited number of appointments to the presidential staff below a GS 16 rating, which carries a yearly salary of $42,423;

"Subsistence expenses" for persons, both military and civilian, traveling on official business in connection with travel of the President or Vice President, including aides accompanying them on trips and advance people. This is in addition to per diem expenses regularly allowed.

The Administration-endorsed legislation, which is expected to be taken up by the full House in a few days, appears to represent a reversal of a movement towards a deimperialized presidential establishment and to run counter to Carter's pledge to constrict the White House bureaucracy.

Hugh Carter Jr., special assistant to the President for administration, reported the White House has been working in support of the bill since August but does not intend to add significantly to the number of senior aides in the White House and Executive Office of the President, notwithstanding the opportunities available under the bill, should it be adopted.

Administration officials are confident the bill will be approved. "We feel pretty good about it," Carter commented. "This provides permanent statutory authority for the President's staff," he said. "We wanted to have plenty of flexibility for the future, in the event of an emergency like World War III or something, and needed to suddenly increase the staff. But except for one or two people, we have no plans to raise the staff level."

Tread Davis Jr., general counsel to the President's reorganization project in the Office of Management and Budget (OMB), said the bill does not represent a staff increase since year-to-year personnel levels will continue to be determined through the appropriations and budgetary process.

LIMITED OVERSIGHT

Charles H. Knull, staff counsel for the House Post Office and Civil Service Subcommittee on Employee Ethics and Utilization and the bill's principal author, acknowledged that there was "quite a bit of horse trading" in negotiations over the legislation.

"There was a tradeoff for a higher authorization of staff in exchange for some limitations and oversight provisions," he said. "But actually, they [the limitations] are not as stringent as for other agencies and are close to what Congress has for itself."

A report issued by the Post Office and Civil Service Committee candidly concedes the bill "allows the Congress limited oversight." It notes that the Comptroller General would be allowed to inspect records related to White House expenditures as a form of "limited verification procedure."

This, the report said, "will enable the Congress to perform its oversight role while at the same time protect the confidential nature of the funds and avoid an overly broad intrusion into this area of executive discretion. Under this procedure, the Congress will receive a report from the Comptroller General certifying the fact of his verification and listing only those specific sums which were not expended for the purposes certified."

It is apparent from the tone of the report that the committee considers this a delicate matter and does not intend to probe too deeply into White House business. Provisions covering the use of detailers, for example, require only that those who have been assigned to the presidential complex for 180 days or longer in any fiscal year must be included in a public report submitted to Congress. Detailees who serve for 179 days or less need not be reported. Committee officials say it is not inconceivable that the White House could take advantage of the provision.

As part of a supplement to the committee report, minority members of the panel, led by the ranking Republican. Edward J. Derwinski of Illinois, who cosponsored the bill, said. "Although this is good and basic legislation. . . . some of us are concerned by what we regard as loopholes in the reporting of detailees assigned to the White House from other agencies."

The unchecked use of consultants permitted the White House under the bill also is a contentious issue, particularly since the President not long ago issued a statement advocating a cutback in their employment by government agencies.

"We may have to have a specific appropriation for consultants," Knull said.

The inclusion of the authorization for the President's wife was made at the suggestion of the White House, committee officials said. Recently, questions have been raised about the fact that Rosalynn Carter, the President's wife, has at least 17 persons on her staff, none of whom is covered by specific authorization legislation. Similarly, the Vice President's wife, Joan Mondale, who is involved in arts programs, has at least four aides paid out of government funds.

"Authorization for the spouse is supposed to be in connection with their official duties," a committee staffer said. "But no one knows where their official duties end."

Additional provisions in the bill increase the President's travel expenses from $40,000 to $100,000 and maintain his allowance of $1 million for unanticipated needs. For the most part, however, the President's travel expenses are underwritten by the Defense Department, which has jurisdiction over the Air Force planes made available to him. The $100,000 is used mainly for aides who travel with the President and other incidental expenses.

The $1 million for unanticipated needs is allocated to the President "in furtherance of the national interest, security or defense, which may arise at home or abroad." That is a purposedly vague definition: presumably, the money is viewed more as pocket spending money for the President. The 94th Congress reduced the amount to $500,000, but it has since been raised to its former level.

"It's questionable whether it is needed," said Theodore J. Kazy, the committee's minority staff director. "Is it too much and what is it used for? I'm sure some Members would like to see it amended."

SWITCHED POSITIONS

An interesting sidelight on the bill concerns the political maneuvering that has accompanied it, particularly the inconsistency of some House Members on the issue of White House staffing.

In 1975, when a similar, yet more modest, bill affecting the Ford White House was introduced, Rep. Morris K. Udall, D-Ariz., took the lead in denouncing the proposal. During an impassioned floor debate that July 9, Udall, then a prospective Democratic candidate, declared it was time to draw the line against expanding the presidential establishment and said that a bloated White House staff tended to centralize power within the White House and trespassed on the traditional role of the Cabinet. Udall then recited a list of aides to President Ford who made more money than several directors of federal agencies, such as the chief of the Forest Service and the Commissioner of Education.

According to committee staff aides, however, Udall has been extraordinarily quiet regarding the proposed staff authorization for Carter, a Democrat.

In a transparent jibe at Udall, the minority members said in their supplemental report:

". . . When modest staff increases were proposed for President Ford in the 1975 legislation, there was an attempt to cut the number of executive level employees from 25 to 13. The sponsor of that amendment, a noted Copper State statesman, said he was not cuting back but was holding the line on White House staff. He made it clear, however, he considered the correct course of action to be a rollback on the number of high-level positions at the White House. It almost seemed as if General 'Black Jack' Pershing were in hot pursuit of Pancho Villa.

"In a flood of eloquence, he expressed shock at the increase in jobs at the White House. We have no way of knowing what the White House staff situation would be today had voters in the 1976 Democratic presidential primaries exercised different judgment."

When asked about Udall's puzzling position. Jennifer Fain, a spokesperson for him, replied, "Since the bill sets a limit on the number of executive and supergrade jobs in the White House, he is for it."

Another committee member, Rep. Patricia Schroeder, D-Colo., changed her tune on the issue. During the July 1975 debate, she said. "We have had an incredible crisis in this government in the past few years and there has been a tremendous concern about the power vested in the executive branch and a faceless goverment, that we cannot even figure out who is making the decisions. The issue is the centraliztion of relatively unaccountable power in the White House at the expense of our Cabinet form of government.

". . . I am delighted the President has said how many people are on the White House detail. But there is no limit to how many can be detailed in the future. I have the list of 20. There is also no limit on White House consultants. They are making a lovely salary. We would all do well to quit and become a White House consultant."

Explaining Schroeder's new position, an aide said. "It was important to get out a bill and this was the best they could get."

After the bill was drafted, the White House, apparently certain that it would be overwhelmingly accepted by the full House, requested that it be placed on the suspension calendar. That means that the normal rules are waived, that there can be only 40 minutes of debate on the bill, that no amendments can be added and that there must be an up-or-down vote requiring a two-thirds majority for passage.

"I personally recommended against it," said David Minton, the committee's executive director and general counsel, "not on the merits of the bill but because of politics. It [the quick action] might antagonize some Members."

The bill was taken off the suspension calendar but could be reinserted when Congress reconvenes.

"That's a little risky," remarked minority staff director Kazy. "Some Republicans might take some shots at it. They have been more generous with Carter than the Democrats with Ford."

One of the chief attractions of the bill from the White House's view is that it marks a departure from past practice when White House staff appropriations proposals were subject to points of order because the House had not first provided an authorization.

Following House action on the bill, it will then go to the Senate.●

AN AMERICAN LOOKS AT CUBA

HON. ROBERT K. DORNAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

• Mr. DORNAN. Mr. Speaker, it has become fashionable in many journalistic circles to write about Cuba as if it were paradise regained.

Paraphrasing some of this revisionist writing about a country in which political and economic freedoms are nonexistent, one might read, "Liberty aside, Cuba is a wonderful place in which to live." For me, it is the liberal equivalent of saying, "Temperature aside, the Arctic is a comfortable place in which to reside." It is in an attempt to be charitable to tell Cuban hosts that the trains run on time, but in fact they do not. There is less food for people to eat now, and it is of poorer quality than was the case before the Castro administration. Only the streets are cleaner than they were before, cleansed as they are of what used to be bumper-to-bumper traffic in Havana before the days when cars became as scarce as the consumers who can no longer afford to buy them.

One finds support for these unfortunate observations by the overwhelming majority of tourists who return from their Cuban tours which have been expanded over the past 10 months. One of the most articulate of these, an American citizen and businessman, Mr. Crosby M. Kelly, wrote about his impressions in a recent issue of the Readers Digest. I commend it to your attention, and I urge you to pass it along to any friends who have beer susceptible to the public relations campaign to picture Fidel Castro's Cuba as Communism's Disneyland. The following article ought to disabuse any reasonable person of this notion.

The article follows:

RETURN TO CUBA

(By Crosby M. Kelly)

(Now that travel restrictions to Cuba have been eased, growing numbers of Americans are visiting the island. Some bring back reports of great improvements in the lives of the Cuban people during 19 years of communist rule. But is that a true picture of what has been happening under Fidel Castro?)

(Crosby M. Kelly, a business executive, visited the island in October 1976, with a member of Congress and his party. Since Kelly lived in Cuba for three years prior to Castro's revolution and speaks Spanish fluently, he was in a good position to evaluate changes that have taken place. He also has traveled extensively throughout Latin America, Europe and the Soviet bloc as a business consultant. This is his report.)

From the moment we arrived in Cuba, we had high hopes of meeting Fidel Castro. "He knows you're in Havana, and he'll try to drop around to talk with you," a government official told us. Castro has flattered several Congressmen and other American visitors by suddenly showing up at their hotels for marathon political chats. It's part of the hard-sell of his regime.

Well, we finally did get to see Castro. "There he goes" someone hollered as we were driving on a highway near Havana. Sure enough, his six-foot frame was hunched in the front seat of a Jeep which was speeding in the other direction.

Finding out the truth about conditions in Cuba can be as difficult as catching up with the big boss. As soon as I stepped off the Cubana Airlines plane at Havana's José Marti airport, after a flight from Mexico City, I found that I wasn't going to be free to roam around as I pleased. Three officials of the Ministry of Foreign Relations were waiting for our party. They were as charming as could be—and they stuck to us like flypaper.

It's important to realize, in evaluating reports about Cuba, that the regime keeps visitors on a short leash, showing them only what it wants them to see. You can't ring up government officials and ask for appointments; everything has to be arranged. It's difficult for visitors to get around on their own. If you don't speak Spanish, you need an interpreter. There aren't many taxis, and it's easy to get lost using the bus services. Most visitors thus rely on official cars, with escorts.

You can't blame the Castro regime for putting its best foot forward. But if you don't want to be bamboozled, you've got to look beneath the surface of things. When you do, the reality can be jarring.

Pathetic Dolls. Take education, for example. Castro's Minister of Education, Jose Fernandez, escorted us on visits to four huge boarding schools that have been opened in the countryside, several miles outside the capital. Complete with lawns, flower gardens and swimming pools, the schools looked impressive from the outside. Fernandez proudly recited statistics to prove that illiteracy has been virtually wiped out in Cuba and that education has been made free and compulsory for all children. On the face of it, these are big accomplishments. There was a great deal of illiteracy among the poor when I lived in Cuba. But what kind of education is Castro giving the children?

In the dormitory of one of the schools, where 4500 girls are enrolled, we saw seemingly endless rows of double-decked metal cots. On almost every cot lay a doll, each identical to the next, each in a plastic bag. "Why the plastic?" I asked. "To keep the dolls clean," the principal replied. There was no sign of the dolls having been played with. It looked as if most of the bags had never been opened.

Nor were there any girls. It was a weekend, and the principal explained that the girls go home at noon on Saturday and return to the school late Sunday afternoon. That one night a week is all they see of their parents. Some of the children are only four or five years old.

"Our aim," said Fernandez, "is to teach children to be self-sacrificing and altruistic, to give willingly to their country and fellow man and to abandon selfish, material ideas of capitalism." What he was really saying was that the only way that communism can be made to work is to keep children in a controlled environment from the age of four or five, largely away from their parents, and subjected to constant Marxist indoctrination.

At a teacher-training school, the principal gave us a rundown on the pupils' daily schedule. Wakened at 6 a.m., they get an hour of Marxist studies, then have breakfast. Next they work in citrus groves until noon, when they have lunch and a siesta. Classes come in the afternoon, followed by an hour of athletics and supper. In the evening, the children get two more hours of Marxism before bed. These same children, the principal added, are graduated as elementary school teachers at the age of 14.

How could a child qualify as a teacher at 14, even if the child didn't spend so much time studying Marxism and working in citrus groves? And why should kids have to work in the groves? It's child labor, carried out not by wicked capitalists but by a communist state.

Health and Austerity. Castro has done a good job in one respect—organizing massive health programs, particularly in the countryside, which has been neglected by previous regimes. The government claims to have so many rural clinics that no one is more than two hours away from medical care. Infant mortality has been cut sharply and diseases such as polio and diphtheria have been virtually eradicated. Medical attention, moreover, is free for everyone.

But people lead austere lives in the new Cuba. Castro socialized agriculture, destroying private incentives. Today, after 19 years of communism, most food is strictly rationed. Remembering well the abundance of food on the average Cuban table before Castro took over, I asked one of our official escorts how the people feel about having had to endure rationing all those years.

"Why, the people don't object to rationing!" the official replied. "It guarantees everybody the basic requirements for a healthy existence. It doesn't mean that they can't have more than that. It just means that if a family is entitled to one dozen eggs, they can get that first dozen for, say, 50 cents. If they want another dozen, they can get it, but that dozen could cost $3."

The average factory worker, who earns around $200 a month, isn't likely to snap up many eggs at $3 a dozen. Nor does he get much of anything else. Cubans, for example, are rationed to one ounce of coffee per person per week—in a country where people used to drink coffee all day long. Gone, too, are the coffee bars once so familiar throughout the cities and in every small village.

"Buenos Días, Coronel!" The regime goes to great lengths to stage-manage things for visitors, but one one occasion the performance became unstuck. I had asked Fernández if we could go to a simple village restaurant for a typical Cuban meal. He took us to a fancy restaurant, obviously maintained for important functionaries and their foreign guests, in a village near Havana. We were the only customers in the place.

Four men, dressed as bartenders and waiters in white shirts, black bowties and black trousers, greeted Fernández by his military rank: "Buenos días, coronel!" Then they introduced themselves, also by military rank. Fernández noticed that I understood the exchange and shushed them with a gesture.

After lunch I took Polaroid pictures of the kitchen help. The waiters came over to watch. "Hey, look," said one. "I've never seen anything like that." "Yes, you have," another waiter replied. "Remember when we had our pictures taken to go to Angola?"

The ways of a totalitarian state are mysterious, but perhaps they use army personnel in that "typical village restaurant" for security reasons, or as a reward for such things as service in Cuba's expeditionary force to Angola.

A few days later, I found that the battery in my Polaroid camera was running down. After much discussion, our escorts agreed that the only place in the city likely to stock that commonplace item would be the curio shop of the leading tourist hotel. I remembered when camera equipment used to be on sale in every little store in Cuba. Now Cubans no longer have even such simple luxuries.

In the area where I used to live, many of the stately old homes have been abandoned, the yards choked with weeds. Only the odd building was in repair, and always it bore the emblem of a foreign embassy or a sign identifying it as a government office. Apart from the schools, I saw just one major building that wasn't there in the 1950s.

Bittersweet memories flooded up of a Havana that was a never-ending fiesta. Fun-loving Cubans had a remarkable vivacity and

inviduality which they expressed in animated chatter and a merry disorder. Day and night, Havana's streets were thronged with people and traffic. Buses operated bumper to bumper; now they are rare even in the limited and uncrowded traffic of the city streets. The few cars are mostly American models of the 1950s—left over from the pre-Castro era.

Today, Cuba's population is 65 percent greater than when I lived there. But where were the people? Castro correctly boasts that the streetwalkers and beggars are gone. So, too, are most other people. Apparently they stay home when they aren't working. There isn't much to buy and there isn't much of interest to do, except stand in line, in hope of getting goods when they go on sale.

Faded Hopes. One morning, Fernández took us to three polling places in Havana where Cubans were voting in their first nationwide election since Castro took power in 1959. It wasn't the sort of election that we Americans take for granted. The Cubans were only selecting members for their municipal assemblies, and the candidates for each seat had all been proposed by neighbors, based on their contributions to the Cause of the Revolution. The municipal assemblies, not the people, would choose provincial assemblies which, in turn, would select a national assembly. The evident lack of voter enthusiasm was understandable. Probably the older Cubans recalled, as I did, that when Castro seized power he promised free elections to form a new national government within eighteen months.

Over and over Cuban officials associated the defects in their society with the fact that Cuba is an "underdeveloped" country. It certainly is these days, but before Castro it was one of the more prosperous countries in Latin America, with a flourishing economy and, in most years, a favorable balance of trade.

Some influential Americans are urging that we drop our ban on trade with Cuba; that we welcome Castro back into the family of American nations, as he hopes we will. The United States has everything to lose and nothing to gain by such a move, particularly in view of his atrocious record in the area of human rights. It would mean condoning the grisly executions, the imprisonment of tens of thousands of Cubans and the destruction of the country's economy and its way of life. It would mean tacit endorsement of Castro's efforts to promote violent revolution in Africa, and his attempts to export his Marxism to other Latin American and Caribbean countries.

Just before leaving, I ran into an American tourist. "I'm really impressed with what they're doing here," he said. He had never been to Cuba before, and he didn't speak Spanish. He wasn't the first American visitor to be bamboozled by Castro's officials, and he won't be the last.

Back home, friends kept asking me, "What were your impressions of Cuba?" At first I didn't know why I had difficulty answering. Finally, someone said, "You must have seen a lot of changes." Then I realized what my basic impression was—almost no change, except for the worse.●

SITUATION IN LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. HAMILTON. Mr. Speaker, I have received several inquiries regarding the emergency situation in Lebanon. Most of these inquiries have been specific questions regarding what United States actions are being taken to help meet the disaster needs of the Lebanese people.

I want to share with my colleagues a letter I wrote to Congresswoman Mary Rose Oakar responding to her concerns about the situation in Lebanon. I am also attaching to this letter Situation Report No. 4 on Lebanon from the Office of U.S. Foreign Disaster Assistance, Agency for International Development. One important point to remember in these types of emergency situations is that the problem tends to be distribution and use of emergency relief supplies and not their availability.

I feel sure that my colleagues share my hope that the U.N. Peacekeeping Force will be able to stabilize the military situation in Southern Lebanon and restore peace as soon as possible. Once peace is restored Congress may have to answer the question of United States participation in reconstruction and resettlement programs in Lebanon.

The correspondence follows:

MARCH 30, 1978.

Hon. MARY ROSE OAKAR,
U.S. House of Representatives, Room 427, Cannon House Office Building, Washington, D.C.

DEAR MARY ROSE: As you know I share your concerns about the situation in Lebanon and I am anxious to see that we do all that is possible to provide emergency relief. In the Lebanese case, as in similar situations, the problem is as much distribution and use of emergency relief supplies as it is their availability. According to my subcommittee staff and people at the State Department I can report to you the following information.

On Thursday, March 23rd, a first shipment of U.S. disaster relief supplies arrived in Lebanon. This first shipment contained $1.2 million worth of tents, blankets, water jugs, medicines, stoves, and vitamins. These supplies were flown to Lebanon from a disaster relief supply depot in Italy. The funding for this shipment comes from the Special Disaster Relief Account which totals $20 million. This first shipment is a direct government to government transfer and the aid will be distributed by the Lebanese High Relief Committee. The major concern is to make relief supplies available as quickly as possible but, in a measured manner, to assure that the aid is effectively distributed. The International Red Cross has made an appeal for approximately $1 million in medicines for Lebanon and this appeal will probably also be funded by us from the same Disaster Relief Account.

The State Department has indicated that it will spend up to $5 million from the Disaster Relief Fund but that then it would inform Congress and seek approval to spend above that level for Lebanon. At a later date, after immediate disaster needs have been met, the State Department may request funds for resettlement programs in Lebanon. In order to do this, there must be a report to Congress and then Congress has an opportunity, 30 calendar days, to disapprove by concurrent resolution.

Apparently, there is also food available through the U.N. World Food Program. It is food suited to disaster needs and the United States already has some "floating assets" with this organization which we could tap for Lebanon. The Lebanese have not yet requested any food assistance although they have been informed that this food is available to them and that it is food better-suited to their immediate disaster needs than PL 480 food.

For your information, I am also enclosing with this letter a copy of my Subcommittee's recommendations regarding economic and military assistance programs for Lebanon in FY 1979.

We continue to follow developments in Lebanon closely and are in constant contact with the executive branch. Should further disaster and relief assistance be requested, you can be sure that the subcommittee will give it favorable consideration.

I appreciate the leadership you have provided on this important humanitarian issue and I share your concern over what has happened in Lebanon. If I can be of further assistance please let me know. Your staff can also contact my subcommittee staff directly to receive updated information as circumstances change as I am sure they will.

With best wishes.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

LEBANON—DISPLACED PERSONS

Date: Beginning March 14, 1978.

Location: Southern Lebanon (especially 59 "frontline" villages, Tyre, Nabatiye, and Sidon) and Beirut.

People affected: Population of the disaster area—450,000 (majority Lebanese).

Dead—50–60 (updated figures not yet available).

Injured—120 (updated figures not yet available).

Displaced—245,000 (Lebanese and Palestinian); 160,000 of these need shelter.

Number in daily feeding—500 families (3,500 people).

GENERAL SITUATION

[New items of special interest are: an increase in the estimated number of displaced persons from 200,000 to 245,000; the introduction of UNIFIL; the beginning of public works rehabilitation; the addition of more relief distribution centers; an increase in the USG contribution to Lebanese relief; contributions by the American National Red Cross and Lutheran World Relief; an international appeal for funds by UNRWA; the fact that the financial part of ICRC's appeal has been met; and increased assistance provided by Algeria, the EEC, Iran, Iraq, Kuwait, Morocco, the Netherlands, Norway, Syria, and the Save the Children Alliance.]

A large part of the population of southern Lebanon fled their homes as a result of an Israeli military campaign aimed at punishing Palestinian terrorists. Some have begun to return after the introduction of a United Nations Interim Force in Lebanon. About 100 families (8,000 people) have returned to Tyre, which was deserted by 45,000 of its 50,000 inhabitants in the early days of the fighting. Stores in Tyre have reopened and repairs to utilities will begin soon.

Lebanese displaced from southern Lebanon have fled to the following areas: Beirut (50,000 displaced persons), Sidon (15,000), Chouf (60,0000), Aley (15,000), and Baalbeck-Hermel (40,000).

Palestinians displaced by the recent fighting number about 65,000. Some 34,000 of these fled to Sidon and 5,000–10,000 went to Beirut.

Unmet priority needs (as defined by the Government of Lebanon) for 200,000 displaced persons for six months are: tents (6,200); eating/cooking utensils (23,650 sets); blankets (209,760); mattresses (200,000); water jugs (48,984); baby food (10,800,000 pots. 5 tons cerelac, vitamins A & B); baby clothing (for 30,000); underclothing; bulgur (666 MT); kidney beans (1,000 MT); canned meat, chicken, cheese, and sardines (2,992 MT); jam (200 MT); and baby milk (360 MT). Many of the food items may be available locally.

ACTION TAKEN BY THE GOVERNMENT OF LEBANON (GOL) AND LEBANESE GROUPS

An Interministerial Committee on Relief (IMCR) was formed on March 15, 1978 consisting of Ministers Rizk, Salman, Cheaito, and Bizri. The Committee is to oversee all relief activities including those of the GOL Office of Social Development and the High Relief Committee. The GOL is concerned primarily with displaced Lebanese, leaving displaced Palestinians in the care of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

All hospitals have been instructed to provide care for all patients and to bill the Ministry of Health if necessary. The American University Hospital in Beirut is supplying a medical team to each relief camp each afternoon. The League of Private Hospitals has called upon hospital operators to offer assistance.

Control registration points have been established to register persons displaced by the most recent fighting. The number of registered Lebanese families is expected to reach 7,000 or approximately 50,000 persons.

Temporary housing (tents and prefabricated buildings) has been provided in Beirut, Sidon and vicinity (including Gazieh and Kannarit), and Chouf. All of these camps are equipped with water and sanitation. Camps are organized by village of origin. In addition to the above, mosques, churches, schools, local universities, and finished and unfinished buildings are being used for temporary shelter.

Twenty-four centers to distribute supplies to displaced persons have been set up in Beirut and its suburbs. Additional centers are located in the South.

Approximately 116,200 persons are being assisted in camps/centers.

Price controls on necessities are to be strictly enforced and supplies of sugar, flour, and rice are to be assured (e.g., 100 MT flour to Sidon).

The Ministry of Public Works has begun repair of roads, bridges, and public buildings.

An Association of Industrialists has donated 500 cases of canned meat.

The Beirut Chamber of Commerce has donated $3.300 and issued an appeal to its members for further contributions.

Employees of North Lebanon have decided to contribute 15% of their salaries for the displaced persons.

The Lebanese Mothers' Committee has distributed food in Beirut.

The Lebanese Red Cross has carried out first-aid and evacuation services.

The Lions Club has organized to contact other Middle Eastern clubs for aid and has donated 3,000 undergarments to the Sidon authorities.

The Municipality of Beirut has established a fund (LL 300,000=US$ 98,361) for urgent measures related to refugee support in Beirut. Another fund of LL 500,000 (US$ 163,934) has been established for IMCR disposition. Various health and refuse vehicles will be purchased for use in emergency-related activities.

The Organization of Overseas Lebanese has issued an appeal for assistance.

The Palestinian Red Crescent is operating in rear battle areas.

Students from the American University in Beirut have worked as volunteers in food distribution centers.

The YWCA has donated 500 blankets and 1,000 cans of soup and the YMCA has provided volunteers to erect tents in Sidon and Beirut.

ASSISTANCE PROVIDED BY THE UNITED STATES GOVERNMENT (USG)

In response to a request for USG assistance from Lebanese Prime Minister Salim Al Hoss, the U.S. Ambassador to Lebanon, Richard Parker, declared a disaster on March 19, 1978.

From the Italy stockpile of the U.S. Office of Foreign Disaster Assistance (OFDA), the following have been provided: tents (1,850), tent flys (1,420), wool blankets (30,823), cotton blankets (13,756), muslin sheets (2,976), plastic sheeting (20 rolls), five-gallon water jugs (1,057), tetracycline capsules (200,000), penicillin tablets (120,000), multi-vitamin tablets (250,000), cooking stoves (50), and gas cans (45). The value of these commodities, excluding air transportation, is estimated to be $1,170,000. The cost of air transportation is estimated to be $79,040. These supplies are consigned to the GOL; however, the GOL has promised 500 of the tents to UNRWA.

OFDA is also planning to provide an additional 15,509 cotton blankets; 34,000 wool blankets; 20,000 water jugs; and 6 ICOSA prefabricated shelters.

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES

The American National Red Cross has airlifted 10 cases of sterile bandages donated by Johnson & Johnson.

Catholic Relief Services/NY has sent $25,000 to its representative in Lebanon to purchase relief goods for 800–1,000 displaced persons camped on the outskirts of Beirut.

Church World Service has advanced $25,000 to the Middle East Council of Churches (MECC) for its relief activities. An appeal for $70,000 to meet CWS's share of a World Council of Churches appeal ($200,000) has been made. Food shipments, including 5 tons of canned meat from the Church of the Brethren, are being organized.

The Community Development Foundation/Save the Children Federation has alerted the other members of the Save the Children Alliance (U.K., Canada, Norway, Denmark, and Austria) to potential needs. Their training center in Lebanon is being used as a staging area for relief supplies and 5,000 displaced persons are being cared for.

Lutheran World Relief has granted $10,000 to the Middle East Lutheran Ministry in Beirut.

The Mennonite Central Committee has contributed $32,000 for baby food, canned food, blankets, and mattresses to be distributed through the Sidon provincial government. In addition, 7,000 blankets, 5 tons of beans, and 5 tons of canned beef are being distributed through the MECC.

Seventh-day Adventist World Service has been distributing blankets and clothing from their 40 tons in stock in Beirut.

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY ORGANIZATIONS

The Arab League has pledged $300,000 for medicaments and supplementary medical services.

The European Economic Community (EEC) will authorize 20,000 MT of cereals as a supplement to its regular program. In addition, 100,000 MUA have been contributed to the International Committee of the Red Cross appeal.

The International Committee of the Red Cross is using its staff currently in Lebanon (15 Swiss delegates and 25 local employees) to care for the displaced persons in its region and to carry out assessments of the situation. An appeal has been made for baby milk (180 tons), cash to purchase medical supplies (400,000 Swiss francs), blankets (20,000), and cash for operational expenses (900,000 Swiss francs). The financial part of the appeal has been met.

Up to $500,000 is available for this emergency from the United Nations Special Trust Fund for Lebanon. An appeal for supplementary funds to benefit all U.N. agencies in Lebanon, except UNRWA, is expected.

UNRWA made an urgent appeal on March 23, 1978 for cash ($30,000 per week), foodstuffs, tents (3,000), blankets (30,000), and clothing and shoes for 8,000 children. In Sidon, UNRWA has been feeding 34,000 displaced Palestinians. UNRWA classrooms are being used for temporary shelter.

The World Council of Churches has launched an appeal for $200,000 to purchase locally: blankets (18,000), kitchen utensils (4,000 sets), plastic sandals (15,000 pairs), high protein food, dry beans, and milk. Distribution costs ($65,000) will also be covered.

GOVERNMENTS

Algeria—two planeloads of medical supplies for the Palestinian Red Crescent.

Canada—$1 million (Canadian dollars) to the ICRC. Three churches in Toronto have sent $11,000 (Canadian dollars) to Lebanon.

Egypt—12-member medical team.

France—8,000 MT of wheat.

Germany (Federal Republic)—7,500 blankets plus an unknown quantity of baby food. Within the scope of EEC aid, Germany plans to allocate 2,275 MT of powdered milk; 1,240 MT of butter oil; and 25,000 MT of cereals.

Iran—3,500 blankets, clothes for 4,600 displaced persons, and two planeloads of relief supplies such as oil, sugar, tea, and flour.

Iraq—21 truckloads of relief supplies and a medical team.

Jordan—assessment team of 6 physicians, 4 trucks of medicines, and 1,200 bottles of blood.

Kuwait—medical team of 10 doctors and nurses, 10 ambulances, and 25 trucks.

Morocco—medicines, plasma, and medical equipment for the Red Crescent.

Netherlands—9,500 blankets; 1,000 cases of food; and 6,000 bottles of powdered milk.

Norway—$187,260 to ICRC.

Syria—shipment of wheat.

United Arab Emirates—medical mission, composed of 20 doctors, 40 nurses and pharmacists, and 10 administrative staff and drivers to Syria.

United Kingdom—5,000 blankets and 150 tents.

VOLUNTARY AGENCIES

Austrian Save the Children Fund—$3,000.

Danish Save the Children Fund—$10,000.

Norwegian Save the Children Fund—$100,000.

CHRISTIAN R. HOLMES,
Deputy Director, Office of U.S. Foreign Disaster Assistance.●

APPEAL TO THE CONGRESS BY SOVIET JEWISH WOMEN

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mrs. HOLT. Mr. Speaker, while I was in Moscow, I met with the members of the Soviet Women's Jewish Committee, who asked me to present their cause to Congress. Their wish is to be allowed to emigrate to Israel for personal, professional, and religious reasons. However, their applications for exit visas have been consistently denied by Soviet authorities. I was impressed by their courage, sincerity, and perseverance, as demonstrated in these appeals:

APPEAL TO THE CONGRESS OF THE USA

On October 6th we, a group of women, whose applications for exit visas to Israel have been denied for years, were going to submit a petition to the Supreme Soviet asking it to accept us for the discussions

of our situation. But we were put under house arrest which is illegal according to the Soviet law and kept under it for several days. No answer to our petition that was mailed later was given.

On January 27th, 1978 H. Elinson, N. Rosenstein, I. Gildengorn, L. Vilenskaya, N. Hassina, L. Lihterova, Y. Gudz, E. Dubianskaya, B. Elistratova, F. Cohen and M. Karnovskaya-As made another attempt to deliver the petition and were accepted by the Deputy Chief of the Administration Department of the Central Committee of the CPSU A. Ivanov with K. Zotov, Director of the All-Union OVIR, present.

We expressed our deep dissatisfaction with the present practice of the considerations of the applications for exit visas when people are often denied permissions to emigrate without giving justified reasons and have to wait for many years not knowing when and whether these permissions will be granted them.

A. Ivanov told us that there would not be any juridical changes in the procedure of the making decisions on giving visas. There will not be any laws on emigration and each case will be considered on individual bases.

We were, however, promised that our cases would be reconsidered shortly. Our criticisms were promised to be taken into account so that those of us who are not given visas will be explained reasons for denying them and told when they will be granted.

However, in a week when we phoned A. Ivanov and K. Zotov to enquire about the progress in the reconsiderations of our cases it become clear that the promises given earlier were a deception. Probably, they were given due to the presence of the delegation of the Supreme Soviet headed by B. Ponomarev in the USA at that time.

In the end of February we were accepted by K. Zotov but from the answers he gave it was absolutely clear that no case was really reconsidered.

Thus, the Soviet authorities had demonstrated again the worth of their promises and what women's rights in this country really mean. Once more we were denied our right to reunite our relatives in Israel and even the right to discuss our cases with the competent officials. We were doomed to continue the life of uncertainty without any possibilities to raise our children in Jewish traditions and get jobs according to our qualifications.

On the 8th of March, protesting against the violation of our right 44 women went on hunger strike whereas 22 of them were going to hold a peaceful demonstration under signs "Visas—yes, lies—no!", "Homeland for our children", "Let my people go!". However, the demonstration was cruelly suppressed: 10 women were placed under house-arrest, 7 were arrested on the way to the scene of the demonstration which was reached only by 5 women. No sooner had they displayed their signs than they were frogmarched by plainclothesmen and driven to the different police stations where they were kept for a day and talked to by the KGB men. Some of them threatened to punish us more severely if we continued our struggle for leaving this country.

But we have no choice. We will continue our just struggle. No persecution will stop us.

We appeal to the Congress of the USA to use its influence to help us to win our rights.

Soviet Women's Jewish Committee:

Gildengorn I., Moscow 117342, Profsoyuznaya 87, k.4, apt. 26, tel. 333-36-74.

Elinson H., Moscow 127018, Streletskaya 6, apt. 24, tel. 289-89-17.

Elistratova B., Moscow, B. Cherkizovskaya 1, k.2, apt. 50.

Joffe R., Moscow, Profsoyuznaya 97, k.1, apt. 203, tel. 333-63-61.

Riabkina M., Moscow 117485, Profsoyuznaya 102, k.2, apt. 1, tel. 335-66-47.

Rosenstein N., Moscow 117485, Butlerova 2, k.1. apt. 69.

Vilenskaya L., Moscow 105?03, Ismailovsky prosp. 115a, apt. 46, tel. 463-0135.

We, my husband Bronislav Lainer and I, are both scientists in metallurgy. Until 1973 when we were dismissed from our jobs because of our desire to emigrate to Israel we worked as researchers in the State Institute for rare metals and the State Institute of Metal Working. We applied for visas on 5.10.1973 but our request was denied on February 8th, 1974. We were told that our "leaving the USSR is inexpedient for state security reasons". For almost 5 years now we have been asking various officials to explain to us the meaning of this formula but so far no one of them discussed the substance of our case. In any case we do not know any state secrets. Any independent expert can confirm there is no and cannot be any "state secrets" in such traditional field as metallurgy. The Institutes we worked are not secret. They are opened to the visitors from the Western countries and, therefore, our former laboratories equipment and subjects of research are well known abroad. All results of our work were published in more than 50 articles. Moreover some employees of the Institutes we worked at got permission to leave for Israel. Thus, we are being kept here not for "security reasons" but as hostages. This was explicitly confirmed by the general Sorochkin who told me that our getting visas "depends on the relations of the USSR with the West". For many years we are forced to lead a life of uncertainty. We are not able to bring up our children in our national tradition. We cannot get qualified, in fact any, jobs in our field. We were kicked out of the offices for which we did technical translations for years. After that my husband was threatened with a charge in parasitism and possible imprisonment.

We appeal to you for help. We need it now very much.

Irene Gildengorn, Moscow 117342, Profsoyusnaya 87, kor 4, apt. 26, tel. 333-36-74.●

TOUGH TALK IS NO SUBSTITUTE FOR A FAIR ARMS AGREEMENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. HUBBARD. Mr. Speaker, the President has finally stated his alarm at the massive Soviet arms buildup and continuing Soviet and Cuban mischief in Africa. Such Soviet actions were said to threaten the negotiation of a new Strategic Arms Limitation Treaty, and to force the United States to strengthen our defense. I firmly believe that Congress must focus on what the President does, not merely what he says. I would like to share with my House colleagues an extremely perceptive editorial which appeared in the April 2, 1978, edition of The Courier-Journal, setting forth the reasons why tough action is more appropriate than tough talk to restore a realistic balance between U.S. and Soviet military might. The editor and publisher of this respected Kentucky newspaper is Mr. Barry Bingham, Jr., and its opinion page editor is Mr. Robert T. Barnard.

The editorial is as follows:

TOUGH TALK IS NO SUBSTITUTE FOR A FAIR ARMS AGREEMENT

President Carter has talked tough to the Russians, and the Russians have talked tough right back. But behind the talk are a lot of disturbing numbers—the growing number of modern Soviet missiles, the substantial Soviet numerical advantage in men, tanks and combat aircraft in Europe, and the number of dollars Mr. Carter proposes to spend on defense.

The President recently warned that the "excessive" Soviet military buildup and continuing Soviet and Cuban mischief in Africa endanger U.S.-Soviet relations, including negotiation of a new Strategic Arms Limitation Treaty. The Russians responded that relations already were "sliding backwards" and that U.S. intransigence stands in the way of a successful SALT agreement.

Mr. Carter's tough talk, while directed at the Russians, doubtless also was intended to quiet his more hawkish critics at home and among our NATO allies. But what worries a lot of informed Americans and Western Europeans is that talk is not enough. The numbers seem to confirm that the Soviet Union is seeking and might soon achieve broad military superiority over the West, and that Washington is not responding quickly and effectively enough to counter this threat.

Take Mr. Carter's defense budget for fiscal 1979. It calls for a relatively modest $3.5 billion in additional spending over this years' budget, after accounting for inflation. The biggest increases would be to boost the combat readiness of U.S. conventional forces in Europe.

This improvement is badly needed, since NATO is substantially outnumbered and outgunned by Warsaw Pact forces. But the Carter defense budget would do little to offset steady Soviet gains in naval and strategic nuclear forces.

The proposed shipbuilding budget must be especially disappointing to Navy brass. They doubtless expected better treatment from a President who is a former submarine officer and once contemplated a naval career. Mr. Carter can't be faulted for deciding against another nuclear-powered supercarrier, since these giant ships would be tempting and vulnerable targets in a full-scale war and we already have enough—13—for lesser conflicts. But a good case can be made for building more surface ships of lesser size, as well as attack submarines. These would be needed, in time of war, to protect sea lanes used in resupplying U.S. forces in Europe and to assure an uninterrupted flow of Mideast oil to the U.S. and Europe.

The budget for strategic nuclear forces and the provisions of the pending SALT agreement so far made public are even more alarming. True, Mr. Carter's budget provides funds for continued development of the "MX" advanced, land-based intercontinental ballistic missile and of pilotless cruise missiles. There also is money for construction of the big Trident missile-carrying submarines that eventually will replace our Polaris-Poseidon fleet. But the funds are substantially less than what the Russians are believed to be spending for expansion and modernization of their strategic forces.

Moreover, the SALT agreement nearing completion would do little to slow Russia's rapid gains of recent years. The Soviet Union already enjoys a substantial advantage in the number and size of its intercontinental and submarine-launched ballistic missiles. For years, the U.S. has been able to offset these advantages with superior missile accuracy, multiple warheads and a large fleet of manned bombers. But the Russians are now installing multiple warheads on their already bigger missiles and have improved their accuracy, as well. They also are deploying a new supersonic bomber.

The result is that, within a few years, the Russians are expected to have the capability to destroy most of our Minuteman silo-based missiles in a first strike. At the same time, our Polaris-Poseidon missile-

launching submarines—the least vulnerable element of our strategic forces—will be reaching the end of the 20-year operational life for which they were designed. Many will be due for decommissioning in the early and mid-1980s, before they can be replaced by an equivalent force of new Trident subs, which, by the way, are encountering construction delays and enormous cost overruns.

STRONG SENATE OPPOSITION LIKELY

Perhaps our best hedge against Soviet strategic superiority is the cruise missile, a weapon much further advanced here than in Russia. Yet U.S. SALT negotiators reportedly have agreed to tight restrictions on the range and number of cruise missiles we are to deploy.

Add it up and the picture is grim, indeed—enough to assure that the SALT agreement, in its present form, would encounter heavy opposition in the Senate.

And rightly so. The President's tough talk isn't enough. The numbers are running against us, and a SALT agreement that sanctioned such an imbalance would be worse than worthless. The place to talk tough is at the negotiating table. But even there it won't work unless we are willing, in the absence of an equitable arms agreement, to spend what we must. The amount will be what it takes to deter the Russians from gambling that a nuclear war can be won—and to convince our worried allies that we will stick to our commitments.●

BALANCED PERSPECTIVE ON THE MIDDLE EAST

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. LEDERER. Mr. Speaker, for some time the administration has waivered on its policy in the Middle East and encouraged actions against the State of Israel by this policy. I believe that only through a strong and definite position can the balance of power be maintained and the security of democracy in the Middle East be preserved.

For the edification of my colleagues, I wish to here include in the RECORD, two articles which appeared in the Brith Sholom Digest in my home city of Philadelphia. I believe these articles, while printed some time ago, are especially relevant in light of recent developments.

THE ROLE OF AMERICA IN THE MIDDLE EAST PEACE

(By Albert Liss)

Even the most cynical observers cannot deny that the peaceful communion begun by Prime Minister Begin and President Sadat has turned a new page in the violent history of the Middle East since the establishment of modern Israel. What remains to be seen is whether the momentum toward peace put in motion by the audacious Begin/Sadat gambit can overcome the obstructionism of the Arab rejectionist nations and the purported self-interest of our own government and the Soviet Union.

What also must be watched is the depth of Mr. Sadat's new found tolerance for an independent non-Arab sovereign nation in the Arab heartland. His prejudice against Jews, kept alive by his own propaganda, is an unmeasurable factor that can deform his rational perceptions.

Despite the initial hysterical reaction among Arab nations to his overtures to Israel, Sadat may hope that the power of the drama for peace he has produced will bring most of his opponents to the theatre, not as a thundering claque, but at least powerless to draw the curtain until the final act. After all, the nations which have fought Israel have very little to gain by their continuing hostility to the Jewish state. While they are responsible for creating, financing, and training the PLO and have exploited the Palestinian situation to gain advantage in their internecine struggles in the Arab world, they have found the PLO to be troublesome. Alone, it cannot accomplish its sworn goals. Its powers derive from the authority and support granted it by the Arab nations. This was demonstrated in Jordan and in Lebanon.

Regarding the concern displayed by Arab nations for the establishment of a new Palestinian state, their failure to establish such a state during the 19 year period Jordan occupied the West Bank and Egypt controlled the Gaza strip speaks for itself. As neither Jordan nor Eggypt can lay claim to the West Bank and Gaza, they had every opportunity during their illegal control of the disputed territory to make the Palestinian state a reality. Having opposed this development before, the creation now of a second Arab national entity in Palestine (Jordan is the first) can be seen only as a pretext for reducing the size of the single Jewish nation-state as a prelude to its eventual extinction.

Yet, whatever dangers emanate from the PLO or the rejectionist front, which to this day refuse to abandon their fantasy of destroying Israel on the battlefield, the biggest factor that will determine success or failure for Sadat and Begin are still the intentions of the United States and the Soviet governments.

Their parallel strategy of manipulating Israel and the Arab nations to serve their national objectives has seldom reflected the real interests of the Middle East nations. Both governments contributed to the continuing beligerency in the area by preventing Israel from gaining a victory that would have made peace possible, and by relieving the Arab nations of their responsibility to settle their differences with Israel at the Conference table, following their periodic military conflagrations.

When they embarked on their present course, Sadat and Begin were well aware that global considerations extraneous to the aims of Egypt and Israel complicated American and Soviet policies. At the same time, because of their nations' dependency upon the United States, they realized that without Carter's support their efforts would collapse. They could alter the script somewhat, but they would have to allow the American President to remain as the prompter. It was their theatre, but Carter held the mortgage.

In view of terms Carter spelled out previously for a settlement which includes Israel's withdrawal from the West Bank and the recognition of Palestinian rights, it was particularly important for Begin to secure from President Carter an acknowledgement that the position of the Israeli government was a fair start in negotiations. Their case having been explicitly articulated by Israel's friend, Arab nations could demand no less. Their extreme demands were further encouraged when Carter let word out that Begin's far reaching tangible concessions would not be acceptable to the Arabs. The effect of President Carter's views was to legitimize the negative response initially publicized by Saudi Arabia and Jordan and to compel Sadat, who already was under pressure from the extremist camp, to take a hard line. This accounts for Begin's unscheduled, abrupt trip to Washington which resulted in Carter's public statement of appreciation for the Begin approach. Carter was able to parry the attacks which his statement provoked, by drawing upon his previous outline for a Middle East settlement to reassure his hosts in Egypt and Saudi Arabia that his script confirmed to their version.

The President would still like to steer Begin and Sadat back to the blueprint for an overall settlement he has tenaciously held to since assuming office.

Admittedly, a comprehensive plan which would bring peace to Israel on all of its borders would be ideal. Nevertheless, the ultimate goal may be reached by steps and it serves no one's interest to hinder the establishment of peaceful relationships between Egypt and Israel, should the PLO and other Arab nations remain intransigent.

Begin has gone further in his initial response than could reasonably be expected of him, given the historic record of unrelieved warfare waged by the Arab nations against his small nation state since its birth. With his unusual capacity to assess his adverary' intention and limit, and a grand intellectual understanding of the broad sweep of history, Begin can be depended upon to provide a statesmanship approach leading to a just settlement, provided his opposite number is willing to reciprocate. It must be remembered, however, that he bears on his shoulders, as his nation's Prime Minister, the terrible burden of achieving a solution that will insure the survival of an independent, sovereign, Jewish nation living in peace with its neighbors—the goal of all Israelis, whatever party is in power. Begin should not be expected to barter away Israel's security.

Carter now seems to grasp this urgent requisite as Israel's immutable bottom line. The problem is that what is perceived as essential for Israel's security needs in Washington may be seen differently in Jerusalem by Israel's leaders, who are, after all, responsible for the welfare of a population which has been the victim of repeated assaults by hostile neighbors with genocidal designs.

Addressing the Knesset, Egypt's Prime Minister also acknowledged Israel's security as the foremost consideration for peace with Israel. Sadat's credibility will be tested when he makes his hard decision to sue for peace based on Egypt's interests or succumbs to the destructive role of a Pan Arab zealot and persists in uncompromising demands which will jeopardize Israel's security. Choosing the former, he will find no obstacle to peace. Opting for the latter, he will revert to the Arab hard-liner who said it will be for future generations to make peace with Israel.

Sadat may hope that the United States government will deliver Israel, but, in fair balance, may Begin also hope that Sadat and the United States government can deliver the Arab nations who have vowed to attain a settlement through war. Carter must come up with that answer before he can expect further substantial concessions from Israel.

The military and economic involvement of the two super powers, the United States and the Soviet Union, in the Middle East give them awesome power. We must hope that these two great nations can find the intellectual and moral resources to aid, not impede, the search for peace.

The public also must accept responsibility. Grown weary of the Middle East problem which has dominated the international agenda for 30 years, they must not allow their impatience to replace critical judgement and expect the 1,000 mile journey for peace begun by Begin and Sadat to be completed at the expense of Israel's existence. Czechoslovakia's fate at Munich must be the silent spectre which counsels them.

Examined realistically, the hazardous trek toward a just and peaceful settlement in the Middle East will more likely bear a resemblance to the flight to freedom by the ancient Israelites under Moses than it will to our vaunted trips to other starry planets.

LANDING TOPSIDE

(By Albert Liss)

Political observers need not squander much time to analyze the impulses which sent Sadat to Jerusalem to enter direct negotiations with his arch foe, a course earnestly sought by every Israeli Prime Minister. His actions have been shaped not only by the factors of real politics and economic imperatives, but also by the well-springs of deep emotions.

Egypt has paid a costly price for the romantic notion of Pan-Arabism which his predecessor endorsed—100,000 killed and $60 billion wasted on armaments in the four wars waged with Israel. Although the totalitarian control exercised by the Egyptian political system may put a lid on popular discontent, the terrible loss of life and economic deprivation must be a festering sore among the Egyptian people. Seen in this context, the outpouring of support for Sadat's vision of a settlement must be judged as a passionate cry of the heart. Nevertheless, Sadat's humanitarian concerns for his people should not lead us to the false belief that he would blindly expose himself to risks from which he could not recover. The popular view of Sadat lurking on the brink of disaster because of his dispute with the rejectionist front is a lop-sided view. Egypt's President has demonstrated a rare instinct for survival and in this instance too, whatever the outcome—excepting from a possible attempt on his life by a fanatic assassin—he has shrewdly calculated his moves to insure that he remains afloat.

To begin with, Sadat knows that he may have his desperately needed peace with Israel tomorrow. For the pursuit of this end, he has already received the backing of his military forces and the acclaim of his people. He has also reaffirmed the American connection, forged by Kissinger and Ford, to collect on United States commitments under the previous disengagement agreement to provide Egypt with economic and military aid. This economic aid had already reached a level higher than that given to Israel, an annual sum of $1 billion. He has also created the necessary climate to expect a stepped up delivery of masses of armaments, including some of the most sophisticated in America's arsenal. Until now, because of opposition by Congress and the Jewish community, the Carter administration has moved slowly on Egypt's request for armaments. Under the present circumstances, neither Congress nor friends of Israel are likely to put forth strenuous objections. Should Sadat renew the option of war, he will then have made certain he has regained a military preponderance over Israel and make it likely that the United States government will remain neutral in any clash between Egypt and Israel, barring Israel's total destruction. His insight is sharpened by his knowledge that America stood aside during the Pakistan/Indian war over Bangladesh, despite its defense treaty with Pakistan.

At this juncture, Sadat does not believe it will come to war. Despite his publicly expressed annoyance at President Carter's acknowledgement of Prime Minister Begin's initial negotiating stance, Sadat maintains confidence that the United States government will provide both the incentive and the leverage to persuade Israel to grant sweeping concessions as demonstrated before by the Ford/Kissinger strategy which resulted in Israel's surrender of parts of the Sinai, the return of oil wells and the opening of the Suez. This, Sadat remembers, was achieved without reciprocal response from Egypt. His former Soviet sponsors no longer of any use to him, Sadat is now counting on American support to achieve Egypt's goal for peaceful settlement as he once accepted Russian support when he chose the battlefield as a test for Egyptian supremacy.●

EQUITABLE TELEVISION NEWS COVERAGE

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

Mr. MAGUIRE. Mr. Speaker, today I and other members of the New Jersey House delegation, together with CLIFFORD CASE and HARRISON WILLIAMS in the Senate are introducing legislation to amend the Communications Act of 1934 to provide that each State shall have at least one commercial, VHF television station.

The New Jersey Coalition for Fair Broadcasting—the broadbased citizens organization chaired by Senators CASE and WILLIAMS—and I have been working together for 2 years trying to move some apparently immovable objects—the broadcasters and the Federal Communications Commission—trying to get what the Communications Act requires for New Jersey, equitable television news coverage on the public airwaves.

I have formally intervened three times in support of the coalition's petition asking the FCC to do something about the abysmal coverage of New Jersey events by New York television. In my usual reticent manner I have prodded, poked, even come close to screaming at the Commissioners about their handling of the New Jersey case on three occasions when they came before Congress. And I have gained some important congressional support for creating a New Jersey station.

Television is obviously important to our society. I did not say TV was always high quality—just important. McLuhan was right: Television is the medium that gets the message across to most people.

Edward R. Morrow's TV treatment of Joseph McCarthy helped remove him from the American political scene. The war in Vietnam may have ended sooner because television brought the carnage, the lies, the senseless policies right into America's homes where the war could not be ignored.

Because of historical circumstances of how frequencies were allocated, we in New Jersey are covered by out-of-State television. Although we have some UHF stations, New Jersey rather uniquely lacks VHF's in what has been characterized as a VHF market.

Consider this—Helena, Mont., with 11,000 TV homes has its own VHF station; Pembina, Mont., has 6,000 TV homes and its own VHF station; Glendive, Mont., has 4,000 TV homes and its own commercial VHF station. But the FCC says New Jersey, despite its size and population density does not need one.

We have got a uniquely high cancer rate, in part the product of heavy industrialization and auto pollution. We have got severe flooding problems. We have got a poor mass transit system. We have got a devastating unemployment rate, a problem with capital flowing out of the State, and continuing fiscal problems.

These and other matters of great seriousness deserve a lot of public discussion if they are to be solved. You rarely hear about them on the evening news and only occasionally early on Sunday when people are either in bed or in church. In the few minutes a week allotted to our State you will learn the lottery number, you will see a fire, or watch a sickening and tasteless interview with a family member of someone just murdered. That's the sad kind of coverage we get from out-of-state broadcasters, the kind that would not help New Jersey residents understand their State or its problems.

What about the newspapers? Why cannot they do the job? According to a recent report by the Roper Organization, newspapers are simply not competitive with television. Says Roper:

> The public continues to regard television as the number one source of news, and, by a wide margin. Television also continues to be the most believable medium.

Let's look at the figures:

When the Roper organization first began surveying the influence of media in 1959, 57 percent responded that newspapers were the source of most of their information about events. Television was second with 6 percent less. In last year's survey, television had leaped to first place with 64 percent, a 15-point lead over newspapers as the major news source and a 21-percent rise since 1959.

Another discovery by Roper: Unbelievably, television is more believable than newspapers. In 1959, newspapers were rated first with 32 percent, television second at 29 percent. But that has changed. In 1976, television was rated first at 51 percent, newspapers a distant second at 22 percent.

Finally, with the exception of local races for office—like city council and school board—which remain the province of the local paper, television emerges as the primary source of information about statewide and national elections by a 53- to 35-percent margin. Obviously, it is important that citizens be exposed to the performance of their political representatives on an opposing basis if they are to learn and participate as citizens.

My concern is not limited to coverage of elections, which TV has always found exciting as a horserace is. If you know they would not even give us a break during our most important elections, you can be absolutely certain we are getting severely shortchanged every night of the year. And of course, we are being systematically shortchanged, as all the available data clearly show.

I contend that people would watch a New Jersey-based commercial VHF station. New Jersey residents are hungry for news of their State.

The solution is to provide New Jersey with a commercial VHF station of its own, a station which would be legally required, under the terms of its license, to cover both the city where it is licensed and statewide events affecting that city. But, the FCC in its unwisdom has rejected that solution.

One of the few substantive reasons the Commission gave for rejecting the coalition's petition was that it considered the economic prospects of a reallocation to New Jersey to be a "risky gamble." But it did this despite evidence to the contrary

which was the basis for a dissent by Commissioner Glen O. Robinson. He wrote:

There is adequate evidence in the record to support a finding that a New Jersey Channel 7 could succeed. That such a station would not suffer the embarrassment of riches that comes with a New York assignment is evident but irrelevant; by that test we would be required to cram assignments into New York until the marginal stations earned no more than in the most impoverished market.

That is one Commissioner speaking. But his is not the only indication of the folly of the Commission's ruling. Last year, I read a story in the New York Times which described television as a "failure proof" business. Variety reported the New York independent stations had a $9 million increase in profits over the year before—not bad for stations without network affiliations in the most competitive television market in the country.

In this context, it is interesting to add that Harry Levin, who analysed the economic situation for the Fair Broadcasting Coalition, said an unaffiliated independent in New Jersey could earn $4.9 million in profits a year. Says Levin:

The implication is quite clearly that the potentital for survival and success is there.

Moreover, New Jersey advertisers face extreme difficulty getting their message across. Unless you are a really big advertiser, you cannot afford to buy super expensive time in New York and Philadelphia to reach an audience that is primarily in Pennsylvania, New York, and Connecticut. An article in Broadcasting magazine estimated that New Jersey residents spend $40 billion a year for products and services. A New Jersey station would be good for New Jersey businessmen as well as representing vitally needed public service.

Unfortunately, while it seems obvious that a station in New Jersey is economically feasible, the FCC has been highly unresponsive to our State's needs. From my personal interventions in the case, I have seen a rather typical example of a regulatory agency that is diligently working to maintain the status quo, one that the existing broadcasters are comfortable with.

In March 1976, before the Commission rejected the coalition's petition so completely, I appeared before the Communications Subcommittee and asked what data the FCC had on the time the New York and Philadelphia stations devote to the State. Wallace Johnson, head of the Broadcast Bureau, claimed that 15 to 30 percent of the local news time is devoted to New Jersey, which conflicts with monitoring data that shows it to be half that or less. Apparently, the reason the Commission thinks it is that high is that its source of the data is the stations themselves. They do not do their own surveying—and this is typical of sloppy and biased American regulatory practice.

When I questioned the FCC in May last year, Wallace Johnson was very evasive about what data the FCC had on economic viability. When I looked for the data, I found they had really not taken a serious look at questions of fact. It was a case of conclusions without data and supporting argumentation. In my opinion, the Commission decision was pro forma. It was not interested in the facts or the public interest, but only in not rocking the boat.

When I questioned then Chairman Wiley, he defended his agency's decision, but left the door open, a crack. He said:

If you are suggesting that some of these stations are not living up to this commitment they made, I would be very open to looking at that.

Well, I think we should all keep after them, and continue to monitor their performance. With license renewals coming up this summer, the coalition will have the opportunity to challenge their performance.

But the performance of those stations is just a part of the problem. I do not think we need a New Jersey station simply because we do not get the coverage we need to be informed from those out-of-State stations. I think we need our own station because it is our right to have one under section 307B of the Communications Act. That section specifies that frequencies should be assigned so as to assure their fair and equitable distribution.

In a letter to the Commission I have asked it to do the following:

First, study the cost factors involved in relocating the channel 7 frequency to Trenton with a transmitter in Freehold.

Second, explain the Commission's assertions that loss of service news time to Connecticut and Long Island would necessarily be associated with the increased service to our State.

Third, and most important, tell us why—based upon hard, economic data and serious analysis—the FCC believes a New Jersey station would not succeed.

If the Commission cannot satisfactorily answer these questions, I believe it should reverse its decision.

Finally, today I am introducing legislation which would bypass a court decision and order the Commission to reassign a VHF commercial station to New Jersey. My bill clarifies section 307B of the Communications Act to require at least one commercial VHF television station to be assigned to every State. Under the bill, the Commission would determine the "fair market" value of the station to be reassigned and the New Jersey broadcasters would have to pay the New York licensee for the loss of equipment and its plant. I realize that the airwaves belong to the public and there is no requirement that this be done. But I think the compensation provision is fair, in that no one can claim their property has been appropriated, and makes the bill more equitable and politically acceptable.

I shall be working to see that this bill gains support on the Hill. And I will be working as closely as ever with the coalition. I think all residents of New Jersey know how important it is that they be better informed from their major source of news, television.●

PANHANDLE EASTERN REPORT HAS INSIGHTS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. SIMON. Mr. Speaker, along with other Members of Congress, I received a copy of the annual report of Panhandle Eastern, which describes itself in its report:

The business of Panhandle Eastern Pipe Line Company encompasses the transmission and sale of natural gas in interstate commerce, the exploration and production of oil and natural gas, the production and sale of natural gas liquids, the development of supplemental sources of gas, the mining of coal and offshore contract drilling.

It interested me because the pipelines go through my district.

It interested me also—and it should interest my colleagues, particularly those who have responsibilities in the energy field—because it shows a period of unprecedented earnings under present regulations at the same time the annual report advocates deregulation of price controls.

The report notes that the company had its "most successful year in the history of Panhandle Eastern" that gross revenues amounted to $1.2 billion in 1977, as compared $825 million in 1976. That is roughly a 50-percent increase in gross income. Net income went up from $88 million to $106 million. It is also interesting to note that this tremendous increase happened on consolidated gas sales volume increases of 828 billion cubic feet to only 856 billion cubic feet. It also notes that deliveries to pipeline markets were up only 5 percent.

In other words, the report shows an increase in gross income of roughly 50 percent, an increase of net income of roughly 20 percent and an increase in actual deliveries of gas of roughly 5 percent and an increase in consolidated gas sales volumes of only 3 percent.

It would appear to me that they have a pretty good thing right now.

And yet despite those amazing figures, the report calls for deregulation.

The report also points out the fact that the company,

Early in 1978 . . . executed an agreement to acquire the Field Drilling Company, thereby doubling our investment in the drilling business.

I hope that the energy conference is moving along so well that these remarks for the RECORD will have no impact, but I believe this report should be kept in mind as we look to policies for the future.

I am attaching the message from the officers of Panhandle Eastern for the interest of my colleagues:

PANHANDLE EASTERN PIPELINE'S ANNUAL REPORT

DELIVERIES UP 5 PERCENT AND INCOME UP 50 PERCENT

Two financial milestones were recorded in 1977; revenues passed one billion dollars and net income exceeded $100 Million, making

the year the most successful in this history of Panhandle Eastern.

REVENUE, EARNINGS AND DIVIDENDS

Gross revenues amounted to $1.2 Billion as compared with $825 Million in 1976, the gain reflecting the operations of newly acquired businesses and higher natural gas rates which were offset by increased purchased gas costs. Consolidated net income in 1977 amounted to $106 Million which was equal to $6.06 per share of common stock after payment of preferred dividends as compared with $88 Million and $5.58 per share in 1976. The 1977 earnings per share are computed on nearly two million additional shares outstanding relating to acquisitions in the last two years.

At their meeting in February 1978, the Directors increased the quarterly dividend from 62½ cents to 65 cents per share effective in the first quarter of 1978. This increase, coupled with the five cent per share increase effective in the second quarter of 1977, brings the indicated annual payment to $2.60 per share.

NATURAL GAS SALES AND SUPPLY

Consolidated gas sales volumes amounted to 856 bcf as compared with 828 bcf in the prior year, the gain resulting from the cumulative impact of new production attached to our transmission systems over the last four years, primarily in the Gulf of Mexico. Actual deliveries to pipeline markets—utility and municipal distribution systems and direct industrial customers—were up five percent in 1977, the first such increase since 1972. Moreover, these more favorable supply conditions are expected to continue over the next several years with the level of sales in the 1978-80 period anticipated to be above that reached in 1977.

This supply improvement results from the success achieved in our extensive gas acquisition program initiated early in this decade. Commencing with the first offshore lease acquisition in December, 1970, the Company and its subsidiaries have invested approximately $645 Million in gas supply endeavors—leases, drilling, and facilities—and have provided an additional $320 Million in advance payments to producers for gas supply.

Clearly, these large investments demonstrate our strong commitment to the long-term future of both exploration and production activities and gas transmission and the Company's strong financial performance in 1977 confirms the soundness of that business strategy. Furthermore, we anticipate that 1978 will be another good year for the Company with earnings improvement expected from both transmission operations and from our subsidiaries engaged in oil and gas production. We believe that, despite a poor performance in 1977, improved results can be achieved from coal operations once settlement of the nationwide strike restores stability to production. It is now apparent, however, that the prolonged strike will adversely affect Y&O's results in the first quarter of 1978.

In addition to improved domestic gas supply, the Company's long-term reserve position was strengthened in 1977 when final authorization was received to import LNG from Algeria. This project will add approximately 3.3 trillion cubic feet to reserves over a 20-year period. Initial deliveries are expected during the last half of 1980 to a terminal and related facilities which will be constructed at Lake Charles, Louisiana.

NATIONAL ENERGY POLICY

Although a welcome development for the Company and its customers, the supply improvement now being experienced by the Panhandle-Trunkline transmission systems does not signal an end to the nation's serious long-term shortage of natural gas nor lessen the urgency for remedial legislation dealing with wellhead pricing as the critical component of national energy policy.

We believe that the restoration of long-term strength to the nation's gas supply can only be achieved through adoption by the Congress of incentive pricing for newly discovered domestic gas reserves. From the perspective of the national interest, it is truly unfortunate that the Congress and the Administration have, at the time this report was completed, failed to eliminate or modify the present rigid Federal price controls governing new gas reserves. Such legislation, in our judgment, commands support on its intrinsic merit along with its significant potential to stimulate the development of new domestic energy supplies, thereby reducing the adverse impact of the nation's growing dependence on imported oil. It is our hope that the Congress will reach a realistic understanding of the national energy issues and adopts effective gas pricing legislation without further delay.

OTHER BUSINESS MATTERS

Early in 1978 the Company executed an agreement to acquire the Field Drilling Company, thereby doubling our investment in the drilling business. Field is primarily engaged in onshore drilling in the United States and presently owns and operates 16 rigs in Texas and has a 50 percent interest in three other rigs located in the Rocky Mountain area. Field also has an interest in four offshore rigs.

Once this acquisition is completed this spring, we will combine Field's operations with those of our subsidiary, Dixilyn, to form one full service drilling organization operating onshore and offshore in the United States and overseas. The long-term prospects for domestic exploration are strong and we anticipate a fine performance from the drilling business.

We acknowledge the important contribution made to the Company's affairs by Gerard C. Smith who resigned as a Director in July 1977 to accept an ambassadorship representing the United States in international nuclear nonproliferation matters. We shall miss Mr. Smith's wise counsel.

The achievements of the Company result from the efforts of all employees and we are pleased to acknowledge the contributions of the dedicated men and women of our organization in making 1977 a successful year.

Very truly yours,

R. L. O'SHIELDS,
President, Chief Executive Officer.
WILLIAM C. KEEFE,
Chairman.

March 3, 1978.●

ISRAELI ACTIONS IN SOUTHERN LEBANON ARE LEGITIMATE SELF-DEFENSE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. ROSENTHAL. Mr. Speaker, I was very disturbed to read the Secretary of State's letter stating that Israel's use of U.S.-made arms in Lebanon may be in violation of its agreement with this country.

One cannot help but wonder what this State Department's reaction would be if the Israeli rescue of hostages held by the PLO at Entebbe were to take place today.

Israel's move into Lebanon was clearly in self-defense. It followed the intolerable provocation of what his come to be known as the Sabbath Massacre. That PLO terrorist attack on a bus near Tel Aviv took 37 Israeli lives March 11. Fatah, the principal military arm of the PLO, promptly took public credit for the tragedy and vowed to repeat it with increasing ferocity.

Yassir Arafat, head of both Fatah and PLO, boasted of his "success" in the attack and called his terrorists "heroes." The State Department calls Arafat a "moderate" and has busily been courting him as a negotiating partner for Mideast peace talks despite his refusal to disavow his organization's goal of destroying Israel, and despite Israel's refusal to deal with the terrorists and private expressions of opposition from responsible Arab leaders to PLO inclusion.

The Israeli incursion into Lebanon was not a massive response to a minor, isolated incident, as some would have us believe. Let us look at the record of the past 10 years.

"There have been incidents on six continents in which the PLO and its affiliates killed 1,131 people, injured 2,471 and held 2,755 hostage. These terrorist actions included 308 bombings in 20 countries; 216 attempted bombings in 26 countries; 180 shootings in 11 countries; 11 assassinations in 9 countries; 17 attempted murders in 11 countries, and 19 hijackings in 14 countries," according to Arnold Forster, general counsel of the Anti-Defamation League of B'nai B'rith.

Mr. Forster stated in a letter recently published in the New York Times—

A decade's reality: Seven terrorist actions a month; one incident every 4 days, day in and day out for over 10 years; nine murders each month; one victim every three days; 20 people maimed each month; 22 human beings held monthly as hostages.

Israel was the site of four of every five bombings, nine of every ten shootings, three of every four arsons and a majority of the assassinations; over half—1,776—of the terrorist victims were Israelis.

He observed—

The world has done little or nothing to outlaw the terrorism plague; they have only urged Israel not to retaliate.

The Sabbath massacre was the latest incident on this list, and like so many it was mounted from PLO bases in southern Lebanon. Israel's publicly stated goal was to eliminate as many of these bases as possible and protect its population, which has been the repeated targets of Soviet-supplied, long-range PLO artillery deep in the Lebanon hills.

Any reasonable person could come to no other conclusion than that Israel clearly acted in self-defense of its population.

For the United States Government even to imply otherwise represents a very disturbing and significant shift in American policy. It contradicts prior policy followed consistently by previous administrations, both Republican and Democrat, that when Israel responded to PLO raids originating in Lebanon these were legitimate acts of self-defense.

To deny Israel the right and ability to defend itself is tantamount to a policy of assuring the PLO sanctuary from

which it may freely attack Israel with its artillery, its rockets and mortars, and its terrorists.

That would be intolerable, and I hope that is not what the U.S. State Department has in mind when it issues such thinly veiled condemnations of Israel's Lebanon operation.

The Secretary's letter also contains a threat to cut off U.S. arms supplies for Israel if its forces are not withdrawn promptly enough. Although no specific deadline is set, sources indicate the Department's target is 2 to 3 months.

What the State Department has overlooked is that Israel did not attack Lebanon, because there is no sovereign State of Lebanon south of the Litani River. Instead there is a political and military no-man's land ruled by bands of terrorists who assail the Christian inhabitants of the area (a fact which the United States and most of the Western World choose to ignore) and use it as bases and sanctuary from which to attack Israeli settlements south of the border.

Since the Lebanese authorities in Beiruit have been unable to suppress brigandage south of the Litani and police their own territory, Israeli police action was fully justified. International law recognizes this elemental right of self-defense when a neighboring state falls into anarchy.

Had there been effective Lebanese authority in the area—known for years as Fatahland—there would have been no need for the Israeli incursion.

The answer to this problem lies not in condemnation of Israel for defending itself or in accusing Israel of having invited the terrorist attack by refusing to negotiate with the PLO as a sovereign state. The solution lies in a firm stand by all against terrorism and those who use it as a political tool. No amount of courtship by the United States has been able to persuade the PLO to change its covenant calling for the elimination of the State of Israel. Unless the civilized nations of the world show they find political terrorism totally intolerable, the PLO and its ilk will continue to believe that it can murder its way into the councils of nations.●

BUDGET SHORTAGE FOR VETERANS MEDICAL PROGRAM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. TEAGUE. Mr. Speaker, I am receiving a large volume of complaints from veterans and their families from all over the country protesting the lack of adequate funds in the President's budget request for fiscal year 1979. I believe many other Members are experiencing the same.

I want Members to know that, in my opinion, these complaints are justified; and if the Congress does not act to adequately fund this program in fiscal year 1979, it would set back this essential activity to a medical "slum" such as we found in existence at the end of World War II. It could be the final blow to do away with it in accordance with the plans by the Office of Management and Budget and HEW.

The Chairman of the House Veterans' Affairs Committee, the Honorable RAY ROBERTS of Texas, has notified the chairman of the Committee on the Budget, the Honorable ROBERT GIAIMO, and the chairman of the Subcommittee on HUD-Independent Agencies of the Appropriations Committee, the Honorable EDWARD BOLAND, of the additional funds required over the President's budget request for this program. In my opinion, this is the critical year for the veterans medical program. Unless the Congress acts to adequately fund this program in fiscal year 1979, the next and future years' budgets will be calculated to end this program. There will be even greater hospital bed cutback and the funds for their operation until the program is forced to close down if for no other reason the lack of money to pay staff and purchase drugs and equipment.

Mr. Speaker, to illustrate this I am attaching a document that has come into my possession from the VA hospital, Boise, Idaho. This is the position all VA hospitals have had to take and yet the OMB and VA Administrator assures the Congress that the medical program takes care of more and more patients in less and less beds while the budget will not even permit it to stay apace with inflation.

In all likelihood, this matter will have to be settled here on the floor of the House of Representatives. In preparation for this I feel each Member should be informed as well as possible.

NOTICE TO ALL VETERANS

Due to an acute budget shortage which cannot be corrected and which is secondary to increasing demands on our services with the lack of increased budgeting by Congress, it will be the policy of the Boise VA Hospital not to accept new non-service-connected patients for continuing outpatient care until July 1, 1978, at which time the policy will be re-evaluated. This outpatient policy does not apply to service-connected veterans for their compensable disability or who are judged greater than 50%. The policy does not affect non-service-connected veterans, either, who are in need of hospitalization.

Non-service-connected veterans will be seen one time only on an emergency basis and will not be given a return appointment. They will be expected to continue with their own private physician or find one for continued care if that is judged necessary.

Quoting from the recent National Academy of Science Study, "the easing of eligibility constraints in 1973 to permit the lowest priority veterans, i.e., those without service-connected disabilities to receive outpatient care stimulated a further increase in the already substantial growth of outpatient care visits. The Congress has now indicated that it has no interest in expanding the capacity of the Veterans Administration to provide even more outpatient care for low priority veterans." Because of this philosophy, the Boise VA Hospital cannot continue to expand its existing programs and hence this statement.

PAUL K. KENNEDY,
Hospital Director.
FRANK R. MOHS, M.D.,
Chief of Staff.●

CORPORATE SOCIALISM ROUND II—THE SOLAR POWER SATELLITE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. OTTINGER. Mr. Speaker, this morning I attended a most amazing press conference. The likes of Boeing, Lockheed, Martin-Marietta, GE, Westinghouse, Southern California Edison, Grumman, and Arthur D. Little announced the formation of a new "nonprofit" corporation to lobby for solar power satellites—the Sunsat Energy Council. The collusion of the high technology-space/industrial complex in assuring full corporate socialism for the next 20 years, much like that which American taxpayers have provided for the last 20 years, should be ripe for the chutzpa-of-the-year award. Mother Jones, in their recently released May issue takes aim at what writer Adam Hochschild terms "The Next Big Corporate Steal." His article presents a new view of the several hundred billion dollar present which we are being asked to hand to the aerospace industry. I wish to bring this article to the attention of my colleagues.

SHUTTLING MANHATTANS TO THE SKY

(By Adam Hochschild)

It is 1996 and you are traveling by spacecraft some 22,300 miles above the earth. Suddenly you come upon a sight nothing in science fiction has prepared you for: a vast metallic field, glistening brilliantly with reflected sunlight. At 72 square miles, it is larger than Manhattan, though, as an elongated rectangle, not too different in shape.

Going closer, you see that the field consists of more than a billion solar-energy-collecting panels, alternating with rows of mirrors that concentrate the sun on the panels. For this is a Satellite Solar Power Station, constructed by a team of 400 astronaut-builders. In stationary orbit above one spot on earth, it is collecting the abundant sunlight that flows through space 24 hours a day—many more times the sunlight that strikes any point on the earth, for up here it is undimmed by smog, clouds, rain or night. Part of this vast contraption is an apparatus that converts solar electricity to microwaves and beams them back to earth. There, a 5-by-7½-mile receiving antenna catches the microwaves; a plant that converts them back to electricity; and, at that point, according to a peculiar array of businessmen and dreamers, this and a hundred similar units will constitute a major solution to America's energy problems.

While all this may sound like something out of Arthur C. Clarke or Isaac Asimov, the details come from Boeing, Grumman and the National Aeronautics and Space Administration. If the backers have their way, a prototype Satellite Solar Power Station, or SSPS, will be aloft within a decade. Several hundreds scientists and engineers have worked on the idea, the Department of Energy is now in the act, and some $12 million—most of it your tax money—has been spent on it so far. And you're about to be asked to ante up the biggest sum yet.

The story of the SSPS idea is a complex one with some unexpected turns. It has given some new terms to the language, like Space Tugs, Solar Dams and Antenna Farms. It shows a good deal about how science and invention these days are influenced by things other than human needs. And at the heart of the story is a three-way docking maneuver

between three overloaded spaceships: a huge bureaucracy fighting for its life, an industry with its eye on the best pork barrel since the arms race and an assortment of visionaries who should know better. In addition, orbiting weightlessly around the edges are some minor characters such as California Governor Jerry Brown, Whole Earth Catalog creator Stewart Brand and some people who want to bomb the moon. We'll meet them all in a moment. For the time being, the best lead to follow is a clue dropped between the lines by a top Boeing official. He was talking to a Congressional subcommittee that flew out to Seattle to visit the factory where SSPS work is going on: "The response from people when you talk about solar power is excellent. They like it. They have that inherent feeling of the warmth of the sun."

With SSPSs, the aerospace industry has finally found a way to cash in big on the current popularity of solar energy.

THE GIANT MICROWAVE OVEN

Satellite Solar Power Stations are such a dreadful idea in so many obvious ways that it should scarcely be necessary to itemize the reasons:

SSPSs are colossally expensive. The figure varies depending on whom you're talking to, but Boeing—whose self-interest would put its estimate on the low side—guesses the bill to develop the technology alone would be $40 to $80 billion. Mass producing SSPSs after that, estimates the idea's inventor, Peter Glaser, will cost $7.6 to $15 billion for each station. In one scenario, NASA would build 112 stations by the year 2025, so start multiplying and you get the idea.

SSPSs may be an environmental catastrophe. The reason is microwaves. In a recent path-breaking magazine series (now a book), New Yorker science writer Paul Brodeur detailed some of the connections between microwaves and cancer, cataracts, Down's syndrome (mongolism) and other afflictions. It is a particularly insidious form of pollution because you can't see it or hear it. Each SSPS means a vast amount of microwave radiation beaming down on that five-mile-wide antenna. The area of the antenna itself, obviously, will have to be closed to people. But birds flying through the heated column of air the microwave beam creates will be heavily radiated. And so, for that matter, may be people in airplanes. SSPS backers say the aluminum fuselages of airplanes are good shielding, but ccokpits have laminated glass windows; not all planes are aluminum; and Brodeur cites some fragmentary evidence suggesting that airline pilots, who are constantly bombarded with microwaves in the form of radar beams, may father an unusually high proportion of children with Down's syndrome.

Even if you could effectively keep people and birds out of the microwave beam, some radiation will spill beyond it. Rain, clouds and hail all tend to disperse microwaves, which is one reason microwaves have never replaced power lines for transmitting electricity on earth. Even if the SSPS beam is 99.9 percent on target, five million stray watts of electricity will still be bombarding people nearby.

An SSPS is potentially a lethal weapon. One critic, Dr. Aden Meinel, Professor of Optical Sciences at the University of Arizona, compares it to a "giant microwave oven cooking all people, plants and animals caught by the wandering beam." You don't have to convert an SSPS into a weapon; it is a weapon already. All you have to do is re-aim it by a few degrees so that the microwaves hit New York or Moscow instead of the receiving antenna.

SSPS's devour energy. Enormous quantities of energy and money are needed to build them—largely because of the huge amount of fuel needed to lift anything out of the earth's gravity. During the years the SSPS system is being built, Boeing officials estimate that there would have to be up to five daily space shots, launching into orbit a payload equivalent to that of all the planes that take off from O'Hare Airport in a day. (All of which, incidentally, will spew pollution into the earth's fragile upper atmosphere.) According to Dr. Piet Bos, an engineer who worked on the Space Shuttle and who now is a top official at the industry-funded Electric Power Research Institute, it would take each SSPS seven to ten years to pay the earth back for the energy necessary to build it and get it into orbit.

SSPS's would mean centralization. Their development would make utility monopolies even stronger than they are now. At a time when solar power holds out the promise of decentralized energy emanating from people's rooftops and local windmills, SSPS would generate energy that must be centrally distributed. "The problem utilities have had in the past with solar energy projects is that they've been highly decentralized," says James Moyer, a Southern California Edison Company official who has been active in pushing the SSPS idea. Each SSPS would send down to earth the energy of five to ten present-day nuclear power plants. You can't collect that on your roof and heat dishwater with it. You can't even put it under the control of one of the various American cities that have been sensible enough to municipalize their electric power systems. It requires Con Ed.

THE INVENTOR

It would be fitting to report that the SSPS's inventor is a thoroughgoing villain. But, alas for drama, he is not. In fact, talking to Dr. Peter Glaser at the red brick Arthur D. Little think-tank complex in Cambridge, with the skyline of downtown Boston visible out the window, you can get excited all over again about one person's ability to invent on a grand scale.

A friendly man with a humorous glint in his eye and a patient, thorough way of talking, Glaser wears a ruby V-neck sweater under his tweed suit. He speaks with a light accent of his native Czechoslovakia. His modest office includes a blackboard filled with equations and a graph, one of whose sides is years going up to 2000. On a shelf behind him sits a four-inch-high model of the rows of concave mirrors that would be used in an SSPS. Since first conceiving the SSPS idea in 1968, and later getting patents on it, Glaser has pursued his goal with missionary zeal. Against the wall next to him as he talks is a yellow papier-mâché representation of the sun.

Far from being a damn-the-environmentalists, full-speed-ahead type, Glaser is well aware of the various criticisms made of SSPS. He says he has answers for them all.

On the issue of microwave danger, for instance, Glaser says the SSPS microwave beam can be focused so closely that any radiation spilling outside the receiving antenna would be not merely below the U.S. danger standard but below the Soviet danger standard, which is a thousandfold lower. "That should satisfy Mr. Brodeur." (A 1976 Energy Research and Development Administration study indicates this level of safety might be possible—but only by excluding people from microwave receiving areas each half the size of Rhode Island.) Glaser concedes that the problem of birds flying through the beam has not been solved, and says that for a solution—as with other aspects of the SSPS—extensive tests are needed before the system gets a go-ahead.

And he volunteers that the greatest environmental risk of the SSPS is that each microwave beam will greatly heat up a patch of the earth's ionosphere, with unknown effects on radio reception—and on no one knows what else.

Glaser is no partisan of the big utilities, but he says, correctly, that *some* degree of centralized electrical distribution will be needed indefinitely, even if all our houses sprout solar panels. And, after fossil fuels run out or become prohibitively expensive, what else is there?

And what about SSPS's military dangers? Here, Glaser is emphatic: "This is one project we can't just paint the U.S. flag on. We have to involve people from other nations in building the satellites up there with us—so they would know it was peaceful. We might have to start the program, but basically I see it as a project of international cooperation."

In the end, you prepare to leave Glaser's office feeling that, if this man had control over the whole system, something rational and human might result. Or that he would not build it if it proved dangerous. But unfortunately, one man—no matter how well-meaning—cannot control a project whose final magnitude, in the NASA scenario for building 112 SSPSs, will cost more than one-half of this year's U.S. Gross National Product. In the meantime, one last question for Dr. Glaser: what made him think of the idea in the first place?

"As an engineer, I had a special interest in the behavior of materials at high temperatures," he says. "I soon found that a solar furnace was the best way of generating high heat." Then came a growing awareness of the coming world energy shortage. He goes on, "But I soon realized that solar energy is going to be esoteric unless we can interest industry."

FOR $90 MILLION, 10 FULL MOONS

Industry is now interested, in a big way. And no industry more so than that group of companies housed on the shores of Puget Sound and in the suburbs stretching south of Los Angeles: aerospace. The aerospace industry is the first participant in our three-way docking maneuver.

Many companies are already involved with the SSPS, ranging from McDonnell Douglas and Martin Marietta to General Electric and IBM. But at this point four firms have the biggest stakes: Raytheon, which makes microwave equipment: Grumman, which has worked on techniques for fastening together the huge array of "Solar Dam" cells to catch the sun's rays; and Boeing and Rockwell, which are both involved with assembly techniques and eyeing the contract for the Super Shuttle, which will have to shoot all the stuff up there. (Boeing wants a Super Shuttle that can carry 500,000 pounds in one load—roughly seven times the size of the Space Shuttle now being built.) Many other companies, of course, are eager to get into the act. Recently, for instance, something called the Brown Foundation gave Houston's Rice University a $100,000 grant to study SSPS's. The Brown Foundation is funded by Brown and Root, the huge Texas industrial construction firm that made millions in Vietnam.

As industry's spaceship soars eagerly skyward, NASA's closes in on it from another direction. The wave of government spending that put a man on the moon has receded, leaving 30 per cent of NASA's employees out of work. The remainder are searching desperately for a project of Apollo dimensions. At Congressional hearings, NASA administrators come in with charts and graphs outlining various things they could do in space. Some of the stuff is exciting: without gravity, you can make perfect ball bearings, perform unique experiments and build huge telescopes that will allow us to see the universe in far greater detail than we can from earth. But then the schemes head toward the deep end: flipping charts and diagrams, the bureaucrats talk about communication satellites that would allow millions of people

to communicate by wrist radio, satellites for three-dimensional TV and, finally, a proposal for something called the City Night Illuminator, a group of giant mirrors to reflect the sun's rays back on a patch of earth 180 miles wide, thus providing "night lighting without earth-based energy, pollution, street lights, cables, trenches, etc." A NASA official testified: "This would provide, by 1990, for $90 million, illumination equal to ten full moons."

But with the SSPS, space partisans have found something more marketable than turning night into day. Moreover, it is something that promises to finally find a major use for the current big NASA project, the Space Shuttle. "The Shuttle," Piet Bos says, "was a solution in search of a problem." NASA has been energetically hustling problems for it in the form of customers who want to build labs and factories aloft; but a big SSPS program would be best of all. Most important, it would require building a bigger and better Shuttle. "They think SSPS is the best thing since candied apples," commented one scientist who has worked with NASA. It would solve their problem of institutional longevity."

The NASA bureaucracy is not entirely gung-ho for the SSPS idea: the top layer seems cool, aware of SSPS's scientific drawbacks. But elsewhere in NASA, particularly in the manned-spaceflight centers, there are enough enthusiasts to have already spent some $8 million in looking into SSPS's. Dr. Alan M. Lovelace, Deputy Administrator of NASA, has said: "The next decade holds a thousand policy challenges in the area of space applications, but the decision on whether to exploit the sun for electric power may dominate them all."

Finally, orbiting in to dock with NASA and the areospace industry, come the futurists. Every big colonization movement needs legitimizers. When Cecil Rhodes colonized Africa and the British East India Company went after the wealth of India, a string of apologists from the missionaries to Rudyard Kipling proved it was all for the greater good. Today, as big business grabs for outer space, with SSPS at the top of its list of priorities, a strange assortment of people are acting as its Kiplings.

Foremost among them is Princeton physicist Gerard O'Neill (see "Mine the Moon, Seed the Stars," MJ, Nov. '76). O'Neill's big thing is populated space colonies. Like most visionaries entranced with space, O'Neill and his followers are a little vague about who would own the colonies. The main point is that the universe, like Everest, is there, waiting to be filled by humans and their ingenuity. O'Neill disciples are somewhat disappointed with the SSPS plan now before Congress because it doesn't go far enough. O'Neill wants to build SSPSs with material mined from the moon. (Some O'Neillans want to use nuclear bombs to get ore out from below the moon's surface.) This mining would require all sorts of additional marvelous apparatus, such as something called a Mass Driver, which would fling payloads up from the moon; Space Tugs holding a giant net would catch the stuff, and so on.

Several years ago California Governor Jerry Brown met O'Neill at a Zen retreat and caught the space bug. Brown borrowed astronaut Rusty Schweickart from NASA to advise him and has been busy ever since hailing space as the new frontier. Brown recently proposed to a somewhat startled delegation of visiting Russians that California cooperate with the USSR in various space ventures, particularly SSPSs. Asked how he squared his new-found spaceophilia with his previous "era of limits" philosophy, Brown said, "Small is beautiful on earth, but in space big is better." One reason: California holds half the country's NASA contracts.

Other space Kiplings are scattered around the country, but the most unexpected is Stewart Brand, creator of the Whole Earth Catalog. Brand did much in recent years to popularize do-it-yourself technology and the ideas of E. F. Schumacher. Yet today star charts and drawings of satellite adorn the magazine Brand now publishes, CoEvolution Quarterly.

What is going on here? For Brand and his disciples, space is the Future (the main Washington space-buff lobbying group is called the Committee for the Future), and a "high frontier" on which no one else has staked a claim. In playing around with space ideas you can indulge a love of science fiction without immediately having to reckon with the economic consequences. Dealing with economics and ownership has always been a weak point of the Whole Earth back-to-the-land wing of the ecology movement Space, yes, but for whom? Hmmmmmm . . . let's worry about that later. Consider Brand's reply when we asked him if he wasn't worried about the SSPS scheme's tendency to centralize power distribution.

"The more people look at the sun for the source of public utilities, the more they'll turn to it for private use. I think that's great. The more things that are up for grabs the better. It's a mixed bag. But it's better than some of the other mixed bags around now."

For some years the futurists spun out their plans to small coteries of admirers, and murk like Brand's did not greatly matter. But lately there have been more listeners. "Gerard O'Neill," says one Congressional aide who has watched the space lobby at work, "has jumped from imagining the future to demanding the future. He is saying: if the government will pour money down the tube we'll get all these things."

A growing number of members of Congress do want to throw that money down the tube. A dozen of them, mostly members of the crucial House Committee on Science and Technology, have just introduced a bill asking $25 million in the next year for an exploratory study of an SSPS program. Hearings are about to begin. The bill's chief sponsor is Representative Ronnie G. Flippo of Alabama. whose district (one-time home of Wernher von Braun and his rocketry team) receives more than a half a billion dollars a year from NASA and the Pentagon. Other sponsors include Bob Gammage of Texas, whose district includes the huge NASA Manned Spacecraft Center; Jim Lloyd of California, former public relations director for Aerojet General Corporation; Dan Glickman of Kansas, whose home district has a huge Boeing plant; and Louis Frey of Florida, who has the Cape Kennedy moon shot center in his.

To be fair, it should be stressed that almost all those involved with the SSPS—scientists, members of Congress, aerospace engineers and futurists—always say they are not advocating immediate production. There are many wrinkles to be ironed out, you understand, and dangers to be explored; we just should commit ourselves to examining the idea. But you can still see the gleam in their eye. And, in the case of the aerospace companies, you can also see the chips on the table. Rockwell International, for example, has contributed campaign funds to five of the 12 initial sponsors of the Flippo satellite bill: Representatives Don Fuqua of Florida, Jim Lloyd of California, Mike McCormack of Washington, Larry Winn of Kansas and—getting the largest chunk—Olin Teague of Texas, who chairs the Science and Technology Committee and is the most powerful member of the House high-technology lobby.

Today, even the SSPS's many critics are not certain the monster can be easily stopped. Lobbies for military hardware and other high-technology projects always have a built-in advantage: even to argue against them effectively requires a vast amount of scientific work.

"Look," says SSPS critic Piet Bos, "Boeing has put something like 60 man-years into coming up with their numbers. Somebody can say: this data proves the project is cost-effective. But it would take me, working alone, a month to figure out if that's true. And so much in this program doesn't even exist yet. You come up with some cost estimate that's way higher than theirs, and they say, 'Oh, but we're talking about a program based on a space vehicle that hasn't even been developed yet.' It's quite frustrating."

THE ANTENNA FARM

Meanwhile, work on the SSPS goes on. It is late on a gray winter afternoon at the Raytheon Company plant in Waltham, Massachusetts. Day-shift workers are streaming out to the parking lot. Electrical engineer William Brown leads the way back through the bowels of the factory to the research laboratories on the other side. It is here that Raytheon is developing the equipment to translate solar electricity into microwaves, then back into electricity when the microwaves strike the earth.

Brown, a kindly, grandfatherly-looking man, heads this project. He puts down on a conference table something that looks like a slightly elongated spark plug whose metal parts are made of copper. He explains that the transmitting antenna in space will be made up of "a million or so of these."

We move to another room, where a car-size piece of machinery is humming; a metal grating with flashing red lights on top warns you not to get too close. This is a microwave transmitter, with various monitoring instruments attached. However, what they are working on here at the moment is the receiving antenna, which the machine is aimed at: a white board with metal strips the size of kitchen matches sticking out of it some two inches apart. If SSPS's are built, the receiving antenna will be attached to row upon row of a fence-like structure. A factory on wheels will roll back and forth across the 5-by-7½-mile Antenna Farm, stringing a continuous fence out the back the way a cable-laying ship lays cable.

Back in the conference room, Brown flicks the lights off and a movie projector starts to roll. The scene is southern California, 1975, the desert near Barstow. We are looking at a mountaintop a mile away from the camera, where a 12-by-24-foot flat receiving antenna and a panel of floodlights are fastened to a metal tower. The lights are off. Beside us, as the camera pans, is a large radar-like dish aimed at the mountaintop tower. A scientist turns a switch near the radar dish and suddenly the floodlights on the mile-distant tower come on and shine brilliantly at us, even through the bright desert air. Then the radar dish is aimed away from the mountain, and the lights go off; it is tilted back at the mountain and the lights go on again. Thirty kilowatts of electricity, enough to feed 20 homes, is being transmitted through the air without wires. So it can be done. It is awesome.

MANHATTANS IN THE SKY

As we leave Raytheon and Stewart Brand, Representative Flippo and NASA orbiting happily around each other in search of our tax money, what can we conclude?

Peter Glaser, when interviewed about his invention, raised the relevant question: well, if you don't like the SSPS concept, where *are* you going to get centrally distributed electrical energy?

Pressed, he conceded that decentralized solar energy has great potential, but he believes that the problem is getting people to use it. "I can put a solar heater on my house, but how can I get you to put one on yours?" Then, after describing an unsuccessful effort in India to get villagers to use solar cookers instead of burning scarce fuel, he added, "It's not a technology problem. It's a people problem." The implication was that the first was solvable, the second not.

In one frightening sense, Glaser is right. If there is no basic change in American capitalism, it will be necessary to give big industry the major share of the apple if we want widely used solar energy. And the only other future energy alternatives the Carter Administration is paying much attention to, coal and nuclear, are impossible for the long haul. We know how dangerous—and expensive—nuclear energy is. Burning coal adds more fumes to our already polluted air, and causes problems ranging from acid rainfall ("Look What They've Done to the Rain," MJ. Dec. '77) to changes in the temperature of the earth's atmosphere. With those limited alternatives, sending Manhattan-sized objects into space might be the least of several evils.

And within those limited horizons, high technology's solutions mesh perfectly. If there is a problem, engineers—not social reformers or revolutionaries—can solve it. If one complex technique for generating energy doesn't work, commission a multi-company study, throw some money at the universities, get 500 engineers into the act and come up with another.

However, no single technology can replace the various potentially disastrous ways we have of generating energy now. But the last few years have seen an increasingly defined consensus on what the major alternatives should be. Some important ones:

Conservation. Better insulated buildings, slower-accelerating and lighter cars, better mass transit and the use of waste industrial heat can all cut down drastically on energy consumption.

Photovoltaic cells. The same cells necessary to a Satellite Solar Power Station could convert sunlight to electricity on everyone's rooftops. Their cost is dropping dramatically, and with proper government support it could drop still more—enough to make the cells economical on a wide scale.

Solar heating. A study by the NASA-funded Jet Propulsion Laboratory, for instance, says solar heat could supply fully one-third of California's space and hot water heating requirements.

Biomass conversion. Biomass conversion is what happens when you burn a log in your fireplace, when you convert waste foliage or frostbitten crops into alcohol to power internal combustion engines or when you burn California's lumbering and sawmill wastes to generate the energy of two nuclear power plants.

There are other promising techniques, too, such as windmill power. And none of them, like SSPSs, are pie in the sky. They all work. They all are in use somewhere today. Sweden and West Germany conserve enough energy to get by with about 50 percent of the energy use per capita the U.S. has—and maintain the same living standard. Photovoltaic cells power satellites and remote military installations beyond the reach of power lines. There are two million solar water heaters in Japan. Germany ran its autos largely on alcohol fuel during World War II, and Brazil is starting to do so today.

Against this background of promising alternatives, the Carter Administration, astoundingly, is actually cutting by some $10 million this country's rather paltry budget for earth-bound solar research. The Energy Department is firmly under the control of men whose careers have been built on nuclear power.

In what is probably the most comprehensive study yet done on the subject, Dennis Hayes of the World Watch Institute calculates that 20 percent of the energy now used around the world comes from renewable sources (wind, biomass conventions, hydropower and direct sunlight). "By the year 2000," he says, "such renewable energy sources could provide 40 percent of the global energy budget; by 2025, humanity could obtain 75 percent of its energy from solar resources."

That transition will not be simple or cheap. It involves profound structural change. Rooftop photovoltaics will undermine the utilities. Conservation means smaller and lighter cars, and railroads—and that means taking on the automobile and trucking industries. Alcohol fuel, whose production is inherently decentralized because it can be made from a wide variety of crops, will severely threaten the oil industry.

The more you consider Satellite Solar Power Stations, the more turning to space seems a way not of solving a problem but of evading one. It is neither a people problem nor a technical problem; it is a political problem. And it is one that will last long as corporate profits, not human needs, determine how we shall use the earth's resources.●

BIRTHDAY GREETINGS TO FORMER CONGRESSMAN DEWEY SHORT

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. TAYLOR. Mr. Speaker, I would like for my colleagues in the House to join with me today in extending 80th birthday greetings to a former distinguished member of this body, the Honorable Dewey J. Short.

Dewey who has been my close friend and mentor for many years. He was born in Galena, Mo., located in Stone County. He still maintains a residence there although he has spent much of his retirement years here in Washington.

Dewey was elected to the 71st Congress in 1929. Although his bid for reelection was unsuccessful he did return to the House for the 74th Congress where he remained until 1957. He saw service as chairman of the Committee on Armed Services during the 83d Congress. He later served as Assistant Secretary of the Army for 4 years.

Dewey, who was known far and wide as the "Ozark orator," was one of the most eloquent speakers who ever entered the Congress. His colleagues will tell you that when the word got out that he was to address the House many would come to hear him speak. Needless to say, they were never disappointed.

Although he came from a very small community in the Missouri Ozarks, Dewey received an extensive education. He attended Boston College, Harvard, Heidelberg University, and the University of Berlin, and Oxford.

He was a college professor and pastored the Grace Methodist Episcopal Church in Springfield, Mo.

During the Republican National Convention in 1940 he received 108 votes for the Vice-Presidential nomination.

Dewey Short is truly a remarkable man who has had a profound impact on my life and that of my family who love him dearly. He is a man of deep compassion who loves his country, his family and friends and has demonstrated this love throughout his life.

It is my high honor to convey to him my best wishes and congratulations on his 80th birthday.●

EXIMBANK HELPS REDUCE TRADE DEFICIT

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. NEAL. Mr. Speaker, everywhere we look on the economic front there are painful choices to be made. Simultaneously, we must resist a new surge of inflation, reduce our oil imports, improve our foreign trade balance and restore confidence in the dollar's value abroad.

These problems are so interrelated that attacking them is like trying to cover a king-size bed with a twin-size blanket. If we cover one part, we leave another part exposed.

If we take strong measures to stop inflation, we risk slowing the economy and creating unemployment. If we tax oil to reduce consumption, we create more price increases and inflation. If we try to ease our trade deficit by importing fewer consumer goods, we diminish competition in the domestic market, which leads to higher prices and more inflation.

As we agonize over the choices before us, we sometimes feel like the fellow described by A. A. Milne:

There once was a sailor my grandfather knew,
Who had so many things which he wanted to do
That, whenever he thought it was time to begin,
He couldn't, because of the state he was in.

Nevertheless, we do not have to be immobilized by our problems. While we prepare for the big decisions, there are many other steps we could be taking—now—to improve the health of our economy.

One useful step would be to strengthen the Export-Import Bank of the United States, a 44-year-old Federal agency that helps American businesses provide competitive financing for sales to foreign customers.

A more aggressive Eximbank could stimulate the sale of American goods abroad, thereby reducing the trade deficit, bolstering the dollar on the world markets and creating more jobs here at home. For every $1 billion in exports, we create 35,000 to 58,000 jobs in the United States.

Increasing our exports is the most immediate way to reduce the chronic trade deficit, which is one of our most serious economic problems. In 1977, the United States purchased $26.6 billion more goods than it sold abroad; that was a record annual deficit.

Our performance this year has been even worse. In February, we had the highest monthly deficit in our history—$4.5 billion. We have had deficits now for 21 consecutive months; and with each month the dollar's value overseas is eroding a little more.

A declining dollar, in turn, makes our imports of oil, consumer goods and vital raw materials more expensive and thus contributes to even more inflation.

The only silver lining visible in this is that a declining dollar also enables us to sell our goods abroad at lower

prices. That is another reason to renew our efforts to stimulate more exports.

The Eximbank helps by providing attractive financing to prospective overseas customers who cannot readily obtain adequate credit in the private markets. The bank does not compete with private banks, but induces them to make more export loans by sharing part of the financing package and by assuming certain political and commercial risks.

Best of all, the Eximbank pays its own way. It requires no appropriations from Congress. In fact, it pays dividends of about $50 million a year to the U.S. Treasury. Its activities are sustained by its own profits. The Eximbank is not a foreign aid program in any sense; its benefits go to American companies that are enabled to make overseas sales they might otherwise have lost.

In an ideal world, of course, the U.S. Government should not have to provide this kind of service to exporters. But the reality is that our major competitors in world trade—particularly France and Japan—provide not only government-backed financing but other subsidies to help their companies make sales. Because we value our free enterprise economy, we refuse to resort to massive subsidies. We would prefer to compete on price, quality and service. But until the other trading nations agree to do the same, we must make at least minimal efforts to meet the competition.

In recent years the Eximbank has, in my opinion, been somewhat too cautious. In 1977, for example, it was authorized to make up to $3 billion in loans but used only $760 million of that potential. We want the bank to be prudent, but such figures make us wonder whether we are not passing up some good opportunities to make sales abroad.

The House Subcommittee on International Trade, Investment and Monetary Policy, of which I am chairman, is now considering the Carter administration's request that the Eximbank be extended for another 5 years and that its direct lending authority be increased from $25 to $40 billion. Our subcommittee will be marking up this legislation next week.

The Eximbank is not a perfect institution. Some of its loans and policies over the years have evoked legitimate criticism and questioning. We are trying to improve our congressional oversight system so that we can monitor the bank's work more carefully. But I agree with the Carter administration that the Eximbank can and should be a more aggressive force for stimulating exports.●

TAX AID FOR THE SEVERELY HANDICAPPED

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. NOLAN. Mr. Speaker, today I am introducing legislation that would amend the current IRS Tax Code. This legislation would allow a severely handicapped person who is unable to drive a motorized vehicle even with the aid of adaptive equipment to deduct from his taxable income the cost incurred while traveling to and from work.

As current law now reads, the handicapped person is given a deduction for the purchase of a specially designed vehicle, modification of a vehicle; that is, adaptive equipment such as hand controls and special chair lifts, and the maintenance costs. Thus, if the handicapped person is not severely disabled and is able to transport himself, he is given a deduction covering his transportation expenses. Handicapped individuals are also given deductions for transportation costs connected with medical care and business related travel. This includes fee's charged by attendants when their assistance is necessary for such travel. Also deductible are the actual cost for travel, meals, and lodging of the attendant.

Yet, a severely handicapped person who is still able to work but need, the service of a driver to transport him to and from work is not able under current law to deduct this expense from his income. The adjustment, I propose today is a way to facilitate the employment of the handicapped individuals of this country. There is an apparent gap in current law and this legislation will fill in this gap. I, therefore, urge my colleagues to support this legislation which will reduce the burden on the employable handicapped and make our tax laws more fair.●

A TRIBUTE TO KEVIN COLEMAN

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. TSONGAS. Mr. Speaker, I would like to commend to the attention of my colleagues the unusual energy conservation activities of a young man from Acton, Mass.

Inspired by an article which appeared in Boys' Life, Kevin Coleman, a 15-year-old high school sophomore, was instrumental in the formation of a Solar Patrol in the Isaac Davis Boy Scout Troop. The goal of the group was to learn about energy conservation and earn the Boy Scout Energy Conservation Merit Badge.

The patrol raised funds to buy books on energy which they contributed to the public library, set up energy conservation displays throughout the community, and participated in a variety of energy conservation projects. The Isaac Davis Solar Patrol was one of the first groups in the country to earn the Energy Conservation Merit Badge.

While working on his merit badge, Kevin came to the realization that there was a critical need for energy conservation. He also learned about the potential for solar energy. What became clear to him was that solving our energy problems would require greater public commitment than exists at the present time.

Kevin felt that the Boy Scouts of America could make a substantive educational contribution through their program. He has proposed to the national organization that they establish Solar Patrols nationwide to stimulate greater public awareness of America's energy problems. Kevin's idea has much merit and should be encouraged.

Kevin has now risen to the rank of senior patrol leader in his troop and the work of the Solar Patrol continues under the leadership of his brother, Tim.

I salute Boy Scout, Kevin Coleman, the Solar Patrol and the Isaac Davis Troop for their dedicated grassroots energy conservation efforts. I hope their activities will provide inspiration for young people all over the country to mobilize a rational effort to develop solutions to our critical energy problems.●

GEN. THADDEUS KOSCIUSZKO

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 3, 1978

● Mr. SARASIN. Mr. Speaker, there are many great heroes that have claimed their place in the annals of American revolutionary history and to whom Americans are indebted and grateful. Among the list of heroes not to be forgotten are many European patriots who, in a show of solidarity and support for the American ideals of liberty and equality, lent their various skills and expertise to the success of the struggle for independence. One of the greatest of these patriots, deserving of recognition and honor, is Gen. Thaddeus Kosciuszko of Poland.

Arriving in the Colonies in August of 1776, General Kosciuszko was commissioned by the Pennsylvania Committee of Defense as the colonel of engineers. During his tenure in this position he made many invaluable contributions to the war effort, lending his engineering skills to the building of fortifications and defenses. He played a particularly significant role in influencing the tactics of the Continental Army at the Battle of Saratoga and the Ticonderoga Campaign, and then marched south with General Green, building forts and defenses along the Delaware River in Pennsylvania and south to the Carolinas, fending off the British offenses.

General Kosciuszko returned to his homeland in 1784 to help his own countrymen in their struggle against the Russians, but returned to the United States in 1797, and received monetary compensation and 500 acres of land in Ohio for his contribution to the American effort. He only stayed for a year, however, and returned to Poland in 1798, giving the profits from his estate toward the emancipation of his serfs in Poland and the establishment of the Colored School in Newark, N.J.

While I was unable to be present to cast my vote in favor of House Concurrent Resolution 359, I certainly support, with pride and appreciation, the intent of this legislation to recognize the outstanding contributions of this gentleman

and to erect memorials to his honor at appropriate sites within the national park system.●

INTEGRATION OF SOCIAL SECURITY WITH PRIVATE PENSION PLANS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. OTTINGER. Mr. Speaker, a number of my constituents, Mr. Robert Lebenson, Mr. Edward Smith, Mr. Melvin L. Maisel, and Mr. Robert Seibel testified recently before the House Ways and Means Committee in opposition to the proposed modification of the rules concerning the integration of social security with private pension plans. This is a matter of tremendous concern to them, and I would like to bring their comments to the attention of my colleagues:

TESTIMONY TO THE HOUSE COMMITTEE ON WAYS AND MEANS BY ROBERT D. LEBENSON

My name is Robert D. Lebenson. I am an Enrolled Actuary, and am the Executive Vice President of National Pension Service, Inc. in White Plains, New York. My firm administers approximately 600 retirement plans, mostly for small corporate employers averaging 8 covered employees. We have a few larger plans, which to us means 50 to 200 employees.

I would like to testify in strong opposition to the provisions of the Administration's tax law, which would modify the rules concerning the integration of private pension plans with Social Security.

The written material which I have submitted contains a detailed discussion of my arguments against the proposed law.

In the limited time I have for verbal testimony, I would first like to highlight four principal reasons for my opposition and to then comment more extensively on a fifth and most significant reason.

1. Contrary to the contention of the Administration, the current system of integration is equitable. It encourages employers to establish retirement plans which, together with employer provided Social Security, provide a retirement income that is an equal percentage of pay for all employees.

2. The proposed rules are ostensibly aimed at correcting abuses. There is no hard statistical evidence that these abuses exist. Congress has at least twice mandated studies of the topic of integration, but no such studies have been completed. No changes should be made until all concerned have had the benefit of recommendations based on fact.

3. If retirement pensions for many low income Americans are inadequate, it is not appropriate for the Government to attempt to remedy this problem by transferring it to the private pension system, which is an entirely voluntary system. In addition, the attempt will fail because employers will be unwilling to support the costs involved.

4. ERISA has caused administrative costs to escalate, which is particularly burdensome to small plans. Thousands of old plans have terminated, and thousands of new plans have not started, because of these costs and also because of the perception of the small business owner that the rules are unstable. Further change at this time will greatly magnify this problem. Many, many individuals do not have adequate retirement income simply because they work for small companies that have not been adequately encouraged to adopt a plan at all.

More significant than any of these four reasons is the cost impact the proposed rules will have, especially on small plans. This will directly contribute to thousands of plan terminations and will cause more thousands of employees to never receive pensions they expect. It is vital to view these cost increases in the context of a system which, I repeat is voluntary and employer supported in nature. Plans will terminate, and new plans will not start, if the cost burden is excessive.

In order to illustrate the cost impact on a typical plan, my office did some studies for one of our established plans. This is a plan covering 14 employees, of a modest sized Chevrolet dealership in upstate New York. The plan is a retirement program providing 40% of compensation, offset by 66⅔% of the primary Social Security (since there is both a pre and post retirement death benefit feature). Well over ½ of the current benefits to be provided by this plan are for rank and file employees.

The cost increase to amend this plan to comply with the new rules would be approximately 25.4%. This means that to continue this plan the corporation would have to pay one-fourth more each year to provide benefits to their employees than they would under present regulations.

It is vital that the Congress realize that this pension program is one which is entirely paid for by the employer (as are the overwhelming majority of private pension plans) and that the continuance of the plan is entirely discretionary on the part of the corporation. The result of discontinuance of the plan would mean the loss of a substantial portion of the retirement income that the rank and file employees of this firm are counting on. I would now like you to hear from the owner of this business concerning what the result of these cost increases would be.

TESTIMONY TO THE HOUSE COMMITTEE ON WAYS AND MEANS BY EDWARD R. SMITH

I am Ed Smith, President of Ed Smith Chevrolet, Inc. of Port Jervis, N.Y. I employ 14 people with more than one year service, who are covered by a defined benefit plan which I maintain. I instituted the plan in 1971 for the benefit of my employees and have used National Pension Service as my actuarial consultant since that time.

In 1976 I amended my plan to comply with ERISA. My overall cost to amend the plan was in excess of $1,200 for legal and actuarial services, which was almost ten percent of my contribution that year. My actuary has now informed me that if the proposed integration changes become law, the costs for my plan will increase in excess of twenty-five percent per year. In addition, it appears likely that I will have another $1,200 or more bill to pay to modify the program.

I am already paying for Social Security pensions for these employees, and the changes that were made to the law in 1977 will substantially increase my Social Security costs over the next three years. Now you are asking me to further increase my overhead for pension benefits. I object to these increases and tell you that if this proposed integration change becomes effective, I will have to terminate my pension plan. This will mean that present employees will have their benefits reduced and future employees will not receive any pension benefits whatsoever.

TESTIMONY OF MELVIN L. MAISEL

My name is Melvin L. Maisel. I am the president of Stabilization Plans For Business, Inc. in White Plains, New York. My firm services more than 50 Defined Benefit integrated pension plans in 27 industries that cover 714 employees in New York, New Jersey, Connecticut, Kentucky and Illinois. We have performed a study and found that approximately 75 percent of the plans will be adversely affected by the proposed legislation. The costs will increase from 28 to 177 percent.

In view of the recent ERISA plan restatements and additional legal and administrative expenses incurred by the various business owners, passage of the proposal will sound the death knell to the private pension system. The treasury is proposing very substantial additional overhead expenses for the small business owner that will break the backs of small businesses.

I have discussed this with my clients and many have advised me to tell you that they will have no choice but to terminate their pension plans if the proposed legislation is enacted.

The following is a statement from Elias Strum. He is the president of Bradley Cleaning Contractors, Inc. in New York City:

"I employ 186 employees and have maintained a Defined Benefit plan for my employees since 1963. My actuary has informed me of the proposed changes regarding the use of Social Security integration that Congress is now considering and has given me an evaluation of my increased costs due to these proposed changes. I am here to protest against these proposed changes in the integration requirements since they will cause my plan to have an increase in costs of approximately $31,000, 173 percent over 1977 plan year costs. I cannot afford to maintain a plan for my employees under this burdensome cost escalation and I can tell you gentlemen that if this amendment to the Law is enacted, I will be forced to terminate my plan and as a result, my employees will suffer the loss of any future benefits that I had planned to provide for them under the existing plan."

TESTIMONY OF ROBERT A. SEIBEL, J.D.

My name is Robert A. Seibel. I am a pension attorney and consultant and I am Vice President of Stabilization Plans for Business, Inc. in White Plains, New York. Our firm specializes in the design of qualified retirement plans primarily for small closely held corporations.

I strongly oppose the consideration of the Administration's proposal to change the method of integration of pension plans with Social Security because the Administration has failed to do its homework by not providing facts to support its allegations. One of the major burdens of ERISA in the past several years has been the inequities created by the legislation dealing with it rather than the law's substance as well as the hasty way bills have been passed by Congress without proper examination of all facts available.

I appeared before the House Labor Committee Oversight Hearings on ERISA on May 1, 1975 at which time it was stated that "Regulatory agencies must not collect data they cannot use and cannot absorb."

Based upon our original research we discovered that 92% of all pension plans in existence cover employers with less than 25 employees. This data was already on file with the Treasury and Labor Departments based upon the old reporting forms 4848 and D-1 respectively. This data, however, was not analyzed prior to ERISA's passage since our data appeared for the first time during the hearings, and only after we had exhaustively searched government public records. We were advised that had the facts been made available to Congress at the time of ERISA's drafting, that the overwhelming number of pension plans covering small businesses, portions of ERISA dealing with reporting and disclosure requirements would have been greatly simplified and administrative costs to small corporations would have been greatly reduced.

If the regulatory agencies of government are

intent upon imposing costly reporting requirements for pension plans, it must be done for a reason! Inasmuch as Congress failed to utilize all the data at its disposal during the passage of ERISA. it must not again, legislate without first considering and analyzing all of the data at its disposal.

Currently, on the basis of ERISA mandated reporting forms, there is on file with Treasury and the Labor Departments information regarding the number of employees in all plans, how many plans are integrated with Social Security, how many Social Security excess plans there are, how many offset plans and how many employees who are participants in plans receive little or no benefits.

It is vital that before the Administration and Congress consider enacting legislation which will affect all participants in integrated pension plans that they first analyze carefully the information we, in the pension field, have labored so hard and diligently to provide to the regulatory agencies at a massive administrative cost to all plan sponsors.

Specifically, it is unconscionable to discuss the hypothetical effect of this proposed legislation on integrated plans until the regulatory agencies provide Congress and the Administration with concrete information in their files with respect to how many plans, broken down by type are integrated with Social Security and, more importantly, how many of these plans have 1–9 participants, 10–24, 25–100, 100–150, 500–1,000 and over 1,000. This information is threshold material and should be considered before the enactment of any new legislation or regulations in this area.

If Internal Revenue and Department of Labor computers are unable for any reason, to supply this data, it will be because they have either not put all their data on computers or because they have not written computer programs to retrieve useful information from such data.

If either of these two statements is true (and I hope it is not) it would appear that the costly and burdensome reporting requirements imposed by ERISA are needlessly harassing taxpayers. On the other hand, if this information is available, it must be made available for Congress to study.

Section 3021 of ERISA established a Joint Pension Task Force in which the staff of this Committee participates. One of the mandates of Section 3022 was for this Task Force to study the Social Security integration rules and report back to Congress. This study has not yet been presented to your Committee or to this Congress and, consequently, no new legislation should be considered until the study has been presented, analyzed and digested fully.

It is, indeed, outrageous for the Administration to take the initiative on this subject before the Task Force has completed their study. The Administration has admitted that this proposed legislation would not produce any new revenue and, therefore, there is no urgency for this provision to be made a part of the 1978 Tax Reform package. Surely, any changes in Social Security integration could be made a part of an ERISA reform bill rather obscurely tucked away in one small section riding the coattails of the overall tax legislation.

I urge the members of this Committee to avoid permitting history to repeat itself by allowing consideration of any legislation before factual studies have been made. I further urge this Committee to help save the private pension system from premature legislative overkill by exercising the authority given to it by Congress in ERISA and by weighing all the data which the regulatory agencies *can and must* provide so that sound and informed opinions can be reached prior to the enactment of any legislation.●

SHE HELPED SHAPE THE LIVES OF HUNDREDS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. WHITEHURST. Mr. Speaker, the following was sent to me by the Reverend William E. Hibbs of Houston, Tex. Mrs. Lillian Chadwick is one of my constituents, and she embodies all that is good in a civil servant.

I am pleased to place this in the RECORD as Reverend Hibbs has requested:

MRS. LILLIAN S. CHADWICK—NORFOLK, VA.

If there ever is a woman you can count on, Lillian Chadwick is the one. It is amazing how a single act of kindness can influence the lives of so many people.

With Lillian Chadwick, she has shown continuous acts of kindness. In her 29 years at the Norfolk, Virginia, Naval Supply Center Customer Services Division, she has, through her own brand of faith and philosophy, helped many who have come into contact with her.

A native of Lexington, Mrs. Chadwick moved to Norfolk in 1943 to work for the government during the war. In 1971, she was named "Outstanding and distinguished personality of the South" by the American Biographical Society. In 1976 she was named "Woman of the Week" by the Virginia Pilot-Ledger Star newspaper. I would like the attached newspaper article to appear with this tribute in todays CONGRESSIONAL RECORD.

This woman is probably to many people, a living example of the phrase, "Let There be Love, And Let It Begin With Me".

Mrs. Chadwick, retired on December 16th, 1977 with letters of tribute from the following persons:

The President (Jimmy Carter).
Vice President Walter Mondale.
The Speaker Thomas P. O'Neill, Jr.
Senator Harry F. Byrd, Jr.
Senator William Scott.
Congressman G. William Whitehurst.
Governor Mills E. Godwin, Jr., Virginia.
The Secretary of the Navy W. Graham Claytor. Jr.
Rear Admiral J. E. McKenna, SC, USN, The Naval Supply Center, Norfolk.
And Mayor Vincent J. Thomas, Proclaimed December 16, 1977 as Lillian Chadwick Day, in Norfolk, Va.

SHE HELPED SHAPE THE LIVES OF HUNDREDS

(By Cathy Jacob)

"A person never knows to what extent he or she shapes the life of another human being. Yet each of us has been shaped—shaped by parents, friends, teachers, and countless others whose influence we hardly acknowledge."

So wrote the Rev. William E. Hibbs of Houston, Texas, recently when expressing his gratitude to the Virginian-Pilot for the assistance he had received from Lillian Chadwick.

"I first met Lillian at Norfolk's Naval Supply Center, Customer Services Division, in 1968," wrote the Rev. Mr. Chadwick, "I was a STOP employee assigned to that department.

"Friendship is a relationship between persons who see themselves as they really are—brothers and sisters. Without regard to one's race, creed, or national origin.

"This is how we saw each other.

"Growing up in a white community in Norfolk, it was socially unacceptable to cross racial boundaries.

"Thank God this is not the case today, thanks to Lillian and many others like her.

"Lillian Lives Life, through her unending love and devotion to youth. She has helped shape the life of hundreds of young Americans without regard to their ethnic background.

"Ours is an age that is reluctant to talk about the influence we have on one another. Yet Lillian saw the best in me and encouraged me to do the same with others. Through her understanding and guidance, I am now able to realize my life long dream—the Catholic Priesthood.

"On a recent visit to Norfolk, she invited me to the Tidewater Dinner Theater where she is the official hostess. I was able to see again one of Norfolk's outstanding women. The love shown her by everyone there and likewise the love and devotion she has for everyone is extraordinary.

"Robert Kennedy wrote:

"'Few of us will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation.'

"To Lillian, and others like her I send my love and many thanks.

"I'm more because of you!"

Lillian Chadwick smiled when shown the letter from the Rev. Hibbs.

The pleasant soft-spoken woman, who has, through her own brand of faith and philosophy, helped many who have come into contact with her, was having lunch at her Naval Supply Center desk where she has worked as a clerk since 1952.

"Bill calls me his momma," she said. "He was one of the STOP (Southeastern Tidewater Opportunity Program) employes that summer. They would wander in, some in need of love and the hand of a big sister, and I fell in line with them."

"That summer" was 1968. STOP had found jobs at the Naval Supply Center for a number of teen-agers and Mrs. Chadwick said she found time to talk to them when they came in her office.

"I was never assigned to them, but the assistant director of customer service, Ruth Killingsworth, allowed me to work with them," she said. "I would call meetings and counsel them when they walked in."

She also helped plan a STOPers Day luncheon, at which the Rev. Mr. Hibbs, then 17 and with no plans for the ministry, was the master of ceremonies.

"He wanted to be on the stage, like Red Skelton," Mrs. Chadwick said. "He was a great kidder.

"The luncheon at the end of the summer was a beautiful affair. They gave me a set for my dresser, and I just cried," Mrs. Chadwick said.

She said that she wanted to give Hibbs something and presented him with a coin a friend had brought her from Nigeria. The coin had been blessed by the chief of a tribe.

"Early last year he told me that he was being ordained (into the Catholic priesthood) and wanted me to know that the lucky penny had something to do with it," she said.

Mrs. Chadwick said she keeps in touch with several of "that summer's" STOP employes. The program was not repeated she said. "I just adopted them that summer. I felt like a big sister.

"When Bill said I had helped hundreds, he meant that he has been able to train the children he works with through the way I helped him," she explained.

As to the way she helped him, Mrs. Chadwick said she listened, primarily. "Often he would come to me and ask me questions concerning families. He'd come back later and I'd try to answer his questions.

"Often when we have problems, we create them ourselves," she said. "I would tell them that from this day on, when you think you

are being mistreated, look in the mirror at yourself, and look from within."

Mrs. Chadwick, who lives in Norfolk, is also the official hostess and group sales representative of the Tidewater Dinner Theater. "I love people," she said.

Early this year she wrote a letter promoting the theater's executive producer, John Sader, for the Boss of the Year award presented by the American Business Women's Association (ABWA) of Virginia Beach. "He has given so many young aspiring actors and actresses a chance," she said.

The Virgina Beach ABWA in 1972 named Mrs. Chadwick their first Woman of the Year.

Mrs. Chadwick, a widow, has lived in Norfolk since 1943 when she left her native Lexington to work for the government during the war. She first worked at the St. Julian's Creek Ammunition Depot in Portsmouth. She transferred to the Norfolk Naval Base in 1952.

Since the death of her husband in 1972, Mrs. Chadwick has housed six students from Norfolk State College whom she says are all "just like my own."

She is an active member of the Queen Street Baptist Church and a member of the Daughters of the Elks, and she has two stepsons who live in the area.

Mrs. Chadwick has a close relationship with her neighbors. "I enjoy very much helping guide the children in my neighborhood. I feel like the neighbor's kids are part mine," she said.

Lillian Chadwick's desire to help her community and those around her are justified by her love and appreciation of Tidewater and people.

"Norfolk has been very kind to me," she concluded.●

SIXTY-TWO MEMBERS OF THE HOUSE URGE THE PRESIDENT TO HALT THE NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. WEISS. Mr. Speaker, 61 Members of the House joined with me yesterday in urging President Carter to disapprove production and deployment of the neutron bomb. A copy of the letter sent to the President is printed below this statement together with the names of all the signatories.

We urge President Carter to resist pressure in the upcoming days to reverse his reported position against the production and deployment of this controversial weapon.

The letter follows:

WASHINGTON, D.C.,
April 4, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Those of us in the House who voted for the Weiss amendment to delete all funds for the neutron bomb are heartened by today's reports which state that you have apparently decided to forego production and deployment of this controversial weapon.

The reports indicate that your decision centers on the arms control disincentives which would result from neutron bomb deployment. We are gratified that you agree with the positions we took in the debate over the amendment last September. It was our concern then, as it is now, that this weapon would lower the threshold of nuclear war and bring us closer to the brink of a nuclear holocaust.

We strongly support your decision and urge you to withstand the efforts to reverse it that you will encounter in the coming days. It is our fervent hope that your decision will become official Administration policy in the very near future.

Sincererly,

Joseph P. Addabbo, Les AuCoin, Alvin Baldus, Berkley Bedell, Anthony C. Beilenson, Michael T. Blouin, David E. Bonior, Don Bonker, William Brodhead, Yvonne Burke, John Burton, Phillip Burton, Shirley Chisholm, and William Clay.

John Conyers, Ron Dellums, Robert Drinan, Robert Edgar, Don Edwards, Joshua Eilberg, Harold Ford, Robert Garcia, Dan Glickman, Mark Hannaford, Tom Harkin, Michael Harrington, Elizabeth Holtzman, Andrew Jacobs, Jr., Robert Kastenmeier, Martha Keys, Dale Kildee, Peter Kostmayer, John Krebs, Jim Leach, Andrew Maguire, Edward Markey, Romano Mazzoli, and Paul Tsongas.

Matthew McHugh, Barbara Mikulski, Abner Mikva, George Miller, Parren Mitchell, Joe Moakley, Toby Moffett, John Moss, Richard Nolan, Mary Rose Oakar, David Obey, Richard Ottinger, Leon Panetta, Charles Rangel, Fred Richmond, Ben Rosenthal, Patricia Schroeder, John Seiberling, Paul Simon, Pete Stark, Gerry Studds, Bruce Vento, Jim Weaver, and Ted Weiss.

Members of Congress.●

MASUK HIGH SCHOOL CURRENT ISSUES QUESTIONNAIRE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. SARASIN. Mr. Speaker, I would like to call my colleagues' attention to a recent survey conducted by the social studies club of Masuk High School in Monroe, Conn. This questionaire was returned by 700 students and staff out of a total of 1,350. I think this organization should be commended for the compilation of this information because it is so important that people have a chance to express their views, and in this day in age, surveys and polls are a very effective method. It is my hope that all Members of Congress will be able to utilize the results of this survey when formulating opinions:

NATIONAL ISSUE

Should women in the armed forces be allowed in combat?

Yes	345
No	185
No opinion	85

Do you feel saccharin, the sugar substitute, should be banned from the market?

Yes	215
No	320
No opinion	91

Do you think that there should be stricter gun control laws throughout the country?

Yes	420
No	158
No opinion	55

Do you feel there should be off shore drilling of the New England coast?

Yes	209
No	254
No opinion	185

Should the U.S. Social Security system be restructured?

Yes	317
No	106
No opinion	201

Do you approve of current Government intervention in the National Coal Strike?

Yes	317
No	142
No opinion	190

Should the potential food producing capabilities of the U.S. be used as a political weapon against the third world countries?

Yes	173
No	290
No opinion	185

Should the "cancer curing" drug laetril, be legalized nation-wide?

Yes	350
No	127
No opinion	155

Do you feel capital punishment should be re-instated throughout the country?

Yes	393
No	186
No opinion	66

Do you think New York City should be aided by the Federal Gov't to prevent it from going bankrupt?

Yes	332
No	213
No opinion	100

Do you think illegal immigrants should be given amnesty?

Yes	195
No	324
No opinion	128

Or should these people (immigrants) be sent back to their home land?

Yes	282
No	246
No opinion	121

In your opinion, should prostitution be legalized?

Yes	261
No	253
No opinion	114

How do you rate President Carter's job performance?

Excellent	10
Good	224
Fair	276
Poor	131

Do you think it is right that Bill Carter "cash in" on his name the way he does?

Yes	149
No	352
No opinion	110●

OUT OF REACH FOREIGN AID

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mrs. SMITH of Nebraska. Mr. Speaker, on March 16, 1978, the following editorial appeared in the Columbus, Nebr., Telegram. Editor Dick Howe makes

the case very well for a vote against H.R. 7797.

OUT OF REACH FOREIGN AID

Despite the fact that most Americans do not favor foreign aid, this tremendous rip-off of U.S. taxpayers continues to grow. The program is mistrusted and disliked, but the giveaway of our money, goods and technology goes on unabated.

The increasing unpopularity of foreign aid is shown time and time again by opinion polls. The spending increases and the politicians still claim it is "vital to the interests of this nation." This nation without the people is zero with the rim removed. And the people keep saying they do not want their money spent on foreign aid. So, just who's interest is being served?

Since 1946, our politicans have voted nearly $200 billion for foreign aid. Does anyone know exactly where, to whom and in what amounts this money of ours has gone? Do our representatives, who have voted the funds have any exact knowledge of its disposition?

Now, the Foreign Aid programs Assistance Act of 1978, HR 7797, is the biggest giveaway bill in three decades. Included in this bill is $2.1 billion for six international banks. Virtually all congressional control over these banks has been eliminated. Officials of these international lending institutions have refused to appear before Congress or to furnish any requested information when the bill was being written.

Our tax dollars will be turned over to the banks to be loaned out at low interest rates to all comers, including Communist and other totalitarian regimes. In most cases the money goes to foreign politicians without any accounting as to its final uses.

How much of this money is used to deprive freedom to the people of other lands will never be divulged. Just where does this leave the vociferous incantations of "human rights" which have dinned our ears lately?

Some of the highest paid bureaucrats in the world are the employees of the six international banks. About 95 percent of these people live in the United States and pay no U.S. income tax at all. One of their fringe benefits is to obtain home loans at rates as low as four percent.

In a recent letter, Rep. C. W. Young, R-Fla., said, "It is bad for the American taxpayers to subsidize personal loans for the World Bank employees but even worse when these same people refuse to testify before our committees, refuse to provide us with audits of their loans, and refuse to allow a member of Congress to sit in on their decision making meetings."

Robert S. McNamara, president of the World Bank, bluntly said, "No condition can be imposed which would restrict the power of the bank . ."

Do officials of these American financed international lending institutions, who get tremendous salaries and pay no income tax, consider themselves above and out of reach of Congress and the taxpayers of this nation? ●

USDA NITRITE BAN

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. HAGEDORN. Mr. Speaker, the U.S. Department of Agriculture's comment period has passed with respect to its proposal to ban the use of nitrites and nitrates as preservatives in certain cured meat products, including bacon. On the basis of studies which fed test rats the human equivalent of 15,000 pounds of bacon per day, the Department has claimed that these preservatives may be cancer-causing.

I have commented earlier on USDA's efforts (March 8, E1143), and have introduced legislation with nearly 50 cosponsors to limit its authority to eliminate bacon from our diets (there is no effective substitute for nitrites and nitrates as inhibitors of botulism). I believe that the following statement submitted by the American Meat Institute to USDA clearly summarizes the case against the Department's latest initiative:

NITRATES AND NITRITES IN MEAT PRODUCTS; REQUEST FOR DATA; FEDERAL REGISTER, OCTOBER 18, 1977, PAGES 55526–55527

The American Meat Institute, national trade association of the meat packing industry, presents the material that follows in response to the notice published in the Federal Register October 18, 1977 (Ref. 1), calling for the submission of data "demonstrating whether the use of nitrates and/or nitrites in the production of bacon results in the formation of carcinogenic nitrosamines during its ordinary processing and/or preparation for eating. . . ." The original deadline for submitting data—January 16, 1978—was extended 60 days, to March 17, 1978, by notice published in the Federal Register December 13, 1977(p. 62512) (Ref. 2).

USDA indicated that the data called for in the notice might become the basis for a regulatory proposal. AMI respectfully suggests that the data submitted demonstrate that nitrosamines at the levels found in bacon are not a health hazard. The data, however, support the lowering of permitted nitrite to 120 ppm and the inclusion of 550 ppm ascorbate or isoascorbate as the first step toward eliminating nitrosamines. The complexity of the problem from a scientific standpoint has required a great deal of research, some of which is still underway. As explained herein, the final solution to the problem must await the completion and evaluation of that research.

HISTORY OF NITRITE USE

In discussing the safe use of nitrates and nitrites, it should be noted that they are not newly introduced additives, but rather curing ingredients whose use for literally thousands of years has provided a practical test of their safety (Ref. 3). A primary benefit from the use of nitrite is the prevention of botulism, a deadly form of food poisoning. If nitrite were banned, the danger from food poisoning would be increased to a degree that is difficult to assess. If the consumption of bacon (1.5 billion lbs. per year) were not safe, epidemiological data would have recorded its impact (Ref. 4). The function of nitrate in meat curing was given official recognition in regulations issued under the original Federal Meat Inspection Act, enacted in 1906 (Ref. 5), and some twenty years later, based on further scientific knowledge, the use of nitrite was approved (Ref. 6).

It has been observed that meat products represent only a minor source of nitrates and nitrites in the human diet (Ref. 7 and 8). Green leafy vegetables, such as spinach and celery, contribute far more nitrate and more than 80 percent of the nitrite entering the stomach originates in saliva (Ref. 7, 8, and 9). Even if the Department of Agriculture chose to disregard the positive benefits of nitrate and nitrite and took action to disapprove them as curing ingredients, the effect would be an insignificant reduction in overall nitrate/nitrite consumption (Ref. 8 and 9).

INDUSTRY RESEARCH

The meat industry for the past eight years has been actively involved in research related to the use of nitrates and nitrites. Actually it was the American Meat Institute that called to the attention of USDA (Ref. 10) and the Food and Drug Administration certain European findings concerning the formation of nitrosamines (Ref. 11)—compounds that have been shown to cause cancer in laboratory animals when fed in large quantities.

Research sponsored by the meat industry has demonstrated that nitrite indeed is effective in inhibiting the outgrowth of botulinal spores (Ref. 12). The Secretary of Agriculture's Expert Panel on Nitrites, Nitrates and Nitrosamines found that "As an anticlostridial agent, nitrite has been the most acceptable ingredient yet found and is responsible for the excellent safety record of commercially produced meats." (Ref. 13).

Other research, focusing on nitrosamines, found that virtually all cured meat products are free of nitrosamines (Ref. 14 and 15). However, very small amounts were detected in some bacon samples after frying (Ref. 16). Tests sponsored by the American Meat Institute demonstrated that reducing added nitrite to 120 ppm and increasing the amount of ascorbate (vitamin C) to the legal maximum had the effect of substantially reducing nitrosamines in fried bacon (Ref. 17). Most of the samples tested had none; some had quantities less than ten parts per billion—amounts where testing methods are not uniformly reliable (Ref. 18). Such unreliability was particularly evident in laboratory cross-check nitrosamine analyses conducted in the course of a 10-plant bacon study. This study involved nitrosamine testing of 154 samples of bacon produced with varying levels of nitrite (0, 40, 80, 120 ppm).

Results of the 10-plant study showed that about 90 percent of the samples were free of nitrosamines, after frying. While tests showed that a few samples did contain nitrosamines, the amounts (10 parts per billion or less) were so small as to raise questions about reliability of the results. Based on this and other information (Ref. 19), the USDA Expert Panel endorsed industry's position that bacon be produced with 120 ppm nitrite and 550 ppm ascorbate or isoascorbate (Ref. 20).

The Department of Agriculture chose not to proceed along the lines of the Expert Panel's recommendations concerning the use of nitrite and ascorbate in bacon, but rather published a notice in the *Federal Register* for October 18, 1977, calling on the industry to submit data demonstrating "whether the use of nitrates and/or nitrites as currently used in the production of bacon results in the formation of carcinogenic nitrosamines during its ordinary processing and/or preparation for eating."

As a result of this action, a variety of research projects was undertaken by AMI as described herein. Provisions have been made for USDA personnel to monitor this research on site at all locations and to take duplicate samples for their laboratory verification of the results. One of these projects was devised to further test the effectiveness of alpha tocopherol (vitamin E) used in combination with two different levels of nitrite and the maximum amount of ascorbate or isoascorbate permitted under current regulations. The protocol was approved by USDA even though that was not a requirement under terms of the October 18 notice. Eight member companies of the American Meat Institute cooperated in the study.

Results of the study (Ref. 21) are submitted with this comment. They clearly demonstrate that tocopherol is beneficial in blocking nitrosamine formation in bacon. If suitable means can be developed to adequately control the amount of alpha tocopherol introduced in conjunction with 120 ppm nitrite and 550 ppm ascorbate or isoa-

scorbate under production conditions, the use of this substance may be an acceptable option. However, it is not known what effect tocopherol may have on the essential function of nitrite in preventing the outgrowth of botulinal spores. Research to obtain information on this point is under way (Ref. 22).

Ascorbyl acetals (Ref. 23 and 24) and TBHQ (tertiary butylhydroquinone) (Ref. 25) also show in research studies that other potential means of satisfying requirements regarding bacon can be postulated. Commercial means for application and control of these additives would require development. Effects on botulinal toxin inhibition would need assessment.

Another potential for bacon processing would involve the use of reduced amounts of nitrite in conjunction with potassium sorbate (Ref. 26).

RESEARCH STILL UNDERWAY

In addition to the data being submitted with this comment, the American Meat Institute is continuing its nitrite research on bacon. Several protocols have been submitted to USDA, and while complete results are not available for submission at this time, we believe they will add significantly to the knowledge concerning nitrosamine suppression.

One study is designed to determine the effectiveness of citric acid in combination with ascorbate for reducing residual nitrite and suppressing nitrosamine formation (Ref. 27).

Another study will assess the effects of using higher levels of ascorbate in combination with 120 ppm of ingoing nitrite; in addition to 550 ppm of ascorbate, as presently permitted by regulations, 750 and 1000 ppm will be tested (Ref. 28).

A third study (Ref. 29) has been designed to test the hypothesis that nitrosamine formation is minimized when a combination of low residual nitrite and high residual ascorbate/isoascorbate is present at the time of frying.

It is anticipated that these studies may lead to the identification of processing procedures which will result in lower levels of nitrosophyrrolidine.

RECOMMENDED ACTION

It is the view of the American Meat Institute that regulatory requirements developed as a result of responses to the *Federal Register* notice must be evaluated in light of their practical application. It should be understood that bacon in the United States is produced with a variety of techniques and with different types of equipment. Requiring a process that would be practical only for certain processors or for certain equipment could easily have an anti-competitive effect and might even put small processors out of business.

Since the use of nitrates and nitrites in curing solutions has a prior sanction under the Food Additive Amendments to the Food, Drug and Cosmetic Act, the Secretary may only take action against these substances if he finds that their use may be hazardous to health. We suggest that most experts who have considered this question have found the threat to human health to be inconsequential. We urge the Secretary to consider all the evidence, including the recently completed Canadian study, where rats, for a lifetime, were fed bacon containing relatively high levels of nitrosamines with negative carcinogenicity findings.

With this comment we are submitting an application of the Mantel-Bryan extrapolations to determine "safe" levels of nitrosopyrrolidine in cooked bacon. This methodology has been employed by the Food and Drug Administration for other purposes (Ref. 30). Mantel (Ref. 31) has applied this method to results of studies by Preussmann, et al (Ref. 32), in which nitrosopyrrolidine was fed to rats, to estimate "safe" levels of nitrosopyrrolidine in fried bacon. The "safe" levels found range from 12 to 124 ppb and may indeed be much higher. A recent USDA survey (Ref. 33) of nitrosopyrrolidine in fried bacon indicated an average of 11.3 ppb, and a range from none detected to 39 ppb.

Based upon the data submitted, AMI suggests that the only reasonable action at this time is to implement the recommendation of both the industry and the USDA Expert Panel that bacon be produced with 120 ppm nitrite and 550 ppm ascorbate or isoascorbate. Any other action is premature until the research underway has been completed and evaluated.

CONCLUSION

Bacon, as produced today, is not a health hazard. It is, however, possible to reduce the formation of nitrosamines in fried bacon by lowering the amounts of sodium nitrite and including sodium ascorbate or isoascorbate. USDA should no longer delay in implementing this. Also, it is anticipated that industry research now underway will lead to even further reduction of nitrosamines in bacon.

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A YOUNG WOMAN'S SUICIDE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. STARK. Mr. Speaker, on February 6, 1978 Lynn Thompson committed suicide. Lynn's death was indirectly caused by cold and rigid laws affecting the disabled's working—laws which must be changed.

Lynn Thompson suffered from muscular dystrophy since early childhood. Her condition was so severe that she was immobile from the neck down and so painful that her hip joints had to be disconnected. Obviously she was confined to a bed.

Lynn was quite an extraordinary and remarkable person who did not let MD prevent her from working. On the contrary, she worked from her bed as a night dispatcher for a Los Angeles based firm; she was so successful that she earned up to $492 a month.

I cannot stress the importance that work had for Lynn. Lynn was struggling to find a meaning and purpose in life. Working was the answer, and as a dispatcher she felt that she was finally accomplishing something with her life. Then the Government stepped in and ruined it.

The Government does not believe in giving the disabled an opportunity to work. Since Lynn exceeded the SSI disability earnings limitation of $230 a month she lost all her benefits, including In-Home Support Services and Medi-Cal. The Social Security Administration further penalized her by forcing her to pay back the $10,000 she received in past benefits. Lynn's hopes of making it in society were dashed as she faced institutionalization. In effect, the SSA ruling crushed her courage and enthusiasm for life.

Here is a person who tried to support herself, but was coldly treated by the Government. The current SSA and SSI laws do not take into consideration the disabled's desire to work.

There is a solution. MARTHA KEYS and I have introduced legislation (H.R. 11240) that will raise the earnings limitation so the disabled will better be able to support themselves. I have introduced a bill (H.R. 11792, H.R. 11793) with 28 cosponsors that will remove the disabled's fear of losing their benefits when searching for work. At present, the law discourages work by providing that if people on SSA or SSI disability get a job and earn over $230 a month, they lose their benefits; then if they lose that job they must undergo a lengthy and bureaucratic hassle to be recertified. I believe we should encourage handicapped persons to work; my bill will do that by categorizing any prior SSA or SSI disability recipient as "presumptively disabled" and immediately eligible for reinstatement of benefits should the fear of losing a job be realized.

Lynn Thompson was one out of 30 million disabled, but her aspirations for working are shared by them all. The time has come to knock down the roadblocks confronting the disabled's opportunity to work and give them their place in the work force. I am inserting in the RECORD, for my colleagues to read, the tragic story of Lynn Thompson.

[From the Los Angeles Herald Examiner]

A YOUNG WOMAN'S SUICIDE

THANKS FOR BEING THE STRAW THAT BROKE THE CAMEL'S BACK

(By Robert Knowles)

Lynn Thompson, 27, overcame crippling muscular dystrophy three years ago to find a job she could handle—secretly.

Last month, she committed suicide after receiving a computer-written letter from the Social Security Administration ending all government aid and saying she now owed $10,000 for past benefits.

Mason Rose, a member of the 12-member county commission, yesterday told the Board of Supervisors that the young woman's death was needless—she had never been told of a new state law allowing the working disabled to keep Medi-Cal and local welfare aid.

In a farewell tape recording, Ms. Thompson admitted she knew her $490-a-month job as a night telephone dispatcher violated federal guidelines allowing a maximum of $230 in earned salary.

But the rent on her San Fernando apartment was only $11 a month less than her federal grant of $390. And she had to have a place large enough for the live-in attendant supplied by the county under the Homemaker Chores program.

Ms. Thompson's desire to work even produced a news account of her job-hunting search in a local publication, quoting her as saying: "you learn early to roll with the punches when you are crippled."

Her new employers paid tribute to her "unfailing sense of humor . . . always ready to encourage someone else who may be a bit down."

She took the dispatcher job, working nights from her apartment. She kept the federal money, the attendant and Medi-Cal benefits when needed.

When Social Security found out and sent the form letter, Rose said, she mistakenly thought she would lose everything but the job.

"Someone takes their life because of bureaucratic paperwork," said Supervisor Kenneth Hahn. "People get hardened sometimes, working day after day, it's just another case."

The supervisors said they would make sure disabled county welfare recipients knew of the change in state rules allowing earnings of up to $636 a month.

"If only we had known about this sooner," said Supervisor James Hayes.

Ms. Thompson's death, unofficially thought to be from an overdose of barbiturates pending an inquest, came as she dictated some rambling thoughts to relatives, and ends:

"Anyway, I need a rest.

"I don't want you to think of this as suicide, think of it as (rest and recuperation) forever. And I know I need a rest so this has gotten to be too much of a hassle—the whole thing.

"It's just a matter of time before the county catches up with me anyway so they'll cut me off, too. Then I would be in trouble, without the attendant money.

"No one's to blame. I mean, it's my own doing, you know? I just didn't feel like going through this hassle anymore.

"So, anyway, like I said . . . I've got a few things that I've distributed and . . . don't worry. Everything's cool. I just (want) all of you to know that I'll miss you. I love you very much, I couldn't ask for a better family or friends, even if I could have selected them myself. So, I love you all very much . . .

"I have a couple more requests. First, there's no need for a big hullabaloo. Just plant me and get it over with. And, secondly, give the Social Security Office a message for me: tell them thanks for being the straw that broke the camel's back.

"I realize the system's here to help people but it needs some going over. It'd be great if I could work or support myself and still receive the full attendant benefits and, of course, some kind of medical benefits.

"But the county has the same margins. Anything over $296 is considered extra money. Therefore, anything I make over $296, that's how much I can be shortened in the months to follow.

"So it makes no difference if I'm working 15 hours a day Monday through Thursday, 8 hours a day Saturday and Sunday, or if I worked an extra day or if I worked holidays to make extra pay. It doesn't make any difference. They're still going to cut me off that much more, you know.

"And I know since we (the answering service firm) have profit sharing, that could be as much as $200 or something . . . it's in a quarter, but still, you know, it all adds up.

"And so if it's going to be reported, everything's going to be on the up and up, I have to report it, so that's another shortage.

"So, really, you're working for nothing. So I'm still working the same amount of time for the $296, so it doesn't make any sense. I've got nothing against work . . . but it doesn't make any sense. If I got to the point where I can make, you know, $1,200 or $1,500 a month, fine they can all keep their money and their medical insurance. I wouldn't need it, then, you know, but $492 on salary . . . it's just not enough to pay most expenses."

Members of a reform coalition aimed at changing laws for the disabled said they plan to "confront" local Social Security Asst. Commissioner Hy Geller at his office today.

Douglas Martin, director of the West Side Community for Independent Living said:

"A person's disability needs continue even if they work . . . Social Security (rules) prevent people from working. We want the right to work and survive."

WHAT'S IN THE FOOD?

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1978

● Mr. WHALEN. Mr. Speaker, from time to time I use this forum to help educate my colleagues and the public about the need for better and more complete labeling of food products. This has included the insertion in the RECORD of various newspaper reports as well as accounts of research being done by my staff and others.

Today, I wish to call attention to an article that appeared this past weekend in the Baltimore Sun. Written by Andrea Pawlyna, this piece explains quite well the need for better food labeling and

discusses the chief legislative proposals for dealing with this problem.

At this point in the RECORD, I would like to insert Ms. Pawlyna's story. The text follows:

CONSUMER MYSTERY: WHAT'S IN THE FOOD?

(By Andrea Pawlyna)

A bottle may appear to contain real orange juice but the label says it's "diluted orange juice beverage" with 10 per cent orange juice.

Another product that looks and tastes like creamy peanut butter is called "peanut spread" because it contains less than 90 per cent peanuts.

A food that resembles but is nutritionally inferior to a certain product (mayonnaise, for example) must be labeled "imitation" while a food concocted in a laboratory (like Eggbeaters) which is nutritionally equal to the food it copies is called a "substitute."

For consumers, the variety of food labels may make choosing between products a bewildering task—one made all the more so consumer groups say, by labeling laws with enough loopholes to keep the contents of the boxes, jars and cans on supermarket shelves largely a mystery.

One of the most criticized gaps in the law concerns the percentage of sugar in presweetened cereals. Some cereals are more than 50 per cent sugar, yet food processors need not say so on the label.

In fact, processors may disguise the way sugar appears on a label by calling it something else, such as corn syrup or dextrose. General Mills' Lucky Charms, a marshmallowy cereal analyzed as containing 50.4 per cent sugar, lists three sweeteners (sugar, corn syrup and dextrose) among its eight principal ingredients.

FLAVORS, COLORS UNSPECIFIED

Another major labeling deficiency singled out by consumer groups involves chemically added flavors and colors. Instead of naming each flavor or color specifically, the law merely requires that they be listed under the broad classification "artificial flavor" or "artificial color."

"Some of these chemicals are questionable substances. It's important to list each one so people know what they are buying," says Ellen Haas, of the Community Nutrition institute, and activist group which concentrates on food and labeling issues.

Indeed, few of the 1,700 artificial flavors on the market have been well tested, leaving consumer groups unsure about their safety.

Colors, however, cause the most worry. These chemicals, derived from coal tar dyes, have become increasingly controversial because of their links to cancer, allergies and hyperactivity in children.

Red No. 2 and Red No. 4 (the coloring added to maraschino cherries) were banned in 1976 as suspected carcinogens. They were replaced by Red No. 40, which itself is being questioned.

Yellow No. 5, widely used in candy, vitamin pills and soft drinks, causes allergic reactions in an estimated 50,000 to 100,000 Americans—the same people who are sensitive to aspirin, according to the Food and Drug Administration. Common symptoms are hives, wheezing, difficulty in breathing and runny noses.

Given such labeling inadequacies, consumers who react to chemical additives must either continually experiment with the foods they eat or avoid certain ones altogether. The FDA, however, has proposed a specific labeling requirement for one color—Yellow No. 5—since it affects so many.

But consumer activists regard this as a small victory (since there are nine other colors still unlisted) and they wonder why so little is being done about better labeling.

"It's a shame people have to put up with such a lack of information," says Michael Jacobson, director of the Center for Science in the Public Interest, a nonprofit, Washington-based group which has long advocated full disclosure of ingredients. "People are tremendously concerned about what they eat."

IMPORTANT TO ALLERGIC PEOPLE

People who suffer from allergies especially need to rely on food labels. Peanuts, chocolate, milk, wheat and eggs are all common foods yet for some people, any one of them can cause vomiting, abdominal pain, asthma, difficulty in swallowing and severe shock which can lead to death.

In extremely sensitive individuals, death can come in minutes as it did to a 10-year-old Boston boy several years ago. The boy, who was violently allergic to peanuts, had stopped by a friend's house one afternoon for ice cream.

Although he checked the carton carefully, he could not have known the ice cream was whipped with peanut butter because no ingredients were listed on the label.

Representative Benjamin Rosenthal (D., N.Y.), sponsor of a food labeling bill pending in Congress, believes that nearly one out of three Americans needs to know exactly what is in the foods they eat. "Some studies have determined allergy incidence as high as 38 per cent. Add to this the number of people who are on low cholesterol diets, low salt diets or who must avoid foods for religious reasons and we are no longer discussing merely a few people," he says.

Well known for his pro-consumer stands (among other things, he sponsored the recently defeated federal consumer protection agency), Mr Rosenthal accuses the food industry and the FDA of collusion in trying to conceal the ingredients in many foods. "Thanks to the FDA, the present law has more holes than Swiss cheese," he adds.

Actually, the only absolute requirement the FDA makes is that every label show the name of the product, the net contents or net weight and the name and place of the manufacturer, packer or distributor.

Beyond that, consumer groups claim the regulations are a hodgepodge of requirements rife with exemptions. For example, one regulation requires that food labels list their ingredients in order of predominance.

"STANDARDIZED FOODS" EXEMPTED

But then the FDA exempts some 400 products (nearly half the food sold) from listing their basic ingredients. These products, described as "standardized foods," include such common items as enriched white bread, noodles, macaroni and mayonnaise.

The term "standardized" (which dates back to the 1930's) means that each kind of food—all strawberry preserves or all flour—must adhere to a basic recipe for that food found in the Code of Federal Regulations.

Such standards were to prevent unscrupulous food processors from adulterating or diluting foods and to assure consumers that certain products would contain the same ingredients regardless of the manufacturer. But with today's stricter manufacturing controls, consumer groups regard the standardizing system as outmoded and an excuse to withhold ingredients. "It's just another way to hide information," Mr. Jacobson says.

But even when ingredient labeling is required, consumer groups contend too much information is missing. For example, listing ingredients by percentage is not required. Without percentages, consumers cannot tell how much beef there is in a can of beef vegetable soup. Or how much fruit, sugar and water a jar of applesauce contains. (The few exceptions where percentages must be listed are seafood cocktails—shrimp cocktails, for example—and certain fruit and vegetable drinks that contain natural juices.)

Consumer groups are equally critical of the net weight requirement which tells the weight of the product exclusive of packaging—not how much solid food there is versus liquid.

Consumers Union, the nonprofit, public interest group which publishes *Consumer Reports*, petitioned the FDA for a change to another method, called "drained weight," in 1973. Basically, this method measures the weight of the solid food after processing, less any excess liquid. The weighing would take place a minimum of 30 days after canning. "By letting the food sit for a while, we feel this more accurately reflects what the consumer is getting," explains Mark Silbergeld, head of the Consumers Union Washington offic.

It took more than two years but the FDA finally issued a drained weight proposal which was strenuously opposed by the canning industry. Their main objection was the month-long holding period which, the industry claimed, would cost an estimated $100 million a year in lost revenues.

The canners' opposition led to a second proposal which gives industry the option of declaring another weight listing—this time for "solid" or "fill" weight. This method measures the weight of the solids before processing, a much less costly system for industry but one which Consumers Union contends is less accurate since processing alters a food's weight.

So far, the FDA has not acted on either proposal. It has, however, permitted canners to experiment with solid weight listings on the labels of canned fruits and vegetables. The agency expects to make a final decision after July, 1979, when the comment period for the proposal expires.

Nutritional labeling, another area of concern to consumer groups, is required only if nutrients are added to a food (such as "fortified" cereals or fruit drinks) or when nutritional claims are made on the label or through advertising.

Besides protein, at least seven nutrients must be listed—vitamin A, vitamin C, thiamin (vitamin B1), riboflavin (vitamin B2), niacin, calcium and iron—and shown in percentages of the U.S. Recommended Daily Allowances. If the label says a food supplies 35 per cent of the USRDA for vitamin C, an additional 65 per cent is needed for that day.

But despite warnings against diets high in sugar (which causes tooth decay), sodium (which contributes to high blood pressure and strokes) and saturated fat (which contributes to heart disease, the nation's leading killer), the FDA requires no labeling for these items.

Yet of all the labeling practices, perhaps none is so muddled and unhelpful to consumers as the system used for grading foods. Only a few foods are graded, such as meat, poultry, eggs, milk and fresh fruits and vegetables. But the system is voluntary so some brands may carry grades while others do not. Only about 55 per cent of the meat consumers buy, for example, carries a food grade.

What makes the system confusing for consumers is that meats are graded differently from eggs while eggs, in turn, are graded differently from fruits and vegetables.

Meats, for instance, are stamped (in order of value) prime, choice, good, standard or commercial. Eggs are graded AA, A and B. Fresh fruits and vegetables are graded Fancy, A, B and C. Faced with so many grading styles, consumers might assume that an A grade for fruit is better than Fancy simply because it carries the highest letter grade.

Moreover, the grading system is based on characteristics such as taste, flavor and appearance rather than nutritional quality. Eggs, for example, are graded on the firmness of their yolks or the amount of air space in the shell. Prime beef may have more marbling (and hence a higher fat content) than lesser grades yet it is considered a superior meat.

Over the last several years, consumers have become more interested in food labeling and

growing numbers of them have expressed dissatisfaction with the inconsistencies and loopholes in the food labeling laws, an FDA spokesman says. "It's been one of the more persistent areas of interest," says Robert Lake, regulations coordinator for the agency's Bureau of Foods.

In response, the FDA will begin reviewing all of its food labelings regulations this spring. According to FDA Commissioner Donald Kennedy, the goal is to turn a "confusing set of policies into a comprehensive strategy [that will help] consumers in guiding their own nutritional planning."

Meanwhile, consumer groups continue to monitor the progress of Mr. Rosenthal's bill which, he says, would do much to "clear up the confusion and . . . give consumers the information they need."

The major provisions would require:

That all foods list their ingredients by percentage, including all additives and preservatives, by their common or usual name.

That all foods carry nutritional listings, including fat content, vitamins, protein, fats and fatty acids, calories and other appropriate nutritional data.

That foods show both the net weight and drained weight for canned or frozen products.

Among the bill's other provisions are the development of a uniform system of food grading based upon nutritional quality and wholesomeness; and labeling statements for perishable and non-perishable foods indicating the date after which such foods should not be sold as well as instructions for storage at home and warning notices on labels alerting consumers to ingredient changes.

A second food labeling bill, introduced by Representative Paul Rogers (D., Fla.), is less sweeping and would give broad authority to the FDA to require nutritional labeling, ingredient percentages and listings for artificial flavors. The bill does, however, require labels to list artificial colors and to show the last sale date for perishable and semi-perishable foods.●

SENATE—*Friday, April 7, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 11 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the first Psalm:

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.

But his delight is in the law of the Lord; and in his law doth he meditate day and night.

And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

The ungodly are not so: but are like the chaff which the wind driveth away.

Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish.

Guide us, O Lord, by the truth of Thy holy word.

And to Thee shall be the everlasting praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 7, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader and the acting minority leader have 3 minutes each under their control before the recognition of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:45 A.M. ON MONDAY, APRIL 10, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRODUCTION OF NEUTRON WEAPONS

Mr. ROBERT C. BYRD. Mr. President, on Tuesday, in response to stories that were appearing in the media, I called President Carter to ask about his reported decision to cancel the production of the so-called neutron bomb warhead. He assured me that no decision had been made to cancel the production of that weapon.

On Wednesday morning at the leadership breakfast the President reiterated that position. On yesterday, in the face of persistent rumors that indeed the President had decided not to go forward with the production of the weapon, I called again and urged that such a decision not be made unless concessions were forthcoming from the Soviet Union, pointing out that the weapon is an antitank weapon and unless the Soviets were willing to reduce several thousand tanks and some men we ought not to make a decision, an absolute decision, that we will not produce the weapon.

Now the matter of deployment is another matter. It is a matter on which our Western European, our NATO allies certainly have to make a decision for themselves. In that regard I think perhaps they have not been vocal enough either in this matter in support of producing the weapon.

But on yesterday, following my conversation with the President, I wrote to him a letter which I shall now read into the RECORD.

APRIL 6, 1978

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was pleased that, in our conversation earlier today, you reiterated your denial of news stories which speculated that you had decided against production of neutron weapons.

As you know, my personal feeling is that the weapons should be produced, especially in the absence of any acceptable concession from the Soviet Union. I hope that you will decide in favor of the weapons, or, at the very least, defer your final decision until it can be determined whether the Soviet Union is willing to take the steps that would make the production and deployment of neutron weapons unnecessary.

Yours is a hard decision, I know. The Senate wrestled with the question of neutron weapons for several days. Finally, however, the majority of Senators decided the United States should proceed with the weapons. Continued Soviet intransigence, continued Soviet emphasis on military superiority in Europe, convinces me that the decision was the right one.

I strongly believe that negotiations with the Soviet Union must be conducted from a position of strength. For every concession given, there must be a concession received. The neutron weapons would seem to be an ideal bargaining chip to balance the Soviet force of 7,000 sophisticated tanks in Eastern Europe—a force that, according to reports, could most effectively be neutralized by the neutron weapons. It would be naive for America to reject the neutron weapons in the hope—merely in the hope—that the Soviets would match our unilateral gesture of disarmament.

After all, the Soviet Union reacted to the Senate's decision on the neutron weapons not with a call for a mutual reduction of arms, but rather with a massive propaganda campaign against the weapons. They should

not be encouraged to believe that they can gain concessions through propaganda, and not have to enter into serious, mutually-beneficial, negotiations.

Certainly, the Soviet Union must realize one of the most definite facts of the situation: If the United States decides not to proceed with the neutron weapons, and does so without any parallel reduction in Soviet strength, the chances of any SALT agreement being ratified by the Senate are seriously jeopardized.

I wish the neutron weapons were not necessary. I wish no weapons were necessary. But, unfortunately, the world in which we live differs from the world in which we would like to live. Reality demands that we match the Soviet Union strength for strength, as you said so well in your March 17 speech at Wake Forest College.

Therefore, I urge that, unless the Soviet Union is willing to significantly decrease the threat it poses in Europe, you proceed with production of the neutron weapons.

Sincerely,

ROBERT C. BYRD.
Majority Leader.

Now, Madam President, let me simply stop with the inclusion of the letter in the RECORD because I think the President will be addressing this matter himself.

Mr. HARRY F. BYRD, JR. Madam President, will the Senator yield?

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. I would like to associate myself with the remarks just made by the able Senator from West Virginia.

It seems to me that the Senator from West Virginia, in his remarks to the Senate and in his letter to the President, put this matter in clear perspective. I think it would be a great mistake to unilaterally cease production of the neutron weapon, and I hope the President will heed the advice of the distinguished majority leader of the Senate.

Mr. ROBERT C. BYRD. I thank my distinguished friend from Virginia.

Mr. STEVENS. Madam President, I commend the distinguished majority leader for the letter he read into the RECORD because it again demonstrates his leadership in areas of national concern. I, too, support the statement he has made in that letter.

PANAMA CANAL TREATIES

Mr. STEVENS. Madam President, while the distinguished majority leader is here I wish to ask another question. At a previous time there was a situation where we sought production of a letter that concerned the Panama Canal treaties. The press now reports that there are two letters being circulated by the Government of Panama. One apparently a letter that seems to be semipublic, at least, although the Senator from Alaska has not received a copy of it yet that is reportedly being circulated by Panama at the United Nations discussing the DeConcini reservation; and a second letter sent by the Panama leader, General Omar Torrijos, to certain heads of state that apparently has not been made public as yet.

I wonder if the distinguished majority leader would do the Senate the courtesy of requesting the Department of State to produce those letters, so that we might consider them in the course of this debate.

Mr. ROBERT C. BYRD. I shall be glad to do that. I have been made aware of the letters. I have a feeling that the State Department will make them available without the request, but I shall do that.

Mr. STEVENS. I thank the Senator. I know I am one of those in the strange position of being in favor of a new relationship with the Government of Panama, but very disturbed about the Panamanian domestic procedures that are available to the current head of state in Panama should he choose to circumvent the reservations, declarations, or understandings agreed to by the Senate.

I attempted to document that situation with regard to the previous treaty, which has been given advise and consent by the Senate, and the amendment that I shall call up to article XIV again deals with the problem of what happens if Panama, through its own domestic procedures chooses to disregard a reservation or amendment attached to the resolution of ratification by the Senate of the United States and delivered to Panama.

My amendment would have the effect of determining that should General Torrijos, using the powers that he has in Panama, disregard the DeConcini reservation or other reservations or amendments to either of the resolutions of ratification, that action would, in effect, abrogate the two treaties involved, and declare it the U.S. position that the existing treaty relationship with Panama remains in effect.

I know this will be very controversial, but again I think it is important for us to know exactly what position General Torrijos has taken, not only in the public letter but, if possible, in connection with the letter that has reportedly been sent by the Panama leader to the heads of state.

It appears to me that he is trying to create an international climate in which he can disregard the conditions placed upon the ratification of these treaties by the U.S. Senate through either the leadership amendment or reservation such as the DeConcini reservation.

Mr. ROBERT C. BYRD. Mr. President, in response to the request from the distinguished Senator from Alaska, Mr. STEVENS, I would like to have printed in the RECORD the letters and documents he referred to earlier. These have been supplied to me by the State Department. Included is the United Nations documents based on the letter from the Permanent Representative of Panama to the United Nations to the United Nations Secretary General. I am also including a translation of the letter sent by General Torrijos to various heads of state. This translation of the Torrijos letter does not contain the full text of all the documents referred to therein, as these are contained in the United Nations documents.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a statement released by the Panamanian Foreign Ministry today which is directly relevant to the earlier communications from the Panamanian Government and to various press reports.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

(Letter dated 28 March 1978 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General)

I have the honour to send you herewith the note verbale from this mission dated 28 March 1978, together with the following documents:

(a) Resolution of ratification of the Treaty concerning the permanent neutrality of the Panama Canal, adopted by the United States Senate on 16 March 1978 (see appendix I);

(b) Statement by Senator Dennis DeConcini (see appendix II);

(c) Statement by Senator Edward Kennedy (see appendix III);

(d) Communiqué from the Ministry of Foreign Affairs of Panama, issued on 27 March 1978 (see appendix IV).

In compliance with instructions from my Government, I request you to have the note verbale and the above-mentioned documents distributed as documents of the General Assembly under item 50 of the preliminary list.

JORGE E. ILLUECA,
Ambassador, Permanent Representative.

ANNEX: NOTE VERBALE DATED 28 MARCH 1978 FROM THE PERMANENT REPRESENTATIVE OF PANAMA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Republic of Panama to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to inform him that His Excellency Brigadier General Omar Torrijos Herrera, Head of Government of the Republic of Panama, has addressed a letter to the Heads of State and Heads of Government of the States members of the international community.

General Torrijos's letter and the documents enclosed make reference to the vote which took place on 16 March 1978 at the United States Senate on the Resolution of Ratification of the Treaty concerning the Permanent Neutrality of the Panama Canal. In this resolution, approval to the ratification was granted subject to a number of amendments, conditions, reservations and understandings, inserting among them a pre-condition to American acceptance of the Neutrality Treaty, known as the "DeConcini Amendment" (see clause (b)(1) in the attached clipping of the United States Congressional Record, vol. 124, No. 38, pp. S3857–3858 (appendix I)).

According to its proponent, the "DeConcini Amendment" is intended to give to the United States of America the unilateral and perpetual right to "take military action on Panamanian soil without the consent of the Panamanian Government", pretending that said amendment must be construed to permit the United States to intervene in Panama in the event of labour unrest, strikes, a slow-down, or under any other pretext labeled as interference with Canal operations (see text of Senator Dennis DeConcini's statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States Congressional Record, vol. 124, No. 38, pp. S3817–3818 (appendix II)).

Not only does the amendment make no reference to the régime of neutrality, but, as stated by Senator Edward Kennedy, who opposed the DeConcini Amendment, "Panama has waited 75 years since its independence to end American occupation of its

heartland. It must wait another 22 years before it achieves full control over its national territory." Now Panama is asked, in Kennedy's words, "to accept an amendment which has the ring of military interventionism—not just during this century, but for all time" (see text of Senator Edward Kennedy's statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States Congressional Record, vol. 124, No. 38, p. S3824 (appendix III) and the attached text of the communiqué of the Panamanian Ministry of Foreign Relations, dated 27 March 1978 (appendix IV)).

Since the Treaty provides for accession by all States to the Protocol whereby the signatories would adhere to the objectives of the Neutrality Treaty and agree to respect the régime of neutrality, the Panamanian Head of Government has considered it his duty to address this letter to the Heads of State or Heads of Government of the States members of the inernational community that in so many instances have offered their solidarity and support to the Panamanian nation in its long struggle to reach a peaceful solution to the Panama Canal question based on the recognition of her sovereignty over the totality of its national territory.

APPENDIX I: RESOLUTION OF RATIFICATION OF THE TREATY CONCERNING THE PERMANENT NEUTRALITY OF THE PANAMA CANAL ADOPTED BY THE SENATE OF THE UNITED STATES OF AMERICA ON 16 MARCH 1978

Resolved, (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, together with the Annexes and Protocol relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-fifth Congress, first session), subject to the following—

(a) Amendments:

(1) At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

" 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

" 'This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.' "

(2) At the end of the first paragraph of Article VI, insert the following:

"In accordance with the Statement of Understanding mentioned in Article IV above: 'The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in the case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.' "

(b) Conditions:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interferred with, the United States of America shall have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

"Nothing in this Treaty shall preclude Panama and the United States from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or maintenance of defense sites after that date in the Republic of Panama that Panama and the United States may deem necessary or appropriate."

(c) Reservations:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States by the American Battle Monuments Commission, including the display of the flag of the United States, such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States.

(2) The flag of the United States may be displayed, pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, at such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States.

(3) The President—

(A) shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States; and

(B) shall have announced, immediately after the date of exchange of the instruments of ratification, plans, to be carried out at the expense of the United States Government, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States for reinterment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B)(i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operation and maintenance, shall, unless the amount of the operating revenues of the Canal exceeds the amount needed to carry out the purposes of such article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) Understandings:

(1) Paragraph 1(c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of both Parties in maintaining their domestic fleets;

(4) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(5) the interest of both Parties in maximizing their international commerce.

The United States and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement "to maintain the regime of neutrality established in this Treaty" in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes take unilateral action to defend the Panama Canal against any threat, as determinated by the Party taking such action.

(3) The determination of "need or emergency" for the purpose of any vessel of war or auxiliary vessel of the United States or Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in the annexes or the Protocol relating to the Treaty, or in any other agreement relating to the treaty obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits or international military education and training to the Republic of Panama.

(5) The President shall include all amendments, reservations, understandings, declarations, and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama.

APPENDIX II: STATEMENT MADE BY SENATOR DENNIS DECONCINI IN THE SENATE OF THE UNITED STATES OF AMERICA ON 16 MARCH 1978

Mr. President, I thank the Chair for his indulgence in calling the Senate to order.

For the last three (3) months, I have

argued that the treaties as drafted did not appear to contain sufficient safeguards for the United States. But I have also stated publicly that I believed a new treaty with Panama was essential; that history had bypassed the era of simple colonialism when large powers bullied the small. Until recently, I believed that it would be possible for the Senate to make some constructive amendments to the treaty that would satisfy the needs of Panama—but not at the sole expense of the American people. However, as every member of this Chamber knows, the administration was unwilling to accept the slightest changes in the text of the agreement.

Because of this recalcitrance, I suspect that a number of potential supporters of the treaty were lost. Together with Senator Ford, I offered a number of amendments to the treaty. When it became clear that no amendments except the so-called leadership amendments would be accepted, I began to search for alternatives that would accomplish the desired objectives.

After extensive consultations with experts from the executive, Congress, and the academic community, I became convinced that it would be possible to achieve a clearer understanding of American rights and responsibilities under the treaty through the device of an amendment to the resolution of ratification in the nature of a condition precedent to American acceptance of the treaty itself. Such a condition will be binding on the Republic of Panama.

Therefore, I have recast my amendments in this form. I have assured the President that if my amendment No. 83 to the resolution of ratification is accepted by the Senate that I will vote in favor of the Neutrality Treaty. In turn, the President assured me yesterday in a meeting we had at the White House that he would accept and support my amendment. To the best of my knowledge, that is how things stand as of this moment.

I would like to stress that I am offering this amendment in the name of the people of Arizona. Like Senator Ford, I too have crossed my State and spoken personally to hundreds, perhaps thousands of concerned citizens. As a whole, my constituents do not approve of the Panama Canal treaties. However, they are willing to accept their necessity if American rights to insure open and free access to the canal are clearly spelled out. That is all my amendment intends—but that much at least is essential.

AMENDMENT NO. 83 AS FURTHER MODIFIED

Mr. DECONCINI. Mr. President, I would like to call up my amendment No. 83, as modified. I would ask, Mr. President, to further modify such amendment. A few of these changes are purely technical and drafting changes.

The PRESIDING OFFICER. The Senator will suspend until the clerk states the amendment.

Mr. DECONCINI. Mr. President, I have the clarified drafted change amendment that I would ask the clerk to state.

The PRESIDING OFFICER. The clerk will state the amendment.

The second legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) and Mr. FORD propose amendment numbered 83, as further modified, as follows:

Before the period at the end of the resolution of ratification, insert the following:

"subject to the condition, to be included in the instrument of ratification of the Treaty to be exchanged with the Republic of Panama that, notwithstanding the provisions of Article V of any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be".

Mr. DECONCINI. Mr. President, the changes are technical and draft changes. The one substantive change is to include the phase "according to its constitutional processes," after the words "to take such steps as it deems necessary" and before the words "including the use of military forces."

I send to the desk a clean copy and I thank the Chair and the clerk for reporting the same.

I also would like to ask that Senator CANNON, Senator CHILES, Senator NUNN, Senator LONG, Senator TALMADGE, Senator PAUL HATFIELD, and Senator HAYAKAWA be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The purpose of this amendment is quite simple, Mr. President. It is designed to establish a precondition to American acceptance of the Neutrality Treaty. That precondition states that regardless of the reason and regardless of what any other provision of the Neutrality Treaty might say or what interpretation it might be subject to, if the Panama Canal is closed, the United States has the right to enter Panama, using whatever means are necessary, to reopen the canal. There are no conditions, no exceptions, and no limitations on this right. By the terms of the amendment, the United States interprets when such a need exists, and exercises its own judgment as to the means necessary to insure that the canal remains open and accessible.

A good deal of the discussion involving the the Panama Canal treaties has centered upon threats to the canal which might come from third parties—more specifically—the Communist countries. While this concern is certainly justified, I have been equally bothered by the possibility that internal Panamanian activities might also be a threat to the waterway, should we give it up. Labor unrest and strikes; the actions of an unfriendly government; political riots or upheavals—each of these alone or in combination might cause a closure of the canal. In February 1975, for example, there was a "sickout" which disrupted the efficient operation of the canal. Yet as I read the treaties, there does not appear to be any specific guarantee that a disruption of the canal arising out of internal Panamanian activities can be swiftly and adequately dealt with.

Although General Torrijos has brought a welcome degree of stability to Panama in recent years, it can be argued that the history of Panama is one of substantial political instability and turmoil. Under normal circumstances, the United States would not or should not contemplate intervening in the internal affairs of another nation. However, there are extremely unique and special circumstances surrounding the relationship between the United States and Panama. Since the beginning of this century, the United States has exercised de facto sovereignty over the Panama Canal Zone, and has been responsible for the defense and operation of the canal. We have maintained this control over the canal for one very simple reason: The Panama Canal is vital to the security, economic and military of the United States. This fact must be recognized in any treaty which contemplates a fundamental change in the American-Panamanian relationship.

The amendment contains a very specific reference to the use of military force in Panama. I believe these words are absolutely crucial because they establish the American right—which I am not convinced is adequately provided for either in the body of the treaty or the leadership amendment—to take military action if the case so warrants. It further makes it clear that the United States can take military action on Panamanian soil without the consent of the Panamanian Government.

The question of consent is also crucial. Since the main thrust of this amendment is directed toward situations in which the canal is closed because of internal difficulties in Panama—difficulties like a general strike, a political uprising, or other similar events, the consent of the Panamanians to take action would not make sense. If America is to have any rights at all under this treaty, it must have the right to act independently to protect the canal and to keep it open.

I believe that the question of an attack on the canal by a third party aggressor is adequately dealt with in the treaty. There seems to be little question that under such circumstances the United States does have the right to act with the Panamanians to protect and defend the canal. Thus, my concerns have centered around two problems. The first is the one expressed in the amendment now on the floor. The other is the question of a continued military presence.

We have just adopted an amendment by Senator Nunn that I had the privilege of cosponsoring. It provides that the United States and Panama may conclude an agreement providing for a continued American military presence in Panama after the year 2000. This change is important because it may be vital to both countries to provide for such presence while at the same time not disrupting the regime of neutrality that is established.

It was my desire, and the desire of Senator Nunn, to allow for a continued presence without a new treaty that would, by its very nature, call into question the regime of neutrality. It is much more appealing to have that right embodied in the very document that creates the regime of neutrality. Therefore I compliment the Senator from Georgia in his efforts to gain acceptance of the military presence reservation.

I hope the Senate will support the amendment I offer to the resolution of ratification providing for America's right to keep the canal open. I am also happy to announce that the President of the United States has endorsed this change, and has indicated that he believes it to be a constructive step in fulfilling the goals of the Neutrality Treaty.

I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation. My amendment to the resolution of ratification is precautionary only; and it is based on the long history of American stewardship of the canal. It recognizes the very special relationship that the Panama Canal has to American security.

I certainly hope, Mr. President, that if this right is attached to the treaty it will never need to be exercised. Yet, it is important that the American people know that should the need arise, the United States has sufficient legal sanctions to act.

Mr. President, I commend this change to my colleagues and urge their support.

Mr. President, I ask for the yeas and nays on this amendment.

APPENDIX III: STATEMENT MADE BY SENATOR EDWARD KENNEDY IN THE SENATE OF THE UNITED STATES OF AMERICA ON MARCH 16, 1978

MILITARY INTERVENTION IN PANAMA

Mr. President, we have before us an amendment to the resolution of ratification of the Panama Canal Neutrality Treaty which would permit the "use of military force in Panama" by either party, "if the canal is closed or its operations interfered with."

I am opposed to this amendment. It stirs up what is already an emotional issue in Panama, without adding to rights of the

United States already recognized by the treaty.

From the outset, the people of Panama—and all of Latin America—have rightly opposed U.S. military intervention in their internal affairs. That is why the negotiators, the administration, and the Senate leadership have all carefully defined and limited the expression of our military rights to the defense of the neutrality of the Panama Canal. Even the reservation on defense arrangements, adopted by the Senate yesterday, provided that Panama and the United States could jointly—I emphasize jointly—agree to America military deployments, after the year 1999, which facilitate performance of "responsibilities to maintain the regime of neutrality" over the Panama Canal.

Now we have an amendment which starkly insists on our right to use military force in Panama—always the most sensitive issue from its standpoint as a small, proud, sovereign state.

Now we have an amendment which makes no reference to the regime of neutrality which it is our responsibility to defend.

Now we have an amendment which could—but must not—be construed, instead, to permit the United States to intervene militarily on almost any pretext. A strike, a slowdown, even inefficient operation of the canal could—but must not—be used as a pretext to use force, in order to "restore the operations of the canal".

Mr. President, Panama has waited 75 years since its independence to end American occupation of its heartland. It must wait another 22 years before it achieves full control over its national territory. Now we are asking Panama to accept an amendment which has the ring of military interventionism—not just during this century, but for all time.

I recognize that acceptance of this amendment may facilitate ratification of the Panama Canal Treaties. If the amendment is accepted, I believe that our Nation is honorbound to strictly limit its interpretation and not, as General Torrijos warned in Washington last October, to allow the treaties to "become an instrument of permanent intervention" in Panama.

Fortunately, our right of military action continues to be defined by article IV of the Neutrality Treaty, as amended by the Senate.

This is our right "to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal".

This is our right to assure "that the canal will remain open, secure and accessible".

This is not a right to take action "against the territorial integrity or political independence of Panama", prohibited under article IV of the treaty.

This must not be a right to intervene in the Panama Canal on any pretext labeled as interference with canal operations.

With these understandings, Mr. President, we can hope to avoid continuing confrontation between Panama and the United States. Without them, we can look forward to a continuation of the unfairness and the resentment which has characterized our treaty relationship since 1903.

APPENDIX IV: COMMUNIQUÉ FROM THE MINISTRY OF FOREIGN AFFAIRS OF PANAMA, ISSUED ON MARCH 27, 1978

In our communiqué issued on 16 March, we expressed the decision of the Government not to issue any statement regarding what the Senate had agreed to in relation to the Treaty concerning the permanent neutrality and operation of the Panama Canal. We gave as the reason for such a decision the fact that the Panamanian people had approved two treaties, that is to say, the Neutrality Treaty and the Treaty on the Panama Canal. Until the Senate decides the fate of the latter, it will not have responded to the decolonization programme approved by the Panamanian people.

We also stated in the above-mentioned communiqué that the Government as a whole would study the conditions under which the Senate had given its advice and consent to the Neutrality Treaty and those that it might attach to a decision on the Treaty on the Panama Canal. We have begun that process. But inasmuch as the liberation process is a national undertaking and since, before taking any decision, each citizen must have full knowledge of all the understandings of the Senate regarding the treaties, the Ministry of Foreign Affairs has deemed it appropriate to publish the text of the Senate resolution concerning the Neutrality Treaty without waiting for the official text to be delivered to us through the usual channels.

We are living a crucial moment in our history. Now, more than ever, our country demands from its sons serenity, dignity and a sense of national unity.

Panama sees its futures with the serenity of a country engaged in an irreversible process of decolonization.

We must remember that only the peoples that love freedom can be free. Panama has opted for its definitive freedom. In this process we have the decisive support of the peoples of the whole world, as was seen from the session of the Security Council held in Panama in March 1973. On that occasion the world, faced with the veto of the United States delegation, vetoed the United States for not removing the causes of the conflict engendered by the presence of a foreign Government within Panamanian territory.

We recommend to our fellow citizens to study objectively the documents published today in Spanish and English, so that they might assist the Government in taking the most patriotic decision which, as stated by General Omar Torrijos Herrera, Head of the Government of Panama, will be taken within the framework of a great national consensus.

APRIL 7, 1978.

MR. PRIME MINISTER: On March 16 of this year the Senate of the United States gave its approval by a vote of 68 to 32 to the Treaty of Permanent Neutrality and Operation of the Panama Canal. The Senate included, as part of the referenced treaty, the statement of understanding reached between ourselves and President Carter on October 14, 1977.

This statement of understanding gave to both countries the ability to defend the canal against threats and aggressions to the canal including (threats) to the peaceful transit of vessels through the canal. The referenced statement, incorporated by the Senate in the Neutrality Treaty with our previous assent, expressed the following: (there follows excerpt of leadership amendment to article IV starting with "this does not mean, nor shall it be interpreted . .)

The principles contained in the statement described above derive from the mutual recognition of the existence of generally accepted norms of international law which are effectively consecrated in multilateral international agreements. Examples which can be cited are the charter of the United Nations (article II, paragraph 4); The charter of the organization of American States (article XVIII) and the interAmerican treaty of reciprocal assistance (article I). Despite the referenced statement of understanding and the recognized principles of international law, the document of ratification which states the following: (DeConcini reservation quoted in full). To determine the meaning (Alcance) of this amendment it is sufficient, in our judgment to transcribe the reasons which Senator DeConcini made in support of his proposals (here followed extensive extracts from Senator DeConcini's remarks in the Senate of March 16). Because of the support which your people and government have given to the Panamanian cause and because in accordance with Article VII of the Neutrality Treaty Panama and the United States are open for adherence by all the states of the world to the objectives of said Treaty, we have considered it our duty to inform you of this situation about which we have already publicly expressed our deep concern.

Solidarity,

OMAR TORRIJOS HERRERA.

STATEMENT FROM PANAMANIAN FOREIGN MINISTRY

The Ministry of Foreign Affairs informs that the decision of the Panamanian Government as expressed through the letter sent by General Torrijos to President Carter and the Communique issued by this Ministry to the effect of not making statements regarding the approval or rejection of the Treaties together with this amendment reservations and understanding continues to be the official position of the Panamanian Government until the United States Senate finishes the discussions and votes on the second Treaty regarding the Panama Canal.

The present statement is made because our Government believes that the Panamanian people voted on two Treaties and not just one. It is also made to deny news to the effect that our Government has already taken an official position regarding the approval or rejection of the Neutrality Treaty. Said information built on speculation have been spread abroad by foreign news services with the purpose of confusing and distorting the firm position of the Panamanian Government on this important issue.

APRIL 7, 1978.

SPECIAL ORDERS

Mr. ROBERT C. BYRD. Madam President, are there orders for the recognition of Senators?

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized, as in legislative session, for not to exceed 15 minutes.

COSTLY ATTRITION IN OUR ARMED FORCES

Mr. HARRY F. BYRD, JR. Madam President, in recent months the Congress has been reviewing the effectiveness, the cost and the long-term viability of the All-Volunteer Force.

There have been hearings in the House and the Senate and a number of studies both within and outside of the Government have been done on various aspects of the All-Volunteer Force.

One factor common to all of these endeavors is the conclusion that the All-Volunteer Force has been costly. Estimates vary considerably, but all of them put the figure in the billions of dollars.

Just last month the General Accounting Office released a study which addressed the matter of additional defense costs caused by the All-Volunteer Force.

That study concluded that cost increases attributable to the All-Volunteer Force between fiscal years 1971 and 1977 were approximately $18.5 billion.

The GAO report admitted that this figure did not represent a complete assessment of the costs of the All-Volunteer Force, because some costs clearly associated with the volunteer force were not included in their estimates.

One important cost which has not yet

been adequately considered is the dramatic rise in premature separations from the Armed Forces which has accompanied the creation of the All-Volunteer Force.

Although there has always been a certain irreducible amount of attrition from the military, attrition in the first term of military service has risen substantially with the All-Volunteer Force. From a level of 25 percent just 5 years ago attrition has now reached approximately 40 percent.

To put it simply, out of every 100 individuals who joined the Armed Forces, 40 left the service prior to completion of their tour of duty.

This is in direct contrast to what was predicted by the Gates Commission when that Presidential Commission recommended a shift to the All-Volunteer Force.

In its 1970 Report, the Gates Commission laid much stress in the belief that the attrition and turnover rate would be much less under an all-volunteer professional force than for the draft. This was a major reason it recommended the All-Volunteer Force.

However, the opposite has come about. Attrition has increased substantially rather than decreasing.

In fiscal year 1977, enlisted personnel attrition was in excess of 130,000 for the Army alone.

This is a disturbing figure, but it is made more disturbing when one considers the fact that the vast majority of those individuals left the service, because of failure to meet minimum behavior or performance standards.

The costs to our Nation of this massive attrition cannot help but be severe.

Such a high rate of attrition is costly for many reasons.

First, in terms of recruiting, training, and maintenance costs, the Armed Forces are spending a great deal of money for little if any return.

The average recruiting cost for obtaining each recruit is estimated to be about $1,250, but that is only the average. It is estimated that the Army spends well in excess of $5,000 per person for some of the most difficult to persuade candidates for military service.

To this cost must be added the cost of transporting, feeding, housing, training, and paying the recruit.

There are presently no estimates available for the total budgetary cost of this attrition but one can be sure it is very high.

Veterans' benefits are an additional cost that must be considered.

After serving 6 months and 1 day of active duty a serviceman can qualify for veterans' benefits assuming his discharge from service is not punitive.

Of the five types of discharge, honorable, general, undesirable, bad conduct, and dishonorable, only the undesirable, bad conduct and dishonorable discharge are considered punitive, and an individual has to be convicted by courts martial to be awarded a punitive discharge without his consent.

In other words, if an individual cannot be convicted by courts martial, he will receive an honorable or general discharge regardless of how poor his performance is. In either case that individual stands a very good chance of receiving veterans' benefits.

Among those benefits are disability compensation, hospitalization, nursing home care, alcohol and drug treatment, outpatient medical and dental care, vocational rehabilitation, home loans, educational assistance, and burial expenses.

Also, there are non-VA benefits such as unemployment compensation, reemployment rights, job counseling, and employment placement which a former servicemember may use for various periods of time.

There are presently no estimates of the cost to the taxpayer of veterans and other benefits for those who do not complete their first term of service.

Additional, although intangible, costs are also incurred as a result of the massive attrition rates of the All-Volunteer Force.

First, there is the turbulence caused by the high turnover of personnel and its resultant effect on efficiency and combat readiness.

Then there is the impact on morale caused by the number of adverse separations and the circumstances which surrounded each case.

Also, there is a substantial social cost incurred by premature separations from the armed services. There is the problem of what has been called the revolving door where thousands and thousands of young people who are taken into the Armed Forces only to return to society labeled as rejects.

There is also the problem of a weakend sense of responsibilities and commitment caused by individuals who seek an early discharge because they do not want to live up to the commitment they made when they signed that contract and were sworn in.

An additional intangible cost is the harmful impact on future recruiting and on the public's perception of the military.

All in all, these costs, both budgetary and intangible, are clearly undesirable and they are bound to be very large.

I do not claim to know if the attrition problem is a direct result of instituting the All-Volunteer Force or just a coincidental event. However, I do know that insufficient attention has been paid to the matter by the Congress and by the Department of Defense.

I have recently requested the General Accounting Office to look into the budgetary costs of first-term attrition and I am hopeful that a complete review of this matter will be helpful to the Congress in determining the future of our Armed Forces.

I ask unanimous consent that a chart containing attrition and tour completion data provided by the Department of Defense at my request be placed in the RECORD at the conclusion of my remarks. The chart also shows that of every 100 enlistees, less than 20 reenlist.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

4-YR ATTRITION, TOUR COMPLETION, AND RETENTION EXPERIENCE (ACTUAL AND PROJECTED) OF NONPRIOR SERVICEMEN ENLISTING DURING FISCAL YEAR 1974

[Rates per hundred accessions]

Military service	Entry group	Attrition prior to tour completion: Total	Attrition prior to tour completion: Adverse reasons [1]	Completion of tour of active duty: Total	Completion of tour of active duty: Reenlistment eligible	Retained after 4 yr of active duty [2]
Army	100	42	(32)	58	(48)	16
Navy	100	39	(26)	61	(54)	19
Marine Corps	100	41	(26)	59	(45)	14
Air Force	100	37	(25)	63	(57)	23
Projections for fiscal year 1978 male accessions:						
Army	100	32	(23)	68	(56)	19
Navy	100	37	(24)	63	(56)	19
Marine Corps	100	34	(17)	66	(50)	14
Air Force	100	33	(22)	67	(61)	24

[1] Attrition for failure to meet minimum behavior or performance standards.

[2] Includes men enlisting initially for 6 yr of active service (more common for Air Force and Navy.)

HEW MISMANAGEMENT OF FUNDS

Mr. HARRY F. BYRD, JR. Madam President, the Inspector General of the Department of Health, Education, and Welfare reported this week that HEW last year misspent, through waste, mismanagement, and fraud, approximately $7 billion. To me, Madam President, this is appalling. That Department, according to its own Inspector General, misspent, through waste, mismanagement, and fraud, approximately $7 billion of American tax funds.

To give some indication as to the magnitude of that figure I point out that it takes the combined Federal income taxes of 5 million households, each earning $15,000, to bring into the Federal Government $7 billion of tax revenue.

I point out also that that figure of $7 billion is double the amount of Federal income taxes paid by all of the people of the State of Virginia, a State with a population of more than 5 million persons.

Madam President, I think the Congress and the executive department have a deep obligation to handle the tax funds of the American people as a public trust. I submit that tax moneys of the American people are not being handled as a public trust when one department, the Department of Health, Education, and

Welfare, misspends, through waste, mismanagement, and fraud, $7 billion of tax money which has been taken out of the pockets of the American working men and women.

The Department of Health, Education, and Welfare is seeking a 13-percent increase in the new budget over the amount that was appropriated to HEW last year. I hope the Congress will not approve an increase until the Congress requires from HEW an accounting of that $7 billion that was misspent through waste, mismanagement, and fraud, and until the Congress takes steps to demand that such mismanagement and such waste of American tax dollars be stopped.

Mr. MORGAN. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I am glad to yield to my friend from North Carolina.

Mr. MORGAN. I was interested in the amount of money that the distinguished Senator indicated was wasted by HEW. I am under the impression that that is twice as much income tax as is paid by all individuals in my home State of North Carolina. I wonder, if the Senator has those figures, if that is correct.

Mr. HARRY F. BYRD, JR. I might say it is more than double the amount of all the income taxes paid by all of the people of the great State of North Carolina.

The last available figures show that the total income tax paid by the residents of North Carolina totaled $2,371,474,000. I might say in that connection, too, that it would take the combined income taxes of all the people of 15 different States to equal that figure of $7 billion.

Mr. MORGAN. It is unthinkable that we should waste in one department that kind of money. I thank the distinguished Senator for bringing that to the attention of the Senate.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from North Carolina.

Mr. DOLE. Will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Kansas.

Mr. DOLE. Let me associate myself——

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

SPECIAL ORDER

Under the previous order, the Senator from North Carolina is recognized for not to exceed 15 minutes.

Mr. MORGAN. Madam President, at this time I am glad to yield a few moments to the Senator from Kansas.

Mr. DOLE. I would like to associate myself with the remarks of the Senator from Virginia. At this very moment, the Budget Committee is meeting on the HEW function. I understand there is not any great reduction in that budget, though I think the Senator from Virginia has made an excellent case on why there should be. I hope I will have the opportunity to present the facts, as presented to us by the distinguished Senator from Virginia, to that committee if not later this afternoon, then on Monday.

Mr. HARRY F. BYRD, JR. I thank the Senator from Kansas. I might say that those figures are not figures developed by the Senator from Virginia; that is, the amount of money misspent by HEW. Those figures were developed by the Inspector General of the Department of Health, Education, and Welfare himself. I thank the Senator from Kansas for his contribution.

Mr. MORGAN. Madam President, in that connection, let me say that I do not believe there is any issue that concerns the people of my State more than waste in Government and more than deficit spending or financing by the Federal Government. I know that a good many people say, and I have said it on many occasions, that only the Congress of the United States can control that. The longer I stay in the Government, the more convinced I become that Congress cannot control it, nor can the Executive, the President, control it until such time as we find some way to provide for reorganization of the civil service program to the extent that this President or a future President can make some changes.

I have been advised that out of 2,200 employees in the Office of Management and Budget, the department that serves as the President's right arm, the Department that he must rely upon to help him put forth his new ideas, the President was only able to bring in about 17 of his own people. That disturbs me.

Second, I would like to say to the Senator and to my colleagues that I am not sure we can ever balance the budget until the people decide they want the budget balanced. I have been amazed that, in almost every given area where the President recommended reductions in order to hold the budget down, I have had well organized groups or movements come in to see me for each given area who said, "Please do not cut this area; this is so vital." Each city and each county in my State—not all of them, but most of them—are constantly seeking Federal grants with the idea that if we do not get it, someone else is. That, unfortunately, is true.

There has to be, I believe, a grassroots movement back home if we in Congress are to stop deficit financing in this country.

Mr. HARRY F. BYRD, JR. Will the Senator from North Carolina yield?

Mr. MORGAN. I am delighted to yield.

Mr. HARRY F. BYRD, JR. I think the Senator has made a very important point. The public must make its wishes known in this regard. The public must become aroused at the tremendous waste and extravagance in Government. If and when the public does become aroused, then I think we shall get some results from Congress.

I might make one suggestion to Secretary Califano, which would not require any legislation or anything else. I note that he has gone to the State of North Carolina, just as he has to the State of Virginia and just as he has to many other States, and spent a great deal of time telling the people of North Carolina how to run the education systems, and the people of Virginia how to run our schools and colleges, and telling the individuals of our country what they should do about their own personal living habits. He has enough of a problem, as I see it, right in HEW. If he would devote his time and attention to eliminating the waste and extravagance and the mismanagement and the fraud in his own Department, then he would be serving the interests of the people of our Nation far better than going around to every State in the Union trying to dictate how those States should handle their own educational problems.

Mr. MORGAN. I think the Senator is exactly correct. I think that that is the only way that we are going to eliminate it. I think that the Secretary of Health, Education, and Welfare ought to be more forceful in that context.

I certainly cannot condone what he is doing to higher education in North Carolina. I say with a great deal of pride that we have one of the finest systems of higher education and public education in the country. The New York Times and the Washington Star—papers and periodicals that certainly cannot be labeled as instruments of the segregation movement—have condemned his actions with regard to our higher educational system.

But I have to say again that he is not alone in it. I happen to have a friend who was standing in his press conference when he announced that he was going to cut off funds for the university system in North Carolina. My friend was standing in back of three of the so-called middle echelon HEW employees. During his press conference, they were overheard to be voicing their displeasure at the Secretary's leniency with the education system. So I suspect he has some people in his agency that he cannot deal with until we do something about this civil service system that will not permit a person to be dismissed.

When you have 2 million Federal employees and only 226 were dismissed for incompetence in one year, that fact alone ought to tell us something.

While I am certainly not coming to the defense of Secretary Califano, who, I think, has gone outside his area of responsibility in some areas, I suspect he has an unmanageable bureaucracy over there and I doubt that he or anyone else can manage it until we in Congress give him some tools to do it with.

I thank my distinguished colleague for allowing me to engage in a colloquy with him, because I think it is something the people are interested in.

S. 2856—UNIFORMED SERVICES SURVIVOR BENEFIT PLAN AMENDMENTS ACT OF 1978

Mr. MORGAN. Madam President, I did not come here this morning to discuss fiscal responsibility, although I think it is very important. I did come to introduce a bill which I send to the desk at this time. I am introducing this piece of legislation which I think has long been needed and which will, in my opinion, rectify an inequity that exists in the reserve components of our armed forces.

Let me say that when I am talking

about Reserve components, I am also talking about the National Guard, which is not thought by many to be a part of the reserve components. It surely is.

My bill, will provide benefits for the survivors of those Reservists or National Guardsmen who have served their nation faithfully for at least 20 years in peace, and in war, yet met with an untimely death short of age 60. As you may know, active duty personnel who retire under title 10, United States Code—chapters 63 and 65—are enrolled automatically in a survivor benefit plan (or SBP)—if the retiree is married or has a dependent child. Unlike his active duty counterpart, the Guard or Reserve member who has served 20 years or more retirement creditable years receives no benefits unless, and until, he reaches age 60. While there are no exact statistics concerning the numbers of members and former members of Reserve components who have died after completing 20 years of qualifying service but before attaining age 60, DOD estimates that 1,300 individuals in this category will die each year.

I am positive that many Senators have heard from constituents who have faced this tragic situation. The injustice in this situation should be clear to all: During his 20 years of retirement creditable service a reservist spends in excess of 240 weekends, and 300 days away from his family, much of it in the case of many reservists, without any pay or monetary compensation at all. Additionally, service schools and correspondence courses and emergency service all cut into the time he is able to be with his wife and children. In fact we could not have an effective National Guard and Reserve without the approval and support of many wives. They have contributed substantially to their husbands' attainment of 20 plus retirement creditable years and yet, under present law, are precluded from benefit eligibility by their husbands' deaths.

Though I have phrased my examples in masculine terms, it is imperative that the survivors of female reservists likewise receive this protection. I have received substantial information that a sizable part of the Reserve community believes that a moral obligation on the part of the Federal Government does exist. Similar legislative proposals have been introduced in both Houses in the 93d, 94th, and 95th Congress, but none so far have resulted in definitive actior. to resolve this inequity. However, the House Armed Services Committee, Subcommittee on Military Compensation, held hearings last fall, and Congressman NICHOLS, subcommittee chairman, introduced a bill which is similar in purpose, H.R. 10438, on January 19, 1978.

Another important point to consider is that the time when patriotic and civic pride alone were a sufficient motivation for the citizen-soldier has apparently passed. I am not being critical of the motivation of todays' reservists; on the contrary, being a member of a Reserve component today is a time-consuming, demanding effort which is desperately needed by our country. However, our Nations' inflation rate has continued to the point where insurance, retired pay, and other benefits have become major recruiting and retention incentives. As the reliance on our Reserve Forces increases, and the Reserve components continue to be an integral part of our total force, the depletion of our military Reserve strength becomes a potentially dangerous threat to our national security. Combat readiness depends upon an effective Reserve retention program. Thus, I believe that this bill, S. 2856, will provide an important incentive to those reservists reaching a career decision point by providing a measure of financial security for their survivors.

Public Law 93–289 offered some relief to reservists in this category by permitting the purchase of a $20,000 serviceman's group life insurance policy at a low premium. However, it does not provide the continuing monthly support which my bill would offer.

One very important feature of S. 2856 is that it provides survivor benefits coverage for reservists prior to age 60—at no additional cost to the Government. This is accomplished by our actuarially sound plan with the cost of this survivor benefit plan absorbed by the Reserve participants by amounts withheld from their retired pay. In other words, those who elect any of the survivor benefit plan options and survive pay a premium in the form of reduced annuity sufficient to finance the annuity payment to survivors of those who elect one of these options and die prior to age 60. Thus, this bill would not cause an increase in Federal budgetary requirements, except for the initial funding. There would be an immediate requirement for Congress to appropriate funds for the early years, because it would be necessary to fund the payment of those survivor monthly annuities which began immediately. The first year's cost would be approximately $2 to $3 million and that amount would grow to a maximum of approximately $10.7 million, and then would decrease until the initial funding had been recouped.

I would like to briefly outline the primary features of this bill:

First. As I indicated, this bill provides survivor protection to the spouse and/or children, or persons with insurable interests, for reservists who have completed 20 years of satisfactory Federal service, but who have not reached age 60.

Second. Each reservist would be required to make an election upon attaining the required 20 years of retirement creditable service: Either, first, no change from the current SBP (meaning no election until age 60); or second, an actuarially reduced benefit deferred until the time the retiree would have attained age 60, if he had lived); or third, an actuarially reduced benefit starting immediately upon the death of the retiree (both of these new options contain a "cost" to the retiree in the form of reduced retirement benefits).

Third. Another important feature of this bill is the "lock-in" provision, whereby, upon selection of an option, the election is generally irrevocable. The locked-in reduced retired pay can be exchanged for a further actuarially reduced retired pay to accommodate a new spouse, but the member is otherwise locked in even if later he has no eligible spouse beneficiary.

Fourth. A member having no spouse, or dependent child, at the time of attaining 20 retirement creditable years would have 1 year from the date of a later marriage to elect to participate in the SBP.

Fifth. The survivor would also be entitled to the other benefits normally associated with retirement—that is, medical and dental care, and commissary and exchange privileges—commencing at the time the member would have reached age 60, if he had lived.

Sixth. To cover the anticipated cost of administering the program and other associated costs, such as, providing medical and dental care for eligible dependent survivors the actuarially reduced survivor benefit, or retired pay, would be further reduced by one-half of 1 percent.

Seventh. The last provision of the bill is that these survivor benefits are not intended to be retroactive, in that those survivors of eligible persons who die prior to enactment of this bill would not become eligible for survivor benefits; but, we can expect many applications from reservists who have already achieved 20 retirement qualifying years and have not yet reached the entitlement age of 60.

I apologize for my somewhat lengthy discussion of the major features of this bill; however, the issue is a very important one which needs to be fully appreciated by each Member of Congress.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Survivor Benefit Plan Amendment Act of 1978".

SEC. 2. (a) Paragraph (2) of section 1447 of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) the amount of monthly retired pay to which a person—

"(i) was entitled when such person became eligible for that pay;

"(ii) later became entitled by being advanced on the retired list, advanced on the reserve list, performing active duty, accumulating additional points for purposes of section 1333 of this title, or being transferred from the temporary disability retired list to the permanent disability retired list; or

"(iii) would have become entitled under chapter 67 of this title had such person, prior to his death, attained 60 years of age and made timely application for such pay; or

"(B) any amount less than that described by clause (A) designated by such person on or before the first day for which such person became eligible for retired or retainer pay, but not less than $300, unless the amount of retired pay or retainer pay to which a

person is or would become entitled is less than $300.".

(b) Section 1447 of such title is further amended by adding at the end thereof the following new paragraphs:

"(6) 'Retired or retainer pay' means the amount of monthly retired or retainer pay described in subclause (i), (ii), or (iii), as appropriate, of paragraph (2)(A) of this section.

"(7) 'Eligible for retirement under chapter 67 of this title' means, in the case of any person, a person who has completed the years of service required for eligibility for retired pay under chapter 67 of this title but has not, because of age, become eligible for retired pay under such chapter.".

SEC. 3. (a) Subsections (a) and (b) of section 1448 of title 10, United States Code, are amended to read as follows:

"(a)(1) Except as otherwise provided in this section, the Plan applies to (A) any person entitled to retired or retainer pay, and (B) any person eligible for retirement under chapter 67 of this title

"(2) Except in the case of a person retired or eligible for retirement under chapter 67 of this title, the Plan automatically applies to a person who is married or has a dependent child when such person becomes entitled to retired pay unless such person elects not to participate in the Plan before the first day for which such person is eligible for that pay.

"(3) In any case in which a person who is married elects not to participate in the Plan at the maximum level or elects to provide an annuity for a dependent child but not for such person's spouse, such person's spouse shall be notified of the decision.

"(4) An election by any person not to participate in the Plan is irrevocable if not revoked by such person before the date on which such person first becomes entitled to retired or retainer pay.

"(b)(1) A person who is not married when such person becomes entitled to retired or retainer pay but who subsequently marries, or acquires a dependent child, may elect to participate in the Plan if the election is made in writing, signed by the person, and received by the Secretary concerned within one year after the date of the marriage or the date of the acquisition of the dependent child, as the case may be.

"(2) A person who is not married when such person becomes eligible for retirement under chapter 67 of this title but who marries, or acquires a dependent child after such person becomes eligible for retirement under chapter 67 of this title, may elect to participate in the Plan if the election is made in writing, signed by the person, and received by the Secretary concerned at any time prior to the date on which such person becomes eligible for retired pay under such chapter.

"(3) An election made under paragraph (1) or (2) of this subsection may not be revoked and is effective as of the first day of the month after the election is received by the Secretary concerned.".

(b) Subsection (d) of such section is amended by inserting "or eligible for retirement under chapter 67 of this title," after "been granted that pay,".

(c) Such section is further amended by adding at the end thereof a new subsection as follows:

"(e)(1) Whenever the Secretary concerned notifies any person under section 1331(d) of this title that such person has completed the years of service required for eligibility for retired pay under chapter 67 of this title, the Secretary concerned shall also notify such person of his right to participate in the Plan and of the participation options prescribed in paragraph (2) of this subsection available to such person.

"(2) Within 90 days after receipt of the notice described in paragraph (1) of this subsection by any person, such person must notify the Secretary concerned in writing whether such person elects—

"(A) not to participate in the Plan;

"(B) to defer the decision on participation in the Plan until a later date;

"(C) to participate in the Plan under an arrangement which will provide for the payment of an actuarially reduced annuity to the survivor of such person, payable as of the first day after the death of such person; or

"(D) to participate in the Plan under an arrangement which will provide for the payment of an actuarially reduced annuity to the survivor of such person, payable (i) as of the first day on which such person would have become eligible for retired pay (had he lived) if such person dies before he becomes eligible for retired pay, or (ii) as of the first day after the death of such person if such person dies after he becomes entitled to retired pay.

A person who fails to make an election in writing within the 90 day period prescribed in the first sentence of this paragraph shall be deemed to have elected to defer his decision regarding participation in the Plan as provided in clause (B) of such sentence. Except as provided in subsection (b)(1) of this section, a person who elects under clause (B) of the first sentence of this subsection to defer his decision on participation in the Plan until a later date may not participate in the Plan unless he notifies the Secretary concerned in writing of his election to participate (under clause (C) or (D) of this paragraph) and such notice is received by the Secretary concerned on or before the date on which such person becomes eligible for retired pay.

"(3) The Secretary concerned shall pay an actuarially reduced annuity to the beneficiary, described in section 1450 of this title, of any person who elects to participate in the Plan under clause (C) or (D) of paragraph (1). Such annuity shall be paid in an amount determined under section 1451 of this title.".

SEC. 4. (a) Subsection (a) of section 1450 of title 10, United States Code, is amended to read as follows:

"(a)(1) A monthly annuity in an amount determined under section 1451 of this title shall be paid to—

"(A) the eligible widow or widower;

"(B) the surviving dependent children in equal shares, if the eligible widow or widower is dead, or otherwise becomes ineligible under this section;

"(C) the dependent children in equal shares if the person to whom section 1448 of this title applies elected to provide an annuity for dependent children but not for the spouse; or

"(D) the natural person designated under section 1448(b) of this title at the time the person to whom section 1448 applies becomes entitled to retired or retainer pay or eligible for retirement under chapter 67 of this title, if there is no eligible beneficiary under clause (A) or (B).

"(2) The monthly annuity payable to any beneficiary under this subchapter will be paid effective as of the first day after the death of a person to whom section 1448 of this title applies except that in the case of a person who elected to participate in the Plan on the basis of section 1448(e)(2)(D) of this title and who died before attaining the age at which he would become eligible for retired pay under chapter 67 of this title, the monthly annuity will be paid as of the date such person would have become eligible for retired pay under such chapter had he not died.".

(b) The first sentence of subsection (f) of such section is amended by striking out "(a)(4)" and inserting in lieu thereof "(a)(1)(D)".

SEC. 5. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "If the widow or widower is under 62 years of age or there is a dependent child, the monthly annuity payable under section 1450 of this title to the widow, widower, or dependent child shall be—

"(1) an amount equal to 55 percent of the base amount in the case of the widow, widower, or dependent child of a person who was entitled to retired or retainer pay at the time of such person's death, or

"(2) an amount equal to such percentage of the base amount as shall be prescribed in regulations issued by the Secretary of Defense in the case of the widow, widower, or dependent child of a person who was eligible for retirement under chapter 67 of this title at the time of such person's death.

The percentage of the base amount to which any widow, widower, or dependent child will be entitled under clause (2) shall be an actuarially sound percentage determined by the Secretary of Defense on the basis of age of the person making the election at the time the election to participate in the Plan is made, the difference in age between the person making the election and the designated beneficiary, and specified group annuity tables.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) The amount of the monthly annuity payable to any beneficiary under section 1450(a)(1)(D) of this title shall be an amount—

"(1) equal to 55 percent of the retired or retainer pay of the person who elected to provide the annuity after the reduction in that retired or retainer pay is made in accordance with section 1452(c) of this title; or

"(2) an amount equal to such percentage of the base amount, after the reduction in that base amount is made in accordance with section 1452(c) of this title, as shall be prescribed in regulations issued by the Secretary of Defense in the case of the beneficiary of a person who was eligible for retirement under chapter 67 of this title at the time of such person's death.

The percentage of the base amount to which any beneficiary will be entitled under clause (2) shall be an actuarially sound percentage determined by the Secretary of Defense on the basis of the same criteria prescribed in the second sentence of subsection (a) of this section."

SEC. 6. (a) Subsection (a) of section 1452 of title 10, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2) of this subsection and in subsection (b), the retired or retainer pay of a person to whom section 1448 of this title applies who has a spouse or who has a spouse and a dependent child, and who has not elected to provide an annuity to a person designated by him under section 1450(a)(1)(D) of this title, or who had elected to provide such an annuity to such a person but has changed his election in favor of his spouse under section 1450(f) of this title, shall be reduced each month by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount.

"(2) In the case of a person who is eligible for retirement under chapter 67 of this title and elects to participate in the Plan under section 1447(e)(1)(C) or (D) of this title before he becomes entitled to retired pay under such chapter, the retired pay of such person shall be reduced by such an amount as the Secretary of Defense shall determine to be actuarially sound.

"(3) As long as there is an eligible spouse

and a dependent child, the amount of the reduction under paragraph (1) of this subsection shall be increased by an amount prescribed under regulations issued by the Secretary of Defense.

"(4) The reduction in retired or retainer pay prescribed in paragraph (1) of this subsection shall not be applicable during any month in which there is no eligible spouse beneficiary.

"(5) A reduction in the retired or retainer pay prescribed by the Secretary of Defense under paragraph (2) of this subsection shall be applicable in the case of a person even if there is no spouse beneficiary. In the event that any such person who has no spouse beneficiary remarries, such person may elect to have his retired or retainer pay further reduced as prescribed in regulations issued by the Secretary of Defense and name his new spouse as beneficiary.".

(b) Subsection (c) of such section is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, the retired or retainer pay of a person who has elected to provide an annuity to an individual designated by him under section 1450(a)(1)(D) of this title shall be reduced by an amount equal to 10 percent plus 5 percent for each full 5 years the individual so designated is younger than such person, but the total reduction may not exceed an amount equal to 40 percent of the retired or retainer pay.

"(2) In the case of a person eligible for retirement under chapter 67 of this title, the retired pay of such person shall be reduced by such amount as the Secretary of Defense shall determine to be actuarially sound.

"(3) The reduction in retired or retainer pay provided for under paragraphs (1) and (2) of this subsection shall continue during the lifetime of the person designated under section 1450(a)(1)(D) of this title or until the person who made the election changes his selection under section 1450(f).".

SEC. 7. Clause (1) of section 1455 of title 10, United States Code, is amended by inserting "or eligible for retirement under chapter 67 of this title" after "retainer pay".

SEC. 8. (a) Section 1076 of title 10, United States Code, is amended by (1) redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and (2) adding after subsection (b) a new subsection (c) as follows:

"(c) Under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member who—

"(1) is deceased,

"(2) had, prior to his death, completed the years of service required for eligibility for retired pay under chapter 67 of this title but had not, because of age, become entitled to such pay, and

"(3) had elected, prior to death, to participate in the Survivor Benefit Plan provided for under subchapter II of chapter 73 of this title,

may, upon request, on or after the date on which such member or former member would have become entitled to retired pay under chapter 67 of this title had such member or former member attained 60 years of age and made timely application for such retired pay, be given the medical and dental care prescribed in section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.".

(b) Section 1086(c)(1) of such title is amended to read as follows:

"(1) Persons covered by sections 1074(b) and 1076 (b) and (c) of this title, except persons covered by section 1072(2)(F) of this title.".

(c) The first sentence of section 1087 of such title is amended by inserting "and (c)" after "1076(b)".

SEC. 9. The amendments made by this Act shall become effective on the date of enactment except that in the case of any person who completed the years of service required for eligibility for retired pay under chapter 67 of title 10, United States Code, prior to the date of enactment of this Act, and who did not, prior to such date, become entitled to retired pay under such chapter because of age, shall have 90 days after the date of enactment of this Act to make an election under section 1448(e)(2) of title 10, United States Code, as added by this Act, or 90 days after the date such person is officially notified of his right to participate in the Survivor Benefit Plan provided for under subchapter II of chapter 73 of such title, whichever date is later.

Mr. STEVENS. Will the Senator yield for just a moment?

Mr. MORGAN. Yes. I yield to the Senator.

Mr. STEVENS. Madam President, I commend the Senator as one who has been involved with retirement activities, particularly pertaining to the National Guard and other areas of Federal employment. It sounds to me like he has done an exceedingly good job in researching this particular area and proposing a bill which would not have a financial impact on the Treasury of the United States, but at the same time provides protection for people in the National Guard who need an additional amount of protection from the Federal statute.

I wonder if the Senator would permit me to cosponsor his legislation?

Mr. MORGAN. I would be delighted. I thank the Senator for his remarks.

I might say additionally that while I do not have the right to announce that the Department of Defense supports my bill, I will say that we have cleared it with every department of the Department of Defense and I fully expect the Department support.

Mr. STEVENS. I thank the Senator.

Mr. MORGAN. Madam President, I yield the remainder of my time to the distinguished Senator from Kansas.

Mr. STEVENS. Would the Senator add my name to the bill?

Mr. MORGAN. I am delighted to, and I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time of the Senator from North Carolina has expired.

Mr. DOLE. Madam President, I ask unanimous consent that I may proceed.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. DOLE. May I be recognized in the morning business?

Mr. MORGAN. Madam President, during morning business, I ask unanimous consent that speeches be limited to not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. I thank the Chair.

PANAMANIAN OBJECTIONS SHOW TREATIES SHOULD BE RECONSIDERED

Mr. DOLE. Madam President, the DeConcini reservation adopted by the Senate on March 16 contained the very important guarantee that:

> If the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

It was essentially the same as a treaty amendment I had offered a few days before, which was rejected after the Senate leadership argued that the guarantee was already "understood" in the treaties, and that any such amendment was out of the question.

A few days afterwards, a leading Government-controlled newspaper in Panama, Critica, suggested that the DeConcini reservation was unacceptable.

Madam President, I ask unanimous consent that the quote from that article be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> 3. Government-controlled Critica, often a sounding board for Government of Panama policy, spoke clearly in its editorial March 28 on the constitutional requirement for a new plebiscite in Panama. According to Critica: "We want to be absolutely clear with regard to the reservations, understandings and amendments to the treaty which the American Senate has just approved. We consider that in the light of our constitutional statute which provided for a plebiscite to approve or disapprove the Torrijos-Carter treaties, any additions to those treaties made by the American Senate will have to be submitted Toha Plebiscite in Panama.
>
> 4. Critica continues: "Some of those amendments are acceptable, such as the one agreed to by President Carter and General Torrijos before the confirming plebiscite. But there is one, because it affects the sole responsibility of Panama in the operation of the Canal after the year 2000, that cannot be accepted and even more so when the armed intervention of the United States is caused by the temporary closing of the canal, something which has happened more than once to its current 'owners.'"

Mr. DOLE. Madam President, General Torrijos has said as much in letters to the United Nations, the Organization of American States, and to European leaders.

Madam President, I ask unanimous consent that following my remarks a copy of that letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Madam President, it shows, in effect, that Panama is not prepared to abide by this critical guarantee,

which is so important to future American security interests. And it shows that there is no consensus, or agreement between our two governments on important aspects of these treaties.

The Torrijos government could take the initiative to reject the Neutrality Treaty, because of the Deconcini reservation, although I doubt it. But even when the Torrijos government formally ratifies the treaty, it seems clear to this Senator that these guarantees will not be honored in practice. If both popular opinion and government sentiment are opposed to the reservation, we cannot depend upon its being honored at the crucial moment when it is most needed.

This is one reason why the treaties should be rejected by the Senate now, and negotiations begun anew.

DEMONSTRATIONS TODAY

It is my understanding that there will be large demonstrations in Panama today against these treaties—particularly against the Deconcini reservation to the Neutrality Treaty. That reservation is very important to U.S. security. But many Panamanian people do not like it. If another plebiscite were held in Panama today, it might well be rejected.

Consequently, I do not think we can expect that the Panamanian people will strictly observe, or readily consent to our defense rights during the next 22 years, even if the Panama Government ratifies the treaties. That is what concerns me most.

ATTEMPT TO CONCEAL TREATY PROVISIONS

The Panama Government recognizes the popular dissatisfaction with the Neutrality Treaty in Panama, as it was passed by the Senate on March 16. That is why General Torrijos tried to keep the facts from his people as long as possible. The final version of the Neutrality Treaty, with our Senate modifications, was not publically disseminated in Panama until March 27, fully 11 days after we approved the treaty, and then only under pressure by local groups.

The DeConcini reservation was printed incorrectly the first time, giving it a less "threatening" appearance.

Opening day for Panamanian universities has been delayed by the government for several weeks, until April 17, to keep a lid on the extremely volatile situation. Student activists in Panama are, of course, among the leading treaty opponents.

TYPE OF TREATY MODIFICATION IS IMPORTANT

The objections to the DeConcini reservation show just how vital it is that we make all Senate modifications by concrete treaty changes, rather than by "understandings." Only amendments make textual changes in the treaties. They may require a new plebiscite in Panama, but that at least puts the Panamanian people on record as supporting or opposing the changes.

There are fundamental hazards in putting our trust in sideline "understandings" which might be quietly accepted by the Torrijos government today, but disavowed and ignored by the Panamanian people later on, perhaps under a different government.

The Senate majority and minority leaders, along with the floor managers of this treaty, assured us only last month that this and other treaty modifications were "unnecessary" because U.S. defense rights were already "understood." They said it was "redundant" to spell out those rights because President Carter and General Torrijos already had implicit understandings along these lines.

Well, the loud outcry and strenuous objections of the Panamanian people—and of General Torrijos—show that these guarantees were not understood. Either General Torrijos tried to pull a fast one on his own people, or else on us.

Therefore, Madam President, I feel we should reject these treaties now. There has been no consensus—no agreement—between Panama and the United States on vital defense aspects. It is time to go back to the negotiating table and discuss these matters in more detail.

EXHIBIT 1

APRIL 7, 1978.

MR. PRIME MINISTER: On March 16 of this year the Senate of the United States gave its approval by a vote of 68 to 32 to the Treaty of Permanent Neutrality and Operation of the Panama Canal. The Senate included, as part of the referenced treaty, the statement of understanding reached between ourselves and President Carter on October 14, 1977.

This statement of understanding gave to both countries the ability to defend the canal against threats and aggressions to the canal including (threats) to the peaceful transit of vessels through the canal. The referenced statement, incorporated by the Senate in the Neutrality Treaty with our previous assent, expressed the following: (there follows excerpt of leadership amendment to article IV starting with "this does not mean, nor shall it be interpreted . . .")

The principles contained in the statement described above derive from the mutual recognition of the existence of generally accepted norms of international law which are effectively consecrated in multilateral international agreements. Examples which can be cited are the charter of the United Nations (article II, paragraph 4); The charter of the organization of American States (article XVIII) and the interamerican treaty of reciprocal assistance (article I). Despite the referenced statement of understanding and the recognized principles of international law, the document of ratification which states the following: (DeConcini reservation quoted in full). To determine the meaning (Alcance) of this amendment it is sufficient, in our judgment to transcribe the reasons which Senator DeConcini made in support of his proposals (here followed extensive extracts from Senator DeConcini's remarks in the Senate of March 16). Because of the support which your people and government have given to the Panamanian cause and because in accordance with Article VII of the Neutrality Treaty Panama and the United States are open for adherence by all the states of the world to the objectives of said Treaty, we have considered it our duty to inform you of this situation about which we have already publicly expressed our deep concern.

Solidarity,

OMAR TORRIJOS HERRERA.

CONFERENCE REPORT ON FARM AMENDMENTS OF 1978

Mr. DOLE. Mr. President, at 9 o'clock on Monday morning, the Senate will consider the conference report on the compromise farm bill.

The Senator from Kansas is not surprised but is somewhat taken aback by the strenuous effort that the White House and the administration generally are making to defeat this compromise, which has the support of Democrats and Republicans, as well as the great majority of the farm leaders and farmers across this Nation. It seems to me a clear effort by the administration to do as it has indicated in the past, and that is to do nothing for the American farmer.

Now our offices are being flooded with statements by the distinguished chairman of our Budget Committee, Senator MUSKIE, by a letter from the President of the United States as to the so-called "facts and figures" from Secretary Bergland about the great cost of this farm legislation to the American consumer. There is clearly an effort afoot by forces within the administration to set the consumer against the American farmer.

I suggest to the consumer and to those in this body, as they study the conference report, in preparation for the very important vote at 11 o'clock on Monday morning, that they look at the alternatives. What are the alternatives to the American farmer if he cannot make a profit?

We will concede some inflationary impact. There has to be some inflationary impact, unless we take money from the Treasury—which is the administration's proposal, I suggest, which farmers do not want—and even then there would be some inflationary impact.

It seems to this Senator that we are talking about the future of American agriculture and literally the future of the American consumer; because, as one farmer stated to us in the committee hearings, "If you don't eat, don't worry about my problem."

I suggest that that stated the problem. It made the point.

I hope the President of the United States, with all his problems and all his concerns, will take just 5 minutes to look at the measure agreed upon by the conferees this week, 5 minutes to understand the problem. It is market oriented. The farmer will get his profit from the marketplace, not from the General Treasury. It has a number of concepts that I believe President Carter supports.

I hope the Senate will adopt the conference report and that the House will adopt the conference report and that then the President will keep his pledge to the American farmer and sign the bill.

Mr. President, on April 5 the conference completed action on the Emergency Agriculture Act of 1978. This timely and necessary measure responds to the nationwide farm crisis by boosting farm prices in a way that is fair to consumers and taxpayers.

Yesterday, the Department of Agriculture released a document assessing the likely costs of the Emergency Agriculture Act. This document is the latest version in a long line of administration cost estimates based on "worst case" assumptions regarding the emergency farm legislation.

I do not accept the total accuracy and

reasonableness of these cost assumptions and estimates. The USDA and CBO estimate costs to the Government and the consumer and understate benefits to farmers, consumers, and the total economy.

Drawing upon the Department of Agriculture cost estimates, President Carter has written to the distinguished chairman of the Budget Committee (Senator MUSKIE) indicating his decision to veto the Emergency Agriculture Act on the grounds that this bill is too costly. This letter has been made public and copies have been widely distributed.

Mr. President, I ask unanimous consent that a copy of President Carter's letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washinton, D.C., April 6, 1978.

To Senator EDMUND MUSKIE.

Sixteen months ago, I asked Bob Bergland to join with the Congress to help restore a sense of direction and purpose to the farm and food policies of this nation. The extreme volatility of farm and food prices of recent years has not been in the best interest of either our Nation's farmers or consumers.

When we took office, farm income was in sharp decline. We undertook to reverse this trend and return stability to the nation's farm economy. Working with you and other members of the Congress, we developed the most sweeping farm legislation of the past 40 years. Using the authorities of that law, we have moved to improve the incomes of America's farmers.

This policy is working. Our agricultural economy has improved markedly in recent months. To further strengthen this recovery, we announced last week:

An expansion and liberalization of the farmer-held grain reserve.

Paid diversion of 7 to 9 million acres of excess cropland.

And other steps which, in combination with the reserve and the acreage diversion, will add up to $4 billion to crop producer income.

These are carefully considered measures. They will provide decent farm incomes, protect consumers from precipitous price rises, enhance our reliability as a major agricultural exporter, and allow us to meet our humanitarian food aid commitments.

Yesterday a conference committee of the Congress reported H.R. 6782, legislation that was hastily drafted in an atmosphere of emotion and confusion. Should that legislation reach my desk, it will be vetoed.

No one who understands our farm economy should be deceived about the impacts of this measure.

It would increase food price inflation to double digit levels.

It would add as much as $6 billion to the Federal budget.

By sharply reducing production and increasing prices, this bill could seriously undermine our competitive position in world markets.

The higher feed prices that result would adversely affect our own livestock industry.

It would require vast new layers of bureaucracy to administer the complicated and confusing schedule of eligibility requirements and payments.

And, this bill would direct the vast majority of its benefits to a small number of the very largest of our farmers, rather than those in greatest need of help.

This Administration is committed to a strong and prosperous farm economy and one that is able to compete successfully in international markets. We now have a policy to accomplish this objective. I call upon you and other members of Congress to join with me in supporting this policy and in defeating this conference committee bill.

Sincerely,

JIMMY CARTER.

Mr. DOLE. Mr. President, you will find that President Carter cites six reasons why he intends to veto the emergency farm bill. The Senator from Kansas finds these reasons inadequate and unconvincing. These six points lack validity because they are founded upon unreasonable assumptions. They require immediate response.

POINT ONE—INCREASE PRICES

In the first instance, President Carter claims that the bill "will increase food price inflation to double digit levels."

In fact, the Congressional Budget Office estimates that the bill will increase the Consumer Price Index for food by only 1.1 to 1.5 percent during fiscal year 1979. Even the Department of Agriculture estimates the added food inflationary impact of the bill at no more than 2 to 4 percent. This is a small price to pay for the economic health of our Nation's farmers. Many consumers have indicated to me a willingness to accept a small increase in food prices in order to assure themselves of a plentiful and reasonable priced food supply.

POINT TWO—THE FEDERAL BUDGET

Second, President Carter indicates that the bill will add as much as $6 billion to the Federal budget during 1978 and 1979.

In fact, this $6 billion figure rests on the unlikely assumption that farm prices will remain weak, that nearly all eligible farmers will participate at maximum acreage set-aside levels, and that a massive shift from nonprice support crops to supported crops will occur. In each instance, these assumptions are "worst case" assumptions, technically stated so as to make the cost of the bill appear unreasonably high. The President's budget figure is the worst possible estimate and does not take into account the result in benefits for the farmer, the Government, and the consumer. The economic benefits of the bill to America will far outweigh the costs.

Once again, the Congressional Budget Office estimates maximum costs which are a billion dollars less than the President's figure.

POINT THREE—THE WORLD MARKET

Concerning the President's point that the Emergency Farm Act would undermine our competitive position in world markets, I want to say there is strong evidence that our competitors in export grain markets, for example, follow U.S. price leadership.

If our prices go up so will theirs and farmers around the world will benefit from more reasonable levels of prices. If competitors are determined to take a market from us they can "shave" our prices at either the $2 level or the $4 level. In any event, what does the American farmer gain by a large volume of exports if he loses money on every bushel or every bale that he sells abroad? Every bushel sold overseas, below the costs of production means American farmers are exporting the equity they have in their farms. This is not acceptable to farmers and should not be acceptable to the Congress or the President.

POINT FOUR—ADVERSE EFFECTS ON LIVESTOCK

The President asserts that higher feed prices will adversely affect our own livestock industry. Livestock people have told me that they have always made more money when feed prices were at a reasonable level than they have when feed prices were so cheap that large numbers of cattle or hogs were attracted into feedlots by cheap feed, resulting in an oversupply of fed cattle and hogs which had to be sold at "bust" prices. I do not know any farmers who feed animals that want to profit from the plight of their fellow farmers who are producing grain below the cost of production.

We can have a healthy grain agriculture and a healthy livestock agriculture at the same time.

POINT FIVE—INCREASED BUREAUCRACY

Concerning the President's point regarding layers of bureaucracy to administer "the schedule of eligibility requirements and payments," I do not see why it would take even one more bureaucrat to administer a set-aside which allows a farmer to choose a set-aside level of 20 percent, 35 percent, or 50 percent rather than the administration's single bureaucrat-selected level of 20 percent for wheat and 10 percent for feedgrains.

Under the Emergency Agriculture Act a farmer would merely designate the level of set-aside when he signed up for the program—the same bureaucrat would sign him up under this bill that would have signed him up under the Carter Farm Program.

POINT SIX—LIMITED PAYMENTS

The President stated in his letter that this bill would direct the vast majority of its benefits to the very largest farmers. This is not true.

Farmer payments would be limited to $40,000 as specified in the Agriculture Act of 1977. I deliberately did not give exemptions in my bill from this limitation because I wanted the benefits to go to the small family farmer.

Mr. President, I take this opportunity to respond to President Carter's letter in the hope that President Carter will reassess his position and sign the Emergency Agriculture Act into law.

The need for emergency farm legislation has been fully documented in hearings before the Agriculture, Nutrition, and Forestry Committee. It is also made evident by the tractorcades, rallies, and spontaneous groundswell of unrest in every agricultural region of the country.

The Emergency Agriculture Act of 1978 was adopted by Congress after several months of deliberations. Several hearings and many different bills were considered. The legislation was drafted in an atmosphere of concern, urgency, and sincere

desire to help our Nation's family farmers.

The act was carefully considered and will prove reasonable farm incomes, protect consumers from extreme price rises, enhance our balance of payments and agricultural exports and allow us an adequate reserve to meet our humanitarian food aid commitments.

The cost of this farm bill may appear high. But the cost of doing nothing will be higher still. This Nation cannot afford to see tens of thousands of our most productive farmers driven off the land and into already hard-pressed cities in search of jobs. A slight increase in food prices today is a small price to pay for the preservation of the family farm in America.

THE PANAMA CANAL TREATY

Mr. MORGAN. Madam President, with regard to the Panama Canal treaties and the actions of General Torrijos, as reported in the morning press, let me say that, first of all, as a supporter of the new Panama Canal treaties and as one who voted for the first one, I am disturbed by the actions of General Torrijos.

However, I do not think that the so-called DeConcini amendment did anything that the Neutrality Treaty did not already do. That is, under the Neutrality Treaty, as I understand it, the United States is at liberty, after the year 2000, to take whatever action we think is necessary to maintain the neutrality of that canal, whether it is military or otherwise. I believe that spelling out the Military aspect was expressing the wishes of the American people to make it clear that we did reserve that right.

Unless facts are developed before the next vote, I intend to vote for the first of the Panama Canal treaties. However, I wish to make it clear that the Constitution places the responsibility upon the Senate of the United States to advise and to consent with respect to any treaties that are entered into; that we are not required, by the Constitution or otherwise, to accept any treaties that are submitted to us by the executive branch; that it is our responsibility to try to act in a manner that we believe is in accordance with the national security interests of the United States.

In my opinion the first treaty, the neutrality treaty, represented the consensus of the U.S. Senate that that treaty, as adopted, which included the so-called DeConcini amendment, was in the best interests of the United States. Once we have ratified these treaties—if we do ratify the first treaty, and I think we will—they will represent what we in the U.S. Senate, as representatives of the people of the United States, believe to be in the best interests of this country.

If the officials and the Government of Panama do not want to accept that, so be it. But I do not think that we, as Members of the Senate, can afford to be dictated to by General Torrijos or anyone else.

I want to make clear that I believe a new relationship is necessary with Panama; and I said so publicly 8 months before this treaty came out, after I returned from a visit to Panama on other business.

I wish to reiterate and to make clear that it is the Government of the United States that should determine what treaties this country will enter into. It is up to Senators, as representatives of the people of this country, to decide how far we will go; and once we have gone that far, if the Panamanians do not want to accept it, that is their prerogative.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 164

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs, and ordered to be printed:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the thirteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the fourth quarter of 1977 in monitoring both prices and wages in the private sector and various Federal government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

In August 1977 I asked the Council to undertake an in-depth study of the Nation's steel industry. The study was released in October and served as an important information base in the Administration's development of its reference price system for imports of foreign steel.

During the fourth quarter, the Council also issued, among other things, reports on interest rates and inflation, the lumber industry, 1978 model year auto prices, and a detailed analysis of the communications workers' settlement.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

REPORT ON IMPLEMENTATION OF ENERGY CONSERVATION PROGRAMS WITHIN THE FEDERAL GOVERNMENT—MESSAGE FROM THE PRESIDENT—PM 165

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am hereby transmitting the first annual report required to be submitted to the Congress by Section 381(c) of the Energy Policy and Conservation Act, Public Law 94–163, and required to be prepared by the Federal Energy Administration, now the Department of Energy, with the assistance of appropriate agencies under Executive Order 11912 of April 13, 1976.

This report covers the implementing activities and actions undertaken during 1976 by Federal Agencies in establishing mandatory Federal Procurement policies and standards with respect to energy conservation and efficiency, developing a 10-year plan for energy conservation in federally-owned or leased buildings, carrying out a responsible public education program to encourage energy conservation, vanpooling and carpooling arrangements, and acquiring fuel-efficient passenger automobiles for the Federal fleet.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

EXECUTIVE ORDER WITH RESPECT TO THE HUNGARIAN PEOPLE'S REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 166

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to Section 402(c)(2) of the Trade Act of 1974, (hereinafter, "the Act") I shall issue today in Executive Order waiving the application of Subsections (a) and (b) of Section 402 of the Act with respect to the Hungarian People's Republic.

I wish to report to the Congress that I have determined that this waiver will substantially promote the objectives of Section 402 of the Act; and that I have received assurances that the emigration practices of the Hungarian People's Republic will henceforth lead substantially to the achievement of those objectives.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DECONCINI, from the Committee on the Judiciary, without amendment:

S. 2597. A bill to amend title 28, United States Code, to move the place for holding court for the district court of the eastern district of New York to Brooklyn and Hempstead, and for other purposes (Rept. 95–728).

By Mr. GLENN (for Mr. RIBICOFF), from the Committee on Governmental Affairs, without amendment:

S. Res. 431. An original resolution to implement rule L of the Standing Rules of the Senate, relating to employment practices (Rept. No. 95–729). Referred to the Committee on Human Resources, pursuant to section 310 of S. Res. 110, 95th Congress, 1st session, for not to exceed 60 days.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MORGAN (for himself and Mr. STEVENS):

S. 2856. A bill to amend the survivor benefit plan provided for under chapter 73 of title 10, United States Code, to permit members and former members of the uniformed services who have completed the number of years of service required for eligibility for retired pay under chapter 67 of such title but who have not, because of age, become entitled to retired pay to participate in such plan, to make the dependents of such members and former members who die before becoming entitled to such retired pay eligible for certain medical and dental benefits under chapter 55 of such title, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI:

S. 2857. A bill to clarify and revise various provisions of title 28 of the United States Code relating to the judiciary and judicial procedure regarding judicial review of international trade matters, and for other purposes. To the Committee on the Judiciary.

By Mr. MELCHER:

S. 2858. A bill to amend section 2040 of the Internal Revenue Code of 1954 to provide that a spouse's services shall be taken into account in determining whether that spouse furnished adequate consideration for jointly held property for purpcses of qualifying for an exclusion from the Federal estate tax; to the Committee on Finance.

By Mr. MATHIAS:

S. 2859. A bill to quitclaim certain property in the city of Washington, District of Columbia, to the Little Sisters of the Poor; to the Committee on Governmental Affairs.

By Mr. MELCHER:

S. 2860. A bill to provide for a research, development, and demonstration program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS (for himself and Mrs. HUMPHREY):

S. 2861. A bill to incorporate the United States Capitol Historical Society; to the Committee on the Judiciary.

By Mr. HASKELL (for himself, Mr. HATHAWAY, Mr. MCGOVERN, and Mr. RIEGLE):

S. 2862. A bill to provide for the regularization of administrative practices and procedures, better congressional control of Federal regulations, periodic review of existing regulations, and for other purposes; to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MORGAN (for himself and Mr. STEVENS):

S. 2856. A bill to amend the survivor benefit plan provided for under chapter 73 of title 10, United States Code, to permit members and former members of the uniformed services who have completed the number of years of service required for eligibility for retired pay under chapter 67 of such title but who have not, because of age, become entitled to retired pay to participate in such plan, to make the dependents of such members and former members who die before becoming entitled to such retired pay eligible for certain medical and dental benefits under chapter 55 of such title, and for other purposes; to the Committee on Armed Services.

(The remarks of Mr. MORGAN when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DECONCINI:

S. 2857. A bill to clarify and revise various provisions of title 28 of the United States Code relating to the judiciary and judicial procedure regarding judicial review of international trade matters, and for other purposes.

CUSTOMS COURTS ACT OF 1978

● Mr. DECONCINI. Mr. President, I am today introducing a bill, the proposed Customs Courts Act of 1978, which would bring badly needed reform to the law governing the jurisdiction and powers of the U.S. Customs Court and the U.S. Court of Customs and Patent Appeals.

Drafted with the help of the Department of Justice and supported by the administration, this bill will simplify many of the complexities surrounding international trade litigation.

For example, while the volume of international trade litigation has grown, and while the importance of international commerce decisions has increased to the point that more and more ordinary citizens are being affected, the statutes relating to the jurisdiction of the courts that handle such litigation have remained relatively unchanged. Enactment of the Customs Courts Act of 1978 will help eliminate much of the confusion over the judicial review of certain international commerce decisions of the President, the International Trade Commission, the Secretary of the Treasury, the Customs Service, and the Office of the Special Trade Representative. The bill will clearly delineate the jurisdictional boundaries between the district courts and the Customs Court. No longer will a litigant's choice of the wrong forum result in a holding that the litigant is in the wrong court, thereby effectively foreclosing him from judicial relief.

This bill will make a number of improvements in Customs Court procedure. For example, current practice permits a suit to be filed and then lie dormant for a period of 2 years thereby encouraging the filing of large numbers of cases by plaintiffs who merely wish to preserve their right to judicial review. Title IV of my bill would abolish the reserve period and extend the current 180-day period in which to seek judicial review of the denial of a protest to 2 years, giving potential plaintiffs sufficient time to decide whether to formally proceed with judicial review.

The bill would make the Federal Rules of Evidence applicable to proceedings before the Customs Court and the Court of Customs and Patent Appeals.

Another feature of the bill is that it would make the Customs Court completely equivalent to the U.S. district court. Active judges of the Customs Court would be able to serve as judges of the Court of Claims and the courts of appeals under the same circumstances as district judges. The chief judge will be permanently designated by the President, and not subject, as he is now to removal at the pleasure of the President. The bill will insure that the Customs Court may

award any type of relief that it deems necessary including equitable relief.

An important part of the bill is contained in title IV which would expand the range of persons entitled to bring an action or to intervene in an action before the Customs Court. By permitting persons adversely affected by certain administrative decisions to bring certain types of suits or to intervene or obtain some type of judicial review, classes of persons such as consumer groups can participate in cases involving classification, value, rates or duties, countervailing and antidumping duties, or the exclusion of merchandise under the customs laws.

Mr. President, enactment of the legislation that I am introducing today will not only improve the operations of the Customs Court and Court of Customs and Patent Appeals, it will make it easier for our citizens to use these specialized courts.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Customs Courts Act of 1978."

TITLE I—PURPOSE

SEC. 101. DECLARATION OF PURPOSE.

The Congress declares that the purposes of this Act are: (1) to provide for a comprehensive system of judicial review of matters directly affecting imports, utilizing, wherever possible, the specialized expertise of the United States Customs Court and Court of Customs and Patent Appeals, and the opportunity for ensuring uniformity afforded by the national jurisdiction of these courts; (2) to prevent jurisdictional conflicts in civil actions directly affecting imports due to the present ill-defined division of jurisdiction between the district courts and the customs courts; (3) to provide expanded opportunities for judicial review; (4) to grant to the customs courts plenary powers possessed by other courts created under Article III of the Constitution.

TITLE II—COMPOSITION OF THE CUSTOMS COURT AND ASSIGNMENT OF JUDGES TO OTHER COURTS

SEC. 201. Section 251 of title 28, United States Code, is amended by striking out the first and second paragraphs of such section and inserting in lieu thereof the following—

"The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record known as the United States Customs Court. Such court is hereby declared to be a court established under Article III of the Constitution of the United States.

"The President shall designate one of the judges, under seventy years of age, to be the chief judge of the court. The judge so designated shall continue to serve as chief judge until he reaches the age of seventy and a new chief judge is designated."

SEC. 202(a). Subparagraph (b) of section 293 of title 28, United States Code, is amended by striking out all that appears after the word "duties", and inserting in lieu thereof the following—

"In any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises."

(b) Subparagraph (d) of section 293 of title 28, United States Code, is amended so as to read as follows—

"(d) The chief judge of the Customs Court may, upon presentation to him by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims of a certificate of necessity, designate and assign temporarily any judge of the Customs Court to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims."

TITLE III—JURISDICTION OF THE CUSTOMS COURT

SEC. 301. Sections 1581 and 1582 of title 28, United States Code are repealed.

SEC. 302. Chapter 95 of title 28, United States Code, is amended by inserting the following new provisions:

"Sec. 1581. Questions involving imports.
Sec. 1582. Powers generally.
Sec. 1583. Final agency action.
Sec. 1584. Appraisal and classification.
Sec. 1585. Excusion of goods from entry or delivery.
Sec. 1586. Charges or exactions.
Sec. 1587. Refusal to pay a claim for drawback.
Sec. 1588. Liquidation or reliquidation of an entry or a modification thereof.
Sec. 1589. Refusal to reliquidate an entry.
Sec. 1590. Section 516 of the Tariff Act of 1930.
Sec. 1591. Civil penalties, forfeitures, suits to recover on a bond and recovery of customs duties.
Sec. 1592. Set-offs, demands, counterclaims.
Sec. 1593. Cure of defects.

"SEC. 1581. QUESTIONS INVOLVING IMPORTS.

"The Customs Court shall possess exclusive jurisdiction, except as otherwise provided by law, over all civil actions against the United States or against any officer or agency thereof directly affecting imports which arise under the Constitution, laws, treaties of the United States or an Executive Agreement executed by the President of the United States or under an Executive Order of the President.

"This section does not confer jurisdiction upon the Customs Court to entertain a civil action in which jurisdiction is precluded by the terms of a provision of this chapter or of any other law which specifically confers jurisdiction only over certain types of civil actions belonging to the same category.

"Nothing in this section shall be construed to create a cause of action, or to permit the maintenance of a suit not otherwise authorized by law.

"Nothing in this section shall affect limitations on judicial review or the power or duty of the court to dismiss any action or to deny relief on any other appropriate legal or equitable grounds.

"SEC. 1582. POWERS GENERALLY.

"The Customs Court shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States. The court, and each judge thereof, shall possess all the powers of a district court for preserving order, compelling the attendance of witnesses, and the production of evidence.

"This section shall not be construed as conferring upon the Customs Court the power to convene a jury.

"SEC. 1583. FINAL AGENCY ACTION.

(a) The Customs Court shall possess exclusive jurisdiction, except as otherwise provided by law, to review final agency action of any agency of the United States which directly affects imports into the United States.

"For purposes of this section, the terms "agency," "agency action," and "final agency action" are utilized in the same manner as those terms are utilized in sections 551 and 704 of title 5, United States Code.

"Nothing in this section shall be construed to create a cause of action, or to permit the maintenance of a suit not otherwise permitted by law.

"Nothing in this section shall affect limitations on judicial review or the power or duty of the court to dismiss any action or to deny relief on any other appropriate legal or equitable grounds.

"(b) The Customs Court shall possess exclusive jurisdiction over any civil action involving a final decision of the International Trade Commission under sections 201 of the Anti-Dumping Act and 303 of the Tariff Act of 1930, as amended.

"(c) The Customs Court shall possess exclusive jurisdiction to review advice, findings, recommendations or determinations of the International Trade Commission pursuant to sections 131, 202, 203, 301, 406 and 503 of the Trade Act of 1974, and 22 of the Agricultural Adjustment Act, as amended, after the decision of the President has become final.

"(d) After the decision of the President has become final, the Customs Court shall possess exclusive jurisdiction to review actions of the Office of the Special Trade Representative pursuant to section 301 of the Trade Act of 1974 solely for the purposes of determining the procedural regularity of those actions.

"(e) The Customs Court shall not possess jurisdiction of:

(i) any civil or criminal action arising under the antitrust laws of the United States;

(ii) any civil or criminal action arising under the Shipping Act of 1916, as amended;

(iii) any action relating solely to labor-management relations, actions affecting personnel, or actions alleged to be in violation of any statute forbidding discrimination in employment;

(iv) arising solely under the Freedom of Information Act or the Privacy Act.

(v) any action arising under section 305 of the Tariff Act of 1930, as amended or section 232 of the Trade Expansion Act of 1962, as amended; or

(iv) any action involving a function vested by law in the Department of Energy including but not limited to the Emergency Petroleum Allocation Act.

"(f) Neither the Customs Court nor any other court shall possess jurisdiction to review

(i) a discretionary decision of the President or his delegate pursuant to the authority granted to him by any law relating to international trade;

(ii) any ruling or internal advice relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawback, vessel repairs and the like issued by the Secretary of the Treasury or his or her delegate to members of the public or members of the Customs Service except with respect to section 315(d) of the Tariff Act of 1930, as amended.

"(g) Nothing in this section shall be construed to create a cause of action, or to permit the maintenance of a suit not otherwise authorized by law.

"SEC. 1584. APPRAISAL AND CLASSIFICATION

"The Customs Court shall possess exclusive jurisdiction of civil actions which involve the appraised value or the classification and rate and amount of duties chargeable upon imports.

"SEC. 1585. EXCLUSION OF GOODS FROM ENTRY OR DELIVERY.

"Except as otherwise provided by law, the Customs Court shall possess exclusive jurisdiction of civil actions which involve the exclusion of imports from entry or delivery under any provision of the customs laws or the exclusion or required delivery of imports pursuant to the terms of an entry bond.

"SEC. 1586. CHARGES OR EXACTIONS.

"(a) Except as otherwise provided by law, the Customs Court shall possess exclusive jurisdiction of civil actions which involve the imposition of any charge, tax, fee or other exaction imposed upon importation.

"(b) Except as otherwise provided by law, the Customs Court shall possess exclusive jurisdiction of civil actions which involve a decision of the Secretary of the Treasury, imposing any fee, charge, tax, or other exaction, other than customs duties, upon any vessel, aircraft or other instrumentality of international commerce which enters into the customs territory of the United States.

"SEC. 1587. REFUSAL TO PAY CLAIM FOR DRAWBACK.

"The Customs Court shall possess exclusive jurisdiction of civil actions involving a refusal to pay a claim for drawback.

"SEC. 1588 LIQUIDATION OR RELIQUIDATION OF AN ENTRY OR MODIFICATION THEREOF.

"The Customs Court shall possess exclusive jurisdiction of civil actions involving the liquidation or reliquidation of any entry or a modification thereof.

"SEC. 1589. REFUSAL TO RELIQUIDATE AN ENTRY.

"The Customs Court shall possess exclusive jurisdiction of all civil actions involving the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930, as amended.

"SEC. 1590. SECTION 516 OF THE TARIFF ACT OF 1930, AS AMENDED

"The Customs Court shall possess exclusive jurisdiction over all civil actions instituted pursuant to section 516 of the Tariff Act of 1930, as amended.

"SEC. 1591. CIVIL PENALTIES, FORFEITURES, SUITS TO RECOVER ON A BOND, AND RECOVERY OF CUSTOMS DUTIES.

"(a) The Customs Court shall possess jurisdiction upon transfer from a district court, over any civil action involving imports in international trade instituted by the United States to (1) recover a civil revenue statute administered by the Customs Service, or (2) to recover upon a bond, relating to the importation of merchandise, required by the laws of the United States or by the Secretary of the Treasury, or (3) to recover customs duties.

"(b) A defendant or defendants may transfer a case referred to in subparagraph (a) of this section by filing in the district court in which the action is pending a notice of a desire to transfer.

"(c) The notice of desire to transfer shall be filed within thirty days after the service upon defendant of a copy of the complaint.

"(d) (1) Upon receipt of a notice of a desire to transfer, the district court shall determine whether the action is of the type defined in subparagraph (a) of this section. If so, the district court shall order the transfer.

"(2) If the case is of the type referred to in paragraph (a)(1) of this section, the United States shall be afforded an opportunity to object to the transfer and, the case shall be transferred only if the district court determines that the case involves a substantial question, other than the amount of any penalty involved, as to the proper classification or validation of imported merchandise or the rate of duty imposed. The decision of the district court to transfer or not to transfer a case shall be final and conclusive and shall not be reviewable on appeal or otherwise, except on appeal from a final judgment on the merits.

"(e) Within 10 days after the issuance of an order of transfer, the defendant or defendants shall file copies of all pleadings and documents with the Customs Court.

"(f) Upon receipt of the copies of the pleadings and documents, the action shall be heard by the Customs Court, sitting without a jury, and shall proceed in the district in which the action was first instituted, as if the case had been instituted in the Customs Court in the first instance.

"(g) In any suit transferred to the Customs Court pursuant to this section, the provisions of sections 2461, 2462, 2463, 2464 and 2465 of title 28, United States Code, shall be applicable where relevant.

"SEC. 1592. SET-OFFS, DEMANDS, AND COUNTERCLAIMS.

"The Customs Court shall have jurisdiction to render judgment upon any set-off, demand, or counterclaim, which arises out of an import or export related transaction, by the United States against any plaintiff in such court.

"SEC. 1953. CURE OF DEFECTS.

"(a) If a case within the exclusive jurisdiction of the Customs Court is filed in a district court, the district court shall, if it be in the interest of justice, transfer such case to the Customs Court, where the case shall proceed as if it had been filed in the Customs Court on the date it was filed in the district court.

"(b) If a case within the exclusive jurisdiction of a district court or a court of appeals is filed in the Customs Court, the Customs Court shall, if it be in the interest of justice, transfer such case to the appropriate district court or court of appeals where the case shall proceed as if it had been filed on the date in which it was filed in the Customs Court."

TITLE IV—CUSTOMS COURT PROCEDURE

SEC. 401. (a) Sections 2631, 2632, 2633, 2635 and 2637 of title 28, United States Code, are repealed.

(b) Section 2634 of title 28, United States Code, is redesignated as section 2638.

(c) Section 2636 of title 28, United States Code, is redesignated as section 2642.

(d) Sections 2638 and 2639 of title 28, United States Code, are redesignated as sections 2644 and 2645, respectively.

SEC. 402. Chapter 169 of title 28, United States Code, is amended by inserting the following new provisions—

"Sec. 2631. Persons entitled to commence a civil action.
"Sec. 2632. Commencement of a civil action.
"Sec. 2633. Customs Court procedure and fees.
"Sec. 2634. Filing of official documents.
"Sec. 2635. Time for commencement of action.
"Sec. 2636. Exhaustion of administrative remedies.
"Sec. 2637. New grounds in support of a civil action.
"Sec. 2638. Notice.
"Sec. 2639. Burden of proof; evidence of value.
"Sec. 2640. Scope and Standard of review.
"Sec. 2641. Witnesses; in spection of documents.
"Sec. 2642. Analysis of imported merchandise.
"Sec. 2643. Relief.
"Sec. 2644. Decisions; findings of fact and conclusions of law; effect of opinions.
"Sec. 2645. Retrial or rehearing.
"Sec. 2646. Precedence of American manufacturer, producer, or wholesaler cases.

"SEC. 2631. PERSONS ENTITLED TO COMMENCE A CIVIL ACTION.

"(a) Except in those civil actions specified in sections 1584, 1585, 1587, 1588, 1589, 1590, and section 516 of the Tariff Act of 1930, as amended, a civil action may be instituted in the Customs Court by any person adversely affected or aggrieved (within the meaning of section 702 of title 5, United States Code) by the agency action (as defined in section 551(13) of title 5, United States Code), which is the subject of the suit. Nothing in this subsection shall be construed to create a cause of action, or to permit the maintenance of a suit not otherwise authorized by law.

"(b) By leave of the court, any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Customs Court may intervene in that action.

"SEC. 2632. COMMENCEMENT OF A CIVIL ACTION.

"(a) All civil actions shall be instituted in the Customs Court by the filing of a complaint in the form, manner, and style and with the content prescribed in rules adopted by the court.

"(b) The Customs Court may prescribe by rule that a complaint transmitted by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested, shall be deemed filed as of the date of postmark.

"SEC. 2633. CUSTOMS COURT PROCEDURE AND FEES.

"(a) There shall be a filing fee payable upon commencing an action. The amount of the fee shall be fixed by the Customs Court but shall be not less than $5 nor more than the filing fee for commencing a civil action in a United States district court. The Customs Court may fix all other fees to be charged by the clerk of the court.

"(b) The Customs Court shall provide by rule for pleadings and other papers, for their amendment, service, and filing, for consolidations, severances, and suspensions of cases, and for other procedural matters.

"(c) All pleadings and other papers filed in the Customs Court shall be served on all the adverse parties in accordance with the rules of the court. When the United States is an adverse party, service of the summons shall be made upon the Attorney General and the relevant Government officials or officials or his or her designee or designees.

"SEC. 2634. FILING OF OFFICIAL DOCUMENTS.

"(a) Upon service of the complaint on the Secretary of the Treasury or his or her designee in a civil action in which the denial, in whole or in part, of a protest under the Tariff Act of 1930, as amended, is a precondition to the institution of the civil action, the appropriate customs officer shall forthwith transmit the following items, if they exist, to the United States Customs Court: (1) consumption or other entry; (2) commercial invoice; (3) special customs invoice; (4) copy of protest; (5) copy of denial of protest in whole or in part; (6) importer's exhibits; (7) official and/or other representative samples, and (8) any official laboratory reports. If any of these items do not exist in a particular case, an affirmative statement to that effect shall be transmitted to the court.

"(b) Upon service of the complaint on the Secretary of the Treasury or his designee in an action contesting one of the determinations set forth in section 516(d)(A) of the Tariff Act of 1930, as amended, the Secretary or his designee shall forthwith transmit to the United States Customs Court the official record of the civil action, as provided in section 2112 of title 28, United States Code. For purposes of this paragraph, all relevant rules promulgated pursuant to section 2072 and paragraphs (a) through (c) of section 2112 of title 28, United States Code, shall be applicable to the Customs Court

"(c) Upon service of the complaint on the United States International Trade Commission or its designee in an action contesting one of the determinations set forth in section 516(d)(B)(1) of the Tariff Act of 1930, as amended, the Commission or its designee shall forthwith transmit to the United States

Customs Court, the determination, the reasons or bases therefor, the transcript of any hearing, and all information developed in connection with the investigation.

"(d) Upon service of the complaint on the U.S. International Trade Commission or its designee in an action contesting one of the determinations set forth in section 516(d)(B)(2) of the Tariff Act of 1930, as amended, the Commission or its designee shall forthwith transmit to the United States Customs Court the record, as provided in paragraphs (a) through (c) of section 2112 of title 28, United States Code. For purposes of this paragraph, all relevant rules prescribed pursuant to sections 2072 and 2112 of title 28, United States Code, shall be applicable to the Customs Court.

"SEC. 2635. TIME FOR COMMENCEMENT OF ACTION.

"(a) A civil action instituted pursuant to sections 1584, 1585, 1586, 1587, 1588 and 1589 of title 28, United States Code, shall be barred unless a complaint is filed, in accordance with the rules of the Customs Court, within:

(1) two years after the date of mailing of notice of denial, in whole or in part, of a protest pursuant to the provisions of section 515(a) of the Tariff Act of 1930, as amended, or,

(2) if no notice is mailed within the two year period specified in section 515(a) of the Tariff Act of 1930, as amended, two years after the date of the expiration of the two year period specified in section 515(a) of the Tariff Act of 1930, as amended, or,

(3) if a notice is mailed after the expiration of the two year period specified in section 515(a) of the Tariff Act of 1930, as amended, two years after either the expiration of the two year period or the mailing of the notice of denial, or,

(4) two years after the date of denial of a protest by operation of law pursuant to the provisions of section 515(b) of the Tariff Act of 1930, as amended.

"(b) An action over which the Customs Court possesses jurisdiction under section 1590 of title 28, United States Code, is barred unless commenced within thirty days after the date of mailing of a notice transmitted pursuant to section 516(c) of the Tariff Act of 1930, or, if the action is instituted pursuant to section 516(d) of the Tariff Act of 1930, as amended, within 30 days of the publication of the notice specified in that paragraph.

"(c) An action instituted pursuant to section 1581 or 1583(a) of title 28, United States Code is barred unless commenced within two years after the right of action first accrues.

"(d) An action over which the Customs Court possesses jurisdiction under paragraph (c) or (d) of section 1583 of title 28, United States Code, is barred unless commenced within thirty days of the announcement by the President of his final decision.

"SEC. 2636. EXHAUSTION OF ADMINISTRATIVE REMEDIES.

"(a) A civil action may be instituted within the jurisdiction conferred by sections 1584, 1585, 1586, 1587, 1588, or 1589 of title 23, United States Code, only by a person whose protest pursuant to section 515 of the Tariff Act of 1930, as amended, has been denied in whole or in part. All liquidated duties or exactions shall have been paid at the time the action is filed.

"(b) A suit may be instituted pursuant to section 516 of the Tariff Act of 1930, as amended, only by a person who has first exhausted the procedures specified in that section.

"(c) In all other cases, the Customs Court, where appropriate, shall require the exhaustion of administrative remedies.

"(d) In extraordinary circumstances, stated in writing and supported by oath or affirmation, any person subject to an administrative proceeding referenced in subsection (a) or (b) of this section, who has a right of appeal to the Customs Court from the agency final action in that proceeding, may petition the Customs Court for preliminary injunctive relief. The Customs Court may, after hearing, and upon a determination that the petitioner will otherwise suffer substantial irreparable injury, and the public interest so requires, enter an order designed to protect the interests of the parties pending completion of the administrative proceeding. Such order may include a requirement that the administrative proceeding be given priority by the agency over other such proceedings. Financial loss shall not constitute irreparable injury within the meaning of this subsection.

"SEC. 2637. NEW GROUNDS IN SUPPORT OF A CIVIL ACTION.

Where the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930, as amended, is a precondition to the institution of a civil action in the Customs Court, the court, by rule, may consider any new ground in support of the civil action if the new ground (1) applies to the same merchandise that was the subject of the protest; and (2) is related to the same administrative decision or decisions listed in section 514 of the Tariff Act of 1930, as amended, that was or were contested in the protest.

"SEC. 2639. BURDEN OF PROOF; EVIDENCE OF VALUE.

"In any matter in the Customs Court except an action transferred to the Customs Court pursuant to section 1593 of this title:

"(1) The decision of the Secretary of the Treasury, or his delegate, is presumed to be correct. The burden to prove otherwise shall rest upon the party challenging a decision.

"(2) Where the value of merchandise is in issue:

"(A)(i) Reports or dispositions of consuls, customs officers, and other officers of the United States and depositions and affidavits of other persons whose attendance cannot reasonably be had, which are based upon, and which recite, operative facts, may be admitted into evidence when served upon the opposing party in accordance with the rules of the court.

"(ii) No affidavit of the type specified in the preceding paragraph shall be admitted into evidence by the plaintiff unless the plaintiff introduces evidence to the effect that the affiant has made available to the Secretary of the Treasury or his or her delegate adequate means by which the facts contained in the affidavit can be verified.

"(iii) In the absence of unusual circumstances, mere residence abroad shall not be a sufficient demonstration that the affiant's attendance cannot reasonably be had.

"(B) Price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

"(C) The value of merchandise shall be determined from the evidence in the record and that adduced at trial whether or not the merchandise or sample thereof is available for examination.

"SEC. 2640. SCOPE AND STANDARD OF REVIEW.

"(a) Except for civil actions governed by subsections (d)(3)(A) and (i) of section 516 of the Tariff Act of 1930, as amended, any civil action in which the issue involves the following matters under the indicated sections of title 28, United States Code:

(1) the appraised value of merchandise (section 1584); or

(2) the classification and rate and amount of duties, fees, or taxes chargeable (section 1584) or,

(3) all charges or exactions (except countervailing duties imposed under section 303 of the Tariff Act of 1930, as amended, and antidumping duties imposed pursuant to the Antidumping Act, 1921, as amended) imposed upon imported articles whether imposed by the Secretary of the Treasury or otherwise (section 1586); or,

(4) the exclusion of merchandise from entry or delivery (section 1585); or,

(5) the liquidation or reliquidation of an entry or a modification thereof (section 1588); or,

(6) the refusal to pay a claim for a drawback (section 1587); or

(7) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930, as amended (section 1589);

the Customs Court shall determine the matter upon the basis of the record made in the court. Suits challenging decisions to impose countervailing or antidumping duties upon a class or kind of merchandise shall be subject to review as provided in subsection (c) of this section. Suits challenging the imposition of countervailing or antidumping duties upon particular merchandise shall be determined upon the basis of the record made before the court.

"(b) In all other cases, except those governed by subsections (d)(3)(A) and (i) of section 516 of the Tariff Act of 1930, as amended, or subsection (c) of this section, the scope of review shall be provided in section 706 of title 5, United States Code.

"(c) In cases other than those governed by subsection (i) of section 516 of the Tariff Act of 1930, as amended, involving decisions of the Secretary of the Treasury under section 303 of the Tariff Act of 1930, as amended, or section 201 of the Antidumping Act, 1921, as amended, or of United States International Trade Commission, the standard of review shall be as specified in sections 706(1) and 706(2)(a)-(d), inclusive, of title 5, United States Code.

"SEC. 2641. WITNESSES; INSPECTION OF DOCUMENTS.

"(a) Where appropriate in any civil action in the Customs Court, under rules prescribed by the court, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party and to inspect all samples and all papers admitted or offered as evidence except as provided in subsection (b). The Federal Rules of Evidence shall be applicable to all proceedings in the Customs Court except as provided in section 2639 or subsection (b) of this section.

(b) In any civil action, the Customs Court may order that trade secrets and commercial or financial information which is privileged and confidential of a non-party to the action or of a party or information provided to the United States by foreign governments or foreign persons shall not be disclosed or shall be disclosed to a party or its counsel or shall be disclosed to the party or its counsel only under such terms and conditions as the court may provide.

"SEC. 2643. RELIEF.

"(a) Except as provided in section 1591 of title 28, United States Code, in any civil action, the Customs Court may order any form of relief which is appropriate including, but not limited to declaratory judgments, orders of remand, writs of mandamus and prohibition, injunctions, and money judgments both for and against the United States.

"(b) If, in any civil action referred to in subparagraph (a) of section 2640 of this title, the plaintiff both (1) proves that the original decision was incorrect and (2) introduces evidence as to the correct decision, but the Customs Court, based upon the evidence introduced by both the plaintiff and the defendant, is unable to determine the correct decision, the court may either permit the parties to introduce additional evidence or remand the matter to the Customs Service for a determination as to the correct decision. The order of remand shall be final and appealable pursuant to sections 1541(a) and 2601 of this title and the decision after remand shall be subject to protest and judicial

review in the same manner and under the same procedure as was the original decision.

"SEC. 2646. Precedence of American manufacturer, producer, and wholesaler cases.

"Every case instituted under sections 1585 and 1591 of title 28 or sections 516(c) or 516(d) of the Tariff Act of 1930, as amended, shall be given precedence over other cases on the docket of the court and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

TITLE V—COURT OF CUSTOMS AND PATENT APPEALS

SEC. 501. Section 1541 of title 28, United States Code, is amended by

(1) redesignating paragraph (b) as paragraph "(c)"; and,

(2) by inserting the following new paragraph—

"(b) The Court of Customs and Patent Appeals has jurisdiction of appeals from interlocutory orders of the Customs Court, or of the judges thereof, granting, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions."

SEC. 502. Section 2601 of title 28, United States Code, is amended by deleting the following from the first sentence of paragraph (b): "which shall include a concise statement of the errors complained of"; and, by inserting a period after the word "appeal" in that sentence.

SEC. 503. (a) Paragraph (a) of section 2601 of title 28, United States Code, is amended by adding the following new sentence—"if a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed."

(b) The first sentence of paragraph (b) of section 2601 of title 28, United States Code, as amended by this Act, is amended by inserting the following after the word "appeal" where it first appears—"or cross-appeal."

SEC. 504. Chapter 93 of title 28, United States Code, is amended by inserting the following new section:

"SEC. 1546. Rules of evidence; powers in law and equity; exclusive jurisdiction.

"(a) Except as provided in section 2639 or subsection (b) of section 2641 of title 28, as contained in this Act, the Federal Rules of Evidence shall be applicable in the Court of Customs and Patent Appeals in any appeal from the United States Customs Court.

"(b) The Court of Customs and Patent Appeals shall possess all the powers in law and equity of, or as conferred by statute upon, a court of appeals of the United States.

"(c) The Court of Customs and Patent Appeals shall possess exclusive jurisdiction to review:

"(1) any decision of the Secretary of the Treasury to deny or revoke a customs brokers' license under section 641(b) of the Tariff Act of 1930, as amended, or

"(2) any action challenging an order to revoke or suspend a license under section 641(b) of the Tariff Act of 1930, as amended.

"(d) The Court of Customs and Patent Appeals shall possess exclusive jurisdiction to review any decision of the Secretary of Labor or the Secretary of Commerce certifying or refusing to certify workers, communities, or businesses as eligible for adjustment assistance under the Trade Act of 1974. This jurisdiction shall not extend to any other decision of the Secretary of Labor or Secretary of Commerce.

"No injunction or writ of mandamus shall be issued in any case arising under this section."

TITLE VI—MISCELLANEOUS

SEC. 601. (a) The title of section 516 of the Tariff Act of 1930 (46 Stat. 735) is amended to read as follows:

"SEC. 516. Suits by American Manufacturers, Producers or Wholesalers and by Adversely Affected Parties."

(b) Subsection 516(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(a)), is hereby amended to read as follows:

"(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the appraised value, the classification, the rate or amount of duty, the additional duty described in section 303 of the Tariff Act of 1930, as amended (hereinafter in this section referred to as "countervailing duties"), if any, and the special duty described in section 202 of the Antidumping Act, 1921, as amended (hereinafter in this section referred to as "antidumping duties"), if any, imposed upon any designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him, her, or it or shall state whether the designated imported merchandise is excluded from entry under the customs laws.

"If such person believes that the appraised value is not correct, that the classification is not correct, that the proper rate or amount of duty is not being assessed, that countervailing duties or antidumping duties should be assessed upon the particular merchandise specified in the petition, or that the merchandise should be excluded from entry under the customs laws, he, she, or it may, except as provided in subsection (d) of this section, file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, the rate or amount of duty that he, she, or it believes proper, or that he, she, or it believes that the merchandise should be excluded from entry under the custom laws, and (3) the reasons for his, her, or its belief (including, in appropriate instances, the reasons for his or her belief that countervailing duties or antidumping duties should be assessed)."

(c) Subsection 516(b) of the Tariff Act of 1930, as amended, is amended to read as follows:

"(b)(1) If, after receipt and consideration of a petition filed as provided in subsection (a) of this section, the Secretary decides that the appraised value of the merchandise is not correct, that the classification of the article or the rate or amount of duty assessed thereon is not correct, that countervailing duties or antidumping duties should be assessed pursuant to determinations previously made under section 303 of the Tariff Act of 1930, as amended, or a finding issued under section 201 of the Antidumping Act, 1921, as amended, or that the merchandise should be excluded from entry under the customs laws, he or she shall decide the rate or amount of duty, whether countervailing, or antidumping duties should be assessed or that entry of the merchandise should be prohibited and the decision shall be immediately published in the Federal Register.

"(A) Except for countervailing duty and antidumping duty purposes, all such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the Federal Register shall be appraised or classified or assessed as to rate or amount of duty or permitted or denied entry in accordance with the Secretary's determination.

"(B) For countervailing duty and antidumping duty purposes, the determination of the Secretary under this subdivision shall be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after the date upon which the Secretary's determination is published in the Federal Register.

"(2) If the Secretary decides (a) that such merchandise is not subject of a prior determination under section 303 of the Tariff Act of 1930, as amended, or a finding issued under section 201 of the Antidumping Act, 1921, as amended, or (b) that conditions or practices have materially changed since such prior determination or finding was made and that there are reasonable grounds to initiate an investigation under section 303 of the Tariff Act of 1930, as amended, or section 201 of the Antidumping Act, 1921, as amended, to determine whether countervailing duties or antidumping duties should be assessed on such merchandise, or (c) that a prior determination under section 303 of the Tariff Act of 1930, as amended, or section 201 of the Antidumping Act, 1921, as amended, was not correct, he or she shall treat the petition as a request for a proceeding under section 303 of the Tariff Act of 1930, as amended, or section 201 of the Antidumping Act, 1921, as amended, and shall so inform the petitioner, and the procedures set forth therein shall thereafter apply. A decision rendered by the Secretary under this subsection to so treat the petition shall not be subject to judicial review."

(d) Subsection 516(c) of the Tariff Act of 1930, as amended, is hereby amended to read as follows:

"(c)(1) If the Secretary decides that the appraised value or classification of the articles or the rate or amount of duty or the entry of merchandise under the customs laws with respect to which a petition was filed pursuant to subsection (a) of this section is correct or that countervailing or antidumping duties should not be imposed, he or she shall so inform the petitioner.

"(2) If dissatisfied with the decision of the Secretary, the petitioner may, except as provided in subsection (d) of this section, file with the Secretary, not later than thirty days after the date of the decision, notice that he, she, or it desires to contest the appraised value or classification of, or rate or amount of duty assessed upon, or the failure to assess countervailing duties or antidumping duties upon, or the entry of the merchandise designated in the petition.

"(3) Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made in the Federal Register of his decision as to the proper appraised value or classification or rate or amount of duty or that countervailing duties or antidumping duties should not be assessed, or of the decision to permit entry of the merchandise under the customs laws and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered or denied entry after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his or her notice of desire to contest, as will enable the petitioner to contest the entry of the merchandise into the United States or the appraised value or classification of, or rate or amount of duty imposed upon or failure to assess appropriate countervailing duties or antidumping duties upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated.

"(4) Any person (except a person specified in section 514(b)(1) of the Tariff Act of 1930, as amended) adversely affected or aggrieved by a decision of the Secretary made pursuant to subsection (b)(1) or (c) of this section, in response to the petition of an American manufacturer, producer, or wholesaler as provided in subsection (a) of this section is entitled to judicial review as provided in subsection (i) of this section."

(e) Subsection 516(d) of the Tariff Act of 1930, as amended, is hereby amended to read as follows:

"(d)(1) Within 30 days after a determination by the Secretary under section 201 of the Anti-dumping Act, 1921, as amended, that a class or kind of foreign merchandise is not

being, or is not likely to be sold in the United States at less than fair value, or under section 303 of the Tariff Act of 1930, as amended, that a bounty or grant is not being paid or bestowed, and only within such time, an American manufacturer, producer, or wholesaler of merchandise of the same class or kind as that specified in the determination of the Secretary may file with the Secretary a written notice of a desire to contest the determination. Upon receipt of such notice the Secretary shall cause publication to be made in the Federal Register of the notice of desire to contest the determination. Within 30 days after publication, the petitioner may commence an action in the United States Customs Court contesting the determination.

"A petitioner may also challenge, pursuant to subsection 1 of this section, (1) the rejection of a petition by the Secretary as containing insufficient information or as failing, as a matter of law, to allege dumping or a bounty or grant, or (B) the discontinuance, under section 201 of the Antidumping Act, 1921, as amended, of an antidumping investigation. If the court determines that the Secretary erred in rejecting the petition, the court shall remand the matter to the Secretary in order to permit an investigation to be conducted.

"(2) Within 30 days after a determination by the United States International Trade Commission—

"(A) under section 201 of the Antidumping Act, of 1921, as amended, that an industry in the United States is not being or is not likely to be injured or is not prevented from being established, by reason of the importation of a class or kind of merchandise into the United States at a price which is or is likely to be less than its fair value, or

"(B) under section 303 of the Tariff Act of 1930, as amended, that an industry in the United States is not being or is not likely to be injured or is not prevented from being established by reason of the importation into the United States of merchandise, otherwise free of duty, on which a bounty or grant is being paid or bestowed, and only within such time, an American manufacturer, producer, or wholesaler of merchandise of the same class or kind as that specified in the determination of the Commission may file with the Commission a written notice of a desire to contest the determination. Upon receipt of the notice the Commission shall cause publication to be made in the Federal Register of the notice of desire to contest the determination. Within 30 days after publication, the petitioner may commence on action in the United States Customs Court contesting the determination.

"(3)(A) Any suit instituted pursuant to paragraph (1) or (2) of this section shall be subject to judicial review as provided in section 2640(c) of title 28, United States Code.

"(B) Any person adversely affected or aggrieved by a decision of the Secretary or the Commission of a kind that is appealable by an American manufacturer, producer, or wholesaler pursuant to subsection (d)(1) or (d)(2) of this section, is entitled to judicial review as provided in subsection (i) of this section."

(f) Subsection 516(g) of the Tariff Act of 1930, as amended, is hereby amended to read as follows:

"(g) If the cause of action is sustained in whole or in part, on the merits and without remand for further proceedings by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals or of the United States Supreme Court: (1) merchandise of the character covered by the published determination of the Secretary or of the Commission which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision in the weekly Customs Bulletin shall be subject to appraisement, classification, assessment of duty and entry in accordance with the final judicial decision in the action; *Provided* that: in the event a judicial decision relating to (a) a decision of the Secretary of the Treasury under section 201 of the Antidumping Act, as amended, or (b) a decision of the Secretary under section 303 of the Tariff Act of 1930, as amended, relating to merchandise which is free of duty, no additional duties shall be assessed unless and until the Commission makes the affirmative determinations required under subsection (b)(1) of section 303 of the Tariff Act of 1930, as amended, or section 201(a) of the Antidumping Act, as amended, whichever is applicable; and (2) the liquidation of entries covering such merchandise so entered or withdrawn shall, to the extent the court overrules the determination of the Secretary or of the Commission and from the time of such publication of the decision, be suspended until final disposition is made of the action.

Upon final disposition of the action, all entries the liquidation of which was or should have been suspended shall be liquidated, or if necessary, reliquidated in accordance with the final decision."

(g) Section 516 of the Tariff Act of 1930, as amended, is amended by adding the following new subsection (i):

"(i)(1) Any person adversely affected or aggrieved by a decision or determination of the Secretary or the United States International Trade Commission that is subject to judicial review under subsections (c)(4)(b) or (d)(C)(2) of this section, may file an action for such review in the Customs Court. Such action must be filed within thirty days of the decision or determination, or, if notice of the decision is required to be published, within thirty days of publication, whichever is later.

"(2) Upon the filing of an action for judicial review under subsection (1) of this subsection, the Customs Court shall review the record of the decision of the Secretary or the United States International Trade Commission. The Court may affirm the decision or order that the entire matter be returned for further consideration, but the Court may not modify the decision.

"(3) In any action for limited judicial review under this section, the findings of fact of the Secretary or of the Commission shall be conclusive upon the Court and the parties. The decision shall be affirmed unless the Court determines that it was arbitrary, capricious, or contrary to the applicable statute.

"(4) Upon application of any party, the Court may make the action a preferred cause on its docket, but the Court may not suspend the effectiveness of the decision until final disposition of the action, including any appeals.

"(5) Except as specifically provided in subsection (c) and (d) of this section, the limited remedy provided in this subsection constitutes the exclusive form of judicial review of decisions of the Secretary and the United States International Trade Commission under sections 303 and 516 of the Tariff Act of 1930, as amended, and section 201 of the Antidumping Act, 1921, as amended."

(h) The amendments specified in this section shall become effective on the day following the date of its enactment: *Provided*, that nothing contained in this Act shall be construed to require the dismissal of any action otherwise validly brought before that date under former subsection 1582(b) of Title 28 of the United States Code to contest any failure of the Secretary of the Treasury to assess countervailing duties or antidumping duties, pursuant to subsection 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), due to negative injury determinations by the United States International Trade Commission under section 323 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), or under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C. 160).

SEC. 602. (a) Paragraph (b)(1) of section 514 of the Tariff Act of 1930, as amended, is amended by deleting the last sentence of the paragraph and by inserting in lieu thereof the following new provision:

"Except as otherwise provided in sections 485(b), 516, and 557(b) of the Tariff Act of 1930, as amended, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) of this section by (a) the importers or consignees shown on the entry papers; (b) any person paying any charge or exaction; (c) any person seeking entry or delivery; (d) any person filing a claim for drawback; or, (e) any authorized agent of any of the persons specified in (a)-(d).

"A surety may file a protest if it has paid all or part of the duties due and the insured has failed to file a protest. Notwithstanding subparagraph (2) of this subsection, a protest may be filed by a surety only within ninety days of the date of liquidation or ninety days from the date of notice of delinquency, whichever is later; *Provided*, that the surety certifies in the protest that it is not filing the protest on behalf of another party who is entitled to file a protest but because of mistake, inadvertence or misunderstanding failed to file a protest within the time specified in subparagraph (2) of this subsection. If the protest filed by the surety is granted or if the protest is denied and the surety institutes an action in the Customs Court, any recovery of the surety shall be limited to the amount of duties it paid."

(b) Paragraph (a) of section 514 of the Tariff Act of 1930, as amended, is amended by inserting at the end of the first sentence the following:

"A protest against a liquidation does not include a protest against the other types of decisions specified in this paragraph."

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 701. The first sentence of paragraph (a) of section 250 of the Trade Act of 1974 is amended by deleting all that appears after "United States" and by inserting in lieu thereof "Court of Customs and Patent Appeals".

Sec. 702. (a) The second sentence of the second paragraph of paragraph (b) of section 641 of the Tariff Act of 1930, as amended, is amended by deleting all that appears after "filing," and before "sixty," and by inserting in lieu thereof "the Court of Customs and Patent Appeals, within".

(b) The second paragraph of paragraph (b) of section 641 of the Tariff Act of 1930, as amended, is amended by adding the following new sentence immediately after the third sentence of that paragraph "For purposes of this paragraph, all relevant rules prescribed in accordance with sections 2072 and 2112 of title 28, United States Code, shall be applicable to the Court of Customs and Patent Appeals."

SEC. 703. Section 1340 of title 28, United States Code, is amended by adding the following new sentence—

"The Customs Court shall possess jurisdiction over any civil action, not within its exclusive jurisdiction, arising under any act of Congress providing for revenue from imports or tonnage upon transfer from a district court as provided in sections 1592 and 1594 of title 28, United States Code."

SEC. 704. Section 1355 of title 28, United States Code, is amended by adding the following new sentence—

"The Customs Court shall have jurisdiction of any such action or proceeding upon transfer from a district court as provided in section 1592 of title 28, United States Code."

SEC. 705. Section 1356 of title 28, United

States Code, is amended by adding the following new sentence—

"The Customs Court shall have jurisdiction of any such action or proceeding upon transfer from a district court as provided in section 1592 of title 28, United States Code."

SEC. 706. Section 751 of title 28, United States Code, is amended by adding the following new paragraph (f)—

"(f) When the Customs Court is sitting in a judicial district, other than the Southern and Eastern Districts of New York, the clerk of each district court, or an authorized deputy clerk, with the approval of the district court, shall act in the district as clerk of the Customs Court, in accordance with rules and orders of the Customs Court, for all purposes relating to the case then pending before that court."

SEC. 707. Section 1491 of title 28, United States Code, is amended by inserting after the word "suits" where it first appears in the first sentence of the second paragraph of that section the following: "within the exclusive jurisdiction of the Customs Court, or".

SEC. 708. Section 2414 of title 28, United States Code, is amended by inserting after "court" in the first sentence of the first paragraph of that section the following "or Customs Court."

SEC. 709. Section 1919 of title 28, United States Code, is amended by inserting after the word "court" where it first appears, the following: "or the Customs Court."

SEC. 710. Chapter 125 of title 28 is amended by adding a new section thereto as follows:

"§ 1963a. Registration of judgments of the Customs Court.

"A judgment in an action for the recovery of money or property entered by the Customs Court which has become final by appeal or expiration of time for appeal may be registered in any district by filing therein a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

"A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien."

SEC. 711. Section 1331 of title 28, United States Code, as amended, is amended by adding the following new sentence—

"The district courts shall not possess jurisdiction pursuant to this section over any matter within the exclusive jurisdiction of the Customs Court."

SEC. 712. Paragraph (a) of section 2602 of title 28, United States Code is amended by deleting all that appears after "appeals" and before "shall" and by inserting, in lieu thereof, the following: "arising under sections 1585 and 1591 of this title or sections 516(c) or 516(d) of the Tariff Act of 1930, as amended."

SEC. 713. Section 3 of the Act of July 5, 1884 (23 Stat. 119), is amended to read as follows—

"The decision of the Commissioner of Customs on all questions of interpretation growing out of the execution of the laws relating to the collection of tonnage tax and to the refund of such tax when collected erroneously or illegally, shall be subject to judicial review in the Customs Court as provided in title 28, United States Code; *Provided that*, in the Customs Court, and upon appeal, if any, from that court, the findings of the Commissioner as to any fact, if supported by substantial evidence, shall be conclusive."

SEC. 714. EFFECTIVE DATE.

(a) The provisions of section 2631 as contained in section 402 of this Act shall become effective as to entries liquidated on and after the date of enactment;

(b) All other provisions of this Act shall become effective upon the date of enactment; *Provided that*, this Act shall not cause the dismissal of any action instituted prior to the date of enactment under the then existing jurisdictional statutes concerning the Customs Court or the Court of Customs and Patent Appeals.

By Mr. MATHIAS:

S. 2859. A bill to quitclaim certain property in the city of Washington, District of Columbia, to the Little Sisters of the Poor; to the Committee on Governmental Affairs.

LITTLE SISTERS OF THE POOR

● Mr. MATHIAS. Mr. President, I send to the desk a bill which would quitclaim certain property within the city of Washington, D.C., to the Little Sisters of the Poor.

In 1893, Congress closed certain alleys in the District of Columbia which run through a block owned by the Little Sisters. The use of the land was conveyed to the adjacent owners. Until recently, this property has been used as a home for the aged poor. The act of December 21, 1893 included a reversion clause, however, which would invalidate the conveyance at such time as the land ceased to be used for charitable purposes.

The Little Sisters of the Poor have now moved their home away from this property and wish to sell it. Such a sale cannot be completed however, unless the Congress takes steps to remove the reverter clause included in the original 1893 conveyance. This bill will convey all title and interest of the United States in these alleys and allow the Little Sisters of the Poor to sell the property.●

By Mr. HASKELL (for himself, Mr. HATHAWAY, Mr. MCGOVERN, and Mr. RIEGLE):

S. 2862. A bill to provide for the regularization of administrative practices and procedures, better congressional control of Federal regulations, periodic review of existing regulations, and for other purposes; to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly by unanimous consent.

REGULATORY CONTROL ACT

● Mr. HASKELL. Mr. President, every day we hear complaints that Government has become too big—that it is faceless, unresponsive, insensitive, cumbersome, meddlesome, bewildering, and even intimidating. One major criticism is that we lawmakers pass too many pieces of legislation in our efforts to better a very complex society.

Far too often, we who legislate forget the vital next step. After the President signs a bill, the new law enters the domain of the rulemaker.

Because many of the bills we pass are "policy in theory" rather than "policy in practice," our laws which we intended to simplify matters, become hopelessly mired in too many rules and regulations.

Every law spawns a host of regulations which in turn generate a crowd of amendments as the rules are fine tuned to fit a maze of changing circumstances.

All of this begets piles of paperwork. Out of the controlled chaos comes government documents, pronouncements, directives, "action memorandums," and rules. Enough paper each year, in its final approved version, to fill 51 major league baseball stadiums or erect 11 new Washington Monuments, a 1974 study says.

And much of this mountain is not innocuous paper. It is backed with the might of the law and can be followed by fines, loss of Federal aid, harassment, even imprisonment. The extent of regulation is having the net effect of sapping creativity, inhibiting private enterprise, and transforming people's perception of government.

To further complicate the soup, "regulationese," a language spoken only by the initiated, has become the predominant tongue of the land.

Last month President Carter acted to remedy "regulationese" by issuing an Executive order directing heads of bureaus and agencies to use plain English in regulation writing. This was a necessary and vital first step.

But it is time Congress acted to stem the costly and duplicative cause of the problem: insufficient direction.

We must start with more carefully crafted legislation and more effective oversight.

In theory Congress should make the policy and leave the particulars to the Government experts. The laws should be the skeleton, the rules and regulations should be the flesh.

But in practice the legal bones become weighted down.

In their effort to do a proper job, rule writers have been overzealous, trying to cover all nuances and answer all comments at every turn. Sometimes their guidelines will cover situations never intended by Congress.

While bureaucrats most often are the object of scorn, many of them suffer right along with the public from overregulation. They are the ones who must contend with a rule written for every action. They have just as much trouble trying to tiptoe through the regulation minefield, making those perilous trips quite frequently.

Congress deserves much of the scorn. In our eagerness to pass laws we are, at times, too anxious to include a clause for a constituent or special interest group, too vague in our directions to the Departments, too lax in our oversight responsibilities. The Regulatory Control Act has the following major provisions:

First. Require the General Accounting Office to report to the Congress "on the timeliness, workability, and consistency with law" of all new rules and regulations.

Second. Require the executive to periodically submit all rules and regulations subject to the Administrative Procedures Act to the same regimen of public comment and review required when the rule or regulation is originally promulgated. Such review would occur every 5 years.

Third. Require each committee reporting a bill or resolution to select one of five options delineating the degree of regulatory discretion permitted the executive and specifying Congress author-

ity to approve or reject the rule or regulation.

The bill is essentially a step toward making Congress accountable for the rules which are fostered by its legislation. Congressional eagerness to pass more and more legislation could be stemmed by these new responsibilities. And hopefully we will witness less quantity and more quality.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Control Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that:

(1) the issuance of complicated, duplicative, and unnecessary rules and regulations imposes a great cost on the economy, alienates the public, and depletes the Federal budget;

(2) some rules and regulations are promulgated which are inconsistent with the law pursuant to which they are authorized;

(3) some rules and regulations become dated by new conditions arising subsequent to their promulgation;

(4) adequate procedures for pericdic review of rules and regulations by the Congress and the Executive do not now exist;

(5) the Congress lacks an institutional framework to anticipate and analyze the regulatory impact of legislation which it enacts;

(6) once a rule or regulation has been promulgated the public has no adequate mechanism to cause high level Executive review of a problem rule or regulation, nor to impact on such review when it may occur;

(b) It is the purpose of this Act to provide that:

(1) Congress exercise responsibility for reviewing rules and regulations for their consistency with the law;

(2) the Executive periodically resubmit rules and regulations to the substantive scrutiny and public criticism required when they are originally promulgated;

(3) the Congress discipline itself to insure the passage of thoughtful, responsible legislation which will not result in complicated, unworkable, excessive, or duplicative rules or regulations.

REGULATORY SUNSET

SEC. 3. Every rule or regulation subject to the provisions of section 553 of title 5, United States Code, shall, not later than the fifth anniversary of the effective date of such rule or regulation and thereafter periodically every five years, be reviewed by the agency promulgating such rule or regulation in the same manner as provided under section 553 of title 5, United States Code.

GENERAL ACCOUNTING OFFICE REVIEW

SEC. 4. The Comptroller General of the United States shall participate in the original promulgation and subsequent public review of all rules and regulations authorized by section 3 of this Act or otherwise under chapter 5 of title 5, United States Code, and report to the Congress on the timeliness, workability, and consistency with law of all such rules and regulations.

LEGISLATIVE CONTROL

SEC. 5. Section 133 of the Legislative Reorganization Act of 1946 (2 U.S.C. 19(a) is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting immediately after subsection (i) the following new subsection:

"(g)(1) Each committee of the Congress which reports a bill or resolution shall designate one of the following rulemaking options which shall be applied to such device should it become law on a title-by-title or section-by-section basis:

"(A) No regulations shall be required for specified titles or sections or for the entire bill or resolution. However, if changing circumstances should prompt the executive department or agency charged with responsibility for the implementation of the provisions of a bill should it become law to seek to issue regulations under such Act, such regulations shall be submitted to the appropriate committees of the House of Representatives and the Senate having legislative jurisdiction or oversight responsibilities with respect to such agency and such law for approval as part of the rule making process.

"(B) Proposed regulations shall require approval by the appropriate committees of the Senate or the House of Representatives.

"(C) Proposed regulations shall be subject to a veto by either House of Congress within a specified period of time.

"(D) Proposed regulations shall require approval by one House of Congress.

"(E) None of the foregoing requirements of Congressional review shall be applicable.

"(2) In any report accompanying any legislative measure the reporting committee shall specifically explain its reasons for selecting one of the rulemaking options set forth in paragraph (1) of this subsection.".

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by Senator HASKELL, for himself and others, to provide for the regularization of administrative practices and procedures, better congressional control of Federal regulations, periodic review of existing regulations, and for other purposes, be jointly referred to the Committees on Judiciary and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 2141

At the request of Mr. SCHWEIKER, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2141, a bill to facilitate the naturalization of applicants who are 50 years old and have lived in the United States for 20 years.

S. 2295

At the request of Mr. HATCH, the Senator from Oregon (Mr. MARK O. HATFIELD) was added as a cosponsor of S. 2295, the Families with Alcoholism Assistance Act of 1977.

S. 2462

At the request of Mr. DOLE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 2462, a bill to permit a limited individual retirement deduction to individuals who are participants in retirement plans.

S. 2505

At the request of Mr. JAVITS, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2505, a bill to amend title XIX of the Social Security Act to provide that certain handicapped individuals shall be eligible for medical assistance.

S. 2564

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 2564, a bill to amend the Child Nutrition Act of 1966.

S. 2809

At the request of Mr. DOLE, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2809, a bill to amend the National School Lunch Act.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from Alaska (Mr. STEVENS), the Senator from Vermont (Mr. STAFFORD), the Senator from California (Mr. HAYAKAWA), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Utah (Mr. GARN), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Concurrent Resolution 73, regarding the imposition of import fees on crude oil.

SENATE RESOLUTION 429—SUBMISSION OF A RESOLUTION TO DISAPPROVE ENERGY ACTION DOE NO. 1

Mr. KENNEDY (for himself, Mr. BROOKE, and Mr. STAFFORD) submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 429

Resolved, That the Senate does not favor the energy action numbered DOE No. 1 transmitted to Congress on April 4, 1978.

● Mr. KENNEDY. Mr. President, I send to the desk and ask its appropriate referral a Senate resolution disallowing an "energy action" filed by the President regarding the strategic petroleum reserve plan.

The energy action in question expands to 1 billion barrels the strategic reserve of the United States. This is an important objective, one for which there is substantial support in the Congress. It is not my intention to express disapproval for this portion of the plan and I anticipate the Congress would approve an amended version of this energy action if submitted.

My objection goes to that portion of the energy action which stipulates that a 20 million regional reserve of petroleum product should be stored at a cost no higher than that for salt domes in the Gulf Coast.

I believe this submission by the Department of Energy should be rejected for two reasons: First, because a major study of the potential for storage in Canada has not been completed by the United States and Canadian Governments; and, second, because the Congress should not agree to the principle that a reserve established to guarantee our national security must be judged solely on the basis of a uniform cost, using as a ceiling the least expensive site available.

When the Congress accepted in 1976 an amendment I offered to the Energy Policy and Conservation Act to guarantee regional reserves no one contemplated that the legal requirement could be met by designating a quantity of oil in Louisiana for use in New England. Oil in Louisiana will not prevent prices

from skyrocketing if another embargo is imposed. Nor can we be satisfied that tankers will be available and can navigate to northern ports in emergency situations.

It is not simply the size of strategic reserve but its location and its influence on the market and consumer behavior which must be considered. In this light, the energy action should be rejected.

The recognition that at least 20 million barrels for New England will be needed is a step forward. The recognition that this reserve should be in the form of product is also a step forward. However, if the Senate should adopt my resolution, the Department of Energy, on behalf of the President, is free to resubmit this energy action at any time without the stipulation on to the cost of storage or such other provisions as might be found objectionable by other Members of the Senate.●

SENATE RESOLUTION 431—ORIGINAL RESOLUTION REPORTED RELATING TO EMPLOYMENT PRACTICES

Mr. GLENN (for Mr. RIBICOFF), from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on Human Resources, pursuant to section 310 of Senate Resolution 110, 95th Congress, 1st session, for not to exceed 60 days:

S. RES. 431

Resolved, That this resolution may be cited as the "Lee Metcalf Fair Employment Relations Resolution".

PURPOSE

SEC. 2. It is the purpose of this resolution to implement the provisions of rule L of the Standing Rules of the Senate, which will become effective on January 3, 1979, by establishing a Senate Fair Employment Relations Board, a Senate Fair Employment Relations Office, and procedures for hearing and settling complaints alleging violations of rule L by Members, officers, and employees of the Senate.

DEFINITIONS

SEC. 3. For purposes of this resolution, the term—

(1) "Board" means the Senate Fair Employment Relations Board established by section 101;

(2) "Office" means the Senate Fair Employment Relations Office established by section 201;

(3) "Director" means the Director of the Senate Fair Employment Relations Office established by section 201;

(4) "employee of the Senate" means any individual who is an employee of the Senate, or is treated as an employee of the Senate, for purposes of the Senate Code of Official Conduct;

(5) "complainant" means an employee of the Senate or other individual who applies for a position in the Senate and who files a complaint under section 302;

(6) "respondent" means a Member, officer, or employee of the Senate against whom a complaint is filed under section 302;

(7) "office of the Senate" includes the office of a Senator;

(8) "rule L" means rule L of the Standing Rules of the Senate; and

(9) "supervisor" has the meaning given to it by paragraph 12 of the rule XLV of the Standing Rules of the Senate.

TITLE I—FAIR EMPLOYMENT RELATIONS BOARD

ESTABLISHMENT

SEC. 101. (a) There is established an office of the Senate to be known as the Senate Fair Employment Relations Board. The Board shall consist of six members, selected from among individuals in the private sector, who have a demonstrated commitment to fair employment relations—

(1) three of whom shall be appointed by, and may be removed by, the Majority Leader of the Senate with the approval, by majority vote, of the Conference of the Majority; and

(2) three of whom shall be appointed by, and may be removed by, the Minority Leader of the Senate with the approval, by majority vote, of the Conference of the Minority.

No individual who has served as a Member, officer, or employee of the Senate or the House of Representatives or as an officer or employee of the Congress may be appointed as a member of the Board during the three-year period following the termination of his or her service as such a Member, officer, or employee.

(b) Each member of the Board shall be appointed for a term of four years commencing with the day after the expiration of the term of his or her predecessor, except that of the members first appointed—

(1) one member appointed by the Majority Leader and one member appointed by the Minority Leader (as designated by the respective Leaders) shall be appointed for a term of two years commencing on the day on which this resolution is agreed to; and

(2) two members appointed by the Majority Leader and two members appointed by the Minority Leader (as designated by the respective Leaders) shall be appointed for a term of four years commencing on such day.

Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the unexpired portion of such term. Any member serving at the expiration of a term may continue to serve until his or her successor is appointed.

(c) The Board shall elect one of its members to serve as Chairperson.

(d) A quorum of the Board shall consist of four members, but no action of the Board in performing the functions and duties specified in paragraphs (1) and (3) of section 104(a) or in appointing or removing the Director under section 201 may be taken except with the concurrence of a majority of the members holding office.

(e) The Board is authorized to delegate to the Chairperson or any other member of the Board the authority to approve on behalf of the Board those actions of the Director which require approval of the Board under sections 201, 202, and 203.

COMPENSATION

SEC. 102. Each member of the Board shall receive compensation equal to the daily equivalent of the salary of the Secretary of the Senate for each day on which the member is engaged in performing his or her duties as a member of the Board and in traveling from or to his or her home to attend meetings of the Board. Each member shall also be entitled to reimbursement for transportation costs and actual travel expenses while so traveling in the same amounts as are payable to employees of the Senate.

MEETINGS; ADMINISTRATIVE SERVICES

SEC. 103. (a) The Board shall meet at least once every three months and shall also meet upon call of the Chairperson or of a majority of the members holding office. Notice of any meeting of the Board shall be given to all members at least three days prior to such meeting.

(b) All necessary administrative services required by the Board shall be furnished by the Office.

FUNCTIONS AND DUTIES

SEC. 104. (a) It shall be the function and duty of the Board—

(1) to establish and publish policies and guidelines for the implementation and enforcement of rule L;

(2) to supervise the actions of the Director and the operations of the Office through the Director; and

(3) to hear and determine complaints alleging violations of rule L in accordance wih title III.

(b) In order to carry out its functions and duties under title III, the Board is authorized to appoint and fix the compensation (subject to applicable limitations imposed by or pursuant to law on the salaries of employees of the Senate) of such number of hearing examiners as may be necessary. Any such hearing examiner may be appointed on a temporary (not to exceed one year) or intermittent basis and any hearing examiner so appointed may be paid, for each day on which he or she performs services, not in excess of the daily equivalent of the highest salary which may be paid to a hearing examiner appointed on a permanent basis.

(c) The Board may adopt such regulations as it determines necessary to carry out its duties and functions.

PAYMENT OF EXPENSES

SEC. 105. The expenses of the Board (including compensation of members of the Board and hearing examiners) shall be paid from the contingent fund of the Senate pursuant to appropriations made to the contingent fund for such purpose. Until funds are first so appropriated, such salaries and expenses shall be paid from the contingent fund out of funds appropriated for "Miscellaneous Items". Such salaries and expenses shall be paid out of the contingent fund upon vouchers approved by the Chairperson, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

TITLE II—SENATE FAIR EMPLOYMENT RELATIONS OFFICE

ESTABLISHMENT

SEC. 201. (a) There is established an office of the Senate to be known as the Senate Fair Employment Relations Office. The Office shall be headed by a Director who shall be appointed by, and shall serve at the pleasure of the Board. The Director shall receive compensation at an annual rate fixed by the Board but not in excess of the highest rate of compensation which may be paid to an employee of a committee of the Senate under section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified (2 U.S.C. 61–1).

(b) The Director, with the approval of the Board, shall appoint and fix the compensation (subject to applicable salary limitations imposed by or pursuant to law on the salaries of employees of the Senate) of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties.

(c) In carrying out the functions and duties of the Office, the Director, with the approval of the Board, may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of compensation which may be paid to employees of the Office appointed on a permanent basis.

(d) The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the functions and duties im-

posed on the Office or on the Director, with the exception of the submission of reports under sections 302 (b) and (c).

FUNCTIONS AND DUTIES

SEC. 202. (a) In addition to the functions and duties imposed on it by title III, the Office shall (1) develop procedures to implement the policies and guidelines of the Board to encourage full compliance with rule L by all Members, officers, and employees of the Senate and (2) perform such other functions as may be prescribed by the Board.

(b) The Office shall gather and maintain information with respect to each category of employees and individuals who are afforded equal employment opportunity by rule L, including, to the extent possible, information relating to individuals who apply for positions on the staffs of committees and offices of the Senate. The Office shall also gather and maintain information with respect to the employment practices of committees and offices of the Senate. Each year the Director, with the approval of the Board, shall submit to the Senate a report with respect to the information gathered under this subsection. Each report after the first report shall contain a comparison and evaluation of the data contained in such report with the data contained in prior reports.

(c) Upon the request of any committee or office of the Senate, the Office shall submit to such committee or office its recommendations for improvements in the employment practices of such committee or office. The Office shall assist the placement office with the development of procedures to collect and disseminate applications submitted by individuals from categories which are afforded equal employment opportunity by rule L.

(d) The Office shall review the procedudes and practices for receiving, hearing, and settling complaints of alleged violations of rule L under title III and make recommendations regarding the continuation or improvement of such procedures. Not later than January 3, 1981, the Director, with the approval of the Board, shall submit to the Senate the results of such review, together with his, or her recommendations. Such report shall be referred to the appropriate committee or committees of the Senate which, within one hundred and eighty days after the date of referral, shall submit their recommendations on the report of the Senate.

SUPPLIES; PAYMENT OF EXPENSES

SEC. 203. (a) The Director is authorized to procure such books, stationery, and other supplies as may be necessary for the proper performance of the functions and duties of the Office. The Architect of the Capitol and the Sergeant at Arms of the Senate shall furnish the Office such furniture and office equipment as may be necessary.

(b) The expenses of the Office (including salaries) shall be paid from the contingent fund of the Senate pursuant to appropriations made to the contingent fund for such purpose. Until funds are first so appropriated, such salaries and expenses shall be paid from the contingent fund out of funds appropriated for "Miscellaneous items". Such salaries and expenses shall be paid out of the contingent fund upon vouchers signed by the Director and approved by the Board, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

TITLE III—COMPLAINTS OF VIOLATIONS OF EQUAL EMPLOYMENT OPPORTUNITY

PART A—COUNSELING AND CONCILIATION

COUNSELING AND ASSISTANCE

SEC. 301. (a) Any employee of the Senate, or other individual who applies for a position in the Senate, who believes that he or she is being or has been discriminated against in violation of rule L may make a request to the Office for counseling and assistance. The Director shall designate employees of the Office to serve as counselors. Counselors shall advise employees and other individuals as to their rights under rule L and furnish such other advice and assistance as may be requested with respect to the application of rule L. No written statement shall be required for an employee or other individual to receive counseling and assistance under this section.

(b) Counseling under this section must be requested within sixty days of the action giving rise to the alleged discrimination, unless the Director authorizes counseling after such sixty-day period or unless the alleged discrimination is based upon a continuing practice or policy.

INFORMAL COMPLAINTS AND CONCILIATION

SEC. 302. (a) Any employee of the Senate, or other individual who applies for a position in the Senate, who believes that he or she is being or has been discriminated against in violation of rule L may, within twenty days after counseling is requested under section 301, file an informal complaint with the Director. Such an informal complaint may be filed only against an individual whom the complainant believes actually participated in the alleged violation or the individual who has authority to remedy the alleged violation, or both. Such an informal complaint shall consist of a brief written statement of the alleged violation. The Director shall furnish a copy of such informal complaint to the respondent and, if the respondent is an officer or employee, shall furnish a copy of such informal complaint to the respondent's supervisor.

(b) Upon the filing of an informal complaint under subsection (a), the Director shall collect information concerning the alleged violation. Within forty-five days after the date of filing, the Director shall submit a report to the Board with respect to such informal complaint and shall furnish copies of such report to the complainant and respondent and, if the respondent is an officer or employee, shall furnish a copy of such report to the respondent's supervisor.

(c)(1) If as a result of the information collected under subsection (b), the Director determines that there is no reason to believe that a violation of rule L may have occurred, he or she shall so state in the report submitted pursuant to such subsection, together with his or her reasons for such determination.

(2) If as a result of the information collected under subsection (b), the Director determines that there is reason to believe a violation of rule L may have occurred, he or she shall attempt to resolve such violation by informal means. If an informal agreement between the complainant and respondent is reached, the Director shall so state in the report submitted pursuant to such subsection. If an informal agreement between the complainant and the respondent is not reached, the Director shall include his or her findings in the report submitted pursuant to such subsection.

PART B—FORMAL COMPLAINTS AND HEARINGS

FILING OF FORMAL COMPLAINTS

SEC. 311. (a) If the report of the Director under section 302 with respect to an informal complaint sets forth the Director's determination that there is reason to believe that a violation of rule L may have occurred but no agreement has been reached between the complainant and the respondent, then the complainant may, within thirty days after the date on which such report is submitted to the Board, file a formal complaint with the Board. A formal complaint shall be under oath and shall be in such form and set forth the basis of the complaint in such detail as the Board may prescribe by rule or regulation.

(b) If the report of the Director under section 302 sets forth the Director's determination that there is no reason to believe that a violation of rule L may have occurred, the complainant may request the Board to review such determination. Such request shall be in writing and shall be made within thirty days after the date on which such report is submitted to the Board. The Board shall complete its review within thirty days after such request is made and if it determines that there is reason to believe that a violation of rule L may have occurred, the complainant may, within thirty days after the date of the Board's determination, file a formal complaint under subsection (a).

HEARINGS

SEC. 312. (a) Each complaint filed under section 311 shall be assigned by the Board (or by such individual as the Board may designate) for a hearing by a hearing examiner appointed under section 104(b). The hearing examiner shall cause a copy of the complaint to be served on the respondent and, if the respondent is an officer or employee, shall furnish a copy of the complaint to the respondent's supervisor. The respondent shall be entitled to file, within ten days after such service, or within such longer time as the Board may permit, a formal answer to such complaint. A formal answer shall be under oath and shall be in such form as the Board may prescribe by rule or regulation.

(b) The hearing on a complaint shall be conducted expeditiously with a record in transcript form. Upon conclusion of the hearing, the hearing examiner shall submit to the Board a report containing his or her findings and recommendations (if any) for remedial action.

DECISIONS BY THE BOARD

SEC. 313. (a) The Board shall review the transcript and the findings and recommendations of the hearing examiner with respect to each complaint filed under section 311. If the Board finds that the hearing is incomplete, it may remand the case to the hearing examiner. The Board shall render a decision in each case within sixty days after the filing of the formal complaint, unless prior thereto the complainant and the respondent reach an agreement disposing of such case.

(b) If the Board determines in any case that there is or has been a violation of rule L, its decision shall include an order for such remedial action as it determines appropriate, except that no remedy may be ordered which the Board determines would result in undue benefit or undue hardship to the complainant or the respondent.

RULES; PROCEDURE

SEC. 314. The Board shall prescribe such rules or regulations as it determines proper to carry out the provisions of this part, including rules or regulations relating to the conduct of hearings and proceedings under this part and the rights and privileges of complainants and respondents in such hearings and proceedings. The Board shall publish all rules and regulations which it proposes to prescribe under this section and shall give interested persons on opportunity to comment thereon.

PART C—APPEALS TO SELECT COMMITTEE ON ETHICS

APPEALS

SEC. 321. (a) A complainant or respondent who is aggrieved by a decision or order of the Board under section 313 may, within thirty days after the decision or order is issued, appeal the decision or order to the Select Committee on Ethics.

(b) Within sixty days after an appeal is filed under subsection (a), the Select Committee on Ethics shall render its decision with respect to such appeal. Such decision

may affirm the decision or order of the Board, reverse such decision or order in whole or in part, or remand the case to the Board for further proceedings. In any case in which the select committee reverses a decision or order of the Board in whole or in part, if the select committee determines that there is or has been a violation of rule L, it may order such remedial action as it determines appropriate, except that no remedy may be ordered which the select committee determines would result in undue benefit or undue hardship to the complainant or the respondent.

PROCEDURE

SEC. 322. The Select Committee on Ethics shall prescribe such rules or regulations as it determines proper to carry out the provisions of section 321.

PART D—MISCELLANEOUS

REMEDIES

SEC. 331. (a) The remedial actions which may be specified in an order issued by the Board under section 313 or by the Select Committee on Ethics under section 321 include, but are not limited to—

(1) if the discrimination is failure or refusal to hire an individual, a requirement that such individual be employed within a specified period of time, or the payment of a specified sum to such individual, or both;

(2) if the discrimination is discharging an individual, a requirement that such individual be reemployed within a specified period of time, or the payment of a specified sum to such individual, or both;

(3) if the discrimination is with respect to the promotion or compensation of an individual, a requirement that such individual be promoted to or compensated at a specified level within a specified period of time, or the payment of a specified sum to such individual, or both; and

(4) if the discrimination is with respect to terms, conditions, or privileges of employment of an individual, a requirement that such terms, conditions, or privileges be changed within a specified period of time, or the payment of a specified sum to such individual, or both.

(b) Any payment ordered to be made to an individual under an order issued by the Board or the Select Committee on Ethics shall be made out of the contingent fund of the Senate upon a voucher signed by the Chairperson of the Board or the chairman of the select committee, as the case may be.

(c) No complainant or witness in a proceeding under this title shall be subject to any reprisal, interference, intimidation, or coercion by any Member, officer, or employee of the Senate as a result of filing such complaint or appearing as such a witness.

RECORDS; CONFIDENTIALITY OF INFORMATION

SEC. 332. (a) The records, files, and papers relating to each informal complaint filed under section 302, each formal complaint filed under section 311, and each appeal taken under section 321 shall constitute papers of the Senate and shall be retained for at least five years. All such information, including the existence of a case, shall be maintained on a confidential basis, and, except as provided in subsection (b) or as otherwise ordered by the Senate, such information shall not be disclosed to any person (other than the complainant and the respondent) and shall not be available for inspection other than by the Board, the Director and employees of the Office, and, with respect to any appeal taken under section 321, the Select Committee on Ethics.

(b) Decisions and orders of the Board under section 313 and decisions and orders of the Select Committee on Ethics under section 321 shall be made public.

COOPERATION BY COMMITTEES AND OFFICES

SEC. 333. Each committee and office of the Senate shall cooperate with the Board, the Office, and the Select Committee on Ethics in order that the functions and duties imposed on them by this resolution may be properly and effectively carried out.

SENATE CONCURRENT RESOLUTION 76—SUBMISSION OF A CONCURRENT RESOLUTION WITH RESPECT TO PRODUCTS OF HUNGARY

Mr. ROBERT C. BYRD (for himself and Mr. BAKER) (by request) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 76

Resolved by the Senate (the House of Representatives concurring), That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic transmitted by the President to the Congress on April 7, 1978.

AMENDMENTS SUBMITTED FOR PRINTING

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1977—S. 50

AMENDMENT NO. 1765

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. NELSON (for himself, Mr. JAVITS, Mr. HATHAWAY, and Mr. RIEGLE) submitted an amendment intended to be proposed by them, jointly, to amendment No. 1703 intended to be proposed to the bill (S. 50) to translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation, and for other purposes.

● Mr. NELSON. Mr. President, today I am submitting an amendment in the second degree to the Humphrey-Hawkins bill, S. 50, as amended by amendment No. 1703. This amendment will strengthen the employment, inflation, and price stability objectives of the legislation by increasing the sensitivity of Government policymakers to the needs and special problems of our Nation's smaller businesses.

Senators JAVITS, HATHAWAY, and RIEGLE have joined me as cosponsors of this amendment.

The Humphrey-Hawkins legislation has been endorsed by President Carter, and also has received widespread support from civil rights, church, small business, farm community, and other organizations representing millions of Americans. I cosponsored the legislation when it was introduced by Senator MURIEL HUMPHREY several weeks ago; the Subcommittee on Employment, Poverty, and Migratory Labor, which I chair, held 4 days of hearings on the bill, as amended, this session; and, I fully endorse the objectives of the bill.

The most important and essential provisions embodied in this legislation would establish an annual dialog among the executive branch of Government, the Congress, the Governors of the Federal Reserve Board and the American people to consider our fiscal and monetary policies and programs and to determine the appropriate roles the public and private sector should take with respect to employment, national growth, and inflation.

The Humphrey-Hawkins bill—if enacted—will not be a miracle cure for the American economy. But its passage would establish a constructive process which would enable the administration, Congress, the Federal Reserve, and interested and knowledgeable people from all over the country to formulate national economic goals and policies in an orderly framework, and to deal with economic problems on a coordinated basis.

One of the shortcomings of the bill, however, which was pointed out by Leon Keyserling, a former Chairman of the Council of Economic Advisers, and George Doyle, chairman of the Department of Economics at Assumption College, in the Employment, Poverty, and Migratory Labor Subcommittee's recent hearings, is its failure to give sufficient attention to the needs, problems and potential of small businesses. The purpose of this amendment is to give small businesses the attention they must be given in the highest councils of Government if the objectives established in the Humphrey-Hawkins bill are to succeed.

There are 13 million small businesses in the United States today. These range from the ma-and-pa corner store to fairly substantial businesses with many employees. Most are in the service sector—gasoline stations, fast-food restaurants, dry cleaners, retail stores, professional service businesses, independent proprietors in many lines of endeavor—but a large number also are manufacturing firms that produce high-quality consumer and investment goods.

Each and every one of these smaller businesses provides someone with a job and an income.

Altogether, small businesses account for about 55 percent of the nonagricultural jobs in the private sector and for nearly all of the agricultural jobs. This amounts to more than 50 million jobs. To achieve the job creation goals established in the Humphrey-Hawkins bill, small businesses should be given a prominent role.

Right now, most of the new jobs in our economy are created by new, small, dynamic independent businesses. This is a fact that is often overlooked or ignored because Government policies and programs, as well as the media, focus on this Nation's large corporations.

A recent study completed at the Massachusetts Institute of Technology, published last year in the Senate Small Business Committee's print on "Small Business and the Quality of American Life," compared sales and job creation by 5 young high technology companies with the performance of 11 other companies composed of 5 older, innovative companies and 6 mature companies, between 1969 and 1974. The sales of the high technology companies grew an average of 42.5 percent during these 5 years, compared to 13.2 percent for the older, innovative companies and 11.4 percent for the six mature companies. The number of jobs in the high technology companies increased 40.7 percent compared to 4.5 percent in the innovative

companies and 0.6 percent in the mature companies.

This study indicates that a rapid increase in jobs can be accomplished more efficiently by creating an atmosphere conducive to the creation and growth of young dynamic companies rather than by trying to bolster older or mature companies.

The findings of the MIT study are reinforced by data presented to the Small Business Legislative Council, an organization composed of a number of small business groups, on February 8, 1978. Congressman JOHN BRECKINRIDGE, chairman of the House Small Business Committee's Subcommittee on Antitrust, Consumers and Employment, testified that in the 7-year period, 1969 through 1976, the Nation's 1,000 largest manufacturing firms, as listed by Fortune magazine, created 74,897 new jobs. This amounts to less than 1 percent of the 9,583,000 jobs created in the whole economy during those 7 years.

Thus, while these largest 1,000 accounted for 19.1 percent of all jobs in 1976, they contributed virtually nothing to new job creation.

The compelling conclusion of these statistics is that smaller businesses have been the major source of new job opportunities. Therefore, it is extremely important that the Humphrey-Hawkins bill recognize the crucial role smaller businesses can have in this Nation's effort to provide job opportunities.

Small businesses also contribute significantly to the goal of reducing inflation and achieving price stability.

Small businesses are tough competitors. They have to be if they want to survive. The corporate giants—General Motors, Ford, Kellogg, ITT, Proctor and Gamble, Sears, and all the others—can use their multimillion-dollar advertising budgets to insure that they receive their share of aggregate consumer spending.

But a small business, without these resources, has to compete on price and quality. There is just no other way.

A strong small business sector, which constantly maintains tough market pressure on the corporate giants, is vital to holding inflation in check. Small businesses, to a great extent, prevent unreasonable and unjustifiable price increases from being imposed by large corporations.

In the Humphrey-Hawkins bill, several major goals are established for the purpose of guiding and directing Government economic policy—a reduction in unemployment, a reduction in the rate of inflation, and overall price stability.

The unemployment goals can be achieved directly by Government policies and programs. For example, tax incentives for the private sector, policies to stimulate capital formation and investment, and direct job creation all create employment opportunities.

But the goals of maintaining low rates of inflation and price stability cannot be achieved through Government policy in as direct a fashion. Wage and price controls, we have learned, can mask and hide inflation, but they cannot cure or alleviate the economic pressures that result in inflation. Experience in the past few years indicates that monetary and fiscal policies to harness economic growth do not work very well either, since reduced sales only create a situation in which firms raise their prices to protect their profit margins; a recent Joint Economic Committee study has demonstrated this phenomenon.

However, one of the most effective ways to hold down prices is to stimulate competition, and the Humphrey-Hawkins bill should recognize this.

That is part of the rationale for this amendment. It will strengthen our ability to achieve the inflation and price stability of the Humphrey-Hawkins bill by strengthening the role of small business in economic policymaking at the highest levels in our Government and help make future Government policies and programs more sensitive to the needs and problems of small business. It also will help to achieve the employment related objectives of this legislation.

First, the amendment makes the Chairman of the Council of Economic Advisers responsible both for advising the President and Congress on how economic issues and policies affect smaller businesses and for making policy recommendations to strengthen our small business sector.

No one in the White House now does this.

During his campaign for the Presidency in 1976, President Carter pledged to the National Small Business Association that he would establish an effective voice for small business in the White House. On December 15, 1977, I introduced legislation with other Senators that would help President Carter fulfill that campaign promise by creating a Council on Small Business in the Executive Office of the President, to consist of three individuals with the experience and knowledge needed to advise the President on small business issues.

The amendment I am introducing today would accomplish the same goal without creating a new organization in the White House or increasing the White House budget, since President Carter has made clear he does not want to do that.

The amendment accomplishes this by requiring the Council of Economic Advisers to undertake additional responsibilities set out in the following language:

It shall be the duty and function of the Council "to analyze and interpret the effects of government policies and programs on smaller businesses, and to recommend economic policies to (A) promote the creation and growth of smaller businesses, (B) increase competition and reduce the concentration of economic resources, (C) eliminate monopoly and other anticompetitive market structures, (D) increase the availability of capital and other resources at reasonable costs to smaller businesses and (E) make other appropriate recommendations to promote the establishment and growth of smaller businesses."

The Employment Act of 1946 now lists five duties for the Council which include helping the President prepare his annual economic report. Other duties and functions are: Gathering information, analyzing Government programs and policies as they affect employment and inflation, recommending economic policies, and preparing studies and reports requested by the President. This amendment adds a sixth function.

The Council of Economic Advisers has the prestige, the experience in economic matters, and the staff to implement this additional function.

To insure that the Council carries out this duty diligently, the amendment requires that the Council report annually on its accomplishments in this area as part of its own annual report to the President and Congress.

Second, this amendment expands the areas the Council of Economic Advisers can examine in considering measures which affect the structure of the economy. This amendment authorizes the Council to make: "recommendations to increase competition in the private sector and to improve the economic climate for the creation and growth of smaller businesses, including recommendations concerning the antitrust laws, the patent laws, and the internal revenue laws and regulations."

Last January 24 and 25 the Senate Small Business Committee held hearings on the status of competition in the American economy and received testimony on the need to establish a Competition Review Commission as proposed in legislation (S. 2071) introduced by Senators HATHAWAY and HART. FTC Chairman Mike Pertschuk and U.S. Assistant Attorney General for Antitrust John Shenefield both testified at these hearings, along with a number of private witnesses.

Although the witnesses had varying opinions on which issues a Competition Review Commission should study, they all agreed that the impact of the antitrust laws, the patent laws, and the internal revenue laws and regulations on the structure of our economy, and on the ability of small businesses to survive and complete had not been sufficiently studied.

For example, Assistant Attorney General Shenefield recently wrote Senator HATHAWAY a followup letter to the hearing in which he stated:

During my testimony on January 24, 1978, before the Select Committee on Small Business on S. 2071, you requested that I submit to you a list of suggestions for a focused inquiry by the Congress or a specially created study commission into timely issues relating to the state of competition in our economy.

We believe that two areas are particularly worthy of such consideration at this time. The relationship between the federal tax laws and competition has never been adequately explored. The tax laws may be primarily responsible for the evolution of many business structures and methods of operation, and the public interest would be served by a detailed examination of those effects. * * *

FTC Chairman Pertschuk also was asked to submit his suggestions for issue areas concerning competition that needed further study and investigation. He replied:

Certainly, the study of the effect on competition of federal laws, regulations, and contract and bidding policies called for by Section 4(a) of the [Competition Review Act] is important and ought to be undertaken. Such an analytic overview would be invaluable to the continuing evolution of a

rational government-wide competition policy.

These two Government officials, who administer and enforce the antitrust laws and the other laws which aim at stimulating competition in our economy, both have stated that there are a number of factors affecting competition in our economy that need to be studied and given close attention.

This amendment to the Humphrey-Hawkins bill will take these issues right into the highest levels of economic policymaking—the Council of Economic Advisers, the President, and the Congress.

The Council will have to examine issues relating to competitiveness within the American economy. The President and Congress also will have an opportunity to examine these issues after the Council reports.

This process should help generate a coherent competition policy that will lead to an economic climate conducive to the creation and growth of smaller competitive businesses thus helping to keep down inflation, provide new jobs, and contribute to price stability throughout the economy.

Third, this amendment proposes new language to section 207 of the Humphrey-Hawkins bill, the section of the legislation which is concerned with capital formation. The amendment would add to the congressional findings that an important goal of national policy shall be to remove obstacles that hinder the free flow of resources into new investment "particularly those obstacles that hinder the creation and growth of smaller businesses because general national programs and policies to aid and stimulate private enterprise are not sufficient to deal with the special problems and needs of smaller businesses."

Further, this amendment includes language to assure that the President shall recommend, as appropriate, new programs or modifications to improve existing programs concerned with private capital formation "in both small and larger businesses and industries."

The availability of capital to smaller businesses is a problem this country has had for many years, but it has become particularly acute during the past 3 or 4 years. Both equity and loan capital has virtually dried up for small businesses.

The Small Business Committee has compiled figures which show that during the years 1974–76 only 41 smaller companies, with net worth of $5 million or less, were able to sell stock to the public compared to 698 such companies in 1969. In 1975, only three small companies were able to sell any stock to the public, compared to 208 stock issues by larger companies.

This declining ability of smaller companies to raise equity capital is further demonstrated by the fact that the average size, in terms of total dollars of stock issues rose from $4.4 million in 1969 to $29.5 million in 1976.

This lockout of smaller businesses is widely acknowledged throughout the business community. For example, Business Week recently reported:

> For some years now, capital market(s) have been pretty much open only to the nation's big companies, the top 1,000 or so corporation.

Mr. President, this lack of capital for smaller businesses places these business concerns at a disadvantage in their ability to compete with larger corporate organizations. This disadvantage creates a situation in which competition in the economy is reduced, which in turn, creates inflationary tendencies. It has also contributed to the takeover of certain high technology smaller businesses by foreign corporations and a flight of technical know-how and jobs to foreign countries.

At hearings held by the Small Business Committee on February 8, 1978, concerning capital formation in smaller businesses, the committee released a study showing that many small high-technology firms were being forced to turn to foreign sources of capital to meet their needs for research and expansion funds. This study compiled a list of 16 firms that have been wholly or partially acquired by foreign firms, and this trend must be carefully monitored.

Foreign capital may help these few companies grow, but foreign acquisitions raise several problems since they enable the buyers to take new products and technology nurtured in this country and exploit them abroad for the benefit of foreign jobs, profits, exports, and foreign economic and military advantages.

These matters have caused serious concern among members of the Small Business Committee, as well as among other knowledgeable individuals, and that is why I have included this provision in this amendment to the Humphrey-Hawkins bill.

Fourth, this amendment modifies section 203 of the Humphrey-Hawkins bill, as amended, the section which deals with cooperation between the public and private sectors in achieving the bill's goals. This amendment specifies that,

> In considering programs and policies related to the private sector, full consideration shall be given to promoting the growth and well-being of smaller businesses.

The amendment further provides additional language in section 204, the section of the bill that deals with the authorization of regional and structured employment policies. The amendment provides that,

> To the extent feasible, such policies and programs shall foster the establishment and growth of smaller businesses in such localities and regions.

These are very important amendments because the Humphrey-Hawkins bill—despite the controversy over what it is and what is not—is a bill designed to strengthen the private sector of the economy.

The bill specifically places "primary emphasis upon the expansion of private employment," and says that "all programs and policies under that Act shall be in accord with that purpose."

Any policies undertaken under the Humphrey-Hawkins bill to expand jobs are to emphasize and establish as the first priority "expansion of conventional private jobs through improved use of general economic and structural policies."

Following private job creation through the use of conventional monetary and fiscal policies, the bill establishes a specific priority listing of job creation measures which continues to put primary emphasis on job creation in the private sector.

Only after private sector job creation measures have been expanded, consistent with balanced economic growth, are public job creation measures to be emphasized under the bill.

Thus, the Humphrey-Hawkins bill is primarily a private jobs bill which relegates public job creation to a secondary role.

These particular amendments specifies that when Congress develops private job creation measures under the auspices of the Humphrey-Hawkins bill, it should emphasize measures which make the most use of smaller businesses and which contribute to the health of the smaller business sector of the economy.

As I already have pointed out, the majority of all jobs in our economy are in smaller businesses. Fifty-five percent of all working Americans depend on a smaller business for employment and an income. During the years from 1969 to 1976 virtually all the new private jobs in the economy were created by smaller businesses.

I support the emphasis on job creation programs that promote new private jobs, rather than in the public sector. In developing private sector jobs, special attention should be given to new private jobs in smaller businesses.

Fifth, this amendment adds another priority to the national priorities section of the Humphrey-Hawkins bill, section 106, which establishes energy, rural America, the quality of health and education, national defense, and the strength of State and local governments as areas on which the President has a responsibility in the first economic report, and from time to time thereafter, to report. The small business priority section would require:

> Proper attention to the problems and needs for smaller businesses including (A) the availability of investment capital, management and technical expertise, technology and labor needs, (B) analysis of economic and social trends which may affect smaller businesses, (C) government policies and programs (including agency regulations and excessive paperwork requirements) that may create undue hardships on or reduce the competitiveness of smaller businesses, and (D) other policies and programs to remove barriers to competition and to strengthen and promote the creation and growth of smaller businesses.

The Senate Small Business Committee has held hearings and discovered problems for smaller businesses in almost every one of these areas during this and past Congresses.

In addition to the hearings on the capital formation problems of smaller businesses, the committee has held hearings to examine the fact that no Government agency adequately analyzes the impact on smaller businesses of social and economic trends, largely because no agency

collects the necessary data. The committee has called for the creation of a small business databank.

The Senate Small Business Committee also has held numerous hearings on the heavy burden imposed on smaller businesses by unnecessary paperwork and excessive Government regulations. For example, this past January the committee held 2 days of hearings to look into overregulation of small local land developers by HUD's Office of Interstate Land Sales Registration (OILSR), which administers the Interstate Land Sales Full Disclosure Act of 1968. We found that OILSR had used its jurisdiction under this interstate act to extend its regulatory control over land sales that were intrastate in nature, which Congress did not intend to come under the provisions of the Interstate Land Sales Full Disclosure Act. This has imposed an extraordinary burden on thousands of small intrastate land developers and has contributed to rising land costs.

The purpose of this particular amendment is to insure that special attention is given in the President's economic report to these kind of regulatory problems and to other serious problems confronting small businesses. Such attention clearly is needed to insure the prosperity, not only of small businesses, but also of every sector of American society.

Finally, this amendment would modify Section 2 of the bill, the "general findings" section of the Humphrey-Hawkins legislation. The amendment provides that "a decline in smaller business enterprises contributes to unemployment by reducing employment opportunities and contributes to inflation by reducing competition."

Mr. President, implementation of the various goals encompassed in the Humphrey-Hawkins bill depends significantly on small business. Almost all the new jobs created in the economy are jobs in small business. To create new meaningful employment opportunities, we will have to depend on small businesses to a significant extent.

Moreover, a strong competitive small business sector in each industry is one of the most effective policy goals we can pursue to curb inflation and achieve price stability.

Mr. President, this initiative may be labeled as a "small business amendment" to the Humphrey-Hawkins bill, but there are major issues addressed in this amendment that go far beyond the needs of small businesses.

Employment is not just a small business issue. It affects 99 million Americans who are in the labor force today, as well as those individuals who do not have jobs. Efforts to expand employment opportunities is of particular importance to the more than 6 million Americans who are jobless today.

Inflation is not just a small business issue. It is a "labor" issue, an "Older Americans" issue, a "minority issue, a "nutrition" issue, a "foreign affairs" issue, and an "energy" issue. Yet it will require a strong small business sector as part of the solution.

So, this amendment is not just a "small business" amendment. It is an important amendment that will affect all Americans.●

NOTICES OF HEARINGS

HEARINGS ON FOREIGN ASSISTANCE LEGISLATION

● Mr. SPARKMAN. Mr. President, since Congress reconvened in January the attention of the Committee on Foreign Relations has been almost completely absorbed with the Panama Canal treaties. As a result, the committee has not yet been able to hold needed hearings on the several annual authorization bills or on S. 2420, the major foreign assistance reorganization bill developed by the late Senator Hubert Humphrey and introduced in his behalf by a number of committee members.

By law all authorization measures are to be reported to the Senate by May 15. In addition to the routine authorization matters, the committee will consider many controversial issues during this period—aid to Turkey, transfer of U.S. military equipment to Korea, and Middle East arms sales proposals. The prospective committee workload in the months ahead is also formidable.

Under these circumstances, it is simply not feasible for the committee to deal adequately in this session with the major reorganization questions posed in S. 2420. However, I expect that individual members of the committee may propose some of the less controversial provisions as amendments during our work on the authorization bill.

The coming months will allow needed time for public discussions, and also more study within Congress and the executive branch, of the far-reaching reorganization and policy aspects of the bill so that the next Congress will have a better foundation for considering it.

At this time, I wish to announce the committee's schedule for hearings on foreign assistance authorization legislation for fiscal year 1979:

Subcommittee on Foreign Assistance:

April 24—Peace Corps (Hearings and markup).

April 25—Security supporting assistance.

April 26—(1) Assistance to international organizations; (2) General public witnesses.

April 28—General arms sales and military assistance matters.

Full Committee on Foreign Relations;

May 1—Aid to Korea related to the withdrawal of U.S. forces.

May 2—Assistance to Turkey and Greece.

Hearings on the Middle East arms sales program will be announced at a later date.●

CHANGE IN HEARING ROOM—ARBITRATION OF CIVIL CASES IN U. S. COURTS

● Mr. DECONCINI. Mr. President, on February 1, 1978, I announced that an open public hearing would be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2253, a bill to amend title 8 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes, and on March 23, 1978, I noticed a room change.

The hearing on this subject is now scheduled to be held on April 14, 1978, in room 2228, Dirksen Senate Office Building, commencing at 9 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, telephone 202–224–3618, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

THE NEUTRON BOMB

● Mr. BENTSEN. Mr. President, it is with great reluctance that I take the floor to criticize President Carter's handling of the neutron bomb issue, a matter of obvious strategic importance and significance to this Nation and our allies. I would vastly prefer, Mr. President, to rise in support of the Carter administration's handling of such an important issue, but on the question of the neutron bomb, I believe the President is wrong.

If recent reports are to be believed—and I have yet to see them effectively rebutted—the administration has determined to defer production of the neutron bomb, leaving the option to produce contingent on Soviet actions. I believe this is a mistake. As far as this Senator is concerned, the correct decision should be perfectly clear: We will produce the neutron bomb unless the Soviets scrap a weapon or group of weapons of equal importance.

I am afraid that the administration's hesitancy is due in part to the distance from which they view the area where these weapons would be deployed. Apparently, they cannot bring into focus the military picture in Eastern Europe. If they looked closely they would see the thousands of new Soviet main battle tanks and armored personnel carriers. They would see the highly mobile Soviet air defense systems. They would see the improvements the Soviets have made in chemical warfare. They would see how the Soviet air forces have converted from a defensive orientation to a modern conventional attack orientation to support large mechanized forces. They would see the new aircraft and the new air-to-surface missiles.

Mr. President, outmanned and outgunned, the NATO forces are charged with defending Western Europe in the face of the Warsaw Pact buildup. Recognizing this problem U.S. military leaders sought to provide the NATO countries with a weapon that could aid them in this task. Superior U.S. technology provided us with the answer—the neutron bomb which, in effect, neutralized thousands of Soviet tanks and gave the United States a credible deterrent to Soviet aggression.

Now, after years of development and months of consultation with our NATO allies, we have opted for hesitation. We have chosen the line of least resistance. We will not produce the neutron bomb today, when it is clearly required, but suggest we may do so in the future if the Soviets do not behave themselves. This

disturbs me, Mr. President, and it clearly disturbs our friends and allies.

Twenty years ago, in the wake of Sputnik, this Nation set out to develop a scientific and technical capability second to none. Now that we have achieved our goal, we seem a little embarrassed; strangely uncertain of our own strength.

A few months ago, the B–1 was sacrificed, yet the Soviets were forced to give nothing up. Now, the neutron bomb may be scrapped as a gratuitious act. Next, I hear it will be the cruise missile that will be crippled through the SALT talks.

Mr. President, I am in favor of strategic arms limitations, as long as they are balanced and equitable, as long as they do not enhance the potential threat to this Nation. I do not rejoice at the prospect of the neutron bomb. I am alarmed, however, at the apparent trend toward the unilateral sacrifice of our strategic advantages. I submit that there is a current, manifest requirement for a neutron bomb in Europe. We can produce such a weapon. If we are going to forsake this option, let us at least get something in return. Let us not repeat the mistakes of the B–1 bomber.

We cannot permit our judgement on issues such as the neutron bomb to be colored by Soviet propaganda or emotionalism. One consideration should be paramount: whether our strategic interests and those of our allies would be best served by deployment or by deferral of a decision to deploy.

I would ask my friends in the administration two simple questions: What are the strategic benefits of a decision not to produce the neutron bomb? What are the benefits from a policy of deferral? ●

THE CARTER ADMINISTRATION'S SUPPRESSION OF THE FACTS ABOUT OIL AND GAS: THE CASES OF DR. McKELVEY AND DR. KNUDSEN

● Mr. HATCH. Mr. President, I would like to call the attention of the Senate to an excellent article by Bruce Bartlett in the April 1978 issue of the Washington Monthly. Mr. Bartlett calls our attention to the systematic disregard of energy facts by the Carter administration in its effort to establish a Federal monopoly over energy and, thereby, control the allocation of resources in the United States. The obvious result of Federal energy is to neutralize the financial power of American business by destroying the ability of business to allocate resources.

Mr. Bartlett documents how close the Carter administration has come to the Lysenkoism of the Stalin era, when scientists who would not falsify their results to justify a political program were removed. This is precisely what happened to Dr. Vincent McKelvey, the distinguished Director of the U.S. Geological Survey. This is precisely what happened also to Dr. Christian Knudsen, whose MOPPS study at ERDA refuted the basis for the Carter energy program. I would point out to my colleagues that the politization of science is an even more serious Presidential offense than Watergate.

I ask that Mr. Bartlett's article be printed in the RECORD.

The article follows:

KILLING THE MESSENGER: THE CARTER ADMINISTRATION AND THE FACTS ABOUT OIL AND GAS

(By Bruce Bartlett)

Last September Secretary of the Interior Cecil Andrus announced that he was replacing Vincent McKelvey as director of the U.S. Geological Survey. This was an unusual announcement for several reasons:

No director of the U.S. Geological Survey had ever before been removed from office for political or any other reasons. There have, in fact, been only nine directors in the 99-year history of the Survey.

Although the directorship is a political appointment, it has never been treated as such by previous administrations. It has been thought of as more a technical than a policy position.

McKelvey's standing as a geologist has never been higher. Indeed, by all accounts he is one of the finest geologists in the United States, the recipient of virtually every award that can be achieved in his profession.

McKelvey's dismissal came on the heels of a speech in which he seriously questioned the view that America is dangerously close to exhausting its oil and gas resources.

McKelvey's firing followed closely a similar forced resignation—that of Dr. Christian Knudsen from his job at the Energy Research and Development Administration after he completed a report showing that large quantities of natural gas and petroleum would become available if prices were decontrolled.

These circumstances are now leading congressmen and members of the scientific community to ask why McKelvey was fired and, more importantly, what effect his firing is going to have on the objectivity of scientific research in government. They contend not that the Carter administration does not have the right to have its own people in the government, but that McKelvey was a technical advisor, not a policy-maker. In policy positions a president needs people who will support him; in technical jobs he needs people who will tell him the truth. The implication is that scientists and technicians who produce data that contradicts administration positions will be replaced by people more compliant.

McKelvey was born in 1916, received his Ph.D. in geology from the University of Wisconsin, and has been with the U.S. Geological Survey since 1941. He became chief geologist in 1971 and was appointed director the same year by President Nixon. In keeping with the tradition of maintaining the non-political nature of the directorship, McKelvey was appointed on the recommendation of the National Academy of Sciences.

McKelvey has always held the view that there is a great deal of oil, natural gas, and coal left to be discovered in the United States. This view has frequently brought him into conflict with environmentalists and others who hold a much more pessimistic view of the nation's ability to meet future energy demands unless growth is radically reduced.

When scientists like McKelvey talk about the availability of energy they do so with qualifications that are frequently lost in the discussion. For example, when one talks of "reserves" of oil and gas it means those quantities of the mineral fuels that have already been identified and are considered, on the basis of existing geological and engineering knowledge, to be recoverable under current economic conditions, with existing technology. The term "resources" includes reserves but also includes deposits already identified but not yet recoverable under current economic or technological conditions. Thus, as prices change and technology changes, oil and gas deposits are continually moving from the resource category to the reserve category. One may also speak of "potential" resources, which are not yet identified but, on the basis of good evidence, are considered to be recoverable some time in the future.

Thus when it's said that proven reserves of natural gas in the United States amount to 216 trillion cubic feet (tcf) and that this is sufficient to last the country for only ten years, several assumptions are involved: It's assumed that the price will not go up, that costs will not go up, that demand will stay at roughly 21 tcf per year, that technology will not change, and that no new reserves will be discovered in other words, a static situation in which nothing changes.

By contrast, discussions about oil and gas resources imply that prices and technology can and will change. A change in price will affect the use of certain technologies, and a technological breakthrough may change the price necessary to make certain resources recoverable. This is the way it has always been, and it's why it is not surprising that the United States has never had more than a dozen years' worth of oil *reserves* at any time. In 1914 the U.S. Geological Survey estimated total future domestic production of petroleum at only six billion barrels. The U.S. now produces this much oil approximately every 20 months and has done so for years. Thus, Professor Edward Mitchell of the University of Michigan has said:

"This fact that oilmen hold only ten or 15 years' supply of oil under the ground should be of as much concern to us as the fact that shoe stores keep only 30 days' supply of shoes on the shelf. To hold more would be unprofitable for the businessman and uneconomical for society."

VAST RESOURCES

In this light we can now consider what McKelvey said in a Boston speech on July 13, 1977. McKelvey talked about the vast fuel resources that are potentially available in the United States. In the case of natural gas, for example, he said:

"By far the greatest potential sources of natural gas are the geopressurized zones underlying the Gulf Coast region, both on and offshore. The limited investigations that have been made of this region led to estimates of as much as 60,000 to 80,000 trillion cubic feet of gas dissolved in water at a ratio believed to average 25 cubic feet per barrel of water. *This is an almost incomprehensibly large number. Even the bottom of the range represents about ten times the energy value of all oil, natural gas, and coal reserves in the United States combined.*" (Emphasis added.)

The importance of this statement is that it came at a time when Congress was in the middle of a debate over deregulation of new natural gas. The Carter administration was fighting deregulation on the grounds that there was little new natural gas left to be discovered. If this were true, then it would make sense to argue that an increase in prices would only increase profits to producers and accomplish nothing else. But McKelvey's estimates of potential reserves totally contradict this position. If the resources exist, then incentives can be provided for their discovery and production. President Carter made this point himself prior to the election in a letter to the governors of Texas, Oklahoma, and Louisiana:

"The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states, which rely on interstate supplies. While encouraging new pro-

duction, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas."

Keep in mind that Carter was talking about deregulating the price of only newly discovered natural gas, not gas that has already been discovered and is under production. But when deregulation forces in the Congress, a few months later, proposed the same thing, the administration opposed it. The logic of Carter's new position is not entirely clear, but when asked by Senator Herman Talmadge to comment on press reports of large potential natural gas resources, Energy Secretary James Schlesinger replied, "I haven't read those carefully because they seem to be based on smoking pot."

Schlesinger's statement is consistent with the administration's position that there is no natural gas left to be discovered and that price therefore has no influence on supply. As White House press secretary Jody Powell said during a press conference on June 3, 1977, President Carter believes "that even if we increased the price of oil to provide an additional $20 per barrel, there would be very little, if any increase in our production . . . and the same is true in the price of natural gas."

THE TWO ASSUMPTIONS

McKelvey's data called into question the first major assumption needed to justify the administration's position—that America has no potential resources. The second major assumption—the non-influence of price on supply—was contradicted in a study done for the Energy Research and Development Administration by Dr. Christian Knudsen.

Early in 1977 ERDA set up a task force called the Market Oriented Program Planning Study (MOPPS) to determine what the availability of oil and natural gas would be under various price assumptions. Knudsen, a chemical engineer, was appointed head of the study.

The study's first set of projections, hereafter referred to as MOPPS I, showed that at a price of $2.50 to $3.00 per thousand cubic feet (mcf), as compared to the federally controlled price of $1.45 per mcf, the nation would be engulfed in natural gas.

The reason is that at somewhere around $2.50 per mcf it becomes profitable to drill into geopressurized methane deposits, which are known to lie at depths of 15,000 feet or more. Because of the enormously high drilling costs, you simply cannot begin exploring the geopressurized regions unless there is a higher rate of return than is attainable at the controlled price. ERDA has done at least one test well at this depth without conclusive results, but recently Chevron has been reported to have drilled a well in Louisiana that hit a huge geopressurized methane deposit.

Following the completion of MOPPS I Knudsen was transferred, the estimates thrown out, and a new study commissioned to find estimates closer to the views of the Carter administration. The MOPPS II study came out with supply estimates considerably lower than those of MOPPS I. But while these were more in line with the thinking of the administration, they were still too high. Thus MOPPS III was born, and it showed still less natural gas available at even higher prices.

TWICE THE GAS AT TWICE THE PRICE

Throughout all this revision of the MOPPS data, the studies were kept highly confidential. Finally, on June 3, after the press had picked up reports of the studies, all three MOPPS studies were released to the public. Although they differ in their estimates of how much supply responds to higher prices, all three studies confirm that such a response exists. Even the most pessimistic estimate, MOPPS III, showed that twice the present reserves of natural gas would become available at roughly twice the controlled price: 465 tcf at $3.00 per mcf.

Knudsen testified under oath that when his MOPPS report was released, after he had been removed from the project and moved to another job within ERDA, he was told that the real reason for his transfer was that the results of his study conflicted with conventional wisdom and concurred with industry estimates.

The case of Knudsen has been pretty much forgotten, but the case of McKelvey continues to draw interest on Capitol Hill and in the scientific community, due to his unquestionably high qualifications. Several members of Congress recently asked the House Government Operations Committee to undertake an investigation of the McKelvey matter, and Rep. Leo Ryan's subcommittee on Environment, Energy, and Natural Resources is expected to hold hearings this year.

POLITICIZE A FEDERAL ORGANIZATION

On the day McKelvey was dismissed, The New York Times reported, "Administrators of the survey supporting Dr. McKelvey . . . charged that this was an attempt to politicize a federal organization that is basically scientific in nature." This is really the most serious issue involved in the entire McKelvey matter, for it conjures up memories of Lysenkoism in the Soviet Union. This is not to say that an incoming administration should not have the right to appoint to politically sensitive jobs people who are compatible with its views. But it is another thing to fire, for example, the head of the Bureau of Labor Statistics because he produces unfavorable unemployment statistics. So it is with McKelvey, and it's a shame that just because they don't find his information pleasant, liberals haven't jumped to his defense. You don't have to agree with the idea of deregulation to admit that more gas would be available at a higher price; you could just as easily choose to stick with a lower price and less gas.

To this charge the Carter administration responds that McKelvey was removed from office because he was a poor administrator, not because his data contradicted its energy policy. But this runs counter to the views of almost everyone who has ever worked with McKelvey.

There is no evidence at all—and none is implied—that McKelvey or Knudsen personally opposed any of the administration's policies. The contention is that they produced scientific data, objectively derived, that contradicted the administration's position. If they were in fact removed from office for this reason, then it signals a kill-the-messenger mentality in the Carter administration that ought to be strenuously opposed.●

SUN DAY MINNESOTA

● Mrs. HUMPHREY. Mr. President, on May 3, 1978, a national day of celebration is planned for solar energy. Sun Day addresses a vital issue—the need to develop safe, efficient, and environmentally sound energy alternatives—and it presents an opportunity for dynamic citizen education in an area where technological advancements have outpaced citizen awareness.

Modeled after Earth Day in 1970, which reached an estimated 20 million people and provided impetus to the environmental movement, Sun Day is a major effort to focus national attention on the world's only nonpolluting, inexhaustible, predictable, and safe energy source.

Solar energy is still envisioned by many as a fuel source for the future. Solar energy is for the future, but it is also a solution which has to be looked at for today's world. It is now an economical and technologically practical alternative to meeting our energy needs today.

Currently, the United States relies on oil, coal, and nuclear power for most of its energy needs. It is imperative that we develop nonpolluting renewable resources that can provide heating, cooling, and power for homes, businesses, and farms.

The Federal Government and private organizations are engaged in ongoing research and development to improve solar technology and encourage greater use of this clean, safe, and inexhaustible energy source. Success, however, depend in large part upon an informed and involved public. Citizen understanding and acceptance of solar energy is essential for its development as a widespread and economically feasible energy source.

Hubert Humphrey was one of the first Senators to realize the potential of solar energy and was deeply committed to its development. Designing effective solar legislation was one of his major efforts over many years in Washington. In support of the Sun Day festival, Hubert said:

Sun Day is designed to focus specifically on this solar information gap. It is going right to the heart of the solar situation. By focusing public attention on solar energy, its technology and economics, Sun Day can do more than any bill or law to stimulate the greater use of solar energy.

The Sun Day Minnesota Committee has been established to raise the awareness of the citizens of Minnesota to present and future potentials of solar and other alternative renewable energy sources. Representatives from a broad spectrum of our community in Minnesota, including labor, business, education, government, citizen action organizations, and community groups have joined in supporting the Sun Day Minnesota efforts.

The strength of Sun Day Minnesota and Sun Day U.S.A. lie in broad positive public support. I actively encourage citizens everywhere to promote, initiate, and participate in Sun Day activities.

I would like to share a list of possible Sun Day activities prepared by West Central Communities Action, Inc., Elbow Lake, Minn. Mr. President, I include with this statement a list of "Things To Do On Sun Day."

The list follows:

THINGS TO DO ON SUN DAY

1. Form a coalition to participate in Sun Day. Contact local public interest, environmental, consumer, business, church, and other community groups.

2. Contact a local radio or TV show and ask them to run public service announcements, interviews, and debates on solar energy.

3. Urge your local bank to offer mortgage credits for solar installations and energy conservation retrofits.

4. Urge the schools your children attend to run Sun Day programs. Schedule a Sun Day PTA meeting about solar energy.

5. Plant a vegetable garden—demonstrate photosynthesis sun power.

6. Work with neighbors to plant community gardens on vacant lots. Plant sun flowers.

7. Persuade a local community center to build a solar green house.

8. Urge your local library to set up a Sun Day exhibit and to acquire books on solar energy for the collection.

9. Write your federal and state legislators and ask what they are planning for Sun Day. Urge them to meet in your area to discuss solar legislation.

10. Contact your mayor, county commissioners and local planning boards and urge them to pass resolutions encouraging consideration of solar technologies for new construction in the area.

11. Set up a tour of solar homes in your area.

12. Meet with the staff where you work to discuss ways to participate in Sun Day.

13. Plan a Sun Day marathon.

14. Research some sun facts and send them to newspapers, magazines, disc jockeys.

15. Arrange for films, slide shows and video tapes on solar energy to be shown in your community. Lists are available from Solar Heating and Cooling Information Center.

16. Look into outfitting your community center with a solar installation—a solar heated pool, window box, etc.

17. Find someone to teach a course for homeowners on energy conservation teaching how to insulate walls, lay caulking and other weatherization jobs.

18. Gather some neighbors together and build a solar water heater on Sun Day.

19. Devise a solar alternative to the numerous eternal flames around the country.

20. Wear Sun Day t-shirts, buttons.

21. Organize a gathering to celebrate the sun rise on May 3.

22. Make Sun Day banners to hang on local buildings and bridges.

23. Give a book on solar energy as a gift to yourself or a friend.

24. Wear cotton clothing on Sun Day, cotton fibers are grown with solar energy while synthetic fabrics have a petroleum base.

25. Sponsor a teach-in, have talks by local solar experts and show films.

26. Develop a traveling exhibit on solar energy to take to local schools or community groups.

27. Set up a solar resource center for the community.

28. Construct solar equipment. There are plans available for solar cookers water heaters, window box collectors, and others. Contact Solar Heating and Cooling Information Center.

29. Investigate solar energy use in other countries. Japan has used solar water heaters for years.

30. Explore man's relation to the sun in other times.

31. See what solar legislation your state has passed and what has passed in other states as well.

32. Conduct a training workshop on how to install solar collectors, solar water heaters, and solar greenhouses.

33. Do research on additional jobs that would be generated by retrofitting houses, energy conservation policies, implementation of solar technologies.●

SENATOR CHURCH ON FOOD AND FOREIGN POLICY

● Mr. HATCH. Mr. President, our distinguished colleague from Idaho (Mr. CHURCH) recently addressed the National Farmers Union annual convention in Salt Lake City, Utah. His talk focused on the growing importance of foreign policy considerations in determining the welfare of our Nation's farmers.

This is a time of economic crisis for American agriculture and as Senator CHURCH points out "with more than one-fourth of our harvest being exported overseas, the foreign economic policy of the United States has become a critical element in restoring prosperity to our farms."

I was pleased to join with Senator CHURCH in introducing the Consumer and Agricultural Protection Act of 1978 along with Senators BUMPERS, HODGES, and ABOUREZK. I believe that this legislation addresses many of the concerns that the American agriculture movement has raised about our domestic farm policy.

But we cannot ignore the fact that we depend on foreign markets and world trade to maintain a healthy agriculture. Senator CHURCH, who serves as chairman of the Foreign Economic Policy Subcommittee, is well qualified to speak to this issue and I commend his speech to my colleagues.

Mr. President, I ask that the full text of Senator CHURCH's remarks to the National Farmers Union be printed in the RECORD.

The address follows:

FOOD AND FOREIGN POLICY

(By Senator FRANK CHURCH)

Although I am here tonight to speak to you on Food and Foreign Policy, I would be remiss if I did not recognize the splendid job that the Farmers Union is doing in the Green Thumb program for many of our senior citizens. It took awhile to get Green Thumb started in Idaho. But we have it now, thanks to the help of your President, Tony Dechant, and your Executive Director, John Baker. I want to thank you all for this good work.

First of all, I want to say that I think you farmers are beginning to get your message through.

We have a businessman in Boise who always has a message which he puts up on a marquee up in front of his store on Main Street. And people watch for his messages because they have a lot of zip and novelty. For instance, about a month or six weeks ago, he had a message on his marquee which read: "Yes Sir, Sadat's my baby!"

And during the Christmas season, he put up a message that had everybody puzzled. It was simply the alphabet. People looked at it and shook their heads and wondered. Then a sharp observer or two noticed that it was a 25 letter alphabet—it lacked the letter L. People who noticed that, of course, were motivated to go in and tell the businessman that he had forgotten to put the letter L in the alphabet. And he replied, "That's right. That's our message, NOEL."

You farmers have had a message too and for many years you've been unable to put it across. Subtlety hasn't worked, but I think that the tractor parades down Mainstreet USA, which began several months ago, have been effective in educating the American people.

And since then, with the commencement of the new session of Congress, the organized effort of many farmers to come to Washington and to remain in Washington to fight for meaningful agricultural legislation, has reinforced your message. Farmers are walking the hallways of Congress, making their case.

It's the most effective lobbying job by farmers that I've seen in my 21 years in the Senate.

And I believe we're beginning now to get the reaction to the national effort by farmers to get their message across. Legislation is now beginning to surface in the Congress to improve the Farm Bill and it looks like the Senate may soon be voting on emergency agricultural legislation.

For my part, on Thursday, I joined as a cosponsor of new legislation endorsed by many members of the American Agriculture Movement. It is known as the Consumer and Agricultural Protection Act of 1978, and it aims for establishing prices for farm commodities at a level which reflects their true value. I don't know what the fate of this bill will be. But I come from farm country—let me assure you at the outset that during the coming months, I intend to work for, speak for and vote for legislation in this session of Congress that will help assure the farmer of a fair price for his product. I don't know what's wrong with that—everyone else gets a fair price for their goods.

I do not pretend to have all the answers to the problems plaguing American farmers. But it must be plain by now that planting from fence row to fence row and depending on so-called "free trade" in the world market, as advocated by former Agriculture Secretary Earl Butz, hasn't worked.

Take the European Economic Community, for example. When agricultural prices are high, they work to exclude us from their market. When they over-produce, they dump their excess on us, often with the help of export subsidies.

To our European friends across the sea, I would say: It is up to you to share equitably with us the burden of adjustment to world market changes. If you refuse to do this, then we are no longer willing to travel a one-way street in the name of "free trade." We are just going to stop providing all the freedom if you get the benefit of all the trade!

With more than one-fourth of our harvest being exported overseas, the foreign economic policy of the United States has become a critical element in restoring prosperity to our farms.

You know, the United States, along with Canada, constitutes the biggest granary in the world. And, except for North America, Australia, and New Zealand, every major region of the world has moved into a food deficit position since the end of World War II. When famine strikes, the world looks to us for relief.

But, as the world's largest food producers, American farmers also serve as a global shock absorber for fluctuations in international food prices. It is a burden we have borne alone, and it has been costly, both in terms of dollars and in terms of the millions of farmers and ranchers who have been driven from their land over the years by the cruel, recurrent cycle of boom and bust.

The global marketplace is extremely volatile and American farmers are not as isolated from its dangers as they used to be. Beyond local and national considerations, our farmers are today vitally affected by a shortfall in the Soviet Union or a bumper harvest in India. Foreign developments, perhaps as never before, can easily determine a farmer's profit or loss in any given year.

In addition to an erratic world market, our farmers must also contend with the fact that a handful of privately owned multinational grain companies virtually control the world's grain trade. To give you some idea of their size, the largest of the Big Six, Cargill, enjoys annual sales of about $11 billion. Only 45 nations in the world have a Gross National Product greater than this one company's yearly volume of sales!

These multinational corporations view themselves as "economic nation-states", making decisions on where to store, where to buy, and where to sell, without much thought to their effect upon farmers or consumers in any one country, including our own.

I don't know what is to be done about these global giants. But one thing we can all agree upon: the Big Six could use some

competition! I welcome the initiative of this Administration in offering farm cooperatives an opportunity to enter the export market directly. I hope, with follow-up support, that cooperatives will be able to break the stranglehold of the Big Six.

Since American farmers must sell the product of one out of every four acres abroad, the federal government must find ways to help them. First of all, let the government help in expanding their share of the export market.

American farmers had no better friend than the late, great Senator from Minnesota, Hubert Humphrey. At his invitation, I joined him last year in introducing the Agriculture Trade Expansion Act of 1977, a bill designed to make this country fully competitive in the food markets of the world.

The legacy of the Cold War has been hard to shake off. It took us a long time to discover that fat communists are less dangerous than hungry ones. It took us a long time to admit that we were only punishing ourselves by refusing to engage in trade with Russia and China which was both profitable and peace-producing.

I don't know whether any of you are still victims of that same old ideological hangup, but I am here to tell you this: For any country that has the most efficient farmers in the world, for any country that depends upon its farmers for more than 20% of its exports, for any country which is faced, as we are, with the largest trade deficit in our history, we had better start selling food whenever and wherever we can! As far as I'm concerned, I am for selling food to any country that needs it and can pay for it, whether I approve of its government or not. As Hubert Humphrey used to say: I'm for selling anything they can't shoot back!

Let it be emphasized that the Humphrey bill does not create a new give-away program. Why, we can't even sell food abroad, without accusations of "give-away." How often have I heard it said that we aren't getting paid for the grain we have sold to the Soviet Union and China. Well, of course, that's not true. Those governments couldn't engage in international trade unless they paid their bills. The fact is, they pay, and they pay on time, and we ought to have the sense to offer them credit terms that meet our competition!

Still, experience has taught us that a cutthroat race among exporters is one in which there will be no long-term winners. In such a race, everyone loses, consumers and producers alike. Wildly fluctuating prices in the world market must be avoided in the interest of both sellers and buyers.

An example of how this might be accomplished is to be found in the recently negotiated International Sugar Agreement. It uses buffer stocks and export quotas as tools for bringing world sugar prices within a corridor, ranging from a minimum of 11 cents per pound to a maximum of 21 cents. This translates into a delivered price range in the United States of from 13.5 cents to 23.5 cents per pound.

If the new treaty works, if it is successful in raising sugar prices into the mid-range, the problems of our beleaguered sugar beet growers may be solved. Last month, I took the Foreign Relations Committee to Burley, Idaho, for a hearing on the proposed treaty. Burley, as you know, is in the heart of sugar beet country and the hearing was attended by more than 200 farmers, who were keenly interested in learning about the terms of the agreement.

A former Idaho Senator once served on the Foreign Relations Committee, Senator William Borah. He was the Chairman of the Committee during the 20s and a very influential man. But back then, the work of the Foreign Relations Committee seemed very remote from the day to day concerns of Idaho farmers. How that's changed!

At the Burley hearing, which probably was the first hearing of the Foreign Relations Committee ever to be held in Idaho, I gave the farmers the opportunity to question officials of both the Departments of State and Agriculture, our negotiators. I put them up in front of the group as a panel to respond to the farmers. And it was a tremendously useful meeting.

The farmers, along with other representatives of our domestic sugar industry, approved of the agreement, but insisted on one vital pre-condition. They rightly observed that the track record of international commodity agreements has not been reassuring. They insisted on a back-up domestic sugar program that they could rely upon in the event that this agreement were to fail. I agree with their position, and I have notified the Secretary of Agriculture that there will be no further hearings on ratification of the sugar treaty until the Administration formulates a satisfactory domestic program.

Negotiations have now commenced on an international wheat agreement. The United States is proposing that a coordinated system of nationally held grain reserves be established that would make possible, on a shared basis, the shifting of grain supplies forward from years of excess production to years of shortage. Under this arrangement, participating nations would agree to maintain reserve stocks, with common guidelines for accumulation and release. Again, the objective would be to stabilize world wheat prices within an acceptable range.

The critical question is what the floor price will be. I emphatically disagree that our current loan rate—under the present farm bill—is sufficient for this purpose. It is well below the current cost of production, and therefore cannot be considered a fair price for our farmers!

For this reason, I have recently introduced a sense-of-the-Senate resolution urging our negotiators to bargain for a price range which will guarantee American farmers a fair return for their wheat. If that is not obtainable, the United States should refrain from joining the agreement. Otherwise, I will do everything possible to prevent its ratification by the Senate!

But whatever our success in negotiating better international commodity agreements, they will never eliminate the importance of strengthening our markets at home. And here it happens that the energy front offers us a new and promising opportunity. What is the crux of the energy problem? Summed up in one sentence, it is that we have become too dependent on foreign oil. We must reduce our reliance upon it, since we are unable either to control its price or assure its supply. That's the crux of the energy problem, and the American farmer can play a crucial role in solving it.

For years we have been bombarded with talk about achieving energy independence. But its been largely talk. From the time President Nixon first declared Project Independence as our primary national energy goal, despite all the programs, research and development, our importation of foreign fuel has actually gone up, not down, from one-third of our yearly requirement to nearly one-half. We have been losing the battle at an alarming rate, becoming more, not less, dependent on foreign oil with every passing year.

Yet the farmer can help in turning that picture around, because if we would just begin to use crops and other renewable resources for alcohol to mix with gasoline, at a ratio of 10 percent alcohol to 90 percent gas, we could produce a product called gasohol, on which our cars would operate even more efficiently than on pure gasoline. This alone could reduce our import of foreign oil by fully one-fifth. It would cut into our huge trade deficit and boost the sagging dollar in the money markets of the world.

The present farm bill contains a provision authorizing federally guaranteed loans for the construction of four gasohol demonstration plants. This approach faithfully adheres to the Department of Energy's research and development syndrome of pilot plants and demonstration projects, all financed, directly or indirectly, with federal funding accompanied by another horde of federal employees, dutifully colonizing the problem and developing a vested interest in its perpetuation rather than its solution.

To avoid this pitfall, I have just introduced the Gasohol Motor Fuel Act of 1978. It puts the burden where it belongs, directly on our oil refineries. They possess the distribution network for liquid fuels in this country, and they have the corporate capability to put gasohol on the commercial market. If we wait for the Department of Energy to do it, we'll wait forever.

Those who argue that deriving alcohol from renewable sources is too expensive, forget that each gallon of fuel that we grow at home replaces a gallon of fuel that we otherwise must import from abroad, at prices which will only go higher. Moreover, a gallon of gasoline made from oil or coal can never be replaced. But a gallon of alcohol made from crops grown on our farms can be replaced, as long as the soil lasts and the sun shines.

My bill would require American refineries to begin mixing alcohol (from renewable sources) with gasoline no later than 1981. A 10 percent blend nationwide would be required by 1990. Such a goal would mean a savings, at today's prices, of over $9 billion on our oil import bill. At the projected price of foreign oil by 1990, the savings could easily exceed $20 billion a year!

I learned in the Senate a long time ago that when dealing with fundamental problems such as those I have discussed tonight, we have got to rise above narrow partisanship, put away the long knives, and collaborate. That is what is required of those who would be statesmen today. If we do that, then I think the prospects for agriculture in this country will brighten again. These problems are not unsolvable, and anything as productive and efficient as American agriculture is bound to rise again to the prosperous level it should enjoy in our economy. To that end, I pledge you my cooperation, as I am sure you will give me yours.●

FARM RELIEF CONFERENCE REPORT

● Mr. PELL. Mr. President, on Monday the Senate will vote on the conference report of the Emergency Agricultural Act of 1978. I intend to vote against the report—as I voted against the original bill.

The measure agreed to by House and Senate conferees is no improvement over the hastily and ill-conceived farm aid bill rushed through the Senate in March.

I fully understand the plight of American farmers—the fact that they are not receiving an adequate return for the cost of their labors—however, I believe in attempting to correct this problem in one segment of our population, we must not shift the burden to another segment. It is estimated that this massive farm bill, if enacted, would add 2 percent to retail food costs and cost $3 billion more than farm aid programs now in effect. The farmers have a case, but it does not

justify the other 95 percent of the Nation having to pay a kind of double indemnity through higher prices for products as well as taxes for farm subsidies.

In racing the emergency farm bill through the Senate and rejecting more modest proposals in conference, Congress has ignored the budget process and the inflationary impact of this bill. It is unfair that consumers, who are already burdened by the high cost of energy and the increasing costs of living, should now be asked to pay even higher prices for their food, because of an ill-conceived farm relief measure. The Nation's farmers have a real problem. This bill just happens to be the wrong way to solve it.

Because Congress has acted so hastily on this measure and without proper deliberation, there is no assurance that this bill is truly in the interest of most farmers, or our export trade, or, most importantly, of our consumers. What is certain is that the Emergency Agricultural Act of 1978 is at odds with the administration's plans to build up grain reserves, will affect the financial stability of livestock producers, raise food prices, and increase our Federal budget deficit.

Last year the Congress passed and the President signed into law a farm bill designed to provide relief to farmers. This current law has not had time to achieve its intended results. The farm measure the Senate will be voting on on Monday is a careless and frivolous attempt to hike farm incomes and in my opinion is a caricature of good legislation.●

FAIR HOUSING LAWS

● Mr. GARN. Mr. President, Tuesday of this week I brought to the attention of the Senate a threatened lawsuit between the Department of Justice and Brigham Young University (BYU) in Provo, Utah. BYU is a private, church-supported school that has entered into agreements with off-campus landlords which require that buildings or wings of buildings be restricted to renters of one sex. If a landlord does not agree to meet this minimal requirement, the school does not approve the building for student housing.

Fortunately, both the Justice Department and BYU are approaching the situation in a reasonable manner and negotiations are proceeding in a calm and responsible atmosphere. The Department of Justice is to be particularly commended for its wise approach; it takes only a little thought to realize that there are other Federal agencies that would have acted much differently. It appears that Justice is proceeding in a manner calculated to carefully resolve the important issues dealing with constitutional law; freedom and morality; congressional intent; bureaucratic authority, trustworthiness, and responsiveness, and commonsense.

The two parties met this last Wednesday and both are optimistic that further discussions will bring a satisfactory result. The Department of Justice indicated that it will postpone any further legal action pending the outcome of the talks.

Three days ago I said, "No conflict should exist between antidiscrimination laws and a private, church-supported school's right to teach high moral principles and exercise first amendment rights." I am pleased to submit for the RECORD recent editorials from the New York Times and the Los Angeles Times which confirm the point that fair housing laws do not conflict with either constitutional rights or commonsense.

The editorials follow:

WHEN SEPARATE IS EQUAL

Some 13,000 students at Brigham Young University in Provo, Utah, live off campus. Landlords who wish to rent to them must sign an agreement with the university, a Mormom institution, to separate the sexes by building or wing.

Two years ago, a nonstudent sought to rent an apartment in one of these approved buildings, only to discover that it was reserved for males. She sued, and when the suit was dismissed on technical grounds, the Department of Housing and Urban Development referred her complaint to the civil rights office of the Justice Department.

Now Justice has put the university and 36 landlords on notice that their rules violate an amendment to the Federal Housing Act which prohibits landlords from refusing to rent to any person because of sex. The Justice Department charge does not distinguish between students and nonstudents.

The university president, Dallin Oaks, raises a provocative question. He observes that the law seems to require that if a landlord has signed rental agreements with five women students to live in a six-student apartment and a man applies for housing, the landlord must rent the sixth space to him.

Justice responds that it is not aiming for such a result. "Any suit that would try to put men and women in the same room would quite justly be classified as kooky," observes one official. But then, asks President Oaks, if a landlord is permitted to consider sex in assigning someone to a multiple-occupancy apartment, may not the landlord consider sex in assigning an applicant to a building or a wing of it?

Since the sex-discrimination provision, which was added to the Fair Housing Act of 1974, has not been subject to much interpretation by the courts, Justice has no certain answer. Nor is Federal policy entirely clear, since the law that forbids discrimination by sex in schools specifically provides that housing separation of men and women students, on campus or off, is not discriminatory so long as comparable facilities are available.

A murky issue—but need it be an issue at all? Our dictionary defines discrimination as involving "a difference in treatment or favor on a basis other than individual merit." Racially segregated schools, for example, were declared unconstitutional in 1954 on the ground that they were "inherently unequal," and did harm to black children. But what group is being harmed in Provo? Who is being favored over whom?

Although the original complaint was brought by a woman, it could as readily have been brought by a man who wanted to live among women. If women were permitted to mingle with men but men were not permitted to mingle with women, that would be patently discriminatory—though such a policy might prove awkward to apply. But can there be sex discrimniation where neither sex is being treated better or worse than the other?

As for those people who like to be close to members of the opposite sex, their desire is neither novel nor unnatural. We had not realized until now that it required the intervention of Washington to be satisfied—The New York Times.

SEX AND THE SINGLE UNIVERSITY

Brigham Young University, a private church-sponsored Institution at Provo, Utah, is in trouble with the federal government, and may be the target of a Justice Department lawsuit.

The issue is deceptively simple. The university has an agreement with 36 off-campus landlords to restrict buildings or wings of buildings to members of one sex. Officials in the Justice Department's civil rights division are challenging the agreement on the grounds that it affects the rights of nonstudents.

As evidence, they cite the complaint of a woman, not a student, who said that she was denied the right to rent an apartment in a building reserved for men. This was viewed by the Justice Department as sex discrimination, although a man who applied for an apartment in a building reserved for women also would be turned down under the agreement.

Dallin H. Oaks, president of the university, said the Justice Department told him that the government was not trying to force the university "to allow students of different sexes to live in a single apartment." This assurance, Oaks replied, is "very little comfort if there is no legal distinction between this result and the one you are presently pursuing."

Oaks raised an issue, highly pertinent here, of the First Amendment's guarantee of freedom of religion. "We cannot believe," Oaks said, "that our proscription against students living with or next to persons of the opposite sex is a sufficient injury to justify interference with the fundamental rights of religious freedom at this church-sponsored university."

The threatened suit appears an abrasive, meddlesome intervention in a situation where the discrimination alleged is more theoretical than real, and where the risk of government intrusion in the area of religious freedom is more real than theoretical—Los Angeles Times.●

STATEMENT OF BILL BALLHAUS BEFORE WAYS AND MEANS

● Mr. HATCH. Mr. President, I would like to call the attention of my colleagues to the statement of William F. Ballhaus, the president of Beckman Instruments before the Committee on Ways and Means in the House on March 10. Mr. Ballhaus has the kind of vision that we need here in the Senate. I agree with him that we cannot continue to support tax and economic policies that discourage investment and the formation of equity capital. Those Senators who think that they are somehow striking at the rich and helping the working people in this country by reducing the incentives to invest will be stunned by Mr. Ballhaus' figures showing the relationship between investment and the growth of real wages. Over the past 10 years Japanese and West German workers have benefited from a growth in wages that is five to six times the growth in American wages.

There are really only two kinds of governments. One concentrates on redistrubuting income, usually from the people to the government. The other concentrates on the accumulation of capital in the hands of the people. The former become cultural and economic

backwaters. The latter are the successful nations in history.

I ask that Mr. Ballhaus' statement be printed in the RECORD.

The statement follows:

TESTIMONY OF WILLIAM F. BALLHAUS

Mr. Chairman and Members of the Committee, my name is William F. Ballhaus. I am the President of Beckman Instruments, Inc., and for this year, President of the California Chamber of Commerce. However, I am appearing before you as a concerned private citizen.

I became concerned—I might say deeply concerned—about the state of our economy several years ago. Economists as a group, and particularly those in the academic community, were saying that inflation could not be reduced without increasing unemployment and that if unemployment were reduced to an acceptable level, inflation would grow to unacceptable levels.

Gentlemen, I am not an economist. I received my Ph.D. degree in Aeronautical Engineering—a discipline in large part based on the observation and evaluation of data. Fortunately, a wealth of pertinent and reliable data are available from both government and private sources—the Departments of Commerce and Treasury, Committees of the Congress, the New York Stock Exchange, and the Conference Board.

After collecting these data, I evaluated them as an engineer—without political or philosophical bias—as an aerodynamicist evaluates wind tunnel data on an aeroplane. My first hypothesis was that something of great significance occurred in 1969. That was the year in which the Congress enacted fundamental changes in the internal revenue code. The immediate result of that action was a dramatic change in the tax impact on the investment climate in our country.

Let us examine the consequences of that change in the treatment of investments in the equity market and its economic impact on our society.

For the ten years prior to 1969 the Consumer Price Index had grown at a compound rate of 1.78 percent. Since 1969 it has risen 270 percent—to a compound rate of 6.59 percent per year.

Until 1969, the growth in the labor force and the number of shareholders holding equity stocks had grown apace. Since that bench mark year, the number of investors related to the labor force has shrunk by 28.6 percent. I should add that these were the small investors who—in an exercise of good judgment—left the market.

The immediate result of the flight of these investors from equity stocks was a dramatic decline in the number of companies going for equity capital. In 1969 some 1800 companies went to the market. By 1975, such offerings had dwindled to 150. The impact on small companies was equally dramatic. In 1969 they raised over $1.1 billion in equity capital. By 1974 this had decreased to roughly $16 million—down 98.5 percent.

This dramatic change in the investment climate had an immediate impact on the ability of our economy to create jobs for our growing work force. It has been this small and dynamic segment of our industry which has suffered the most from the equity shortage. Unfortunately, this is the group which creates new jobs at a rate 40 to 60 times greater than very large and mature companies and which is a key to restoring our balance of payments to the plus side of the ledger.

Over the four years prior to 1969 the growth in our labor force and the annual growth in jobs created was in relative balance. Unemployment was low and remained relatively constant while productivity and wages grew in parallel. Since 1969 the annual growth in real GNP is down 72 percent—productivity is down 53 percent—and the growth in real hourly compensation is down 40 percent.

Translated into economic impact, everyone has suffered.

Unemployment is too high—new businesses and new jobs have not been created for the young people entering the labor force each year.

Inflation has robbed every segment of our society—with the brunt being borne by the poor and older people on fixed incomes.

The growth in real hourly compensation of our workers lags far behind that of West Germany and Japan.

Today the economic health of our country is undermined by unacceptable international trade and budgetary deficits—the results of low rates of growth in productivity.

How do we—the greatest free industrial society in the world—set our house in order?

The foundation of my thesis is that the changes in our tax laws since 1969 and their effect on the individual investor are the root cause of our current economic difficulties. There are those who say that the oil embargo and the rise of the cost of energy are the driving forces behind our economic woes. Certainly they are elements in the equation, but I suggest to you that both West Germany and Japan, who import over 99 percent of their petroleum products, still enjoy large positive balances of trade.

A reasonable question to ask is how have our two largest trading partners and competitors for world markets managed to do this while we—who are blessed with large domestic resources—have fallen behind?

I believe the answer lies in their governments' encouragement of savings and investment. There are no taxes on capital gains in either West Germany or Japan. Investment as a percentage of Gross Domestic Product in Japan is twice that of our own and is substantially higher in Germany. This ratio of investment translates directly into increased productivity.

The major beneficiaries of their healthy investment climate have been the German and Japanese workers. Taking 1967 as the base year in an index of hourly compensation, by 1976 Japanese workers have realized a 500 percent increase in pay and West German workers a 400 percent increase.

Our own workers have seen their hourly compensation rise by only 80 percent in the same period and much of that increase has been eroded by inflation because productivity has not kept pace with the rise in wages.

I believe that our nation's economy can be restored to its former vigor by three straightforward changes in the tax code that will encourage investment—bring the individual investor back to a revitalized equity market—and draw the large investor away from contrived tax shelters.

These are:

1. Permit the "rollover" of investments, or defer all taxes on capital gains until an investor stops investing. Provide for the "rollover" of equity investments or deferral of the tax on capital gains derived from the sale of common or preferred stock or bonds so long as the total proceeds of sales are reinvested in common stock or preferred stock or until an individual disinvests or passes on his investment through a gift or through his estate at death.

At disinvestment the total net Capital Gains would be taxed as earned income averaged over the years the investment is held, or the total estate would be taxed at gift or estate tax rates when given or bequeathed.

2. Provide for the deduction of all short or long-term capital losses against ordinary income.

3. Provide for the deduction of all interest paid on money borrowed to invest in equities or bonds—except tax-free municipal or state bonds—against ordinary income.

Mr. Chairman, gentlemen, I would like to finish my statement with two remarks. As I mentioned earlier, I appear before you as a private citizen who is concerned about the economic health of his country. I am not here to ask for help from my government for my industry, my company, or myself. We are doing very well—and that leads me to a reality that underscores my thesis.

In 1971 my company saw its first downturn in sales in over thirty years. I went to my board of directors with the largest research and investment program we had ever undertaken. Its objective was the development of new products for our markets and the penetration of new growth markets. They were skeptical, but approved my plans.

Since that time we have grown at a compound rate of over 14 percent per year in sales and 28 percent in net profits.

Our courage to invest in those troubled times enabled us to continue to grow in spite of subsequent downturns in the economy.

Now, let's examine who has been the beneficiary of our courage to invest. Our shareholders have seen a 4 percent annual increase in their dividends. Our profits have grown by 28 percent each year to a factor of 4.89 and allowed us to continue to expand our jobs, our products, and our markets. But—who is the primary beneficiary of our courage to invest? It is the government. In that same period, our taxes paid have increased 39 percent annually to a factor of 8.45.

By encouraging private investment, you can make our country the economic model for the free world:

1. We can provide the jobs we need to reduce unemployment.

2. We can reduce inflation, and help the poor and elderly to survive.

3. We can improve our productivity, regain our leadership in world markets, and achieve positive trade balances.

4. We can increase real economic growth so that we can collect the taxes required to feed the poor, care for the sick, and pay for other essential needs of our country and balance our federal budget.●

EXPORTS

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance has been conducting hearings on U.S. export policy and the effectiveness of U.S. programs to increase U.S. exports. Last year the United States had a $27 billion trade deficit and the prospects for improvement this year are not promising. In February alone we had a deficit of over $4 billion.

Unlike the United States, Japan, and Germany, and other nations have relied on exports to offset their large oil imports and some have enjoyed substantial trade surpluses. There has been insufficient effort by the U.S. Government and U.S. companies to export. The lack of a national export policy contributes to the U.S. trade deficit and costs Americans jobs and inflation. Administration witnesses who have testified before the subcommittee have suggested few measures to improve our export performance.

I call to the attention of my colleagues, an article in the April issue of Business Week which aptly describes the United States as a "reluctant exporter."

The article follows:

THE RELUCTANT EXPORTER—TRADITIONAL U.S. ATTITUDES AND ANTIEXPORT POLICIES

The U.S. is the world's biggest, and most indifferent, exporter. Last year, American industries and farms shipped $120 billion

worth of goods—from soybeans and blue jeans to machine tools, computers, and aircraft—to foreign customers, compared with $118 billion for Germany and $81 billion for Japan. But U.S. imports—of oil, autos, TV sets, and thousands of other products—soared to $147 billion and opened up a yawning $27 billion trade deficit (chart). Meanwhile, the export-minded Germans and Japanese piled up fat surpluses of $18 billion and $10 billion respectively, partly by stepping up sales to the U.S.

The unprecedented shortfall in the U.S. trade account, which is likely to be repeated this year, signals a dangerous erosion in the ability of U.S. industry to compete in world markets. That deterioration is not due to traditional business factors: costs of labor and capital, or productivity. In those respects U.S. companies are now competitive. The real problems lie in the attitude of many corporate managers that exports are marginal business, and in the anti-export policy of Congress and successive Administrations, which have paid lip service to promoting exports while actually inhibiting them with laws and regulations. The U.S. is a reluctant exporter.

One immediate result is the dollar's headlong plunge. It stems, in large part, from the huge outflow of unwanted dollars as U.S. payments for imports outstrip U.S. income from exports.

The quick and easy diagnosis is that oil imports are to blame. Last year the U.S. bought $45 billion worth of oil from abroad. President Carter insists that if Congress would only pass his energy bill, the problems of the dollar would evaporate. But economists, such as Rimmer de Vries of Morgan Guaranty Trust Co. insist that solving the energy problem is only part of what is needed to put the dollar on a sound basis. The other requirement is a national export policy. Says de Vries: "I think we have a negative policy on exports. We sometimes discourage agricultural exports because of domestic price pressures; we discourage military exports for political reasons; we discourage trade with eastern Europe, and we have the problem of Arab boycott legislation."

The thinking on trade in many U.S. companies and in government is a holdover from the days when the U.S. had little need of export markets. But today, to pay for the oil it imports, the U.S. must find takers for tens of billions of dollars worth of additional products abroad.

Until it does, the U.S. is likely to be a major obstacle to worldwide economic recovery. Indeed, the current turbulence and uncertainty in international money markets threatens to abort the slow recovery of the global economy from the largest and deepest recession since World War II. And within the U.S., the falling dollar, by making imported goods more expensive, is adding fuel to inflation.

Longer term, the U.S. failure to earn its way in international markets is costing the nation hundreds of thousands of jobs, millions of dollars of corporate profits, and billions of dollars of added business activity that expanded exports would generate for industries and communities throughout the country. The consequences is likely to be lower economic growth and, ultimately, a slower rise in living standards.

A DEEP-ROOTED DISINTEREST

The response of labor unions, Congress, and many industries to deteriorating U.S. trade competitiveness has been to demand restrictions on imports rather than stepped-up efforts to boost sales of U.S. products abroad. "There is no concern at all about exports," says Senator Adlai E. Stevenson (D–Ill.), who is trying to stir interest in the issue by conducting extensive hearings before the Senate Banking Committee's subcommittee on international finance. "The objective of the Humphrey-Hawkins bill is jobs, and it has been estimated that each $1 billion of exports creates 40,000 jobs," he adds, referring to the Administration's proposed legislation to spur employment. "But Humphrey-Hawkins has something in it for everybody, except exports, and that demonstrates our indifference to this sector." Stevenson's comments are echoed by the executive in Brazil of a major U.S. goods capital exporter. "For American companies, there is no reward for exporting, nor any penalty for failing to export," he says.

Such widespread U.S. disinterest in exports—despite the success of individual U.S. companies in foreign markets is nothing new. The American colonies exported timber, tobacco, and cotton to Britain to pay for manufactured goods, and Yankee ship captains later traded products of New England's budding industries on a small scale as far away as China. But the emergence of a continent-sized internal market in the 19th century turned the attention of U.S. manufacturers inward. Unlike the Germans and Japanese, most American companies do not need to export to achieve economies of scale.

Following World War II, U.S. companies did participate in the rebuilding of Europe primarily by exporting. But as country after country regained its strength, many U.S. companies built manufacturing plants and marketing operations abroad to serve local markets. U.S. multinationals spread management skills, capital, and technology rather than U.S.-made products around the world. The exception was Japan, where restrictions kept out most multinationals as well as many U.S. exports.

For nearly 20 years the economics of overseas production, compared with high costs at home, compelled U.S. companies to continue building plants abroad, rather than export, to serve foreign markets. But many of the factors that made that practice desirable no longer exist. For example, the increase in unit labor costs in the U.S. from 1974 to 1976 was the second-lowest of the major industrial countries. (It was bettered only by the rate in West Germany.) The U.S. increase in hourly compensation over the same two years was also the second best. (West Germany again had the best record.) What is still lacking is the determination to export.

Frank A. Weil, Assistant Secretary of Commerce for domestic and international business, estimates that 20,000 U.S. companies export, but another 20,000 that could successfully sell in foreign markets are not doing so. The resulting asymmetry in U.S. trade relations with the rest of the world is typified by the auto industry. Detroit designs big cars for the U.S. market and exports very few: Europeans and Japanese build smaller cars for world markets, and last year they shipped 2 million to the U.S.

THE PROBLEM OF OIL IMPORTS

There are also shorter-term causes of the current lag in U.S. exports. In part, the trade gap reflects the slow economic recovery in Europe and Japan at a time when the U.S. is at the peak of its business expansion. The result is a strengthening demand in the U.S. for foreign products and weak demand in those countries for U.S. goods. Eventual reversal of the cycles should sharply improve the trade balance, as happened in 1975 when the U.S. ran up a record $11 billion surplus.

A more fundamental problem is soaring oil imports (chart). In itself, the huge bill for foreign oil reflects a leveling-off of domestic supplies rather than a loss of U.S. trade competitiveness.

In contrast, official doctrine among Administration policymakers, at least up to now, has held that the trade gap would automatically be closed by an economic revival abroad and by depreciation of the dollar under the system of floating exchange rates. The cheaper dollar should achieve this, in theory, by giving American goods a price advantage in world markets and making foreign products more expensive in the U.S.

To some extent, this is happening. John A. Armbruster, general manager for Asian operations of J. I. Case Co., a subsidiary of Tenneco Inc., for example, expects to sell more construction equipment in South Korea and Taiwan this year against Japanese competition because of the depreciating dollar. George F. Newman, assistant treasurer of Hewlett-Packard Co., a Palo Alto (Calif.) maker of computers and instruments, sees growing signs that the company's price cuts in foreign markets, as the dollar declines, are helping to increase export sales.

Price, of course, is only one factor—along with quality, delivery, service, and credit terms—in world market competition. Numerous nonprice barriers, ranging from foreign governments' "buy local" rules to the European Community's "variable levies" on farm imports, also nullify the impact of currency changes on trade in many products.

MULTINATIONALS' STAKE

Moreover, an increasing share of U.S. exports—anywhere from 25% to 50%—is now made up of intracompany shipments of materials, components, and finished products by parent companies of U.S. multinational concerns to thousands of their own affiliates abroad. The multinationals' huge financial stake in overseas production, as well as foreign government pressures against worker layoffs, inhibits any moves to cut back foreign output and replace it with stepped-up exports from the U.S., even if they are cheaper. Thus, the structure of international trade is moving further and further from the classical model of unimpeded commerce based strictly on "comparative advantages." Eventually, the large reverse flow of foreign multinational investment that is now moving into the U.S. should help narrow the U.S. trade gap by substituting U.S.-made products for imports of everything from Volkswagens to Japanese TV sets.

On the export side of the trade ledger, though, U.S. companies that already have well-established export networks are the only ones in position to make aggressive use of the new price competitiveness of American products in order to sell more abroad. Unfortunately, many U.S. companies turned away from exports in the 1960s when the dollar was overvalued. More recently, they have been deterred from making costly investments in overseas sales and service organizations by a rash of laws, executive actions, and court rulings that impede exports (table, page 57). Unless a more favorable business environment is created for U.S. exporters, they will continue to lose world market shares to foreign rivals, regardless of business cycles and the cheapening dollar. Says David C. Garfield, vice-chairman of Ingersoll-Rand Co., which annually exports more than $400 million worth of heavy machinery and equipment: "It doesn't make much difference what you are willing to sell for if you are unable to represent your product, service it, and get it into customers' hands."●

THE NEW SLAVERY

Mr. HAYAKAWA. Mr. President, I would like to draw the attention of my colleagues to an article by my distinguished friend, the junior Senator from Utah, which on February 27 appeared in the Baltimore Sun. Under the appropriate label, "The New Slavery," Senator HATCH discusses the principal obstacles which prevent young black Americans from entering the mainstream of American economic life. Minimum wages that kept black teenagers out of the labor force and employment taxes that raise

the cost of hiring the unskilled are correctly singled out as main culprits. Other aspects are the artificially created dependency on welfare handouts and the economically unsound reliance on temporary Government jobs. In his careful analysis, Senator HATCH draws attention to the unholy alliance of unions, the articulate elite, and the politicians which prevent black teenagers from advancing on the social ladder. "The New Slavery" is an original and important piece which deserves the attention of all Members of Congress. I, therefore, ask it be printed in the RECORD. Thank you Mr. President.

The article follows:

FINDING A WAY OUT: THE NEW SLAVERY

(By Orrin G. Hatch)

WASHINGTON.—It seems that for every step forward toward their freedom and dignity, American blacks get pushed one step backward. First blacks had to acquire freedom from slavery. Then they found that they could not get into the mainstream of American economic life, because of barriers to their full exercise of their civil rights. Now that they have acquired their civil rights they find that they still cannot get into the mainstream of American economic life, because of unions, because of the advocates in the universities and in the Carter administration of no economic growth, and, above all, because of the welfare dependencies created by self-serving politicians.

Unions, through their representatives in the Congress, legislate minimum wage rates that force black youths out of the labor force. The minimum wage and employment taxes raise the cost of hiring an unskilled, untrained youth above the value of his work to an employer. It is just as if we had passed a law that said: "It is illegal to employ black youths." Of course, the unions claim a moral justification, which is that it is immoral to pay anyone below "a living wage." But the effect of the minimum wage law is not moral. When people are legislated out of gainful employment, they cannot acquire that first job that lets them develop habits and skills that will raise their earning potential. The minimum wage does not provide black youths with good jobs. It prevents them from being able to get even a bad job. By championing their own interest and legislating black youths out of the job market, unions keep the job market tighter and in that way keep their own wage rates higher.

The chic "no-growth" attitude of white liberal elites has the effect of freezing people to whatever rung of the economic ladder they happen to be on. As an article, "Environmentalism and the Leisure Class," in the December, 1977, issue of Harper's magazine pointed out, this attitude serves the interest of those who have it made, but, as we all know, few blacks are in this group. By legislating and regulating no-growth under various guises, this elite class reduces the number of job opportunities, while maximizing its own enjoyment of its leisure time.

The legislative activities of both unions and the leisured elite help politicians keep the blacks in a state of welfare dependency in which handouts are exchanged for votes. This is the broad self-serving arrangement between three power blocks of society—the unions, the articulate elite, and the politicians—that keeps the blacks out of the mainstream of American economic life. This is a new slavery worse than the old. I cannot imagine a worse humiliation than to be freed, given civil rights, and then told: "Don't worry, the government will look after you."

Leaders in the black community have realized that blacks have been placed in a new position of dependency. The black community gets income transfers, but not opportunities for blacks to earn their own way and to be economically and politically independent. It is not easy to get out of this position. Black leaders who attempt to lead their people out of the new slavery soon find that the power elite begins referring to them as "Uncle Toms." The NAACP's recent effort to oppose the Carter energy program illustrates the problem that they face. Black leaders realized that the Carter program's emphasis on regulation and holding down energy supplies would mean less economic growth potential for the economy, and, therefore, fewer opportunities for blacks to enter the mainstream of American economic life. Black leaders understood that in addition to closing off growth opportunities, the Carter program simultaneously raises prices as a result of all the energy taxes, thus worsening the welfare-dependent position into which the blacks have been legislated.

The NAACP leaders rightfully spoke out against the Carter energy program. And what happened? There were accusations that they had sold out to "the interests." The New Republic and the Washington Post took pains to emphasize that the NAACP's task force on energy consisted of people who worked for the big oil companies. The connection was not emphasized in order to point out that these would be people with professional knowledge on the subject but, instead, to suggest the presence of an illicit element in the NAACP's stand on the Carter energy program. The Village Voice declared that the NAACP had placed blacks "beneath the boot of the most merciless defenders of corporate privilege." Soon the politicians were busy protecting their investment in their largest welfare dependency by alleging that the NAACP's stand would mean higher profits for big oil at the expense of poor blacks. And, of course, the White House twisted all the black arms it could grab. The courageous, intelligent black leaders who attempted to lead their people out of the new slavery soon found themselves on the defensive. Serious attempts are being made to force a reconsideration and reversal of the NAACP's position on the Carter energy program.

People cannot continue to enter the mainstream of American economic life unless they have opportunities for gainful employment in the private sector of the economy. Wage subsidies to private employers to employ and train the unskilled unemployed may be required to overcome the politically erected barriers to employment. That the power elite chose to subsidize unemployment instead of employment suggests to me that it will not be easy to legislate effective wage subsidies. Blacks may find it more difficult to get out of the new slavery than they did the old. Perhaps the party of Lincoln will find the energy to lead the fight in this moral equivalent of the Civil War. Whoever leads it, we all have a stake in overthrowing the new slavery.●

EQUAL RIGHTS RESOLUTIONS OF THE FIRST RURAL AMERICAN WOMEN LEADERSHIP CONFERENCE

● Mrs. HUMPHREY. Mr. President, on February 25, 1978, the First Rural American Women Leadership Conference unanimously passed a variety of equal rights resolutions.

In passing the equal rights resolutions, the conference explicitly acknowledged that what is at stake with respect to passage of the ERA is the fundamental right of economic independence for women.

The ERA is not a "women's only" issue. The issue of women's economic independence affects everyone in this country. As long as women, nationally, earn only 57 percent of what men earn, to cite only one of many appalling statistics regarding the status of women in this country, everyone is affected. Husbands, children, and families suffer when women work long hours and bring home a little over half of what men bring home for working the equivalent number of hours.

Anyone who cares deeply about poverty, inequality, and injustice in this country should care deeply about the ERA.

Mr. President, I attach the equal rights resolutions passed by the First Rural American Women Leadership Conference. The text follows:

EQUAL RIGHTS AMENDMENT RESOLUTIONS

(Passed February 25, 1978)

CONSTITUTIONAL EQUALITY FOR RURAL AMERICAN WOMEN

(Passed unanimously)

Whereas, the Equal Rights Amendment is rooted in the traditional values of individuality and independence embodied in the quality of rural American life, and

Whereas, existing laws in the United States do not fully recognize the contributions of rural homemakers to the home and family, and

Whereas, rural American women share equally in the work to support their families and run their farms and or business enterprises, and

Whereas, rural American women do not have full equal legal protection in the ownership and taxation of property, the guardianship of their children, and access to public employment, credit, education, and housing under the present United States Constitutional framework, and

Whereas, the federal government and state legislatures should base their laws on the principle that marriage is a partnership in which the contribution of each spouse is of equal importance and value, and

Whereas, gender-based laws are unjust and irrational because they use gender rather than ability or need to determine an individual's rights, responsibilities, and benefits, and

Whereas, the Equal Rights Amendment constitutionally guarantees that each person shall be treated by government as an individual, with unique talents, dreams, and aspirations, and

Whereas, the principle of legal equality of women and men is as important as the principles set forth in the Bill of Rights and should be written into the United States Constitution,

Therefore, be it resolved that the First Rural American Women Leadership Conference endorses the proposed Equal Rights Amendment to the United States Constitution.

EDUCATION ABOUT WEAKNESSES OF EXISTING LAWS

Be it resolved that the First Rural American Women Leadership Conference encourage traditional women's organizations to fully utilize their resources in educating their members about the inadequacies and inequality of existing laws adversely impacting on American women, particularly emphasizing the problems of homemakers and rural women.

EDUCATIONAL BROCHURE ABOUT CONSTITUTIONAL EQUALITY

Be it resolved that the First Rural American Women Leadership Conference calls upon Rural American Women, Inc., to facilitate the publication of an informational brochure presenting the case for rural American

women's support for and need of the Equal Rights Amendment.

U.S. DEPARTMENT OF AGRICULTURE COOPERATIVE EXTENSION SERVICE

Whereas, the U.S. Department of Agriculture Cooperative Extension service is the broadest based vehicle for reaching and teaching rural women,

Be it resolved that Rural American Women work closely with this agency to insure that accurate and factual information about the Equal Rights Amendment be made available to rural women throughout the country.

BOYCOTT OF UNRATIFIED STATES

Be it resolved that the First Rural American Women Leadership Conference calls upon President Jimmy Carter to prohibit all Federal Agencies from holding and/or funding interstate conferences and conventions in the unratified states.

DISPLACED HOMEMAKERS*

Whereas, rural homemakers who are displaced by such causes as widowhood, divorce, disability, or desertion suffer such special problems of isolation, poverty, and invisibility,

Be it resolved that state and federal legislatures enact legislation which addresses the problems and concerns of rural displaced homemakers.

EXTENSION OF THE DEADLINE FOR RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

(Passed unanimously)

Whereas, thirty-five states, comprising three-fourths of the United States population, have ratified the Equal Rights Amendment, and

Whereas, in the remaining unratified states, representing a large rural population, a few politicians representing a repressive vocal minority, are preventing the Equal Rights Amendment from coming up for a vote in their state legislatures,

Be it resolved that the First National Rural American Women Leadership Conference calls upon the United States Congress to extend the deadline for the ratification of the Equal Rights Amendment, guaranteeing equal protection for women and men under the law.

DEPLORE DISTRIBUTION OF INFLAMMATORY AND FALSE INFORMATION BY ERA OPPONENTS

Whereas, obtaining constitutional equality for women and men is of paramount importance for rural American Women, and

Whereas, consideration of the Equal Rights Amendment by state legislatures should consist of a rational review of the facts and legal arguments concerning this proposed constitutional amendment,

Be it resolved that the First Rural American Women Leadership Conference deplores the tactics of various anti-ERA individuals and groups who seek to inflame emotions and falsely represent the facts about the Equal Rights Amendment through the distribution of materials to federal and state legislators misrepresenting the publications and official activities of the National Commission on the Observance of International Women's Year and the National Women's Conference.

Be it resolved that RAW, Inc. implement these resolutions by distributing them to the relevant agencies, institutions, media, and individuals, and

Be it further resolved that RAW, Inc. distribute said resolutions in the appropriate legislative bodies when relevant legislation is pending.

*Although passage of the Equal Rights Amendment will help alleviate some of the legal barriers with which displaced homemakers are faced, the Equal Rights Amendment does not address the programs which are needed for these women. This legislation would complement the Equal Rights Amendment.

HOW TORRIJOS SWEET-TALKS WOMEN AND THE U.S. SENATE

● Mr. HATCH. Mr. President, I would like to call the attention of my colleagues to an article by Joan Peters in the April 1978 issue of Harper's magazine about Torrijos, "Panama's Genial Despot." Ms. Peters provides an interesting character study, from firsthand experience, of the Panamanian ruler. The general is obviously skilled at eliciting obsequious behavior, but not from Joan Peters.

I ask that her article from Harper's be printed in the RECORD. In addition to his character, his ideas on democracy should be interesting to the Senate, especially his idea that—

Having a leader on top and those below pulling him down, that is not democracy, that is group interest. I have spoken to some of the Soviet leaders and they insisted we should copy their way of doing things.

The article follows:

PANAMA'S GENIAL DESPOT: LEARNING TO DO HOMAGE TO BRIGADIER GENERAL TORRIJOS

(By Joan Peters)

For the past six or seven months the Carter Administration's "top priority" campaign to ratify the Panama Canal treaties has loosed a barrage of propaganda upon the country. The President has addressed the nation in an informal "fireside chat" on the subject. Congressional figures and people of importance in various spheres of domestic influence (media, business, labor, et cetera) have wandered up and down the land answering objections from the disciples of Ronald Reagan and explaining, in patient voices, that the treaties constitute "a good thing," "an idea whose time has come, and that Brigadier General Omar Torrijos Herrera, "El General" to his subjects, should not be thought of as a "strongman," "military ruler," or just another "tinhorn dictator." This last epithet unfortunately brings to mind a starchy-uniformed ignoramus, surrounded by armed, uniformed guards, who stomps around repressing the public and smothering the democratic opposition. Obviously it would be unthinkable, or at least inconsistent with President Carter's avowed concern for "human rights," to abdicate United States sovereignty of the hard-won Panama Canal to a tyrant. So for the past two or three months the government has encouraged a large number of civic-minded citizens to go on "fact-finding missions" to Panama, there to meet General Torrijos and to inquire about the benign effects of the treaties.

Given a chance to join one of these tours (sponsored by the National Committee on American Foreign Policy), I made the ceremonial trek to Panama City in December of last year with a delegation under the protection of Ambassador Angier Biddle Duke, formerly a chief of protocol in the Kennedy Administration and now a minister without portfolio who represents what might be called the best of American internationalism.*

*Among other members of the delegation were the following: NCAFP president Eugene Foley; former CBS president Arthur Taylor; former NBC chairman Robert Sarnoff; *Forbes* magazine's Malcolm Forbes, Jr.; *Louisville Courier-Journal* scion Barry Bingham, Jr.; veteran journalists Jay Rutherford and Benjamin Welles; New York congressional aspirant Robin Chandler Duke; Duke University president Terry Sanford; Cleveland Amory; Freedom House honorary chairman Leo Cherne and Appeal of Conscience Foundation's Rabbi Arthur Schneider; Frank Dorn, former U.S. Congressman from Brooklyn; and an enigma described by the sponsoring committee's press release as "Raymond Maduro, former Deputy Special Assistant to President Gerald Ford."

On a Monday, the day before our delegation departed for Panama, we attended a day-long series of briefing sessions in Washington. They began auspiciously with National Security Advisor Zbigniew Brzezinski at the White House. We were ushered into the "Roosevelt Room," which, we were reminded by one of Brzezinski's followers, was particularly appropriate for this meeting because it was named after Theodore Roosevelt, who had delivered the canal in 1903. The mood of cordiality in the room changed to a more tense, combative tone from the moment Brzezinski entered to take his place at the head of the oversized conference table. It quickly became apparent that the National Security Adviser would not happily or humorously brook challenge to the policy of ratification, even if that challenge was merely a request for explanation of the charges made by the treaties' opposition. After Brzezinski had left, his eloquent aides managed to ease the situation during another hour or so of explanations, which were substantiated later in the day by smiling representatives of COACT ("The Bi-Partisan Citizens Committee of Americans for the Canal Treaties"), who handed each of us an inch-thick packet of "literature" that included a "How-To Kit," replete with "suggested sample" speeches, letters to the editor, and "op ed" columns for our local newspapers.

THE ATMOSPHERE IN PANAMA

We landed at Panama City after dark on Tuesday in the ovenlike steam of the Panamanian rainy season. The waiting U.S. embassy officials escorted us from the airfield to our "headquarters" at El Panama Hotel. Ambassador Duke had sent an advance man to assure that Panamanian opposition to the general would be given as close to equal time as possible by the delegation; so for the first two days in town we listened to people who argued against either Torrijos or the treaties. They mentioned Torrijos's alleged connections to drug rings and prostitution and the millions he supposedly stashed in Spain after his coup. Several of Torrijos's detractors had been imprisoned or exiled as members of the government overthrown nine years before, and they reported that their underground organizations had only very recently been allowed official sanctions as a part of what Torrijos's officials term a "liberalization from censorship and repression." By and large, they thought Torrijos more closely associated with Castro than would appear, and they believed that once the treaties have been ratified, Torrijos will resort to a policy of harsh repression.

Among those working in Torrijos's behalf in Panama, we spoke to the puppetlike foreign minister and his staff, protreaty businessmen, U.S. military and political officials, religious authorities (among them the Jewish leader who is principal of the parochial school from which Torrijos's children graduated), teachers, drivers, so-called independent journalists, and assorted other citizens. Dr. Nicolas Ardito Barletta, the minister of planning and economic policy, explained the necessity of ratification for Panama's economy. Barletta presented a compendium of facts and figures defending Torrijos against allegations that the astronomical increase in Panama's external debt was due to corruption. He cited the costs of his government's 70 percent increase in aid to education, 65 perecnt increase in health services, 50 percent in roads, and 500 percent in agricultural credit.

The delegation also talked to both Americans and Panamanians who live in the U.S. Canal Zone and who would be subject under the treaty to Panamanian authority. The Zone's present status as a colony, complete

with Baptist gothic style churches and cut-rate supermarkets, provokes bitter resentment among neighboring Panamanian nationalists. It is described by Panama City residents and U.S. embassy officials alike as a remnant of "the day of the Raj." As might be supposed, the Zonians denounce Torrijos and object to the treaties.

We had been in Panama City two days when we got our day with the dictator. Our audience with Torrijos was scheduled for Thursday morning and was to last "no longer than an hour and a half." Around 8:30 a.m. we were flown from Panama City to the village of Farallon, where Torrijos has his beachfront retreat. Torrijos reportedly had visited the place as a luncheon guest several years before, whereupon he became enamored of it and promptly announced to his Panamanian host that the government would be confiscating the property for official use.

EL GENERAL AT HOME

We were escorted into the casually well-furnished house, through a couple of corridors, and into a small sitting room, where we met the forty-nine-year-old "supreme leader." The official interpreter who'd met us at the door introduced "El General"—an unsmiling man of medium height dressed in khakis and boots. Torrijos's trim figure was marred by just a touch of paunch. Holding an unlit cigar in one hand, he smoothed down his dark hair with the other. Somebody whispered, "He looks like Bogart." As though he'd heard, Torrijos flashed a bright-white mischievous grin and mumbled perfunctorily in a low, deep voice some words of welcome that were loudly and mechanically translated by the interpreter. Then, hiking up his trousers, he turned and strode purposefully out onto a breezy veranda that overlooks the beach and sea. Torrijos hopped nimbly into the red, white, and blue hammock woven especially for him by Indian villagers, from which point of vantage—and while swinging to and fro—he recited some preliminary amenities in a bored monotone.

The delegates began awkwardly to broach questions through Torrijos's interpreter. It quickly became apparent that El General was distracted. He interrupted a journalist, who was expressing solemn concern about the Torrijos government's ties with Cuba, to order coffee for those who wanted it, then again to instruct one of his aides to distribute "Torrijos" cigars with "personalized" bands after a guest inquired whether the long cigar he was lighting up was from Castro. Yes, it was indeed a gift from the Cuban leader, Torrijos said with a gleam in his eye, swinging the hammock more enthusiastically and flinging his used matches not into the nearby ashtray but onto the tiled floor. He appeared not to notice that with each forward swing the hammock hit one of his visitors on the head or that the matches often fell on somebody's foot.

Suddenly he jumped out of his hammock and conferred for a moment with his aides. They hurried away in all directions while Torrijos sauntered back to the hammock and announced that all political questions would be answered later. Now, he had just decided, he was taking the group to see "his country," his "Plains, Georgia"—the village of Santiago, where he was born. Would the visitors mind changing their schedule to spend the day with him? Everybody murmured their joyous assent, delighted at the seemingly whimsical change of plans—everybody, that is, except the long-suffering U.S. embassy officials. They were faced not only with the logistics of postponing and rescheduling our itinerary as originally planned but also with the prospect of yet another in a long series of identical treks.

William Jordan, our ambassador in Panama, was along with us at the meeting, and his face froze perceptibly for a brief moment before he managed a pained smile at Torrijos's announcement. Jordan is a former journalist and a man of keen intelligence, not given to platitudinous remarks. He has been in Panama three-and-a-half years and is thoroughly convinced of the wisdom of ratifying the treaties. Sensitive to the hazards presented on both sides of the "powder keg," as he terms the issue of the treaties, he was uncomfortable with easy answers to the complicated human circumstances.

These included the handling of Torrijos. Jorden listened politely as El General enthusiastically revealed our schedule for the day. We would fly down as soon as planes were ready, except for a few guests who might ride with Torrijos in the twin-turbine helicopter he'd grown accustomed to—he said he seldom flew any other way. Ambassador Jorden would fly with the general, of course. To accompany them, Torrijos chose three women, plus one more—the delegation's rapporteur—because "all the other women are ugly and I need some beauty along." The rapporteur, Elizabeth Ames, blushed; everybody else applauded. The guests had to decide among themselves who would take the places that were left in the helicopter. The rest would be flown down immediately to "have the chance to vist the children in their classrooms."

Torrijos's spontaneity and the welcoming mood of the invitation gave the visit a festive air. From then on, Torrijos responded more candidly, and those questions that he hedged were evaded not in anger but with wisecracks and crude analogies, some of them censored by a blushing woman interpreter as "untranslatable." Yes, he was against political parties in Panama—they were "illegal." But, Torrijos said, swinging faster in his hammock and waving his hands in emphasis, the former corrupt power elite—"oligarchy"—from which Torrijos had liberated Panama in his 1968 coup had been a political party, and it is *they*, the oppossing "Panamanistas," who are most unhappy with the leader's "populist" goals. The Panamanistas, the former ruling power, were themselves repressive, but it was the upper-class white elite of Panama. Its leader, Arnulfo Arias, now exiled in Miami—or, as they call it, the "Valley of the Fallen"—is a fierce nationalist who followed the National Socialism of the Nazis in his first term of office during the Forties, and is viewed alternately as hero and monster, depending on whom you talk to.

Someone raised the question of suppression of "human rights." Prefacing his answer with an exposition of his government's newly relaxed censorship and his protection of the "little people's freedoms," Torrijos got up, paced back and forth among the visitors, and delivered a sly speech about the people who try to tell him what to do—like the Soviet Union and the United States. "Castro is the only one who tells me what not to do," he said acidly, stamping his feet. He plopped heavily into his hammock. Furthermore, Texas has some very repressive laws still on the books—what about those? he asked. As someone started to answer, Torrijos interrupted: "I'm going to write a book giving twenty lessons on 'How to Avoid Being an Enemy of the United States.' . . . They're probably going to start talking about the hidden drugs, that I am a dictator—they're already talking about it anyway. . . . I'm going to invite President Carter after this to come down and solve the internal problems of Panama. . . .

"But you haven't put your finger on the button of our problem—it is not whether we'll be partners in the canal or whether we'll get a lot of money or whether the Panamanians will be employed, preferably in the canal. The problem is that this is a possible guerrilla area or a possible Vietnam of this hemisphere. Nobody invests a penny in our country. For a country that had an economic growth of 8 to 12 percent—we had forecast an economic growth of 12 percent for 1980—we had an economic growth last year of zero. If the country is not advancing and not moving forward and we are surrounded in the country by 100,000 unemployed . . . that is where our problem is. They are about to jump all over me," Torrijos complained, his voice rising. "If you could tell me that there are huge helicopters that can move the canal to some other country, I will tell you 'Go ahead.' And the people would be happy to see it go."

At this, the delegates stiffened, wondering what might come next.

"Take away all your police," Torrijos went on. "Take away your military base, the high-voltage fences, the 'no trespassing' signs—take everything away and build a rice plantation and it will grow more! We could stock the lake with fish that would help to sustain us and we could use the water for the hydroelectric projects that we are working on. I know this [the treaty] is priority number one, but the people feel like they're orphans, because so much attention is given to the canal that the rest of the domestic problems are being put aside." Then his voice softened, he leaned back and puffed his cigar. "Before I was head of government, I used to talk about fifty people daily, solve their problems, listen in the government. The bad thing is that I'm beginning to enjoy all this traveling, and pictures, and coat and tie."

He laughed, and his audience, too, leaned back and laughed. Some remained skeptical about the impulsiveness of the general's last-minute invitation; surely the scene had already been set? But Torrijos explained.

"The reason I've just informed them we are coming is to avoid prefabricated atmosphere and above all to avoid all speeches!"

The school we would visit, Torrijos said with some pride, "has produced thousands of teachers and professors, and almost all the rebel movements in Panama have roots there. That is my province, and everyone there," he added with a grin, "feels they are very intellectual." One delegate told the translator to "tell the general that most of us are proratification," and another asserted firmly that "the general knows we are primarily with him." Torrijos responded, "I do not want emotional support, I want a well-informed and conscious support—we must put a little order in what we are about to do, and this"—he laughed—"is almost impossible in a group of intellectuals. Nevertheless, let's see if we can have some order in this disorder!" To which one of the delegation shouted "Bravo!" and Torrijos promptly invited him to ride in the helicopter.

By now the conversation was informal, seemingly carefree; Torrijos was touching people often—a shoulder or a hand of the man or woman nearby. The delegation crouched on the floor or sat on couches and chairs—laughing at the jokes, responding obsequiously to Torrijo's random notes and observations.

The resulting scene seemed a preposterous Buchwaldian parody—we the visiting Americans applauding a dictator's disparagement of us as he directs the terms of our accommodation to his desires.

A DICTATOR'S SENSE OF HUMOR

While Torrijos obviously enjoys the limelight and the power to produce raucous laughter at his jokes, he can afford to tell those jokes on himself. His lusting after women? He answered the question with a laugh, labeling himself "dictator—of love, ha, ha." His self-declared fondness for his "title of dictator," the meetings with starchy European leaders, which left him unimpressed?—here he jumped up, stood stiff, and pursed his lips, mocking European diplomatic etiquette, then flashed a brilliant grin, relaxed

his face, and flopped back to the hammock—their formality prompted him to teach them a lesson in "how to relax." "After I told them," Torrijos said, quite amused with himself, "they relaxed." He is a talented mimic and his audience was delighted with his impersonations. Who impressed him most in the countries he'd visited on that trip? Israel's Prime Minister Begin was one, Torrijos said, because "Begin is a leader, and the world is full of bosses—bosses get to the top on the Peter Principle—but it doesn't have enough leaders." Torrijos feigned concern, with exaggerated frown, that "Begin will not be killed by his heart but by his chief of protocol. Because he's new, Begin doesn't realize that protocol shouldn't be bothered with," El General said, pulling out his hip flask and taking a swig. Not that Begin's protocol chief wasn't "agreeable," or that he didn't "handle everybody strictly and with finesse," but, Torrijos said bitterly, "he's a pest!" Several of us blanched at that remark, mindful of Ambassador Duke's efforts as protocol chief under Kennedy and Johnson. But nobody picked it up, and there was a frozen silence. Then many began to talk at once, and the awkwardness passed.

Torrijos stressed constantly the importance of "the people" and regarded education as a "priority." "We have doubled it in nine years—600,000 are going to schools out of the 1.8 million population. I designed it so that in the rural areas the distance between school and village is no more than a half-hour's walking distance, and in the city no school is farther away than a nickel on a bus. I designed this." How many are high-school graduates eligible to attend college? "About 15,000," Torrijos answered easily. "But too much intellectual study deforms, and too much work makes you dumb, so you have to combine them and mix them like a cocktail." At this point the translator volunteered the remark that her son's private school sends him to the country for "two months of enforced rural service each year, and I like that."

Torrijos shouted with mock sternness, "Shut up, creature, I have the floor!" He repeated the characteristic gesture of throwing his head forward so that his hair flew in oily strands over his forehead, then he shook it back and smoothed it into place with his fingers. Laughing, he repeated, "The old man has the floor."

Then, more seriously, he continued: "Our educational system is our national pride. People see terrorism and guerrilla actions and they think this is because of Communism, but it isn't—its the apparent cause . . . but *not* the cause. The fundamental cause is the lack of schools. The lack of hope, he said, pausing, puffing cigar frowning, "lack of education, lack of development, lack of everything. In Panama we spend 30 percent of the total budget on education and not more than 10 percent on military and defense. In other countries its 40 percent for defense and 10 percent for education. But its only when the people have no peaceful solution, no roads open—then they fight." Talking through his cigar, he said, "The Americans are always looking for Communists—more than the Communists are looking for Americans!" More laughter.

Torrijos spoke about the letter he wrote to Ted Kennedy in 1969, after Kennedy's statement about the failure of the Alliance for Progress: "Kennedy was very pessimistic about it, so I wrote to him and recounted . . . what made the young officers of the Guardia Nacional of Panama take over the oligarchy and place the armed forces at the service of the people.

"It was a long account of . . . why we were so ashamed, at a certain point, of being used as an instrument of repression. Politicians were taking advantage of force to repress the just and healthy unrest of the people. Things like this: The cattle of a big landowner would come and eat all the produce of a country man's little vegetable crop, and then they would imprison the little farmer because he hadn't fenced in his garden—and I had to put him in the jail! I knew that was not fair and it could not go on; always the justice favored the powerful and mighty," Torrijos said, springing from the hammock to gesture broadly with his hands; the general seemed to be warming to his role. He leaned forward, talking more softly, conspiratorially. "What I would do is, I would give the farmer a .12-caliber pistol so that he could kill the cow and eat it, but I warned him, 'Don't tell them I told you.' " Here Torrijos laughted with great gusto. "So after he did what I suggested, they would take him to jail and torture him to get at the truth but the farmer refused to implicate me or get me into trouble. So the high headquarters would send me a report—I was Major Torrijos at that time—that 'Communists are giving guns to the farmers,' and I would answer that 'I'm looking for them but I can't find them.' Then I would tell the guys to hide.

"That's one of the examples I gave to Kennedy in that letter . . . and that was Panama about ten years ago. Since then we have started to correct the direction . . . and everything is not taken care of yet but we have started, and many countries haven't started yet, and people who don't make peaceful changes risk having drastic changes made *for* them."

Torrijos's fierce nationalism was evident in his reaction to a question about the U.S. Peace Corps. "I sent them out," he shrugged. When the audience laughed uncomfortably and after too long a pause, he added, "The people in the Peace Corps are nice guys, but for *us* its hard to understand the problems of each [Panamanian] region. For *them* it's even more difficult to understand . . . they'd be drastic about solutions. Let's go back to the example of the farmer I gave a gun to, and the cow. The Peace Corps would have shot the cow themselves instead of going through the farmer. So then, if you arrest a gringo, they send the United States Marine Infantry after you!"

The general's view of contemporary culture for Panama is quite concise: "Everyone creative in the intellectual sphere or in art is anarchical, and when they get together they ask questions—so the government gives them answers." The government bought the old golf club three years ago, he explained, and "we're going to build a palace of fine arts with a Coney Island sort of park around it. So these people can blah blah about it and nothing gets done," which is just what Torrijos intended. "When they're about to come up with a solution, I get into the picture with something controversial to distract them because we don't have the money yet to finance all these projects," he boasted delightedly. Reading the disapproval of his listeners, he added quickly, "There is a renovation of the people's cultural expressions and ideas. Once a month I invite the people working in the cultural program to be at leisure here. Some of them sing or play music, some of them take a dip . . . mostly informal." Torrijos's favorite writer, José de Jesús Martinez, is a philosopher, professor—and a sergeant in the National Guard, because "all of a sudden he decided he wanted to be part of the team." "And General Torrijos agreed," his translator said. "I used to read very much," the general added, "but all I can read now is about an hour a day before I go to sleep. I have to read all the reports that are sent to me by the government, the correspondence. . . . I finish a book in about a month. I have just finished reading the autobiography of Anthony Quinn. I think it's a great book."

One of the general's staff ran up nervously and spoke to him in urgent tones, then he looked up, rolled his eyes, and reported sheepishly, "I forgot, there's no school today in Santiago—because of Teachers' Day. All the others I sent to see schools and there are no classes." He laughed, unperturbed. The larger group that had not been anointed to ride in the general's helicopter had left two hours before; instead of touring a Santiago school they were languishing around a Santiago gas station in sweltering heat, waiting for El General.

AMONG SCHOOL CHILDREN

Finally Torrijos swaggered off the veranda through the yard toward his helicopter, sporting pistol-in-holster on one hip and newly refilled canteen on the other, donning his Cuban-revolutionary-style gaucho hat and grabbing a cassette player that blared forth Latin American rumba rhythms. His entourage came shuffling behind, stumbling when Torrijos paused to drink heavily from his flask.

It was "ladies first" up into the waiting copter, assisted by the general and his aides. Then Torrijos leapt agilely up the side and into the craft, clutching his blaring cassette player. He slipped into his seat, where he easily faced side, back, and front simultaneously by just a slight turn of his head. The pilots were on his left in front, the women all in a row on his right, with "the beauty" seated nearest him, the U.S. ambassador, NCAFP president Gene Foley, and a couple of others riding steerage behind the first row.

As the helicopter lifted up, motor shrieking, Torrijos bellowed to the interpreter, who bellowed to us, "There are two hundred people in Santiago—so I understand how the little guy feels. This must be just like Plains, Georgia. How many in Plains, six hundred? Well out of Santiago's two hundred there were eighty people who voted no in the plebiscite. And those votes were not against the treaties but against me!" Torrijos waited to see the reaction, which was confusion, then he burst out laughing and began swaying and tapping his fingers in time to the music that was audible even above the roar of the motor. "I've been riding mainly in helicopters for eight years now," he said, "and I really enjoy it."

Caught up in Torrijos's conviviality, Foley shouted from his seat on the far side of the copter the playful suggestion that, with all these "beauties" aboard, the helicopter ought to make an emergency landing in the jungle. Torrijos guffawed and rolled his eyes, answering appreciatively, "You are a man of brilliant ideas!" I for one had a moment's pause that the general might act on the idea, because his macho exploits were not a secret, and a Guatemalan colleague had gleefully recounted the recent, rumored Torrijos escapade with "a dozen-or-so female journalists at a Panamanian island resort." But Torrijos began shouting over the din of twin engines and rumba to point out crops of okra, sugar, rice, and the world's little-known fourth-largest deposit of copper in the invisible distance. "Yes," Torrijos admitted, "there are commitments by industry—Texas Gulf, for instance—to begin mining operations for the copper; a great potential. We expect to export $500 million worth of copper by 1982—financing is promised by several countries—but only if the treaties are ratified." Would that consideration really delay industry from investing where there is so much potential profit? "Yes, because no country wants to invest where there is the possibility of guerrilla fighting. They could turn into the same kind as the copper mines in Angola: now they don't produce."

We set down in what appeared to be a grazing field a few hundred feet from the cluster of buildings near the school, and as

the door was opened children came rushing up on bicycles, with older villagers running along behind. The swarming children swooped down affectionately upon Torrijos from the moment he stepped out of the helicopter. The progress to the school was a colorful if arduous ceremony with kisses and hugs as well as irreverent wisecracks exchanged along the way, and no bodyguards as Torrijos threw himself into the crowds. Ambassador Jorden assured the skeptics that the enthusiasm was sincere. The cheering that accompanied Torrijos as he made his way through the throng of admirers to enter the crowded gymnasium would have been difficult to feign. We were led with Torrijos to the front of the gym, surrounded by stadium bleachers on all sides, to sit behind the long speaker's table. The rickety table was flanked by formal floral bouquets; the school band played a rousing march entitled "American Colony, No!"

Torrijos took frequent swigs from his flask during his own and other speeches. He shared some laughs with the rabbi in the delegation, and Ambassador Jorden managed another pained smile as he presented one of the many diplomas to be distributed.

Jorden and Torrijos together presented a melancholy sight, this gentle man being subjected to the whim of Omar—following into helicopters, suffering a six-hour sojourn into the dictator's home camp for the umpteenth time, wincing and depressed when Torrijos capriciously and unpredictably warned a Panama TV camera that the United States had better ratify the treaties within six months or else. . . . (By the end of the day with the dictator, one senior United States embassy official would introduce a disillusioning and disquieting note of American censorship by bluntly stating, "This is the last time we'll allow such a free-wheeling visit; orders have been given . . . !")

THE MOODS OF TORRIJOS

The speeches in the hot school gym had long lost their charm by the time we adjourned. Torrijos immediately charged out with his army of kids, on into a tiny classroom, and finally out to the swimming pool, where he stopped to hand someone his watch and cigar lighter, then jumped—uniform and all—into the pool.

The delegation and the local press went by bus to a private house for lunch; the owners had been informed a few hours before that they would have the honor to serve the disheveled fact-finding mission. The imperial helicopter set down in the yard. Furious flurry emanated from the small kitchen; another room had become Torrijos' staff office, and Torrijos himself barged in soaking wet to borrow a change of clothes.

When he reappeared, the slightly crumpled crowd came to sudden attention and Torrijos strode over to a dining table, immediately followed by his attentive guests. Cameras flashed and the sound of scuffling chairs being pulled up around him fairly drowned out his voice as he began speaking, almost too fast for the interpreter. His good humor was obviously on the wane. The questions grew more pointed, and while Torrijos was edgy, he was trying to keep his anger under control. He called on a local schoolteacher to address the analogy Congressman Dorn had drawn between Panama and Vietnam. When the teacher concluded, in English, "You would force us to go into the struggle of violence if justice is not made good," Dorn asked, "Could we hear it from the General?" And then Torrijos lost his temper. Glowering, he looked directly at Dorn, told a story concerning a man accused unjustly of "blackmail, of being a 'dirty so-and-so' [untranslatable]—and that is the way *I* feel, Senator. You have me up to my neck, and you don't want me to defend myself. This is the way I feel."

Several gasps, then many talking at once, trying to mollify. One of our treaty supporters tried to soothe the general by telling him the questions were only to resolve doubts "back home," but the next question only aggravated matters. It was a relatively mild inquiry about Torrijos's promise to Senator Byrd regarding the relaxation of his press laws. Torrijos sat up rigid and said angrily: "This is part of the humiliation we have to continue to accept. . . . These repressive laws will be abrogated. Tomorrow I will also comply with another commitment I made to Senator Byrd about a law that it was never necessary to implement, so we almost forgot about it.

"What does worry us is that many United States leaders seem to know more about Panamanian newsmen than Panamanian newsmen do. And they are very much worried about repressive laws which our own people are not worried about. . . You have a law in Texas . . . that you do not use but it's still there, which says that anyone found with a cutting knife can get up to twenty-five years in jail. I am not interested in your laws. One gets tired of another meddling in his life. We know that you are our friends, but do not carry out justice with a shotgun; people will not like you. I will comply with my commitment to Senator Byrd . . . but certain members of the Senate, not Byrd, seem to think they will tell us what aspirin to take for our headache, in spite of the fact that it will not take away our headache. Well then, we will have an aspirin with blue eyes, blond hair, and a lot of freckles!"

Despite Torrijos's exasperation, several people persisted in questioning his control of the press, and some alluded to his government's lack of democracy in the American manner. For a time, Torrijos tapped his fingers on the table, listening to the translation of the questions, although he seemed to understand before the interpreter had even begun to speak. Then he glared at the inquiring journalists sitting nearby; quietly, through gritted teeth, he said that, despite all the imported fuss about an opposition newspaper, the fact was, "the Panamanians do not use newspapers for opposition, we use the radio, and there are over fifty radio stations in Panama. The government has only one!"

As Torrijos became increasingly defensive he reached for a personal story to illustrate his pique at the interfering visitors. Pushing his chair back from the table, he looked directly at his interpreter and began: "The other day I went to have treatments because I had sunstroke, and I don't mean to be rude or vulgar; but I must tell you how it happened; I felt burning when I went to urine, and the doctor said, 'I can cure you by giving twenty prostatic massages,' and I said, "Forget it. I don't want your cure.' Sometimes the excess of the remedy exasperates a man."

He had his own ideas about democracy: "Having a leader on top and those below pulling him down, that is not democracy, that is group interest. . . . I have spoken to some of the Soviet leaders and they insisted we should copy their way of doing things. Could it be that you are making the same mistake the Communists are?" He looked around at the group defiantly and paused; his audience was tense, silent, waiting. Then he continued, comparing the U.S.-Panama Canal breakup to a divorce in which one partner is "still in love," and observing tersely that "there is always an excuse. It hurts, it hurts to leave the canal." Then he stood up and was out of his chair before the interpreter could complete his translation of the general's adjournment for lunch.

A couple of American correspondents, veterans in Latin America, speculated about the significance of the general's fury, and a few of the delegates longed to "get back to Farallon for a dip in the general's sea." But clearly the party was over. After an hour we were collected and flown back to the retreat at Farallon, where a few of us ran down to the beach while others lounged on the veranda waiting for El General to return.

A smiling Torrijos reappeared about half an hour later, barefoot and dressed in a red T-shirt and workpants. He lit a cigar and resumed holding court from his hammock. He had regained considerable composure and his earlier, simian sort of charm. Now he seemed mindful that his lunchtime performance may have cost him some valuable support, and he attempted to ingratiate himself with his audience in a fascinating monologue that ranged from his similarities to Libyan strongman Qaddafi, whom he admires—they both like to meditate alone—to America's great leaders like Jefferson, Kennedy, and Lincoln, who were much less "Communist" than he, Torrijos, is. He pledged "real peace" for Panama, disdained Communism and fascism as equal "dictatorships," and talked seriously about the wounds he'd suffered twenty years before in Panama's mountains, at the hands of Castro-inspired guerrillas who emulated the Cuban leader "just after the guerrilla victory in Cuba." He elaborated on Fidel's advice: "This is what Fidel said—you're not going to believe me. Fidel Castro told me, "Slow, Torrijos, take it slow. . . . At first I was very fast and I had to pay a very high social cost.' And Fidel was right."

With that remark the fact-finding mission was at an end. Torrijos grabbed two or three of the girls and kissed them goodbye. Then, in a swirling of aides and followers, he left the house and retired to the mountains for what was given out as a period of rest and meditation.

Later that evening, on the occasion of the delegation's departure for the United States, Ambassador Jorden expressed concern at what he thought would be an angry Congressional reaction to expected press reports of Torrijos's threat—even those who were protreaty might be licensed by the arrogant ultimatum of Panama's boss. A few in the delegation who were pushing ratification of the treaties would regret having encouraged the meeting, which they feared had prompted the general's outburst. But no such fears were warranted. The U.S. daily press, with the exceptions of the *Boston Globe*, the *Christian Science Monitor*, and one or two others, chose to ignore Torrijos's potentially explosive *pronunciamiento* (at least as far as could be ascertained until several weeks later when *People* magazine quoted from it in a pictorial profile of "El General." Our group learned of the televised threat just two hours after Torrijos issued it, when the Panama Canal Company manager—who represents antitreaty interests—grimly distributed hastily xeroxed copies of the "statement-aired-through-Panama-television-stations-on December 2, 1977," which read:

"Panama cannot yield any more or wait much more. Either the United States ratifies the treaties or send the Marines. Our patience machine has fuel for six months. Statements by the Pentagon that Panama can turn into another Vietnam have paralyzed the economy of the country. Legions of hungry [people] around the Canal have put our patience to the test. Three hundred million Latin Americans will not permit Panama to become another Dominican Republic, Bay of Pigs, Korea, or Vietnam."

While American embassy officials and other treaty supporters were frantically fearful of the damage done, antitreaty activists were gleeful and unworried by Torrijos's threat.

One Zonian shrugged it off as only "the latest" in the dictator's long history of ominous ultimatums, a sample export to the United States of the harsh measures by which he has long kept his Panamanian people's nerve ends jumping.

Ambassador Jorden insisted that Torrijos is "not to be passed off as a tinhorn dictator," and Panamanian supporters pointed out that Torrijos's patience had been sorely tried by the long, hard history of American demands and "fact-finding" missions.●

ARMS CONTROL IMPACT STATEMENTS

● Mr. SPARKMAN. Mr. President, last month, the executive branch submitted arms control impact statements on requests for authorization and appropriation for defense and nuclear programs for fiscal year 1979. Much of the material in the statements was classified. In the period since the statements were submitted, the executive branch has worked with the staffs of the Senate Committee on Foreign Relations and the House Committee on International Relations to sanitize the statements.

Sanitization of the statement on the Lance missile with an enhanced radiation warhead—the so-called neutron bomb—has just been completed. In view of the current executive branch study of the neutron bomb issue, and congressional interest in that issue, I believe it would be helpful to make that sanitized arms control impact statement on the Lance missile available to my fellow Senators.

Mr. President, I ask that the arms control impact statement on the Lance missile with an enhanced radiation warhead be printed in the RECORD following my remarks.

The statement follows:

ARMS CONTROL IMPACT STATEMENT

(LANCE—W70 Mod 3 (RB/ER) Warhead)

I. Program description:

A. Capabilities—Lance in the Nuclear Role:

The W70 Mod 3 (W70-3) is a [deleted] warhead under development for the LANCE missile system. [deleted].

RB/ER is achieved by fusion reactions that produce high energy neutrons. When these neutrons are produced in connection with relatively low yield fission reactions, the range of the lethal effects of the neutrons on the battlefield is greater than the range at which blast or thermal effects are lethal. At higher yields, blast and thermal effects would predominate over both neutron and gamma radiation effects of any type. [delete.] By employing RB/ER, a reduction in collateral damage will result since lower fission yields can be used. As the weapon would have a personnel kill radius comparable to much larger fission yields, but with greatly reduced blast and thermal outputs, much of the damage to adjacent equipment and structures would be spared. For example, a 1 KT fission + 1.0 KT RB/ER warhead if detonated on target would incapacitate adversary tank crews through radiation effects to the same degree as would a 10 KT SF warhead (also through radiation effects), while avoiding much of the collateral damage associated with the 10 KT SF yield.

In other words, we are comparing two weapons which have the same military effectiveness against a given radiation sensitive target: one, an SF and the other, a RB/ER with a smaller yield. Thus in characterizing these two types of weapons, we are, in effect, holding constant the radiation output while RB/ER technology decreases the blast and thermal effects on a given target.

Security is enhanced in all W70 series warheads by including a command disabling feature which non-violently renders the warhead incapable of use. [Deleted.] Command and control is provided by employing a Multiple Code Coded Switch (Category D PAL).* This electronic switch prevents unauthorized arming of the projectile by requiring activation using a six digit code. Multiple codes can also be programmed to allow selective unlock. This provides for flexibility in the release of warheads to satisfy a variety of tactical employment options.

[Deleted.] Delivery of the first production W70-3 warheads is dependent upon the timing of a Presidential certification to Congress that production of RB/ER weapons is in the national interest.

The LANCE missile system is a mobile, surface-to-surface, ballistic missile system which can provide tactical nuclear artillery support on the battlefield under all weather conditions and other visibility limitations. [Deleted.] The LANCE system (presently deployed with non-RB/ER warheads) has replaced the Honest John and Sergeant missile systems in U.S. forces deployed in Europe and is replacing the Honest John and Sergeant in several NATO countries (UK, FRG, Belgium, Italy). In both cases, this replacement is taking place on a less than one-for-one basis. [Deleted.] A total of 92 LANCE launchers is now programmed for Europe. Additionally, two LANCE Battalions are to be based in the U.S., with one presently earmarked for deployment in the Pacific should the need arise. The LANCE system is more survivable, more accurate, and more responsive to the commander's requirements than the systems it is replacing. Its longer range allows it to remain further behind the forward edge of the battle area, and thus contributes to its survivability.

B. Justification: An RB/ER warhead provides increased kill capability principally against people and reduces collateral blasts and thermal effects. With this weapon, armored vehicles, for example, which are relatively unaffected by blast effects except at extremely close range, can be disabled by making radiation casualties of their crews. Consequently, enemy armor could be neutralized with less collateral damage than would be expected from weapons that depend more on blast for their effectiveness.

Thus, the presence of RB/ER weapons in the U.S. stockpile and their deployment in Western Europe would contribute to offsetting the heavy advantage of the Warsaw Pact in tanks and armored personnel carriers. In the event of a decision to employ nuclear effort by the Warsaw Pact to achieve a breakthrough with massed forces.

Casualties to civilians and damage to property in a congested region from the blast and thermal effects of a non-RB/ER weapon of sufficient yield to destroy armor would be greater than that expected from RB/ER weapons. Table I compares the effects of the SF W70 and W33 (8") yields with [deleted].

These relative differences in areas of damage would vary depending on the type, location, and configuration of the target. However, as a rule the area of collateral damage from RB/ER weapons will be substantially less than that produced by the SF weapons needed to give comparable military effectiveness against a given radiation sensitive target.

[Deleted].

TABLE I

[Deleted].

[Deleted].

[1] Personnel would become incapacitated within 5 minutes of exposure to 8000 rads and, for physically demanding tasks, would remain incapacitated until death. Death would occur in 1–2 days. 8000 rads inside the tank corresponds to 24,000 rads outside.

[2] At yields at or around 5 KT, thermal radiation causes casualties (2nd degree burns) at greater distances from ground zero than does nuclear radiation (150 rad level). Protection from this level of thermal or nuclear radiation is readily available (equivalent to a foxhole, a basement, or relatively sturdy walls).

[3] The representative yield shown in this table varies somewhat from the yields listed on page 1. This is due to a recent change in the desired yields for this weapon. Specific radii for the above effects for the requested yield are not presently available but would not vary significantly from those given above.

[Deleted].

The LANCE system lends itself to increased safety, security, and command/control compared to earlier nuclear weapons systems. This is accomplished through [deleted] and (3) a more versatile PAL device.

The LANCE range of [deleted] km provides a capability to attack targets well beyond cannon artillery range in all conditions of visibility and weather. The system is designed to cover the Corps front to a depth of 100 km beyond the forward edge of the battle area (FEBA). This enables LANCE to be fired in support of operations near the FEBA and, by virtue of its range, to fill the gap in coverage between the maximum range of cannon artillery and the area in the enemy's rear where tactical aircraft might more freely operate (behind the greatest density of forward air defense systems).

The Lance systems would be less vulnerable to conventional attack if not discovered in the act of firing, and its missiles would have high probability of survival once launched. Lance is most vulnerable in peacetime garrisons, but once deployed into the field, its detectability would decrease and its survivability thus increases dramatically. Vulnerability to conventional attack is a direct function of the ability of enemy systems to acquire the target and bring fire on it. At firing positions located 25 km behind the FEBA, the only present Soviet systems capable of being used to attack Lance with conventional munitions are Frog and Scud missiles, or tactical air. [deleted] target acquisition in this zone is expected to be less than 10 percent of targets present. [Deleted.]

The Lance missile/W70-3 warhead combination does not have a strategic capability, since the range of the missile is limited, and the RB/ER characteristics of the warhead provide no special advantage in the strategic role. [Deleted].

The residual radiation (fallout and neutron-induced activity) produced by an RB/ER warhead is less than that from an SF weapon with equivalent military effects. Although an RB/ER weapon would produce about [deleted] times as many neutrons per kiloton as would an SF weapon, typical RB/ER yields are 10–20 percent that of SF weapons for equivalent military damage.

[Deleted].

[Deleted].

II. Funding—DOE funding ("then year" dollars in millions as of January 1978.)

* Mod O LANCE did not use a Category D, but rather a single 6-digit Category C PAL. Conversion of MOD O LANCE to a configuration with Category D PAL is underway.

	Fiscal year 1977 and prior	Fiscal year 1978	Fiscal year 1979	Fiscal year 1980 (estimate)	Estimate to complete
Development dollars [deleted]					
Procurement dollars [deleted]					
Number of units					
Total development [deleted]					
Total procurement [deleted]; procurement unit cost [deleted]					

Total RDT&E and production costs, based on an inprocess production change to RB/ER warheads, and assuming that the LANCE warhead authorization is kept constant at [deleted] are estimated at [deleted]. These funding levels may be somewhat increased if there is a significant delay in a decision to produce and deploy RB/ER weapons. Army costs include (1) relatively minor changes to the warhead adaption kit to insure compatability with the missile, (2) manufacture of the required adaption kits, and (3) a minimum ground and flight test program to demonstrate compatibility and operational viability. Savings would be achieved by incorporating several of the required flight tests on previously scheduled Annual Service Practice flights and stockpile reliability flight tests. [Deleted].

III. Analysis:

The LANCE system (missile, transporter-erector, nuclear warheads, and support equipment) has been in the field since 1974. This analysis focuses on the proposed W70–3 warhead and only incidentally touches upon the LANCE missile as its delivery vehicle.

A. Consistency with US Arms Control Policy and Related Presidential Decisions:

The W70 RB/ER Lance warhead program is not inconsistent with declared arms control policy. The President has stated that in the absence of satisfactory international agreements to reduce nuclear stockpiles, there is a need to retain and modernize theater nuclear capabilities, especially those which support NATO's strategy of flexible response.

By reducing the blast and thermal radiation that cause unintended collateral damage, RB/ER warheads protect non-combatants and friendly troops. The reduction in collateral damage may be said to serve a second arms control goal—reducing the destructiveness of war. This depends, however, on whether an adversary responds "in kind." Yet, it is not evident that the use of these weapons creates incentives for an adversary to refrain from escalation.

In weighing the costs and benefits of a decision to deploy RB/ER nuclear weapons it is important to consider the possible effects on US efforts to curb nuclear weapons proliferation. The prospect of a US decision to deploy the RB/ER weapons has already been widely, but incorrectly perceived by many, here and abroad, as representing a change in US doctrine which would make use of nuclear weapons more likely in a tactical situation. The President and other responsible US officials have stated repeatedly that such weapons would remain under the same strict political control of the President, who would take a decision to employ this weapon as seriously as any other nuclear weapon.

According to Article 6 of the Non-Proliferation Treaty signed in 1968 by the United States, it was agreed that:

Each party to the treaty undertakes to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

The intent of article 6 of the NPT was to get the nuclear weapon states on record as to their intent to reach agreements on cessation of the nuclear arms race, which has both quantitative and qualitative aspects. The non-nuclear weapon states that signed the NPT agreed to foreswear developing nuclear weapons of their own (horizontal nuclear proliferation) in other parts of the treaty, in return for this pledge of future restraint by the nuclear powers.

Some political leaders in non-nuclear states have criticized US and Soviet nuclear modernization programs, especially those that have become publicly prominent, as being inconsistent with the nuclear powers advocacy that others forego developing nuclear weapons altogether. Whether or not this type of criticism has any real effect on the policies of other countries is a matter of dispute. Some believe that extensive nuclear modernization programs make it more difficult for the US to press non-nuclear states toward steps to lessen the risk of further nuclear weapons proliferation. Others believe that US (or Soviet) programs are referred to only as rationalizations in the countries in question. Indeed, many non-nuclear countries look upon US nuclear modernization as essential if they are to continue to rely on the US nuclear umbrella rather than building their own nuclear weapons. In any event, the political effect of projected increases in the number of Soviet nuclear warheads must be considered in the same light.

To the extent that the RB/ER warhead is perceived to lower the nuclear threshold, or as a fundamental innovation in nuclear weapons, it may be perceived as inconsistent with the US commitment to non-proliferation. The US believes, however, that RB/ER weapons would not lower the nuclear threshold, represent an evolutionary rather than revolutionary modernization of theater nuclear forces, and that, in any case, weapons modernization is not precluded by the Non-Proliferation Treaty.

Since US policy is not to transfer nuclear weapons to other states, the LANCE W70–3 warhead poses no difficulty with regard to policies governing arms transfers.

B. Consistency with Agreed Arms Control Obligations:

The proposed system is not subject to any constraints by existing arms control agreements.

Since Lance is a relatively short range tactical missile system, it is not addressed in SALT.

The W70–3 development and deployment would not be affected by the TTBT since the underground testing of warheads under 150 KT is not prohibited.

There is no customary rule of international law or international convention prohibiting the use of nuclear explosive weapons. The RB/ER warhead is a nuclear explosive weapon. Thus, on the basis of existing international law, the RB/ER warhead is not in a different category than other nuclear explosive weapons.

It is the U.S. view that the recently concluded additional protocols to the 1949 Geneva Convention (which were adopted on June 8, 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, also known as the Law of War Conference) were designed with a view to conventional weapons.

It is the understanding that the rules established by this Protocol were not intended to have any effect on, and do not regulate or prohibit the use of nuclear weapons. The US made this understanding clear several times during the conference, and it was also stated explicitly by the British and French Delegations. It was contradicted by only one delegation (India).

C. Effect on Current and Prospective Negotiations:

The Soviets have sought to gain a propaganda advantage from a production or deployment decision in connection with ongoing arms control negotiations. On December 23, for example, Brezhnev proposed a reciprocal renunciation of RB/ER weapons production. [Deleted].

[Deleted].

The W70–3 program does not constitute an increase in existing US or allied delivery systems in Europe. In fact, the Lance system is replacing its predecessors on a less than one-for-one basis. There is no proposal now tabled in MBFR by either side that would prohibit the Lance missile/W70–3 warhead combination, nor is weapons modernization as such, specifically prohibited. The US offer of December 1975 to reduce its tactical nuclear stockpile by 1000 weapons, if accepted by the Warsaw Pact, probably would not impact directly upon the LANCE RB/ER program [Deleted]. Soviet commentators have already publicly broached the theme that RB/ER would greatly reduce the value of the Western offer to reduce and limit American nuclear elements, [deleted]. Yet neither the Eastern nor Western proposals have included constraints on modernizing the forces.

If future MBFR talks, like SALT, were to consider proposals for qualitative limits on weapons, as well as limits on numbers of weapons or units, then MBFR could affect future Lance RB/ER deployments.

Since testing has been completed, the W70–3 program will not be affected by a CTB.

It is the US position that any agreement prohibiting radiological weapons will not apply to direct radiation from nuclear explosive weapons or to their consequences. This includes radioactive fallout from explosions of nuclear weapons. [Deleted].

The transfer of the W70–3 to other nations is not envisioned. Such a decision would go against current US laws and every principle governing US nuclear weapons deployment abroad. The US in deploying its nuclear weapons systems in Europe, only transfers to our European Allies ownership of the delivery vehicles, not the nuclear warheads. The warheads remain under US ownership and custody subject to release only by Presidential decision. In Asia, the US policy governing our tactical nuclear weapons has been even more strict. At present no LANCE delivery systems have been deployed to Asia. Thus, the W70–3 program would have no current impact on discussions between the US and the USSR concerning possible limitations on arms transfers.

Deployment of the W70–3 to Europe should not contribute to the horizontal proliferation of nuclear weapons or delivery systems since the LANCE systems are already located in the countries where it is likely the W70–3 would be deployed. Acquisition of the W70–3 would not increase the number of nuclear weapons available since the RB/ER warhead is programmed as a modification to the final portion of an already programmed buy of LANCE warheads.

D. Effect on Global or Regional Stability:

Since the early 1960s, the US has viewed theater nuclear forces to have an important role in the defense of NATO. As part of NATO's strategy of flexible response, the possession and threat to utilize theater nuclear forces is believed to have helped deter the initiation of conflict by the Warsaw Pact with either conventional or nuclear weapons. NATO doctrine specifies that, should deterrence fail, and NATO's conventional forces prove inadequate, theater nuclear forces

could have an important role in countering aggression by providing flexible options to support conventional forces and in controlling escalation of an armed conflict once it began. Furthermore, theater nuclear forces are important to deterrence as a link between conventional capabilities and the US strategic deterrent.

The W70–3 RB/ER warhead could increase NATO's capability to deter a conventional or tactical nuclear attack by the Warsaw Pact. Moreover, if deterrence were to fail, the W70–3 could enhance NATO's capability to inflict significant military damage on the aggressor while reducing structural damage and casualties to individuals not in the immediate target area, including both friendly troops and civilians. The overall Lance system should also contribute to stability, since its deployment has increased the level of operational control, survivability and flexibility of these weapons.

Such improvements need not lower the nuclear threshold. The use of any nuclear weapon would constitute the most agonizing decision that any of our political leaders could face because of the risk of a nuclear response and the potential nuclear escalation. As President Carter has said: "These weapons would not make that decision any easier." Clearly, the US must do all that it can to avoid having to face such a decision. The strength of conventional forces, for example, is a far more significant factor with respect to the nuclear threshold and for that reason, among others, deployment of RB/ER warheads would not in any way diminish the need to improve NATO's conventional forces. For this reason, the NATO Alliance has set conventional improvements as its highest priority.

On the other hand, the existence of more effective nuclear weapons with expected lower collateral damage and significantly fewer civilian casualties may be perceived by an adversary to increase the likelihood that these weapons would actually be used in combat. [Deleted.] In this event, the W70–3 RB/ER program may increase Soviet propensities to employ nuclear weapons should they go to war, insofar as they may believe that NATO's nuclear threats are more credible and that, indeed, NATO has placed greater reliance on nuclear weapons for war-fighting. [Deleted.]

Of course, Soviet perceptions pertaining to RB/ER technology and capabilities are difficult to analyze. [Deleted]. They would presumably follow their own doctrines whether or not this weapon is introduced. Nor can the fact that the W70–3 warhead may cause less collateral damage be expected to moderate possible Soviet responses. Its use would be no less likely than the present Lance warhead to evoke Soviet retaliatory use of tactical nuclear weapons. And unless the Soviets develop a comparable warhead, their response with their existing warheads would create the same kind of devastation that RB/ER weapons would avoid because of their reduced blast effects. [Deleted].

Overall, the political effects associated with the deployment of RB/ER warheads relate to characteristics of the entire class of weapons, rather than to the Lance warhead alone. Possible effects on the nuclear threshold lie more in the gray area of perceptions—those of the US public, Allied leaders and public, Soviet leadership, and the third world—than in judgments based on hard analytic criteria or weapons characteristics.

The public debate over the merits of RB/ER systems, reflects the basic dilemma which has surrounded our theater nuclear posture since the 1950s. On the one hand, the mere presence of nuclear weapons has contributed to deterrence, and to the perceived strength of the US commitment, and has been welcomed as such. However, their deterrent strength rests on a belief that NATO has the will to use them should that prove necessary. On the other hand, any suggestion that these weapons might actually be employed in a battlefield warfighting role has evoked images of mass destruction in densely populated Europe.

[Deleted].

When the current program became public in the US there was an unfortunate degree of uninformed and sometimes distorted commentary. The Soviets have picked up the theme in a coordinated world-wide propaganda campaign.

Clearly, RB/ER weapons have become a politically difficult and controversial issue, especially in Western Europe [deleted] tried to ensure that the issue is considered in the proper strategic and political context. The US Government has sought to correct misinformation, point out the one-sidedness of the Soviet campaign, and has made clear that we will make our basic decisions in consultation with our Allies.

The description of RB/ER as a weapon that "kills people while leaving buildings undamaged" is an inaccurate interpretation by the press that has served to catch public attention all over the world. For this reason, a decision to produce and deploy RD/ER weapons could be seen in many quarters in terms of an inaccurate impression of the effects of this weapon alone, rather than in terms of the dangers of all nuclear weapons on the one hand, and their importance to deterrence on the other hand. Conversely, a decision not to deploy could create future problems, both for the US and the NATO Alliance, if it were widely perceived that such a decision was the result of Soviet pressures and that it thus invited new Soviet efforts to undercut other NATO force modernization measures.

The prospect of escalation remains a central component in, and factor weighing against, any US decision to use nuclear weapons regardless of the specific performance characteristics of this or other classes of nuclear weapons. Thus, any US decision to use nuclear weapons would be in all likelihood insensitive to whether or not RB/ER weapons were deployed. The decision to use nuclear weapons of any kind including RB/ER weapons, would remain in the hands of the President, not in the hands of local theater commanders. The principal dilemmas are whether the perceived gains for deterrence and warfighting capabilities outweigh the risks of some perceiving a lowering of the nuclear threshold and the adverse political reactions. Deterrence is enhanced because of the adversary's perception of a greater US willingness to use the weapon. This same perceived greater willingness, however, if deterrence fails, may provide an incentive for an adversary to escalate to the nuclear level more readily. Of course, he would still face the high risk of further nuclear escalation.

E. Technological Impact:

[Deleted].

As to whether US deployment of RB/ER weapons would stimulate similar deployment by the Soviet Union, there has never been any inhibition, [deleted] to the Soviet Union's deployment of such weapons. There has been much discussion of the capability in open literature for many years. Moreover, in its stockpiles since the late 1950s, NATO has had small-yield artillery weapons [deleted].

Recently Chairman Brezhnev stated in general terms that the Soviet Union would respond to the US deployment of RB/ER weapons. [Deleted]. For further discussion of nuclear proliferation effects refer to section III A.

F. Verification:

At the present time, there are no arms control agreements that would include the W70–3 warhead. [Deleted].

IV. Conclusions:

In practice, the production and deployment of the LANCE W70 Mod 3 warhead would likely have only slight impact on arms control, including the course of ongoing arms control negotiations, deterrence and stability in Europe, or the destructiveness of war should it occur. There has been considerable public controversy about this and other enhanced radiation weapons, however, in part because of contradictory perceptions of the impact of these weapons on the nuclear threshold and related arms control concerns.

On the one hand, the prospective introduction of these weapons has been perceived by many as representing a potential lowering of the nuclear threshold. The greater military utility and lower expected collateral damage associated with these weapons, it is argued, would contribute marginally—in the event of an extreme crisis or outbreak of conventional warfare—to a decision to employ nuclear weapons by making such a decision easier. The continued existence of such body of significant opinion could have an adverse effect on US efforts toward stemming nuclear proliferation. Moreover, if Soviet leaders perceived that RB/ER technology made the use of NATO nuclear weapons marginally more plausible, their incentive to make first use of nuclear weapons themselves may increase. Any such effects, if they materialize, would be adverse from an arms control standpoint.

However, continued US (and Allied) public statements may, over time, be able to counteract the factual inaccuracies and Soviet propaganda that have created the public controversy and misperceptions of RB/ER weapons as fundamentally different from other nuclear weapons. As to the effect on the threshold, as the President and USG officials have repeatedly stated, a decision concerning the employment of RB/ER weapons would be treated no less seriously, and no differently than that for any other nuclear weapon. Thus, the deployment of these weapons would not affect the actual nuclear threshold. Moreover, because of the military utility of RB/ER weapons, their deployment could enhance deterrence, reduce the risk of war and, if war should break out, marginally reduce the prospect for escalation and the destructiveness of war.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

THE PANAMA CANAL TREATY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Executive N. 95th Congress, 1st session, Calendar No. 2, which the clerk will state.

The second assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st Session, The Panama Canal Treaty.

The Senate resumed the consideration of the treaty.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 41

Mr. BARTLETT. Mr. President, I call up my amendment No. 41 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) on behalf of himself and Mr. HANSEN proposes amendment No. 41.

At the end of paragraph 4(c) of article XIII, add the following: "Nothing in this

subparagraph may be construed to commit the United States of America to pay any part of such unpaid balance to the Republic of Panama after the date of the termination of this Treaty.".

The PRESIDING OFFICER. The time for debate on this amendment is limited to 3 hours, equally divided and controlled by the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Idaho (Mr. CHURCH).

The Senator from Oklahoma (Mr. BARTLETT) is recognized.

Mr. BARTLETT. Mr. President, article XIII, section 4(c) of the proposed Panama Canal Treaty provides that the Panama Canal Commission to be created by the new treaty will pay a sum of $10 million a year out of surplus revenues to the Government of Panama. This so-called contingency payment is above and beyond other payments to be provided by section 4 to the Government of Panama.

In addition, section 4 provides that, in the event insufficient surplus is generated each year to make a $10 million contingency payment, the obligation to make that payment will carry over into subsequent years, thus increasing the chances that the Government of Panama will get each of its contingency payments as soon as possible and in less inflated dollars. What is unclear is whether Panama can be certain of getting all of its 22 years' worth of contingency payments.

Article XIII, section 1 of the Panama Canal Treaty reads as follows:

Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two parties may otherwise agree.

Thus, article XIII, section 1 makes it clear that the canal must be turned over free of debt, unless otherwise agreed, thus implying that the accumulation of contingency payment debts, if considered an obligation of the Panama Canal Commission, would become a just debt of the United States and would be payable by the United States upon termination of the Panama Canal Treaty on December 31, 1999.

While such an interpretation is consistent with the language of the treaty, and consistent with the expectations of some Panamanians as reported to our committee, it is inconsistent with the notion that the contingency payment is to come only out of toll revenues and is not to involve appropriated funds.

The State Department has said that the United States will have no obligation to pay this accumulated contingency payment debt after 1999. However, this interpretation does not spring from the text of the Treaty in a clear and lucid manner. None other than H.R. Parfitt, the Governor of the Panama Canal Zone and President of the Panama Canal Company, and Mr. Elmer B. Staats, the Comptroller General of the United States, have commented specifically on the ambiguity inherent in this section of the treaty. Both indicated that differences of opinion existed in Panama as to whether the Government of the United States would be obligated to pay that part of the 22 years' worth of $10 million annual contingency payments which the Panama Canal Commission might not have been able to pay out of generated revenues.

In an effort to clarify this issue, I sent a telegram to General Torrijos on February 1, 1978, asking for his interpretation of this part of the Panama Canal Treaty. I received no direct answer to this telegram, but I did receive a reply to a second telegram I sent on February 22. The Panamanian Ambassador to the United States sent me a letter dated March 6 explaining that General Torrijos had asked that I be given a copy of a statement made by his Minister of Planning and Economic Development to an audience in San Francisco.

To that audience, this Panamanian economics minister, Dr. Nicolas Barletta, said that the United States would have no commitment to make good on the contingency payments after 1999. In his opinion, there was little reason to be concerned because Panama fully expects that the Panama Canal Commission will generate sufficient revenue to make good on the contingency payment.

This may be an unwarranted assumption. Examination of the draft implementing legislation shows that the requirement for a $10 million contingency payment will not be considered in setting toll rates, and the low priority for payment given the contingency payment, relative to other ongoing debts of the Panama Canal Commission, makes it clear that there is little chance that Panama will receive any significant payments out of revenues. Thus, even if the Government of Panama, under whatever regime might exist, did not maintain in 1999 that the United States has a legal obligation to make good on the contingency payments, there is ample reason for them to argue that the United States has a moral obligation to make good on all or part of this debt.

Because I believe it is important to resolve this issue now, before hard feelings over the contingency payments develop between the United States and Panama, I would like to explain my amendment and justify it in detail.

The original language of section 4(c) provides payments to Panama as follows:

An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts made pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

My amendment would make the following changes:

Viz: At the end of paragraph 4(c) of Article XIII, add the following: "Nothing in this subparagraph may be construed to commit the United States of America to pay any part of such unpaid balance to the Republic of Panama after the date of the termination of this Treaty.".

The ambiguities in article XIII which my amendment seeks to correct were identified quite clearly in the Armed Services Committee hearings. In fact, the issue predated those hearings as was made clear in prepared Senate testimony by the Comptroller General of the United States. I quote:

Last November in our testimony before the House Subcommittee on the Panama Canal, we noted the possible ambiguity concerning the treaty-specified payment to Panama of up to $10 million if operating revenues exceed expenditures. Under one interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama of over $200 million could be required at termination of the treaty.

The Department of State, however, has said that the proposed Commission is obligated to make this payment only to the extent that operating surpluses exist during the treaty life and that there will be no obligations by either the Commission or the U.S. Government to pay Panama any unpaid cumulative balance after December 31, 1999. Accordingly, the Panama Canal Company has excluded this amount from all its cost projections, including those we used.

At this point in Mr. Staats' statement the distinguished senior Senator from the State of Nevada correctly identified the problem when he said:

That is a unilateral statement on the part of the Department of State. There is nothing in the Treaty to clearly spell that out.

The Comptroller General could only agree with Senator Cannon. I quote:

Mr. STAATS. As was indicated this morning, the Panamanians have a different interpretation with respect to that. You could, under one interpretation, provide that the roll over take place up to 1999, but not carry over into the year 2000 when the property would be transferred. Under those circumstances, if there were profits, some or all of it could be paid, but the question is whether or not there is an obligation on the part of the U.S. Government, and there is no doubt about it, if this [is the] interpretation that Panama has made, then it will have to come out of the Federal Treasury unless it is otherwise provided for in the toll base.

Mr. Staats urged that ambiguities concerning the contingency payment be eliminated and hoped that the operation of the contingency payment might be clarified in the implementing legislation. And he went on:

Furthermore, there should be a clear understanding with Panama on the treatment of this obligation, particularly in view of the treaty language which requires mutual agreement.

I would like to read that again as this comes from Mr. Staats:

Furthermore, there should be a clear understanding with Panama in the treatment of this obligation, particularly in view of the treaty language which requires mutual agreement.

This theme was continued during the questioning of Governor Parfitt:

Senator MCINTYRE. I understand that Torrijos or somebody down there is saying that if they don't get the $10 million by the year 2000, they will expect 22 times $10 million, or $220 million in payment. Do you know of this?

Governor PARFITT. I think that alludes to the fact that the treaty does say in any given year to the extent you don't pay the surplus it rolls over to the next year, and he is assuming then at the year 2000 it no longer

rolls over, it is then paid off. It has been our negotiator's position that since the treaty says these funds will be paid to the extent earned, if they aren't earned they are not a liability of the U.S. Government and they would not be paid.

Governor Parfitt again repeated the theme in his exchange with the junior Senator from Colorado:

I think that everybody agrees to the extent they do not pay it in any given year it rolls over. I don't think there is any difference of understanding on that issue. It rolls over until the year 2000. That is where there is a difference of interpretation.

And again:

There is no difference in opinion on rollover annually. The difference of opinion comes at the year 2000. To the extent that it is not earned at that point in time, the administration concludes that since we didn't earn it we are not required to pay it.

I think Mr. Staats' testimony asks does Panama agree with that. What we hear is Panama does not agree.

And again:

Everybody agrees it rolls over in a given year to the next year until the year 2000. Then there is a difference in point of view.

There are basically two ways in which the United States can resolve the difficulties associated with the contingency payment. The first method is to clarify the language of the treaty. The second is to insure that there is no accumulated contingency payment debt in 1999.

The best way to resolve the difficulties associated with the contingency payment is to clarify the language in the treaty whose ambiguity has created the problem in the first place. This is the approach taken by my amendment. Given the very real confusion over the language of the treaty, and given the language of the treaty, and given the divergent interpretations which have already appeared, an informal agreement between the two governments as to the obligation of the United States to make good on the accumulated contingency payment debts after 1999 would lack credibility. I believe the difficulties associated with efforts to clarify the contingency payment in the implementing legislation are pointed out in the following dialog between Governor Parfitt and myself:

Senator BARTLETT. I believe you told Senator McIntyre that the Canal Commission would expect to set its toll revenue to meet its cost and that if this contingent payment was not included in the plan for setting tolls, there would be little surplus to pay the Panamanians since the Commission is not a profitmaking organization.

Governor PARFITT. That is correct, sir.

Senator BARTLETT. So what we would have here is a situation in which we have promised to pay the Panamanians out of any surplus which the Commission earns but the Commission is not expected to have any surplus.

Governor PARFITT. Under a situation which we now forecast, which is one of ever-increasing demand for additional tolls, we would not be generating surpluses, at least in very significant amounts.

Senator BARTLETT. And if we include the contingency payment in the estimate of operating costs, we increase the chance of the Canal Commission running into debt, and we have said to the Panamanians that we will turn the canal over to them free of debt.

Governor PARFITT. That is correct, sir.

Senator BARTLETT. Given the large sums of money involved and the ambiguities in the treaty, which could cost either the United States or Panama large sums of money, depending upon how the disputes are resolved, could you, Governor Parfitt, tell me how the two nations are going to avoid disputes and conflicts over the interpretation? In other words, the same question I asked Mr. Staats.

Governor PARFITT. Obviously there are built in some difficulties and we hope that these can be ironed out through the various committees that have been established in effect to try to resolve these problems. Certainly the problem related to the contingency payment seems to be one that cannot be resolved in that fashion in view of the conflicting views of both parties right now.

Senator BARTLETT. I would assume that the Congress would want to see that these differences are resolved, and how would you suggest the Congress do that?

Governor PARFITT. We had hoped most of them at least can be resolved through the implementing legislation that the Administration is now trying to develop.

Senator BARTLETT. But if the implementing legislation expresses a Congressional point of view or even an Administration point of view, and if that is not the point of view of the Panamanians, then there would still be the controversy.

Governor PARFITT. That is correct, if this does not represent really the agreement of Panama and the United States the implementing legislation will not resolve that conflict.

Senator BARTLETT. Unless the Panamanians reach some agreement with the United States executed by President Torrijos or someone from Panama?

Governor PARFITT. Or unless they in fact agree with the interpretation of the Administration as it is implemented in the legislation. There seems to be a little difference of opinion as to what the Panamanians agree to and do not agreed to. I have not had that direct an association with them so I do not know directly what their position is.

Senator BARTLETT. That would require a signed instrument, would it not?

Governor PARFITT. It would appear to involve some kind of a signed instrument or some kind of a reservation or amendment to the basic documents.

This view receives support even from Mr. Staats, as the following statement makes clear:

Mr. STAATS. Well, there might be several ways on the $10 million surplus issue of dealing with that. One would be to have an exchange of notes or something in writing which would interpret this, have an agreement on the interpretation of what is the surplus and whether or not there is an obligation to carry that over from year to year, the so-called rollover idea.

There is another way, even in the absence of an agreement, it could be written right into the implementing legislation. I would think the former would be the preferred way to deal with it.

But lacking that, it seems to me certainty is more important in this case than to have the uncertainty and the kind of irritation and controversy that would flow from it. We are talking about a substantial amount of money.

It is because I feel strongly that we need to have certainty in the agreement rather than uncertainty, rather than ambiguity, that I am presenting to the Senate this amendment to the Panama Canal Treaty.

Following a discussion of problems associated with the $10 million contingency payment, the senior Senator from the State of New Hampshire expressed a similar view as follows:

Senator MCINTYRE. As one Senator who sees these treaties as something whose time has come, I want to say I have been very upset that I could find all of these mishmash of negotiations that are still hanging fire, far from creating what I was hoping for, which would be a nice, good, strong relationship with our Panamanian friends. I can see all kind of troubles on the horizon.

I, too, see much trouble on the horizon, especially resulting from the probability that the Government of Panama will receive little, if any, of the contingency payment they anticipate out of excess revenues generated by the Panama Canal Commission. The problem is a simple one, outlined in my exchange with Governor Parfitt quoted above. If plans for the contingency payment are not included in setting the toll base, there is little likelihood that the Commission will have excess revenue because it is not a profitmaking organization. Testimony before the Armed Services Committee indicated that the surplus payment would not be considered in setting tolls, and the draft of implementing legislation made available to the Congress by the administration supports this view. In setting guidelines for the establishment of toll rates, the implementing legislation takes into consideration maintenance costs of the canal, depreciation of assets, amortization of use rights, and the payment to Panama described in sections 4(a) and 4(b) of article XIII of the treaty, but not section 4(c) which deals with the contingency payment.

Furthermore, in determining the actual amount of the annual contingency payment, the implementing legislation requires that priority first be given to operations, maintenance, inventory, payable unfunded liabilities, services, other payments to Panama, a capital reserve account, and programed reserved accounts designed to maintain the financial liquidity of the Commission during periods between toll rate increases.

The likelihood that the Panama Canal Commission might run a deficit during the treaty period prior to 1999 was studied extensively by the Armed Services Committee. A study for the Committee by American Management Systems, Inc., concluded on January 26, 1978, that the proposed Panama Canal Commission would have to engage in major cost reduction programs and would have to link tolls closely to the rate of inflation in order to avoid a serious deficit. The study done for the Administration and for the Panama Canal Company was summarized in this respect by Senator McIntyre. I quote:

Senator MCINTYRE. It is obvious from your testimony today that you do not feel that if the $10 million contingency payment is not included in the toll base, it will be very unlikely that we will have a $10 million surplus running around.

Governor PARFITT. I feel very definitely if it is not included in the toll base it will not be generally earned.

These pessimistic conclusions about the likelihood of achieving a sizable surplus from which to derive a large number of contingency payments contrasts with the optimism expressed by

the Panamanian Minister of Planning and Economic Development in his San Francisco statement. I quote Mr. Barletta:

> However, I would like to say, that in our estimation, the revenues of the Canal and all the projections and studies that have been made should be able to cover this second $10 million that should come to Panama if revenues permit, so I don't foresee much of a problem in respect to (a) deficit.

I wish to point out that several times in the hearing before the Armed Services Committee, Governor Parfitt referred to the fact that in the out years, in the years approaching the year 1999, it would be much more difficult for the canal commission to make a profit or to keep from having a significant debt. In fact, he pointed out, in his answers to various questions, that the large amount of traffic that now exists going through the canal, carrying oil from the North Slope of Alaska to the east coast or the gulf coast, is giving a lot of business to the canal that is not expected to be permanent, because it is anticipated that in the not too distant future, there will be a facility, a pipeline facility, to transport the oil from the west coast to the east coast, or at least, to the midsection of the 48 States. So it is anticipated that the traffic through the canal, the income from that traffic, will decline rather sharply in a matter of a few years.

If ambiguity in the language of the treaty leaves open the question of whether the United States has a legal obligation to make good on the accumulated contingency payment debts after 1999, then the less-than-straightforward manner in which Panama has been led to believe that it will receive the accumulated contingency payment leaves open the question of whether the United States will have a moral obligation to make such a payment.

Much has been said in recent weeks about so-called killer amendments. By no stretch of the imagination could this amendment be given that title. If Panama agrees with the State Department's interpretation of the contingency payment, then Panama agrees with this amendment. If Panama does not agree with the official State Department interpretation, then my amendment is the only way to resolve the issue. Given the numerous Members of this body who have expressed their concern over the ambiguities associated with the contingency payment, and given the concern expressed by members of the administration itself, I urge all of my colleagues to support this clarifying language to eliminate the ambiguity as it exists.

I should like to stress that the proper place and the only place to eliminate the ambiguity is in the treaty itself. If the plan is that this matter can be resolved by a reservation, I would hardly disagree, because all that will do is add one more, a third, conflicting interpretation, rather than resolving the two conflicting provisions that exists in article XIII.

Mr. President, I reserve the remainder of my time.

(The following colloquy occurred during Mr. BARTLETT'S remarks and is printed at this point in the RECORD by unanimous consent.)

Mr. PERCY. I wonder if the Senator knows whether or not the position taken by Panama's Minister of Planning and Economic Development, Nicolas Barletta, has been put on the record? I realize that it was a statement made by a government official of Panama and is not equivalent to language in a treaty. However, I think it should be made clear as to how the Panamanians view this. I visited with Minister Barletta both in Panama and discussed this matter with him in my office here when he visited here a few weeks ago, and I would like to make certain that we have on the record his statement which interprets his particular section of the treaty.

Mr. BARTLETT. I have already referred to it. I note it was made a part of the RECORD, I think, by Senator BYRD some days ago or some weeks ago.

Mr. PERCY. This was the statement that he made in his appearance before the World Affairs Council in San Francisco on February 28.

Mr. BARTLETT. It was a statement he made in response to a question after his speech and in which he made the statement that the Senator alludes to.

I would point out that this in no way obligates the Panamanians or necessarily the Government of Panama. Before the Senator arrived, I believe I pointed out that it was, I think, on February 1 that I sent a wire to President Torrijos asking for his interpretation. I did not get an answer. So 3 weeks later I sent another wire and I still did not get an answer from President Torrijos. I finally got an answer from the Ambassador from Panama, and what he did was just give me a copy of the statement made by Mr. Barletta in answering the question in San Francisco.

I would say this to my good friend from Illinois that I regard the inaction by President Torrijos in answering my inquiries in either case or refraining from answering as avoiding the question.

I asked him what he thought of it and he did not tell me what he thought of it nor did he tell me what the people in Panama, according to his point of view, think about it.

But whether or not he agrees with the State Department, it does not eliminate the ambiguity that exists in the treaty.

The people in Panama, according to testimony by Governor Parfitt and Mr. Staats, are of the opinion in some cases that we would owe this amount, whatever the unpaid balances would be, the contingency payments by the year 1999.

The other interpretation—which is mine—is that we do not owe it. But I recognize that the ambiguity exists, and I know that the distinguished Senator from Maryland, who is managing the floor right now, has said before, and many of his colleagues who support the treaty sincerely hope and expect, that these treaties, if ratified, will enhance the relations between the United States and Panama.

But this is not going to be the case if there is an ambiguity over a rather potentially large amount of money.

Mr. PERCY. I could not agree more.

Mr. BARTLETT. So what I am trying to do with this amendment is eliminate that ambiguity, so it will not be ambiguous in the treaty itself.

Mr. PERCY. I would like to state to my distinguished colleague from Oklahoma that of the many, many witnesses that we had before the Foreign Relations Committee hearings on the treaties, one or two indicated there was probably a virtue in ambiguity.

I have never found that to be true in any agreement or contractual relationship I have had with a second or third party, and I think one of the purposes of this debate is to remove as much ambiguity as possible.

Mr. President, I ask unanimous consent that at this point in the dialog the statement made before the World Affairs Council of San Francisco by Panama's Minister of Planning and Economic Development, Nicolas Barletta, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> Actually this question refers to the fact that in the treaties Panama should be getting $10 million if the revenues permit. If revenues do not permit, the deficit will be accumulated to be paid by revenues from later years. If there is an accumulated deficit by the time the treaty ends, in 1999, that's it, the U.S. is not committed to make it up if such amount has not been able to be collected from the revenues of the Canal operation. We do not hope in our interpretation of this clause of the treaty, that the U.S. is committed to pay any such deficit that might have accumulated. However, I would like to say, that in our estimation, the revenues of the Canal and all the projections and studies that have been made should be able to cover to Panama if revenues permit, so I don't foresee much of a problem in respect to deficit. But if such a deficit is accumulated and is pending when the treaty ends, then the U.S. is not committed to make it back from the U.S. Treasury.

Mr. PERCY. Second, I feel that our distinguished colleague has done a service to the Senate and the country in raising this issue and pinpointing it. My preference would be to have a reservation or understanding on this particular point, rather than an amendment, for a variety of reasons. I would like just to just ask one last question, because during the debate on understandings and reservations, the Senator from Illinois intends to discuss the revenue we can expect from the Panama Canal and the operation of it for the next 22 years.

It would seem to me, and I would ask our distinguished colleague whether he concurs, that in the development of our relationship with Panama, it is going to be in the interests of both our countries to maximize revenues for the next 22 years, to raise tolls sufficiently so that they cover as much of our own expense as possible, including the loss of the interest that the Treasury has enjoyed every year on our investment.

That means we must maximize revenue by setting the tolls at a level where we do not lose so much volume that it reaches the point of diminishing returns. If we maximize the revenue, Panama

would come closer to earning this $10 million a year until the year 2000, when we have no further interest and no further obligation whatsoever.

The expectations of Panama are high, and to the extent that we can realize those by charging the users of the canal a reasonable fee for the passage, they can have that benefit and we can recover the legitimate costs we will have from the ratification of these treaties.

I understand the Senator from Oklahoma is supportive of an amendment rather than a reservation or understanding, and I think that is probably the only point we disagree on.

Mr. BARTLETT. I would point out to the distinguished Senator that, yes, I feel very strongly about this being an amendment rather than a reservation. The reason is that I think it is important to eliminate from the treaty itself the ambiguity that exists.

A reservation would just add a third conflicting interpretation, but the ambiguity would still be there. It would still exist, and the Torrijos regime or administration, or succeeding administrations, could very definitely, if they so desired, hang their hat on the first part of the 13th article, section 1, on the basis that this canal should be turned over free of debt.

As the RECORD will heretofore show my having done, I am going to, very soon, get into a recitation of the dialog that I had with Governor Parfitt, which impacts directly on the matter as to which the Senator inquired whether I agreed, and I think the Senator will see there are real doubts about any expectation of contingency from payments on the part of Governor Parfitt, and that the Panamanians should not expect that.

On the other hand, as the Senator from Illinois noted in the Barletta statement, he was anticipating that the ambiguity would not make much difference, because they are going to receive the contingency payment on time anyway. I do not think his confidence in that respect is very well grounded.

Mr. PERCY. I thank the Senator from Oklahoma.

Mr. BARTLETT. I appreciate the comments that the Senator from Illinois, and I apologize to the Senator from Maryland for the delay.

(This concludes proceedings which occurred earlier.)

The PRESIDING OFFICER. Who yields time?

The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I have listened carefully to the distinguished Senator from Oklahoma with respect to his proposed amendment. In responding to him, I should like first to refer to the actual provisions of the treaty, then to some of the questioning that took place in the Foreign Relations Committee when this matter was considered, then discuss and insert fully in the RECORD, because I think it is very important, the statement that was made by Dr. Barletta, who is Minister of Planning and Economic Development in Panama.

Then I should like to discuss some of the testimony which the distinguished Senator from Oklahoma cited that was given before the Committee on Armed Services. All of that discussion will go to the point of showing that the amendment is completely unnecessary. Then, finally, I should like to discuss some international law and make the point that, if there is any reason whatever to think there is any ambiguity, which I do not think there is, the best way to go about remedying it is by an understanding to the articles of ratification.

The Panama Canal Treaty, which we are now considering, provides, in article XIII, for a certain economic participation by the Republic of Panama in the return from the tolls of the Panama Canal. Of course, the theory behind that participation, among other things, is to compensate Panama for committing its major national resource; namely, its location, at the isthmus, the fact that it holds this unparalleled geographical position to be the pathway between the seas; and second, to give to Panama an involvement in the effective financial operation of the canal. The canal then, as a national asset, would be making a return to the Republic of Panama.

One of the provisions contained in article XIII, section 4, is for what is called a contingent payment.

It provides that Panama shall receive "an annual amount of up to 10 million U.S. dollars per year, to be paid out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission, including amounts paid pursuant to this Treaty". So that payment is to come out of Canal operating revenues—operating revenues—to the extent that such revenues exceed expenditures of the Panama Canal Commission. The rest of that provision then goes on to say:

> In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

So if in, any year of operation, they do not produce out of operating revenues, revenues do not exceed expenditures sufficient to make this payment, then the unpaid balance shall be paid from operating surpluses in future years.

The important words to underscore there are "In the event canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years"—I emphasize "from operating surpluses in future years". So if there is any carryover in the payment to future years, that unpaid balance shall be paid from operating surpluses in future years.

Now, it is then contended, or it is asserted, that an ambiguity arises because article XIII, section 1, provides:

> 1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

It is asserted that this contingent payment, if carried over and existing at the termination date, could be a lien or a debt.

Mr. President, article XIII, section 4 (c) is very clear in saying that the contingency payment shall be paid from operating surpluses in future years. If there are no operating surpluses, it will not be paid and it does not, therefore, remain as a debt, an accumulated debt or lien, that has to be cleared before the canal is turned over.

Now, this matter was discussed in the Foreign Relations Committee at the time of our hearings. In fact, Senator GLENN specifically put the question to Ambassador Bunker. Senator GLENN, and I quote the exchange between Senator GLENN and our treaty negotiator, Ambassador Bunker:

> Article XIII, section 4(c), provides that in the event revenues are not sufficient to meet the payments provided for in that paragraph, the obligation will be carried over. In the event there is a balance owing at the end of the year 1999, what will be the obligation of the United States to pay that balance? Should there be any such obligation, will an appropriations bill be required to provide the funds for this?
>
> Ambassador BUNKER. No. There will be no obligation after the treaty expires, Senator.
>
> Senator GLENN. There will be no obligation?
>
> Ambassador BUNKER. No.

The committee concluded in its report that if there are no operating surpluses from the canal at the end of the treaty period, the United States and the Panama Canal Commission are under no obligation to pay Panama any cumulative balances.

Now, the same question was addressed in the letter signed by Secretary Brown, Secretary of Defense; Secretary Vance, Secretary of State; Secretary Alexander, Secretary of the Army; in a letter sent by them to all Members of the Senate on February 10 of this year. They responded in that letter to a number of questions that had been raised and on this matter they said the following:

> Q. What about the contingent $10 million payment? Will we be obligated to pay off on that in the year 2000? Will it be part of the toll base?
>
> A. The contingent $10 million annuity is payable only if operating revenues produce a surplus over expenditures, which include among others the variable annuity due Panama of $.30 per Canal ton and the fixed annuity of $10 million. The contingent annuity will not be figured in the calculation of the toll base.
>
> If the surplus is insufficient to cover the entire payment of the contingent annuity the shortfall is carried over to succeeding years. Since payment is contingent on available surpluses, the United States is not obligated to pay off on any accumulated unpaid balance in the year 2000. Panama's negotiators have acknowledged this fact.

Let me simply repeat that last paragraph in the letter from Secretaries Brown, Vance, and Alexander. They stated:

> If the surplus is insufficient to cover the entire payment of the contingent annuity, the shortfall is carried over to succeeding years. Since payment is contingent on available surpluses, the United States is not obligated to pay off on any accumulated unpaid

balance in the year 2000. Panama's negotiators have acknowledged this fact.

The distinguished Senator from Oklahome made reference to the questioning before the Armed Services Committee, of which he is a member, both of Comptroller General Staats and Governor Parfitt.

Comptroller General Staats indicated that under one interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama, over $200 million, could be required at termination of the treaty.

He then went on to say:

The Department of State, however, has said that the proposed Commission is obligated to make this payment only to the extent that operating surpluses exist during the treaty life and that there will be no obligations by either the Commission or the U.S. Government to pay Panama any unpaid cumulative balance after December 31, 1999. Accordingly, the Panama Canal Company has excluded this amount from all its cost projections, including those we used.

Senator CANNON. That is a unilateral statement on the part of the Department of State. There is nothing in the treaty to clearly spell that out.

Mr. STAATS. As was indicated this morning, the Panamanians have a different interpretation with respect to that.

He then goes on to suggest that one way to make the State Department view clear is to spell it out in the implementing legislation.

Now, Governor Parfitt in his questioning, again with the distinguished Senator from Oklahoma (Mr. BARTLETT), talked on this same issue and said, among other things, when the question was raised:

Or unless they in fact agree with the interpretation of the administration as it is implemented in the legislation. There seems to be a little difference of opinion as to what the Panamanians agree to and do not agree to. I have not had a direct association with them so I do not know directly what their position is.

Now, the Senator from Oklahoma quoted two witnesses before his committee, both of whom said that this was an interpretation being made by the Panamanians, the interpretation that an outstanding obligation would exist at the end of the treaty period.

I have not heard the Senator quote to me the Panamanian sources for that assertion, and our Secretaries of Defense and State, in a letter to Members of the Senate, have said:

Since payment is contingent on available surpluses, the United States is not obligated to pay off on any accumulated unpaid balance in the year 2000, Panama's negotiators have acknowledged this fact.

I repeat:

Panama's negotiators have acknowledged this fact.

Further, as the distinguished Senator from Oklahoma recognized—I think quite fairly—Dr. Nicolas Barletta, the Minister of Planning and Economic Development of the Republic of Panama, in a major address in San Francisco on the 28th of February, agreed with the interpretation given to the Foreign Relations Committee by Ambassador Bunker in his testimony and the interpretation presented by the Secretary of Defense, the Secretary of State, and the Secretary of the Army in their letter of February 10 to the Members of Senate.

Let me quote in full Dr. Barletta's statement in San Francisco in his address to the Commonwealth Club—California Council of International Trade, World Affairs Council of San Francisco, World Trade Association of the Chamber of Commerce. This was in the question and answer period which they had before that distinguished audience.

The question was asked of Dr. Barletta, the Panamanian Minister of Planning and Economic Development. This is the moderator speaking:

I received a question which asks if there is an accumulated unpaid balance under Article XIII, Section 4(c) of the contingency payments stipulated in the Panama Canal Treaties, would the United States be liable for payment of the accumulated unpaid balance?

That is the question on which the Senator from Oklahoma is asserting there is such ambiguity that an amendment to the treaty is called for and is necessary.

Dr. Barletta replied as follows:

Actually this question refers to the fact that in the treaties, Panama should be getting $10 million a year from the revenues of the canal operation and an additional $10 million if the revenues permit. If revenues do not permit, the deficit will be accumulated, to be paid by revenues from later years. If there is an accumulated deficit by the time the treaty ends in 1999, that's it, the United States is not committed to make it up if such amount has not been able to be collected from the revenues of the canal operation.

Let me repeat that sentence:

If there is an accumulated deficit by the time the treaty ends in 1999, that's it. The United States is not committed to make it up if such amount has not been able to be collected from the revenues of the canal operation. Dr. Barletta then goes on to say: "We do not hope, in our interpretation of this clause, that the United States is committed to pay any such deficit that might be accumulated.

However, I would like to say that, in our estimation, the revenues of the canal and all the projections and studies that have been made should be able to cover this second $10 million that should come to Panama if revenues permit, so I don't foresee much of a problem in respect to deficit.

That was the sentence that the Senator from Oklahoma alluded to in his statement—namely, that the Panamanians expect there to be no deficit, and it is correct that they have that expectation that the revenues will produce sufficient margin to make this payment. Therefore, Minister Barletta said:

So I don't foresee much of a problem in respect to deficit.

However, he then went on to conclude as follows:

But if such a deficit is accumulated and is pending when the treaty ends, then the United States is not committed to make it back from the United States Treasury.

Mr. President, that is pretty explicit. As pointed out earlier, Mr. Barletta said:

If there is an accumulated deficit by the time the treaty ends in 1999, that's it, the United States is not committed to make it up if such amount has not been able to be collected from the revenues of the canal operation.

Our negotiators interpret this clause in the way I have outlined. The Panamanian negotiators interpret this clause in the way that has been outlined. The minister of planning has made this very clear and explicit statement, which I understand from the Senator from Oklahoma was delivered to him by the Panamanian Ambassador in response to his telegrams to the Chief of State in Panama.

So I believe, Mr. President, that there is not any ambiguity which needs to be resolved.

Finally, Mr. President, I suggest that under a proper understanding of treaties and international law, if one still has the slightest trace of a doubt—and I am saying that I do not—but if one does in an instance in which both parties are in agreement as to the meaning or the interpretation of a provision in a treaty, the way to eliminate that last element of a doubt is with an undertsanding as to the meaning of the provision. That is the very purpose of understandings. By definition, an understanding is the agreed-upon interpretation of some provision in a treaty about which someone says there is a doubt or an ambiguity, as to what it means. I do not agree that there is doubt or ambiguity here. I have read the language of the treaties, and, in particular, I do not think there is any doubt and ambiguity; because article XIII, section 4(c), very clearly says that the unpaid balance shall be paid from the operating surpluses in future years—operating surpluses in future years. So there cannot be a lien or debt there that has to be paid from some other source. That has been precluded by the language of the treaty.

I find it interesting how many ambiguities opponents, who do not want the treaties at all, can find. In any event, in an instance in which both parties have clearly stated identical views of what the language means, the way to meet that situation, the way to handle it, is through an understanding.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. SARBANES. I yield.

Mr. BARTLETT. In addition to the Barletta statement, which I discussed—and I will discuss it further—what proof does the Senator from Maryland have of an understanding of their negotiators with our negotiators? Does the Senator have a signed statement from their negotiators?

Mr. SARBANES. No, I have the statement made by our own negotiator who was in long and continuous consultation with the Panamanian negotiators and the statement made by our Secretary of State and our Secretary of Defense.

Mr. BARTLETT. The Senator from Maryland has one Panamanian answering a question, in San Francisco, speaking for all Panamanians?

Mr. SARBANES. I must say to the Senator that I think the assertions we received from our negotiator, Ambassador Bunker, and the assertions made by our Secretary of State and Secretary of Defense——

Mr. BARTLETT. That is not what the Senator from Maryland said earlier. The Senator said that he had agreements from the Panamanian negotiators. The Senator did not say he had it from Ambassador Bunker or from other people testifying to that effect.

Mr. SARBANES. No. If the Senator will forbear for a moment, what I said was that the Secretary of Defense and the Secretary of State had sent a letter in which they had stated:

Since payment is contingent on available surpluses, the United States is not obligated to pay off any accumulated unpaid balance in the year 2000. Panama's negotiators have acknowledged this fact.

Mr. BARTLETT. The Senator said that, but he also said that the Panama negotiators have acknowledged this fact.

Mr. SARBANES. That is right.

Mr. BARTLETT. The Senator is not submitting any evidence to the effect that they themselves did it?

Mr. SARBANES. I am submitting the letter from the Secretary of State and the Secretary of Defense which have told us that.

I am glad the Senator has brought up the point. Let me contrast a letter from the Secretary of State, and Secretary of Defense, and Secretary of the Army, leading officials who have been in contact with Panamanian officials, who tell us Panama's negotiators have acknowledged this fact, with the distinguished Senator citing the view of Governor Parfitt that a different interpretation exists on the part of the Panamanians.

I am nwo quoting from page 409 of the hearings before the Armed Services Committee.

Mr. BARTLETT. Will the Senator read that clear through to the end? The last time the Senator stopped before the conclusion of that dialog, and I think if he continues the dialog he will get additional information which I think is very pertinent to the question.

Mr. SARBANES. Governor Parfitt, in response to the Senator's line of inquiry with respect to this supposed differing interpretation, says:

There seems to be a little difference of opinion as to what the Panamanians agree to and do not agree to. I have not had a direct association with them so I do not know directly what their position is.

And then, of course, the Senator went on to say:

That would require a signed instrument, would it not?

Governor PARFITT. It would appear to involve some kind of a signed instrument or some kind of a reservation or amendment to the basic documents.

Senator BARTLETT. I thank you both very much.

Of course, Comptroller General Staats earlier talked about amending the implementing legislation.

What I ask the Senator to provide is the Panamanian interpretation that is contrary to the position that I have outlined as to the meaning of these provisions, other than an assertion by Comptroller General Staats and Governor Parfitt that they think or they have heard or someone has told them that there is a difference of opinion; Of course. Parfitt goes on to say:

I have not had a direct association with them so I do not know directly what their position is.

Mr. BARTLETT. Is the Senator asking me a question?

Mr. SARBANES. Yes.

Mr. BARTLETT. I thought the Senator was still talking.

The testimony that they gave indicated that there was, without being specific, a misunderstanding on the part of the Panamanians. What the Senator from Maryland has not mentioned at all has been section 1 of article XIII which says that the Panama Canal must be turned over free of debt.

Mr. SARBANES. Will the Senator yield?

Mr. BARTLETT. I will not yield at this point until I conclude.

Mr. SARBANES. I read that section in full. The Senator said I had not mentioned. Perhaps he left the room. Not only did I mention it, but I quoted it word for word. I read it in the course of developing my presentation.

Mr. BARTLETT. The Senator did not mention that in arguing the point. He may have read it. I was here. I did not leave the room. I did not hear it. But the Senator did not mention that in his argument and that is where the ambiguity exists in article XIII, that is, that you can have one interpretation, that the debt at the end of 22 years must be paid by the United States; you have the other interpretation in article XIII, section 4(c) to the effect that the moneys are paid out of revenues and hence if the revenues are not there the money is not owed.

I agree that that is a correct interpretation of the position of the United States and the State Department.

Mr. President, the plain facts are that we have ambiguity.

The only statement that the Senator from Maryland can attribute to a specific person is an answer to a question following a speech by Mr. Barletta in San Francisco. He, of course, was expressing a personal opinion. He was not saying that he was designated by President Torrijos to lay out the Torrijos administration position in that answer to a question after a speech as the official position of Panama.

I sent a wire to Gen. Omar Torrijos on February 1, and I wish to place this in the RECORD, but "I would appreciate your personal interpretation of article XVIII, section 4(c) of the proposed Panama Canal Treaty which provides to Panama," and I then quoted section 4(c), asking for his interpretation.

I ask unanimous consent that this wire be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

FEBRUARY 1, 1978.

Gen. OMAR TORRIJOS,
Panama City, Panama.

GENERAL TORRIJOS: I would appreciate your personal interpretation of article 13, sec. 4(c) of the proposed Panama Canal Treaty which provides to Panama:

"An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this treaty. In the event canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed."

In the event there is an unpaid debt derived under this section accumulated at noon, Panama time, December 31, 1999, is it your understanding that the United States must assume such debt and make payment to the Government of Panama? Also, is it your understanding that the Panama Canal Commission is committed to raising tolls in order to maximize the possibility of making this additional payment annually to Panama?

Please cable reply. Thank you.

DEWEY F. BARTLETT,
U.S. Senate.

Mr. BARTLETT. The Senator from Oklahoma did not receive an answer from General Torrijos. So he was given the chance to respond, I point out to the Senator from Maryland, and he refused to answer the inquiry. So I sent him another wire 3 weeks later and pointed out that I had not received a response to my earlier inquiry, and asked him again. I ask unanimous consent, Mr. President, that this second wire be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

FEBRUARY 22, 1978.

Gen. OMAR TORRIJOS,
Panama City, Panama.

GENERAL TORRIJOS: As of this date, I have not received your response to my telegram of February 1, 1978.

If the Panama Canal Treaty and the Treaty of Neutrality are to be thoroughly and objectively considered, the Senate must have a firm and complete understanding of the terms of the documents. The information I have requested of you is essential to our present debate.

I again request your personal interpretation of Article 13, Sec. 4, Subsection (c) of the proposed Panama Canal Treaty which provides to Panama:

(c) "An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed."

In the event there is an unpaid debt derived under this Section accumulated at noon, Panamanian time, December 31, 1999, is it your understanding that the Panama Canal Commission or the United States must assume such debt and make payment to the government of Panama? Also, is it your understanding that the Panama Canal Commission is committed to raising tolls in order to maximize the possibility of making this additional payment annually to Panama?

I would appreciate your prompt response.

DEWEY F. BARTLETT,
U.S. Senate.

Mr. BARTLETT. Then a short while later I received an answer from the Ambassador from Panama saying that the General wanted me to have the Barletta answer to a question after a speech in San Francisco and, of course, I never did hear from General Torrijos.

The fact that he did not answer me

on this very fundamental question as to what the President thought, leaves in the mind of the Senator from Oklahoma considerable doubt as to what his position is on this.

Does he have some reason not to answer? Certainly I think he had the opportunity on two occasions, and he failed to do it. so he failed to express an answer.

But I did receive an answer from Gabriel Lewis, Ambassador from Panama. He said:

MARCH 6, 1978.

Hon. DEWEY F. BARTLETT,
U.S. Senator, State of Oklahoma, Russell Senate Office Building.

DEAR SENATOR: General Omar Torrijos, Chief of Government has received your telegram of February 22, 1978. He has requested us to send the transcripts of recent statements made by Dr. Nicolás Ardito Barletta which answer your question.

Dr. Barletta is our Minister of Planning and Economic Development and the negotiator in behalf of our country for the economic issues in the new Treaties.

Hoping to have been able to serve you, I remain

Very truly yours,

GABRIEL LEWIS,
Ambassador.

Senators will notice that he made no mention of my telegram of February 21, 1978.

This leaves, of course, a lot of doubt as to what the President of Panama really does think and how he does interpret the ambiguities that exist in article XIII.

Mr. President, I ask unanimous consent that the lecture and answers to questions be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LECTURE AND ANSWERS TO QUESTIONS

The Audience who invited him to address them were members of the Panamerican Society (organizers); World Affairs Council; World Trade Association of the Chamber of Commerce; Latin American Section of the Commonwealth Club; and California Council of International Trade.

Mr. DE LA OSSA: I received a question which asks: If there is an accumulated unpaid balance under Article XIII (4)(C) of the contigency payment stipulated in the Panama Canal Treaties? Would the U.S. be liable for payment of the accumulated unpaid balance?

Dr. ARDITO BARLETTA: Actually this question refers to the fact that in the treaties Panama should be getting $10 million a year from the revenues of the Canal operation and an additional $10 million if the revenues permit. If revenues do not permit, the deficit will be accumulated to be paid by revenues from later years. If there is an accumulated deficit by the time the treaty ends, in 1999, that's it, the U.S. is not committed to make it up if such amount has not been able to be collected from the revenues of the canal operation. We do not hope in our interpretation of this clause of the treaty, that the U.S. is committed to pay any such deficit that might have accumulated. However, I would like to say, that in our estimation, the revenues of the canal and all the projections and studies that have been made should be able to cover this second $10 million that should come to Panama if revenues permit, so I don't foresee much of a problem in respect to deficit. But if such a deficit is accumulated and is pending when the treaty ends, then the U.S. is not committed to make it back from the U.S. Treasury.

Mr. BARTLETT. But if the present Government of Panama and the Government of the United States do, in fact, agree on their interpretation, then this amendment eliminates the ambiguity that exists in article XIII so that it would not be a source of conflict or controversy in the coming years up to and including 1999.

Whether or not President Torrijos agrees with Mr. Barletta, or Minister Barletta, the fact remains that the issue is the ambiguity that exists that the Senator from Maryland does not want to eliminate.

I cannot understand for the life of me why the Senator from Maryland, one of the floor managers of the treaty, does not want to have an instrument representing the understanding between the two nations that is unambiguous, that is clear, on the question of contingency payments.

I think it is incumbent upon the Senate of the United States to make any corrections of ambiguity that exist so that there will be clear understanding between the two parties as to what actually is agreed to.

So I find it very difficult to see why the Senator from Maryland does not support this amendment, because it has the effect of eliminating two different points of view as to how contingency payments would be paid.

If the intention of the Senator from Maryland and the leadership is to have a reservation similar to the amendment that I am offering, then all that is offering, as far as I am concerned, is just one more point of view. What would remain in the treaty is the conflict, the ambiguity, the difference of opinion. It would still be there, and attention to it could still be called by one party or the other in succeeding years.

So I think it is very vital that we not add to the confusion by having a reservation with one more point of view, but that we eliminate the confusion, the ambiguity, so that there would not be hard feelings developed over this particular point.

I know the Senator from Wyoming has been waiting patiently, and I would be very happy to yield to him.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Oklahoma for yielding and I would like, at the same time, to express my very genuine appreciation to him for the service he is providing our country, and for the contribution he is making toward a good relationship between the United States and the nation of Panama.

I, too, find it extremely difficult to understand or to comprehend why proponents of the treaty are so insistent, so adamant, in their refusal to clear up sources of trouble, areas of misunderstanding, and points that could very well be in contention, or will come into contention, in the years ahead.

No one need remind anyone on this floor that the action this body has already taken on the Treaty of Neutrality, which was adopted some time ago, and which included, not as an amendment in the definition of that term as propounded by proponents of the treaty but rather, an amendment to the Resolution of Ratification of the Treaty of Neutrality, as I recall it, so as to escape the charge that the treaty was being amended, has led to real difficulties between Panama and the United States.

I refer, of course, to the so-called DeConcini amendment. I would venture to say that we have seen so far only the tip of the iceberg. First, there was concern on the part of the people of Panama, and now it appears as though when the full impact of that so-called DeConcini amendment is understood by other Latin American and South American countries it may be a point that will be objected to by more than simply the nation of Panama.

I have felt all along that no one contends, or few indeed are those who contend, that a treaty should not be renegotiated with Panama. I have never contended that there should have been no changes since 1903 and no subsequent modifications that ahave in fact been agreed upon by our countries after the initial treaty signing back at the beginning of the century. But I have insisted, and I now feel that it is more important than ever, that whatever a new treaty to agreed upon, adopted and ratified by both countries says must be clear, easy of interpretation, and devoid of any ambiguity, so as to leave no doubt at all, for future persons and officials, judges who may be called upon to interpret what the Congress of the United States and the President of the United States and the nation of Panama intended was agreed upon.

So it is in that context that I applaud my colleague from Oklahoma for his diligent pursuit of the intricacies of this treaty so as to take out ambiguities or to qualify or to explain in a fashion that will make clear precisely what we are saying.

Now, it is not difficult at all to find all kinds of authorities, and to quote this official or that official. It is not difficult at all to say what Panama understands. Then I hear someone making the assertion as to what is the understanding of the negotiations for the United States, on the other hand, and what is the understanding of the representatives of Panama, on the other, I cannot escape recalling similar assurances that have been given over the years to each of us in this body by the White House.

Earlier this year we were talking about some other legislation which has nothing to do with the treaty between Panama and the United States. I was told and assured that a certain provision in a bill then before the Senate would have the full and unqualified support of the White House. I was further assured by persons I felt competent to give the assurances, that a letter would be forthcoming supporting completely a position I then was taking on the floor of the Senate.

I have had the same experience I am certain a great many others have had—and I might add that it does not make all that much difference which administra-

tion may be in power at the White House—of this same willingness of people around the President, people in the executive branch of the Government, to speak for the President.

It is a long story. It is one that, as I have indicated, has included Republicans and Democrats both.

Yet the bottom line is that when you come down to delivering what the President of the United States has been reported to be willing to do, you have to look finally to the President of the United States himself, and no one else. No one else can speak for him.

I think the most recent example of the ability of a President to take first one position and then another was demonstrated in connection with the neutron bomb issue. For more than a year, our Nation actively pressed the West German Republic to endorse the neutron bomb concept, and, with understandable misgivings, that great nation, our valued ally in the Western European part of the world, examined the ramifications of such an endorsement, all the time under the continued prodding of the present administration to give that endorsement.

Finally that Government endorsed the concept of a neutron bomb; and within a few days later, to the great chagrin and amazement of the West German Republic, and indeed as well of the rest of the world, the President of the United States changed his mind yet another time, and said in effect, "I am going to stop production of the neutron bomb."

What the Senator from Oklahoma is talking about is precisely this sort of situation, compounded by the fact that we are not talking in-house, as we have been on the neutron bomb, but rather between two countries.

I have listened closely to a person I admire very much, the distinguished junior Senator from Maryland (Mr. SARBANES), who is a very brilliant scholar and an excellent lawyer, and yet I do not find in what I hear him say, or what I have read he has said, anything that confirms in my mind the unreasonableness of this amendment offered by the Senator from Oklahoma. I do not find any reason at all for not adopting and including in the treaty the amendment offered by the Senator from Oklahoma.

It is all well and good, in talking about different positions in Panama, to refer, as has been done repeatedly, to statements by the Governor of the Panama Canal Commission and others. I would like to quote, if I may the Comptroller General of the United States, the Honorable Elmer Staats; from a letter dated April 4, 1978, and addressed to our colleague, the Honorable RICHARD STONE.

On page 3 of that letter—and if it has not yet been included in the RECORD, I would ask unanimous consent that it may be. Has it been ordered to be printed in the RECORD, does the Senator from Maryland know?

Mr. SARBANES I do not think it yet has. I hope the Senator will include it, and I hope very shortly to be quoting from it also.

Mr. HANSEN. The Senator will not be quoting it very shortly, because I do not intend to yield shortly, but I appreciate my friend's interest in the letter, and I ask unanimous consent, then, Mr. President, that the letter to which I have referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 4, 1978.

In reply refer to: B–114839.
Hon. RICHARD STONE,
U.S. Senate.

DEAR SENATOR STONE: This is in reply to your letter of March 15, 1978, expressing concern that the Panama Canal Treaty might require future appropriations caused by the payments to Panama specified in the treaty. You requested our views on this issue in light of the recent testimony to the Senate Armed Services Committee, the March 3, 1978 draft of legislation to implement the treaty, and the Secretary of State's January 27, 1978 letter to you.

As you know, there has been an extensive discussion of whether the proposed Panama Canal Commission will be financially self-sufficient during the lifetime of the Panama Canal Treaty. There is no definitive answer to this question because of the inherent uncertainties of long-term cost and revenue estimates.

In his February 1, 1978, testimony before the Senate Armed Services Committee, Governor Parfitt of the Canal Zone testified that, unless there was a significant drop in anticipated North Slope oil traffic, the Commission should be able to raise toll rates and generate sufficient revenues to meet its estimated costs through fiscal year 1984. Governor Parfitt, however, alerted the Committee to the possibility that the Commission might require appropriations or loans to cover operating deficits in the years after 1984. The Governor stated that deficits might occur because of cost inflation, the limit to which toll rates could be raised, a falloff in North Slope oil transits and competition from alternative modes of traffic.

I indicated in my testimony before the Senate Armed Services Committee that the Panama Canal Company's financial study for the 1979–84 period was a conservative analysis in that a 5 percent inflation factor was used for future costs and capital expenditures were estimated at a low level. In addition, I pointed out some of the implementation uncertainties which would affect the financial viability of the Panama Canal Commission. Governor Parfitt and I agreed at the hearings that the implementing legislation should resolve these issues.

We have analyzed the March 3, 1978, draft implementing legislation for the Panama Canal Treaty in terms of the concerns I expressed in testimony. The enclosed table shows this comparison.

The Secretary of State noted in his January 27, 1978, letter to you that in fiscal year 1976 the Panama Canal Company had deferred $9.3 million of interest payments to the Treasury and that $3.9 million of this amount remained to be paid in fiscal year 1978. We understand that this remaining payment has been made. We should point out that the Secretary's statement to you that after this payment "the (Panama Canal) Company will have no outstanding long-term obligations" is not completely accurate. As of September 30, 1977, the Company had the following long-term obligations:

$15.1 million liability for retirement benefits to certain former employees and for employees' repatriation (The Canal Zone Government had a comparable liability of $4.3 million.);

$72.3 million contingent liability for a 25-year contract, effective May 9, 1969, with the Institute de Recursos Hidraulicos y Electrificacion, an autonomous agency of the Republic of Panama, for the purchase of electric power to be produced by that agency; and a

$26.6 million commitment under uncompleted construction contracts and unfilled purchase orders.

Settlement of these liabilities and commitments will extend beyond the normal operating cycle of 1 year and, therefore, in that sense they can be considered to be long-term obligations.

Concerning the payments to Panama, the treaty provides for four types of payments by the Panama Canal Commission. First, Article III, paragraph 5, of the treaty provides for an annual payment of $10 million from the Commission to Panama to reimburse Panama for the costs incurred in providing public services. Every 3 years from the date the treaty enters into force the costs involved in furnishing the services shall be reexamined in order to determine whether adjustment to the payment should be made because of inflation and other factors affecting costs.

In addition to the annual payment for services under Article III, Article XIII, paragraph 4, of the treaty provides that the Republic of Panama shall receive from the Panama Canal Commission three other forms of payment:

"(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal after the entry into force of this Treaty, for which tolls are charged. * * *

"(b) A fixed annuity of ten million United Stated dollars ($10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

"(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed."

Under the treaty, Panama grants the United States the rights to manage, operate, and maintain the Panama Canal. Art. III, para. 1. The treaty provides for the United States to "carry to its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America." Art. III, para. 3. Because the Panama Canal Commission is a United States Government agency, it is clear that the financial obligations of the Commission are also obligations of the United States.

Furthermore, Article XIII, paragraph 1, provides that upon termination of the treaty, Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, "which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree." Accordingly, the United States would be precluded from turning the Panama Canal over to Panama subject to financial encumbrances, unless both parties agreed otherwise.

It is of course conceivable that the revenues of the Panama Canal Commission will not be sufficient to cover the expenditures of the Commission. Such a deficit would need to be offset either through borrowings of appropriations. Accordingly, it has been pro-

posed that the $40 million borrowing authority under current legislation be retained. Since the treaty provides for the Canal to be turned over to Panama free of liens and debts (unless otherwise agreed), to the extent that such borrowing becomes necessary and could not be repaid from future revenues of the Commission the United States would either need to appropriate funds for the Commission or forgive the Commision's indebtedness to the Treasury under this line of credit.

The treaty provides that the payments to Panama under Article XIII, paragraph 4, are to be paid out of Canal operating revenues. Since the treaty authorizes the United States to determine tolls and other charges, the United States has some control over the amount of Canal operating revenues. Art. III. (Of course, the extent to which tolls may be increased is dependent upon future economic conditions.) Although Canal operating revenues are the specified source for the payments to Panama under Article XIII, there is at least a possibility that the payments may indirectly result in funds being paid out of the United States Treasury should there be a substantial, protracted shortfall. As stated earlier, the Commission may need to borrow money from the Treasury and those loans may not be liquidated by the year 2000. Since the possibility of Treasury funds being needed is related to the Commission being a United States agency and the United States' authority over tolls, it would be difficult if not impossible, to amend the treaty to eliminate the possibility that funds from the United States Treasury might be needed without affecting other provisions of the treaty that appear to be in the interest of the United States, such as retention of control of the Commission.

Some confusion has arisen concerning the interpretation by GAO and the Government of Panama of Article XIII, subparagraph 4(c), which provides for an annual amount of up to $10 million per year to be paid by the Commission to Panama out of Canal operating revenues to the extent that such revenues exceed expenditures of the Commission. See, e.g., 124 Cong. Rec. S2621–23 (daily ed. March 1, 1978). By tracing our testimony with respect to this provision, we would hope to aid in clarifying the matter.

In my statement of November 30, 1977, before the Subcommittee on the Panama Canal of the House Marine and Fisheries Committee, I indicated that a question had been raised whether a lump-sum payment of $220 million would be required at the time the treaty is terminated—in the event that there were no surplus during the lifetime of the treaty. In other words, would the annual shortfall accumulate as a debt to the extent it exceeds any surplus as of December 31, 1999? I indicated that we had not yet formed an opinion on this issue.

I again referred to the contingent $10 million payment in my prepared statement of February 1, 1978, before the Senate Committee on Armed Services. I stated in pertinent part as follows:

"Last November in our testimony before the House Subcommittee on the Panama Canal, we noted the possible ambiguity concerning the treaty-specified payment to Panama of up to $10 million if operating revenues exceed expenditures. Under one interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama of over $200 million could be required at termination of the treaty. The Department of State, however, has said that the proposed Commission is obligated to make this payment only to the extent that operating surpluses exist during the treaty life and that there will be no obligations by either the Commission or the U.S. Government to pay Panama any unpaid cumulative balance after December 31, 1999." Hearings on the Defense, Maintenance and Operation of the Panama Canal, Including Administration and Government of the Canal Zone before the Senate Comm. on Armed Services, 95th Con., 2d Sess. 375 (1978).

Except for the reference to our November testimony, the above quoted portion of my statement was included in the summaries of testimony contained in the Senate Armed Services Committee Report. However, "one interpretation" was inadvertently changed to "our interpretation," in the text of the summary, thus giving the impression that GAO's interpretation of the provision was at odds with the interpretation of the Department of State.

Our interpretation of Article XIII, subparagraph 4(c), is that the $10 million payment is contingent upon the revenues of the Commission exceeding expenditures and therefore, a lump-sum payment would not be required at termination of the treaty. Subparagraph 4(b), which provides for the fixed annuity, specifically provides that the amount of the fixed annuity "shall constitute a fixed expense of the Panama Canal Commission." In contrast, subparagraph 4(c), which provides for the contingent $10 million payment, does not contain such a provision. Subparagraph 4(c) provides for an "annual payment of *up to* ten million United States dollars ($10,000,000) per year, to be paid out of operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty." (Emphasis added.) Thus the right to receive a payment is conditioned upon the existence of a surplus and is, in effect, limited by the amount of the surplus. Subparagraph 4(c) further provides that, "in the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years *in a manner to be mutually agreed.*" (Emphasis added.) The right to receive payment of the unpaid balance is conditioned upon the existence of an operating surplus in future years. In the event there is not an operating surplus, there would be no right to receive payment. The provision in Article XIII, paragraph 1, which requires the Canal to be turned over to Panama upon termination of the treaty "free of liens and debts" is not pertinent since there would be no debt where the condition precedent to the right to receive payment (i.e., an operating surplus) had not occurred. Accordingly, GAO's interpretation of Article XIII, subparagraph 4(c) is that there would be no obligation by either the Commission or the United States to make a lump-sum payment to Panama under this provision at termination of the treaty.

In addition to the confusion with respect to GAO's interpretation of the contingent payment provision, there also appears to be confusion with respect to the interpretation given the provision by the Government of Panama. The summaries of testimony in the Senate Armed Services Committee Report state:

"In response to a question whether this was a unilateral understanding on the part of the State Department concerning the $10 million contingent payment, Mr. Staats answered: 'the Panamanians have a different interpretation with respect to that.'" S. Rep. No. 95–633, 95th Cong., 2d Sess. 18 (1978).

The quotation in the report is incomplete, and thereby may create an erroneous impression. I had stated in full: "As was indicated this morning, the Panamanians have a different interpretation with respect to that." Hearings before the Senate Committee on Armed Services, at p. 379. I was referring to the testimony of Mr. Parfitt, Governor of the Panama Canal Zone and President of the Panama Canal Company, who had preceded me as a witness. With respect to the $10 million contingent payment, the following exchange took place during that earlier testimony:

Senator McINTYRE. Further, I understand that the Panamanians expect this payment; is this true?

Governor PARFITT. As recently as Sunday I was advised to this effect by several Senators who were visiting [sic] with the Panamanian Government.

Senator McINTYRE. They are claiming not that they expect it but that they are entitled to it under the treaty.

Governor PARFITT. I have no direct information to that effect, but the Senators who have visited with them have reported that to me.

Hearing before the Senate Armed Services Comm., at p. 332.

The State and Defense Departments subsequently indicated that the matter is not open to differing interpretations. The February 10, 1978, letter to Senators from the Secretaries of Defense, State, and Army contained the following question and answer:

"What about the contingent $10 million payment? Will we be obligated to pay off on that in the year 2000? Will it be part of the toll base?

"The contingent $10 million annuity is payable only if operating revenues produce a surplus over expenditures, which include among others the variable annuity due Panama of $.30 per Canal ton and the fixed annuity of $10 million. The contingent annuity will not be figured in the calculation of the toll base.

"If the surplus is insufficient to cover the entire payment of the contingent annuity, the shortfall is carried over to succeeding years. Since payment is contingent on available surpluses, the United States is not obligated to pay off on any accumulated unpaid balance in the year 2000. *Panama's negotiators have acknowledged this fact.*" (Emphasis added.)

Furthermore, a letter to Senator McIntyre dated February 23, 1978, from Douglas J. Bennett, Jr., Assistant Secretary of State for Congressional Relations stated:

"You asked whether the Panama Government agreed with our interpretation that any accrued unpaid balance of the annual contingent $10 million payment would not be paid by the United States. We have raised this issue with the Panamanian Government within the last two weeks and have been assured again that *their interpretation is the same as ours.*" (Emphasis added.)

In light of the assurances given by the Department of State concerning the Panamanian Government's interpretation of the contingent payment provision, it is our view that an amendment, reservation, or understanding to the treaty is not necessary.

We trust that the above is responsive to your request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPARISON OF GAO CONCERNS AND DRAFT IMPLEMENTING LEGISLATION FOR PANAMA CANAL TREATY

Issue, draft legislation, and reference:

Interest payments to the U.S. Treasury, eliminates obligation, sec. 202, p. 9.

Contingent payment of surplus to Panama, provides method of calculation not included in toll base; no mention of carryover beyond 1999 [1], sec. 203, pp. 10–11, sec. 232, pp. 20–21.

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[1] The Department of State contends that the Panamanian Government agrees that United States has no obligation for payment after 1999 per letter of February 23, 1978, to Senator McIntyre (attached).

Recovery of existing investment through accelerated depreciation of returned assets, provides for depreciation; no mention of acceleration depreciation in toll base, sec. 210, pp. 14–15, sec. 232, p. 20.

Resolution of Panama's debt for prior service, no mention.[2]

Public services payment to Panama, no mention of calculation or quality.

Capital improvements during life of the Treaty, establishes capital reserve account which is included in toll base, sec. 203, p. 10, sec. 232, pp. 20–21.

Liquidation of transferred inventories, transfer to other U.S. agencies may be with or without exchange of funds, sec. 213, p. 18.

Valuation of transferred assets; to Panama, no mention (in second draft value determined by Commission with Presidential approval).

Valuation of transferred assets to other U.S. agencies, U.S. investment to be adjusted by value of transfer, sec. 213, p. 18.

Transfer and termination of employees, numerous provisions, including 1) early optional retirement, 2) special immigrants, pp. 28–49, sec. 325, 326, pp. 37, sec. 410, p. 59.

Form of U.S. Government agency, Government corporation, sec. 201, p. 8, sec. 209, p. 13–14.

Responsibility for external audit, GAO under authority provided by Government Corporation Control Act, sec. 2, pp. 1–2.

DEPARTMENT OF STATE,
Washington, D.C., February 23, 1978.

Hon. THOMAS J. MCINTYRE,
U.S. Senate,

DEAR SENATOR MCINTYRE:

I appreciate the opportunity to answer the questions you raised yesterday about the Panama Treaties and the present state of the implementing legislation.

First, you asked what would happen if, in any year between now and 2000, while the United States continues to operate the Canal, toll revenues were insufficient to cover costs. We are confident that toll revenues will be sufficient to cover the operating costs of the Canal until the year 2000. Our expectations in this regard are supported by recently-conducted cost and revenue projections. Of course, it is possible, with or without the new Treaty, that unanticipated events of major significance may cause losses which cannot be totally recovered from revenues.

As you know, our negotiators fought hard to assure as extended period during which the United States would continue to operate the Canal. Having assumed responsibility for operating the Canal during this 21-year period, we naturally have an obligation to cover any unforeseen losses as well. If operating losses should occur in a given year, we anticipate that deficits would be financed through use of stand-by borrowing authority. These deficits would be recovered in subsequent years through an adjustment of the tolls base.

With regard to the $8.9 million debt owed by Panama to the present Company, the Treaty in no way extinguishes this obligation. If the debt remains uncollected when the new Treaty becomes effective, it would become an account receivable of the Panama Canal Commission. The amount of the debt is disputed by Panama. We intend, through diplomatic means, to resolve this dispute and liquidate the debt.

You asked whether the Panama Government agrees with our interpretation that any accrued unpaid balance of the annual contingent $10 million payment would not be paid by the United States. We have raised this issue with the Panamanian Government within the last two weeks and have been assured again that their interpretation is the same as ours.

Finally, I am enclosing a summary of the implementing legislation in its present stage of development. This summary identifies the major issues and in some cases indicates how we expect the Administration to decide them. If you have any further questions on the implementing legislation. I would be happy to arrange a detailed briefing.

Sincerely,

DOUGLAS J. BENNET, JR.,
Assistant Secretary for Congressional Relations.

[2] The Department of State intends to resolve this debt through "diplomatic means" per letter of February 23, 1978, to Senator McIntyre.

Mr. HANSEN. On page 3 of that letter, the Comptroller General of the United States, the person who speaks for Congress, says this:

Under the treaty, Panama grants the United States the rights to manage, operate, and maintain the Panama Canal. Art. III, para. 1. The treaty provides for the United States to "carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America." Art. III, para. 3. Because the Panama Canal Commission is a United States Government agency, it is clear that the financial obligations of the Commission are also obligations of the United States.

Furthermore, Article XIII, paragraph 1—To which Senator Bartlett has made numerous references—

provides that upon termination of the treaty, Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, "which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree."

Mr. Staats continues:

Accordingly, the United States would be precluded from turning the Panama Canal over to Panama subject to financial encumbrances, unless both parties agreed otherwise.

I think it is terribly important, Mr. President, to understand what the chief spokesman for the Congress of the United States is saying here.

He continues:

It is of course conceivable that the revenues of the Panama Canal Commission will not be sufficient to cover the expenditures of the Commission. Such a deficit would need to be offset either through borrowings or appropriations. Accordingly, it has been proposed that the $40 million borrowing authority under current legislation be retained. Since the treaty provides for the Canal to be turned over to Panama free of liens and debts (unless otherwise agreed), to the extent that such borrowing becomes necessary and could not be repaid from future revenues of the Commission the United States would either need to appropriate funds for the Commission or forgive the Commission's indebtedness to the Treaty under this line of credit.

This is not what Panama is saying. This is not what Mr. Torrijos is saying. This is not what Mr. Barletta is saying. This is what Mr. Elmer Staats is saying.

It is not for anyone to say, as has been done, that there are no ambiguities in this treaty. Here is the person who heads up the Comptroller General's Office, which speaks for the Congress of the United States. Essentially, the Comptroller General recently said that the particular use for which arms sold by the Government of the United States or delivered to the nation of Israel had been used in Lebanon probably constituted a violation of the law on the books of the United States of America.

This is the same man who is making a statement on the treaty. I think it fortifies, undergirds, and supports the contention made by the Senator from Oklahoma that, indeed, there is ambiguity in this treaty; indeed, there is the real probability that revenues from the operation of the canal will not be sufficient to satisfy all of the demands put upon those funds, and to pay, as well, the $10 million per year which, if default should occur in any year, will become cumulative and will become due very conceivably, as many people read the treaty, before the Panama Canal can be turned over to the nation of Panama.

I quote gain from article XIII, paragraph 1:

Upon termination of this treaty the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts,

That is exactly what we are talking about. I think it needs to be cleared up, it needs to be understood, it needs to be resolved, so that next year, the year after, or at the end of the year 1999, we are not having a hassle with Panama as to what was intended by what seems to be very clear and precise language.

The Treaty provides that the payments to Panama under article XIII, paragraph 4, are to be paid out of canal operating revenues.

I am reading further from Mr. Staat's letter to Senator STONE.

Since the treaty authorizes the United States to determine tolls and other charges, the United States has some control over the amount of canal operating revenues. Article III. (Of course, the extent to which tolls may be increased, is dependent upon future economic conditions.) Although canal operating revenues are the specified source for the payments to Panama under article XIII, there is at least a possibility that payments may indirectly result in funds being paid out of the United States Treasury should there be a substantial, protracted shortfall. As stated earlier, the commission may need to borrow money from the Treasury and those loans may not be liquidated by the year 2000. Since the possibility of Treasury funds being needed is related to the commission being a United States agency and the United States authority over tolls, it would be difficult if not impossible, to amend the treaty to eliminate the possibility that funds from the United States Treasury might be needed without affecting other provisions of the treaty that appear to be in the interest of the United States, such as retention of control of the commission.

I make these points to call attention to the fact that the amendment by the Senator from Oklahoma is very relevant. It is specific and precise. It does deserve serious consideration because it calls attention specifically to obvious ambiguities which cannot be denied by virtue of the fact that the Comptroller General, too, finds in the language of the treaty very real reasons to support the contention that we could wind up, at the end of this 22-year period of time, owing Panama, in addition to all other debts

and encumbrances, as much as $220 million if revenues between now and the end of 1999 were not sufficient to make these payments.

Mr. President, I do not know how much time the Senator from Oklahoma has. Could I be advised?

The PRESIDING OFFICER. The Senator from Oklahoma has 17 minutes remaining.

Mr. HANSEN. Mr. President, I rise in support of the pending amendment offered by my good friend and distinguished colleague, Senator BARTLETT. I am pleased to be a cosponsor of his amendment. The amendment would clarify provisions of paragraph 4, section c, article XIII, under which the United States is obligated to pay an annual amount of up to $10 million per year out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission.

Senator BARTLETT's amendment would provide that the United States would not be committed to pay any part of such unpaid balance to the Republic of Panama after the date of the termination of this treaty. This amendment is especially important in light of conflicting interpretations of that clause in paragraph 1 of article XIII which provides that the canal shall be turned over free of liens and debts to the Republic of Panama.

Mr. President, the entire debate, as I have pointed out on previous occasions, has been frought with misunderstandings and inconsistencies. Senator BARTLETT's amendment addresses one of the most potentially divisive issues of the treaty.

This $10 million contingent payment with which article XIII, paragraph 4(c) deals, was not, in determining this figure, considered a cost for inclusion in the toll base. Payment of this $10 million per year is dependent upon the generation of revenues in excess of all other requirements.

This manner of estimating costs which the United States will be obligated to pay under the terms of the treaty, is risky business, at best. At worst, we may be faced with one of the most unfortunate issues involved in the termination process of the treaty in the year 2000. Indeed, Senator MCINTYRE stated during hearings in the Senate Armed Services Committee, "I can see all kinds of troubles on the horizon."

It is generally agreed by both the United States and the Republic of Panama, and supported in testimony before the Armed Services Committee by several witnesses, that each year, anything less than $10 million which remains unpaid will be carried over to the following year. It will accumulate over the next 22 years. Theoretically, should there be no excess revenues from which to pay the $10 million each year, the Panama Canal Commission, operated by the U.S. Government, will be obligated to pay the Republic of Panama a total of $220 million by the year 2000.

What is not generally agreed on is whether or not, on the termination of the treaty, the United States will be obligated to pay this amount in order to comply with that clause of article XIII, paragraph 1, which provides that the canal shall be turned over free of any liens and debts to the Republic of Panama.

In testimony before the Senate Armed Services Committee, General Parfitt, Governor of the Canal Zone, testified that it had been our negotiator's position that since the treaty says these funds will be paid to the extent earned, if they are not earned they are not a liability of the U.S. Government and they would not be paid.

In addition, Elmer Staats, Comptroller General of the GAO testified,

> The Department of State has said the proposed Commission is obligated to make this payment only to the extent that operating surpluses exist during the treaty life and that there will be no obligations by either the Commission or the U.S. Government to pay Panama any cumulative balance after December 31, 1999.

On the other hand, Mr. President, I am afraid there has been another interpretation given this provision by the Republic of Panama. It is Governor Parfitt's understanding that to the extent the United States does not pay the surplus,

> It rolls over to the next year, and he (General Torrijos) is assuming then at the year 2000 it no longer rolls over, it is then paid off.

If the Panama Canal Commission is in fact obligated to pay any amount which has not been met at the rate of $10 million per year over the next 22 years, it could result in significant appropriations or loans from the U.S. Government which would ultimately have to be absorbed by the U.S. taxpayer, as Governor Parfitt suggested. As I noted previously this could reasonably amount to $220 million by the year 2000.

Mr. President, that amount is not so insignificant that we can leave the matter unresolved at this stage in the ratification process.

Mr. President, regardless of what is actually the case, it is obvious we have here a misunderstanding of some dimension. Senator BARTLETT's amendment would go a long way in clarifying the language we now have and I urge my colleagues to support it.

Mr. Staats indicated in his testimony that it would be most wise to make certain that the interpretation given this section by the State Department is clearly understood. He believed it should be spelled out in implementing legislation. After months of waiting, the implementing legislation is now available.

Unfortunately, the issue is not made any clearer. However, the Senate can take affirmative action on the implementing legislation at the appropriate time to clear up this problem. It would be wise, therefore, to have corresponding clarifying language in the treaty upon which the implementing legislation will be based. This is the purpose of Senator BARTLETT's amendment and I would hope it is given the serious consideration it deserves by my colleagues.

Mr. BARTLETT. I thank my distinguished friend from Wyoming for his remarks. They are meaningful in this debate and are very enlightening. They provide strong support for the amendment and for the ambiguity being eliminated in an amendment and not to have an effort made to try to eliminate it in some other way which does not really do the job.

Mr. President, I reserve the remainder of my time.

Mr. SARBANES. Mr. President, I regret very much that the distinguished Senator from Wyoming did not proceed further with the letter of the Comptroller General, Mr. Staats, a letter dated April 4, just a few days ago, because Mr. Staats then directs his attention to the exact issue which is now before us.

While the full text of the letter has been put into the RECORD, I think it is important to quote the statements of Comptroller General Staats on the very issue which is now before the body.

The distinguished Senator from Wyoming has outlined the important position which Comptroller General Staats holds, his relationship to the Congress, and has, in effect, qualified Mr. Staats as an expert witness, as they would say in court.

Comptroller General Staats went on to say:

> Some confusion has arisen concerning the interpretation by GAO and the Government of Panama of article XIII, subparagraph 4(c), which provides for an annual amount of up to $10 million per year to be paid by the commission to Panama out of canal operating revenues to the extent that such revenues exceed expenditures of the commission. By tracing our testimony with respect to this provision, we would hope to aid in clarifying the matter.

He then says that in a statement he made before the House Merchant Marine and Fisheries Committee he indicated that a question had arisen with respect to this matter, the very question the Senator from Oklahoma now raises: Would the annual shortfall accumulate into debt to the extent it exceeds any surplus as of December 31, 1999?

The Comptroller General states:

> I indicated that we had not yet formed an opinion on this issue. I again referred to the contingent $10 million payment in my prepared statement of February 1, 1978, before the Senate Committee on Armed Services. I stated in pertinent part as follows:

And he then quotes from his testimony before the Armed Services Committee as follows:

> Last November in our testimony before the House Subcommittee on the Panama Canal, we noted the possible ambiguity concerning the treaty-specified payment to Panama of up to $10 million if operating revenues exceed expenditures. Under one interpretation, if no payments were made during the lifetime of the treaty, a lump sum payment to Panama of over $200 million could be required at the termination of the treaty. The Department of State, however, has said that the proposed commission is obligated to make this payment only to the extent that operating surpluses exist during the treaty life and that there will be no obligations by either the Commission or the United States Government to pay Panama any unpaid cumulative balance after December 31, 1999.

Comptroller General Staats goes on:

> Except for the reference to our November testimony, the above quoted portion of my statement was included in the summaries of testimony contained in the Senate Armed Services Committee Report. However, "one

interpretation" was inadvertently changed to "our interpretation," in the text of the summary, thus giving the impression that GAO's interpretation of the provision was at odds with the interpretation of the Department of State.

Let me explain what happened here. This is very interesting. It shows how you can build a myth upon a myth and eventually assert that you have reality. In his statement to the committee, what Comptroller General Staats said was that there was one interpretation; in other words, this idea had been put out by someone of the accumulated payment having to be paid at the end. In the committee's report, the "one interpretation," through a typographical mistake, was changed to "our interpretation." Therefore, it became an interpretation attributed to Comptroller General Staats. As he says:

However, "one interpretation" was inadvertently changed to "our interpretation," in the text of the summary, thus giving the impression that GAO's interpretation of the provision was at odds with the interpretation of the Department of State.

He then goes on in this very letter from which the Senator from Wyoming was quoting only a few minutes ago in seeking to make the argument for the amendment offered by the distinguished Senator from Oklahoma—in the very same letter, the Comptroller General of the United States goes on to say the following:

Our interpretation of Article XIII, subparagarph 4(c), is that the $10 million payment is contingent upon the revenues of the Commission exceeding expenditures and, therefore, a lump-sum payment would not be required at termination of the treaty.

Let me repeat that, Mr. President. This is Comptroller General Staats' letter of April 4, which the Senator from Wyoming was quoting in an effort to support the amendment, contending that it was necessary because a lump sum payment would be required at the end of the treaty term. Comptroller General Staats says, on page 6 of that letter, the first full paragraph:

Our interpretation of Article XIII, subparagraph 4(c), is that the $10 million payment is contingent upon the revenues of the Commission exceeding expenditures and, therefore, a lump-sum payment would not be required at termination of the treaty.

He then proceeds to discuss the provisions of the treaty which have led him to this conclusion. He further says:

The right to receive payment of the unpaid balance is conditioned upon the existence of an operating surplus in future years. In the event there is not an operating surplus, there would be no right to receive payment. The provision in Article XIII, paragraph 1, which requires the Canal to be turned over to Panama upon termination of the treaty "free of liens and debts" is not pertinent since there would be no debt where the condition precedent to the right to receive payment (i.e., an operating surplus) has not occurred. Accordingly, GAO's interpretation of Article XIII, subparagraph 4(c), is that there would be no obligation by either the Commission or the United States to make a lump-sum payment to Panama under this provision at termination of the treaty.

Mr. President, I think that that is a most explicit statement by the Comptroller General of the United States. I thank the distinguished Senator from Wyoming for placing the full letter of the Comptroller General in the RECORD.

I reserve the remainder of our time.

Mr. HEINZ. Will the Senator yield me some time, 4 minutes?

Mr. SARBANES. I yield 4 minutes to the Senator from Pennsylvania.

Mr. HEINZ. I thank the distinguished Senator from Maryland. I should like to address a question to Senator ALLEN if he is still here.

Let me yield back the time.

Mr. SARBANES. I shall be happy to yield it subsequently and perhaps the Senator from Oklahoma can use his time now.

Mr. HEINZ. The Senator must have seen me rising. I shall try on another occasion.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I say to the distinguished Senator from Maryland that the letter from Mr. Staats to Senator STONE does mention, as he points out, errors in the Armed Services Committee summary, but I did not use that summary in preparing my arguments, nor did the Senator say I did. I did not.

Mr. SARBANES. If the Senator will yield, the Senator did not, and I hope nothing I said suggests that he did. I did have a colloquy yesterday with Senator HARRY F. BYRD of Virginia on this very point, because he had used the summary of the committee in which the phrase, "one interpretation," had been changed to "our interpretation." But the Senator from Oklahoma today, in quoting, quoted from the hearings of the committee in which the correct phrase "one interpretation" was used. I made that point only to set the record straight because it had been asserted by other Senators that this was Comptroller General Staats' own interpretation.

The Senator from Oklahoma is quite correct, he did not make that assertion today. If anything I said led him to feel that I thought he had, I certainly seek to correct that impression at this point.

Mr. BARTLETT. I wanted to make that clear, because it might have been interpreted by some people listening that I did use the error in my remarks, which I did not do. I was aware of the error and I just wanted to make that clear. As I said, I was not asserting that the distinguished Senator from Maryland had implied that in any way, shape, or form.

What I think is important, I say to the Senator from Maryland, about the Staats letter is what it does not say. Mr. Staats, in November, testified in his formal prepared remarks in the House to the effect that there exists in the treaty, then and today, an ambiguity, an ambiguity that needs to be corrected. Then, in his prepared remarks in January before the Senate Armed Services Committee, he made the same assertion. In the case of his testimony before the Armed Services Committee, on several occasions in his oral presentation or in answering questions, he made the additional assertions that, indeed, there is ambiguity in the treaty and that, indeed, this ambiguity needs correction.

I agree with that. I think what Mr. Staats is saying in his letter to Senator STONE is that he agrees with the State Department's interpretation of the American position on the matter of contingency payment.

I might say that I agree with the State Department's position, and I think that this truly does represent the American position.

But the point remains, nonetheless, as Mr. Staats said, as Governor Parfitt said, that in the treaty there is an ambiguity. I am saying that there is an ambiguity. The Senator from Wyoming pointed out the ambiguity in the very precise terms.

But what the amendment proposes to do is to eliminate that ambiguity, to correct it.

Mr. HANSEN. Will the Senator from Oklahoma yield?

Mr. BARTLETT. I am happy to yield to the Senator.

Mr. HANSEN. Mr. President, it seems strange, indeed, to me that the Senator from Maryland, or any other Senator, would be quibbling, arguing, or taking issue with the Senator from Oklahoma on this amendment.

Let me read the amendment:

Nothing in this subparagraph may be construed to commit the United States of America to pay any part of such unpaid balance to the Republic of Panama after the date of the termination of this treaty.

That is exactly what the State Department says is the case. It is exactly what the Senator from Maryland contends is the case. It is what I think the case should be.

It seems, though, as I have examined the RECORD, not to be an impression universally held by everyone. It is precisely because of that fact that I think the amendment offered by the Senator from Oklahoma should be adopted.

If we all agree this is what it means, what possible harm can there be in amending the treaty to include this precise language?

If it is what the Panamanians say, and it has been contended that that is what they say, then I see no reason at all to quibble or argue over a clear, concise, precise statement that says exactly what both sides, apparently, agree is the understanding.

I thank my friend from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Wyoming. I think he made his point most effectively.

I would point out to him and my colleagues that in the hearings Senator CANNON, Senator MCINTYRE, Senator THURMOND, all expressed the opinion that there was and is an ambiguity in the treaty.

In fact, Senator CANNON submitted a printed amendment dealing with the ambiguity. There were others with whom I had conversations about the testimony before the Armed Services Committee indicating that, in fact, there was a very distinct ambiguity existing here and one which needs correction in the treaty.

This is what I am proposing to do. It

certainly surprises me that there are people who want to continue the ambiguity in the treaty, who do not want to eliminate it, and I cannot understand this at all.

It seems that one of the responsibilities of this body is to make certain that the treaty that is ratified is clear, understandable, without a shadow of a doubt, and that there would not be other interpretations that could be made of it in subsequent years that could lead to controversy between this Nation and the nation of Panama.

Certainly, one of the goals of the treaties is to establish a good relationship between this Nation and Panama and that good relationship will be threatened if there is, in fact, a disagreement now or later on over the meaning of one of the important payments that is mentioned in the treaty, specifically, the contingency payment of $10 million per year out of surplus.

So I feel very strongly that the treaty does need this kind of improvement by eliminating the ambiguity that does exist over the payment of the $10 million out of surplus.

This can be handled in a very simple manner. I cannot understand the reluctance on the part of some to make this clarification.

I hope that the majority of my colleagues will join with me in support of this amendment so the difference of opinion, or the different conflicting statements that are in article XIII can be resolved, so that there is not a conflict and that there is just one clear interpretation that can be made.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HODGES). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Idaho is prepared to do the same.

Mr. CHURCH. Yes.

Mr. President, our position has been fully explained. In the first place, we believe that the language of the treaty does not present an ambiguity. Therefore, no amendment is necessary.

Second, the interpretation of this particular provision by the American Government and the Panamanian Government is not in conflict. Both governments understand the provision alike, which lays additional emphasis on our contention that no amendment is necessary.

Third, if, for any reason, Senators still believe some clarification is called for, the proper way for the clarification to be made is by way of amendment to the articles of ratification, not by way of an amendment which would force a change in the text of the treaty itself, thus introducing the possibility of either having to renegotiate the treaty or having to submit the amended treaty to another plebiscite in Panama.

For these reasons, we feel it would be most unwise for the Senate to adopt this amendment.

Mr. President, I am prepared to relinquish the remainder of my time and I move——

Mr. BARTLETT. Mr. President, if I might comment on the distinguished Senator's remarks before he makes any motion.

Mr. CHURCH. Yes. I withhold my motion for that purpose.

Mr. BARTLETT. I will be very brief.

The PRESIDING OFFICER The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would point out that a reservation or an understanding, as the Senator from Idaho says, is the proper way to approach this problem. I am glad he admits that there is a problem and I assume he admits there is an ambiguity or, otherwise, there would not be a problem.

But I would point out, a reservation or understanding only adds to the resolution of Ratification a third conflicting interpretation, rather than resolving the two conflictinig provisions that create the ambiguity in article XIII.

I would also point out to the distinguished Senator that it is not clear at all what the position of Panama is on this.

Certainly, I do not think that even a Cabinet Officer of President Carter would necessarily be speaking for the President because there have been statements made by Cabinet officers of President Carter which were in conflict with final statements made by him explaining his position.

But even more than that, after sending two wires to General Torrijos asking what his interpretation of this ambiguity is, I did not receive an answer from General Torrijos. I received an answer from the Ambassador of Panama, enclosing an answer made to a question after a speech in San Francisco. To contend that that answer represents the position of Panama, I think, is a gross exaggeration. I do not think it in any way even pretends to express the position of the Government of Panama.

I believe there is real doubt as to what the position of the Government of Panama is, by the very fact that General Torrijos refused to answer the questions I asked in two wires I sent.

So I think there is good reason to resolve the ambiguity that exists in article XIII and that this would not be resolved by adding another opinion in the form of a reservation or an understanding in the resolution of ratification.

It is important to correct the problem where it exists, which is in article XIII, and I hope my colleagues will join me in doing this and in making certain that the language is clear.

Mr. CHURCH. Mr. President, we see no problem. In the first place, General Torrijos, as chief of state, may have felt that he was following the proper protocol in replying to the inquiries of the distinguished Senator from Oklahoma through his own ambassador in Washington. That is the normal practice, I believe.

It seems to me that the representations of the ambassador, referring to the position taken by Dr. Nicolas R. Barletta, who is the Minister of Planning and Economic Development of Panama, and who, I understand, was the chief negotiator for Panama with regard to those provisions in the treaty that relate to finances, represents the authoritative position of the Government of Panama.

I do not know how the Panamanian interpretation of this particular clause could be more authoritatively expressed than through Panama's own Ambassador in Washington, who relies upon the statement of Panama's chief negotiator. He makes it perfectly clear that Panama interprets this provision as we interpret the provision. Therefore, we see no problem.

However, if Senators have any reason to believe otherwise, then I reiterate that the way to handle it is through an amendment to the articles of ratification. This is the normal procedure the Senate follows in cases of this kind.

I remind the Senate that the text of no treaty has been amended directly by the Senate, previous to the Panama Canal treaties, for the past 54 years. The proper procedure, in a matter of this kind, is the adoption of an amendment to the articles of ratification, through which the Senate confers its consent.

Again, for these reasons, Mr. President, we feel that the adoption of this amendment would be unwise as well as unnecessary.

I relinquish the remainder of my time, if the Senator is prepared to do the same, and I move that the amendment be laid on the table. In that connection, I ask for the yeas and nays.

Mr. BARTLETT. Mr. President, before the Senator makes that motion, and before I relinquish the remainder of my time, I should like to read to the distinguished Senator the letter I received from the Ambassador to Panama, Mr. Lewis. He says:

> DEAR SENATOR: General Omar Torrijos, Chief of Government of Panama has received your telegram of February 22, 1978. He has requested us to send the transcripts of recent statements made by Dr. Nicolás Ardito Barletta which answer your question.
>
> Dr. Barletta is our Minister of Planning and Economic Development and the negotiator in behalf of our country for the economic issues in the new Treaties.
>
> Hoping to have been able to serve you, I remain

I point out that he does not spell out specifically that this is the official position. He says "This answers your question," but he does not point out that this is the position of General Torrijos.

I would think that on an important issue such as this, the general would want to make a clear statement, whether he made it directly to me or made it through his ambassador, but made it clear to the Members of the Senate who are considering this issue at the present time. He has refused to do that, and I think it leaves considerable doubt as to just what the position is.

Nonetheless, even if he agreed with the position, the ambiguity of the treaty is still there, and it is going to remain there unless it is eliminated by amendment.

I yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time. All time having been yielded back, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MELCHER (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 40, nays 33, as follows:

[Rollcall Vote No. 83 Ex.]

YEAS—40

Baker	Hayakawa	Morgan
Bentsen	Hodges	Moynihan
Biden	Hollings	Nelson
Case	Humphrey	Percy
Church	Inouye	Proxmire
Cranston	Jackson	Ribicoff
Culver	Javits	Riegle
Danforth	Kennedy	Sarbanes
Durkin	Leahy	Sparkman
Glenn	Long	Stafford
Hart	Mathias	Stevenson
Haskell	Matsunaga	Talmadge
Hatfield, Mark O.	McGovern	Williams
	Metzenbaum	

NAYS—33

Allen	Goldwater	Randolph
Bartlett	Hansen	Roth
Burdick	Hatch	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
Chiles	Helms	Schweiker
DeConcini	Johnston	Scott
Dole	Laxalt	Stone
Domenici	Lugar	Wallop
Eastland	McClure	Young
Ford	McIntyre	Zorinsky
Garn	Nunn	
	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Robert C. Byrd, for.
Melcher, against.

NOT VOTING—25

Abourezk	Curtis	Muskie
Anderson	Eagleton	Pearson
Bayh	Gravel	Pell
Bellmon	Griffin	Stennis
Brooke	Hatfield, Paul G.	Stevens
Bumpers	Hathaway	Thurmond
Cannon	Huddleston	Tower
Chafee	Magnuson	Weicker
Clark		

So the motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having voted in the affirmative on the rollcall on the motion to table the Bartlett amendment, in view of the fact that it would not alter the outcome, that I may be permitted to enter into a live pair with the distinguished Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "nay." Having voted in the affirmative, I will withdraw my vote if unanimous consent is so allowed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been corrected to reflect the above order.)

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. Mr. President, this debate has been going on now for some 2 months. During most of this time I have participated actively in the debate. My participation in the debate has been on an ad lib, extemporaneous basis because I believe that the issues are important enough so that Members should have informed themselves of the facts and the issues and should have been able to discuss the matter without written or prepared scripts.

I do wish to comment on the decision of the Circuit Court of Appeals for the District of Columbia on the constitutional issue that we have been discussing here on the Senate floor regarding the applicability of article IV, section 3, clause 2 of the Constitution, in requiring action by Congress to authorize the disposition of property of the United States.

We have contended here on the floor that that article should be observed, that the role of the House of Representatives, not in the treatymaking process but in the disposition of property of the United States, should be recognized.

The circuit court of appeals, in a three-judge panel with appeal direct to the Supreme Court, has decided this question. By a vote of two to one, it decided that it was not necessary that Congress make this authorization, but that the Executive and the Senate, through the treatymaking process, could make disposition of the property of the United States.

So, Mr. President, inasmuch as I am commenting upon a ruling or decision of the circuit court of appeals, I should be very precise in my language and in my statement as to the effect of this decision. Therefore, I will read remarks that have been prepared for my use at this time.

Mr. President, yesterday the Circuit Court of Appeals for the District of Columbia issued its opinion in the case of MICKEY EDWARDS, Member of Congress, and others against James Earl Carter, President of the United States. Mr. President, the plaintiffs in this case, some 60 Congressmen, complain that their legislative function as Members of Congress has been impaired by the action of the President—and now, I might add, by the action of the Senate in rejecting the Hatch amendment just the other day—in refusing to follow the Constitution in the matter of the proposed disposal of public property in the Isthmus of Panama. The lawsuit seeks a declaratory judgment that the exclusive means provided in the Constitution for disposal of U.S. property requires congressional action and that, therefore, the Panama Canal Zone and the public property lying therein may not be given to Panama by means of a treaty purporting itself to make that transfer.

Now, Mr. President, the decision reached yesterday is very significant and highly encouraging in several respects. Not the ultimate outcome, but the reasoning which was used in arriving at that outcome, and the prospect that it gives for a decision by the Supreme Court of the United States which up to now has been unwilling to decide this issue on the merits. First, the circuit court did not sidestep the issue and did recognize that the plaintiffs had good standing to sue, thus upholding a long line

of cases which acknowledge that a complaint alleging impairment of a legislative function brought by a Member of Congress does give the Member standing to sue. So in this respect the Court of Appeals overturned the ruling of the District Court and did decide the case on its merits.

The district court had refused to decide the issue on the merits but on appeal, the circuit court of appeals does decide the issue on the merits, which is a most important circumstance and development.

Also, Mr. President, the court very properly rejected out of hand the various complex and novel arguments advanced by the administration which sought desperately to challenge the jurisdiction of the Federal courts to adjudicate the merits of this important constitutional question. Thus the court rejected the argument that the case was premature or that it presented a nonjustifiable political question. In other words, Mr. President, the court faced the issue squarely and in so doing, noted that the controversy presents a pure question of constitutional law ripe for resolution by the circuit court and, I am sure, ripe also for final resolution by the Supreme Court of the United States.

So, Mr. President, the Circuit Court of Appeals for the District of Columbia has faced up to this critical Constitutional issue, and although I disagree with the opinion of the majority of the court which supported the proposition that a treaty acting alone can be used to dispose of public property of the United States, I certainly feel that the court is to be highly commended for recognizing that the issue must be finally resolved on its merits and not avoided.

Now, Mr. President, I do disagree with the decision on the merits reached by two of the three judges on the circuit court, and naturally I regret that the court was not persuaded, as I am, that the power of Congress to dispose of public property is indeed an exclusive power. But, Mr. President, this case is going to go to the Supreme Court. There can be no doubt of that fact, and the Supreme Court will have to make an independent and new study of this critical issue, using as a point of departure, point of reference, or point of procedure, the opinions of the court below. So the significant point here is that the circuit court has faced the issue squarely and that when appeal is taken—and certainly there will be an appeal—the Supreme Court will also discharge its constitutional duty by establishing on the merits—free from political pressures—the true and proper construction to be placed on the words of the Constitution where it says, "Congress shall have power to dispose of * * * property belonging to the United States."

In reaching a decision, I believe the Supreme Court is going to be guided by the magnificent dissenting opinion written in yesterday's decision by Circuit Judge George MacKinnon. Senators will no doubt recall Judge MacKinnon's famous dissent in Buckley against Valeo—which was the public financing of elections case—which dissent was subsequently followed and endorsed by the Supreme Court. Mr. President, Judge MacKinnon's dissent in this case is an equally superb analysis—a strong dissent providing an analysis of every aspect of this question and laying to rest with finality every argument advanced to support the novel proposition that the power of Congress is not an exclusive power. So, Mr. President, I view yesterday's decision, on balance, as a victory for those of us here in the Congress—in both Houses—who are seeking to uphold the constitutional prerogatives of the House of Representatives, and to uphold the constitutional requirement that before property of the United States is disposed of, the entire Congress must act authorizing that disposition.

Now, Mr. President, I believe it would be improper for me to criticize the opinion of the majority of the circuit court given in this important case—but I recall the distinguished Senator from Arizona (Mr. GOLDWATER) saying that this issue was whether the rights of the House of Representatives and whether the constitutional rights of the Congress as a whole would be upheld and respected. He felt that the issue involved in the Hatch amendment was more important, really, than the issue of the Panama Canal Treaty, because failure to resolve the issue correctly is going to subvert our entire constitutional process. If they on one hand can ignore the House of Representatives and the constitutional powers that it has, could they not just as easily ignore the rights of the Senate in another instance? So it is a most important issue, Mr. President, whether we are going to be a government of law and not a government of men. It is an important issue. The Senate will have the opportunity to decide this issue. It will be presented in a different form before we approve the resolution of ratification.

As I say, Mr. President, I believe it would be improper for me to criticize the opinion of the majority of the circuit court given in this important case, but since it is an opinion directly involving the legislative function of the full Congress, I will make one observation. The circuit court of appeals has made exactly the same mistake made by many others who have studied this issue.

The circuit court has regrettably confused the question of what is proper for inclusion in the treaty-making process with the question of what can be actually accomplished by means of a treaty. The circuit court—and I am speaking of the majority—relies on precedents which deal only with the constitutional scope of treaty power subject matter and which deal only with the nature of the treaty ratification process itself.

We do not say that the treaty needs to go to the House of Representatives for its consent, but in implementing the treaty and in accomplishing and authorizing that which is necessary before the treaty is put in force, there must be legislation enacted by the House of Representatives and the Senate.

No one has contended, Mr. President, that the House of Representatives should have any share whatsoever in the treatymaking process. The only contention is that Congress alone has power to cause a transfer of public property. Thus the circuit court relies mistakenly on the legislative history of the treaty power because that history deals only with the ratification process as it might be affected by particular treaty subject matter.

Of course, this subject matter can go into the treaty, but before the property can actually be disposed of, congressional authorization must be had; just as in the treaty in 1955, in article V, in three different places where the property was being disposed of in the treaty, the article says clearly that the transfer is subject to authorization by the Congress. But the circuit court does not understand this distinction. For example, when an amendment was proposed at the Virginia Ratification Convention which provided that no treaty ceding territory should be made except when ratified by three-quarters of the whole number of Members of both Houses of Congress, the only matter, Mr. President, the only matter under consideration was the ratification procedure with respect to the particular subject matter of territorial cession. The method of ratification was at issue, Mr. President, not the means of disposal. The means of actual property disposal was emphatically not before the convention. The Virginia convention understood that the means of disposal was already specified in article IV, section 3, clause 2 * * * the only question was whether also to involve the House in the ratification procedure, too.

The House of Representatives is not involved in the ratification procedures, but it must be involved in legislation authorizing the disposition of property.

Now, I regret that the court of appeals, at least the majority, was unable to understand this crucial, very crucial distinction between the precedents dealing with treaty subject matter and methods of ratification and the precedents dealing with the proper means for exercising the separate functions of a constitutional government, but I am hopeful, Mr. President, that this superb dissenting opinion by Judge MacKinnon will provide guidance to the Supreme Court in appreciating this essential distinction. The House of Representatives has no role in making treaties. The treaty power is the exclusive province of the President and the Senate. All the precedents and the Constitution establish that; but, Mr. President, the disposal power is just as equally the exclusive province of the Congress, and the two powers must be made to act together or an unconstitutional and illegal act would occur under the proposed treaty in its purported disposal of our public property in the Isthmus of Panama.

Mr. President, you can recognize the

consternation that would be caused in Panama if this treaty, with its purported disposition of property of the United States in the Panama Canal Zone, should be approved by the Senate yet authorization by the Congress for the disposition of that property was not had, and then the Supreme Court rules that the treaty, insofar as it pertained to disposing of the lands and waters, the canal and the contiguous land, that the treaty insofar as it purported to make disposition of this public property, was unconstitutional because the Congress had not authorized disposition. With this treaty having been solemnly ratified by the heads of the two governments and the Supreme Court announcing that the disposition of the property was unconstitutional, that it was still the property of the United States, why they would have to back up and work out something else in a hurry.

Fortunately, Mr. President, the Senate will have another opportunity to uphold the Constitution and make moot this pending litigation, because there will be another amendment offered which will call for an act of Congress before the disposition of this property and, failing in that, certainly, a reservation will be added.

There will be another amendment offered to recognize the House in the process of disposing of property of the United States, not to get the treaty to them, I trust the proponents will not indicate, as they have in the past, that that is what is involved, because it is not. It is a question of an act of Congress authorizing the disposition of this property, not a question of the treaty itself.

First, there will be an amendment offered. Failing in that, they will drop back on the reservation.

This reservation would forbid an exchange of instruments of ratification until the enactment of legislation authorizing the public property disposals which are promised in the treaty.

There are 235 Members of the House who would join in the reservation if they could, asking that they be given an opportunity to act as a part of Congress in authorizing the disposition of this property.

I hope the Senate will see the wisdom of accommodating the desires of the House of Representatives and of following the Constitution and will adopt this reservation, because this is the one reservation offered to this treaty which would have some real effect because it will guarantee that our own Constitution is followed and will make unnecessary a decision by the Supreme Court.

So if we will only take this action, if we will only allow them to require by reservation that the House and Senate pass legislation authorizing the disposition of this property, then we are going to make unnecessary and make entirely moot the question of whether or not the House has a right to act on the disposition of this public property.

If we act, if we adopt this reservation, then the question becomes absolutely moot and unnecessary to be decided.

But, Mr. President, if this reservation is turned down by the joint leadership, then the Supreme Court is going to have to resolve this question for us. If we are unwilling to face up to the matter, if we are unwilling to practice comity with the House of Representatives, then this matter is headed for resolution by the Supreme Court.

I think we ought to make the issue moot. I think we ought to grant the wishes of more than half the Members of the House of Representatives who have expressed the desire to be allowed to exercise their constitutional function as a coequal House in the Congress.

I think we ought to get the question out of the courts by facing up to the requirements of the Constitution whether we like those requirements or not. The Constitution says Congress shall have power to dispose of the property belonging to the United States. That ought to be enough, Mr. President. Let us allow Congress to exercise or not exercise that power as it sees fit. Let us here in the Senate make this issue moot. Let us get this issue out of the courts, because if we fail to act, it is obviously headed for further litigation and for resolution by the Supreme Court.

I do not want to see the day, Mr. President, when the Supreme Court tells the Senate— "Members of the Senate, these Congressmen are right; their legislative function has been impaired by the action of the President and by your failure to act." I do not want to see that day, but that day is coming, Mr. President, because the obstinance of the Senate in not acknowledging the requirements of the Constitution and the rights of the House is going to guarantee that the Supreme Court of the United States will tell us— exactly as Judge MacKinnon tells us in this superb dissenting opinion—

> It is almost impossible to understand the motivation for excluding the House of Representatives from exercising its Constitutional authority.

The Supreme Court, Mr. President, is going to look at this issue dispassionately, I believe and hope. The Supreme Court is composed of men free from political pressures. The Supreme Court is going to decide this matter fairly, I truly believe, and I am confident the Senate leadership is going to regret the decision to turn down the House of Representatives; is going to regret the decision to tell the House of Representatives, "You are going to have to go to the courts to get us to do what the Constitution says is right."

So, Mr. President, I want to commend the Circuit Court of Appeals for the District of Columbia for facing up to this issue—the courts have not been willing to do it until now—and I particularly want to commend Judge George MacKinnon for his outstanding and truly magnificent dissenting opinion which, in my judgment, by the overwhelming force of its logic, will carry the day in the regrettable event this issue is not resolved properly in the Senate and is therefore finally decided in the Supreme Court.

Mr. President, I ask unanimous consent that the opinion of the Circuit Court of Appeals for the District of Columbia, in *Edwards* v. *Carter*, Appeal No. 78–1166, decided April 6, 1978, be printed in its entirety in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

[U.S. Court of Appeals for the District of Columbia Circuit, No. 78–1166]

MICKEY EDWARDS, MEMBER OF CONGRESS, OKLAHOMA, ET AL., APPELLANTS v. JAMES EARL CARTER, PRESIDENT OF THE UNITED STATES

(On Motion for Injunction Pending Appeal, Motion for Summary Reversal, and Motion for Summary Affirmance (D.C. Civil 77–1733))

[Argued March 10, 1978; Decided April 6, 1978]

Daniel J. Popeo, with whom *Joel D. Joseph* and *Paul D. Kamenar* were on the motion for an injunction pending appeal and the motion for summary reversal, for appellants.

Robert E. Kopp, Attorney, Department of Justice, with whom *Steven I. Frank* and *Brook Hedge*, Attorney, Department of Justice, on the motion for summary affirmance, for appellee.

Before: Fahy, *Senior Circuit Judge*, and McGowan and MacKinnon, *Circuit Judges*.

Opinion Per Curiam.

Dissenting opinion filed by *Circuit Judge* MacKinnon.

Per Curiam: This is an appeal from the District Court's dismissal of a challenge to appellee's use of the treaty power to convey to the Republic of Panama United States properties, including the Panama Canal, located in the Panama Canal Zone.[1] Appellants, sixty members of the House of Representatives, sought a declaratory judgment that the exclusive means provided in the Constitution for disposal of United States property requires approval of both Houses of Congress, see Art. IV, § 3, cl. 2, and that therefore the Panama Canal Zone may not be returned to Panama through the Treaty process, which invests the treaty-making power in the President by and with the advice and consent of two-thirds of the Senate, see Art. II, § 2, cl. 2. Appellee contends that the Constitution permits United States territory to be disposed of either through congressional legislation or through the treaty process, and that therefore the President's decision to proceed under the treaty power is constitutionally permissible.

The District Court did not reach the merits of this controversy; rather, it dismissed the complaint for lack of jurisdiction after concluding that appellants lacked standing because they had failed to demonstrate injury in fact from the President's invocation of the treaty process. A notice of appeal and a request for a preliminary injunction pending appeal were immediately filed with this court. Appellee has moved for summary affirmance of the District Court's judgment either on the jurisdictional grounds stated by the District Court or on the merits of appellants' contention; appellants have moved for summary reversal. We have heard oral argument and have considered the case on an expedited basis.[2] For the reasons appearing below, we affirm the dismissal of the complaint, not on the jurisdictional ground relied on by the District Court but for failure to state a claim on which relief may be granted.

I

In addition to its argument on the merits, appellee has presented several substantial and complex challenges to the jurisdiction of the federal courts to adjudicate the merits of the constitutional question presented in this case. We refer not only to the con-

Footnotes at end of article.

tentions as to lack of standing, but also to the arguments that appellants' action is both premature and presents a nonjusticiable political question. Deciding only the jurisdictional issue before us could result in this court, or the Supreme Court, remanding the case for further proceedings either on the merits or on jurisdictional issues. Because the merits of this controversy present a pure question of law, with no need of a hearing for fact development, because these merits are so clearly against the parties asserting jurisdiction, and because the judgment appealed from was based on only one of several asserted grounds of lack of jurisdiction, we believe it is appropriate to proceed directly to the merits of this case. This conclusion is bolstered when the time constraints imposed by the immediacy of Senate action on the treaties are considered. See *Adams* v. *Vance*, No. 77-1960 (D.C. Cir. Jan. 17, 1978), at 8 n.7 and cases cited therein.

Consequently, the precise question we address is whether the constitutional delegation found in Art. IV, § 3, cl. 2 is exclusive so as to prohibit the disposition of United States property by self-executing treaty—i.e., a treaty enacted in accordance with Art. II, § 2, cl. 2, which becomes effective without implementing legislation.

II

Article IV, § 3, cl. 2 of the Constitution states in its entirety:

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

Appellants contend that this clause gives Congress exclusive power to convey to foreign nations any property, such as the Panama Canal, owned by the United States.[3] We find such a construction to be at odds with the wording of this and similar grants of power to the Congress, and, most significantly, with the history of the constitutional debates.[4]

The grant of authority to Congress under the property clause states that "The Congress shall have Power . . .," not that only the Congress shall have power, or that the Congress shall have exclusive power. In this respect the property clause is parallel to Article I, § 8, which also states that "The Congress shall have Power. . . ." Many of the powers thereafter enumerated in § 8 involve matters that were at the time the Constitution was adopted and that are at the present time also commonly the subject of treaties. The most prominent example of this is the regulation of commerce with foreign nations, Art. 1, § 8, cl. 3, and appellants do not go so far as to contend that the treaty process is not a constitutionally allowable means for regulating foreign commerce. It thus seems to us that, on its face, the property clause is intended not to restrict the scope of the treaty clause, but, rather, is intended to permit Congress to accomplish through legislation what may concurrently be accomplished through other means provided in the Constitution.

The American Law Institute's Restatement of Foreign Relations, directly addressing this issue, comes to the same conclusion we reach:

"The mere fact, however, that a congressional power exists does not mean that the power is exclusive so as to preclude the making of a self-executing treaty within the area of that power."

ALI Restatement of Foreign Relations Law (2d), § 141, at 435 (1965). The section of the Restatement relied on by the dissent merely states that the treaty power, like all powers granted to the United States, is limited by other restraints found in the Constitution on the exercise of governmental power (Rest. For. Rel. § 117).[5] Of course the correctness of this proposition as a matter of constitutional law is clear. See *Reid* v. *Covert*, 354 U.S. 1 (1957); *Geoffroy* v. *Riggs*, 132 U.S. 258 (1890); *Asakura* v. *Seattle*, 265 U.S. 332 (1924), also relied on by the dissent. To urge, as does the dissent, that the transfer of the Canal Zone property by treaty offends this well-settled principle—that the treaty power can only be exercised in a manner which conforms to the Constitution—begs the very question to be decided, namely, whether Art. IV, § 3, cl. 2 places in the Congress the *exclusive* authority to dispose of United States property.[6]

There are certain grants of authority to Congress which are, by their very terms, exclusive. In these areas, the treaty-making power and the power of Congress are not concurrent; rather, the only department of the federal government authorized to take action is the Congress. For instance, the Constitution expressly provides only one method—congressional enactment—for the appropriation of money:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." Art. I, § 9, cl. 7. Thus, the expenditure of funds by the United States cannot be accomplished by self-executing treaty; implementing legislation appropriating such funds is indispensible. Similiarly, the constitutional mandate that "all Bills for raising Revenue shall originate in the House of Representatives, "Art. 1, § 7, cl. 1, appears, by reason of the restrictive language used, to prohibit the use of the treaty power to impose taxes.[7]

These particular grants of power to Congress operate to limit the treaty power because the language of these provisions clearly precludes any method of appropriating money or raising taxes other than through the enactment of laws by the full Congress. This is to be contrasted with the power-granting language in Art. 1, § 8, and in Art. IV, § 3, cl. 2. Rather than stating the particular matter of concern and providing that the enactment of a law is the only way for the federal government to take action regarding that matter, these provisions state simply that Congress shall have power to take action on the matters enumerated.

Thus it appears from the very language used in the property clause that this provision was not intended to preclude the availability of self-executing treaties as a means for disposing of United States property. The history of the drafting and ratification of that clause confirms this conclusion. The other clause in Art. IV, § 3 concerns the procedures for admission of new states into the Union, and the debates at the Constitutional Convention clearly demonstrate that the property clause was intended to delineate the role to be played by the central government in the disposition of Western lands which were potential new states. Several individual states had made territorial claims to portions of these lands; and as finally enacted, the property clause, introduced in the midst of the Convention's consideration of the admission of new states, sought to preserve both federal claims and conflicting state claims to certain portions of the Western lands.[8]

The proceedings of the Virginia state ratifying convention provide further evidence of the limited scope of the property clause. During a debate in which the meaning of the clause was questioned, Mr. Grayson noted that the sole purpose for including this provision was to preserve the property rights of the states and the federal government to the Western territory as these rights existed during the Confederation.[9]

This history demonstrates the limited concerns giving rise to the inclusion of Article IV, § 3, cl. 2 in the Constitution. Whether or not this historical perspective might serve as a basis for restricting the scope of congressional power under the property clause, we view it as persuasive evidence for rejecting the claim that Article IV is an express limitation on the treaty power, foreclosing the availability of that process as a constitutionally permissible means of disposing of American interests in the Panama Canal Zone.

III

The debates over the treaty clause at the Constitutional Convention and state ratifying conventions even more directly demonstrate the Framers' intent to permit the disposition of United States property by treaty without House approval. As originally reported to the Convention, authority to make treaties would have been entrusted to a majority of the Senate, without even Presidential participation.[10] However, this structure was thought to entrust too much power to the Senate, and the provision was subsequently amended to include an active Presidential role. Nonetheless, concern over the extensive scope of the power remained; particularly worrisome was the potential use of treaties as a means of effecting territorial cessions. Elbridge Gerry expressed this fear when he noted that "[i]n Treaties of peace the dearest interests will be at stake, as the fisheries, territory, etc. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed than on any other occasion."[11]

Concern about the sweeping character of the treaty clause led to several proposed amendments aimed at limiting its exercise. One amendment would have restricted this power by requiring that "no Treaty of Peace affecting Territorial rights should be made without the concurrence of two thirds of the (members of the Senate present.)"[12] For some delegates, however, merely increasing the level of Senate approval did not go far enough towards ensuring the proper exercise of the treaty power. Thus Connecticut's Roger Sherman proposed an amendment providing that "no such [territorial] rights should be ceded without the sanction of the Legislature."[13]

The Committee of Eleven, in whose hands this issue finally rested, rejected the proposed amendment for House participation. Instead, a provision requiring a two-thirds Senate vote for the passage of all treaties was adopted. This choice clearly indicates the Framers' satisfaction with a supermajoritarian requirement in the Senate, rather than House approval, to serve as a check upon the improvident cessation of United States territory.

That the two-thirds voting requirement did not affect the scope of the treaty power, but only made ratification of treaties more difficult, was clearly understood at the state ratifying conventions. An amendment proposed at the Virginia Convention provided that—

"No treaty ceding, contracting, restraining, or suspending the territorial rights or claims of the United States . . . shall be made, but in case of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the members of both houses respectively."[14]

This, and a similar amendment offered at the North Carolina Convention,[15] evidence the broad interpretation given Article II, § 2 at the time of its inception.[16] As was true of the effort at the Constitutional Convention to introduce House participation in ratification of treaties, these state attempts to limit the treaty power as now contained in the Constitution also failed.

That those who framed and ratified the Constitution rejected several express attempts to limit the treaty power in the manner now urged by appellants greatly undermines the interpretation of that power they

Footnotes at end of article.

press upon us. From this evidence we conclude that the disposition of property pursuant to the treaty power and without the express approval of the Houe of Representatives was both contemplated and authorized by the makers of the Constitution.

IV

In view of the lack of ambiguity as to the intended effects of the treaty and property clauses, it may be surprising that judicial pronouncements over the past two centuries relating to these constitutional provisions are somewhat vague and conflicting. However, none of the actual holdings in these cases addressed the precise issue before us—whether the property clause prohibits the transfer of United States property to foreign nations through self-executing treaties. While, therefore, neither the holdings nor the dicta of these previous cases are dispositive of the case before us, we believe that in the main they support the conclusions we have stated heretofore.

One line of cases, involving the property clause, has arisen in the context of the division of power between the federal government and the states. In discussing this question, the Supreme Court has stated that Article IV "implies an exclusion of all other authority over [United States] property which could interfere with this right or obstruct its exercise." [17] We think that the most reasonable interpretation of such dicta, occurring in the context referred to, is that there is a lack of any constitutional basis for exercise of authority by individual states over United States property.[18] But that a specific congressional power is exclusive against intrusion by the states does not necessarily remove it from the sphere of the federal treaty power.

Another line of cases, involving the treaty clause, has arisen in the context of conveyances by the federal government to Indian tribes. The leading case on the power to convey such land by self-executing treaty is *Holden* v. *Joy*, 84 U.S. 211 (1872). In quieting adverse claims to certain lands west of the Mississippi which had previously been conveyed to the Cherokee nation by treaty, the Court had to determine the validity of the original grant to the Indians. The Court noted that—

"Still it is insisted that the President and Senate, in concluding [a treaty for the passage of property], could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress. . . . On the contrary, there are many authorities where it is held that a treaty may convey to a grantee good title to such lands, without an act of Congress conferring it." . . . Id. at 247.

Because later congressional enactments repeatedly recognized the validity of the transfer, the Court found it unnecessary to rest its decision on this constitutional point. However, the principle espoused is repeated in subsequent Supreme Court decisions.

The treaty in Holden involved a cession of non-Indian lands in return for tribal property. More common, however, were treaties in which Indian tribes ceded to the United States portions of their lands in return for, generally, some money and the creation of reservations. Usually these reservations consisted of tracts of territory originally occupied by the tribes and excepted by the treaty provisions from cession to the federal government. In order to fully comprehend the nature of the property interest transferred by the United States in these reservations it is necessary to understand the extent of the Indian's legal title prior thereto. The law early recognized the limited possessory rights of Indians in their territory. Ultimate title, that necessary to dispose of the property, rested solely in the hands of the federal government. *Johnson* v. *McIntosh*, 21 U.S. (8 Wheat.) 542 (1823). The purpose of the reservation treaties was to transfer the Indian tribes' possessory rights to most of their property to the United States in exchange for a fee simple title in excepted reservations. Such treaties, then, clearly disposed of United States property interests.

Supreme Court cases involving these cessions have provided dicta similar to that of *Holden* v. *Joy*. In *Jones* v. *Meehan*, 175 U.S. 1 (1899), the Court considered the nature of Indian property rights acquired by "reservation." There, Chief Moose Dung of the Chippewas had "reserved" a certain tract of land in a treaty ceding tribal territory to the United States. He subsequently leased some of that property to various individuals. A challenge was made questioning the Chief's authority to engage in that transaction. As framed by the Court, the issue for resolution was whether the treaty merely confirmed Chief Moose Dung's original right of occupancy in the reserved lands or whether the treaty granted a fee simple interest to the reservee. In holding that a fee simple passed under the treaty,[19] the court noted that "[i]t is well settled that good title to parts of the lands of an Indian tribe may be granted to individuals by treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." 175 U.S. at 10. Thus the Court concluded that the treaty power alone was sufficient to transfer the underlying U.S. title in the reserved lands. In a similar situation the Court in *Francis* v. *Francis*, 203 U.S. 233, 241–42 (1906), stated that "this court and the highest court of Michigan concur in holding that a title in fee may pass by treaty without the aid of an act of Congress."

As is true of most of the cases in which the Supreme Court has addressed the scope of the treaty power, Holden, Jones, and Francis involved the federal government's interaction with Indian tribes. Because of the sui generis nature of the relationship between the Indian tribes and the federal government, it might be argued that these decisions are not dispositive.[20] We think, however, that they are persuasively supportive of the authority of the President and the Senate under the treaty clause.

V

While certain earlier judicial interpretations of the interplay between the property clause and the treaty clause may be somewhat confused and less than dispositive of the precise issue before us, past treaty practice is thoroughly consistent with the revealed intention of the Framers of these clauses. In addition to the treaties with Indian tribes upheld in the cases discussed above, there are many other instances of self-executing treaties with foreign nations, including Panama, which cede land or other property assertedly owned by the United States.[21] That some transfers have been effected through a congressional enactment instead of, or in addition to, a treaty signed by the President and ratified by two-thirds of the Senate lends no support to appellants' position in this case, because, as stated previously, self-executing treaties and congressional enactments are alternative, concurrent means provided in the Constitution for disposal of United States property.

For instance, the Treaty with Panama of 1955, 6 U.S.T. 2273, transferred certain property (a strip of water and other sites within the Canal Zone) to Panama without concurring legislation by the Congress, while transfer of other property (owned by the United States but within the jurisdiction of Panama) was, under the terms of the treaty itself, dependent upon concurring legislation by the Congress. The decision to cast some but not all of the articles of conveyance in non-self-executing form was a policy choice; it was not required by the Constitution.

The transfer of property contemplated in the current instance is part of a broader effort in the conduct of our foreign affairs to strengthen relations with another country, and indeed with the whole of Latin America. The Framers in their wisdom have made the treaty power available to the President, the chief executant of foreign relations under our constitutional scheme, by and with the advice and consent of two-thirds of the members of the Senate present, as a means of accomplishing these public purposes. We do not think it is relevant that many previous treaties couched in self-executing terms have been different in scope, dealing with boundary issues or otherwise ceding land which was claimed both by the United States and by a foreign nation.[22] We note first that it is hardly surprising that lands transfers often involve boundaries or other disputed territory; indeed, it is in these situations that the decision to dispose of land would most often be made.

Second, the grant of power to Congress in the property clause is not predicated on the territory disposed of being on a boundary or being the subject of conflicting claims. Thus we do not understand the basis for appellant's argument that, even if that clause does not provide the exclusive means of disposing of disputed or boundary lands, it is the exclusive source of power for disposing of land concededly owned by the United States If the status of the land has any bearing on whether it may be conveyed without congressional enactment under the property clause,[23] it would seem to cut in a direction contrary to that urged by appellants, for the Western lands that were the focus of the property clause were the subject of conflicting claims by the states and the federal government.

It is important to the correct resolution of the legal issue now before us not to confuse what the Constitution permits with what it prohibits. In deciding that Article IV, Section 3, clause 2 is not the exclusive method contemplated by the Constitution for disposing of federal property, we hold that the United States is not prohibited from employing an alternative means constitutionally authorized.[24] Our judicial function in deciding this lawsuit is confined to assessing the merits of the claim of appellants that in the conduct of foreign relations in this matter, involving, inter alia, the transfer of property of the United States, the treaty power as contained in Article II, Section 2, Clause 2, was not legally available to the President. We hold, contrarily, that this choice of procedure was clearly consonant with the Constitution.

For the foregoing reasons, the judgment of the District Court dismissing the complaint is

Affirmed.

FOOTNOTES

[1] Two treaties, signed by the chief executives of Panama and the United States, were presented to the Senate for ratification. The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal has now been ratified by the Senate, *see* note 2 *infra*. The Article conveying the Canal Zone properties to the Republic of Panama is contained in the Panama Canal Treaty:

"PROPERTY TRANSFER AND ECONOMIC PARTICIPATION BY THE REPUBLIC OF PANAMA

"1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

"2. The United States of America transfers, without charge, to the Republic of Pan-

ama all right, title and interest the United States of America may have with respect to all real property, including non-renewable improvements thereon, as set forth below:

"(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

"(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

"(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

"(d) Upon termination of this Treaty, all real property and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

"3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

"4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal. . . ."

[2] The Senate consented to The Neutrality Treaty on March 14, 1978. It is expected that the vote on the Panama Canal Treaty will occur in early April 1978.

[3] In addressing the merits, we assume without deciding that the Panama Canal Zone real property which would be conveyed by the Panama Canal Treaty is indeed property belonging to the United States. Appellee has not contended otherwise and neither party has briefed this issue.

[4] The Senate Foreign Relations Committee has thoroughly considered and rejected appellants' argument. That Commitee reported the treaties with Panama to the full Senate by a 14 to 1 vote, and the one dissenting Senator did not dispute the power of the President, by and with the advice and consent of the Senate, to transfer United States property. See Exec. Rept. No. 95–12 (95th Cong. 2d Sess., Feb. 3, 1978).

In addition to the American Law Institute's Restatement of Foreign Relations Law, *see infra*, other authorities in agreement with this conclusion include Professor Louis Henkin, see L. Henkin, "Foreign Affairs and the Constitution 159–60" (1965); Dean Louis Pollalk, see 124 Cong. Rec., No. 8, at 5729 (95th Cong., Jan. 30, 1978); Professor Covey Oliver, see Hearings Before the Committee on Foreign Relations. Part IV, at 95, 103, 112–13 (Jan. 19, 1978); and Professor John Norton Moore, see id. at 89, 93–94. The Attorney General and the State Department Legal Advisor have also issued opinions that the Panama Canal may be disposed of through self-executing treaty. See Opinion of the Attorney General to the Secretary of State, Aug. 11, 1977; Hearings Before the Subcommittee on the Separation of Powers of the Senate Judiciary Committee, Part I, at 3–25 (July 29, 1977). Professor Raoul Berger, in testimony before the Subcommittee on Separation of Powers of the Senate Judiciary Committee in the fall of 1977, expressed a contrary position. His thesis seems to be that the President cannot exercise under the treaty power any power granted to Congress, see Hearings Before the Subcommittee on Separation of Powers, (95th Cong. 1st Sess., Nov. 3, 1977). We agree with Professor Henkin that such a narrow view of the treaty power would, by "outlaw[ing] treaties on matters as to which Congress could legislate domestically," "virtually wipe out the treaty power." L. Henkin, supra, at 149.

We note that Professor Henkin's treatise leaves no doubt but that he is in agreement with our position. The passage quoted by the dissent, as is realized upon a careful reading of the passage itself (with its references to "unilateral" presidential action and "executive order[s]"), concerns the limitations upon the President's power to dispose of property through unilateral executive action. See note 24 infra.

[5] Similarly, § 118(1) of the Restatement lends no support to the dissent's position because it is not even relevant to the issue before us. That section, consistent with Missouri v. Holland, 252 U.S. 416 (1920), indicates that the treaty power is broader than the power of Congress to enact legislation. The issue before us, on the other hand, is whether the treaty power extends to an area in which Congress, by virtue of Art. IV, § 3, cl. 2, does have power to enact legislation.

[6] It is important to understand the limited scope of this inquiry. If Art. IV, § 3, cl. 2 does in fact provide the exclusive means of property disposition, i.e., by legislation, clearly a self-executing treaty would be a constitutionally impermissible alternative As the dissent repeatedly indicates, the treaty power may not encroach on delegations made exclusively to Congress.

[7] The dissent argues that because the power to declare war is exclusively reserved to Congress by Art. 1, § 8, so also must be the power to dispose of United States property, which power is granted to Congress in the same language as the warmaking power. Cf. L. Henkin, supra, at 160 n.++. The sui generis nature of a declaration of war and the unique history indicating the Framers' desire to have both Houses of Congress concur in such a declaration, may place it apart from the other congressional powers enumerated in Art. 1, § 8 and in Art. IV, § 3, cl. 2. The history, discussed infra, of the constitutional convention and ratifying conventions with respect to the property clause and the treaty clause, on the other hand, clearly demonstrates the Framers' intention to allow disposition of the United States property through self-executing treaty. Moreover, while there are numerous instances in past treaty practice of the latter, we know of no instance in which the United States has been in a state of formally declared war without a congressional declaration thereof

[8] The states' claims to unsettled Western (trans-Allegheny) regions were based on charters granted to them from Great Britain. Landless states argued that all Western lands should inure to the benefit of all states, *i.e.*, should be federal properties. *See* H. Hockett, "The Constitutional History of the United States 1776–1826," 143–46 (1939); 2 M. Farrand, The Records of the Federal Convention of 1787, 461–66 (1937); 3 *id.* at 226–27.

[9] This issue arose in a debate over the treaty clause that was not unlike the controversy before this court. Governor Randolph of Virginia stated that he could "conceive that neither the life nor property of any citizen, nor the particular right of any state, can be affected by a treaty." He then argued that Art. IV, § 3 must be intended to protect against the dismemberment of the Union. Mr. Grayson replied that—

"[T] his clause was inserted for the purpose of enabling Congress to dispose of, and make all needful rules and regulations respecting, the territory, or other property, belonging to the United States, and to ascertain clearly that the claims of particular states, respecting territory should not be prejudiced by the alteration of the government, but be on the same footing as before; that it could not be construed to be a limitation on the power of making treaties."

3 Elliot's Debates in the Several State Conventions on the Adoption of the Federal Convention 504–05 (1907).

[10] The account in the text is from 2 Farrand, *supra*, at 540–49.

[11] Id. at 541.

[12] Id. at 543.

[13] 3 "Elliot's Debates," *supra*, at 500.

[14] *Id.* at 660.

[15] *See* S. Crandall, "Treaties, Their Making and Enforcement" 63 (2d Ed. 1916); 4 "Elliot's Debates" *supra*, at 115.

[16] James Madison stated that "I do not conceive that power is given to the President and Senate to dismember the empire, or to alienate any great, essential right." But he continued by noting "I do not think the whole legislative authority have this power. The exercise of the power must be consistent with the object of the delegation." 3 Elliot's Debates, *supra*, at 514. It appears, thus, that Madison was only formulating a well-recognized limitation on all of the constitutional powers, namely, that the exercise of constitutional delegations are restrained by the basic premises upon which the Union and the Constitution were created.

[17] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890).

[18] The dissent also relies upon *Alabama* v. *Texas*, 347 U.S. 272 (1954), which upheld the Submerged Lands Act of 1953, 67 Stat. 29. The reference in that case to Congress' power to dispose of property "without limitation" had no application to whatever limitation on Congress' power may be thought to result from use of the treaty power to accomplish disposal of property. Rather, the salient question in the case was whether Congress could grant to individual states indefeasible title to and ownership of certain resources under submerged marginal ocean lands. Thus, it appears that in referring to Congress' power "without limitation", the Court was holding that Congress' authority under Art. IV, § 3, cl. 2 embraces any disposition of property of the United States chosen by Congress. See also Inter-Island Co. v. Hawaii, 305 U.S. 306 (1938) (Under the Art. IV, § 3 powers to regulate, Congress has the authority to permit the Territory of Hawaii to impose taxes on petitioner's interstate business operations); United States v. Celestine, 215 U.S. 278 (1909) (Congress has power to retain federal jurisdiction over crimes committed by an Indian allottee on allotted land of an Indian reservation within the confines of a state); Wisconsin Cent. R.R. Co. v. Price County, 133 U.S. 496 (1890) (U.S. property is not subject to state taxation since enforcement of such a tax might result in states, instead of Congress, controlling the disposition of federal property, contrary to Art IV, § 3, cl. 2); Griffin v. United States, 168 F.2d 457 (8th Cir. 1948) (county resolution declaring federally owned property open for grazing is invalid encroachment upon power delegated to Congress to regulate U.S. property).

Appellants also cite several cases that, while not dealing with federal-state relations, are nonetheless inapplicable here. See *United States* v. *Fitzgerald*, 40 U.S. (15 Pet.) 405 (1841) (an individual employee of the federal government is not empowered by his position to dispose of U.S. property without further congressional authorization); United States v. Gratiot, 39 U.S. (14 Pet.) 526 (1840) (congressional authorization to lease publicly owned lead mines to individuals is within

constitutional delegation permitting "disposal" of U.S. property); Sierra Club v. Hickel, 533 F.2d 24 (9th Cir. 1970), aff'd sub nom., Sierra Club v. Morton, 405 U.S. 727 (1972) (Congress had the power to delegate regulation of the public lands to Executive officers).

In *Sioux Tribe* v. *United States*, 316 U.S. 317 (1942), cited by appellants, the Court held that the President could not by Executive Order dispose of public lands without congressional authorization. However, the unilateral nature of presidential action by Executive Order renders that case inapposite here. Treaties involve not only presidential action but senatorial participation as well.

[19] *Jones* v. *Meehan* discussed and rejected as irreconcilable with later Supreme Court opinions the contrary views expressed by Attorney General Taney and Justice Nelson, which are also relied on by the dissent in the case before us. 175 U.S. at 12–14.

[20] Although this unique relationship has often been cited as a basis for distinguishing "Indian cases," we question the applicability of the distinction to this case. This sui generis relationship is traditionally found in the context of individual rights, and it does not seem directly relevant to the scope of the treaty power vis-a-vis other sources of federal power. The Supreme Court long ago noted that "the power to make treaties with the Indian tribes is as we have seen, coextensive with that to make treaties with foreign nations." United States v. 43 Gallons of Whiskey, 93 U.S. 188, 197 (1876).

[21] See, e.g., Florida Treaty with Spain of 1819, 8 Stat. 252 (256); Treaty Between the United States and Great Britain (Webster-Ashburton Treaty, 1842); 12 Bevans 82; Treaty between the United States and Japan (June 17, 1971), 23 U.S.T. 447, citations in note 22 infra.

[22] See, e.g., The Treaty with Mexico of 1933 (Rectification of the Rio Grande), 9 Bevans 976; The Treaty with Mexico of 1963 (Solution of the Chamizal Problem), 15 U.S.T. 21; The Treaty with Mexico of 1970 (changing position of Rio Grande to maintain boundary), 23 U.S.T. 371; Florida Treaty with Spain, supra note 21.

The dissent asserts that the treaties with Mexico cited herein were not self-executing. However, the only portions of these treaties dependent upon legislation were provisions in the latter two treaties requiring the United States to acquire certain property from private individuals prior to ceding it to Mexico. Because such acquisition necessitated appropriation of funds, implementing legislation was required, see pp. 9–10 supra. Similarly, the treaties with Panama also will require implementing legislation for the payment of annuities to Panama and certain other provisions in the treaties. See Hearings Before the Subcommittee on Separation of Powers, supra, at 20 (Department of State Statement of Legislation Required to Implement Proposed New Agreements with Panama).

[23] It is exceedingly difficult to understand why the constitutionality of utilization of the treaty process should depend on whether the nation to whom the land is conveyed has previously "claimed" such land.

[24] The dissent tends to obscure the distinction between the treaty power and presidential power asserted to be inherent in his authority to conduct our foreign relations. There is no doubt that the latter is more restricted than the former. As Professor Henkin notes—

"Whatever, then, [the President] might do by treaty or other international agreement . . . he cannot *unilaterally* regulate commerce with foreign nations, or make domestic laws punishing piracy or defining offenses against the nations or declare war. Equally, he cannot exercise, even for foreign affairs purposes, the general powers allocated to Congress: he cannot regulate patents or copyrights or the value of money, or establish post offices, or dispose of American territory or property.". . . L. HENKIN, *supra* at 94–96 (1972) (emphasis added). A similar view is expressed in the 1940 Opinion of the Attorney General indicating that the President could not, by *executive agreement*, transfer "mosquito" boats to Great Britain during the war. 39 Op. Atty. Gen. 484 (1940). Additionally, the State Department Guidelines, upon which the dissent draws, states that—

"The President may conclude an international agreement on the basis of existing legislation or subject to legislation to be enacted by the Congress.". . . Department of State, 11 Foreign Affairs Manual § 721.2(a)2. Thus these too recognize that the President, when acting alone, has only limited power. However, we are not now faced with determining the permissibility of territorial cessation by executive agreement. Before us is the much broader power established by the treaty clause of Art. II, § 2, cl. 2. Accordingly, these authorities are not applicable here.

No. 78-1166—EDWARDS v. CARTER

MacKinnon, *Circuit Judge*, dissenting: The United States Constitution in Article IV, § 3, cl. 2 [1] provides that "The *Congress* shall have power *to dispose* of . . . property belonging to the United States . . ." (emphasis added). Because of this specific constitutional provision, it is my opinion that the treaty clause [2] does not authorize the President to dispose of the large property interests of the United States in the Panama Canal Agreement without the approval of *Congress* to the transfer of the *property* involved. Yet the pending treaty with the Republic of Panama would violate the Constitution and disenfranchise the 435 members of the House of Representatives from voting as members of "the Congress" upon the proposal to "dispose of" eight billion dollars [3] worth of Canal "property belonging to the United States." [4] Since we are supposedly a participatory democracy, where the right and duty of the entire Congress to participate in that decision is clearly stated in the Constitution, and has been recognized by prior Presidents, it is almost impossible to understand the motivation for excluding the House of Representatives from exercising its constitutional authority.

In my opinion, Senator Connally of Texas, when he was Chairman of the Senate Committee on Foreign Relations, correctly interpreted the Constitution when he stated in the Senate debate on the procedure to be followed in authorizing a transfer of United States property to Panama:

The House of Representatives has a *right* to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise. 88 Cong. Rec. 9267 (December 3, 1942) (emphasis added).

Recognizing that the House of Representatives has a vote on the disposition of the Panama Canal does not operate as a restriction on the "treaty" power. The *Per Curiam* opinion is in error in treating this as a matter of "power" when it is merely a question of ratification procedure. Treaties may still be entered into by the President upon all subjects that are amendable to international agreement, and to become effective the "treaty provisions" must be ratified by two-thirds of the Senate; but if any treaty attempts to "dispose of . . . territory or property belonging to the United States . . ." and it is ratified by the Senate, Art. IV of the Constitution still requires the concurrence of the House of Representatives to "carry out the obligations *by the enactment of legislation.*" *Id.*, Senator Connally, 88 Cong. Rec. 9270 (December 3, 1942) (emphasis added). In the transfer to Panama that was the subject of Senator Connally's remarks, the Senate by its vote acquiesced in that procedure and the House joined the Senate in voting to authorize the transfer of the property to Panama before the agreement was executed.

The net result is that unless it is previously approved by the "Congress," *i.e.*, the Senate *and the House of Representatives*,[5] the Constitution prohibits the effectuation of a self-executing agreement transferring the property in the Canal Zone belonging to the United States. The *Per Curiam* opinion reaches a different conclusion, but to my mind does not satisfactorily explain why this enormous disposition of property to the Republic of Panama should not recognize the proper role of Congress in such transfer as was followed in all prior transfers where the value of the property was infinitesimal compared to what is involved here. From its conclusion I thus respectfully dissent.

I. IS A POLITICAL QUESTION INVOLVED?

At the outset, appellee defends on the theory that this case involves a political question which this court is without authority to decide. In other words, he contends that the treaty clause of the Constitution gives him the unchallengeable option to "dispose of . . . property belonging to the United States" without the approval of "the Congress" as set forth in Art. IV, § 3, cl. 2.[6] What this asserted defense amounts to is the claim that since he has already decided to proceed, and has taken certain steps that may violate the Constitution, the courts have no power to declare his conduct to be unlawful.

A question is not deemed political, however, when its resolution is committed to the courts by the Constitution. *Elrod* v. *Burns*, 427 US. 247, 351 (1976) (Brennan, J.); *Baker* v. *Carr*, 369 U.S. 186, 217 (1972), The issue here is plainly one that calls for a determination of which procedure is constitutionally required to approve an international agreement that will "dispose . . . of property belonging to the United States" of the value of eight billion dollars (*Sen. Exec. Rpt., Exec. N*, 95th Cong., 1st Sess., at 99 (Feb. 3, 1978) (hereafter "Committee Report")).

The construction of treaties is the peculiar province of the judiciary. *Jones* v. *Meehan*, 175 U.S. 1, 32 (1899). This case presents a question for which there is no "textually demonstrable constitutional commitment of the issue to a coordinate political department." Instead, the question is purely judicial; it is committed by Art. III, § 2 to the courts established pursuant to Art. III, § 1 in which the "judicial power [is] vested." It is the type of controversy that the United States courts decide every day, and there is no lack of judicial and manageable standards for resolving it. Nor is the issue impossible for the courts to decide without a prior policy determination clearly involving non-judicial discretion. Since the issue is solely one of constitutional interpretation and both parties to the controversy are firmly committed to adhering to the dictates of the Constitution, and it is a relatively simple matter to do so, a proper declaration of the correct constitutional procedure would not embarrass or indicate any lack of respect due the two coordinate branches that are represented by the parties hereto. It should also be added that the issue is so clearly answered by the Constitution that the case does not involve any unusual need to adhere to any prior political decision. Therefore our authority to decide the issue is clear. *Baker* v. *Carr*, supra, 369 U.S. at 217.

II. THE EXCLUSIVE POWER TO DISPOSE OF PROPERTY BELONGING TO THE UNITED STATES

No contention is advanced by this opinion that "Article II treaty power stops where the power of Congress begins," (Appellee Br., p.

Footnotes at end of article.

12) but it is contended that in any international agreement the ratification or authorization procedure must conform to *specific* constitutional provisions. Therefore, the specific provisions of the Constitution outside of Art. I, § 8, which designate "Congress" as the body to levy taxes (Art. I, § 7), appropriate money (Art. I, § 9), and dispose of Government *property* (Art. IV, § 3, cl. 2) require that international agreements that transgress into these areas can only become effective by enactments of Congress. The President cannot violate any of these provisions under the claimed need or desire for a self-executing treaty.

The issue we are confronted with at the outset concerns the proposal in the Panama Canal treaty (*see* Appendix) what would immediately replace the interest *in perpetuity* of the United States in the Panama Canal to act "as though it were sovereign" with a mere 21-year operational right, would immediately transfer the entire Panama Railroad and certain other valuable structures (Appendix, Art. XIII), and would eventually provide for the *automatic* transfer on December 31, 1999, of whatever interest the United States still retained in the entire Panama Canal. Appellee claims all this can be accomplished by the pending Carter-Torrijos treaty with nothing more than Senate approval; and that the participation of the House in those parts of the agreement that dispose of property belonging to the United States is not required and will not be sought. Such construction conflicts directly with the above-quoted provision of the Constitution and with past practices. A number of Supreme Court decisions also contain statements which recognize the exclusive power of *Congress* under Art. IV, § 3, cl. 2 to dispose of United States territory and property.

A. the Supreme Court decisions

The decision in *Alamaba* v. *Texas*, 347 U.S. 272 (194), involved a motion by the States of Alabama and Rhode Island for leave to file complaints challenging the constitutionality of the Submerged Lands Act of 1953. In a *Per Curiam* opinion, the motions were denied on the ground that Art. IV, § 3, cl. 2 prohibited such suits by the states:

"The power of *Congress* to dispose of any kind of property belonging to the United States 'is vested in Congress *without limitation.*'" [Quoting *United States v. Gratiot*, 39 U.S. (14 Pet.) 526, 537.] 347 U.S. at 273 (emphasis added).[7]

Much earlier in *Gibson v Chouteau*, 80 U.S. (13 Wall.) 92, 99, 20 L. Ed. 534 (1872), the Court had stated:

"With respect to the public domain, the Constitution vests in *Congress* the power of disposition and of making all needful rules and regulations. That power is subject to no limitations."[8] (Emphasis added.)

In *Wisconsin Central Railroad Company v. Price County*, 133 U.S. 496, 504 (1890), the Court remarked: "[Art. IV] implies an exclusion of all other authority over the property which interfere with this right of obstruct its exercise." This same conclusion was reached in *United States v. Celestine*, 215 U.S. 278, 284 (1909):

"By the second clause of § 3, art. 4 of the Constitution, *to Congress;, and to it alone*, is given 'power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'" [Emphasis added.]

The Supreme Court in *Sioux Tribe v. United States*, 316 U.S. 317 (1942) also acknowledged the power of the Executive to withdraw lands from the territory subject to their being sold, but recognized that the power to *dispose* of the land rested in the Congress:

"Section 3 of Article IV of the Constitution confers upon Congress *exclusively* 'the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'" 316 U.S. at 324 (emphasis added). However, Congress had previously revealed its awareness of this practice and acquiesced in it (316 U.S. at 324–25).

Geofroy v. Riggs, 133 U.S. 258 (1890) remarks:

"The treaty power, as expressed in the Constitution, is in terms unlimited *except by those restraints which are found in that instrument* against the action of the government or its departments, and those arising from the nature of the government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent. *Fort Leavenworth R. Co. v. Lowe*, 114 U.S. 525, 541. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country." 133 U.S. at 267 (emphasis added).

In my view, one of the "restraints" to which *Geofroy* refers is the Art. IV, § 3, cl. 2 power vested in Congress to dispose of property. By treaty, the President could not sell or give away Alaska to another country. Similarly, in my view, the President by treaty cannot dispose of our property in the Panama Canal without authorization from *Congress*.

Another decision which discusses the treaty power is *Asakura v. Seattle*, 265 U.S. 332 (1924):

"The treaty-making power of the United States is not limited by any express provision of the Constitution, and, though it does not extend *'so far as to authorize what the Constitution forbids,'* it does extend to all proper subjects of negotiation between our government and other nations." *Geofroy v. Riggs*, 133 U.S. 258, 266, 267; *In re Ross*, 140 U.S. 453, 463; *Missouri v. Holland*, 252 U.S. 416. 265 U.S. at 341 (emphasis added)

Since the treaty power does not extend so far as to authorize what the Constitution forbids, the power does not extend so far as to permit the disposal of our territorial and property interest in the Panama Canal without the approval of Congress as required by Art. IV, § 3, cl. 2.

If the scope of the treaty power were so broad as to permit such disposal, then the statements of the Supreme Court would be incongruent: if the treaty power were that broad, there would be a need to explain why Act. IV was not an express power limiting Art. II. Since there are no references to this possible conflict, it seems reasonable to state that the Court never conceived that the treaty power might be so broad as to permit disposition of property covered by Art. 1V. These cases are wholly consistent with the Supreme Court's rulings concerning the treaty power.

Thus, the proper construction of the constitutional provisions is straight-forward and sensible. The treaty power is not limited by any express power in the Constitution *because it does not extend so far as to permit the disposition of property without an Act of Congress*. The power of Congress to dispose of property has no limit—in the language of *Celestine*, its resides in Congress alone; and thus, the treaty power is not a restriction on Congress, because it cannot operate to dispose of United States property.[9]

B. Comparison of the powers of Congress to levy taxes, to make appropriations and to dispose of property

That Congress has exclusive power to dispose of United States property is also demonstrated by a comparative analysis of those delegated powers in which the right of Congress is admitted to be exclusive.

In overview, it is important to realize that the power to make treaties does not confer absolute authority upon the President and the Senate. It is a very broad power, but it is not unlimited. As a noted authority wrote before the form of the instant Panama Treaty became a national issue:

"Broad assertions and extravagant adjectives, some of them supported by the Supreme Court, might leave the impression that the President can exercise virtually all the national political power in foreign affairs, at least concurrently with Congress. In fact, large areas have never been claimed by him [except now in the Panama Canal Treaty]. In principle, it would be difficult for a President to dispute that by vesting in Congress 'all legislative Powers herein granted' *and* granting it a comprehensive array of specific powers, the Constitution barred the President from exercising these powers even as regards foreign affairs. Whatever, then, he might do by treaty or other international agreement . . . he cannot *unilaterally* regulate commerce with foreign nations, or make domestic laws punishing piracy or defining offenses against the law of nations, or declare war. *Equally, he cannot exercise, even for foreign affairs purposes, the general powers allocated to Congress: he cannot* regulate patents or copyrights or the value of money, or establish post offices, or *dispose of American territory or property;* he cannot enact necessary and proper laws to carry into execution the powers of Congress or even his own powers, for example, criminal laws to enforce an arms embargo. He cannot spend money on his own authority for foreign aid, or draw funds from the Treasury, without Congressional appropriation, to build an embassy. Presumably, the unexpressed lawmaking powers of Congress deriving from national sovereignty are also generally denied the President: he cannot enact general immigration laws by executive order." L. Henkin, *Foreign Affairs and the Constitution* 94–96 (1972) (emphasis and matter in brackets added). The foregoing quotation does not support the assertion that Henkin's treaties agrees with the conclusion of the *Per Curiam* opinion. *Cf. Per Curiam* op., at 7 n.4.[10]

The *Per Curiam* opinion grasps at the word "unilaterally" in one sentence and asserts therefrom that Henkin in the next sentence is also speaking solely of the President's power to act "unilaterally." Such construction cannot be supported. Henkin, in the first sentence, is referring to *unilateral* action by the President that transcended what "he might do by treaty or *other international agreement.*" However, in the very next sentence, which is the critical sentence, Henkin shifts to deal with the President's entire "foreign affairs purposes" and these unquestionably refer to his powers to enter into treaties, international agreements, as well as to act *unilaterally* and by "executive order" as referred to in the last sentence of the quoted paragraph. In this broad context Henkin states that the President "cannot . . . dispose of American territory or property . . ." It is absurd to suggest that this statement by Henkin was only intended to state that the President was prohibited from disposing of American territory or property by *executive agreement*, and not by treaty, since no person has ever suggested that American territory could be disposed of by a mere executive agreement with another nation, much less by *unilateral* action or executive order without congressional approval. Henkin's statement with respect to the disposition of American territory and property thus included the President's power to make treaties and international agreements as well as his power to act unilaterally and by executive order. These are all encompassed within "foreign affairs purposes." It must thus be admitted that the present treaty is an attempt by the President to "dispose of American territory [and] property . . . for *foreign affairs purposes*"—and

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that Henkin states this cannot be done by treaty. Thus, Henkin is *not* "in agreement with [the *Per Curiam*] opinion." *Per Curiam*, at 7 n.4. Not that Henkin is authoritative or binding—he is a highly respected professor.

The powers of government insofar as they may be exercised by treaty, are thus subject to the *specific* limitations imposed by the Constitution. First, Art. I, § 7, cl. 1, of the United States Constitution provides:

"All Bills for raising Revenue shall originate in the House of Representatives, but the Senate may propose or concur with Amendments as on other Bills."

Second, Art. I, § 9, cl. 7 provides:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

Henkin has stated—and the appellee recognizes—that in a treaty the Executive cannot obviate these provisions by levying taxes or appropriating money from the United States Treasury.

In 1844 the President laid before the Senate a treaty he had negotiated which for at least three years would place the power to exceed certain maximum import duties beyond the power of Congress. The Senate, however, took the view that the constitutional method of imposing regulatory duties was by Act of Congress rather than by treaty. 2 Hinds' Precedents 998–1001. In a subsequent instance when the right of the Senate to act on a treaty was questioned, the Senate observed that the right of Congress to act by legislation was admitted and therefore the Report of the Senate Committee on Foreign Relations recommended that the treaty be amended by inserting: "This treaty shall not take effect until the same shall have been approved by the Congress." 2 Hinds' Precedents 1001–1002. The property transfer portion of the present treaty could be handled accordingly as all governments are on notice of the constitutional requirements of Art. IV.

Appellee also recognizes, as Henkin states, *supra*, that a Declaration of War is subject to the same limitation: it is beyond the President's *unilateral* power to declare war by edict. Likewise all seem agreed that "the United States cannot declare war" by treaty. Henkin, *id.*, 159–60. That conclusion, however, devolves from the provision of Art. I, § 8, which states "Congress shall have Power . . . To declare War." This is nothing in the Constitution which specifically forbids a President from declaring war to comply with a prior treaty. The Committee Report relies upon "the unique legislative history of the declaration of war clause" which supposedly "clearly indicates the power was intended to reside jointly in the House and Senate." Committee Report, at 74. This admits that the House of Representatives has a "share of the warmaking power," *id.* To read the clause as a concurrent power would unconstitutionally confer upon the President the power to declare war. However, since the President is commander-in-chief and represents the nation in our foreign relations, there is even less reason to read in the necessity for House participation in a declaration of war from the language of section 8, solely from the asserted history of the clause, than there is *to give effect to the separate constitutional limitation specifically requiring an Act of Congress to dispose of United States property as set forth in Art. IV, § 3, cl. 2.* This, unlike the war power, is one of the "general powers allocated to Congress" that Henkin recognizes the President cannot exercise in a treaty. Henkin, *supra*.

This then brings us to the placement of the power to dispose of Government property. This power is not specifically included in the general enumeration of powers set forth in Art. I, § 8, but it is undoubtedly one of the "general powers" "necessary and proper" for carrying into execution the previously enumerated powers and practically all other powers. In a separate provision outside Art. I, § 8 (like the taxing and appropriation provisions), Art. IV, § 3, cl. 2 imposes the requirement that "The *Congress* shall have Power to dispose of . . . Territory or Property belonging to the United States." (Emphasis added.)

In imposing a specific procedure *outside Art. I, § 8* for "Congress" to dispose of Government property, the Framers followed the same pattern as they did with respect to the other *general provisions* of the Constitution—levying taxes and making appropriations. Thus, Art. IV in requiring action by *both* Houses of Congress is cast in exactly the same mold as the tax and appropriation powers. Therefore, under the format of the Constitution, disposing of the United States' *property interests in the Panama Canal by a donation is entitled to action by the Congress to the same extent as would be an appropriation for the same amount which admittedly could only be accomplished by enactment of the "Congress."* It must thus be recognized that what is clearly required in the Carter-Torrijos Panama Canal Treaty is exactly what was done in the 1955 treaty involving the Panama Canal Zone: an Act of Congress was required to approve those provisions of the treaty which called for the disposition of United States property.[11]

To say that the Constitution is loose in this particular, and that it permits the President to have a free choice between bypassing the House, as is proposed here, and submitting the matter to the House and the Senate as was done in 1955, is to permit an important constitutional provision to be bypassed in the name of expediency—the exact motivation for which is not readily apparent. If there is any policy inherent in this decision, it should be to determine that at least a majority of the nation's representatives who have been elected on a one man-one vote apportionment support the property disposition portions of the treaty. Even a casual survey of the treaty (*see* Appendix) indicates that a great deal of implementing legislation is required and contemplated, and it has been recognized since 1796, *see* p. 20, *infra*, that the President and the Senate cannot foreclose the House of Representatives from exercising its independent constitutional authority in all respects.

There are two other obvious matters which appear to require implementing legislation that a treaty cannot assure:

(1) Art. III, § 5 requires the Panama Canal Commission (constituted by and in conformity with the laws of the United States, *see* Art. III, § 3) to pay the Republic of Panama for municipal services "ten million United States dollars . . . per annum." The treaty does not provide that this sum will be paid annually from Canal tolls, which in any event are covered into the United States Treasury, and an appropriation may be required. At page 9 the *Per Curiam* opinion states:

"Thus, agreements with other nations requiring the expenditure of funds by the United States cannot be made by self-executing treaty. . . ."

I agree. From the foregoing it also appears that this "self-executing treaty [does] require the expenditure of funds by the United States . . ." Hence, as the *Per Curiam* opinion states, the treaty "cannot be made . . ." and be valid in its present form.

The treaty is self-executing in that it purports to create an annual liability of the United States for the sum of $10 million. It appears, from pp. 24–25 n. 22 of the *Per Curiam* opinion, that the majority agree with this interpretation.

(2) Art. X, § 9 of the treaty also authorizes the affiliation of employees of the Panama Canal Commission with local and international unions, that they may negotiate collective bargaining contracts *with the Panama Canal Commission, and that labor relations with employees "shall" be conducted in accordance with forms of collective bargaining established by the United States after consultation with employee unions.* This apparently makes a collective bargaining contract mandatory and in operation might require all Panama Canal workers to belong to a particular labor organization. It seems to be pure legislation with respect to the employee relations of the United States' employees and is very far-reaching. The briefs do not discuss the issue and no authority has been cited in support of this obvious legislative action.

It would thus appear to be extremely doubtful that the President is authorized to commit the United States to all of this procedure without approval of Congress.

C. The restatement of foreign relations law and the constitutional requirements for the disposition of United States property

The Restatement, Second, Foreign Relations Law of the United States, is hardly authority for the proposition that the power to dispose of property *concurrently* resides in Art. II and in Art. IV of the Constitution. The majority cities, as the section most strongly supporting the concurrent power notion, a sentence in comment (f) to section 141:

"The mere fact, however, that a Congressional power exists does not means that the power is exclusive so as to preclude the making of a self-executing treaty within the area of that power." *Per Curiam* at 6.

In applying this broad single sentence to the specific constitutional power here vested in Congress, the majority ignores the general thrust of the Restatement.

The section of the Restatement which explains the relative boundaries of the treaty power and the powers delegated to Congress is section 118(1). That section states that the power of Congress to enact legislation does not limit the treaty power; but in so providing, that section does not stand for the proposition that property belonging to the United States may be disposed of by treaty without approval by the Congress. Section 118(1) states:

"An international agreement made by the United States as a treaty may deal with any matter as to which the United States has the *constitutional power* to make an international agreement under the rules stated in § 117." (Emphasis added).

Comment (b) to that section states:

"b. *Treaty power and power of Congress compared.* The treaty power of the United States is not limited by the extent of the powers delegated to the Congress by the Constitution. This follows from the fact that the treaty power is itself an independent power granted to the President and the Senate under the Constitution."

Nothing in section 118, however, supports a power to dispose of government "property" by treaty without the consent of the Congress. The Constitution vests that power in Congress by a separate provision. *In so doing the grant to Congress of the power does not operate to impose a limitation on the power of the President to enter into international agreements but instead merely provides the necessary implementing procedure that must be complied with under the Constitution before certain international agreements become fully effective to accomplish their stated purpose.*

This opinion does not contend for its thesis, as the *Per Curiam* opinion attributes (rightly or wrongly) to Professor Raoul Berger, "that the President cannot exercise under the treaty power any power granted to Congress . . ." *Per Curiam*, p. 6 n. 4. Admittedly such construction would "virtually wipe out the treaty power," as Henkin states. Furthermore, however, this opinion does not

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contend, as the *Per Curiam* opinion might conclude, that the President under his treaty power can exercise practically all the powers granted to Congress. That would, to paraphrase Henkin, "virtually wipe out the legislative power" in many recognized fields.

To be more specific, and to deal with the facts of this case, rather than attempting to write broad dicta, this opinion does contend that the treaty power cannot wipe out powers granted to Congress with the specificity indicated in Art. IV, § 3, cl. 2. Beyond that this opinion draws no line, but to my mind it seems clear, for the following and other reasons, that the placement of this separate paragraph in an article and section removed from Art. I, § 8, carries with it somewhat the same purpose to indicate exclusive congressional power that one derives from the location outside Art. I, § 8 of those provisions which impart exclusivity to Congress in the exercise of the taxing and appropriation powers.

The foregoing interpretation is consistent with the language of section 117 of the Restatement, which is referred to in section 118. Section 117 provides:

"(1) the United States has the power under the Constitution to make an international agreement if,***"

(b) the agreement does not contravene any of the limitations of the Constitution applicable to all powers of the United States.

Comment (d) states:

"No power granted to the United States by the Constitution is unlimited. The power of the United States to make international agreements is not an exception to this rule. The extent of each power grounded in the Constitution must be determined not only by the constitutional language granting it but also by the restrictions placed upon it *by other constitutional limitations.*"

The comment seems to be addressed in part to such constitutional restrictions as were added by the Bill of Rights. For example, the President and the Senate could not cause a treaty to go into effect which abridges the freedom of speech of the American citizenry. The power of Congress to dispose of "property" fits precisely within this same classification but may have a stronger base in the intendment of the Framers since it was part of the original Constitution. Other constitutional limitations—here Art. IV, § 3, cl. 2—thus place restrictions upon the manner of implementing the treaty power: property cannot be disposed of without the approval of Congress. Section 117 is consistent with this.

Section 141(3) which is relied upon by the majority, does not disparage this analysis in any respect. That section provides:

A treaty cannot be self-executing under the rule stated in Subsection (1) and have the effect stated there *to the extent that it involves governmental action that under the Constitution can be taken only by the Congress.*" (Emphasis added.)

By way of illustration, comment (f) states:

"f. Constitutional limitation on self-executing treaties. Even though a treaty is cast in the form of a self-executing treaty, it does not become effective as domestic law in the United States upon becoming binding between the United States and the other party or parties, if it deals with a subject matter that by the Constitution is reserved *exclusively* to Congress. For example, only the Congress can appropriate money from the treasury of the United States." (Emphasis in original)

Illustration: 8. The United States enters into a treaty with state A under which A agrees to cede a portion of its territory to the United States in return for payment of $7,200,000. Advice and consent to the ratification of the treaty is given by the Senate and it is ratified by the President. The ratification does not have the effect of appropriating the $7,200,000. *Further action to this effect must be taken by both Houses of Congress.* (Emphasis added).

The mere fact, however, that a Congressional power exists does not mean that the power is exclusive so as to preclude the making of a self-executing treaty within the area of that power. Thus the fact that Congress has power to regulate commerce with foreign nations does not mean that the making of a self-executing treaty dealing with foreign commerce is precluded; in fact, many provisions in treaties dealing with foreign trade and commerce are self-executing.

The comment explicitly states that a treaty cannot be self-executing if it deals with a subject that is reserved exclusively to Congress. Art. IV, § 3 provides that Congress "shall," thus *exclusively*, dispose of property of the United States, just the same as "only the Congress can appropriate money from the treasury of the United States." The two powers, *i.e.*, dispose of property and appropriate money, are practically identical, and there is every reason to suspect that the Framers intended that both powers should be exclusively exercised by Congress. A disposition of Government property is to all intents and purposes an appropriation thereof. The Rules of the House of Representatives originally adopted in 1794 and amended in 1874 and 1893 have equated the appropriation of property with other appropriations:

"All . . . bills making *appropriations of money, or property* or requiring such appropriation to be made . . . shall first be considered in a Committee of the Whole. . . ." Rules of the House of Representatives, 95th Cong. (1977), Rule XXIII, ¶ 3, § 865 (emphasis added).

In addition, *id.*, Rule XIII, ¶ 1, § 742, speaks of

"First. A calendar of the Committee of the Whole House on the state of the Union, to which shall be referred . . . bills of a public character, directly or indirectly *appropriating money or property.*" (Emphasis added.) *See* 4 HINDS' PRECEDENTS § 840, at 1050 (1907).

It is unreasonable to suggest that the Constitution is more concerned with the transfer of eight billion dollars of United States *funds* from the Treasury than with the transfer of eight billion dollars of United States *property*. And the potential earning power of the Canal makes it much more valuable even than eight billion in dollars.[12]

It was observed in the discussion of the Supreme Court precedents that it is undisputed that the treaty power is not *limited* by the extent of the powers delegated to the Congress. Yet this does not mean that the general treaty power, so far as it exists, can overrun *specific* constitutional provisions. To state the proposition otherwise, the treaty power is not *so broad in the first instance* that it permits the disposition of property of the United States to be made other than in the manner specifically provided for by Art. IV, § 3, cl. 2. The treaty power clearly allows the President with the approval of the Senate to establish rights and obligations between this Nation and other countries. However, the actual power to dispose of property *exclusively* rests in the Congress—which includes the House of Representatives, *i.e.*, a treaty cannot without the approval of both houses transfer *property* belonging to the United States. Justice Jackson, when as Attorney General in 1940 he advised President Roosevelt on the fifty destroyers transaction with Great Britain, held that the exchange for British bases was permissible because Congress has *previously* given the President such statutory authority to transfer unneeded naval vessels. He further advised, however, that since Congress had not by law given greater authority, the President was precluded from transferring *new* mosquito boats that were under construction. 39 OP. ATTY GEN. 484 (1940), 86 CONG. REC. 11355. This recognized that, even in those critical times, only Congress could authorize the disposition of United States property.

It is unquestioned that the *negotiation* of treaties rests solely in the President. As Justice Sutherland declared for the Court in 1936:

"He alone negotiates. Into the field of negotiation, the Senate cannot intrude; and the Congress itself is powerless to invade it. . . ." *United States v. Curtiss-Wright Corp.*, 299 U.S. 304, 319 (1936).

From the earliest times of our country, however, as reflected in a resolution adopted by the House of Representatives in 1796, it has been established:

"That when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress, and it is the constitutional right and duty of the *House of Representatives* in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good." 5 Annals of Congress 782 (1796) (emphasis added).

The House of Representatives in 1871 adopted a resolution to similar effect. Cong. Globe, 42d Cong., 1st Sess. 835 (1871). Senate Document 92–83. 92d Cong., 2d Sess., 488, notes that the early precedents which prohibited a treaty from circumventing the constitutional appropriation power of Congress (Art. I, § 9), have *"apparently been uniformly adhered to" since 1796.*[13]

The last paragraph of comment (f), from which the majority quotes, only illustrates the necessity for analyzing each case separately. This is precisely what the majority has not done. The *mere fact* that a congressional power exists is not, *by itself*, enough to render a treaty touching that power ineffective without legislative action. However, there are some congressional powers—appropriation, revenue, and *disposal of property*—which are so basic to the legislative function and are so intrinsically legislative that the treaty power cannot operate without the concurrent exercise of the congressional power. The power to dispose of property is a power with specific constitutional limitations, substantially identical to the appropriation power, and by the Constitution, like the appropriation power and the power to levy taxes, it rests exclusively with the Congress. The transfer of property to the Republic of Panama requires an Act of "Congress" pursuant to Art. IV, § 3, cl. 2. Section 141(3) is consistent with this approach.

In short, it does not appear that anything in the Restatement supports the proposition that the Panama Canal, the Panama Railroad, and the other United States property which the Carter-Torrijos Treaty proposes to convey to Panama, can be transferred except by the "Congress." The treaty power is thus not unlimited and any treaty which disposes of substantial government property must, in that respect, be approved by both houses of Congress before coming into full force.

D. *Exclusive language and the placement of article IV*

Appellees advance two other arguments for the proposition that the power to dispose of United States property rests concurrently in the Executive and the Congress. First, it is suggested that since the property disposal clause does not use the same "exclusive language" as the appropriations and revenue clauses, the power to dispose of property must be concurrent. *See* Appellee Br. at 9. Second, it is argued that the property disposal clause is found in

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Art. IV which deals with state-federal and state-state relationships. This, it is argued, strongly suggests that the provision was intended to distribute power between the state and federal governments rather than among the three branches of the federal government. *Id.* This argument, however, is an incomplete answer. This is so because once a power is distributed between the state and federal government it must still be distributed between the three departments that constitute the three federal departments.

The first argument, that because the property disposal clause does not use, what is termed, "exclusive" language, the power rests concurrently in the Executive and the Congress, misapprehends the nature of Art. IV.

Of course the terminology by which a power is delegated to Congress is significant, and may be completely controlling in determining the scope of the President's treaty power; but each situation must be considered separately on its peculiar facts.

If any reasonably general statement were to be formulated for drawing the line at a point where the President's treaty power terminates, it would be at that point where the Constitution indicates that a legislative power was to be exercised. That applies to the taxing and appropriation power. And it is submitted that the Constitution is addressing itself to legislative enactment in Art. IV when it confers the power on *Congress* "to dispose and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . ." Certainly to "make all needful Rules and Regulations" refers to legislation. This clause is the source of the power that Congress exercised for more than a century in legislating for our territories, before they became states.[14] Providing for the disposition of property of the United States must also be recognized as a close counterpart to enactments providing for the appropriation of money to the United States. The paragraph is thus referring throughout to action by Congress.

Thus, the fact that the property disposal clause does not refer specifically to the "House," or to a "law" as in the taxing and appropriation clauses, is not controlling, because it otherwise indicates that the *Congress shall* have power to *legislate* for the territories and property belonging to the United States. It further lays down a very broad restriction on all acts of the legislature, executive and judiciary, *i.e.*, that nothing said in the Constitution should be construed to prejudice any claims of the United States or of any State.[15]

It is a gross understatement to construe the constitutional powers conferred by Art. I, § 8 and Art. IV, § 3, cl. 2 merely as though "these provisions state *simply* that Congress shall have power to take action on the matters enumerated." *Per Curiam*, p. 10 (emphasis added). The first error in this statement is to include the separate and *special* provision contained in Art. IV, § 3, cl. 2 with the *general* enumeration of powers set forth in Art. I, § 8. The difference in composition and location of these two sections indicated a difference in purpose and intent. The Constitution in Art. IV does "[state] the particular matter of concern, *i.e.*: the "power to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States. . . ." It has long been recognized that *expressly* conferring this power on Congress implies an exclusion of all other authority over the property which could interfere with this right or obstruct its exercise." *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890); *Van Brocklin* v. *State of Tennessee*, 117 U.S. 151, 167–168 (1886). The specific grant of power to Congress implicitly operates to deny that the power vests elsewhere, *United States* v. *MacCollom*, 426 U.S. 317, 321 (1976); *Passenger Corp* v. *Passengers Assn.*, 414 U.S. 453, 458 (1974); *T.I.M.E.* v. *United States*, 359 U.S. 464, 471 (1959); *Botany Worsted Mills* v. *United States*, 278 U.S. 282, 289, (1929).

* * * * *

The location of Art. IV, § 3, as indicated by prior discussion, was principally a function of the Framers' concern with the claims of particular states to territory granted in their original charters. This was inextricably related to state-state and federal-state relations but it also directly involved the separation of powers between the Congress and the President; and insofar as United States versus States' "claims" were concerned, the Judiciary were also very much involved. This great concern with disposition of territory and the claims thereto caused Section 3 to be placed in Article IV, but the language of the clause—which also addresses *property*, which did not figure as importantly in the Framers' expressed concern relative to the grants under Royal charters, should not be narrowed as a result of its mere placement. The language of the clause is unequivocal: "The Congress *shall* have Power to dispose of . . . Property belonging to the United States."

This indicates that *exclusivity* of the powers in Art. IV, § 3, cl. 2, is vested in the *Congress* because if the President and the Senate, in the absence of any specific grant to that effect, were construed to possess the power, the Congress would thereby be excluded in many instances from exercising the power and the mandatory (*shall*) grant of the power to the Congress would be negated. It is recognized that some of the powers vested in Congress by Art. I, § B have been the subjects of treaties and that the mandatory character of that section may thereby have been obviated to some extent. That section, however, contains a great many designated powers covering a wide spectrum of legislative activity and it is recognizable that treaties might properly involve the same subjects *in a non-legislative manner*.

Art. IV, § 3, cl. 2, however, is very specific and limited. It refers only to territory and property (the claims also refer to territory and property). Thus, the specific nature and limited scope of the paragraph are reasons why the ratification procedure thus required should not be taken from Congress and obviated by self-executing treaties.

Such construction is also supported by the historical fact that the recognized intent of the Convention in this paragraph was to restrict the power to dispose of territory or property and this was the only place such intent is addressed. Had the convention intended to authorize the disposition of property as an incident of the treaty power, it would have been very easy to do so by merely before the semi-colon in Art. IV, § 3, cl. 2: "(which may also be disposed of by treaty)." The fact that the disposition of *territory* clause was followed by a separate restriction of general import to the entire Constitution which critically implicated state-state and Federal-state relations—while also implicating the distribution of powers among the three branches—should not cause the separate grant of broad power to dispose of territory and property to be construed narrowly.

The contention that the *placement* of the power with respect to property and territory in Art. IV is an indication of a limiting effect overlooks some other significant features of the content of the paragraph and its location. Art. IV is the first Article after the three first Articles which provided for the distribution of the powers of government between the Congress, the President, and the Judiciary. Art. IV is also the *last Article* in the Constitution that can be said to deal with the allocation of governmental powers: the remaining Articles provide for the manner of amendment (Art. V); recognize prior debts, provide for the supremacy of federal law and the oath of office (Art. VI); and provide for the manner of ratifying the Constitution (Art. VII). The Articles after IV are thus largely procedural and declaratory, and the Articles before IV are each *confined* to a separate department of government.

Thus, Art. IV was the appropriate place, *after* those sections in Art. IV which place certain limitations on the states, and before the *broad* guarantee by the whole *"United States"* of a Republican form of Government, for the Convention to make provision with respect to "Territory [and] other Property belonging to the United States" and further to add the very broad assurance applicable to all departments, the United States, and the States that *"nothing in this Constitution"* shall prejudice any claims of the United States or the states. *This is so because the Convention intended to restrict all three departments in some respect* and it would be contrary to the arrangement of the Articles to place such restriction in any of the first three Articles that were each devoted to a single department. Article IV, § 3 was the obvious place to insert its present contents and by such placement its obvious meaning was not restricted.

Art. IV covers four areas: (1) the disposition and regulation of United States territory; (2) the disposition and regulation of United States property; (3) claims of the United States; and (4) claims of any particular state. Actually these are all closely related. With respect to these areas of concern, the Convention provided that Congress should exercise the power to dispose and regulate territory and property, and then restricted the power so conferred by providing, in effect, that none of the powers conferred on the Congress, the President, or the Courts ("nothing in this Constitution") shall be construed to prejudice "any claims of the United States or any particular State."

The claims so referred to were claims to "territory" in the West under Royal Charters which during the Convention were among the greatest concerns of some of the states. It is thus apparent that the most propitious place to restrict the power of the Congress, the President, and the Courts from dealing with this matter, was after the first three Articles and following the provision concerning Congress' power to dispose and regulate territory and property. It would not have been appropriate to place the restrictive language of Art. IV, § 3, cl. 2, in any of the first three Articles, as that would have suggested that the limiting language of the clause had some special relation to one particular branch of the federal government rather than to all three branches.

Placing the provision *after* those Articles, and after the territory and property provision, gives the limitation greater force and clarity.[16] Therefore, the location of the territory and property clause in Art. IV does not in any way limit the effect of its plain language to confer those powers on Congress as it prescribes. Furthermore, coupling the regulatory and disposition powers over "Territory [and] other Property belonging to the United States," because the regulatory power is so completely legislative, is indicative of an intent to refer to the disposition power also in its legislative context.

III. ESTABLISHED STATE DEPARTMENT PROCEDURES FOR INTERNATIONAL AGREEMENTS

In bypassing the House of Representatives, the pending agreement does not conform to established procedures of the Department of State. These have been codified, set forth, and designated as the "Circular 175 Procedure." Department of State, 11 Foreign Affairs Manual § 700 *et seq.* (Oct. 25, 1974).

In its Circular 175 Procedure, the Department of State recognizes four types of In-

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ternational Agreements: Treaties which may be ratified by the Senate where to do so would not *"contravene the* United States Constitution . . ." (*Id.*, § 721.2(a), emphasis added). The Procedure also recognizes three types of agreements *other than* treaties:

(1) *Agreements Pursuant to Treaty.*—

The President may conclude an international agreement pursuant to a treaty brought into force with the advice and consent of the Senate, *whose provisions constitute authorization for the agreement by the Executive without subsequent action by the Congress;*

(2) *Agreements Pursuant to Legislation.*—

The President may conclude an international agreement on the basis of existing legislation or *subject to legislation be be enacted by the Congress;* and

(3) *Agreements Pursuant to the Constitutional Authority of the President*—

The President may conclude an international agreement on any subject within his constitutional authority so long as the agreement is not inconsistent with legislation enacted by the Congress *in the exercise of its constitutional authority.* Department of State, 11 Foreign Affairs Manual § 721.2(a) (Oct 25, 1974) (emphasis added).

The Circular 175 Procedure also provides in the "Considerations for Selecting Among Constitutionally Authorized Procedures" for international agreements that consideration shall be given to:

c. Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

d. Past U.S. practice as to similar agreements. (*Id.*, § 721.3).

Following these guidelines established by the Department of State, it is obvious that those portions of the treaty providing for the transfer of property to Panama are in effect outside the treaty power. This follows because the United States Constitution requires the additional approval of the House of Representatives, or the reference to the necessity for the enactment of subsequent legislation by Congress, because Art. IV, § 3, cl. 2 provides that "The *Congress* shall have Power to dispose of . . . Property belonging to the United States . . ." (emphasis added). No party to this case questions that the treaty in its present form seeks to dispose of property belonging to the United States without approval by Congress.[17] This is true both as to the right to act as sovereign in the territory and as to our actual ownership of soil and fixtures which constitute property. The instant Panama Canal Treaty, insofar as it purports to dispose of the Canal territory and property, thus includes provisions of the second type, section 721.2(a)2, *supra*, which the State Department procedure correctly interprets the Constitution to provide that:

"The President may conclude . . . subject to legislation to be enacted by the Congress. . . ."

Thus, the property disposition portion of the treaty under the Constitution constitutes a severable international agreement that cannot constitutionally come into force unless the entire "Congress" approves that transfer.

Obviously Congress may not be required to approve other parts of the treaty. It should also be recognized that attempting to bypass the House of Representatives with the scheme which is framed as a "self-executing treaty" ignores that part of the Department of State Procedure which states that "[p]ast U.S. practice as to similar agreements" shall be followed. *Id.*, § 721.3d. And, lest the *Per Curiam* opinion insist that its attempt to distinguish "executive agreements" was successful and authorizes the treaty procedure presently being followed, the "past practices" in Panama were in complete accordance with the views expressed in this opinion. *See* Part IV, *infra; but cf. Per Curiam* op., n.24.

IV. PAST U.S. PRACTICES INVOLVING SIMILAR AGREEMENTS WITH PANAMA

A. Prior Panamanian treaties

The procedure to be used in conveying United States property to Panama confronted President Eisenhower in 1955 in the Eisenhower-Remon Treaty with the Republic of Panama which, *inter alia*, disposed of some "property of the United States" in Colon and Panama City. That Eisenhower-Remon Treaty provided in Art. V:

The United States of America agrees that, *subject to the enactment of legislation by the Congress*, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements in territory under the jurisdiction of the Republic of Panama [etc.] . . . The lands and improvements referred to in the preceding sentence and the determinations by the United States of America respecting the same, *subject to the enactment of legislation by the Congress*, are designated and set forth in Item 2 of the Memorandum of Understandings Reached which bears the same date as this Treaty. The United States of America also agrees that, *subject to the enactment of legislation by the Congress*, there shall be conveyed to the Republic of Panama free of cost all its right, title and interest to the land and improvements in the area known as PAITILLA POINT and that effective with such conveyance the United States of America shall relinquish all the rights, power and authority granted to it in such area under the Convention signed November 18, 1903.

Treaty of Mutual Understanding and Cooperation Between the United States of America and the Republic of Panama, 6 U.S.T. 2274, 2278–79 (Jan. 25, 1955) (emphasis added).

Thereafter, *Congress* enacted Public Law 85–223, 71 Stat. 509 (1957), which authorized such disposition.[18] This is the most substantial example of United States past practices that exists. It also transferred land to Panama. The treaty itself called for *congressional* enactment. In my opinion, that same procedure is required here by the property disposition provision of the Constitution and by the Department of State's Circular 175 Procedure.

The Committee Report asserts that Articles VI and VII of the Eisenhower-Remon Treaty of 1955 is an example of a self-executing treaty which authorizes the transfer of territory or property belonging to the United States to other nations without a *"prior* Congressional act authorizing such transfer." Committee Report at 68, 69 (emphasis added). Close examination does not support that conclusion. Naturally, enactment of an act *prior* to the treaty is not necessary—but the Committee Report suggests that an act prior to the *transfer* is not necessary; and the intent of the Committee Report, the Attorney General's Opinion, and the wording of the present Treaty provide for the transfer of the property the instant the instruments of ratification are exchanged, thereby completely eliminating the House of Representatives from any constitutional role in the transfer of United States property. Art. V of the 1955 treaty belies the Senate's and appellee's position. And the two provisions in Articles VI and VII only related to minor boundary matters. Art. VI [19] concerned the modification of a boundary line between the City of Colon and the Canal Zone; this article replaced Article V of the Boundary Convention of September 2, 1914 [20] and modified Art. VIII of the Hull-Alfaro Treaty, which had been signed on March 2, 1936.[21] Art. VII concerned a boundary modification near Manzanillo Island.[22]

The asserted "self-executing" nature of Articles VI and VII of the 1955 treaty therefore do not provide precedential authority for disposing of the Panama Canal property without Congressional approval. First, rectification of boundaries is a distinct matter from the disposition of the staggering amount of property in question here.[23] Boundary rectification ordinarily involves a dispute about which country owns the property; the subsequent agreement is more like a disposition of *claims* than of property, for the question of whether there even exists "United States property" is the entire matter in dispute.[24]

Second, in comparing the amount of property allegedly disposed of by Articles VI and VII to the amount being disposed in the present treaties, it is clear that the 1955 disposition, in relative terms, was even less than *de minimus*. Third, and most significantly, *Congress did approve Articles VI and VII in its 1957 statute.*[25] Section 102(b) of the statute in its last line "authorized to be appropriated such amounts as may be required for the necessary replacement of property or facilities . . . conveyed or rendered excess as the result of the treaty or memorandum. . . ." Unlike Section 102(a) which only addressed the matters contained in Art. V of the treaty, section 102(b) addressed all *three* articles—V, VI and VII—and the authorization of appropriations for replacement of conveyed property constituted approval by Congress of the content of Articles VI and VII.

However, even if Articles VI and VIII did involve a disposition of property which Congress did not initially approve, it may be that those Articles were themselves unconstitutional. Even Congress' silent acquiescence in that small disposition—assuming that is what may have happened temporarily—cannot alter the proper constitutional procedures mandated under Art. IV of the United States Constitution for the transfer by the Panama Canal treaty of United States property of the staggering value here being disposed of.

It is also convincing that in 1932, in another transfer of property to Panama, the Government considered it to be necessary to obtain prior specific congressional authorization even for a minor disposition of property from the Canal Zone to the Republic of Paama. Public Law No. 117, 47 Stat. 145 (May 3, 1932), *authorized* the Secretary of State to effect with the Republic of Panama a modification of the boundary line.[26] This slight alienation was not a boundary correction but was in fact a cession of land made necessary by the requirements of international law with respect to embassies.[27]

During World War II, there were discussions between Panama and the United States concerning disposition of bases and the transfer of waterworks and railroad lots. On May 18, 1942, an agreement on the lease of defense sites was made between the two countries. [28] A more significant agreement was reached that same day,[29] which, based upon an exchange of notes, provided:

When the authority of the Congress of the United States shall have been obtained therefor, the Government of the United States will transfer to the Government of the Republic of Panama free of cost all of its rights, title and interest in the system of sewers and waterworks in the cities of Panama and Colon." 59 Stat. at 1289 (emphasis added).

The agreement also provided:

The President will seek the authority of Congress of the United States to transfer to the Republic of Panama free of cost all of its rights, title and interest to the lands belonging to or of which the Panama Railroad Company now has usufruct in the cities of Panama and Colon which are not currently or prospectively needed for the maintenance operation, sanitation and protection of the

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Panama Canal, or of its auxiliary works, or for the operation of the Panama Railroad." 59 Stat. at 1290 (emphasis added) .

These agreements thus *recognized the constitutional necessity for Congress to approve the disposition of United States property.* On May 3, 1943, Congress enacted the legislation necessary to effectuate the transfer. Public Law No. 48, 57 Stat. 74 (May 3, 1943).[30] These are thus *not* examples of self-executing transfers by treaty.

Appellee also cites the "Convention of May 24, 1950 [with the Republic of Panama] for Change in the Boundary and the Grant of Certain Corridors, 6 U.S.T. 462," Appellee's Supplemental Memorandum, March 17, 1978, at 3, as an example of a treaty which demonstrates "that under well established historical practice treaties with foreign countries have ceded rights to property of the United States," *id.*, at 4. Reference is also made to Art. VI in the 1955 treaty with respect to "a small portion of the Colon and of the Colon corridor." *Id.*, at 4.

The Convention of August 9, 1950 is entitled "Colon Corridor and Certain Other Corridors Through the Canal Zone." 6 U.S.T. 461. In Art. II thereof *the Republic of Panama transferred* certain tracts of land from the city of Colon to the Canal Zone as a boundary change and provided that said property would be incorporated "to form part of the Canal Zone in the same manner as though [said lands] had been included within the grants contained in the [boundary] convention of November 18, 1903 . . ." 6 U.S.T. 465.

Thereafter in Art. III the United States transferred to the Republic of Panama *"jurisdiction* over the corridor" (emphasis added). This included the Colon corridor and another corridor through a small portion of the Canal Zone. The purpose of these transfers was so that "the city of Colon may enjoy direct means of land communication under Panamanian jurisdiction with other territory under jurisdiction of the Republic of Panama . . ." 6 U.S.T. 465. This was something less than a transfer of "territory or property" because Art. V of the convention provided that the provisions previously referred to [conferring *jurisdiction* over corridors] "shall not affect the rights and obligations of either of the two high contracting parties under the treaties or other international agreements now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations . . ." 6 U.S.T. 469.

The reference to prior "treaties or other international agreements now in force between the two countries . . ." included reference to the treaty of November 18, 1903 which provides that the grants to the United States by the Republic of Panama should not "interfere with the rights of way over the public roads passing through the said Zone . . . unless said rights of way . . . shall conflict with rights . . . granted to the United States." Art. VI, 33 Stat. 2235. Thus, there being no conflict with United States' rights, the convention of 1950 insofar as it related to highway corridors was dealing with a subject in which the Republic of Panama had *reserved* certain rights from the earliest treaty. Therefore, the recognition of Panama's *"jurisdiction"* over a highway corridor, which the agreement provided the United States had a right to use, and which did not take any land out of the Canal Zone proper, is not an instance where property owned by the United States was disposed of. *From the inception of the 1903 treaty, the United States had never possessed the right to "interfere with the rights of way over public roads passing through* said Zone" (Art. VI). The necessity for appellee to attempt to rely upon such unsupporting authority is an indication of the great weakness of his position.

The present case boils down to this: President Eisenhower in 1955 recognized his constitutional obligation to obtain authority from Congress to transfer a *depot* of the Panama Railroad to the Republic of Panama; but the appellee presently contends he does not need congressional approval to transfer the *entire Panama Railroad* and very substantial amounts of other property to the same party, and to reduce the entire interest of the United States in the colossal Panama Canal to a 21-year partnership with Panama solely in its operation.

With respect to prior treaties and agreements between the United States and Panama. the "past U.S. practice," as demonstrated above, has recognized the necessity of approval by *Congress* and has sought such approval by legislation whenever *United States territory or property was conveyed to Panama.* Heretofore *every* transfer of United States' property to Panama has been authorized in advance or subsequently ratified by action of *Congress.*[31] The proposed agreement flies in the face of all these "past U.S. practices" and this violates established procedures of the State Department.

B. Senate debate in 1943 over transfer of United States property to Panama.

The Joint Resolution of 1943 which transferred the waterworks and some of the property of the Panama Railroad to Panama (57 Stat. 74) was the subject of debate in the Senate in which some Senators expressed the opinion that the disposition should have been made by Treaty, and not by resolution of both Houses (*see* 88 CONG. REC. 9320 *et seq.*). The scope of Art. IV was discussed at considerable length. Senator Hiram Johnson of California argued that the resolution was dealing with "property of the United States" and that the Senate should "perform its constitutional function" by disposing of it by treaty. However, his views did not prevail against those pointing to the specific character of the language in Art. IV, § 3, cl. 2.

On December 3, 1942, Senator Connally of Texas, Chairman of the Senate Foreign Relations Committee, discussed the pending Senate Joint Resolution 162, which was to similar effect as the House Joint Resolution which eventually authorized the transfer. He quickly addressed the sentiment that a treaty should be the implementation instead of a Joint Resolution by the Congress:

"Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. *So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies.* The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise." 88 CONG. REC. 9267 (Dec. 3, 1942) (emphasis added).

Senator Vandenberg of Michigan then intervened to inquire why the disposition of the waterworks and some property owned by the Panama Railroad could not be by executive agreement. They became somewhat sidetracked, whereupon Senator O'Mahoney of Wyoming queried why the disposition should not be by treaty? In the course of responding, Senator Connally stated:

"Mr. President, I referred earlier in my remarks to the constitutional requirement that Congress shall exercise consent in the case of the disposal of real estate. Article IV, section 3, of the Constitution, among other things, provides:

"The Congress shall have authority to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

"So that, *in any event, it would be necessary to have congressional action even though there were a treaty. In this case it would be necessary to have congressional action parting with title to these properties.*" 88 CONG. REC. 9269 (Dec. 3, 1942) (emphasis added).

In response to a query from Senator Taft of Ohio, Senator Connally made the point that a treaty could be substituted for the joint resolution *if* there was subsequent enacting legislation:

Mr. TAFT. I am somewhat hazy on the subject of why an executive agreement should be confirmed by legislation instead of being made the subject of a treaty. I myself have had considerable difficulty in drawing the line. It does not seem to me that the mere fact that some legislation is necessary to implement this particular agreement necessarily excuses it from being made the subject of a treaty.

Mr. CONNALLY. As a legal proposition I think the Senator from Ohio is correct. The mere fact that legislation is required does not necessarily mean that we could not first, by means of a treaty, assume the obligations, *and then carry out the obligations by the enactment of legislation.* I will say very frankly to the Senator from Ohio—I do not think he was present awhile ago when we discussed that question—that the Senator from Texas is not prepared with the accuracy of a civil engineer to draw the boundary line between what can be done by executive agreement and what can be done by a treaty. 88 CONG. REC. 9270 (Dec. 3, 1942). (Emphasis added).

The next day, Senator Johnson of California spoke against the resolution, as described above. Senator Tunnell responded:

"There are different methods, apparently, by which questions of international moment are met. This is not a new question. Sometimes those who have objected to the course of the Executive have been more fortunate than those who are now making this objection. In this instance the Constitution specifically provides for this method. In article IV, section 3, second paragraph, I find this language:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States.

"It seems to me that if any other method than that of transfer by Congress had been attempted, we should have been met by the objection that Congress was the only power by which this territory or this property could be disposed of. *There is no other method or authority to dispose of property of the Nation than that which is reposed in the Congress.*" 88 CONG. REC. 9322 (Dec. 4, 1942) (emphasis added). The Joint Resolution passed 40 to 29. 88 CONG. REC. 9329 (Dec. 4, 1942).

It cannot be said from this that the procedure there adopted by the President and *the Congress* to transfer property to Panama has the same effect as a binding judicial precedent. It must be recognized, however, that the Senate did understand the nature and importance of the issue and its consti-

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tutional—and political—ramifications; and in an instance where United States property of much less value than is here involved was being transferred, the Senate did decide that the proper procedure called for legislative action of the *Congress*. In our review of past practices, it is also important that this was another case involving the transfer of land to Panama.

V. THE HISTORY OF THE TREATY CLAUSE IN THE CONSTITUTIONAL CONVENTION AND ITS RELATION TO THE DISPOSITION OF PROPERTY BELONGING TO THE UNITED STATES

Appellee contends that the Constitutional Convention "adopted a proposal that required two-thirds of the Senate to concur in all treaties, *including peace treaties involving cessions of territory*. 2 Farrand, *supra*, at 544, 549 . . . [which] demonstrate[s] that the framers of the Constitution contemplated the transfer of United States territory and property by treaty." Appellee Br. at 11 (emphasis added).

No such proposal was finally adopted. On September 4, 1787 the working draft of the proposed Constitution provided:

"Sec. 4. The President by and with the advice and consent of the Senate, shall have power to make treaties . . . But no Treaty shall be made without the consent of two-thirds of the Members present." 2 FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, 495 (rev. ed. 1929) (hereafter "FARRAND").

On September 7, the words "(except Treaties of Peace)" were added after the word "Treaty."[32] 2 FARRAND, 533. Under this amendment, a *majority* vote of the Senate could have ratified a *peace treaty*. Thereupon a motion was made to add the following amendment:

"But no Treaty of Peace shall be entered into, whereby the United States shall be deprived of any of their present Territory or rights without the concurrence of two-thirds of the members of the Senate present." 2 FARRAND, 534. This amendment was *defeated* by adjournment, 2 FARRAND 534, 543, and was never offered again.

The very next day, as the first order of business, the convention *struck* the previously adopted amendment, *i.e.*, "(except Treaties of Peace)" from then section 4 by a vote of eight states to three. 2 FARRAND 544, 548–549. Thus, even that clause never became part of the treaty provision.

Thus, the convention eventually rejected the proposal that peace treaties should be ratified by a majority vote of the Senate, and by adjourning, it also rejected the proposal to add a specific provision that treaties of peace *transferring United States Territory or rights* would require a two-thirds vote if other peace treaties could be ratified by majority vote. Appellee's brief and argument overlook these facts.

The mere offering, consideration, and rejection of the amendment as to United States "territory and rights" does not support appellee's claim "that the framers of the Constitution contemplated *the transfer of United States territory and property by treaty.*"[33] Appellee Br. at 11 (emphasis added). Had the amendment with respect to the "territory and rights" become part of the treaty clause of the Constitution, appellee's interpretation would have been correct, but that amendment, contrary to appellee's representation, never even reached the voting stage. 2 FARRAND, 534, 543. Thus, the convention proceedings with respect to that amendment do not support appellee's present contention, and the temporary inclusion of peace treaties does not support an interpretation that the naked treaty power which was eventually voted included the right to cede territory. Even if a "Peace Treaty" could, they are a peculiar breed with their own characteristics, and insofar as they cede property they are usually recognizing that the property has already passed from their domain. The conclusive answer to that argument, however, is that we are not here concerned with a "Peace Treaty."

Doubtlessly, the two members who offered the amendment with respect to "territory and rights" were of the view that treaties could transfer territory and rights of the United States (to be) and of the particular states; but these amendments were defeated and there is no indication that the movers (Williamson and Spaight, 2 Farrand 543) took cognizance of the provision of present Art. IV, § 3, cl. 2, which at that time was in its present form, except for its reference to "Legislature" which was later changed to "Congress" (2 FARRAND 459, 466).

In this matter, however, we should be guided more by the *action* of the Convention as a whole and by the interpretation evident from *rejection* of the proposed amendment by a substantial majority of states. In this inquiry there is nothing in the convention proceedings to refute the conclusion that the majority rejected the amendment because it interpreted the then-existing broader language that became Art. IV, § 3, cl. 2 as providing better protection for their interests through *Congress* than would have been possible through the defeated addendum to the treaty clause. Any member who relied on what became the property disposition clause of Art. IV would have voted for adjournment on September 7 against the territorial amendment discussed above, and would have had no reluctance to vote for the Constitution in the form in which it was submitted with Art. IV, § 3, cl. 2 as at present.[34]

The majority also refers to the history of the state ratifying conventions, and concludes therefrom that the states—in addition to the Framers—were satisfied that a two-thirds requirement in the Senate, rather than full congressional approval, served as an adequate check on the alienation of United States territory.

Such a broad conclusion cannot be drawn from the history of the state conventions. Typical of the majority's position is reliance on a proposed amendment at the Virginia ratifying convention, which read in full as follows:

"[N]o commercial treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the members of both houses respectively." 3 Elliot's Debates in the Several State Conventions on the Adoption of the Federal Convention 660 (1907).

Irrespective of the statements of the participants of the Virginia convention, who may well have been laboring under the mistaken pretense that Art. IV was not operative in this area or who may not have even thought about that section at all, a wholly permissible conclusion to be drawn from the *rejection* of this amendment was that the provision in Art. IV for a vote of the *full Congress* for disposition of territory or property was an adequate safeguard. The statements of parties who suggested such amendments, in their honest but mistaken fear that the treaty power alone allowed the disposition of territory or property in circumstances such as are here present, and then had their amendment defeated, do not constitute an authoritative interpretation of the scope of Art. II.

VI. ELEVEN PRIOR TREATIES

Appellee's brief and the Committee Report[35] both refer to eleven treaties supplied by the Department of State and argue that such treaties were couched in self-executing terms and constitute examples of the transfer of United States territory or property to other nations, and in some instances to individuals, *without a prior Congressional act authorizing such transfer*. It is further asserted that these instances support the contention that Art. IV, § 3, cl. 2 of the Constitution permits the President through a treaty to dispose of property belonging to the United States without approval of "the Congress."[36] We examine each of these treaties for verification of the asserted interpretation; and we find little or no support therefor.

A. Indian treaties

1. The Treaty with the Cherokee Nation of December 29, 1835 (78 Stat. 478).—This treaty was *preceded* by the Act of May 28, 1830, by which Congress authorized the exchange of western lands for the Cherokee's eastern lands in connection with their removal to lands west of the Mississippi River. However, the 1835 treaty, in some respects, exceeded the statutory authorization as to the lands that were to be transferred, and citizens who took title to some lands subsequently transferred from the Indians were subjected to attacks upon their title. *Holden v. Joy*, 84 U.S. (17 Wall.) 211 (1872), involved such a controversy. The Court held, in effect, that those who received land from the Indians acquired good title because Congress, by appropriating some four-and-one-half million dollars to carry out the treaty, had in effect ratified the *ultra vires* acts of the treaty negotiators. In so ruling, the Court's opinion recognized the issue as to whether a treaty could convey lands belonging to the United States, but then stated:

"It is not necessary to decide the question in this case [whether the treaty conveyed title without Congressional approval] as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid." 84 U.S. (17 Wall.) at 247.[37]

Thus, far from holding that a treaty can transfer property belonging to the United States without Congress, the case recognizes the requirement of Congressional authorization and holds that when land is transferred in a treaty in excess of statutory authorization, the transfer may be legalized by a subsequent act of "Congress" which in some affirmative manner indicates approval of the otherwise *ultra vires* act.

2. The Treaty of October 2, 1863, with the Red Lake and Pembina Bands of Chippewa Indians (13 Stat. 667).—Appellee points to Art. IX of this treaty signed by President Lincoln as an alleged transfer of property not consented to by Congress. That article provided: "there shall be *set apart from the tract hereby ceded* [to the United States by the Bands of Chippewa Indians] a reservation of (640) six hundred and forty acres near the mouth of Thief River for the Chief 'Moose Dung' . . ." The validity of the reservation to Chief Moose Dung was involved in *Jones v. Meehan*, 175 U.S. 1 (1899),[38] which considered the validity of a subsequent lease made by one who inherited from the chief. Appellee cites the court's decision upholding the lease for the rule that property of the United States may be transferred to individuals by treaty between the United States and Indian tribes *without any act of Congress* or any patent from the President. When the facts of this Indian treaty are analyzed, it is clear, however, that the authority of the case is limited to reservations of land made in treaties *between* the United States and Indian tribes, which were treated as being akin to nations. *See* following discussion of the Indian treaties.

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3. *Summary.*—The early treaties with Indian tribes are *sui generis* as treaties. They are not treaties in the ordinary sense of the word as all have recognized since Congress in 1871 enacted a law prohibiting any "contract by treaty" with any Indian tribe or nations:

"That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: *Provided, further,* That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe." Act of March 3, 1871, 16 Stat. 566.

Had Indian treaties been true treaties in the constitutional sense *Congress* could not have prohibited the President from so contracting by treaty. While the Act took the form of providing that Indian tribes shall not be "acknowledged or recognized" as "independent," the statute clearly prohibited the President from negotiating treaties with any Indian tribe that was "independent." The Act was thus in form a clear restriction on the treaty power, but actually it recognized that the Indian treaties were something different than the treaties referred to in the Constitution.

They have special features that generally make them inapplicable as authority that a treaty can dispose of other types of United States property without an Act of Congress. This is true because generally the subject of the Indian treaties was land owned and occupied by the Indians, which the United States was buying or acquiring. The treaty "reserved" some of the land for the Indians. Thus, property of the United States was not *disposed* of by the treaty.

Attorney General Taney in an opinion on September 20, 1833 stated: "These reservations [of Indian land in treaties] are *excepted out of the grant made by treaty and did not pass by it.* Consequently the title remains *as it was before* the treaty, that is to say *the lands reserved are still held under the original title.*" 175 U.S. at 12. Mr. Justice Nelson in *Gains* v. *Michelson,* 50 U.S. (9 How.) 356 (1850), pointed out that in such transactions, "it was so much carved out of the territory coded, and remained to the Indian occupant, *as he had never parted with it.* He [the Indian] holds strictly speaking *not under the treaty* of cession but under his original title confirmed by the government in the act of agreeing to the reservation." 50 U.S. (9 How.) at 365.

In the *Per Curiam* opinion a statement in *Jones* v. *Meehan, supra,* 175 U.S. at 12–14, is cited as authority that the Taney opinion and the decision in *Gaines* v. *Michelson, supra,* were "irreconcilable with later Supreme Court opinions . . ." *Per Curiam,* n.19). This may be explained by virtue of a change in the statute after *Jones* v. *Meehan, supra,* which eliminated the prohibition against individuals purchasing or leasing from any individual Indian. Act of June 30, 1834, c. 161, § 12, 4 Stat. 730.

But whether the treaty confirmed the Indian right or granted a new right is not dispositive of the question as to whether there was a disposition of territory or property belonging to the United States. These treaties dwelt with territory and property and in doing so they dwelt with sovereignty over the territory and the right to individual patches of soil, as Chief Justice Marshall noted in *Johnson* v. *McIntosh,* 21 U.S. (8 Wheat.) 542 (1823). They also in some instances involved disputed claims to both territory and soil. In settling on the tribes the reserved territory the sovereign rights of the respective parties were involved, but in the "reservation" of specific acreage of *soil* to individual Indians, different claims were involved and this phase of the agreements was more concerned with what might be termed "property." It is clear that at one time such "reservations" were considered as a recognition of land already owned by the Indians. This would be particularly true where the Indian at the time actually occupied the soil.

In any event even *Jones* v. *Meehan, supra,* recognized that the land reserved to Chief Moose Dung on his death passed to his eldest son "by the laws, customs, and usages of the tribe . . ." What the *Per Curiam* opinion, and many other opinions in this field fail to recognize is that the individual Indians acquired title by virtue of the *treaty* and that it is not completely correct to say that the United States granted the title. The treaties were the act of two governments. The Indians as possessors had far the greater claim to the extent that they actually occupied the soil and the grantors in the treaty were not solely the United States but included *both* signatories.

And insofar as the right to the soil was concerned more came from the Indians than from the United States. It would hardly be correct to consider that soil actually occupied by an Indian for centuries was property belonging to the United States. The United States generally recognized the rights of such possessors, and though Indian *claims* to broad territory were only recognized as a right of occupancy, the reservation of individual tracts was on a different footing and generally by one device or another were found to be vested in fee simple in the actual Indian occupant. *Jones* v. *Meehan, supra,* 175 U.S. at 32, is a good example.

By way of conclusion on all these Indian treaties, in short, I deny that recognizing the ancestral right of Chief Moose Dung to pitch his teepee by the waters of Thief River is sufficient legal authority to give away the entire Panama Canal without benefit of Congress. Claiming support from such decision indicates the weakness of appellee's case because the character of the two treaties, the relationship of the signatories, the consideration involved, the nature of our interest or claim to the property involved and our relationships to them are all different in material respects.

Therefore, the treaties with the Cherokees, the Chippewa Indians, and the transfer to Chief Moose Dung do *not* constitute authority that the Panama Canal Zone property of the United States may be transferred to Panama without the approval of *the Congress.* The same general *modus operandi* was followed in other Indian treaties.

This also disposes of the decision in *Francis* v. *Francis,* 203 U.S. 233 (1906), cited in the *Per Curiam* opinion. That is another Indian treaty case which interpreted one of the usual "reservations" that the Indians customarily made when they transferred some of their lands to the United States by treaty. As in the other Indian treaty cases, the first Justice Harlan's opinion did not overturn the Chancellor's ruling that the named Indian "and his heirs" obtained a fee simple estate in Indian lands which were "reserved [and] did *not* pass to the United States by Treaty" (emphasis added) because under a rule of property in Michigan where the lands were located "[t]he term *reservation* was equivalent to an absolute grant."

The result in that respect was not disturbed. Thus, again the peculiarities of a reservation by Indians of their own lands in a joint treaty with the United States, belies the fact that the title passed by the treaty was to property (soil) that actually belonged to the United States. A more accurate description of the actual situation would be that the Indians never relinquished their claim and the treaty confirmed their title. These Indian treaties thus, to a certain extent, fall within treaties dealing with disputed claims. The citation of *Francis* by the *Per Curiam* opinion, p. 21, overlooks the fact that it was the treaty of *both* parties that vested complete title, not the sole act of the United States. The case does not hold that the United States could transfer the soil by deed.

It also goes without saying that even if the Indians and the United States could jointly convey property to an Indian by a reservation of soil that he claimed, that such precedents are not authority for the United States transferring property to Panama that is owned outright by the United States. The Panama Canal Treaty is an unquestioned disposition of property of the United States. The Indian treaties disposed of disputed territory and recognized claims of individual Indians to particular soil.

This case is of interest though for another reason: it holds that the President, *"without the authority of an act of Congress,"* was not authorized to agree in the Treaty to a proviso that none of the reserved Indian lands could be conveyed without his consent. To a certain extent this recognizes that in Indian treaties the title is not conveyed to reservees but more accurately is merely recognized. *See* 50 U.S. (9 How.) 365, *supra.*

B. Treaties with foreign nations

1. Treaty of February 22, 1819 between the United States and Spain (8 Stat. 252).—Spain ceded all of east and west Florida to the United States. The parties also agreed upon a boundary west of the Mississippi River beginning at the mouth of the Sabine River in the Gulf of Mexico, thence generally north and west to the Red River and the Arkansas River, and thence to the source of that river, and thence due west along the 42nd line of latitude to the South Sea (Pacific Ocean). On both sides of that boundary line, the respective parties ceded to each other their *claims* and pretentions to the territory in question. The treaty indicated that the parties did not know the precise source of the Arkansas River and, particularly in the mountain areas, neither nation was sufficiently familiar with much of the areas traversed by the newly drawn boundary lines to know precisely what was accomplished. This indicated the "claim" nature of the asserted rights.

Taken by its four corners, this treaty is hardly a disposition of United States property. It is a mutual relinquishment of boundary claims which is a usual subject of diplomacy, particularly in undeveloped areas. The settlement of many boundary disputes are more the settlement of claims rather than transfers of property.[39]

2. Treaty of August 9, 1842 between the United States and Great Britain (Webster-Ashburton Treaty) 8 Stat. 572.—This settled the boundary between the United States and Canada from the east through the Great Lakes, the present boundary waters and thence to the Rocky Mountains along the 49th parallel. Like the prior treaty, the parties here did not know where the boundary line they drew would begin to run westward from the Lake of the Woods. One result of this arrangement was the odd "Northwest angle" in Minnesota, which is completely separated by water from all United States territory. The treaty recognized prior grants of land by both countries in disputed areas. This agreement is within the traditional treaty-making function and does not qualify as a disposition of territory. It would be hard to point to the transfer of any *property* that belonged to the United States. This treaty is a perfect example of the settlement, in many respects, of highly questionable claims and not of the transfer of territory or property.

3. The Treaty of June 15, 1846 between the United States and Great Britain. The Oregon-Washington boundaries (9 Stat.

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869).—The treaty recited that there was "doubt and uncertainty . . . respecting the sovereignty and government of . . . the northwest coast of America . . . west of the Rocky Mountains." The treaty continued the boundary line westward from the Rocky Mountains along the 49th parallel, and recognized the navigational rights on the Columbia River of the Hudson Bay Company and of British subjects on an equal footing with American citizens. This is another example of the settlement of doubtful and uncertain claims of the respective parties and not a transfer of property.

4. Treaty of February 1, 1933 between the United States and Mexico (84 Cong. Rec. 9824).—This treaty rectified the boundary along the Rio Grande River in the vicinity of El Paso and the Juarez Valley. The treaty involved a typical, minor boundary matter. Nevertheless, this Treaty looked to congress for approval: Art. VIII provided that "[e]*ach Government shall respectively secure title. . . .*" Art. VII also provided that "Lands within the rectified channel . . . [that] pass from . . . one country to . . . the other . . . *shall be acquired in full ownership by the [respective] Government . . .*" The treaty was thus executory and, moreover, since it required the appropriation of money, looked to supporting enactments by the Congress of the United States and did not purport to be self-executing.

5. Treaty of August 29, 1963 between the United States and Mexico: Solution of El Chamizal, 15 U.S.T. 21.—This relocated the shifting channel of the Rio Grande River in the vicinity of El Paso and Juarez, and drew a boundary line at the center of a new channel for the river. By this arrangement, 823.50 acres of former United States land was ceded to Mexico by the treaty. However, far from this being an instance where the President attempted to transfer United States territory or property by a self-executing treaty without prior congressional act, *the treaty in Art. 6 specifically recognized the constitutional requirement and provided that the acquisition of the lands be transferred to Mexico and the rights of way for that portion of the new river channel in the territory of the United States shall not occur until "after . . . the necessary legislation has been enacted for carrying it out . . .*" This treaty thus supports appellant's contentions and not those of the appellee. That appropriations were also required may have been an additional reason for recognizing the constitutional role of Congress but that apparent necessity here has not caused the President to recognize the role of Congress. *Cf. Per Curiam* opinion, p. 24 n.22. In its discussion of this Mexican treaty the *Per Curiam* opinion recognizes the necessity in that instance for approval by *Congress* because the treaty required implementing legislation (*Per Curiam* op., n.22). The implementing legislation required by the Panama Canal Treaty will make that necessitated by the Mexican Treaty pale into insignificance.

6. Treaty of November 23, 1970 between the United States and Mexico (23 U.S.T. 371).—This is another instance where the treaty resolved boundary differences arising from the shifting of channels. This treaty likewise was contingent and not self-executing; Article ID provided, *i.e.*, that "the necessary legislation has been enacted for carrying it out." 23 U.S.T. 377. This is another treaty that supports appellants' contention and not those of the appellee.

7. Treaty of November 22, 1971 between the United States and Honduras: Swan Islands (23 U.S.T. 2631).—Both governments claimed sovereignty of the Swan Islands, but the United States had for many years maintained a navigation and communications facility there. By the treaty, the United States recognized the sovereignty of Honduras and transferred certain land, buildings, and equipment to Honduras. There was a second cooperative agreement whereby the United States was to operate the navigational facilities and Honduras was to assume responsibility for a dock and landing strip. The United States retained title to a great number of buildings and equipment except the land, and by the treaty Honduras made the areas—sites—available to the United States. This was a cooperative program for continuation of meteorological and communication facilities in Swan Islands. To the extent that any property was transferred, it was certainly minimal and hardly justified legislation. It cannot be considered as authority for transferring eight billion dollars of United States property.

8. Treaty of June 17, 1971 between the United States and Japan (23 U.S.T. 447).—This related to the reversion of the Ryukyu (includes Okinawa) and Daito Islands. Some of this property may have been transferred pursuant to prior congressional enactments, *i.e.*, 40 U.S.C. §§ 511 and 512. Section 511 authorizes federal agencies having foreign excess property to dispose of such property. That is definitely authorization for the transfer of what would be excess property of the United States after the reduction of our military operations on Okinawa. The treaty relinquished in favor of Japan all rights and interests under Art. III of the Treaty of Peace with Japan of September 8, 1951. Japan in turn granted to the United States the use of facilities and areas in accordance with the treaty of January 19, 1960, which was the Treaty of Mutual Cooperation and Security providing for collective self-defense. Art. IX of this treaty terminated our *temporary right of military occupation*. It is hard to construe this treaty as authority for transferring United States property by treaty without implementing legislation.

9. Treaty of January 25, 1955 between the United States and Panama (6 U.S.T. 2283).—This treaty, as discussed earlier, provided for the transfers of certain property. Art. V provided for the conveyance to Panama of certain lands and improvements set forth in item 2 of the Memorandum of Understanding. This included certain specified lands, including the railway terminal operations in the city of Panama, and the railway passenger station, and Paitilla Point. The treaty, however, was not self-executing as Art. V recognized the need to comply with Art. IV, § 3, cl. 2 of the Constitution, as that Article provided that the transfer of property was *"subject to the enactment of legislation by the Congress,"* and with respect to the small amount of property in Art. VI and Art. VII, Congress *did* enact legislation with respect thereto.[40]

It must be recognized that no court has had any opportunity to pass on the validity of many of these provisions, because when property or rights are transferred in a foreign country pursuant to asserted or *de facto* authority, as a practical matter, it is difficult, if not impossible thereafter, to litigate or rescind the transfer.

C. Treaty summary

In sum, no substantial support can be found in any of the 11 treaties for appellee's contention. The Indian treaties do not support his position because of their very nature, *i.e.*, the land allegedly transferred to the Indian is his land which he reserves from transfer to the United States under the treaty. The treaties with Spain and Great Britain involved the settlement of boundary claims and this is not a boundary controversy.

* * * * *

CONCLUSION

From the foregoing it is concluded that a political question is not involved, that established procedures of the Department of State and past United States procedures involving similar agreements with Panama and others recognize and require that Congress approve the transfer of United States property, that the Restatement of Foreign Relations Law reaches the same conclusion, and that the adjudicated cases hold that the power to dispose of United States property is vested exclusively in the Congress. In my opinion, we should accordingly declare the law to be that those provisions of the pending treaty which dispose of territory or property belonging to the United States to the Republic of Panama cannot come into force under the Constitution of the United States until approved by the Congress. In my view, because of the parties involved, it would not be necessary to issue an injunction.

The Report of the Senate Committee on Foreign Relations of a much earlier date has much advice that could well be followed by the relevant parties in the present controversy:

"The question has been debated how far Congress would be bound to give effect, in cases requiring its cooperation, to regulations by treaty on subjects put within its express province by the Constitution. Whichever may be the better opinion, the doubt supplies reason enough against putting the question to trial in other circumstances than those in which the concurrence of Congress may be safely assumed. And the reason is the stronger for this forbearance from the fact that in the contingency of conflict it would be not the interests only, but the faith, too, of the nation which might be compromised, as this would have been committed by the adoption of the treaty regulations.

"The condition of the Government at this point is of peculiar delicacy as regards the arrangement of its imposts. Parties have been arrayed with vehemence and the greatest sensibility awakened on the subject. Regulation by treaty in these circumstances would doubtless be carried into effect by the House of Representatives. But the temper in which the supposed intrusion might be expected to be received would be anything but cordial or placid. Ought not the occasion to be considerable, the motive urgent, to warrant the exercise of the authority at this cost? This is a topic requiring only to be displayed, not dwelt on." 2 HINDS' PRECEDENTS 1000.

What is the great urgency for not recognizing the constitutional right and duty of the House of Representatives to pass on the transfer of the rare property here involved? The United States by the narrow margin of one vote was enticed into accepting Panama as the first choice over Nicaragua for the location of the Canal and the operating rights promised by Panama in the 1903 treaty were purposely designed to assure that the United States would build the Canal in Panama and not in Nicaragua.[41] Thereafter, a national treasure beyond compare in the form of an engineering marvel was created by the ingenuity and genius of American statesmen, builders, and doctors who persevered where all others had failed miserably, or failed even to begin.

* * * * *

The transfer of United States territory and property in the Panama Canal Zone directly affects immense vital interests of the entire nation involving as it does significant commercial concerns and our national security. Some of these matters were pointed out by Senator Hiram Johnson of California in 1939, when, in speaking on the ratification of the Hull-Alfaro Treaty, which proposed certain

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amendments in our relations with Panama, he remarked:

"The Panama Canal will be protected, if protected by us. The Panama Canal, if it be retained, and if it serve its purpose [as "the life line of the Republic," *id.*, 9838], will do so because of our efforts; and the Panama Canal, because of the peculiar relation we have to it, should not be in any degree tied, or hamstrung, or put in a strait jacket by a treaty made by the United States of America." 84 CONG. REC. 9838 (1939).

The momentous nature of these national interests peculiarly qualify the House of Representatives for its constitutional role because it directly represents our entire citizenry on a uniform basis—which was the principal reason that the Framers of the Constitution directed that the entire Congress should pass on such matters.

However, regardless of disputes on other issues, one conclusion is certain. That is that if the present attempt successfully usurps the constitutional right and duty of the House of Representatives to vote on the disposition of United States' property of the tremendous magnitude and value of our Panama holdings a precedent of such enormity will be created that the constitutional right of the House of Representatives to vote on transfers of property to foreign nations need never again be seriously recognized.

To the extent that the President may have discretion to choose between proceeding by treaty or other forms of international agreement, he cannot avoid the constitutional requirement that the entire Congress pass on all attempts to dispose of United States' territory and property to other nations. All past practices in this field indicate that prior Presidents have recognized that obligation even when property of much less value and significance was involved.[42]

FOOTNOTES

[1] "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State." U.S. Const. art. IV, § 3, cl. 2.

[2] "He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties . . ." U.S. Const. art. II, § 2, cl. 2.

[3] Sen. Exec. Rept. 95–12, Executive N, 95th Cong., 1st Sess. at 99 (Feb. 3, 1978) (hereafter "Committee Report").

[4] This opinion is confined to the Panama Canal Treaty and does not involve the Neutrality Treaty (for text of both agreements, *see* Appendix).

[5] Since the merits of the case are reached, the discussion of standing is set forth in footnote 42, *infra*.

[6] *See* note 1 *supra*.

[7] The *per curiam* understates the significance of many of the cases discussed here. For example, the majority concedes that United States v. Gratiot, 39 U.S. (14 Pet.) 526 (1840), does not involve a question of state-federal relations. While *Gratiot* did not involve the precise situation presented by this case, the principle relied upon therein—that the power to dispose of property rests exclusively with the Congress—should similarly, in my view, guide our disposition here. The majority seeks to distinguish away many of the Supreme Court's statements by noting that the context in which they were made involve state-federal relations and not separation of powers. *Gratiot*, among other cases, does not involve state-federal relations. While the holdings in those cases may not control our facts, it is submitted that the principle relied upon in those cases accurately states the proper construction of the provisions of the Constitution involved in this case.

[8] *See* Sierra Club v. Hickel, 433 F.2d 24, 28 (9th Cir. 1970), *aff'd*, 405 U.S. 727 (1972): "Article IV, Section 3 of The United States Constitution commits the management and control of the lands of the United States to Congress. That congressional power is unlimited." The Court stated in United States v. San Francisco, 310 U.S. 16, 29 (1940): "The power over the public land thus entrusted to Congress is without limitations." The Court has also stated:

"*[C]ongress has the same power over [territory] as over any other property belonging to the United States; and this power is vested in congress without limitation;* and has been considered the foundation upon which the territorial governments rest." United States v. Gratiot, 39 U.S. (14 Pet.) 526, 536–37 (1840) (emphasis added).

[9] When Jefferson was Secretary of State, he issued instructions on March 18, 1792 to the American Commissioners negotiating with Spain as to the boundary between Georgia and the Floridas, stating that the right to alienate even an inch of territory belonging to a member of the Union did not exist in the central government. American State Papers For. Rel., I 252. Jefferson was undoubtedly referring in part to the limitations imposed by Art. IV.

[10] The *Per Curiam* opinion states at note 4 that among the authorities agreeing with its position is Prof. Henkin. The quotation above is from a subsection entitled "Exclusive Powers of Congress." The subsequent section on "Concurrent Powers" does not contain a statement that the general powers addressed in the "exclusive power" section can be exercised concurrently by treaty. This opinion does not contend that the Executive lacks the power to make a treaty disposing of property but rather that such treaty requires an act of Congress to become effective. Henkin does not address this question directly, and his comments are not inconsistent with this position. *See* Henkin, *supra*, at 149. The passage to which the majority refers as indicating that Prof. Henkin is in accord with its position begins with the statement: "Some obligations, it is accepted, cannot be executed by the treaty itself." Examples follow: appropriation of funds, enactment of criminal laws, and probably declaration of war. Nothing in that passage states or implies that the list is exhaustive.

It is not surprising that those promoting the present treaty also decide that they have power to accomplish the result they seek. It is ever thus with usurped authority. *Cf. Per Curiam*, n.4. The Senate precedent, however, is directly contrary. *See* Part IV, and particularly pages 41 to 44.

[11] At that time Congress, in accordance with the language of the treaty, did enact legislation enabling the transfers agreed to in the treaty to be perfected. Pub. L. 85–223, 71 Stat. 509 (August 30, 1957) had the purpose of "authoriz[ing] and direct[ing] the fulfillment of those provisions of the [1955 Treaty], which, *subject to authorization by the Congress*, provided for the conveyance of various lands and improvements to the Republic of Panama. . . ." (Emphasis added).

[12] In footnote 7, the *Per Curiam* opinion states that "there are numerous instances in past treaty practice [of the] . . . disposition of United States property through self-executing treaty." The correctness of this statement is challenged. *See* VI hereof. There is no instance in the entire history of the United States that has been brought to our attention where any disposition of United States property even approaching the character and magnitude here involved was ever handled by a self-executing treaty.

Said footnote further states that "we know of no instance in which the United States has been *in a formally declared war* without a congressional declaration thereof." That is a safe statement because a *"formally declared* war" can never exist without a congressional *declaration* thereof. Thus, the statement by its limitations *implicitly* carries its own proof. However, if the statement was intended to convey the impression that the President has never usurped the Congressional power to declare war, it must be recognized that there is no difference in the format of the grant of that exclusive power to Congress from the grant to Congress of the power to dispose of territory and property. Therefore, by the same token, the President has no more power from the wording of the Constitution to dispose of U.S. territory and property than he does to declare war.

[13] Citation is made to: S. Crandall, Treaties, Their Making and Enforcement (Washington: 2d ed. 1916), 171–182; 1 W. Willoughby, The Constitutional Law of the United States (New York: 2d ed. 1929), 549–552. *See also* H. Rept. 4177, 49th Cong., 2d sess. (1887). *Cf.* De Lima v. Bidwell, 182 U.S. 1, 198 (1901).

[14] *E.g.*, Dorr v. United States, 195 U.S. 138, 149 (1904) ("We conclude that the power to govern territory, implied in the right to acquire it, and *given to Congress in the Constitution in article 4, § 3*, . . . does not require that body to enact for ceded territory, not made a part of the United States by *congressional action*, a system of laws which shall include the right of trial by jury, and that the Constitution does not, *without legislation*, and of its own force, carry such right to territory so situated." [emphasis added]); Benner v. Porter, 50 U.S. 235, 240 (1850) ("'[The territorial governments] are not organized under the Constitution, nor subject to its complex distribution of the powers of government . . . but *are the creations, exclusively, of the Legislative Department*, and subject to its supervision and control." [emphasis added]); American Insurance Co. v. 356 Bales of Cotton, 26 U.S. 511, 542 (1828) ("Florida continues to be a territory of the United States; governed by virtue of that clause in the Constitution which empowers *Congress* 'to make all needful rules and regulations, respecting the territory, or other property belonging to the United States.'" [emphasis added]).

[15] In the passage of Henkin relied upon the majority, the following statement appears in a footnote:

"It has been suggested that treaties that deal with matters on which Congress could legislate could not be self-executing . . . In the numerous instances in which acts of Congress were held to supersede treaty provisions . . ., there was no suggestion that the treaty was not law anyhow since it could not be self-executing." Henkin, *supra*, at 159 (in note).

This section is discussing the effect of treaties as law—and not where the power to *implement* the treaty resides. In this regard, a later statement in the footnote is relevant:

Congress has often insisted that treaties modifying tariffs are not self-executing and require Congressional implementation, and the Executive has generally acquiesced. Crandall, Treaties 195–200. . . . In recent years tariffs have been the subject of executive agreements authorized by Congress or requiring Congressional implementation.

Id. At best, one could say that Henkin has made some statements, which if read out of their context, might lead to conflicting results. It is my view that his statement at 94–96, quoted above, is definitive and conclusive—the Executive may not use his foreign affairs powers to dispose of United States territory or property, since that power is specifically vested in the Congress by Article IV—and points to a position opposite to the *per curiam*.

[16] The rules applicable to the construction of a statute also apply to the construction

of a Constitution. Badger v. Holdale, 88 F. 2d 208, 211 (8th Cir. 1937) (construing Minnesota Constitution); Davis v. Synhorst, 225 F. Supp. 689, 691 (S.D. Iowa 1964) (construing Iowa Constitution: "Rules applicable to statutory construction are similar to constitutional construction"). "The established rule is that *if there exists a conflict in the provisions of the same act, the last provision in point of arrangement must control.*" Lodge 1858, American Federation of Government Employees v. Webb, No. 76-1821, slip op. at 30 (D.C. Cir. March 20, 1978) (emphasis added), and cases cited at *id.*, slip op. at 30-32, n. 31. Here, the fact that Art. IV, § 3, cl. 2 was placed *after* Articles I, II, and III is entitled to some weight in construing the intendment of Art. IV; it points to the conclusion that the language of the property disposition clause is not concerned simply with state-state and state-federal relations.

[17] Indeed, it is beyond serious dispute that if the treaty becomes effective, the United States will dispose of property. Art. XIII of the Treaty provides: "The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including nonremovable improvements thereon . . ." We may take judicial notice of the public dispute as to the nature of the interest this country presently possesses in the territory of the Canal Zone from its treaty right to act in perpetuity as though sovereign—whether it be a fee interest or a leasehold. In any event, the interest is a "property interest." Irrespective of the nature of this interest, this nation is definitely transferring a property interest in the fixtures and other improvements made on the real property. This includes the entire Panama Railroad, which the United States purchased as authorized by Congress (32 Stat. 481) and all the other real property that the United States purchased from the individual owners of the land, including the property and other interests of the French Canal Company for which the U.S. paid $40 million. (*See* 32 Stat. 481). All of this is property within the meaning of Art. IV. A substantial payment was also made to Colombia

[18] Public Law 85-223 of August 30, 1957 provided:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONVEYANCE OF PROPERTY TO THE REPUBLIC OF PANAMA AND FISCAL ADJUSTMENTS BY PANAMA CANAL COMPANY

SEC. 101. It is hereby declared to be the purpose of this title—

(1) to authorize and direct the fulfillment of those provisions of the Treaty of Mutual Understanding and Cooperation between the United States of America and the Republic of Panama signed on January 25, 1955, and of the memorandum of understandings reached signed on the same date, which contemplate, subject to authorization by the Congress, the conveyance of various lands and improvements to the Republic of Panama, including, but not limited to, conveyance of the lands and improvements in, and simultaneous relinquishment of all right, power and authority in, the area known as Paitilla Point, and including the removal of the railway terminal operations of the Panama Canal Company from the city of Panama and the conveyance of the lands and improvements known as Panama Railroad Yard in the city of Panama; and

(2) to authorize and provide for the adjustments in the fiscal obligations of the Panama Canal Company necessitated by the aforesaid conveyances.

SEC. 102. (a) In accordance with and subject to the provisions of article V of the Treaty of Mutual Understanding and Cooperation between the United States of America and the Republic of Panama signed on January 25, 1955, and item 2 of the memorandum of understandings reached signed on same date—

(1) the Secretary of State is authorized and directed to convey to the Republic of Panama free of cost all the right, title, and interest held by the United States of America or its agencies in and to the land and improvements in the area known as Paitilla Point and in the areas designated in paragraphs 1, 2, and 3 of paragraph (a) of said item 2; and

(2) the Panama Canal Company is authorized and directed to remove its operations and withdraw from the other lands and improvements designated in said item 2, and to convey to the Republic of Panama free of cost all the right, title, and interest held by the Panama Canal Company and the United States of America in and to said other lands and improvements.

(b) The market value of the property of the Panama Canal Company conveyed under this directive or by operation of articles VI or VII of the treaty and the net capital loss, if any, as established by the Panama Canal Company and approved by the Director of the Bureau of the Budget, sustained in the disposal, relocation, or ——— of any facility or other property of the Panama Canal Company rendered excess, wholly or in part, by operation of articles V or XII of the treaty or items 2, 6, 9, or 10 of the memorandum of understandings reached shall be treated as extraordinary expenditures and losses incurred through directives based on national policy and not related to the operations of the corporation, within the meaning of section 246(d) of title 2 of the Canal Zone Code, as added by the Act of June 29, 1948 (ch. 706, 62 Stat. 1075). The market value of Canal Zone Government property conveyed under this directive shall be removed from the capital investment of the United States in the Canal Zone Government without charge to the costs of operation of that agency. There are hereby authorized to be appropriated such amounts as may be required for the necessary replacement of property or facilities of the Panama Canal Company or Canal Zone Government conveyed or rendered excess as the result of the treaty or memorandum, such amounts to be charged to the Panama Canal Company or the Canal Zone Government, respectively.

Approved August 30, 1957. (71 Stat. 509)

[19] 6 U.S.T. at 2279-85.

[20] 38 Stat. 1900.

[21] The treaty is reprinted at 84 *Cong. Rec.* 9825-33 (1939).

[22] 6 U.S.T. at 2285.

[23] The *per curiam* opinion at notes 22-23 and the accompanying text addresses the boundary rectification point, and concludes that whether there is a dispute about the property or territory has nothing to do with whether the President can dispose of the same. This, in my opinion, is not correct: (1) the prior practices in this *unique area* are relevant, as the Circular 175 Procedure provides; (2) a bona fide boundary dispute is clearly not the same thing as disposing of our undisputed property in the Panama Canal. The point that the Western lands were the subject of conflicting claims, which causes the majority to conclude that status has no bearing on whether Congressional enactment is required to convey land, is not analogous: it is not so much the status of the land itself that is crucial but the nature of the dispute and its relation to that status—that is, in all prior boundary settlements which appellee contends involved a cession, the dispute concerned claims of the grantor and grantee, and the settlement was of those claims. A dispute between two states, or between two private individuals, over a tract does not, by itself, give the land a peculiar status that removes it from the Art. IV requirement; thus, land that is subject to competing claims of two states of the United States would still require an act of Congress for conveyance to a foreign country.

Note 23 of the *per curiam* opinion, asserts difficulty in understanding how the validity of using the treaty process should in any way depend upon whether the nation to whom the land is conveyed previously "claimed" the land. The explanation is not difficult but the statement of the *per curiam* opinion involves a false assumption, *i.e.*, that the property which the treaty recognizes as belonging to a prior claimant would be "conveyed" by the treaty. To so state is an inaccurate description, particularly of those treaties in the early days to which the *per curiam* opinion refers at p.23, n.21, where there was considerable ignorance of the territory involved. Since, for instance, Spain claimed the western lands to the 42nd parallel, the fact of their claim, based as it was on the recognized right of discovery, some minimal exploration in the most far reaching regions and very minor settlement, when that claim is recognized in a treaty by the United States it is almost impossible to conclude in view of our negligible exploration or settlement of the fringes of the Spanish claim that the United States was actually disposing of territory or property belonging to it. What rights we did possess in the eastern area flowed from the Louisiana Purchase from France of what had originally been territory claimed by Spain. Such situations are generally recognized as *not* being an alienation of territory but merely a recognition of the particular claim and a determination of the validity of the losing claim. *See* n.24. It follows, that since we admitted our claim was inferior, that the treaty in that respect did not dispose of any territory or property belonging to the United States. Here, however, the title of the United States to the property in question is recognized by all.

[24] Writing in 1929, Willoughby stated: "In several treaties in settlement of boundary disputes areas previously claimed by the United States as its own have been surrendered to foreign powers. These, however, can scarcely be considered as instances of the alienation of portions of its own territory, for the fact that the treaties were assented to by the United States is itself evidence that it was conceded that the claim that the areas in question belonged to the United States was unfounded. *There has been no instance in which territory, indisputably belonging to the United States, has been alienated to another power.*" 1 W. Willoughby, The Consitutional Law of the United States 572 (2d ed. 1929) (emphasis added).

Crandall writes that resolutions were introduced in the House in 1820 following the Florida treaty of 1819, which would have asserted that no treaty purporting to alienate any portion of the territory belonging to the United States could be valid without the concurrence of Congress, but no vote was taken on the matter. In the debates on the resolution, Mr. Clay, who introduced the resolution, stated that a treaty could fix the boundaries of the United States without the concurrence of Congress "when the fixation of the limits simply was the object . . . In all these cases, the treaty-making power merely reduces to certainty that which was before unascertained. It announces the fact; it proclaims in a tangible form the existence of the boundary; it does not make a new boundary; it asserts only where the new boundary was. But it cannot under color of fixing a boundary previously existing, though not in fact marked, undertake to cede away, with-

out the concurrence of Congress, whole provinces." He stated that if the subject was mixed, *i.e.*, partly cession and partly fixing a boundary, the consent of Congress was necessary. Mr. Clay believed that the Florida treaty was more than a boundary determination.

Mr. Lowndes, of South Carolina, took a different position and contended there could be no adjustment of a claim to a boundary without some cession of supposed right by one or the other party. Mr. Anderson, of Kentucky, believed that the treaty power must permit boundary settlements: "Its frequent operation on the settlement of differences of this kind, must have been contemplated by the Convention; and it could never have been intended, that, in a general grant of power, it should be construed not to apply to cases, which had been invariably, in all countries, the subjects of its operation."

Boundary rectification is not an example of cession of territory. In addition to being an adjustment of claims, it is supported by *prior practices*, as Mr. Anderson points out: the prior practice of boundary rectification involves a matter different from the wholesale relinquishment of large areas of undisputed territory.

S. Crandall, Treaties, Their Making and Enforcement 227–29 (1916).

[25] *See* note 17 *supra*, § 102(b).

[26] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That with respect to that parcel of land in the Panama Canal Zone known as the Paitilla Point Military Reservation, title to which was acquired by the Government of the United States under the conventions concluded on November 18, 1903, and September 2, 1914, between the United States and Panama, the Secretary of State be, and he is hereby, authorized and empowered to effect with the Republic of Panama, a modification of the boundary line between the Panama Canal Zone and the Republic of Panama so that such line shall then run as follows: [Property description]

SEC. 2. Nothing contained in this Act shall be construed to authorize the Secretary of State to convey or to surrender to the Government of Panama the title which the Government of the United States now holds in that parcel of land which may be detached from the Panama Canal Zone by virtue of the provisions of section 1 of this Act.

SEC. 3. No civil or criminal case that may be pending in the courts of the Panama Canal Zone at the time this Act shall become effective shall be affected thereby, either as to its present status or as to future proceedings, including final judgment or disposition.

Approved, May 3, 1932.

[27] This boundary change was not a boundary dispute where there would be no cession. *See* note 24 *supra*. Instead, the United States wanted to build a new legation in Panama, and the chosen site was in the Zone. A legation could not be built on United States territory; hence, the property was alienated to Panama, which then retransferred the property back to the United States' jurisdiction, but with diplomatic immunity and immunity from local jurisdiction for use as a legation. 75 CONG. REC. 4652–57 (1932).

[28] Agreement for the Lease of Defense Sites in the Republic of Panama, 57 Stat. 1232 (May 18, 1942).

[29] Agreement between the United States of America and Panama respecting general relations. 59 Stat. 1289 (May 18, 1942).

[30] *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and is hereby, authorized to transfer to the Republic of Panama all of the right, title, and interest of the United States in and to water and sewerage systems installed by the United States in the cities of Panama and Colon: *Provided, however*, That pending the establishment of an independent water-supply system, and so long as the Republic of Panama desires to utilize a supply of water from the Canal Zone, it shall pay quarterly to the appropriate Canal Zone authorities the rate of B/0.09 per one thousand gallons or such other reasonable rate as may be agreed upon by both Governments: *And provided further*, That the turning over to the Government of the Republic of Panama of the physical properties of the water and sewerage systems and the administration thereof, including the collection of the water rates, does not in any way modify the existing arrangement in respect to responsibility for the public health services of the cities of Panama and Colon as specified in the second paragraph of article VII of the Convention between the United States of America and Panama, signed at Washington, November 18, 1903.

SEC. 2. The Panama Railroad Company is hereby authorized to convey to the Republic of Panama, in whole or in part, all of its right, title, and interest in and to so much of the lands of the Panama Railroad Company located in the cities of Panama and Colon as, in the opinion of the Secretary of War, are no longer needed for the operation of the Panama Railroad or for the operation, maintenance, sanitation, or defense of the Panama Canal: *Provided*, That any such instruments of conveyance shall contain a provision under which the Panama Railroad Company and any of its successors in interest agrees to fully protect the Government of the United States against any claims for damages or losses heretofore or hereafter incurred by any lessee of any of the lands covered by such conveyance. The authority conferred by this section shall not be exercised after June 30, 1944.

(a) Any conveyance of any land in pursuance of the authority contained herein shall be deemed to release any and all reversionary rights of the United States in said property.

(b) The provisions of the joint resolution entitled "Joint resolution authorizing the disposal of certain lands held by the Panama Railroad Company on Manzanillo Island, Republic of Panama," approved July 10, 1937, so far as they may conflict with the provisions of this joint resolution, are hereby modified accordingly.

SEC. 3. There is hereby authorized to be appropriated out of any moneys in the Treasury, not otherwise appropriated, a sum not to exceed $2,700,000, to enable the Secretary of the Treasury to pay to the Republic of Panama an amount equivalent to the principal and interest paid by that government on account of the credit of $2,500,000 made available to it by the Export-Import Bank for the construction of Panama's share of the Chorrera-Rio Hato Highway, and to pay to the Export-Import Bank an amount sufficient to liquidate the remaining obligation of the Republic of Panama to that bank on account of the aforesaid credit.

Approved May 3, 1943.

[31] Appellee's claims with respect to the minor matters referred to in Articles VI and VII of the 1955 Eisenhower-Remon Treaty are answered at 34–36, *supra*.

[32] 2 *Farrand* 533 states: "which passed in the affirmative." *See also*, *id.*, 541.

[33] None of the debates or amendments at the convention referred to United States "property." The concern of the delegates was with territorial and other rights, such as navigational rights on rivers and offshore fishing rights and the rights of sovereignty over such land and areas. Property rights, such as the United States owns in the physical property of the Panama Railroad and the Panama Canal which were purchased or constructed on land that was purchased, were not debated in the convention. The clarity of the reference to "property" eliminated need for debate.

[34] In other words, appellee's argument reasons as follows: At the outset, the draft of section 4 under consideration said that a treaty required for approval a two-thirds vote of the Senate. A majority thought that peace treaties were good, and therefore adopted an amendment excepting peace treaties from the two-third requirement (and thereby requiring only a majority). But at least two of the Framers thought that this authorized the transfer of territory with only a majority vote, and therefore sought to except peace treaties that transferred territory from the peace treaty exception (which would require a two-thirds vote to transfer property). Eventually all amendments were defeated, and a two-thirds vote was required for all treaties. Appellee reasons that since the two Framers above "got their way," the Convention believed that territory could be transferred by treaty without an Act of Congress. This does not necessarily follow, as the text demonstrates. It may have been that when the two Framers proposed their amendment, a substantial number of the convention realized that the amendment could well pass, and that that would create a conflict—or perhaps erase—the action taken earlier, namely Art. IV, sec. 3, cl. 2, which allowed only *Congress* to dispose of property and territory. Faced with this prospect, a majority might have decided to abandon the peace treaty exception altogether, so as to preserve the language in Art. IV without compromise. Their reconsideration of the peace treaty exception, and its eventual rejection, is consistent with this interpretation.

[35] Committee report, at 68.

[36] *Id.*

[37] At 17 U.S. 247, the Court stated:

"[T]here are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political."

The cases cited in the footnote to this statement do not support the argument that the President by Treaty is empowered to transfer the Panama Canal and Railroad. The cases cited are:

1. Wilson 1. Wall, 73 U.S. (6 Wall.) 83, 89 (1867). This case is only authoritative on part of the *Holden* statement, and has no significance for the transfer of the Panama Canal and Railroad. A treaty between the United States and the Choctaw Indian Tribe entitled each Choctaw head of family to a section of land. The treaty was signed in 1830; in 1834, Wall, a Choctaw, entered into an agreement with Wilson to transfer the land to him as soon as he obtained it. He made the transfer in 1836, and was paid $750. Wall's children then sued Wilson for the land, alleging a constructive trust in their favor. Wilson claimed a bona fide purchaser defense. The Alabama Supreme Court held for plaintiffs, and the Supreme Court reversed.

Congress became involved in 1841; complaints concerning the Indians losing the land in the manner above caused Congress to enact a statute clarifying part of the treaty. The Court said what Congress did would not affect the case:

"Now, while it is freely conceded that this construction given to the treaty should form a rule for the subsequent conduct of the department, it cannot affect titles before given by the government, nor does it pretend to do so. Congress has no constitutional power to settle the rights under treaties except in cases purely political. The construction of them is the peculiar province of the judici-

ary, when a case shall arise between individuals. The legislature may prescribe to the Executive how any mere administrative act shall be performed, and such was the only aim and purpose of this act." 73 U.S. (6 Wall.) at 89.

Thus, this case merely holds that a subsequent act of Congress cannot affect titles that were valid when conveyed. It does not control or even offer any assistance on the facts in the instant case.

2. American Insurance Co. v. 356 Bales of Cotton, 26 U.S. (1 Pet.) 511, 542 (1828), involved the validity of the judgment of a Territorial Court which ordered the purchaser of cotton salvaged from a shipwreck off Key West to make restitution to the insurer. The court held in an opinion by Chief Justice Marshall that the treaty with Spain ceded Florida to the United States and thereafter *Congress* was authorized to provide for the creation of territorial courts with admiralty jurisdiction. This upheld the establishment of a territorial court by the territorial legislature. The Court simply noted that *Congress* passed an act authorizing a Territorial Government, and that such government was thereby authorized to establish the court in question.

3. Foster v. Neilson, 27 U.S. (2 Pet.) 254 (1829): This case involved a dispute over land that was located in territory acquired by the Louisiana Purchase (the Treaty of Paris, 1803). Plaintiffs claimed under a grant from the Spanish Governor in 1804; defendants answered that the land had been ceded to the United States by France in 1803, and that plaintiffs grant was void. The dismissal of the petition was affirmed by the Supreme Court. First, the Court said that the "Legislature" had undertaken certain acts amounting to a construction of the 1803 Treaty which the court could not oppose. The Acts were passed by Congress and concerned rules and regulations for the management of the new territories.

A question like this respecting the boundaries of nations, is, as has been truly said, more a politicall than a legal question; and in its discussion, the courts of every country must respect the pronounced will of the Legislature. [*i.e.*, Congress]." 27 U.S. (2 Pet.) at 309.

Part of the case also involved the construction of Art. VI of the 1819 Treaty with Spain which provided in effect that grants from Spain prior to the Treaty would be respected by the United States *i.e.*, "ratified and confirmed." The question was whether the treaty was self-executing with respect to the grants, or whether an Act of *Congress* was necessary to "ratify and confirm" and thereby respect the grants. The Court said the *Legislature* must act; that it had not done so here, and thus prior laws would be respected. The Court stated:

"A treaty is in its nature a contract between two nations, not a Legislative Act. . . . Our Constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an Act of the Legislature, *whenever it operates of itself without the aid of any legislative provision*. But when the terms of the stipulation import a contract—when either of the parties engages to perform a particular act—the treaty addresses itself to the political, not the judicial department; and *the Legislature must execute the contract before it can become a rule for the court.*"

27 U.S. (2 Pet.) at 314 (emphasis added). This is not inconsistent with the position that a legislative provision is necessary under Art. IV *to convey* property of the United States. This case is not authority for the proposition that Congress has not role; if anything, it tends the other way.

4. Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1834). This case concerns a treaty with the Cherokees. Petitioner (a missionary) was a prisoner who claimed that the law under which he was convicted was void, being repugnant to the United States Constitution. The opinion stated:

"[The Constitution] confers on Congress the powers of war and peace: of making treaties, and of regulating commerce with foreign nations, and among the several States, and with the Indian tribes. The powers comprehend all that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions. . . The Constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties . . ."

This language of the case does not approach the issues raised by the attempt to transfer and convey the Panama Canal and Railroad and other United States property.

5. Crews v. Burcham, 66 U.S. (1 Black) 352 (1861) is another case involving a reservation of Indian lands. The decision holds that the reservation creates an equitable estate. The opinion does not discuss the authority or power of Congress.

6. The Kansas Indians, 72 U.S. (5 Wall.) 737 (1866): The issue here was whether land belonging to the Shawnees was taxable by a county government. It was held that so long as the "treaties and laws of Congress" protect the Indians, they are immune from the operation of state laws. This recognizes the authority of *treaties and Congress* in said matters. The scope and authority of Congress was not otherwise discussed.

7. Mitchel v. United States, 34 U.S. (9 Pet.) 711 (1895) similarly does not control here. Mitchel and the United States both claimed certain land in Florida under deeds of conveyance. Mitchel's claims were based on deeds from Indian tribes, and the United States claims were asserted on the basis of the treaty with Spain. The issue was whose deed was superior. In stating the facts, the Court remarked:

"In taking possession of Florida pursuant to the treaty, and in establishing a government in and over it, Congress have acted on the same principles as those which were adopted by this court in the former cases. *In the Act of 1821, for carrying the treaty into execution, Congress authorizes the vesting the whole power of government in such person as the president may direct for the maintaining the inhabitants in the free enjoyment of their property.*" 34 U.S. (9 Pet.) at 736 (emphasis added).

In so acting Congress was relying upon Art. IV, § 3, cl. 2, which was the source of its power to *"make all needful Rules and Regulations respecting the Territory . . ."* (Emphasis added). Thus, the power to make rules and regulations concerning the proper management of the new territories was recognized as existing in Congress, and since the power to dispose of United States property is subject to the same language of the Constitution, there is some support for concluding that such power was also vested exclusively in Congress. Of course, there are some inherent differences between the acquisition of property and the government of property after it is acquired; but we are not dealing here with a contemporaneous disposition of property that is being acquired, but instead are dealing with property that has belonged to the United States for a long time, some of it since 1903. So any reason for applyingg a different rule as to exclusivity is non-existent.

Thus there is no reason why *Congress* should not be recognized as possessing the exclusive power to dispose of Government property. In other words, if disposition of property is a concurrent power, the power in general must be concurrent with respect to *all aspects* of Art. IV, § 3, cl. 2. Since such power is *not* concurrent with respect to rules and regulations of newly acquired territory, it should not be concurrent with respect to the other powers in the relevant paragraph.

8. United States v. Brooks, 51 U.S. (10 How.) 442 (1850), involved the construction of a supplemental article to a treaty with the Caddo Indians. It held that *Indian lands reserved* to Indians by treaty were held by them in fee simple since they acquired perfect title by treaty. Since it involves land *reserved* for Indians, it is in the same category as the other Indian treaty cases and it does not affect this case.

9. Doe v. Wilson, 64 U.S. (23 How.) 457, 461 (1859), involved Indian lands, but contains no reference to the scope of Congress' authority to dispose of property. The decision holds the Indian was a tenant-in-common with the United States and that the deed of conveyance by the Indian, which he executed prior to the selection of the lands, conveyed the interest he would have taken if living.

10. The last two cites are Blair v. Pathkiller, 2 Yerg. 407 (1830), and Harris v. Doe, 4 Blackf. 369 (1837). They are state cases.

Blair v. Pathkiller, a Tennessee decision, involved a claim of title and the effect of Indian Treaties and state statutes enacted before the adoption of the Constitution of the United States. The *reservation* of 640 acres to the head of each Indian family was held valid pursuant to treaties with the Cherokees of 1817 and 1819. The court pointed out that part of the consideration paid to the Cherokee Nation for its title to the land ceded was the reservation to the Indians of certain lands which were the subject of the litigation.

Harris v. Doe is an Indiana Supreme Court decision on an action in ejectment from land ceded by the Miami Indians by treaty to the United States and by the same treaty granted to Lafontaine and son, the predecessors in title of the defendant. The trial judge charged the jury that it could consider as evidence a special law of Congress as confirming the fee in the predecessor of the defendant. This decision is subject to the same infirmities as support for appellee's treaty contention as the other Indian Treaty cases and is additionally weakened by the fact that Congress did find it necessary to enact a law to confirm the title of one who claimed under a treaty.

[38] In the Supreme Court, Later-Secretary of State, Frank B. Kellogg, was a counsel on the brief of appellee and Cushman K. Davis, one of the Plenipotentiaries of the United States in the 1898 Treaty with Spain, argued the case.

[39] *See* notes 23 and 24, and accompanying text.

[40] *See* note 18 *supra*.

[41] Bunau-Varilla, Envoy Extraordinary for the Republic of Panama, in a negotiation of the treaty for the Canal decided that the prior treaty draft would not do:

The "indispensable condition of success" was to write a new treaty "so well adapted to American exigencies" that it would be certain to pass in the Senate by the required two-thirds majority. A failure to obtain that two-thirds majority, he was convinced, could still mean a Nicaragua canal after all. The major difference in the new treaty must be in the share of sovereignty attributed to the United States within the canal zone. [Perpetuity was already provided for.] D. McCullough, *The Path Between the Seas* 391 (1977).

[42] The Standing of the Members of the House of Representatives to Request a Declaration of the Law.

The district court concluded that it lacked

subject matter jurisdiction over plaintiff's complaint because, in its view, plaintiffs had not met the " 'irreducible constitutional minimum' of a concrete injury in fact to their legislative roles." Memo. Op. at 12–13. I disagree with this conclusion.

Recently, we have considered cases involving standing of Congressmen to bring actions in the federal courts. Judge Wilkey's opinion in Harrington v. Bush, 553 F.2d 190 (D.C. Cir. 1977), provides a thorough discussion of the applicable analytical framework:

"The *most basic point* to consider is that *there are no special standards for determining Congressional standing questions.* Although the interests and injuries which legislators assert are surely different from those put forth by other litigants, the technique for analyzing the interests is the same.

"There is no single test or formula to be derived from the case law to determine if a particular complaining party has standing to sue. Rather, the case law provides a *series of inquiries designed primarily* [as] *to determine if the complaining party has suffered some injury in fact.*" 553 F. 2d at 204, 205–06 (emphasis original).

The injury in fact requirement is constitutionally mandated; it is one of the requirements designed to implement the Art. III "case or controversy" limitation on federal judicial power. Association of Data Processing Service Organizations, Inc. v. Camp, 397 U.S. 150, 151 (1970); Harrington v. Bush, *supra*, 553 F. 2d at 206. Footnote 68 in the *Harrington* opinion outlined the four separate inquiries demanded by the Supreme Court cases on standing: (1) first, and most important, that there be an injury in fact; (2) that the interests being asserted by the plaintiffs are within the zone of interests to be protected by the statute or constitutional guarantee in question; (3) that the injury result from (or be caused by) the challenged "illegal" action; and (4) that the injury be capable of being redressed by a favorable decision. 553 F. 2d at 205–06 n. 68. The district court found no injury in fact, and therefore had no reason to consider the other three inquiries. As to the critical question of whether an injury in fact exists, it is my conclusion that it does.

The prior cases in this circuit provide examples of how the analytical scheme articulated in *Harrington* applies to particular situations. Kennedy v. Sampson, 167 U.S. App. D.C. 192, 511 F. 2d 430 (1974), involved Senator Kennedy's suit against the Administrator of the General Services Administration and the Chief of the White House Records seeking a declaration that the Family Practice of Medicine Act became law on December 25, 1970, and an order requiring appellants to publish the Act as a validly enacted law. The question on the merits was the effect of President Nixon's pocket veto; a preliminary question was the standing of Sen. Kennedy to bring the suit. The court found that Kennedy had standing, as a "logical nexus" existed between the status he asserted and the claim sought to be adjudicated:

"If appellants' arguments are accepted, then appellee's vote in favor of the bill in question has been nullified and appellee has no right to demand or participate in a vote to override the President's veto. Conversely, if appellee's interpretation of the veto clause is correct, then the bill became law without the President's signature. In short, disposition of the substantive issue will determine the effectiveness *vel non* of appellee's actions as a legislator with respect to the legislation in question." 511 F.2d at 433.

Thus, in *Kennedy*, the facts presented a situation where the Executive's action had in effect nullified the Senator's vote; the validity of the action was determinative on the effect of the vote. And particularly he had been prevented from exercising his constitutional right to vote on the motion to overrule. In such circumstances, this court concluded that Senator Kennedy had standing to challenge the vote. In Mitchell v. Laird, 159 U.S.App.D.C. 344, 488 F.2d 611 (1973), in dictum we recognized the standing of thirteen members of the House of Representatives to litigate presidential war powers, when we stated that a declaratory judgment "would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, or to take other legislative actions related to such hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint." 488 F.2d at 614.

We concluded that plaintiffs lacked standing to bring their claims in both *Harrington*, *supra*, and in Metcalf v. National Petroleum Council, 553 F.2d 176 (D.C. Cir. 1977). Neither plaintiff had demonstrated a cognizable injury to his person or to his ability to function as a legislator. Nothing impeded the legislative process whatsoever. Representative Harrington sought a declaration that certain foreign and domestic activities of the Central Intelligence Agency were illegal and also an injunction prohibiting the CIA from using the funding and reporting provision of the Central Intelligence Agency Act of 1949 in connection with allegedly illegal activities. After an extensive analysis of the supposed injuries claimed by the plaintiff, we concluded:

"Since the appellant in this case has suffered no injury in a constitutional sense, he is in effect seeking to use the court to vindicate his own political values and preferences. By so doing, appellant is asking us in large part to usurp the legislative function and to grant him the relief *which his colleagues have refused him.*" 553 F.2d at 215 (emphasis added).

Since appellant failed to show an injury in fact in the constitutional sense, we affirmed the district court's dismissal of his complaint.

A similar situation was posed in the *Metcalf* case, where Senator Metcalf sought declaratory and injunctive relief, alleging that the National Petroleum Council was unlawfully functioning as an advisory committee in violation of the Federal Advisory Committee Act and the Federal Energy Administration Act. He contended that the Council was not fairly balanced in membership and was improperly influenced by certain petroleum industry interest groups. We noted that his complaint was a generalized grievance that did not allege any specific, objective, present harm or threat of harm; the nature and effect of the unspecified harm was indeterminate. 553 F.2d at 187–88. Nothing impeded the functioning of Sen. Metcalf in his role as legislator, and we affirmed the district court's dismissal of the complaint.

We next considered a claimed controversy involving seventeen Congressmen who challenged General Services Administration regulations developed from federal funds. Our decision in Public Citizen v. Sampson, 169 U.S.App.D.C. 301, 515 F.2d 1018 (D.C. Cir. 1975), affirmed without opinion the decision of the district court, reported at 379 F. Supp. 662, granting the defendant's motion to dismiss the complaint. In evaluating plaintiffs' standing as Congressmen, the district court stated:

"It is beyond peradventure that plaintiff Congressmen could tomorrow propose legislation regulating the contractual authority of the General Services Administration." 379 F. Supp. at 667.

The powers of the plaintiff Congressmen in that case as Representatives were not diminished in any respect.

As noted above, an injury in fact is required for standing in all cases; with respect to Congressmen as plaintiff, the case law in this circuit, not surprisingly, demonstrates that this court will demand a showing of an injury in fact. We could not otherwise justify our jurisdiction. In all cases, this requirement helps guarantee that the "controversy" has sufficient adverseness and that the parties have sufficient interests to make out a justifiable dispute that satisfies the Art. III case or controversy requirement. Yet in the Congressmen cases, another dimension underlies our insistence on an injury in fact. Our prior cases express concern that Congressmen might seek redress in the courts simply because they failed to persuade their colleagues in making a particular legislative judgment, or they fear that they cannot succeed in a future vote on a particular matter of legislative concern. To grant such Congressmen standing to litigate their claims in the judicial system would have the effect of circumventing the legislative process. In cases in which this court has found the existence of standing, which means that an injury in fact was found to exist, there is no apparent risk that the legislative process will be circumvented or evaded by deciding the case on the merits. It is my opinion that the Congressmen in this case have suffered and are presently suffering an injury in fact, and that the concern which underlies our prior cases—namely, that we have no jurisdiction where a Member of Congress is seeking to evade the legislative process—is simply not a factor in this case.

On September 16, 1977, President Carter transmitted to the Senate for advice and consent to ratification two treaties—the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the Panama Canal Treaty. In our opinion we only consider the transfer of property provided for by the Canal Treaty and not any of the rules and regulations concerning the operations of the Canal that are in the Neutrality Treaty. The transmittal of the Senate was made without the inclusion of the usual provisions that is inserted in treaties and international agreements when any participation by the House of Representatives is called for. By this act, President Carter conformed to an earlier opinion of August 11, 1977 by the Attorney General stating that the approval of the treaties by the House of Representatives even "absent statutory authorization" was not necessary even though the Canal Treaty disposed of United States property. The procedures implemented for obtaining the Senate's advice and consent, which continue today, did not and do not contemplate approval by the House of Representatives to any portion of the treaties. It is my view that the injury in fact to the members of the House of Representatives occurred when President Carter transmitted the treaty in the form described above, i.e., without the customary provisions for enactment of necessary legislation by Congress where United States property was to be transferred. At this point, because of the form of the treaty, it was clear that the House of Representatives could not participate, and insofar as Art. IV required its participation, that this constitutional requirement was being violated. This is a sufficient injury to accord standing. This injury in fact was further substantiated when the Report of the Committee on Foreign Relations of the Senate acceded to the opinion of the Attorney General of August 11, 1977. Senate Executive Report N, No. 95–12, 95th Cong., 1st Sess. 65–69, February 3, 1978.

The central point posed by the Congressmen's claim is that Art. IV, § 3, cl. 2 requires that the House *participate* in the disposition of property: an Act of Congress, it is alleged, is required by the Constitution. The submission of the treaty to the Senate in its present form (*See* Appendix) clearly obviates any participation of the House and since the Senate is presently concurring in that decision, whatever action the House may take is effectively blocked by the President and the Senate. It appears *extremely unlikely*—a near-certainty—that the Senate will amend the treaty as submitted to permit House participation in the disposition of property. The Report of the Senate Committee on Foreign Relations states:

"The Committee finds that the . . . Panama Canal Treaty can validly transfer to Panama property belonging to the United States without a need for implementing legislation." Committee Report at 69.

It is extremely unlikely that the Committee will change its position on this issue and recommend that implementing legislation be sought. It is extremely unlikely that the Senate as a whole will reject the recommendation of its Committee on this point. The injury that occurred when the advise and consent procedures were initiated continues so long as the treaty remains in its present form and House concurrence is not sought. Thus, the entire membership of the House of Representatives is suffering *present* injury to its constitutional rights.

On August 11, 1977, Attorney General Bell issued his opinion on the procedures necessary for disposition of property, with special reference to the ratification procedures for the Panama Canal Treaty. This opinion was cited and relied upon by the Senate Foreign Relations Committee. Committee Report, at 69. Therein, Attorney General Bell opined that a treaty may dispose of territory or property belonging to the United States absent statutory authorization. While an Attorney General's opinion is not binding on a court, *see* Harris County Commrs. v. Moore, 420 U.S. 77, 87 n. 10 (1975); McElroy v. Guagliardo, 369 U.S. 281, 285 (1960); Romero v. Coldwell, 455 F.2d 1163, 1165 (5th Cir. 1972), there is considerable authority that it is binding on an executive official who requests the opinion on a matter of law. Here, the Secretary of State requested the opinion, and the Bell opinion is definitive on the ratification procedure to be employed.

A long line of Attorney General opinions state that the teaching in the opinion is binding as a matter of law on those who request it. 5 *Op. Atty Gen.* 97, 97 (1849); 6 *Op. Atty Gen.* 326, 334 (1854); 20 20 *Op. Atty Gen.* 654, 659 (1893); 25 *Op. Atty Gen.* 301, 303–04 (1904). In Smith v. Jackson, 246 U.S. 388 (1918), the Court stated:

"[W]e are of opinion that it is obvious on the face of the statement of the case that the auditor had no power to refuse to carry out the law, and that any doubt which he might have had should have been subordinated, first, to the ruling of the Attorney General, and second, beyond all possible question, to the judgments of the courts below" 246 U.S. at 390–91.

United States Bedding Co. v. United States, 55 Ct. Cl. 459, 460–61 (1920) is to the same effect. The general rule does not apply when the matter is within the proper discretion of a department official; hence, the statement has been made that opinions are only entitled to weight and are not controlling. In those circumstances, the point is simply that an opinion is not controlling in a proper area of discretion. *See* Senske v. Fairmont & Waseca Canning Co., 232 Minn. 350, 359–60, 45 45 N.W.2d 640, 646–47 (1951); 17 *Op. Atty Gen.* 332, 333 (1882).

Hence, it is clear that the opinion of Attorney General Bell with respect to the procedure by which the treaties would be ratified was, in effect, binding on the Secretary who requested it. This buttresses our conclusion that the procedure, which did not and does not involve the House, was solidified at the beginning of the transmittal process, and the injury in fact was suffered at that time.

This injury has some similarities to that suffered in *Kennedy;* the right to vote is effectively denied by the challenged action. It is claimed by appellee that the House is free to vote on any version of the treaty; but the procedure is already decided, and the ratification process is underway. As far as the President and Senate are concerned, any action taken by the House is irrelevant and inconsequential. The House is, in fact, being denied its right to participate, and the existence of this circumstance is enough to confer standing on this court to declare the law. This is quite distinct from the situation in *Metcalf* and *Harrington* where the plaintiffs were free to enact subsequent legislation which *could affect the merits of the issues.* Here, there is nothing the House can do which will alter the fact that they are being denied any present role in the process, as may be required by the Constitution. Moreover, there is no suggestion here that a judicial ruling on the merits will circumvent the legislative process in any way. Rather, the judicial ruling sought here would *protect and implement* the constitutional legislative process.

Under these circumstances, applying the relevant precedents in this circuit and the general principles outlined by the Supreme Court, it must be said that the plaintiffs have suffered an injury in fact sufficient to confer standing. A self-executing treaty means that if it is ratified, and the exchange of documents with Panama causes it to come into force, any objection by the House of Representatives or any other person as to its validity will receive the reply that Buanu-Varilla gave to Federico Boyd in 1903 that protestations would be pointless "as everything is finished." D. McCullough, *supra* note 41, at 395.

There can be no serious dispute about plaintiffs satisfying the other three inquiries relating to standing. Clearly, the denial of the Congressmen's participatory role in the disposition of property is "within the zone of interests to be protected or regulated by the . . . constitutional guarantee in question." Ass'n of Data Processing Serv. Organization, Inc. v. Camp, 397 U.S. 150, 153 (1970). Also, the injury must be such "that fairly can be traced to the challenged action of the defendant, and not injury that results from the independent action of some third party not before the court." Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 41–42 (1976). Here, it is the President's submission of the treaties to the Senate without provisions calling for *Congress* to act in the disposition of United States property which has *caused* the denial of the plaintiffs' participatory role under the Constitution in the disposition of property. Finally, the injury must be one "likely to be redressed by a favorable decision." *Id.*, 426 U.S. at 38. A judicial decision interpreting the Constitution and declaring the law on the controversy can afford the plaintiffs the precise relief that they request—their participation in the disposition of property to the extent that same is provided for by the Constitution.

It is my view that plaintiffs have standing to bring this action.

APPENDIX

TEXTS OF TREATIES RELATING TO THE PANAMA CANAL

PANAMA CANAL TREATY

The United States of America and the Republic of Panama.

Acting in the spirit of the Joint Declaration of April 3, 1964, by the Representatives of the Governments of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974, initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama's sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

Article I

Abrogation of Prior Treaties and Establishment of a New Relationship

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;

(b) The Treaty of Friendship and Cooperation signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the United States of America and the Republic of Panama;

(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.

3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

Article II

Ratification, Entry Into Force, and Termination

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

Article III

Canal Operation and Management

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United Sates of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

(b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States dollars ($10,000,000) per annum for the foregoing services. It is agreed that every three years from the date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal services, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This Committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation. In view of both Parties' special interest in the continuity and efficiency of the Canal operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendations shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management, operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone.

Article IV

Protection and Defense

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the Canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date. The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal, and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements, the efficient uti-

lization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

Article V

Principle of Non-Intervention

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention of the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

Article VI

Protection of the Environment

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner consistent with the protection of the natural environment of the Repuublic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

Article VII

Flags

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

Article VIII

Privileges and Immunities

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The Unite States of America shall furnish to the Republic of Panama a list of the names of said officials and their dependents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

Article IX

Applicable Laws and Law Enforcement

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2–6 above shall apply to natural or judicial persons who have been engaged in business or non-profit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian component, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein may elect to serve their sentences in their State of nationality.

Article X

Employment With the Panama Canal Commission

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish em-

ployment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or non-recruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forums of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

Article XI

Provisions for the Transition Period

1. The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms. In order to provide for an orderly transition to the full application of the jurisdictional arrangements, established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in

the former Canal Zone immediately prior to the entry into force of this Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

Article XII

A Sea-Level Canal or a Third Lane of Locks

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

Article XIII

Property Transfer and Economic Participation by the Republic of Panama

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas.

(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net tons, or its equivalency, for each vessel transiting the Canal after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter, successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues. The amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

Article XIV

Settlement of Disputes

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

Done at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

ANNEX—PROCEDURES FOR THE CESSATION OR TRANSFER OF ACTIVITIES CARRIED OUT BY THE PANAMA CANAL COMPANY AND THE CANAL ZONE GOVERNMENT AND ILLUSTRATIVE LIST OF THE FUNCTIONS THAT MAY BE PERFORMED BY THE PANAMA CANAL COMMISSION

1. The laws of the Republic of Panama shall regulate the exercise of private economic activities within the areas made available by the Republic of Panama for the use of the United States of America pursuant to this Treaty. Natural or juridical persons who, at least six months prior to the date of signature of this Treaty, were legally established and engaged in the exercise of economic activities in the former Canal Zone, may continue such activities in accordance with the provisions of paragraphs 2–7 of Article IX of this Treaty.

2. The Panama Canal Commission shall not perform governmental or commercial functions as stipulated in paragraph 4 of this Annex, provided, however, that this shall not be deemed to limit in any way the right of the United States of America to perform those functions that may be necessary for the efficient management, operation and maintenance of the Canal.

3. It is understood that the Panama Canal Commission, in the exercise of the rights of the United States of America with respect to the management, operation and maintenance of the Canal, may perform functions such as are set forth below by way of illustration:

a. Management of the Canal enterprise.

b. Aids to navigation in Canal waters and in proximity thereto.

c. Control of vessel movement.

d. Operation and maintenance of the locks.

e. Tug service for the transit of vessels and dredging for the piers and docks of the Panama Canal Commission.

f. Control of the water levels in Gatun, Alajuela (Madden) and Miraflores Lakes.

g. Non-commercial transportation services in Canal waters.

h. Meteorological and hydrographic services.

i. Admeasurement.
j. Non-commercial motor transport and maintenance.
k. Industrial security through the use of watchmen.
l. Procurement and warehousing.
m. Telecommunications.
n. Protection of the environment by preventing and controlling the spillage of oil and substances harmful to human or animal life and of the ecological equilibrium in areas used in operation of the Canal and the anchorages.
o. Non-commercial vessel repair.
p. Air conditioning services in Canal installations.
q. Industrial sanitation and health services.
r. Engineering design, construction and maintenance of Panama Canal Commission installations.
s. Dredging of the Canal channel, terminal ports and adjacent waters.
t. Control of the banks and stabilizing of the slopes of the Canal.
u. Non-commercial handling of cargo on the piers and docks of the Panama Canal Commission.
v. Maintenance of public areas of the Panama Canal Commission, such as parks and gardens.
w. Generation of electric power.
x. Purification and supply of water.
y. Marine salvage in Canal waters.
z. Such other functions as may be necessary or appropriate to carry out, in conformity with this Treaty and related agreements, the rights and responsibilities of the United States of America with respect to the management, operation and maintenance of the Panama Canal.

4. The following activities and operations carried out by the Panama Canal Company and the Canal Zone Government shall not be carried out by the Panama Canal Commission, effective upon the dates indicated herein:

(a) Upon the date of entry into force of this Treaty:

(i) Wholesale and retail stores, including those through commissaries, food stores, department stores, optical shops and pastry shops;

(ii) The production of food and drink, including milk products and bakery products;

(iii) The operation of public restaurants and cafeterias and the sale of articles through vending machines;

(iv) The operation of movie theaters, bowling alleys, pool rooms and other recreational and amusement facilities for the use of which a charge is payable;

(v) The operation of laundry and dry cleaning plants other than those operated for official use;

(vi) The repair and service of privately owned automobiles or the sale of petroleum or lubricants thereto, including the operation of gasoline stations, repair garages and tire repair and recapping facilities, and the repair and service of other privately owned property, including appliances, electronic devices, boats, motors, and furniture;

(vii) The operation of cold storage and freezer plants other than those operated for official use;

(viii) The operation of freight houses other than those operated for official use;

(ix) The operation of commercial services to and supply of privately owned and operated vessels, including the construction of vessels, the sale of petroleum and lubricants and the provision of water, tug services not related to the Canal or other United States Government operations, and repair of such vessels, except in situations where repairs may be necessary to remove disabled vessels from the Canal;

(x) Printing services other than for official use;

(xi) Maritime transportation for the use of the general public;

(xii) Health and medical services provided to individuals, including hospitals, leprosariums. veterinary, mortuary and cemetery services;

(xiii) Educational services not for professional training, including schools and libraries;

(xiv) Postal services;

(xv) Immigration, customs and quarantime controls, except those measures necessary to ensure the sanitation of the Canal;

(xvi) Commercial pier and dock services, such as the handling of cargo and passengers; and

(xvii) Any other commercial activity of a similar nature, not related to the management, operation or maintenance of the Canal.

(b) Within thirty calendar months from the date of entry into force of this Treaty, governmental services such as:

(i) Police;
(ii) Courts; and
(iii) Prison system.

5. (a) With respect to those activities or functions described in paragraph 4 above, or otherwise agreed upon by the two Parties, which are to be assumed by the Government of the Republic of Panama or by private persons subject to its authority, the two Parties shall consult prior to the discontinuance of such activities or functions by the Panama Canal Commission to develop appropriate arrangements for the orderly transfer and continued efficient operation or conduct thereof.

(b) In the event that appropriate arrangements cannot be arrived at to ensure the continued performance of a particular activity or function described in paragraph 4 above which is necessary to the efficient management, operation or maintenance of the Canal, the Panama Canal Commission may, to the extent consistent with the other provisions of this Treaty and related agreements, continue to perform such activity or function until such arrangements can be made.

TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

The United States of America and the Republic of Panama have agreed upon the following:

ARTICLE I

The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama.

ARTICLE II

The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

(a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III(c);

(b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III;

(c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and

(d) Such other conditions and restrictions as are established by this Treaty.

ARTICLE III

1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

(b) Ancillary services necessary for transit through the Canal shall be provided;

(c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;

(d) As a pre-condition of transit, vessels may be required to establish clearly the financial responsibility and guarantees for payment of reasonable and adequate indemnification, consistent with international practice and standards, for damages resulting from acts or omissions of such vessels when passing through the Canal. In the case of vessels owned or operated by a State or for which it has acknowledged responsibility, a certification by that State that it shall observe its obligations under international law to pay for damages resulting from the act or omission of such vessels when passing through the Canal shall be deemed sufficient to establish such financial responsibility;

(e) Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have compiled with all applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination. However, auxiliary vessels may be required to present written assurances, certified by an official at a high level of the government of the State requesting the exemption, that they are owned or operated by that government and in this case are being used only on government non-commercial service.

2. For the purposes of this Treaty, the terms "Canal," "vessel of war," "auxiliary vessel," "internal operation," "armament" and "inspection" shall have the meanings assigned them in Annex A to this Treaty.

ARTICLE IV

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

ARTICLE V

After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory.

ARTICLE VI

1. In recognition of the important contribution of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of

propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously.

2. The United States of America, so long as it has responsibility for the operation of the Canal, may continue to provide the Republic of Colombia toll-free transit through the Canal for its troops, vessels, and materials of war. Thereafter, the Republic of Panama may provide the Republic of Colombia and the Republic of Costa Rica with the right of toll-free transit.

ARTICLE VII

1. The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all nations of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein.

2. The Organization of American States shall act as the depositary for this Treaty and related instruments.

ARTICLE VIII

This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.

Done at Washington, this 7th day of September, 1977, in the English and Spanish languages, both texts being equally authentic.

ANNEX A

1. "Canal" includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on the map annexed hereto (Annex B),[1] and any other interoceanic waterway in which the United States of America is a participant or in which the United States of America has participated in connection with the construction or financing, that may be operated wholly or partially within the territory of the Republic of Panama, the entrances thereto and the territorial seas adjacent thereto.

2. "Vessel of war" means a ship belonging to the naval forces of a State, and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew which is under regular naval discipline.

3. "Auxiliary vessel" means any ship, not a vessel of war, that is owned or operated by a State and used, for the time being, exclusively on government non-commercial service.

4. "Internal operation" encompasses all machinery and propulsion systems, as well as the management and control of the vessel, including its crew. It does not include the measures necessary to transit vessels under the control of pilots while such vessels are in the Canal.

5. "Armament" means arms, ammunitions, implements of war and other equipment of a vessel which possesses characteristics appropriate for use for warlike purposes.

6. "Inspection" includes on-board examination of vessel structure, cargo, armament and internal operation. It does not include those measures strictly necessary for admeasurement, nor those measures strictly necessary to assure safe, sanitary transit and navigation, including examination of deck and visual navigation equipment, nor in the case of live cargoes, such as cattle or other livestock, that may carry communicable diseases, those measures necessary to assure that health and sanitation requirements are satisfied.

[1] Not printed here.

Mr. ALLEN. Now, Mr. President, on another matter, I will say that I have read in the paper that Mr. Torrijos is said to be dissatisfied with the DeConcini reservation.

Well, I do not see where he should be dissatisfied. I feel sure he knew the reservation was coming because there was an exchange of notes on March 15 between the President and the dictator. As I pointed out, when they finally came up with the letters, both of them were dated on the 15th. They must have been cables, or something of that sort. But Torrijos was raising the proposition that he did not feel they ought to make any changes, that he had heard rumors of reservations and the like.

The letters are in the record, but I am now recalling from memory. The President said:

> Yes, the reservations are being considered and are going to be accepted, but I assure you nothing will be done. These reservations will not interfere with the spirit of the treaty that we have worked out.

It is the same as to say, Mr. President, that the reservations really are not going to change the agreement; therefore, they have very little effect.

As we recall, the DeConcini reservation was offered as an amendment to the treaty and turned down by the very people who accepted it as a reservation.

An interesting thing came to light in correspondence with me. Reed Irvine, of a concern called Accuracy in the Media, wrote the Washington Star, I believe Mr. Beveridge of the Washington Star, about the fact that he had been informed by a reporter for the Washington Star that he, the reporter, had these letters on the 15th of March, this exchange of letters between the President and the Dictator as to the meaning and effect of the reservations that were going to be agreed to—that he had these letters but that "the desk" stopped their publication.

Mr. Irvine was asking the question, "If you had the letters"—and in colloquy on the floor, I pointed out that if those letters had been made public on the 15th, inasmuch as we did not vote until the 16th, if we had had those letters on the 15th in which the President was saying that the reservation was not going to adversely affect the agreement that they had, then we might have taken a different view of these reservations and possibly in turn the treaty. Accuracy in Media was requesting—I have the letter here and I shall ask unanimous consent, Mr. President, that this letter, dated March 22, 1978, from Mr. Reed Irvine to Mr. George Beveridge, who is Ombudsman of the Washington Star, be printed in the RECORD. Mr. Irvine frequently takes Mr. Beveridge to task for improper or inadvisable activities on the part of the newspaper. Mr. Irvine was asking why, if they had these letters on the 15th, why was it they waited until the 17th to run it in the paper? He asks a question or two about it. I quote from the letter:

> If the Star had these letters and deliberately withheld from its readers any mention of them, it would appear to subject itself to the charge that it was withholding a news story because publication might have influenced a vote, as Senator ALLEN suggested.

I read the Star almost every afternoon and Saturday morning and Sunday morning, but I have not seen any reference to this letter, asking them why they withheld these letters that could have had an influence on the vote on the first treaty, why they withheld that from their readers.

Mr. President, I ask unanimous consent that the letter and the item in the Star referring to Mr. Torrijos' dissatisfaction, back in March, with these reservations—this publication in the Star was on March 17, 1978—that both be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. First, Mr. Torrijos said he was not concerned about the debate on the treaties, they were both going to be approved. Now, as we come to the close of the debate on the Panama Canal Treaty, Dictator Torrijos voices concern with the DeConcini amendment. He is not satisfied with the way that amendments are being turned down here in the Senate just as rapidly as they are offered. He must have some sort of fear that there is danger that constructive amendments might be passed on this other treaty. So he is rushing in and saying, "Well, I am dissatisfied with what you have already done; therefore, you had better not do anything else."

It seems to me that is just a ploy on the part of Dictator Torrijos to continue to influence the action of the Senate. He has had more influence, as I see it; his wishes have had more influence on the final action of the Senate in these matters of amendment than have the Senators. It looks like everything that has happened has had to be cleared with Torrijos—"Clear it with Omar."

Mr. DOLE. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. DOLE. The Senator just touched on a point that has been raised by the Senator from Kansas. The Senator from Kansas has been told time after time that our amendments are redundant and unnecessary. We have been assured by the leadership from time to time that everything has been worked out, everything is understood, clearly understood. It seems to this Senator that perhaps it is now time for the leadership on both sides to get a clarification from Mr. Torrijos. I think it would be very helpful to those of us who have offered our amendments in good faith and had them shot down by the floor managers and the leadership. It would also provide a service to the American people. I hope we could have some clarification of this issue. I think perhaps the leadership ought to help us get that clarification.

They have been burying our amendments one after another. Perhaps now they can find out from General Torrijos what his real thoughts may be.

Mr. ALLEN. I thank the Senator for that suggestion. I call his attention to the fact that there has been no doubt about the position of Dictator Torrijos on the leadership amendment. He adopted a different view than that which the United States had.

When the memorandum, which has now become the leadership amendment, which is now in the Neutrality Treaty, was agreed to between him and President Carter, he went back to Panama and said:

> Oh, that memorandum did not give the United States the right to intervene in Panama to protect the canal; it just gave them the duty to intervene when and if I press the button to call on them to come down and defend it.

He has never recanted from that attitude. Apparently, now, with respect to the DeConcini amendment, he still has this same view. So there never really has been a meeting of minds. That is the reason we need it, not just as a reservation to the treaty, as the DeConcini amendment was. It ought to have been a direct amendment to the treaty. But the leadership saw fit to turn down our efforts to put it directly in the treaty.

Mr. President, I think that is what Dictator Torrijos' present-day attack is aimed at, preventing amendments or meaningful, if there be such, reservations being added to the resolution of ratification. That is his strategy. He will convince the proponents of the treaties that he is dissatisfied with what the Senate has already done. Any you know he is laughing up his sleeve, because, just as quickly as these treaties are approved, $100 million a year will be coming in to uphold and protect and maintain the dictatorial regime of Dictator Torrijos. So he is putting up this smokescreen, saying, "I am dissatisfied with what the Senate has done," in an effort to see to it that we do not attach meaningful amendments and meaningful reservations to the resolution of ratification.

I dare say he will succeed. He has succeeded thus far. He has succeeded thus far in seeing to it that no amendments are added to these treaties other than the leadership amendment on which he disagrees as to its interpretation by the United States.

He has a pretty fair record. No amendment has been adopted, not a single one, except the two meaningless, or well-nigh meaningless, leadership amendments based on the memorandum. Of course, it had a little paragraph in there that took care of Dictator Torrijos. It said we could not interfere with the internal affairs of Panama, we could not impinge on their territorial integrity, and we could not interfere with the independence of Panama. That is the same as saying we are going to do nothing to upset the dictatorial regime there.

So he has a pretty good track record here, in the Senate, in getting what he wants. I predict he will get, so far as amendments are concerned, pretty well what he wants with no amendments.

But I am hopeful, Mr. President, because there were 32 votes cast against the first treaty, and only 34 are needed to defeat the second treaty, a defeat which would also defeat the first treaty, even though it has already been approved.

It is not altogether inconsistent, I would think, for a Senator, who voted for the Neutrality Treaty or the Defense Treaty on the assumption that the other treaty also would be approved, to vote for the Neutrality Treaty to provide for the defense of the canal starting in the year 2000 without being in the lest for giving the canal away.

That is the issue now, the main issue. Are we going to give the canal away?

All that has been decided is that if we give it away we are going to defend it. So if a Senator voted to defend it, there is nothing wrong with that. I said here on the floor that I thought if they would reverse the treaty, got the Panama Canal Treaty approved first, then there would have been possibly up to 99 affirmative votes for the other treaty.

But they insisted in putting the cart before the horse and 32 votes were cast against the treaty that nearly everybody approved of because it was part and parcel of the whole question of giving the canal away.

I would hope that the 68 Senators who voted to approve the first treaty will become somewhat disillusioned with Mr. Torrijos' mastery of this question, mastery of the results that takes place here in the Senate. I hope they will quit opposing every attempt at trying to shape these treaties, will quit trying to keep them in a shape approved by the Dictator, and will agree to amend these treaties for the best interests of the American people and the taxpayers of this Nation.

I am hopeful that two of the Senators who voted for the first treaty will recognize that even though they have voted to defend the treaty, that does not necessarily mean they are going to vote to give the canal away.

I would like to call attention to the parable that Jesus related that is somewhat analogous to the situation of Senators that come here at the last moment, before the realization of what is involved, and will vote against giving the canal away.

On one occasion, Jesus gave the parable about the master of the vineyard, that early in the morning he employed workmen to go out and work in the vineyard and be given reward or pay, I believe, which was said to be a penny—it was an English coin in the King James translation.

Then in the third hour, he employed men to go into the vineyard, and at the 6th hour, and finally the 11th hour he employed people to go in and work in the vineyard.

When the day was up, he paid them all the same and said that those who came at the 11th hour were going to get the same reward that those received that worked all day.

So I believe these Senators who voted for the first treaty, but now come at the 11th hour, Mr. President, I say to the distinguished Senator from Hawaii (Mr. MATSUNAGA) who is presiding, if they came at the 11th hour—I am not talking about a Senator personally, but Senators who voted for the treaty—if they come at the 11th hour and vote against the Panama Canal Treaty, they will come in for as much credit as those who have been working in the vineyard since dawn.

I am hopeful that they will come in for the same reward, the same acclamation, that might be accorded to the disguished Senator from Utah (Mr. HATCH) who has been working even before the first hour.

Mr. ALLEN. Mr. President, I yield the floor.

EXHIBIT 2

ACCURACY IN MEDIA,
March 22, 1978.

Mr. GEORGE BEVERIDGE,
Washington Star,
Washington, D.C.

DEAR MR. BEVERIDGE: Attached is a copy of a story by Jerry O'Leary that appeared in The Star on Friday, March 17. You will note that it quotes from the letters exchanged by President Carter and General Torrijos on the previous Wednesday.

This correspondence became the subject of a serious discussion on the Senate on Friday. On page 7432 of the CONGRESSIONAL RECORD of March 17, 1978, I find Senator ALLEN saying: "I say to the distinguished majority leader, if the letters were dated the 15th, it might have been of some benefit to the Senate to have had them up here on the 16th. They might have influenced a vote."

Senator BYRD responded. "Mr. President, that could be said both ways. We could say what might have been."

Senator ALLEN. "I doubt if it would have made votes for the treaty."

Senator BYRD. "I do not know. I have not read them yet. I have tried to secure them for the Senator because of his interest. Of all sad words of tongue or pen, the saddest are these: 'It might have been.'"

Mr. O'Leary told me in a phone conversation that I had with him on Saturday that he had obtained the letters that Senator ALLEN was referring to on Wednesday from the Panamanian Embassy. He said that "the desk" made a decision to hold up publication of the story mentioning or quoting them until Friday, after the Senate vote on the treaties.

I would appreciate it if you would investigate this matter. If The Star had these letters and deliberately withheld from its readers any mention of them, it would appear to subject itself to the charge that it was withholding a news story because publication might have influenced a vote, as Senator ALLEN suggested.

The question is, why were these letters news on Friday and not on Thursday? Why was publication delayed? Was there any discussion about the desirability of publication with administration officials, senators or others who might have influenced this decision?

I shall be looking forward to your reply.

Sincerely yours,

REED IRVINE.

[From the Washington Star, Mar. 17, 1978]

PANAMA COOL TO TREATY ALTERATIONS

(By Jeremiah O'Leary)

Brig. Gen. Omar Torrijos has hinted displeasure at a last-minute amendment to

the neutrality treaty on the Panama Canal and his nation is giving a cool reception to the Senate's ratification of the first portion of the pact.

But the Panamanian leader declared that he will withhold judgment until the Senate has voted on both treaties.

Torrijos expressed concern over an amendment by Sen. Dennis DeConcini, D-Ariz., because it spells out too specifically the right of the United States to use military force if the Panama Canal is ever shut down for any reason.

"We all understand the realities of what the U.S. would do if the canal was threatened from any quarter," said one Panamanian bitterly, "but this amendment rubs our noses in it."

Torrijos and other Panamanian officials made it clear that there is no elation among them over the narrow administration victory on the first phase of the treaties. Torrijos telephoned his ambassador, Gabriel Lewis, in Washington shortly after the 68–32 vote and curtly instructed him to return to Panama City immediately for consultations.

Hundreds of thousands of Panamanians, including Torrijos, monitored the radio broadcast of the Senate vote, which interpreters of the Organization of American States rendered in Spanish over a 52-station nationwide hookup.

First reports indicated that there were no demonstrations of either joy or outrage, probably because most Panamanians are uncertain of the meaning of the amendments.

Shortly after Torrijos called Lewis home, Lewis was called to the White House where he and his counsellor, Ricardo Bilonick, had a 10-minute meeting with President Carter.

The Panamanians gave Carter a copy of a letter from Torrijos in response to a Carter message about the changes being made in the treaties.

Lewis thanked the president and aide Hamilton Jordan for working so hard for ratification of the treaties.

The exchange of correspondence took place late Wednesday, well before yesterday's vote, but the letters typified the concerns of both Carter and Torrijos about the Senate's changes in the language previously agreed upon by the two leaders.

Carter's letter in effect suggested that Torrijos not be concerned with the changes the Senate was likely to make in the treaty language.

He said, "The Senate will almost certainly attach a number of reservations, conditions or understandings reflecting certain of its concerns. We have made every effort and have been successful to date in insuring that these will be consistent with the general purposes of our two countries as parties to the treaty. I hope you will examine them in this light.

"I know that the long public discussion of the treaties in the U.S. has involved difficulties for you and your country. It has been a necessary element in informing the American public of the reasons for negotiating the treaties."

Torrijos' reply referred both to the Carter letter and to a phone conversation Carter held with the Panamanian leader Wednesday afternoon.

Torrijos replied, "In your letter and conversation you have informed me that the Senate will introduce some reservations but that they do not alter or lessen the contents of what was agreed upon in the Neutrality Treaty or in our statement of October 14, 1977. On this matter, I wish to express that the Government of Panama will proceed to carefully study these reservations and will determine its position once the Senate concludes voting on both treaties."

Torrijos informed Carter he would wait until the Senate acts on the second part of the treaties, probably in April, because Panama's plebiscite was voted on jointly, not separately.

But Torrijos said, "it will be unacceptable for Panama to have any reservation staining the national dignity, which changes the objectives of the treaty or which impedes the effective exercise of Panama's sovereignty over all its territory. That is why I receive with high regard your words that these objectives will not be changed at all through amendments or reservations. The Panamanian people would not accept words, improperly placed commas, or ambiguous phrases which have as its purpose or meaning the occupation in perpetuity disguised as neutrality or an intervention in its internal affairs."

Mr. HATCH. Mr. President, I also rise to speak on the issues raised by the distinguished Senator from Alabama, who has played a noble role on the floor for these past weeks and who has been one of the great leaders, in my opinion, not only in this issue, but in many other issues as well. I appreciate the comments that he made.

This morning's Washington Star has an article on the front page entitled "Canal Treaty Critics Lose Suit on House Vote." It reads:

Critics of the Panama Canal treaties have sustained what probably is a fatal setback in efforts to block the controversial agreements in the House.

The U.S. Court of Appeals for the District, in a split decision, ruled yesterday that the United States may cede the waterway to Panama through constitutionally prescribed treaty ratification procedures—thus, without concurrence by the House.

Mr. President, the distinguised Senator from Alabama has mentioned that yesterday a three-judge panel of the Circuit Court of Appeals for the District of Columbia ruled, in the case of Edwards against Carter, that the President has the authority to dispose of property by a self-executing treaty. The decision was 2 to 1. Justice George MacKinnon was the lone dissenter.

It is now clear, then, contrary to the views expressed by the managers of this treaty, that the constitutional issue raised in my amendment is a valid one. Moreover, I believe that the position taken on April 5 by 38 Senators has been fully vindicated by Judge MacKinnon who supported our arguments in a 97-page opinion that contains many new points of law and is a tribute to his skills as a highly respected legal craftsman.

The per curiam opinion of the majority, which seems to be little more than a summary of the specious arguments propounded by the State Department and the five-page statement of the Foreign Relations Commitee, does not, in my judgment, offer any new insights or challenge any of the countless facts and precedents that we have raised here in Congress and Judge Mackinnon has brought to light in his searching analysis of the case.

Judge MacKinnon, as my colleagues will recall, was also one of the few dissenters in the landmark decision of Buckley against Valeo. His argument that the provisions of the Federal Election Campaign Act respecting the Federal Election Commission violated the separation of powers was later upheld by the Supreme Court, and I am confident that the Court will uphold him once again when it considers this case.

At the same time, I would like to share with Senators a matter which gives me some concern and raises a question of possible conflict of interest in the case of Edwards against Carter.

It is my understanding that the 85-year-old senior circuit judge who presided over this case, the Honorable Charles Fahy, has a long history of State Department connections that date back nearly 40 years. According to Who's Who in Government, Judge Fahy served as an adviser to the U.S. delegation to the San Francisco Conference in 1945 which drafted the U.N. Charter, and subsequently was an adviser to the U.S. delegation to the U.N. and an alternate representative of this Government to the U.N. Moreover, Charles Fahy was the legal adviser to the State Department from 1946 to 1947.

Mr. President, I do not know Judge Fahy, and I am confident that he is a man of honesty and integrity. I assure my colleagues that I am making no accusations or charges that would in any way cast aspersion on his character as a Federal judge. But I do find it somewhat disconcerting that he was formerly associated with the very same office of the State Department with which we are presently contending, and am puzzled by the fact that he did not disqualify himself from this case.

Be that as it may, a Federal appellate court has decided that, "Because the merits of this controversy present a pure question of law * * * it is appropriate to proceed directly to the merits of this case." The Supreme Court of the United States will now be called upon to examine the constitutional merits of the State Department's arguments. It is hoped that we shall at last get an answer to the many issues raised in this controversy that the Foreign Relations Committee and two Federal judges have thus far managed to avoid.

Mr. President, I would like to share with my colleagues the opinions of the circuit court of appeals in the case of Edwards against Carter, and I ask unanimous consent that the per curiam opinion of the court and the dissenting oinion of Justice MacKinnon be printed in the RECORD at this point.

Mr. SARBANES. Mr. President, reserving the right to object, obviously, I would not object ordinarily to such a request; but the Senator from Alabama already has put that material in the RECORD, and I was thinking of doing so. The Senator from Alabama has done it.

Mr. HATCH. If it already has been offered, I am happy that the distinguished Senator from Maryland brought the fact to my attention.

The PRESIDING OFFICER. The Senator from Utah withdraws his unanimous-consent request.

Mr. HATCH. I certainly do.

And I might add that I think it is important to be in the RECORD so that every Senator who has to vote on the ultimate decision in this matter will be able to read it. I think they will reason in their

own minds, after reading it, that Justice MacKinnon has done a tremendous job and has not given the kind of cursory treatment to the issue that the Foreign Relations and the two majority judges, the per curiam opinion judges, have given in this matter.

I think what is important is for everyone to know that in the district court this case was dismissed, because the district judge said that the plaintiffs had no standing, that there was not a pure question of law to be decided.

What is interesting is that all three of these judges basically have admitted that there is. Two of them have disagreed with our position, that we have advocated on the floor, but now the stage is set for the U.S. Supreme Court to make the final decision. I hope with all my heart that they will also agree that it is important to have a decision on this pure question of law if the Senate does not reverse yesterday's vote on my amendment, and thereby make the issue moot.

So I am happy to have the opinion of the judges and frankly I am pleased that one of the judges accepts the merits of our position. But above all I think I should make it clear that rather than have the courts decide this, I would prefer that the Senate fully address this issue and not defer to the courts.

I think everyone in America should be looking with a great deal of anticipation as to what the Supreme Court of the United States will finally decide with regard to this monumental constitutional issue, if we fail to make the issue moot in our attempt to amend this treaty to require congressional approval for the disposal of property.

I think that the case law, the statutory law, the historical precedents, the congressional precedents, and the other precedents which we raised are overwhelming. I think that the minority opinion from the Circuit Court of Appeals is overwhelming when one considers it in the light of the majority opinion which seems to just parrot the tired arguments of the State Department.

In addition, I also comment on what the distinguished Senator from Alabama and my friend and colleague from Kansas have said. It is amazing to me that Mr. Torrijos, who is getting everything that he wants because my colleagues on the floor of the Senate, the majority of them, are constantly shooting down every substantive amendment and stonewalling every other amendment regardless of substance, in fact stonewalling all amendments, has come out and made such a fuss about the DeConcini reservation.

I think it does raise the point, because we have been told here that these treaties are so well understood by both sides that there just cannot be any points of conflict or difficulties in the future. "We cannot imagine how anyone is going to have any problem arise as a result of these wonderful treaties." which have been negotiated by the State Department.

The fact of the matter is as to something like the DeConcini reservation, which was pretty simple and basically reinforces what the majority amendments or the leadership amendments have said and we would get anyway in the very least, I think it is important for us to understand that these treaties are not easily understood, that they are filled with ambiguities, that there are substantive defects in these treaties which will cause great problems, great contradictions, and great upheavals in the future, if not downright warfare, and that there are translation difficulties in both treaties. As to the amendment which have been offered, I cannot think of one which has not been substantive, which has not been important, which has not been offered for the purpose of protecting the United States of America and really protecting Panama as well. After all, if we do not on both sides know what these treaties stand for, we are going to be in trouble in the future.

So I think this fuss presently being raised by the dictator down there in Panama is pretty important, because I think what he is saying is "We want it all our way, we do not want any amendments, we do not even want the leadership amendments, and we do not understand that the leadership amendments really mean anything."

What bothers me is that I am afraid that people on our side are telling us, "Do not even worry about the DeConcini reservation, because it does not mean anything unless you have a plebiscite to honor it," which is true, incidentally, under Panamanian law. But apparently they want it even more true that it is.

But what I wish to say is that I am concerned, very concerned, about the stonewalling which has gone on with substantive, decent, corrective, rational, and valid amendments which have been offered during these last number of weeks. I have had people come to me and say:

> Senator, why offer any more? They are going to stonewall everything. They have the votes. You are just wasting your time and butting your head up against brick walls.

The answer to that is that we have an obligation to this country to set the record straight to do everything we can to point out the defects in these treaties and hopefully try to convince our colleagues that what they are doing is wrong for America. If we have to have these treaties, then let us at least have them be good treaties and not the invalid, poorly drafted, and unprotective treaties that they are.

That is what is at stake here.

Frankly, the constitutional issue is not over in any way, shape, or form. It looms ever stronger and ever more powerful after the Circuit Court of Appeals decision yesterday, because now we know that the Supreme Court has to face it fair and square and there has to be a decision if the Senate fails to follow the Constitution. That decision may come down against us, but if it does the Supreme Court better know that they are extending the President's power beyond that which was contemplated by the Founding Fathers when they wrote the Constitution of the United States and beyond that which it should be extended by any good sense or logic.

I think it is important to realize this is one of the most monumental, important constitutional issues raised in this country; and it is not over.

As a matter of fact, it will not be over if the Supreme Court came down on the same side as the majority in the Circuit Court of Appeals did yesterday, because the final say is really going to come from the House of Representatives anyway, because implementing legislation will have to be considered and enacted pursuant to many other provisions of these treaties. The House could say, "We are sorry, fellows, you over there in the Senate and President Carter, but we are not going to implement any of the other provisions of the treaty because you have ignored the House of Representatives and have excluded the disposition of the property as a matter for House action. Remember 235 Members have demanded the right to pass on the transfer of $10 billion of American property, a colossal transfer of American territory and property by treaty without approval of Congress—meaning both Houses.

If they want to they can hold up legislation in these other areas until some cognition is given to their property disposal rights under the Constitution. I do not know that they will do that, but I would be sorely tempted to do it if I were a representative representing my people back home and representing the rest of the people in this country, because the issue is that important.

Maybe sometimes the legislative branch has to teach some lessons to the President of the United States and even the State Department, as powerful as it is and, it seems to me, in some ways more powerful than almost any other branch of Government, at least in this matter.

I think it is a new low in our country's history for a President and the State Department and the ambassadors and, yes, the proponents of this treaty, to refuse to allow the Senate to advise as well as consent on this point of law when the Constitution is so clear.

I think to come here and say that we cannot have treaties until we have exactly what the dictator wants is wrong.

Mr. President, as Congressman JOHN MURPHY, Chairman of the House Merchant Marine and Fisheries Committee said yesterday:

> The action of the Senate yesterday in rejecting an amendment to the Panama Canal Treaty that would have recognized the Constitutional role of Congress in disposing of the property of the United States provided in the treaty, should be a matter of profound concern to every Member of the House and of the Senate as well.
>
> The action flies in the face of the plain provision of article IV, section 3, clause 2 of the Constitution and the uniform practice of this Government from the earliest days of the Republic. It represents a radical departure from the theory of the Constitution establishing a balance of power between the three branches of the Government. It is especially in derogation of the role of the House of Representatives in the structure of Government in that Senate concurrence in the action of the Executive is substituted for enactment of legislation by the House and the Senate as the Constitution requires.

The denial to the House of the opportunity to exercise its constitutional authority will bring into question the legal effect of the treaty, inasmuch as the Supreme Court has repeatedly found that a treaty, like any other law, is invalid to the extent that it violates any provision of the Constitution.

The language of the Constitution is plain and unambiguous in committing to the Congress the authority to dispose of property of the United States. The action of the Senate in arrogating this power to the President and the Senate should not and cannot be accepted by this body.

Meaning the House of Representatives.

The wisdom of the Senate vote in refusing to recognize the legitimate role of the Congress must be questioned when it is recognized that the vote adopts a constitutional interpretation which has been advocated by the Executive and which has historically been opposed by the Congress from the First Congress.

Whether or not a vote of the House of Representatives can be taken with respect to the congressional property disposal power before the Senate disposes of the Panama Canal Treaty of 1977, it remains of paramount importance that House Members sign discharge petition No. 6, relative to House Concurrent Resolution 347. The discharge petition is the most expeditious means of bringing the resolution to this floor and allowing all Members to express a position on a matter that vitally affects the powers of which we are trustees.

I think Congressman MURPHY laid it out pretty fairly, and I urge my fellow Members of Congress in the House of Representatives to do exactly that and to bring this matter to a head.

Mr. President, the point is to be made that this article in the Washington Star, though well written, is incorrect in saying that this circuit court decision was a fatal setback. This decision clears the air and has rejected the idea that these Congressmen lacked standing or that this is a "political question." It sets the stage that there is a real issue raised, a constitutional issue, if you will, which cannot now be ignored by the Supreme Court of the United States—unless, of course, we make it moot.

I have confidence that the Supreme Court, in looking into this, in looking upon the record which has been made here on the floor this week and in the past and in looking at the opinion, the cursory per curiam opinion, which is not nearly as well reasoned or as well founded as the dissenting opinion, will decide in favor of the Constitution.

AMENDMENT NO. 38

Mr. President, at this time, with the express understanding that no motion will be made or any vote be taken upon my amendment until Monday, and after we have been given a reasonable time in which to make our case in the matter, I call up my amendment No. 38 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. SARBANES. Mr. President, this is the understanding that we will make no motion with respect to the amendment today, and the Senator will certainly have a reasonable time next week. I wish to note that Senator DOLE has an order entered for the consideration of his amendment on Monday.

Mr. HATCH. We would be delighted to set it aside for Senator DOLE's amendment, and we will certainly cooperate in every respect. We will call it up at this time and ask for its immediate consideration under that agreement.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 38:

In paragraph 3 of article III, at the end of the text immediately above subparagraph (a), add the following: "The operating revenues of the Panama Canal Commission shall be deposited in the Treasury of the United States of America.".

In the first sentence of paragraph 5 of article III, strike out "Panama Canal Commission shall reimburse" and insert in lieu therof "United States of America shall reimburse, only after the amount of such reimbursement has been appropriated,".

Mr. HATCH. I shall not argue the merits of my amendment today, but I think my colleagues should know that this amendment raises another very important constitutional issue which is that the United States of America cannot contribute in any way to the operation of the Panama Canal in the future, assuming that these treaties are ratified, without the money coming directly from the Treasury.

So this amendment will correct what happens to be a serious constitutional defect, and we will talk about this in great detail next Monday.

With that I yield the floor to the able Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HATCH. I would be happy to yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. HELMS. I listened to the eloquent remarks of my friend from Utah, and I was struck again, when he was talking, about the fact that I suppose all of us will admit that there is a wide gap between the perception of the American people and the perception of so many of their representatives in the U.S. Senate with regard to this giveaway of the Panama Canal.

I am wondering if the distinguished Senator from Utah saw the editorial in the Wall Street Journal of this morning headed "Panama and Pax Americana"?

Mr. HATCH. I did indeed.

Mr. HELMS. I commend it to the consideration of all Senators regardless of the side they may take on this issue.

I am also reminded, I will say to my friend from Utah, that only last month the prestigious Opinion Research Corp. of Princeton, N.J., reported in a nationwide poll that 72 percent of the people of the United States—this is based upon a scientific sample—are opposed to giving up ownership and control of the canal.

Then we have the anomaly of two-thirds of the Senate, in face of all of this, having already agreed to the Neutrality Treaty, in other words, the perception of the American people and the perception of two-thirds of the U.S. Senate, it would seem to me, are, in reverse.

The author of the article in the Wall Street Journal to which I have just alluded addressed himself to this paradox.

What accounts for these perceptions being so much at odds? Are the American people so dumb and so emotional, while so many of the U.S. Senate are so wise and objective? The Senator from North Carolina has seen little evidence to support that contention.

The difference, it seems to me, may be accounted for by a lag in perception by many Members of the Senate of the true situation of the United States around the world. I suspect that some Senators, because they live at the very seat of power, bombarded with information from the national media and from official Government sources, make the assumption that they are more up to date and more sophisticated than some of their constituents who do not have access to the same information.

Yet there is a built-in bias in the information that we receive from these so-called up-to-date sources. They are all institutional sources—the national news media, the universities, official Government agencies, international organizations. All are staffed with people, particularly at the decisionmaking or interpretative level, who were trained 5, 10, 15 years ago. Their experience is from another time, not from today. So, consciously or unconsciously, they apply a screen, a bias in judgment, to the "facts" which form the basis of their estimates.

Now of course, experience can be good or bad, depending on the nature of the experience. It may no longer be a reliable guide if experience is not evaluated in the light of the present day. The practice of judgment may train a person to make a good judgment at the present time; but if present judgments are based on the facts of the past, those judgments will be faulty.

Mr. President, we have been talking about the economics of the treaty today. But what do those economics represent? And what will be the impact in the world of our taking such steps?

Mr. President, today's Wall Street Journal carries an article that goes into this problem very carefully. It is a very perceptive piece by Jude Wanniski, an associate editor of the Journal.

Mr. Wanniski summarizes the calculations of President Carter and treaty supporters as follows:

For the last dozen years or so, unhappily the cost of membership in the Pax Americana have been rising and the benefits have been falling. American imperialism has been getting a bad name. People are trading in dollars for yen. France and Italy are on the brink of switching to the other guys. German citizens are taking up collections to help support our tattered legions stationed there. And when Omar Torrijos rattles his Panamanian saber, our Kissingers tremble.

President Carter and two-thirds of the U.S. Senate are correct in their calculations. A shrinking Pax Americana cannot keep clients against their will. One must cut the empire

down to size, smiling as we wave bye-bye to former customers. So long, Cuba. Goodbye. Vietnam and Indochina. Adios, Angola. Goodbye, Canal. Shrink the U.S. Navy to bathtub size. Ban the neutron bomb. Take what you can get at SALT, and start thinking about kissing Taiwan goodbye.

That is Mr. Waniski's summary of the protreaty forces. Now here is what he says the American people are thinking:

The American people are making different calculations, and seem to be saying it is too soon to throw in the towel on Yankee world leadership. Heck, we hardly had a decent run at it, and when the President and Senate reach so far down into the barrel to give away the Canal, it seems premature. Sure, if the economy continues to bleed itself with inflated currencies and debt finance, we'll have no choice but to retreat, to lighten the load. But so soon?

Now, Mr. President, Mr. Wanniski comes to the economic issues:

The chief reason by far that the people of Panama want the canal is economic. In addition to getting a big bag of money to take the Canal off our hands, Panama gets the right to boost Canal tolls, and milk it for everything the traffic will bear. The people of Panama seem to have a vague hope the revenues will go to reducing their domestic taxes.

Why are Panamanians taxes so high? The main reason is that for the last decade Gen. Torrijos ran the government the way Nelson Rockefeller ran New York State. Spend and tax, spend and borrow. Mr. Torrijos was advised that this was the best way to build a modern economy by his friend Nelson Rockefeller, who a decade ago sent a team of experts to Panama to help him out. Panama's external debt is at least $2 billion and debt service takes 37 cents of every dollar of national revenue. For the most part, New York banks hold the paper. Mr. Rockefeller is the only American we know who exhibits genuine passion on behalf of the treaties and Mr. Torrijos.

Mr. President, Mr. Wanniski admits that the picture is not quite as he paints it. He goes on in the following manner:

We shouldn't pin this to Mr. Rockefeller, either. He was, after all, only one of a crowd of Americans who circled the globe since World War II selling a British brand of economics. It never occurred to the American Keynesians that the British Empire crumbled under the idea that public debt and high tax rates were the correct, modern formula for growth. Mr. Rockefeller was honest. He practiced what he preached. New York has not recovered, just as the former British colonies have not recovered, just as Panama has not recovered. And observe the prosperity of Egypt 22 years after Mr. Nasser grabbed Suez from the dying Pax Britannica.

Mr. President, Mr. Wanniski's presents an ingenious solution to the problem of the treaties, but it is a solution I do not think that the Senate is yet ready to accept. Further, he believes that Keynesianism is on its last laps, in the perceptions of the American people, even if the President and his advisers do not seem to think so. This entire column is very well worth reading.

Mr. President, I ask unanimous consent that the article "Panama and Pax Americana" by Jude Wanniski, from the Wall Street Journal, of today, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PANAMA AND PAX AMERICANA

(By Jude Wanniski)

One of the most puzzling political phenomena of the year is the wide gap between the people and the politicians on what to do with the Panama Canal.

Who doubts that if there were provision in the Constitution for a national referendum, and one were held on the Canal treaties, that the voters would bury them? The opinion polls suggested the public opposes the treaties by roughly a two-to-one margin. Yet the representatives of the people, in the White House and in the U.S. Senate, by an astonishingly lopsided margin of roughly 70% to 30%, back the treaties, interpreted by the people as "giving away" the Canal.

Of course it's true that in a representative form of government we expect as natural the frequent discrepancies between the apparent wishes of the citizens and the votes of their delegates. This is because we expect our political delegates to weigh the intellectual arguments and passions of their constituents in addition to the numerical majority. In other words, Americans accept the idea that majority rule is not inconsistent with the notion that the squeaky wheel gets the grease.

But how can we explain this Canal voting? Not only has antitreaty sentiment among the citizenry amassed a wide numerical majority. It also commands the passion of that majority. There is scarcely any intensity among the minority of citizens who support the treaties. Senators Howard Cannon of Nevada and Paul Hatfield of Montana, for example, can hardly find any of the citizens who they represent agreeing with their protreaty votes.

AN EXPLANATION

There must be a rational explanation. And there is, I think, an honest difference of opinion here between the people and their representatives. When you come right down to it, President Carter and two-thirds of the Senate base their decision on the idea that "imperialism" is a bad thing and that the Panama Canal (which we "stole fair and square") is a symbol of American imperialism (Teddy Roosevelt, gunboat diplomacy and all that). Furthermore, they believe imperialism is antihistorical, as witness the crumbling of the Roman and British empires.

The American people, on the other hand, still think Yankee-style imperialism is not a bad thing, all things considered. By this we'd mean an extension of hegemony not by conquest, but through superior example, leadership and salesmanship. Americans more or less think our system of government is the best in the world. For 60 years the U.S. economy has been preeminent. For a good part of that time U.S. military power has protected the interests of democracy and freedom. The U.S. dollar has been the world currency. American culture has become an international language. A benign imperialism, mostly.

Nor do Americans, generally speaking, believe "imperialism" is antihistorical. On the contrary, if the world is going to be unified someone has to be in the lead. If it is not the United States it looks to the man in the street, that it will be the Soviet Union. The problem with empires, like any club, is that they are good only as long as people really want to belong to them. Previous empires broke down because the costs of belonging finally overtook the benefits.

For the last dozen years or so, unhappily, the costs of membership in the Pax Americana have been rising and the benefits have been falling. American imperialism has been getting a bad name. People are trading in dollars for yen. France and Italy are on the brink of switching to the other guys. German citizens are taking up collections to help support our tattered legions stationed there. And when Omar Torrijos rattles his Panamanian saber, our Kissingers tremble.

President Carter and two-thirds of the U.S. Senate are correct in their calculations. A shrinking Pax Americana cannot keep clients against their will. One must cut the empire down to size, smiling as we wave bye-bye to former customers. So long, Cuba. Goodbye, Vietnam and Indochina. Adios, Angola. Goodbye, Canal. Shrink the U.S. Navy to bathtub size. Ban the neutron bomb. Take what you can get at SALT, and start thinking about kissing Taiwan goodbye.

The American people are making different calculations, and seem to be saying it is too soon to throw in the towel on Yankee world leadership. Heck, we hardly had a decent run at it, and when the President and Senate reach so far down into the barrel to give away the Canal, it seems premature. Sure, if the economy continues to bleed itself with inflated currencies and debt finance we'll have no choice but to retreat, to lighten the load. But so soon?

What, though, is the alternative? It goes without saying that internal economic disintegration must be halted and real expansion renewed. But even if Mr. Carter and two-thirds of the Senate had a clue as to how this could be done, it would not be enough to boom the host country of this empire. The American failure of the last 30 years, as an imperialist host, is that it unwittingly poisoned the poor countries of the world with unfortunate advice. In the next run at a Pax Americana, this has to change.

Consider Panama. The chief reason by far that the people of Panama want the Canal is economic. In addition to getting a big bag of money to take the Canal off our hands, Panama gets the rights to boost Canal tolls and milk it for everything the traffic will bear. The people of Panama seem to have a vague hope the revenue will go to reducing their domestic taxes.

Why are Panamanian taxes so high? The main reason is that for the last decade Gen. Torrijos ran the government the way Nelson Rockefeller ran New York State. Spend and tax, spend and borrow. Mr. Torrijos was advised that this was the best way to build a modern economy by his friend, Nelson Rockefeller, who a decade ago sent a team of experts to Panama to help him out. Panama's external debt is at least $2 billion and debt service takes 37 cents of every dollar of national revenue. For the most part, New York banks hold the paper. Mr. Rockefeller is the only American we know who exhibits genuine passion on behalf of the treaties and Mr. Torrijos.

A BETTER WAY

There must be a better way of redeeming Mr. Rockefeller for his dreadful advice to his friend than giving up the Canal and a lot of money. Sen. Harry Byrd of Virginia thinks the U.S. taxpayer costs will hit $10 billion before the deed is done in the year 2000. And chances are slim that Mr. Torrijos will use the money to relieve his people of oppressive taxes. He'll buy a lot of military trinkets and build a replica of the Albany Mall.

Why not pay off Panama's $2 billion debt if the government agrees to cut tax rates by 37% (the amount of revenues now going to debt sevice). The Panamanians would love it.

We shouldn't pin this to Mr. Rockefeller, either. He was, after all, only one of a crowd of Americans who circled the globe since World War II selling a British brand of economics. It never occurred to the American Keynesians that the British Empire crumbled under the idea that public debt and high tax rates were the correct, modern formula for growth. Mr. Rockefeller was honest. He practiced what he preached. New York has not recovered, just as the former British colonies have not recovered, just as Panama has not recovered.

And observe the prosperity of Egypt 22 years after Mr. Nasser grabbed Suez from the dying Pax Britannica.

Imperialism becomes malign when the Empire disseminates poisonous advice. Lucky for us that countries like Germany, Japan, Taiwan and several others ignored our advice, and kept the Western economy buoyant.

Perhaps this partly explains why there is such a gap between the people and the politicians on the Canal. The citizenry may sense that Keynesianism is on its last laps, and we'll soon abandon the idea that an American hegemony can succeed with economic theories that destroyed the British Empire. American global leadership must surely become more attractive once we stop advising the Panamas of the world to search for happiness in debt, devaluation and taxation.

This is an optimistic view. The President and the Senate clearly do not believe any of this foolishness, which is why they vote the way they do. The people haven't given up on another run at a Pax Americana, which is why they are putting up such a fuss.

Mr. HELMS. I thank the Senator for yielding to me.

Mr. HATCH. I appreciate the remarks of the distinguished Senator from North Carolina.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I intend to take just a few moments to address the matter of the opinion of the U.S. Court of Appeals for the District of Columbia which was handed down yesterday, on an issue which has been of considerable interest to the Senate in recent days.

I must say, Mr. President, that in a way I am gratified that the court's opinion came after the consideration of this issue in the Senate, and after we had reached our own decision on it.

The time at which the amendment was laid down, before the Easter break, gave Members an opportunity to go home to their constituencies and then resume again, at the beginning of this week, the extended debate on Monday and Tuesday, and to vote on Wednesday morning. The decision which the Senate made on this matter on Wednesday corresponded with the decision and judgment reached by a majority of the Court of Appeals for the District of Columbia Circuit on yesterday, but our judgment was reached prior to the court's opinion, and I think the Members of the Senate participating in that consideration, who reached that independent judgment, can now refer to the court's opinion to sustain their position. Members on both sides, of course, can refer to the court's position in support of the positions they have reached on the Senate floor; but it is interesting that a very clear majority here on the floor and a 2-to-1 majority on the court of appeals reached the same conclusion.

The court of appeals affirmed the judgment in the case of Edwards versus Carter in the District Court for the District of Columbia dismissing an action brought by 60 Members of the House of Representatives. The plaintiffs sought a declaratory judgment that the Constitution requires the approval of both Houses of Congress for the disposal of U.S. property, and that the Panama Canal Zone may not, therefore, be returned to Panama by treaty.

In rejecting that contention the court decided the question directly on the merits—in part, it said:

Because these merits are so clearly against the parties asserting jurisdiction. . . .

The district court had decided the case against the plaintiffs, but it had decided it on a procedural matter, which dealt with the timing and their right to bring the suit at a particular point. But the court of appeals did not proceed on the procedural ground; they went to the merits in contention, in part, the court said:

Because these merits are so clearly against the parties asserting jurisdiction.

The court found the construction the plaintiffs were asserting for, that the approval of both Houses of Congress was necessary for the disposal of U.S. property, "to be at odds with the wording of" the property clause as well as "similar grants of power to the Congress and, most significantly, with the history of the constitutional debates."

Of course, Mr. President, those were among the very points that were asserted in the debate on the floor of the Senate on this very issue. The court observed, in its opinion, that the Committee on Foreign Relations—

Has thoroughly considered and rejected appellants' argument. That Committee reported the treaties with Panama to the full Senate by a 14 to 1 vote, and the one dissenting Senator did not dispute the power of the President, by and with the advice and consent of the Senate, to transfer United States property.

I think in fairness to Senator GRIFFIN, if I understand his position, he did not contend that it was constitutionally required that both Houses act on the transfer of property. He did contend that as a matter of policy, simply of comity between the Senate and the House of Representatives, we should decide here to send the matter over to the House for their approval as well; but he did not assert that as a constitutional argument and a constitutional requirement.

Mr. HATCH. Mr. President, will the Senator yield at that point?

Mr. SARBANES. Yes, I yield.

Mr. HATCH. I might add that Senator GRIFFIN did vote for our amendment, or he voted against tabling it, and he did tell me personally that he would have voted for our amendment on the merits, because it did involve a very important constitutional principle. I think the record should stand corrected on that particular point.

Mr. SARBANES. I do not quarrel with any statement the Senator has just made. I tried to be fair to Senator GRIFFIN, because this point was not raised by him, the purported constitutional question, and I recall quite clearly during the debate his stating that while he was not asserting it as a constitutional question, he felt it to be the better course as a matter of congressional policy. That is different from the position asserted by the amendment, that this was constitutionally required.

Mr. HATCH. That is true. But it was the opinion of Senator GRIFFIN expressed to me personally that that position was constitutionally sound. And although Senator GRIFFIN did not raise the issue in the committee report, he did support it here.

I thank the distinguished Senator from Maryland for permitting me to interrupt him.

Mr. SARBANES. In its opinion, Mr. President, the court, after reviewing the language of the Constitution, concludes that—

On its face, the property clause is intended not to restrict the scope of the treaty clause, but, rather, is intended to permit Congress to accomplish through legislation what may concurrently be accomplished through other means provided in the Constitution.

So the court, in effect, endorsed the theory of concurrent powers, and Senators will recall that the committee report, in dealing with this issue, stated:

The constitutional text is no reason to assume that the power to dispose of property may be exercised only by statute and not by treaty.

The court, in discussing the property clause, concluded that the property clause "was not intended to preclude the availability of self-executing treaties as a means for disposing of U.S. property. The history of the drafting and ratification of that clause confirms this conclusion. The debates in the constitutional convention clearly demonstrate that the property clause was intended to delineate the role to be played by the Central Government in the disposition of Western lands which were potential new States."

(Mr. RIEGLE assumed the chair.)

Mr. SARBANES. Mr. President, the committee report came under such an attack in the course of our debate that I think I ought to observe that on this very point on which I have just been quoting the court's opinion, the committee report stated:

The Framers evidenced no intent to preclude the United States from disposing of governmental property by treaty. A review of the discussion of the disposal-of-property clause indicates that the Framers' concern was that the Federal government have primacy over the States in resolving disputes among the States over certain Western lands—suggesting, again, an intent to delineate Federal power versus that of the States. A number of statements, indicating that territory and other property could be transferred by treaty, were made by the Framers during the debate on the treaty power after Article IV was adopted.

The court, in discussing judicial authorities, concluded that, "Those cases were persuasively supportive of the authority of the President and the Senate under the treaty clause."

Members will recall that that was the contention that was made here on the floor by this side in the debate, and it was the contention put forth in the committee report with respect to judicial authorities, where the report stated:

The Supreme Court appears to have favored a construction of the Constitution which would permit the disposal of property by self-executing treaties.

We also discussed past treaty practice. Of course, the court in that area concluded:

Past treaty practice is thoroughly consistent with the repealed intention of the framers of those clauses.

Mr. President, there were some very sharp attacks on the quality of the work of the Committee on Foreign Relations during the course of the debate. My distinguished and able colleague from Idaho (Mr. CHURCH) spoke to that matter towards the close of that debate. In fact, he then said:

Upon examination, the statements made in the report of the Committee on Foreign Relations, and the legal basis on which this treaty has been drafted, have been shown to be well founded.

Mr. President, I think it is very clear that the majority opinion of the Court of Appeals for the District of Columbia fully bolsters that conclusion. The opinion has been included in full in the RECORD so that Members will have the opportunity to read it for themselves and carefully examine all of the court's reasoning.

I am gratified in two respects by this opinion: One, that it came after we finished the debate and vote here so that we had our debate straightforwardly with respect to the merits of this matter without a court opinion to make constant reference to; and, two, that the court opinion, now that it has come, fully supports the position taken in the committee report. I think it really answers the charges which were made against the quality of that work. The court's opinion fully supports the position that was taken by the clear majority of the Members of the Senate in voting to table the amendment which had been offered by the distinguished Senator from Utah.

● Mr. LAXALT. Mr. President, the Senate has recently been focusing its attention on the Panama Canal Treaty. This is the treaty which would actually turn the Panama Canal over to Panama.

It is appropriate that most of our attention be focused on the canal treaty since it is the pending business of the Senate, and because it is still important to fully debate the question of whether it is a good idea to turn such a vital asset over to another nation.

However, Mr. President, I would like to call the attention of the Senate to the fact that there still remains unresolved problems relating to the Neutrality Treaty, which the Senate considered and approved, but only by the narrowest of margins, I might add.

It is fair to say, Mr. President, that the Neutrality Treaty would not have been approved were it not for the agreement of the administration to accept the DeConcini reservation to the instrument of ratification. Therefore, the true effect of the DeConcini reservation is a very important question for anyone concerned about the effectiveness of the Neutrality Treaty.

It is in this effect, Mr. President, that I find of great interest recent developments with respect to the DeConcini reservation. I refer to the recent reaction of the Panamanian Government to the DeConcini reservation.

I have had a chance to review the materials that the Panamanian Government recently sent to the United Nations with respect to the Neutrality Treaty, and this material raises questions in my mind, and I am sure also in the minds of others, concerning the intentions of Panama with respect to the treaty and, particularly, with respect to the DeConcini reservation.

If Panama agrees with the nature of U.S. defense rights embodied in the DeConcini reservation, then why has it sent documents to the United Nations, which I shall submit for the RECORD, and to other heads of state raising questions about this reservation? In light of these actions by Panama, would it consider itself bound by the reservation, or would it feel free to reject it at the time we sought to exercise our supposed rights?

Mr. President, these latest developments reinforce the position that treaty opponents have taken all along, which is that U.S. defense rights were not adequately protected under the Neutrality Treaty and that there had been no meeting of the minds between the two sides on the crucial question of our defense rights after the year 2000.

Mr. President, I urge all Senators to carefully review these latest developments and consider once more the basic question of whether the proposed treaties adequately protect our interest in the continuous and efficient operation of the Panama Canal; and whether Panama agrees with the administration's interpretation of the treaty. The inescapable conclusion is in the negative of both of these questions.●

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 15 minutes, as in legislative session.

The PRESIDING OFFICER (Mr. SARBANES). Is there objection to the unanimous-consent request? The Chair hears none. The Senator from Michigan is recognized to proceed for 15 minutes, as in legislative session.

EMBARGO OF MILITARY SALES TO TURKEY

Mr. RIEGLE. Mr. President, I rise to raise a subject of great concern to me. That is the recommendation by the President and his chief advisers to lift the arms embargo which has been in place against the country of Turkey and to begin new arms shipments in large quantities to that country. I think this is a serious error in policy judgment. I think its implications go so deep that it is a matter of great concern to me, and I think it became a matter of increasing concern to the country as a whole.

As a result of this recommendation by the administration, which I must frankly say I was surprised to have them put forward, I have written a letter to the President which I conveyed to him a couple of days ago. I now want to share with the Senate the text of that letter. It is addressed to him and is as follows:

U.S. SENATE,
Washington, D.C., April 4, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I urge you not to lift the embargo on the sale of military weapons to Turkey. Such action, if taken by your Administration, could lead to further armed aggression by the government of Turkey against the people of Cyprus and would result in a strengthening of anti-American sentiment and political forces in Greece, possibly resulting in the withdrawal of that nation from the North Atlantic Treaty Organization.

At present, more than 30,000 Turkish troops illegally occupy a large portion of Cyprus and daily violate both international law and United Nations' Resolution 3212 (calling for the removal of troops and the return of refugees and the reestablishment of independence for the island). Additionally, the Commission on Human Rights of the Council of Europe has determined that Turkey has been guilty of systematic killing of civilians, rape, massive looting, deportation and the separation of individuals from their property and homeland, and torture. Surely, such conduct is not worthy of the support of an Administration which has been applauded for its stand in favor of the establishment and maintenance of basic human rights.

Further military aid to Turkey will likely bring about the downfall, or swing to the Right, of the government in Athens. Considerable anti-American sentiment is already present as the result of our support of the military junta which has displaced the previous democratic government. Arms to Turkey may well dislodge the most military important NATO ally in southern Europe.

The threat of Turkey's withdrawal from NATO must be faced, but with many reservations. It is Turkey, not Greece, which daily violated the NATO Charter by its armed occupation of Cyprus. It is Greece which has shown itself to be the loyal and strong ally of the United States, not Turkey. The need for Turkey in the framework of the NATO alliance is questionable, and the relative unimportance of the country has been demonstrated with the closing of U.S. intelligence bases. Since that time, the United States and NATO have functioned quite well, gaining necessary data through alternative means. It is the naval bases and support facilities of Greece which are important, not the Asian land mass of Turkey.

The actions of Turkey violate the United Nations Charter, Chapter I, which calls for the peaceful settlement of international disputes and prohibits the use of threats of force. Turkey violates with its military activities the First Article of the NATO Charter, which also requires peaceful settlement of disputes and the restraint of force by one member against another. And the trampling of human rights and the colonial activities of Turkey in Cyprus are in violation of Public Law 94–329 which forbids security assistance to nations which engage in the gross destruction of basic human rights.

We have heard that suicide squads are forming on Cyprus. The intent of the people is clear: self-determination. Continued support for the illegal occupation threatens to turn that beleaguered island into another Palestine. Bloodletting begets bloodletting. Terror gives birth to terror. The solution to the problems which plague that island and its people, Greek and Turk alike, is a negotiated settlement with full respect for the rights of either party. It is toward that end that the United States should work. Our role should be that of peacemaker, not arms merchant.

Sincerely,

DONALD W. RIEGLE, Jr.,
U.S. Senator.

It is signed by myself and conveyed, as I said, to the President.

In addition to that, Mr. President, there are several other things at stake here, not the least of which is the fact that the Carter administration, when it was the Carter campaign in 1976, was

very clearcut and very straightforward on this issue. The problem is that the position which was taken at that time was fundamentally at odds with what has just been announced as the new position. I think this change in position is really unacceptable. It is unwarranted in terms of the facts of the case, which I tried to outline in the letter that I just made reference to. But, more than that, if the President hopes to have credibility, if his foreign policy advisers hope to have credibility on major issues with Members of the Senate and people across the country, it seems to me that they have to stand firm and foursquare on thoughtful, well-reasoned policy statements and pledges that they made a few short months ago in the Presidential campaign when they were seeking election.

If we were to follow the advice of the administration and suspend the arms embargo, we should certainly undermine the rule of law in the discussion of our foreign policy. It would certainly raise the most serious kinds of doubts about arms commitment, recently greatly reemphasized by Carter on the subject of human rights. It would certainly call into question our national commitment to the control of U.S. arms sales abroad. It also clearly would make far more difficult the achievement of a Cyprus settlement and a just resolution of the refugee problem.

It is clear to me, also, that it could only encourage the growth of anti-American forces in Greece. I think it is fair to say that it would make virtually impossible the normalization of relationships among Turkey, Greece, and Cyprus, and between each of the three of them and the United States.

Finally, as I was saying a moment ago, it seems to me if this were done, if the administration, in a sense, violates the pledges and the word it gave just months ago on this issue in the course of the campaign, it cuts a great big hole in what is left of the credibility of the administration in the area of foreign policy. I do not want to see that happen.

I ask unanimous consent, Mr. President, to have printed in the RECORD at the end of my remarks, two news items, the first being an editorial in the New York Times, dated Friday, March 31, 1978, entitled 'The Way Back From Cyprus."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. The second is from Time magazine dated April 3, 1978, an article entitled "A Dying See." I ask unanimous consent to have that printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. RIEGLE. The administration has its hands full with a number of controversial issues at the moment—not the least of which is the Panama Canal Treaty ratification fight, which we have been involved in here earlier today in debate, and the energy package, which is a difficult one. We have the arms package from the Middle East coming at us. We have the SALT talks, which may pretty well produce a move later in the year to act in that area. We have the Humphrey-Hawkins legislation, labor law reform legislation, the need to reorganize CETA legislation, CSC legislation. The list goes on and on of critical items that are going to have come before the U.S. Senate for action.

For the administration at this point to change direction in terms of what they have said in the past and what would otherwise be consistent with the basic policy positions they have taken on fundamental issues like human rights and arms sales abroad, and the questions of equity and justice, just does not make any sense at all. So I hope that anyone who represents the President in foreign policy who would come across these remarks in the RECORD or might be within earshot at the moment, would understand that they are taking on a fight in this area that they may very well not win. But that is less important than the fact that they are taking on a fight that they ought not to be taking on.

They are on the wrong side of this issue. It is inconsistent with everything else they are saying. I view it as an inexcusable breach of confidence. Their supporters were out there months ago, in the fall of 1976, supporting the Carter campaign because of their forthright position on the Cyprus issue, and they are now left to try to understand and explain this sudden complete change of direction. It does not make sense.

It is bad policy and I am deeply troubled about it. Therefore, I shall be involved, with others who feel likewise, in bringing to bear all the strength and muscle we have in rejecting, turning aside this recommended policy initiative by the country.

I hope that the Secretary of State and the President and others will reconsider, while they have time to reconsider, the meaning and the message of this particular step that they have proposed. I think that we find ourselves at a point right now where, unless something is done to shift this direction, the administration has put itself in a head-on collision course with its own past commitments, as well as most of its best friends here in the Senate of the United States.

This is the sort of sad moment that we find ourselves in at the present time. I hope a way can be found to resolve it. But clearly, if we are going to keep faith with the basic principles that the administration has put forward on the fundamental questions of equity and justice and humane decisions and just treatment for people around the world, this decision is going to have to change. If it is not changed by the administration, those of us who feel strongly about it are going to have to try to change it here. Speaking as one Senator, I am going to do all I can to try to bring that about.

EXHIBIT 1

THE WAY BACK FROM CYPRUS

Since 1974, when Turkish troops, using American weapons, occupied two-fifths of the island of Cyprus, relations between Ankara and and Washington have been sour. Congress has limited the flow of additional arms until Turkey pulls back its forces; successive Turkish Governments have refused to define their conditions for withdrawal under such pressure. Both the United States and Turkey will end up losers if no way can be found to break out of this bind. Turkey could point the way by revealing its proposals for a Cyprus settlement.

Turkey's invasion was scarcely unprovoked. The 18 percent Turkish minority on Cyprus had never been well treated by the Greek majority. And in July 1974, a coup brought to power a hard-line Greek-Cyprot faction that seemed likely to take even less account of Turkish-Cypriot rights. Although the insurgent regime lasted only a few days, that was long enough to precipitate Ankara's invasion.

Ankara has reacted to the limit on arms sales—$175 million this year—by sharply restricing American use of NATO facilities in Turkey. Under steady pressure from Greek-Americans. Congress has remained firms. But the Ford Administration strongly deplored the Congressional restrictions as harmful to NATO—and thus caused the Greek Government to curtail its military cooperation with NATO. The Carter Administration has tried to straddle the issue. It has continued discussions for a defense agreement that would substantially increase American military aid to Turkey. But it has implied that it would not conclude the agreement until there had been progress on Cyprus. Early this month, Secretary of State Vance was explicit: Washington would not move, he told Congress, until it had examined proposals for Cyprus promised by Turkey's new Prime Minister, Bulent Ecevit.

More intolerable "linkage," responded Mr. Ecevit—this time from the Administration, not merely from Congress. He countered with reverse linkage: no Cyprus proposals until the heat is off. That message, and subsequent hints that Turkey might withdraw its half-million men from NATO's command and even sign a nonaggression pact with Moscow, caused a high-level American delegation to hurry to Ankara this week to attempt to set things right.

That won't be easy. Strong sentiment continues in Congress that Turkish concessions are necessary before normal military relations can resume. That sentiment is justified. Turkey broke United States law and violated the spirit of its alliance when it used American weapons to expel Greek Cypriots from their homes and farms. Having made its point, Ankara should now fall back. Greek Cypriots—and Greece—realize there can be no return to the old arrangements on Cyprus. They acknowledge that Turkish Cypriots should enjoy nearly complete autonomy, including a territorial zone of their own, but one roughly proportionate to the size of the Turkish-Cypriot population.

There is every reason to believe that both Prime Minister Ecevit and the Turkish military leadership would like to pull back. Because the Turkish occupation force is the central issue in contention, the first moves must come from Ankara. Since the issue continues to be the most explosive one in Turkey's politics, such a move would be painful. But Mr. Ecevit is in a strong parliamentary position; unlike his predecessor, he does not depend upon ultranationalists for his majority.

Turkish dissociation from NATO would be costly to the United States. But it is the Turks who should calculate the benefits of full participation in NATO; it is they who face the risks of weakened ties to the West. Meanwhile, those would support NATO by lifting the restrictions on arms to Turkey should remember that Cyprus is just as emotion-wrenching an issue in Greece. It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece.

EXHIBIT 2

A DYING SEE: PATRIARCHATE FADES IN TURKEY

He bears ancient and august titles: Ecumenical Patriarch and Archbishop of the

"New Rome" in Constantinople, the mother church of Eastern Orthodoxy since the 4th century. He is the symbolic leader of the world's 85 million Orthodox Christians. Yet when His Holiness Demetrios I presides over the Sunday Eucharist at the Church of St. George in Istanbul, the giant chandeliers cast their feeble light across ranks of empty pews. The congregation numbers only a dozen or so worshipers, most of them elderly. The historic see, once the center of half the Christian world is dying.

The Ecumencial Patriarchate has been caught up in the latest phase of the long-standing feud between Turk and Greek. After the Byzantine capital fell to the Ottomans in 1453, Constantinople (now Istanbul) became the heart of a once vast community of Christian Greeks, or Rum* (rhymes with tomb), in Turkey. Terrible cruelty set in with the 1821–29 war, in which Greece won its independence from Turkey. During that period Patriarch Gregory V was hanged at the gate of his palace. Even so, the Rum still numbered 1.5 million by World War I. Today only 7,000 are left.

Physical attacks are now rare. Still, the Patriarch and his parishioners have suffered continual harassment. Last May, when 150 youths broke into the courtyard of the Patriarch's residence to shout Greeks-go-home slogans, it took local police half an hour to answer calls for help. Greeks tell of job discrimination, unjustified evictions, expropriation of property, telephone threats and demands for "protection" money. Few would remain if the law allowed them to leave with their wealth. Says one: "All we have is tied up in the business. We have sent our daughter to university in Athens, and I hope she doesn't come back." Most youths do not.

Last year the Turkish government slapped new taxes on all 50 Greek churches and 28 parish schools, threatening them with financial collapse. Church carpets, linens and tableware were attached for tax default, even at the Patriarch's quarters. Buildings have deteriorated because the regime must approve all repairs costing more than $13.

The Ecumenical Patriarchate has had great difficult operating as an international Orthodox center. Turkey has shut down the patriarchate's press and its once renowed seminary. The regime has tightly controlled overseas travels of the Rum clergy. Last September, officials even yanked the passport of Metropolian Meliton, the see's chief envoy, just as he was leaving for talks at the Vatican. Meliton is also engaged in crucial negotiations for a historic Great Synod of the world's Orthodox bishops.

When a new Patriarch had to be chosen in 1972, the government exercised its power and vetoed the strongest candidates. That is why the 58-year-old Demetrios, a man with the qualities of a simple parish priest, was selected, though he was the junior archbishop. He thereby assumed jurisdiction over millions of Greeks in the West and became "first among equals" of the Orthodox patriarchs.

The worsening conditions in his see led to outcries in recent months from Eastern Orthodox and Roman Catholic prelates in the U.S., and the American State Department may have indicated its concern to the newly installed regime of Premier Bülent Ecevit. Finally Ecevit met with patriarchal leaders on March 7 and two days later with Greece's Premier Constantine Caramanlis. As a result, Ecevit, who raised the issue of similar grievances of ethnic Turks in parts of Greece, is now promising a new era of moderation in Turkish treatment of the Rum. The list of proposed reforms clearly defines the range of past harassment. It includes freedom to repair buildings, possible reopening of the press and seminary, an end to the new church tax and removal of travel restrictions on the clergy.

That gives the Ecumenical Patriarchate some breathing room, but the prospects for its long-range survival remain dim. One day there may be no Rum youth entering the priesthood and no community for the church to serve. Some Americans have proposed that Demetrios move the holy see to one of three sites in Greece already under his jurisdiction: Rhodes, Crete or the spectacular monastery complex atop Mount Athos. Constantinople's historic rival, the huge Orthodox Church of Russia, might offer a locale in a Soviet satellite country like Rumania or Bulgaria. But such a shift might merely mean a worse form of oppression. Demetrios has good reason to try to hold on. If he forsakes the "New Rome," the ancient patriarchates of Alexandria and Antioch might refuse to recognize him as the Ecumenical Patriarch.

*From an ancient word for Byzantine "Romans."

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now may be a period for the transaction of routine morning business, as in legislative session, not to extend beyond 30 minutes, with statements therein limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorom.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OIL IMPORT FEES WOULD CAUSE RAMPANT INFLATION

Mr. METZENBAUM. Mr. President, 2 days ago I received a study I had requested from the Congressional Research Service in regard to the economic impact of an oil import fee of $5 per barrel that has been suggested by high-ranking members of the administration.

The study showed that imposition of such an import tax could have a devastating effect on the economy. It could cause an increase of between 1.5 percent to 2.6 percent in the inflation rate. It could put an annual burden of between $19.3 billion to $33.8 billion on consumers. It could cause an immediate increase in gasoline prices of between 7 to 12 cents per gallon.

Members of the New England congressional caucus came out in opposition to the import fees the same day and cited the tremendous impact it would have on their region due to the heavy use of fuel oil.

Within 24 hours of the release of the CRS study, I was furnished with a copy of a letter that the president of Southern California Edison, one of the Nation's largest electric utilities, had written to Secretary of Energy James Schlesinger on the same subject.

In the letter the utility president points out the fact that imposition of the import fee could mean an increased cost to its customers of $155 million in the rest of 1978 alone. This is due to stringent air pollution agreements that result in heavy use of imported oil in the firm's generating plants.

Mr. President, I think this is only the tip of the iceberg. As more and more Americans realize what this ill-advised proposal could result in, it will become clear that our economy cannot stand such a burden. I urge the administration to remove the import fee from its list of options.

I ask unanimous consent that the letter to Secretary Schlesinger be printed the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTHERN CALIFORNIA EDISON CO.,
Rosemead, Calif., March 30, 1978.

Dr. JAMES R. SCHLESINGER,
Secretary, Department of Energy, White House, Washington, D.C.

DEAR MR. SECRETARY: It has come to our attention that Federal Reserve Board Chairman G. William Miller and Treasury Secretary Blumenthal have recently stated that the President may impose an import fee on foreign source crude oil products of $5 per barrel. The Executive imposition of an import quota system has also been discussed as being under consideration. We understand that these suggestions are premised on the need for a significant reduction of the use of foreign-source petroleum or products. While we would applaud this premise as a national goal, it should be brought to your attention that such a program may have an unintended adverse economic impact on our customers. Therefore, we respectfully suggest that before such a program be implemented by executive action, the following facts and suggestions be considered.

Southern California Edison Company (Edison) had dedicated its electric utility facilities to provide necessary and essential public utility electric service to nearly eight million residents of Central and Southern California. This service is provided through the generation of electricity from a variety of energy sources, including hydroelectric facilities as well as those fuels by coal, nuclear, oil and gas, with oil and gas providing an estimated 77% of currently installed capacity. This amounts to 9842 megawatts of oil-fired generating facilities, most of which are located in Southern California's South Coast Air Quality Management District.

The operations of Edison's oil- and gas-fueled plants have, for many years, been subject to stringent air pollution control regulations which now require use of low sulfur fuel oil containing not more than 0.25 percent sulfur by weight. Edison's requirement for very low sulfur fuel oil has steadily increased as a result of a decline in natural gas supply. Oil represented only 20 percent of the total oil and gas consumed by Edison in 1970 while it is estimated that for 1978, oil use at our generating plants will represent approximately 75 percent of the total oil and gas burned or nearly 41 million barrels of very low sulfur fuel oil (0.25 percent or less). Edison projects that it will utilize approximately 50 million barrels of low sulfur fuel oil in 1979.

Due to the lack of adequate supplies of domestic low sulfur crude oil from which environmentally acceptable very low sulfur fuels can be manufactured for electric generation, Edison is highly dependent upon imported low sulfur crude oil for domestic processing into very low sulfur residual oil, and on direct imports of very low sulfur residual oil. Alaska North Slope crude oil, while in abundant supply, is too high in sulfur content to permit refining by existing facilities to meet air quality restrictions. In order to produce adequate supplies of low sulfur fuel oil complying with air quality regulations from Alaska North Slope crude oil, it will require the addition and operation of new desulferization facilities at existing California refineries which, in most cases, would not be permitted under the existing Clean Air Act relative to areas which exceed National Ambient Air Quality Standards as administered by the Environmental Protection Agency and other air quality control agencies having jurisdiction.

Therefore, an import fee alone cannot alter Edison's dependency upon foreign oil and, hence, would have little influence in discouraging our imports. Because of the fuel use would only serve to increase the financial burden on our customers whose rates have doubled and, in some cases, tripled, over the last five years due to the increased cost of foreign oil. The estimated impact of a $5 per barrel import fee would amount to, for the remainder of the year, an additional cost for our customers of approximately $155 million.

If import fees or quota systems on oil imports are imposed, parallel modifications in the environmental controls that will permit modification of existing refineries to desulfurize domestic crude oil are required to replace foreign low sulfur feedstock. Accordingly, Edison respectfully suggesst the following modifications to either an import fee or quota program which, Edison believes, will treat all consumers of oil equally on a nationwide basis, and which Edison can support.

Specific goals should be established for reduction of oil imports. As an example, if the target is to reduce oil imports 4.5 million barrels per day by 1985 or a reduction of about 640,000 barrels per day per year or 8% per year, it should be prorated nationally. Of this, about 105,000 barrels per day of fuel oil should apply to California electric generation. Therefore, crude oil desulfurization capacity in California should expand by that amount or new refinery construction in District 5 should be authorized to meet this need.

On this basis, Edison could support such a program. If such cannot be met, Edison would be compelled to ask for an exemption. Absent incorporation of these suggested modifications, Edison would strongly support a provision under either an oil import fee or quota program which would exempt low sulfur crude oil when specifically imported for refining into very low sulfur fuel oil, and very low sulfur fuel oil imported directly for use by utilities to provide electric service provided: (1) such oil is required to meet air pollution regulations; and (2) such low sulfur oil supply is not available domestically.

Respectfully,

WILLIAM R. GOULD.

PLAQUE MARKING ORIGINAL LOCATION OF LIBRARY OF CONGRESS—S. RES. 430

Mr. BAKER. Mr. President, I have a resolution at the desk, cosponsored by the distinguished majority leader, to authorize the installation of a historical plaque in the Senate wing. I ask unanimous consent that the Senate may proceed to its immediate consideration at this time.

Mr. ALLEN. Mr. President, reserving the right to object, what is the request?

Mr. BAKER. It is a resolution to authorize the installation of a historical plaque denoting a particular space in the Senate.

Mr. ROBERT C. BYRD. It has a provision that precludes Senators from castigating the leadership at any time. [Laughter.]

Mr. ALLEN. Is there an environmental impact study?

Mr. BAKER. As a matter of fact, and for the benefit of the record and the edification of my colleague from Alabama, the environmental impact was severe at the time; because this plaque is to designate the location of the first Library of Congress, which happens to be the space my office now occupies in the Capitol and which was the site in which the British troops set fire to the building on August 27, 1814. So the environmental impact was very severe, indeed.

Mr. ALLEN. I accept the explanation.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 430) providing for a plaque to be placed in the Capitol marking the original location of the Library of Congress.

Mr. ROBERT C. BYRD. Mr. President, in view of the colloquy that occurred, I ask that the clerk read the resolution.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That the Commission on Art and Antiquities of the United States Senate is authorized and directed to procure and have placed in the Senate wing of the Capitol a plaque marking the original location therein of the Library of Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME FOR VOTE ON FARM BILL CONFERENCE REPORT

Mr. PERCY. Mr. President, I should like to inquire of the majority leader and the minority leader about the 11 o'clock vote on the farm bill. I was unaware that that time had been set. My plane will land at 11 o'clock.

I wonder whether the vote could be extended enough so that some of us could get here and vote at, say, 11:20 or 11:25—something like that. I have spoken with Senator CRANSTON about it, and he thought something could be worked out.

Mr. ROBERT C. BYRD. It would be agreeable to me, under the circumstances, to ask that the rollcall vote which will occur at 11 a.m. on Monday, under the previous order, be a 20-minute vote, rather than a usual 15-minute rollcall vote.

The quality of mercy is not strained. [Laughter.]

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. With the understanding that the warning bell will sound at the expiration of 12½ minutes, under the rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

TROOP WITHDRAWAL FROM SOUTH KOREA

Mr. PERCY. Mr. President, I have long had serious reservations about the President's decision to withdraw U.S. ground troops from South Korea in 4 to 5 years. The North Korean military buildup, concern about the security of South Korea, and the need for continued stability and peace on the Korean peninsula have all led me to the conclusion that the troop withdrawal policy is unwise.

The President may soon be deciding whether or not to delay for a year the beginning of the pullout of U.S. troops. I urge him to postpone the withdrawal indefinitely.

The President will find it difficult this year to arouse support for the large increases in military aid to South Korea required by the troop withdrawals. The alleged corruption of some Members of Congress by South Korean nationals has created an unfavorable climate for billion dollar aid packages for South Korea, to say the least.

I think it is unwise to link the issue of U.S. support for the security of South Korea with the issue of alleged bribery of U.S. officials, as reprehensible as that activity may be. But the so-called "Koreagate scandal" and aid to South Korea are linked in the mind of the public. To proceed with withdrawals with no assurance that U.S. aid will be forthcoming would be destabilizing and counterproductive to peace.

The military buildup of North Korea is well-documented by the administration's own reports to the Senate Foreign Relations Committee. One unclassified report states definitively, "North Korea continues to threaten the stability of the region." North Korea's aggressive posture requires strength and perseverance on the part of the United States—not withdrawal. Reports indicate that the balance of power has shifted to North Korea since 1970.

I think, Mr. President, it might be interesting for the Senate to hear about a visit my office received from a religious group concerned about human rights in South Korea. This group has missionaries in South Korea who are well integrated into the society and who know the country well. The group told me it opposes U.S. troop withdrawals from South Korea. Why? Because its members feel that the United States will lose leverage with the South Korean Government and will not be able to exert serious influence on its human rights policies. They were also concerned that a heightened sense of external threat might

cause the government to restrict even further the freedoms that do exist in South Korea. I think these are valid concerns.

Reasons for opposing the troop withdrawal abound. But the most important is that the U.S. long-term interest centers on maintaining a strong deterrent to the North's ambitions and keeping the peace on the Korean peninsula.

I have long had reservations about the proposed troop withdrawals from South Korea, and I have personally expressed this view to both the President and the Secretary of State.

HERBERT PELL, COURAGE, AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, CLAIBORNE PELL is an extremely able and respected colleague, and is also a good friend of mine. But it was only recently that I learned of a courageous stand which his father, Herbert Pell, took as a member of the United Nations War Crimes Commission from 1943 to 1945. An article by Michael Blayney in the American Historical Jewish Quarterly entitled "Herbert Pell, War Crimes, and the Jews," recounted the story.

Herbert Pell was appointed to the War Crimes Commission in June of 1943 by President Roosevelt. The Commission had been established less than a year earlier, and was charged to investigate war crimes which had been committed against members of the United Nations. It was not only instructed to report those crimes to the United States, Great Britain, and the Soviet Union, but was also to try and identify the guilty parties.

In joining the Commission, Herbert Pell felt strongly that all those directly responsible for the commission of war crimes should be punished; not only those Nazis at the upper echelons of rank.

The State Department was less than enthusiastic about the presence of Herbert Pell on the War Crimes Commission. Pell felt strongly that the Commission should adopt a position which would consider crimes against Axis nationals committed by the Nazis as war crimes, a definition which would have meant that the genocide then occurring in Nazi Germany would be handled as a war crime. Secretary of State Hull felt that the Commission should restrict itself to a fact finding role, and should not concern itself with the trial of alleged war criminals.

Pell wished to urge the War Crimes Commission to take steps to punish those engaged in the destruction of the Jewish race, but was unable to obtain any instructions along those lines from the State Department. President Roosevelt himself, however, gave Pell the instructions for which he had been hoping. The President wrote:

> There can be little reason for disagreement on the general proposition that Germany and her satellites should be required to answer for atrocities against the Jews . . . Presumably it (the Commission's jurisdiction) would extend to any cases arising during the War period . . .

Senator PELL's father, Herbert Pell pushed vigorously for the Commission to consider "crimes against humanity" as war crimes. These crimes against humanity were to be crimes committed "against any person because of their race or religion." His efforts were not in vain.

The Commission adopted the strong position which he called for, and further proposed that military tribunals be used in the trials of alleged war criminals. This would allow for much greater expediency in bringing those charged to trial.

Pell's outspoken posture and his status as a Presidential appointee rather than a State Department employee did not endear him to those at the Department. Pell had great difficulty receiving his instructions from the Department, and was also a victim of the mixed loyalty his staff was wont to show. The Department worked for his ouster, and finally achieved that end in January of 1945.

Once removed from public service, Pell did not shy away from repeating his stance that all those directly responsible for genocide should be tried. The day after Pell's removal from the Commission, the New York Post reported that Pell may have been fired because of his desire to avenge the Jews.

Public support for Pell's position grew strong, and on February 1, 1945, Secretary of State Grew issued a statement which said in effect that the persecution of the Jews would indeed be considered as a war crime.

Herbert Pell had won. His courageous stand, with virtually no support from the State Department, had now become a matter of Department policy.

Mr. President, as I read of the courageous actions against genocide by the father of Senator CLAIBORNE PELL, I was reminded that the Senate this year has the opportunity to take a strong stand against this horrible crime. The Genocide Convention is a treaty which would make genocide an international crime, and for 30 years now, the treaty has been awaiting the action of the Senate.

As I said over and over again, every President, President Truman, President Eisenhower, President Kennedy, President Johnson, President Nixon, President Ford, and President Carter have all called for its ratification.

I hope that this year, the Senate will at long last take the courageous step of ratifying this treaty, and show that 33 years later, we abhor the crime of genocide just as vigorously as Herbert Pell did then. I urge the Senate to ratify the Genocide Convention as soon as possible.

FEDERAL ELECTION CAMPAIGN ACT QUARTERLY REPORTS

Mr. ALLEN. Mr. President, the Federal Election Campaign Act requires that quarterly reports from Senate candidates and their political committees must be filed on April 10, July 10, October 10 and January 31.

The Secretary of the Senate's Office of Public Records will be open Monday, April 10, 1978 from 9 a.m. until 5 p.m. to accept the April 10, 1978 report as required by that act. The Public Records Office is located in room A–623, 119 D Street, NE., Washington, D.C. 20510.

Reports submitted after the close of business may be placed in a clearly identified depository located outside the door of room A–623. Additional information may be obtained from that office at (202) 224–0329.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene at 8:45 a.m.

After the prayer—there being no orders at this time for the recognition of Senators—with unanimous consent, there will be a period for the transaction of routine morning business, not to extend beyond 9 a.m., with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. At 9 a.m., the Senate will take up the conference report on the farm bill, under the previous agreement, with a 2-hour limitation on debate, and a vote to occur at 11 a.m.

After the disposition of the conference report on the farm bill, the Senate will resume consideration of the treaty, at which time the pending question will be on the adoption of the amendment by Mr. HATCH. Is that not correct,

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Rollcall votes will occur on Monday, beginning as early as 11 o'clock in the morning.

Throughout the week, the Senate will continue its action on the treaty. Through Thursday of next week, the Senate will remain in the Committee of the Whole and will continue its action on the treaty, with debate thereon and amendments thereto. At the close of business on Thursday, the Senate will go out of the Committee of the Whole.

On Friday, the Senate will proceed to the consideration of the resolution of ratification, and rollcall votes are expected daily.

On Monday, Mr. DOLE will be recognized at 1 p.m. to call up his amendment, and on Wednesday, Mr. STEVENS will be recognized at 1 p.m. to call up his amendment.

RECESS UNTIL 8:45 A.M., MONDAY, APRIL 10, 1978

Mr. ALLEN. Mr. President, if there be no further business to come before the Senate, in accordance with the request of the distinguished majority leader, I ask unanimous consent that the Senate, in executive session, do now recess until Monday next at 8:45 a.m.

There being no objection, at 4:35 p.m., the Senate, in executive session, recessed until Monday, April 10, 1978, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 7, 1978:

AGENCY FOR INTERNATIONAL DEVELOPMENT

David Bronheim, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development, vice Frederick T. Van Dyk, resigned.

FEDERAL HOME LOAN BANK BOARD

Anita Miller, of New Jersey, to be a member of the Federal Home Loan Bank Board for

the remainder of the term expiring June 30, 1978, vice Thomas R. Bomar, resigned.

Anita Miller, of New Jersey, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1982 (reappointment).

THE JUDICIARY

Cristobal C. Duenas, of Guam, to be judge of the district court of Guam for a term of 8 years (reappointment).

Len J. Paletta, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Herbert P. Sorg, retired.

Leonard B. Sand, of New York, to be U.S. district judge for the southern district of New York, vice Charles M. Metzner, retired.

DEPARTMENT OF JUSTICE

Peter J. McLaughlin, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years, vice John J. Smith.

Glen E. Robinson, of California, to be U.S. marshal for the northern district of California for the term of 4 years, vice Frank X. Klein, Jr.

FEDERAL COUNCIL ON THE AGING

The following-named persons to be members of the Federal Council on the Aging for the terms indicated:

For a term expiring December 19, 1979:

Nelson H. Cruikshank, of the District of Columbia, vice Seldon G. Hill, term expired.

For a term expiring June 5, 1979:

Hobart Calvin Jackson, Sr., of Pennsylvania, vice Frell M. Owl, term expired.

Walter L. Moffett, of Idaho, vice Lennie-Marie P. Tolliver, term expired.

James T. Sykes, of Wisconsin, vice Frank B. Henderson, term expired.

For a term expiring June 5, 1980:

Fannie B. Dorsey, of Kentucky, vice Nelson Hale Cruikshank, term expired.

Mary A. Marshall, of Virginia, vice Hobart C. Jackson, term expired.

Bernice L. Neugarten, of Illinois, vice Sharon Masaye Fujii, term expired.

Fernando Manuel Torres-Gil, of California, vice Bernard E. Nash, term expired.

Wesley C. Uhlman, of Washington, vice Garson Meyer, term expired.

EXTENSIONS OF REMARKS

PRESERVE A SCENIC RIVER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1978

● Mr. KOSTMAYER. Mr. Speaker, I would like to share with my colleagues a recent editorial from the Bethlehem, Pa., Globe-Times entitled, "Preserve a Scenic River."

The National Parks Subcommittee of the House Interior Committee will shortly be marking up an omnibus parks and rivers bill. I am sponsoring a provision of the bill which will provide adequate protection for the free-flowing Delaware, and settle the Tocks Island Dam controversy. The reasoning of the Globe-Times is persuasive, and I trust the House will support those of us who have cosponsored this legislation.

[From the Bethlehem (Pa.) Globe-Times, Mar. 28, 1978]

PRESERVE A SCENIC RIVER

The debate on the fate of the Delaware River has been with us for a long time. John F. Kennedy was president when the U.S. Army Corps of Engineers was directed by Congress to build an earth and rock dam across the river a few miles upstream from the Delaware Water Gap.

Today's youngest voters were babies when, in 1962, it was decided that the best way to provide flood protection, water supply and hydroelectric power was to dam the last free-flowing river in the Northeast.

A narrow strip of scrubland in the middle of the river, Tocks Island, was to be the original site of this dam. In the past 16 years, it has lent its name to a controversy that has touched on the issues of conservation, environmental engineering, and the basic question of whether this region of the country must now stop growing.

Voters, legislatures and governors of four states have argued over whether to build the Tocks Island Dam. The U.S. Congress and federal agencies have allocated funds to do studies and buy land over the years.

Through it all, the longer view has had difficulty winning a hearing. Only until the early 1970s did anyone consider the negative environmental impact of the dam and its 30-mile long lake. And only recently are there advocates of the viewpoint that the area affected by any Tocks-type project must include the wide basin stretching from the Catskill Mountains in New York to the salt-water bay off the State of Delaware, nearly 300 miles away.

The basin-wide assessment is an important one. In considering natural systems, political boundaries or other artificial distinctions drawn by policy makers generally confuse the issue.

So when the Delaware River Basin Commission divides the valley into sections and designates them by Roman numerals, we ought to be wary. We ought to demand a halt, likewise, to any decisions which compartmentalize a living, changing river.

Congress now has before it different versions of bills which offer protection to areas of the Delaware under the Wild and Scenic Rivers Act. One is backed by the Save the Delaware Coalition, and another has the backing of the DRBC. The two measures protect different stretches of the river. The one favored by the citizens' groups, sponsored primarily by Bucks Cong. Peter Kostmayer, would preserve 114 miles of the Delaware, as far downstream as the Water Gap.

The other, which was endorsed last week by the DRBC, would end its protection 39 miles upstream from the Gap, and just upstream from the area that would be affected by a Tocks Dam project.

The Kostmayer version's supporters say preservation of the Tocks area is only incidental to the intent of the Wild and Scenic Act. In fact, they admit, the Congress still can do what it wants in the future. The land still will be there, the river still is there, and if it becomes clear 50 years from now that a huge dam is needed, it still could be built.

What cannot be gambled with now is the further loss of riverbank land to private use and development. The Wild and Scenic Act is a powerful tool against this acre-by-acre erosion.

Mechanics of the House Interior Committee call for an omnibus Wild and Scenic River Bill to be reported out very shortly. In it will be sections for several rivers around the country. One to be included is the upper Delaware River, from Hancock, N.Y. to the Port Jervis area, and some kind of compromise on the next section—to the Water Gap, or to somewhere upstream.

The Delaware River deserves no halfway measures. The Water Gap is truly a natural wonder, and recreation and scenic opportunities abound for miles downstream, through Northampton and Bucks Counties.

A 1976 Pennsylvania measure recommending waterways for Wild and Scenic Designation added about 60 miles to the 114 proposed by Kostmayer—all the way to Yardley. The Bucks County stretch may not be wild, but it is scenic. Future legislation would do well to add it to the current proposals.●

HOUSE OF REPRESENTATIVES—*Monday, April 10, 1978*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
April 10, 1978.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If you continue in My word, then are you My disciples; and you shall know the truth and the truth shall make you free.—John 8: 31, 32.

Almighty God, who art the creative source of light and life and whose Spirit sustains us in our noble endeavors we pause in silence before You, knowing that without You all our labor is in vain. May Your blessing rest upon the work of this House and upon the fellowship which is ours. Wherever this day leads us may we live and labor in such a way as to bring honor to this House and to our country.

We pray for our Republic, that she may ever be a center of light and life and love and that her citizens may find in her a shrine of freedom to be held in high honor where the high principles of the past enrich the present and mould

CALL OF THE HOUSE

the future and where the clear stream of reason and faith shall flow in deeper thought, in higher endeavors, and in ever-widening circles of activity.

We pray in the spirit of Him whose truth makes men free and keeps them free. Amen.

Mr. ASHBOOK. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 200]

Ambro	Edwards, Calif.	Quie
Anderson, Ill.	Findley	Quillen
Andrews, N.C.	Fithian	Railsback
Armstrong	Florio	Rhodes
Beard, R.I.	Foley	Richmond
Bedell	Ford, Mich.	Roberts
Biaggi	Ford, Tenn.	Rodino
Boggs	Fowler	Roncalio
Bolling	Fraser	Rose
Bonior	Frenzel	Rosenthal
Buchanan	Fuqua	Runnels
Burke, Calif.	Gammage	Santini
Burton, John	Garcia	Scheuer
Butler	Goodling	Sebelius
Carney	Gradison	Shipley
Carr	Harrington	Shuster
Carter	Harris	Sikes
Cederberg	Harsha	Spellman
Chappell	Heckler	St Germain
Chisholm	Holtzman	Stokes
Clay	Jones, N.C.	Teague
Cohen	Kastenmeier	Thone
Collins, Ill.	Kazen	Thornton
Conyers	Krueger	Tucker
Cornwell	Levitas	Udall
Cotter	McCormack	Walker
Crane	McKinney	Watkins
Davis	Mann	Waxman
Dellums	Mathis	Whitley
Dent	Michel	Whitten
Diggs	Mikva	Wiggins
Dingell	Milford	Wilson, Tex.
Dodd	Mitchell, Md.	Wirth
Downey	Nix	Wolff
Drinan	Ottinger	Wright
Eckhardt	Patten	Young, Tex.
Edwards, Ala.	Pepper	Zeferetti

The SPEAKER pro tempore. On this rollcall 323 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9179) entitled "An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6782) entitled "An act to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion."

The message also announced, the Vice President, pursuant to section 4355(a) of title 10, United States Code, appointed Mr. JOHNSTON, Mr. MOYNIHAN, Mr. GARN, and Mr. MARK O. HATFIELD, as members, on the part of the Senate, of the Board of Visitors to the U.S. Military Academy.

And that the Vice President, pursuant to section 194(a) of title 14, United States Code, appointed Mr. RIBICOFF as a member, on the part of the Senate, of the Board of Visitors to the U.S. Coast Guard Academy.

The chairman of the Committee on Commerce, Science, and Transportation (Mr. CANNON), under the above cited law, appointed Mr. MAGNUSON and Mr. STEVENS as members of the same Board of Visitors.

And that the Vice President, pursuant to section 1126(c) of title 46, United States Code, appointed Mr. DURKIN as a member, on the part of the Senate, of the Board of Visitors to the U.S. Merchant Marine Academy.

The chairman of the Committee on Commerce, Science, and Transportation (Mr. CANNON), under the above cited law, appointed Mr. INOUYE and Mr. STEVENS as members of the same Board of Visitors.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C. *April 7, 1978*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:16 p.m. on Friday, April 7, 1978, and said to contain a message from the President wherein he transmits to the Congress the first annual report regarding the implementation of energy conservation programs within the Federal Government as required by P.L. 94–163, Sec. 381(c).

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

FIRST ANNUAL REPORT REQUIRED BY SECTION 381(c) OF ENERGY POLICY AND CONSERVATION ACT, PUBLIC LAW 94–163—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I am hereby transmitting the first annual report required to be submitted to the Congress by Section 381(c) of the Energy Policy and Conservation Act, Public Law 94–163, and required to be prepared by the Federal Energy Administration, now the Department of Energy, with the assistance of appropriate agencies under Executive Order 11912 of April 13, 1976.

This report covers the implementing activities and actions undertaken during 1976 by Federal Agencies in establishing mandatory Federal Procurement policies and standards with respect to energy conservation and efficiency developing a 10-year plan for energy conservation in federally owned or leased buildings, carrying out a responsible public education program to encourage energy conservation, vanpooling and carpooling arrangements, and acquiring fuel-efficient passenger automobiles for the Federal fleet.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *April 7, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith, a sealed envelope from the White House, received in the Clerk's Office at 2:16 p.m. on Friday, April 7, 1978, and said to contain a message from the President wherein he transmits to the Congress a Report regarding Hungarian emigration practices.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

WAIVING APPLICATION OF SUBSECTIONS (a) AND (b) OF SECTION 402 OF THE TRADE ACT OF 1974 RESPECTING HUNGARIAN PEOPLE'S REPUBLIC—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States which was read and, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

Pursuant to Section 402(c)(2) of the Trade Act of 1974, (hereinafter, "the Act") I shall issue today an Executive Order waiving the application of Subsections (a) and (b) of Section 402 of the Act with respect to the Hungarian People's Republic.

I wish to report to the Congress that I have determined that this waiver will substantially promote the objectives of Section 402 of the Act; and that I have received assurances that the emigration practices of the Hungarian People's Re-

public will henceforth lead substantially to the achievement of those objectives.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
April 7, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:50 a.m. on Friday, April 7, 1978, and said to contain a message from the President wherein he transmits the 13th quarterly report on Activities of the Council on Wage and Price Stability.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

THIRTEENTH QUARTERLY REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the thirteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the fourth quarter of 1977 in monitoring both prices and wages in the private sector and various Federal government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

In August 1977 I asked the Council to undertake an in-depth study of the Nation's steel industry. The study was released in October and served as an important information base in the Administration's development of its reference price system for imports of foreign steel.

During the fourth quarter, the Council also issued, among other things, reports on interest rates and inflation, the lumber industry, 1978 model year auto prices, and a detailed analysis of the communication workers' settlement.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *April 7, 1978.*

THE FARM BILL: AN ALTERNATIVE

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker I am in complete sympathy with my colleagues on the Agriculture Committee in their efforts to keep farmers in the business of feeding our Nation and providing valuable exports and I respect their support of the farm bill before us.

That bill, however, will not be enacted into law and if it were, would be unworkable. There is an alternative.

This alternative, a grain reserve and bargaining agency for overseas grain sales, will do more to solve the fundamental farm situation while benefiting consumers with stable prices and a secure food supply. The costs to the Treasury are practically none.

We approved and enacted as part of last year's farm bill the Humphrey-Weaver grain reserve, now called by the administration the cornerstone of American farm policy. It is already working. Over 250 million bushels of grain have been placed in it by farmers, grain prices have risen, and if the grain reserve is strengthened—by reducing costs of storage to the farmers who are, after all, benefiting the Nation by storing their grain—it will continue to work and improve the lot of American agriculture.

If we now couple this grain reserve with a bargaining agency for grain export sales, we can make long-term sales to other nations at much higher prices. A bushel for a barrel should be our goal.

I will be offering a bargaining agency amendment to an export market bill now in the Agriculture Committee. I propose you vote "No" on the farm bill conference report, and help enact the bargaining agency amendment.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11291, AUTHORIZING APPROPRIATIONS FOR FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. MOAKLEY from the Committee on Rules submitted a privileged report (Rept. No. 95–1046) on the resolution (H. Res. 1118) providing for the consideration of the bill (H.R. 11291) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration, which was referred to the House Calendar and ordered to be printed.

EV DIRKSEN'S SOUND WARNING ON PANAMA

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the U.S. Senate has most unfortunately rejected a good proposal to allow this body the opportunity to fulfill its constitutional duty to approve disposal of U.S. property in Panama as a prerequisite for approval of the new Panama Canal Treaty.

As the Senate moves toward its own final vote on this treaty to cede the canal and zone to Panama, I hope that all Members of the other body will remember and consider the somber warning of a great and revered American—the late Senator Everett McKinley Dirksen of Illinois.

Speaking on the floor of the U.S. Senate in 1964, when Panamanian students were trying to intimidate the United States into withdrawal through rioting, the respected Senator Dirksen stated:

We are in the amazing position of having a country with one-third the population of Chicago kick us around. If we crumble in Panama, the reverberations of our actions will be felt around the world.

Mr. Speaker, Senator Dirksen's great insight is as valid today as it was when that statement was made.

NEW YORK TIMES OPPOSES LIFTING OF TURKISH ARMS EMBARGO WITHOUT ACTION ON CYPRUS SETTLEMENT

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I insert at this point in the RECORD the text of two excellent editorials from the New York Times of March 31 and April 9, 1978, urging that Congress not remove the arms embargo against Turkey without appropriate action to settle the Cyprus question.

The articles follow:

TAKING A CHANCE ON TURKEY

Secretary of State Vance told Congress last Thursday that if only it would lift its restrictions on shipments of American arms to Turkey, the Turks and Turkish Cypriots would put forward new proposals for a Cyprus settlement. He may be right. But the issue is not whether there will be new proposals. Rather, it is whether the proposals will move Turkish troops back from the 40 percent of Cyprus they now occupy to a zone more nearly proportional to the 18 percent of the island's population that is Turkish. Secretary Vance is thus asking Congress to join him in betting that once the American restrictions are removed, the Turkish Government of Prime Minister Eceyit will be able to make large concessions that could not be made while the limits remain.

The bet may be a bad one. In Turkey's politics, no time is a good time for conceding territory to Greek Cypriots. And Mr. Ecevit's position seems less strong now than it did when he returned to office last Jan. 1. In Parliament he has been able to govern without the votes of ultranationalists. But in the streets extremists continue their campaigns of violent intimidation that have taken more than 100 lives this year. There is no reason to think that Mr. Ecevit himself does not want to be generous so as to remove the Cyprus problem from his crowded agenda. But in the prevailing political climate, concessions that are even remotely acceptable to the Greek Cypriots may be impossible. And once American pressure is removed, Mr. Ecevit will have even less reason to take political risks.

Secretary Vance emphasized the strains that the limits on arms shipments impose on Turkish politics and Turkey's links to

NATO. But he glossed over the comparable strains on Greek politics, and Greece's links to NATO, if removal of the restrictions is not accompanied by a satisfactory outcome on Cyprus. Greece is no less important to NATO's southern flank than Turkey. Any bargain that "saves" Turkey for the alliance at the cost of losing Greece would be hollow indeed. And if, as is likely, Congress should refuse to ease the limits on Turkey, the Administration's present approach risks alienating both countries.

Turkey's spokesmen decry what they see as an American tilt toward Greece, and they say that they only want Americans to be "even-handed." Yet in the present Cyprus situation, removing the arms limits would amount to a tilt toward Turkey. So long as Ankara's troops remain where they are on the island, Congress should retain the only leverage it has.

THE WAY BACK FROM CYPRUS

Since 1974, when Turkish troops, using American weapons, occupied two-fifths of the island of Cyprus, relations between Ankara and Washington have been sour. Congress has limited the flow of additional arms until Turkey pulled back its forces; successive Turkish Governments have refused to to define their conditions for withdrawal under such pressure. Both the United States and Turkey will end up losers if no way can be found to break out of this bind. Turkey could point the way by revealing its proposals for a Cyprus settlement.

Turkey's invasion was scarcely unprovoked. The 18 percent Turkish minority on Cyprus had never been well treated by the Greek majority. And in July 1974, a coup brought to power a hardline Greek-Cypriot faction that seemed likely to take even less account of Turkish-Cypriot rights, Although the insurgent regime lasted only a few days, that was long enough to precipitate Ankara's invasion.

Ankara has reacted to the limit on arms sales—$175 million this year—by sharply restricting American use of NATO facilities in Turkey. Under steady pressure from Greek-Americans, Congress has remained firm. But the Ford Administration strongly deplored the Congressional restrictions as harmful to NATO—and thus caused the Greek Government to curtail its miliitary cooperation with NATO. The Carter Administration has tried to straddle the issue. It has continued discussions for a defense agreement that would substantially increase American military aid to Turkey. But it has implied that it would not conclude the agreement until there had been progress on Cyprus. Early this month, Secretary of State Vance was explicit: Washington would not move, he told Congress, until it had examined proposals for Cyprus promised by Turkey's new Prime Minister, Bulent Ecevit.

More intolerable "linkage," responded Mr. Ecevit—and this time from the Administration, not merely from Congress. He countered with reverse linkage: no Cyprus proposals until the heat is off. That message, and subsequent hints that Turkey might withdraw its half-million men from NATO's command and even sign a nonaggression pact with Moscow, caused a high-level American delegation to hurry to Ankara this week to attempt to set things right.

That won't be easy. Strong sentiment continues in Congress that Turkish concessions are necessary before normal military relations can resume. That sentiment is justified. Turkey broke United States law and violated the spirit of its alliance when it used American weapons to expel Greek Cypriots from their homes and farms. Having made its point. Ankara should now pull back. Greek Cypriots—and Greece—realize there can be no return to the old arrangements on Cyprus. They acknowledge that Turkish Cypriots should enjoy nearly complete autonomy, including a territorial zone of their own, but one proportionate to the size of the Turkish-Cypriot population.

There is every reason to believe that both Prime Minister Ecevit and the Turkish military leadership would like to pull back. Because the Turkish occupation force is the central issue in contention, the first moves must come from Ankara. Since the issue continues to be the most explosive one in Turkey's politics, such a move would be painful. But Mr. Ecevit is in a strong parliamentary position; unlike his predecessor, he does not depend upon ultranationalists for his majority.

Turkish dissociation from NATO would be costly to the United States. But it is the Turks who should calculate the benefits of full participation in NATO; it is they who face the risks of weakened ties to the West. Meanwhile, those who would support NATO by lifting the restrictions on arms to Turkey should remember that Cyprus is just as emotion-wrenching an issue in Greece. It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece.●

HOUSE SHOULD REJECT FARM CONFERENCE REPORT

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, over the years the House Committee on Agriculture has done some strange things, but I think this week has set a new record of sorts.

On Wednesday this body is being asked to pass judgment on a multibillion-dollar farm bill conference report concerning which not one witness has been called before a committee of this body. No hearings have been held. On those facts alone my colleagues should reject the conference report.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS). Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on which each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MARINE MAMMAL PROTECTION ACT AUTHORIZATIONS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10730) to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981, as amended.

The Clerk read as follows:

H.R. 10730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379) is amended by adding at the end thereof the following new subsection:

"(d)(1) There are authorized to be appropriated to the Department of the Interior, for the purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

"(A) $400,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

"(A) $225,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981."

SEC. 2. Section 110(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380 (c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) $1,300,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1979.

"(B) $1,600,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1979.

"(5)(A) $1,500,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1980.

"(B) $2,000,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1980.

"(6)(A) $2,100,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1981.

"(B) $2,500,000 which shall be available to the Secretary of Commerce for fiscal year ending September 30, 1981."

SEC. 3. Section 114 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1384) is amended—

(1) by amending subsection (a)—

(A) by striking out "title." and inserting in lieu thereof "title (other than sections 109 and 110).".

(B) by striking out "and" immediately after "fiscal years,", and

(C) by inserting immediately after "September 30, 1978," the following: "not to exceed $8,500,000 for the fiscal year ending September 30, 1979, not to exceed $9,000,000 for the fiscal year ending September 30, 1980, and not to exceed $9,500,000 for the fiscal year ending September 30, 1981."; and

(2) by amending subsection (b)—

(A) by striking out "title." and inserting in lieu thereof "title (other than sections 109 and 110).",

(B) by striking out "and" immediately after "thereafter,", and

(C) by inserting immediately after "September 30, 1978" the following: ", not to exceed $650,000 for the fiscal year ending September 30, 1979, not to exceed $760,000 for the fiscal year ending September 30, 1980, and not to exceed $876,000 for the fiscal year ending September 30, 1981".

SEC. 4. Section 207 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1407) is amended—

(1) by striking out "and" immediately after "$1,000,000"; and

(2) by striking out "$2,000.000." and inserting in lieu thereof the following: "$2,000,000," the sum appropriated for the fiscal year ending September 30, 1979, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1980, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1981, shall not exceed $1,000,000.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. MURPHY of New York. Mr. Speaker, H.R. 10730 would authorize appropriations through fiscal year 1981 to carry out the Marine Mammal Protection Act. This legislation will insure that the United States continues to lead the world in the conservation of marine mammals.

As this body well knows, the Marine Mammal Protection Act has not been implemented without controversy. Last year, the entire American tuna fleet refused to fish for several months in protest against regulations promulgated under the act. Eventually, the fishermen did return to the sea to demonstrate what no one in Washington would believe—they do care about the dolphin populations in the Eastern Pacific Ocean. Last year, the fleet took a fraction of the number of dolphins captured in previous years. They are now releasing unharmed 99.7 percent of all the animals surrounded in the tuna nets. Only one dolphin is taken for every 4 tons of yellowfin tuna landed.

I believe that all of us can be especially proud of the performance of the American tuna fleet. We can also be pleased with the efforts of the Department of Commerce under the Marine Mammal Protection Act. The Commerce Department worked with the tuna fishermen, and together they developed a net which retains the tuna catch while allowing the dolphins to escape.

I do not believe that the tuna-dolphin controversy will be the last fishery-marine mammal conflict. Nevertheless, I am hopeful that we can work through the Marine Mammal Act to solve these conflicts when they do occur. The funding levels provided in H.R. 10730 will insure that the Departments of Commerce and Interior have the capability to respond to both the needs of marine mammals and those of our fishermen.

Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 10730. This legislation authorizes appropriations to the Departments of Interior and Commerce, and the Marine Mammal Commission to carry out their responsibilities under the Marine Mammal Protection Act. H.R. 10730 would authorize a total of $13.7 million in fiscal year 1979; $14.885 million in fiscal year 1980; and $16.6 million in fiscal year 1981. The authorization level for fiscal year 1979 is $4.5 million above the amount requested by the administration, but it does represent the committee's best judgment of the true needs of the marine mammal program.

The increase over the administration request is due primarily to added funding for significant research projects and additional support for States that have resumed management of marine mammals. The committee discovered, in the course of reviewing the act, that insufficient attention has been paid to those States that have resumed management of marine mammals under the standards provided in the act. In passing the act, Congress clearly intended that these States would receive some financial help. To date, they have not.

The authorization level provided in H.R. 10730 would fund a number of important research programs that would not receive funding under the administration request. The most important of these programs involves research on marine mammal species taken incidental to commercial fishing operations within our 200-mile fishery zone. Foreign fishing vessels operating within our 200-mile zone are taking a large number of marine mammal species incident to their fishing operations. The Japanese alone are estimated to take 10,000 to 20,000 porpoise in the North Pacific each year. The Marine Mammal Act requires that these countries obtain a permit to take these species, but before a permit can be granted the Secretary of Commerce must find that the taking will not disadvantage the species. In short, we have not been able to grant these marine mammal permits because we have not done the necessary research to determine the impact of the fishing operations on the mammal populations.

Another major research program that has been totally ignored by the administration involves marine mammals in the Antarctic Ocean. With the pending negotiation of a treaty for the conservation of the living marine resources of the Antarctic, it is critical that the United States expand its research efforts on the population status of these species. Several nations are on the verge of developing the krill resources of the Antarctic Ocean. Unless we develop baseline data on the Antarctic Ocean's resources soon, we may not be able to prevent the obliteration of several mammal species before it is too late.

The Marine Mammal Protection Act has caused us some problems. Nevertheless, I think we can be proud of the conscientious efforts under the act to resolve the major controversies as they have arisen. This legislation will insure that we have a continuing capability to do so.

Mr. Speaker, I urge the prompt passage of H.R. 10730.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10730 which extends the authorization for the Marine Mammal Protection Act of 1972 for an additional 3 years. This act recognizes that marine mammals are a unique part of the marine ecosystem. In passing the act, Congress acknowledged that existing knowledge of the biology and ecology of marine mammals is inadequate to provide a sound basis for management decisions affecting their conservation and protection.

The extensive research program conducted pursuant to this act since 1972 has provided a basis for a significant record of accomplishment. The most publicized achievement under the act has been the reduction of porpoise mortality incidental to commercial tuna operations. The development of porpoise-saving nets and an increased knowledge of porpoise behavior in the nets has led to a 90-percent reduction in the number of porpoises killed each year.

Other major accomplishments of the Marine Mammal Protection Act include:

The establishment of a joint U.S.-U.S.S.R. marine mammal research program on polar bears;

Research which led to the listing of the Hawaiian monk seal as an endangered species;

Research on the population status of the great whales, which led to a substantial reduction in the international harvest of these magnificent creatures; and

The development of humane care and maintenance standards for marine mammals held in captivity.

H.R. 10730 by extending the authorization of the Marine Mammal Protection Act, will allow a continuation of this important work.

In addition, H.R. 10730 will provide funds for the establishment of an international scientific observer program for the purpose of reducing the number of porpoises killed incidental to the commercial tuna fishing operations of foreign nations. The legislation also provides funding for critical research on the impact of foreign fishing activities on those species of marine mammals found within 200 miles of the U.S. coast. The Marine Mammal Commission has estimated that, prior to passage of the Fishery Conservation and Management Act of 1976, approximately 10,000 to 20,000 dall porpoises were taken incidental to Japanese fishing operations in the northern Pacific. Moneys provided under H.R. 10730 will enable the Secretary of Commerce to assess the impact of this activity on the dall porpoise. Funds authorized under H.R. 10730 will also enable the Secretary to carry out a research and management program on the Guadelupe fur seal whose population level is so low that it was once thought to be extinct.

Mr. Speaker, the impact of man's activities on terrestrial species of fish and wildlife has long been documented. Comparatively speaking, man has just begun to exploit the resources of the ocean. If we are to prevent marine mammals from suffering the same fate as befell terrestrial species during the era of development, it is critical that the programs funded through the Marine Mammal Protection Act be continued. It is for this reason that I urge the adoption of this legislation.

Mr. Speaker, I yield such time as he

may consume to the gentleman from New Jersey (Mr. FORSYTHE), the distinguished ranking member of the subcommittee.

Mr. FORSYTHE. Mr. Speaker, I rise in support of this critically important legislation. The Marine Mammal Protection Act of 1972 was enacted for the purpose of insuring that those marine mammals found within the waters subject to the jurisdiction of the United States do not fall below their optimum sustainable population. In passing this legislation, Congress responded to the growing concern about man's impact on marine mammals such as whales, dolphins, seals, sea otters, polar bears, and manatees.

Since the passage of the act, the Department of the Interior and the Department of Commerce, which are charged with the responsibility for carrying out the act, have engaged in a wide variety of research and management activities. These programs have been instrumental in reducing the number of porpoises killed incidental to commercial tuna fishing operations. When this act was passed, over 300,000 porpoises per year were being drowned in tuna nets. Today, because of the aggressive efforts of the U.S. tuna fleet and the research conducted under this act, the incidental taking of porpoises was reduced to just over 24,000 in 1977.

In addition to this important achievement, the Marine Mammal Protection Act has provided a framework for the conduct of research on the population status of whales which are commercially harvested by other nations. This research effort has provided essential biological data which has enabled the United States to argue successfully before the International Whaling Commission for a substantial reduction in the number of whales which may be harvested each year.

The basic research conducted pursuant to the Marine Mammal Protection Act has also provided this Nation with the foundation for assessing the impact of man's ocean activities on marine mammals. With an increased emphasis on the development of ocean-related resources and with the increased pollution of the world's oceans, it is critical that this data be developed and evaluated.

H.R. 10730 provides the necessary funds for the continuation of these programs. In addition, H.R. 10730 authorizes the expenditure of additional moneys which will be utilized for conducting research on the many species of great whales, notably the humpback, the bryde's, the fin and the sperm whale, which are found along the east coast of the United States. Little is known about the migration patterns of these species and without that critical baseline biological data we will be unable to adequately assess the impact of activities such as oil exploration and ocean dumping on these whale populations. H.R. 10730 provides similar funds for research on the bottlenose dolphin, marine mammal strandings, and several species of whales and seals which are of great significance to the United States and Mexico.

Finally, H.R. 10730 authorizes funds for the Marine Mammal Commission. This agency, which is vested with responsbility for advising both Secretaries on the implementation of the act and for conducting certain research activities, has an outstanding record of accomplishment. The Commission has been in the forefront of marine mammal conservation efforts, and I think it can be fairly said that without the Commission's leadership and initiative many of the accomplishments of the Marine Mammal Protection Act would not be a reality.

Mr. Speaker, the Marine Mammal Protection Act of 1972 has placed a new emphasis on the conservation of marine mammals. We have been richly rewarded by the achievements made possible because of this act and to continue this work, I urge that H.R. 10730 be adopted.

Mr. JEFFORDS. Mr. Speaker, I would like to express my support for these increased authorizations in pursuance of the Marine Mammal Protection Act. As a number of Members are aware, recently I traveled to northern Newfoundland to witness the annual slaughter of baby harp seals. The seal slaughter is a highly emotional issue, which raises tempers on both sides of the debate. My traveling companion, Congressman LEO RYAN, and I were the first U.S. officials to receive a first-hand view of the event.

Before getting into the details of this trip, I would like to invite Members to join Congressman RYAN and myself in a special order concerning the seal slaughter, as well as other marine mammal issues next Tuesday, April 17.

I made the trip in my capacity as chairman of the Environmental Study Conference in the House. The ESC consists of 230 Congressmen and 70 Senators, and we attempt to provide objective reliable information on environmental and energy issues to our Members.

Although this is primarily a Canadian issue, the U.S. Congress has, in the past, adopted legislation relating to the seal slaughter. Last year, a resolution was passed by Congress condemning the slaughter. Also, the Marine Mammal Protection Act prevents the importation of seal skins to this country.

Our country has been soundly criticized in the past, by the Canadian Government and the Canadian press for taking positions on the issue without obtaining first-hand information about it. In light of that, it seemed appropriate that in my role as Environmental Study Conference chairman, I should obtain first-hand information, and report back to my colleagues in Congress. My initial invitation came from the Greenpeace Foundation, a Canadian environmental group which opposes the slaughter. However, I did not agree to go until I also secured an invitation from the Canadian Government, which of course, supports the killing of the seals.

I am presently seeking some additional information from the Canadian Government, and when I receive it, I will be reporting on the issue to my colleagues in Congress. But in the meantime, I would like to convey to you some of my observations and impressions.

Beyond the extreme emotionalism of the debate, the basic question to be resolved is one of herd management. There is conflicting evidence on this. The Canadian Government maintains that with its current quota of 180,000 seals taken, the survival of the species is not threatened. But contrary evidence is provided by a number of very reliable sources, including the World Wildlife Fund and the International Union for the Conservation of Nature. These organizations maintain that the quota is at least 20 percent too high, and that survival of the species is indeed threatened.

The other issue, which is far more emotional, is the method of herd management. The event is not a hunt, in the sense that we in Vermont think of hunting. There is no sport. The seals which are taken are newborn, generally about a day old. They cannot move away, or defend themselves in any way. They are simply clubbed to death, by the thousands. Adding to the emotionalism is the fact that the baby seals are adorable, cuddly creatures with big eyes. One's impulse is to pick them up and pet them. Therefore, the mass clubbings, and the blood which covers the ice, is a disturbing sight.

Beyond that, the baby seals are too small to be used for food, although their tiny flippers are sold as a local delicacy. The only real use they are put to is use of their pelts, sold as high priced furs.

There is no question but that seal hunting, in some form, is justified. Man has already destroyed the balance of nature in that area. The natural predators of the seals, polar bears, are nearly extinct. The fish the seals feed on are also less numerous than in the past. Therefore, if the herd were not controlled in some manner, the seals would be subjected to mass starvation.

While I was in Newfoundland, I also spoke extensively with some of the people who participate in the seal slaughter, and depend on it economically. These are, for the most part, honest and hard working people. They are not wealthy, and about 2,000 of them participate in the seal harvest every year to supplement their incomes. I am awaiting additional information from the Canadian Government regarding the economic aspects of the seal slaughter. It is important to point out, however, that if the slaughter does lead to extinction of the species, the economic hardships would be at least as great as if the seal slaughter were discontinued.

Answers should be found, before it is too late. Informed studies and recommendations are needed. Perhaps the quotas should be lowered. Or perhaps the herd should be controlled through hunting of adult seals, which are useful as food, and for their oil, as well as for their much larger skins. I do not have good answers to those questions now, but hope I can contribute to the efforts to arrive at solutions.

Of course, our country cannot dictate to the Canadian Government or the Canadian people. Any action on our part must be sensitive to their needs and desires. But we do have an interest in protection of endangered species, especially species that affect several countries. We have exerted strong pressure on other countries, including Russia and Japan, to cease practices which threaten the extinction of certain species. Perhaps we should offer advice to our good friends in Canada. But if we do so, we must act not from emotionalism, but on the basis of the best possible information. At this point, my only objective is to gather that information.

The SPEAKER pro tempore (Mr. JENRETTE). The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10730, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10878) to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, as amended.

The Clerk read as follows:

H.R. 10878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)), is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1981, provided that any such payments made pursuant to subsections (a)–(d) shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 2. Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) thereof—

(A) by inserting "(1)" immediately before "When", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

"(3) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the General Agreement on Tariff's and Trade.";

(2) by amending subsection (b)—

(A) by inserting "or the Secretary of the Interior" immediately after "Secretary of Commerce", and

(B) by inserting "or wildlife products" immediatey after "fish products" each place it appears therein;

(3) by amending subsection (c) by inserting "or wildlife products" immediately after "fish products";

(4) by amending subsection (d)(2) by inserting "and wildlife products" immediately after "fish products";

(5) by amending subsection (e)—

(A) by inserting "and wildlife products" immediately after "fish products" in paragraph (1) and the first sentence of paragraph (5),

(B) by inserting "or other conveyance" immediately after "vessel" in paragraph (4)(B), and

(C) by striking out "Any fish products" in the second sentence of paragraph (5) and inserting in lieu thereof "Fish products and wildlife products";

(6) by amending subsection (f) by striking out "is" and inserting in lieu thereof ", the Secretary of Commerce, and the Secretary of the Interior are each";

(7) by amending subsection (g)—

(A) by striking out "in force" in paragraph (3) and inserting in lieu thereof "in effect",

(B) by striking out "to which the United States is a signatory party," and inserting in lieu thereof "which is in force with respect to the United States,", and

(C) by adding at the end thereof the following:

"(5) The term "international program for endangered or threatened species' means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

"(6) The term 'wildlife products' means fish (other than those to which paragraph (4) applies) wild animal, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported into the United States for scientific research.

"(7) The term 'taking' means—

"(A) for purposes of subsection (a)(2)—

"(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

"(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

"(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal.".

SEC. 3. (a) Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended to read as follows:

"SEC. 10. (a) For purposes of this section—

"(1) The terms 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall each have the same respective meaning as is given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(2) The term 'fishing gear' means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

"(3) The term 'fund' means the Fishing Gear Damage Compensation Fund established under subsection (g).

"(b) Subject to the provisions of this section, the owner or operator (hereinafter referred to as the 'vessel owner') of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, cr destruction of any fishing gear used with such vessel, if the damage, loss, or destruction—

"(1) occurs when such vessel is engaging in fishing within the fishery conservation zone; and

"(2) is attributable to (A) any other vessel, whether or not such other vessel is a vessel of the United States, or (B) an act of God.

"(c) A vessel owner is not eligible for compensation under this section with respect to fishing gear damage, loss, or destruction unless such owner—

"(1) is not in default with respect to contributions required of him under subsection (e) at the time the damage, loss, or destruction occurs;

"(2) makes application to the Secretary for compensation under this section within thirty days after the day on which the damage, loss, or destruction occurred or was first noticed by the owner;

"(3) is in compliance with all regulations prescribed by the Secretary under this section;

"(4) has a current inventory, in such form as the Secretary shall prescribe by regulation, of the gear concerned on file with the Secretary; and

"(5) has complied with all applicable regulations, if any, relating to the marking of, and (if appropriate) the notification of the location of, the gear concerned.

"(d)(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the canse and extent of the damage, loss, or destruction claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than thirty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) determined on the basis of the depreciated value of the fishing gear concerned at the time the damage, loss, or destruction occurred;

"(B) proportionately reduced to the extent that evidence indicates that negligence by the vessel owner contributed to the cause or extent of the damage, loss, or destruction; and

"(C) reduced by the amount of compensation, if any, which the vessel owner has received or will receive with respect to the damage, loss, or destruction through insurance, pursuant to any other provision of law, or otherwise.

"(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall—

"(A) if the application is disapproved, set forth the reasons therefor; or

"(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined

"(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application

may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

"(5) If compensation is awarded under the final determination on any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

"(e) For each year after 1978, the Secretary shall establish contributions which must be paid annually to the Secretary by any vessel owner as a condition of eligibility for compensation under this section. The contribution imposed on any vessel owner for any year shall equal the amount computed by the Secretary by dividing the sum of—

"(1) the amount estimated by the Secretary to be necessary for the administration of this section during such year (excluding the amount of compensation paid under this section during such year); plus

"(2) the amount equal to 20 per centum of the estimated total amount of compensation which will be paid under this section during such year;

by the estimated number of vessel owners who will make contributions under this section during such year. The Secretary shall deposit all contributions collected under this subsection into the fund.

"(f) No foreign fishing vessel shall be issued a permit under section 204 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824) for any year after 1978 unless there is paid with respect to such vessel the damage assessment established for such year by the Secretary under this subsection. The damage assessment imposed with respect to each foreign fishing vessel for any year shall equal the amount computed by the Secretary by dividing the amount equal to 80 per centum of the estimated total amount of compensation which will be paid under this section during such year by the number of permits which will be issued for such year under such section 204. In the case compensation paid under this section during any year exceeds the estimate for such year on which damage assessments under this subsection were based, an amount equal to such excess shall be added to the estimate on which damage assessments for the following year are computed. All damage assessments collected pursuant to this subseection shall be deposited into the fund.

"(g)(1) There is established in the Treasury of the United States the Fishing Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section.

"(2) The fund shall consist of—

"(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

"(B) all contributions collected under subsection (e);

"(C) all damage assessments collected under subsection (f);

"(D) revenues received from deposits or investments made under the last sentence of this paragraph;

"(E) any sums appropriatey to the fund; and

"(F) any revenue acquired through the issuance of obligations under paragraph (3). All compensation paid by the Secretary under this section shall be paid from the fund only to the extent provided for in appropriation Acts. Sums in the fund which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed $5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary of the Treasury may sell any such notices or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(h) Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

"(i) There are authorized to be appropriated from time to time to the fund such sums as may be necessary to insure that the moneys in the fund are sufficient to carry out the purposes for which the fund is established.".

(b) The amendment made by subsection (a) shall take effect October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purposes of H.R. 10878 are threefold: To extend the cooperative insurance program carried out under section 7 of the Fishermen's Protective Act for an additional 3 years; to establish a compensation program for American fishermen whose fishing gear is damaged, destroyed, or lost as a result of the actions of foreign or domestic fishing vessels within the 200-mile fishery zone of the United States; and to provide additional protection to endangered and threatened species of fish and wildlife.

The need for this legislation—other than the fact that the appropriation-authorization under section 7 expires at the end of this fiscal year—arises from the fact that the United States does not recognize the right of any nation to regulate tuna. Tuna is a highly migratory species which spawns, and migrates over vast distances, in the Pacific, Atlantic, and Indian Oceans and, therefore, necessitates international regulation. Consequently, whenever a tuna vessel of the United States is seized by a foreign nation in contradiction of this policy, it is incumbent of the United States to indemnify the owners of such seized vessels for their losses when such vessel owners or operators are following a policy clearly established by the U.S. Government.

This policy on the part of the United States dates back to 1954 when the Fishermen's Protective Act first came into being. Under section 3 of that act, the U.S. Government agreed that when American fishing vessel owners were fishing in conformity with that policy and their vessels were seized and fines, fees, and other direct charges were required to be paid to obtain release of their vessels and crews resulting from such seizures beyond 3 miles from the shores of any nation, then the U.S. Government would reimburse the vessel owners and crews for those charges.

In 1967, the act was broadened to add a new section 7 to the act which is the provision which would be extended by this legislation. Section 7 allows any vessel owner—whether fishing for tuna, shrimp, or other species of fish—to voluntarily enter into an agreement with the Secretary of Commerce for the purpose of providing reimbursement for certain losses incurred resulting from an illegal seizure, such as those losses involving damage to, destruction of, or confiscation of the vessel, fishing gear, or other equipment, dockage and utility fees, confiscated or spoiled fish, and 50 percent of loss of fishing time during the detention period.

Under the program, the participating vessel owners have been paying about 40 percent of the cost and the U.S. Government the remaining 60 percent. There is presently in the reimbursement account approximately $1 million and there have been no illegal seizures since 1975.

The administration strongly supports the extension of this program and it is estimated there would be no cost to the Federal Government during the year extension of the act.

Mr. Speaker, when ordering the bill reported, the committee amended the bill, as introduced, in two important respects. First, it amended section 8 of the act—better known as the Pelly amendment. The Pelly amendment requires the Secretary of Commerce when she determines that nationals of a foreign country are conducting fishing operations in a manner which diminishes the effectiveness of an international fishery conservation program—to certify such fact to the President and once such a certification has been made, the President has the option of embargoing the fish products of the offending nation. This provision of the act has been a most effective tool in our effort to conserve the world's declining whale populations. In fact, the Pelly amendment played a major role in convincing Japan and Russia to adhere to the whaling quotas established by the International Whaling Commission.

As amended by the committee, section 8 would require the Secretary of the Interior or the Secretary of Commerce whenever either determines that nationals of a foreign country are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species to certify such fact to the President. Upon such a certification, the President would have the option of embargoing any or all wildlife products from the offending nation.

The second amendment to H.R. 10878 would rewrite section 10 of the act to provide for a modified no fault system of compensating American vessel owners whose fishing gear has been damaged, destroyed, or lost as a result of the action of any vessel within the zone. The program would be financed by participating American owners—who would pay 20 percent of its cost—and foreign vessel owners licensed to fish within the zone—who would pay the remaining 80 percent of such cost.

I am most hopeful that the difficulties associated with existing programs for compensating U.S. fishermen for gear damage—such as those involving claims boards with Russia, Poland, and Spain, and compulsory arbitration—will be overcome by this legislation and in the future our fishermen will be able to receive full and prompt reimbursement for their gear losses.

Mr. Speaker, when checking with the Budget Committee prior to scheduling H.R. 10878 for a vote, I was advised that the bill was in technical violation of the Budget Act in two respects. Language to correct these deficiencies has been agreed to by the Budget Committee and has been included in the bill, as amended. Attached to my statement is a brief explanation of the language added to the bill and the reasons therefor. That explanation follows:

ATTACHMENT No. 1

Section 303(a)(4) of the Budget Act provides that it shall not be in order in either the House or Senate to consider any bill or resolution which provides new spending authority that would become effective during a fiscal year until the first Concurrent Resolution on the Budget for such year has been agreed to, which would be May 15 of this year.

The following language was inserted on page 1, line 10, after "1981": ", *Provided*, That any such payments made pursuant to subsections (a)–(d) shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.".

This language would eliminate the new spending authority contained in section 1 of the bill and would—in lieu thereof—make the section subject to appropriations provided in advance in appropriation Acts.

Section 401(a) of the Budget Act provides that it is not in order in either the House or Senate to consider any bill or resolution which provides new spending authority that would allow the United States to incur indebtedness for the repayment of which the United States is liable, unless the spending authority is provided in advance by appropriation Acts.

On page 12, line 12, at the end of the sentence, the following language was added: "All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts."

This language would correct this deficiency by making the new spending authority subject to appropriations provided in advance in appropriation Acts.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT), the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. LEGGETT. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, as just explained by the chairman, the gentleman from New York, Mr. MURPHY, H.R. 10878 would extend the voluntary insurance program authorized by section 7 of the Fishermen's Protective Act for an additional 3 years, until October 1, 1981. I would like to confine my remarks to the two amendments adopted by the committee.

Mr. Speaker, in order to expand the success the United States has achieved in the conservation of fish and particularly whales under section 8 of the act—better known as the Pelly amendment—a number of conservation organizations strongly suggested the use of the Pelly amendment concept to extend additional protection to endangered and threatened species of wildlife. The representative of these organizations, Mr. Tom Garrett, pointed out that there are a large number of species of wildlife that are in a dramatic decline, in particular the jaguar and the ocelot in Central and South America.

Unfortunately, under the terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora—which applies only to import, export, and reexport—the United States has no ability to persuade other nations to comply with the Convention and extend additional protection to declining species unless the illegally traded articles from such species are imported into the United States.

The amendment adopted by the committee would allow the Pelly amendment to be invoked in order to prohibit imports of any wildlife products from the offending nations whenever a determination is made by the Secretary of the Interior or the Secretary of Commerce, for instance, that wildlife products protected under the Convention are being shipped between two nations and that the actions of such nations are diminishing the effectiveness of an international program for endangered or threatened species.

Mr. Speaker, the second amendment adopted by the committee would set up a sort of modified no-fault insurance system for reimbursing American fishermen for damage done to their fishing gear by foreign or domestic vessels.

The system is quite an improvement over the existing systems which involve too much redtape, and which make claims too difficult to collect.

The program would be financed primarily by foreign fishing vessels authorized to fish within our 200-mile fishing zone and if a vessel owner refuses to pay his part of the annual assessment established by the Secretary of Commerce, his fishing privileges would be cut off. This, I think, Mr. Speaker, will result in the attention being given to these claims to which they are entitled and will result in the fishermen obtaining prompt reimbursement for their gear damage. In this way, a small fisherman will be able to replace his lost gear and continue in business.

Mr. Speaker, I think this is a good bill and I urge its prompt passage.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation which would extend until October 1, 1981, the voluntary insurance provisions of the Fishermen's Protective Act. More importantly, the legislation will give added strength and emphasis to the International Convention on Endangered Species of Fauna and Flora.

While the decline of many species has been arrested in the past few years, in part through U.S. efforts, the status of a vast number of other species has undergone a dramatic decline. In this decade alone, even since the passage of the Endangered Species Act of 1973, a host of internationally insignficant species has been driven to the point of extinction. In fact, the Department of the Interior estimates that approximately 300 species are becoming extinct each decade. Although the International Convention provides a mechanism for protecting fish and wildlife, the sad fact is that only 44 nations are members of the Convention. To extend the effect of the Convention, H.R. 10878 authorizes the President to embargo the importation of wildlife products, excluding products for scientific purposes, from any nation whose nationals are acting in a manner which diminishes the effectiveness of the International Convention.

H.R. 10878 also provides for the establishment of a comprehensive and effective procedure for compensating U.S. fishermen whose gear has been damaged or destroyed because of the activities of foreign fishermen operating within the U.S. 200-mile zone. Existing methods of compensation have proven inadequate because they require that the U.S. fisher-

men be able to prove the precise identity of the foreign vessel causing the damage or destruction. For a lobster fishermen who leaves his pots on 1 day and returns 3 days later to retrieve them, this is an impossible burden of proof. As a result of this burden, thousands of dollars of claims have gone uncompensated. H.R. 10878 remedies this problem by establishing a modified no-fault compensation system funded by contributions from participating U.S. fishermen and from foreign fishing vessels operating within the U.S. 200-mile zone.

Mr. Speaker, H.R. 10878 is an important legislative initiative and I urge that it be adopted.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of this legislation. As one of its original sponsors, I am confident that this legislation will serve well our efforts to revitalize the American fishing industry and protect endangered and threatened species of wildlife.

I have the privilege of representing the people of south Jersey in Congress. This area, with over 20 miles of coastline, contains one of the most important centers for the commercial fishing industry in our country.

Consequently, I would like to use this opportunity to point out the importance of section 3 of the bill. This section would set up a new program to compensate fishermen whose gear is damaged by other vessels operating with the 200-mile fishing limit.

The current programs for compensating fishermen and boat owners for losses and damages to their gear have simply not been adequate. These programs, in spite of the best intentions of the administering bodies, have not provided prompt or adequate compensation to a fisherman whose gear has been damaged or destroyed by others through no fault of his own.

One of the major problems with the current programs is the burden of proving the identity of a boat that actually causes the damage to a fisherman's gear. Although this burden-of-proof requirement is a sound practice in other fields, it is not reasonable in light of day-to-day fishing activities.

For example, a fisherman may set his gear, such as a lobster pot, at a certain time and not return to it for several hours or days. It is difficult, if not impossible for such a fisherman to prove the identity of any party who damages his gear. A similar problem faces a long-line fisherman who may have 15 miles of gear stretching behind his vessel. If a boat cuts through his gear at the 12-mile point, the fisherman will again have a very difficult task in determining the guilty party.

Another problem with the current compensation programs is the unsatisfactory amount of time that fishermen have to wait for settlement of their claims. For instance, under the compensation program set up in the 200-Mile Fishing Limit Act, the processing of damage claims against foreign fishermen has averaged 3 months.

Still other problems are the lack of compensation for small claims under some of the existing programs and the lack of clarity over whether compensation is to be based on the replacement value or depreciated value of the gear.

The new compensation program proposed by section 3 would go a long way toward correcting these problems. Under this section, a fisherman can be compensated for any damage, loss, or destruction of his fishing gear, if the damage, loss, or destruction is caused by any other vessel, foreign or American, operating within the 200-mile limit. He would not have to prove the identity of the party at fault. He also can be compensated for any damage or loss caused by an act of God.

By removing the burden of proving the identity of the guilty party, the section thus would enable many fishermen to obtain the compensation that is now unavailable to them.

In addition, section 3 would require a prompt determination of compensation due to a fisherman claiming damages. Under this section, the Secretary of Commerce is required to make an initial determination of compensation for a fisherman's claim within 30 days after it is filed. If the determination is not appealed by the fisherman, it becomes final.

The compensation would be based on the depreciated value of the gear damaged. There would be no minimum damages required for compensation.

I also would like to point out an added advantage to this program: it very likely will not add any additional costs for the U.S. taxpayer. The program will be funded by modest payments from American fishermen and from those foreign fishermen who receive permits to fish within our 200-mile limit. Both the Merchant Marine and Fisheries Committee and the Congressional Budget Office estimate that the bill will incur no significant cost to the Government.

Mr. RUPPE. Mr. Speaker, I yield as much time as he may consume to the distinguished gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 10878 which extends the authorization for section 7 of the Fishermen's Protective Act for 3 additional years. I believe it is critically important that we extend the provisions of section 7. If we fail to approve H.R. 10878, it will be a clear signal to the international community that the United States no longer considers tuna to be outside the scope of the 200-mile fishery conservation zones which are being established throughout the world. Such an action by this Congress will undermine the efforts of U.S. negotiators who are seeking to establish an effective and comprehensive international regime for the conservation and management of tuna. It will also have a dramatically adverse effect on the U.S. tuna fleet which takes a substantial percentage of its harvest within 200 miles of other nations' shores and which depends on the Fishermen's Protective Act for support.

H.R. 10878 also contains two significant amendments to the Fishermen's Protective Act. The first lends added support to the International Convention for the conservation of Endangered Species of Fauna and Flora. This amendment provides that the President may embargo the importation of wildilfe products, excluding products for scientific research, from any nation whose nationals are act- the importation of wildlife products, exing in a manner which diminishes the effectiveness of the International Convention.

Each year hundreds of species become extinct throughout the world. Decisive action must be taken to stem this tide and I believe the provisions of H.R. 10878 are a major step forward.

The second amendment to the Fishermen's Protective Act made by H.R. 10878 provides for the establishment of a simple and effective mechanism for compensating U.S. fishermen whose gear has been lost, damaged, or destroyed while those fishermen were engaged in fishing within the U.S. 200-mile zone. With the enactment of the Fishery Conservation and Management Act of 1976, U.S. fishermen were given renewed hope that a procedure for the rapid and fair disposition of their gear damage claims would be established. Prior to the enactment of this legislation, U.S. fishermen were limited to the vagaries of proceeding in court or to the ponderous procedures of the Russian or Polish claims boards. To remedy these problems, those of us who were closely associated with the passage of the 200-mile act intended that the Secretary of Commerce would establish an administrative procedure for the prompt disposition of damage claims by U.S. fishermen.

Instead, U.S. fishermen have seen the continuation of the claims boards. In addition, the National Marine Fisheries Service has promulgated regulations providing for an arbitration procedure for gear damage claims totaling less than $25,000.

Unfortunately, these regulations suffer from the same essential weakness as do the claims boards—that is, that a U.S. fisherman seeking compensation must be able to establish the precise identity of the foreign fishing vessel causing the damage. U.S. fixed gear fishermen, who set their gear on one day and return in a few days to check the gear, are often unable to meet this burden of proof. U.S. longline fishermen confronts the same dilemma, in that gear stretching 15 miles behind the vessel might be severed at the 12th mile by a vessel which can be seen by radar but which cannot be identified as to its nationality. As a result of these problems, relatively few U.S. fishermen will be able to secure compensation under the existing administrative claims settlement mechanisms.

Furthermore, pursuant to the arbitration regulations, it is entirely likely that in every instance the arbitrator will be

the national of a third nation. Finally, the U.S. fisherman may be forced to absorb the cost of the arbitration proceedings and if he requests an interpreter or a stenographer, he will be forced to pay the costs of these services.

The legislation which was adopted by this Congress during the last session to provide a gear compensation program suffers from many similar weaknesses. In the first place, claims totaling less than $2,000 are totally excluded. More significantly, the new law will place on U.S. fishermen the same burden of proof that has rendered the claims boards an ineffective mechanism for compensating for gear losses. Pursuant to the new program, U.S. fishermen will have to establish the identity of the offending vessel.

Because of the limitations of these systems, I offered an amendment to H.R. 10878 which was accepted and which is before us today. This amendment establishes a voluntary insurance program for U.S. fishermen operating within the U.S. 200-mile zone. Participating fishermen will be eligible to receive compensation for the depreciated value of any fishing gear which is lost, damaged, or destroyed because of the activity of any other vessel—whether or not it is a vessel of the United States—or by an act of God. Thus, U.S. fishermen will no longer be required to establish the precise identity of the vessel causing the damage to its gear. To eliminate fraud, my amendment provides that the claimant shall be compensated only for the depreciated value of the gear involved. Furthermore, if there is evidence of negligence on the part of the U.S. fisherman, the amount of any award shall be reduced proportionately. Finally, my amendment provides stiff penalties for any fraudulent or misleading statement on the part of any person seeking compensation under this program.

I should also note that the program is to be funded entirely by fees paid by participating U.S. fishermen and by assessments levied against foreign fishing vessels operating within the U.S. 200-mile zone.

Mr. Speaker, H.R. 10878 is an important and significant legislative initiative. It provides for an effective mechanism for protecting U.S. fishermen who have suffered damages to their gear caused by the activities of foreign fishing vessels. It gives the International Convention for the Conservation of Endangered Species of Fauna and Flora new emphasis and new strength. Finally, H.R. 10878 provides much-needed assistance to the U.S. tuna industry. I urge that this bill be approved.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

Mr. RUPPE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10878, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZATION FOR CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10882) to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

The Clerk read as follows:

H.R. 10882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(b) of the Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish and game conservation and rehabilitation in military reservations", approved September 15, 1960 (16 U.S.C. 670f(b)) is amended—

(1) by striking out "five fiscal years" in the first sentence and inserting in lieu thereof "eight fiscal years"; and

(2) by striking out "four fiscal years" in the third sentence and inserting in lieu thereof "seven fiscal years".

SEC. 2. Subsections (a) and (b) of section 209 of such Act of September 15, 1960 (16 U.S.C. 670o (a) and (b)) are each amended by striking out "four fiscal years" and inserting in lieu thereof "seven fiscal years".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10882 authorizes appropriations to carry out what is commonly known as the Sikes Act. This legislation will insure that funding will continue to be available to the Secretaries of the Interior, Defense and Agriculture to carry out wildlife conservation and public recreation programs on public lands.

The Sikes Act was originally passed to take advantage of the tremendous fish and wildlife and outdoor recreation potential on 26 million acres of military property, and over 620 million acres of other federally owned lands. The Sikes Act recognizes that, for many communities in this country, the local military base offers the most accessible opportunity for wildlife oriented recreation. This act insures that, when feasible, the Nation's military lands will be available for the enjoyment of the American public, as well as military personnel.

The Sikes Act also expresses the strong congressional intent that the Nation's two largest landlords—the Forest Service and the Bureau of Land Management—pay serious attention to fish and wildlife conservation. These two agencies alone control more than 620 million acres of public property. Much of this land is prime wildlife habitat.

Although a number of worthwhile programs have been conducted under the Sikes Act, the act has been consistently neglected by the Departments of Defense and Interior. I am hopeful that we can change this attitude. This country spends a significant amount of money each year acquiring wildlife habitat and yet we are not taking proper care of the land we already own. Full funding of the Sikes Act would insure that we do.

It is unfortunate that the Federal agencies have given the Sikes Act such a low priority. Despite agency inaction, however, a number of military bases in the country have utilized the Sikes Act to develop creative wildlife conservation programs.

In my home State of New York, for example, Griffiss Air Force Base has developed one of the best wildlife conservation programs in the country. Last year Griffiss managed to receive the Conservation Award from the U.S. Fish and Wildlife Service with virtually no Sikes Act funding.

Mr. Speaker, it is imperative that the Federal agencies provide much more funding and technical assistance to the States to perform fish and wildlife conservation, and public outdoor recreation programs on federally owned lands. Hopefully, with congressional passage and subsequent enactment of H.R. 10882, the Secretaries of the Interior and Defense will alter this shortsighted policy and give the Sikes Act the priority it deserves.

Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 10882, legislation extending the authorization of appropriations through fiscal years 1979, 1980, and 1981, to carry out what is commonly known as the Sikes Act.

Title I of the Sikes Act authorizes $1.5 million to be appropriated to the Secretary of Defense to carry out wildlife conservation and public outdoor recreation programs on 25.4 million acres of military installations throughout the country. These programs would be in accordance with a cooperative plan mutually agreed upon by the appropriate agency in the State in which the installation is located and the Secretaries of Defense and the Interior. The Secretary of the Interior is authorized $2 million under title I to provide technical assistance to the States and the Secretary of Defense in carrying out these programs.

Title II directs the Secretaries of the

Interior and Agriculture, in cooperation with appropriate State agencies, to plan and coordinate programs for the conservation and rehabilitation of fish and wildlife on lands under their respective jurisdictions. Additionally, the Secretary of the Interior is directed to implement such programs on lands under the jurisdiction of the Department of Energy and the National Aeronautics and Space Administration. Each Secretary is authorized $10 million annually to carry out the initiatives specified in title II.

Unless H.R. 10882 is enacted, the appropriations authorizations contained in both title I and II of the act will expire at the end of fiscal year 1978.

Although the Sikes Act has suffered from neglect by Defense and Interior, it remains a noteworthy conservative measure for two reasons. First, for many communities in this country the local military reservation offers the most accessible opportunity for wildlife enjoyment, hunting or outdoor recreation. This act insures that the Nation's military lands will be available for the enjoyment of all American citizens, not merely military personnel. Second, it expresses the strong desire of Congress that the Nation's two largest landlords—the Forest Service and the Bureau of Land Management—pay serious attention to fish and wildlife conservation. It is absolutely necessary that these two agencies carry out extensive fish and wildlife conservation activities. They control between the two of them, more than 620 million acres of land, much of which is prime wildlife habitat.

Mr. Speaker, several of the agencies included within the Sikes Act have been funding fish and wildlife conservation, and outdoor recreation, programs with moneys tapped from their general appropriations. It is commenable that these agencies are carrying out fish and wildlife programs on lands under their jurisdiction. However, the committee wishes to make it clear that the funds authorized by the Sikes Act are to be used as a supplemental to, and not in place of, their general appropriations to carry out conservation programs.

All of the agencies affected by the Sikes Act submitted testimony or departmental reports in favor of enactment of H.R. 10882, and I urge its prompt passage.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10882, which extends the authorization for the Sikes Act for an additional 3 years. The Sikes Act was enacted for the purpose of implementing outdoor recreation and fish and wildlife conservation programs on military reservations and certain other federally owned lands.

In an era in which there is an increasing public demand for the preservation of fish and wildlife, it is vitally important that these values on our Federal lands be protected through aggressive conservation programs. The importance of these lands to wildlife is demonstrated by the fact that on Navy lands alone there are 17 endangered and 5 threatened species. A few examples convey an idea of some of the important habitat values in military lands. The military installations along the lower California coast, Imperia Beach Naval Station, Camp Pendleton, and Point Mugu Naval Air Station contain important meeting areas for the California least tern and the lightfooted clapper rail, both of which are endangered species. Endangered red-cockaded woodpecker is found at the Eglin Air Force Base in Florida, and at Fort Bragg and Camp LeJeune in North Carolina. The Okaloosa darter, an endangered fish, is found in only five small streams originating on Eglin Air Force Base. The endangered Mohave chub has been stocked in ponds on the China Lake Naval Ordinance Test Station in California to insure their protection. Excellent waterfowl habitat is being protected on Bloodsworth Island in the Chesapeake Bay by the Patuxent River Naval Air Station.

Despite the importance of existing Federal lands to the conservation of native fish and wildlife, relatively little has been done on these lands. It is critically important that management plans, basic resources surveys and inventories be developed so that effective and comprehensive conservation programs can be developed for these lands.

Despite the important needs for wildlife conservation on Federal lands, inadequate attention has been focused on the implementation of the Sikes act. None of the Federal agencies that are authorized moneys under the Sikes act has ever requested an appropriation under the act. Instead, these agencies have relied upon their general authority to fund the Sikes act programs. Failure to request appropriations under the Sikes act is, in certain instances, reflective of an insufficient commitment to the preservation of the fish and wildlife values found on Federal lands.

Mr. Speaker, I urge the rapid passage of this important legislation so that Congress can provide a signal to Federal land management agencies that wildlife and recreational values should receive higher priority consideration in the management of Federal lands. It is time we recognize that the American public will benefit significantly from the implementation of effective fish and wildlife conservation programs on Federal lands.

Mr. Speaker, I yield such time as he may consume to the distinguished ranking minority member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, in 1903 when President Theodore Roosevelt established the first national wildlife refuge, he foresaw the need for a comprehensive national program for the conservation and protection of this Nation's fish and wildlife resources. Since that time, we have witnessed the steady growth of the refuge system, which now encompasses 34 million acres. The growth of this system reflects a national commitment to the preservation of the quality of life in America, including the preservation of the diversity of fish and wildlife found throughout the United States.

The National Wildlife Refuge System, however, represents only a small portion of Federal lands with significant fish and wildlife values. The Department of Defense, for example, owns over 19 million acres which have significant fish and wildlife values. Over 17 endangered and 5 threatened species are found on Navy lands, and the waterfowl habitat on other military lands is considered excellent.

Mr. Speaker, our national goal of fish and wildlife protection could be substantially furthered if these and other federally owned lands were managed to optimize their fish and wildlife resources.

H.R. 10882, which extends the Sikes Act, provides an effective mechanism for accomplishing this objective. The Sikes Act authorizes various Federal agencies and departments to enter into cooperative agreements with the States for the preservation and enhancement of the fish and wildlife resources found on the Federal lands. Although I am deeply distressed by the fact that certain Federal agencies, particularly the Department of Defense, have failed to aggressively implement their responsibilities under the Sikes Act, I believe it is critical that this Congress reaffirm its commitment to the Sikes Act by extending its authorization.

Mr. Speaker, the Sikes Act offers this country an excellent tool for preserving the full range of fish and wildlife values found in the United States. If we fail to act today to approve H.R. 10882, the quality of life for future generations of Americans may be substantially reduced.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

Mr. RUPPE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10882.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10732) to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, 1980, and 1981, as amended.

The Clerk read as follows:

H.R. 10732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended

by adding at the end thereof the following new paragraphs:

"(5) $40,000,000 for the fiscal year ending September 30, 1979.

"(6) $45,000,000 for the fiscal year ending September 30, 1980.

"(7) $45,000,000 for the fiscal year ending September 30, 1981.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, H.R. 10732 would authorize appropriations to carry out what is commonly known as the 200-Mile Fishery Zone Act. This legislation will insure that funding will continue to be available to the Secretary of Commerce and the Regional Fishery Management Councils for carrying out their responsibilities under this act.

The 200-Mile Fishery Zone Act became Public Law 94-265 on April 13, 1976. That act made it unlawful for the first time—beginning with March 1, 1977—for foreign fishing vessels to fish within 200 miles of our shores without a permit. Already, that landmark piece of legislation has had a salutary effect on protecting and conserving the fisheries resources of our coastal shores.

For instance, while our annual domestic catch has remained about the same for the past 2 years—approximately 2.5 million metric tons—we have seen the foreign catch off our coastal shores decline from 2.7 million metric tons in 1976 to 1.7 million metric tons in 1977, a 37-percent decliine.

Similarly, we have seen a decline in the monthly average of foreign fishing vessels off our shores. Figures released by the National Marine Fisheries Service indicate that approximately 780 foreign fishing vessels operated within the zone during 1977, about one-third less than the approximately 1,200 vessels operating within the zone in 1976.

Early signs indicate that there is a new vigor in the U.S. fishing industry. Orders for new fishing vessels have increased dramatically and there is a new interest seen in replacing and modernizing old fishing gear and in expanding, and building new, processing plants.

Mr. Speaker, this act is beginning to work but much more remains to be done. Thus far, only three fishery management plans have been prepared and approved by the Secretary. Two of these involve fish in the Atlantic coast—haddock, cod, and yellowtail surf clams and quahogs—and the third involves salmon in the Pacific coast. More than 75 plans have been identified by the 8 Regional Fishery Management Councils established by the act that need to be developed. This is a monumental task these Councils are facing and it is only through the passage of this legislation that these Councils will be able to get the necessary funds with which to prepare these plans.

H.R. 10732 would authorize to be appropriated $40 million for fiscal year 1979 and $45 million for each of fiscal years 1980 and 1981.

Mr. Speaker, the administration requested that only $22 million be appropriated to carry out this act in 1979. Tomorrow morning, I plan to appear before the Appropriations Subcommittee on State, Justice, Commerce, and Judiciary and request that $15.4 million be added to their request for fiscal year 1979 so that the Department of Commerce will have adequate funds for carrying out this act.

Hopefully, with the prompt passage of this legislation, which authorizes these additional funds, our fisheries resources will receive the attention to which they are entitled.

I now yield to the gentleman from California (Mr. LEGGETT) such time as he may consume.

Mr. LEGGETT. Mr. Speaker, H.R. 10732 would extend the funding authorization under the Fishery Conservation and Management Act of 1976 for an additional 3 years at a level of funding of $40 million for fiscal year 1979 and $45 million for each of fiscal years 1980 and 1981.

These authorization levels are in line with the original requests of the National Marine Fisheries Service before they were cut back by the National Oceanic and Atmospheric Administration, the Department of Commerce, and, finally, by the Office of Management and Budget.

Mr. Speaker, one of the primary purposes of this act is to provide for the conservation and management of the fishery resources off our coastal shores. To carry out this task, the act provided for the creation of eight regional fishery management councils. These councils, which have the responsibility of developing management plans for each of the fisheries within their respective geographical areas, have identified more than 80 fisheries that will require management plans. Thus far, only three of such plans are in existence and are being implemented by the Secretary of Commerce. Two more of such plans have been approved by the Secretary and are awaiting the implementing regulations. This leaves more than 75 plans still remaining to be developed and implemented. This is a monumental task facing these councils and the passage of this legislation will give assurance to these councils that the funds they need with which to properly prepare these remaining plans will be available.

Mr. Speaker, other purposes of the act call for the rebuilding of overfished stocks and the development of fisheries which are currently underutilized or not utilized by U.S. fishermen. To meet these responsibilities, more accurate biological data and fisheries statistics are needed. H.R. 10732, as amended, makes allowances for these needs and, hopefully, the Secretary of Commerce will take the necessary steps to see that these data are gathered at the earliest possible date.

Mr. Speaker, H.R. 10732 was unanimously reported by the committee, it has the strong support of the administration, and I urge its prompt passage.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10732, which extends and increases the authorization for the Fishery Conservation and Management Act of 1976 for an additional 3 years.

The enactment of the FCMA represented the dawning of a new era in fisheries management. Prior to the enactment of this legislation, massive foreign fishing fleets operating off the U.S. shores were depleting our fishery resources. The United States had no effective mechanism by which to protect our resources from this overfishing. As a result, numerous species became depleted. The FCMA, however, offers a new hope for rebuilding these fisheries and for preventing the depletion of additional fisheries.

Under the act, eight regional management councils are charged with the responsibility for developing fishery conservation and management plans which will determine the amount of fish which can be harvested without damaging the resource. The plans may also establish regulations on the type of gear which may be used, on the season and area in which fishing may occur.

Already, the councils have developed 5 management plans and it is anticipated that in the next 2 fiscal years an additional 75 plans will be developed. The completion of these management plans will provide a comprehensive framework for protecting the extensive fishery resources of the United States. By protecting the resource from depletion, the Fishery Conservation and Management Act provides a foundation on which the U.S. fishing industry can be revitalized.

If these hopes are to be realized, it is essential that the regional fishery management councils and the National Marine Fisheries Service be given the necessary resources with which to do the job. It is my view that the current level of funding for the act is insufficient. The available biological data on which to base fishery management plans is inadequate and the development of a sufficient data base will require an extensive research program.

In the absence of an increase in the level of commitment to the Fishery Conservation and Management Act, the effective management of our fisheries resources will be impossible, H.R. 10732 accurately reflects the research needs of the National Marine Fisheries Service and the regional fishery management councils and provides an adequate level of funding to the councils. It is for these reasons, Mr. Speaker, that I support the enactment of H.R. 10732.

Mr. Speaker, I yield such time as he may consume to my distinguished col-

league, the ranking member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 10732, which extends the authorization for the Fishery Conservation and Management Act for an additional 3 years.

The Fishery Conservation and Management Act represents a bold initiative to assure the preservation and effective management of this Nation's marine resources. Twenty percent of the world's fishery resources are found within 200 miles of the U.S. coast and the FCMA gives our Nation the ability, indeed the responsibility, for managing this substantial resource.

In order to provide for the integrated management of our fishery resources, the act establishes eight regional management councils, which are charged with responsibility for developing management plans for each fishery within their respective regions. These management plans must determine the optimum yield for each fishery and must establish an effective management program for the fishery.

Thus far, the councils have completed management plans for five fisheries. However, with the knowledge and experience gained since the inception of the act, the councils anticipate the completion of 35 additional management plans before the end of the current fiscal year. These fishery management plans play a critical role in accomplishing the objectives of the act. It is, therefore, vitally important that the regional councils receive adequate funding to develop these plans in a timely manner.

One of the central problems the councils have confronted is the lack of adequate biological data. The councils and the National Marine Fisheries Service must be given sufficient funds to collect and analyze this biological data so that the councils can move forward with the development of fishery conservation plans. H.R. 10732 will provide these funds.

Mr. Speaker, the Fishery Conservation and Management Act of 1976 is a landmark piece of legislation. It provided a foundation upon which the U.S. fishing industry can be revitalized. The assured access to the resource which is given to U.S. fishermen by the act can, and will, provide the economic incentive which will lead to a resurgent fishing industry, an increased supply of seafood for the U.S. consumer and a decrease in our seafood balance-of-payments deficit.

None of this will be possible, however, if the resource is not protected—and the resource cannot be protected unless the Fishery Conservation and Management Act is fully and effectively implemented. H.R. 10732 provides the necessary funds which will insure the success of our fishery management program and I urge the adoption of this legislation.

The SPEAKER pro tempore. If there are no further requests for time, the question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10732, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

COUNCIL ON ENVIRONMENTAL QUALITY AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10884) to authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981, as amended.

The Clerk read as follows:

H.R. 10884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) $3,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10884 would authorize appropriations through fiscal year 1981 to the Council on Environmental Quality.

Despite its small size, the Council on Environmental Quality is charged with many diverse tasks relating to our country's environmental health. It acts as the principal adviser to the President in matters concerning environmental issues, and has the responsibility of informing and educating the public about methods for protecting and enhancing our environment. The Council assists in coordinating the environmental review requirements of Federal programs and develops recommendations for simplifying and consolidating these requirements.

Most importantly, the Council has the monumental duty of monitoring the effectiveness of the National Environmental Policy Act, a landmark environmental measure developed by the Committee on Merchant Marine and Fisheries in 1969. The National Environmental Policy Act requires Federal agencies to consider the environmental impact of any project which may significantly alter the quality of the human environment. More than any other single statute, NEPA has successfully forced Federal agencies to seek the most environmentally sound approach to any Federal action.

Over the past year, CEQ has completed several major projects affecting the environmental health of this Nation. It developed the President's environmental message issued in April 1977. This message described the President's environmental program for his first term. In the last year, the Council also prepared a major report on the Arctic natural gas pipeline route alternatives.

The Government does have a number of environmental agencies, but CEQ is the only one which attempts to make sense out of the hundreds of programs affecting our environment. Its goal is a more effective, less wasteful, and more environmentally conscious Federal system.

If this legislation is not enacted, the Council's funding authorization would be reduced to a minimal $1 million, a sum which would severely hamper CEQ's work. Substantially more funds must be available to the Council if it is to continue to perform its obligations under the National Environmental Policy Act. H.R. 10884 will provide some of these funds.

Mr. Speaker, at this point I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 10884, the purpose of which is to continue the present level of funding available to the Council on Environmental Quality by amending the Environmental Quality Improvement Act of 1970 to authorize the appropriation of $3 million for each of fiscal years 1979, 1980, and 1981.

The Council on Environmental Quality (CEQ) was created by the National Environmental Policy Act (NEPA) of 1969. NEPA provided funding for the Council at a constant level of $1 million for each fiscal year after 1972.

Shortly after NEPA was enacted Congress also adopted the Environmental Quality Improvement Act of 1970. This act created an Office of Environmental Quality under the direction of the Chairman of CEQ. The authorization for this office has been utilized by CEQ for the carrying out of many of its programs. This authorization expires on September 30, 1978.

CEQ is assigned many duties and responsibilities under NEPA, the Environmental Quality Improvement Act, and numerous Executive orders. Despite these numerous responsibilities, the Council has been allocated only 32 permanent staff positions for the current fiscal year which is a reduction of 33 positions from its largest size in 1972. Because the Council lacks the staff required to fully perform its responsibilities concerning environmental quality, it conducts much of its research and assessment of environmental issues with the assistance of outside consultants and research institutions. Studies recently completed by the

Council include assessments of environmental issues associated with energy development, hardrock mining, air quality, coastal zone management, environmental data gathering, toxic chemicals, and wildlife conservation.

The Council is anxious to expand its mission, and representatives from the environmental community testified at our subcommttee hearings that the work of the Council is essential to the continued environmental awareness in the Federal Government. Without the authorization provided by the Environmental Quality Improvement Act, CEQ would not be able to continue as the sole environmental watchdog in the Federal Government.

Mr. Speaker, I might point out in closing that Charlie Warren, the Chairman of the Council on Environmental Quality, has been doing an excellent job since he took over as chairman last year.

Mr. Speaker, I urge the prompt passage of H.R. 10884.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the passage of H.R. 10884. This bill provides a 3-year authorization for the Office of Environmental Quality at a level of $3 million per year. The Office of Environmental Quality provides staff to carry out the work of the Council on Environmental Quality (CEQ).

The authorization level found in H.R. 10884 is the same as that set forth in Public Law 94–298 for fiscal year 1978. Reorganization Act No. 1 of 1977 gave some of CEQ's duties to the Environmental Protection Agency and gave it other new duties.

CEQ has also been directed to reduce its present permanent staff of 40 to 32 by the end of 1978. Given the revision of its duties and the reduction of its staff, the $3 million authorized under H.R. 10884 should be enough to permit CEQ to maintain its present level of effectiveness.

I believe that the work of the CEQ must be carried on for several reasons. The President and the various component parts of his administration need its balanced and carefully considered advice on matters relating to the environment. We will all benefit from CEQ's continued efforts to improve the quality of environmental information available to policymakers and planners and the level of understanding of the economic impacts of environmental programs. CEQ is trying to assist efforts to coordinate Federal environmental programs to eliminate waste and confusion. The Council is also developing recommendations for simplifying and consolidating environmental review requirements.

Perhaps the most important task before CEQ is the promulgation of regulations that will, for the first time, provide a uniform framework governing the procedural steps to be taken by Federal agencies in the environmental impact statement process. Their aim is to reduce the volume of paperwork required and that is certainly a much-needed and long-awaited step.

I am not one who is satisfied with the implementation of the National Environmental Policy Act of 1969. However, CEQ seems to be heading in the right direction. I support H.R. 10884 in the belief that it will hasten the day when the environmental impact statement evolves into the complete but realistic and concise decisionmaking tool that it was intended to be.

Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the subcommittee, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 10884, a bill which would authorize annual appropriations through fiscal year 1981 for the Office of Environmental Quality.

The Office of Environmental Quality was created under the Environmental Quality Improvement Act of 1970 (EQIA) to provide staff support for the Council on Environmental Quality (CEQ). The CEQ is a three-member Council, and was created as part of the Office of the President by the National Environmental Policy Act of 1969 (NEPA) to advise the President on environmental issues and to perform various other duties relating to governmental policy in environmental issues. One of the Council's most important duties is to see that Federal agencies are complying with NEPA's environmental impact statement procedures. Under Reorganization Plan No. 1 of 1977, CEQ now has the power to promulgate actual regulations to govern and standardize agency procedures during every step of the environmental impact statement process.

Public Law 94–298 authorized an annual authorization of $3.0 million for the Office of Environmental Quality through fiscal year 1978. The bill before us today, H.R. 10884, would simply continue this level of authorization for the next 3 fiscal years. The Committee on Merchant Marine and Fisheries feels that the continuation of the present level of authorization is warranted so that the important advisory, coordination, and information-supplying functions of CEQ continue.

During the committee's hearings on H.R. 10884, it was noted that the authorized staff level for CEQ is at an all-time low and that reorganization plans affecting CEQ may be in the offing. It is my conviction that further staff reductions at CEQ would not only be unwarranted but would also seriously inhibit the Council's ability to function. There is some question as to their ability to do so at the present staffing level. As to reorganization, I think it is fair to say that the committee feels very strongly that any reorganization which would involve CEQ losing its independent status would be wrong conceptually and, further, would require congressional action. Congress established the CEQ as an independent office to maximize its effectiveness in dealing with agency compliance with NEPA. To make CEQ a part of any present or projected agency would render impossible the achievement of the purposes for which Congress created it. I trust that talk of such a reorganization will not proceed beyond that stage.

The role of CEQ is central to the achievement of our national environmental goals. The Council must be assured of at least a bare minimum level of staff support in its work. H.R. 10884 represents a level of funding which provides just that. I ask my colleagues to join with me in approving H.R 10884. ● Mr. JEFFORDS. Mr. Speaker, I am strongly supportive of H.R. 10884, the authorizing legislation for the Council on Environmental Quality, which comes before the House today.

The Council on Environmental Quality plays a vital role not only in advising the President on important environmental issues, but also in insuring that environmental considerations are given proper weight in formulating energy, economic, foreign, and other national priorities.

Even with its modest resources, CEQ has proven itself to be one of the most competent and credible organizations within the Executive Office of the President. As I have stated to my colleagues in the past, whatever effectiveness the National Environmental Policy Act has had is due to the work of CEQ. However, recent broadening of CEQ's responsibilities makes this increased authorization absolutely necessary if the Council is to properly carry out its assigned tasks. As the committee has noted, the size of the Council's staff has actually decreased by almost 50 percent since 1972, even though its role has been greatly expanded. If this legislation were not approved, the budgetary constraints which would be imposed upon the Council would severely damage its effectiveness.

I applaud the chairman and members of the committee for their sensitivity to the increased resource needs of CEQ, and I am confident that with passage of this measure the Council can continue to effectively represent environmental considerations and play an important role in the formulation of policy during this administration.●

The SPEAKER pro tempore (Mr. JENRETTE). The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 10884, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SBA PROGRAMS AND AUTHORIZATIONS

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958, as amended.

The Clerk read as follows:

H.R. 11445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION DISASTER LOAN AUTHORITY

INTEREST RATES

SEC. 101. The first undesignated paragraph of section 7(b) of the Small Business Act is amended as follows:

(1) by striking therefrom the date "October 1, 1978" at both places where it appears and substituting therefor the date "October 1, 1982";

(2) by striking therefrom "shall be 3 per centum" and substituting therefor "shall be 5 per centum".

SALE OF SMALL BUSINESS ACT NOTES FOR DISASTER LOAN CAPITAL

SEC. 102. The Small Business Act is amended by adding to section 4 the following new subsection:

"(e) The Administrator is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the disaster loan revolving fund created by section 4(c)(1)(A) of this Act and for authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administrator with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administrator under this subsection. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. If at any time the Administrator determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury. Moneys in the fund not needed for current operations may be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Administrator may repurchase with money in the fund any notes issued by the Administrator to the Secretary of the Treasury for the purpose of obtaining money for the fund. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 103. Section 4(c)(5) is amended by striking therefrom "each of the funds established by paragraph (1)" and substituting therefor "the fund established by subparagraph (B) of paragraph (1)".

SEC. 104. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo.".

SEC. 105. Sections 101 through 104 of this title shall become effective on October 1, 1978.

TITLE II—AUTHORIZATIONS AND LIMITATIONS

SMALL BUSINESS DEVELOPMENT CENTER FISCAL YEAR 1979 AUTHORIZATION

SEC. 201. Section 20(e) of the Small Business Act is amended by striking from paragraph (9) "except for" and inserting in lieu thereof "including" and by redesignating paragraph (9), as amended, as paragraph (10) and inserting a new paragraph (9) as follows:

"(9) For Small Business Development Center programs authorized by section 7(d) of this Act, the Administration is authorized to make grants not to exceed $60,000,000."

$1,000,000 AUTHORIZATION FOR DATA BASE

SEC. 202. Section 20(f) of the Small Business Act is amended as follows:

(a) by striking from paragraph (2) the language "development of small business development centers", and by substituting in lieu thereof "salaries for implementation of small business development centers"; and

(b) by substituting in lieu of paragraph (3) the following new paragraph:

"(3) $6,600,000 shall be available for research and advocacy, of which $1,000,000 shall be devoted to developing a small business data base, and evaluating the required resources for a major small business research and analysis unit in the Administration; priority is to be given to undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more than $150,000 can be used for the payment of travel and transportation of persons for the national, regional, and Small Business Investment Companies advisory council meetings;".

APPROPRIATION AVAILABLE UNTIL EXPENDED

SEC. 203. Section 20(a) of the Small Business Act is amended by adding thereto the following: "All appropriations whether specifically or generally authorized shall remain available until expended.".

PROGRAM LEVELS—FISCAL YEAR 1980

SEC. 204. Section 20 of the Small Business Act is amended by adding thereto the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $495,000,000 in direct and immediate participation loans, and $3,630,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $73,000,000 in direct and immediate participation loans and $93,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $46,000,000 in guaranteed loans.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in direct purchase of debentures and preferred securities and to make $138,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000.

"(7) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), and 7(g) of this Act, the Administration is authorized to enter into $220,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(9) For Small Business Development Center programs authorized by section 7(d) of this Act, the Administration is authorized to make grants not to exceed $65,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2), of this Act.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $1,365,000,000 to carry out the programs referred to in subsection (h), paragraphs (1) through (9). Of such sum, $31,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958, and $191,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $15,500,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

"(2) $38,700,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, salaries for implementation of small business development centers, and development of an effective small business technology transfer program;

"(3) $6,930,000 shall be available for research and advocacy, of which $1,000,000 shall be devoted to developing a small business data base, and evaluating the required resources for a major small business research and analysis unit in the Administration; priority is to be given to undertaking such economic research and analysis, representing the interest of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more than $150,000 can be used for the payment of travel and transportation of persons for the national, regional, and small business investment companies advisory council meetings;

"(4) $4,900,000 shall be available for the office of minority small business; and

"(5) $4,500,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration.

"(j) The Administrator may transfer no more than 10 per centum of program levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(i) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $545,000,000, in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized in section 7(i) of this Act, the Administration is authorized to make $81,000,000 in direct and immediate participation loans and $103,000,000 in guaranteed loans.

(4) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans, and $51,000,000 in guaranteed loans.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $28,000,000 in direct purchase of debentures and preferred securities and to make $152,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,420,000,000.

"(7) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), and 7(g) of this Act, the Administration is authorized to enter into $242,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(9) For Small Business Development Center programs authorized by section 7(d) of this Act, the Administration is authorized to make grants not to exceed $70,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2), of this Act.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,533,000,000 to carry out the programs referred to in subsection (k), paragraphs (1) through (9). Of such sum, $36,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958, and $211,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $16,275,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

"(2) $40,600,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, salaries for implementation of small business development centers, and development of an effective small business technology transfer program;

"(3) $7,300,000 shall be available for research and advocacy of which $1,000,000 shall be devoted to developing a small business data base, and evaluating the required resources for a major small business economic research analysis unit in the Administration; priority is to be given to undertaking such research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more than $150,000 can be used for the payment of travel and transportation of persons for the national regional, and Small Business Investment Companies advisory council meetings;

"(4) $5,150,000 shall be available for the office of minority small business; and

"(5) $4,750,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration.

"(m) The Administrator may transfer no more than 10 per centum of program levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(l) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(n) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $600,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $90,000,000 in direct and immediate participation loans and $114,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $57,000,000 in guaranteed loans.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $31,000,000 in direct purchase of debentures and preferred securities and to make $168,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,662,000,000.

"(7) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), and 7(g) of this Act, the Administration is authorized to enter into $267,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(9) For the programs authorized by section 7(d) of this Act, the Administration is authorized to make grants not to exceed $75,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2), of this Act.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,719,000,000 to carry out the programs referred to in subsection (n), paragraphs (1) through (9). Of such sum, $41,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958, and $231,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $17,100,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

"(2) $43,000,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, salaries for implementation of small business development centers, and development of an effective small business technology transfer program;

"(3) $7,700,000 shall be available for research and advocacy of which $1,000,000 shall be devoted to developing a small business data base, evaluating the required resources for a major small business research and analysis unit in the Administration; priority is to be given to undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more than $150,000 can be used for the payment of travel and transportation of persons for the national, regional, and small business investment companies advisory council meetings;

"(4) $5,500,000 shall be available for the office of minority small business; and

"(5) $5,000,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration.

"(p) The Administrator may transfer no more than 1 per centum of program levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(o) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased by more than 20 per centum by any such transfers.".

TITLE III—MANAGEMENT AND TECHNICAL ASSISTANCE

SMALL BUSINESS DEVELOPMENT CENTERS PROGRAM

SEC. 301. The Small Business Act is amended by striking all of subsection (d) of section 7 and inserting in lieu thereof the following:

"(d)(1) The Administration is authorized to make grants to any State government or any agency thereof, any regional entity, any State-chartered development credit or finance corporation, any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, or to any corporation formed by two or more of the entities hereinabove described which are eligible to receive such grants, for small business oriented employment or natural resources development programs; for studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; for technological assistance, technical and statistical information for small business enterprises; and for the delivery or distribution of such services and information.

"(2) Small Business Development Centers shall be funded exclusively under this subsection and the Administration shall require, as a condition to any grant (or amendment or modification thereof) made under this subsection, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or in-kind con-

tributions paid for under any Federal program, nor shall such non-Federal costs or contributions exceed 50 per centum of the non-Federal additional amount: *Provided further*, That no recipient of funds under this subsection shall receive a grant (1) which would exceed its pro rata share of the total authorized program based upon the population to be served by the center as compared to total population in the United States and (2) which, when added to all other funds from other Federal sources, would exceed 50 per centum of the total program cost.".

SEC. 302. Section 4(c)(1)(B) of the Small Business Act is amended by inserting after "7(a)," the following: "7(d),".

TITLE IV—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SEC. 401(a) The President shall call a White House Conference on Small Business to be held no later than December 31, 1980. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

(b) The Conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on Small Business headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council including the assignment of personnel as may reasonably be required by the Council.

NATIONAL CONFERENCE PLANNING COUNCIL ON SMALL BUSINESS

SEC. 402. (a) There is hereby established a National Conference Planning Council on Small Business. The Council shall be composed of fifteen members appointed by the President. The Council shall provide guidance and planning for the Conference.

(b)(1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS–18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel), *Provided*, That any such payments made pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Council shall cease to exist one hundred and eighty days after the submission of the report required in section 403, unless extended by the President for a period not to exceed one year.

REPORT

SEC. 403. A report of the Conference shall be submitted by the Council to the President and to the Congress no later than one hundred and eighty days following the date on which the Conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The report shall immediately be made available to the public.

ADMINISTRATIVE PROVISIONS

SEC. 404. In carrying out the provisions of this title, the Council and the Chairman shall—

(a) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting small business;

(b) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on small business before the Conference;

(c) prepare and make available necessary background materials for the use of delegates to the Conference;

(d) prepare and distribute such interim reports of the Conference as may be appropirate; and

(e) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS–18 in section 5332 of such title.

GRANTS

SEC. 405. From any sums appropriated under section 406, the Chairman, with the approval of the Council, may make a grant to each State, upon application by an appropriate State agency, in order to assist in defraying the costs of the State in participating in the Conference program, including the conduct of at least one conference within the State.

AUTHORIZATION OF APPROPRIATIONS

SEC. 406. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Any sums so appropriated for fiscal year 1979 and subsequent years shall remain available until expended.

TITLE V—MISCELLANEOUS AMENDMENTS

TECHNICAL

SEC. 501. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

INVESTMENT OF POLLUTION CONTROL BOND FEES

SEC. 502. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following:

"Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

SMALL BUSINESS ADMINISTRATION DATA SENT DIRECT TO CONGRESS

SEC. 503. Section 21 of the Small Business Act is redesignated as section 23 and a new section 21 is inserted after section 20:

"SEC. 21. (a) Whenever the Small Business Administration submits to the President or the Office of Management and Budget any budget estimate or request, any legislative recommendation or testimony, or comments on legislation, the Administration shall concurrently submit copies thereof to the Committee on Small Business of the House of Representatives and the Select Committee on Small Business of the Senate.

"(b) No officer or agency of the United States may require the Small Business Administration to submit its legislative recommendations or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, before the submission of such recommendations, testimony, or comments to the Congress. In any case in which the Administration requests any comment on or review of such recommendations, testimony, or comments by any officer or agency of the United State, the Administration shall include a description of such request and comment or review in such recommendations, testimony, or comments submitted to the Congress.".

TECHNICAL

SEC. 504. (a) Section 4(c)(1)(A) of the Small Business Act is amended to read as follows:

"(A) a disaster loan fund which shall be available for financing functions performed under sections 5(e), 7(b), 7(c)(2), and 7(g) of this Act, including appropriated funds for administrative expenses in connection with such functions; and".

(b) Section 4(c)(2)(A) is amended by striking therefrom: "7(b)(1)" through "7(b)(8)," and substituting in lieu thereof "7(b),".

SMALL BUSINESS ADMINISTATION ADVOCACY LAW INTO SMALL BUSINESS ACT

SEC. 505. Public Law 94–305 is amended as follows:

(a) by transferring sections 201 through 203 into the Small Business Act as section 22(a) through 22(c), respectively;

(b) by striking from section 204 "section 202" and inserting in lieu thereof "section 22(b)", by striking from section 204(4) "title" and inserting in lieu thereof "section", and by transferring such section, as amended, into the Small Business Act as section 22(d);

(c) by striking from section 205 "title" and inserting in lieu thereof "section", and by transferring section 205 into the Small Business Act as section 22(e);

(d) by striking from section 206 the second and third sentences and by transferring such section, as amended, into the Small Business Act as section 22(f); and

(e) by repealing section 207.

TECHNICAL

SEC. 506. Section 7(b)(4) of the Small Business Act is amended by striking therefrom "undetermined" and inserting in lieu thereof "other".

The SPEAKER pro tempore. Is a second demanded?

Mr. CONTE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 20 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 11445 and urge its immediate passage.

INTRODUCTION AND BACKGROUND

H.R. 11445 is an omnibus bill of five titles. Among its primary purposes are

the continuation of two important initiatives which the Small Business Committee accomplished last year through passage of H.R. 692 (Public Law 95–89); a workable system of loan assistance to victims of natural disasters and authorization of program levels for all of SBA's major programs.

SMALL BUSINESS ADMINISTRATION DISASTER LOAN AUTHORITY

(A) INTEREST RATES

Extensive examination of Federal disaster assistance programs and objectives resulted last year in H.R. 692 which was enacted as Public Law 95–89. That law reduced the interest rate on SBA natural disaster loans to homeowners to 1 percent on the first $10,000 of the loan; 3 percent on the next $30,000 of the loan; and did not provide for any cancellation or forgiveness. The interest rate on SBA natural disaster loans to all other victims was reduced to 3 percent on the first $250,000; and similar reductions were made in the FmHA disaster or emergency loan program.

All disaster loans over these special ceilings are made at an interest rate of 6⅝ percent which is based on the cost of money to the Federal Government plus one-quarter percent.

(B) ELIGIBILITY

The provisions governing SBA's present disaster program expire next October 1. We believe that it should be extended in substantially the same form for a period ending with the fiscal year beginning October 1, 1982. This would permit the next Congress to review the program and enact another extension 2 years from this time and remain in full compliance with the schedules provided in the Budget Act.

Ever since flooding in Rapid City and Alaska and Hurricanes Agnes, Betsy, and Camille, Congress has demonstrated repeatedly that it favors action to help people and communities suffering physical disasters. Often in the past, a program has been passed immediately after a disaster has occurred and, as a result, these programs have sometimes been thrown together rapidly.

We believe that the provisions of the current program are substantially what should be included in an extended program. However, the committee acted to set the interest rate on nonhomeowner disaster loans at 5 percent up to $250,000 rather than 3 percent. This would reflect the consensus of House Members as expressed by the vote on S. 1306 last November. The administration supports the 5 percent rate on these loans and it would equal the rate recently approved by the Committee on Agriculture for the Farmers Home Administration emergency loan program.

The purpose of these loans is not limited to helping an individual recover from a bad loss, but is also designed to help revive communities which have been the victims of a disaster. Therefore, these loans have not been restricted to undercapitalized small businesses but have also been made available to offset losses of all businesses and charitable institutions which provided goods, services and jobs in the community, and to those whose homes were damaged.

The administration has proposed excluding from eligibility those small businesses which happen to be agricultural producers, saying farmers should be required to rely upon the Farmers Home Administration's program. FmHA programs are inferior and in many ways inadequate in this area. To force small businesses who happen to be farmers to rely upon the inferior FmHA program would be discrimination and constitute relegating farmers to second class citizenship.

Under the FmHA program, an applicant is not eligible for disaster assistance unless he or she is able to show that credit cannot be obtained elsewhere. There are farmers and homeowners who have no assets and are not in a position to pay high interest rates but who can obtain credit elsewhere because they have been so diligent, hard-working, and careful to keep their credit rating good. Under the FmHA credit elsewhere test, this applicant is penalized and told to secure the higher interest commercial loan with more stringent repayment provisions or quit; but the person who has not tried to keep a good credit rating receives the advantage of both lower interest rates and better repayment provisions.

Since the SBA only recently started making farm loans and was not geared up for the major disasters of the past year, they were unable to process farm loans as fast as they should be able to do so hereafter. However, in spite of the fact they were thrown into the business so fast, in most cases they have been able to process the loans faster than FmHA and in the future will certainly be able to do so. The timeliness of the approval of financial assistance is a very important matter in recovering from a disaster. The SBA was given this disaster program responsibility so that it could permanently gear up with a reserve of available temporary employees and a permanent cadre which could spring into action quickly in the event of a disaster.

If we return to the situation where agricultural producers are again excluded from the regular disaster loan program, the SBA will still move into the area when a disaster occurs. SBA will provide financial assistance in the case of a hurricane or flood or other disaster to the homeowner in town, to the tavern owner, to the gasoline service station, to the fertilizer dealer, to the local trucker who hauls farm produce; to the elevator operator who buys grain, and to the processor of farm products, but, when the businessman or businesswoman or partners who happen to produce agricultural goods seek the same help, they will in effect be told—"sorry, you are merely a farm producer; you are a second class citizen; you are limited to the FmHA program; unless you have a bad credit rating, you probably won't qualify." In many or most cases, the net effect of this would be to tell agricultural producers that they cannot receive a loan regardless of their losses. This would be an intolerable situation.

(C) CAPITAL FOR PROGRAM

Funding for the Small Business Administration's natural disaster assistance programs has always presented problems. The Farmers Home Administration operates a disaster or emergency loan program to provide assistance to agricultural producers who incur damage or destruction from natural disasters. The Farmers Home Administration, however, obtains capital to operate the program by issuing and selling notes to the Secretary of the Treasury. This assures that there will always be adequate, but not unneeded, capital in the program as it is extremely difficult, if not impossible, to predict capital needs if financed by appropriated funds as no one knows when disasters will occur or their magnitude. SBA in the operation of its disaster loan program has similar problems and has the same need for authority to permit it to finance the program through the issuance and sale of notes to the Treasury.

By acquiring and retaining only such capital as needed to operate the disaster loan fund, the process would be greatly simplified and money would be available to handle these unpredictable emergencies without a special session or special action by the Congress.

II—AUTHORIZATIONS AND LIMITATIONS

Prior to October 1, 1977, the Small Business Act authorized the appropriation of such sums as were necessary to carry out the provisions and purposes of the act; and the Small Business Investment Act authorized the appropriation of specific cumulative dollar amounts to carry out the programs authorized by that act. Effective October 1, 1977, open-ended authorizations for programs and payments of salaries and expenses were sharply curtailed. H.R. 692 (Public Law 95–89) amended the Small Business Act to specifically authorize the dollar amount of program levels by fiscal year for fiscal year 1978 and 1979; to authorize the appropriation of the dollar amount needed to carry out the program levels specified; and to authorize the appropriation of amounts necessary to carry out Small Business Act programs for which specific dollar authorizations are not provided. As fiscal year 1979 ends October 1, 1978, it is now necessary to provide authorizations for periods beyond fiscal year 1979. We believe that 3-year authorizations are the proper approach, giving Congress, the Executive, and the small business community a clear indication of goals and priorities for a reasonable period of time.

The committee, in its recommendation to the Budget Committee, specified for fiscal year 1979 a needed program level of $4.193 billion for SBA's business loan and investment fund, $2 billion for the surety bond guarantee program $100 million for pollution control bond guarantees, and $1.7 billion for physical and non-physical disaster loans. It should be emphasized, however, that these are program lepels and are primarily composed of guaranteed loans, most of which will be repaid. Thus the cost to the Federal Government is only a fraction of this amount. The committee projection indicates a need for approximately a 10-percent per year increase in these program levels and also SBA salaries and

expense levels through fiscal year 1982, and the authorizations in H.R. 11445 so provide.

III—MANAGEMENT AND TECHNICAL ASSISTANCE

The small business sector is encountering major economic difficulties. For example: 400,000 small concerns cease doing business each year; small businesses' total share of commercial and industrial assets has dropped from 50 percent in 1960 to 30 percent in 1972; the share of business profits of independent concerns has fallen from 41 percent in 1960 to 25 percent in 1972; and only 44 percent of those small companies started survive their first 2 years of operation.

Testimony, letters and conversation with small business owners and managers blame these statistical declines on: increasing Federal, State and local regulatory burdens, continuing economic uncertainty coupled with inflationary pressures and high cost of money, lack of easily accessible and sophisticated management counseling, energy shortages, tax disadvantages and inequities, increasing industrial concentration, foreign competition, and rapidly advancing technology.

Small firms lack the resources of large corporations' sophisticated inhouse specialists in accounting, finance, marketing, and other such areas. These same small firms also are unable economically to retain expensive outside consultants. The Small Business Administration's management and technical assistance is employed to assist those companies which are client-borrowers. Independent small business entrepreneurs are forced, however, to confront the overwhelming complexities of the marketplace alone.

The small business development centers would meet the need for management and technical assistance. Small business firms would have locally available, expert resources to help them with a multiplicity of diverse business problems. These services would be provided through an extension-service type delivery system utilizing the resources of public and private colleges, universities, community colleges, and consulting groups and firms located throughout each State.

SBA provided $350,000 for fiscal year 1977 as seed money, for eight centers on a pilot project basis and expanded this "seed money" to $2.25 million in fiscal year 1979. These funds cover only a very small portion of each center's actual and projected operating costs.

IV—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

It is absolutely essential that the Federal Government make every effort to assess the present and future needs of the vital small business sector of our economy. Previous Government efforts and "task force approaches" have proved inadequate and undercapitalized. A major effort is called for to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop specific and comprehensive recommendations for executive and legislative action as may be necessary.

V—MISCELLANEOUS AMENDMENTS

(A) SMALL BUSINESS DATA SENT DIRECT TO CONGRESS

Over the years the loan and other assistance programs of the Small Business Administration have grown significantly. Congress also expects the agency to act as an advocate of small businesses' interest throughout the Federal Government. This increased responsibility which Congress has given SBA often has been thwarted by the intervention of the Office of Management and Budget and the concerns of larger Federal agencies and departments expressed through OMB.

The committee has been concerned to find out SBA's own best judgment as to the number of dollars and employees needed to carry out the programs which Congress mandates. For example, we recently learned that for fiscal year 1979 SBA requested an additional, 1,124 employees but OMB only approved 128 new positions. Although we may not necessarily agree with SBA's request, we do need to know of their views and best judgments on their needs.

While it always appreciates the administration or OMB view, the Congress also wants and needs an unfiltered SBA "small business" analysis and position on many pieces of legislation. The administration "clearance" process for budget data and legislative positions is, at best, slow and cumbersome for a small, independent agency like SBA.

A direct line of communication between SBA and Congress will facilitate the committee's job of watchdog for small business interests.

(B) PRODUCT DISASTER LOANS

In order to assist small businesses whose product has been determined to be unfit for human consumption due to disease or toxicity occurring in such product through natural or undetermined causes, SBA provides loan assistance.

Questions have arisen over interpretation of the words "undetermined causes" and a strict construction of this phrase could lead to a denial of eligibility where the cause was "known" but beyond the ability of the small business to control. For example, the U.S. Department of Agriculture is considering a ban on the use of nitrates by meat processors. If such a ban were to be imposed, meat so treated would be unfit for human consumption and the meat processor would suffer substantial losses in product on-hand; however, the processor might be found ineligible for loan assistance because of the contamination was known.

The eligibility of small businesses for product disaster loans should be clarified to assure that those who suffer substantial economic injury as a result of being unable to process or market a product due to disease or toxicity in the product, are eligible for SBA loan assistance.

MAJOR PROVISIONS

I—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION DISASTER LOAN AUTHORITY

(A) INTEREST RATES

For natural disasters occurring between October 1, 1978, and October 1, 1982, the interest rate to homeowners for natural disaster loans would be continued at 1 percent on the first $10,000 and 3 percent on the next $30,000. For all other disaster victims, the interest rate would be set at 5 percent on the first $250,000 and, as before, would be 6⅝ percent above these special ceilings.

The 5-percent rate on loans to all natural disaster victims other than homeowners would be applied prospectively to loans granted as a result of a disaster occurring on or after October 1, 1978; and it would equal the interest rate recommended by the House and Senate Agriculture Committees for the Farmers Home Administration disaster or emergency loan program.

(B) CAPITAL

SBA would be authorized to issue and sell notes to the Secretary of the Treasury in order to obtain capital for its disaster loan fund. This would give SBA the same authority FmHA now uses to finance its disaster or emergency loan program.

(C) ECONOMIC INJURY AS A RESULT OF ENERGY SHORTAGES

Energy shortage loan assistance would be made available to victims of a shortage of any energy source, not just to those small businesses which in 1973 suffered economic injury due to their inability to obtain fuel oil during the oil embargo.

II—AUTHORIZATIONS AND LIMITATIONS

SMALL BUSINESS DEVELOPMENT CENTER FISCAL YEAR 1979 AUTHORIZATION

(A) SMALL BUSINESS DATA BASE

One million dollars would be authorized to establish a small business data base. It is anticipated that the list of basic data may be developed partially by utilizing existing Government and private sources but probably will require additional independent research and compilation by SBA. Such a data base would include pertinent information on the small business such as its name and address, type of business, number of employees, and so forth. This information could then be used by SBA to selectively communicate with the small business community as to programs which might help the small business or to advise it of proposed regulations and solicit small business input.

(B) PROGRAM LEVELS

This bill would also authorize the following SBA program levels for fiscal years 1980–82:

	Fiscal year—		
	1980	1981	1982
7(a) Business	4,125	4,545	5,000
Direct	495	545	600
Guaranteed	3,630	4,000	4,400
7(h) Handicapped	33	37	42
Direct and IP	22	25	28
Guaranteed	11	12	14
7(i) EOL	166	184	204
Direct and IP	73	81	90
Guaranteed	93	103	114
Development Co	96	106	118
Direct and IP	50	55	61
Guaranteed	46	51	57

	Fiscal year—		
	1980	1981	1982
Investment Co. Asst.	163	180	199
Direct	25	28	31
Guaranteed	138	152	168
7(d) Small business development centers	65.0	70.0	75.0
Total BLIF	4,648	5,122	5,638
Direct and IP	730	804	885
Guaranteed	3,918	4,318	4,753
Disaster:			
Physical	Open ended		
Nonphysical	220	242	267
Surety bond guarantees (SBA share of program level)	2,200	2,420	2,662
Pollution control bond guarantees	100	110	125

In order to support the above program levels the bill would authorize the appropriation of $1.4 billion in fiscal year 1980, $1.5 billion in fiscal year 1981, and $1.7 billion in fiscal year 1982 (1979 authorization is $1.4 billion).

The bill would also authorize salaries and expenses for fiscal year 1980–82 in the amount of $191 million, $211 million and $231 million, respectively (fiscal year 1979 is $188 million).

III—MANAGEMENT AND TECHNICAL ASSISTANCE

SBA's present pilot program for small business development centers would be expanded into a national program allowing all States to participate.

The bill would authorize SBA to make matching grants through a small business development center program. If fully implemented, the program would be funded at a maximum of $60 million in fiscal year 1979 and receive an increase of $5 million per year in fiscal year 1980, fiscal year 1981, and fiscal year 1982 to cover inflation. Grant applicants would be required to obtain matching funds on a 50–50 bases from non-Federal sources and would be entitled to a maximum based on the percent of the population in the United States. The grant recipients would provide management, technical, and technological assistance to small business concerns.

IV—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

The President would be authorized to convent a White House Conference on Small Business to be held before 1981. The planning for the conference would be done by a national conference planning council consisting of 15 members appointed by the President. The council would also be required to submit a report on the conference no later than 180 days after the conference was held. State conferences would be held prior to the White House conference with Federal funds being authorized to defray the expenses of the State conferences. The total cost of the conference is estimated to be $3 million.

V—MISCELLANEOUS AMENDMENTS

(A) SMALL BUSINESS DATA SENT DIRECT TO CONGRESS

Whenever the Small Business Administration submits to the President or the Office of Management and Budget any budget estimate or request, any legislative recommendation or testimony, or comments on legislation, the administration would be directed to concurrently submit copies thereof to the Committees on Small Business of the House and Senate.

VI—COST

The cost of this bill is estimated at a maximum of $2.65 billion through fiscal year 1983; however, since the bill provides SBA funding for fiscal years 1980–82, this represents an average annual cost to operate all SBA programs except physical disaster loans of $837.8 million. In addition, the cost of the natural disaster loan program is estimated at $23 million for each $100 million in loans.

It should be noted, however, that the bulk of these costs is due to possible ultimate losses on loans and guarantees of loans or other obligations and is premised upon SBA operating its programs at the maximum level authorized by law. Historically, SBA has not operated its programs at the maximum level and thus the above costs are overstated. Possible losses due to claims and loan defaults do not occur in the year in which the guarantee was made or the loan disbursed, but rather occur in subsequent years, possibly beyond 1983.

In addition, the above cost estimates do not take into consideration other inherent factors. For example, SBA loans are oftentimes used to create new jobs in the recipient's business and to expand the business. This, naturally, will result in additional tax revenue being received by the Federal, State and local governments.

CONCLUSION

This bill is the result of extensive hearings conducted by the committee and incorporates the provisions of some 30 bills. It was considered by your committee and was unanimously ordered favorably reported to the House by a recorded vote of 28 yeas to no nays.

We believe that the provisions of this encompassing bill are needed by the Nation's small businesses if a climate is to be provided in which they may prosper; and especially to reverse recent trends which show that some 400,000 small concerns cease doing business each year; that small businesses' share of commercial and industrial assets has dropped from 50 percent in 1960 to 30 percent in 1972; that the share of business profits of independent concerns has fallen from 41 percent in 1960 to 25 percent in 1972; and, that only 44 percent of those small companies started their first 2 years of operation.

I believe that this bill represents a reasonable, adequate and inexpensive means of helping small business throughout the Nation; and that the development of viable small businesses as a source of goods and services to both private industry and to the Federal, State, and local governments will provide an increase in competition and result in lower prices to these purchasers.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in wholehearted support of this bill H.R. 11445 and to urge its passage. It was reported by our committee by a unanimous, recorded vote of 28 to 0; and I hope it will be overwhelmingly approved by this body.

There is nothing partisan about this bill. It represents a continuation of the congressional control over SBA and its programs which this Congress belatedly, but thankfully, approved with the enactment of Public Law 95–89.

Prior to enactment of Public Law 95–89 (H.R. 692) there were no congressionally established program levels or line-items for SBA's activities. The only legislative control over SBA consisted of vague ceilings on the amount of loans and guarantees in the Agency's active portfolio. Thus, it was impossible for our Committee, the Appropriations Committee, or the Congress to predict or to mandate just how the administration would establish priorities. The small business community had absolutely no idea what to expect from its Agency.

The chairman of our Committee, NEAL SMITH of Iowa, I and the entire Committee on Small Business worked hard to correct all of this through the legislative reforms embodied in Public Law 95–89. This body approved our initiatives. We established annual program levels of operation and we line-itemed the authorizations for fiscal years 1978 and 1979.

I am pleased to report, Mr. Speaker, that our hearings have determined that the reforms are working—and working well. With the exception of the regular 7(a) direct loan program, SBA is operating very close to the targets we set and the Agency has told us that this marksmanship will continue through fiscal year 1979. More importantly, the SBA administrator was able to tell us that no eligible small business applicants were being turned away because of a lack of authorizations or funding—again, with the exception of the regular direct loan program.

Consequently, in this bill we are extending our line-item approach to cover fiscal years 1980 through 1982. The bill increases various program levels by 10 percent for each of these 3 fiscal years. At hearings on March 1, the SBA administrator told us that these annual increases might prove to be too low if substantial changes are made in SBA's operations. Because our committee does not envision or mandate substantial changes, we adopted the 10-percent annual increase figure.

I would like to emphasize that, because SBA is well below our target for the regular direct loan program and well below the demand for these loans, we are sticking to our original targets with a 10-percent annual increase. It is not our intent to have SBA competing with the banks in this area; but we have heard testimony over and over again to the effect that banks are not interested in making small business loans in amounts under $100,000. So the small businessman has no place to go, despite his credit worthiness, except to SBA. If SBA responds as we ask it to do in this bill, there will be no competition with the banks.

With regard to the disaster loan provi-

sions of this bill, I would like to emphasize that the interest rate to homeowners remains the same as it is under current law. We have provided for a 5-percent disaster loan interest rate to businesses. The rate on these loans is now an overly generous 3 percent, but, in the absence of this bill, it would increase to 6⅝ of 1 percent on October 1 of this year.

Mr. Speaker, this is, in my opinion, a responsive and responsible bill. It represents the product of several days of hearings, discussions, and consideration of over 30 bills that were referred to our committee. I urge its overwhelming, if not unanimous, passage.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I wonder if the chairman of the full committee would answer a few questions?

Mr. SMITH of Iowa. Yes.

Mr. LAFALCE. First, it is my understanding that there was some parliamentary difficulty with the bill because it might exceed the budget authorizations.

Mr. SMITH of Iowa. The Budget Committee asked that three amendments be provided, and they have been provided in the motion. The Budget Committee problem has been taken care of.

Mr. LAFALCE. What motion?

Mr. SMITH of Iowa. The motion to suspend the rules and pass the bill, as amended, includes the three amendments that the Budget Committee wanted. So there is no Budget Committee problem now.

Mr. LAFALCE. What were those three amendments that were part of one amendment?

Mr. SMITH of Iowa. This is the normal procedure that is used to meet the Budget Committee objections.

The first amendment requires that there be an appropriation for borrowing authority.

The second one provides that none of the travel and expenses could be out of this fiscal year's appropriation. It is only to the extent that such amounts are provided in advance in appropriation acts.

The third one had to do with a coal problem in Indiana. The agency has already put out regulations which I understand cures that. But we have provided in here that that provision, insofar as it violates the Budget Act, would be changed. So there is no Budget Act problem.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, when this bill came before the full committee we did not have the benefit of a final letter from the administration regarding their disposition on it. We did have a draft of a letter, but it was pretty much demeaned because of the fact that it was a draft. However, subsequent to the time that the full committee approved this bill, the Office of Management and Budget did send a letter, which I included in my additional remarks, in which, on behalf of the administration, they indicated that the administration is opposed to the enactment of this bill. That is on page 41 of the committee report, if anybody would like to read it.

Mr. Speaker, I thought that we were going to have our day in court on this bill, that we would be able to come forth and offer amendments to it which would take care of the problems and that the administration had. I thought we would be able to come forth on this floor and offer amendments that would take care of difficulties that individual Members had. In fact, I think some Members voted for final passage in committee with the understanding that they would be able to have their day in court, offer their amendments on the floor of the House, and have the will of the Congress decide it on the specific issues—issues which the administration happens to feel very strongly about also. And so I feel that it is imperative, if we are going to deal in good faith with this administration, to oppose this bill at this time on the Suspension Calendar, so that we can come back here at the end of this week, or next week, and offer those amendments which will take care of the tremendous problems that the administration has.

For example, I do not think the Members of this body know that we are going off budget with the disaster loan program. We are circumventing whatever budgetary problems we have; we are not dealing with them directly, but simply going off budget. The administration is vehemently opposed to that.

Mr. Speaker, I urge the Members, if they wish to be fiscally responsible, to vote "no" at this time, since the bill is on the Suspension Calendar, with the thought in mind that we will have an opportunity, when the bill comes before us for final passage on the regular calendar, to amend it and take care of some of its defects.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. BALDUS).

Mr. BALDUS. Mr. Speaker, the need for the Small Business Development Center provisions of bill H.R. 11445 arises out of the need of small business for increased management assistance. Of every 10 small business firms which start each year, only 1 will be in operation 5 years later. The Business Failure Record, published by Dun & Bradstreet, Inc., reports that more than 93 percent of all business failures are due to managerial weaknesses and deficiencies.

The Small Business Administration (SBA) is almost strictly a lending agency, with very little of its current resources going to management assistance.

Title III of Bill H.R. 11445 provides authority for SBA to establish Small Business Development Centers at cooperating universities around the country, to assist small business with their management assistance problems. These centers will operate on an outreach basis, sending help to small businesses in the form of specialists competent in the areas of inventory, marketing, cost control, and so on. In addition, these centers will develop, through their contacts with small businesspersons, a body of research and data on the problems and potentials of small business that is not currently available.

There is a striking similarity of this landmark legislation to the Agriculture Extension Service, and the historic contribution it has made to farmers. At the beginning of the century, farms were very small; farmers were untrained in operations and management, and had little or no experience with chemical fertilizers. All our modern machinery technology, processes and materials had yet to be developed, and before radio, farmers had almost no access to market information. The creation of the land-grant colleges, and the Agriculture Extension Service which it fostered, changed all that in the short period of 40 years. Now, when a farmer has trouble with his soil he can send a soil sample to the university and get help; if he has a disease among his cattle, he can obtain analyses and treatment from the extension services; he can obtain operational assistance in the same way.

Senator GAYLORD NELSON, of Wisconsin, author of a similar measure already passed in the Senate, has said that "We owe small business at least as much as we owe small farmers." I agree.

I believe Senator NELSON'S statement summarizes succinctly why this legislation has received such immediate and widespread support. The time for this legislation, which would have the effect of creating an extension service for small business, similar to the one already existing for agriculture, has come.

Hundreds of letters have come to the committee and to my office in support of the bill. Many of these letters are from small business persons who actually benefited from the services of the university business development centers currently operating under SBA contract on a pilot basis. For instance, one small businessman wrote that a team of students helped him develop an excellent cost accounting system for the company that is in effect today. He wrote of the program, that:

> Tied into the SBA loan program, it can give the government more "Bang for the Buck," than any other program I know of. . . .

On August 5, 1977, the Senate passed S. 972, after an extensive set of hearings before the Senate Small Business Committee. S. 972 is the companion bill to the SBDC provisions of H.R. 11445, testifying in favor of the bill were a great many small business national associations, including the National Small Business Association, the Smaller Business Association of New England, and the National Association of Small Business Investment Companies.

Most persuasive, however, was the testimony of small businessmen who actually received the services of the universities which offer management assistance. These were satisfied customers, so to speak.

Cornell Adams, Accurate Set, Inc., Paterson, N.J., testified that he received

a variety of assistance, including financial expertise, product liability insurance guidance, marketing, packaging and promotion help, aid with a trademark problem, a direct loan, the continuing services of students of Rutgers for the first 5 years of the business life, trade information and other services. Adams, who strongly urged passage of the Senate bill, said of these services:

Without the assistance received from Rutgers, this company could not have survived.

Lester Biddle, president of Mircom Corp., in Panama City, Fla., commenting on his two experiences with the University of Northwest Florida UBDC, and his intention to go back to them a third time, said:

For the small amount of time that (the small businessman) spends with his students, the return on the investment of his time can save his business . . .

From my own State of Wisconsin, Mr. Robert Keyes, president of Greenwood Homes, Inc., in Greenwood, testified about his experience with the Northern Wisconsin Development Center at Wausau, part of the University of Wisconsin Extension. Mr. Keyes testified:

I am convinced that we would not be in business today if we had not been able to use their advisory services over the years.

The SBA has operated experimental Small Business Development Centers for several years now. Results show that this pilot program, even with limited funding and personnel, has been extremely successful. In a random sample of 300 small businessmen who used the services of these participating universities, 90 percent said they were better able to identify their problems as a result of the service; 77 percent made changes in their business as a result of it; 70 percent said they increased sales; 64 percent said they increased profits; 60 percent reduced the cost of doing business, and 27 percent said they increased the number of their employees.

In short, I do not think there is any doubt that universities can work together with small businesspersons to provide effective management assistance.

These pilot programs have struggled long enough on too limited resources and volunteer help. Now is the time to write assistance for these struggling small businesses into law.

Title III and other provisions of H.R. 11445 make specific provisions for the following:

A 4-year authorization for Small Business Development Center programs;

Sixty million dollars the first year, to be distributed in the form of grants, increased by $5 million each succeeding year, for a total of $270 million over 4 years;

A 50-percent State and local match requirement;

State, universities, or other qualified organizations as grantees; and

A population ratio distribution formula, by which States with greater populations will receive a proportionate share of the funds.

These provisions are similar in purpose, scope, and concept to H.R. 5754, the Small Business Development Center Act, which I introduced a year ago, and which 81 of my colleagues have cosponsored. I wish to commend Chairman SMITH for the work of his subcommittee and committee in incorporating the Small Business Development Center Act into his omnibus small business bill, H.R. 11445.

I urge my colleagues to support the Small Business Development Center Act today by voting for the small business omnibus bill, H.R. 11445.

Thank you, Mr. Speaker.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Speaker, I take this time to ask the chairman a few questions.

I, too, have concern about the bill being on the floor under the suspension rules.

I have that concern for a couple of reasons. One reason is that, as I understand, we are raising the interest rate for disaster loans; and I take it that that is a debatable issue with some Members of the House who think that we ought to be able to have some sort of input in that respect.

Second, Mr. Speaker, I am concerned about the so-called management of the small business development centers growing from what I understand would be a kind of pilot project to a $60 million a year commitment. I am not sure that most Members of the House have adequately developed an attitude about whether or not, under the proposals of the bill, this is an appropriate way in which to approach this subject.

I have concern that if we structure it in such a way that money flows essentially through educational facilities, universities, and so forth, the program might be one more to the benefit of the education community than it is to small businessmen. Personally, I believe that some small businessmen, who may have rather routine problems of inventory, cash flow, and so forth, might not get the attention that they need compared to and in competition with some small business people who have very exotic applications of new social theories, electronic data equipment and so forth, and that the universities might go for those exotic types of business opportunities rather than to have concern about the routine problems of the small businessman who does not have an adequate grasp of his inventory, does not have an adequate cash flow, and so forth.

Mr. Speaker, I would just like to ask the chairman this question: Are there, in the opinion of the chairman, enough safeguards here to guarantee that the $60 million we are being asked to provide for that program will be for the benefit of small business people with traditional small business problems rather than for the benefit of the education community, because if it goes to the education community, I think we ought to fund it in some other way, not through the SBA?

Mr. SMITH of Iowa. If the gentleman will yield, Mr. Speaker, first, with regard to his first question relative to interest rates, I want to point out that we did have that provision on the floor last fall; and although it did not get a two-thirds vote at that time, there was an opportunity to debate the issue thoroughly and more than a majority did vote for it. Therefore, I think that there has been a chance in this Congress to resolve that question in favor of what we did in this bill.

Secondly, with regard to the small business development center program, they presently have an authorization and are providing money to universities to do this very thing under some pilot programs, with no guidelines, so what we have tried to do here is to at least establish some guidelines for the additional ones to be created and the ones in existence, rather than to leave them with no guidelines whatever.

They have requested in this year's budget some additional money, about $1.5 million, I think, indicating that the administration supports expanding the existing program. However, they have no guidelines, so I thought what we were doing here primarily was to try to establish guidelines under which they will proceed.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. CONTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. SMITH of Iowa. Now, I think there is a possibility that some university would try to use it as aid to education. However, we do provide a program whereby there will be authorization to grant these applications, and certainly we will try to ride herd on it to make sure that they serve the small business community. We are not interested in just aid to education. We want to help small business.

Mr. GARY A. MYERS. My concern is that I do not know many small businessmen who, if the project fails and they lose their businesses, will have confidence in having a student who simply loses about three grade levels—that will be receptive to that type of help. If we had an experienced business person, instead of students, and if he needed help from a university he could coordinate that activity, that is my concern. Some universities have this program. They have selected out applications of new technology, which is not in the interests of many small business people.

I thank the gentleman for his response and I hope the committee, if this should pass in its present form, would make efforts to continue to see that it does not go the way of the education community. I think there is good reason for having programs in the education community aside from this.

Mr. SMITH of Iowa. I want to say that we did have plenty of testimony that they are not using it now just as an education support program and are holding adult education seminars, and in some instances going right down the main street of the little town and getting the man and helping him in his management sometimes, and trying to help him in his problems.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, I take this opportunity to speak in favor of the bill and to express my appreciation to the distinguished chairman of the committee, and also to the distinguished ranking minority member of the committee, the gentleman from Massachusetts (Mr. CONTE), in helping clarify language in section 7(b)(8). As we all know, this language dealt with energy-related shortages, and in particular we are talking about the coal strike and how it affected small business.

The language now inserted into the bill not only clarifies the intent, I think, that Congress had—and I really appreciate the chairman of the committee and ranking minority member of the committee helping me in talking with the Small Business Administrator, Mr. Weaver, in coming to a reasonable conclusion on who would and who would not be eligible for loans under this section, where they are affected by the strike.

The language in the bill does go directly to the question of certain technicalities, as the chairman is well aware. The effective date is not until October 1978, but this does not mean that anything should change, particularly what SBA has already interpreted to be in effect as the law passed in 1974.

I just ask my distinguished chairman if I am not correct, since SBA has already agreed to this, that there should be no reason for any change in procedure just because of a technicality.

Mr. SMITH of Iowa. If the gentleman will yield, the gentleman is quite correct in everything he said. We are making this amendment because of technical changes of requirements of the House rules. We had not intended to change the law. We were only clarifying what was originally intended by this Congress, so removing those, as required by the House rules, should not be interpreted by the administration as meaning that we think they ought to change the interpretation previously given.

Mr. QUAYLE. I thank my distinguished chairman, and also the gentleman from Massachusetts, because it really was just clarifying what the intent of Congress was.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman from Indiana is absolutely right. I was the author of that law, and certainly that was our intent. By this committee amendment, we do not intend to change that intent.

Mr. QUAYLE. Mr. Speaker, if the gentleman will yield, I would like to say this is just cooperation with the legislative branch and the executive branch in coming to an agreement. The Administrator has now determined that people affected by a strike should be eligible for loans. This was the intent of the gentleman's amendment in 1974, and I appreciate that he and others have communicated the intent of the Congress in 1974 as it applies in 1978.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, my remarks regarding H.R. 11445 will be brief and to the point.

Everyone supports proposals which will assist small businesses. It is the small businessman and woman who are the backbone of our free market economy.

My strong support for small businesses requires me to express concern over title III of H.R. 11445. Specifically, my concern over the small business development center program can be summarized by questioning whether every assurance has been provided that the funding intended for small businesses will actually benefit small business.

A great deal of money is at stake here. If it is to be spent wisely and for the benefit of small business, a good working relationship between the academic community and small businesses must be guaranteed. Academicians can assist small business and the small business development center program can be a proper vehicle for that assistance; however, the views of the academic world cannot be allowed to become totally dominant.

Small businesses know best what is needed to make small businesses thrive. The wisdom of the academic world can and should be added to the vast experience and know-how of small businessmen who work every day in the marketplace. However, we must be sure that the views and services of private enterprise are considered first. We must also be sure that, in making it possible for colleges and universities to help small businessmen, we are not creating unfair competition for many small businesses who provide professional expertise of an identical nature.

Presently, my home State of Pennsylvania is providing the kind of example I believe should be followed. The academic world and small business community are working together to assist small business with maximum efficiency.

I would hope this legislation would heed Pennsylvania's example.

● Mr. KEMP. Mr. Speaker, I oppose H.R. 11445, the Small Business Administration Authorization. I do so because I believe Congress must face the real problems confronting America's smaller businesses. The SBA approach to helping small business is misdirected in large part because it deals with the results of those problems and not their true causes. The fundamental problem facing small business in America today is heavy taxation by all levels of government and overregulation by the Federal Government. SBA does not deal with this problem.

The primary barrier to small business today is the tax barrier—in particular, excessively heavy taxation of capital gains. This hurts small business in two ways: it makes it difficult to raise capital and then punishes success when an entrepreneur manages to overcome this and other obstacles.

Recently, the American Electronics Association, an organization comprised primarily of small, high technology, capital-intensive businesses, presented dramatic evidence of the effects of excessive capital gains taxes. An AEA survey shows that prior to 1969, when the minimum tax on capital gains was 25 percent, small new electronic companies were able to raise, on average, $1.2 million, for firms founded between 1966 and 1970. Since 1969, following an increase in capital gains taxes, however, these firms have been able to raise only $345,000, on the average.

This reduction in available capital, which results from a reduction in the reward for risk and then translates directly in to the inability of small business in general to raise equity funds, has seriously hurt not only the expansion of jobs but Government revenues as well. The fact is that most jobs are created by small business. Yet the AEA survey shows conclusively that the increase in employment in the electronics industry has fallen off dramatically since 1970. As a direct consequence, tax revenue growth—individual, corporate and capital gains tax revenue—has fallen off. Thus the AEA concludes that elimination of the capital gains taxation—which raises only $7 billion per year for the Federal Government—would increase Government revenues.

This conclusion about the revenue effect of eliminating capital gains taxes has been confirmed in a study by Data Resources, Inc. for the Securities Industry Association. This study concluded that an elimination of capital gains taxation would increase Federal revenues $38 billion by 1982, create 3 million jobs and $171 billion in gross national product. That is what small business really needs. It is also what the work force, consumers, and the economy in general need.

For this reason I believe that an effective small business revitalization program must concentrate on lowering taxes. For my own part I have offered the Tax Reduction Act, which would reduce the maximum tax on capital gains from the present 35 to 25 percent, by reducing the top personal income tax rate from 70 to 50 percent. It would also increase the corporate surtax exemption to $100,000—of great importance to many smaller businesses—and lower the corporate normal tax rate by 3 percentage points. This means that under my program any company earning $100,000 per year or less would be subject to a maximum corporate tax rate of 19 percent. This bill would also reduce personal income taxes, across-the-board, by 30 percent.

In addition, I have proposed legislation which would index capital gains so that inflation would not further increase capital gains taxes, eliminate the double taxation of dividends, and other measures which would do far more to help small business than giving out more Government loans.

Consequently, I must oppose H.R. 11445. There are better ways available to Congress to help smaller businesses, and they are already before our committees. These should be brought forth immediately. Let us give real relief to these businessmen and businesswomen, not more Federal handouts.●

● Mr. BINGHAM. Mr. Chairman, I cannot support consideration or final passage of H.R. 11445, Small Business Administration authorizations, under suspension of the rules. This bill is a controversial one. Among other provisions it would increase the interest rate on loans to natural disaster victims (other than homeowners) from 3 to 5 percent. The bill may be in violation of the Congressional Budget Act in that it would permit the Small Business Administration to issue and sell notes to the Treasury to obtain capital for the disaster loan fund, a procedure which is tantamount to "backdoor" funding. Moreover this entire bill raises budgetary questions in that it is being brought up under suspension, a procedure which dodges the provisions of the Congressional Budget Act. H.R. 11445 raises serious questions which should be resolved through full and complete House consideration. It should not be rushed through in a procedure that does not permit amendment. Therefore I shall oppose the bill under suspension in the hope that we can come back to this bill later and offer amendments which will take care of some of its defects.●

Mr. SMITH of Iowa. Mr. Speaker, I have no further requests for time.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 11445, as amended.

The question was taken.

Mr. GARY A. MYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chairman will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 10730, by the yeas and nays; H.R. 10878; by the yeas and nays; H.R. 10882, by the yeas and nays; H.R. 10732, by the yeas and nays; H.R. 10844, by the yeas and nays; and H.R. 11445, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

MARINE MAMMAL PROTECTION ACT AUTHORIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10730, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10730, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 380, nays 5, not voting 49, as follows:

[Roll No. 201]

YEAS—380

Abdnor	Diggs	Jordan
Addabbo	Dingell	Kasten
Akaka	Dodd	Kastenmeier
Alexander	Dornan	Kelly
Allen	Downey	Kemp
Ambro	Drinan	Ketchum
Ammerman	Duncan, Oreg.	Keys
Anderson, Calif.	Duncan, Tenn.	Kildee
Anderson, Ill.	Early	Kindness
Andrews, N.C.	Edgar	Kostmayer
Andrews, N. Dak.	Edwards, Calif.	Krebs
Annunzio	Edwards, Okla.	LaFalce
Appplegate	Eilberg	Lagomarsino
Archer	Emery	Latta
Armstrong	English	Leach
Ashbrook	Erlenborn	Lederer
Ashley	Ertel	Le Fante
Aspin	Evans, Colo.	Leggett
AuCoin	Evans, Del.	Lehman
Badham	Evans, Ga.	Lent
Bafalis	Fary	Livingston
Baldus	Fascell	Lloyd, Calif.
Barnard	Fenwick	Lloyd, Tenn.
Baucus	Findley	Long, La.
Bauman	Fish	Long, Md.
Beard, R.I.	Fisher	Lott
Beard, Tenn.	Flippo	Lujan
Bedell	Flood	Luken
Beilenson	Florio	Lundine
Bennett	Flowers	McClory
Bevill	Flynt	McCloskey
Bingham	Foley	McDade
Blanchard	Ford, Mich.	McEwen
Blouin	Ford, Tenn.	McFall
Boland	Forsythe	McHugh
Bolling	Fountain	McKay
Bonior	Fowler	McKinney
Bonker	Frenzel	Madigan
Bowen	Frey	Maguire
Brademas	Garcia	Mahon
Breaux	Gaydos	Markey
Breckinridge	Gephardt	Marks
Brinkley	Giaimo	Marlenee
Brodhead	Gibbons	Marriott
Brooks	Gilman	Martin
Broomfield	Ginn	Mathis
Brown, Mich.	Glickman	Mattox
Brown, Ohio	Goldwater	Mazzoli
Broyhill	Gonzalez	Meeds
Burgener	Goodling	Metcalfe
Burke, Fla.	Gore	Meyner
Burke, Mass.	Grassley	Mikulski
Burleson, Tex.	Green	Mikva
Burlison, Mo.	Gudger	Milford
Burton, John	Guyer	Miller, Calif.
Burton, Phillip	Hagedorn	Miller, Ohio
Byron	Hall	Mineta
Caputo	Hamilton	Minish
Carr	Hammer-schmidt	Mitchell, Md.
Cavanaugh	Hanley	Mitchell, N.Y.
Cederberg	Hannaford	Moakley
Chisholm	Hansen	Moffett
Clausen, Don H.	Harkin	Mollohan
Clawson, Del	Harrington	Montgomery
Clay	Harris	Moore
Cleveland	Harsha	Moorhead, Calif.
Cochran	Hawkins	Moorhead, Pa.
Coleman	Heckler	Moss
Collins, Ill.	Hefner	Mottl
Conable	Heftel	Murphy, Ill.
Conte	Hightower	Murphy, N.Y.
Corcoran	Hillis	Murphy, Pa.
Corman	Holland	Murtha
Cornell	Hollenbeck	Myers, Gary
Cotter	Holt	Myers, John
Coughlin	Holtzman	Myers, Michael
Cunningham	Horton	Natcher
D'Amours	Howard	Neal
Daniel, Dan	Hubbard	Nedzi
Daniel, R. W.	Huckaby	Nichols
Danielson	Hughes	Nolan
Davis	Hyde	Nowak
de la Garza	Ichord	O'Brien
Delaney	Ireland	Oakar
Dellums	Jacobs	Oberstar
Derrick	Jeffords	Obey
Derwinski	Jenkins	Ottinger
Devine	Jenrette	Panetta
Dickinson	Johnson, Calif.	Patten
Dicks	Johnson, Colo.	Patterson
	Jones, Okla.	Pattison
	Jones, Tenn.	Pease
Perkins	Schroeder	Ullman
Pettis	Schulze	Van Deerlin
Pickle	Seiberling	Vander Jagt
Pike	Sharp	Vanik
Poage	Shipley	Vento
Pressler	Shuster	Volkmer
Preyer	Sikes	Waggonner
Price	Simon	Walgren
Pritchard	Sisk	Walker
Pursell	Skelton	Walsh
Quayle	Skubitz	Wampler
Rahall	Slack	Watkins
Railsback	Smith, Iowa	Weaver
Rangel	Smith, Nebr.	Weiss
Regula	Snyder	Whalen
Reuss	Solarz	White
Richmond	Spence	Whitehurst
Rinaldo	St Germain	Whitten
Risenhoover	Staggers	Wiggins
Robinson	Stangeland	Wilson, C. H.
Roe	Stanton	Wilson, Tex.
Rogers	Stark	Winn
Rooney	Steed	Wirth
Rose	Steers	Wright
Rosenthal	Steiger	Wydler
Rostenkowski	Stockman	Wylie
Rousselot	Stokes	Yates
Roybal	Stratton	Yatron
Rudd	Studds	Young, Alaska
Ruppe	Symms	Young, Fla.
Russo	Taylor	Young, Mo.
Ryan	Thompson	Young, Tex.
Sarasin	Traxler	Zablocki
Satterfield	Treen	Zeferetti
Sawyer	Trible	
Scheuer	Tsongas	

NAYS—5

Benjamin	Evans, Ind.	Wilson, Bob
Collins, Tex.	Stump	

NOT VOTING—49

Biaggi	Fraser	Roberts
Boggs	Fuqua	Rodino
Brown, Calif.	Gammage	Roncalio
Buchanan	Gradison	Runnels
Burke, Calif.	Jones, N.C.	Santini
Butler	Kazen	Sebelius
Carney	Krueger	Spellman
Carter	Levitas	Teague
Chappell	McCormack	Thone
Cohen	McDonald	Thornton
Conyers	Mann	Tucker
Cornwell	Michel	Udall
Crane	Nix	Waxman
Dent	Pepper	Whitley
Eckhardt	Quie	Wolff
Edwards, Ala.	Quillen	
Fithian	Rhodes	

The Clerk announced the following pairs:

On this vote:

Mr. Wolff and Mrs. Boggs for, with Mr. McDonald against.

Until further notice:

Mrs. Spellman with Mr. Butler.
Mr. Carney with Mr. Edwards of Alabama.
Mr. Chappell with Mr. Michel.
Mr. Teague with Mr. Whitley.
Mr. Krueger with Mr. Udall.
Mr. Cornwell with Mr. Carter.
Mr. Pepper with Mr. Gradison.
Mr. Waxman with Mr. Thornton.
Mr. Gammage with Mr. Kazen.
Mr. Fuqua with Mr. Cohen.
Mr. McCormack with Mr. Jones of North Carolina.
Mr. Nix with Mr. Quie.
Mrs. Burke of California with Mr. Crane.
Mr. Biaggi with Mr. Levitas.
Mr. Tucker with Mr. Quillen.
Mr. Mann with Mr. Dent.
Mr. Runnels with Mr. Fithian.
Mr. Rodino with Mr. Thone.
Mr. Roberts with Mr. Fraser.
Mr. Brown of California with Mr. Buchanan.
Mr. Conyers with Mr. Eckhardt.
Mr. Roncalio with Mr. Sebelius.

Mrs. FENWICK changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 10878, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10878, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 14, not voting 55, as follows:

[Roll No. 202]

YEAS—365

Abdnor	Carr	Fisher
Addabbo	Cavanaugh	Flippo
Akaka	Cederberg	Flood
Alexander	Chisholm	Florio
Allen	Clausen, Don H.	Flowers
Ambro	Clawson, Del	Flynt
Ammerman	Clay	Foley
Anderson, Calif.	Cleveland	Ford, Mich.
Anderson, Ill.	Cochran	Ford, Tenn.
Andrews, N.C.	Coleman	Forsythe
Andrews, N. Dak.	Collins, Ill.	Fountain
Annunzio	Collins, Tex.	Fowler
Applegate	Conable	Frenzel
Archer	Conte	Frey
Armstrong	Corcoran	Garcia
Ashbrook	Corman	Gaydos
Ashley	Cornell	Gephardt
Aspin	Cotter	Giaimo
AuCoin	Coughlin	Gibbons
Badham	Cunningham	Gilman
Bafalis	D'Amours	Ginn
Baldus	Daniel, Dan	Glickman
Barnard	Daniel, R. W.	Goldwater
Baucus	Danielson	Gonzalez
Bauman	Davis	Goodling
Beard, R.I.	de la Garza	Green
Beard, Tenn.	Delaney	Gudger
Bellenson	Dellums	Guyer
Benjamin	Derrick	Hagedorn
Bennett	Derwinski	Hall
Bevill	Devine	Hamilton
Bingham	Dickinson	Hammer-schmidt
Blanchard	Dicks	Hanley
Blouin	Diggs	Hannaford
Boland	Dingell	Hansen
Bolling	Dodd	Harkin
Bonker	Dornan	Harrington
Bowen	Downey	Harris
Brademas	Drinan	Harsha
Breaux	Duncan, Oreg.	Hawkins
Breckinridge	Duncan, Tenn.	Heckler
Brinkley	Early	Heftel
Brodhead	Edgar	Hightower
Brooks	Edwards, Calif.	Hillis
Broomfield	Eilberg	Holland
Brown, Mich.	Emery	Hollenbeck
Brown, Ohio	English	Holt
Broyhill	Erlenborn	Holtzman
Burgener	Ertel	Horton
Burke, Fla.	Evans, Colo.	Howard
Burke, Mass.	Evans, Del.	Hubbard
Burleson, Tex.	Evans, Ga.	Huckaby
Burlison, Mo.	Evans, Ind.	Hughes
Burton, John	Fary	Hyde
Burton, Phillip	Fascell	Ichord
Byron	Fenwick	Ireland
Caputo	Findley	Jacobs
	Fish	Jeffords
Jenkins	Moss	Shipley
Jenrette	Mottl	Shuster
Johnson, Calif.	Murphy, Ill.	Sikes
Johnson, Colo.	Murphy, N.Y.	Sisk
Jones, Tenn.	Murphy, Pa.	Skelton
Jordan	Murtha	Skubitz
Kasten	Myers, Gary	Slack
Kastenmeier	Myers, John	Smith, Iowa
Kelly	Myers, Michael	Smith, Nebr.
Kemp	Natcher	Snyder
Ketchum	Neal	Solarz
Keys	Nedzi	Spence
Kildee	Nichols	St Germain
Kindness	Nolan	Staggers
Kostmayer	Nowak	Stanton
Krebs	O'Brien	Stark
LaFalce	Oakar	Steed
Lagomarsino	Oberstar	Steers
Latta	Obey	Steiger
Le Fante	Ottinger	Stockman
Lederer	Panetta	Stokes
Leggett	Patten	Stratton
Lehman	Patterson	Studds
Lent	Pattison	Symms
Livingston	Pease	Taylor
Lloyd, Calif.	Perkins	Thompson
Lloyd, Tenn.	Pettis	Traxler
Lott	Pickle	Treen
Lujan	Pike	Trible
Luken	Poage	Tsongas
Lundine	Pressler	Ullman
McClory	Preyer	Van Deerlin
McCloskey	Price	Vander Jagt
McDade	Pritchard	Vanik
McEwen	Pursell	Vento
McHugh	Quayle	Volkmer
McKinney	Rahall	Waggonner
Madigan	Railsback	Walgren
Maguire	Rangel	Walker
Mahon	Regula	Walsh
Markey	Reuss	Wampler
Marks	Richmond	Watkins
Marriott	Rinaldo	Weaver
Martin	Risenhoover	Whalen
Mathis	Robinson	White
Mattox	Roe	Whitehurst
Mazzoli	Rogers	Whitten
Meeds	Rooney	Wiggins
Metcalfe	Rose	Wilson, Bob
Meyner	Rosenthal	Wilson, C. H.
Mikulski	Rostenkowski	Wilson, Tex.
Mikva	Rousselot	Winn
Miller, Calif.	Roybal	Wirth
Miller, Ohio	Rudd	Wright
Mineta	Ruppe	Wydler
Minish	Russo	Wylie
Mitchell, Md.	Ryan	Yatron
Mitchell, N.Y.	Sarasin	Young, Alaska
Moakley	Satterfield	Young, Fla.
Mollohan	Sawyer	Young, Mo.
Montgomery	Scheuer	Young, Tex.
Moore	Schroeder	Zablocki
Moorhead, Calif.	Schulze	Zeferetti
Moorhead, Pa.	Seiberling	
	Sharp	

NAYS—14

Bedell	Jones, Okla.	Simon
Bonior	Leach	Stump
Edwards, Okla.	McKay	Weiss
Gore	Marlenee	Yates
Grassley	Moffett	

NOT VOTING 55

Biaggi	Gammage	Rhodes
Boggs	Gradison	Roberts
Brown, Calif.	Heftel	Rodino
Buchanan	Jones, N.C.	Roncalio
Burke, Calif.	Kazen	Runnels
Butler	Krueger	Santini
Carney	Levitas	Sebelius
Carter	Long, La.	Spellman
Chappell	Long, Md.	Stangeland
Cohen	McCormack	Teague
Conyers	McDonald	Thone
Cornwell	McFall	Thornton
Crane	Mann	Tucker
Dent	Michel	Udall
Eckhardt	Milford	Waxman
Edwards, Ala.	Nix	Whitley
Fithian	Pepper	Wolff
Fraser	Quie	
Fuqua	Quillen	

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Wolff for, with Mr. McDonald against.

Until further notice:

Mr. Biaggi with Mr. Buchanan.

Mr. Carney with Mr. Crane.

Mrs. Burke of California with Mr. Dent.

Mr. Chappell with Mr. Gradison.

Mr. Eckhardt with Mr. Runnels.

Mr. Fithian with Mr. Sebelius.

Mr. Gammage with Mr. Butler.

Mr. Conyers with Mr. Thone.

Mr. Tucker with Mr. Milford.

Mr. Fraser with Mr. Roncalio.

Mr. Heftel with Mr. Carter.

Mr. Waxman with Mr. Edwards of Alabama.

Mr. Cornwell with Mr. Stangeland.

Mr. Teague with Mr. Thornton.

Mr. Fuqua with Mr. Cohen.

Mrs. Spellman with Mr. Quie.

Mr. Jones of North Carolina with Mr. Roberts.

Mr. Whitley with Mr. Long of Maryland.

Mr. Rodino with Mr. McFall.

Mr. Santini with Mr. Kazen.

Mr. Nix with Mr. Quillen.

Mr. Pepper with Mr. Krueger.

Mr. Levitas with Mr. Long of Louisiana.

Mr. Mann with Mr. Michel.

Mr. McCormack with Mr. Brown of California.

Mr. LEACH changed his vote from "yea" to "nay."

Ms. HOLTZMAN changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZATION FOR CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10882.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10882, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 8, not voting 49, as follows:

[Roll No. 203]

YEAS—377

Abdnor	Baucus	Brown, Mich.
Addabbo	Bauman	Brown, Ohio
Akaka	Beard, R.I.	Broyhill
Alexander	Beard, Tenn.	Burgener
Allen	Bedell	Burke, Fla.
Ambro	Bellenson	Burke, Mass.
Ammerman	Benjamin	Burlison, Mo.
Anderson Calif.	Bennett	Burton, John
Anderson, Ill.	Bevill	Burton, Phillip
Andrews, N.C.	Biaggi	Byron
Andrews, N. Dak.	Bingham	Caputo
Annunzio	Blanchard	Carr
Applegate	Blouin	Cavanaugh
Archer	Boland	Cederberg
Armstrong	Bolling	Chisholm
Ashbrook	Bonior	Clausen, Don H.
Ashley	Bonker	Clawson, Del
Aspin	Bowen	Clay
AuCoin	Brademas	Cleveland
Badham	Breaux	Cochran
Bafalis	Breckinridge	Cohen
Baldus	Brinkley	Coleman
Barnard	Brodhead	Collins, Ill.
	Brooks	Collins, Tex.
	Broomfield	

Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Ruppe
Russo
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Symms
Taylor
Thompson
Traxler
Treen
Trible
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—8

Edwards, Okla.
Evans, Ind.
Jacobs
Livingston
Mottl
Rudd
Stump
Volkmer

NOT VOTING—49

Boggs
Brown, Calif.
Buchanan
Burke, Calif.
Burleson, Tex.
Butler
Carney
Carter
Chappell
Conyers
Cornwell
Crane
Dent
Eckhardt
Edwards, Ala.
Fithian
Fraser
Fuqua
Gammage
Gradison
Jones, N.C.
Kazen
Krueger
Levitas
McCormack
Mann
Michel
Nix
Pepper
Quie
Quillen
Rhodes
Roberts
Rodino
Roncalio
Runnels
Santini
Sebelius
Spellman
St Germain
Teague
Thone
Thornton
Tucker
Udall
Waxman
Whitley
Wolff
Young, Alaska

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Buchanan.
Mr. Rodino with Mr. Burleson of Texas.
Mr. Santini with Mr. Carter.
Mrs. Spellman with Mr. Dent.
Mr. St Germain with Mr. Edwards of Alabama.
Mr. Teague with Mr. Gradison.
Mr. Kazen with Mr. Roberts.
Mrs. Burke of California with Mr. Quie.
Mr. Carney with Mr. Fuqua.
Mr. Chappell with Mr. Brown of California.
Mr. Fithian with Mr. Levitas.
Mr. Pepper with Mr. Roncalio.
Mr. Nix with Mr. Quillen.
Mr. McCormack with Mr. Butler.
Mr. Mann with Mr. Krueger.
Mr. Jones of North Carolina with Mr. Gammage.
Mr. Whitley with Mr. Crane.
Mr. Wolff with Mr. Runnels.
Mr. Waxman with Mr. Sebelius.
Mr. Udall with Mr. Thone.
Mr. Tucker with Mr. Young of Alaska.
Mr. Thornton with Mr. Fraser.
Mr. Conyers with Mr. Cornwell.
Mr. Eckhardt with Mr. Michel.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10732, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10732, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 329, nays 55, present 1, not voting 49, as follows:

[Roll No. 204]

YEAS—329

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carr
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clay
Cochran
Cohen
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cornell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Del.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harrington
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Kildee
Kindness
Krebs
LaFalce
Lagomarsino
Leach
Lederer
Le Fante
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rooney
Rose
Rosenthal
Rousselot
Roybal
Rudd
Ruppe
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shipley
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Symms
Thompson
Traxler
Treen
Trible
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Waggonner
Walker
Walsh
Wampler
Watkins
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—55

Ammerman
Andrews, N.C.
Ashbrook
Ashley
Benjamin
Burleson, Tex.

Clawson, Del	Giaimo	Pickle
Cleveland	Hall	Poage
Collins, Tex.	Harris	Regula
Conable	Hefner	Rogers
Cotter	Jacobs	Rostenkowski
Derrick	Jenkins	Russo
Devine	Jones, Okla.	Sharp
Drinan	Keys	Simon
Edgar	Kostmayer	Skelton
Edwards, Okla.	Latta	Stump
Ertel	McDonald	Taylor
Evans, Ga.	Mahon	Volkmer
Evans, Ind.	Mikva	Walgren
Findley	Milford	Weiss
Flippo	Mottl	Yates
Flynt	Murphy, Ill.	
Fowler	Neal	

PRESENT—1

Bedell

NOT VOTING—49

Boggs	Gammage	Rodino
Brown, Calif.	Gephardt	Roncalio
Buchanan	Gradison	Runnels
Burke, Calif.	Harkin	Santini
Butler	Jones, N.C.	Sebelius
Carney	Kazen	Spellman
Carter	Krueger	Teague
Chappell	Levitas	Thone
Conyers	McCormack	Thornton
Cornwell	Mann	Tucker
Crane	Michel	Udall
Dent	Nix	Waxman
Eckhardt	Pepper	Whitley
Edwards, Ala.	Quie	Wirth
Fithian	Quillen	Wolff
Fraser	Rhodes	
Fuqua	Roberts	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Carney with Mr. Crane.
Mr. Rodino with Mr. Eckhardt.
Mr. Santini with Mr. Fithian.
Mr. Chappell with Mr. Gephardt.
Mr. Fuqua with Mr. Buchanan.
Mr. McCormack with Mr. Edwards of Alabama.
Mr. Mann with Mr. Fraser.
Mr. Pepper with Mr. Carter.
Mr. Waxman with Mr. Dent.
Mr. Jones of North Carolina with Mr. Gradison.
Mr. Whitley with Mr. Roncalio.
Mr. Wolff with Mr. Runnels.
Mr. Kazen with Mr. Sebelius.
Mr. Krueger with Mr. Teague.
Mr. Harkin with Mr. Wirth.
Mr. Gammage with Mr. Udall.
Mrs. Burke of California with Mr. Tucker.
Mr. Brown of California with Mr. Thone.
Mr. Conyers with Mr. Nix.
Mr. Cornwell with Mr. Quie.
Mr. Roberts with Mr. Quillen.
Mr. Levitas with Mr. Thornton.
Mrs. Spellman with Mr. Michel.

Messrs. FINDLEY, MURPHY of Illinois, COTTER, and FOWLER changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COUNCIL ON ENVIRONMENTAL QUALITY AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10884, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10884, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 307, nays 76, not voting 51, as follows:

[Roll No. 205]

YEAS—307

Addabbo	Fish	Mitchell, Md.
Akaka	Fisher	Mitchell, N.Y.
Alexander	Flood	Moakley
Allen	Florio	Moffett
Ambro	Flowers	Mollohan
Ammerman	Foley	Moore
Anderson, Calif.	Ford, Mich.	Moorhead, Pa.
	Ford, Tenn.	Moss
Anderson, Ill.	Forsythe	Mottl
Andrews, N.C.	Fowler	Murphy, Ill.
Andrews, N. Dak.	Frenzel	Murphy, N.Y.
	Frey	Murphy, Pa.
Annunzio	Garcia	Myers, Gary
Archer	Gephardt	Myers, Michael
Ashley	Giaimo	Natcher
Aspin	Gibbons	Neal
AuCoin	Gilman	Nedzi
Bafalis	Ginn	Nolan
Baldus	Gonzalez	Nowak
Baucus	Gore	O'Brien
Beard, R.I.	Grassley	Oakar
Bedell	Green	Oberstar
Beilenson	Gudger	Obey
Bennett	Guyer	Ottinger
Biaggi	Hamilton	Panetta
Bingham	Hanley	Patten
Blanchard	Hannaford	Patterson
Blouin	Harrington	Pattison
Boland	Harris	Pease
Bolling	Hawkins	Perkins
Bonior	Heckler	Pettis
Bonker	Hefner	Pickle
Bowen	Heftel	Pike
Brademas	Hightower	Pressler
Breaux	Hillis	Preyer
Breckinridge	Holland	Price
Brinkley	Hollenbeck	Pritchard
Brodhead	Holt	Pursell
Brooks	Holtzman	Quayle
Broomfield	Horton	Rahall
Brown, Mich.	Howard	Railsback
Brown, Ohio	Hubbard	Rangel
Burgener	Hughes	Regula
Burke, Fla.	Hyde	Reuss
Burke, Mass.	Ireland	Richmond
Burlison, Mo.	Jeffords	Rinaldo
Burton, John	Jenrette	Roe
Burton, Phillip	Johnson, Calif.	Rogers
Byron	Jones, Okla.	Rooney
Caputo	Jordan	Rose
Carr	Kasten	Rosenthal
Cavanaugh	Kastenmeier	Rostenkowski
Cederberg	Kemp	Roybal
Chisholm	Kildee	Ruppe
Clausen, Don H.	Kindness	Russo
	Kostmayer	Ryan
Clay	Krebs	Sarasin
Cleveland	LaFalce	Sawyer
Cochran	Lagomarsino	Scheuer
Cohen	Latta	Schroeder
Coleman	Le Fante	Schulze
Collins, Ill.	Leach	Seiberling
Conable	Lederer	Shipley
Conte	Leggett	Shuster
Corcoran	Lehman	Simon
Corman	Lent	Skelton
Cornell	Livingston	Slack
Cotter	Lloyd, Calif.	Smith, Iowa
Coughlin	Long, La.	Snyder
D'Amours	Long, Md.	Solarz
Danielson	Lujan	Spence
Davis	Luken	St Germain
de la Garza	Lundine	Staggers
Delaney	McClory	Stanton
Dellums	McCloskey	Stark
Derrick	McDade	Steed
Derwinski	McEwen	Steers
Devine	McFall	Steiger
Dickinson	McHugh	Stockman
Dicks	McKay	Stokes
Diggs	McKinney	Stratton
Dingell	Madigan	Studds
Dodd	Maguire	Thompson
Drinan	Mahon	Traxler
Duncan, Oreg.	Markey	Treen
Duncan, Tenn.	Marks	Trible
Early	Marlenee	Tsongas
Edgar	Martin	Ullman
Edwards, Calif.	Mattox	Van Deerlin
Eilberg	Mazzoli	Vander Jagt
Emery	Meeds	Vanik
Ertel	Metcalfe	Vento
Evans, Colo.	Meyner	Walgren
Evans, Del.	Mikulski	Walsh
Fary	Mikva	Wampler
Fascell	Miller, Calif.	Weaver
Fenwick	Mineta	Weiss
Findley	Minish	Whalen
White	Wright	Young, Fla.
Whitehurst	Wydler	Young, Mo.
Wiggins	Wylie	Zablocki
Wilson, Bob	Yates	Zeferetti
Wilson, Tex.	Yatron	
Winn	Young, Alaska	

NAYS—76

Abdnor	Gaydos	Moorhead, Calif.
Applegate	Goldwater	Murtha
Armstrong	Goodling	Myers, John
Ashbrook	Hagedorn	Nichols
Badham	Hall	Poage
Barnard	Hammer-schmidt	Risenhoover
Bauman	Hansen	Robinson
Beard, Tenn.	Harsha	Rousselot
Benjamin	Huckaby	Rudd
Bevill	Ichord	Satterfield
Broyhill	Jacobs	Sharp
Burleson, Tex.	Jenkins	Sikes
Clawson, Del	Johnson, Colo.	Sisk
Collins, Tex.	Jones, Tenn.	Skubitz
Cunningham	Kelly	Smith, Nebr.
Daniel, Dan	Ketchum	Stangeland
Daniel, R. W.	Keys	Stump
Dornan	Lloyd, Tenn.	Symms
Edwards, Okla.	Lott	Taylor
English	McDonald	Volkmer
Erlenborn	Marriott	Waggonner
Evans, Ga.	Mathis	Walker
Evans, Ind.	Milford	Watkins
Flippo	Miller, Ohio	Whitten
Flynt	Montgomery	Wilson, C. H.
Fountain		

NOT VOTING—51

Boggs	Fuqua	Roberts
Brown, Calif.	Gammage	Rodino
Buchanan	Glickman	Roncalio
Burke, Calif.	Gradison	Runnels
Butler	Harkin	Santini
Carney	Jones, N.C.	Sebelius
Carter	Kazen	Spellman
Chappell	Krueger	Teague
Conyers	Levitas	Thone
Cornwell	McCormack	Thornton
Crane	Mann	Tucker
Dent	Michel	Udall
Downey	Nix	Waxman
Eckhardt	Pepper	Whitley
Edwards, Ala.	Quie	Wirth
Fithian	Quillen	Wolff
Fraser	Rhodes	Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Jones of North Carolina.
Mr. Rodino with Mr. Whitley.
Mrs. Spellman with Mr. Mann.
Mr. Carney with Mr. Levitas.
Mr. Santini with Mr. Carter.
Mr. Teague with Mr. Butler.
Mr. Chappell with Mr. Buchanan.
Mr. Cornwell with Mr. Crane.
Mr. Krueger with Mr. Eckhardt.
Mr. Kazen with Mr. Edwards of Alabama.
Mr. Nix with Mr. Brown of California.
Mr. Pepper with Mr. Dent.
Mr. McCormack with Mr. Fraser.
Mr. Tucker with Mr. Glickman.
Mr. Thornton with Mr. Michel.
Mr. Roberts with Mr. Quie.
Mr. Gammage with Mr. Roncalio.
Mr. Fuqua with Mr. Sebelius.
Mrs. Burke of California with Mr. Quillen.
Mr. Conyers with Mr. Runnels.
Mr. Downey with Mr. Thone.
Mr. Fithian with Mr. Udall.
Mr. Harkin with Mr. Waxman.
Mr. Wolff with Mr. Young of Alaska.
Mr. Wirth with Mr. Gradison.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SBA PROGRAMS AND AUTHORIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11445, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill H.R. 11445, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 72, not voting 52, as follows:

[Roll No. 206]

YEAS—310

Abdnor	Emery	McCloskey
Addabbo	English	McDade
Akaka	Erlenborn	McEwen
Alexander	Ertel	McFall
Ambro	Evans, Colo.	McHugh
Ammerman	Evans, Del.	McKinney
Anderson, Calif.	Evans, Ga.	Maguire
	Evans, Ind.	Mahon
Anderson, Ill.	Fary	Markey
Andrews, N.C.	Fascell	Marks
Andrews, N. Dak.	Fenwick	Marlenee
	Findley	Marriott
Annunzio	Fish	Martin
Archer	Fisher	Mathis
Armstrong	Flippo	Mazzoli
Ashbrook	Florio	Meeds
Aspin	Flowers	Metcalfe
AuCoin	Flynt	Meyner
Bafalis	Foley	Mikulski
Baldus	Ford, Mich.	Milford
Barnard	Ford, Tenn.	Miller, Ohio
Baucus	Forsythe	Mitchell, Md.
Bauman	Fountain	Mitchell, N.Y.
Beard, R.I.	Fowler	Moakley
Bedell	Frenzel	Mollohan
Bennett	Frey	Montgomery
Bevill	Garcia	Moorhead, Calif.
Biaggi	Gephardt	
Blouin	Gibbons	Moorhead, Pa.
Boland	Gilman	Moss
Bonior	Ginn	Murphy, Ill.
Bonker	Gonzalez	Murphy, N.Y.
Bowen	Goodling	Murphy, Pa.
Brademas	Gore	Myers, John
Breaux	Grassley	Myers, Michael
Breckinridge	Green	Natcher
Brinkley	Gudger	Neal
Brodhead	Guyer	Nedzi
Brooks	Hagedorn	Nichols
Broomfield	Hall	Nolan
Brown, Mich.	Hamilton	Nowak
Brown, Ohio	Hanley	O'Brien
Broyhill	Harrington	Oakar
Burgener	Harsha	Oberstar
Burke, Fla.	Hawkins	Obey
Burke, Mass.	Heckler	Ottinger
Burleson, Tex.	Hefner	Panetta
Burlison, Mo.	Heftel	Patten
Burton, John	Hightower	Patterson
Burton, Phillip	Hillis	Pattison
Caputo	Holland	Pease
Carr	Hollenbeck	Perkins
Cavanaugh	Holtzman	Pettis
Cederberg	Horton	Pickle
Chisholm	Howard	Pike
Clausen, Don H.	Hubbard	Pressler
	Huckaby	Preyer
Clay	Hughes	Price
Cleveland	Ichord	Pritchard
Cochran	Ireland	Quayle
Cohen	Jacobs	Railsback
Coleman	Jenkins	Regula
Collins, Ill.	Jenrette	Reuss
Conte	Johnson, Calif.	Richmond
Corcoran	Johnson, Colo.	Rinaldo
Corman	Jones, Tenn.	Risenhoover
Cornell	Jordan	Roe
Cotter	Kasten	Rogers
Coughlin	Kastenmeier	Rooney
Cunningham	Keys	Rose
D'Amours	Kildee	Rosenthal
Daniel, Dan	Kindness	Roybal
Danielson	Kostmayer	Rudd
Davis	Krebs	Ruppe
de la Garza	Latta	Russo
Delaney	Le Fante	Ryan
Dellums	Leach	Sarasin
Derrick	Lederer	Sawyer
Devine	Leggett	Scheuer
Dickinson	Lent	Schroeder
Dicks	Livingston	Sharp
Diggs	Lloyd, Calif.	Shipley
Dingell	Lloyd, Tenn.	Shuster
Dornan	Long, La.	Sikes
Drinan	Long, Md.	Sisk
Duncan, Oreg.	Lott	Skelton
Early	Lujan	Skubitz
Edgar	Lundine	Smith, Iowa
Eilberg	McClory	Smith, Nebr.
Snyder	Traxler	Whitten
Solarz	Tsongas	Wiggins
Spence	Ullman	Wilson, Bob
St Germain	Van Deerlin	Wilson, C. H.
Staggers	Vander Jagt	Wilson, Tex.
Stangeland	Vanik	Winn
Stanton	Vento	Wright
Steed	Waggonner	Wydler
Steers	Walsh	Yatron
Stockman	Wampler	Young, Alaska
Stokes	Watkins	Young, Fla.
Stratton	Weaver	Young, Mo.
Studds	Weiss	Young, Tex.
Stump	Whalen	Zablocki
Taylor	White	Zeferetti
Thompson	Whitehurst	

NAYS—72

Allen	Hannaford	Murtha
Applegate	Hansen	Myers, Gary
Ashley	Harris	Poage
Badham	Holt	Pursell
Beard, Tenn.	Hyde	Rahall
Beilenson	Jeffords	Robinson
Benjamin	Jones, Okla.	Rostenkowski
Bingham	Kelly	Rousselot
Blanchard	Kemp	Satterfield
Byron	Ketchum	Schulze
Clawson, Del	LaFalce	Seiberling
Collins, Tex.	Lagomarsino	Simon
Conable	Lehman	Slack
Daniel, R. W.	Luken	Stark
Derwinski	McDonald	Steiger
Dodd	McKay	Symms
Duncan, Tenn.	Madigan	Treen
Edwards, Calif.	Mattox	Trible
Edwards, Okla.	Mikva	Volkmer
Flood	Miller, Calif.	Walgren
Gaydos	Mineta	Walker
Giaimo	Minish	Wylie
Goldwater	Moffett	Yates
Hammer-schmidt	Moore	
	Mottl	

NOT VOTING—52

Boggs	Fuqua	Roberts
Bolling	Gammage	Rodino
Brown, Calif.	Glickman	Roncalio
Buchanan	Gradison	Runnels
Burke, Calif.	Harkin	Santini
Butler	Jones, N.C.	Sebelius
Carney	Kazen	Spellman
Carter	Krueger	Teague
Chappell	Levitas	Thone
Conyers	McCormack	Thornton
Cornwell	Mann	Tucker
Crane	Michel	Udall
Dent	Nix	Waxman
Downey	Pepper	Whitley
Eckhardt	Quie	Wirth
Edwards, Ala.	Quillen	Wolff
Fithian	Rangel	
Fraser	Rhodes	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Brown of California.
Mr. Teague with Mr. Carter.
Mrs. Spellman with Mr. Dent.
Mr. Santini with Mr. Fuqua.
Mr. Levitas with Mr. Crane.
Mr. McCormack with Mr. Eckhardt.
Mr. Chappell with Mr. Buchanan.
Mr. Carney with Mr. Glickman.
Mr. Downey with Mr. Mann.
Mr. Fithian with Mrs. Burke of California.
Mr. Fraser with Mr. Edwards of Alabama.
Mr. Gammage with Mr. Conyers.
Mr. Wirth with Mr. Michel.
Mr. Wolff with Mr. Gradison.
Mr. Waxman with Mr. Quie.
Mr. Jones of North Carolina with Mr. Butler.
Mr. Whitley with Mr. Rangel.
Mr. Nix with Mr. Cornwell.
Mr. Pepper with Mr. Quillen.
Mr. Roberts with Mr. Roncalio.
Mr. Rodino with Mr. Tucker.
Mr. Udall with Mr. Thone.
Mr. Krueger with Mr. Sebelius.
Mr. Kazen with Mr. Runnels.
Mr. Harkin with Mr. Thornton.

Mr. LAGOMARSINO and Mr. PURSELL changed their vote from "yea" to "nay."

Mr. HAGEDORN and Mr. RUDD changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMENDING U.S. DELEGATION TO BELGRADE MEETING AND URGING CONTINUATION OF PRESIDENTIAL OPPOSITION TO HUMAN RIGHTS VIOLATIONS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 549) praising the U.S. delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe for its efforts on behalf of human rights, and urging the President to continue to express U.S. opposition to repressive actions and to violations of basic human rights which are contrary to the Helsinki accords, and ask for immediate consideration of the concurrent resolution in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 549

Whereas the Belgrade meeting of the Conference on Security and Cooperation in Europe has now concluded;

Wheras H. Con. Res. 249, adopted June 15, 1977, urged that the Belgrade meeting include the presentation and thorough discussion of all violations of the Helsinki Accords;

Whereas the United States delegation to the Belgrade meeting displayed great determination and resourcefulness in forthrightly expressing the concern of the Congress and people of the United States over specific violations of the human rights provisions of the Helsinki Accords by some of the signatory states, including the Soviet Union and some Eastern European countries; and

Whereas violations of the human rights guaranteed under the Helsinki Accords continue in some signatory states: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the United States delegation to the Belgrade meeting of the Conference on Cooperation and Security in Europe is accorded the gratitude of the Congress for its determination and vigor in demanding a thorough review of compliance with the human rights provisions of the Helsinki accords by the signatory states and for its success in obtaining such a review which brought into the spotlight of world opinion those abuses which were of greatest concern to the Congress and people of the United States.

SEC. 2. The Congress urges the President and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to repressive actions and to violations of basic human rights which are contrary to the Hensinki accords.

SEC. 3. The Congress urges the President and other appropriate executive branch officials to use every feasible bilateral contact to emphasize to the Soviet Union and other Eastern European countries that the solemn commitments given by such countries call for their observance of human rights.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 549, praising the U.S. delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe for its efforts on behalf of human rights, and urging the President to continue to express U.S. opposition to repressive actions and to violations of basic human rights which are contrary to the Helsinki accords.

The Belgrade meeting of the Conference on Security and Cooperation in Europe which began on October 9, 1977, and concluded last month afforded the U.S. delegation, under the able and forcefull leadership of Ambassador Arthur J. Goldberg, an opportunity to point out for the record the lack of compliance with the Helsinki accords on the part of certain signatories, particularly the Soviet Union with respect to human rights.

The signatory countries agreed to meet again in 1980 in order to review implementation of the provisions of the accord. Hopefully, when the Madrid meeting convenes, the human rights situation will have improved. In the meantime, the resolution urges the President and other appropriate executive branch officials to continue to express at every suitable opportunity, and in the strongest terms, the opposition of the United States to repressive actions and to violations of basic human rights which run counter to the promise of the accords.

I would like to take this opportunity to commend and to congratulate the cosponsors of the resolution, the Honorable DANTE B. FASCELL, who chairs the U.S. Commission on Security and Cooperation in Europe, and the Honorable JOHN BUCHANAN, who is a member of the Commission, and indeed all members of the Commission for their diligent and vigorous oversight efforts with respect to U.S. participation in the Belgrade meeting.

Mr. Speaker, I urge the adoption of the resolution.

Mr. FASCELL. Mr. Speaker, I rise in full support of the concurrent resolution.

Mr. Speaker, I believe that the resolution before us represents both a fitting tribute to the outstanding work of our delegation to the Belgrade meeting and a very timely reaffirmation of the commitment of the Congress of the United States to the cause of human rights.

Those of us who like myself have had the opportunity to attend the Belgrade meeting and have followed the course of events there closely are keenly aware of the magnitude of the task that our delegation under the leadership of Justice Arthur Goldberg faced and the determination with which they carried it out. Like the Helsinki accords themselves, the Belgrade meeting was long and complex. Belgrade was a forum in which the often-conflicting views and interests of 35 nations came into play. Included on its agenda were a wide variety of issues whose scope spanned not only human rights and human contacts, but economic and scientific cooperation, cultural exchange, the freer flow of information, and military confidence building measures as well as principles of international relations.

In spite of this complexity and of the sensitivities that made Belgrade a diplomatic minefield, Justice Goldberg showed great skill in getting the full and thorough review of human rights that we in Congress believed was essential. Not only did our delegation keep its sights firmly on target, but it displayed consummate skill in keeping our NATO allies behind us and in winning the sympathy of many of the neutral and nonalined countries for our views.

As a result, Belgrade stands as a monument to the idea that human rights are a legitimate matter of international concern and that the countries that signed the Helsinki Accords owe an accounting for the way they treat their citizens. Thanks to Justice Goldberg's efforts, we can be sure that we will have another opportunity to get such an accounting at the next CSCE review meeting in Madrid in 1980.

As for the second part of the resolution before us, I believe that it is particularly appropriate at this time. The Belgrade meeting is now behind us, but there are disturbing indications that human rights violations are continuing—and perhaps may increase—in some of the states that signed the Helsinki agreement. I think we must make it clear that the commitment of Congress to human rights remains firm and that although the Belgrade meeting may be over, our profound concern for the issues raised there will continue.

Mr. GILMAN. Mr. Speaker, I rise in support of the concurrent resolution, and I wish to commend the committee and the chairman of the committee for bringing this resolution to the floor at this time.

Mr. Speaker, I rise in support of House Concurrent Resolution 549, and join my colleagues, the distinguished chairman of our House International Relations Committee, Mr. ZABLOCKI, and the chairman of the Committee on Security and Cooperation in Europe, Mr. FASCELL, in praising the efforts of the U.S. delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe.

As a congressional advisor to the Conference, I was pleased to have the opportunity of joining Congressman FASCELL and other Members of this body in attending the opening session of the 35-nation review meeting. I can state from personal observations my opinion of the excellent work performed by Ambassador Arthur Goldberg and all members of the United States delegation.

While the overall results of the Conference itself were somewhat disappointing, through a concerted effort by the United States and our western allies, some progress was made. As succinctly stated by the New York Times:

> Western delegates were able, over a period of weeks, to detail the ways in which the Communist governments had failed to live up to their commitments, and the Communist representatives had to listen. Even more important was the agreement to meet again in Madrid.

Despite major efforts to prevent a meaningful discussion of the all important questions concerning human rights, the United States was successful in confronting all participants with the reality that they must answer for their actions. On February 26, 1978, the Washington Post concurred that "the idea was confirmed that the Helsinki signatories are accountable to each other for the way they treat their citizens."

The London Sunday Times also stressed this important recognition in a March 12 editorial:

> At Belgrade, the USSR fought to keep human rights issues off the floor, but the West and neutrals succeeded not only in defeating this, but in turning Belgrade very much into a human rights Conference. To this extent, Belgrade, far from being a walkover for the USSR, was a success for the West. One consequence is that there will be a further occasion for debate and review on human rights in Europe, another meeting is to be held in November 1980 in Madrid.

The resolution before us recognizes this advance and urges the President and any other appropriate executive branch officials to continue to express at every opportunity and in the strongest terms, the opposition of the United States to repressive actions and to violations of basic human rights which run counter to the promise of the accords.

Accordingly, I urge my colleagues to approve this resolution to show our support for the work that has already been done and to encourage a continuation of what Ambassador Arthur J. Goldberg has termed "a fine example of executive/legislative cooperation in the field of foreign policy."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6693) to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes, with Senate amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Adoption Reform Act of 1977".

TITLE I—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSES

SEC. 101. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be

the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

MODEL ADOPTION LEGISLATION AND PROCEDURES

SEC. 102. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adopted legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and producers which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, National, State, and local child welfare organizations, including those representatives of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impending the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

SEC. 103. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption) and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

SEC. 104. (a) The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 105. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the suceeding three fiscal years to carry out this title.

TITLE II—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

AUTHORIZATION OF APPROPRIATIONS AND EARMARKING

SEC. 201. (a)(1) Section 5 of the Child Abuse Prevention and Treatment Act (hereinafter in this title referred to as "the Act") (42 U.S.C. 5104) is amended by striking out "succeeding fiscal year" and inserting in lieu thereof "three succeeding fiscal years. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration projects) and not less than 20 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness.".

(2) Section 5 of such Act is further amended by—

(A) inserting "(a)" after "SEC. 5."; and

(B) adding after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1978, and $2,000,000 for the fiscal year ending September 30, 1979, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration projects), and 4(b)(1) (relating to grants to States)) for programs and projects designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units.

"(2) Of the sums appropriated under this subsection, not more than 20 per centum shall be expended under section 2(b)(5).

"(3) As used in this subsection, the term—

"(A) 'sexual abuse' includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

"(B) 'child' or 'children' means any individual who has not attained the age of eighteen.

"(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has

been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.".

(b) Section 4(a) of the Act (42 U.S.C. 5103 (a)) is amended by striking out the last sentence thereof.

(c) Section 4(b)(1) of the Act (42 U.S.C. 5103(b)(1)) is amended by striking out all words preceding "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make".

NATIONAL CENTER FUNCTIONS

SEC. 202. Section 2 of the Act (42 U.S.C. 5101) is amended by—

(1)(A) striking out "and" after clause (5) of subsection (b);

(B) striking out the period at the end of clause (6) of subsection (b) (as amended by this section) and inserting in lieu thereof a semicolon and "and"; and

(C) inserting below clause (6) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and shall submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this section and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.";

(2) inserting at the end of subsection (c) the following new sentence: "Grants may be made under clause (5) of this subsection for periods up to three years, but such grants shall be conditioned on periodic review not less often than annually by the Secretary utilizing a peer review mechanism to assure the quality and progress of the research under such grants."; and

(3) inserting after subsection (c) the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.".

DEFINITION OF CHILD

SEC. 203. Section 3 of the Act (42 U.S.C. 5102) is amended by inserting a comma and "or the age specified by the child protection law of the State in question," after "eighteen".

OBLIGATION OF STATE AWARDS

SEC. 204. Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)) is amended by inserting immediately below clause (J) the following new sentence:

"If a State has failed to obligate funds awarded under this subsection within eighteen months of the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.".

ADVISORY BOARD

SEC. 205. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered" each place it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) redesignating subsection (c) as (e) and inserting after subsection (b) the following new subsections:

"(c) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan no later than eighteen months after the date of enactment of this subsection.

"(d) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

Amend the title so as to read: "An Act to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Indiana (Mr. BRADEMAS) explain why it is necessary that we do this by unanimous consent?

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, this is the customary procedure with measures of this kind, particularly where unanimity of opinion has been reached on both sides of the aisle with respect to the substance of the bill.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman inform us as to whether there are many differences between the Senate and the House versions?

Mr. BRADEMAS. There are several differences between the bills as passed by the House and the other body. The agreement to consider on which I have asked unanimous consent reflects the produce of our negotiations, and I think it is fair to say that the agreement represents agreement with the position of the House in most respects.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman has stated that there are major substantial differences. Could he explain briefly what they are?

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, I will be very glad to explain.

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I am pleased to report to the House that after negotiations between the Committee on Human Resources of the other body and the Committee on Education and Labor on H.R. 6693, the child abuse prevention and treatment amendments, we have reached a compromise agreement.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who have worked and cooperated in bringing this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, and the distinguished ranking minority member, Mr. QUIE, for their help in bringing this measure before you today. Let me also thank Mr. BIAGGI, Mr. MILLER, and Mr. KILDEE for their contributions. I would also like to thank the ranking minority member of the Subcommittee on Select Education, Mr. JEFFORDS, as well as the other members of the subcommittee for their efforts on this measure.

Mr. Speaker, I would be remiss if I did not also thank the Members from the other body for their contributions, in particular the major sponsor of the bill there, the distinguished senior Senator from California, Mr. CRANSTON.

Mr. Speaker, let me make these brief observations, The agreement is similar in many respects to the bill passed by the House on September 26, 1977, by a vote of 375 to 12. The House bill was ordered reported by the Subcommittee on Select Education, which I have the honor to chair, by a unanimous bipartisan vote. Further, the bill was reported from the Education and Labor Committee, again unanimously.

AUTHORIZATIONS

The compromise measure extends for 4 more years—1 year less than the House bill—the authorizations for Public Law 93-247, the Child Abuse Prevention and Treatment Act, and strengthens the programs of research and prevention and treatment of child abuse supported by the act.

The authorization of appropriations agreed to are those figures authorized by the House bill: $25 million for fiscal year 1978, $27.5 million for fiscal year 1979, and $30 million each for fiscal years 1980 and 1981.

RESEARCH ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Let me describe briefly, Mr. Speaker, how the agreement would strengthen the research activities of the National Center on Child Abuse and Neglect. The measure would require the Secretary of Health, Education, and Welfare to establish research priorities for making grants under the act, and that research grants could be made for periods up to 3 years with an annual peer review to assure the quality of the research conducted under the grants. These provisions were contained, Mr. Speaker, in the House bill.

SERVICE PROGRAMS AND PROJECTS

In order to allow the funding of direct, ongoing programs in child abuse prevention and treatment, the House bill added service programs to the demonstration program authority of Public Law 93-247, and the Senate bill provided for special consideration to be given to continued funding of programs of demonstrated effectiveness. The compromise agreement incorporates both these provisions.

GRANTS TO THE STATES

Let me now, Mr. Speaker, describe the changes proposed in the program of grants to the States for child abuse projects.

The level of funds allocated to the States for assisting child abuse prevention and treatment programs is now set by Public Law 93-247 at a maximum of 20 percent of the appropriated funds. The House bill provided that not less than 30 percent of appropriated funds should go to State programs while the Senate bill provided that a minimum of 20 percent of the funds should be used for the State grant program.

The compromise agreement, Mr. Speaker, provides that not less than 25 percent of the funds appropriated for each of fiscal years 1978 and 1979 should be used for the State grants and not less than 30 percent for each of the fiscal years 1980 and 1981.

In addition, Mr. Speaker, the compromise agreement would require a reduction in grants awarded to a State which fails to obligate funds within 18 months after their award.

SEXUAL ABUSE TREATMENT PROGRAMS

The House bill, Mr. Speaker, expanded the definition of child abuse in the act to include "sexual exploitation," underscoring the need to provide treatment to children who have been sexually abused and to prevent this form of abuse. The compromise agreement contains the House language.

In addition, Mr. Speaker, the House bill provided for the establishment of centers for provision of treatment and other services to sexually abused children and those who commit sexual abuse against children, with appropriations set at such sums as may be necessary.

Similarly, the Senate bill provided for grants to support programs to prevent, identify and treat sexual abuse of children, and authorized $2 million each for fiscal years 1978 and 1979 for these programs.

The compromise agreement would authorize appropriations of $3 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $4 million each for fiscal years 1980 and 1981 to provide for programs to treat sexual abuse of children, including programs involving the treatment of family units and persons who have committed acts of sexual abuse.

The House bill, Mr. Speaker, also contained a provision establishing criminal penalties for the sexual exploitation of children. The Senate bill extending the Child Abuse Prevention and Treatment Act contained no comparable provision, nor does the compromise agreement.

I should point out, however, Mr. Speaker, that legislation similar to the House provision in H.R. 6693 providing criminal penalties for the sexual exploitation of children passed both the House and Senate, as reported from the Judiciary Committees in both Chambers, and was signed into law on February 6, 1978.

ADOPTION REFORM

Mr. Speaker, let me briefly describe one further provision of the compromise agreement on H.R. 6693.

The Senate measure authorized appropriations of $5 million each for fiscal years 1978 through 1981 to establish within the Department of Health, Education, and Welfare a program to facilitate the adoption of children.

An advisory panel would be formed to develop model adoption legislation and procedures to ease the interstate adoption of children. A national adoption information exchange system would be established and all activities within the Department of Health, Education, and Welfare affecting adoption and foster care would be coordinated.

The Senate measure would also provide for a study of the nature and effects of the interstate placement of children in adoptive homes by unlicensed individuals or agencies.

These provisions to reform adoption procedures are contained in the compromise agreement.

CONCLUSION

In conclusion, Mr. Speaker, I urge Members of the House to give their strong support to this measure to strengthen and continue the Federal effort to assist in the prevention and treatment of child abuse.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the gentleman from Indiana (Mr. BRADEMAS)?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I would like to state that I have reviewed carefully the changes that were suggested, and I believe that they enhance the bill rather than doing anything otherwise. I would urge the support of the Members.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman for yielding.

Mr. Speaker, again I do want to express particular appreciation to members of the subcommittee on both sides of the aisle and, in particular, the distinguished ranking minority member of the subcommittee, the gentleman from Vermont (Mr. JEFFORDS), as well as the gentleman from New York (Mr. BIAGGI), the gentleman from Ohio (Mr. MILLER), and the gentleman from Michigan (Mr. KILDEE) for their contributions.

Mr. Speaker, I hope this bill will win the overwhelming support of the Members on both sides of the aisle.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for his comments, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana that the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Indiana for the consideration of the Senate amendments in the House?

There was no objection.

MOTION OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BRADEMAS moves that the House concur in the Senate amendments with amendments, as follows:

Strike out the matter proposed to be inserted by the Senate amendment to the text of the bill and insert in lieu thereof the following:

That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) (hereinafter in this title referred to as "the Act") is amended by—

(1)(A) striking out "and publish" and inserting in lieu thereof "publish, and disseminate" in clause (1) of subsection (b);

(B) striking out "and publish" and inserting in lieu thereof a comma and "publish, and disseminate" in clause (3) of subsection (b);

(C) striking out "and" after clause (5) of subsection (b);

(D) striking out the period at the end of clause (6) of subsection (b) and inserting in lieu thereof a semicolon and "and"; and

(E) adding after clause (6) of subsection (b) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities,

(1) amending subsection (a) by—

(A) inserting "or service" after "demonstration" in the first sentence;

(B) striking out "the development and establishment of" in clause (1); and

(C) striking out the last sentence of such subsection;

(2) amending subsection (b) by—

(A) striking out in paragraph (1) "Of the sums" and all that follows through "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make grants", and striking out "for the payment of reasonable and necessary expenses"; and

(B) inserting in paragraph (2) immediately below clause (J) the following new sentence: "If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate."; and

(3) amending the heading for such section to read as follows:

"DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS"

AUTHORIZATION OF APPROPRIATIONS, EARMARKING AND SEXUAL ABUSE CENTERS

SEC. 104. Section 5 of the Act (42 U.S.C. 5104) is amended by—

(1) striking out "and" after "1975," and striking out the period at the end thereof

and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 for each the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education and Welfare) of national or regional scope and demonstrated effectiveness, and not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively."; and

(2) inserting "(a)" after "SEC. 5." and adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, and personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.

"(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).

"(3) As used in this subsection, the term—

"(A) 'sexual abuse' includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, or determined in accordance with regulations prescribed by the Secretary; and

"(B) 'child' or 'children' means any individual who has not attained the age of eighteen.

"(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.".

ADVISORY BOARD

SEC. 105. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered," both places it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) striking out subsection (b) and subsection (c) and inserting in lieu thereof the following new subsections: "(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

"(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

TITLE II—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights if children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

MODEL ADOPTION LEGISLATION AND PROCEDURES

SEC. 202. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

SEC. 203. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not

limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION AGENCIES

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropirate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title.

Amend the Senate amendment to the title of the bill so as to read: "An Act to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JEFFORDS. Mr. Speaker, I strongly support the compromise version which is before the House today. This version is somewhat changed from the one that we considered last September 26. At that time, I am sure my colleagues will recall that there was considerable discussion over an amendment which provided criminal sanctions for those who exploited and abused children through pornographic films. The controversy at that time was not over whether sexual exploitation should be prohibited, but whether the provision should be attached to this legislation or some other bill reported directly by the Judiciary Committee. The matter was resolved on February 6, 1978, when the President signed into law the Protection of Children Against Sexual Exploitation Act of 1977. This was the bill reported by the Judiciary Committee. As a result we did not have to deal with that provision in meetings with the Senate in attempting to resolve the bill.

What we did do was adopt a House initiative which would put more money into State efforts for actual "hands on" services for child abuse prevention and treatment. I think this is significant and it reflects our concern that more money go to specific and direct services for children and less for studies and meetings. Beginning in 1980, 30 percent of all money in this legislation will go to State efforts.

One of the provisions that I do want to comment on which I feel holds promise for eradicating a terrible problem is the one in the compromise agreement which provides money for programs and projects for no less than three centers for treatment of sexually abused children and those persons who commit those abuses. We authorized dollars which cover the support, treatment, training of personnel, and other related services which may be used to prevent, identify, and treat sexually abused children and their families. This provision comes as a result of hearings held by the subcommittee in which we heard very touching and very tragic stories. Congressman GEORGE MILLER and I developed this amendment after studying the matter and then hearing some of the most potent and dramatic testimony I have ever heard as a Member of Congress. Possibly the most dramatic came from a panel of workers, lawyers, policemen, a parent who had sexually abused his child, and a child who had been sexually abused. This group deals with parents and children who have been involved in incestuous relationships and works with both parties as well as the rest of the family. They claim that sexual abuse in families is far more extensive than the number of children who are used in pornographic materials. They claim that—

25 percent of the women in America have been sexually molested as children, and over one-half of them by family members or close family friends. Although the statistics are not complete, we have reason to believe that an equal number of men were also molested as children.

Tom Warren, who is the vice president of Parents United told the committee that he had an affair with his daughter 5 years ago. He said that because he and his wife worked different hours that they did not see much of each other and he had "the need to be wanted and loved." He said that he loved his daughter and "it just happened." He served 9 months in jail and then became involved with Parents United, where he explained in a very touching way that the center helped him understand himself and his family. He indicated that he never had any desire to seek a relationship with a prostitute or anyone other than his wife.

Debbie Rome was sexually abused by her stepfather between the ages of 9 and 15. She is 19 today and appeared to be thoroughly accepting of her experiences as well as the world around her. She now works with Daughters United, who help girls who have been in situations similar to hers. What was significant about Parents United was that of the 800 families who have been served by the program, not one of the females who had been sexually abused became a prostitute or became involved with drugs of any sort. Even more significant is that out of the 800 families served, only two were involved in any way with pornographic films. The Jeffords-Miller amendment will provide authority and hopefully dollars to establish at least five more centers throughout the country like this one. I think such centers are going a long way toward helping both parents and children to correct experiences that they would both prefer to forget.

The compromise before us today reflects the concern of the Congress that in the matter of child abuse, the Federal Government has begun an effort to help States and local jurisdictions to try to prevent child abuse and provide adequate treatment wherever it does exist. This legislation represents a true partnership between Federal, State, and local jurisdictions. It is my hope that as a result of it that abuse of children disappears forever.

I am also pleased with the amendments setting up mechanisms to bring uniformity in adoptions. Congressman MILLER deserves a great deal of credit for the extensive work he has done in this area.

I urge Members to support the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS).

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

VOTING RIGHTS FOR YOUNG PEOPLE

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, 15 years ago, as chairman of an education subcommittee of the California State Assembly, I investigated a situation in Paradise, Calif., in which a great teacher was being harassed and threatened by a few self-appointed anti-Communists who accused her of teaching communism. They conveniently left out the preposition "about" in front of the word.

Today, of course, the climate of fear in the Nation has passed, but that great teacher still teaches. Last week she was in our Nation's Capitol with a group of

bright and capable young people under the sponsorship of the fine Close-Up program, and I had a chance to renew our friendship of 15 years.

The students of her school, in San Rafael, Calif., in Representative JOHN BURTON'S district, have asked me to introduce a constitutional amendment which would allow all persons eligible to vote in the November election by reason of age, to be eligible to vote in the primary election for the same office. The idea is a good one, and should be swiftly enacted. I am proud to be the author of a bill whose concept originated with these students from San Rafael High School and their teacher, Dr. Virginia Franklin.

In 1944, in the Smith against Allwright case, the Supreme Court ruled that the primary was an integral part of the entire election process. All Federal officials should be elected similarly so that no one segment can be denied a crucial vote in the primary. Although the State controls its own primary, it is up to them to supply equal protection of the law, and for this reason Congress should set the example. Ten States including Delaware, Illinois, Indiana, Kentucky, Maryland, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia already have corrected this shortcoming, thus magnifying the existing inequity.

The experience of voting is the ultimate field trip for students who have merely read about government, and this early involvement in the election process will more likely become a lifetime habit. With the passage of this bill, young people will be more involved in the political campaigns of the future and will increase their interest in government. And if we continue to discriminate against new voters, their initial contact with elections will be a negative one. Past experience has shown that many young people do not carry on and pick up their electoral duties after high school because they never had the actual opportunity while in school. This amendment will change that. Those who assisted in initiating what must become a nationwide movement among young people are as follows:

Becky Ablin, George Afremow, Gregg, Bigliri, Ron Braithwaite, Sven Buggeland, Heidi Carter, Laurie Cerf, Elise Couvillion, Dana Dowdy, Erin Fleming, Nancy Gamble, Rina Guidice, Kent Godwin, Betsy Harris, Brian Hecht, Peter Heinlein, Katie Hoffman, Lisa Ives, Ann Kelly, David Kupfer, Mike La Fave, Julie Lavezzo, Laurie McCandless, Anne Miskimen, Doug Mitchell, Katie Palches, Mary Phillips, Bill Posner, Jeff DuBois, Kathy Read, Pat Robertson, Tyler Rose, Craig Rossi, Diane Soldavini, George Spongberg, Sharon Stark, Jack Texiera, Karen Tremewan, Jeff Walter, John Wick, Liz Widdershoven, Phil Wolfe and Beth Yoffee.

Proposing an amendment to the Constitution of the United States extending the right to vote in any election to nominate any candidate for any Federal office to citizens who will be eighteen years of age or older on the date of the election for such office.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years of the date of final passage of this joint resolution:

ARTICLE —

Section 1. The right of citizens of the United States, who will be eighteen years of age or older on the date of any election for the office of President or Vice-President of the United States or for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, to vote in any election to nominate any candidate for such office shall not be denied or abridged by the United States or any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

INTRODUCTION OF CONSUMER QUALITY SAFE DRINKING WATER ACT

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, since the day the Environmental Protection Agency was created it has been diligently busy cleaning our air, lakes, rivers, and streams so that fish and other natural inhabitants of the water may live in clean water. I have supported these programs.

Throughout this period, however, the EPA has paid much less attention than we would like to the quality of the water that people drink. Funds and technical expertise have been abundant when it comes to cleaning rivers and streams. But they have been less abundant when it comes to providing clean and safe drinking water that is fit for human consumption.

The time is overdue for an emphasis on safe water to begin. Americans everywhere deserve to have confidence in the water they drink. They deserve to know that it is dependably clean and of high quality.

Mr. Speaker, as a Representative of a region of the country that is historic but also possesses aging public drinking water systems, I am introducing the Consumer Quality Safe Drinking Water Act.

This vitally needed legislation would provide $250 million during the next 3 fiscal years to improve the worst and most unreliable water treatment plants in our Nation.

I urge my colleagues to take notice of this new and needed direction and focus and support this critically needed legislation.

WASTEFUL NSF SPENDING

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, intellectual gobbledygook. Wasteful spending. Every year millions and millions of taxpayers' dollars go down the drain without serving any useful purpose.

One particular study which was funded by the National Science Foundation cost taxpayers nearly $1 million. A conclusion reached in that study was:

Complex systems possess the attributes of coupled non-linear feedback loops, in which dominance shifts from positive to negative loops.

Interesting? Maybe if you can understand this gibberish.

I question the application of the $918,000 which was granted to the NSF for this study. In plain English, the study concluded that individuals who go camping in Big Sky, Mont., dislike insects and mosquitoes. Brilliant.

CBS' "60 Minutes" recently did a segment exposing this outrageous study. The segment was appropriately entitled "Bugs Are a Negative Factor." One man on the show said:

I know a little bit about hunting and fishing and camping and stuff like that, and for $900 I could tell them the same thing they spent $900,000 to find out.

Unfortunately, as "60 Minutes" reporter Andrew A. Rooney stated:

The Government-sponsored study wasn't very special. Over the years it was nothing but one of thousands.

This study is all too typical of the Federal Government's abuse of our hard-earned dollars. Research grants given out by Federal agencies such as the National Science Foundation are an area of particular abuse.

As I have asked time and time again, why should the taxpayer have to pay the bill for these ridiculous projects? Why should our citizens have to finance NSF studies such as the social behaviour of prairie dogs or why people fall in love? By all means let's encourage and support good basic research. But let's also strike a blow for commonsense.

When the NSF authorization bill comes up on the House floor, I'll be offering an amendment to reduce some of this wasteful spending. It may be a drop in the Federal bucket, but every drop counts.

I urge my colleagues to support my amendment and reduce wasteful spending. Following is the complete text of "60 Minutes'" excellent story:

[From "60 Minutes"]

BUGS ARE A NEGATIVE FACTOR

MIKE WALLACE. "Bugs are a negative factor." What in the world does that mean? You'll find out shortly. It's part of a 60 Minutes investigation—not perhaps the kind of investigation you're used to here on 60 Minutes, but an investigation nonetheless, conducted by our friend Andrew Rooney, whom you see here from time to time. He begins with a man who not too long ago was one of the most familiar faces in millions of American households.

CHET HUNTLEY. Boy, is there a lot to do when you begin to plan for the handling of soil and the— the handling of water, and you just don't push—come in and push dirt around, as you might do—might have done 50 years ago. You have to be careful these days.

ANDREW ROONEY. This is Big Sky. I'm standing on the front lawn of the house built by the late Chet Huntley of NBC News. Big Sky is the controversial recreational development in the middle of one of our last great wilderness areas—the Gallatin Canyon in Montana. Seven years ago Montana State University applied for a grant from the National Science Foundation for a study of this area. Over a period of years, they were given a total of $918,000. We thought it might be interesting to some of you taxpayers to see what you got for your $918,000.

There were 32 separate studies done on the Gallatin Canyon. It seems unlikely they'll be making a movie of any of them: "Measurement and Meaning of Recreation Satisfaction: A Case Study in Camping"; "Use Satisfaction as a Function of Recreation Management"; and this one: "Attitudes and Behavior and Outdoor Recreation in the Wildernism Scale"; and this best-seller: "Critical Incident Methodology Applied to Camper Satisfaction". So that there wouldn't be any confusion about what these things meant, we talked to Dr. David Stuart, one of the principal investigators, and to Elizabeth Hurley, an assistant.

ELIZABETH HURLEY. The monographs are the more technical scientific reports—

ROONEY. Did you edit those?

HURLEY. —and—yes, I did. But they are also designed to be readable by the educated, interested layman. So that we sort of would use me as a measuring point, and if it was too complicated or too much jargon in a particular discipline so that I did not follow it, we would send it back to the author, and say, "Hey, let's rework this. We want this material to be easily understood."

ROONEY. Uh-hmm. What does this mean: "Complex systems possess the attributes of coupled non-linear feedback loops, in which dominance shifts from positive to negative loops"?

HURLEY. I grant you that one is one of the more technical ones, and that does not happen to be my field.

ROONEY. "A multi-dimensional concept of a wildernism-urbanism continuum replaced the comfort continuum concept in defining the functional relationships among the components of the model."

HURLEY. I—

ROONEY. Could you simplify that, Elizabeth?

HURLEY [laughing]. Now, here again you're dealing in a—a very complex area. You will be talking with Dr. Shontz, one of the—

ROONEY. But I understand the English language—

HURLEY. Yes.

ROONEY. —and I don't understand that at all. What's the word "wildernism"?

HURLEY. That is a word that has been coined, and you will be talking with Dr. Shontz, one of the lead scientists on that particular aspect of this project.

ROONEY. But isn't this part of the gobbledygook that—that justifies people asking for more money from Washington, making it sound as though it's something it isn't?

Dr. Stuart, what do you think that means? Or you—that's not your department?

Dr. DAVID STUART. I'm a microbiologist by training, yes. That's systems language. That's pure and simple systems language.

ROONEY. That's different from English?

Dr. STUART. That's right.

HURLEY. Oh, yes—

Dr. STUART. It's—

HURLEY. —absolutely—

ROONEY. But you were supposed to simplify it.

HURLEY. —as opposed to—

ROONEY. Couldn't you say, "Come off it, we're writing this for people to read!"?

Dr. STUART. These technical reports are written basically for other people in the field—

ROONEY. But if you wrote this——

Dr. STUART. —so we have written different ones——

ROONEY. —in common English, a scientist wouldn't understand it?

HURLEY. Perhaps something would be lost. It's simply——

ROONEY. Probably the—probably the government grant.

[Hurley laughs.]

Dr. STUART. And—and in truth, the—there is some jargon in here. You know, there's a lot of jargon in there. But we tried to weed it out.

ROONEY. I did talk to two of the professors who actually wrote several of the studies, Dr. Anne Williams and Dr. William Shontz.

Dr. ANNE WILLIAMS. We use terms in a very precise manner in order to communicate unambiguously with one another. And so sometimes we use words that don't mean sense to the public, but we do that deliberately in order to make sense with one another and to be able to communicate clearly.

ROONEY. You use the word "wildernism."

Dr. WILLIAM SHONTZ. I believe it's a—a shortening of——

ROONEY. Lengthening, isn't it?

Dr. SHONTZ. No, it's a shortening of "wilderness purism," or something like that. What—what they're talking about is——

ROONEY. It's better than just "wilderness"?

Dr. WILLIAMS. "Wilderness" has a different meaning——

Dr. SHONTZ. Yeah.

Dr. WILLIAMS. —than the word "wildernism."

ROONEY. What—what is the difference?

Dr. WILLIAMS. "Wildernism" refers to a subjective state that people experience when they are in the wilderness.

ROONEY. "A multi-dimensional concept of a wildernism-urbanism continuum replaced the comfort continuum concept in defining the functional relationships among the components of the model." Now that has clear meaning to both of you?

Dr. SHONTZ. It does to me, since I was the primary author on the—the article. What I was trying to express there is a—is a very complex concept that they still haven't completely worked out. It's not ready, you know, for publication in *The Reader's Digest*.

ROONEY. Here's something called "The Equation for Computing the Scenic Beauty Index."

Dr. SHONTZ. Uh-huh.

ROONEY. You familiar with that?

Dr. SHONTZ. Yes.

ROONEY. You put in a tree in the computer, and its prettier? Or—I mean that's——

Dr. SHONTZ. No. You put in things—in that particular index—for example, previous research has shown pretty conclusively that people like variety in their—in their scenic settings, that they like water included, that they don't like haze. They like sweeping vistas.

ROONEY. They don't like bugs, I notice in here. They—they have a—a better "recreational satisfaction quotient" if there aren't flies biting—

Dr. SHONTZ. Bugs are a negative factor. [Laughter]

ROONEY. But it's really necessary to say it that way, you think?

Dr. SHONTZ. Well—to be that detailed? Or to—

ROONEY. No, to be this obscure, so that the rest of us can't know what you're talking about.

Dr. WILLIAMS. Our job is to systematically observe and record what's happening—

ROONEY. Now—

Dr. WILLIAMS.—and in the process of doing that to point out where those of us who take a quick glance, such as, perhaps, a person such as yourself, are often incorrect in their assessment.

ROONEY. Well now, I took a quick glance at this chart on page 40, Appendix A, and I—I suspect my assessment of it is probably wrong. But if you showed that—I'm going to do this to some people out around—what do you think their impression of that would be?

Dr. WILLIAMS. It was—it was not designed to communicate with the general public.

[Shows the chart to three citizens of the area . . . laughter]

ROONEY. The average sociologist would understand that perfectly well?

Dr. WILLIAMS. No, the average sociologist would not understand that.

ROONEY. Who would understand it?

Dr. WILLIAMS. This is a systems dynamics model.

ROONEY. Who would understand it?

Dr. WILLIAMS. Industrial engineers would understand it. Many soc—

ROONEY. You mean, if I took that to an industrial engineer, he would say, "Aha, so that's what's happening at Big Sky."

Dr. WILLIAMS. He would—well, of course, you can't read this because it—it's been reproduced in such poor fashion.

ROONEY. Dr. Roy Huffman is vice president of research at Montana State University.

Aren't all of these projects a form of intellectual welfare?

Dr. ROY HUFFMAN. I don't think that's a fair way to describe it, because research is an impo—important part of a university's function.

ROONEY. It seems to me that if most Americans knew that universities were getting this much government money, they would strenuously object to it. And yet, obviously in many cases it's a good thing.

Dr. HUFFMAN. Well, I'm sure that's true. Of course, we can say that, I suppose, about a lot of other areas of government activity.

ROONEY. But I think there's a great feeling in this country that we are a nation that has become so educated that we aren't doing anything more. We're learning more about things than we have time to do anything about.

Dr. HUFFMAN. I think there may be some truth to that.

ROONEY. The Big Sky recreation development area is about 45 miles from Bozeman in the southern part of Montana. Actually, it's just above Yellowstone Park. We drove out there one day and talked to three men who make a living in the area.

MAN ONE. It seems like they do a lot of studies like that, but the only people that find out about them are the ones that are doing them.

MAN TWO. The study possibly did show some things that in the future will be valuable if another resort is ever started, which I question it will be.

ROONEY. They have the feeling that they were able to get into this area before it had been touched, and that they can now, in the future, see what effect this development will have on the area.

MAN TWO. I would think you could go to any ski area that's already in existence and determine the impact pretty fast.

MAN ONE. I know a little bit about hunting and fishing and camping and stuff like that, and for $900 I could tell them the same thing they spent $900,000 to find out.

ROONEY. The government-sponsored study here wasn't very special. Over the years it was nothing but one of thousands. When it comes to the federal government, there are two things that all Americans are agreed on. One, it's spending too much money; and two, it's not spending too much on me. Naturally, the people who made this study don't think the federal government spent too much on it. Was the $900,000 spent here on Big Sky in the Gallatin Canyon wasted? Has this area been torn up and ruined with no regard for the study? Or did the study actually help preserve what was here? And if the study had no effect at all, here or anywhere else, was it still worth it as a training exercise for students? This is where the hard decisions have to be made when people talk about too much government spending.

Well, that's about it for the Big Sky report. It's getting so if you walk up to someone and say you're from 60 Minutes and would like to interview them, they begin to worry a lot. We shot 6,000 feet of film for this report; you just saw about 400 feet of it. It's probably some kind of a television first. The first soft-hitting investigative report ever to appear on 60 Minutes. We didn't uncover a real estate swindle. We didn't find fraud in government. None of the people we met were congenitally defective. What we did see was a little of how $900,000 of our tax money was spent. I hate to think of my tax contribution going into it, but the people who did the Gallatin Canyon study were honest and hard-working. There's a lot of good stuff in here.

Some of our questions were probably unfair, although there was obviously some nonsense in these reports too. A lot of times they camouflaged simple truths with wordy baloney just to make them sound more important than they are.

In Washington we talked to Dr. Larry Tombaugh, who directed the study for the National Science Foundation. He was worried and a little angry about what he thought we were going to do. "After all," he said, "nine hundred thousand dollars would only buy about thirteen minutes of commercial time on 60 Minutes." Well, they don't let us handle the money, Dr. Tombaugh, so I don't know whether that's true or not. And if it is true, I would not pretend to suggest which was the better buy.

ALTERNATIVES TO ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. CORNELL) is recognized for 30 minutes.

● Mr. CORNELL. Mr. Speaker, this House recently concluded lengthy debate on an issue which has been categorized as the most agonizing one facing Congress—Federal funding of abortions for indigent women. We spent over 5 months in conference and on the floor trying to determine under what conditions, if any, Federal dollars should be used to pay for abortions. The House considered 10 different versions of the so-called Hyde amendment before agreeing on final language. The Senate voted 18 times on this matter. In fact, this legislation consumed more time than any other bill debated during our first session.

We can probably expect to consider the issue again this year when the fiscal year 1979 appropriations bill for the Departments of Labor and Health, Education, and Welfare is debated. While I shall continue to support strongly an end to the use of Federal funds for abortions, before we become embroiled again in this heated debate, it is appropriate to examine the proper role of Government in this issue. If our goal is to reduce the incidence of abortion, and I believe that this should be our objective, then we should devote as much time and energy to finding alternatives to abortion as we have to debating the circumstances under which we will permit Federal dollars to be used for abortions.

During fiscal year 1975, the Department of Health, Education, and Welfare spent approximately $100 million on family planning services authorized by title X of the Public Health Service. Title X, as my colleagues know, authorizes project grants and contracts for family planning service providers, for training family planning services personnel, for services delivery improvement research, for biomedical and behavioral sciences research related to population, and for the development and distribution of family planning information. The programs authorized under this title represent the major source of Federal funding for family planning services, although the Social Security Act does provide that AFDC recipients be counseled as to the availability of family planning services. In addition, the Government provides 90 percent matching for State funds used to provide family planning services to those who desire them.

During fiscal year 1975, the Department of Health, Education, and Welfare also spent approximately $50 million or half as much as the amount allocated for family planning, to provide payments for medicaid abortions.

Based on these figures, I can only conclude that our family planning efforts have been insufficient to meet our needs. There must be something wrong in our thrust if half as much as the amount spent for family planning has been spent for abortions.

I believe our goal should be to reduce to zero the amount of Federal funds used for abortions and to use that money to fund a variety of alternatives that will make abortion less attractive as an option. There are several measures now pending before Congress which would help accomplish this objective. None of them has yet received final consideration by both Houses, a situation which certainly does not reflect well on our commitment to finding alternatives to abortion. If we are truly committed to reducing the number of abortions performed in the United States, it is imperative that we enact such legislation.

PREGNANCY DISABILITY

On December 7, 1976, the Supreme Court announced in General Electric Co. against Gilbert that General Electric's exclusion of pregnancy and pregnancy-related disabilities from its disability insurance program did not constitute discrimination based on sex as defined by title VII of the Civil Rights Act. In reaching this holding, the Court not only overturned the unanimous rulings on this issue of six Federal circuit courts, but placed in jeopardy the economic security of workingwomen.

Women compose 47 percent of the current labor force in the United States. Of this number, approximately 70 percent contribute a major share to the support of their families, either because they are the sole wage earner, are single, divorced or widowed, or because their husbands earn less than $7,000 a year. Approximately 85 percent of workingwomen become pregnant at some point during their working lives. In light of the number who must work for economic survival, it is easy to see that the Gilbert decision will have a dramatic effect on a woman's decision to elect an abortion.

When a woman is faced with losing her income for several weeks or months and perhaps with losing her job because of pregnancy, abortion can, unfortunately, become an economic factor. In fact, according to a report prepared by the HEW Task Force Group on Alternatives to Abortion, economic need is one of the major factors involved in the decision to seek an abortion among women 20 to 45 years old. This should not be the case.

One bill, S. 995, has already cleared the Senate and a similar version, H.R. 6075, is now pending before the House which would overturn the Gilbert decision. The legislation deserves the support of every Member of Congress who is concerned not only about preventing discrimination based on sex but also about preventing abortions. Employers who establish disability plans should not be permitted to exclude pregnancy from coverage under their plan. Such an exclusion surely violates the spirit as well as the letter of the law and will force working women to choose between their livelihood and their families.

As was apparent from the debate on the Hyde amendment, many House Members oppose Federal efforts to encourage abortions. This bill will help counter the pressure to terminate a pregnancy and should, therefore, be enacted into law this session.

TEENAGE PREGNANCY

It is a well-established fact that pregnancy among teenagers has reached epidemic proportions. There are approximately 21 million young people between the ages of 15 and 19 in the United States. Each year, more than 1 million of those in this age group, or one-tenth of all women, become pregnant. Pregnancy is not confined only to older adolescents, however; some 30,000 girls under age 15 get pregnant annually.

In 1974, of the pregnancies occurring among the 15- to 19-year-olds, 27 percent were terminated by abortion. Of the pregnancies among the under-15 group, 45 percent were terminated by abortion. In fact, teenage abortions account for one third of all abortions performed in the United States. The figures are staggering.

Teenage pregnancy represents a health problem, an education problem, and an economic problem. Children of young mothers face increased health risks. These babies are more likely to die in their first year; they are more likely to be premature and to have low birth weights. Low birth weight not only causes infant mortality, but can be a contributory cause of other childhood illnesses and birth injuries.

Young mothers also increase their own mortality rate through pregnancy. The death rate from complications of pregancy, birth, and delivery is 60 percent higher for women who become pregnant before they are 15. The rate for 15- to 19-year-olds is 13 percent higher than for mothers in their early 20's.

Pregnancy is a leading factor contributing to the dropout rate for females, and according to various studies, the younger the teenager, the higher the dropout rate because of pregnancy. Lacking basic educational skills, these young mothers must often resort to welfare and unemployment because they are unable to find jobs. Their status as mothers often prevents these young women from seeking full-time employment and their lack of education often prevents those who do work from obtaining meaningful positions.

It is obvious that past Federal efforts have failed to deal adequately with this critical problem. I am heartened, however, that several of my colleagues have recognized the urgency of this issue and have introduced legislation to provide assistance to teenagers faced with the dilemma of pregnancy. For example, Representative NOLAN has a proposal pending in the Subcommittee on Health to provide a coordinated array of medical, social, and counseling services to pregnant teenagers. This bill would authorize funds to assist State agencies in providing such services as health care for

the mother, health care for the infants during preschool years, referral services to other agencies if appropriate, coordinated social services, including educational, vocational, legal, and social counseling, and funds to provide adoption services.

Representatives COHEN, MAZZOLI, and PREYER have sponsored a similar bill, the National School-Age Mother and Child Health Act. This bill would also provide for a wide range of services for the young mother and her child.

It is gratifying to note that the administration has recognized the problem of teenage pregnancy and is apparently developing a program to be submitted to Congress in the near future. According to a summary contained in the HEW budget request, the agency will propose a project grant program to help States and communities integrate existing pregnancy prevention and pregnancy-related programs. Services provided under the program would focus on the prevention of unwanted, initial and repeat pregnancies among adolescents and on assistance to pregnant adolescents as well as to adolescent parents to help prevent welfare dependency. Community programs would apparently include services similar to those proposed in the pending legislation mentioned above: Family planning, education concerning sexuality and the responsibility of parenthood, primary health care, pre- and post-natal health care, vocational and employment counseling, and educational services to help pregnant teenagers remain in school.

The problem of teenage pregnancy must be grappled with at all levels of government—local, State, and Federal. There are certain solutions which only local governments can propose, such as making available improved comprehensive health education. There is, however, a great deal that the Federal Government can do to help reduce the number of teenage pregnancies. The legislation now pending represents a starting point for finding solutions to this serious crisis. I hope the appropriate committees will schedule hearings in the near future.

ADOPTION

One of the problems a pregnant woman faces in determining what will happen to her child is the uncertain future the child faces if the mother elects to give it up for adoption. The situation is particularly acute for black children, those with biracial parents, or those who are handicapped. Not knowing the fate of her child could, of course, contribute to a woman's decision to terminate her pregnancy. To the extent that our adoption laws encourage an uncertain future, they should be changed.

It is, therefore, particularly gratifying that both Houses are close to enacting legislation that will remove the barriers to adoption. H.R. 6693, the Child Abuse Prevention and Treatment Act, contains, in the Senate version, provisions of S. 961, the Opportunities for Adoption Act, sponsored by Senator CRANSTON. This bill will not only facilitate the adoption of children, but it also contains incentives to provide financial aid to a woman who is considering adoption. The bill has many important features. It creates a Committee on Uniform Adoption Regulations in the Department of Health, Education, and Welfare to facilitate interstate placement of children. It provides for grants for adoption assistance and services to States for allocation to approved adoption agencies. The funds can be used for any of the following purposes: First, to assist agencies in finding adoptive homes for special needs children; second, to assist in paying for prenatal, natal, and postpartum services for indigent expectant mothers who plan to place their children for adoption; and third, to assist in the provision of adoption subsidy agreements so that adoptive parents of children with special needs will have the money to care for the child.

The legislation also establishes a National Office of Adoption Information and Services to provide for an adoption information exchange service. Such a service will bring together children who would benefit by adoption and qualified prospective parents.

As a corollary to this proposal, there are several bills pending in the Ways and Means Committee which would help encourage adoption. These proposals offer a tax deduction for expenses incurred by parents who adopt a child. Enactment of this kind of proposal would reduce financial barriers which currently work to prevent adoptions.

It is important that Federal policy be geared to providing assistance to our Nation's most precious resource, our children. By enacting legislation to aid in the process of adoption, we will further sound national policy and provide pregnant women who do not wish to keep their children an alternative to abortion that is certainly more humane and in the best interest of both mother and child.

FAMILY PLANNING

In 1970, apparently recognizing the need for such services, Congress enacted the Family Planning Services and Population Act of 1970, adding a new title X to the Public Health Service Act. The law has been amended and extended several times since then. In addition to providing funds to make comprehensive family planning services available, as described earlier in my remarks, the law also calls for funding for research into all aspects of family planning.

There is no doubt that we need to spend additional dollars on the very important programs authorized under title X. We need to implement family planning programs all across the United States, with particular emphasis on low-income women who want such services but cannot afford them. Important strides toward this goal have been made, but given the number of unwanted pregnancies every year, it is obvious that further Federal efforts are needed.

Moreover, we need additional research on improved methods of birth control which will not be morally offensive to large segments of the population. The most effective contraceptive device, the pill, is also the one about which we know least in terms of its long-range effects and the one that poses the most serious health problems. Surely we have the capability of developing alternatives that are safe, effective and acceptable to a majority of the population.

I am pleased that legislation will apparently be considered in the Health Subcommittees of both Houses to extend family planning programs. I urge Members to give careful consideration to the unmet needs for services and for research when they determine appropriate funding levels for the programs authorized under title X.

Mr. Speaker, it is time for this House to take constructive action to reduce the incidence of abortion in the United States. We should provide a wide range of services to help people realize that there are alternatives to abortion. Although the list of measures I have outlined is by no means complete, it is indicative that we have the appropriate legislative vehicles pending to effect a humane national policy that will promote life. Given the strong feelings in both Houses on this issue, I believe it is time for us to work together to enact legislation to make abortion less attractive as an option for pregnant women. I hope my colleagues will join me in this effort.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

● Mr. SARASIN. Mr. Speaker, on March 20, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 166: H.R. 11274: Middle-income student assistance. The House refused to order a second on a motion to suspend the rules and pass the measure to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students and to amend section 1208 of such act, "no";

Rollcall No. 167: H. Res. 996: Committee on International Relations. The House agreed to the resolution, amended, to provide funds for the expenses of the investigation and study authorized by a resolution adopted on February 3, 1977, by the Committee on International Relations, "yes"; and

Rollcall No. 168: H.R. 7700: Postal Service. The House agreed to the rule (H. Res. 1078) under which the bill was considered, "yes."

Mr. Speaker, on March 21, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 170: H. Res. 1082: Kidnaping of Aldo Moro—The House agreed to the resolution expressing condemnation of the recent terrorist kidnaping of Aldo Moro, "yes";

Rollcall No. 171: H.R. 11518: Debt Limit Extension—The House agreed to the rule (H. Res. 1092) under which the bill was considered, "yes";

Rollcall No. 172: H.R. 11518: Debt Limit Extension—The House passed the measure to extend the existing temporary debt limit, "no";

Rollcall No. 174: H.R. 11315: Campaign Act amendments. The House failed to agree to the resolution (H. Res. 1093) providing for consideration of the meas-

ure, Federal Election Campaign Act Amendments of 1978, "no";

Rollcall No. 175: H.R. 5383: Age discrimination. The House agreed to the conference report on the measure, Age Discrimination in Employment Act Amendments of 1978, "yes"; and

Rollcall No. 176: H.R. 7700: Postal Service. The House agreed to resolve itself into the Committee of the Whole, "yes."

Mr. Speaker, on March 22, 1978, I was absent from the legislative session of the House of Representatives. Had I been present I would have voted in the following fashion:

Rollcall No. 177: H.J. Res. 796: Disaster relief. The House passed the joint resolution making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978, "yes";

Rollcall No. 178; H.R. 9518: Shipping Act amendments. The House agreed to the rule (H. Res. 1074) under which the bill was considered, "yes";

Rollcall No. 179: H.R. 9518: Shipping Act amendments. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 180: H.R. 9518: Shipping Act amendments. The House passed the measure, Shipping Act Amendments of 1978, "yes";

Rollcall No. 181: H.R. 6782: Agriculture. The House agreed to a motion to disagree to the Senate amendments to the measure to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; and ask a conference with the Senate, "yes"; and

Rollcall No. 182: H.R. 6782: Agriculture. The House agreed to table a motion to instruct the House conferees to concur in certain language in the Senate amendments concerning flexible parity, "no."

Mr. Speaker, On April 3, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 184: H.R. 10984: Friendship Hill. The House passed under suspensions, amended, the measure to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania, "yes";

Rollcall No. 185: S. Con. Res. 44: Gen. Thaddeus Kosciuszka. The House passed under suspension the concurrent resolution to provide recognition of the services of Gen. Thaddeus Kosciuszko, "yes";

Rollcall No. 186: H.R. 6900: Oregon Trail. The House passed under suspensions the measure, amended, to amend the National Trails Systems Act of 1968 (82 Stat. 919) to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System, "yes" and

Rollcall No. 187: H.R. 11662: Lowell, Mass., National Culture Park. The House failed to suspend the rules and pass the measure, amended, to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, "yes".

Mr. Speaker, on April 4, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No 189: H.R. 11003: White House authorization. The House agreed to order a second, "no"; and

Rollcall No. 190: H.R. 11003: White House authorization. The House failed to suspend the rules and pass the measure, amended, to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, and to clarify the authority for employment of personnel by the President to meet unanticipated needs, "no".●

DIVESTITURE OF THE OIL COMPANIES: JUST THE FACTS PLEASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 15 minutes.

Mr. BAUMAN. Mr. Speaker, for more than a year now there have been various bills floating around the Congress which would seek to bar the major oil companies from involvement in coal and uranium production. The methods by which this goal would be accomplished vary but all are premised on the theory that bigness per se in the field of energy production is bad and should be prohibited. While I personally feel that the current Federal antitrust statutes, along with vigilance on the part of the Department of Justice, should provide the public with protection against undue concentration of economic power in the energy industry, I, as most Members, have been willing to listen to the divestiture proponents' arguments and examine the facts they have put forth. I must say, however, Mr. Speaker, that what the facts are is now increasingly open to question.

Throughout this discussion regarding divestiture of the oil companies, proponents have contended that those companies, particularly the "majors," have stifled competition and research for competing types of fuel, favoring instead oil and natural gas.

In an effort to discover if these charges were in fact true, members of the other body last year requested the General Accounting Office to report on the subject which GAO did on December 30, 1977. The GAO conclusion was that there is no undue concentration of power in the energy industry as it pertains to oil companies and their coal and uranium holdings.

At the same time the staff of the Federal Trade Commission was also conducting an extensive survey on the same issue. Since the House Committee on the Interior, on which I serve, will shortly be facing a markup session on legislation calling for divestiture. I and other committee members requested that the FTC forward copies of the draft reports for our use and consideration. These reports were requested on January 30, 1978 by Chairman UDALL and provided by the FTC to us on a confidential basis. Frankly, as the ranking minority member on the Energy and Environment Subcommittee, I was pleased to see the bottom line conclusions of the FTC staff in both areas surveyed, coal and uranium. In both cases the reports also supported the view that there is not now any undue concentration of economic power in the hands of the major oil companies so far as their ownership of coal and uranium reserves.

Mr. Speaker, these reports are hardly suspect since they were prepared by the staff of the FTC's Bureau of Competition and Bureau of Economics. While their conclusions have indeed not been adopted by the FTC as its official view on the issue, they were researched and written by staff members fully aware of the internal state of the energy industry and without bias or partiality.

Imagine my surprise in reading the Washington Star, the Wall Street Journal, the Washington Post, the New York Times, and other leading newspapers to find that these FTC reports in fact did not oppose divestiture, but in fact, favored stripping away from the oil companies their holdings of coal and uranium, amounting to billions of dollars of investment. These stories were also carried by wire services including United Press International.

The theme in each of the news reports was that the FTC favored placing limitations on the coal and uranium holdings of the oil industry and would so testify later this month before a committee of the other body. The source of this statement turned out to be Alfred Dougherty, Jr., Director of the FTC's Bureau of Competition, who obviously had not read the FTC staff reports which had been transmitted to the Interior Committee of the House. If he had, he decided to disregard their conclusions entirely, a classic case of the old adage: "Don't confuse me with the facts, my mind is made up."

A Washington Star article on April 5 contained a typical statement after the Dougherty interviews, which apparently he sought out himself:

> A Federal Trade Commission Staff study concludes that Congress should consider forcing some of the Nation's biggest oil companies to dispose of coal and uranium reserves worth millions of dollars.

Both the views attributed to Mr. Dougherty and the press accounts of these studies are totally at variance with the studies themselves. It would appear that this is a deliberate attempt by those in the FTC who favor divestiture to mislead the public and gratuitously support their own cause.

Mr. Speaker, this Nation continues in the throes of an energy crisis which has placed the reliance of the United States and its people on foreign oil exporting nations who have little regard for our welfare. If we are ever to achieve energy independence, or even approach that goal, it must be through the private economic sector and full and free competition in the energy industry. It will also require the investment of billions of dollars by American energy companies willing to take the risks attendant upon such an undertaking. Divestiture could seriously hamper such energy development and deprive the

American people of needed energy resources at a crucial point in our history.

Mr. Speaker, the seriousness of this issue makes it imperative that advocates on both sides of the energy divestiture debate tell the whole truth and avoid the use of false propaganda and self-serving publicity. In an effort to lay the full FTC reports before the Congress and the public I am including at the close of my remarks copies of the full summaries of the reports on both coal and uranium holdings of the oil industry and I will also make public the contents of these reports. I am compelled to do so by the actions of the officials of the FTC who have deliberately attempted to conceal the evidence and distort the truth. This is hardly what should be expected from officials of an independent regulatory agency charged by law with protecting the public interest.

Mr. Speaker, for the sake of contrast, I also include the UPI news story which appeared in the Washington Star on April 5, 1978, which purports to reveal the contents of the two FTC studies:

The summaries and news article follow:

EXHIBIT 1

(Summary of findings from draft study by FTC staff entitled "The Structure of the Nation's Coal Industry, 1964–1974.)

SUMMARY OF FINDINGS

This study of the structure of the United States coal industry involves both conceptual and data problems. The conceptual difficulties (including the impossibility of stating universally applicable market definitions as well as problems relating to the selection of particular markets and universes) may be significant. As a result of these difficulties, some of the concentration ratios presented in this report may over- or understate actual concentration in the coal industry. The data problems (including the impossibility of securing comparable coal reserve data from all surveyed companies) are judged to be relatively minor, and the overall data upon which the various concentration ratios are based are deemed the best available. The report's general findings may be summarized as follows.

In general, the structure of the United States coal industry during the survey period was conducive to competition. Coal production concentration was low to moderate throughout the 1964–1974 period, both nationally and in all regions except the Midwestern Region. On the national level and in the Appalachian and Western Regions, however, production concentration was somewhat greater in 1974 than in 1964. National production concentration rose from 1964 through 1969 (extending a trend that had apparently begun at least as early as 1955). National concentration decreased in 1970 and 1971, increased in 1972, and again decreased in 1973 and 1974. Concentration trends within the various regional markets generally followed the national pattern.

A primary cause of the general decreases in concentration during the 1970–1974 period was the shift from underground to surface mining that resulted in large part from the impacts of the Coal Mine Health and Safety Act of 1969 and the Clean Air Amendments of 1970. The major coal strikes of 1971 and 1974 also contributed to the fall in concentration, as did the rise in oil and natural gas prices that occurred in 1973 and 1974. These higher price levels, in conjunction with transportation innovations and sulfur emission regulations, have resulted in increased shipments of Western coal into the Midwestern Region and may further broaden geographic markets for coal in the future. Such higher prices may also encourage the entry of new firms, although the lead time necessary to bring any significant new coal mine onstream will cause a lag between the time of the decision to enter and actual production.

It is, of course, possible that the production deconcentration that occurred in 1973 and 1974 will be reversed or that federal policy changes or technological developments will result in a resumption of the long-term upward trend in concentration on a national basis and/or in various regional markets. For example, a relaxation of sulfur emission standards or the development of economic stack gas scrubbers could reduce the expansion of markets that has occurred in response to the need for low-sulfur coal.

For the nation as a whole, concentration of coal shipments to electric utilities (the largest coal market) was higher than production concentration throughout the 1964–1974 period, but it still was rather low. Unlike national production concentration, in 1974 both 4- and 8-firm concentration of coal shipments to electric utilities was lower than in 1964. Concentration in the national utilities market followed the same general trend as national production concentration, increasing from 1964 through 1970, decreasing in 1971, increasing in 1972, and again decreasing in 1973 and 1974. The decrease that occurred in these latter two years may have resulted in part from the increasing share of shipments to electric utilities accounted for by smaller (nonsurveyed) coal producers and in part from the significant coal work stoppage which occurred in 1974.

Although 4- and 8-firm concentration of coal shipments to electric utilities was rather low on a national basis during 1964–1974, regional concentration levels and trends varied considerably. For example, between 1964 and 1974 there were increases in concentration in the Middle Atlantic, South Atlantic, East South Central and Mountain Regions, and there were decreases in the West North Central and East North Central Regions.

Concentration of metallurgical coal sales on a national basis (which, as discussed in Chapter 3, appears to be the appropriate geographic market) was moderate throughout the 1964–1974 period. In 1974, the top four sellers of metallurgical coal accounted for 41 percent of total domestic metallurgical coal sales, while the top eight sellers accounted for 54 percent of this market. Metallurgical coal does not face significant competition from alternative fuels, but it is increasingly facing competition from blends of other grades of coal.

Information obtained from the surveyed companies regarding the surveyed companies' ownership of coal "resources" (a broad and somewhat speculative measure of coal deposits) indicated that the nation's coal resources were not concentrated in the hands of the surveyed companies, which held 10.2 percent of the nation's coal resources in 1967 and 13.3 percent in 1974. (The largest percentage of coal resources held by the surveyed firms occurred in the Appalachian Region, where they accounted for 13.4 percent of total coal resources in 1967 and 14.6 percent in 1974.) The percentage of total national coal resources controlled by the eight largest surveyed resource holders increased from 7.7 percent in 1967 to 8.5 percent in 1974, an increase of approximately 10 percent.

Concentration of coal reserves (a less inclusive but more reliable and economically meaningful measure than coal "resources") was low in all regions for total coal and for bituminous, subbituminous, low-sulfur and surface mineable coal.[1] In general the most desirable reserves are the most concentrated, but lignite (low B.t.u.) reserves were moderately concentrated. For each coal type, estimated ranges for the concentration of *uncommitted* coal reserves indicated that it generally did not differ substantially from the concentration of total (committed and uncommitted) reserves.

Primarily because of the acquisition of several large independent coal companies by petroleum companies and metal mining companies, the percentages of coal production, shipments to electric untilities, and coal resources accounted for by the surveyed independent coal companies decreased dramatically over the 1967–1974 period. In 1967 the surveyed independent coal companies held 32 percent of coal production, 38.8 percent of coal shipments to electric utilities, and 2.3 percent of total coal resources. By 1974 the shares held by this group had fallen to 11.5 percent, 12.5 percent, and 0.9 percent in these respective fields. Of the surveyed companies, conglomerate (primarily metal mining) companies in 1974 constituted the largest group of coal producers, and oil/gas companies held the largest share of the nation's coal reserves.

In 1974, the 32 surveyed oil/gas companies (including the leading 20 domestic oil and gas producers) accounted for 16.2 percent of total United States coal production, 18.6 percent of the coal shipments to electric utilities, and 12.8 percent of total coal reserves. (See Appendix 4–B for the oil/gas company group's share of selected reserve universes excluding unleased federal reserves.) In the various regional coal markets, the surveyed oil/gas companies held varying shares, including 19.3 percent of total coal production in the Midwest and West Region; 22.5 percent of the coal shipments to electric utilities in the West North Central area; and 28, 19.7, and 16.8 percent of, respectively, the lignite, surface mineable, and low-sulfur coal reserves in the Western Region in 1974. The oil/gas company group ranked above all of the other surveyed groups in overall reserve ownership and in most subcategories thereof. To the extent that concentration ratios are a reliable indicator of the competitiveness of the coal market—a question that the staff is presently pursuing—the various market percentages held by the oil/gas company group indicate a low probability that oil and gas companies possessed enough power to control coal markets.

As discussed in Chapter 5, small companies may be deterred from entry into that segment of the coal industry requiring the extremely large initial capital investment needed to develop a mine large enough to meet the requirements of huge electric utility and coal liquefaction and gasification plants.[2] Average mine size is increasing, but coal markets appear large enough to absorb numerous large producers, so scale economies per se do not seem to pose a significant competitive problem. Nevertheless, a competitive problem does arise if an insufficient number of companies can muster the funds necessary to enter this capital-intensive market.

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[1] "Concentration" here refers to the percentage of reserves controlled by the largest reserve holders *among the surveyed companies*. It is possible that some of the largest reserve holders were not surveyed, so that the report's concentration ratios may understate true concentration levels. Both the coal resource and coal reserve universes include the substantial coal deposits held by such non-producers as Federal and state governments and Indian tribes. See Chapter 1 for a discussion of the understatement of coal resource and reserve concentration ratios that might result from the inclusion of such coal deposits in the various universes. See also Appendixes 3–C and 4–B for selected concentration ratios calculated using universes that exclude estimated unleased federal reserves.

[2] In addition, equipment shortages, transportation limitations and many environmental and legal uncertainties may continue to impede the growth of, and new entry into, the nation's coal industry.

The petroleum companies possess the

capital necessary to effectively compete in that portion of the coal market which has relatively high entry barriers. It does not appear that the case has been made for the exclusion of oil companies from the coal market on the basis of the industry structure data developed and analyzed in this report. The staff's future report on the conduct and performance of the coal industry may provide further insights into the competitive impact of oil company presence in the coal industry.

EXHIBIT 2

(From the draft FTC study entitled: "Competition in the Nuclear Fuel Industry.")

SUMMARY OF PRINCIPAL CONCLUSIONS

1. Engineering cost estimates developed by ERDA indicate significant scale economies in uranium milling. However, ERDA cost estimates are somewhat misleading in that there are many circumstances under which a larger mill will not yield lower costs or even be practicable. With given demand conditions, mill size is principally determined by the characteristics of discovered deposits. The discovery of large, geographically concentrated deposits might warrant the construction of a large mill and thereby enable the raw ore to be processed at lower costs. Smaller, more geographically dispersed deposits would warrant smaller mills and entail higher processing costs. The average size of existing mills is less than 2,000 tons per day. This is substantially smaller than what ERDA's estimates suggest is least cost size. Since final product transportation costs are low and plant sites are determined by the location of exploitable ore bodies, multiplant scale economies do not appear to be of great importance.

2. If recent demand projections are reasonably accurate, the long run potential for a workably competitive uranium industry appears to be good. If future exploration results in the discovery of deposits warranting the construction of average size plants (2,000 tons per day), somewhere between 39 and 47 individual plants would be required to meet the projected 1990 demand. If future exploration results in the discovery of deposits warranting the construction of plants that are twice as large as the historical average, somewhere between 19 and 24 individual plants would be required to meet the projected 1990 demand. In either case, this should be enough to guarantee reasonably competitive prices as long as diverse ownership patterns continue to prevail.

3. Uranium reserve concentration levels are moderately high, but below concentration levels in production. They also show a decline with increases in cutoff cost. In the long run, the supply of reserves can be expanded through exploration and development of new deposits. Measures of concentration based on land holdings and drilling footage are substantially lower than reserve concentration, and exhibit a decline after 1973. This would suggest a decline in reserve concentration as the market for uranium grows.

4. There do not appear to be any compelling barriers to entry into the uranium mining and milling industry. Any attempts to maintain prices above long run marginal costs of production would attract new entrants. Recent entry into the industry has been significant, with 21 companies entering or announcing entry into uranium production since 1974, and at least 96 companies currently exploring for uranium ore. Such new entry suggests that concentration in uranium production should decline in the future. In the absence of compelling entry barriers and significant multi-plant economies of scale, prospects for diverse ownership and continued deconcentration in the uranium industry appear to be good.

5. The price of uranium has risen substantially over the last three years. This trend reflects a number of different factors including the emergence of OPEC, the Westinghouse fuel contract abrogations, and changes in Government fuel enrichment policies. At the same time, knowledge regarding the shape of the long run uranium supply schedule is limited. The lack of knowledge has been the source of debate with respect to the proper Government role in the development of breeder reactors and plutonium fuel. Our analysis suggests that ERDA's uranium resource estimates may substantially understate actual resource availability. We therefore believe that, from the standpoint of uranium supply, there is no need for an early decision to undertake recycling or reprocessing o rto proceed more rapidly with breeder development. We would recommend that decisions regarding these technologies be deferred until the results of the National Uranium Resource Evaluation are evaluated.

6. The recent upward trend in prices has resulted in much new entry into the uranium business and a significant expansion in drilling efforts. Nevertheless, there is considerable concern over long-term resource availability. The Nuclear Fuel Cycle Task Force has recommended that the Government investigate the possibility of price guarantees to assure future production. It is our view that futures contracts can provide a viable means of overcoming future demand uncertainty, and that market price signals can be relied upon to supply incentives to call forth adequate future production. We therefore do not believe that price guarantees are warranted at this time.

7. The lifting of the U.S. embargo on uranium imports should increase competition from foreign sources of supply. While the international uranium industry may be susceptible to cartelization, the ability of the cartel to exercise market power is difficult to assess given the present uncertainty of foreign uranium resource estimates. The ability of a uranium cartel to exercise the degree of market power currently enjoyed by OPEC would be restricted by competition from U.S. producers and the existence of a U.S. Government uranium stockpile.

8. Our analysis suggests that the domestic uranium industry is workably competitive. Since there do not appear to be any compelling barriers to entry, we do not believe that a small group of uranium producers could persistently maintain price above cost. Such an attempt would presumably prompt new entry. Public policy concern over competition in the uranium industry and in other energy industries has focused principally on oil and gas company involvement. Oil and gas companies control about 52 percent of uranium reserves. However, this accounts for only 2.1 percent of total proven BTUs available for generation of electricity, raising oil and gas company control of such BTUs from 20.7 to 22.8 percent. Our analysis suggests that oil and gas company involvement in the uranium industry has probably been procompetitive. Oil and gas company energy into uranium has been almost entirely through internal expansion. The data indicate that the oil and gas companies have been proceeding with resource development and exploitation at rates comparable to the rest of the industry participants. We therefore do not believe that a ban on oil and gas company involvement in the uranium industry would represent sound public policy. We believe that a better approach would be a rule of reason, setting limits on overall energy resource concentration and on the share of some particular resource that an investor in another resource can hold, if indeed any such limit is needed at all. Such a law ought also to distinguish clearly between investment by merger and investment through internal expansion.

EXHIBIT 3

[From the Washington Star, Apr. 5, 1978]

FTC STAFF URGES LIMITS ON OIL FIRMS' HOLDINGS

A Federal Trade Commission staff study concludes that Congress should consider forcing some of the nation's biggest oil companies to dispose of coal and uranium reserves worth more than $100 billion, it was learned today.

The staff conclusion, which hasn't been endorsed by the commission itself, is based on the theory the energy market soon may be in the hands of a few powerful firms, stifling both competition and the development of alternative energy sources.

The staff will present its thoughts later this month to the Senate antitrust subcommittee headed by Sen. Edward M. Kennedy, D-Mass.

The FTC staff analysis concludes that total divestiture of oil company holdings in coal and uranium is not a viable option. A similar conclusion was reported last week by the Justice Department's anti-trust division, which suggested a percentage limitation instead of divestiture.

Basically, the FTC study will recommend that Congress pass a law limiting the amount of coal and uranium reserves which the larger oil and natural gas companies can own in given geographic market areas.

Oil companies have been buying up coal since the 1960s and today two of the four largest coal producers—Consolidation Coal and Island Creek Coal—are owned by Continental Oil and Occidental Petroleum respectively. As of 1975, 12 oil and gas companies owned more than half of all uranium reserves.

FTC officials said they have concluded there is still a good chance the various fuels can compete against each other, but that competition is endangered by the increasing involvement of oil and gas companies in the market.

This, they said, is because of a threat that oil companies with large fixed investments will have little incentive to push the development of competing fuels.

According to figures made available to United Press International:

If the oil companies were each allowed to own only 3 percent of the total coal reserves in each of three regional markets—Appalachian, Midwestern and Western—four companies, Continental, Exxon, Occidental and Shell, would have to give up more than 10 billion tons of coal worth more than $100 billion.

For the purposes of that estimate, unleased federal coal reserves are not included as part of the total reserves, which amount to about 300 billion tons. This is the limitation the staff report prefers.

If the limit were set at 5 percent, Continental and Exxon would have to sell off 4 billion tons worth more than $40 billion.

When it comes to uranium, a 3 percent limit would force Gulf, Kerr-McGee, Exxon and Getty to get rid of ore equivalent to 200 million pounds of refined uranium worth $8 billion.

A 5 percent limit for uranium holdings would force Gulf, Kerr-McGee and Exxon to divest themselves of 100 million pounds of refined uranium worth more than $5 billion.

The FTC staff has concluded that the limit should be placed on any company holding a production interest in or producing 10 million barrels of crude oil or related products worldwide in 1976.

That would cover 32 oil companies. Companies which produced 50 million cubic feet of natural gas worldwide in 1976 would also be covered—about 12 such producers.

THE DANGEROUS ILLNESS OF THE DOLLAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, for almost a year the dollar has been in a state of precipitate decline. It is a dan-

gerous situation, not just because it feeds inflation here at home, not just because it underlines a general lack of confidence in our Government's economic policies and management, but because the dollar is the key trading currency in the world. A sick dollar can easily translate into a sick world.

A currency has no intrinsic value, which is to say that it has no worth in and of itself. A currency is a symbol of wealth and worth, and like any symbol its value depends on the interpretation of the beholder. Money is worth exactly what a person thinks it is worth, or more accurately what the whole market thinks it is worth. When the market believes money is declining in value, then goods cost more, and that is inflation. And in terms of foreign trade, inflation translates into a depreciated dollar—a dollar buys fewer marks or yen or whatever other currency.

There are other causes, but the main cause of the weakness of the dollar is that the world has little confidence in our economic policy or our economic management.

This is no small matter.

In his last public comment before leaving office, Arthur Burns urged in the most blunt and urgent language that the United States should do something to restore the strength of the dollar.

He is right.

Speculation feeds on itself, and in the present climate it has become almost a necessity to speculate in currency, if you are involved in international transactions of any kind.

In today's climate, to hold dollars is to incur a financial loss, and so those who earn dollars seek to dump them at the first and best opportunity. The downward pressure grows and builds—feeding inflation at home, and fueling still further the loss of confidence in our currency.

This is something that must be stopped.

Last January, the Treasury and the Federal Reserve made the extraordinary announcement that they would intervene in the currency markets to restore order. But the intervention, such as it was, did not stop the decline, which continued steadily. For all its practical effect, the intervention simply eased the way for speculators in the currency markets.

The fact is, market interventions do not reverse basic trends, because interventions do not change the underlying causes of market conditions.

Market interventions, unless they are accompanied by policies that change the cause of the dollar's decline, are doomed to self-defeat.

But at the same time we cannot afford to sit idly by, thinking that the dollar will eventually correct itself. The day has long since passed when anyone could believe that the money markets are self-correcting, except over the long run.

In the long run, we will all be dead. In this imperfect world, the money markets are affected by fear and greed, and by the competitive interests of governments, none of which has the interests of the United States at heart, except hopefully for our own country. If we do not have our best interests at heart, no one will carry them for us.

We have no choice but to act to protect ourselves and our interests. No one is going to act in behalf of the United States, except the United States.

It is very likely that the Germans and the Japanese, who have been buying up dollars to attenuate the fall—and thus maintain something of their competitive edge—are feeding their own inflation through this action.

Let me explain.

When the German Government buys up dollars, it must create marks in order to do this. This adds to the overall money supply, and eventually is translated into inflation in the Germany economy. Indeed, during the past several months, the German and Japanese money supply has increased by leaps and bounds. Sometime in the future the world will catch onto this, and the German and Japanese people will be caught up in an inflation of their own. The mark will cool, and so will the yen, in relation to the dollar, but the question is whether we will in the meanwhile gain control of our own situation.

That is the policy question.

Will we generate confidence in our policies and practices, or will we have a Treasury Secretary continuing to gamble with statements that actually salute the decline of the dollar, as happened a year ago?

The other question is one of time.

Will we act now, or will we wait for disaster? For it will gain us nothing if lack of confidence turns to disaster.

The President is criticized by his own Council on Wage and Stability, a horrible sign, even coming from as incompetent an agency as that.

The President is criticized by the Federal Reserve, which is infinitely worse.

And the world loses confidence.

Little wonder. The candidate who promised a balanced budget, confronted by realities and political considerations, no longer speaks of it, nor even of when the Federal deficit might be expected to start going down.

I know of no country in recent experience that has had an easy time of combating inflation. Yet those who have done so have seen their currencies recover and their confidence restored.

Our situation would be helped a great deal if the President were to make a firm stand on what his policy is going to be, and then stick to it. If people could believe that our policy, whatever it is, will be consistently and faithfully applied, there would be confidence.

Just that one thing alone would help restore the value of the dollar.

If, beyond that, our inflation is stabilized, we will be that much better off. And if our rate of inflation could be brought to a relatively lower rate than those of Germany and Japan—the problem will be over.

There is no time to waste.

We are caught up in a situation that is not only self-destructive, but self-sustaining if we leave it undisturbed. We cannot wait any longer to act, not when the dollar can drop by large amounts on the strength of a single erroneous report from an Assistant Secretary of Commerce, who happened to be misquoted, as happened yesterday. When the speculators are that nervous, something is seriously amiss.

There is a difference between a decline and a landslide. But in the financial markets, declines do become landslides unless something happens to change the market's perception of what is safe and what is not.

Today, the dollar appears less and less safe, and money being what it is, the appearance becomes a self-fulfilling prophecy. Those who buy and sell money do so for their own reason, but those reasons are primarily to make money or avoid losing it. It matters not to them what happens to the dollar, as long as they profit by whatever move is made. It is up to the United States to care about its currency. The time to care is now, and the time to act is now.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I missed rollcall No. 199 on Thursday afternoon, as I had to leave Washington to attend to official business in the 16th Congressional District of Texas. Had I been present for the vote on passage of the International Banking Act of 1978, I would have voted "yes." ●

HEARINGS ON U.S. REFUGEE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

● Mr. EILBERG. Mr. Speaker, this is to announce that the Subcommitee on Immigration, Citizenship, and International Law of the House Judiciary Committee will hold 1 day of public hearings on Wednesday, April 12, to receive the updated position of the Carter administration on legislation (H.R. 7175) which I have sponsored to establish a definitive U.S. policy on the admission of refugees.

These hearings have been scheduled on several occasions but were postponed each time at the request of the White House. In each instance it was indicated that administration officials would require additional time to formulate a long-term refuge policy. I am now advised that the administration has finally adopted a position, which will include detailed testimony on the aforementioned proposal, as well as interim parole programs to accommodate the various refugee problems around the world pending the enactment of refugee legislation.

This long-awaited hearing will be held in room 2141 and commence at 9:30 a.m. At that time testimony will be received from Patricia M. Derian, Assistant Secretary of State for Human Rights and Humanitarian Affairs, Department of

State, and Leonel J. Castillo, Commissioner, Immigration and Naturalization Service, Department of Justice.●

PROTECTING THE VICTIMS OF PROPERTY INSURANCE REDLINING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 30 minutes.

● Ms. HOLTZMAN. Mr. Speaker, today I am introducing two bills to help combat the effects of property insurance redlining. The first bill would require that State insurance pools—called FAIR plans—which provide insurance to victims of redlining must provide full homeowners coverage in addition to basic fire insurance. The second bill provides that at least one-third of the voting members of FAIR plan governing boards must be from the public—and unrelated to the insurance industry.

I am hopeful that passage of these two bills, in addition to legislation (H.R. 6749) I introduced in the last session which requires that FAIR plan rates be no higher than those in the private market, will help stop the widespread building abandonment and neighborhood deterioration which are plaguing our urban areas.

Insurance companies, like banks, practice "redlining"; they refuse to write insurance on properties in particular areas that they consider to be "high risk," even if the properties themselves are in good condition. Such determinations about risk are often arbitrary; they may be based on the racial composition of the neighborhood, the deterioration of some buildings, the economic class of residents, or mere location in the inner city. Redlining may occur in rural areas as well, because many times insurance companies will simply refuse to write insurance on homes with low market values. Property owners, thus denied, are forced to go to State FAIR plans for insurance.

FAIR plans are like assigned risk plans for auto insurance; they provide insurance to property owners who are denied insurance in the private market. These FAIR plans are insurance pools to which insurance companies contribute according to the share of property insurance they write in the State. Under a FAIR plan, property owners have a right to have their properties inspected and to obtain insurance if their property meets normal safety standards for insurability.

Unfortunately, FAIR plan coverages are almost universally more limited than those offered in the voluntary market. As a rule, the broadest plan coverage provides insurance for losses caused by fire, vandalism, and malicious mischief, and hazards listed under so-called "extended coverage"—windstorm, hail, explosion, riot and civil commotion, falling aircraft, damage by vehicle and smoke. However, traditionally the FAIR plan does not offer liability insurance or theft coverage, both of which are obviously critical to homeowners, landlords, and business people. Only Massachusetts and Rhode Island currently provide for such coverage in their FAIR plans.

Passage of the legislation I am introducing today which requires that all FAIR plans offer a complete homeowner's package—including liability and theft protection—will go far toward changing the second-class protection currently available to those who are redlined and forced into the plans. It also should help to save money for consumers in the plan, since they will be able to purchase full coverage in package form. Presently, those who are redlined must buy fire insurance separately through the FAIR plan, and then look elsewhere for crime and liability policies. They thereby lose the substantial discount—which can be as high as 20 to 40 percent—available when these coverages are purchased together in package form. In short, plan participants now pay far more for inferior coverage.

State FAIR plans also rarely have public representatives on their governing boards. At present only four states have any public members on their boards, and in only three of those do they have a vote. In the three states where the public does have a voice, it is strictly limited—in one state the public has 1 out of 15 votes, in a second state, 2 out of 9 and in the third 2 out of 7. On the other hand, the insurance industry is heavily represented, in most cases comprising the entire governing structure.

The second bill I am introducing today would require that one-third of the voting members of FAIR plan governing boards be from the public, and totally unrelated to the insurance industry. I believe such a requirement will help assure protection of consumers in the plan and the neighborhoods served by it. Given the critical impact of board decisions on the future of many neighborhoods, it is unconscionable not to allow citizens to have a voice in policies which affect them so directly. We cannot allow the current governing structure—often operating as little more than an industry clique—to continue. Public accountability is essential.

Mr. Speaker, the legislation I am introducing today will do much to remedy the abuses suffered by the victims of insurance company redlining. Together with H.R. 6749, my bill to limit exorbitant FAIR plan rates, these two bills would allow those unfortunate enough to be redlined to purchase full insurance coverage at reasonable rates and would assure that FAIR plan decisions affecting communities are made with sufficient input from the members of the public affected.

I urge their prompt passage.

The text follows:

H.R. —

A bill to amend title XII of the National Housing Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1211 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry."

H.R. —

A bill to amend title XII of the National Housing Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1203(a)(5) of the National Housing Act is amended to read as follows:

"(5) 'essential property insurance' means insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsement thereon, as approved by the State insurance authority, and insurance for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, or theft, as the Secretary shall designate, by rule. Such insurance shall include forms of insurance which are determined by the Secretary, by rule, to be property insurance primarily (notwithstanding that they contain an element of liability or other casualty insurance), such as, but not limited to, homeowners insurance. Such insurance shall not include automobile insurance and shall not include insurance on such types of manufacturing risks as may be excluded by the State insurance authority;".●

HEARING ON TITLE II OF THE SPEEDY TRIAL ACT OF 1974 BY THE SUBCOMMITTEE ON CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, has scheduled a hearing for April 13, 1978, at 1:30 p.m., in room 2226, Rayburn House Office Building, on title II of the Speedy Trial Act of 1974. This title established demonstration pretrial agencies in 10 U.S. district courts.

The principal witness for the April 13 hearing will be Mr. Guy Willets of the Administrative Office of the U.S. Courts, Director of the demonstration program, who will give a progress report on the program, including a report on the appropriations needed in order to complete the 4-year demonstration period scheduled to end September 30, 1979.●

ACTS ADOPTED BY COUNCIL OF THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

Mr. DIGGS. Mr. Speaker, the Council of the District of Columbia has adopted a number of acts since last I reported to the House.

The House Committee on the District of Columbia has in its files Council Committee reports and copies of the Council's acts, if Members desire further information.

The material follows:

ACTS ADOPTED BY COUNCIL OF THE DISTRICT OF COLUMBIA AND TRANSMITTED TO THE SPEAKER

D.C. Act 2-42—Employees' Garnishment Act of 1977—To provide for garnishment against the D.C. government for enforcement of a judgment, order, or decree to enforce child support and alimony obligations from

employee wages, salaries, annuities, retirements and disability benefits. Adopted by the Council on May 3, 1977. Signed by the Mayor on May 23, 1977. Transmitted to the Speaker June 6, 1977. (D.C. Law 2–14, July 27, 1977)

D.C. Act 2–46—Initiative, Referendum and Recall Charter Amendments Act of 1977—To amend the Charter of the District of Columbia to provide for the power of initiative, referendum, to propose and suspend laws, and for the recall of elected public officials (except the Delegate to Congress). Adopted by the Council on May 17, 1977. Signed by the Mayor on June 14, 1977. Ratified by electors in referendum on Nov. 8, 1977, by vote of 27,094 for and 5,627 against. Transmitted to the Speaker December 2, 1977. Approval resolutions passed House on Feb. 28, 1978; passed Senate on March 10, 1978. (D.C. Law 2–46)

D.C. Act 2–61—Variable Licensing Periods Act of 1977—To amend (1) the D.C. Alcoholic Beverage Control Act (approved Jan. 24, 1934, 48 Stat. 327; D.C. Code, Title 25, Sec. 114); and (2) the Appropriations Act of July 1, 1902 (32 Stat. 623; D.C. Code, Title 47, Sec. 2305) to authorize variable periods for the issuance and expiration of licenses, registrations and permits. Adopted by the Council on July 12, 1977. Signed by the Mayor on August 1, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–27, Oct. 26, 1977)

D.C. Act 2–62—Rent Administrator Delegation Act of 1977—To amend the Rental Accommodations Act of 1975 to enable the Rent Administration to employ necessary personnel and to delegate to them authority to issue decisions and final orders to meet the requirements of the D.C. Administrative Procedures Act (Sec. 1509(d)). (See Meier v. D.C. Rental Accommodations Commission, et al (D.C. CA No. 10857, April 19, 1977)). Adopted by the Council on July 12, 1977. Signed by the Mayor on August 1, 1977. Transmitted to the Speaker on Sept. 12, 1977. (D.C. Law 2–34, Oct. 27, 1977)

D.C. Act 2–63—Public Property Lead Elimination Act of 1977—To provide for the elimination of lead in paint, plaster, or structures of public property frequented by children. Adopted by the Council on July 12, 1977. Signed by the Mayor on August 1, 1977. (D.C. Law 2–28, Oct. 26, 1977)

D.C. Act 2–64—Security Officer Licensing Facilitation Act of 1977—To amend the regulations (enacted Dec. 1, 1974, Reg. No. 74–31) to provide standards for definitions by the Board of Appeals and Review to provide an expedited procedure re certification as security officers of persons with prior criminal convictions. Adopted by the Council on July 12, 1977. Returned by the Mayor without action on August 1, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–29, Oct. 26, 1977)

D.C. Act 2–67—Advisory Neighborhood Commissions Additional Notice Act of 1977—To amend the Advisory Neighborhood Councils Act of 1977 (Law 1–21) to provide for additional notice requirements to Advisory Neighborhood Commissions from certain governmental agencies (viz, ABC Board) re applications for licenses and for permits for construction and demolition. Adopted by the Council on July 12, 1977. Signed by the Mayor on Aug. 5, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–30, Oct. 26, 1977)

D.C. Act 2–68—Community Residence Facilities Licensure Act of 1977—To amend the D.C. Health Care Facilities Regulations (Reg. No. 74–15 of June 14, 1974) to provide for licensing community residence facilities, including halfway houses, and to set standards for their operation. Adopted by the Council on June 14, 1977. Signed by the Mayor on August 5, 1977. Transmitted to the Speaker on Sept. 12, 1977. (D.C. Law 2–35, Oct. 27, 1977)

D.C. Act 2–71—Robert F. Kennedy Memorial Stadium and D.C. National Guard Armory Public Safety Act—To provide for increased public safety, prevent potential injuries and possible disturbances at the Stadium and the Armory, by (1) preventing entry therein of objects susceptible of being used as dangerous missiles, and (2) prohibiting unauthorized persons from entering the playing field. Adopted by the Council on July 26, 1977. Signed by the Mayor on August 11, 1977. Transmitted to the Speaker on Sept. 15, 1977. (D.C. Law 2–37, Nov. 3, 1977)

D.C. Act 2–77—Bilingual Translation Services Act of 1977—To provide Spanish language versions of certain forms, brochures, and other materials, published by the D.C. Government re services relating to health, safety, and welfare. Adopted by the Council on July 26, 1977. Signed by the Mayor on August 16, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–31, Oct 26, 1977)

D.C. Act 2–78—Depository Act of 1977—To select private financial institutions as depositories for District funds; to maximize earnings on public funds; and to stimulate the economy of the District. Adopted by the Council on July 26, 1977. Signed by the Mayor on August 17, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–32, Oct. 26, 1977)

D.C. Act 2–79—Hearing Aid Dealers and Consumers Act of 1977—To establish standards and procedures to protect users of hearing aids in the District and require prior medical examination and a hearing test evaluation. Adopted by the Council on July 26, 1977. Signed by the Mayor on August 17, 1977. Transmitted to the Speaker on Sept. 7, 1977. (D.C. Law 2–33, Oct. 26, 1977)

D.C. Act 2–83—Human Rights Act of 1977—To enact present Title 34 of Rules and Regulations 73–22 (the Human Rights Law), which was adopted prior to Home Rule pursuant to D.C. Code authorization (Title 1, Sec. 226 and 224a). Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Sept. 28, 1977. Transmitted to the Speaker on Oct. 6, 1977. (D.C. Law 2–38, Dec.13, 1977)

D.C. Act 2–87—Chest X-Rays—To amend Para. 1, Subsection (d) of Title 8 of the D.C. Health Regulations to eliminate the chest X-ray requirement for hospital employees providing direct patient care in order to test for tuberculosis. Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Oct. 12, 1977. Transmitted to the Speaker on Oct. 25, 1977. (D.C. Law 2–39, Feb. 2, 1978)

D.C. Act 2–92—Transit Fare Payment Act of 1977—To amend the 1975 act regulating conduct on public passenger vehicles (D.C. Law 1–18; D.C. Code, Tit. 44, Sec. 216) to prohibit fare evasion, smoking, eating, drinking, etc. on Metrobuses and Metrorail transit cars. Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Oct. 25, 1977. Transmitted to the Speaker on Nov. 2, 1977. (D.C. Law 2–40, Feb. 22, 1978)

D.C. Act 2–96—Residential Property Act Relief Act of 1977—To establish property tax exemption for single family residential and cooperatively-owned property, and additional circuit breaker relief to homeowners and renters over 62, aged, blind, or disabled. Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Nov. 2, 1977. Transmitted to the Speaker on Nov. 11, 1977. (D.C. Law 2–45, March 1, 1978)

D.C. Act 2–97—Historic Motor Vehicles Act of 1977—To amend Title IV of the D.C. Revenue Act of 1973 (50 Stat. 679; D.C. Code, Tit 40, Sec. 101) to change the requirements for motor vehicles to qualify as historic vehicles, provide for registration of same 25 years or older, etc. Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Nov. 2, 1977. Transmitted to the Speaker on Nov. 8, 1977. (D.C. Law 2–41, Feb. 25, 1978)

D.C. Act 2–98—Real and Personal Property Tax Rate Act for 1978—To establish tax rates (per $100 assessed value) for real property at $1.83, and for personal property at $2.82, for 1978 tax year. Adopted by the Council on Oct. 11, 1977. Signed by the Mayor on Nov. 2, 1977. Transmitted to the Speaker on Nov. 11, 1977. (D.C. Law 2–44, March 1, 1978)

D.C. Act 2–99—Closing Public Alley—To order the closing of the public alley abutting on Lots 63, 64, and 65 in Square 1192, bounded by 29th, K, 30th, and M Streets, pursuant to Section 1608(c) of the Act of Nov. 3, 1901 (31 Stat. 1429; D.C. Code, Tit. 7, Sec. 304); Section 402 of the Reorganization Plan No. 3 of 1967 (81 Stat. 948; D.C. Code, Tit. 1, Appendix); and Section 404(a) of the D.C. Self-Government and Governmental Reorganization Act of 1923 (87 Stat. 787). Adopted by the Council on Oct. 11, 1977. Signed by the Mayor on Nov. 8, 1977. Transmitted to the Speaker on Nov. 8, 1977. (D.C. Law 2–42, Feb. 25, 1978)

D.C. Act 2–100—Certificate of Need Act of 1977—To establish a D.C. certificate of need program for health care and facilities, pursuant to the National Health Planning Resources Development Act of 1974 (P.L. 93–641, approved Jan. 4, 1975). Adopted by the Council on Sept. 13, 1977, Signed by the Mayor on Nov. 4, 1977. Transmitted to the Speaker Nov. 9, 1977. (D.C. Law 2–43, Feb. 28, 1978)

D.C. Act 2–101—Closing of Public Alley—To order the closing of an east-west public alley from 50th Street Northeast to the rear property lines of Lots 42 and 53 in Square 5202, 50th and Meade Streets, Northeast (Plat File S.O. 72–244), as per Sec. 4, Street Readjustment Act of Dec. 15, 1942 (47 Stat. 749; D.C. Code, Tit. 7, Sec. 404); et al; to enable the unimproved land to revert to the owners of Lots 42 and 53 in Square 5202. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Nov. 21, 1977. Transmitted to the Speaker Dec. 3, 1977. (D.C. Law 2–48, March 9, 1978)

D.C. Act 2–102—Closing of Public Alley—To order the closing of an east-west public alley abutting on Lot 110, Lot 111, and two north-south public alleys in Square 754, bounded by 2nd, E, 3rd, and F Streets, N.W. (Plat File S.O. 75–289), as per Sec. 4, Street Readjustment Act of Dec. 15, 1942 (47 Stat. 749; D.C. Code, Tit. 7, Sec. 404); et al; to facilitate trash removal, and to control trash accumulation and unauthorized parking. Adopted by the Council of Oct. 25, 1977. Signed by the Mayor on Nov. 21, 1977. Transmitted to the Speaker on Dec. 3, 1977. (D.C. Law 2–48, March 9, 1978)

D.C. Act 2–103—Closing of Public Alley—To order the closing of a north-south alley between the East Washington Railroad right-of-way, and an east-west public alley in Square 5217, bounded by 55th Street, Nannie Helen Burroughs Avenue, 56th, and Foote Streets, N.E. (Plat File S.O. 75–155) as per Sec. 4, Street Readjustment Act of Dec. 15, 1942 (47 Stat. 749, D.C. Code, Tit. 7, Sec. 404); et al; so the land may revert to the Righteous Church of God and Truth Association, owner of abutting property. Adopted by the Council of Oct. 25, 1977. Signed by the Mayor on Nov. 21, 1977. Transmitted to the Speaker on Dec. 1, 1977. (D.C. Law 2–47, March 9, 1978)

D.C. Act 2–106—Board of Elections and Ethics Additional Compensation Act of 1977—To amend Subsection (c) of Sec. 4 of the Act of Aug. 12, 1955 (69 Stat. 699, D.C. Code, Tit. 1, Sec. 1104(c)) regulating national political conventions, to provide additional compensation for the Chairman, Board of Elections and Ethics ($100 per day worked, not to exceed $26,500 per annum). Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Nov. 28, 1977. Transmitted to the Speaker on Dec. 7, 1977. (D.C. Law 2–50, March 10, 1978)

D.C. Act 2–110—Closing Public Alley—To order the closing of the north-south public

alley in Square 2558, bounded by Champlain Street, 18th Street, California Street, Kalorama Road, and Florida Avenue, northwest (Plat File S.O. 74–19), as per Sec. 4, Street Readjustment Act of Dec. 15, 1942 (47 Stat. 749; D.C. Code, Tit. 7, Sec. 404); et al, so as to permit the safe usage of the Morgan-Happy Hollow Playground. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Dec. 2, 1977. Transmitted to the Speaker on Dec. 7, 1977. (D.C. Law 2–51, March 10, 1978)

D.C. Act 2–113—Interest Rate Increase on Special Assessments Act of 1977—To amend the Act of June 25, 1938 (52 Stat. 1200; D.C. Code, Tit. 47, Sec. 1105) to increase the rate of interest on assessments against property owners for the correction or removal of nuisances requiring repairs of Housing Code violations (such as plumbing and heating emergencies; lead paint hazards; sewer obstructions; insanitary conditions; and barricading vacant buildings). Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Dec. 7, 1977. Transmitted to the Speaker on Dec 16, 1977. (D.C. Law 2–52, March 16, 1978)

D.C. Act 2–117—Noise Control Act of 1977—to reduce and regulate noise levels in the District of Columbia. Adopted by the Council on Sept. 13, 1977. Signed by the Mayor on Dec. 9, 1977. Transmitted to the Speaker on Dec. 27, 1977. (D.C. Law 2–53, March 16, 1978)

D.C. Act 2–118—Rental Housing Act of 1977—To provide relocation assistance, stabilize residential rents, and provide eviction controls. Adopted by the Council on Nov. 29, 1977. Returned by Mayor without his approval on Dec. 15, 1977. Transmitted to the Speaker on Dec. 27, 1977. (D.C. Law 2–54, March 16, 1978)

D.C. Act 2–120—Closing Public Alley—To order the closing of the public alley abutting on Lots 15–20, inclusive, and 802 in Square 419, bounded by 7th, 8th and S Streets, N.W. (Plat File S.O. 73–59), pursuant to Section 1608(c) of the Act of Mar. 3, 1901 (31 Stat. 1429; D.C. Code, Tit. 7, Sec. 304), et al, so as to close this alley, less than ten feet wide, in order to carry out urban renewal objective of Shaw School Urban Renewal Plan, as per written request of abutting property owner, the Department of Housing and Community Development. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Dec. 15, 1977. Transmitted to the Speaker on Dec. 27, 1977. (D.C. Law 2–56, March 16, 1978)

D.C. Act 2–121—Amendments to Revenue Act and to the Motorized Bicycle Act—To correct technical errors in the Motorized Bicycle Act (D.C. Law 1–110) and the Revenue Act for fiscal year 1978 (D.C. Law 1124). Adopted by the Council on Nov. 22, 1977. Signed by the Mayor on Dec. 15, 1977. Transmitted to the Speaker on Dec. 27, 1977. (D.C. Law 2–55, March 16, 1978)

D.C. Act 2–122—Fee Increases for Tax Certificate and for Duplicating Copies of Tax Returns—To increase (1) the fees (from $1 to $6) for certificate of real estate taxes and assessments (Sales Tax Act, 20 Stat. 283: D.C. Code, Tit. 47, Sec. 306), and (2) the fees (from $2 to $3.50) for furnishing taxpayers duplicate copies of tax returns (D.C. Income and Franchise Tax Act of 1947; 61 Stat. 342; D.C. Code, Tit. 47, Sec. 1564(a)). Adopted by the Council on Nov. 22, 1977. Signed by the Mayor on Dec. 15, 1977. Transmitted to the Speaker Dec. 27, 1977. (D.C. Law 2–57, March 16, 1978)

D.C. Act 2–17—Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977—To impose a tax on hotel occupancy (80 cents each) and retain 10% corporate and unincorporated business surtax on top of 9% net income tax, by amending the D.C. Income and Franchise Tax Act of July 16, 1977 (61 Stat. 346; D.C. Code, Tit. 47, Sec. 1574b, et al). Adopted by Council on Oct. 11, 1977. Signed by the Mayor on Dec. 30, 1977. Transmitted to the Speaker on Jan. 12, 1978. (D.C. Law 2–58, March 16, 1978)

D.C. Act 2–128—Disabled Veterans Exemption Act of 1977—To amend Section 3 of the act of Aug. 17, 1937 (50 Stat. 681; D.C. Code, Tit. 40, Sec. 103) to exempt totally and permanently disabled veterans in the District from registration fees for their personal non-commercial motor vehicles. Adopted by the Council on Dec. 7, 1977. Signed by the Mayor on Dec. 8, 1977. Transmitted to the Speaker on Jan. 18, 1978 (D.C. Law 2–60, March 16, 1978)

D.C. Act 2–129—Firearms Control Regulations Technical Amendments—To amend the Firearms Control Regulations Act of 1977 (D.C. Law 1–85) to conform the definition of "sawed-off shotgun" (to that in D.C. Code, Tit. 22, Sec. 3201); to allow registration of newly acquired pistols acquired by an organization for special police officers; and remove firearm test requirements for persons re-registering firearms. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Jan. 3, 1978. Transmitted to the Speaker on Jan. 18, 1978. (D.C. Law 2–62, March 16, 1978)

D.C. Act 2–130—Public Accounting Act of 1977—To update the CPA Licensure Act of 1966 (80 Stat. 783; D.C. Code, Tit. 2, Sec. 901 et seq.), to regulate the practice of public accounting; to authorize creating a Board of Accountancy and prescribing its powers and duties. Adopted by Council on Nov. 8, 1977. Signed by Mayor on Jan. 9, 1978. Transmitted to the Speaker on Jan. 18, 1978. (D.C. Law 2–59, March 16, 1978)

D.C. Act 2–131—Age of Minority Act Amendment—To amend the Age of Minority Act (D.C. Law 1–75) to include incorporators under the D.C. Corporation Act (68 Stat. 198; D.C. Code, Tit. 29, Sec. 921), and persons capable of maintaining a cause of action. Adopted by the Council on Oct. 11, 1977. Signed by Mayor on Jan. 11, 1978. Transmitted to the Speaker on Jan. 18, 1978. (D.C. Law 2–61, March 16, 1978)

D.C. Act 2–132—Conveyance to Pennsylvania Avenue Corporation—To provide for conveyance of D.C. Property, Square 491, bounded by Pennsylvania Avenue, 6th Street, C Street, and John Marshall Place, N.W. (recorded in Land Records Book 11589, p. 135), to the Pennsylvania Avenue Corporation, to assist in the revitalization of the District's downtown area. Adopted by the Council on Jan. 10, 1978. Signed by the Mayor on Jan. 13, 1978. Transmitted to the Speaker on Jan. 23, 1978. (D.C. Law 2–63, March 17, 1978)

D.C. Act 2–133—Hazardous Waste Management Act of 1977—To establish a D.C. program (pursuant to the Resource Conservation and Recovery Act of 1976 (P.L. 94–580)) to regulate the storage, transportation and disposal of hazardous wastes that could endanger health and safety of the residents. Adopted by Council on Dec. 6, 1977. Signed by Mayor on Jan. 20, 1978. Transmitted to the Speaker on Jan. 26, 1978. (D.C. Law 2–64, Apr. 4, 1978)

D.C. Act 2–134—Street and Alley Closing Act of 1977—To protect certain property rights and interests as a result of closing of streets, roads, highways, and alleys, pursuant to resolutions adopted by the Council in 1975 and 1976. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Jan. 27, 1978. Transmitted to the Speaker on Feb. 1, 1978.

D.C. Act 2–135—Solid Waste Control Act of 1977—To amend Solid Waste Regulations enacted June 29, 1971 (Reg. No. 71–21) to improve solid waste and litter collection and disposal and cleanliness of the city, and protect the health and safety of the citizens. Adopted by Council on Oct. 25, 1977. Signed by Mayor on Jan. 27, 1978. Transmitted to the Speaker on Feb. 1, 1978.

D.C. Act 2–136—Water Quality Standard Approval Act of 1977—To amend Part 8, Chapter 2, of Tit. 8, D.C. Health Regulations, to require Council approval of all revisions of the District's water quality standards prior to their submission by the Mayor to the U.S. Environmental Protection Agency. Adopted by Council on Oct. 25, 1977. Signed by Mayor on Jan. 27, 1978. Transmitted to the Speaker on Feb. 1, 1978.

D.C. Act 2–137—Occupational Therapy Practice Act of 1977—to establish certain requirements for the licensure of occupational therapists and assistants and establish the Board of Occupational Therapy Practice. Adopted by Council on Oct. 11, 1977, and neither approved nor disapproved by the Mayor. Transmitted to the Speaker Feb. 1, 1978.

D.C. Act 2–138—Ambulatory Surgical Treatment Center Licensure Act—To require licensure of all facilities where surgery is performed on an outpatient basis, unless the facility is part of a hospital. Adopted by Council on Oct. 11, 1977. Signed by Mayor on Jan. 27, 1978. Transmitted to the Speaker on Feb. 1, 1978.

D.C. Act 2–142—Metropolitan Police Officer Civil Rights Act—To amend the Manual of the Metropolitan Police Department (effective Jan. 14, 1972) as to (1) overweight; (2) ban on political activities; (3) right to testify; and (4) outside employment. Adopted by the Council on Oct. 25, 1977. Signed by the Mayor on Feb. 1, 1978. Transmitted to the Speaker on Feb. 14, 1978.

D.C. Act 2–145—Pesticide Operations Act of 1977—To establish a program to provide for the labeling, distribution, disposal, storage, transportation, use and application of pesticides in the District, in accordance with the Federal Insecticide, Fungicide and Rodenticide Act, as amended on Oct. 21, 1972, by P.L. 92–516. Adopted by the Council on Nov. 22, 1977. Signed by the Mayor on Feb. 3, 1978. Transmitted to the Speaker on Feb. 14, 1978.

D.C. Act 2–148—Licensing Periods Act of 1977—To amend D.C. Statutes (Act of July 14, 1956, 70 Stat. 534, D.C. Code, Tit. 1, Sec. 257; and the Act of Oct. 26, 1977 (D.C. Act 2–61, Law 2–27)) to authorize the Mayor to vary licensure periods for different professions and occupations, viz., business licenses and bonding; healing arts practices; dentistry; nursing; therapists and psychologists; optometry; podiatry; veterinarians; accountants; architects; barbers; boxing; cosmetology; plumbers; steam and other engineers; professional engineers; real estate and business bankers; and general businesses and professions. Adopted by the Council on Jan. 24, 1978. Returned by the Mayor without approval on Feb. 9, 1978. Transmitted to the Speaker Feb. 15, 1978.

D.C. Act 2–149—Revenue Act for Fiscal 1978, 3rd Amendment—To amend the Revenue Act for Fiscal Year 1978, effective April 19, 1977 (D.C. Act 1–226, Law 1–124), to change the effective date for payment of real property taxes of $100,000 or more from June 30, 1978, to June 30, 1979; to amend the ABC Act of 1934 (D.C. Code, Tit. 25, Sec. 101) to permit the sale of alcoholic beverages in legitimate theatres; and to reduce the excise tax rate on distilled spirits from $2 to $1.50 per gallon. Adapoted by the Council on June 10, 1978. Signed by the Mayor on Feb. 9, 1978. Transmitted to the Speaker Feb. 15, 1978.

D.C. Act 2–152—Energy Resources Shortages Act of 1977—To authorize the Mayor to take certain emergency actions in connection with energy resources shortages that threaten the health, safety, or welfare of D.C. citizens. Adopted by the Council on Oct. 25, 1977. Approved by the Mayor on Jan. 11, 1978. Transmitted to the Speaker Feb. 23, 1978.

D.C. Act 2–153—Youth Services Amendments Act of 1976—To amend the D.C. Youth Services Act of 1976 (D.C. Act 1–162; Law 1–93, effective March 29, 1977) to affect the reassignment of 27 permanent positions mis-

placed by said Act. Adopted by the Council on Feb. 7, 1978. Signed by the Mayor on Feb. 24, 1978. Transmitted to the Speaker March 2, 1978.

D.C. Act 2-156—Police and Firefighters Salary Act Amendment of 1978—to amend the D.C. Police and Firemen's Salary Act of 1958 (72 Stat. 481; D.C. Code, Tit. 4, Sec. 823(a)) to increase salaries to reflect the average percentage increase (7.05%) accorded to general schedule employees as granted by the President effective Oct. 1, 1977. Adopted by the Council on Feb. 21, 1978. Signed by the Mayor on March 10, 1978. Transmitted to the Speaker March 20, 1978.

D.C. Act 2-158—Air Quality Control Amendment No. 1 Act of 1978—To amend the D.C. Air Quality Control Regulations re particulate emissions from fuel burning equipment. Adopted by the Council on Feb. 21, 1978. Signed by the Mayor on March 10, 1978. Transmitted to the Speaker March 20, 1978.●

REPRESSION OF HELSINKI WATCHERS IN THE U.S.S.R. CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, systematic repression of the Helsinki watchers in the U.S.S.R. continues unabated. Last Thursday, according to press reports from Moscow, Pyotr Vins, one of the newest members of the Ukrainian Helsinki Watch Group, was sentenced in Kiev to 1 year in labor camp on the charge of "parasitism," an accusation commonly leveled against human rights activists who lost their jobs and were unable to find other work because of their activism. Vins joins his colleagues in the Ukrainian Public Group to Promote Observance of the Helsinki Accords as the latest victim of official reprisal: of the 14 members of the Group, 5 (Mykola Rudenko, Olsksiy Tykhy, Mykola Matusevych, Myroslav Marynovych, and now Pyotr Vins) has been tried and sentenced, one (Levko Lukyanenko) is awaiting trial, and one (Pyotr Grigorenko) has been permanently exiled from his country.

Pyotr Vins, the son of the imprisoned Baptist pastor Georgi Vins, was in the process of applying to emigrate to Canada to join relatives there when he was arrested in mid-February. Although only 23 years old, young Vins had already paid a stiff price for his activities: he was denied the opportunity of a higher education and was twice detained for 15-day periods in December 1977. Now, Soviet authorities have extracted another toll—a year in labor camp. I ask my colleagues in the Congress to join in saluting this courageous young man. I know my colleagues will join me in urging the immediate release of Pyotr Vins and the other imprisoned Helsinki watchers in the U.S.S.R.

I make this request not just in severe criticism of the action itself but also in astonishment that a strong people and government are so sensitive or fearful or that their beliefs are so weak that they feel they must take such strong punitive action against individuals who are simply asking their government to live up to its own promises.●

ERA RATIFICATION: THE CASE FOR A 7-YEAR EXTENSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, I would like to register my strong support for House Joint Resolution 638, which would extend the time available for ratification of the equal rights amendment by an additional 7 years.

My decision to support this measure was not hastily made. I listened carefully to the testimony of several distinguished witnesses—some of our country's best legal minds—and studied their written statements at length. The hearings on House Joint Resolution 638 were held by the House Judiciary Subcommittee on Civil and Constitutional Rights, of which I am a member.

Some critics of this extension are using that familiar refrain: You are changing the rules of the game just before the end of the last quarter. Actually, this "game" we are now engaged in is the legitimate use of our constitutional process. I would like to share with my colleagues how, upon careful reflection, I have come to view this process.

I will not go into why we need an equal rights amendment. The Congress 7 years ago, by a vote of 354 to 24 in the House and 84 to 8 in the Senate, passed the joint resolution proposing the amendment. I would like, however, to speak about the reasons why we need an additional 7 years for ratification.

We need to permit full and fair consideration of this amendment, which has turned out to be more complex than the Congress first contemplated. We need to be fair to the 35 States, representing 71 percent of our population, which have ratified the amendment. We need to be fair to those who have been confused by some of the misleading propaganda which has been circulated during this national debate.

Thus, there is a need for the extension. The question then becomes does Congress have the authority to make such an extension?

Article V of the Constitution, the amending article, gives Congress the power to propose amendments and to determine the mode of ratification. The Supreme Court has determined that Congress also has the implied power under article V to impose a time limitation on the ratification process. The only limit placed upon the Congress is that the ratification must occur within a "reasonable time" after the amendment is proposed. Who decides what a "reasonable time" is? The Supreme Court has said that Congress decides, since the factors to be weighed in making the decision are political judgments involving political, social, and economic considerations. And the Supreme Court has held that Congress can decide what a reasonable time is either at the beginning (at the time of proposing the amendment) or at the end (at the time of promulgating the ratified amendment) of the process. There is certainly no reason why Congress should not be allowed to exercise its judgment as to the reasonableness of the time in the middle of the process as well.

The next problem that confronts us is whether a two-thirds vote, or only a simple majority, is needed to pass the resolution providing for the extension.

The Constitution clearly specifies when a supermajority vote is required. Article V requires a two-thirds vote for action by Congress only in proposing an amendment. While article V also authorizes Congress to determine the mode of ratification, it does not specify that a two-thirds vote is needed for this determination. The Supreme Court has found that Congress may also determine the period to be allowed for ratification and other incidental details associated with its power to designate the mode of ratification. Since there is, of course, no specific requirement that a two-thirds vote is needed for these actions, it follows that a simple majority vote is sufficient.

A question that may be asked is whether extending the time limitation is an incidental detail or a matter of substance concerned with proposing the amendment. Traditionally, the test has been to look to the form of the original time limitation. If it was placed in the body of the amendment, it is considered a substantive matter and cannot be changed. If the time limit is in the proposing clause of the amendment, as it was in the case of the equal rights amendment, it is an exercise by Congress of one of its incidental powers and can be changed by a simple majority vote, just as it could have been set by a simple majority vote in the first place. (The fact that the adoption of the amendment and the incidental setting of the time limit were voted on together as a matter of convenience does not alter the fact that the latter could have been passed separately by a simple majority.) As the Department of Justice legal opinion stated:

> By placing the time period in the proposing resolution rather than in the text of the amendment, the 92d Congress effectively decided that the proposal should remain viable for at least seven years without barring a subsequent Congress from making a more informed judgment at a later time as to the reasonableness of the time period for ratification of the ERA.

Some criticize this approach of determining the required vote by looking to see whether the limitation was in the body of the amendment as evidencing a preoccupation with form. I do not, however, see any reason to depart from the general rule in this case. There was certainly nothing sacred, or even meaningful, about the original 7-year limit. It was set because 7 years was thought to be the "customary" time limit. (Actually, most of our proposed amendments throughout history have not had any designated time limits.)

The argument has been advanced that we should not change the time limit because the States which have already ratified the ERA did so relying upon the fact that there would be a March 1979 deadline. This makes no sense to me for three reasons. First, the possibility of such reliance is purely speculative and

conjectural. Second, during the debates over the adoption of our Constitution, James Madison advanced the widely accepted idea that a State's ratification must be unconditional and irrevocable; thus, no State could have made its ratification conditional on the deadline remaining firm. Third, the States never saw the proposing clause with the time limit; they just saw, and were voting on, the actual amendment, which read:

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

The last question which I would like to consider is whether a 7-year extension would be a reasonable one. Ruth Bader Ginsburg, distinguished professor at Columbia Law School, testified before our Judiciary Subcommittee as follows:

Social and economic conditions in the period 1972 to the present demonstrate the vitality of the issue to which the Equal Rights Amendment responds. Recognition of the equality of men and women before the law, far from diminishing in significance to the nation, is today an ideal attracting widespread and constant attention.

The debate on the Equal Rights Amendment, far more complex than those attending other recent amendments, has not run its course and should be allowed to continue. The proposed amendment remains a matter of urgent public concern. Thus, Congress would be acting responsibly in extending its initial "reasonable time" estimate.

And Prof. Thomas Emerson of Yale Law School has put it well:

History has demonstrated that a long period of time is necessary for the nation to make up its mind with respect to fundamental changes in the status of large groups in the population. Thus the Women's Suffrage Amendment was under consideration for nearly three quarters of a century. . . . Even the abolition of slavery, eventually accomplished by the Thirteenth Amendment, was a subject of national debate for decades. The Equal Rights Amendment was originally proposed in 1923. . . . It was not until 1970 that the merits of the Equal Rights Amendment began to achieve serious national attention. The seven years which have since lapsed constitute a very brief period for discussion of such a major social reform.

I believe the thinking of these scholars makes it clear that the 7-year figure is a reasonable one. The vitality of this burning issue will obviously not die out before 1986. We need to provide a comfortable, tension-free timeframe in which the amendment's advocates and opponents will have sufficient opportunity to clarify their positions and clear up misunderstandings. Seven additional years seems to me a good estimate of the amount of time that is needed. It is certainly not an unreasonable figure. It is certainly within the "rules of the game." ●

PRESSURE BUILDS IN HOUSE FOR SOCIAL SECURITY TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

● Mr. BURKE of Massachusetts. Mr. Speaker, on April 5, the Democratic Caucus overwhelmingly passed a resolution introduced by myself and my distinguished colleagues, Messrs. STARK and MILLER of California. The resolution requests immediate action on general revenue participation in financing a portion of the growing social security system costs.

While the caucus was meeting to discuss this resolution, Ms. Alice Rivlin, Director of the Congressional Budget Office, was testifying before the Social Security Subcommittee of the Senate Finance Committee. Her testimony provides further evidence of the rationality, the progressivity and the desirability of the legislation I have introduced, with the support of 150 cosponsors, to finance the social security system with a one-third contribution from general revenue funds.

It is indeed unfortunate that the many duties and pressing obligations required of the Members prevented them from witnessing Director Rivlin's analysis of the various tax reduction plans—both payroll and income tax related. For the benefit of my colleagues I would like to include in the RECORD an excellent summary of Ms. Rivlin's instructive comments, from the April 8, 1978, edition of Congressional Quarterly.

As the article points out, my bill, H.R. 10668, is to date the most progressive tax reduction plan before the Congress. I cannot help but recall that during the debate on the general revenue resolution before the caucus my plan for social security refinancing was challenged for its lack of progressivity. I commend for the edification of such critics the Congressional Budget Office analysis provided by Director Rivlin's testimony. In fact, it also comes to mind that the Joint Committee on Taxation, of which I am a member, has found that the increasing social security payroll tax is actually reducing the overall progressivity of the Federal tax system.

The prepared statement of Director Rivlin is also informative on another related issue not mentioned in the Congressional Quarterly piece. That issue is inflation, and the Congressional Budget Office assessment is that the one-third general revenue financing proposal would have a significant impact on price stability. Again, it is ironic that the beneficial effect H.R. 10668 would have on inflation should come out in a Senate subcommittee hearings while opponents of general fund participation in the House were at virtually the same moment protesting that this is not the way to tackle the insidious inflation problem.

Mr. Speaker, I raise these points because I believe the time has come to uncover the infirmities underlying the shopworn, trite, and insubstantial grounds proffered by those who oppose general fund participation in social security. The proposal is sound. It makes economic sense. It is progressive. It is a rational approach to a very difficult issue involving many hard and complex policy considerations. Certainly it is not a panacea—I am the first to admit that there are problems, as with any such major proposal. Nevertheless, it is the best alternative at our disposal, and I am confident that through the legislative process many of these problems can be overcome.

The article follows:

PRESSURE BUILDS IN HOUSE FOR SOCIAL SECURITY TAX CUT

(By Christopher R. Conte)

The House Budget Committee and the House Democratic Caucus went on record April 4–5 in support of rolling back planned Social Security tax increases.

Senate Finance Committee Chairman Russell B. Long, D–La. and President Carter both repeated their opposition to a change in the Social Security law, however, leaving the outcome of the tax debate still uncertain.

BUDGET COMMITTEE ACTION

The Budget Committee, beginning markup of the first fiscal 1979 budget resolution, approved on April 4 a proposal by its chairman, Robert N. Giaimo, D-Conn., calling for a $7.5 billion reduction in payroll taxes in fiscal 1979.

It further proposed that general revenues in that amount be injected into the Social Security system to make up the loss.

Under the chairman's proposal, the Social Security tax rate could drop back to its 1977 level—5.85 percent—while the wage base would return to what it would have been before Congress approved increases in 1977. That would mean a wage base of $18,900 in 1979.

That compares to a scheduled tax of 6.13 percent on wages up to $22,900 under the present law.

Before acting on the chairman's recommendation, the committee rejected a more modest Republican proposal pushed by Rep. Barber B. Conable, Jr., R-N.Y. He suggested using $3.2 billion in general revenues to offset Social Security tax increases scheduled under the 1977 law. That proposal would allow increases planned under previous law to take effect.

Conable's proposal would have resulted in a tax rate in 1979 of 6.05 percent on wages up to $18,900.

DEMOCRATIC CAUCUS

After trying unsuccessfully to put the party on record favoring a rollback March 15, House Democrats finally managed to get a quorum for a caucus April 5. The result was a 150–57 vote in favor of a resolution urging the Ways and Means Committee to propose the use of general revenues to forestall Social Security tax increases. (*Previous action.*)

The caucus took that action despite the opposition of House Speaker Thomas P. O'Neill Jr., D-Mass., and Ways and Means Committee Chairman Al Ullman, D-Ore.

"You are making not only a mistake, but a very disastrous mistake," Ullman said. "You're building into the Social Security" system the seeds on its destruction.

Ullman warned that allowing the use of general revenues to pay Social Security benefits would enable Congress to increase benefits and pay for them through federal deficit spending.

Noting that middle and upper income families will pay the bulk of the scheduled Social Security tax increases, he also accused the caucus of playing "the worst kind of politics."

The middle class executive group and the commentators and columnists are the only ones who are giving you heat, he said in response to assertions that Congress is under considerable public pressure to roll back Social Security tax hikes.

"We're suggesting that a piece of the [1978 tax] cut be in the most regressive, infla-

tionary tax there is," countered Ways and Means member Abner J. Mikva, D-Ill., in arguing for a rollback.

SENATE HEARINGS

In the meantime, the Social Security Subcommittee of the Senate Finance Committee received testimony April 5 from Treasury Secretary W. Michael Blumenthal reiterating the administration's opposition to a rollback.

He was supported by Long, who urged the administration not to give in on the issue. If Carter were to approve "irresponsible" policies, Long warned, conservatives and moderates in Congress might protest by refusing to increase the federal debt limit.

Rivlin Testimony. Congressional Budget Office (CBO) Director Alice M. Rivlin also testified April 5. Assessing alternative tax programs, she said a proposal that general revenues pay one-third of all Social Security costs would be most progressive, followed by Carter's tax program. The proposal for general revenue financing of health and disability insurance would be least progressive, she said. (Details, Weekly Report pp. 681, 164)

Under the one-third general revenue financing plan, 20.5 percent of all benefits would go to people earning less than $10,000, compared to 19.3 percent under Carter's program and 18.8 percent under the other approach.

People earning between $10,000 and $20,000 would receive 44.2 percent of the benefits under a one-third general revenue financing, 47.7 percent under Carter's program and 48.4 percent under the proposed general revenue financing of health and disability insurance.

People earning more than $20,000 would receive 31.1 percent of the benefits under a one-third general revenue financing plan; 33 percent under Carter's program; and 37 percent under the health-and-disability insurance general revenue financing scheme.

If the proposal to pay for health and disability insurance with general revenues were substituted for Carter's program, all families except those with earned incomes between $10,000 and $20,000 with two or more dependents would be better off. Single persons with earned income below $35,000 would be better off, according to Rivlin.

If the one-third general revenue financing idea were substituted for Carter's program, gainers would include: all two-earner families except those with earned incomes between $10,000 and $15,000 with two or more dependents; all one-earner families except those with incomes over $30,000 and those with two dependents and earned incomes between $9,000 and $14,000; and single persons with earned incomes below $30,000.●

U.S. SUPREME COURT UPHOLDS CONGRESS RIGHT TO CURTAIL GI BILL ABUSES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. TEAGUE) is recognized for 5 minutes.

● Mr. TEAGUE. Mr. Speaker, during the 94th Congress, the Subcommittee on Education and Training of which I am chairman, held a number of oversight hearings on veterans education overpayments and abuses in Veterans' Administration educational programs and the GI bill. Our subcommittee was told that the Veterans' Administration educational overpayments had skyrocketed from practically nothing in 1970 to over $1.8 billion in 1976. Even worse, there was evidence that veterans were ripping off the Federal Government for untold millions of dollars because of a number of practices which had crept into the program. For example, in some schools veterans rarely, if ever, attended classes, failed to make progress, other schools failed to provide competent instructors or material, while some schools were referred to as "diploma mills." Advertising emphasized primarily the financial reward to the veteran rather than any vocational or educational benefits to be derived. The Veterans' Administration told our subcommittee that the law had to be tightened up to be effective in combating these abuses.

On the basis of our subcommittee's oversight hearings and information obtained by other means, the 94th Congress approved a number of provisions contained in Public Law 94–502, the Veterans Education and Employment Act of 1976. The purpose of these tightening amendments was to assure the veteran receives quality education while at the same time being fair to the educational institutions and to keep the taxpayer from being ripped off.

One of these tightening provisions is referred to as the 85–15 rule. The 85–15 rule provides that the enrollment of an eligible veteran may not be approved for any course for a period during which more than 85 percent of the students enrolled are having all or part of their tuition paid for by the Veterans' Administration. Educational institutions have severely criticized the 85–15 rule and called for the repeal of this provision.

The 85–15 rule has been denounced as unconstitutional and described as an infringement on the rights of educational institutions to educate.

It was no surprise, therefore, that shortly after Public Law 94–502 was approved that the 85–15 rule, as well as the 2-year rule, which requires a course at a branch or extension to be in operation for 2 years or longer to be approved for veterans, was challenged in a Federal court. Initially, the U.S. district court held in favor of the school. On March 20, 1978, the U.S. Supreme Court reversed the U.S. district court ruling. The Supreme Court therefore has upheld the constitutionality of the tightening provisions in the GI bill, and made it clear that it is an appropriate exercise of congressional judgment as to how best to combat abuses.

So that the Members will have the benefit of the reasoning in this case, I insert a copy of the decision entitled: "Max Cleland, Administrator of the Veterans Administration, et al. v. National College of Business, No. 77–716, Decided March 20, 1978," be made a part of my remarks, together with a copy of a press clipping from the Washington Post of March 21, 1978 entitled: "Court Cements Congress' G.I. Bill Grip."

The material follows:

[Supreme Court of the United States]

MAX CLELAND, ADMINISTRATOR OF THE VETERANS ADMINISTRATION, ET AL. v. NATIONAL COLLEGE OF BUSINESS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA

No. 77–716. Decided March 20, 1978

PER CURIAM.

The question presented is whether the Due Process Clause of the Fifth Amendment prohibits Congress from restricting the educational courses for which veterans' benefits are available under the GI Bill [1] without including identical course limitations in other federal educational assistance programs.

A veteran seeking educational assistance benefits must file an application with the Administrator of the Veterans Administration. Before approving the application, the Administrator must determine whether the veteran's proposed educational program satisfies various requirements, including the so-called 85–15 requirement and the two-year rule.

The 85–15 requirement requires the Administrator to disapprove an application if the veteran enrolls in a course in which more than 85% of the students "are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans Administration . . . and/or by grants from any Federal agency." [2] The Administrator, however, may waive the requirement if he determines that it would be in the interest of both the veteran and the Federal Government.

The two-year rule requires the Administrator to disapprove the enrollment of an eligible veteran in a course that has been offered by a covered educational institution for less than two years. The rule applies to courses offered at branches and extensions of proprietary educational institutions located beyond the normal commuting distance of the institution.[3]

Appellee National College of Business is a proprietary educational institution which has extension programs in several States. Most of its courses have a veteran enrollment of 85% or more. Appellee is therefore affected by both the 85–15 requirement and the two-year rule.

Appellee brought this action in the United States District Court for the District of South Dakota, challenging the constitutionality of the restrictions.[4] Appellee contended that the restrictions arbitrarily denied otherwise eligible veterans of educational benefits and denied veterans equal protection because they were not made applicable to persons whose educations were being subsidized under other federal edu-

[1] The various provisions dealing with veterans' benefits are contained in Title 38 of the United States Code. 38 U.S.C. § 1651 *et seq.* relate specifically to the veterans' educational assistance program. While the term GI Bill is often used to describe veterans' benefits legislation generally, for purposes of this opinion it refers to legislation dealing specifically with veterans' educational assistance benefits.

[2] 38 U.S.C. § 1673(d), as amended by § 205 of Pub. L. 94–502. While this appeal was pending, the 85–15 requirement was amended in several respects. See § 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. However, the amendments have not made the requirement inapplicable to appellee's students.

[3] See 38 U. S. C. § 1789, as amended by § 509 of Pub. L. 502, 90 Stat. 24051. The rule was recently amended by § 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. The amendment authorizes the Administrator to waive the two-year rule if he determines that it would be in the interest of the veteran and the Federal Government. The Administrator, however, does not suggested that the rule will be waived with respect to appellee's students.

[4] Other district courts have upheld the challenged restrictions. See, *e. g., Fielder* v. *Cleland*, 433 F. Supp. 115 (ED Mich. 1977); *Rolle* v. *Cleland*, 435 F. Supp. 260 (R. I. 1977).

cational assistance programs.[5] The District Court held the 85–15 requirement and the two-year rule unconstitutional and permanently enjoined their enforcement. We reserve.[6]

I

The course restrictions challenged by appellee evolved in response to problems experienced in the administration of earlier versions of the veterans' educational assistance program. When extension of the World War GI Bill to veterans of the Korean War was under consideration by Congress in 1952, the House Select Committee to Investigate Educational Training and Loan Guarantee Programs under the GI Bill studied the problems that had arisen under the earlier program. The Committee's work led to passage of the first version of the 85–15 requirement, which applied only to nonaccredited courses not leading to a college degree that were offered by proprietary institutions. Pub. L. 82–550.66 Stat. 667.

The purpose of the requirement is not disputed:

"Congress was concerned about schools which developed courses specifically designed for those veterans with available Federal moneys to purchase such courses. . . . The ready availability of these funds obviously served as a strong incentive to some schools to enroll eligible veterans. The requirement of a minimum enrollment of students not wholly or partially subsidized by the Veterans' Administration was a way of protecting veterans by allowing the free market mechanism to operate.

"The price of the course was also required to respond to the general demands of the open market as well as to those with available Federal moneys to spend. A minimal number of nonveterans were required to find the course worthwhile and valuable or the payment of Federal funds to veterans who enrolled would not be authorized." S. Rep. No. 94–1243, 94th Cong., 2d Sess., 88 (1976).

These same considerations prompted extension of the requirement in 1974 to courses not leading to a standard college degree offered by accredited institutions. § 203 (3) of Pub. L. 93–508, 88 Stat. 1582. See also S. Rep. No. 94–1243, *supra*, at 88.

In 1976 the 85–15 requirement was further extended to courses leading to a standard college degree. The Veterans' Administration had found increased recruiting by institutions within this category "directed exclusively at veterans." In recommending approval of the extension, the Senate Veterans' Affairs Committee agreed with the Veterans' Administration that " 'if an institution of higher learning cannot attract sufficient nonveteran and nonsubsidized students to its programs, it presents a great potential for abuse of our GI educational programs.' " S. Rep. No. 94–1243, *supra*, at 89. The Committee further noted that, in view of the magnitude of the expenditures under the GI Bill, it was essential "to limit those situations in which substantial abuse could occur." *Ibid.* Finally, the Committee emphasized that "the requirement that no more than 85 percent of the student body be in receipt of VA benefits is not onerous particularly given the fact that under today's GI Bill . . . veterans do not comprise a major portion of those attending institutions of higher learning. . . ." *Ibid.*[7]

The two-year rule is also a product of Congress' judgment regarding potential abuses of the veterans' educational assistance program based upon experience with administration of earlier versions of the GI Bill. Thus, following World War II schools and courses developed "which were almost exclusively aimed at veterans eligible for GI bill payments." S. Rep. No. 94–1243, *supra*, at 128. In response, the first version of the rule was enacted. It barred the payment of in operation less than one year. Pub. L. 81–266, 63 Stat. 653. As with the 85–15 requirement, the rule "was a device intended by Congress to allow the free market mechanism to operate and weed out those institutions who could survive only by the heavy influx of Federal payments." S. Rep. No. 94–1243, *supra*, at 128.

Following the Korean War, Congress amended the rule to cover courses that had not been in operation for at least two years. Section 227 of the Korean Conflict GI Bill, Pub. L. 82–550, 66 Stat. 667. In its report accompanying the amendment, the House Veterans' Affairs Committee characterized the rule as "a real safeguard to assure sound training for veterans at reasonable cost by seasoned institutions" and observed that had the rule been in effect during the administration of the World War II GI Bill "considerable savings would have resulted and much better training would have resulted in many areas." H.R. Rep. No. 1943, 82d Cong., 2d Sess., 30 (1952).

In 1976, Congress again amended the two-year rule, making it applicable to, among other institutions, branches of private institutions such as appellee that are located beyond the normal commuting distance from the main institution. The considerations underlying the extended coverage are fully set forth in the report of the Senate Veterans' Affairs Committee accompanying the legislation. S. Rep. No. 94–1243, *supra*. There had been a "spectacular" rise in both the number of institutions establishing branch campuses and in the veteran enrollment at those extensions. These institutions were entering into "extensive recruiting contracts directed almost exclusively at veterans." *Id.*, at 129. In a report dealing with the problems generated by these developments, the Veterans Administration had stated:

"[A] number of instances have been brought to our attention which represent abuse of our educational programs. Some of these cases involved contracting between nonprofit schools and profit schools or organizations whereby courses designed by the latter are offered by the nonprofit, accredited school on a semester or quarter-hour basis. In others, there are arrangements between nonprofit, accredited schools and outside profit firms whereby the latter, for a percentage of the tuition payment, perform recruitng services primarily for the establishing of these branch locations for the school. These recruiting efforts are aimed almost exclusively at veterans." *Ibid.*[8]

In recommending adoption of the amendment, the Committee concluded that the situation presented "great potential for abuse and in several instances that potential appear[ed] to have been realized." *Id.*, at 130.

II

As the legislative history demonstrates, the 85–15 requirement and the two-year rule are valid exercises of Congress' power. Experience with administration of the veterans' educational assistance program since World War II revealed a need for legislation that would minimize the risk that veterans' benefits would be wasted on educational programs of little value. It was not irrational for Congress to conclude that restricting benefits to established courses that have attracted a substantial number of students whose educations are not being subsidized would be useful in accomplishing this objective and "prevent charlatans from grabbing the veteran's education money." Both restrictions are based upon the rational assumption that if "the free market mechanism [were allowed] to operate," it would "weed out those institutions who could survive only by the heavy influx of Federal payments." S. Rep. No. 94–1243, *supra*, at 128.

The otherwise reasonable restrictions are not made irrational by virtue of their absence from other federal educational assistance programs. They were imposed in direct response to problems experienced in the administration of this Country's GI bills. There is no indication that identical abuses have been encountered in other federal grant programs. In any event, the Constitution does not require Congress to detect and correct abuses in the administration of all related programs before acting to combat those experienced in one. For, "[e]vils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. The legislatures may select one phase of one field and apply a remedy there, neglecting the others. The prohibition of the Equal Protection Clause [generally] goes no further. . . ." *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 489.

When tested by their rationality, therefore, the 85–15 requirement and the two-year rule are plainly proper exercises of Congress' authority. While agreeing that the restrictions were rationally related to legitimate legislative objectives, the District Court concluded that veterans' educational benefits approach "fundamental and personal rights" and therefore a more "elevated standard of review" was appropriate. Subjecting the 85–15 and two-year requirements to this heightened scrutiny, the court observed that they were not precisely tailored to prevent federal expenditures on

[5] Joining appellee as plaintiffs in the District Court were four veterans who were students or former students at the National College of Business. The court held they lacked standing because they had not demonstrated how they would be affected by the restrictions. The court, however, held that appellee who would suffer serious economic harm from application of the restrictions to its students, had standing under the *jus tertii* doctrine to assert the constitutional claims of its students. Neither of the court's standing rulings are challenged in this Court.

[6] Appellee advanced several other theories of unconstitutionality in the District Court and reasserts two of them in this Court: (1) the restrictions violate substantive due process because they interfere with freedom of educational choice, and (2) they violate procedural due process because the affected veterans are not afforded a hearing on the question whether the requirements should be applied or waived. The District Court characterized these contentions as less meritorious than the equal protection claim. We agree. Neither raises a substantial constitutional question.

[7] The 1976 amendments also changed the computation base of the 85–15 requirement, for the first time including students subsidized under other federal assistance programs within the 85 percent calculation. This change, however, was recently modified by Congress to exclude from the 85 percent quota students receiving federal assistance from sources other than the Veterans' Administration, until such time as the Administrator has completed a study regarding the need for and feasibility of including them within the 85 percent computation. Section 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. This change has no bearing on this case because appellee has a veteran enrollment of more than 85 percent.

[8] The administrator amplified on these problems in testimony before Congress. See S. Rep. No. 94–1243, *supra*, at 129-130.

courses of little value. Since some quality courses would be affected by the restrictions, the court held them unconstitutional.

The District Court's error was not its recognition of the importance of veterans' benefits but its failure to give appropriate deference to Congress' judgment as to how best to combat abuses that had arisen in the administration of those benefits. Legislative precision has never been constitutionally required in cases of this kind.[9]

"The basic principle that must govern an assessment of any constitutional challenge to a law providing for governmental payments of monetary benefits is well established. Governmental decisions to spend money to improve the general public welfare in one way and not another are 'not confided to the courts. The discretion belongs to Congress, unless the choice is clearly wrong, a display of arbitrary power, not an exercise of judgment.' . . . In enacting legislation of this kind a government does not deny equal protection 'merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis" it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality."' *Dandridge* v. *Williams*, 397 U.S. 471, 485." *Mathews* v. *DeCastro*, 429 U.S. 181, 185.

Since it was rational for Congress to conclude that established courses with a substantial enrollment of nonsubsidized students were more likely to be quality courses, the 85–15 and two-year requirements satisfy "the constitutional test normally applied in cases like this." *Califano* v. *Jobst*, — U.S., —.

The judgment is reversed.

[Supreme Court of the United States]

MAX CLELAND, ADMINISTRATOR OF THE VETERANS ADMINISTRATION. ET AL v. NATIONAL COLLEGE OF BUSINESS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA

No. 77–716. Decided March 20, 1978

Mr. JUSTICE MARSHALL.

I believe that substantial constitutional questions are presented by appellee's due process claims, see *ante*, n. 6, as well as by its equal protection claim. I would therefore note probable jurisdiction and set this case for oral argument.

[From the Washington Post, Mar. 21, 1978]

COURT CEMENTS CONGRESS' GI BILL GRIP

(By Morton Mintz)

Congress can try to prevent abuse of veterans' benefits by restricting the eligibility of educational courses under the GI bill, the Supreme Court ruled yesterday.

The case centered on 1976 legislation requiring the Veterans Administration to enforce a so-called "85–15 requirement" and a "two-year rule."

Under 85–15, the VA must deny benefits to veterans for courses in which federal agencies pay all or part of the expenses of more than 85 per cent of the students. The government theory is that a course enrolling fewer than 15 privately paying students out of 100 may not be legitimate.

Under the two-year rule, the VA must disapprove a veteran's enrollment in a course that has been offered for less than two-years by, among others, a commercial educational institution at a branch beyond normal commuting distance from its main classrooms.

The VA can waive either rule in the interest of both government and veterans.

Last June, federal Judge Andrew W. Bogue of South Dakota held that the legislation denies the equal protection of the laws guaranteed by the Constitution. He termed it "overkill" that would eliminate fraud and waste "at the cost of eliminating quality educational opportunities for veterans."

The Supreme Court reversed 8 to 1 saying that the legislation, based on experience with programs offered to World War II GIs, was an appropriate exercise of Congress' "judgment as to how best to combat abuses . . ." Justice Thurgood Marshall wanted to hear argument in the case.

The case involved the National College of Business, based in Rapid City S.D., which says it invested at least $680,000 in courses designed mainly for veterans. Veterans' enrollment in most of its courses exceed 85 percent.

Judge Bogue said 85–15 imposed an "obnoxious" double standard. In calculating the 85 per cent recipients of all federal education benefits are lumped together, he said. But in approving courses, "the drawing of class lines suddenly changes; then veterans stand alone to be cut off from benefit."

The Supreme Court said his "error" was in failing to defer to the judgment of Congress as to how to treat the situation.

In a friend-of-the-court brief, the Association of Independent Colleges and Schools, composed of about 500 private business schools, said the two-year rule violates freedom of expression and association.●

STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD at this point a statement regarding several recorded votes I missed recently, and an indication of how I would have voted had I been present:

MARCH 14, 1978

Rollcall No. 140, a vote on a motion offered by Mr. BAUMAN of Maryland that the Journal of Monday, March 13, 1978, be read in full. The motion was rejected by a vote of 99 to 301. Had I been present, I would have voted against the motion.

APRIL 6, 1978

Rollcall No. 196, a vote on a motion offered by Mr. HANLEY of New York that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7700, Postal Service Act of 1978. The motion was agreed to by a vote of 386 to 1. Had I been present, I would have voted for the motion.

Rollcall No. 197, a vote on an amendment offered by Mr. CORCORAN of Illinois to H.R. 7700, Postal Service Act of 1978. The amendment was agreed to by a vote of 203 to 189. Had I been present, I would have voted against the amendment.

Rollcall No. 198, a vote on final passage of H.R. 7700, the Postal Service Act of 1978. The bill passed by a vote of 386 to 1, I was paired for this bill, and had I been present, I would have voted in favor of it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. WHITLEY (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

To Mrs. SPELLMAN (at the request of Mr. WRIGHT), for this week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. SARASIN, for 5 minutes, today.
Mr. BAUMAN, for 15 minutes, today.

(The following Members (at the request of Mr. PATTERSON of California) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. WHITE, for 5 minutes, today.
Mr. EILBERG, for 5 minutes, today.
Ms. HOLTZMAN, for 30 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. DIGGS, for 10 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. BURKE of Massachusetts, for 10 minutes, today.
Mr. TEAGUE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ASHBROOK, to extend his remarks today.

Mr. JEFFORDS, to revise and extend his remarks prior to passage of H.R. 10730.

(The following Members (at the request of Mr. LIVINGSTON), and to include extraneous matter:)

Mr. FINDLEY.
Mr. RUDD in two instances.
Mr. CORCORAN of Illinois.
Mr. SYMMS in two instances.
Mr. ROBINSON.
Mr. DORNAN in two instances.
Mr. STEERS.

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[9] Appellee contends that the challenged restrictions will completely deprive some veterans—those who live in areas where there are no programs which satisfy the two requirements—of veterans' educational assistance. While the restrictions on their face simply channel veterans toward courses which Congress has determined are more likely to be worthwhile, they may in fact operate to make benefits functionally unavailable to some veterans not living in close proximity to schools offering qualified programs and unwilling or unable to move to take advantage of the federal assistance. Nevertheless, the fact that Congress' judgment may deprive some veterans of the opportunity to take full advantage of the benefits made available to veterans by Congress is not a sufficient basis for greater judicial oversight of that judgment. As the Court noted in *San Antonio Independent School District* v. *Rodriguez*, 411 U.S. 1, 35, "the undisputed importance of education will not alone cause this Court to depart from the usual standard for reviewing . . . social and economic legislation."

Mr. GOODLING.
Mr. SARASIN in two instances.
Mr. HAGEDORN in two instances.
Mr. HANSEN in five instances.
Mr. MILLER of Ohio in three instances.
Mr. GILMAN.

(The following Members (at the request of Mr. PATTERSON of California), and to include extraneous matter:)

Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. MOFFETT.
Mr. DINGELL.
Mr. JACOBS.
Mr. MCFALL.
Mr. SOLARZ.
Mr. YOUNG of Missouri.
Mr. WAXMAN in three instances.
Mr. MIKVA.
Mr. MINETA.
Mr. SLACK.
Mrs. SCHROEDER.
Mr. BINGHAM in five instances.
Mr. RISENHOOVER.
Mr. NEAL.
Mr. ROSENTHAL.
Mr. GAYDOS.
Mr. BENNETT.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on April 7, 1978, present to the President, for his approval a bill of the House of the following title:

H.R. 2540. Pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation.

ADJOURNMENT

Mr. PATTERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 11, 1978, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and interparliamentary groups concerning the foreign currencies and U.S. dollars utilized by them in calendar year 1977 in connection with foreign travel are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 1, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
George M. Dunsmore	11/20	11/23	Switzerland	496.80	225.00		757.00				982.00
Carol Forbes	11/20	11/23	Switzerland	496.80	225.00		751.00				976.00
Hon. Floyd J. Fithian	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/7	7/8	Belgium	2,692	75.00	3,200	89.14		16.37		180.51
	7/8	7/9	Netherlands	184.46	75.00						75.00
	7/9	7/12	United Kingdom	170.91	299.05				20.12		319.17
Transportation provided by Department of Defense.							449.42				449.42
Hon. Tom Harkin	10/7	10/10	Yugoslavia	5,424	300.00						300.00
Transportation provided by Department of Defense.							590.24				590.24
Hon. John W. Jenrette, Jr	5/26	5/28	Belgium	13,500	375.00						375.00
	5/28	6/6	France	2,250	450.00						450.00
Transportation provided by Department of Defense.							600.95				600.95
Hon. James P. Johnson	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/7	7/10	Belgium	5,385	150.00				16.37		166.37
	7/10	7/15	United Kingdom	300	525.00				20.12		545.12
Transportation provided by Department of Defense.							449.42				449.42
Hon. Matthew F. McHugh	6/22	6/18									
Airline transportation from Manila to New York to Washington.							827.10				827.10
Hon. Edward Madigan	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/7	7/8	Belgium	5,385	150.00	3,200	84.19		16.37		250.56
	7/8	7/12	United Kingdom	172.16	300.00				34.19		334.19
Transportation provided by Department of Defense.							449.42				449.42
Eugene Moos	9/27	10/4	United Kingdom	468.09	825.00		750.00				1,575.00
	11/1	11/11	United Kingdom	322.58	600.00		681.00				1,281.00
Hon. Richard Nolan	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/7	7/8	Belgium	2,692	75.00		89.14		215.22		379.36
	7/8	7/9	Netherlands	184.46	75.00						75.00
	7/9	7/15	United Kingdom	300	525.00				322.39		847.39
Transportation provided by Department of Defense.							449.42				449.42
Hon. Charles Rose	11/21	11/23	Switzerland	331.20	150.00		1,515.00	526.25	283.57		1,948.57
Hon. Keith G. Sebelius	6/15	6/15									
Airline transportation from Singapore to Denver, Colo.							1,465.00				1,465.00
Committee totals					5,999.05		10,217.20		944.72		17,160.97

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used. enter amount expended.

Mar. 17, 1978.

THOMAS S. FOLEY,
Chairman, Committee on Agriculture.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. Joseph P. Addabbo	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Joseph P. Addabbo	11/11	11/13	Bermuda		225.00		289.00				514.00
Hon. Mark Andrews	4/8	4/9	Japan		75.00		47.70				
	4/9	4/17	Peoples Republic of China.		600.00		[3] 2,670.00				
Total					675.00		2,717.70				3,392.70
Hon. Yvonne B. Burke	2/14	2/18	Panama		300.00						
	2/18	2/21	Mexico		300.00						
Total					600.00		[3] 898.33				1,498.33
Hon. Elford A. Cederberg	5/29	5/31	Guatamala		225.00		[3] 379.00				604.00
	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Hon. Bill Chappell	5/26	5/29	England		300.00						
	5/29	5/31	Belgium		75.00						
	5/31	6/2	Italy		225.00						
	6/2	6/4	France		150.00						
Total					750.00		[4] 698.50				1,448.50
Hon. Silvio Conte	4/8	4/9	Japan		75.00		47.70				
	4/9	4/17	Peoples Republic of China		600.00	[3] 2,670.00					
Total					675.00		2,717.70				3,392.70
Hon. Silvio Conte	5/29	5/31	Guatemala		225.00		[3] 379.00				604.00
Hon. Norman D. Dicks	7/3	7/10	Israel		543.75		1,765.60				2,309.35
Hon. Robert S. Duncan	8/10	8/11	Belgium		112.50						
	8/11	8/14	Sweden		225.00						
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/21	England		225.00						
Total					862.50		[3] 1,602.00				2,464.50
Hon. Jack Edwards	4/8	4/9	Japan		75.00		47.70				
	4/9	4/17	Peoples Republic of China		600.00		[3] 2,670.00				
Total					675.00		2,717.70				3,392.70
Hon. Jack Edwards	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Hon. Frank E. Evans	8/10	8/11	Belgium		112.50						
	8/11	8/14	Sweden		225.00						
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/23	England		375.00						
Total					1,012.50		[3] 1,602.00				2,614.50
Hon. John J. Flynt	2/9	2/15	Panama		375.00		683.00				1,058.00
	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Hon. Clarence Long	8/5	8/20	England		1,063.00		[4] 1,104.00				2,167.00
Hon. Joseph M. McDade	8/10	8/11	Belgium		112.50						
	8/11	8/14	Sweden		225.00						
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/23	Britain		375.00						
Total					1,012.50		[3] 1,602.00				2,614.50
Hon. John T. Myers	4/13	4/15	France		225.00		163.29				388.29
	8/9	8/11	Columbia		150.00						
	8/11	8/13	Ecuador		150.00						
	8/13	8/15	Peru		150.00						
	7/15	8/17	Chile		150.00						
	8/17	8/20	Argentina		225.00						
	8/20	8/23	Brazil		225.00						
Total					1,050.00		[3] 1,824.00				2,874.00
Hon. David R. Obey	7/5	7/9	Israel		268.04		[3] 2,218.20				
	7/9	7/10	Syria		102.56		25.77				
	7/10	7/11	Jordan		57.00						
	7/11	7/13	Egypt		86.92		161.54				
	7/13	7/15	England		127.68		10.34				
Total					642.20		2,415.85				3,058.05

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977— Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. George M. O'Brien	7/1	7/5	Costa Rica		300.00						
	7/5	7/7	Panama		150.00						
	7/7	7/9	Nicaragua		150.00						
Total					600.00		716.00				1,316.00
Hon. J. Kenneth Robinson	2/14	2/18	Panama		300.00		52.00				
	2/18	2/21	Mexico		300.00		[3] 846.33				
Total					600.00		898.33				1,498.33
Hon. J. Kenneth Robinson	8/10	8/12	Belgium		225.00						
	8/21	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Hon. Robert L. F. Sikes	8/10	8/11	Belgium		75.00						
	8/11	8/12	Italy		75.00						
	8/12	8/13	Chad		75.00						
	8/13	9/15	Egypt		150.00						
	8/15	8/16	Sudan		75.00						
	8/16	8/18	Kenya		150.00						
	8/18	8/19	Somalia		75.00						
	8/19	8/20	Kenya		75.00						
	8/20	8/21	South Africa		75.00						
	8/21	8/23	South-West Africa		150.00						
	8/23	8/26	South Africa		300.00		1,406.30				
	8/27	Return to United States			75.00		[3] 3,331.16				
Total					1,350.00		4,737.46				6,087.46
Hon. John Slack	2/14	2/18	Panama		300.00						
	2/18	2/21	Mexico		225.00						
Total					525.00		[3] 898.33				1,423.33
Hon. Neal Smith	2/14	2/18	Panama		300.00						
	2/18	2/21	Mexico		300.00						
Total					600.00		898.33				1,498.33
Hon. Charles Wilson	5/29	5/31	Guatemala		225.00		[3] 379.00				604.00
	7/1	7/5	Costa Rica		300.00						
	7/5	7/7	Panama		150.00						
	7/7	7/10	Nicaragua		225.00						
Total					675.00		716.00				1,391.00
Hon. Sidney R. Yates	11/6	11/8	Ireland		150.00						
	11/8	11/21	Israel		900.00						
	11/21	11/22	Portugal		150.00						
Total					1,200.00		[3] 2,102.00				3,302.00
George Allen	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
George Allen	11/12	11/16	West Germany		375.00		1,454.00				
	11/16	11/17	Holland		150.00		[3] 170.00				
	11/17	11/18	United Kingdom		75.00						
Total					600.00		1,624.00				2,224.00
Donna M. Brother	8/9	8/10	Belgium		150.00		1,421.00				
	8/10	8/14	Sweden		225.00		[3] 935.10				
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/19	England		75.00						
Total					750.00		2,356.10				3,016.10
Robert B. Foster	11/10	11/19	Italy		675.00						
	11/19	11/22	Holland		300.00						
	11/12	11/27			375.00						
Total					1,350.00		809.00				2,159.00
John M. Garrity	2/14	2/18	Panama		300.00		52.00				
	2/18	2/21	Mexico		300.00		[3] 846.33				
Total					600.00		898.33				1,498.33
A. A. Gunnels	8/28	9/3	Canada		525.00		816.45				1,341.45
	11/11	11/13	Bermuda		225.00		333.00				558.00
	12/11	12/14	Canada		300.00		295.00				595.00
F. Michael Hugo	11/13	11/16	West Germany		300.00		1,454.00				
	11/16	11/17	Holland		150.00		[3] 170.00				
	11/17	11/18	United Kingdom		75.00						
Total					525.00		1,624.00				2,149.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977— Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S currency [2]
Robert S. Kripowicz	8/10	8/11	Belgium		112.50						
	8/11	8/14	Sweden		225.00						
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/23	United Kingdom		375.00						
Total					1,012.50		[3] 1,602.00				2,614.50
Richard N. Malow	8/21	8/22	England		75.00						
	8/22	8/27	Poland		450.00						
	8/27	8/29	West Germany		150.00						
	8/29	9/2	England		300.00						
Total					975.00		1,870.38				2,845.38
Michael Marek	7/5	7/9	Israel		157.61		[3] 2,218.20				
	7/9	7/10	Syria		34.62		25.77				
	7/10	7/11	Jordan		32.00						
	7/11	7/13	Egypt		91.07		161.54				
	7/13	7/15	England		150.00		10.34				
Total					465.30		2,415.85				2,881.15
Dempsey Mizelle	2/14	2/18	Panama		300.00		52.00				
	2/18	2/21	Mexico		225.00		[3] 846.33				
Total					525.00		893.33				1,423.33
Frederick G. Mohrman	8/10	8/11	Belgium		112.50						
	8/11	8/14	Sweden		225.00						
	8/14	8/17	West Germany		225.00						
	8/17	8/18	France		75.00						
	8/18	8/23	United Kingdom		375.00						
Total					1,012.50		[3] 1,602.00				2,614.50
Peter J. Murphy	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Edwin F. Powers	7/1	7/5	Costa Rica		300.00						
	7/5	7/7	Panama		150.00						
	7/7	7/10	Nicaragua		225.00						
Total					675.00		716.00				1,391.00
Edwin F Powers	8/6	8/8	France		150.00						
	8/8	8/11	Israel		300.00						
	8/11	8/12	Jordan		75.00						
	8/13	8/15	Thailand		225.00						
	8/15	8/17	Hong Kong		150.00						
	8/17	8/10	South Korea		150.00						
	8/19	8/22	Japan		225.00						
Total					1,275.00		3,136.96				4,411.96
Samuel R. Preston	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Austin G. Smith	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Derek J. Vander Schaaf	8/10	8/12	Belgium		225.00						
	8/12	8/18	West Germany		450.00						
	8/18	8/22	Italy		300.00						
	8/22	8/23	Ireland		75.00						
Total					1,050.00		[3] 2,263.00				3,313.00
Committee totals					37,926.75		78,531.52				116,458.27

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Travel by military aircraft. Cost shown is comparable 1st-class commercial rate.
[4] Travel partially performed by military aircraft.

GEORGE H. MAHON,
Chairman, Committee on Appropriations.

Feb. 17, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SURVEYS AND INVESTIGATIONS STAFF, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
C. R. Anderson	10/29	11/3	England		450.00						450.00
	11/3	11/14	West Germany		806.25						806.25
							1,519.00				1,519.00
Stuart W. Angevine	2/5	2/19	West Germany		1,087.50		1,441.00				2,528.50
George C. Baird	2/3	2/9	Mexico		525.00						525.00
	2/9	2/11	Panama		150.00						150.00
	2/11	2/16	Columbia		375.00						375.00
	2/16	2/19	Peru		187.50						187.50
							1,311.78				1,311.78
	4/2	4/12	Japan		825.00						825.00
	4/12	4/19	Taiwan		525.00						525.00
	4/19	4/28	Thailand		674.00						675.00
							2,879.00				2,879.00
	6/4	6/15	West Germany		900.00						900.00
	6/15	6/21	Spain		450.00						450.00
	6/21	6/24	Switzerland		225.00						225.00
	6/24	7/1	France		506.25						506.25
							1,632.00				1,632.00
Earl C. Bowersox	4/11	4/21	West Germany		825.00						825.00
	4/21	4/23	Italy		150.00						150.00
	4/23	4/27	England		300.00						300.00
							1,675.00				1,675.00
Albert J. Boudreau	4/11	4/23	West Germany		975.00						975.00
	4/23	4/27	England		300.00						300.00
							1,523.00				1,523.00
Dorland J. Davis, M.D	1/17	1/21	Egypt		375.00						375.00
	1/21	1/24	Ethiopia		225.00						225.00
	1/24	1/29	Kenya		375.00						375.00
	1/29	1/29	South Africa		0						0
	1/29	2/3	Brazil		337.50						337.50
							2,491.70				2,491.70
Don L. Hubbard	11/29	11/3	England		450.00						450.00
	11/3	11/18	West Germany		1,125.00						1,125.00
	11/18	11/23	Netherlands		356.25						356.25
							1,482.00				1,482.00
Eugene C. Gies	2/26	3/5	West Germany		543.75						543.75
	3/5	3/12	Belgium		525.00						525.00
							1,441.00				1,441.00
Charles G. Haynes	4/2	4/12	Japan		825.00						825.00
	4/12	4/19	Hong Kong		525.00						525.00
	4/19	4/28	Thailand		675.00						675.00
							2,879.00				2,879.00
	6/4	6/10	West Germany		525.00						525.00
	6/10	6/15	Austria		375.00						375.00
	6/15	6/21	Greece		450.00						450.00
	6/21	6/25	Iran		300.00						300.00
	6/25	7/1	France		365.25						356.25
							2,333.00				2,333.00
James Brian Hyland	2/5	2/19	West Germany		1,087.50		1,441.00				2,528.50
Henry H. Jones	4/11	4/21	West Germany		825.00						825.00
	4/21	4/23	Italy		150.00						150.00
	4/23	4/27	England		300.00						300.00
							1,675.00				1,675.00
Francis J. King	2/5	2/19	West Germany		1,087.50		1,441.00				2,528.50
John C. Layton	2/3	2/9	Mexico		525.00						525.00
	2/9	2/11	Panama		150.00						150.00
	2/11	2/16	Columbia		375.00						375.00
	2/16	2/19	Peru		187.50						187.50
							1,311.78				1,311.78
	4/2	4/12	Japan		825.00						825.00
	4/12	4/19	Taiwan		525.00						525.00
	4/19	4/28	Thailand		675.00						675.00
							2,879.00				2,879.00
Joseph E. Michalski	4/23	4/24	England		150.00						150.00
	4/24	4/27	Scotland		225.00						225.00
	4/27	4/29	England		150.00						150.00
	4/29	5/5	West Germany		431.25						431.25
							1,520.00				1,520.00
Bernard C. Rachner	4/23	4/24	England		150.00						150.00
	4/24	4/27	Scotland		225.00						225.00
	4/27	4/29	England		150.00						150.00
	4/29	5/5	West Germany		431.25						431.25
							1,520.00				1,520.00
Donald M. Pitcairn, M.D	1/17	1/21	Egypt		375.00						375.00
	1/21	1/24	Ethiopia		225.00						225.00
	1/24	1/29	Kenya		375.00						375.00
	1/29	1/29	South Africa		0						0
	1/29	2/3	Brazil		337.50						337.50
							2,491.70				2,491.70
David A. Schmidt	4/12	4/13	Japan		150.00						150.00
	4/13	4/16	Taiwan		225.00						225.00
	4/16	4/19	Hong Kong		225.00						225.00
	4/19	4/28	Thailand		675.00						675.00
	4/28	4/29	Hong Kong		75.00						75.00
							2,888.95				2,888.95
Leon F. Schwartz	4/2	4/12	Japan		825.00						825.00
	4/12	4/19	Hong Kong		525.00						525.00
	4/19	4/28	Thailand		675.00						675.00
							2,879.00				2,879.00
	6/4	6/10	West Germany		525.00						525.00
	6/10	6/15	Austria		375.00						375.00
	6/15	6/21	Greece		450.00						450.00
	6 21	6/25	Iran		300.00						300.00
	6/25	7/1	France		356.25						356.25
							2,333.00				2,333.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SURVEYS AND INVESTIGATIONS STAFF, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN 1, AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Rober A. Seraphin	4/11	4/23	West Germany		975.00						975.00
	4/23	4/27	England		300.00						300.00
							1,523.00				1,523.00
Edward A. Siemering	10/29	11/3	England		450.00						450.00
	11/3	11/18	West Germany		1,125.00						1,125.00
	11/18	11/23	Netherlands		356.25						356.25
							1,482.00				1,482.00
William B. Soyars, Jr	10/29	11/3	England		450.00						450.00
	11/3	11/18	West Germany		1,125.00						1,124.00
	11/18	11/23	Netherlands		356.25						356.65
							1,482.00				1,482.00
Raymond E. Talley	3/26	3/5	West Germany		543.75						543.75
	3/5	3/12	Belgium		525.00						525.00
							1,441.00				1,441.00
Edward F. Tennant	4/23	4/24	England		150.00						150.00
	4/24	4/27	Scotland		225.00						225.00
	4/27	4/29	England		150.00						150.00
	4/29	5/5	West Germany		431.25						431.25
							1,520.00				1,520.00
R. W. Vandergrift, Jr	10/29	11/3	England		450.00						450.00
	11/3	11/18	West Germany		1,125.00						1,125.00
	11/18	11/23	Netherlands		356.25						356.25
							1,482.00				1,482.00
Leonard M. Walters	2/3	2/9	Mexico		450.00						450.00
	2/9	2/14	Venezuela		375.00						375.00
	2/14	2/19	Brazil		375.00						375.00
							1,810.84				1,810.84
	6/4	6/15	West Germany		900.00						900.00
	6/15	6/21	Spain		450.00						450.00
	6/21	6/24	Switzerland		225.00						225.00
	6/24	7/1	France		506.25						506.25
							1,632.00				1,632.00
Eugene B. Wilhelm	2/3	2/9	Mexico		450.00						450.00
	2/9	2/14	Venezuela		375.00						375.00
	2/14	2/19	Brazil		375.00						375.00
							1,810.84				1,810.84
Total					47,475.00		59,171.59		0		106,646.59

[1] Per Diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Mar. 14, 1978.

GEORGE MAHON,
Chairman, Committee on Appropriations.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—MASTER COMPILATION

	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Visit to Western Europe and NATO Headquarters		10,050.00		41,099.29				51,149.29
Visit to Western Europe and Middle East		9,114.07		38,034.44		1,224.00		48,642.51
Visit to Denmark, Iceland, and Norway to review fiscal year 1979 MilCon programs		791.62		3,946.00		599.43		5,337.05
Visit to Middle East and Africa		12,757.74		61,887.35				74,645.09
Visit to Japan and Korea to investigate alleged liquor blackmarketing		2,890.52		5,437.67				8,328.19
Visit to Geneva, Switzerland (SALT)		1,125.17		1,336.29				2,461.46
Visit to Portugal, Spain and France to attend NATO-sponsored Transfer Conference and to review Mediterranean naval issues of the 6th Fleet		674.00		3,132.00				3,806.00
Visit to Germany to inspect military installations and military airlift capability		1,200.00		3,297.60				4,497.60
Visit to Switzerland and France to participate in SALT and Vietnam talks		1,200.00		5,072.88				6,272.88
Official individual committee travel		3,430.14		8,944.40				12,374.54
Committee totals		34,233.26		172,457.93		1,823.43		217,514.62

[1] Per biem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent: If U.S. currency is used, enter amount expended.

Mar. 20, 1978.

MELVIN PRICE,
Chairman, Committee on Armed Services.

VISIT TO WESTERN EUROPE AND NATO HEADQUARTERS, APR. 7–18, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Badham, Robert E.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714.00	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625.00	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Holt, Marjorie S.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714.00	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625.00	150.00						150.00
	4/16	4/18	Spain	10,303.66	150.00		[3] 3,230.65				3,380.65

See footnotes at end of table.

VISIT TO WESTERN EUROPE AND NATO HEADQUARTERS, APR. 7–18, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Kazen, Abraham	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714.00	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625.00	150.00						150.00
	4/16	4/18	Spain	10,303.66	150.00		[3] 3,230.65				3,380.65
Mitchell, Donald J.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714.00	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Treen, David C.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
White, Richard C.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Wilson, Bob	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,779.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	15,457	225.00		3,118.97				3,343.97
Won Pat, Antonio B.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Price, Wm. D.	4/7	4/9	United Kingdom	85.71	150.00						75.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Scrivner, Peter D.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.65
Terrar, Edw. F., Jr.	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00						300.00
	4/12	4/14	Greece	2,797.50	75.00						75.00
	4/14	4/16	Turkey	2,625	150.00						150.00
	4/16	4/18	Spain	15,457	225.00		[3] 3,230.65				3,455.65
Wincup, G. Kim	4/7	4/9	United Kingdom	85.71	150.00						150.00
	4/9	4/12	Germany	714	300.00		[4] 478.90				778.90
	4/12	4/14	Greece	2,797.50	75.00		[4] 1,041.19				1,116.19
	4/14	4/16	Turkey	2,626	150.00						150.00
	4/16	4/18	Spain	10,304.66	150.00		[3] 3,230.65				3,380.95
	4/16	4/18	Spain				[4] 923.08				923.08
Committee totals					10,050.00		41,099.29				51,149.29

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollars equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation paid by the Department of the Air Force.
[4] Transportation expenses incurred by entire group and paid by the Department of State.

MELVIN PRICE,
Chairman, Committee on Armed Services.

WESTERN EUROPE AND MIDDLE EAST, MAY 27 TO JUNE 6, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Downey, Thomas J.	5/30	5/31	Israel	705.75	75.00		[3] 1,015.00				1,090.00
	5/31	6/1	England	43.04	75.00						75.00
	6/1	6/2	Norway	394.95	75.00						75.00
	6/2	6/5	France	750	225.00		[3] 373.22				598.22
							[4] 1,083.50				1,083.50
Ichord, Richard H.	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/1	England	43.04	75.00						75.00
	6/1	6/2	Norway	394.50	75.00						75.00
	6/2	6/6	France	1,500	300.00		[4] 3,060.88				3,360.88
Lloyd, Jim	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/6	France	2,250	450.00		[4] 2,666.94				3,116.94
Mollohan, Robert H.	5/27	5/30	Belgium	9,100	252.77						252.77
	5/30	6/3	Grance	1,500	300.00		[4] 1,452.35				1,752.35
Nichols, Bill	5/27	5/30	Belgium	8,943	248.41						248.41
	5/30	6/3	France	1,500	300.00		[4] 1,452.35				1,752.35
Schroeder, Patricia	5/27	5/29	Germany	352.50	150.00						150.00
Schroeder, Patricia	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/1	England	43.04	75.00		[4] 2,442.21				2,517.21
Stratton, Samuel S.	5/27	5/30	Belgium	7,145	197.62						197.62
	5/30	6/3	France	1,480	296.00		[4] 1,452.35				1,748.35
Whitehurst, G. William	5/26	5/27	Belgium	4,600	127.77						127.77
	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,316.50	139.50						139.50
	5/31	6/1	England	43.04	75.00		[4] 2,602.30				2,677.30
	6/1	6/2	Norway	394.50	75.00						75.00
	6/2	6/3	France	295	59.00		[4] 841.32				900.32

See footnotes at end of table.

WESTERN EUROPE AND MIDDLE EAST, MAY 27 TO JUNE 6, 1977—Continued

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Wilson, Bob	5/27	5/30	Belgium	10,800	300.00		[4] 2,464.98				2,764.98
	5/31	6/6	France	2,400	525.00		[3] 286.00				811.00
Battista, A. R.	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/1	England	43.04	75.00						75.00
	6/1	6/2	Norway	394.50	75.00		[4] 2,424.25				2,499.25
	6/2	6/5	France	1,125	225.00		[3] 373.37				598.37
Cooper, Thomas	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/1	England	43.04	75.00						75.00
	6/1	6/2	Norway	394.50	75.00						75.00
	6/2	6/3	France	750	150.00		43,203.25				3,353.25
Mohrmann, George F.	5/27	5/29	Germany	352.50	150.00						150.00
	5/29	5/31	Israel	1,411.50	150.00						150.00
	5/31	6/1	England	43.04	75.00						75.00
	6/1	6/2	Norway	394.50	75.00						75.00
	6/2	6/3	France	750	150.00		[4] 3,203.25				3,353.25
Reddan, John T. M.	5/27	5/30	Belgium	10,648	293.00						293.00
	5/30	6/3	France	1,500	300.00		[4] 1,452.35				1,752.35
Tsompanas	5/27	5/30	Belgium	10,800	300.00						300.00
	5/30	6/3	France	1,500	300.00		[4] 1,452.35				1,752.35
White, Justus	5/25	5/29	Belgium	10,800	300.00		[5] 1,010.52				1,310.52
	5/29	6/2	Germany	881.25	375.00		[4] 779.00				1,154.00
							[3] 142.08				142.08
Local transportation for entire group in Germany							[3] 596.95				596.95
Local transportation for entire group in France							[3] 2,473.67				2,473.67
Control room expenses for entire group									1,224.00		1,224.00
Total					9,114.07		38,304.44		1,224.00		48,642.51

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation paid by State.
[4] Transportation paid by Air Force.
[5] Transportation paid by Army.

MELVIN PRICE,
Chairman, Committee on Armed Services.

Mar. 20, 1978.

VISIT TO DENMARK, ICELAND, AND NORWAY, AUG. 26–31, 1977, TO REVIEW FISCAL YEAR 1978 MILCON PROGRAMS

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Davis, Mendel J.	8/26	8/28	Denmark	850.00	141.67						141.67
	8/28	8/30	Iceland	26,065.00	132.31						132.31
	8/30	8/31	Norway	366.90	67.64		[3] 1,973.00		[4] 299.71		2,340.35
Tsompanas, Paul L.	8/26	8/38	Denmark	1,350.00	225.00						225.00
	8/29	8/30	Iceland	29,865.00	150.00						150.00
	8/30	8/31	Norway	406.90	75.00		[3] 1,973.00		[4] 299.72		2,347.72
Committee totals					791.62		3,946.00		599.43		5,337.05

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation paid by Army.
[4] Class A official expenses paid by Army.

MELVIN PRICE,
Chairman, Committee on Armed Services.

VISIT TO MIDDLE EAST AND AFRICA, NOV. 6–22, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Byron, Goodloe E.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	41,000	48.79						48.79
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,242.29				5,392.29
Daniel, Robt. W., Jr.	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00		[3] 1,881.30				2,031.30
Dellums, Ronald V.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	2,676.24	177.00						177.00
	11/11	11/13	Egypt	105	150.00		[3] 2,160.85				2,310.85
Dickinson, Wm. L.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,839.53				5,989.53

See footnotes at end of table.

VISIT TO MIDDLE EAST AND AFRICA, NOV. 6–22, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Holt, Marjorie S.	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	1,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,786.05				5,936.05
Nedzi, Lucien N.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	58,820	70.00						70.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,839.53				5,989.53
Price, Melvin	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,839.53				5,989.53
White, Richard C.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	56,000	66.64						66.64
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 4,358.86				4,508.86
Wilson, Bob	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,839.53				5,989.53
Battista, A. R.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	27,200	150.00		[3] 5,839.53				5,989.53
Bauser, Edw. J.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	2,802	185.31						185.31
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	50,000	60.00						60.00
	11/20	11/22	Ivory Coast	27,200	150.00		[3] 5,839.53				5,989.53
Ford, John J.	11/6	11/8	Ireland	82.88	150.00						150.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/19	Kenya	2,452.20	300.00						300.00
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00		[3] 5,839.53				5,989.53
Local transportation for the entire group in the Ivory Coast.							[4] 750.22				750.22
Local transportation for the entire group in Ireland.							[4] 600.62				600.62
Local transportation for the entire group in Iran.							[4] 230.35				230.35
Committee total					12,757.75		61,887.35				74,645.09

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Transportation paid by Air Force.
[4] Transportation paid by State.

MELVIN PRICE,
Chairman, Committee on Armed Services.

TRIP TO JAPAN AND KOREA, NOV. 6–16, 1977, TO INVESTIGATE ALLEGED LIQUOR BLACKMARKETING

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Daniel, W. C. "Dan" [5]	11/6	11/9	Japan	44,094	178.52						2 178.50
	11/9	11/12	Korea	76,500	162.00						162.00
Wilson, Charles H. [5]	11/6	11/10	Japan	92,625	375.00						375.00
	11/10	11/16	Korea	252,000	525.00						525.00
Cofer, Williston B.	11/6	11/9	Japan	74,100	300.00						300.00
	11/9	11/16	Korea	252,000	525.00		[3] 1,225.00				1,750.00
Marshall, Ralph	11/6	11/9	Japan	74,100	300.00						300.00
	11/9	11/16	Korea	252,000	525.00		[3] 1,225.00				1,750.07
							[4] 2,987.67				2,987.67
Committee total					2,890.52		5,437.67				8,328.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation paid by Army.
[4] Class A official expenses paid by Army.
[5] Note: Billing has not come through Army Travel Office reflecting transportation from Washington to Japan, Korea, and return to Washington.

Mar. 20, 1978.

MELVIN PRICE,
Chairman, Committee on Armed Services.

TRIP TO GENEVA, SWITZERLAND TO PARTICIPATE IN SALT, NOV. 9–17, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Carr, Bob	11/9	11/17	Switzerland	1,328.94	600.17		[3] 720.62				1,320.79
Downey, Thomas J	11/9	11/15	Switzerland	1,115.20	525.00		[3] 615.67				1,140.67
Committee totals					1,125.17		1,336.29				2,461.46

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent: If U.S. currency is used, enter amount expended.
[3] Transportation paid by Navy.

Mar. 20, 1978.

MELVIN PRICE,
Chairman, Committee on Armed Services.

VISIT TO PORTUGAL TO ATTEND NATO SPONSORED TECHNOLOGICAL TRANSFER CONFERENCE AND TO REVIEW MEDITERRANEAN NAVAL ISSUES OF THE SIXTH FLEET, NOV. 6–13, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Thomas E. Cooper	11/6	11/11	Portugal	14,459	359.00		[3] 1,466.00				1,825.00
	11/11	11/11	Spain				[3] 100.00				100.00
	11/11	11 13	France								
Thomas S. Hahn	11/6	11/11	Portugal	13,409	315.00		[3] 1,466.00				1,781.00
	11/11	11/11	Spain				[3] 100.00				100.00
	11/11	11/13	France								
Committee totals					674.00		3,132.00				3,806.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Transportation paid by Navy.

MELVIN PRICE,
Chairman, Committee on Armed Services.

VISIT TO GERMANY TO INSPECT MILITARY INSTALLATIONS AND MILITARY AIRLIFT CAPABILITY

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Davis, Mendel J	11/26	11/29	Germany	663	300.00		[3] 824.40				1,124.40
Won Pat, Antonio B	11/26	11/29	Germany	663	300.00		[3] 824.40				1,124.40
Shumate, James F	11/26	11/29	Germany	663	300.00		[3] 824.40				1,124.40
Tsompanas, Paul L	11/26	11/29	Germany	663	300.00		[3] 824.40				1,124.40
Committee totals					1,200.00		3,297.60				4,497.60

[1] Per Diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Transportation paid by Air Force.

MELVIN PRICE,
Chairman, Committee on Armed Services.

TRIP TO FRANCE AND SWITZERLAND TO PARTICIPATE IN SALT AND VIETNAM TALKS, DEC. 1–8, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Wilson, Charles H	12/1	12/4	France	1,440.00	300.00						300.00
	12/4	12/8	Switzerland	645.45	300.00		[3] 1,746.00				2,046.00
							[4] 2,126.88				2,126.88
Klein, Adam J	12/1	12/4	France	1,440.00	300.00						300.00
	12/4	12/8	Switzerland	645.45	300.00		[3] 1,200.00				1,500.00
Committee totals					1,200.00		5,072.88				6,272.88

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation paid by Army.
[4] Class A official expenses paid by Army.

Mar. 20, 1978.

MELVIN PRICE,
Melvin Price, Chairman, Committee on Armed Services.

OFFICIAL INDIVIDUAL COMMITTEE TRAVEL

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Aspin, Les	6/25	6/26	England	32.90	57.75		[3] 37.74				95.49
	6/26	7/2	Germany	285.75	121.60						121.60
	8/29	8/31	Korea	50,880	106.00		[4] 164.73				270.73
	9/8	9/11	Belgium	10,620	300.00		[4] 877.00				1,177.00
							[3] 16.73				16.73
	12/2	12/5	England	40.81	75.00						75.00
Carr, Bob	8/14	8/20	Switzerland	1,267.10	525.00		[5] 1,515.00				2,040.00
							[3] 413.59				413.59
	8/21	8/23	Switzerland	548.10	225.00						225.00
Hillis, Elwood H	4/11	4/14	Panama		262.50		[4] 601.33				863.83
	5/5	5/6	Great Britain		75.00		[4] 431.01				506.01
	5/6	5/6	Belgium		75.00						75.00
	5/6	5/12	Germany		450.00						450.00
	5/12	5/13	Belgium		75.00						75.00
	5/13	5/16	Germany		225.00						225.00
Lally, John F	6/17	6/20	Japan	29,437	75.00		[4] 2,661.67				2,736.67
Local transportation						6,504.00	[3] 23.87				23.87
	6/18	6/26	Korea	33,500	69.79						69.79
Schroeder, Patricia	10/2	10/10	Yugoslavia	5,424	300.00		[5] 1,770.73				2,070.73
Spence, Floyd D	4/7	4/9	Panama	187.50	187.50		[3] 431.00				618.50
	4/9	4/12	Venezuela	963	225.00						225.00
Committee totals					3,430.14		8,944.40				12,374.54

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Transportation paid by State.
[4] Transportation paid by Army.
[5] Transportation paid by Air Force.

MELVIN PRICE,
Chairman, Committee on Armed Services.

March 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Hon. Frank Annunzio	11/8	11/10	Israel	3,402	225.00					3,402	225.00
	11/11	11/12	Egypt	105	150.00					105	150.00
	11/13	11/14	Iran	10,575	150.00					10,575	150.00
	11/15	11/17	Kenya	1,837.20	225.00					1,837.20	225.00
	11/18	11/19	Zambia	615	75.00					615	75.00
	11/19	11/20	Zaire	63	75.00					63	75.00
	11/21	11/22	Ivory Coast	37,200	150.00					37,200	150.00
Hon. Herman Badillo	5/29	5/31	Guatemala	225	225.00	154.88	154.88			379.88	379.88
Hon. Gary Brown	5/29	6/1	Guatemala	300	300.00	154.88	154.88			454.88	454.88
	6/2	6/3	Mexico	3,390	150.00		324.50			3,390	474.50
							1,406.00				
William P. Dixon	5/1	5/7	Mauritius	3,468	525.00	8,634	1,687.30			12,102	3,618.30
	5/29	5/31	Guatemala	225	225.00	154.88	154.88			379.88	379.88
							1,477.62				
Theodore A. Doremus, Jr	4/12	4/14	Japan	61,102	225.00	37,761.50	136.08			98,863.50	1,838.70
	4/15	4/16	Thailand	3,055	150.00					3,055	150.00
	4/17	4/17	Singapore	550.57	225.00	236.67	96.72			787.24	321.72
	4/20	4/22	Philippines	1,667.25	225.00		1,477.62			1,667.25	1,702.62
Orman Fink	5/29	5/31	Guatemala	225	225.00	154.88	154.88			379.88	379.88
Michael P. Flaherty	5/29	6/1	Guatemala	300	300.00	154.88	154.88			454.88	454.88
	6/2	6/3	Mexico	3,390	150.00		420.42			3,390	570.42
Louis Gasper	5/29	5/31	Guatemala	225	225.00	154.88	154.88			379.88	379.88
Hon. George Hansen	8/29	9/1	Bolivia	6,114	300.00		1,499.63			6,114	1,799.63
	9/2	9/4	Panama		113.00						113.00
							1,466.50				
Hon. Henry Hyde	4/12	4/14	Japan	61,102	225.00	37,761.50	136.08			98,863.50	1,827.58
	4/15	4/16	Thailand	3,055	150.00					3,055	150.00
							1,429.47				
	4/17	4/18	Singapore	367.05	150.00	236.67	96.72			603.72	1,676.19
							1,177.00				
Hon. John LaFalce	3/13	3/15	Austria	3,831.75	225.00	907.38	53.47			4,739.13	1,455.47
Robert Loftus	11/16	11/18	England	121.62	225.00					121.62	225.00
	11/19	11/24	West Germany	1,003.50	450.00					1,003.50	450.00
	11/25	11/26	Italy		75.00						75.00
					75.00						75.00
	11/27	11/28	Spain	6,195	75.00					6,195	75.00
Hon. Joseph G. Minish	11/61	11/18	England	121.62	225.00					121.62	225.00
	11/19	11/24	West Germany	1,003.50	450.00					1,003.50	450.00
	11/25	11/26	Italy		75.00						75.00
					75.00						75.00
	11/27	11/28	Spain	6,195	75.00					6,195	75.00
							408.00				
Hon. Stephen Neal	3/13	3/15	Austria	3,831.75	225.00	907.38	53.47			4,739.13	686.47
	3/16	3/18	England	128.93	225.00		407.00			128.93	632.00
	8/9	8/11	Colombia	5,481	150.00					5,481	150.00
	8/12	8/13	Equador	4,044	150.00					4,044	150.00
	8/14	8/15	Peru	12,132	150.00					12,132	150.00
	8/16	8/17	Chile	3,255	150.00					3,255	150.00
	8/18	8/19	Bolivia	3,057	150.00					3,057	150.00
	8/20	8/23	Brazil	4,422	300.00					4,422	300.00
Paul Nelson	5/29	6/1	Guatemala	300	300.00	154.88	154.88			454.88	454.88
	6/2	6/3	Mexico	3,390	150.00		324.50			3,390	474.50
Curtis A. Prins	4/13	4/15	England	728.57	1,275.00		1,828.95			728.57	3,103.95
	4/16	4/18	Spain	(Received funds in England)							
	4/19	4/20	Greece	(Received funds in England)							
	4/21	4/21	Italy	(Received funds in England)							
	4/22	4/29	West Germany	(Received funds in England)							

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. J. William Stanton	7/5	7/6	Luxembourg	5,371.50	150.00		746.30			5,371.50	896.30
	7/7	7/7	Belgium	2,692	75.00	980.07	27.30			3,672.07	102.30
	7/8	7/9	France	735	150.00					735	150.00
	7/10	7/12	England	128.57	211.11					128.57	211.11
Hon. Paul Tsongas	12/9	12/11	Rome	1,052.70	75.00		1,755.00				1,830.00
	11/11	12/16	Ethiopia	821.79	400.00					821.79	400.00
	12/16	12/17	Kenya	604.40	75.00					604.40	75.00
	12/17	12/18	Somalia	464.20	75.00					464.20	75.00
	12/18	12/19	Egypt	105	150.00					105	150.00
Committee totals				117,491.11							31,268.92

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.

Mar. 7, 1978.

HENRY S. REUSS,
Chairman, Committee on Banking, Finance, and Urban Affairs.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Robert Leggett, MC	11/14	11/16	Belgium		270.30						270.30
	11/16	11/18	Federal Republic of Germany.		258.29						258.29
	11/18	11/20	Netherlands		248.46		16.19				248.46
	11/20	11/23	England		326.29		14.71				1,199.67
							842.48				
John Cove	11/12	11/14	England		374.25		16.20				374.25
	11/14	11/16	Belgium		209.88						209.88
	11/16	11/18	Federal Republic of Germany.		114.40						114.40
	11/18	11/20	Netherlands		142.42		16.18				142.42
	11/20	11/23	England		338.33		14.16				1,079.87
							695.00				
William Cleary	11/12	11/14	England		279.32		9.45				279.32
	11/14	11/16	Belgium		173.55						173.55
	11/16	11/18	Federal Republic of Germany.		101.59						101.59
	11/18	11/20	Netherlands		216.66		16.17				216.66
	11/20	11/23	England		355.41		14.62				1,090.65
							695.00				
Subtotal					3,409.15		2,350.16				5,759.31
Paul Simon, MC	11/9	11/10	Greece, (DRS)	75.00	75.00						75.00
					[3] (21.83)						
	11/10	11/13	Egypt (LE)	144.375	206.25						206.25
					[3] (18.25)						
	11/13	11/14	Sudan (LS)	29.850	75.00						75.00
					[3] (150.00)						
	11/14	11/17	Saudi-Arabia (SR)	528.00	150.00						150.00
	11/17	11/18	Syria (L.SYR)	.585	150.00						150.00
	11/18	11/19	Jordan (JD)	48.600	150.00						150.00
					[3] (40.00)						
	11/19	11/22	Israel (IL)	3,411	225.00		[4] 1,580.00				1,805.00
Peter Storm	11/10	11/13	Egypt (pound)	144.375	206.25						206.25
	11/13	11/14	Sudan (Pound)	21.250	53.40						53.40
	11/14	11/17	Saudi-Arabia (Riyal)	529.500	150.00						150.00
	11/17	11/18	Syria (Pound)	585.000	150.00						150.00
	11/18	11/20	Jordan (Dinar)	48.600	150.00						150.00
	11/20	11/22	Israel (Pound)	3,349.000	220.92		[5] 1,852.40				2,073.32
Subtotal					1731.74		3432.40				5,164.14
William Lehman, MC	5/26	5/28	Belgium	8,100	225.00	7,920	220.00				445.00
	5/28	5/31	Norway	1,186.30	225.00						225.00
	5/31	6/3	France	1,500	300.00	3,680	736.00				1,036.00
Subtotal					750.00		956.00				1,706.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.

[3] Less funds reimbursed to State Department (total $230.08).

[4] State Department paid for airline ticket of $1,580, of which $779 was paid by Helsinki Commission.

[5] Final billing will be approximately $250 less after credit from 1st class to coach.

Mar. 16, 1978.

ROBERT N. GIAIMO,
Chairman, Committee on the Budget.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Full Committee:											
Frank Thompson, Jr.	5/29	6/4	Switzerland	1,131.00	450.00	1,597.50	635.62			2,728.50	1,085.62
	6/7	6/10	England	257.87	450.00	248.71	432.60			506.58	732.60

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S currency [2]
Full Committee:											
Returned $150.00 excess per diem DMk.						1,687.40	715.00			1,687.40	715.00
Augustus Hawkins	6/4	6/9	Switzerland	1,125.10	450.00		[3] 1,515.00				2,828.19
						2,075	[3] 863.19				
John Ashbrook	5/27	6/10	Switzerland	2,743.90	1,125.00		804.00				
Other expenditures—Department of Air Force transportation from Andrews AFB to Brussels.							420.66				2,349.66
Subcommittee on Select Education:											
Jack Duncan	11/22	11/30	Egypt	406.875	581.25		1,251.00				
Local						74.00					1,906.25
Committee totals					2,906.25		6,711.07				9,617.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent: If U.S. currency is used, enter amount expended.
[3] Local transportation.

Mar. 16, 1978.

CARL D. PERKINS,
Chairman, Committee on Education and Labor.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Hon. Leo J. Ryan	4/8	4/13	Denmark	None	None						
	4/13	4/15	West Germany	35.50	150.00					35.50	150.00
	4/15	4/16	Switzerland	188.65	75.00					188.65	75.00
	4/16	4/19	France	304.12	262.50		744.00			304.12	1,006.50
Hon. Jack Hightower	4/12	4/13	Denmark	450	75.00					450.00	75.00
	4/13	4/15	West Germany	44.38	187.50					44.38	187.50
	4/15	4/16	Switzerland	188.65	75.00					188.65	75.00
	4/16	4/19	France	304.12	262.50		1,445.00			304.12	1,707.50
David A Schuenke	4/12	4/13	Denmark	450	75.00					450.00	75.00
	4/13	4/15	West Germany	44.38	187.50					44.38	187.50
	4/15	4/16	Switzerland	188.65	75.00					188.65	75.00
	4/16	4/19	France	304.12	262.50		1,445.00			304.12	1,707.50
Norman G. Cornish	4/12	4/13	Denmark	450	75.00					450	75.00
	4/13	4/15	West Germany	44.38	187.50					44.38	187.50
	4/15	4/16	Switzerland	188.65	75.00					188.65	75.00
	4/16	4/19	France	304.12	262.50		1,445.00			304.12	1,707.50
Earl F. Rieger	5/19	5/25	Belgium	18,900	525.00	1,356	27.70			20,256	552.70
	5/25	5/28	Germany	705.50	300.00		725.00			705.50	1,025.00
David E. Holt, Jr.	5/19	5/25	Belgium	18,900	525.00	1,356	27.70			20,256	552.70
	5/25	5/28	Germany	705.50	300.00		725.00			705.50	1,025.00
Richard C. Barnes	5/21	5/25	Belgium	13,500	375.00	1,356	27.70			14,856	402.70
	5/25	5/28	Germany	705.50	300.00		725.00			705.50	1,025.00
C. Don Stephens	5/21	5/25	Belgium	13,500	375.00	1,356	27.70			14,856	402.70
	5/25	5/28	Germany	529.14	225.00		725.00			529.14	950.00
Hon. Jack Brooks	5/23	5/30	Belgium	21,600	600.00		711.50			21,600	1,311.50
John E. Moore	5/23	5/30	Belgium	21,600	600.00		711.50			21,600	1,311.50
C. Don Stephens	5/29	6/3	Guatemala	450	450.00		570.50			450	1,020.50
	5/29	6/3	Guatemala	450	450.00		570.50			450	1,020.50
Hon. Robert F. Drinan	8/25	8/28	Japan	30,682	115.00					30,682	115.00
	8/28	8/30	Taiwan	2,884	76.00					2,884	76.00
	8/30	9/1	Singapore	247.86	102.00					247.86	103.00
	9/1	9/3	Indonesia	33,161	80.00		2,048.50			33,161	2,128.50
Peter S. Barash	8/25	8/28	Japan	60,030	225.00					60,030	225.00
	8/28	8/30	Taiwan	5,692.50	150.00					5,692.50	150.00
	8/30	9/1	Singapore	365.03	150.00					365.03	150.00
	9/2	9/4	Hong Kong	1,035	225.00		1,992.10			1,035	2,217.10
Ronald A. Klempner	8/25	8/28	Japan	60,030	225.00					60,030	225.00
	8/28	8/30	Taiwan	5,692.50	150.00					5,692.50	150.00
	8/30	9/1	Singapore	365.03	150.00					365.03	150.00
	9/2	9/4	Hong Kong	1,350	225.00		1,992.10			1,350	2,217.10
Earl F. Rieger	8/27	8/31	France								
	8/31	9/4	Great Britain		750.00		586.17				1,336.17
C. Don Stephens	8/27	8/31	France								
	8/31	9/4	Great Britain		750.00		586.17				1,336.17
Craig J. Gehring	8/27	8/31	France								
	8/31	9/4	Great Britain		750.00		586.17				1,336.17
Guadalupe R. Flores	8/27	8/31	France								
	8/31	9/4	Great Britain		750.00		586.17				1,336.17
Richard C. Barnes	8/27	8/31	France								
	8/31	9/4	England		750.00		586.17				1,336.17
David E. Holt, Jr.	8/27	8/31	France								
	8/31	9/4	England		750.00		586.17				1,336.17
John E. Moore	9/17	9/24	France	2,970	600.00		[3] 446.43			2,970	1,046.43
C. Don Stephens	9/17	9/24	France	2,970	600.00		[3] 446.43			2,970	1,046.43
C. Don Stephens	11/3	11/7	France	2,520	525.00		365.75			2,520	890.75
	11/7	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Earl F. Rieger	11/3	11/7	France	1,800	375.00		365.75			1,800	740.75
	11/7	11/13	England	286.44	525.00					286.44	525.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. Jack Brooks	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Hon. Don Fuqua	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Hon. John E. (Jack) Cunningham	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
William M. Jones	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
John E. Moore	11/6	11/9	France	1,080	225.00			4,200	875.00	1,080	1,100.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Elmer W. Henderson	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Craig Gehring	11/6	11/8	France	1,080	225.00					1,080	225.00
	11/8	11/13	England	202.70	375.00					202.70	375.00
Lynne Higginbotham	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Richard L. Thompson	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
James L. George	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Alvin E. Mills	11/6	11/9	France	1,080	225.00					1,080	225.00
	11/9	11/9	Germany								
	11/9	11/13	England	202.70	375.00					202.70	375.00
Group Transportation	11/6	11/13					24,882.00				24,882.00
Group Control Room								136.95	256.50		256.50
Total for Committee on Government Operations					23,285.50		46,709.88		1,131.50		71,126.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Space available cost per seat.

Mar. 6, 1978.

JACK BROOKS,
Chairman, Committee on Government Operations.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Beilenson, A.	12/11	12/15	Switzerland	643.26	300.00					634.26	300.00
Bierman, E.	3/17	3/20	Panama		202.80		52.00				254.80
Bingham, J.	2/10	2/15	Cuba		375.00		360.90				735.90
	5/29	6/2	France	1,500	300.00	4,337.49	867.50			5,837.49	1,167.50
Bonker, D.	12/13	12/16	Ethiopia	616.34	300.00					616.34	300.00
	12/16	12/17	Kenya	604.40	75.00					604.40	75.00
	12/17	12/18	Somalia	464.20	75.00	2,382.00	384.88			2,846.20	459.88
	12/18	12/19	Egypt	70	100.00					70.00	100.00
	12/19	12/21	Sudan	80	200.00		42.90				242.90
	12/21	12/22	Rome	523.80	60.00					532.80	60.00
			U.S. dollar				2,859.30				2,859.30
Subtotal					1,987.80		4,567.48				6,555.28
Brennan, K.	11/12	12/22	Yugoslavia	53,955	2,985.00		1,737.00				4,722.00
Buchanan, J.	11/14	11/18	Yugoslavia	5,406	300.00		1,698.00				1,998.00
Burke, J. H.	8/9	8/11	Colombia	5,481	150.00		9.68				159.68
	8/11	8/13	Ecuador	4,044	150.00		42.93				192.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	3,255	150.00		26.66				176.66
	8/17	8/20	Argentina	94,550	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Challenor, H.	4/3	4/5	Ghana	195.51	156.86					195.51	156.86
	4/5	4/6	Ivory Coast	18,600	75.00					18,600	75.00
	4/6	4/8	Upper Volta	51,150	206.25					51,150	206.25
	4/8	4/12	Senegal	74,550	300.00		115.62				415.62
	4/12	4/14	Mali	94,325	189.79		413.55				693.34
	4/14	4/15	Niger	18,675	75.00					18,675	75.00
	4/15	4/16	France	375	75.00					375	75.00
			DMK				1,979.00				1,979.00
Subtotal					5,412.90		7,176.19				12,589.09
Challenor, H.	5/26	6/1	Canada		450.00		200.64				650.64
	11/14	11/15	Saudi Arabia	528	150.00						150.00
	11/16	11/17	Jordan	24,300	75.00		9.17			528.00	84.17
	11/17	11/20	Israel	3,411	225.00					3,411.00	225.00
	11/20	11/21	France	720	150.00					720.00	150.00
			U.S. dollar				2,201.00				2,201.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Cooke, J.	8/9	8/11	Colombia	5,481	150.00		9.68				159.68
	8/11	8/13	Ecuador	1,585.40	58.75		42.93				101.68
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	3,255	150.00		26.66				176.66
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Subtotal					2,007.75		3,643.83				5,652.58
E. de la Garza	3/17	3/20	Panama		195.00						195.00
			DOD				52.00				52.00
	8/9	8/11	Colombia	4,229.33	194.90		9.68				204.58
	8/11	8/13	Ecuador	4,044	150.00		42.93				192.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	3,255	150.00		26.66				176.66
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
C. C. Diggs	4/1	4/2	France	750	150.00					750	150.00
	4/2	4/3	England	41.25	75.00					41.25	75.00
	4/3	4/5	Ghana	106.51	120.88					106.51	120.88
	4/5	4/6	Ivory Coast	18,600	75.00					18,600	75.00
	4/6	4/8	Upper Volta	51,150	206.25					51,150	206.25
	4/8	4/12	Senegal	74,550	300,00		115.64				415.64
	4/12	4/14	Mali	111.825	225.00		413.55				638.55
Subtotal					2,442.03		1,814.21				4,256.24
	4/14	4/15	Niger	18,675	75.00					18,675	75.00
	4/15	4/16	France	375	75.00	885	177.00			1,260	252.00
			DMK				2,708.80				2,708.80
	5/29	5/30	Canada		150.00						150.00
	8/19	8/20	London	85.34	150.00					85.34	150.00
	8/20	8/25	Nigeria	397.44	600.00					397.44	600.00
	8/23	8/24	Togo	18,401	75.00					18,401	75.00
	8/25	8/26	Spain	6,330	75.00					6,330	75.00
			U.S. dollar				2,293.50				2,293.50
	11/14	11/15	Saudi Arabia	528	150.00					528	150.00
	11/16	11/17	Jordan	24,300	75.00		9.17				84.17
	11/17	11/19	Israel	3,411	225.00					3,411	225.00
	11/19	11/21	France	1,080	225.00					1,080	225.00
			U.S. dollar				2,201.00				2,201.00
Dodd, C.	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/10	7/15	England	214.30	375.00		139.29				514.29
			DOD				449.42				449.42
Subtotal					2,400.00		8,033.12				10,433.12
Duskie, D.	4/8	4/10	Japan	40,980	150.00	41,368.43	151.43			82,348.43	301.43
	4/10	4/12	Korea	72,000	150.00					72,000	150.00
	4/12	4/14	Indonesia	62,175	150.00					62,175	150.00
	4/14	4/17	Thailand	4,583.25	225.00					4,583.25	225.00
	4/17	4/19	Philippines	1,115.75	150.00	374.48	65.32			1,179.07	215.32
	4/19	4/20	Republic of China	5,692.50	150.00					5,692.50	150.00
			DOD				1,441.15				1,441.15
Fascell, D.	8/9	8/11	Colombia	5,481	145.71		9.68				155.39
	8/11	8/13	Ecuador	4,044	150.00		42.93				192.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	2,773.04	127.79	578.52	26.66			3,351.56	154.45
	8/17	8/20	Argentina	94,468	223.86		42.16				266.02
	8/20	8/23	Brazil	3,262.70	221.35		32.71				254.06
			DOD				1,034.37				1,034.37
Finley, M.	9/11	9/15	Trinidad-Tobago	1,078.65	450.00		598.00				1,048.00
Subtotal					2,443.71		3,488.92				5,932.63
Findley, P.	8/9	8/11	Colombia	4,058.13	111.06		9.68				120.74
	8/11	8/13	Ecuador	2,965.60	110.00		42.93				152.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	2,738.11	126.18		26.66				152.84
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,262.70	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Fowler, W.	8/19	8/21	Sudan	60.680	152.45					60,680	152.45
	8/21	8/27	Tanzania	3,434.48	412.50					3,474.48	412.50
	8/27	8/27	Kenya	485.30	58.54					485.30	58.54
	8/28	9/2	Nigeria	315.26	452.90					315.26	452.90
	9/2	9/5	Liberia	262.50	262.50					262.50	262.50
			U.S. dollar				2,568.00				2,568.00
Fox, E.	2/10	2/15	Switzerland	943.30	375.00		1,441.00				1,816.00
Subtotal					2,661.13		5,242.02				7,903.15
	3/17	3/20	Panama		200.00						200.00
			DOD				52.00				52.00
	8/9	8/11	Colombia	5,152.14	141.00		9.68				150.68
	8/11	8/13	Ecuador	4,044	150.00		42.93				192.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	3,016.30	139.00		26.66				165.66
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Fraser, D.	6/1	6/3	Italy	82,900	92.11		1,806.00				1,898.11
	7/9	7/15	England	192.14	337.09		940.29				1,277.38
			DOD				224.71				224.71
Subtotal					1,659.20		4,256.02				5,915.22

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31 1977—Continued

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S currency [2]
Gilman, B. A	2/10	2/15	Switzerland	943.30	375.00		1,441.00				1,816.00
	3/17	3/20	Panama		207.00						270.00
			DOD				52.00				52.00
	8/9	8/11	Columbia	5,481	150.00		9.68				159.68
	8/11	8/13	Ecuador		141.00		42.93				183.93
	8/13	8/15	Peru		146.00		44.51				190.51
	8/15	8/17	Chile	3,255	150.00		26.66				176.66
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.5	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Subtotal					1,619.00		2,726.02				4,345.02
	10/7	10/11	Yugoslavia		300.00						300.00
			DOD				590.24				590.24
Goodling, W	3/17	3/20	Panama		196.00						196.00
			DOD				52.00				52.00
	4/8	4/9	Japan	20,490	75.00	41,368.43	151.43			61,858.43	226.43
	4/9	4/12	Indonesia	97,822	236.00		1,691.70				1,927.70
			DOD				720.58				720.58
Goodman, M	11/17	11/20	Hong Kong	1,050.75	225.00		6.41				231.41
	11/20	11/27	Thailand	6,902.50	185.00		61.79				246.79
	11/27	12/4	Bangladesh	4,308.80	287.22					4,308.80	287.22
	12/4	12/8	India	1,454.23	168.90		39.48				208.38
	12/8	12/13	Pakistan	1,140.20	115.17					1,140.20	115.17
	12/13	12/15	England	60.00	110.80					60.00	110.80
			U.S. dollar				3,176.00				3,176.00
Subtotal					1,899.09		6,489.63				8,388.72
Culick, L	9/27	10/2	England	255.32	450.00		681.00				1,131.00
	11/17	11/20	Hong Kong	1,050.75	225.00		6.41				231.41
	11/20	11/27	Thailand	6,375.50	313.18		45.27				385.45
	11/27	12/4	Bangladesh	5,168.42	344.52		8.67				353.19
	12/4	12/8	India	1,378.75	160.13		127.75				287.88
	12/8	12/14	Pakistan	1,555	119.47					1,955.00	197.47
	12/14	12/16	Italy	131.10	150.00					131.00	150.00
			U.S. dollar				3,176.00				3,176.00
Hackett, C	7/5	7/7	Luxembourg	5,385	150.00		54.94				204.94
	7/7	7/9	Belgium	5,385	150.00	598.00	16.37			11,966.00	166.37
	7/9	7/15	England	257.15	450.00		139.29				589.29
			DOD				449.42				449.42
Hamilton, L	7/6	7/9	Israel	2,859	300.00				13.95		313.95
	7/9	7/10	Syria	585	150.00		51.54				201.54
	7/10	7/11	Jordan	21,525	65.23					21,525	65.23
	7/11	7/13	Egypt	69,410	99.16		229.98				329.14
	7/13	7/15	England	85.71	150.00		139.29				389.29
Subtotal					3,354.69		5,125.93		13.95		8,494.57
	7/6	7/15	DOD				808.96				808.96
Holstine, J	4/8	4/10	Japan	33,172	121.42	41,368.43	151.43			74,540.43	272.85
	4/10	4/12	Korea	68,006	141.70					68,006	141.70
	4/12	4/17	Indonesia	122,565	295.69	150,000	362.00			27,2565	657.69
	4/17	4/19	Philippines	1,015.59	137.06	374.48	65.32			1,390.07	202.38
	4/19	4/20	Taiwan	2,290	78.79					2,290	78.79
			DOD				1,441.15				1,441.15
Subtotal					774.66		2,828.86				3,603.52
	8/9	8/11	Colombia	4,140	113.30		9.68				122.98
	8/11	8/13	Ecuador	2,758	102.30		42.93				145.23
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	2,821	130.00		26.66				156.66
	8/17	8/20	Argentina	90,830	215.00		42.16				257.16
	8/20	8/23	Brazil	2,328	188.30		32.71				221.01
			DOD				1,034.37				1,034.37
Hyndman, V	4/8	4/10	Japan	32,480	118.89	41,368.43	151.43			73,848.43	270.32
	4/10	4/12	Korea	72,000	150.00					72,000	150.00
	4/12	4/14	Indonesia	62,175	150.00					62,175	150.00
	4/14	4/17	Thailand	4,571	224.40					4,571	224.40
	4/17	4/19	Philippines	1,101.50	148.65	374.48	65.32			1,475.98	213.97
	4/19	4/20	China	5,692.50	150.00					5,692.50	150.00
			DOD				1,441.15				1,441.15
Ingram, G	2/10	2/15	Cuba	242	242.00		10.00			252.00	252.00
			U.S. dollar				350.89				350.89
Subtotal					2,082.84		3,251.81				5,334.65
	11/14	11/14	England								
	11/14	11/18	Switzerland	666.60	300.00					666.60	300.00
			U.S. dollar				1,515.00				1,515.00
Ireland, A	3/17	3/20	Panama		916.00						196.00
			DOD				52.00				52.00
Johnson, V	8/7	8/9	Ghana	160.34	141.19					160.34	141.19
	8/9	8/12	Nigeria	51.85	78.27					51.85	78.27
	8/12	8/14	Kenya	2,099.10	253.83					2,099.10	253.83
	8/16	8/18	Kenya								
	8/14	8/16	Sudan	47.20	118.29					47.20	118.59
	8/18	8/20	Zaire	63	74.10					63.00	74.10
	8/20	8/21	Spain	2,587	32.64					2,587.00	32.64
			U.S. dollar				3,118.40				3,118.40
Jones, E	10/27	11/1	Dominican Republic	185	185.00		248.00				433.00
Subtotal					1,379.62		4,933.40				6,313.02
Knotts, M. A	8/20	8/21	England	56.82	100.00					56.82	100.00
	8/22	8/25	Nigeria	86.36	130.40					86.36	130.40
	8/23	8/24	Togo	10,059.35	41.00					10,059.35	41.00
			U.S. dollar				1,995.00				1,995.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Lagomarsino, R.	3/17	3/20	Panama		202.50						202.50
			DOD				52.00				52.00
	8/9	8/11	Colombia	4,481	122.63		9.68				132.31
	8/11	8/13	Ecuador	3,289	122.00		42.93				164.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	2,855	131.57	578.52	26.66			3,433.52	158.23
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Subtotal					1,450.10		3,280.02				4,730.12
Majak, R.	2/10	2/15	Cuba		242.00		10.00				252.00
			U.S. dollar				350.89				350.89
Mandakas, A.	3/17	3/20	Panama		205.00						205.00
			DOD				52.00				52.00
	8/9	8/11	Colombia	5,481	150.00		9.68				159.68
	8,11	8/13	Equador	4,044	150.00		42.93				192.93
	8/13	8/15	Peru	12,132	150.00		44.51				194.51
	8/15	8/17	Chile	3,255	150.00		26.66				176.66
	8/17	8/20	Argentina	94,950	225.00		42.16				267.16
	8/20	8/23	Brazil	3,316.50	225.00		32.71				257.71
			DOD				1,034.37				1,034.37
Subtotal					1,497.00		1,645.91				3,142.91
Mann, J.	9/5	9/9	Uruguay	445	90.82					445	90.82
	9/9	9/11	Brazil	1,416	96.61					1,416	96.61
			U.S. dollars				1,627.00				1,627.00
	9/23	9/30	Senegal	109,333	444.00					109,333	444.00
	9/30	10/7	Kenya	3,522.20	425.81					3,522.20	425.81
	10/7	10/10	Egypt	116.80	235.41					116.80	235.41
	10/10	10/13	England	126.75	225.00					126.75	225.00
			U.S. dollars				2,507.10				2,507.00
Meyner, H.	4/8	4/10	Japan			41,368.43	151.53			41,368.43	151.53
	4/10	4/12	Korea								
	4/12	4/17	Indonesia			150,000	362.00			150,000	362.00
	4/17	4/19	Philippines			374.48	65.32			374.48	65.32
	4/19	4/20	Taiwan								
			DOD				1,441.15				1,441.15
Subtotal					1,517.65		6,154.00				7,671.65
Nelson, S.	11/17	11/20	Hong Kong	799.75	171.25					799.75	171.25
	11/20	11/27	Thailand	5,987.50	294.95					5,987.50	294.95
	11/27	12/4	Bangladesh	5,695.13	379.63		8.67				388.30
	12/4	12/8	India	1,431.75	166.29		69.68				235.97
	12/8	12/13	Pakistan	1,955	197.47					1,955.00	197.47
	12/13	12/15	England	58.35	108.06		3,176.00			58.35	3,284.06
Popovich, T.	4/8	4/12	Senegal	69,550	279.88		154.16				434.04
	4/12	4/14	Mali	62,325	125.40		17.55				142.95
	4/14	4/15	Niger	175	.70					175	.70
	4/15	4/16	Upper Volta	5,175	20.82					5,175	20.82
			DMK				1,452.00				1,452.00
	8/7	8/9	Ghana	160.34	141.19					160.34	141.19
	8/9	8/12	Nigeria	74.40	112.32					74.40	112.32
	8/12	8/14	Kenya	1,899.10	229.92					1,899.10	229.92
	8/16	8/18	Kenya								
	8/14	8/16	Sudan	48.95	122.99					48.95	122.99
	8/18	8/20	Zaire	101	84.84					101.00	84.84
			U.S. dollar				3,118.40				3,118.40
Subtotal					2,435.71		7,996.46				10,432.17
Reinhardt, S.	3/17	3/20	Panama		189.00						189.00
			DOD				52.00				52.00
Rosenthal, B.	7/5	7/5	Luxembourg								
	7/6	7/9	Israel	2,859	300.00				13.95		313.95
	7/9	7/10	Syria	585	150.00		51.54				301.54
	7/10	7/11	Jordan	24,525	75.00					24,525	75.00
	7/11	7/13	Egypt	105,000	150.00		229.98				379.98
	7/13	7/15	England	85.71	150.00		139.29				289.29
			DOD				808.96				808.96
Ryan, L.	7/5	7/7	Luxembourg	5,385	150.00		313.94				463.94
	7/7	7/9	Sweden	656.65	150.00	9,280	259.00			9,936.65	409.00
	7/9	7/15	England	257.14	450.00		139.29				589.29
			DOD				449.42				449.42
Subtotal					1,764.00		2,443.42		13.95		4,221.37
Salzberg, J.	4/8	4/10	Japan	30,380	111.20	41,368.43	151.43			71,748.43	262.63
	4/10	4/12	South Korea	76,553	159.48					76,553	159.48
	4/12	4/17	Indonesia	76,240	184.00	150,000	362.00			226,240	546.00
	4/17	4/19	Philippines	610	82.32	374,480	65.32			375,090	147.64
	4/19	4/20	Taiwan	1,482.50	39.06					1,482.50	39.06
			DOD				1,441.15				1,441.15
	6/7	6/9	England	78.30	137.08					78.30	137.08
	6/12	6/14	France	501.15	100.23	160.00	32.65			661.15	132.88
	10/27	11/1	Dominican Republic	273	273.00					273	273.00
			U.S. dollar				248.00				248.00
Schlundt, V.	9/5	9/9	Uruguay	535.38	107.07					535.38	107.07
	9/9	9/11	Brazil	2,849.50	189.97					2,849.50	189.97
			U.S. dollar				1,627.00				1,627.00
Subtotal					1,383.41		3,927.55				5,310.96

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	9/23	9/30	Senegal	128, 128	520. 84					128, 128	520. 84
	9/30	10/7	Kenya	3, 402. 20	411. 39					3, 402. 20	411. 39
	10/7	10/10	Egypt	139. 49	199. 27					139. 49	199. 27
	10/10	10/13	England	126. 75	221. 80					126. 75	221. 80
			U.S. dollars				2, 507. 00				2, 507. 00
Schollaert, J.	6/7	6/9	England	90. 30	51. 60					90. 30	51. 60
	6/9	6/13	France	1, 660	338. 78	160	32. 65			1, 820	371. 43
			DMK				814. 00				814. 00
	7/5	7/7	Luxembourg	5, 385	150. 00		54. 94				204. 94
	7/7	7/9	Belgium	5, 385	150. 00	598	16. 37			5, 983	166. 37
	7/9	7/15	England	214. 29	274. 81		139. 29				514. 10
			DOD				449. 42				449. 42
Subtotal					2, 418. 49		4, 013. 67				6, 432. 16
Sklar, B	8/9	8/11	Colombia	5, 152. 14	141. 00		9. 68				150. 68
	8/11	8/13	Ecuador	3, 774. 40	140. 00		42. 93				182. 93
	8/13	8/15	Peru	11, 323. 30	140. 00		44. 51				184. 51
	8/15	8/17	Chile	2, 929. 50	135. 00		26. 66				161. 66
	8/17	8/20	Argentina	94, 950	225. 00		42. 16				267. 16
	8/20	8/23	Brazil	3, 316. 50	225. 00		32. 71				257. 71
			DOD				1, 034. 37				1, 034. 37
Solarz, S.	3/17	3/20	Panama		205. 00						205. 00
			DOD				52. 00				52. 00
	4/10	4/11	France	369. 75	75. 00					369. 75	75. 00
	4/11	4/12	Senegal	18, 640	75. 00					18, 640	75. 00
	4/12	4/14	Mali	33, 915	68. 24		413. 55				481. 79
	4/14	4/15	Niger	18, 675	75. 00					18, 675	75. 00
	4/15	4/16	Upper Volta	186	75. 00					186. 00	75. 00
	4/16	4/17	Senegal	18, 640	75. 00					18, 675	75. 00
			DMK				2, 276. 80				2, 276. 80
Subtotal					1, 654. 24		3, 975. 37				5, 629. 61
	7/1	7/7	Israel	4, 225. 50	450. 00	1, 622. 15	172. 75			5, 847. 65	622. 75
			U.S. dollar				1, 335. 84				1, 335. 84
	8/29	8/29	Japan				1, 555. 00				1, 555. 00
	8/29	8/31	South Korea	6, 619. 70	130. 00					62, 619. 70	130. 00
	11/7	11/8	Belgium	2, 365	67. 77					2, 365	67. 77
	11/8	11/14	Yugoslavia	4, 228. 93	234. 68		76. 58				311. 26
	11/14	11/16	Rumania	1, 465. 04	123. 32		157. 81				281. 13
	11/16	11/17	Austria	1, 201. 50	75. 00					1, 201. 50	75. 00
	11/17	11/19	Italy	131, 700	136. 33					131, 700	136. 33
			U.S. dollar				1, 027. 00				1, 027. 00
Storrs, L.	3/17	3/20	U.S. dollar		195. 00						195. 00
			DOD				52. 00				52. 00
Subtotal					1, 412. 10		4, 376. 98				5, 789. 08
Van Dusen, M.	7/6	7/9	Israel	2, 359	247. 53				13. 95		261. 48
	7/9	7/10	Syria	190	48. 72		51. 54				100. 26
	7/10	7/11	Jordan	14, 025	42. 50					14, 025	42. 50
	7/11	7/13	Egypt	53. 750	76. 79		229. 98				306. 77
	7/13	7/15	England	54. 71	95. 98		139. 29				235. 27
			DOD				808. 96				808. 96
Weber, J.	7/5	7/7	Luxembourg	5, 385	150. 00		54. 94				204. 94
	7/7	7/9	Belgium	5, 385	150. 00	598	16. 37			5, 983	166. 37
	7/9	7/15	England	257. 15	450. 00		139. 29				589. 29
			DOD				449. 42				449. 42
Whalen, C.	4/12	4/14	Mali	13, 725	27. 61		413. 55				441. 16
	4/14	4/15	Niger	6, 675	26. 80					6, 675	26. 80
	4/15	4/16	Upper Volta	9, 677	38. 78					9, 677	38. 78
	4/16	4/17	Senegal								
			DMK				1, 979. 00				1, 979. 00
Subtotal					1, 354. 71		4, 282. 34		13. 95		5, 651. 00
C. Whalen	5/31	6/1	Canada		60. 00						60. 00
L. Wolff	4/8	4/10	Japan	40, 980	150. 00	41, 368. 43	151. 43			82, 348. 43	301. 43
	4/10	4/12	Republic of Korea	72, 000	150. 00					72, 000	150. 00
	4/12	4/14	Indonesia	62, 175	150. 00					62, 175	150. 00
	4/14	4/17	Thailand	4, 583. 25	225. 00					4, 583. 25	225. 00
	4/17	4/19	Philippines	1, 111. 50	150. 00	374. 48	65. 32			1, 485. 98	215. 32
	4/19	4/20	Republic of China	3, 532. 50	93. 00					3, 532. 50	93. 00
			DOD				1, 441. 15				1, 441. 15
G. Yatron	3/17	3/20	Panama		201. 43						201. 43
			DOD				52. 00				52. 00
Subtotal					1, 179. 43		1, 709. 90				2, 889. 33
	8/9	8/11	Colombia	5, 481	150. 00		9. 68				159. 68
	8/11	8/13	Ecuador	4, 044	150. 00		42. 93				192. 93
	8/13	8/15	Peru	12, 132	150. 00		44. 51				194. 51
	8/15	8/17	Chile	3, 255	150. 00		26. 66				176. 66
	8/17	8/20	Argentina	94, 950	225. 00		42. 16				267. 16
	8/20	8/23	Brazil	3, 316. 50	225. 00		32. 71				357. 71
			DOD				1, 034. 37				1, 034. 37
Subtotal					9, 050. 00		1, 233. 02				2, 283. 02

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations.

Mar. 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS—INVESTIGATION OF KOREAN-AMERICAN RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Baker, E. J.	12/6	12/10	Japan	72, 810	300. 00					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		28. 95			252, 000	553. 95
			U.S. dollar				2, 453. 00				2, 453. 00
Blush, S.	12/6	12/10	Japan	72, 810	300. 00					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		39. 25			252, 000	564. 25
			U.S. dollar				2, 453. 00				2, 453. 00
Boettcher, R.	8/17	8/19	Yugoslavia	2, 712	150. 00		1, 737. 00				1, 887. 00
	9/25	9/26	Japan	18, 105	75. 00					18, 105	75. 00
	9/26	9/29	Hong Kong	700. 50	150. 00					700. 50	150. 00
	9/27	9/28	Singapore	182. 06	75. 00					182. 06	75. 00
	9/28	9/28	Thailand	602. 50	29. 68					602. 50	29. 68
			U.S. dollar				2, 880. 72				2, 880. 72
	12/10	12/11	Japan	18, 105	75. 00					18, 105	75. 00
	12/11	12/17	Korea	216. 000	450. 00		28. 95				478. 95
			U.S. dollar				2, 453. 00				2, 453. 00
Committee totals					2, 654. 68		12, 073. 87				14, 728. 55
Freeman, G.	11/22	11/23	England	40. 63	75. 00					40. 63	75. 00
	11/23	11/25	Germany	334. 50	150. 00					334. 50	150. 00
	11/28	11/30	Spain	8, 529. 83	103. 77					8, 529. 89	103. 77
			U.S. dollar				1, 515. 00				1, 515. 00
Hershman, M.	8/17	8/19	England		75. 00						75. 00
	8/19	8/21	Yugoslavia	2, 712. 00	150. 00		1, 737. 00				1, 887. 00
	12/6	12/10	Japan	72, 810	300. 00					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		28. 95				553. 95
			U.S. dollar				2, 453. 00				2, 453. 00
Kadane, K.	12/6	12/10	Japan	72, 810	300. 00					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		28. 95				553. 95
			U.S. dollar				2, 453. 00				2, 453. 00
Lewin, M.	12/6	12/10	Japan	72, 810	300. p0					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		28. 95				553. 95
			U.S. dollars				2, 453. 00				2, 453. 00
Committee totals					3, 028. 77		10, 697. 85				13, 726. 62
Lumpkin, B.	11/22	11/23	England	40. 63	75. 00					40. 63	75. 00
	11/23	11/25	Germany	334. 50	150. 00					334. 50	150. 00
	11/28	11/30	Spain	6, 729. 71	81. 87					6, 729. 71	81. 87
			U.S. dollar				1, 515. 00				1, 515. 00
Rayano, F.	12/6	12/10	Japan	72, 810	300. 00					72, 810	300. 00
	12/10	12/17	Korea	252, 000	525. 00		28. 95				553. 95
			U.S. dollar				2, 453. 00				2, 453. 00
Committee totals					1, 131. 87		3, 996. 95				5, 128. 82

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. $ equivalent; If U.S. currency is used, enter amount expended.

CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations.

Mar. 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
S. Symms, MC	2/14	2/21	Libya	655. 31	375. 00	1, 864. 58	1, 067. 00			2, 519. 89	1, 442. 50
E. Rudd, MC	2/14	2/18	Panama		300. 00						300. 00
	2/18	2/21	Mexico	6, 600	225. 00	1, 140	52. 00			7, 740	277. 00
L. Meeds, MC	11/6	11/8	Ireland	82. 87	150. 00	[3]	[3]			82. 87	150. 00
	11/8	11/11	Israel	2, 425. 50	225. 00	[3]	[3]			2, 425. 50	225. 00
	11/11	11/13	Egypt	105	150. 00	[3]	[3]			105	150. 00
	11/13	11/15	Iran	10, 575	150. 00	[3]	[3]			10, 575	150. 00
	11/15	11/18	Kenya	2, 352	300. 00	[3]	[3]			2, 352	300. 00
	11/18	11/19	Zambia	0	0	[3]	[3]			0	0
	11/19	11/20	Zaire	48	60. 00	[3]	[3]			48	60. 00
	11/20	11/22	Ivory Coast	37, 200	150. 00	[3]	[3]			37, 200	150. 00
Committee totals					2, 085		1, 119				3, 20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Military.

MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs.

Mar. 15, 1978

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1978

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Norman F. Lent	8/8	8/9	Japan	39,877	150.00					39.877	150.00
	8/9	8/10	Taiwan	2,846.30	75.00					2,846.30	75.00
	8/10	8/12	Hong Kong	694.50	150.00					694.50	150.00
Round trip air transportation							2,672.12				2,672.12
Total					375.00		2,672.12				3,047.12
Matthew J. Rinaldo	8/8	8/9	Japan	39,877	150.00					39.877	150.00
	8/9	8/10	Taiwan	2,846.30	75.00					2,846.30	75.00
	8/10	8/12	Hong Kong	694.50	150.00					694.50	150.00
Round trip air transportation							2,672.12				2,672.12
Total					375.00		2,672.12				3,047.12
Louis Frey, Jr.	6/10	6/11	Italy		150.00	(refunded 17.11)					132.89
Round trip air transportation							1,335.00				1,335.00
					132.89						
Total					132.89		1,335.50				1,467.89
Bob Eckhardt	8/14	8/18	Switzerland	905.05	375.00		23.02				398.02
Round trip air transportation							933.00				933.02
Total					375.00		956.02				1,331.02
Marty Russo	8/6	8/7	Italy		150.00						150.00
	8/8	8/10	Yugoslavia	4,061.30	225.00		342.70				567.70
	8/11	8/12	Romania	1,782	150.00		66.58	(refunded 15.00)			201.58
	8/13	8/15	Hungary	4,563	225.00		129.85				354.85
	8/16	8/18	Czechoslovakia	2,506.50	225.00		168.00				393.00
	8/19	8/20	England		150.00		257.60				407.60
Military transport											
Total					1,110.00		964.73				2,074.73
Charles J. Carney	8/19	8/25	Ireland		450.00		785.25				1,235.25
	8/25	8/29	Scotland	170.45	300.00		324.10				624.10
	8/29	9/2	England	170.45	300.00		484.75				784.75
Round trip air transportation							724.00				724.00
Total					1,050.00		2,318.10				3,368.10
Matthew J. Rinaldo	12/12	12/15	United Kingdom	162.38	300.00					162.38	300.00
	12/16	12/19	France	1,440	300.00					1,440	300.00
	12/20	12/21	Austria	2,299.50	150.00					2,299.50	150.00
Round trip air transportation							1,434.40				1,434.40
Total					750.00		1,434.40				2,184.40
Norman F. Lent	12/12	12/15	United Kingdom	162.38	300.00					162.38	300.00
	12/16	12/19	France	1,440	300.00					1,440	300.00
	12/20	12/23	Austria	4,599	300.00					4,599	300.00
Round trip air transportation							1,649.40				1,649.40
Total					900.00		1,649.40				2,549.40
Joe Skubitz	4/9	4/12	France	1,109.25	225.00						
	4/12	4/15	Germany	535.50	225.00						
	4/15	4/19	United Kingdom	214.89	375.00						
Round trip air transportation							1,185.90				1,185.90
Total					825.00		1,185.90				2,010.00
Chas. E. Vanderburg	4/19	4/12	France	1,109.25	225.00	(161.25 refunded)					63.75
						800	167.81				167.81
	4/12	4/15	Germany	535.50	225.00					535.50	225.00
			Franfurt-Bingen Car Fare.			284.16	120.91				120.91
			Bingen-Bonn-Boat			77.20	32.71				32.71
			Bonn-Local Car Fare			41.10	17.49				17.49
	4/15	4/19	England	214.89	375.00	213.33	381.00				756.00
Round trip air transportation							1,185.90				1,185.90
Total					663.75		1,905.82				2,569.57
Walter W. Schroeder, III	9/14	9/16	Canada		225.00		15.05				240.05
Round trip air transportation							177.12				177.12
Total					225.00		192.17				417.17
William D. Braun	9/14	9/16	Canada		225.00		15.05				240.05
Air transportation							177.12				177.12
Total					225.00		192.17				417.17
Ronald D. Coleman	6/10	6/15	Italy	331,875	375.00					331,875	375.00
	6/15	6/19	England	215.5	375.00					215.5	375.00
Air transportation							1,675.00				1,675.00
Total					750.00		1,675.00				2,425.00
Brian R. Moir	6/10	6/15	Italy	331,875	375.00					331,875	375.00
	6/15	6/19	England	215.5	375.00					215.5	375.00
Air transportation							1,675.00				1,675.00
Total					750.00		1,675.00				2,425.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1978—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Barbara Mikulski	4/8	4/9	Japan	20,490	75.00	13,209	47.70			33,699	122.70
	4/9	4/17	China	163,920	[3] 600.00						600.00
Travel by military aircraft							2,670.00				2,670.00
Total					675.00		2,717.70				3,392.70
Brian R. Moir	10/20	10/22	France	727	150.00						150.00
	10/22	10/25	Netherlands	549	225.00						225.00
	10/25	11/2	England	334	600.00						600.00
Air transportation							1,449.00				1,449.00
Total					975.00		1,449.00				2,424.00
Ronald D. Coleman	10/20	10/22	France	727	150.00						150.00
	10/22	10/25	Netherlands	549	225.00						225.00
	10/25	11/2	England	334	600.00						600.00
Air transportation							1,449.00				1,449.00
Total					975.00		1,449.00				2,424.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent: If U.S. currency is used, enter amount expended.
[3] Drawn in Tokyo and given to Chinese escort.

HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce.

Mar. 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalen or U.S. currency [2]
George Danielson	4/8	4/9	Japan	20,490	75.00	13,209	47.70			33,699	122.70
	4/9	4/17	China, People's Republic of.	163,920	600.00					163,920	600.00
Total					675.00		47.70				722.70
	12/1	12/5	France	1,452	300.00						300.00
	12/5	12/7		48,725	225.00						225.00
Airfare							1,097.50				1,097.50
Total					525.00		1,097.50				1,622.50
Joshua Eilberg	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03
Hamilton Fish, Jr	11/13	11/16	Switzerland	497.48	225.00					497.48	225.00
	11/16	11/18	Yugoslavia	2,703	150.00					2,703	150.00
	11/19	11/21	Cyprus	36.35	88.60					36.35	88.60
	11/18	11/19									
	11/21	11/22	Greece	5,445	150.00	2,300	63.50			7,745	213.50
Airline ticket							1,879.00				1,879.00
Totals					613.60		1,942.50				2,556.10
Elizabeth Holtzman	12/20	12/23	Egypt	[3] 3,195	[3] 225.00	19,605	1,380.60				1,605.60
	12/23	1/3/78	Israel	[3] 11,715	[3] 825.00	1,629	114.70				939.70
	1/3/78	1/6/78	Italy	[3] 225,000	[3] 300.00						300.00
Total					1,350.00		1,495.30				2,845.30
Henry Hyde, M.C.	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03
James Mann, M.C.	6/1	6/5	Peru	29,958.75	375.00		585.44			29,958.75	960.44
Total					375.00		585.44				960.44
James Mann, M.C.	7/5	7/6	Luxembourg	5,377.50	150.00	8,410	234.58			13,787.50	384.58
	7/6	7/9	Switzerland	730.40	300.00	570	300.00			1,300.40	600.00
	7/9	7/15	England	257.14	450.00	378	200.00			635.14	560.00
Total					900.00		734.58				1,634.58

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
James Mann	11/6	11/8	Ireland	82.87	150.00					82.87	150.00
	11/8	11/11	Israel	3,402	225.00					3,402	225.00
	11/11	11/13	Egypt	105	150.00					105	150.00
	11/13	11/15	Iran	10,575	150.00					10,575	150.00
	11/15	11/19	Kenya	2,452	300.00					2,452	300.00
	11/19	11/20	Zaire	63	75.00					63	75.00
	11/20	11/22	Cfa Francs	37,200	150.00					37,200	150.00
Total					1,200.00						1,200.00
Tom Railsback, M.C.	5/14	5/16	Austria	2,550	150.00					2,550	150.00
	5/16	5/18	Switzerland	379.45	150.00					379.45	150.00
	5/18	5/20	Italy	132,900	150.00					132,900	150.00
			Germany			7,252	1,813.00			7,252	1,813.00
Total					450.00		1,813.00				2,263.00
Tom Railsback, M.C.	12/1	12/3	France	724.64	150.00					724.64	150.00
	12/3	12/6	Italy	195,657.75	225.00	260,877	300.00				525.00
	12/6	12/11	Switzerland	952.38	450.00	283.50	600.00				1,050.00
Airfare							1,675.00				1,675.00
Total					825.00		2,575.00				3 400.00
Charles Wiggins, MC	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03
Charles Wiggins	12/22	12/23	Germany	318	75.00	940	235.00			1,258	310.00
	12/23	12/27	Switzerland	610.50	300.00					610.50	300.00
	12/27	1/2/78	Italy	328,575	375.00					328,575	375.00
	1/2/78	1/4/78	Austria	2,265	150.00					2,265	150.00
Airplane fare							764.00				760.40
Committee total					900.00		999.00				1,899.00
Frances Christy	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782.00	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563.00	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Committee total					1,200.00		755.03				1,955.03
Garner J. Cline	5/14	5/16	Austria	2,550	150.00					2,550	150.00
	5/16	5/18	Switzerland	379.45	150.00					379.45	150.00
	5/18	5/22	Italy	265,800	300.00					265,800	300.00
			Germany			7,573.5	1,683.00			7,573.5	1,683.00
Total					600.00		1,683.00				2,283.00
Garner J. Cline	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	971.70			10,257.03	1,196.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		1,384.03				2,584.03
Garner J. Cline	11/13	11/17	Switzerland	666.60	300.00					666.60	300.00
	11/17	11/18	Yugoslavia	1,351.50	75.00	13,226.60	1,734.00			14,578.10	1,809.00
	11/18	11/22	Rome	263,400	300.00					263,400	300.00
Committee total					675.00		1,734.00				2,409.00
Alexander Cook	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	324.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03
Arthur Endres, Jr	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03
Eugene Krizek	8/6	8/8	Italy	132,105	150.00	32,228	36.54			164,333	186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70			10,257.03	567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58			2,572.97	216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85			7,519.24	350.85
	8/16	8/19	Czechoslovakia	2,506.50	225.00	1,673.25	151.10			4,179.75	376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26			146.44	257.26
Total					1,200.00		755.03				1,955.03

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Bruce Lehman	11/25	12/6	France	4,356	900.00		1,512			4,356	2,412.00
	12/7	12/10	Switzerland	651	300.00					651	300.00
Total					1,200.00		1,512.00				2,712.00
Thomas Mooney	12/1	12/3	France	724.64	150.00					724.64	150.00
	12/3	12/6	Italy	195,657.75	225.00					195,657.75	225.00
	12/6	12/11	Switzerland	952.38	450.00					952.38	450.00
							1,675.00				1,675.00
Total					825.00		1,675.00				2,500.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollars equivalent; If U.S. currency is used, enter amount expended.
[3] Estimate, subject to verification.

PETER W. RODINO, Jr.,
Chairman, Committee on Judiciary.

COMMITTEE ON THE JUDICIARY

Total per diem	$20,173.60
Total transportation	24,563.26
Grand total	45,276.86

Estimated cost of travel on U.S. Government aircraft by Members of the Committee on the Judiciary and staff

April 1977—Japan, People's Republic of China	$2,670.00
July 1977—Luxembourg, Switzerland, England	114.80
August 1977—Italy, Yugoslavia, Romania, Hungary, Czechoslovakia, and England	42,208.40
November 1977—Ireland, Israel, Egypt, Iran, Kenya, Zaire, Ivory Coast	5,839.53
Total	50,832.77

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL

MERCHANT MARINE AND FISHERIES COMMITTEE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1. AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Charles Bedell	12/4	12/8	Japan (Y)	73,290	300.00		1,365.00				1,665.00
Mario Biaggi	4/8	4/10	Japan		150.00		[3] 1,441.15				1,591.15
	4/10	4/12	Korea		150.00						150.00
	4/12	4/17	Indonesia		375.00						375.00
	4/17	4/19	Philippines		150.00						150.00
	4/19	4/20	Taiwan		150.00						150.00
	12/18	12/19	England		75.00		1,368.00				1,443.00
	12/22	12/22	Netherlands		75.00						75.00
John Breaux	2/28	3/5	Switzerland	955.30	375.00		1,441.00				1,816.00
John Bruce	3/17	3/23	Finland	1,567.13	450.00	382	835.00				1,285.00
Ernest Corrado	5/20	5/29	Italy		750.00		1,675.00				2,425.00
Robert Dornan	2/14	2/18	Panama		300.00		[3] 846.33				1,146.33
	2/18	2/21	Mexico	6,600	300.00	1,140	52.00				352.00
Francis Heyward	10/16	10/22	England (t)	251.74	450.00		681.00				1,131.00
Martin Howell	5/27	5/31	Mexico		450.00		513.00				963.00
	9/18	9/26	Costa Rica		675.00		431.00				1,106.00
	9/26	9/30	Panama		300.00						300.00
	10/19	10/22	Mexico		300.00		347.00				647.00
Edward Kane	6/10	6/21	Poland (ZLT)	33,750	750.00		1,430.90				2,180.90
Thomas Kitsos	2/28	3/5	Switzerland	955.30	375.00		1,441.00				1,816.00
Ronald Losch	3/8	3/12	Switzerland	574.70	225.00		1,441.00				1,666.00
Paul McCloskey	6/19	6/24	Australia		450.00		2,854.52				3,304.52
Ralph Metcalfe	2/14	2/17	Panama		300.00		[3] 846.33				1,146.33
	2/18	2/21	Mexico	6,600	300.00		52.00				352.00
	4/11	4/14	Panama		262.50		[3] 482.00				744.50
Barbara Mikulski	4/8	4/9	Japan	20,490	75.00						75.00
	4/9	4/17	Japan		600.00						600.00
Terry Modglin	2/14	2/17	Panama		190.00		[3] 846.33				1,036.33
	2/18	2/21	Mexico		184.16		52.00				236.16
	4/11	4/14	Panama		222.50		[3] 482.00				704.50
John Murphy	5/27	5/31	Mexico		450.00		513.00				963.00
Nicholas Nonnemacher	4/11	4/14	Panama		262.50		[3] 482.00				744.50
Howard Pollock	10/4	10/9	France (ff)	2,196	450.00		877.00				1,327.00
	11/2	11/7	Mexico		375.00		302.00				677.00
Carolyn Robinson	4/11	4/14	Panama		262.50		[3] 482.00				744.50
G. Wayne Smith	2/28	3/5	Switzerland	955.30	375.00		1,441.00				1,816.00
Bernard Tannenbaum	4/11	4/14	Panama		262.50		[3] 482.00				744.50
Robert Thornton	6/17	7/1	Australia		675.00		[3] 1,995.30				2,670.30
	12/3	12/7	Japan		375.00		1,365.00				1,740.00
Leo Zeferetti	4/11	4/14	Panama		262.50		[3] 482.00				744.50
	8/6	8/8	Italy	132,105	150.00	32,228	36.54				186.54
	8/8	8/11	Yugoslavia	4,061.30	225.00	6,195.73	342.70				567.70
	8/11	8/13	Romania	1,782	150.00	790.97	66.58				216.58
	8/13	8/16	Hungary	4,563	225.00	2,956.24	125.85				350.85
	8/16	8/19	Czechoslovakia	2,505.50	225.00	1,673.25	151.10				376.10
	8/19	8/21	England	128.01	225.00	18.43	32.26				257.26
John Breaux	12/10	12/15	New Zealand	297.24	300.00		2,713.84				3,013.84
Committee totals					14,959.16		32,813.73				47,772.89

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Indicates military transport.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

Mar. 1, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Joseph Fisher	8/6	8/9	Jordan	33.075	102.23			0	0	33.075	102.33
	8/9	8/10	Syria	585.000	150.00			0	0	585.000	150.00
	8/11	8/11	Bahrain	29.250	75.00			NA	[3] 70.25	29.250	145.25
	8/12	8/13	Sudan	5.850	15.00			0	0	5.850	15.00
	8/13	8/16		210.000	300.00			0	0	210.000	300.00
Transatlantic and intercountry transportation.			Egypt (Egyptian pounds)	1,705.90	2,437.00			0	0	1,705.90	2,437.00
Victor C. Smiroldo	8/6	8/9	Jordan	33.075	102.23			0	0	33.075	102.23
	8/9	8/10	Syria	585.000	150.00			0	0	585.000	150.00
	8/11	8/11	Bahrain	29.250	75.00			NA	[3] 109.30	29.250	184.30
	8/12	8/13	Sudan	19.850	49.87			0	0	19.850	49.87
	8/13	8/16		210.000	300.00			0	0	210.000	300.00
Transatlantic and intercountry transportation.			Egypt (Egyptian pounds)	1,705.90	2,437.00			0	0	1,705.90	2,437.00
Hon. Edward J. Derwinski	8/6	8/9	Jordan	33.075	102.23			0	0	33.075	102.23
	8/9	8/10	Syria	585.000	150.00			0	0	585.000	150.00
	8/11	8/11	Bahrain	29.250	75.00			NA	[3] 74.45	29.250	149.45
	8/12	8/13	Sudan	9.850	24.75			0	0	9.850	24.75
	8/13	8/16	Egypt (Egyptian pounds)	210.000	300.00			0	0	210.000	300.00
Egyptian pound—Transatlantic and intercountry transportation.						1,751.40	2,502.00	0	0	1,751.40	2,502.00
Hon. Charles H. Wilson	4/8	4/11	Germany	535.50	225.00			0	0	535.50	225.00
	4/11	4/13	Belgium	5,460	150.00			0	0	5,460	150.00
	4/13	4/18	Spain	30,915	450.00			0	0	30,915	450.00
German mark—Transatlantic transportation to Europe.						1,711.22	719.00	0	0	1,711.22	719.00
Transatlantic return trip and intercountry transportation provided by Department of Defense.							1,646.31	0	0		1,646.31
Hon. William Ford	4/7	4/8	England	42.85	75.00					42.85	75.00
	4/8	4/11	Germany	535.50	225.00					535.50	225.00
	4/11	4/13	Belgium	5,460	150.00					5,460	150.00
	4/13	4/18	Spain	30,915	450.00					30,915	450.00
Transatlantic and intercountry transportation provided by Department of Defense.							2,408.10				2,408.10
Hon. Michael O. Myers	4/7	4/8	England	42.85	75.00					42.85	75.00
	4/8	4/11	Germany	535.50	225.00					535.50	225.00
	4/11	4/13	Belgium	5,460	150.00					5,460	150.00
	4/13	4/18	Spain	30,915	450.00					30,915	450.00
Transatlantic and intercountry transportation provided by Department of Defense.							2,408.10				2,408.10
George Gould	4/7	4/8	England	42.85	75.00			0	0	42.85	75.00
	4/8	4/11	Germany	535.50	225.00			0	0	535.50	225.00
	4/11	4/13	Belgium	5,460	150.00			0	0	5,460	150.00
Local group transportation						13,172.43	361.88	0	0	13,172.43	361.88
	4/13	4/18	Spain	30,915	450.00			0	0	30,915	40.005
Local group transportation						170,501.03	2,481.82	0	0	170,501	2,481.82
Transatlantic and intercountry transportation provided by Department of Defense.							2,408.10	0	0		2,408.10
Hon. William Clay	4/7	4/8	England	42.85	75.00			0	0	42.85	75.00
	4/8	4/11	Germany	535.50	225.00			0	0	535.50	225.00
	4/11	4/13	Belgium	5,460	150.00			0	0	5,460	150.00
	4/13	4/18	Spain	30,915	450.00			0	0	30,915	450.00
Transatlantic and intercountry transportation provided by Department of Defense.							2,408.10	0	0		2,408.10
	2/9	2/15	Mexico (Mexican pesos)	11,598	525.00			0	0	11,598	525.00
Intercountry transportation						9,623	423.00	0	0	9,623	42.00
Lloyd Johnson	2/9	2/15	Mexico (Mexican pesos)	11,598	525.00			0	0	11,598	525.00
Intercountry transportation (Mexican pesos).						9,623	423.00	0	0	9,623	423.00
Local group transportation						7,319	321.72	0	0	7,319	321.72
	8/10	8/16	Canada	561.75	525.00			0	0	561.75	525.00
Intercountry transportation							211.80	0	0		211.80
Committee total [4]					7,971.31		23,596.93		254.00		31,822.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Reimbursement for actual expenses incurred.
[4] Enter committee totals on the last page of the report only.

ROBERT N. C. NIX,
Chairman, Committee on Post Office and Civil Service.

Feb. 7, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Cong. Stump, Bob	2/14	2/18	Panama		300.00		[3] 500.00				800.00
	2/18	2/21	Mexico (P)		225.00	10,684.26	474.45			10,684.26	699.45
Cong. Fary, John G	5/26	5/30	Belgium (BF)	11,800	300.00		[3] 841.34			11,800	1,141.34
	5/31	6/3	France (FF)	1,500	300.00		[3] 108.60			1,500	408.60
	6/3		United States				[3] 1,335.40				1,335.40

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977.—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Cong. Young, Robert A	5/26	5/30	Belgium (BF)	11,800	300.00		[3] 841.34			11,800	1,141.34
	5/31	6/3	France (FF)	1,500	300.00		[3] 108.60			1,500	408.60
	6/3		United States				[3] 1,335.40				1,335.40
Mr. Corcoran, William	5/26	5/30	Belgium (BF)	11,800	300.00		[3] 841.34			11,800	1,141.34
	5/31	6/3	France (FF)	1,500	300.00		[3] 108.60			1,500	408.60
	6/3		United States				[3] 1,335.40				1,335.40
Mr. Ziegler, Charles	5/26	5/30	Belgium (BF)	11,800	300.00		[3] 841.34			11,800	1,141.34
	5/31	6/3	France (FF)	1,500	300.00		[3] 108.60			1,500	408.60
	6/3		United States				[3] 1,335.40				1,335.40
Hon. John B. Breaux	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	669.76
	5/30	5/31	Scotland (£)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (FF)	2,625	525.00		[3] 193.48			2,625	718.48
							[3] 62.06				
	6/2	6/2	Germany (FF)			725	145.00			725	207.06
	6/6		United States				[3] 636.63				636.63
Hon. Norman Y. Mineta	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (£)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (FF)	2,625	525.00		[3] 193.48			2,625	718.48
	6/1	6/1	England				[3] 96.53				96.53
	6/2	6/2	Germany (FF)			725	145.00			725	145.00
	6/6		United States				[3] 636.63				636.63
Hon. John Paul Hammerschmidt	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	690.76
	5/30	5/31	Scotland (£)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (FF)	2,625	525.00		[3] 193.48			2,625	718.48
							[3] 62.06				
	6/2	6/2	Germany (FF)			725	145.00			725	207.06
	6/6		United States				[3] 636.63				636.63
Total					5,400.00		15,482.78				20,082.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Pro rata costs military air transportation.

HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation.

Mar. 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S currency
European oversight trip:											
Bauser	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/3	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
			France (Fr. F)	(1,500)	(300.00)					(1,500)	(300.00)
	6/2	6/2	Germany				158.59				158.59
	6/3		United States				[3] 779.00				779.00
Branscome	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/2	6/2	Germany				290.63				290.63
	6/6		United States			3,680	744.41		10.00	3,680	754.41
	5/28	5/30	Enroute		225.00						
Dornan	5/31	6/6	France (Fr. F)	2,625	525.00		768.00			2,625	1,518.00
	6/1	6/1	England			700	140.00			700	140.00
	6/2	6/2	Germany				158.59				158.59
	6/6		United States				[3] 636.63				636.63
Dugan	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/2	6/2	Germany				158.59				158.59
	6/6		United States				[3] 636.63				636.63
Fisher	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	6/6	France (Fr.F)	3,000	600.00		[3] 865.80			3,000	1,465.80
	6/6		United States				[3] 636.63				636.63
Fletcher	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr.F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/6		United States				[3] 636.63				636.63
							[3] 1,015.00				
Harkin	5/31	6/6	France (Fr.F)	2,625	525.00		726.00			2,625	2,266.00
			France (Fr.F)					350.61	70.12	350.61	70.12
	6/6		United States				[3] 636.63				636.63
Hollenbeck	5/31	6/6	France (Fr.F)	2,625	525.00		687.00			2,625	1,212.00
	6/1	6/1	England			700.00	140.00			700	140.00
	6/2	6/2	Germany				290.63				290.63
	6/6		United States				[3] 636.63				636.63
Jenks	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00	[3] 265.57				43.04	340.57
	5/31	6/6	France (Fr.F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/2	6/2	Germany				325.10				325.10
	6/6		United States				[3] 636.63				636.63
Ketcham	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76				
				(81)	(4.82)					3,694.50	694.94
	5/30	5/31	Scotland (Pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/3	France (Fr. F)	1,500	300.00		[3] 193.48			1,500	493.48
	6/3		United States			3,680.00	744.41			3,680	744.41

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TE HNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC 31, 1977—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
European—oversight trip—Cont:											
Kramer	5/27	5/30	Austria (AS)	3,775.50	225.00		474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/6		United States				636.63				636.63
Milford	5/27	5/30	Austria (AS)	3,775.50	225.00		474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48	2,714.65	542.93	5,339.65	1,261.41
	6/1	6/1	England			700.00	140.00			700	140.00
	6/2	6/2	Germany				158.59				158.59
	6/6		United States				[3] 636.63				636.63
Myers	5/27	5/30	Austria (AS)	3,775.50	225.00		474.76			3,775.50	699.76
				(28)	(1.66)					(28)	(1.66)
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/2	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48)
			France (Fr. F)	(750)	(150.00)					(750)	(150.00
	6/2	6/2	Germany				62.06				62.06
	6/6		United States				[3] 636.63				636.63
Read	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/6		United States				[3] 636.63				636.63
Scheuer	5/27	5/29	Austria (AS)	2,517	150.00		[3] 474.76			2,517	624.76
	5/30	6/1	France (Fr. F)	750	150.00	3,470	705.74			4,220	855.74
Spensley	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 614.89			2,625	1,139.89
	6/6		United States				[1] 636.63				636.63
Tate	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625.00	525.00		[3] 193.48			2,625	718.48
	6/1	6/1	England (Fr. F)			700	140.00			700	140.00
	6/2	6/2	Germany				158.59				158.59
	6/6		United States				[3] 636.63				636.63
Taylor	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48			2,625.00	718.48
	6/6		United States				[3] 636.63				636.63
Teague	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	6/6	France (Fr. F)	3,000	600.00		[3] 865.80			3,000	1,465.80
	6/6		United States				[3] 636.63				636.63
Wallace	5/27	5/30	Austria (AS)	3,775.50	225.00		[3] 474.76			3,775.50	699.76
	5/30	5/31	Scotland (pounds)	43.04	75.00		[3] 265.57			43.04	340.57
	5/31	6/6	France (Fr. F)	2,625	525.00		[3] 193.48			2,625	718.48
	6/1	6/1	England (Fr. F)			700	140.00			700	140.00
	6/2	6/2	Germany				158.59				158.59
	6/6		United States (Fr. F)			3,680	744.41		13.00	3,680	757.41
Wydler	5/31	6/6	France (Fr. F)	2,625	525.00		328.00			2,625	853.00
	6/6		United States				[3] 636.63				636.63
European oversight trip group expenses (embassy staff):											
Overtime	5/27	5/31	Vienna, Austria (AS)					43,279	2,579.20	43,279	2,579.20
Bus service	5/27	5/31	Vienna, Austria (AS)					12,432	742.43	12,432	742.43
Control room	5/31	6/6	Paris, France (Fr. F)					8,100	1,620.00	8,100	1,620.00
Car rental	5/31	6/6	Paris, France (Fr. F)					23,584.66	4,848.82	23,584.66	4,848.82
Fus service	5/31	6/6	Paris, France (Fr. F)					9,149.21	1,877.73	9,149.21	1,877.73
Car rental	6/2	6/2	Bonn, Germany (DM)					2,656.34	1,141.78	2,656.34	1,141.78
Spensley	6/19	6/25	Australia (A$)	473.91	525		2,858.03			473.91	3,383.03
	6/25 & 26	6/17 & 18	United States		200				22.00		222.00
Byerly	9/6	9/15	Yugoslavia (YD)	1,375	750	17,176.90	[3] 949.00		6.00	18,551	1,705.00
	9/15	9/2	United States		75				58.10		133.10
							(48.00)				
Wells	11/6	11/11	Portugal (Escudos)	24,158.40	600		1,611.00	2,675.90	66.13	26,834.30	2,229.13
	11/12	11/13	Switzerland (Sw. F)		150	110.00	49.55			110	199.50
					75						
	11/14	11/17	Austria (AS)	3,618	225			397.8	24.75	4,015.98	324.75
	11/18	11/23	Denmark								
	11/24		United States		75				95.00		170.00
Ketcham	11/21	11/23	Austria (AS)	1,199.25	75		1,482.00			1,199.25	1,557.00
	11/23	11/27	France (Fr. F)	1,449	300.00					1,449	300.00
	11/27	11/21	United States								
Flowers	11/21	11/23	Austria As	1,199.25	75.00		1,482.00			1,199.25	1,557.00
	11/23	11/27	France (Fr. F)	1,449	300.00				7.00	1,449	307.00
	11/27	11/21	United States								
Roodzant	12/9	12/11	France (Fr F)	1,080	225.00		1,449.00	48	10.00	1,128	1,684.00
	12/11	12/9	United States						19.60		19.60
Kramer	12/18	12/8&9	United States						114.14		114.14
	12/10	12/18	New Zealand (NZ$)	297.24	300.00		2,739.00		1.00	297.34	2,952.00
					(75.00)		(13.00)				
	12/12	12/17	Antarctica								
Harkin	12/8&9	12/18	United States								
	12/10	12/18	New Zealand (NZ$)	297.24	300.00		2,755.00			297.24	2,980.00
	12/12	12/17	Antarctica								
					19,243.52		52,012.22		13,869.73		85,125.47

[1] Per Diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. $ equivalent; If U.S. currency is used, enter amount expended.
[3] Indicates military transportion.
[4] Refunds to H. Res. 297, 95th Cong.

Mar. 17, 1978.

OLIN E. TEAGUE,
Chairman, Committee on Science and Technology.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Robert A. Bermingham	8/8	8/13	England		375.00		[3] 819.00		127.10		1,321.10
	8/13	8/17	Ireland		300.00				94.43		394.43
Committee totals					675.00		819.00		221.53		1,715.53

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.
[3] Round trip.

JOHN J. FLYNT, JR.
Chairman, Committee on Standards of Official Conduct.

Jan. 31, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Archer	7/5	7/7	Luxembourg	5,375	150.00		54.90				204.90
	7/7	7/8	Belgium	5,384	150.00	589	16.37				166.37
	7/8	7/9	England	172.16	300.00		139.29				439.29
Refund					(370.20)						(370.20)
							616.60				616.60
Military transportation							224.71				224.71
Hon. James C. Corman	7/5	7/7	Luxembourg	5,375	150.00		54.90				204.90
	7/7	7/10	Belgium	8,077	225.00	589	16.37				241.37
	7/10	7/12	England	128.57	225.00		139.29				364.29
							368.38				368.38
Military transportation							224.71				224.71
Hon. Joseph L. Fisher	7/5	7/5	France	367.50	75.00		33.83				108.83
	7/5	7/6	Switzerland	184.75	75.00						75.00
	7/6	7/10	Belgium	10,770	300.00						300.00
							933.00				933.00
Hon. Bill Frenzel	7/5	7/7	Luxembourg	5,325	150.00		54.90				204.90
	7/7	7/8	Belgium	5,385	150.00	589	16.37				166.37
	7/8	7/15	England	325	568.75		139.29				708.04
Refund					(43.75)						(43.75)
Military transportation							449.42				449.42
Hon. Bill Frenzel	9/11	9/13	Hungary	3,042	150.00		13.24				163.24
							1,034.00				1,034.00
Refund					(36.00)						(36.00)
Hon. Sam M. Gibbons	7/5	7/7	Luxembourg	5,325	150.00		54.90				204.90
	7/7	7/8	Belgium	5,385	150.00	589	16.37				166.37
	7/8	7/15	England	300	525.00		139.29				664.29
Refund				(42.85)	(75.00)						(75.00)
Military transportation							449.42				449.42
Hon. James R. Jones	7/5	7/6	Switzerland	184.75	75.00		33.83				108.83
	7/6	7/8	Belgium	5,385	150.00						150.00
							933.00				933.00
Hon. William Ketchum	11/7	11/8	Ireland	41.44	75.00						75.00
	11/8	11/11	Israel	3,402	225.00						225.00
	11/11	11/13	Egypt	105	150.00						150.00
	11/13	11/15	Iran	10,575	150.00						150.00
	11/15	11/18	Kenya	2,452.2	300.00						300.00
	11/18	11/19	Zambia								
	11/19	11/20	Zaire	63,000	75.00						75.00
	11/20	11/22	Ivory Coast	37,200	150.00						150.00
Military transportation beginning with Ireland.							6,128.68				6,128.68
Hon. James G. Martin	7/5	7/7	Luxembourg	5,375	150.00		54.90				204.90
	7/7	7/8	Belgium	2,692	75.00		108.37				183.37
	7/10	7/12	England	128.57	225.00		139.29				364.29
Military transportation							449.42				449.42
Hon. Abner J. Mikva	7/6	7/9	Israel	3,859	300.00						300.00
	7/9	7/10	Syria	585	150.00		51.54				201.54
	7/10	7/11	Jordan	24,525	75.00						75.00
	7/11	7/13	Egypt	1,429.50	150.00		229.98				379.98
	7/13	7/15	England	85.71	150.00		139.29				289.29
Military transportation							817.95				817.95
Hon. Dan Rostenkowski	6/10	6/14	Poland	13,500	300.00		1,488.10				1,788.10
Hon. Richard Schulze	8/15	8/15	Belgium								
	8/15	8/21	Switzerland	1,087.65	450.00		933.00				1,383.00
Hon. William Steiger	7/5	7/6	Switzerland	184.75	75.00		33.83				108.83
	7/6	7/8	Belgium	5,385	150.00						150.00
Refund					(30.64)						(30.64)
							1,033.00				1,033.00
Hon. Guy Vander Jagt	3/14	3/16	Colombia	5,457	150.00	1,333	36.65				186.65
	3/16	3/17	Brazil	1,947	150.00						150.00
							1,621.96				1,621.96
Hon. Charles Vanik	3/11	3/14	Venezuela	321	75.00						75.00
	3/14	3/16	Colombia	5,457	150.00	1,333	36.65				186.65
	3/16	3/20	Brazil	4,867.50	375.00						375.00
							1,153.80				1,153.80
	7/5	7/5	France	367.50	75.00		33.83				108.83
	7/5	7/6	Switzerland	184.75	75.00						75.00
	7/6	7/8	Belgium	5,385	150.00						150.00
							933.00				933.00
	9/4	9/8	Hong Kong	1,035	225.00						225.00
	9/8	9/11	Singapore	364.73	150.00						150.00
	9/11	9/13	Taiwan	5,692.5	150.00						150.00
	9/13	9/18	Japan	100,125	375.00						375.00
							1,679.00				1,679.00

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Michael J. Calhoun	2/26	2/28	England	86.70	150.00						150.00
Refund				(43.35)	(75.00)						(75.00)
	2/28	3/3	Switzerland	573.20	225.00						225.00
	3/3	3/4	Belgium	5,494	150.00						150.00
							747.00				747.00
	5/22	5/23	Switzerland	188.90	75.00	28	11.12				86.12
	5/23	5/25	France	742.50	150.00	78	15.75				165.75
	5/25	5/26	England	129.12	225.00						225.00
Refund					(75.07)						(75.07)
							749.00				749.00
Michael J. Calhoun	9/21	9/29	Switzerland	1,608.19	675.00		841.00				1,516.00
Loren C. Cox	7/4	7/5	France	367.50	75.00		33.83				108.83
	7/5	7/6	Switzerland	184.75	75.00						75.00
	7/6	7/9	Belgium	8,077	225.00						225.00
							933.00				933.00
James Healey	6/10	6/20	Poland	27,000	600.00						600.00
	6/20	6/23	Switzerland	560.05	225.00						225.00
							1,404.60				1,404.60
Walter B. Laessig	2/26	2/28	England	86.70	150.00						150.00
Refund				(43.35)	(75.00)						(75.00)
	2/28	3/4	Switzerland	765.80	300.00						300.00
							747.00				747.00
Harold T. Lamar	3/11	3/14	Venezuela	321	75.00						75.00
Refund				(8.80)	(2.00)						(2.00)
	3/14	3/16	Colombia	5,457	150.00	1,333	36.65				186.65
Refund				(209)	(5.69)						(5.69)
	3/16	3/20	Brazil	3,894	300.00						300.00
Refund				(501)	(38.60)						(38.60)
Refund					(75.00)						(75.00)
							1,153.80				1,153.80
	5/22	5/25	Switzerland	566.60	225.00		749.00				974.00
	7/5	7/6	Switzerland	184.75	75.00		33.83				108.83
	7/6	7/9	Belgium	8,077	225.00						225.00
							933.00				933.00
John K. Meagher	7/5	7/6	Switzerland	184.75	75.00		33.83				108.83
	7/6	7/8	Belgium	5,385	150.00						150.00
	7/8	7/10	England	128.93	225.00		93.36				318.36
							950.60				950.60
	8/15	8/15	Belgium								
	8/15	8/21	Switzerland	1,087.65	450.00		933.00				1,383.00
Walter Nega	6/10	6/19	Poland	33,750	750.00		1,430.90				2,180.90
David B. Rohr	2/20	3/3	Switzerland	2,074.45	825.00						825.00
	3/3	3/6	Belgium	10,988	300.00						300.00
							707.00				707.00
	7/5	7/6	Switzerland	184.75	75.00		33.83				108.83
	7/6	7/9	Belgium	8,077	225.00						225.00
							933.00				933.00
David B. Rohr	11/13	11/17	Switzerland	666.60	300.00		15.50				315.50
	11/17	11/23	Belgium	18,427	525.00		9.75				534.75
							751.00				751.00
Alan Rothenberg	7/4	7/5	France	735.00	150.00		33.83				183.83
	7/5	7/7	Switzer and	184.75	75.00						75.00
	7/7	7/9	England	42.97	75.00						75.00
							933.00				933.00
William K. Vaughan	9/27	10/2	France	1,837.5	375.00		40.00				415.00
	10/2	10/5	Switzerland	355.13	150.00						150.00
							817.00				817.00
Mary Jane Wignot	9/22	9/28	Switzerland	893.44	375.00						375.00
	9/28	10/2	Belgium				838.00				838.00
Committee totals					17,741.00		40,200.80				57,942.60

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. and equivalent; if U.S. currency is used, enter amount expended.

AL ULLMAN,
Chairman, Committee on Ways and Means.

Mar. 20, 1978.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION, NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Jack Brooks	3/31	4/2	Iceland	43,020	[3] 225.00	158.94	565.62		8.00		790.00
P. Abbruzzese	3/31	4/2	Iceland	43,020	[3] 225.00	158.94	565.62		8.00		790.62
Phillip Burton	5/26	5/30	Belgium	15,500	430.50		446.43				
Lee Hamilton	5/26	5/30	Belgium	15,500	430.50		446.43				
Paul Findley	5/26	5/30	Belgium	15,187	422.00		446.43				
Peter Abbruzzese	5/26	5/30	Belgium	15,500	417.00		446.43				
Cynthia K. Watkins	5/26	5/30	Belgium	15,000	417.00		446.43				
Mary Rose Oakar	5/27	5/30	Belgium	13,500	375.00		446.43				
Phillip Burton	9/17	9/20	France	1,485	300.00		466.67				
Jack Brooks	9/17	9/24	France	2,970	600.00		466.67				
Charles Rose	9/17	9/23	France	2,598	525.00		12.10.01				
Bob Wilson	9/17	9/25	France, Italy	3,341.25	675.00		466.67				
Jack Edwards	9/17	9/25	France	2,970	600.00		466.67				
G. Wm. Whitehurst	9/17	9/24	France	2,650	575.75		466.67				

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION, NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Peter Abbruzzese	9/17	9/24	France	2,970	600.00		466.67				
Sharon Matts	9/17	9/24	France	2,970	600.00		466.67				

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Per pounds.

Mar. 20, 1978.

PHILLIP BURTON,
Chairman, Committee on House Delegation, North Atlantic Assembly.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Jack Brooks	3/31	2/4	Iceland (per pounds)	43.020	225.00	158.94	565.62				790.62
P. Abbruzzese	3/31	2/4	Iceland	43.020	225.00	158.94	565.62				790.62
Committee totals					450.00		1,131.24				1,581.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.

PHILLIP BURTON,
Chairman, House Delegation, North Atlantic Assembly.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MEXICO–UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

[Meeting held in Mexico May 26, 1977, to May 31, 1977]

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Jim Wright	5/26	5/31	Mexico		138.87		491.37				630.24
Bill Alexander	5/26	5/31	Mexico		98.93		491.37				590.30
Herbert Burke	5/26	5/31	Mexico		120.56		491.37				611.93
E. de la Garza	5/26	5/31	Mexico		109.86		491.37				601.23
Benjamin A. Gilman	5/26	5/29	Mexico		64.90		245.69				310.59
Abraham Kazen	5/26	5/31	Mexico		94.72		491.37				586.09
Robert J. Lagomarsino	5,26	5/31	Mexico		104.78		491.37				596.15
John H. Rousselot	5/26	5/31	Mexico		106.75		491.37				598.12
Eldon Rudd	5/26	5/29	Mexico		64.94		245.69				310.63
Richard C. White	5/26	5/31	Mexico		105.95		491.37				597.32
Gus Yatron	5/26	5/31	Mexico		110.72		491.37				602.09
John Chapman Chester	5/26	5/31	Mexico		91.67		491.37				583.04
J. Edward Fox	5/26	5/31	Mexico		99.02		491.37				590.39
Artman J. Mandakas	5/26	5/31	Mexico		124.57		491.37				615.94
Joyce Raupe	5/26	5/31	Mexico		88.97		491.37				580.34
Delegation expenses:											
Control room rental expenses									262.74		262.74
To advance 1978 conference									551.84		551.84
House share of stationery and miscellaneous expenses.									144.24		144.24
Committee totals					1,525.21		6,879.19		958.82		9,363.22

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. $ equivalent; If U.S. currency is used, enter amount expended.

Mar. 7, 1978.

JIM WRIGHT,
Chairman, Mexico–United States Interparliamentary Group.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CANADA–UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

[Meeting held in Canada, May 27–May 31, 1977]

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
Dante B. Fascell	5/27	5/31	Canada		486.05		557.08				1,043.13
Edward P. Boland	5/27	5/31	Canada		205.35		557.08				762.43
John J. Cavanaugh	5/27	5/31	Canada		151.20		557.08				708.28
James C. Cleveland	5/27	5/31	Canada		204.10		557.08				761.18

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CANADA-UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977—Continued

[Meeting held in Canada, May 27–May 31, 1977]

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Sam Gibbons	5/27	5/31	Canada		200.60		557.08				757.68
William F. Goodling	5/27	5/31	Canada		155.15		557.08				712.23
James M. Hanley	5/27	5/31	Canada		203.70		557.08				760.78
Harold T. Johnson	5/27	5/31	Canada		200.95		557.08				758.03
John J. LaFalce	5/27	5/31	Canada		179.90		557.08				736.98
Robert C. McEwen	5/27	5/31	Canada		151.20		557.08				708.28
Lloyd Meeds	5/27	5/31	Canada		199.75		557.08				756.83
Larry Winn, Jr	5/27	5/31	Canada		193.20		557.08				750.28
George M. Ingram	5/27	5/31	Canada		195.60		557.08				752.68
R. Michael Finley	5/27	5/31	Canada		165.17		557.08				722.25
Karen Brennan	5/27	5/31	Canada		165.70		557.08				722.78
Delegation expenses:											
Control room rental									466.07		
To advance 1978 Conference in New Orleans									252.92		
Luncheon for Canadian Parliamentarians in Washington									54.70		
Miscellaneous expenses									378.85		
											1,152.54
Committee totals					3,057.62		8,356.20		1,152.54		12,566.36

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. $ equivalent; If U.S. currency is used, enter amount expended.

DANTE B. FASCELL,
Chairman, Canada-United States Interparliamentary Group.

Feb. 23, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. GROUP, INTERPARLIAMENTARY UNION, FALL CONFERENCE, SOFIA, BULGARIA, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency [1]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [1]	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency [1]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [1]
David R. Bowen:									
Bulgaria	U.S. dollars		191.50		666.64				858.14
Greece	do		64.40						64.40
Iceland	do		42.31						42.31
Italy	do		27.27						27.27
Del Clawson:									
Bulgaria	do		235.45		666.64				902.09
Greece	do		91.85						91.85
Iceland	do		37.00						37.00
Italy	do		40.91						40.91
John E. Cunningham:									
Bulgaria	do		257.35		666.64				923.99
Greece	do		80.55						80.55
Iceland	do		37.00						37.00
Edward J. Derwinski:									
Bulgaria	do		221.90		666.64				888.54
Greece	do		281.40						281.40
William Lehman:									
Bulgaria	do		266.50		3.00				269.50
Greece	do		75.65						75.65
Iceland	do		42.00						42.00
Italy	do		40.91		666.64				707.55
Robert McClory:									
Bulgaria	do		227.50		666.64				894.14
Greece	do		59.90						59.90
Iceland	do		34.86						34.86
Italy	do		47.27						47.27
Claude Pepper:									
Bulgaria	do		285.70		666.64		37.05		989.39
Greece	do		77.95						77.95
Iceland	do		37.00						37.00
Italy	do		40.91						40.91
Bob Wilson:									
Bulgaria	do		269.70		666.64				936.34
Greece	do		61.25						61.25
Iceland	do		37.00						37.00
Italy	do		40.91						40.91
Ann Bolton:									
Bulgaria	do		284.20		666.64				950.84
Greece	do		171.20						171.20
Charlotte Dickson:									
Bulgaria	do		173.25		666.64				839.89
Greece	do		51.30						51.30
Iceland	do		21.00						21.00
Italy	do		27.27						27.27
Vance Hyndman:									
Bulgaria	do		352.26		666.64				1,018.90
Greece	do		235.89						235.89
Iceland	do		32.96						32.96
Total			4,603.23		7,336.04		37.05		11,976.32

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLAUDE PEPPER,
Chairman, United States Group, Interparliamentary Union.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, UNITED STATES GROUP, INTERPARLIAMENTARY UNION, SPRING CONFERENCE, CANBERRA, AUSTRALIA, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1977

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
J. Herbert Burke:									
Australia	U.S. dollars		179.85						179.85
Indonesia	do		45.21						45.21
New Zealand	do		70.00				14.00		84.00
Taiwan	do		47.65						47.65
United States	do		261.33		1,716.80				1,978.13
Goodloe Byron:									
Australia	do		149.40						149.40
Indonesia	do		30.86						30.86
New Zealand	do		70.00				12.00		82.00
Taiwan	do		47.70						47.70
United States	do		501.24		1,716.80				2,218.04
Edward J. Derwinski:									
Australia	do		267.90		1,722.80		108.70		2,099.40
United States	do		53.75		2,796.00				2,849.75
Gillis Long:									
Australia	do		194.00						194.00
Indonesia	do		34.66						34.66
New Zealand	do		70.00				4.00		74.00
Taiwan	do		42.90						42.90
United States	do		240.25		1,716.80				1,957.05
Claude Pepper:									
Australia	do		185.90						185.90
Indonesia	do		40.11						40.11
New Zealand	do		70.00				7.00		77.00
Taiwan	do		40.55						40.55
United States	do		322.37		1,716.80				2,039.17
J. J. Pickle:									
Australia	do		219.45						219.45
Indonesia	do		42.96						42.96
New Zealand	do		70.00				7.00		77.00
Taiwan	do		43.30						43.30
United States	do		241.69		1,716.80				1,958.49
Robert McClory:									
Australia	do		163.85				6.40		170.25
Indonesia	do		48.26						48.26
New Zealand	do		70.00				12.00		82.00
Taiwan	do		58.30						58.30
United States	do		253.44		1,716.80		5.16		1,975.40
Edward J. Patten:									
Australia	do		216.05						216.05
Indonesia	do		37.76						37.76
New Zealand	do		70.00				9.00		79.00
Taiwan	do		40.55						40.55
United States	do		126.31		1,716.80				1,845.11
Guy Vander Jagt:									
Australia	do		173.65						173.65
Indonesia	do		78.67						78.67
New Zealand	do		70.00				12.50		82.50
Taiwan	do		44.60						44.60
United States	do		539.46		1,716.80				2,256.26
Edmund L. Henshaw:									
Australia	do		268.50				8.90		277.40
Indonesia	do		56.11						56.11
New Zeland	do		70.00				9.00		79.00
Taiwan	do		34.75						34.75
United States	do		263.97		1,716.80		3.65		1,984.42
Ann Bolton:									
Australia	do		210.40		2.75				213.15
Indonesia	do		20.13						20.13
New Zealand	do		54.00				4.50		58.50
Taiwan	do		29.00						29.00
United States	do		239.68		1,716.80				1,956.48
Total			6,820.47		21,689.55		223.81		28,733.83

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLAUDE PEPPER,
Chairman, United States Group, Interparliamentary Union.

Mar. 20, 1978

CONSOLIDATED REPORT CF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, UNITED STATES GROUP, INTERPARLIAMENTARY UNION, MEETINGS ON EUROPEAN COOPERATION AND SECURITY, AND OF THE IPU COMMITTEE OF NINE PLUS, AT GENEVA, SWITZERLAND, LONDON, UNITED KINGDOM, AND COPENHAGEN, DENMARK EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Edward J. Derwinski:									
United States	U.S. dollars				2,972.00				2,972.00
Switzerland	do		47.60				20.00		67.60
Denmark	do		547.00		86.80				633.80
Darrell St. Claire:									
United States	do				1,548.00				1,548.00
Switzerland	do		562.01		674.30		15.15		1,251.46
United Kingdom	do		580.12		349.75		5.75		935.62
Denmark	do		789.47		489.60		5.20		1,284.27
Total			2,526.20		6,120.45		46.10		8,692.75

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

EDWARD J. DERWINSKI,
Chairman, United States Group, Interparliamentary Union.

Mar. 20, 1978.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3796. A communication from the President of the United States, transmitting a proclamation extending nondiscriminatory trade treatment to the products of the Hungarian People's Republic, together with related reports, pursuant to section 407 of the Trade Act of 1974 (H. Doc. No. 95–318); to the Committee on Ways and Means and ordered to be printed.

3797. A letter from the Secretary of the Navy, transmitting a report on his determinations in claims submitted by the General Dynamics Corporation, Electric Boat Division, Groton, Conn., under contracts for the construction of nuclear powered attack submarines of the *Los Angeles* (SSN 688) class, pursuant to section 747 of Public Law 94–419 and section 848 of Public Law 95–111; to the Committee on Appropriations.

3798. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment (transmittal No. 78–26), pursuant to section 813 of Public Law 94–106, as amended; to the Committee on Armed Services.

3799. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations to govern State operated programs for handicapped children, pursuant to section 431(b)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3800. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3801. A letter from the Chairman, National Transportation Safety Board, transmitting a report on the Board's activities under the Government in the Sunshine Act during the period March 12, 1977, through December 31, 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3802. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during the period March 13, 1977, to March 13, 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3803. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the establishment of the New River Gorge National River in the State of West Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

3804. A letter from the Secretary of the Interior, transmitting the annual report on the implementation of the Alaska Native Claims Settlement Act during calendar year 1977, pursuant to section 23 of the act; to the Committee on Interior and Insular Affairs.

3805. A letter from the Assistant Secretary of the Interior, transmitting a report covering calendar year 1977 on the anthracite mine water control and mine sealing and filling program, pursuant to section 5 of Public Law 84–162, as amended; to the Committee on Interior and Insular Affairs.

3806. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of Seminole judgment funds in dockets 73 and 151 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

3807. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Robert J. Sugarman and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3808. A letter from the Chairman, Development Coordination Committee, transmitting notice of a delay in the submission of the Committee's 1977 report, required by section 640B(d) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3809. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3810. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment (transmittal No. 78–26), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3811. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment (transmittal No. 78–27), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3812. A letter from the Administrator, Energy Informaton Administration, Department of Energy, transmitting a quarterly report for the period October–December 1977 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas and coal; reserves and production of crude oil, natural gas and coal; refinery activities; and inventories, together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of Public Law 93–319, as amended; to the Committee on Interstate and Foreign Commerce.

3813. A letter from the Chairman, National Arthritis Advisory Board, transmitting the first annual report of the Board, pursuant to section 440(j) of the Public Health Service Act, as amended (90 Stat. 2648); to the Committee on Interstate and Foreign Commerce.

3814. A letter from the Assistant Attorney General for Legislative Affairs, transmitting * * * to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

3815. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner; to the Committee on the Judiciary.

3816. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

3817. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

3818. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations of the Nashville, Tenn., Union Station, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3819. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on laboratories needed to support long-term research in the Environmental Protection Agency, pursuant to section 6(b) of Public Law 95–155; to the Committee on Science and Technology.

3820. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend section 3103 of title 38, United States Code, to extend the time period within which the board of review concerned, on its own initiative, shall determine whether a person who has been awarded a general or honorable discharge under revised standards for the review of discharges as specified in clause (A)(i), (ii), or (iii) of paragraph (2) of subsection (e) of such section 3103 would be entitled to an upgraded discharge under standards meeting the requirements of paragraph (1) of such subsection; to amend section 5 of Public Law 95–126 to extend the time during which a former serviceperson may continue to receive Veterans' Administration benefits pending such determination; and for other purposes; to the Committee on Veterans' Affairs.

3821. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Ways and Means.

3822. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to provide loan guarantees for the assistance of the city of New York; jointly, to the Committees on Banking, Finance and Urban Affairs, and Ways and Means.

3823. A letter from the Comptroller General of the United States, transmitting a report on crop forecasting by satellite (PSAD–78–52, April 7, 1978); jointly, to the Committees on Government Operations, Agriculture, and Science and Technology.

3824. A letter from the Comptroller General of the United States, transmitting a report on the readiness of tactical nuclear weapons forces in Europe (LCD–77–428, April 7, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3825. A letter from the Comptroller General of the United States, transmitting a report on the economic and environmental benefits of building deepwater ports (EMD–78–9, April 5, 1978); jointly, to the Committees on Government Operations, Merchant Marine and Fisheries, Public Works and Transportation, Interior and Insular Affairs, and Interstate and Foreign Commerce.

3826. A letter from the Comptroller General of the United States, transmitting a report on the status of the Navy's Captor ocean warfare mining system (PSAD–78–23, April 10, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3827. A letter from the Comptroller General of the United States, transmitting a report on the Navy's Trident submarine and missile programs (PSAD–78–31, April 7, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3828. A letter from the Comptroller General of the United States, transmitting a report on the status of the Air Force's Maverick/close air support weapon systems program (PSAD–78–34, April 10, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3829. A letter from the Comptroller General of the United States, transmitting

a report on the Federal-State unemployment insurance program (HRD–78–1, April 5, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 1118. Resolution providing for the consideration of H.R. 11291. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration (Rept. No. 95-1046). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[*Pursuant to the order of the House on Apr. 6, 1978, the following report was filed on Apr. 7, 1978*]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 39. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems, and for other purposes; with amendment. (Rept. No. 95–1045, Pt. I). Sequentially referred to the Committee on Merchant Marine and Fisheries for a period ending not later than May 1, 1978, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee under clause 1(n), rule X, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. NOLAN, Mr. JONES of North Carolina, Mr. AKAKA, Mr. PERKINS, Mr. WEAVER, Mr. EILBERG, Mr. GUYER, Mr. OBERSTAR, Mr. CORNELL, Mr. RYAN, and Mr. FRASER):

H.R. 11955. A bill to encourage the continuation of family farming as a part of the agricultural system in the United States; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. BROWN of Ohio (for himself, Mr. COLLINS of Texas, Mr. LAGOMARSINO, and Mr. STOKES);

H.R. 11956. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. BROYHILL:

H.R. 11957. A bill to amend the Rural Electrification Act of 1936, as amended, to provide for the financing of telecommunications facilities for cable television and other broadband services in small towns and rural areas; to the Committee on Agriculture.

By Mr. BURGENER (for himself, Mr. BADHAM, Mr. BEILENSON, Mr. BLOUIN, Mr. DORNAN, Mr. EDWARDS of California, Mr. HUGHES, Mr. HYDE, Mr. KETCHUM, Mr. KILDEE, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LENT, Mr. MCCORMACK, Mr. MURPHY of Pennsylvania, Mr. PEPPER, Mr. RANGEL, Mr. QUIE, Mr. SOLARZ, Mr. VAN DEERLIN, Mr. VENTO, Mr. WALGREN, Mr. WHITEHURST, Mr. BOB WILSON, and Mr. YATES):

H.R. 11958. A bill to provide for a national program of screening of newborn infants for metabolic disorders that could retard brain development; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE (for himself, Mr. FORSYTHE, and Mr. LEGGETT):

H.R. 11959. A bill to assist the States in developing fish and wildlife conservation plans and in carrying out projects consistent with such plans with respect to nongame fish and wildlife, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CORCORAN of Illinois (for himself, Mr. BURGENER, Mr. CORNWELL, Mr. EILBERG, Mr. FARY, Mr. GUYER, Mr. HYDE, Mr. KINDNESS, Mr. KRUEGER, Mr. MCCLORY, Mr. MADIGAN, Mr. MICHEL, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PATTERSON of California, Mr. PEASE, Mr. SEBELIUS, Mr. SIMON, Mr. STOKES, and Mr. STEERS):

H.R. 11960. A bill to expedite decisions concerning the temporary storage of spent fuel and the permanent storage of spent fuel and other radioactive waste, including the selection of sites for storage facilities, the determination of whether the Federal Government should take title to such fuel and such waste, and the amount of storage fees which should be charged; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Rules.

By Mr. EDGAR (for himself, Mr. HORTON, Mr. BONIOR, Mr. BROWN of Ohio, Mr. CONTE, Mr. D'AMOURS, Mr. EDWARDS of California, Mr. FISHER, Mr. GOLDWATER, Mr. GREEN, Mr. HARRINGTON, Mr. HUGHES, Mr. LAFALCE, Mr. MINETA, Mr. MOFFETT, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PEASE, Mr. STOCKMAN, Mr. STOKES, Mr. TREEN, Mr. VENTO, Mr. WHITEHURST, and Mr. WIRTH):

H.R. 11961. A bill to amend the Interstate Commerce Act and the Fair Labor Standards Act to provide for the removal of certain barriers to commuter vanpooling programs; jointly, to the Committees on Public Works and Transportation, and Education and Labor.

By Mr. EDWARDS of Oklahoma (for himself, Mr. CRANE, Mr. SYMMS, Mr. SPENCE, Mr. KINDNESS, Mr. LOTT, Mr. CUNNINGHAM, Mr. KASTEN, and Mr. KETCHUM):

H.R. 11962. A bill to require the Environmental Protection Agency and all other Federal regulatory agencies to evaluate, prior to the issuance of a regulation, the potential economic effect and environmental impact of such regulations; to the Committee on Government Operations.

H.R. 11963. A bill to amend the Antidumping Act, 1921, to expedite procedures for making certain findings under such act and for imposing special dumping duties, and for other purposes; to the Committee on Ways and Means.

H.R. 11964. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. HANSEN (for himself and Mr. KAZEN):

H.R. 11965. A bill to prohibit the transfer or other disposal of any military installation located in the Canal Zone without the specific authorization of Congress; to the Committee on Armed Services.

By Mr. HARSHA (for himself, Mr. CLEVELAND, Mr. DON H. CLAUSEN, Mr. SNYDER, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. WALSH, Mr. TAYLOR, Mr. GOLDWATER, Mr. STANGELAND, and Mr. LIVINGSTON):

H.R. 11966. A bill to require the Administrator of General Services to submit prospectuses for facilities required in connection with the relocation of personnel because of the establishment of the Department of Energy; to the Committee on Public Works and Transportation.

By Mrs. HECKLER:

H.R. 11967. A bill to amend the Safe Drinking Water Act to authorize grants for the purchase, construction, and modification of certain drinking water treatment facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 11968. A bill to amend title XII of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 11969. A bill to amend title XII of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LUNDINE:

H.R. 11970. A bill to amend section 202 of the Housing Act of 1959 and the U.S. Housing Act of 1937 for the purpose of improving housing for elderly and handicapped individuals and families; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARKEY:

H.R. 11971. A bill to amend title II of the Social Security Act to provide that an individual who has 20 years or more of covered work may qualify for disability insurance benefits (and the disability freeze) without regard to when the work was performed; to the Committee on Ways and Means.

By Mr. MEEDS:

H.R. 11972. A bill to authorize appropriations to the Department of Energy in accordance with section 660 of the Department of Energy Organization Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MINETA:

H.R. 11973. A bill to amend title 39, United States Code, to provide for the withholdidng of State disability fund contributions from the pay of postal employees; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.R. 11974. A bill to amend and extend the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 11975. A bill to amend title 10, United States Code, to eliminate the annual report on Reserve Forces; to the Committee on Armed Services.

By Mr. ROE (for himself, Mr. COHEN, Mr. FLIPPO, Mr. SEBELIUS, Mr. SKUBITZ, and Mr. WINN):

H.R. 11976. A bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 11977. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources without the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. BINGHAM, Mr. DRINAN, Mr. FLOOD, Mr. GILMAN, Mr. HARRIS, Ms. HOLTZMAN, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. PATTERSON of California,

Mr. RANGEL, Mr. SIMON, Mrs. SPELLMAN, and Mr. WEISS):

H.R. 11978. A bill to amend title 5, United States Code, to provide sufficient flexibility in Federal employee work schedules to allow Federal employees to meet the obligations of their faith; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself and Mr. ROONEY) (by request):

H.R. 11979. A bill to amend section 5 of the Department of Transportation Act, relating to local rail service assistance; to the Committee on Interstate and Foreign Commerce.

H.R. 11980. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11981. A bill to amend title 5 of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Interstate and Foreign Commerce.

H.R. 11982. A bill to amend the Rail Passenger Service Act to authorize additional appropriations; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON:

H.R. 11983. A bill to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act; to the Committee on House Administration.

By Mr. VANIK (for himself and Mr. HARRIS):

H.R. 11984. A bill to amend titles XVIII, XIX of the Social Security Act to provide for a greater utilization of the professional services of qualified clinical social workers in the medicare and medicaid programs, to include outpatient services, community mental health centers and neighborhood health centers among the entities which may be qualified providers, and to remove the special limitations which are presently imposed on coverage of psychiatric and mental health services under parts A and B of title XVIII and title XIX; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. WEAVER (for himself, Mr. AKAKA, Mr. BONIOR, Mr. DOWNEY, Mr. EVANS of Georgia, Mr. JENRETTE, Mr. MIKVA, Mr. NEAL, Mr. OTTINGER, Mr. PATTISON of New York, Mr. SEIBERLING, Mr. SOLARZ, Mr. THOMPSON, and Mr. ZEFERETTI):

H.R. 11985. A bill to amend the Commodity Credit Corporation Charter Act to provide the highest possible prices in foreign markets for American agricultural producers and to provide price and supply stability in domestic markets; to the Committee on Agriculture.

By Mr. CUNNINGHAM (for himself, Mr. DICKS, and Mr. PRITCHARD):

H.J. Res. 828. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."); to the Committee on Post Office and Civil Service.

By Mr. LUKEN (for himself, Mr. APPLEGATE, and Mr. MOTTL):

H.J. Res. 829. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. RAHALL, Mr. LEVITAS, Mr. BOLLING, Mr. ALEXANDER, Mr. EDWARDS of CALIFORNIA, Mr. RONCALIO, Mr. BEVILL, Mr. BALDUS, Mr. JOHNSON of California, Mr. BRECKINRIDGE, Mr. PRICE, Mr. DEL CLAWSON, Mr. BAUCUS, Mr. GINN, and Mr. LAGOMARSINO):

H.J. Res. 830. Joint resolution designating the square dance as the national folk dance of the United States of America; to the Committee on Post Office and Civil Service.

By Mr. ROSENTHAL (for himself, Mr. NOWAK, Mr. SANTINI, and Mr. GILMAN):

H.J. Res. 831. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; Post Office and Civil Service.

By Mr. RYAN:

H.J. Res. 832. Joint resolution proposing an amendment to the Constitution of the United States relating to the eligibility of a citizen to vote in primary elections; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. BURGENER, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CORMAN, Mr. DELLUMS, Mr. EDWARDS of California, Mr. FLORIO, Mr. HANNAFORD, Mr. JOHNSON of California, Mr. KREBS, Mr. LAGOMARSINO, Mr. LLOYD of California, Mr. MILLER of California, Mr. PANETTA, Mr. PATTERSON of California, Mr. ROONEY, Mr. RYAN, Mr. SISK, Mr. VAN DEERLIN, Mr. WAXMAN, Mr. BOB WILSON, and Mr. CHARLES H. WILSON of California):

H.J. Res. 833. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. SISK, Mr. STANTON, Mr. KAZEN, and Mr. DENT):

H. Con. Res. 554. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. ULLMAN (designated by the majority leader) for himself and Mr. CONABLE (designated by the minority leader) (both by request):

H. Con. Res. 555. Concurrent resolution approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic; to the Committee on Ways and Means.

By Mr. BAFALIS (for himself, Mr. CRANE, Mr. COLEMAN, Mr. GILMAN, Mr. GOLDWATER, Mr. HALL, and Mr. O'BRIEN):

H. Res. 1119. Resolution to amend the Rules of the House of Representatives to require that reports accompanying certain bills and joint resolutions reported by committees contain computations of the potential tax impact of such bills and resolutions on the individual taxpayer; to the Committee on Rules.

By Mr. NEAL:

H. Res 1120. Resolution to establish a Select Committee on Inflation; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

363. By the SPEAKER. Memorial of the Senate of the State of Hawaii, relative to reducing the base flood standard of the National Flood Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

364. Also, a memorial of the Legislature of the State of Hawaii, relative to the regulation of public utilities in the State of Hawaii; to the Committee on Interstate and Foreign Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII,

439. The SPEAKER presented a petition of Alejandro Orfilo, Secretary General of the Organization of American States, Washington, D.C., relative to adoption of House Resolution 1033, recognizing the contributions of General Jose de San Martin; which was referred to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mrs. SCHROEDER:

Strike out part B of title II (beginning on line 1 of page 37 and ending on line 15 of page 41) and insert in lieu thereof the following:

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) Part II of title 5, United States Code, relating to the Civil Service Commission, is amended by inserting after chapter 11 the following new chapter:

"Chapter 12—OFFICE OF GOVERNMENT ETHICS

"Sec.
"1201. Establishment of Office of Government Ethics.
"1202. Functions of Office.
"1203. Administrative provisions.
"1204. Ethics counselors.
"1205. Regulations relating to disclosure of financial interests and conflicts of interest.

"§ 1201. Establishment of Office of Government Ethics

"(a) There is established in the Civil Service Commission an office to be known as the Office of Government Ethics.

"(b) There shall be at the head of the Office of Government Ethics a director (hereinafter in this chapter referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"§ 1202. Functions of Office

"(a) The Director shall provide overall direction of executive branch policies relating to preventing conflicts of interest on the part of employees within the executive branch.

(b) The responsibilities of the Director shall include—

"(1) monitoring and investigating compliance with the provisions of subchapter VI of chapter 73 of this title by individuals appointed or employed in the executive branch;

"(2) auditing on a random basis financial reports submitted under subchapter VI of chapter 73 of this title to determine whether such reports are complete and accurate;

"(3) establishing a program under which advisory opinions relating to conflicts of interest may be provided, on request, to any person by the Director or an agency ethics officer;

"(4) supervising and defining the duties and responsibilities of ethics counselors;

"(5) evaluating the effectiveness of the provisions of laws and regulations relating to conflicts of interest and reporting to the Civil Service Commission for transmittal to the Congress any recommendations for legislative or administrative action he considers appropriate;

"(6) establising, after consultation with the Attorney General, an effective system for reporting allegations of violations of conflict of interest laws to the Attorney General, as required by section 535 of title 28; and

"(7) providing information on and promoting understanding of ethical standards in the executive branch.

"§ 1203. Administrative provisions

"At the request of the Director, each agency in the executive branch is directed to—

"(1) make its services, personnel, and facilities available to the Director and ethics counselors to the greatest practicable extent for the performance of functions under subchapter VI of chapter 73 of this title; and

"(2) except when prohibited by law, furnish to the Director or any ethics counselor all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

"§ 1204. Ethics counselors.

"(a) Such ethics counselors as the Director may determine necessary (not to exceed 75 positions) shall be appointed by and subject to the control of the Director. Such counselors shall be assigned between and among the various agencies in the executive branch on a rotating basis. One such counselor may be assigned to two or more of such agencies in circumstances in which the Director determines it appropriate to do so. One ethics counselor assigned to an agency shall serve as that agency's ethics officer.

"(b Ethics counselors shall—

"(1) be appointed without regard to section 3503(a) of this title, and

"(2) be subject to removal only under the procedures under section 7521 of this title, relating to administrative law judges.

"§ 1205. Regulations relating to disclosure of financial interests and conflicts of interest

"(a)(1) Subject to paragraph (2) of this subsection—

"(A) any regulation under subchapter VI of chapter 73 of this title, and

"(B) any regulation relating to conflicts of interest applicable to employees or classes of employees within the executive branch,

shall be prescribed only by the Director and shall be prescribed in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(2)(A) Regulations to which paragraph (1) of this subsection applies shall not take effect unless approved by the Commissioners of the Civil Service Commission. Unless disapproved by the Commissioners within 30 days after transmittal of the proposed regulations to them, such regulations shall be deemed approved.

"(B) In addition to the approval required under subparagraph (A) of this paragraph, any regulation to which paragraph (1) of this subsection applies shall not take effect unless the Director transmits to the Congress a copy of such regulation, as approved under subparagraph (A) of this paragraph, and before the close of the 60-day period of continuous session beginning on the date of such transmittal neither House of the Congress has adopted a resolution the matter after the resolving clause of which states: "That ——— hereby disapproves the regulation transmitted to the Congress by the Director of the Office of Government Ethics on ———.', the blank spaces therein being filled in appropriately.

"(C) For the purpose of subparagraph (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(b) Any interested person may seek judicial review under chapter 7 of this title of any regulation to which subsection (a)(1) of this section applies."

(b)(1) The analysis for part II of title 5, United States Code, is amended by inserting the item relating to chapter 11 the following:

"12—Office of Government Ethics.... 1201"

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(144) Director of the Office of Government Ethics, Civil Service Commission.".

(c) No individual employed by the Government on the date of the enactment of this Act shall be separated or reduced in grade, rank, or compensation by reason of the transfer of any duties resulting from the amendments made by this title.

(d)(1) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as are necessary for the compensation of ethics counselors appointed under section 1204 of title 5, United States Code (as added by this Act).

(2) There is authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, the sum of $1,000,000 to carry out the purposes of the amendments made by this section and section 201 of this Act, other than purposes for which appropriations are authorized in paragraph (1) of this subsection.

(e) Not later than one year after the date of the enactment of this Act, the Director of the Office of Government Ethics shall—

(1) conduct a comprehensive review of existing laws and regulations relating to conflicts of interest; and

(2) submit to the Congress a report on such review, together with such recommendations for legislative or administrative action as the Director considers appropriate.

(f) Section 1308(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting "; and" in lieu thereof, and

(3) by adding at the end thereof the following new paragraph:

"(5) a report to be prepared by the Director of the Office of Government Ethics which shall include—

"(A) a summary of the activities of the Director and ethics counselors appointed under section 1204 of this title in carrying out the functions of the Office of Government Ethics; and

"(B) any recommendations of the Director for legislative or administrative action considered to be appropriate by the Director.".

By MR. STRATTON:

Strike out part C of title II (beginning on line 16 of page 41 and ending on line 3 of page 49) and insert in lieu thereof the following:

PART C—CONFLICTS OF INTEREST

AMENDMENT TO TITLE 18, SECTION 207

SEC. 241. (a) Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive or judicial branch of the United States Government of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly—

"(1) acts as agent or attorney for any other person (except the United States), represents such other person, or aids or assists such attorney or representative in representing before, or

"(2) makes any contact on behalf of any other person (except the United States) with the intent to influence,

any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or of the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties, in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

"(b) Whoever, having been so employed, within two years after his employment has ceased, knowingly—

"(1) acts as agent or attorney for any other person (except the United States), represents such other person, or aids or assists such attorney or representative in representing before, or

"(2) makes any contact on behalf of any other person (except the United States) with the intent to influence,

any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or of the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties, in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or

"(c) Whoever having been so employed—

"(1) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater pay rate under another authority; or

"(2) in a position classified at GS–16, GS–17, or GS–18 of the General Schedule prescribed by section 5332 of title 5, United States Code; in the uniformed services in a pay grade at O–7 or above under section 201 of title 37, United States Code; or in a comparable position under another authority,

within one year after his employment with the department or agency has ceased, knowingly—

"(A) acts as agent or attorney for or otherwise represents any other person (except the United States) in any formal or informal appearance before, or

"(B) makes any contact on behalf of any other person (except the United States) with the intent to influence,

the department or agency in which he served as an officer or employee, or any officer or employee thereof, in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter which is pending before such department or agency or in which such department or agency is a party or has a direct and substantial interest—

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a), (b), or (c) shall prevent the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the agency concerned: *Provided further*, That nothing in subsection (a), (b), or (c) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as agent or attorney for or otherwise representing, or making any contact on behalf of another person in connection with a particular matter in

a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee: *Provided further*, That subsection (c) shall not apply to a former special Government employee who did not perform duties of his position in the department or agency for more than sixty days during the period of three hundred and sixty-five days immediately preceding the date of termination of his services with such department or agency: *Provided further*, That subsection (c) shall not apply (i) if the former official's appearance before the agency is of a category exempt by the agency by general rule or regulation approved by the Director of the Office of Government Ethics and published in the Federal Register, or (ii) if the agency, after full disclosure of all facts by the former officer or employee, makes a written determination, subject to review by the Director of the Office of Government Ethics, that the former officer or employee will not exercise any undue influence on substantive agency action by virtue of his former association with the agency. All such written determinations shall be a matter of public record.

"(d) Whoever, being a partner or an officer or employee of the executive branch of the United States Government, of any independent agency of the United States or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission, of the United States or of the District of Columbia, or any officer or employee thereof, on behalf of any other person (except the United States), in connection with any judicial or other proceedings, application, request for a ruling or other determinations, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility—

"Shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(e) Nothing in this section shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, if such former officer or employee receives no compensation for such testimony or statements other than that regularly provided by law or regulation for witnesses.".

(b) The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.".

APPLICABILITY

SEC. 242. The amendment made by section 241(a) shall not apply to any individual who leaves Government service before the effective date of such amendment, but any such individual who returns to Government service on or after the effective date of such amendment shall thereafter be covered by such amendment.

EFFECTIVE DATE

SEC. 243. The amendments made by section 241 shall be effective on January 1, 1979.

Strike out part A of title II (beginning on line 15 of page 18 and ending on line 25 of page 36) and insert in lieu thereof the following:

PART A—CIVILIAN AND MILITARY REPORTING REQUIREMENTS

CIVILIAN PERSONNEL

SEC. 201. (a) Chapter 73 of title 5, United States Code, relating to suitability, security, and conduct of employees, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VI—FINANCIAL REPORTING AND DISCLOSURE; CONFLICTS OF INTEREST

"§ 7361. Statement of findings

"The Congress hereby finds that the public has a right to a Government of officers and employees who avoid conduct which results in or creates the appearance of—

"(1) the use of public employment for private gain; or

"(2) the failure to maintain impartiality of action;

or any other conduct which affects adversely the confidence of the public in the integrity of the Government.

"§ 7362. Application of subchapter

"(a) Except as provided in subsection (b) of this section, this subchapter applies to—

"(1) the President and the Vice President;

"(2) any candidate (as defined in section 301 of the Federal Election Campaign Act of 1971) for the office of President or Vice President;

"(3) each individual holding a civil service position in the executive branch whose position is classified at GS–16 or above, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS–16;

"(4) any individual appointed to or employed in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character;

"(5) the Postmaster General, the Deputy Postmaster General, and each Governor of the Board of Governors of the United States Postal Service;

"(6) the Director of the Office of Government Ethics (hereinafter in this subchapter referred to as the 'Director') and each ethics counselor appointed under section 1204 of this title;

"(7) any individual nominated by the President to any office or position described in the preceding paragraphs the appointment to which requires confirmation by the Senate or by both Houses of the Congress; and

"(8) any individual appointed or employed in a civilian position in the executive branch with respect to which there is in effect a determination by the Director, by regulation, that—

"(A) the duties and responsibilities of such position require such an individual—

"(i) in the normal course of carrying out such duties and responsibilities, to make decisions with regard to who shall be the subject of any action which is to be taken in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law) or to carry out any such action;

"(ii) in the normal course of carrying out such duties and responsibilities—

"(I) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits which involve funds or other interests having a substantial monetary value; or

"(II) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; or

"(iii) to function as an expert or consultant or as a member of a board, committee, or similar group which provides advice or recommendations to the President or one or more agencies or officers of the Government, unless such individual serves without pay or at a nominal rate of pay; and

"(B) the application of this subchapter to such an individual in such position is justified in order to ensure the integrity of the Government or the public's confidence in the integrity of the Government.

"(b) The Director may, by regulation, exclude from the application of this subchapter any individual or group of individuals—

"(1) whose employment is temporary or intermittent, or

"(2) who is in a position referred to in paragraph (4) of subsection (a) of this section,

but only in cases in which he determines such exclusion would be consistent with the purposes of this subchapter.

"§ 7363. Reporting of financial interest

"(a) Except as provided in subsection (d) of this section, each individual to whom this subchapter applies shall submit, in accordance with section 7364 of this title, a report containing the information required under subsections (b) and (c) of this section.

"(b) The following information shall be included in any report required to be submitted by subsection (a) of this section:

"(1) The amount and the identity of each source of income received during the reporting period as compensation for personal services (whenever rendered). If the aggregate amount received from any source during such period does not exceed $100 per year, the amount of such income and the identity of its source is not required to be reported under this paragraph.

"(2) The identity of each source of income (other than income received as compensation for personal services or as a gift) received during the reporting period. If the aggregate amount received from any source during such period does not exceed $100 per year, the identity of its source is not required to be reported under this paragraph.

(3)(A) The identity of the source of any gift received during the reporting period. In addition, the amount and a description of any such gift which is received during such period from a person who—

"(i) has, or is seeking to obtain, contractual or other business or financial relations with the reporting individual's employing agency;

"(ii) conducts operations or activities which are regulated by such agency; or

"(iii) has interests which may be substantially affected by the performance or nonperformance of such individual's official duties.

"(B) Reporting is not required under subparagraph (A) of this paragraph with respect to—

"(i) any gift from any source, if the aggregate amount received from such source during such period does not exceed $100 per year;

"(ii) any gift which constitutes the personal hospitality of an individual or which is from a member of the donee's immediate family; and

"(iii) any political contribution otherwise reported as required by Federal law.

"(4)(A) A description of any property held during the reporting period in a trade or business or for investment or the production of income together with the date acquired and the identity of the party from whom it was acquired (if known), and if disposed of during such period, the date of such disposi-

tion and the identity of the recipient (if known).

"(B) Reporting is not required under this paragraph—

"(i) with respect to any property of less than $1,000, or

"(ii) of the identity of the recipient of property which is donated, if such recipient is described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt from Federal income tax under section 501(a) of such Code.

"(5) A description of any liability owed during the reporting period and the identity of the person to whom such liability is owed (if known). Reporting is not required under this paragraph with respect to—

"(A) any liability secured by a principal residence of the individual or a member of the individual's immediate family if such liability arose in connection with the financing of the purchase of such residence and such financing was provided or arranged by a commercial lender or broker;

"(B) any liability owed to a member of the individual's immediate family; or

"(C) any liability owed to any person, if the aggregate amount owed such person during such period does not exceed $2,500 per year.

In applying subparagraph (C) with respect to liabilities arising from credit card or similar revolving account transactions, the average aggregate liability owed during such period to any person arising from such transactions may be used in lieu of the aggregate of all such liabilities for such period.

"(6) The identity of all positions held during the reporting period (and during the immediately preceding two-year period) as an officer, director, trustee, partner, proprietor, agent, employee, representative, or consultant of any person (including any governmental entity), together with a general description of the activities engaged in in carrying out the duties of such positions. Reporting is not required under this paragraph with respect to positions held in any religious, social, fraternal, or political entity.

"(7) A description of, and the identity of the parties to, any contract, agreement, or understanding in effect during the reporting period with respect to employment after the reporting indivdual leaves Government servce.

"(8) In the case of a report by any individual referred to in paragraph (3), (4), or (8) of section 2362(a) of this title, a copy of the official position description of the Government office or position held by such individual at the time of the filing of the report, or held by such individual during the reporting period, together with such additional information as may be required to accurately determine the duties and responsibilities of such office or position.

"(9) A description of any property, liability, or relationship the reporting of which is determined by the Director, by regulation, to be necessary to ensure that the purposes of this subchapter are carried out.

If any person the identity of whom is required to be reported under this subsection is known by the reporting individual to be a foreign national or representative, the nationality involved shall also be identified in such report.

"(c) In addition to the information required to be included in any report under subsection (b), such report shall include with respect to each item of income, property, and liability required to be included in such report under paragraphs (2), (4), (5), and (9) of subsection (b), a statement of the category of value for each item, determined in accordance with the following:

"(1) not more than $5,000,

"(2) greater than $5,000 but not more than $15,000,

"(3) greater than $15,000 but not more than $50,000,

"(4) greater than $50,000 but not more than $100,000, and

"(5) greater than $100,000.

"(d) The Director may, by regulation, exclude from the reporting requirements of this section any information, but only if he determines such exclusion would be consistent with the purposes of this subchapter.

"(e)(1) For purposes of reporting the value of any item of income, property, liability, or gift which is other than money, such item shall be reported on the basis of the fair market value of such item on the last day of the reporting period, except that in the case of any such item acquired or disposed of during such period, such item shall be reported at the value for which it was so disposed of or acquired.

"(2) Not later than 120 days after the date of the enactment of this subchapter, the Director shall, by regulation, establish a method or methods for readily determining fair market value which do not require using expert appraisals.

"(f)(1)(A) Except as otherwise provided in this paragraph, each report required to be submitted under subsection (a) shall take into account the items listed in subsections (b) and (c) with respect to members of the reporting individual's immediate family, except that the amount of income received as compensation for personal services rendered by any such family member is not required to be reported.

"(B) The provisions of subparagraph (A) of this paragraph shall not apply with respect to the reporting of items relating to a spouse who for more than 6 consecutive months of the year for which such report is to be made was legally separated under a decree of divorce or of separate maintenance from the reporting individual.

"(C) The provisions of subparagraph (A) of this paragraph shall not apply with respect to the reporting of specific information on items relating to any member of the individual's immediate family if the reporting individual certifies that—

"(i) such individual has no knowledge of such information;

"(ii) such individual has made every reasonable effort to obtain such information;

"(iii) such individual derives and expects to derive no benefit from such items; and

"(iv) such items were not derived directly or indirectly from income, property, or liabilities formerly owned or controlled by the reporting individual.

"(2)(A) Subject to subparagraph (B) of this paragraph, income, property, and liabilities attributable to any partnership, corporation, or trust (other than a blind trust) in which the individual or member of the individual's immediate family holds a substantial interest, as determined under regulations prescribed by the Director, shall be reported as if directly attributable to such individual or family member.

"(B) Except with respect to the reporting of the identity of parties to any transaction, additional information otherwise required to be reported under subparagraph (A) is not required to be reported unless a party to such transaction—

"(i) has, or is seeking to obtain, contractual or other business or financial relations with the reporting individual's employing agency;

"(ii) conducts operations or activities which are regulated by such agency; or

"(iii) has interests which may be substantially affected by the performance or nonperformance of such individual's official duties.

"(g) As used in this section—

"(1) 'gift' means any transportation, lodging, food, entertainment, property, services, or money, to the extent it is obtained for less than full consideration, whether obtained directly, or indirectly by means of reimbursement or otherwise;

"(2) 'member of immediate family' means the spouse of an individual, any natural or adopted child of the individual who is under 21 years of age, and any person residing in the individual's household who is related to the individual by blood, marriage, or adoption;

"(3) 'reporting period' means the period required to be covered under section 7364(a) of this title in any report described in this section; and

"(4) 'foreign national or representative' means—

"(A) any citizen of, or individual owing permanent allegiance to, a foreign country;

"(B) any corporation or comparable business entity which is organized under the laws of a foreign country or which is under the control of a foreign country or of citizens of (or individuals owing permanent allegiance to) a foreign country; or

"(C) any agent or representative of a foreign country or of an individual or entity described in subparagraph (A) or (B) of this paragraph.

"§ 7364. Filing of financial reports

"(a)(1) Except as otherwise provided in this subsection, each individual to whom this subchapter applies shall file the report required under section 7363 of this title—

"(A) not later than 30 days after assuming the duties of such individual's office or position;

"(B) not later than May 15 following any calendar year during which such individual held an office or position subject to this subchapter for more than 60 days, but only if a report for such year is not required under subparagraph (A) or (C) of this paragraph; and

"(C) not later than 30 days after leaving such office or position.

The reports to be filed in accordance with subparagraphs (A) and (B) shall cover the preceding calendar year. The reports to be filed in accordance with subparagraph (C) shall cover the period of the current year which elapsed before the individual left the office or position, and the preceding calendar year if such year is not covered by another report required to be filed under this subsection.

"(2) In addition to the requirements of paragraph (1) of this subsection, each candidate for the office of President or Vice President subject to this subchapter shall file the report required under section 7363 of this title—

"(A) not later than 30 days after becoming such a candidate or on or before May 15 of the calendar year during which the individual became a candidate, whichever is later, and

"(B) on or before May 15 of each successive year during which the individual continues to be a candidate.

Each report required to be filed in accordance with this paragraph shall cover the preceding calendar year.

"(3) In addition to the requirements of paragraph (1) of this subsection, each Presidential nominee subject to this subchapter by reason of section 7362(a)(7) of this title shall file the report required under section 7363 of this title within 5 days of the transmittal of the nomination by the President to the Senate or the Congress (as the case may be).

"(b)(1) Except as otherwise provided in this subsection, the reports required under section 7363 of this title shall be filed by the reporting individual with the ethics officer of the agency in which he is employed (hereinafter in this subchapter referred to as the 'agency ethics officer'). The date any report

is filed (and the date of any supplemental filing) shall be noted on such report.

"(2) Reports required under this subchapter of the President, the Vice President, candidates for such offices, the Postmaster General, the Deputy Postmaster General, ethics counselors, and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress shall be filed only with the Director.

"(3) Reports required of the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public accordance with the provisions of section 7366 (c), (d), (e), and (f) of this title.

"(c)(1) Upon the showing of good cause, the agency ethics officer may extend the time for the filing of any report required to be filed with him. The date for filing any report of an individual referred to in subsection (b)(2) of this section may not be extended. The date for the filing of any report may not be extended under this subsection beyond the 60th day after the date on which it would otherwise be required to be filed.

"(2) In addition to the reports otherwise required under this section, the Director may, by regulation, provide for the filing of interim reports by individuals to whom this subchapter applies in cases in which such reports are necessary to carry out the purposes of this subchapter.

"§ 7365. Review of reports

"(a)(1) Each agency ethics officer shall make provisions to ensure that each report under section 7363 of this title which is filed with such officer is reviewed within 60 days after the date of such filing.

"(2) The Director shall review each report filed with him under section 7364(b)(2) of this title within 60 days after the date of such filing.

"(b)(1) If, after reviewing any report under subsection (a) of this section, the Director or the agency ethics officer, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

"(2) If the Director or the agency ethics officer, after the filing of any report under section 7363 of this title—

"(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

"(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

"(3) If the Director or the agency ethics officer reaches an opinion under paragraph (2)(B) of this subsection that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

"(A) divestiture,

"(B) restitution,

"(C) the establishment of a blind trust,

"(D) request for an exemption under section 208(b) of title 18, or

"(E) voluntary request for transfer, reassignment, limitation of duties, or resignation. The use of any such steps shall be in accordance with such regulations as the Director may prescribe.

"(4) For purposes of paragraph (3) of this subsection, a trust shall be considered a blind trust only if—

"(A) such trust is administered by a trustee independent from and unassociated with the reporting individual and members of his immediate family and is administered in a manner which insulates the reporting individual and members of his immediate family from the knowledge of the holdings and sources of income of the trust, and

"(B) the trust instrument, together with the identity and category of value of any assets transferred by the individual or members of his immediate family to the trust, is filed with the Director or the agency ethics officer, as the case may be, and made available to the public in accordance with section 7366 of this title.

"(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) of this subsection, the agency ethics officer shall refer the matter to the head of the agency for appropriate action.

"(6) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each agency ethics officer shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under section 7363 of this title. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstance or situation would be in compliance with such laws or regulations.

"(7) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

"§ 7366. Disclosure of reports

"(a) Except as provided in subsection (b) of this section, each report filed under section 7363 of this title shall be available to the public within 60 days after the receipt of such report.

"(b)(1) Any report may not be made available to the public under subsection (a) of this section—

"(A) before the Director or the agency ethics officer has signed such report and indicated in such report that in his opinion the individual filing such report is in compliance with applicable laws and regulations, or, if not in compliance, which steps are to be taken which in his opinion would assure compliance with such laws and regulations together with the date by which such steps are to be taken; or

"(B) if such report was submitted by an individual subject to this subchapter by reason of being in a position designated under paragraph (8) of section 7362(a) of this title.

"(2) Information shall not be made available to the public under subsection (a) of this section which was reported under subsection (c) of section 7363 of this title by an individual—

"(A) subject to this subchapter by reason of being in a position described in paragraph (3) of section 7362(a) of this title, and

"(B) whose rate of pay is not fixed—

"(i) by the Executive Schedule of subchapter II of chapter 53 of this title,

"(ii) by reference to such Executive Schedule (determined without regard to section 5308 of this title, or any comparable pay ceiling), or

"(iii) by the Postal Executive Schedule and such individual is at grade 33 or higher of such schedule.

"(3) The President may provide for exceptions from the disclosure requirements under subsection (a) of this section in the case of—

"(A) any office or position in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or

"(B) any office or position the duties of which require being engaged in intelligence activities relating to national security,

but only if and to the extent necessary to allow the individual to carry out effectively the duties and responsibilities of such position.

"(4) Information shall not be made available to the public under subsection (a) of this section which was required to be reported under section 7363(f)(2)(A) of this title with respect to a corporation, partnership, or trust (other than such an entity the entire interest in which is held by the reporting individual or a member of his immediate family, as defined in section 7363(g)(2) of this title).

"(c) Any person receiving a copy of a report or inspecting a report pursuant to subsection (a) or (b) of this section—

"(1) shall be required to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting a report, and

"(2) may be required to pay a reasonable fee in any amount which is found necessary to recover the cost of reproduction or mailing of such report (excluding the pay of any employee involved in such reproduction or mailing).

A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest. The names and addresses of persons or organizations inspecting or receiving a copy of a report shall, within 30 days after such disclosure or receipt, be disclosed to the reporting individual (if then subject to this subchapter) and be made available to the public.

"(d) Information shall be made available to the public under this subchapter only under such terms ond conditions as will ensure that subsequent disclosure of such information will not violate the prohibitions of subsection (e)(1) of this section.

"(e)(1) It shall be unlawful for any person to inspect or obtain information made available under this subchapter—

"(A) for any unlawful purpose;

"(B) for any commercial purpose;

"(C) for determining or establishing the credit rating of any individual; or

"(D) for use, directly or indirectly, in the solicitation of money or assistance for any political, charitable, or other purpose.

"(2) The Attorney General may bring a civil action against any person—

"(A) who inspects or obtains information made available under this subchapter for any purpose prohibited by paragraph (1) of this subsection,

"(B) who inspects or obtains such information by falsifying his name or address.

"(C) who inspects or obtains such information on behalf of another person or organization without disclosing the name of such person or organization, or

"(D) who fails to comply with any term or condition under which such information was made available to the public.

The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

"(f) Any information filed under this subchapter shall be held and made available to the public to the extent authorized under this section fir a period of 5 years after its

receipt. After such 5-year period, records of any such information shall be destroyed.

"§ 7367. Liability under other authority

"(a) Nothing in this subchapter shall be construed to affect or modify—

"(1) any administrative, civil, or criminal liability under any other provision of law or regulations to which a person required to submit a report under this subchapter may be subject; or

"(2) the obligation of any employee under any law, regulation, or procedure to notify any other employee of any violation of any law or regulation which may be brought to the attention of such employee by reason of the reporting of any information under this subchapter.

"(b)(1) Except as provided in paragraph (2) of this subsection, the provisions of this subchapter requiring the reporting of information to which this subchapter applies shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest.

"(2) This subchapter shall not preempt any requirement under section 7342 of this title.

"(c) Nothing in this subchapter shall be construed to—

"(1) prevent any congressional committee from requesting any additional information from any Presidential nominee whose nomination has been referred to that committee; and

"(2) prevent the President from requesting any specific individual in the executive branch, to whom this subchapter does not apply, to file confidential financial reports.

"§ 7368. Failure to file or falisfying reports

"(a) The Attorney General may bring a civil action against any person who fails to file a report as required under this subchapter or who fails to report any information which such person is required to report under this subchapter. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

"(b) The head of each agency, at the request of the agency ethics officer, or the Director, as the case may be, shall refer to the Attorney General the name of any individual he has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported.

"(c) The President, the Vice President, the head of each agency, the Civil Service Commission, and the Comptroller General may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or information of falsifying information.".

(b) The chapter analysis for such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER VI—FINANCIAL REPORTING AND DISCLOSURE; CONFLICTS OF INTEREST

"Sec.
"7361. Statement of findings.
"7362. Application of subchapter.
"7363. Reporting of financial interests.
"7364. Filing of financial reports.
"7365. Review of reports.
"7366. Disclosure of reports.
"7367. Liability under other authority.
"7368. Failure to file or falsifying reports.".

MILITARY PERSONNEL

SEC. 202. (a) Title 10, United States Code, is amended by inserting after chapter 81 the following new chapter:

"Chapter 83.—FINANCIAL REPORTING BY CERTAIN OFFICERS

"Sec.
"1591. Definitions.
"1592. Application of chapter.
"1593. Reporting of financial interests.
"1594. Filing of financial reports.
"1595. Review of reports.
"1596. Liability under any other authority.
"1597. Failure to file or falsifying reports.
"1598. Regulations relating to reporting of financial interests and to conflicts of interest.
"1599. Administrative provisions.

"§ 1591. Definitions

"In this chapter:

"(1) 'Uniformed services' means the armed forces and the commissioned corps of the National Oceanic and Atmospheric Administration and the commissioned corps of the Public Health Service.

"(2) 'Secretary concerned' includes—

"(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

"(B) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service.

"§ 1592. Application of chapter

"This chapter applies to any commissioned officer of a uniformed service on active duty under a call or order to active duty for a period of more than 30 days—

"(1) who is serving in any grade above the grade of—

"(A) colonel, in the case of an officer of the Army, Air Force, or Marine Corps;

"(B) captain, in the case of an officer of the Navy, Coast Guard, or National Oceanic and Atmospheric Administration; and

"(C) director grade, in the case of an officer of the Public Health Service;

"(2) who is nominated by the President for appointment to any grade above the grade of—

"(A) colonel, in the case of an officer of the Army, Air Force, or Marine Corps;

"(B) captain, in the case of an officer of the Navy, Coast Guard, or National Oceanic and Atmospheric Administration; and

"(C) director grade, in the case of an officer of the Public Health Service;

and is not at the time of such nomination subject to this chapter; or

"(3) who is assigned to a position with respect to which there is in effect a determination by the Secretary concerned, by regulation, that—

"(A) the duties and responsibilities of such position require that an officer assigned to such position—

"(i) in the normal course of carrying out such duties and responsibilities, make decisions with regard to who shall be the subject of any action which is to be taken in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law) or carry out any such action;

"(ii) in the normal course of carrying out such duties and responsibilities—

"(I) make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits which involve funds or other interests having a substantial monetary value; or

"(II) supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies or benefits; or

"(iii) function as an expert or consultant or as a member of a board, committee, or similar group which provides advice or recommendations to the President or one or more agencies or officers of the Government; and

"(B) the application of this chapter to such an officer in such position is justified in order to ensure the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 1593. Reporting of financial interests

"(a) Except as provided in subsection (d) of this section, each officer to whom this chapter applies shall submit, in accordance with section 1594 of this title, a report containing the information required under subsections (b) and (c) of this section.

"(b) The following information shall be included in any report required to be submitted by subsection (a) of this section:

"(1) The amount and the identity of each source of income received during the reporting period as compensation for personal services (whenever rendered). If the aggregate amount received from any source during such period does not exceed $100 per year, the amount of such income and the identity of its source is not required to be reported under this paragraph.

"(2) The identity of each source of income (other than income received as compensation for personal services or as a gift) received during the reporting period. If the aggregate amount received from any sources does not exceed $100 per year, the identity of its source is not required to be reported under this paragraph.

"(3)(A) The identity of the source of any gift received during the reporting period. In addition, the amount and a description of any such gift which is received during such period from a person who—

"(i) has, or is seeking to obtain, contractual or other business or financial relations with the executive department or agency in which the reporting officer is serving;

"(ii) conducts operations or activities which are regulated by such executive department or agency; or

"(iii) has interests which may be substantially affected by the performance or nonperformance of such officer's official duties.

"(B) Reporting is not required under subparagraph (A) of this paragraph with respect to—

"(i) any gift from any source, if the aggregate amount received from such source during such period does not exceed $100 per year; and

"(ii) any gift which constitutes the personal hospitality of an individual or which is from a member of the donee's immediate family.

"(4)(A) A description of any property held during the reporting period in a trade or business or for investment or the production of income, together with the date acquired and the identity of the party from whom it was acquired (if known), and if disposed of during such disposition and the identity of the recipient (if known).

"(B) Reporting is not required under this paragraph—

"(i) with respect to any property of less than $1,000, or

"(ii) of the identity of the recipient of property which is donated, if such recipient is described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt from Federal income tax under section 501(a) of such Code.

"(5) A description of any liability owed during the reporting period and the identity of the person to whom such liability is owed (if known). Reporting is not required under this paragraph with respect to—

"(A) any liability secured by a principal residence of the officer or a member of the officer's immediate family if such liability arose in connection with the financing of

the purchase of such residence and such financing was provided or arranged by a commercial lender or broker;

"(B) any liability owed to a member of the officer's immediate family; or

"(C) any liability owed to any person, if the aggregate amount owed such person during such year does not exceed $2,500.

In applying subparagraph (C) with respect to liabilities arising from credit card similar revolving account transactions, the average aggregate liability owed during such period to any person arising from such transactions may be used in lieu of the aggregate of all such liabilities for such period.

"(6) The identity of all positions held during such year (and during the immediately preceding two-year period) as an officer, director, trustee, partner, proprietor, agent, employee, representative, or consultant of any person (including any governmental entity), together with a general description of the activities engaged in carrying out the duties of such positions. Reporting is not required under this paragraph with respect to positions held in any religious, social, fraternal, or political entity.

"(7) A description of, and the identity of the parties to, any contract, agreement, or understanding in effect during the reporting period with respect to employment after the reporting officer retires or otherwise leaves active duty.

"(8) A description of any property, liability, or relationship the reporting of which is determined by the Secretary concerned, by regulation, to be necessary to ensure that the purpose of this chapter are carried out.

If any person the identity of whom is required to be reported under this subsection is known by the reporting officer to be a foreign national or representative, the nationality involved shall also be identified in such report.

"(c) In addition to the information required to be included in any report under subsection (b), such report shall include with respect to each item of income, property, and liability required to be included in such report under paragraphs (2), (4), (5), and (8) of subsection (b), a statement of the category of value for each item, determined in accordance with the following:

"(1) not more than $5,000,

"(2) greater than $5,000 but not more than $15,000,

"(3) greater than $15,000 but not more than $50,000,

"(4) greater than $50,000 but not more than $100,000, and

"(5) greater than $100,000.

"(d) The Secretary concerned may, by regulation, exclude from the reporting requirements of this section any information, but only if he determines such exclusion would be consistent with the purposes of this chapter.

"(e)(1) For purposes of reporting the value of any item of income, property, liability, or gift which is other than money, such item shall be reported on the basis of the fair market value of such item on the last day of the reporting period, except that in the case of any item acquired or disposed of during such period, such item shall be reported at the value for which it was so disposed of or acquired.

"(2) No later than 120 days after the date of the enactment of this chapter, the Secretary concerned shall, by regulation, establish a method or methods for readily determining fair market value which do not require using expert appraisals.

"(f)(1)(A) Except as otherwise provided in this paragraph, each report required to be submitted under subsection (a) shall take into account the items listed in subsections (b) and (c) with respect to members of the reporting officer's immediate family, except that the amount of income received as compensation for personal services rendered by any such family member is not required to be reported.

"(B) The provisions of subparagraph (A) of this paragraph shall not apply with respect to the reporting of specific information on items relating to a spouse who for more than 6 consecutive months of the year for which such report is to be made was legally separated under a decree of divorce or of separate maintenance from the reporting officer.

"(C) The provisions of subparagraph (A) of this paragraph shall not apply with respect to the reporting of specific information on items relating to any member of the reporting officer's immediate family if the reporting officer certifies that—

"(i) such officer has no knowledge of such information;

"(ii) such officer has made every reasonable effort to obtain such information;

"(iii) such officer derives and expects to derive no benefit from such items; and

"(iv) such items were not derived directly or indirectly from income, property, or liabilities formerly owned or controlled by the reporting officer.

"(2)(A) Subject to subparagraph (B) of this paragraph income, property, and liabilities attributable to any partnership, corporation or trust (other than a blind trust) in which the officer or member of the officer's immediate family holds a substantial interest, as determined under regulations prescribed by the Secretary concerned, shall be required to be reported unless a party to such officer or family member.

"(B) Except with respect to the reporting of the identity of parties to any transaction, additional information otherwise required to be reported under subparagraph (A) is not required to be reported unless a party to such transaction—

"(i) has, or is seeking to obtain, contractual or other business or financial relations with the executive department or agency in which the reporting officer is serving;

"(ii) conducts operations or activities which are regulated by such executive departments or agency; or

"(iii) has interests which may be substantially affected by the performance or nonperformance of such officer's official duties.

"(g) In this section:

"(1) 'Gift' means any transportation, lodging, food, entertainment, property, services, or money, to the extent it is obtained for less than full consideration, whether obtained directly or indirectly by means of reimbursement or otherwise.

"(2) 'Member of immediate family' means the spouse of an individual, any natural or adopted child of the individual who is under 21 years of age, and any person residing in the individual's household who is related to the individual by blood, marriage, or adoption.

"(3) 'Reporting period' means the period required to be covered under section 1594(a) of this title in any report described in this section.

"(4) 'Foreign national or representative' means—

"(A) any citizen of, or individual owing permanent allegiance to, a foreign country;

"(B) any corporation or comparable business entity which is organized under the laws of a foreign country or which is under the control of a foreign country or of citizens of (or individuals owning permanent allegiance to) a foreign country; or

"(C) any agent or representative of a foreign country or of an individual or entity described in subparagraph (A) or (B) of this paragraph.

"§ 1594. Filing of financial reports

"(a)(1) Except as otherwise provided in this subsection, each officer to whom this chapter applies shall file the report required under section 1593 of this title—

"(A) not later than 30 days after becoming subject to this chapter;

"(B) not later than May 15 following any calendar year during which such officer was subject to this chapter for more than 60 days, but only if a report for such year is not required under subparagraph (A) or (C) of this paragraph; and

"(C) not later than 30 days after retiring or otherwise leaving active duty or, in the case of an officer subject to this chapter by reason of assignment to a position designated under paragraph (3) of section 1592 of this title, not later than 30 days after leaving such position.

The reports to be filed in accordance with subparagraphs (A) and (B) shall cover the preceding calendar year. The reports to be filed in accordance with subparagraph (C) shall cover the period of the current year which elapsed before the officer retired or otherwise left active duty or left a position designated under paragraph (3) of section 1592 of this title, and the preceding calendar year if such year is ont covered by another report required to be filed under this subsection.

"(2) In addition to the requirements of paragraph (1) of this subsection, each officer subject to this chapter by reason of paragraph (2) of section 1592 of this title shall file the report required under section 1593 of this title within 5 days of the transmittal of the nomination by the President to the Senate.

"(b) The reports required under section 1593 of this title shall be filed by the reporting officer with the Secretary concerned. The date any report is filed (and the date of any supplemental filing) shall be noted on such report.

"(c)(1) Upon the showing of good cause, the Secretary concerned may extend the time for the filing of any report required to be filed with him. The date for filing any report of an officer referred to in subsection (a)(2) of this section may not be extended. The date for the filing of any report may not be extended under this subsection beyond the 60th day after the date on which it would otherwise be required to be filed.

"(2) In addition to the reports otherwise required under this section, the Secretary concerned may, by regulation, provide for the filing of interim reports by officers to whom this chapter applies in cases in which such reports are necessary to carry out the purposes of this chapter.

"§ 1595. Review of reports

"(a) The Secretary concerned shall make provisions to ensure that each report under section 1593 of this title which is filed with such Secretary by an officer under his jurisdiction is reviewed within 60 days after the date of such filing.

"(b)(1) If, after reviewing any report under subsection (a) of this section, the Secretary concerned is of the opinion that on the basis of information contained in such report the officer submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

"(2) If the Secretary concerned, after the filing of any report under section 1593 of this title—

"(A) believes additional information is required to be submitted, he shall notify the officer submitting such report what additional information is required and the time by which it must be submitted, or

"(B) is of the opinion, on the basis of information submitted that the officer is not in compliance with applicable laws and regulations, he shall notify the officer, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as

to whether or not, on the basis of information submitted, the officer is in compliance.

"(3) If the Secretary concerned reaches an opinion under paragraph (2) (B) of this subsection that an officer is not in compliance with applicable laws and regulations, he shall notify the officer of that opinion and, after an opportunity for personal consultation (if practicable) determine and notify the officer of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

"(A) divestiture,

"(B) restitution.

"(C) the establishment of a blind trust,

"(D) request for an exemption under section 208(b) of title 18, or

"(E) voluntary request for transfer, reassignment, limitation of duties, retirement (if eligible therefor), or resignation.

The use of any such steps shall be in accordance with such regulations as the Secretary concerned may prescribe.

"(4) For purposes of paragraph (3) of this subsection, a trust shall be considered a blind trust only if—

"(A) such trust is administered by a trustee independent from and unassociated with the reporting officer and members of his immediate family and is administered in a manner which insulates the reporting officer and members of his immediate family from the knowledge of the holdings and sources of income of the trust, and

"(B) the trust instrument, together with the identity and category of value of any assets transferred by the officer or members of his immediate family to the trust, is filed with the Secretary concerned.

"(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) of this subsection, the Secretary concerned shall take appropriate action.

"(6) For purposes of assisting members of the uniformed service under his jurisdiction in avoiding situations in which they would not be in compliance with applicable laws and regulations, the Secretary concerned shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those officers under his jurisdiction who are required to file reports under section 1593 of this title. The absence of any situation or circumstance from such a list shall not be construed as an indication that a member in such circumstance or situation would be in compliance with such laws or regulations.

"§ 1596. Liability under other authority

"(a) Nothing in this chapter shall be construed to affect or modify—

"(1) any administrative, civil, or criminal liability under any other provisions of law or regulations to which an officer required to submit a report under this chapter may be subject; or

"(2) the obligation of any individual under any law, regulation, or procedure to notify any other individual of any violation of any law or regulation which may be brought to the attention of such individual by reason of the reporting of any information under this chapter.

"(b) The provisions of this chapter requiring the reporting of information to which this chapter applies shall supersede any general requirement under any other provision of law or under any regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest with respect to members of the uniformed services.

"(c) Nothing in this chapter shall be construed to—

"(1) prevent any congressional committee from requesting any additional information from any officer subject to this chapter by reason of paragraph (2) of section 1592 of this title whose nomination has been referred to that committee; and

"(2) prevent the President from requesting any specific member of the uniformed services to whom this chapter does not otherwise apply to file confidential financial reports.

"§ 1597. Failure to file or falsifying reports

"(a) The Attorney General may bring a civil action against any officer who fails to file a report as required under this chapter or who fails to report any information which such officer is required to report under this chapter. The court in which such action is brought may assess against such officer a penalty in any amount not to exceed $5,000.

"(b) The Secretary concerned shall refer to the Attorney General the name of any officer he has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported.

"(c) The President and the Secretary concerned may take any appropriate action in accordance with applicable law or regulation against any officer failing to file a report or information or falsifying information.

"§ 1598. Regulations relating to reporting of financial interests and to conflicts of interest

"(a)(1) Subject to paragraph (2) of this subsection—

"(A) any regulation under this chapter, and

"(B) any regulation relating to conflicts of interest applicable to members of the uniformed service under his jurisdiction,

shall be prescribed by the Secretary concerned in accordance with section 553 of title 5, notwithstanding any exception in such section for matters relating to agency management or personnel.

"(2)(A) In the case of regulations to which paragraph (1) of this subsection applies which are prescribed by the Secretary of a military department, such regulations shall not take effect unless approved by the Secretary of Defense. In exercising his authority under this subparagraph, the Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this chapter are, to the maximum extent practicable, uniform among the armed forces under his jurisdiction.

"(B) In addition to the approval required under subparagraph (A) of this paragraph, any regulation to which paragraph (1) of this subsection applies shall not take effect unless the Secretary concerned transmits to the Congress a copy of such regulation (as approved under subparagraph (A) of this paragraph, in the case of a regulation prescribed by the Secretary of a military department), and before the close of the 60-day period of continuous session beginning on the date of such transmittal neither House of the Congress has adopted a resolution the matter after the resolving clause of which states: 'That the ———— hereby disapproves the regulation transmitted to the Congress by the Secretary of ———— on ————.', the blank spaces therein being filled in appropriately.

"(C) For the purpose of subparagraph (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(3) In order to provide, to the greatest extent practicable, uniformity throughout the uniformed services and the executive branch of the Government in regulations relating to the reporting of information required for purposes of preventing conflicts of interest and apparent conflicts of interest, each Secretary concerned, in prescribing regulations under this chapter, shall consult with, and take into consideration the recommendations of, the Civil Service Commission.

"(b) Any interested person may seek judicial review under chapter 7 of title 5 of any regulation to which subsection (a)(1) of this section applies.

"§ 1599. Administrative provisions

"In administering this chapter and laws and regulations relating to conflicts of interest, the Secretary concerned shall—

"(1) monitor and investigate compliance with the provisions of this chapter by members of the uniformed service under his jurisdiction;

"(2) audit on a random basis financial reports submitted to him under this chapter to determine whether such reports are complete and accurate;

"(3) establish a program under which advisory opinions relating to conflicts of interest may be provided, on request, to any person;

"(4) evaluate the effectiveness of the provisions of laws and regulations relating to conflicts of interest and transmit to the Congress any recommendations for legislative or administrative action he considers appropriate;

"(5) establish, in consultation with the Attorney General, an effective system for reporting allegations of violations of conflict of interest laws to the Attorney General under section 535 of title 28; and

"(6) provide information on and promote understanding of ethical standards in the uniformed service under his jurisdiction.".

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part II of such subtitle, are amended by inserting after the item relating to chapter 81 the following new item:

"83. Financial reporting by certain officers ---------- 1591."

EFFECTIVE DATE

SEC. 203. The amendments made by this part shall take effect on January 1, 1979, except that the authority to prescribe regulations under such amendments (including the provisions relating to the approval thereof) shall take effect on the date of the enactment of this Act.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in CONGRESSIONAL RECORD of April 5, 1978 (p. H2522).

H.J. Res. 682. January 19, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 17 through September 23, 1978, as "National Lupus Week."

H.J. Res. 683. January 19, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate September 8 of each year as "National Cancer Day."

H.J. Res. 684. January 23, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 685. January 23, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978, as "Firefighters' Memorial Sunday."

H.J. Res. 686. January 24, 1978. Post Office and Civil Service. Authorizes and requests

the President to designate May 21, 1978, as "National Fallen Heroes Day."

H.J. Res. 687. January 24, 1978. Post Office and Civil Service. Authorizes and requests the President to annually designate the Sunday following Fire Service Recognition Day as "Memorial Sunday" for firefighters disabled or killed in the line of duty during the preceding year.

H.J. Res. 688. January 24, 1978. Judiciary. Constitutional Amendment—Declares the term "person" with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 689. January 25, 1978. Post Office and Civil Service. Authorizes and requests the President to annually designate the Sunday following Fire Service Recognition Day as "Memorial Sunday" for firefighters disabled or killed in the line of duty during the preceding year.

H.J. Res. 690. January 25, 1978. International Relations; Agriculture. Directs the President of the United States, the Secretary of Agriculture, the Foreign Agricultural Service, and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad, including increased food-for-peace (Public Law 480) sales as well as private international transfers of food.

H.J. Res. 691. January 26, 1978. Education and Labor. Directs the President to call a White House Conference on the Arts, to be held by December 31, 1979, to assist in developing a climate wherein the arts can flourish.

Establishes a National Conference Planning Council on the Arts to plan and conduct such Conference.

Requires the Council to submit a report on such Conference to the President.

Authorizes the Chairman of the Council, with the approval of Council members, to make grants to States to defray the costs of participating in the Conference program.

H.J. Res. 692. January 26, 1978. Education and Labor. Directs the President to call a White House Conference on the Humanities. Establishes a Presidentially appointed National Planning Council on the Humanities to conduct the Conference.

Authorizes the Chairman of the Council, with Council approval, to make a grant to each State to defray the cost of State participation in the Conference.

H.J. Res. 693. January 26, 1978. Post Office and Civil Service. Designates April 15, 1978, as "National Free Enterprise Day."

H.J. Res. 694. January 26, 1978. Judiciary. Constitutional Amendment—Declares the term "person", with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 695. January 26, 1978. Post Office and Civil Service. Authorizes and directs the President to proclaim the week in which Veterans Day is observed each year as "Love America Week."

H.J. Res. 696. January 26, 1978. Judiciary. Constitutional Amendment — Declares the term "person", with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 697. January 31, 1978. Judiciary. Constitutional Amendment — Increases to four years the term of office for Members of the House of Representatives. Provides for staggered terms for Members of the House.

States that no person may be elected as Representative or Senator for more than three consecutive terms.

H.J. Res. 698. January 31, 1978. Judiciary. Constitutional Amendment — Provides that the District of Columbia shall be treated as a State for purposes of representation in the Congress, election of the President and Vice President, and Article V of the Constitution of the United States.

Repeals the twenty-third amendment to the Constitution of the United States.

H.J. Res. 699. January 31, 1978. Judiciary. Constitutional Amendment — Provides that the District of Columbia shall be treated as a State for purposes of representation in the Congress, election of the President and Vice President, and Article V of the Constitution of the United States.

Repeals the twenty-third amendment to the Constitution of the United States.

H.J. Res. 700. January 31, 1978. Judiciary. Constitutional Amendment — Provides that the District of Columbia shall be treated as a State for purposes of representation in the Congress, election of the President and Vice President, and Article V of the Constitution of the United States.

Repeals the twenty-third amendment to the Constitution of the United States.

H.J. Res. 701. January 31, 1978. Judiciary. Constitutional Amendment — Provides that the District of Columbia shall be treated as a State for purposes of representation in the Congress, election of the President and Vice President, and Article V of the Constitution of the United States.

Repeals the twenty-third amendment to the Constitution of the United States.

H.J. Res. 702. January 31, 1978. Judiciary. Constitutional Amendment—Provides that the District of Columbia shall be treated as a State for purposes of representation in the Congress, election of the President and Vice President, and Article V of the Constitution of the United States.

Repeals the twenty-third amendment to the Constitution of the United States.

H.J. Res. 703. January 31, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of February 12–18, 1978, as "National Vocation Education Week."

H.J. Res. 704. January 31, 1978. House Administration. Directs the reappointment of a certain individual as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 705. January 31, 1978. House Administration. Directs the reappointment of a certain individual as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 706. January 31, 1978. House Administration. Directs the reappointment of a certain individual as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 707. January 31, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate September 8 of each year as "National Cancer Day."

H.J. Res. 708. January 31, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 709. February 1, 1978. Interior and Insular Affairs. Declares it the sense of the Senate and House of Representatives jointly that no new national water resources management policy shall be implemented without congressional concurrence.

Sets forth a procedure whereby States shall be given an opportunity to participate in the formation of such policy.

H.J. Res. 710. February 1, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of February 12–18, 1978, as "National Vocation Education Week."

H.J. Res. 711. February 1, 1978. Post Office and Civil Service. Designates the week beginning July 30, 1978, as "National Latin Week."

H.J. Res. 712. February 2, 1978. Education and Labor. Directs the President to call a White House Conference on the Arts, to be held by December 31, 1979, to assist in developing a climate wherein the arts can flourish.

Establishes a National Conference Planning Council on the Arts to plan and conduct such Conference.

Requires the Council to submit a report on such Conference to the President.

Authorizes the Chairman of the Council, with the approval of Council members, to make grants to States to defray the costs of participating in the Conference program.

H.J. Res. 713. February 6, 1978. Judiciary. Constitutional Amendment—Prohibits the Federal Government's participation in any commercial or financial activity not specifically provided for in the Constitution. Repeals the Sixteenth Amendment. Prohibits taxes on personal income, gifts and estates.

H.J. Res. 714. February 6, 1978. Post Office and Civil Service. Authorizes the President of the United States to designate September 8 of each year as "National Cancer Day."

H.J. Res. 715. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 716. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 717. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 718. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 719. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 720. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 721. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 722. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 723. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 724. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 725. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 726. February 6, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 727. February 6, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978, as "Firefighters' Memorial Sunday."

H.J. Res. 728. February 7, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the first Sunday of September after Labor Day of each year as "National Grandparents Day."

H.J. Res. 729. February 8, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 30, 1978, as "National Small Business Week."

H.J. Res. 730. February 8, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 731. February 8, 1978. Post Office and Civil Service. Authorizes and directs the President to designate May 21, 1978, as "Firefighters' Memorial Sunday."

H.J. Res. 732. February 9, 1978. Post Office

and Civil Service. Designates May 1978 as "Family Camping Month."

H.J. Res. 733. February 9, 1978. Judiciary. Constitutional amendment—Declares the term "person", with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 734. February 9, 1978. Science and Technology. Directs the Office of Technology Assessment to study diverse strategies for rapidly converting to solar energy in the United States. Requires the Office of Technology Assessment to report its findings to Congress within nine months after this joint resolution is agreed to.

H.J. Res. 735. February 9, 1978. Judiciary. Constitutional amendment—Declares the term "person", with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 736. February 14, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 30, 1978, as "National Small Business Week."

H.J. Res. 737. February 14, 1978. Post Office and Civil Service. Extends to 14 years the deadline for ratification of the equal rights amendment.

H.J. Res. 738. February 14, 1978. Interior and Insular Affairs. Declares that it shall be the policy of the United States to protect and preserve the traditional religions of American Indians.

Requires the President to direct the Federal departments and agencies to evaluate their policies and procedures in consultation with native religious leaders to determine appropriate changes necessary to protect Native American religious cultural rights and practices.

H.J. Res. 739. February 14, 1978. Post Office and Civil Service. Authorizes and requests the President to designate November 8, 1977, as "National Law Student Recognition Day."

H.J. Res. 740. February 15, 1978. International Relations. Expresses United States determination (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 741. February 16, 1978. Post Office and Civil Service. Designates February 1977, as "Black History Month."

H.J. Res. 742. February 16, 1978. Post Office and Civil Service. Designates February 1977, as "Black History Month."

H. Con. Res. 452. January 19, 1978. Directs the two Houses of Congress to assemble in joint session on January 19, 1978, to receive a communication from the President.

H. Con. Res. 453. January 19, 1978. Judiciary. Calls upon the President to direct the Attorney General to retain David W. Marston as United States Attorney for the Eastern District of Pennsylvania until all investigations of corruption involving public officials presently being conducted in such district are concluded.

H. Con. Res. 454. January 19, 1978. Judiciary. Calls upon the President to direct the Attorney General to retain David W. Marston as United States Attorney for the Eastern District of Pennsylvania until all investigations of corruption involving public officials presently being conducted in such district are concluded.

H. Con. Res. 455. January 19, 1978. Agriculture. Declares that it is the sense of Congress that full parity remains the goal of American agriculture and is a standard which represents a fair return to producers of agricultural commodities.

H. Con. Res. 456. January 19, 1978. Agriculture. Petitions the President and the Secretary of Agriculture to: (1) increase price supports to bring commodity prices up to parity; (2) provide diversion payments for devoting land to conservation practices; (3) implement the critical lands and graze-out programs; (4) prevent Government dumping of surplus grain and dairy products into already depressed markets; (5) reimplement fully the summer-fallow provisions of the Agriculture and Consumer Protection Act of 1973; and (6) maximize agricultural exports.

H. Con. Res. 457. January 23, 1978. Judiciary. Calls upon the President to direct the Attorney General to retain David W. Marston as United States Attorney for the Eastern District of Pennsylvania until all investigations of corruption involving public officials presently being conducted in such district are concluded.

H. Con. Res. 458. January 23, 1978. Agriculture. Petitions the President and the Secretary of Agriculture to: (1) increase price supports to bring commodity prices up to parity; (2) provide diversion payments for devoting land to conservation practices; (3) implement the critical lands and graze-out programs; (4) prevent Government dumping of surplus grain and dairy products into already depressed markets; (5) reimplement fully the summer-fallow provisions of the Agriculture and Consumer Protection Act of 1973; and (6) maximize agricultural exports.

H. Con. Res. 459. January 24, 1978. Agriculture. Declares that it is the sense of Congress that full parity remains the goal of American agriculture and is a standard which represents a fair return to producers of agricultural commodities.

H. Con. Res. 460. January 25, 1978. Agriculture. Petitions the President and the Secretary of Agriculture to: (1) increase price supports to bring commodity prices up to parity; (2) provide diversion payments for devoting land to conservation practices; (3) implement the critical lands and graze-out programs; (4) prevent Government dumping of surplus grain and dairy products into already depressed markets; (5) reimplement fully the summer-fallow provisions of the Agriculture and Consumer Protection Act of 1973; and (6) maximize agricultural exports.

H. Con. Res. 461. January 26, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 462. January 31, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 463. January 31, 1978. Science and Technology. Establishes priorities for research in outer space. Directs the Congress and executive agencies to determine how they may aid in achieving national goals in outer space.

H. Con. Res. 464. February 1, 1978. District of Columbia. Approves an amendment to the District of Columbia charter relating to initiative and referendum.

H. Con. Res. 465. February 1, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 466. February 1, 1978. Science and Technology. Establishes priorities for research in outer space. Directs the Congress and executive agencies to determine how they may aid in achieving national goals in outer space.

H. Con. Res. 467. February 2, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 468. February 2, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorizations of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 469. February 2, 1978. Ways and Means. Disapproves the action of the President denying import relief under the Trade Act of 1974 to the high-carbon ferrochromium industry, transmitted to Congress on January 27, 1978.

H. Con. Res. 470. February 2, 1978. Interstate and Foreign Commerce. Declares it the sense of Congress that coffee containers used for the retail distribution of coffee should be labeled with the percentage of coffee contained which was purchased from Uganda.

H. Con. Res. 471. February 6, 1978. District of Columbia. Approves an amendment to the District of Columbia charter relating to recall of elected officials.

H. Con. Res. 472. February 6, 1978. International Relations. Expresses the sense of the Congress that the peoples of Lithuania, Latvia, and Estonia should be given the right of self-determination. Calls for free elections in the Baltic States, under auspices of the United Nations.

H. Con. Res. 473. February 8, 1978. Directs an adjournment of the House of Representatives from February 9 to February 14, 1978.

H. Con. Res. 474. February 8, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 475. February 9, 1978. International Relations. Declares it the sense of Congress that the President should (1) terminate negotiation efforts to formulate a Rhodesian settlement acceptable only to radical Marxist oriented external forces and a terrorist-guerilla faction, and (2) declare

support for Rhodesian leaders who are prepared to allow the Rhodesian government to be chosen in free elections based on adult universal suffrage.

H. Con. Res. 476. February 9, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 477. February 14, 1978. Ways and Means. Declares it the sense of Congress that the President and the Secretary of the Treasury be inspired to apply countervailing duties and special dumping duties to imported steel.

H. Con. Res. 478. February 14, 1978. International Relations. Declares it the sense of Congress that Great Britain should declare its intent to withdraw its troops from Northern Ireland.

H. Con. Res. 479. February 14, 1978. Interstate and Foreign Commerce. Requests the Secretary of Health, Education, and Welfare to hasten the assembly of data and expedite the reviews and consideration precedent to the introduction of sodium valproate for the treatment of epilepsy in the United States.

H. Con. Res. 480. February 15, 1978. International Relations. Expresses Congressional disapproval of the sale of 60 F15 aircraft to Saudi Arabia, proposed on February 14, 1978.

H. Con. Res. 481. February 15, 1978. International Relations. Expresses Congressional disapproval of the sale of 50 F5E aircraft to Egypt, proposed on February 14, 1978.

H. Con. Res. 482. February 15, 1978. International Relations. Declares that the Congress intends to disapprove the proposed sale (1) of 50 F5 aircraft to Egypt, (2) of 60 F15 aircraft to Saudi Arabia, and (3) of 15 F15 aircraft and 75 F16 aircraft to Israel.

H. Con. Res. 483. February 15, 1978. Ways and Means. Expresses Congressional disapproval of the President's denial of import relief of the metal fasteners manufacturing industry transmitted to Congress on February 10, 1978.

H. Res. 947. January 19, 1978. Directs the Speaker of the House of Representatives to appoint a committee to join with a committee from the Senate to notify the President that a quorum of each House has assembled and Congress is ready to receive communications.

H. Res. 948. January 19, 1978. Directs the Clerk of the House to inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

H. Res. 949. January 19, 1978. Establishes the daily hours of meeting of the House of Representatives.

H. Res. 950. January 19, 1978. Expresses the condolences of the House on the death of a Senator from Montana.

H. Res. 951. January 19, 1978. Expresses the condolences of the House on the death of the Deputy President pro tempore of the Senate and Senator from Minnesota.

H. Res. 952. January 19, 1978. House Administration. Authorizes each Member of the House of Representatives, including the Resident Commissioner from Puerto Rico and the Delegates from Guam, the Virgin Islands, and the District of Columbia, to hire for each year two senior citizen interns to serve within the District of Columbia.

H. Res. 953. January 19, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on the District of Columbia.

H. Res. 954. January 19, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on Agriculture.

H. Res. 955. January 19, 1978. Post Office and Civil Service. Authorizes and requests the President to designate January 22 of each year as "Ukrainian Independence Day."

H. Res. 956. January 19, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Select Committee on Assassinations.

H. Res. 957. January 19, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on Veterans' Affairs.

H. Res. 958. January 23, 1978. Sets forth the rule for the consideration of H.R. 2664 (Indian Claims Commission Act amendments).

H. Res. 959. January 23, 1978. Amends Rule XXXIV of the Rule of the House of Representatives to vest specified supervisory powers over official House reporters and committee stenographers in the Clerk of the House, subject to the direction and control of the Speaker.

H. Res. 960. January 23, 1978. Sets forth the rule for the consideration of H.R. 2637 (Civil aircraft for national defense).

H. Res. 961. January 23, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on Standards of Official Conduct.

H. Res. 962. January 23, 1978. Judiciary. Refers H.R. 10470 to the Chief Commissioner of the United States Court of Claims.

H. Res. 963. January 24, 1978. House Administration. Directs the payment of expenses, out of the contingent fund of the House, for investigations and studies to be conducted by the House Committee on Ways and Means.

H. Res. 964. January 24, 1978. Sets forth the rule for the consideration of H.R. 1614 (Outer Continental Shelf policy).

H. Res. 965. January 24, 1978. Sets forth the rule for the consideration of H.R. 5503 (Armed forces appointment, promotion, separation and retirement).

H. Res. 966. January 24, 1978. Judiciary. Calls for the impeachment of United States District Judge Frank J. Battisti of Ohio.

H. Res. 967. January 24, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 968. January 24, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Federal Communications Commission should maximize local primary radio broadcast service in any proceeding respecting the provision of class I–A and I–B radio service.

Prohibits the operation of a standard broadcast station with power in excess of 50,000 watts.

H. Res. 969. January 24, 1978. Rules. Creates a select committee in the House of Representatives to study the effectiveness of measures being taken by the United States and foreign countries to alleviate the threat of terrorism.

H. Res. 970. January 24, 197. Rules. Creates a select committee in the House of Representatives to study the effectiveness of measures being taken by the United States and foreign countries to alleviate the threat of terrorism.

H. Res. 971. January 24, 1978. House Administration. Authorizes expenditures by the House Select Committee on Ethics for inquiries and investigations.

H. Res. 972. January 24, 1978. House Administration. Authorizes additional expenditures, by the House Committee on Armed Services for inquiries and investigations.

H. Res. 973. January 25, 1978. Elects a certain individual to the House Committee on Appropriations.

H. Res. 974. January 25, 1978. Sets forth the rule for the consideration of H.R. 6362 (Timber Sales Procedure Advisory Committee).

H. Res. 975. January 25, 1978. House Administration. Authorizes expenditures by the House Committee on Education and Labor for inquiries and investigations.

H. Res. 976. January 25, 1978. House Administration. Authorizes expenditures by the House Committee on Banking, Finance and Urban Affairs for inquiries and investigations.

H. Res. 977. January 25, 1978. House Administration. Authorizes the Committee on House Administration to incur further expenses to enable House Information Systems to develop, operate, maintain, and improve computer services for the House of Representatives, and to give computer support directly to committees, Members, and administrative offices of the House.

H. Res. 978. January 25, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on Interstate and Foreign Commerce.

H. Res. 979. January 25, 1978. House Administration. Direct the payment of further expenses for investigations and studies to be conducted by the House Committee on Interior and Insular Affairs.

H. Res. 980. January 25, 1978. Post Office and Civil Service. Designates the week of February 12, 1978, as "National Defense Week."

H. Res. 981. January 25, 1978. House Administration. Authorizes expenditures by the House Committee on International Relations for inquiries and investigations.

H. Res. 982. January 26, 1978. Sets forth the rule for the consideration of H.R. 8336 (National Park System expansion).

H. Res. 983. January 26, 1978. Agriculture; International Relations. Declares the sense of the House that the Secretary of Agriculture study the impact of the foreign palm oil industry on domestic vegetable oil industry and, if justified, recommend that the administration negotiate agreements with the principal palm oil producing countries to restrain excessive imports of palm oil into the United States.

H. Res. 984. January 26, 1978. House Administration. Directs the payment of expenses for investigations and studies to be conducted by the House Committee on House Administration.

H. Res. 985. January 30, 1978. House Administration. Authorizes expenditures by the House Select Committee on Congressional Operations for inquiries and investigations.

H. Res. 986. January 30, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Federal Communications Commission should maximize local primary radio broadcast service in any proceeding respecting the provision of class I–A and I–B radio service.

Prohibits the operation of a standard broadcast station with power in excess of 50,000 watts.

H. Res. 987. January 31, 1978. Interstate and Foreign Commerce. States that this Congress should expeditiously determine the future telecommunications policy of this Nation. Requests the Federal Communications Commission to defer implementation of any further new telecommunications policies until Congress has completed its study on the matter and determined the future policy.

H. Res. 988. January 31, 1978. Rules. Amends

the Rules of the House of Representatives to transfer the responsibility of investigating Communist and subversive organizations affecting the internal security of the United States to a standing committee on Internal Security established by this Resolution. Confers upon such Committee the responsibility for investigating all organizations within the United States aimed at overthrowing the Government of the United States by force, insurrection or other unlawful means of inciting or employing violence to obstruct the authority of the Federal Government with respect to matters of internal security of the United States.

H. Res. 989. January 31, 1978. House Administration. Authorizes additional expenditures by the House Select Committee on Population for inquiries and investigations.

H. Res. 990. February 1, 1978. Sets forth the rule for the consideration of H.R. 9214 (Bretton Woods Agreement Act amendment).

H. Res. 991. February 1, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 992. February 1, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 993. February 1, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 994. February 1, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 995. February 1, 1978. International Relations. Expresses the insistence of the Senate that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 996. February 1, 1978. House Administration. Authorizes expenditures for a certain investigation and study to be conducted by the House Committee on International Relations, acting through its Subcommittee on International Organizations.

H. Res. 997. February 1, 1978. House Administration. Authorizes additional expenditures by the House Committee on Small Business for inquiries and investigations.

H. Res. 998. February 2, 1978. Sets forth the rule for the consideration of H.R. 9370 (Aquaculture development).

H. Res. 999. February 2, 1978. Rules. Authorizes the Subcommittee on Interstate Organizations of the House Committee on International Relations, in conducting its investigation of Korean-American relations, to require, by subpoena or othewise, the attendance of any person at the taking of a deposition by any Subcommittee Member.

H. Res. 1000. February 2, 1978. House Administration. Authorizes expenditures by the House Committee on Merchant Marine and Fisheries for inquiries and investigations.

H. Res. 1001. February 6, 1978. House Administration. Authorizes additional expenditures by the House Committee on Government Operations for investigations, studies, and oversight responsibilities.

H. Res. 1002. February 6, 1978. Rules. Directs the House Committee on the Judiciary to investigate whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Griffin B. Bell, Attorney General of the United States.

H. Res. 1003. February 6, 1978. House Administration. Authorizes additional expenditures by the House Committee on Public Works and Transportation for inquiries and investigations.

H. Res. 1004. February 6, 1978. House Administration. Authorizes additional expenditures by the House Select Committee on Narcotics Abuse and Control for studies and investigations.

H. Res. 1005. February 6, 1978. Rules. Directs the House Committee on Interstate and Foreign Commerce to conduct hearings to determine whether Federal safety standards for hang gliders are desirable and to determine the appropriate Federal agency to administer such standards.

H. Res. 1006. February 7, 1978. Sets forth the rule for the consideration of H.R. 3813 (Redwood National Park).

H. Res. 1007. February 7, 1978. Rules. Amends rule XXI of the Rules of the House of Representatives to prohibit the inclusion in any appropriation bill or amendment thereto of a provision which changes existing law or imposes any limitation not contained in existing law.

H. Res. 1008. February 7, 1978. International Relations. Condemns the recent poisoning of Israeli oranges. Declares it the sense of the House of Representatives that the President direct the United States delegations to the Conference of the Committee on Disarmament and the United Nations Special Session on Disarmament to urge that the poisoning incident be placed high on the agendas of these organizations. Declares it the sense of the House of Representatives that the President direct the United States delegation to the Conference of the Committee on Disarmament to recommit itself to efforts to negotiate an effective prohibition of chemical weapons.

H. Res. 1009. February 7, 1978. Rules. Extends to April 30, 1978, the date by which the House Committee on Rules is to report its findings and recommendations to the House with respect to the study of broadcasting the proceedings of the House directed by House Resolution 866 (95th Congress).

Directs the Speaker to make arrangements with a television network pool to conduct a test of television broadcasting of proceedings in the House Chamber during March 1978.

H. Res. 1010. February 7, 1978. House Administration. Authorizes additional expenditures by the House Committee on the Judiciary for investigations and studies.

H. Res. 1011. February 7, 1978. Rules. Declares it the sense of the House of Representatives that the Speaker should make arrangements with a pool of professional broadcasters to provide visual broadcast coverage of House proceedings.

H. Res. 1012. February 8, 1978. House Administration. Authorizes expenditures by the House Committee on Rules.

H. Res. 1013. February 8, 1978. House Administration. Authorizes additional expenditures by the House Committee on Science and Technology for inquiries and investigations.

H. Res. 1014. February 9, 1978. Sets forth the rule for the consideration of H.R. 5981 (American Folklife Preservation Act authorizations).

H. Res. 1015. February 9, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Federal Communications Commission should maximize local primary radio broadcast service in any proceeding respecting the provision of class I–A and I–B radio service.

Prohibits the operation of a standard broadcast station with power in excess of 50,000 watts.

H. Res. 1016. February 9, 1978. Agriculture; International Relations; Ways and Means. Declares that the President should direct United States negotiators for the International Wheat Conference and the Multilateral Trade Negotiations, and the Secretary of Agriculture, the Secretary of State, and the Special Representative for Trade Negotiations, to set as their goals the expansion of United States agricultural markets abroad and the increases in prices of United States agricultural exports to levels sufficient to assure, for United States farmers, a return on those exports equal to that which would be available at domestic parity levels.

H. Res. 1017. February 9, 1978. Rules. Amends rule XXI of the Rules of the House of Representatives to prohibit the inclusion in any appropriation bill or amendment thereto of a provision which changes existing law or imposes any limitation not contained in existing law.

H. Res. 1018. February 9, 1978. Banking, Finance and Urban Affairs. Expresses the sense of the House that the national motto, "In God We Trust," shall continue to be engraved and printed on the currency of the United States.

H. Res. 1019. February 9, 1978. Rules. Establishes within the House of Representatives a Select Committee on Developing a National Communications Policy.

H. Res. 1020. February 9, 1978. International Relations. Urges the President to initiate negotiations to ban the use of nuclear materials in space vehicles.

H. Res. 1021. February 9, 1978. House Administration. Authorizes additional expenditures by the House Select Committee on Aging for investigations and studies.

H. Res. 1022. February 14, 1978. Rules. Amends rule XI of the Rules of the House of Representatives to require that all committee reports accompanying public bills or joint resolutions which authorize or appropriate specific sums for any fiscal year, contain a computation of the annual tax impact of such legislation on the individual taxpayer.

H. Res. 1023. February 14, 1978. Science and Technology: Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Department of Energy and the Department of Agriculture join in the creation of a liaison office to develop means to promptly and efficiently bring alcohol fuels into commercial use.

H. Res. 1024. February 15, 1978. Sets forth the rule for the consideration of H.R. 9757 (Grazing Fee Moratorium).

H. Res. 1025. February 15, 1978. Rules. Declares four individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H. Res. 1026. February 15, 1978. International Relations. Declares it the sense of the House of Representatives that (1) the Presi-

dent issue a statement that the Biological Weapons Convention is a binding agreement, (2) the Arms Control and Disarmament Agency seek a resolution of noncompliance allegations through the Conference of the Committee on Disarmament, and (3) the issue be raised in the United Nations Security Council.

H. Res. 1027. February 15, 1978. Ways and Means. States the sense of the House of Representatives that the Internal Revenue Service should include on the estate tax return a statement setting forth the limitations on penalties for good faith errors in such returns.

H. Res. 1028. February 15, 1978. Banking, Finance and Urban Affairs. Expresses the sense of the House that the national motto, "In God We Trust," shall continue to be engraved and printed on the currency of the United States.

H. Res. 1029. February 15, 1978. Ways and Means. States that the Commissioner of the Internal Revenue Service should not implement the proposed reorganization of certain Internal Revenue Service district offices until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1030. February 16, 1978. Sets forth the rule for the consideration of H.R. 3377 (Claims by Wichita Indian Tribe).

H. Res. 1031. February 16, 1978. International Relations. Condemns the recent poisoning of Israeli oranges. Declares it the sense of the House of Representatives that the President direct the United States delegations to the Conference of the Committee on Disarmament and the United Nations Special Session on Disarmament to urge that the poisoning incident be placed high on the agendas of these organizations. Declares it the sense of the House of Representatives that the President direct the United States delegation to the Conference of the Committee on Disarmament to recommit itself to efforts to negotiate an effective prohibition of chemical weapons.

H. Res. 1032. February 16, 1978. International Relations. Condemns the recent poisoning of Israeli oranges. Declares it the sense of the House of Representatives that the President direct the United States delegations to the Conference of the Committee on Disarmament and the United Nations Special Session on Disarmament to urge that the poisoning incident be placed high on the agendas of these organizations. Declares it the sense of the House of Representatives that the President direct the United States delegation to the Conference of the Committee on Disarmament to recommit itself to efforts to negotiate an effective prohibition of chemical weapons.

H. Res. 1033. February 16, 1978. International Relations. Recognizes the contributions of General Jose de San Martin to the cause of personal freedom and liberation of the Latin American people.

SENATE—*Monday, April 10, 1978*

(Legislative day of Monday, February 6, 1978)

The Senate met at 8:45 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, we thank Thee for the blessed assurance that we are not called upon to face our duties alone or in our own strength, but at all times we may be accompanied by Thy presence. We ask for Thy nearness, Thy wisdom, and Thy strength that we may be our best selves, fortified by Thy grace. Even amid the pressure of daily duty may there come to us the hush of solemn thoughts, vistas of splendor, windows of insight, when the shadows fade and the clouds of uncertainty vanish and the inner eyes of the soul see clearly the course we should pursue. Breathe through the things that are seen the peace of the unseen and the eternal. So may we hasten Thy coming kingdom as we seek the highest and best for the Nation.

And to Thee shall be the praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 10, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Legislative Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, as in legislative session, not to extend beyond the hour of 9 a.m. with statements therein limited to 3 minutes.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PANAMA CANAL TREATIES—REACTIONS IN PANAMA

Mr. STEVENS. Mr. President, I have a series of translations of reports from the Panama news media, both the printed and the oral media, concerning discussions that have been going on in Panama about the actions of the U.S. Senate.

I ask unanimous consent that these translations of articles which appeared in those media from March 20 through April 5, 1978, be printed in the RECORD at this point.

There being no objection, the translations were ordered to be printed in the RECORD, as follows:

TORRIJOS CALLS FOR MEETING TO STUDY TREATY SITUATION

Our chief of government, Gen. Omar Torrijos Herrera, today convened a meeting of the National Foreign Policy Council [consejo nacional de politica exterior] in order to study the new situation that has arisen regarding the ratification of the canal treaties by the United States.

The meeting took place at Farallon. During the meeting it was pointed out that the reservations and amendments to the neutrality treaty approved with 68 votes in favor and 32 against in the U.S. Senate have been analyzed on the following basic principles that Omar stated in a letter sent to President James Carter hours before the treaty was voted on: Any reservation that may represent a blemish to national dignity or that alters or changes the objectives of the treaty or that is aimed at blocking the true exercise of Panamanian sovereignty over all territory will be unacceptable to Panama. Our government will not pass judgment on the amendments and reservations, made to the Torrijos-Carter treaties until the U.S. Senate concludes the ratification process, since our people did not ratify the treaties separately but together.

At a forthcoming meeting in which the members of the Council of State and our ambassador to the United States will participate, the policy to be followed in face of the new situation that the most conservative sectors in the United States are creating around the ratification of the treaties that give our country control over the Canal Zone before the year 2000 will be discussed. This is what policy based on principles means.

The spirit of the Panamanian revolutionary process is flexible, it is broadminded and patient, but our people and the revolutionary government have principles that are not abstract but arise from the blood shed by our martyrs in order to eradicate the colonist from the fatherland.

Treaties are a peaceful solution sought by us in order to prevent a high social cost for liberation. However, our sentiments and our

flexibility must not be confused with something else. The attitude of our people is reflected in Omar's watchword: "Either on our feet or dead, but never kneeling."

NEGOTIATORS ESCOBAR, ROYO HOLD PRESS CONFERENCE

Romulo Escobar Bethancourt and Aristides Royo, who were part of Panama's treaty negotiating team, met this afternoon with the local press to report on the status of the new Panama Canal treaties which are midway in the process of ratification by the United States.

Escobar and Royo explained that we are experiencing a moment which is not one of euphoria but neither is it one of defeat. They asked press, radio and television newsmen to help the government maintain an atmosphere of calm and watchful waiting. They explained the differences between the amendments and the reservations by the U.S. Senate to the international agreements. Amendments change an article of the pacts totally while reservations are Senate opinions which are added to the pacts and are only obligatory when they are accepted by the other country in the exchange of instruments of ratification.

Escobar indicated that a reservation such as the one presented yesterday by Sen. Dennis DeConcini and approved by the Senate may oblige Panama to present its own reservations when the instruments of ratification are exchanged. For this reason, the Panamanian Government has decided not to make any statement until the Senate decides on the second treaty, the canal treaty.

At that time, the Panamanian Government will analyze each and every one of the amendments and reservations and will take a position.

However, Royo said, if the Senate continues whittling away at the treaties as it has done so far, it may turn out that Panama will have to tell the world that there are no new canal treaties.

Both negotiators agreed that the canal pact itself, which contains a series of revindications of an economic nature for Panama, will be much more difficult for the U.S. Senate. Royo pointed out: The neutrality treaty was easy for them and very hard for us. Now comes the treaty which is hard for them and good for us. That canal treaty has still not been subjected to discussion and already has 27 amendment proposals. Until the Senate makes a decision, the atmosphere in Panama should be one of calm, never one of frustration or defeat. There should be an atmosphere of analysis without reaching states of despair.

Among the measures adopted to maintain the atmosphere of calm is the postponement of the beginning of classes until 17 April. Escobar explained that the objectives of the conservative senators are to defeat the treaties or to lead Panama to another plebiscite and also to cause problems in Panama by exasperating the people by offending them. Escobar said we will have to endure those provocations because the most important thing now is the treaties' approval. Our irritation in this case is of secondary importance

Escobar pointed out that one of the articles of the canal treaty which will be torpedoed by the senators is the one referring to the sea level canal. He explained that Panama never wanted this article and that General Torrijos himself said it was equivalent to a second marriage by the same couple.

FURTHER REPORT

Panamanian negotiators Aristides Royo and Romulo Escobar Bethancourt held a news conference at 1430 with local newsmen in the offices of the Cerro Colorado Corporation located in the National Bank Building to explain the position of the Panamanian Government.

Royo said that the position of the Panamanian Government at this crucial moment in the history of the nation is prudent, wise and politically adequate. He added that the neutrality treaty has some aspects which are hard for the Panamanian people to accept. However, he added, it is the treaty by which the United States returns the Panama Canal to Panama which really contains concessions favorable to the Panamanian people. Therefore, in the opinion of the negotiators, this treaty, which the U.S. Senate will soon begin discussing, is the one that will undergo a long series of amendments, of which 27 have already been announced.

Meanwhile, Escobar Bethancourt told newsmen that it was necessary to understand that the Panama Canal is part of the U.S. defense system and, for this reason, it was hard for the U.S. Senate to give up the canal to Panama. Escobar Bethancourt said that last night the Panamanian Government was facing a state of uncertainty and could not express any joy over something which still is incomplete.

He added that the last reservation to the neutrality treaty touches upon the Panamanian Government's main concern not to have the U.S. Government meddling in Panama's domestic, political or state affairs. Further, he said that nonetheless, our government is highly optimistic regarding the power of understanding of the two countries linked together by the canal.

Royo and Escobar Bethancourt said that the Panamanian Government's final position will be established when the Torrijos-Carter ratification instruments are exchanged and that Panama has only two options: to accept the ratified treaties as they stand or to consider that they violate the nature of the Torrijos-Carter treaties approved by the Panamanian people during a plebiscite on 23 October 1977. For this reason, the Panamanian Government is maintaining a cautious attitude and wise prudence, Escobar Bethancourt said, and is waiting for the final results of the U.S. Senate debates.

CRITICA ON TREATY AMENDMENTS, RESERVATIONS

While the nation analyzes the real meaning of the word "amendment—which changes the true nature of an article of the treaty and affects its essence, implying, according to some, the "rejection" of the document—and while the legal effects of the notorious "reservations"—which is a weaker term than "amendments" but stronger than "interpretations"—are considered, the local media researches, gathers information and evaluates the scope of the U.S. Senate sessions on the Torrijos-Carter treaties.

The fruitful meeting held yesterday afternoon with treaty negotiators Romulo Escobar Bethancourt and Aristides Royo was part of this search for information. The dialog revealed through details on the treaty negotiating sessions and the way in which the United States views certain articles of the treaty.

This is how we found out that despite the existence of Spanish and English versions of the documents, the characteristics of our different legal systems—the Anglo-Saxon and Latin systems—have led to interpretations being made from very particular viewpoints and this, together with the idiomatic concepts, produce adverse effects in each country every time the texts are analyzed.

The necessity of making serious and thorough studies without haste, concerning what has occurred so far and what is yet to be discussed, was clearly established after the exchange of opinions. We are aware of the lack of experience of President Carter concerning the ways in which the senators operate, even those of his own party. This inexperience has been the cornerstone of the obstacles to ratification, but it has been useful since it was his "virgin" spirit which led him to materialize the negotiations. This fact must be taken into consideration because if they are not ratified in this first [as published] year of the U.S. President's term, several decades would have to pass before another president would decide to follow in his footsteps or thousands of lives would have to be lost to end definitely the American colonialist presence in our country.

For now, the DeConcini amendment can be considered to be part of the "Torrijos-Carter understanding" although it was made in bad faith. The final conclusion about its scope will be given by us later. However, that was the general conclusion. We must be prepared to hear more amendments and, especially, dozens of additional reservations being proposed with greater diatribe against Panama and its rulers since thus far we have heard very few heirs of the intelligence of a Jefferson, a Lincoln or a Benjamin Franklin.

REACTION TO TREATY RATIFICATION GENERALLY MILD

Two minor demonstrations by extreme leftwing university students have been the only reaction on the part of the Panamanian people following yesterday's ratification of the first of the Panama Canal treaties which was voted on in the U.S. Senate. Aside from that, Panamanians received the news of the ratification of the neutrality pact with almost total indifference.

The Americans who live and work in the Canal Zone and had firmly opposed the new agreements also received the ratification of the neutrality pact with overwhelming apathy.

Last night, the extreme leftwing students staged a demonstration against the ratification on the campus of the University of Panama. The group of demonstrators was small, as was the demonstration staged this morning in front of the office building of the American Embassy.

Olimpo Saenz, leader of the Camilo Torres Circle, said that the important thing is not the number of participants but the essence of the protest movement against the canal treaties.

On campus last night and this morning at the U.S. Embassy, the demonstrators symbolically burned the new treaties. There was no violence reported during any of the events.

The Panamanian Government reacted by announcing that it will call a special general State Council meeting with Panamanian Ambassador Gabriel Lewis Galindo in attendance. The Panamanian Foreign Ministry revealed last night that the Council of State meeting will be held only after the U.S. Senate considers the second treaty, the one that actually refers to the Panama Canal.

One office worker explained the people's apathy toward the ratification by noting that we Panamanians feel that the conventions negotiated between the two countries do not fully meet Panamanian expectations, let alone doing so following the amendments and reservations made by the U.S. Senate.

STUDENT GROUP DENOUNCES TREATY CHANGES

Members of the University Anti-imperialist Front (FAU) yesterday picketed the U.S. Embassy to protest and denounce the efforts by U.S. senators to change the political conditions of Panama [condiciones politicas de Panama] in favor of their plans of oppression.

The group issued a communique pointing out that everything indicates that the U.S. Government is maneuvering with amendments, understandings and reservations in an effort to reverse the essential gains that the Torrijos-Carter treaties provide Panama.

Ambassador to U.S. Returns, Comments on Canal

(Special report from Washington by Diana Arosemena—presumably recorded)

Gabriel Lewis Galindo, Panamanian ambassador to the United States, and his legal adviser, Ricardo (Bilonic) Paredes, returned to Panama early this morning at the request of Chief of Government Gen. Omar Torrijos to participate in the very important meeting which General Torrijos will hold with his government team concerning the ratification of the neutrality treaty.

Ambassador Lewis, before leaving the United States and being besieged by television, press and other communications media representatives, said the following: Our government has declared radio silence because, in international politics, very often the best word is the one that is not spoken. General Torrijos and President Carter, before the television cameras and with the world as a witness, designed a suit of clothing which replaced the colonial cloak that covers 1,442 square km of our land. This cloak was created in 1903 by a Frenchman who claimed to represent Panama and by then U.S. Secretary of State Hay, a well-known colonialist and expansionist figure.

President Carter more closely approaches the sense of morality and dignity of his people than some government spokesmen. What Senator DeConcini added to the neutrality treaty and what he said during his speech yesterday has wounded the deepest feelings of almost 2 million Panamanians.

I pray to God that in the scale of values of our people, 32 [as heard] will be the number that will inspire us to continue fighting until we achieve our ideal. Panama is a small country, but it is a nation that is large in pride and dignity and it will never be a land of eunuchs. Latin America is awakening. We have all been humiliated 32 times over.

Costa Rican, Nicaraguan Presidents Comments on Ratification

Costa Rican President Daniel Oduber has stated that the ratification of the Panama Canal neutrality treaty by the U.S. Senate was a struggle of all America and that the United States has shown that it is possible to discuss any hemispheric problem on an equal footing.

(Question by unidentified interviewer—begin recordings.) Here with us is the president of the Republic of Costa Rica, Daniel Oduber Quiros, who will speak to us about the approval of the Panama Canal treaty today. [as heard] Don Daniel, what do you think about the approval of this treaty?

(Answer) Look, Marcia, it has been such a long struggle—as far as I can remember, at least 16 years—dating back to when I first assumed the office of foreign minister of Costa Rica. Since then we have waged what I would call a hemispheric struggle along with the Panamanian people and all its government representatives so Panama could recover its rights over the canal. I still do not know in depth the amendments that I have been told would be added to the treaty. However, if this whole set of concepts, this whole set of legal provisions, is acceptable to the Panamanian people, I would say that a struggle of all of America has been won and that the United States has been able to show the world that it is possible for a large and a small nation to negotiate on an equal footing on the American continent. The approval of the treaty has a profound meaning. In the few days that I have left in office. I will make this known to all the people, groups and countries whom I asked to be patient for many years in order to negotiate and draw up a treaty that marks the beginning of a new era for the Republic of Panama.

(Question) Don Daniel, what effects do you think the approval of this treaty will have on U.S. relations with the Latin American countries?

(Answer) The most important thing is that President Carter has demonstrated that an American president can believe in fraternal relations on an equal footing with the nations of the American continent. Many times as a government leader and politician throughout all the years that I have been engaged in these activities, I came to doubt the good faith of the U.S. Government leaders as far as their relationship with Latin America is concerned. However, in the specific case of President Carter, since he was elected I realized that Latin America meant something to him and during the times that I have talked to him and other officials of his administration, I have reached the conclusion that Latin America has a lot to expect from the United States under Jimmy Carter's rule. [end recording]

In the meantime, Nicaraguan President Gen Anastasio Somoza today came out in favor of the ratification of the neutrality pact in Washington yesterday. President Somoza said it was a step forward toward international equality.

(Question by another unidentified interviewer—begin recording.) What meaning does the ratification of the Torrijos-Carter canal treaties have for you and for the small and weak nations?

(Answer) Well, (aware) that there is international law, that we live according to treaties and that legal power has greater value than force, the world has come to recognize the interests of nations, whether large and powerful or small. I think this is a step toward international equality.

(Interviewer) that is right! (end recording)

Independent Lawyers Express Concern Over Treaty Amendments

The Independent Lawyers Movement today expressed what it termed deep concern over the approval of some amendments, understandings and reservations to the neutrality treaty, especially the approval of the reservation by Senators Dennis DeConcini and Sam Nunn, which they consider to be more harmful to the interests of Panama.

Workers Central Rejects Treaty Amendments, Reservations

(Article by Mario Martinez P.)

Several unions in Panama and the Canal Zone have expressed concern over the ratification of the neutrality treaty with the inclusion of certain amendments and reservations which curtail the gains achieved by the people of Panama.

At the same time, the National Central of Panamanian Workers (CNTP) recommended that "the unity of all forces which support the (revolutionary) process be strengthened around the great anti-imperialist front." In a statement to the media yesterday, the CNTP expressed "unrestricted support for Gen. Omar Torrijos and the reaffirmation of our revolutionary position." It urged its members and all progressive sectors of Panama "to seek international economic and technical support and to massively participate in the upcoming elections for popular power."

The CNTP issued a statement yesterday expressing "its most vigorous rejection of the U.S. Senate maneuvers which curtail essential gains of the Panamanian nation." According to the statement, the labor organization, one of Panama's largest, rejected the so-called amendments, reservations and understandings of the neutrality treaty.

The document, which was signed by the plenum of the CNTP executive secretariat, made certain recommendations to its members and asked them to "close ranks" in view of the present situation. It also encouraged its members to demand that the U.S. Government faithfully comply with the treaties approved by the Panamanians. It made clear that it is necessary to avoid desperation and "imperialist" provocations. Similarly, it requested support for Gen. Omar Torrijos and the process he heads.

Regarding the position to be followed by CNTP members, it called for "the rejection of any attempt by the U.S. Government to perpetuate the presence of its soldiers in our territory."

The reaction of the different labor organizations is in regard to certain last minute amendments or reservations to the neutrality treaty ratified by U.S. senators on Thursday. According to the Panamanians, the amendments or reservations curtail in practice the hopes for national liberation to recover the territory described as the Canal Zone. The CNTP statement notes that the amendments and reservations to the neutrality treaty "are for imposing conditions on our people and government with the preconceived purpose of perpetuating the presence of murderous troops in the canal strip, the colonial and neocolonial enclave and everything that goes with it.

Torrijos, Aides Studying U.S. Senate's Treaty Amendments

(Article by Luis Castilla Bravo)

Without making any sort of public statement in reply to the U.S. Senate, Panamanian Chief of Government Gen. Omar Torrijos Herrera and his chief aides have been meeting in permanent session since Friday to assess the extent of the well-known Senate amendments, particularly the DeConcini amendment (as published), and the reservations established by the U.S. Senate to the treaty on neutrality signed by the United States and Panama.

As may be recalled, Panama approved a "package" of two documents that make up the treaties on the Panama Canal. Both were intimately linked and therefore subject to a single condition: the disappearance on 31 December 1999 of the last Yankee boot from our national territory.

These documents, submitted to the Senate's scrutiny after being signed by President Carter, underwent minute and thorough consideration by that august chamber but did so in reverse, that is, instead of first analyzing the document that indicates the end of the Hay-Bunau Varilla Treaty and sets a date for the end of U.S. presence on that part of the territory, the Senate ratified the second part, which is practically military in nature.

General Torrijos indicated on the same day the Senate was voting that under no circumstance would he accept amendments that injure national dignity. On his part, Carter has said that these amendments do not affect the spirit of the treaty, but the senators have already begun to express serious concern since, in the opinion of some of them, the treaty has been violated.

Although the national and foreign press has attempted to penetrate into the residence on 50th Street owned by the chief of government's economic adviser, where the permanent sessions are taking place, all efforts have been futile.

It has been learned behind the scenes that General Torrijos, in addition to consulting with his main advisory team, is also consulting the main leaders of the world before giving an official reply. On the other hand, in yesterday's session, the Senate began to show concern regarding Panama's reaction since up to now there has only been quiet, and quiet generally comes before the storm.

Robert P. Griffin, for example, one of the treaties main opponents, said yesterday that he could not understand how the senators could vote in favor of one of the treaties and against the other. "As I see it," he pointed out, "the two of them constitute a whole."

GOVERNMENT OFFICIALS DISCUSS TREATY RATIFICATION PROCESS

(From "La Llorona" column)

Aristides Royo, Adolfo Ahumada, Perez Valladares, Rory Gonzalez, Ambassador Lewis Galindo and Foreign Minister Gonzales Revilla make up the group of ranking state officials headed by Vice President Gerardo Gonzales who left Paitilla Airport yesterday for Parallon, presumably to discuss the course taken by the treaty ratification process in the U.S. Senate.

COLUMNIST CALLS FOR UNITY IN FACE OF TREATY CHANGES

("Conciencia Publica" column by Miguel Angel Moreno Gongora: "Unity and Sorrow of the Fatherland")

The voting on the neutrality treaty and the reservations, understandings and amendments adopted show how wrong were those who once thought that President Carter's political ability and the Senate's respect for him were in direct proportion to his self-esteem and Christian good faith toward Panama. Circumstances turned out to be against him. In the eyes of U.S., Panamanian and world public opinion, his personal prestige and political stature have been dealt a serious blow. They have been very seriously wounded.

President Carter has to be either naive, very blind or very insincere not to realize that the final result of what occurred in the Senate at 1630 on 16 March does not represent the Panamanian people's aspirations and is not in keeping with the promises he made to the world that justice would prevail for Panama.

In view of the imminence of an adverse vote and seeing himself weak and incapable of fulfilling his promises and predictions regarding the voting, the U.S. President had to make concessions to senators in one group or the other. In the end, these concessions resulted in a treaty patched, scratched out and rough drafted against Panamanian interests because it grants the United States the right to reserve for itself the interpretation and acceptance or rejection of situations that will be humiliating for Panama because they distort the objectives of the treaty, confirm and reaffirm perpetuity, make acceptable the right to intervene in our domestic affairs and prevent us from fully exercising our sovereignty even after we physically recover the canal, as we will demonstrate shortly.

The Panamanians' votes for the treaties were aimed at responding affirmatively to a question concerning the text of the documents that were later submitted to the Senate. That was the will of the majority, that was the watchword and that was what our sovereign people consented to. We may or may not have agreed with the treaties, but as Panamanians and in the face of the accomplished fact, the only thing left for us to do was to wish that the voting would favor the bright destiny of our national greatness. Nonetheless, this was not the case because in a new demonstration of secular imperialism the senators of both parties adulterated the contents of the treaty, making it unacceptable to every good Panamanian. From the standpoint of international law, our public laws and honest diplomacy, this simply and clearly means that the treaty has been virtually rejected because it definitely is not what we Panamanians voted for.

The amendments, reservations, understandings and interpretations—terms under which the adulterations that the senators included in the treaty are euphemistically masked—automatically lead to its rejection because they render ineffective the will of the Panamanian people as set forth in the October plebiscite.

Now that the text of the treaty has been changed, we must begin a new stage of negotiations. The results of these negotiations must later be subjected to a new plebiscite in accordance with the constitution, which establishes that any treaty regarding the canal, its adjacent zones, the canal's protection, or the construction of a new sea-level canal or a third set of locks will be subjected to a national plebiscite.

We must face this new stage in our national suffering with unity and patriotism and with serenity and prudence. In particular the government leaders must avoid all prejudices, malice or reservation toward those that oppose it, because those opponents are above all Panamanians as patriotic as they are. They feel the fatherland's sorrows with the same intensity.

CLOSE ANALYSIS OF TREATY MODIFICATIONS URGED

(Editorial: "The U.S. Senate and the Neutrality Treaty")

The U.S. Senate yesterday took a stand regarding the "Treaty for the Permanent Neutrality and Operation of the Panama Canal" in ways and in terms which have already been disseminated by the various media and which we have covered in our reporting section. We now have to wait for the debate on the "Panama Canal Treaty"—announced for the immediate future—to start. We also have to wait for the U.S. Senate to reach a decision on it. Consequently, considering that the two treaties will become effective simultaneously, one should feel that it is too soon to express definite judgments and opinions on what was agreed upon in Washington yesterday, which is only a part—although a substantial part—of the matter that is covered as a whole by the two aforementioned treaties.

In spite of everything and even though, we repeat, it would be wiser to wait for a final U.S. Senate decision, differing opinions, both for and against, will be made known regarding yesterday's decision. Naturally, the opinions expressed will be varied and probably of a discordant nature.

One of the first questions to ask ourselves would be to what extent and how the reservations, modifications, additions—or whatever they are called—introduced by the U.S. Senate will alter the scope, meaning or goal of the dispositions established in the articles of the original texts, which were signed by President Carter and General Torrijos and ratified by an overwhelming majority of Panamanians in a plebiscite held for that purpose. It is necessary to read and analyze with care, attentiveness and a great deal of calmness the so-called modifications before reaching a definite opinion on the matter. If after such an analysis one should consider them as unimportant, secondary and having no affect on the essence of what had been previously agreed upon and signed, then there should be no objection to accepting them, thereby avoiding a situation in which the treaties—which were so laboriously negotiated—will not be put into effect. At any rate, what is most advisable now is to keep an alert and vigilant attitude until complete Senate ratification is achieved after the "Panama Canal Treaty" is voted on.

POSSIBLE EFFECTS OF CARTER'S LETTER TO TORRIJOS EXAMINED

("Bona Fide" column by Camilo O. Perez: "The President's Serious Problem")

We have been weighing the contents of the letter that President Carter sent from Washington to the Panamanian chief of government immediately following the executive's acceptance of the DeConcini reservation. The letter states that Panamanians should not be worried about the "reservations" or amendments."

President Carter's statement seems to be opposed to the will of the Senate and at the same time a contradiction of the U.S. legal system. The effect of Carter's statement can be seen in the light of two possibilities:

1. It is an imprudent and naive maneuver. However, it is made in good faith befitting a man devoid of puritanical philosophical ideas. In this respect, Carter is a good Baptist.

2. It is a reply which seeks only one thing: to placate the various Panamanian sectors who do not see eye to eye with the amendments, reservations and understandings.

Besides, there is a danger that might directly affect the U.S. Senate's acceptance of the Panama Canal treaty. When the undecided senators realize that none of the amendments or reservations already approved in the neutrality treaty will meet with the President's approval, according to the letter we are commenting on, President Carter better be prepared for the second round of debates on the treaty that will return the Canal Zone to Panama.

We are more than sure that the senators will intensify their strategy on the Senate floor, and that, aware of the President's position, they will not believe in other agreements [as published] and will propose amendments and reservations which will be even more harmful and frustrating to Panama.

This means that President Carter and his Senate aides will have to struggle harder to avoid the defeat of a strategy as complicated as the one they carried out recently.

When statements are made, however, we must consider the way they will be interpreted domestically, as well as abroad.

A calm study must be made so as to establish a sort of security cordon. [as published] The same thing happens here. There are serious sectors that believe that the reservations and amendments are a change in the text of the treaty. They are not mistaken. Therefore, the senators who will propose amendments and reservations will be rejecting the treaties and will work toward that end.

FEP ISSUES COMMUNIQUE REJECTING SENATE'S TREATY CHANGES

(Communique issued by the Federation of Panamanian Students at special session held at the University of Panama on 21 March 1978)

"For organized vigilance by the people to defend the dignity of the fatherland":

1. Through the information media, the country has received with surprise the postponement until 17 April of the opening of classes for elementary and high schools and subsequently for the university. The same surprise was felt by the national leadership of the Federation of Panamanian Students (FEP), which was never consulted about the measure. The published report states that there was a request from the Board of Directors of the National Federation of Parents Associations employing the "argument" that Holy Week was at hand and that there are material problems involved in the opening of classes.

2. However, this postponement occurs in the context of the discussions of the Torrijos-Carter treaties, which are currently the subject of debate by the U.S. Senate. Unofficially, it is being maintained that the measure was designed to forestall possible provocations on the part of antipatriotic forces within the student movement. Although we concede that such a possibility exists, such a position reflects a great lack of confidence in and an underestimation of the maturity of the Panamanian student movement and of the masses in general.

3. For this reason, the FEP, based on its historic principles and on its revolutionary authority derived from the sacrifices of its militants and its martyrs, in response to the DeConcini reservation and the possible amendments that may be made to the Torrijos-Carter treaty, declares its firmest and most militant support for the position based on principles and national dignity that was outlined by Commander Torrijos in his letter to Carter on 15 March: "Panama will

consider unacceptable any reservation which sullies the national dignity, which distorts or changes the objectives of the treaty or which seeks to prevent the exercise of sovereignty by Panama over all its territory, the turnover of the canal and the military withdrawal on 31 December 1999."

4. It is obvious that the imperialists, taking advantage of the failings of the process and depending on their unquestioning supporters in Panama, seek by means of the amendments and reservations to halt and destroy the process of national liberation which is being led by the military. Consequently, although it is true that the FEP realizes that the popular movement and Panamanian patriots in particular must exercise great patience, it is no less true that this calm should not be interpreted as passivity or as a sign of weakness or desperation. In this lies the hope of the enemy who wishes to isolate Commander Torrijos from his people and promote wavering within the forces committed to the struggle for national liberation, as well as to exclude the masses, its only guarantors, from this patriotic struggle.

5. Despite all the pressure, blackmail, provocations and attempts to anesthetize the patriotic conscience of our people, the popular movement has received with indignation and without cowardice the "reservations" approved by the U.S. Senate, which have only caused concern among those who trusted in the kindness of the imperialists, those who placed their own interests above the sacred interests of the fatherland and those who never believed that we were involved in a real struggle for national liberation and who did not realize that if there is no ratification, our people, fearing nothing, will take the path imposed by the circumstances in order to achieve their full independence—even taking up arms if necessary.

6. Therefore, we oppose the method used to decide on the postponement of classes because it introduces mistrust and suspicion about the fate of the treaties.

7. In addition, we demand the publication, as soon as possible, of the amendments and reservations attached to the neutrality pact by the U.S. Senate and [an explanation of] the extent of these amendments and reservations.

8. Moreover, in order that our people not be left out of this patriotic struggle, we demand the inclusion of all the active forces of the country into the process of determining and preparing the alternative actions to be taken as a result of the demands of the U.S. imperialists.

On our feet or dead, but never on our knees.

The FEP is on the march; nothing and no one can stop it.

(Signed) Federal Executive Council of the FEP.

Foreign Ministry Releases Text of Canal Treaty Changes

(Text of Panamanian Foreign Ministry communique dated 27 March 1978)

In our communique of 16 March we expressed the government's decision not to make any pronouncement on the Senate's resolutions concerning the treaty on the permanent neutrality of the canal and the operation of the Panama Canal. We said our reason for this was that the Panamanian people had approved two treaties, that is, the one referring to neutrality and the treaty on the Panama Canal, and until the Senate decides on the latter treaty is will not have given an answer to the decolonization program approved by the Panamanian people.

We also said in that communique that the government as whole would analyze the conditions under which the Senate gave its advice and consent to the neutrality treaty and the conditions it would express when pronouncing itself on the Panama Canal treaty. We have undertaken this process. But since the national liberation process is a national commitment which requires that each citizen be totally aware of the Senate understanding on the treaties, the Foreign Ministry has deemed it advisable to publish the text of the Senate resolution on the neutrality treaty without waiting for its official text to be delivered to us through the regular channels.

We are experiencing a crucial moment in our history. Now more than ever, the fatherland demands of its children calm, dignity and a sense of national unity.

Panama views its future with the calm of a nation that is enveloped in an irreversible national process of decolonization.

Let us recall that only peace-loving peoples can be free. Panama has decided on its definitive liberation. We are accompanied in this process by the peoples of the entire world, as we evidenced at the Security Council meeting held in March 1973 in Panama. There the world, in view of the veto of the U.S. delegates, vetoed [veto] the United States for not resolving the causes of conflict produced by the presence of a foreign government on Panamanian territory.

We recommend that our fellow citizens objectively study the documents which are being published today in Spanish and English so that they can assist the government in adopting the most patriotic decision which, as Panamanian Chief of Government Gen. Omar Torrijos Herrera has said, will be within the framework of a vast national consensus.

Foreign Ministry.

Negotiator, Ambassador Leave for Washington

Education Minister Aristides Royo left yesterday for Washington together with Panamanian Ambassador to the United Gabriel Lewis Galindo. No official source has disclosed the reasons for the departure of minister and negotiator Royo for Washington, but it is believed that his trip is related to the Senate debate on the Panama Canal treaty. It was also not disclosed if Dr. Royo is carrying any special message from the Panamanian Government to U.S. authorities.

Bayano Sees Treaty Amendments as Deliberate Provocation

BAYANO, an organ at the service of Panamanian workers, has stated in its editorial that the incorporation or reservations, understandings and amendments into the treaty on the neutrality of the canal and the functioning of the waterway is a political maneuver designed to produce an unsettled situation within Panamanian society.

The newspaper, which is published biweekly, later states that by means of the attitude adopted by the U.S. Senate, the Carter administration is skirting its historic responsibility by transferring the problem to the national government, particularly to its top leader, General Torrijos.

In his letter to the U.S. President on 15 March, our chief of government said that no amendment or reservation that harms the truly just aspirations of the Panamanian people will be accepted. The biweekly BAYANO emphasizes that U.S. Government circles have directed the first amendment and reservations toward the issue that is most sensitive where the Panamanian nation is concerned—the nation's right to the sovereign and independent exercise of effective neutrality, with intervention or foreign military aggression—in other words, to make the Panamanian liberating process react to the provocation.

The BAYANO editorial emphasizes the people's devotion to peace and to the construction of a future without the wounds of a bloody struggle for liberation. However, in the face of an attempt to keep the aggressive imperialist boot on their soil eternally, our people will be prepared to take action, whatever the consequences, in order to achieve total independence, BAYANO says in closing.

Columnist Equates Senate Canal Treaty Changes With Rejection

("Bona Fide" column by Camilo O. Perez: "Amendments to Amendments and so on Until the End of Time.")

We have read in the front page of yesterday's issue of La Estrella de Panama a paid advertisement consisting of a translation of a quotation from Time magazine's latest issue. It deals with President Carter's change of attitude in the face of pressures from some senators, including Mr. DeConcini.

In spite of the commitment between President Carter and General Torrijos regarding a "certain pledged word," the powerful U.S. political and monopolistic forces have prevailed over this "pledged word."

Our position in this connection is characterized by calm study and a cautious wait-and-see attitude. This is so because, as we have repeatedly said, this is a problem of U.S. politicians and not of Panamanians. However, we would not be surprised if things changed in the future and Washington decided to pass on to Panama the responsibility for rejection.

Notwithstanding the foregoing, we feel that the first treaty has already been rejected by the U.S. Senate. Thus, the waiting in regard to the other treaty, that is, the treaty concerning the Panama Canal, involves only a matter of procedure to formalize the rejection.

Mr. Carter faces a serious political problem that will lead to decisions which will for the first time bring to the surface the crisis which has existed for decades in the relationship between Congress and the Executive branch.

Furthermore, once the treaties and the declarations containing the reservations and amendments are returned, we Panamanians will face the possibility mentioned above, which time has mentioned in order to attack Carter.

We have begun a study of history and found that there is a particular precedent justifying what the Senate is now doing. In other words, when the Thompson-Urrutia treaty was negotiated, the U.S. Senate returned it with certain amendments after discussing it, feeling that it had approved the treaty in that manner. It was then that the Colombian Government, in view of that fact, returned the treaty to the U.S. Government with its own observations and amendments to the proposed amendments. This forced the Senate to discuss the matter again. The rest is history.

In this case, after the treaties reach Panama with all of the detailed observations, we will have to analyze the cited precedent in order to keep the responsibility for crisis from being passed on to the Panamanian people.

This is so because if violence arises as the only possible argument to achieve our patriotic demands, let the first shot be fired there and not here. That is the way the Vietnamese acted.

Commentator Expects Public Debate on Treaty Changes

("Analysis of the News" commentary by Mario Velasquez)

Following the holy week break, which the Panamanians take advantage of to escape from reality a little, by vacationing in the country's interior and participation in religious celebrations, the country returns to normalcy and to its daily cares.

We notice with satsifaction that the week begins with the official public announcement by the Foreign Ministry of the amendments, reservations, and understandings which the

U.S. Senate introduced to the resolution of ratification of the Treaty on the Permanent Neutrality of the Canal and the Operation of the Panama Canal.

The public announcement of these important documents is accompanied by a Foreign Ministry communique which reiterates the government stand announced in its previous communique of 16 March to the effect that it will not make any pronouncement on what the Senate had agreed to in relation to the neutrality treaty until the Senate has decided on the Panama Canal treaty, on which it will probably vote in late April.

I feel that both Foreign Ministry communiques—the one dated 16 March and the one of this morning—display a clear sense of responsibility in handling a very delicate issue. It is a sensible and patriotic thing for the government to make a very serious evaluation and a thorough study of these amendments, reservations and understandings prior to taking a decision which, due to the nature and dimension of the problem, will be a most important one. Likewise, the public announcement of these documents and the recommendations included in the last paragraph of the communique published this morning, which asked the Panamanians to study the documents published in order to help the government make the most patriotic decision, is an invitation to a public debate on these amendments, reservations and debates. This is the only possible means by which the community will be able to discuss the scope of these amendments and make public its opinion, and in this manner the government will have sufficient data to permit it to make a decision within the framework of a great national consensus, as this morning's Foreign Ministry communique said:

Actually, the Foreign Ministry communique which we are commenting on is in the spirit of the letter which Gen. Omar Torrijos sent President Carter on 15 March. In fact, in this letter Torrijos told the U.S. President that the Panamanian Government will begin the careful study of these reservations and will announce its position once the Senate has completed the voting on both treaties. Then, in a strong worded paragraph which is a reiteration of a political decision and which really voices the unanimous feeling of the Panamanians, Torrijos told Carter that such a study will be based on the following concepts: Panama will not accept any reservation which offends national dignity, which distorts or changes the objectives of the treaty or which is aimed at impeding the effective exercise of the sovereignty of Panama over all of its territory, the turnover of the canal, and the end of military occupation on 31 December 1999. Torrijos then added in the same letter sent to President Carter that the Panamanian people will not accept any words, misplaced commas, or ambiguous phrases which are aimed at or mean an occupation in perpetuity disguised as neutrality or an intervention in Panama's domestic affairs.

It seems very clear that these paragraphs we have quoted define the national position shared by all conscientious Panamanians. In the light of these concepts Torrijos is transmitting to Carter the manner in which the amendments, reservations and understanding which the Senate will add to the two Panama Canal treaties will be studied. In other words, Torrijos has established parameters, points of reference for the studies to be made of the amendments. This is not a matter of legal speculation or intellectual loopholes, but very clear and precise terms of consideration which pertain to our national dignity and sovereignty. The serious part, the obscure part of this issue is found in the U.S. counterpart, where a series of situations and interests, visible and complex, are having a negative influence on the handling of the problem of the ratification of the treaties.

If there is any doubt in this respect, the Panamanians should at this stage of our relations with the United States be convinced that U.S. national interests prevail in these relations and that there has never been anything which we could call generosity or altruism in Washington's policy toward our country.

As for the senators, a large majority of them are immersed in the political problems of their states, in their reelection possibilities, and concerned solely about what they call the national security interests of the United States. We witnessed the 7-hour U.S. Senate debate on Thursday, 16 March, when the neutrality treaty was approved. Together with Luz Maria Noli [Televisora Nacional reporter], we were the only Panamanians inside the U.S. Senate during those dramatic hours. We lived that historical moment and were not able to notice at any time any moment of grandeur or a sense of history on the part of the dozens of speakers who came up, one after another, to reiterate their concern over the military, economic, and political interests of the empire, totally removed from and indifferent to the interests of a small republic which has lived for 75 years tied down to the fate of the U.S. nation.

Nothing reflects the spirit of the Senate better than the conversation between President Jimmy Carter and Republican Senator Edward Brooke, when the only black senator told Carter that he was creating a sort of Frankenstein by not permitting changes. Carter told him that he had given his word to Torrijos and he could not back down. Senator Brooke then answered him: Look, that is the Panamanians' problem; that is not our problem. The report on this conversation is carried in today's issue of the Time magazine, dated 27 March. The report adds that the Senate leaders then convinced President Carter to back down, and subsequently negotiations began with Nunn, Talmadge, DeConcini and other senators who insisted on amendments.

And this concludes our analysis for today. Tomorrow, we will continue with more on the same subject.

CRITICA SEES NEED FOR PLEBISCITE ON AMENDMENTS

(Editorial: "Foreign Ministry Communique")

The Foreign Ministry yesterday released a press communique which was widely disseminated by all the information media in the country. The Foreign Ministry began by recalling that on 16 March it had said that the "revolutionary government had decided not to make any pronouncement on the Senate's resolutions in relation to the treaties on the 'Permanent Neutrality of the Canal and the Operation of the Panama Canal.'"

As was clearly stated on that occasion, the revolutionary government decided to abstain for now from giving an opinion on the Senate decision. The reason was obvious: The Panamanian people by constitutional mandate in the 23 October plebiscite gave their approval, without reservations or amendments, to the two treaties that were signed on 7 October 1977 in Washington before the chiefs of state of the continent in the OAS Room of the Americas, the so-called Torrijos-Carter treaties which form, under their signature, a single legal entity.

However, the U.S. Senate recently began debating the canal treaty, which is the more important for Panama, without lessening the importance of the neutrality treaty. Therefore, the Foreign Ministry affirmed that the national liberation process is a national commitment, which is why it decided to publicize the Senate resolution so that all the changes made to the neutrality treaty may be studied by all the people in order to achieve the broadest patriotic consensus of national opinion before making a decision on a matter of such vital interest.

We want to be totally clear regarding the reservations, understandings and amendments to the treaty which have passed the great test before the U.S. Senate. In light of the constitutional provisions which authorized the plebiscite for approving or disapproving the Torrijos-Carter treaties, we consider that any addenda [aumentos] to those treaties made by the U.S. Senate will have to be submitted to a plebiscite in Panama.

Some of those amendments are acceptable, such as that agreed upon between President Carter and General Torrijos before the plebiscite was held. But there is one which, because it affects the sole responsibility of Panama in the canal's operation after the year 2000, cannot be accepted, primarily because it would permit U.S. armed intervention in the event of a canal stoppage, which is something that has happened more than once to its actual "owners."

We will try to study these amendments in order to pinpoint their lack of reasoning. Meanwhile, the revolutionary government can also prepare its reply, duly approved by the people, in case President Carter cannot manage to eliminate the humiliating and intolerable aspects of these amendments.

RADIO MIA FORECASTS NEW TREATY PLEBISCITE

(Unattributed commentary)

The Foreign Ministry communique did not reveal the official position of the Panamanian Government. The ministry merely issued a document to enlighten the nation on the amendments, reservations and changes made by the U.S. senators.

We do not know, however, what the position of the Panamanian Government, of General Torrijos or of the foreign minister is. In fact, they have turned the problem over to us that we might express our opinion as Panamanians.

Mario Velasquez' statements, however, have made us wonder, because he would appear to imply, as far as I can see, that President Carter was able to obtain the ratification of the first treaty by modifying his position concerning his promise to General Torrijos and allowing the amendments to be included. If Carter had not negotiated with DeConcini and the others, the treaty would probably not have been ratified.

The above leads us to believe that the treaty has not been altogether satisfactory to the chief of government's original position. Yesterday, for example, we approached Dr. Cesar Quintero while visiting the Finance Ministry and asked him about the matter. Quintero told us that the situation was one which demanded that every Panamanian express an opinion on the treaty and that he is considering initiating a serious analysis of the significance and effects of the amendments.

Taking all the above into consideration, we venture to advance the following journalistic predictions; first, that we will have to hold another plebiscite. Neither the government nor General Torrijos is going to assure sole responsibility for accepting a treaty with amendments which constitute changes.

Amendment means correction. Reservation, as far as we have been able to determine, means that the U.S. Government includes some considerations to the treaty which are attached to it and, once it is delivered to Panama with said reservations, if Panama fails to respond to them within a specific period of time as established by international law, then the reservations become part of the treaty, tacitly accepted through Panama's silence.

Consequently, we believe the government is again considering passing on the responsibility to the people. We do not believe that General Torrijos is considering accepting the treaty, as many claim. Thus, it is quite probable that we will have to hold another plebiscite on the ratified documents. We have come to this conclusion in view of the official silence, since nobody knows what the position of the government in this respect is.

Second, after the statements made last night by Mario Velasquez, who has all along been close to General Torrijos and who has usually followed the line of the government, we have concluded that the treaty was ratified because Carter failed to fulfill his promise to General Torrijos, and we believe that in view of this failure, the chief of government will not accept full responsibility.

And third, we believe that a meeting of General Torrijos with President Carter in Venezuela, with Carlos Andres Perez as mediator, is imminent. This meeting could be official or unofficial. As you know, our chief of government could get in his plane here, take off, and suddenly appear in Venezuela, even without the knowledge of President Perez. However, they will meet and talk, for such is the modern diplomacy introduced by General Torrijos, which has been criticized by some sectors because it dispenses with diplomatic coordination. Nevertheless, whether good or bad, such is the way General Torrijos has handled things in the country, and in doing so he has placed the problem of Panama on an international level.

We repeat, the three scoops we have for you today, the products of our journalistic deductions, are: first, that the government is not pleased with the ratified treaty; second, it is being implied, according to my understanding, that President Carter had to yield ground in his promise to General Torrijos, which will be sufficient reason for the treaties to be subjected to a new plebiscite; and third, a meeting between President Carter and General Torrijos during Carter's visit to Venezuela—or perhaps before—is imminent. Such are our scoops for today.

FOREIGN MINISTRY COMMUNIQUE ON TREATY CHANGES PRAISED

(The "Los Hombres y Los Hechos" column)

The communique issued recently by the Foreign Ministry under Nicolas Gonzalez Revilla's leadership revealing the amendments and reservations attached to the neutrality treaty by the Senate is very timely and patriotic. This has helped to determine the national consensus sought by the government.

It has been disclosed that one of the main points in the agenda Carlos Andres Perez has set up for President Carter's visit to Caracas is a review of the situation regarding the Panama Canal treaties. This is most important bcause it is another sign of Latin American solidarity with our country.

MATUTINO URGES RESISTANCE TO TREATY CHANGES

(From the "Bitacora de la Redaccion" column)

The amendments and reservations attached to the neutrality treaty and those which may be attached to the Panama Canal treaty will be discussed within the context of an extensive national consensus. The decision taken in this respect places in the hands of the people, of all Panamanians, the historic responsibility that must be borne. The measure is a wise one and in line with the October revolution's philosophy of dialog and consultation.

Let those who have denied us the patriotic right to end the causes of conflict stemming from the Hay-Bunau-Varilla treaty examine carefully the pronouncements to be made from now on.

It is our belief that our country has honestly lived up to its part in the negotiations which resulted in the Torrijos-Carter treaties.

And our leaders, like the people who ratified those legal instruments in a democratic plebiscite, recognized the many failings of the treaties and stated for the historical record that we remained "under the umbrella of the Pentagon."

But from that to having to accept the whims and power struggle of a group of senators who seek to wound Panamanians and their leaders with insults and humiliate us with amendments and reservations without name is something else.

Panama and its leaders cannot be called intransigent. But we should be intransigent in face of a situation which does not settle the causes of conflict but which, on the contrary, multiplies them in an offensive way.

In the meantime, it is up to the citizens to form an opinion, to evaluate the documents and measure the consequences and sacrifices and decide if we must continue struggling for the irreversibility of the process of decolonizing our fatherland.

At this time the Panamanian chief of government, Gen. Omar Torrijos, should be aware that he has never been alone and will never be alone in the struggle which he has led honestly.

TV COMMENTATOR ANALYZES DECONCINI, NUNN RESERVATIONS

("Analysis of the News" commentary by Mario Velasquez)

Of the group of reservations, understandings and amendments approved by the U.S. Senate, there are two which cause the most concern. They are the reservations presented by Democratic Senators Sam Nunn and Dennis DeConcini. Nunn's reservation states that nothing in the treaty shall preclude Panama and the United States from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate at any time after 31 December 1999 the fulfillment of their responsibilities to maintain the regime of neutrality established in the treaty, including agreements or arrangements for the stationing of any U.S. military forces or the maintenance of U.S. defense sites in the Republic of Panama after that date that Panama and the United States may consider necessary or appropriate.

In fact, what this reservation intends is to leave open the possibility to negotiate for the maintenance of U.S. armed forces in Panama after 31 December 1999, the date after which, according to the canal treaty, there will be no foreign troops in our country. Although a reservation of this nature has the strength of the fact that one of the signers is the foremost military power of the world, which today has militiary bases in our country and inexhaustible resources to force negotiations this amendment, in its specific wording, in any case leaves open the alternative of negotiations between the two parties, Panama could or could not negotiate, reach an agreement or not reach an agreement on the maintenance of U.S. defense sites in our country after the year 2000. This is a power or prerogative which it would have anyway, whether Senator Sam Nunn's reservation existed or not.

However, it would seem very premature to include in the neutrality treaty a clause to negotiate for an eventuality which could occur in any case within 23 years.

The other worrisome reservation is the one submitted by Senator Dennis DeConcini, Democrat from Arizona. This reservation states textually: Notwithstanding the provisions of Article V or any other provision of the treaty, if the canal is closed or its operation, are interfered with, the Republic of Panama and the United States shall each independently have the right to take such steps as it deems necessary, including the use of military force in Panama, to reopen the canal or restore the operations of the canal, as the case may be.

This reservation, approved by the Senate with the consent of President Carter, constitutes the real crux of the problem. Its text is fairly clear, and the conclusion is simple: This amendment establishes the unilateral U.S. right to intervene in Panama with military force to reopen the canal and reestablish its operation, as the case may be.

Some might think that Senator DeConcini's reservation is a kind of expansion, with different wording, of the principles contained in the Torrijos-Carter joint declaration of 14 October, which refers to the responsibility which the United States and Panama have to insure that the canal will remain secure and open to the ships of all nations, which says that each of the two countries, according to their respective constitutional processes, will defend the canal against any threat to the regime of neutrality and consequently shall have the right to act in case of aggression or threat directed against the canal or against the peaceful transit of ships through the canal.

However, this declaration of understanding incorporated as an amendment to the treaty ends by saying that it does not mean and will not be interpreted as the rights to U.S. intervention in the internal affairs of Panama. Any action on the part of the United States will be directed toward insuring that the canal will remain open, secure and accessible and that it will never be directed against the territorial integrity and political independence of Panama.

Let us now see what Senator Dennis DeConcini says about his reservation approved by the Senate. We have already read the text of the reservation, and the local press has published it. If that reservation worries us after reading it, let us now see what Senator DeConcini said in the U.S. Senate on the afternoon of 16 March when he explained the scope of his reservation: The purpose of this reservation, Mr. President, is very simple. It is designed to establish a precondition for the acceptance of the neutrality treaty by the United States. This precondition establishes that, disregarding any reason and in spite of any other measure which the neutrality treaty may establish or to whatever other interpretation it may be subjected, if the Panama Canal is closed, the United States has the right to enter Panama by any means that may be necessary to reopen the canal.

Senator DeConcini added: There are no conditions, no exceptions or limitations to this right. By the terms of this amendment the United States will decide when that necessity exists and will exercise its own judgment about the means necessary to insure that the canal will remain open and accessible.

Many of the discussions with respect to the Panama Canal treaty, added DeConcini, have centered on threats which might come from third parties, specifically from communist countries. While this concern is certainly justified, I have been equally concerned over the possibility that internal Panamanian activities could also become a threat to the waterway. Labor strikes, the actions of an unfriendly government, disorders and political uprisings, each one, separately or jointly, could cause the closing of the canal. As I read the treaties, there is no specific guarantee that any stoppage of the canal arising from the internal activities of the Panamanian may be rapidly and adequately handled.

DeConcini goes on to say: Although General Torrijos has brought a substantial degree of stability to Panama in these recent years, it can be argued that Panama's history is one of instability and political unrest. Senator DeConcini goes on to say that under normal circumstances the United States should not contemplate interfering in the internal affairs of another nation. However, there exist unique and special circumstances surrounding the relations between the United States and Panama. Since the turn of this century, the United States has exercised de facto sovereignty over the Panama Canal Zone. We have maintained this control over the canal for a simple reason. The Panama Canal is vital to the security, economy and armed forces of the United States.

This fact, DeConcini says, must be recognized in any treaty contemplating fundamental changes in U.S.-Panamanian relations. The amendment contains a very specific reference to the use of military force in Panama. I believe, DeConcini says, that these words are absolutely crucial because they establish the right—which I am not convinced is adequately contemplated in the body of the treaties or in the leadership amendments—of the United States to take military action if warranted by the circumstances. Furthermore, DeConcini says, this amendment makes it very clear that the United States can take military action in Panamanian territory without the consent of the Panamanian Government.

The Arizona senator then goes on to say: This issue of consent is also crucial because this amendment is directed primarily at situations in which the canal is closed due to internal trouble in Panama, such as strikes, political uprisings or other similar events, in which case Panamanian permission to take military action would be meaningless.

He then adds: If the United States must have a right under this treaty, that right must be to act independently to protect and keep the canal open.

Concluding, Senator Dennis DeConcini adds the following in one of his closing paragraphs: I hope the Senate will support this amendment I am submitting to the resolution of ratification granting the United States the right to keep the canal open. I am also pleased to announce that the U.S. President has supported this change and has indicated that it will be a constructive step toward achieving the goals of the neutrality treaty.

I feel this supporting speech delivered by Senator DeConcini will be a very important factor when the time comes to evaluate the nature and the scope of the reservation he submitted and which the U.S. Senate incorporated into the resolution of ratification. This closes our analysis for today.

Tomorrow, dear listeners, we will continue with our comments on and analysis of this topic, which is so important and exciting topic to Panamanians.

Camilo Torres Circle Member Criticizes Treaty Changes

(Statement by Olimpo Saenz, member of the Camilo Torres Circle, on the 27 March Foreign Ministry communique on the U.S. Senate resolution to the Panama Canal neutrality treaty, during the "Canonero de Domplin" program—live)

The nation, the Panamanians of today and tomorrow, can never accept, under any circumstances, these amendments, which are extremely humilitating to the nation and to every Panamanian. Neither can they accept the reservations and understandings, for similar reasons.

The treaty submitted to the consideration of the Panamanian people in the 23 October plebiscite did not include these reservations, understandings, or amendments. Since a treaty is a document between two nations and since the United States added reservations and amendments and the Panamanians approved a treaty in a plebiscite that did not include these reservations and amendments, then the Panamanian people must express its position concerning these amendments, reservations and understandings.

According to the U.S. Constitution, it is the Senate's duty to ratify the treaty. According to the Panamanian Constitution, the treaty must be approved by the Panamanian people in a plebiscite, as approved by Article 274.

Romulo [Escobar Bethancourt] may say anything, just as he has been doing since he became Torrijos' adviser. He said these reservations and amendments are palatable. The only palatable thing here is the Panamanian people, who must express themselves; the only palatable thing here is the predominance of the nation's permanent interests over the goverment's interest, over the chief of staff's interests, over the interests of the $50 million offered to the National Guard, over the interests of the permanence of Torrijos as head of state, over the interests of all those close friends, or, as Diogenes de la Rosa said, the close enemies in power who have been feasting for the last 10 years on the public treasury which they refuse to give up. That is why they tell Torrijos the amendments and the reservations are palatable. Nothing in those amendments is palatable to the Panamanian people. On the contrary, it is dirty water, contaminated with germs that will last for 23 years and, in fact, perpetuity, but only the terms have been changed. The people have been deceived on many occasions. In the Spanish and English languages, perpetuity and permanence mean the same thing: something that is forever, that never ends.

Independent Lawyers Favor Rejection of Treaty Amendments

In a lengthy communique to the nation delivered to the communications media this afternoon, the Movement of Independent Lawyers (MAI) makes an extensive analysis of the amendments, reservations and understandings attached to the resolution of ratification of the neutrality treaty and ends by asking the government to reject said reservations.

The MAI notes that this is the only way the Republic of Panama can safeguard its sovereignty and give proof that it is consistent with the people's struggle and the tide of history, which will eventually raze all colonialist structures still existing in the world.

The extensive communique is signed by Carlos Ivan Zuniga, Bolivar Davalos, Carlos Enrique Adams, Joaquin Ortega, Juan Felipe de la Iglesia, Garcia Almengor, Mario Galindo, Tomas Herrera, Rodrigo Sanchez, Jose Manuel Faundez, Natividad Pinango, Elsa de Garcia and Diogenes Arosemena.

Matutino Urges Calm Study of Treaty Amendments

(Editorial: "At the Edge of the Great Decision")

With a high sense of responsibility that will go down in history, the revolutionary government, through the Foreign Ministry, has released to the nation the text of the U.S. Senate resolution on the Panama Canal neutrality treaty.

This information, which has reached the public before the document is officially delivered to the Panamanian Government, is intended by the government to educate our people about the changes to the treaty so they can express their comprehensive, calm and, above all, patriotic opinion.

The language used in that resolution is clear, precise, without any contradictory terms or legal jargon. The senators say what the United States wants, how it wants it and how long it wants it. They also state what that nation will not do, what must be conceded both on their part and on Panama's regarding certain clauses of the neutrality treaty. In effect, what the Senate documents convey, according to the resolution, is how the senators feel, how we should feel, how they speak and how they must be interpreted. To all of this they add how we should feel regarding thier interpretation of that treaty and how they want us to interpret what is written therein.

Going even further, the added documents specify the cases in which Panama and the United States jointly can or must act accordingly to given circumstances. And going even further they also state when they can act unilaterally in circumstances which they and/or we, jointly or by supposition [por supuesto], consider an attack against the Panama Canal's neutrality.

It is left up to the analytical minds of Panamanian jurists to make a deep and detailed study of these amendments and the amended treaty. To us, the men in the street, the Panamanians who feel and who by feeling give an opinion of mind and soul, we have only—but not least—to make an evaluation of those amendments in terms of the whole. We will obtain a clear concept of them in the light of the debates which surely will be elicited by such a significant topic and await the government's decision on behalf of the Panamanian people.

That decision (it is good to know this and to trust that it will not be any other way because there is no reason to doubt it) will never be made without regard to the interests of the fatherland. In making the decision the team led by General Torrijos will listen to as many Panamanians as wish to state their opinion regarding an issue which commits us before history. And it will be a decision born of national dignity and the course set by the people when they approved the Torrijos-Carter treaty in the 23 October 1977 plebiscite—that treaty, and not another with added documents which distort the essence of the one approved by Panama.

Because if they present us a disfigured, altered document in place of the one signed by a Panamanian in the presence of the chiefs of state of America, then we would face two treaties, that of 1903 and that of 1978, the latter having been subjected to Senate surgery without the benefit of an anesthetic and containing no Panamanian signature. The watchword of the moment is to wait calmly, analyze thoroughly and decide with dignity.

Strength Seen in Government Silence on Treaty Changes

(Danilo Caballero commentary)

The calmness of our people is tantamount to struggle. The approval of the Torrijos-Carter neutrality treaty—with the amendments, reservations and other limitations imposed on the original test by the U.S. Senate—is undoubtedly the vital focus of political expectations in Panama. This is understandable if we take into consideration that the canal problem is not only a matter of extreme sensitivity for our people but one of primary importance to the revolutionary process because it establishes a landmark in the true beginning of the decolonization of our territory. The attitude adopted by the people and the government has been the right one.

The position to be adopted now is one of impartial, comprehensive and sensible analysis of the amendments we already know and those that will undoubtedly be added to the second treaty. This position has nothing to do with the passions and resentments of the fatalism regarding our geographic position which prevailed in Panama in previous decades. An impartial analysis should be made because what is at stake is the destiny of the fatherland, the very existence of our people who are in a difficult position. A comprehensive analysis also should be made because it is impossible to analyze the new situation created by the amendments and reservations without looking at all the implications at the national and international levels. It should be a sensible analysis, because it implies that a people with our pride and sensitivity will never accept anything that would offend, even in the slightest, our dignity and our condition as free men.

The stand taken by Omar has, then, been the correct one. It is that no official position will be stated until the debates on the second treaty are held and it becomes evident what new cats the senators are going to let out of the bag. Meanwhile, the amendments and reservations are being studied from two necessary angles: the legal and the political.

We Panamanians possess the basic ability to visualize the future without hurrying and in terms of the revolutionary line.

There are the 9 years of struggle of the revolutionary government and even more directly the historic words of Omar's letter to President Carter. In this letter, our people, through the chief of government, reminded U.S. imperialism that neither our geographical size nor the difference in wealth of the two countries allows a large nation to offend the dignity of a courageous people.

Our historical struggle has been for decolonization—to remove the ignominious enclave and the U.S. military presence from our territory.

Our people approved the Torrijos-Carter treaties because they realized that we were smaller in strength and saw the treaties as a guarantee of decolonization. Logically, if the treaties deviate from their original aim of decolonization they are no longer what the people approved in the October Plebiscite. It is worthwhile to recall all of this, especially because it is the stand adopted by Omar, who together with the people and the national guard will make sure that deecolonization becomes a tangible reality for the generations to come. Consequently, we must have a clear picture of this game of amendments and reservations. We must realize that what is really desired is to limit the development of the revolutionary process by circumscribing all our aspirations. This is only one part of the problem. The other is the defeatist attitude of certain sectors which have never understood that a struggle for national liberation and a revolutionary process in a country such as ours are determined by complex situations which are not evident at first glance.

No, gentlemen of the historic fatalism, the revolution is not a party or a game. It is a very difficult science. It is a continuous struggle, and its duration cannot be determined by individual desires but by specific conditions.

Those of us who were born with the revolutionary process as a coherent voice in the media have complete trust in Omar and in our people. We know as well as everybody should that negotiations were chosen as the sacrifice with the least social cost. But the calmness of our people and revolutionary government should not be confused with apathy or lack of enthusiasm. On the contrary, that calmness is synonymous with struggle because those who are ready to give everything for the fatherland do not have to brag about it. In the revolutionary struggle calmness is a basic condition which reflects maturity. And in the same manner in which we calmly analyze the meaning of amendments and reservations we will confront any new situation that may arise and defend the honor of Panama. We are certain that the man who has placed our fatherland in a position of international dignity for the past 9 years is the one who will take up the final victory.

Columnist Examines Senate's Treaty Approval Role

("Bona Fide" column by Camilo O. Perez)

When the canal and neutrality treaties were still being negotiated, we wrote in this same column about the U.S. Senate's role in the treaties' ratification. We were not mistaken when we said that there were three alternatives:

1. That the Senate would ratify the treaties as accepted by Panama.

2. That it will definitely reject them.

3. That it will return them with reservation and amendments.

Today we are faced with the third alternative. Therefore, we believe that it would be well to reprint the column published last August. It reads as follows:

Can the Senate change or amend a treaty? Article II, Section 2, Paragraph 2 of the U.S. Constitution determines that the president can make international treaties "with the Senate's advice and consent based on a two-thirds majority vote of the senators present at the time of voting."

Notwithstanding this constitutional precept, practice as well as jurisprudence have reduced the senatorial function to the simple ratification of treaties. Therefore, the power and prerogative of negotiating international treaties has been left exclusively in presidential hands.

It is understood, however, that a pragmatic president will do everything possible to have both chambers on his side when negotiating treaties. This can be done by keeping Congress constantly informed, having the Congress' prior approval of the treaty in question or at least keeping the Senate Foreign Relations Committee informed about treaties that could present problems.

In 1936 the U.S. Supreme Court handed down a decision in this respect in the case of the United States versus the Curtiss Wright Corporation.

The Senate's specific functions begin when it is asked to approve a previously negotiated treaty. When this situation arises, the alternatives are the following:

A. Unconditionally approve the treaty in question.

B. Deny its approval.

C. Accept the treaty with conditions by stipulating a series of changes or amendments to the treaty.

However, the third option will practically create another treaty and would call for negotiations between the two parts involved. The Senate cannot, by means of amendments, impose its will on a sovereign nation. This was clearly established by the Supreme Court in the case of the Fourteen Diamond Rings versus the United States.

The above article, based on a consultation made by Dr. Hugo Spadafora, means that the third possibility, previously considered and a reality today, establishes the criteria for a rejection by means of amendments and reservations from the point of view of U.S. jurisdiction. Whatever Mr. Carter says now is in conflict with this juridical tradition. We shall continue. . . .

Aristides Royo Returns from U.S. Visit

With the return of Dr. Aristides Royo, negotiator of the Torrijos-Carter treaty, from the United States yesterday, the day ended in a suspenseful atmosphere with regard to the status of ratification of the canal documents. Approached by CRITICA at the Tocumen Airport terminal, the young negotiator was very cautious and sober in making statements, since his mission to Washington was carried out to express the official opinion of the Panamanian Government.

Dr. Royo did, however, call attention to the climate prevailing in Washington among members of the Senate. Specifically, it was learned that several senators who were in their respectives states for Easter week found quite a bit of discontent with regard to the senatorial decision to ratify the neutrality treaty. In fact, it is well known that there are already 200,000 signature on the petition to revoke the mandate of Senator DeConcini of Arizona, despite the fact that that senator suggested the famous reservation which harms the interests of Panamanians.

It is rumored in news circles that the purpose of Royo's trip to the U.S. capital was to express officially to President Carter's team of advisors the Panamanian Government's displeasure with the reservations and amendments introduced into the neutrality treaty.

Reports to Torrijos

In Farallon Chief of Government Gen. Omar Torrijos received a direct and confidential report from Aristides Royo, education minister and negotiator. Royo arrived from Washington last night, where he had been on an official mission.

Commentator Fears Precedent Set By Neutrality Treaty Changes

("Analysis of the News" commentary by Mario Velasquez)

The results of the voting on the neutrality treaty were described by the U.S. press and political analysts in that country as a victory for President Carter.

The narrow margin by which the treaty was approved came about after what has been termed the greatest and most intense public relations and publicity campaign ever carried out by the White House. The approval of this treaty and the approval of the treaty which will be voted on in a few weeks constitute a vital objective for Carter and his administration.

It was not only a matter of Carter's interests in solving an old conflict with Panama but also a concern with other domestic and international problems connected with the treaties. In his 14 months in office the neutrality treaty has been the first document of true importance which the Carter administration succeeded in having approved at the Capitol. During these 14 months the Carter administration has been going downhill in the eyes of the U.S. public. Several news articles and commentaries have questioned the President's ability and competence to deal with the complex and difficult public affairs of the United States. The rejection of the Panama Canal treaties—after the extraordinary publicity campaign carried out by the government in favor of the treaties and after the degree of Carter's participation in it—would have had devasting effects on the image of the White House and the President. Carter spoke with each of the 100 senators at least once. He made 87 telephone calls in the past 2 weeks and called or sent messages to certain stubborn senators at least half a dozen times. The President also held meetings with civic and political leaders and newsmen from at least 35 states to elucidate and brief them on the treaties. The day before the voting, Carter made 16 telephone calls in a desperate search for the magic number of 67 senators. Despite the spectacular decorations of this White House publicity campaign, I have the feeling that in a way President Carter and his advisers miscalculated the level of influence they could exert and the degree of resistance they would find in the senators. The fact which speaks for itself in this sense is that it was not until the morning of 15 March, 30 hours before the voting that President Carter, by accepting the dismal DeConcini reservation, gathered the votes necessary to reach the key number of 67 senators.

In effect, the 23 March issue of NEWSWEEK magazine affirmed that the DeConcini reservation was an instrument to help persuade at least three other senators, Bellmon of Oklahoma, Brooke of Massachusetts and Paul Hatfield of Montana, who in the end voted for the treaty. Carter accepted the DeConcini reservation because it was the only way to get the 67 votes. Despite the fact that Carter admits in the TIME magazine article that he had given his word to Torrijos, the President of the United States could not lose the vote. He had to win it at any price. This decisive fact occurred after the U.S. media had denounced certain maneuvers made by the White House to satisfy the requests of certain senators and thus win their support. At the end of the long debate on the neutrality treaty the U.S. Government realized that a defeat would not only have negative effects on its bilateral relations with Panama and multilateral relations with Latin America, but that it would affect the image of the Carter administration in important matters such as the energy bill, the SALT talks with the USSR—a pact which, in fact, is expected to meet strong resistance in the Senate—and U.S. Middle East policy. The treaties have even been connected to the existing concern over the presence of sizeable Cuban armed forces in the Horn of Africa.

Carter administration experts estimated that the rejection of the treaties would have a negative effect on the government, especially on Jimmy Carter himself, in the future handling of other affairs and on the political future of the President and his reelection possibilities for 1980.

In regard to the fate of the other treaty, which is the main treaty of the documents, I have the feeling it will also be approved. My fear is that since the door to amendments has been opened, and a precedent has been established on reservations and understandings in the ratification solution, this treaty will also be approved with a series of reservations that could change the spirit and wording of the treaty. If that occurs, it would be up to the Panamanian Government and people to adopt a decision on the treaties, amendments, reservations and understandings. Insofar as this decision rests with General Torrijos, I believe that we would be experiencing one of those crucial moments in the life of a country and its leader, in which case Torrijos would probably be facing the most important decision ever confronting a Panamanian in the 75 years of the republic's existence.

Treaty Changes Called Unacceptable Without New Plebiscite

(Article by Antonio J. Sucre: "How Do You See the Treaties? Quite Mistreated!")

Neither the question nor answer are mine. They were offered by two prominent Panamanian jurists shortly after the U.S. Senate's approval, with amendments and reservations, of the neutrality treaty.

This is the case, and I define my position as follows:

The amendments consist of the word-for-word addition of the Torrijos-Carter declaration into Articles IV and VI of the neutrality treaty. Such amendments are "palatable" [potable], according to Romulo Escobar Bethancourt, personal adviser to the chief of state.

If we apply this gastronomic term to diplomatic terminology, it would appear to indicate that the national government has decided to support such amendments, employing the formality that, since the aforementioned unsigned declaration had received wide publicity in Panama before the plebiscite, it was tacitly approved when the treaties were approved.

However, the reservations do have a deep effect and cannot be termed anything but sophisticated surgery.

Panama cannot reject such reservations without rejecting the treaty. If Panama chooses to accept the altered treaty, it would be committing itself to negotiate the concession of military bases after the year 2000.

One way or the other, sooner or later it would have to give its consent to the presence of military bases on its territory beyond the year 2000.

And this contradicts the spirit and text of the treaties submitted to plebiscite.

Mistreated as they have been by the U.S. Senate, such treaties, once they were approved by the United States, would require a new plebiscite in Panama.

To become "palatable," such reservations would have to be filtered through a new democratic process, which is obviously what they are trying to avoid.

Torrijos, National Guard Officers Discuss National Situation

Panamanian Chief of Government and National Guard Commander in Chief Gen. Omar Torrijos met with the General Staff, the military zones chiefs and the chiefs of several National Guard combat units at the Tinajita military post and from there left for Pedregal on a 15-km military administrative march [marcha administrativa militar] which ended at air force installations at Tocumen airport.

Along the march route a large number of people greeted the participants. During the march, General Torrijos, as well as Col. Garcia Ramirez, second in command, members of the general staff and the rest of the officers exchanged opinions on various matters an devaluated the situation of the country which awaits ratification of the new canal treaties by the U.S. Congress.

Col. Garcia Ramirez noted the importance of the equality existing among the National Guard officers and the high command. During the meeting, recently commissioned officers held cordial talks with General Staff members who later met separately, apparently to discuss the future of the canal treaties.

This meeting was held behind closed doors at the air force installations at Tocumen airport. Nothing has been revealed publicly about the subjects discussed or agreements reached. So far, no authorized spokesman has made any comment.

Torrijos Address Journalists on Canal Treaties, Elections

[Speech by Gen. Omar Torrijos Herrera during opening of Fifth National Journalists Congress in Santiago, Veraguas Province. on 1 April—recorded]

Executive board members of the National Union of Panamanian Journalists, Monsignor Nunez [as heard], all comrades: I wanted to take advantage of this opportunity during the national press meeting in Veraguas to make certain pronouncements which directly affect the course of the domestic and political life of the country. However, I first want to commend you on the organization, the hours of work that I know went into organizing a congress such as this one and for the great many truths that have uttered here, truths which I know and which I will summarize by recalling a single incident.

When Dr. Escobar Bethancourt spoke about the role of youth guide played by Manuel Celestino Gonzalez, I could remember that during my early years as first lieutenant and second lieutenant in the National Guard, Manuel Celestino Gonzalez used to visit the prison house regularly. From the place where we picked him up and took him to his almost regular residence, which was the model prison—the regular residence of all those whose views were opposed to the system—along that route, whether as sermonizing or advice or plain conversation, everything he said was true. Everything he said was true, and that is how one came to realize that the mission of the armed forces could not continue to be the persecution of anybody for his ideas or because his way of thinking asked for changes in the status quo.

We are almost 75 years from the day of our independence. The country's social calendar is 22 years away from the 21st century.

I mention these dates because it is necessary for us to understand that whatever we do now or fail to do is directly related to the way in which the future generations will greet the dawn of the 21st century.

This year, to speak even more specifically, this year, 1978, rife with emotions, triumphs, unpleasantness and victories, each Panamanian has to think over and become convinced that his views on the treaty should be responsible and well thought out, so that his final decision will be a contribution, will contribute to the national life a view that was well thought out in his own conscience since the government will not express any views or make final decisions or condemn or applaud what is going on right now until they return to us the treaty that we forwarded. Then, within an overall framework, we will examine what the people approved during the plebiscite and how the U.S. Senate interpreted the views that the people approved in the treaties that were submitted for discussion and approval during the plebiscite.

After that, in a wide-reaching and far-ranging way, using all means of communication, we, the government, will consult the views of this people, and within the framework of those views we will decide on the answers and the way to respond to what the United States has sent back.

This is the time when all of us, including myself, must make great efforts not to feel, feel and feel but to think, think and think and not fall into the unsound attitude of considering the returned treaty to be bad if it affects the interests of the group that it represents even if it is good for the country or the opposing view—bad for the country but good for the stability or survival of the government.

In this respect I can give full assurances to the people through all the newsmen present here that if the treaty harms the interests of the country it has to be bad for the interests of the government. This is not an observation that I have made by myself. I made it after consulting with the ranking military commands and after observing that my daily promenades [patrullaje], daily conversations and the daily dialog begun almost 10 years ago have made me realize that if the permanence in power of General Torrijos and his government team depended on selling out the homeland, selling out its dignity, selling out the dignity of those who have not even been born yet, then we would not stay in power a single minute after such a sell-out plan or idea came to light. I say this because back in 1969 and 1970, when we had not even formed a government team and when many of our plans and desires were mere ideas and not programs as they are now, we were threatened along with other guard officers who held views similar to those of the people who maintain the enclave. We were threatened that if we did not carry out what the government that we had just overthrown had agreed upon in the sense of ratifying the treaties as soon as possible, the stability of the government would be jeopardized.

That was the time when at the International Hotel—and I think in the presence of Dr. Romulo Betancourt [as heard] and others—I said that if in order to stay in power I had to betray my country, I would rather leave right away. And I say this because it has been my consistent, consistent, consistent way of thinking, and when a man is consistent in his way of thinking no fear can be harbored that he will change his conceptual, intimate, worthy truth overnight for a truth based on convenience.

I attach great importance, almost historic importance to these elections, the electoral process that has already started and whose initial stages are already being carried out, because this event coincides with the greatest international event that our country has experienced, the ratification or refusal to ratify [the treaties] and because this event comes at a time when history sees all the countries that support the Panamanian cause.

All countries without exception—not one has failed to voice its solidarity so far—have their eyes set on the domestic and politcal behavior of the government and people of Panama.

I understand that every era, every year, every political year, every stage has its development plan and its politcal leadership plan. I understand that every era is marked by a certain attitude, and I think it is high time to say that the government is willing to assume an attitude, to assume the initiative of an attitude of realignment of the politcal structures. In this sense, the executive branch has not adopted and does not plan to adopt an unyielding, sectarian attitude because unyielding and sectarian attitudes de-

stabilize the government and could perhaps lead to the reappearance of the elements of social unrest which compelled the National Guard to become involved in national life. What we do will be done with the conviction that we should make an effort to end the causes of discontent that permanently placed the population—the students, the workers, the Panamanians [as heard]—in opposition to the public forces, and we would not even want to remember those things of the past. That is why we cannot be unyielding, precisely because we were used almost in a (sports-like) fashion to correct the intransigent attitudes of other governments.

If after August, which I am leaving open for you to think about or to analyze, the incumbent and the elected representatives feel that adjustments have to be made to the constitution to accommodate the legislative, administrative and political structures so that the country can enter a stage of increased consultations, the government will not take issue with this, and it is willing to take the initiative to discuss whether the next representatives assembly can include with effective voice and vote, with full legislative powers, the vice presidents elected in every province into the National Legislation Council.

Furthermore, as food for thought, if you do not feel that this is sufficient, we are even [willing] to include the entire assembly, to grant the entire assembly the real power to legislative and not have any laws that are not approved by consensus, a consensus of half the members plus one, and this would compel the executive branch to consult more extensively, more profoundly and more regularly on laws which have great significance in the national life. This also compels the representative to consult the various opinion groups existing in his electoral jurisdiction because if he does not consult with them and airs views that are not checked out with the people who eletced him, he could make any of the mistakes that would lead to the revoking of his mandate.

All these ideas are aimed at achieving a somewhat more flexible administration, a legislation that is closer to the people and is the result of greater consultation. The executive branch would also be willing to share its responsibilities in certain important administration post, such as certain autonomous agencies, by submitting the appointment of certain directors to the approval of the representative assembly. In other words, if the executive branch submits the appointment and the assembly does not confirm it, the assembly would be involved in the election of those who from prominent positions have to cope with major national work groups. Thus we are giving the 505 representatives what in the United Nations could be called a veto power.

The public forces which I am honored to command do not harbor and have never harbored the intention of making incorrect, domineering, terrorizing use of Article 2 of the constitution. What does scare the public forces, and I want to state its through the most outstanding representatives [of the people], is the prospect of going back to those times when the public forces were consulted only to be ordered to fix the bayonet and disrupt the tranquillity, the liberties of all those men who, filled with extreme emotion regarding the cause of their country, could not endure so many injustices and consequently disrupted order by staging demonstrations. What order did they disrupt. I wonder. The order established by the governments of the chosen group and for the chosen group.

Indeed, the officers have asked me that if there is any change, any constitutional adjustment, [cualquier cambio, cualquier ajuste constitucional] it reduce the possibilities that the public forces may be used as forces of revenge or reprisal to correct the errors, the neglect, the carelessness and the frauds of the governments, as we were so often used in the past.

I am airing all these views because I am convinced of the value of the system, a system which honors the natural leaders in every community, a system which gives opportunities to all those who really deserve them and a system in which leading a man to the polling booth to cast his vote of support for the natural leader is a fact that is viewed as a conversation between two neighbors and as a commitment that one neighbor enters into with another. It is a system that is based on real, not apparent, democracy, a system which tackles real, not apparent, problems, a system which aims for real solutions and not apparent solutions. If, despite the system, isolated instances have occured in the administration, and isolated instances have indeed occurred, they had to occur. [sentence as heard] Let us not deceive ourselves, they will not be completely eradicated. But they are isolated instances. They do not constitute the overall conduct of the government. Proof of this is that, once they were discovered, punishment was meted out. How? The greatest punishment for whoever misuses state funds or his powers is not prosecution, because prosecutors hardly even punish anymore since the thieves do not leave a bill, and if one does not have a bill they are not punished. The greatest punishment is publicity. That is it. The press commending, or punishing [sancionando] someone who does not deserve to be applauded. I say that this system aims for real solutions [causas], because throughout 9 years we have been able to introduce many real solutions. We have been able to eradicate many problems the lack of solution of which once kept the people in a constant state of protest. But back then it was much easier for the governments to stay in power because they had a well-behaving and ordinary [adocenada] guard which was capable of hurting, imprisoning or killing even the lowliest student representative or even the lowliest son of this poor people. Thank you. [applause]

Negotiator Lopez Guevara Analyzes DeConcini Reservation

The government has sponsored a series of informational meetings with communications media representatives to explain those points of the treaties which the government feels should be made clear to the community. The second meeting of this series was held today with negotiator Carlos Alfredo Lopez Guevara presiding. Lopez Guevara began by saying that there is a basic problem in the usage of the words, conditions, reservations and understandings. According to Lopez Guevara, these are terms used by the Senate in its internal relations with the U.S. President. What must be clear, Lopez Guevara said, is that the two countries are bound by the contents of the notes exchanged on the ratification documents. He added that whatever is said in exchange notes will also be negotiated, and the two countries will be bound by it.

However, Lopez Guevara said that Panama has formally requested these documents in order to have a more specific idea of the scope of the terms used by the Senate and their connotation in the U.S. legal system.

Lopez Guevara explained the meaning of the word reservation as it is used in international law. He said that it means a counterporposal made by one party to the other. This counterproposal can be accepted, rejected nor negotiated upon by the other party. If one of the parties rejects the counterproposal or reservation and at the same time presents another, this must be done before the exchange of notes because one cannot participate in the exchange ceremony with reservations.

Lopez Guevara described the exchange of notes as a ceremony that should be carried out based on the identical English and Spanish versions of the text previously approved by the two parties, the United States and Panama in this case.

During the question and answer period, Lopez Guevara expressed his point of view by stressing that he feels it is important for Panama to reiterate the principle of nonintervention in the exchange of notes. According to Lopez Guevara, not as a negotiator or government official, but in his own personal opinion, the two amendments known as the leadership amendments are an expansion of the Torrijos-Carter memorandum of understanding issued on 14 October 1977. According to Lopez Guevara, the Nunn reservation does not contradict specific regulations of the treaty because in the same fashion in which Panama can negotiate commercial and agriculture treaties with the United States it can also negotiate in the future a possible U.S. military presence.

Lopez Guevara added, still expressing his personal opinion, that just as a constitutional regulation could be used to dispose of the Nunn reservation, there are legal arguments which could also be used to detract from the value of this reservation.

Lopez Guevara answered a question regarding Aristides Royo's recent trip to Washington by saying that today's meeting was not held for the purpose of releasing news but for the journalists and government officials to talk. He referred to Royo's trip to Washington as a dialog held by the two parties.

During the meeting Lopez Guevara said on three different occasions that the national government has not adopted a position regarding the amendments and reservations introduced by the U.S. senators in the ratification process in the United States. He said that the government will adopt a position as soon as the U.S. Senate completes the U.S. ratification process. He described a preliminary statement as unnecessary.

Replying to questions, Lopez Guevara said that the documents issued by the Foreign Ministry would open what he termed to be a full range of possibilities regarding a national consensus. In giving his opinion as a lawyer, he stressed that if the amendments and reservations introduced by the Senate and included in the ratification resolution involve substantial changes to the treaties approved by the Panamanian people, then another plebiscite would have to be held.

However, Lopez Guevara made his very personal interpretation of the DeConcini reservation. He said that it is a naked and bare-faced interpretation of Article 4 of the neutrality treaty. He said this naked and bare-faced presentation is in fact more offensive, but that it does not detract from what is stated in Article 4 of the neutrality treaty. However, Lopez Guevara conceded that DeConcini's reasons for the reservation given to the Senate on 16 March would serve, in case of doubt, as a reference point to clarify the extent of the reservation approved and included in the resolution of ratification. Lopez Guevara estimated that if Panama makes an effort to reaffirm the nonintervention principle expressed in the exchange of notes, this principle would prevail over the DeConcini reservation because it has legal precedence. In any case, Lopez Guevara replied to questions of possible U.S. intervention in Panama as a result of the DeConcini reservation. First, he said, the U.S. attitude at the present time would not permit the disembarkation of Marines, as in Santo Domingo. Second, after the U.S. experience in Vietnam, the Senate would not permit U.S. troops to be sent abroad again. Third, the attitude of the U.S. people is changing. He noted in this respect that it had not taken him, Lopez Guevara, more than 10 minutes to change the mind of an average U.S. citizen by explaining things to him.

Fourth, he has faith in what he perceives to be the honesty of U.S. youth.

Lopez Guevara rejected the notion that during the neutrality treaty debates the U.S. senators made a show of arrogance by taking into consideration only the interests of their own country without any consideration for the small country they were dealing with. Lopez Guevara mentioned the names of two or three senators, including Frank Church, who spoke in favor of Panama. The Senate is made up of 100 senators. He did not make any comments on the statements of minority leader Howard Baker, who immediately after the voting on the neutrality treaty told the U.S. press that he had never before received such a large amount of mail as that received by the Senate against the Panama Canal treaties.

Even though Lopez Guevara showed respect for freedom of the press, a freedom accepted by the Panamanian Foreign Ministry itself, he warned of the danger of elaborating on the possibilities of intervention opened by the DeConcini reservation, noting that this could serve as a precedent and that there was no reason to play into the hand of the North Americans.

Columnist Calls Some Treaty Amendments Acceptable

("Macheteando" column by Mario Augusto Rodriquez: "Acceptable Amendments")

Among the additions which the U.S. Senate made to the Torrijos-Carter treaty to transform it into a different treaty, there are, in my opinion, some which would be acceptable or, even more, would have to be accepted by our government and people. I refer to those which constitute only a transcription of the memorandum of understanding agreed to by President Carter and Chief of Government Torrijos before the treaties were submitted in a plebiscite to the Panamanian people. It is true that the memorandum was never signed by either Carter or Torrijos. But it was publicly accepted by both government leaders, that is to say, it is backed by their word. And the word of a statesman, of a government leader, is worth as much as or more than his signature. In Panama's case it is true that the memorandum was not included among the documents specifically listed on the ballot. But it is equally true that its text was known much in advance, that it was public knowledge that General Torrijos had not only approved it but had expressed his willingness to sign it. That is to say, when we went to the polls and chose the affirmative answer by a majority of over two-thirds, we knew exactly that the corresponding texts were interpreted and would be applied in accordance with the explanation contained in the memorandum subsequently added as an "amendment" by the Senate.

In addition, the text of the memorandum of understanding in no way changes the significance of the dispositions originally included in the Torrijos-Carter treaty concerning neutrality.

Immediately after the "amendments" consisting of the Torrijos-Carter memorandum of understanding come the "understandings" added by the Senate on its own account and at its own risk. The first "understanding" refers specifically to Article V of the Torrijos-Carter treaty on neutrality. It is the most important article for Panama and in a clear and precise way guarantees our rights and responsibilities after the year 2000.

That article is also convenient for the United States because it guarantees that Panama will not be able to permit the military forces of any other country to occupy areas which up until that date had been occupied—although in an evidently arbitrary way—by the U.S. military. But it appears that not even that guarantee was sufficiently satisfactory for the minority of conservative senators who were able to impose their prejudices and perplexities "democratically" upon the majority of their colleagues and even the Government of the United States.

Torrijos Letter Explains Stand on Treaty Ratification

Dr. Jorge E. Illueca has explained to each and every one of the United Nations permanent delegates Panama's official position on the amendments, reservations and agreements introduced into the Torrijos-Carter neutrality treaty.

Dr. Illueca, our representative at that important international organization, explained to all the delegates that the Panamanian Government has a specific method to deal with the recent developments connected with the Senate's decision to introduce reservations and amendments into the neutrality treaty. At the right moment, he added, the Panamanian Government will announce its final decision. The document was drafted by our Foreign Ministry.

The Panamanian document was immediately translated into all the official working languages of the United Nations.

Meanwhile, it has been learned that the Panamanian chief of government has sent a letter to all presidents, chiefs of government, kings and other leaders through the representatives of the more than 115 states that comprise the United Nations. The letter explains Panama's position on the U.S. Senate's current process of ratification of the treaties.

Jurists Score DeConcini Treaty Reservation

At a panel meeting sponsored by the Panamanian Executive Association [APEDE] last night, Panamanian jurists Julio Linares and Cesar Quintero advocated the complete rejection of the DeConcini reservation to the neutrality treaty.

Both agreed that the DeConcini reservation contradicts the originally signed neutrality treaty because it grants the United States the right to intervene in Panama, to occupy our entire territory militarily and to exercise sovereign rights at least over the occupied areas.

The two jurists pointed out that any reservation to a treaty entered into between two nations is considered to be a rejection of the treaty, since it is an attempt to modify or limit the scope of the treaty, and that the reservations made to the neutrality treaty affect the structure of the treaties as originally approved.

Dr. Quintero said he doubts whether the U.S. Senate will ratify the Panama Canal Treaty without reservations and amendments. To him, this is the more important of the two treaties.

Dr. Quintero also pointed to the serious threat to the integrity of Panama as a nation posed by the reservation presented by Senator Nunn, which states that after the year 2000, Panama and the United States may at any time after 31 December 1999 make agreements on the fulfillment of their responsibilities to maintain the neutrality regime, as well as on the stationing of U.S. military forces or the maintenance in the Republic of Panama of U.S. defense sites after the date that both nations may deem appropriate. Dr. Quintero explained that he feels that sooner or later Panama will have to consent to the presence of military bases on its territory beyond the year 2000.

The distinguished Panamanian lawyers agreed that for approval of the neutrality treaty, the national government must call a second plebiscite because the constitution of the Republic of Panama establishes that to ratify a treaty of the type with which we are concerned, it is imperative to have the approval of the Panamanian people and the executive branch. On the other hand, the jurist explained, if the treaty is rejected by the Panamanian people, the national government does not need to call a plebiscite.

Dr. Quintero said he is of the opinion that President Carter is committed to the ratification of the treaty. It is clear, however, he added, that he cannot reject any of the amendments or reservations introduced by the U.S. Senate.

If the treaties are rejected by the Republic of Panama, they would become ineffective, and a new period of negotiations could be reopened.

The reservations made to the neutrality treaty, according to Dr. Linares, are contrary not only to the UN Charter but to a number of treaties which prohibit the intervention of a state in the internal affairs of another.

Dr. Carlos Sucre, another panelist invited by APEDE to take part in the broad debate on the reservations, amendments and accords to the neutrality treaty, reserved the right to express his opinion after the U.S. Senate decision on the Panama Canal treaty.

Some persons attending the panel, members of APEDE, questioned the need to wait until the Panama Canal treaty ratification, while others opposed ratification of the treaties with the reservations introduced by the U.S. Senate.

Independent Lawyers Call for Rejection of Treaty Changes

(Manifesto No. 4 Issued by Movement of Independent Lawyers)

The Movement of Independent Lawyers (MAI), which has carefully followed the development of the U.S. Senate deliberations regarding the ratification of the Torrijos-Carter treaties, believes that since the first phase of the ratification process is over, it should explain its position on what that legislative body has done so far.

As the public knows, the MAI opposed the ratification of the Torrijos-Carter treaties by the Republic of Panama on the grounds that the treaties, far from satisfying the legitimate aspirations for which the Panamanian people have struggled, imposed onerous burdens on our country which are in no way justifiable and which deeply harm the most cherished national interests.

When the U.S. Senate began formal consideration of the treaties, the MAI decided to refrain from making a public pronouncement regarding the treaties or the process of ratification. Two basic considerations justified this decision: first, that anything the movement said would not exert any desirable influence on the decision reached by that legislative body with regard to the matter concerning all of us. The second and perhaps more important reason concerns the MAI's interests in not having its position regarding the treaties confused with that of the senators who, for reasons very different from ours, opposed ratification of the treaties.

In the face of the fait accompli of the amendments and reservations (hereinafter to be called the senatorial changes) which the U.S. Senate has introduced into the misnamed "Treaty Regarding the Permanent Neutrality and Operation of the Panama Canal," the national government has decreed an official silence pending the completion of the ratification process. This silence, if it were really observed, would perhaps be justified by virtue of the wide-ranging and serious consequences that will necessarily result from whatever decision the government reaches with regard to the acceptance or rejection of the amended treaties. However, a source of concern lies in the fact that while decreeing the above mentioned silence the government, in the voice of Dr. Romulo Escobar Bethancourt, announced that the senatorial reforms are "potable" ["potables"], which is equivalent to saying that they are acceptable. Apart from the fact that this statement is a prejudgment regarding the basis of the problem which allegedly is to be studied, it could undoubtedly also induce many foreign govern-

ments which have supported our cause to hasten unwittingly to the support of the amended treaty, when in the final analysis the position of the Panamanian Government must be precisely that of rejecting the new contractual texts as the historic meaning of the Panamanian people's struggle demands. The situation that would result from such actions by foreign governments would in no way be favorable to our national interests.

In view of the Senate changes and the approval accorded them initially by the Panamanian Government, the MAI believes that the reasons for maintaining silence no longer exists, and it believes that the time has come to explain its position with regard to the ramifications of these changes.

As far as is known on the date of this communique, the senatorial changes consist of: A) incorporation of the Torrijos-Carter statement of understanding into the neutrality treaty; B) provision for the possibility that the Republic of Panama may grant to the United States of America, after the year 2000, the right to maintain military bases on Panamanian territory; and C) concession to the United States, independent of the other provisions of the treaty, of the unrestricted, unconditional and unilateral right to take whatever measures it considers convenient—including the right to use its armed forces on Panamanian territory without the consent of the territorial sovereign—in the event that the canal is closed or its operations are interfered with for any reason, including purely domestic matters.

The Torrijos-Carter statement of understanding of 14 October 1977, as the MAI stated from the beginning, reiterated by way of clarification certain rights injurious to Panama which are granted to the United States in the neutrality treaty—rights which also constitute a most emphatic denial of neutrality in the true sense of the word. From this viewpoint, the Torrijos-Carter statement of understanding, despite its faulty wording, does not grant to the United States rights other than those contained in the treaty to which the statement of understanding refers. Consequently, the incorporation of said agreement into the text of the neutrality treaty, although formally an amendment of the treaty, in the main merely restates the harmful concessions granted in the treaty. Therefore, the amendment follows the literal sense of said understanding which repeatedly refers to the treaty and is based specifically on Articles 4 and 5.

The other two senatorial changes mentioned in previous paragraphs, on the contrary, if accepted by the Republic of Panama, would undoubtedly constitute substantial changes in form and content of the neutrality treaty, to the extent that the United States, through these changes, has proposed to the Republic of Panama the conclusion of a treaty that differs from the original.

One such change, ignoring the literal sense of Article V of the neutrality treaty, according to which after the year 2000 "only the Republic of Panama shall maintain military forces, defense sites and military installations within its territory," considers the possibility that the Republic of Panama will grant the United States the right to have military bases on Panamanian territory after that date. It is said that this change is without substance since it is always within the power of any state, in the exercise of its sovereign rights, to amend at its own discretion through bilateral agreements the treaties it has concluded with another state. This argument is not valid. In effect, it happens that one of the aspects of the neutrality treaty highlighted by the national government was the very fact that it called for the dismantling of existing U.S. military bases in Panama by the year 2000, a fact which might have induced some states interested in this dismantling to take part in the neutrality treaty by becoming signatories to it. With this adherence completed, repeatedly government spokesmen [as published] would no longer be a bilateral agreement but would become a multilateral agreement with the consequence that any change which anyone desired to make in it would have to be agreed on by all the states signing the treaty. In contrast, the senatorial amendment under discussion would permit the Republic of Panama and the United States without the consent of the other states taking part in the treaty, to conclude bilateral military agreements to permit the United States to maintain bases in Panama after the year 2000. Such agreements would ruin the neutrality treaty even more. This being the case, no state which is not within the sphere of U.S. influence would be party to this treaty. Nobody who studies the ramifications of the senatorial reservation in the light of the aforementioned can say that the reservation is harmless.

The other change which has been mentioned, that of Senator Dennis DeConcini, would give the United States the right to take any measures it deems necessary, including the use of its armed forces in Panamanian territory, if the canal is closed or its operations are interfered with for any reason, even when such reasons pertain exclusively to the internal affairs of the Republic of Panama.

Viewed from any angle, the DeConcini reservation is a reprehensible and outrageous U.S. attempt to get the Republic of Panama to give the United States the right to intervene in affairs within our exclusive jurisdiction If anyone doubts that it extends this far, let him read the words Senator DeConcini used to support his reservation in the U.S. Senate.

The MAI has no choice but to express its most profound indignation at the lack of respect the DeConcini reservation shows for the Republic of Panama. Fundamentally, its approval is a challenge to the Panamanian people's nationalist calling, a calling which has apparently been underestimated by the U.S. Senate.

If the DeConcini amendment had been proposed by U.S. Government representatives at the treaty negotiation stage, it would undoubtedly have been rejected. There is no valid reason to accept it now or to employ legal or diplomatic sophistry to minimize its repercussions and to ignore the irreparable harm which its approval by the Panamanian Government would do to the Panamanian state and nation.

On the other hand, it should be noted that in connection with the forementioned senatorial changes it is clear that the U.S. Senate has not approved the Torrijos-Carter treaty. To pretend otherwise is to fail to see the truth and the legal facts. As treaty writers Moore, Kelsen, Hackworth, Verdross, Rousseau, Accioly, Podesta Costa, Oppenheim, Shwarzenberg and Anzilotti point out, in bilateral treaties reservations are equivalent to a rejection of the signed treaty and should be viewed as an offer to obtain a new treaty. This, no more and no less, is what the U.S. Government will be proposing to the Republic of Panama when it asks Panama to accept the reservations approved by the U.S. Senate.

The unequivocal rejection of said reservation is the only way in which the Republic of Panama can safeguard its sovereignty and demonstrate that it is on the side of the struggle of its people and with the tide of history that will sweep away all the colonialist structures that remain in the world. To accept these reservations is to condemn the present and future generations to having to hear once again the phrase which U.S. Secretary of State Hay uttered in 1903 when he said that the treaty is rife with clauses that every Panamanian patriot should object to.

Panama, 23 March 1978.

For the MAI (the executive and consultative board).

(Signed) Carlos Ivan Zuniga, Mario Galindo H., Bolivar Davalos Moncayo, Tomas Herrera, Carlo Enrique Adames, Rodrigo Sanchez, Jose M. Faundez, Joaquin Ortega V., Natividad E. Pinango, Juan Felipe de la Iglesia, Elsa M. De Garcia, M. B. Barcia Almengor, Diogenes A. Arosemena G.

REVOLUTIONARY STUDENTS ISSUE ANTITREATY COMMUINQUE

(Communique Issued by Revolutionaary Students Front; Read by Member Guillermo Calvo—Date Not Given)

In view of the situation presently prevailing in the country, in which the canal issue is the main concern, the FER-29 [Revolutionary Students Front] finds it necessary to explain its position to the citizenry.

The treaty is a manifestation at our level of the efforts being carried out worldwide by the Yankee imperialists to improve their image and that of the capitalist system at a time when the system is experiencing one of its worst economic crises.

At present, the national liberation movements in Asia and Africa have weakened the political and economic domination of the United States of America. Therefore, on this continent, the Torrijos-Carter treaty has been signed as a mechanism to maintain the domination of the Yankees in Latin America—their strategic rearguard in the face of the defeats they have suffered at the hands of popular forces on other continents.

Role of the Government in the Negotiations:

The Torrijos government maintained throughout the negotiating process a position of defeatism and surrender as a result of its economic bankruptcy and its $2 billion debt to the Yankees. The outcome of these negotiations behind the people's backs—after a discussion in which the freedom of expression of those of us who opposed the treaty was curtailed—was a treaty which from the legal point of view is a monstrous aberration and which politically and economically favors the Yankee imperialists and the dominant Panamanian classes and leaves untouched the causes of conflict between the United States and Panama.

Ratification of the Neutrality Pact and its Amendments and Reservations:

After a series of insults was hurled at Panama by the U.S. Senate, the neutrality treaty was ratified with its respective amendments and reservations. These amendments and reservations are designed to clarify the ambiguities contained in the neutrality pact and clearly establish the framework for U.S. action in Panama.

The reservation of Senator Dennis DeConcini established . . right to interfere whenever the United States for any reason unilaterally considers free transit through the waterway to be threatened. We know that for the Yankees a student strike, a situation of economic crisis or a request by workers for a wage increase would be sufficient motive for the U.S. President to order a military invasion.

The government is therefore at a crossroads. It must either reject the amendment or allow intervention. The military men who are in power cannot act freely since they respond to the interests of the rich classes, interests which are the same as those of the imperialists, and the amendments serve as a guarantee by which the United States can protect its economic and political interests throughout Latin America. If the government accepts these amendments, it will be legalizing a permanent intervention in our fatherland and it will be stripping itself of its revolutionary mask to revealing what it has always been—servile, defeatist and traitorous.

We know that the government will not reject the amendments or the treaty because the treaty is its last means of emerging from the economic asphyxiation in which it finds itself as a result of its irrational policy of

promoting models of development which favor nonproductive capital sectors such as commerce and services.

Now that the true imperialist nature of the Torrijos-Carter treaties has been revealed, the popular movement, which from the beginning strongly rejected the treaties, has stepped up its repudiation of them. Panamanian revolutionaries and patriots have established as their immediate goal the rejection, not only of the amendments, but also of both treaties, since they are injurious to national sovereignty and dignity. We must shake off once and for all the mirage of an easy victory and realize that the struggle will be long and hard and full of sacrifice if we are to perform the tasks that the situation demands. Now more than ever, we must defend our right to make decisions regarding a problem that is so important to our people—the problem of the canal. An attempt to usurp this right is being made by those who seek only a more viable formula for continuing the exploitation of our people. Sovereignty or death, we shall triumph.

TREATY AMENDMENTS SEEN AS CHANGING NEUTRALITY CONCEPT

("Conciencia Publica" column by Miguel Angel Moreno Gongora: "The Declaration of Understanding")

In the 23 October 1977 plebiscite we approved the Panama Canal treaties together with their annexes and protocols, which several weeks earlier, on 7 September, had been signed by Carter and Torrijos in a pompous and spectacular ceremony in Washington. This plebiscite was preceded by a worrisome and hasty public debate in which the opponents of the United States had only 45 days to express ideas and establish positions.

The chief of government of Panama arrived in Washington, and after his meeting with Carter on 14 October a declaration of understanding was issued referring to Article IV of the neutrality treaty which interpolates the criteria that "each of the two countries, according to their respective constitutional procedures, will defend the canal against any threat to its neutrality and consequently will have the right to act in case of aggression or threat directed against the canal or the peaceful transit of ships through the canal," and that "the neutrality treaty provides that the warships and auxiliary ships of the United States and Panama will have the right to transit the canal in an expeditious manner." This has the intention, and it will be so interpreted, of insuring the transit of those ships through the canal as quickly as possible, without obstacles, with simplified documentation and, in case of necessity or emergency, to go to the head of the line to transit the canal quickly.

The North Americans, who have now assumed the power to determine what the Panamanians aspire to, feel, reject or want, said that the declaration does not require another plebiscite and that the senators could therefore approve it as an amendment. But they were wrong again because from this moment on, in my opinion and in the opinion of many Panamanians, it is not necessary to expect further amendments, reservations, conditions or understandings to consider the neutrality treaty changed.

The inclusion of the declaration of understanding as an amendment to the neutrality treaty constitutes a substantial change to the sense and objective of the treaty because granting special concessions and privileges to U.S. ships changes the neutrality concept, which means no participation in any state of belligerency and complete impartiality. It also represents a negation of the will of the people. If the declaration was not included in the treaties passed in the plebiscite, it is clear that it does not have our consent.

The senators, not content with the declaration of understanding and demonstrating a great lack of confidence, even with President Carter, and with irrepressible colonialist voracity, went even further and introduced, through an "understanding," the concept that the interpretation of the state of "necessity or emergency" for any U.S. ship to go to the head of the line to transit the canal in an expeditious manner will be made unilaterally by the United States. This means that every time that the United States "feels like it," it can allege "necessity or emergency," and we cannot even express our opinion. We have no right to dispute it.

If the introduction of the declaration of understanding as an amendment substantially altered the will of the Panamanian people, the understanding which confers the right of unilateral interpretation to the United States of the meaning of "necessity or emergency" constitutes the greatest disregard for our dignity as a free and sovereign nation.

MATUTINO COLUMNIST URGES REJECTION OF SENATE AMENDMENTS

(Article by Carlos Bolivar Pedreschi)

At the beginning of the very brief and unique national debate over the Torrijos-Carter treaties in October 1977, some Panamanians concerned about the country's fate pointed out the possible interpretation that could be made of some of the treaties' clauses. One of these clauses was precisely Clause IV of the "Treaty Regarding the Permanent Neutrality and Operation of the Panama Canal," which virtually made the United States the only guarantor of the canal's so-called neutrality and its operation.

With regard to this clause, we said that the way in which it was improvidently drafted was laying the foundation for the interpretation that the neutrality treaty was giving the United States the right to intervene militarily in Panamanian territory by way of a supposed defense of the canal's neutrality and operation. During the negotiations, when the government had not yet departed from some positions which we at the time thought were positive, the government itself was aware of the risk in officially granting the U.S. Government the status of being the only guarantor of neutrality. As a matter of fact, government spokesmen said, with sufficient foundation in our opinion, that "in providing that the United States is the only guarantor, we are granting it the right to intervene unilaterally in Panama in the 21st century."

This obvious risk of U.S. military meddling in Panama in the 21st century, which is implied by recognizing the United States as the only guarantor of neutrality, was explicitly corroborated by the negotiators and U.S. officials. In fact, this time the Panamanian Government could not say, regarding U.S. military intervention in Panama, that it was deceived by the negotiators and other U.S. Government officials. Colonialism has spoken clearly on this occasion. As a matter of fact no other conclusion can be deduced from the statements made by spokesmen of that colonialism which we proceed to transcribe:

". . . The treaty does not place limitations on our ability to take the necessary measures in case the canal's neutrality is threatened or violated" (statement by negotiator Linowitz published in the Miami HERALD on 9 September 1977).

"The United States not only can decide unilaterally to intervene in Panama after the year 2000, but in the next 23 years it will be exclusively the decision of the United States to determine how many soldiers should stay in the Canal Zone to defend the canal" (statement by U.S. Defense Secretary Harold Brown, published in LA ESTRELLA DE PANAMA on 28 September 1977).

And finally, here is what the letter and spirit of the neutrality treaty means to the U.S. Government:

". . . The treaties give U.S. forces the right to defend the canal even against Panama" (statement by George S. Brown, chief of staff of the U.S. Armed Forces, published by the Miami HERALD on 27 September 1977).

But even if some might have understood that the U.S. right to intervene militarily in Panama after the year 2000 was limited to military intervention in the Panamanian territory known as the Canal Zone—an action still sufficiently harmful to the national sovereignty and dignity—it now seems that according to one of the conditions presented by the Senate for the ratification and validation of the Treaty. Regarding the Permanent Neutrality and Operation of the Panama Canal, this right of perpetual U.S. military intervention in Panama is extended to all of the national territory. This is a right which not even the infamous 1903 treaty granted the U.S. Government. Provision No. 1 approved by the U.S. Senate as a condition for ratification and validation of the neutrality treaty literally and clearly states:

"(1) Notwithstnding the provisions of Article V or any other provision of the treaty, if the canal is closed or its operations are interfered with, The Republic of Panama and the United States of America shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, as the case may be." [as published]

The quoted provision leaves no doubt that the government and the Panamanians who accept the amendments, reservations and conditions are accepting in 1978 the perpetual right of a foreign power to intervene militarily in the sacred territory of the fatherland. And this time those who do so will be unable to denounce colonialism and its spokesmen for having deceived us and for not speaking clearly. And if these amendments, conditions and reservations signify decolonization and national liberation, then obviously political language has lost all ability to communicate.

The quoted provision by which the U.S. Senate expressly understands that the neutrality treaty gives the United States the right to use military force in Panama very clearly means that the government and the Panamanians who accept this provision are accepting that at some time, U.S. troops can be in any part of Panamanian territory, not excluding the cities of David, Penonome, Colon, La Palma, Porras Park, Santiago Square, Avenue A or the University of Panama, to cite just a few examples. And this would evidently mean the return in 1978 to stages in our history that have already been overcome by the efforts of even the traditional parties, stages when, as in 1925, the U.S. military troops installed themselves in our Santa Ana Square under the pretext of maintaining order and at the same time crushed a tenant movement. If this humiliating condition proposed by the U.S. Senate is considered acceptable then one would have to reach the absurd conclusion that there is no colonialist contamination in Panama.

In view of the seriousness of the situation arising from the amendments, reservations and conditions, we patriotically urge the national government to reject them and ask the Panamanian people to express their totally justifiable repudiation of them. We firmly believe that the obligatory rejection of the amendments, reservations and conditions by the national government will be backed by a united country and will result in a real national consensus which is necessary to analyze the risks and alternatives of a truly national canal policy. As we expressed previously, because of the disproportion of the forces involved, the nationalist cause extends beyond one man and one government

and for some time even all of us together will not be enough.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Juvenile Delinquency Subcommittee of the Judiciary Committee be authorized to meet during the session of the Senate today to hold hearings on violent juvenile crime.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Judiciary Committee be authorized to meet during the session of the Senate today to consider S. 571, HUD attorneys' fees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EMERGENCY AGRICULTURAL ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9 o'clock a.m. having arrived, the Senate will now proceed, as in legislative session, to the consideration of the conference report on H.R. 6782. The time for debate on this conference report is limited to 2 hours, to be equally divided and controlled by the Senator from Georgia (Mr. TALMADGE) and the Senator from Maine (Mr. MUSKIE), with the vote on adoption of the conference report to occur at 11 o'clock a.m. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 6, 1978.)

Mr. TALMADGE. Mr. President, I ask unanimous consent that Bill Seale of Senator HUDDLESTON's staff, Nancy Foster of Senator STONE's staff, and Bill Motes of Senator CLARK's staff be granted the privilege of the floor during consideration of the conference report on H.R. 6782, including all rollcall votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Further, Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of the conference report on H.R. 6782, including all rollcall votes thereon:

Henry Casso, Carl Rose, Dale Stansbury, Phil Fraas, Bill Bates, Karen Schubeck, William Taggart, Glenn Tussey, Morgan Williams, and Stu Hardy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that William Twilley, of my staff, be granted the privileges of the floor during the consideration and debate on the agricultural bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, the Chair has already reported the conference report on H.R. 6782, the Emergency Agricultural Act of 1978.

This legislation grew out of 2 weeks of exhaustive hearings conducted by the Senate Committee on Agriculture, nutrition, and forestry during February and March on the economic crisis confronting American agriculture.

Our committee heard testimony from more than 200 witnesses, most of them grassroots farmers and ranchers from all sections of the Nation. The urgent message that our committee received from these hearings was that a great segment of American agriculture was in deep financial distress. We heard in no uncertain terms that farmers needed help to produce this year's crops—and they needed it now.

Immediately following these hearings, our committee reported major farm emergency legislation, because time was of the essence, our committee chose a House-passed bill dealing with Federal marketing orders for raisins as a vehicle to obtain the quickest possible consideration of the emergency farm legislation.

The Senate passed the bill on March 21. On the following day the House asked for a conference on the bill, H.R. 6782, and the Senate agreed.

I had hoped that the conference could meet during the Easter recess so that we might have legislation ready for consideration when the Congress reconvened on Monday of last week. Unfortunately, prior commitments of several members of the conference made this impossible. Therefore, the conference got down to work on the bill on our first day back last Monday. The conference completed action on Wednesday, and the report is now before the Senate.

Mr. President, I wish to state at the outset that the substitute bill agreed to by the conference is considerably changed from the measure that the Senate approved on March 21. Several provisions that were written into the bill by the committee and by Senate floor amendments were eliminated.

As a result of the conference deliberation, a modified bill has been agreed upon. It consists of four titles.

Title I incorporates a modified version of the flexible parity proposal of which the distinguished Senator from Kansas, Mr. DOLE, is the principal author. It provides for a graduated scale of target prices for the 1978 crops of wheat, feed grains, and upland cotton based on the amount of acreage an individual farmer agrees to set aside from production.

For wheat, the range scale is from a target price of $3.50 per bushel for a 20 percent set-aside to $5.04 per bushel—roughly parity—for a 50-percent set-aside.

For corn, the range is from $2.40 per bushel for a 10-percent set-aside to $3.45 per bushel for a 50-percent set-aside.

The target prices of other feed grains would be established on a fair and reasonable relationship to corn.

For cotton, the bill sets a minimum target price of 60 cents per pound. The price would be increased to 72 cents per pound for a 35-percent set-aside and to 84 cents for a 50-percent set-aside.

Mr. President, I ask unanimous consent that a table showing the entire range of set-asides and target prices for the covered commodities be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Wheat

Setaside	Target level
20 percent	$3.50
35 percent	4.25
50 percent	5.04

Corn

Setaside	Target level
10 percent	2.40
35 percent	3.05
50 percent	3.45

Cotton

Setaside	Target level
35 percent	.72
50 percent	.84

Mr. TALMADGE. Mr. President, the effect of the flexible parity approach would be to increase substantially minimum target prices established under the 1977 Farm Act for this year's crops. Those target prices currently are set at $3.00 for wheat, $2.10 for corn and 52 cents for cotton.

Title I of the conference bill also increased the loan rates on 1978 crops. Under the bill, the loan rates would go from $2.25 to $2.55 per bushel for wheat, from $2.10 to $2.25 for corn, and from 44 cents to 48 cents for cotton.

Title II of the conference bill is the "gasohol" provision. It would authorize the secretary of agriculture to permit land set aside or diverted from production in 1978 to be planted to crops, other than those for which a set-aside is provided, that might be converted to industrial hydrocarbons as fuel.

This title would further authorize the Secretary in future years, when there may be no set-aside acres, to make incentive payments to farmers to produce crops that could be converted to gasohol.

Title III of the conference bill would increase the borrowing authority of the Commodity Credit Corporation from $14.5 billion to $25 billion.

Title IV is the original raisin provision of the House bill. It amends the Federal marketing order provisions to authorize market development and research activities for raisins and makes some other minor changes in the law.

The bill the Senate passed on March 21 included a provision to increase the lending limits on real estate and operating loans made under the Consolidated Farm and Rural Development Act.

It also made family farm corporations and partnerships eligible for such loans.

This is very important and urgently needed legislation. However, both the House and Senate Agriculture Committees recently approved comprehensive farm credit bills that include the provisions of the 1-year emergency bill. The conferees felt it would be better to deal with the credit provisions in the permanent legislation that will be considered by both Houses in the near future.

In working its will, the conference saw fit to eliminate the program that I originally sponsored to pay farmers to divert on a voluntary basis not less than 31 million acres from production of wheat, feed grains, and cotton this year.

It was the consensus of the conference that my cropland diverson proposal was contradictory to the flexible parity approach which had been adopted earlier by the conference.

I was disappointed by this action of a majority of the conference. However, I signed the conference report and urge its adoption by the Senate.

Certainly there are many unanswered questions about the flexible parity concept. But farmers need help now. The time element is critical. And the conference substitute, in my view, is preferable to no bill at all.

There is no question but that an economic crisis exists in rural America. Farmers have been caught between falling prices and skyrocketing production costs.

Many are broke and many others face financial ruin if a solution is not forthcoming.

In January, I urged the President and Secretary of Agriculture to use authority that Congress provided under the 1977 Farm Act to pay producers to take unneeded cropland out of production this year. The failure of the administration to take timely and effective action made it necessary for Congress to act.

The legislation I proposed would have directed the Secretary of Agriculture to implement a paid land diversion program.

My bill provided a workable, practical, effective, and immediate means for dealing with the farm crisis.

My bill would have had a far less inflationary impact than the flexible parity approach.

I do not think it would have faced the veto threat that the conference bill faces.

My bill would have stimulated higher prices for farm products in the marketplace.

It would have brought the huge, price-depressing surpluses down to manageable levels.

It would have put hard cash in farmers' pockets now.

It would be the most cost-effective approach to the farm problem and actually would have saved $90 million in present program costs.

The substitute bill is not everything that all members of the conference wanted. But it is the only feasible legislative means that is now available to Congress to help farmers.

The hour is late. Time is of the essence. Crops are already in the ground and up in many sections. Planting will have been completed throughout the Southeast and Southwest within a matter of days and will be underway throughout the country in a few weeks.

There is no reason for further debate now on the merits of the Talmadge land diversion bill as opposed to the Dole flexible parity bill. A majority of the conference decided that question as far as this legislation is concerned last week.

As much as I might regret that decision, as much as I might fear that it will mean no emergency farm bill at all, I intend to support and work for the conference substitute.

I gather that the President apparently intends to veto the conference bill if and when it reaches him.

I have not had an opportunity to discuss the matter with the President, but I hope that his mind is not closed on the subject.

I urge the Senate to adopt the conference report, and I hope the House will do likewise. I hope the President will reconsider his decision—if, indeed, he has made the decision—to veto the bill.

Farmers need help.

They need help now.

As one Member of this Senate, I intend to do everything within my power to try to provide them that help.

Mr. President, I see the distinguished Senator from Maine, the chairman of the Budget Committee, is now on the floor. I withheld asking unanimous consent to waive the budget provisions. Does the distinguished Senator intend to make a point of order on the conference report?

Mr. MUSKIE. That depends on what the Senator from Georgia does. He certainly has that option. If the question is not raised in any other way by the Senator from Georgia, I intend to——

Mr. TALMADGE. If the Senator will not raise a point of order, I shall not move to waive. If the Senator intends to make a point of order on the conference report, I intend to move to suspend the budget provision.

Mr. MUSKIE. Well, I think the issue ought to be raised, I say to my good friend, because what is at stake is not only the merits of the bill, but whether or not the Senate is disposed to meet its commitment to the budget process or suspend it when it becomes uncomfortable. I think the procedural issue needs to be raised. I did not raise it at the time the Senate bill was under consideration because of the pressure of the time, because I was willing to get to the substance. But now, we have reached the point, the conference having acted, that the substance of the bill is such a serious question under the Budget Act that I think we need also to consider the procedural issues.

So I will raise the point of order unless the Senator raises the issue the way he suggested. Maybe we both will make our point.

Mr. TALMADGE. Mr. President, in accordance with section 904(b) of the Congressional Budget Act, I move that section 303(a) of that act be suspended with respect to the consideration of the conference report on H.R. 6782.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The motion is debatable.

Who yields time?

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MUSKIE. I understand that under the provisions of the unanimous-consent agreement, no vote will take place until the hour of 11 a.m.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MUSKIE. Does that apply to the motion just made by the distinguished floor manager of the bill?

The ACTING PRESIDENT pro tempore. It does.

Mr. MUSKIE. I am prepared to debate the issue and I shall also debate the point of order question so that the Senator's motion will be understood in its full implications. It is immaterial to me whether the issue is resolved under a motion to suspend, which, to me, is more horrendous from the point of view of the Budget Act than a motion made under the provisions of the Budget Act. The Senator from Georgia is proposing to suspend the act when there are procedural options available under the Budget Act to reach the same point. I am perfectly willing to debate the issue on either ground.

Mr. TALMADGE. Mr. President, a parliamentary inquiry: As I understand the situation now, there will be two votes, the first one to occur at 11 o'clock on the motion I just made to suspend the provisions of the Budget Act, to be followed immediately thereafter, if my motion prevails, by a vote on the conference report. Am I correct?

The PRESIDING OFFICER (Mr. CLARK). The Senator is correct.

Mr. MUSKIE. A parliamentary inquiry: The Senator from Georgia has now made his motion, I understand.

Mr. TALMADGE. I have.

Mr. MUSKIE. May I ask the Parliamentarian what, then, would be the status of the point of order under section 303 if I should raise it?

The PRESIDING OFFICER. The Senator's point of order would not be in order until after a vote on the motion of the Senator from Georgia. If the motion carries, the point of order would not be in order.

Mr. MUSKIE. As I understand it, it is not a question for the Parliamentarian, because it is not really a parliamentary question. A motion to suspend has been made in order to avoid the point of

order; so that, in the debate on the motion to suspend, I shall discuss the issue in terms of the point of order in order that, if the Senator's motion is defeated, there may then be a motion on the point of order.

May I ask this of the Parliamentarian: If I should make the point of order in the course of the next 2 hours and the motion of the Senator from Georgia fails, will a vote then occur, or would a ruling be made at that point on my point of order?

The PRESIDING OFFICER. The Senator is correct; the Chair will rule at that time.

Mr. MUSKIE. I can make the point of order in advance of that time in order to have it in front of the Chair at that point?

The PRESIDING OFFICER. No, the point of order will not be in order until the motion of the Senator from Georgia is disposed of.

Mr. MUSKIE. A parliamentary inquiry: Under the unanimous-consent request, I take it that the votes must follow back to back. Will there be an opportunity, following the vote on the motion of the Senator from Georgia, to make the point of order?

The PRESIDING OFFICER. There would be such an opportunity.

Mr. TALMADGE. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas, a member of the Committee on Agriculture, Nutrition, and Forestry.

Mr. HODGES. Will the Senator yield for a unanimous-consent request before he begins?

Mr. DOLE. Yes.

Mr. HODGES. Mr. President, I ask unanimous consent that Rhona Weaver and Steve Moore of my staff be accorded the privilege of the floor during consideration of and vote on H.R. 6782.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Will the Senator yield for a similar request?

Mr. DOLE. Yes.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be granted the privilege of the floor during consideration of and votes on the conference report on H.R. 6782: John McEvoy, Karen Williams, Van Ooms, Dan Twomey, Lewis Schuster, and Jacques Cook.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, if the Senator will yield for the same purpose, I ask unanimous consent that Mr. Owen Donley, of my staff, be granted privilege of the floor during all procedures and the vote today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, I think the Senator from Georgia has fairly well stated the case and given us the highlights of the conference report now before the Senate.

There is no doubt in this Senator's mind that there probably are a number of good alternatives we could be considering today. Certainly, the initiative by the distinguished Senator from Georgia, our chairman, is one of those, as is the initiative by the distinguished Senator from South Dakota, which, in fact, is incorporated in the conference report by virtue of the Foley amendment which was, in fact, the McGovern amendment when it was considered on the Senate side.

But at this point, the Senator from Kansas would like to address what I consider may be the highlight of what will happen.

This could be doomsday for the American farmer, and that is how it is being advertised by the administration. Already, the halls are filled with lobbyists from the White House trying to shoot down this bill in the Senate.

We have had veteran employees spending thousands of dollars and their time on the Budget Committee trying to figure out the worst possible cases and how much such cases would cost. I do not know how many hours were spent to dream up these worst possible conditions.

We have had statements from the great farm journals the Washington Post, the New York Times, the Wall Street Journal, decrying the cost of the program. I doubt they have even considered the cost themselves but rather have just taken the word from the Budget Committee or the Congressional Budget Office or the USDA.

So today we have probably thousands of farmers in Washington, not because they want to be here, but because their very livelihood is at stake.

They do not have all the calculators, computers, and bureaucrats to figure up the cost of the bill. So they have had to do what they consider to be a proper effort, and that is contacting Members of Congress.

Let us not kid anybody in this Chamber. The best way to scare off urban Members of Congress is to put a $5 billion price tag on a farm bill, and that is just what has happened.

Mr. MUSKIE. Will the Senator yield?

Mr. DOLE. Not right now. I am in the midst of my opening statement.

Mr. MUSKIE. Well, to give the Senator some further basis, enlarging on the point he is making.

Mr. DOLE. I believe we will have a chance to do that later.

But CBO estimates our cost for this bill at $5.3 billion. That ought to scare most anyone. It scares a lot of farmers because they are consumers, too.

What they have done is indicate that everybody is going to participate to the maximum to get that figure, going to participate at the 50-percent set-aside level, disregard the payment limitation which is still part of the law, and they assume that prices will be very low.

So it is the worst possible case to get the highest possible price tag. I think it is rather tragic.

If we use just the moderate figures, or 35 percent participation, and take into account the payment limitation and assume that farmers will get an average price at least equivalent to current prices, because they will set aside some of their production, the cost will be reduced to about $2 billion—$2 billion.

Now, what does the administration say they are willing to do? Nothing, except raise the target prices for wheat from $3.10, under certain conditions, to $3.40.

They will do nothing for feed grains. They will do nothing for cotton.

So I just suggest we ought to start the debate on the right foot. We are not arguing the merits of the program. We will never consider that in the next 2 hours.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOLE. Two additional minutes.

We will never consider the plight of the farmer in the next 2 hours. We will talk about the cost, trying to scare certain Senators on this floor, that we cannot vote for this because it will cost so many billions of dollars.

I just think the American farmers gathered today by the hundreds and thousands in Washington should understand how the process works.

We have been told it is a cruel hoax by some in this Chamber opposed to the bill. Are they opposed to helping farmers?

I think the record should be made very clear. The administration through the President said, "We will veto everything except the 30-cent rise in the target price for wheat."

So it makes no difference whether it is flexible parity now on the floor, or the Talmadge land retirement, or some other modification. The President says, "I will veto everything."

I think it is unfortunate the farm bill comes just a day before the President is about to make an inflation statement. Why not single out the American farmer and make him the whipping boy for inflation? And the probable answer tomorrow, "I will veto the farm bill if we can't defeat it in the Senate or if it can't be defeated in the House."

Mr. President, I just want the record to show there will be very little attention paid to the merits of the bill. All the time and focus will be scare tactics, based on the cost of the program. We will probably hear statements saying that we will run out of wheat, cotton and corn, everything that might frighten the American people and frighten the American consumer.

This Senator thinks that is the wrong way to go.

We worked week after week after week, under the leadership of the distinguished chairman (Mr. TALMADGE), who has done more for farmers than anybody I know in this city, and finally we have come to grips with the problem.

I hope sometime in the next 2 hours we will take 30 seconds to discuss the merits.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to me dated April 10 from James C. Webster, Acting Director, Department of Agriculture, Office of Government Affairs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 10, 1978.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In compliance with our commitment to you at the April 4 session of the Senate/House Conferees on H.R. 6782, we are enclosing a copy of the directive providing authority for county ASC committees to adjust 1977-crop acreages of feed grains, cotton, and wheat in cases where individual producers were prevented from planting acreages of such crops in 1977.

Sincerely,

JAMES C. WEBSTER,
Acting Director.

[From the U.S. Department of Agriculture]
FOR ALL STATES AND COUNTIES (EXCEPT HAWAII)

1977 RECORDED ACREAGE

Approved by: Acting Deputy Administrator, State and County Operations.

1. Background:

Procedure in subparagraph 139C, 5–PA, now provides for recording without adjustment in the 1977 planted acreage of feed grains, upland cotton and wheat on ASCS–156, including volunteer acreage harvested for grain but excluding acreage reported as planted and used specifically for cover or green manure. The restriction on adjustments is being changed.

2. Change:

A. Increase the recorded 1977 cotton acreage to the extent that a change from cotton skip row in 1977 to solid planting resulted in an NCA increase authorized in subparagraph 31A5, 5–PA.

B. Increase the recorded 1977 cotton acreage to the extent 1977 prevented planting for cotton was approved for payment.

C. The recorded 1977 acreage of a feed grain or wheat crop may be increased for a significant acreage prevented from planting in 1977 under the following conditions:

1. A prevented planting claim for a significant acreage is filed on ASCS–574–1. Publicize in the fastest and most effective manner that such credit for 1977 prevented planting may be requested.

2. If an ASCS–574–1 is already on file for the farm and crop for 1977, credit may be given for the acreage recorded on the farm which was approved by the COC and STC representative. This acreage may exceed the acreage for which a prevented planting payment was made in cases where payment was limited by the 1977 allotment.

3. For new ASCS–574–1's filed, record and document all available information needed to make a COC determination. Limit approvals to the acreage that was not planted to the crop solely because of a condition beyond the producer's control.

4. All adjustments shall be approved by STC representative.

3. Effect of 1977 increase:

A. Will be used to determine eligibility for 1978 deficiency payments on all acreage planted for harvest.

B. May increase the maximum feed grain and upland cotton acreage for 1978 voluntary diversion purposes.

C. Shall NOT increase the farm NCA.

D. Shall NOT increase the acreage eligible for 1977 prevented planting payment or change 1977 deficiency payments.

E. Shall NOT affect feed grain and wheat yields established for 1978.

4. Effect of 1978 prevented planting:

Credit prevented planting approved for 1978 in the same manner as for 1977. No voluntary diversion payment will be made for prevented planted acreage.

Mr. TALMADGE. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I thank my distinguished chairman, the distinguished Senator from Georgia (Mr. TALMADGE) for yielding to me.

Mr. President, I endorse this conference report on H.R. 6782. the emergency farm bill of 1978, and urge its approval by the Senate today.

Respectfully, I must take exception to critics who have charged that this legislation was hastily drafted in an atmosphere of emotion and confusion. The record will show, Mr. President, that this legislation is the result of more than 10 days of extensive hearings—from February 23 through March 10—by the Senate Committee on Agriculture when more than 150 witnesses from the agricultural sector presented their views and recommendations to us. The record further shows that the committee spent 2 days in business sessions marking up this emergency legislation.

Furthermore, the record will show that this emergency legislation was debated on the floor of the Senate for more than 6 hours on March 21, and that the conference committee spent the better part of 2 days in resolving the differences prior to agreeing on this report. I must add that during the time I served as a conferee I saw no emotional instability or emotional outbursts from my fellow conferees.

While to some it may appear this legislation was hammered out in haste, to our farmers and their families who have stood by anxiously awaiting our action it must have seemed a painfully slow and agonizing process.

The late President Franklin D. Roosevelt once said:

> The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those that have too little.

If that is the test with respect to the economic well-being of our farmers, Mr. President, we have failed. USDA itself, in releasing figures as to the farmer's share of the consumer's food dollar, reveals that the farmer receives 31 cents out of every food dollar today compared to 32 cents in 1967. That is 1 cent less out of the food dollar today than 10 years ago, a 3-percent decline from 1967 through 1977. With the ever-increasing cost of necessary inputs, it is no wonder that our farm economy is in such dire straits.

That an emergency in the agricultural sector exists cannot be denied. An emergency existed in January when the farmers first visited us. That same emergency exists now, only a more serious one. While we have worked at legislation, while the administration stonewalled the pleas of our chairman and the committee to implement the authority given them in the 1977 farm bill, the situation grew steadily worse. Time has run out, now. Once again the farmers are caught in the middle. If this conference report is defeated, they are the ones who will suffer. It is planting time right now, bank notes are due, creditors are demanding payment, and here we sit actually debating whether we shall approve this report.

As I see it, our purpose here is to restore the farm economy, not wreck it. We are toying with the future of many of our young farmers here today. If we do not act and act quickly many of them tell me they are finished. I am speaking of young farmers just out of college with degrees in agricultural economics, husbandry, and agronomy. Some of Alabama's young farmers, hard hit by last summer's drought, are unable to get loans from SBA or FmHA because they have no previous record in farming. If there is anything our agriculture sector sorely needs over and above the emergency assistance we propose to give them at this time, it is the infusion of young, intelligent, well educated, aggressive, and dedicated farmers into it. But young men and women will not be enticed into farming if there is no incentive to farm.

As usual, the scare tactics along with one-sided editorials and cost estimates have been unleashed against this legislation. They have been joined by the alarmists who predict food scarcity at home and abroad. They have neglected to say that this is only a 1-year bill designed to give immediate and temporary relief. This is no multiyear bill. True, its payments will spill over into fiscal year 1979. But the Senate Committee on Agriculture, knowing that some type of emergency farm legislation would reach the floor during this session, recommended in its budget review session on March 8, that $6 billion be added to the agricultural sector of the fiscal year 1979 budget to cover any emergency legislation which might be passed. Mr. President, we envisioned emergency help for our farmers. We did not act precipitously or irresponsibly.

Yes it will cost as does any emergency relief act. It will cost the Treasury and it will cost the consumer. Estimates run from 2 billion up as to what it may cost the Federal Government. If prices of agriculture commodities increase as they should, there is the possibility it may cost the Government nothing in deficiency payments. It may cost the consumer from 1.5 percent to a 4 percent increase in the cost of food. But to do nothing at this point would prove to be the costliest course of all. The Congressional Budget Office estimates that this legislation may increase the cost of food for a family of four $36 to $46 over a 12-month period. To insure a reliable source of food supply, to assure that the family farm survives and to further assure that agricultural production does not inevitably wind up in the hands of a few corporate farms the increased cost is not unreasonable. We just cannot continue to ask our farmers to sell their crops at prices lower than their cost of production.

Farmers are consumers, too. They buy trucks, tractors, combines, cotton pickers, plows, clothes, stoves, and houses. If the depression currently confined to the farm sector spreads, other sectors of the economy will experience similar depressions. Our current national unemployment rate has just been announced at 6.2 percent; but a continued decline in the farm income will affect steel, autos, equipment manufacture, and agri-

business, and there will be an increase in the number of farmers and farm employees looking for jobs, at a time when unemployment among nonfarmers is just beginning to show improvement.

USDA figures reveal that last year the average income per farm was only $7,885 compared with a peak of $10,529 in 1973. To insure that our farmers continue to produce abundant food and fiber supplies for Americans and the world it is imperative that this legislation become law.

Our basic problem is one of excess supply. We need to bring supply and demand into balance and this flexible parity concept will do it. There are carry-over stocks of 1.2 billion bushels of wheat, 1.1 billion bushels of corn, and 5.8 million bales of cotton. This 1-year bill, allowing the farmer to select the amount of his production and the corresponding target price will help correct the situation. Some have raised fears that such a plan will result in reduced exports. We'll still have plenty to export. Besides, it's not fair to ask a farmer to continue to produce for export if he must sell every bushel and every bale abroad at less than the cost of production.

Other critics of this bill have incorrectly observed that it will concentrate payments in the hands of large farmers to the neglect and exclusion of the small family farmer. Such is just not the case. The payment limitation of $40,000 as provided for in Public Law 95–113 is still in effect. This legislation does not alter that provision one iota.

As usual, there is the customary argument from the bureaucracy that this legislation will be too difficult to administer. The Senator from Alabama has in his tenure in the Senate heard that same argument from every agency in the Federal Government when faced with a progressive and new idea. The bureaucracy is always afraid of anything different for fear it might just work. Even if it proved to be difficult to administer, there are enough career civil servants at USDA without enough to do to provide adequate administration. I learned long ago that when you do not want to do anything, one excuse is as good as another.

Finally, Mr. President, let us once and for all deliver the farmer from a "bum rap." For too long he has been accused of being the cause of inflation. To the contrary, he has been placed in the financial bind he is in because of inflation. Citizens of this country spend a smaller percentage of their income on food than any industrialized country in the world. It is the farmer who has seen the cost of his tractors, farm implements and machinery, fertilizer, seed, feed, fuel, and land double in price while the prices he has received have either remained constant or have declined. When wheat sold in excess of $5 per bushel a few years back there was only about 6 cents worth of wheat in a 1-pound loaf of bread. Now that wheat is down to less than $3 per bushel with only about 3 cents worth of wheat in a 1-pound loaf of bread I have not seen the price of bread decline. No, Mr. President, it is not the farmer who is the cause of inflation. He has been and is the victim of inflation.

It is not fair to require the farmers to be the only economic group in our country which is not allowed to make a profit. If we are going to hold down inflation it must not be done by holding down the farmer.

These provisions in this conference report before us today will remedy the problems of overproduction, excessive carryovers, and depressed prices.

I was one of the original cosponsors of this legislation and a cosigner of this conference report. I urge my distinguished colleagues to vote for it and my friends in the House to approve it. I respectfully request my President to sign it.

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished Senator from North Dakota, who is an able member of our committee.

Mr. YOUNG. I thank the chairman.

Mr. President, I support approval of the Senate-House conference report on the farm bill.

The conference report as now constituted has, as its major provision, the Dole flexible parity bill. Its provisions are new and unique, and it is obvious that this flexible price support concept is very appealing to a good many farmers, especially grain producers.

If they decide to cut their acreage and reduce production, to reduce our huge price depressing surplus, especially of wheat, they would be paid on the basis of the amount of acreage they take out of production. This is fair and equitable and over the long term would be less costly to the Federal Government.

If the surplus were reduced to a manageable supply, the cash farm price would be more fair and equitable, and without the necessity of continuing subsidy payments.

Mr. President, I cannot help but be concerned by the charges of Secretary of Agriculture Bergland—and even by our Senate Budget Committee staff—that the price to consumers would be sharply increased.

Such statements do not take into account the fact that grain prices have been far below the cost of production for a year or more. They seem to think that farmers should continue to produce at a loss, so that there would be no increase in consumer prices.

The Carter administration seems to be far more concerned about high farm prices than about low farm prices.

The average consumer, I am sure, wants farmers to receive at least the cost of production. This is in the consumer's long-term best interest, as it would enable many farmers, who otherwise would have to quit, to keep on farming—thus assuring consumers of an adequate supply of food and fiber in the future.

Mr. Ray Fitzgerald, administrator of ASCS, when testifying before the Senate Subcommittee on Agriculure Appropriations last week, stated that the carryover of wheat at the end of the marketing year on May 31 is expected to be 1.2 billion bushels.

That is more than twice as much as would be needed for domestic human food consumption this next year. There will be no shortage of wheat, as some have claimed. In fact, there will be a sizable surplus.

The total production of wheat for the past 2 years has been in excess of 2 billion bushels. Even with the present farm program, production will be at least three times our domestic needs.

If this farm bill is vetoed, we undoubtedly will continue to have a price depressing surplus of wheat. The average farm price of wheat is considerably less than claimed by Department of Agriculture officials.

Bismarck, N. Dak., is in the heart of the Hard Red Springs wheat producing area, and the price of a bushel of 15-percent protein wheat there on March 27 was $2.53; on March 28, $2.57; on March 29, $2.50; on March 30, $2.57; and on March 31, $2.57.

This is premium wheat, not low-grade wheat. Since the conference adoption of the Dole bill, prices did rise rather sharply the latter part of last week. They are still far less than the cost of production.

Mr. President, the biggest complaint against this farm bill seems to be its effect on wheat prices and how much it will add to the cost of food to consumers. Actually, the price of wheat has little to do with the price of bread.

The total farm price of wheat in a 1-pound loaf of bread at the end of February of this year was 2.9 cents—which is 1 cent less than a year ago. The price of that loaf of bread is now 36 cents, compared to 35.5 cents a year ago. The price of bread in the past 2 years has increased, while the farm price of wheat is down sharply.

Mr. President, there would be some additional costs to the Government from the Dole flexible parity bill if it becomes law, but these costs would be far less than claimed by the Budget Committee and the Department of Agriculture.

Winter wheat, which comprises about 75 percent of all the wheat production, has long since been planted and has attained good growth. Hard Red Spring wheat will be planted soon. Thus, the total production of wheat, because of the lateness of the Dole bill being passed by Congress going into effect, means there would not be a very sizable participation by farmers and the resultant drop in production.

Thus, the estimated cost by the U.S. Department of Agriculture and the Budget Committee is at least two or three times what the actual costs of this bill would be.

If we do nothing, a great many farmers—and particularly young farmers—will have to leave the farm. The approval of this bill would largely prevent that exodus of farmers. Thus, the effect on our whole economy would be far less than the additional cost which may occur.

Mr. President, I hope this bill will be approved by the Senate and House and signed by the President.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the distinguished Senator from Montana.

Mr. MELCHER. I thank the chairman.

Will the Senator from Maine yield me 2 minutes, in addition?

Mr. MUSKIE. Yes. I am happy to yield 2 minutes.

Mr. MELCHER. I thank the Senator.

Mr. President, the farm bill conference report that is to be voted on today, if accepted by the Senate, will face an uncertain future in the House. President Carter's promise to veto it may well pressure the House to reject the bill. If the President's opposition to the bill causes its defeat, I hope that the House will immediately take up the proposal with some amendments that will solve at least part of the agricultural producer's dilemma. It is essential that Congress enact, and the President sign, a bill that improves agricultural commodity prices this spring.

But there are weaknesses in the conference report that water down the loan rates for grains after the Senate passed this bill on March 21. Particularly weakened was the loan rate for wheat, which was reduced from $2.85 to $2.55 per bushel. The loan rate is the basic mechanism in our farm law that protects our agricultural producers by giving them the opportunity for a floor price by Government-backed loans. The loan rates become the floor price in the marketplace to protect grain farmers from even lower prices. In times of surplus it is extremely important that farmers have such floor price protection.

When the bill passed the Senate, an amendment I offered on the floor set the loan rate at $2.85 per bushel of wheat. I would prefer to have it higher. Wheat farmers' average cost of production is over $3 per bushel, but at least raising the loan rates to $2.85 was a 60 cents per bushel increase and a desirable step in the right direction.

This needed improvement is not just important for wheat farmers but also is very important for the country as a whole. We try to sell over a billion bushels of American wheat abroad each year. When we sell American wheat or other grains to other countries at prices below the cost of production, we are selling out too cheap, and it is one of the reasons for deficits in our balance of payments.

I would like to use an example of our sales of wheat to Japan, which is our best regular customer for American wheat. In 1976 we sold Japan 3,311,000 metric tons of wheat for which they paid an average price of $4.29 per bushel totaling $522,294,000. In 1977 we sold them 4 million metric tons more of wheat for an average price of $3.07 totaling $374,490,000. This illustrates one problem we are having with our balance of payments with Japan. They get 4 million more metric tons of wheat from us, but paid us $148,804,000 less.

Consumers live in fear that food prices will rise dramatically. Those fears are not warranty by the facts concerning wheat. When wheat is selling for $2.25 per bushel, there is 2.6 cents worth of wheat in a 1-pound loaf of bread. If wheat is at $2.85 per bushel there would be 3.3 cents worth of wheat in that same 1-pound loaf of bread. And so the modest increases we are looking for in loan rates are not to be feared by consumers.

Wheat farmers have another serious problem with the conference report as presented today. The provisions only cover the 1978 crops and the increased target price would only apply to wheat harvested this year. Then without further legislative action, the target price for next year's crop would be lowered to $3.10. Winter wheat planting for next year's crop will start in September—less than 5 months away—and the wheat farmers will be in a quandary wondering how much winter wheat should be planted faced with that kind of a lowered target price.

There is still much more work to be done on these two points to protect wheat farmers. If this conference report is turned down by the House at the urging of President Carter and the House, then amends the bill and sends it back to the Senate, I shall offer amendments at that time to set an equitable loan rate and target price for 1978 and 1979 wheat crops.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 6782, the Emergency Agriculture Act of 1978.

I wish to commend the able chairman, Mr. TALMADGE; the able ranking Republican member, Mr. DOLE; and other members of the conference committee for recognizing the urgency of the current farm crisis and promptly reporting out this emergency legislation.

I am pleased that the committee has adopted the flexible parity proposal over other land retirement proposals. Flexible parity provides a mechanism under which farmers can collectively control production and under which each individual farmer can select a target price and set-aside that best applies to his farm situation.

I am further pleased that the committee has recognized the need to increase the loan levels for wheat, corn and cotton and has increased the borrowing authority of the Commodity Credit Corporation by $10.5 billion.

I regret that the bill does not contain a provision for soybeans, and sincerely hope that this can be contained in a bill for another year.

There is concern about the effects this bill will have on the budget. I do not think there has been any Member of the Senate who has stood more for economy than the Senator from South Carolina. However, this is a time when we must help the farm segment of our population if they are going to survive.

Mr. President, I ask, is $5.3 billion too high a price to pay to insure the survival of the family farm? I shudder to think what the cost of food and fiber will be when the family farm has disappeared. Our Nation's food and fiber will then be produced on large corporation farms, and the consumer will pay much higher prices if this happens.

Mr. President, is $5.3 billion too high a price to pay when an urban oriented department such as the Department of Health, Education, and Welfare last year misspent between $6.5 billion and $7.5 billion of our taxpayers' money through waste, mismanagement, and fraud. This is equal to $19 million per day. HEW has asked for an identical increase of $7 billion in its upcoming budget.

Mr. President, is $5.3 billion too high a price to pay when the Federal Government can afford to pay $13 million per month during January, February, and March for food stamps to striking coal miners. This is $39 million to workers who voluntarily stayed away from their jobs.

Mr. President, the total net income of United States farmers dropped below $20 billion in 1977, the lowest since 1972. This was 10 percent below the 1976 level. Declining farm product prices have led to renewed appeals for a return to 100 percent parity prices. At the present time farm prices are only 66 percent of parity.

Farm debt, on the other hand, is one of the most accurate barometers of farm distress. Farm debt is on the rise. Farm indebtedness increased rapidly in the past year, rising a record 16 percent. Farm debt now totals nearly $120 billion, twice as much as in 1970.

Farmers may need more credit, but mainly they need better prices.

I think it is in the interest, not only of the farmers, but in the interest of the consumer and in the interest of all the American people, that we take action to help the farmer during this period of crisis. Therefore, I urge my colleagues to support the conference report on H.R. 6782.

Mr. President, in closing, I just want to say that I am pleased that the Senate is finally taking action to help our farmers. Their very survival is at stake. I am very proud that action has been taken today.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Who yields time?

Mr. TALMADGE. Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

Mr. President, the distinguished Senator from Kansas, my good friend, suggested—maybe the suggestion was not directed to me personally—but he did clearly suggest that there is some objection to the fact that so many farmers from around the country are visiting Washington and are visiting Members of Congress in their offices and in the corridors of the Capitol.

I want to assure the Senator from Kansas I have no such objection. I think they are welcome here. I think maybe it is about time they recognized that this is an opportunity for them to influence the legislative process, and I welcome that even though we may not always agree.

But the distinguished Senator from Kansas made another observation in connection with that one, which I cannot believe he really means. He suggested

that, although the farmers are welcome, the members of the Budget Committee, the Congressional Budget Office, and the President of the United States are somehow out of order in undertaking to influence the result of this vote.

I remind the distinguished Senator that I was given a specific charge as chairman of the Budget Committee to enforce this discipline and I will not yield that responsibility simply because a number of Americans who may disagree with my point of view are visiting us in Washington. I want to make that clear.

The second point the distinguished Senator from——

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MUSKIE. I would have been happy to engage in this colloquy earlier. Now I wish to finish my side of it, but I will yield in due course.

Another point that the Senator made was that CBO's estimates, the cost, the inflationary impact of this bill are based on worst case analysis. I challenge that, but before I do I point out that the Senator from Kansas himself is engaged in worst case analysis of the position of the Budget Committee, the Congressional Budget Office, and the administration.

I listened to his description of our position, I listened to his description of the President's position, and if I ever heard a worst case analysis, a strawman analysis designed to give him an attractive target to hit, for the purposes of his supporters in the galleries, that was it. I did not recognize it, and I doubt that the President would.

So now I wish to get to the merits of this issue and the procedural questions that are involved.

Some of this I hope may be of interest to citizens in the gallery who are concerned about the state of this country's economy not only from the point of view of their own livelihoods but from the point of view of the economy as a whole because it is that with which I am charged. The Budget Committee is not the Agriculture Committee. The Budget Committee has been created to exercise discipline with respect to the whole $500 billion of Government spending which can come from only one place, the taxpayers' pockets. My friends in the galleries are taxpayers as well as farmers.

That is our responsibility and it is our responsibility to give the Senate our best judgment even when that best judgment runs counter to the popular tide of a current popular issue.

If the Budget Committee were to bend with the wind every time the wind from the grassroots says, "Senator, we need more money," there would be no budget process. There would be no restraint on spending. And instead of a $500 billion outlays ceiling for the next year we would have something closer to $530, $540 billion.

If there is any doubt on the part of anyone in the gallery on that point, I would be glad to give them as much exposure as they need to the pressures that are brought upon the Budget Committee to provide more money, more money, for this, that, or the other.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MUSKIE. I yield 5 additional minutes.

Mr. President, President Carter has advised us that if Congress passes this conference report he will veto it. My good friend from Kansas has said, "Does the President not care at all about farmers?" He has said he will veto it because it could drive food price inflation to double digit levels and add as much as $6 billion to our Federal deficit. My good friend from Kansas challenges that $6 billion figure as being an inflated worst case figure.

I remind my good friend from Kansas that that number is supported by our own Congressional Budget Office which was created to give us independent analyses, the CBO's analysis is based upon a projection of normal weather, not worst case weather, normal weather.

Mr. DOLE. Mr. President, will the Senator yield there?

Mr. MUSKIE. I would like to finish.

Mr. DOLE. I just wanted the Senator to tell us how he got that figure.

Mr. MUSKIE. I would be glad to provide that analysis from CBO, but I cannot do it within the constraints of the time I want to devote to this particular part of the debate. But that figure was produced by the CBO in the same way CBO produces every figure that the Budget Committee and the Congress use to reach judgments independent of that of the President and the executive branch to keep spending under control.

If we are willing to trust CBO's judgment and capability and objectivity for $500 billion of spending surely their judgment is equally objective and sound when it relates to a program in which a particular Senator may be interested at a particular moment in time.

What do we do? Bring in a new estimating authority whenever our own authority somehow does not fit our personal desires or our personal wishes? Obviously, that is not the road to budgetary discipline.

Mr. President, the President also said that this conference report will damage our livestock industry by sharply increasing seed prices.

That sort of thing has happened before, Mr. President. This is not a new perspective or perception of the interrelationship of feedgrain prices and cattle-raising costs. This is the warning flag. It has happened within the last 3 or 4 years. The President says it could happen again under this conference report.

The President said it will undermine our competitive position in world agricultural markets. Is that in the farmers' interest, if true? If the President and his experts believe it to be true, if CBO believes it to be true, is that a warning that ought to be ignored not only by the rest of us but by American farmers?

Finally, Mr. President, the farmers will get no help from a bill that the President vetoes.

Mr. President, I ask unanimous consent that the President's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., April 6, 1978.

To Senator EDMUND MUSKIE:

Sixteen months ago, I asked Bob Bergland to join with the Congress to help restore a sense of direction and purpose to the farm and food policies of this nation. The extreme volatility of farm and food prices of recent years has not been in the best interest of either our Nation's farmers or consumers.

When we took office, farm income was in sharp decline. We undertook to reverse this trend and return stability to the nation's farm economy. Working with you and other members of the Congress, we developed the most sweeping farm legislation of the past 40 years. Using the authorities of that law, we have moved to improve the incomes of America's farmers.

This policy is working. Our agricultural economy has improved markedly in recent months. To further strengthen this recovery, we announced last week:

An expansion and liberalization of the farmer-held grain reserve.

Paid diversion of 7 to 9 million acres of excess cropland.

And other steps which, in combination with the reserve and the acreage diversion, will add up to $4 billion to crop producer income.

These are carefully considered measures. They will provide decent farm incomes, protect consumers from precipitous price rises, enhance our reliability as a major agricultural exporter, and allow us to meet our humanitarian food aid commitments.

Yesterday a conference committee of the Congress reported H.R. 6782, legislation that was hastily drafted in an atmosphere of emotion and confusion. Should that legislation reach my desk, it will be vetoed.

No one who understands our farm economy should be deceived about the impacts of this measure.

It would increase food price inflation to double digit levels.

It would add as much as $6 billion to the Federal budget.

By sharply reducing production and increasing prices, this bill could seriously undermine our competitive position in world markets.

The higher feed prices that result would adversely affect our own livestock industry.

It would require vast new layers of bureaucracy to administer the complicated and confusing schedule of eligibility requirements and payments.

And, this bill would direct the vast majority of its benefits to a small number of the very largest of our farmers, rather than those in greatest need of help.

This Administration is committed to a strong and prosperous farm economy and one that is able to compete successfully in international markets. We now have a policy to accomplish this objective. I call upon you and other members of Congress to join with me in supporting this policy and in defeating this conference committee bill.

Sincerely,

JIMMY CARTER.

Mr. MUSKIE. Mr. President, I ask unanimous consent that there be included in the RECORD following his letter a Department of Agriculture briefing paper dated April 3, 1978, which describes the President's nine-point program to deal with this issue. I do this in answer to the Senator from Kansas' suggestion that the President does not care.

There being no objection, the briefing paper was ordered to be printed in the RECORD, as follows:

NEW FEATURES OF FEDERAL FARM PROGRAMS

BACKGROUND

The world has harvested two consecutive large crops. U.S. farmers have harvested three.

Declining commodity prices and farm incomes in 1977 were the result of large worldwide supplies of grains, oilseeds, and fibers and an increasingly large proportion of stocks accumulated in the United States. Liquidation of the domestic cattle herd because of unprofitable feeding and poor pasture conditions caused by drought also took their toll.

Realized net farm income in 1977 declined to $20 billion—in real terms, equivalent to 1971. The result of this overall situation was severe cash-flow and debt-repayment problems for many farmers. The severity of these problems varied greatly by commodity and by region of the country.

Realized net farm income for the first half of 1978 is at an annual rate of $23 billion, or about $3 billion higher than last year. Foreign demand for the major crops points to a record volume of agricultural exports in the current marketing year.

RECENT MARKET DEVELOPMENTS

Most commodity prices have shown appreciable increases in recent months from earlier lows:

Wheat at Kansas City from $2.30 last June to $3.20 now;

Corn at Chicago from the fall low of $1.80 to $2.43;

Cotton at Memphis from 48 cents at the turn of the year to 56 cents;

Soybeans at Chicago from $5.50 in October to near $7.00;

Rice from $6.87 at mid-year to $11.40 in February;

Choice steers at Omaha from $37 last spring to over $50;

Hogs from $36 last April to $48 now.

Even though commodity prices have shown these increases because of the farmer-held reserve, improved export markets (particularly for oilseeds), increased livestock returns, and some improvement in general economic conditions, some farmers still are experiencing severe problems.

ADMINISTRATION INITIATIVES

On March 29, 1978, The Vice President and the Secretary of Agriculture announced nine major actions with the objectives of dealing with these problems, further strengthening farm income, and continuing the steady growth in agriculture:

1. To ensure better crop prices and thwart runaway food price inflation caused by the weather, the farmer-owned reserve is being expanded and the terms liberalized. Grain placed in reserve will not be subject to interest charges after the first year. The reserve programs will be used to remove excess 1978 crop production.

2. To take excess 1977-crop corn and grain sorghum off the market, both crops can be put into the reserve program starting May 1.

3. To ensure that the United States can meet its food aid commitments in times of short supply and to support market prices, the government will purchase wheat in the market to build an emergency reserve of 220 million bushels, including wheat accumulated from CCC loan forfeitures.

4. To adjust wheat production downward, producers who participate in the 20 percent set-aside may graze out their wheat or harvest hay on up to 40 percent or 50 acres (whichever is larger) of the total acreage of barley, corn, grain sorghum, upland cotton, and wheat intended for harvest in 1978, and receive a payment of 50 cents a bushel or the wheat deficiency payment rate, whichever is higher.

5. To bring feed grain production in line with potential demand, producers who participate in the feed grain set-aside may divert additional acreage equal to 10 percent of acres planted to the crop and receive a payment of 20 cents per bushel for corn or 12 cents per bushel for sorghum or barley on the normal production from planted acres.

6. To adjust cotton production down, producers may divert acreage equal to 10 percent of the acres planted in return for a payment of 2 cents per pound on the normal production from the planted acres.

7. To balance soybean loans with competing crops, the loan for 1978-crop soybeans is being established at $4.50 a bushel, up $1.00 per bushel over the 1977 loan.

8. To compensate for increases in costs, loan and target prices for 1978-crop rice will be increased, according to law. Preliminary data indicates a loan of $6.40 per cwt. and a target price of $8.53 per cwt. There will not be a set-aside program for the 1978 crop.

9. To improve credit access for farmers and ranchers with serious debt-repayment problems, we are urging the Congress to pass our proposals for an Economic Emergency Loan Program.

IMPACT OF INITIATIVES

The reserve gives producers the opportunity to hold their crops off the market at low cost to await higher market prices, protect consumers and livestock producers against severe price increases in the event of a poor harvest, and ensure our credibility as a reliable supplier of farm products.

The diversion and grazing payments will:

Provide additional economic incentives for participation in the farm programs;

Give immediate cash assistance and potentially provide crop producers a $3–4 billion increase in net returns;

Strengthen market prices by bringing supplies into better balance with demand; and

Conserve energy and natural resources; while providing an accessible land reserve for use when needed.

GRAZING AND HAY PROGRAM

Section 1004 of the Food and Agriculture Act of 1977 authorizes the Secretary to administer a special wheat acreage grazing and hay program.

A producer who decides to participate must designate the specific acreage on the farm that is to be used for grazing or hay (cut immature for green chop, hay or silage). Acreage included in this program must be in addition to set-aside acres and be within the normal crop acres of the farm.

The payment rate will be at least 50 cents a bushel or the deficiency payment rate, whichever is greater. The total payment will be determined by multiplying the established farm wheat yield, times the number of acres in the program, times the payment rate.

Producers will receive a 25 cent per bushel payment at signup.

This initiative is expected to result in an additional 1 to 1.5 million acres being grazed or hayed, with a 30–50 million bushel reduction in 1978 production from current estimates.

Wheat prices will likely be slightly higher (3–5 cents) and net budget outlays will be slightly lower because of a reduction in deficiency payments and loan and inventory outlays.

FEED GRAIN DIVERSION PROGRAM

Section 502 of the Food and Agriculture Act of 1977 authorizes the Secretary to make land diversion payments to producers to adjust the national acreage of feed grains to desirable goals.

The 10 percent voluntary land diversion program for feed grains is in addition to the 10 percent set-aside for feed grains.

To receive diversion payments, producers' 1978 plantings cannot exceed 1977 plantings for each of the crops, or exceed the normal crop acres for the farm. The diverted land must also be put into an approved conservation use.

The payment rates for the voluntary diversion of feed grains are: 20 cents per bushel for corn and 12 cents per bushel for barley and grain sorghum. The payment will be determined by multiplying the payment rate times the established crop yields for the farm, times the 1978 acres planted for harvest.

At signup, producers will receive an advance payment of 10 cents per bushel for corn or 6 cents per bushel for sorghum or barley.

Estimates are that 10 million acres will be placed in set-aside or land diversion. Approximately 7 million acres will be corn, 1.5 to 2 million acres will be grain sorghum, and 1 to 1.5 million acres will be barley. Six of the 10 million acres will be in set-aside; four will be in land diversion.

The impact of this diversion program will be to reduce feed grains by 5 to 7 million acres from current estimates with a 4–6 million acre reduction in corn and a 1 to 2 million acre reduction in soybeans.

Feed grain stocks are expected to be reduced about 335 to 450 million bushels (corn equivalent) over current estimates. Diversion payments for this program will likely total about $625 million: $540 million for corn, $50 million for grain sorghum, and $35 million for barley.

Corn prices for 1978 are expected to strengthen 15–25 cents a bushel from current estimates, with increases to other feed grains in relation to corn.

Net government outlays are expected to be minimal because of a reduction in deficiency payments and loans and inventory outlays.

COTTON DIVERSION PROGRAM

Section 602 of the Food and Agriculture Act of 1977 authorizes the Secretary to implement a paid diversion program for 1978-crop upland cotton.

Participants would divert cropland equal to 10 percent of the 1978 planted cotton acreage and also limit 1978 cotton plantings to not more than 1977 cotton plantings. The payment will be determined by multiplying the 2 cents per pound rate times the farm yield times the cotton acreage planted for harvest; producers will receive a 1 cent/lb. advance at signup.

Planted acreage is expected to be reduced 500,000 to 1 million acres from current estimates with no diversion.

Farm prices will likely increase about 3 cents per pound; net returns would be increased $50–60 million. Consumer prices of goods made from cotton will be slightly higher as a result of slightly higher cotton prices; the price of a $15 cotton shirt would go up about 9 cents.

Diversion payments will likely total $100 million, and be offset by a reduction in deficiency payments and loan and inventory costs.

EXAMPLES OF PAYMENTS

For Wheat:

Assumptions: A farmer has 300 acres of wheat and will graze all of it and also plant cotton and sorghum. The normal crop acreage (NCA) is 1,000 acres. The farm yields are: 30 bu./acre (wheat), 500 lb./acre (cotton), and 40 bu./acre (sorghum). Also 1978 planted acreage will not exceed 1977 acreage.

EXAMPLE

	Acres
Wheat to be grazed out	300
Required set-aside (20 percent)	60
1978 planting intentions for cotton	300
Diversion required (10 percent)	30
1978 planting intentions for sorghum	250
Required set-aside (10 percent)	25
Diversion required (10 percent)	25
Balance to other NCA crops	10
Total	1,000

The payment for the 300 acres grazed out is: 30 bu./acre × 50 cents/bu. × 300 = $4,500.

The payment for the cotton diversion is: 500 lb./acre × 2 cents/lb. × 300 = $3,000.

The payment for the sorghum diversion is: 40 bu./acre × 12 cents/bu. × 250 = $1,200.

NOTE.—The farmer can graze out all of his wheat because it is not more than 40 percent of his NCA total of 1,000 acres.

For Feed Grains:

Assumptions: A farmer has a normal crop acreage (NCA) of 400 acres. He decides to plant 100 acres of corn this year. His 1977 planted corn acreage was 105 acres. His farm yield for corn is 100 bushels per acre.

Remember that 1978 planted acreage cannot exceed 1977 planted acreage in order to obtain the diversion payment.

EXAMPLE

	Acres
1978 planting intentions for corn	100
Required set-aside (10 percent)	10
Voluntary diversion (10 percent)	10
Acreage that can be planted to other NCA crops	280
Total	400

The payment in this example is: 20 cents/bu. × 100 bu./acre × 100 acres = $2,000.

For Cotton:

Assumption: A farmer has a normal crop acreage (NCA) of 500 acres. He is planting 100 acres of cotton this year. His 1977 planted cotton acreage was 100 acres. His farm yield for cotton is 500 pounds per acre.

Remmeber that 1978 planted acreage cannot exceed 1977 planted acreage in order to obtain the diversion payment.

EXAMPLE

	Acres
Cotton planting intentions for 1978	100
Required set-aside	0
Voluntary diversion (10 percent)	10
Acreage that can be planted to other NCA crops	390
Total	500

The payment in this example is: 2 cents/lb. × 500 lb./acre × 100 acres = $1,000.

Mr. MUSKIE. He may disagree with the program, but the fact that the President does not care is another point entirely.

Mr. President, the Senate must meet its responsibility to return this bill to conference in order to produce a bill which meets the farmers' needs with minimum possible cost in increased inflation, deficit, and grain shortages.

At this point I would like to make some parliamentary inquiries to put in perspective a parliamentary issue the Senate in one way or another will have to resolve today.

Mr. McGOVERN. Mr. President, at the appropriate time will the Senator ask for an additional time to yield so we can have a little colloquy on some of the points he is raising about the impact of this bill on the budget, on the Federal deficit, and also on consumers, the issues that he raised here this morning, and also in his letter to Members of the Senate?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MUSKIE. You see what the time problem is, may I say to the Senator. I will be glad to try to engage in as extensive a discussion as my hour time limit permits.

Mr. McGOVERN. Maybe 5 or 6 minutes.

Mr. MUSKIE. I do have some priorities that relate to that time concerning my responsibility as Budget Committee chairman.

Second, I am not an agricultural expert so I am not in the same position as the Senator from South Dakota is, perhaps, in discussing some of the substantive questions.

Mr. McGOVERN. It is really the budget matters I wanted to discuss. That is why I asked the Senator to request additional time.

Mr. MUSKIE. I cannot promise the Senator. I have made some commitments as to time, but I will do the best I can.

Mr. President, with respect to the parliamentary inquiries: Is it not true that conference reports such as the pending legislation are amendments and, therefore, subject to the procedures of section 303 of the Budget Act?

The PRESIDING OFFICER. Will the Senator state the parliamentary inquiry again, please?

Mr. MUSKIE. Is it not true that conference reports such as this one are amendments and, therefore, subject to the procedures of section 303 of the Budget Act?

The PRESIDING OFFICER. Did the Senator say is it not true that they are amendable——

Mr. MUSKIE. That they are subject to the procedures of section 303 of the Budget Act.

The PRESIDING OFFICER. The Senator is correct. Section 303 has been interpreted to include amendments made in conference that contain new matter not previously considered by the Senate.

Mr. MUSKIE. The second inquiry: Is it not true that this conference report provides new spending authority within the meaning of section 401(c)(2)(C) of the Budget Act which is to become effective on October 1, 1978? I understand these questions were reviewed with the Parliamentarian earlier so that we will not be springing any surprises on him.

The PRESIDING OFFICER. The Chair would have to examine the conference report in order to answer the parliamentary inquiry.

Mr. MUSKIE. Well, I guess I have been misinformed as to the scope and thoroughness of the prior review. I will pass over this matter for the moment while counsel for the committee consults with the Parliamentarian so that we will not waste my hour. I understand it had been thoroughly reviewed.

But instead of putting parliamentary inquiries at this point I will make the point, which I hope to reinforce later with a ruling from the Parliamentarian, so that we can proceed. I do not want to use an hour debating this technical question.

The PRESIDING OFFICER. The answer is yes to the second parliamentary inquiry.

Mr. MUSKIE. The answer is yes.

Now, third, is it not true that under section 303(a) of the Budget Act this legislation, on the basis of the two previous answers, cannot be considered until after the first budget resolution for fiscal year 1979 is adopted?

The PRESIDING OFFICER. That is correct.

Mr. MUSKIE. So that if that answer is correct, this conference report, since it is pending before the Senate prior to the adoption of the first concurrent resolution for 1979, is subject to a point of order?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. I thank the Chair and the Parliamentarian. Mr. President, I will now comment upon the answers I have received.

It is not difficult to understand why this provision, section 303, was inserted in the Budget Act. That provision says that when we are dealing with the next budget year all spending decisions are to be considered together in the first concurrent budget resolution so that when we begin to authorize spending for the next budget year we do so having in mind all of the spending pressures and demands we are being asked to consider.

What we are being asked to do here is to give preference to this particular bill and this particular proposal over all others, $500 billion worth of them, which the Budget Committee is at the present time considering, with a view to reporting first concurrent budget resolution to the Senate on April 15. That is the point.

Once we abandon it, and especially if we abandon it in the way that Senator TALMADGE proposes, to suspend the Budget Act altogether, to suspend it altogether, what we are saying is we do not even care about the procedures.

There was a procedure available to the conference to deal with section 303. They could have applied to the Budget Committee for a waiver of section 303, and that could have been done last week. But, no, the Agriculture Committee and the conferees find that too inconvenient. They have not asked for a waiver, they have not asked the Budget Committee for a waiver.

They have not tried to make a case in the Budget Committee for a waiver, but instead they come here and say, "That Budget Act is too inconvenient, so I am going to move," the distinguished floor manager says, "to suspend the Budget Act."

Well, if we are going to suspend the Budget Act every time it is inconvenient, every time it is uncomfortable, every time it stands in the way, every time it requires us to follow a certain procedure to assure that the provisions of the act are safeguarded, then it becomes meaningless. If at some time, then, our friends in the gallery are concerned about another form of Government spending, and they say, "Why do not the Budget Committee and the Congress stop that," how are we going to stop it if we have already undermined the procedures for controlling and disciplining Government spending? How are we going to stop it? Do you think we can turn it on and off like a faucet of water?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MUSKIE. Not yet. How are you

going to observe a procedure if you get rid of it, throw it away, suspend it every time it becomes inconvenient?

So, Mr. President, it is not difficult to understand why this provision was inserted in the Budget Act. As reported from conference, the bill carries an October 1, 1978, effective date. It contains fiscal year 1979 farm entitlement provisions, which are to be considered before the Budget Committee has had an opportunity to establish national spending priorities in our first budget resolution for fiscal year 1979. It is therefore subject to a point of order under section 303(a), and because the floor manager of the bill understands that, he wants to avoid the point of order by moving to suspend the Budget Act.

Mr. President, this bill fails to comply with the requirements of the Budget Act, and disregards orderly budget procedures. That means that the Budget Committee is forced to draw up its resolution under pressure to include a specific program, without retaining the responsibility to establish spending priorities for fiscal year 1979.

It would appear, Mr. President, that if this bill indeed exists in circumstances that are extraordinary, the Budget Act, by providing a waiver procedure, anticipates the abiilty to respond to extraordinary and unanticipated emergencies. But, no, we do not use the waiver. We do not use the procedure. We just push the Budget Act to one side, and then do what we will.

That is the way we used to operate, and it looks to me as though that is the way we are going to continue to operate in the future, if we have more precedents like the one before us in the Senate today.

Mr. President, if the budget process is not strong enough to moderate constituent pressures and focus congressional deliberation on the Nation's problems in an orderly and deliberate way, then the budget process is not worth the paper on which it is written. If the budget process is only to total the interest on the public debt, or to serve as an accounting mechanism to add to the cost of proposals from the authorizing committees, then we might as well go out of business. If that is the will of the Senate, so be it. I and my 15 colleagues have other interests we could pursue, and other committees on which we might focus our attention. If, indeed, we have been wasting our time for the past 4 years working on budget resolutions and advising the Senate on the budget implications of all major legislation, then we might as well close our doors.

Indeed, for the past week, Mr. President, our committee has been working 15 hours a day, late into the evening, to prepare the first budget resolution for fiscal year 1979. We have been trying to review the 19 functions of the budget and to set national spending priorities.

By forcing the Senate to consider this 1979 spending bill in advance of congressional action on the budget resolution, the Agriculture Committee is saying that farm spending must go ahead of every other important national issue, from defense through income security to interest on the national debt.

Mr. President, this kind of conduct is not consistent with the Budget Act; and so, in due course, if the motion of the Senator from Georgia is defeated, I will raise the point of order against the conference report.

May I say to my colleagues that the Parliamentarian advises me that the effect of that would be the same as a motion to recommit to the conference. If the point of order is sustained, the bill will go back to conference, and the conferees will have another opportunity to work their will on this bill and report it to the Senate. That is the purpose of the point of order.

Mr. DOLE and Mr. McGOVERN addressed the Chair.

Mr. MUSKIE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator has 32 minutes remaining.

Mr. MUSKIE. At some point I would like to get into that part of what I want to say that addresses the merits of the conference report, and I am prepared to do that, if the distinguished floor manager is willing.

Mr. McGOVERN. Mr. President, will the Senator yield to me to discuss the budget impact of this bill, since I think that is the matter which most concerns him, and also the impact of the bill on the consumers? Those are the points that he has raised in the letter he sent to us.

Mr. MUSKIE. I have not yet raised those points this morning, and I am about to do that. I simply would inquire of the Senator from Georgia if he wishes me to continue using time at this point.

Mr. TALMADGE. If the Senator will proceed, that is fine with me.

Mr. MUSKIE. All right; then I will proceed, and I will try to yield to the Senator from South Dakota at the appropriate point.

Mr. President, as my colleagues will recall, the Senate version contained several contradictory set-aside programs and new farm subsidy provisions which carried extremely high costs to the Government and the consumer. Moreover, this program would have made our Nation vulnerable to future crop failures. So contradictory were the various provisions of that measure that CBO was unable to come up with a cost estimate for the entire bill, and we have never been able to get that cost estimate for the entire bill from the CBO because of the contradictory provisions. So this is one proposal to which I have no answer, to which the CBO has no answer, and under which we have no way to estimate the budgetary costs.

I suspect that many of my colleagues voted for this bill because of assurances they received from the chairman of the Agriculture Committee that the conference would produce a more responsible piece of legislation. I regret that the majority of Senators voted for this measure, which they knew to be unsound economic and agricultural policy.

The conferees have succeeded in adding insult to injury by compounding the inflationary and ill-conceived economic policies contained in this bill.

Mr. President, let us take a look at what the conferees have brought back to this body for our consideration and approval.

First, they have accepted the flexible parity concept proposed by my colleague from Kansas and, at the same time, have increased the target and loan price schedule for the commodities covered in this bill.

Mr. DOLE. Mr. President, will the Senator yield for a correction?

Mr. MUSKIE. I yield.

Mr. DOLE. I would just point out that the loan rates in the conference report are lower than those passed by the Senate. In fact, the Senator from Montana was just complaining about that action by the conference.

Mr. MUSKIE. I understand that the target prices are higher than your provision in the Senate.

Mr. DOLE. No, the target prices remain the same under flexible parity, except that the first jump was higher. From that standpoint, that is accurate.

Mr. MUSKIE. All right; I accept that correction.

Second, the conferees rejected every substitute to these inflationary measures. They rejected a substitute by Representative FOLEY which would have made a permanent change in the 1977 farm bill for target prices and loan rates for wheat, feed grains, and cotton. CBO analyzed the Foley substitute and concluded that it would be significantly less inflationary than the bill reported by the conferees.

The conferees also rejected the administration's recommendation to modify the conference report to reflect recently announced administration initiatives. As you know, between the time the Senate passed H.R. 6782 and the beginning of the conference the administration set forth a nine-point program which would, as I have stated earlier:

Provide greater economic incentives for participation in farm programs;

Give immediate cash assistance yielding crop producers approximately $3–4 billion in new returns;

Strengthen market prices by bringing supplies and demand into better balance;

Conserve energy and natural resources while providing an accessible land reserve for use when needed.

But, again, Mr. President, the conferees cast caution to the wind and went far beyond these more reasonable alternatives.

Even the Foley proposal, I should note, would have carried a high price tag in terms of budgetary costs. At least, however, economic impact might have been somewhat more equitable since its impact on food prices would have been less severe. Food price inflation is the cruelest kind of tax—a regressive tax. The burden of this bill will be carried disproportionately by the poor and middle-income citizens.

Mr. President, we should recognize by now that Federal programs which aid farmers cannot create money out of thin air. Sooner or later, unless dramatic changes occur, those dollars which are added to farm income must come either from U.S. taxpayers in the form of higher

spending or from consumers in the form of higher food prices. In either case, it is the American people who must foot the bill.

Certainly the American consumer will not be fooled when he sees his food bills increase by nearly 3 percent in the upcoming fiscal year. Over $5 billion will come out of the pocketbooks of American consumers to finance this legislation. In other words, the average American family of four will end up paying about $100 a year more for food when this bill is added to the recent administrative actions.

As for the inflationary impact of this legislation, CBO estimates that the fiscal year 1979 food component of the consumer price index will increase approximately 2.5 percent over January current policy projections, adding approximately 0.5 points to the overall rate of inflation.

However, this is merely the first-round effect. Wages and long-term contracts tied to the CPI will also be adjusted upward, and as a result prices will rise throughout the economy.

By 1981, the first round plus the secondary and tertiary effects flowing from this legislation, plus USDA action, will have added a full point to the overall consumer price index.

In terms of budget impact, CBO estimates that this legislation will require approximately $5.7 billion in outlays over current policy estimates in fiscal year 1979.

Mr. President, I ask unanimous consent that the tables including CBO estimates be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 6, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of March 31, we have supplied the Budget Committee staff with estimates of the budget and economic impact of H.R. 6782, the Emergency Agricultural Act of 1978, as agreed to by the House and Senate conferees on April 5. This letter provides some of the highlights of these estimates.

Table 1 summarizes the 1978 and 1979 estimated budget costs of H.R. 6782 and the effect of the administrative actions announced March 29 by the Department of Agriculture. We estimate that the effect of H.R. 6782 would be to lower 1978 estimated outlays for Commodity Credit Corporation price support programs by $375 million, and to increase 1979 estimated outlays by $5.7 billion. The estimated effect of the administrative actions announced March 29 and other technical adjustments is to lower 1978 outlays by $302 million, and to lower 1979 outlays by $1.7 billion.

TABLE 1.—CBO ESTIMATE OF THE BUDGET IMPACT OF H.R. 6782

[By fiscal years; in millions of dollars]

	1978		1979	
	Budget authority	Outlays	Budget authority	Outlays
CBO current policy base (February estimate)	1,628	7,420	7,257	6,511
Administrative actions announced Mar. 29 and other changes [1]	−302	−302	−1,696	−1,696
H.R. 6782 conference agreement	−375	−375	+5,930	+5,699
Total CCC price support programs [2]	951	6,743	11,491	10,514

[1] Includes technical reestimates, primarily for dairy price supports.
[2] Includes administrative expenses and excludes National Wool Act.

The estimates assume that 90 percent of the wheat producers, 80 percent of the cotton producers and 50 percent of the feed grain producers will choose the 50 percent set-aside program provided by H.R. 6782. Other specific assumptions underlying these estimates have been provided to the Budget Committee staff.

Table 2. provides our estimates of the direct effect of the enactment of H.R. 6782 on prices. The ultimate effect on the total CPI may be approximately double the initial impact because of cost-of-living wage adjustments.

TABLE 2. *CBO estimate of the price effects of H.R. 6782*

Increase in 1978/1979 season average farm prices:	
Wheat (dollars per bushel)	.26
Corn (dollars per bushel)	.20
Barley (dollars per bushel)	.17
Sorghum (dollars per bushel)	.19
Corn (dollars per bushel)	.20
Soybeans (dollars per bushel)	1.25
Upland cotton (dollars per pound)	.19
Initial percentage increase in price levels (fiscal year 1979):	
CPI, food	1.1 to 1.5
CPI, all items	0.2 to 0.3
Increase in food bill for typical urban family of four (January 1978 dollars)	$46 to $63

Other details concerning the estimated impact of H.R. 6782 on production, domestic consumption, ending stocks, and volume of exports have been provided to the Committee staff.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. MUSKIE. We have a costly and dangerously inflationary bill before us—a bill that will hit the pocketbook of every American taxpayer and consumer.

Apparently, my colleagues have not heeded the early warning signs that inflationary pressures are on the rise. The recent surge in consumer and wholesale prices is largely attributable to sharp increases in the price of food which have already taken place. Are we to make double-digit food inflation a permanent feature of our economy?

If we now pass this bill which will accelerate food price inflation, we will raise the underlying inflationary momentum in the economy. As I have pointed out before, inflation is sustained by the determination of every individual in every sector to catch up with inflation. This process is sustained in large part by the administration and the Congress, as we take economic policy decisions which have large inflationary effects. The list of culprits include increased agriculture price supports, higher payroll taxes, the increase in the minimum wage, import restrictions, and certain regulatory activities, to name only a few. I believe we are discovering that one of the most serious problems in an underemployed economy is the pressure it creates to adopt policies to protect incomes which add fuel to the inflationary cycle.

I had hoped that the congressional budget process would provide us with a mechanism for resisting these pressures for politically expedient action. Mr. President, I confess that legislation such as this undermines my faith in the ability of Congress to act responsibly on tax and spending legislation.

H.R. 6782 is but another glaring example of ill-conceived economic policy. In a headlong rush to respond to the strident voices of one segment of our farm population, we have ignored the impact this measure will have on the dairy, poultry, and livestock producers, and the agricultural sector as a whole. The bill reported by the conferees would aid grain producers while severely hurting livestock producers. The price of corn, a staple feed grain, is projected to rise to $2.45 a bushel in fiscal year 1979 under this bill, as opposed to $2.25 without it and $2 before the administration acted.

Furthermore, within the farm sector, only 5 percent of all farms, the largest ones, will reap approximately one-third of 1 percent of the benefits from this program. This same group averaged approximately $50,000 in net income last year—a bad year for grain farmers. Clearly, these agricultural executives are not in need of additional Federal assistance at the expense of American consumers and taxpayers and other farm producers.

Ironically, 60 percent of all farmers—those small farmers facing the most serious financial difficulties—will reap only a small portion of the benefits from this program. I am sure many of these people have been told that this bill will provide them with relief. The hard facts reveal the absurdity of such assertions. I sympathize with these farmers. I believe they, and the rest of us, have been sold a phony bill of goods.

We should recognize that the financial squeeze now being felt by some farmers stems from ill-timed investments they made in land and machinery when prices for grain were exceptionally high. Has the time arrived for Government to rescue all of us from our mistakes? Is it time to bail out every small and large businessman who makes an unsound investment? Is that our free market system, our economic system of reward for initiative and risk taking?

Finally, I think we are just beginning to see the effects of the 1977 farm bill in agriculture. For 1978, net farm income is already approximately $3 billion higher than last year, even without any new farm entitlement program.

As I indicated earlier, agricultural prices are now rising substantially. This ill-conceived legislation is designed to fight the last war, not the real economic battle we face this year, which is the battle against inflation.

Mr. President, we must also recognize that this bill will adversely impact on U.S. grain reserves. Bad weather combined with the set-aside program could reduce U.S. grain stocks to dangerously low levels. Wheat and feed grains stocks

could fall to levels of the 1974–75 levels, when we had exceptionally high prices. CBO estimates that under this provision carryover stocks could fall 24 percent below its January current policy estimate. The administration's initiatives would have reduced stocks only about 7 percent under current policy. The 2.2 billion bushel grain reserve estimated under the conference agreement is a dangerously low level which could be wiped out by any number of unforeseen circumstances, including the weather and changes in world grain demand.

I think it is not prudent to play Russian roulette with the American and world economy. A healthy reserve is essential to economic stability.

Do members realize the possible consequences of this foolhardy policy? In 1973–74, we ran short of reserves, we had double-digit food inflation, followed inevitably by restrictive anti-inflationary monetary policies and by deep recession. We got nearly 9 percent unemployment. We got the massive weakening in both U.S. and foreign economies which is still with us. And from this we got the economic budget deficits we have faced since that time.

The next time it will be worse. Accelerating inflation will lead to tighter monetary policies—Chairman Miller has already told us that. Another similar recession will produce our first $100 billion dollar budget deficit. Is that what the Congress wants to vote for today?

H.R. 6782 is not the answer to the financial problems facing American farmers.

Mr. President, perhaps it is expecting too much in an election year for Congress to act responsibly on controversial spending and tax legislation. And, of course, there is always that temptation, in times such as these, for us to shirk our responsibilities and leave the difficult decisions up to the President. As chairman of the Budget Committee, I am deeply disappointed that we, as a legislative body, have failed to live up to high expectations in our deliberations on major economic decisions. In this case, we have clearly acted recklessly in adopting an extravagantly expensive farm bill, which could have tragic consequences for our economy. Indeed, we have acted so hastily in this instance that we have not had the benefit of cost and budget information on the consequences of this bill.

Mr. President, the responsible thing to do at this stage is to reject the conference report and not leave it up to the President to veto the bill.

We should also realize that certain politicians will surely exploit the discontent of frustrated farmers to further their own political ambitions. To these people I would like to point out that no one gains under this legislation: not the U.S. farmers—not the U.S. consumer—not the U.S. economy—not Congress—and not the President.

We all lose.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. MUSKIE. Mr. President, I have agreed to yield 15 minutes to other Senators. The Senator from South Dakota would like to put some questions.

I will be happy to yield 5 minutes of my time to listen to the questions of the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I thank the Senator from Maine.

I believe Senators appreciate the conscientious way in which the Senator from Maine is discharging his duties as chairman of the Budget Committee. I do not know of any Senator who wants to do away with the excellent work the committee has done. There are times, though, and I know the Senator from Maine recognizes this, when even the most carefully laid plans have to be revised to meet difficult circumstances.

I would like to suggest to the Senator from Maine that I am just as concerned as he is about respect for the Federal budget. The Senator knows that whether we do anything at all for farmers this year we are estimated to run a $60 billion Federal deficit. We cannot blame that on this farm bill or any other bill pending here for farmers. That deficit is projected by the Senator's own committee whether we vote yes or no on this bill.

We also know——

Mr. MUSKIE. Will the Senator yield at that point?

Mr. McGOVERN. I yield.

Mr. MUSKIE. We have no estimate as to the deficit for fiscal 1979 at this point.

Mr. McGOVERN. The Senator was at least sure enough of it so that he said in his letter to Members of the Senate that the coming year's deficit is already estimated at $60 billion or more.

Mr. MUSKIE. It is estimated by the administration, that is correct. We have the administration's estimate which is now $61.5 billion. We have not completed our work. We hope to come in under that number. This bill, of course, would make it much more than that.

Mr. McGOVERN. Let us take the word of the Congressional Budget Office that this bill in this current fiscal year will save $375 million, but that in fiscal year 1979 it will cost $5.6 billion. I do not know whether those estimates are right or not, but I am willing to accept them.

Mr. MUSKIE. May I make an observation?

Mr. McGOVERN. Let us round it out to $6 billion and say for purposes of argument the bill will cost the Treasury $6 billion.

Mr. MUSKIE. The Senator's question reminds me of another point which I think is very important. There ought to be another point of order. The conference eliminated all additional 1978 spending under the bill, but it provided the provision on page 3 of the conference report, section 103. This provision is designed to get around the Budget Act, to avoid a point of order which would have been in order if there had been additional 1978 spending. But instead this provision makes it possible for farmers, after next October, to renegotiate their contracts on the 1978 crop, and to renegotiate them on the basis of the new target prices. We do not know what that bill will be. We do not know at all. Part of that cost is included in the estimate of 1979 and it is really a 1978 cost. So the conference has further confused the question of cost by that kind of legislative legerdemain. I think it is important to make the point.

Mr. McGOVERN. If the Senator will just let me accept for purposes of argument whatever he thinks the cost of this bill is——

Mr. MUSKIE. I am concerned not only with cost but with this kind of device designed to avoid facing up to the cost under the budget discipline.

Mr. McGOVERN. Let us estimate that it is somewhere around $6 billion in cost, which seems to be in the neighborhood of what the Congressional Budget Office is recommending. I would like to suggest to the Senator that there is a way to handle that without adding one penny to the Federal deficit this year or next year. That is for us to reduce the proposed $25 billion tax reduction by that amount. I think the administration is mistaken in any event in recommending a $25 billion tax cut at a time when we have urgent needs of the kind which now face American agriculture. We have very serious needs in the cities. We have a desperate need to be moving ahead on the development of solar energy and other forms of renewable energy.

At the appropriate point in this session, I am going to move—and I hope other Senators will join in this effort—that instead of the $25 billion tax cut we reduce that figure by whatever is necessary to cover the cost of the farm program.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McGOVERN. Will the Senator yield further?

Mr. MUSKIE. Why do I not yield to Senator CLARK at this point to be sure he gets his time and then I will be back. I would like to yield myself one more minute to make a point.

The kind of trade-offs the Senator is talking about are supposed to be made first in the Budget Committee as it deliberates the first concurrent budget resolution. This whole procedure undermines that. This cannot be done on the floor of the Senate. It can be done later after the budget resolution comes in and the Senate debates it. The trade-off the Senator is proposing may very well be a reasonable trade-off, but it should not be made here. The Senator is assuming that if we look at the whole picture, certain trade-offs that the Senator prefers could be made. Maybe his preference would be in the majority position and maybe it would not be. But the place to do it is under the provisions of the Budget Act. This bill torpedoes all of that.

Mr. McGOVERN. As the Senator knowns, I appeared before his committee to tell him what I had in mind in terms of the tax cut.

Mr. MUSKIE. I understand that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McGOVERN. I must say that I was very surprised that the Senator's Budget Committee increased the President's military budget by almost $2 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. I will respond to that in a moment. When the Senator wanted to present those issues, we welcomed him before the Budget Committee. We held a special hearing for him. We are always willing to do that. But that is the place to do it.

Mr. McGOVERN. That is why I appeared before the committee.

Mr. MUSKIE. But this bill is not there. It is here. This conference report has never been before the Senate Budget Committee. The motion of the Senator from Georgia is to suspend the Budget Act so that it does not have to go there. That is the point I am making to the Senator. He can have his own priorities. I have mine. Sixteen members of the Budget Committee have theirs, and 100 Members of this body have theirs. It is for the purpose of organizing and handling those in a deliberate, rational fashion that we adopted the Budget Act. The Senator cannot persuade me that considering this bill here today is consistent with procedures of the Budget Act.

Mr. McGOVERN. The Senator knows that, in the last analysis, 100 Senators have to decide everything that we decide. It is not just my priorities. I am willing to take my chances with what the Senate will do here today, but there is no way we can devise a budget procedure that ought to foreclose action on this floor to modify it and react to it. The Budget Committee can make its recommendations.

If I understand that act properly, we always have the recourse, as Members of this body, to modify the action of that committee. That is what this debate is all about today.

Mr. MUSKIE. We have a procedure to apply to the Budget Committee for a waiver. That has not been done. The Budget Committee acts on the waiver and listens to the case made. That has not been done.

The Budget Committee reports the waiver to the floor, where the Senate can consider it. That has not been done. So I am not impressed by the Senator's argument. The procedures of the Budget Act have not been followed.

Mr. McGOVERN. We moved just as quickly as we could on this bill, I say to the Senator.

Mr. MUSKIE. You have had 3 days to apply for a waiver.

Mr. McGOVERN. It is remarkable, in my judgment, that we were able to complete action on it and bring it to the floor as quickly as we have. If I had ever thought that the Budget Act would foreclose this kind of procedure for us to deal with an emergency situation of this kind, with a major part of our economy facing a crisis that is going to have a much more serious impact on the budget than anything we do here today if we reject this legislation—the Senator needs to keep in mind, too, that if we have several million farmers going bankrupt in this country, that has an impact on the budget, too. It is a loss of revenue, it is a loss of purchasing power, it is a loss of our basic food producing industry. Those are considerations that we need to be looking at as well as these technical procedures.

The PRESIDING OFFICER. The Senator from Maine has 15 minutes.

Mr. MUSKIE. I shall use 1 minute, and I shall not yield on this minute.

The staff of the Budget Committee asked the staff of the conference last Wednesday to submit a waiver. We repeated that request later in the week. We got no response. What the Senator from South Dakota regards as a mere technicality is an important procedural safeguard to insure that the fundamental problems of farmers, defense, consumers, and everybody else are protected.

If the Senator from South Dakota chooses to say that once he decides that the Budget Act is an inconvenience, we ought to set it aside casually, I cannot go along with that.

I yield 10 minutes at this point to the Senator from Iowa.

Mr. CLARK. I thank the distinguished Senator for yielding.

Mr. President, the issue here today, in my judgment, is not really the Dole flexible set-aside bill, although we are here to debate the conference report on H.R. 6782—and that report is now a modified version of the earlier Dole flexible set-aside proposal.

The real issue today is whether or not the Congress leaves farmers with nothing at all in the way of additional economic protections for 1978.

It is clear to everyone that the Dole proposal cannot be passed into law. A vote for that measure is a vote for no additional economic protections for farmers for this year. Mr. President, I do not want that to happen, and I hope my colleagues in the Senate will not permit it to happen.

The President has promised—unequivocally—to veto the Dole bill. In his letter of April 6 to Senator TALMADGE, chairman of the Senate Agriculture Committee, the President says:

> Should that legislation reach my desk, it will be vetoed.

That statement is unequivocal. Nothing could be more clear.

Some have said that the President is bluffing, and that he will sign H.R. 6782 into law if Congress will only pass it. Such an action is unimaginable after the letter the President wrote to Senator TALMADGE.

Others say that a veto can be overridden. No one can say for sure about such things, of course, but I am convinced that the President would veto this bill, and that it would have little chance of overriding a veto—particularly in the House. I conclude that the flexible set-aside proposal cannot now be passed into law.

So, the issue here is whether we can provide some increased price supports for farmers this year, or whether they are to be left with prices below costs of production for 1978.

I do not want to see farmers left with no additional protections for this year. I believe that would be the final development in a long and cruel hoax played against our farmers. It would mean that we participated in 3 weeks of hearings this spring with more than 150 witnesses and worked through 4 major emergency proposals, including the McGovern bill; the Dole bill; the Talmadge bill; and the Eagleton bill; and then refused to work with the White House and the administration to find a compromise that could actually be accepted.

Mr. President, I will not vote to send to the President a bill that I know he must and should veto at the expense of a chance of working out some measure that will give farmers stronger prices this year—a measure that would be acceptable to the President, the Congress, to the country.

Mr. DOLE. Will the Senator yield?

Mr. CLARK. I shall yield at the end of my time.

That measure would be acceptable to the President and to the Congress and to the country.

The administration has indicated that they will accept a proposal that would increase target prices for wheat significantly, by around 50 cents.

[Disturbance in the galleries.]

The PRESIDING OFFICER. There will be order in the Senate.

Mr. CLARK. I suggest that a similarly moderate increase in supports for feed grains also might be acceptable to the administration. This would greatly increase the attractiveness of the administration-announced set-aside programs. It would not cost much money, given current market prices. Mr. President, I would hope that the Congress will instruct the conferees to reexamine the proposals contained in H.R. 6782 and attempt to produce a bill that will increase price supports, and that the President will sign.

I would think that even the strongest supporters of the Dole bill would prefer an increase in target prices such as the President has indicated that he will accept rather than press for a veto and no increase in price supports at all for this year, which is exactly what we are going to get if we press this proposal.

Mr. President, farmers still face two very real and immediate needs. The first is to reduce the acreage planted for the 1978 crop. The second is for additional price supports and income to offset a very serious cost-price squeeze this year. Very simply, grain prices are below costs of production.

The administration's new initiatives are a very positive step. In my judgment, for feed grains, at least, the proposal to pay farmers to set aside up to 20 percent of their acres in 1978 will help. I believe there will be significant participation in that program, even though it was announced too late. And the administration deserves criticism for the lateness of that announcement.

That program increases the odds that farmers will not overproduce this year. But it does not give them the protections they need against price disasters—protections to help them cover their costs of production in the event that good weather does cause overproduction once again.

Both the administration and the Congress promised farmers programs that

would protect prices at the average cost of production. The President said so in Des Moines in his campaign. The Congress has promised it over and over again. We do not have those protections now and farmers are losing money because we do not.

We still have a chance to provide those protections. By voting down the pending motion we can return this bill to the conference and then the conference can combine the best features of the McGovern bill, the Talmadge bill, and the Foley compromise. I believe the President would find a combination of the best features of all three proposals very difficult to reject.

Mr. President, there have been a number of arguments made against the Dole bill in recent weeks on the grounds that it would cost the Government an additional several billion dollars over the next 2 fiscal years, and on the grounds that it would add additional points to our inflation.

I do not know the exact figures, but they are not the most serious weaknesses in this very bad bill, in my judgment.

Its most serious shortcoming, I believe, is that it mobilizes producers of wheat, cotton, and feed grains against all the rest of agriculture. It authorizes very great incentives for producers of those grains of cotton to divert large amounts of land. But it has no protections at all for producers of hogs, cattle, soybeans, or for dairymen or poultrymen. It would very likely lead to sharp increases in costs for those farmers, and to sharp drops in their incomes.

I will never advocate cheap corn, Mr. President. I know that low corn prices such as those we have had this year are bad for livestock producers and grain producers, as well. Low feed prices overstimulate the livestock sectors and lead to overproduction and prices break later on. Corn prices have been too low, and I would certainly like to see them higher for the reasons I have just stated about feed grains.

But feed grain prices that are too high also would be a very serious problem for the hog feeders and the cattle feeders of my State. They oppose this bill. And, the Dole bill could lead to very high corn prices and very sharp increases in cost for all livestock producers and dairymen. USDA estimates that this proposal could lead to a reduction in feed grain acres on the order of 24.6 million acres—a reduction that would lead to corn prices in the $4 range if we had anything less than a bumper crop. It could mean even much higher prices than that if weather were bad.

Four-dollar corn means that hog producers must have $60 hogs just to break even—but we cannot expect $60 hogs this year. Corn as high as $4 would mean a disastrous economic shock to every part of the livestock economy that depends on feed grains—especially so, if the increase came very rapidly as it might, given the very large acreage diversion authorized in this bill.

Cattle feeders' costs could be increased still another way under this bill. The incentives to set aside corn land are so great that many soybean farmers would be expected to declare soybean land to be intended for corn production and set aside the maximum number of acres. We could easily end up with 6 million acres less in soybeans this year under the Dole bill, than under current programs.

Soybean prices are fairly strong now, and should be around $7 for the year. A large acreage reduction would send them through the roof. That would be very good news for our Brazilian competitors, but bad news for our livestock feeders who must buy soybean meal—and bad news for our customers in Japan and Europe, and ultimately for soybean producers. We could even see embargoes again if weather were unusually bad.

Mr. President, what farmers need are programs that work equitably to support prices at fair levels. We need to reduce production this year—we need a set-aside program that works, and we need price supports that cover average costs of production. I believe that we very badly need to strengthen our current programs in that regard.

The Dole bill is far too drastic, at least as regards the diversified Corn Belt farmer. It contains incentives that could lead to huge production adjustments for our crops, and cause extreme economic dislocation for our livestock economy—and for our customers overseas—upon whom we are very dependent.

Mr. President, the debate on this emergency farm bill has been long and it has been emotional. Many farmers came to town and emphasized their point that they need more protection than the 1977 bill contains. I think they made that point very well, and that there is now broad agreement that those programs should be strengthened. I believe the administration's announcements and initiatives over the last few days indicate that they also are now convinced that changes should be made. Farmers here have helped us to get those changes.

I believe that the time has come to put the emotion and the politics of this debate behind us. I believe that we must recognize the concerns of all participants, rather than just a few—the President's concerns about costs and inflation—the Budget Committee concerns—the livestock producers' and dairymens' concerns about their costs—our foreign customers' concerns about reliable supplies—and, most of all, farmers' concerns about low prices and low incomes. The time has come to recognize all these concerns and to develop a bill that would do all that, and pass it and send it to the President so that we can have the protections we need for this year.

I suggest that can still be done. I believe that the conferees can go back and combine the best features of the McGovern bill, the Talmadge bill, and the Foley bill, and come up with a bill the President will accept. I hope my colleagues will join me in voting to recommit H.R. 6782 and ask the conference to come back with such a proposal.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Georgia has 22 minutes.

Mr. TALMADGE. And the Senator from Maine?

The PRESIDING OFFICER. The Senator from Maine has 4 minutes.

Mr. TALMADGE. Mr. President, I wish to compliment the Senator from Maine, not only for his argument, but on the way he has handled his job as chairman of the Committee on the Budget.

I do take exception to the idea the Budget Committee is the parent of the Senate and not vice versa.

My motion to suspend the rule here is in the very language of the act creating the Budget Committee.

I was a very strong supporter of the creation of the Budget Committee. In fact, in conference I made the motion it be agreed to and I have tried to support it consistently.

We are acting under the terms and under the language of the act creating the Budget Committee itself to suspend the resolution at this particular time in order that we can act on an emergency basis.

Mr. President, my motion to suspend section 303(A) of the Congressional Budget Act with respect to the Senate's consideration of the conference report on H.R. 6782 is not made casually or frivolously. The conference substitute adopted by the committee of conference is emergency farm legislation that is important to the entire agricultural economy. It is imperative that the Congress act on the legislation as soon as possible.

As I stated a moment ago, I was one of the original supporters of the Congressional Budget Act. I am strongly in favor of the act. I do not want to do anything that would weaken the act. I think it holds great opportunities for us to bring Federal expenditures under control.

In moving that section 303(a) of the Congressional Budget Act be suspended for purposes of allowing the Senate to work its will on the conference report on H.R. 6782, I am simply asking the Senate to exercise a procedural right under section 904(b) of the act that enables the Senate to say—"we are going to take up the conference report, notwithstanding the point of order that can be raised under section 303(a) of the act." That is not a waiver of the procedures. It is an exercise of the rights that the Senate has under the procedures.

Section 303(a) of the Congressional Budget Act provides that a point of order may be raised in the Senate with respect to the consideration of "any bill or resolution (or any amendment thereto)" that provides new spending authority described in section 401(c)(2)(C) of that act that is to become effective during a fiscal year if the first concurrent resolution on the budget for that year has not been agreed to.

H.R. 6782, as amended by the committee of conference, increases the loan rates and target prices for the 1978 crops of wheat, feedgrains, and upland cotton, and is deemed to be new spending authority within the meaning of section 401(c)(2)(C) of the Congressional Budget

Act. The increases are effective October 1, 1978, and the first concurrent resolution on the budget for fiscal year 1979 has not been adopted.

In my opinion, it is arguable whether section 303(a) of the Congressional Budget Act applies to conference reports. There is language in other sections of the act making specific reference to conference reports—they are not encompassed by the terms "any bill or resolution (or amendment thereto)." I believe that the better interpretation is that section 303(a) does not apply to conference reports. However, I understand that the parliamentarian is of the opinion that a point of order could properly be made under section 303(a) with respect to the consideration of the conference report on H.R. 6782, and would so advise the Chair.

The question, therefore, becomes: "What means are available to waive or suspend section 303(a) in order to permit the Senate to consider this conference report?" Section 303(c) provides a waiver procedure for any "committee of the Senate" that reports a bill or resolution subject to a section 303(a) point of order. That procedure involves the reporting of a waiver resolution, which is referred to the Committee on the Budget.

The argument has been advanced that when a committee of conference submits a report containing a bill that is subject to a point of order under section 303(a), the Senate committee which originally considered the measure must report a section 303(c) waiver resolution for referral to the Committee on the Budget.

I find this argument unconvincing for several reasons: First, section 303(c) specifically applies to committees of the Senate and not conference committees, which have never been considered as committees of the Senate; second, the Senate conferees represent the Senate and not the members of the committee that originally considered the bill; and third, the Congressional Budget Act specifically provides an alternative procedure in section 904(b) under which section 303(a) may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate. I understand that the parliamentarian has advised the Chair that section 303(a) of the Congressional Budget Act may be waived or suspended under section 904(b).

The waiver or suspension of section 303(a) of the Congressional Budget Act under section 904(b) is, in my view, entirely proper in this case. I state again that the legislation we are considering is emergency legislation. When this legislation (in another form) was originally considered by the Senate, the increases in 1978 loan rates and target prices would have been effective upon enactment. Under section 401(b) of the Congressional Budget Act, a point of order could, therefore, have been raised with respect to the consideration of the legislation. The same point of order could have been raised with respect to the amendment offered by the distinguished Senator from South Dakota (Mr. McGOVERN) and the amendment offered by the distinguished Senator from Kansas (Mr. DOLE).

However, the distinguished Senator from Maine (Mr. MUSKIE) did not raise any point of order, and I think it was entirely appropriate that he not do so, and I thank him. The Committee on Agriculture, Nutrition, and Forestry cooperated fully with the Committee on the Budget with respect to H.R. 6782 and S. 2481 prior to reporting the measures to the Senate. We filed the requisite waiver resolutions, and agreed to offer floor amendments to meet their concerns.

I think that the Committee on Agriculture, Nutrition, and Forestry has an excellent relationship with the Committee on the Budget. I want to see that relationshhip continue. Our objectives are the same: We want to see the Congressional Budget Act succeed.

However, if the farmers are to get relief this year, time is of the essence. It is already late. Much of the Southeastern crops are in the ground. Much of the Southwestern crops are in the ground.

I would have preferred a different vehicle, but this is the only one before the Senate at the present time.

Mr. MUSKIE. Will the Senator yield for a moment?

Mr. TALMADGE. I yield.

Mr. MUSKIE. I do not want to interrupt the present thought of the Senator's discourse, but I thought it might be useful to indicate for the record that section 904, which is the section to which the Senator refers, providing suspension of the Budget Act, was not designed as a routine act. It was designed to avoid depriving us of the opportunity to change the Senate rules, and if we had not had that provision written in the Budget Act into law with respect to the Senate rules, our hands might be tied.

That is why section 904 was written in, not as a routine way to put the Budget Act aside, but it had a very specific purpose.

The Senator is free to make his argument, of course, but I thought that legislative history would be important.

Mr. TALMADGE. Of course, the Senator is entirely correct.

We work with the Budget Committee and the Budget Committee works with the Committee on Agriculture, Nutrition, and Foresty. I appreciate that relationship.

But when time is of the essence, when the emergency is upon us, when relief is needed today, it is time for the Senate to act, and the Senate is the parent of the Budget Committee, not the other way around.

That is the reason I made the motion under the terms of the act creating the Budget Committee, so we can act today.

We have had a lot of talk about inflation and inflation is a reality. But where is that inflation, Mr. President?

About 33 cents of the housewife's food dollar goes to the farmer and about 66 cents plus goes to everyone else, those dealing with transporting, manufacturing, processing, and selling agricultural commodities.

The truth of the matter is that agricultural income for farmers today is about 65 percent of parity. That is the lowest it has been since the depression years of the 1930's. That is the reason we see farms going on the auction block throughout the country, because they cannot pay their debts. That is the reason we see farmers crying for emergency aid and disaster funds, because throughout the length and breadth of this country they are selling commodities below the cost of production.

This shirt I have on is a cotton shirt. Do you know what it cost, Mr. President? About $20. Do you know how much cotton it has in it? Less than 50 cents worth.

The Senator from South Dakota and the Senator from Kansas pointed out that a loaf of bread that sells for about 75 cents has only about a nickel's worth of wheat in it.

How can we expect farmers to carry the whole burden of inflation? Inflation has hit farmers harder than any other segment of our society.

Fuel oil that cost 15 cents a gallon about 4 years ago is now about 45 cents a gallon. Fertilizer, machinery, insecticides and pesticides, and everything else the farmer buys have gone up accordingly.

We hear a great hue and cry that we cannot do anything to help farmers, because it will create more inflation. But the inflation, Mr. President, is not on the farms, the pressure is on the farmers themselves.

Tractors that cost $2,000 and $3,000 4 or 5 years ago now sell for $7,000, $8,000, $9,000, and $10,000.

The same thing is true of all the other agricultural equipment.

Mr. McGOVERN. Will the Senator yield?

Mr. TALMADGE. Yes. I yield to my distinguished colleague, the able Senator from South Dakota.

Mr. McGOVERN. Mr. President, is it not a fact that most foods are not price supported at all, they are not under the price support program?

Most things we buy in the supermarkets have nothing to do with the support of grain and wheat.

Mr. TALMADGE. The Senator is entirely correct.

Mr. McGOVERN. Sometimes it might leave the impression that we are supporting everything. We are not. That is a very small part of the total food budget. It has nothing to do with most of the things we buy in the supermarket.

Mr. TALMADGE. The Senator is entirely correct.

Mr. President, at an appropriate time, I will ask for the yeas and nays on my motion to suspend. We have nine Senators in the Chamber. I ask the aides to check the cloakrooms and the corridors to see if they can produce a few more Senators on the floor, so that I can get the yeas and nays.

We have enough Senators now. I ask for the yeas and nays on the motion to suspend.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, how much time does the distinguished Senator from Kansas desire?

Mr. DOLE. If possible, I would like 10 minutes at the close of the debate.

Mr. TALMADGE. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Georgia has 16 minutes.

Mr. TALMADGE. And the Senator from Maine?

The PRESIDING OFFICER. Four minutes to the Senator from Maine.

Mr. DOLE. Does the Senator from Maine wish to take his time now?

Mr. MUSKIE. I will reserve my 4 minutes.

Mr. TALMADGE. I yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. I thank the distinguished chairman.

Mr. President, since most of the thrust of the attack has been against the bill that bears my name—and I might add that it bears the names of 21 other Senators, Democrats and Republicans, including the distinguished Presiding Officer at this moment, the Senator from Nebraska (Mr. ZORINSKY)—I want to set the record straight very early that it is not a partisan effort by Senator DOLE. It is an effort by 22 Senators, Democrats and Republicans, about equally divided, who are concerned about the American farmer.

I say to my distinguished friend from Iowa, and my distinguished friend from Maine that I checked the record, and I note that both voted for the Emergency Act of 1975. That was called inflationary by then President Ford. He indicated to the Senate that if it came to him, he would veto it, and he did. But I did not hear the Senator from Iowa make a speech that we should have low farm prices, because President Ford might veto that bill. The Senator from Iowa said a few moments ago that he would not vote for a bill if the President said he would veto it. Well, the Senator voted for that bill in 1975.

So I remind my distinguished colleague, who apparently is satisfied with low farm prices, that that is a choice he can make.

There have been some comments that the Dole bill would take out all this production in States such as Iowa. According to CBO estimates, which we are asked to accept as the gospel in this Chamber, title II, which was the Dole bill, would take out about 22 million acres, as compared with so-called title I, the retirement bill, which would take out not less than 31 million acres.

I predicted at a quarter after 9 that someone would stand up and say that this bill is going to cost $6 billion. They never told us where that figure came from, and we have not heard yet where the $6 billion figure came from, how it was arrived at. That is just for press consumption. That is so the press will understand that this $6 billion——

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. MUSKIE. The Senator overlooks the fact that I put in the record a table of CBO estimates which produced this in the RECORD. If I had more time, I would be glad to read the table. It is in the RECORD.

Mr. DOLE. We will not have the RECORD until tomorrow.

Mr. MUSKIE. I would be glad to send a copy to the Senator now.

Mr. DOLE. What about the other 98 Senators?

Mr. MUSKIE. I am sorry. We have a unanimous-consent agreement, to which both sides agreed, which limits each side to an hour. By definition, it limits the scope of the argument. I am sorry that I did not happen to touch the particular point, but the Senator did not touch a lot of points I would like him to discuss.

Mr. DOLE. I am going to do it right now.

Mr. MUSKIE. The Senator has not succeeded yet.

Mr. DOLE. The Senator from Maine had an hour. The Senator from Kansas has had 8 minutes so far.

Mr. MUSKIE. I yielded some of my time to the Senator from Kansas and the Senator from South Dakota.

Mr. DOLE. I appreciate that.

Mr. MUSKIE. I did not use the hour.

Mr. DOLE. The Senator from Maine had control of an hour.

I want to be accurate, because we are dealing with the Budget Committee, and they are always very accurate. I serve on that committee, and I know they are accurate. But I know how you arrive at assumptions. If you are against a proposal, you use the worst possible case.

The CBO figures say there is going to be 90 percent participation by farmers setting aside 50 percent of their wheat production. I do not accept that. But you have to use that low figure to make the costs so bad. The costs, based on CBO estimates, is about $6 billion. You passed that out to the public and the press, who wrote editorials about it.

The USDA has now released some new figures on the cost production for selected crops. The range for production cost on wheat is $3.66 to $3.92 a bushel. The range on cotton is up to 66 cents a pound. The range for corn, I say to the distinguished Senator from Iowa, is now $2.54 to $2.71 per bushel.

Mr. President, I think we should set the record straight for once, because many Senators are very troubled by this bill. The administration is working very hard—the President, the Vice President, and there are lobbyists all over the Capitol—trying to figure a way to defeat this bill in conference, to avoid sending it to the President, because he does not want to have to veto it. So the best way is to kill it in the Senate or in the House.

We should not be flourishing figures of $5.7 billion when there is no proof. We have been told by the Budget Committee that it will cost $5.7 billion, and there is nothing to support that. The same arguments can be raised against the milk bill, too.

Not long ago, a poll was taken of 1,259 adults, and 5 out of 6 were for raising the prices farmers are receiving. This was not a farmers' poll. It was conducted by the Harris organization.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. I ask for 2 additional minutes.

Mr. TALMADGE. I yield the Senator 2 additional minutes.

Mr. DOLE. Mr. President, it seems to me that we have to make a choice, as the chairman just indicated. We did not have the luxury in the conference of a 1-year bill, a 2-year bill, or a 3-year bill. We were confined to 1 year.

We understand some of the problems raised by the Senator from Montana (Mr. MELCHER). We understand some of the concerns expressed by the Senator from Iowa. But I think the record is very clear. It is not what we are going to do in conference. It is what we can do in conference. The President has made it clear that he will do one thing and one thing only, in addition to the so-called nine initiatives. He will raise the target price of wheat to $3.40. When Secretary Bergland suggested that it should $3.50, he got in trouble, and that has been all over the papers for the past few days.

It seems to me that as we close this debate, we should know that the cost is not $5.7 billion. We should understand what it costs the American farmer. He is a consumer, too. The American consumers are willing to pay more. We figure that this bill, for a family of four, would add between $40 and $65 a year to the grocery bill. Some would rather take it out of the Treasury, because that does not upset the consumer, and that was advocated in the conference. It was said:

> We don't like the Dole bill, because it comes out of the marketplace. It is easier to send the farmer a check.

The farmer does not want to be on welfare. He does not have a welfare mentality. But he has a budget. He does not have a budget committee, but he has a budget, and he is going broke. The bankers are foreclosing. Yet, scare tactics are being put forth, together with some figures which are not even proved.

I stood on this floor in 1975 and supported the act then, and my President vetoed it. I could read a lot of speeches made by my colleagues about that veto, what a terrible thing it was. If an emergency farm bill was needed in 1975 to help farmers, it certainly is necessary in 1978 to help farmers.

I would be glad to put somebody else's name on the bill, but keep in mind that there are the names of 22 other Senators. I see some in the Chamber: The distinguished Senators from South Carolina have actively supported this bill, as have those from Alabama, Arkansas, North Dakota, Nebraska. They are all sponsoring this approach. It is not a Republican proposal.

I say to my Democratic colleagues: Do not take it out on the American farmer, because the bill has my name on it. Simply because it has a Republican name on it, do not punish the American farmer, because it also has the names of Democrats and other Republicans and Independents.

The farmers want to stay in agriculture. It seems to this Senator that we have an opportunity now. If we fail, it is our responsibility. If the President fails, it is his responsibility.

Mr. TALMADGE. Mr. President, I yield 5 minutes to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, first of all, I shall make a brief comment on reports that I heard circulating over the weekend that the Secretary of Agricul-

ture, Mr. Bergland, is considering resigning. I hope very much that those are nothing but rumors. I happen to think that Bob Bergland, who served for a number of years as a Member of the Congress of the United States, is personally totally dedicated to the best interests of American agriculture.

We know that every Secretary of Agriculture has to operate within certain constraints. They have to operate within the guidelines that are laid down by the President and by the Budget Bureau.

I am convinced in my own mind that if the Secretary of Agriculture had been permitted to do everything that he might personally have wanted to do to assist the farmer we might not be here today faced with the crisis that we have. But I hope farmers who get impatient with the slow pace of response to their needs will not blame that on the Secretary of Agriculture, specifically on Bob Bergland, and I hope he will stay on the job and continue to fight within the councils of the administration for the strongest possible farm program.

The program now before us is not exactly the kind of bill that I wish we were voting on today, but it is one that I can support. It is a program that has the merit of literally coming out of the grass roots of this country. I think Senators, regardless of what State they come from, must have great admiration for the way in which this legislation was brought to our attention. It really grew out of the efforts of the farmers themselves. I think it does have some limitations to it. It does have some problems. But, on balance, it is addressed at the very serious crisis that faces us in rural America today, and that is the absence of enough income to keep our family farms operating.

We had a little colloquy here on the floor earlier with the chairman of the Budget Committee, who is rightfully concerned about the impact of anything we do on the Federal budget and on the Federal deficit, but I suggest again here the point that I tried to make earlier that there are other options open to us, to keep the budget limitations in line.

We are going to be faced with a vote on a $25 billion tax cut, and when that time comes I intend to move, and I hope other Senators will join with me, to reduce that tax cut by whatever amount we need to cover the cost of this farm program. I do not want to see the cost of the legislation added to the Federal deficit. And that is the reason I intend to oppose at least part of this tax cut. There are other aspects of that tax cut that ought to be proposed to free up funds that we need for other purposes.

I also think, Mr. President, that we need to look very critically at other aspects of the budget that are coming to us. I thought frankly when the President submitted a $126 billion military budget to Congress this year, which is about $10 billion above what we were spending last year, that that offered some opportunity for a modest cut in the President's budget that we could have diverted to agriculture or to the creation of jobs in our cities. Instead of that, it is my understanding that the Senate Budget Committee added almost another $2 billion on top of the Pentagon request as it came to that committee.

When that bill comes back to the floor we will have an opportunity to look at it and to perhaps transfer some of those funds to cover the cost of this bill.

I also want to speak very directly to the point that Senator TALMADGE was making here earlier about the impact of this bill on consumers. We need to keep in mind that if Congress fails to act to deal with the crisis that now confronts the family farmers of this country, those farmers in a very short period of time are going to be replaced with corporations and then we will see inflationary food prices. We know what has happened to the energy prices in this country over the last few years when they quadrupled in considerable part, because of the monopoly control that a few major oil-producing countries and major oil companies have over that industry. I do not want to see that happen to America. We now have more than 2.5 million commercial farmers competing with each other in a largely free economy to give us the most abundant low-priced supply of food that exists anywhere in the world, but if these farmers go broke and the small businessmen up and down the main streets who depend on them go broke we are taking one huge step in the direction of monopoly control of farm and food pricing that is going to be a dagger aimed at the heart of every consumer in this country.

So in a very real sense, a bill that is designed to put a reasonable price floor under the production of our family farmers is a bill designed to protect the consumers of this country. Even if one were to accept the estimates of the chairman of the Budget Committee that this bill will cost the average family of four $100 in increased food bills next year, and I am not sure those figures are right, that comes out to about 27 cents a day that the families of this country would be asked to pay in order to give justice to the American farmer. I cannot imagine any family that would begrudge the food producers of the country another 27 cents a day on their food bill, if these estimates are right, in order to save these families that work so hard on the land.

Mr. President, when I consider how hard farmers work, when I consider the gambles they take with the weather, with the market, with pests, with export and import changes, and with all the hazards that face our food producers on the land, it is enough to make a person weep about the difficulties that face them. So I am very hopeful that the Senate will recognize that we are acting in a perfectly proper way in the procedure that has been outlined by the chairman of the Agriculture Committee here today and that we will act on this legislation to bring some measure of justice to the food producers of this country.

THE FARM BILL, THE BUDGET, AND THE CONSUMER

Mr. President, I am, along with the rest of the Senate, generally reluctant to push for expenditures which exceed the budgetary recommendations of the Budget Committee. My feeling is that whenever possible we should try to remain within those limits necessary to retain a reasonable hold on the deficit.

However, there are no decisions we make that are not and indeed should not be subject to review and amendment when extraordinary circumstances alter the assumptions under which we made our original decision.

I believe such is the case with the conference report now before us. While it may not be the final form I would have preferred, it is one I can support. The severity of the farm situation has been brought home to all of us in the last several weeks. This legislation is necessary if our food producers are to receive an adequate return on their investments. We must act to protect our own long-term food needs as well as those of the millions in the world who rely upon us for their sustenance.

But, Mr. President, the special point that I would like to make this morning is that this legislation need not add 1 cent to the national deficit.

If we adopt a proposal that I will make in greater detail shortly, this legislation and several other measures absolutely vital to the long-term economic health of our country will be paid for in lieu of the $25 billion tax cut proposal that the President has made. The tax cut will not do the job we need done. It is painting with a broad brush a structure that needs three coats in some spots and no paint in others.

Mr. President, we can invest that same $25 billion in a much more specific and useful way. There are sectors of our economy that are in desperate straits and deserve our focus. A simple tax cut, intended to lift the entire economic picture and thereby lift along with it the lagging sectors, will no longer do. Stagflation is a new phenomenon and requires new imaginative remedies. The tax cut was always just one tool in our arsenal, and a useful one, but it never alone sufficed, and certainly cannot be expected now to do the whole job of picking up our economy.

My proposal would be called the Economic Defense Act of 1978 and would take the $25 billion intended to be thrown into the entire economy and earmark it for the following specific purposes:

First, $6 billion to pay for the first year of the agriculture measure now before us and and to expand our Food For Peace program. Polls show the willingness of the American consumer to support the farmers in a way that allows them to meet their production costs. This bill will do that. The tax cut will not.

Second, $7 billion to pay for the social security program, instead of increasing a regressive payroll tax that would dampen both consumer power and business profits. The joint economic committee reported earlier in the year, and I quote, "increasing payroll taxes will lead to slower economic growth, higher unemployment, and faster rates of inflation than alternative means of financing". I voted against against the payroll increase approach, and many have come to the same conclusion in the intervening weeks. But the social security system is absolutely integral to our

economic and social well being, and must be reinforced immediately. We can legislate this support, and in turn keep alive and healthy a program that tens of millions absolutely need. The tax cut could not do the same.

Third, provide the $12 billion necessary to meet the problems of structural unemployment, inadequate shelter, the lack of reliable and accessible transportation in our cities, and to develop a job-creating, inflation-fighting solar energy program. The President's urban policy proposal is an adequate beginning. But it is severely undercommitted in these areas. The cities cannot be ignored without all of us losing in the end. Beyond this the total commitment of funds to solar, wind and biomass development is now only a meager 3 percent of the Department of Energy Budget.

At the same time we have to put the country to work, not only because work is the most basic of rights, but because economic recovery will never happen without full employment. The surest long term answer to inflation is full employment. We have many underutilized sectors of the economy, but the most glaring is the still too ample supply of unemployed labor in all categories.

The tax cut cannot be targeted on the groups that need jobs. Further, the creation of one job through a tax cut costs the Government four times more than creating one public service job. Obviously a tax cut will not make the optimum use of scarce resources and maximize the cost/benefit of our investment. We will create just as many jobs in the private sector by taking the same amount and investing directly in a program of job creation, and do the whole economy more good at the same time. That is an incredible imbalance—one we cannot allow to continue. We cannot hope to rise from the quicksand of stagflation unless we use the sun and the wind to lift us. Nuclear development is not the only answer. There is not only much organized opposition to it, but its development creates relatively few jobs or trade possibilities. No tax cut can address this national priority.

What can be in the greater long term interests of all Americans, a quick heating up of an already overheated economy, or the development of a true energy independence, creating millions of new jobs in the process? A national initiative to develop and utilize our renewable resoures is totally consistent with the administration's stated energy goals, but it will not happen without an investment. The fact that we can ease unemployment, reduce the trade deficit, and dampen inflation should make such an initiative automatically part of a new public agenda, one that will in the future make it unnecessary to resort to continual tampering and halfway measures, each of which must be repeated each year, with dwindling returns.

Mr. President, the conference report we are considering today as well as the other measures I have mentioned can be accomplished without increasing the Federal deficit.

Indeed, unless we get to full employment, allow our food producers the freedom to meet their costs, reduce the payroll taxes of the working person, put people to work, and develop safe, clean, and reliable sources of alternative energy, the Federal deficit will grow, inflation will increase, business confidence will erode, and future generations will be faced with permanent and overwhelming problems. I believe this kind of new public agenda is the more prudent approach.

We do not need to transfer a little bit of money to everyone, when the same amount more thoughtfully earmarked would do each of us more good in the medium and long run. I believe the American people want and are willing to pay for an economically secure future. It is our job to help them get it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TALMADGE. Mr. President, I yield one-half minute to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I am very distressed by this conference report and the general political atmosphere that dominates recent discussion of farm policy.

Let me begin by saying that I voted for flexible parity along with the approaches offered by Senators HERMAN TALMADGE and GEORGE MCGOVERN. I supported flexible parity because I wanted to give the conferees wide latitude in their efforts to make a workable emergency farm bill.

I am deeply worried about this bill's implications for feed supplies and for our export markets. In my home State of North Carolina, we have strong poultry, pork, and dairy industries. These farmers must have adequate supplies of feed.

On the other hand, we have price depressing surpluses. Flexible parity gives the individual farmer the opportunity to decide how much land to set-aside in return for a payment level that is sufficient for his operation.

I believe that flexible parity will help reduce supplies. I can only hope that this will happen without damage to our feed supplies or to our export markets.

There is little question that our Nation's farmers are in serious financial straights and that something must be done to reverse this situation.

If not, agriculture will suffer. And since agriculture is the backbone of this great Nation, our Nation will suffer.

While I am troubled in the conference report, I must have confidence in the judgment and experience of the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE.

Mr. President, we must also remember one other point of deepest concern, the rising age of American farmers. As we know, the average farmer today in this great country is 53 years old. We must do something to attract the young and able to enter farming and take on the risks of weather and pests.

Clearly, our current farm programs do not provide adequate inducement for the young to take up this risky enterprise.

We have heard that the President will veto this measure. This troubles me greatly, but I see no program that offers the necessary movement forward. If the President vetoes this bill, I hope that he is ready to bring up a program in its place.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Mr. President, I have 4 minutes remaining. I yield those minutes to my good friend from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. BELLMON. Mr. President, I thank my friend from Maine.

Mr. President, I have been a Member of the Senate since 1969. When I came here I was appalled at the very wasteful methods the Senate used in spending taxpayers' dollars. I had come from being Governor of a State where we had a requirement that we have a balanced budget. It was hard to believe how careless we were here in the way we spent the billions of dollars at our disposal. Since I have been here we have added another $350 or $400 billion to the national deficit and, partially due to the action of this body, we have seen inflation rise to the double-digit level, and this kind of activity hurts everyone in the country, farmers as well as consumers, country people as well as city people

The one hopeful sign that has developed during these years has been the development of the budget process. It is the only effective means, as has been brought out, that might some day bring our Federal spending processes into line and cause us to be more responsible in the way we spend our taxpayers' money.

The process has worked fairly well, whether it has been dealing with welfare, defense, housing, or any other function. But this is the first time it has been frontally attacked and threatened by a motion to suspend the budget process and, in effect, put the law into abeyance.

I would strongly oppose this new development. It will refuse the opportunity for us to give careful consideration to the full impact of this bill, and it will cause, I think, a return to the old free spending days of the past.

As many in the Chamber know, the authorizing committees have made recommendations this year that would result in a budget deficit not of $60.6 billion, as the President recommends, but more like $80 billion or $90 billion. If we allow the authorizing committees to bring this legislation without budget consideration, it is going to get us into an even worse inflation and worse budget position than we have been in.

Mr. President, I ask unanimous consent that Brad Gungoll of my staff, Jim Range of Senator BAKER's staff, and Bill Stringer and Bob Boyd of the Budget Committee staff be granted privileges of the floor during the consideration of this bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, will the Senator yield?

The VICE PRESIDENT. The time has expired.

Mr. LEAHY. I understand there was another minute and a half remaining. The Senator from Oklahoma was told he had 4 minutes for his speech, and he has used 2½ minutes of it.

The VICE PRESIDENT. The Senator is correct.

Mr. PERCY. Mr. President, I ask for half a minute.

Mr. LEAHY. If the Senator from Oklahoma will yield a minute——

Mr. BELLMON. I am happy to yield 1 minute to the Senator from Vermont and a half minute to the Senator from Illinois.

Mr. LEAHY. Mr. President, I listened to the Senator from Kansas (Mr. DOLE) say that the Harris poll showed that the majority of farmers favored this farm bill.

I hope the Senator will also recall that the Harris poll shows that the majority of Americans are in favor of the Panama Canal Treaty.

Mr. President, since joining the Senate I have been a consistent and strong supporter of the American family farmer. My record on the Agriculture, Nutrition, and Forestry Committee is evidence of my commitment to the farmers. Therefore, it is with regret that I must vote against this farm bill. I do this knowing that quite possibly Senator CLARK and I will be on the only Agriculture Committee members to oppose it.

The reason I oppose this "farm bill" is not because I am changing my convictions in any way. I am opposing this price support bill because I believe it is the wrong approach. H.R. 6782, the so-called flexible-parity bill, is directed toward reducing grain supply by paying farmers higher deficiency payments for growing less grain.

I object to this approach of supporting farm prices. I have deep philosophical problems with any measure which pays farmers to idle their land. I believe my view opposing paid set-aside is shared by a great portion of the American people. The American public is committed to supporting the farmers of the Nation. They will support us in our efforts to provide a fair return to the farmer for his goods. However, I fear they will not understand paying for not growing and will be less willing to support any farm program in the future.

In addition to my philosophical objections, I believe that massive paid set-asides are too much of a gamble to take. The reduction of stocks by the quantities foreseen in this bill leaves us very vulnerable to the vagaries of weather.

If after such a large cutback of planting we have a major crop shortfall here in the United States or anywhere in the world, the food and feed prices will skyrocket.

In such a situation a dollar or two a bushel jump in prices is conceivable. Such an increase in so short a period of time would be devastating for our livestock and poultry industry. In addition, the inflationary impact would be seriously disruptive to our economy.

Such diminished resources would have the greatest impact in human terms. If we have a serious shortfall after reducing our stocks, it would be painfully felt by those in greatest need—the hungry and malnourished of this country and the world. Finally, the cost of the bill to the U.S. Treasury is enormous.

Opposing any paid set-aside does not mean I oppose income supports for farmers. It merely means I support a different approach, an approach that could be followed out through the present legislation that we have, legislation that has not been given an opportunity to work.

I support measures to provide a farmer a reasonable return for his crop. I believe we should raise farm target and loan supports so they more accurately reflect the cost of production and I have supported these higher levels.

I support the paying of higher deficiency payments because they do not affect our buffer stocks. If we experienced a serious shortfall, we might have sufficient stocks to see us through without serious disruption to the other segments of the farm sector and to our economy.

Therefore, Mr. President, because the flexible parity bill would pay farmers not to grow, would significantly reduce our stocks and make us vulnerable to the vagaries of weather, and would be highly costly and inflationary, I plan to vote against the measure.

I agree with President Carter's intention to veto this bill because we have not given the legislation on the books adequate opportunity to work.

The VICE PRESIDENT. The Senator from Illinois.

Mr. PERCY. Having spent 3 years together with Senator Ervin and Senator Muskie helping to create the Budget Act, and having observed its workings and its ability to put a hold on inflation in this country, the promise of it would be destroyed, I think, if we went ahead with this farm program.

In 1974 we passed the Congressional Budget Reform Act—an achievement I consider to be one of the most important actions taken by the Congress in many years. The hope of those of us who were active in the budget reform process' creation was that it would lead to priority setting for expenditures and also holding down spending. Although in absolute terms, one cannot say that the new process has reduced Government spending, I certainly think a good case can be made that Government spending would be considerably higher without the rigorous analysis that the new process puts proposed expenditures through.

However, disturbing signs began to set into the process last year and may be continuing this year. That is, the Congress seems to be willing now on an increasing basis to vote for waivers of the Budget Act, thus placing the major tenets of the process in jeopardy. We must all support the budget process to the fullest extent possible, as only through this process can Congress really set priorities, hold down spending, and thus hold down inflation. The budget process is our most important congressional tool to set national priorities and control inflation—we must preserve its sanctity.

Mr. President, on Tuesday, March 21, the Senate passed by a substantial margin the Emergency Agricultural Act of 1978 to help farmers through the financial squeeze they are presently facing. At that time, I felt Senator TALMADGE's "land diversion" provision, which would have provided incentives for farmers to withdraw additional land from production, was the best piece of legislation the Senate could have passed to help farmers and yet still protect consumers from increasing food costs.

I favored the Talmadge 1-year provision despite the fact that I do not generally favor setting aside land from production because I believed a set-aside program is needed for the 1978 crop year so that we can get the supply and demand of our grains back into balance.

I was disappointed when the Senate decided to attach the McGovern amendment and the Dole "flexible parity" amendment to the "land diversion" bill. I opposed these amendments to the Talmadge bill. Despite the fact that the McGovern and Dole amendments were attached to the Talmadge bill I voted for final passage of the Emergency Agricultural Act of 1978 in order to give the House-Senate conferees as much leeway as possible to formulate and report out a rational, well thought out farm bill.

Unfortunately, contrary to expectations, this was not the result. The conference committee has reported out what I consider to be an irresponsible, inflationary, multibillion-dollar farm bill. The conferees eliminated the original 1 year "land diversion" provision and kept the costly and inflationary Dole "flexible parity" provision intact.

According to the Congressional Budget Office, this legislation will add at least 2 percent to retail food costs on top of the projected 6 to 8 percent under current policy. The administration estimates this bill will cost $6 billion more than the more modest land diversion plan President Carter put into effect last week to to firm up farm prices. Finally, the Consumer Price Index will rise an additional 1 percent as a direct result of this legislation.

Not only is the conference bill costly and inflationary, it drastically increases Government intervention in farm programs, jeopardizes our foreign agricultural export program which is so vital to the country, as well as to farmers, and interferes with the competitive free-market system that I believe Illinois farmers prefer. Mr. President, it is my philosophy that the best way to improve farm income is by creating and expanding domestic and foreign demand for our agricultural commodities. We should avoid increased Government regulation that could make American farm product prices uncompetitive in world markets. Our goal should be to double farm exports from $24 billion to $50 billion over the next few years and strengthen, not weaken, our position as a reliable, stable source of farm products to the world.

In addition to the inflationary nature of this bill, I oppose it because it makes no sense to me to totally restructure the whole 4-year Federal farm program enacted only 7 months ago. The Sec-

retary of Agriculture has the authority to implement the measures included in the Talmadge bill. The new program announced by the Secretary last week is a good start and I urge the administration to improve upon it.

For these reasons I will vote against waiving the Budget Act and against the conference report. If this legislation is sent to the President, I trust he will veto it and I will vote to sustain that veo.

Mr. HANSEN. Mr. President, I support the conference report on the Emergency Agricultural Act of 1978. I do not think there is any question about the fact that farmers and ranchers in this country are in serious trouble. In my state of Wyoming, the seriousness of the problem is illustrated by the fact that net income per farm plummeted from $14,788 in 1973 to a paltry $241 in 1976. Moreover, when farmers and ranchers are hurting as they have been in recent years, their problems become the problems of the communities which depend on a healthy agricultural industry for existence. I believe farmers and ranchers deserve some help.

This legislation undoubtedly is not perfect, and it is not the kind of program I could support on a long-term basis. It is a temporary, 1-year program designed to help farmers and ranchers get back on their feet. And it is a vastly better approach than that taken by the administration, which has fiddled around and twiddled its thumbs, failing altogether to do anything to deal with the problem.

Congress gave the administration authority in last year's farm bill to take certain steps that would have helped relieve the problem, but did the administration use this authority? No. It sat idly by, doing nothing. Then, at the 11th hour after the Senate had already passed a farm bill and the conference committee was about to act, the administration announced revisions in its farm program. The day after the newspaper carried stories about the administration's new farm policy, a member of my staff telephoned the Department of Agriculture's Congressional Liaison Office for details of the program. None was available. We asked for information about the administration's new program so that we could respond to questions from farmers. Information was promised, but as of right now, it still has not been received.

Further, Mr. President, I am most annoyed and disturbed by recent reports that the Carter administration's answer to inflation is to take steps to force down farm prices. The farmers' conviction that Washington is out to get them certainly is not diminished by rumors that the administration wants to bring in more foreign meat to push down domestic prices. The livestock industry has just gone through a 3-year period of the worst prices since the depression years. And now that things are looking up a bit, what happens? The bureaucrats start talking about bringing in more imports. Livestock producers have not asked the Government for subsidies, but they do ask that Government refrain from deliberately ruining their chances for economic recovery by inviting in cheap foreign competition.

The recommendation that more foreign meat be imported to depress domestic livestock prices came from Barry Bosworth, Chairman of the Council on Wage and Price Stability. A few days ago, Mr. Bosworth sent me a copy of the Council's quarterly report on the state of our economy. The report had this to say about food prices:

> The importance of imported food items is also evident in the sharp swing in food prices between the first and last half of 1977. In the first six months the inflation of total food prices returned to double-digit levels, while the prices of domestically produced food rose by a more modest 7.4 per cent at annual rates. Imported food prices increases accounted for over half of the 14.3 per cent rise in prices for food consumed at home.

The report goes on to say that for the 10-year period between 1967 and 1977, "Retail prices of imported foods rose substantially more than prices of domestically produced farm products—11.1 versus 6.2 percent annually."

Mr. President, the Carter administration intends to make agriculture the whipping boy for inflation, and I, for one, intend to do everything I can to see that the President does not get away with it. Farmers are not responsible for inflation. They are victims of it. Let the President launch the battle against inflation in the Federal bureaucracy where opportunities for cutting costs abound. Let him make good on his campaign promises to cut down on the size and cost of the Federal bureaucracy and the expense of Federal rules and regulations.

● Mr. McINTYRE. Mr. President, I intend to vote against the conference report on H.R. 6782, which I regard as an inflationary, expensive and possibly even unnecessary measure. I do so with mixed feelings, for I have listened to the farmers who have visited here since the start of this year and I can sympathize with their frustration and concern for the future. Although New Hampshire is not now a primarily agricultural State, farming and agriculture run deep in the roots of the history of my State and of the heritage of its residents.

Nevertheless, I cannot in good conscience vote for a measure as irresponsible and potentially dangerous as this one. This bill, if enacted into law, could add nearly $6 billion to the Federal budget, not to speak of its impact on the food budgets of working people. It would further accelerate food price inflation, which is already moving ahead at twice the rate of the rest of the economy, to double-digit levels. With the planting season almost upon us, this bill also opens the door to considerable confusion among farmers trying to decide what and how much to plant this year. Significantly reduced production this year could also lead the way to food shortages and severe price inflation in future years in the event of a drought or bad weather of the sort that we have experienced more and more often in recent years.

Finally, recent agricultural data supports the administration's contention that last year's farm bill is working. Farm income is up and has increased during each of the past 6 months. Let us give these programs time to work instead of rushing in to spend billions of dollars which may not be needed.

This is a well-intentioned bill but, nevertheless, a bad one. I am going to vote against it and, if it is approved by both chambers of Congress, I will urge President Carter to veto it.●

● Mr. PAUL G. HATFIELD. Mr. President, the Senate should approve the conference report for the following reasons:

First, economic: Farmers need a shot in the arm. Despite the fact that prices have gone up a little in the last few months, farm income is down a third since 1973. No other segment of the economy has had to undergo such duress.

When income to farmers is increased, the multiplier effect is felt throughout the country like no other economic stimulus. In Montana there are about 25,000 farms. Assuming four people per farm, there are 100,000 people who make their living directly from farms. In Montana, at a rough estimate, another three to four jobs depend directly on the farmer. That is another 75,000 to 100,000 jobs, and at four people per family, another 300,000 to 400,000 people dependent on farm income.

In the United States there are some 2.75 million farms. If the same statistics hold true for the rest of the country, there are some 40-plus million people who depend directly or indirectly on farms in this country. That is a lot of people who would get a big boost in income from a relatively small investment.

Second, equity: In 1973 farmers received a record $30 billion for their products. This year it will be in the neighborhood of $20 billion. In 1973, for the first time in many years, farmers began to get their heads above water and were able to start reinvesting in equipment and land. No longer are these opportunities available. People in rural areas deserve a reasonable standard of living, too.

This is a 1-year program. It is not perfect. It can be amended next year. But it is needed now, for this year, if it is to do any good.●

● Mr. BAKER. Mr. President, I rise in opposition to the conference report on H.R. 6782. I believe that opposition to the report is in the best interests of the farm community both in Tennessee and throughout the Nation.

I am sure each of us in the Senate have talked with and been visited by many farmers in the last few months. Most of these farm groups made a simple and realistic request: First, that the Congress promptly approve legislation addressing their immediate economic plight and second, that Congress as expeditiously as possible begin work on longer term agricultural legislation that would prevent similar crises in the future.

The conference report we are asked to approve today attempts to address the first of these requests but in my opinion fails to do so. Mr. President, it should be apparent that if the Congress seeks to provide short-term emergency relief, the legislation to achieve this goal must

be straightforward and easily implementable and have a relatively predictable impact on the farm situation. The legislation before us today, however, is extremely complex and judging from studies I have examined will have a practically unpredictable impact. In addition to these flaws, the conference bill, if it is to be effective at all, should have been passed months ago. The present conflict over this legislation virtually assures that all the crops affected by the terms of this legislation will have been planted before the date of enactment. This of course means that even if the President were to approve this bill it would be almost humanly impossible to administer it in time to do much good for our farmers' short-term problems.

Finally, there seem to be two other disturbing impacts of the "flexible parity" bill. It has been estimated by the Agriculture Department and our own congressional budget office that the cost of this emergency bill could be phenomenal, possibly adding as much as $6 billion to our already strained Federal budget. CBO also reports that this legislation could cost the average American family from $100 to $200 during 1978. This will most certainly create undue hardships on certain classes of consumers who are themselves in a budget squeeze already.

Mr. President, I oppose the flexible parity concept as a short-term solution to our farm problems when this measure was initially on the Senate floor a few weeks ago. I did, however, vote in favor of final passage of a combined farm bill in the hope that the conference committee would devise an easily implementable, effective short-term farm program from the options available to them. The legislation we are asked to approve today does not meet these expectations either for my farmers in Tennessee or for those of the Nation.

Since the time left in which to help the farmers during this session is short and since the Congress is likely to approve only one piece of short-term legislation, I urge the conferees to reconsider this report and to work with the conferees from the other body to design a bill that will reasonably address the immediate plight of our farmers.●

● Mr. TOWER. Mr. President, the Senate has the opportunity today to offer needed incentives for our agricultural sector. When we considered the 1977 farm legislation, I felt that we did not provide ample stimuli for that sector of our economy which feeds and clothes the people of this Nation and much of the world. In my view, this is one of the many reasons why we are considering emergency legislation at this time.

During both Senate and House consideration of Public Law 95–113, there were pressures from all sides and at many levels being applied to thwart the desire of the Congress to provide financial stability for our producers of agricultural commodities.

As we consider the conference report on H.R. 6782, once again we are plagued by these same pressures. I commend my colleagues in the Senate for their tenacity in designing comprehensive emergency legislation which will furnish farmers throughout this country with the means to continue meeting the needs of our people.

The flexible parity concept embodied in this legislation represents an embarkation on a new course for agricultural policy, one which may result in forming the foundation for agricultural legislation in the future.

Mr. President, in my view, we have admirably responded to the needs of our Nation's most basic industry. We are on the brink of providing management tools for agricultural producers which they have heretofore not had, but which they have sorely needed. It is my hope that this legislation will not only yield assistance during this year, but that it will strengthen the agricultural sector, and in turn, all other segments of our economy.

I urge my colleagues to lend their support to the legislation which is now under consideration. It is also my hope that serious consideration will be given to designing a long-range agricultural policy which will eliminate the need for emergency legislation on this sort in the future.

Agriculture has a tremendous influence on the economic, social, and political affluence of America and the world. The fate of this legislation will be significant in determining whether we have an adequate supply of food and fiber, and whether adequate resources will be available to produce these needs in the years ahead. Whether or not agricultural producers achieve progress and prosperity with efficiency and equity depends on decisions we make today.●

● Mr. STEVENSON. Mr. President, the Senate should reject the conference report and direct its conferees to return with a sound bill that can be signed by the President. The game the Congress has been playing at the expense of the farmer should end here and now.

When this bill came to the floor 3 weeks ago we could have passed the Talmadge proposal. It was a reasonable emergency measure. It could have been approved promptly and signed by the President. Farmers would have had the assurance of help within days. Instead, the Senate took the easy way, adding the Dole amendment to the Talmadge bill to create a monstrosity.

Unlike the farmers watching from the gallery that day, most Members knew that the bill we were sending to conference could not become law. It was a disaster for the Federal budget, inflationary, damaging to our farm export markets and an unacceptable risk to world food supplies. Perhaps some who voted for the Talmadge-Dole combination were relying on the conference committee to repair the damage. Unfortunately, the conferees declined to perform the surgery. We cannot give this version a clean bill of health.

The President has given fair warning that he will veto the bill in its current form. He will have no choice if the Congress refuses to act responsibly. Moreover, it is doubtful that a veto could be overridden.

Mr. President, some of those who profess the liveliest concern for the plight of the farmer have wasted weeks at his expense. They have raised false hopes and false political heroes and villains. They have constructed a bill that totally ignores economic reality. But they have done nothing for the farmer. While there is still time we ought to reconsider and produce a bill that will serve both the immediate and long-term interests of the farmer in a decent income through reasonable production controls and support levels. The bill should be returned to conference with instructions.

The Congress must then promptly take up a measure to ease credit terms for the farmer caught in financial crisis and to provide export terms that will enable the American farmer to compete successfully in expanding world markets.●

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator BARTLETT on the conference report.

The PRESIDENT OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BARTLETT

For months experts in agriculture have been saying that the powers contained in the 1976 Agriculture Act, and other federal statutory authorizations, could be used by the Administration to assist in the recovery of American agriculture.

The individual farmers of this nation asked for help, and waited, expecting positive actions on the part of their government. Because of continuing delays and denials, certain groups began to make proposals and many members of Congress began to seek the Administration's assistance.

The Administration refused, a refusal that echoed the earlier opposition to the 1976 Act. As these refusals continued the farmers became motivated to seek the only alternative left to them, that being a change in the existing statute to force the Administration to assist them.

The problems of the nation's farmers were clear to the Senators from agricultural states, and through the efforts of direct contact by individual farmers with non-farm state Senators, the Senate became increasingly aware of the urgent need to make a change.

The result of the inaction by the Administration, and the direct action by farmers, is the conference report we are considering today. I support this legislation because of the extreme need, and the fact that I believe that it will assist, but I regret to admit that we had to resort to this course of action in the same Congress that earlier passed major agricultural legislation.

It is not the farmers' responsibility to physically come to Washington to get their problems resolved. In this representative form of government, both the legislative and executive branches are supposed to be sensitive to react to problems in various sectors of our economy.

I realize that much of the business community has learned the hard way that they have to seek an "audience" in Washington to have their voices heard. This actually is a failure of our system, and now the failure has spread to the extent that thousands of individual farmers have had to leave their farms and seek assistance from their depressed state by personal efforts in Washington.

The fight is not over for the farmers. The opposition to this legislation is being mus-

tered rapidly, and the Administration continues to pronounce its opposition. The one consolation is that the farmers are also learning quickly, and are not likely to give up their efforts.

Because of the Administration's opposition and inaction, a whole new group of citizens has been trained in the procedures of government, and I do not believe that they are likely to let these lessons go unused.

Mr. President, I would like to again state my support for H.R. 6782, and encourage my colleagues to continue their support.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Georgia to waive the provisions of section 303 of the Budget Act.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Minnesota (Mr. ANDERSON). If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. HATHAWAY), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. HOLLINGS) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 49, nays 43, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—49

Abourezk	Haskell	Melcher
Allen	Hatch	Nunn
Baker	Hatfield,	Packwood
Bayh	Mark O.	Pearson
Bentsen	Hatfield,	Randolph
Bumpers	Paul G.	Riegle
Burdick	Hayakawa	Sasser
Church	Helms	Schmitt
Curtis	Hodges	Sparkman
Danforth	Huddleston	Stennis
Dole	Jackson	Stone
Domenici	Johnston	Talmadge
Eastland	Laxalt	Thurmond
Ford	Long	Tower
Griffin	Magnuson	Wallop
Hansen	McClure	Young
Hart	McGovern	Zorinsky

NAYS—43

Bellmon	Goldwater	Muskie
Biden	Gravel	Nelson
Brooke	Heinz	Pell
Byrd,	Humphrey	Percy
Harry F., Jr.	Inouye	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Case	Kennedy	Roth
Chafee	Leahy	Sarbanes
Chiles	Lugar	Scott
Clark	Mathias	Stafford
Cranston	Matsunaga	Stevens
Culver	McIntyre	Stevenson
Durkin	Metzenbaum	Weicker
Garn	Morgan	Williams
Glenn	Moynihan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against

NOT VOTING—7

Anderson	Eagleton	Schweiker
Bartlett	Hathaway	
DeConcini	Hollings	

So. Mr. TALMADGE's motion was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Minnesota (Mr. ANDERSON). If he were present and voting, he would vote "aye." I have already voted "nay." I therefore withdraw my vote.

Mr. MATSUNAGA (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished Senator from South Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "aye"; I have voted "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Pennsylvania (Mr. SCHWEIKER) and are necessarily absent.

The result was announced—yeas 49, nays 41, as follows:

[Roll Call Vote No. 85 Leg.]

YEAS—49

Abourezk	Haskell	Melcher
Allen	Hatch	Morgan
Bayh	Hatfield,	Nunn
Bentsen	Mark O.	Packwood
Bumpers	Hatfield,	Pearson
Burdick	Paul G.	Randolph
Chiles	Hayakawa	Riegle
Church	Helms	Schmitt
Curtis	Hodges	Sparkman
Danforth	Huddleston	Stevens
Dole	Jackson	Stone
Domenici	Johnston	Talmadge
Ford	Laxalt	Thurmond
Garn	Long	Tower
Griffin	Magnuson	Wallop
Hansen	McClure	Young
Hart	McGovern	Zorinsky

NAYS—41

Baker	Byrd, Robert C.	Durkin
Bellmon	Case	Eastland
Biden	Chafee	Glenn
Brooke	Clark	Goldwater
Byrd,	Cranston	Heinz
Harry F., Jr.	Culver	Humphrey
Inouye	Moynihan	Sarbanes
Javits	Muskie	Sasser
Kennedy	Nelson	Scott
Leahy	Pell	Stafford
Lugar	Percy	Stennis
Mathias	Proxmire	Stevenson
McIntyre	Ribicoff	Weicker
Metzenbaum	Roth	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Cannon, against.
Matsunaga, against.

NOT VOTING—8

Anderson	Eagleton	Hollings
Bartlett	Gravel	Schweiker
DeConcini	Hathaway	

So the conference report was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENTS REGARDING THE VOTE ON THE FARM BILL

● Mr. GLENN. Mr. President today the Senate voted on legislation designed to assist the American farmer during a period of financial hardship. Farmers find themselves boxed in between comparatively low farm prices and debt servicing payments they are unable to meet, and in many cases farm prices are not sufficient to cover the costs of production.

When debate in the Senate first began last March 21, I was fully prepared to work for and vote for the original proposal by Senator TALMADGE. That was the legislation that farm group after farm group told me they wanted to see become law. I realize that a number of farmers are being squeezed between low farm prices and high debt payments. I wanted very much to help them through this difficult time by passage of legislation that provided immediate assistance through higher loan and target prices, and a sensible set-aside program.

However, during the debate on the original Talmadge proposal, amendments by Senators MCGOVERN and DOLE were added to the original Talmadge bill—escalating the cost of the final legislation several times over the original version and far beyond what the Nation, as both consumers and taxpayers, should be required to bear. I was unable to vote for this final composite of TALMADGE, DOLE, and MCGOVERN, because it violated our budget limits and would have added significantly to the Federal deficit. The cost of that total combined program, as discussed on the floor, was projected at $8 to $10 billion, as compared to the $1.2 billion cost of the original Talmadge bill.

The conference report voted on today suffers the same defect. Costs of that bill were estimated at $5.7 billion—almost $12 billion over a 2-year period—$5.7 billion, when farmers themselves had repeatedly expressed acceptance and adequacy of the $1.2 billion Talmadge program. Even though this second proposal was less expensive than the bill that passed the Senate 3 weeks ago, the vote was much closer—49 to 41 in favor of the

conference report as compared to 67 to 26 in favor of the Senate bill. I believe this means many Senators are becoming more concerned about expensive Federal programs.

President Carter has already announced he will veto this bill, because of its inflationary nature and its bureaucratic unworkability. Thus, by passing a bill which the President will not sign into law, the Senate may delay providing the badly needed assistance which would now be going out to farmers under the original Talmadge proposal, which I supported then, and would still support now.

It is my hope that if the House passes this bill, any Presidential veto message clearly states what kind of a farm bill the President will sign into law. Then the Congress can get to work quickly and still pass reasonable and well thought out legislation in time to assist farmers in making planting decisions in the next few weeks. Together, the Congress and the President can provide needed legislation which will speed assistance to the greatest need.

I will work for and support such a proposal to help the farmer.●

THE PANAMA CANAL TREATY

The PRESIDING OFFICER (Mr. FORD). Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, 1st session, Calendar No. 2, which the clerk will state.

The clerk will suspend and the Senate will come to order. The balconies will help the Senate.

The clerk will proceed.

The assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st session, the Panama Canal Treaty.

The Senate resumed the consideration of the treaty.

The PRESIDING OFFICER. The Senate will now consider amendment No. 38 by the Senator from Utah (Mr. HATCH).

The Senator from Utah.

Mr. HATCH. Mr. President, the Panama Canal Treaty contains a number of provisions which provide for substantial payments to the Republic of Panama. Article III, section 5 of the treaty provides that the newly formed Panama Canal Commission shall pay the Republic of Panama $10 million per year to reimburse it for providing certain public services in the canal operating area, such as police and fire protection, garbage collection, and street maintenance. Likewise, article XIII, section 4 of the treaty provides that the Republic of Panama shall receive from the Commission certain additional payments "to be paid out of Canal operating revenues."

Mr. ALLEN. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. There is noise in the galleries.

Will the Senator suspend until the galleries have been cleared? The interruption is by the spectators, if the Senator will just bear with me until we have order.

The Senator may proceed.

Mr. HATCH. I thank the Chair.

Three separate payments are contemplated under this provision: First, an unspecified annual payment computed at a rate of thirty hundredths of a U.S. dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the canal for which tolls are charged, such payment to be adjusted upwards to reflect changes in the U.S. wholesale price index; second, a fixed annuity of $10 million; and third, a supplemental annual payment up to $10 million, the exact amount to be determined by the amount of surplus revenues of the commission. It is estimated that these payments to Panama will total more than $60 million in the first year of operation, excluding the supplemental payment drawn from surplus revenues.

The language of the treaty does not indicate whether these payments to Panama shall be made in accordance with the legislative processes of Congress. Indeed, representatives of the State Department testifying before Congress have emphasized that the canal will be self-supporting under the treaty, and that all payments to Panama will be derived from operating revenues. In other words, the impression we have been given is that legislative appropriations will not be necessary, because these payments will be made directly to Panama by the Commission.

This impression has been confirmed by the language of the proposed implementing legislation that has been submitted by the State Department. The implementing legislation would amend section 2 of title 2 of the Panama Canal Code by adding a new subsection (H) reading as follows:

(H) Payments by the Commission to the Republic of Panama for providing public services in accordance with paragraph (5) of article III of the Panama Canal Treaty of 1977 shall be treated for all purposes as an operating cost of the Commission.

In other words, Mr. President, these payments are not going to be treated as separate payments requiring an appropriation by Congress, but as part of the operating costs of the Commission, thereby bypassing the legislative process. The implementing legislation drafted by the State Department further provides that subsection (g) of section 62 of title 2 of the Panama Canal Code shall be amended to provide that—

The Panama Canal Commission shall pay directly from Canal operating revenues to the Republic of Panama those payments required under paragraph 4 of Article XIII of the Panama Canal Treaty of 1977.

The obvious objective here is to bypass the appropriations process of the Congress in connection with payments to Panama under the treaty.

Mr. President, this scheme, on its face, is constitutionally and financially defective. In the first place, it violates the Constitution. In the second place, it seems certain that there will not be sufficient revenue to cover all of these payments, and that Congress will have to make up the difference through appropriations anyway.

Article I, section 9 of the Constitution provides that—

No money shall be drawn from the Treasury but in Consequence of Appropriations made by law.

Moreover, article I, section 7 provides that all bills for raising revenue shall originate in the House of Representatives. It is a well-established principle of our Constitution that the treatymaking power of the Chief Executive is limited by Congress' power over the purse. Simply stated—and even State Department representatives acknowledge this rule—a treaty cannot appropriate funds.

TREATIES AND EXPENDITURE OF FUNDS

The Panama Canal Commission, according to article III, section 3 of the treaty, will "carry out its responsibilities" as "a U.S. Government agency," and it "shall be constituted by and in conformity with the laws of the United States of America." Thus the treaty contemplates that a U.S. Government agency will be making payments to a foreign government for the remainder of this century without the consent of the House of Representatives and in derogation of the appropriations processes of the House and Senate. This clearly raises an important constitutional issue. The administration's view is that many provisions of this treaty are self-executing, meaning that they take effect as domestic law without further action by Congress. But are these provisions of the treaty providing for payments by a U.S. Government agency self-executing in the light of article I, section 9, clause 7 of the Constitution, which gives Congress the exclusive power to make appropriations? The answer, I believe, is that they are not self-executing.

It is not disputed that the President's treatymaking power extends to bilateral agreements by which the United States undertakes to make payments of money. One of the first treaties made by the United States after the adoption of the Constitution, the Jay Treaty of 1794 with Great Britain, provided for payments of debts owed by American citizens to British creditors. The treaties with France for the acquisition of Louisiana provided for a payment of 60 million francs. Countless other examples could be cited to illustrate the principle that the Chief Executive has the authority to make treaties which obligate the United States to make payments to a foreign government. But I am not aware that any President has ever made a self-executing treaty providing for such payments.

EARLIER PRECEDENTS

Debate over the provisions of the Jay Treaty requiring the expenditure of funds is instructive in this regard. The Members of the House of Representatives did not question the right of the President to enter into such a treaty. Instead, they debated the issue of whether the House was entitled to obtain copies of the instructions given by the President to the negotiators, and whether the Congress was required to appropriate the funds necessary to carry the treaty into effect. President Washington rejected the

demand of the House for copies of the instructions, but the House adopted a resolution, vigorously supported by James Madison, which provided that—

When a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of the Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such a treaty into effect, and to determine and act thereon, as, in their judgement, may be most conducive to the public good.

Congress subsequently enacted a law making the necessary appropriations. The same principles were recognized and the same procedure was followed regarding subsequent treaties where payments were required.

In the case of Turner against Baptist Missionary Union, a Federal Circuit Court considered the effect of an 1863 treaty with an Indian tribe, which provided for payment of the net proceeds of the sale of 160 acres of land to the owner of the buildings situated on the land.

Said the Court:

A treaty under the Federal Constitution is declared to be the supreme law of the land. This, unquestionably, applies to all treaties, where the treaty-making power, without the aid of Congress, can carry it into effect. It is not, however, and cannot be the Supreme Law of the Land, where the concurrence of Congress is necessary to give it effect. Until this power is exercised, as where the appropriations of money is required, the treaty is not perfect. It is not operative, in the sense of the Constitution, as money cannot be appropriated by the treaty-making power. This results from the limitations of our government. . . . As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law, as that a treaty which engages to pay money, is in itself a law. . . . It [the treaty-making power] cannot bind or control the legislative action in this respect, and every foreign government may be presumed to know that as far as the treaty stipulates to pay money, the legislative action is required. (Fed. Cas. No. 14251 (1852), 24 Fed. Cas. 345, 346.).

In brief, the precedents, both political and constitutional, are well established that a treaty provision for the payment of money is not self-executing but requires an appropriation by Congress.

PAYMENT PROVISIONS OF THE NEW TREATY

This principle has been confirmed and duly respected in all previous treaties between the United States and the Republic of Panama. The treaty of 1903 provided under article XIV for an initial payment of $10 million and an annual payment of $250,000. Article VII of the 1936 treaty increased the amount of the annuity to 430,000 balboas, A third treaty between the United States and the Republic of Panama in 1955 increased the annuity once again to 1,930,000 balboas. In each case, the payments were made under appropriations enacted by Congress; and it was never suggested that any of these treaties was self-executing. The current annual payment ($2,238,000) is shown as one of three permanent appropriations in the Department of State budget for fiscal year 1978.

The present treaty, of course, calls for payments by the Commission and it would thus appear that appropriations will not be necessary because no funds will be drawn from the U.S. Treasury. This understanding of the method of payment, however, ignores a number of important considerations. As I have previously noted, article III of the proposed treaty specifies that the Panama Canal Commission, a U.S. Government agency, "shall be constituted by and in conformity with the laws of the United States." The laws of the United States governing the fiscal management of Government agencies in general are contained in title 31 of the United States Code. Executive departments and noncorporate Federal agencies are subject generally to the provisions of title 31, except the provisions of the Government Corporation Control Act. Wholly owned Government corporations are subject to the provisions of the Government Corporation Control Act and to many of the other provisions of title 31 as well.

Turning to title 31, we observe that it clearly delineates the fiscal responsibilities of Government agencies generally and their dependence on appropriations to authorize the expenditure of funds. The Budget and Accounting Act of 1921, which has been incorporated into title 31, defines "department or establishment" to include "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government," and the term "appropriations" to include funds and authorizations to create obligations by contract in advance of appropriations or "any other authority making funds available for obligation or expenditure." All moneys received from whatever source for the use of the United States are required to be paid into the Treasury (31 U.S.C. 484). Detailed provisions are made for submission of estimates for appropriations for expenditure by government agenices (31 U.S.C. 581–752Z). Expenditures in excess of appropriations are prohibited, and all appropriations or funds made available for obligation are required to be apportioned to avoid the necessity for deficiency or supplemental appropriation (31 U.S.C. 665).

In light of these requirements, the provision of the new treaty that the payments to Panama are to be made by the Panama Canal Commission is wholly contrary to article I of the Constitution and Federal law, unless it is assumed—and the language of the treaties does not seem to support such an assumption—that such funds must first be appropriated by Congress. Presumably no one would seriously contend that the effect of the constitutional provision limiting to Congress the power to make appropriations can be circumvented by the device of providing in the treaty that a payment without appropriations is to be made by a named government agency instead of the United States.

With respect to article III of the proposed treaty, then, it is abundantly clear, that the Panama Canal Commission cannot pay the Republic of Panama $10 million per annum in advance of legislative appropriations authorizing such expeditures. This is also true of the additional payments made by the Commission "out of canal operating revenues" under article XIII of the treaty. Why article III provides simply for payments and article XIII provides for payments "out of canal operating revenues" is a distinction that apparently has no significance regarding constitutional and statutory requirements. The "canal operating revenues" referred to in article XIII are presumably the "tolls for the use of the Panama Canal, and other charges" which the United States—not the Panama Canal Commission—is authorized to "Establish, modify, collect, and retain" by article III, section 2(c) of the treaty. These revenues, of course, are the same in kind as those that have been derived by the United States from the Panama Canal since it was first opened to commerce and which have been expended under appropriations by Congress since that time.

It may be that the purpose of making the payments "out of canal operating revenues" was to identify such payments as part of the cost of operation, in order to establish rates of tolls. Such a construction necessarily assumes, however, that revenues will be sufficient to cover both the payments to Panama and operating expenses over and above such payments. But this leaves unanswered the obvious question: what if there is a disparity between the amount of revenues and the total of such expenses? Is this deficiency to be absorbed by the U.S. Government by appropriations to cover losses, or by Panama through acceptance of less than the amount of payment stipulated by the treaty? In either case, the provision for payment out of revenues does not appear to affect the constitutional requirement for appropriations to carry these provisions into effect.

Section 4(c) of article XIII, which provides for payment of $10 million "out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission" not only runs headlong into present law requiring the agency operating the canal to pay surplus funds into the Treasury, but also substitutes Panama for the United States as the beneficiary of surplus funds. This would effectively preclude further reduction of the U.S. Government's investment in the canal. Like the provision of article XIII for annual payments based on the aggregate measurement tonnage of ships using the canal during the year, the qualifications introduced by section 4(c) relate solely to the determination of the amount of the payment. Neither provision recognizes nor makes mention of the need for congressional appropriations to authorize payment. To be sure, the payment provisions of the treaty seemingly attempt to provide permanent appropriations for the treaty payments, an objective prohibited by the constitutional rule that only Congress has the power to make appropriations.

In sum, the provisions of the proposed treaty for payment of money can not become effective as domestic law unless

Congress has, in accordance with article I, section 9 of the Constitution, appropriated the necessary funds. Under the treaties with Panama now in effect, which also provide for annual payments to Panama, revenues derived from operation of the canal are treated as public moneys and expenditures of those funds are limited to those authorized by appropriation acts of Congress.

Neither the language of the treaties nor the testimony of State Department representatives, however, offers us any concrete, specific assurances that all of the payment provisions of the treaty will be implemented by appropriations of Congress. Although administration witnesses appearing before congressional committees have freely acknowledged that a treaty cannot appropriate funds, they have continued to insist that this is a self-executing treaty. Herbert Hansell, legal adviser to the State Department, has stated that there is "no ground" for the concern expressed by House Members that the treaty "could be regarded as a means of circumventing that constitutional provision with respect to the payments to be made to Panama under the treaty." Why? Because, he says:

> It is intended that the payments to be made to Panama be financed wholly from projected revenues, so as to avoid any need to resort to general revenues.

Mr. President, in all of the testimony that I have examined in connection with this treaty, I have nowhere seen a flat assertion by any representative of the State Department or the Department of Justice that this is a non-self-executing treaty that will require congressional appropriations in order to implement the payment provisions of the treaty; and the treaty itself is silent on this subject.

For these reasons, I offer this amendment to the treaty which would obviate this difficulty and eliminate all uncertainty and ambiguity about the method of payment to Panama. This amendment provides simply that under article III, section 5 of the treaty, all revenues of the Panama Canal Commission shall be deposited in the U.S. Treasury, and that all payments to Panama shall be based on legislative appropriations. It is necessary because of established constitutional precedents and laws governing Federal agencies.

PROJECTED DEFICIENCIES IN THE CANAL OPERATING COSTS UNDER THE NEW TREATY

Mr. President, it should further be noted, as I have previously indicated, that the future of the Panama Canal under this treaty, in so far as its financial structure is concerned, is rather bleak. In a recent study by Mr. W. M. Whitman, special consultant to the House Committee on Merchant Marine and Fisheries it is estimated that the cost of operating the canal during the first year of operation under the treaty will exceed revenues by approximately $99 million, not counting additional costs to the U.S. Treasury of $7.7 million. Mr. Whitman's analysis is based on a tabulation provided by the Panama Canal Company, and is adjusted to reflect the same elements of costs as those shown in the 1978 budget. It also includes additional treaty costs that are not part of the company's tabulation.

This study shows, Mr. President, it is illusory to think that the Panama Canal will be operating on a self-supporting basis, as the representatives of the State Department have insisted. Additional appropriations have to be made to make up the deficit, and cover the hidden costs of this treaty. This is not to mention the added economic burden, after the tolls increase, that the American people will have to bear under this treaty as a result of higher prices for materials, including Alaskan crude oil, that will be transiting the canal.

The American consumer is going to rue the day that our Senators ratify these treaties, because they are going to pay through the nose from that day forward as a result of the escalation in costs to every consumer in America as a result of these treaties and their ratification.

"If financial viability of the canal is equated to operation as a self-sustaining enterprise," Whitman concludes, "the venture appears to be doomed from the first year after the treaty goes into effect. This was the thrust of the testimony of all the witnesses who urged or suggested the necessity for absorption of elements of the cost of operation by the Treasury through elimination of interest and depreciation or abandonment of the concept of recovery of the investment of the Government in the canal. There may be reasons to support adoption of such expedients, but the policy of operating the canal on a self-sustaining basis is not one of them."

Mr. President, I urge all Senators to read this perceptive study with care, and ask unanimous consent that it be printed in the RECORD, together with my amendment, at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 38

In paragraph 3 of article III, at the end of the text immediately above subparagraph (a), add the following: "The operating revenues of the Panama Canal Commission shall be deposited in the Treasury of the United States of America.".

In the first sentence of paragraph 5 of article III, strike out "Panama Canal Commission shall reimburse" and insert in lieu thereof "United States of America shall reimburse, only after the amount of such reimbursement has been appropriated,".

PANAMA CANAL TREATY PROBLEMS

The written statements and testimony presented by the various witnesses appearing at the hearing of the Panama Canal Subcommittee on November 30 and December 1, 1977, disclose several clearly identifiable problems of some concern to the Committee and the Congress in the consideration of the Panama Canal treaties and legislation to carry them into effect, assuming they are ratified. Those problems fall into five general categories, namely:

1. The projected deficiency in canal revenues to cover operating costs;
2. The sources of funds to cover the deficiency in canal revenues;
3. The form of the Government agency to be established to operate the canal;
4. Ambiguities in treaty provisions; and
5. Constitutional issues.

1. Canal revenue deficiency:

The negotiators and other proponents of the treaty repeatedly have stressed the proposition that under the treaty the operations of the canal are to be self-supporting and that canal revenues are to be used exclusively for payment of costs of the operation without cost to the U.S. taxpayer.

The treaty provides for annual payments to Panama totalling some $62 million in the first year of operation, exclusive of a contingent payment of an additional $10 million to be paid to the extent canal revenues exceed expenditures. Other provisions of the treaty transferring income-producing property to Panama will reduce the revenues of the Panama Canal by some $130 million, partially offset by a reduction of about $50 million in canal operating costs.

An analysis of Panama Canal revenues and costs in the first year of operation under the treaty in comparison to the estimate provided in the 1978 budget program, which does not include provision for the effect of the treaty, is attached. This analysis is based on a tabulation provided by the Panama Canal Company, adjusted to reflect the same elements of cost as those shown in the 1978 budget and to include additional treaty costs, so far identified, not included in the Company's tabulation. The analysis shows that in the first year of operation under the treaty, Panama Canal revenues will fail to cover costs of operation of the canal and related treaty costs by about $99 million exclusive of additional cost to the U.S. Treasury of $7.7 million. The recovery from canal revenues of operating expenses and all other treaty related costs would require an increase in rates of tolls of more than 60 percent. If the additional costs to the Treasury of $7.7 million, referred to above, are excluded from the calculation, the increase in rates of tolls required would be reduced to 56 percent.

Although the calculations of the insufficiency in Panama Canal revenues to cover expenses summarized above relate to the first year of operation, there is no basis for optimum that the financial results of operation will improve with the passage of time. No detailed analysis of costs and expenses for future years similar to that provided for the first year of operation under the treaty is presently available, but the conclusion to be drawn from the data so far available is that costs will rise at a rate higher than any foreseeable increase in revenues over the period of operation of the canal by the United States under the treaty.

If financial viability of the canal is equated to operation as a self-sustaining enterprise, the venture appears to be doomed from the first year after the treaty goes into effect. This was the thrust of the testimony of all the witnesses who urged or suggested the necessity for absorption of elements of the cost of operation by the Treasury through elimination of interest and depreciation or abandonment of the concept of recovery of the investment of the Government in the canal. There may be reasons to support adoption of such expedients, but the policy of operating the canal on a self-sustaining basis is not one of them.

2. Sources of funds to cover expenses of operation:

The ability of the canal to generate additional revenues required to cover canal operating expenses under the treaty lies in (1) possible increases in traffic, and (2) increases in rates of tolls.

a. Traffic increases. The factor cited most frequently as a partial solution to the financial problems of the Panama Canal under the treaty, is the anticipated increase in canal revenues from shipment through the canal of North Slope crude oil enroute from Alaska to the East Coast of the United States. The increase in Panama Canal revenue from this source has been estimated as high as $30 million a year, but for 1978 the estimate by the Panama Canal Company is $4 million. On the basis of the latter esti-

mate, the deficiency of revenue in relation to costs would be reduced to $95 million or $103 million depending on whether the additional costs to the Treasury, noted above, are considered.

There is general agreement that the increase in revenues resulting from the movement of North Slope oil through the canal will be temporary because of the probability of use of less expensive alternatives such as pipelines. In the near time, the movement of this commodity through the canal will unquestionably improve the financial results of operation of the canal for two or three years, but it will neither eliminate the revenue deficiency in those years nor affect the long-term outlook.

The only other suggestion that canal revenues may increase to offset costs increases, even in part, is based on a presumption that historical growth of the canal will continue at the same rate or at a modified rate in the future. This logic has been rejected by most economists who insist that analysis of future individual commodity movements on established trade routes is the only sound basis for projections of future canal traffic.

b. Tolls increases. As previously indicated, on the basis of the Panama Canal revenue figure projected in the 1978 budget, the increased operating costs resulting from the treaty would require a toll increase of from 56% to 60% to put the canal on a self-sustaining basis.

Assuming an increase in revenue of $4 million from the movement through the canal of North Slope oil in the first year of operation under the treaty, the tolls increase would be reduced to the range of 52% to 57%.

Representatives of the shipping industry have indicated that increases in rates of tolls in the amount necessary to make the Panama Canal completely self-sustaining under the treaty are unrealistic and will price the canal out of the market because of the availability of less expensive alternatives.

Apparently, during the negotiation of the treaty there was no attempt at a systematic analysis of the potential canal revenues available for funding the cost of the various provisions eventually agreed to. The draft environmental impact statement, published by the Department of State in August 1977 (42 F.R. 43466) suggested that the assessment of the economic impact of the treaty was then impossible because of lack of data as to the costs of operation of the Panama Canal after the treaty became effective. The final EIS dated December 1977, states that "An initial toll increase in the neighborhood of 30 percent will be necessary to cover the operating costs . . . of the Canal during the new Treaty period. The exact level of toll increases will depend on such factors as:

The structure of the canal operation under the new Treaty, especially its operating cost requirements, and

The short-term impact on Canal traffic of Alaskan oil shipments." (pages 33, 34)

c. Appropriations or absorption of costs by U.S. If tolls revenues cannot be increased in an amount sufficient to make the canal self-supporting, it appears to be obvious that the deficiency in revenues will have to be made up from the U.S. Treasury, either through absorption of part of the costs or by direct appropriations. While the proponents of the treaty have consistently adhered to the position that one of the objectives of the treaty is that the canal continue to be be self-supporting, they have also simultaneously proposed that substantial costs of operation of the canal be absorbed by the U.S. Treasury through discontinuance of payment of interest on the investment of the United States in the canal, writing off the investment entirely, and treatment of various costs arising from the treaty as obligations of the Treasury rather than of the Panama Canal. Representatives of the shipping industry and others go further and also propose elimination of depreciation as a cost of operation recoverable from tolls, and payment of interest by the United States on Government funds derived from operation of the canal and deposited in the Treasury.

Interest on U.S. investment. At the Panama Canal Subcommittee hearings on November 30, 1977, the testimony of Administration witnesses indicated general unfamiliarity with the history and purpose of payment from canal revenues of interest on the investment of the United States Government in the canal. Interest was described by those witnesses as "profit" and it was suggested that elimination of the interest payment is necessary to keep the Panama Canal Commission "self-sustaining." The Deputy Assistant Secretary of the Treasury described the background of the requirement of interest payments as follows:

"One reason that payment was required in 1951 when the Canal Company was established as a self-sustaining business enterprise was to avoid allowing the users to have a subsidized toll or exclusively subsidized toll by requiring that the cost of capital be included in the toll base. That requirement will no longer be necessary because under the new arrangements, the toll will increase in order to meet the costs and requirements under the new treaty arrangements.

"Tolls will approach a more economic level and a need for interest payment as a device in effect to avoid subsidy will no longer be necessary."

The requirement that the Panama Canal Company pay interest to the Treasury on the net direct investment of the U.S. Government in the Company is found in section 62 of title 2 of the Canal Zone Code. (76A Stat. 8). This provision was originally enacted in 1948 in the legislation incorporating the Panama Railroad Company (62 Stat. 1076) pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.), and of course applied to that corporation which had been operated as an adjunct of the Panama Canal since the time of construction of the canal. See *State ex rel Rogers.* v. *Graves,* 299 U.S. 401 (1937).

In 1950, when responsibility for the operation of the Panama Canal was transferred to the Panama Railroad Company, which was renamed the Panama Canal Company, the requirement for payment of interest on the Government's investment in the corporation was continued. (Act, Sept. 26, 1950 (64 Stat. 1041)). The 1950 legislation was based on recommendations of the then Bureau of the Budget, approved and forwarded to the Congress by President Truman. In reference to the requirement that the corporation pay interest to the Treasury, the report of the Bureau of the Budget stated:

"The principle that Federal business enterprises should pay a rate of return on the Government's investment equal to the cost of the money to the Treasury is now well settled. The President recommended in his 1948 budget message that corporations should be required to reimburse the Treasury for the full cost of money advanced to the corporation. There is no reason why the Panama Canal and its adjuncts should be exempted from payment of interest since they are essentially Federal business enterprises." H. Doc. 460, 81st Cong., 2d Sess., p. 8.

At the Panama Canal Subcommittee hearing on December 1, 1977, Leonard Kujawa, a partner in Arthur Andersen & Co., testifying as an expert on Panama Canal finances, confirmed that interest, as the cost of capital invested in a business, is part of the cost of operation of that business. As such, if a business operation such as the Panama Canal is to be self-sustaining, the revenues derived from the operation must be sufficient to cover interest payments on invested capital.

Conversely, as pointed out in the testimony of Comptroller General Staats, if annual interest payments are not made into the Treasury, the cast position of the Panama Canal Commission would be improved "but it would also reduce Treasury receipts and impact on the overall U.S. budget."

The amount of the interest payment to the Treasury in fiscal year 1978, shown in the 1978 budget program, is $19.7 million.

Depreciation. The statutory formula for establishing rates of tolls for use of the canal now includes depreciation as one of the elements of costs to be recovered from tolls.

The discontinuance of depreciation on part of the assets of the canal was another expedient suggested at the hearings for reducing the upward pressure on rates of tolls brought about by the treaty. On the other hand, the Comptroller General pointed out that the property transfers provided by the treaty would necessitate increased depreciation to make possible recovery of the U.S. investment in the canal over the life of the treaty and that "For the proposed Commission to be financially self-sufficient, toll rates would have to be raised to cover these increases in depreciation costs." The Comptroller General also noted that these actions "may not be economically sound, because of the impact on toll rates and possible adverse effect on traffic and revenues." In other words, under the treaty it may no longer be possible for the Panama Canal to be self-sustaining.

The property of the United States in the Canal Zone, to be transferred to Panama under the terms of the treaty, was acquired at an original cost of about $1 billion. The book value of property associated with the Panama Canal, exclusive of military property, is currently $752 million.

Other treaty costs. Costs to the U.S. Treasury resulting from the treaty that are not directly and immediately associated with operation of the canal probably could not be included in the tolls formula for payment out of revenues of the canal. These costs have not been completely identified but they appear to include appropriations required to fund part of the economic assistance program under the separate agreement accompanying the treaty, the cost of the joint study for the need for and feasibility of a sea level canal for which the treaty provides, the loss to the Treasury of the payment now being made in reimbursement of capital appropriations to the Canal Zone Government, and possibly the cost to the Civil Service Commission and military departments of employee assistance programs contemplated by the treaty.

3. Form of Government agency to be established to operate the Panama Canal:

Legislation to be enacted by the Congress must establish the Government agency to operate the canal and provide the ground rules for its operation.

Article III of the Panama Canal treaty provides that the United States will carry out its responsibilities by means of a U.S. Government agency called the Panama Canal Commission "which shall be constituted by and in conformity with the laws of the United States of America." The treaty also provides that the Panama Canal Commission "shall be supervised" by a Board composed of nine members, five of whom are to be U.S. nationals and four nationals of Panama.

From the time of completion of the canal in 1914 until 1951, the canal was operated by an independent agency called The Panama Canal. The Panama Canal was established and functioned in accordance with the laws of the United States generally applicable to all Government agencies, including the various laws governing the financial management of such agencies now largely incorporated in title 31 of the U.S. Code. Under those laws revenues derived from operation of the canal were paid into the Treasury, and costs of operations weres paid from direct appropriations for that purpose.

In 1950, Congress transferred responsibility for operation of the canal to the Panama Railroad Company, a government agency in corporate form that had been used by the United States Government as an adjunct to the operation of the canal from the time of construction of the canal. The corporation was renamed the *Panama Canal Company* and its operations were subject to the provisions of the Government Corporation Control Act as well as other applicable provisions of title 31 of the U.S. Code. Revenues from the operation of the canal and related activities are deposited in the Treasury or depository banks approved by the Secretary of the Treasury, and expenditures are authorized by the Congress in appropriation acts authorizing the use of such revenues for the purposes set out in the corporation's budget program, as modified by the Congress in the appropriation act.

The 1950 legislation transferring operation of the canal to the Panama Canal Company changed the name of the agency known as The Panama Canal to *Canal Zone Government* with the responsibility of providing the various services incident to the civil government of the Canal Zone. No basic change was made in the form of organization of that agency. A brief summary of the history and laws applicable to the operation of the two agencies now responsible for operation of the canal and the government of the Canal Zone is included in the separate study of the relationship of the treaty provisions to the Constitutional power of Congress to make appropriations.

In establishing the government agency for operation of the canal under the new treaty, the Congress could select either the corporate form along the lines of the Panama Canal Company, the non-corporate form, following the prototype of the original Panama Canal agency, or some combination of the two. Some of the advantageous features of the corporate form, such as business-type budgeting and audit by the General Accounting Office, have been referred to by the Comptroller General. On the other hand, the corporate form is particularly useful for business operations that are truly self-sustaining, and if a substantial amount of direct or indirect subsidy is involved, the conventional unincorporated government agency offers the advantages of closer control by the Congress. Of course, if the unincorporated form of agency is selected, the legislation could incorporate provision for business-type budgets and audit by the General Accounting Office.

A related matter of concern is that of providing for the qualifications and method of appointment of members of the Board to be appointed to supervise the Panama Canal Commission. This feature of the legislation will be especially important in view of the provisions of the treaty for division of the membership between nationals of the United States and Panama.

4. Ambiguity of treaty provisions:

a. General considerations. Ambiguities in the language of the two treaties pose serious problems of interpretation that are virtually certain to become the subject of future controversy. Although the U.S. treaty negotiators have offered their explanations of the ambiguous language, those interpretations have often been at direct variance with those published by the Panamanian negotiators. In considering the significance of these diverse interpretations, the United States Government should keep in mind the enumeration of the causes of conflict between the United States and Panama, published by the Government of Panama on the occasion of the rejection by Panama of the new treaties negotiated in 1967. The concluding paragraph of Part I of the document read as follows:

"7. Last, so as not to make the list of causes of conflict interminable, we mention the greatest cause, the constant cause, the cause that has daily contributed to keep alive the resentment of Panamanians and feeds a sentiment of rebellion against the offensive presence in part of the national territory of a foreign Government which acts in an arbitrary, totalitarian and absolute manner, contemptuous toward the presence of the territorial sovereign. We refer to the invariable conduct of the Government of the United States of America of interpreting the clauses of the existing treaties in the manner most convenient to their interests and contrary to Panama's rights and imposing their arbitrary and unfair interpretations with the power in their hands, and that Panama has not been able to counteract to date, of excluding and throwing out of the Canal Zone the official presence of Panama and the enforcement of our laws." Reprinted in *Report on the Problems Concerning the Panama Canal,* Committee on Merchant Marine & Fisheries, 91st Cong., 2d Sess., p. 87.

As the quoted statement implies, the diplomatic relations of the United States and Panama have been characterized by almost continuous controversy over the construction of the language of treaties and agreements that the United States usually has regarded as plain and unambiguous. To cite only one example, Article V of the 1942 Agreement for the Lease of Defense Sites in the Republic of Panama (57 Stat. 1232) provided that the defense sites would be vacated "within one year after the date on which the definitive treaty of peace which brings about the cessation of the present war, shall have entered into effect." In 1947, Panama asserted that the surrender of Japan constituted a "definitive treaty of peace" ending the war. The United States did not accept that interpretation, but eventually yielded to pressure and vacated the sites before the peace treaty was signed. The history of this particular disagreement is set out at length in the Department of State's publication *Foreign Relations of the United States* for the years 1946 (pp. 1095, et seq.) and 1947 (pp. 881, et seq.).

b. Payments to Panama. Paragraph 4(a) of Article XIII of the treaty provides for payment to Panama of an annual amount of 30 cents "per Panama Canal net ton, *or its equivalent,* for each vessel transiting the Canal for which tolls are charged." (Emphasis supplied.) A Panama Canal net ton is clearly defined in existing laws and regulations as the basis for establishing rates of tolls for use of the canal. However, not all vessels are susceptible of measurement in Panama Canal net tons; some ships and other craft, such as warships, floating drydocks, etc., pay tolls on a displacement basis. Whether or not the prhase "or its equivalent" relates to the payment to Panama for ships that pay tolls on displacement rather than "Panama Canal" tonnage is not clear from the treaty provisions. If that is the intent of the provision, there is no criterion provided for determining what is the equivalent of a Panama Canal net ton in computing the payment to Panama. This could obviously become a matter of controversy and should be clarified before the treaty is ratified.

Paragraph 4(c) of Article XIII provides for a payment to Panama, in addition to other payments, of $10 million per year "to be paid out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to the treaty."

This provision apparently contemplates determination of whether or not the payment is due on a cash basis. If so, and if "expenditures" are limited to payments actually made, excluding unpaid obligations, it could create a serious problem for the financial administration of the canal. The theory of the treaty provisions seems to have derived from the statutory provision that now requires the Panama Canal Company to pay into the Treasury annually the amount of funds in excess of the Company's requirements for working capital and for authorized plant replacement and expansion. (2 C.Z. Code 70). However, there are obvious differences between the language of the two provisions, and it is questionable whether the treaty provision would permit retention by the Panama Canal Commission of funds for working capital or plant replacement and expansion.

The precise meaning of this paragraph of the treaty would become a matter of considerable importance to the financial management of the canal under the new treaty, and its meaning should be clarified before legislation is enacted to carry it into effect.

A third ambiguity appears in paragraph 5 of Article III of the treaty which, after providing for payment to Panama of $10 million in reimbursement for certain services, goes on to provide that at three year intervals "the costs involved in furnishing said services shall be reexamined to determine whether an adjustment of the annual payment should be made because of inflation *and other relevant factors affecting the cost of such services.*" (Emphasis supplied.) There is nothing in the treaty or other documents accompanying the treaty that defines what other relevant factors are for consideration in the adjustment of the amount of this payment. It was suggested at the hearing that the actual cost of services provided might be one such factor, but it would appear to be desirable to reach a firm understanding, with appropriate documentation, defining the meaning of the phrase in question.

Implicit in all the provisions for payments to Panama is an ambiguity arising from the absence of any language referring to the indebtedness of the Government of Panama to the Panama Canal Company and Canal Zone Government, now aggregating some $8.5 million. In normal business transactions provision would be made either for set-off of this amount against the payments to Panama or for outright cancellation of the debt. Whichever result is intended, it should be clearly understood by both parties and incorporated in the legislation to carry the treaty into effect.

c. Property transfers. Paragraph 1 of Article XIII of the treaty provides that on termination of the treaty, Panama will assume total responsibility for operation of the Panama Canal which shall be turned over in operating condition and "free of liens and debts, except as the two parties may otherwise agree."

At the end of any year of operation of the canal as a continuing business enterprise, there remain and are carried forward obligations incurred in completed periods of operation, such as unpaid employee compensation, liability for unused leave, and other accounts payable, which aggregated $80 million in 1976, and are estimated at $87 million in 1978.

Whether or not the quoted provision of Article XIII requires the liquidation of these liabilities before the canal is turned over to Panama is not clear, but the ambiguity should be resolved to permit orderly financial planning and management in the period intervening between the effective date and termination of the treaty.

d. Use of the canal by U.S. Government vessels. Paragraph I of Article VI of the neutrality treaty provides that vessels of war and auxiliary vessels of the United States and of Panama "will be entitled to transit the Canal expeditiously." At the hearings on the treaties this provision has been referred to as providing that warships of the United States are entitled to priority in transit in case of emergency, but other

statements in Panama by the treaty negotiators have indicated that no priority of passage is involved.

The statement issued by the White House after the meeting between President Carter and General Torrijos on October 14, 1977, discussed below, confirms that the provision in question "is intended, and shall be interpreted to assure the transit of such vessels through the canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the canal rapidly."

e. Defense of the canal. Article IV of the Panama Canal treaty provides that "Each party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack, or other action which threatens the security of the Panama Canal or of ships transiting it." Article V provides specifically against intervention in the internal affairs of Panama by U.S. nationals employed by the Commission. Article II of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal provides that Panama declares the "neutrality" of the canal in order that it shall remain open to peaceful transit of vessels of all nations on terms of entire equality, and Article IV provides that the United States and Panama agree to maintain the "regime of neutrality" established by the treaty "in order that the canal shall remain permanently neutral."

In the light of all these provisions the question has been raised as to whether the United States would be authorized to take appropriate action to keep the canal open if the threat to the operation of the canal originates in Panama. The statement issued by the White House after the meeting between President Carter and General Torrijos on October 14, 1977, states that under the neutrality treaty Panama and the United States have the responsibility to assure that the Panama Canal shall be open and secure to ships of all nations and that each country "shall, in accordance with its constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal." The statement goes on to say, however, that this does not mean nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any U.S. action will be directed at insuring that the canal "will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or politcal independence of Panama." Administration witnesses at the subcommittee hearing expressed the view that the treaty gives the United States the right to take whatever steps the United States deems necessary to maintain the neutrality of the canal, no matter what the threat may be.

f. Joint statement of October 1977. The statements issued by President Carter on October 14, and General Torrijos on October 18, for the purpose of eliminating the ambiguities in the neutrality treaty are intrinsically ambiguous in themselves.

Apparently the statements were entirely informal. On his return to Panama following his meeting with President Carter, the press reported that General Torrijos emphasized that he had not signed anything on his visit to Washington. Granting that the statement represents the personal interpretation of the treaty provisions discussed on the part of President Carter and General Torrijos, the effect of the informal unsigned statements as amplifications of the language of the treaty is at least open to question.

5. Constitutional issues:

In addition to the financial problems in operation of the Panama Canal under the new treaties, the treaty language poses two fundamental constitutional problems that are of even greater significance to the United States Government, namely, the requirement for action by the Congress to dispose of property of the United States and to make appropriations of public funds. The treaty language purports to convey property of the United States to Panama and to provide for payments to Panama without action by the Congress as the Constitution requires. These issues are addressed at length in a memorandum on the necessity for appropriations to authorize the payments to Panama presented at the subcommittee hearings on December 1, 1977, and in extensive hearings and briefings conducted by the Committee on Merchant Marine and Fisheries in the first session of the 95th Congress. A further hearing by the Committee on the constitutional issues is scheduled in January, 1978.

PANAMA CANAL COSTS—1ST-YR OPERATION UNDER 1977 TREATY COMPARED TO 1978 BUDGET

[In thousands of dollars]

	Budget 1978	1st yr treaty costs
Operating costs:		
Revenues:		
Tolls:		
Commercial vessels	176,083	176,083
Government tolls credits	1,554	1,554
Total tolls revenues	177,637	177,637
Revenues other than tolls:		
Navigation service and control	29,962	26,247
General repair, storehouse, engineering and maintenance service	6,062	3,155
Marine terminals	24,151	1,645
Transportation and utilities	23,950	26,521
Retail and housing	47,169	5,866
Government activities	63,132	115
Other	2,351	3,068
Total revenues other than tolls	196,777	66,617
Total revenues	374,414	244,254
Costs:		
Maintenance of channels and harbors	22,563	22,603
Navigation service and control	40,732	38,316
Locks	24,759	24,759
General repair, storehouse, engineering and maintenance services	8,966	9,108
Marine terminals	19,801	1,659
Transportation and utilities	22,137	25,353
Retail and housing	51,504	6,303
Other	44,367	41,383
General and administrative	26,231	25,662
Governmental activities	85,968	22,097
Repayment of prior year's interest costs	5,273	5,273
Interest	19,706	19,706
Fixed annuity to Panama	519	10,000
Annuity based on Panama Canal net tonnage		42,471
Public service payments to Panama		10,000
Severance pay		6,093
Repatriation		1,350
Plant relocation		2,236
Early retirement of employees		8,400
Training programs		320
Elimination of tax factor in employee pay		463
Rotation of employees		509
Total operating costs	372,526	323,555
Net operating revenue (loss)	1,888	(79,301)
Capital costs:	22,000	19,992
Total operating revenue (loss) and capital cost	(20,631)	(99,293)
Additional costs to Treasury:		
Depreciation on Canal Zone Government assets		2,681
Military assistance loans to Panama		5,000
Total additional costs to Treasury		7,681
1st-yr costs of treaty in excess of Panama Canal revenues:		
Panama Canal Commission		99,293
Treasury		7,681
Total		106,974

Mr. HATCH. Mr. President, I am concerned about the constitutional aspect of these treaties, and I fought very hard last week to try to have the Constitution upheld. I think we should fight very hard to have it upheld this week, and that is the purpose of my amendment.

I think time will vindicate our position. On the other hand, vindication or not, we happen to be right on these issues.

I do not believe the Panamanian Government should be upset if this amendment happens to succeed because of our constitutional processes. They must be abided by, and I do not think this is a particularly difficult problem for them, and it might well avoid the future economic difficulties which could arise which could cause a shutdown of the canal if we are not perceptive and farsighted enough now to abide by the terms of the Constitution.

Mr. President, I yield the floor.

Mr. ALLEN addressed to the Chair.

The PRESIDING OFFICER (Mr. PELL). The Senator from Alabama.

Mr. ALLEN. I thank the Chair.

Mr. President, when the first protests by certain elements in Panama to the provisions of the Neutrality Treaty, approved earlier by the Senate, came to light, I felt that possibly this was a ploy by the Panamanian dictator to assure that no further amendments or reservations would be attached to the Panama Canal Treaty. I thought the dictator was relying upon the exchange of letters between the President and the dictator on March 15, in which the dictator expressed concern about the reservations that he understood were in line for approval in the United States Senate. The President wrote him a letter giving him assurance that whatever was done there would be no departure from the spirit of the agreement into which the President and the dictator entered, which has been called the Memorandum of Agreement.

Since that time, however, the Ambassador, the permanent representative of Panama, to the United Nations General Assembly, Jorge E. Illueca—with whom, I might say, I debated this issue at the University of Alabama some months ago—has written to the Secretary General of the United Nations in which he sets out the Resolution of Ratification. He gives a statement made on the floor by Senator DENNIS DECONCINI and also a statement by Senator EDWARD KENNEDY, ending up with a communique from the Minister of Foreign Affairs of Panama issued on the 27th of March, 1978, in which the closing paragraph reads as follows:

> We recommend to our fellow citizens to study objectively the documents published today in Spanish and English, so that they might assist the government in taking the most patriotic decision which, as stated by General Omar Torrijos Herrera, Head of the Government of Panama, will be taken within the framework of a great national consensus.

So it is obvious, Mr. President, that the Panamanians are seeking to undercut the provisions of this treaty even before notes of ratification are exchanged between the heads of government as provided by law for the approval of treaties.

So, Mr. President, there does seem to

be general concern and general opposition in Panama to the approval of these treaties, and the question I would like to pose is: Why should we approve a treaty that gives away the Panama Canal under the terms under which it is to be given away, both as to the defense of the canal and as to the protection of the American taxpayer, why should we give the canal away when the people of Panama are not satisfied with the terms of the treaty as agreed to here in the United States Senate?

We have been told, Mr. President, as one of the chief arguments for these treaties that they were necessary in order to avoid violence, in order to avoid riots, in order to avoid sabotage of the canal.

But, Mr. President, it looks like just the reverse of that is true. It looks like if we approve these treaties and send them to Panama for ratification, it is going to cause a great national upheaval in Panama. Far from being a good neighbor gesture it apparently is regarded as another effort at colonialism, as another effort of domination of Panama by the United States Government, and as another attack upon the sovereignty of Panama.

So why, Mr. President, should we force this treaty on the Panamanians?

I have prepared an amendment, that I will introduce at the proper time saying that this treaty shall not go into force—and, of course, until it goes into force the Neutrality Treaty cannot go into force, but this treaty, the Panama Canal Treaty, cannot go into force—until it has been approved in a national plebiscite held in Panama.

Mr. President, why should we send to Panama and have approved by the dictator, acting for the Government of Panama, it, of course, being a one-man government, why should we send that treaty down for approval when quite obviously it is opposed by, if not a majority of the people of Panama—and it looks like various business, professional and labor groups there are organizing behind the opposition to the treaty—but why should we enter into a compact with Panama that is not approved by the people of Panama?

So my amendment—and I hope the Members of the Senate will look with favor on this amendment, and I hope the leadership will agree to this amendment—why should we ask the Panamanian Government to agree to a treaty unless we are sure that the people of Panama want such treaty?

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator, since he has mentioned the leadership, yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. I will say quickly I do not favor the Senator's amendment. I respect his right to call it up. I certainly respect his right to speak in support of it, and I certainly respect his dedication to the cause of defeating the treaties and, of course, this would be one more amendment by which that rejection could ultimately be brought about.

So I would not want to support the Senator's amendment, I will just say that in advance. Moreover, I think I should state that we have been hearing all along in this debate that the Senate is just acting in the interests of the people of Panama, in the interest of the Government of Panama, acting at the behest of Mr. Torrijos and that the interests of the United States are being subordinated to the interests of the Panamanian Government.

Now, I think it is obvious that there is opposition to these treaties in Panama. There was when the plebiscite occurred down there. But there has been an attempt to obfuscate that opposition.

Of course, there is opposition to the treaties down there. There is opposition to them in this country. But I would urge Senators to keep their eye on the ball and keep a steady hand on the helm, and would urge people at both ends, not only in the United States but also in Panama, to keep cool heads. This is a time to remain cool, in my judgment.

Let us vote on the treaties on the basis of the merits of the treaties, on the basis of what is in the best interests of the United States. I have not seen any indication, at this point at least, that the Panamanian Government intends to refuse to exchange instruments of ratification if and when that time comes.

I think we should go right ahead and do what we think ought to be done in the interests of this country, of our country, and its good relations not only with Panama but with other Latin American countries.

Finally, as to the Senator's suggestion that the amendment which he intends to offer would require a new plebiscite in Panama, it seems to me that the Senate, if it were to adopt that amendment, would be attempting to amend the Constitution of the Republic of Panama. That Constitution requires a plebiscite on a treaty, but I do not know of any requirement of that Constitution that there be a second plebiscite dealing with the reservations, understandings, et cetera, that might be attached to a treaty. So the Senator's amendment, it would seem to me, would be looked upon by the people of Panama as a rather presumptuous incursion upon their constitutional rights.

I want to say finally—and I thank the Senator from Alabama for being so courteous and patient in yielding to me. He has the floor, and I will try to not to be overly long.

Finally, I think we have to recognize that the people of Panama have been patient and long suffering. For 75 years they have lived with a bone in their throats, as they have viewed the 1903 treaty. It has been a continuing source of frustration to them, and a continuing sore spot in our relations with Panama. I think they have been very patient. They have not attempted at any time to abrogate that treaty. They have lived up to their responsibilities and duties under it.

I must say that I think they have also been very patient and forbearing as they have listened to the debate in the Senate on the treaties. This debate goes out on the National Public Radio. It is translated into Spanish, and the Panamanian people have listened to every word of it. I commend them on the equanimity that they have shown as I know from time to time, without any such intention on the part of Senators, the Panamanian people, in my judgment, have probably thought that they were being insulted by some things that have been said, again I would hasten to say through inadvertence and probably misunderstanding on the part of the Panamanian people themselves in the interpretations they have placed on things that are said.

I wish to commend the Panamanian people on keeping their cool and maintaining their equanimity in this situation, in the light of some of the things that they may have interpreted as demeaning on the part of those of us who have spoken here in the Senate. I commend and compliment them.

I thank the Senator from Alabama for his extraordinary courtesy in yielding to me to take the floor at this time, and being so kind as not to interrupt my statement. I have finished, and I express my gratitude to him.

Mr. ALLEN. I thank the distinguished majority leader for his very fine remarks. I am always glad to yield to the majority leader when he has questions to ask, when he has arguments to make, or when he has information that he thinks would be helpful to the Senate.

Now I would hope that I would be permitted to conclude my remarks, inasmuch as the position of the leadership has been so fully stated. I might say, though, Mr. President, that it comes as no surprise to me that the distinguished majority leader should take the position that he is opposed to this amendment, because he has not been for a single amendment that has been offered during the 2 months that these treaties have been before the U.S. Senate, other than two so-called leadership amendments. So it did not come as much of a surprise to the Senator from Alabama. I did express the hope that the leadership would agree to this amendment, but it did not surprise me when my hope was not fulfilled by a statement from the leadership that it would support this amendment.

The distinguished Senator said, as to our putting into the treaty a provision that before the treaty goes into effect it should be approved by national plebiscite in Panama, that whereas there is a provision, he states, in the Panamanian Constitution, requiring a plebiscite for the approval of a treaty, he knows of no provision for a second plebiscite.

I call the attention of the Senate to the fact that apparently the Panamanians feel that this is a different document from the document that was approved in the plebiscite, thus getting back to a familiar argument of mine that Mr. Torrijos jumped the gun in calling for this plebiscite, because he knew the Senate of the United States has the constitutional right and duty of advising the President with respect to this treaty, and that that advice is in the form of amendments to the treaty, shaping the treaty to the views of the Senate in the advice that it gives to the President.

But, Mr. President, it is apparent even from the words of the dictator that there

are tremendous grounds for opposition to this treaty in Panama. So why, Mr. President, should we give away a valuable asset of this country, valuable from the standpoint of our economic well-being and valuable from the standpoint of our military security? Why should we force this treaty on Panama when it is so obvious that a large portion of the people there—it was one-third in the plebiscite, and obviously the opposition is growing.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I understood the Senator to say he was not going to interrupt me any more.

Mr. ROBERT C. BYRD. I did not say that, but I really did not mean to interrupt.

Mr. ALLEN. Very well; I will yield to the distinguished Senator, then, if he wishes to comment on what I have said. I hate to have my remarks broken up with opposition to each statement that I make, but I will be glad to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Alabama that I did not intend to interrupt him again, but this rhetorical question is very intriguing.

Mr. ALLEN. A rhetorical question is not supposed to be answered.

Mr. ROBERT C. BYRD. Well, in this instance I want to respond. The Senator asks, "Why should we force this treaty on the Panamanian people?"

We are not forcing it on them.

Mr. ALLEN. How are they going to state their opposition, if the dictator does not call another plebiscite?

Mr. ROBERT C. BYRD. They do not have to enter into the exchange of the instruments of ratification. We are not forcing them.

Mr. ALLEN. I did not understand how the Senator says we do not force the treaty on Panama.

Mr. ROBERT C. BYRD. Because the other party to this treaty, as with any other treaty, may decline to enter into the exchange of the instruments of ratification.

Mr. ALLEN. They will not have any opportunity of expressing themselves unless we write it into the treaty.

Mr. ROBERT C. BYRD. The Senator was arguing a minute ago that there was a lot of opposition to these treaties.

Mr. ALLEN. There is not opposition by Mr. Torrijos. He is willing to accept them. But he fears the Panamanian people. He will not submit it to them.

Mr. ROBERT C. BYRD. The Senator is attempting to read the mind or second-guess what someone else might do. But the Panamanian Government is under no obligation to enter into the exchange of the instruments of ratification, if it does not want to. It can exercise the same right that any other party can.

Mr. ALLEN. But Torrijos will keep them from doing it. He will not submit the question to a plebiscite.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. I thank the Senator. We all know, of course, that another chief argument made by the proponents of this treaty is the argument that the treaty is needed to eliminate the danger of sabotage, riots, and violence.

The argument has been made here on the floor that any amendments to the treaty would kill the treaty. Apparently, they are fearful that if a new plebiscite was called in Panama, the Panamanian people would reject it. But if one of the purposes of the treaty was to do a good neighborly act in giving the canal to Panama, paying them, in effect, to take it—we owe $319 million on it now which is to be wiped out under the treaties, and there are other items of expense—if this treaty is going to cause riots in Panama, possible sabotage, does it not indicate that even if the treaty is agreed to, if dictator Torrijos approves it, that that is just going to start the riots, that is just going to start the danger of sabotage, that is just going to start demands for more and more, demands to turn the canal over to Panama prior to the year 2000?

Already they are trying to undercut the provisions of the treaty in the U.N. I do not know what the U.N. has to do with it, but apparently Panama thinks it has something to do with it. I thought this was a treaty between Panama and the United States.

I know on the Neutrality Treaty other nations of the world have a right to endorse the neutrality aspect of it. But by and large and exclusively, for that matter, it is a treaty between the United States and Panama. Why should they be notifying the U.N. of their disapproval of the DeConcini amendment? There is already talk, as announced on national TV, that the leadership or the proponents—the proponents of the treaty, as I do not know about the leadership—the proponents are trying to get up an amendment that will water or soften down the proposals of the DeConcini amendment.

I believe they would be treading on dangerous grounds if they seek to water down the DeConcini amendment in the second treaty. We all know that the DeConcini amendment was the vehicle by which at least two votes here in the Senate were gained for the treaty. Would it be keeping faith with the Senators who voted for the treaty in return for the administration's agreement to the DeConcini amendment, would it be keeping faith with the Senate and with those Senators who voted for the treaty because the DeConcini amendment was agreed to, if we water down the DeConcini amendment in this treaty and say that the DeConcini amendment does mean what it says, that is, the right of the United States to intervene at any time after the year 2000 to keep the canal open?

We were told that the leadership amendment was going to do that, but apparently it is not. The leadership amendment was supposed to give us the unilateral right to intervene in Panama, so why should the DeConcini amendment cause so much trouble in Panama, trouble to the point where it is stated that efforts will be made by the proponents of the treaties to water down the DeConcini amendment?

Mr. President, it is quite obvious to me that if these are to be treaties between the U.S. Government and the people of Panama, that the people of Panama should have a right to express their opinion on the treaties, as modified here in the U.S. Senate.

I think this is the best way to guarantee that we will know if the people of Panama approve of this treaty, by letting them say so. Just having an agreement with Dictator Torrijos is not enough. He has never been elected by the people. Even if he was, that would not give him a right to act for the people of Panama in the face of this strong opposition that is manifesting itself in Panama.

Also, Mr. President, I do not approve of the attitude of the Panamanians. I think it ill becomes the Panamanians to have the Panama Canal given to them, giving them money to take the canal, and merely because the U.S. Senate says we should have the right to intervene in Panama to protect and defend the canal for them to say, "Well, we do not want it on that basis. We want it on some other basis," and for us not to have the right to protect the canal is something that I feel is not well taken, to insist that we merely rubber-stamp these treaties.

Mr. President, the leadership has sought to defeat all amendments to the treaties, and they apparently thought it would not be too bad to let in some reservations.

I am rather of the opinion, Mr. President, that managers of the treaty and the leadership thought that reservations would not have too much force, that they would be innocuous, and they let in the DeConcini amendment as an amendment establishing a reservation to the resolution of ratification, even though they had turned down the language of the DeConcini amendment when it was offered as an amendment to the treaty. Apparently, they misjudged the effect of a reservation, because the DeConcini amendment, so-called, is not an amendment to the resolution of ratification. But they let in a tiger when they allowed the DeConcini amendment to the resolution of ratification to be agreed to with leadership support.

Just the other evening, I heard the distinguished majority leader tell the distinguished Senator from Louisiana that he would support a reservation to this treaty giving us the right, which we do not have in the treaty, to negotiate with any other nation as we see fit for the purpose of building a canal in such a nation. So, apparently, that is going to be a reservation that will be added.

I feel reasonably sure that a reservation will be added saying that the Panama Canal, after we do sign these treaties, will not cause any expense to the American taxpayer. I rather believe that, while that will not be accepted as an amendment to the treaty, it will be passed as a reservation to the treaty.

So, Mr. President, whereas I thought originally that Dictator Torrijos was using these disturbances in Panama to assure that we did not add any further amendments to this treaty, I believe now that he is in serious trouble in being able to get the backing of public opinion for this treaty in Panama. I feel that it is

only right that we ascertain the Panamanian will by calling for a plebiscite in Panama before this treaty goes into effect. Mr. President, it would be unwise for us to ram this treaty down the throats of the people of Panama with there being substantial reason for believing that the people of Panama do not approve of this. If they do not approve of it, they are going to show that disapproval in the years to come.

The managers of the bill have sought to kill and have killed all of the amendments offered to this treaty. They say that it would kill the treaty. That being true, Mr. President, it seems to me that the managers of the bill have cast their lot with Dictator Torrijos and his wishes—that is, no amendments to the treaty. It seems to me, and I resent it on the part of the managers of the bill and the leadership and the administration, that these protests are being made in Panama to such an extent that Panama is trying to undo the work of the United States Senate on this treaty providing for the evacuation of all of our troops by the year 2000 and allowing Panama to go it alone. It seems to me that it ill becomes the Panamanians, to burn the President in effigy in Panama, a man who has staked his political future and the success of this administration on the approval of the Panama Canal treaties. These treaties provide for giving the canal to Panama, reserving some rights of defense.

Why should they object to defending the canal? It takes the burden off Panama. For this great gift to be made to the Panamanian people, the leadership on both sides of the aisle having stuck their necks out to accommodate the Panamanian people, to beat down all amendments to these treaties, and then riot down there to show their disapproval of the treaties, burn the President in effigy, hardly seems to be something that would leave a good taste in the collective mouths of the Members of the U.S. Senate.

I understand Mr. DECONCINI is going to offer the same amendment and, failing in that, a reservation to this treaty, providing for the same right of the United States to keep the canal open. I am hopeful that he will. Certainly, I shall support it, as I supported his other reservation.

These treaties fall far short of their supposed goal of eliminating riots, eliminating violence, eliminating the possibility of sabotage. Did they do it? I submit, Mr. President, that they do not, that the situation is an anomalous situation: to promote riots, approve the treaties; to stop riots, kill the treaties. So it looks like the situation has completely reversed itself. If we want to end the riots, let us kill the treaties.

I might say, Mr. President, that the defeat of the treaties does not mean that negotiations have ended. Negotiations can start again the very next day, just as they are negotiating now, Mr. President, to try to find out how they can blunt or water down the DeConcini amendment, which has been approved by the Senate and which was accepted in order to gain votes for the treaty in the Senate. What sort of action would it be, after having agreed to the DeConcini amendment and obtained its passage and obtained the passage of the neutrality treaty itself, how could we then back up and water it down with a provision in this treaty saying it does not mean anything? I suggest that if the proponents of the treaties come forward with any such amendment, these two or three doubtful Senators—and there are such—I dare say they are not going to see the DeConcini amendment weakened when its approval was what got them to vote for the first treaty itself. So that would be a hazardous course to pursue.

Mr. President, with the Panamanians up in arms about this treaty, why should we force it upon them? This treaty needs more negotiating. With the situation on the parliamentary status of the treaty, we must vote on the 18th unless, by unanimous consent, the treaty is sent back to the Committee on Foreign Relations for further study.

They might come up with some perfecting amendments. They had the treaty before the Foreign Relations Committee for several weeks, or several months, I believe. They did not come up with any committee amendments, however.

I believe they might study the treaties a little bit more and come out with some constructive amendments, some amendments that would cure this impasse that exists now between the American people and the Panamanian people.

I think it is passing strange, Mr. President, that with the people of the United States, as I see it, strongly opposed to these treaties and, apparently, a large percentage of Panamanians opposed to the treaties, why should the U.S. Senate ram it down the throats of the people of Panama and the people of the United States, as well?

I do not believe it makes too much sense. I hope that some Senators who voted for the treaty before, thinking that it met with the approval of the people of Panama as a result of a 2-to-1 vote in favor of the treaties prior to action by the Senate, thinking that the people of Panama approved it by a 2-to-1 vote, will now see that the various elements in Panama that make up the power structure there and the people themselves are rioting against the approval of the treaty.

So should we defy the public opinion of our country and what seems to be the public opinion of Panama by approving this treaty and sending it down to Panama and saying, "Take it or leave it"?

I do not believe we are acting in any good neighborly fashion. I do not believe we are acting, as I see it, responsibly or responsively to the will of the American people.

So this great U.S. Senate, having this treaty in our hand, a treaty that we thought Panama wanted, now finds in all probability that the people of Panama do not want it. I feel that we would be going counter to the public opinion in both countries if we should insist on passing or agreeing to this treaty.

Mr. President, the leadership and the managers of the treaty have adopted the position of no amendments for fear of upsetting the Panamanians. Having adopted that policy, and been highly successful in preventing amendments, why should the Panamanians indicate such displeasure with what has been done in the U.S. Senate at the behest of the administration?

The administration has accepted every single change that has been made in these treaties. Not a one has gone contrary to the wishes of the leadership, the managers of the bill, and the administration. Not a single one.

They have managed the strategy of the treaties. They have used reservations to gain votes—the administration did, acquiesced in by the leadership on the DeConcini amendment.

So who do we have to blame for this impasse that we have come to? It is not the ones here in the Senate who have tried to strengthen these treaties to provide for greater defense rights for the American people, to provide for protection of the American taxpayer. We are not the ones who have brought this sorry state of affairs to culmination, a culmination in riots in Panama in opposition to the treaties, when we were assured that the agreement to the treaties was necessary to stop riots. That certainly is an anomalous situation.

It does look, Mr. President, as if in order to stop the riots, stop the danger of sabotage, let us defeat this treaty, which will have the result of defeating the other treaty, as well, and then go back to the negotiating table.

I see the distinguished Senator from Maryland wishes to speak, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I know that the Senator from Kansas is to be recognized under a unanimous-consent order, by 1 o'clock to offer an amendment and to speak thereon.

Mr. President, in his great tragedy "Othello," Shakespeare sets out and develops fully one of the more interesting characters in literature—Iago. Iago, of course, would show great solicitude for Cassio, his ambitions to become a captain, and urge Cassio to have Desdemona plead his cause. Then Iago would pass around the other side of the palace and talk to Othello and raise in Othello's mind certain doubts about Desdemona. Back and forth Iago would play this game.

Of course, the result of the game was to enrage Othello, to enrage him, to goad him on, to lead him down a path where Othello in the end committed acts that not only caused him to be seized with remorse, but led him to take his own life.

What Iago did, and very successfully in that play, was to lead Othello to smother his loyal wife and then, as a consequence of that, to stab himself to death.

He was driven to it. He was driven to it by Iago, who so skillfully played first to one emotion and then to another, and he was led to self-destruction.

Now, words, Mr. President, can have a

tremendous impact. Words, after all, are one of the hallmarks of civilized people. But words can also be used, Mr. President, to arouse emotions, to create misunderstandings, to heighten antagonism, to fan anger and passion, to create divisions, to generate hostility. Through history, words, Mr. President, have frequently been used in public issues as they were used by Iago in private matters, to cause people, in effect, to destroy themselves. The treaties before us are not a play. The treaties before us are extremely serious business for this Nation and for Panama and, indeed, are extremely serious business for the peace of the world and for questions as to how the world will develop in the remainder of this century and into the next century. The treaties involve very fundamental questions of our national purposes and our national objectives.

The debate on the treaties has, of course, taken many turns. It should be noted that the debate is being carried in Panama, simultaneously translated into Spanish, so that the words uttered in the Senate of the United States are carried immediately in Spanish in the Republic of Panama. This debate also is being carried on public radio in this country; and as others have observed earlier on the floor, it is being carried very well and skillfully indeed. The debate also is carried in Panama. So the words that are spoken register in both places at the same time.

Those words can appeal to reason or they can appeal to emotion. Words can also appear to show solicitude for the sensitivities of others at the same time they are really exciting emotions of resentment and anger as to what is perceived to be the attitude of one people toward another.

One hopes that the lessons of Shakespeare's great play "Othello" remain in people's minds. One hopes that the impact which words can have is fully appreciated. One hopes that there will be no driving of a people toward a public end comparable to the end of this play, where, as a consequence of Iago's poisonous words and actions, Othello killed his wife and then killed himself.

Mr. President, we have a Panama Canal Treaty before us, and the Senate, as the majority leader has said, has its work to do. It is serious work. It is important work. It involves important questions of our country's national interests, and it needs to be considered with an attitude of reason.

We have our judgments to make here. The Republic of Panama is a sovereign and independent country, and has its judgments to make. They do not make our judgments, and we do not make theirs. We try to work together in such a way that an agreement that protects the interests of both countries can be reached, and there are many who are trying to achieve that. There are many who feel that an agreement between our two countries that fully protects the interests of both countries is achievable. In fact, the proponents of these treaties feel that the treaties have achieved such an agreement.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator, briefly.

Mr. GRAVEL. I should like to explore something that essentially the Senator from Maryland is doing and saying, and that is the new phenomenon of a Senate debate taking place——

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, the distinguished Senator from Kansas (Mr. DOLE) is to be recognized at 1 o'clock. The Chair has accorded the distinguished Senator from Maryland 5 additional minutes at this time.

Mr. SARBANES. Mr. President, I ask unanimous consent that the debate be allowed to continue until Mr. DOLE arrives in the Chamber, and we will immediately then bring it to a close.

Mr. GRAVEL. Without the time being charged.

The PRESIDING OFFICER. Will the Senator include the request that it not extend beyond 1:15?

Mr. SARBANES. Yes; not to extend beyond 10 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAVEL. My colleague made reference to the fact that these broadcasts are being beamed to Panama and have simultaneous translation. I think we can easily recognize that not all that many Americans are listening to public radio. I believe a number of concerned Americans are. But I think we can justifiably say that most Americans are not all that knowledgeable about the workings of the Senate. In fact, I have had an American occasionally ask me, "How many Senators are from a State?" or, "How many Senators do you have from Alaska?" So it comes down to some pretty fundamental ignorance.

Therefore, I do not think it would be unreasonable to assume that the average person in Panama may not understand all the niceties that exist in this body.

So, when we have a debate such as we have had during the last month, in which we see, day after day, one side taking what it thinks is tactical advantage by repeatedly calling the head of state a dictator, with the vilest connotations, the average Panamanian down there, who knows that Mr. Torrijos has doubled the amount of schools that were in existence and knows that he just completed a road to his farm cooperatives, that he helped set up the cooperatives, does not take too kindly to that.

How does a Panamanian, listening to a lot of the inferences as to their inferiority as human beings, or their capacities, or their motivations with respect to justice and how they would operate the canal—how does a Panamanian citizen who has been listening to the radio and hearing this diatribe react emotionally? I think it will mean very little to him what happens to the treaties, whether they are approved or not. He is going to feel resentment, just as if an Alaskan were to listen, day in and day out, to some official from France or Russia insult him.

So we go ahead and do our work, but the residue that is in the minds of the people will be most damaging.

What I suggest to my colleague from Maryland is that we have an unusual rule in this body, and I think it is one that has great worth, and that is that I cannot stand up and insult the citizens of North Carolina, the citizens of Utah, or the citizens of Alabama. We have had Senators called down for that. Why do we have that rule? We have that rule because we do not want to pit our citizens against each other.

We could stand here and throw gasoline on misunderstandings, inflame things, and do great damage.

For the first time in the history of the Nation we are debating international affairs on radio where foreigners may listen to it. And so what do we do? We wind up insulting them.

I do not think they can appreciate the niceties of tactical advantage. But the end result is going to be the same, and that is that we will stir unusual acrimony in this area.

I suggest that maybe we should have a rule in this Senate that when we debate foreign affairs we cannot insult the citizens of another nation and that we cannot speak disrespectfully against the head of state of another nation, like we cannot speak disrespectfully against each other.

I think that that rule might be a very, very important rule for this Nation and for this Senate to conduct foreign policy.

Mr. SARBANES. Mr. President, I appreciate the Senator's observations.

I, also, underscore that with free speech in the Senate of the United States each of the 100 Members of the Senate is free to make his presentation, to make his case, to make his appeal to reason or his appeal to emotion.

Mr. GRAVEL. But he cannot insult another Senator.

Mr. SARBANES. In any event, I think it is important to understand the free-speech principle that works in the Senate of the United State that each Senator has been elected by his people and is free to make his statements as he chooses to make them.

But I simply wanted to make that earlier reference to Shakespeare's play "Othello" because Iago by his words drove Othello to such extremes of emotion and jealousy that in the end Othello murdered Desdemona and then stabbed himself.

Mr. President, I see that the able distinguished Senator from Kansas is on the floor, and I know that he wants to be recognized to offer his amendment. Therefore, I yield the floor.

AMENDMENT NO. 10

The PRESIDING OFFICER (Mr. LEAHY). Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized to call up amendment No. 10 to article XII, which the clerk will state.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself and Mr. CANNON proposes an amendment numbered 10.

In article XII, strike out paragraph 2. Renumber subsequent paragraphs accordingly.

The PRESIDING OFFICER. The time for debate on this amendment is limited to 2 hours to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from Kansas (Mr. DOLE).

The Senator from Kansas (Mr. DOLE) is recognized.

Mr. DOLE. Mr. President, before commencing the debate on amendment No. 10, I yield 5 minutes to the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The Senator from Utah (Mr. HATCH).

Mr. HATCH. Mr. President, I thank the distinguished Senator from Kansas.

I just had to rise to my feet to chat a little bit concerning some of the comments that have been made over the last few minutes by the distinguished Senators from Maryland and Alaska.

I certainly have not heard the demeaning language pertaining in the people in Panama. There has been some language pertaining to the leader of Panama at this particular time, and frankly I think it depends on one's particular point of view whether than language is accurate or not.

I did enjoy the analogy of Othello-Desdemon, et al., in Othello. The important thing to take out of this is precisely what we have been talking about for actually better than a month now that is starting to come to fruition, and that is we said at the beginning of this debate that these treaties are an abomination, that they are not clear, that the Spanish translation means something to those in Panama that the English translation does not mean to us here, and vice versa. And now all of a sudden, after we have been told time and time again by the President, the ambassadors, the State Department, and others, the proponents of these treaties, that everything is going to be wonderful if we just ratify these treaties, that the Panamanians believe exactly the way we do and we believe exactly the way they do, and all we have to do is ratify these wonderful treaties and everything is just going to be a beautiful state here in this hemisphere as a result of it, here we find over the weekend that they do not seem to understand these treaties the same way we do. They have raised the hue and cry not over the language which has been used in the Senate, because I do not know anyone who has demeaned the people of Panama—in fact, I said on the floor of the Senate that I loved the people from Panama and of Panama—but the fact of the matter is that what has been said is that we are not going to have a wonderful state of nirvana because these treaties which were ambiguous, filled with ambiguity, fraught with translation difficulties, and filled with other difficulties are going to create more problems than they are going to solve if they are ratified.

As a matter of fact——

Mr. GRAVEL. Mr. President, will the Senator yield for a question?

Mr. HATCH. I just have to say that——

Mr. GRAVEL. Mr. President, will the Senator yield for a brief question?

Mr. HATCH. I will finish in a second, and then I will be glad to yield.

I just want to say that I think the events of this past weekend are very interesting ones because the President, the ambassadors and others have told us we would have the unilateral right to intervene, we did not even need the leadership language; so Senator DECONCINI, who I found to be a very studious, hard-working, decent U.S. Senator from Arizona, has been vilified by the press back here because he sincerely brings forth a reservation, not an amendment, because the amendments were shot down and stonewalled, he brings forth a reservation to clarify the matter to make sure no one has any difficulties with that basic concept that we have the unilateral right to intervene to assure the neutrality of the canal. But what do we have but all kinds of disruption and discord because they did not understand it that way.

Mr. GRAVEL. Mr. President, will the Senator not yield for a question?

Mr. HATCH. I am delighted to yield to the distinguished Senator from Alaska.

Mr. GRAVEL. If after we complete our work on the treaties——

Mr. HATCH. I cannot hear the Senator.

Mr. GRAVEL. If after we complete our work on the treaties the Panamanians choose to add reservations, as the Senate has added, to the treaties that were initialed by the head of state in Panama and the President of the United States, that is one step they may take. Now we, the Senate, have added to the Neutrality Treaty something new that the Panamanians were not aware of. Now, they may agree; they may not agree. But certainly it is their prerogative to do that.

Mr. HATCH. If they were not aware of it and were misled by the administration.

Mr. GRAVEL. Not misled. We are adding something new.

Mr. HATCH. We have.

Mr. GRAVEL. Why does my colleague say we have been misled?

Mr. HATCH. Because the President——

The PRESIDING OFFICER. The 5 minutes that were yielded to the Senator from Utah have expired.

Mr. HATCH. Mr. President, will the Senator yield me 2 additional minutes?

Mr. DOLE. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Utah has 2 additional minutes.

Mr. GRAVEL. We added something new. The DeConcini amendment is something new to the treaty, so certainly the Panamanians are within their rights to voice an objection if they have one to that.

Mr. HATCH. And I agree with that.

Mr. GRAVEL. That is nothing new. No one has been misled or hoodwinked. We put new language on the table of negotiation, the Senate did, and they may well turn it down. Maybe they will not turn it down. Maybe they will add something new and it will come back to us. Certainly if they did that the Senator would not think that they would be duplicitous or hoodwinking us. This is the process.

If the Senate, in its wisdom, decided to add the DeConcini language, with which I disagree and which I think is horrible, but since we did it, now the Panamanians have every right to stand up and say, "Hey, we think that is bad language. We don't want it."

If I were a citizen of Panama and had to vote on this treaty, the Neutrality Treaty, with the DeConcini language, as a citizen of Panama I would vote "No." I would not take that kind of stuff.

Mr. HATCH. If I might reply, I think the distinguished Senator from Alaska has made my point for me, and I want to compliment him for it.

The basic point is they have not known what our President has been telling us is assured, and what the Ambassador said, and told us time and time again, that we would have the unilateral right to intervene to assure the neutrality of the canal after the year 2000.

Mr. GRAVEL. Our President did not assure them that we in the Senate would violate the U.N. charter, that we in the Senate would not——

Mr. HATCH. Wait a minute.

Mr. GRAVEL (continuing). Violate the U.N. pact.

Mr. HATCH. There is no violation of the U.N. charter here. If you will recall, just 3 weeks ago I stood on this floor and said they would hide behind the U.N. charter, exactly what they are doing now, only they have waited——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HATCH. May I have 2 more additional minutes?

Mr. DOLE. Two more minutes.

Mr. HATCH. That is exactly what they are doing. I think many of the things we have talked about on this floor—it is amazing to me—are coming to pass before we even get through with the debate.

I suppose the only citizens, since we are not going to insult citizens of other States, and I appreciate the Senator's saying this, and I do not expect really that any Senator intends to insult any citizen of any other nation, and certainly not the Panamanians who have been our friends for years, I suppose the only people, the only citizens we can insult are the citizens from our own States when we ignore the overwhelming weight of their belief that we should not ratify these treaties, and even that is a question in my mind.

All we can say is what we have been talking about that these treaties are not clear not only to us but to the Panamanians, I think, is coming to fruition over this weekend, and I think we ought to all wake up and realize that to shoot down valid and decent amendments which could make this treaty worthwhile and stand up and not be the future cause of all kinds of difficulties is certainly the better approach, and the approach of the distinguished Senator from Arizona who brought forth a decent amendment and fought for it and got it enacted, one of the few which has been accepted not only by the President but by the State Department, the am-

bassadors and, of course, a majority of our colleagues in the Senate, and I compliment him for it.

I thank the Senator from Kansas. I thank him very much for the time he has given me.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Amendment No. 10 is offered on behalf of the Senator from Kansas, the Senator from Nevada (Mr. CANNON), the Senator from North Dakota (Mr. BURDICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Texas (Mr. TOWER), and the Senator from Utah (Mr. GARN).

Now, the amendment is very simple. The amendment would simply strike paragraph 2 of article XII from the Panama Canal Treaty. I might say to the distinguished Senator from Alaska I think he has a rather deep interest in this amendment, as I will point out in just a few moments.

In effect, it would remove the restriction that prevents the United States from negotiating with any country other than Panama for the right to construct a new interoceanic canal in the Western Hemisphere.

At the same time, this amendment would eliminate the corresponding provision which purports to prevent Panama from allowing any country other than the United States to build a new canal through her territory.

In just a few minutes I shall explain why the elimination of these two provisions would, in my opinion, be particularly advantageous to the United States.

At the same time, there is reason to believe that the Government of Panama would not object to removing these provisions from the treaty.

At the outset, the Senator from Kansas should say that he personally perceives little prospect for the construction of a new interoceanic canal in the Western Hemisphere during the remainder of this century. I have been among those who believe the present canal is still adequate and vital to our naval defense system. Only 14 U.S. aircraft carriers, a very small percentage of our Navy, cannot transit the present canal. So the need for a new canal during the remainder of this century is not evident to this Senator.

It should be remembered that it was President Carter, not the leader of the Panamanian Government, and not anyone else, who got this controversy underway last August when he suggested during an appearance in Yazoo City that a new sea-level interoceanic canal was under consideration.

So apparently the prospect, at least, exists.

General Torrijos has said, and the Carter administration has admitted, that it was our negotiators who first initiated the proposal found in paragraph 2, article XII. As a matter of fact, General Torrijos gives my colleague from Alaska, Senator GRAVEL, credit for promoting the plan. In a speech on nationwide Panamanian television last October 20, General Torrijos made the following statement with respect to article XII of the Panama Canal Treaty:

. . . there is a great deal of interest in the United States . . .

The Senator from Alaska is the one most interested in this sea-level canal because Alaska has become a great source of petroleum with possibilities that go far beyond the petroleum produced in the continental U.S. territory. The Alaska senator said: Omar, if you sign this letter I can get from the Senate 7 million balboas—

I think he meant 7 billion balboas—

so that jointly with you—when I say I am thinking about who I am going to appoint, I am thinking of the Polytechnical Institute, I am thinking of the best trained Panamanian minds in ecology, in engineering, in canal problems—let us begin to make this study now. This study should cost $7 million: $3 million for ecology, $3 million for engineering and another for something else.

Now, the Senator from Kansas does not agree with the Carter administration that the purported quid pro quo found in article XII, paragraph 2, is advantageous to the United States. This is why I and many of my colleagues believe the provision should be removed to protect our options and flexibility on this score.

After studying the ratifications of this portion of the treaty I have identified three major flaws in paragraph 2. I think, first of all, we ought to understand what paragraph 2 says, and I quote paragraph 2:

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

Now, Mr. President, I believe these commitments are far more advantageous to Panama than the United States, and I must suggest to those who may have an interest that certainly we understand the interest of the Panamanians and this Senator understands the concern of the Panamanian people. But I suggest that our first responsibility is to the people of the United States of America. Certainly we have no right or, as far as I know, any willingness or any desire to insult anyone. But sometimes I think we insult the American people by what we do in this body and what we fail to do in this body, even though we may gloss over it with some high-sounding theory or something about colonialism. But as far as this Senator is concerned, we are still grappling with a very basic issue.

This treaty represents the last chance the American people have on the Panama Canal. This is the giveaway.

Now, some will say that we have never owned it; it is pretty difficult to understand how we can give it away. But this treaty says, "Give the Canal to Panama." It says, "Give them the control, the maintenance, and the operation"—though I assume for the next several years, at least, the American taxpayers will be called upon to spend millions and millions of dollars of their tax money to maintain and operate it.

When I focus on this one provision, I cannot for the life of me understand why it is in the treaty. It certainly is not advantageous to American interests. I hear all the talk about all the effort that has been made in the Senate to somehow denigrate the Panamanian Government or the leader of Panama, or the Panamanian people themselves. Well, I just suggest that as far as this provision is concerned, it is certainly advantageous to the Panamanian Government. It is certainly advantageous to General Torrijos, who is a dictator, there is no question about that. I do not think you insult a man by calling him what he is.

But how are these provisions advantageous to the Panamanian Government?

First, the American commitment is unequivocal: we may not negotiate with any country other than Panama for a new canal site, unless Panama specifically authorizes us to do so. The Panamanian commitment, on the other hand, is imprecise and certainly open to different interpretations. The popular interpretation, promoted by the Carter administration, is that subparagraph 2(a) protects us by preventing any other nation from building a new canal through Panama without our consent. But, strictly speaking, that is not precisely what this section says. I will read it again:

No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this treaty, except in accordance with the provisions of this treaty, or as the two parties may otherwise agree. . . .

The provisions of this treaty, if anything, emphasize repeatedly that Panama shall exercise complete sovereignty and jurisdiction over her own territory. Would Panama, then, feel obligated to get consent from the United States if she were made a tempting offer for a new canal by a third nation? It seems very doubtful.

In fact, there is concrete evidence that the Panamanian Government considers this provision to only give the United States a "first option" for construction of a new canal in Panama. During the same television address on October 20, 1977, General Torrijos proclaimed:

In the treaty we give priority, not exclusiveness—

These are Torrijos' words, not mine, not those of the Senator from Alaska, but those of General Torrijos. He says:

In the treaty we give priority, not exclusiveness, for the building of a sea-level canal.

I continue to quote. He says:

The United States is given the first option.

Not a right, but an option.

Based on this statement by General Torrijos, the Panamanian interpretation is this: If, during the next 22 years, the Soviet Union or Saudi Arabia should offer to build a new canal through Panama, and if Panama agrees that it is a good idea, they will notify the United

States that we have a "first option" to undertake the construction. If we for any reason do not take that option at the time it is offered, we forfeit our right, and Panama may let any other nation construct a new canal.

It should be emphasized—I think this is the key—that we do not have this same "first option" right the other way around. That is, the treaty does not permit us to negotiate with a third country for a new canal if Panama rejects our first offer. So they have the best of both worlds, as they have nearly all the way in this treaty, as far as the Senator from Kansas is concerned.

Mr. President, the second major flaw is this: Even if the United States does decide it wants to build a new canal in Panama during the next 22 years, Panama is under no obligation to permit it. My colleagues should note that article XII does not guarantee the United States a unilateral right to decide to build a new canal in Panama. In such a situation, we are stuck with the fact that we cannot build a new interoceanic canal anywhere other than Panama, and yet we cannot build the canal in Panama because Panama objects.

So we are really boxed in. That is certainly a great feat of negotiation . I do not know how we were able to do it. But of course if you look at the other provisions in the treaty it is understandable.

This very real concern is not without foundation. Panamanian chief negotiator Escobar Bethancourt told the Panamanian National Assembly last August that article XII,

> As you can see, is not even an option to build a sea-level canal. It is an option to promise to study the viability of it. That is the true option. The true commitment is to sit down with the United States to study whether or not it is viable to build a sea-level canal. If the two countries feel it is viable, then they will sit down to negotiate the terms agreed on by the two countries.

Would Panama likely agree to such a U.S. proposal? General Torrijos told a Time Magazine correspondent last August:

> The treaty will say that we will discuss the possibility of a new sea-level canal if it is in the joint interest of the world community to build it. But my personal opinion is that a sea-level canal is not necessary. Such a canal would be excessively costly, and you can't build it in two weeks either. We do not want it—even wrapped in plastic.

This is General Torrijos speaking.

To sum it up, the United States is out of luck, if we decide to build a new sea-level canal, and Panama refuses to cooperate.

The third major flaw is that no other country in the world is bound, as the United States will be, from constructing a new interoceanic canal anywhere it wants in the Western Hemisphere. For example, if a canal route through Nicaragua should look useful for any reason in, say 1990, the Soviet Union or the Arabs could build it—the United States could not because of this commitment in article XII. We would not even have the ability to compete for the construction rights.

Why should we voluntarily bind ourselves in this regard, as no other nation in the world is bound?

I hope that we will have some light shed on this matter, because we search in vain for an explanation; but there is none.

For all of these reasons, the commitment in article XII, paragraph 2—which was promoted by the Carter administration, based on an off-the-cuff statement made by the President at a town meeting in Yazoo City, Miss.—should be eliminated. The committee was made and promoted by the Carter administration, not by the Panamanians. It is detrimental to the interest of the United States, and it should be removed from the treaty.

I think in addition, Mr. President, two other points should be discussed which are relevant to this argument. First, I think most Americans would agree it is ludicrous to even think of building a new canal in Panama, after all the grief we have been given over the present one. We paid for it, we constructed it, we have maintained it, we have operated it, we have paid all the costs, and I think many Americans have had about enough of this kind of diplomacy. We are about to give away property, the replacement value of which is estimated at between $5 billion and $8 billion.

It seems strange that we were debating a bill this morning trying to help the American farmer, and the administration said, "No, no, we won't do anything for the American farmer."

We were met by one objection after another from the Budget Committee. Where is the Budget Committee on the Panama Canal? What inflationary impact will giving away an $8 billion property have on the United States? What about the American consumer? Where are all these arguments that were made against the poor helpless American farmer this morning?

Oh, we went through arm twisting, inaccurate statements, inaccurate charges, heavy lobbying all over the country, everyone in the administration trying to shoot down the American farmer. But where are those people now?

All the American farmer has—it is not a giveaway program as we have in this proposal, but a chance to make a profit in the marketplace.

I will say to the credit of the distinguished floor leader on this measure, the Senator from Idaho (Mr. CHURCH), that he was there with the American farmer. He was supporting the American farmer. He did not listen to the administration. His arm was not twisted. And many other Democrats voted for the farm bill this morning.

You sometimes wonder, as you sit in the galleries and listen to isolated debates, what may be happening in America. If you were there this morning and listened to all the arguments against the farm bill, and all the great alleged costs it was going to put on the American consumer and the American taxpayer, and still there are no voices raised against this giveaway, you wonder which side we are on in this Chamber.

Are we concerned about the American taxpayers, the American consumer, the American farmer? I think it is all very relevant, because we sort of get carried away. We are debating the Panama Canal Treaty now, not the farm bill. Well, we are debating a principle. We are debating a principle of who comes first. In this case it was not the American taxpayer, it was not the American farmer. I assume that everything that could be done was done to defeat the farm bill this morning in the Senate. For what reason? So the President would not have to veto the bill, to protect the President of the United States, who apparently does not want to help the American farmer.

I just suggest, as we get into the final phase of debate on this giveaway program, we ought to take a look at what we are doing for the American people. This provision does not do anything for the American taxpayer, the American voter, the American citizen. I just cannot understand the reason this provision was ever put into the treaty in the first place. We are going to find out quickly, because the Senator from Alaska, apparently, was the initiator of this provision. He should have firsthand knowledge on why President Carter made the statement at Yazoo City, why President Carter made the commitment and why it is in writing, why it is in the treaty. We ought to have the answers to those questions.

It is really difficult to explain why we give Panama the advantage time after time after time. They are a small country and we are a large country. We understand that. We are friends of the Panamanian people and have been for a long, long time. That does not mean we have to embrace Torrijos, the dictator. That does not mean we cannot disagree with Torrijos, the dictator. That should not insult Torrijos.

He is the ruler of Panama, but I do not know of any free elections which have been held there recently. Maybe somebody can enlighten the American people on this matter.

Mr. GRAVEL. They had a plebiscite.

Mr. DOLE. They had a plebiscite, but not on Torrijos.

I will give the Senator ample opportunity to respond, because I am waiting with baited breath to hear him tell us how he got this into the treaty.

We have had an experience in the past few days where it is very obvious that the Panamanian people are upset about the DeConcini reservation. Maybe they should be. It is a tough reservation. The Senator from Kansas offered an amendment which would have done the same thing. I did not offer it in a hostile way. I offered it as a friend, as another step in trying to preserve the neutrality of the canal. I cannot understand this very delayed reaction from Panama, why it took a couple of weeks for any reaction from Panama. Apparently there is not the understanding we have been told there is; there is not the understanding we have been led to believe there is.

I would guess that if the votes had been there, the administration may have fought the DeConcini reservation tooth and toenail, but they needed his vote.

They needed a couple of other votes which may have hinged on the DeConcini reservation.

We understand that there may be two high-ranking Panamanian officials in town right now trying to straighten out the controversy, the misunderstanding. I hope the floor leaders will enlighten us on that. If those officials are here, maybe some of the rest of us would have a chance to visit with them.

I would just suggest that somehow we seem to have our priorities mixed up. I think the American people would share the view that it is rather ridiculous to talk about spending $7 billion for another canal. I do not think many American taxpayers would understand the reason to build another canal, after we have agreed under pressure to give away the old one. I am certain some in this Chamber might think if we are to build a new one we ought to give it away, too. It does not make any sense. Most of us agree it does not make any sense.

Former Secretary of State Henry Kissinger, during testimony before the Senate Foreign Relations Committee on October 14 of last year, commented:

> I, myself, have raised the question whether it is wise to place two canals in the same country—we have enough problems with one of them there—and whether it might not be better to have a sea level canal, if we build it, in some other country.

Suppose even for a moment we did decide to build a new canal through Panama. The simple laws of diplomacy and good business sense tell us our leverage in determining costs and conditions would be severely diminished. Since we have no place else to go to build the canal, we have no bargaining leverage, and Panama has no real incentive to try to accommodate us. On the other hand if the United States were free to join with a third nation—but we are not as that right has been given up in this treaty. Why has it been given up? I do not know, but we hope to find out.

But if we were free to join with a third nation for a competitive enterprise it would be much easier to obtain an agreement from Panama. This is not taking advantage of Panama. It just makes good, common sense. If you want to make some business arrangement, you try to apply the proper leverage. I guess it demonstrates again how foolish it would be to voluntarily bind ourselves in advance, but that is what we have done.

We are going to be hearing the old, tired arguments that we cannot amend the treaty, we cannot change anything, we cannot add one word, because that might mean a new plebiscite. I think many Americans wonder why they have not yet had their first plebiscite. Panama had one and the American people have not had one. We are on the giving end. Panama barely has enough votes to take the $7 billion gift. The American people were not even asked if they wanted to vote to give it away. Panama has a little different form of government, I understand.

I would say, Mr. President, all of the elements of good sense suggest that we should eliminate this provision from the treaty. We ought to do it in a straightforward way so there is no misunderstanding, as we have had in the past.

I know somebody will offer a reservation later on and we will be told how they will take the reservation. That will satisfy someone who objects to this provision. That will keep them in line, maybe, for the final vote. But we have seen what can happen on reservations, how much confusion can spread across the land and into Panama.

Why not, just by simple amendment, delete this offensive provision from article XII? It would be very simple. Just cut it out. Torrijos would understand it, the Senate would understand it, the Panamanian people would understand it, President Carter would understand it, and the American people might understand it. The American people have not been given much opportunity to understand much of this treaty, because they have been hearing, if they listened to the radio:

> We cannot take your amendment. That would do violence to the treaty. It is not necessary. We understand what is best.

One amendment after another has been voted down or tabled, killed, except for the leadership amendment.

Then we got into the crunch of how many votes were needed to actually pass that Neutrality Treaty. Then they made a few arrangements, or a few arrangements were made, to pick up this vote and that vote. Then they had the magic number, with one to spare.

We were told that everything was fine, except for the unexpected assist from General Torrijos who is getting a lot of pressure, I understand, in Panama and finally had to speak out.

It would seem to me that if there is that much confusion, if it is causing General Torrijos that much of a domestic political problem, the best thing we can do to this second treaty is to recommit it to the Foreign Relations Committee, and either clarify the language or let it rest there until there is a meeting of the minds between Panama, the Government of Panama, and the leaders of America on just what we have here.

I am certain that is going to be rejected, too, because we do not want to do anything to clarify the problem; we want to keep it fuzzed up until after we vote next Tuesday. Then we shall try to figure out some way to take care of it.

We have spent a lot of time on this debate. Many of us have learned a great deal. I think we have had adequate debate. The point is now that we have a great misunderstanding.

I say with reference to this simple amendment, it is straightforward, it is effective, it is pretty hard to construe it any other way if we just knock it out. We do not have the problem we had with the DeConcini reservation: the way I interpret it, the way you interpret it. We just take it out. It is out. That seems very simple and straightforward, not trying to deceive anyone.

I, frankly, do not think the Panamanian Government would object. They did not bring it up. It was brought up by this administration. It was not being considered in the previous administration, in the Ford administration. In fact, one way to rehabilitate Torrijos now may be to drop this amendment, because he said, as the Senator from Alaska knows, if we drop this out, he will be a "national hero."

He needs our help and you are one of the leaders in efforts to help General Torrijos. This is your opportunity to cosponsor this amendment, an act of political grace and courage, because General Torrijos has suggested he would be a "national hero" among the Panamanian people if this provision were dropped from the treaty.

Panama cannot accept the DeConcini reservation, because of all it means, all the implications to Panama. Many Panamanians do not like this quid pro quo argument, either. So we are going to get that old, wornout excuse. They are going to say that the amendment is not relevant. We are going to be told this would upset the Panamanian Government. It would not. This is one thing that would probably make the Panamanian Government happy.

I understand the great strength and power and influence General Torrijos has over this treaty, either directly or indirectly. Here is one chance for those who have been voting against every amendment except the leadership amendment. one chance to really do something that the American people understand and the Panamanian people understand. And I hope that we will do it openly, above board, clearly, concisely, and effectively.

It has already been suggested that the Senate leadership may support a treaty reservation to the same effect. I do not know, perhaps we are going to see all those people who are going to stand up later and vote for the reservation trying to beat off this amendment. That is just how absurd the situation has become.

There could be only one possible rationale for doing that. They will argue that a treaty amendment might require a new plebiscite in Panama while a reservation would not. But since when has it been our responsibility, the responsibility of the U.S. Senate, to fret and worry about whether General Torrijos must hold another plebiscite? I do not see that in my oath of office. I do not see that in any instructions I have had as a Senator. I think our first obligation is with reference to the American interest, which does not do violence in this case to the Panamanian interest.

I think the problem is that we are getting down now to where the truth is starting to pinch a little. There is a great feeling, I think, in the Carter administration and the Torrijos administration that they cannot have another plebiscite. The Panamanian people might reject the treaties. So they are going to suggest that we just take this amendment, kill it, table it or do it outright, and do the same thing by reservation. I suggest, based on the experience with the DeConcini reservation, that maybe we are better off with an amendment.

We do not try to fool anybody with this amendment, but you are going to try to fool somebody with a reservation. We are not trying to have it both ways

with this amendment, but you are going to suggest that we can have it both ways with this reservation. This is clean, concise minor surgery. It just takes it out.

I would think the distinguished Senator from Alaska, who has been supporting General Torrijos with great vigor, would support my amendment—as Torrijos says, this would make him a national hero if this is stricken out. It is a chance for any of us who may have said anything to offend General Torrijos on the floor to try to rehabilitate him, if that is necessary, because we shall all vote for it. That would, in effect, if it is necessary, absolve anyone in this body who might have, in the heat of passion or debate, made any reference to anyone that might be offensive. I do not recall any such comments being made.

I say, finally, Mr. President, that I hope that on an amendment of this significance, which the Panamanians do not want, which Torrijos does not want, which is put in the treaty on the basis of an off-the-cuff remark in Yazoo City in a town meeting, we can get an up or down vote. This is certainly one the American people understand.

I hope that we shall have at least five or six up or down votes in the course of this debate. To date, we have only had three up or down votes on this treaty. Out of all the amendments that have been offered, we have only been permitted to have three up or down votes. I think the American people want to see their Senators take a direct, yes or no stance on the issues. I hope we will be permitted a simple yes or no vote on this amendment.

Let me repeat in closing, Mr. President, that this is an amendment that, as I have indicated previously, is easily understood. It strikes out the section the Senator from Kansas referred to. It would do away with some of the flaws that I have referred to. It is clean, it is concise, it does the job, and I think it would take care of what I consider to be a mistake in the negotiations.

I would hope—I do not think—that maybe, with some reflection, the administration might be in a position to accept the amendment. It seems to me that if we are in trouble with Torrijos because of DeConcini, we could trade this one off. If he does not like this one, he would like to get rid of this out of article XII, and it would make him a "national hero." Maybe it would offset the damage that DeConcini has done to Torrijos. The proponents of the treaty could have the best of both worlds by accepting this simple amendment of the Senator from Kansas.

Mr. President, I reserve the remainder of my time.

Mr. GRAVEL. Mr. President, I want to say that I really relish this opportunity to stand up here and engage in a colloquy, in a debate, with my good friend from Kansas. I have not had that opportunity—we both got elected to the Senate about the same time, and I have not had that opportunity since the early seventies. I have missed it, because he is a very, very gifted and articulate person, who can really express himself. We have not done it in a long time.

In fact, I can recall our last encounter together when he was defending President Thieu, of South Vietnam, and defending our presence and our staying in South Vietnam and how we had to keep fighting there. I can recall the two of us standing toe to toe, when he was defending the Richard Nixon administration over and over again. I have sort of missed those days. Now we have an opportunity to stand up again and relive our past encounters, and I am going to try to do a little bit of that this afternoon.

I do not want to say that he is accurate in his quotes. There is no question that there was no great enthusiasm on the part of the Panamanians for this section of the treaty. I may have been misquoted; I do not think I have ever claimed the power to appoint anybody. The only people I can appoint are people to my staff and I can "unappoint" them. That is the only power I have.

Mr. DOLE. I was just reading a quote by Torrijos.

Mr. GRAVEL. I appreciate that, and my colleague is a very accurate reader. There is no question about that.

I want to say that if there is really an initiator of this section, it is probably me. When I came upon certain relevant pieces of information, I felt it incumbent upon me to protect the U.S. interest, as I saw it, and pressed upon Ambassadors Bunker and Linowitz that they should get something in the treaty to safeguard what I thought was a very important interest to us, particularly so in my State, but not one ounce less to the rest of the Nation or, for that matter, the rest of the world.

So I pressed very hard and we succeeded on our side in making presentations, The Panamanians said, "If you people want something, we want something too, we want a quid pro quo," and that was agreed to.

I might add that my dear friend can read the language any way he wants, but that language is very well balanced.

The Senator is quite right on one point—that what we really agreed to do was study. That is what it is all about.

To talk about doing anything before we have the result from the study is quite ridiculous, because we do not know what we want to do or, if we want to do anything. What is important is to undertake this study.

Several Members of this body have cosponsored an amendment, or a bill, that would put up $7 million or $8 million to go further with this study. I think a lot of people see the wisdom of that. I think Senator GOLDWATER joined as a cosponsor, and Senator ALLEN was a cosponsor on that amendment. It was led by Senator MAGNUSON. That is, to go ahead and spend some money to update the earlier report.

We have already spent $22 million to find the best route—and this is what my colleague really has not focused on when he talks about Nicaragua, and these other options. I have that report in front of me. It is the interoceanic canal study of 1970, a study started in 1964 and completed in 1970, and this was a study that cost the American taxpayer $22 million.

The main accomplishment of the study was to look at all the possible sites for building a sea-level canal. They studied 30 of them, from Mexico to Colombia, and they narrowed down to four, two of which are in Panama, and then they narrowed to one, which is the viable, economic alternative if we are to build a sea-level canal, and it is in Panama. It is 10 miles due west of the present Panama Canal.

So we can say, academically, we need our freedom to be able to negotiate with somebody else. It is preposterous and it is ridiculous. We have already spent the money to study that.

We can say that we do not believe the people that work for us that make these studies. We can be Luddites, and not accept the fact that the choice was made of this location. That is the best economic choice.

We could go and do something uneconomic. That is quite possible. We have made that kind of mistake in the past. That, of course, is really the alternative that my colleague is talking about.

But why would we want to go do something uneconomic, or to another country—my colleague mentions Nicaragua.

It is very interesting that he should mention Nicaragua when he, along with several of our colleagues here, on February 17, 1971, voted to give back the unilateral option of building a canal in Nicaragua. He, along with 65 other Senators, voted for a treaty that gave back to Nicaraguans what they had given us on a silver platter, which was the right unilaterally to build a canal in Nicaragua, for perpetuity, I might add—forever.

We did not have to give that back except that the language of the treaty was so embarrassing that, after we had our economic study, we chose to give it back.

Mr. President, I would like to have printed in the RECORD at this point the convention with Nicaragua terminating the Bryan-Chamorro Treaty of 1914.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONVENTION WITH NICARAGUA TERMINATING THE BRYAN-CHAMORRO TREATY OF 1914

The PRESIDING OFFICER (Mr. WEICKER). The hour of 3 o'clock having arrived, the Senate will now proceed to vote on the resolution of ratification of the Convention with Nicaragua terminating the Bryan-Chamorro Treaty of 1914, Executive L—91st Congress, second session, to be immediately followed by a vote on the Extradition Treaty with Spain, Executive N—91st Congress, second session.

The yeas and nays having been ordered the clerk will call the roll on the first treaty.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr.

MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. Moss) and the Senator from New Hampshire (Mr. MCINTYRE) are absent on official business.

I also announce that the Senator from North Carolina (Mr. JORDAN), is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Michigan (Mr. GRIFFIN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The Senator from Hawaii (Mr. FONG) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Oregon (Mr. HATFIELD), the Senator from Wyoming (Mr. HANSEN), and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

The yeas and nays resulted—yeas 66, nays 5, as follows:

[No. 3 Ex.]

YEAS—66

Aiken, Allen, Anderson, Baker, Beall, Bellmon, Bennett, Bentsen, Bible, Boggs, Brock, Brooke, Buckley, Burdick, Byrd, W. Va. Cannon, Case, Chiles, Church, Cook, Cooper, Curtis.

Dole, Dominick, Eagleton, Ellender, Ervin Fulbright, Gambrell, Gravel, Harris, Hart, Hartke, Hruska, Jackson, Javits, Jordan, Idaho, Kennedy, Mansfield, Mathias, McClellan, McGovern, Miller, Mondale.

Nelson, Pastore, Pearson, Prouty, Proxmire, Randolph, Ribicoff, Roth, Saxbe, Schweiker, Scott, Smith, Sparkman, Spong, Stennis, Stevens Stevenson, Symington, Taft, Talmadge, Weicker, Williams.

NAYS—5

Byrd, Va., Cotton, Gurney, Thurmond, Tower.

NOT VOTING—29

Allott, Bayh, Cranston, Eastland, Fannin, Fong, Goldwater, Griffin, Hansen, Hatfield.

Hollings, Hughes, Humphrey, Inouye, Jordan, N.C., Long, Magnuson, McGee, McIntyre, Metcalf.

Montoya, Moss, Mundt, Muskie, Packwood, Pell, Percy, Tunney, Young.

The PRESIDING OFFICER. On this vote, there are 66 yeas and 5 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. GRAVEL. Mr. President, this Senate has already gone on record—66 votes, I might say—that if our technicians tell us it makes no economic sense in Nicaragua, then we should not keep a treaty in existence which gives us the right in perpetuity to build a canal in Nicaragua. We have already made that decision.

But as happens so often in this body, some people want to go back and reinvent the wheel.

Let me say, we have spent money to look for a possible location of where to build a sea-level canal. That location has been chosen. It is 10 miles to the West of the present canal. The question is, should we or should we not.

My colleague here is very interested in saying somewhat resentfully that we should have the right to go into Panama and build a canal anywhere we darn well please. That would be like saying France, Germany, or the Soviet Union should have the right to go through the United States, or to Kansas, and dig a ditch if they want to. We cannot even do that ourselves as a government. We, at least, have to have an environmental impact statement.

But that is a right some want to reserve for ourselves in Panama.

I think that is most unfortunate because, certainly he cannot mean that. He cannot mean that we would take unto ourselves prerogatives that as human beings we would not allow the Panamanians.

He cannot mean that because, certainly, we want to treat them as equally as we would treat ourselves.

The language in this treaty is balanced. It says that we will study the issue. Part says we cannot go and negotiate with somebody else in our hemisphere for a canal, which really means nothing because our technicians have already told us there is nobody to negotiate with to build a canal, no other location of economic value to build a canal.

So what are we giving up?

The charge was made that this is a giveaway. What have we given up? We have given up the right not to negotiate with somebody else we would never negotiate with, because we could never build anything in their country if we did negotiate with them.

We have not given up a thing.

What have the Panamanians given up? They said in this treaty, "we will study it with you."

I think that is very important. I do not think we should be studying anybody's country without their involvement.

So, they would study it with us and then we would begin to negotiate.

Here is what I would think is an intelligent context of these negotiations. It is very simple. That is, it is their land. We do not have any Bunau-Varilla running around to negotiate a new treaty.

So it is a new premise we start with. It is their land. It is just as if it was American soil and somebody said, "We're very interested in seeing you undertake some type of venture."

We would need their permission as equals.

As far as owning it, I do not think they would let anybody own it but ourselves. They would be foolish. They do not have to.

So they would own it. So it would be for their own interest, and that is very simple. It is a commercial interest.

We presently generate one-third of the present traffic through the canal. So, if the new canal were to be built we could assume we would generate one-third or more of the traffic in that canal. So it would be in our economic interest.

We would go to them, as a result of this study, if the study were affirmative. We would simply say to them, "Well, we are prepared to help you finance this in exchange for a proper toll rate."

We would have what would be essentially a commercial undertaking with the government and with the people of Panama. That is all. It is not terribly complex. We do that now with other countries. With Canada we will have a gas line. It will come down from Alaska into the United States, go through a foreign country. They have not ceded their sovereignty over that land. We just worked out a commercial arrangement that was sanctified by a resolution in this body that will permit shipment of gas from one part of the United States to the other part of the United States.

It is a very simple undertaking when we strip away all of this false emotion that has beset this unusual situation.

Let me touch briefly again on these other countries involved, because we get so upset, some people do, at least, that we would be building a new canal through a country that would have a general at the head of it.

I might suggest that Nicaragua, where Mr. Somoza is in charge, has had a few difficulties of late. Maybe they are advocating, as some do, that Nicaragua is a possibility.

I could go down the list of countries involved. All these countries were party to the agreement between President Carter and Mr. Torrijos. So they all were party to the understanding that probably the best location and the only location for a canal is in Panama. That is what all the heads of state agreed to when they signed along with the treaty on the declaration of Washington, last September.

Let us now go to certain premises of my colleague. He does not foresee the need for a canal in this century.

Mr. DOLE. Mr. President, will the Senator yield for a clarification? I do not want to interrupt his statement.

Mr. GRAVEL. I am happy to yield for a clarification. I tried to clarify the statement of the Senator from Kansas a couple of times, but I would be happy to have him clarify, also.

Mr. DOLE. I did not see the Senator from Alaska standing, to clarify it. It probably needed clarifying.

The Senator from Alaska mentioned that these other countries signed on. It is my understanding that they only signed on so far as the Neutrality Treaty was concerned, not the treaty we are debating now.

Mr. GRAVEL. I believe the declaration of Washington was with reference to the whole package, which consisted of two treaties. They did not actually sign these documents. They had another declaration saying they were essentially in favor of what we were doing with Panama.

Mr. DOLE. They were in favor of it.

Mr. GRAVEL. Yes.

Mr. DOLE. I do not quarrel with that.

Mr. GRAVEL. When my colleague was talking about the defense argument, that 14 carriers cannot go through the canal and that is not a big part of Navy, so far as I am concerned, that is all our Navy. I think the Second World War demonstrated that. The Second World War, at sea, was won with carriers, with aircraft carriers. That was it. If you have no aircraft carriers, you literally have no Navy. So to say that our 14 carriers cannot go through the Panama Canal is saying that the American maritime defense capability cannot go through the Panama Canal. That is what you are saying. Do not kid yourself.

These carriers are the most vital things we have. We are not going to let a carrier run around the ocean without a few destroyers—like 10 of them. That means that whenever you move a carrier around the Cape of South America, you are going to move 10 destroyers to protect that carrier, which is still vulnerable because it will not have its entire task group with it.

So I hope my colleague will be a little more accurate and a little less cavalierish about our defense posture, because I know he has a distinguished record in this regard, with respect to a very strong defense posture for this country.

Be that as it may, I think any judgment about the new canal is primarily an economic decision. Economics is the discipline to which we subject all our decisions with respect to the distribution of resources and the determination of productivity.

Let us look at the situation today. Today, 57 percent of the world maritime tonnage cannot go through the present Panama Canal. To be more accurate, 57.8 percent of the vessels in the world maritime fleet are of 60,000 dead weight tons or more, and the limitation of the present canal is between 60,000 and 70,000 dead weight tons. From an economic point of view that means the canal is more than 50 percent obsolete.

You can bury your head in the sand and only worry about the emotion—who has sovereignty and who does not have sovereignty; this is a giveaway and that is a giveaway. All that is quite irrelevant to the simple fact that the canal is more than 50 percent obsolete today. I do not think that figure, prior to the research that I presented here, was generally known or appreciated.

That is the reason why a person, whether it be a Panamanian or an American in high office, who is not acquainted with these facts cannot develop a very acute—in my opinion—understanding of the present relevance of the present canal or what the needs will be 10 and 20 years from now. But I think we can take the experience of the last 12 years and compute what those figures are and what they show.

What we see is that in 1966, 89.59 percent of the world maritime fleet, in terms of tonnage, could go through the Panama Canal. Ten years later, in 1976, it was 42.2 percent. Of course, today it is 57.8 percent.

If we projected that to the year 2000 and only used a third of the last 12 years experience—not the full experience, only a third of it—we see that by the year 2000, about 7.64 percent of the world maritime fleet would be able to use the canal.

If that is not an indication that the barrier of Panama, the Isthmus of Panama, is increasing for world maritime interests, I do not know what is. If you come to the conclusion that this barrier is rising and increasing every year, then you must come to the conclusion that we should make a decision that was made back in 1903, which was made back in 1880 in Europe, in 1850 in the United States—that we have to try to find a way to breach that Isthmus for the benefit of the world commercial trade. That is the simple conclusion you come to.

We can be rational people and take statistics such as these and say that something is wrong and we should do something about it, or we can wait until the year 2000, when less than 10 percent of the world maritime fleet can use the canal, and say, "We have to do something about it now. We have to build a new sea-level canal."

We can wait until that time, but I submit that we are rational and intelligent human beings, and I think we can get together with the Panamanians and perform the necessary studies and in those studies make an economic decision as to whether or not we should go forward. If it is not justifiable on economics alone, we may choose to add defense considerations. That would be up to the Senate, at a certain point in time, if it chooses.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. LEAHY. Mr. President, the Senator from Vermont has a couple of questions that come to mind in looking at this amendment.

As I understand the provision in the treaty, a treaty that was negotiated by, among others, a distinguished fellow Vermonter, Ellsworth Bunker, the country of Panama is precluded from negotiating with anybody other than the United States on the question of a sea level canal in Panama during the remainder of the century. Is that correct?

Mr. GRAVEL. I am sorry. Will the Senator repeat that?

Mr. LEAHY. As I understand the treaty, as it was signed, Panama is not allowed to negotiate for a sea level canal through Panama with any other country except the United States.

Mr. GRAVEL. That is right.

Mr. LEAHY. It is also a fair understanding that Panama, from an engineering point of view, is ideally the place for a sea level canal, if one were to be built.

Mr. GRAVEL. The most ideal.

I should like to quote a gentleman I know and respect, Mr. John Sheffey, a retired colonel of the U.S. Army. He was the Executive Director of the Inter-Oceanic Canal Study Commission, which completed its report in 1970. I read from his testimony before the Foreign Relations Committee:

> First, as the former executive director of the $22 million Sea-Level Canal Study of 1965–1970. I assure you that there are no foreseeable circumstances in which the United States would be likely to consider building a new isthmian canal outside Panama. The only feasible routes are in Panama.

So I think the case is very clear.

When my colleague from Kansas talks about that we have to have our options or we are giving away something, it is absolutely preposterous that we would be giving away something. We are not giving away something. There is the only place to put a canal.

Mr. LEAHY. If we remove this section in the treaty, then that means that Panama is free to negotiate immediately with any other country for a sea level canal, that is, with Japan, the Common Market, the Soviet Union, or anyone; is that correct?

Mr. GRAVEL. Yes, they could, if this treaty were to pass. If the treaties do not pass, then I think that some of my colleagues will probably stand up here and say their rights under the 1903 treaty would preclude that.

Mr. LEAHY. Assuming we ratify the treaties as they are before us but follow the Dole amendment as it is before the Senate, if we ratify the treaties but also accepted the Dole amendment, then Panama would be free to negotiate with any other country in the world?

Mr. GRAVEL. The answer to the Senator's question, I think, is yes.

Mr. LEAHY. I tell my friend from Alaska that I have concern when I hear people talk about this section, and I will tell the Senator, if I could impose on his time for a couple of minutes, that in comments I have heard in Vermont and in other parts of the country, people ask us why we would have this in here, why we would allow ourselves to be restricted to negotiate only with Panama, or vice versa. I find when people ask this there is almost a huge blind spot that takes us back perhaps to the days of Teddy Roosevelt, or before, a feeling on the part of some that we could just go ahead and if we decide we want to build a sea level canal in Panama just go down and build one. I wonder if people have listened to any part of the debate that we have had here for the last several months, that we are dealing with a sovereign, proud, responsible, respectable country, Panama.

Mr. GRAVEL. Yes.

Mr. LEAHY. And Panama's main assets, of course, are its geographical location and its land.

Mr. GRAVEL. If my colleague will permit, I know why he runs into this misunderstanding throughout the country: We have a Senator of the United States standing on this floor saying, respectfully, he does not know why we do not have that right, just as if it is normal for us whenever we so feel to go dig a ditch in somebody's backyard.

Mr. LEAHY. I think one of the things that I would hope would finally come out of this debate is that the United States does not feel and should not feel that it owns Panama, certain actions in the past to the contrary notwithstanding, that we are indeed dealing with a proud country, with a country that has diligently maintained and lived up to a treaty that they themselves resent and have resented al-

most from the day it was signed but yet have shown honesty and integrity in living up to it. I really hope that the debate on this particular item, whether it is in this amendment or is an understanding later, does not break down into the kind of argument that we heard throughout the land in differing parts that would seem to have shown an assumption on the part of some people of the United States that if we decide we want to build a sea level canal simply because we might have the technical expertise to do so in Panama then we just go right down and build it irrespective of how Panama might feel.

We should realize than even in the present Panama Canal if Panama decided to bleed off the major part of the watershed of Lake Gatun, and they could do that as part of that is outside of the Canal Zone, we could not operate it anyway. We would lose the 52 million gallons it takes for transit of the canal, every single transit.

Mr. GRAVEL. For each vessel.

Mr. LEAHY. And by the same token, on the building of a sea level canal, assuming that it would become a matter of economic viability or necessity, it is Panama that possesses the primary ingredient, it is Panama whose country will be utilized, and it is Panama that has the most at stake there.

I think that it would be the height of arrogance on the part of the United States to assume that we and we alone would decide whether there would be another canal through Panama. Panama and Panama alone can make that ultimate decision.

But I personally prefer the situation where if they are going to make such a decision they would make it jointly with the United States and not make it with the Common Market, Japan, the Soviet Union, or anyone else. Yet I worry that there seems to be pressure built up in the country that rushes us pellmell into a situation where they are free to make that kind of arrangement with anyone else they want.

Mr. GRAVEL. I wish to thank my colleague because he underscored one important thing which is at total variance with my colleague from Kansas, and that is that a sea level canal will be the ultimate decision of Panama, not the United States. It will involve us but the ultimate decision will be that of Panama.

The language we have in this treaty, in my view, is no more than a mutual expression of enlightened self-interest. How horrible it would be, or how really ridiculous it would be, for the United States unilaterally to withdraw its expression from what is in its actual interests. All we are saying here is that the United States will not negotiate with anyone else, which would not make any sense even if it wanted to negotiate with someone else. And the Panamanians say that they will not negotiate with anyone else because, in point of fact, just like it makes no sense for us to turn elsewhere, it really makes no sense for the Panamanians in the final decision to turn elsewhere.

For my colleague to stand up here and say the Soviet Union would go negotiate with Panama to build a sea level canal—can one imagine the ridiculous scenario of the Soviet Union which in 1969—those are the figures I readily have available—had going through the Panama Canal only .2 percent of the traffic, as opposed to the United States, which had 15.8 percent of the traffic?

It is preposterous to think that the Soviet Union will be so ignorant as to want to waste $10 billion or more building a canal that we could unilaterally make a decision not to use. That means that they would sit there with an investment that would be ridiculous.

So obviously any financing of a new sea level canal is not going to be hidebound by the nationalism and the jingoism of past decades. It is going to be a calculated economic venture. So since the United States is the most important user of the Panama Canal, or the would-be sea level canal, I do not envision as possible that a sea level canal could be built without our involvement. The nature of that involvement would be in terms of helping with the financing of the canal. I would hope that a new sea level canal, if it is warranted economically, would be financed by every nation that used it. That is how it should be financed. It would be international in charter. It would be owned by the Panamanian people, and the Panamanian people, hopefully, would make a handsome profit from this productive instrument that would lie within their country.

Why a Member of this body would want to stand up and say first, this is a give away and second, we ought to just plain take out this language altogether and make out this does not exist, I do not understand. It can only be, regardless of the statements he was quoting from the head of state of Panama, Mr. Torrijos, it could only mean that the tactic is still today what it was yesterday, and that is to load these treaties up with so much that they will just fall over of their own weight and they will not be acceptable. That is the tactic. That is what it has been from the very beginning, and that is what it is now, regardless of the protestations that are made.

But let me submit I think the people of this country and the people of Panama are a little more intelligent than what this amendment would suggest they are, and they are intelligent enough to recognize their enlightened self-interest. I think that in order to make that enlightened self-interest known they are prepared to go forward with a study, and when the self-interest is determined as a result of that study, they are prepared to go into what would be commercial negotiations to bring this about.

All of what this section of the treaty does is to frame that future activity, to put it into a frame, so that when the study is in, the United States knows it is not looking over its shoulder to alternatives, and Panama knows it is not looking over its shoulder to alternatives. The two major beneficiaries of a possible sea-level canal would obviously sit down and work out the situation at that point in time.

Again I do not understand why anybody would want to stand on this floor and say, "Let us take out all this language about a sea-level canal. Let us just pretend it does not exist," and try to go back and look at Nicaragua, maybe spend another $22 million looking all over.

I would hope my colleague would join me in spending $8 million to update the study we have to get the present economics, update the engineering, and do an environmental study. After that we would know whether or not we should build a sea-level canal. I do not know whether we should or not. All I know is that I brought forward evidence to indicate that it would be economically viable and that it is needed.

It is particularly needed for my State. We are the treasurehouse of the United States of America. We have one-third of the known oil reserves of the United States, and we cannot get that energy to market efficiently today.

In fact, we are paying more than a dollar a barrel over what it would cost if a sea level canal were in existence today. Imagine that. I have heard exclamation upon exclamation on the floor of the Senate as to the high price of energy. If we had a sea level canal today, what is selling for $14 a barrel would be $13 a barrel, and it would be American oil at that, and would not have to import it from other countries causing a balance of payments deficit. That is just our oil.

Then we get our gas. There is not a liquefied gas tanker in the world today that can go through the Panama Canal. Not one. Obviously, if we are to use the gas potential of Alaska, which is enormous, the only way we are going to do it is with a sea level canal.

We talk about coal. Coal is the second most important commodity going through the present canal, and that is coal that goes from the East coast of the United States out of Hampton Roads, Va., and goes over to Japan. We could get a better price for our coal and more jobs for our people—my colleague is very concerned about that—and a better price for our coal if we could ship it more efficiently, meaning the larger vessels. We cannot do that. We are restricted in the size of the vessels because of the size of the present canal.

I could go on and make case after case, but if it is not clear let me restate it one more time: Fifty-seven percent of the world's tonnage cannot go through the Panama Canal today. That is a change from what it was 12 years ago. Twelve years ago almost 90 percent could go through the Panama Canal. We cannot be oblivious to that simple fact, that in 12 short years there has been an unbelievable obsolescence taking place. What will happen in the next 20 years? That is the simple question that I ask, and in order to try to find out I have pressed to have some language put in this treaty that will accommodate a study by the United States and Panama, and when that study is in it will speed the negotiations between Panama and ourselves.

To me that sounds very reasonable. It sounds very logical, and if somebody

would stand on the floor of the Senate and say, "Take all that language out and let us just concentrate on the present Panama Canal because it is going to last forever," well, I say the facts do not substantiate that. And the facts, I think, have to either be refuted—or people just have to stand in the dock and be judged by the American people for the ridiculousness of their proposals.

I reserve the remainder of my time.

The PRESIDING OFFICER. (Mr. RIEGLE). The Senator from Kansas (Mr. DOLE.)

Mr. DOLE. Mr. President, I thank my distinguished colleague.

I might join him in supporting additional money for updating the study, assuming we could satisfy the environmentalists and, perhaps, we will need an environmental impact statement. But the Senator from Kansas, of course, is aware——

Mr. GRAVEL. Mr. President, will the Senator yield for clarification? There was no environmental impact statement done in the original study. That is why a large part of the money in our suggestion for the study would go for an environmental impact study, because if the United States were involved in any guarantees we could obviously not do anything without having an EPA statement made. That is the purpose of that.

Mr. DOLE. All right.

The Senator from Kansas, as pointed out by the distinguished Senator from Alaska, is aware, we are all aware, of the sea level canal study commissioned by Congress in 1964.

The Commission's study focused, as I understand, on five feasible sites. Three were within Panama, one ran through Nicaragua and Costa Rica, and one lay within Colombia. The final report, as properly noted by the Senator from Alaska, recommended site No. 10 within Panama as being cheaper and easier to build. But the Commission's recommendation was conditional in nature, and its report clearly stated that route 10 was "subject to the priority of more important national requirements at the time" construction would be contemplated. It specifically recommended that the ultimate decision should also "take into account economic, political and military factors."

Now, the Senator from Kansas does not quarrel with those findings that, based on the study of the new sea level route through Panama, it might be less expensive and less difficult than alternate routes. But it is suggested that other factors ought to be considered: economic, political, and military, and this could make, of course, alternate routes more attractive in the future. I am pleased that the distinguished Senator from Vermont is on the floor because while he was propounding questions, as I understand the provision, it prohibits us from talking to any other country about a new canal. But the Soviet Union or Cuba or anyone else, Saudi Arabia, could negotiate with anyone else to build a competitive enterprise right now.

I would also suggest——

Mr. LEAHY. In Panama?

Mr. DOLE. Anywhere.

Mr. LEAHY. In Panama?

Mr. DOLE. Any other country.

Mr. LEAHY. No, no. I want to be sure I fully understand the distinguished Senator from Kansas. Is he saying they would have the right to negotiate to build one in Panama?

Mr. DOLE. I think so. All we have is a priority. We do not have, again quoting Torrijos, "an exclusive right." The United States is only given the "first option."

Mr. LEAHY. My understanding is that we have a monopoly in the 1903 treaty, and certainly, as I read it, the treaty up for ratification.

Mr. DOLE. We are talking about adopting this treaty which abolishes that monopoly.

Mr. LEAHY. Looking at this treaty, I see it as a complete monopoly. It is betwixt the two of us.

Mr. DOLE. If it is not a complete monopoly, would the Senator support an amendment to strike it out? You would be back to 1903.

Mr. LEAHY. Then if we ratify the rest of the treaty, as I expect we would, are we not then in a situation where Panama can go and negotiate with anybody they want? Quite frankly, while I wonder whether Panama would go along with this section in the proposed treaty, I rather like the fact that if all the major engineering studies say that Panama is the only economically feasible place to build a sea level canal, I rather like the idea that if one is going to build it, it is going to be with the agreement of both Panama and the United States——

Mr. DOLE. Right.

Mr. LEAHY (continuing). Knowing that if anybody is going to build one, Panama is going to have to agree, No. 1; I mean, no matter who else can be involved in the picture, Panama has to agree, No. 1, to build it, and no one would have a chance that someone could walk in and steal the canal, as many feel was done back in 1903.

Mr. DOLE. We do not have to steal it; we are going to give it to them.

Mr. LEAHY. It is called a quid pro quo 75 years later.

Mr. DOLE. If the Senator will yield, I might give him some time, if I have time remaining. I want to make a couple of points.

Mr. LEAHY. If I could just take 10 seconds more to say it——

Mr. DOLE. Right.

Mr. LEAHY (continuing). I just see it as blocking Panama from dealing with anybody else in making a sea level canal, and I rather like that.

Mr. DOLE. Well, I hope I understand it, but let me say——

Mr. GRAVEL. Mr. President, could I propound a question to the Senator on my time? It applies to what the Senator just said.

Mr. DOLE. Let me make three points, and then I will yield; and if I am wrong, the Senator from Alaska can correct me.

As I understand, it is a fact that Panama can allow any other country to build a sea level canal through Panama, including the Soviet Union, so long as they simply notify us first and give us "a first option."

If there is something there the Senator from Kansas has missed, if there is some monopoly power, I hope I will be corrected. I am just going by General Torrijos' interpretation. If we cannot agree on what this means, we have another misunderstanding; we have another DeConcini misunderstanding coming down the pike, or should I say, down the canal.

Second, as I understand, Panama would be entirely within her rights to refuse to allow us to construct a new sea level canal through her territory, even if we felt it absolutely necessary for our defense and our economic interests.

Maybe that is all right. Maybe I agree with the Senator from Vermont there. But the problem is, we cannot go anywhere else if they turn us down.

Finally, I think it is a fact that while we are prohibited from negotiating with any other country about a new canal, the Soviet Union can negotiate with anyone else to build a competitive enterprise.

It seems to me we ought to understand what we are about to do here. As the Senator from Kansas pointed out, I do not know why this provision is in here at all. I can understand that we should not have a right just to go down and say, "We're going to build a canal in Panama" and then build it, if we are talking about intervention in sovereign rights. But I cannot understand why we would make some agreement where we get only a first option, and we preclude ourselves from the right to even negotiate with anyone else.

I would agree that, based on the study referred to by the distinguished Senator from Alaska, the 1964 study, as of now the best route seems to be through Panama. But let us just look at some of the possible scenarios that could occur which would make the Panamanian route less desirable.

First of all, they could flatly refuse our proposal to build a new sea level canal, for reasons ranging from environmental to popular animosity—and I think there may be some of that.

Panama itself could come under the control of a new regime, making us less inclined to risk such a venture.

We could have a natural disaster, an earth slide closing the present canal, thereby necessitating a new canal, maybe even a new site.

Other nations, such as Colombia or Nicaragua, could propose a cost-sharing arrangement that would make our national commitment even less than what was referred to in the study as route No. 10.

And there is always a chance—you know, we live in an era of new technology on a day-to-day basis—that we will have some new technology that will make it easier and less costly to use other routes. In fact, in the Atlantic-Pacific Interoceanic Canal Commission's final report, it is said:

A sea-level canal excavated partially by nuclear methods on Route 25 in Colombia might someday be politically acceptable if proved technically feasible.

So, the point the Senator from Kansas wants to make is that there are a number of reasons why the recommended route through Panama might not be the best route, when it comes time to construct.

What is going to happen after the year 2000? I think it is more likely that we might build a canal after the year 2000 than between now and then.

I do not quarrel with any of the figures cited by the Senator from Alaska as far as tonnage is concerned. He is an expert in the field, far more than the Senator from Kansas, and I can understand his desire to look ahead. I commend it. I think he said that for 57 percent of the shipping on a tonnage basis, the canal is obsolete now.

The point I do not understand is how this provision solves or even addresses that very real, sticky problem the Senator from Alaska has pointed out, not just because of his interest in Alaskan oil, but because of his interest in the future, the future of this country and the interests of this country and other countries as far as traffic is concerned.

I do not really understand what happens if we knock this out. I assume we can negotiate with Panama, or we can negotiate with Colombia, or we can negotiate with Nicaragua, instead of being bound not to negotiate with those countries?

Mr. GRAVEL. Well, on my time, if we can engage in a colloquy. I think you are using more time than I am, and I would like to share it with you. I detect a note of reasonableness, and I might ask if I could hold my colleague's attention, because I have a slight hope that I might be able to persuade him in this regard.

Really, all we are doing in this section of the treaty is setting up a framework for our future course of action. We set up a framework to go forward with the study. After the study is in, then obviously we will have to sit down and make arrangements with the Panamanians, and in my opinion those would be commercial arrangements. I do not think we can say just what those arrangements will be before we have the facts of the study.

There is nothing given away on our side, or on the Panamanians' side, in point of fact. On our side I think it is very simple to see that we have already spent $22 million, and have picked one site, which is Panama.

On the Panamanians' side what are they giving up? They are giving up nothing, either, because, they cannot build—this is a judgment on my part—they cannot build a sea-level canal without us.

We are the biggest users. I think my colleague was out of the room when I gave this figure. If I give him the figure again, I do not think he will use the Soviet Union again as an example.

Mr. DOLE. Actually, I think the Senator from Vermont used it.

Mr. GRAVEL. The Soviet Union presently uses the canal 0.2 percent. The United States uses it 15.8 percent. These are 1969 figures, and the situation today is comparable.

So why on earth would the Soviet Union want to take $10 billion or more and help the Panamanians build a sea-level canal, when the economic viability of that is going to be in our use, the United States use?

To be extreme in this argument, if we were assured that the tolls would be fair, I would encourage the Soviet Union to go do it. Let us use their capital rather than our capital to go build a sea-level canal. Because all we are interested in is that when the canal is finished, everybody can use it at a fair toll. That is all we care about. If the Soviet Union wants to put up its money to furnish a more efficient maritime fleet for ourselves and the rest of the world, bless the Soviet Union; let them do it.

I do not see anything wrong with that. And particularly if we have the interest we have now, then what we will do is have the responsibility to keep it open for them—meaning keep it open for our third of the use. If the Soviet Union wants to use its rubles to invest in the Western world, to make our Western world more efficient, when they only use it 0.2 percent, let them have at it.

I do not think that logic sells. And the figures for the Arab world are considerably less. The only reason why the Arab world would invest in it is that it is a good investment. Their interest is very simple: They would be making a good return on their money.

I think they would invest in it. I would think that when we get around, after the study is done, to building a sea-level canal, that probably the Arab world would put up as much money as the United States for the financing of the canal, because it is the best real estate investment they could find in the whole wide world. If the economics are there, it is the best investment possible. They are not going to get nationalized by anybody, and they will get a fair rate of return. They would want to do that. I think the United States of America, as policy, would encourage the Arabs to make that kind of investment so that we do not rob our own capital markets, which are going to be in desperate shape, because of the balance of payments which will exist as a result of our purchases of oil from the Arab world.

So when raising these specters of, "Well, the Arabs are going to build and negotiate with the Panamanians," or "the Soviets will negotiate with the Panamanians," these are meaningless specters. They do not mean anything. For somebody to dig the canal, whether it is the Panamanians or anybody else, the canal must be economically viable. People do not make uneconomic decisions if they know differently.

The other suggestion is the Panamanians will turn us down cold. I do not know why we would make the inference that the Panamanians are less enlightened than we are. We Americans pride ourselves on our ability that if we see a dollar we will pick it up. If we see an opportunity to make some money, we are not going to sit in the shade. We are going to step out there smartly and get a little of that money.

The Panamanians are just like us. They have a piece of real estate. If we can show them with an economic study that the present canal "we are going to be giving them back" is obsolete and worthless, and what they ought to do is build a new canal, that we will help them finance it and they will make a lot of money off of it, why would they turn down something like that?

We even make deals with our enemies, if we are going to make money off of it. You do not have to love somebody to make money with them. The Panamanians do not have to love us. We may have used up our inventory of good will in Panama in these unfortunate debates. If we have used up that good will, do not worry, it will not make any difference. When the Panamanian people see they can make some money off a sea-level canal, it will not make any difference whether they like us or not. What will be important is can they utilize their geographic location to their economic benefit? That is the issue in question.

That is why I started out by saying that the question with this amendment deals with our enlightened self-interest. So if we take it out, what are we taking out? We are taking out the fact that there is recognition of a sea-level canal possibility. We are taking out the realistic fact that we have to deal with the Panamanians on that subject and that they have to deal with us. Those are the facts that this amendment wants to remove and make out like there is nothing there.

It is all there, and all this section of the treaty does is spell out what is obvious to the world. It is a frame, as I stated, within which we will now move forward with the study. That study will indicate what we should do as separate nations.

Mr. DOLE. Mr. President, the Senator from Kansas does not quarrel with the 1970 study. I do not think my amendment would affect the study. We do commit ourselves to a new study, jointly, on the feasibility of sea level canal in the Republic of Panama, and in the event they determine such a waterway is necessary, they shall negotiate terms agreeable to both parties for its construction.

The point the Senator from Kansas is making is, before we have the study, that we ought to make some arrangement for what happens after we have had the study. I think the Senator from Alaska, who says we may need a new sea level canal before the year 2000, argues against himself, because if Panama turns us down, we are shut out. We cannot go anywhere else. We do not have any leverage. We cannot talk to Colombian leaders or Nicaraguan leaders, because this contains the veto by Panama. We agree not to do that.

All we have is an option. That option, as I understand it—I hope I understand it correctly—is that we cannot negotiate with any other country than Panama for a canal site unless we are authorized to do so by Panama. On the other hand, the Panamanian commitment is imprecise and it is subject to different interpretations.

As far as the Russians are concerned, the Soviet Union sent 217 ships through the canal in 1976; Cuba sent 48 ships through the canal in 1976. I have not noted any word that the Russians are backing away from involvement. It might be that, judging from their maneuvers in recent weeks and months, and judging from rumors about Cuba and submarine bases and all that, they may want to expand their influence in this hemisphere. They may have more of a design on the canal or on a new canal. They may want to compete with America or with Panama. I do not know that they are any respector of the rights of Panama, the United States, or any other country.

I do not want to quarrel with the desire of the Senator from Alaska to protect the United States, because I share that, but it seems to me that we do just the opposite unless we strike out this particular portion of article XII.

Mr. GRIFFIN. Will the Senator yield for a moment?

Mr. DOLE. I yield.

Mr. GRIFFIN. As the Senator knows, I have taken the position that we should not rewrite the treaties here on the Senate floor, but I do want to say that I think the Senator's amendment goes to one of the most objectionable features in this treaty, one that was thrown in at the last minute, as I understand it, by the negotiators for the United States.

There have been a number of studies. In my minority views, which I would like to refer to, I would like to call attention to some studies that are not inconsistent with the view taken by the Senator from Kansas.

For example, a study at the Georgetown University Center for Strategic Studies in 1967, focusing on canal options, reached this conclusion: "Though the Republic of Panama seems technically"——

The PRESIDING OFFICER. The Chair is sorry to interrupt but must advise that all time of the Senator from Kansas has expired. The Chair understands that the Senator from Alaska yields 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. I thank the Chair.

To be the best place for a future canal facility, the United States should not abandon the right to approach other countries for possible canal locations in the event that future political conditions exclude the project from Panama.

In 1967, the Council on Foreign Relations in a study authored by Immanuel J. Klette, surveyed various canal options and concluded the preferable route for a new canal would be the Nicaragua-Costa Rica route. He observed:

> Although the cost of construction bears on the final choices, it should not be the prime factor in making decisions on a new canal. A waterway which is less expensive in dollars may be the most expensive in political consequences.

It seems to me that this provision, in and of itself, is grounds for not approving this treaty and sending it back for renegotiation.

There are other reasons to do that. It seems to me, as I have gone around in my State and talked about these treaties, I find that my constituents are shocked when I read out of the canal treaty from article XII this language:

> During the duration of this treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route (other than in Panama) in the Western Hemisphere, except as the two parties may otherwise agree.

I find that my constituents are shocked that such language is in there and that we have agreed to that. To me it is certainly one of the most objectionable parts of this canal treaty. I think, of course, these treaties should be sent back for renegotiation.

Mr. GRAVEL. I might say to my colleague from Michigan that I have not reviewed that study. But the taxpayers of Michigan paid $22 million along with the rest of the American taxpayers for a study that did choose a route in Panama. Maybe there is somebody there who knows more than what was decided by this commission.

I would like to read this language from the treaty to the American people, to anybody who is listening, and let them be the judge as to how fair or unfair this treaty language is. It does no more for Panama than it does for us, and no less for us than it does for Panama.

The first paragraph deals with the study:

> Consequently, during the duration of this treaty both parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction

As the Senator from Vermont pointed out earlier, the one who is going to be the final deciding factor is going to be Panama. Right now, we have in the treaty that we are both going to decide it mutually.

Is that such a loss? Are your people still so shocked? If they think it is legitimate to go build elsewhere, fine, but there is no evidence that it would be economically feasible to build elsewhere.

Then, what this amendment does, the Dole amendment—here is the language that it wants to strike out. In section 2, the United States of America and the Republic of Panama agree on the following. Here is this terrible agreement that my colleague would like to cut out. This is the Panamanian side of the quid pro quo:

> (a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, or as the two Parties may otherwise agree;

The two parties agree. That is the quid pro quo that binds the Panamanians. I do not see any loopholes there.

Here is the quid pro that binds the United States:

> (b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

Now, if treating the Panamanians as equals is offensive, then this language is offensive. That is the only charge you can make of this language, that it does not give us a big edge. It does not give us the hammer that we have had for the last 70 years. If that is what is offensive, then it is offensive.

I submit that anybody that can understand the English language can appreciate that this is fair to the Panamanians and it is fair to the Americans. That is really all a treaty should be, fair. That is all this is.

Now, moving to the other points that are made, and I have been over this ground, but I shall go over it again, hopefully to try to win a few votes—just as an aside to my good colleague, the best time to make an impassioned speech is when you do have enough votes, because then it does not take any persuasion to get them.

I only say that on our side, we have already spent the money looking at the various sites. I can appreciate that there may be, at some time, military considerations; there may be, at a point in time, a situation where maybe they are right. Maybe the Panamanians would be so illogical that they would not want to build a sea-level canal. When would that be? I am having trouble right now getting enthusiasm for the canal and I hope you are all going to join me in voting for the study. If we got the study done, in 3 years, we would know whether we need a canal or not.

My colleague started out by saying, we are not going to need a sea-level canal. Just offhandedly, he said we do not need it.

Again, in your closing remarks, you stated, well, if we ever do, it is going to be after the year 2000. I am the only one around who thinks we can use it by 1985. In fact, I think we could use it today. We would be saving $1 a barrel on U.S. oil found in Alaska and shipped to Houston. That is what we would be saving if that canal were in existence today.

Mr. DOLE. Will the Senator yield on that point?

Mr. GRAVEL. I yield.

Mr. DOLE. You argue against your own position, because you cannot build it anywhere but Panama until after the year 2000. If the study the Senator from Michigan pointed out is accurate, in effect, you are shooting down a theory or proposal which has some merit, which I might support.

Mr. GRAVEL. I am not shooting down any proposal that has any merit. I do not know about the Senator from Michigan. Maybe he will give us the name of the study again that said it should go where? Nicaragua?

Mr. GRIFFIN. That was a study conducted for the Council on Foreign Relations. The reference is on page 191 of the committee report.

Mr. GRAVEL. What is the study, though?

Mr. GRIFFIN. The Senator from Alaska keeps saying that the most economically feasible place to build a new

canal is in Panama. No one is arguing with him about that. I will concede that it is cheaper to build it in Panama than anywhere else. The question is whether that is the only factor or consideration that we should take into account. I very loudly and very emphatically say, no. It may be important to us to spend an extra $1 billion to build it somewhere else.

I can tell you, it will not cost us nearly as much as it is costing us to build this subway under the city of Washington.

Mr. GRAVEL. If we get to that impasse under this agreement, my colleague says that if the Panamanians turn this down, they can go negotiate with somebody else. They cannot. The language is very clear that under this treaty, if there is no canal in Panama for our use, there is no canal in Panama for the Panamanians' use. That language is very clear, so references to the contrary just do not hold water.

Mr. DOLE. That is not what Omar says.

Mr. GRAVEL. I do not want to use the body's time to reread the English language, which is quite clear. The quid pro quos bind both of us to a mutual agreement.

Mr. CHURCH. Will the Senator from Alaska yield?

Mr. GRAVEL. I am happy to yield.

Mr. DOLE. I hope we can have an up-or-down vote on this.

Mr. CHURCH. I think it would be appropriate to move to table the amendment, when time has expired. I merely want to point out that, although I am in full agreement with the distinguished Senator from Alaska, the provision this amendment would strike is at least as favorable for the United States as for Panama. Therefore, it is not restrictive. Still, if a majority of the Senate entertains a different view, then the way for the matter to be handled is not by amendment to the treaty itself, which would force a change in the text of the treaty and might well require a second plebiscite in Panama, but rather by an amendment to the articles of ratification.

I am certain the Senate will have a second opportunity to consider this matter in the form of an amendment to the articles of ratification. Then it can take such action as the majority deems fit.

Quite apart from the merits of the argument, pro or con, the wrong way to act would be to force a change in the text of the treaty. On that ground alone, the Senate should vote to table this amendment.

Mr. President, if the Senator will oblige me further, I inquire of the Chair how much time remains to both sides.

The PRESIDING OFFICER. The Senator from Idaho has 5 minutes remaining. The Senator from Kansas has exhausted his time.

Mr. CHURCH. Very well. I am happy to accede to the request of the distinguished Senator from Alaska. He has 2 or 3 more minutes. Then, when he has completed his remarks, I shall move to table the amendment.

Mr. GRAVEL. Mr. President, I only conclude by the statement that, if we could go back to 1970, when the interoceanic canal study was completed, and if the canal at that time had come into being, the sea level canal, on the average projections that they made as to what it would take in the way of revenue to amortize 60-year bonds at 6 percent interest, the revenue that subsequently we would have earned in the last 7 years would have paid handsomely to retire those bonds. In fact, there would have been almost a 100-percent profit above the cost of construction.

I can only say that, using that, I am not talking about the new tremendous discoveries of oil in Alaska or all these other facets. I am only saying that the present canal is moving toward obsolescence at a rate so fast that the new one coming into being would have been viable. That is the case that I make: That we are going to need a sea level canal. It can only come about with the good will of the people of Panama. We can best acquire that good will with the passage of these treaties unfettered by what the Senate might want to add.

I hope that my colleagues will recognize the enlightened self-interest of the United States of America and vote to table the amendment of my colleague from Kansas.

Mr. GRIFFIN. Does the Senator from Alaska have a minute left?

Mr. GRAVEL. How much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. GRAVEL. I am happy to yield a minute.

Mr. GRIFFIN. I thank the Senator from Alaska.

I guess one of the questions here is whether we have a fair agreement, as the Senator from Alaska describes it. On the one hand, we agree that we will not even negotiate with any other countries in the Western Hemisphere for the possible construction of a second canal.

And what does Panama give us? It gives us the promise that Panama will negotiate with us about the possible construction of a sea level canal within Panama.

On October 23 in a radio interview, General Torrijos was asked the question:

(Question). General, I would like to know if you think the Government will begin work, pardon me, studies regarding a possible sea-level canal.

(Answer). The production of oil in Alaska and the existence of large tankers practically forces one to think about the construction of a sea-level canal. Some very complete studies, which cost many millions, have already been done. Now it is necessary to update or nationalize them; that is, adapt them to the national interests. The new treaty obliges us to continue studying with the United States the possibility of constructing a sea-level canal, but it does not obligate us to build it jointly with the United States. They have the first option. And if we cannot reach an agreement with them, we can seek the technology of any other country here in our world.

Well, that is not stating anything that anyone could not, of course, derive from the treaty itself as it is proposed, but those were the words of General Torrijos.

Obviously, they stand ready, possibly, to build a canal in Panama with anybody else they see fit if we do not meet their terms.

At the same time, we have tied our hands between now and the year 2000 to go to any other country and build such a canal.

Mr. GRAVEL. The truth of the matter is that the quote of General Torrijos is merely interpretive of the specifics of the treaty, and ties their hands as well as our hands. We cannot do anything without it. They cannot do anything without it.

But there is no question we could both agree, if we do not want to get involved in the sea level canal, we can let them do it, because we are going to be the beneficiaries of it.

That is what that quote is from General Torrijos. I think we do him an injustice to infer more than that.

It says that under the treaty, very clearly, with respect to Panama, that this provision holds unless the two parties may otherwise agree. With respect to the U.S. side of it, it is also except as the two parties may otherwise agree.

So we do not know what we will agree to in 1990, nor does Panama. But if we agree to let them do it, they can get the technology from Japan, Germany, or anywhere else to do it.

Of course, I think we do General Torrijos a great injustice with that quote out of context.

I think what is clear here is what the treaty says, and the treaty says very clearly in the English language that both sides are treated equally.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHURCH. Mr. President, I move to table the amendment.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. HATHAWAY), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

On this vote, the Senator from South Carolina (Mr. HOLLINGS) is paired with the Senator from Arizona (Mr. DECONCINI). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present

and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 49, nays 40, as follows:

[Roll Call Vote No. 86 Ex.]

YEAS—49

Bayh	Hatfield, Mark O.	Moynihan
Bellmon	Hayakawa	Muskie
Bentsen	Hodges	Nelson
Biden	Huddleston	Pearson
Bumpers	Humphrey	Pell
Byrd, Robert C.	Inouye	Percy
Case	Jackson	Proxmire
Church	Javits	Ribicoff
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Long	Sparkman
Danforth	Magnuson	Stafford
Durkin	Matsunaga	Stevenson
Glenn	McGovern	Weicker
Gravel	McIntyre	Williams
Hart	Metzenbaum	Zorinsky
Haskell		

NAYS—40

Allen	Goldwater	Nunn
Baker	Griffin	Packwood
Brooke	Hansen	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield, Paul G.	Sasser
Cannon	Heinz	Schmitt
Chiles	Helms	Scott
Curtis	Johnston	Stennis
Dole	Laxalt	Stevens
Domenici	Lugar	Stone
Eastland	McClure	Talmadge
Ford	Melcher	Tower
Garn	Morgan	Wallop
		Young

NOT VOTING—11

Abourezk	DeConcini	Mathias
Anderson	Eagleton	Schweiker
Bartlett	Hathaway	Thurmond
Chafee	Hollings	

So the motion to table the amendment of Mr. DOLE was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 38

The PRESIDING OFFICER (Mr. MOYNIHAN). The question now recurs on amendment No. 38 offered by the Senator from Utah.

Does the Senator from Idaho wish to be recognized?

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is there any controlled time on the pending amendment?

The PRESIDING OFFICER. No, there is not.

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is the rule relating to germaneness any longer in effect?

The PRESIDING OFFICER. There is no requirement that this amendment be germane.

Mr. CHURCH. Is there any requirement that debate be directed toward this amendment under the germaneness rule?

The PRESIDING OFFICER. Not at this hour of the day, 3 hours having expired.

Will the Senator desist for a moment?

The Senate is not in order.

Will Senators desiring to converse retire to the cloakrooms if they have a matter to be negotiated?

The Senator from Idaho.

Mr. CHURCH. Mr. President, I wish to take some time this afternoon to address a subject which, I believe, is weighing heavily on the minds of most of us who are well aware of the deep concern which has emerged during the last few days in Panama concerning the action we took on the neutrality treaty on March 16.

In approving that treaty, the Senate adopted 13 amendments, conditions, reservations, and understandings, all of which were intended to clarify and thus to strengthen the treaty.

The PRESIDING OFFICER. Will the Senator kindly suspend for a moment?

The Senator from Idaho is making an address of the greatest importance. Will Senators show him the courtesy of listening in silence or retire from the Chamber?

Will the Senate be in order?

The Senator from Idaho.

Mr. CHURCH. These were responsible actions. In the course of hearings of the Committee on Foreign Relations and the debate here on the floor of the Senate, particular aspects of the treaty were pointed out which many of us felt were ambiguous. We felt these ambiguities could lead to confusion and contention between the U.S. and Panama in the future, and that these points therefore had to be clarified if we were to achieve the intended purposes of these treaties —to assure the protection of long-term U.S. interests in the Panama Canal through a new, modern, and mutually acceptable treaty relationship with Panama.

It is highly regrettable, however, that in the course of strengthening the Neutrality Treaty—by removing the ambiguities that we found in it—we appear to have introduced a new ambiguity which is causing grave concerns among the people of Panama. I refer here to the first "Condition" which appears in the Senate's resolution of ratification—the provision popularly known as the "DeConcini Reservation."

Let us analyze for a moment why we did what we did, and why the people of Panama are concerned about it.

Mr. GRIFFIN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Michigan is correct. The Senate has not shown its customary courtesy to the Senator from Idaho. Will those Senators wishing to converse leave the Chamber so that others may listen as they wish to.

The Senator from Idaho.

Mr. CHURCH. The Neutrality Treaty, as it was signed by President Carter and General Torrijos last September 7, contained a provision which reads as follows:

ARTICLE IV

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties."

During the hearings held by the Committee on Foreign Relations, top administration spokesmen, including the U.S. treaty negotiators and the Joint Chiefs of Staff, all testified that this language gave the United States the right to take necessary action—including military action—to protect and defend the canal, even after the year 2000. During the hearings, this right was at times loosely referred to by Members of the Seunate, the press, and on occasion by administration spokesmen as a right to "intervene." I believe we all recall that at that time Panamanian Government spokesmen were assuring their constituents that the treaty did not give the United States a right of "intervention."

These apparently contradictory statements about the fundamental security aspect of the new treaties gave rise to great concern here in the Senate. The Committee on Foreign Relations made it clear to the administration that it could not in good conscience report out the treaties favorably unless these ambiguities were clarified. At the same time, these apparent contradictions were creating equal concern in Panama, as the opposition groups there pointed out the discrepancies between the statements of the Panamanian Government's spokesmen, and those of the U.S. Government.

I repeat this recent history, Mr. President, to remind everyone that the problem we were facing last fall—which at that time appeared to be an enormous defect in the treaties—turned out to be largely a problem of semantics. There was no real disagreement between the two countries on the fundamental rights of each to act to protect the neutrality of the canal. The disagreement was over the way those rights were expressed. It was a problem over the use of the term "intervention."

Intervention to us may mean taking action for the limited and specific purpose of protecting our legitimate security interests in the Canal. But in Panama, and throughout the rest of this Hemisphere, the word "intervention" conjures up all that was humiliating and distasteful in their relations with the United States fifty years ago. To them it means U.S. Marines occupying Haiti and Nicaragua and running the governments of those countries for decades. It means the Platt Amendment. And it means the repeated interventions of the U.S. in the internal affairs of Panama in the early part of this century. Under the original 1903 Treaty, we periodically sent our forces into their towns and

cities—even those hundreds of miles from the Canal—and changed their government if we were unhappy with its politics.

Over forty years ago, we recognized that intervention in the internal affairs of other nations was contrary to our own national interests. In the 1930's, we removed our troops from Haiti and Nicaragua, and repealed the Platt Amendment. And in 1936, we terminated our treaty rights to intervene in the internal affairs of Panama. Since that time, we have strongly promoted international agreements committing all countries to respect the territorial integrity and political independence of their neighbors and to forswear intervention in their internal affairs. The Charter of the United Nations, the Charter of the Organization of American States, and the Inter-American Treaty of Reciprocal Assistance—our pact of military alliance with our neighbors in this hemisphere—all contain provisions flatly prohibiting intervention in the internal affairs of other nations.

So the U.S. policy of intervention is long gone. But in the Latin America, the memory lingers on. The principal unifying factor in the foreign policy of the various Latin American nations for the past 40 years has been support for the principle of nonintervention. Having embarked 40 years ago on a new and more mature relationship with the United States, the countries of Latin America are determined to keep it that way. Thus, whatever we may intend by the term, loose talk in the United States about "intervention" raises deeply-felt concern throughout the hemisphere. It was for this reason we found ourselves in such difficulty last fall when we were discussing the security aspects of these treaties in terms of "intervention."

So what did we do about it then? President Carter and General Torrijos got together and issued a statement of understanding which clearly defined the right of the United States under the treaty to act to insure that the canal will remain open, secure and accessible. That portion of their statement reads as follows:

> Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

At the same time that they thus clarified what the treaty did mean, however, they also made clear what it did not mean. The statement goes on to say:

> This does not mean, nor shall it be interpreted as a right to intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

With the treaty thus clarified, the people of Panama went on to approve it by a 2 to 1 margin in a national plebiscite. The Senate of the United States voted 85 to 5 in favor of the leadership amendment to incorprate this clarifying statement into the text of the treaty and, like the people of Panama, voted to approve the treaty by a 2 to 1 margin. But in the process, as I indicated earlier, the Senate adopted a further clarification which has given rise to an extremely delicate and emotional situation in Panama. Here is the text we adopted:

> Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

Now what is the problem with this language? It is purpose was to further clarify what the two countries had agreed to in the security provisions of the treaty. As General Torrijos put it in his letter of March 15 to President Carter, the treaty establishes "the unilateral capability of each one of our countries to protect the regime of neutrality against threats, attacks, or a closing of the canal." The Senator who introduced the provision in question indicated a very similar understanding. He stated:

> If America is to have any rights at all under this treaty, it must have the right to act independently to protect the canal and to keep it open.

So why the problem? There seems to be no disagreement as to our rights to take action to assure the openness and neutrality of the canal. No. The problem is not one of substance. Rather, it revolves around the emotion-charged matter of intervention in internal affairs.

As I noted earlier, the leadership amendment not only states what our rights are—it states what they are not. It makes perfectly clear that the United States has no interest in or intention of intervening in the internal affairs of Panama. But the provision we adopted on the 16th of March makes no such disclaimer; indeed, because it begins "notwithstanding * * * any other provision of the treaty * * *" it is being interpreted by the people of Panama as a nullification of the clear statement concerning nonintervention and respect for Panama's territorial integrity and political independence which the Senate voted 85 to 5 to adopt in the leadership amendment.

Now this was clearly not the intent of the Senate. The Senator from Arizona (Mr. DECONCINI), who introduced the provision, stated:

> I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation.

So I think there can be little question about the true intention of the sponsor of the reservation. Other Senators who spoke in favor of the provision similarly indicated that its purpose was to clarify —not to nullify—the other provisions of the treaty.

So the objections being raised in Panama are not objections to what he Senate in fact intended in adopting this language. Rather, they are objections to an interpretation of the provision which the Senate did not have in mind—and in fact disclaimed—in discussing the provision.

Perhaps the people of Panama are overreacting. Perhaps they are interpreting this language out of context. Clearly they are reading an intention into our language that was not actually there.

But perhaps their reaction is not so inexplicable in view of Latin America's historical concern over U.S. intervention in their internal affairs which I outlined earlier. And perhaps it is not so unwarranted in light of repeated statements during this debate which showed little respect for the dignity of this small but proud ally.

In effect, Mr. President, we are facing the same situation we faced last fall. We have stated our right to take legitimate action to protect our interests in the canal; many people of Panama have misinterpreted the language we have used in stating those rights as evidence of an intent to revert to the era of gunboat diplomacy and to humiliate their nation.

What is the solution, Mr. President? Is it, as some have suggested, to prevail on General Torrijos to silence the expressions of concern in Panama so we can pretend they do not exist? Clearly not. It would be not only insulting to the people of Panama, but also a grave miscalculation, to make the assumption that the opponents of the Treaty have so long espoused in this debate—that nothing occurs in Panama unless General Torrijos directs that it occur. Whatever we may think about the Torrijos regime, it is clear in this instance that we are faced not with the political dictates of one man, or of his government. We are faced with the heartfelt concern of all segments of Panama society. The news reports from Panama over the past few days make it clear that this concern is being expressed not just by left-wing student groups, but by professional groups and by all the traditional democratic political parties, both conservative and liberal. The Communist Party of Panama is the only one that has not expressed concern—perhaps it sees some mileage to be gained in letting the problem develop further. Most significantly, the business community of Panama is now calling for rejection of the treaty. These are the people who stand to gain the most from the treaties in economic terms.

Mr. President, this is a serious matter.

As long as the Panamanian people believe that the language the Senate has adopted is intended to humilitate them as a nation, by delegating to the United States the ultimate right to govern their internal affairs, there is nothing we or General Torrijos can do to get them to accept these treaties. It would be contrary to our entire concept of human rights and, even more important, contrary to the national interests of the United States these treaties are designed to advance, to suggest that General Torrijos somehow stifle the dissent that has developed in Panama and go ahead as if nothing had happened.

What then is the solution? As I suggested earlier, Mr. President, we are in much the same situation as we were in last fall. Faced then with apparent differences in interpretation, we said what we did mean and what we did not mean. I would submit that we follow the same approach at this time.

Let us make it unmistakably clear that we will not back away from or dilute in any fashion the essential and legitimate rights to protect the neutrality of the canal which we have so carefully defined in the treaty and in the action taken by the Senate. But let us also clearly recognize that the people of Panama are not suddenly opposing the rights to take legitimate action which they have freely granted us in the treaty. Rather, they are opposing an illegitimate interpretation of those rights. The problem, I repeat, is not what we did in clarifying our rights, but in what the Panamanian people are afraid we did.

Let us find an appropriate way to reassure the people of Panama that our intention was not to nullify the specific pledge of nonintervention in the internal affairs of Panama, which 85 Senators voted to incorporate into the treaty.

Let us find a way to reaffirm the specific commitment to respect Panama's territorial integrity and political independence which we similarly voted to incorporate in the treaty.

Let us find a way to tell all the nations of this hemisphere that we have not in one afternoon nullified the last 40 years in the history of United States-Latin American relations.

Let us make it clear to the world that we are not seeking for ourselves the kind of rights the Soviets claimed in Czechoslovakia in 1968.

Mr. President, these treaties are too important to our national interests to allow them to fail over what amounts to a mere misunderstanding. These treaties were painstakingly negotiated over a 14-year period. The Senate has devoted an unprecedented amount of time to debating and perfecting them. They are good treaties—good for us and good for Panama. If we were to allow these treaties to fail, we would never be able to achieve better ones.

We have a duty to ourselves and to the American people to be sure that these treaties do not fail on account of misinterpretations of our actions.

We can tell ourselves that the fears being expressed by the people of Panama are unwarranted. We can say to ourselves that it is their fault if they have misinterpreted our intentions and our actions. We can criticize the Torrijos government for not doing a better job of explaining to the Panamanian people the true meaning of what we have done.

But in the end, we must recognize that, however unfounded, the concerns of the people of Panama are very real and serious concerns to them. We will not have done our duty if we do not address those concerns by clearly and precisely expressing our own intentions to the people of Panama.

Mr. President, I am not proposing that we undo what we have done, or water it down, or dilute it in any way. Fortunately, there is no reason to do so. What we can do and must do is reassure the people of Panama as to what we have not done. We must state categorically that we neither sought nor obtained a right to intervene in their internal affairs, nor do we have any intention of doing so. In this way we can show not only that we insist on preserving the legitimate rights of the United States to protect the canal, but also that we are prepared to respect the legitimate rights of the Panamanian people to independence and national dignity.

Mr. President, I trust that the Senate will find an appropriate way to communicate its true intentions to the people of Panama and to thus promptly resolve the misunderstanding that has arisen. In the meantime, we must proceed to complete our historic task of debating the Panama Canal Treaty. We have come a long way, and must not allow ourselves to be distracted at the last moment by a temporary misunderstanding—a misunderstanding which will, in the end, rate at best only a footnote in the history of this great undertaking in which we have all invested so much.

(Mrs. HUMPHREY assumed the chair.)

Mr. MOYNIHAN. Madam President, I rise to congratulate the Senator from Idaho for what in history may prove to be the critical address in this long, crucial debate. I speak, Madam President, as one of the handful of Senators who are supporters of the treaties, who nonetheless voted against the DeConcini amendment. I did out of a sense that we were not showing that sensibility of concern and feeling on the part of the people of Panama that is owing a neighboring nation, a nation with which we have had the closest relations for the longest time.

I can perhaps say personally that in the aftermath I ceased to participate as actively as I had previously done in this debate. On the first occasion I did speak, I spoke too strongly. I felt too strongly. I mentioned that only to suggest that this is a matter capable of arousing very strong feeling.

I think the Senator from Idaho has addressed the large point which has to be kept first in mind, which is what truly is the disposition of our Nation toward that nation? This is properly to be looked for in the text of documents, but much more powerfully it will be seen in the acts of history, in the trends of events sustained over what is now more than two generations in our political life, since the time of Franklin Roosevelt.

The United States has been judged, as, for that matter, have other countries in Latin America, when intervention in the affairs of others was a repeated event, not extraordinary, in Haiti, in Nicaragua, and it did occur in Panama. This was an age and era when such interventions, when such actions, were scarcely unknown in the world and not really very much thought to be illiberal, even.

The Senator may have had the occasion to visit Canada Square in Montreal. There is a great monument there to a regiment of Canadians who had gone off to fight in the Boer War. The monument is simply entitled, in large bronze letters, "Imperium et libertis," Empire and Liberty. These were not to be entirely compatible views. We have changed, and the people no longer will accept that.

I think the Senator spoke to an important point when he mentioned the rights claimed by the Soviet Union in the case of Czechoslovakia in 1966, which have come to be known as the Khrushchev doctrine, the doctrine of proletarian internationalism, I believe, which gives the Soviet Union, by their judgment, the right, unilaterally, to intervene in other nations' affairs which have some comparable political system.

We have absolutely rejected such things. We have absolutely said no to that for others and for ourselves. This is not our disposition as a people. If we had a disposition that troubles someone such as myself, it would be a growing unwillingness to make those commitments to the responsibilities which inevitably we have as the largest and most powerful of the free nations in the world.

That is the problem which troubles American leaders and American Presidents. Will this Nation any more do what it has to do in Western Europe, in Japan, in other parts of the world? The people of Panama might usefully consider that this is one of our major concerns. It is not that we are going around the world looking for adventure, but that we are too much of a strength for the world.

I would think that they might consider that the unique geographical position they hold in the world offers unique benefits but also unique burdens, not so much that we have because of our size, for the consequences of Japan and West Germany alike, but because of their location and where one of the largest nations in the Western Hemisphere built the canal and wants to continue to help operate it up to the year 2000.

I will not say the Senator has resolved all of my concerns, but he has spoken the truth about the disposition of this Nation and the intention of this Senate. It is not to intervene in the internal affairs of Panama at all, not one bit. That truth one might hope would be large in the minds, thoughts, and the considerations of the citizens of Panama as they now judge our further progress on this treaty.

Madam President, I rose merely to speak as someone who supports these

treaties, who did not support the amendment in question, to say to those who might be listening in this Nation or in Panama, to the Members of the Senate listening in, and to those who will read this in the RECORD, the Senator from Idaho spoke the truth. This country has no intention to intervene in the affairs of Panama whatever. The Senate in adopting this reservation intended no such intervention. In no way did that condition in our minds in any way affect the basic understandings incorporated in the treaty by our negotiators and expanded in that direct documents exchange between the President of the United States and General Torrijos as the head of government in Panama.

Madam President, I have said my point, which is to congratulate the Senator, and to say that he certainly speaks for this Senator, who was in opposition in that particular matter. His statement accords completely with my understanding, and I think that would be the case for all the Senators.

Mr. SPARKMAN. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished chairman of the Committee on Foreign Relations.

Mr. SPARKMAN. I want to say that in the course of our consideration of these treaties, I insisted time after time that we abolish the word "intervene" or "intervention" so far as the handling of these treaties. I still believe that we ought to get out of our minds that we are approving at any time intervention in the internal affairs of Panama or any other country.

Mr. MOYNIHAN. May I say, and I hope the Senator will not think this presumptuous, there have been few men in the history of this Republic who have so much contributed to getting intervention not only out of our minds but getting it out of our foreign policy as JOHN SPARKMAN of Alabama.

This is not a conviction you have brought recently to the conduct of foreign affairs; it is something you have stood for in one of the most distinguished careers in this body involving foreign affairs for—I dare not say how many years; more than a generation, sir.

Mr. SPARKMAN. I thank my distinguished colleague.

Mr. CHURCH. I subscribe to the remarks made by the Senator from New York. We all owe a debt of gratitude to the distinguished Senator from Alabama and I compliment him on his fine and distinguished career.

Also, I concur with what our distinguished chairman has said. "Intervention" is a word we should avoid because of its history and because of the way it is construed in Latin America. For 40 years now, from the time that Franklin Roosevelt first enunciated the Good Neighbor policy, we have incorporated the principle of nonintervention as a cornerstone of our policy toward our Latin neighbors.

(Mr. MOYNIHAN assumed the chair.)

Mr. CHURCH. We have expressly covenanted not to intervene in the internal affairs of Latin American countries in all of our principal treaties with the nations of this hemisphere, as well as in the Charter of the United Nations. Let no one labor under the misunderstanding that by adopting any amendment to the Neutrality Treaty, we abandon the cornerstone of American policy toward the Western Hemisphere.

It would indeed be a tragedy if the DeConcini amendment were interpreted differently than the author himself interpreted it in the course of the Senate debate.

Now I am happy to yield to the distinguished Senator from Alaska.

Mr. GRAVEL. I thank my colleague for yielding. I should like, one, to state very clearly that, as concerns FRANK CHURCH, the Senator from Idaho, I say he speaks the truth and I say I associate myself with his remarks. But I must differ with my colleague in this regard: He is very clear in his view of intervention, but I pray that we will always have leaders in this country that will be equally clear with respect to his view on intervention. That may not always be the case. We may not always have leaders as mature as my colleague from Idaho. For that reason, I, unfortunately, must differ and say that what we have done is most unfortunate.

We may well have to do something to correct the situation. I do not quite yet know what that would be, but I must add some information to this dialog which I think is at variance with his interpretation. I think my colleague is honest and his interpretation is well meaning, becuse that is him; that is FRANK CHURCH. But I think the realities that exist in the world today are somewhat different.

As I read the DeConcini amendment, I feel bad that we did not put up a greater fight at that time. I think we were all concerned with just winning. But I think the issue now is a little greater than that. I think I would rather have seen the treaty go down to defeat than have something that now I think casts a serious, serious shadow on that Neutrality Treaty.

I would say that, as my colleague quoted—and again, let me just say that I do not think that it will satisfy the people of Panama to have the single word of FRANK CHURCH. That is not going to do it. The word of FRANK CHURCH and MIKE GRAVEL and anybody else will not do it. What is really going to do it is what is in the treaty, because when we are long gone, that is what is going to be interpreted. I think we have created a tremendous ambiguity in that treaty.

Article V was very clear that the only military force would be Panamanians. Then, when we came on with the leadership amendment, that was very clear about intervention. And that had 85 votes, as the Senator pointed out. But the DeConcini amendment had 75. They both had a very large number of votes. I think we can only look at what the DeConcini amendment says, and that is very clear that we can intervene independently if we choose.

We then must go to what Senator DECONCINI said on the floor in the debate prior to his amendment, and I think that is clear. I shall quote two passages. That is on page S3817:

> If the Panama Canal is closed, the United States has the right to enter Panama—

To enter Panama; not the canal—

> using whatever means are necessary to reopen the canal.

He goes on to say:

> There are no conditions, no exceptions, no limitations on this right.

Then, a little further on he states:

> I have been equally bothered by the possibility that internal Panamanian activities might also be a threat to the waterway, should we give it up. Labor unrest and strikes; the actions of an unfriendly government; political riots or upheavals.

This would be comparable to saying in this country that if we had an airline strike that crippled New York City and that inconvenienced foreigners, if they had the muscle to back it up and we had a treaty, we ceded those powers.

Mr. CHURCH. May I respond to the Senator?

Mr. GRAVEL. If I may just briefly complete it, I shall be happy to hear a response.

All I can say is that we may be well-meaning, but this is what is in the treaty. Twenty years from now, something very tragic could happen and we might have an interventionist leadership and we would rule the day that this confusion was added.

I thought it was very clear before we added the DeConcini amendment. That is what made the confusion.

Mr. CHURCH. Let me say that the reason I made this speech was to establish some legislative history with respect to the intention of the Senate in enacting the so-called DeConcini amendment. I think it would be wrong if the legislative history was based solely on the debate that day, some portions of which have now been read again into the RECORD by the Senator from Alaska.

It is true that Senator DECONCINI made some remarks that extended beyond security considerations for the canal itself. It is also true that in the course of his presentation he said:

> I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation.

Now, my address today is meant to be a construction of what the Senate as a whole did in adopting this particular reservation. I am sure that the Senator from Alaska would agree with me that there is nothing in the record, either that day or any other day in this debate, to suggest that it was the purpose of the Senate to remove what, for 40 years, has been the cornerstone of our relations with all our Latin neighbors: Namely to disclaim our adherence to the principle of nonintervention in the internal affairs of Latin countries.

I would concede to him that, in view of the adoption of the DeConcini amendment, it would be wise for the Senate to

take some action to dispel any doubt on that score. I believe that it will be possible for the Senate to do so while fully preserving our rights to defend the canal and protect it against any threat to the regime of neutrality—principles to which both nations are pledged. I am not yet prepared to say exactly what form that action should take.

But the Senator and I do not really have any disagreement, and I think it would be a disservice for us to suggest to the radio audience that there is serious division between us.

I made this speech to attempt to clarify the intention of the Senate as a whole and to contribute to the legislative history connected with the DeConcini amendment.

In the course of the speech, I stressed the need for the Senate to consider some appropriate action to clarify that, in passing the DeConcini amendment, it was not our intention to claim a right to intervene in the internal affairs of Panama, or in any way to infringe upon the independence of that country.

Mr. GRAVEL. I might only state to my colleagues that there is no disagreement between us on the substance. Where I think I do part company is in attempting to understand how the Panamanians view it and how future leaders may choose to view it.

Mr. CHURCH. It is for this reason I believe some clarifying language is called for and I hope that the Senate will address itself to that in the next few days.

Mr. GRAVEL. If I hear my colleague correctly, that we will have a chance for the Senate to vote on some clarifying language, then he is correct. That is the only way we can undo the damage that has been done, because if we do not have that clarifying language—and my colleague stated at the beginning the words of Senator DECONCINI, that we will continue to respect the sovereignty—earlier, obviously, it was stated we had a pretty bad track record of not respecting that sovereignty.

So from the Panamanian point of view, that is not quite acceptable. I would think it unfair to those people—and I might say we are just talking about our side.

I heard a Senator today express a view of concern that we could not go dig a ditch in Panama. How does a Panamanian citizen listen to that when a Senator of some renown stands up and says, "Boy, I'm surprised we can't go and unilaterally dig the sea-level canal."

I resent the fact they would have a different attitude. So, from their point of view, there is deep concern.

Mr. CHURCH. Mr. President, I, too, am fully aware of the sensibilities of the Panamanian people. Often in the course of this debate I have shuddered to think of how they must resent some of the demanding and deprecating things that have been said about them by Senators in this Chamber. But I would hope that they would remember that they are listening to individual Senators expressing individual viewpoints.

The Senate by its vote has overwhelmingly rejected the arguments based upon demeaning appraisals of Panama and the Panamanian people. The Senate as a whole has reflected the viewpoint of the American people as a whole.

We, as a Nation, recognize that the Panamanians have been extraordinarily patient and forebearing in the course of this debate. We, as a people, recognize what staunch and steadfast allies they have been to the United States in our times of critical need, both in the First and Second World Wars.

The great majority of Senators have a profound respect for the people of Panama and understand why they are extremely sensitive to anything that smacks of interventionism.

That is why this afternoon I have tried to place in some perspective the action taken by the Senate when it approved the DeConcini amendment. I would not suppose that many Senators would disagree with me when I say that that amendment was not meant to repeal what has constituted the cornerstone of our foreign policy toward Latin America for the past 40 years, namely, our adherence to the policy and the principle of nonintervention in the internal affairs of Latin governments.

That is the whole purpose of my speech.

I recognize that a problem has been created, particularly in Panama, due to sensitivity over anything that smacks of interventionism. I hope that any doubts on that score can be allayed by some subsequent action of the Senate between now and the time we come to a final vote on this treaty.

Mr. HATCH. Will the Senator yield?

Mr. CHURCH. I am prepared to yield the floor at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I thank the Chair.

Mr. President, recent developments in Panama following Senate adoption of the DeConcini reservation have been described by some in the press and by some treaty supporters as "unexpected" and "surprising."

At the risk of saying, "I told you so," I must say that I, for one, have not been surprised.

Indeed, this Senator expressed deep concern on a number of occasions that Panama and the United States were not really in agreement on the alleged right of the United States, unilaterally, to use military force to defend the canal against any threat, domestic or foreign.

As I have repeatedly warned, an effort to rewrite the treaties here on the Senate floor—and then to present the revised treaty on a "take it or leave it" basis to Panama—would create understandable bitterness among the Panamanian people.

This was a principal reason for the position I have taken throughout the debate that the Senate should return the treaties to the President with the advice that negotiations be resumed so that the obvious ambiguities and other problems could be resolved between representatives of the two countries meeting on an equal footing.

As I said in a speech to the Senate on March 6:

> We would be living in a fool's paradise to assume that these contradictory interpretations will simply go away if the treaties are ratified. Indeed, we would be most fortunate if they do not come back to haunt us in a most agonizing way in the years to come . . .
>
> Obviously, it matters not how many times we declare and repeat that language in the treaty means one thing—if the people of Panama believe and openly insist that it means something else, we really do not have an agreement to ratify.

Let us review what has transpired:

Shortly after the treaties were drafted, some of the ambiguities—particularly with respect to U.S. defense rights—led to conflicting interpretations by Panamanian and American spokesmen.

In an attempt to clarify the situation, President Carter and General Torrijos issued a joint statement of understanding on October 14, 1977.

The Senate and American people were then assured by the State Department and the Foreign Relations Committee that under the Neutrality Treaty, the United States would have the right to use military force unilaterally to protect the neutrality of the canal against any threat, domestic or foreign. For example, the report of the Foreign Relations Committee proclaimed that the Neutrality Treaty, as clarified by the Carter-Torrijos statement of October 14, would allow the United States "to introduce its Armed Forces into Panama whenever and however the canal is threatened * * * The United States [would have] the right to act as it deems proper against any threat to the canal, internal or external, domestic or foreign, military or nonmilitary."

However, despite those assertions in the report of the Committee on Foreign Relations, it was clear to this Senator that Panamanian officials did not so interpret the Neutrality Treaty or the Carter-Torrijos joint statement.

I spoke at some length in the Senate on March 6 and put in the RECORD a wealth of documentation to support the conclusion I had reached that agreement between the two countries had not, in fact, been reached with regard to the defense rights of the United States.

For example, I quoted Foreign Ministry Adviser Luis Bejarano, who told the Panamanian people 3 days after the release of the Carter-Torrijos joint statement:

> *In the event of an attack on the Canal by a third power, the Republic of Panama must agree to the participation of the United States in the defense of the Canal. . . .* [T]he Republic of Panama has primary responsibility for defending the Canal after 31 December 1999 and, in the event of foreign intervention by a strong nation, the Republic of Panama, after exhausting its tactical defense resources, *may* agree with the United States to carry out this defense if necessary. [Emphasis supplied.]

Obviously, that spokesman for the Panamanian Government did not interpret understand this treaty as it has been represented by the Foreign Relations Committee report.

My remarks and the accompanying documentation took up nearly 20 pages

of the RECORD, but my warnings were widely ignored by the media and brushed aside by the treaty proponents in the Senate.

Indeed, on March 6, after I documented extensively the wide differences of interpretation which continued following the Carter-Torrijos joint statement, Senator CHURCH—I am sorry he is not on the floor at the moment—said this:

A few minutes ago, Mr. President, the able Senator from Michigan once again raised the specter of differing interpretations, as between the United States and Panama, with respect to our right to protect the canal. . . . To some extent, *all of this is so much ancient history*. Yes, there was a time when the treaty provisions . . . were being interpreted differently by some Panamanians and by some Americans. And yes, I stated flatly that I would not vote to ratify the treaties if these differing interpretations were not clarified by both parties. Such clarification was forthcoming on October 14 in the form of the Carter-Torrijos memorandum of understanding. In view of this clarification, I am forced to ask why the Senator from Michigan does not recognize that the specific purpose was to insure that the United States and Panama would interpret those critical provisions in exactly the same way; to wit, that *the United States would have the right to defend the canal against any threat in perpetuity* in accordance with its constitutional processes. . . . [T]he incorporation of these critical provisions will serve to guarantee that there are no differing interpretations. . . . If the Senator from Michigan and others persist in suggesting otherwise, *they will have to be held responsible for a distortion of the* record. [Emphasis supplied]

I suggest, most respectfully, that the events of the past week in Panama have demonstrated quite clearly that it has not been the Senator from Michigan who has been responsible for a "distortion of the record."

Mr. SARBANES. Mr. President, will the Senator yield for a moment?

Mr. GRIFFIN. I would like to finish my speech. I would have yielded to the Senator from Idaho, because I mentioned his name. I do not have very much more.

Mr. SARBANES. May I have the date on which the Senator from Idaho made the statement to which the Senator from Michigan referred?

Mr. GRIFFIN. March 6.

On March 16, the Senate adopted the so-called DeConcini reservation to the Neutrality Treaty, which provides that:

If the canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall independently have the right to take such steps as it deems necessary, in accordance with its constitutional precedents, including the use of military force in Panama, to reopen the canal or restore the operations of the canal, as the case may be.

In other words, Senator DECONCINI merely was seeking to spell out in unambiguous terms some of the assurances given to the Senate by the Carter administration and by the report of the Committee on Foreign Relations.

Obviously, there would have been no Panamanian objection to the DeConcini reservation if Panama had understood the treaty language as the administration and the Foreign Relations Committee report had been contending all along.

For the record, let me say that I voted against the DeConcini reservation—not because I disagreed with the purpose—but because as I have said all along, I do not think the treaty should be rewritten in a substantive way on the Senate floor. I think any major changes should be achieved through renegotiation.

Many of our colleagues. particularly supporters of the treaty, obviously took the view or assumed that the DeConcini language would really not alter the meaning of the treaty. Thus, Senator CHURCH said:

[T]his reservation must be considered, in my view, in part as a restatement in part as an elaboration of the amendment already adopted by the Senate to article IV of the Neutrality Treaty. As such, it is acceptable and I hope that the Senate will adopt it.

Senator KENNEDY opposed the amendment, and then he said:

It stirs up what is already an emotional issue in Panama, *without adding to rights of the United States already recognized by the treaty*. (Emphasis supplied.)

Obviously, over the weekend, we have been learning about the Panamanian reaction, how they interpret the DeConcini amendment—in light of how they have interpreted all along the Neutrality Treaty.

In a memorandum dated March 28, 1978, Panamana's permanent representative to the United Nations informed the Secretary General of Panama's dissatisfaction with the DeConcini reservation, saying in part:

According to its proponent, the "DeConcini Amendment" is intended to give to the United States of America the unilateral and perpetual right to "take military action on Panamanian soil without the consent of the Panamanian Government", pretending that said amendment must be construed to permit the United States to intervene in Panama in the event of labour unrest, strikes, a slowdown, or under any other pretext labeled as interference with Canal operations.

Treaty supporters have expressed surprise at the reaction in Panama. But the reaction there is fully consistent with the position taken by Panamanian leaders in the aftermath of the Carter-Torrijos joint statement of October 14, 1977. Here is how I summarized the differing interpretations in my floor statement of March 6, 1978:

Indeed—now, as before the joint statement—the two countries are not in agreement on two vital points:

First. Our administration continues to tell the American people that the United States will have the right to defend the canal's neutrality after the year 2000 against any threat, including an internal threat from within Panama. But spokesmen for Panama continue to assert that the United States will have such a right only if the Canal is threatened by a foreign power. Second. Our administration continues to tell the American people that the United States can determine unilaterally when such a threat exists. But Panamanian spokesmen insist that U.S. forces could defend the canal only if requested to do so by Panama or when such action is agreed to by Panama.

The strong Panamanian rection to the Senate's adoption of the DeConcini reservation reinforces the deep concern which I have had all along about the differing interpretations held by the two countries.

Even though the Senate has completed its action on the Neutrality Treaty, it is not too late to undo the mistake we made.

As I see it, there is a clear course that we should follow.

The two treaties are parts of an indivisable whole. One treaty cannot go into effect without the other. Accordingly, instead of adopting the Resolution of Ratification, that will be offered for this treaty, the Senate should adopt instead a substitute along the lines of one that I offered immediately before the final vote on the Neutrality Treaty.

And I shall offer a similar substitute resolution next Tuesday, providing for return of this treaty to the President of the United States, with the advice of the Senate that negotiations be resumed and continued until a more acceptable treaty can be fashioned.

I thank the Chair.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I thank the Chair.

Mr. President, I was interested in the remarks of the distinguished Senator from Idaho (Mr. CHURCH) with respect to the meaning of the DeConcini amendment when he stated that in the days ahead he felt that some effort should be made to clarify the meaning of the DeConcini amendment. He went on to talk about our time-honored policy of nonintervention in Central and South America and the fact that the DeConcini amendment did not go counter to that and to talk about creating legislative history for the DeConcini amendment.

The door is closed, Mr. President, on legislative history for the DeConcini amendment because that amendment has been agreed to, it has become a part of the resolution of ratification of the Neutrality Treaty, and it has been approved by the United States Senate. And all dialog here on the floor cannot change the meaning of the DeConcini amendment once it has been adopted and once the resolution of ratification has been adopted. It is just like trying to restore Humpty Dumpty. It cannot be done.

Also, Mr. President, we all know that this is called the DeConcini amendment, but it would not have gone one step farther than the amendment to the treaty embodying the language of the DeConcini amendment would have gotten—and it did not get anywhere at all—unless the leadership itself had taken over this amendment and allowed its passage because there has not been one single dotting of an "i" or crossing of a "t" to either of these treaties that has not had the approval of the leadership, the managers, and the administration. So this treaty is theirs. If they have made any mistakes in it, they are their mistakes. It is not the mistake of those of us who are seeking to strengthen these treaties or in the alternative to kill them.

Mr. President, they say, "Let us clarify"—"clarify" is just a code word for weaken—"let us weaken the DeConcini amendment first by legislative history,"

which cannot be done because the door is closed on that treaty. "If we cannot do that, then let us water it down, let us clarify it, let us dilute it by something added to this treaty."

Mr. President, this treaty ends with the next century. The DeConcini amendment starts with the next century. So how in the world are you going to put a different meaning into the DeConcini amendment starting in the year 2000, when the present treaty ends at the beginning of the year 2000?

Also, Mr. President, are we going to play games with these Senators who sincerely felt that before they could vote for the Neutrality Treaty they had to be assured that the United States would unilaterally have the right to keep that canal open after the year 2000 no matter what it took and to say, "Well, Mr. DECONCINI did not mean what they now say"?

I was very much intrigued at the colloquy between the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Alaska (Mr. GRAVEL). And as that colloquy proceeded I noticed the distinguished Senator from Idaho wanted to get ahead and said "Senator, let me answer that question and respond to it." The Senator from Alaska would not hear of that. He said, "We have done something wrong." The Senator from Alaska said, "We have done something wrong in adopting the DeConcini amendment."

And how right he is. But he was not giving the responses that the distinguished Senator from Idaho (Mr. CHURCH) wanted him to give. He was not aiding in the colloquy. So he wanted to give an answer right away. The distinguished Senator from Alaska would not have any of that and he pointed out what a mistake had been made with the DeConcini amendment.

Mr. President, I can see how dictator Torrijos is a most unhappy man. If he, acting as the Government of Panama, agrees to the DeConcini reservation and, as he sees it, impugns upon the sovereignty of the sovereign State of Panama, he will be toppled by his own people, and if he submits the question to a plebiscite, the people will turn the treaty down. So, if there ever was a fellow between Scylla and Charybdis, or between the rock and a hard place, as the modern day expression is, it is dictator Torrijos.

Also, Mr. President, since we seem to be seeking as much approval of this treaty by the Panamanian people in shaping public opinion down in Panama with respect to action here in the Senate, I think the time has come to point out that the supporters of this treaty have been quite adept at pointing out what great friends of the Panamanian people they are and what bad things have been said about Panama and the Panamanian people by Senators who are seeking to strengthen these treaties or, in the alternative, to defeat them. They say, "That is just those individual Senators talking, that is not the whole Senate, as you can tell by the vote."

Mr. President, the record will show who has been standing up for the Panamanian people and who has been standing up for dictator Torrijos. I will proceed to prove that right now.

The argument has been made against every amendment that has been offered except the leadership amendments, which were so deficient, I state, without fear of successful contradiction. Plea has been made and the argument has been made against every amendment, other than the leadership amendments that have been offered, "Do not do this, do not agree to this amendment; if you do we are in danger of having a plebiscite."

What is wrong with that? If we want to trust the Panamanian people, what is wrong with that? Who is casting aspersions upon the Panamanian people by saying, "Don't send this back to them, they might reject it"? Who is standing up for the Panamanian people? Those who want to offer amendments and guarantee that it will go back to the Panamanian people or those who support the treaties and say, "Let us not send it back to a plebiscite"?

So I hope that the Panamanian people will not get the idea that just because those who oppose the treaties have things to say about dictator Torrijos, that they do apply to the great Panamanian people, who are a great people, who want their sovereignty, who are entitled to the sovereignty over their land.

I dare say as I speak of the dictator down in Panama, I do not have any less regard for him than does the average Panamanian down there. That is the reason I think it is so important that this matter be submitted back to a plebiscite so that we can have a compact with the Panamanian people and not just with the Panamanian dictator.

I stated this morning, and the distinguished majority leader was quick to ask me to yield so that he could say he was opposed to my proposed amendment before I could even well explain it, and I suggested that before we concluded action on the treaty, I wanted to assure the right of the Panamanian people to express themselves on this changed treaty.

But the distinguished majority leader quickly got to his feet and announced that he would oppose any such amendment. Who is standing up for the Panamanian people? Who is seeking to give them a voice in agreeing to this treaty? Well, it is not the proponents, it is not the supporters of the treaty. It is those who are seeking to strengthen the treaty or, as I say, an alternative to defeating it. We are the ones who want the Panamanian people to speak, not the supporters of the treaty.

Now, Mr. President, would it be fair at this late date, after both sides have agreed on a date for a vote, to bring in some extraneous matter, something that has already been covered in the other treaty, something which cannot be debated on account of the time limitation, to try to cut down, dilute, the DeConcini amendment? That is not just my saying that is going to be done; that is the distinguished manager of the treaty, the distinguished Senator from Idaho (Mr. CHURCH). He says something is going to be offered—he does not know what. "But we have got to change this around," is what he says. "We cannot let the DeConcini amendment go out even though it has already been approved," that is what he says, and it was OK'd by the leadership or it would not have passed. Every Senator knows that.

So every single word in this treaty as it now stands, and as the other treaty was approved, was the result either of action by the negotiators or a change approved by the leadership, the managers of the treaties, and the administration.

The opponents of the treaties have not added one single word to the treaties, unless it be said that Mr. DECONCINI would not have voted for the treaty if his reservation had not been added.

How is Mr. DECONCINI going to feel about this? I am sorry he has not been here today. I do not know whether he just has not come back or he is not on the floor.

(Mr. GRAVEL assumed the chair.)

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. ALLEN. No, I will not yield. I will yield for a question, but I do not want to yield for a discussion.

Mr. SARBANES. I just thought in fairness to Senator DECONCINI it ought to be observed that it is my understanding that he returned to his State to meet with his constituency over the weekend and he has not yet come back to Washington.

Mr. ALLEN. I thank the Senator.

Mr. SARBANES. Because there was some implication——

Mr. ALLEN. I just do not know that. I just do not know where he is.

Mr. SARBANES. The Senator did raise that point. It is my understanding he is at home with his constituency in Arizona.

Mr. ALLEN. I see. Well, I am glad to get that information. I am glad to yield the floor for that purpose.

Mr. SARBANES. I appreciate the Senator's yielding for that purpose.

Mr. ALLEN. I thank the Senator.

Would it be fair to the distinguished Senator from Arizona who, at this time, is among his constituents getting, I hope, the good advice that the people of Arizona are able to impart to him, would it be fair to him, who would not have agreed to vote for the first treaty without the acceptance of reservation word for word—they tried to water it down in their negotiations with him, and I can say to his credit he would not yield. He said, in effect, "This or nothing."

So now that they accepted his reservation, they accepted the exact wording, it was pushed by the leadership or it would not have been agreed to. we all know that, his vote was obtained, and Senator CANNON voted for the treaty, and it had been—he was not going to vote that way, and he was a cosponsor of the DeConcini reservation—would it be fair to these honorable Senators to undercut or dilute the DeConcini reservation when its acceptance was the method by which victory was obtained in the final vote on the treaty?

I must say, Mr. President, I believe that this victory that was achieved in

the approval of this first treaty is going to develop into a hollow victory, because I do not believe this treaty is going to be approved by the Senate.

Mr. HATCH. Mr. President, will the Senator yield for a few questions?

Mr. ALLEN. Inasmuch as I did not yield to the distinguished Senator from Maryland, I will state to the Senator, as I did to him, I will yield for a question.

Mr. HATCH. Yes.

What is bothering me here today is there seems to be an attempt to malign Senators here in some of the comments made by the proponents of this treaty by indicating that Senators on this floor have been maligning the people of Panama.

Mr. ALLEN. It would just be the contrary.

Mr. HATCH. That is what I think. Is that not the Senator's recollection?

Mr. ALLEN. Yes, I say we stand for another plebiscite——

Mr. HATCH. That is right.

Mr. ALLEN (continuing). In Panama to determine whether or not the Panamanian people approve of the treaties as finally agreed to here in the Senate.

The proponents of the treaties, the managers of the treaties, the leadership, the administration want no part of a vote by the people of Panama. They want to deal directly with the dictator.

As I pointed out a moment ago, the dictator is in quite a quandary, because he recognizes public opinion in Panama is now against the treaties, and if he accepts the treaties without a plebiscite, they are going to overthrow him, and if he submits it to a plebiscite, they are going to defeat the treaties.

Mr. HATCH. If I might interrupt the distinguished Senator from Alabama again, my friend and colleague, I would just like to praise the distinguished Senator from Alaska who indicated that his stand today is the same as it was during the DeConcini reservation. He voted against the DeConcini reservation.

Mr. ALLEN. That is right, and I commend him for that nonchange of position.

Mr. HATCH. That is right; and it is very interesting to see who else voted against the DeConcini amendment. Because the distinguished Senator from Idaho (Mr. CHURCH) voted for it. He vociferously supported that amendment.

As I recall the amendment, and I have a copy of it here, it is pretty clear, and the distinguished Senator is correct in why those Senators were pushing for it: so they could have this wonderful language proposed by the Senator from Arizona (Mr. DECONCINI), a man whom all of us admire.

The Senator from Maryland (Mr. SARBANES) supported it. The distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) supported it.

But those who did not support it—in other words, those who voted against the DeConcini amendment—were the ranking minority member of the Foreign Relations Committee (Mr. CASE); Mr. CLARK; Mr. CRANSTON; Mr. CULVER; Mr. DURKIN; Mr. GARN voted against it; Mr. GOLDWATER voted against it; Mr. GRAVEL, whom I have complimented here for not changing his position, voted against it; Mr. GRIFFIN voted against it; Mr. HART voted against it; Mr. HATCH—myself, I voted against it; as a matter of fact Mr. JAVITS voted against it, known all over the world for his contributions to foreign relations.

Mr. KENNEDY voted against it. Mr. LAXALT, one of the leaders on the opposion side, voted against it. Mr. MCCLURE voted against it. Mr. MCGOVERN voted against it. Mr. METZENBAUM; Mr. MOYNIHAN—Mr. MOYNIHAN voted against it. Mr. SCHMITT, Mr. SCOTT, Mr. STEVENS, Mr. TOWER, and Mr. WEICKER, all voted against the DeConcini amendment, which indicates something here.

Now all of a sudden I see these people—and I wonder if the distinguished Senator from Alabama will not agree—I see these very same people who were outspoken in their support for this amendment making noises all over this floor that somehow or other it is the rest of the Senators who are opponents of these treaties who have caused this problem, because they have been maligning the Panamanians. I have not heard any one malign the Panamanians.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HATCH. The Senator from Alabama has the floor.

Mr. GOLDWATER. Will the Senator yield to me with the same understanding?

Mr. ALLEN. Yes, I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am prompted in part, because the name of my junior colleague is being spoken of, and I must say in his defense that he was absolutely sincere in this effort. He and I talked about this for some time, and he introduced it feeling that it was wise.

I might say that that same reservation was introduced as an amendment and roundly defeated by means of a motion to table.

Mr. ALLEN. Correct.

Mr. HATCH. That is right.

Mr. GOLDWATER. A strange thing I wanted to bring back to memory was that when I visited General Torrijos in January, I would say the principal matter we discussed was the subject of the defense of the canal.

Now, he recognized as rapidly as anyone that a national guard total force of 8,500, of whom 1,600 were trained infantrymen, with merely a handful of antiquated armament, could clearly not be expected to defend this canal; and while I cannot stand here and say categorically that we agreed to the subject that we be allowed to stay in perpetuity in the Canal Zone, as I recall it he did agree that there would be no objections to our continuing to train our airborne forces where we had trained them, in conjunction with the Panamanian forces.

So for the general to now be expressing surprise and some shock that the Foreign Relations Committee of the U.S. Senate would endorse U.S. forces remaining in Panama surprises me, unless my memory has completely left me, because he indicated that while it would not be desired, it was recognized that any attempt to invade Panama of any sized force—I am talking about even a battalion—would require more forces than they have, and that such attempts could possibly go on long after the year 2000.

So, frankly, I am going to watch developments with a great deal of interest, because I do not know how the Foreign Relations Committee is going to back off from this one. If it is a hot dog today, it was a hot dog then; and when they, almost to a man, approved this change, those, most of us, who are uninitiated in the subject of foreign policy would have to follow the leadership, because we look to the committees of Congress to guide us laymen through the tortuous paths of that which we do not know.

So, together with the Senator from Alabama, the Senator from Utah, and others, I think we are going to find some very, very interesting legerdemain, hocus-pocus, and dingle-dangle going on here in the next few days, trying to placate what seems to be an angry general in Panama for what the Foreign Relations Committee embraced with full gusto.

I thank my friend from Alabama.

Mr. HATCH. Mr. President, will the Senator from Alabama yield again, for me to ask one more question?

Mr. ALLEN. Yes, I am glad to yield to the distinguished Senator from Utah, provided I do not lose my rights to the floor.

Mr. HATCH. It was my understanding that the distinguished Senator from Alabama and a number of others, including myself, have consistently pointed out the disparities and ambiguities in these treaties, and that they raised an awful lot of problems. That is one reason why we have had so many of these substantive amendments to these treaties brought up. The Senator from Michigan indicated that he does not believe these treaties can be repaired with amendments, and that is the reason why he has voted, basically, against almost every amendment.

As I understand it, it has also been the position of the distinguished Senator from Alabama all along that these treaties are fatally defective, that they do not protect Panama or the United States. If I do not misunderstand, I think both the distinguished Senator from Alabama and myself would agree with the distinguished Senator from Michigan that these treaties are not really clear and understandable.

Mr. ALLEN. They are not, to this good day, because we are still arguing about the meaning of the DeConcini amendment, which seemed perfectly clear to me.

I might say that Dictator Torrijos relied on the exchange of correspondence between him and the President on March 15, and we have those letters in the RECORD, in which Torrijos was complaining about some upcoming reservations. The President reassured him that nothing was going to be passed that would

interfere with their understanding of the meaning of the treaties.

Well, apparently this does somewhat differ from their understanding of the treaties, it would seem, and no wonder. Let us read the language of the DeConcini amendment. The proponents argue, "Well, he did not mean what he said," but how can they say that about an amendment sponsored by a U.S. Senator which has been gone over with a fine-toothed comb by the administration attorneys, by the Secretary of State and the State Department, by the President himself, by Mr. DECONCINI, who is an outstanding lawyer—how could they say it did not mean what the words say that it meant?

Let us see what it says. We can all read the wording. It was read and supported by the leadership. Let us see what it says:

Before the period at the end of the resolution of ratification—

Right at the tail end, in other words—

insert the following: "subject to the condition, to be included in the instrument of ratification of the treaty to be exchanged with the Republic of Panama—

Now, that is not talking about the resolution of ratification; that is in the exchange of instruments of ratification between the heads of state.

So this condition is to be placed in the exchange of notes between the dictator and the President—

subject to the condition, to be included in the instrument of ratification of the treaty to be exchanged with the Republic of Panama, that, notwithstanding the provisions of Article V—

That is where it says that only Panama, after the year 2000, shall have troops in Panama—

or any other provision of the Treaty, if the the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

If they had any interpretation such as they are trying to advance now, I do not know what it is. The distinguished Senator from Idaho (Mr. CHURCH) said he did not know how to go about it, but something has to be done, something has to be done to change the wording of the DeConcini amendment. How can it be done, when that treaty has already been agreed to by the U.S. Senate, or had been accepted by the U.S. Senate? How will he change it?

The distinguished Senator from Idaho (Mr. CHURCH), who is present in the Chamber, gave a speech in which he was seeking to set up some sort of legislative history with regard to the DeConcini amendment. How in the world are we going to have legislative history? Legislative history is established to indicate and to explain what the Senate, or what the House in the case of legislative history over there, meant when it passed a given piece of legislation. One cannot think up some 3 weeks later for what was meant by the wording there for the legislative history. The legislative history cannot be changed 3 weeks after the action has been taken. Someone might think up a good reason, "By the way, I thought up a good reason why that amendment does not mean what it says it means. I am going to go to the floor and point out this good reason that the DeConcini amendment does not mean what it says to mean."

(Mr. SASSER assumed the chair.)

Mr. GOLDWATER. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. GOLDWATER. Will the Senator briefly outline how the recent advocates of the DeConcini amendment might go about changing it?

Mr. ALLEN. With their great majority here in the Senate they can write words into this treaty. By a great use of force then can pass an amendment saying the DeConcini amendment does not mean what he says it meant. I dare say they could get a majority of the Senators. But that will not change the force of public opinion. It will not change the facts. I do not think it will placate the Senators who agreed to vote for this first treaty in return for agreeing to the DeConcini amendment, as interpreted by DECONCINI and others, and as clearly related to the language of the amendment. I believe if they do seek to cut the ground out from under the DeConcini amendment they are going to lose enough votes here on the floor of the Senate to assure the defeat of this treaty.

Mr. GOLDWATER. I will ask my friend further, could that amendment be tabled?

Mr. ALLEN. Well, theoretically it could, yes. But actually the leadership is in control of well over 60 votes and those 60 acting pretty much monolithically could defeat a motion to table.

Mr. GOLDWATER. Let me ask the Senator one more question. This come to my mind as a layman. Let us say an amendment is offered which would put the meaning of the DeConicin amendment in a different reservation. Would it be possible for this body to vote again on the first treaty of the change in what we might say to be the deciding reservation?

Mr. ALLEN. No. The only way to defeat the Neutrality Treaty, after accepting the DeConcini amendment as written and as explained by Mr. DECONCINI, is to defeat this treaty. The defeat of the Panama Canal Treaty works to defeat the Neutrality Treaty as well, even though it has been approved by the Senate.

Mr. GOLDWATER. I thank the Senator.

Mr. HELMS. Will the Senator yield?

Mr. ALLEN. I yield.

Mr. HELMS. The fact remains, notwithstanding anything else, that the distinguished Senator from Arizona (Mr. DECONCINI) advanced his amendment in good faith, is that not correct?

Mr. ALLEN. My attention was diverted. Will the Senator repeat his question?

Mr. HELMS. I merely raised the question about our distinguished colleague from Arizona (Mr. DECONCINI). There is no question about his good faith in presenting the amendment on the basis which he did, is that correct?

Mr. ALLEN. That is correct. And efforts were made, I might say, to dissuade him from insisting on such strong language, but it was necessary to accept his amendment in order to get him to vote for the treaty, to accept his reservation, word for word. They did accept it and now they are saying it is going to be necessary to water it down.

Mr. HELMS. And all that having occurred, he then voted for the neutrality treaty in good faith?

Mr. ALLEN. Yes. He stated on the floor that he would not support the treaty if his amendment was not agreed to. Now the distinguished Senator from Idaho (Mr. CHURCH) says it is going to be necessary to pass something to change the meaning which is being attached to the DeConcini amendment. I say that is water over the dam. That treaty has passed. Now if they seek to dilute that amendment in this treaty, it is difficult for me to see how that could be done inasmuch as the treaty we are on now expires in the year 2000, and the treaty with the DeConcini amendment does not even start until the year 2000.

Mr. HELMS. But even if it could be done, it would be an affront to the good faith of the Senator from Arizona, would it not?

Mr. ALLEN. Of course, it would be, and it would be an affront to the Members of the Senate who acted on the same assurance.

Mr. HELMS. I agree with the able Senator. Neither the Senator from Alabama nor the Senator from North Carolina can say with any certainty whether the Neutrality Treaty would have passed without the DeConcini amendment, and without the votes of Senators who accepted the amendment in good faith, but I have a feeling that the treaty would not have passed.

Mr. ALLEN. I was of the opinion that two of the cosponsors of the DeConcini amendment would not have voted for the treaty had not the DeConcini amendment, as written and as explained, been accepted.

Mr. HELMS. And endorsed and supported by the leadership and by the administration. Is that correct?

Mr. ALLEN. That is correct. It would not be part of the treaty now if it had not been agreed to by the President himself.

Mr. HELMS. The Senator is obviously correct.

I have some sympathy for the leadership and the sponsors of the treaties in their present anguish, now that some difficulty has arisen as a result of their maneuver in connection with the DeConcini amendment. I am sorry for them. Senator GRIFFIN tried over and over again to warn the Senate of the defects in these treaties. The Senator from Alabama has been eloquent in his warnings. I have done the best I can, as have many others. No heed was paid to the Senator from Alabama, the Senator from Michigan, or to any of the rest of us. This set

of circumstances reminds me of Sam Ervin's story about a fellow down in North Carolina who killed his mother and father and then asked the court for mercy on the ground that he was an orphan. The leadership made their own bed in this matter, with great help from the President. I am sorry for them, but they were given fair warning.

Mr. ALLEN. The leadership is responsible for every word in the treaties. They have defended what the negotiators have done and have not allowed anything to be added without their express approval.

Mr. HELMS. And the Senator from Alabama has not added one syllable to the treaty, has he?

Mr. ALLEN. Unfortunately, I have not been able to. It is not that I have not tried.

Mr. HELMS. The Senator has tried valiantly, but he has not managed even to get a "t" crossed or an "i" dotted. Is that correct?

Mr. ALLEN. That is correct.

Mr. MAGNUSON. Will the Senator yield?

Mr. ALLEN. I yield.

Mr. MAGNUSON. There are two or three of us who have an important engagement and we would like to find out from the Senator from Alabama if we are going to vote on this tonight and, if we are, when.

Mr. ALLEN. As far as the Senator from Alabama is concerned, I do not believe there will be a vote, but the distinguished managers of the bill could get in at any time and move to table, which would cause a vote. I will say to the distinguished Senator I will not cause a vote this evening. If he can get a similar assurance from the other side, that will dispose of the matter.

Mr. MAGNUSON. I thank the Senator.

Mr. ALLEN. Have I responded to all of the inquiries of the distinguished Senator from North Carolina?

Mr. HELMS. Yes; and I thank the Senator for his courtesy.

Mr. ALLEN. I thank the distinguished Senator.

Let us see what Mr. DECONCINI said about his amendment:

> The purpose of this amendment is quite simple, Mr. President. It is designed to establish a precondition to American acceptance of the Neutrality Treaty. That precondition states that regardless of the reason and regardless of what any other provision of the Neutrality Treaty might say or what interpretation it might be subject to, if the Panama Canal is closed, the United States has the right to enter Panama, using whatever means are necessary, to reopen the canal. There are no conditions, no exceptions, and no limitations on this right. By the terms of the amendment, the United States interprets when such a need exists, and exercises its own judgment as to the means necessary to insure that the canal remains open and accessible.

Mr. President, what is so bad about that amendment, I think it is a very fine amendment. After all, did not the two leaders, Republican and Democratic, say, when these treaties were first submitted to the Senate, that they could not vote for the treaties and that they would be defeated unless we were given the right unilaterally to intervene? It was only when that memorandum was entered into between the President and the dictator, allowing for a measure of right to defend the canal, and the leadership amendments were evolved, that the distinguished leaders agreed to support the treaties. Were they not driving for the right of unilateral intervention?

Sure, they were. That is what they said they wanted, as the Senator from Alabama recalls. They wanted the right to intervene militarily unilaterally.

Well, they seem to have gotten what they wanted. But the dictator got a very nice provision stuck in the leadership amendment that is not here. It is not in the DeConcini amendment. It was stuck in the leadership amendment or, prior to that, in the memorandum between the President and the dictator. That was that, in our intervention to protect the canal, we would not intervene with the internal affairs of Panama; we would not interfere with their territorial integrity; and we would do nothing to upset the independence of Panama. Those three things were stuck in the leadership amendment, but not the DeConcini amendment.

There, Mr. President, I believe we have the core of the dispute and the difference of opinion and Torrijos' protest because, as long as we just had the leadership amendment, it was so defective and so full of ambiguities and so full of qaulifications that it held no fear or pause for Dictator Torrijos.

But the DeConcini amendment does not have these provisions that the dictator got inserted in the memorandum and that were carried over into the leadership amendment. I believe that is what is eating on them. This does give the United States the unilateral right to keep the canal open.

Mr. President, what sort of respect is that, talking about not according proper respect to Panamanians? I submit that those of us who have sought to improve these treaties and strengthen them or, in the alternative, to kill them, have shown greater respect for the people of Panama and less respect for the dictator than have the supporters of these treaties. Because we have sought, and I say that today, I was going to offer an amendment requiring this treaty to go back to the Panamanian people, showing that I have confidence in their good judgment. All through action on both of these treaties, if any amendment was offered, they would say, "Oh, we cannot vote for that; it might cause another plebiscite."

Does that show respect for the people of Panama, wanting to follow their will, their wishes, or show respect for Dictator Torrijos in wanting to follow his wishes?

This $100 million a year that Torrijos is going to get out of this treaty is what is going to keep him afloat. That is what is going to keep his dictatorial regime afloat. I would not be at all surprised, if we were to tailor this treaty to suit the best interests of the people of the United States and require a plebiscite, not only would the treaty be disapproved by the Panamanian people, but Mr. Torrijos would get his walking papers.

I think that would be a fine day for Panama if democracy should return to that fine republic, consisting of some fine American—and I say that in the broad sense—American people. I respect the great people of Panama and I want them to have a part in deciding this controversy. If we have overstepped our bounds when we have, by recommendation of the leadership, agreed to the DeConcini amendment, let us let the people of Panama say whether we have or not. Let us give them a voice in this issue and, at the proper time, I hope that the Senate will agree to this amendment sending this treaty back to Panama.

I yield to the Senator from Utah.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. ALLEN. I had planned to yield to the distinguished Senator from Utah, but inasmuch as my distinguished friend, the distinguished majority leader, wishes me to yield, I yield to him.

Mr. ROBERT C. BYRD. I have been listening to the debate. I ask the Senator, is the DeConcini amendment back before the Senate at this time?

Mr. ALLEN. It has been injected into the discussion in this fashion. The distinguished majority leader must not have been listening at the time the distinguished Senator from Idaho was speaking, when he said that something is going to have to be done to indicate a different meaning to the DeConcini amendment; that he did not know how it was going to be done, but that it would have to be done. That is how the issue came into the debate at this time.

I state to the distinguished Senator from Alaska, who has been supporting the treaties up to now—I do not know what his position might be now, but he stated that we went too far in agreeing to the DeConcini amendment; that he does not believe, if I correctly heard him, that it can be cured by an amendment to this treaty, inasmuch as the door has been closed on the other treaty and no legislative history can affect what has already taken place.

Mr. ROBERT C. BYRD. May I ask the Senator a further question?

Mr. ALLEN. Certainly.

Mr. ROBERT C. BYRD. An amendment by Mr. HATCH is pending, is that correct?

Mr. ALLEN. That is correct. But when I come into the Chamber, the distinguished Senator from Idaho was speaking of legislative history with respect to the DeConcini amendment. That is how it came in at this late hour of the day.

Mr. ROBERT C. BYRD. Very well. I wonder if we could reach an agreement to vote on the pending Hatch amendment, say at 5:45 p.m. today?

Mr. ALLEN. I would have no objection, except the distinguished Senator from Washington (Mr. MAGNUSON) asked the Senator from Alabama if there was going to be a vote and I stated, "Not as far I am concerned."

The motion might be made to table.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. To table the amendment, and that I would not anticipate that there would be a vote.

I had not thought there would.

I would have no objection to agreeing to vote the first thing in the morning, but I do have my word out to the distinguished Senator from Washington.

Mr. ROBERT C. BYRD. I would be glad to get in touch with the distinguished Senator from Washington.

Mr. ALLEN. I would have no objection.

Mr. ROBERT C. BYRD. I wonder if we could agree to vote, say, at no later than 6 o'clock p.m.?

Mr. HATCH. Will the Senator yield?

Mr. GRAVEL. I would have an objection.

Mr. ROBERT C. BYRD. He would have an objection.

Mr. GRAVEL. I certainly would. I have been very patient. I waited around part of the afternoon. I would like to express myself on this, and I do not want to have it interrupted by a vote because we have had the opponents cackling here for the last hour over difficulty that we may have on our side, and I think there should be an explanation.

Mr. ROBERT C. BYRD. I really am not aware of any difficulties. I heard all day long that these crocodile tears have been shed. The carpet is wet where I stand. Everywhere I see the carpet is wet. There have been so many tears about all the difficulties that have arisen—and I know of none, really—but I would defer if the Senator is not in the mood to vote. How about 6:30?

Mr. GRAVEL. I would have not objection if I could get the floor and be recognized and make my expression of views.

I have been very patient, and I am prepared to, if it takes all night.

But I think there is another side that should be presented, and I have intended to present that other side before voting on any specific amendment.

Mr. ALLEN. I have no objection, I might say to the distinguished majority leader, I think, on a vote first thing in the morning, and I have no objection to a vote if we could get the approval of the distinguished Senator from Washington, to whom I am committed not to allow it to come to a vote, unless a motion to table——

Mr. ROBERT C. BYRD. Yes.

Well, Mr. MAGNUSON is still here. I am sure we would have no trouble with Mr. MAGNUSON.

What does the Senator from Utah say?

Mr. HATCH. We brought it up around noon today. I spoke for about half an hour and we have not had any chance to debate it.

I understand there are other Senators who want to speak. I, again, need to speak to it. Senator SARBANES has indicated he needs to speak shortly on this amendment.

Mr. SARBANES. Very shortly, I assure the Senator.

Mr. HATCH. Well, I might add, there have been some Senators come up to me who have noticed how long this debate has taken today and have asked we vote tomorrow morning.

I really think we will need some time. I think we could finish the debate tonight. But I would recommend, if it is possible, because of some of the Senators who felt this was going on and on, that we vote tomorrow morning the first thing.

I would be more than happy to do that, and finish up whatever debate there is on this this evening, if both sides may be heard, and then vote the first thing tomorrow.

Mr. ROBERT C. BYRD. All right.

May I ask the Chair, on what article are we at this point, just for the record?

The PRESIDING OFFICER. The Senate is debating article III.

Mr. ROBERT C. BYRD. And there are how many articles, 14?

The PRESIDING OFFICER. Fourteen articles.

Mr. ROBERT C. BYRD. One annex, 1 minute, and we have 3 days left to debate the treaty.

The PRESIDING OFFICER. The majority leader is substantially correct.

Mr. ROBERT C. BYRD. I just want to express concern on the part of Senators who may have amendments to various articles that we do not run out of time without their having time to offer their amendments.

Several Senators addressed the Chair.

Mr. HATCH. I would be happy to set mine aside while others are brought up today and have back-to-back votes tomorrow, if that would make the majority leader happy.

Mr. ROBERT C. BYRD. Does the Senator have another amendment?

Mr. HATCH. I have another amendment, but not to this article.

Mr. ROBERT C. BYRD. I see no need to set it aside and bring up another.

Mr. HATCH. It has been set aside all day.

Mr. ROBERT C. BYRD. If we can get a vote on another amendment today, that would be agreeable.

I do not have the floor, but the Senator from North Carolina——

Mr. HELMS. Will the Senator yield for an inquiry?

Mr. ALLEN. Yes.

Mr. HELMS. I thank the Senator from Alabama.

Mr. ALLEN. Provided I do not lose my right to the floor.

Mr. HELMS. Mr. President, with that understanding, I will say to the majority leader, that I have three amendments.

I would be perfectly willing to enter into a time agreement on, say, two of them this evening, and not have a vote on either of them and carry the votes over to tomorrow. That will get two of my several amendments out of the way.

Mr. ROBERT C. BYRD. Are they to this article?

Mr. HELMS. No, they are to the next article, but I want to do anything I can to expedite matters. But, to answer the Senator's question my amendments are addressed to the next article.

Mr. ROBERT C. BYRD. They are. Very well. We will talk about the Senator's amendments and possibly be able to reach an agreement before the Senate goes out.

Mr. HELMS. I merely want to help, if I can, with what may develop into a time problem later this week.

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. I agree with the majority leader. The clock is running and as the Senator has indicated we need to get on with it.

Mr. ROBERT C. BYRD. I thank the Senator.

I thank the Senator from Alabama for such time as he yielded.

Mr. ALLEN. I thank the distinguished majority leader.

As I understand, we have gotten nowhere with respect to setting a time for a vote, is that correct?

Mr. ROBERT C. BYRD. I believe the distinguished Senator from Alaska has indicated he wishes to address some remarks to the pending amendment.

Mr. GRAVEL. Not to the pending amendment, but to the subject raised, which has really occupied our time for most of the afternoon. The amendment is of no concern to me.

Mr. ROBERT C. BYRD. Let me ask once more, is it possible to get a vote in relation to the pending amendment by, say, 6:30 p.m. today, or by 7, no later than 7?

Mr. GRAVEL. I would have no objection if I could get the floor.

Mr. ALLEN. May I make this inquiry, inasmuch as the debate in which the Senator wishes to participate really has nothing to do with the pending amendment, could we vote on the pending amendment and then allow the Senator from Alabama to resume his discussion? Then we would suit everybody. We would have a vote and we would still have our debate.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I hope the Senator from Alaska——

Mr. GRAVEL. If we vote right now, and then if the Senator would continue as long as he feels necessary, as long as it is not past midnight——

Mr. ALLEN. Twenty or twenty-five minutes.

But if we can vote now, let me resume the floor for a limited time, it will not be long, and then the distinguished Senator from Alaska could be——

Mr. GRAVEL. Might I ask my colleague, since he has occupied the floor for a 20-minute period with the opponents of the treaty, might he not give me the courtesy to have 15 minutes after the vote and then he could retort, so we could really have a dialog?

We have been listening to the cackle, and I do not mind that, but I think we might have a little give and take.

Mr. ALLEN. I say to the Senator from Alaska, there was no cackling, as far as I am concerned, but possibly a few smiles.

Mr. GRAVEL. I think he is entitled to it. I think anybody that throws gasoline on a fire and then laughs over people having difficulty putting out the fire——

Mr. ALLEN. I do not yield any further to the Senator.

Mr. ROBERT C. BYRD. If the Senator

will yield to me, I believe I see the possibility here of our voting in relation to the Hatch amendment.

I ask unanimous consent that a vote occur in relation to the Hatch amendment at 6 o'clock p.m., with the time to be equally divided between now and 6 o'clock between Mr. HATCH or his designee and Mr. CHURCH or his designee.

Mr. GRAVEL. Reserving the right to object, and I shall object, I think we are on a much more meaningful subject than the Hatch amendment. I do not think we should let go of it. It is really going to determine what the future will be with these treaties, so we could go ahead and have our amendments—I am explaining my reservation—if the Senator from Alabama has a filibuster going on and wants to go on, I am prepared to sit here and listen all night and after he is done I will take my turn in expressing my views.

So I do not think we should interrupt the Senator from Alabama if he wants——

Mr. SARBANES. Will the Senator from Alabama yield for a question?

Mr. ALLEN. Yes.

Mr. SARBANES. Do I correctly understand that the suggestion of the Senator from Alabama was that we take a short but reasonable period of time to make closing remarks, as it were, on the Hatch amendment, and vote; that then the Senator from Alabama thought the debate could be resumed, and I take it that it could be worked out between him and the Senator from Alaska on how there can be an exchange? Was that essentially the Senator's suggestion?

Mr. ALLEN. Yes. I stated that I would not occupy the floor longer than an additional 25 minutes—in that range. I am not trying to prolong the matter.

I really think the distinguished Senator from Alaska should not have stated that the Senator from Alabama had a filibuster going, because he does not have. I am only trying to answer what the distinguished Senator from Idaho (Mr. CHURCH) had to say by way of supposed legislative history and about seeking to undercut the meaning of the DeConcini amendment.

Mr. ROBERT C. BYRD. Mr. President, I talked with the distinguished Senator from Alaska, and I believe that I detect the possibility that we could vote in relation to the Hatch amendment within 10 minutes, so we can limit the debate on the Hatch amendment, 5 minutes to a side; and after that amendment is disposed of, we can carry on with the debate of the Senator from Alabama and the Senator from Alaska, both holding forth.

Mr. ALLEN. Provided the Senator from Alabama has the floor. Provided he is recognized immediately after the vote on the Hatch amendment.

Mr. ROBERT C. BYRD. The Senator from Alabama has indicated that he would not like to hold the floor for very long.

Mr. ALLEN. I said I thought I would conclude my remarks in the range of 25 minutes, give or take 5 minutes.

Mr. GRAVEL. Is that a unanimous consent request the leadership is propounding?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. Reserving the right to object, and I shall not object—

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. GRAVEL. Because I think we should go forward with this, and I will be happy to sit here for 25 or 50 minutes or 2 hours and listen to the Senator from Alabama propound it.

Where I did get a little uptight—and I apologize to the leadership for that—was when Senator SARBANES wanted to address an inquiry to the Senator from Alabama, and the latter would not entertain it. But then he proceeded to entertain it from Senator GOLDWATER, Senator HATCH, and Senator HELMS. I do not mind that, either. He is entitled to do that. But I think if we want to give the color of fairness, we should be precise in how we do this, and not just spill the bucket and think we are fair.

Mr. ALLEN. I yielded twice.

Mr. GRAVEL. I withdraw any objection.

Mr. HELMS. Mr. President, reserving the right to object—and I hate to add to the Senator's difficulty—I have a problem with reference to the distinguished Senator from Virginia, who is on his way to Richmond.

Mr. ROBERT C. BYRD. I will give him a live pair. We will have one Byrd against the other—two Byrds with one vote.

[Laughter.]

That will beach my perfect voting record, but I am willing to do it.

Mr. HELMS. Of course, that would be quite satisfactory to the Senator from North Carolina, but I do not know whether it will be satisfactory to the Senator from Virginia. What is the difficulty in carrying the vote over until tomorrow?

Mr. ROBERT C. BYRD. No difficulty.

Mr. HATCH. Especially since I am willing to set aside this amendment and go ahead with other amendments.

Mr. ROBERT C. BYRD. We can call up another amendment.

Mr. HATCH. I do care a great deal for the distinguished Senator from Virginia.

Mr. ROBERT C. BYRD. I wonder whether I might check with the office of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and see if it would be agreeable to him for me to give him a live pair.

Mr. HELMS. If it is agreeable with his office, of course it would be agreeable to me.

Mr. ROBERT C. BYRD. Let us get the agreement, conditioned on that.

Mr. ALLEN. I call to the attention of the distinguished majority leader the fact that he said he would make it agreeable to the distinguished Senator from Washington (Mr. MAGNUSON). On that condition, I would agree.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ALLEN. I yield the floor, under the unanimous-consent agreement. As I understand, debate is now to be confined to the Hatch amendment, and there will be a vote. I yield the floor, on that condition.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, with respect to the deferral of the Hatch amendment, it has been very interesting to hear the colloquies which have taken place as a result of the incidents over the weekend.

Some of us have pointed out some of the difficulties the proponents have been having, it seems to me, in trying to foist the responsibility for these language and interpretation and disparity difficulties with the treaties upon the opponents of the treaties, indicating that the opponents have made statements deprecatory to the Panamanians and perhaps have not conducted themselves with respect for Panama, which of course is not the case.

The fact is that we have shown great deference to the people of Panama and will continue to do so, because we think a great deal of the people. The only instance I know of in which there has been any harsh language was an instance in which it was totally justified, on the basis of bringing out the drug connections with Mr. Torrijos' two brothers and others in Panama. I believe it is justified to speak about those types of incidents in Panama as being deleterious not only to this country but also to Panama.

I yield to the distinguished Senator from North Carolina, who will speak with regard to my amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. ROBERT C. BYRD. Mr. President, the office of Senator HARRY F. BYRD, JR., has informed me that it will be perfectly agreeable to the Senator for me to announce a pair with him.

Mr. HATCH. What is our agreement for today? We are going to continue until what time?

Mr. ROBERT C. BYRD. We have 10 minutes, equally divided.

Mr. HATCH. Shall we start right now with the 10 minutes?

Mr. ROBERT C. BYRD. The agreement was that we start a moment ago, but it is all right with me to start now.

Mr. HATCH. I yield to the distinguished Senator from North Carolina.

Mr. ROBERT C. BYRD. Mr. President, I ask that the 10 minutes begin to run now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the distinguished majority leader for clearing up that dilemma concerning the distinguished Senator from Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from North Carolina.

Mr. HELMS. Mr. President, the amendment offered by Senator HATCH is needed to insure that the Republic of Panama understands and accepts the fact that payments made to it out of Panama Canal revenues must and will be made subject to the constitutionally required appropriations process of the U.S. Congress.

Every U.S. Senator knows the provision of article 1, section 9 of the Constitution:

No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.

The Hatch amendment sets up a clear process by which this time-honored guideline of our Founding Fathers shall be dutifully adhered to, rather than bypassed.

Article III of the Panama Canal Treaty includes this language:

5. The Panama Canal Commission shall reimburse the Republic of Panama for the cost incurred by the Republic of Panama in providing the following public services . . .

And so forth.

Article XIII has this language:

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

And then it goes on with the financial arrangements we are all familiar with.

The implementing legislation submitted by the State Department contains this language:

The Panama Canal Commission shall pay directly from Canal operating revenues to the Republic of Panama those payments required under paragraph 4 of article XIII of the Panama Canal Treaty of 1977.

The point is this, Mr. President: The Panama Canal Treaty will remain an imperfect treaty, and in my opinion, inoperative, without the exercise by Congress of the appropriations power in the matter of transferring funds to Panama in connection with the matters dealt with in the treaty and implementing legislation.

Department of State witnesses have acknowledged before various congressional committees that payments to Panama are subject to legislation.

The Senator from North Carolina fears, however, that the State Department may hold to the position that mere passage of the implementing legislation will be sufficient.

As I have just quoted it, that legislation states the Panama Canal Commission will make direct payments to the Republic of Panama.

However, there is nothing in the treaties or the implementing legislation as proposed that indicates any necessity for scrutiny and authorization of such transfers of moneys specifically under the appropriations process of the U.S. Congress.

Mr. President, legislation cannot and does not amend the Constitution. Passage of the legislation implementing these treaties will not amend the Constitution to make unnecessary the appropriations process called for by our Constitution.

So the pending amendment of the distinguished Senator from Utah will clarify this important matter. It not only will clarify the issue; it will establish the very procedures by which the transfers of moneys shall be made in full conformity with our constitutional requirements.

And, as I have indicated at the beginning of my remarks, it will establish a clear understanding between the two Republics as to the basis and the processes on which and by which those transfers of moneys shall be made.

Mr. President, the Senator from North Carolina will not take any more time at this point to expand on his view. Let me just repeat, Senators all know the Constitution.

For an exhaustive treatment of that issue which the Hatch amendment addresses I want to call to the attention of the Senate an excellent paper compiled by W. M. Whitman, former Secretary of the Panama Canal Company, and now a consultant to the Merchant Marine and Fisheries Committee of the House of Representatives.

Mr. Whitman's paper dated November 1977, is entitled, "Panama Canal Treaty Payments and the Constitutional Power of Congress to Make Appropriations".

Mr. President, I want to pay tribute to Mr. Whitman for his diligence in the preparation of works such as this paper which have rendered great assistance to both Houses of Congress. The action of the Senate in pursuing various aspects of the treaties has been greatly aided by the background information and insights provided by Mr. Whitman.

Mr. President, I ask unanimous consent that this paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY PAYMENTS AND THE CONSTITUTIONAL POWER OF CONGRESS TO MAKE APPROPRIATIONS

I. INTRODUCTION

A. Question Presented

The question addressed in this memorandum is whether under Article I, section 9 of the Constitution, appropriations by the Congress are necessary to carry into effect the provisions of the proposed Panama Canal treaty for annual payments to Panama.

B. Summary

In summary, the memorandum concludes that under Article I, section 9 of the Constitution, provisions of a treaty for payment of money do not become effective as domestic law in the absence of appropriation of the necessary funds by the Congress. Under the treaties with Panama now in effect, which also provide for annual payments to Panama, revenues derived from operation of the canal are treated as public moneys and expenditures of those funds are limited to those authorized by appropriation acts of the Congress. There is nothing in the language of the proposed treaty to take the annual payments to Panama provided by the treaty out of the operation of the general rule or to distinguish such payments from those provided by the existing treaties so far as concerns the application of Article I, section 9 of the Constitution. Accordingly, such payments may not be made without Congressional appropriations in the consideration of which, in the language of a resolution adopted by the House of Representatives in 1795, the Congress has the obligation to act as, in their judgment, may be most conducive to the public good.

II. CONSTITUTIONAL PROVISIONS

The three constitutional provisions directly involved are Article I, section 9, clause 7, the power to make appropriations; Article II, section 2, clause 2, the treaty power; and Article VI, clause 2, the supremacy clause. The text of these several clauses is set out below:

Art. I, sec. 9, cl. 7:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . ."

Art. II, sec. 2, cl. 2:

"He [the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; . . ."

Art. IV, cl. 2:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the land; . . ."

It is settled that the power of the President, with the advice and consent of the Senate, to make treaties with foreign countries extends to all proper subjects of negotiation between the United States and other countries.[1] It is also clear that such treaties may extend to subjects that are also within the legislative power of the Congress, i.e., a treaty is not necessarily invalid because it deals with a subject on which Congress has the power to legislate.[2] A treaty does not affect the power of the Congress to enact legislation on the same subject. In the event of a conflict between the treaty and the law, the later in time prevails.[3]

Once made, a treaty operates in a dual role: in its international aspect, it is a contract between the United States and the country with which it is made giving rise to rights and obligations under international law; [4] and under the supremacy clause of the constitution, a treaty takes effect as domestic law unless, in terms, it is made dependent on further legislative action by the Congress,[5] or unless the provisions of the treaty are in conflict with other provisions of the constitution.[6]

Analysis of the effect of a treaty as domestic law is usually cast in terms of whether or not the treaty is self-executing, i.e., whether it takes effect as domestic law without further action by the Congress. The state of the law in this respect is summarized as follows by the American Law Institute: [7]

"(1) A treaty made on behalf of the United States in conformity with the constitutional limitations indicated in § 118, that manifests an intention that it shall become effective as domestic law of the United States at the time it becomes binding on the United States.

"(a) is self-executing in that it is effective as domestic law of the United States.

"(b) supersedes inconsistent provisions of earlier acts of Congress or of the law of the several states of the United States.

"(3) A treaty cannot be self-executing under the rule stated in subsection (1) and have the effect stated therein to the extent that it involves governmental action that under the Constitution can be taken only by the Congress."

The provisions of the proposed Panama Canal treaty for annual payments to Panama by the U.S. Government agency to be established to operate the canal, raise directly the question whether such provisions are self-executing in view of Article I, sec. 9, cl. 7 of the constitution limiting to the Congress to the power to make appropriations.

There appears to be no controversy whatever as to the constitutional validity of treaty provisions under which the United States undertakes to make payments of money.[8] The first treaty made by the Government of the United States after the adoption of the constitution, the Jay Treaty of

Footnotes at end of article.

1794 with Great Britain, provided for payment of debts owed by U.S. citizens or inhabitants to British creditors; [9] the treaties with France for the cession of Louisiana provided for payment to France of 60 million francs; [10] the Treaty of Paris, ending the Spanish-American War, provided for the payment of $20 million to Spain for the Philippine Islands; [11] the 1903 convention with Panama providing for construction and maintenance of the Panama Canal, provided for a lump sum payment to Panama of $10 million and annual payments of $250,000.[12] These examples could be duplicated many times over and in no instance has such a treaty provision been challenged as beyond the constitutional power of the President.[13]

If, as appears to be the case, Article I, sec. 9, cl. 7 of the constitution does not preclude the negotiation of a treaty providing for the payment of money by the United States, the conclusion is otherwise in respect to attempts to set up a procedure for transfer of funds in discharge of the treaty commitment without an appropriation by Congress.

After the ratification of the Jay treaty, the effect of the provisions of the treaty requiring expenditure of funds was debated at length in the House of Representatives. The debate did not involve the question whether the President could enter into a treaty requiring the expenditure of funds; the two questions at issue were (1) whether the House of Representatives was entitled to obtain copies of instructions given by the President to the negotiators, and (2) whether the Congress was required to appropriate the funds necessary to carry the treaty into effect, in view of the provision of Art. VI, clause 2 of the constitution declaring that treaties along with the constitution and laws made in pursuance thereof shall be the supreme law of the land.[14] President Washington rejected the demand of the House for copies of the instructions to negotiators,[15] but the House adopted a resolution introduced by Thomas Blount, vigorously supported by James Madison, providing as follows:

"When a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good." [16]

Congress thereafter enacted a law making the necessary appropriations.[17]

When difficulties arose in the execution of Art. VI of the Jay treaty, providing for payment by the United States of certain debts owing by U.S. debtors to British creditors, a second convention was negotiated and ratified providing for discharging the responsibility of the United States under Art. VI by payment of 600,000 pounds sterling in three equal annual installments.[18] On April 27, 1802, President Jefferson sent copies of the convention to the Congress with a brief message concluding as follows:

"I now transmit copies thereof to both Houses of Congress, trusting that, in the free exercise of the authority which the Constitution has given them on the subject of public expenditures they will deem it for the public interest to appropriate the sums necessary for carrying this convention into execution." [19]

The same principles were recognized and the same procedure was followed in reference to the three treaties with France for cession of Louisiana to the United States. In Article I of the second of the three treaties, the United States agreed "to pay to the French Government, in the manner specified in the following article, the sum of sixty millions of francs. . . ." Article II specified that payment to France would be effected by issuance of stock of $11,250,000 bearing interest at the rate of 6 percent, with a further provision for retirement of the principal in annual payments of $3 million, commencing 15 years after the date of the exchange of ratifications.[20] In his message to Congress on October 17, 1803, President Jefferson referred to the treaties with the statement that after ratification "they will without delay, be communicated to the Representatives for the exercise of their functions as to those conditions which are within the powers vested by the Constitution in the Congress." [21]

On October 21, 1803, the date of the ratification of the treaties, the President forwarded copies to the Senate and House of Representatives with a message which, after referring to his earlier message of October 17, in reference to the treaties, concluded:

"These, with the advice and consent of the Senate having now been ratified, . . . they are communicated to you for consideration in your legislative capacity. You will observe that some important conditions cannot be carried into execution, but with the aid of the Legislature, and that time presses a decision on them without delay." [22]

Adherence to the view that provisions of treaties for the payment of money by the United States are not self-executing, but that Congress is required to exercise independent judgment in considering appropriations for such payments, has not been confined to the House of Representatives.

During the debates in the Senate on entry by the United States into the League of Nations and related treaties negotiated at the end of World War I, a resolution was introduced to request the Judiciary Committee to advise the Senate as to whether there was any constitutional objection to one of the treaties providing for military assistance to France. In the course of a comprehensive review and analysis of the treaty making power, Senator Kellogg (who was later to become Secretary of State) referred to the exclusive power of the Congress to make appropriations as follows:

". . . it is well settled that while the treaty-making power can obligate the United States to the payment of the sums of money, it can not itself appropriate from the United States Treasury the amounts specified or compel the Congress to provide for their payment . . . Undoubtedly nations dealing with the treaty-making power are presumed to have knowledge of this limitation." [23]

The relationship of the supremacy clause and the constitutional power of Congress to make appropriations was considered in the federal circuit court at an early date in a case involving the effect of an 1836 treaty with an Indian tribe, which among other things, provided for payment of the net proceeds of the sale of 160 acres of land to the owner of the buildings on the land. In that case the court said:

"A treaty under the Federal Constitution is declared to be the Supreme law of the land. This, unquestionably, applies to all treaties, where the treaty-making power, without the aid of Congress, can carry it into effect. It is not, however, and cannot be the Supreme law of the land, where the concurrence of Congress is necessary to give it effect. Until this power is exercised, *as where the appropriation of money is required*, the treaty is not perfect. It is not operative, in the sense of the Constitution, as money cannot be appropriated by the treaty making power. This results from the limitations of our government. . . . As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law, as that a treaty which engages to pay money, is in itself a law. . . . It [the treaty-making power] cannot bind or control the legislative action in this respect, and every foreign government may be presumed to know that as far as the treaty stipulates to pay money, the legislative action is required.[24] (Emphasis supplied.)

The view that a treaty provision for the payment of money is not self-executing but requires an appropriation by the Congress is also reflected in the American Law Institute comment on section 141 of its restatement of foreign relations law, quoted above, which states:

"f. Constitutional limitation on self-executing treaties. Even though a treaty is cast in the form of a self-executing treaty, it does not become effective as domestic law in the United States upon becoming binding between the United States and the other party or parties, if it deals with a subject matter that by the Constitution is reserved exclusively to Congress. For example, only the Congress can appropriate money from the Treasury of the United States.[22]

"Ilustration:

8. The United States enters into a treaty with State A under which A agrees to cede a portion of its territory to the United States in return for payment of $7,200,000. Advice and consent to the ratification of the treaty is given by the Senate and it is ratified by the President. The ratification does not have the effect of appropriating the $7,200,000. Further action to this effect must be taken by both Houses of Congress.[25]

This view of the effect of Article I, section 9 has not been disputed by the Department of State in the hearings on the Panama Canal treaties signed in September 1977. In hearings on the treaties before a subcommittee of the Senate Judiciary Committee, the Legal Adviser of the Department of State conceded that Article 1, sec. 9, cl. 7 of the Constitution constitutes a limitation on the impose taxes nor directly appropriate funds." [26]

Similarly, at hearings on the treaty on September 29, 1977, Attorney General Griffin Bell advised the Senate Foreign Relations Committee that:

"It is generally assumed that the specific powers granted to the House of Representatives and the Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriation power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

In the light of the constitutional principles summarized above, it appears that the provisions of the proposed Panama Canal treaty for payments to Panama are not self-executing but require legislative action by the Congress unless there is some special element involved in the treaty provisions or in the nature of the canal operation that would serve to take the payments to Panama out of the operation of the constitutional rules that would otherwise apply. Review of the pertinent treaty provisions and of the legal and fiscal characteristics of the operation of the canal, either at present or under the proposed treaties, discloses no such distinguishing characteristics.

III. PANAMA CANAL TREATIES AND OPERATING STRUCTURE

A. 1903 Treaty

In 1902 an act of Congress, popularly known as the Spooner Act, authorized the President to acquire control of the land and other rights necessary for the construction and operation of a transisthmian canal and to proceed with the construction of such a canal when such rights were obtained.[27] After an abortive effort to obtain the necessary rights in a treaty with Colombia, and fol-

Footnotes at end of article.

lowing secession of Panama from the Republic of Colombia, the United States on November 18, 1903, entered into a treaty with the Republic of Panama providing for the acquisition by the United States of the rights specified in the Spooner Act and for the construction and operation by the United States of a transisthmian canal at Panama. Article XIV provides that:

"As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid. . . ."

B. 1936 Treaty

A treaty between the United States and the Republic of Panama signed March 2, 1936,[28] among other provisions, abrogated certain provisions of the 1903 treaty, and placed restrictions on residence, importations, and commercial activity in the Canal Zone.[29] Article VII of the 1936 treaty increased the amount of the annuity payable to the Republic of Panama under Article XIV of the 1903 treaty to four hundred thirty thousand Balboas (B/430,000) as defined in a separate monetary agreement, effected by an exchange of notes on the same date as the treaty. The treaty authorized payment of the annuity in any coin or currency provided the amount so paid was the equivalent of B/430,000 as defined in the monetary agreement.

C. 1955 Treaty

A third treaty between the United States and the Republic of Panama, signed January 25, 1955,[30] contained among other provisions, an article that increased the annuity to one million nine hundred thirty thousand Balboas (B/1,930,000) as defined by the agreement embodied in the exchange of notes of March 2, 1936, but authorized the United States to discharge its obligation with respect to payment of the annuity in any coin or currency provided the amount so paid is the equivalent of one million nine hundred thirty thousand Balboas (B/1,930,000) as so defined.[31]

D. Panama Canal Organizational Structure

Construction of the Panama Canal was accomplished by the Isthmian Canal Commission under the provisions of the Spooner Act, *supra*. As construction approached completion, Congress passed the Panama Canal Act of August 24, 1912,[32] providing for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone. The Act authorized the President to discontinue the Isthmian Canal Commission and to complete, govern and operate the Panama Canal through a Governor of the Panama Canal. The pertinent provisions of the Panama Canal Act were later incorporated in the Canal Zone Code, enacted in 1934.[33]

The adjuncts of the Panama Canal, referred to in the Panama Canal Act, were principally consolidated in the operations of the Panama Railroad Company, originally created in 1849 under the laws of the State of New York as a private corporation for the construction and operation of a railroad across the Isthmus of Panama. At the time of the construction of the Panama Canal all the stock of the Company was acquired by the United States and, after the canal was completed, the railroad conducted certain business operations supporting the maintenance and operation of the canal, including operation of a transisthmian railroad, a steamship line operating between the United States and the Canal Zone, docks, harbor terminals, coaling plants for bunkering ships, commissaries for supplying employees and ships, dry and cold storage plants, hotels, and the telephone system of the Canal Zone. The Supreme Court has characterized these operations as auxiliaries primarily designed and used to aid in the canal's management and operation,[34] and they have been similarly described by the Congressional Committees responsible for Panama Canal affairs.[35]

In 1945, the Government Corporation Control Act[36] designated the Panama Railroad Company as a wholly-owned government corporation and prohibited the existence of any such wholly-owned government corporations created under the laws of a state. Accordingly, in 1948, the Panama Railroad Company was reincorporated under a federal charter with authority to continue its operation in support of the maintenance and operation of the Panama Canal.[37]

Under legislation enacted in 1950, a basic change in the organizational structure of the enterprise became effective July 1, 1951.[38] One purpose of the reorganization was to separate the business operations of the canal enterprise, including operation of the waterway, from those functions associated with civil government of the Canal Zone. All the functions of the agency previously known as The Panama Canal, except those relating to civil government, health and sanitation were transferred to the Panama Railroad Company which was renamed the Panama Canal Company. The Panama Canal agency retained its governmental functions and was renamed the Canal Zone Government. A second purpose of the reorganization was to give the Panama Canal Company authority to prescribe the rates of tolls for use of the canal, subject to final approval by the President.[39] Previously, power to prescribe rates of tolls had been vested exclusively in the President since the enactment of the Panama Canal Act in 1912.[40]

The basic provisions of the 1950 reorganization legislation were subsequently incorporated into the 1962 edition of the Canal Zone Code.[40] Under the statutory scheme, the Panama Canal Company and the Canal Zone Government function as an integrated enterprise although each is an independent agency of the United States.[41]

The Panama Canal Company is described in the law as a body corporate and an agency of the United States for the purpose of maintaining and operating the Panama Canal and conducting business operations incident thereto and incident to the civil government of the Canal Zone.[42]

The powers of the Company are enumerated in its charter.[43] In general, the principal activities of the Company are (1) operations directly involved in the movement of ships through the canal and (2) supporting services. The latter include vessels repairs, harbor terminals, a railroad across the Isthmus, a supply ship operating between the United States and the Canal Zone, motor transportation facilities, storehouses, an electric power system, a communications system, a water system, and service activities essential for meeting the needs of employees, such as living quarters, commissaries and restaurants.

Under its charter the Company is required to be self-sustaining although appropriations are authorized to cover any operating losses,[44] or for the capital improvements.[45] Appropriations for operating losses are required to be repaid.

The Company is also required to reimburse the Treasury for interest on the net direct investment of the United States in the corporation at rates fixed annually by the Secretary of the Treasury,[46] for the annuity paid under the 1903 treaty as amended by the 1936 treaty, and for the net cost of operation of the agency known as the Canal Zone Government.[47]

The Board of Directors of the Company is required to review annually its working capital requirements together with foreseeable requirements for plant replacements and expansion and to pay any amounts in excess thereof into the Treasury.[48] Since 1950 the Company has paid $40 million into the Treasury for this purpose.

IV. FISCAL MANAGEMENT OF GOVERNMENT AGENCIES

Article III of the proposed Panama Canal treaty specifies that the U.S. Government agency to be established to operate the canal "shall be constituted by and in conformity with the laws of the United States." The laws of the United States governing the fiscal management of government agencies in general are incorporated in Title 31 of the U.S. Code.[49]

The Executive Departments and non-corporate federal agencies are subject generally to the provisions of title 31, except the provisions of the Government Corporation Control Act. Wholly owned government corporations are subject to the provisions of the Government Corporation Control Act and to many of the other provisions of title 31 as well.

The provisions of title 31 clearly delineate the fiscal responsibilities of government agencies generally and their dependence on appropriations to authorize the expenditure of funds. The Budget and Accounting Act, 1921, defines "department or establishment" to include "any executive department, independent commission, board, bureau, office, agency or other establishment of the Government," and the term "appropriations" to include funds and authorizations to create obligations by contract in advance of appropriations or "any other authority making funds available for obligation or expenditure."[50] All moneys received from whatever source for use of the United States are required to be paid into the Treasury.[51] Detailed provisions are made for submission of estimates for appropriations for expenditure by government agencies.[52] Expenditures in excess of appropriations are prohibited, and all appropriations or funds made available for obligation are required to be apportioned to avoid the necessity for deficiency or supplemental appropriations.[53]

Agencies of the government in corporate form, such as the agency now responsible for operation of the Panama Canal, are established pursuant to and operate in accordance with the Government Corporation Control Act, and other applicable provisions of title 31 of the United States Code. The Government Corporation Control Act requires a government agency subject to the Act to submit annually to the Congress, through the Office of Management and Budget and the President, a budget program which among other things must include a statement of financial condition and of income and expense, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operation of the corporation.[54] The Congress, after consideration of the budget program, is required to enact legislation "making necessary appropriations, as may be authorized by law, making available for expenditure for operating and administrative expenses such corporate funds or other financial resources, or limiting the use thereof as the Congress may determine and providing for repayment of capital funds and the payment of dividends."[55] The legislation making funds available for payment of expenses of the corporation is regularly incorporated in the annual appropriation acts enacted by the Congress.[56] Accounts of

Footnotes at end of article.

corporations are required to be kept with the Treasury, or with the approval of the Secretary of the Treasury, with a Federal Reserve Bank or a bank designated as a depository or fiscal agent of the United States.[57] Agencies in corporate as well as non-corporate form are subject to the provisions of the anti-deficiency act requiring apportionment of all appropriations or funds made available for obligation.[58]

V. PANAMA CANAL FUNDS AND PAYMENTS TO PANAMA UNDER PRESENT TREATIES

A. Panama Canal Funds

The basic framework for operation of the Panama Canal under the 1903 treaty was provided by section 5 of the Panama Canal Act referred to in Part III of this memorandum. Under that Act, the President was authorized to prescribe "tolls that shall be levied by the Government of the United States for the use of the Panama Canal" which were required to be fixed at rates sufficient to pay the estimated cost of the actual maintenance and operation of the canal.[59] Under the general laws of the United States applicable to the handling of funds of government agencies, tolls and other revenues were paid into the Treasury as miscellaneous receipts, and all disbursements were covered by direct appropriations.[60] Exceptions to the general rule, permitting expenditure of canal revenues before being covered into the Treasury were covered by appropriations made by the Congress.

Thus, section 6 of the Panama Canal Act authorized the President, through the Panama Railroad Company or otherwise, to operate dry docks, repair shops, yards, docks, wharves, warehouses, storehouses and other necessary facilities and appurtenances, "in accordance with appropriations hereby authorized to be made from time to time by Congress as part of the maintenance and operation of the Panama Canal. Moneys received from the conduct of said business may be expended and reinvested for such purposes without being covered into the Treasury of the United States, and such moneys are hereby appropriated for such purposes, but all deposits of such funds shall be subject to the provisions of existing law relating to the deposit of other public funds of the United States, and any net profit accruing from such business shall annually be covered into the Treasury of the United States."[61]

Similar provisions were included in the Sunday Civil Appropriations Act, 1917, which also "appropriated out of any money hereafter received as tolls, before such money is covered into the Treasury as miscellaneous receipts" amounts necessary to make refunds of tolls that were erroneously collected.[62]

After the Act of September 26, 1950, the agency previously known as The Panama Canal and renamed Canal Zone Government, continued to pay all revenues into the Treasury and receive direct appropriations to cover expenses of performance of its various duties in reference to the civil government of the Canal Zone.[63]

In the operation of the canal and related facilities, the Panama Canal Company is subject to the provisions of the Government Corporation Control Act.[64] As noted above, under that Act, funds of the Company, which must be deposited into accounts with the Treasury or depository banks approved by the Secretary of the Treasury,[65] are made available for expenditure by appropriations enacted annually by the Congress, after consideration of a detailed budget program submitted to Congress by the President in the Annual Budget of the United States.[66]

B. Payments to Panama

Funds for the lump sum payment to Panama of $10 million provided for in Article XIV of the 1903 treaty were appropriated by Congress by the Act of April 28, 1904.[67] An appropriation of $250,000 to enable the Secretary of State to make the first annual payment to Panama, due February 28, 1913, was made in a deficiency appropriation act for that year.[68] Funds for the annual payments to Panama under the applicable treaties were thereafter regularly included in appropriation acts for the Department of State until a permanent appropriation was enacted for making the annual payments in the amounts specified by the 1903 and 1936 treaties ($430,000).[69] In 1955 the appropriation was increased to $1,930,000 to cover the corresponding increase in the payments provided by Article I of the 1955 treaty,[70] and subsequent appropriation acts have adjusted the amount of the annual payment to reflect the effect of the relationship of the dollar to the price of gold.[71] The current amount of the annual payment ($2,328,000) is shown as one of three permanent appropriations in the Department of State budget for fiscal year 1978.[72]

When Congress provided in 1950 for operation of the canal by the government corporation previously known as the Panama Railroad Company and renamed the Panama Canal Company, the corporation was required to reimburse the Treasury for the amount of the annual payments to Panama under Article XIV of the 1903 treaty as modified by Article VII of the 1936 treaty, then totalling $430,000 a year.[73] When the 1955 treaty increased the amount of the annuity payment to Panama to $1,930,000, a Senate amendment of the bill to implement the treaty that would have required the corporation to reimburse the Treasury for the amount of the increase was deleted in conference.[74] The amount of the annual payment to Panama reimbursed to the Treasury is one of the costs of operation of the canal recovered from user charges under the tolls formula enacted by Congress,[75] but the payment by the corporation is to the Treasury, not to Panama, and the total amount of the annual payment to Panama is covered by appropriations budgeted by the Department of State.

VI. PROPOSED PANAMA CANAL TREATY

A. Operation of the Panal Canal—The Panama Canal Commission:

Insofar as concerns the question of the compatibility of the provisions of the proposed Panama Canal treaty with the provisions of the constitution limiting to the Congress the power to make appropriations, the pertinent provisions of the proposed treaty include the following:

Article I of the proposed treaty [76] grants to the United States for the duration of the treaty, "the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the canal." [77]

Under Article III of the treaty:

The United States "may" "establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment." [78]

The United States "shall, in accordance with the terms of this treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America." [79]

The Panama Canal Commission is to be supervised by a nine-member Board, the membership of which is to be comprised of five nationals of the United States and four nationals of Panama.[80]

The United States is to employ a national of the United States as Administrator of the Commission and a Panamanian national as Deputy Administrator through December, 1989. After that date the Administrator is to be a Panamanian and the Deputy Administrator a United States national.[81]

On the effective date of the treaty, "the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone." [82]

Other than to specify the name of the agency to be established to operate the canal, and to provide for Panamanian participation in the supervisory Board and appointment of a national of Panama, first as the Deputy Administrator and later as Administrator, the treaty leaves the form of the agency and the description of its powers entirely to the laws of the United States.

The laws of the United States governing the funding and fiscal obligations of government agencies generally are summarized in Part IV of this memorandum, and the application of those laws to the various agencies presently involved in the administration of the Panama Canal is described in Part V.

B. Payments to Panama

Article III of the treaty provides that "the Panama Canal Commission shall reimburse the Republic of Panama" in the amount of $10 million per annum for certain described services in canal operating areas and housing areas presently provided in the Canal Zone by the Panama Canal Company and Canal Zone Government. Provision is made for adjustment of the amount of the payment in three years for inflation and "other relevant factors affecting the cost of such services." [83]

Article XIII of the treaty provides that:

The United States of America transfers, without charge, to the Republic of Panama all right, title, and interest the United States of America may have with respect to all real property, including non-removable improvements in the present Canal Zone, on a time schedule set out in the Article.[84]

The Republic of Panama shall receive "from the Panama Canal Commission" a return on the national resources dedicated to the operation of the canal in the form of three categories of annual payments: [85]

a. "An annual amount to be paid out of Canal operating revenues" computed at the rate of 30¢ per Panama Canal net ton, or its equivalency, for each vessel transiting the canal after entry into force of the treaty for which tolls are charged;

b. A fixed annuity of $10 million to be paid "out of Canal operating revenues" and to "constitute a fixed expense of the Panama Canal Commission."

c. An additional annual amount of $10 million "to be paid out of Canal operating revenues" to the extent such revenues exceed expenditures with a provision for carry over of unpaid balances of this payment to future years.

C. Effect of Treaty Provisions for Payment to Panama

Nothing in the language of the proposed treaty serves to take the stipulated payments to Panama out of the accepted principle that a treaty providing for the payment of money is not self-executing but, under the Constitution, requires appropriations by the Congress. In the 1903 treaty, the United States agreed to pay to Panama a lump sum of $10 million and annual payments of $250,000. Appropriations were required and have been obtained for all such payments.

The prescription of the proposed new treaty that the payments to Panama are to be made by the Panama Canal Commission appears to be without significance in this context. The Commission is the agency of the United States that the treaty provides will be "constituted by and in conformity with the laws of the United States of

Footnotes at end of article.

America" by means of which "the United States of America shall, in accordance with the terms of this treaty and the provisions of United States law" carry out its responsibilities under the treaty. The responsibilities are clearly those of the United States as a party to the treaty and as principal of the agency to be established under United States law. Presumably it would not be seriously contended that the effect of the constitutional provision limiting to the Congress the power to make appropriations can be circumvented by the device of providing in the treaty that a payment without appropriations is to be made by a named government agency instead of by the United States.

The purpose of the addition in Article XIII of the treaty of the language that the payments provided in that article are to be made by the Commission "out of canal operating revenues" is not immediately apparent. The "canal operating revenues" referred to are presumably the "tolls for the use of the Panama Canal, and other charges" which the United States (not the Panama Canal Commission) is authorized to "Establish, modify, collect and retain" by Article III, section 2 (c) of the treaty. These revenues are the same in kind as those that have been derived by the United States from the Panama Canal since it was opened to commerce and which have been expended pursuant to appropriations by the Congress since that time.

It may be that the objective of the provision of the treaty for making the payments "out of canal operating revenues" was to identify such payments as part of the cost of operation for purposes of establishing rates of tolls. Such a construction necessarily assumes that revenues will be sufficient to cover both the payments to Panama and operating expenses other than such payments and leaves unanswered the obvious question of the results of a disparity between the amount of revenues and the total of such expenses—is such a deficiency to be absorbed by the United States Government by appropriations to cover losses, or by Panama through acceptance of less than the amount of the payments stipulated by the treaty? In either case, the provision for payment out of revenues does not appear to affect the constitutional requirement for appropriations to carry the provisions into effect.

The provision of section 4(c) of Article XIII for payment of $10 million "out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission" bears some resemblance to the present provision of law requiring the agency operating the canal to pay into the United States Treasury annually in reduction of the investment of the United States in the canal, such funds of the agency as are in excess of requirements for working capital and forseeable plant replacements and expansion.[87]

Viewed in that light the provisions of section 4(c) of Article XIII would substitute Panama for the United States as the beneficiary of funds in excess of those required for operating and capital expenses, and effectively precludes further reduction of the U.S. Government's investment in the canal. This, of course, would represent a substantial departure from one of the present laws governing operation of the canal; a matter left by the treaty to the discretion of Congress.[88] In any event, like the provision of Article XIII for annual payments based on the aggregate measurement tonnage of ships using the canal during the year, the qualification introduced by section 4(c) relates to the determination of the amount of the payment, not to the necessity for Congressional appropriations to authorize payment.

The provisions of Article XIII of the treaty for payments to Panama "out of Canal operating revenues" also invite comparison with the provisions of the various acts of Congress referred to above appropriating or making available for expenditure revenues of the Panama Canal without such revenues having been covered into the Treasury. Viewed in that light, the payment provisions would represent an attempt to provide permanent appropriations for the treaty payments, an objective clearly precluded by the constitutional limitation to the Congress of the power to make appropriations.

Finally, it is not considered that the provision of Article XIII section 4(a) for calculation of the payment to Panama to be made annually under that section affects the constitutional requirement that treaty provisions for payment of money be carried into effect by Congressional appropriations. That section provides for payment of an annual amount computed at the rate of $.30 per Panama Canal net ton, "or its equivalency" for each vessel transiting the canal for which tolls are charged. The rate of $.30 per Panama Canal net ton "or its equivalency" is to be adjusted periodically for changes in the wholesale price index.

The obvious difference between the payment provided in this section and the annual payments originally provided in the 1903 treaty and modified by the 1936 and 1955 treaties, is that the latter established a fixed sum while section 4(a) of the new treaty provides for a variable annual payment depending on the measurement tonnage of ships paying tolls for use of the canal. Apart from an inherent ambiguity as to the meaning and effect of the phrase "or its equivalency" as used in the section, the required computation is a straight-forward arithmetical calculation. The provision for adjustment of the rate per ton used in the calculation to reflect changes in the wholesale price index is new only in the standard applied for the adjustment; annual payments under the existing treaties are adjusted for fluctuations in the price of gold in relation to the dollar. In any event, there is no basis for concluding that the provisions of section 4(a) for calculation of the payment or adjustment of the rate used in the calculation obviate the necessity for appropriations as required for the payments under the existing treaties.

In an early opinion upholding the constitutional validity of a treaty providing for the issuance (but not the payment) of bonds to an Indian tribe, the Attorney General correctly stated the rule applicable to the payments provided by the proposed treaty as follows:

"According to Article I, section 9, of the Constitution, as construed by the practice of the Government, an Act of Congress is necessary to appropriate money to pay the public debt, however created. The change of the form of the debt from a general stipulation in the treaty to bonds with a particular provision does not take away that necessity." [89]

FOOTNOTES

[1] *Asakura* v. *City of Seattle,* 265 U.S. 332 (1924); See American Law Institute, Restatement, Second, Foreign Relations Law of the United States, (1965) §§ 117, 118.

[2] *United States* v. *The Schooner Peggy,* 1 Cranch 103 (1801); *Hizo* v. *United States,* 194 U.S. 315 (1904); *Cook* v. *United States,* 288 U.S. 102 (1933); *Bacardi* v. *Domenech,* 311 U.S. 150 (1940)

[3] *The Cherokee Tobacco,* 11 Wall. 616 (1870); *Head Money Cases,* 112 U.S. 580, 598 (1884); *Taylor* v. *Morton,* 23 Fed. Cas. 784 (CC Mass., 1885)

[4] *Foster* v. *Neilsen,* 2 *Pet.* 253 (1829); *Head Money Cases,* 112 U.S. 580 (1884)

[5] An example is Item I of the Memorandum of Understandings Reached attached to the 1955 Treaty with Panama for which the United States agreed that "Legislation will be sought" to authorize the U.S. Government agencies in the Canal Zone to conform their employment practices to certain stated principles.

[6] *Reid* v. *Covert,* 346 U.S. 1, at 17 (1957); *The Cherokee Tobacco,* 11 Wall. 616, 620 (1870)

[7] *Restatement, Second, Foreign Relations Law of the United States,* (1965) § 141

[8] See XIII Op. Atty. Gen. 354 (1870)

[9] 8 Stat. 116

[10] Malloy, *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States of America and Other Powers,* Vol. 1, p. 511

[11] 30 Stat. 1756

[12] 33 Stat. 2234

[13] See Crandall, *Treaties, Their Making and Enforcement,* 1966, pp. 178–182

[14] 5 Annuals of Congress, 4th Cong., 1st Sess., pp. 426–783

[15] Id., pp. 759–762

[16] Id., pp. 771–782

[17] 1 Stat. 459

[18] Convention for Payment of Indemnities and Settlement of Debts, concluded January 8, 1802; ratified April 27, 1802, proclaimed April 27, 1802. The text of the Convention appears in Malloy, *Treaties, etc.,* Vol. 1, p. 610.

[19] Debates and Proceedings, Seventh Cong., pp. 293, 294

[20] For the full text of the treaties see Malloy, *Treaties, etc.,* Vol. 1, p. 513.

[21] Annals, 8th Con., p. 11

[22] Id., pp. 17, 18

[23] 58 Cong. Rec., Pt. 4, p. 3680 at 3687.

[24] Turner v. American Baptist Missionary Union, Fed. Cas. No. 14251, CC Mich., (1852), 24 Fed. Cas. 345, 346.

[25] Restatement, Second, Foreign Relations Law of the United States, (1965), p. 435.

[26] Hearings, Subcommittee on Separation of Powers, Committee on the Judiciary, United States Senate, 95th Cong., 1st Sess., Panama Canal Treaty, Part 2, p. 4.

[27] 32 Stat. 481.

[28] 53 Stat. 1807.

[29] Article III; see C.Z. Code, Appendix IX, § 34.

[30] TIAS 3297.

[31] Article I.

[32] 37 Stat. 560.

[33] 48 Stat. 1122.

[34] New York ex rel. v. Rogers v. Graves, 299 U.S. 401, 406 (1937).

[35] H. Rept. No. 2396, 80th Cong., pp. 1–2; S. Rept. No. 17401, 80th Cong., pp. 1–2.

[36] 31 U.S.C. 841 et seq., 59 Stat. 597.

[37] 62 Stat. 1076.

[38] Act of September 26, 1950, 64 Stat. 1038.

[39] See H. Rept. 2935, 81st Cong., and H. Doc. 460, 81st Cong., for analysis of the objectives of the Act of September 26, 1950.

[40] See Panama Canal Act of August 14, 1912, 37 Stat. 560, and 2 C.Z. Code (1934 ed.) § 411.

[41] 76A Stat. 1, et seq.

[41] See 2 C.Z. Code § 62(g).

[42] 2 C.Z. Code § § 61–75, 121–123.

[43] 2 C.Z. Code § § 65–66.

[44] 2 C.Z. Code § 72.

[45] 2 C.Z. Code § 62.

[46] 2 C.Z. Code § 62(e).

[47] 2 C.Z. Code § 62(g).

[48] 2 C.Z. § 70.

[49] Pertinent provisions of title 31 include the following:

1. The Budget & Accounting Act of 1921 (31 U.S.C. §§ 1–64, 71, 471, 581, 581a).

2. Budget & Accounting Procedures Act of 1950 (31 U.S.C. §§ 2, 11, 14, 16, 18a–18c, 22–24, 65–67, 581–581c, 847).

3. Chapter 10. §§ 471–564, headed "The Public Moneys."

4. Chapter 11, §§ 581–752Z, headed "Appropriations."

5. The Government Corporation Control Act, §§ 841–871.

6. Chapter 22, §§ 1151–1176, headed "Fiscal Controls."

[59] 31 U.S.C. 2.
[51] 31 U.S.C. 484.
[52] 31 U.S.C. 581–752Z.
[53] 31 U.S.C. 665.
[54] 31 U.S.C. 847, 848.
[55] 31 U.S.C. 849.
[56] See, for example, P.L. 95–85, Department of Transportation and Related Agencies Appropriation Act, 1978, approved August 2, 1977.
[57] 31 U.S.C. 867.
[58] 31 U.S.C. 665.
[59] 37 Stat. 562.
[60] Annual Report of the Governor of the Panama Canal, Fiscal Year 1915, pp. 10 et seq., 41–47, 297, 298, 300.
[61] 37 Stat. 563. These provisions were reenacted as Chapter 4 of Title 2 of the Canal Zone Code (1934 ed.) comprising sections 51 and 52. In 1947, Chapter 4 was expanded into four sections, 51–54, retaining the provisions for appropriations and covering net profits into the Treasury. 63 Stat. 601. The sections were repealed by the Act of September 26, 1950, 64 Stat. 1049, when the canal and related supporting facilities were transferred to the Panama Canal Company for operation under the provisions of the Government Corporation Control Act.
[62] Act of June 12, 1917, 40 Stat. 179.
[63] See Annual Report, Canal Zone Government, Fiscal Year 1976, p. 135; the functions of the Canal Zone Government in relation to the operation of the canal under the 1950 legislation are summarized in Part III of this memorandum.
[64] 31 U.S.C. 846; 2 C.Z. Code 66; Act June 29, 1948 (62 Stat. 1076).
[65] 31 U.S.C. 867. The provisions of the Government Corporation Control Act are summarized in Part IV of this memorandum.
[66] See, for example, Department of Transportation and Related Agencies Appropriation Act, 1978, 91 Stat. 402 at 414.
[67] 33 Stat. 420.
[68] Act March 4, 1913, 37 Stat. 913.
[69] Department of State Appropriation Act, 1954, 67 Stat. 368. See S. Docs. 83d Cong., 1st Sess., Vol. 7, p. 180.
[70] Supplemental Appropriation Act, 1956, 69 Stat. 464.
[71] The "permanent" appropriation for annual payments to Panama was increased to $2,095,405 by the Supplemental Appropriation Act, 1973, 86 Stat. 1498; and to $2,328,000 by the Department of State Appropriation Act, 1974, 87 Stat. 640.
[72] Hearings, Subcommittee of Committee on Appropriations, House of Representatives, 95th Cong., 1st Sess., Department of State, Justice, Commerce, Judiciary, and Related Agencies Appropriation Act for 1978, Part 2, p. 40.
[73] Act Sept. 26, 1950, § 7, 64 Stat. 1041; 2 C.Z. Code 62(g). The dollar amount reimbursed to the Treasury adjusted for devaluation of the dollar is currently $519,000. Hearings, Subcommittee of Committee on Appropriations, House of Representatives, 95th Cong., 1st Sess., Department of Transportation & Related Agencies Appropriations for 1978 Part 1, p. 686.
[74] H. Rept. No. 1196, 85th Cong., 1st Sess., to accompany H.R. 6709.
[75] Act September 26, 1950, § 12, 64 Stat. 1022; 2 C.Z. Code 412.
[76] Sen. Exec. N, 95th Cong., 1st Sess.
[77] Art. 1, sec. 2.
[78] Sec. 2(d).
[79] Sec. 3. An illustrative description of the activities to be performed by the Commission, attached in an Annex, is referred to in section 4 of Article III. The Annex is published in Selected Documents, No. 6B, Department of State Publication 8914, Documents Associated with the Panama Canal Treaties, p. 1.
[80] Sec. 3(a).
[81] Sec. 3(c).
[82] Sec. 10.
[83] Sec. 5.
[84] Sec. 2.
[85] Sec. 4. At current levels of traffic, the payment for passenger and cargo vessels paying tolls on the basis of Panama Canal net tonnage, would be approximately $43 million. The section provides for adjustment of the 30 cents rate in future years to reflect changes in the wholesale price index.
[86] Article III sec. 3.
[87] Act of June 29, 1948, § 2, 62 Stat. 1076, now incorporated in 2 C.Z. Code § 70.
[88] Presumably, legislation enacted by the Congress to constitute the Panama Canal Commission would establish fiscal requirements to be met by the Commission as has been done for the present operating agency by the Act of June 29, 1948 (62 Stat. 1076) as amended by the Act of September 26, 1950 (64 Stat. 1041).
[89] XIII Op. Atty. Gen. 354 at 360 (1870).

Mr. HELMS. I thank the able Senator from Utah for yielding to me.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Utah has 1 minute; the Senator from Maryland has 5 minutes.

Mr. SARBANES. I thank the Chair.

Mr. President, the other day we considered an amendment which proposed to include in the text of the treaty a subject which could be handled by statute here in Congress, because it dealt with a matter entirely within our jurisdiction. I rose to oppose that amendment, because I take the view that on those matters where we retain jurisdiction and can change by statute we should not place such matters into a treaty with another country. To do so would mean that we could only change the provisions concerning the matter by treaty change when, in fact, it is a matter that is within our jurisdiction and with which we can deal by statute.

The subject matter of the amendment offered by the distinguished Senator from Utah is exactly such a subject matter. As I indicated the other day, it is my intention to take this approach toward amendments which may be offered which seek to take a subject matter, over which we can exercise control by statute, and to place it in a treaty we are making with another country.

Why should we do that if we are really concerned about maintaining the maximum amount of control in our own hands? Why should we lose the control we have, through the use of statute, over a particular subject matter by placing the subject matter in a treaty? As long as we retain statutory control, we can do it in a particular way that serves our purposes and if we evolve a different way for doing it, we can change the manner of doing it. We can add a requirement from time to time. We can eliminate a requirement from time to time.

When we have that kind of control, why should we take the subject matter, put it into a treaty with another nation, and thereby give that other nation some degree of control over a matter that is otherwise completely within our own discretion?

I submit that that approach defies logic, defies commonsense and most important of all runs counter to what is in our best interests.

I am not contending that the substance of the suggested amendment as to how to handle the matter may not in fact be the best way to do it. The point I am making is that it is a subject matter that we can deal with by legislation. Given that this is the case we ought not to take the subject matter and make it part of the treaty. This would mean that if we want to change how we deal with the subject we can only accomplish that change by an amendment to the treaty which, of course, then involves another nation. We have a subject matter here that does not have to be included in the treaty and therefore we do not have to bind ourselves to deal with it by treaty. It is open to us, to Congress, to the United States, to make its own determinations as to how this subject matter should be dealt with.

Given that this is the case, it seems to me prudent and sensible to maintain in our own hands the maximum amount of discretion and control over this subject matter. The way to do that is not to place it into the treaty which then means that the other nation with whom we have the treaty would thereafter be involved in determining how that subject matter should be dealt with.

Not only is that not necessary here, but in fact to include it in the treaty is to place limitations upon our own power to deal with this subject matter. We may well want to deal with it in the way that the Senator from Utah has suggested in the amendment. But we may want to deal with it that way over a period of time and at some future time as different procedures or concepts evolve we may want to change how we deal with it. As long as we do not lock it into the treaty, we have the power, the control, and the discretion to make such changes.

If you take a subject matter that is entirely within our own purview and put it into the treaty, then you needlessly and unwisely give another nation a role to play, and I just do not think we should do that. I do not think we need to do that. We do not need to lose something in terms of our own control and jurisdiction over the subject matter. For that reason I oppose the amendment of the Senator from Utah.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired. The Senator from Utah has 1 minute.

Mr. HATCH. Mr. President, that is the very reason we would like to have it dealt with in the treaty because we would like to deal with it legislatively, but the implementing legislation indicates that it is not going to do that. If the subject can be dealt with by legislation, why is it that the implementing legislation clearly indicates that the substance of my amendment will not be followed? Therefore, we want the Constitution to be abided by. The best way to do it is by this amendment. It does not hurt the Panamanians in any way, and it corrects an obvious defect in the treaties and in the implementing legislation.

So I recommend that my colleagues vote for this amendment, because it is a worthwhile amendment and one worthy of their consideration.

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. SARBANES. Mr. President, I move to table the amendment of the Senator from Utah and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Utah.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the affirmative). Mr. President, on this vote I have a live pair with the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). If he were present and voting he would vote "nay." I have already voted "yea." I, therefore, withdraw my vote.

Mr. BAKER (after having voted in the affirmative). Mr. President, on this vote I have a live pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting he would vote "nay." I have voted "yea." I, therefore, withdraw my vote.

Mr. FORD (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from South Carolina (Mr. HOLLINGS). If he were here and voting he would vote "yea." I have voted "nay." I, therefore, withdraw my vote.

(Mr. MATSUNAGA assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. ANDERSON) is paired with the Senator from Arizona (Mr. DECONCINI). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from New York (Mr. JAVITS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The result was announced—yeas 54, nays 29, as follows:

[Roll Call Vote No. 87 Exec.]

YEAS—54

Bayh	Biden	Chiles
Bellmon	Bumpers	Church
Bentsen	Case	Clark
Cranston	Humphrey	Packwood
Culver	Inouye	Pearson
Durkin	Jackson	Pell
Glenn	Kennedy	Percy
Gravel	Leahy	Proxmire
Hart	Long	Ribicoff
Haskell	Magnuson	Riegle
Hatfield, Mark O.	Mathias	Sarbanes
	Matsunaga	Sparkman
Hatfield, Paul G.	Melcher	Stafford
	Metzenbaum	Stevenson
Hathaway	Morgan	Stone
Hayakawa	Moynihan	Weicker
Heinz	Muskie	Williams
Hodges	Nelson	Zorinsky
Huddleston	Nunn	

NAYS—29

Allen	Hansen	Schmitt
Brooke	Hatch	Schweiker
Burdick	Helms	Scott
Cannon	Johnston	Stennis
Dole	Laxalt	Stevens
Domenici	Lugar	Talmadge
Eastland	McClure	Tower
Garn	Randolph	Wallop
Goldwater	Roth	Young
Griffin	Sasser	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Robert C. Byrd, for.
Baker, for.
Ford, against.

NOT VOTING—14

Abourezk	Chafee	Hollings
Anderson	Curtis	Javits
Bartlett	Danforth	McGovern
Byrd, Harry F., Jr.	DeConcini	McIntyre
	Eagleton	Thurmond

So the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senator from Alabama is to be recognized. Will the Senator yield to me?

Mr. ALLEN. Yes, I will.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized.

Mr. ROBERT C. BYRD. Mr. President, may I inquire of the distinguished Senator from Alabama, the distinguished Senator from North Carolina, and the distinguished Senator from Nevada as to whether or not there are any further amendments to article III? I do not believe there are. If that is the case, we could move on to article IV, Mr. HELMS could lay down an amendment tonight to article IV, and we can get an agreement on it, I believe—if Mr. SARBANES is agreeable, Mr. HELMS is—to allow 1 hour on that amendment, to be equally divided, the time to begin tomorrow.

Mr. LAXALT. Mr. President, apparently all proposed amendments to article III of the treaty have not been disposed of. The Senator from Nevada (Mr. CANNON) indicated earlier that he might want to process his amendment this evening, but he has left the Chamber. If we could have moment to contact his office and verify that——

The PRESIDING OFFICER. The Senate will be in order. The Chair is unable to hear what Senators are saying.

Mr. ROBERT C. BYRD. I wonder if we could move on to article IV.

The PRESIDING OFFICER. Senators will please suspend until the Senate is in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Could we move on to article IV, subject to allowing Mr. CANNON to call up an amendment to article III tomorrow?

Any Senator can do that if he wants to, in any event.

Mr. LAXALT. That would be perfectly agreeable to me.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. While we are still in session this afternoon, and there are a few Members on the floor, I would like to take this opportunity to commend our majority leader. It has been brought to the attention of our colleagues several times here that at one time he was opposed to the Panama Canal Treaty.

Now, I am a rather stubborn individual, and I am known for sticking to my ideas; but I think I would be crazy if I did not change my mind once in a while.

So I rise at this time in defense of a man who has seen fit to change his mind. I think, as one famous old Senator said—oh, I forget what he said, but it was pretty good thinking [laughter]—something about consistency being the hobgoblin of little minds.

So I want to defend my leader. Although I wish he had not changed his mind, I defend him for doing it, and always will.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Alabama will allow me, I have been asked the question twice as to why I had changed my mind, and I spread the reasons on the record, and I have been glad to do so. In fact, I have thought on one or two occasions I would slip a note to the Senator who has the floor and ask him to ask me why I changed my mind, so I could spread it on the record; and I have been able to do that twice.

But I am glad there are Senators on the floor who will rise to my defense, because I need that kind of defense. I know I can depend on the distinguished Senator from Arizona always to be fair, just, and reasonable, as he has just demonstrated once again.

Mr. President, could we move on to article IV?

The PRESIDING OFFICER. There being no further amendments to article III, the clerk will read article IV.

ARTICLE IV

The legislative clerk read as follows:

Article IV, Protection and Defense.

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes—

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Article IV is as follows:

ARTICLE IV

PROTECTION AND DEFENSE

1. The United States of America and the Republic of Panama commit themselves to

protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the Canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date. The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal, and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also, the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements, the efficient utilization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

Mr. ALLEN. Mr. President, the distinguished Senator from Alaska (Mr. GRAVEL) having expressed a wish to respond to certain of my comments, I would like, subject to yielding first to the distinguished Senator from North Carolina, to ask that the Senator from Alaska be permitted to speak for 15 minutes, and that I then be recognized again.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. I yield first to the Senator from North Carolina.

UP AMENDMENT NO. 19

Mr. HELMS. Mr. President, I simply wanted to send to the desk an amendment and ask that it be stated.

Mr. ALLEN. I had also promised to yield to the Senator from Arkansas for 3 minutes.

The PRESIDING OFFICER. Is the Senator from North Carolina now offering his amendment?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the first sentence of paragraph 2 of article IV, insert the subparagraph designation "(a)".

"(b)(1) When in the performance of official duties, the vessels and aircraft operated by or for the United States Forces may move freely through Panamanian air space and waters without impediment.

"(2) Similarly, the vehicles, equipment, and personnel of the United States Forces may, when in the performance of official duties, move freely in the Republic of Panama without impediment.".

Mr. HELMS. I ask unanimous consent that the amendment be laid aside, in accordance with the unanimous-consent request propounded by the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, could we get a unanimous consent that there will be a 1-hour time limitation on the amendment to begin running tomorrow when the Senate resumes its consideration of the treaty, to be equally divided in accordance with the usual form?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Senator from Alabama and I thank the Chair.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield 4 minutes to the distinguished Senator from Arkansas (Mr. HODGES), as in legislative session, and to then yield to the Senator from Alaska (Mr. GRAVEL).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 4 minutes, as in legislative session.

SENATOR JOHN L. McCLELLAN

Mr. HODGES. Mr. President, last Tuesday I was given the high honor of being asked to give the dedicatory address at the dedication of McClellan Hall, Arkadelphia, Ark. My comments at that dedication dealt with what I thought of the late Senator McClellan and the role he played in the U.S. Senate.

I have been asked by a number of people to include those remarks in the RECORD. I ask unanimous consent that those remarks be printed in their entirety in the RECORD, and, if it is possible to include them in whatever remembrances are gathered together and published with other remarks in the Senate, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR KANEASTER HODGES, JR.

Mrs. McClellan, Dr. Grant, distinguished guests, ladies and gentlemen: I have in hand a copy of a letter, dated March 11, 1938. It is styled at the top "John L. McClellan, Candidate for United States Senator, Temporary Headquarters Malvern, Arkansas." It is addressed to W. M. Shelby, an old friend, and it is from 42-year old John L. McClellan, Congressman from the Sixth District of Arkansas. Mr. Shelby's daughter lives in Newport now, and has the original. In a column on the left side of the letter, as was the custom in those days, is a recounting of the approximately first one-half of John McClellan's life. It starts off at the top by saying "The son of a tenant farmer at birth" and continues on to indicate that he was licensed to practice law when 17 years of age, becoming the youngest lawyer in the United States. At 21 served as a lieutenant in the Army in the World War; elected city attorney of Malvern at 24; elected prosecuting attorney of the Seventh District of Arkansas at 30; elected to Congress from the Sixth District of Arkansas at the age of 38; and then it concludes by saying "Now, at the age of 42, on the way to the United States Senate."

The letter itself gives insight into the man who was John McClellan. The first paragraph concludes with John McClellan telling Mr. Shelby to relax and enjoy his vacation. He goes on to say "I know how difficult it is to do this, because I am miserable when I am not working." The second paragraph begins with this statement, "I am fully confident of victory." It concludes by saying, "When elected, I shall undertake to make the State of Arkansas a senator the people can be proud of." We see in this letter then some of the essential hallmarks of the life of John L. McClellan: the love of work, especially public service; his confidence in final victory; his love of Arkansas; and his desire to work for the State of Arkansas and to make it a senator of which it could be proud.

It is ironic that also at the top of the stationery is found the picture of a large blue ribbon, which has across it "A Winner." As we know, he did not win that race. It was to be four years later before he could claim the victory and a seat in the United States Senate. It must have been a dark and depressing time for him. But as he was to do time and again, in the face of the vilest vicissitudes of life, John McClellan did not merely survive—time and time again he prevailed.

The tough metal which was John Little McClellan was forged in a plain rural home, hammered out in hard times, and tested time and again politically and personally; by presidents, by Jimmy Hoffa, by McCarthyism, by the TFX Scandal and by personal losses—and he was not found wanting in any of these.

But I am equally impressed by other things: by how he treated the little man; Jim in the Senate gym, who told me fondly of his $1 football bets with the Senator and how he misses him. Or the chauffeur of the Senate limousine, who was so sad at his friend's death, having regularly driven him, commenting on the many kindnesses of John McClellan. The question the Senator would

ask about U.S. Attorney prospects—Does the man have the courage to prosecute the rich and the powerful?

There were the dramatic projects; the Arkansas River Navigation is one. But so too we should recall the countless thousands of individuals he helped: Social Security, pensions, academy appointments, veterans, local projects—so many in those 35 years. So long as our people honor those who have labored long and well in the vineyards of public service, John L. McClellan's name will be remembered with love, gratitude and reverence.

Does this mean there were no faults? No mistakes? No errors of judgment? Of course not. Must one share the political philosophy of John L. McClellan to honor him and recognize his achievement? Of course not!

His record in the United States Senate was outstanding. His impact on our state obvious. His contributions to the nation among those of any senator.

It was William Penn who said, "They have a right to censure who have a heart to help." John L. McClellan feared no man or principality, but he always had a heart to help also.

We are here today to dedicate this building, which with the favor of God and the labor of man has been completed. It embodies the wisdom of one man and his political generation, and it will impart its treasures of wisdom and knowledge to all who follow and study. We never fully learn the lessons of history, but with the use of Senator McClellan's papers perhaps we will not forget those lessons either.

It is my hope this hall will expand and grow, for this dedication is in vain without a re-dedication to the deep public service of John L. McClellan. His reputation for honesty, integrity and service will be alive in the hearts of people of good will and freedom longer than this building will stand. He was, and is, a man of that stature.

Who would have guessed, when John McClellan wrote that letter on March 11, 1938, of the great service he was *yet* to render—the tumultous decades ahead—that he would be a friend of presidents, serve 35 years in the United States Senate, his name become a household word, eventually to be chairman of the powerful Appropriations Committee. "The son of a tenant farmer at birth"—he came a long way, but he brought with him in the coming his common sense and common touch.

His death was the end of an era in Arkansas and part of the twilight of a Senate era—the powerful and effective committee Chairman from the South.

One can almost hear the bittersweet irony of the Gaelic toast: "Here's to us, and those like us, of which there are few, and they are all dead."

Except John Little McClellan shall live; in his papers, in these exhibits, in memories, in his good works.

The American dream that John L. McClellan lived out to its fullest is indeed alive and well, here in McClellan Hall, Ouachita Baptist University, Arkadelphia, Arkansas.

This day indeed we celebrate a rising sun—we thank God for those who gave this hall to preserve and perpetuate his work, we thank God for the life of John Little McClellan.

He was, and is, as that first stationery so stated, "A Winner."

BILL RUDDELL

Mr. HODGES. Mr. President, Bill Ruddell, a longtime close personal friend of mine, is the outstanding president of the White River Production Credit Association, which has its principal office in Newport, Ark., and is one of the largest, most efficient, and financially sound of the Production Credit Associations of this Nation.

He is a noted leader in his community, a leader in the church, an outstanding father and husband, as well as being of the highest reputation in the business community.

I was honored to speak at the annual meeting of the White River Production Credit Association in January of this year, where my remarks were preceded by a speech by Mr. Ruddell. His speech was in response to the severe financial crisis in agriculture today, and comes out of more than 28 years experience in agricultural financing. I strongly recommend to all who are interested in resolving the problems of agriculture that they read his remarks, which are sound, down-to-earth and have a practical application.

I ask unanimous consent that his speech be printed at the conclusion of my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY MR. RUDDELL

This concludes my financial report. I have briefed it, for it is printed in your program for you to study as time permits when you get home. I assure that your association at present is in good financial condition.

Usually following the financial report I give a brief management report on operations or credit, but today in lieu of such a report I have put together excerpts from a recently published agriculture history. I think this will serve a purpose better than a cold, statistical management report on credit or operational procedure, and your board chairman has already discussed some operational procedure and credit with you.

I feel that a review of this brief agricultural history will piece together and clarify some of the things we have forgotten which have carried us to our ailing agriculture situation which is crying out with its problems today. I feel these excerpts can remind us of what has perhaps brought agriculture to its present predicament, and perhaps has contributed to our nation's increase in city slums and poverty which has to be supported by food stamps.

There is a saying, "You can stand so close to the forest you cannot see the trees." This is perhaps what has happened to us—we have been moving too fast to rationalize our situation.

I want to share with you some of the personal things I have observed during my twenty-eight years in agriculture financing. I hope as you listen, you too, can relate them to some of our present agriculture problems we are facing today.

During the years following World War II, American agriculture's thrust toward bigness took on a new momentum. Fueled by cheap gasoline, by the new machines new technology, and by the endless quest for greater profits, expansion surged forward. With astonishing rapidity, the 60-horsepower general-purpose tractor was replaced by a new 130-horsepower model, then by a towering 235-horsepower machinery with a $40,000 price tag. The single-row harvester gave place to combines that could handle four rows simultaneously, then eight rows. The cost of such new equipment made it economically imperative for farmers to take on more acreage. Between 1950 and 1975 the acreage of the average American farm doubled and the value of farm machinery trebled.

Those who could not keep up with the frenzied pace were shoved aside and forced to drop out. In the new agriculture that was taking shape, there was no room for the "average" operator who simply wished to live on the land, work the soil and sell enough products to pay his bills, and generally, farmers found themselves underpriced and cut out of the market by the supermarket chains and agri-business corporations. In 1950, there were over 5.5 million farms in the country. By 1975 half of these farms had been consolidated out of existence. It was all part of the life-and-death struggle that one farm spokesman called "the survival of the fit."

In the past two decades millions of farm families have left the land for the cities and the suburbs. And with them have come millions of farm workes and millions of small-town residents. At present, 73 per cent of our population is crowded onto less than 2 percent of our land.

The movement in the United States toward bigger and fewer farms has received substantial assistance from government policies and programs for government research, and this research has been conducted at agricultural colleges and experiment stations. While Congress has appropriated hundreds of billions of dollars for American agriculture during the course of the last few decades, this research and costly technology has benefited only the affluent farmers, or the nation's agri-businesses.

The interests of average producers and non-commercial farmers have been given only minimal attention. The goal of public policy has been to create an expanding, industrialized system for production of poultry, beef and hogs, and elaborate machinery for the application of fertilizer, insecticides and herbicides and mechanical equipment of assorted crops and agriculture. Human considerations have been of little or no importance. Not only has this high priced equipment completely failed to meet the majority of the nation's farmers needs, but in most cases has posed a serious threat to their survival. In the last decades millions of farm families have been forced off the land and into cities, but this vast exodus from the countryside has been viewed by the U.S. Department of Agriculture with complacency and indifference. In fact, some agricultural leaders and policymakers have looked upon the loss of farm population as actually beneficial. In 1960, the future Secretary of Agriculture wrote in the USDA Yearbook: "The declining trend in farm population is itself a sign of a strong agriculture. . . . We will need fewer farmers in the future, but they must be better. They will be operating on a fast track and the race will go to the swift." He did a wonderful job by maintaining open exports and developing foreign markets, but having an agri-business background did not realize where average agriculture was going. Six years later a USDA report stated, "Our rural population is becoming largely a non-farm one. By 1980 only one rural resident in seven or eight may live on a farm. It is generally agreed that it is neither socially desirable nor economically feasible to try to arrest or even slow down this trend." And although not said, it was understood then that the exodus would be toward the city-unemployment and welfare.

In 1972, the USDA report stated: "Agricultural policy should be directed towards maintaining agriculture as a viable industry and not as a way of life. The number of farms, or the farm population is irrelevant except as these influence performance of the agricultural industry." This was someone writing them off, but at what a price to the nation—what eventual costs—high cost foods, high cost land and a controlled agriculture by big corporations.

Views such as these have in large part

shaped our national agricultural policies—policies that have seriously neglected the interest of general farmers and have substantially accelerated the nation's trend toward larger and fewer farms, and if continued, will absorb all in its wake, regardless of present size.

The needs of the great majority of farmers have been ignored by research institutions and virtually no money or effort has been directed toward the development of economical, small-scale technology. The high costs of this developed technology has created the heavy national agricultural debt load burden, now well over $100 billion. This technology did not research price or returns needed to cover investments, and is leading to disaster to some now, but all later, and the nation in the end. The third president of the United States, Mr. Jefferson, warned against this trend nearly two hundred years ago.

Thus, all the high priced equipment has completely failed to meet the needs of the majority of the nations farmers, and as I stated, in many cases the development of such technology has posed a serious threat to their survival. Average farmers have found themselves unable to compete with high powered equipment and again, I repeat, that the average farmers have found themselves caught up in these excess capital costs and are sinking ever more deeply into debt in order to obtain the new machinery that will, if continued, only widen the debt-income ratio.

In 1969 one USDA official candidly admitted that, for the majority of farmers, government research had probably done more harm than good. He stated that the farmers had "been on the treadmill of technological change so long that they are frustrated about the past and present, and apprehensive of the future . . . They accept the new technology as a requirement for survival . . . The purchase of new machinery and the adoption of new practices often force them to overcapitalize their operations, bleed their assets and mortgage their future returns. . . . When we ask what agricultural research has done for this, the answer comes back: 'Very Little' . . . We have narrowed their choices to two: either get with the new production efficiency technology as we are developing it, or get out of the farming business."

Modern American agriculture prides itself above all upon its superabundant productivity and superlative efficiency. In 1975, a leading Department of Agriculture official declared: "I want to salute the world's greatest food system: A system of wondrous efficiency which is the envy of the world. A system whose innovations continue to point the way and serve as models for every other food system on our globe. . . . One American farm worker today supplies enough food and fiber for 56 people . . . Agricultural output last year was twice what it was 20 years ago."

In 1970, the Secretary of Agriculture stated: "Using a modern feeding system for broilers, one man can now take care of 60,000 to 75,000 chickens. One man in a modern feedlot can handle upwards of 5000 head of cattle. One man, with a mechanical system, can operate a dairy enterprise of 50 to 60 milk cows." In 1972, The American Farmer noted, "A new asparagus harvester can take care of 6 acres per hour, doing the work of 400 hand laborers."[1]

[1] All operated as big agri-businesses—all vulnerable to disease control & death loss, excess capital, use of larger & larger sources of anti-biotics & poison until consumption is, or may become, dangerous—Stronger and stronger herbicides until the soil is no longer viable and many other dangers too numerous to mention—all highly vulnerable to finance for lender and borrower.

The sheer output of modern American agriculture is, without question, stupendous. Yet in order to measure the true efficiency of any system of farming, it is necessary to consider inputs as well as outputs. And the inputs of American agriculture are massive.

At present, agriculture consumes more petroleum than any other of the nation's industries. In 1975, one Harvard scientist stated, "The total energy consumed by U.S. agriculture per year is equivalent to more than 30 billion gallons of gasoline. This represents more than five times the energy content of the food produced. Petroleum is used not only by the machines that plant, cultivate, spray, and harvest the nation's crops, but also in the production of fertilizers, insecticides and herbicides. Additional petroleum is used in the manufacture of farm equipment, in the production of electricity used on the farm, in irrigation, transportation, and processing. Agricultural economists who have totaled up these various energy inputs of the nation's agriculture have found that when taken together, the energy that goes into making our food is actually more than the energy contained within the food itself. According to some calculations, American agriculture now expends over five calories of energy in the form of fossil fuel in order to get one calorie of food to the consumer.

The Department of Agriculture tells us that, in the last twenty years, farm production has doubled. Yet it is also true that energy inputs during this period have rapidly increased. Between 1950 and 1970, the amount of fertilizer used in the production of the country's corn crop rose by eight times, the amount of insecticides by ten times, and the amount of herbicides by twenty times. One group of Cornell scientists who have painstakingly tabulated the inputs and outputs of the nation's corn crop during the last few decades have come to the conclusion that the American farmer produced corn 25 per cent more efficiently in 1945 than in 1970. Rather than become more efficient, United States agriculture, according to these experts, has become increasingly inefficient.

I feel there is a parallel between our accelerated, government-supported technology whose urgency was to industralize agriculture too rapidly, resulting in too rapid expansion of high cost capital, all coupled with excessive, accelerated operating or input costs, dependent likewise upon an accelerated, increased price that has not occurred, in relation to the invested excess capital and accelerated operating expense. The designers of the accelerated technology forgot to plan for accelerated price, resulting in lack of profit and in operating loss which so many of you have fought and attempted to compensate by increasing debts on real estate to get income to replace your operating loss, or sometimes selling assets, resulting continuously in erosion of net worth, all because of the fact that it was the only way you knew to stay alive and to continue in the only occupation you know and love.

I do not ask, or expect, that all in this room agree with this, but I remind one and all that whether you agree or not, without an increased price now to compensate the present dilemma, there is no solution to our present agriculture situation, for agriculture is too far in debt ($120 billion, and $18 billion income—nearly a 7 to 1 debt ratio). Any lender will tell you that a loan is lost or cannot be made with such ratio, for the borrower is broke.

I hesitate to make any additional remarks, but if we are to solve our present problems, we must be fair and honest in facing those problems. Such must be solved, for as agriculture goes, so goes America. If many, like the farmers now, had hollowed in 1924, there might not have been a 1929 and the 30's. If these remarks are too strong, or disagreeable, I apologize, but they still remain facts, not fiction, for I can attest to debt loads; the erosion of assets; and decline in net worth. This cannot continue, nor will it go away. The cost-price squeeze *must* be solved, or an industry will surely die, and if agriculture should die, with it being the base of our economy (which even now some disbelieve), other industry will also die with it, and so the national economy; thus, the problem lies not just with the farmer, but with the whole nation.

This concludes my remarks.

Thank you.

THE PANAMA CANAL TREATY

The Senate continued consideration of the treaty.

Mr. GRAVEL. Mr. President, first, I wish to express my gratitude to the Senator from Alabama. We could probably go on for more than 25 minutes. I wanted to interject my thoughts into this colloquy so it could be more evenly balanced.

The Chamber has fallen into silence. This is the first silence we have had today in the deafening cackle. I think that is the proper word, the deafening cackle that we have had. I think it is occasioned by reports coming out of Panama and the obvious disagreements which have appeared, or the fissures which may appear, within the proponents of the treaties which are before us.

I think it is most unfortunate that the Members of the Senate who are so close to these treaties would find relish in this because, as I stated earlier and I will state again, their joy is somewhat like the joy of an arsonist who has thrown a can of gasoline into a house. The house is burning down and they relish that. But what they relish even more is the fact that the firemen who are trying to put out the fire are having difficulties in coordinating their activities.

That they find relish in that I think is unfortunate, very unfortunate indeed, because if we have a dilemma before us today it is because of the opponents of the treaty who truly are opponents to change. The Senator from Alabama, I think for the first time, revealed truly one of his goals. That is, as he stated, to topple the Torrijos government and institute, as he sees it, a democracy.

I would first like to speak to that particular problem because, one, toppling of the Torrijos government, if that can be done from the Senate floor, would be very innovative, and, two, I do not think it is any guarantee that it would bring about democracy. I think we would be better advised, rather than to meddle tactically in domestic affairs of another country, to look to ourselves.

With respect to Mr. Torrijos, I do not think he needs any defense. I think the record should be made abundantly clear to the American people and to the people of Panama that he is the head of state and should receive the proper respect from Members of the Senate in the position he occupies.

I do not think there is a leader in this country who can claim that he has doubled the amount of schools in his tenure of office, and that is what Mr. Torrijos

has done in Panama. That is quite an accomplishment. I do not think that has even been done in Alabama or in Alaska. Doubling the number of schools by a person is an unusual accomplishment because it is education and knowledge which is a touchstone of democracy. So if a foundation is being built for democracy, I submit that the present leader of Panama has made a contribution in that direction.

Also, if there is a reason why he has been abused so much by Members of the Senate, I think I know why. It is because he has put the United States of America to the test more than any other leader in the history of Panama. Every single leader of Panama since the 1903 treaty was signed has been trying to get that treaty changed. This is the first time that a leader of Panama has been able to get it to the floor of the Senate. He negotiated a treaty and did a good job.

If we respect and honor Jimmy Carter as the President of the United States and admire him for the courage he demonstrated in bringing the treaty to the Senate floor, then I think we owe the same respect to the gentleman who was on the other side of the negotiating table because it takes two to tango, and it takes two to bring us where we are.

So if this treaty is good, as I think it is, and I think many people throughout the Nation think it is good, then the credit should go, one, to Jimmy Carter and, two, to Omar Torrijos—equally, not one above the other.

I can understand some people who hold an archaic view of what the United States should be, who hold an archaic view of gunboat diplomacy in Panama. I can understand that, if they are made at the change of events or if they want to vent their anger. They want to vent that anger at the person who brought it thus far. So I do not say this by way of defense of anything that Mr. Torrijos has done, or his leadership. I stated it as a simple fact for any person to observe, and it would not take much of an observation to recognize that unusual accomplishment. That is what gets a lot of people mad on this floor, the fact that he has been able to realize the aspirations of his own people.

I think it is a bit of an exaggeration when my colleague from Alabama tells us that he is for the Panamanian people. If he is so much for the Panamanian people, then he ought to be for the treaty that the Panamanian people have overwhelmingly already approved.

When he says he wants another plebiscite in Panama, what he is saying is that he really wants to change that treaty so that there will have to be another plebiscite, a plebiscite that will turn it down.

I venture this thought: If there were a vote tomorrow in Panama on the Neutrality Treaty, based on what knowledge I have, if there were a plebiscite, it would be turned down, overwhelmingly.

As I stated earlier in the day, if I were a citizen of Panama and going to vote on this Neutrality Treaty in Panama, I would vote against it. I would clearly vote against it. It gives unbelievable rights to a foreign power over my sovreignty. If we had a labor dispute on the Panama Canal after the year 2000, the United States could unilaterally send in troops to correct the labor dispute. As I view it, a labor dispute in the United States is a very internal situation and a labor dispute in Panama is a very internal situation.

Let us now recapitulate as to how we got ourselves into the dilemma we have. First, let us look to the motivation of the proponents of the treaty on this side of the aisle, starting with the President of the United States. In my mind, Jimmy Carter has demonstrated courage and leadership of an unusual order. There is no question that his taking leadership on the Panamanian treaty to bring about a change that would create justice between ourselves and Panama was a very unusual act.

I think that there will be no personal benefit to him except in the retrospect of distant history. It was really an oddity that there should be such a view held, just prior to the vote on the first treaty, that we should vote for the treaty because it will make Jimmy Carter look bad in his leadership role if the treaty were turned down. I can assure you that Jimmy Carter will not look bad in anyone's eyes as history looks back upon what has taken place.

It would have been the Senate that would have looked bad had the treaty been turned down. That is who really would have been hurt, not Jimmy Carter. He did the best of his ability. He brought the treaty to us. If we turned it down, it would be the Senate that would have turned down the treaty, and Jimmy Carter would have done his work and we would have done our work. So I think his motivation is fine, honorable, and, in my mind, in the great tradition of this great country of ours.

Let us look at the motivation of the Senate leadership, Senator ROBERT C. BYRD. I think that here, again, he demonstrated equal courage, because I am sure that this is not a popular issue in his constituency, and he is one who can read his constituency very well. But, I think, he characterized his views with the Edmund Burke statement; that is, that he not only owes the people of his State, West Virginia, his industry, which he has given more than I could ever have thought possible; but he also owes the people of West Virginia his judgment. Oftentime, it takes courage to exercise that judgment.

The same thing is true of FRANK CHURCH. This is not a popular issue in the State of Idaho, any more than it is popular in the State of Alabama. So when a man stands up on this floor and is prepared to take his political life in his hands, that, I think, is meaningful, particularly when you know that he is talking from the bottom of his heart as to what is important.

Then to see Senator SARBANES stand on this floor, day in and day out, to provide leadership in this matter in a most skillful and able manner, also, I think, indicates courage, because the easy way out on this issue is to cop out to the demagoguery and to the false emotion that has pervaded this country. That is the easy way out. To my mind, to stand up and say what is right when there are no benefits in it for your constituency and yourself, that is what takes courage, and where great political damage could happen to yourself.

I stated a while back that had we had a secret vote on the treaties, the treaties would have passed a long time ago. What does that mean? That means the people in this Chamber know what is right and what is wrong. They know a change has to take place and if they could have voted secretly, they would have seen that a change would take place.

What happens in a democracy? By and large, the people of the country make cowards of the Senators. That is right; we are cowards. We are afraid of losing our jobs, so we cower to general public opinion, whether that public opinion is informed or not. We cower down.

So here we have a situation, because of the great sums of money that have been put up by the radical right, confusing the Nation with false information, in some cases outright lies; we have a situation where the proponents of a decent treaty have been pushed to the wall and, with their backs up against the wall, they made a normal human error. That is what I think is really the problem that has occurred today.

The human error was that the form became a little more important than the substance. In this case, I equate the form with the desire to pass a treaty. The substance is, is it a good treaty?

I was quite upset during the period that these amendments were accepted and were put on; not the DeConcini amendment. A lot of the other amendments were not worth the attention they got. "Cosmetic" is probably the kindest word I can use. They were put on so that we could have something that we could take back to the people and tell them, "Hey, I voted for the treaties, but, boy, I cleaned them up before I voted and it is OK now."

The issue is a very clear issue: Do we give back the canal to the people of Panama so we can continue using the canal? That is it. That is the issue. We can talk about defense and troops, and a lot of it is just eyewash.

The proponents of the treaty—and here, now, I mean the full gamut—we are all at fault. I for not speaking up when I thought better; General Torrijos for pushing too fast, with the inexperience of his first year, trying to push the Senate to get a decision on this. They were pushing to have a vote last September. They think they have problems now; just imagine what they would have been last September.

Then the leadership for agreeing to take the measure up and bring it to the Senate for a vote before they knew we had the votes. We did not know we had the votes until the last day. And we bought the last votes with the DeConcini amendment.

So the situation we have today is that we now have passed a treaty that is unacceptable to the Panamanian people.

Now we have an interesting dilemma. We see the error. We can slough over it. We can finesse it, which is obviously what we politicians generally attempt to do to avoid embarrassment.

What will happen? Well, the Panamanian people will turn down the treaty. So we can say that we in the Senate did our job and it is not our fault that the Panamanian people turned down the treaty.

Of course, we have heard this all day long, talking about the misunderstandings. That was no misunderstanding about the treaties that were brought to us. The misunderstanding is in this Chamber. That is where the misunderstanding is. The misunderstanding is what pushed the acceptance of the DeConcini amendment, which is not misunderstood in Panama. It is clearly understood in Panama and, from their point of view, it is not acceptable. It is an invasion of their sovereignty for perpetuity. I confess, as I read the English language, I view it exactly that way. It is an invasion of their sovereignty for perpetuity and they are not going to accept it.

So we are faced with this dilemma: We pass the treaties and they vote it down. Who is going to look bad in the court of world opinion? We Senators will stand up and pontificate and make speeches and tell them what a great job we did passing these treaties, and those terrible Panamanians did not have the gratitude to accept what we threw them.

Of course, with all the media in this country, we will come off well. Fortunately, the media in this country are beginning to mature. In fact, I might say the media on this subject have been very good all along.

Mr. ALLEN. Would the Senator repeat that?

Mr. GRAVEL. I think the media have been correct on this subject all along.

Mr. ALLEN. I am sure the Senator would think that, inasmuch as they have been drumming for the treaties all along. I can see how the Senator might think they are responsible. Of course, I have just the opposite view, I say to the distinguished Senator from Alaska.

Mr. GRAVEL. That is right. The reason I think the media are doing a good job right now is I share the same view they have.

That is not unusual, to have that view.

I would like to reinforce the record at this point and ask unanimous consent to have printed in the RECORD an editorial from the Washington Post, a Time essay from Time magazine, and what I feel is a most perceptive piece by Haynes Johnson entitled "Trial" which appeared on April 9. I think all of those would reinforce the RECORD with repect to where we stand right now.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESERVATIONS ABOUT DECONCINI

The "DeConcini Reservation," which the Senate attached to the first Panama Canal treaty, is a ratty thing to behold. Imposed on a desperate (and careless) White House by Sen. Dennis DeConcini (D-Ariz.) as the price of his vote, it authorizes the United States on its own to use military force "in Panama" to keep the canal open and operating after the year 2000, when ostensibly Panama would be in full control. The "reservation" is arrogant. It mocks the intent to replace the dangerously obsolete terms of the 1903 treaty with a relationship respectful of a small country's sovereignty and pride. And it could yet kill the two Panama treaties.

Here is why: From the moment it was enacted, Mr. DeConcini's handiwork galled all Panamanians, regardless of their attitude toward the government or the new treaties. All other Latins, too, instantly understood that the language trod grossly on Latin America's traditional resentment and fear of American intervention. It can be argued that, regardless of treaty language, this country has the power to intervene in Panama, and would. But to state that, to rub Panama's nose publicly in the dirt, is intolerable. So it is no surprise that the Panamanians, passing beyond their initial, relatively subdued criticism of the reservation at home, are now soliciting international sympathy for their objections to it. Once international support for their position solidifies, as almost certainly it will—and why not?—they may openly reject the reservation and hope to face the United States down.

MYTHOLOGIZING THE PANAMA CANAL

Getting the first Panama Canal treaty through the Senate last month was roughly the equivalent of putting a big tanker through the waterway: there was no room to spare. The second treaty, providing for the gradual transfer of authority to Panama by the year 2000, is expected to have an equally narrow passage when it comes up for a vote on April 18. Opponents of the treaty have intensified their pressure on wavering Senators, and a defeat of the second treaty would force renegotiation of the entire agreement, with potentially explosive consequences. Seldom, in fact, has a project that is so clearly in the national interest faced such a desperate fight for approval.

The opposition to the treaty is a curious mixture of cynicism and conviction. After a period of many setbacks overseas, Americans have been in no mood to accept what seemed to be another reversal. Moreover, the canal is fixed in the popular imagination as a memorable achievement of American vigor and know-how. Why, people asked, should it be given away under any circumstances? There were reasonable answers to such a question, but they were not provided by the superpatriots of the hardcore right wing, who thought they had a sure-fire issue and promptly started to exploit it. Their lavishly financed propaganda barrage has often made a hash of the facts. Many people have been led to believe that the treaty constitutes some kind of massive giveaway that will leave the esteemed and still vital waterway in the clutches of rapacious crypto-Communists who will thereupon thumb their noses at the helpless giant to their north. Nothing could be further from the truth.

The pact profoundly commits the U.S. to the defense of the canal from here to eternity. Until 2000, the U.S. maintains control of the waterway; at the turn of the century, Panama takes over, but the U.S. has the right to keep the canal open and functioning. Indeed this provision has been strengthened because of the doubts among treaty opponents. Responding to their pressure, the White House accepted two reservations that clearly state that the U.S. can send troops into Panama to protect the canal if it is shut down for virtually any reason.

The treaty, in fact, gives the sanction of law to U.S. intervention if the need arises. This provision has been made so explicit by the reservations that Panama now has sent a letter to other Latin American nations suggesting that it may not be able to accept the treaty in its present form. Rather tolerant through all the tumultuous and sometimes insulting Senate debate, Panamanians have been pushed close to their limits; and there are, after all, two parties to the treaty.

The second Senate vote does not come at the best of times. The Soviet Union is rapidly building up its armaments and brazenly sending its Cuban allies into Africa to stir up trouble and challenge American interests. Many treaty supporters, including Senator Henry Jackson, are understandably concerned that a ceding of the canal may be interpreted as another American retreat. But the U.S. is hardly backing down from a Soviet threat; it is rising to the occasion of settling a dispute with an ally. If it is a sign of weakness to capitulate to an enemy, it may well be an indication of strength to make timely concessions to a friend.

Now, perhaps Gen. Omar Torrijos, the Panamanian leader, is feinting, or trying to win an international moral victory to cover Panama's humiliation. Or perhaps he is merely gathering international support to deter further hurtful amendments that the Senate may impose on the second treaty (covering the period up to 2000). It may yet turn out that Panama's crushing need for the new revenues promised by the treaties will induce the general to swallow his pride, brush aside his opposition and accept the administration's worried assurances that the reservation does not really alter the substance of the first treaty. It is not inconceivable that he will bow to the threats of Sen. Howard Baker (R-Tenn), who, incredibly, takes the position that since he, Howard Baker, has "really gone out on a limb for these treaties . . . our friends in Panama ought to know that just the twitch of an eyelid, just the slightest provocation or expression that these treaties, or this treaty in this form, is not acceptable to Panama, and this whole thing could go down the tube." By jingo, Mr. Baker, how could Panama dare to inconvenience your presidential aspirations?

Such are the stakes for both countries, however, that anyone wishing them well is reduced to foisting upon Panama an additional burden of compromise. Presumably, that is why President Carter, in the text of an interview released yesterday, said that "any statement, even if it is well-based, by the Panamanians that would cause consternation or doubt in the minds of U.S. senators could very well endanger the passage of the second treaty." We say with genuine regret that we do not see that the Panamanian government has a good alternative to learning to live with the DeConcini reservation. To carry its anger to the point of giving the Senate the pretext to turn tail on the treaties would be a disaster. In a fairer world, it would not be this way. The fact is that the United States lacks the maturity, and the administration the political prowess, to make things come out otherwise.

The shame of this approach is evident. If, however, Panama finally balks at accepting the American revision of the first treaty, or if the Senate piles more equally egregious amendments on the second, then it is clear where the principal responsibility for the resultant diplomatic catastrophe will lie. It will lie on uninformed, insensitive, posturing legislators like Dennis DeConcini and Howard Baker—men demonstrably blind to the requirements of treating other nations, even a small, close, friendly and strategically vital nation like Panama, with decency and respect.

TRIAL

(By Haynes Johnson)

In a week the Senate prepares to vote on the second, and final, of the Panama Canal

treaties. The canal has stirred more words and less passion than any supposed major issue in memory. Most senators, and Americans undoubtedly want to be done with it. Certainly there are more critical questions. It's hardly surprising that passage of the second treaty was assured—until, that, is the last few days.

Now, we're told, the treaty package is in jeopardy. The problem, it's being said in Washington, lies with the Panamanians. At the last moment they are letting their concerns be known and raising the prospect that they may reject the treaties as amended and ratified by the Americans. Howard Baker, leader of the Republican pro-treaty forces in the Senate, has bluntly warned the Panamanians to cool it, or risk losing all.

"Any rocking of the boat," Baker said, "could put these treaties in extreme peril." If the Senate gets the idea Panama is dissatisfied, or if any action occurs either in street demonstrations or in protests at the United Nations—well, there goes the deal.

Spoken, appropriately, like a big brother to a wayward sibling. Keep quiet and smile, or else.

There is a problem with the treaties, but it doesn't lie with the Panamanians. As presently amended, the first of the treaties represents a negation of almost 50 years of bipartisan American foreign policy. It puts us back in the business of nakedly advocating intervention in the internal affairs of other nations, something history and a host of documents we've legally subscribed to presumably put to rest long ago.

Not that American practice has always lived up to American ideals. At times we have violated our own oaths and attempted to overthrow or subvert other Latin nations—Guatemala in the 1950s, the Bay of Pigs in the 1960s, Chile in the 1970s all are part of broken U.S. promises. But in each case our secret interventions caused serious international problems for America contributing to a tarnishing of the U.S. reputation for good faith abroad and to a lessening of belief in the government at home. Today, particularly, in the post-Vietnam, post-imperialist America when we are preaching the cause of human rights and supporting the rights of emerging nations, a U.S. endorsement of the principle of armed intervention defies belief.

This is an offensive doctrine. It will be a tragedy if allowed to stand. The test lies not with little Panama, but with us. It's not too much to suggest that American principles are on trial here, and that the Senate still can redeem them. The question is whether we act like a great power, assured of our strength and confident in our convictions, or like a petty, churlish state—whether, in short, we uphold what we have pledged to uphold.

And there the record of history is clear.

In the fulminations of the critics, Panama has been mythologized into a nation of peasants lusting to get their hands on the Canal Zone as soon as the U.S. relinguishes it. Panama in fact, contains a substantial, sophisticated, much-traveled business community with close ties to the U.S. Its leaders are just as determined as anyone to gain control of the waterway that divides their country in two. For them, it is a matter of national and indeed group pride. They feel they are perfectly capable of running the canal; it is a role for which they have been groomed in their dealings with the U.S. Approval of the treaty would probably strengthen their position in Panama, since the left wing would no longer be able to campaign effectively on a program to seize the canal. It is no accident that the opposition to the treaty is as intense among the left in Latin America as it is among the right in the U.S.

When treaty supporters make these facts known to their constituents, they find that opposition often melts away. As the issues have been clarified, the public has turned around in its opinion. Sentiment against the treaty is as strong in Arizona as anywhere in the nation, yet when Democratic Senator Dennis DeConcini went home over the Easter recess, he discovered that the "reaction was not nearly as hostile as I expected. I found pretty good acceptance." Since he had sponsored one of the two reservations sharpening the treaty's language, he could legitimately boast that he had improved the pact. When he got a phone call from Jimmy Carter in Nigeria asking for his vote on the second treaty, DeConcini replied that he would have a reservation or two to offer. Said the President: "My door is open."

Another last-minute convert to the treaty, Montana's Senator Paul Hatfield, ran into heavier flak among his constituents. He is particularly vulnerable because he was appointed to the Senate last January and is up for election in the fall. When a fellow Senator remarked to Hatfield's wife Dorothy Ann that her husband was at least getting a lot of publicity from his ordeal, she snapped, "So did the Los Angeles strangler." Nonetheless, Hatfield has learned that independence has its rewards. Elden Curtiss, the Roman Catholic Bishop of western Montana, publicly endorsed Hatfield's vote as "courageous." A bit belatedly, the President also called Hatfield from Nigeria to express his thanks for the vote that put the first treaty over.

Anxiety about the second vote raises anew the problem that confronted the great British Statesman Edmund Burke when he was elected to Parliament. In a speech to his Bristol constituents, he recognized that it was "his duty to sacrifice his repose, his pleasures, his satisfactions to theirs." But he went on to say: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion." On grounds of judgment alone, the Panama Canal treaty would probably have easily been approved long ago. Without pressure from their constituents, a sufficient number of Senators would doubtless have voted for the pact. Perhaps Senators would show more respect for their constituents by assuming that they, too, can understand the merits of the case if it is properly explained to them. By supporting the treaty at a time when leadership is urgently needed, the Senators under the sharpest attack may look back on this episode with considerable pride.

Franklin Roosevelt generally gets credit for reversing the old Yankee imperialist, Colossus of the North Jingoist stance toward Latin America. The second Roosevelt upending the interventionist policies of the first: It made for instant political mythology.

In fact, FDR's "good neighbor policy did mark a new era in Latin American relations. That first year of his presidency he dispatched a U.S. delegation to an International Conference of American States meeting at Montevideo. Out of that came a formal document on "The Rights and Duties of States," which the United States signed. Article 8 declared: "No state has the right to intervene in the internal or external affairs of another."

It was a sweeping renunciation of the right of intervention that had been troubling the hemisphere during the era of gunboat diplomacy and the dispatching of the Marines to protect our interests—mainly private investments—for so many years.

But the truth is it was Roosevelt's predecessor, the historically unlucky Herbert Hoover, who should get the praise for putting America on a different course toward its neighbors. Until Hoover's presidency, American policy was militaristic and arrogant: we did what we pleased, whenever and however we wished.

Hoover changed that. Not long after taking office he stated flatly that it "ought not to be the policy of the United States to intervene by force to secure or maintain contracts between our citizens and foreign states or their citizens." In other words, he promised never to intervene to protect American property rights abroad. Even despite the great pressures of the Depression, when debts were repudiated throughout Latin America, he never wavered in his resolve.

His Republican administration had made possible the acceptance of FDR's further pledges and policies.

From that point on, the United States repeatedly reiterated its approval of the principle of nonintervention. Roosevelt traveled to a celebrated Buenos Aires conference in 1936 at which a new treaty strengthening the pledge not to intervene "directly or indirectly" was signed by 22 nations, including the United States.

Over the decades those principles have been reaffirmed legally and in writing, again and again by this nation—and not only as regards the hemisphere. In the U.N. charter, in the charter of the Organization of American States, in declarations signed at Chapultepec, Mexico in 1945, in the Treaty of Rio de Janeiro after World War II—all these brought fresh United States pledges against intervention.

Nor does the record end there. In the Helsinki accords, signed three years ago by President Ford, similar statements received our pledges. When he spoke to the Helsinki conference after signing the documents, Ford said "The United States gladly subscribes to this document because we subscribe to every one of these principles." Nonintervention was first among the basic principles of relations between states he cited. It was followed by, in Ford's words, "sovereign equality, self-determination, territorial integrity, inviolability of frontiers."

That same year a new protocol to the Rio Treaty was signed at San Jose. A new article provided that: "Nothing stipulated in this treaty shall be interpreted as limiting or impairing in any way the principle of nonintervention . . ." And the United States also voted in favor of a resolution then which reaffirmed "solemnly the principle of nonintervention."

All in all, hardly an ambiguous record.

Before the Senate voted on the first Canal treaty last month, the president struck a bargain with a little-known Democratic senator from Arizona. The deal: the senator, Dennis DeConcini, would vote for the treaty if the president would support an amendment DeConcini proposed. Carter agreed, the arrangement was made public.

DeConcini's amendment which the Senate adopted, gives the United States the unilateral and perpetual right to intervene in Panama militarily if the canal is closed or its operations are in any way interfered with, as defined by the United States. As DeConcini told the Senate:

"There are no conditions, no exceptions, and no limitations on this right. By the terms of the amendment, the United States interprets when such a need exists, and exercises its own judgment as the means necessary to insure that the canal remain open and accessible."

And, his key passage on the use of military force:

"These words are absolutely crucial because they establish the American right . . . to take military action if the case so warrants. It further makes it clear that the United States can take military action on Panamanian soil without the consent of the Panamanian government."

As Sen. Edward M. Kennedy (D-Mass.) said at the time, Panama was being asked "to accept an amendment which has the right of military interventionism—not just during this century, but for all time."

Whether Panama finally accepts or rejects that outrageous interference in its sovereign affairs is not the point here—although that language clearly holds disturbing implications for all nations with which the United States has relations. The point is whether this country's repeated pledges mean what they say.

It's inconceivable that a single U.S. senator would accept such intrusion in the affairs of his state, by any force, anywhere, anytime. It should also be inconceivable for the Senate to fail to recognize that this language establishes an unworthy, and unnecessary, principle.

Mr. GRAVEL. Now, how do we get ourselves out of this dilemma? I think it is not going to be an easy task to get out of this dilemma, because the Senator from Alabama is a very bright parliamentarian and he sees the flaw in what has taken place. We can be sure we are not going to have an easy time in correcting the situation.

I think what we have to look forward to is some degree of difficulty. I would suggest there are ways to correct it and that is to face the music. When we have made a mistake, just confess it and go forward. Here is the music we have to face—the Senate of the United States may not be mature enough to vote the right thing.

I think it would be a terrible tragedy, a national tragedy, to have these treaties fail, but we may not be mature enough to vote it. There may not be enough courage on this floor to vote for what is right.

We can do one thing. We can pack these treaties up, if we cannot carry the vote straight out without watering it down, which would require that the Panamanians then vote the treaties down. We owe it to ourselves to give them a decent agreement. We negotiated one and we have one before us.

Now, I do not think it is going to be very wise to pack up an agreement and send it down to them and they vote against it. Let us be honest, at least, about that and bring it for an up or down vote. If we do not have the votes, fine. That does not stop the leadership of the Senate from trying to work its craft, and that is to effect compromise, to make little turns so we could pick up some votes. There is nothing wrong with that. That is what leadership is all about, and what they are trying to do. I commend them for that and I hope in the next few days they will be able to work something out, that is, something that will correct the DeConcini reservation.

There will be no way of slipping by it. If we do not have the votes, the treaties will fail, and the failure will clearly be with this body. It will not be sloughed off on somebody in Panama, or sloughed off on President Carter, or sloughed off on the House. It will be our responsibility, if we were not courageous enough or mature enough to vote it.

I would also recommend, if that is the case, what we do is take the treaties back to the Foreign Relations Committee and leave them there until after the election. This issue would surface as a big issue in the election. Some people would win and some would lose on it. And after, take them out next February and have another vote. There might be a little more courage in this body since the election would be 2 years away, and there might be enough votes to go ahead and pass the treaties.

It is always going to be a question of passing the treaties or not passing the treaties, because this issue is going to have to correct itself.

Those opposed to the treaties are living in another world that does not exist and it will not come back. So we have to go with change that will accommodate justice between ourselves and Panama.

There is another possibility and I just thought of it today. I have spoken of it privately to my colleague from Alabama, because one thing sort of rankles me a little bit, and it is a simple little thing. We are so proud of our democracy in the United States and we vilify, unfortunately, Mr. Torrijos so badly, and his leadership, dictators, and that kind of government, but, in point of fact, on this treaty he had a plebiscite.

He was more democratic in the handling of the treaty in Panama than we have been in the United States. This is not to criticize ourselves, because we are structurally bound in the Constitution on the way we do a thing. But I think a person from Mars looking at the way both nations handled the issue, would have to admit that "dictatorship" handled it a lot more democratically than the "democratic" government did.

So it might not be a bad idea to have a little experiment in the Nation, and let us have a plebiscite. I do not know but I will do some research in the next few days, and if it looks legally possible maybe I will offer it to my good friend from Alabama to cosponsor it with me and we will have a plebiscite in the United States.

Why should the Senate of the United States take all the heat from its constituents in voting for this very difficult issue?

That is the reason why the treaties cannot pass. We are afraid to vote for what is right. So why not just let the people make that decision? That is very dangerous—I say that sincerely, not with tongue in cheek.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. GRAVEL. I am almost finished, may I have another 2, 3, 4, or 5 minutes?

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield an additional 5 minutes to the distinguished Senator from Alaska without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized for an additional 5 minutes.

Mr. ALLEN. Mr. President, following that, I ask unanimous consent I might yield to the distinguished Senator from Virginia (Mr. SCOTT) such time as he may request without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. I thank my colleague. He is most generous.

As I stated, I would hope, if we do decide that a U.S. plebiscite might be worth while, that he would join me. I think it is something at this point to investigate.

I do not say it lightly, that this would be an unusual event, because I think——

Mr. SCOTT. Will the Senator yield very briefly?

Mr. GRAVEL. No. If I might just finish.

Is it for an unanimous-consent request? I want to finish what I am saying.

Mr. SCOTT. It is on the question of the plebiscite. There has been a plebiscite in one city in California. The treaty was defeated by a margin of more than 5 to 1.

Mr. GRAVEL. That is fine. In fact, that is the point I want to make right now.

If we had had a plebiscite, let us say, about in the 1880's or 1870's on the Indian policy that was undertaken by the United States of America, I think that Indian policy might best be characterized by General Sherman's statement at a dinner in New York when he held up a nickle and made the statement that the best Indians were dead Indians.

I think if we had had a plebiscite in the United States of America at that time, the American people would have voted for that policy. Very tragic.

I think if we had had a plebiscite on the Vietnam War in 1965, 1966, 1967, 1968, 1969, or 1970, that probably the American people would have voted for that holocaust, that murderous event we had in Southeast Asia. I think that would have been a tragedy.

I think that 6 months ago if we had had a plebiscite on the treaties, they probably would have been defeated, and that would have been a terrible tragedy for American foreign policy.

But the test of a democracy and the test of the people and the test of the Senate is all the same test. It is, are we mature enough to handle representative government? That is the test. Are we mature enough to have a better society with justice? That is the test.

I would be prepared to put the American people to that test.

I am not too sure that the Senate of the United States is mature enough to vote for these treaties without mirrors. We are just playing with some mirrors and it has backfired in our faces.

I will submit that we are just beginning to get the rumblings out of Panama. There will be a lot more than that. So if we cannot pass the treaties without the DeConcini-type amendments, we cannot pass the treaties and we ought to know that.

If the American people are not prepared to vote for these treaties, if there is a new regime of justice between ourselves and Panama, then the world ought to know that, because how else can we grow, how else can we improve ourselves if we do not know our deficiencies?

We can go ahead and spout the rhetoric of how great we are, what great things we do, how we do not believe in intervention, and then go ahead and

intervene through the CIA, go ahead and intervene with the Bay of Pigs. We may have had 40 years of nonintervention policy. The only problem is that we did not practice it.

The sooner we cut out these delusions that we have about what we are or are not, the sooner we are going to be a great people, greater than we are.

So I favor a rhetorical point of view this evening and can only say, what is the danger of having a plebiscite by the American people? Let them rip their guts out the way the Senate has been. Let the dialog take place with all the people. Let those who sit back and say, "I don't have time to get interested in this issue, and we'll give the money to the radical right to fight the issue"—if they want it taken over by the radical right, all they have to do is lay back.

There are no free rides in citizenship. This issue is so vital, affecting our relationship with the most important part of the world to us, this entire hemisphere, that we cannot skid by and slough off on this issue.

So if the American people think they can continue gunboat diplomacy, if that is what they want, then let them vote for it. I have a higher opinion of the American people than that. I cannot think of a better way to educate the American people than that by letting them be a part of the decisionmaking process. It would not be all that difficult. We could have a referendum, a plebiscite, in this country next November, when we are going to have national elections; and the people can vote for or against the treaties as they stand, the way the Panamanian people have done.

After an investigation, I will come back to this body and report whether that is a feasible alternative. I certainly will counsel with my colleagues from Alabama, who is fond of plebiscites for Panama. If they are good for Panama, they are good for us.

I thank my colleague for his accommodation on this subject. I am sure I am giving him food for thought and reason for dialog, and I will listen to his views attentively. I thank him.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. The additional 5 minutes of the Senator from Alaska (Mr. GRAVEL) have expired.

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from Virginia (Mr. SCOTT), with the understanding that I do not lose my right to the floor.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator from Alabama yielding to me briefly.

I speak now only because of the statements made by my friend from Alaska. It seemed quite obvious that he was being critical and in complete opposition to the views of the distinguished Senator from Alabama.

One thing about a government such as we have, with the two bodies of Congress, is that we can say almost anything we wish to say on either the floor of the House or the floor of the Senate, and that is part of the legislative process. We can have a difference of opinion without being disagreeable with one another.

While I do have the highest respect for my distinguished friend from Alaska, I have a very minimum of high regard for the position he has taken and the words he has spoken for the last 20 minutes or so. I disagree with the Senator from Alaska in almost everything he said.

He has referred to the opponents of the treaty as being desirous of toppling the government of Torrijos. He has referred to some Members of the Senate as mentioning that Torrijos is a dictator. I believe everybody knows that we have a lawful government in Panama, an elected government in Panama. There was a coup, and the present chief of state of Panama, through the use of the Guardia Nacionale, the National Guard of Panama, assumed the position he now occupies.

I think he is a dictator. I do not believe there is any doubt that General Torrijos is a dictator. Why not say "the Dictator in Panama"? He is a dictator. We say, "the President of the United States." He is the President of the United States.

The distinguished Senator speaks of putting America to the test. I agree with this statement, but in a way different from that of the distinguished Senator from Alaska. I think America is being put to the test. America is put to the test in many ways.

We are thought of as being one of the leaders of the free world. If we submit to the wishes of the Government of Panama, of Dictator Torrijos, is that going to mean that in the world of public opinion, the United States is going to stand a little higher? I think not. I think the nations of the world will doubt whether the United States will stand up for itself.

Under the treaty that is now under consideration, we would give away $9.8 billion worth of U.S. Government property, and we would pay the Republic of Panama for taking it: about $1.5 billion in tolls; and approximately $750 million in either tax revenue or loss of tax revenue by the United States between now and the time the treaty would end.

It was said that Panama might reject the treaty, as if that would be a bad thing; that Panama might reject the treaty, because of the amendments. To my knowledge, there have been no amendments. The DeConcini amendment was not an amendment; it was an understanding. There is considerable doubt as to whether it has any binding authority.

I believe the disturbance we hear about is very much like the Uncle Remus story of Brer Rabbit: "Please don't throw me in the briar patch." After he was thrown in the briar patch, he mentioned that he was born and bred in the briar patch.

I think the Panamanian Government wants the sovereignty, the title, the control of the Canal Zone. I believe that once they have the sovereignty, the title, and the control, they can say, much like Brer Rabbit said—that that is really what they had in mind.

When we speak of demogoguery, of cowering to public opinion, of listening to the voice of the people of this country, that is the kind of government I believe we have. I believe that is the kind of government our Founding Fathers obtained for us when we won our independence. We have a republican form of government or a representative democracy. We are here to act on behalf of the American people.

I had a poll taken of the people of Virginia as to how they felt about this canal. I posed the simple question: "Do you favor the ratification of the canal treaties?" Eighty-seven percent of the people of Virginia who responded said they favored rejection of the treaty. Only 13 percent favored ratification.

The Senator speaks of returning this to the committee and having a vote after the election. I would support him in any move such as that because I think that after the election and after each Senator has been assured of how the people felt, we would have no difficulty in rejecting these treaties. I believe that after the election, some of the Senators in the class that is up for election this time will not be here to vote on the treaty.

We can read from the Federalist Papers and we can read from the letters that Thomas Jefferson wrote the statements made by some of the early Americans who were prominent in the formulation of our Government; and we find such statements as, "The only safe depository for the government is in the people themselves."

So while we are Senators and while we are elected to exercise our own judgment to a certain extent, I do not believe we are elected to fly—or would be elected if the people felt that we were going to fly—in the face of the overwhelming majority of the people of America.

To me the people of this country do not want this giveaway treaty, and I am not really concerned about the people of Panama. I was elected by the people of Virginia, the people of the United States and I feel that it is the duty of every Member of this Senate to do what is best in his judgment for the United States. We are U.S. Senators. Sometimes I hear voices on this floor that speak in such a way as one, a stranger to this body, might think that they were Senators from Panama rather than the Senators from particular States.

I am not going to attribute that to any individual Senator, but basically we are here to listen to the voice of the people and we are here to represent the people who elected us to office. In a nation of 215 million or 220 million people, of course, it is impossible to have a true democracy, but I would like for us to have representative government as closely as we can to representing the will of the people. The people are opposed to this treaty, and I feel that the treaty should be rejected.

Mr. President, I have talked with the distinguished majority leader, and I expect that he is probably listening to the discussions here on the floor over the device in his office, and I told him that I would like to have time after the vote on the Stevens amendment on Wednesday. I understand the vote is to be not later

than 4 o'clock on Wednesday of this week. And I ask unanimous consent that I might be recognized after the vote on the Stevens amendment to discuss the treaty and to offer an amendment if I see fit to do so at that time.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland reserves the right to object.

Mr. SARBANES. Did I understand from the Senator that he discussed this request that he has just made with the majority leader and the majority leader acceded to it?

Mr. SCOTT. He indicated he would make the request on my behalf if I wanted him to do it. So there is no conflict with the majority leader.

Mr. SARBANES. Mr. President, on, as I understand it, that understanding, that the majority leader has acceded to the unanimous-consent request which the Senator from Virginia has just propounded, I will, of course, not object.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator from Alabama yielding this time to me, and certainly I would not want to infringe further upon his time, but I did want to take the opportunity of making the unanimous-consent request while I was on the floor.

I yield.

Mr. ALLEN. I thank the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, the hour is growing late, and I shall not detain the Senate a great while.

We have been discussing this afternoon the DeConcini amendment to the Neutrality Treaty, and my interest in the amendment at this time is caused by the fact that the distinguished Senator from Idaho (Mr. CHURCH) was seeking by an expression of views on the floor at this time, some 3 weeks after the agreement on the DeConcini amendment and the approval of the Neutrality Treaty, to establish legislative history with respect to the DeConcini amendment.

Of course, it is not possible to establish legislative history with respect to something that has already taken place, because legislative history is supposed to give the background of and to explain the reasons why the Senate acted as it did with respect to a particular legislative matter, and the legislative history must be created before the action on the legislative proposal, because it explains why the Senate did what it did when it took such action.

So the door is closed now to creating legislative history with respect to the DeConcini amendment.

The second proposal that the distinguished Senator from Idaho suggested was that something must be done in this treaty to indicate, in effect, that the DeConcini amendment means something other than what the DeConcini amendment provides. How we are going to be able to do that I do not know. It cannot be done and obtain the approval of this treaty, in my judgment. Of course, I know the leadership has more than 51 Senators who would vote for a proposal submitted by the leadership as a solution of this dilemma. But in doing so, Mr. President, I feel confident that the leadership would lose enough votes of Senators who voted for the first treaty on account of the DeConcini amendment and do not want any weakening of that amendment.

Also, Mr. President, it seems to me that it would be, in effect, going back on a trade, and we will have to admit that trading took place, that the DeConcini amendment was approved by the administration, in return several Senators voted for the treaty who would not have voted for the first treaty without the DeConcini amendment. Having obtained the approval of the first treaty by agreeing to the DeConcini amendment, it comes with poor grace, it seems to the Senator from Alabama, to suggest that we must undercut the DeConcini amendment, make it say something that the words do not say, that were not said here on the floor, because, after all, a trade should be a trade, I assume. And the distinguished Senator from Alaska seemed to be pretty well of that opinion that we made a mistake, the Senate made a mistake, when it agreed to the DeConcini amendment, but it was necessary to pass the treaty.

Having obtained the benefits of the passage of the DeConcini amendment, and having obtained the approval of the treaty by this device, how can the leadership, the managers of the treaty, come forward and say that the DeConcini amendment does not mean what it was thought to have meant and what it says that it means by a mere reading of the wording of the DeConcini amendment?

Mr. President, one of the chief reasons given for the approval of these treaties by the Senate was that it was necessary in order to remove the danger of sabotage to agree to these treaties, to eliminate riots, insurrection, guerrilla action against the canal.

Well, it seems somewhat anomalous that it seems likely, based on the fact that some riots and demonstrations were already taking place in Panama, that the approval of the Senate of these treaties will result in riots in Panama and not eliminate them.

I commend the distinguished Senator from Alaska for his praise of the President in regard to these treaties. He has taken an unpopular issue and has pushed it to near approval by the Senate. But, as the distinguished Senator from Alaska says, a mistake was made. The proponents of the treaties have made their bed and now they should lie in it. They agreed to the DeConcini reservation to pass the treaty, and now they do not know what to do with it except to try to undercut it.

My authority for that is the distinguished Senator from Idaho (Mr. CHURCH) who said there is something that has got to be done, and it has got to be done in the next few days, to indicate a different meaning to the DeConcini reservation from what has been attached to that reservation.

You tamper with this treaty in that regard, try to undercut DeConcini, and you are going to lose this treaty.

I would say, Mr. President, that Dictator Torrijos—I say that with apologies to my distinguished friend from Alaska (Mr. GRAVEL)—must be a most unhappy man in Panama at this time. If he presents this treaty to the Panamanian people I believe, just as does the distinguished Senator from Alaska (Mr. GRAVEL), that the people of Panama will overwhelmingly defeat the treaty.

If it goes the other route, as head of state ratifying the treaty, he is going to be toppled in Panama just as sure as can be, in the judgment of the Senator from Alabama.

So apparently the effort will be made to change the meaning of the DeConcini reservation to provide in some way that it does not have a meaning that the Panamanians attach to it and that a reading of the reservation would indicate.

Mr. President, the treaties were negotiated by American and Panamanian negotiators. They were submitted to the Senate. A memorandum was agreed to between the President and the dictator. That memorandum became the leadership amendment, which was accepted here in the Senate and, I might say, that it promised the most and delivered the least; that is, the leadership amendment, of any amendment, any major amendment, that I have seen presented here in the Senate.

So, Mr. President, if there are ambiguities—and they abound—if there are ambiguities in the treaties and in the amendment, whose fault is it? Is it the fault of those who have sought to strengthen these treaties or failing in that to defeat them? Well, hardly. We have not been able to pass a single amendment. So if we have a treaty full of ambiguities, it is the responsibility of the American negotiators, it is the responsibility of the administration, it is the responsibility of the leadership, and it is the responsibility of the managers of these treaties. They have controlled collectively every single word that has gone into these treaties or into the resolution of ratification, every single word. So do not let them say the opposition to the treaties has caused this sad state of affairs. The people of Panama do not want this treaty. Mr. GRAVEL, a strong supporter of the treaty, says the people of Panama would overwhelmingly defeat the treaties if submitted to them.

Well, all through this debate, Mr. President, the managers of the treaties have tried to indicate that the opponents of the treaties have spoken disparagingly or put in a poor light the Panamanians, whereas they have held up for the sovereign rights of the Panamanians, and far be it from them to say anything derogatory about the Panamanian people.

Well, Mr. President, let us examine that a moment. If there have been any

derogatory statement made of any Panamanian citizens it has not been something said about the people of Panama as such. But in the main it has been directed at the Panamanian dictator. As to the people of Panama it is our wish that they have an opportunity to vote on what the Senate has done.

The distinguished Senator from Alaska (Mr. GRAVEL) said:

Well, the Senator from Alabama wants a plebiscite because he knows the Panamanian people will vote down the treaty.

It is the position of the Senator from Alabama that I would not object to seeing them voting down the treaty, but it is the position of the Senator from Alabama that if the treaty is to be agreed to it needs to be agreed to by the people of Panama because that is the best opportunity, Mr. President, agreement by the people of Panama is the best opportunity, we have to prevent riots, to prevent demonstrations, to prevent sabotage because those who are protesting in Panama now against the treaties are protesting because that is something the U.S. Senate, they feel, is ramming down their throats.

But if we condition our approval on a plebiscite in Panama that would be the people of Panama acting, and the legs would be cut from under any demonstration against the treaties. But let Dictator Torrijos approve these treaties and you are going to see bloodshed in Panama. They do not like the treaty. They do not like the treaty as agreed to by the Senate. I first thought Mr. Torrijos was just engaging in a ploy to see to it that no further amendments were agreed to. But I can sense his great difficulty in Panama in satisfying the people with respect to the action that has been taken.

Now, is that done by the opposition to the treaties? Was the DeConcini amendment put in by any one of the 32 Senators who voted against the Neutrality Treaty? No, it was not. Were any of the reservations put in by any of the 32 Senators who voted against the treaty? No, not to my knowledge, and I was here all the time.

This treaty as it now exists is the product of the administration and the leadership, and I submit that with the tremendous majority they have had on votes here in the Senate, they find the treaties not giving satisfaction to a large percentage of the people of the United States—I believe a great majority—and they are not giving satisfaction to a great number of Panamanians, and I believe a majority there.

And who is responsible for it? Is it the opposition to the treaties? No; the proponents have had carte blanche to word the treaties as they wanted to. They have knocked down all amendments offered by the opposition. They have not improved the treaties in any way suggested by the opposition. They have shaped the treaties and the reservations to suit themselves; they had full control.

Now, after having done that, after having accepted and recommended the DeConcini amendment to the Senate, they are unhappy with what they have done.

I do not believe the Senate is going to get the matter out from under that difficulty. Oh, I do not mean they cannot pass an amendment saying that the DeConcini amendment is meaningless, it means nothing, it does not change the leadership amendments. But it does, Mr. President. It gives the United States the right unilaterally to keep the canal open when the United States deems it necessary, and to use military power to keep it open if that is necessary. And that is a departure from the leadership amendment, because it was couched in three limitations—the leadership amendment, mind you, has a paragraph in there put in by the Panamanians, put in by the dictator or his representative, that qualifies our right to intervene to protect the canal. In the first place, we could not interfere with the internal affairs of Panama; second, we could not interfere with the territory of Panama; and third, we could not interfere with the independence of Panama.

In effect, we agreed that the dictatorial regime of dictator Torrijos would be preserved. And, of course, the treaties start pouring in $100 million a year into Torrijos' coffers and, of course, they want that to get started right away.

So, Mr. President, I hate to see this treaty, with its supposed affront—I do not feel that it is—its supposed affront to Panama, to see the Panamanians reject it if a plebiscite is held, or, if not subjected to a plebiscite, to see the upheaval that seems certain to come about if the treaties are approved and submitted to Panama in their present form.

So, Mr. President, if the plebiscite is held, yes, I would hope that the Panamanians would reject the treaties, because I believe that the Panamanians should have the right to make the decision on this matter. It should not be made by Torrijos, and if it is made by Torrijos only, it is going to cause riots and demonstrations, and a probable upheaval in Panama.

Whether the people turn it down or whether the people approve it, it would come nearer having the backing of all Panamanians than if we turn it down. But it seems that if it is submitted to them all, it is going to cause considerable rioting in Panama.

Mr. President, after the President, and the leadership, and the Senators who voted for this first treaty have gone to such a great length to please the Panamanian people, to fight off amendments, to reach a compromise with some of the Senators on the DeConcini amendment, to be on the verge of giving them the canal, and then to have riots and demonstrations in Panama, with the President of the United States, who has stuck his neck out to get these treaties approved, hanged in effigy in Panama, I think certainly indicates a lack of appreciation of those who have cast their lot with Torrijos and who have sought to prevent any changes in these treaties. And yet, because they are not liked by all in Panama, we see this demonstration against them.

Mr. President, like it or not, the DeConcini amendment is part of this treaty, and——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. I take it the Senator is going to support the treaty now with the DeConcini amendment attached?

Mr. ALLEN. The DeConcini amendment has been voted on. It is a part of the Neutrality Treaty.

Mr. ROBERT C. BYRD. But I say, I take it the Senator is going to support this treaty with the DeConcini amendment?

Mr. ALLEN. I believe the Senator has heard my statement. I have indicated no such thing.

Mr. ROBERT C. BYRD. Yes, I have listened to the Senator today expound on the DeConcini amendment, and I have been utterly amazed, as I am sure the people of Panama must be amazed, to find that they have such a friend as the very able Senator from Alabama has demonstrated himself to be.

Mr. ALLEN. Yes, I am trying to protect their right to have a voice in this treaty. I surely am.

Mr. ROBERT C. BYRD. The Senator has demonstrated his friendship for the Panamanians today, and I am sure that my amazement has been surpassed only by that of the Panamanians.

Mr. SARBANES. If I could say——

Mr. ALLEN. I believe the people of Panama will come nearer approving of the position of the Senator from Alabama than they will approving of the position of those who are sending these treaties down to Panama against which they are now demonstrating.

Mr. ROBERT C. BYRD. The Senator has even predicted, and I have heard him predict today more than once—several times—that if the treaties are submitted by plebiscite to the people of Panama, they will reject them. Not only that, but there will be riots and demonstrations in Panama; that Torrijos will get his walking papers. Did I hear the Senator predict that?

Mr. ALLEN. If the Senator listened carefully, I said that, in my judgment, the public sentiment was so strong in Panama against the treaty, as finally agreed to here in the Senate, that if the matter is not submitted to plebiscite and dictator Torrijos ratifies it on his own, that will result in toppling dictator Torrijos, on account of public sentiment in Panama. That is my opinion.

Mr. ROBERT C. BYRD. The Senator is going out on a limb.

Mr. ALLEN. That is all right. The Senator from West Virginia has gone out on a limb in sending a treaty down to Panama which will meet with so much popular disapproval. He has gone out on a limb and the limb is being chopped off by Dictator Torrijos.

Mr. ROBERT C. BYRD. The Senator from Alabama predicted the other day that the amendment by Mr. HATCH would garner more votes in the Senate than any other amendment had to date.

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. That was a prediction.

Mr. ALLEN. Yes, it was. I will answer that. I thought the distinguished Senator from West Virginia would be one of those voting for it. Back in 1975 he was a cosponsor of a resolution that called for there to be no cession to Panama or other divestiture of U.S.-owned property, tangible or intangible, without prior authorization by the Congress, the House and Senate, as provided in article IV, section 3, clause 2 of the U.S. Constitution.

The distinguished Senator from West Virginia, I recognize, might change his position with regard to a treaty, but I did not feel that he would change his mind with respect to a constitutional issue and his view of that constitutional issue as expressed in this resolution back in 1975, of which the distinguished Senator from West Virginia was a cosponsor.

Mr. ROBERT C. BYRD. Yes, but——

Mr. ALLEN. Can I finish, please?

Mr. ROBERT C. BYRD. Will the Senator let me respond?

Mr. ALLEN. I had not finished. I thought that the Senator, along with seven other Senators who voted for the first treaty but were cosponsors of this resolution, both as to House action being required and as to their being no agreement on the Panama Canal treaty, would go along with what they had advocated back in 1975.

Mr. ROBERT C. BYRD. What the distinguished Senator from Alabama did is he did not wait for any hearings; he did not wait to hear what the Joint Chiefs might say; he did not even wait until we had a treaty before the Senate. He announced his opposition. He did not wait for any hearings; he did not wait for any testimony.

He did not wait for any evidence; he did not wait for anything to change his mind. He made up his mind in the beginning. I respect him. He has stuck by his guns. But he is determined to defeat these treaties one way or another by amendment. We can adopt every amendment the Senator has offered to this treaty, and I dare say—of course, I do not know—I would venture to say that he would still vote against the treaties. He announced that in the very beginning. He made 24 speeches last year that he was against the treaties.

Now that the Senate has turned down most of the amendments thus far, he is grasping at a straw. He continues to grasp every little straw that comes along in the wind. Now he talks about demonstrations in Panama. He talks about submitting the treaty to another plebiscite. The constitution of Panama provides that the treaty be submitted to the people for a plebiscite, and that was done. Now he seeks to write into this treaty an amendment that would force on the people of Panama what in essence would be a constitutional change in that country.

The Senator from Alabama did not change his mind. His mind is not subjected to being changed on this.

I have twice laid on the record my response to what the Senator has just read.

Mr. ALLEN. Did the Senator take one view in 1975 of the constitutional issue about whether the House needed to act, whether it needed action by the Congress? Did he change his mind on that constitutional issue as well as on the desirability of the treaty?

Mr. ROBERT C. BYRD. I will ask the Senator a question. Did the Supreme Court ever change its mind on a constitutional issue?

Mr. ALLEN. That is not what I asked the Senator. Has the Senator changed his mind?

Mr. ROBERT C. BYRD. I am asking the Senator from Alabama.

Mr. ALLEN. If the Senator declines to state it——

Mr. ROBERT C. BYRD. I do not decline to state it. But if the Supreme Court can change its position on a constitutional issue and with good reason——

Mr. ALLEN. I am not asking that question.

Mr. ROBERT C. BYRD. I am giving the answer.

Mr. ALLEN. I am not asking about the Supreme Court.

Mr. ROBERT C. BYRD. I heard the Senator. I am answering this as I want to answer it, if he wants me to. If the Supreme Court changed its position on a constitutional question, I think that any Senator should retain the same right, and he has the same duty, to change his position on a constitutional question if, in his judgment, after more thorough study of that question he sees that he was wrong the first time. He should change. I did see that I had not considered that question the first time. I just signed a resolution. Someone came around and asked, "Will you sign this resolution?"

Mr. ALLEN. It does not sound like the distinguished Senator from West Virginia would sign something without knowing what is in it.

Mr. ROBERT C. BYRD. No; he does not, ordinarily. I submit I did not give it the careful thought I should have. Beside that, I did not have the treaties before me at that time.

Mr. ALLEN. I am talking about the constitutional question. It has nothing to do with the treaties.

Mr. ROBERT C. BYRD. That is all right. I have studied the constitutional question thoroughly. I have made two or three speeches on that constitutional question lately. I have thought it over. I have done some research and I have come to what I think now is the right conclusion. So like the Supreme Court of the United States, which reverses itself from time to time, I retain that same right. I think it is my duty. I did change my view.

Mr. ALLEN. I asked has the Senator changed his mind?

Mr. ROBERT C. BYRD. Yes. But I was not required to answer the Senator's first question. I dealt with it, built on it block by block, and then my peroration, and then the final sentence. And the court of appeals has upheld my position. They upheld my position.

Mr. ALLEN. The Senator changed his mind from his 1975 position on both scores, on the advisability of the treaty and on the constitutional issue involved, is that correct?

Mr. ROBERT C. BYRD. On the advisability of the treaty, I did not have the treaty before me.

Mr. ALLEN. The Senator said something about somebody changing his mind. My opinion was announced back under President Nixon. My opinion was announced in a newsletter that I sent out to some of my constituents over the State back in October 1971. I saw the treaties coming on, just as the distinguished Senator from West Virginia did, in 1975. I guess he had an idea about whether the canal was going to be given to Panama or not when he joined in this resolution. The Senator from Alabama did not form his opinion just recently. Obviously, he did not change his mind.

I appreciate the Senator saying the Senator from Alabama has not changed his mind.

Mr. ROBERT C. BYRD. And is not going to.

Mr. ALLEN. Not on this particular issue, no.

Mr. ROBERT C. BYRD. No.

Mr. ALLEN. I have made up my mind on it. My position is justified by the facts and by the confusion in which the supporters of the treaties now find themselves.

Mr. SARBANES. Will the Senator from Alabama yield for a question?

Mr. ALLEN. If the distinguished Senator from West Virginia is through propounding his question.

Mr. ROBERT C. BYRD. I have temporarily withdrawn from the field.

Mr. ALLEN. I think it might be well.

Mr. ROBERT C. BYRD. But I am going to witness the continuing engagement. I had to leave my weary steed at the door, where they required that I hitch him to the hitching post, and my blunted sword I have thrown aside for a moment. I just wish I had that blue blade that the king's son bears from Alabama. I can fully defend the position which I take today——

Mr. ALLEN. I know the Senator has answered to his satisfaction.

Mr. ROBERT C. BYRD (continuing). On the treaty and on the constitutional question. And I am supported by the recent decision of the court of appeals, which I realize chagrined the distinguished Senator from Alabama and those who supported him in their unsound position vis-a-vis the constitutional question. I feel rather good that the court of appeals supported me, and I am sure that the Senator from Alabama recognizes that what the appeals court has done will probably stand if it should go to the Supreme Court.

Mr. ALLEN. I am glad the distinguished majority leader knows what the Supreme Court is going to do, because very few of us know.

Mr. ROBERT C. BYRD. I have as much right to make a judgment as to what the Supreme Court will do as the

Senator from Alabama has as to the Panamanian people.

Mr. ALLEN. I have some indication as to the Panamanian people. If the Senator has been reading about the riots down in Panama and the burning of the President down there in effigy, he would have some feeling about the opinion of the people in Panama. I doubt if the Senator has any pipelines into the thinking of the Supreme Court.

Mr. ROBERT C. BYRD. I need only to look at previous decisions.

Mr. ALLEN. Oh, I see. So the Senator is confident that the Supreme Court is going to sustain that.

Mr. ROBERT C. BYRD. I have no doubt; no doubt.

Mr. ALLEN. I am glad the distinguished majority leader has no doubt.

I am highly honored that the distinguished Senator comes in from time to time and propounds questions to me and, in addition to propounding questions, makes lengthy comments on the remarks of the Senator from Alabama. I do not recall his so honoring any of the other Senators who have sought to approve these treaties or, in the alternative, to defend them. I feel highly honored that the distinguished majority leader does come in from time to time to engage me in colloquy. I appreciate that.

Mr. ROBERT C. BYRD. The Senator recognizes my great respect for the Senator from Alabama. I have the greatest respect. I do not say that facetiously; I do have. But I just felt constrained, as I listened to the Senator's stentorian voice, almost in dulcet tones as it came across public radio, to come in and just ask on what basis the Senator could predict, as he has predicted, some of the things that he has stated today.

Mr. ALLEN. Yes, I have predicted that if this matter is submitted to plebiscite, it will be defeated. I am backed up in that opinion by the distinguished Senator from Alaska, who supports the treaty. He states unequivocally that, in his judgment, these treaties, if submitted to plebiscite in Panama, would be overwhelmingly defeated. He made that remark within the last 45 minutes.

Mr. ROBERT C. BYRD. The Senator from Alaska has a right to that opinion. I personally do not have any way of knowing.

Mr. ALLEN. I feel that is an indication of the view of the leadership from the fact that the distinguished manager of the treaty, the distinguished Senator from Idaho (Mr. CHURCH) has said on this floor, do not approve this amendment, because any amendment will result in the defeat of the treaties. I assume he meant by that that the people of Panama would reject a treaty that had been amended. I believe, if I am not mistaken, that the distinguished majority leader has argued that point on the floor of the Senate, making that very same argument.

Mr. ROBERT C. BYRD. I am not sure.

Mr. ALLEN. I am rather sure, I say to the distinguished majority leader.

Mr. ROBERT C. BYRD. I remember an occasion or two before, when the Senator thought that I had said something and we had the transcript read and we found that the Senator from Alabama was wrong. I do not think I have——

Mr. ALLEN. I do not recall that occasion. But I accept that the distinguished Senator does.

Mr. ROBERT C. BYRD. Well, maybe I am wrong again. But I do not think I have made that argument. Maybe I have.

Mr. ALLEN. That has been the Senator's opinion, has it not, that the treaty should not be amended?

Mr. ROBERT C. BYRD. Oh, no; I offered a joint leadership amendment.

Mr. ALLEN. I understand that, but that was based on the memorandum between the dictator and the President. But aside from the so-called leadership amendment, which, with all due respect—and the Senator did not write those amendments or I would not make this statement—promise the most and give the least of any amendments that have been offered heretofore, I might say.

Mr. ROBERT C. BYRD. Of course, that is the opinion of the Senator from Alabama, because his one objective here is to defeat the treaties one way or another. And if he can demean the leadership amendment, he would do it anyway to achieve that basic goal of defeating the treaties. The Senator would not vote for these treaties if the Senate had adopted every one, every one of the amendments that the Senator from Alabama has offered, and he knows that.

Mr. ALLEN. The distinguished Senator said that the Senator from Alabama would defeat these treaties any way that he could. Of course, the Senator from Alabama would defeat the treaties any way that he honorably could. But I recall——

Mr. ROBERT C. BYRD. I agree.

Mr. ALLEN. I am not stating this as honorable or dishonorable, but the facts can speak for themselves.

Mr. ROBERT C. BYRD. It is not dishonorable, and I did not mean to impute anything like that.

Mr. ALLEN. I understand. But we do know that the DeConcini amendment was accepted by the leadership, because the President had agreed on the DeConcini amendment and had used that in order to get at least one and possibly two or three votes for the treaties. That is the point that the Senator from Alabama has been making this afternoon, that, having accepted the DeConcini amendment, based on what the distinguished Senator from Idaho (Mr. CHURCH) has said, an effort is going to be made in this treaty to put in a provision to indicate that the DeConcini amendment means something somewhat different from what it meant at the time the DeConcini amendment was agreed to. The Senate, thereafter, agreed to the treaty and the cosponsors of the DeConcini amendment were found voting for the treaty.

I do not think the Senator from Alabama is doing anything other than arguing this matter on its merits. If he can contribute to the defeat of the treaties, I believe that he has rendered a public service. But the Senator from Alabama has no concessions to make to anybody. He cannot ask them if they have any concerns about the treaty. He cannot have meetings of doubtful Senators and inquire about their concern. All he has is the logic, which I believe is backed by the people of the United States; whereas, of course, the administration has other facts that they can call into play——

Mr. ROBERT C. BYRD. And the leadership.

Mr. ALLEN (continuing). In an effort to get votes.

Mr. ROBERT C. BYRD. Do not leave out the leadership.

Mr. ALLEN. That is the Senator saying that. I would not suggest that the distinguished majority leader would make any concession to any Senator to get him to vote for the treaty; far from it.

Mr. ROBERT C. BYRD. I hope the Senator from Alabama will not underestimate his capabilities and the resources that he has at his command. He is chairman of a subcommittee. He conducted hearings on the constitutional aspect.

Mr. ALLEN. Yes; we have done that and made our report.

Mr. ROBERT C. BYRD. They have had lengthy hearings; he has made his report. So he does, he is not disarmed by the support that he has to depend on, logic alone. He does an excellent job in conducting hearings. He brought forth a report. So let it not be said that the Senator from Alabama is without spear or buckler or shield or sword. I would not want the Senator from Alabama to leave us with that impression.

Mr. ALLEN. He certainly is not heavily armed, I say to the distinguished majority leader, who has so much power in this body. The Senator knows I am one of his staunchest supporters.

Mr. President, I yield the floor.

● Mr. THURMOND. Mr. President, Luis Kutner, a Chicago attorney and president of the Commission for International Due Process of Law, has written an excellent article entitled, The New Panama Canal Treaties: A Potential Diplomatic Pearl Harbor.

Mr. Kutner is an internationally famous attorney and author on Habeas Corpus and Human Rights. He is the author of World Habeas Corpus and chairman of the World Freedom Centers. He was nominated for the 1975–76 Nobel Peace Prize and has been extremely active worldwide promoting human rights.

Mr. Kutner's article is very informative on the canal issue and concludes that the United States should not abandon the Panama Canal and give back the sovereignty over the Canal Zone to Panama.

Mr. President, I ask that this article be placed in the RECORD at the conclusion of my remarks.

The article follows:

THE NEW PANAMA CANAL TREATIES: A POTENTIAL DIPLOMATIC PEARL HARBORS

(By Luis Kutner)

The New Panama Canal treaties have become the subject of one of the most emotional political debates in years, perhaps the most controversial issue since the Vietnam

War.[1] It has been described as an issue which touches "the nerve endings of American citizens" as few issues ever have.[2] At the heart of the controversy is the 1903 Hay/Bunau-Varilla Treaty[3] under which the Canal was built—and which the new treaties replace,[4] for it is the source of the major issue of debate here: the sovereignty question.[5] Thus, in order to fully understand this and other related issues involved, we must first understand the historical events that led up to the treaty of 1903.[6]

Interest on the part of the United States in building a Panama canal, out of recognition of the strategic importance of this area in Central America (just as the Spanish had recognized it centuries before when Balboa crossed the Isthmus to discover the Pacific Ocean), came about as early as 1821, at the time Panama signed a formal agreement declaring independence from Spain and unified with Colombia then called New Granada).[7] Five years later Henry Clay, as Secretary of State, publicly stated that he favored construction of such a canal across Panama[8] to extend trans-isthmian transit "to all parts of the globe upon the payment of just compensation and reasonable tolls."[9]

What might be called the first basic Panama Canal treaty[10] was negotiated in 1846 with New Granada by the U.S. Minister there, Benjamin A. Bidlack, and was subsequently ratified in 1848.[11] Under the terms of this "Treaty of Peace, Amity, Navigation, and Commerce"[12] New Granada agreed to grant to the U.S. a "free and open" transit or right of way "across the Isthmus of Panama" *via* any "modes of communication that now exist, or that may be, hereafter, constructed" in exchange for a U.S. guarantee to protect New Granada's territorial integrity within its province of Panama. President Polk, in his submission of the Mallarino-Bidlack Treaty for Senate ratification, emphasized its advantages to American commerce in that such a Panamanian passage would shorten the route to "our possessions on the northwest coast of America," as well as to Asia. The year after the treaty was ratified, a New York company began to build a railway across Panama that was completed in 1855. This first trans-continental railroad was also the first specific step toward the construction of the Panama Canal.[13]

By the 1850s, however, the U.S. had cause to worry about the efforts of a stronger naval and commercial rival, the British, who were seeking to establish a protectorate over all of Central America and, thereby, obtain control over any ship canal in that region. So, to prevent such a monopoly, the U.S. entered into a cooperative agreement with the English, known as the Clayton-Bulwer Treaty, to share equally in the construction, operation, and defense of any such canal to be built in the future. Although later Presidents and Congresses came to feel that this country should have a canal solely under American control rather than sharing it with England, the Clayton-Bulwer Treaty remained in force until the turn of the century, attempts to negotiate an end to it before that time having failed. In 1901 England finally consented to give up its claims to the U.S. and terminate the pact. In its place, the Hay-Pauncefote Treaty allowed the U.S. a free hand in building, controlling, and fortifying an isthmian canal.[14] This treaty of 1901 gave to the United States "the exclusive right of providing for the regulation and management of the canal" when completed and set certain guidelines for the canal's operation[15] (such as being "open to the vessels . . . of all nations," similar to the "free navigation" rule for the Suez Canal under the 1888 Constantinople Convention).[16] The Hay-Pauncefote Treaty is still operative today[17] and, hence, remains legally obligatory on both Britain and the U.S.,[18] "the High Contracting Parties under the . . . Treaty."[19]

The emergence of the U.S. from the Spanish-American War as a power in the Caribbean and Pacific had generated new enthusiasm for an isthmian canal, since a water passage now seemed essential if America was to take full advantage of the trade opportunities that had opened-up to it in the Pacific.[20] Thus it was that in the year after Hay-Pauncefote was ratified President Theodore Roosevelt, under authority provided by Congress through the Spooner Act, took steps to acquire from Colombia "perpetual" control of a strip of land at least six miles across the Isthmus of Panama, still a part of Colombia, in order to construct a canal. A Columbian representative, Herran, agreed in 1903 to give the U.S. a six-mile-wide zone for a $10 million dollar cash payment, plus another payment of $250,000 annually to Colombia. But the government at Bogata rejected the proposed treaty because it felt the money offered was insufficient and it feared the agreement would seriously impinge on Colombian sovereignty in the Province of Panama.[21]

Panama itself now saw an opportunity to attain its goal of independence which it had been unsuccessfully seeking ever since Colombia had revoked its autonomy.[22] The Panamanians had made 53 previous attempts to gain independence;[23] all failed. On several occasions the U.S. landed troops in Panama, in accord with the Bidlack Treaty, to help Colombia put down the revolts. But this time President Roosevelt was angered at the rejection of the canal treaty by Colombia, which the U.S. had always supported in the past; he now referred to the Colombians as "the blackmailers of Bogota." So, when Panamanian nationalists again revolted in 1903, Roosevelt had the *U.S.S. Nashville* present in the Isthmus waters off Colon, Panama. This protective gunboat provided indirect encouragement to the Panamanian insurrectionists in that the show of force by the U.S. Navy kept Colombian troops and ships from suppressing the rebellion. It was a bloodless revolution in which Panama declared its independence and formed the Republic of Panama. The new government was quickly recognized by the U.S., which was also to protect the new country against its former master.[24]

Roosevelt was later to boast "I took Panama,"[25] which is certainly more of an admission than a defense of his own action here. But Roosevelt did not foment the revolution,[26] the fervor for separation from Columbia having been deeply rooted in Panama. Nonetheless, this "gunboat" diplomacy of the U.S. did help Panama to become the independent nation it is today.[27]

Almost immediately after the establishment and recognition by the U.S. of Panama, negotiations began on a canal treaty between the two nations.[28] The Panamanian government authorized Phillipe Bunau-Varilla to act as its Ambassador Extraordinary and Plenipotentiary in negotiating the treaty.[29] The negotiations concluded in the Hay/Bunau-Varilla Treaty to govern administration, operation, and control over the canal and its zone,[30] a strip of land 10 miles long granted to the U.,S. "in perpetuity" by Panama.[31] The treaty draft was signed on November 15, 1903,[32] at 7 o'clock p.m.—hardly "in the dead of night," as President Carter would have the American people believe.[33] Later, on December 4, 1903, the formal signing took place, with the three members of Panama's junta and six Panamanian cabinet members as signatories to the treaty.[34] The treaty was subsequently ratified by Panama in February of the following year,[35] and in May, after ratifications had been exchanged, the Foreign Minister of Panama notified our government that his country considered its jurisdiction over that area of land within the Canal Zone to have ceased.[36]

In exchange for the right to occupy this zone and build a canal therein, the U.S. initially paid Panama $10 million for this transfer of territory—a cost far exceeding the purchase price of the Louisiana District or Alaska, or, for that matter, any other such territorial acquisition. In addition, the U.S. acquired complete ownership of all parcels of privately-owned land wthin the Zone by paying every individual land-owner or squatter for title to their land in fee simple; all deed instruments were recorded and became a part of official U.S. court records. Further, $40 million was paid to a defunct private French company for whatever rights they had to the ditch they had begun to dig in an earlier attempt (from 1881 to 1889) to build a canal; the tremendous cost of construction had forced the French company into bankruptcy which rendered it incapable of completing its project. The total acquisition costs at this point were over $54 million for the U.S.[37]

Further still, as an aid in the construction of the canal, the U.S. assumed a $250,000 annual obligation previously paid by a private railroad company for the right-of-way of a rail line it had built across the Isthmus. Out of agreement in the Hay/Bunau-Varilla Treaty arose the misconception that the U.S. was paying Panama for renting the Zone.[38] Indeed, in his television speech on the new Panama Canal treaties, President Carter claimed that the U.S. has to "pay rent" to Panama in order to "use their land."[39] Yet there is no specific language in Hay/Bunau-Varilla which even hints that the Canal Zone is a leasehold, and neither Panama nor the U.S. has accepted the idea that the annual annuity (since incresed to $1,500,000) is an obligation on a lease for use.[40] Moreover, while the term "lease" is nowhere to be found in the treaty, the term "grant" is used no less than 14 times and, since the grant was "in perpetuity," there is no provision for renegotiation or termination as might be found in a lease agreement. The transfer of territory seems specific and absolute. The boundaries of the Canal Zone, in implementation of the treaty, were first defined through a provisional agreement, ratified by Panama's National Assembly; by that agreement Panama specifically "ceded" the land to the U.S., and the boundary lines were made permanent upon the completion of the canal.[41]

After ten years involving American financing, engineering, and other resources, the building of the Panama Canal had finally been accomplished by 1914 at an outlay of some $387 thousand tax monies.[42] In the early 1920s the U.S. finally reached an agreement with the disgruntled Colombian government to compensate it in the amount of $25 million for the loss of its Panamanian province; in return, Colombia officially recognized the independence of Panama and that the title to the Canal Zone rested "entirely and completely" with the U.S. Over the past seven decades the U.S. has invested almost $2 billion in the Canal Zone, including ridding this once mosquito-infested jungle of malaria.[43]

The foregoing historical summary of the Panama Canal and the original treaty with Panama has been necessary not only to understand the arguments made for turning the Canal over to Panama, but to refute those arguments as well. It has certainly shown that, in terms of Article II of the 1903 treaty, the U.S. clearly has "control" of the Canal Zone "in perpetuity."[44] The U.S. surely has ownership of the Canal Zone,[45] and the moral and legal right—the root of all property rights—of a creator in that which it has created: the Canal itself.[46]

Sovereignty, however, should not be confused with ownership. Sovereignty is supreme and independent authority; it is the right to make decisions not subject to the approval of others; hence, the ultimate exer-

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cise of power over a territory. As it pertains to the Panama Canal Zone, it would include the management, operation, and defense of the Canal.[47] Without such sovereignty, the U.S. would have no rights at all in the Canal Zone.[48] Of course, the U.S. does have sovereignty in the Zone, and the sovereign rights it has been exercising were received through the treaty of 1903,[49] to wit:

"The Republic of Panama grants to the United States all the rights, power and authority within the Zone . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located *to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.*[50] (Emphasis added.)

Of the two new treaties, the basic one surrenders all U.S. sovereign rights over the Canal Zone to Panama.[51] The preamble acknowledges "Panama's sovereignty" and Article I(a) abrogates the 1903 convention, which will be replaced by this new treaty six months after the exchange of ratification instruments by both nations. On that effective date of the treaty, Panama assumes general territorial jurisdiction over the Zone; and, at noon on December 31, 1999, Panama further assumes control of Canal operations and defense as U.S. military presence ceases.[52] This negotiated transfer of sovereignty [53] repudiates a 75-year-old legal understanding.[54]

Although sovereignty cannot be transferred unless one exercises it to begin with,[55] proponents of the new treaties have advanced the claim that the U.S. never had full sovereignty over the Canal Zone, but was merely given certain "rights" by the original 1903 treaty.[56] In so doing, the proponents have adopted an argument almost as old as the Hay/Bunau-Varilla Treaty itself. Some have always felt that the U.S. was never meant to be the ultimate sovereign, with titular, or residual, sovereignty retained by Panama. This question of who holds sovereignty revolves around Article III of the 1903 treaty, cited above. Those who adhere to the notion of titular sovereignty read the phrase "*if* it were sovereign" (emphasis added) as a qualification on the Article II grant. Yet when the final words of Article III denying Panama "the exercise * * * of any * * * sovereign right, power or authority" are taken in the context of the entire article, it offers proof that the U.S. is sovereign in the Canal Zone. Still, the sovereignty debate goes on today.[57] Indeed, U.S. Ambassador At-Large Ellsworth Bunker (who helped negotiate the new agreements with Panama) spoke of Panama's "titular sovereignty over the Zone" in a speech to the World Affairs Council.[58] But John Hay, Secretary of State at the time the 1903 treaty was signed, dismissed the theory of titular sovereignty as a "barren scepter." [59]

The courts entered the sovereignty debate as early as 1907.[60] In that year the U.S. Supreme Court interpreted the Hay/Bunau-Varilla Treaty as "ceding the Canal Zone" to the U.S. in the case of *Wilson* v. *Shaw*.[61] Mr. Justice Brewer, speaking for a unanimous Court, refused to accept plaintiff's contention that the U.S. had not acquired title to and the exercise of sovereignty over the Canal Zone in the absence of described boundaries in the treaty; he forthrightly declared:

"It is hypercritical to contend that * * * the territory * * * does not belong to this nation, because of the omission of the technical terms used in the ordinary conveyance of real estate. * * *" [62]

And Justice Brewer stated further that disputes "as to the exact boundary on either side" were not infrequent in the "cessions of territory" and, thus, "immaterial," adding, by way of comparison, that—

Alaska was ceded to us 40 years ago, but the boundary between it and the English possessions were not settled until within the last two or three years. Yet no one ever doubted the title of this Republic to Alaska."[63]

The opinion in the Shaw decision is especially interesting in light of President Carter's assurances to the public in his fireside chat of February 1, 1978, that the Supreme Court has "repeatedly acknowledged the sovereignty of Panama over the Canal Zone" and that "(t)he Canal Zone cannot be compared with United States territory. We bought Alaska from the Russians. * * *" [64]

The Supreme Court again addressed the sovereignty issue in regard to Article III of Hay/Bunau-Varilla nine years after it had decided. *Shaw*. Here the plaintiffs sought an injunction to restrain the defendants from seizing plaintiffs' property in the Canal Zone for public use so as to prevent dispossession of the owners until they received the compensation required by the Panamanian constitution. The plaintiff's contended that inhabitants of the Canal Zone had not lost any of these constitutional guarantees under the 1903 treaty with the U.S. The Court, though, ruled, in affirming the Canal Zone District Court, "that where a government by treaty, parts with sovereignty of a part of its possessions, . . . the new sovereignty is equally empowered to legislate therefor without regard to pre-existing laws or conditions." [65]

To be sure, Congress had previously provided in the Panama Canal Act of 1912 [66] that the Zone was to "be considered . . . an organized territory of the United States" for purposes of extradition.[67] Later in the *Luckenbach* case,[68] the Supreme Court determined that the Canal Zone was a "foreign port" as it related to the setting of rates for mail carriage—but, clearly, *only* for this purpose of mail transportation. The Court here cited the *Wilson* v. *Shaw* precedent and chose not to examine the sovereignty issue further.[69] When a defendant accused of committing a wrong in the Canal Zone subsequently sought in a New York case [70] to dismiss the complaint of the ground that the Zone was, in reliance upon *Luckenbach*, a foreign country where that court had no jurisdiction, the court itself denied the motion to dismiss, noting that *Luckenbach* involved special circumstances: *i.e.*, ports relating to the mails; it did not involve places.[71] Moreover, a British court even took note of the special circumstances involved in the *Luckenbach* holding when it found the Canal Zone to be a U.S. possession and, consequently, the town of Cristobal within the Zone to be a U.S. port for the carriage of goods by sea.[72]

Divergent opinions on the sovereignty question are seen in a 1948 Supreme Court case. Mr. Justice Reed observed that the Canal Zone was a territory of the U.S., but then added, rather inconsistently, that it was "territory over which we do not have sovereignty." [73] Albeit dictum, Mr. Justice Jackson dissented from that dictum, saying:

"To such an extent, indeed, are we sovereign in the Canal Zone that Panama has been granted special commercial rights only by express and formal concession, and this Court has reviewed the history of the acquisition and concluded that the title of the United States is complete and perfect." [74]

The most recent Supreme Court decision on the status of the Panama Canal Zone was handed-down in 1972.[75] The Court upheld the ruling of the Fifth Circuit Court of Appeals which declared that "(t)he Canal Zone is an unincorporated territory of the United States over which Congress exercises 'complete and plenary authority'." [76] This case not only referred to the 1903 treaty but also to the treaty of 1936, which stated that the Canal Zone was a "territory of . . . Panama under the jurisdiction of the United States . . ." [77] and which the State Department now claims recognized the sovereignty of Panama over the Zone.[78]

The treaty signed in 1936 (Hull-Alfaro), the first substantial revision of the 1903 treaty, took 40 months to ratify. Negotiated under the administration of President Franklin D. Roosevelt as a part of his "Good Neighbor" policy, the treaty made a number of concessions in order to improve relations with Panama. The annual annuity was raised to 430,000 devalued dollars, and the U.S. relinquished, at the request of Panama, its guarantee of that nation's independence, along with its right to intervene in Panama's affairs by maintaining order in those Panamanian cities located near the Atlantic and Pacific entrances of the Canal. More important, though, were the elimination of the United States' right under the original treaty to use any defense sites it required outside the Zone and a provision that the defense of the Canal would become the joint responsibility of the U.S. and Panama. The Army at first opposed the new pact. Given the growing effectiveness of the airplane, the defense of the Canal had to depend on fighter planes and bombers based outside the Zone, in addition to large fixed guns and a mobile Navy. There was also some fear of the expanding Japanese fleet. Finally, in 1939, three years after the treaty had been signed, the strongly Democrat-controlled Senate ratified it on a largely party-line vote—but not before there was included an exchange of notes making it clear that the U.S. had both the right to take unilateral steps to defend the Canal when a sudden crisis precluded joint consultation and to hold military maneuvers outside the Zone if such operations were warranted for the security of the waterway.[79]

Although both the Panamanian Foreign Minister and Ambassador told then-Undersecretary of State Sumner Welles that their country was so satisfied with what it had received from the 1936 treaty it would not request any further concessions, more concessions were later granted to Panama through another treaty revision in 1955 as a result of a prior meeting between President Eisenhower and President Remon of Panama at Washington. The new agreement, signed in Panama, again increased the annuity, this time to $1.9 million; it also sought to ameliorate inequities in wage rates for similar work performed by Americans and Panamanians alike in the Canal Zone. In return, Panama was to permit the U.S. to establish military bases, which the U.S. had paid Panama the price of about $1 billion to obtain during World War II to be evacuated within a year after the war ended. Panama had also wanted the U.S. to rescind the "perpetuity" clause of the 1903 treaty for a 99 year concession to the Canal Zone instead. However, this right the U.S. refused to relinquish.[80] As a matter of fact, the 1955 treaty reconfirmed our rights and sovereignty in the Zone.[81] Perhaps, the lesson of current events had not been lost here. In 1953 Egypt had unilaterally abrogated British rights to maintain a base at Suez and station troops along the canal route. The next year the United Kingdom itself renounced its treaty rights and promised to remove its armed forces within 20 months.[82] Then in 1956, a month after the British had withdrawn from the Suez Canal, Egypt nationalized the Suez Canal Company and kept the profits. It also kept the Canal closed to Israeli ships in spite of treaty commitments, an Anglo-French attack, and a U.S. condemnation.[83]

Although a decided shift in U.S. policy on the sovereignty of the Canal Zone can be clearly detected in the State Department since the Suez Crisis of 1956, one of the first

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symbolic actions occurred a decade earlier when Alger Hiss, a Communist agent at that time heading the Department's Office of Political Affairs, included the Canal Zone on a list of "U.S.-occupied territories" which he sent to the newly-created United Nations. His action was supported by Secretary of State Dean Acheson.[84]

From 1959 to 1964 the growing demand that the U.S. acknowledge Panama's claim of sovereignty over the Canal Zone, led to outbursts of violence. In 1959 a mob of several hundred student rioters attacked the U.S. Embassy in Panama City and ripped down our flag, then attempted to invade the Canal Zone, intent on planting the Panamanian flag at several locations in Zone territory. To placate the Panamanians, President Eisenhower reacted the following year by ordering that their flag be flown at the Shaler Triangle located within the Zone. The government of Panama took this action as symbolic recognition of its residual sovereignty over the Canal Zone. although Congress, by resolution, had advised Eisenhower that it opposed the flag concession. President Kennedy later authorized flying the Panamanian flag at 17 different locations in the Zone.[85]

A far more serious disturbance exploded early in 1964 when Panamanian street mobs, consisting of members of communistic parties in Panama and Cuba led by persons communist-trained in political action, rioted along the Canal Zone border. Four U.S. soldiers and over 20 Panamanians were killed in the bloodshed; 700 persons were wounded and more than 200 seriously injured; property damage was estimated to be over $2 million. The Panama National Guard took no steps whatever to stop the rioters—and, in fact, some guardsmen even took part in the riot themselves, using their weapons against American troops and sniping at targets in the Zone. As a result of this incident, and at the insistence of the State Department that the Canal Zone really was the sovereign territory of Panama, President Lyndon Johnson near the end of the year publicly committed the U.S. to negotiate a new, fixed-term canal treaty with Panama.[86] The terms of this treaty were to be similar to the subsequent statement of principles found in the Kissinger-Tack Agreement of 1974, which implied that the Canal Zone was Panamanian territory.[87] As a Congressman, Gerald Ford expressed concern over such a treaty, noting that "(w)ith Cuba under the control of the Soviets through its puppet Castro and with increased communistic subversion in South America, a communistic threat to the Panama Canal is clearly a grave danger. . . ." [88] Yet, as President, Ford endorsed the reversion of U.S. sovereignty over the Canal Zone to Panama.[89]

The process of treaty negotiations started with Panama by President Johnson were concluded under President Carter.[90] The details of the treaties, written in secret, were kept secret from Congress and the American people until 24 hours before they were signed.[91] Mr. Carter staged the ceremonial signing of the treaties with Panama's dictator, Omar Torrijos, at Washington on September 7, 1977. Whereupon Gov. Meldrim Thomson of New Hampshire declared September 7 to be a "Second Day of Infamy." [92] To be sure, the new Panama Canal treaties hold all the potential of a diplomatic Pearl Harbor.

The national defense is one of the legitimate purposes of government—and it is of the highest order when it comes to preserving freedom. Foremost to any defense policy is the capability to use and control the seas if a nation's freedom is challenged. That is surely vital to the security of the United States.[93] Especially critical to the defense interests of the U.S. is the Caribbean area.[94] Strategic control of the Caribbean in both war and peace has been essential to U.S. security ever since the Monroe Doctrine was enunciated. That security has already been weakened by the communization of Cuba, 90 miles off our shore. Abandoning sovereignty over the Panama Canal and its Zone will further threaten U.S. security.[95]

The Canal Zone has almost uniformly been included as a part of the U.S. in matters relating to the national defense and security,[96] and there can be no doubt that the Canal itself is quite necessary to U.S. security and defense.[97] Indeed, the Canal, as an inter-ocean waterway, has grown more important than ever to the U.S. today. Soviet sea power is expanding throughout the world, based on a naval doctrine of cutting-off U.S. lines of sea communication.[98] With the Communists out to dominate or influence global maritime "choke points." [99] future control of the Panama Canal Zone is a real concern [100] since the Canal is one of those choke points. [101] Moreover, even as the Soviet Navy has expanded, the U.S. Navy is shrinking to the point where it is currently out-numbered in submarines and surface ships by the Soviets. This reduction in the size and power of the U.S. Navy's active fleet means that, while it may have a two-ocean responsibility, the U.S. does not really have a two-ocean Navy; it is a one-ocean Navy, at best one-and-a-half. Thus the great need of the Panama Canal to the U.S. Navy is readily apparent. In order to compensate for the limited adequacy of its combat elements, the Navy must obtain maximum combat effectiveness. Moving naval ships, personnel, and supplies between the Pacific and Atlantic Oceans through a shorter route with greater speed and quicker response time enables the Navy, with a steady flow of logistic support, to meet a sudden crisis or conflict. For example, during the Cuban Missile Crisis, Marines and supplies from the West Coast were ferried through the Panama Canal.[102] Acknowledging the Canal as an essential defense link between the Atlantic and Pacific, General V. H. Krulac, U.S. Marine Corps (ret.), has said that "(i)t is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy." [103]

In making for an effective U.S. Navy in both oceans, every naval vessel now on active duty (including nuclear-powered, ballistic-missile firing submarines, attack subs, combat surface ships, and support and supply ships for aircraft carriers) can transit the Panama Canal, save for 13 of our largest carriers—too large to pass through the present locks. However, the trend in naval shipbuilding is toward smaller, though more effective, ships; and well before the year 2000 these new, smaller-sized ships will have begun to replace those larger crafts.[104]

Although there is overwhelming agreement among the majority of high-ranking military experts on the strategic importance of the Canal to U.S. security, there is still disagreement over ratification of the new treaties.[105] The Joint Chiefs of Staff support for ratification is understandable. Secretary of Defense Harold Brown has stated that any of the Joint Chiefs who opposed the treaties should resign.[106] Obviously, any officer on active duty who does not wish to jeopardize his military career will simply adhere to the views of those over them.[107] However, retired Admiral Thomas H. Moorer told the Senate Foreign Relations Committee that "(a) large majority of our war and contingency plans are totally infeasible unless one assumes that full priority use of the Canal will be available." [108] And, appearing before the Senate Armed Services Committee to oppose the disposal of the Panama Canal by reason of the fact that its "defense and use . . . is wrapped unextricably with the overall global strategy of the United States," [109] Moorer concluded:

" . . . A maritime link between the Atlantic the Pacific is vital to the security of the United States and will always be so. * * * A permanent U.S. presence will provide the best defense and the best insurance against a major conflict in the Caribbean area." [110]

Together with three other former Chiefs of Naval Operations (Admirals Arleigh Burke, Robert Carney, and George Armstrong), Moorer had earlier written to President Carter on the importance of "this interoceanic waterway." Drawing on their own experiences in active service, the admirals emphasized the strategic value of the Panama Canal. "As Commander-in-Chief," they informed Mr. Carter, "you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict." The four also warned of an "existing military threat," noting the "close ties" the present regime in Panama had with Cuba, "which in turn is closely tied to the Soviet Union"; and they cautioned the President further that "the loss of the Canal . . . a serious set-back in war, would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive." [111]

Nevertheless, President Carter asked the Senate to aprove the two new Panama Canal treaties that would relinquish U.S. control over this most strategic of waterways in the world to a pro-communist country. Upon implementation of the treaties only four of the 14 U.S. military bases presently in the Canal Zone will remain and these bases willl come under the direct civil and political jurisdiction of Panama even before the U.S. is technically scheduled to leave in 1999, since sovereignty over the Zone passes to Panama with treaty ratification.[112] While paragraph 2 of Article IV in the basic Canal treaty grants to the U.S. the "primary responsibility" to protect and defend the Canal "(f)or the duration" of that treaty (or until December 31, 1999), it is contradicted by paragraph 1, which gives both the U.S. and Panama an *equal* role in the protection and defense of the Canal "from an armed attack or other actions which threaten . . . (its) security . . ."; under those circumstances Panama could thwart any U.S. defense effort. After 1999, when the basic treaty expires and the U.S. no longer has any bases, troops, or other forms of military presence or power in the Isthmus to prevent a blocking of the Canal, only the second treaty, the so-called "Neutrality Treaty," will remain in effect. Just what defense role the U.S. will then have in upholding its interests in the Canal is unclear due to the vaguely-worded treaty itself, particularly Article IV.[113]

The language of Article IV of the Neutrality Treaty is as ambiguous as that of Article VI in the first treaty, posing problems of interpretation.[114] The possibility of differences or variations between the language used in the English and Spanish texts of the treaty could well alter the meaning of the provisions and create a controversy relating to the interpretation of key clauses in this document.[115] The controversy over Article IV is whether or not the U.S. has the right of intervention to protect the Canal's neutrality.[116] The Carter Administration claims that Article IV guarantees the U.S. permanent and unilateral legal right to re-intervene and take whatever steps it deems necessary in order to ensure the Canal's neutrality and open access if it is subject to an attack or closure by hostile forces—even if that threat comes internally from Panama. That planation has been flatly rejected publicly by Torrijos and the Panamanian treaty negotiators, who assert that the U.S. has the right to defend the Canal only if it is threat-

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ened by a foreign power and Panama requests assistance against the aggression; the treaty "does not say," in the words of Panama's chief negotiator, Dr. Romulo Escobar Bethancourt, "that it falls to the United States to decide when neutrality is violated or not." [117] What Article IV actually states is merely that the U.S. and Panama—

"agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral . . .".[118]

This is extremely ambiguous and imprecise. But it was deliberately intended to be so because neither U.S. nor Panamanian negotiators seemed willing to give up their respective positions on the right of intervention—although Escobar, in a speech to the Panamanian General Assembly on August 19, 1977, reported that the U.S. "gave up on the idea of its having a guarantee of neutrality over the Canal," just as Bunker insisted, "Our own military defense options are not restricted. We will be free to defend the canal's neutrality as now. . . ." It is all very confusing, to be sure.[119] In the case of disputes over treaty interpretation, reconciliation of differences is provided for through consultation or, perhaps, mediation—a tacit acknowledgement that both interpretations legally have the same weight or validity.[120]

At least one thing is clear about this neutrality treaty: it would force the U.S. to give free passage through the Canal to nations at war with it or its allies. Article II provides that in time of war the Canal "shall remain open to peaceful transit by vessels of all nations," and Article III, section 1(e), specifically adds that "vessels of war of all nations shall . . . be entitled to transit the Canal" without being required to submit to inspection, search, or surveillance. It is certainly not a reassuring thought to have the U.S. committed, for example, to allowing Soviet ships and submarines to peacefully pass through the Canal when we might be at war with Russia.[121]

In an attempt to eliminate the ambiguities over the right of the U.S. to defend the Panama Canal under the Neutrality Treaty, Torrijos met with Carter at the White House on October 15, 1977, and the two issued a joint "Statement of Understanding" on what Article IV was supposed to mean. The statement indicates that the U.S. has the right to act against any "threat directed against the Canal," yet at the same time it does not permit the U.S. the right of intervention in the "internal affairs" of Panama, violating its territorial integrity. Thus, should the U.S. intervene to protect the Canal, which was then a part of Panama, it would have to intervene in Panama's internal affairs. So, the ambiguities persist [122]—even though President Carter has proclaimed, on the basis of the statement of understanding, that the U.S. "can take whatever military action is necessary to make sure the Canal always remains open and safe." [123]

Still the Carter-Torrijos statement is nothing more than a personal interpretation on the part of these principals. It does not change the treaty language [124] nor the contractural relationship between parties to the treaty. As a statement of "understanding," it merely explains a position on a given matter in the treaty; it is only a tangent to the treaty's basic operation.[125] Because such a statement is not part of a treaty, it has no binding effect on the parties under international law.[126] The real understanding of a treaty will be limited to the very language in the treaty itself.[127] Hence, in the event the U.S. found it necessary to intervene for whatever reason, only the treaty language would count—and this particular treaty conveys no specific right of intervention to the U.S. at all.[128] Moreover, neither Carter nor Torrijos signed their statement of understanding (a fact Torrijos later boasted about) and it remains entirely informal.[129] While adding the substance of the understanding to the treaty *via* a Senate amendment makes it formal,[130] this only begs a fundamental question: if the Panama Canal is vital enough to the freedom and security of the American people that we want the right to send U.S. forces back there after it is turned over to Panama, then why shouldn't we hang on to it in the first place?

It has been said that approval of the treaties will remove an age-old irritant to U.S.-Panamanian relations and buy the goodwill of the people of Panama, thereby avoiding future violence.[131] Indeed, Defense Secretary Brown admitted to an audience in Phoenix, Arizona, that the treaties had to be accepted in order to keep Panama as a friend.[132] About this whole transaction there is an implication of blackmail diplomacy. Even though the opponents of the new Panama Canal treaties would like better relations with Panama, how absurd it would be strategically to surrender our rights to operate and defend the Canal into the hands of a potential enemy.[133] Making such a major concession as this will only compound the errors of our past policies.

If, after a series of defeats and retreats from the Bay of Pigs to Vietnam, there is somewhere the U.S. is going to stand steadfast and draw a line beyond which it adversaries, who, as Solyzhenitsyn warns, are out to destroy it, will not cross, then the Panama Canal must be that place.[134]

The Republic of Panama originally ceded to the United States by treaty territory running through the heart of that country for the purpose of constructing a canal, and within that territory the U S. did, indeed, construct such a canal wholly at its own cost. Panama also conferred upon the U.S. the necessary sovereignty and jurisdiction over the Canal Zone occupied by this world canal enabling the U.S. to maintain, operate, and protect it. That the U.S. enjoys the absolute right of ownership and control of the Canal has been decided by the Supreme Court. This should satisfy those who feel that titular sovereignty is at least reserved to Panama In conclusion, it is the view of this writer that the U.S. should not abandon the Panama Canal and give back the sovereignty over the Canal Zone to Panama.[135]

FOOTNOTES

[1] Adam Clymer, "Panama Canal Controversy and Its 75-Year History: Some Questions and Answers," New York Times (Feb. 9, 1978), at A14; Michael Mandelbaum, "Big Ditch Debate," N.Y. Times Book Review (Feb. 19, 1978), at 11.

[2] "Final Countdown on the Panama Canal —Him or Me?" American Legion National Security-Foreign Relations Bulletin, printed in Congressional Record (Jan. 19, 1978), p. 187.

[3] "Historical Background on the Panama Canal," statement issued by Sen. Pearson, Feb. 3, 1977, printed in *Cong. Rec.* (Feb. 6, 1978), at p. 2258. Hereinafter cited as "Historical Background."

[4] Clymer, *loc. cit.*

[5] "The Panama Canal Issue," Senate Republican Policy Committee study printed in Cong. Rec. (Dec. 6, 1977), at pp. 38536–38541; Sen. Strom Thurmond, "Should Canal Treaties be Approved?—No," Chicago Tribune (Sept. 11, 1977), sec. 2, at 1.

[6] "Historical Background," *supra* note 3; Clymer, *loc. cit.*.

[7] Statement of Jules Davids before the Senate Foreign Relations Committee, Jan. 19, 1978, printed in Cong. Rec. (Jan. 20, 1978), at pp. 267–68; statement of Cong. Eldon Rudd before Foreign Relations Committee, Jan. 25, 1978, in Cong. Rec. (Jan. 25, 1978), at p. 760.

[8] "Historical Background," *loc. cit.*

[9] Quoted in Davids, *supra* note 7, at p. 267.

[10] Daniel J. Flood, "Panama Canal Giveaway Treaty Crisis—A Challenge to the Congress," address at Wilkes-Barre, Pa., Nov. 21, 1977, printed in Cong. Rec. (Jan. 19, 1978), at p. 144.

[11] Davids, *loc. cit.*

[12] 9 Stat. 881, T.S. No. 54.

[13] Davids, *loc. cit.*; Flood, *supra* note 10.

[14] Davids, *ibid.*; statement by Richard W. Leopold before Foreign Relations Committee, Jan. 19, 1978, printed in Cong Rec. (Jan. 20, 1978), at p. 267; "Historical Background," *loc. cit.*

[15] Hanson W. Baldwin, "The Panama Canal: Sovereignty and Security," 44 AEI Defense Review 12 (1977), re-printed in Cong. Rec. (Sept. 16, 1977), at p. 29738.

[16] Treaty Between the United States and the United Kingdom to Facilitate the Construction of a Ship Canal of 1901, Article III.

[17] Baldwin, *loc. cit.*

[18] Statement by John Norton Moore before Foreign Relations Committee, Jan. 19, 1978, printed in Cong. Rec. (Jan. 20, 1978), at p. 267.

[19] *Supra* note 16, Art. IV.

[20] "Historical Background" *loc. cit.*; Leopold, *supra* note 14.

[21] Davids, *loc. cit.*; Rudd, *supra* note 7; Baldwin, *loc. cit.*; Clymer, *loc. cit.*; "Historical Background," *ibid.*

[22] Baldwin, *ibid.*; Davids, *id.*

[23] Rudd, *loc. cit.*

[24] Davids, *loc. cit.*; "Historical Background," *loc. cit.*; Baldwin, at S15133–4; Leopold, *loc. cit.*; Rudd, *loc. cit.* See also Theodore Roosevelt "Fear God and Take Your Own Part" (1914), ch. XI.

[25] H. S. Commager, "Presidential Power: The Issue Analyzed," N.Y. Times Magazine (Jan. 14, 1951), at 23.

[26] Rudd, *loc. cit.*

[27] Davids, *loc. cit.*; "The Panama Canal Issue," *supra* note 5, at S19335.

[28] Baldwin, at S15134; Leopold, *loc. cit.*

[29] Clymer, *loc. cit.*; Cong. Rec. (Feb. 2, 1978), at p. 1968.

[30] Baldwin, *loc. cit.*

[31] Convention for the Construction of a Ship Canal to Connect the Waters of the Atlantic and Pacific Oceans, Nov. 18, 1903, U.S.-Panama, 33 Stat. 2234, T.S. No. 431, Art. II. In legal terms, "perpetuity" is defined as "endless duration; forever." Black's Law Dictionary (1951), at 899. Perhaps, it was defined more plainly by a constitutional law professor (Dr. L. A. Wehling of Valparaiso University) who once said perpetuity was "a hell of a long time."

[32] Leopold, *loc. cit.*

[33] Opening statement of John Nicholaides in debate at San Diego University, printed in Cong. Rec. (Jan. 25, 1978), at p. 930.

[34] Cong. Rec., *supra* note 29.

[35] "Historical Background," *loc. cit.*

[36] Baldwin, *loc. cit.*

[37] Rudd, at pp. 1347–48; *ibid.*, at pp. 29738–39; "Historical Background," *loc. cit.*; "The Panama Canal Issue," *loc. cit.*

[38] Baldwin, at p. 29739; see also Cong. L. P. McDonald, "Giveaway," Review of the News (Jan. 25, 1978).

[39] N.Y. times (Feb. 2, 1978), at A14.

[40] Martha Jane Shay, "The Panama Canal Zone: In Search of a Juridical Identity," 9 International Law and Politics 15 (Spring 1976), at 45, 48.

[41] Baldwin, *loc. cit.*; Rudd, at S475; Sen. Orrin G. Hatch, "Panama Canal Giveaway Violates Constitution," Conservative Digest (Sept. 1977) reprinted in Cong. Rec. (Sept. 7, 1977), at p. 27983.

[42] "The Panama Canal Issue," *loc. cit.*

[43] "Historical Background," *loc. cit.*; Baldwin, *loc. cit.*; Rudd, *loc. cit.*; *ibid.*; M. N. Buechner, "Why We Must Keep The Canal," Washington Report (Dec. 1977), reprinted in Cong. Rec. (Jan. 27, 1978), at p. 1253.

[44] Baldwin, at pp. 29739–40.
[45] Thurmond, *supra* note 5.
[46] Buechner. *supra* note 43.
[47] Thurmond, *loc. cit.*
[48] Rudd, at 476.
[49] Thurmond, *loc. cit.*
[50] *Supra* note 31, Art. III.
[51] Thurmond, at 2; Rudd, *loc. cit.*
[52] "The Panama Canal Treaties of 1977," 11 International Lawyer 771 (Fall 1977), at 771; N.Y. Times (Sept. 7, 1977), at A16; Charles A. Wheeler, "What the Canal Treaties Mean," Chicago Sun-Times (Feb. 22, 1978), sec. 2, at 2; "New Panama Canal Agreement: Basic Elements," GIST (Aug. 1977).
[53] Baldwin, at S–15135.
[54] Rudd, *loc. cit.*
[55] Baldwin, *loc cit.*
[56] "Why a New Panama Canal Treaty?", speech by Sol M. Linowitz, The Department of State (Aug. 19, 1977), at 3; Ellsworth Bunker, "Should Canal Treaties be Approved?"—Yes," Chicago Tribune (Sept. 11, 1977), sec. 2 at 2; Hatch, *supra* 41.
[57] Shay, at 15–8, 21; "The Panama Canal Issue," at pp. 38536, 38542.
[58] Congressional Digest (April 7, 1976), at 119.
[59] Letter to J. D. de Obaldia, 1 *For. Rel. U.S.* 613 (1904).
[60] Thurmond, at 1.
[61] 204 U.S. 24.
[62] *Ibid.*, at 33, 27 St. Ct. 233, at 235.
[63] *Id.*
[64] N.Y. Times (Feb. 2, 1978), at A14.
[65] *Dixon, et al.* v. *Goethals, et al.*, 242 U.S. 616 (1916).
[66] 37 Stat. 560.
[67] *Ibid.* S 12, ch. 390.
[68] *Luckenbach Steamship Co.* v. *U.S.*, 280 U.S. 173 (1929).
[69] *Ibid.*, at 181, 177–8. In case another case involving the Luckenbach Co., it was noted that Congress enacts laws for the Canal Zone because it has no local legislature. 196 F. Supp. 835 (D.C.C.Z. 1961), Aff'd 303 F. 2d 252 (5th Cir. 1962).
[70] *Taylor* v. *Insurance Co. of North America*, 9 F. Supp 574 (S.D. N.Y., 1934).
[71] *Ibid.*, at 575.
[72] *Stafford Allen and Sons Ltd.* v. *Pacific Steam Navigation Co.*, 2 All E.R. 716 (C.A. 1956), at 719.
[73] *Vermilya-Brown Co.* v. *Connell*, 335 U.S. 377 (1949), at 381.
[74] *Ibid.*, at 402.
[75] *U.S.* v. *Husband R.*, 453 F. 2d 1054 (5 Cir. 1971); *cert.* denied 406 U.S. 935 (1972). The defendant, Jonathan Howell R. (Roach) appealed his conviction of a misdemeanor for operating his bus in violation of Canal Zone regulations restricting non-franchised bus operations so that a franchised company would have exclusive access (or almost so) to several areas while still allowing any bus operator to carry on his business along otherwise prohibited routes by obtaining a permit.
[76] *Ibid.*, 453 F. 2d at 1057.
[77] General Treaty of Friendship and Cooperation, March 2, 1936, United States-Panama, 53 Stat. 1807, T.S. No. 945.
[78] Baldwin, at S15134.
[79] Davids, *loc. cit.;* Leopard, at S173; *ibid.*
[80] Baldwin, *id.;* Leopold, *id.;* Davids, at S171; Agreement for the Lease of Defense Sites in the Republic of Panama, 1942, 57 Stat. 1232, Art. V; "Panama Canal: The New Treaties" (Dept. of State publication, 1977), at 5.
[81] Flood, *supra* note 10, at H36; Thurmond, *loc. cit.*

The 1955 treaty also provided for the disposition of some property in the Canal Zone to Panama, but required implementing legislation by Congress for the transfer in accord with the Federal Constitution. Article IV, Section 3, clause 2, of the Constitution empowers Congress "to dispose of . . . the Territory or other Property belonging to the United States." One of the Framers, Randolph of Virginia, stated that this was "a most express restriction" on the treaty-making authority, serving as a check against sacrificing the nation's property rights to a foreign power without consideration by both houses of Congress. In *Geofroy* v. *Riggs*, 133 U.S. 258 (1890), the Court said that "a treaty, which purported to exercise power exclusively granted to Congress would require implementing legislation." Courts have repeatedly ruled that the Article IV grant of authority to act on the disposal of public territory is an exclusive power of the full Congress to which all other power over property is subordinate in such cases as *Wisconsin Central R.R. Co.* v. *Price County*, 133 U.S. 496 (1890), and *Sioux Tribe* v. *U.S.*, 316 U.S. 317 (1942). Unfortunately, the basic new Panama Canal treaty conveys U.S. property to Panama *sans* any such joint congressional action, thus by-passing the constitutional role and right of the House of Representatives in disposing of federal property interests. Kenneth Merlin, "Panama—The Constitutional Question," printed in Cong. Rec. (Feb. 7, 1978), at pp. 2660–61; remarks by Sen. Goldwater, Cong. Rec. (Feb. 23, 1978), at pp. 4293–4, and (Mar. 3, 1978), at pp. 5469–70; Hatch, at p. 27984; Raoul Berger, Memorandum Re. Panama Canal Treaty: Dean Louis Pollock's Reply, printed in Cong. Rec. (Feb. 6, 1978), at pp. 2301–2; W. M. Whitman, "Panama Canal Treaty Problems," a study printed in Cong. Rec. (Feb. 6, 1978), at p. 2236.
[82] Leopold, *loc. cit.*
[83] Minority views of Sen. Robert P. Griffin in Foreign Relations Committee report on Panama Canal treaties, printed in Cong. Rec. (Feb. 6, 1978), at p. 2664.
[84] Baldwin, at p. 29744 infn 6, p. 29739; McDonald, *supra* note 38.
[85] Davids, *loc. cit.;* Baldwin at p. 29739; L. Ealy, "Yanqui Politics and the Isthmian Canal (1971), at 110, 112.
[86] Davids, *ibid.*, Mario Lazo, "Panama Canal Giveaway" (1971), at 12; Baldwin, "The Panama Canal Treaties: Are They Salvageable?", paper printed in Cong. Rec. (Feb. 1, 1978), at p. 1898 (hereinafter cited as Baldwin, "The Panama Canal Treaties"); "Panama Canal: The New Treaties," *loc. cit.;* Shay, at 42.
[87] Baldwin, "The Panama Canal: Sovereignty and Security," *supra* note 15, at p. 29744 (hereinafter cited as Baldwin, "Sovereignty and Security"); Leopald, *loc. cit.*, Thurmond, *loc. cit.*
[88] Quoted in Lazo, *loc cit.*
[89] Baldwin, "Sovereignty and Security," *loc. cit.*
[90] Davids, *loc. cit.;* Clymer, *loc. cit.;* "Panama Canal: The New Treaties," *loc. cit.*
[91] Rudd, at S477–8.
[92] Nicolaides, *supra* note 33.
[93] Gen. Andrew J. Gatis, "The Canal's Vital Defense Role," article in Veterans of Foreign Wars magazine (Jan. 1978), reprinted in Cong. Rec.. (Feb. 22, 1978), at pp. 4261–62.
[94] "The Panama Canal Issue,," at p. 38542.
[95] Baldwin, "Sovereignty and Security," at pp. 29736–7, 29743. Sen. Stennis has called the new Canal treaties "an unnecessary gamble with our national security interests." Cong. Rec. (Mar. 8, 1978), at p. 5989.
[96] Shay, at 26.
[97] Views of Hon. Robert J. Lagomarsino on the Issue of the Panama Canal," Cong. Rec. (Jan. 31, 1978), at p. 1673; "The Panama Canal Issue," at pp. 38542–3.
[98] Griffin, *supra* note 83, at p. 2259; Gatis, at 789; "The Panama Canal Issue," at p. 38542.
[99] Baldwin, "Sovereignty and Security," at p. 29743.
[100] Griffin, *loc. cit.*
[101] Paul B. Ryan, "The Panama Canal Controversy" (1977), at 50.
[102] Griffin, *loc. cit.;* Baldwin, "Sovereignty and Security," at p. 29736; Gatis, *loc. cit.;* "The Panama Canal Issue," at p. 38542; statement by Adm. Thomas H. Moorer, U.S.N. (Ret.), before Senate Armed Services Committee, Jan. 31, 1978, printed in Cong. Rec. (Jan. 31, 1978), at p. 1529. The U.S. Navy with 461 ships now, is at half the size it was a decade ago. Col. R. D. Heine, Jr., "Panama Canal Treaty Seen As Vital Issue for U.S.," Detroit News (Aug. 21, 1977), re-printed in Cong. Rec. (Mar. 7, 1977), at 5783.
[103] Quoted in Griffin and in Baldwin, *ibid.*, and in Rudd, at p. 761.
[104] Griffin, at p. 2260; Baldwin, *id.*, pp. 29736–7; "The Panama Canal Issue," *loc. cit.;* Rudd, *id.*; Lagomarsino, *supra* note 97.
[105] Griffin, at p. 2259; Rudd, id.
[106] Arizona Republic, Jan. 25, 1978.
[107] Gatis, *loc. cit.*
[108] Quoted in Griffin, *loc. cit.*
[109] Moorer, *supra* note 102, at p. 1528.
[110] *Ibid.*, at 899.
[111] Ryan, at 142–4.
[112] "Do New Treaties Give U.S. Right to Defend Canal?" Human Events (Sept. 17, 1977), printed in Cong. Rec. (Sept. 19, 1977—daily ed.), at p. 29909. Hereinafter cited as "Right to Defend Canal?".
[113] "The Panama Canal Issue,," at pp. 38538–41; Griffin, at pp. 2260–1; statement of Richard Falk before the Senate Foreign Relations Committee, Jan. 19, 1978, printed in Cong. Rec. (Jan. 20, 1978) , at p. 271; Baldwin, "The Panama Canal Treaties," at p., 1900; *ibid.*, at p. 29909.
[114] Whitman, *supra* note 81, at pp. 2238.
[115] Sylvia Costellanos, analysis printed in Cong. Rec. (Jan. 25, 1978), at pp. 754–5.
[116] The Panama Canal Issue," at p. 38540.
[117] Griffin, at S1256–7; "Right to Defend Canal?" supra note 112; Rudd, at pp. 761–2; "Panama Canal Treaty Problems," at pp. 2238–9; Lagomarsino, at p. 1674.
[118] "The Panama Canal Treaties of 1977," at 789; N.Y. Times (Sept. 7, 1977), at A17.
[119] "The Panama Canal Issue," *loc. cit.;* Rudd, *loc. cit.;* "Right to Defend Canal?" at pp. 29909–10; Bunker, *supra* note 56.
[120] Costellanos, at p. 755.
[121] Thurmond, "The Case for Rejection," The Retired Officer (Dec. 1977), printed in Cong. Rec. (Jan. 19, 1978), at p. 100; "The Panama Canal Treaty," a preliminary analysis printed in Cong. Rec. (Sept. 14, 1977), at p. 29323; Jenkins Lloyd Jones, "Panama Bug-Out," Los Angeles Times, printed in Cong. Rec. (Feb. 23, 1978), at pp. 4408–9.
[122] Whitman, at p. 2239; Rudd, at pp. 762; "The Panama Canal Issue," at 38541; "Right to Defend Canal?" at p. 29909; Baldwin, "The Panama Canal Treaties," *loc. cit.*
[123] N.Y. Times (Feb. 2, 1978), at A14.
[124] Whitman and Baldwin, *supra* note 122.
[125] "Understandings, Reservations, and Amendments to the International Treaties," report prepared by Library of Congress, printed in Cong. Rec. (Jan. 31, 1978), at pp. 1546–7.
[126] "The Panama Canal Issue," *loc. cit.*
[127] Costellanos, *loc. cit.*
[128] "The Panama Canal Issue," at p. 38540; Baldwin, "The Panama Canal Treaties," *loc. cit.*
[129] Rudd, at pp. 762–3; Whitman, *loc. cit.;* "The Panama Canal Issue," at p. 38541.
[130] Falk, *supra* note 113. The Senate did, in fact, overwhelmingly adopt an amendment of this nature. Washington Star (Mar. 11, 1978), at A–5.
[131] Thurmond, "Should Canal Treaties be Approved?—No," supra note 5, at 1–2; Baldwin. "The Panama Canal Treaties," at p. 1898 and "Sovereignty and Security," at p. 29743.

[132] *Supra,* note 106.

[133] Thurmond, *supra* note 131; Baldwin, "The Panama Canal Treaties," *loc. cit.;* Buechner, at pp. 1252–3; Rudd, at pp. 760–1.

[134] Baldwin, "Sovereignty and Security," *loc. cit.;* "The Panama Canal Issue," at p. 38543; John Davis, "The Canal: A Rampart," N.Y. Times (Nov. 29, 1977), re-printed in Cong. Rec. (Mar. 8, 1978), at p. 6142.

[135] On March 16th, 1978 with only one vote to spare, the Senate yesterday approved the first of two Panama Canal treaties, saving President Carter from a potentially devastating defeat. The vote, one of those few tallies likely to go down in the history books, was 68 to 32. Treaty opponents immediately vowed a full scale effort to defeat the other canal treaty, which provides for a gradual turnover of the canal to Panama during the next 22 years. The opponents professed optimism about their chances to kill the second treaty on which the Senate is expected to vote next month. Reaching into Shakespeare for allusions to Brutus and Cassius at the battle of Philippi, Senate Majority Leader Robert Byrd declared: "The Rubicon of decision on the treaty is now to be crossed." ●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements limited therein to 10 minutes each, with the period not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3316. A communication from the Secretary of the Navy, reporting, pursuant to law, relating to a claim by General Dynamics Corporation, Electric Boat Division, Groton, Connecticut, submitted in December 1976, under Contract NOOO24–71–0268 requesting an increase in ceiling of more than $100 million, in addition to financing costs of more than $20 million, for a total of more than $120 million; to the Committee on Appropriations.

EC–3317. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the establishment of the New River Gorge National River in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

EC–3318. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Nashville, Tennessee, Union Station, in the amount of $7,152,000; to the Committee on Environment and Public Works.

EC–3319. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report on laboratories needed to support long term research in the Environmental Protection Agency; to the Committee on Environment and Public Works.

EC–3320. A communication from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Finance.

EC–3321. A communication from the President of the United States, transmitting, pursuant to law, a proclamation extending nondiscriminatory treatment to the products of the Hungarian People's Republic; to the Committee on Finance.

EC–3322. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, its thirteenth quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC–3323. A secret communication from the ACIS Chairman, Interagency Working Group, United States Arms Control and Disarmament Agency, transmitting, pursuant to law, errata sheets for FY 1979 ACIS, Set III; to the Committee on Foreign Relations.

EC–3324. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Navy's TRIDENT Fleet—Some Success But Several Major Problems," April 7, 1978; to the Committee on Governmental Affairs.

EC–3325. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unemployment Insurance—Need to Reduce Unequal Treatment of Claimants and Improve Benefit Payment Controls and Tax Collections," April 5, 1978; to the Committee on Governmental Affairs.

EC–3326. A communication from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting, pursuant to law, its 1978 annual report; to the Committee on Human Resources.

EC–3327. A communication from the Chairman, National Arthritis Advisory Board, transmitting, pursuant to law, its annual report; to the Committee on Human Resources.

EC–3328. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,008 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–3329. A communication from the Attorney General, transmitting a draft of proposed legislation to clarify and revise various provisions of title 28 of the United States Code relating to the judiciary and judicial procedure regarding judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary.

EC–3330. A communication from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent federal offenders in an efficient and effective manner; to the Committee on the Judiciary.

EC–3331. A communication from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

EC–3332. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend section 3103 of title 38, United States Code, to extend the time period within which the board of review concerned, on its own initiative, shall determine whether a person who has been awarded a general or honorable discharge as specified in clause (A)(i), (ii), or (iii) of paragraph (2) of subsection (e) of such section 3103 would be entitled to an upgraded discharge under standards meeting the requirements of paragraph (1) of such subsection; to amend section 5 of Public Law 95–126 to extend the time during which a former serviceperson may continue to receive Veterans Administration benefits pending such determination; and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM–583. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"HOUSE RESOLUTION No. 372

"Whereas, until 1972, the investment income of state and local public pension plans were implicitly exempt from federal taxation and former public employees receiving public pension benefits were allowed preferential tax treatement whether the plans were qualified or not; and

"Whereas, although there are no explicit statutes providing the exemption or nonqualified preferential tax treatment, Congress was aware of and the U.S. Internal Revenue Service (IRS) practiced this implicit exemption and authority; and

"Whereas, since 1972, however, the IRS has changed its policy and chose to ignore the implicit exemption and authority; thus, some public pension plans have become subject to the qualification requirements and taxation of investment income; and

"Whereas, furthermore, in 1977, the IRS stated its intention of requiring public pension plans, whether qualified or not, to file annual returns containing certain financial information; and

"Whereas, these policies are unacceptable to state and local governments; and

"Whereas, besides the financial impact on the public pension plans and former public employees, the National Conference of State Legislatures, in a policy paper representing the consensus of state and local governments, states that the policies are contrary to Congressional intent and the doctrine of sovereignty of states; and

"Whereas, the policy paper states that Congress has had ample opportunity to make explicit statutory amendments subjecting public pension plans to federal requirements; and that the lack of such statutes indicate Congress's approval of the implicit exemption; and

"Whereas, the policy paper further states that even if Congress had specifically subjected public pension plans to federal requirements, it is questionable, under the doctrine of state sovereignty, whether the federal government has the constitutional right or power to regulate intrastate public employee benefits or to tax state and local governments; and

"Whereas, the 95th Congress is currently considering two bills, H.R. 9118 and S. 1587, which would specifically exempt public pension plans from federal taxation and reporting requirements; now, therefore,

"Be it resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, that Congress and the President are requested to enact either H.R. 9118 or S. 1587 into law; and

"Be it further resolved that certified copies of this Resolution be transmitted to the Honorable Jimmy Carter, President of the United States, Senator James O. Eastland, President Pro Tempore of the U.S. Senate, Senator Robert Byrd, Majority Leader of the U.S. Senate, Senate Howard Baker, Minority Floor Leader of the U.S. Senate, Representative Thomas P. O'Neill, Speaker of the U.S. House of Representatives, Representative James C. Wright, Majority Leader of the U.S. House of Representatives, Representative John J. Rhodes, Minority Leader of the U.S. House of Representatives, and to each member of Hawaii's congressional delegation."

POM–584. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

SENATE CONCURRENT RESOLUTION No. 11

"Whereas, the United States Congress currently has under consideration proposed legislation on a national energy policy which relates to the regulation of public utilities across the country; and

"Whereas, many states have unique regulatory problems, particularly the State of Hawaii because of its geographic location and climatic conditions; and

"Whereas, state regulatory commissions across the country, in general, and the State of Hawaii Public Utilities Commission, in particular, appear to be doing a competent job because they are able to adapt to the special regulatory problems of their respective geographic areas and one set of regulatory standards for the entire country would seem totally impractical; and

"Whereas, the U.S. Senate and House conferees have reached a tentative conference agreement on the Public Utility Energy Policies Act, which establishes a national energy policy relating to the regulation of public utilities; and

"Whereas, under such Act, federal standards for electric utility rate structures are enumerated and the Act states that these standards must be considered by state regulatory commissions; and

"Whereas, the Secretary of Energy is authorized under the Act to intervene in state regulatory proceedings to raise the issue of one or more of the enumerated federal standards as well as other concepts which contribute to the purposes of the Act; and

"Whereas, the proposed Act, as agreed to by the U.S. Senate and House conferees, already represents a certain degree of federal preemption of state public utility regulatory authority; and

"Whereas, further federal preemption would result in a serious infringement upon state legislative responsibility in matters which have historically been deemed best left to the attention of individual states and would completely undermine the rights currently reserved to the states, including the State of Hawaii; now, therefore,

"Be it resolved by the Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, the House of Representatives concurring, that the United States Congress is requested to refrain from any further federal preemption of the regulation of public utilities, thus allowing the Hawaii Public Utilities Commission to carry out the responsibilities delegated to it by the Legislature of the State of Hawaii; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's delegation to the United States Congress."

POM–585. A resolution adopted by the City Council of San Diego, California, relative to deferred compensation; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Special Report of Antitrust and Monopoly Subcommittee Activities, 1977 (together with individual views) (Rept. No. 95–730).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 130. An act to provide for the protection of franchised distributors and retailers of motor fuel and to encourage conservation of automotive gasoline and competition in the marketing of such gasoline by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers (together with minority and additional views) (Rept. No. 95–731).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McGOVERN:

S. 2863. A bill to authorize fiscal year 1979 appropriations for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes; to the Committee on Foreign Relations.

By Mr. MATHIAS (for himself and Mr. BAYH):

S. 2864. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product and professional liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Finance.

By Mr. NELSON:

S. 2865. A bill to amend the Internal Revenue Code of 1954 to provide a more equitable estate tax treatment of joint interests in farm and closely held business property; to the Committee on Finance.

By Mr. RANDOLPH (for himself and Mr. ROBERT C. BYRD):

S. 2866. A bill to provide for the establishment of the New River Gorge National River in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GOLDWATER (for himself and Mr. MATHIAS):

S. 2867. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Energy and Natural Resources.

By Mr. PERCY:

S. 2868. A bill to provide a remedy against the United States for torts arising under the Constitution or laws of the United States committed by officers or employees of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. TALMADGE (by request):

S. 2869. A bill to authorize the establishment of an international emergency wheat reserve, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL:

S. 2870. A bill to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans; to the Committee on Veterans' Affairs.

By Mr. PEARSON:

S. 2871. A bill to create a rural community development bank to assist in rural community development by making financial, technical, and other assistance available for the establishment of expansion of commercial, industrial, and related private and public facilities and services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself and Mr. BAYH):

S. 2864. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product and professional liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Finance.

PRODUCT AND PROFESSIONAL LIABILITY INSURANCE TAX EQUITY ACT OF 1978

● Mr. MATHIAS. Mr. President, I am pleased to introduce today, with my colleague Senator BAYH, the Product and Professional Liability Insurance Tax Equity Act. This legislation is designed to end Federal tax discrimination against individuals or companies that self-insure for professional and product liability. This bill was first introduced during the last session of the Congress by Congressman CHARLES WHALEN and six colleagues to address problems encountered by manufacturers with costly liability insurance premiums. This legislation has received the bipartisan backing of 63 Members of the House, and has been endorsed by 45 national trade and professional associations.

Last week the Commerce Department announced proposals that came out of its 2-year task force study into the growing problems involving product liability. Commerce proposed a liability insurance plan similar to my bill in that it provides a tax break for businesses which establish self-insurance reserve funds. The Commerce Department accurately cites the issue of product liability as "a problem of national importance that must be addressed."

A study by Congressman WHALEN revealed that of those companies that want to obtain product liability insurance coverage, approximately one out of five said that they either cannot afford it or cannot find an insurance carrier willing to sell it to them. The study also found that

the average increase in product liability costs, for those who were able to obtain coverage, was 944 percent in the period since 1970. The average increase in sales volume for the same company for the same period was 162 percent. Hence, premiums grew at a rate 5.8 times greater than sales.

This study, presented last year to the House Small Business Committee, concluded that one out of every three companies surveyed said that they have been forced to increase the price they charged for at least one product line as a direct consequence of increased product liability premiums. The report also revealed that one out of every six firms surveyed had been forced to abandon at least one product line as a direct result of product liability insurance problems.

A problem also exists for professionals—doctors, lawyers, engineers, and architects—who are forced to conduct their practices without any commercial insurance coverage, or to settle for a policy with a prohibitively high deductible provision. Many private practitioners find it very difficult to cover the deductible portion of a future claim. A study by the Rand Corp. revealed that between 19 and 25 percent of the physicians practicing in Southern California in 1976 had no commercial insurance coverage. The best estimate available was that between 10 and 15 percent of all doctors in the country were practicing without any insurance.

Manufacturers who have not been able to obtain product liability insurance coverage are turning to establishing self-insurance reserve funds. Companies with policies that have high deductibles have also established reserve funds to cover the cost of the deductible portion of the policy. These deductibles sometimes run into the hundreds of thousands of dollars.

The Federal tax laws affect these self-insurance funds in two ways. First, a business expense deduction is not available to the company that pays into its own reserve fund. A comparable payment as an insurance premium would entitle the company to a deduction in that amount. Second, as the self-insurance reserve fund builds up, the interest it earns is taxed, and the fund becomes vulnerable as an "unreasonable" accumulation of capital.

The large firms establish captive insurance companies. Others deal with expensive outside insurance companies. These options, however, are closed to many small companies and individuals.

My bill addresses these problems in two ways. First, it exempts from Federal income tax interest earned on those funds placed in a self-insurance trust fund. Second, the money paid into the fund can be deducted as a cost of doing business, as an insurance premium can be.

These trust funds may be established by groups as well as single persons. Thus, law firms or trade associations would be able to create self-insurance pools for their members, with fewer tax complications than are now encountered. The bill also establishes guidelines for limits on how much money can be placed in the trust. Furthermore, it restricts the use of money placed in the eligible reserve funds, making the money taxable as income if it is withdrawn or used for any other purpose.

The bill puts people who self-insure on the same footing as those who purchase from name carriers. It gives no special benefits to self-insurers.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product and Professional Liability Insurance Tax Equity Act of 1978".

SEC. 2. TAX EXEMPT PRODUCT LIABILITY TRUSTS.

(a) GENERAL RULE.—Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to organizations exempt from tax) is amended by adding at the end thereof the following new paragraph:

"(22)(A) A trust providing for the payment of product and professional liability claims against one or more persons (or against any employee of such a person) who are engaged in any trade or business, if, under the terms of the trust, it is impossible for any past of the corpus or income of the trust to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the payment of such claims, any administrative expenses of such trust, and any expenses directly related to the investigation and settlement (or opposition) of such claims.

"(B) Under regulations prescribed by the Secretary, a trust (otherwise meeting the requirements of subparagraph (A)) shall be considered to meet such requirements notwithstanding the fact that the terms of the trust permit corpus and income to be withdrawn from the trust by any person who made any contribution to the trust and used for any purpose other than the payment of such claims and expenses. The preceding sentence shall apply to a trust only if the aggregate amount which may be so withdrawn and used by any person may not exceed the aggregate amount of contributions by such person to the trust. Any amount so withdrawn and used by any person shall be included in the gross income of such person for the taxable year in which withdrawn.

"(C) For purposes of this paragraph, the term 'product and professional liability' means—

"(i) in the case of any person engaged in any trade or business or manufacturing, distributing, or selling any manufactured good, any liability arising from any defect in or use of such good; and

"(ii) in the case of any person engaged in any trade or business of providing any service, any liability arising from the providing of or the failure to provide) such service."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. DEDUCTION FOR CONTRIBUTION TO TAX-EXEMPT PRODUCT AND PROFESSIONAL LIABILITY TRUST.

(a) General Rule.—Part VI of Subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 192. CONTRIBUTIONS TO CERTAIN PRODUCT AND PROFESSIONAL LIABILITY TRUST."

"(a) GENERAL RULE.—In the case of a taxpayer who is engaged in any trade or business, there shall be allowed as a deduction an amount (determined under subsection (b)) contributed during the taxable year to a trust described in section 501(c)(21) which provides for the payment of product and and professional liability claims against the taxpayer and arising in connection with the trade or business of the taxpayer.

"(b) Limitation on Amount of Deduction.—Under regulation prescribed by the Secretary, a taxpayer shall be allowed a deduction under subsection (a) for any contribution duringthe taxable year to any trust only to the extent that such contribution does not exceed the reasonable cost to the taxpayer (but for such trust) for insurance for such year for the payment of product and professional liability claims and expenses directly related to the investigation and settlement of such claims.

"(c) Product and Professional Liability Defined.—For purposes of this section, the term 'product and professional liability' has the meaning given such term by section 501(c)(21)."

(b) Clerical Amendment.—The table of sections for such part VI is amended by adding at the end thereof the following new item:

"SEC. 192. CONTRIBUTIONS TO CERTAIN PRODUCT AND PROFESSIONAL LIABILITY TRUSTS."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

● Mr. BAYH. Mr. President, among the many strengths of our great Nation are the numerous and diversified small companies and individuals who provide us with a variety of goods and services. These organizations and individuals are finding it increasingly difficult to compete because of discriminatory regulations or inequities. One such inequity is the present Federal tax structure which discriminates against individuals or companies that self-insure for professional and product liability.

The soaring number of product liability suits in recent years has driven the cost of product liability insurance up so high that many small businessmen can no longer afford coverage or in some cases cannot find an insurance carrier willing to sell it to them. When available, businesses find that insurance premiums have increased at a rate four to six times greater than sales.

A similar problem exists for many professionals, particularly lawyers, engineers, architects, and doctors. They are forced to conduct their practices without any commercial insurance coverage, or settle for a policy with extremely high deductible provisions. This situation has resulted in many professionals practicing without any insurance. Those who are able to obtain coverage with the unusually high deductible provisions find it very difficult to maintain the financial resources necessary to cover the deductible portion of a future claim.

This unfortunate situation has a number of adverse impacts on the consumer. Many companies have been forced to increase the price they charge for the affected products as a direct result of in-

creased product liability premiums. In some instances, firms have been forced to abandon some product lines because of product liability insurance problems.

Many companies and individual professionals who are not able to obtain liability insurance coverage are establishing self-insurance reserve funds. Likewise, companies with policies that have high deductibles have also established reserve funds to cover the cost of the deductible portion of the policy. Unfortunately, the present Federal tax code puts those who self-insure in a double bind. First, a business expense deduction is not available to the company or professional that pays into its own self-insurance reserve. Second, the interest earned by this reserve is taxed and the fund becomes vulnerable as an "unreasonable" accumulation of capital.

The legislation I am today introducing, with my colleague Senator MATHIAS, the Product and Professional Liability Insurance Tax Equity Act, addresses these problems. The bill exempts those funds paid into a self-insurance trust fund from Federal income tax. These trust funds may be established by groups as well as single persons. Thus, law firms or trade associations would be able to create self-insurance pools, with fewer tax difficulties. In addition, the bill provides that money paid into the fund can be deducted as a cost of doing business, just as an insurance premium can be. Guidelines set limits on how much money can be placed in the trust and there are restrictions placed on the use of these funds, making the money taxable as income if it is withdrawn or used for any other purpose.

This bill gives no special benefits to the business or professional that self insures. It simply eliminates an inequity and puts them on the same basis as those who purchase insurance.●

By Mr. NELSON:

S. 2865. A bill to amend the Internal Revenue Code of 1954 to provide a more equitable estate tax treatment of joint interests in farm and closely held business property; to the Committee on Finance.

ELIMINATE THE "WIDOW'S TAX"

● Mr. NELSON. Mr. President, I am introducing today a bill to do away with the "widow's tax." This is an excess estate tax which is not found in the Internal Revenue Code, but is levied all too often on surviving spouses in farm and small business families under present interpretations of the tax law.

WHAT THE BILL WOULD DO

The bill would allow a surviving wife (or husband) to treat as earned for estate tax purposes up to a 50-percent share of any joint farm or small business property, at the rate of 2 percent a year if that spouse actually participates in the operation of the farm or small business. The bill would not, of course, permit encroachment upon the portion of the property which the other spouse owned before marriage.

DESCRIPTION OF THE PROBLEM

During consideration of the Tax Reform Act of 1976, farm wives and their organizations made the Congress aware of the so-called "widow's tax."

The "widow's tax" is the amount of estate tax which results from the inclusion of the entire value of jointly-held property in the estate of the first spouse to die, even though the spouse may have worked a farm side by side for an entire adult lifetime. The legal cause of this situation is the rule that the survivor (in most cases the wife) is required to show that she "furnished consideration" that is, defined as "money or money's worth") before the IRS would consider her an owner of any part of the property for estate tax purposes. Working a farm or small business full time with the husband is not counted as "consideration furnished."

The imposition of the widow's tax is particularly a problem of unincorporated businesses in light of a tax court decision which decided that if a business is in partnership form, a surviving spouse would be entitled to ownership of joint property in proportion to the allocation of the partnership tax return. Estate of Otte, 31 T.C.M. 301 (1972). If the joint farm or small business property was in a corporation, the percentage of stock held by the widow would be evidence of ownership.

Thus, it is only the smallest and least organized element of the business population that suffers from the problem. But 12 million of the total of 14 million U.S. enterprises, that is, 85 percent of the total, are unincorporated.

EFFORTS AT RELIEF IN THE TAX REFORM ACT OF 1976

In 1976, the Senate Small Business Committee and the Senate Finance Committee combined to initiate a thorough reform in the estate tax laws for the first time since 1942. This helped widows' problems in three ways: First, Congress raised the marital deduction for widows to $250,000. Second, general estate tax allowance was tripled from $60,000 to $175,000 (by 1981). Third, converting this allowance from an exemption into the form of a credit, makes it more beneficial to small and moderate-sized estates than the previous law.

The Tax Reform Act of 1976 addresses the surviving spouse's problem specifically in section 2002. That provision permits a husband to elect to treat one-half of the purchase price of a farm as a gift to his wife. The filing of a gift tax return at the time of marriage, whether or not any tax is due, would eliminate the widow's tax. The election would presumably be exercised by an addendum to the couple's income tax form for that year which would reference or attach the gift tax return.

This left several gaps in the operation of the legislation. One of these was addressed in section 3(K) of the pending Technical Corrections Act, H.R. 6715. This technical amendment would clarify the right of making a gift as to property owned by the husband and wife jointly before the passage of the act.

SHORTCOMINGS OF PRESENT LAW

The 1976 and H.R. 6715 provisions should be adequate for those farmers, small business owners, and others, who are affluent and sophisticated enough, and have time enough, to obtain competent tax-planning advice and assistance. But, as a practical matter, this is likely to extend to a minority of farm and small business families.

For example, the Wisconsin Farmers Union study of their county officers in 1976 revealed that less than 50 percent have wills. Many farm and other working families may not seek such advice until retirement age. Also, there is an inequity in requiring a farmer to pay a gift tax on the 1978 value of property when he acquired or inherited the land 30 or 40 years earlier at far lower prices, and his wife had been helping operate the farm during that period.

Thus, in a letter to the Senate Finance Committee during consideration of the Technical Corrections Act in November 1977, I pointed out that section 2002 was inadequate to resolve the "widow's tax" problem for the following reasons:

Many farm and small business families do not have the resources to seek expert counsel;

If advice is sought, it is usually not at the time of marriage, but much later when the family is close to retirement;

By that time inflation will have pushed the value of the farm and small business property far beyond what it was at the time of marriage, by substantially increasing the possibility that a gift or estate tax will be imposed.

It is only fair that a widow who has contributed a lifetime of effort to the paying off of a mortgage on a farm or small business, and is able to show the IRS that she has done this, should be treated as owner of up to 50 percent of the property and the husband's estate should not be taxed on its entire value. For these reasons, we are now seeking a way to achieve that result through an amendment to the Federal estate tax statute.

The bill would work this way. In the event of death of a husband or wife who is a joint owner of property, and who has been working a farm jointly with his or her spouse, this proposal would deem the survivor, for estate tax purposes, to have "furnished consideration" for their joint property at the rate of 2 percent a year, up to a maximum of 50 percent of the portion of the property which has not been paid for at the time of marriage.

This would permit the wife who did not furnish any of the downpayment (and the farm may have been inherited before marriage) to "earn out" 50 percent of the remaining share within 25 years.

Of course, the spouse could not earn by operation of this law a share of what the other spouse owned outright at the time of marriage. Thus, if a husband had made a downpayment of 50 percent on some farm acreage before marriage from his own funds, the wife would be entitled to "earn out" only half of the remaining 50 percent.

By the same token, if a wife inherited a farm free and clear, there would be no remaining balance for the husband "to earn out" under this measure.

The bill would only apply to that share which was unpaid for at the time of mar-

riage, and that was earned by their joint labor which could be demonstrated to the tax authorities.

SUPPORTING ARGUMENTS

In addition to the distinction drawn by the law between proprietorship businesses and other kinds, which I feel is unjustified, there are other considerations which I would advance in behalf of this bill.

It would assist the least sophisticated taxpayers which include the majority of farm and small business taxpayers facing the potential hardship of a "widow's tax," who deserve relief equally as much as those who can afford expensive counsel. The proposed amendment would therefore treat rich and poor the same before the law.

It would appear that the joint legal ownership, length of the relationship, and the labor of both parties, are clear signals of the intent of the parties that such property should be jointly owned for all purposes.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 2040 of the Internal Revenue Code of 1954, relating to joint interests, is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR CERTAIN FARM AND CLOSELY HELD BUSINESS PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), in the case of any qualified joint interest, the spouse of the decedent shall be deemed to have furnished consideration with respect to the property in which the qualified joint interest is held in an amount equal to—

"(A) 2 percent of the unpaid mortgages on, or any indebtedness in respect of, such property at the time the qualified joint interest was created, multiplied by

"(B) the number of years the property was held by the decedent and the decedent's spouse as a qualified interest and in which the decedent's spouse materially participated in the operation of the farm or closely held business in which the qualified joint interest is held.

"(2) LIMITATION ON AMOUNT.—The amount of consideration which the spouse is deemed to have furnished under paragraph (1) shall not exceed an amount equal to—

"(A) 50 percent of the unpaid mortgages on, or any indebtedness in respect of, such property at the time the qualified joint interest was created, minus

"(B) the amount of consideration such spouse is determined under this section (without regard to this subsection or any consideration attributable to material participation in the operation of a farm or closely held business in which the qualified joint interest is held by the spouse) to have furnished with respect to such property.

"(3) COORDINATION WITH SUBSECTION (a).—The amount of consideration deemed furnished under this subsection shall be the minimum amount of consideration attributable to material participation in the operation of a farm or closely held business in which the qualified joint interest is held by the spouse taken into account under this section. If, without regard to this subsection, a greater amount is determined, then such greater amount shall apply and this subsection shall not apply.

"(4) DEFINITION; SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED JOINT INTEREST.—The term 'qualified joint interest' means any interest in any property which—

"(i) is devoted to use as a farm, or used, for farming purposes (within the meaning of sections 2032A(c) (4) and (5)), or ,

"(ii) constitutes, or is used in, a closely held business (within the meaning of section 6166A(c)) other than the business of farming,

held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if such joint interest was created by the decedent, the decedent's spouse, or both, and in the case of a joint tenancy, only if the decedent and the decedent's spouse are joint tenants.

"(B) MATERIAL PARTICIPATION.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).".

(b) The Amendment made by subsection (a) shall apply with respect to decedents dying after the date of enactment of this act.●

By Mr. GOLDWATER (for himself and Mr. MATHIAS):

S. 2867. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Energy and Natural Resources.

REPEAL OF ACREAGE LIMITS AND RESIDENCY REQUIREMENTS OF RECLAMATION LAW

Mr. GOLDWATER. Mr. President, I am introducing today, with the senior Senator from Maryland (Mr. MATHIAS), a bill to repeal the acreage limits and residency requirements of reclamation law.

The bill is a companion to H.R. 11944, which has been introduced by Congressman STUMP in the House.

Mr. President, I feel so strongly about the need for correcting the antiquated 1902 Reclamation Act that I believe the best solution is to repeal the offensive provisions entirely.

In my opinion, no magic figure, such as 600 or 1,000 acres, will work.

It is impossible to apply a flat rule to every type of crop. Even if we could devise an average acreage needed for efficiency of production as to specific crops in specific areas of the country, today's figure might not be adequate for the future. Today's 1,000-acre efficient farm might be a 2,000-acre farm in the future due to changing technology and inflationary costs of production.

The current 160-acre restriction on individual ownership of irrigable land that can be supplied with reclamation project water is absurd. Even if family ownerships are taken into account, an artificial rule of this kind is inadequate to modern agriculture. And, why, I would ask, should a farmer who does not have a large family be put at a disadvantage with his neighbors solely on the basis of family size?

Mr. President, as an example, let me discuss cotton, which is the most valuable crop in Arizona.

Arizona's 1977 cotton crop totaled 1,110,000 bales. The value of our cotton and cottonseed was $355 million last year, 40 percent of the value of all crops grown in the State. When we add the usual multiplier effect to this value, we can see that the 1977 cotton and cottonseed income added approximately $1½ billion to Arizona's economy.

About 90 percent of our cotton is exported. These exports help to counter the massive deficit in our Nation's trade account caused by fuel imports.

To these statistics, let me add that the average size cotton farm in Arizona dependent solely upon farm income is about 1,200 acres. This is the most economic family-size unit in our State at this time. However, this figure will increase in the future as farming production costs increase.

Alfalfa and grain crops are also two major crops grown in Arizona. Arizona cash receipts for these crops in 1977 totaled about $160 million. These crops, too, require expensive machinery that must be economically utilized.

For example, an average size tractor with plowing, planting, and cultivating equipment now costs $50,000. A two-row cotton picker costs about $58,000. A grain combine about $60,000. Haying equipment costs about $35,000.

So the large size of farms in producing these crops did not just happen. They grew out of necessity and they will have to grow larger to stay efficient as production costs rise.

Today, almost every aspect of farming is mechanized, along with the development of new, higher yield crops. All of this costs a great deal of money and is generally more than the small farmer can afford.

So we have a choice. We either increase the cost of farm products way beyond the pocketbook of the average household, and at the same time we price ourselves out of the export markets, or we put some commonsense into an archaic and restrictive farm law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) notwithstanding any other provision of law, to any entryman, lessee, or owners of land subject to the Federal homestead laws shall apply to such land if it is also subject to the reclamation law.

(b) Notwithstanding any other provision of law, no condition of residency shall apply to any entryman, lessee, or owner of land subject to the reclamation law.

SEC. 2. The limitation on acreage in the following provisions of law is repealed:

(1) Section 2 of the Act of February 2, 1911, entitled "An Act to provide for the sale of lands acquired under the provisions of the reclamation act and which are not needed for the purpose of that act" (43 U.S.C. 374).

(2) Section 2 of the Act of May 20, 1920, entitled "An Act to provide for the disposition of public lands withdrawn and improved under the provisions of the reclamation laws, and which are no longer needed in connection with said laws" (43 U.S.C. 375).

(3) Section 2 of the Act of March 31, 1950, entitled "An Act to authorize the disposal

of withdrawn public tracts too small to be classed as a farm unit under the Reclamation Act" (43 U.S.C. 275c).

(4) Sections 44 and 46 of the Act of May 25, 1926, entitled "At Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes" (43 U.S.C. 423c, 423e).

(5) Section 2 of the Act of May 16, 1930, entitled "An Act to authorize the disposal of public land classified as temporarily or permanently unproductive on Federal irrigation projects" (43 U.S.C. 424a).

(6) Sections 3 and 5 of the Act of June 17, 1902, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands" (43 U.S.C. 431, 434).

(7) Section 2 of the Act of February 21, 1911, entitled "An Act to authorize the Government to contract for impounding, storage, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects and for other purposes" (43 U.S.C. 524).

(8) Section 3 of the Act of July 30, 1947, entitled "An Act to relocate the boundaries and reduce the areas of the Gila Federal reclamation project, and for other purposes" (43 U.S.C. 613b).

(9) Section 3 of the Act of September 2, 1964, entitled "An Act to provide for the construction, operation, and maintenance of the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa participating reclamation projects under the Colorado River Storage Project Act" (43 U.S.C. 616jj).

(10) Section 9 of the Boulder Canyon Project Act (43 U.S.C. 617h).

(11) Sections 5 and 6 of the Act of August 11, 1916, entitled "An Act to promote the reclamation of arid lands" (43 U.S.C. 627–628).

(12) Section 4 of the Act of August 18, 1894, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes" (43 U.S.C. 641).

(13) The first section of the Act of August 30, 1949, entitled "An Act to authorize the sale of the public lands in Alaska" (43 U.S.C. 687b).

SEC. 3. The following sections are repealed:

(1) Sections 12 and 13 of the Act of August 13, 1914, entitled "An Act extending the period of payment under reclamation projects, and for other purposes (43 U.S.C. 418, 435, 443).

(2) Section 9 of the Act of August 13, 1953, entitled "An Act to permit the exchange and amendment of farm units on Federal irrigation projects, and for other purposes" (43 U.S.C. 451h).

(3) Section 501(d) of the Colorado River Basin Project Act (43 U.S.C. 620a–2).

SEC. 4. For the purposes of this Act, the term "reclamation law" shall have the meaning prescribed for it by subsection A of section 4 of the Act of December 5, 1924 (43 U.S.C. 371).

By Mr. PERCY:

S. 2868. A bill to provide a remedy against the United States for torts arising under the Constitution or laws of the United States committed by officers or employees of the United States, and for other purposes; to the Committee on the Judiciary.

FEDERAL TORT CLAIMS ACT AMENDMENTS OF 1978

Mr. PERCY. Mr. President, today I am introducing a bill amending the Federal Tort Claims Act (FTCA) to broaden the liability of the United States for tortious acts committed by its employees including violations of the U.S. Constitution, such as illegal search and seizures. This legislation will also make the remedy against the Federal Government almost entirely exclusive of any action against the individual who committed the tort. It further provides that the agency whose employee committed the tort shall pay damages from appropriations available to that agency.

The FTCA derives from the concept of sovereign immunity, a privileged status which English common law has always accorded to its rulers. The principle that the sovereign should enjoy immunity against civil suit developed from two beliefs: first, the idea that the "king can do no wrong"; and second, the apparent contradiction of allowing the power which makes the laws to be sued under those laws. It was, therefore, established that the King could not be sued unless he gave his consent; otherwise, he was immune from suit.

In 1821 this anomalous concept found its way into American jurisprudence. By the mid-10th century, it became apparent that absolute governmental immunity was impractical, and several laws were passed permitting a cause of action against the Government on issues concerning contracts, patents, and maritime rights. In 1946, a major departure from tradition came with the passage of the FTCA. This law allows a victim of governmental negligence, trespass, or invasion of privacy to sue the United States for actual, verifiable damages resulting from certain tortious acts of Federal employees. (28 U.S.C. 1346(b))

Mr. President, the legislation I am proposing today would correct three major problems with the amended 1946 FTCA. The first of these is the scope of Government liability. Generally, the United States is liable as if it were an individual, according to the law of the place where the tortious act of the Federal employee occurred. However, the final section of the FTCA, 28 U.S.C. 2680, maintains immunity for many broad areas of Government activity.

The two largest areas covered are intentional torts and discretionary functions. I believe that Government immunity for intentional torts can in no way be justified. Section 2680 of the original FTCA maintained immunity for assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, and interference with contract rights—a victim of these intentional torts and committed by Government agents and could not recover damages from the United States.

These exemptions were in effect on the evening of April 23, 1973, when 12 Federal and State narcotics agents mistakenly raided the homes of two innocent families in Collinsville, Ill. The provisions of section 2680 prevented these families from collecting compensation from the Federal Government for the humiliation and abuse they suffered. The agents themselves were sued individually (under the reasoning of *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971)), but were successful in asserting that they were acting in good faith, thereby absolving themselves of liability for the torts they intentionally committed. In the end, these two families were unable to collect any compensation for the wrongs they had suffered.

In response to the gross injustices of Collinsville, then-Senator Sam Ervin and I introduced an amendment to the FTCA to make the Federal Government liable for certain intentional torts of Federal investigative and law enforcement officers. This legislation was signed into law on March 16, 1974. However, its coverage is limited to designated intentional torts committed by a narrowly defined group of law enforcement agents. The bill I introduce today would expand Government liability to all intentional torts committed by all Federal officers or employees, thus better insuring that victims of these types of incidents will be adequately compensated.

Immunity for discretionary functions is a more complex issue. The Supreme Court reasoned in *Dalehite* v. *United States*, 346 U.S. 15 (1953), that some type of governmental immunity for discretionary functions is necessary in order that Government not be sued for undertaking those policymaking activities which are part and parcel of governing. Allowing the Government to be sued for undertaking these decisionmaking activities in good faith could lead to overly cautious and ineffective Government. This discretionary exemption to Government liability is often justified, for the gain to society in Government effectiveness often outweighs the costs of unremedied injuries.

In Bivens, the Supreme Court expressed the simple proposition that when a citizen's constitutional rights are violated by a Government official, he has the right to sue that official for damages. It would seem incongruous for an aggrieved citizen whose rights have been violated to be able to sue the individual employee but not the Government in whose name the wrongs were committed.

The discretionary exception should not allow the Government to avoid responsibility for respecting the constitutional rights of the American people. The Bill of Rights was intended to be inviolable. I propose therefore, to continue the discretionary exemption for common law torts. However, violations of constitutional rights, even those committed in the course of discretionary functions, would not be immune from Government liability.

This bill therefore expands Government liability for so-called constitutional and statutory torts and makes it clear beyond question that citizens will be able to recover damages for constitutional violations, such as illegal search-and-seizures by Government agents. Presently, the Government is expressly liable only for those actions which would be torts under the State or local law. Uncertainties arise, however, when the local common law of torts does not explicitly cover infringements of rights guaranteed by the U.S. Constitution or Federal statutes that regardless of local laws, vio-

lations of federally insured rights by employees of the United States will be a tort under Federal law and will require the payment of appropriate damages.

The second major flaw in the 1946 FTCA is the nature of its remedy. Currently, a plaintiff may sue the Government and the responsible Federal employee jointly, or each individually. In practice, the Government, under the theory of respondeat superior, almost always pays the damages even where the individual employee shares in the liability. Nevertheless, concern has developed that some Federal employees may be hesitant to carry out their duties as vigorously as possible for fear of being named a defendant in a lawsuit. The time-consuming court procedures and the possibility, no matter how remote, of a financially ruinous judgment, could lead to mediocre Government, rather than innovation and vigor.

The bill I offer today would provide an election of remedies. In cases where the employee was acting in good faith and within the scope of his office, remedy against the United States would be exclusive. In cases where the employee is alleged to have acted in bad faith or in a reckless manner, the victim could elect to sue either the Government, or the employee, but not both. The Government would be prohibited from asserting as a defense the good faith belief of the employee in the lawfulness of his conduct. This would act as a strong incentive for the victim to sue the Government. However, in cases where the employee allegedly acted in bad faith, the victim could elect to sue him personally. Although the plaintiff would have less assurance of actual recovery than if he sought compensation from the "deep pockets" of the U.S. Treasury, he may decide that more is at stake than the simple recovery of damages. An employee who uses his position as a shield behind which he willfully commits tortious acts or woefully neglects his responsibility should, if the victim so desires, be made accountable for his actions in court.

This legislation would make a third major improvement over the present FTCA: It would create more direct accountability, giving agencies the needed incentive to properly train and discipline their employees. Under current law, administratively settled claims over $2,500 and all damage judgments are paid from general revenues. Most payments are made in this manner, greatly weakening the impact which the payment of these damages could have on the future conduct of the individual tortfeasor or the policies of the agency employing him. Under the amendment, successful claims would be paid from the appropriations available to the agency whose employee committed the tort. Agency heads would have an incentive to prevent tortious behaviour of Federal employees. Congress could and should look into operations of any agency which failed to do so.

The measure also stipulates a minimum award of $1,000 for constitutional torts, providing a special deterrent to intrusions upon fourth and fifth amendment rights. This provision is also designed to insure that violations of individual rights are not ignored or passed over in cases where no tangible monetary damages occur. The plaintiff would be entitled to all actual damages, and to provide for more serious intangible harms, such as pain and suffering, the amendment permits payment of general damages of up to $100,000. Punitive damages up to $50,000 are authorized to be awarded at the discretion of the court. Finally, so as not to require an innocent victim of a tort to bear the burden of attorney fees and other litigation costs, the court could award reasonable compensation to a successful plaintiff for legal expenses.

Mr. President, I believe the time has come to thoroughly reform the FTCA. There have been several bills introduced during the last two sessions of Congress which attempted to do away with one or another anachronistic aspects of sovereign immunity. Among the supporters of such bills have been former Senator Hruska (S. 2558, 93d Congress), Senator KENNEDY (S. 800, 94th Congress), and Representative RODINO and former Representative Hutchinson (H.R. 10439, 93d Congress).

In September, 1977, Senator EASTLAND introduced on behalf of the administration S. 2117, which is in agreement with many of the provisions of the legislation I am submitting today. There are three basic differences, however. First, the administration proposal would extend immunity to individual agents in every case, including those involving intentional misconduct and reckless acts. This, I believe, is a major flaw with that measure. Why should an employee who has seriously abused the authority vested in him be immune from a lawsuit? If there has been bad faith or extreme negligence involved, the employee should be accountable for the wrong he has done. As a matter of simple justice, my proposal would deny immunity to employees who act in reckless disregard of their responsibilities or in bad faith. While it is important to encourage employees to carry out their duties as energetically as feasible, there must remain a mechanism to make accountable those who would overstep this broad authority. We must not, in the interest of reform, invite the reoccurrence of the official lawlessness which has come to light over the last few years.

The second difference is that the administration bill would provide that practically all settlements and awards paid under the FTCA be drawn from general revenues rather than from the appropriations of the affected agency. I support the latter approach for it would make each agency more directly accountable for the actions of its employees.

Finally, there is no provision under S. 2117 for third party suits by the Government against employees who have acted recklessly or in bad faith. I must again state my strong belief that in these extreme cases, the employee must bear the consequences for his actions. My proposed legislation would give the Federal Government, in cases where the victim of such torts elected to sue the United States and not the employee, the right of indemnity against the employee for all or part of the liability.

The measure I offer today builds on recent reforms in the FTCA and incorporates many of the reforms proposed in the above-mentioned bills. I believe this legislation is a workable compromise between those who desire absolute immunity for Federal employees and those who desire the system as it now exists.

Mr. President, I hope that prompt action will be taken on this bill so that the important changes it would make in the Federal sovereign immunity law can be enacted without undue delay. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346(b) of title 28, United States Code, is amended—

(1) by striking the comma immediately following "1945" and inserting in lieu thereof a dash and "(1)";

(2) by striking the period at the end of the subsection and inserting in lieu thereof a semicolon and "or";

(3) by adding at the end thereof the following:

"(2) for any tort arising under the Constitution or laws of the United States caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, or under color thereof, such liability to be determined in accordance with applicable Federal law.".

SEC. 2. Section 2672 of title 28, United States Code, is amended—

(1) by inserting a dash and "(a)" in the first paragraph immediately before "for injury":

(2) by inserting in the first paragraph immediately before the colon the following: ", or (b) for any tort arising under the Constitution or laws of the United States caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment, or under color thereof, such liability to be determnied in accordance with applicable Federal law; and

(3) by striking out the third paragraph and inserting in lieu thereof the following:

"Any award, compromise, or settlement made pursuant to this section or made by the Attorney General pursuant to section 2677 or 2679 shall be paid by the head of the Federal agency concerned out of appropriations available to that agency.".

Sec. 3. Section 2674 of title 28, United States Code, is amended—

(1) by striking out the first paragraph and inserting in lieu thereof the following:

"(a) (1) Except as otherwise provided in this section, the United States shall be liable, respecting the provisions of this title relating to claims for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, in the same manner and to the same extent as a private individual under like circum-

stances, but shall not be liable for interest prior to judgment or for punitive damages.";

(2) by inserting "(2)" in the second paragraph immediately before "If"; and

(3) by adding at the end thereof the following:

"(b)(1) The United States shall be liable, respecting the provisions of this title relating to claims for any tort arising under the Constitution or laws of the United States or for any intentional tort, for actual damages to the same extent as entitlement to such damages is recognized under the law of the place where the act or omission occurred, for a reasonable attorney's fee and other litigation costs reasonably incurred, for general damages relating to mental and physical pain and suffering not to exceed $100,000, and, in the discretion of the court, for punitive damages not to exceed $50,000, and reasonable interest prior to judgment. In any claim for a tort arising under the Constitution, damages awarded shall not be less than $1,000.

"(2) The United States may not assert as a defense to an action arising under the Constitution the absolute or qualified immunity of the employee (except Members of Congress, judges, or prosecutors, or agents thereof) or the good faith belief of the employee in the lawfulness of his conduct.

"(c) For purposes of this section—

"(1) a tort is intentional only if the act or omission giving rise to such tort is knowing and willful; and

"(2) any award of damages, interest, or attorneys' fees under this section shall be paid by the head of the Federal Agency whose employee committed such tort out of appropriations available to that agency.".

SEC. 4. Section 2675 (a) of title 28, United States Code, is amended—

(1) by inserting immediately after "employment," the following: "or upon a claim against the United States for money damages arising under the Constitution or laws of the United States caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment or under the color thereof,";

(2) by inserting immediately after the first sentence the following: "Upon a claim against the United States for money damages arising under the Constitution of the United States, class actions in conformity with the requirements of the Federal Rules of Civil Procedure may be instituted provided that the claim presented to the appropriate Federal agency expressly asserts the representative nature of the claim and specifically describes the members of the class, the common interests of the claimant and such members, and the basis upon which the claimant believes he can fairly and adequately protect the interests of the class as their representative.".

SEC. 5. Section 2676 of title 28, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in section 2679(b)(2), the".

SEC. 6. Section 2679 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) the remedy against the United States provided by section 1346(b) and 2672 of this title with respect to claims for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding, arising out of or related to the same subject matter, against the employee whose act or omission gave rise to the claim or against the estate of such employee.

"(2) The remedy against the United States provided by sections 1346 (b) and 2672 of this title with respect to claims for any tort arising under the Constitution or laws of the United States or for any intentional tort, caused by an employee of the Government while acting within the scope of his office or employment, or under color thereof, is exclusive of any other civil action or proceeding, arising out of or related to the same subject matter, against the employee whose act or omission gave rise to the claim or against the estate of such employee, unless such employee acted recklessly or did not in good faith believe the lawfulness of his conduct. For any such tort claim in which such employee acted recklessly or in which such employee did not in good faith believe the lawfulness of his conduct, an action may be brought against either the United States as provided in sections 1346(b)(2) and 2672, or against such employee (or the estate of such employee) in his individual capacity. Whenever the action is brought against the United States under sections 1346(b)(2) and 2672, the remedy is exclusive of any other civil action or proceeding, arising out of or related to the same subject matter, against the employee whose act or omission gave rise to the claim or against the estate of such employee. Whenever the action is brought against such employee (or the estate of such employee) in his individual capacity, the remedy is exclusive of any other civil action or proceeding, arising out of or related to the same subject matter, against the United States under sections 1346(b)(2) or 2672.

"(3) For the purposes of this section, a tort is intentional only if the act or omission giving rise to such tort is knowing and willful.";

(2) in subsection (c), by adding at the end thereof the following: "This subsection is not applicable to any action brought against such employee (or the estate of such employee) in his individual capacity.";

(3) by amending subsection (d) to read as follows:

"(d)(1) Except as provided in paragraph (4), upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment, or in claims arising under the Constitution or the laws of the United States that the employee was acting within the scope of his office or employment or under the color thereof, at the time of the act or omission out of which the action arose, any such civil action or proceeding commenced in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. After such substitution the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b).

"(2) Except as provided in paragraph (4), upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment, or in claims arising under the Constitution or the laws of the United States that the employee was acting within the scope of his office or employment, or under the color thereof, at the time of the act or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be removed, without bond, at any time before trial, by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and be deemed an action brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. After such substitution the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b). The certification of the Attorney General shall conclusively establish scope of office or employment and in claims arising under the Constitution or laws of the United States, scope of office or employment or acting under color thereof, for purposes of such initial removal. Should a district court of the United States determine on a hearing on a motion to remand held before trial on the merits that the employee defendant was not acting within the scope of his office or employment, and in claims arising under the Constitution or laws of the United States, acting within the scope of his office or employment or under color thereof, the case shall be remanded to the State court in which it was initially filed.

"(3) Where an action or proceeding under this chapter is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the action or proceeding shall be dismissed, but in that event the running of any limitation of time for commencing, or filing an application or claim in, such proceeding for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this chapter.

"(4) Paragraphs (1) and (2) of this subsection shall not apply to any action brought against an employee (or the estate of such employee) in his individual capacity for a tort arising under the Constitution or laws of the United States or for any international tort, in which it is alleged that the employee acted recklessly or did not in good faith believe the lawfulness of his conduct.";

(4) by adding at the end of such section the following:

"(f) Whenever an action is brought against the United States under sections 1346(b)(2) and 2672 rather than against the employee (or the estate of such employee) in his individual capacity, the United States shall have a right of indemnity against the employee whose act or omission gave rise to the claim or against the estate of such employee, for all or part of the amount of its liability. The United States may enforce such right of indemnity in a separate civil action or proceeding in any district court or by filing a third party complaint against such employee or his estate in the action brought by the claimant under this section, without regard to the amount in controversy.".

SEC. 7. Section 2680 of title 28, United States Code, is amended—

(1) by amending the matter preceding paragraph (a) to read as follows: "Except for tort claims arising under the Constitution of the United States or laws of the United States, the provisions of this chapter and section 1346(b) of this title shall not apply to—"; and

(2) by repealing paragraph (h).

SEC. 8. (a) Subsections (a) through (d) of section 4116 of title 38, United States Code, are repealed, and subsection (e) of that section is amended by deletion of the designation "(e)", by deleting the words "person to whom the immunity provisions of this section apply (as described in subsection (a) of this section)," and inserting in lieu thereof the words "employee of the Department of Medicine and Surgery".

(b) Subsections (a) through (e) of section 224 of the Public Health Service Act, as added by section 4 of the Act of December 31, 1970, and renumbered (42 U.S.C. 233 (a)

through (e)), are repealed, and subsection (f) is amended by deletion of the designation "(f)".

(c) Subsections (a) through (e) of section 1091 of the Foreign Service Act of 1946, as added by section 119 of the Act of July 12, 1976 (22 U.S.C. 817 (a) through (e)) are repealed.

(d) Subsections (a) through (e) of section 1089, title 10, United States Code, are repealed. Subsection (f) is amended by deleting the words "person described in subsection (a)" and inserting in lieu thereof the words "employee of the Armed Forces, the Department of Defense, or the Central Intelligence Agency,".

(e) Subsections (a) through (e) of section 307 of the National Aeronautics and Space Act of 1958, as added by section 3 of the Act of October 8, 1976 (42 U.S.C. 2458a (a) through (e)), are repealed, and subsection (f) is amended by the deletion of the designation "(f)", by the deletion of the words "person described in subsection (a)" and by the insertion in lieu thereof of the words "employee of the National Aeronautics and Space Administration".

SEC. 9. This Act shall apply to all claims filed or accruing on or after the date of enactment of this Act.

By Mr. TALMADGE (by request):

S. 2869. A bill to authorize the establishment of an international emergency wheat reserve, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

INTERNATIONAL WHEAT RESERVE ACT OF 1978

● Mr. TALMADGE. Mr. President, I am today introducing at the request of the administration a bill to authorize the President to establish and maintain a wheat reserve to provide for specified emergency and developmental food needs abroad and to fulfill any reserve stock obligations of the United States under a wheat trade convention of an international wheat agreement.

Mr. President, I ask unanimous consent that the text of the bill and the accompanying letter from Secretary Bergland be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Wheat Reserve Act of 1978".

SEC. 2. The Congress hereby declares it to be the policy of the United States to develop a wheat reserve to provide for emergency humanitarian and developmental food needs abroad and to fulfill any reserve stock obligations of the United States under the Wheat Trade Convention.

SEC. 3. In order to carry out the policy and accomplish the objectives set forth in section 2 of this Act, the President shall establish a reserve stock of wheat of up to 6 million metric tons: *Provided,* That in the event the United States undertakes any reserve stock obligations under the Wheat Trade Convention, the maximum may be increased to such level as the President deems necessary to carry out section 5(a) of this Act.

SEC. 4. Stocks of wheat for such reserve may be acquired (1) through purchases from producers or in the market: *Provided,* That the Secretary of Agriculture (hereinafter referred to as "the Secretary") determines that such purchases will not unduly disrupt the market, and (2) by designation by the Secretary of stocks of wheat acquired by the Commodity Credit Corporation.

SEC. 5. (a) Notwithstanding any other provision of law, stocks of wheat so designated or acquired for the wheat reserve provided for by this Act may be released by the President for sale or donation for the following purposes:

(i) To provide humanitarian relief in any foreign country which suffers a major disaster as determined by the President;

(ii) to assist any developing country to meet its food requirements in any year in which the market price of wheat is high and the United States domestic supply of wheat is limited so as to warrant release from the reserve for this purpose; or

(iii) to fulfill any reserve stock obligations of the United States under the Wheat Trade Convention.

(b) In making the determination to release wheat for the purposes of clauses (i) and (ii) of subsection (a) of this section, the President shall take into consideration food assistance authorized under the Agricultural Trade Development Assistance Act of 1954.

(c) The President may designate a portion of the reserve to be utilized only for the purpose of clause (iii) of subsection (a) of this section.

SEC. 6. (a) Upon determination by the President under Section 5(a) that wheat shall be released from the reserve, the Secretary is authorized to make all necessary arrangements for the release and disposition thereof on such terms and conditions as the Secretary determines will effectuate the purposes of this Act.

(b) Wheat released from the reserve for the purposes of clauses (i) and (ii) of section 5(a) may, as determined by the President, be made available pursuant to agreements which the President enters into with representatives of foreign governments or under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That the last sentence of section 401(a) of such Act with respect to determination of availability shall not be applicable thereto.

(c) The Secretary is authorized to pay, with respect to stocks of wheat released from the reserve for donation for the purposes of clauses (i) and (ii) of section 5(a), costs of processing, transportation, handling, and other incidental costs to designated points abroad.

SEC. 7. The Secretary shall provide for the storage of stocks of wheat in the reserve and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, utilizing programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity removed from the wheat reserve for rotation purposes shall be promptly replaced with an equivalent quantity.

SEC. 8. Stocks of wheat in the reserve shall not be considered a part of the total domestic supply including carryover, for the purposes of section 5(a)(ii) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954, and shall not be subject to any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of the Export Administration Act of 1969 (50 U.S.C. App. 2413).

SEC. 9. (a) The funds and authorities of the Commodity Credit Corporation shall be utilized by the Secretary in carrying out this Act: *Provided,* That any restrictions applicable to the acquisition, storage or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage or disposal of wheat for or in the reserve.

(b) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve which is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by Commodity Credit Corporation with respect to such wheat or the export market price of wheat, as determined by the Secretary, as of the time the wheat is released from the reserve for such purpose, whichever is lower. Such reimbursement shall be made from funds appropriated for that purpose in subsequent years.

SEC. 10. Any determination by the President or the Secretary under this Act shall be final.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 15, 1978.

The PRESIDENT OF THE SENATE,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of Congress is a draft bill "To authorize the establishment of an international emergency wheat reserve, and for other related purposes." This proposal will authorize the President to establish and maintain a wheat reserve to provide for specified emergency and developmental food needs abroad and to fulfill any reserve stock obligations of the United States under a Wheat Trade Convention of an International Wheat Agreement.

This department recommends that the draft bill be enacted.

This bill would authorize stocks of wheat for the International Emergency Wheat Reserve (IEWR) to be acquired by designating wheat in the Commodity Credit Corporation (CCC) inventory to be part of the reserve and by purchasing wheat in the market or directly from farmers when the Secretary determines such purchases will not unduly disrupt the market. Wheat from the IEWR could be released for sale or donation only to (1) provide humanitarian relief in any foreign country which suffers a major disaster, as determined by the President; (2) assist any developing country to meet its food requirements in any year in which the market price of wheat is high and the United States domestic supply is limited so as to warrant release from the reserve for this purpose; or (3) to fulfill any reserve stock obligations of the United States under a Wheat Trade Convention.

If enacted, it is intended that this authority will be used, in combination with farmer-owned reserve authorities, to place into reserve up to 15 million metric tons (550 million bushels) of wheat before the beginning of the 1978 crop year. The IEWR share of this reserve will not exceed 6 million tons (220 million bushels), unless the United States undertakes reserve stock obligations under the Wheat Trade Convention currently being negotiated which, in combination with the food aid reserve objectives of this bill, would require a higher level of government-owned reserve stocks. If it is necessary to increase the IEWR to meet the intent of this legislation, acquisitions of 1976- and 1977-crop wheat under the price support program which have been designated as part of the IEWR will be supplemented to the extent necessary by purchases of wheat in the market or directly from farmers. Such purchases would be made, if necessary, after the farmer-owned reserve target has been met.

The President's budget, submitted to the Congress in January, includes funds for the establishment of 15 million tons of wheat reserves in fiscal year 1978, including a 6 million ton IEWR. Removing excess 1976- and 1977-crop wheat from the market and placing it in reserve, and lowering production through the 20 percent set-aside program for 1978, should result in higher prices for the 1978 crop. This should substantially reduce budget outlays for loan activities and deficiency payments in fiscal 1979, unless

weather conditions are unusually good. Costs of the IEWR in years beyond fiscal 1979 cannot be predicted reliably. They will depend on the quantity of wheat required to fulfill the purposes of this bill and on the extra CCC costs, if any, of replacing and storing these reserves.

An identical letter has been sent to the Speaker of the House of Representatives.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the Program of the President.

Sincerely,

BOB BERGLAND, *Secretary.*●

By Mr. PELL:

S. 2870. A bill to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans; to the Committee on Veterans' Affairs.

● Mr. PELL. Mr. President, today I am introducing legislation identical to H.R. 7263, which was introduced in the first session of this Congress by my colleague from Rhode Island, Congressman BEARD, to provide for the Federal subsidization of veterans' cemetery sites throughout our country.

It is proper and fitting recognition for veterans who have served this Nation through both wartime and peacetime to be accorded the honor of burial in a cemetery area reserved and maintained in an appropriate manner exclusively for veterans. For decades this has been possible at specially designated cemeteries throughout our Nation, and this has meant a great deal to those veterans and their families.

With the increase in the number of interments, some of our older cemeteries have been filled and new cemeteries have been selected and opened.

My own State of Rhode Island has had for the last 3½ years a fine State veterans cemetery, located in Exeter. In the short time it has been opened, almost 1,000 burials have taken place, and the near future will see an even more rapid rate of interment according to statistics I have received from Louis P. Alfano, Jr., my State's Chief of Veterans' Affairs.

There are 152,000 veterans in Rhode Island, and 60 percent of them served in World War II. Their average age is 57 years, and this means that within the next 20 years the Rhode Island veterans cemetery will be an increasingly important part of our commitment to our veterans.

However, the cost of maintaining this State veterans cemetery and of purchasing additional land for its projected expansion is a heavy burden upon my State, and this legislation would be of enormous assistance, in this regard.

Accordingly, this legislation would mandate Federal assistance to this important veterans cemetery and to others throughout our country. It is a fitting and proper step to take to honor our veterans who have contributed so much and who certainly deserve an appropriate resting place near their home and their surviving family members.●

By Mr. PEARSON:

S. 2871. A bill to create a rural community development bank to assist in rural community development by making financial, technical, and other assistance available for the establishment of expansion of commercial, industrial, and related private and public facilities and services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL COMMUNITY DEVELOPMENT BANK ACT OF 1978

Mr. PEARSON. Mr. President, I am introducing today a bill designed to assist the revitalization and continued economic growth of our rural communities. The bill would stimulate and support balanced economic growth in rural communities by establishing a Rural Community Development Bank, which would make financial, technical, and planning assistance available to small communities in nonmetropolitan areas.

Mr. President, past Federal initiatives for rural economic development have fallen short. Notwithstanding recent growth trends in some rural sections of our country, substantial disparities still exist between rural and metropolitan areas in terms of job opportunities, income levels, adequacy of housing, access to quality health, care, and other public facilities and services. Past Federal policies have been particularly remiss in the area of encouraging business and industry to invest in job-creating enterprises in rural areas. A recent review of rural development policy prepared by the assistant secretaries working group for rural development found that Federal programs for rural areas have concentrated on public facilities improvements and have not stimulated significant private sector employment.

The legislation I propose would encourage creation of new job opportunities in rural areas by attracting private capital through the mechanism of a federally chartered rural community development bank. Such a bank could support local financial institutions and insure that adequate credit resources were available to meet the needs of private enterprises that would expand or locate in small communities.

The development bank concept is not, of course, a new idea. I have sponsored similar rural development bank proposals in previous Congresses, as have others. I am reintroducing my rural development bank proposal today, because I sense a reawakening interest in the economic well-being, and quality of life in general, of rural America. Earlier this year, the White House Conference on Balanced National Growth and Economic Development, which was authorized by the Public Works and Economic Act Amendments of 1976, conducted a series of meetings attended by participants from all 50 States to study and make recommendations for national economic policies to foster sustained and balanced growth. More recently, the President has proposed creation of a National Development Bank as part of his urban policy. Although we will have to wait for the details, the National Bank would make assistance available to rural communities as well as urban areas. While this is a positive step for rural development, it should not represent the end, but the beginning, of discussion concerning ways to sustain economic growth throughout rural America.

Mr. President, the Rural Community Development Bank that I propose would be a self-financing, Government-chartered corporation. The bill provides that the bank would be capitalized through the sale of $1 billion in nonvoting stock to the U.S. Treasury. Initially, the Treasury would purchase 20 percent of this amount. As the bank's business developed, the Treasury would be authorized to purchase additional bank stock in amounts of up to $200,000 a year. The startup moneys paid in by the Federal Government would be financed through the sale of Treasury obligations to the public. Consequently, the $1 billion capitalization of the bank would not represent any direct appropriations from the Treasury. The bank could also require persons who received financial assistance to purchase bank stock.

With this capital surplus, the bank could issue bonds for sale in the private market to raise the funds it would use to provide loans, loan guarantees, and other financial assistance. The terms and conditions for such financial assistance would be set at a level to recover the bank's operating expenses.

Bank policies would be governed by a 17-member Board of Directors. Initially, 13 members would be appointed by the President, with the advice and consent of the Senate, from the Government and private sectors. The remaining four members would be elected by borrowers and other recipients of bank assistance who held bank stock. When the amount of voting stock exceeded the amount of nonvoting stock, five of the directors appointed by the President would be replaced by directors elected by recipients of bank assistance, giving them a majority voice in bank policy.

Mr. President, the bank would be authorized to make loans and loan guarantees to new or expanded private enterprises in small communities located in nonmetropolitan counties. Although small communities in some nonmetropolitan areas have been experiencing economic growth in recent years, these areas are primarily in counties adjacent to metropolitan areas. Other nonadjacent rural areas have experienced little or no growth. Consequently, the bank's principal focus would be upon communities located in nonmetropolitan areas that were more than 25 miles from an urban center. Nonetheless, a small community adjacent to a metropolitan area could qualify for assistance if the bank found there was a lack of credit resources available for investment in that community.

The bank would also be authorized to provide financial assistance to public

and quasipublic entities for the development, expansion, or improvement of industrial sites and other public facilities necessary to support a community's development effort.

Financial assistance could also be provided for housing construction if it was determined that additional housing was necessary for the employees of a new or expanding business.

In addition to loans and loan guarantees, the bill would authorize the bank to buy and sell its own obligations and to buy and sell obligations originated by other lenders for rural development purposes consistent with those outlined in the bill. The bank would be encouraged to involve other lending institutions in rural development loans and to create a secondary market for such loans.

Finally, the bill provides that the bank would make technical and planning assistance available to public bodies to enable them to maximize the benefits from rural investment in their communities.

Mr. President, the Rural Community Development Bank will not guarantee equality of economic opportunity between rural and urban areas. A rural development bank, however, can contribute to balanced national growth by insuring that adequate credit resources are available to rural communities to encourage and sustain their economic growth.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Community Development Bank Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the economic development of rural communities is essential to balanced national growth;

(2) many rural communities are in urgent need of economic development;

(3) such development can be assisted by the establishment or expansion of commercial or industrial enterprises and related public and private services and facilities;

(4) existing rural financial institutions do not have adequate resources to satisfy the capital needs for investment in rural development; and

(5) creation of a rural development bank will attract and support additional private investment in rural communities.

(b) It is the purpose of this Act to stimulate the economic development of rural communities by—

(1) providing financial assistance for the establishment and improvement of commercial and industrial facilities that increase job opportunities in such communities, supporting private and public development facilities, and housing related to rural development projects financed under this Act;

(2) encouraging private investment in such facilities;

(3) bringing together investment opportunities, public and private capital, and capable management;

(4) making available technical and other supportive assistance to aid rural economic development; and

(5) seeking to achieve these purposes through the establishment of a borrower-owned rural development bank, which will aid private investors, financial institutions, and public agencies to finance rural development projects.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "commercial or industrial facility" means a fixed place of business, in or from which a manufacturing, processing, assembling, sales, distribution, storage, service, or construction business is carried on.

(2) The term "supporting private or public development facility" means an element of infrastructure, including recreational and cultural facilities, typically developed and owned by a public agency or private utility, or other service or facility made available to the public which is necessary to support economic development activities under this Act.

(3) The term "housing necessarily related" means housing if all types in or near a rural community which will provide living quarters for the personnel of any new or expanded commercial or industrial facility if the governing body of the political subdivision in which development assisted under this Act will be undertaken, certifies that there exists a need for additional housing in or near the development.

(4) The term "rural community" means any community, whether or not incorporated, which—

(A) is located in a county that is not part of a standard metropolitan statistical area; and

(B) is not within 25 miles of a standard metropolitan statistical area with a population of more than 250,000; except that, not withstanding subparagraph (B), the bank may determine that a community is a rural community if it finds that (i) there is a lack of public or private financial resources available for investment in the community, and (ii) assistance under this Act is necessary for the continued economic development or redevelopment of such community.

ESTABLISHMENT OF BANK

SEC. 4. There is hereby created a corporation to be known as the "Rural Community Development Bank" (hereinafter referred to as the "bank") which shall be an instrumentality of the United States Government, and shall be subject to the provisions of this Act.

DIRECTORS AND OFFICERS

SEC. 5 (a) The bank shall have a Board of Directors consisting of seventeen individuals who are citizens of the United States of whom one shall be elected annually by the Board to serve as Chairman. Members of the Board shall be selected as follows:

(1) The President of the United States shall appoint, by and with the advice and consent of the Senate, seven members of the Board who shall be officials or employees of government, including Federal, State, and local government. The terms of directors so appointed shall be for four years, except that the terms of such directors first taking office, shall expire as designated by the President at the time of appointment, four at the end of two years, and three at the end of four years after such date. Any director appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. At the discretion of the President, any individual who ceases to be an official or employee of the Government during his term as director may, notwithstanding that fact, complete his term.

(2) The President of the United States, by and with the advice and consent of the Senate, shall appoint six members of the Board from among representatives of the private sector. Of the six persons so appointed, three shall be from among representatives of business and finance, one from among representatives of organized labor, one from among representatives of community development organizations and one from among representatives of the general public. The terms of directors so appointed shall be for four years, except that the terms of such directors first taking office shall expire as designated by the President at the time of appointment, three of the members at the end of two years, and three at the end of four years after such date. Any director so appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term and shall be chosen from among representatives of the same category as his predecessor.

(3) Four members of the Board will be elected by holders of class B stock. The terms of elected directors will be for four years, except that the terms of such directors first taking office shall expire as designated by the President at the time of appointment of directors under paragraphs (1) and (2), two of the members at the end of two years, and two at the end of four years after such date.

(4) At the first annual meeting of the Corporation after the amount of class B stock issued and outstanding exceeds the value of class A stock issued and outstanding, three of the members of the Board appointed by the President under subsection (a) (1) and two of the members of the Board appointed by the President under subsection (a) (2) shall, in accordance with the regulations of the Board, be subject to replacement by directors elected by the class B stockholders.

(b) The President, by and with the advice and consent of the Senate, shall appoint a president of the bank. The president of the bank shall be the chief administrative officer of the bank and shall perform all functions and duties of the bank, in accordance with the general policies established by, and subject to the general supervision of, the Board, and shall engage such other officers and employees as the bank deems necessary to carry out its functions. The appointment of the president and not more than two vice presidents may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and they may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The president of the bank shall be an ex officio member of the Board of Directors and may participate in meetings of the Board, except that he shall have no vote except in case of an equal division. No individual other than a citizen of the United States may be an officer of the bank. No officer or employee of the bank other than members of the Board shall receive any salary, other than a pension, from any source other than the bank during the period of his employment by the bank.

(c) Members of the Board may receive the sum of $150 for each day or part thereof spent in the performance of their official duties, which compensation, however, shall not be paid (1) for more than seventy-five days (or parts of days) in any calendar year, (2) to any Board member who is a full-time officer or employee of the United States, or (3) if such payment is otherwise prohibited by law. In addition, such members shall be reimbursed for necessary travel, subsistence, and other expenses incurred in the discharge of their official duties without regard to the laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employed personnel of the United States.

CAPITALIZATION OF BANK

SEC. 6. (a) Subject to the provisions of this section, the bank is authorized to issue from time to time and to have outstanding class A capital stock of an aggregate purchase price not to exceed $1,000,000,000. Shares of such stock shall be nonvoting and without par value.

(b) The Secretary of the Treasury is authorized to and shall subscribe for and acquire on behalf of the United States, upon request of the Board of Directors, the class A capital stock of the bank of a total purchase price of $1,000,000,000. The subscription of the United States shall be paid as follows:

(1) Not more than 20 per centum shall be paid at the time the bank is organized, as provided for in an appropriation Act, and shall be available as needed by the bank for its operations.

(2) The remaining 80 per centum shall be paid on call by the bank only when required to carry out the provisions of this Act, except that not more than 20 per centum of the total amount may be called in any fiscal year, as provided for in an appropriation Act.

The Secretary of the Treasury is authorized and directed to pay the subscription of the United States to stock of the bank from time to time when payments are required to be made to the bank. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction $1,000,000,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this paragraph of the subscription of the United States to the bank and repayments thereof shall be treated as public-debt transactions of the United States.

(c) In addition, the Board of Directors is authorized from time to time to issue to the public and have outstanding class B stock of an aggregate purchase price not to exceed $1,000,000,000, or such larger amount as may be approved in an appropriation Act. Shares of such stock shall be nonvoting until such time as the amount of such stock issued and outstanding exceeds the aggregate amount of class A stock issued and outstanding.

(d) In providing for the issuance of class B stock, the Board is authorized to require a person receiving financial assistance from the bank to purchase a minimum number or amount of class B shares, but in no case shall such minimum amount exceed five per centum of the amount of the loan, loan guarantee, or other assistance provided by the bank.

(e) Stock and other securities issued by the bank pursuant to this section and section 7 shall be exempt securities under section 3 of the Securities Act of 1933 (15 U.S.C. 77C).

OPERATIONS AND POWERS OF THE BANK

SEC. 7. (a) In order to carry out the purposes of this Act, the bank is authorized to—

(1) make, participate in, or guarantee loans for real or personal property or for working capital to any individual, association, partnership, corporation, or public agency, including a cooperative, for the establishment, expansion, or preservation of any commercial or industrial facility, housing necessarily related thereto, or a supporting private or public development facility which is to be established or is located in or near a rural community;

(2) make, participate in, or guarantee loans, including interim financing, for the construction or improvement of such facilities to building contractors, subcontractors, or other persons engaged in such work;

(3) provide technical assistance to State and local governments in the preparation and implementation of comprehensive rural community development projects and programs, including the evaluation of priorities and the formulation of specific project proposals, and charge appropriate fees for such assistance;

(4) undertake research and information gathering, and to facilitate the exchange of advanced concepts and techniques relating to rural community growth and development among State and local governments;

(5) develop criteria to assure that projects assisted by it are not inconsistent with comprehensive planning for the development of the community in which the projects to be assisted will be located or disruptive of Federal programs which authorize Federal assistance for the development of like or similar categories of projects;

(6) seek to bring together investment opportunities in such facilities, capital, and capable management; and

(7) carry on such other activities as would further the purposes of this Act.

(b) To obtain indirect participation by private and public financial sources, the bank is authorized to—

(1) issue such obligations as it may determine on a competitive, negotiated or other basis at the discretion of the Board of Directors;

(2) invest funds not needed in its financing operations in such property and obligations as it may determine;

(3) purchase and sell securities or obligations it has issued or guaranteed or in which it has invested;

(4) guarantee securities in which it has invested for the purpose of facilitating their sale; and

(5) purchase and sell loans originated by private financial institutions to borrowers for rural development purposes consistent with the purposes of this Act.

(c) Whenever necessary to meet contractual payments of interest, amortization of principal, or other charges on the bank's own borrowing, or to meet the bank's liabilities with respect to similar payments on loans guaranteed by it, the bank may call an appropriate amount of the unpaid subscription of the United States in accordance with section 6(b)(2).

(d) If the bank finds that a default on financing provided by it may be of long duration, the bank may call an additional amount of such unpaid subscriptions for the following purposes—

(1) to redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it with respect to which the debtor is in default; or

(2) to repurchase, or otherwise discharge its liability on, all or part of its own outstanding borrowings.

(e) The bank is authorized to establish a principal office and branch offices in such locations as it may determine. It may establish regional offices and determine the location of, and the areas to be covered by, each regional office. It may make arrangements with public or private organizations at the regional, State, and local levels, including banking organizations and other financing institutions, to act as agents or otherwise to assist the bank in the conduct of its business.

(f) To carry out the foregoing purposes, the bank shall have such additional powers as are necessary or appropriate in carrying out this Act.

OPERATING PRINCIPLES

SEC. 8. The operations of the bank shall be conducted in accordance with the following principles:

(1) The bank shall undertake its financing, technical assistance, and other operations on such terms and conditions and for such fees as it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the bank, the benefits to the rural community or to the residents of such communities, and the conditions under which similar financing might be available from private investors.

(2) The bank shall maintain such liaison or consultation with other departments, agencies, or instrumentalities of the Government as may be necessary to insure that its operations are carried out in a manner which will supplement and not duplicate the operations and functions of any other department, agency, or instrumentality of the Government.

(3) The bank shall consult with and shall seek to encourage local banking and other financial institutions to participate in its financing and other activities.

(4) The bank shall, to the extent feasible, give emphasis in its activities to providing financing and other assistance to facilities owned in whole or in part by residents of rural communities or to facilities in which such ownership is made available to such persons.

(5) The bank shall seek to revolve its funds by selling its loans, loans guaranteed by it, and other investments to private investors whenever it can do so on satisfactory terms.

(6) The bank shall be subject to the Government Corporation Control Act (31 U.S.C. 841 et seq.) in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 101 of that Act (31 U.S.C. 846).

(7) The bank shall pay a return out of net income, after providing for reserves and operating expenses, at the rate of 2 per centum per annum on the amounts of class A stock subscription actually paid into the bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(8) The bank shall adopt such bylaws as may be necessary for the conduct of its business and the management of its affairs and may adopt such additional rules and regulations as are necessary and appropriate for carrying out the provisions of this Act.

LIMITATIONS ON FINANCING

SEC. 9. (a) The bank shall not provide financing or other assistance for any commercial or industrial facility, supporting public or private development facility, or housing necessarily related, unless it determines that—

(1) other public or private financing could not be obtained on reasonable terms and conditions;

(2) adequate arrangements have been made to insure that the proceeds of any loan or other financing are used only for the purpose for which the financing was provided, with due attention to considerations of economy and efficiency;

(3) the borrower or other recipient of financing has adequate equity or other financial interest in or income from the facility to insure his or its careful and businesslike management of the project;

(4) the governing body of the city or, as appropriate, the governing body of the county, parish, or other political subdivision in which the facility is located or is to be established, or an agency or other instrumentality of such political subdivision designated by such body, has certified to the bank its approval of (A) the establishment of the facility at the particular location, (B) the proposed standards of construction and design, and (C) provisions for the relocation of any residents or businesses to be displaced; and

(5) the establishment, expansion, or preservation of the facility in the particular location will contribute to the level of economic opportunity for residents of the community

and contribute to the general development of the community.

(b) The bank shall not provide financing for any commercial or industrial facility which has been relocated from one area to another, except that this requirement may be waived by the Board of Directors if it determines (1) that the establishment of such facility in the new location will not result in an increase of unemployment in the area of original location or in any other area where the enterprise conducts business operations, or (2) that such facility is not being established in the new location with any intention of closing down the operations of the enterprise in the area of original location or in any other area where the enterprise conducts its operations.

EXEMPTION FROM TAXES

SEC. 10. Except as specifically provided in this Act, the bank, including its capital and reserves or surplus and income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by the bank under the provisions of this Act. The security instruments executed to the bank and the bonds, obligations, debentures, issued under the provisions of this Act shall be deemed and held to be instruments of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

ANNUAL REPORT

SEC. 11. Not later than 120 days after the close of each fiscal year the bank shall prepare and submit to the President and to the Congress a full report of its activities during such year.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 12. (a) The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting before the comma after the words "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association" the following: ", or obligations of the Rural Community Development Bank".

(b) Section 5200 of the Revised Statutes, as amended (122 U.S.C. 84), is amended by adding at the end thereof the following:

"(15) Obligations of the Rural Community Development Bank shall not be subject to any limitation based upon such capital and surplus.".

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (c)), is amended by inserting before the semicolon in the second proviso following "stock of the Federal National Mortgage Association" the following: "; or in obligations of the Rural Community Development Bank".

ADDITIONAL COSPONSORS

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1967, a bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis.

S. 2472

At the request of Mr. CASE, the Senators from Hawaii (Mr. INOUYE and Mr. MATSUNAGA) were added as cosponsors of S. 2472, a bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries.

S. 2484

At the request of Mr. BELLMON, the Senator from Alabama (Mr. ALLEN), the Senator from Oklahoma (Mr. BARTLETT), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Nebraska (Mr. CURTIS), the Senator from Indiana (Mr. LUGAR), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. SCHMITT), the Senator from North Dakota (Mr. YOUNG), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2428, to impose quotas on the importation of beef, including processed beef and beef quantities in the form of live cattle, when the domestic market price of cattle is less than 110 percent of parity and to impose custom duties on such articles when the domestic market price of cattle is less than 80 percent of parity.

S. 2487

At the request of Mr. CLARK, the Senator from North Carolina (Mr. MORGAN), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2487, a bill to amend the Public Health Service Act to provide for greater emphasis on rural health care needs in health planning.

S. 2503

At the request of Mr. BENTSEN, his name was withdrawn as a cosponsor of S. 2503, a bill to amend the Social Security Act and the Internal Revenue Code of 1954.

S. 2626

At the request of Mr. HODGES, the Senator from Mississippi (Mr. EASTLAND), the Senator from Washington (Mr. MAGNUSON and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 2626, the Consumer and Agricultural Protection Act of 1978.

S. 2645

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. MATHIAS), and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2645, a bill to establish an Art Bank.

S. 2680

At the request of Mr. MATHIAS, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2680, a bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Act by section 334 of the Social Security Amendments of 1977.

S. 2699

At the request of Mr. MAGNUSON, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2699, a bill authorizing the preservation of historical and archeological data.

S. 2711

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PELL), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Arkansas (Mr. BUMPERS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2711, a bill to revise and extend the community education program, and for other purposes.

S. 2751

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. ANDERSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Michigan Mr. RIEGLE), and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2715, a bill to amend the Immigration and Nationality Act relative to refugees and displaced persons.

S. 2757

At the request of Mr. MAGNUSON, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 2757, the National Agricultural Lands Policy Act.

S. 2761

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2761, a bill to give State concurrence in siting of nuclear waste storage.

S. RES. 323

At the request of Mr. DOLE, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 323, condemning the human rights violations in Cambodia, and calling upon the President to seek international condemnation of the atrocities.

S. CON. RES. 73

At the request of Mr. DOLE, the Senator from Florida (Mr. STONE), the Senator from Nevada (Mr. LAXALT), the Senator from Pennslyvania (Mr. HEINZ), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Florida (Mr. CHILES) were added as cosponsors of Senate Concurrent Resolution 73, a resolution regarding the imposition of import fees on crude oil.

ADDITIONAL COSPONSORS

PANAMA CANAL TREATIES— EX. N, 95–1

AMENDMENT NO. 10

At the request of Mr. DOLE, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of amendment No. 10 intended to be proposed to the Panama Canal Treaty, Ex. N, 95–1.

AMENDMENT NO. 67

At their request, the Senator from Utah (Mr. GARN), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. HANSEN), the Senator from Alabama (Mr. ALLEN), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator

from North Carolina (Mr. HELMS), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of amendment No. 67 intended to be proposed to the Panama Canal Treaty, Ex. N, 95–1.

AMENDMENT NO. 12

At the request of Mr. DANFORTH, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of understanding No. 12 intended to be proposed to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

SENATE CONCURRENT RESOLUTION 77—SUBMISSION OF A CONCURRENT RESOLUTION TO ESTABLISH A "NATIONAL HALIBUT WEEK"

Mr. MAGNUSON submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That the President is authorized to issue a proclamation designating the seven-day period beginning June 11, 1975, and ending June 17, 1978, as "National Halibut Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1766

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

LABOR LAW REFORM ACT OF 1978—S. 2467

AMENDMENTS NO. 1767 AND 1768

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself and Mr. HUDDLESTON) submitted two amendments intended to be proposed by them, jointly, to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

NOTICE OF HEARINGS

AMENDMENTS NOS. 1767 AND 1768

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will continue hearings on the witness protection program. The hearings will be on April 14, 1978, in room S–126, the Capitol and will begin at 9:30 a.m.●

CHANGE IN HEARING ON JUSTICE DEPARTMENT AUTHORIZATION

● Mr. EASTLAND. Mr. President, on March 10, I gave notice that a hearing on the budget request of the Civil Rights Division of the Department of Justice would be held on April 11, 1978. The time of this hearing has now been changed to April 25, 1978, at 2 o'clock p.m. in room 2228 of the Dirksen Senate Office Building.●

FOREIGN AGRICULTURAL POLICY SUBCOMMITTEE

● Mr. STONE. Mr. President, I wish to alert my colleagues to the plan of the Foreign Agricultural Policy Subcommittee of the Senate Committee on Agriculture, Nutrition, and Forestry to hold hearings on April 27 and 28 to examine legislation designed to expand our agricultural export markets.

There has been widespread interest in expanding our agricultural exports which are important to our balance of payments. I would hate to imagine the state of the dollar today if it were not for our agricultural exports. Last year our agricultural exports reached $24 billion with a net favorable balance of over $10 billion. There are a number of key issues which the hearings will address and my subcommittee will be reviewing as we examine the opportunities for legislation in this area.

Bills introduced to date on which the hearing will focus on S. 2385 (HUMPHREY), S. 2405 (LUGAR), and S. 2504 (DOLE).

We will have a group of invited witnesses, but written statements will be accepted for the record. The hearing will begin at 9 on April 27 and 10 on April 28 in room 324 RSOB. Anyone requiring further information should contact the committee at 224–2035.●

ADDITIONAL STATEMENTS

HUMAN RIGHTS IN EASTERN EUROPE

● Mr. CASE. Mr. President, Senate Concurrent Resolution 75 reemphasizes the need to keep the Soviet Union and other countries on notice that they have made major human rights promises to their citizens by signing the 1975 Helsinki accord.

The Conference which ended recently in Belgrade reviewed the Helsinki accord as part of the process. The resolution, which the senior Senator from Rhode Island (Mr. PELL) introduced April 6, was a joint effort, as we are the two senior Senate members of the Helsinki Commission. It makes it clear that we are looking forward to continuing reviews of human rights situations in Eastern Europe.

The resolution urges the President and other executive branch officials to continue to express, at every suitable opportunity and in the strongest terms, the opposition of the American people to repressive actions and violations of basic human rights which are contrary to the Helsinki accord. Furthermore, the resolution, which also has been introduced in the House of Representatives, urges executive branch officials, including the President, to use every feasible bilateral contact with officials of East European countries to remind them of the past promises on human rights.

The Belgrade Conference brought out into the open some of the violations. The U.S. delegation headed by Arthur Goldberg, is commended in the resolution for its efforts. Because of the dedication and concern of Mr. Goldberg and some of the other officials, the presentation was much stronger than it would have been had the delegation style been set by the traditional approach of the bureaucracy.

Some observers were disappointed that the concluding document adopted at the end of the Belgrade Conference was not more specific on the human rights issue. But in view of the nature of the situation, there may have been unrealistic expectations. It is not generally realized that the concluding document had to be unanimously agreed to—in other words the Soviet Union and even Malta had to agree to the final language. The way the Soviets stonewalled on any mention of human rights on the concluding document is an indication of how strongly they were stung at the mention of human rights at Belgrade.

One of the accomplishments of the Belgrade Conference is that review sessions will be held at regular intervals—the next meeting will be in Madrid in 1980. The important thing is that the process of spotlighting human rights violations continue as part of the effort to encourage Soviet officials to abide by the promises of the Helsinki accord and the United Nations Declaration on Human Rights. The U.S. Commission on Security and Cooperation in Europe on which I served will continue its efforts in this process.

For example the Commission has been following the disturbing way in which Soviet officials have used psychiatric treatment and hospitals as a way of punishing dissidents. The Commission also has been gathering information on the subhuman living conditions in the Soviet Union. The Commission staff reports that as part of the Moscow Helsinki Watch Group, five Soviet citizens have formed the Working Commission To Investigate the Abuse of Psychiatry for Political Purposes.

The Commission issues reports on the situation of Soviets subjected to punitive psychiatry. In August 1977, a member of this Commission, Feliks Serebrov, was arrested and then sentenced to camp for using falsified documents. In November 1977, another member of this group, Aleksandr Podrabinek, was ordered to emigrate from the Soviet Union with his brother and father or face criminal charges. In December 1977, Kirill Podrabinek was arrested and recently was sentenced to 2½ years of prison camp for possession of weapons.

Sentencing of dissidents on phony criminal charges is a favorite "new" method of the Soviet Government in trying to silence dissent. In the last few weeks, for example, a member of the Georgian Helsinki Group, Grigory Goldshtein, has been sentenced to 1 year in camp for "parasitism"—he lost his job when he applied to emigrate to Israel in 1971. In the Ukraine, Pyotr Vins—son of the imprisoned Baptist pastor, Georgy Vins—is now facing a trial on

charges of parasitism after having applied to emigrate to relatives in Canada.

Despite the vote in Honolulu at a meeting of the World Psychiatric Association condemning the Soviet practice of punitive psychiatry against dissidents and religious believers, Amnesty International reported recently that since that time, there are 14 known cases of psychiatric incarceration of dissenters. One such reported victim is Vladimir Klebanov, organizer of an unofficial trade union in the U.S.S.R., who is said to be in a Donetsk psychiatric hospital. Two other victims of this cynical practice are Zviad Gamsakhurdia and Merab Kostava of the Georgian Helsinki Watch Group who underwent "tests" at the Serbsky Institute for Forensic Psychiatry in Moscow before being sent back to Georgia to await trial for their monitoring work.

Twelve prisoners of Mordovian Camp No. 19 undertook a hunger strike from April 19 until July 27, 1977—an action timed to coincide with the preparatory session of the Belgrade Conference. Their appeal is also addressed to my colleagues in the Congress, listing 12 categories of denial of their rights:

First. Political prisoners are in the same legal category as criminal offenders;

Second. There is secret legislation relating only to political prisoners;

Third. The labor of political prisoners is cruelly taxed and exploited in a 48-hour workweek;

Fourth. The almost total absence of rights to legal defense and redress of grievances;

Fifth. A deliberate policy of gradual starvation—including a ban on food parcels for the first half of a sentence;

Sixth. The denial of their human dignity—each camp is surrounded by six barbed wire fences and manned with guards carrying machineguns;

Seventh. Discrimination against religious prisoners—neither religious services nor Bibles are allowed;

Eighth. Ethnic discrimination—prisoners often serve their sentences outside their native republics, especially in the case of Armenians and Georgians;

Ninth. It is illegal for prisoners to get married and difficult to have contact with existing family—they request three to four family visits per year;

Tenth. The forcible political indoctrination of prisoners;

Eleventh. Depriving prisoners of their professional qualifications, by banning books in their fields of expertise and by confiscating their work; and

Twelfth. Deliberately isolating camps from the rest of the world—by detaining and confiscating personal correspondence.

One of the prisoners active in this hunger strike was Vladimir Osipeov. Editor of an independent Russian Orthodox journal, sentenced to an 8-year prison term in 1975 for his publishing activities. The Sakharovs have made known another hunger strike in this Mordovian camp by Eduard Kuznetsov, 1 of the 10 still imprisoned defendants of the first Leningrad trial in 1970. It seems that the Soviets have heeded the appeals on behalf of Mr. Kuznetsov's relatives who wish to visit him and have promised his wife, Sylva Zalmanson, that she will be allowed into the U.S.S.R. from Europe to visit her husband.

Few positive signs can be seen in this dismal picture of Soviet "respect" for human rights. One must have serious doubts about the sincerity of the Soviets when they undertake commitments in international agreements—such as those they undertook at Helsinki in 1975. I call on my colleagues to continue to make known their views on this subject, for the pressure of world opinion can have an effect on the Soviet authorities.●

DOE URGED TO REMOVE OBSTACLES TO GASOHOL SALES

● Mr. BAYH. Mr. President, the Economic Regulatory Administration of the Department of Energy is holding public hearings today on proposed regulations to facilitate the sale of gasohol. I submit a copy of my comments on these regulations for the RECORD.

The comments follow:

U.S. SENATE,
Washington, D.C., April 10, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration, Office of Public Hearings Management, Washington, D.C.

DEAR ADMINISTRATOR BARDIN: I welcome the opportunity to comment on the Economic Regulatory Administration's proposed regulations to facilitate the sale of gasohol and fully support the Department's moving quickly ahead to remove all barriers to the addition of gasohol to our energy mix.

The intent of ERA's proposed regulations is clear. Current ERA pricing regulations prohibit gasoline retailers from including the extra costs of gasohol in their customer charges. The proposed regulations would permit retailers to pass the cost of the alcohol in gasohol through to their customers and leave the decision about gasohol purchases to consumers.

All indications we have from those who have offered this new product to their customers is that it is a best seller. In fact, service station dealers and farm cooperatives in Illinois and Nebraska that have offered this product report that their customers can't get enough of it. These distributors should not have to suffer economic hardship to meet their customers' demand for gasohol. In addition, in my estimation, the government should be doing all it can to promote gasohol—90/10 gasoline/alcohol blends—because it is the only hope we have of significantly reducing our dependence on petroleum in the near-term. I would like to take a few moments to elaborate on the importance of introducing gasohol into our energy mix.

Last spring, the President addressed the nation to unveil his national energy plan. He emphasized the critical importance of an effective national energy policy and likened the effort needed to meet this challenge to the "moral equivalent of war."

I have been encouraged by the high priority placed by the President on resolving our energy problems, and supported most of his efforts strongly over the past year. However, a crucial ingredient missing from the President's national energy plan was an accelerated program for developing and introducing alternative energy sources—especially new liquid fuels—into our energy mix in a timely fashion.

The President himself, as well as other Administration officials, has recognized that a liquid fuels crunch is soon in the offing, despite our temporary oil glut. It is hard to predict with certainty when world demand for oil will overtake production. However, President Carter and Secretary Schlesinger have predicted that this is likely sometime in the 1980's.

Even with our best efforts to conserve energy and curtail all nonessential uses of crude oil products, our economy and society will continue to require a reliable source of liquid fuels for the rest of this century. Right now, highway vehicles alone consume 40 percent of our petroleum-based energy. American drivers use 103 billion gallons of gasoline per year, or almost 1½ million barrels of crude oil per day.

Despite increasingly fuel efficient cars and trucks, and more widespread mass transit facilities, transportation needs will continue to make a major claim on our liquid energy supplies. The same can be said for other functions in our society that require liquid fuels, and will continue to do so, despite our best efforts at increased conservation and conversion. Peak load electricity generation and certain industrial processes will require liquid fuels well into the next century. Our farmers will need liquid fuels to run their farm equipment and get their crops to market. Residential and commercial uses will also demand their share.

We must move ahead, as other nations such as Brazil, Sweden, and Germany are already doing, to develop viable alternatives to petroleum to meet these needs. If we do not, our future looks very bleak indeed. Failure to act soon will consign us to even greater petroleum imports, already approaching 50 percent of our crude oil needs at a cost close to $45 billion per year, horrendous balance-of-payment deficits, further erosion of the value of the dollar, higher unemployment, increased dependence on unstable foreign suppliers, and very real threats to our economic well-being and national security.

Faced with these undesirable consequences, it is clear to me that we must start a concerted effort to develop new liquid fuels that can become commercially viable in the short run, which are plentiful or derived from renewable domestic resources, and which can be used for a variety of purposes.

Alcohol fuels is one possibility that has been vastly underestimated, although it is within our reach in the relatively short term, without major disruptions to our economy and society. Testing by the U.S., Germany, and Brazil has confirmed that gasohol performs more than adequately as a motor fuel. It boosts octane, reduces some emissions, eliminates knock problems, improves mileage and requires no modification of current automotive engine design. While other governments, in cooperation with the private sector, are moving aggressively ahead to tap their nation's abundant resources and reduce their reliance on imported petroleum, the U.S. government has lagged far behind.

Those with a vested in maintaining the status quo, or those uneasy with change, raise all kinds of objections to alcohol fuels. They say they cost too much. They say they are energy inefficient. They say they are impractical. They say they require change.

The irony of this posture is that technical and economic problems equally, if not more, complex than those faced with respect to alcohol fuels existed when the petroleum industry was in its infancy. The idea of drilling holes thousands of feet in the ground and transporting oil around the globe struck some people as absurd. But Washington was more than generous in the supporters provided the oil companies before petroleum became a preferred fuel. The industry enjoyed import quotas, depletion allowances, intangible drilling deductions, and foreign tax credits; in fact, oil companies still derive some of their profits from these hidden subsidies.

I have no doubt that alcohol fuels can become efficient and economical energy supplements with a relatively small federal invest-

ment if we apply our best technology to this effort and remove the red tape that currently inhibits its sale.

The Department of Energy is now conducting an energy supply study and will soon be forwarding recommendations to the Congress as to what types of federal subsidies or incentives it feels warranted to develop new supplies, given the need for new energy sources in the 1980's, and the lead times involved in developing new production facilities. Indications are that it will suggest costly new programs justified by the nation's future needs.

The regulations under consideration today will not cost the government a penny. They will merely permit gasohol marketers to charge fair prices for their product. The consumer will decide whether the advantages associated with gasohol warrant paying a few extra pennies for it.

I urge the Department to move quickly to eliminate unintended regulatory obstacles to the sale of this promising petroleum extender and to make these regulations retroactive to January 17, 1978, the effective date of the temporary stay issued by DOE. In addition, I urge the Department to allow a reasonable period of time to elapse before setting a final ceiling price, so that accurate cost estimates can be developed.

I am confident that alcohol fuels will draw broad based support from the American people, the business, farm and scientific communities, and those of us who serve them. Use of this product will likely improve automobile performance and give every member of the driving public a role in increasing our energy independence.

We are on the verge of developing a range of new energy technologies that will not only reduce our reliance on foreign sources of energy, but will give a boost to local economies all around the nation. It is safe to say that alcohol fuels—ethanol and methanol—can be produced in virtually every state of the union. Ethanol can be produced from such diverse sources as corn, wheat, milo, sugarbeets, sugarcane, potatoes, algae, and distressed crops and crop residues, as well as numerous other "energy crops" that our plant geneticists could doubtless develop if given the go-ahead. Methanol can be produced from forestry products, crop residues, wood and municipal wastes and coal.

In sum, I believe that the development of alcohol fuels can make a major contribution to curbing oil imports while creating new uses for our most abundant domestic resources and helping depressed economies in different regions of the country. These fuels also have the potential to relieve urban areas of some of their waste disposal problems and budgetary drains by developing a new use for the byproducts of industrial and urban life. DOE should remove all obstacles to its voluntary sale in the marketplace.

Sincerely,

BIRCH BAYH,
U.S. Senator.●

THE AUTONOMY OF FANNIE MAE

● Mr. DOMENICI. Mr. President, over the last couple of months, I have become increasingly concerned about some activities relating to the Department of Housing and Urban Development.

Late last year our distinguished colleague and my good friend, the senior Senator from Missouri, Mr. EAGLETON, held a public hearing on the conversion of the Federal flood insurance programs from a private enterprise operation into another undertaking by the Federal Government.

Somewhat more recently, HUD has undergone still another reorganization and one that adversely affects the people in my State. HUD is in the process of completely dismantling the FHA-insuring office in Albuquerque. In its multifamily operations this office was second to none and yet somehow, someway, this kind of success could not be allowed to continue.

More recently, and within the last couple of weeks, I have been hearing from a number of my constituents who are involved not only in housing construction but in home finance. They are concerned about the efforts of the Department of Housing and Urban Development to take over the operations of the Federal National Mortgage Association. Fannie Mae, as it is more commonly known is a company Congress set up in 1968 as a privately owned, privately managed, and privately capitalized undertaking.

Having read the Senate committee report on the 1968 Housing Act, I and apparently many others thought the Congress was vesting in Fannie Mae's Board of Directors the full power and responsibility for the policies of the Corporation, subject only to the provisions of the laws passed by the Congress and the regulations of the HUD Secretary. This regulatory authority, however, was necessary only to protect the financial interest of the Federal Government and to assure that the purposes of the Fannie Mae Charter Act was carried out.

Mr. President, I have no problem with some aspects of the regulations which HUD proposed on February 24 to govern Fannie Mae's operations, particularly those that call for the submission of the reports and other data to the Secretary.

I am deeply concerned and my constituents are deeply concerned about the attempt of HUD to say where and when Fannie Mae is to buy mortgages. My staff brought to my attention a colloquy between the first Secretary of HUD, Dr. Robert C. Weaver, and our distinguished friend, the senior Senator from New Hampshire, Senator MCINTYRE. In that colloquy in the Senate committee, Secretary Weaver said in effect that under the HUD regulatory authority—and the authority of the incumbent Secretary is certainly no greater—the HUD Secretary would not be able to tell Fannie Mae to invest here or to buy that.

My constituents and I are both concerned among other things that HUD seeks to require of Fannie Mae that 30 percent of its mortgages must involve housing for low and moderate income families. Now, while I certainly want to see that our low and moderate income families are properly housed, there are other ways—such as using FHA and GNMA—which appear to be the better route.

In my own State of New Mexico, Fannie Mae has done a reasonably good job. For example, at the end of calendar 1977, Fannie Mae's mortgage portfolio was in excess of $367.5 million. A very substantial number of these mortgages were on single family properties. In calendar 1977, Fannie Mae bought in this one year alone over $63.5 million in single-family home loans.

Mr. President, Fannie Mae is not perfect, but it has done, I think, a very creditable job. In the Senate report on the 1968 legislation, there is the statement that the committee expects that the privately owned Fannie Mae will add a significant impetus to the flow of funds in the secondary market and in the availability of credit to the home mortgage market. I think this has happened.

Quite frankly, I think that Fannie Mae should be left alone.

In conclusion, I ask that an editorial from the New York Times of March 25, entitled "No Chaperone for Fannie Mae" be printed in the RECORD.

The editorial follows:

NO CHAPERONE FOR FANNIE MAE

Secretary Harris, of the Department of Housing and Urban Development, seems determined to take the privately owned Federal National Mortgage Association under her wing, asserting the right to tell Fannie Mae, as the association is called, how much money it can invest in what kinds of mortgages. Since buying mortgages is Fannie Mae's business and constitutes a strategically important segment of housing finance, Secretary Harris's proposal endangers housing credit in general.

Mrs. Harris accepts the risk because of the importance of her avowed goal: insuring a flow of mortgage money into sound investments in urban areas. After being defeated in the effort to place Presidential appointees on the Fannie Mae board, the Secretary invoked her department's rule-making power. She has proposed a new set of regulations restricting Fannie Mae's freedom to buy or promise to buy mortgages from lending institutions all over the country. The proposals are complicated, but in effect they would require Fannie Mae to use at least 30 percent of its investments in any year for mortgages that "conform" to the Secretary's standards. She favors one-family urban homes, non-F.H.A. mortgages on old houses and mortgages subsidized by the Government. And total lending by the corporation would be limited by the amount of "conforming" mortgages it buys.

No one quarrels with Secretary Harris's proclaimed intention. The question is whether Fannie Mae, especially given rigorous supervision by the Secretary and her successors, is the right instrument.

Since Fannie Mae gets no Government funds, it must sell its own securities to the investing public on the open market. The proposed regulations would surely make these securities less attractive. And they would drastically cut back Fannie Mae's operations and profitability if it could not find enough "conforming" mortgages to fill the quota demand. Fannie Mae makes no mortgages directly so it can do little to enhance the supply of "conforming" loans.

Before imposing the proposed regulations, Secretary Harris should explore more direct ways of increasing the liquidity of urban mortgage lenders. The Government National Mortgage Association, an agency that is intended to execute Federal policy in mortgage purchase and sale, stands at hand. Since it is financed by the Treasury, Ginnie Mae could be given the funds to buy mortgages which "conform" to Mrs. Harris's standards, at prices so attractive that lenders would be encouraged to continue making more of them. Ginnie Mae could also be encouraged to help Fannie Mae market the mortgages it has already bought, with the proviso that returns from such sales be earmarked exclusively for buying new "conforming" mortgages.

Reasonable people, in short, should be able to agree on a Government strategy for reaching the goals that Secretary Harris has identified—and without jeopardizing other important goals of American housing.●

TAXATION OF AMERICANS ABROAD

● Mr. TOWER. Mr. President, over the last few months increased attention has been given to the devastating effects of the Tax Reform Act of 1976 in the area of taxation of Americans residing abroad. Several articles have appeared in the RECORD which have spoken eloquently on vital considerations of international trade which are closely intertwined with the tax treatment accorded American workers overseas.

Regrettably, our country is quickly losing its competitive advantage as a leader among word trading nations, as attested by our enormous trade deficits sustained each month over the last 2 years. The administration has given its commitment to correct this embarrassing situation, yet how can this pledge be taken seriously when its tax reform proposals have the counterproductive effect of providing only nominal tax relief for these Americans?

Mr. President, the international trade aspects to this problem are of critical importance. But there is also a human side to this matter which is often overlooked. I have received a letter from Mrs. Frances R. Hemenway, a resident of Lagos, Nigeria, who graphically relates to me the oppressive living conditions found in that country. I daresay that few American families would have the fortitude to withstand such an intolerable environment with which Mrs. Hemenway and her family must contend with each day. So that my colleagues may better understand the imperative need to provide income relief necessary to insure that these brave Americans have the incentive to carry on their important jobs abroad, I offer Mrs. Hemenway's letter to be printed in today's RECORD.

The letter follows:

MARCH 23, 1978.

Senator JOHN TOWER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TOWER: From far off Lagos, Nigeria, I am exercising one of my privileges as a U.S. citizen, by writing letters to Congressmen concerning an issue that affects me very closely—tax treatment of citizens abroad. Having read one senator's views of U.S. citizens who are swathed in mink at Monte Carlo, (as reported in the newspapers), I would like to present to you another picture of a U.S. family working abroad.

Lagos is described by natives and visitors alike as one of the filthiest, most crowded cities in the world. 2.75 million people live in the Lagos metropolitan area, which can be traversed by car from one end to the other in twenty-five minutes—in the darkest hours of the night when all the traffic is gone and no one ventures out but thieves, highway robbers and pirates. Otherwise, to travel from one part of Lagos to another could take up to four hours.

Its very hot here—sitting in a Volkswagen crew cab in traffic, shopping in the un-air conditioned stores, or sitting in my own living room. We have an air conditioner, but only a few hours of electricity a day. So, we have a generator, to keep the food in the refrigerator from spoiling, to pump water from the ground tank to the roof tank so we can have running water in the house, to light up the outside of the house at night for security.

I have a steward, he could be considered a luxury, but I consider him a necessity. Otherwise, I would have to do all the washing by hand in the bathtub (our septic system can't handle a washing machine), iron every bit of washing including towels and socks (to prevent the timbu flies from hatching in our clothing, crawling under our skin and raising boils), spray the entire house daily to keep the spiders, cockroaches, beetles, and ants from becoming too numerous; boil and filter all water for drinking, cooking, and ice cubes because our water is delivered by tank truck and looks as though it were straight from the Rouge River; sweep and dust every inch of the house daily because we have dust storms called Harmattans that lay sand on every surface; and scrub the entire house with Lysol because even the air here carries germs that cause fungus and other infections of the ear, throat, and skin.

I do the shopping for my family—every day. Depending on the season and availability. I pay: $3.24 for one dozen eggs; $1.05 for one cucumber; $4.50 for one pound green beans; $5.00 for medium head of cauliflower; $3.50 for small head of cabbage; $2.25 for one pound onions; $3.00 for one pineapple; $6.00 for 2½ pound frying chicken.

All these items are grown or processed here in Nigeria. I also buy imported food, when available. I pay: $5.18 for lg. jar mayonaise; $4.50 for one pound hot dogs; $12.00 for one bottle gin; $2.25 for 8-oz. box Rice Chex; $3.00 for a liter vegetable oil; $33.00 for 10-lb. turkey (for Christmas).

I don't buy canned fruit, vegetables or juices; crackers, cookies, candy; bread or cake mixes; linens, plastic wares, or champagne because the government has banned the import of these items.

My daughter attends an American International School which costs $4000 per year. Her classes are from 7:30 a.m. to 12:30 p.m. with no break, no music, no P.E., no sports, no school clubs, or extracurricular activities. She has some American friends but few opportunities after school hours for socializing, and no opportunities for corner drugstore, movies, American holiday activities, walking, bicycling.

My husband works from 7:00 a.m. to 6 p.m. Monday–Friday, half-days on Saturday. He eats a sandwich at his desk for lunch, communicates with the parent company by telex, and is responsible for housing, transportation, communication, health and legal services for the expatriates and their families who are here in Nigeria, in addition to his job: supervising construction projects. He has been here through two government crises, responsible for the safety, sanity and work production of expatriates who are here because there are no jobs for them in the States, and most of whom left their families back there.

We're not in Lagos because we want to be. Our company had very little work in the U.S., but lots of opportunities overseas. However, they're in the business of making a profit, and we can save money only by living on a scale light years removed from that we enjoyed in the U.S., not only materially, but culturally and qualitatively. We miss contact with family and friends. Our opportunities to travel are bounded by the cost of air fare to Europe, the dangers of travel in many parts of Africa, the demands of my husband's job, our daughter's school schedule, and the inevitable health problems that confine all of us at one time or other: despite all precautions and American drugs we fall victim to malaria, dysentery, food poisoning, infectious hepatitis, ulcers, boils, and industrial accidents.

We're here because there's a job to be done. There isn't enough money in the world to make up for the cultural lag; premature tropical agin, ; missed weddings, funerals, and holidays; election campaigns; Oscar-winning movies; the change of seasons; fresh milk; respect for law and order; books, plays, and the World Series. We endure slurs on our country, attacks on our very presence here, and discomforts that Americans at home can't imagine.

Very truly yours,

FRANCES R. HEMENWAY.●

ASSISTANCE TO WAR VICTIMS IN LEBANON

● Mr. KENNEDY. Mr. President, recent violence in the Middle East has caused much tragedy to many people on all sides. But of immediate concern today are the staggering humanitarian problems resulting from the Israeli military action in southern Lebanon and the sporadic conflict which has gripped that area in recent months.

As I suggested in a public statement a few days ago, the United States must give its full support to international efforts to help bring peace to the area. But we must also support the efforts of the Lebanese Government to help bring relief to the people who live there.

The record is clear that for the residents of southern Lebanon—many with relatives and friends in the United States—recent times have been a nightmare of fear and death and brief. Hundreds of people have been injured or killed, and unexploded ordnance apparently continues to threaten the lives of many people. An estimated 200,000 Lebanese nationals and 65,000 Palestine refugees—two-thirds of the population in the affected areas—have fled their homes as refugees. Houses, schools, and public buildings have been damaged or destroyed. Refugee camps and villages have been devastated. And this new tragedy in Lebanon is adding heavily to the lingering human problems brought on by the general civil conflict in that country just a short time ago.

Emergency relief needs continue. Medical supplies are still needed to treat the wounded and sick. And longer term rehabilitation and reconstruction assistance will surely be needed to help the war victims rebuild their homes and normalize their lives.

Although a full assessment of humanitarian needs in southern Lebanon is still underway, the Lebanese Government, various international humanitarian organizations and a number of private voluntary agencies have issued appeals in behalf of the war victims in southern Lebanon. And a general United Nations appeal for both emergency relief and rehabilitation assistance is expected sometime soon.

I want to commend the administration for contributing, on an urgent basis, over $1.2 million in relief supplies to help meet immediate shelter, food, and medical needs. But I am also hopeful that our country will respond more generously to the serious humanitarian needs in Lebanon, and will join with other countries in fully responding to the international appeals now underway. Some funds for this purpose are immediately available, and, if additional funds are needed, I am hopeful the President will urgently request them of Congress.

Mr. President, peace and relief are urgently needed in Lebanon—to save lives, to renew the spirit of a battered

people, to assist in the rebuilding of a country torn by conflict and violence, and to promote the stability and peaceful development of the entire region. Hopefully, all concerned with events in the Middle East will work to accomplish these ends.●

HOW TO REINVIGORATE SMALL BUSINESS

● Mr. HEINZ. Mr. President, ever since the birth of our great Nation, the dream of every American included the opportunity to be one's own boss. Our history of individual entrepreneurship is long and filled with many success stories. We in the Congress have, as well, long supported the idea that every American should be afforded every opportunity to partake of that dream.

But in the last few years, in our zeal to provide badly needed social services and to protect individual Americans from numerous hazards and practices, we have unwittingly created a hostile environment within which small businesses have trouble thriving. The stories about individuals rising from rags to riches through individual initiative are becoming fewer and fewer.

I believe an article in the April 1978 issue of the Ripon Forum entitled "How to Reinvigorate Small Business" articulates these problems quite well. The author of that article, Mr. John C. Topping, Jr., does not stop there, however. He goes on to prescribe what I think is a well reasoned prescription to reinvigorate small business. I believe that the plan Mr. Topping outlines is sound and further that we should take a leading role in insuring that this road to the American dream is not lost.

I commend this article to my colleagues and ask it be printed in the RECORD.

The article follows:

HOW TO REINVIGORATE SMALL BUSINESS

(By John C. Topping, Jr.)

Small business is the politician's equivalent of the weather; everyone talks about it, but no one does much about it. The state of both the weather and small business has worsened appreciably since January 20, 1977. The rotten turn of weather in the Carter era seems to be pure coincidence; the development of an increasingly foreboding climate for small business is, however, somewhat more the product of Administration action and inaction.

Shortly after the election, Carter enthusiasts were advancing the fanciful claim that the Georgia politician was the first small businessman ever to become President.[1] Such hyperbole has developed an increasingly hollow ring amidst the mounting evidence that Administration action has worsened the already perilous position of small business.

The more hostile climate for small business is not the product of a conscious design; instead it is the result of a series of seemingly unrelated policies. By far the most inimical of these to small business has been the Administration's effort to bail out the financially threatened Social Security system in large part by huge hikes in Social Security taxes paid by employers.[2]

A secondary cause of this worsened climate for small business has been the recent rise in the Federal minimum wage of more than 15 percent. In addition to freezing many relatively unskilled youth from the job market, this jump in the minimum wage has placed a considerable cost squeeze on many small and medium-sized businesses.[3]

Despite these recently escalating pressures, American small business, including much of the legal and medical profession, still constitutes a significant sector of our economy. The statistics which tend to be dated and to have limited reliability indicate that firms with less than a million dollars in annual income have produced between a third to a fourth of our national business receipts since the early 1960's.[4] Perhaps, as Neil Jacoby suggests,[5] it is hyperbole to characterize our economy as a manifestation of the corporate state.

Nevertheless, in the last few years a number of factors have weighed increasingly heavily on small or new businesses, and particularly on aggressive risk-taking firms in new technology areas. These factors impeding entrepreneurial entry and growth include:

Federal, state and local regulatory requirements which raise the cost and difficulty of entry into areas of business;

Manipulation of government regulatory mechanisms by established firms in order to restrict entry by competitors;

Drastically lessened availability of venture capital for new or small businesses;

A dramatic skewing of economic incentives against self employment and entrepreneurial activity and in favor of those who derive their principal income from someone else's payroll.

Although these problems have yet to transform our economy, their adverse impact is generally more severe on incipient innovative firms than on mature industrial giants.

REGULATION AS A SPUR TO MARKET CONCENTRATION

The rapid growth of governmental regulation has often raised the cost and lengthened the time required for business entry into certain industries or product areas. In many instances, manufacturers must obtain prior approval of one or more agencies such as the Food and Drug Administration, the Environmental Protection Agency or the Department of Agriculture before they can market a new product.

The effect of pre-entry clearances is particularly severe on incipient, modestly capitalized businesses. Unlike huge manufacturing concerns, small businesses rarely have on tap a legion of lobbyist/lawyers to smooth over their difficulties with the Washington regulatory establishment. The political clout and access to highly placed Federal decision makers of a fledgling manufacturer rarely compares with that of a Fortune 500 firm.

The long lead time and associated legal and administrative costs occasioned by pre-entry clearance requirements result in front-end costs which may effectively preclude a modestly capitalized firm from developing a new product or process. A giant corporation, on the other hand, is much better able to take the risks of securing pre-entry clearances. Its normally greater sophistication in clearing regulatory hurdles gives it a greater chance of success in obtaining the necessary clearances. Furthermore, once its product has received the necessary regulatory approvals, the super corporation, heavily capitalized and equipped with a sophisticated marketing and distribution capacity, is well positioned to recapture quickly its front-end investment.

CENTRALIZING INNOVATION

The disproportionate impact of regulatory barriers on market entry by modestly capitalized firms tends to enhance market concentration. But this may not be the most troubling aspect. The most detrimental result of such regulation may be a serious slowdown in the rate of technological innovation. Small businesses and individual inventors, despite their limited capital base, have been the prime source of technological innovation in America. A leading business analyst, Arthur Burck, recently observed, "Small companies and individual inventors were responsible for a remarkable percentage of the important inventions and innovations of this century; these include the air conditioner, power steering, xerography, cyclotron, cotton picker, helicopter, FM circuits, automatic transmissions, zipper, Polaroid camera, cellophane, continuous hot-strip rolling of steel, and the oxygen steelmaking process. The Jewkes study of invention showed that of 61 basic inventions examined only 16 resulted from research by large companies."[6]

It is possible that this historical pattern may not be fully applicable to our present economy, in which many technological breakthroughs require huge sums of front-end capital. Nevertheless, there is undeniable loss to the economy if, as seems increasingly the case, incipient firms are impeded by heavy handed regulation from both product development and capitalization.

CORNERING THE MARKET

In addition, the regulatory structure may be actively manipulated by established corporations to fence out competition. A particularly glaring example of this has occurred in the field of computer data transmission.

American Telephone and Telegraph Company (AT&T) dominates this field. In the late 1960's Sam Wyly, a young Dallas computer executive and business innovator, mapped out plans for a national microwave data transmission network to compete with AT&T. Wyly poured millions of his own money into Datran, the corporation he had set up to develop the data transmission network, and raised millions more.

But AT&T resisted tooth and nail, fighting Datran and other microwave transmission applicants in a protracted battle before the FCC and the courts. After losing these rounds, which bled the microwave applicants, AT&T applied its economic muscle to cut away their markets. Recently, Datran, despite the technological superiority of its data transmission process, was forced to fold before AT&T's superior might. Datran

[1] Among the several Presidents who could claim prior small business experience were Warren Harding (successful newspaper publisher in Marion, Ohio) Herbert Hoover (very successful engineer) and Harry Truman (unsuccessful haberdasher).

[2] The finally enacted Social Security bill provided for hikes in Social Security taxes that will amount to $227 billion in yearly collections within ten years. About half of this tax bite would be visited on employers. The Administration sought legislation placing a far higher burden on employers.

[3] Some of the smallest businesses are exempt from such coverage but numerous restaurants, cafeterias, fast food franchise outlets, gas stations and small manufacturers are affected.

[4] "The USA Business Community: Its Composition and Changing Nature, With Special Reference to Small Business (Including Selected Statistics on Minority Owned Firms)." Report of the Select Committee on Small Business, United States Senate, September 24, 1974. pp. 23–24.

[5] Neil H. Jacoby, "The Corporate State: Myth or Reality", *Human Events*, February 4, 1978 reprinted from the Summer 1977 issue of the *Wharton Magazine*, University of Pennsylvania.

[6] Arthur Burck, June 30, 1977 speech before Minnesota Executives Organization, Inc. Lafayette Club, Minnetonka, Minnesota. Inserted in the Congressional Record July 29, 1977 by Representative Claude Pepper at H 8158.

was left with a lawsuit against AT&T, but for the time being that communications monopoly remained preeminent in the burgeoning field of computer data transmission.

Not content with its current advantage over new entrants, AT&T is now involved together with other telephone companies in a massive lobbying effort to secure Congressional legislation overturning Federal Communications Commission moves to permit greater competition in the communications industry.

Anti-competitive actions by established firms are even more prevalent in the transportation industry. Small truckers or trunk airlines find that government regulatory agencies serve as the lynchpin of cartels designed to keep out new entrants. Established firms readily avail themselves of governmentally-sanctioned tactics, such as filing petitions of protest to deny new applicants any grants of operating authority.

In addition to manipulating the regulatory process to fence out competition, some giant corporations may by their very size have a de facto immunity to particularly adverse consequences of government regulation. A vivid example of this phenomenon could be seen recently in the auto industry.

The major U.S. automobile manufacturers announced that they would be unable to meet air pollution standards mandated for 1978 model cars. Hence, they would have to close down their assembly lines unless Congress modified the law. Congress changed the law; it wasn't about to risk the closing down of a major industry.

Somehow it is hard to imagine Congress reacting in the same way if the president of a company employing 50 persons announced that he would close down his business unless Congress changed legislation he found offensive. Small business may be important in the abstract, but the demise of any single firm is not likely to be viewed as a national or regional calamity.

THE DRYING UP OF VENTURE CAPITAL

An additional factor hindering the growth of new businesses has been an enormous shrinkage in the availability of venture capital. As Arthur Burck states, "In the credit crunch in the early 70's, small companies were the first to feel the impact of curtailed bank lending; the situation worsened when the economy slid into recession and available funds flowed to more credit-worthy risks—the larger companies. In the meantime public equity capital disappeared amid the slipping stock market of 1973. In 1972 small companies raised $918 million in 418 underwritings, by 1975 the figures had shrunk to $16 million in four underwritings. At the same time, private venture capital also withdrew." [7]

Numerous factors contributed to the virtual disappearance of a market for new issues of stock. Many investors, having been burned in the speculative new issues markets as late as 1973, were hesitant to take similar risks. The increasing domination of the market by institutional investors, normally inclined to invest in established firms, has also reduced the availability of public venture capital to new firms. Furthermore, many pension fund trustees have interpreted the fiduciary requirements of the new pension law (ERISA) as virtually mandating that they restrict their funds' stock investments to blue chips.

SHRINKING LONG TERM CAPITAL

Together with the virtual disappearance of publicly raised equity capital for new issues, there has been a shrinking of private venture capital for new firms. This is a more disturbing development from the standpoint of new business starts.

Public stock offerings are rarely used to launch a corporation. Instead they are normally employed to finance the expansion of a company that has been started with private venture capital. The vastly more complex securities law requirements applicable to public stock offerings would often rule out such a route for a small firm, even if investor financing were readily available.

The huge hikes in recent years in capital gains taxes have significantly contributed to the drying up of the private venture capital market. Raises in Federal long term capital gains rates, together with state and city capital gains taxes, have combined to produce a long term capital gains rate, sometimes in excess of 50 percent. The doubling of the holding period for long term capital gains effectuated by the Tax Reform Act of 1976 further restricts the attractiveness of investments in high growth potential stock.

Self avowed tax reformers at high levels in the current Administration seem intent, whenever the time is ripe, to move for the elimination of any remaining tax preferences for capital gains. But today, the effective rate of taxation on long term capital gains may already exceed the effective tax rate on earned income; e.g. wages and salaries.

Some states, such as Massachusetts, tax capital gains at a much higher rate than wage or salary income. For some residents of such states, capital gains income may already be less attractive than other forms of income. Moreover, the failure of the tax law to allow for inflation in the value of the adjusted base used for computing capital gains may create a situation where an investor may be exposed to capital gains tax even though the value of his assets as measured in constant dollars has declined.

The attraction of private venture capital investments historically has been based on the higher "upside" potential of such investments as compared to investments in public stock offerings. The comparative advantage of such investments, even when the investment is highly successful, has been lessened enormously in light of the high capital gains tax rates. At the same time, the risk of such investments is normally much higher than that for investments in publicly traded stock or in bonds.

DISINCENTIVES TO ENTREPRENEURSHIP

Even more detrimental than the public policies virtually evaporating outside investor capital for new and small enterprises have been the growing disincentives to entrepreneurship resulting from a combination of governmental action and social and economic trends. Capital is of little utility without the commitment of an entrepreneur or group of entrepreneurs willing to take the economic, emotional, and even physical risks of starting or developing a business.

Congressional action in the last decade has enormously magnified the gap between Federal civilian employees and the private sector. The October, 1977 Federal employee pay hike of 7.05 percent jumped the average annual salary of Federal civilian employees to about $17 thousand. This is about $5 thousand higher than the average annual salary in private nonfarm jobs.

The pay differential is in fact much higher, since Federal employee fringe benefits, e.g retirement pay, health benefits, sick leave and vacation pay, are far more generous than those prevailing in the private sector. Moreover, job security in the Federal civil service normally far exceeds that of private sector employment.

Even within the private sector, financial considerations often make self employment relatively unattractive as compared to work in a large corporation or other institution. Such employment rarely carries with it the nearly absolute job security of the career Federal service. Nevertheless, it often includes generous pay, extensive fringe benefits, and fairly limited working hours.

While the entrepreneur may not have to worry about being fired, his job will disappear if his business fails. So may his family's life savings. In contrast to the average civil servant or mid-level employee of many private firms, he is likely to work much longer hours, often for less net compensation. For many self employed individuals, fringe benefits, particularly vacation time and retirement pay, are unattainable luxuries.

Despite the liberalization of tax provisions concerning Keogh Plans and Individual Retirement Accounts, many self employed individuals lack the resources to invest in any sort of pension plan. Often, a potential entrepreneur may find that he can make a better income in a salaried job, have greater financial security and count on spending much more time with his family.

NEED FOR ECONOMIC INCENTIVES

A significant financial inducement to entrepreneurship, particularly in the startup of new technology firms, has been the lesser tax rate on income classified as a long term capital gain. A risk taker could count on keeping a significant portion of his gain if his idea paid off. Yet, recent hikes in the capital gains tax discussed earlier in this paper have all but obliterated this inducement.

These changes in the capital gains law have apparently already slowed the movement of highly skilled corporate executives into individual entrepreneurship. Many of our leading high technology firms were started by executives who developed considerable knowledge of an industry while employed in a major corporation, then branched out on their own. Now, there is little economic incentive to trade away the high salaries and relative security of such jobs for the uncertainties of self employment.

The drying up of economic incentives to entrepreneurship increasingly magnifies the importance of noneconomic factors motivating people to set up their own businesses. Probably the biggest single noneconomic factor underlying entrepreneurship is the desire "to be my own boss." This aspect of self employment is becoming less significant as various layers of government expand their paper filing requirements on the small businessperson. The entrepreneur may spend many evenings at home poring over forms required by IRS, the state unemployment tax board, and a host of other government entities, none of which are paying customers.

SOLVING THE PROBLEM

There is no panacea to the problem of an eroding entrepreneurial base. The American economy is not subject to an organized conspiracy to snuff out the entrepreneurial spirit. Instead, our enterprise economy faces a "death of a thousand cuts." in which a series of often uncoordinated public policies will further shift the balance of risks and rewards against entrepreneurship.

Despite the problems alluded to in this paper, there is no shortage of Americans willing to take considerable risks in business innovation. Even the casual reader of Fortune or the Wall Street Journal is provided with numerous instances of entrepreneurs who have "made it" despite the most adverse circumstances.

Yet, unless steps are taken soon to slow the deterioration of the climate for American entrepreneurship, our children may face a society in which economic power is concentrated in a few hands and individual opportunity is as severely restricted, as in the European Social Democracies.

It is impractical to formulate the precise details of a national effort to preserve entrepreneurial opportunity. Before restoring the health of our entrepreneurial system it may first be necessary to apply a tourniquet to the patient; i.e. arrest those moves which are further undermining American entrepreneurialism. Then, a number of initiatives can

[7] Burck, *op. cit.*

be launched to restore the vitality of the American business system.

There are several distinct objectives to be served by any program to reinvigorate small business. One objective is to maximize competition and technology innovation by fostering the growth of small and medium-sized new technology firms. A quite distinct objective is to maintain a relatively decentralized economy by encouraging the growth of small business of all sorts, even those firms with little potential for technological innovation.

A TRANSFORMATION OF THE SBA

The Small Business Administration (SBA) epitomizes the shortsightedness of public policy makers when looking at a subject such as small business. True to its Congressional mandate, this agancy has functioned as a banker of last resort for small businesses. While only a tiny fraction of American small businesses has received financial assistance from the SBA, nearly 100 percent of those businesses are affected, mostly adversely, by the actions of government taxing and regulatory authorities.

The SBA has seen its role largely as a financing backstop for small businesses. In return Congress has until very recently treated the agency as a sacred cow. The Small Business committees of both the Senate and the House have championed generous funding of the SBA's various financing programs. Meanwhile SBA has earned a strong reputation for particularly accommodating service to favored constituents of key legislators. In addition, SBA has almost always remained silent about effects which social welfare legislation may have on small businss.

This tacit understanding between the Congress and the SBA results in both the absence of any governmental advocate for small business and an excessive politicization of the process for dispensing SBA financing. At a minimum, any national policy to promote entrepreneurship must start with a drastic transformation of the SBA.

A strong case can be made for abolishing the SBA and replacing it with an entrepreneurial advocacy agency staffed largely by persons hired from the private sector. However desirable, such approaches are seldom politically attainable. Instead, it may be realistic to convert the existing CBA from a financing to an advocacy agency.

The Small Business Administration would be given as its prime responsibility the reviewing beforehand of all major legislation being considered by the executive branch for submission to Congress to analyze its potential impact on small businss. In addition, the SBA could also be required to review all other significant proposed actions of executive agencies to assess their impact on small business.

To perform this analytic function, the SBA would need to recruit an economic analysis staff of at least the caliber of that possessed by the Federal Trade Commission. If such a staff had been in existence at the time of the consideration of the Occupational Safety and Health Administration legislation or the ERISA pension bill, it is likely that the resulting legislation would have been far more palatable to small businesses.

Obviously, the impact on small businesses is not the principal consideration in the evaluation of the merits of most legislation and other governmental action. It is a consideration, however, which has been almost totally ignored. In many cases social welfare legislation could have been tailored in a way that would have minimized its often disproportionately adverse impact on small businesses.

As long as the SBA is involved in a very significant way in making loans or providing loan guarantees to individual businesses, the agency is likely to focus more on overseeing its loan portfolio than on addressing the systematic causes of small business distress. The enormous administrative burden in dispensing such financing and the need to cope with resulting political pressures are both likely to distract even the most imaginative SBA Administrator from functioning as an advocate for general small business interests.

Many SBA financing and guarantee functions could readily be spun off to private lenders. Direct loan and loan guarantee programs might be converted to a variety of interest rate subsidy programs to lenders and/or borrowers and automatic partial guarantees. The program could be structured to ensure that the bank making the loan would have to expose itself to some risk of loss. Thus, it would be in the bank's interest to reject patently unsound loan applications. Interest subsidies could vary to promote certain objectives; e.g. loans to depressed inner city areas, to socially or economically disadvantaged business owners, or to assist businesses in adjusting to requirements of Federal environmental law.

EVALUATING THE SUBSIDIES

There are a number of factors to consider in evaluating the utility of any subsidy or guarantee mechanism. Whatever the shape of the optimum incentive system for small business decided on by Congress, there is no inherent necessity for it to be administered by Federal employees. Banks and other private lenders could perform many of the functions now carried out by SBA field employees.

The resultant administrative savings could be applied to fund the greater financing volume which a more open-ended system would be likely to generate. In addition, business applicants could more readily secure a "yes" or "no" answer, thus eliminating a major cause of complaint with existing SBA loan guarantee programs.

While phasing out its direct loan and loan guarantee activity, the SBA could increase the financing available for such vehicles as Small Business Investment Companies, (SBICs), Local Development Companies, (LDCs), and State Development Companies (SDCs). Each of these entities leverages a significant amount of private capital. Furthermore, specific financing decisions are made by private second individuals.

Such organizations as the SBIC, LDC, and the SDC provide flexible instruments for injecting needed equity or debt capital into a variety of small businesses. The SBA's administrative burden is far less in those situations in which the development vehicles described above maintain responsibility for accepting or rejecting a financing application and for servicing the portfolio of existing investments.

VENTURE CAPITAL THROUGH TAX POLICY

In addition to a depoliticization and privatization of the loan programs administered by the SBA, a concerted effort to generate equity capital for small and new business is also vitally important. While greater incentives might be provided to existing entities such as Small Business Investment Companies, an important focus of any incentive system should be on reshaping the Internal Revenue Code to reward the fruits of entrepreneurship. This might be accomplished by immunizing from tax all or a very substantial portion of any capital gain realized by an investor/entrepreneur in a qualified small business.

Outside investors might be strongly encouraged to invest funds in small businesses, if they were permitted to defer tax on any capital gains they realized, provided that they reinvested the proceeds of the sale into a qualifying small business investment. Individuals who are locked into an existing investment by the desire to avoid a steep tax bite would likely find this option attractive.

These or related changes in the Internal Revenue Code would almost certainly produce a significant infusion of equity capital for many modestly capitalized firms with substantial growth potential.[8] The most likely beneficiaries of such changes in the tax law would be new technology companies with a potential to develop or market new or significantly refined products. In many instances, these companies would be providing serious competition in particular product or service markets to currently dominant super corporations. The consumer might reap the harvest of such activity through either an increased diversity or quality of products or services or reduced prices.

TECHNOLOGY COMMERCIALIZATION

Both government and industry have done a relatively poor job over the years exploiting the commercial potential of inventions developed through most Federally funded an even some privately funded research. Numerous factors have accounted for this failure, including:

The reluctance of many large, well capitalized corporations to "spread themselves too thin" by assuming additional product responsibilities;

The difficulties that aggressive, small technology-oriented firms have had in securing capital for expansion;

The poor communications within some large corporations between their research departments and those responsible for bringing a product to market;

The tendency of many inventions developed in Federal laboratories to remain on the shelf because the focus of Federal research scientists centers on the proof of concept rather than product commercialization;

The fairly minimal dissemination of information concerning Federally sponsored inventions with commercial potential.

Several years ago, the U.S. Department of Commerce's Office of Minority Business Enterprise, the National Aeornautics and Space Administration and National Science Foundation launched an imaginative program to enable minority firms to participate in technology commercialization. Major corporations, such as Rockwell International, provided capital for Minority Enterprise Small Business Investment Companies (MESBICs), now officially described as Section 301(d) SBICs, and targeted these funds to finance technology commercialization by minority firms. This development of a pool of investment capital was accompanied by a systematic attempt to search out inventions developed in major corporations and in the Federal laboratory consortium. This technology commercialization effort has developed wide support throughout the Federal government and the corporate sector. The results to date have been encouraging.

A technology commercialization program targeted at small business can be patterned to a substantial extent after the pioneer program for minority enterprise. The SBIC legislation might be amended to provide for a technology SBIC that could draw matching capitalization from the SBA on favorable terms. This specifically targeted capitalization could be combined with a much more effective system for searching out and, where appropriate, securing licensing of commercially exploitable technology to small business.

A PRO-COMPETITIVE THREAT

The Ripon Society believes that the proposals outlined in this paper can pump new vitality into our entrepreneurial system. These proposals are pro-competitive in thrust. They seek to encourage the maintenance of a moderately decentralized economy by reducing barriers to entrepreneurial entry

[8] The precise form of tax incentives to encourage small business development is itself a sufficient subject for a separate policy paper. The Ripon Society is conducting a review of the relative merits of such incentive proposals and anticipates issuance of such a paper later this year.

and growth rather than by breaking up huge corporations merely because of their size. In addition to the dubious economic justification for such a "break up the big boys" strategy, there is ample indication that the antitrust laws provide a laborious means of curbing the power of corporate oligopolies.

The development of a large, highly educated group of Americans reluctant to work in impersonal, hierarchical structures should provide the human capital for an entrepreneurial resurgence. The initiatives proposed in this paper should help to shift the balance of risks and rewards toward those who have the imagination and stamina to be economic innovators. Perhaps we can look forward to a future in which the builder of a better mousetrap will be rewarded more generously than the bureaucrat who writes regulations on rodent extermination devices.●

HENRY L. ZUCKER

● Mr. METZENBAUM. Mr. President, good deeds often go unrewarded and unnoticed, and so it is a particular delight when outstanding service and dedication are enthusiastically and publicly honored. An example of such recognition was the recent designation of Henry L. Zucker by the United Way of America as winner of its "Outstanding Agency Professional Award," given for the first time in that organization's history. It culminates a whole series of honors bestowed on Mr. Zucker, executive vice president emeritus of the Jewish Community Federation of Cleveland, for a lifetime of service to his fellow men: Catholic Charities Community Services Award, Case Western Reserve University Distinguished Alumni Award, National United Jewish Appeal Award of Honor, and the Federation for Community Planning Outstanding Service Award.

Almost every aspect of Cleveland's community life has benefited from Mr. Zucker's imagination, drive, and professional skill. He has been an outstanding leader in the affairs of universities, civic organizations, public administration, philanthropic undertaking, and, of course, his own Jewish community. But his influence has been felt nationally and internationally as well, since for most of his career he has been directly concerned not only with local problems but with the situation of Jewish refugees everywhere and the needs of men and women of all faiths who have been bruised by the turmoil of our times.

The award from the United Way describes Mr. Zucker accurately:

Humanitarian, scholar, internationalist, innovator—Henry Zucker has devoted his life to serving his fellow men. Combining spiritual commitment and concern for others with the practical skills of an administrator and practitioner, he has forged a permanent legacy of quality service for his people, his community, his nation, and the world.●

IMPORT RELIEF FOR THE ZINC INDUSTRY

● Mr. HEINZ. Mr. President, the Lead-Zinc Producers committee has petitioned the International Trade Commission under section 201 of the Trade Act of 1974 for relief from the flood of zinc imports entering the United States. On March 21, the ITC held hearings on the case. Representatives from two of the major zinc producers—the St. Joe Zinc Co. and the Gulf and Western Natural Resources Group of Pennsylvania (New Jersey Zinc)—presented statements at the hearing which outline in definitive terms the drastic impact excessive zinc imports have had on the domestic industry. I ask that these two important statements be printed in the RECORD.

The statements follow:

TESTIMONY OF WILLIAM E. FLAHERTY

My name is William E. Flaherty, and I am Executive Vice President of Gulf and Western Natural Resources Group. I joined The New Jersey Zinc Company as Vice President of Marketing in 1974, became Senior Vice President in 1975 and was named to my present position in 1976 when The New Jersey Zinc Company and other resource companies within Gulf and Western Industries were consolidated into the Natural Resources Group. Prior to joining The New Jersey Zinc Company, I was associated with General Motors Corporation and Reynolds Metals.

Substantial parts of The Natural Resources Group include The New Jersey Zinc Company—the nation's original zinc producer—and Jersey Miniere Zinc Company, which will become the nation's newest zinc producer later this year. New Jersey Zinc operates a zinc smelter in Palmerton, Pa. Jersey Miniere is building a $150-million zinc refinery in Clarksville, Tenn., scheduled to begin production in the fall of this year.

Prior to 1972, New Jersey Zinc also operated a zinc smelter in Depue, Ill. However, a surge of price discounted imports at that time depressed the domestic market and made the plant uneconomic. We were forced to terminate production there and lay off hundreds of workers.

I'm here today because we're faced with the same problem at our Palmerton smelter. Because of a series of seemingly endless price drops brought about by floods of discounted imported zinc, the slab zinc plant is operating at a loss and has been for some time. If do not obtain relief from these price discounted imports, we will be faced with the hard decision of whether to remain in the zinc business at Palmerton.

Although we are part of a large, diversified corporation, we operate under the profit center concept. In other words, each company in our corporation must demonstrate its own ability to pay its costs, maintain its employment, and operate at a reasonable profit. With Gulf-Western, we must also demonstrate an ability to grow and create new jobs.

In our efforts to remain competitive with price-discounted imports, we have lowered our prices four times since the beginning of 1977. In each case, foreign traders were selling imported zinc from one to five cents below our prices. And each time we lowered our prices, they lowered their prices to maintain a difference. Today, you can still buy imported zinc below our prices.

WHY IMPORTERS DISCOUNT PRICES

The main reason importers maintain that spread is that they lack the sales and service organizations we have and they lack the research and technical backup that goes with it. Since they do not offer these services their only advantage becomes price. Many of the import firms here are subsidiaries of foreign producers which have large stocks of metal at home. These agents of foreign producers are under considerable pressure to sell in the U.S., since it is the only market in the world where substantial quantities of imported zinc are sold.

I can appreciate the need for foreign producers to sell this way in the world's only open zinc market since I am a director of Asturienne New Jersey S.A. and chairman of Blancs de Zinc de la Mediterranee, two companies in France. It is not uncommon in Europe to be unable to lay off workers during recessions; or if you do, your social responsibilities require extensive severances and/or other job guarantees.

Under those conditions, it is more economic to maintain high production and try to export the surplus to other countires. Of course, when you do that, you, in effect, export your own unemployment.

That's exactly what is happening in the case of slab zinc coming into this country. Foreign production remains closer to full capacity, foreign workers continue their jobs, but American workers eventually lose theirs.

SLAB ZINC IN CRISIS

In the case of slab zinc in America, the situation has reached crisis proportions. To the best of my knowledge, not a single American producer is making a profit on slab zinc. All are operating at a loss.

In my judgment, if we do not get relief from imports, it will not be a case of one or two more domestic producers going out of business. It will be a case of shutting down the entire United States zinc industry. The United States would then be totally at the mercy of interruptable foreign supply.

And the impact of that dependence goes far beyond the number of workers we employ because zinc is a vital material in so many other industries. For example, you simply cannot make rubber without it. And it makes steel last 20 to 80 times longer.

According to a recent article in The Wall Street Journal, the Commerce Department will report that corrosion now costs the United States $70 billion a year. As large as that figure is, it would be significantly higher without zinc protection. Conversely, the use of more zinc would lower that staggering cost and help conserve America's other resources.

In my testimony today, I'm going to outline the substantial efforts my company has been making to develop new zinc production, to research and develop new products, to modernize and become more competitive, to supply American consumers with research and technical assistance, and to explore for new zinc deposits in this country.

All of these efforts, by the way, require an investment in America—an investment not totally shared by many foreign producers. Our investments will cease if the United States is forced to stop zinc production because of low priced imports.

Our frequently stated policy for the past several years has been to help restore a greater measure of self-sufficiency in zinc, which is the fourth most important primary metal consumed in this country. To that end, we have invested hundreds of millions of dollars in exploring for new deposits, in developing and bringing into production new mines, in building a new refinery—and in significantly modernizing our Palmerton, Pa., smelter.

ZINC PRODUCTION BEGAN IN 1848

Our commitment to zinc and our contributions to technology began in 1848—130 years ago. The New Jersey Zinc Company pioneered the original processes for producing zinc continuously and later for making high purity zinc. These processes were subsequently licensed around the world and they made zinc available as a modern material for many new industrial products.

Our research laboratories, set up shortly after the turn of the century, were some of the first by industrial corporations in America. The list of product and process innovations they created is long. Highlights include the invention of all original commercial die casting alloys. The invention of these alloys set in motion the entire die casting industry world-wide, and meant that complex-shaped products like auto carburetors and appliance parts could be economically made and mass produced for the first time.

We hold hundreds of patents for zinc products for the manufacture of rubber, paper, plastics, paints and other materials. And we continue to develop exciting new materials such as our superplastic zinc—a material which has the formability of plastics yet the strength and durability of metal. Last year, we even developed specialized machinery and opened a demonstration plant to show manufacturers how to use this exciting new material.

Our commitment to research has not let up. Just two months ago, we opened a new, modern, $3.5-million research facility in Bethlehem, Pa. There we continue to develop zinc metal products, such as spring liners for automobiles and trucks. We also have laboratory-size facilities to manufacture rubber, paper, plastic and paints—all of which use zinc as an ingredient.

All of these materials—including steel—would not last nearly as long if they did not contain zinc or were not coated with it. Without zinc, America's other resources would be consumed at much higher rates.

Through Energy Development Associates, a joint venture of Gulf-Western Industries and Hooker Chemical Corporation, we believe we have already developed the most advanced zinc-chloride battery system to date. By 1980, we will have a 10-million watt-hour battery module—enough to service the peak load requirements of a city of 60,000 people—on steam. By the mid-1980's we believe we can produce a battery for an electric car which would be competitive in price with conventional vehicles.

Much of our research is designed specifically to help our zinc consuming customers. Our work with superplastic zinc, for example, is designed to show American manufacturers how to use it—not for us to get into the manufacturing business ourselves. Similarly, our work with die castings is designed to assist the American die caster become more competitive—not for us to get into the die casting business.

To supplement our research, we therefore maintain a full staff of technical specialists who transmit our technology to our customers. It's their job to assist zinc users in solving technical and/or production problems. It's their job to help introduce newer processes, or suggest newer, more competitive products.

COMMITMENTS TO AMERICAN CONSUMERS

A modern materials business in America demands this sort of commitment to the consumer—a commitment to develop new supplies, to develop new and improved products, to assist the consumer in remaining competitive and to help him with his problems.

And in back of these commitments must be the commitment to develop the capital necessary to accomplish all these jobs. You must lay out the capital many years in advance. Much of the money for the first pound of zinc we will produce in Tennessee was spent twenty years ago when we borrowed the oil industry's technique of wildcatting and discovered the large zinc deposits in central Tennessee.

But even with the deposits, we lacked enough capital to build the refinery on our own. Without a partner, we could not have made this very important move. As you may know, the Jersey Miniere Zinc Company is 40% owned by Union Miniere of Belgium. In this case at least, some of the dollars will have come from Europe instead of the other way around.

MARKET SUPPORT COSTS MONEY

I've outlined our activities briefly to try to give you an understanding of our efforts to serve American industry, and very importantly, that this service requires an investment that goes far beyond simply converting zinc concentrates to zinc metal.

When the United States market is disrupted by a continuing flood of excess imports, which drives our prices below the cost of production, our whole chain of exploration, research, market development and customer service grinds towards a halt.

In our efforts to remain competitive, we have cut severely our expenditures for all these support activities, which normally should rise each year just to keep up with inflation. Effective import relief would permit us to resume these expenditures at normal levels.

My own experience working in automotive development with most of the U.S. auto producers has convinced me that materials instability is one of the single most important reasons why one material is substituted for another in the car. When you are designing automobiles three to five years in advance, you must select materials which have demonstrated records of supply stability. In my judgment, the instability of zinc, caused primarily by increasing imports, is one of the contributory factors in zinc's declining use in the automobile.

WHY DEPUE CLOSED

Let me illustrate the problem by returning to 1970. At that time, The New Jersey Zinc Company, in addition to its Palmerton smelter, operated a 70,000 ton a year slab zinc smelter in Depue, Illinois. In 1970, imports of 260,000 tons were 22% of U.S. consumption. In 1971 imports swelled to 324,000 tons, or 26% of domestic consumption.

New Jersey Zinc recognized the impending problem in a marketing study prepared in 1970, from which I quote: "Imports at cut prices have taken a larger share of this (slab zinc) market each year since quotas were removed in 1965. Foreign competition . . . will play a bigger role and and we will probably see some intrusions into the steel galvanizing markets before long. If the traditional foreign discounts on SHG are offered aggressively to the steel companies, it could have an adverse affect on our market."

At those discounts and under that import pressure, Depue became uneconomic to operate and we were forced to terminate production. For the record, at no time did The New Jersey Zinc Company attribute the shutdown, which was completed in early 1972, to impending environmental control regulations. Our people believe they could have addressed that problem as they have successfully done in Palmerton.

The closing of Depue resulted in the loss of about 500 jobs in addition to the loss of 70,000 tons of slab zinc capacity. It resulted in the loss of over 100 customers primarily in the Midwest, who were serviced from the Depue plant. At that time, The New Jersey Zinc Company had already invested some $28 million in the modernization of that plant.

HUMAN SUFFERING

The closing of the Depue plant was felt by its citizens in a variety of ways. Our plant was Depue's single major industry. About 60 percent of the plant's employees had never worked at another job, and the prospect of looking for a new one—even with our company's help—was difficult. Equally unpleasant was the thought of signing up for what the workers called "welfare" at the Employment Security office.

Further, the plant's closing seriously undermined the town's tax base, because of a lack of funds to run the local schools, the town officials were forced to go to the state capital in Springfield to obtain a special grant so they could weather the fiscal crisis.

AFTER DEPUE CLOSED

Now look what happened. In 1972, world demand for zinc began building at an unprecedented rate, reaching 6.0 million short tons for the year, and peaking at 6.6 million short tons in 1973. In the U.S., shortages developed, and prices of imported metal skyrocketed to as high as 88 cents per pound. And, this could happen again without a strong U.S. Zinc industry.

Very importantly, during this shortage period many nations virtually withdrew from the U.S. market, preferring to service other makets at higher prices.

On the consuming level, hard decisions were made to design away from zinc. Materials planners simply could not forecast with sufficient accuracy the price and availability of zinc three to five years ahead.

PALMERTON NOW THREATENED WITH CLOSING

Once again, escalating imports into the U.S. at heavily discounted prices are pressuring our plant operations. Once again we are operating a slab zinc facility at a loss. Once again, we are faced with the hard decision of whether or not to keep our remaining plant operating.

And once again we are losing sales to price discounted foreign metal. Looking at the sales record of thirteen important customers, our sales to them were 57% less in 1977 than in 1976. Salesmen's call reports show that in each instance, the customer bought less from us and more from importers. In two of these cases, our sales were reduced to zero.

Sales to independent alloyers suffered even more. Our records show a loss of 79% of our 1976 sales tonnage to independent alloyers in 1977. And in two cases, we were not even able to sell one ton to them in 1977.

The situation has reached crisis proportions. We cannot long endure putting more money each month into a plant that we recover—even with the financial strength of a large industrial corporation behind us. We cannot long endure taking money from our other companies to keep the zinc plant operating.

NEW INVESTMENTS IN ZINC

And we have not stood idly by. Since the closing of our Depue plant, we have invested heavily in modernizing the Palmerton smelter—some $30 million in the last five years alone—to make it more competitive and more efficient.

And as I pointed out earlier, in addition to the modernization of Palmerton, we have almost completed the first new capacity zinc refinery in the U.S. in 36 years. Last year, National Zinc opened a new refinery, but it was to replace an older one adjacent to it and did not result in new capacity.

Clarksville is representative of most of the newer refineries that have been built throughout the world in that it is an electrolytic plant. In this process, zinc concentrates are dissolved in sulfuric acid, the impurities are removed and the zinc is recovered by electrolysis. It is essentially a chemical process.

Even though Clarksville is the newest and most modern refinery in the world—and therefore should logically operate at the lowest possible operating cost—it cannot possibly operate at a profit at today's prices. Even by assembling the most advanced technology available anywhere in the world, we cannot make the plant economic unless we get relief from excessive imports.

Comparing our Palmerton plant with the Clarksville Plant, our total production costs are very similar. Operating costs at Clarksville are slightly lower, but when the capital construction costs are added in, the two plants nearly balance.

At Palmerton, we're operating one of the most fully integrated and complex plants in the world. We not only produce slab zinc in all its various forms and grades, as well as zinc alloys for die casting, we also produce many varieties of American Process zinc oxide—another of our inventions—and French Process zinc oxide. We also make zinc and other nonferrous metal powders, zinc dust, and operate a rolling mill to produce zinc sheet and strip for such products as flashlight batteries.

By-products produced at Palmerton include sulfuric acid, cadmium and indium. We also maintain an unrelated primary plant at Palmerton for the production of ammonia and liquid carbon dioxide.

SLAB ZINC CAPACITY AT PALMERTON

The Palmerton plant, which has a rated top capacity of 118,000 tons of primary zinc metal 1, is both a producer and a consumer of primary zinc. Of the total, approximately 48,000 tons is consumed internally to manufacture other products such as zinc oxide, zinc dust and rolled zinc, leaving a potential balance of 70,0000 tons of slab zinc for sale to others. During 1977, 50,718 tons of slab zinc were produced for sale, which was 72½% of that potential.

One of the outstanding advantages of Palmerton is that it can produce zinc from many varieties of natural ores or from scrap. Thus it is a plant which helps conserve America's natural resources by recycling.

At Palmerton, 43 vertical retort furnaces convert sintered zinc concentrates and other zinc materials into zinc metal. The furnaces rise five stories high and reach internal temperatures of nearly 2,000 degrees F. Zinc concentrates mixed with coal in pre-heated briquettes are charged at the top. The zinc vaporizes and is condensed into liquid zinc. Metal produced by the vertical retorts is Prime Western grade, but if fed into distillation columns can be further refined to produce the other grades of slab zinc.

EMPLOYMENT DECLINES IN ZINC

At one time, employment at Palmerton reached 5,700 people, but the work force has declined to 1,530 currently. The annual payroll is approximately $25 million, making it the largest employer in Carbon County, Pa. If the plant were to close, it would have disastrous economic effects on the county, which is already economically depressed.

Further, if Palmerton were to close, we might have to shut down numerous support activities. These include the Bethlehem, Pa., administration offices, employing approximately 240 people; the Bethlehem, Pa., research center, employing another 77 people, and the Friedensville, Pa., mine, with 196 on the payroll.

In addition, our other mines throughout the country which supply Palmerton might also close. They include Austinville, Va., with 286 miners; Sterling, N.J., with 182, and two mines in Tennessee with another 242 people.

LOW CAPACITY RAISES UNIT COSTS

At this time, I'd also like to emphasize the effects of operating below capacity. When we shut down one of our furnaces, we must keep it hot or else the heat resistant linings will crack and fall apart. Rebuilding these special, highly expensive linings requires many months of work and hundreds of thousands of dollars per unit. The fuel for keeping a furnace hot, even though it is not producing metal, is approximately 48% of the fuel required to operate it at full capacity. It should be readily apparent that the per pound cost of zinc rises drastically at lower capacity levels.

Thus, when we operate at around 70% of capacity or less and must compete with plants in other nations operating at much higher levels, it puts us at a severe disadvantage.

WHY WE'RE BUILDING A NEW REFINERY

Let me turn now to our new refinery in Clarksville, Tenn. After the loss of Depue, my company made extreme efforts to rebuild, and hopefully enlarge, our capacity. We had discovered sufficient ore in the United States to supply a major refinery and believed, especially during the shortage years of 1973–74, that something had to be done to rebuild United States capacity so that American industry would not be caught again with shortages.

Like many in American industry, particularly those in the metals business, we had the dream—but not the cash. And we found it extremely difficult to borrow money, given the traditionally low rates of return that characterize the metals industry. Bankers found higher return industries, such as consumer products, much more appealing.

In any event, we quickly found that we could not proceed with a major project of this type on our own. And as I pointed out earlier, even though we're part of a larger industrial company, each part is required to stand on its own feet financially. That set off a long search to find a partner with enough cash and enough courage to invest in the zinc business in the United States.

Let me tell you, it wasn't easy. However, we finally got together with Union Miniere of Belgium. Union Miniere had developed sufficient capital for new investment and was looking for new projects. The United States seemed an attractive area for investment.

In our negotiations with them, we also grew to appreciate more the intrinsic higher value that Europeans place on basic resources—particularly for the long run. We found a general European attitude that resources were more important than service industries.

Thus, in July, 1975, we entered into an agreement with Union Miniere for the joint ownership and operation of a mine we were developing at Elmwood, Tenn.; the development initially of two other mines adjacent to Elmwood; and the construction near Clarksville, Tenn., of a new electrolytic zinc refinery complex designed to initially produce 90,000 tons annually of slab zinc. Under the agreement, we sold to Union Miniere a 40% interest in a joint venture which holds the Elmwood mine, certain additional properties in various stages of development and the refinery technology.

LARGE PRIVATE INVESTMENT IN TENNESSEE

The total cost of the mine development and refinery will exceed $210 million, making it one of the largest private projects ever undertaken in Tennessee. Mining and refinery capital costs are being financed from cash flow from the Elmwood Mine, equipment leasing, payments received by NJZ from Union and cash contributions by the partners. Originally scheduled for completion in mid-1979, it is now scheduled for fall 1978 opening.

When Clarksville comes on-stream, it will add 14% to U.S. primary refining capacity and give the U.S. a total of 730,000 tons.

However, if the industry does not get effective relief from imports, it will be impossible to operate that plant at a profit. As you recall, its total production costs are very similar to those of Palmerton. Thus, without effective relief, the plant will be threatened.

We anticipate the plant will employ from 500 to 600 people, plus an additional several hundred for its supporting mines and offices. In the construction phase we have also provided employment for as much as 1200 to 1600 workers. While we are happy to provide those jobs, we can only pray that those jobs can remain, and even be increased. But the future depends on the outcome of this case.

MARKETING PREPARATIONS FOR CLARKSVILLE

Earlier I outlined many of our total efforts in exploration, mine development, research and product development, and in marketing—all of which are interdependent on each other.

In bringing a project on-stream of the magnitude of Clarksville, we have not ignored the necessary market preparation. You cannot throw the switch on a plant that size and wait for the telephone to ring for your first order. If you do that, you might as well not build the plant at all.

Thus it was necessary for us to begin the slow process of building sales almost two years ago. We began by enlarging our sales and marketing departments, opening new offices, increasing our customer service, expanding our advertising and promotion, and particularly rebuilding supplier relations with the customers we lost when we were forced to close Depue.

We are also using small amounts of imported metal to service some of the customers. For the past two years, these have amounted to only some 1 percent to 2 percent of imports, and are nowhere near the capacity of our new refinery. This means we still have an enormous job in making an orderly transition of U.S. produced metal for foreign. This is a temporary situation, designed solely to pre-build a market for Clarksville.

ALLOY AND DIE CASTING MARKETS

I would also like to review our position in the alloy and die casting markets. As I pointed out earlier, the New Jersey Zinc Company invented the current commercial alloys which most people designate Zamak. Zamak was our trade name, which we allowed to become generic, and the bulk of all alloy used in the U.S. today is Zamak 3, Zamak 5 and Zamak 7. These alloys are made by adding small amounts of aluminum, magnesium and copper to special high grade zinc. We sell special high grade zinc to independent alloyers so they can make the products we invented. Most of them, in fact, call their product Zamak. We also sell alloy to zince die casters.

Our company has no restrictions on the amount of special high grade zinc an independent alloyer may purchase from us. All of the primary production from Clarksville will be special high grade zinc, some of which will be converted to other grades. And we can easily increase our production of special high grade zinc at Palmerton.

HOW WE WILL USE THE PROPOSED RELIEF

How will favorable action by this Commission and the President affect us, and how can we use this temporary relief to help rebuild the U.S. zinc industry?

I can only say that without relief—substantial and soon—there may not be a zinc industry in the United States. I reiterate, we cannot long survive operating at a loss.

If you rule favorably and the President grants effective import relief, we plan to continue our substantial research and marketing efforts. At stake are new automotive products which we are designing, the whole breakthrough in superplastic metals, the new anti-corrosion systems for such products as your automobile, the new zinc-based batteries and countless other products based on zinc. For the coming year, we are not projecting growth over 1977. However, these new products will demand more zinc in the coming years if Americans are to benefit from them.

And I hope you agree that our investments in zinc have been very substantial. I can't promise you that we'll build another new refinery next year, but I can promise you that we will increase our efforts to find more zinc, to increase our already substantial research and development efforts, to attempt to provide customers with reasonable assurances of a stable domestic zinc market for their planning purposes, so that it once again becomes healthy enough to consider more new plants, and to provide more jobs.

Gentlemen, the United States became a great nation because we developed our basic resources more fully and completely than anywhere else in the world. If we are to continue to provide the basic material which is vital for so many of our industry products, we should not be reduced to ever-increasing dependence on foreign sources.

I believe the type of relief we are asking for is the fairest and most equitable under the law. My plea to you is not only for a report which favors our petition, but that it be done as rapidly as possible.

TESTIMONY OF JAMES L. BROADHEAD

I. INTRODUCTION AND SUMMARY

My name is James L. Broadhead. I am President of St. Joe Zinc Company and Vice President of its parent, St. Joe Minerals Corporation. I hold a Bachelor of Mechanical Engineering degree from Cornell University and LL.B. from Columbia Law School. Before joining St. Joe in 1968, I worked as an engineer for Ingersoll-Rand Company and was associated with the New York City law firm of Debevoise, Plimpton, Lyons & Gates.

Prior to assuming my present position as President of St. Joe Zinc in May 1977, I held a variety of positions with the St. Joe organization, including Secretary, General Counsel and Vice President-Development of St. Joe Minerals, Vice President of its subsidiary, St. Joe Petroleum, and Chairman of its subsidiary, Energy Research Corporation.

As the name implies, St. Joe Zinc Company operates St. Joe's zinc business, which consists essentially of a mine complex in St. Lawrence County, New York, a zinc smelter in Monaca, Pennsylvania, and a headquarters group, including sales and marketing, in Pittsburgh.

Mr. Nehmer's statement summarizes the devastating impact that increasing imports of slab zinc have had on the domestic slab zinc industry generally. Since 1975 the escalating level of slab zinc imports has caused reduced shipments, production cutbacks and layoffs, severely depressed prices and substantial operating losses for the firms in the industry. It is quite clear that if nothing is done to reduce the flood of imports, some American producers will be forced to go out of the zinc business.

1. The specific adverse impact of increased

Rather than reiterate the very telling statistics you have already heard, my testimony today will focus on three major areas: imports on St. Joe—this country's largest producer of slab zinc;

1. The extensive efforts and expenditures made by our company to compete effectively; and

3. The bleak outlook for St. Joe Zinc if effective relief from increasing slab zinc imports is not provided.

II. ST. JOE ZINC OPERATIONS

First, let me briefly describe St. Joe Minerals Corporation and the operations of St. Joe Zinc Company. St. Joe Minerals is a growing natural resource company with significant interests in coal, oil and gas, lead, and zinc. The Company's net sales in 1977 totaled over $790 million. St. Joe Zinc Company was formed in 1977 to facilitate the operation of St. Joe's zinc business on a profit center basis. Under that concept the Zinc Company is required to demonstrate its ability to earn a reasonable profit and to pay for further capitol additions.

The smelter

St. Joe entered the zinc business in 1926 with the purchase of mines in upper New York state. That acquisition spurred St. Joe research in basic zinc metallurgy, which led to the development of the electrothermic zinc smelting process. A St. Joe smelter incorporating this process was developed at Monaca, Pennsylvania. This plant is now one of the world's largest zinc smelters, having a capacity of 250,000 tons per year of zinc equivalent, including 220,000 tons of zinc metal.

The heart of the electrothermic process at the Monaca facility is 17 resistance-type electric shaft furnaces. The usual furnace is 50 feet high with an inside diameter of 8 feet and has electrodes near the top and bottom. Coke and zinc-bearing materials are fed into the top of the furnace, and the flow of current through the charge develops the temperature required to vaporize the zinc. To produce zinc metal, the furnace offgases bubble through a large "U"-tube filled with molten zinc, which condenses the gas to liquid zinc that is then cast into slabs or alloyed further to meet specific customer needs. Some of the metal is further processed to produce various grades of French process zinc oxide or zinc dust. To produce American process zinc oxide, the furnace vapors are burned in a combustion chamber with air, and the resultant powders are collected. A 110,000 kilowatt coal-burning power plant, constructed by St. Joe in 1957, supplies the bulk of the smelter's power requirements.

Advantages of smelter

Our smelter has several distinct advantages. While it is more labor-intensive than modern electrolytic units, its flexible circuitry permits St. Joe to use zinc concentrates from up to a dozen different sources, to recycle our own plant process residues and, perhaps most importantly, to recycle our customers' zinc-bearing galvanizing residues. We are by far the country's largest consumer of such secondary materials. As you know, recycling conserves energy and preserves natural resources. For example, the energy requirement for recycled zinc production is less than 40% of the energy required to produce zinc from ore.

This smelting process flexibility also permits St. Joe to produce a variety of zinc grades, tailor-made alloys, both American and French process zinc oxide, and zinc dust. We sell to our customers more than 25 grades of zinc metal, 22 grades of zinc oxide, and 6 grades of zinc dust.

The electrothermic process also produces a higher quality American process zinc oxide than any other method. Our customers can use St. Joe American process oxide in applications where higher priced French process oxide would ordinarily be specified.

Our smelter is located in America's industrial heartland, 30 miles northwest of Pittsburgh on the Ohio River. Rail, highway and barge facilities handle our raw materials as well as our products and by-products. This location enables us to ship zinc on very short notice to many of our customers located in Pennsylvania, Ohio, and West Virginia. Our regional warehouses in Chattanooga, Houston and St. Louis afford similar capability in those regions. This allows our customers to minimize their inventories of slab zinc.

III. IMPACT OF INCREASING SLAB ZINC IMPORTS ON ST. JOE

The extraordinarily high level of imports of slab zinc during the past several years has had a devastating impact on St. Joe.

Shipments

During the years 1970 through 1974, we were able to ship all of our own production plus substantial amounts of GSA stockpile slab zinc, and our shipments of slab zinc averaged more than 214,000 tons per year. For the years 1975 through 1977, our slab zinc shipments averaged only 125,000 tons—less than 60 percent of the 1970 to 1974 average. This steep decline took place despite a larger St. Joe sales force and increased expenditures for advertising and customer-related services. Furthermore, St. Joe shipments have suffered this serious erosion notwithstanding that United States annual slab zinc consumption is nearly twice the production capability of the entire domestic slab zinc industry.

There is no doubt that the primary reason for our decreased sales has been the pressure from the escalating level of slab zinc imports. For example, although the average slab zinc consumption declined approximately 20 percent from 1970–74 to 1975–77, St. Joe's shipment level declined more than 40 percent during this period. The fact is that in recent years, slab zinc imports have taken a larger and larger share of the generally reduced U.S. slab zinc market, causing domestic producers such as St. Joe to suffer substantial sales losses. In fact, our sales call records reflect numerous specific instances of St. Joe sales lost to foreign imported slab zinc. Let me give you some examples:

1. One of the largest galvanizers in the country, which until recently was an almost 100 percent St. Joe account, reduced its 1977 slab zinc purchases from St. Joe by more than 40 percent from past levels. The reason for this 1977 reduction, according to the company's President, was the decision to purchase low-priced slab zinc from a foreign source.

2. One of our large customers, a steel company, has for the past two years purchased 50 percent less from St. Joe than usual levels. We have firsthand reports that during this period they have purchased thousands of tons of foreign slab zinc.

3. A large brass customer has cut back its purchases from St. Joe by almost 60% in the past two years. Our truckers have frequently reported seeing large quantities of foreign zinc in their plants.

4. A major after-fabrication galvanizer we have served for many years reduced its 1977 slab zinc purchases by 80% from usual levels. Our salesman handling that account was informed by the customer's purchasing agent that these reductions were caused by their increased purchases of foreign slab zinc.

Reduced capacity

Because we have been unable to ship our historical share of slab zinc, we have been forced to operate our smelter at significantly less than capacity. For the last three years, our operating rate has averaged less than 70% of capacity, compared to an average rate of almost 92% in the period from 1970 to 1974. For the past nine months, we have been operating at 65% or less.

Inventories

Despite these very low operating levels, our inventory of finished slab zinc climbed to more than three month's production by the end of 1977. This is three times the one month's inventory that we consider reasonable and normal.

Prices

Perhaps the most damaging financial impact of excessive imports has been the precipitous decline in prices over the past two years. Our price for a pound of Prime Western zinc has dropped from 39c in January 1976 to its present level of 29c. This is our lowest price since December 1973.

Effect on profits

At the same time that our shipments and prices have been declining, costs of electric power, coke, coal, salaries, and wages have all steadily increased. Since December 1973 costs of coke, coal and electric power have increased more than 250%, and salary and wage rates have increased by more than 50%. The result has been a sharp decline in our profits. In 1976 the operations of what is now called St. Joe Zinc Company resulted in a small profit. In 1977 the Zinc Company incurred a *loss*, and for the first two months of 1978, the rate of loss has been even more substantial. In all cases, the results of slab zinc operations have been less favorable than the results of the Zinc Company as a whole.

Loss of jobs

Perhaps the most distressing—and potentially damaging—consequence of excessive imports is the cost in human terms. Since August 1977, our hourly and salaried operating work force of approximately 2,400 has been reduced by almost 300 persons. Earlier this month we were forced to cut 200 of the 1,700 people at our Monaca smelter. Included in this group were technicians, laborers and engineers in their first jobs, and many employees having more than 30 years of service. Their opportunity to be productive workers in their industry was taken away by foreign slab zinc imports. The objective

of this reduction was to maintain the St. Joe Zinc Company on as economical a basis as possible in order to help ensure the continued employment of the remaining employees. Should St. Joe Zinc Company terminate operations, more than 2,100 men and women will become unemployed in areas of the country where unemployment is already high. More than 600 of those people have been employed by St. Joe for longer than 20 years.

IV. EFFORTS TO COMPETE

The present difficulties are particularly frustrating to us, because throughout this recent five-year period, St. Joe has spent substantial sums of money and devoted much time and effort to maintaining and improving the smelter, developing new processes and products, serving our customers and, in general, strengthening our competitive position.

Smelter improvements

Efforts to improve and maintain the smelter have gone forward in three areas: installation of new, improved production equipment; maintenance of existing equipment; and addition of pollution control equipment to meet EPA and Pennsylvania regulations. To carry out these activities, the smelter has maintained a design engineering staff of more than 40 people and, at various times, has retained the services of at least half dozen major engineering firms. Our total expenditures in these areas over the past five years have exceeded $106 million, of which less than 25% is attributable to pollution control.

Some examples of the types of St. Joe projects undertaken to improve the competitive position of the smelter include: a $3½ million program to expand and improve furnace capabilities; the construction of a $2½ million facility to make pigment grades of zinc dust; and the construction of a $3½ million recycling facility for zinc-bearing materials. Projects currently underway include: construction of a so-called "Super Furnace" incorporating many anticipated improvements in design and materials; modification of dust and gas handling facilities to provide greater flexibility in the Roaster and Acid Plants; and steps to improve in-plant material handling capabilities.

Process research

Many of our smelter improvements grew out of the activities of the St. Joe process research department. During the past several years the world zinc industry has been faced with lower quality ores and higher manpower and energy costs. In an attempt to counter these negative factors, our process research group has expended $8½ million to improve our production facilities through metallurgical and process control modifications and to identify and develop attractive alternatives to existing smelting processes. Specific programs include: extensive tests to quantify the variables affecting furnace efficiency; the design of tools and other equipment to minimize maintenance time and increase furnace operating time; the development of instrumented sensor systems to monitor performance; and extensive programs to produce high purity sulfuric acid, to recover more cadmium, and to recover by-product ferrosilicon in furnace residues.

We have also carried out considerable work in recent years to develop improved zinc recycling processes. This is particularly important since, as I stated previously, an advantage of the St. Joe electrothermic process is its capability for recycling zinc-bearing secondary materials. In recent years, we have gone to great efforts to make our costs competitive with secondary smelters, which traditionally have not provided comparable workplace environments or wage-fringe benefits to their workers.

Process research is difficult, time consuming, and expensive. It is our philosophy at St. Joe, however, that steady progress over several years is the only way to improve efficiency and remain competitive.

Since 1975 the process research group has also been actively investigating possibilities for developing a low-energy zinc extraction process. The first step in that investigation was a thorough review of all known zinc producing processes and concepts. We reached the conclusion that the flash reduction of zinc calcines showed the greatest potential for savings in energy and labor. We have entered into an agreement with another company to jointly develop such a process, and preliminary tests have been encouraging. Further development, however, will require construction of a large pilot-plant, which is estimated to cost $10–$12 million, including associated development expenses. Construction of a commercial plant would, of course, cost considerably more.

Product research and market development

St. Joe has also been active in the field of product research and market development. During the past five years we have spent almost $5½ million in an intensive program to improve existing zinc products, to find new markets for these products, to create new products for zinc metal, and to develop markets for those new products.

Our wrought alloy program, for example, has emphasized research, development, and commercialization or super-plastic zinc—a material with unique properties that allow zinc to complete in specific applications with aluminum, steel and plastics. The program included alloy development (which resulted in a patent issued to St. Joe), development of sheet fabrication processes (which culminated in pilot and semi-commercial sheet manufacturing programs), and the development of metal thermoforming equipment and techniques. In 1976 St. Joe formed a wholly-owned subsidiary, Formet Technology Corporation, to manufacture and sell superplastic zinc components. We view superplastic zinc as a potential major new product line for the industry in the years ahead, and we have made a large commitment to underwriting this development.

Our zinc oxide programs, which are aimed at finding major new uses in batteries, complement the activities of Energy Research Corporation, a subsidiary engaged in electrochemical research and development. Energy Research has developed and sold in commercial quantities a silver-zinc battery for high energy density military applications, and has developed prototype nickel-zinc batteries for a variety of applications, including automotive vehicles. We believe Energy Research to be a leader in this prospectively large field, and St. Joe has spent or guaranteed $3½ million since 1973 for its acquisition and support. Energy Research is currently cost-sharing a contract with the U.S. Department of Energy for the development of a nickel-zinc battery for automobile propulsion.

St. Joe sales and marketing activity

St. Joe has been a reliable supplier of zinc for more than 40 years, through periods of shortage and excess supply, and we enjoy a high reputation for integrity and dependability. Nevertheless, we have intensified our sales and marketing efforts in recent years in response to increasing imports.

Because we ship more than 85% of our zinc metal to the galvanizing industry, we custom alloy zinc for specific galvanizing customers, and we continually update our specifications as requests for alloy changes are received.

St. Joe Zinc offers to purchase galvanizing residues from all of its zinc metal customers. Since all galvanizing operations produce residue, the ability to sell the residue to St. Joe on a regular basis is of great value to the customer, who is unable to get this service from most other zinc producers. Furthermore, in order to maintain good customer relationships, we have, over the past two years, purchased residue materials greater than our ability to recycle them.

Recently, to compete with imported zinc, we have also initiated consignment shipping of zinc to major customers to minimize their inventory costs while assuring them adequate zinc on-hand to meet unforeseen short-term increases in consumption.

St. Joe is the industry leader in technical service and technical development for galvanizing. Since its creation in 1964, our Technical Service organization has performed nearly 500 major technical investigations on hot dip galvanizing and more than 1,000 less involved production investigations for specific St. Joe customers. These investigations have saved our customers many thousands of dollars in processing costs. In 1971 we initiated an annual educational program for our galvanizing customers, which detailed the galvanizing process from surface preparation through finished product. Since then, almost 400 people have attended our Annual Galvanizing Seminars, and we have incorporated the presentations into a Galvanizing Manual, which is the educational standard in the industry. In addition, St. Joe has an extensive product advertising program to promote galvanizing and diecasting and to publish technical brochures to assist consumers in utilizing these materials.

Our most recent effort is the creation of a marketing department within St. Joe Zinc. Because the use of zinc in galvanizing has grown by less than 1% per year for the past ten years, St. Joe commissioned a consulting firm to conduct a survey of designers, architects, and governmental officials to determine their knowledge and attitudes regarding zinc coatings and, in particular, galvanized steel. The results indicated that more detailed product and performance cost information would be needed to encourage specifiers to choose zinc coating systems. We, therefore, instituted a program to document successful case histories for galvanized steel and to prepare economic analyses comparing zinc and other coatings on a cost effectiveness basis. We believe that this marketing effort will increase the demand for zinc coated products, thereby increasing the demand for zinc. To the best of our knowledge, St. Joe is the only zinc company performing this type of service.

V. NEED FOR EFFECTIVE IMPORT RELIEF

What is the outlook for St. Joe in the absence of effective import relief? At least once a year St. Joe prepares a formal forecast of zinc consumption and of St. Joe sales. This is prepared on the basis of information supplied by confidential nonferrous forecasting services and specific market information developed by our sales and marketing departments. Until recently we were able to forecast St. Joe zinc sales with a reasonable degree of accuracy by multiplying estimated U.S. consumption in each market segment by the historical percentage of St. Joe shipments to that segment. For the past two years, this method failed because of the grossly excessive amount of slab zinc imports. For 1978, therefore, we have reduced our sales forecast by more than 30,000 tons from what it would have been under our historical forecast because we anticipate continuing losses to foreign imports. Even at current depressed prices, this amounts to a revenue loss of approximately $20 million. For the first two months of 1978, our reduced forecast of St. Joe zinc shipments has been ominously accurate.

On top of that, St. Joe expects continuing low prices and higher unit costs because of lower operating rates. When our budget was prepared last fall, we conservatively estimated an average Prime Western slab zinc price for the year of 31c. As a consequence of that low price, we projected

a substantial operating loss. Actually, we will have suffered that projected annual loss by the end of the first quarter of 1978!

Under these conditions, was it reasonable for St. Joe to have spent, over the past five years, on zinc smelter improvements and maintenance, product research, process research, market development, and technical customer service a total of nearly $125 million? We must also ask, is it reasonable for St. Joe to continue such expenditures when its zinc operations are currently unprofitable and when excessively low prices and reduced market share offer little prospect for future profitability? Frankly, this last question has already been answered. We cannot continue our traditional level of expenditures under these conditions. After the most recent price decline, St. Joe Zinc took steps to drop to an absolute minimum its capital expenditures and to reduce its expenditures in product research, process research, and market development, and to make substantial reductions in its salaried and hourly operating staff.

If we do not obtain effective relief against the flood of low-priced slab zinc imports, St. Joe will soon be faced with the question of whether we can continue in the zinc business at all. St. Joe has been the largest zinc producer in the United States for many years, and if we terminate operations, the impact will be substantial. United States slab zinc production capacity will decline by approximately one-third, and an organization that paid local, state, and federal taxes in excess of $42 million over the past five years will cease to exist. What is worse, more than 2,100 employees, with a total annual payroll-fringe package exceeding $50 million, will be out of work in areas where unemployment is already high.

Favorable action by the Commission and the President will create the environment for improved profitability that is essential to justify substantial additional expenditures. St. Joe Zinc wants to return to its traditional policy of funding meaningful research, marketing and exploration efforts, and of spending substantial sums for capital improvements. Among other things, effective import relief could encourage St. Joe to intensify its efforts to develop a new low-energy zinc smelting process.

VI. SUMMARY

In closing, let me summarize my testimony.

First, the impact of increasing low-priced imports of slab zinc has been devastating on St. Joe. We have lost substantial sales and have been compelled to reduce drastically our prices and to operate at 65% or less of our capacity As a consequence, we are incurring substantial losses and have been forced to lay off employees and to reduce both capital expenditures and current expenditures for zinc research and market development.

Second, St. Joe has not been resting on its laurels, but has made substantial efforts to compete effectively. In the last five years we have spent nearly $125 million to maintain and improve our zinc smelter, develop new zinc processes and products, create new zinc markets, and service our customers.

Third, increasing slab zinc imports have caused us to reduce our expenditures in these areas and to re-examine our future in the zinc buisness. If we do not obtain effective relief against excessive imports, we may be forced to go out of the zinc business altogether. Favorable action by the Commission is needed if St. Joe is to spend the substantial sums needed to find more zinc, create new products and new markets, and develop the low-energy extraction process our society sorely needs.

This country knows from our experience with petroleum the perils of relying on foreign sources for raw materials essential to industry, consumers and national security. We are now in danger of becoming almost entirely dependent on foreign sources for our supplies of zinc. It is in the interest of our nation not to let that happen.●

RESOLUTIONS OF GEORGIA STATE SENATE

● Mr. TALMADGE. Mr. President, the Georgia State Senate, in session last month in Atlanta, adopted three resolutions which, for myself and my colleague, Senator Nunn, I bring to the attention of the Senate, and ask that they be printed in the RECORD.

The resolutions are as follows:

A RESOLUTION

Urging the Congress to appropriate certain funds in support of the Southeastern Cooperative Wildlife Disease Study; and for other purposes.

Whereas, an increasing need for vital information related to numerous native and foreign diseases transmissible between domestic livestock, poultry, and wildlife has been recognized and documented by way of resolutions adopted by the National Association of State Departments of Agriculture (1973), the U.S. Animal Health Association (1974), the Southern Animal Health Association (1974), the Southeastern Association of Game and Fish Commissioners (1973, 1974), and the International Association of Game, Fish and Conservation Commissioners (1973, 1975); and

Whereas, the Southeastern Cooperative Wildlife Disease Study at the University of Georgia's College of Veterinary Medicine, as conceived and established by the Southeastern Association of Game and Fish Commissioners in 1957, has exhibited extraordinary abilities in solving wildlife disease-related problems of national scope through a regional approach to overall enhancement of public health, national livestock and poultry interests, and this continent's wildlife resources; and

Whereas, a critical need exists for a multi-agency approach to minimize the potentials of disease-related national disasters through merging the resources of the United States Department of Agriculture with State Wildlife Agencies throughout the country to gain insight into disease relationships between domestic and wild animals; and

Whereas, on three occasions the Southeastern Cooperative Wildlife Disease Study has been commended by way of resolutions adopted by the Georgia House of Representatives for its wisdom, ingenuity, and effectiveness in establishing a new concept for betterment of public health interests, this nation's domestic livestock economy, and our irreplaceable wildlife resources.

Now, therefore, be it resolved by the Senate that this body hereby urges the Congress of the United States to support a minimum line item appropriation of $500,000 annually to the budget of the U.S. Department of Agriculture to augment the vital functions of the Southeastern Cooperative Wildlife Disease Study at the University of Georgia.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit appropriate copies of this Resolution to the Honorable Herman E. Talmadge, United States Senate, Washington, D.C. and Dean of the College of Veterinary Medicine of the University of Georgia.

A RESOLUTION

Relative to the fuel economy standards for 1980–81 light trucks, vans and utility vehicles as proposed by the National Highway Traffic Safety Association (N.H.T.S.A.); and for other purposes.

Whereas, the National Highway Traffic Safety Association (N.H.T.S.A.) has proposed fuel economy standards for model year 1980–81 light trucks below 8,500 pounds (Gross Vehicle Weight Rating); and

Whereas, testimony given at public hearings on these proposed standards indicates that the standards are not now technologically feasible or economically practical; and

Whereas, manufacturers forecast, and the Department of Transportation acknowledges, the possibility that the proposed standards may result in vehicles having (1) less utility, (2) lower performance, (3) higher purchase costs, and (4) restricted availability of some vehicles; and

Whereas, commercial users such as farmers, the construction industry and many other businesses requiring light duty delivery trucks would be adversely affected if these fuel economy standards were adopted; and

Whereas, these proposed standards will apply to all light duty vehicles including public utility trucks, rescue vehicles, delivery vans, many types of farm vehicles, pickup trucks, four-wheel drive vehicles and most types of vans; and such standards could cause severe problems for a large segment of the business community; and

Whereas, these proposed standards could work a hardship on the consuming public as well as have a serious economic impact on the national economy, including the possibility of an increase in the rate of unemployment.

Now, therefore, be it resolved by the Senate that this body does hereby oppose the National Highway Traffic Safety Association's (N.H.T.S.A.) proposed fuel economy standards for model year 1980–81 light trucks, vans and utility vehicles and recommends that further study be undertaken prior to establishing fuel economy standards for such vehicles.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit appropriate copies of this Resolution to the Honorable Brock Adams, Secretary United States Department of Transportation, and to each member of the Georgia Congressional Delegation.

A RESOLUTION

Urging the Board of Trustees of the Employees' Retirement System of Georgia to file a notice with the Secretary of Health, Education and Welfare to withdraw State employees from the Social Security Act; and for other purposes.

Whereas, the social security system was created in 1935 to those persons who could not or would not provide for their own old-age security; and

Whereas, the social security system was created only to supplement other forms of security or pensions; and

Whereas, all Federal employees, plus many State, local and municipal employees across the nation, are not participants in the social security system; and

Whereas, many more State, local and municipal employees have filed notice of their intent to withdraw from participation in the social security program; and

Whereas, Georgia State employees are covered by a financially sound retirement system with very good disability coverage and excellent benefits.

Now, therefore, be it resolved by the Senate that the Board of Trustees of the Employees' Retirement System of Georgia is urged to file a notice in writing with the Secretary of Health, Education and Welfare to terminate in its entirety the agreement with the Secretary whereby the employees of the State of Georgia are covered by the Social Security Act and the Federal Insurance Contributions Act. This notice shall be filed on or before March 31, 1978, so that the termination may become effective on March 31, 1980, which is the last day of the first calendar quarter of that year. It is understood that

this notice may be withdrawn at any time within this two-year period, but only with the approval of the General Assembly of Georgia.

Be it further resolved that the Board of Trustees of the Employees' Retirement System of Georgia is also encouraged to conduct the necessary studies and report to the 1979 Session of the General Assembly of Georgia on the supplemental retirement and survivor benefits as well as medical and disability benefits that could be provided to all State employees if the payments now being made to the Social Security Administration by the State and the individual employees were made instead to the Employees' Retirement System.

Be it further resolved that the Secretary of the Senate is hereby instructed to transmit an appropriate copy of this Resolution to the Director of the Employees' Retirement System and to each member of the Georgia Congressional Delegation.●

FCC SIGNAL CARRIAGE RULES

● Mr. BIDEN. Mr President, I feel compelled to bring to the attention of my colleagues a situation prevalent throughout the United States, but which has a particularly severe, adverse effect on many of my constituents in Delaware. That is the illogical hold that the Federal Communications Commission has over signal carriage and its disregard of public need.

My own State is small and predominantly rural, but the people there understand that in order to be an informed, educated public they need adequate coverage of news and local events. It is due to this knowledge that they are frustrated with the FCC's disregard for their need to exchange ideas and perspectives as demonstrated by the Commission's signal carriage rules. Those rules explicitly protect local broadcast stations from competitive cable signals. In protecting broadcasters, the Commission states they do so for the public good. The key here is that the Commission assumes without any evidence that cable has an adverse impact on broadcasters. I challenge the Commission to show where cable has ever had an adverse impact on broadcasters anywhere in this country.

In my own State, a group of over 4,000 citizens have filed a petition, the State General Assembly has passed a resolution, and I have made inquiries to the FCC for a common goal—to end the discrimination against rural Americans and deregulate cable carriage except where harm can be indicated.

The Delaware situation is a perfect example of regulatory irrelevance to what the public actually wants.

I ask that the following be printed in the RECORD:

The joint resolution passed unanimously by the 129th General Assembly of the State of Delaware, my correspondence to the FCC in regard to the Delaware situation, their response, and the March 22 Washington Post article by Larry Kramer addressing Delaware's situation in regard to cable television rules.

The material follows:

SENATE JOINT RESOLUTION No. 30

Whereas, the State of Delaware has no commercial television channel allocated to it by the Federal Communications Commission and large portions of lower Delaware are unable to receive the signal of the State's education television station (Channel 12), and

Whereas, lower Delaware CATV Inc., operates cable television in eight communities and unincorporated areas in Sussex County to offer increased viewing opportunities for subscribers; and

Whereas, lower Delaware CATV Inc., operating under restrictions imposed by the Federal Communications Commission, is only able to offer its subscribers access to channels in Salisbury, Md., Baltimore, Md., and Washington, D.C.; and

Whereas, these restrictions severely limit the opportunity of some 2,000 subscribers to view news and public service programs concerning the State of Delaware; and

Whereas, the commercial stations in Philadelphia are under FCC order to provide Delaware coverage of news and public affairs; and

Whereas, the FCC restrictions are allegedly designed to protect local commercial television stations from unfair competition by CATV companies; and

Whereas, these restrictions operate to grant WBOC–TV (Salisbury, Md.) a virtual monopoly over what residents of lower Delaware are able to see on cable television; and

Whereas, Delaware is presently prohibited from having a commercial television station by FCC regulations.

Now, therefore:

Be it resolved by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that FCC is urged to grant a waiver of its 1972 Order to allow Lower Delaware CATV Inc. to pick up signals from Philadelphia commercial television stations.

Be it further resolved that members of the Delaware Congressional delegation are urged to continue their efforts to resolve this serious problem.

Be it further resolved that copies of this Senate Joint Resolution be sent to Charles D. Ferris, Chairman, Federal Communications Commission, and to members of the Delaware Congressional Delegation.

U.S. SENATE,
Washington, D.C., January 12, 1978.

Mr. WALLACE JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission, Washington, D.C.

DEAR MR. JOHNSON: I am writing in reference to a problem which constantly is raised when I speak with constituents in the southern portion of my state—limited television viewer access of Delaware news.

As you know, there is no commercial television station in Delaware. If there were, the problem of coverage of Delaware news would be resolved. As it stands today, Delaware news must be conveyed either by Philadelphia or Baltimore television stations or by WBOC–TV in Salisbury, Maryland, the closest station to southern Delaware.

Baltimore offers absolutely no coverage of Delaware. Philadelphia offers limited coverage of upstate news. The Salisbury station is effectively the only source of television news to residents of southern Delaware. Since WBOC tries to cover Maryland news as a first priority, my constituents suffer the lack of fresh factual news of their state and local area. WBOC has recently opened a news office in my state capital. Conditions have improved, but remain unacceptable.

Viewers of portions of southern Delaware do not have the opportunity to see what news is being carried by Philadelphia stations because of FCC signal carriage rules which exclude Philadelphia coverage unless it was carried prior to 1972. FCC rules and decisions have effectively discriminated against Delaware viewers in many respects. When several Baltimore stations are carried on cable television while no Philadelphia stations are carried, only Baltimore sports, Baltimore oriented news, Baltimore interests are viewed. The same would hold true if only Philadelphia stations were aired along with WBOC in Salisbury though perhaps not to the same degree since WBOC–TV is a Baltimore owned and affiliated station.

The most I would hope for is a commercial television station located in Delaware. The least I could conscientiously accept is a break-up of the hold on the many Delaware viewers who receive only the Baltimore perspective; that is, allowing a Philadelphia station to be carried by cable for the areas that do not now have the benefit even if it means trading off one of the three Baltimore major network carriers for a Philadelphia carrier of the same network.

Population centers have shifted since the FCC set standards in 1953. The population of southeastern Delafare is greatly expanding; the needs are changing. One great need is adequate coverage of news and local events to keep the public informed.

I am therefore asking you to re-evaluate the rules which restrict the number and type of stations carried on cable as they apply to southern Delaware. I also am requesting information which would show what steps could be taken to allow a commercial television station in Delaware.

The above requested information will be greatly appreciated. Please reply to my staff assistant, Jim Tull, at 6021 Federal Building, 844 King Street, Wilmington, Delaware 19801.

Sincerely,

JOSEPH R. BIDEN, Jr.,
United States Senator.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., February 24, 1978.

HON. JOSEPH R. BIDEN, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIDEN: This is written in response to your recent letter concerning broadcast television coverage of Delaware news and the current signal carriage rules affecting the operation of Delaware cable television systems. James R. Hobson, Chief of the Commission's Cable Television Bureau, to whom you sent a copy of your letter, has contributed to this response, insofar as it addresses cable television matters. Please excuse our delay in providing this response. A copy is being sent to your assistant, Jim Tull.

Turning first to the broadcast news coverage issue, you should be aware that licensees of television stations are obliged to provide programming, which may include news stories, addressing the needs and interests of those residing within their service areas. Several stations, licensed to Maryland and Pennsylvania cities, are providing broadcast service to parts of Delaware and are required to program for the Delaware residents therein. Any allegation of these stations' failure to offer such programming will be given consideration during the license renewal process.

You are correct in your statement that no operating commercial television station currently is licensed to a Delaware city. However, the Commission's table of television assignments shows an "unreserved" channel allocation (which can be used for commercial broadcast purposes) for Wilmington, Delaware. Thus, that channel (Channel 61) is available for any applicant wishing to operate a Delaware commercial station. It may be that additional channel assignments could be made to Delaware, including the southern part of the state, if technical interference criteria do not otherwise preclude such assignment revisions. Basic information on how to apply for a broadcast license is enclosed.

In another portion of your letter you ask that the Commission consider a revision of the cable television signal carriage rules which prohibit cable systems in southern

Delaware from carrying Philadelphia television stations. Like many of its rules of nationwide applicability, the Commission's cable television rules are based on certain assumptions. Two key assumptions are relevant to your inquiry. First, the rules assume that, in smaller television markets such as southern Delaware, once cable subscribers are offered a minimum complement of three full network stations and one independent station, the benefits of any importation of distant signals are outweighed by the presumed threat to the local stations' ability to provide local programming. Second, the rules assume that a station is "local" and entitled to cable carriage if it is either located nearby or its signal is "significantly viewed" in the area. ("Significantly viewed" is a term applied to a station's off-the-air viewing which, according to audience measurement surveys, has met certain minimum percentage standards of audience share and weekly viewing.) In Sussex County, Delaware, the Philadelphia television stations apparently are not available off-the-air, or at least are not listed as significantly viewed. On the other hand, the Baltimore network affiliates, the Salisbury commercial station (WBOC–TV) and a Washington, D.C. independent station appear to receive significant viewership in the county. Thus the Commission Rules treat them as "local" stations.

Your request would mean permitting carriage of one or more Philadelphia signals in addition to or in lieu of certain "local" signals. Addition of a Philadelphia signal raises concerns over economic impact, primarily on the Salisbury station, the market of which includes most of Sussex County. Bringing in a Philadelphia signal to replace a Baltimore station presents two additional concerns. First, it means that the Baltimore station is cut off from viewers within its coverage area. Second, it means that subscribers will not have access to a signal on cable that they can view off-the-air without cable. This creates dissatisfaction for both the subscribers and the cable system operator.

The Commission has a special relief procedure through which its rules can be waived if it can be shown that the assumptions on which they are based are unsupported in a particular case. There is a heavy burden of proof placed upon such waiver petitioners. However, if it can be shown, for example, that the Salisbury station and its program service would not be harmed or that the Philadelphia stations should be considered "local" stations, a waiver might be possible. Cable carriage, in Sussex County, of Philadelphia stations' programs of specific Delaware interest might also be considered in a special relief proceeding.

I hope the foregoing has been responsive to your letter. Please feel free to contact me or the Chief of the Cable Television Bureau if any further questions arise.

Sincerely,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[From the Washington Post, Mar. 22, 1978]

DELAWARE ASKS END TO CABLE TV RULES

(By Larry Kramer)

Some people in Delaware cannot understand who is benefiting from federal regulation of cable television operations there.

So, they have asked the Federal Communications Commission to forget about Delaware, and stop regulating cable TV.

Since Delaware is the only state in the union without its own commercial television, it is sorely lacking in television news and public affairs programing for residents of the state.

But present federal regulation prevents many of the cable operations in the southern part of the state from carrying some Philadephia stations that cover Delaware news public affairs programs.

Currently Sussex residents can receive cable transmission from Baltimore (network affiliates), Washington (one independent) and Salisbury, Md., television stations..

FCC signal carriage rules exclude Philadelphia stations from the area because they were not carried there before 1972, when the law prohibiting cable transmissions from that distance were created.

But, as Sen. Joseph Biden, Jr. (D–Del.) said in a letter to the FCC, "Baltimore offers absolutely no coverage of Delaware."

Since Delaware's state capital, Wilmington, is north, within the Philadelphia broadcast area, Philadelphia stations do carry news of statewide interest to Delaware.

So, Biden asked, "The least I could conscientiously accept is a break-up of the hold on the many Delaware viewers who receive only the Baltimore perspective; that is, allowing a Philadelphia station to be carried by cable for the areas that do not now have the benefit—even if it means trading off one of the three Baltimore major network carriers."

But the Sussex committee went further. This week it asked for suspension of all regulations "respecting distant signal carriage for all present and future cable television systems in Sussex County, Delaware and the state of Delaaware."

The case bears some similarity to a request from the state of New Jersey's cable office. New Jersey, overwhelmed by New York and Philadelphia network affiliates, has also petitioned the FCC for suspension of regulations concerning cable operations.

In that still undecided case, a Justice Department comment supported New Jersey. One Justice source said yesterday that the department is likely to support the people of Sussex as well.

"The question is, just what people are being protected by the FCC?" the Justice Department official asked. The state legislature, the Sussex County Council, 4,049 residents who signed the petition submitted to the FCC, "and just about everyone else in the state is asking for this relief," says the official. "So why not? I can't find anybody in the state who won't benefit."

In a letter responding to Biden, FCC Broadcast Bureau Chief Wallace Johnson said that one reason not to let the Philadelphia stations be carried on cable in southern Delaware is that the move could hurt one or more Baltimore stations, which are received on the air by some Sussex residents.

Johnson defines "local" stations as those whose signals are seen by a significant number of area viewers. He doesn't address the fact that Baltimore stations don't carry Delaware news, except to say that "any allegation of these stations' failure to offer such programing will be given consideration during the license renewal process." ●

THE NEUTRON BOMB

Mr. HATCH. Mr. President, last week when President Carter announced that he would cancel the production of the neutron bomb, I was as surprised as everyone else. I immediately sent a telegram to the President urging him to reconsider his decision. With some relief I heard that he had compromised and just delayed the production. Unfortunately this tactic seems to be used all too much in the Carter administration. In the past he has "delayed" the production of the MX missile, using a target date of 3 years, but that is shrouded in ambiguous rhetoric, and no one is sure when, if ever, the MX will go into production.

I compare this decision to the reported protocol of the SALT II Treaty being negotiated in Geneva. While the administration has defended the terms of the protocol, which call for a ban on the testing and deployment of certain weapons, including the MX, on the grounds that the protocol will expire in 3 years, sources of my own have informed me that it is the intention of the influential people within the arms control community of the administration to make the terms of the protocol permanent in the future. Now that the United States has shown a desire to prevent the neutron bomb from becoming part of the United States and NATO arsenal, the leaders in the Kremlin know that the massive propaganda campaign that they initiated has had some effect upon President Carter.

In this mornings Washington Post this subject was discussed by Evans and Novak. They have indicated that it was this propaganda that played a major factor in his decision to cancel and that the criticism of that decision by the major newspaper of the Nation were the dominating influence in forcing him to reconsider and announce that he would only delay the production. The most disturbing aspect of this whole affair is that the President neglected the advice of those who are best in a position to advise him on security and defense matters. Secretary of Defense, Harold Brown, appeared on the CBS show "Face the Nation" yesterday, and in a statement very well couched in cautiousness, left the distinct impression that he favored the production of the neutron bomb at this time.

Mr. President, I am concerned that it is this type of indecision and lack of firmness that has placed the United States in the position that we now find ourselves in world politics and influence. The nations of Western Europe were not kept advised of the President's intentions, probably because the President himself did not know his true intentions. The nations of NATO know that the neutron bomb is essential to the defense of Western Europe. They are in support of the production of the weapon at this time. The Warsaw Pact nations have a tremendous advantage in the number of tanks deployed along the borders of Central Europe. It is a known fact that if and when these tanks are used in an attack, it will be in a blitzkrieg fashion. This is the basic manner in the use of large armor forces. With the NATO ability to stop such an advance almost nonexistent, the neutron bomb would have provided the West with an alternative to defend against this type of invasion by the Warsaw Pact. What they, the leaders of NATO, must think now is anybody's guess. If the speculation that this was a decision based primarily on political consideration, influenced by political advisers, hold to be true, then the President needs to reevaluate the decisionmaking process within the White House.

Mr. President, I ask that the article from today's Washington Post by Evans and Novak be printed in the RECORD.

The article follows:

BEHIND THE NEUTRON DECISION

(By Rowland Evans and Robert Novak)

President Carter's decision to put the neutron "bomb" in cold storage has created a dangerous leadership crisis not only in the Western alliance he is supposed to lead but at the bewildered highest levels of his own administration as well.

"As of March 23, every top official in this administration, and many just under the top, favored full speed ahead on the neutron," one middle-level official appointed by the president told us. Yet, on that day, Carter decided to cancel the enhanced radiation warhead designed to spare both civilians and structures while immobilizing enemy tanks. There was no significant new consultation with senior advisers.

Why did he take that step, by which, whatever his intention, he seems to have succumbed to Soviet pressure and abandoned his March 17 Wake Forest pledge to demand tit-for-tat concessions from Moscow? Nobody is sure. Explanations range from failure of the neutron warhead to meet the president's technical-engineering standards to his emotional quest for a nuclear-free world.

Some administration officials feel political pressure will force Carter to order production. But even so, an attempt to trace what happened finds disconcerting answers: Although the decision-making process is chaotic, blame attaches directly to the president, not to his aides.

The only high official who had publicly expressed concern over the neutron warhead was U.N. Ambassador Andrew Young, whose jurisdictional connection is dim. Everybody else of importance argued forcefully for the warhead, even if only as a bargaining chip. That included Defense Secretary Harold Brown, Secretary of State Cyrus Vance and National Security Adviser Zbigniew Brzezinski.

Young's public opposition was mild. But privately, just before he and Carter sojourned to Latin America and Africa, Young told the president: This is a terrible, terrible weapon. How can we go to the special U.N. session on disarmament with this on our hands?

But Young is not perceived by close Carter-watchers as the only influence. Hamilton Jordan, Carter's political aide who is now privy to every presidential decision in foreign-military policy, is privately regarded as "the missing link" in the chain of advice that routed the Vance-Brown-Brzezinski regulars. "It's heart-breaking," one official who blames Jordan told us. "The whole government was going the other way."

In the background was the Soviet propaganda campaign. European heads of state—and particularly left and center-left parliamentarians—were warned that a go-ahead would have ominous results on Soviet conduct in Western Europe.

Soviet President Leonid Brezhnev sent personal letters to President Valery Giscard d'Estaing of France and other NATO heads of state that were quickly forwarded to Carter. The presumption is that those dire warnings had an effect on the president.

Moscow's propaganda campaign peaked when the Kremlin-controlled World Peace Council held an anti-neutron "conference" in Washington Jan. 25. Several congressmen who fought appropriations for the neutron last September were invited to the first Washington rally of that Helsinki-based council (though we find no record of any having attended). The Soviet propaganda campaign is under direct control of Politbur member Boris Ponomarev, who visited Washington this year.

The effect of that campaign was described last week by Sen. Sam Nunn (D-Ga.) as Moscow's "most successful" propagandizing in postwar history. At least it probably escalated Young's concern over how a neutron go-ahead would affect President Carter's scheduling appearance at the United Nations next month.

Some Carter insiders feel that the president, as in the coal strike, failed to focus on the neutron issue until far too late, giving the impression he was for production but not entirely committing himself. An almost exact parallel can be found in the astonished reaction within the administration last summer when, contrary to expectations, he canceled the B1 bomber.

According to one highly credible theory, Carter did not truly come to grips with the neutron until just before his Latin American trip. He made the decision in the near isolation of his inner White House staff, flabbergasting his foreign- and military-policy markers and undermining his European allies.

The last effort to switch Carter's position came on the long Air Force One ride back to Washington from Liberia. Vance and Brzezinski huddled with the president, pressing him to change his mind.

But what finally persuaded him to announce his decision last Friday to "defer" production—instead of cancel it outright—was not those advisers but the firestorm of criticism in The New York Times, The Washington Post and other influential papers.

That leaves the president facing disorder, disillusionment and incredulity among the men he named to guide his national security apparatus. That witches' brew of discontent could prove even more disabling to him than the wreckage of the neutron policy now strewn across Western Europe.●

PRESIDENT CEAUSESCU OF ROMANIA

● Mr. KENNEDY. Mr. President, later this week President Nicolae Ceausescu of Romania will pay a State visit to the United States. I want to join many other Americans in offering words of welcome. We all look forward to his visit. He comes to Washington at an important stage for both of our countries—as we continue to expand the economic and humanitarian and political ties between us, as we seek to improve East-West relations in all aspects, and as we move to reduce international tensions in key areas of the world.

President Ceausescu has consistently demonstrated great leadership and statesmanship, qualities which immediately impressed me when I first met with him in 1974. I am sure that these qualities will be evident in Washington this week, as well as in the months ahead when we can look forward to the further development of our important relationship.●

JOSEPH F. DEEB

● Mr. GRIFFIN. Mr. President, I call the attention of the Senate to the death of a distinguished lawyer, Joseph F. Deeb of the Michigan and District of Columbia Bars.

Joe Deeb graduated from the University of Notre Dame. At age 31 he was one of the youngest men appointed as U.S. attorney. He was named in 1940 to serve in the western district of Michigan.

Mrs. Griffin and I extend our deep sympathy to his family.●

THE 80th ANNIVERSARY OF THE FRATERNAL ORDER OF EAGLES

Mr. JACKSON. Mr. President, in one of his last major public appearances, the late Senator HUBERT H. HUMPHREY addressed a Fraternal Order of Eagles convention in his home State of Minnesota. As a member of the Eagles throughout his adult life, Mr. HUMPHREY knew well the work, principles and dedication of this fine organization he fondly referred to as the "fraternity of the common man."

As this year marks the 80th anniversary of the Fraternal Order of Eagles, I would like to take this opportunity to draw the attention of my colleagues to that most eloquent speech by Mr. HUMPHREY.

I ask that the text be printed in full in the RECORD.

The material follows:

THE HONORABLE HUBERT H. HUMPHREY

(United States Senator, State of Minnesota): Ladies and Gentlemen, it seems to me that I was once Mayor of this great City, but I am very honored to know that you are the Grand Worthy President-Elect. I tried for that a long time and never made it. (Laughter.)

I am very proud of our own President from Minnesota, Clyde Schmieg, of Aerie 33 over at St. Paul. We're very proud of him. (Applause.)

I was told that this is a night for entertainment, and I don't intend to burden your time with too much serious talk.

I understand that Foster Brooks is here, and I want to be around to see that fellow I'm telling you. He really is, well I'd say that he's the best answer to alcoholism that I've ever seen. He really is. (Laughter.) He's a marvelous character actor and a fine gentleman that I have had a chance to meet on other occasions.

This is our seventy-ninth—and I say "ours" because I am very proud—meeting, as early in my life, when I was a very young man in this City I was presented with the Gold Card of Lifetime Membership in the Fraternal Order of Eagles, and I'm very proud of that membership. (Applause and Cheers.)

And I'm very proud that my colleague of those early days and good personal friend, now Vice President of the United States, is a member of our fraternal Order as well. (Applause and Cheers.)

And we had six Presidents I know that have been—at least six—members of the Fraternal Order of Eagles, and two of them I loved above all—Franklin Roosevelt, Harry Truman, and my Lord, John Kennedy—three of them. (Laughter, Applause and Cheers.)

And you had a Chief Justice of the Supreme Court. The former and late Justice Earl Warren joined this Fraternal Order of Eagles. And you have had many great people of this country.

I recognized that from an article about my friend, John Dent—a marvelous article and portrait about the Fraternal Order of Eagles, written by Maury Splain; and that article I think tells more about this Fraternity than anything I have ever heard or read.

And somewhere in that, Maury, is this line, and I just picked it out—"It is the Fraternity of the common man".

This is the Fraternity of Americans.

It's the Fraternity of people of high places, and people who are struggling to make a go of it. As somebody put it, it is the Fraternity of the famous and the obscure.

It's the Fraternity of the high ranking and the humble.

It's the Fraternity of the great and also of the small.

But above all, it is the Fraternity of our country.

No fraternal organization has been more dedicated to the principles of this country. No fraternal organization has demonstrated any more patriotism.

No fraternal organization is known more for its charity; for its concern of the living conditions of our citizens than the Fraternity to which you and I belong, the Fraternal Order of Eagles. And I'm proud to be a member and to be here. (Applause and Cheers)

When I go back—and it's been publicized at some time—I think it was the Fraternal Order of Eagles long ago that fought for old age pensions, first out there in the State of Montana.

When I think of the time when the Social Security Act was signed by Mr. Roosevelt, a member of this great Fraternity, he turned around and presented the pen with which he signed that law to the Grand Worthy President of our organization.

Social Security—pensions; health research; care of the elderly, all sorts of things—youth programs for our youngsters that need so much help these days—this organization has been in the forefront of all of them.

When I came in the door out there, just as I walked in I saw the Max Baer Heart Fund. Well, I used to be one of Max Baer's fans when he was heavyweight champion of the world.

And then I know of your Jimmy Durante Youth Fund, and Jimmy Durante is one of my very close friends. He's not well these days, but I know over the years he's been our house guest right in Minnesota.

So when you think of these fine and distinguished people that you did honor to, and who were able to make generous contributions, one can't help but be proud.

In 1950, as you know better than I, this organization—before any other even dreamed of it—raised a million dollars for the Damon Runyon Cancer Fund.

And this organization on and to this very day is still raising money for the Cancer Fund, for the Art Ehrmann Cancer Fund.

Ladies and gentlemen, as one who has gone through the ravages and suffering of this disease and has to put up the fight every day, wondering when something will come and will break through that will give relief from pain, suffering, and fear, all I can say to each of you out there is thank you and God bless you. You've done so much for so many, and you show it.

When I walked into this hotel tonight, out there as I came into the street out in front of the Radisson Hotel and have for every conceivable occasion, I sensed a spirit of happiness, and a spirit of vitality; and that's what it is all about.

This is a cross-section of America, and let me say to those who try to run us down, and for those who would have us believe—and have so many of our young people take their beliefs—that we don't know what we're doing; that we walk our own way; that we're nothing but materialists, and we really don't care any more, let me say they are dead wrong.

This country doesn't need bicentennials to remind us of what we stand for.

I'll tell you what we stand for—a chance for every man, woman, and child.

We stand for a better life. We know that it can't be perfect in our time, but we seek to ease the pain and the suffering; to help the widow and the orphan; to see that those who are in the twilight of their lives can have some comfort and some security.

We seek to break through in our society so that we can cure disease; can wrest and rescue our young people from the troubles that seem to beset so many of them. That's what it's all about.

I had a speech prepared, and I know it was a wingdinger, I'm here to tell you. (Laughter) My good friend Crist Seraphim, from Milwaukee, is waiting for me to pull that speech out. But, Crist, I'm not going to do it.

I'll tell you why I'm not going to do it.

You know what you need to know already. You know what this organization is all about. You know that you had led the way long before government ever showed concern about the elderly; long before government got into cancer research you were there. You have pointed the way.

You've helped the veterans.
You've helped the sick.
You've helped the needy.
You've helped the old.
You've helped the young.
You've helped the children.
Why?

Because we are just all people, all of us. We come from all walks of life. This is not a "blue blood" organization. We are red-blooded Americans—that's what we are! (Applause).

I welcome this. I love this country. I've been in public life a long time, and in public life I've made my fair share of mistakes, just as we do in our private life.

But let me assure you of one thing—in all the years I've been in public life I have watched this country go through wars and depression—the recessions—the incredibly bad times, but each time we come out of it a little better—a little better.

The headlines would have you believe that today was the only day that there was trouble in Washington; today was the only day that there was trouble in the countryside.

It's not true. America was born in trouble. George Washington, who led us in our fight for independence, struggled to get an army. As I used to say when I was teaching, out of all the people in the Colonies less than a third were for independence; one-third was for the King; and the other third waited to see how it came out. (Laughter)

My friends, great decisions are seldom made by majorities. Great decisions are made by people of conscience, who may band together, like we have in this organization, to do things that need to be done.

So thank you for coming to Minneapolis. I love this City.

Thank you for coming to Minnesota. We tried to put on some fairly good weather for you. We hope that it will continue. We hope and I think that you will enjoy this beautiful community, the Twin Cities and the metropolitan area.

I know you have very busy days, but get around; see our parks, our lakes; see where our people live. See them at work. See them at play. Drive around our countryside. See that corn that we raise out there.

Boy, if we could just get a little better price—that's all! (Laughter and Applause)

Just see this wonderful, wonderful country.

And ladies and gentlemen, wherever you go in this land there are places of beauty, and there are wonderful people. I've traveled in every state in America many times, and I have traveled in sixty-some countries. I've been in every country, without exception, in Europe. I have been in the countries of eastern Africa, and Latin-America. And I'll tell you—every time I go, no matter when I go—how great it is, when I get home I am ready to sing, "God Bless America". I don't have a good enough voice but I sure want to sing it every time I come home.

Now tonight, dear friends, I'm going to travel some 38 miles west of here. I'm going out and see my favorite girl friend. Boy, is she nice! I am going to see her. I have stayed with her for 45 years, for 45 years! That is by this September. About three and a half of those I was trying to trap her. Trying to convince her at that time that I was going to make it, even though I was stone broke. And she was pretty with little baby blue eyes.

And I was trying to tell her, "Honey, don't look at me now. Just think what you can make out of me."

And I'm happy to tell you she had quite a job. Once in a while she felt she came through with some improvement. (Laughter)

But tonight I shall be out with my wife, with my grandchildren, and with some of my constituents. We happily have 10 grandchildren. We have three sons and a daughter. We have a lovely family.

And no matter what pain or suffering—and no matter what disappointments we have, when you are blessed with family and grandchildren, and blessed with the chance to live in America, all I can say is you're a lucky person.

Thank you very, very much. [Applause.]

Grand Worthy President-Elect Tony Angelo. We know you are here because you know what the Eagles are all about and what makes up this great Order of ours.

But I just want to take one moment, Senator Humphrey, to tell you that the people that are seated here this evening, and the people that they represent, during the course of the years spend many hours, much of their time and their energy to raise money, during the course of the year, so that they can bring it to the Convention.

And there is approximately one million dollars during the course of the year that these people raise, and from this we are able to present to you, on behalf of the Eagles, the Auxiliary and the Aerie alike, to the Minnesota Medical Foundation Cancer Research Fund, University Hospital, University of Minnesota, Minneapolis, Minnesota, a check for $25,000.00

PRESENTATION—APPLAUSE

Senator HUMPHREY: We are making great strides in cancer research, truly. I was at the National Cancer Institute just the other night getting some chemotherapy, which doesn't make you feel very good.

And one of the topnotchers said to me, "Well Senator, we hope that by September and not later than October, we're going to have an entirely new drug that you can take that will be literally like a miracle." He said the reports are fantastic.

And ladies and gentlemen, today in Hodgkin's Disease, and breast cancer, and so many, many different types of cancer, we have made amazing progress—amazing progress.

And yet you and I know that this disease is like an epidemic in our society today. So what are you doing here is to help one of the great research centers. There are 19 or 20 great research centers in the United States. One is at the University of Minnesota.

And when I was asked what I would like to have this contribution go to, I know what they are doing out here in children's leukemia. I know the work they are doing, and I know that this $25,000.00 is going to help a doctor and a research specialist out there do the things that you would want done.

And only God knows who next will be the victim.

Thank you much. [Applause.]●

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Massachusetts (Mr. KENNEDY) as a Congressional Adviser to the SALT delegation in Geneva during 1978.

SALT AND THE SOVIET-CUBAN PRESENCE IN AFRICA

Mr. HELMS. Mr. President, this morning the Subcommittee on Intelligence of the Committee on Armed Services heard disturbing testimony from the Deputy Director of the Central Intelligence Agency concerning Soviet and Cuban aggression in Africa.

"The degree of Soviet and Cuban military activity in Subsaharan Africa is unprecedented," the Deputy Director of CIA, Mr. Frank Carlucci, told the subcommittee in a prepared statement that was made available to the news media.

"We are witnessing the most determined campaign to expand foreign influence in this troubled region since it was carved up by the European powers in the late 19th century," Mr. Carlucci continues.

The degree of Soviet activity is massive, Mr. President. "Soviet military equipment has been flowing into Ethiopia and Angola faster than the local forces can absorb it," Mr. Carlucci points out.

Mr. President, there are now more than 400 Soviet tanks in Ethiopia alone. In addition, the Soviet Union has supplied more than 50 MIG fighters to the Ethiopians, along with large quantities of armored cars, personnel carriers, and artillery.

Who is supplied with this materiel? Only the Ethiopians? No. Not only the Ethiopians, but more than 16,000 Cuban troops, and a large number of Soviet and Cuban general officers, who plan and coordinate combat operations for the Cuban and Ethiopian troops.

News reports have painted a grim picture of what all of this costs in human suffering. In dollars, CIA estimates that the Soviet Union has poured close to $1 billion into Ethiopia alone.

Soviet presence in Angola is equally large. "Tons of Soviet military hardware litter the docks at Luanda" Mr. Carlucci says, "and Soviet or Cuban advisers are found at every level of government."

The Cuban presence in Angola is greater than the Cuban presence in Ethiopia, Mr. President. Additionally, Cuban and Soviet "advisers" can be found at every level of the Government of Angola.

In the remainder of Subsaharan Africa, Soviet advisers and Soviet equipment can be found as part of a number of so-called liberation movements and revolutionary regimes.

What does all of this mean for peace in Africa? I am afraid that it means that peace is remote in Africa as long as the Soviets and their surrogate soldiers, the Cubans, are allowed to roam the African continent with impunity.

What can the United States do to help bring an end to this Soviet and Cuban plunder of Africa? Do we need to send in arms ourselves? Must we, too, commit troops to the African continent? Must Africa become another Vietnam for the United States?

There are options available for the United States which do not involve the commitment of U.S. money, arms, or troops. One option centers around the ongoing Strategic Arms Limitation Talks (SALT) in which the United States and the Soviet Union are engaged.

If the Soviets want a SALT II agreement as much as the administration would have us believe they do, then why not tell the Soviets, "Cease aggression in Africa, or no SALT."

For Americans already dubious about the SALT II proposal as they now perceive it, the administration could enhance its position with the public and the Senate by tying success in a SALT agreement to Soviet and Cuban withdrawal from Africa.

In doing so, the administration would be putting out two potential fires with one act: (1) limiting the spread of strategic nuclear arms; and (2) ending Soviet and Cuban aggression in Africa, thereby helping to stabilize the area and bring peace to its people.

What more noble deed could the administration do, given President Carter's longstanding desire to limit and end the arms race and bring peace and stability to Africa?

Mr. President, Mr. Carlucci has provided the Senate with important information about the scope and degree of Cuban and Soviet involvement in Africa. This information cannot be ignored. By bringing to light the huge scale of Soviet involvement in Africa, he has provided the public with a warning and the President with an opportunity.

The American people will not be encouraged by what Mr. Carlucci has said today. Nor will this information enhance the President's chances of getting a SALT II agreement through the Senate. Only by tying success in obtaining a SALT II agreement to Soviet and Cuban cessation of hostilities in Africa can the President begin to hope to secure passage of the type of SALT agreement that he now seems to be working toward, in this Senator's opinion. Perhaps even this linkage will not be enough, given what we known about the nature of the proposed SALT II agreement at this point.

Mr. President, so that my colleagues may benefit from Mr. Carlucci's testimony, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

MR. CHAIRMAN: I welcome the opportunity to appear before your Subcommittee this morning. Admiral Turner asked that I convey to you his regrets that he is unable to be present but he had a previously scheduled hearing.

CIA has had a long and, I think, mutually profitable relationship with your parent Committee. Both the Director and I look forward to the same relationship with the Subcommittee on Intelligence. We will be happy to appear before you to provide intelligence assessments of world developments and we shall certainly do everything we can to assist you in exercising your oversight role.

This morning, we are going to discuss with you the foreign military presence in Africa. I am sure you understand that much of this briefing is, and must remain, classified. But, I think I might make a few general observations before the session is closed.

As you know, Mr. Chairman, I have had some experience in African affairs. Speaking from this background, let me state that the degree of Soviet and Cuban military activity in Subsaharan Africa is unprecedented. We are witnessing the most determined campaign to expand foreign influence in this troubled region since it was carved up by the European powers in the late 19th century.

Soviet military equipment has been flowing into Ethiopia and Angola faster than the local forces can absorb it. Tank deliveries to Ethiopia exceed 400; more than 50 MIG fighters have gone to Addis Ababa as have huge quantities of armored cars, personnel carriers, and artillery. Soviet and Cuban general officers plan and coordinate combat operations involving more than 16,000 Cuban troops. The Soviet military aid commitment to Ethiopia now ranges close to one billion US dollars.

In Angola, tons of Soviet military hardware litter the docks at Luanda and Soviet or Cuban advisors are found at every level of the government. There are more Cuban soldiers in Angola than in Ethiopia; thousands of them engaged in active combat against UNITA in the southern part of the country.

Elsewhere in Subsaharan Africa we also see Soviet equipment delivered to liberation movements and self-styled revolutionary regimes where Cubans, together with Soviets, train the recipients in its use.

It is my view that Moscow and Havana intend to take advantage of every such opportunity to demonstrate that those who accept their political philosophy can also count on receiving their assistance when it is needed.

CONGRESSMAN QUESTIONS ENERGY INDEPENDENCE

Mr. HANSEN. Mr. President, I should like to call attention to a valuable article on our energy situation that appeared in the Washington Post of April 9, 1978.

The article is by Representative DAVE STOCKMAN, a freshman Republican, who is a member of the Energy and Power Subcommittee that deals with many energy issues. Congressman STOCKMAN makes the very important point that we should be trying to supply American energy needs at the lowest possible cost. That is the true consumerist position. Yet the Carter energy plan, as his article brilliantly shows, is totally dedicated to creating higher costs for energy by suppressing domestic production at economical prices while mandating uneconomical conservation and foreign imports.

Mr. President, I ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ILLOGIC OF ENERGY INDEPENDENCE

(By Dave Stockman)

One of the most pernicious forces loose in Washington is the widely shared belief in the need for national energy independence. Beguiled by its deceptive allure, we are fashioning policies that would undermine our economy, further weaken our balance-of-payments position, and foist on the American people an unnecessary expansion of government control and cost.

The Carter administration's National Energy Plan raises the quest for energy self-sufficiency to a new plateau of illogic. It

amounts to little more than a hastily compiled list of costly expedients for reducing the volume of oil imports. As such, it is not an energy policy at all but a throwback to antiquated notions of general autarky.

It is time to state the terrifying truth to Messrs. Schlesinger and Carter: The level of oil imports *per se* doesn't matter. What is important is that the energy needs of the U.S. economy be supplied at the lowest possible cost. In practical terms, this can be achieved by increased production of domestic oil and gas, coal substitution and energy conservation—but only to the extent possible at a cost equal to or less than the prevailing price of energy in the world economy—$13 per barrel equivalent.

To reach this goal of supplying our energy needs at the least cost, we do not need a Project Independence, a National Energy Plan, Department of Energy regulatory programs, mandatory efficiency standards, or subsidized development of "energy alternatives." The market is fully capable of accomplishing this at the world price without the guidance of Congress and the executive branch.

Even at the present artificially low domestic energy prices imposed by oil and gas regulatory controls, the boom in such products as insulation, engineered fireplaces and industrial heat recovery systems demonstrates that both the household and business sectors of the economy will respond to pricing signals.

Indeed, the only major unfinished business in energy policy is the creation of a domestic energy pricing structure tied to the world price of oil. Rapid decontrol of oil and gas prices and the adjustment of utility rate schedules to reflect true costs of providing service to all customers would accomplish this with a minimum of regulatory cost. With a realistic price structure in place, the relentless cost-minimizing pressures of the marketplace would drive domestic energy production to its maximum and reduce consumption to its minimum at cost levels equivalent to the world price.

The result would be a significant reduction in U.S. oil imports. But, unlike the arbitrary displacement imposed by the Carter plan, it would be an efficient and beneficial reduction. The market will forgo $13 imported oil only when coal substitution energy, or conservation energy, or new domestic oil and gas reserves are available at a lower cost. The market will not choose $18 conservation energy, $20 coal conversion or $24 synthetic crude over $13 imported oil. And it shouldn't. The strength of our economy and our international competitive position can be maintained only if we purchase all our energy supplies at the lowest price available—even if that means turning to the world oil market for a significant portion of our needs.

The mandatory coal conversion program is the heart of the administration's oil import reduction program. It is also the best demonstration of the bad economics of the Carter plan.

Coal is cheaper than $13 oil for operating large new utility and industrial boilers, primarily because of the economies of scale involved in coal transport, handling, storage, combustion and pollution control. Not surprisingly, the market already has recognized that coal is the lowest-cost alternative for large new facilities. Virtually all large boilers ordered in the past two years have been coal-fired.

These large new facilities will use coal without bureaucratic prodding. The real brunt of the Carter coal conversion program would fall on existing facilities and small industrial boilers, neither of which could ever be operated on coal for under $13 per barrel equivalent in fully allocated costs. These facilities would be compelled to use up to $20 per barrel coal "conversion energy" in place of $13 oil. The administration's plan would thus impose energy cost structures far in excess of the prevailing world price on large segments of U.S. industrial production.

The administration isn't the only perpetrator of such bad bargains. Sen. Russell Long's plan to make $16 shale oil competitive via a $3-a-barrel tax credit involves the dubious bargain of spending $16 of national income to save $13.

The truth is that spending $16 or more to save $13 is the essence of the National Energy Plan, Project Independence and all their progeny. Every panacea being pushed in the policy arena today—subsidized acceleration of the fast breeder, federally financed synthetic fuels development, subsidized solar power installation, more draconian conservation measures such as thermal efficiency standards for existing housing, mandatory industrial efficiency standards, gas guzzler taxes—involves the forced feeding of energy into the economy at costs far above world oil prices.

Washington does not have a great reputation for economic acumen, but the present wholesale stampede to adopt bad economic bargains requires more of an explanation than simple ignorance. The explanation lies in two unsupportable notions that have been incorporated into the conventional wisdom.

The first is that world markets are running out of energy supplies and can't be relied upon much longer—so we must go it alone. The nonsense of this proposition is revealed best by the fact that in the 100-year history of the petroleum age, the world economy has thus far succeeded in consuming only 8 percent of the conservatively estimated resource base of natural gas and 15 percent of oil resources.

Even with today's still imperfect geologic knowledge, using cautious pre-1973 estimates, there are nearly 3,000 trillion barrels of oil and gas left—enough to last the world another half century even at double current rates of consumption. And that is to say nothing of the far more prodigious endowment of lower grade resources—25,000 trillion barrels of coal and geopressurized gas alone—that could be upgraded to refinery and pipeline quality fuels when price and cost levels warrant it.

The second bit of nonsense is that although the raw supplies may be there, the market mechanism itself has disappeared; OPEC is alleged to have suspended or superseded the economic rules of supply and demand, and what may have once been an international energy marketplace has now become a wholly political arena of intrigue, power plays and peril. Were we to abandon the quest for energy independence, the argument goes, U.S.-stimulated growth of world oil demand would encourage OPEC to substantially increase the price again during the 1980s. Given the oil and gas exploration boom underway all over the globe, this scenario seems wholly unconvincing unless bolstered with fudge-factory numbers like those contained in the now discredited CIA study of last April.

But even if there is some slight probability that OPEC will increase the world oil price significantly during the mid-1980s, the argument is irrelevant. One is tempted to ask Secretary Schlesinger why it is so bad to permit OPEC to inflict an $18 energy price regime on the U.S. economy in 1985, but patriotic and virtuous to empower his department to do the same thing in 1978.

In reality, the only result of the administration's high-cost strategy of oil import abstinence would be to keep the world oil price at $13 for a few years or even a decade longer than otherwise, with most of the benefit accruing to Western Europe and Japan.

There are reasonable prospects, however, that the world price of oil will not rise appreciably in real terms over the next decade or so. It is becoming increasingly clear that there may be an effective ceiling on world energy prices in the range of $18 to $24 a barrel for decades to come. At those price levels, the supply of non-OPEC conventional oil and gas and unconventional fuels of every sort is so enormous, and the opportunities for major gains in consumption efficiencies so great, that this ceiling is unlikely to be breached for generations, if ever.

Whether OPEC pushes the price of oil to this economic ceiling in the 1980s by withholding production or allows its output to expand to meet world demand at roughly present real price levels depends almost entirely on whether it wants to make a little or a lot of money from its vast remaining geologic endowment. If it wants to make a lot of money, it will keep the price below the economic ceiling, maximize production and earn an indefinite annual 3 to 4 percent real rate of return on the proceeds by purchasing international assets or investing in domestic economic expansion.

Of course, if Mr. Yamani and his colleagues didn't learn anything at Harvard Business School after all, they may push the oil price up to the ceiling during the next decade, only to find their world markets progressively shrinking in response to a flood of competitive alternatives.

In short, the oil withholding game only works when the world market permits oil prices to rise so rapidly that oil in the ground appreciates at a faster real rate than the rate of return available from the proceeds of currently produced oil. That was the unique situation during the first half of this decade.

OPEC leaders are not unmindful that even they have not transcended the rules of the economic game. This was demonstrated at the recent Caracas meeting when they decided to let the real price decline slightly this year rather than incur worsening surpluses.

If OPEC can recognize these things, why can't we? It's time to declare the energy crisis over, finish building the strategic oil reserve to cushion against any short-run contingencies, and abandon our masochistic fling with energy autarky.

NEW YORK CITY MUST STOP WIDESPREAD LOAFING BY CITY EMPLOYEES

Mr. PROXMIRE. Mr. President, New York City is, indeed, unique in this country. Among many other achievements where it is in a class by itself is art. It is the art center of this country. It may well be the art center of the world.

An article in yesterday's New York Times stipulated three conditions that the leading art center in a nation should have. These are:

First. Vigorous institutions, that is, museums, galleries, opera houses, theaters, orchestras, concert halls, ballet and dance companies, schools for the arts, publishing houses, and a wide variety of groups representing a broad spectrum of viewpoints and attitudes, conservative as well as innovative.

Second. A large number of aspiring artists beating on the door of these institutions and challenging them to change, improve, experiment, refine, excel.

Third. An exacting public criticism.

New York alone in this country has all these elements and has them in rich abundance. The truly ambitious artist who wants to meet and compete and vie

with the best knows that New York City is where it is at. He makes it in New York, he has made it, indeed.

But, Mr. President, that last element—an exacting public criticism—can be a cross for a city to bear, and to be fair about it New York City newspapers often do a superlative job not only in criticizing the arts, but in reporting criticism of the city and how the city operates.

For example yesterday's New York Times reported that State Comptroller Arthur Levitt's auditors have reported what they call a pervasive attitude among workers and supervisors that "they need not provide a productive day's work."

Mr. President, at a time when the Congress is being called upon by the administration to provide for the first time in this Nation's history a guarantee of an American city's securities that is New York City's securities, when that guarantee would be for up to $2 billion, and when that guarantee would be for as long as 15 years, this body has a responsibility to consider the charges from the office of the New York State comptroller very seriously indeed.

This is a time when the city is trying to find ways of balancing its budget—so it can get off the back of the Federal Government and back in the securities market. This report exposes waste so specifically, so well documented that it suggests a major reason why New York City might be best served by withholding Federal aid.

This report finds that typically city park work crews arrived at work sites 95 minutes late—more than an hour and a half—and took lunch periods of an hour and a quarter which was 45 minutes longer than scheduled. They find this typical of city park work crews.

Observations during 5 months of last year indicated that regular parks department crews were averaging less than 50 percent of their workdays in productive effort.

In other words, less than half their workdays producing anything of value to the city.

One estimate was that the projected cost to the city was $16 million for the year. In addition, the auditors found that 6 percent of the department's seasonal employees could not be located at work sites, and that those who did show up for work spent only 75 percent of their time productively. This means that the department suffered $2.2 million more in lost personnel expenditures.

As for the department's supervisor and its inspector general the Levitt report had this to say:

Half of the supervisors were assigned to desk jobs. Shifting them to the field could reduce the average 1-to-33 ratio of foremen to workers to 1-to-17. As for the inspector general he did not spend any of his time on this type of investigation.

Some inspector general.

Mr. President, the city's park commissioner, Gordon Davis, did respond to this report on Saturday by saying that he was moving to strengthen the inspector general's office and that he was also revising methods for field supervision of employees and increasing the unannounced field inspections at all supervisory levels.

Mr. President, I call the attention of the Senate to this report because it gives a vivid and clear example of why any action by the Federal Government that eases the tough, hard discipline of a prospective bankruptcy can be a mistake. Why? Because unless the city insists on cutting every possible bit of unproductive expenditure, it will never balance its budget. And while it may make a temporary improvement here and there, it will not make those painful expense cuts often enough or deeply enough unless the alternative is the more painful consequence of bankruptcy.

Mr. President, I ask unanimous consent that an article in the Sunday New York Times by Glenn Fowler entitled "Levitt's Aides Find Pattern of Loafing by Park Workers," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEVITT'S AIDES FIND PATTERN OF LOAFING BY PARK WORKERS

(By Glenn Fowler)

A systematic pattern of loafing on the job by employees of the New York City Department of Parks and Recreation cost the city more than $18 million last year, State Comptroller Arthur Levitt charged yesterday.

After covertly observing the movements of forestry and maintenance crews in the city's five boroughs, Mr. Levitt's auditors reported finding a "pervasive attitude" among workers and supervisors alike that" "they need not provide a productive day's work."

The report from Mr. Levitt's office, which is charged by the Legislature with auditing every branch of city and state government, comes as the city is negotiating new contracts with several municipal unions and as it is emphasizing the need for greater productivity.

In one example of the findings of the Comptroller's office, there was the following dossier entry on the activities of a five-man crew that left the department's garage in Clove Lakes Park on Staten Island at 9:27 a.m. on Feb. 4, 1977:

NEW DIRECTOR IS NAMED

In response to the Comptroller's findings, and after an investigation of his own, Gordon J. Davis, the city's Parks Commissioner, said yesterday that he had finance and operations division under a new director, Carlo Ingicco, and was moving to strengthen the inspector general's office.

Mr. Davis, a former member of the City Planning Commission, said he was also revising methods for field supervision of employees and increasing the "unannounced field inspections at all supervisory levels."

"The crew proceeded to a work site to a department store and to a doughnut shop, then back to the garage area to unload the cut tree, then to a bank and a bar, where the men stayed for 37 minutes."

Of the 2 hours 13 minutes the crew was observed, Mr. Levitt, said it was nonproductive for 1 hour 19 minutes

* * * * *

lar accounts, replete with late starting times, long breakfast and coffee breaks, personnel errands, leisurely lunch hours and early quitting times. Moreover, the pattern of unproductive work was concealed by "false entries" and other subterfuges in the department's records, according to the audit.

LESS THAN HALF A DAY'S WORK

For example, a four-member Bronx Park crew, observed for more than an hour on Feb. 2, 1977, was found to have taken its truck to an apartment house, a store and a restaurant. But the trip ticket filed at the garage showed that the truck had gone to the Split Rock Golf Course, a city facility, and to a dump. However, there was no record of the truck having appeared at a dump site on that date, the auditors noted.

Typically, Mr. Levitt said, work crews arrived at work sites 95 minutes late and took lunch periods of an hour and a quarter, which was 45 minutes longer than scheduled. In one instance, the auditors said, "we observed a four-man crew take 75 minutes for a breakfast break at a Bronx diner.

Observations during five months of last year indicated, Mr. Levitt said, that regular Parks Department crews were averaging less than 50 percent of their workdays in productive effort. He said the projected cost to the city was $16 million for the year.

In addition, Mr. Levitt's auditors found that 6 percent of the department's seasonal employees could not be located at work sites, and that those who did show up for work spent only 75 percent of their time productively. This meant that the department suffered $2.2 million more in lost personnel expenditures, Mr. Levitt said.

The Comptroller noted tartly that a 50 percent increase in productivity by the Parks Department's staff would more than make up for personnel cuts imposed during the city's budget crisis.

Mr. Levitt was particularly critical of the department's supervisors and its inspector general. Half of the supervisors were assigned to desk jobs, he said, and shifting them to the field could reduce the average 1-to-33 ratio of foremen to workers to 1 to 17. As for the inspector general, he "did not spend any of his time on this type of investigation," the Comptroller added.

THE EFFECTS OF OUR FAILURE TO RATIFY THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, I would like to take this time to discuss the international implications of our continued failure to ratify the Genocide Treaty.

Since the Second World War, it has become increasingly obvious that bilateral disputes are of multilateral concern. Because countries have become more interdependent, disruption in one area of the world has significant consequences for the rest of the world. A good example of this is the present conflict in the Middle East.

It is equally obvious that the world's problems cannot be resolved by a fragmented effort. This is why 83 nations have ratified the International Convention on the Prevention and Punishment of Genocide. This treaty declares acts of genocide against national, ethnical, racial, or religious groups crimes under international law. Shockingly, the United States has failed to ratify this treaty. The consequences of this failure are significant.

First, this failure contradicts our efforts to work with other nations to create a more peaceful and humane world. The SALT negotiations and our human rights efforts demonstrate a strong concern for human life; our refusal to ratify the Genocide Treaty undermines these efforts.

Furthermore, our failure to ratify this convention reduces the influence we can bring against the actual commission of such acts, as was shown during the Nigerian Civil War. It discourages other nations from ratifying the treaty and pledging their support for human rights. And it impedes the development of international law in this most important area of human conduct.

A great deal of damage has been done by our failure to ratify the Genocide Treaty. A great deal more will be done if we do not act now. I urge the ratification of this important treaty without further delay.

ORDER FOR RECOGNITION OF SENATOR DOMENICI ON WEDNESDAY, APRIL 12, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday after the prayer the distinguished Senator from New Mexico (Mr. DOMENICI) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCOTT ON WEDNESDAY, APRIL 12, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday upon the disposition of the amendment by Mr. STEVENS, Mr. SCOTT be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. There are two bills that have been cleared on the calendar, I believe. I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 656 and 666.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I rise only to advise that the majority leader is correct, of course. These two items are cleared on our calendar and we have no objection to proceeding to their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

END STAGE RENAL DISEASE PROGRAM

The Senate proceeded to consider the bill (H.R. 8423) to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

That (a) title II of the Social Security Act is amended by inserting immediately after section 226 the following new section:

"SPECIAL PROVISIONS RELATING TO COVERAGE UNDER MEDICARE PROGRAM FOR END STAGE RENAL DISEASE

"SEC. 226A. (a) Notwithstanding any provision to the contrary in section 226 of title XVIII, every individual who—

"(1)(A) is fully or currently insured (as such terms are defined in section 214 of this Act) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (B) is entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974; and

"(2) is medically determined to have end stage renal disease; and

"(3) has filed an application for benefits under this section,

shall, in accordance with the succeeding provisions of this section, be entitled to benefits under part A and eligible to enroll under part B of title XVIII, subject to the deductible, premium, and coinsurance provisions of that title.

"(b) Subject to subsection (c), entitlement of an individual to benefits under part A and eligibility to enroll under part B of title XVIII by reasons of this section on the basis of end stage renal disease—

"(1) shall begin with—

"(A) the third month after the month in which a regular course of renal dialysis is initiated, or

"(B) the month in which such individual receives a kidney transplant, or (if earlier) the first month in which such individual is admitted as an inpatient to an institution which is a hospital meeting the requirements of section 1861(e) (and such additional requirements as the Secretary may prescribe under section 1881(b) for such institutions) in preparation for or anticipation of kidney transplanation, but only if such transplantation occurs in that month or in either of the next two months,

whichever first occurs (but no earlier than one year preceding the month of the filing of an application for benefits under this section); and

"(2) shall end, in the case of an individual who receives a kidney transplant, with the thirty-sixth month after the month in which such individual receives such transplant or, in the case of an individual who has not received a kidney transplant, and no longer requires a regular course of dialysis, with the twelfth month after the month in which such course of dialysis is terminated.

"(c) Notwithstanding the provisions of subsection (b)—

"(1) in the case of any individual who participates in a self-dialysis training program prior to the third month after the month in which such individual initiates a regular course of renal dialysis in a renal dialysis facility or provider of services meeting the requirements of section 1881(b), entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such regular course of renal dialysis is initiated;

"(2) in any case in which a kidney transplant fails (whether during or after the thirty-six-month period specified in subsection (b)(2)) and as a result the individual who received such transplant initiates or resumes a regular course of renal dialysis, entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such course is initiated or resumed; and

"(3) in any case in which a regular course of renal dialysis is resumed subsequent to the termination of an earlier course, entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such regular course of renal dialysis is resumed.".

(b) Section 226 of such Act is amended—

(1) by striking out subsections (e), (f), and (g), and

(2) by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

SEC. 2 Part C of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"MEDICARE COVERAGE FOR END STAGE RENAL DISEASE PATIENTS

"SEC. 1881. (a) The benefits provided by parts A and B of this title shall include benefits for individuals who have been determined to have end-stage renal disease as provided in section 226A, and benefits for kidney donors as provided in subsection (d) of this section. Notwithstanding any other provision of this title, the type, duration, and scope of the benefit provided by parts A and B with respect to individuals who have been determined to have end-stage renal disease and who are entitled to such benefits without regard to section 226A shall in no case be less than the type, duration, and scope of the benefits so provided for individuals entitled to such benefits solely by reason of that section.

"(b)(1) Payments under this title with respect to services, in addition to services for which payment would otherwise be made under this title, furnished to individuals who have been determined to have end-stage renal disease shall include (A) payments on behalf of such individuals to providers of services and renal dialysis facilities which meet such requirements as the Secretary shall by regulation prescribe for institutional dialysis services and supplies (including self-dialysis services in a self-care dialysis unit maintained by the provider or facility), transplantation services, self-care home dialysis support services which are furnished by the provider or facility, and routine professional services performed by a physician during a maintenance dialysis episode if payments for his other professional services furnished to an individual who has end stage renal disease are made on the basis specified in paragraph (3)(A) of this subsection, and (B) payments to or on behalf of such individuals for home dialysis supplies and equipment. The requirements prescribed by the Secretary under subparagraph (A) shall include requirements for a minimum utilization rate for covered procedures and for self-dialysis training programs.

"(2)(A) With respect to payments for dialysis services furnished by providers of services and renal dialysis facilities to individuals determined to have end-stage renal disease for which payments may be made under part B of this title, such payments (unless otherwise provided in this section) shall be equal to 80 percent of the amounts determined in accordance with subparagraph (B); and with respect to payments for services for which payments may be made under part A of this title, the amounts of such payments (which amounts shall not exceed, in respect to costs in procuring organs attributable to payments made to an organ procurement agency or histocompatibility laboratory, the costs incurred by that agency or laboratory) shall be determined in accordance with sec-

tion 1861 (v). Payments shall be made to a renal dialysis facility only if it agrees to accept such payments as payment in full for covered services, except for payment by the individual of 20 percent of the estimated amounts for such services calculated on the basis established by the Secretary under subparagraph (B) and the deductible amount imposed by section 1833(b).

"(B) The Secretary shall prescribe in regulations any methods and procedures to (i) determine the costs incurred by providers of services and renal dialysis facilities in furnishing covered services to individuals determined to have end-stage renal diseases, and (ii) determine, on a cost-related basis or other economical and equitable basis (including any basis authorized under section 1861(v)), the amounts of payments to be made for part B services furnished by such providers and facilities to such individuals. Such regulations shall provide for the implementation of appropriate incentives for encouraging more efficient and effective delivery of services (consistent with quality care), and shall include, to the extent determined feasible by the Secretary, a system for classifying comparable providers and facilities, and prospectively set rates or target rates with arrangements for sharing such reductions in costs as may be attributable to more efficient and effective delivery of services.

"(C) Such regulations, in the case of services furnished by proprietary providers and facilities may include, if the Secretary finds it feasible and appropriate, provision for recognition of a reasonable rate of return on equity capital, providing such rate of return does not exceed the rate of return stipulated in section 1861(v)(1)(B).

"(D) For purposes of section 1878, a renal dialysis facility shall be treated as a provider of services.

"(3) With respect to payments for physicians' services furnished to individuals determined to have end-stage renal disease, the Secretary shall pay 80 percent of the amounts calculated for such services—

"(A) on a reasonable charge basis (but may, in such case, make payment on the basis of the prevailing charges of other physicians for comparable services) except that payment may not be made under this subparagraph for routine services furnished during a maintenance dialysis episode, or

"(B) on a comprehensive monthly fee or other basis for an aggregate of services provided over a period of time (as defined in regulations).

"(4) Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payment to such providers and facilities for the cost of home dialysis supplies and equipment and self-care home dialysis support services furnished to patients whose self-care home dialysis is under the direct supervision of such provider or facility, on the basis of a target reimbursement rate (as defined in paragraph (6)).

"(5) An agreement under paragraph (4) shall require that the provider or facility will—

"(A) assume full responsibility for directly obtaining or arranging for the provision of—

"(i) such medically necessary dialysis equipment as is prescribed by the attending physician;

"(ii) dialysis equipment maintenance and repair services;

"(iii) the purchase and delivery of all necessary medical supplies; and

"(iv) where necessary (as determined by the Secretary under regulations), the services of trained home dialysis aides;

"(B) perform all such administrative functions and maintain such information and records as the Secretary may require to verify the transactions and arrangements described in subparagraph (A);

"(C) submit such cost reports, data, and information as the Secretary may require with respect to the costs incurred for equipment, supplies, and services furnished to the facility's home dialysis patient population; and

"(D) provide for full access for the Secretary to all such records, data, and information as he may require to perform his functions under this section.

"(6) The Secretary shall establish, for calendar year, commencing with January 1, 1979, a target reimbursement rate for home dialysis which shall be adjusted for regional variations in the cost of providing home dialysis. In establishing such a rate, the Secretary shall include—

"(A) the Secretary's estimate of the cost of providing medically necessary home dialysis supplies and equipment;

"(B) an allowance, in an amount determined by the Secretary, to cover the cost of providing personnel to aid in home dialysis; and

"(C) an allowance, in an amount determined by the Secretary, to cover administrative costs and to provide an incentive for the efficient delivery of home dialysis;

but in no event shall such target rate exceed 70 percent of the national average payment, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year. Any such target rate so established shall be utilized, without renegotiation of the rate, throughout the calendar year for which it is established. During the last quarter of each calendar year, the Secretary shall establish a home dialysis target reimbursement rate for the next calendar year based on the most recent data available to the Secretary at the time. In establishing any rate under this paragraph, the Secretary may utilize a competitive bid procedure, a pre-negotiated rate procedure, or any other procedure which the Secretary determines is appropriate and feasible in order to carry out this paragraph in an effective and efficient manner.

"(7) For purposes of this title, the term 'home dialysis supplies and equipment' means medically necessary supplies and equipment (including supportive equipment) required by an individual suffering from end-stage renal disease in connection with renal dialysis carried out in his home (as defined in regulations), including obtaining, installing, and maintaining such equipment.

"(8) For purposes of this title, the term 'self-care home dialysis support services', to the extent permitted in regulation, means—

"(A) periodic monitoring of the patient's home adaptation, including visits by qualified provider or facility personnel (as defined in regulations), so long as this is done in accordance with a plan prepared and periodically reviewed by a professional team (as defined in regulations) including the individual's physician;

"(B) installation and maintenance of dialysis equipment;

"(C) testing and appropriate treatment of the water; and

"(D) such additional supportive services as the Secretary finds appropriate and desirable.

"(9) For purposes of this title, the term 'self-care dialysis unit' means a renal dialysis facility or a distinct part of such facility or of a provider of services, which has been approved by the Secretary to make self-dialysis services, as defined by the Secretary in regulations, available to individuals who have been trained for self-dialysis. A self-care dialysis unit must, at a minimum, furnish the services, equipment, and supplies needed for self-care dialysis, have patient-staff ratios which are appropriate to self-dialysis (allowing for such appropriate lesser degree of ongoing medical supervision and assistance of ancillary personnel than is required for full care maintenance dialysis), and meet such other requirements as the Secretary may prescribe with respect to the quality and cost-effectiveness of services.

"(c)(1)(A) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish, in accordance with such criteria as he finds appropriate, renal disease network areas, such network organizations (including a coordinating council, an executive committee of such council, and a medical review board, for each network area) as he finds necessary to accomplish such purpose, and a national end stage renal disease medical information system. The Secretary may by regulations provide for such coordination of network planning and quality assurance activities and such exchange of data and information among agencies with responsibilities for health planning and quality assurance activities under Federal law as is consistent with the economical and efficient administration of this section and with the responsibilities established for network organization under this section.

"(B) At least one patient representative shall serve as a member of each coordinating council and executive committee.

"(C) No person—

"(i) with an ownership or control interest (as defined in section 1124(a)(3)) in a facility or provider which provides services referred to in section 1861(s)(2)(F) or provides kidney transplants, or

"(ii) who has received remuneration from any such facility or provider in excess of such amounts as constitute reasonable compensation for services or goods supplied to such facility or provider, or

"(iii) who is the spouse, parent, son, daughter, brother, or sister of a person described in clause (i) or (ii) (or who bears such relationship to the spouse of such a person),

shall serve as a member of any network organization.

"(2) The network organizations of each network shall be responsible, in addition to such other duties and functions as may be prescribed by the Secretary, for—

"(A) encouraging, consistent with sound medical practice, the use of those treatment settings most compatible with the successful rehabilitation of the patient;

"(B) developing criteria and standards relating to the quality and appropriateness of patient care; and

"(C) evaluating the procedures by which facilities and providers in the network assess the appropriateness of patients for proposed treatment modalities.

"(d) Notwithstanding any provision to the contrary in section 226, any individual who donates a kidney for transplant surgery shall be entitled to benefits under parts A and B of this title with respect to such donation. Reimbursement for the reasonable expenses incurred by such an individual with respect to a kidney donation shall be made (without regard to the deductible, premium, and coinsurance provisions of this title), in such manner as may be prescribed by the Secretary in regulations, for all reasonable preparatory, operation, and postoperation recovery expenses associated with such donation, including but not limited to the expenses for which payment could be made if he were an eligible individual for purposes of parts A and B of this title without regard to this subsection. Payments for post-operation recovery expenses shall be limited to the actual period of recovery.

"(e)(1) Notwithstanding any other provision of this title, the Secretary may, pur-

suant to agreements with approved providers of services and renal dialysis facilities, reimburse such providers and facilities (without regard to the deductible and coinsurance provisions of this title) for the reasonable cost of the purchase, installation, maintenance and reconditioning for subsequent use of artificial kidney and automated dialysis peritoneal machines (including supportive equipment) which are to be used exclusively by entitled individuals dialyzing at home.

"(2) An agreement under this subsection shall require that the provider or facility will—

"(A) make the equipment available for use only by entitled individuals dialyzing at home;

"(B) recondition the equipment, as needed, for reuse by such individuals throughout the useful life of the equipment, including modification of the equipment consistent with advances in research and technology;

"(C) provide for full access for the Secretary to all records and information relating to the purchase, maintenance, and use of the equipment; and

"(D) submit such reports, data, and information as the Secretary may require with respect to the cost, management, and use of the equipment.

"(3) For purposes of this section, the term 'supportive equipment' includes blood pumps, heparin pumps, bubble detectors, other alarm systems, and such other items as the Secretary may determine are medically necessary.

"(f)(1) The Secretary shall initiate and carry out, at selected locations in the United States, pilot projects under which financial assistance in the purchase of new or used durable medical equipment for renal dialysis is provided to individuals suffering from end stage renal disease at the time home dialysis is begun, with provision for a trial period to assure successful adaptation to home dialysis before the actual purchase of such equipment.

"(2) The Secretary shall conduct experiments to evaluate methods for reducing the costs of the end stage renal disease program. Such experiments shall include (without being limited to) reimbursement for nurses and dialysis technicians to assist with home dialysis, and reimbursement to family members assisting with home dialysis.

"(3) The Secretary shall conduct experiments to evaluate methods of dietary control for reducing the costs of the end stage renal disease program, including (without being limited to) the use of protein-controlled products to delay the necessity for, or reduce the frequency of, dialysis in the treatment of end stage renal disease.

"(4) The Secretary shall conduct a comprehensive study of methods for increasing public participation in kidney donation and other organ donation programs.

"(5) The Secretary shall conduct a full and complete study of the remibursement of physicians for services furnished to patients with end stage renal disease under this title, giving particular attention to the range of payments to physicians for such services, the average amounts of such payments, and the number of hours devoted to furnishing such services to patients at home, in renal disease facilities, in hospitals, and elsewhere.

"(6) The Secretary shall conduct a study of the number of patients with end stage renal disease who are not eligible for benefits with respect to such disease under this title (by reason of this section or otherwise), and of the economic impact of such noneligibility of such individuals. Such study shall include consideration of mechanisms whereby governmental and other health plans might be instituted or modified to permit the purchase of actuarially sound coverage for the costs of end stage renal disease.

"(7) The Secretary shall conduct a study of the medical appropriateness and safety of cleaning and reusing dialysis filters by home dialysis patients. In such cases in which the Secretary determines that such home cleaning and reuse of filters is a medically sound procedure, the Secretary shall conduct experiments to evaluate such home cleaning and reuse as a method of reducing the costs of the end stage renal disease program.

"(8) The Secretary shall submit to the Congress no later than October 1, 1979, a full report on the experiments conducted under paragraphs (1), (2), (3), and (7) and the studies under paragraphs (4), (5), (6), and (7). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of such experiments and studies.

"(g) The Secretary shall submit to the Congress on October 1, 1978, and on October 1 of each year thereafter, a report on the end stage renal disease program, including but not limited to—

"(1) the number of patients nationally and by renal disease network, on dialysis (self-dialysis or otherwise) at home and in facilities;

"(2) the number of new patients entering dialysis at home and in facilities during the year;

"(3) the number of facilities providing dialysis and the utilization rates of those facilities;

"(4) the number of kidney transplants, by source of donor organ;

"(5) the number of patients awaiting organs for transplant;

"(6) the number of transplant failures;

"(7) the range of costs of kidney acquisitions, by type of facility and by region;

"(8) the number of facilities providing transplants and the number of transplants performed per facility;

"(9) patient mortality and morbidity rates;

"(10) the average annual cost of hospitalization for ancillary problems in dialysis and transplant patients, and drug costs for transplant patients;

"(11) medicare payment rates for dialysis, transplant procedures, and physician services, along with any changes in such rates during the year and the reasons for those changes;

"(12) the results of cost-saving experiments;

"(13) the results of basic kidney disease research conducted by the Federal Government, private institutions, and foreign governments;

"(14) information on the activities of medical review boards and other network organizations; and

"(15) estimated program costs over the next five years.".

SEC. 3. (a) Section 226(a) of the Social Security Act is amended—

(1) by striking out "specified in subparagraph (B)" and inserting in lieu thereof "specified in paragraph (1)"; and

(2) by striking out "specified in subparagraphs (A) and (B)" and inserting in lieu thereof "specified in paragraphs (1) and (2)".

(b) Paragraphs (1) and (3) of section 226(e) of such Act (as redesignated by subsection (b)(2) of the first section of this Act) are each amended by striking out "subsection b" and inserting in lieu thereof "subsection (b)".

SEC. 4. (a) Section 1811 of such Act is amended—

(1) by striking out "section 226" and inserting in lieu thereof "sections 226 and 226A";

(2) by striking out "and" at the end of clause (1), and inserting in lieu thereof a comma; and

(3) by inserting immediately before the period the following: ", and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease".

(b) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (C), and

(2) by adding the following after "and" in clauso (D):

"(E) with respect to services furnished to individuals who have been determined to have end stage renal disease, the amounts paid shall be determined subject to the provisions of section 1881, and".

(c) Section 1833(a)(2) of such Act is amended by inserting "(unless otherwise specified in section 1881)" after "other services".

(d) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of clause (D),

(2) by inserting "and" at the end of clause (E), and

(3) by adding the following new clause after subclause (E):

"(F) home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies;".

(e) The first sentence of section 1866(a)(2)(A) of such Act is amended by inserting the following before the period: "(but in the case of items and services furnished to individuals with end stage renal disease, an amount equal to 20 percent of the estimated amounts of such items and services calculated on the basis established by the Secretary)".

(f) Section 1814(b)(1) of such Act is amended by inserting "and as further limited by section 1881(b)(2)(B)" after "1861(v)".

SEC. 5. The third sentence of section 1817(b) of the Social Security Act, the third sentence of section 1841(b) of such Act, and section 1876(b)(2)(B) of such Act, are each amended by striking out "Commissioner of Social Security" and inserting in lieu thereof "Administrator of the Health Care Financing Administration".

SEC. 6. The amendments made by the preceding sections of this Act shall become effective with respect to services, supplies, and equipment furnished after the third calendar month which begins after the date of the enactment of this Act, except that those amendments providing for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers shall become effective with respect to a facility's or provider's first accounting period which begins after the last day of the twelfth month following the month of the enactment of this Act, and those amendments providing for reimbursement rates for home dialysis shall become effective on July 1, 1979.

REIMBURSEMENT FOR SERVICES OF PHYSICIANS PROVIDED IN TEACHING HOSPITALS

SEC. 7. Section 15(d) of Public Law 93-233 (as amended by section 7(c) of Public Law 93-368 and the first section of Public Law 94-368) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

TECHNICAL AMENDMENTS TO MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

SEC. 8. (a) The first sentenence of section 1905(c) of the Social Security Act is amended—

(1) by striking "and (3)" and inserting in lieu thereof "(3)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following ", and (4) meets the requirements

of section 1861(j)(14) with respect to protection of patients' personal funds.".

(b) The fourth sentence of section 1905(c) of such Act is amended by striking out "clauses (2) and (3)" and inserting in lieu thereof "clauses (2), (3), and (4)".

(c) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in intermediate care facilities who are individuals receiving medical assistance under a State plan approved under the provisions of title XIX of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for intermediate care facility services as determined under the provisions of such title.

(d)(1) The amendments made by subsections (a) and (b) shall become effective on July 1, 1978.

(2) The Secretary of Health, Education, and Welfare shall issue the regulations required under subsection (c) within 90 days after the date of enactment of this Act but not later than July 1, 1978.

(e) Section 20(c)(2) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142) is amended by striking out "section 1905(g)" and inserting in lieu thereof "section 1903(g)".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-714), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE AND BACKGROUND OF THE BILL

During the past several years a number of studies and public hearings have been conducted in order to assess the operation and effectiveness of the medicare end stage renal disease program. The results of these efforts indicate that the program has been generally successful in meeting the needs of renal disease patients for protection against the catastrophic costs of dialysis and transportation. However, at the same time, it has become clear that the program is plagued by a number of serious problems which threaten to undermine its continuing stability and effectiveness.

The committee is concerned about the high and steadily rising cost of the program and the burden it can place on the medicare trust funds unless steps are taken to put it on a more cost-effective basis. The committee believes that there are several areas of potential cost savings, including the increased use of self-dialysis settings and tranplantation, where medically appropriate, and the use of incentive reimbursement methods to encourage economies in the delivery of services.

The introduction of appropriate incentives to encourage the medically appropriate use of lower cost treatment modalities is compatible with the best interests of renal disease patients. The patient who successfully undergoes transplantation can return to a relatively normal and stable life. The patient who can successfully manage self-dialysis either in his own home or in a self-care dialysis unit of a facility regains a significant measure of control over his own care and escapes from what might otherwise be a permanently dependent relationship. And in both types of cases, program savings over the long run can be substantial.

The committee wishes to stress its intent that patients who are medically, psychologically, and socially inappropriate for home dialysis are not to be forced, through administrative procedure, into home dialysis. Objective professional judgment, along with the needs and wishes of the patient, should be the principal determinants of the locus of treatment.

II. SUMMARY OF THE BILL

The medicare renal disease program amendments are designed to accomplish four objectives: Provide incentives for the use of lower cost, medically appropriate self-dialysis (particularly home dialysis), as an alternative to high-cost institutional dialysis; eliminate current program disincentives to the use of transplantation; provide for the implementation of incentive reimbursement methods to assure more cost-effective delivery of services to patients dialyzing in institutions and at home; and provide for studies of alternative ways to improve the program and for regular reporting to the Congress on the renal disease program. The summary presented below briefly outlines these principal features of the bill and, in addition, an unrelated medicare amendment which deals with payment for physicians' services in teaching hospitals.

INCENTIVES FOR USE OF SELF-DIALYSIS

Several provisions are designed to provide incentives for more extensive use of lower cost, medically appropriate self-care dialysis settings. Although the cost of treatment in self-dialysis settings is usually considerably less for the program than facility dialysis, there has been a steady decline in the percentage of patients on home dialysis. Experience indicates that one of the reasons for this decline is the existence of financial disincentives, resulting from the benefit structure of the medicare program, for patients to undertake self-dialysis. The bill modifies present law to eliminate these disincentives by:

1. Waving the present 3-month waiting period for a beneficiary who enters a self-care training program prior to the end of the third month after the month his regular course of dialysis begins;

2. Providing coverage for disposable supplies (such as syringes, needles, and sterile drapes) required for home dialysis;

3. Proving coverage for periodic supportive services, including emergency visits and servicing of dialysis equipment, furnished by facilities to individuals dialyzing at home; and

4. Authorizing full reimbursement to facilities for dialysis equipment purchased by facilities for the exclusive use of patients dialyzing at home.

The bill also provides coverage for services of a self-care dialysis unit maintained by a rental dialysis facility.

ELIMINATE DISINCENTIVES TO TRANSPLANTATION

Several provisions are designed to eliminate disincentives to transplantation which expose transplant candidates to significant financial risk. Thus, the bill provides for:

1. Coverage for a transplant patient beginning with the month he is hospitalized, without regard to the waiting period of present law, if transplant surgery takes place within that month or the following 2 months;

2. Extension of the period of post-transplantation medicare coverage from 12 months to 36 months;

3. Immediate resumption of coverage, without a waiting period, whenever a transplant fails; and

4. Coverage for expenses incurred by live kidney donors, including the period of the donor's recovery.

REIMBURSEMENT METHODS

To assure more cost-effective reimbursement for dialysis services the bill provides for use of incentive reimbursement methods for services furnished by renal dialysis facilities to patients dialyzing in the facility or at home. Such methods may include prospectively set rates, a system for classifying comparable facilities, the use of target rates (adjusted for regional differences) with provision for sharing savings attributable to efficient and effective delivery of services, and other incentives to efficient performance. (The Secretary may use competitive-bid procedures, prenegotiated rate procedures or such other procedures as he finds feasible and appropriate in establishing the home dialysis target rates.)

The bill also clarifies present law concerning the alternative reimbursement methods available to physicians with respect to services provided in connection with routine maintenance dialysis episodes.

STUDIES, REPORTS, AND ADMINISTRATION

The bill requires the Secretary to conduct experiments and studies on ways to reduce program costs, without impairing quality of care, including studies relating to reuse of dialysis filters and the use of dietary controls, to increase public participation in organ donation programs and to assess alternative ways of financing renal disease services. The bill also requires the Secretary to submit an annual report to the Congress on the cost and operation of the program, and on developments in basic and applied research in the field of renal disease. The Secretary is authorized to develop appropriate administrative structures and arrangements to carry out his responsibilities.

TEACHING PHYSICIANS

In a provision whose applicability is not limited to the ESRD portion of medicare, the bill defers the effective date of a previously enacted provision (sec. 227 of P.L. 92-603) which deals with reimbursement under medicare for the services of physicians in teaching hospitals.

MINOR AND TECHNICAL AMENDMENTS

The bill amends the entitlement provisions of present law to clarify the intent that individuals with end stage renal disease are deemed to satisfy the requirements relating to disability beneficiaries. The bill also provides that the Administrator of the Health Care Financing Administration shall serve, in lieu of the Commissioner of Social Security, as the Secretary of the Board of Trustees of the Hospital Insurance and Supplementary Medical Insurance Trust Funds and shall be responsible for making reimbursement to HMO's under the medicare program.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REIMBURSEMENT OF U.S. MARSHAL SERVICE

The resolution (S. Res. 428) to authorize reimbursement of U.S. Marshal Service for service of committee subpenas, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate is authorized to pay out of funds appropriated to the Committee on the Judiciary, the sum of $1,777 to the United States Marshal for the District of Columbia as reimbursement for the mileage, witness fees, and expenses of five persons subpenaed by the committee, to testify at a hearing held by the committee on the nomination of Robert F. Collins to be a United States district court judge for the eastern district of Louisiana.

Mr. ROBERT C. BYRD. Mr. President, I ask uanimous consent to have printed in the RECORD an excerpt from the report (No. 95–725), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The resolution authorizes the Secretary of the Senate to pay from the funds allocated to the Committee on the Judiciary the sum of $1,777.00 to reimburse the U.S. Marshal for the District of Columbia for mileage, witness fees, and expenses of five persons subpenaed by the committee. In its consideration of the nomination of Robert F. Collins to be a U.S. district court judge for the Eastern District of Louisiana, the committee determined that it was necessary to subpena four persons from New Orleans, La., and one person from Baton Rouge, La., to testify on the nomination of Mr. Collins. The subpenas were issued by the committee and given to the U.S. Marshal for the District of Columbia for service by the marshal service, as authorized by section 569(b) of title 28, United States Code. The committee requested the marshal's service to disburse the necessary mileage and witness fees to the five persons at the time the subpenas were served and to reimburse them for lodging and other necessary expenses while attending the committee hearing which was held on March 3, 1978. While the five persons furnished written receipts to the marshal's service for these disbursements and expenses, the regulation of the Senate Finance Office would seem to require disbursement out of Senate funds direct to the witnesses involved. In order to avoid unnecessary paperwork and record-keeping, this resolution would authorize the disbursement directly to the U.S. Marshal as reimbursement for money expended at the request of the committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to law that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none, I am told.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF LEADERSHIP AND FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the prayer, the two leaders have not to exceed 5 minutes each and that following that there be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each, the period not to extend beyond 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. At 12 o'clock tomorrow, the Senate would automatically resume its consideration of the treaty, would it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And the pending question at that time would be on the adoption of the amendment by Mr. HELMS?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. There is a time agreement on that amendment of 1 hour, to be equally divided between and controlled by Mr. HELMS and Mr. CHURCH or their designees.

The PRESIDING OFFICER. The Senator is correct.

TIME FOR VOTE ON HELMS AMENDMENT TOMORROW

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, in view of the commitments that a number of Senators have on our side tomorrow from 12 o'clock or approximately 12:30 until 2 o'clock, I wonder whether it might be possible to postpone the vote on the Helms amendment until, say, 2 o'clock in the afternoon.

Mr. ROBERT C. BYRD. Mr. President, there are similar needs on this side of the aisle.

I ask unanimous consent that the vote in relation to the amendment by Mr. HELMS occur at 2 p.m. tomorrow; that if the time on that amendment expires or is yielded back prior to that time, there be consent given for setting that amendment temporarily aside and for the purpose of proceeding with other amendments or motions with relation to the treaty; that if votes are ordered on such, they may be placed back to back, if there is a time agreement on those motions or amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, this means, then, that barring a vote for the purpose of establishing a quorum tomorrow, there would be no rollcall vote between 12:30 p.m. and 2 p.m. tomorrow. At 2 p.m. there would be a vote on the Helms amendment and possibly backup votes on other amendments and/or motions which may have been processed by that time. During the afternoon there will be other rollcall votes.

I understand that Mr. HELMS has a number of amendments. So tomorrow afternoon may be designated as "Helms day." I say that in good humor and with the understanding that Mr. HELMS does have, I believe, about five or six amendments to the article. He is quite willing to proceed, as he indicated today, with those amendments and under time agreements as we move along from amendment to amendment.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I observed that the distinguished Senator from North Carolina does have a number of amendments. In his usual and characteristic spirit of cooperation, he has agreed to time limitations on all of them—I might add relatively short time limitations—and that has had a good effect on the likelihood that we could conclude consideration of several amendments remaining to this treaty before the time the Senate rises from the Committee of the Whole and proceeds to the consideration of the resolution.

Mr. ROBERT C. BYRD. That is in accordance with my understanding of the situation. Mr. HELMS is one of the most agreeable and cooperative of Senators.

Mr. LAXALT today indicated that consideration had been given earlier to the number of amendments that remain. He feels that, based on his information, the Senate will be able to take up each of the remaining amendments and allot a reasonable amount of time to them, and that Senators therefore will be able to have some discussion on those amendments before we rise from the Committee of the Whole at the close of business on Thursday.

So everything seems to be pretty well on schedule and on track.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11:30 tomorrow morning.

The motion was agreed to; and at 8:05 p.m. the Senate, in executive session, recessed until tomorrow, Tuesday, April 11, 1978, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, April 10, 1978:

THE JUDICIARY

Alfred Laureta, of Hawaii, to be judge for the district court for the northern Mariana Islands for a term of 8 years (new position, Public Law 95–157).

FEDERAL ELECTION COMMISSION

The following-named persons to be members of the Federal Election Commission for terms expiring April 30, 1983:

John Warren McGarry, of Massachusetts, vice Neil Staebler, term expired.

Samuel D. Zagoria, of Maryland, vice William L. Springer, term expired.

EXTENSIONS OF REMARKS

FINANCIAL REPORTING AND DISCLOSURE LEGISLATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mrs. SCHROEDER. Mr. Speaker, there are today being placed in the amendments section of the RECORD replacement texts for parts A and B of title II of H.R. 1, the vehicle the House will use to consider the Ethics in Government Act.

The part A replacement text contains the language of title I of H.R. 6954 (part I), as reported by the Committee on Post Office and Civil Service combined with title I of H.R. 6954 (part II), as reported by the Committe on Armed Services. Thus, this replacement text covers financial disclosure procedures for both executive branch civilian employees and uniformed personnel.

The part B replacement text contains the language of title II of H.R. 6954 (part I), as reported by the Committee on Post Office and Civil Service. This text creates the Office of Government Ethics at the Civil Service Commission.

I urge my colleagues to study these texts. Many of the differences between them and H.R. 1 are more form than substance. There are, however, five substantive differences in them which I believe are of tremendous importance.

First, reporting requirements are simplified. This was accomplished primarily by (a) making reporting of items which fall below the threshold or "di minimis" amounts discretionary and thereby eliminating the necessity that an individual determining precisely whether the threshold has been reached (if in doubt, the item may be reported), and (b) by providing less specificity with respect to the various categories within which reported items must be placed. The view here is that it is less important that an item be accurately categorized than it is that it be reported. And detailed categorization is unduly burdensome to the reporting individual. It should be remembered that executive branch reporting will apply to thousands of individuals, and accordingly, it is important that the reporting requirements be kept simple as possible.

Second, coverage in the Post Office and Civil Service Committee text has been expanded with respect to whom must report. It requires all politically appointed (so-called Schedule C positions) to file reports regardless of the grade of their position. Since these Schedule C positions are by definition "confidential or policymaking financial reporting for these individuals is particularly appropriate. The text also permits the Director of Government Ethics to require, by regulation, confidential financial reporting by individuals holding certain types of positions which are classified at GS–15 and below. This reporting would replace that now required under Executive Order 11222, and reflects the belief that legislation of this nature should be comprehensive and not just deal with part of the problem.

Third, and probably most important, in the Post Office and Civil Service version, with respect to the public availability of information filed by reporting individuals, for public disclosure is provided only when it is believed that the invasion of personal privacy which such disclosure necessarily entails is clearly justified in terms of enhancing public confidence in the integrity of the Government decisionmaking processes. Remember, there are thousands of executive branch civilians who will be required to file reports, and public disclosure of this very personal information is a great invasion of privacy. Accordingly, three different rules are provided concerning the public availability of reported information.

First, top-level officers and employees (for the most part Presidential appointees) and employees appointed to or holding essentially political positions (Schedule C and noncareer executive assignment positions) must publicly disclose all the information which is required to be reported. Second, upper-level career employees (GS–16 through GS–18, and comparable positions under other pay systems) generally are required to publicly disclose the nature of financial interests required to be reported, but the extent or amount of these interests will generally not be disclosed. Finally, lower-level career employees (GS–15 and below, and comparable positions under other pay systems) are not required to disclose any information required to be reported.

I believe this approach properly addresses the problem of requiring public disclosure only to the extent necessary to enable the public to make informed judgments as to whether the integrity of the Government decisionmaking processes is intact.

Fourth, in the text for part B, a pool of full-time ethics counselors (not to exceed 75 positions) is established. These ethics counselors will be appointed by and responsible to the Director of the Office of Government Ethics. It is essential that the individuals responsible for monitoring and administering the ethics program, the agency ethics officers, be accountable to one person, not to a myriad of different agency heads. I refer my colleagues to pages 74 and 75 of the Committee on Post Office and Civil Service report on H.R. 6954 (H. Rept. 95–642, part I) for a nutshell discussion by the General Accounting Office of the merits of this approach.

Fifth and finally, the texts as it relates to civilian officers and employees and military officers, amend the appropriate provisions of codified law, specifically titles 5 and 10, United States Code, and is in keeping with the basic purpose of codification.●

BLACK WINS HONORS IN COAST GUARD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. CLAY. Mr. Speaker, I am pleased to take this opportunity to share with my colleagues the proud accomplishment of the son of Mr. and Mrs. Manson Brown, Jr.

Twenty-one-year-old Manson K. Brown holds the high honor and great distinction of having been appointed to command the Cadet Brigade of the Coast Guard Academy. He is the first black ever to be so honored in the 101-year history of the Academy.

This is a position requiring elements of maturity that the young Brown has exhibited throughout his academic career.

It is with a great deal of pride that I share with you the following article which appeared in the Parents Association of Coast Guard Academy:

FIRST BLACK BRIGADE COMMANDER

The "third make" of the 1977–78 academic year is headed by Cadet, first class, Manson K. Brown, 21, of Washington, DC. He is the first black to command the Cadet Brigade in the 101 year history of the Academy.

Brown won appointment to this highest post of cadet leadership through outstanding achievement in academics, conduct, military bearing, and leadership, plus gaining the strong endorsement of the Academy's six "battalion officers." The position is a demanding one—not just a figurehead post. It requires tact, good judgment, administrative ability, hard work and—above all—dedication to the principles of honor, integrity and service for which the Academy stands.

The new Brigade Commander, a graduate of St. Johns College in the Nation's Capitol, accepted the challenge of his new position with the following comment: "This is the peak of my four years at the Academy. I'm going to give it everything I've got."

Brown is the son of Mr. and Mrs. Manson Brown, Jr., of 908 Farragut St., NW, Washington, DC. He is a civil engineering major who hopes to become a student engineer on the California based polar icebreaker GLACIER upon graduation. Before then he has a shot at a top "Honor Make" leadership position. The Honor Make is the final leadership structure of the Cadet Brigade. It is in effect during the final six weeks of the term and at graduation. It is comprised of outstanding performers within the four earlier makes. The other brigade officers of the third make are:

John F. Brooks, Brigade Executive Officer, son of Mr. and Mrs. Richard F. Brooks of Ballston Lake, NY; Michael J. Lapinski, Brigade Adjutant, son of Mr. and Mrs. Raymond J. Lapinski of Woodbury, CT; Kevin A. Nugent, Brigade Operations Officer, son of Mrs. Barbara A. Nugent of Amityville, NY; and William A. Emerson, Brigade Logistics Officer, son of Mr. and Mrs. Arthur D. Emerson of Georgetown, MA.●

TRIALS AT ALTON

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HAGEDORN. Mr. Speaker, last October, after a great deal of delay, the House approved legislation to provide for the reconstruction of lock and dam No. 26 along the Mississippi River at Alton, Ill. Nearly 5 months later, as a result of differences between the House and Senate on the specifics of a waterway user fee, this legislation remains stalled.

During this period, the structure at Alton has continued to deteriorate, traffic congestion has increased, midwestern grain has been slower to get to market and at greater cost, and energy supplies have been slower to reach the Midwest and at greater cost. The bottleneck at lock and dam No. 26, one of only two lock and dam systems along the Mississippi to handle traffic from both the upper Mississippi and the Illinois Rivers, has grown tighter.

As David Chenoweth, formerly with the Office of the Chief of Engineers, notes:

These important old locks, neither the largest nor the smallest, have continued to creak along, spouting water—perhaps in definance, or maybe out of frustration.

Following is the full text of his article on the "Trials at Alton" from Water Spectrum magazine:

TRIALS AT ALTON

(by David Chenoweth)

Situated below the junction of the Mississippi and Illinois Rivers, the locks at Alton, Illinois, are in almost constant operation. At times, they seem to take on an animated personality, creaking and groaning, leaking and sprouting water. Tows float passively in the river, waiting their turn to lock through. There is no outward fanfare or excitement to signal the extraordinary interest centered on this spot.

Locks and Dam 26 are presently surrounded by political and emotional controversy. While the legal battles have only recently begun, the Alton structures have been plagued with difficulties since their earliest days of construction 40 years ago.

This story describes not the current political debate over their future but their trouble-prone past. It tells of the trials the locks and dam have survived and how they were overcome.

Although we could start with 1938 when the locks first opened, or with 1934 when construction commenced the real story begins much earlier.

The rivers of North America were used by Indians for transportation before the rest of the world was aware the continent existed. In the early days of the United States, the rivers provided a way westward. Travel on the water in those days was uncertain, dependent upon the whims of nature for the proper flow—neither too much nor too little. As traffic increased, the fluctuating levels more often caused an interruption and the shippers began demanding flow regulation. The first Federal structures were wing dikes built in the 19th century that narrowed the river, creating a deeper channel.

The Mississippi, filled with water and traffic from its tributaries, quickly became a major water transportation route, carrying goods from all over the country. The river flows in a zig-zag pattern—now east, now west, but ever south to New Orleans and the Gulf. Its basin is the third largest in the world, reaching from within 250 miles of the Atlantic to within 500 miles of the Pacific. It extends from the Gulf of Mexico into Canada and takes in all or parts of 31 States and two Canadian Provinces. Its tributaries spread out like a web: the Ohio River and northeast, the Illinois to the Great Lakes, the Missouri to the west. Along the way, lesser rivers with exotic names of Yazoo and Ouachita and more common names of Arkansas, Red and White add to the flow.

WHY A DAM?

Navigation improvements came gradually on the upper Mississippi River. Channels were deepened as traffic grew: 4½ feet in 1878; then 6 feet in 1907; and in 1930, a 9-foot channel, but only from the mouth of the Illinois River to Minneapolis. The early, shallower channels were maintained primarily by dredging and dikes, but the present 9-foot channel could be obtained only by a series of slack-water pools created by a staircase of locks and dams.

The earliest mention of a dam in the Alton area was in a 1905 report on the possibilities of a waterway using the Illinois and Mississippi Rivers to connect the Great Lakes with the Gulf of Mexico. Later studies found that a lock in this area would benefit navigation on both rivers. Eventual construction of the locks and dam at Alton on the Mississippi raised the level of the Illinois and allowed the removal of two outdated and undersized locks dating back to 1890.

Work on L&D 26 began during the Depression years with funds provided under the National Recovery Act. The locks and dam became an authorized part of the Mississippi River waterway 2 years later when the River and Harbor Act of 1935 extended the lower limit to the Missouri River and included the completion of L&D 26 as part of that waterway.

The project was scheduled to be constructed in three stages, each starting with the building of a water-tight cofferdam around the work area. The first stage was the two locks and a short section of the dam on the Illinois side. The second, which started shortly after the first, was the portion of the dam on the Missouri side. The final stage would have been construction of the segment of the dam connecting the previously completed sections.

In February 1936, the cofferdam around the construction area on the Illinois shore was damaged by ice and failed, burying the steel framework under 18 feet of silt and mud. Following this failure, the contractor could not continue, his contract was cancelled, and the debris was later removed by the Federal Government.

The construction schedule had to be reworked. The project would move progressively across the river from the Missouri shore to the intact main lock of the Illinois shore. The auxiliary lock would have to be constructed inside the final cofferdam.

Among the worst of the construction problems to be overcome was the scouring of the river bed which occurred during the building of each cofferdam. Hydraulic dredges in the river upstream of the work areas pumped sand into the flowing water to replace the lost material. In effect much of the foundation under the locks and dam was placed on dredged fill. Erection of the final cofferdam was particularly difficult. This cofferdam enclosed the area where the first cofferdam failed, and the closure had to block off the main flow of the river—about three-fourths of the total flow. At one point, even with three dredges working, the bottom was eroded to a depth of 25 feet.

Problems continued. After closure, the final cofferdam was over-topped twice by floods, damaging equipment and slowing progress. Then, as the auxiliary lock was nearing completion in the last stage of construction, a large flow of water blew out from underneath the wall between the two locks. The flow was stopped only by driving sheet piling into the foundation and by extensive grouting.

The river had one more surprise to spring. Throughout the construction, water levels remained higher than normal. When removal of the final cofferdam began, the river unexpectedly fell, leaving shallows around the work area. Channels had to be dredged to bring floating equipment close enough to dismantle the cofferdam.

AN UNCERTAIN STRUCTURE

The completed locks and dam are built upon wooden piles driven into the river. The piles are about 35 feet long, while the sand bed in this area of the river is about 80 feet thick over bedrock. The stability of the foundation is dependent upon strong friction resistance between the piles and the sand surrounding them. Because of the scouring and filling during construction, the foundation materials under much of the dam and the small lock are weaker than when originally tested before construction.

Because of this weak foundation, the dam has shifted downstream and settled. Surveys indicate that the dam may have moved as much as 2 inches. All three lock walls have moved varying distances toward the river. The outside wall, built in the area where the first cofferdam failed, has shifted the most—about 10 inches.

As the result of these differential movements, the structure has experienced cracking and joint separation. Water cutoffs between adjoining sections are no longer intact. The resulting leakage has led to erosion, causing voids to develop around the supporting piles. Other holes developed as unconsolidated material settled, resulting in more settling, cracking and leaking, which, in turn, could lead to the development of more voids.

Correction of the structural inadequacies has been a continuing task. In 1938, shortly after the locks opened, extensive water inflows were discovered along the length of the main lock. Voids 5 feet deep had to be filled to stop the flow. Seepage occurred several times through a vertical joint near the Missouri shore and was not permanently stopped until 1947.

More voids were filled in 1954 and 1970. A stabilizing stone berm was constructed in 1970 in an attempt to halt the outward movement of the auxiliary lock river wall. Also in 1970, because of the possibility that the power cables under the locks could be sheared by the movements, an overhead cable frame was erected to insure reliable power for lock operation.

Scour holes have formed in the river bed downstream of the dam: The largest hole is relocated in line with the three roller gates in the middle of the dam. This hole, about 270 feet downstream of the spillway, goes deeper than the tips of the piles supporting the dam. Borings taken in this area show that the river bed, at some time in the past, has been scoured to bedrock; but it is not possible to determine whether the bed eroded before or after the dam's construction. Smaller scour holes are present in spots along the full length of the dam.

OLD LOCKS AND LOTS OF TRAFFIC

To a casual observer, the navigation facilities on the Mississippi River at Alton appear little different from many others to be found throughout the country. The gated spillway is about one-third of a mile long, reaching from the bank on the Missouri side to the locks on the Illinois shore. Both locks are 110 feet wide, the width of most locks in operation today. The main lock is only 600 feet long, standard for its day but half the length of modern structures. The auxiliary lock is shorter, only 360 feet long.

The locks are neither the largest nor the smallest in operation. They are, however, in a critical stretch of the river, where in less than 250 miles, four major navigable rivers come together. In this stretch, the upper Mississippi, the Illinois, the Missouri and the Ohio merge to form the giant lower Mississippi. All upbound traffic from the lower Mississippi, the Ohio and the Missouri and all downbound traffic from the Illinois and upper Mississippi must move through the locks. There is no alternative water route. The volume of traffic at Alton today is such that the locks are in constant operation, except for emergency shutdown.

Traffic through the locks grew from 1.4 million tons in 1938 to nearly 58 million tons in 1976. During the 10 years between 1966 and 1976, traffic increased over 70 percent, and jams and resultant delays at Alton are now common. In October 1975, one of the busiest months ever, the average delay was 21 hours for tows waiting to lock. During 1975 11 percent of the 5,000 tows that used the main lock waited longer than 20 hours and 1.5 percent waited more than 40 hours. In 1976, the average waiting time for tows using the main lock was over 11 hours.

The location complicates the traffic situation. The Illinois shore bulges into the river just above the locks, obstructing the channel and preventing a straight entry by tows. Before entering, the tows must move out into the river, come back across the current, and then line up for entry into a lock. During high waters, downbound tows entering the locks must overcome a current which cuts across the approach path to the locks. This outdraft makes maneuvering for entry from this direction difficult and increases the possibility for accidents.

A NEW STRUCTURE?

It became apparent in the 1960s that the amount of traffic that could be carried without delay would soon be surpassed and that long delays would result. The dam's physical stability was studied to determine if a new lock could be built through the dam to increase capacity. Analysis showed that the dam was grossly underdesigned by today's standards. Calculations performed to evaluate the stability of the dam had a startling result: the dam had already moved more than thought possible without causing damage to the timber piles.

An actual movement which exceeds design parameters means that either the foundation was weaker than the borings and pile tests indicated or that some factor which could not be included in the analysis, such as vibrations from periodic ice-passing operations, had an effect on the foundation and contributed to the movements. The conclusion was that a weak foundation condition existed and that additional construction in the area of the dam was extremely risky. Based on these results and the limited capacity of the locks, replacement facilities for L&D 26 were proposed in 1968.

The site chosen for the replacement was 2 miles downstream of the present dam. The new structure was to have two locks, each 110 by 1,200 feet—twice the length of the main lock at Alton. The dam was designed with a spillway of nine tainer gates, each 110 feet wide. Two of the gates were to be located between the locks to provide greater ease in simultaneous locking.

Congress provided funding for both design and construction, but lawsuits filed on August 6, 1974 stopped progress on the replacement project. The suits charged that an inadequate environmental analysis had been prepared, that the project could cause economic damages to railroads, and that the project was not properly authorized by Congress. Since then, the environmental analysis has been supplemented, and recommendation for a modified project with only a single lock has been submitted to Congress for authorization. Lacking Congressional action, the DOT and the Army Corps of Engineers are currently cooperating in an 18-month Field Test and Investigation Program to try to determine if there is any conceivable way to rehabilitate L&D 26, without recourse to total replacement, which is engineeringly feasible, safe, and cost effective.

COPING—A TWO-SIDED PROBLEM

In the 3 years since the lawsuit, steps have been taken to ensure the continuing safety of the dam and the smooth processing of the constantly growing traffic.

Although the weakened foundation could not be inspected, detailed studies performed in the late 1960s revealed major structural weaknesses. Of the damages found at that time, the most critical repairs were made in 1970; however, further repairs are now necessary.

Structural problems have been broken into two categories: those needing immediate attention and those requiring more study before repairs are started. Work has begun on both the immediate repairs and the additional studies.

An inspection made as part of the additional studies revealed a hole 300 feet long and as much as 10 feet deep under the downstream end of the wall between the locks. A diver investigating the hole said that the supporting piles were so exposed that it was like walking in a forest.

Filling this hole received priority attention, even though it was not originally scheduled in the first phase of repairs. Both locks were closed for about 10 hours a day during the first part of work and for two 10-hour days near the end of the 3-month job that began in February 1977. The navigation industry was given advance warnings but the closings, of course, jammed up the river traffic.

Other work still to be done includes stabilizing the big scour hole downstream of the dam and repairing holes in gate bay sills and in the stilling basin. An estimated 3 years will be needed for designing and performing these repairs.

When completed, the repair work will not bring the integrity of the dam up to current standards, but it will reduce the chance of failure. This system of repairs is thought adequate for the next 10 years, but no one seems willing to predict the situation a decade hence.

The other side of the present problem at Alton is the delay caused by the undersized facilities. Tows in 1938 were much smaller than today, and the main lock and guidewalls were built to carry traffic this size.

Tows approaching or leaving a lock use the guidewalls for alignment, usually by rubbing or bumping against them. The guidewalls at L&D 26 were originally 600 feet long, corresponding to the length of the existing traffic.

The main lock can hold, at the most, either nine standard barges or eight barges and a towboat. Since 1938, towboats have gotten more powerful and barges have been improved in size and shape. With these improvements most tows on the river are now made up of more than nine barges. To get through a 600-foot lock, large tows must be broken into two segments that can each fit in the lock. To begin a lockage, the tow moves into the chamber, the front half is disconnected; and the second half backs away, leaving the first section in the lock. After locking, this section is pulled from the lock, usually by an electric winch located on the lock-wall, and the barges are secured to the guidewall. The second section is then locked through; the two parts of the tows are reconnected; and the tow proceeds on up or down the river.

In October 1976, new procedures were put into effect at L&D 26 that changed the handling of double lockages. The basic objective is to speed processing by reducing the time a lock is dedicated to a specific tow.

Previously, the tows were allowed to remake into the river configuration while blocking the lock chamber. The electric winches pulled the first section far enough along the guidewall for the lock gate to close, but not far enough for the second section to fully clear the chamber while the two sections were being reconnected.

The new procedures require that tows be remade in a position that does not obstruct the lock for subsequent operation. To make this possible, the guidewalls at Alton had to be at least 1,200 feet long, and some means other than the existing winches had to be used to move the first section from the lock.

The upper guidewall was extended in 1976 with three Government-owned DeLong Piers, which are floating platforms sometimes used in salvage work. (Timber piles installed in the 1950s give the lower guidewall an effective length of 1,200 feet.) A helper boat or suiter boat now removes the first section of a double lockage and places it near the end of the guidewall, holding it there until the second section has completed locking and the tow has been remade. During the remaking of the tow, both sections are completely out of the chambers, which frees the lock and allows the next tow in line to begin locking. The helper boats are faster than the winches and can aid in the remaking of the two sections. These boats are not Government-owned but are provided by the navigation industry.

Traffic analysis showed that about every fourth tow that uses the locks at Alton is a configuration that needs little or no rearranging to fit into the chamber and can transit the lock in a single operation. To take advantage of this traffic problem, tows are now processed in sequences of four in each direction. The process is called "four up—four down," meaning that four upbound tows are locked sequentially, then four downbound, then four upbound, and so on. Whenever possible, a single lockage tow is scheduled last in a sequence. Because a tow of this type does not need the guidewall for reconnecting barges, this schedule allows the first tow in the next sequence to move into the lock area from the opposite direction and start preparing for lockage while the preceding tow is still in the chamber.

The use of longer guidewalls, the helper boats and the scheduling is creating a much smoother traffic flow through the locks. Preliminary results show that the time required for a double lockage may be reduced by as much as 30 minutes a tow.

The future of these locks on the Mississippi River at Alton is clouded. The repairs and operational improvements will not solve the problems. Major repairs will be needed again, but the expensive maintenance will not make the locks and dam structurally sound by present day standards. Operational improvements will not end the delays; they will only allow the locks to partially keep up with increasing traffic. The ultimate answer will have to come from Congress.

Until that time, man will keep struggling with the difficulties. These important old locks, neither the largest nor the smallest, will continue to creak along, spouting water—perhaps in defiance, or maybe out of frustration.●

LABOR LAW DISASTER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. ASHBROOK. Mr. Speaker, the so-called labor law reform bill has passed

the House and is awaiting action in the Senate. Passage of this legislation would be a serious mistake. The bill takes only a union leadership point of view while ignoring the legitimate concerns of employers and employees.

Government Executive recently called the bill "a disaster area looking for a place to happen." The impact on small business would be especially devasting.

To those who say, "We can work out something sensible later in Committee conference," Government Executive responds: "Ever try reasoning with a steamroller?"

The labor law bill is a bad piece of legislation. It should be rejected by the Senate.

Following is the full text of the article from the March issue of Government Executive:

PUBLISHERS NOTE

We'd like to talk here, this time, about something that has nothing directly to do with this month's editorial content. We mention it because a vote comes up in the Senate in about two weeks—and just the idea of S. 2467 scares us.

Common language for that is the "Labor Reform Bill." It's the most sweeping legislation since the Wagner Act more than 40 years ago, and organized labor union bosses are pushing it for the same reason: to reverse a trend of falling union memberships (currently down to about one in every five U.S. workers.)

Senator Orrin Hatch (R-Utah) calls it "the most anti-small business Bill ever brought before Congress." And this operation called *Government Executive* is a small business. S. 2467 is a disaster area looking for a place to happen.

Labor advocates make much noise about Big Business having the whip hand in management-labor negotiations. That's a phoney. Three-fourths of the "union-or-not" elections held last year were in companies with 50 employees or less. And union organizers lost more than half the votes.

The Bill, if passed, would, in effect, require our little operation to pay the cost of union organizers coming in the shop here to urge unionization. Unionizing or not is up to the employees, but small businesses having to pay for it could means, for thousands, of us, the employees ending up with no company to be unionized in.

The Bill would "stack" the National Labor Relations Board (NLRB) with two more member—at an estimated 50 percent increase in the Board's $88 million annual budget. And the new rules guarantee the bankrupting of every Mom-and-Pop store in the Nation any time Dad Doesn't do what a union-member-employee wants. Essentially, the NLRB will be stacked to give Labor an unbalanced, irrefutable, decisive authority over management decision-making.

Big business has, in fact, shown not all that much concern, on the theory that most of them already are unionized. Besides, they rationalize. "We can work out something sensible later in Committee conference." Ever try reasoning with a steam-roller?

Within 10 years after the Wagner Act passed, union memberships jumped from two million up to 14 million persons. S. 2467 would require "quickie" election procedures in, among others, small businesses (which account for 95 percent of all U.S. businesses and just over half the Gross National Product.)

Reasons, said one Big Labor leader: "If we can get an election held within two weeks, we'll win a vote to unionize; if it takes longer, we'll lose." In other words, the more employees find out, the less interested they are in the subject. Let us pray the Senate moves just as carefully, on S. 2467, as workers do. Otherwise, free economic choice will be smacked with one more, possibly devastating, punch.●

CANAL TREATIES: VIEWS OF THE NATIONAL BLACK SILENT MAJORITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. DORNAN. Mr. Speaker, one of the angles in the current debate on the Panama Canal treaties is the viewpoint of black people of both Panama and the United States. Reliable information on this aspect was provided on February 15, 1978, at the Army and Navy Club of Washington in a notable address before the District of Columbia Chapter of the U.S. Naval Academy Alumni Association by Clay J. Claiborne, national director of the National Black Silent Majority Committee of Washington, D.C., and San Antonio, Tex.

That address was made subsequent to an informal visit by Mr. Claiborne to the Isthmus during which he had the opportunity of gaining firsthand information from Panamanians and Zonians of all classes and colors.

Mr. Claiborne's address touched on many vital points about the situation in the zone and Panama. Among these were:

1. That Mr. Claiborne was interested not so much in saving the Panama Canal but in saving the United States.

2. That most Panamanians understand the situation presented by the projected treaties and hope that the United States will stay on the isthmus.

3. That the danger of U.S.S.R. penetration of the isthmus is a real one.

4. That many Panamanians live in fear with no protection of their rights.

5. That there has been an active anti-North American propaganda campaign in Panama.

After his address, Mr. Claiborne received a rousing ovation from this distinguished audience which included representatives of the Manion Forum. These latter members of the audience subsequently invited Mr. Claiborne to speak over the Manion Forum Network. This he did on March 26.

Mr. Speaker, because the Manion Forum broadcast by Mr. Claiborne summarizes the major points of the February address, I quote it as part of my remarks today and urge that it be read by all Members of the Congress.

[From the Manion Forum, South Bend, Ind., Mar. 26, 1978]

PANAMANIAN PEOPLE PREFER U.S. CONTROL OF CANAL

OFF-THE-RECORD INTERVIEWS REVEAL FEAR OF UNRESTRAINED TORRIJOS DICTATORSHIP

(By Mr. Clay J. Claiborne, National Director, National Black Silent Majority Committee)

Dean MANION. Today our friend Captain Frank Manson, Foreign Relations Counselor of the American Legion, is bringing Mr. Clay Claiborne to our microphone. I told you about this gentleman last year (Footnote No. 1294) after his patriotic "Black Silent Majority," so-called, was given an award of distinction by Freedoms Foundation at Valley Forge.

A few weeks ago, Mr. Claiborne addressed the United States Naval Academy Alumni Association in Washington and Captain Manson was there. I have asked them to talk to our radio audience about the substance of Mr. Claiborne's remarkable speech.

Now here is Captain Manson.

Capt. MANSON. Mr. Clay Claiborne, welcome to the Dean Manion Forum.

The purpose of this interview is to bring to the Manion Forum audience the salient points that you made representing the Black Silent Majority in America. Among other things in your speech to the Naval Academy Alumni Association you said that the most important thing in this country is self-preservation. Is that what the Black Silent Majority is all about?

Mr. CLAIBORNE. Yes. We are dedicated, as I told the audience here, not just to save the Panama Canal, we came to appeal this to the Alumni Association to join us in helping to save America, and if the first step in that direction is the retention of the Panama Canal, we approve that.

We have been to Panama. We have talked to Panamanians. We took a group of five people down there. We called it a working task force. To be very honest about it, we went with open minds and unannounced—incognito. We walked through the market places. Let me insert here that we dressed ourselves down so that we didn't look too American.

Capt. MANSON. How do you do that?

Mr. CLAIBORNE. Well, you take off your necktie and your white shirt and you get yourself some old clothes that you could lie around on the sidewalks with if you wanted to. You let your kinky hair become a little bit kinkier and you simply walk the streets. You talk to the merchants. You go into the market places and sit in public squares. And, you read signs.

All over Panama, back in the areas where the masses of people live, they have put up "Down with imperialism. Vote 'Si' for ratification." All signs and slogans, of course, in Spanish.

One reporter said to me, you don't speak Spanish. That is true, but my son is Phi Beta Kappa from Rutgers University in romance languages. He is fluent in French, Spanish, Italian and he speaks a good bit of German and Russian. He tampers with Arabic and speaks Hebrew. My wife is of Mexican-American extraction. She speaks Spanish probably much better than the average person who is taught Spanish in the schools.

Capt. MANSON. So, you were able to speak to them in Spanish.

Mr. CLAIBORNE. We were and we feel that we are qualified to say this truth which we found in Panama. The Panamanians, the rank and file, do not want America out of Panama. They do not want America to turn the Canal over to General Torrijos.

Their reasons are plain. He is a dictator. A dictatorship is a military machine which suppresses the people. With American influences out, they will be totally under his rule. They have been under his rule since 1959 when he took over the government by force.

The Panamanian status today, despite the fact that the American dollar is available to them and the economy of the country comes from the existence of the Canal, the Panamanian today would be a tragic figure in the maelstrom of despair if we were out. They feel that they have a kind of decent big brother to turn to.

Capt. MANSON. Did they tell you in so many words that they wanted America to stay there? Is that the way they put it to you?

Mr. CLAIBORNE. They put it bluntly to us. "We cannot exist as free people under this type of government. America is the only

hope for the salvation of the people of Panama."

One very interesting conversation we had was with a Panamanian who holds a degree from Harvard University. He said this to me, "This whole thing is only a question of your President trying to do something that he thinks will help the American image. The correct image is for America to stay here, resurrect the people of Panama, not get them deeper under the heel of Torrijos who is doing business with Cuba."

Few people know this fact and it is a true condition, that there is a treaty which was signed between Cuba, Panama and the Soviet Union.

Capt. MANSON. Do you known the provisions of that treaty?

Mr. CLAIBORNE. I am familiar with the provisions to the extent that the Soviets will have a submarine base on the west coast of Panama. They have a right to open stores. The Cubans have a right to send so-called "advisors" into Panama—and they are doing this anyway.

Capt. MANSON. What about banks?

Mr. CLAIBORNE. The treaty they signed provides for a Soviet bank in Panama City. Of course, when you get to that city you will observe banks of many other nations there as well.

I pay a lot of attention to the fact that Panama is head over heels in debt, and that the principal negotiator who served six months representing the United States was a former officer of a bank that holds the major obligation or debt from Panama.

Capt. MANSON. You are talking about the Marine Midland Bank?

Mr. CLAIBORNE. You said that.

Capt. MANSON. Concerning this treaty—did you find this out from Panamanians?

MEDIA IGNORES RED TREATY

Mr. CLAIBORNE. No. I heard about it and I went to the record. Upon returning home, I went to see and received the help of friends on Capitol Hill in the House of Representatives. They had staff members go to the Library of Congress to research it for me. It is all there in black and white. For some unexplained reason, the news media saw little concern and gave little coverage to it.

Capt. MANSON. Mr. Claiborne, do you tie in this recent arrival in Cuba of more Soviet pilots to the Panamanian situation? Do you think there is any possible connection there? In just the last few days we have heard that there are additional pilots coming into Cuba and that they are relieving Cuban pilots who are going to Angola. Do you think there is any possibility that this has some ramifications in the Caribbean—especially Panama?

Mr. CLAIBORNE. The whole history of Castro's activities in the Caribbean—as far away as Argentina—since he came to power is an illustration to me to be a history of attempts and experiments which the Soviet Union is running via Castro to take over the whole western hemisphere.

I am certain that if you would take and read and consider the great many things that are happening to America all across the earth—Korea, Viet Nam and now Africa—that it is ridiculous for us to think that we are safe. The Russians put missile pads in Cuba in 1961 and 1962 ninety miles from America and today we see Castro sending 16 to 20 thousand men five thousand miles away to participate in battle in Angola and Ethiopia.

I think the Russians are trying to do this: they are trying to make pretty darn sure that they are going to be ready to take this nation apart by psychological warfare, by propagandizing multitudes of people within the structure of our own country. We have been propagandized into this Panama Canal situation.

There is no question in my mind when I look at the research that has been made available to us in our office out of the Library of Congress, which is also available to the President and the Congress, that research indicates the Communists are propagandizing all of South America, Central America and our own people into believing what a nasty thing it is that we want to retain that Canal. Meanwhile, the Panamanian people pray to God that America stays in and never gets out.

Capt. MANSON. Mr. Claiborne, are there many of your Silent Black Majority in communication with Senators on this subject?

Mr. CLAIBORNE. We have made it a point to bring back from Panama Torrijos' literature to his own people in which he refers to the American as the Gringo who has been humiliated, who has been scared out of Panama. He illustrates in this propaganda, which he circulated among Panamanians prior to the plebiscite there, that the Canal would be open at a time of international conflict, war, to all ships on an equal basis.

When he is in America he indulges in doubletalk by saying that we have a right to defend the Canal and that our ships will be given priority to move to the head of the line. The interesting thing is that he refuses to have a plebiscite to amend the treaty giving us a guarantee in writing.

We have to reason that Torrijos has no more intention of extending considerations provided in those treaties to America than the Soviet Union had in relation to the Berlin Blockade. These are significant things that have happened. We had an agreement. We let Russia march its troops into Berlin and did we pay the price for that.

Capt. MANSON. You are so right on that. I think that the message that you are bringing across is so important and I want to ask you, as the leader of the Black Silent Majority, if you are going to continue to make efforts to reach the Senators with the story that you are giving us today?

Mr. CLAIBORNE. We have had a great many supporters, both black and white, send the information which we put out to all the members of the Senate and House of Representatives. Congressman Eldon Rudd, of Arizona, presented it to the Foreign Relations Committee during hearings. All of our material is included in the Congressional Record. It is there for anyone to see.

PANAMANIANS LIVE IN FEAR

Capt. MANSON. It is quite apparent that you have a tremendous opportunity and a tremendous mission for the Black Silent Majority to get across to the Senators your knowledge and your conviction and I am hopeful that the Manion Forum can be used to do this.

Getting back for just a moment to the specifics that you obtained in Panama, are there any other evidences of dictatorship or control of the Panamanian people that you would like to tell this audience? What is the dictatorship like and how do they control the people?

Mr. CLAIBORNE. The most significant condition was that although we talked to a great many Panamanians they refused to let us quote them.

We had the unusual experience of talking to a Panamanian attorney who was for the treaty. He wants America out. This individual made it very vocal that he wanted us out. He said we should never have been there in the first place. He called Panama a country divided against itself. After we listened to him for about two hours, we said to him, "Counselor, can we quote you?" He said, "Oh, my God, no, no. We are talking off the record."

Now, this is an interesting study in human fear. Here is a man who is endorsing the dictatorship and the treaties, but he is so fearful of his life in Panama that he won't even let you quote him when he approves what the dictator is doing. There are all types of oppression against the people of Panama by Panamanians, that is, the Torrijos regime.

I heard President Carter say a thing on his last appeal, Fireside Chat, when he said that the Panamanians are going to have an election in August of 1978. I felt like asking him, if I could have, why didn't they have elections prior to negotiating the treaties, and why not an election before ratification of the treaties?

Capt. MANSON. Those are very good questions.

Your conclusion, after spending many, many hours and talking to many, many people is that, by and large, the Panamanians are hoping that the United States will retain the Panama Canal.

Mr. CLAIBORNE. Yes, and in the final analysis let me say that the future of America is at stake. Americans have got to begin to question the cost of the world image of America.

We have given of our goods, our lives, our blood, our money, our technology to many nations across the face of the earth. Instead of an image of being good, we hear the cry, Yankee go home. We see Communism flooding across the globe like a plague.

Let us not forget that World War II was to be a war that would be concluded only by unconditional surrender. Well, we won the war but we lost the victory.

The Japanese and the Germans are enjoying the highest economy known to mankind while here in America our people are unemployed, inflation has taken over. Japanese goods have flooded the market so much so that it is hard to find a radio or color TV that has on it, made in the U.S.A. American dollars are going out of this country like snowflakes disappearing on an August day.

We have to stop and wonder and take counsel with ourselves. The stakes are high—the preservation of America. We inherited from our Forefathers a great nation and I think we owe it to future generations to make the sacrifices to keep it that way. I pray that God will help us to protect, preserve and make this nation what it has always been—the champion of liberties in the world.

Verity, justice and democracy to me are very important fundamental principles. We have been the leaders in that direction, and I pray that we will continue to be the leaders in that direction.

Capt. MANSON. Mr. Claiborne, you have given a most inspirational message here today and the Manion Forum is most appreciative. Thank you very much.

DEAN MANION. Thank you, Captain Manson, for bringing this distinguished patriot to our microphone.

My friends, if you wish to hear more about Mr. Claiborne's Black Silent Majority send for Manion Forum Footnote No. 1294.●

THE FIGHT TO SAVE SHEEPSHEAD BAY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SOLARZ. Mr. Speaker, I recently introduced legislation, H.R. 11943, that authorizes the U.S. Army Corps of Engineers to dredge the famous and historic New York City waterway, Sheepshead Bay.

Sheepshead Bay has long been known as a mecca for good seafood restaurants, commercial, and sport fishing boats, and excellent buys on seafood. Around the turn of the century, a section of south-

ern Brooklyn including Coney Island, Manhattan Beach, Brighton Beach, and Sheepshead Bay came into prominence as a flourishing resort area. People flocked to Sheepshead Bay to go fishing, and an entire fishing industry sprang up around the bay. Large docks were erected to accomodate a large sport and commercial fishing fleet. Fish markets opened on the banks of Sheepshead Bay that rivaled any in the country for quality, variety, and cost.

Though southern Brooklyn has changed dramatically, Sheepshead Bay and its fishing industry has remained a uniquely charming oasis in an otherwise urban setting. Year after year, the fishing in and around Sheepshead Bay has remained excellent. Even today, one is likely to find the community of Sheepshead Bay jam-packed on a weekend morning with fishermen, shoppers, and hungry seafood addicts.

Unfortunately, the future of Sheepshead Bay and its fishing industry is now endangered. Sheepshead Bay is slowly but inexorably being filled in by runoff silt, debris, and sewage coming from local pollutant sources. The bay is becoming shallow—so shallow, in fact, that Sheepshead Bay fishermen with relatively small boats complain that they are now unable to enter or navigate the bay at low tide. Unless some action is taken soon to deepen Sheepshead Bay, its fishermen will be forced to leave its waters. Without its fishermen, the Sheepshead Bay fishing industry will collapse and one of New York City's major attractions will be lost forever.

I have introduced this legislation in an effort to insure that this picturesque Brooklyn landmark will not disappear. If my efforts are successful, Sheepshead Bay and its fishing industry can be assured of survival and a healthy future.●

MR. RICHARD V. SZELIGOWSKI

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SARASIN. Mr. Speaker, in a world plagued by problems of global injustice, economic deprivation, chronic hunger, malnutrition, and shortages of basic housing and health care facilities, I find hope and encouragement in the work of many individuals who channel their compassion into positive action through service to the world community. The many volunteers who overcome the limitations of self-interest to give of themselves freely and offer some relief to the victims of injustice are indeed the hope of tomorrow's world.

It is with great pride and appreciation, then, that I would like to recognize the service of Mr. Richard V. Szeligowski from Bethany, Conn.—one such individual who has made invaluable contributions to the people of Botswana through his service in the Peace Corps.

The son of Mr. and Mrs. Vincent Szeligowski of 34 Carmel Road in Bethany, Mr. Szeligowski graduated from The Citadel in Charlestown, S.C., in 1966 with a degree in history. He has spent the past 2 years sharing his skills and knowledge by teaching development studies at Moeng College, a secondary boarding school in the Tswapong Hills of Botswana. Located in an isolated area about 5 miles from the nearest village and 50 miles from the nearest town in this southern Africa country, the college is the oldest secondary school in Botswana, constructed by the Bamanwoto tribe as an alternative to the school system in apartheid South Africa. Through his work in the school system, he was not only able to enrichen the lives of the students with whom he came in contact, but was also able to give guidance and support to fellow teachers, strengthening their educational skills, and furthering the development of the national educational structure.

It is indisputable that education is the major stepping stone which we must ford if we are ever to achieve a world in which all can live in security and dignity, for the wealth and potential of a nation can only be measured by the education of its people. Experiences such as that of Mr. Szeligowski transcend any single tangible contribution to the development of specific skills and fulfillment of particular needs of any one nation to foster an aura of international understanding and cooperation in which all can live and work toward the attainment of peace. We are proud to have Mr. Szeligowski as a member of our community in Bethany; we thank him for the hope he personifies and applaud him for his very commendable efforts.●

ROBERT D. GOSS, JR., "A MAN WHO SERVES"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. GAYDOS. Mr. Speaker, on May 6 Legionnaires of the 33d District of Pennsylvania will gather in White Oak, Pa., for their annual post commanders dinner. The honored guest at this year's testimonial will be Mr. Robert D. Goss, Jr., an individual who has been active in Legion activities almost from the day he joined the organization more than 32 years ago.

Bob Goss' record in the Legion reads like a travelog: Joined Turtle Creek Post 640 in April 1946; elected sergeant-at-arms in 1947; junior vice commander in 1948; senior vice commander in 1949, and post commander in 1950. During that period, he was president or a member of the post's board of directors for 14 years.

In 1963, Bob transferred his membership to General Smedley D. Butler Post 701 in White Oak. His qualities of leadership promptly brought him to the forefront and in 1965 he was elected senior commander and the next year assumed the post's top office. In subsequent years he served as post commander on four separate occasions: 1970, 1973, 1974, and 1975.

In June, 1975, Bob was elected commander of the 33d District, holding that office until 1977. He has held various posts at the Legion's district, county, State, and national levels and presently is a member of the national legislative committee.

Bob also is active in other veterans organizations, including the American Legion Honor Society in Pittsburgh; Charles Zischkau Post 207, VFW, in Turtle Creek; Amvets Post 8, McKeesport, and the Allied Veterans Organization of the Greater McKeesport area.

An employee of Westinghouse Electric Corp., where he is an adviser for the junior achievement chapter, Bob's military service involved a 4-year tour of duty with the U.S. Navy during World War II. He is married to the former Elva K. Thomasson and the couple have two children: Sandra and Robert D. Goss III. There also are two grandchildren: Shamara and Jason.

Mr. Speaker, few men have devoted as much time and energy to the service of the American veteran than has Robert D. Goss Jr. Few men have given so much of themselves to better the lives of their comrades in arms.

On behalf of the Congress of the United States and a grateful Nation I offer our sincere appreciation to this man who has served so long and so well.●

YORK CATHOLIC HIGH SCHOOL WINS CHAMPIONSHIP ON ST. PATRICK'S DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. GOODLING. Mr. Speaker, as luck would have it, Irish luck that is, St. Patrick's Day was celebrated with exceptional fervor in my home district this year.

For not only were the residents of York County celebrating the traditional holiday but they were also joining in the victory celebration of the York Catholic High School basketball team which that night won the men's AA State basketball championship.

The Fighting Irish, as they are appropriately named, brought to York the first such basketball championship in the league's history—but they brought home much more. As an editorial in the York Dispatch said afterwards:

> The victory ignited a fresh infusion of good will and high spirits among our people—a feeling not just to remember but one to nurture as well.

And so it should be.

The Irish, coached by the talented Gary Markle, won the well-played game by only one point in the finishing seconds of the contest against Northgate High School. The team members include Anthony Iati, Mark Dearborn, John Vottero, Keith Alleyne, James Forjan, Thomas Zielinski, David Strausbaugh, Stephen Kushner, Darren Surdich, Robert James, Joseph Crumbling, Gerry MacIntyre, Stephen Hoffman, and Bryan

Munchel. The victory was York Catholic's 19th straight win, finishing the season with a record of 32 victories, 2 defeats. Thousands throughout the county, former opponents and supporters alike, have joined in congratulating York Catholic on this accomplishment and I just wanted to add my hearty congratulations as well. I must add my condolences to my colleague DOUG WALGREN whose district includes Northgate High School; but then he should have anticipated the outcome on this St. Patrick's Day.

Mr. Speaker, I offer the entire editorial from the March 20, 1978, York Dispatch for the RECORD:

CONGRATULATIONS

Our congratulations to York Catholic High School's state championship basketball team.

Our salute also to all the people, particularly from high schools from throughout the city and county, who helped to cheer on the York Catholic team.

This was a generous outpouring of goodwill that will long be remembered together with the state championship.

York Catholic's victory in the eastern regional finals stirred community pride and inspired a memorable county-wide rally at the courthouse Friday afternoon. It propelled thousands of York countians to Hershey Friday night where the Fighting Irish captured the state championship.

But the joy and the goodwill didn't stop there. The traffic jam—the horns sounding victory—as the thousands streamed back to York was something to behold. From the George Street exit off the expressway, all the way through North York—what time was it anyway, after midnight?—lights were blazing, people were out on their porches and waved greetings to the huge returning motorcade.

Then in the biting cold of Continental Square stood some York Suburban fans with a banner of congratulations to the Green and Gold. Thousands welcomed the team at York Catholic.

Yes, it was quite a night. York Catholic produced a rare state basketball championship for us. But more than that. The victory ignited a fresh infusion of goodwill and high spirits among our people—a feeling not just to remember but one to nurture as well.●

TORRIJOS REFUSES TO HONOR DECONCINI AMENDMENT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SYMMS. Mr. Speaker, on April 5, on the 11 p.m. CBS news, Carl Rowan gave a special report on the new development in the Panama Canal negotiations. Mr. Rowan said that General Torrijos was contacting other Latin American nations saying that he could not accept the DeConcini amendment to the Neutrality Treaty under any circumstances. Torrijos claims that the military intervention language of the amendment violates the United Nations Charter and the O.A.S. Charter.

There were several Senators that claimed they voted for the Neutrality Treaty solely because the DeConcini amendment has been incorporated in the treaty. If Torrijos will not honor that amendment, perhaps those Senators should consider changing their vote.●

TURKEY TURNS AWAY

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HAGEDORN, Mr. Speaker, the recent remarks by Secretary of State Vance with respect to the "linkage" between the progress of the Cyprus negotiations and United States assistance to Turkey is unfortunately too typical of the foreign policy of this administration. While pursuing better relations with Cuba, China, and Vietnam, and praising in the most extravagant terms the "freedom loving" regimes of Poland and Yugoslavia, it persists in making matters as difficult as possible for friendly, pro-Western governments.

Without commenting on the relative merits of the Turkish and Greek cases in Cyprus, I think that it is time that we started to reassess the sometimes ambivalent attitude that we have expressed toward Turkey. As in the Middle East, our allies are unfortunately positioned on opposite sides of a dispute.

A thoughtful article on Turkey and on its relations with the United States was printed recently in The New Republic, authored by Bernard Lewis, a professor of near eastern studies at Princeton. Following is the full text of this article:

[From the New Republic]

TURKEY TURNS AWAY—WHAT HAVE WE DONE FOR HER LATELY?

(By Bernard Lewis)

The government of Prime Minister Bulent Ecevit has assumed power at a time when the mood of most politically conscious Turks is one of disappointment with the West—disappointment verging on revulsion. For more than a century, the Turks have been westernizing—and doing so deliberately for the last 50 years at least. This westernization has affected them both internally and internationally. Within Turkey there has been a gradual, painful but nevertheless genuine development of a western way of life, with a mixed economy and a parliamentary democracy, renewed and sustained despite successive revolutions and upheavals. Despite the continuing crisis resulting from the absence of an effective parliamentary majority for any party in the Assembly, Turkey has retained a commitment to democracy. Internationally, The Turkish Republic, after a period of neutrality identified itself with the West in the Anglo-Franco-Turkish alliance of 1939. Since the announcement of the Truman Doctrine in 1947, Turkey has pursued a generally pro-Western alignment in international affairs. Turkey dispatched a brigade to Korea in 1950 and remains firmly committed to the Council of Europe, to NATO and to CENTO.

This westernization has not been easy for the Turks. It has imposed a crisis of identity upon a people who, after all, came from Asia, professed Islam and belonged by tradition to the Middle Eastern Islamic world where for many centuries they had been unchallenged leaders. Modern Turkey was regarded in some Muslim and Asian countries as a betrayer of both Islam and Asia. The Turks frequently were denounced in India and elsewhere as lackeys of the West—slavish imitators who had renounced their heritage and had forfeited their self-respect.

At first, the Turks were untroubled by such criticisms. They were barely aware of most of it, which in any event came from sources to which they attached no importance. Nor were they much more troubled by the tension and hostility between themselves and the Soviet Union. To most Turks, Russia was the power that had wrested many territories from the Ottoman Empire and still ruled over the greater part of the Turkish peoples. Communism was a disruptive movement that sought to destroy all that was best in the Turkish revolution and revival. To most Turks, Russia was the hereditary and implacable enemy against which they always needed the close friendship and support of the West.

Even inside Turkey, there were groups that opposed this westernization. In recent years these groups have begun to acquire some political importance. This new importance derives from two sources. The first is the new democracy in Turkey—freedom of the press, freedom of discussion in the universities, free and open elections—which gave an opportunity for the expression of opinions, some old and deep-rooted, some new and fashionable, which previously had been repressed or suppressed. The second factor is the changing international situation and the vastly increased importance of countries and regions that the Turks previously had been accustomed to disregard.

Criticism of westernization came mostly from three sources. The first source was the upholders of traditional Islam, those who had opposed the abolition of the Sultanate, the abrogation of the Holy Law, the reform of the alphabet and the transformation of Turkey into a secular, modern republic. Under Atatürk, and to a lesser extent under his successors, traditionalist views were suppressed and were without political effect. In the democratic republic they find free expression and command blocs of votes. Of course these are small blocs. In the 1973 and 1977 elections the Republican People's Party, campaigning on a program of modernism, received 33.3 percent and 41.6 percent of the votes, while the National Salvation Party, the parliamentary exponent of militant Islamism, dropped from 11.8 percent to 8.6 percent of the votes. But Islamic themes occur frequently in the election propaganda of the other parties. And the inability of any party to get a stable majority of its own, along with strong international support from other Islamic countries, have given the views of the National Salvation Party an influence out of proportion to its size. Just after World War II militant Islamic Republic of Pakistan attempted to promote Islamic movements in Turkey, but these attempts came to nothing and may even have had a backlash effect. Today, the forces of political pan-Islamism are vastly more powerful than they were and are sustained by immense economic power.

A second source of criticism against Turkish Westernization is what might be called fashionable pan-leftism—fashionable ideologies and even more fashionable postures imported, primarily, from Paris, London, and New York. These are of course opposed to the United States, to the Western alliance, to the Council of Europe, to NATO, to capitalist economics, to military alliances, to non-Soviet bases and the rest. Such views now command overwhelming support in intellectual and, more particularly, in academic circles, where intellectual leftism has achieved a position of tyrannical power that is not far short of that which it enjoys in France.

As in other countries this fashionable leftism is often associated with another vogue: third worldism—a desire to identify with third world movements against the West. For young Turks this sympathy for the third world has an added poignancy: but for the choices of Atatürk and his associates they too could have had the opportunity to be sinless Afro-Asians instead of guilt-ridden Europeans.

The influence of these opposition movements is growing in a country shaken by a

series of severe economic crises and subject to political tensions arising from both foreign and domestic problems. They have been nurtured by the feeling of disappointment and betrayal and more particularly the sense of being abandoned, isolated and friendless in a hostile world. In a world where almost all countries are organized in groups or blocs, the Turks find themselves alone: not part of the Islamic bloc, not part of the third world bloc, not part of the Communist bloc and, as they see it, forsaken and betrayed by the Western block to which they had made such great efforts to belong.

The feeling of disappointment began almost 30 years ago, when the Cyprus question entered the public debate. Already at that time, before the ending of British colonial rule, a feeling was growing in Turkey that on this issue the West was with the Greeks and against them. A common argument heard at the time—and with far greater urgency and frequency since then—was that even though Turkey had tried so hard to become part of Europe, even though Turkey had rendered such loyal service to various European causes, nevertheless "when it comes to the crunch you are with the Greeks and against us because the Greeks are Christians and we are Muslims." Among the educated elite the charge often takes a slightly different form: that the Greeks are the spoiled and pampered children of the West, which sees in them the heirs of ancient Hellas. Such feelings have been encouraged by what is seen in Turkey as a negative and unwelcoming attitude towards them by the European Economic Community (as contrasted with the friendlier and more welcoming attitude toward Greece). Above all, the Turks believe the United States has failed to give them the support that they deserve, and in particular, to appreciate the strategic importance of Cyprus to Turkey. The Turks believe their exemplary patience on the Cyprus question during the long years of Greek rule and oppression of the Turkish minority went unnoticed and unrewarded. When they sought to enforce their rights in 1964, they were held back by threats from President Johnson—an incident that is still remembered and resented, and is regarded by many Turks as a turning point in their relationship with the US.

All this is insignificant compared to more recent developments in Cyprus. Some Turks draw a bitter contrast between the Egyptian-Syrian attack in October 1973 and their own invasion of Cyprus in the following year. The Egyptians and Syrians, at that time seen as hostile to the United States, launched a military attack against Israel, generally seen as a close ally of the United States. Far from being rebuked in any way, they were given diplomatic, political and other rewards. When the Turks too decided to take unilateral military action in defense of what they saw as their vital national interests—and, moreover, did so in accordance with rights conferred upon them by previous agreements—they were given very different treatment. As they see it, they were subjected to humiliating pressures and placed in a position of great danger. This reinforced growing Turkish doubts about the value of the American alliance. They saw a lack of purpose and clarity in American policy, an occasional inability to distinguish between friends and enemies, and an alarming fickleness.

The U.S. embargo on arms to Turkey and the effort to force Turkey to make concessions to Greece were a bitter blow to the government of Prime Minister Suleyman Demirel, which had staked its political future on the Western alliance and which had great difficulty in surviving with a narrow-based coalition including two extremist parties, one pan-Turkish and the other Islamic. Pressures from inside grew steadily and since there were no improvements in Turkish-American relations, the Demirel government was soon in deep trouble. Political critics of the government demanded a stronger line in dealing with both Americans and Greeks. In response to these voices, Demirel reluctantly closed down the American bases. Turks are keenly aware of their importance to the United States, and have a sometimes unrealistic belief in American awareness of that importance. Many maintain that the American need for Turkey is greater than the Turkish need for America. But even without such beliefs, their pride will not allow them to accept what they see as the status of a satellite.

Turkish military experts are afraid that if the United States continues to send military supplies to Greece and withholds them from Turkey, a dangerous imbalance between the armed forces of the two countries would result. Greece and Turkey confront each other today in the Aegean—not through proxies, and on familiar ground, as in Cyprus, but in unknown waters, and face to face. The change in relative strengths of the armies and navies is fairly slow, but the imbalance between the air forces is developing very rapidly. Some senior Turkish officers argue that if this continues, Turkey would have no option but to launch a preemptive strike. They point out that the preemptive strike and the undeclared war have been made respectable in the Middle East.

If the U.S. continues to withhold arms from Turkey, hedges arms sales with unacceptable conditions, the Turks will find it impossible to maintain its Western alignment.

But where else can they go? Some have argued for a third-world type of neutrality and alignment with India and other countries in this group. They argue the need to win third world support for their cause against Greece, and express alarm at the immense voting majorities for Greece among the third world nations at the UN. These nations dismiss the reality that Greece, too, is a NATO country with a Western alignment, referring to the third-world line followed by Markarios. Turkish statesmen are well aware that third worldism is an illusion—that there is little possibility of collecting third-world votes in the United Nations, and that even if they succeed it would do nothing to help them in any real emergency. Nevertheless, they know that such policies are politically popular.

Another line is that of pan-Islam. Here there has been a notable change in Turkish policy. Previously the Turkish Republic, as a secular, modern state, shunned all Islamic groupings and was represented, if at all, by unofficial observers at inter-Islamic governments. Under Demirel Turkey began to send high officials to represent it at such meetings. In May 1976, Turkey invited the Islamic Foreign Ministers' conference to convene in Istanbul and joined, albeit with some Islamic resolutions. These condemned almost all non-Muslim powers ruling over Muslim populations except in India and the Soviet Union. In dealing with Islamic countries there is a further consideration beyond the desire to gain votes from the Greeks at the UN: the hope of economic gain, partly through commercial links with the oil companies and partly through what is seen as a natural export market for the developing industries of Turkey. It is argued that the Turks may have little chance of industrial exports to the Western world, but they may find a natural market in Islamic Africa where their prestige as a leading Muslim nation would help them. This economic argument seems to carry more weight than the mirage of Arabian petrodollars, to which experienced Turks do not seem to attach great importance.

Most Turkish leaders are hard-headed and well aware that the third-world and Islamic blocs have little real political and even less military power, and that in the event of a confrontation with the Soviet Union—a possibility that all Turks worry about—such alliances would be worthless. Nevertheless, these alliances are believed to have short-term value. If America abandons Turkey, or if America acts in a way that compels Turkey to abandon America, then the leaders would not wish to be left in total isolation with nowhere else to go but to the Soviet bloc. The third world and Islamic alternatives might tide the government over a domestic crisis by presenting an acceptable illusion of solidarity to the Turkish people and allowing them to believe that they are not entirely alone in the world.

Such a calculation is not unreasonable, and might indeed help the government to survive a difficult transition period. But for a country in the position of Turkey, on the southern border of the Soviet Union, the kind of policies pursued by India or Syria are simply not possible.

Some Turks favor a Swedish-style neutrality. This is self-evidently impossible. Turkey lacks the social, industrial and political stability and power of Sweden. Furthermore, Sweden has Finland on one side and NATO on the other, while Turkey has the Soviet Union on one side and the Arab world on the other—a much less secure position. Others frankly recognize the impossibility of a Swedish stance and hope to achieve a Finnish-style neutrality, though even here their position would be less favorable than that of Finland, which has proved itself in two bloody wars and has, moreover, the advantage of Sweden and NATO on its Western flank. Turkey, on the contrary would be surrounded by enemies or lukewarm friends.

There are few in Turkey who wish to join the Soviet orbit. They know very well what this would mean—a status at best like that of Finland, more probably like that of Czechoslovakia or Poland or possibly even of Uzbekistan. But Turks are realists and always have refused to depend on unpredictable help from elsewhere. There are already many kinds of accommodation with the Soviet Union, as for example the mending of the diplomatic fences and concessions in such matters as maritime passage through the Straits and overflights across Turkish territory. There has even been some cultural rapprochement. What was previously a danger to Turkish-Russian relations—the presence of large Turkish communities in the Soviet empire—has been turned by the Russians into a kind of advantage. Parties of Turkish artists, lecturers and others have been invited to visit the Turkic republics of the USSR while performers from these republics have been sent to Turkey. The numbers of Turkics in the USSR is rising rapidly; they may soon outnumber the Slavs. Their position on both sides of the Soviet-Chinese frontier gives them a vital strategic importance. The potential role of Turkey, as the leading Turkic power and indeed the only independent state in the Turkic world, has grown accordingly, and for this reason too the Russians must seek to win over or at least neutralize the Turkish leadership.

The two major parties in Turkey, which together polled 78.3 percent of the votes, both support continued westernization. The real danger is not the triumph of a pro-Soviet force inside Turkey, but rather alienation and drift. These easily could cause the detachment of Turkey from its Western allies and the gradual growth of Soviet influence to the point where, in a country with a common frontier with the USSR, the process becomes irreversible.

If Turkey goes, Iran will follow. With Soviet power established in Turkey the Russians at last would have the territorial con-

tiguity which they have hitherto lacked and which has made all their successes in the Arab lands, however great, ultimately precarious. Turkey is the Soviet key to the Middle East—and the Middle East is the key to Asia and Africa.●

SPARE A DIME

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. ROSENTHAL. Mr. Speaker, in light of the continuing financial crisis in our Nation's urban areas, I believe it is of interest to all Americans to receive input and information from a wide spectrum of sources.

The particular need for loan guarantees and Federal support for New York City, our Nation's premier city, is thoughtfully discussed in the following editorial from the prestigious London Economist of January 21, 1978:

SPARE A DIME

If New York city were a foreign country—and many Americans feel that it almost is—it would have called in the International Monetary Fund long ago. The IMF's reaction to a country of 8m people (nearly 1m of whom were on welfare) whose government had run up $14 billion in debt and an annual deficit of $500m, which had a faltering domestic economy and no credit, would be predictable enough. It would impose strict conditions of fiscal rectitude on that country's politicians in return for a standby credit to bail them out.

That is exactly what America's federal government should now do to New York city's government as it enters its third financial crisis since 1975. The immediate problem facing the city is how to finance itself after June 30th when the $2.3 billion that the federal government advanced in seasonal loans three years ago is called in.

The longer-run question, however, is whether New York city's finances are ever going to be put on a sound footing. Seasonal loans and patched-up political deals mean that the city is forever at risk as both the loans and the deals have to be rolled over as they fall due.

This cycle can be broken. New York city needs $5.5 billion (of which approaching half might come on suitably IMF-like terms from the federal government in Washington) in long-term capital over the next four years. That sum should be enough for the city to refinance itself and win enough confidence to return to the municipal bond markets from which it has been excluded since 1975. The city's new mayor, Mr. Ed Koch, has the almost impossible task of restoring the necessary credibility to a budget kept at best artfully afloat by his predecessor, Mr. Abraham Beame. He began this week by sending an outline plan for the next four years to Washington.

But the old difficulties and vagaries that brought insolvency in 1975 are still there. New York is the only major city in America that has to pay for a share—25%—of its welfare costs: elsewhere this tab is picked up by the state government. Despite a partial refinancing of its debt the city is still weighed down with heavy short-term repayments; nearly $1 billion will be spent this year servicing debt. A huge 23% cut in the city's workforce in the past two years and a wage freeze have been imposed, but still the city's wage bill remains, mysteriously, unchanged. Unchanged also is the capacity for wishful thinking: the $86m city deficit that Mayor Beame was predicting only a few months ago for next year's budget was revealed this week to be closer to $500m.

In short, New York city's budget, while less of a disaster than it was in 1975, is still far from being under control. It is still true to say that if a corporate treasurer ran a shareholders' company as generations of New York politicians have run its budget that company would be bankrupt and its treasurer in jail.

Even the beginnings of order that have been imposed on New York's government have come largely from its two non-political financial watchdogs: the Municipal Assistance Corporation, which raises money on behalf of the city, and the Emergency Financial Control Board. But neither of these carries enough weight to guarantee the city's future financial behaviour or to lead it back to the public credit markets. Only the federal government can do that. Politically, therefore, the ball lies in Washington—with the administration which has yet to understand the scope of the problem, and with Senator Proxmire whose powerful banking committee must vote any long-term federal money.

Washington, of course, is unwilling to do much more than roll over its seasonal loans, if that. Aid to New York city is no vote-catcher in the middle or far west. Many congressmen feel that the 23% increase in federal welfare spending within the city limits over the past three years is effort enough.

But there is more to it than that. Without some long-term federal help New York city's government will jog along on the border of bankruptcy perhaps for a year or two, only tipping over it when the national economy turns down and a federal rescue would be hardest to mount. The federal government would then have to respond in the worst circumstances for itself if only to avoid the financial upheaval, with ramifications of Creditanstalt proportions rippling through the world banking system, that an overall $14 billion default by the city and, on its coattails maybe, an equivalent default by New York state, might cause.

WASHINGTON, BE BRAVE

A federal loan of $2.5 billion might not even have to be called. Its mere guarantee, like some IMF facilities, would make the city credit-worthy enough to raise money from elsewhere: from the Municipal Assistance Corporation, from city employee union pension funds, even from the banks. Such a loan should come attached with short strings. A new control board, with federal or congressional members, should keep close tabs on City Hall. It should extract commitments of assistance from New York state which has done little (despite the promise of $350m this week) to help the city in the past three years. To give such a watchdog real teeth it could be granted first call on the city's federal revenue-sharing funds, a guarantee that the federal loans would be repaid.

Some such scheme may emerge. But the betting at present is against it, that it will be politics as usual in the city of New York. And so half-hearted rescues as usual two or three years hence.●

FORMER REPRESENTATIVE CHET HOLIFIELD TO RECEIVE ANNUAL HERBERT ROBACK MEMORIAL AWARD

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. McFALL. Mr. Speaker, I rise today to advise the Members that a former colleague and good friend, Chet Holifield, will be deservedly honored Thursday evening when the Washington chapter of the National Contract Management Association presents him the first Herbert Roback annual memorial award.

The award presentation by Comptroller General Elmer Staats will take place at 7 p.m. in the Sheraton International Conference Center in Reston, Va., during the Washington chapter's major symposium to increase procurement skills and understanding.

Our colleague, Representative FRANK HORTON will make the keynote speech of the evening.

Congressman Holifield is being honored as an "outstanding American who has made significant contributions to the procurement community."

Congressman Holifield was chosen for the award for his singular contributions to the Nation as a congressman for 32 consecutive years, and particularly—in terms of this award—for his contributions to the historic "Commission of Government Procurement."

Chet Holifield served in Congress as the Representative of the 19th district of my home State of California. Examples of his fine service to that district and the Nation are legion.

The Washington chapter of the NCMA established the award in memory of Herbert Roback, who at the time of his death last year, was director of studies for the Commission on Federal Paperwork. For 20 years, Mr. Roback has served the House Government Operations Committee. Government procurement was an area of special expertise for him.

Mr. Roback served as an adviser to Congressman Holifield when he served as a member and vice chairman of the Commission on Government Procurement. Herb Roback was a dedicated servant of this House and the American people. His death last year left a void not easily filled.

This is a fitting award to our former colleague with whom I and many others in this House were privileged to serve. For those who would wish to attend the dinner and award ceremony, my office would be glad to provide that information.●

EVEN THE DEAD ARE DISTURBED BY THE PANAMA CANAL TREATY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

○ Mr. HANSEN. Mr. Speaker, like ghosts the administration came to Capitol Hill on March 1 to sheepishly admit that the proposed Panama treaties completely overlooked making provisions for thousands of American dead, who are buried on U.S. property in the Canal Zone.

It happened before my Committee on Veterans Affairs. Appearing were representatives of the Department of Army, Department of State, the American Battle Monuments Commission, and the Veterans of Foreign Wars.

The basic thesis of the testimony was

that no thought had been given to two major cemeteries with interred Americans during the treaty negotiations and they are unsure how the Panama Government will react to changing the treaty at this time.

A total of 4,903 U.S. citizens are interred in two cemeteries: Mount Hope and Corozal, which includes 909 American veterans. The current operation is administered and paid for by the Canal Zone Government.

The administration's appearance before the Veterans' Committee admitting matters overlooked by the treaties, which are highly sensitive and promise to be expensive to deal with, are indicative of the continuing problem the Congress faces in putting a real price tag on the costs to American citizens of the Panama Canal giveaway, which now is estimated in the billions.

The recommendations by the administration involved a third of a million dollars cost for disinterring 1,508 Americans in Mt. Hope and reinterring them in Corozal; but no provision for their care was outlined after the 20 years of the proposed treaties expire.

Is the American taxpayer to assume a new burden presently paid by the self-sufficient operation of the Canal Company for the privilege of turning over a waterway primarily used by the United States, even to the sacrifice of disturbing or leaving the dead who are part of the heritage which made the Zone American? Obviously, the Panama giveaway has great impact on the living but it also affects the dead.

I have now introduced legislation (H.R. 11415) similar to that which already has support of a majority of the Congress which will prevent any transfer of property in which Americans are buried in the Canal Zone without action by both Houses of Congress.●

J. HARDEN PETERSON

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. BENNETT. Mr. Speaker, the death of former Congressman J. Harden Peterson is distressing news for all of the many thousands who knew him.

He was the dean of the Florida delegation when I came to Congress in 1949; and I had known him as a friend for many years before that. He was the first in the Florida delegation to be chairman of a major congressional committee, the Committee on the Interior. As such, he produced some of the major pieces of legislation to be passed here in decades. There are today many beautiful green acres in our National Park System which will be forever a memorial to his good work.

Warm, friendly almost to a fault, he gave a helping hand to me through the years we served together; and until his death last week. What a magnificent person he was. All who knew him extend our deepest sympathy to his lovely wife and family.●

SUPPORT FOR TUITION TAX CREDITS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. CORCORAN of Illinois. Mr. Speaker, the issue of tax credits for educational expenses continues to gain momentum around the country. As the House sponsor of the College Tuition Tax Relief Act of 1977, I am pleased to see so many Americans voicing their support for tax credits to assist them with the educational expenses at the college or university of their choice.

It appears that the House will have the opportunity to vote on tax credits for college education in the near future, and I would like to share with my colleagues the following letters, selected from the many I have received in support of this legislation:

Congressman TOM CORCORAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CORCORAN: In response to your year-end report, I would like to voice my approval of your College Tuition Tax Relief Act. For those of us who get neither financial aid nor grants, President Carter's latest proposal to add additional amounts to those on financial aid would do nothing to help pay college expenses, except for those already getting aid.

The original intent of financial aid was for those needy families who could not help their children go to college. However, the abuses of financial aid, food stamps, financial loans, etc. are evident, I am sure, to anyone who has children in college. Ideally, if these programs could be eliminated and replaced by disclosures submitted with a person's income tax, the temptation toward abuse might be greatly lessened. If the majority of student loans are not being repaid, why is it now proposed to increase funds allocated to cover the deficit, and if there is not the needed background check on financial aid applicants, how can this program continue without increasing abuse?

As a parent, I really believe college is the responsibility of the parents, not the middle class and not the elderly, but if continued abuse of the aid programs is allowed, how will these two groups be able to continue meeting the taxes imposed. I hope your Act provides realistic changes.

Also, if you would, I would appreciate an answer to a question I have as regards postal employment. I worked for 9½ years at APSA in Joliet before my marriage, under civil service. Recently I passed a civil service postal exam, and would like to know, should a vacanacy exist in my local post office, would my previous years of employment aid me in any way as far as preference.

Thank you, and I enjoy your reports,

Very truly yours,

Mrs. THOMAS FEDASH.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: My wife and I are in the middle income group if you consider our combined income in 1977 of $29,000. The total taxes taken out of our paychecks were $6,688. We probably will have to pay an additional $600 to $900 in Federal taxes when our income taxes are finalized. This means that we will probably pay between $7,200 and $7,500 in Federal, State and FCIA in 1977. This does not include real estate taxes, sales taxes, license fees, city sticker fees, gasoline taxes and all the other taxes which most Americans are obligated to pay.

We paid $1,545 into FCIA in 1977 and there is a possibility that neither of us will live to collect anything in Social Security benefits and if we do, it will be odds on that only one of us collects and only for a couple of years at the most. I am 55 and my wife is 50 years of age.

We have twin daughters who are going to college and we are paying the full cost. We spent $9,300 in savings and current earnings for the fiscal year and a half and then our daughters borrowed $3,500 to complete their second year in State universities although one daughter has been in an International study program in Austria and England during her second year which cost more. We also intend to borrow $10,000 in our daughters name provided we continue to qualify under the student loan Program. This means that we will owe approximately $13,500 in student loans when our daughters are finished with their fourth year in college.

Both of our daughters work during the summer to buy their own clothes and for spending money. We intend to pay off their loans after they graduate or before if possible.

My wife and I are both intelligent. We listen to 60 Minutes every week and the daily news and read the papers daily and the whole point of this is how is your educational program going to help us except make it easier for us to go further into debt? Only the very rich and the poor can afford to educate their children without going into debt or spending all their savings. When is the middle class going to be given something besides paying taxes? We are not in the position to make big write-offs for tax purposes. Shutting that off doesn't help us, either. It just gives the government more money to spend. We need a tax write off for their education too. Everybody is being taken care of but the middle class.

Sincerely yours,

RICHARD E. YOUNG, Jr.

NORTHERN PETROCHEMICAL COMPANY,
February 10, 1978.

Hon. TOM CORCORAN,
House of Representatives,
Washington, D.C.

Subject: Financial Aid for College Education

DEAR CONGRESSMAN CORCORAN: This letter will hopefully serve two purposes: first to express my appreciation for your program to allow direct tax credit for college expenses; and, secondly, to vent my frustration in the administration's answer to your proposal.

Your proposal of a direct tax credit is simple, straightforward, and will make the money available directly to the college student. The only two possible arguments I could see against your proposal are, first of all, the reduction in tax receipts when we are running a deficit budget; and, secondly, that this benefit would be applied even to the taxpayer with an extremely high income. This last objective is probably so minimal that it would affect a very small number of taxpayers.

The administration's proposal is beyond belief. It is typical of the concept that some new bureaucratic organization can take money from the taxpayers and disburse this money in a fair and equitable fashion. The fallacies in this line of thinking are so numerous that it is impossible to believe that right thinking individuals can propose such a system. The $1.6 billion proposed in the administration's plan will probably result in less than half of this money finally being used directly for college education. The addition of government employees to administer such a program is another example of a fast growing bureaucracy instead

of the simplified government promise by President Carter during his campaign.

Once again I would like to express my appreciation for your proposal and hope that you have some success in convincing the Members of Congress that this is a much more practical proposal than the administration's scheme.

Sincerely your,

W. AUSTIN BOLLEN,
Plant Manager.

FEBRUARY 10, 1978.

Rep. THOMAS J. CORCORAN,
Longworth Building,
Washington, D.C.

DEAR REPRESENTATIVE CORCORAN: My husband and I wholeheartedly agree with you regarding your proposal of a tax credit for *all* college students.

We see nothing in President Carter's proposal to help us, the somewhere in the middle class taxpayers ($30,000 per year annual joint income).

As so many other wives, I returned to the work market over 10 years ago to help educate our two sons. We have no tax shelters * * * none * * * and it is taking both salaries just to cover "normal" living expenses and keep our sons in college.

I agree that President Carter's proposal would just add more redtape to the "bureaucracy" he promised to shrink.

Please keep up the good fight on this important legislation.

Cordially,

Mrs. FAYE FITZGERALD.●

THE JASONS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. WAXMAN. Mr. Speaker, I am honored to bring to your attention a most unusual group of Los Angeles residents, the "Jasons," who will be celebrating their golden anniversary at their annual installation and anniversary celebration on April 15, 1978. The Jasons was organized as an athletic group at a Boyle Heights playground in 1928, much like the little league teams of today. The club has met every Wednesday for 50 years—a notable record. As the members matured their horizons broadened to include large-scale contributions to community and charitable activities, including time, money, and blood to the Red Cross, City of Hope, and many other worthy causes.

The largest membership was 67, and the Jasons still includes 11 members who originated the club. The balance of the members have been in the club at least 38 years, and no new members have been invited to join since that time. During the 50 years of its existence well over $100,000 has been donated, and the club's present charities are the United Jewish Appeal and the City of Hope. The Jasons have never missed having a Mother's Day celebration, but it is now called Parents' Day to honor the last nine living fathers and mothers.

During World War II only 6 of the then 59 members were not in the service, and these 6, together with some of the wives, produced a monthly paper to inform all of the members in service of each others' activities. All the members lived in Boyle Heights at one time, most of them attending Roosevelt and Poly High Schools, and one attended Manual Arts. These people are probably closer to each other than most families. Joys and sorrows are shared, and most of the members travel together.

There are now 32 members left, and the average age is about 62. Two members died in the service, and eight more have passed on through natural causes. To honor them, the Jasons have started and are perpetuating a memorial plaque at the City of Hope. Today, some are retired; many are independent businessmen, and the rest hold responsible positions in their professions. The club has a great deal of memorabilia: motion pictures, photographs, correspondence, and trophies vividly commemorating the history of this remarkable assemblage of people, which would undoubtedly contribute significantly to the history of our city's past half century.

This positive, constructive, and long-lasting relationship of a group of devoted friends and good citizens gives us an example to be emulated. Congratulations to the Jasons on 50 wonderful years of brotherhood and friendship.●

"LIFTING THE ARMS EMBARGO AGAINST TURKEY"

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SYMMS. Mr. Speaker, last week President Carter sent Deputy Secretary of State Warren Christopher and two other senior American diplomats to Turkey to discuss lifting the arms embargo against Turkey which has been in effect since 1975. Once again Congress is considering the $1 billion military aid program to Turkey and whether this aid package should be linked to the resolution of the Cyprus conflict.

In evaluating this aid package to Turkey, I think one has to look at what is happening in that part of the world now and how the balance of power could change in the future. I am very concerned about the growing Soviet military presence in the Mediterranean, the Middle East, and the Horn of Africa. In order to deal with this Soviet presence, most recently evidenced in Ethiopia, it is important that the United States maintain strong ties with its NATO allies.

Right now the southern flank of NATO is very weak due to our strained relations with Turkey. Our NATO bases there are operational, but with its current economic difficulties, Turkey may not be able to keep the bases fully operational in the future. We may not be able to depend on Italy which is allowing more Communist involvement in its government; and it is important that we have a stable, pro-Western ally which can counter some of the Soviet Union's activities. Because of Turkey's location bordering the Soviet Union, Iran, Iraq, and Syria, it plays quite an important role in world politics and will play a pivotal role in any future conflict in the Middel East.

As long as Turkey is allied with the West, there is some check on the Soviet Navy which must pass through the Turkish-controlled Dardanelle Straits to get from the Black Sea to the Mediterranean.

I know that the Greek community feels that the situation on Cyprus should be resolved before giving Turkey any military aid. But Cyprus has nothing to do with this issue and should not be linked to the agreement. This is a national security issue.

Turkey is a vital strategic ally that has always worked to preserve the West's interests. It is important that we lift the embargo on Turkey at this time and begin to shore up our defenses in that part of the world.●

EQUALITY UNDER THE LAW FOR SOVIET REFUGEES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. STEERS. Mr. Speaker, last month I introduced a bill with my distinguished colleagues, Millicent Fenwick and Gladys Noon Spellman, H.R. 11508, that would allow paroled refugees the same treatment under the law as conditional refugees regarding the computation of their permanent resident status. Indochinese and Cuban refugees already receive this treatment, but refugees from the Soviet Union do not.

At the present time, conditional refugees must be in the United States several years before they can apply for permanent resident status. They then must have permanent resident status for 5 years before being eligible for citizenship. This 5-year period is computed from the time they arrived in the United States. Paroled refugees must also wait an initial period before receiving permanent resident status, but their 5-year permanent resident status requirement is computed from the day they received permanent resident status, not the day they entered this country.

In some cases, these paroled refugees entered the United States the same day as conditional refugees, but they must wait years longer to acquire citizenship. It is the aim of H.R. 11508 to provide Soviet refugees the same consideration under the law as is presently accorded the other major groups of refugees.

This bill is extremely simple and I am inserting into the RECORD the text of this bill for my colleagues' perusal.

H.R. 11508

A bill to provide that certain refugees who were paroled and later admitted for permanent residence into the United States will be treated, for determining their period of residence for purposes of naturalization, as establishing permanent residence status as of the date of their arrival to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any alien who, before the date of enactment of this Act—

(1) was paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Naturalization Act, and

(2) had his status adjusted to that of an alien lawfully admitted to the United States for permanent residence, shall, for purposes of section 316 of such Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.●

A PIE FOR THE FTC

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. RISENHOOVER. Mr. Speaker, on February 28 the House rejected a conference report on some Federal Trade Commission legislation (H.R. 3816) and the bill now awaits Senate appointment of conferees.

In the past few days, there has been considerable press attention to the FTC and I have read two articles which I ask to be included in the RECORD.

The April 10 issue of Fortune, in a column called "Keeping Up," said:

Something like ten or twelve years ago, the kids around our house began showing a strong preference for programs featuring crime and mayhem, and since then we haven't heard much about Soupy Sales. Soupy's programs, as we recall them, were built around pie throwing and other madcap antics. We hadn't expected to be reminded of them, or him, when we picked up the recent FTC Staff Report on Television Advertising to Children. But there was his name, leaping up off the page, and it was immediately apparent that the FTC staff deemed his case highly significant.

The staff, as you have doubtless heard, is trying to persuade the commission to ban or severely circumscribe advertising directed to children. In doing so, it has the strong encouragement of Chairman Michael Pertschuk. The chairman, while not demanding capital punishment for those who advertise to children, did point out in one speech that under the Code of Hammurabi commercial exploitation of a child could be punishable by death.

The problem, as Pertschuk and the staff see it, is that children are so innocent. The staff report quotes Dr. Richard Feinbloom of the Harvard Medical School to the effect that "an advertisement to a child has the quality of an order, not a suggestion." The report then continues:

Dr. Feinbloom's point is illustrated, even as to children old enough to read and write, by the Soupy Sales case. On New Year's Day, 1965, the performer of that name suggested to his early morning audience of children that they go find the wallets of their sleeping fathers, take out "some of those funny green pieces of paper with all those nice pictures of George Washington, Abraham Lincoln and Alexander Hamilton, and send them along to your old pal, Soupy, care of WNEW, New York." According to Helitzer and Heyel [authors of a book called The Youth Market], who tell the story for the purpose of showing prospective advertisers to children "how easy it can be," enough money poured in to constitute "the biggest heist since the Boston Brink's robbery."

Our own view is that modern American children are not always so innocent. They are perfectly capable of talking back to their television sets. It is also our view that regulators out to nail business are not always so honest.

The fact is that old Soupy took in precisely four one-dollar bills after his broadcast. (He also got around 40,000 pieces of play money.) This fact was reported by the press at the time and could easily have been ascertained by those tireless research people at the FTC. Even the Helitzer and Heyel book, which devotes several paragraphs to the episode, is not entirely clear about whether a "heist" actually took place. In quoting a phrase that implies one surely did, the staff is proving something about its own intellectual honesty.

Or, possibly, its own innocence.

Paulette Keller's "Point of View" in the March 14 issue of the Washington Star deserves the attention of our colleagues:

DON'T TAKE A CHOICE AWAY

The Federal Trade Commission has looked with favor on a proposal which would ban TV commercials aimed at children "too young to understand the selling purpose" of advertising. It appears that sugared products which, it is suggested, post "serious dental health risks" surfaced as the real villian in the eyes of the FTC.

As a mother, a law school graduate and a health food advocate, I object to the proposal on a number of grounds.

First, I would remind President Carter that a tremendous number of people voted for him, as I did, because he promised to remove government interference from our personal lives. Now the FTC, part of the Executive Branch, believes it has the authority to tell me how to raise my children. By banning advertising to children, the government is saying to me. "We know what is best for your children." I disagree!

Ultimately it is the parents' responsibility to see that their children are well nourished. I use honey instead of sugar in my kitchen, but candy, soft drinks and sugared cereals are not banned in my house. I try to teach moderation but, finally, what my daughter eats is my responsibility. Actually, my five-year-old is pretty discriminating; since I explained the furor over red dyes, she always orders her "Shirley Temples" without the cherry.

If the anti-children's advertising group wants to put its message across, fine. They should buy commercial time on TV to give children and parents their point of view. Give me a choice, don't take one away. From the point of view of sound education, children must be taught to make critical choices for themselves; to attempt to look objectively at all possibilities, and to make decisions based on facts. One of the roles of parents and teachers is to help a child develop this type of judgment. Insulating children from their environment only serves to delay this important phase of their development.

The First Amendment guarantees freedom of speech and thought, and under our constitutional system we are assured freedom of choice. However, if the FTC continues to make rulings about what can and cannot be advertised, where will it end? Next some small group will want to ban ads for automobiles. Cars, after all, consume enormous amounts of fuel, pollute the environment, and cause an inordinate number of deaths each year. This may seem far fetched, but a precedent is being set here. Essentially, a small, elitist group has successfully convinced the FTC to consider limiting the amount of information people are allowed to receive about consumer products.

I find it remarkable that the chairman of the FTC, Mr. Pertshuk, went on record in favor of this proposal before it came under consideration by his commission. The attitudes he voiced are particularly repugnant to me:

"These advertisers suffer from moral myopia . . . using sophisticated techniques . . . they manipulate children's attitudes." To the contrary, it seems to me that this proposal—as taken under consideration by the FTC, is a chilling example of big government's manipulation of children's attitudes through edict.●

THE SUCCESS OF THE ST. LOUIS PRIDE PROGRAM

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. YOUNG of Missouri. Mr. Speaker, I would like to bring to my colleagues' attention the remarkable success of a St. Louis program designed to improve the labor-management relations within the local construction industry. This program, which is called PRIDE (Productivity and Responsibility will Increase Development and Employment), has been recognized for its success by the National Center for Productivity and Quality of Working Life.

The following articles from the St. Louis Globe Democrat explain the basics of the program. I encourage my colleagues to read these insightful articles and share them with with construction leaders in their districts:

[From the St. Louis Globe-Democrat]

U.S. AGENCY COMMENDS PRIDE TO OTHER AREAS

WASHINGTON.—The St. Louis area's labor-management council on construction productivity and responsibility has been cited by a federal agency as an example for other communities seeking to foster cooperation between unions and employers.

The St. Louis council called PRIDE—for Productivity and Responsibility Increases Development and Employment—has had five major achievements since its founding in 1972, the National Center for Productivity and Quality of Working Life said in a 212-page national directory of such committees.

The federal agency published the directory in hopes of encouraging other cities and towns to form similar groups to improve local economies, save jobs and combat unemployment.

PRIDE was credited in the directory with these achievements through joint efforts by construction employers and the building and construction trades labor unions:

"Many work rules have been changed, and both sides have made concessions.

"No substantial employee-hours have been lost because of jurisdictional disputes.

"Home building costs have been reduced from among the most expensive to the fourth least expensive of the 16 major metropolitan areas surveyed by the Federal Home Loan Bank Board.

"Nonresidential construction costs have improved, as reflected in a survey by the Society of Civil Engineers.

"Communication and job conferences for specific projects and on-site box lunches sponsored by PRIDE have resulted in improved communication and morale."

Richard Mantia, Building and Construction Trades Council executive secretary-treasurer, and Al Fleischer, managing partner of Fleischer-Seeger Construction Co., were listed as PRIDE leaders.

The government directory also noted that the New Spirit of St. Louis Labor-Management Committee was formed last year to seek similar cooperation in the area's industrial and service sectors.

Also in the new directory are successful labor-management committees at the Army Reserve Components Personnel and Administration Center and the Veterans Administration Records Processing Center.

PRIDE COCHAIRMEN TO SHARE NATIONAL HONOR

(By Ted Schafers)

Richard Mantia, executive secretary-treasurer of the St. Louis Building Trades Council, and Alfred J. Fleischer Sr., St. Louis contractor, as co-chairmen of PRIDE, will be honored in New York Wednesday, Feb. 15, for their outstanding contributions to the construction industry in 1977 by the editors of Engineering-News Record Magazine.

Both men are credited with having played leading roles in the development of respect and cooperation between management and labor within the St. Louis industry in recent years. And the best proof that their efforts have paid off was the renegotiation of all contracts which had expired last year—without a single strike—and the changing of work rules to encourage more jobs.

PRIDE is an acronym for Productivity and Responsibility will increase Development and Employment.

The board of directors is divided to represent six elements of the construction industry, namely unions, contractor-employers, each with five members, plus representatives for engineers, architects, suppliers, and the Construction Users' Council, whose members are the buyers of construction in this area.

THE BOARD meets monthly, but the co-chairmen carry the day-to-day workload, moving in to defuse potentially explosive disputes and help local union officials sell the programs to their rank and file.

Convincing members to moderate labor demands during this period of constant inflation has not been an easy job. And the same applies to efforts made by the group to obtain elimination or modification of restrictive work rules in order to make union contractors more competitive.

At a dinner here in November when Mantia was honored by St. Louis Construction News & Review as "Construction Man of the Year", he said:

"IT TAKES A STRONG leader to go down the right path, but if people don't follow, it's a lonely path".

The big difference, however, has been that Mantia has had the courage to speak out against practices, which in the past had given St. Louis a bad labor image and high unemployment. Said Fleischer of Mantia:

"He has found the courage to say the things that are good for all of us. Thanks to PRIDE we have learned to communicate. Because industry factions no longer just look out for their own interests, the whole construction industry benefits."

THIS IS THE second such national recognition for Mantia. In 1975 he and Charles Dougherty, president of Union Electric were cited for their roles in what has to be considered a most improbable turn of events.

Dougherty was honored for having had the courage "to back up his warnings against unproductive union work practices" on UE power plants by hiring an open (merit) shop construction company to build the utility's nuclear power plant in Calloway County.

AT THE SAME TIME Mantia was cited for his leadership in drafting a modified contract which made AFL–CIO members competitive to non-union or independent union work. In general, those concessions involved acceptance of wage rates or work rules prevailing in contracts of unions having jurisdiction at the plant site and waiver of any travel time.

"We didn't like some of the things we had to do, but it was a matter of getting most of that work for our own people," said Mantia who added:

"The awards are the result of a lot of fine work done by many people in labor and management. I'm proud of the support I've received from our member unions which have had the courage to do what is necessary to make St. Louis competitive with any major section of the country. Everyone benefits, the engineer, architect, supplier, contractor and labor—and above all the community".

So far as this writer knows, every major building erected here in recent years has been completed on or ahead of scheduled completion date, and some under cost estimates, despite the impact of constant inflation.

Jurisdictional disputes that often tied up projects in the past have been virtually eliminated because of prejob conferences to avoid misunderstandings plus a willingness by all parties to abide by national procedures to resolve differences.

Unions that once insisted on double-time pay after 4 to 5 p.m. now work beyond those hours for small premiums, which has brought a lot of new work in plants that can only do remodeling after normal production hours.

Fabrication that once had to be scheduled on the job site can now be done in shops so that there are no delays due to bad weather and bring about better manpower utilization.

Al Hinton, assistant manager of the Associated General Contractors here, who handles PRIDE's administrative work, said leaders of the organization have been repeatedly invited to speak before construction groups in other cities on the results achieved in St. Louis.

"Some of our board members have appeared before their own national industry organizations. The Regional Commerce and Growth Association (RCGA) has cooperated in publicizing PRIDE's work to local companies intent on developing better relations between management and labor," he added.

Also a spokesman for the National Center for Productivity and Quality of Life has visited St. Louis to review PRIDE's operations and has indicated a desire to organize a national seminar on the subject.

"Productivity and responsibility," the keystones of PRIDE are not only paying off with "increased Development and Employment" in the St. Louis construction industry but are likely to generate similar dividends in other parts of the country.

As for St. Louis said Manita:

"Prospects of new work for construction is bordering on the fantastic. Without counting some of the big downtown projects, like the proposed Merchantile Mall or other Convention Center construction, there is enough work for most crafts to keep them very busy, especially among carpenters, insulators, iron workers, cement masons and bricklayers. In fact, some smaller contractors are no longer bidding on new work and are urging customers to delay seeking bids until later this year", he declared.●

BYELORUSSIAN INDEPENDENCE

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. MITCHELL of New York. Mr. Speaker, today I wish to join in the widespread commemoration of the 60th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic. It was in the spring of 1918 that the Byelorussians proudly declared their independence from Tsarist Russia, and it is appropriate to the strong and independent spirit of the Byelorussian people that now, as then, their continuing refusal to accept foreign oppression coincides with the season that symbolizes new life.

The 60th anniversary of the Republic's brief existence before once again falling under the domination of Russia is a sobering reminder to us that there are many proud peoples and nationalities in the world who have little of the freedom we take so much for granted. It also serves to remind us that many of those among us have come to the United States in part to preserve cultural traditions that are repressed in other countries in the name of unity and in fear of diversity.

The Byelorussian people and the Americans of Byelorussian descent personify the desire for self-determination and freedom that the United States continually champions throughout the world. They realize that the human spirit is stronger and more lasting than empires and ideologies, and I and my colleagues extend our admiration for their spirit and our support for their struggle.●

BYELORUSSIAN INDEPENDENCE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HUGHES. Mr. Speaker, it has been 60 years since the courageous nation of Byelorussia shook itself free from centuries of foreign domination and declared itself a free and independent nation. It was a commendable and heartening step for the Byelorussians, who spent the 19th and early 20th centuries strengthening their culture and forming a political entity.

But their independence, which was declared March 25, 1918, was sadly short lived. During the winter of 1918, Soviet Russia's Red Army invaded and conquered Byelorussia. The result was a divided nation and the creation of the Byelorussian Soviet Socialist Republic under the auspices of the U.S.S.R.

Byelorussia's independence was brought to a halt, but the spirit behind it did not die. Today it is alive in the hearts of Byelorussians everywhere—whether here in America or across the ocean where Byelorussians are still under Soviet rule.

Soviet practices are working to squelch the cultural gains made by the Byelorussians during the years preceding their declaration of independence. After annihilating many of the nation's leaders after World War II, they now kept most Byelorussians out of political affairs and have made Russian the official language for the country. The Soviet Union continues to deny Byelorussians the right to exercise the principle of self-determination and continues to suppress their human rights.

It is with pride that I join with Americans of Byelorussian descent as they pay tribute to their courageous ancestors who declared independence 60 year ago. I also share with them the hope that Byelorussia will someday shed oppression and gain independence once again.●

PANAMA CANAL TREATY REQUIRES PROPERTY DISPOSAL, APPROPRIATIONS AUTHORIZATION AND IMPLEMENTING AUTHORITY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HANSEN. Mr. Speaker, I have today written to the chairman of several House committees urging immediate consideration of H.R. 11634, a bill to provide the congressional authorization required by clause 2, section 3, article IV of the Constitution, for the transfer to Panama of the property of the United States in the Canal Zone; to authorize the appropriations required by clause 7, section 9, article I of the Constitution, to implement that transfer of U.S. property, including the transfer of military installations and of cemeteries in which U.S. veterans are interred, the closing of the Canal Zone courts, and the assumption by the U.S. Postal Service of the functions of the Canal Zone postal service; to otherwise provide legislatively the authorizations not provided pursuant to clause 2, section 3, article II of the Constitution which are necessary to implement the Panama Canal Treaty of 1977, and related agreements; and for other purposes.

The title of this legislation was designed to be both constitutionally functional and educational to those who do not understand that three legislative facets, not one, are involved in the proposed transfer of the Panama Canal Zone: First, disposal of property; second, authorization for appropriations; and third, implementing authority to supplement treaty approval.

Although I oppose the proposed treaties, someone had to get the implementing legislation out of the backrooms and onto the table where it can be properly assigned, scrutinized and discussed.

To the committees on Merchant Marine and Fisheries, International Relations, Judiciary, and Post Office and Civil Service, I submitted on April 10, 1978, the following letter:

DEAR MR. CHAIRMAN: I introduced on March 16 H.R. 11634 which has been referred to your committee. This legislation is to authorize the transfer to Panama of the property of the United States in the Canal Zone, to authorize appropriations to carry out the details of that transfer, and to authorize other implementing provisions pursuant to the Panama Canal Treaty.

The title of this bill is consistent with Articles I, II, and IV of the U.S. Constitution and incorporates unchanged the Administration's Draft being circulated among Members of Congress for implementing the Treaty now in the final stages of consideration before the U.S. Senate.

It appears most timely that this legislation be called up for immediate consideration by your committee and I respectfully request that this be done in the interests of protecting the prerogatives of the House and to allay misunderstandings among officials of the Administration, the Senate and the Courts, and the public in general.

Sincerely,

GEORGE HANSEN,
Member of Congress.

To the Committee on Armed Services and Veterans' Affairs, I submitted on April 10, 1978 the following letter:

DEAR MR. CHAIRMAN: I have introduced H.R. 11634 which I believe should have been referred to our committee. This legislation is to authorize the transfer to Panama of the property of the United States in the Canal Zone, to authorize appropriations to carry out the details of that transfer, and to authorize other implementing provisions pursuant to the Panama Canal Treaty.

The title of this bill is consistent with Articles I, II, and IV of hte U.S. Constitution and incorporates unchanged the Administration's Draft being circulated among Members of Congress for implementing the Treaty now in the final stages of consideration before the U.S. Senate.

Included in this title is specific reference to matters under the jurisdiction of our committee which are of sufficient significance to merit a request that this legislation be also referred to our authority for proper review.

Your action in this matter would now appear to be most timely and I respectfully request that this be done and that the legislation be called up by our committee for immediate consideration in the interests of protecting the prerogatives of the House and to allay misunderstandings among officials of the Administraiton, the Senate and the Courts, and the public in general.

Sincerely,

GEORGE HANSEN,
Member of Congress.

To the committee on Interstate and Foreign Commerce I submitted on April 10, 1978 the following letter:

DEAR MR. CHAIRMAN: I have introduced H.R. 11634 which I believe should have been referred to your committee. This legislation is to authorize the transfer to Panama of the property of the United States in the Canal Zone, to authorize appropriations to carry out the details of that transfer, and to authorize other implementing provisions pursuant to the Panama Canal Treaty.

The title of this bill is consistent with Articles I, II, and IV of the U.S. Constitution and incorporates unchanged the Administration's Draft being circulated among Members of Congress for implementing the Treaty now in the final stages of consideration before the U.S. Senate.

There appears to be sufficient impact in this legislation on matters under the jurisdiction of your committee to merit a request that this legislation be also referred to your authority for proper review.

Your action in this matter would now seem to be most timely and I respectfully request that this be done and that the legislation be called up by your committee for immediate consideration in the interests of protecting the prerogatives of the House and to allay misunderstandings among officials of the Administration, the Senate and the Courts, and the public in general.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

KEEPING OUR EYES ON U.S. HISTORY

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. NEAL. Mr. Speaker, I was extremely proud recently when the Freedoms Foundation at Valley Forge presented the Valley Forge Honor Certificate Award to television station WGHP in High Point, N.C. It was the second year in succession that the award had been given to WGHP–TV, and the station this year was the only one in North Carolina to be so honored.

The award was given for the program, *"Monitor:* Time Capsule of the Past," which told the story of the ironclad *Monitor,* which sank off Cape Hatteras in 1862. The program traced the history of the vessel from its construction to the battle with the *Merrimac,* its loss at sea, and the recent discovery of its remains.

Robert W. Miller, president of the Freedoms Foundation, correctly described the program when he said it is "an outstanding accomplishment in helping to achieve a better understanding of the American way of life." The award was received with laudable humility, expressed well by Eugene H. Bohi, vice president and general manager of WGHP–TV, when he said:

. . . we're honored that TV8 can support America by contributing to the development of a responsible citizenship by informing the public on past history in addition to helping solve contemporary current problems through news and documentary programming.

I share the pride of WGHP–TV, which covers my district, and salute its excellent staff for highlighting our American heritage in such an entertaining and impressive way.●

LET'S DECLARE THE ENERGY CRISIS OVER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. FINDLEY. Mr. Speaker, the soundest reasoning I have yet seen on energy was written by our colleague, Congressman DAVE STOCKMAN of Michigan as a "point of view" piece published in the Sunday, April 9, Washington Post.

Ever since Richard Nixon called for energy independence I have opposed the notion, believing it to be against both our short-term and long-term interests. Now I know why. DAVE STOCKMAN has put the case beautifully for a renewal of our faith in the disciplines of the market system.

Here is the text of his article:

[From the Washington Post, Apr. 9, 1978]

THE ILLOGIC OF ENERGY INDEPENDENCE

(By DAVE STOCKMAN)

One of the most pernicious forces loose in Washington is the widely shared belief in the need for national energy independence. Beguiled by its deceptive allure, we are fashioning policies that would undermine our economy, further weaken our balance-of-payments position, and foist on the American people an unnecessary expansion of government control and cost.

The Carter administration's National Energy Plan raises the quest for energy self-sufficiency to a new plateau of illogic. It amounts to little more than a hastily compiled list of costly expedients for reducing the volume of oil imports. As such, it is not an energy policy at all but a throwback to antiquated notions of general autarky.

It is time to state the terrifying truth to

Messrs. Schlesinger and Carter: The level of oil imports per se doesn't matter. What is important is that the energy needs of the U.S. economy be supplied at the lowest possible cost. In practical terms, this can be achieved by increased production of domestic oil and gas, coal substitution and energy conservation—but only to the extent possible at a cost equal to or less than the prevailing price of energy in the world economy—$13 per barrel equivalent.

To reach this goal of supplying our energy needs at the least cost, we do not need a Project Independence, a National Energy Plan, Department of Energy regulatory programs, mandatory efficiency standards, or subsidized development of "energy alternatives." The market is fully capable of accomplishing this at the world price without the guidance of Congress and the executive branch.

Even at the present artificially low domestic energy prices imposed by oil and gas regulatory controls, the boom in such products as insulation, engineered fireplaces and industrial heat recovery systems demonstrates that both the household and business sectors of the economy will respond to pricing signals.

Indeed, the only major unfinished business in energy policy is the creation of a domestic energy pricing structure tied to the world price of oil. Rapid decontrol of oil and gas prices and the adjustment of utility rate schedules to reflect true costs of providing service to all customers would accomplish this with a minimum of regulatory cost. With a realistic price structure in place, the relentless cost-minimizing pressures of the marketplace would drive domestic energy production to its maximum and reduce consumption to its minimum at cost levels equivalent to the world price.

The result would be a significant reduction in U.S. oil imports. But, unlike the arbitrary displacement imposed by the Carter plan, it would be an efficient and beneficial reduction. The market will forgo $13 imported oil only when coal substitution energy, or conservation energy, or new domestic oil and gas reserves are available at a lower cost. The market will not choose $18 conservation energy, $20 coal conversion or $24 synthetic crude over $13 imported oil. And it shouldn't. The strength of our economy and our international competitive position can be maintained only if we purchase all our energy supplies at the lowest price available—even if that means turning to the world oil market for a significant portion of our needs.

The mandatory coal conversion program is the heart of the administration's oil import reduction program. It is also the best demonstration of the bad economics of the Carter plan.

Coal is cheaper than $13 oil for operating large new utility and industrial boilers, primarily because of the economies of scale involved in coal transport, handling, storage, combustion and pollution control. Not surprisingly, the market already has recognized that coal is the lowest-cost alternative for large new facilities. Virtually all large boilers ordered in the past two years have been coal-fired.

These large new facilities will use coal without bureaucratic prodding. The real brunt of the Carter coal conversion program would fall on existing facilities and small industrial boilers, neither of which could ever be operated on coal for under $13 per barrel equivalent in fully allocated costs. These facilities would be compelled to use up to $20 per barrel coal "conversion energy" in place of $13 oil. The administration's plan would thus impose energy cost structures far in excess of the prevailing world price on large segments of U.S. industrial production.

The administration isn't the only perpetrator of such bad bargains. Sen. Russell Long's plan to make $16 shale oil competitive via a $3-a-barrel tax credit involves the dubious bargain of spending $16 of national income to save $13.

The truth is that spending $16 or more to save $13 is the essence of the National Energy Plan, Project Independence and all their progeny. Every panacea being pushed in the policy arena today—subsidized acceleration of the fast breeder, federally financed synthetic fuels developments, subsidized solar power installation, more draconian conservation measures such as thermal efficiency standards for existing housing, mandatory industrial efficiency standards, gas guzzler taxes—involves the forced feeding of energy into the economy at costs far above world oil prices.

Washington does not have a great reputation for economic acumen, but the present wholesale stampede to adopt bad economic bargains requires more of an explanation than simply ignorance. The explanation lies in two unsupportable notions that have been incorporated into the conventional wisdom.

The first is that world markets are running out of energy supplies and can't be relied upon much longer—so we must go it alone. The nonsense of this proposition is revealed best by the fact that in the 100-year history of the petroleum age, the world economy has thus far succeeded in consuming only 8 percent of the conservatively estimated resource base of natural gas and 15 percent of oil resources.

Even with today's still imperfect geologic knowledge, using cautious pre-1973 estimates, there are nearly 3,000 trillion barrels of oil and gas left—enough to last the world another half century even at double current rates of consumption. And that is to say nothing of the far more prodigious endowment of lower grade resources—25,000 trillion barrels of coal and geopressurized gas alone—that could be upgraded to refinery and pipeline quality fuels when price and cost levels warrant it.

The second bit of nonsense is that although the raw supplies may be there, the market mechanism itself has disappeared: OPEC is alleged to have suspended or superseded the economic rules of supply and demand, and what may have once been an international energy marketplace has now become a wholly political arena of intrigue, power plays and peril. Were we to abandon the quest for energy independence, the argument goes, U.S.-stimulated growth of world oil demand would encourage OPEC to substantially increase the price again during the 1980s. Given the oil and gas exploration boom underway all over the globe. This scenario seems wholly unconvincing unless bolstered with fudge-factory numbers like those contained in the now discredited CIA study of last April.

But even if there is some slight probability that OPEC will increase the world oil price significantly during the mid-1980s, the argument is irrelevant. One is tempted to ask Secretary Schlesinger why it is so bad to permit OPEC to inflict an $18 energy price regime on the U.S. economy in 1985, but patriotic and virtuous to empower his department to do the same thing in 1978.

In reality, the only result of the administration's high-cost strategy of oil import abstinence would be to keep the world oil price at $13 for a few years or even a decade longer than otherwise, with most of the benefit accruing to Western Europe and Japan.

There are reasonable prospects, however, that the world price of oil will not rise appreciably in real terms over the next decade or so. It is becoming increasingly clear that there may be an effective ceiling on world energy prices in the range of $18 to $24 a barrel for decades to come. At those price levels, the supply of non-OPEC conventional oil and gas and unconventional fuels of every sort is so enormous, and the opportunities for major gains in consumption efficiencies so great, that this ceiling is unlikely to be breached for generations, if ever.

Whether OPEC pushes the price of oil to this economic ceiling in the 1980s by withholding production or allows its output to expand to meet world demand at roughly present real price levels depends almost entirely on whether it wants to make a little or a lot of money from its vast remaining geologic endowment. If it wants to make a lot of money, it will keep the price below the economic ceiling, maximize production and earn an indefinite annual 3 to 4 percent real rate of return on the proceeds by purchasing international assets or investing in domestic economic expansion.

Of course, if Mr. Yamani and his colleagues didn't learn anything at Harvard Business School after all, they may push the oil price up to the ceiling during the next decade, only to find their world markets progressively shrinking in response to a flood of competitive alternatives.

In short, the oil withholding game only works when the world energy market permits oil prices to rise so rapidly that oil in the ground appreciates at a faster real rate than the rate of return available from the proceeds of currently produced oil. That was the unique situation during the first half of this decade.

OPEC leaders are not unmindful that even they have not transcended the rules of the economic game. This was demonstrated at the recent Caracas meeting when they decided to let the real price decline slightly this year rather than incur worsening surpluses.

If OPEC can recognize these things, why can't we? It's time to declare the energy crisis over, finish building the strategic oil reserve to cushion against any short-run contingencies, and abandon our masochistic fling with energy autarky.●

A TRIBUTE TO SENATOR MURIEL BUCK HUMPHREY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HUGHES. Mr. Speaker, I would like to call to your attention and that of my colleagues in the House the honor that was recently bestowed upon Senator MURIEL BUCK HUMPHREY by the Atlantic City Models Guild.

Each year, the Atlantic City Models Guild awards a large silver seashell to a woman who has made a significant contribution to a particular field or endeavor, or who is noted for her national, State or community achievements.

Senator HUMPHREY is the 24th recipient of this award. Mrs. Marie McCullough, head of the models guild said that Mrs. HUMPHREY was selected as this year's honoree since she was the first wife of a national nominee of either party to campaign independently for her husband outside of the home State. She opened a new era for women in politics.

Although Senate commitments kept Senator HUMPHREY from accepting this honor in Atlantic City personally, I accepted the silver seashell in her behalf.

I believe that this was a wise choice for Senator MURIEL HUMPHREY is truly a woman for all seasons.●

TRADE TALKS AND THE CHEMICAL INDUSTRY

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SLACK. Mr. Speaker, certainly one of the more difficult economic problems facing policymakers today is the matter of international trade. Without question, the decisions being made now will impact on every American well into the future.

The problem defies simple solution. While the growing interdependence of the world marketplace prevents any industrial nation from total protectionism, it also makes anachronistic the belief of ever achieving "free" trade. For an increasing number of foreign governments are owning, managing, or subsidizing their export-related businesses. Given this precondition, the goal we must now work toward is not the establishment of "free" but "fair" trade.

The Geneva trade talks is a proper forum from which to further this objective. And Williams S. Sneath, chemical industry trade adviser and chairman of the board of Union Carbide Corp. in a recent article published in the New York Times, pointedly demonstrates how these trade negotiations could affect the future viability of America's chemical industry. His arguments merit serious consideration which is why I have chosen to insert the entire article in today's RECORD:

[From the New York Times, Sunday, Apr. 2, 1978]

IN TRADE TALKS, A CHEMICAL REACTION

(By William S. Sneath)

We in the chemical industry are deeply concerned about the direction of the Tokyo round of multilateral trade negotiations now going forward in Geneva. And we are having trouble conveying this concern to the United States officials involved.

We understand the difficulties of the negotiators as they seek to reduce the protectionist tendencies prevalent in the world today, and we share their belief that the Tokyo round negotiations must be concluded with "meaningful success." But we are apprehensive that this "success" may come unnecessarily at the expense of American industry and American workers, including our own. And we are worried that the accelerated schedule of the negotiations will not allow sufficient time to deal with the important economic changes that have occurred since the articles of the General Agreement on Tariffs and Trade, under whose auspices the meetings are taking place, were written three decades ago.

We therefore ask the negotiators to consider the long-term, as well as the short-term, effects of their decisions. And we urge them to consider a detailed review and modernization of GATT, including the possibility of creating a new, more up-to-date GATT-like organization.

How can an industry with a current trade surplus of $5 billion and with technology and plants as modern as any in the world possibly be concerned about the current trade negotiations? Because the agreements reached will take effect in the future—and the future is precisely when the United States chemical industry will face its greatest competitive challenge.

The American chemical industry has competed successfully overseas for decades. We as an industry do not believe in protecting inefficiency, and we look forward in continuing competition in the international arena—as long as everyone is playing by the same rules. But today not everyone is playing by the same rules, and, more importantly, the rules themselves are outdated. The changes have been seen on both the domestic and international fronts.

Greater Government regulation is evident. For example, the United States Toxic Substances Control Act will decrease the number of new products introduced to the market, and will cause a multiyear lag for those that make it. Testing will be extremely costly. And the chemical industry could well lose some of its best performing products in both the domestic and export markets. Workplace safety regulations under the Occupational Safety and Health Act (OSHA) are also adding to the chemical industry's competitive burdens—as are air and water pollution-abatement and solid-waste-disposal regulations.

While the chemical industry recognizes and supports the need for quality-of-life goals, American producers are facing these added costs earlier than most of our foreign competitors.

We also face governmental action on the energy front that, in all probability, will increase United States crude oil costs about 30 percent and raise natural gas prices substantially. The chemical industry supports this movement toward world prices as being in the overall national interest. Nevertheless, the resulting jump in product costs will affect our industry's competitive position at home as well as abroad.

These added cost factors might normally be recovered through increased prices, but that will be difficult in the 1980's, for there has been a fundamental worldwide change in the structure of the chemical industry, with foreign governments increasingly entering the business—either through direct ownership or by exercising control over them.

Studies by the Office of the Chemical Industry Trade Adviser show that such government-owned or -controlled enterprises constitute a major and growing competitive threat in a host of large-volume chemical markets. These government-owned or -controlled companies are most often guided by political and public-policy considerations, such as employment and foreign-exchange earnings criteria, rather than by classical free-market supply-demand relationships. And this has contributed to a growing worldwide overcapacity some important chemicals and to the further erosion of the United States share of chemical export markets.

It is not intended here to argue the merits of the private-enterprise market system; it is within the purview of each nation to determine its own economic system and procedures. What is of concern is the impact these different systems have on international trading patterns.

For the current round of trade negotiations Washington has as its overall goal a reduction of approximately 40 percent in United States import duties. We are concerned that negotiators may attempt to reach that overall goal by sharply reducing tariffs in currently healthy domestic industries, such as chemicals.

Adding deep tariff cuts to the increasing competitive challenges could unnecessarily penalize the future of the chemical industry. Our industry and other viable American industries and their workers must not be offered as sacrificial lambs.

We do not believe there is sufficient time under the accelerated schedule of the Geneva negotiations to deal with the important changes that have occurred since the GATT articles were written three decades ago. In 1947, for example, there were about 70 sovereign nation states. Today there are 150.

One modification we would recommend is that the GATT should encompass all the trading nations—including the developing nations for which international trade is becoming more important. The present GATT has only 69 members.

The present GATT framework for international trade is based on the premise that international trade will generally result in the most efficient allocation of economic resources—if resources are allowed to flow according to market forces. But the market system continues to predominate in relatively few nations. We propose that the GATT be restructured to take into account the "managed" economies, "mixed" economies and state-operated economies.

For example, the new GATT should contain a stronger mechanism to identify and measure government subsidization of industries that are involved in international trade. In some "managed" or state-operated economies, it is becoming more difficult to find or to prove hidden subsidization in the classic sense as originally envisioned by GATT.

Similarly, present antidumping rules are difficult to enforce on products exported by state-controlled industries. This problem will become worse because it will become increasingly difficult to establish "free market value" of the products in the country of origin on which to gauge the dumping.

Therefore, we urge the Geneva negotiators to agree to begin a detailed review and modernization of GATT, or as a separate exercise following the conclusion of the Tokyo round, to create a new GATT-like organization—one that would be more responsive to world economic conditions as they exist today.

William S. Sneath, chairman of the Union Carbide Corporation, is the chemical industry trade adviser.●

THE GOLDEN ANNIVERSARY OF THE EXCHANGE CLUB OF FARMINGTON, CONN.

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. MOFFETT. Mr. Speaker, on April 19, 1978, the Exchange Club of Farmington, Conn., will be celebrating its Golden Anniversary. From its modest beginnings in 1928, the club has grown to over one hundred business and professional men joined in the common purpose of service to the community.

The National Exchange Club is the oldest and largest civic organization in the United States. The Farmington chapter—although located in a relatively small community—is the largest Exchange Club in Connecticut, and one of the largest nationally. Its programs of service include the "Youth of the Month" program, and sponsorship of the Farmington Boy Scout Troop No. 68 and the Connecticut Junior Miss Pageant, as well as many other community-oriented programs.

On April 14, 1978, the club will be commemorating its 50th birthday with a dinner-dance at the Golf Club of Avon, Avon, Conn. Mr. Robert C. Garland,

president of the National Exchange Club, will make the keynote address.

The greatest tribute to the dedication of this fine organization can be found in the words of its National "Covenant of Service":

COVENANT OF SERVICE

(Adopted as the philosophy which characterizes an Exchangite)

Accepting the divine privilege of single and collective responsibility as life's noblest gift, I covenant with my fellow Exchangites:

To consecrate my best energies to the uplifting of Social, Religious, Political and Business ideals;

To discharge the debt I owe to those of high and low estate who have served and sacrificed that the heritage of American citizenship might be mine;

To honor and respect law, to serve my fellowmen, and to uphold the ideals and institutions of my Country;

To implant the life-giving, society-building spirit of Service and Comradeship in my social and business relationships;

To serve in Unity with those seeking better conditions, better understandings, and greater opportunities for all.

I congratulate this group on an outstanding 50 years of service, and know that the Exchange Club of Farmington will continue to work in an exemplary fashion for the community.●

A MESSAGE TO SHAREHOLDERS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. RUDD. Mr. Speaker, the millions of men, women, and young people who own shares in American corporations and businesses are the real stockholders in America.

These are the people whose investments make possible the productivity and growth of our private enterprise economy. Without them, and the millions of employees who pay taxes to support our governments at various levels, this country would not enjoy the degree of public service we receive from Government.

Many people understandably believe that Government has grown too big, has taken on too many responsibilities that could be better handled by others, and therefore takes too much in taxes from the people.

A thoughtful explanation of this trend toward bigger and bigger Government, including bureaucratic control and regimentation, as it relates to our productive enterprise system, is made each year by Greyhound Corp., Board Chairman, Gerald H. Trautman, in his annual stockholders' report.

In this year's message to the owners of Greyhound, Mr. Trautman talks about unfair double taxation of dividends, employment, myths about profits, and Government overregulation.

I believe this is an excellent analysis of some of the problems posed by big Government that face the shareholders of America, and would like to include Mr. Trautman's message at this point in the RECORD:

IN THE CHAIRMAN'S VIEW

(There is a new awareness within corporate America of the need to assume a wider perception of its place in the scheme of things. This includes commenting on issues that impinge on the environment in which business must operate and shareholders invest. Greyhound Chairman Gerald H. Trautman initiated a number of forums in 1977 to touch on issues of broad concern, including a series of dividend messages reprinted below:)

DOUBLE TAXATION OF DIVIDENDS DISCOURAGES INVESTORS

In 1976, The Greyhound Corporation paid to its shareowners in the form of dividends over 62% of its 1976 net income. This dividend payout is substantially higher than the average payout for Dow Jones stocks (43%) or for the Standard & Poor's 500 companies (41%).

While our dividend payout is exceptional, there is a problem that Greyhound shareowners face in common with America's 25 million other shareowners. It is the unfair double taxation of corporate earnings, once at corporate level and again at the shareowner level.

Before any distribution of earnings was made to our shareowners, the Greyhound Corporation paid the taxes due on that income. Yet, following the distribution of those profits, they were taxed again . . . this time to you . . . as personal income.

This double tax on equity earnings is not only unfair to shareowners, but has the effect of discouraging the owning and holding of stock by private investors. In recent years, the number of U.S. shareowners has slid from 32 million to the present 25 million. Fewer individual investors participating in the market means that industry will have an increasingly difficult task raising the estimated $4.5 trillion it will need in new capital over the next decade to keep the economy moving. Of more immediate concern to shareowners, however, is the fact that the fewer individual investors in the market, the less bidding occurs . . . the kind of competitive bidding that results in a more realistic valuation placed on a company's stock.

At Greyhound, we strongly support legislation which would end this double taxation of corporate earnings. This would mean a substantially increased return on investment to our shareowners, and consequently make equity investing more attractive to the individual investor.

RISE IN EMPLOYMENT IS VITAL ECONOMIC SIGN

In recent weeks, there has been renewed concern over the unemployment rate, which rose in August to 7.1%. The trouble with the hue and the cry, however, is twofold:

First, unemployment statistics historically capture the public's attention, but *gains in employment numbers* go largely unnoticed, and

Second, attention is riveted on a single unemployment statistic of 7.1%, while unemployment facts of far greater consequence are buried.

By way of explanation, let's examine the past five years. In that period, the number of U.S. jobs has risen by over 10 million. In August, there were 91 million Americans employed in civilian jobs, compared with a little over 80 million in 1972. With very little notice and even less fanfare, the nation's army of jobholders has risen to 91 million for the first time in history.

Of course, unemployment has risen too. In 1972, some five million people were unemployed, or 6%. In August 1977, some seven million people were out of work. But were it not for those 10 million new jobs that were created in the intervening five years, the unemployment rate today would be up around 9%. In short, in just five years, an expanding, growing U.S. economy absorbed 10 million new workers into the labor force, and business and industry . . . the private sector . . . were responsible for most of those employment gains.

No one would seriously advance the concept that an unemployment rate of 7.1% is "ideal" not cause for jubilation. But it must be pointed out that in following the state of America's economic health, the trend of *employment* is just as significant a "vital sign" as is the trend of unemployment!

The other danger inherent in limiting one's vision to a consideration of a single unemployment statistic is the fact that that statistic masks other, more arresting unemployment facts of life . . . such as a 34% unemployment rate among young black males and a staggering 41% unemployment rate among black teens.

It is statistics such as these, rather than a limited preoccupation with a single unemployment figure, that are cause for alarm and concern.

And however much the government economists and the Congressional lawmakers may publicly bemoan unemployment and seek short-term band-aid solutions to the problem, the only solution lies in encouraging, not hamstringing, the growth of business and industry.

The only real source of jobs in this country is private industry, where jobs are created and supported not by tax dollars, but by the production of goods and services.

PUBLIC MISLED ON SIZE OF CORPORATE PROFITS

The American public, polled on the subject of profits, believes that approximately 26¢ out of every dollar of revenue winds up in the corporate cash register as profit.

That the average profit of American business is actually less than 3¢ on every dollar eludes most people. And why not? When financial page headlines read, "XYZ Corp. Reports 50% Jump in Profits" the public can hardly be blamed for believing that XYZ Corp. has, by some extortionate means, made itself rich beyond its dreams of avarice.

What eludes the reader is the fact that the heading refers not to profit, but simply to a rate of change in current year earnings compared to the prior year.

In short, if a company made 2¢ profit on sales last year, and this year makes 3¢, it has had an earnings increase of 50% . . . but that hardly translates into an embarrassment of riches!

Last year, in a special annual report to employees, I used the simple device of explaining profits by premising that each of Greyhound's 52,000 employees divided up the total business and ran his or her segment as a proprietorship.

On that basis, in 1976, the employee earned revenues of $72,308. Out of that, he paid $23,640 to farmers for livestock and poultry, $28,752 for operating costs and expenses, and $15,479 to himself for wages, health and pension benefits.

Interest amounting to $696 was paid on the money he borrowed to finance his company's growth, and there was $2,258 allocated to pay taxes to local, state and federal governments.

At year-end, the employee closed his books and found he had made a net profit of $1,483, but even this was not really "bottom line." From net income he paid $916 as dividends to the people who lent him the money to get started. That left him with $567 of retained income to reinvest in his one-man business to expand, grow and compete in his industry . . . $567 . . . roughly 1¢ out of the revenue dollar he started with.

That's a far cry from the image of corporate "bounty" popularly held by the American public, and the time is long overdue for public perception of profit to start to square up with corporate reality!

THE CONSUMER PAYS FOR OVER-REGULATION

Over 150 years ago, a Justice of the Supreme Court pointed out that the power to tax carries with it the power to destroy. In our century, this observation more accurately applies to the power to regulate!

As I have so often pointed out in our shareholder communications, over-regulation and unnecessary regulation put an intolerable burden on business and industry, and consequently on all shareholders as well.

Literally thousands of regulatory bodies, agencies and commissions exist today whose operation amounts to nothing more or less than self-enshrinement. Possessing the power to enact regulatory legislation, police it, enforce it and then pronounce judgement for violation, these agencies are answering to no one. It has been variously estimated that complying with the mandates of regulatory agencies costs the American consumer over $130 billion a year. No one questions the wisdom or the necessity of prudent regulation, thoughtfully and responsibly administered. But unnecessary regulation brings in its wake padlocked businesses, lost jobs, reduced earnings and dividends, increased unemployment taxes, and the ultimate irony of dubious benefits . . . or none at all.

The new Administration appears to be making a serious effort to whittle down the towering edifice of bureaucracy that has been erected in Washington, and relieve the staggering burden on taxpayers to support that bureaucracy. I would urge you, as shareholders and as consumers, to support these efforts.

Regulation for its own sake . . . hastily conceived and haphazardly administered . . . neither restrains nor reforms. It merely cripples the productive capacity of the nation and the economic well-being of its people.●

FORSAKING CONSTITUTION TO BOOST SAGGING PRESIDENCY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HANSEN. Mr. Speaker, the Senate action rejecting the need for a House vote on any transfer of property in the Panama Canal Zone is unconstitutional, destructive of the legislative partnership, and an imperious attitude reminiscent of a House of Lords.

As a leading advocate in Congress for the need for House involvement in property transfer provisions and appropriations involved in the Panama Canal treaties, I can say the Senate action was not unexpected but it is always disappointing to see political expedience warping the constitutional process.

Article IV of the Constitution clearly states that the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Article I stipulates that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law."

The Constitution has checks and balances and depends upon the partnership process between legislative bodies and between the various divisions and strata of government. The advocacy by this administration of the concept of self-executing treaties to the exclusion of other powers and restrictions of the Constitution creates the dangerous precedent of a lawmaking process excluding the House of Representatives, the people's voice.

This will not be tolerated by Members of the House who consider themselves constitutional coequals of the Senate and 237 Members of Congress reject this high-handedness by the administration and Senate leadership as cosponsors of my resolution No. 347 to prevent any transfer of property in the Panama Canal Zone without an act of Congress, which includes both Houses.

The gauntlet has apparently been thrown down by a Senate politically bent more toward preserving a sagging Presidency than with upholding the Constitution. But the challenge will be met in legislative activities by the House of Representatives pending in committee and through the route of a discharge petition or in the courts before the Panama Canal issue is finally resolved.

Mr. Speaker, it is important to note that the Senate was adequately and timely informed of the House attitude on the Panama Treaty controversy. For the RECORD, just prior to the critical vote on the Hatch amendment designed to assure adherence to provisions of the Constitution under article IV in any approval of the proposed Panama Canal treaties, I sent the following letter on March 31, 1978, to all Members of the U.S. Senate which contained information vital to their consideration:

DEAR SENATOR: A critical issue has surfaced regarding the proposed Panama Canal Treaty which must be dealt with effectively to protect the Constitutional processes of this government and preserve the balance of powers concept.

I am writing to you as a representative of the majority of the Members of the House of Representatives. We believe that it is unconstitutional and inappropriate for the multi-billion dollar investment of the United States in the Canal Zone to be transferred to the Republic of Panama by treaty alone. Article IV, Section 3, Clause 2 of the Constitution gives to the Congress the exclusive power to dispose of U.S. property and territory. Failure to exercise that power in this crucial question of the Canal Zone will be a disastrous precedent for the separation of powers in our government.

Over 235 Members of the House have gone on record in support of a House vote on the disposition of property in the Panama Canal Zone, a clear majority of the Members of this body. This is a Constitutional issue and not one of partisan politics. A recent national poll (Feb. 24–27, 1978) conducted by Opinion Research Corporation of Princeton, New Jersey, found that 70 percent of Americans favor the House of Representatives voting on the disposition of property in the Panama Canal Zone. Only 17 percent said no. It is our duty as the elected representatives of the people to assure that their voice is heard.

We do not address ourselves to the matter of Treaty approval which clearly is a responsibility of the Senate under Article 2, Section 2, Clause 2. However, we are deeply concerned that constitutional authority and traditional principles under other Sections not be abridged by any sweeping exercise of Treaty approval prerogatives.

Specifically, Article 4, Section 3, Clause 2 bestows on Congress, not just the Senate, "power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Also, Article I, Section 9, Clause 7 states, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law," which requires, of course, action by the House as well as the Senate.

There is no need to point out the mischief which might take place if the concept of "self-executing" treaties is allowed to prevail where property disposal and appropriations are involved. Once the precedent exists, where will the lines be drawn? Will Treaty approval power further expand to preclude any need for action by the House of Representatives in matters of foreign policy? If the possibilities are expended, will self-executing treaties even allow tax adjustments and other appropriations-type authority exclusive of House action?

The Separation of Powers doctrine is in grave danger and the traditional partnership processes of our two co-equal legislative bodies is jeopardized by the self-executing treaty concept.

Previous to this Administration all substantial legal opinion and precedent support the partnership constitutional process in treaty approval where the appropriate clauses are applied in tandem as necessary. This is particularly true in the case of treaties with Panama where this procedure has been followed scrupulously.

Since the President has strongly insisted on an unprecedented carte-blanche application of the self-executing treaty concept which creates the dangerous precedent of a lawmaking process excluding the House of Representaives, the people's voice, much concern has arisen and been publicly manifested by a majority of the Members of the House.

One striking illustration of this concern for preservation of constitutional balance and the rights and responsibilities of the House is the 235 co-sponsors on H. Con. Res. 347 which insists that no transfer of rights or property can be made in the Panama Canal Zone without an Act of Congress.

Well over 100 members of each political party are co-signers and both pro-treaty and anti-treaty people are included, all of whom see an issue at stake separate from and of even greater concern than the proposed transfer of the Panama Canal. It is so critical that many members are co-sponsors who normally would not become involved such as Committee Chairman and other members of party leadership on both sides.

Having 235 co-sponsors on a Resolution dealing with a highly controversial issue is most unusual if not unprecedented, especially when it is known that dozens more support the principle who have not officially become sponsors. Twenty-eight of the 44 Chairmen and Ranking Minority Members of the standing committees of the House are co-sponsors.

Previously many Senators have publicly expressed their support of this Constitutional issue, many as recently as the 94th Congress.

I would like to call your attention to the sponsorship of Senate Resolution 97 introduced in the 94th Congress. The following is quoted from the CONGRESSIONAL RECORD, March 4, 1975, S 507D.

Senate Resolution 97: Submission of a Resolution urging retention of undiluted U.S. sovereignty over the Canal Zone.

The resolution submitted by Mr. Thurmond (for himself, Mr. McClellan, Mr. Robert C. Byrd, Mr. Long, Mr. Eastland, Mr. Randolph, Mr. Talmadge, Mr. Symington, Mr. Hartke, Mr. McIntyre, Mr. Tower, Mr. Fong, Mr. Curtis, Mr. Fannin, Mr. Hruska, Mr. Hansen, Mr. Goldwater, Mr. Hollings, Mr. Johnston, Mr. Nunn, Mr. Allen, Mr. Beall, Mr. Do-

menici, Mr. William L. Scott, Mr. Young, Mr. Stone, Mr. Montoya, Mr. Ford, Mr. Morgan, Mr. Helms, Mr. Buckley, Mr. McClure, Mr. Garn, Mr. Laxalt, Mr. Harry F. Byrd, Jr., Mr. Dole, and Mr. Bartlett) is as follows:

Resolved, That it is the sense of the Senate of the United States of America that—

(1) the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

(2) there be no relinquishment or surrender of any presently vested United States sovereign right, power, or authority or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and

(3) there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate) as provided in Article IV, Section 3, Clause 2 of the United States Constitution.

This is in keeping with previous precedent concerning disposal of property in and around the Panama Canal Zone to the Republic of Panama.

The United States has transferred territory and property in and around the Canal Zone to the Republic of Panama on four previous occasions.

The 1932 and 1937 transfers were effected by Act of Congress. In 1943, a Joint Resolution approved an executive agreement calling for the transfer of property to Panama. Three provisions in a 1955 treaty with Panama provided for the disposition of territory and property. One of those provisions required implementing legislation. Although the other two provisions did not call for implementing legislation, a State Department official acknowledged that implementing legislation would be required for all three provisions.

The Library of Congress concluded in a study of this Constitutional question that "Congress has often asserted an exclusive right to dispose of federal territory and property. It is also apparent that both the Executive and the Senate have recognized that claim in past dispositions of property in the Canal Zone to Panama. Therefore, while it is impossible to make a categorical assertion that Article IV, Section 3, Clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in and around the Canal Zone to Panama."

Even the Mexican Prisoner Exchange Treaty of 1977 approved by the current Senate was predicated on an implementing act of Congress before it would become effective. The Congressional Record of July 21, 1977, page S 2553 shows that the declaration to the resolution of ratification was agreed to as follows: That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article IV has been enacted. This declaration passed the Senate by a vote of 90–0.

Finally it should be remembered that the House will act on any Panama Treaty approval implementation—this is even conceded by the Administration. The question is will we act in constitutional partnership so nothing is formulated that is not supported by timely action of both Houses of Congress or will we only be taken in as a junior partner after implementation has begun and conditions are set where the choice lies between rubber stamping what has already been decided or working our will at the risk of breaking promises and creating an international incident.

I feel that to exclude the House on this very critical issue in light of previous precedent would be disastrous and passage of the implementing legislation by the House would be in jeopardy. Additionally I am sure such exclusion would invite many Constitutional cases to be filed with the Courts, perhaps even by the entire House.

There are two distinct issues of concern, one is the proposed transfer of the Panama Canal, the other is the preservation of Constitutional balance and traditional legal procedure especially as it involves the authority and power of the House of Representatives. We ask that, whatever your feelings regarding the Panama Treaty issue, you join us in fighting for the rights of the House and preservation of our proper constitutional role as Representatives of the people.

We earnestly solicit your support of a proper stipulation to assure this condition, such as Senator Hatch's proposed Amendment 92 which at the end of Article I of the proposed treaty adds the following new section:

No. 5. It is expressly provided that this treaty shall, in no event, enter into force until the Congress of the United States in accordance with the provisions of Article IV, Section 3, Clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.

To more clearly place the issues of disposal, appropriations, and implementation squarely before the Congress I have introduced on March 16, 1978, H.R. 11634, the draft proposal for treaty implementation as submitted by the Administration which has been referred jointly to Committees on Merchant Marine and Fisheries.

H.R. 11634 is entitled, "A bill to provide the congressional authorization required by clause 2, section 3, article IV of the Constitution, for the transfer to Panama of the property of the United States in the Canal Zone; to authorize the appropriations required by clause 7, section 9, article I of the Constitution, to implement that transfer of United States property, including the transfer of military installations and of cemeteries in which United States veterans are interred, the closing of the Canal Zone courts, and the assumption by the United States Postal Service of the functions of the Canal Zone postal service; to otherwise provide legislatively the authorizations not provided pursuant to clause 2, section 2, article II of the Constitution which are necessary to implement the Panama Canal Treaty of 1977 and related agreements; and for other purposes."

The constitutional course is clear and the will of the House is well-known. We trust you will support us in your consideration of Amendment 92 by Senator Hatch currently scheduled for action or a similar provision continuing the Constitutional balance enjoyed by our two legislative bodies for nearly 200 years.

Sincerely,

GEORGE HANSEN,
Member of Congress.

Also sent to the majority leader of the Senate on April 4, 1978, with copies to all Members was the following letter:

Hon. ROBERT C. BYRD,
Majority Leader, Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: Just three years ago in the 94th Congress on March 4, 1975 you and 36 other Senators[1] sponsored S. Res. 97 which concluded with the following:

"(3) there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution."

A majority of the Members of the House in this Congress have sponsored H. Con. Res. 347 which now has 235 cosigners[2] and similarly states:

"That any right to, title to, or interest in the property of the United States government agencies in the Panama Canal Zone or any real property and improvements thereon located in the zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress."

On July 21, 1977 the 95th Senate which is still in session again invoked the balance of powers qualification when it approved 90–0 the Mexican Prisoner Exchange Treaty with the reservation:

"That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article IV has been enacted."

This constitutional partnership linking Senate treaty powers under article II, section 2, clause 2 with the authority of the full Congress under article IV, section 3, clause 2 (property disposal) and article I, section 9, clause 7 (appropriations) has been traditional and especially so in the case of all Panama treaties.

Therefore, we in the House trust the Senate will support the Hatch Amendment this week or a like provision in consideration of the Panama Canal Treaty. This Amendment 92 adds to the end of article I of the proposed treaty the following new section:

"(5) It is expressly provided that this treaty shall, in no event, enter into force until the Congress of the United States in accordance with the provisions of article IV, section 3, clause 2 of the Constitution of the United States of America, shall have disposed of, or shall have authorized the disposition of, the property belonging to the United States of America, or of any of its agencies in the Panama Canal Zone, as it existed on September 7, 1977.".

History is clear, precedent is traditional, an overall majority of those is committee leadership of this 95th Congress (House and Senate combined) are on record for timely congressional action before any treaty implementation where property disposal or appropriations are necessitated.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

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[1] Includes current Senate Majority Leader and eleven of fourteen (79%) of the Chairmen and Ranking minority members of Senate Committees with key involvement or concern with the Panama issue. (Agriculture, Appropriations, Armed Services, Energy and Natural Resources, Public Works, Finance, and Judiciary)

[2] Includes 28 of 44 (64%) of the Chairmen and Ranking minority members of the 22 standing committees of the House with only the Small Business and District of Columbia Committees unrepresented.

TWO HUNDRED YEARS OF ARMY ENGINEERS

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. ROBINSON. Mr. Speaker, on June 9, 1778. Gen. George Washington posted a general order at Valley Forge, Pa.

By this order, General Washington, in effect, established professional education in engineering in this country. On June 9, 1978, the Freedoms Foundation at Valley Forge, Pa., in association with the National Society of Professional Engineers, will present a 200th anniversary commemorative program at Valley Forge.

One of the Nation's most distinguished soldiers, Gen. Bruce C. Clarke, U.S. Army (retired), who resides at Palmyra, Va., has had an active role in the planning and promotion of this program, in which prominent figures in military and civil engineering will participate.

Gov. John N. Dalton of Virginia has commended this observance to general public notice, as follows:

ENGINEERS 1978 NATIONAL CELEBRATION

On January 28, 1778, General Washington recommended to the Congress that an Engineer Department be formed for the Army, which was accomplished by resolution of Congress on May 27 of that year.

Washington followed this action by calling for volunteers from his men with the necessary qualifications to be educated as engineers to fill the three companies of Engineers. This order of 9 June 1778 was the first call for formal engineering education in America.

The call began a chain of events leading to the establishment of the United States Military Academy at West Point, of which General Thomas Jonathan (Stonewall) Jackson, and General Robert E. Lee were later graduates, and where Lee served as Superintendent from 1852 until 1855.

In 1918, The Army Engineer School was moved to what is now Fort Belvoir, Virginia, which includes Belvoir Manor, the home of Lord Fairfax, to whom young Washington was apprenticed to learn surveying and engineering.

I, therefore, join the engineers of the United States Army and the National Society of Professional Engineers in calling to the attention of all Virginians to the anniversary of Washington's call for engineering education at Valley Forge, June 9, 1778, and the events that followed.

As of further interest, I include the text of a paper presented by Lawrence P. Grayson of the National Institute of Education, Washington, D.C., on December 5, 1977, as follows:

GEORGE WASHINGTON'S ORDER OF JUNE 9, 1778 AND THE ORIGINS OF ENGINEERING EDUCATION

Prior to the time of America's declared independence, there was little need for a school of engineering in the colonies. The military requirements that existed, such as those during the French and Indian War, were met by engineers educated in England who served in the British army or by colonists who served under them. The engineering needs of a civilian nature, which were reflective primarily of hand-craft technology, were met largely by ingenious or industrious men who were self-educated. With the beginning of war, however, America's requirement for qualified engineers became critical.

Shortly after assuming command of the continental forces on June 15, 1775, George Washington advised Congress that the army labored under numerous disadvantages, including "a Want of Engineers to construct proper Works and direct the Men". He continued "I can hardly express the Disappointment I have experienced on this Subject; the skill of those we have being very imperfect." Washington's concern, which he voiced on numerous occasions over the next few years, was shared by many other colonial leaders, including John Adams and Henry Knox.

The lack of a sufficient number of engineers in the army persisted throughout the Revolutionary War, and almost all of those who served as engineering officers were of foreign birth and education. It was recognized that most of these men would return to their native countries when the war ended. America required engineers, not only for the immediate military needs, but also to meet the future requirements of a civilian population when the nation would be independent and developing. These were the conditions and sentiments of the times when the army established winter quarters at Valley Forge, on December 20, 1777.

Shortly after encamping, Brigadier General Louis Duportail, a French volunteer who was serving as chief of engineers, drew up a plan for the establishment of an engineering corps as a permanent part of the Continental army. His plan dated January 18, 1778, called for the formation of enlisted men into companies of sappers headed by officers, and proposed that the companies might serve as a school of apprenticeship for the men. On January 28, Washington endorsed Duportail's plan and recommended to Congress that an engineering department be organized. This was done by a Resolution of Congress on May 27, 1778, as part of a general organization plan for the army. The engineering department was established with three companies, each to contain 1 captain, 3 lieutenants and 68 enlisted men, with the requirement that "These companies to be instructed in the fabrication of field works . . . The commissioned officers to the skilled in the necessary branches of mathematicks".

Washington readily complied with the resolution, stating in the General Orders issued at Valley Forge on June 9 that:

"Three Captains and nine Lieutenants are wanted to officer the Companies of Sappers: As this Corps will be a school of Engineering it opens a Prospect to such Gentlemen as enter it and will pursue the necessary studies with diligence, of becoming Engineers and rising to the Important Employments attached to that Profession as the direction of Fortified Places & C. The Qualifications required of the Candidates are that they be Natives and have a knowledge of the Mathematicks and drawing, or at least be disposed to apply themselves to those studies. They will give in their Names at Head-Quarters."

The need and sentiment for educating engineers in the United States was clearly present at this time, although almost a quarter of a century would pass before a formal school of engineering would be established. In the winter of 1778, General Knox, while camped at Pluckemin, N.J., established "an academy where lectures are read in tactics and gunnery". For the decade following the end of the war in 1783, numerous people, including Washington, Hamilton, Randolph, Knox, Duportail, Baron von Steuben, L'Enfant, Benjamin Lincoln and Timothy Pickering, both of whom served as Secretary of War, and numerous others, stressed the need for officers trained in engineering and the need to establish a military academy. George Washington, in his Presidential message of October 25, 1791, advocated and establishment of a military academy, which actually commenced at West Point in 1794. The academy, in which much of the instruction was devoted to fortifications, continued until April 1796, when a fire destroyed the barracks. On March 16, 1802, an Act of Congress stationed the Corps of Engineers at West Point to constitute the Military Academy, which has continued to the present day. The engineers and cadets at the Academy were made available for such duty and service as the President of the United States might direct, thus allowing them to perform works of a public as well as a military nature. This availability was in keeping with the sentiment expressed in 1800 by James McHenry, the Secretary of War, that "We must not conclude that service of the engineer is limtied to constructing fortifications. This is but a single branch of the profession; their utility extends to almost every department of war; besides embracing whatever respects public buildings, roads, bridges, canals and all such works of a civil nature".

The Military Academy as originally established was loosely organized, operated on meager resources, and had no definite or consistent system of instruction, examination or length of study. It was only as a result of the appointment of Sylvanus Thayer at the time a captain in the Corps of Engineers, as Superintendent in 1817 that the academy developed. Following a trip to France to study its educational system, Thayer arranged the cadets into four annual classes, divided the classes into sections requiring weekly reports, developed a scale of marking, attached weights to the subjects in the curriculum necessary for graduation, instituted a system of discipline and an honor code, and set a standard of high achievement. These characteristics have remained with the academy until the present time, and formed the pattern for technical education in America.

On April 29, 1812, a Congressional Act set further provisions for the Military Academy, including establishing the position of "professor of the art of engineering in all its branches". One of the most influential persons to occupy the position was Dennis Hart Mahan, who was appointed in 1832. His pioneering efforts in the preparation of textbooks on engineering subjects did much to break this country's dependence on the translation and republication of European works.

Alden Partridge, who was the first person to hold the title of professor of engineering in the United States and served as acting Superintendent at West Point, resigned from the army in 1818 and established the American Literary, Scientific and Military Academy at Norwich, Vermont. This institution, which later became Norwich University, was the first civilian school of engineering in the country. In 1824, the Rensselaer School was established and eleven years later granted the degree of civil engineer for the first time in America and Great Britain.

From these initial acts, engineering education in the United States has grown until today are are almost 295,000 graduate and undergraduate students studying engineering on a full-time basis, and an additional

47,000 students studying part-time, at 289 institutions of engineering. In addition, there are some 58,000 full-time students and almost 20,000 students studying part-time at 119 institutions that offer programs in engineering technology.

As a single event, George Washington's call for a school of engineering is but a minor footnote in history. Taken, however, in a larger context as part of a continuing series of events, it is an act by the Commanding General of the Continental Army and future first President of the United States, recognizing the importance of engineering education to meet the needs of an independent and sovereign nation. The celebration of the 200th anniversary of the call, scheduled for June 9, 1978, at Valley Forge, will be formal testimony by the engineering profession to the foresight of George Washington and a reaffirmation of the continuing importance of engineering education to the future of America.●

THOUGHTFUL COMMENTS ON STATE AND FEDERAL TAX RESPONSIBILITIES

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. SARASIN. Mr. Speaker, Mr. Frazar B. Wilde, a highly respected Connecticut businessman currently serving as chairman emeritus of the Connecticut General Life Insurance Co., has long been an astute observer of economic conditions and trends in my home State.

In remarks he made recently before a West Hartford, Conn., meeting concerning State tax matters, Mr. Wilde made a number of cogent points regarding tax policy and the future direction of Connecticut's economy.

While the major thrust of the comments deals with local tax questions in Connecticut, and specifically the advantages accruing to our State from the continued absence of a State income tax, much of Mr. Wilde's advice is relevant and should be of interest to many of my colleagues, particularly with regard to his opinions on Federal responsibilities.

Mr. Wilde has been kind enough to make available a summary of his most salient points from his remarks and I would like to make that summary available here for the consideration by my fellow Members of the House:

THE TAX AND FISCAL SITUATION OF CONNECTICUT

In viewing the future progress of the State, we know that taxes, their form and their level will play a major role. We also know that certain elements are basic and timeless. We must recognize that all taxes are negative in their impact and interfere with a successful free society, that there is no such thing as a perfect tax program and that tax decisions come from an amalgam of factors, including those of basic economics interrelated with those of a political nature such as pressure groups.

The following elements I suggest should be an integral part of future decisions involving state taxation:

1. Connecticut should continue to emphasize a conservative budget, one that does not exceed the general cost of living.

2. We must emphasize—and re-emphasize—to our Congressmen and Senators the importance of two national factors, welfare and inflation, on our State's economic future. The federal government should be urged to assume the welfare load. Population movements have imposed a disproportionate share of the burden on the Northeast, especially Connecticut. Inflation, of course, eats at the fiscal strength of all states and the federal government must execute its responsibility for restraining inflation. There is a bill in Congress now to increase aid to state governments for disbursements to cities. It should be stressed to our delegation that Connecticut gets its share from this legislation.

3. When it comes to the form of State taxation, the sales tax stands out at the best of the lot. Advantages include:

It reminds every individual that government service and benefits must be paid for.

It is a proportional tax that requires those who buy more to pay more.

It is easy to adjust up or down as the State's needs vary.

It is difficult to evade.

A progressive income tax would be the most deplorable taxation form of all. It would set in motion further movement toward egalitarianism. Most Connecticut proponents of an income tax advocate what I call a "supertax," not a simple flat tax. A supertax is one that increases disproportionately as income increases and is layered on top of the progressive federal tax. This is a deadend approach that denies incentive. The experience of New Jersey, which recently adopted an income tax, has added to the overwhelming proof that an income tax adds to the total tax and is not a substitute for other state taxes. While our state has a number of challenges to face in encouraging business growth, the absence of a complete state income tax is one advantage we enjoy. Let's not throw it away.●

CBS DOCUMENTARY ON VIETNAM VETS AND AGENT ORANGE TO BE SHOWN HERE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. MIKVA. Mr. Speaker, two weeks ago, the CBS television affiliate in Chicago aired a documentary which revealed a number of serious illnesses among Vietnam veterans that might have been caused by exposure to a powerful defoliant known as Agent Orange.

Ten million gallons of Agent Orange were sprayed over Vietnam from 1962 to 1970 to defoliate forests. The spraying was halted because of health hazards. But now, more than 10 years later, an apparently growing number of Americans who served in Vietnam have developed illnesses and, in some instances, have had children born with birth defects that may be related to Agent Orange exposure.

The CBS documentary, which was reported by Bill Kurtis, was the first public disclosure of the illnesses affecting Vietnam veterans who were exposed to Agent Orange. The documentary raises important questions concerning not only Government responsibility to these veterans but other health and environmental issues, too.

On Wednesday, April 12, at 1:30 p.m., in the Veteran Affairs Committee room, Cannon 334, CBS anchorman Bill Kurtis will show the documentary that was recently aired and will discuss with Members and staff other aspects of his investigation into this important matter.

Congressman DON EDWARDS and I hope that other Members of Congress and staff will be able to join Mr. Kurtis and us on April 12.●

MURPHY AND RHODES URGE SIGNING OF DISCHARGE PETITION NO. 6

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. HANSEN. Mr. Speaker, the discharge petition is controversial and shunned by many as a bypass of the normal legislative system.

However, it is ironic that as we face a critical constitutional fight over the proposed transfer of the Panama Canal to preserve the rights and responsibilities of the House our best means of saving the system involves bypassing the system.

Although the discharge petition may be overworked by some, it is the only way to overcome the legislative hammerlock that one or a few can impose on the majority under certain circumstances.

This is indeed the case for signing discharge petition No. 6 as outlined by my colleagues JOHN M. MURPHY, chairman of the Merchant Marine and Fisheries Committee, and JOHN J. RHODES, House minority leader.

Chairman MURPHY stated in the CONGRESSIONAL RECORD of April 6, 1978 that—

The action of the Senate . . . in rejecting an amendment to the Panama Canal Treaty that would have recognized the constitutional role of the Congress in disposing of the property of the United States provided in the treaty, should be a matter of profound concern to every Member of the House and of the Senate" because it . . . "flies in the face of the plain provision of article IV, section 3, clause 2 of the Constitution and the uniform practice of this Government from the earliest days of the Republic" and because . . . "it represents a radical departure from the theory of the Constitution establishing a balance of power between the three branches of the Government." He emphasized that, "It is especially in derogation of the role of the House of Representatives in the structure of Government in that Senate concurrence in the action of the Executive is substituted for enactment of legislation

by the House and the Senate as the Constitution requires.

He points out:

The language of the Constitution is plain and unambiguous in committing to the Congress the authority to dispose of property of the United States . . .

And that—

the action of the Senate in arrogating this power to the President and the Senate should not and cannot be accepted by this body.

The chairman states:

The wisdom of the Senate vote in refusing to recognize the legitimate role of the Congress must be questioned when it is recognized that the vote adopts a constitutional interpretation which has been advocated by the Executive and which has historically been opposed by the Congress from the First Congress.

In conclusion he pleads:

It remains of paramount importance that House Members sign discharge petition No. 6 relative to House Concurrent Resolution 347 because the discharge petition is the most expeditious means of bringing the resolution to this floor and allowing all Members to express a position on a matter that vitally affects the powers of which we are trustees.

Minority Leader RHODES in a letter to me dated April 4, 1978, states:

Hon. GEORGE HANSEN,
House Office Building,
Washington, D.C.

DEAR GEORGE: I have received your letter regarding the need for a discharge petition on H. Con. Res. 347 and strongly agree that if ever there was a time for this unusual procedure to preserve our legislative system and the constitutional provisions for checks and balances, this is it.

Your having the support of affected committee chairmen and ranking minority members in H. Con. Res. 347 and again in the discharge petition is historical and indicative of the need for this effort. I have accordingly extended my support both as a co-sponsor of H. Con. Res. 347 and as a co-signer of discharge petition No. 6 and strongly encourage all Members to do the same.

You are welcome to use this letter as my endorsement of your efforts in this regard.

Sincerely,

JOHN J. RHODES,
Member of Congress, Minority Leader.

Mr. Speaker, I enclose for the record my letter of April 4, 1978, to the minority leader outlining the unusual and overriding need for a discharge petition in this legislation regarding the proposed Panama Canal transfer because of the serious constitutional issues involved:

Hon. JOHN J. RHODES,
House Office Building
Washington, D.C.

DEAR JOHN: I am writing regarding the critical issue which we have been addressing for several months regarding the proposed Panama Canal Treaty which must be dealt with effectively to protect the Constitutional processes of this government and preserve the balance of powers concept.

As you know, this does not address itself to the matter of Treaty approval which clearly is a responsibility of the Senate under article 2, section 2, clause 2. But it does involve that concern we share that constitutional authority and traditional principles under other Sections not be abridged by any sweeping exercise of Treaty approval prerogatives.

Specifically, article 4, section 3, clause 2 bestows on Congress, not just the Senate, "power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Also, article I, section 9, clause 7 states, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law," which requires, of course, action by the House as well as the Senate.

There is no need to point out the mischief which might take place if the concept of "self-executing" treaties is allowed to prevail where property disposal and appropriations are involved. Once the precedent exists, where will the lines be drawn? Will Treaty approval power further expand to preclude any need for action by the House of Representatives in matters of foreign policy? If the possibilities are expanded, will self-executing treaties even allow tax adjustments and other appropriations-type authority exclusive of House action?

The Separation of Powers doctrine is in grave danger and the traditional partnership processes of our two co-equal legislative bodies is jeopardized by the self-executing treaty concept.

Previous to this Administration all substantial legal opinion and precedent support the partnership constitutional process in treaty approval where the appropriate clauses are applied in tandem as necessary. This is particularly true in the case of treaties with Panama where this procedure has been followed scrupulously.

Since the President has strongly insisted on an unprecedented carteblanche application of the self-executing treaty concept which creates the dangerous precedent of a lawmaking process excluding the House of Representatives, the people's voice, much concern has arisen and been publically manifested by a majority of the Members of the House.

One striking illustration of this concern for preservation of constitutional balance and the rights and responsibilities of the House is the 235 co-sponsors on H. Con. Res. 347 which insists that no transfer of rights or property can be made in the Panama Canal Zone without an Act of Congress.

Well over 100 Members of each political party are co-signers and both pro-treaty and anti-treaty people are included, all of whom see an issue at stake separate from and of even greater concern than the proposed transfer of the Panama Canal. It is so critical that many Members are co-sponsors who normally would not become involved such as Committee Chairmen and other members of party leadership on both sides.

Having 235 co-sponsors on a Resolution dealing with a highly controversial issue is most unusual if not unprecedented, especially when it is known that dozens more support the principle who have not officially become sponsors. Twenty-eight of the 44 Chairmen and Ranking Minority Members of the standing committees of the House are co-sponsors.

However, even with this striking illustration of the mood of the House, there appears to be no softening in the Administration and Senate attitude and further action is obviously necessary to impact upon the Executive Branch and legislative leaders coordinating with them that Members of the House will not stand idly by and watch our powers be assumed by other authorities in pursuit of a convenient process for handling a sensitive and controversial issue.

To bring H. Con. Res. 347 to official action, even though 235 co-sponsors signifies passage, the only recourse under the circumstances was the discharge petition route. It is an unusual and difficult process which is often viewed as a shortcut to avoid the regular legislative process or a means to get attention, if not results. Nevertheless, when the will of the House is so thwarted by forces from outside the system, then the discharge petition can serve as the legislative tool it was intended to be.

It is on this basis that leaders such as yourself and Ranking Committee Members, some who have never before signed a discharge petition, have joined in this effort to bring this resolution to a timely vote of the House. This includes Chairmen of Key Committees such as Merchant Marine and Fisheries, Armed Services, and Interstate and Foreign Commerce. This brave and unusual action hopefully will prompt all members to join in this special effort to protect the Constitutional rights of the people and of ourselves as their Representatives.

Even the Mexican Prisoner Exchange Treaty of 1977 approved by the current Senate was predicated on an implementing act of Congress before it would become effective. Why, then would this same Senate be reluctant to condition Panama Treaty approval upon an obviously needed act of Congress when so much property disposal and appropriations of funds are involved? This is why we must assert the mood of the House.

It is inevitable that the House will act on any Panama Treaty approval implementation—this is even conceded by the Administration. The question is will we act in constitutional partnership so nothing is formulated that is not supported by timely action of both Houses of Congress or will we only be taken in as a junior partner after implementation has begun and conditions are set where the choice lies between rubber stamping what has already been decided or working our will at the risk of breaking promises and creating an international incident.

There are two distinct issues of concern, one is the proposed transfer of the Panama Canal, the other is the preservation of Constitutional balance and traditional legal procedure especially as it involves the authority and power of the House of Representatives. I respectfully ask your support in urging that our colleagues in Congress, whatever their feelings regarding the Panama Treaty issue, join us in fighting for the rights of the House and preservation of our proper constitutional role as Representatives of the people by signing discharge petition No. 6.

Sincerely,

GEORGE HANSEN,
Member of Congress.

Mr. Speaker, the constitutional question regarding the validity of self-executing treaties in circumstances such as the Panama Canal controversy has spilled over into the courts. Action to uphold the prerogatives of the House was filed by our colleague MICKEY EDWARDS in behalf of 60 Congressmen, including myself.

The U.S. district court in Washington, D.C., dismissed the suit as premature, political and for lack of standing. The Appeals Court has now ruled on the merits of the case making the issue timely, nonpolitical, and recognizing the standing of the plaintiffs. This is a great victory despite the fact that the ruling

was 2 to 1 in support of the self-executing treaty.

The matter will now be appealed to the Supreme Court as treaty consideration by the Senate goes down to the wire and as the House makes it move to voice effective opposition to its exclusion from action by unprecedented application of the self-executing treaty.

The case for the House position is extremely strong as evidenced by the caliber of the appeals court justice holding in our favor and the quality of his dissenting opinion. Judge George MacKinnon has a reputation for being that "voice from the judicial wilderness" who has seen his minority position at the appeals court level in classic constitutional cases become the majority opinion in Supreme Court deliberations.

It is thus most important that the House impress well upon the Senate, the administration, and the court, its will to exercise its responsibilities as outlined in the Constitution.

To most effectively signify this determination to maintain constitutional coequality, I strongly urge all Members to sign discharge petition No. 6—do this one for your country.

Self-implementing treaties will create a House of Lords; the House will become hostage to predetermined actions. A $10 billion disposal of U.S. property in Panama requires an act of Congress—both House and Senate—under article IV, section 3, clause 2. A multibillion dollar expenditure of U.S. taxpayer funds requires an act of Congress—both House and Senate—under article I, section 9, clause 7.

House Concurrent Resolution 347 and 237 cosponsors reaffirming that the House must act in the proposed transfer. Discharge petition No. 6 will provide the House the needed early opportunity to reassert itself as a constitutional copartner with the Senate. An overall majority of House and Senate committee chairmen and ranking minority members are on record as supporting this action.

Please sign discharge petition No. 6—now.●

INDIANAPOLIS SYMPHONY ORCHESTRA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. JACOBS. Mr. Speaker, at home we take pride in our Indianapolis Symphony Orchestra whose conductor is John Nelson.

It is also with pride that I announce that the Indianapolis Symphony Orchestra will perform at the Kennedy Center Concert Hall on Sunday, April 16 at 8:30 p.m. Joining the orchestra will be the Indianapolis Symphonic Choir for a performance of the Berlioz "Grande Messe des Mortes."

That Sunday evening is going to be a nice Sunday evening for Washington, D.C.●

BYELORUSSIAN INDEPENDENCE DAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. DINGELL. Mr. Speaker, 60 years ago, on March 25, 1918, the people of Byelorussia established an independent state dedicated to the democratic principles with which free men are blessed and which all men deserve. For the Byelorussians, no longer enslaved by Soviet control, it was a time of national rebirth. In their declaration of independence they joyously "proclaimed to the entire world that after 3½ centuries of slavery the Byelorussian people are living and will live." It was a statement of ultimate exaltation, reflecting, in spite of injustice and oppression, a successful commitment to long-sought-after ideals of liberty and self-determination.

This hard-won freedom, however, was short-lived. On December 10, 1918, the Red Army seized Minsk, and Byelorussia was again subjugated under Russian control. With the passing of the 60th anniversary of Byelorussian independence, it is our fervent hope that a gallant people will realize once more the inalienable human right of individual and national self-determination. This is a time also in which we honor their courage and continuing loyalty to their heritage, their perseverance in a goal they deem to be worth the suffering. By virtue of their nobility of character, the Byelorussians stand as an example of what mankind is capable both of accomplishing and of enduring, the glory of man, the invincibility of the human heart.●

PRESIDENT NICOLAE CEAUSESCU OF ROMANIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1978

● Mr. WAXMAN. Mr. Speaker, on April 12 and 13, 1978, the distinguished President of the Socialist Republic of Romania will pay a state visit to Washington for meetings with the President and Members of Congress. Many issues of longstanding concern to both nations will be discussed. Particular attention will be focused on Romania's critical role in Eastern Europe, the compelling issue of human rights, the extent, and conditions attached to trade between our nations, and the Middle East. It is my hope these discussions will continue the measure of goodwill which exists between us, and that progress can be registered in all these areas.

In recent days, President Ceausescu has renewed his constructive diplomatic efforts with respect to the Middle East, having just held further talks with Israel's foreign minister, Moshe Dayan. Mr. Ceausescu was instrumental in serving as a catalyst in the evolution of the visit of President Sadat to Jerusalem, and in so doing, has rendered an indispensable service in the interests of peace in the area. President Ceausescu's continuing ability to serve as one source of counsel to both parties, and to use his good offices to continue the difficult search for peace, is a mark of his stature as a respected statesman.

I join with my colleagues in welcoming President Ceausescu to the United States.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meeting as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 11, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 12

8:30 a.m.

Agriculture, Nutrition, and Foresty Nutrition Subcommittee

To resume oversight hearings on the women and infant children feeding program (WIC), and the child care food program.

324 Russell Building

*Energy and Natural Resources

Public Lands and Resources Subcommittee

To hold hearings on S. 242, 1812, 2606 and 2310, bills to amend the Federal land reclamation laws.

3110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 2755, proposed Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the FDA.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
To resume hearings on S. 2855, to extend and revise national housing goals.
5302 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To mark up proposed Federal aid highway legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Interior.
1223 Dirksen Building

Appropriations
Public Works Subcommittee
To hold hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building

Armed Services
To meet in closed session to consider the Administration's proposed program for naval vessel construction.
212 Russell Building

Commerce, Science, and Transportation
To hold hearings on proposed FY 79 authorizations for the Coast Guard, and on several Coast Guard nominations, including that of Rear Admiral John B. Hayes, to be the Commandant.
235 Russell Building

Governmental Affairs
To resume hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice
2228 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the problems of serious juvenile crimes.
424 Russell Building

Rules and Administration
To hold hearings on S. 1029, to authorize construction for museum support facilities for the Smithsonian Institution, and to consider other legislative matters.
301 Russell Building

Select Indian Affairs
To resume oversight hearings on the current status of the reorganization of the Bureau of Indian Affairs.
1202 Dirksen Building

2:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on budget estimates for FY 79 for the defense establishment.
S-126, Capitol

Appropriations
Public Works Subcommittee
To continue hearings on budget estimates for FY 79 for public works projects.
1114 Dirksen Building

Appropriations
Transportation Subcommittee
To continue hearings on budget estimates for FY 79 for the Federal Railroad Administration.
1224 Dirksen Building

2:00 p.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To continue hearings on S. 2636, FY 79 authorizations for military construction.
212 Russell Building

2:30 p.m.
*Armed Services
Tactical Aircraft Subcommittee
To resume hearings on S. 2571, FY 79 authorizations for military procurement.
224 Russell Building

Commerce, Science, and Transportation, Science, Technology, and Space Subcommittee
To meet with members of the Committee on Scientific, Technological, and Aerospace Questions of the Western European Union to discuss issues of mutual interest.
S-407, Capitol

APRIL 13

9:00 a.m.
*Energy and Natural Resources
Public Lands and Resources Subcommittee
To continue hearings on S. 242, 1812, 2310, and 2606, bills to amend the Federal land reclamation laws.
3110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume markup of S. 50, the Full Employment and Balanced Growth Act.
5110 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on S. 2691, the Congregate Housing Services Act.
4232 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the Rail Service Act (P.L. 94-210), and on S. 2788, U.S. Railway Association Amendments Act.
318 Russell Building

Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93-205).
4200 Dirksen Building

Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
S-126, Capitol

9:45 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Saul Silverman, of Pennsylvania, to be Assayer of the U.S. Assay Office at New York City.
5302 Dirksen Building

Judiciary
To hold hearings on the nominations of Donald W. Banner, of Illinois, to be Commissioner of Patents and Trademarks; Daniel M. Friedman, of the District of Columbia, to be Chief Judge for the U.S. Court of Claims; and Harold H. Greene, of the District of Columbia, to be U.S. District Judge.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings on budget estimates for FY 79 for the Forest Service, Department of Agriculture.
1223 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Board for International Broadcasting, International Communications Agency, Pacific Tuna Development Foundation, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on S. 2520, FY 79 authorizations for the Export-Import Bank.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
3112 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To hold hearings on S. 2692, FY 79 authorizations for the Department of Energy.
357 Russell Building

Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings to receive testimony on the UN Special Session on Disarmament to be held May 23-June 28.
4221 Dirksen Building

Governmental Affairs
To continue hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings on the subject of "The Cost of Government Regulation".
6226 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the Economic Development Administration, and on supplemental appropriations for FY 78.
S-146, Capitol

Select Ethics
To hold an open followed by a closed business meeting.
113 Carroll Arms Building

APRIL 14

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1896, FY 79 authorizations for the Hazardous Materials Transportation Act.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up S. 2527, proposed FY 79 authorizations for NASA.
1202 Dirksen Building

Judiciary
Improvements in Judicial Machinery
To hold hearings on S. 2253, to encourage prompt, informal, and inexpensive resolutions of civil cases by use of arbitration in U.S. district courts.
2228 Dirksen Building

Select Small Business
To hold hearings on the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration.
424 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume mark up of S. 2065, 2470, and 2546, bills to protect consumers' rights in the operation of electronic fund transfer systems.
5302 Dirksen Building

Environment and Public Works
Resource Protection Subcommittee
To continue oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93-205).
4200 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the operation of the witness protection program under the Organized Crime Control Act (P.L. 91-452).
S-126, Capitol

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To continue hearings on S. 2692, FY 79 authorizations for the Department of Energy.
6226 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Foreign Relations
International Operations Subcommittee
To hold hearings on proposed FY 79 authorizations for the Board for International Broadcasting and Radio Free Europe Radio Liberty.
4221 Dirksen Building

Governmental Affairs
To resume hearings on S. 991, to create a separate Cabinet-level Department of Education.
3302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Henry Geller, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.
5110 Dirksen Building

Judiciary
To hold a business meeting.
2300 Dirksen Building

APRIL 17

9:00 a.m.
Energy and Natural Resources
To hold hearings on S. 2821 authorizing funds to the Government of Guam to construct certain public facilities, and S. 2822, to provide for the rehabilitation and resettlement of Bikini Atoll.
3110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2090 and S. 2081 proposing an extension of certain programs of the Economic Opportunity Act.
4332 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
Room to be announced

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume markup of proposed Federal aid highway legislation.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on H.R. 9370, S. 2762, and S. 2582, to provide for the development of aquaculture in the United States.
235 Russell Building

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessment Act.
6226 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of State, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 18

9:00 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2090 and S. 2081, proposing an extension of certain programs of the Economic Opportunity Act.
4232 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2549, proposed FY 79 authorizations for the National Science Foundations; S. 2416, to extend through FY 81 the program of assistance for nurse training; and S. 2474, to extend through FY 83 the Public Health Service Act.
1318 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To meet in closed session with Secretary of State Vance to discuss foreign policy.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 2096, Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographical placement of electric funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
Room to be announced

Energy and Natural Resources
Energy Research and Development Subcommittee
To mark up S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
5110 Dirksen Building

Select Small Business
To resume hearings on S. 2259, to expand and revise procedures for insuring small business participation in Government procurement activities.
424 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for International Organizations and Conferences, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 19

9:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To consider proposed water resources legislation.
4200 Dirksen Building

9:30 a.m.
*Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Attorney General Bell on budget estimates for FY 79 for the Department of Justice.
S-146 Capitol

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on the coordination of Federal programs to combat drug abuse.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096 the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on the status of proposed construction of a Federal Interstate Highway near Memphis, Tennessee.
4200 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Rules and Administration
To resume hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs, and to consider other legislative and administrative business.
301 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the FBI, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 20

9:00 a.m.
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 2390, the Citizens' Access to the Courts Act.
6226 Dirksen Building

9:30 a.m.
Appropriations
Agricultural Subcommittee
To resume hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1224 Dirksen Building

Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on the Drug Abuse Education Act (P.L. 91-527).
4232 Dirksen Building

Judiciary
To hold oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1313 Dirksen Building

*Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Justice, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electric funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
S-126, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume markup of S. 2692, FY 79 authorizations for the Department of Energy
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgement of a Federal relationship.
318 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

APRIL 21

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings to receive a report on Federal policies and programs relating to tourism.
235 Russell Building

Environment and Public Works
Resource Protection Subcommittee
To consider proposed resources protection legislation.
4200 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume markup of S. 1753, authorizing funds through FY 83 for the Elementary and Secondary Education Act.
155 Russell Building

Human Resources
Handicapped Subcommittee
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
154 Russell Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessments Act.
457 Russell Building

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To consider proposed nuclear regulation legislation.
4200 Dirksen Building

9:30 a.m.
Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on FY 79 authorizations for the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95-87).
6226 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on FY 79 authorizations for foreign assistance programs; S. 2420, proposed International Development Cooperation Act; and to mark up proposed FY 79 authorizations for the Peace Corps.
4221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed highway legislation.
4200 Dirksen Building

Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physician and Dentist Pay Comparability Act.
412 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building

Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

Rules and Administration
To resume hearings on S. Res. 166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building

Select Indian Affairs
To hold hearings on S. 2358 and 2588, to declare that the U.S. hold in trust for the Pueblo tribes of Zia and Santa Ana respectively, certain public domain lands.
6226 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 27

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings cn S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
To hold hearings on S. 1382, to establish criteria for the imposition of the sentence of death.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S-146, Capitol

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

10:30 a.m.
*Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 28

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1314, to provide that State and Federal prisoners may petition Federal courts in a writ of habeas corpus.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for fiscal year 1979 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S-146, Capitol

Banking, Housing, and Urban Affairs
To markup proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

*Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on fiscal year 1979 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

MAY 1

10:00 a.m.
Foreign Relations
To resume hearings on FY 79 authorizations for foreign assistance to Korea related to the withdrawal of U.S. forces, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
To continue hearings on FY 79 authorizations for foreign assistance to Turkey and Greece, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 35, the proposed Civil Rights Improvements Act.
6226 Dirksen Building

MAY 3

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the proposed Civil Rights Improvements Act.
1202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

MAY 5

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the status of nonfarm, nonfood, and fiber rural dedevelopment research with USDA and the State land grant system.
322 Russell Building

9:30 a.m.
Veterans' Affairs
To resume markup of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physician and Dentist Pay Comparability Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
3025 Dirksen Building

MAY 8

9:30 a.m.

Human Resources

To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.

4232 Dirksen Building

MAY 16

10:00 a.m.

*Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.

6226 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.

5302 Dirksen Building

MAY 18

9:30 a.m.

Veterans' Affairs

Housing, Insurance, and Cemeteries Subcommittee

To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.

457 Russell Building

CANCELLATIONS

APRIL 11

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold hearings on proposed reforms of the Speedy Trial Act (P.L. 93-619).

318 Russell Building

APRIL 28

9:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.

235 Russell Building